





**CURRENT PERIODICAL SERIES**

**PUBLICATION NO:** 2575

**TITLE:** FEDERAL REGISTER

**VOLUME:** 40

**ISSUES:** 96-105  
pages 21465-23716

**DATE:** May 16-30, 1975  
Reel 9 of 23

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**MICROFILMED — 1976**

**VOL 40**

# **federal register**

# **index**

**April-June 1975**

Volume 40—Numbers 63-126

Pages 14565-27635



This INDEX is a consolidation of contents entries appearing in the April-June issues of the FEDERAL REGISTER. It is published monthly, quarterly, and annually.

A GENERAL INDEX to the entire Code of Federal Regulations is available as of July 1, 1974.

Numerical Finding Aids. CUMULATIVE LIST OF CFR SECTIONS AFFECTED is published monthly and is cumulated each month, keyed to the revision dates of the various CFR volumes. A List of CFR Parts Affected by entries in this INDEX appears at the end of this INDEX, together with a table of FEDERAL REGISTER pages and dates.

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Aircraft, Air Carriers, Airports	Air Force Department. Civil Aeronautics Board. Customs Service. Federal Aviation Administration. Federal Communications Commission. Federal Energy Administration. General Accounting Office. National Park Service. National Transportation Safety Board. Nuclear Regulatory Commission.
Alcohol	Alcohol, Drug Abuse, and Mental Health Administration. Alcohol, Tobacco, and Firearms Bureau. Civil Aeronautics Board. Indian Affairs Bureau. National Highway Traffic Safety Administration. Social and Rehabilitation Service. Special Action Office for Drug Abuse Prevention. Transportation Department.
Allens	Immigration and Naturalization Service. Manpower Administration.
Animals	Animal and Plant Health Inspection Service. Commodity Credit Corporation. Commodity Exchange Authority. Fish and Wildlife Service. Food and Drug Administration. National Oceanic and Atmospheric Administration. Small Business Administration.
Armed Forces	Air Force Department. Army Department. Civil Aeronautics Board. Defense Civil Preparedness Agency. Defense Communications Agency. Defense Department. Defense Manpower Commission. Domestic and International Business Administration. Navy Department. Selective Service System.

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### WHAT IT IS

The Cumulative List of CFR Sections Affected is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register. It should be shelved with current Code volumes. Entries indicate the nature of the changes. Certain terms used are defined in the glossary below. Proposed rules are listed at the end of appropriate titles, except for Title 41, where proposed rules follow each chapter.

### HOW TO USE THIS FINDING AID

The Code of Federal Regulations may be brought up to immediate date by the following steps:

1. Consult this Cumulative List of CFR Sections Affected for any changes, deletions, or additions published after the revision date of the volume you are using.
2. Check the "Cumulative List of Parts Affected" appearing at the front of the latest issue of the Federal Register for changes published after the last date covered by this issue of the Cumulative List of CFR Sections Affected.
3. If you do not have the latest edition of the Code of Federal Regulations, use the previous edition, and bring it up to date as follows:

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For an explanation of the structure and numbering of the Code, see 1 CFR Part 21.

### GLOSSARY

**Amended**—A typographical unit of the CFR was partially set forth.

**Recodified**—Major portions of CFR were restructured or rearranged, or both.

**Redesignated**—A typographical unit or larger was renumbered and transferred from one place to another place in the CFR with no change in text.

**Removed**—A typographical unit was removed from the CFR.

**Revised**—A typographical unit of the CFR was set forth in full.

**Superseded**—An existing CFR unit was replaced by regulations appearing under another CFR unit.

**Suspended**—The entire CFR unit was not in effect for the period of time indicated.

**Suspended in part**—A portion of the CFR unit was not in effect for the period of time indicated.

**Technical amendment**—General amendment that may have no substantive effect on regulations.

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### INQUIRIES AND SUGGESTIONS

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1.14 Heading revised; (a) amended; (b) redesignated as (c); (a) (3), (4), and (5) and new (b) added	20616
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275.206(3)-1 Added	19468
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405.116 (g) revised	17747
405.120 (a) (1) amended; (d) revised	23289
405.201-405.252 (Subpart B) Appendix added	17747
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52.2270 (c) (2) amended	+ 18736	
52.2274 Added	34537	
52.2287 (c) (1), (2) and (3) effective dates suspended	+ 18437	

Note: Symbol (+) refers to 1975 page numbers

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	Page		Page
52.2288 (h) and (i) time correctly extended	+ 1127, 10466,	53.32 Table C-1 corrected	+ 18169
52.2289 (g) time correctly extended	+ 1127, 10466,	55 Added	+ 18440
52.2292 (a) (3) added	27798	60 Appendix A amended	39874
52.2300 Added	34537	60.4 Amended	37987
52.2302 Added	+ 18736	Revised	+ 18169
52.2322 (f) added	32114	60.11 (b) revised; (e) added	39873
52.2330 (c) (1) and (4) revised	32114	60.41 (c) added	+ 2803
52.2331 Revised	32116	60.44 (a) (3) and (b) revised	+ 2803
52.2379 Added	+ 18736	60.62 (a) (2) revised	39874
52.2420 (c) revised	40018, 41254	61.04 Amended	37987
52.2423 (a) revised	41254	Revised	+ 18170
52.2424 (b) added	34537	76 Removed	+ 13216
52.2430 (c) added	34537	80 Appendices A and B added	24891
52.2435 (d) removed	+ 16846	Appendix A corrected	25653
52.2437 Removed	+ 16846	Appendix B corrected	25653, 26287
52.2438 (e) (2) and (3) amended	41253	Appendix C added	43285
52.2439 (g) time correctly extended	+ 1127,	80.2 (n) added	42360
52.2443 Suspended	+ 2586	(j), (l), (n) revised; (o) added	43283
52.2470 (c) (1) revised	40857	80.3 Revised	24891
(c) revised	+ 18736	80.4 Revised	35653, 43283
(c) (1) revised	+ 22255	80.21 Revised	42360, 43283
52.2486 Revised	40857	80.22 (a) revised	42360
52.2496 Added	+ 18736	Heading, (a), (b), and (d) through (f) revised; (c) (3) revised and redesignated (c) (4); new (c) (3) and (i) added	43283
52.2520 (c) revised	31322	80.23 (a) (1) and (2) and (b) (2) revised; (c) redesignated as (e) and revised; new (c) and (d) added	42360
52.2524 (c) added	32560	(a) (1) and (2), (b) (1), and (c) through (e) revised; (b) (2) amended	43284
(c) table amended	+ 3569	80.24 (b) (1) revised	34538
52.2570 (d) added	28159	85.002 (a) (31) and (32) added	37301
(d) (2) added	32608	85.003 Amended	37301
52.2578 (d) and (e) added	28159	85.075-2 (a) revised	+ 5524
(d) and (e) amended	32608	85.075-5 (a) amended	+ 5524
52.2627 Added	24504	85.075-7 (d) (2) revised	+ 21730
52.2628 Table amended	24505	85.075-15 (e) (2) revised	+ 21730
52.2674 Added	+ 18737	85.075-28 (a) revised	+ 5524
52.2720 (c) added	30834	85.075-30 (a) (3) added; (b) (2) revised	+ 5524
(c) revised	+ 18551,	85.075-35 (a) (4) (v) revised	+ 5524
52.2724 Added	30834	85.076-5 (f) revised	25321
(a) amended	+ 18551	85.076-7 (a) and (b) revised	25321
52.2725—52.2726 Added	34537	85.076-9 Revised	25321
52.2728 Added	+ 18737	85.076-11 Revised	25321
52.2778 Added	+ 18738	85.076-12 Revised	25322
52.2826 Added	+ 18738	(b) (1) revised	+ 21731
52 Appendix A added	25300	85.077-4 (b) revised	37301
Appendices D and E added	+ 5517	85.077-5 (b) (5) and (6) revised	37302
53 Added	7049	85.077-6 (b) revised	37302
53.4 Footnote 1 corrected	+ 18168	85.077-7 (a) revised	37302
53.14 (d) corrected	+ 18168	85.077-10 (a) revised	37302
53.20 (c) and table B-1 corrected	+ 18168		
53.22 Table B-2 and (f) corrected	+ 18168		
53.23 (a), (b), (c), (d), and (e) corrected	+ 18168,		
53.30 (c) corrected	+ 18169		
53.31 (b) corrected	+ 18169		

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Title 40, Chapter I—Continued		Page
85.077-30 (a) (1), (3), (4), and (5) and (b) (1) (i), (ii), and (iv) revised	37302	
(a) (3), (4), (5), and (6) correctly designated; (a) (3) correctly reinstated	+ 5524	
85.077-35 (a) (4) (iv) and (vi) revised	37303	
85.077-38 (a) (3) and (4) revised	37303	
(a) (3), (4), and (5) correctly designated; (a) (3) correctly reinstated	+ 5525	
85.102 (a) (24) and (25) revised	37303	
85.103 Amended	37303	
85.175-2 (a) revised	+ 5524	
85.175-7 (d) (2) revised	+ 21730	
85.175-13 (e) (2) revised	+ 21731	
85.175-28 (a) revised	+ 5524	
85.175-30 (a) (3) added; (b) (2) revised	+ 5524	
85.175-35 (a) (4) (v) revised	+ 5524	
85.177-4 (b) revised	37303	
85.177-5 (b) (5) and (6) revised	37303	
85.177-6 (b) revised	37303	
85.177-7 (a) revised	37303	
85.177-30 (a) (1), (3), (4), and (5) and (b) (1) (i), (ii), and (iv) revised	37303	
(a) (3), (4), (5), and (6) correctly designated; (a) (3) correctly reinstated	+ 5525	
85.177-35 (a) (4) (iv) and (vi) revised	37304	
85.177-38 (a) (3) and (4) revised	37304	
85.202 (a) (29 and (30) added	37304	
85.203 Amended	37304	
85.275-5 (a) amended	+ 5524	
85.275-7 (d) (2) revised	+ 21731	
85.275-15 (e) (2) revised	+ 21731	
85.276-5 (f) revised	25322	
85.276-7 (a) and (b) revised	25322	
85.276-9 Revised	25322	
85.276-11 Revised	25323	
85.276-12 Revised	25323	
85.277-4 (b) revised	37304	
85.277-5 (b) (5) and (6) revised	37304	
85.277-6 (b) revised	37304	
85.277-7 (a) revised	37304	
85.277-10 (a) revised	37305	
85.277-30 (a) (1), (3), (4), and (5); (b) (1) (i), (ii), and (iv) revised	37305	
85.277-35 (a) (4) (iv) and (vi) revised	37305	
85.277-38 (a) (3) and (4) revised	37305	
(a) (3), (4) and (b) numbered correctly designated; (a) (3) correctly reinstated	+ 5525	
85.301—85.377-1 (Subpart D) Added	37611	
85.302 (a) (24) and (25) revised	+ 18779	
85.303 Amended	+ 18779	
85.376-7 (d) (2) revised	+ 21731	
85.376-13 (e) (2) revised	+ 21731	
85.377-4 (b) added	+ 18779	
85.377-5 (b) (5) and (6) added	+ 18779	
85.377-6 (b) added	+ 18779	
85.377-7 (a) added	+ 18779	
85.377-30 (a) (1), (3), (4), and (5) and (b) (1) (i), (ii), and (iv) added	+ 18780	
85.377-35 (a) (4) (iv) and (vi) added	+ 18780	
85.377-38 (a) (3) and (4) added	+ 18780	
85.701—85.775-10 (Subpart H) Amended	+ 8483	
85.774-11 (a) (3) corrected	+ 16667	
85.1601—85.1610 (Subpart Q) Revised	32613	
85.1701—85.1709 (Subpart R) Added	32611	
85.1801—85.1807 (Subpart S) Added	44375	
85.1806 Added	44375	
(b) corrected	+ 3447	
85.1807 Added	44375	
(b), (d) (1), and (z) corrected	+ 3447	
112.6 Revised	31602	
114 Added	31602	
120 Technical correction	41709	
120.5 Added	43723	
120.10 Amended	38645, 41255, 41709, 43723	
Amended	+ 1041, 13217, 18171	
120.11 Added	41255	
120.21 Added	41709	
120.22 Added	+ 1041	
120.115 Added	+ 18171	
122 Added	36178	
125.5 (a) and (b) amendeded	27079	
125.32 Revised	27079	
125.34 Revised	27080	
125.35 Redesignated as 125.37; new § 125.35 added	27080	
125.36 Added	27081	

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	Page		Page
125.37 Redesignated from 125.35	27080	180.223 Introductory text revised; undesignated paragraphs added	28286
125.44 Revoked; added	27084	180.225 Revised	36588
162.17 Removed	+ 18782	180.234 Amended	29360
162.20 Added	41256	180.242 Amended	33314, 38229
162.21 Added	+ 12510	180.246 Amended	+ 19476
164.130—164.133 (Subpart D) Added	+ 12265	180.249 Amended	29359
168 Revised	27658	180.253 Amended	24505
169 Added	33514	180.254 Amended	+ 4657, 13500
171 Added	36449	180.259 Amended	+ 17146
171.7—171.10 Added	+ 11702	180.261 Amended	+ 11353
172 Added	+ 18782	180.267 Heading and introductory text revised; text amended	29177
180.1 (h) amended	28286	Amended	36588
180.3 d(8) added	38229	180.275 Heading and introductory text revised	28286
(d) (9) added	+ 14083	Amended	+ 14597
(e) (5) amended	29177, 34664, 38229, 40763	180.281 Revised	43290
(e) (5) corrected	32912	180.285 Amended	26155
(e) (6) amended	25488	180.288 Revised	38230
(e) (5) amended	+ 14596	180.292 Heading and introductory text revised	28286
180.34 (e) (25) revised	28286	(b) amended	+ 6340
(f) amended	28977	Heading corrected	+ 11874
(f) table amended	+ 6972	180.294 Amended	29360, 43723
180.108 Added	38229	Amended	+ 13500
180.121 Amended	39878	Technical correction	+ 15880
180.142 (a) revised	43292	180.296 Amended	+ 18171
(a) amended	+ 6502	180.298 Amended	43291
(d) and (e) added	+ 13500	Amended	+ 2586
180.144 Amended	31904	180.300 Amended	43290, 43291
180.147 Revised	28978	Amended	+ 18171
180.147a (b) amended	28978	180.301 Amended	43724
180.147b Revised	28978	180.307 Revised	+ 12512
Removed; new 180.147b redesignated from 180.147c	+ 2179	180.312 Revised	26288
180.147c Redesignated as 180.147b	+ 2179	180.317 Amended	+ 23280
180.153 Amended	25487	180.319 Amended	25488
180.156 Amended	+ 14596	Amended	+ 17841
180.157 Heading and introductory text revised	28286	Table amended	31635, 33314, 43290, 43292
180.165 Removed	+ 13500	180.320 Removed	43724
180.169 Amended	+ 17841	180.328 Revised	26893
180.184 Amended	43291	180.330 Amended	21029
180.200 Amended	40763	180.332 Heading and text revised	2804
180.202 Revised	31635	Heading corrected	+ 11874
180.203 Heading and introductory text revised	28286	180.333 Revised	+ 12512
180.204 Amended	27439	180.336 Revised	+ 15387
Amended	+ 4273	180.338 Added	26892
180.205 Amended	43292	Heading revised; text amended	+ 13500
Amended	+ 1043	180.342 Revised	25487
180.206 Amended	28287	Amended	29178
180.213 Added	+ 14597	180.348 Amended	+ 12512
180.214 Amended	34664	180.349 Added	29177
180.215 Amended	+ 4273	Revised	+ 17558
180.220 (b) added	+ 20629		

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Title	Page	Title	Page
180.351 Added	38229	405.74 Added	6435
180.352 Added	40763	405.76 Revised	32994
180.353 Added	4658	405.84 Added	6435
180.354 Added	8821	405.86 Revised	32994
180.355 Added	12511	405.92 (b) table corrected	32993
180.356 Added	12511	405.94 Added	6435
180.357 Added	14083	405.95 (a) corrected	32994
Corrected	18172	405.96 Revised	32995
180.358 Added	18172	405.104 Added	6435
180.359 Added	23073	405.105 Table corrected	32993
180.1001 (c) table amended	33315, 37378	405.106 Revised	32995
(c) table amended	1242, 3571, 12513, 14314	405.114 Added	6435
(d) table amended	36589	405.116 Revised	32995
(d) table amended	37195, 39878, 43292	405.124 Added	6435
(e) table amended	1242, 3571, 12513, 14314	405.126 Revised	32995
(e) table amended	37378, 40584, 43292	406.14 Added	6436
(e) table amended	1242, 3571, 12513, 14314	406.24 Added	6436
180.1016 Revised	33315	406.34 Added	6436
(b) revised	19477	406.44 Added	6436
180.1023 Revised	1042	406.54 Added	6436
Corrected	17841	406.64 Added	6436
180.1030 Added	43724	406.70—406.106 (Subparts G through J) Added	917
180.1031 Added	12511	407.14 Added	6436
180.1032 Added	1042	407.24 Added	6437
180.1033 Added	8821	407.34 Added	6437
Revised	23073	407.44 Added	6437
180.1034 Added	23281	407.54 Added	6437
202 Added	38215	408.10 Revised	4593
210 Added	36011	408.14 Added	6437
227 Table amended	37058	408.20 Revised	4593
227.80 Table corrected	40018	408.24 Added	6438
240 Added	29329	408.30 Revised	4593
241 Added	29333	408.34 Added	6438
241.100 (d) corrected	5159	408.40 Revised	4593
405 Preamble corrected	32993	408.44 Added	6438
405.14 Added	6434	408.50 Revised	4593
405.16 Revised	32994	408.54 Added	6438
405.22 Introductory text corrected	32994	408.60 Revised	4593
405.24 Added	6434	408.64 Added	6438
405.26 Revised	32994	408.70 Revised	4593
405.34 Added	6434	408.74 Added	6438
405.36 Revised	32994	408.80 Revised	4593
405.44 Added	6434	408.84 Added	6438
405.46 Revised	32994	408.90 Revised	4593
405.54 Added	6434	408.94 Added	6438
405.56 Revised	32994	408.100 Revised	4593
405.62 (a) table corrected	32993	408.104 Added	6439
405.64 Added	6434	408.110 Revised	4593
405.66 Revised	32994	408.114 Added	6439
405.72 (a) table corrected	32993	408.120 Revised	4593
		408.124 Added	6439
		408.130 Revised	4593
		408.134 Added	6439
		408.140 Revised	4594
		408.144 Added	6439
		408.150—408.153 (Subpart O) Added	4595

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Title	Page	Title	Page
408.160—408.163 (Subpart P) Added	4596	410.23 Corrected	30135
Heading corrected	16204	410.25 Corrected	30135
408.170—408.173 (Subpart Q) Revised	4596	410.41 (c) corrected	30135
408.180—408.183 (Subpart R) Added	4597	410.43 Corrected	30135
408.190—408.193 (Subpart S) Added	4598	410.51 (c) corrected	30135
408.200—408.203 (Subpart T) Added	4598	410.53 Corrected	30135
408.210—408.213 (Subpart U) Added	4599	410.61 (c) corrected	30135
408.213 Added	4599	410.63 Corrected	30135
Table revised	16204	410.71 (c) and (d) corrected	30135
408.220—408.223 (Subpart V) Added	4600	(d) correctly removed	30135
408.230—408.233 (Subpart W) Added	4600	410.72 (b) correctly removed	30135
408.240—408.243 (Subpart X) Added	4601	410.73 (b) correctly removed	30135
408.250—408.253 (Subpart Y) Added	4602	410.75 (b) correctly removed	30135
408.260—408.263 (Subpart Z) Added	4602	411.14 Added	6440
408.270—408.273 (Subpart AA) Added	4603	411.24 Added	6440
408.280—408.283 (Subpart AB) Added	4603	411.34 Added	6440
408.290—408.293 (Subpart AC) Added	4604	412 Interpretation	12513
408.300—408.303 (Subpart AD) Added	4605	412.14 Added	6440
408.310—408.313 (Subpart AE) Added	4605	412.24 Added	6440
408.320—408.323 (Subpart AF) Added	4606	413 Revised	18135
408.330—408.333 (Subpart AG) Added	4607	413.11 (d) corrected	26642
409.14 Added	6439	413.12 (c) corrected	26642
409.24 Added	6440	413.15 (a) table corrected	26642
409.34 Added	6440	414.14 Added	6441
409.40—409.42 (Subpart D) Added	8503	414.20 Amended	43629
409.50—409.52 (Subpart E) Added	8503	414.24 Added	6441
409.60—409.62 (Subpart F) Added	8504	414.34 Added	6441
409.70—409.72 (Subpart G) Added	8504	415.210 Revised	5523
409.80—409.82 (Subpart H) Added	8505	415.220 Revised	5523
410 Added	24739	415.230—415.242 (Subparts W and X) Added	22411
410.11 (d) corrected	30135	415.270—415.312 (Subparts AA, AB, AC, AD, and AE) Added	22412
410.12 Corrected	30134	415.330—415.362 (Subparts AG, AH, AI, and AJ) Added	22414
410.13 Corrected	30134	415.380—415.382 (Subpart AL) Added	22416
410.15 Corrected	30134	415.400—415.452 (Subparts AN, AO, AP, AQ, AR, and AS) Added	22417
410.21 (c) corrected	30135	415.470—415.472 (Subpart AU) Added	22419
410.22 Corrected	30135	415.490—415.512 (Subparts AW, AX, and AY) Added	22420
		415.530—415.532 (Subpart BA) Added	22421
		415.550—415.552 (Subpart BC) Added	22422
		415.580—415.582 (Subpart BF) Added	22422
		415.600—415.602 (Subpart BH) Added	22423
		415.630—415.632 (Subpart BK) Added	22423
		416.12 (a), (b), and (c) amended	21732, 23472
		416.22 Amended	21732

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416.32 (a) corrected	24893	417.94 Added	6443
(a) and (b) amended	21732	417.104 Added	6443
416.33 (a) corrected	24893	417.114 Added	6443
416.42 Amended	21732	417.124 Added	6443
416.52 (a), (b), and (c), amended	21732	417.134 Added	6443
416.53 (c) corrected	24893	417.144 Added	6443
416.55 (c) amended	21732	417.194 Added	6443
416.62 Table corrected	24893	418.60—418.66 (Subpart F) Added	2652
Amended	21732	418.70—418.76 (Subpart G) Added	2652
416.63 Table revised	24894	419 Preamble corrected	32614
416.65 Table revised	24896	419.12 (c) (1) corrected	32614
416.72 Amended	21732	Tables in (a), (b) (1) and (2), and (c) (1) and (2) re- vised	21949
416.73 Table revised	24894	419.13 (b) (2) and (c) (2) cor- rected	32614
416.75 Table revised	24896	(b) (1) and (2) tables revised	21950
416.82 Amended	21732	419.15 (c) (2) corrected	32614
416.83 Table revised	24894	Tables in (a), (b) (1) and (2), and (c) (1) and (2) re- vised	21950
416.85 Table revised	24896	419.22 (a) corrected	32614
416.92 (a), (b), (c), and (d) amended	21732	Tables in (a) and (b) (1) and (2) revised	21950
416.93 (a) table, (b) table, (c) table and (d) table revised	24894	419.23 (a), (b) (1) and (2) cor- rected	32614
416.95 (a) table, (b) table, (c) table and (d) table revised	24896	(b) (1) and (2) tables revised	21951
416.102 (a), (b), and (c) amended	21732	419.25 Corrected	32614
416.103 (a) table, (b) table and (c) table revised	24894	419.25 Tables in (a) and (b) (1) and (2) revised	21951
416.105 (a) table, (b) table, and (c) table revised	24896	419.32 (a) corrected	32614
416.112 (a), (b), and (c) amended	21732	Tables in (a) and (b) (1) and (2) revised	21951
416.113 (a) table, (b) table and (c) table revised	24895	419.33 (a) and (b) (1) corrected	32614
416.115 (a) table, (b) table, and (c) table revised	24897	(b) (1) and (2) tables revised	21951
416.122 (a), (b), and (c) amended	21732	419.35 (a) corrected	32614
416.123 (a) table, (b) table, and (c) table revised	24895	Tables in (a) and (b) (1) and (2) revised	21952
416.125 (a) table, (b) table, and (c) table revised	24897	419.42 (a), (b) (2) and (3) cor- rected	32614
416.130—416.136 (Subpart M) Suspended	21732	Tables in (a) and (b) (1) and (2) revised	21952
416.133 Table revised	24895	419.43 (a) corrected	32614
416.135 Table revised	24897	(b) (1) and (2) tables revised	21952
416.140—416.216 (Subparts N, O, P, Q, R, S, T, and U) Added	3720	419.45 (a) corrected	32614
417.14 Added	6441	Tables in (a) and (b) (1) and (2) revised	21952
417.24 Added	6442	419.52 (a) corrected	32614
417.34 Added	6442	Tables in (a) and (b) (1) and (2) revised	21953
417.44 Added	6442	419.53 (a) corrected	32614
417.54 Added	6442	(b) (1) and (2) tables revised	21953
417.64 Added	6442	419.55 (a) corrected	32614
417.74 Added	6442	Tables in (a) and (b) (1) and (2) revised	21953
417.84 Added	6442		

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	Page		Page
420 Effective date corrected	25488	426.24 Added	6444
421.40—421.43 (Subpart D) Added	8523	426.34 Added	6444
Time extended	21029	426.44 Added	6444
421.50—421.53 (Subpart E) Added	8524	426.64 Added	6444
Time extended	21029	426.80—426.136 (Subparts H, I, J, K, L, and M) Added	2955
421.60—421.63 (Subpart F) Added	8526	427.14 Added	6444
Time extended	21029	427.24 Added	6444
421.70—421.73 (Subpart G) Added	8527	427.34 Added	6445
Time extended	21029	427.44 Added	6445
421.80—421.83 (Subpart H) Added	8528	427.54 Added	6445
Time extended	21029	427.64 Added	6445
422.40—422.43 (Subpart D) Added	4106	427.74 Added	6445
422.50—422.53 (Subpart E) Added	4106	427.80—427.86 (Subpart H) Added	1875
422.60—422.63 (Subpart F) Added	4106	427.82 (b) corrected	18172
423 Added	36198	427.83 Corrected	18172
Technical correction	7095	427.85 Corrected	18172
423.11 (e), (h), and (i) revised	7095	427.90—427.96 (Subpart I) Added	1876
423.12 (b) (2) and (4) amended; (b) (10) revised	7095	427.100—427.106 (Subpart J) Added	1877
423.13 (b), (e), and (h) amended; (1) (3) revised	7095	427.102 (b) corrected	18172
423.15 (b) amended	7096	427.103 Corrected	18172
423.16 Amended	7096	427.106 Corrected	18172
423.21 (d), (f), and (j) revised	7096	427.110 (Subpart K) Added	1877
423.22 (b) (2) amended; (b) (10) revised	7096	427.112 (b) table corrected	18172
423.23 (b) and (i) amended	7096	427.115 Corrected	18172
423.25 (b) amended	7096	428.10 Revised	18173
423.26 Amended	7096	428.11 (c) revised; (d) and (e) added	18173
423.30 Amended	7096	428.12 Table corrected	26423
423.31 (c), (e), and (i) revised; (h) amended	7096	Second paragraph designated as (a); (b) added	18173
423.32 (b) (2) amended; (b) (10) revised	7096	428.13 Table corrected	26423
423.33 Introductory text, (b) (h), and (i) amended	7096	Second paragraph designated as (a); (b) added	18173
423.40 Amended	7096	428.15 Table corrected	26423
423.41 (c) amended	7096	428.20 Revised	18173
424.40—424.43 (Subpart D) Added	8035	428.21 (b) removed	18173
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424.50—424.53 (Subpart E) Added	8035	428.41 (b) removed	18173
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424.60—424.63 (Subpart F) Added	8036	428.60—428.66 (Subpart F) Added	2338
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424.70—424.73 (Subpart G) Added	8037	428.80—428.86 (Subpart H) Added	2341
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		428.100—428.106 (Subpart J) Added	2344
		428.110—428.116 (Subpart K) Added	2345
		429.90—429.136 (Subparts I, J, K, L, and M) Added	2806

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430.34 Added	† 6446	11894, 11895, 12112, 12287, 12521,	
430.44 Added	† 6446	12813-12815, 13002, 13520, 13521,	
430.54 Added	† 6446	14340, 15094, 15095, 16218, 16680,	
431.14 Added	† 6446	17157, 17597, 18795, 18796, 19210,	
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432.14 Added	† 6446	22145	
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432.22 (c) corrected	26423	55	32624, 34671
432.24 Added	† 6446	60	32852,
432.25 (a), (b), (c), and (d) cor-			
rected	26423	61	36102, 36946, 37040, 37466, 37470,
432.34 Added	† 6447		37602, 37730, 37922, 40511, 40512
432.35 (a), (b), (c), and (d) cor-			† 21987
rected	26423		38064
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432.45 (a), (b), (c), and (d) cor-			† 21987
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432.50—432.106 (Subpart E			
through J) Added	† 904		26168, 39982, 39988, 39992, 42879
432.63 Added	† 904		† 24379, 37396, 44246, 45360
Corrected	† 11874		† 5169, 18176
432.102 Added	† 904		† 26853, 32631, 37068, 39897
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			38668, 43557, 44777
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418	24490, 36094	1-3.203 Revised	28437
	† 2654	1-3.600 Revised	28437
419	37069	1-3.602 (d) revised	28437
421	† 8530, 21047	1-3.603-1 (d) revised	28437
422	† 4110	1-3.605-2 (a) (3) (i) revised; (b)	
423	36210	(3) and (4) added	28437
424	† 8038, 21047	1-3.605-5 (f) revised	28438
426	30282	1-3.606-5 (i) added	28438
	† 2963	1-3.805-1 (a) (1) revised	28438
427	31592	1-3.807-3 (b) revised	44453
	† 1879	1-3.809 (c) (4) revised	43058
428	30632	1-3.1200—1-3.1220-7 (Subpart 1-	
	† 2347, 7109	3.12) Revised	43058
429	30892, 40236	1-3.1203 Heading revised; (a)	
	† 2833, 2834	(1) (vi) and (h) added	† 18786
432	31486	1-3.1204 Introductory text and	
	† 912, 18150	(d) (2) revised	† 18786
443	† 2352	1-3.1210 Added	43058
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		p. 43074)	† 11580
		(a) revised	† 18786
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		1-7.202-8 Amended	† 11581
		1-7.202-37 Added	26643
		1-7.203-16 Removed	35165
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		1-7.203-23 Added	43074
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		7.3) Added	† 17559
		1-7.400—1-7.404-8 (Subpart 1-	
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		1-7.602-14 Added	26643
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1-1.319 (c) (1) (v) revised; effec-	
tive 8-4-75	† 18785
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1-7.703-22 Added	43074
1-9.100-1-9.109-6 (Subpart 1-9.1) Revised	19814
1-12.13 (Subpart) Added	26643
1-12.104 Removed	14913
1-12.105 Removed	14913
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1-15.201-5 Revised	14914
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1-15.205-44 (b) amended; (c), (d), and (e) revised; (f) and (g) added	14916
1-15.205-50 (b) (2) (i) and (ii) revised	14916
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3-1.318-52 Added	16319
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3-3.410-1 Added	43545
3-4.57 (Subpart) Added	4913
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4-1.054 Added	6973
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4-1.708 Removed	6976	5A-1.404-2 Revised	24362
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4-1.1101 (Subpart 4-1.11) Revised	6976	5A-1.701-8 (a), (c), (d), and (e) revised	42361
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4-3.605-1 Heading and text revised	3997	5A-1.704 Added	42362
4-5.408 (Subpart 4-5.4) Added	3998	5A-1.704-1 Added	42362
4-5.5101-4-5.5106 (Subpart 4-5.51) Removed	3998	5A-1.704-2 Added	42362
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5A-7.102-74 Revised	36335
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5A-7.103-82 (a) amended; (b) revised	36012
5A-7.103-84 Revised	8950
5A-7.103-93 Added	36335
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5A-7.703 Added	16847
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5A-16.901-1165 Added	32029
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5A-53.404 Added	36341
5A-53.601—5A-53.602 (Subpart 5A-53.6) Added	36341
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7-1.323 Added	3449	7-16.852 Added	16206
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7-1.605-4 Redesignated as § 7-1.605-3	3449	7-16.964 Added	16206
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7-7.5001-43 Added	3449	8-1.403-51 Added	38376
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9-5.5206-3 (b) removed; (c) redesignated as (b)	3294
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# federal register

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## rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

### Title 7—Agriculture

#### CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

##### PART 68—REGULATIONS AND STANDARDS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND PRODUCTS THEREOF

###### Standards for Rough Rice; Correction

The U.S. Standards for Rough Rice (7 CFR 68.201 et seq.) were revised and published as final rulemaking in the FEDERAL REGISTER of Thursday, March 6, 1975.

The following errors were found:

1. On page 10473, § 68.202(c) (2), lines 6 and 7 read "... of long- or short-grain rice" and should be changed to read "... of long-grain rice or whole kernels of short-grain rice."
2. On page 10473, § 68.202(c) (3), lines 6 and 7 read "... of long- or medium-grain rice" and should be changed to read "... of long-grain rice or whole kernels of medium-grain rice."
3. On page 10474, third column, in the paragraph entitled "Certification," the wording reads "For a period of 6 months after July 1, 1975, ..." and should be changed to read "For a period of 6 months after June 1, 1975, ..." The correction was necessary so that the 6-month interval coincides with the effective date of June 1, 1975 for the new rough rice standards.

Done at Washington, D.C., on: May 12, 1975.

E. L. PETERSON,  
Administrator,  
Agricultural Marketing Service.

[FR Doc.75-12911 Filed 5-15-75;8:45 am]

##### PART 68—REGULATIONS AND STANDARDS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND PRODUCTS THEREOF

###### Standards for Whole Dry Peas; Correction

The U.S. standards for whole dry peas (7 CFR 68.401 et seq.) were revised (39 FR 18633—May 29, 1974), effective July 1, 1974, after public rulemaking proceedings according to the administrative procedure provisions of section 553 of Title 5, United States Code.

An error was found in footnote 4 to the table in § 68.406. Footnote 4 reads in part, "... through the appropriate oblong-hole sieve as follows:" The part should read "... through the appropriate oblong-hole or slotted-hole sieve as follows:"

Therefore, pursuant to sections 203 and 205 of the Agricultural Marketing Act of 1946, 60 Stat. 1087 and 1090, as amended (7 U.S.C. 1622 and 1624) footnote 4 in § 68.406 of the U.S. standards for whole dry peas is amended to substitute the last quoted phrase for the first quoted phrase. This amendment is made solely to correct the sieve description since both oblong-hole sieves and slotted-hole sieves are used in the inspection of whole dry peas and can be expected to give equivalent results.

It does not appear that public participation in rulemaking would make additional relevant information available to the Department on this matter. Also, this amendment should become effective as soon as possible so as to conform to present procedures. Accordingly, under the administrative procedure provisions of section 553 of Title 5, United States Code, it is found upon good cause that further notice and public participation in rulemaking procedures with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making it effective May 16, 1975.

Done at Washington, D.C., on: May 12, 1975.

E. L. PETERSON,  
Administrator,  
Agricultural Marketing Service.

[FR Doc.75-12910 Filed 5-15-75;8:45 am]

#### CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Grapefruit Reg. 75, Amdt. 8; Export Reg. 24, Amdt. 8]

##### PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

###### Amendment of Grade Regulations

These amendments lower the minimum grade requirements applicable to domestic and export shipments of Florida white seedless grapefruit and white and pink seeded grapefruit to U.S. No. 2 Russet on May 19, 1975. The specification of such lower minimum grade requirement recognizes the lesser quality of such grapefruit estimated to be remaining for fresh shipment from the production area.

**Findings.** (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricul-

tural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674) and upon other available information, including an informal poll of the members of the Growers Administrative Committee, it is hereby found that the minimum grade requirements applicable to seedless and seeded grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) These amendments reflect the Department's appraisal of the current and prospective demand for white seedless grapefruit and white and pink seeded grapefruit by domestic and export market outlets. The lower minimum grade requirement specified for domestic and export shipments of white seedless grapefruit and white and pink seeded grapefruit is consistent with the external appearance and remaining supply of such grapefruit. Fresh shipments of Florida grapefruit for the season through May 4, 1975, totaled 25,861 carlots, and there were an estimated 2,639 carlots remaining for shipment.

(3) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of these amendments until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which these amendments are based became available and the time when these amendments must become effective in order to effectuate the declared policy of the act is insufficient; and these amendments lower requirements applicable to the handling of white seedless grapefruit and white and pink seeded grapefruit grown in Florida.

**Order.** 1. In § 905.556 (Grapefruit Regulation 75; 39 FR 32976, 37186, 40745, 42899; 40 FR 8321, 11345, 14889, 20061) the provisions of paragraph (b) (1) and (b) (3) are amended to read as follows:

§ 905.556 Grapefruit Regulation 75.

(b) . . . .  
(1) Any seeded grapefruit, grown in the production area, which do not grade at least U.S. No. 2 Russet;

(3) Any seedless grapefruit, grown in the production area, which do not grade at least U.S. No. 2 Russet; or.

2. In § 905.559 (Export Regulation 24; 39 FR 32976; 37186; 40 FR 2792, 11345, 12646, 14889, 16210, 20061) the provisions of paragraph (b) (11) and (b) (13) are amended to read as follows:



**§ 905.559 Export Regulation 24.**

(b) . . . . .  
(11) Any seeded grapefruit, grown in the production area, which do not grade at least U.S. No. 2 Russet;

(13) Any seedless grapefruit, grown in the production area, which do not grade at least U.S. No. 2 Russet;

(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674))

Dated, May 13, 1975, to become effective May 19, 1975.

CHARLES R. BRADER,  
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.75-12913 Filed 5-15-75;8:45 am]

[Valencia Orange Reg. 498]

**PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA****Limitation of Handling**

This regulation fixes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period May 16-22, 1975. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908. The quantity of Valencia oranges so fixed was arrived at after consideration of the total available supply of Valencia oranges, the quantity of Valencia oranges currently available for market, the fresh market demand for Valencia oranges, Valencia orange prices, and the relationship of season average returns to the parity price for Valencia oranges.

**§ 908.798 Valencia Orange Regulation 498.**

(a) Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the respective quantities of Valencia oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Valencia oranges that should be marketed during the next suc-

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ceeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Valencia oranges continues to be generally stronger. Prices f.o.b. averaged \$3.35 per carton on a reported sales volume of 483,000 cartons last week, compared with an average f.o.b. price of \$3.20 per carton and sales of 370,000 cartons a week earlier. Track and rolling supplies at 344 cars were up 120 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Valencia oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on May 13, 1975.

(b) Order. (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period May 16, 1975, through May 22, 1975, are hereby fixed as follows:

- (i) District 1: 230,000 cartons;
- (ii) District 2: 382,000 cartons;
- (iii) District 3: 238,000 cartons.

(2) As used in this section, "handled", "District 1", "District 2", "District 3",

and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: May 14, 1975.

CHARLES R. BRADER,  
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.75-13034 Filed 5-15-75;8:45 am]

[Grapefruit Reg. 15, Amdt. 6]

**PART 944—FRUITS; IMPORT REGULATIONS****Minimum Grade Requirements**

This amendment lowers the minimum grade requirements applicable to imported white seedless and white and pink seeded grapefruit to U.S. No. 2 Russet on May 19, 1975. The requirement is the same as that applicable to grapefruit produced in Florida and regulated pursuant to Marketing Order No. 905.

This amendment is consistent with section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This section requires that whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity. This regulation fixes the same minimum grade requirement on imported white seedless and white and pink seeded grapefruit as is effective under Marketing Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida.

Order. In § 944.111 (Grapefruit Regulation 15; 39 FR 33306, 37188; 40 FR 8322, 11346, 14891, 20063) the provisions of paragraph (a) are amended to read as follows:

**§ 944.111 Grapefruit Regulation 15.**

(a) . . . . .

(1) Seeded grapefruit shall grade at least U.S. No. 2 Russet and be of a size not smaller than 3 1/8 inches in diameter except that a tolerance for seeded grapefruit smaller than such minimum size shall be permitted as specified in § 51.761 of the United States Standards for Florida Grapefruit; and

(2) Seedless grapefruit shall grade at least U.S. No. 2 Russet and be of a size not smaller than 3 1/8 inches in diameter except that a tolerance for seedless grapefruit smaller than such minimum size shall be permitted as specified in § 51.761 of the United States Standards for Florida Grapefruit.

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice engage in public rulemaking procedure, and postpone the effective time of this amendment beyond that hereinafter specified (5 U.S.C. 553) in that (a) the

requirements of this amended import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), which makes such regulation mandatory; (b) this amendment fixes the same requirement for imports of white seedless and white and pink seeded grapefruit as is applicable under amended Grapefruit Regulation 75 (§ 905.556) to the shipment of white seedless and white and pink seeded grapefruit grown in Florida; and (c) this amendment lowers the minimum grade requirements applicable to imported white seedless and white and pink seeded grapefruit.

(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674))

Dated: May 13, 1975, to become effective May 19, 1975.

CHARLES R. BRADER,  
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.75-12912 Filed 5-15-75;8:45 am]

[Lemon Reg. 692]

**PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA****Limitation of Handling**

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period May 18-24, 1975. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

**§ 910.992 Lemon Regulation 692.**

(a) Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

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(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: May 14, 1975.

CHARLES R. BRADER,  
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.75-13179 Filed 5-15-75;11:47 am]

**CHAPTER X—AGRICULTURAL MARKETING SERVICE****PART 1011—MILK IN THE APPALACHIAN MARKETING AREA****CFR Correction**

On pages 221 and 222 of the current edition of 7 CFR Parts 1000-1059 remove § 1011.51 (b) (1) and (b) (2).

**PART 1007—MILK IN THE GEORGIA MARKETING AREA****CFR Correction**

On page 199 of the current edition of 7 CFR Parts 1000-1059, transfer the list of Georgia counties now appearing under § 1007.52(a) (2) to appear under paragraph (a) (1).

**CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE****SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS**

[Amdt. 2]

**PART 1427—COTTON****Subpart—Seed Cotton Loan Program Regulations****MISCELLANEOUS CHANGES**

Notices of proposed rulemaking with respect to the continuation of the loan program for the 1975 crops of upland and extra long staple seed cotton and operating provisions to carry out the program were published in the FEDERAL REGISTER on July 17, 1974 and August 15, 1974 (39 FR 26159 and 39 FR 29375), respectively. Four responses were received. Three recommended continuing the program and one recommended that the program be discontinued. After careful consideration of the recommendations it has been determined that the program will again be offered in 1975. Therefore, the Seed Cotton Loan Program Regulations issued by Commodity Credit Corporation and published as "Subpart-Seed Cotton Loan Program Regulations" in the FEDERAL REGISTER as 38 FR 14816 and 16631, as amended, are hereby further amended to incorporate several previously announced changes in the operating provisions as follows:

1. Paragraphs (a) and (b) of § 1427.163 are amended to provide that an approved cooperative or a commercial ginning company designated by producers to obtain loans in their behalf may request and obtain disbursement of loans through a central county office. The amended paragraphs read as follows:



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## § 1427.163 Disbursement of loans.

(a) Where to request loans. A producer or his agent shall request a loan at the local county office for the county where the cotton is stored, which will assist the producer in completing the loan documents, except that approved cooperatives and approved financially responsible commercial ginning companies designated by producers to obtain loans in their behalf may obtain loans through a central county office.

(b) Disbursement of loans. Disbursement of each loan will be made by the county office of the county in which the cotton is stored by means of drafts drawn on CCC by the county office, except that approved cooperatives or commercial ginning companies designated by producers to obtain loans in their behalf may obtain disbursement of loans at a central county office. Service charges shall be deducted from the loan proceeds. The producer or his agent shall not present the loan documents for disbursement unless the cotton is in existence and in good condition. If the cotton is not in existence and in good condition at the time of disbursement, the producer or his agent shall immediately return the draft issued in payment of the loan or, if the draft has been negotiated, shall promptly return the proceeds.

2. Paragraph (b) of § 1427.165 is changed to provide that: upland cotton must be produced on a farm which has a base acreage allotment; extra long staple cotton must be produced on a farm on which the acreage planted to such cotton does not exceed the established allotment. Paragraph (c) of § 1427.165 is changed to provide that cotton must not be produced on land owned by the Federal Government which is occupied without a lease, permit, or other right of possession. The amended paragraphs are as follows:

## § 1427.165 Eligible cotton.

(b) Upland cotton must have been produced on a farm which has a base acreage allotment by a "cooperator" as defined in section 408(b) of the Agricultural Act of 1949, as amended, who has complied with the set-aside requirements, if any, of the Upland Cotton Program as prescribed in Parts 718, 722, and 791 of this title and any amendment thereto. Extra long staple cotton must have been produced by a "cooperator" as defined in section 408(b) of the Agricultural Act of 1949, as amended, on a farm on which it has been determined that the acreage planted to such cotton does not exceed the established allotment as prescribed in Parts 718, 722, and 791 of this title and any amendments thereto.

(c) Such cotton must not have been produced on land owned by the Federal Government if such land is occupied without a lease, permit, or other right of possession.

3. Section 1427.173 is amended to provide that the loan service fee applicable to approved cooperatives or to commercial ginning companies shall be \$7.25 per loan, provided loan documents are prepared by the cooperative or gin company. The amended section reads as follows:

## § 1427.172 Loan service fee.

A producer shall pay a loan service fee of \$10 per loan, plus \$1 for each additional risk or other individual lot in storage over one, for each loan disbursed, except that in the case of loans to approved cooperatives or to producers through approved ginning companies acting in the producer's behalf, the fee shall be \$7.25 per loan if the cooperative or approved ginning company prepares the loan documents. This fee is not refundable.

4. Section 1427.174 is revised to change the restrictions governing the use of agents and to make such provisions consistent with the provisions covering warehouse-stored lint cotton loans. The revised section is retitled "Use of Agents" and reads as follows:

## § 1427.174 Use of agents.

A producer who desires to appoint an attorney-in-fact to act in his place and stead in obtaining and repaying loans may use Power of Attorney, Form ASCS-211 (referred to in this subpart as "Form 211"), except that a power of attorney on another form will be accepted if it is determined by CCC to be legally sufficient. The original or facsimile of the power of attorney or a copy certified by a notary public as a true and correct copy must be filed with the county office. An attorney-in-fact shall not make any purchase of the seed cotton redeemed from a loan or the producers' equity in such cotton for his own account or as agent for others, or sell any such cotton or equities therein to any person by whom he is employed or who has the right to control or direct his sale of the seed cotton, the equity therein, or the lint cotton produced therefrom. Any delegation of authority given in violation of this paragraph shall be without force and effect and shall not be recognized by CCC.

5. Paragraph (c) of § 1427.178 is amended to permit approved cooperatives and commercial ginning companies designated by producers to obtain loans in their behalf to remove seed cotton from storage for ginning without obtaining prior approval from the county office under certain conditions. The amended paragraph (c) reads as follows:

## § 1427.178 Settlement.

(c) Removal of loan cotton. A producer or his agent shall not remove from storage any cotton covered by a chattel mortgage until prior written approval has been received from the county committee for removal of such cotton. Any such approval shall be subject to the terms and conditions set out in the approval form. If a producer or his agent obtains such approval, he may remove such cotton from storage, sell the seed cotton,

have it ginned, and sell the lint cotton and cottonseed obtained therefrom. The ginner shall inform the county office in writing immediately after the cotton removed from storage has been ginned and furnish the county office the loan number, producer's name, and applicable gin bale numbers. If the seed cotton is removed from storage, the loan, interest, and charges thereon must be satisfied not later than (1) the date established by the county committee, (2) promptly after the producer received the class cards (and the warehouse receipts, if the cotton is delivered to a warehouse), representing such cotton, or (3) the loan maturity date, whichever is earliest. If the seed cotton or lint cotton is sold, the loan, interest, and charges must be satisfied immediately. A producer (except a cooperative) may obtain a warehouse storage loan on the lint cotton, but the loan, interest, and charges on the seed cotton must be satisfied out of the proceeds of the warehouse storage loan. An approved cooperative must repay the seed cotton loan, interest, and charges before pledging the cotton for a warehouse storage loan. If approved cooperatives and commercial ginning companies authorized by producers to obtain loans in their behalf remove seed cotton from storage prior to obtaining approval to move such cotton, such removal shall constitute conversion of such cotton unless the cooperative or commercial ginning company notifies the county office in writing the following morning by mail or otherwise that such cotton has been moved and is on the gin yard, furnishes CCC an irrevocable letter of credit if requested, and repays the loan within the time specified by the county committee. Any removal from storage shall not be deemed to constitute a release of CCC's security interest in the cotton or to release the producer or approved cooperative from liability for the loan, interest, and charges if full payment of such amount is not received by the county office.

(Secs. 4, 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c))

Effective date. May 16, 1975.

Signed at Washington, D.C., on May 7, 1975.

KENNETH E. FRICK,  
Executive Vice President,  
Commodity Credit Corporation.

[FR Doc. 75-12964 Filed 5-15-75; 8:45 am]

# Title 12—Banks and Banking CHAPTER II—FEDERAL RESERVE SYSTEM

## SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM [Reg. Z]

### PART 226—TRUTH IN LENDING Disclosures Regarding Real Estate Settlement Procedures

This interpretation is written to clarify the application of Regulation Z to the standardized form, including Truth in Lending disclosures and instructions,

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prescribed by the Department of Housing and Urban Development to meet the disclosure requirements of the Real Estate Settlement Procedures Act. For example, the standardized form is designed for the disclosure of loans and credit sales, and it should be used regardless of any differing requirements in Regulation Z.

Section 226.102 is added to read as set forth below:

#### § 226.102 Disclosures made in connection with the Real Estate Settlement Procedures Act of 1974.

(a) The Real Estate Settlement Procedures Act of 1974 (Pub. L. 93-533) requires the Department of Housing and Urban Development to prescribe a standardized form for the disclosure of settlement costs, which must be given to home buyers in transactions which involve federally related mortgage loans. Section 4 of the statute specifically requires that such form include all information and data required to be disclosed by the Federal Truth in Lending Act. A Truth in Lending disclosure form (hereinafter referred to as "form") and instructions to be used in completing such form have been prescribed as a part of the standardized form. Because of the unavoidable complexity inherent in combining settlement and credit costs into one form, the requirements relating to the use of the standardized form differ to some degree from the requirements imposed under Regulation Z. It is the purpose of this interpretation to eliminate any confusion as to the steps creditors must take in complying with the Truth in Lending disclosure requirements in completing the form and to clarify the interrelationship between the Truth in Lending Act and the Real Estate Settlement Procedures Act.

(b) Sections 226.6(b), 226.8(c), and 226.8(d) of Regulation Z characterize credit transactions as loans or credit sales and require differing disclosures for each. The form is designed for the disclosure of both credit sales and loans. The form should be used for consumer credit transactions subject to the Real Estate Settlement Procedures Act regardless of whether the transaction may be characterized as a loan or a credit sale and such use shall not constitute a violation of the Truth in Lending Act.

(c) Notwithstanding the provisions of § 226.8(a)(1), the form precludes the inclusion of the promissory note or other instrument evidencing the obligation. Notwithstanding the provisions of § 226.6(c)(2), the form precludes the inclusion of any inconsistent State disclosure requirements. Notwithstanding the provisions of § 226.8(a), itemization and disclosure of charges excludable from the finance charge under § 226.4(b) may be made on the settlement costs portion of the combined form.

(d) The form, when properly completed in accordance with Regulation Z and the instructions provided with the form, constitutes compliance with the provisions of § 226.6(a) relating to "clear, conspicuous, and meaningful sequence"

disclosure requirements. (Under § 226.6(a) creditors must continue to disclose more conspicuously the terms "annual percentage rate" and "finance charge" as well as making numeric disclosures under the type size requirements specified.) The instructions accompanying the form permit creditors to delete inapplicable disclosures, to substitute more pertinent disclosures for those presently included, to provide for additional space or language where necessary to satisfy full disclosure, and to make additional disclosures not presently included where such are required. Such permissive changes to the form should be made in compliance with § 226.6(a).

The form provides for the optional disclosure of the simple annual rate of contract interest. The disclosure of such rate does not constitute a violation of § 226.6(c).

(e) The definition of "federally related mortgage loan" provided in section 3 of the Real Estate Settlement Procedures Act (12 U.S.C. § 2602) could be interpreted as requiring settlement cost disclosures in transactions which are exempt under § 226.3. In such cases, the form need not be provided.

(f) The effective date of this interpretation is June 20, 1975, which coincides with that of the Real Estate Settlement Procedures Act.

(Interprets and applies 12 C.F.R. 226.4, 226.6, and 226.8)

By order of the Board of Governors,  
May 5, 1975.

[SEAL] GRIFFITH L. GARWOOD,  
Assistant Secretary of the Board.  
[FR Doc. 75-12895 Filed 5-15-75; 8:45 am]

## Title 14—Aeronautics and Space CHAPTER I—FEDERAL AVIATION ADMINISTRATION

[Docket No. 75-GL-10; Amdt. 39-2209]

### PART 39—AIRWORTHINESS DIRECTIVES Bellanca Aircraft Models 17-31, 17-31A, 17-31TC, 17-31ATC

There have been reports of the vapor return line check valve P/N 19121-206 sticking or being improperly installed on the Bellanca Model 17-31A. Since this condition which can result in engine power failure is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require modification of the vapor return line check valve on Bellanca Models 17-31, 17-31A, 17-31TC, 17-31ATC airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

#### § 39.13 [Amended]

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697 and 14 CFR 11.89) § 39.13 of Part 39 of the Federal Aviation Regulations is

amended by adding the following new airworthiness directive.

Bellanca. Applies to the following airplanes:

17-31: S/N 32-1  
17-31TC: All serials  
17-31A: S/N 32-21 through S/N 75-31158 except S/N 32-25

17-31ATC: S/N 31004 through S/N 75-3113  
Compliance: Required within the next 25 hours time in service after the effective date of this AD. The airplane may be flown to a facility where the modification can be accomplished after the expiration of the 25 hours time in service after the effective date of the AD. To prevent possible engine power failure, accomplish the following as appropriate:

#### A. Models Up To But Not Including 1973 Models\*

The check valve (P/N 19121-206\*\*) is located on the diagonal on the forward wing truss under R/H front seat; the following procedure is to be used:

1. Remove right front seat, lift up carpet and remove plywood cover.
2. Remove check valve.
3. Disassemble the check valve, remove the internal check ball and reassemble the valve without the internal check ball. Remove the Bellanca placard showing the valve as P/N 19121-206 and remark the valve housing with a yellow stripe through the AN part number.
4. Reinstall the valve in the vapor return line.

5. Make appropriate log book entries.

#### B. 1973 Model Aircraft\*

The check valve (19121-206\*\*) is located under right floorboard; the following procedure is to be used:

1. Remove: right front seat forward stop and seat, floor mat, right kick panel, right half of heel plate, metal cover over fuel selector, and right floorboard.
2. Remove check valve.
3. Disassemble the check valve, remove the internal check ball and reassemble the valve without the internal check ball. Remove the Bellanca placard showing the valve as P/N 19121-206 and remark the valve housing with a yellow stripe through the AN part number.
4. Reinstall the valve in the vapor return line.

5. Reverse Step 1 to complete operation.

6. Make appropriate log book entries.

#### C. 1974 and 1975 Model Aircraft\*

The check valve (19121-206\*\*) is located under right floorboard; the following procedure is to be used:

1. Remove: right front seat forward stop and seat, floor mat, right cabin heat fresh air deflector, seat adjuster mechanism, metal cover over fuel selector, and right floorboard.
2. Remove check valve.
3. Disassemble the check valve, remove the internal check ball and reassemble the valve without the internal check ball. Remove the Bellanca placard showing the valve as P/N 19121-206 and re-mark the valve housing with a yellow stripe through the AN part number.
4. Reinstall the valve in the vapor return line.

5. Reverse Step 1 to complete procedure.

6. Make appropriate log book entries.

\*Identify aircraft model year by referring to first two digits in serial number for 1973, 1974 and 1975 aircraft; aircraft serial numbers prior to 1973 were not coded to year.

\*\*The check valve is a small 13/16 inch diameter by 1 1/4 inch long (plus fitting) AN valve located in the vapor return line between the fuel selector and the firewall. The valve may be positively identified by noting the Bellanca placard rework number 19121-206 located after AN in lieu of the AN number.

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This amendment becomes effective May 22, 1975.

(Secs. 313(a), 601, and 608 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Des Plaines, Illinois, on May 8, 1975.

JOHN M. CYROCKI,  
Director.

[FR Doc. 75-12864 Filed 5-15-75; 8:45 am]

[Airspace Docket No. 74-NW-20]

# **PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS**

## **Alteration of Control Zone**

On March 21, 1975, a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (40 FR 12810) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Hillsboro, Oregon, Control Zone.

Interested persons were given 30 days in which to submit written data, views, or arguments. No objections were received.

In consideration of the foregoing, the amendment is hereby adopted without change.

Effective Date: This amendment shall be effective 0901 G.m.t., August 14, 1975.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Seattle, Washington, on May 9, 1975.

C. B. WALK, JR.,  
Director Northwest Region.

§ 71.171 [Amended]

In § 71.171 (40 FR 354) the description of the Hillsboro, Oregon, Control Zone is amended to read as follows:

## **HILLSBORO, OREGON**

Within a 5-mile radius of Portland-Hillsboro Airport (Latitude 45°32'15" N, Longitude 122°56'46" W); within 2 miles each side of the Newburg VORTAC 007° radial, extending from the 5-mile radius area to 8 miles south of the airport; within 2 miles each side of the 039° bearing from the airport reference point, extending from the 5-mile radius area to 0.5 miles northeast of the airport; and within 3.5 miles each side of the 323° bearing from the airport reference point, extending from the 5-mile radius area to 16 miles northwest. This control zone will be effective during the time established in advance by a Notice to Airmen and continuously published in the Airmen's Information Manual.

[FR Doc. 75-12866 Filed 5-15-75; 8:45 am]

[Airspace Docket No. 75-NW-01]

# **PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS**

## **Establish Control Zone**

On March 21, 1975, a Notice of Proposed Rule Making was published in the

FEDERAL REGISTER (40 FR 12811) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would include the description of the Port Angeles, Washington, Control Zone.

Interested persons were given 30 days in which to submit written data, views, or arguments. No objections were received.

In consideration of the foregoing, the amendment is hereby adopted without change.

Effective Date: This amendment shall be effective 0901 G.m.t., August 14, 1975.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Seattle, Washington, on May 9, 1975.

C. B. WALK, JR.,  
Director Northwest Region.

§ 71.171 [Amended]

In § 71.171, add the following description:

## **PORT ANGELES, WASHINGTON**

Within a 5-mile radius of William R. Fairchild International Airport (latitude 48°07'10" N, longitude 123°29'44" W), excluding that airspace within a 1-mile radius of latitude 48°08'28" N, longitude 123°24'45" W.

This control zone is effective during specific dates and times established in advance by a Notice to Airmen. Effective date and time will thereafter be continuously published in the Airmen's Information Manual.

[FR Doc. 75-12865 Filed 5-15-75; 8:45 am]

# **Title 24—Housing and Urban Development**

## **CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT-FEDERAL HOUSING COMMISSIONER [FEDERAL HOUSING ADMINISTRATION]**

[Docket No. R-75-313]

## **INTEREST RATE CHANGE**

### **Changes To Meet Mortgage Market**

The following amendments are being made to this chapter to change the maximum interest rate which may be charged on a mortgage insured by this Department from 8 percent to 8½ percent. The Secretary has determined that such change is necessary to meet the mortgage market, in accordance with his authority contained in 12 U.S.C. 1709-1, as amended. The Secretary has, therefore, determined that advance notice and public procedure are unnecessary and that good cause exists for making this amendment effective April 28, 1975.

Accordingly, Chapter II is amended as follows:

# **PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS**

## **Subpart A—Eligibility Requirements**

1. In § 203.20 paragraph (a) is amended to read as follows:

§ 203.20 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee

and the mortgagor, which rate shall not exceed 8½ percent per annum with respect to mortgages insured on or after April 28, 1975.

(Sec. 211, 52 stat. 23; (12 U.S.C. 1715b). Interpret or apply sec. 203, 52 stat. 10, as amended; (12 U.S.C. 1709)).

2. In § 203.74 paragraph (a) is amended to read as follows:

§ 203.74 Maximum interest rate.

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 8½ percent per annum with respect to loans insured on or after April 28, 1975.

(Sec. 211, 52 stat. 23; (12 U.S.C. 1715b). Interpret or apply sec. 203, 52 stat. 10, as amended; (12 U.S.C. 1709)).

# **PART 205—MORTGAGE INSURANCE FOR LAND DEVELOPMENT**

## **Subpart A—Eligibility Requirements**

3. Section 205.50 is amended to read as follows:

§ 205.50 Maximum interest rate.

The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8½ percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after April 28, 1975.

(Sec. 1011, formerly sec. 1010, 79 stat. 464, (12 U.S.C. 1749j)); renumbered Pub. L. 89-754, sec. 401(a), 60 stat. 1271).

# **PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE**

## **Subpart A—Eligibility Requirements**

4. In § 207.7 paragraph (a) is amended to read as follows:

§ 207.7 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8½ percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after April 28, 1975.

(Sec. 211, 52 stat. 23; (12 U.S.C. 1715b). Interpret or applies sec. 207, 52 stat. 16, as amended; (12 U.S.C. 1713)).

# **PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE**

## **Subpart A—Eligibility Requirements—Projects**

5. In § 213.10 paragraph (a) is amended to read as follows:

§ 213.10 Maximum interest rate.

(a) The mortgage or a supplementary loan shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, or the lender and the borrower, which rate shall not exceed 8½ percent per annum with respect to mortgages (or

supplementary loans upon completion) on or after April 28, 1975.

# **Subpart C—Eligibility Requirements—Individual Properties Released From Project Mortgage**

6. In § 213.511 paragraph (a) is amended to read as follows:

§ 213.511 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8½ percent per annum with respect to mortgages insured on or after April 28, 1975.

(Sec. 211, 52 stat. 23; (12 U.S.C. 1715b). Interpret or apply sec. 213, 64 stat. 54, as amended; (12 U.S.C. 1715e)).

# **PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS**

## **Subpart C—Eligibility Requirements—Projects**

7. In § 220.576 paragraph (a) is amended to read as follows:

§ 220.576 Maximum interest rate.

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 8½ percent per annum with respect to loans receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after April 28, 1975.

(Sec. 211, 52 stat. 23; (12 U.S.C. 1715b). Interpret or apply sec. 220, 68 stat. 596, as amended; (12 U.S.C. 1715k)).

# **PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE**

## **Subpart C—Eligibility Requirements—Moderate Income Projects**

8. In § 221.518 paragraph (a) is amended to read as follows:

§ 221.518 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8½ percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after April 28, 1975. Interest shall be payable in monthly installments on the principal amount of the mortgage outstanding on the due date of each installment.

(Sec. 211, 52 stat. 23; (12 U.S.C. 1715b). Interpret or applies sec. 221, 68 stat. 599, as amended; (12 U.S.C. 1715l)).

# **PART 232—NURSING HOMES AND INTERMEDIATE CARE FACILITIES MORTGAGE INSURANCE**

## **Subpart A—Eligibility Requirements**

9. In § 232.29 paragraph (a) is amended to read as follows:

## **§ 232.29 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8½ percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after April 28, 1975.

# **Subpart C—Eligibility Requirements—Supplemental Loans To Finance and Installation of Fire Safety Equipment**

10. In § 232.560 paragraph (a) is amended to read as follows:

§ 232.560 Maximum interest rate.

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 8½ percent per annum with respect to loans insured on or after April 28, 1975.

(Sec. 211, 52 stat. 23; (12 U.S.C. 171b). Interpret or applies sec. 232, 73 stat. 663; (12 U.S.C. 171w)).

# **PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE**

## **Subpart A—Eligibility Requirements—Individually Owned Units**

11. In § 234.29 paragraph (a) is amended to read as follows:

§ 234.29 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8½ percent per annum with respect to mortgages insured on or after April 28, 1975.

(Sec. 211, 52 stat. 23; (12 U.S.C. 1715b). Interpret or applies sec. 234, 75 stat. 160; (12 U.S.C. 1715y)).

# **PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION**

## **Subpart D—Eligibility Requirements—Rehabilitation Sales Projects**

12. Section 235.540 is amended to read as follows:

§ 235.540 Maximum interest rate.

The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8½ percent per annum with respect to mortgages insured on or after April 28, 1975.

(Sec. 211, 52 stat. 23; (12 U.S.C. 1715b). Interpret or applies sec. 235, 82 stat. 477; (12 U.S.C. 1715z)).

# **PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENTS FOR RENTAL PROJECTS**

## **Subpart A—Eligibility Requirements for Mortgage Insurance**

13. Section 236.15 is amended to read as follows:

## **§ 236.15 Maximum interest rate.**

The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8½ percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after April 28, 1975.

(Sec. 211, 52 stat. 23; (12 U.S.C. 1715b). Interpret or applies sec. 236, 52 stat. 498; (12 U.S.C. 1715z-1)).

# **PART 241—SUPPLEMENTARY FINANCING FOR INSURED PROJECT MORTGAGES**

## **Subpart A—Eligibility Requirements**

14. Section 241.75 is amended to read as follows:

§ 241.75 Maximum interest rate.

The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 8½ percent per annum with respect to loans insured on or after April 28, 1975. Interest shall be payable in monthly installments on the principal then outstanding.

(Sec. 211, 52 stat. 23; (12 U.S.C. 1715b). Interpret or applies sec. 241, 82 stat. 506; (12 U.S.C. 1715z-b)).

# **PART 242—MORTGAGE INSURANCE FOR HOSPITALS**

## **Subpart A—Eligibility Requirements**

15. Section 242.33 is amended to read as follows:

§ 242.33 Maximum interest rate.

The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8½ percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after April 28, 1975. Interest shall be payable in monthly installments on the principal then outstanding.

(Sec. 211, 52 stat. 23; (12 U.S.C. 1715b). Interpret or applies sec. 242, 82 stat. 509; (12 U.S.C. 1715z-7)).

# **PART 244—MORTGAGE INSURANCE FOR GROUP PRACTICE FACILITIES**

## **Subpart A—Eligibility Requirements**

16. In § 244.45 paragraph (a) is amended to read as follows:

§ 244.45 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8½ percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after April 28, 1975.

(Sec. 1104, 80 stat. 1275; (12 U.S.C. 1749aaa-3)).



Effective date. These amendments are effective as of April 28, 1975.

DAVID M. DEWILDE,  
Acting Assistant Secretary-  
Commissioner for Housing  
Production and Mortgage  
Credit.

[FR Doc. 75-12940 Filed 5-15-75; 8:45 am]

#### Title 29—Labor

### CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

[S-74-2]

#### PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

### PART 1928—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR AGRICULTURE

#### Roll-Over Protective Structures for Agricultural Tractors; Correction

In FR Doc. 75-10549 appearing at page 18254 in the FEDERAL REGISTER of April 25, 1975, paragraph II(1) of the preamble, appearing in the second column on page 18254, is corrected by deleting the sentence which reads "Other tractors are also exempted while used in low-clearance buildings."

Signed at Washington, D.C. this 8th day of May, 1975.

JOHN STENDER,  
Assistant Secretary of Labor.

[FR Doc. 75-12939 Filed 5-15-75; 8:45 am]

#### Title 47—Telecommunication

### CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20273]

### PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

#### Mandatory VHF Requirements

In FR Doc. 75-11763 appearing at page 19646 in the issue for Tuesday, May 6, 1975, on page 19649 change the section heading now reading § 38.547 to read "§ 83.547".

#### Title 49—Transportation

### CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 71-13; Notice 9]

### PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

#### Motor Vehicle Brake Fluids

This notice further responds to petitions for reconsideration of amendments to 49 CFR 571.116, Motor Vehicle Safety Standard No. 116, Motor Vehicle Brake Fluids, that were published in the FEDERAL REGISTER on August 22, 1974 (39 FR 30353, as corrected at 39 FR 32739). A partial response deleting color coding requirements was published on March 25, 1975 (40 FR 13219). This notice amends the standard in minor respects.

Petitions were received from General Motors Corporation, Ford Motor Com-

pany, Wagner Electric Corporation, Officine Alfieri Maserati, S.A. Automobiles Citroen, and U.S. Technical Research Corporation. Late-filed petitions were received from EIS Automotive and the Bell Company and in accordance with 49 CFR 553.31 they have been treated as petitions for rulemaking. The issues raised by the petitions and their disposition are set forth below.

**Revocation.** Ford petitioned to revoke the amendments adding DOT 5 brake fluids, because "it has reason to believe that they are incompatible with at least some of the brake systems currently used on Ford vehicles." Specifically Ford argues that the fluids "may cause hazardous deterioration of brake systems or their components." In support Ford referenced a recent letter from Bendix to the Non-Conventional Brake Fluid Task Group of the Society of Automotive Engineers, describing a series of tests conducted with silicone brake fluid "in a hydrovac brake system typical of the system used in some Ford products." NHTSA has learned that Bendix subsequently informed SAE that the tests were erroneously reported and recommended further testing. This agency finds that good cause has not been shown for the revocation, and Ford's petition is denied.

Ford also commented that DOT 5 fluid would not have sufficient electrical conductivity to permit the operation of its intended brake fluid level sensor to meet a requirement of Motor Vehicle Safety Standard No. 105-75 Hydraulic Brake Systems. The NHTSA regards this as a design problem, peculiar to Ford, that is outweighed by the safety advantages of allowing motor vehicle manufacturers and motorists the option of choosing a low-water-tolerant brake fluid. Ford's petition is denied.

**Fluid color.** A discussion of issues raised by the petitions for reconsideration of fluid color and labeling will be contained in a notice of proposed rulemaking on this subject to be published shortly. (Docket No. 71-13; Notice 10).

**Minor amendments.** An editorial error in the amendment to paragraph S5.1.5.2 published on September 11, 1974 (39 FR 32739) is corrected. Paragraph S5.2.2.3 is amended to remove superfluous references to "brake fluid." Paragraph S6.7.3 (a) is amended to include a reference to isopropanol. Finally, to agree with a change made in S6.12.4 (39 FR 21599) S6.12.1 is corrected by changing a reference to "120 hours" to "70 hours."

#### § 571.116 [Amended]

In consideration of the foregoing, 49 CFR 571.116, Motor Vehicle Safety Standard No. 116, is amended as follows:

1. Paragraph S5.1.5.2 is revised to read:

S5.1.5.2 *Chemical stability.* When DOT 3 or DOT 4 brake fluid is tested according to S6.5.4, the change in temperature of the refluxing fluid mixture shall not exceed 3.0°C (5.4°F) plus 0.05 degree for each degree that the ERBP of the fluid exceeds 225°C (437°F).

## RULES AND REGULATIONS

2. Paragraph S5.2.2.3(e) (1), (e) (3), and (e) (4) are revised to read as follows: § 5.2.2.3 . . . . .

(e) . . . . .  
(1) FOLLOW VEHICLE MANUFACTURER'S RECOMMENDATIONS WHEN ADDING HYDRAULIC SYSTEM MINERAL OIL.

(3) KEEP HYDRAULIC SYSTEM MINERAL OIL CLEAN. Contamination with dust or other materials may result in brake failure or costly repair.

(4) CAUTION: STORE HYDRAULIC SYSTEM MINERAL OIL ONLY IN ITS ORIGINAL CONTAINER. KEEP CONTAINER CLEAN AND TIGHTLY CLOSED. DO NOT REFILL CONTAINER OR USE OTHER LIQUIDS. (The last sentence is not required for containers with a capacity in excess of 5 gallons.)

3. The third sentence of paragraph S6.7.3(a) is revised to read: "After 144±4 hours remove the bottle from the chamber, quickly wipe it with a clean, lint-free cloth, saturated with ethanol, (isopropanol when testing DOT 5 fluids) or acetone."

4. The second sentence of paragraph S6.12.1 is revised to read: "One jar is heated for 70 hours at 70° C (158° F), and the other for 70 hours at 120° C (248° F)."

Effective date: May 16, 1975. Because the amendments correct errors and create no additional burden on any person it is found for good cause shown that an immediate effective date is in the public interest.

(Sec. 103, 112, 119, Pub. L. 89-563, 80 Stat. 718 (15 USC 1392, 1401, 1407); delegation of authority at 49 CFR 1.51).

Issued on May 12, 1975.

JAMES B. GREGORY,  
Administrator.

[FR Doc. 75-12939 Filed 5-15-75; 8:45 am]

#### Title 50—Wildlife and Fisheries

### CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

### PART 240—REGULATED COMMERCIAL FISHERIES

At the 24th Annual Meeting held in Halifax, Nova Scotia, Canada, June 4-14, 1974, and the special meeting held in Miami, Florida, November 11-15, 1974, the International Commission for Northwest Atlantic Fisheries (ICNAF) recommended that member countries adopt certain conservation measures for 1975.

Therefore, it is the purpose of these regulations to carry out the recommendations of the Commission and to accomplish various administrative matters. The regulations deal with the following matters:

1. Confirms the regulations to include those waters adjacent to the west and south of the convention area (Statistical Area 6) (see § 240.2(b)).

2. Establishes a procedure for a license for an indefinite term of years instead of yearly (see § 240.3).

3. Establishes new incidental catch allowances for trip exemptions and permits the Regional Director to enter into an optional settlement agreement in lieu of per trip exemption (see § 240.4 (b), (c) and the appendix).

4. Changes the requirement for submission of logbook from vessels of 50 gross tons, or more to vessels of 100 gross tons or more (see § 240.5(b)).

5. Changes the catch quotas for haddock, cod, pollock, red fish, yellowtail flounder, witch flounder, American plaice, silver hake, red hake, herring and mackerel (see §§ 240.11, 240.21, 240.31 and 240.41).

6. A new Subpart F is added to establish a catch quota for all other finfish not mentioned in Subparts A through E.

7. A new Subpart G is added to establish a catch quota for squid.

8. A new Subpart H is added to establish an overall quota for all stocks and species.

9. Numerous administrative amendments are made which do not have a substantial effect on U.S. fishermen. In accordance with Executive Order 11821, dated November 27, 1974, it is hereby certified that the inflationary impact of this action on the Nation has been carefully evaluated. The additional federal expenditures required are so minimal that no substantial impact on the Nation is anticipated.

These regulations are issued under the authority contained in the Northwest Atlantic Fisheries Act of 1950 (16 U.S.C. 986). Because of the need for immediate guidance with respect to the provisions contained in these regulations and the fact that they relate to a foreign affairs function of the United States under 5 U.S.C. 553(a) (1), it is found unnecessary to issue a notice of proposed rule making under 5 U.S.C. 553(b) or subject these regulations to the effective date limitation of 5 U.S.C. 553(d). Therefore, under the provisions of 5 U.S.C. 553(d) (3) and 553(b) (B), these regulations are effective May 16, 1975.

Issued at Washington, D.C. and dated May 13, 1975.

JACK W. GEHRINGER,  
Acting Director,  
National Marine Fisheries Service.

In consideration of the foregoing, Part 240 is revised to read as follows:

#### SUBCHAPTER E—NORTHWEST ATLANTIC COMMERCIAL FISHERIES

### PART 240—REGULATED COMMERCIAL FISHERIES

#### Subpart A—General Provisions

Sec.  
240.1 Effective period of regulations.  
240.2 Definitions.  
240.3 Licensing provisions.  
240.4 Persons and vessels exempted.  
240.5 Reports and records.

## RULES AND REGULATIONS

#### Subpart B—Groundfish Fisheries

Sec.  
240.10 Definitions.  
240.11 Catch quota.  
240.12 Open season.  
240.13 Closed season and areas.  
240.14 Gear restrictions.  
240.15 General restrictions.

#### Subpart C—Flatfish Fisheries

240.20 Definitions.  
240.21 Catch quota.  
240.22 Open season.  
240.23 Closed season and areas.  
240.24 Gear restrictions.  
240.25 General restrictions.

#### Subpart D—Hake Fisheries

240.30 Definitions.  
240.31 Catch quota.  
240.32 Open season.  
240.33 Closed season and areas.  
240.34 Gear restrictions.  
240.35 General restrictions.

#### Subpart E—Pelagic Fisheries

240.40 Definitions.  
240.41 Catch quota.  
240.42 Open season.  
240.43 Closed season and areas.  
240.44 Gear restrictions.  
240.45 General restrictions.  
240.46 Size limits.

#### Subpart F—All Other Finfish

240.50 Definitions.  
240.51 Catch quota.

#### Subpart G—Squid Fisheries and Shellfish

240.60 Definitions.  
240.61 Catch quota.

#### Subpart H—Overall Quota

240.70 Definitions.  
240.71 Catch quota.

Appendix: Optional Settlement Agreement Form.

AUTHORITY: Northwest Atlantic Fisheries Act of 1950 as amended (16 Stat. 1069, 16 USC 986).

#### Subpart A—General Regulations

§ 240.1 Effective period of regulations.

These regulations apply for 1975.

#### § 240.2 Definitions.

(a) *Convention area.* The term "Convention area" means and includes all waters, except territorial waters, bounded by a line beginning at a point on the coast of Rhode Island in 71°40' west longitude; thence due south to 39°00' north latitude; thence due east to 42°00' west longitude; thence due north to 50°00' north latitude; thence due west to 44°00' west longitude; thence due north to the coast of Greenland; thence along the west coast of Greenland to 78°10' north latitude; thence southward to a point in 75°00' north latitude and 73°30' west longitude, thence along a rhumb line to a point in 69°00' north latitude and 50°00' west longitude; thence due south to 61°00' north latitude; thence due west to 64°30' west longitude; thence due south to the coast of Labrador; thence in a southerly direction along the coast of Labrador to the southern terminus

of its boundary with Quebec; thence in a westerly direction along the coast of Quebec, and in an easterly and southerly direction along the coasts of New Brunswick, Nova Scotia, and Cape Breton Island, to Cabot Strait; thence along the coasts of Cape Breton Island, Nova Scotia, New Brunswick, Maine, New Hampshire, Massachusetts and Rhode Island to the point of beginning.

(b) *Regulatory area.* The term "Regulatory Area" means and includes the whole of those portions of the Convention area and those adjacent waters to the west and south inhabited by species of fish which are regulated by the Commission and which are separately described as follows:

(1) *Subarea 1.* The term "Subarea 1" means that portion of the Convention area, including all waters except territorial waters, which lies to the north and east of a rhumb line from a point in 75°00' north latitude and 73°30' west longitude to a point in 69°00' north latitude and 59°00' west longitude; east of 59°00' west longitude; and to the north and east of a rhumb line from a point in 61°00' north latitude and 59°00' west longitude to a point in 52°15' north latitude and 42°00' west longitude.

(2) *Subarea 2.* The term "Subarea 2" means that portion of the Convention area, including all waters except territorial waters, lying to the south and west of Subarea 1, as defined in subparagraph (1) of this paragraph, and to the north of the parallel of 52°15' north latitude.

(3) *Subarea 3.* The term "Subarea 3" means that portion of the Convention area, including all waters except territorial waters, lying south of the parallel of 52°15' north latitude; and to the east of a line extending due north from Cape Bauld on the north coast of Newfoundland to 52°15' north latitude; to the north of the parallel of 39°00' north latitude; and to the east and north of a rhumb line extending in a northwesterly direction which passes through a point in 42°30' north latitude, 55°00' west longitude in the direction of a point in 47°50' north latitude, 60°00' west longitude, until it intersects a straight line connecting Cape Ray, on the coast of Newfoundland, with Cape North on Cape Breton Island; thence in a northeasterly direction along said line to Cape Ray.

(4) *Subarea 4.* The term "Subarea 4" means that portion of the Convention area, including all waters except territorial waters, lying to the west of Subarea 3 as described in subparagraph (3) of this paragraph, and to the east of a line described as follows: Beginning at the terminus of the international boundary between the United States of America and Canada in Grand Manan Channel, at a point 44°48'35.34" north latitude, 66°54'11.23" west longitude; thence due south to the parallel of 43°50' north latitude; thence due west to the me-



ridian of 67°40' west longitude; thence due south to the parallel of 42°40' north latitude; thence due east to a point in 66°00' west longitude; thence along a rhumb line in a southeasterly direction to a point in 42°00' north latitude, 65°40' west longitude; thence due south to the parallel of 39°00' north latitude.

(5) *Subarea 5.* The term "Subarea 5" means that portion of the Convention area, including all waters except territorial waters, bounded by a line beginning at the terminus of the international boundary between the United States of America and Canada in Grand Manan Channel at a point in 44°46'35.34" north latitude, 66°54'11.23" west longitude; thence due south to the parallel of 43°50' north latitude; thence due west to the meridian of 67°40' west longitude; thence due south to the parallel of 42°20' north latitude; thence due east to a point in 66°00' west longitude; thence along a rhumb line in a southeasterly direction to a point in 42°00' north latitude, 65°40' west longitude; thence due south to the parallel of 39°00' north latitude; thence due west to the meridian of 71°40' west longitude; thence due north to a point 3 statute miles off the coast of the State of Rhode Island; thence along the coasts of Rhode Island, Massachusetts, New Hampshire, and Maine at a distance of 3 statute miles to the point of beginning.

(6) *Statistical Area 6.* The term "Statistical Area 6" means that portion of the waters inhabited by species of fish which are regulated by the Commission including all waters except territorial waters bounded by a line beginning at a point on the coast of Rhode Island at 71°40' W. long.; thence due south to 39°00' N. lat.; thence due east to 42°00' W. long.; thence due south to 35°00' N. lat., thence due west to the coast of North America, thence northwards along the east coast of Hatteras Island, past Oregon Inlet along the coast of North Carolina, Virginia, Maryland, Delaware, New Jersey, New York, Connecticut, and Rhode Island to the point on Rhode Island at 71°40' W. long.

(c) *Regulated species.* The regulations in this part shall apply to the following species by the subareas they are included in and wherever in the regulations in this part the term "regulated species" is used, it shall apply to those in this list.

- (1) *In Subarea 1.* (i) Cod (*Gadus morhua* (L.)).
- (ii) Haddock (*Melanogrammus aeglefinus* (L.)).
- (iii) Ocean perch (redfish) (*Sebastes*).
- (iv) Halibut (*Hippoglossus hippoglossus* (L.)).
- (v) Grey sole (witch) (*Glyptocephalus cynoglossus* (L.)).
- (vi) Dab (American plaice) (*Hippoglossoides platessoides* (Fab.)).
- (vii) Greenland halibut (*Reinhardtius hippoglossoides* (Walb.)).
- (2) *In Subarea 2.* (i) Cod (*Gadus morhua* (L.)).
- (ii) Haddock (*Melanogrammus aeglefinus* (L.)).
- (iii) Ocean perch (redfish) (*Sebastes*).
- (iv) Halibut (*Hippoglossus hippoglossus* (L.)).

(v) Grey sole (witch) (*Glyptocephalus cynoglossus* (L.)).

(vi) Dab (American plaice) (*Hippoglossoides platessoides* (Fab.)).

(vii) Greenland halibut (*Reinhardtius hippoglossoides* (Walb.)).

(3) *In Subarea 3.* (i) Cod (*Gadus morhua* (L.)).

(ii) Haddock (*Melanogrammus aeglefinus* (L.)).

(iii) In aggregate: ocean perch (redfish) (*Sebastes*), except in the statistical division 3N, 3O, and 3P, halibut (*Hippoglossus hippoglossus* (L.)), grey sole (witch) (*Glyptocephalus cynoglossus* (L.)), yellowtail flounder (*Limanda ferruginea* (Storer)), dab (American plaice) (*Hippoglossoides platessoides* (Fab.)), Greenland halibut (*Reinhardtius hippoglossoides* (Walb.)), pollock (saithe) (*Pollachius virens* (L.)), white hake (*Urophycis tenuis* (Mitch.)).

(4) *In Subarea 4.* (i) Cod (*Gadus morhua* (L.)).

(ii) Haddock (*Melanogrammus aeglefinus* (L.)).

(iii) In aggregate: Flounders: grey sole (witch) (*Glyptocephalus cynoglossus* (L.)), yellowtail flounder (*Limanda ferruginea* (Storer)), blackback or lemon sole (winter flounder) (*Pseudopleuronectes americanus* (Walb.)), dab, American plaice (*Hippoglossoides platessoides* (Fab.)).

(5) *In Subarea 5.* (i) Cod (*Gadus morhua* (L.)).

(ii) Haddock (*Melanogrammus aeglefinus* (L.)).

(iii) Yellowtail flounder (*Limanda ferruginea* (Storer)).

(iv) Silver hake (*Merluccius bilinearis* (Mitch.)).

(v) Red hake (*Urophycis chuss* (Walb.)).

(vi) Herring (*Clupea harengus* (L.)).

(vii) Mackerel (*Scomber scombrus* (L.)).

(viii) Pollock (*Pollachius virens* (L.)).

(ix) Redfish (*Sebastes marinus* (L.)).

(x) In aggregate: Flounders: grey sole (witch) (*Glyptocephalus cynoglossus* (L.)), dab (American plaice) (*Hippoglossoides platessoides* (Fab.)), fluke (summer flounder) (*Paralichthys dentatus* (L.)), blackback or lemon sole (winter flounder) (*Pseudopleuronectes americanus* (Walb.)).

(xi) Short Finned Squid (*Illex illecebrosus*).

(xii) Long Finned Squid (*Loligo pealei*).

(xiii) Other finfish: All other finfish not mentioned by name excluding menhaden, tuna, billfish and sharks other than dogfish.

(d) *Chafer.* A protective covering of canvas, netting, or other material attached to the underside of the cod end only of the net to reduce and prevent damage, and a rectangular piece or pieces of netting attached to the upper side of the cod end only of the net to reduce and prevent damage, so long as the netting attached to the upper side of the cod end conforms to the specifications of either the "ICNAF-type chafer," the "multiple flap-type chafer," or the "Polish-type chafer," described below. For the purposes of this paragraph, the required mesh size, when measured wet after use, shall be deemed to be the average of the measurements of 20 consecutive meshes in a series across the nettings.

(1) ICNAF chafer. A chafer having the following characteristics:

(i) The width of the netting shall be at least 1½ times the width of the area of the cod end which is covered, such width to be measured at right angles to the long axis of the cod end.

(ii) Such netting may be fastened to the cod end of the trawl net only along the forward and lateral edges of the netting and at no other place in the netting.

(iii) On cod ends having a splitting strap, the netting shall be fastened in such a manner that it extends forward of the splitting strap no more than four meshes and ends not less than four meshes in front of the cod line mesh.

(iv) On cod ends not having a splitting strap, the netting shall not extend to more than one-third the length of the cod end measured from not less than four meshes in front of the cod line mesh.

(v) The netting shall not have a mesh size less than that specified for the cod end to which it is attached.

(2) *Multiple flap-type chafer.* A chafer having the following characteristics:

(i) Each piece of netting shall not exceed 10 meshes in length; each shall be at least the width of the cod end, such width being measured at right angles to the long axis of the cod end at the point of attachment; each shall be fastened by its forward edge only across the cod end at right angles to its long axis.

(ii) The aggregate length of all pieces of netting shall not exceed two-thirds the length of the cod end.

(iii) The netting shall not have a mesh size less than that specified for the cod end to which it is attached.

(3) *Polish-type chafer.* A chafer having the following characteristics:

(i) The rectangular piece of netting attached to the upper side of the cod end shall have a mesh size at least twice as large as that specified for the cod end to which it is attached and shall have a width the same as that for the cod end.

(ii) It shall be fastened to the cod end only along the forward, lateral, and rear edges of the netting so that the meshes exactly overlay the meshes of the cod end.

(iii) The netting shall be the same twine size and material as that of the cod end.

(e) *Closed season.* The time during which regulated species in specified areas may not be taken in quantities exceeding the amounts specified as incidental fisheries.

(f) *Cod end.* The bag-like extension attached to the after end of the belly of the trawl net and used to retain the catch.

(g) *Commission.* The International Commission for the Northwest Atlantic Fisheries established pursuant to the Convention.

(h) *Convention.* The International Convention for the Northwest Atlantic Fisheries signed at Washington, D.C., February 8, 1949, and amendments.

(i) *Contracting governments.* Governments party to the Convention.

(j) *Demersal species.* Fishes living at the bottom of the sea.

(k) *Executive Secretary.* The Executive Secretary of the International Commission for the Northwest Atlantic Fisheries.

(l) *Fishing.* The catching, taking or fishing for, or the attempted catching, taking, or fishing for any regulated species.

(m) *Incidental fisheries.* The inadvertent taking of regulated species while conducting fishing operations primarily for other species.

(n) *Mesh size.* Any part of the net, the average of the measurements of any 20 consecutive meshes in any row located at least 10 meshes from the side lacing measured when wet after use.

(o) *License.* A license issued by the National Marine Fisheries Service to enable the holder thereof to fish for, possess, transport, or deliver, by means of any fishing vessel, any regulated species.

(p) *Official or authorized official.* Any representative of the National Marine Fisheries Service (NMFS), U.S. Coast Guard, or U.S. Bureau of Customs, authorized to enforce this part.

(q) *Open season.* The time during which regulated species may lawfully be captured and taken on board a fishing vessel without limitation of the quantity permitted to be retained during each fishing voyage, except as otherwise provided in this part.

(r) *Person.* Any owner, master, or operator of a vessel.

(s) *Regional Director.* The Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930. Telephone number: Area code (617) 281-0640.

(t) *Service.* The National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(u) *Service Director.* The Director of the National Marine Fisheries Service.

(v) *Trawl net.* Any large bag net dragged in the sea by a vessel or vessels for the purpose of fishing.

(w) *Vessel.* Every kind, type or description of watercraft subject to the jurisdiction of the United States, used, or capable of being used, as a means of transportation on water.

(x) *Trip.* As used in connection with the trip exemption provided in § 240.3(b) means a departure from port, transit to the Convention area, participation in the fisheries, including incidental fisheries, and discharges any part of the catch on board.

§ 240.3 Licensing provisions.

(a) Any person or vessel desiring to fish for any regulated species within the waters under regulation by the Commission, or possess, transport, or deliver for sale, any regulated species taken within

waters regulated by the Commission, must first obtain a license for that purpose.

(b) The owner or operator of a vessel may obtain the appropriate license by furnishing on the registration form provided by the National Marine Fisheries Service information specifying the names and addresses of the vessel owner and master, the name of the vessel, official number, fish hold capacity (nearest 100 pounds), and the homeport of the vessel. The registration form shall be submitted, in duplicate, to the Regional Director, National Marine Fisheries Service, Gloucester, Massachusetts, 01930, who shall grant the requested license, without fee, for an indefinite term of years, such term to include the calendar year in which the license is issued. New licenses will be issued to replace lost or mutilated licenses. A license shall expire whenever vessel ownership changes, or there exists an intent by the owner or the master of the vessel to change the directed fishery or fisheries of such vessel. Application for new license, because of a change in vessel ownership (which shall include the names and addresses of both the purchaser and seller and be submitted by the purchaser), a change in the directed fishery or fisheries of the vessel, or the removal of a vessel from the directed fisheries for regulated species within the Convention Area, must be filed with the Regional Director no later than 10 days following the change on a form provided by the Regional Director.

(c) The owner or operator of any licensed vessel which is proposed to be used in fishing outside the Convention area may obtain a temporary suspension of the license until such time that the vessel returns to fish within the Convention area.

(d) The temporary suspension or modification of the license shall be granted upon either an oral or a written request, specifying the period of suspension or modification desired by an authorized State official or by an authorized official of the National Marine Fisheries Service, or Coast Guard. Such official shall make appropriate endorsement on the license evidencing the duration of its suspension or modification.

(e) The license issued by the National Marine Fisheries Service must be carried, at all times, on board the vessel for which it is issued and such license, the vessel, its gear and equipment shall be subject to inspection, at reasonable times, by authorized officials.

(f) Licenses issued under this part may be revoked by the Regional Director for violations of this part.

§ 240.4 Persons and vessels exempted.

(a) *Scientific investigations.* Any person operating a vessel authorized by the Secretary of Commerce to engage in fishing for scientific purposes is exempt from all the requirements of this part.

(b) *Trip Exemption.* A person or vessel subject to the jurisdiction of the United States possessing a valid license

and abiding by existing fishing gear restrictions, but subject to all seasonal, area, or species quota limitation closing for regulated species, may possess regulated species except haddock in 4VW as follows:

(1) Vessels operating in Subareas 4 or 5 or Statistical Area 6 for 10 days or more since leaving port or previously off loading any regulated species may possess amounts of any regulated species taken as an incidental catch not to exceed 10 percent by weight of all fish on board such vessel.

(2) Vessels operating in Subareas 4 or 5 or Statistical Area 6 for less than 10 days but for more than 48 hours and who have not landed or offloaded any regulated species within 10 days of leaving port may possess amounts of any regulated species taken as an incidental catch in quantities not to exceed 5,000 kg (11,020 lbs.) or 20 percent by weight, whichever is greater, of all fish on board such vessel.

(3) Vessels operating in Subareas 4 or 5 or Statistical Area 6 which have landed or offloaded any regulated species within 10 days of leaving port may possess amounts of any regulated species taken as an incidental catch in quantities not to exceed 2,500 kg (5,510 lbs.) or 15 percent by weight, whichever is greater, of all fish on board such vessel.

(c) *Special Exemption.* Notwithstanding (b) above or 240.11(a)(3) the Regional Director, at his discretion, and under such terms and conditions as he deems necessary, may enter into agreements with owners or operators fishing in Subareas 4 or 5 or Statistical Area 6. Such agreement shall set forth the method of computing an annual or quarterly exemption instead of trip exemptions. A form of which is attached to these Regulations as an appendix.

(d) *Excess taking.* The taking of excess amounts of such regulated species under these exemptions by a vessel fishing within Subarea 5 or Statistical Area 6 during the first 48 hour period subsequent to leaving port or off loading will not constitute a violation of these regulations.

§ 240.5 Reports and records.

(a) *Dealers.* (1) All persons, individuals, firms or corporations, at any port or place within the United States, that buy from other U.S. flag vessels or from a carrier licensed as a common carrier engaged in either interstate or intrastate commerce, any regulated species taken within the Convention area by any fishing vessel, shall make and shall furnish to an authorized officer of the National Marine Fisheries Service, within 72 hours of sale or within 72 hours after buying or receiving, or upon the vessel's return to any port of the United States, a complete record of each purchase, on forms supplied by the National Marine Fisheries Service.

(2) All persons purchasing or receiving any regulated species in the Convention area for transport to any port of the United States must maintain records



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identical to those required under paragraph (a)(1) of this section.

(3) The possession by any person, firm or corporation of regulated species which such person, firm, or corporation knows to have been taken by a vessel of the United States without a valid license, is prohibited.

(b) *Owner or master.* (1) In the case of a vessel licensed under § 240.3, and fishing for any of the regulated species, the owner or master of vessels of 100 gross tons or more must maintain an accurate log of fishing operations showing date, type and size of gear used, locality fished, duration of fishing time or tow, and the estimated weight in pounds of each species taken at 12-hour intervals. Such logbooks shall be available for inspection by an authorized official in accordance with the ICAF International Inspection Scheme adopted at the Twenty-first Annual Meeting, May 27-June 4, 1971. The logbook shall be presented for examination and subsequent return to the master or owner of the vessel upon proper demand by any authorized official at any time during or at the completion of a fishing trip. Such required documentation will be maintained by the owner or master of the vessel for one year subsequent to the date of the last entry in the logbook.

(2) In the case of vessels of less than 100 gross tons licensed under § 240.3, and fishing for any of the regulated species, the owner or master may be required to maintain the logbook for sampling purposes at the option of an appropriate official of the United States.

(3) In the case of vessels desiring to fish for nonregulated species on a trip basis, no reports are required of the owner or master.

## Subpart B—Groundfish Fisheries

## § 240.10 Definitions.

(a) Unless otherwise defined herein, the terms used in this subpart will have the meanings ascribed to them in § 240.2.

(b) Regulations in this subpart will apply to haddock (*Melanogrammus aeglefinus* (L.)), cod (*Gadus morhua* (L.)), pollock (*Pollachius virens* (L.)), and redfish (ocean perch) (*Sebastes marinus* (L.)).

## § 240.11 Catch quota.

(a) An annual catch limitation is placed upon the quantity of haddock permitted to be taken in Division 4X of Subarea 4, and Subarea 5. The aggregate catch of haddock by persons or fishing vessels subject to the jurisdiction of the United States in each area is as follows:

(1) The annual catch of haddock by persons or fishing vessels fishing in Division 4X of Subarea 4 shall not exceed 2,000 metric tons.

(2) The annual catch of haddock by persons or fishing vessels fishing in Subarea 5, shall not exceed 4,450 metric tons.

(3) The incidental fishery for haddock, within Subareas 4 and 5, and Statistical Area 6, by persons or vessels subject to the jurisdiction of the United States shall be in accordance with the provisions of

§ 240.4 except that the incidental catch taken in Subdivisions 4V and 4W of Subarea 4 shall not exceed 2,268 kg (5000 lbs) or 10 percent by weight, whichever is greater, of all fish on board such vessel.

(b) An annual catch limitation is placed upon the quantity of cod permitted to be taken in Subdivision 4X of Subarea 4, and Subdivisions 5Y, and 5Z, of Subarea 5. The aggregate catch of cod by persons or fishing vessels subject to the jurisdiction of the United States, in each area, is as follows:

(1) The annual catch of cod in Subarea 4 defined as that portion of Subdivision 4X lying south and east of the straight lines joining coordinates, in the order listed: 44°20'N, 63°20'W; 43°00'N, 65°40'W; 43°00'N, 67°40'W; shall not exceed 300 metric tons.

(2) The annual catch of cod in Subdivision 5Y of Subarea 5 shall not exceed 9,000 metric tons.

(3) The annual catch of cod in Subdivision 5Z of Subarea 5 shall not exceed 19,000 metric tons.

(c) An annual catch limitation is placed upon the quantity of pollock permitted to be taken in Subdivisions 4V, 4W, and 4X, of Subarea 4, and Subarea 5. The aggregate catch of pollock in the above areas by persons or fishing vessels subject to the jurisdiction of the United States shall not exceed 11,500 metric tons.

(d) An annual catch limitation is placed upon the quantity of red fish (ocean perch) permitted to be taken in Subarea 2, Subdivision 3K of Subarea 3, Subdivisions 4V, 4W, and 4X of Subarea 4, and Subarea 5. The aggregate catch of red fish (ocean perch) by persons or fishing vessels subject to the jurisdiction of the United States in each area, is as follows:

(1) The annual catch of red fish (ocean perch) by persons or fishing vessels fishing in Subarea 2, and Subdivision 3K of Subarea 3, shall not exceed 750 metric tons.

(2) The annual catch of red fish (ocean perch) by persons or fishing vessels fishing in Subdivisions 4V, 4W, and 4X of Subarea 4 shall not exceed 7,430 metric tons.

(3) The annual catch of red fish (ocean perch) by persons or fishing vessels fishing in Subarea 5, shall not exceed 20,622 metric tons.

## § 240.12 Open season.

(a) The open season for regulated groundfish species in Subdivision 4Vs, Division 4X and Division 4W of Subarea 4, and Subarea 5, shall begin at 0001 hours of the 1st day of January 1975, and terminate at a time and a date to be determined and announced in the FEDERAL REGISTER. *Provided*, That the areas described in § 240.13 shall be closed to any vessel using gear capable of catching demersal species.

(b) The annual catch of haddock by persons or fishing vessels fishing in Subarea 5, shall not exceed 4,450 metric tons.

## § 240.13 Closed seasons and areas.

(a) The Director shall announce the closure of the season by publication of a notice in the FEDERAL REGISTER, specifying the time and date for the termina-

tion of specialized fishing for regulated groundfish species in Subarea 4 or 5, or any division thereof. The closure is determined in the following manner:

(1) The National Marine Fisheries Service maintains records of the catches of regulated groundfish species, except haddock, made in Subdivision 4Vs, Division 4X and Division 4W of Subarea 4 and Subarea 5, during the open season, by vessels under the jurisdiction of the United States participating in the fishery.

(2) When the accumulative and estimated prospective catch of regulated groundfish species, except haddock in each subarea, making allowance for the incidental catch for the remainder of the year, equals 100 percent of the allowable catch permitted under § 240.11, the Director shall promptly publish the notice, in the FEDERAL REGISTER, required in paragraph (a) of this section, and shall notify the Executive Secretary of the date on which vessels subject to the jurisdiction of the United States have ceased a specialized fishery.

(b) It shall be unlawful for any person or fishing vessel subject to the jurisdiction of the United States to use, during the period from 0001 hours March 1 to 2400 hours May 31 fishing gear capable of catching demersal species, including any trawl gear or similar devices, gillnet or hook and line except that in the area delineated in (1) below, hooks having a gape of not less than 3 cm may be used, in:

(1) Subarea 5, two areas bounded by straight lines connecting the following coordinates in the order listed:

(i) 69°55'W-42°10'N, 69°10'W-41°10'N, 68°30'W-41°35'N, 68°45'W-41°50'N, 69°00'W-41°50'N.

(ii) 67°00'W-42°20'N, 67°00'W-41°15'N, 65°40'W-41°15'N, 65°40'W-42°00'N, 66°00'W-42°20'N.

(2) It shall be unlawful for any person or fishing vessel subject to the jurisdiction of the United States to use, during the period from 0001 hours, February 1, to 2400 hours, May 31 fishing gear capable of catching demersal species, including any trawl gear or similar devices, gill net, or hook and line in Division 4X of Subarea 4 bounded by straight lines connecting the following coordinates, in the order listed:

67°00'W-43°00'N, 66°32'W-42°42'N, 66°32'W-42°20'N, 66°00'W-42°20'N, 65°44'W-42°04'N, 64°00'W-42°49'N, 64°00'W-43°30'N, 65°40'W-43°00'N.

(c) It shall be unlawful for any person subject to the jurisdiction of the United States to take fish, other than crustacea, utilizing fishing vessels over 130 feet in length, with fishing gear other than pelagic fishing gear (purse seines or true mid-water trawls, using mid-water trawl doors incapable of being fished on the bottom), in the area adjacent to the United States coast within such parts of Subarea 5, and Statistical Area 6, which lies north of 39°00'N, and north of straight lines connecting 73°30'W-39°00'N, 72°33'W-40°20'N, and 68°15'W-40°20'N, and south and west of a straight line drawn between the points: 68°15'W-40°20'N, and 70°00'W-43°17'N.

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(d) It shall be unlawful for any person or fishing vessel subject to the jurisdiction of the United States permitted to fish in the areas defined according to § 240.13 (b) and (c) to attach any protective device to pelagic fishing gear or employ any means that would, in effect, make it possible to fish for demersal species.

## § 240.14 Gear restrictions.

(a) In Subareas 1, 2, and 3, no person shall fish for regulated species with a trawl net or nets, parts of nets, or netting of manila or of the trade named twines, under the chemical category of polypropylene, having a mesh size of less than 5½ inches (130 mm.), or a trawl net or nets or parts of nets, or netting of material other than manila or polypropylene twine, unless it shall have a selectivity equivalent to that of a 5½ inch (130 mm.) manila trawl net.

(b) In Subareas 4 and 5, no person shall fish for haddock or cod with a trawl net or nets, parts of nets, other than the cod end, or netting of manila or of the trade named twines, under the chemical category of polypropylene having a mesh size of less than 4½ inches (114 mm.) and having a cod end of meshes of less than 5½ inches (130 mm.).

(c) The use in fishing for haddock or cod within the Regulatory area of any device or method which would, or otherwise, have the effect of diminishing the size of said meshes of the trawl net is prohibited: *Provided*, That an approved chafer described in § 240.2(d) may be used.

## § 240.15 General restrictions.

(a) Except as provided in paragraphs (b), (c), and (d), of this section, after the dates announced in the manner provided in § 240.13(a), for the closing of the unrestrictive fishing for certain species in Division 4X or Division 4W of Subarea 4 and Subarea 5, it shall be unlawful for any master or other person in charge of a fishing vessel to possess such regulated ground fish species on board such vessel in those areas or to land such regulated ground fish species in those areas in any port or place until the next succeeding fishing season reopens on January 1 next.

(b) (1) Any fishing vessel which had departed port to engage in fishing for regulated groundfish species under the provisions of § 240.3 prior to the date of the closure for such regulated species in either Division 4X or 4W in Subarea 4, or Subarea 5, may continue to take and retain such species in the Division or Subarea for which the closure has been announced, for a period of time not to exceed 10 days, at which time fishing for such species in the closed Division or Subarea shall be prohibited. Within 48 hours after the expiration of the 10-day period, each such vessel must return to a port or place in the United States, and the master or person in charge must immediately, on his return, notify any officer of the National Marine Fisheries Service, U.S. Bureau of Customs or Coast Guard, of his arrival.

(2) Any master or person in charge of a fishing vessel, licensed pursuant to § 240.3, may continue to fish after the date of closure, in any subarea or division, the provisions of the next preceding paragraph notwithstanding, but should he elect to do so, the quantity of such regulated species in his possession on each trip must not exceed 5,000 pounds or 10 percent (10%) by weight of all other fish on board.

(c) Any master or person in charge of a fishing vessel, which has departed port after the date of closure of unrestrictive fishing for certain regulated groundfish species in Division 4X or 4W in Subarea 4, or Subarea 5, may take, possess on board, and land in any port or place, such regulated species as may be taken incidentally to a fishery for nonregulated species: *Provided*, That the master of the said vessel has on board the appropriate license as required under § 240.3(a) and complies with the limitations specified in § 240.4, and the reporting requirements, where required, in § 240.5(b): *Provided further*, That nothing contained herein shall be construed to amend, modify, or repeal those portions of the regulations relating to areas closed to all demersal fishing, which may be found in § 240.13(d).

(d) The provisions of this subpart shall apply to all fishing trips begun during the current calendar year, whether completed before January 1, or not.

(e) The provisions of this subpart shall be enforced in accordance with, and not supersede the provisions of § 240.4.

## Subpart C—Flatfish Fisheries

## § 240.20 Definitions.

(a) Unless otherwise defined herein, the terms used in this subpart will have the meanings ascribed to them in § 240.2.

(b) Regulations in this subpart will apply to American plaice (*Hippoglossoides platessoides* (Fab.)), Yellowtail flounder (*Limanda ferruginea* (Storer)), and other flounders in aggregate grey sole or witch (*Glyptocephalus gynoglossus* (L.)), dab or American plaice (*Hippoglossoides platessoides* (Fab.)), fluke or summer flounder (*Paralichthys dentatus* (L.)), blackback, lemon sole or winter flounder (*Pseudopleuronectes americanus* (Walb.)).

## § 240.21 Catch quota.

(a) An annual catch limitation is placed upon the total quantity of yellowtail flounder, witch flounder, and American plaice permitted to be taken by persons or fishing vessels subject to the jurisdiction of the United States.

(1) In Subdivisions 4V, 4W, and 4X, of Subarea 4. The aggregate catch of yellowtail flounder, witch flounder, and American plaice in the above areas by persons or fishing vessels subject to the jurisdiction of the United States shall not exceed 500 metric tons.

(2) The annual catch limitation placed upon yellowtail flounder, permitted to be taken by persons or fishing vessels subject to the jurisdiction of the United States east of 60°00' West longitude in

Subarea 5, shall not exceed 15,900 metric tons and shall be taken in quarterly increments as follows:

Quarter	Catch quota	Expected accumulated catch
Jan. 1 to Mar. 31.....	3,850	3,850
Apr. 1 to June 30.....	3,850	7,700
July 1 to Sept. 30.....	4,900	12,600
Oct. 1 to Dec. 31.....	3,300	15,900

(3) The annual catch quota of yellowtail flounder west of 69°00' West longitude in Subarea 5, and in Statistical Area 6, by persons or fishing vessels subject to the jurisdiction of the United States shall not exceed 3,990 metric tons. The incidental fishery for yellowtail flounder west of 69°00' West Longitude in Subarea 5 and in Statistical Area 6, by persons or fishing vessels subject to the jurisdiction of the United States shall not exceed 2,268 kg (5000 lbs) or 10 percent by weight, whichever is greater, of all fish on board such vessel.

(b) The Director may adjust the quarterly increments of this subpart by publication of a notice in the Federal Register.

(c) An annual catch limitation is placed upon the aggregate quantity of flounder other than yellowtail permitted to be taken by persons or fishing vessels subject to the jurisdiction of the United States in Subarea 5, and in Statistical Area 6. The aggregate catch of such species in the above areas by persons or fishing vessels subject to the jurisdiction of the United States shall not exceed 23,900 metric tons.

## § 240.22 Open season.

(a) The open season for regulated flatfish species in areas under quota in § 240.21, shall begin at 0001 hours local time on the 1st day of January 1975 and terminate at a time and date to be announced by the Director, by publication of a notice in the FEDERAL REGISTER. In the event of a closure during any quarter, open season fishing for yellowtail flounder shall resume on the first day of the next quarter.

## § 240.23 Closed season and areas.

(a) The Director shall announce the closure of the season by publication of a notice in the FEDERAL REGISTER, specifying the time and date for the termination of specialized fishery for certain regulated flatfish species in Subarea 3, and Subarea 5.

(b) The National Marine Fisheries Service maintains records of the catches of regulated flatfish species made during the open seasons in those areas under quota limitations specified in § 240.21 by vessels under the jurisdiction of the United States, participating in the fishery.

(c) When the accumulative and estimated catch of certain regulated flatfish species, making allowance for the incidental catch for the remainder of the year, equals 100 percent of the allowable catch permitted under § 240.21, the Director shall promptly notify the Ex-



Executive Secretary of the date on which vessels subject to the jurisdiction of the United States have ceased a specialized fishery.

(d) Announcement shall also be made by publication of a notice in the FEDERAL REGISTER of the closing time and date of the first, second, and third quarters when the Director has determined, on the basis of catch data and catch rates, that the accumulative catch (landings plus discards) of yellowtail flounder in Subarea 5, in either area (east or west of 69°00' W), will equal the quarterly quota established in § 240.21(b).

#### § 240.24 Gear restrictions.

(a) In Subareas 4 and 5, no person shall fish for yellowtail flounder with a trawl net or nets, parts of nets, other than the cod end, or netting of manila or of the trade named twines, under the chemical category of polypropylene having a mesh size of less than 4½ inches (114 mm.) and having a cod end of meshes of less than 5½ inches (130 mm.).

(b) The use in fishing for regulated species within the Regulatory area of any device or method which would have the effect of diminishing the size of said meshes or obstruct the meshes of the trawl net, is prohibited: *Provided*, That an approved chafer, described in § 240.2 (d) may be used.

#### § 240.25 General restrictions.

(a) Except as provided in paragraphs (a) (1) or (2) and (b) of this section, after the dates announced in the manner provided in § 240.23 for the closing of the fishing season or seasons, it shall be unlawful for any master or other person in charge of a fishing vessel to possess such regulated flatfish species in the closed Regulatory areas or to land such species taken in those areas in any port or place until the next succeeding open season.

(1) In the event of a closure of any of the first three quarters, as provided under § 240.23(d), any fishing vessel which had departed port to engage in yellowtail flounder fishing in Subarea 5 prior to the date of the closure, may continue to take and retain yellowtail flounder in the area subject to the closure for a period of time not to exceed 5 days, at which time fishing for yellowtail flounder in the closed area shall be prohibited.

(2) In the event of an annual closure as provided under § 240.23, any fishing vessel which had departed port to engage in fishing for regulated flatfish species in Subarea 5, prior to date of the closure, may continue to take and retain such species in the area subject to the closure, for a period of time not to exceed 10 days, at which time fishing in the closed area shall be prohibited. Within 24 hours after the expiration of either the 10-day or 5-day period, provided under the preceding paragraph, each such vessel must return to a port or place in the United States and the master or person in charge must immediately, on the return, notify any appropriate official of the National Marine Fisheries Service,

U.S. Bureau of Customs or Coast Guard, of his arrival.

(b) Any master or person in charge of a fishing vessel which has departed port after the date of closure in Subarea 5, may take, possess on board, and land in any port or place, such regulated flatfish species as may be taken incidentally in such closed area to a fishery for non-regulated species: *Provided*, That the owner or operator of the said vessel has on board the appropriate license as required under § 240.3(a) and complies with the limitations specified in § 240.4 and the reporting requirements, where required, in § 240.5(b). *Provided further*, That nothing contained herein shall be construed to amend, modify, or repeal those portions of the regulations relating to areas closed to all demersal fishing which may be found in § 240.13(d).

Nothing contained herein shall be construed to amend, modify, or repeal those portions of the regulations relating to those areas closed to demersal fishing as stated in § 240.13. The provisions of this subpart shall apply to all fishing trips begun during the current calendar year.

#### Subpart D—Hake Fisheries

##### § 240.30 Definitions.

(a) Unless otherwise defined herein, the terms used in this subpart will have the meanings ascribed to them in § 240.2.

(b) Regulations in this subpart will apply to silver hake, (*Merluccius bilinearis* (Mitch.)), and red hake, (*Urophycis chuss* (Walb.)).

##### § 240.31 Catch quota.

(a) An annual catch limitation is placed upon the quantity of silver hake permitted to be taken in Division 5Y and Subdivisions 5Ze and 5Zw of Subarea 5, and in Statistical Area 6. The aggregate catch of silver hake permitted to be taken by persons or fishing vessels subject to the jurisdiction of the United States in each area is as follows:

(1) The annual catch of silver hake in Division 5Y of Subarea 5 shall not exceed 13,000 metric tons.

(2) The annual catch of silver hake in Subdivision 5Ze of Subarea 5 shall not exceed 11,100 metric tons.

(3) The annual catch of silver hake in both Subdivision 5Zw of Subarea 5 and in Statistical Area 6 shall not exceed 18,900 metric tons.

(b) An annual catch limitation is placed upon the quantity of red hake permitted to be taken east of 69° West longitude in Division 5Z of Subarea 5 and West of 69° West longitude in Division 5Z of Subarea 5 and in Statistical Area 6. The aggregate catch of red hake by persons or fishing vessels subject to the jurisdiction of the United States, in each area is as follows:

(1) The annual catch of red hake east of 69°00' West longitude in Division 5Z of Subarea 5, shall not exceed 1,000 metric tons.

(2) The annual catch of red hake west of 69°00' West longitude in Division 5Z of Subarea 5 and in Statistical Area 6 shall not exceed 11,900 metric tons.

It shall be unlawful for any person subject to the jurisdiction of the United States to conduct a directed fishery for silver hake or red hake after closure of the fishery.

##### § 240.32 Open season.

(a) The open season for silver hake fishing in Division 5Y and 5Z of Subarea 5, and red hake fishing in Division 5Z of Subarea 5, shall begin at 0001 hours of the 1st day of January 1975 and terminate at a time and a date to be determined pursuant to § 240.33.

##### § 240.33 Closed season and areas.

(a) The Director shall announce the closure of the season by publication of a notice in the FEDERAL REGISTER, specifying the time and date for the termination of specialized fishery for silver hake or red hake in Subarea 5.

(b) The National Marine Fisheries Service maintains records of the catches of silver hake or red hake made in each Division of Subarea 5 during the open season by vessels, under the jurisdiction of the United States, participating in the fishery.

(c) When the accumulative and estimated prospective catch of silver hake and red hake in each Division of Subarea 5, making allowance for the incidental catch for the remainder of the year, equals 100 percent of the allowable catch permitted under § 240.31, the Director shall promptly notify the Executive Secretary of the date on which its vessels have ceased a specialized fishery.

##### § 240.34 Gear restrictions.

There are no gear restrictions regarding fishing for silver or red hake.

##### § 240.35 General restrictions.

(a) (1) Any fishing vessel which had departed port to engage in silver or red hake fishing under the provisions of § 240.3(a), prior to the date of closure of silver or red hake fishing in either Division 5Y or 5Z of Subarea 5, may continue to take and retain silver or red hake in the Divisions for which the closure has been announced for a period of time not to exceed 5 days, at which time fishing for silver or red hake in the closed Division shall be prohibited. Within 48 hours after the expiration of the 5-day period, each such vessel must return to a port or place in the United States and the master or person in charge must immediately, on his return, notify any appropriate officer of the National Marine Fisheries Service, U.S. Customs Service, or Coast Guard, of his arrival.

(2) Any master or person in charge of a fishing vessel licensed to take silver or red hake from waters of the Convention area may continue to fish after the date of closure in any Subarea or Division, the provisions of the next preceding paragraph notwithstanding, but should he elect to do so, the quantity of silver or red hake in his possession must not exceed 5,000 pounds or 10 percent (10 percent) by weight of all other fish on board.

(b) Any master or person in charge of a fishing vessel which has departed port after the date of closure of silver or red hake fishing in Division 5Y or 5Z of Subarea 5, may take and possess on board, and land in any port or place, such silver or red hake as may be taken incidentally to a fishery for nonregulated species: *Provided*, That the master of the said vessel has on board the appropriate license as required under, § 240.3(a) and complies with the limitations specified in § 240.4 and the reporting requirements, where required in § 240.5(b): *Provided further*, That nothing contained herein shall be construed to amend, modify, or repeal those portions of the regulations relating to areas closed to all demersal fishing, which may be found in § 240.13(d).

(c) The provisions of this subpart shall apply to all fishing trips begun during the current calendar year, whether completed before January 1, or not.

#### Subpart E—Pelagic Fisheries

##### § 240.40 Definitions.

(a) Unless otherwise defined herein, the terms used in this Subpart will have the meanings ascribed to them in Subpart A, § 240.2.

(b) Regulations in this subpart will apply to herring (*Clupea harengus* L.), mackerel (*Scomber scombrus* L.), and squid (all species).

##### § 240.41 Catch quota.

(a) An annual catch limitation is placed upon the quantity of herring permitted to be taken in Divisions 4X and 4W of Subarea 4, Divisions 5Y and 5Z of Subarea 5, and in Statistical Area 6. The aggregate catch by persons or fishing vessels subject to the jurisdiction of the United States in each area is as follows:

(1) The annual catch of herring by persons or fishing vessels fishing in Divisions 4X and 4W in Subarea 4 shall not exceed 1,000 metric tons.

(2) The annual catch of herring by persons or fishing vessels fishing in Division 5Y and Subarea 5 shall not exceed 10,750 metric tons.

(3) The annual catch of herring by persons or fishing vessels fishing in Division 5Z of Subarea 5, and in Statistical Area 6 shall not exceed 8,400 metric tons.

(b) An annual catch limitation is placed upon the quantity of mackerel permitted to be taken in Subareas 3 and 4 and 5 and in Statistical Area 6. The aggregate catch by persons or fishing vessels subject to the jurisdiction of the United States fishing in each area is as follows:

(1) The annual catch of mackerel by persons or fishing vessels fishing in Subareas 3 and 4 shall not exceed 1,000 metric tons.

(2) The annual catch of mackerel by persons or fishing vessels fishing in Subarea 5 and in Statistical Area 6 shall not exceed 4,700 metric tons.

##### § 240.42 Open season.

The open season for herring or mackerel shall begin at 0001 hours of the first day of January each year and terminate

in each subarea at a time and date to be determined and announced as provided in § 240.43.

##### § 240.43 Closed season and areas.

(a) The Service Director shall maintain records of the catches of herring or mackerel by fishing vessels subject to quota allocations in the specific areas and/or Subareas and Statistical Areas, or combination of such, as previously stated in § 240.41, during the open season. The Service Director shall announce the closure dates for herring or mackerel fishing in Divisions 5Y and 5Z of Subarea 5, when the accumulated catch and estimated catch of herring or mackerel, the quantity estimated to be taken before closure could be introduced, and the likely incidental catch for the remainder of the year, equal 100 percent of the allowable catch permitted under § 240.41. Such announcement of the season closure dates shall be made by publication of a notice in the FEDERAL REGISTER.

(b) The Executive Secretary shall maintain records of the catches by fishing vessels, of all contracting governments participating in fishing for herring, subject to quota regulations in Subarea 4, during open seasons for which specific allocations have not been assigned. The Executive Secretary shall notify the United States when the accumulated catch and estimated catch of herring in Divisions 4W and 4X of Subarea 4, the quantity estimated to be taken before closure could be introduced, and the likely incidental catch for the remainder of the year, equal 100 percent of the allowable catch permitted under § 240.41. The Service Director shall announce the closure dates for the herring fishing season for the specific areas and/or Subareas and Statistical Areas, or combination of such, as previously stated in § 240.41, within 10 days of the receipt of such notification from the Executive Secretary. Such announcement of the season closure dates shall be made by publication of a notice in the FEDERAL REGISTER.

##### § 240.44 Gear restrictions.

There are no gear restrictions regarding fishing for herring or mackerel.

##### § 240.45 General restrictions.

(a) Except as provided in § 240.4, and as provided below, after the date announced in manner provided in § 240.43, for the closing of the herring or mackerel fishing season, it shall be unlawful for any master or other person in charge of a fishing vessel to possess herring or mackerel taken in the closed subareas or to land herring taken in those subareas in any port or place until the next succeeding open season for herring or mackerel.

(b) In the event of an annual closure in the specific areas, and/or Subareas, and Statistical Areas, or combination of such, as previously stated in § 240.41, any fishing vessel, which had departed port to engage in herring or mackerel fishing in Subarea 5 prior to the date of closure, may continue to take and retain herring or mackerel in that subarea after the clo-

sure, for a period of time not to exceed 2 days, at which time fishing for herring or mackerel in the closed subarea shall be prohibited. Within 24 hours after the expiration of the 2-day period, each fishing vessel must return to a port or place in the United States, and the master or person in charge of the fishing vessel must then immediately notify an authorized official of the vessel's arrival in port.

(c) In the event of an annual closure as provided in § 240.43(b) in the specific areas and/or Subareas, and Statistical Areas, or combination of such, as previously stated in § 240.41, any fishing vessel, which had departed port to engage in herring fishing in Subarea 4 prior to the date of closure, may continue to take and retain herring in that subarea after the closure, for a period of time not to exceed 4 days, at which time fishing for herring in the closed subarea shall be prohibited. Within 24 hours after the expiration of the 4-day period, each fishing vessel must return to a port or place in the United States, and the master or person in charge of the fishing vessel must then immediately notify an authorized official of the vessel's arrival in port.

(d) For the purposes of law enforcement and inspection, duly authorized officials shall have reasonable access to any area on board a fishing vessel, transport, or shore facility where fish are landed, handled, stored, or processed, and to areas where fishing gear or parts of fishing gear are used, assembled, or stored.

##### § 240.46 Size limits.

A size limit is placed on the length of herring permitted to be taken by persons or fishing vessels, under the jurisdiction of the United States, in those portions of Division 4W south of 44°52'N. latitude and Division 4X south of 43°50'N. latitude of Subarea 4 and in Subarea 5.

(a) The taking or possession of herring less than 9 inches (22.7 cm), measured from the tip of the snout to the end of the tail, is prohibited except as provided in paragraph (b) of this section.

(b) A person may take herring on any trip less than 9 inches (22.7 cm), measured as specified in paragraph (a) of this section: *Provided*, that the total amount taken does not exceed 10 percent by weight or 25% by count of all herring caught in the areas above, specified by that fishing vessel during such trip. A trip shall be considered to be not more than 90 days on grounds as determined by examination of the logbook.

#### Subpart F—All Other Finfish

##### § 240.50 Definitions.

(a) Unless otherwise defined herein, the terms used in this subpart will have the meaning ascribed to them in Subpart A, § 240.2.

(b) Regulations of this subpart will apply to all other finfish taken by persons or fishing vessels subject to the jurisdiction of the United States in Subarea 5 and Statistical Area 6, and such other finfish not previously mentioned in § 240.10, 20, 30, and 40.



## § 240.51 Catch quota.

An annual catch limitation is placed upon the quantity of other finfish as defined in § 240.2(c)(5) permitted to be taken in Subarea 5 and in Statistical Area 6. The aggregate catch of all other finfish in the above areas by persons or fishing vessels subject to the jurisdiction of the United States shall not exceed 68,000 metric tons.

## Subpart G—Squid Fisheries and Shellfish § 240.60 Definitions.

(a) Unless otherwise defined herein, the terms used in this subpart will have the meanings ascribed to them in Subpart A, § 240.2.

(b) Regulations of this subpart will apply to all squid and shellfish taken by persons or fishing vessels subject to the jurisdiction of the United States in Subarea 5 and Statistical Area 6.

## § 240.61 Catch quota.

An annual catch limitation is placed upon the quantity of squids, short finned and long finned, permitted to be taken in Subarea 5 and in Statistical Area 6. The catch of such squid in the above areas by persons or fishing vessels subject to the jurisdiction of the United States shall not exceed 5,600 metric tons.

## Subpart H—Overall Quota

## § 240.70 Definitions.

(a) Unless otherwise defined herein, the terms used in this subpart will have the meanings ascribed to them in Subpart A, § 240.2.

(b) Regulations of this subpart will apply to all stocks and species in Subarea 5 and in Statistical Area 6 excluding menhaden, tuna, billfish and sharks other than dogfish.

## § 240.71 Catch quota.

The aggregate catch of all such stocks and species in the above areas by persons or fishing vessels subject to the jurisdiction of the United States shall not exceed 211,000 metric tons.

## APPENDIX

## OPTIONAL SETTLEMENT AGREEMENT FORM

This agreement is entered into between the United States Government and \_\_\_\_\_ (hereinafter "the owner"), owner of vessel \_\_\_\_\_ official number \_\_\_\_\_ (hereinafter "the vessel"), operating in the ground-fisheries in Subarea(s) \_\_\_\_\_ (hereinafter "settlement area") of the ICNAP

regulatory area, as defined in Chapter II, Subchapter E, Part 240 of Title 50 Code of Federal Regulations. This agreement covers the following species: \_\_\_\_\_ (hereinafter "settlement fish").

The purpose of this agreement is to provide for the settlement of cases involving violations of the Northwest Atlantic Fisheries Act of 1950, and in particular violations set forth in 50 CFR 240 \_\_\_\_\_ regarding regulations governing the taking of settlement fish in the settlement area. The purpose of this settlement agreement is to assure compliance with the principles of the Northwest Atlantic Fisheries Act of and, in accordance with the Fish and Wildlife Act of 1956, as amended, to take required steps for the development, advancement, management, conservation, and protection of the fisheries resources of the United States. The parties to this agreement agree as follows:

1. This agreement shall cover the period commencing on \_\_\_\_\_ and continuing for a period of \_\_\_\_\_ days and terminating on \_\_\_\_\_. Settlement under the provisions of \_\_\_\_\_ shall take place within ten (10) days of the conclusion of each quarter or period if otherwise stated.

2. The owner agrees that the master or other person in charge of the vessel shall maintain an accurate log of the fishing operations of the vessel, showing the date, type and size of gear used, locality fished, duration of fishing, time of tow, and the estimated weight of each species taken at 12-hour intervals. For the purpose of providing information useful in the implementation of the agreement and detecting violations thereof, the log book shall be made available for inspection and copying by an authorized official of the National Marine Fisheries Service within 48 hours of completion of each fishing voyage conducted by the vessel during the period set forth in paragraph 1.

3. The owner shall also notify the Regional Director in writing, within 48 hours of the sale of the catch of the vessel, of the total quantity of fish landed and the gross sales price and the quantity of settlement fish landed and the total price received for such settlement fish and shall supply a copy of a settlement sheet which accurately reflects the selling price of the catch and each species (to the extent species are separately sold) and the distribution thereof.

4. (a) In the event that the quantity of settlement fish taken on a trip exceeds 20 percent (the quantity permitted), the owner shall deposit with the Regional Director a sum representing 20 percent of the value to the owner of the excess settlement fish over that amount permitted.

(b) The value to the owner of excess settlement fish on each voyage during the period shall be computed by determining the value of the haddock taken in excess of the amount permitted by paragraph 4 on the basis of the average price received for all settlement fish on the trip.

5. The Regional Director shall maintain a record of the quantity of all fish including

settlement fish taken by the vessel, and the maximum amount of settlement fish permitted by the regulations for each trip completed during the period set forth in paragraph 1. At the end of such period, the Regional Director shall compute the total quantity of settlement fish taken during the period and the total amount of settlement fish permitted by regulation during that period, which is the sum of the maximum quantities of settlement fish permitted by paragraph 4 for each trip during the period.

6. If the total quantity of settlement fish taken during the period is equal to or less than the total amount permitted, the entire amount deposited shall be returned to the owner.

7. (a) If the total quantity of settlement fish taken during the period exceeds the total amount permitted during the period, the Regional Director shall retain from the amounts deposited during the period a sum representing the net value to the owner of the total net quantity of excess settlement fish for the period and shall return the remainder to the owner.

(b) The amount retained by the Regional Director shall be determined by:

(1) Subtracting the total quantity of settlement fish permitted during the period from the total quantity of settlement fish actually taken during the period.

(2) Multiplying the quantity of excess settlement fish by the average unit price actually received by the vessel for settlement fish on a trip for which a deposit was made pursuant to paragraph 4(a).

8. (a) Fishing voyages of a duration of four days or less shall be excluded from the computations provided herein unless the Regional Director determines that the trip is a bona fide fishing trip and not taken principally for the purpose of increasing the total quantity of settlement fish which might be taken during the period.

(b) A fishing voyage in respect of which the settlement fish on board exceeds \_\_\_\_\_ percent by weight of all fish on board caught in the settlement area shall not be included in the calculations as provided in paragraphs 6 and 7 of this agreement, but the owner agrees to forfeit to the Regional Director the value to the owner of the excess quantity of settlement fish with respect to that vessel. The amount of the forfeiture shall be computed as in paragraph 4.

## Vessel Owner

## Date

United States of America, Secretary of Commerce, Administrator, National Oceanic and Atmospheric Administration.

By:

Regional Director, Northeast Region, National Marine Fisheries Service

## Date

[FR Doc.75-12925 Filed 5-15-75; 8:45 am]

## proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

## Agricultural Marketing Service

## [7 CFR Part 917]

## FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

## Container and Pack Regulation

This notice invites written comment relative to a proposed amendment that would continue Peach Regulation 5 (§ 917.436; 40 FR 19633) indefinitely. Said regulation will expire on June 21, 1975, unless extended. The regulation specifies certain container marking and pack requirements for all interstate shipments of fresh California peaches and is effective under the marketing agreement and Order No. 917.

The proposed amendment was submitted by the Peach Commodity Committee, established pursuant to the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), which regulate the handling of fresh pears, plums, and peaches grown in California. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

All persons who submit written data, views, or arguments for consideration in connection with Peach Regulation 5, as published in the FEDERAL REGISTER on May 6, 1975, (40 FR 19633) of the proposed amendment published herein, shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112A, Washington, D.C. 20250, not later than June 2, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Under the proposal, the provisions of § 917.436(b) preceding subparagraph (1) thereof (40 FR 19633) would be amended to read as follows:

## § 917.436 Peach Regulation 5.

(b) On and after May 7, 1975, no handler shall handle any package or container of any variety of peaches except in accordance with the following terms and conditions: . . .

Dated: May 13, 1975.

CHARLES R. BRADER,  
Deputy Director, Fruit and  
Vegetable Division, Agricultural  
Marketing Service.

[FR Doc.75-12915 Filed 5-15-75; 8:45 am]

## [7 CFR Part 930]

## CHERRIES GROWN IN MICHIGAN, NEW YORK, WISCONSIN, PENNSYLVANIA, OHIO, VIRGINIA, WEST VIRGINIA, AND MARYLAND

## Limitation of Handling

This notice invites comments relative to proposed amendment of rules and regulations established pursuant to Marketing Order No. 930. Such amendment would prescribe a minimum grade for reserve pool cherries, establish a uniform handler charge for processing, freezing, and the first 30 days storage of such cherries and set a uniform storage charge for each additional month of storage.

Said rules and regulations (Subpart—Rules and Regulations, 7 CFR Part 930-101-930.161) currently are in effect pursuant to Marketing Order No. 930 (7 CFR Part 930), regulating the handling of cherries grown in Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia, and Maryland. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

This proposed amendment of the rules and regulations was unanimously recommended by the Cherry Administrative Board, established under said order as the agency to administer the terms and provisions thereof. It proposes that reserve pool cherries meet at least the requirements of U.S. Grade B (§§ 52.801-52.812 of this title). It proposes that growers compensate handlers at the rate of 8.36 cents plus the cost of sugar, as of June 23, 1975, for each pound of reserve pool cherries received as raw unpitted cherries and processed into the form of 5 plus 1 frozen cherries (five pounds of raw pitted cherries combined with one pound of sugar) packed in new 30-pound containers and for the first 30 days storage in a suitable storage facility. It would also set a handler fee of 6.0 cents per container per month for storage thereafter of such cherries.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed amendment shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than June 16, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendment is as follows:  
1. Paragraphs (c) and (d) of § 930.104 are amended to read as follows:

## § 930.104 Reserve pool requirements.

(c) Such cherries, for each handler who freezes cherries, shall reflect not less than the overall grade, quality, and condition of the total frozen production of said handler: *Provided*, That not less than 50 percent of said reserve pool cherries shall grade not lower than U.S. Grade "A" and the remainder not lower than U.S. Grade "B" (§§ 52.801-52.812 of this title) unless otherwise exempted by the Board.

(d) Such cherries, for each handler who does not freeze cherries and therefore obtains reserve cherries from another handler who does freeze cherries, shall reflect not less than the overall grade, quality, and condition of the total frozen production of the handler who freezes such cherries: *Provided*, That not less than 50 percent of said reserve pool cherries shall grade not lower than U.S. Grade "A" and the remainder not lower than U.S. Grade "B" (§§ 52.801-52.812 of this title) unless otherwise exempted by the Board.

2. Section 930.158 is amended to read as follows:

## § 930.158 Handler compensation charge.

(a) During the fiscal period ending April 30, 1976, each handler shall be compensated, as provided by § 930.58, by producers having an interest in the reserve pool, or their successors in interest:

(1) At the rate of \$0.0836 (8.36 cents) plus the cost of sugar as of June 23, 1975 (based on the manufacturers' price as averaged from three quotations, two of which shall be for beet sugar f.o.b. Michigan factories, and one for cane sugar f.o.b. New York) for each pound of reserve pool cherries received as raw unpitted cherries and processed into the form of 5 plus 1 frozen cherries (five pounds of raw pitted cherries combined with one pound of sugar) packed in new 30-pound capacity metal cans or any other 30 pound capacity containers as may be prescribed by the Board, as specified in § 930.104(a) of this subpart, and for storage in a suitable freezer storage facility for 30 days from the date the reserve pool cherries are placed in such storage facility; and

(2) At the rate of 6 cents per month for storage thereafter in a suitable freezer storage facility.

Dated: May 13, 1975.

CHARLES R. BRADER,  
Deputy Director, Fruit and  
Vegetable Division, Agricultural  
Marketing Service.

[FR Doc.75-12914 Filed 5-15-75; 8:45 am]



# DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 75-RM-10]

## TRANSITION AREA

### Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would alter the transition area at West Yellowstone, Montana.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station, P.O. Box 7213, Denver, Colorado 80207. All communications received on or before June 16, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 E. 25th Avenue, Aurora, Colorado 80010.

An instrument landing system (ILS) is being installed to serve Runway 01 at Yellowstone Airport, West Yellowstone, Montana. Revised approach procedures have been developed and transition routes established based on the Targhee NDB at the outer marker site. It is necessary to alter controlled airspace at West Yellowstone to protect aircraft using this new navigational facility.

In consideration of the foregoing, the FAA proposes the following airspace action:

#### § 71.181 [Amended]

In 71.181 (40 FR 441) the description of the West Yellowstone, Mont., transition area is amended to read:

#### WEST YELLOWSTONE, MONT.

That airspace extending upward from 700 feet above the surface within 5 miles west and 9.5 miles east of the 026° and 206° bearings from the Targhee, Montana LOM (latitude 44°34'33" N, longitude 111°11'48" W), extending from 18 miles northeast to 18.5 miles southwest of the LOM; that airspace extending upward from 1200 feet above the surface within 5 miles each side of the 209° bearing from the LOM extending from the LOM to 41.5 miles southwest of the LOM, and 5 miles each side of the 304° bearing from the LOM extending from the LOM to the east edge of V343; that airspace extending upward from 10,700 MSL within a 29-mile radius of the Targhee LOM extending clockwise from the 081° bearing from the

LOM to 5 miles east of the 236° bearing from the LOM and within 5 miles each side of the 236° bearing from the LOM extending from the LOM to 50 miles southwest of the LOM; that airspace extending upward from 12,000 MSL within a 35-mile radius of the Targhee LOM extending clockwise from the 026° bearing from the LOM to the 081° bearing from the LOM; that airspace extending upwards from 13,000 MSL within a 35-mile radius of the Targhee LOM extending clockwise from the 315° bearing to the 026° bearing from the LOM, excluding that portion that overlies V343. This transition area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Aurora, Colorado, on May 19, 1975.

M. M. MARTIN,  
Director,  
Rocky Mountain Region.

[FR Doc. 75-12868 Filed 5-15-75; 8:45 am]

#### [14 CFR Part 71]

(Airspace Docket No. 75-SO-49)

## TRANSITION AREA

### Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Tri-City, Tenn., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before June 16, 1975, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 645, 3400 Whipple Street, East Point, Ga.

The Tri-City transition area described in § 71.181 (40 FR. 441) would be amended as follows:

... Virginia Highlands Airport ... would be deleted and ... Virginia Highlands Airport; within an 8.5-mile radius of Hawkins County Airport, Rogersville, Tenn. (latitude 36°27'27" N, longitude 82°53'05" W) ... would be substituted therefor.

The proposed alteration is required to provide controlled airspace protection for

IFR operations at Hawkins County Airport. A prescribed instrument approach procedure to this airport, utilizing the Rogersville (private) Nondirectional Radio Beacon, is proposed in conjunction with the alteration of this transition area.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in East Point, Ga., on May 8, 1975.

PHILLIP M. SWATEK,  
Director, Southern Region.

[FR Doc. 75-12869 Filed 5-15-75; 8:45 am]

#### [14 CFR Part 71]

(Airspace Docket No. 75-RM-13)

## TRANSITION AREA

### Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would alter the transition area at Laramie, Wyoming.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station, P.O. Box 7213, Denver, Colorado 80207. All communications received within 30 days after publication of this notice in the Federal Register will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 E. 25th Avenue, Aurora, Colorado 80010.

On April 18, 1975, a notice was published in the Federal Register (40 FR. 17248) amending the transition area at Laramie, Wyoming. Subsequent to the publication of the final rule and prior to the effective date of the amendment, procedures were revised which would standardize the procedure turn altitude and the minimum holding altitude associated with the VOR RWY 12 SIAP. Additional 700-foot transition area is required to accommodate the revised procedures.

In consideration of the foregoing, the FAA proposes the following airspace action:

In § 71.181 (40 FR. 441) the description of the Laramie, Wyoming transition area, as amended by Docket

75-RM-6 (40 FR. 17248), is further amended to read as follows:

That airspace extending upward from 700 feet above the surface within a 9-mile radius of General Brees Field, Laramie, Wyoming (Lat. 41°18'50"N, Long. 105°40'25"W); within 5.5 miles south and 9.5 miles north of the Laramie, Wyoming VORTAC 301° radial extending from the 9-mile radius area to 18.5 miles northwest of the VORTAC and within 5 miles each side of the Laramie VORTAC 126° radial extending from the 9-mile radius area to 21 miles southeast of the VORTAC.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Aurora, Colorado, on May 16, 1975.

M. M. MARTIN,  
Director,  
Rocky Mountain Region.

[FR Doc. 75-12870 Filed 5-15-75; 8:43 am]

#### [14 CFR Part 71]

(Airspace Docket No. 75-CE-5)

## TRANSITION AREA

### Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Neodesha, Kansas.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before June 16, 1975 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

A new public-use instrument approach procedure has been established for the Neodesha Municipal Airport, Neodesha, Kansas. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a 700-foot transition area at Neodesha, Kansas.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (40 FR 441), the following transition area is added:

#### NEODESHA, KANSAS

That airspace extending upward from 700 feet above the surface within a 6½ mile radius of the Neodesha, Kansas Municipal Airport, excluding that portion which coincides with the Parsons, Kansas transition area.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Kansas City, Missouri, on April 18, 1975.

C. R. MELUGIN, Jr.,  
Director, Central Region.

[FR Doc. 75-12871 Filed 5-15-75; 8:45 am]

#### [14 CFR Parts 25 and 121]

(Docket No. 9611; Notice No. 75-3A)

## SMOKE EMISSION FROM COMPARTMENT INTERIOR MATERIALS IN TRANSPORT CATEGORY AIRPLANES

### Extension of Comment Period

The Federal Aviation Administration proposed in Notice 75-3, published in the FEDERAL REGISTER on February 12, 1975 (40 FR 6506), to amend Parts 25 and 121 of the Federal Aviation Regulations to establish standards for the smoke emission characteristics of compartment interior materials used in transport category airplanes. It was indicated in Notice 75-3 that comments received on or before May 12, 1975, would be considered by the Administrator before taking action on the proposed rules.

By letter dated May 5, 1975, Peter M. Nemkov, Esq., on behalf of the Society of the Plastics Industry, Inc. (SPI), a trade association, requested a 30-day extension of time provided in Notice 75-3 for the submission of comments in order that the SPI position, with respect to certain areas of the proposed rules, could be fully coordinated with its membership. In view of the technical experience of the SPI members, some of which are aircraft compartment material manufacturers, the FAA believes that the requested extension of time should be granted.

I find that the petitioner has shown a substantive interest in the proposed rules, that good cause exists for the extension, and that the extension is consistent with the public interest.

Therefore, pursuant to the authority delegated to me by the Administrator, (14 CFR 11.45), the time within which comments on Notice 75-3 will be received is extended to June 11, 1975.

Issued in Washington, D.C. on May 9, 1975.

RICHARD P. SKULLY,  
Director,  
Flight Standards Service.

[FR Doc. 75-12867 Filed 5-15-75; 8:45 am]

## Hazardous Materials Regulations Board

### [49 CFR Part 177]

[Docket No. HM-110; Notice No. 75-5]

## USE OF CATALYTIC HEATERS IN CERTAIN MOTOR VEHICLES, AND REPAIRS TO VEHICLES IN CLOSED BUILDINGS

### Proposed Rule Making

On December 2, 1974, the Hazardous Materials Regulations Board (The Board) published Amendments Nos. 173-87 and 177-31 under Docket HM-110 (39 FR 41741). One portion of the amendment pertained to the use of catalytic heaters in the cargo compartment of a motor vehicle transporting flammable liquids or flammable compressed gases. The revision authorizes use of catalytic heaters in these motor vehicles if guards are installed to keep the cargo at least one foot away from the heater. The amendment was to become effective April 1, 1975, but those sections covered by this notice were postponed until October 1, 1975 (40 FR 12269).

After the revision was issued, a petition for reconsideration was received from Cargo Safe, Inc., a manufacturer of catalytic heaters, containing the following statement:

We believe the wording as it currently exists does not deal adequately with the temperature problem and can allow for dangerous catalytic heaters to be produced even though they conform to the present requirements.

Specifically, the petitioner seeks the addition of a limitation upon the temperature that may be reached on the outside surface of a catalytic heater used in the cargo compartment of a vehicle transporting flammable liquids or flammable compressed gases. Petitioner cited tests of a prototype heater, with guards 12 inches away from the heater, which allowed the outside skin temperature of the guard to reach 284° F.

After reviewing the data submitted in support of the petition, the Board has concluded that the petitioner's contention has merit. Accordingly, the Board proposes to add to paragraph (1) of § 177.834 a limit to the maximum temperature permitted on the outside surface of a catalytic heater which is used in the cargo compartment of motor vehicles transporting flammable liquids or flammable gases. However, the Board has not removed the requirement for the guard on the heater as the petitioner suggested because the guard affords protection against damage to packages coming in contact with the heater. The Board further believes that a catalytic heater needs to be marked so carriers will know if the heater complies with these requirements. Therefore, the Board is proposing that "Meets DOT Requirements" be marked on the heaters as a manufacturer's certification that the heater complies with the requirements of § 177.834 (1).

Upon further consideration, the Board believes that catalytic heaters should not be lighted or used in the cargo compartment of a motor vehicle containing flammable liquids or flammable gases if any



## PROPOSED RULES

flame is present on the catalyst or visible anywhere in the heater. Such a restriction is proposed to be added to § 177.834 (1) along with a requirement that catalytic heater manufacturers place a sign on each heater warning of this danger.

The Board also received a letter from Phillips Petroleum Company concerning the § 177.854(g) amendment; being different from what was proposed in the notice. After further review, it appears that the preamble did not clearly explain the rationale behind the final amendment, and that § 177.854(g) as amended does not clearly state the Board's intent. Therefore, what follows is a further explanation of the Board's decision and a proposed editorial revision of the section.

Prior to this rule making, § 177.854(g) contained a blanket prohibition against a vehicle containing any hazardous material being in a closed garage for repairs. In response to a petition, the Board proposed that this prohibition be lifted provided certain conditions existed in the closed garage. The proposed restriction was without regard to any particular class of hazardous material. Following a review of comments submitted, the Board decided that vehicles containing material which posed an inherent fire or explosion danger, i.e., explosives, flammable liquids or gases, should not be in a closed garage for repairs or maintenance regardless of the added conditions. Therefore, the amendment was written to allow vehicles containing hazardous materials, with certain exceptions, to be in a closed garage for repairs. This decision was a compromise between the original blanket prohibition and the proposed relaxation without regard to type of material on the vehicle. The Board is also proposing a definition for a closed building for purposes of § 177.854(g).

In consideration of the foregoing, in 49 CFR 177.834, paragraph (1) would be revised to read as follows:

## § 177.834 General requirements.

(1) *Use of cargo heaters with explosives and flammable commodities.*—(1) *Flammable liquids and flammable gases.* Except as provided in paragraphs (1)(2) and (1)(3) of this section, a flammable liquid or a flammable gas must not be loaded into a truck body or a trailer containing a combustion heater, or equipped with operable automatic temperature control equipment. Fuel tanks for automatic temperature control equipment must be emptied or removed from the vehicle, except that liquefied petroleum gas fuel tanks exterior to the vehicle body may have their valves closed and disconnected from the fuel feed lines instead of being emptied or removed.

(2) *Exceptions for catalytic heaters.* Flammable liquids and flammable gases may be loaded into or transported in the same cargo space of a truck body or trailer containing an operating catalytic heater provided—

(i) Guards are installed to prevent any cargo from being closer than 30.05 cm (12 inches) to the heater;

(ii) The heater is designed so that no part of the catalytic heater or its guard, which may come into contact with the cargo, will reach a temperature over 130° F. (55° C.);

(iii) There is no flame on the catalyst or anywhere in the heater;

(iv) The heater is marked "DO NOT LOAD INTO OR USE IN CARGO COMPARTMENT CONTAINING FLAMMABLE LIQUIDS OR GASES IF FLAME IS VISIBLE ON CATALYST OR IN HEATER;" and

(v) The heater is marked "MEETS DOT REQUIREMENTS." This marking will be considered a certification that the heater was manufactured in accordance with the requirements of this section.

(3) *Exception for certain automatic temperature control equipment.* A flammable liquid or a flammable gas may be transported in a vehicle equipped with automatic temperature control equipment if, (i) any electrical apparatus in the cargo compartment is of the non-sparking or explosion-proof type, (ii) no combustion apparatus is in the lading space; and (iii) there is no connection for return of air from the lading space to any combustion apparatus. The heating system must prevent heating of any part of the lading to a temperature of more than 130° F. (55° C.) and must conform to the requirements of § 393.77 of this title.

(4) *Explosives.* An explosive may not be loaded into a truck body or trailer which contains a combustion heater including a catalytic heater, or is equipped with operable automatic temperature control equipment. All fuel tanks for a heater or automatic temperature control equipment with which a truck body or trailer is equipped must be drained. All automatic heating or refrigeration machinery must be rendered inoperative by disconnection of the automatic controls and sources of power for its operation.

In 49 CFR 177.854, paragraph (g) would be revised to read as follows:

§ 177.854 Disabled vehicles and broken or leaking packages; repairs.

(g) *Repairs and maintenance to vehicles.* Except as provided in paragraph (h) of this section, no maintenance or repair using open flame or any type of welding may be performed on vehicles containing flammable liquids, flammable gases, oxidizers, or explosives.

(1) A vehicle containing explosives or a cargo tank containing a flammable liquid or a flammable gas (regardless of quantity) may not be inside a closed building for repairs or maintenance.

(2) A vehicle containing hazardous materials (other than one containing explosives or a cargo tank containing a flammable liquid or a flammable gas) may be inside a closed building for repairs or maintenance provided—

(i) There is no flame-producing or welding device in operation within the same enclosed area of the building; and

(ii) The vehicle has an operable means of motive power or is connected to an operable truck or truck tractor to facilitate its quick removal from the building.

(3) For purposes of this section, a closed building is any structure having a roof and at least three side walls, including any roll-up, sliding, or swing-out doors.

Interested persons are invited to give their views on these proposals. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, Washington, D.C. 20590. Communications received on or before July 15, 1975 will be considered before final action is taken on these proposals. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, room 6215 Trans Point Building, Second and V Streets, SW., Washington, D.C., both before and after the closing date for comments.

This notice of proposed rule making is issued under the authority of the Transportation of Explosives Act (18 U.S.C. 831-835), and Section 6 of the Department of Transportation Act (49 U.S.C. 1655).

Issued in Washington, D.C. on May 9, 1975.

ROBERT A. KAYE,  
Board Member for the  
Federal Highway Administration.

[PR Doc. 75-12908 Filed 5-15-75; 8:45 am]

National Highway Traffic Safety  
Administration

[49 CFR Part 552]

[Docket No. 75-12; Notice 1]

PETITION PROCEDURES  
Proposed Rulemaking

This notice proposes a new regulation specifying the requirements for submission of petitions for rulemaking, and petitions for the commencement of defect or noncompliance proceedings, in accordance with section 124 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1410a. It also describes the procedures the NHTSA would follow in acting upon the petition.

Section 124 of the Act was enacted as part of the Motor Vehicle and Schoolbus Safety Amendments of 1974. It provides that "Any interested person may file with the Secretary a petition requesting him (1) to commence a proceeding respecting the issuance of an order pursuant to section 103 or to commence a proceeding to determine whether to issue an order pursuant to section 152(b) of this Act." Section 103 is the basic authority for the issuance of motor vehicle safety standards. Section 152(b) is the provision, also enacted

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as part of the 1974 Amendments, for a determination by the agency of a non-compliance with a safety standard or a defect related to motor vehicle safety. Section 124 also provides that "Within 120 days after filing of a petition . . . , the Secretary shall either grant or deny the petition." A denial must be accompanied by a FEDERAL REGISTER notice stating the reasons for the action.

The NHTSA receives several thousand communications per year, the great majority of which are intended simply to inform the agency of a problem encountered by the sender, to request information, or to make informal suggestions. Since the 1974 Amendments provide a deadline for agency action on petitions for rulemaking or for defect or non-compliance determinations, and require FEDERAL REGISTER notices for any disposition other than the commencement of the action requested, it is important that guidelines be established to clarify what incoming documents are to be treated as petitions. This agency has no intention of raising obstacles to the submission of petitions, and will liberally construe the requirements for petitioners who attempt to meet them. At the same time, in light of the considerable technical and legal effort required to make and implement a decision on each petition, it is important that "petition treatment" be limited to those documents actually intended by the sender to be petitions and receive formal disposition by the agency. Communications that do not qualify as petitions will continue to be treated under the regular NHTSA correspondence procedures.

A petition would be required to be written in English, have a heading that includes the word "Petition," and contain the name and address of the petitioner. The regulation would also reiterate the statutory requirements that the document "set forth facts which it is claimed establish that an order is necessary," and "set forth a brief description of the substance of the order which it is claimed should be issued." The regulation would provide that the petition should be addressed to the Administrator at the usual address. Mis-addressed petitions would not be denied petition treatment, but the 120-day period would not begin to run until the petition has been discovered and identified as such.

Upon receipt of a petition, the concerned Associate Administrator (usually the Associate Administrator for Motor Vehicle Programs) would conduct a technical review to determine whether there is a reasonable possibility that the requested order would be issued at the conclusion of the required proceedings (either for rulemaking or defect or non-compliance determinations). This review might consist solely of a review of in-house information, or it also might include some collection of other information, such as from the manufacturer of a vehicle with an alleged defect. Reflect-

ing the statute, the proposed procedures would allow an informal public hearing at this stage, at the discretion of the agency.

On the basis of the technical review, the Administrator or his delegate would decide whether there is a reasonable possibility of positive action, and grant or deny the petition accordingly, within the 120-day statutory period. If the subject of a granted petition were rulemaking, a rulemaking proceeding would promptly be initiated according to regular NHTSA procedures. If the subject were a safety-related defect or a noncompliance with the safety standards, the proceeding would commence with an investigation by the agency's Office of Defects Investigation or Office of Standards Enforcement respectively. In either case, of course, the ultimate disposition of the matter would depend on all the information and views developed during the rulemaking or investigatory proceedings. The grant of the petition would only determine the initiation of those proceedings. A denial would be noticed in the FEDERAL REGISTER, with reasons, within 30 days of the decision.

In light of the foregoing, it is proposed that a new Part 552, Petitions for Rulemaking, Defect, and Noncompliance Orders, be added to Title 49 of the Code of Federal Regulations, to read as set forth below.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date: June 16, 1975.

Proposed effective date: June 16, 1975.

(Sec. 103, 119, 124, 152, Pub. L. 93-563, 80 Stat. 718 (16 U.S.C. 1392, 1407, 1410a, 1412); delegations of authority at 49 CFR 1.51 and 49 CFR 501.2)

Issued on May 13, 1975.

ROBERT L. CARTER,  
Associate Administrator,  
Motor Vehicle Programs.

## PART 552—PETITIONS FOR RULEMAKING, DEFECT, AND NONCOMPLIANCE ORDERS

Sec.	
552.1	Scope.
552.2	Purpose.
552.3	General.
552.4	Requirements for petition.
552.5	Improperly filed petitions.
552.6	Technical review.
552.7	Public hearing.
552.8	Determination whether to commence a proceeding.
552.9	Grant of petition.
552.10	Denial of petition.

## § 552.1 Scope.

This part establishes procedures for the submission and disposition of petitions filed by interested persons pursuant to the National Traffic and Motor Vehicle Safety Act and the Motor Vehicle Information and Cost Savings Act, to initiate rulemaking or to make a determination that a motor vehicle or item of replacement equipment does not comply with an applicable Federal motor vehicle safety standard or contains a defect which relates to motor vehicle safety.

## § 552.2 Purpose.

The purpose of this part is to enable the National Highway Traffic Safety Administration to identify and respond on a timely basis to petitions for rulemaking or defect or noncompliance determinations, and to inform the public of the procedures following in response to such petitions.

## § 552.3 General.

Any interested person may file with the Administrator a petition requesting him (1) to commence a proceeding respecting the issuance, amendment, or revocation of a motor vehicle safety standard, or (2) to commence a proceeding to determine whether to issue an order concerning the notification and remedy of a failure of a motor vehicle or item of replacement equipment to comply with an applicable motor vehicle safety standard or of a defect in such vehicle or equipment that relates to motor vehicle safety.

## § 552.4 Requirements for petition.

A petition filed under this part should be addressed and submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Each petition filed under this part must—

- Be written in the English language;
- Have, preceding its text, a heading that includes the word "Petition";
- Set forth facts which it is claimed establish that an order is necessary;
- Set forth a brief description of the substance of the order which it is claimed should be issued; and
- Contain the name and address of the petitioner.

## § 552.5 Improperly filed petitions.

(a) A petition that is not addressed as specified in § 552.4, but that meets the

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other requirements of that section, will be treated as a properly filed petition, received as of the time it is discovered and identified.

(b) A document that fails to conform to one or more of the requirements of § 552.4 (a) through (e) will not be treated as a petition under this part. Such a document will be treated according to the existing correspondence or other appropriate procedures of the NHTSA, and any suggestions contained in it will be considered at the discretion of the Administrator or his delegate.

## § 552.6 Technical review.

The appropriate Associate Administrator conducts a technical review of the petition, to determine whether there is a reasonable possibility that the requested order will be issued at the conclusion of the appropriate proceeding. The technical review may consist of an analysis of the material submitted, together with information already in the possession of the agency, or it may also include the collection of additional information, or a public hearing in accordance with § 552.7.

## § 552.7 Public hearing.

If the Associate Administrator decides that a public meeting on the subject of the petition would contribute to the determination whether to commence a proceeding, he issues a notice of public meeting for publication in the *Federal Register* to advise interested persons of the time, place, and subject matter of the public meeting and invite their participation. Interested persons may submit their views and evidence through oral or written presentation, or both. There will be no cross examination of witnesses. A transcript of the proceedings will be kept and exhibits may be accepted as part of the transcript. Sections 556 and 557 of Title 5, United States Code, do not apply to hearings held under this part. The Chief Counsel designates a member of his staff to serve as legal officer at the meeting.

## § 552.8 Determination whether to commence a proceeding.

At the conclusion of the technical review, the Administrator or his delegate determines whether there is a reasonable possibility that the order requested in the petition will be issued at the conclusion of the appropriate proceeding. If such a reasonable possibility is found, the petition is granted. If it is not found, the petition is denied. In either event, the petitioner is notified of the grant or denial not more than 120 days after receipt of the petition by the NHTSA.

## § 552.9 Grant of petition.

(a) If a petition for rulemaking with respect to a motor vehicle safety standard is granted, a rulemaking proceeding is promptly commenced in accordance with applicable NHTSA and statutory procedures. The granting of such a petition and the commencement of a rulemaking proceeding does not signify, however, that the rule in ques-

tion will be issued. A decision as to the issuance of the rule is made on the basis of all available information developed in the course of the rulemaking proceeding, in accordance with statutory criteria.

(b) If a petition with respect to a noncompliance or a defect is granted, a proceeding to determine the existence of the noncompliance or defect is promptly commenced by the initiation of an investigation by the Office of Standards Enforcement or the Office of Defects Investigation, as appropriate.

## § 552.10 Denial of petition.

If a petition is denied, a *FEDERAL REGISTER* notice of the denial is issued within 30 days of the denial, setting forth the reasons for denial of the petition.

[FR Doc. 75-12931 Filed 5-15-75; 8:45 am]

## FEDERAL LABOR RELATIONS COUNCIL

[5 CFR Parts 2411 and 2413]

## REVIEW FUNCTIONS OF THE COUNCIL AND CRITERIA FOR DETERMINING COMPELLING NEED FOR AGENCY POLICIES AND REGULATIONS

## Proposed Rulemaking

Notice is hereby given that the Federal Labor Relations Council, pursuant to section 4(b) of Executive Order 11491, as amended, is considering the adoption of revised rules governing the review functions of the Council and, pursuant to section 11(a) of the Order, is considering the adoption of rules to establish illustrative criteria for determining when a compelling need exists for internal agency policies or regulations concerning personnel policies and practices and matters affecting working conditions, within the meaning of section 11(a) of the Order.

A draft of the proposed rules is set out below as Parts 2411 and 2413 of Subchapter B of Chapter XIV of Title 5 of the Code of Federal Regulations. These Parts describe requirements and procedures for filing appeals to the Council, the criteria for determining compelling need, and the manner in which the council will process appeals, including issuance of its decisions.

Interested persons may submit views and suggestions in writing to the Executive Director, Federal Labor Relations Council, 1900 E Street NW., Washington, D.C. 20415. All communications received on or before June 6, 1975 will be considered before the Council takes final action on the proposed rules.

## PART 2411—REVIEW FUNCTIONS OF THE COUNCIL

## Subpart A—General Provisions

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2411.1	Scope.
2411.2	Coverage.
2411.3	Definitions.
2411.4	Policy questions.
<b>Subpart B—Review of Decisions of the Assistant Secretary</b>	
	Secretary

Sec.	
2411.13	Who may file a petition; time limits for filing; opposition; service.
2411.14	Content of petition.
2411.15	Council action on acceptance.
2411.16	Filing of briefs; Assistant Secretary as a party.
2411.17	Determinations of negotiability.
2411.18	Council decision; compliance actions.

## Subpart C—Review of Negotiability Issues

2411.21	Purpose.
2411.22	Conditions governing review.
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2411.25	Content of petition; service.
2411.26	Position of the agency; time limits for filing.
2411.27	Referral by the Federal Service Impasses Panel.
2411.28	Council decision.

## Subpart D—Review of Arbitration Awards

2411.31	Purpose.
2411.32	Considerations governing review.
2411.33	Who may file a petition; time limits for filing; opposition; service.
2411.34	Content of petition.
2411.35	Council action on acceptance.
2411.36	Filing of briefs.
2411.37	Council decision.

## Subpart E—General Requirements

2411.41	Interlocutory appeals.
2411.42	Approval of submission.
2411.43	Place and method of filing; acknowledgment.
2411.44	Number of copies.
2411.45	Time limits; computation; extension; waiver.
2411.46	Service; statement of service.
2411.47	Stay of decision or award; requests; criteria.
2411.48	Oral argument.
2411.49	Amicus curiae.
2411.50	Transfer of record.
2411.51	Matters not previously presented; judicial notice.
2411.52	Other documents.
2411.53	Advisory opinions.
2411.54	Distribution of Council decisions.

**AUTHORITY:** 5 U.S.C. 3301, 7301; E.O. 11491, 3 CFR 1969 Comp., p. 191, 34 FR 17605; as amended by E.O. 11616, 3 CFR 1971 Comp., p. 191, 36 FR 17319; E.O. 11636, 3 CFR 1971 Comp., p. 232, 36 FR 24901; and by E.O. 11838, 40 FR 5743 and 7391.

## Subpart A—General Provisions

## § 2411.1 Scope.

This part sets forth the procedures under which the Council, as provided in section 4(c) of the order, will review decisions of the Assistant Secretary issued pursuant to section 6 of the order, negotiability issues as provided in section 11(c) of the order, and arbitration awards under the order.

## § 2411.2 Coverage.

This part applies to employees, agencies, and labor organizations covered by the order and for purposes of § 2411.49 to other interested persons.

## § 2411.3 Definitions.

In this part—

(a) "Order" means Executive Order 11491 of October 29, 1969, entitled "Labor-Management Relations in the Federal Service," as amended by Executive Order 11616 of August 26, 1971, by Executive Order 11636 of December 17,

1971, and by Executive Order 11838 of February 6, 1975.

(b) "Executive Director" means the Executive Director of the Council.

(c) "Party" means any person, employee, labor organization, or agency that participated as a party—

(1) In a matter that was decided by the Assistant Secretary under section 6 of the order; or

(2) In a matter that was decided by an agency head under section 11(c) of the order; or

(3) In a matter where the award of an arbitrator was issued under the order.

(d) "Assistant Secretary" means the Assistant Secretary of Labor for Labor-Management Relations, except that in matters arising under section 6(a) of the order involving the Department of Labor, it means the Vice Chairman of the Civil Service Commission.

(e) "Primary national subdivision" of an agency means a first-level organizational segment which has functions national in scope that are implemented in field activities.

(f) Terms defined in the order are used in this part with the meaning attached to them in the order.

## § 2411.4 Policy questions.

Notwithstanding the procedures set forth in this part, the Assistant Secretary or the Panel may refer for review and decision or general ruling by the Council any case involving a major policy issue that arises in a proceeding before, either of them. Any such referral shall be in writing and a copy of such referral shall be served on all parties to the proceeding. Before decision or general ruling, the Council shall obtain the views of the parties and other interested persons, orally or in writing, as it deems necessary and appropriate.

## Subpart B—Review of Decisions of the Assistant Secretary

## § 2411.11 Purpose.

This subpart, together with Subpart E, sets forth the procedures under which the Council will review decisions of the Assistant Secretary issued pursuant to section 6 of the order.

## § 2411.12 Considerations governing review.

A petition for review of a decision of the Assistant Secretary is not a matter of right, but of discretion, and, subject to the requirements of this part, will be granted only where there are major policy issues present or where it appears that the decision was arbitrary and capricious.

## § 2411.13 Who may file a petition; time limit for filing; opposition; service.

(a) Any party aggrieved by a final decision of the Assistant Secretary may petition the Council for review.

(b) The time limit for filing is 30 days from the date of the decision.

(c) An opposition to Council acceptance of a petition for review may be filed by any party within 30 days from the date of the petition.

## PROPOSED RULES

(d) A copy of the petition for review and of any opposition to acceptance shall be served by the filing party simultaneously on the other parties and on the Assistant Secretary.

## § 2411.14 Content of petition.

A petition must be a dated, self-contained document enabling the Council to rule on acceptance for review on the basis of its content without the necessity of recourse to the record. The petition must contain:

(a) A concise statement of the grounds on which review is requested;

(b) A summary of the evidence or rulings bearing on the issues, together with a summary of the arguments; and

(c) A copy of the decision of the Assistant Secretary which is being appealed including a copy of any decision, determination, report, or recommendation issued at an earlier stage in the proceeding and considered in his decision.

## § 2411.15 Council action on acceptance.

The Council shall review the petition and, if 50 percent or more of its members determine that the matter should be considered, the petition will be accepted. The Council shall promptly notify the parties whether the petition has been accepted or rejected.

## § 2411.16 Filing of briefs; Assistant Secretary as a party.

(a) Within 30 days from the date of the notice by the Council to the parties that the petition is accepted for review, the parties may file briefs with the Council (with specific references to the pertinent documents and, where applicable, with citations of authorities) which shall be served on the other parties.

(b) Where the Council grants review, the Assistant Secretary may, at his discretion, intervene and become a party to the proceeding.

## § 2411.17 Determinations of negotiability.

(a) Notwithstanding the procedures of this subpart, the Council, as provided in this section, will review a decision of the Assistant Secretary wherein it was necessary for him to make a negotiability determination in order to resolve the merits of an unfair labor practice complaint resulting from an alleged unilateral change in established personnel policies or practices or matters affecting working conditions.

(b) A petition for review of a decision wherein such a negotiability determination is made by the Assistant Secretary may be filed by the party subject to an adverse ruling under section 11(d) of the order.

(c) The time limit for filing is 30 days from the date of the Assistant Secretary's decision.

(d) A copy of the petition shall be served simultaneously on the other party and on the Assistant Secretary.

(e) A petition for review shall be dated and shall contain the following:

(1) A full and detailed statement of the aggrieved party's position including

reasons for disagreeing with the Assistant Secretary's decision as to whether a matter is negotiable under the order, without regard to the limitations in § 2411.51.

(2) A copy of pertinent documentary material including a copy of the Assistant Secretary's decision and a copy of any decision, determination, report, or recommendation issued at an earlier stage in the proceeding and considered in his decision.

(f) Within 30 days from the date of a petition for review of a decision wherein a negotiability determination is made by the Assistant Secretary, the other party shall file a full statement of its position on any matters relevant to the petition which it wishes the Council to consider in reaching its decision.

(g) The Assistant Secretary may, at his discretion, intervene and become a party to the proceeding.

(h) The Council shall give petitions filed under this section priority consideration.

(i) Subject to the requirements of this section, the Council shall issue its decision sustaining, setting aside in whole or in part, or remanding that portion of the decision of the Assistant Secretary wherein it was necessary for him to make a negotiability determination.

## § 2411.18 Council decision; compliance actions.

(a) A decision of the Assistant Secretary shall be sustained unless it is arbitrary and capricious or inconsistent with the purposes of the order.

(b) The Council shall issue its decision on the case sustaining, enforcing, modifying, and enforcing as so modified, setting aside in whole or in part, or remanding the decision of the Assistant Secretary.

(c) The Council has the overall responsibility to assure compliance with the Executive order and decisions rendered thereunder. However, the Council shall first remand the action to the Assistant Secretary for purposes of compliance consistent with its decision, without limitation on the power of the Council. If the Assistant Secretary finds the necessary action for compliance has not been taken, the matter shall revert to the Council for appropriate action.

## Subpart C—Review of Negotiability Issues

## § 2411.21 Purpose.

This subpart, together with Subpart E, sets forth the procedures under which the Council will review negotiability issues as provided in section 11(c) of the order.

## § 2411.22 Conditions governing review.

(a) The Council will consider a negotiability issue under the conditions prescribed by section 11(c) (4) of the order, namely: If, in connection with negotiations, the head of an agency (or his designee) has determined that a proposal is contrary to law, regulation, or the order and therefore not negotiable, a labor organization may appeal to the Council for a decision when—



(1) It disagrees with the agency head's determination that the proposal would violate applicable law, regulation of appropriate authority outside the agency, or the order; or

(2) It believes that the agency's regulations, as interpreted by the agency head, violate applicable law, regulation of appropriate authority outside the agency, or the order, or are not otherwise applicable to bar negotiations under section 11(a) of the order because they do not meet the criteria established in Part 2413 or because they were not issued at the agency headquarters level or at the level of a primary national subdivision.

(b) The Council will review a labor organization's appeal challenging an agency head's determination that an internal agency regulation bars negotiation only if the labor organization has first requested an exception to the regulation from the agency head and that request has been denied or has not been acted upon within the time limits prescribed by § 2411.24.

#### § 2411.23 Who may file a petition.

(a) A petition for review of a negotiability issue may be filed by a labor organization which is a party to the negotiations.

(b) An appeal challenging an agency regulation on grounds of failure to meet criteria established in Part 2413 or issuance below the agency headquarters or primary national subdivision level may be filed only by the national president of a labor organization (or his designee) or the president of a labor organization not affiliated with a national organization (or his designee).

#### § 2411.24 Time limits for filing.

(a) The time limit for filing is 30 days from the date of the agency head's determination; provided, however, that for appeals involving internal agency regulations asserted as a bar to negotiations the time limit shall be extended 15 days for requesting an exception to an agency regulation under § 2411.22(b) and 15 days for an agency head to act upon such request for an exception.

(b) Review of a negotiability issue may be requested by a labor organization under this subpart without a prior determination by the agency head, if the agency head has not made a decision.

(1) Within 45 days after a party to the negotiations initiates referral of the issue for determination, in writing, through prescribed agency channels; or

(2) Within 15 days after receipt by the agency head of a written request for such determination following referral through prescribed agency channels, or following direct submission if no agency channels are prescribed.

#### § 2411.25 Content of petition; service.

A petition for review shall be dated and shall contain the following:

(a) A statement setting forth the matter proposed to be negotiated as submitted to the agency head for determination.

(b) A copy of all pertinent material including the agency head's determination on the proposal, the labor organization's request for an exception if required by § 2411.22(b), the agency head's denial of an exception, and other relevant documentary material.

(c) A full and detailed statement of the labor organization's position and reasons for:

(1) Disagreeing with the agency head's determination that the proposal would violate applicable law, regulation of appropriate authority outside the agency, or the order; or

(2) Believing that the agency's regulations, as interpreted by the agency head, violate applicable law, regulation of appropriate authority outside the agency, or the order, or are not otherwise applicable to bar negotiations under section 11(a) of the order. The statement shall cite the particular section of any law, regulation, or the order believed to be violated by the agency's regulations or shall explain the grounds for contending the agency regulations fail to meet the criteria established in Part 2413 or the required level of issuance of such regulations under section 11(a) of the order.

(d) A copy of the petition shall be served simultaneously on the other party.

#### § 2411.26 Position of the agency; time limits for filing.

Within 30 days from the date of a petition for review of a negotiability issue the agency shall file a full statement of its position on any matters relevant to the petition which it wishes the Council to consider in reaching its decision.

#### § 2411.27 Referral by the Federal Service Impasses Panel.

(a) Notwithstanding the procedures of this subpart, except § 2411.22, when the Panel finds that a negotiability issue is impeding the resolution of a negotiation impasse, the Panel may refer the negotiability issue to the Council for decision.

(b) A referral by the Panel shall contain:

(1) The matter proposed to be negotiated as submitted to the agency head for determination;

(2) The agency head's determination thereon, the labor organization's request for an exception if required by § 2411.22(b), and the agency head's denial of an exception;

(3) Statements of position from each party with supporting evidence and argument; and

(4) Any other appropriate documents of record.

(c) The Panel may refer a negotiability issue for decision by the Council at any time during its consideration of a negotiation impasse.

(d) The Council will give such referrals priority consideration.

#### § 2411.28 Council decision.

Subject to the requirements of this part, the Council shall issue its decision sustaining or setting aside in whole or in

part, or remanding the agency head's determination.

#### Subpart D—Review of Arbitration Awards

##### § 2411.31 Purpose.

This subpart, together with Subpart E, sets forth the procedures under which the Council will review arbitration awards under the order.

##### § 2411.32 Considerations governing review.

The Council will grant a petition for review of an arbitration award only where it appears, based upon the facts and circumstances described in the petition, that the exceptions to the award present grounds that the award violates applicable law, appropriate regulation, or the order, or other grounds similar to those upon which challenges to arbitration awards are sustained by courts in private sector labor-management relations. The Council will not consider exceptions to an advisory arbitration award.

##### § 2411.33 Who may file a petition; time limits for filing; opposition; service.

(a) Any party aggrieved by an arbitration award may petition the Council for review.

(b) The time limit for filing is 30 days from the date of the award.

(c) An opposition to Council acceptance of a petition for review may be filed by any party within 30 days from the date of the petition.

(d) A copy of the petition shall be served simultaneously on the other party.

##### § 2411.34 Content of petition.

A petition must be a dated, self-contained document enabling the Council to rule on acceptance for review on the basis of its content without necessity of recourse to the record. The petition must contain:

(a) A concise statement of the grounds on which review is requested;

(b) A summary of the evidence or rulings bearing on the issues, together with a summary of the arguments; and

(c) A copy of the award of the arbitrator and other pertinent documents.

##### § 2411.35 Council action on acceptance.

The Council shall review the petition and, if 50 percent or more of its members determine that the matter should be considered, the petition will be accepted. The Council shall promptly notify the parties whether the petition has been accepted or rejected.

##### § 2411.36 Filing of briefs.

Within 30 days from the date of the notice by the Council to the parties that the petition is accepted for review, the parties may file briefs with the Council (with specific reference to the pertinent documents and, where applicable, with citations of authorities) which shall be served on the other parties.

##### § 2411.37 Council decision.

(a) An award of an arbitrator shall be modified, set aside in whole or in part, or remanded only on grounds that the award violates applicable law, appropriate regulation, or the order, or other grounds similar to those applied by the courts in private sector labor-management relations.

(b) The Council shall issue its decision sustaining, modifying, setting aside in whole or in part, or remanding the award.

##### Subpart E—General Requirements

##### § 2411.41 Interlocutory appeals.

There shall be no interlocutory appeals. The Council will not consider a petition for review until a final decision or award has been rendered.

##### § 2411.42 Approval of submission.

Except as provided in § 2411.23(b), the Council shall consider a petition from an agency or labor organization only when the head of the agency (or his designee), or the national president of the labor organization (or his designee), or the president of a labor organization not affiliated with a national organization (or his designee), as appropriate, has approved submission of the petition.

##### § 2411.43 Place and method of filing; acknowledgment.

(a) A document submitted to the Council pursuant to this part shall be filed with the Executive Director, Federal Labor Relations Council, 1900 E Street NW., Washington, D.C. 20415.

(b) Documents shall be filed with the Council by registered mail, by certified mail, or in person.

(c) A return post office receipt may serve as acknowledgement of receipt by the Council. The Council will otherwise acknowledge receipt of documents filed only when the filing party so requests and includes an extra copy of the document which the Council will date stamp upon receipt and return. If return is to be made by mail, the filing party shall include a self-addressed, stamped envelope for the purpose.

##### § 2411.44 Number of copies.

Unless otherwise provided by the Executive Director, any document filed with the Council under this part, together with any enclosure filed therewith, shall be submitted in an original and three copies.

##### § 2411.45 Time limits; computation; extension; waiver.

(a) When a time limit for filing is established under this part, the document must be received in the office of the Council before the close of business of the last day of the time limit.

(b) In computing any period of time prescribed or allowed by this part, the day of the act, event, or default from or after which the designated period of time begins to run shall not be included; but the last day of the period so computed shall be included, unless it is a Saturday, Sunday, or Federal legal holiday, in which event the period shall run until

the end of the next day which is not a Saturday, Sunday, or Federal legal holiday. Also, when a period of time prescribed or allowed is 7 days or less, intermediate Saturdays, Sundays, and Federal legal holidays shall be excluded in the computation.

(c) Any request for the reconsideration of a decision of the Assistant Secretary, the award of an arbitrator, or the determination of an agency head shall not operate to extend the time limits established in this part.

(d) The Executive Director may extend any time limit provided in this part for good cause shown, and shall notify the parties of any such extension. Requests for extensions of time shall be filed in writing 5 days in advance of the established time limit for filing, shall state the position of other parties on the request for extension, and shall be served simultaneously on the other parties.

(e) The Executive Director may waive any expired time limit in this part in extraordinary circumstances. Requests for waiver of time limits shall state the position of other parties on the request for waiver and shall be served simultaneously on the other parties.

##### § 2411.46 Service; statement of service.

(a) Any party filing a document as provided in this part is responsible for simultaneously serving a copy on the other parties including all representatives of other parties who entered appearances in the subject proceeding before the Assistant Secretary, the agency head, or the arbitrator, as the case may be, and on any interested person who has been granted permission by the Executive Director to present written and/or oral argument as an amicus curiae.

(b) In any matter involving review of a decision of the Assistant Secretary, the Assistant Secretary shall be served with a copy of all documents filed with the Council.

(c) Service shall be made by registered or certified mail or in person. A return post office receipt or other written receipt executed by the party or person served shall be proof of service.

(d) A signed and dated statement of service shall be submitted at the time of filing. Statement of service shall include the names of the parties and persons served, their addresses, the nature of the document served, and the manner in which service was made.

##### § 2411.47 Stay of decision or award; requests; criteria.

(a) A request for a stay shall be entertained only in conjunction with and as a part of a petition for review of a decision of the Assistant Secretary or an award of an arbitrator. The filing of a petition for review shall not itself operate as a stay of the decision or award involved in the proceedings.

(b) Consistent with § 2411.41, the Council will not consider a request for stay unless a final decision or award has been rendered.

(c) A request for a stay of a decision of the Assistant Secretary or of an award

of an arbitrator shall contain a full statement of the grounds on which the stay is requested and shall be subject to the same time limits for filing as those established with respect to the filing of a petition for review of such decision or award.

(d) A timely request for a stay of a final decision or award shall operate as a temporary stay pending a decision by the Council on the request and such temporary stay shall be deemed effective from the date of the decision or award which is stayed.

(e) A request for stay of an Assistant Secretary's decision will be granted only where it appears, based upon the facts and circumstances presented:

(1) In a representation case, that—

(i) There is a strong likelihood of success on the merits of the appeal;

(ii) In the absence of a stay the applicant will suffer irreparable injury;

(iii) The issuance of a stay will not have a serious adverse effect on other parties to the case; and

(iv) The public interest will not be harmed by the grant of a stay.

(2) In an unfair labor practice case, that—

(i) There is a reasonable likelihood that the appeal will be accepted for review; and

(ii) A careful balancing of all the equities, including the public interest, warrants issuance of a stay.

(f) A request for stay of an arbitrator's award will be granted only where it appears, based upon the facts and circumstances presented that:

(1) There is a reasonable likelihood that the petition will be accepted for review; and

(2) A careful balancing of all the equities, including the public interest, warrants issuance of a stay.

(g) A request for a stay in other types of cases will be granted only where it appears, based upon the facts and circumstances presented, that:

(1) There is a reasonable likelihood the appeal will be accepted for review; and

(2) A careful balancing of all the equities, including the public interest, warrants issuance of a stay.

The Council, in its discretion, may permit oral argument under such circumstances and conditions as it deems appropriate. Unless otherwise ordered, a hearing of oral argument shall be open to the public.

##### § 2411.48 Oral argument.

Upon petition of an interested person, a copy of which petition shall be served on the parties, and as the Executive Director deems appropriate, the Executive Director may grant permission for the presentation of written and/or oral argument at any stage of the proceedings by an amicus curiae and the parties shall be notified of such action by the Council.

##### § 2411.50 Transfer of record.

Upon request by the Council, the Assistant Secretary or the appropriate



agency shall transfer the record in the case to the Council.

**§ 2411.51 Matters not previously presented; judicial notice.**

Consistent with the scope of review set forth in this part, the Council will not consider evidence offered by a party, or any issue, which was not presented in the proceedings before the Assistant Secretary, an agency head, or an arbitrator. The Council may, however, take judicial notice of such matters as would be proper.

**§ 2411.52 Other documents.**

(a) The Executive Director, in his discretion, may grant leave to file other documents as he deems appropriate.

(b) A copy of such other documents shall be served simultaneously on the other parties or persons.

**§ 2411.53 Advisory opinions.**

The Council shall not issue advisory opinions.

**§ 2411.54 Distribution of Council decisions.**

Copies of decisions by the Council shall be furnished to the parties and other interested persons and made available at the office of the Council.

**PART 2413—CRITERIA FOR DETERMINING COMPELLING NEED FOR AGENCY POLICIES AND REGULATIONS**

Sec.  
2413.1 Purpose.  
2413.2 Illustrative criteria.

**AUTHORITY:** 5 U.S.C. 3301, 7301; E.O. 11491, 3 CFR 1969 Comp., p. 191, 34 FR 17605; as amended by E.O. 11616, 3 CFR 1971 Comp., p. 191, 36 FR 17319; E.O. 11636, 3 CFR 1971 Comp., p. 232, 36 FR 24901; and by E.O. 11838, 40 FR 5743 and 7391.

**§ 2413.1 Purpose.**

Section 11(a) of Executive Order 11491 of October 29, 1969, as amended, requires, among other things, that an agency and a labor organization that has been accorded exclusive recognition, through appropriate representatives, shall meet at reasonable times and confer in good faith with respect to personnel policies and practices and matters affecting working conditions, so far as may be appropriate under applicable published agency policies and regulations for which a compelling need exists under criteria established by the Federal Labor Relations Council and which are issued at the agency headquarters level or at the level of a primary national subdivision. The purpose of this part is to establish illustrative criteria for determining when a compelling need exists for an agency policy or regulation concerning personnel policies and practices and matters affecting working conditions, within the meaning of section 11(a) of the order.

**§ 2413.2 Illustrative criteria.**

A compelling need exists for an applicable agency policy or regulation concerning personnel policies and practices and matters affecting working conditions

when the policy or regulation meets one or more of the following illustrative criteria:

(a) The policy or regulation is essential, as distinguished from helpful or desirable, to the accomplishment of the mission of the agency or the primary national subdivision;

(b) The policy or regulation is essential, as distinguished from helpful or desirable, to the management of the agency or the primary national subdivision;

(c) The policy or regulation is necessary to insure the maintenance of basic merit principles;

(d) The policy or regulation implements a mandate to the agency or primary national subdivision under law or other outside authority, which implementation is essentially nondiscretionary in nature; or

(e) The policy or regulation establishes personnel policies or practices or matters affecting working conditions where uniformity is required for equitable treatment of all or a substantial segment of the employees of the agency or primary national subdivision.

For the Council.

HENRY B. FRAZIER III,  
Executive Director.

[PR Doc.75-12355 Filed 5-15-75; 8:45 am]

**FEDERAL POWER COMMISSION**

[18 CFR Parts 3, 260]

[Docket No. R-472]

**REPORTING FORM 69**

**Alternate Fuel Demand of Direct End Use Customers of Interstate Pipeline Companies Due to Natural Gas Curtailments; Notice of Proposed Rulemaking**

MAY 12, 1975.

Notice is hereby given, pursuant to section 553 of Title 5 of the United States Code and the Natural Gas Act, sections 4, 5, 7, 8, 10, 14, 15 and 16 (52 Stat. 822, 823, 824, 825, 826, 828, 829, 830; 56 Stat. 83, 84; 61 Stat. 459; 76 Stat. 72 (15 U.S.C. 717c, 717d, 717f, 717g, 717i, 717m, 717n, 717o)) that the Federal Power Commission (FPC) proposes to add a new form which is to be filed by all interstate pipeline companies subject to its jurisdiction that supply natural gas directly to end-use customers. The proposed form is required in order to determine the alternate fuel supplies that will be needed to meet the requirements of those end-use customers who will not be able to continue to satisfy their requirements with natural gas due to the imposition of increasing levels of curtailment upon such customers by interstate pipeline companies or foreign suppliers of natural gas. In order to obtain this information the Commission proposes to add a new § 260.—to Part 260 *Statements and Reports (Schedules)* of Subchapter G *Approved Forms, Natural Gas Act* of Chapter 1 of Title 18 of the Code of Federal Regulations.

The Commission in its Order No. 523 issued in Docket No. R-472 on February 6, 1975, withheld passing upon the

inclusion of Schedule 1B and Schedule 1C in FPC Form No. 16 in deference to numerous comments that had been submitted by interested parties. It was noted in the Order that the comments urged postponement of any action in this proceeding until agreement was reached among the Commission, the Federal Energy Administration (FEA) and the National Association of Regulatory Utility Commissioners (NARUC) on expanded information desired by the FEA. The order also stated the proceeding would be renounced based on such changes. A Notice of Conference with respect to the formulation of expanded data collection forms was issued on February 12, 1975, and published in the *FEDERAL REGISTER* on February 24, 1975 (40 FR 7967). The new § 260.—proposed herein is the outgrowth of a series of conferences held with respect to this matter. The importance of acquisition of the data sought is strongly confirmed by the existence of increasing and continued shortages of natural gas.

By its Order No. 431 issued on April 15, 1971, in Docket No. R-418, 45 FPC 570, the Commission promulgated § 2.70 of its General Policy and Interpretations to provide that jurisdictional pipeline companies should

... take all steps necessary for the protection of as reliable and adequate service as present supplies and capacities will permit during the 1971-1972 heating season and thereafter ...

Since the promulgation of Order No. 431, the critical national shortage of natural gas has necessitated significant curtailments in the service rendered by interstate pipeline companies to both their direct industrial and resale customers. The likelihood of supply shortages of increasing severity continuing into the future is apparent.

Customers falling into either industrial or interruptible classifications are generally the most critically affected. This is due to the curtailment priority that is normally accorded customers of this nature in times of shortage. During the course of the 1974-1975 heating season, the Commission received increasing numbers of petitions requesting extraordinary relief indicating that essential natural gas needs of such customers could not be satisfied due to actual and projected gas supply deficiencies by many interstate pipelines. In most instances the Commission has been able to make provision for sufficient relief to prevent the complete shut-down of many industrial plants even though some downtime has been and will be experienced because of significant natural gas curtailments.

Therefore, it is necessary that the Commission obtain information relating to the extent of the shortage of natural gas that end use customers being served directly by interstate suppliers of natural gas will experience in the future on a regular basis and those alternate fuels, if any, that can be utilized in lieu of the natural gas.

Accordingly, in order to have available such data on a systematic basis, a new

report, Form 69 (Attachment A), to be filed by all jurisdictional suppliers of natural gas (including LNG and SNG) to end use customers is herein proposed.

The proposed Form 69 was developed by the Federal Power Commission in coordination with the FEA, NARUC, and other governmental agencies participating informally. The coordinated effort contemplates that the FEA will circulate a similar form in order to acquire substantially identical data from all suppliers of natural gas (to end use customers) who are beyond the jurisdiction of this Commission, but within the scope of the FEA's jurisdiction. It is contemplated that the coordination of efforts to date, and such future coordination as required, will enable the FPC to issue pursuant to the rulemaking requirements of the Administrative Procedure Act, a Form 69 which will be substantially identical to the form the FEA will issue.

If and when Form 69 is promulgated by the Commission, Form 69 will be filed with this Commission only by jurisdictional suppliers. Suppliers of natural gas who are not subject to the jurisdiction of the Federal Power Commission will not be affected by the promulgation of Form 69 but will be required to continue filing the FEA form with FEA. Those suppliers of natural gas subject to FPC jurisdiction would file only with the FPC. In this way, a single coordinated form may be filed by those reporting with the FPC in satisfaction of mutual reporting requirements of both the FPC and the FEA. This is intended to reduce the burden on those persons reporting and will further enable better coordination of information between the FPC and the FEA as well as with the members of NARUC.

Copies of the filings will be routinely provided to FEA because the FEA, in the furtherance of its statutory responsibilities, must have complete access to the data to be submitted under the FPC's proposed complementary Form. It would be to the mutual benefit of all if a duplication of effort in the collection of data of common interest to both these federal agencies could be averted by providing copies of the completed FPC Form 69 to the FEA rather than requiring it to undertake a separate and independent effort to acquire the identical information.

The information to be obtained by Form 69 may be of value not only to FPC and FEA but also to other federal and state agencies with fuel allocation or associated responsibilities. The Commission, therefore, specifically solicits the comments of all interested parties on the question of whether the information obtained on Form 69 should be provided to FEA and other federal or state agencies, or placed in the Commission's public files, in an aggregate or disaggregate form without breaching any right to confidentiality which respondents might claim with respect to the information set out in their reports.

The proposed report Form 69 would be filed four times each year and would reflect data on a quarterly basis with reporting quarters ending with the following dates: March 31st, June 30th, September 30th and December 31st. The report would not have to be filed with the Commission until thirty (30) days subsequent to the aforementioned reporting periods prescribed by the form. The three quarters on the form subsequent to the actual reporting period are to be filled out to indicate the estimates of the requirements of each end use customer for the successive nine month period. At the working conferences which were held to develop this form it was strongly urged that there be a submission of proposed Form 69 on a one time basis to reflect actual usage experience for one annual base period, i.e., from April 1, 1974, through March 31, 1975. The actual data reported for the base period provides a basis from which to measure incremental curtailment and is helpful in analyzing the estimate in the quarterly submission. This one time submission of the form for the period April, 1974, through March, 1975, is also proposed herein.

It is proposed that the first report should be filed for the data covering the quarter ending June 30, 1975, along with the one time report. The first report would be due on August 15, 1975. It is further proposed that § 3.170 of the General Rules be amended to include Form No. 69.

The amendments proposed herein would be issued under the authority granted to the Federal Power Commission by the Natural Gas Act as amended, particularly sections 4, 5, 7, 8, 10, 14, 15 and 16 thereof (52 Stat. 822, 823, 824, 825, 826, 828, 829, 830; 56 Stat. 83, 84; 61 Stat. 459, 76 Stat. 72; 15 U.S.C. 717c, 717d, 717f, 717g, 717i, 717m, 717n, 717o).

A. Accordingly, it is proposed to amend Part 260 *Statements and Reports (Schedules)*, in Subchapter G *Approved Forms, Natural Gas Act*, Chapter 1, Title 18 of the Code of Federal Regulations by adding a new § 260.—prescribing new FPC Form No. 69 Report of Alternate Fuel Demand Due to Natural Gas Curtailments, in the form set out in Attachment A hereto. New § 260.—, will read:

**§ 260.—Form No. 69 Report of alternate fuel demand due to natural gas curtailments.**

(a) The form Alternate Fuel Demand Due to Natural Gas Curtailments designated as FPC Form No. 69 is prescribed.

(b) Each natural gas company making direct sales in interstate commerce of natural gas (including SNG and LNG) to customers consuming such gas shall prepare and file with the Commission an original and three copies of Report of Alternate Fuel Demand Due to Natural Gas Curtailments, FPC Form No. 69 on or before August 15, 1975, for the actual annual period from April 1, 1974, to March 31, 1975, and for the quarterly period ending June 30th and thereafter on a quarterly basis on or before April 30th, July 30th, October 30th, and January 30th of each year.

B. Further, it is proposed to amend § 3.170 of Part 3 *Organization; operation; information and requests; miscellaneous charges; ethical standards*, Subchapter A *General Rules*, Chapter I, Title 18 of the Code of Federal Regulations, to read as follows:

**§ 3.170 Approved forms, etc.**

(a) The following is a list of approved forms, statements, and reports, under the Natural Gas Act, descriptions of which have been published in Subchapter G, Parts 250 and 260 of this chapter.

(—) Form No. 69 report of alternate fuel demand due to natural gas curtailments § 260.— of this chapter.

Any interested person may submit to the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, not later than June 13, 1975, data, views comments or suggestions in writing concerning the proposed regulation and form. Written submissions will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Washington, D.C., 20426, during regular business hours. The Commission will consider all such written submissions before acting on the matters proposed herein. An original and 14 conformed copies should be filed with the Secretary of the Commission. Submissions to the Commission should indicate the name, title and mailing address of the person to whom communications in regard to the proposal should be addressed and whether the person filing them requests a conference with the staff of the Federal Power Commission to discuss the proposed regulation and report form. The staff, in its discretion, may grant or deny requests for conference.

The Secretary shall cause prompt publication of this notice to be made in the *FEDERAL REGISTER*.

By direction of the Commission.

KENNETH F. PLUMB,  
Secretary.











SECURITIES AND EXCHANGE  
COMMISSION

[17 CFR Part 240]

[Release No. 34-11402; File No. S7-563]

ARREST AND INDICTMENT RECORDS OF  
ASSOCIATED PERSONS

## Broker-Dealers' Maintenance

The Securities and Exchange Commission has under consideration a proposed amendment of Rule 17a-3(a)(12)(A)(8) under the Securities Exchange Act of 1934 [17 CFR 240.17a-3(a)(12)(i)(h)1]. Rule 17a-3(a)(12)(A) presently requires every member of a national securities exchange who transacts a business in securities directly with others than members of a national securities exchange, and every broker or dealer who transacts a business in securities through the medium of any such member, and every registered broker or dealer to obtain from each associated person a questionnaire or application for employment containing, among other things, a record of any arrests, indictments, or convictions for any felony or misdemeanor, except minor traffic offenses. The Commission proposes to amend Rule 17a-3(a)(12)(A)(8) to limit the reference to arrests or indictments to crimes which are related to the safe operation of the securities industry.

## DISCUSSION

Rule 17a-3(a)(12) was adopted October 6, 1961 and became effective November 10, 1961. In addition to arrest, indictment, and conviction records, the Rule requires that records be maintained on the background, education, and business experience of associated persons. The Release lists two reasons for requiring such information: First, that "good business practice" calls for the retention of "fairly detailed data concerning the experience and past record of partners, officers, salesmen, traders and other employees handling funds, securities or transactions for the firm." Second, that

Rule 17a-3(a)(12)(B) defines an associated person to be a "partner, officer, director, salesman, trader, manager, or any employee handling funds or securities or soliciting transactions or accounts for such member, broker or dealer."

Form SECO-2, the Personnel Form for nonmember brokers and dealers, requests similar information. On December 13, 1974, the Commission proposed amending Form SECO-2 by the substitution of Form U-4, a uniform application for registration of associated persons. (Securities Exchange Act Release No. 11135, 39 FR 45382.) Insofar as the requirements regarding arrest records, indictments, and convictions are concerned, Form U-4 would be modified, if necessary, to contain limitations similar to Rule 17a-3(a)(12)(A)(8).

Securities Exchange Act Release No. 8646 [28 FR 9629].

the Commission would benefit in its broker-dealer inspections and enforcement activities from the availability of such records.

While these conclusions remain valid, the Commission is concerned that requiring the maintenance of records of all arrests and indictments (other than minor traffic offenses) may be too broad and as such may no longer comport with public policy and should not be required by Commission rule. The Commission is cognizant of the potential detrimental inferences which may be drawn from arrest records. As stated by Judge Irving Ben Cooper of the United States District Court for the Southern District of New York:

Those of us who deal with the daily practicalities presented by the bread-and-butter portions of court calendars find that, in the main irreparable injury is done a defendant acquitted after a trial: the fact of his arrest is very often sufficient to rule him out of consideration for employment.

At the same time, the securities industry bears a heavy burden of public trust and confidence; the protection of customers' funds and securities is paramount. The Commission deems it important that broker-dealers obtain and maintain extensive information on the background of associated persons. In proposing to amend Rule 17a-3(a)(12)(A)(8), the Commission is attempting to balance these sometimes conflicting objectives.

Recent developments have led the Commission to review whether the benefit to be derived from the maintenance of records of all arrests and indictments is outweighed by the potential damage to the civil rights of the individuals involved. At the same time, the Commission believes that the securities industry has certain requirements which justify, as a matter of business necessity and the public interest, maintaining certain arrest and indictment records of persons dealing with customers' funds and securities.

PROPOSED REVISION OF RULE 17(A)(12)  
(A)(8)

The Commission believes that the extent of the records of arrests and indictments required to be kept pursuant to Commission rule should be reconsidered. Rule 17a-3(a)(12)(A)(8) is not on its face discriminatory since it does not mandate that persons with arrest or indictment records be denied consideration for employment. Nevertheless, the Rule may indirectly have such an effect in certain cases. The Commission, therefore, proposes to limit the requirement concerning arrest and indictment records to crimes which are of such a nature as to

\* Quoted in Hess and LePoole, Abuse of the Record of Arrest Not Leading to Conviction, 13 CRIME & DELINQUENCY 494, 496 (1967).

impact directly on the safe operation of the securities business.

While the Commission proposes that the maintenance of arrest records be limited, it is apparent that persons convicted of crimes may not be suitable for employment in the securities industry. Accordingly, the Commission proposes to continue to require employers in the securities industry to maintain records of all convictions, other than minor traffic offenses, of their employees.

## STATUTORY AUTHORITY

The amendment to § 240.17a-3(a)(12)(i)(h) of Chapter II of Title 17 of the Code of Federal Regulations would be adopted pursuant to section 17(a) and section 23(a) of the Securities Exchange Act of 1934 and would read as follows:

Section 240.17a-3 is amended by revising (a)(12)(i)(h) to read as set forth below:

§ 240.17a-3 Records to be made by certain exchange members, brokers and dealers.

(a) . . . . .  
(12)(i) . . . . .

(h) A record of any arrest or indictment for any felony or misdemeanor involving the purchase, sale or delivery of any security or arising out of the conduct of the business of a broker, dealer, fiduciary, investment company, investment adviser, underwriter, bank, trust company, insurance company or other financial institution, or involving any crime in which violence or threats of violence against any person, dishonesty, the wrongful taking of any property, or any manner of fraud was a factor or involving conspiracy to commit any of the foregoing and a record of any conviction for any felony or any misdemeanor, except minor traffic offenses, of which he has been the subject.

Secs. 17(a), 23(a), 48 Stat. 897, 901; Secs. 4, 8, 49 Stat. 1379; Sec. 5, 52 Stat. 1076; 15 U.S.C. 78q(a), 78w.

## CONCLUSION

Interested persons may submit their comments on the proposed amendment of Rule 17a-3(a)(12)(A)(8) in writing on or before June 18, 1975 to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549. All such communications should bear File No. S7-563 and will be available for public inspection.

By the Commission.

MAY 7, 1975.

[SEAL] SHIRLEY E. HOLLIS,  
Assistant Secretary.

[FR Doc.75-12922 Filed 5-15-75; 8:45 am]

## notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF THE TREASURY

## Office of the Secretary

[APP-2-04-O:D:T-VK]

POTASSIUM CHLORIDE, OTHERWISE  
KNOWN AS MURIATE OF POTASH,  
FROM CANADATentative Determination To Modify or  
Revoke Dumping Finding

A finding of dumping with respect to potassium chloride, otherwise known as muriate of potash, from Canada was made in Treasury Decision 69-265 which was published in the FEDERAL REGISTER on December 19, 1969 (34 FR 19904).

After due investigation, it has been determined, tentatively, that potassium chloride exported by Brockville Chemical Industries, Limited, Montreal, Quebec, Canada; Hudson Bay Mining and Smelting Co., Limited, Toronto, Ontario, Canada; and Swift Canadian Co., Limited, Etobicoke, Ontario, Canada is not being, nor likely to be, sold for export to the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.). The investigation indicated that, with the exception of some sporadic sales for which dumping duties in de minimus amounts were found to accrue, all sales by these firms for a period of two years from the finding of dumping have been made at not less than fair value, and each of these firms has furnished written assurances that future sales of potassium chloride for export to the United States will not be made at less than fair value.

Accordingly, notice is hereby given that the Department of the Treasury intends to modify the finding of dumping with respect to potassium chloride, otherwise known as muriate of potash, from Canada to exclude potassium chloride sold for export to the United States by Brockville Chemical Industries, Limited, Hudson Bay Mining and Smelting Co., Limited, and Swift Canadian Co., Limited, from the finding.

In accordance with § 153.37, Customs Regulations (19 CFR 153.37), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street, NW., Washington, D.C. 20229, in time to be received by his office not later than 10 days from the date of publication of this notice in the FEDERAL REGISTER. Such requests must be accompanied

by a statement outlining the issues to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than June 16, 1975.

This notice is published pursuant to § 153.41(c) of the Customs Regulations (19 CFR 153.41(c)).

[SEAL] DAVID R. MACDONALD,  
Assistant Secretary of  
the Treasury.

MAY 12, 1975.

[FR Doc.75-12858 Filed 5-15-75; 8:45 am]

## DEPARTMENT OF DEFENSE

## Office of the Secretary

## ACQUISITION ADVISORY GROUP

## Advisory Committee Meeting

The Acquisition Advisory Group will meet in closed session on 3 June 1975 at the IDA Building, Arlington, Virginia.

The mission of the Acquisition Advisory Group is to examine and assess the recommendations made by the Army Materiel Acquisition Review Committee, the Navy Marine Corps Acquisition Review Committee and the Secretary of the Air Force relative to major weapon systems acquisition which suggest changes of current procedures or policies in the Office of the Secretary of Defense. The Acquisition Advisory Group will report its findings and recommendations to the Deputy Secretary of Defense.

The purpose of this meeting is to discuss the operations of the military departments and segments of the Office of the Secretary of Defense as they relate to the Defense Systems Acquisition Review Council (DSARC) process. The participants will specifically be discussing major weapon systems and their acquisition. Therefore, a considerable amount of the presentations will be devoted to matters that are specifically required by Executive Order to be kept secret in the interest of national defense. This will involve presentations by various Assistant Secretaries of Defense and the Director, Defense Research and Engineering. The Group will intermittently be discussing classified information. It is neither practicable nor feasible to separate the discussions of classified and non-classified material.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Acquisition Advisory Group meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that ac-

cordingly this meeting will be closed to the public.

MAURICE W. ROCHE,  
Director, Correspondence and  
Directives, OASD (Comptroller).

MAY 13, 1975.

[FR Doc.75-12897 Filed 5-15-75; 8:45 am]

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## ENDANGERED SPECIES

## Determination of Critical Habitat

MAY 13, 1975.

Notice is hereby given that the Department of the Interior intends to determine "critical habitat" for 108 currently listed "Endangered" species of the United States and Puerto Rico.

A notice which has been published in the FEDERAL REGISTER by the Department of the Interior and the Department of Commerce (FR Vol. 40, No. 78; April 22, 1975; pp. 17764-17765) provides a concept of "critical habitat" as it relates to section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543). The concept is as follows:

"Habitat" could be considered to consist of a spatial environment in which a species lives and all elements of that environment including, but not limited to, land and water area, physical structure and topography, flora, fauna, climate, human activity, and the quality and chemical content of soil, water, and air. "Critical Habitat" for any endangered or threatened species could be the entire habitat or any portion thereof, if, and only if, any constituent element is necessary to the normal needs or survival of that species. The following vital needs are relevant in determining "critical habitat" for a given species:

- (1) Space for normal growth, movements, or territorial behavior;
- (2) Nutritional requirements, such as food, water or minerals;
- (3) Sites for breeding, reproduction, or rearing of offspring;
- (4) Cover or shelter; or
- (5) Other biological, physical, or behavioral requirements.

Under this concept, the destruction, disturbance, modification, curtailment, or subjection to human activity of habitat considered "critical" for a given species would not conform with section 7 of the Endangered Species Act of 1973, if such an action might be expected to result in a reduction in the numbers or distribution of that species of sufficient magnitude to place the species in further

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## NOTICES

jeopardy, or in a restriction of the potential and reasonable expansion or recovery of that species. It must be emphasized that because the primary intent of the Fish and Wildlife Service and the National Marine Fisheries Service is to maintain and restore presently threatened and endangered species, application of the term "critical" is not restricted to the habitat necessary to support a minimum population. It is emphasized further that only specific

Common name

Scientific name

## FISHES

Bonytail, Pahranagat	<i>Gila robusta jordani</i>
Chub, humpback	<i>Gila cypha</i>
Chub, Mohave	<i>Stiphodon mohavensis</i>
Cisco, longjaw	<i>Coregonus alpenae</i>
Cul-ul	<i>Chasmistes cujus</i>
Dace, Kendall Warm Springs	<i>Rhinichthys osculus thermalis</i>
Dace, Moapa	<i>Moapa coriacea</i>
Darter, fountain	<i>Etheostoma fonticola</i>
Darter, Maryland	<i>Etheostoma sellare</i>
Darter, Okaloosa	<i>Etheostoma okaloosae</i>
Darter, watercress	<i>Etheostoma nuchale</i>
Gambusia, Big Bend	<i>Gambusia galget</i>
Gambusia, Clear Creek	<i>Gambusia heterochir</i>
Gambusia, Pecos	<i>Gambusia nobilis</i>
Killifish, Pahrump	<i>Empetrichthys latos</i>
Pike, blue	<i>Stizostedion vitreum glaucum</i>
Pupfish, Comanche Springs	<i>Cyprinodon elegans</i>
Pupfish, Devil's Hole	<i>Cyprinodon diabolis</i>
Pupfish, Owens River	<i>Cyprinodon radiosus</i>
Pupfish, Tecopa	<i>Cyprinodon nevadensis calidae</i>
Pupfish, Warm Springs	<i>Cyprinodon nevadensis pectoralis</i>
Squawfish, Colorado River	<i>Ptychocheilus lucius</i>
Stickleback, unarmored threespine	<i>Casterosteus aculeatus williamsont</i>
Topminnow, Gila	<i>Poeciliopsis occidentalis</i>
Trout, Arizona (Apache)	<i>Salmo sp.</i>
Trout, Gila	<i>Salmo gilae</i>
Trout, greenback cutthroat	<i>Salmo clarki stomias</i>
Trout, Lahontan cutthroat	<i>Salmo clarki henshawi</i>
Trout, Palute cutthroat	<i>Salmo clarki selenis</i>
Woundfin	<i>Plagophorus argentissimus</i>

## REPTILES AND AMPHIBIANS

Alligator, American	<i>Alligator mississippiensis</i>
Boa, Puerto Rican	<i>Epicrates inornatus</i>
Lizard, blunt-nosed leopard	<i>Crotaphytus silus</i>
Salamander, desert slender	<i>Batrachoseps aridus</i>
Salamander, Santa Cruz long-toed	<i>Ambystoma macrodactylum croceum</i>
Salamander, Texas blind	<i>Typhlomolge rathbuni</i>
Snake, San Francisco garter	<i>Thamnophis sirtalis tetrataenia</i>
Toad, Houston	<i>Bufo houstonensis</i>

## BIRDS

Akepa, Hawaii (akepa)	<i>Loxia coccinea coccinea</i>
Akepa, Maui (akepule)	<i>Loxia coccinea ochracea</i>
Akialoa, Kauai	<i>Hemignathus procerus</i>
Akialapau	<i>Hemignathus wilsoni</i>
Bobwhite, masked	<i>Colinus virginianus ridgwayi</i>
Condor, California	<i>Gymnogyps californianus</i>
Coot, Hawaiian	<i>Fulica americana alai</i>
Crane, Mississippi sandhill	<i>Grus canadensis pulla</i>
Crane, whooping	<i>Grus americana</i>
Crow, Hawaiian (alala)	<i>Corvus tropicus</i>
Creep, Molokai (kakawale)	<i>Loxia maculata flammea</i>
Creep, Oahu (alauwahio)	<i>Loxia maculata maculata</i>
Curlew, Eskimo	<i>Numenius borealis</i>
Duck, Hawaiian (koloa)	<i>Anas wyvilliana</i>
Duck, Laysan	<i>Anas laysanensis</i>
Duck, Mexican	<i>Anas diazi</i>
Eagle, Southern bald	<i>Haliaeetus leucocephalus leucocephalus</i>
Falcon, American peregrine	<i>Falco peregrinus anatum</i>
Falcon, Arctic peregrine	<i>Falco peregrinus tundrius</i>
Finches, Laysan and Nihoa	<i>Psittirostra cantans</i>
Gallinule, Hawaiian	<i>Gallinula chloropus sandvicensis</i>
Goose, Aleutian Canada	<i>Branta canadensis leucopareta</i>
Goose, Hawaiian (nene)	<i>Branta sandvicensis</i>
Hawk, Hawaiian (lo)	<i>Buteo solitarius</i>
Kite, Florida Everglade (small kite)	<i>Rostrhamus sociabilis plumbeus</i>
Honeycreeper, crested (akohekohe)	<i>Palmeria dolei</i>

kinds of actions are detrimental to habitat regarded as "critical" as defined above. There may be many kinds of actions which can be carried out within the "critical habitat" of a species that would not be expected to result in a reduction in the numbers or distribution or otherwise adversely affect that species. The endangered species for which "critical habitat" will be determined are as follows:

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## BIRDS—Continued

Millerbird, Nihoa	<i>Acrocephalus kingi</i>
Nukupuu, Kauai and Maui	<i>Hemignathus lucidus</i>
Oo, Kauai (oo aa)	<i>Moho braccatus</i>
Ou	<i>Psittirostra psittacea</i>
Pallia	<i>Psittirostra bailliei</i>
Parrot, Puerto Rican	<i>Amazona vittata</i>
Parrotbill, Maui	<i>Pseudonestor xanthophrys</i>
Pelican, brown	<i>Pelecanus occidentalis</i>
Petrel, Hawaiian dark-rumped	<i>Pterodroma phaeopygia sandwichensis</i>
Pigeon, Puerto Rican plain	<i>Columba inornata wetmorei</i>
Prairie chicken, Attwater's greater	<i>Tympanuchus cupido attwateri</i>
Rail, California clapper	<i>Rallus longirostris obsolitus</i>
Rail, light-footed clapper	<i>Rallus longirostris levipes</i>
Rail, Yuma clapper	<i>Rallus longirostris yumanensis</i>
Sparrow, Cape Sable	<i>Ammospiza mirabilis</i>
Sparrow, dusky seaside	<i>Ammospiza nigrescens</i>
Sparrow, Santa Barbara song	<i>Melospiza melodia graminea</i>
Stilt, Hawaiian	<i>Himantopus himantopus knudseni</i>
Tern, California least	<i>Sterna albigula browni</i>
Thrush, large Kauai	<i>Phaeornis obscurus myadestina</i>
Thrush, Molokai (olomau)	<i>Phaeornis obscurus rutha</i>
Thrush, small Kauai (puaohi)	<i>Phaeornis palmeri</i>
Warbler, Bachman's	<i>Vermivora bachmani</i>
Warbler, Kirtland's	<i>Dendroica kirtlandii</i>
Whip-poor-will, Puerto Rican	<i>Caprimulgus noctitherus</i>
Woodpecker, ivory-billed	<i>Campephilus principalis</i>
Woodpecker, red-cockaded	<i>Dendrocopos borealis</i>

## MAMMALS

Bat, Hawaiian hoary	<i>Lasiurus cinereus semotis</i>
Bat, Indiana	<i>Myotis sodalis</i>
Cougar, Eastern	<i>Felis concolor cougar</i>
Deer, Columbian white-tailed	<i>Odocoileus virginianus leucurus</i>
Deer, Key	<i>Odocoileus virginianus clavium</i>
Ferret, black-footed	<i>Mustela nigripes</i>
Fox, San Joaquin kit	<i>Vulpes macrotis mutica</i>
Manatee, Florida (sea cow)	<i>Trichechus manatus latirostris</i>
Mouse, salt marsh harvest	<i>Reithrodontomys raviventris</i>
Panther, Florida	<i>Felis concolor coryi</i>
Prairie Dog, Utah	<i>Cynomys parvidens</i>
Pronghorn, Sonoran	<i>Antilocapra americana sonoriensis</i>
Rat, Morro Bay kangaroo	<i>Dipodomys heermanni morroensis</i>
Squirrel, Delmarva Peninsula fox	<i>Sciurus niger cinereus</i>
Wolf, Eastern timber	<i>Canis lupus lycaon</i>
Wolf, Northern Rocky Mountain	<i>Canis lupus irremotus</i>
Wolf, red	<i>Canis rufus</i>

Although we are seeking information on "critical habitat" for all of the above, we are particularly interested in receiving data quickly on the following ten high priority species: Indiana bat, Mississippi sandhill crane, whooping crane, manatee, American peregrine falcon, San Joaquin kit fox, blunt-nosed leopard lizard, California condor, black-footed ferret, and pallia. The Fish and Wildlife Service will determine "critical habitat" for these key species as rapidly as possible.

The Fish and Wildlife Service requests that all Federal, State, and private agencies, organizations, and individuals concerned with endangered and threatened species of fauna and flora submit information and maps that would assist in delineating the "critical habitat" of those species currently appearing on the official list. The Service requests further that all concerned parties provide information on the specific kinds of actions that could be permitted and those that should be prohibited within the area so delineated as "critical."

As sufficient information on "critical habitat" is gathered for each of the species now listed, the Fish and Wildlife Service will publish a proposed rulemaking in the FEDERAL REGISTER. This rulemaking will identify spatial environments, including geographical boundaries where possible, considered to be "critical habitat" for the species in question, and will identify those elements of that environment which must be protected from adverse actions by man. Routinely, 60 days will be allowed for comments, criticisms, and alternative recommendations before publication of a final rulemaking on any specific "critical habitat."

In the future, where possible and desirable, as new candidate species for the "endangered" or "threatened" classification are proposed in the FEDERAL REGISTER, each such proposal also will contain a proposed designation of "critical habitat" for that species.

LYNN A. GREENWALT,  
Director, Fish and Wildlife Service.

[FR Doc. 75-12947 Filed 5-15-75; 8:45 am]

National Park Service  
NORTH ATLANTIC REGIONAL  
ADVISORY COMMITTEE

## Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, Pub. L. 92-463, that a meeting of the North Atlantic Regional Advisory Committee will be held on June 10, 1975, at the North Atlantic Regional Office, Room 715, 150 Causeway Street, Boston, Massachusetts, from 9 a.m. to 4 p.m.

The purpose of the North Atlantic Regional Advisory Committee is to provide for the free exchange of ideas between the National Park Service and the public, and to facilitate the solicitation of advice or other counsel from members of the public on problems and programs pertinent to the North Atlantic Region of the National Park Service.

The members of the Advisory Committee are as follows:

Mr. John N. Cole  
Topsham, Maine  
Mrs. George Downing  
Providence, Rhode Island  
Ms. Helen Fenske  
Green Village, New Jersey  
Dr. Charles H. W. Foster  
Needham, Massachusetts  
Mr. George T. Hamilton  
Lee, New Hampshire  
Dr. John P. Keith  
New York, New York  
Mr. Frederick R. Micha  
Ontario, New York  
Dr. William A. Miering  
Gales Ferry, Connecticut  
Mr. William B. Pinney  
Montpelier, Vermont

The matters to be discussed at this meeting include:

1. North Atlantic Regional Advisory Committee procedures.
2. North Atlantic Regional Advisory Committee priorities.
3. Master Plans in the North Atlantic Region.
4. Summer Operations in North Atlantic Region Parks.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited and it is expected that not more than 25 persons will be able to attend the session. Any member of the public may file with the committee a written statement concerning the matters to be discussed. Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact David A. Richie, Deputy Regional Director, North Atlantic Regional office at 617-223-3769. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of the North Atlantic Region, 150 Causeway Street, Boston, Massachusetts.

Dated: May 5, 1975.

DAVID A. RICHIE,  
Acting Regional Director,  
North Atlantic Region.

[FR Doc. 75-12926 Filed 5-15-75; 8:45 am]



Office of the Secretary  
[INT DEC 75-52]

**PROPOSED WILDLIFE ENHANCEMENT  
PROJECT MATTAMUSKEET NATIONAL  
WILDLIFE REFUGE**

**Availability of Draft Environmental  
Statement**

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Pub. L. 91-190, the Department of the Interior has prepared a draft environmental statement for the Proposed Wildlife Enhancement Project, Mattamuskeet National Wildlife Refuge, Hyde County, North Carolina, and invites written comments within on or before June 30, 1975.

The proposal recommends construction of eight low-dike marsh impoundments totaling 2,420 acres within the Mattamuskeet National Wildlife Refuge, Hyde County, North Carolina, and renovation of 12 miles of existing canals originating within the refuge and extending to Pamlico Sound in order to enhance wildlife management capabilities of the refuge.

Copies of the draft statement are available for inspection at the following locations:

Regional Director  
U.S. Fish and Wildlife Service  
17 Executive Park Drive, NE  
Atlanta, Georgia 30329

Refuge Manager  
Mattamuskeet National Wildlife Refuge  
New Holland, North Carolina 27895  
U.S. Fish and Wildlife Service  
Branch of Environmental Coordination  
Room 2252  
18th & C Streets, NW  
Washington, DC 20240

Single copies may be obtained by writing the Chief, Branch of Environmental Coordination, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240.

Dated: May 12, 1975.

STANLEY D. DOREMUS,  
Deputy Assistant Secretary  
of the Interior.

[FR Doc. 75-12857 Filed 5-15-75; 8:45 am]

**DEPARTMENT OF AGRICULTURE**

**Rural Electrification Administration  
FLORENCE TELEPHONE CO., INC.  
Proposed Loan Guarantee**

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 320-22, "Guarantee of Loans for Telephone Facilities," dated February 4, 1975, published in proposed form in the *Federal Register*, September 16, 1974 (Vol. 39 No. 180, pages 33228-33229) notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of \$5,200,000 to Florence Telephone Company, Inc., Prentiss, Mississippi. The

loan funds will be used to finance the construction of facilities to extend telephone service to new subscribers, and improve telephone service for existing subscribers.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information and details of the proposed project from Mr. Jack A. Kiser, President, Florence Telephone Company, Inc., P.O. Box 758, Prentiss, Mississippi 39474.

To assure consideration, proposals must be submitted on or before June 16, 1975 to Mr. Jack A. Kiser. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as the Florence Telephone Company, Inc. and REA deem appropriate. Prospective lenders are advised that financing for this project is available from the Federal Financing Bank under a standing loan commitment agreement with the Rural Electrification Administration.

Copies of REA Bulletin 320-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 12th day of May 1975.

DAVID A. HAMIL,  
Administrator,

Rural Electrification Administration.

[FR Doc. 75-12016 Filed 5-15-75; 8:45 am]

**Office of the Secretary**

**CASCADE HEAD SCENIC-RESEARCH AREA,  
SIUSLAW NATIONAL FOREST—OREGON**

**Notice of Proposed Guidelines**

The purpose of this notice is to propose guidelines to be used by the Secretary of Agriculture in determining what constitutes a substantial change in land use or maintenance of certain non-federally owned lands within the Cascade Head Scenic-Research Area.

Public Law 93-535 (88 Stat. 1732), enacted on December 22, 1974, established this area. It further provides that, if an owner(s) of land within certain portions of the area makes a substantial change in land use or maintenance, the land becomes subject to condemnation.

Interested persons may submit comments on the proposed guidelines to the Forest Service, c/o Land Classification, Room 1004, 1621 North Kent Street, Arlington, Virginia 22209. Comments received before June 16, 1975 will be considered before final action is taken on the proposed guidelines. Copies of all written comments received will be available for examination at the location above between 8:15 a.m. and 4:45 p.m. on regular workdays. The proposed guidelines may be changed in light of comments received.

1. **Introduction**—a. **Purpose.** Public Law 93-535 (88 Stat. 1732), enacted on December 22, 1974, established the Cas-

cade Head Scenic-Research Area. Section 5(b) of the Act requires the Secretary to publish guidelines which shall be used by him to determine what constitutes a substantial change in land use or maintenance for the nonfederally owned property within the area. The guidelines are based on the general management objectives applicable to the entire area. These objectives are to provide present and future generations with the use and enjoyment of certain ocean headlands, rivers, streams, estuary, and forested areas; to promote the protection and study of significant areas for research and scientific purposes, and to promote a more sensitive relationship between man and his adjacent environment.

b. **Scope.** These guidelines are published to be used by the Secretary to determine what constitutes a substantial change in land use purposes, and manner, and maintenance from conditions existing on June 1, 1974. Any change which is proposed or occurs after June 1, 1974, will be evaluated against these guidelines.

c. **Delegation of authority.** Section 5(c) of the Act provides that, at least 30 days prior to any substantial change of use or maintenance of any non-federally owned land within the area, the owner or owners of such land shall provide notice of such proposed change to the Secretary or his designee in accordance with these guidelines. The District Ranger, Hebo Ranger District, Siuslaw National Forest, Hebo, Oregon 97122, is designated the Secretary's representative to whom such notices should be given.

d. **Definitions.** Terms used in the guidelines have the following specific meanings.

(1) **Act**—Public Law 93-535 of December 22, 1974, establishing Cascade Head Scenic-Research Area in the State of Oregon;

(2) **Area**—the Scenic-Research Area;

(3) **Subareas**—the four subareas within the Scenic-Research Area as established by Section 3(c) of the Act;

(4) **Secretary**—the Secretary of Agriculture;

(5) **Base property**—a single contiguous landownership existing on June 1, 1974. Property includes the structures and other improvements on the land;

(6) **Documentation**—the evidence of existing conditions, including written descriptions and photographs;

(7) **Environmental design criteria**—includes the following standards for construction activities:

(a) the design borrows colors, shapes, materials and other conditions from the surrounding natural environment and is planned to compliment the natural setting;

(b) vegetative cover disturbance is limited to the construction site;

(c) erosion control measures are adequate to protect the soil, water, and other environmental values; and

(d) roads are located and constructed to minimize impact on the land and should not be wider than necessary;

(8) **Purpose of use**—the objective for which anything exists, is done, made, or used (what it is used for);

(9) **Manner of use**—a way of doing, being done, happening, or mode of action. Manner of use is complementary to purpose of use, and involves degree, kind, or intensity of use within a purpose of use category;

(10) **Purpose of use category**—a classification of the purpose for which land was used on June 1, 1974. There are nine categories defined in the guidelines;

(11) **Maintenance**—the way the property is cared for.

2. **Provisions of guidelines**—a. **Acquisition of land.** (1) The Secretary may acquire any land or interest in land, including scenic easements, through any of the following methods:

(a) purchase with consent of owner;

(b) donation;

(c) exchange; and

(d) condemnation, which is the acquisition of land, or interests in land, without the consent of the owner and with the payment of just compensation to the owner.

(2) The Act provides that, in all subareas of the Area except the estuary and associated wetlands subarea, the Secretary may not acquire any land or interest in land without the consent of the owner or owners so long as the owner or owners use such land for substantially the same purposes and in the same manner as it was used and maintained on June 1, 1974. However, even if a substantial change has not occurred, the Secretary may acquire any land or interests in land without the consent of the owner or owners when such land is in imminent danger of being used for different purposes or in a different manner from the use or uses existing on June 1, 1974.

(3) In the estuary and associated wetlands subarea, the Secretary may acquire any land or interests in land without the consent of the owner at any time, after public hearing.

(4) When land is subject to acquisition without the consent of the owner or owners, the Secretary has the discretion to determine which tracts of land will be acquired by condemnation and whether to acquire part or all of the base property. In making this determination, the Secretary may consider whether the substantial change furthers the purposes of the Act.

b. **Change in boundaries of subareas.** The Secretary may, after public hearing or other appropriate means for public participation, adjust the boundaries of the subareas to reflect changing natural conditions or to provide for more effective management.

c. **Amendment of guidelines.** The Secretary may make such amendments to the Guidelines as are considered necessary to further the purposes of the Act.

d. **Appeals.** A decision of a Forest Officer under these guidelines may be appealed as provided by 36 CFR 211.2.

3. **Procedures for implementing guidelines**—a. **Inventory and Identification.** The District Ranger shall conduct an inven-

tory of the base properties within the Area, and identify the purpose(s) and manner of use and maintenance of the base property that existed on June 1, 1974. Each base property will have at least one purpose of use category, but a base property may have more than one purpose of use category. During the identification process, the District Ranger shall consult with the owner or owners and provide means for other public involvement, as the District Ranger considers appropriate.

b. **Notification of Substantial Change.** Section 5(c) of the Act requires the owner or owners of non-federally owned land in the Area to notify the Secretary or his designee, the District Ranger, of a proposed substantial change in use or maintenance at least 30 days prior to that change. An owner or owners of land or interests in land in the Area should notify the District Ranger of any proposed change or activity in order to obtain a determination as to whether the proposed change or activity is considered a substantial change.

c. **Response to Notification of Proposed Change.**

(1) In the estuary and associated wetlands subarea, the District Ranger shall, within 30 days after receipt of the notice, take the following actions:

(a) Acknowledge receipt of the notice;

(b) Notify the owner whether the proposed action is or is not considered by the Forest Supervisor to be compatible with the protection and perpetuation of the unique natural values of the subarea; and

(c) Inform the owner of any immediate acquisition plans, including a notice of public hearing.

(2) In all other subareas, the District Ranger shall, within 30 days after receipt of the notice, take one of the following actions:

(a) Notify the owner that the proposed action is not considered a substantial change;

(b) Notify the owner that the proposed action is considered a substantial change;

(c) Request additional, specific information from the owner. When sufficient information is received, the District Ranger shall, within 30 days after receipt of the necessary information, take action (a) or (b);

d. **Response to substantial change if prior notice is not given.** When an owner or owners makes a change that is considered to be a substantial change under these Guidelines, section 5(c) of the Act is violated. The District Ranger may notify the owner or owners that the change is considered to be a substantial change and that the Secretary may acquire his property by condemnation.

4. **Guidelines**—a. **Purpose of use categories.** The following purpose of use categories are defined. Each base property in the area will have at least one of these categories:

(1) **Agriculture.** Land used for raising and harvesting crops, livestock, and other agricultural products, including (a)

dwellings, barns, buildings, and other improvements customarily used in conjunction with farming, and (b) small wooded areas and lands which were formerly used for agriculture and are not covered by other purpose use categories.

(2) **Forestry.** Land used for production of timber and other forest products, including roads and other improvements necessary for timber production but not including quarry sites, log storage areas, and manufacturing sites, such as sawmills.

(3) **Public.** All non-federally owned public land, including highways, roadways, boat ramps, and other areas owned or controlled by State, county or local governmental agencies.

(4) **Commercial service.** Land used for producing, marketing, and providing goods and services to the public for profit, or used in conjunction with a profit-making activity.

(5) **Recreation and/or educational.** Land developed and managed for specific recreational or educational pursuits; e.g., hiking, picnicking, horseback riding, environmental observation, organizational camping, platted open space, boating, educational pursuit, etc.

(6) **Residential.** Land use for residential occupancy, including lands on which construction of the residence itself had started on or before June 1, 1974, as evidenced by foundations, footings, or other housing construction.

(7) **Residential, unoccupied.** Platted subdivisions which have been approved by appropriate county and State agencies and upon which some or all utilities were installed as of June 1, 1974, but upon which no housing construction had begun as of June 1, 1974. This category also includes lands other than subdivisions upon which some or all utilities were installed as of June 1, 1974, but upon which housing construction had not begun as of June 1, 1974.

(8) **Unimproved property.** Land which has not been developed, including land which has been platted or sold for development, but upon which no actual construction had started on or before June 1, 1974.

(9) **Scenic and scientific.** Unoccupied and undeveloped land (except for scientific instrumentation) which is managed or set aside for scenic or scientific purposes.

b. **Effect of a change in purpose of use category.** A change in the purposes of use of a base property which would have the effect of changing, adding, or deleting a purpose of use category will be considered a substantial change.

c. **Effect of change in manner of use.** A substantial change may occur in manner of use without any change in the purposes of use. In determining if there has been a substantial change in manner of use, the Secretary will consider, but is not limited to, the following criteria:

(1) Change in the kind of use, i.e., the kind of crops, livestock, services, and other items;



## NOTICES

(2) Change in the intensity of use;  
 (3) Change in the impact on visual quality;  
 (4) Change in the vegetation (shrubs and trees), as in removal or addition, except as modified by (7) below;

(5) Change in the number of buildings on the property, except the construction of residential amenities such as garages, woodsheds, building additions, etc., which meet the environmental design criteria, and except when construction had started prior to June 1, 1974;

(6) Change in existing structures, as in replacement or reconstruction, and including whether the change approximates conditions existing on June 1, 1974, or meets environmental design criteria;

(7) In the forest category, the Secretary will also consider whether timber-harvest activity closely duplicates the pattern of harvest activity of the past 10 years; and

(8) In the public category, the Secretary will also consider whether the activities are necessary for the public welfare, safety, or security.

d. *Effect of a change in maintenance.* The condition of non-federally owned land or improvements may deteriorate to the point that a substantial change has occurred. The District Ranger may notify the owner or owners that:

(1) The deterioration in maintenance of the base property is considered a substantial change; and

(2) The property is subject to condemnation.

PAUL A. VANDER MYDE,  
 Deputy Assistant Secretary.

MAY 13, 1975.

[FR Doc. 75-13038 Filed 5-15-75; 8:45 am]

## DEPARTMENT OF COMMERCE

Domestic and International Business Administration

## NATIONAL INDUSTRIAL ENERGY CONSERVATION COUNCIL

## Public Meeting

A meeting of the Sub-Council on Public Awareness of the National Industrial Energy Conservation Council will be held on Monday, June 16, 1975, from 10 a.m. to 12 noon, in Conference Room "D", First Floor, Main Commerce Building, 14th and Constitution Avenue, Washington, D.C. 20230.

The Sub-Council will meet to consider staff reports leading to the development of a report to the National Industrial Energy Conservation Council on the subject of increasing the level of public awareness as to the nature and extent of the energy problem and ways of addressing this problem.

The public will be permitted to attend and a limited number of seats will be available for that purpose. To the extent that time permits, members of the public may present oral statements to the Sub-Council. Interested persons are also invited to file written statements with the Sub-Council before or after the meeting.

Persons who wish to attend the meeting should contact Robert M. Jackson, at the Office of Energy Programs, Room 2011, U.S. Department of Commerce, 14th and Constitution Ave. NW, Washington, D.C. 20230—(202) 967-3535.

HERBERT K. SCHMITZ,  
 Executive Director, National Industrial Energy Conservation Council.

[FR Doc. 75-12983 Filed 5-15-75; 8:45 am]

## INDUSTRY POLICY ADVISORY COMMITTEE FOR MULTILATERAL TRADE NEGOTIATIONS

## Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Industry Policy Advisory Committee for Multilateral Trade Negotiations ("IPAC") will be held on Friday, June 20, 1975, 1:30-4 p.m., in Room 4830, U.S. Department of Commerce, 14th and E Streets, NW., Washington, D.C. 20230.

The IPAC was established on February 6, 1974, to advise, consult with and make recommendations to the Special Representative for Trade Negotiations and the Secretary of Commerce on matters concerning the multilateral trade negotiations (MTN) being undertaken by the United States.

Agenda items for the meeting are as follows:

I. Review and Discussion of Classified Information and Advisory Input Relating to the Current Status of the MTN and the Overall U.S. Policy Positions Relating Thereto.

II. Review of Classified Information and IPAC Advisory Input Regarding the Following Specific MTN Issues:

A. Possible Groundrules for an International Code Covering Export Subsidies and the Trade Effects of Domestic Aids to Industry.

B. Formulation of a U.S. Government Policy on the Nature and Extent of Possible International Rules Governing the Question of Raw Materials Supply in World Trade.

C. Consideration of an International Code in Government Procurement.

III. Discussion Regarding the Classified Reports of the Industry Sector Advisory Committees (ISACs).

The Assistant Secretary of Commerce for Administration, with the concurrence of the General Counsel, formally determined on May 6, 1975, pursuant to section 10(d) of the Federal Advisory Committee Act, that this meeting should be exempt from the provisions of sections 10(a)(1) and 10(a)(3) of the Act (relating to open meetings and public participation therein) because the agenda items will be concerned with matters listed in 5 U.S.C. 522(b)(1), i.e., it is specifically required by Executive Order 11652 that such matters be kept secret in the interest of national security. The information and materials to be discussed at the meeting will be properly classified pursuant to said Executive Order.

Accordingly, pursuant to the aforementioned determination, the meeting

will be closed to the public. All committee members have appropriate security clearances. Written statements may be submitted at any time before or after the meeting.

For further information, contact Ms. Clare Soponis, Industry Consultations Policy Staff, Room 3028, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 967-3268.

In accordance with paragraph (4) of the order of the United States District Court for the District of Columbia in *Aviation Consumer Project, et al. v. C. Langhorne Washburn et al.*, September 10, 1974, as amended September 23, 1974 (Civil Action No. 1838-73), the Complete Notice of Determination to close the meeting of the IPAC is hereby published.

Dated: May 6, 1975.

LAWRENCE A. FOX,  
 Deputy Assistant Secretary for  
 International Economic Policy  
 and Research.

Dated: May 6, 1975.

MITCHELL NEWDELMAN,  
 Director of Industry Liaison, Office  
 of the Special Representative  
 for Trade Negotiations.

[FR Doc. 75-12909 Filed 5-15-75; 8:45 am]

## SEMICONDUCTOR TECHNICAL ADVISORY COMMITTEE

## Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. III, 1973), notice is hereby given that a meeting of the Semiconductor Technical Advisory Committee will begin on Tuesday, June 17, 1975, at 9:30 a.m., in Room 5230, Main Commerce Building, 14th and Constitution Avenue NW, Washington, D.C. and will continue on June 18 to the conclusion of the agenda.

The Semiconductor Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, the Acting Assistant Secretary for Administration, approved the recharter and extension of the Committee for two additional years, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. sec. 2404 (c)(1) (Supp. III, 1973) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, world-wide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to semiconductor products, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee meeting agenda has five parts:

## General Session

- (1) Opening remarks by the Chairman.
- (2) Presentation of papers or comments by the public.
- (3) Discussion of discrete semiconductors.
- (4) Discussion of integrated circuits.

## Executive Session

- (5) Discussion of matters properly classified under Executive Order 11652 dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Public will be permitted to attend the General Session for the morning of June 17, 1975, at which a limited number of seats will be available to the public. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 16, 1974, pursuant to section 10(d) of the Federal Advisory Committee Act that the matters to be discussed in the Executive Session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 522(b)(1), i.e., it is specifically required by Executive Order 11652 that they be kept confidential in the interest of the national security. All matters have been properly classified under the Executive Order. All Committee members have appropriate security clearances.

Minutes of the open portion of the meeting will be available upon written request addressed to the Central Reference and Records Inspection Facility, Room 7043, U.S. Department of Commerce.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1620, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-967-4196.

In accordance with paragraph (4) of the Order of the United States District Court for the District of Columbia in *Aviation Consumer Action Project, et al. v. C. Langhorne Washburn, et al.*, September 10, 1974, as amended, September 23, 1974 (Civil Action No. 1838-73), the Complete Notice of Determination to close portions of the series of meetings of the Semiconductor Technical Advisory Committee and of any subcommittees thereof, was published in the *FEDERAL REGISTER* (40 FR 18, appearing in the issue of January 2, 1975).

Dated: May 13, 1975.

RAUER H. MEYER,  
 Director, Office of Export Administration, Bureau of East-West Trade.

[FR Doc. 75-12933 Filed 5-15-75; 8:45 am]

## NOTICES

[File No. 28(74)-11]

## INFORMATION MAGNETICS, INC. AND GRESHAM-INFOMAG, LTD.

## Order Extending Denial of Export Privileges

In the matter of Information Magnetics, Inc. (Infomag), Goleta, California and Gresham-Infomag, Ltd., Weybridge, Surrey, England, Respondents.

By Order dated December 2, 1974, (39 FR 42935) the export privileges of the above-titled firms were temporarily denied for a period of 60 days. On January 30, 1975 (40 FR 6383), that period was extended to March 17, 1975. On March 17, 1975, (40 FR 13015) that period was again extended to May 18, 1975. Pending final disposition of the proceedings, the period of temporary denial, as set forth in Paragraph IV of the Order dated December 2, 1974, is continued for an additional 60 days to July 15, 1975. All other terms and conditions of the Order, the interpretations thereof, and the exceptions thereto, remain in full force and effect.

Dated: May 14, 1975.

RAUER H. MEYER,  
 Director, Office of  
 Export Administration.

[FR Doc. 75-13064 Filed 5-15-75; 8:45 am]

## Maritime Administration

[Docket No. S-443]

## PACIFIC FAR EAST LINE, INC.

## Application Amendment

Notice is hereby given that the application of Pacific Far East Line, Inc., for amendment of its service description to increase subsidized calls in the Pacific Northwest, which was noticed in the *FEDERAL REGISTER* of April 1, 1975 (40 FR 14624), and pursuant to which timely petitions for leave to intervene were submitted by Sea-Land Service, Inc., American President Lines, Ltd., States Steamship Company, and United States Lines, Inc., has been amended. As the matter has not yet been set for hearing, this Notice is to advise of amendment of the application in Docket No. S-443 to provide for direct calls and an increase to 24 calls annually.

The amended application is for LASH vessels of Pacific Far East Line, Inc. operating on the Operator's subsidized Trade Route No. 29 service to call at ports in Oregon, Washington, British Columbia, and Alaska on up to 24 sailings annually for carriage of cargoes between those areas and foreign ports on the service.

Any person, firm or corporation having any interest in such application and desiring a hearing on issues pertinent to section 605(c) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1175), should, by the close of business on May 29,

1975 notify the Secretary, Maritime Subsidy Board, in writing in triplicate, and file petition for leave to intervene in accordance with the Rules of Practice and Procedure of the Maritime Subsidy Board.

In the event a section 605(c) hearing is ordered to be held, the purpose thereof will be to receive evidence relevant to (1) whether the application is one with respect to a vessel to be operated in an essential service, served by citizens of the United States which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of United States registry in such essential service is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidy)  
 Dated: May 12, 1975.

By Order of the Maritime Administration.

Dated: May 12, 1975.

JAMES S. DAWSON, JR.,  
 Secretary.

[FR Doc. 75-12955 Filed 5-15-75; 8:45 am]

## CONSTRUCTION OF BULK/CONTAINER/RO-RO COMBINATION CARRIERS OF ABOUT 33,000 DWT

## Computation of Foreign Cost; Notice of Intent

Notice is hereby given of the Intent of the Maritime Subsidy Board, pursuant to the provisions of section 502(b) of the Merchant Marine Act 1936, as amended, to compute the estimated foreign cost of the construction of Bulk/Container/Ro-Ro Combination Carriers of about 33,000 DWT.

Any person, firm or corporation having any interest (within the meaning of section 502(b)) in such computations may file written statements by the close of business on June 13, 1975, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th & E Streets NW., Washington, D.C. 20230.

Dated: May 14, 1975.

By Order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, JR.,  
 Secretary.

[FR Doc. 75-13108 Filed 5-15-75; 8:45 am]



# CONSTRUCTION OF CONTAINERSHIPS, MA DESIGN C8-S-85d

## Computation of Foreign Cost; Notice of Intent

Notice is hereby given of the intent of the Maritime Subsidy Board, pursuant to the provisions of section 502(b) of the Merchant Marine Act 1936, as amended, to compute the estimated foreign cost of the construction of containerships, MA Design C8-S-85d.

Any person, firm or corporation having any interest (within the meaning of section 502(b)) in such computations may file written statements by the close of business on June 16, 1975, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th & E Streets, NW., Washington, D.C. 20230.

Dated: May 14, 1975.

By Order of the Maritime Subsidy Board Maritime Administration.

JAMES S. DAWSON, Jr.,  
Secretary.

[FR Doc.75-13106 Filed 5-15-75; 8:45 am]

# CONSTRUCTION OF TANKERS OF BETWEEN 42,000 TO 52,000 DWT

## Recomputation of Foreign Cost; Notice of Intent

Notice is hereby given of the intent of the Maritime Subsidy Board, pursuant to the provisions of section 502(b) of the Merchant Marine Act 1936, as amended, to recompute the estimated foreign cost of the construction of tankers of between 42,000 and 52,000 DWT, since there appears to have been a significant change in shipbuilding market conditions since the previous determination of estimated foreign cost was made.

Any person, firm or corporation having any interest (within the meaning of section 502(b)) in such computations may file written statements by the close of business on May 23, 1975, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th & E Streets, NW., Washington, D.C. 20230.

Dated: May 14, 1975.

By Order of the Maritime Subsidy Board Maritime Administration.

JAMES S. DAWSON, Jr.,  
Secretary.

[FR Doc.75-13107 Filed 5-15-75; 8:45 am]

# National Oceanic and Atmospheric Administration

## NEW YORK ZOOLOGICAL SOCIETY Issuance of Permit To Take and Import Marine Mammals

On April 1, 1975, notice was published in the FEDERAL REGISTER (40 FR 14624)

that an application had been filed with the National Marine Fisheries Service by New York Zoological Society. The Zoological Park, Bronx, New York 10460, for a permit to take four (4) Atlantic bottlenosed dolphins (*Tursiops truncatus*) for the purpose of public display.

Notice is hereby given that, on May 9, 1975, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a permit to New York Zoological Society, subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, Office of the Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702, and in the Office of the Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Dated: May 8, 1975.

ROBERT F. HUTTON,  
Associate Director for Resource  
Management, National Marine  
Fisheries Service.

[FR Doc.75-12877 Filed 5-15-75; 8:45 am]

# NEW YORK ZOOLOGICAL SOCIETY Issuance of Permit To Take and Import Marine Mammals

On April 1, 1975, notice was published in the FEDERAL REGISTER (40 FR 14624) that an application had been filed with the National Marine Fisheries Service by New York Zoological Society, the Zoological Park, Bronx, New York 10460 for a permit to take and import two (2) belugas (*Delphinapterus leucas*) for the purpose of public display.

Notice is hereby given that, on May 9, 1975, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a permit to the New York Zoological Society, subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, Office of the Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Dated: May 9, 1975.

ROBERT F. HUTTON,  
Associate Director for Resource  
Management, National Marine  
Fisheries Service.

[FR Doc.75-12816 Filed 5-15-75; 8:45 am]

# SEA WORLD

## Notice of Receipt of Application for Public Display Permit

Notice is hereby given that the following Applicant has applied in due form for a permit to take marine mammals for public display, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals.

Sea World, Incorporated, 1720 South Shores Road, San Diego, California 92109, to take six (6) northern elephant seals (*Mirounga angustirostris*) for the purpose of public display.

The elephant seals will be taken by the Applicant from offshore islands along the coasts of the State of California or Mexico.

The elephant seals will be initially maintained, for acclimation captivity, at Sea World of San Diego, California. Subsequently, the elephant seals will be maintained and displayed at Sea World facilities in San Diego, California, in Cleveland, Ohio and in Orlando, Florida. The animals will be maintained in the following facilities:

### Sea World of San Diego:

- Housing tank—1,400 gallons, 10 feet in diameter, 2½ feet deep, 131 square feet haulout area.
- Housing tank—9,000 gallons, 16 feet in diameter, 6 feet deep, 426 square feet haulout area.
- Housing tanks (2)—each 5,000 gallons, 8 feet wide, 17 feet long, 6 feet deep, 226 and 214 square feet haulout area, respectively.
- Housing tanks (2)—each 17,500 gallons, 10 feet wide, 34 feet long, 7 feet deep, 81 square feet haulout area.
- Semi-circular performance pool—30,360 gallons, 76 feet long, 12 feet wide, 5 feet 3 inches average depth, 848 square feet haulout area.

### Sea World of Florida:

- Triangular holding pool—3,870 gallons, 10 feet by 16 feet by 18 feet in surface dimensions, 4 feet deep, 200 square feet haulout area.
- Triangular holding pool—3,200 gallons, 12 feet by 15 feet by 15 feet in surface dimensions, 4 feet deep, 200 square feet haulout area.
- Seal holding area—pool of 1,800 gallons, 9 feet wide, 11 feet long, 3 feet deep, 133 square feet haulout area.
- Semi-circular performance pool—61,850 gallons, 110 feet long, 13 feet wide, 6 feet average depth, 444 square feet haulout area.

### Sea World of Ohio:

- Holding area—Pool of 6,600 gallons, 18 feet wide, 19 feet long, 5 feet deep, 138 square feet haulout area.
- Semi-circular performance pool—60,000 gallons, 77 feet long, 12 feet wide, 5 feet 6 inches average depth, 500 square feet haulout area.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities

are adequate to provide for the well-being of the requested animals.

Documents submitted in connection with the above application are available for review in the Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, and the Offices of the Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930, the Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731, and the Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Interested parties may submit written data or views, or requests for a public hearing on this application to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 on or before June 16, 1975. The holding of such a hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: May 12, 1975.

ROBERT F. HUTTON,  
Associate Director for Resource  
Management National Marine  
Fisheries.

[FR Doc.75-12873 Filed 5-15-75; 8:45 am]

# UNIVERSITY OF CALIFORNIA Notice of Modification of Permit

Notice is hereby given that, pursuant to the provisions of § 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (39 FR 1851, January 15, 1974), the Scientific Research Permit issued to Paul J. Ponganis, University of California, Santa Cruz, California 95064, on January 31, 1975, is modified, by means of Modification No. 1, in the following manner:

The authorized Pacific white-sided dolphins may be taken from coastal areas of central and southern California, rather than solely from the area of Monterey Bay, California.

This modification is effective May 16, 1975.

The Permit, as modified, is available for review in the Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, and in the Office of the Regional Director, National Marine Fisheries Service, Southwest Region, 300

# NOTICES

South Ferry Street, Terminal Island, California 90731.

Dated: May 2, 1975.

ROBERT F. HUTTON,  
Associate Director for Resource  
Management, National Marine  
Fisheries Service.

[FR Doc.75-12874 Filed 5-15-75; 8:45 am]

# UNIVERSITY OF FLORIDA

## Issuance of a Permit To Take Marine Mammals

On February 12, 1975, notice was published in the FEDERAL REGISTER (40 FR 6521), that an application had been filed with the National Marine Fisheries Service by Mr. Nicholas R. Hall and Dr. William R. Dawson, Department of Neurosciences and Ophthalmology, College of Medicine, University of Florida, Gainesville, Florida 32610 to take up to twenty (20) Atlantic bottlenosed dolphins (*Tursiops truncatus*) for scientific research.

Notice is hereby given that on May 8, 1975, and pursuant to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a permit for the above described taking to Nicholas R. Hall and William W. Dawson, subject to certain conditions set forth therein. The Permit is available for review by interested persons in the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235, and the Office of the Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

Dated: May 8, 1975.

ROBERT F. HUTTON,  
Associate Director for Resource  
Management National Marine  
Fisheries Service.

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Center for Disease Control MEDICAL LABORATORY SERVICES ADVISORY COMMITTEE

### Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), the Center for Disease Control announces the following Committee meeting:

Name: Medical Laboratory Services Advisory Committee.

Date: June 2 and 3, 1975.

Place: Classroom 3, Building 2, Center for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Time: 9 a.m.

Type of Meeting: Open.

Contact Person: Roslyn Q. Robinson, Ph.D.,

Executive Secretary of Committee, Building 1, Room 1007, Center for Disease Con-

trol, 1600 Clifton Road, NE., Atlanta, Georgia, 30333, Phone: AC-404, 633-3311, extension 3262.

Purpose: The Committee is charged with advising the Director, Center for Disease Control, on various laboratory matters and proposed regulations and evaluating the approaches of the Bureau of Laboratories, CDC, and recommending revisions or additions.

Agenda: The Committee will consider and discuss proposed revised regulations for quality control under the Clinical Laboratories Improvement Act of 1967.

Agenda items are subject to change as priorities dictate.

The meeting will be open to public observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: May 9, 1975.

DAVID J. SENCER,  
Director, Center for  
Disease Control.

[FR Doc.75-12905 Filed 5-15-75; 8:45 am]

# Office of Education TEACHER CORPS

## Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in Part B-1 of the Education Professions Development Act of 1965, as amended (79 Stat. 1255-1258 as amended (20 U.S.C. 1101-1107(a))), applications are being accepted from institutions of higher education and local educational agencies for funding the second year of "Ninth Cycle" Teacher Corps project grants.

In order to be assured of consideration for support, applications must be received by the U.S. Office of Education, Application Control Center on or before June 20, 1975.

A. Applications sent by mail. An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, SW., Washington, D.C. 20202, Attention: 13.489. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than June 16, 1975 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

B. Hand delivered applications. An application to be hand delivered must be



## NOTICES

delivered to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand delivered applications will not be accepted by the Application Control Center after 4 p.m. Washington, D.C. time, on the closing date.

**C. Program information and forms.** Information and application forms may be obtained from the Teacher Corps, Office of the Commissioner, Office of Education, Washington, D.C. 20202.

**D. Applicable regulations.** The regulations applicable to this program are the Office of Education General Provisions Regulations (45 CFR Part 100a).

In reviewing these applications, the Commissioner will utilize the review criteria set forth in 45 CFR 100.26a, as well as determining:

(1) whether satisfactory progress, as indicated by site visits, progress reports, and other relevant data, has been made in implementing the previously approved work program, and

(2) whether the application meets the criteria upon which the original proposal was evaluated. (For the convenience of applicants, a copy of these criteria is attached as an appendix to this notice.)

Dated: May 10, 1975.

T. H. BELL,

U.S. Commissioner of Education.

(Catalog of Federal Domestic Assistance Number 13.489—Teacher Corps—Operations and Training)

## APPENDIX

The criteria used during Fiscal Year 1974 for the funding of applications under the Teacher Corps program were as follows:

The extent to which the applicant(s) proposes to increase the educational opportunities available to children in school attendance areas having concentrations of low-income families (as determined in accordance with 45 CFR 118.17(d)), and to improve the quality and broaden the programs of teacher preparation as indicated by the following:

(1) **Instructional program.** The extent to which it is shown that the proposed instructional program is individualized for students at the local school level and the extent to which a plan is proposed which (i) provides for adequate means of identifying and evaluating teacher-internal and qualified teacher competencies, and (ii) provides for training necessary to prepare such interns and teachers to serve in schools in areas having concentrations of low-income families (including training necessary to deal with children with learning or behavioral difficulties in regular classrooms of such schools).

(2020 U.S.C. 1101, 1103)

(2) **Parent and community involvement.** The extent to which the application (i) delineates specific opportunities for consultation with and involvement of parents of children to be served by the proposed project in the planning, development, implementation, and evaluation of such project; (ii) includes evidence that such participation has been encouraged and has in fact occurred in the development of the application; (iii) provides for developing the capabilities of such parents, residents in the community, and secondary education and college students to serve as part-time tutors

or full-time instructional assistants in the project (including, where appropriate, provision for university courses) and (iv) sets forth policy and procedures for adequate dissemination of program plans and evaluations to such parents and the public.

(20 U.S.C. 1101, 1103, 1231d)

(3) **Institutional adoption.** The extent to which the proposed project is designed in such a manner as to facilitate the adoption into its overall instructional program of successful elements of the project by the applicant institution or agency.

(20 U.S.C. 1101, 1103)

[FR Doc.75-12924 Filed 5-15-75; 8:45 am]

## NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

## Public Meeting

Notice is hereby given, pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463), that the next meeting of the National Advisory Council on Adult Education will be held on June 12-13, 1975, from 9 a.m. to 5 p.m., and on June 14, 1975, from 9 a.m. to 1 p.m., at the Statler Hilton Hotel, Sixteenth and K Streets NW., Washington, D.C.

The National Advisory Council on Adult Education is established under Section 311 of the Adult Education Act (80 Stat. 1216.20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council shall be open to the public. The proposed agenda includes:

Reports on the Council's projects for 311 (d)—program review.  
Parent/Early Childhood Education.  
State Advisory Councils.  
Adult Education Clearinghouse.  
Reports and meetings of the Council's three standing committees and the Executive Committee.

FY-77 adult education appropriations and Council operational budget.  
Adult education reports from USOE officials.  
Community education.

Records shall be kept of all Council proceedings (and shall be available for public inspection at the Office of the National Advisory Council on Adult Education located in Room 323, Pennsylvania Bldg., 425 13th Street, NW., Washington, D.C. 20004).

Signed at Washington, D.C. on May 12, 1975.

GARY A. EYRE,  
Executive Director, National  
Advisory Council on Adult  
Education.

[FR Doc.75-12906 Filed 5-15-75; 8:45 am]

## BILINGUAL EDUCATION FELLOWSHIPS

## Notice of Closing Date for Receipt of Applications

Pursuant to the authority contained in the Bilingual Education Act, as amended (Title VII of the Elementary and Secondary Education Act of 1965, as amended by section 105 of the Education Amendments of 1974, Pub. L. 93-380, 84 Stat. 151, 20 U.S.C. 880b), the Commissioner of Education hereby gives notice that applications are being accepted from institutions of higher education which previously have submitted, and have had approved by the Commissioner, a request for participation in the Bilingual Education Fellowship Program in accordance with notices published in the *FEDERAL REGISTER* on March 28, 1975 (40 FR 14109) and on April 10, 1975 (40 FR 16231). This notice covers applications during the current fiscal year in the award of fellowships to persons preparing to become trainers of bilingual education teachers. Separate notices for submission of applications for assistance under the Bilingual Education Act were published in the *FEDERAL REGISTER* on March 12, 1975 (40 FR 11627) and on April 10, 1975 (40 FR 16231).

Applications must be received by the U.S. Office of Education Application Control Center on or before June 10, 1975.

**A. Applications sent by mail.** An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue SW., Washington, D.C. 20202, Attention: 13.403. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than June 5, 1975, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education).

**B. Hand delivered applications.** An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, 20202. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time, except

Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

**C. Program information and forms.** Information and forms may be obtained from the Division of Bilingual Education, Bureau of School Systems, Office of Education, Room 3600, 7th and D Streets, SW., Washington, D.C. 20202.

As part of Public Law 93-380 (the Education Amendments of 1974) enacted August 21, 1974, the Commissioner of Education was authorized to award fellowships for study in the field of bilingual education teacher training.

In accord with the notice of proposed rulemaking printed in the *FEDERAL REGISTER* on March 12, 1975, fellowships will be awarded by the Commissioner solely for participation in programs previously approved by him on the basis of requests for participation submitted in accord with applicable law and regulations.

In awarding fellowships to individuals selected by him from among those nominated through the applications requested by this notice, the Commissioner will be guided by the relative need for teachers for programs of bilingual education, of various groups of individuals with limited English-speaking ability and by available indicia as to the likelihood that individual nominees will, after the fellowship period, pursue a permanent career in bilingual education teacher training.

**D. Applicable regulations.** The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Part 100a).

Amendments to the regulations for Bilingual Education Programs (45 CFR Part 123), were published as a notice of proposed rulemaking in the *FEDERAL REGISTER* on March 12, 1975 (40 FR 11627). Substantial changes in the current regulations in Part 123 with respect to conditions regarding awards of assistance, activities which may be assisted, priorities and criteria governing award decisions, post award requirements, and other relevant matters were proposed in such notice. Part 123, as altered by such amendments as republished in final form, will govern the operation of the program.

(20 U.S.C. 880b)

Dated: May 12, 1975.

(Catalog of Federal Domestic Assistance Number 13.403; Bilingual Education).

T. H. BELL,

U.S. Commissioner of Education.

[FR Doc.75-13029 Filed 5-15-75; 8:45 am]

## EMERGENCY SCHOOL AID

## Funding Criteria and Reservation of Funds

## Correction

In FR Doc. 75-12422 appearing at page 20660 in the *FEDERAL REGISTER* of Monday, May 12, 1975, on page 20661 the sixth and seventh lines of the second paragraph in the middle column should read: "this notice would be impracticable

## NOTICES

21509

Office of the Secretary  
NEW HAMPSHIRE

## Physicians Regarding Intention To Enter Into Agreement Designating Professional Standards Review Organization

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the New Hampshire Foundation for Medical Care for the State of New Hampshire, which area is designated a Professional Standards Review Organization area in 42 CFR 101.33.

The Secretary has determined that the New Hampshire Foundation for Medical Care is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the State of New Hampshire, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in the State of New Hampshire.

As stipulated in its Articles of Incorporation, the principal officers of the New Hampshire Foundation for Medical Care are:

## NAME AND OFFICE HELD

1. Paul J. Driscoll, M.D., President.
2. John M. Sherwin, M.D., Vice President.
3. James P. Philpott, M.D., Secretary-Clerk.
4. A. Richard Chase, Treasurer.

The official address of the corporation is Durham Road, Durham, New Hampshire 03824.

Any licensed doctor of medicine or osteopathy engaged in active practice in the State of New Hampshire who objects to the Secretary entering into an agreement with the New Hampshire Foundation for Medical Care on the grounds that this organization is not representative of the doctors in such area may, on or before June 16, 1975, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 1,152 doctors

of medicine and osteopathy are engaged in active practice in the State of New Hampshire. In the event that more than 10 per centum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the New Hampshire Foundation for Medical Care is representative of such doctors in such area.

Dated: May 12, 1975.

HENRY E. SIMMONS,

Acting Deputy Assistant Secretary for Health, Director, Office of Professional Standards Review.

[FR Doc.75-12942 Filed 5-15-75; 8:45 am]

## PSRO AREA I OF THE STATE OF WISCONSIN

## Physicians Regarding Intention To Enter Into Agreement Designating Professional Standards Review Organization

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Wisconsin Professional Standards Review Organization for PSRO Area I, which area is designated a Professional Standards Review Organization area in 42 CFR 101.55.

The Secretary has determined that the Wisconsin Professional Standards Review Organization is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated according to the laws of the State of Wisconsin, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area I of the State of Wisconsin.

As stipulated in its Articles of Incorporation, the principal officers of the Wisconsin Professional Standards Review Organization are:

## NAME AND OFFICE HELD

1. M. F. Huth, M.D., Chairman.
2. R. F. Jewell, M.D., Vice-Chairman.
3. A. I. Frelburg, D.O., Secretary.
4. J. B. McKenzie, M.D., Treasurer.

The official address of the corporation is 330 East Lakeside Street, Madison, Wisconsin 53701.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area I of the State of Wisconsin who objects to the Secretary entering into an agreement with the Wisconsin Professional Standards Review Organization on the grounds that this organization is not representative of the doctors in such area



may, on or before June 16, 1975, mail such objection in writing to the Director, Office of Professional Standards, Review, Department of Health, Education and Welfare, P.O. Box 1588, FDR Station, New York, New York 10222. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 2963 doctors of medicine and osteopathy are engaged in active practice in PSRO Area I of the State of Wisconsin. In the event that more than 10 per centum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Wisconsin Professional Review Organization is representative of such doctors in such area.

Dated: May 12, 1975.

**HEWRY E. SUMMONS,**  
Acting Deputy Assistant Secretary  
for Health, Director, Office of Professional Standards Review.

[FR Doc. 75-12943 Filed 5-15-75; 8:45 am]

**OFFICE OF THE REGIONAL DIRECTOR,  
REGION V CHICAGO, ILLINOIS**  
Statement of Organization, Functions and Delegations of Authority

Part 1 of the Statement of Organization, Functions and Delegations of Authority of the Department of Health, Education, and Welfare, Office of the Secretary, is amended to add under section 1E85.20 Functions, the functions of the Office of the Assistant Regional Director for Planning and Evaluation and the Office of the Assistant Regional Director for Intergovernmental Affairs. The amended statement reads as follows:

**H. Office of the Assistant Regional Director for Planning and Evaluation (1E8561).**

1. Serves as a principal advisor to the Regional Director in identifying and directing activities to meet the needs and requirements for the planning and evaluation of HEW and related Federal, State, local and private human resources programs within the Region.

2. Identifies needs, opportunities and mechanisms for Regional Office inter-agency coordination in planning and evaluation activities, in order to better accomplish Regional Office goals and objectives.

3. Establishes and maintains an inter-governmental issues identification and a resolution process, in coordination with

the Assistant Regional Director, Intergovernmental Affairs (ARD/IGA), and with this process:

a. coordinates identification and analysis of HEW-related issues needing policy clarification, and facilitates resolution of such issues; and

b. identifies on a geographic basis needs and problems in the Region with a special emphasis on target and special concern groups, and descriptions of available resources.

4. Establishes with the ARD/IGA an intergovernmental review and comment process in order to:

a. disseminate proposed National policies, legislation and regulations within the Region;

b. analyze these proposals for Regional implications, especially in light of Regional observations of needs; and

c. participate in Master Planning Calendar activities including the forward planning process, development of preliminary budgets and model State legislation.

5. Coordinates an evaluation planning and management process which:

a. provides an interface with Central Office evaluation planning process;

b. for HEW programs managed by the Regional Office, identifies information needs for Regional decision-making, and prepares a Regional Office plan for developing, implementing and utilizing evaluation results;

c. identifies programs directly operated by the RD, information needed to describe programs progress and then develops instrument and techniques for measuring progress in reaching program goals; and

d. ensures dissemination of evaluation results for all DHEW programs throughout the Region.

6. Works with Regional Agencies and the Audit Agency to improve evaluation and monitoring capabilities within the Region.

7. Assists the ARD/IGA in developing and monitoring in the implementation of a Regional capacity building plan. Identifies and assesses the constraints which impede current and/or potential participants from preparing effective program designs. Develops strategies for eliminating constraints and improving capacities. Assists the ARD/IGA in planning for and monitoring the provisions of technical or financial assistance to general purpose governments in the development of integrated services and management systems.

8. Establishes, in coordination with the Assistant Regional Director for Administration and Management and ARD/IGA, procedural and substantive criteria for the management review of those project grants covered by the RDRS system, all developmental assistance programs, all programs serving cross-agency target groups and agency efforts at reviewing State plans.

9. Assists the ARD/IGA in the accomplishment of Regional manpower responsibilities by the Regional Manpower Coordination Units.

10. Directs and coordinates the Regional activities related to the operation of the Operational Planning System.

1. Office of the Assistant Regional Director for Intergovernmental Affairs (1E8541).

1. Serves as a principal representative to the Regional Director and supervises a staff unit to help accomplish the Department's intergovernmental, technical assistance and program coordination mission in the Region.

2. Serves as the Regional Director's representative in establishing and maintaining systematic contacts with the Office of Governors, Congressmen, State legislators, county executives and Mayors. Recommends alternative methods for achieving goals and objectives, exercising priorities and implementing policies pertaining to relationships with State and local general purpose governments.

3. As a result of establishing a system for intergovernmental contacts, establishes and maintains a process for the identification of intergovernmental issues; refers these issues to the Regional Director, Assistant Regional Director for Planning and Evaluation (ARD/P&E), and the Regional Agency Heads for proper analysis and resolution; and coordinates the dissemination of information on problems that have been resolved to State and local governments and representatives of private interest groups.

4. In cooperation with the ARD/P&E and Regional Agency Heads, coordinates and monitors procedures for securing timely State and local GPG review and comment on appropriate policies, legislation, and regulations; keeps Regional Office and Headquarters staff informed about major current developments concerning major new human resource legislation and policies at the State and local levels.

5. Identifies and brings to the attention of the ARD/P&E, problems and issues in the States that may be amenable to DHEW evaluation efforts; facilitate, in coordination with the ARD/P&E, the dissemination of significant human resource evaluation, and monitoring findings to and from State and local governments.

6. Ensures that the Regional Office role in the implementation of DHEW policies, through such systems as OPS, is clearly spelled out to State and local general purpose governments. In cooperation with the ARD/P&E, develops a process for disseminating information on operational objectives to State and local governments and special concerns groups. In cooperation with the ARD/P&E and the Regional Agency Heads, attempts to ensure that State and local governments institute adequate mechanisms for implementing major common operational objectives. Provides for an exchange of information and interface with other Departments where interdepartmental efforts are required to implement policies.

7. Coordinates the planning and delivery of technical assistance to assist

States and local general purpose government in the accomplishment of common program objectives.

8. Develops and monitors, in coordination with ARD/P&E and Regional Agencies, implementation of a capacity building plan. Identifies and assesses the constraints which impede current and/or potential participants from developing effective delivery systems. Develops strategies for eliminating constraints and improving capacities. Plans for and monitors the provision of technical or financial assistance to general purpose governments in the development of integrated services and management systems.

9. Participates from time to time in interagency or interdepartmental studies with responsibility for fact-finding, analysis, and making recommendations to top-level policy-making officials about National and intergovernmental program planning.

10. Provides guidance and staff support to the Federal Regional Council, in connection with operations and activities that require coordination with Federal, State and local governments. This includes responsibility for maximizing the Federal Regional Council's potential for improving the quality and effectiveness of intergovernmental operations. Coordinates Regional participation on the Federal Executive Board, its committees and task forces.

11. Has leadership responsibility for carrying out the Regional Office responsibilities for the CETA program. Administers and assures that the Regional Office manpower work plan is being accomplished. Participates actively in the implementation of Departmental policy for CETA through the Regional Office Manpower Coordinator and Regional Agency program-related staff. Assures and identifies the inter-relationships of DHEW CETA activities with related Departmental initiatives such as capacity building and services integration.

12. Assures that DHEW resources are provided to special concerns groups, including Indian Reservations. Develops and maintains systematic contact with Indian reservation tribal leaders, and the principal representatives of special concerns groups.

13. Ensures that the provisions of the National Environmental Policy Act are carried out. Monitors the preparation of environmental impact statements by appropriate agencies.

Dated: May 9, 1975.

**THOMAS S. McFER,**  
Acting Assistant Secretary for  
Administration and Management.

[FR Doc. 75-12944 Filed 5-15-75; 8:45 am]

**COMMISSION ON CIVIL RIGHTS  
MASSACHUSETTS**

**Amendment to Notice of Hearing**

Notice of a hearing given April 25, 1975, 40 FR 18213, is hereby amended. New language is indicated by italics.

**COUNCIL ON ENVIRONMENTAL  
QUALITY**

**ENVIRONMENTAL IMPACT STATEMENTS**

**Availability**

Environmental impact statements received by the Council on Environmental Quality from May 5, 1975 to May 9, 1975. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment on draft environmental impact statements in forty-five (45) days from this FEDERAL REGISTER notice of availability. (July 1, 1975). The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties. Copies of individual statements are available for review from the originating agency. Back copies will also be available at cost from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE  
Contact: David Ward, Acting Coordinator,  
Environmental Quality Activities, Office of  
the Secretary, U.S. Department of Agriculture,  
Room 331-E, Administration Building,  
Washington, D.C. 20250, (202) 447-3853.

**FOREST SERVICE**

**Final**  
Garden Valley Planning Unit, Boise National Forest, Valley County, Boise, Idaho, May 9: The statement refers to a land use plan for the 241,800 acre Garden Valley Planning Unit of Boise National Forest. The plan attempts to determine the desired balance of development and protection for each management unit. The most significant adverse impact is on fish and wildlife. Livestock use in and around stream channels will remove needed streambank cover, cause streambanks to cave in, and increase sedimentation. Road construction, timber harvest, grazing, and campground development will have an adverse effect on aesthetics. (ELR Order No. 50692.)

**Final**  
Aquatic Weed Control, Apache National Forest, Arizona and New Mexico, May 5: Proposed is an aquatic weed control program for five lakes on the Apache National Forest. Mechanical and chemical (Diquat) methods, individually and in combination, would be used. The overabundant aquatic vegetation is considered esthetically displeasing, and interferes with the effective and proper harvest of fishery resources. The statement indicates that there will be no significant impact to the physical or biological environment. (52 pages). Comments made by: DOI, USDA, EPA, State and local agencies, and private citizens and groups. (ELR Order No. 50674.)

**Final**  
Winger/Grass Lake Power, Minnesota, Polk, Clearwater, and Beltrami Counties, Minn., May 8: Proposed is the granting of a loan to the Minnkota Power Coop. in order to finance 38 miles of 230kV power line from Winger, Minn. to the Grass Lake Station southeast of Wilton, Minn. Included is an additional 18 mile section to be constructed and owned by the Otter Tail Power Co. Adverse impacts will include the cutting of timber, soil erosion, aesthetic effects, and temporary construction disruption. (two

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1957, 71 Stat. 634, as amended, that a public hearing of the U.S. Commission on Civil Rights will commence on June 16, 1975, at the John F. Kennedy Federal Building, Room 2003A, Government Center, Boston, Massachusetts. An Executive Session, if appropriate, may be convened at any time during the hearing.

The purpose of the hearing is to collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin particularly concerning public school desegregation and equal educational opportunity; to appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin particularly concerning public school desegregation and equal educational opportunity; and to disseminate information with respect to denials of equal protection of the law under the Constitution because of race, color, religion, sex, or national origin particularly concerning public school desegregation and equal educational opportunity.

Dated at Washington, D.C., May 13, 1975.

**ARTHUR S. FLEMMING,**  
Chairman.

[FR Doc. 75-13015 Filed 5-14-75; 9:56 am]

**CIVIL SERVICE COMMISSION  
FEDERAL EMPLOYEES PAY COUNCIL**

**Notice of Meeting**

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the Federal Employees Pay Council will meet at 2 p.m. on Wednesday, June 11, 1975. This meeting will be held in room 5323 of the U.S. Civil Service Commission building, 1900 E Street, NW., and will consist of continued discussions on the fiscal year 1976 comparability adjustment for the statutory pay systems of the Federal Government.

The Chairman of the U.S. Civil Service Commission is responsible for the making of determinations under section 10(d) of the Federal Advisory Committee Act as to whether or not meetings of the Federal Employees Pay Council shall be open to the public. He has determined that this meeting will consist of exchanges of opinions and information which, if written, would fall within exemptions (2) or (5) of 5 U.S.C. 552(b). Therefore, this meeting will not be open to the public.

For the President's Agent.

**RICHARD H. HALL,**  
Advisory Committee Management Officer for the President's Agent.

[FR Doc. 75-12907 Filed 5-15-75; 8:45 am]



volumes). Comments made by: DOI, USDA, EPA, DOT, FPC, and State agencies. (ELR Order No. 50688.)

#### DEPARTMENT OF DEFENSE

##### ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attn: DAEN-PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, SW., Washington, D.C. 20314, (202) 693-6861.

##### Draft

Cornville Dam and Lake, Operation, Johnson and Linn Counties, Iowa, May 5: The statement refers to the operation of the Cornville Dam and Lake placed in operation in 1958. No new construction or alterations are planned. Present adverse effects include: increases in the water table both above and below the lake; probable increases of undesirable algae blooms; disruption of travel on some secondary roads during flood stages; continued existence of a barren area between conservation and flood pool levels which is aesthetically unpleasing; and a probable increase in the frequency at which upstream easement lands are inundated. (Rock Island District.) (ELR order No. 50675.)

Red Rock Dam and Lake, Maintenance, several counties, Iowa, May 8: Proposed is the operation and maintenance of Red Rock Dam and Lake Red Rock which provides flood protection and low-flow augmentation downstream. Adverse impacts include periodic inundation of terrestrial habitat between 725 msl and 780 msl, an estimated 4,400 acre-feet of sediment deposited in the upper reaches of the lake, seasonal fluctuations in lake levels resulting in an unstable environment for aquatic life, and periodic inundation of historical and archaeological sites. (Rock Island District.) (ELR order No. 50689.)

Lake Borgne Vicinity Navigation Projects, Louisiana, May 5: Proposed are navigation projects for operation and maintenance of the Mississippi River—Gulf Outlet, and Bayou Dupre, La Loutre, St. Malo, and Yecloskey, all in the vicinity of Lake Borgne, Louisiana. Total project length is 111.3 miles. Dredge material will be deposited in both contained, diked disposal areas, and in open water in Breton Sound. Benthic habitats will be disrupted, and effects of resuspension of pollutants when dredged material is resuspended is yet to be determined. (New Orleans District.) (ELR order No. 50685.)

Lake Pontchartrain Tributaries, O & M, Louisiana, May 5: The navigation project provides for maintaining channels of specified dimensions in the Amite River; Bayou Manchac; Tickfaw, Natchitoches, Ponchatoula, Blood Rivers; Tangipahoa River; Chefuncte and Bouque Falls; Bayou Lacombe; Bayou Bonfouca; and Pass Manchac in the Lake Pontchartrain Basin, Louisiana. The action consists principally of maintenance dredging, clearing and snagging operations of the aforementioned streams. Benthic communities in the channel bottom will be disrupted and destroyed by dredging, and the terrestrial habitat will be destroyed in the diked land disposal sites. (New Orleans District.) (ELR order No. 50677.)

Gulf Intracoastal Waterway Projects, Louisiana, Terrebonne County, La., May 5: The statement concerns four navigation projects for maintenance dredging of channels of specified dimensions in the Houma Navigation Canal, Little Caillon Bayou, Bayou Grand Caillon and Le Carpe (waterway from the Gulf Intracoastal Waterway to Bayou Dulac), and Bayou Terrebonne. The primary impact of the proposed operation and maintenance dredging would be the continuing use of approximately 7,930 acres for

#### NOTICES

disposal of dredged material. (New Orleans District.) (ELR order No. 50678.)

Replacement of Vermilion Lock, GIWW, Vermilion County, La., May 5: The project provides for construction of an earth-chambered sector-gated replacement lock to operate in consonance with other features to assure efficient function of the overall Gulf Intracoastal Waterway system and to provide control of marsh salinities and conservation of freshwater supplies in the project area. The primary adverse impact is the displacement of 332 acres of marshland with dredged material, and the conversion of 13 acres of marshland to channel bottom. (New Orleans District.) (ELR order No. 50686.)

Winona Flood Control and Waterfront Development, Winona County, Minn., May 5: The statement refers to a project for flood control and waterfront development along the Mississippi River at Winona. Construction of a flood barrier along the riverfront and downstream portion of Winona would continue as would floodplain regulations. The environment of the area would be adversely affected from construction and increased activity. (St. Paul District.) (ELR order No. 50671.)

Pomme de Terre Lake, Hickory and Polk Counties, Mo., May 5: The statement concerns the continued operation and maintenance of Pomme de Terre Lake consisting of water control operations, operation and maintenance of recreation areas, and management of project land and water resources. An adverse effect associated with the project is the overuse of project facilities and lands that has caused environmental damage. Other problems associated with fluctuating lake levels include disruption of recreation use, erosion of the lake shore and disruption of the fish and wildlife use of project lands and waters. (ELR order No. 50668.)

Rivergate-North Portland Flood Control, Multnomah County, Ore., May 5: Proposed is the construction of a levee system around the perimeter of the western end of the north Portland peninsula including earthen dikes, a flood wall section, and a closure embankment in Columbia Slough. One controlled outlet channel would be constructed to regulate water levels in Smith and Hybee Lakes. Recreation development is also included in the plan. Adverse economic opportunity impacts may be felt by the Columbia Boulevard Industries, and temporary construction disruption will result. (Portland District.) (ELR order No. 50669.)

Yaquina Bay and River, Channels and Breakwaters, Lincoln County, Ore., May 5: The statement concerns a project for operation and maintenance of the channels and breakwaters in Yaquina Bay and River. Included in the plan is jetty maintenance, channel construction and maintenance, and turning basin maintenance. The action will alter ocean bottom, estuary bottom, some wetlands, and some terrestrial areas by disposal of dredged materials and will resuspend toxic substances. Benthic organisms on 475 acres of channel bottom will be destroyed. (Portland District.) (ELR order No. 50670.)

Water Filtration Plant Flood Protection (2), Virginia, May 6: The action is flood protection of the city of Richmond, Virginia's municipal water filtration plant, located west of Richmond on the James River. The protection consists of modifications and additions to approximately 2,100 feet of existing walls around three sides of the water filtration plant proper. One vehicular and two railroad closures are required in the protective wall. Construction disruption will result. (Norfolk District.) (ELR order No. 50681.)

##### Final

Sacramento River, Bank Protection Project, Butte, Glenn, and Tehama Counties, Calif.,

May 6: The statement refers to the proposed installation of bank protection at intermittent sites along the Sacramento River from Chico Landing to Red Bluff. Adverse impacts include loss of aesthetics, wildlife, and other natural riparian values of the river. (Sacramento District.) Comments made by: EPA, DOI, DOC, DOT, USDA, State and local agencies, private citizens and groups. (ELR order No. 50679.)

Gypsum Small Flood Protection, Kansas, May 5: Proposed is the construction of a small flood protection project consisting of a highflow diversion channel and a levee around Gypsum, Kansas. Adverse impact include: temporary loss of vegetative cover at the proposed borrow area and diversion channel; reduction of wildlife habitat; temporary adverse effects due to construction activities; relocation of one family; minor inundation of areas outside the levee; and loss of approximately 50 acres of agricultural land. (Kansas City District.) Comments made by: USDA, HEW, HUD, DOI, DOT, State and local agencies and concerned citizens. (ELR order No. 50666.)

Los Esteros Dam and Lake Project, De Baca and Guadalupe Counties, N. Mex., May 6: Proposed is the construction and operation of the Los Esteros Dam Project for purposes of flood control, sediment retention, and irrigation water storage for 100 years. Los Esteros Lake will be operated in conjunction with Summer Lake for optimum flood protection. The project will inundate from 6,550 acres to 10,000 acres due to periodic flooding and will convert 14 miles of free-flowing stream to slack water. (Albuquerque District.) Comments made by: DOI, USDA, DOT, HEW, EPA, and State agencies. (ELR order No. 50680.)

#### DEPARTMENT OF HUD

Contact: Mr. Richard H. Brown, Director, Office of Environmental Quality, Room 7258, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6308, Section 104(h).

##### Draft

Vegas Heights Community Development, Las Vegas, Nevada, May 9: The project is to provide urbanization improvements, i.e., streets, curbs, gutters, parking lanes, sidewalks, driveways, and street lighting to the Vegas Heights area of the City of Las Vegas, Nevada. The proposed project area is contained in the neighboring residential area bounded by Highland Avenue on the west, Carey Avenue on the north, "H" Street on the east, and Lake Mead Boulevard on the south. Construction disruption will result. (ELR order no. 50694.)

#### NEW ENGLAND RIVER BASINS COMMISSION

##### Draft

S.E. New England Water and Land Resources, Massachusetts, Rhode Island and Connecticut, May 5: The New England River Basin Commission proposes to transmit a report recommending policies and actions for balanced conservation, management, and development of the water and related land resources of Southeast New England. The report contains a series of 130 policies and structural and non-structural solutions in the following areas: water supply, water quality, land use, outdoor recreation, sport fishing, port development, urban waterfront use, sand and gravel extraction, flooding and erosion, electrical power, petroleum facilities, and solid waste management. Actions are directed to all levels of government and private interests. (ELR order No. 50676.)

#### NUCLEAR REGULATORY COMMISSION

Contact: Mr. A. Giambusso, Director of Division of Reactor Licensing, P-722, NRC, Washington, D.C. 20555, (301) 492-7373.

##### Draft

Perkins Nuclear Station, Units 1-3, Construction, Davie County, N.C., May 7: Proposed is the issuance of a construction permit to the Duke Power Company for the construction of the Perkins Nuclear Station Units 1, 2, and 3. The units will produce 3817 MWT and 1280 MWe each. Make-up water for cooling will be drawn from and discharged to the Yadkin River. A total of 2402 acres will be used for the PNS site, displacing 26 families from the site proper and another 16 families from the Carter Creek area. Aquatic organisms entrained in the service water system will be killed due to thermal and mechanical shock, and there is potential for impingement of aquatic organisms at the intake structure as proposed. (ELR order No. 50683.)

##### Final

Fulton Generating Station, Lancaster County, Pa., May 8: Proposed is the issuance of construction permits to the Philadelphia Electric Company for the Station. Two identical high-temperature gas-cooled reactors (HTGR's) will be employed to produce 300 MWT each. A steam turbine generator will convert this heat to 1,120 MWe (net) for each unit. A closed-cycle, natural draft cooling tower system will be utilized, with water drawn from Conowingo Pond at a maximum (HTGR's) will be employed to produce 3000 acre site. Comments made by: AEP, USDA, DOI, HEW, DOC, FPC, EPA, HUD, USCG, COE, and State agencies. (ELR order No. 50687.)

#### DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357.

#### FEDERAL HIGHWAY ADMINISTRATION

##### Draft

Williams Interstate Freeway, I-40, Coclino County, Ariz., May 9: The statement concerns a 5.4 mile section of I-40 approximately 5 mile north of the City of Williams, Arizona. The project provides for the construction of two divided 38-foot roadways with an interchange in West Williams at Second Street and three railroad overpasses. The facility will require right-of-way on largely unimproved land. (ELR order No. 50691.)

I-82, Union Gap to Prosser, Prosser Vicinity, (S), Yakima and Benton Counties, Wash., May 5: Part One of the statement serves as a supplement to a final EIS concerning the section of I-82 from Union Gap to Prosser and Part Two serves as a final to a draft EIS concerning I-82 in the Prosser Vicinity. The entire segment will run approximately 47 miles and will displace families and businesses. (ELR order No. 50667.)

##### Final

SR 38, Forest Highway 68, San Bernardino County, Calif., May 5: The project involves the upgrading of Forest Highway 68, State Route 38 in the San Bernardino National Forest, San Bernardino County. The project extends from the Forest Boundary 5.3 miles east to Forest Home Boulevard. The plan includes grading, paving and structures necessary to provide a two-lane, 45 m.p.h. design speed facility. Adverse impacts include normal construction disruptions, and slight increases in noise levels at certain areas. (57 pages.) Comments made by: DOT, EPA, COE, USDA, State and local agencies. (ELR order No. 50673.)

Colorado Forest Highway Route 15, Gunnison County, Colo., May 8: The proposed project will provide the improvement of 6.7

#### NOTICES

miles of substandard section from the west foot or bottom of McClure Pass southerly to connect to the roadway along the Paonia Reservoir completed by the Bureau of Reclamation in 1908. The facility will provide an all-weather 2-lane access road to the North Fork Valley. The project will require natural resources such as grazing lands and wildlife habitat for right-of-way, and will result in disruption of aesthetics, vegetation, fishery, and water quality during construction. (233 pages.) Comments made by: (ELR order No. 50690.)

I-95, Russell Street to Hanover Street (Supplement), Baltimore County, Md., May 6: The statement is a supplement to a final environmental impact statement filed with CEQ 17 April 1974, and is in anticipation of the design and construction of a one-mile segment of an 8-lane controlled access expressway crossing over Middle Branch of the Patuxent River of the Baltimore Harbor. Dredging and spoil disposal will be necessary, and an unspecified number of families and businesses will be displaced. Comments made by: EPA, DOT, DOI, State and local agencies. (ELR order No. 50682.)

U.S. 45, Columbus to Shannon, Mississippi, May 5: The proposed project consists of relocating U.S. 45 from U.S. 82 west of Columbus to U.S. 45 at Shannon, a distance of approximately 48 miles. Seven alternative relocation alignments are discussed in the statement. There will be displacements of families and businesses no matter what alternative is chosen. Comments made by: COE, USDA, EPA, State and local agencies. (ELR order No. 50673.)

#### U.S. POSTAL SERVICE

##### Draft

Kennedy Airport Air-Mail Facility, Queens County, N.Y., May 9: Proposed is the construction of a 650,000 square foot building at the Kennedy International Airport to transfer, process, and distribute air mail. The facility, which will allow for the consolidation at one site the functions currently conducted at three dispersed sites, would be constructed on a 20-acre site near the north boundary of the airport. (71 pages.) (ELR order No. 50693.)

GARY L. WIDMAN,  
General Counsel.

[PR Doc.75-12879 Filed 5-15-75;8:45 am]

#### ENVIRONMENTAL IMPACT STATEMENTS

##### Availability

The following list, filed with the Council by the United States Coast Guard pursuant to Council Guideline 40 CFR 1500.6 (e), indicate those administrative actions that USCG has determined will require the preparation of environmental impact statements under NEPA.

#### COAST GUARD

DRAFT (D) AND FINAL (F) ENVIRONMENTAL IMPACT STATEMENTS (EIS) BEING PREPARED BY THE U.S. COAST GUARD

DEIS—Proposed Coast Guard Station at Provincetown, Mass. (revised DEIS)

FEIS—For the location, construction and operation of the U.S. Coast Guard New London Station, Research and Development Center, and support facilities in New London, Conn.

FEIS—Proposed Loran C Chain—Gulf Coast DEIS—Proposed Multi-purpose facility at Berwick, LA

DEIS—Proposed General Rules for Vessel Traffic System, Berwick Bay, LA

FEIS—Proposed Regulations to implement Title II, Ports and Waterways Safety Act of 1972

FEIS—Proposed Vessel Traffic System, Houston/Galveston, TX

FEIS—Proposed Loran C Chain, U.S. West Coast, Gulf of Alaska

DEIS—Point Reyes Housing Sewage Disposal Plan, CA

DEIS—Deepwater Port Regulations (revised DEIS)

DEIS—Northbrook Housing, IL (project may be deleted)

FEIS—Proposed Coast Guard Station (Design Station), Santa Rosa Island, FL

DEIS—Proposed Loran C Station, Seneca Army Depot, NY

DEIS—Proposed routes US 22 highway bridge across the Ohio River between Wierton, W. Va. and Stubenville, Ohio.

DEIS—Proposed Belmont Street bridge across the Kansas River at Lawrence, Kansas.

DEIS—Proposed route 18 highway bridge across the Raritan River in New Brunswick, N.J.

DEIS—Proposed Calhoun Street bridge across the Delaware River between Morrisville, Pa. and Trenton, N.J.

DEIS—Proposed Merrick Rd. bridge across Seaforth Creek in Mineola, N.Y.

DEIS—Proposed ramps for the downtown expressway to the I-95 highway bridge across the James River in Richmond, Va.

FEIS—Proposed highway bridge across Station Creek for access to a planned residential development on St. Phillip Island in Beaufort County, S.C.

DEIS—Proposed 78th Ave. bridge across the Gulf Intracoastal Waterway in Seminole Beach, Florida.

DEIS—Proposed James Point bridge across the St. John River in Jacksonville, Fla.

DEIS—Proposed highway bridge across the Calcasieu Lake in Cameron, Louisiana.

DEIS—Proposed highway bridge across the Hog Bayou in Grand Cheniere, Louisiana.

DEIS—Proposed highway bridge across the Wolf River in Fremont, Wisconsin.

FEIS—Proposed replacement of the Dumbarton Bridge across San Francisco Bay, San Mateo and Alameda Counties, California.

NEGATIVE DECLARATIONS PREPARED AND FILED IN COAST GUARD HEADQUARTERS DURING THE FIRST QUARTER OF CY 1975

Construct 11 single family dwellings in Springs, East Hampton, Suffolk County, Long Island, NY.

Amend Title 48 CFR to require improved structural fire protection of tank ships, and to require inerting of cargo tanks in tank ships of 100,000 deadweight tons (DWT) and over and combination carriers of 50,000 DWT and over.

Proposed Coast Guard Station, Monterey, CA.

Proposed rehabilitation of Coast Guard Base, Charleston, SC.

Proposed Replacement of M/V Rhode Island at USCG Fire and Safety Test Facility, Mobile, Ala.

NEGATIVE DECLARATIONS FOR FINAL BRIDGE PERMIT ACTIONS

Project, waterway, location: Permit No.

Plantation Isles, Plantation, Broward County, Fla. 103-74

Huntington Harbor, Huntington Beach, Calif. 42-74

Bayou Tigris, White Castle, La. 136-74

London Bridge Creek, Virginia Beach, Va. 99-74

Taunton River, Taunton, Mass. 61-74

James River, Newport News, Va. 44-72

Assassunk Creek, Burlington Co., N.J. 127-74



Project, waterway, location—Cont.	Permit No.
Taylor Bayou, Tex.	120-72
Unnamed Canal, Kitty Hawk, N.C.	161-74
Appomattox River, Petersburg, Va.	82-74
Bayou Boeuf, Kralmer, La. SR 307	140-74
Butler Mill Branch, Seaford, Del.	142-74
Unnamed Canal, North Key Largo, Fla.	131-74
Glen Creek, Kennebunkport, Maine	115-74
Rockland Key Channel, Key West, Fla.	105-74
Notoway River, Courtland, Va.	21-73
Hackensack Rivr, Snake Hill, N.J.	91-71
Henrys Creek, Byrdton, Va.	60-74
Missouri River (mile 730.4) Sioux City, Iowa	13-75
Black Creek, Burlington County, N.J.	42-70
Taylor Bayou Out Fall Canal, Port Arthur, Tex.	51-74
Whiskey Bay Pilot Channel, Ramah, La.	163-74
Imperial River (mile 28) Bonita Springs, Fla.	159-74
Cedar Bayou (mile 7.3) Baytown, Tex.	83-71
Pruitts Canal, Port St. Lucie, Fla.	117-74
Big Sandy River, Levisa Fork, Allen, Ky.	10-71a
Trinity River, Romayor, Tex.	30-75
Smith Creek (The Hague), (mile 0.2) Norfolk, Va.	175-70
Tombigbee River (mile 204) Demopolis, Ala.	164-70
Swinomish Slough, LaConner, Wash.	231-68
Willamette River (mile 182.8) Harborsburg, Ore.	24-75
Normandy Waterway (Bay Drive) Miami Beach, Fla.	15-75
Cypress Waterway (South Fork) Ft. Lauderdale, Fla.	17-75
Kaskaskia River (mile 1.8) Roots, Ill.	30-71
Hastings Slough Contra Costa Co., Calif.	9-75
Normandy Waterway, Biarritz Dr. Miami Beach, Fla.	14-78
Hammock Creek, (South Fork) Arizpe, Fla.	171-70
Wabash River (mile 271.2) Covington, Ind.	3-75
Cedar Creek (mile 1.4) Jacksonville, Fla.	6-75
GIWW High Island, Tex.	46-70
Cape Island Creek Cape May, N.J.	13-71
Black Creek Bordentown Creek, N.J.	42-70
Bayou Plaquemine (mile 10.5) Plaquemine, La.	160-74
Cedar Creek Ditch Hobucken, N.C.	150-74
Chicago S & S Canal (mile 24.0) Chicago, Ill.	151-74
Pablo Creek, Cut Creek and Cut Creekbranch J. Turner Butler Blvd. Duval Co., Fla.	152-74
Absecon Creek, Ohio Ave. Absecon, N.J.	154-74
Bayou Liberty (mile 2.0) Sildell, La.	150-71
London Bridge Creek Virginia Beach, Va.	141-74
Ohio River Cincinnati, Ohio	163-68
St. Armands Key Sarasota, Fla.	123-74
Port Madison Bay Port Madison, Wash.	116-74
Taylor Creek Pt. Pierce, Fla.	12-70
Largo Sound Key Largo, Fla.	50-73
Big Sandy River (Levisa Fork), Ivel, Ky.	167-68
Philippi Creek, Proctor Road Sarasota, Fla.	59-74
Simmons Bayou Port St. Joe, Fla.	139-71

GARY L. WIDMAN,  
General Counsel.

[FR Doc.75-12880 Filed 5-15-75; 8:45 am]

# COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

## PROCUREMENT LIST 1975

### Notice of Proposed Addition

Notice is hereby given pursuant to section 2(a)(2) of Pub. L. 92-28; 85 Stat. 79, of the proposed addition of the following commodities to Procurement List 1975, November 12, 1974 (39 FR 39964).

### CLASS 6230

Desk Light 6230-00-299-7771

Comments and views regarding these proposed additions may be filed with the Committee not later than June 16, 1975. Communications should be addressed to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

This notice is automatically cancelled six months from the date of this FEDERAL REGISTER.

By the Committee.

C. W. FLETCHER,  
Executive Director.

[FR Doc.75-12927 Filed 5-15-75; 8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 373-3; OPP-32000/250]

### RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

#### Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street SW., Washington, D.C. 20460.

On or before July 15, 1975, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street, SW., Washing-

ton, D.C. 20460. Every claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 days period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after July 15, 1975.

Dated: May 8, 1975.

JOHN B. RITCH, Jr.,  
Director, Registration Division.

#### APPLICATIONS RECEIVED (OPP-32000/250)

EPA Reg. No. 8111-5. Aero Industries, Inc., Box 282, Emmetsburg IA 50536. AERO-FOG THERMAL AEROSOL INSECTICIDE PYRETHRIN. Active Ingredients: Pyrethrin 0.30%; Technical Piperonyl Butoxide (Equivalent to 0.48% (butylcarbityl) (6-propylpiperonyl) ether and 0.12% related compounds) 0.60%; N-Octyl bicycloheptene dicarboximide 1.00%; Mineral Seal Oil 73.10%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Added use. PM17

EPA File Symbol 35909-E. Associated Water Conditioners, Inc., Route 202, Mt. Kemble Ave., Morristown NJ 07960. BIOCID 464. Active Ingredients: N-Alkyl (50% C14, 40% C12, 10% C16) dimethyl benzyl ammonium chloride 10%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 551-EGT. Baird & McGuire, Inc., South St., Holbrook MA 02343. ROACH SPRAY CONTAINS BAYGON. Active Ingredients: o-Isopropoxyphenyl methylcarbamate 1.0%; Isoparaffinic hydrocarbons 83.7%. Method of Support: Application proceeds under 2(c) of interim policy. PM12

EPA File Symbol 5667-OL. Barrett Chem. Co., Inc., H & Luzerne Sts., Philadelphia PA 19124. BARRETT'S DISINFECTANT CLEANER NO. 14. Active Ingredients: Didecyl dimethyl ammonium chloride 2.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium carbonate 1.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 4543-0. Chemley Products Co., PO Box North Town Station, Chicago IL 60659. NO SCALD ETHOXYQUIN CONCENTRATE "250". Active Ingredients: Ethoxyquin 55.5. Method of Support: Application proceeds under 2(c) of interim policy. PM25

EPA Reg. No. 239-739. Chevron Chemical Co., 340 Hensley St., Richmond CA 94804. ORTHO MALATHION 50 INSECT SPRAY. Active Ingredients: Malathion (0,0-dimethyl dithiophosphate of diethyl mercaptosuccinate) 50%; Aromatic Petroleum Derivative Solvent 33%. Method of Support: Application proceeds under 2(c) of interim policy. PM16

EPA File Symbol 729-AA. Gulf Oil Corp., Gulf Bldg., Houston TX 77002. GULF-SPRAY WASP AND HORNET KILLER FORMULA 1. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounds 0.084%; Aromatic petroleum hydrocarbons 0.331%; Petroleum distillates 53.375%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 729-AL. Gulf Oil Corp., GULFSPRAY WASP AND HORNET KILLER. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropane carboxylate 0.150%; Related compounds 0.020%; Aromatic petroleum hydrocarbons 0.199%; 2-(1-methylethoxy) phenol methyl carbamate 0.500%; Petroleum distillates 53.098%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 729-AT. Gulf Oil Corp., GULFSPRAY WASP AND HORNET KILLER FORMULA 11. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropane carboxylate 0.150%; Related compounds 0.020%; Aromatic petroleum hydrocarbons 0.199%; 2-(1-methylethoxy) phenol methyl carbamate 0.500%; Petroleum distillates 53.09%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 407-GOE. Imperial Inc., PO Box 423, Shenandoah IA 51601. IMPERIAL DORMANT SPRAY OIL. Active Ingredients: Petroleum Oils 90%. Method of Support: Application proceeds under 2(c) of interim policy. PM13

EPA File Symbol 3417-EE. Mission Chemical Co., 4990 Naples St., San Diego CA 92110. PAL-O-CLEAN. Active Ingredients: n-alkyl (50% C14, 40% C12, 10% C16) dimethyl benzyl ammonium-chloride 4.8%; Sodium carbonate 3.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 3417-ER. Mission Chemical Co., 4990 Naples St., San Diego CA 92110. BACTOLL FORMULA A. Active Ingredients: n-Alkyl (50% C14, 40% C12, 10% C16) dimethyl benzyl ammonium chloride 5.0%; Tetra sodium salt of ethylene diamine tetraacetic acid 2.3%; Sodium carbonate 2.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA Reg. No. 3125-302. Chemagro Agricultural Div., of Mobay Chemical Corp., Box 4913, Kansas City MO 64120. MORESTAN 25% WETTABLE POWDER MITICIDE-FUNGICIDE IN WATER SOLUBLE PACKETS. Active Ingredients: 6-Methyl-1,3-dithiolol[4,5-b] quinoxalin - 2 - one 25%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM13

EPA Reg. No. 1839-27. Onyx Chemical Co., Div. of Millmaster-Onyx Corp., 190 Warren St., Jersey City NJ 07302. BTC-2125M-P40 CONCENTRATED GERMICIDE. Active Ingredients: n-Alkyl (50% C12, 30% C14, 17% C16, 3% C18) Dimethyl Benzyl ammonium chlorides 50%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA Reg. No. 1839-55. Onyx Chemical Co., Div. of Millmaster-Onyx Corp., 190 Warren St., Jersey City NJ 07302. BTC-2125M-P40 CONCENTRATED GERMICIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chloride 20%; n-Alkyl (60% C12, 32% C14) dimethyl ethylbenzyl ammonium chloride 20%. Method of Support: Appli-

cation proceeds under 2(b) of interim policy. PM 31

EPA File Symbol 11625-EO. Peterson/Puritan, Inc., Danville IL 61832. P/P INSECTICIDE NO. 7. Active Ingredients: Isopropyl Alcohol 0.500%; 2,2-Dichlorovinyl Dimethyl Phosphate 0.460%; Related Compounds 0.040%; (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropane carboxylate 0.250%; Related Compounds 0.034%; Aromatic Petroleum Hydrocarbons 0.332%; Petroleum Distillates 18.250%. Method of Support: Application proceeds under 2(c) of interim policy. PM13

EPA Reg. No. 5009-4. Tretolite, Div. of Petro-lite Corp., 369 Marshall Ave., St. Louis MO 63119. X-CIDE 320 INDUSTRIAL BACTERICIDE. Active Ingredients: Alkyl-1,3-propylene diamine acetates (Alkyl-Octyl 8%; Decyl 9%; Dodecyl 47%; Tetradecyl 18%; Hexadecyl 8%; Octadecyl 5%; Octadecenyl 5%) 42.41%; Isopropanol 9.61%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added new uses. PM33

EPA File Symbol 655-LGE. Prentiss Drug & Chemical Co., Inc., 363 Seventh Ave., New York NY 10001. PRENTOX PYRONYL POULTRY HOUSE & BARN ULV FLY SPRAY. Active Ingredients: Pyrethrins 2.00%; Piperonyl Butoxide, Technical (Equivalent to 3.20% (Butylcarbityl) (6-propylpiperonyl) Ether and 0.80% related compounds) 4.00%; N-octyl bicycloheptene dicarboximide 5.66%; Petroleum Distillates 87.34%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 10419-E. Protex Wax Products, Inc., 1225 48th Ave., Oakland CA 94601. COMMERCIAL DISINFECTANT CLEANER. Active Ingredients: Didecyl dimethyl ammonium chloride 2.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium Carbonate 1.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 201-GIU. Shell Chemical Co., A Div. of Shell Oil Co., Shell Tower, Houston, TX 77001. SHELL CYCLO SOL 31 HERBICIDE. Active Ingredients: Aromatic Petroleum naphtha 100%. Republished: Method of Support: Application proceeds under 2(b) rather than 2(c) of interim policy. PM24

EPA File Symbol 36739-R. Sinton Supply Co., Inc., 204 E. Sample St., S. Bend IN 46623. SINCO POOL-ADE SUPER SHOK. Active Ingredients: Sodium Hypochlorite 12.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA Reg. No. 476-2149. Stauffer Chemical Co., 1200 S. 47th St., Richmond CA 94804. CLENSCO CLEAR. Active Ingredients: N-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; N-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 36245-R. Superior Chemical Products Co., 220 Hubbard Rd., Youngstown OH 44505. JANUS ALGICIDE. Active Ingredients: Methylododecylbenzyl trimethyl ammonium chloride 8%; methylododecylstyrene bis (trimethyl ammonium chloride) 2%. Method of Support: Application proceeds under 2(c) of interim policy. PM24

EPA File Symbol 10292-EL. Venus Laboratories, 1028 Industrial Dr., Bensenville IL 60106. DAIRY CATTLE SPRAY 920. Active Ingredients: Pyrethrins 0.05%; Piperonyl butoxide, technical (Consists of 0.08% (butylcarbityl) (6-propylpiperonyl) ether and 0.02% other related compounds) 0.10%;

N-octyl bicycloheptene dicarboximide 0.16%; Di-n-propyl isocinchomeronate 0.20%; Petroleum distillate 99.49%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 6231-G. Wes-Tex Chemical Co., 287 E. 3rd St., Mt. Vernon NY 10650. WES-TEX BAKTRI-SIDE THE MODERN SANITIZER, DEODORANT. Active Ingredients: n-Alkyl (50% C14, 40% C12, 10% C16) dimethyl benzyl ammonium chloride 10%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 769-VLE. Woolfolk Chemical Works, Inc., PO Box 938, Fort Valley GA 31030. SECURITY 4% DIAZINON DUST. Active Ingredients: 0,0-diethyl, 0-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 4.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM15

[FR Doc.75-12738 Filed 5-15-75; 8:45 am]

[FRL 373-4; OPP-32000/251]

### RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

#### Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street SW., Washington, D.C. 20460.

On or before July 15, 1975, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street, SW., Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the



## NOTICES

2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after July 15, 1975.

Dated: May 8, 1975.

JOHN B. RITCH, JR.,  
Director, Registration Division

## APPLICATIONS RECEIVED (OPP-32000 251)

EPA File Symbol 4876-LO. "AG" Supply Co., Div. of Seed Kem Inc., Industrial Dr., Hopkinsville KY 42240. SNAIL AND SLUG PELLETS. Active Ingredients: 4-(Methylthio)-3,5-xylol methylcarbamate 2.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM12

EPA File Symbol 8612-IA. B & G Co., PO Box 30372, Dallas TX 75220. B & G BGC-8 TERMITICIDE EMULSIFIABLE CONCENTRATE. Active Ingredients: Technical Chlordane (Equivalent to 43.2% octachloro-4,7-methanotetrahydroindane and 28.8% related compounds) 72.0%; Petroleum Distillate 21.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM15

EPA File Symbol 34773-A. Chem Tech Resources Inc., PO Box 24440, Dallas TX 75224. MWK-3 NON-SELECTIVE WEED KILLER. Active Ingredients: Manuron [3-(p-chlorophenyl) - 1,1 dimethylurea] trichloroacetate 31.9%; Aromatic Petroleum Derivative 91.67%. Method of Support: Application proceeds under 2(c) of interim policy. PM25

EPA Reg. No. 239-2360. Chevron Chem. Co., 904 Hensley St., Richmond CA 94804. ORTHO ANT, ROACH & SPIDER SPRAY. Active Ingredients: Methylthioxyphenyl methylcarbamate 1.0%; Petroleum Distillate 82.3%. Method of Support: Application proceeds under 2(a) of interim policy. PM12

EPA File Symbol 36335-R. Complex Chem. Co., Inc., PO Box 790, Tallulah LA 71282. ATRAZINE TECHNICAL. Active Ingredients: Atrazine (2 - chloro - 4 - ethylamino - 6 - isopropylamino - 2 - triazine) 95%; Related active triazine compounds 5%. Method of Support: Application proceeds under 2(c) of interim policy. PM25

EPA File Symbol 36458-R. Farmco Steel & Chem. Inc., 17 NO. Military Trail, W. Palm Beach FL 33406. FARMCO STEEL & CHEMICALS VEGETATION KILLER. Active Ingredients: Prometon: 2,4-bis (isopropylamino) - 6 - methoxy - s - triazine 3.73%; Petroleum distillate 81.04%. Method of Support: Application proceeds under 2(c) of interim policy. PM25

EPA File Symbol 3342-OAA. Kerr-McGee Chem. Corp., Kerr-McGee Center, Oklahoma City OK 73125. GRO-TONE LAWN SPRAY. Active Ingredients: Dieldrin (5.60% Hexachlore - epoxy - octahydrodimethano naphthalene plus 0.98% related compounds) 6.58%; Toxaphene (Technical chlorinated camphene containing 87-89% chlorinated) 6.58%; Xylene 82.63%. Method of Support: Application proceeds under 2(c) of interim policy. PM15

EPA File Symbol 569-TN. Haver-Lockhart Labs., Div. of Bayvet Corp., PO Box 390, Shawnee Mission KS 66201. SENDRAN TICK AND FLEA DIP CONCENTRATE FOR DOGS AND CATS. Active Ingredients: O-Isopropoxyphenyl methylcarbamate 8%. Method of Support: Application proceeds under 2(c) of interim policy. PM12

EPA File Symbol 27570-G. Paddock Pool Construction Co., 6525 E. Thomas Rd., Scottsdale AZ 85251. PAD CHEM. Active Ingredients: Sodium Dichloro-s-triazinetrione 100%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA File Symbol 27570-E. Paddock Pool Construction Co., PAD ALGAE KILL. Active Ingredients: Trichloro - s - triazinetrione 100%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA File Symbol 27570-R. Paddock Pool Construction Co., PAD TABLETS. Active Ingredients: Trichloro - s - triazinetrione 100%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA File Symbol 541-ELE. Puritan Chem. Co., PO Box 93247, Atlanta GA 30318. PURITAN #6450. Active Ingredients: n-Alkyl (50% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 4.5%; n-Alkyl (68% C13, 32% C14) dimethyl ethylbenzyl ammonium chlorides 4.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium Carbonate 4.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 11463-L. Schaefer Chem. Products Co., 3000 Carrollton Rd., Saginaw MI 48604. POOLITREX CONCENTRATE ALGAEKILLER. Active Ingredients: n-Alkyl (50% C14, 40% C12, 10% C16) dimethyl benzyl ammonium chloride 50%. Method of Support: Application proceeds under 2(c) of interim policy. PM24

EPA File Symbol 1842-ETL. Triangle Chem. Co., PO Box 4528, 206 Lower Elm St., Macon GA 31208. TRIANGLE 10% PARATHION GRANULES. Active Ingredients: Parathion (O,O-diethyl O-p-nitrophenyl thiophosphate) 10%. Method of Support: Application proceeds under 2(c) of interim policy. PM12

EPA File Symbol 11656-JE. Western Farm Service, Inc., c/o Shell Chem. Co., Suite 200, 1025 Conn. Ave. NW, Washington DC 20036. DIPEL SULFUR 320-40 DUST INSECTICIDE FUNGICIDE. Active Ingredi-

ents: Bacillus thuringiensis, Berliner, Potency of 320 International Units per mg. [at least 500 thousand viable spores per mg. (Equivalent to potency of 145 million International Units per pound of this product)] 0.064%; Sulfur 40.000%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 11656-LU. Western Farm Service, Inc. DIPEL 150 DUST INSECTICIDE. Active Ingredients: Bacillus thuringiensis, Berliner, Potency of 320 International Units per mg. [at least 0.5 billion viable spores per g. (Equivalent to potency of 0.15 billion International Units per pound of this product)] 0.064%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 11656-LG. Western Farm Service, Inc. DIPEL SULFUR 150-75 DUST INSECTICIDE FUNGICIDE. Active Ingredients: Bacillus thuringiensis, Berliner, Potency of 320 International Units per mg. [at least 0.5 billion viable spores per g. (Equivalent to potency of 0.15 billion International Units per pound of this product)] 0.064%; Sulfur 75.000%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

[FR Doc. 75-12739 Filed 5-15-75; 8:45 am]

# FEDERAL ENERGY ADMINISTRATION ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION

## Notice of Intention To Issue Prohibition Orders to Certain Powerplants

The Federal Energy Administration ("FEA") hereby gives notice of its intention to issue prohibition orders, pursuant to the authorities granted it by section 2 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA) and in accordance with 10 CFR Parts 303 and 305, to the following powerplants:

Docket No.	Owner	Powerplant No.	Generating station	Location
OFU-006	Potomac Electric Power Co.	1	Morgantown	Newburg, Md.
OFU-027	do.	2	do.	do.
OFU-028	Virginia Electric Power Co.	3	Chesapeake	Chesapeake, Va.
OFU-029	do.	4	do.	do.
OFU-030	do.	5	do.	do.
OFU-031	do.	6	do.	do.
OFU-032	do.	1	Yorktown	Yorktown, Va.
OFU-033	do.	2	do.	do.
OFU-034	do.	1	Portsmouth	Chesapeake, Va.
OFU-035	do.	2	do.	do.
OFU-036	do.	3	do.	do.
OFU-037	do.	4	do.	do.
OFU-038	Baltimore Gas & Electric Co.	1	Craney	Baltimore, Md.
OFU-039	do.	2	do.	do.
OFU-040	do.	3	Liverdale	do.
OFU-041	do.	4	do.	do.
OFU-042	do.	1	Wagner	do.
OFU-043	do.	2	do.	do.
OFU-044	Delmarva Power & Light Co.	1	Edge Moor	Wilmington, Del.
OFU-045	do.	2	do.	do.
OFU-046	do.	3	do.	do.
OFU-047	do.	4	do.	do.

FEA hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments on these proposed prohibition orders.

The proposed orders would prohibit the powerplants listed above from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a prohibition order to a powerplant, section 2 of ESECA re-

quires that FEA make certain findings. FEA's initial conclusions with respect to, and rationale in support of, these findings are set out, with respect to each of the powerplants, at the conclusion of this notice. These findings and rationales may be amended as a result of written or oral comments received by FEA pursuant to this notice and other information available to FEA. The findings will

be included, with any amendments, in a prohibition order when it is issued.

Upon conclusion of the proceedings described in this notice, FEA may determine to issue prohibition orders to some or all of the powerplants listed above. These prohibition orders will not become effective, however, (1) until either, (a) the Administrator of the Environmental Protection Agency ("EPA") notifies the FEA, in accordance with section 119(d) (1)(B) of the Clean Air Act, that the powerplant will be able on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a compliance date extension under section 119, or (b) if no notification is given by EPA, the date that the Administrator of EPA certifies pursuant to section 119(d) (1)(B) of the Clean Air Act is the earliest date that the powerplant will be able to comply with all applicable air pollution requirements of section 119 of that Act; and (2) until FEA has considered the environmental impact of such order pursuant to § 305.9 of the FEA regulations that implement section 2 of ESECA and has served the affected powerplant a Notice of Effectiveness, as provided in § 303.10 (b) and 303.37(b) of those regulations. The date the prohibition order will be effective will be stated in the notice of effectiveness.

The notice of effectiveness will contain a compliance schedule to insure that the powerplant will be able to comply with the prohibition of the burning of natural gas or petroleum products as a primary energy source on the date the order becomes effective.

Public comment on the proposals to issue prohibition orders to the powerplants listed above is invited in the form of written and oral presentation of data, views and arguments. Comments should relate to individual docket numbers and should make clear to which docket number the individual comment is addressed.

Comments should address (1) the adequacy and validity of each of the proposed findings and the rationale in support of the findings; (2) the identification of any site-specific environmental impacts resulting from the proposed prohibition orders that were not identified or described in the Environmental Impact Statement (EIS 75-1, dated April 25, 1975) for the FEA program to implement section 2 of ESECA; and (3) any other relevant aspects or impacts of the proposed prohibition order. With respect to comments regarding any impact on air quality that might result from a proposed prohibition order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality, and for determining the applicable air pollution requirements that apply to the powerplant that has been issued an order. It is expected that in almost every case, a powerplant to which a prohibition order is issued will be eligible to apply to EPA for a compliance date extension. In connection with that application, EPA must

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also provide an opportunity for written comment and oral presentation of data, views and arguments by interested persons. In addition, FEA will make a site-specific environmental analysis after the issuance of each order, but prior to service of the Notice of Effectiveness, and there will be an opportunity for public comment if the analysis indicates that significant site-specific impacts are likely to result from a prohibition order.

If oral presentation is to be made, it is requested that any detailed, technical data, views, and arguments be made in written comments submitted in support of the oral presentation, and that the oral presentation itself be a summary of those more detailed comments.

A public hearing on the proposed prohibition orders will be held beginning at 9 a.m., e.d.t., on May 27, 1975, in Conference Room B, FEA Region III, 1421 Cherry Street, Philadelphia, Pennsylvania, to receive oral presentation of data, views and arguments from interested persons. Any person who has an interest in the subject of the hearing, or who is a representative of a group or class of persons which has an interest in the subject of the hearing, may make a written request, or a verbal request if confirmed in writing, for an opportunity to make oral presentation. That request should be directed to Alfred C. Metz, Jr., Federal Energy Administration, Room 1002, 1421 Cherry Street, Philadelphia, Pennsylvania (215) 597-3607 and must be received before 4:30 p.m. e.d.t., May 22, 1975. The request may be hand-delivered to Alfred C. Metz, Jr., Room 1002, FEA Region III, 1421 Cherry Street, Philadelphia, Pennsylvania between the hours of 8 a.m. and 4:30 p.m. e.d.t., Monday through Friday. The person making the request should be prepared to describe the interest concerned: if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through May 23, 1975. Each person selected to be heard will be so notified by the FEA by 4:30 p.m. e.d.t., May 23, 1975 and must submit a minimum of 20 copies of the statement to Alfred C. Metz, Room 1002, 1421 Cherry Street, Philadelphia, Pennsylvania 19102 before 4:30 p.m., May 23, 1975.

The FEA reserves the right to limit the number of representatives of a particular group or class of persons to be heard at the hearing, to schedule their or other person's presentations, and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. It will not be judicial or evidentiary-type hearing. During an oral presentation, questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons making oral presenta-

tions. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making an oral presentation at the hearing to FEA Region III, Alfred C. Metz, Jr., Room 1002, 1421 Cherry Street, Philadelphia, Pennsylvania 19102, before 9 a.m. e.d.t., May 27, 1975. Any person who makes an oral statement or any other person who wishes to ask a question at the hearing may submit the questions, in writing, to the presiding officer. The FEA, or the presiding officer if the question is submitted at the hearing, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules necessary for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript will be retained by the FEA and made available for inspection at the FEA Region III, Reception Lobby, 10th Floor, 1421 Cherry Street, Philadelphia, Pennsylvania 19102, and FEA Administrator's Reception Area, Room 3400, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, or arguments with respect to the proposed prohibition order to Executive Communications, Federal Energy Administration, Box DD, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope in which they are transmitted and on other documents submitted to FEA Executive Communications (or the Regional Office) with the designation "Proposed Prohibition Order for the \_\_\_\_\_ Powerplant." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., e.d.t., May 29, 1975, all oral presentations and all other relevant information submitted to or otherwise available to FEA will be considered by FEA prior to issuance of any prohibition order.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

The sections of ESECA that are relevant to the proposed prohibition orders are stated below:

### Sec. 1. Short-Title; Purpose.

(b) The purposes of this Act are (1) to provide for a means to assist in meeting the



essential needs of the United States for fuels, in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

#### Sec. 2. Coal Conversion and Allocation.

(a) The Federal Energy Administrator—  
(1) shall by order, prohibit any powerplant, and

(2) may, by order, prohibit any major fuel burning installation, other than a powerplant, from burning natural gas or petroleum products as its primary energy source, if the Federal Energy Administrator determines such powerplant or installation on the date of enactment of this Act [June 22, 1974] has the capability and necessary plant equipment to burn coal, and if the requirements of subsection (b) are met.

(b) The requirements referred to in subsection (a) are as follows:

(1) An order under subsection (a) may not be issued with respect to a powerplant or installation unless the Federal Energy Administrator finds (A) that the burning of coal by such plant or installation, in lieu of petroleum products or natural gas, is practicable and consistent with the purposes of this Act, (B) that coal and coal transportation facilities will be available during the period the order is in effect, and (C) in the case of a powerplant, that the prohibition under subsection (a) will not impair the reliability of service in the area served by such plant. Such an order shall be rescinded or modified to the extent the Federal Energy Administrator determines that any requirement described in subparagraph (A), (B), or (C) of this paragraph is no longer met; and such an order may at any time be modified if the Federal Energy Administrator determines that such order, as modified, complies with the requirements of this section.

(3) (A) Before issuing an order under subsection (a) which is applicable to a powerplant or installation after June 30, 1975 (or modifying an order to which paragraph (2) applies, so as to apply such order to a powerplant or installation after such date), the Federal Energy Administrator shall give notice to the public and afford interested persons an opportunity for oral and written presentations of data, views, and arguments.

(B) An order (or modification thereof) described in subparagraph (A) of this paragraph shall not become effective until (1) the Administrator of the Environmental Protection Agency notifies the Federal Energy Administrator under section 119(d)(1)(B) of the Clean Air Act that such plant or installation will be able on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a compliance date extension under section 119(c) of such Act, or (2) if such notification is not given, the date which the Administrator of the Environmental Protection Agency certifies pursuant to section 119(d)(1)(B) of such Act is the earliest date that such plant or installation will be able to comply with all applicable requirements of such section 119. Such order (or modification) shall not be effective during any period certified by the Administrator of the Environmental Protection Agency under section 119(d)(3)(B) of such Act.

(e) For purposes of this section:

(1) The term "powerplant" means a fossil-fuel fired electric generating unit which produces electric power for purposes of sale or exchange.

(2) The term "coal" includes coal derivatives.

(f) (1) Authority to issue orders or rules under subsections (a) through (d) of this section shall expire at midnight, June 30, 1975. Such a rule or order may take effect at any time before January 1, 1979.

(2) Authority to amend, repeal, rescind, modify, or enforce such rules or orders shall expire at midnight, December 31, 1978; but the expiration of such authority shall not affect any administrative or judicial proceeding which relates to any act or omission which occurred prior to January 1, 1979.

Copies of the FEA regulations implementing section 2 of ESECA (10 CFR, Parts 303, 305 and 307) are available from the FEA Regional Office, 1421 Cherry Street, Room 1001, Philadelphia, Pennsylvania 19102, (215) 597-9066.

Any questions regarding this notice should be directed to Alfred C. Metz, Jr., FEA Region III, 1421 Cherry Street, Philadelphia, Pennsylvania 19102 (215) 597-3607.

(Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93-319); Federal Energy Administration Act of 1974 (Pub. L. 93-275); E.O. 11790 (39 FR 23185).)

Issued in Washington, D.C., May 12, 1975.

ROBERT E. MONTGOMERY, Jr.,  
General Counsel,  
Federal Energy Administration.

1. OFU-026, 027, POTOMAC ELECTRIC POWER COMPANY, POWERPLANTS 1 AND 2, GENERATING STATION—MORGANTOWN, NEWSBURG, MARYLAND

(a) Proposed findings and rationale for findings:

1. Capability and necessary plant equipment finding. Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that on June 22, 1974, these powerplants had the capability and necessary plant equipment to burn coal. This proposed finding is based on facts, interpretations and assumptions stated below:

(A) These powerplants had in place on June 22, 1974, a boiler that was capable of burning coal, in that such boiler had been designed and constructed, or had been modified to enable it to burn coal as its primary energy source, or to burn coal and another fossil fuel interchangeably as its primary energy source, notwithstanding the fact that on June 22, 1974, such powerplant may not have been burning coal as its primary energy source.

(B) Based on information filed with FEA on March 17, 1975 by The Potomac Electric Power Company, the following significant equipment or facilities would have to be acquired or substantially refurbished:

1. Strengthening of coal bunkers;  
2. Powerplant Number 2 reheater surface removal;

3. Addition of one pulverizer.

FEA assumes that on June 22, 1974, these powerplants had all other significant equipment and facilities associated with the burning of coal.

(C) Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph (b) do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

(1) Burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA. Based on an analysis of the information

submitted or otherwise available to FEA, FEA proposes to find that the burning of coal by the powerplants in lieu of petroleum products or natural gas, is practicable and consistent with the purposes of ESECA. This proposed finding is based on the facts, interpretations and assumptions stated below.

(A) (1) Revenue requirements. (a) The investment costs that result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal by the powerplants are estimated to be approximately \$1,450,000. This estimate is based on existing FEA information and on information filed with the FEA by the powerplant concerning items of equipment and facilities that would have to be acquired or refurbished and the costs of such acquisition or refurbishment.

(1) Costs of acquisition or refurbishing equipment are allocated as follows:

(A) \$0 to comply with air pollution control requirements of the Clean Air Act.

(B) \$1,450,000 to make those technical plant and equipment adjustments associated with the burning of coal, as well as to comply with environmental requirements other than those imposed by the Clean Air Act.

(b) The increase in operating costs other than fuel costs that result from the burning of coal are estimated to be approximately \$36,000 per year.

(c) (1) The price of petroleum products available to the powerplants is approximately \$1.50 to \$1.60 per million Btus. The price of coal of the type used by the powerplants is approximately \$1.13 to \$1.23 per million Btus. The burning of coal by the powerplants will result in a reduction of 27 cents to 47 cents per million Btus or \$17 to \$30 million per year.

(2) The Maryland Public Utility Commission permits the inclusion of increased fuel costs in the rate base through a fuel adjustment clause and, if there is a decrease in the cost of fuel as a result of burning coal, there will be a decrease in such rate base.

(d) The total annual incremental increase in revenue requirements resulting from costs associated with burning coal as opposed to oil is \$244,000.

(2) Financial capabilities. (a) Based on the most recent financial statements and capital expenditure programs of Potomac Electric Power Company, as well as other information available to FEA, it has been determined that the prohibition order for the powerplants is practicable. This financial assessment included an evaluation of generally accepted financial ratios; effects on capitalization as a result of the costs of burning of coal; impact on current and future construction programs; and possible impacts on rates.

This assessment incorporated, but was not limited to, consideration of the \$1,450 million investment requirement (or 1 percent) in relation to net property and plant of the company of \$1.5 billion and 1975-1977 construction budget estimate of the company of \$470 million, or 3 percent; the total capitalization of the company of \$1.5 billion; the change in 1974 to 1976 construction budgets of \$262 million to \$149 million; and the 30 years remaining useful life of the plants. These assessments, the above findings, and other evaluations of the general financial health of the company were the basis of this finding.

(B) Because this prohibition order will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposed to find that its issuance will be consistent with the purpose of ESECA "to provide a means to assist in meeting the essential needs of the United States for fuels." Further, on the basis of the

environmental analyses conducted by FEA, the analyses of air quality impacts which EPA is required to conduct prior to effectiveness of a prohibition order, as well as the necessity for the powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to find that the prohibition order is also consistent with the purpose of ESECA to provide for a means to meet the Nation's essential fuel needs "in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment."

(3) Coal and coal transportation facilities will be available during the period the prohibition order is in effect. Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1978. The period until December 31, 1978 is the period during all or part of which the prohibition order to which these findings relate will be in effect. This proposed finding is based upon the following factors, interpretations, and assumptions:

(A) (1) It is estimated that it will be practicable to produce coal nationally as follows:

Year:	Production (million tons)
1975.....	662
1976.....	679
1977.....	707
1978.....	735

(2) The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975.....	640
1976.....	664
1977.....	688
1978.....	716

(3) The estimated additional national demand for coal resulting from the prohibition order to which this finding relates, and from FEA actions under authority of section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975.....	0.7
1976.....	4.0
1977.....	13.6
1978.....	16.2

(4) Coal of the specific type required for use by this powerplant has been identified in the reserves of the Northern and Southern Appalachian coal supply regions, which consist of Bureau of Mines Districts 1 through 8 and 13.

(5) It is estimated that it will be practicable to produce coal from the Northern and Southern Appalachian coal supply regions as follows:

Year:	Production (million tons)
1975.....	406
1976.....	402
1977.....	407
1978.....	412

(6) The regional and national production estimates stated in items (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately 4 percent. A 1975 study by the Bureau of Mines of the Department of the Interior indicates a national surge capacity of approximately up to 6 percent. In response to an industry survey in late 1974, the coal industry itself indicated that it had a surge capacity of up to 8 percent. By comparison, the increased national demand for coal re-

sulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA, is less than one tenth of a percent in 1975, increasing to a maximum of 2.3 percent in 1978 of estimated national demand stated in item (2). A market survey of traditional coal suppliers to FEA Region 3 consumers indicates that there is ample production capability to support increased demand for coal from this region resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA.

(7) No State or local laws or policies which would limit the extraction of this coal have been found by FEA or brought to FEA's attention.

(8) The estimated demand for coal from these supply regions, excluding any increased demand resulting from FEA actions under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975.....	390
1976.....	394
1977.....	395
1978.....	398

(9) The estimated additional demand for coal from these supply regions resulting from the prohibition order to which this finding relates and from other FEA orders under section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975.....	0.4
1976.....	2.5
1977.....	10.2
1978.....	12.4

(10) On the basis of the above information, FEA proposes to find that the estimated production of coal of the specific type required for use by this powerplant exceeds the estimated demand for such coal by amounts adequate to support a conclusion that such coal will be available to these powerplants during the period until December 31, 1978.

(B) (1) Adequate rail facilities exist between these coal supply regions and the powerplant to transport the coal that will be used by such powerplant pursuant to this order.

(2) There is a spur line which will be able to deliver this coal from the main rail line to these powerplants.

(3) Sufficient rolling stock will be available to the Penn Central, Pittsburgh & Shawmut R.R.; Lake Erie, Franklin, Clarion R.R., and Western Maryland Railway for transporting this coal during the period until December 31, 1978.

(iv) The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplant. Based on an analysis of the information submitted to or otherwise available to FEA, and after consultation with the Federal Power Commission, FEA proposes to find that the prohibition of the Morgantown Units #1 and #2 powerplants of the Potomac Electric Power Co. from burning natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by such powerplants. This proposed finding is based on the facts, assumptions, and interpretations stated below:

(A) (1) The subject powerplants are part of the Pennsylvania-New Jersey-Maryland (PJM) power dispatching system and in the geographical area of the Mid-Atlantic Area Council (MAAC). The reserve capacity of the interconnected systems will provide emergency resource of electric power and enhance the reliability of service.

(2) The subject powerplants now use coal on a regular basis. The powerplants can use,

and have used, coal as the primary energy source.

(3) The powerplants have used coal and oil in combination in various proportions up to 85 percent oil.

(4) No reconversion or outage time for reconversion is necessary.

(B) For the reasons set forth above, the FEA finds that the burning of coal by Morgantown Units #1 and #2 powerplants, in lieu of petroleum products or natural gas will not result in the impairment of the "reliability of service in the area served" within the meaning of ESECA and the regulation promulgated pursuant thereto.

2. OFU-028, 029, 030, 031 VIRGINIA ELECTRIC POWER COMPANY, POWERPLANTS 3, 4, 5, AND 6, GENERATING STATION—CHESTERFIELD, CHESTER, VIRGINIA.

(a) Proposed findings and rationale for findings.

1. Capability and necessary plant equipment to burn coal. Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that on June 22, 1974, these powerplants had the capability and necessary plant equipment to burn coal. This proposed finding is based on facts, interpretations and assumptions stated below:

(A) These powerplants had in place, on June 22, 1974, a boiler that was capable of burning coal, in that such boiler had been designed and constructed, or had been modified to enable it to burn coal as its primary energy source, or to burn coal and another fossil fuel interchangeably as its primary energy source, notwithstanding the fact that on June 22, 1974, such powerplant may not have been burning coal as its primary energy source.

(B) Based on information filed with FEA on March 14, 1975 by The Virginia Electric and Power Company, the following significant equipment or facilities would have to be acquired or substantially refurbished:

1. Boiler.  
a. Burner corner repair (buckets, dampers).  
b. Relocation of side ignitors and oil guns.  
c. Recalibration and modification of boiler controls.  
d. Removal of refractory from furnace walls.

e. Repair of IR-soot blowers.  
f. Change-out water wall orifices in lower drums.

g. Installation of preheater elements.  
h. Remove air bypass arrangement in air system.

1. Repairs to electrostatic precipitators;  
2. Coal handling system.

a. Inspection and repair of coal feeders and mills.  
b. Repair coal burner piping;

3. Ash handling system.  
a. Replace dry fly ash handling system,  
b. Repair pyrite handling system,  
c. Ash pond needed in 3 to 5 years;

4. Coal storage equipment.  
a. Repair railroad tracks,  
b. Overhaul coal crusher,

c. Repair car dumper and coal feeders,  
d. Repair tractor and locomotive,  
e. Replace "F&H" conveyor belts,

f. Inspect and calibrate scales.

FEA assumes that on June 22, 1974, these powerplants had all other significant equipment and facilities associated with the burning of coal.

(C) Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph (b) do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

(1) Burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.



Based on an analysis of the information submitted or otherwise available to FEA, FEA proposes to find that the burning of coal by Powerplants #3, 4, 5, 6 at the Chesterfield Generating Station, #1, 2 at the Yorktown Generating Station, #1, 2, 3, 4 at the Portsmouth Generating Station, in lieu of petroleum products or natural gas, is practicable and consistent with the purposes of ESECA. This proposed finding is based on the facts, interpretations and assumptions stated below.

(A) (1) *Revenue requirements.* (a) The investment costs that result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal by the above listed powerplants are estimated to be approximately \$48,378,000. This estimate is based on existing FEA information and on information filed with the FEA by the powerplants concerning items of equipment and facilities that would have to be acquired or refurbished and the costs of such acquisition or refurbishment.

(1) Costs of acquisition or refurbishing equipment are allocated as follows:

(A) \$47,520,000 to comply with air pollution control requirements of the Clean Air Act.

(B) \$858,000 to make those technical plant and equipment adjustments associated with the burning of coal, as well as to comply with environmental requirements other than those imposed by the Clean Air Act.

(b) The increase in operating costs other than fuel costs that result from the burning of coal are estimated to be approximately \$1,452,000 per year.

(c) (1) The price of petroleum products available to the powerplant is approximately 1.80 cents to 1.90 cents per million Btus. The price of coal of the type used by the above listed powerplants is approximately 1.55 cents to 1.65 cents per million Btus. The burning of coal by the above listed powerplants will result in a reduction of .15 cents to .35 cents per million Btus or \$18 million to \$42 million per year.

(2) The Virginia Public Utility Commission permits the inclusion of increased fuel costs in the rate base through a fuel adjustment clause and, if there is a decrease in the cost of fuel as a result of burning coal, there will be a decrease in such rate base.

(d) The total annual incremental increase in revenue requirements resulting from costs associated with burning coal as opposed to oil is \$13,557,000.

(2) *Financial capabilities.* (a) Based on the most recent financial statements and capital expenditure programs of Virginia Electric Power Company, as well as other information available to FEA, FEA proposes to find that the prohibition orders for the above listed powerplants is practicable. This financial assessment included an evaluation of generally accepted financial ratios; effects on capitalization as a result of the costs of burning of coal; impact on current and future construction programs; and possible impacts on rates. This assessment incorporated, but was not limited to, consideration of: the \$48 million investment requirement (or 1.5 percent) in relation to net property and plant of the company of \$3,194 million and 1975-1977 construction budget estimate of the company of \$2.7 billion (or 1.8 percent); the total capitalization of the company of \$3,003 billion; the change in 1974 to 1975 construction budgets of \$395 million to \$1 billion and the 20 years remaining useful life of the plants. These assessments, the above findings, and other evaluations of the general financial health of the company were the basis of this finding.

(B) Because this prohibition order will discourage the use of natural gas or petroleum

products and encourage the increased use of coal, FEA proposes to find that its issuance would be consistent with the purpose of ESECA "to provide a means to assist in meeting the essential needs of the United States for fuels." Further, on the basis of the environmental analyses conducted by FEA, the analyses of air quality impacts which EPA is required to conduct prior to effectiveness of a prohibition order, as well as the necessity for the powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to find that the prohibition order is also consistent with the purpose of ESECA to provide for a means to meet the Nation's essential fuel needs "in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment."

(3) *Coal and coal transportation facilities* will be available during the period the prohibition order is in effect. Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1978. The period until December 31, 1978 is the period during all or part of which the prohibition order to which these findings relate will be in effect. This proposed finding is based upon the following facts, interpretations, and assumptions:

(A) (1) It is estimated that it will be practicable to produce coal nationally as follows:

Year:	Production (million tons)
1975	662
1976	679
1977	707
1978	735

(2) The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	640
1976	664
1977	688
1978	716

(3) The estimated additional national demand for coal resulting from the prohibition order to which this finding relates, and from FEA actions under authority of section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	0.7
1976	4.0
1977	13.6
1978	18.2

(4) Coal of the specific type required for use by this powerplant has been identified in the reserves of the Northern and Southern Appalachian Coal supply regions, which consist of Bureau of Mines Districts 1 through 8 and 13.

(5) It is estimated that it will be practicable to produce coal from the Northern and Southern Appalachian coal supply regions as follows:

Year:	Production (million tons)
1975	406
1976	402
1977	407
1978	412

(6) The regional and national production estimates stated in items (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately

4 percent. A 1975 study by the Bureau of Mines of the Department of the Interior indicates a national surge capacity of approximately up to 6 percent. In response to an industry survey in late 1974, the coal industry itself indicated that it had a surge capacity of up to 8 percent. By comparison, the increased national demand for coal resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA, is less than one tenth of a percent in 1975, increasing to a maximum of 2.3 percent in 1978 of estimated national demand stated in item (2). A market survey of traditional coal suppliers to FEA Region 3 consumers indicates that there is ample production capability to support increased demand for coal from this region resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA.

(7) No State or local laws or policies which would limit the extraction of this coal have been found by FEA or brought to FEA's attention.

(8) The estimated demand for coal from these supply regions, excluding any increased demand resulting from FEA actions under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	390
1976	394
1977	395
1978	398

(9) The estimated additional demand for coal from these supply regions resulting from the prohibition order to which this finding relates and from other FEA orders under section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	0.4
1976	2.5
1977	10.2
1978	12.4

(10) On the basis of the above information, FEA proposes to find that the estimated production of coal of the specific type required for use by this powerplant exceeds the estimated demand for such coal by amounts adequate to support a conclusion that such coal will be available to these powerplants during the period until December 31, 1978.

(B) (1) Adequate rail facilities exist between these coal supply regions and the powerplant to transport the coal that will be used by such powerplant pursuant to this order.

(2) There is a spur line which will be able to deliver this coal from the main rail line to these powerplants.

(3) Sufficient rolling stock will be available to the Seaboard Coast Line R.R.; Southern R.R.; Norfolk & Western R.R.; or Louisville & Nashville R.R.; for transporting this coal during the period until December 31, 1978.

(4) The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplants. Based on an analysis of the information submitted to or otherwise available to FEA, and after consultation with the Federal Power Commission, FEA proposes to find that the prohibition of the Chesterfield Units #3, #4, #5 and #6 powerplants of the Virginia Electric Power Company from burning natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by such powerplants. This finding is based on the facts, assumptions, and interpretations stated below.

(A) (1) *Interconnections and power dispatching.* (a) The Chesterfield Units are within the geographical area of Southeastern Electric Reliability Council (SERC) regional electric reliability council.

(b) They are interconnected with and their operations and planning are coordinated with the VACAR subregion of SERC.

(c) Dispatching of electric power is controlled by Virginia Electric Power Company.

(d) "Dispatching system" as used in this finding means Virginia Electric Power Company.

(2) *Forecast peak loads.* (a) Forecast for peak loads for the dispatching system during the year in which the Virginia Electric Power Company is expected to be implementing the herein prohibition order is as follows:

Summer Load Period (June-Aug.) 1976, Peak 7920 MWe, July; Fall Load Period (Sept.-Nov.) 1976 Peak 7500 MWe, Sept.;

Powerplant designations	Fuel	Type of change	Capacity change (megawatts)	Status and effective date
Possum Point Unit No. 5	Residual oil	Addition	+845	Under construction. Commencement of commercial operation July 1975.
Reeves Avenue	No. 2 oil	Retirement	-95	Dec. 31, 1975.
12th St.	do.	do.	-80	Do.

(4) *Scheduled outages.* (a) A scheduled outage of 3 weeks for Unit #3, 4 weeks for Unit #4, 5 weeks for Unit #5, and 5 weeks for Unit #6 is estimated to be required to make any modification, installation, or other physical adjustment associated with cessation of the burning of natural gas or petroleum products as the powerplants' primary energy source. Immediately following modification during on-line testing and adjustment, the powerplants will be less than fully dependable. This period should not exceed 30 days.

Modifications are forecast to commence approximately October 1, 1976 and to be completed and fully tested by May 1, 1977.

(b) Planned maintenance of other powerplants and nuclear plant refueling during the period the powerplant will be implementing the herein prohibition order within the dispatching system are numerous. An average of 700 MWe of loss capability during the fall and spring periods and 1400 MWe during the winter period is forecast.

(5) *Net dependable capacity.* The forecast net dependable capacity for the dispatching system during the period (shown as quarter years) in which the powerplants are expected to be implementing the herein prohibition order and the next quarter following is: Fall 1976, 9004 MWe; Winter 1976-77, 9004 MWe; Spring 1977, 9004 MWe.

(6) *Gross reserve margin-dispatching system.*

(a) The expected minimum gross reserve margin (difference between net system capability and peak load in percent of peak load) of the dispatching system for the load periods specified are as follows: Fall 1976, 20.1%; Winter 1976-77, 40.5%; Spring 1977, 70.5%.

(b) After deducting the net capacity of units scheduled for maintenance or refueling during these same load periods. The expected minimum reserve margins are: Fall 1976, 10.7%; Winter 1976-77, 18.6%; Spring 1977, 57.3%.

(7) *Derating.* There will be no derating of the powerplants when using coal as the primary energy sources.

(8) *System stability.* Available information regarding system stability for the dispatching system has been evaluated for each of the load periods stated in paragraph (5) and the issuance of prohibition order to the powerplants will not cause a significant system stability problem.

Winter Load Period (Dec.-Feb.) 1976-77, Peak 6410 MWe, Jan.; Spring Load Period (March-May) 1977, Peak 5280 MWe, May.

(b) The peak loads forecast have been compared with the peak loads in previous similar periods and the compound load growth rate for these forecasts is 5.6 percent, which is considered reasonable.

(3) *Capacity.* (a) The present net dependable capacity of all powerplants of the dispatching system that now are engaged in the sale or exchange of electric power is 8340 MWe.

(b) Additions, retirements, and powerplants reratings during the period in which Virginia Electric Power Company will be implementing the herein prohibition order, as listed below, will cause the following changes in net dependable capacity of such dispatching system:

Powerplant designations	Fuel	Type of change	Capacity change (megawatts)	Status and effective date
Possum Point Unit No. 5	Residual oil	Addition	+845	Under construction. Commencement of commercial operation July 1975.
Reeves Avenue	No. 2 oil	Retirement	-95	Dec. 31, 1975.
12th St.	do.	do.	-80	Do.

(B) *Reliability of service.* (1) The estimated gross reserve margin of the dispatching system during the implementation period associated with the commencement the burning of coal as a primary energy source is forecast to range between 10.7 percent and 57.3 percent, depending upon the date of the period of powerplant outage. By scheduling the implementation period during the fall of 1976 through spring 1977 load period, the estimated gross dispatching system's reserve margin will be above 10.7 percent, and the Federal Power Commission considers this to be an acceptable reserve margin.

(2) If dispatching system conditions at the time of the implementation period are as presently forecast by FEA in this finding, there will be no impairment of reliability of service, within the meaning of ESECA and the regulations promulgated thereunder, in the area served by Virginia Electric Power Company.

(3) Existing transmission system interconnections with other utilities are presently scheduled to transfer approximately 300 megawatts out of the dispatching system; with the capacity to transfer approximately 1800 additional megawatts of power into the dispatching system. This capacity will provide emergency resource of electric power during the implementation period and will enhance the reliability of service.

3. OPF-032, 033, VIRGINIA ELECTRIC POWER COMPANY, POWERPLANTS 1 AND 2, GENERATING STATION—YORKTOWN, YORKTOWN, VIRGINIA

(a) *Proposed findings and rationale for findings.*

1. *Capability and necessary plant equipment finding.* Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that on June 22, 1975 these powerplants had the capability and necessary plant equipment to burn coal. This proposed finding is based on facts, interpretations and assumptions stated below:

(A) These powerplants had in place, on June 22, 1974, a boiler that was capable of burning coal, in that such boiler had been designed and constructed, or had been modified to enable it to burn coal as its primary energy source, or to burn coal and another fossil fuel interchangeably as its primary energy source, notwithstanding the fact that on June 22, 1974, such powerplant may not

have been burning coal as its primary energy source.

(B) Based on information filed with FEA on March 14, 1975 by The Virginia Electric and Power Company, the following significant equipment or facilities would have to be acquired or substantially refurbished:

1. Boiler.
- a. Burner corner repairs (buckets, dampers).
- b. Relocation of side igniters and oil guns.
- c. Removal of burner shrouds.
- d. Installation of coal piping.
- e. Recalibration of boiler controls.
- f. Removal of refractory from furnace walls.
2. Coal handling system.
- a. Inspection and repair of coal feeders and mills.
3. Ash handling system.
- a. Repair dry fly ash handling system.
- b. Obtain ash hauling contractor.
- c. Increase size of ash pond.
4. Coal storage equipment.
- a. Repair tractors.
- b. Repair locomotive.
- c. Repairs to car shaker, conveyor, and crusher.
- d. Replace "E" Conveyor Belt.

FEA assumes that on June 22, 1974, these powerplants had all other significant equipment and facilities associated with the burning of coal.

(C) Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph (b) do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

(1) *Burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that the burning of coal by Powerplants # 3,4,5,6 at the Chesterfield Generating Station, #1,2 at the Yorktown Generating Station, #1,2,3,4 at the Portsmouth Generating Station, in lieu of petroleum products or natural gas, is practicable and consistent with the purposes of ESECA. This proposed finding is based on the facts, interpretations and assumptions stated below.

(A) (1) *Revenue requirements.* (a) The investment costs that result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal by the above listed powerplants are estimated to be approximately \$48,378,000. This estimate is based on existing FEA information and on information filed with the FEA by the powerplants concerning items of equipment and facilities that would have to be acquired or refurbished and the costs of such acquisition or refurbishment.

(1) Costs of acquisition or refurbishing equipment are allocated as follows:

(A) \$47,520,000 to comply with air pollution control requirements of the Clean Air Act.

(B) \$858,000 to make those technical plant and equipment adjustments associated with the burning of coal, as well as to comply with environmental requirements other than those imposed by the Clean Air Act.

(b) The increase in operating costs other than fuel costs that result from the burning of coal are estimated to be approximately \$1,452,000 per year.

(c) (1) The price of petroleum products available to the powerplant is approximately 1.80 cents to 1.90 cents per million Btus. The price of coal of the type used by the above listed powerplants is approximately 1.55 cents to 1.65 cents per million Btus. The burning of coal by the above



listed powerplants will result in a reduction of .15 cents to .35 cents per million Btus or \$18 million to 42 million per year.

(11) The Virginia Public Utility Commission permits the inclusion of increased fuel costs in the rate base through a fuel adjustment clause and, if there is a decrease in the cost of fuel as a result of burning coal, there will be a decrease in such rate base.

(d) The total annual incremental increase in revenue requirements resulting from costs associated with burning coal as opposed to oil is \$13,557,000.

(2) *Financial capabilities.* (a) Based on the most recent financial statements and capital expenditure programs of Virginia Electric Power Company, as well as other information available to FEA, FEA proposes to find that the prohibition orders for the above listed powerplants is practicable. This financial assessment included an evaluation of generally accepted financial ratios; effects on capitalization as a result of the costs of burning of coal; impact on current and future construction programs; and possible impacts on rates. This assessment incorporated, but was not limited to, consideration of: the \$48 million investment requirement (or 1.5 percent) in relation to net property and plant of the company of \$3.194 billion and 1975-1977 construction budget estimate of the company of \$2.7 billion (or 1.8 percent); the total capitalization of the company of \$3.003 billion; the change in 1974 to 1975 construction budgets of 395 million to 1 billion and the 20 years remaining useful life of the plants. These assessments, the above findings, and other evaluations of the general financial health of the company were the basis of this finding.

(B) Because this prohibition order will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to find that its issuance would be consistent with the purpose of ESECA "to provide a means to assist in meeting the essential needs of the United States for fuels." Further, on the basis of the environmental analyses conducted by FEA, the analyses of air quality impacts which EPA is required to conduct prior to effectiveness of a prohibition order, as well as the necessity for the powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to find that the prohibition order is also consistent with the purpose of ESECA to provide for a means to meet the Nation's essential fuel needs "in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment."

(11) *Coal and coal transportation facilities will be available during the period the prohibition order is in effect.* Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1978. The period until December 31, 1978 is the period during all or part of which the prohibition order to which these findings relate will be in effect. This proposed finding is based upon the following facts, interpretations, and assumptions:

(A) (1) It is estimated that it will be practicable to produce coal nationally as follows:

Year:	Production (million tons)
1975	662
1976	679
1977	707
1978	735

(2) The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	640
1976	664
1977	688
1978	716

(3) The estimated additional national demand for coal resulting from the prohibition order to which this finding relates, and from FEA actions under authority of section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	0.7
1976	4.0
1977	13.6
1978	16.2

(4) Coal of the specific type required for use by this powerplant has been identified in the reserves of the Northern and Southern Appalachian Coal supply regions, which consist of Bureau of Mines Districts 1 through 8 and 13.

(5) It is estimated that it will be practicable to produce coal from the Northern and Southern Appalachian coal supply regions as follows:

Year:	Production (million tons)
1975	406
1976	402
1977	407
1978	412

(6) The regional and national production estimates stated in items (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately 4 percent. A 1975 study by the Bureau of Mines of the Department of the Interior indicates a national surge capacity of approximately up to 6 percent. In response to an industry survey in late 1974, the coal industry itself indicated that it had a surge capacity of up to 8 percent. By comparison, the increased national demand for coal resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA, is less than one tenth of a percent in 1975, increasing to a maximum of 2.3 percent in 1978 of estimated national demand stated in item (2). A market survey of traditional coal suppliers to FEA Region 3 consumers indicates that there is ample production capability to support increased demand for coal from this region resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA.

(7) No State or local laws or policies which would limit the extraction of this coal have been found by FEA or brought to FEA's attention.

(8) The estimated demand for coal from these supply regions, excluding any increased demand resulting from FEA actions under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	390
1976	394
1977	395
1978	398

(9) The estimated additional demand for coal from these supply regions resulting from the prohibition order to which this finding relates and from other FEA orders under section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	0.4
1976	2.5
1977	10.2
1978	12.4

(10) On the basis of the above information, FEA proposes to find that the estimated production of coal of the specific type required for use by this powerplant exceeds the estimated demand for such coal by amounts adequate to support a conclusion that such coal will be available to these powerplants during the period until December 31, 1978.

(B) (1) Adequate rail facilities exist, between these coal supply regions and the powerplant to transport the coal that will be used by such powerplant pursuant to this order.

(2) There is a spur line which will be able to deliver this coal from the main rail line to these powerplants.

(3) Sufficient rolling stock will be available to the Chesapeake & Ohio Railway for transporting this coal during the period until December 31, 1978.

(iv) The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplants. Based on an analysis of the information submitted to or otherwise available to FEA, and after consultation with the Federal Power Commission, FEA proposes to find that the prohibition of the Yorktown Units #1 and #2 powerplants of the Virginia Electric Power Company from burning natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by such powerplants. This proposed finding is based on the facts, assumptions, and interpretations stated below:

(A) (1) *Interconnections and power dispatching.* (a) The Yorktown Units are within the geographical area of the Southeastern Electric Reliability Council (SERC) regional electric reliability council.

(b) It is interconnected with and its operations and planning are coordinated with the other members of the VACAR subregion of SERC. Agreements among the VACAR companies include scheduled outage coordination and reserve assistance. The Virginia Electric Power Company is also interconnected with utilities that are members of either the PJM Power Pool or the East Central Area Reliability Council.

(c) Dispatching of electric power within the VEPCO service area is controlled by Virginia Electric Power Company.

(d) "Dispatching system" as used in this finding means Virginia Electric Power Company.

(2) *Forecast peak loads.* (a) Forecast of peak loads for the dispatching system during the year in which the Yorktown Units are expected to be implementing the herein prohibition order is as follows:

Summer Load Period (June-Aug.) 1975. Peak 7500 MWe, July; Fall Load Period (Sept.-Nov.) 1975, Peak 7100 MWe, Sept.; Winter Load Period (Dec.-Feb.) 1975-76 Peak 6070 MWe, Jan.; Spring Load Period (March-May) 1976, Peak 5000 MWe, May.

(b) The peak loads forecast have been compared with peak loads in previous similar periods and the compound load growth rate for these forecast is 5.6 percent, which is considered reasonable.

(3) *Capacity.* (a) The present net dependable capacity of all powerplants of the

dispatching system that now are engaged in the sale or exchange of electric power is 8340 MWe.

(b) Additions, retirements, and powerplant reratings during the period in which

Powerplant designation	Fuel	Type of change	Capacity change (megawatts)	Status and effective date
Possum Point unit No. 5	Residual oil	Addition	+845	Under construction. Planned in-service date is July 1975.
Reeves Avenue No. 2 oil		Retirement	-95	Dec. 31, 1975.
12th St. do		do	-86	Do.

(4) *Scheduled outages.* (a) A scheduled outage of 4 weeks for Unit #1 and 3 weeks for Unit #2 is estimated to be required to make any modification, installation, or other physical adjustment associated with cessation of the burning of natural gas or petroleum products as the powerplants' primary energy source. Immediately following modification during on-line testing and adjustment, the powerplants will be less than fully dependable. This period should not exceed 30 days.

Modifications are forecast to commence approximately October 1, 1975, and to be complete and fully tested by February 1, 1976.

(b) Planned maintenance of other powerplants and nuclear plant refueling during the period the powerplants will be implementing the herein prohibition order will cause the dispatching system to average 700 megawatts of lost capability during the fall load period and 1400 megawatts during the winter load period.

(5) *Net dependable capacity.* The forecast net dependable capacity for the dispatching system during the period (shown as quarter years) in which the powerplants are expected to be implementing the herein prohibition order and the next quarter following is: Fall 1975, 9185 MWe; Winter 1975-76, 9004 MWe.

(6) *Gross reserve margin-dispatching system.* (a) The expected minimum gross reserve margin (difference between net system capability and peak load in percent of peak load) of the dispatching system for the load periods specified are as follows: Fall 1975, 29.4 percent; Winter 1975-76, 48.3 percent.

(b) After deducting the net capacity of units scheduled for maintenance or refueling during these same load periods. The expected minimum reserve margins are: Fall 1975, 19.5 percent; Winter 1975-76, 25.2 percent.

(7) *Derating.* There will be no derating of the powerplants when using coal as their primary energy source.

(8) *System stability.* Available information regarding system stability for the dispatching system has been evaluated for each of the load periods stated in paragraph (5) and the issuance of a prohibition order to the powerplants will not cause a significant system stability problem.

(B) *Reliability of service.* (1) The estimated gross reserve margin of the dispatching system during the implementation period associated with the commencement of the burning of coal as a primary energy source is forecast to range between 19.5 percent and 25.2 percent, depending upon the date of the period of powerplant outage. By scheduling the implementation period during the fall or winter load periods, the estimated gross dispatching system's reserve margin will be above 19.5 percent, and the Federal Power Commission considers this to be an acceptable reserve margin.

(2) If dispatching system conditions at the time of the implementation period are as presently forecast by FEA in this proposed finding, there will be no impairment of reliability of service within the meaning of

the Virginia Electric Power Company will be implementing the herein prohibition order, as listed below, will cause the following changes in net dependable capacity of such dispatching system:

Powerplant designation	Fuel	Type of change	Capacity change (megawatts)	Status and effective date
Possum Point unit No. 5	Residual oil	Addition	+845	Under construction. Planned in-service date is July 1975.
Reeves Avenue No. 2 oil		Retirement	-95	Dec. 31, 1975.
12th St. do		do	-86	Do.

ESECA and the regulations promulgated thereunder, in the area served by Virginia Electric Power Company.

(3) Existing transmission system interconnections with other utilities are presently scheduled to transfer approximately 300 megawatts, out of the dispatching system; however, the capacity to transfer approximately 1800 megawatts of power into the dispatching system exists. This capacity will provide emergency resource of electric power during the implementation period and will enhance the reliability of service.

4. OFU-034 035, 036, 037, VIRGINIA ELECTRIC POWER COMPANY, POWERPLANTS 1, 2, 3 AND 4, GENERATING STATION — PORTSMOUTH, CHESAPEAKE, VIRGINIA.

(a) *Proposed findings and rationale for findings.*

1. *Capability and necessary plant equipment finding.* Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that on June 22, 1974, these powerplants had the capability and necessary plant equipment to burn coal. This proposed finding is based on facts, interpretations and assumptions stated below:

(A) These powerplants had in place, on June 22, 1974, a boiler that was capable of burning coal, in that such boiler had been designed and constructed, or had been modified to enable it to burn coal as its primary energy source, or to burn coal and another fossil fuel interchangeably as its primary energy source, notwithstanding the fact that on June 22, 1974, such powerplant may not have been burning coal as its primary energy source.

(B) Based on information filed with FEA on March 14, 1975, by The Virginia Electric and Power Company, the following significant equipment or facilities would have to be acquired or substantially refurbished:

- Boiler.
- Boiler corner repair (buckets, dampers).
- Relocation of side igniters and oil guns.
- Recalibration of boiler controls.
- Repair of IR-soot blowers.
- Ash pit repairs.
- Install wear plates on I.D. fan blades.
- Removal of refractory from furnace walls.
- Change-out of orifices in lower drums.
- Repair preheaters.
- Replace mechanical collector cones.
- Repairs to electrostatic precipitator (Unit No. 4);
- Coal handling system.
- Inspection and repair of coal feeders and mills.
- Repair to coal burner piping;
- Ash handling system.
- Reinstall dry fly ash system;
- Coal storage equipment.
- Replace "D" Conveyor Belt.
- Repair railroad tracks and switches.
- Obtain locomotive and tractor.
- Replace stock-out boom conveyor belt.

FEA assumes that on June 22, 1974, these powerplants had all other significant equip-

ment and facilities associated with the burning of coal.

(C) Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph (b) do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

(11) *Burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that the burning of coal by Powerplants # 3,4,5,6 at the Chesterfield Generating Station, #1,2 at the Yorktown Generating Station, #1,2,3,4 at the Portsmouth Generating Station, in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This proposed finding is based on the facts, interpretations and assumptions stated below.

(A) (1) *Revenue requirements.* (a) The investment costs that result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal by the above listed powerplants are estimated to be approximately \$48,376,000. This estimate is based on existing FEA information and on information filed with the FEA by the powerplants concerning items of equipment and facilities that would have to be acquired or refurbished and the costs of such acquisition or refurbishment.

(1) Costs of acquisition or refurbishing equipment are allocated as follows:

(A) \$47,520,000 to comply with air pollution control requirements of the Clean Air Act.

(B) \$858,000 to make those technical plant and equipment adjustments associated with the burning of coal, as well as to comply with environmental requirements other than those imposed by the Clean Air Act.

(b) The increase in operating costs other than fuel costs that result from the burning of coal are estimated to be approximately \$1,452,000 per year.

(c) (1) The price of petroleum products available to the powerplant is approximately 1.80 cents to 1.90 cents per million Btus. The price of coal of the type used by the above listed powerplants is approximately 1.55 cents to 1.65 cents per million Btus. The burning of coal by the above listed powerplants will result in a reduction of .15 cents to .35 cents per million Btus or \$18 million to 42 million per year.

(11) The Virginia Public Utility Commission permits the inclusion of increased fuel costs in the rate base through a fuel adjustment clause and, if there is a decrease in the cost of fuel as a result of burning coal, there will be a decrease in such rate base.

(d) The total annual incremental increase in revenue requirements resulting from costs associated with burning coal as opposed to oil is \$13,557,000.

(2) *Financial capabilities.* (a) Based on the most recent financial statements and capital expenditure programs of Virginia Electric Power Company, as well as other information available to it, FEA proposes to find that the prohibition orders for the above listed powerplants is practicable. This financial assessment included an evaluation of generally accepted financial ratios; effects on capitalization as a result of the costs of burning of coal; impact on current and future construction programs; and possible impacts on rates. This assessment incorporated, but was not limited to, consideration of: the \$48 million investment requirement (or 1.5 percent) in relation to net property and plant of the company of \$3.194 billion and 1975-1977 construction budget estimate of the



company of \$2.7 billion (or 1.8 percent); the total capitalization of the company of \$3.003 billion; the change in 1974 to 1975 construction budgets of 395 million to 1 billion and the 20 years remaining useful life of the plants. These assessments, the above findings, and other evaluations of the general financial health of the company were the basis of this finding.

(B) Because this prohibition order will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to find that its issuance would be consistent with the purpose of ESECA "to provide a means to assist in meeting the essential needs of the United States for fuels." Further, on the basis of the environmental analyses conducted by FEA, the analyses of air quality impacts which EPA is required to conduct prior to effectiveness of a prohibition order, as well as the necessity for the powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to find that the prohibition order is also consistent with the purpose of ESECA to provide for a means to meet the Nation's essential fuel needs. "In a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment."

(iii) Coal and coal transportation facilities will be available during the period the prohibition order is in effect. Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1978. The period until December 31, 1978 is the period during all or part of which the prohibition order to which these findings relate will be in effect. This proposed finding is based upon the following facts, interpretations, and assumptions:

(A) (1) It is estimated that it will be practicable to produce coal nationally as follows:

Year:	Production (million tons)
1975	662
1976	679
1977	707
1978	735

(2) The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	640
1976	664
1977	688
1978	716

(3) The estimated additional national demand for coal resulting from the prohibition order to which this finding relates, and from FEA actions under authority of section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	0.7
1976	4.0
1977	13.6
1978	16.2

(4) Coal of the specific type required for use by this powerplant has been identified in the reserves of the Northern and South-

ern Appalachian Coal supply regions, which consist of Bureau of Mines Districts 1 through 8 and 13.

(5) It is estimated that it will be practicable to produce coal from the Northern and Southern Appalachian coal supply regions as follows:

Year:	Production (million tons)
1975	406
1976	402
1977	407
1978	412

(6) The regional and national production estimates stated in items (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately 4 percent. A 1975 study by the Bureau of Mines of the Department of the Interior indicates a national surge capacity of approximately up to 6 percent. In response to an industry survey in late 1974, the coal industry itself indicated that it had a surge capacity of up to 8 percent. By comparison, the increased national demand for coal resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA, is less than one tenth of a percent in 1975, increasing to a maximum of 2.3 percent in 1978 of estimated national demand stated in item (2). A market survey of traditional coal suppliers to FEA Region 3 consumers indicates that there is ample production capability to support increased demand for coal from this region resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA.

(7) No State or local laws or policies which would limit the extraction of this coal have been found by FEA or brought to FEA's attention.

(8) The estimated demand for coal from these supply regions, excluding any increased demand resulting from FEA actions under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	390
1976	394
1977	395
1978	398

(9) The estimated additional demand for coal from these supply regions resulting from the prohibition order to which this finding relates and from other FEA orders under section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	0.4
1976	2.5
1977	10.2
1978	12.4

(10) On the basis of the above information, FEA proposes to find that the estimated production of coal of the specific type required for use by this powerplant exceeds the estimated demand for such coal by amounts adequate to support a conclusion that such coal will be available to these powerplants during the period until December 31, 1978.

(B) (1) Adequate rail facilities exist between these coal supply regions and the

powerplant to transport the coal that will be used by such powerplant pursuant to this order.

(2) There is a spur line which will be able to deliver this coal from the main rail line to these powerplants.

(3) Sufficient rolling stock will be available to the Norfolk & Western R. R. for transporting this coal during the period until December 31, 1978.

(iv) The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplants. Based on an analysis of the information submitted to or otherwise available to FEA, and after consultation with the Federal Power Commission, FEA proposes to find that the prohibition of the Portsmouth Units No. 1, No. 2, No. 3, and No. 4 powerplants of the Virginia Electric Power Company from burning natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by such powerplants. This proposed finding is based on the facts, assumptions, and interpretations stated below:

(A) (1) Interconnections and power dispatching.

(a) The Portsmouth Units are within the geographical area of the Southeastern Electric Reliability Council (SERC) regional electric reliability council.

(b) It is interconnected with and its operations and planning are coordinated with the other members of the VACAR Subregion of SERC. Agreements among the VACAR companies include scheduled outage coordination and reserve assistance. The Virginia Electric Power Company is also interconnected with utilities that are members of either the PJM Power Pool or the East Central Area Reliability Council.

(c) Dispatching of electric power within the Virginia Electric Power Company service area is controlled by Virginia Electric Power Company.

(d) "Dispatching system" as used in this finding means Virginia Electric Power Company.

(2) Forecast peak loads. (a) Forecast peak loads for the dispatching system during the year in which the Portsmouth Units are expected to be implementing the herein prohibition order is as follows:

Year:	Peak Load (MW)
1975	7500
1976	7100
1977	6070
1978	5000

(b) The peak loads forecast have been compared with peak loads in previous similar periods and the compound load growth rate for these forecasts is 5.6 percent, which is considered reasonable.

(3) Capacity. (a) The present net dependable capacity of all powerplants of the dispatching system that now are engaged in the sale or exchange of electric power is 8340 MWe.

(b) Additions, retirements, and powerplant ratings during the period in which the Virginia Electric Power Company will be implementing the herein prohibition order, as listed below, will cause the following changes in net dependable capacity of such dispatching system:

Powerplant designation	Fuel	Type of change	Capacity change (megawatts)	Status and effective date
Possum Point unit No. 5	Residual oil	Addition	+845	Under construction. Planned in-service date is July 1975.
Reeves Ave. 12th St.	No. 2 oil	Retirement	-95	Dec. 31, 1975.
	do.	do.	-88	Do.

(4) Scheduled outages. (a) A scheduled outage of 3 weeks for Unit #1, 3 weeks for Unit #2, 3 weeks for Unit #3, and 4 weeks for Unit #4 is estimated to be required to make any modification, installation, or other physical adjustment associated with cessation of the burning of natural gas or petroleum products as the powerplants' primary energy source. Immediately following modification during on-line testing and adjustment, the powerplants will be less than fully dependable. This period should not exceed 30 days for each unit.

Modifications are forecast to commence approximately November 1, 1975, and to be complete and fully tested by April 1, 1976.

(b) Planned maintenance of other powerplants rated 100 MWe or higher and nuclear plant refueling during the period the prohibition order will be implementing the herein prohibition order will cause the dispatching system to average 700 megawatts of lost capability during the fall load period and 1400 megawatts during the winter load period.

(5) Net dependable capacity. The forecast net dependable capacity for the dispatching system during the period (shown as quarter years) in which the powerplants are expected to be implementing the herein prohibition order and the next quarter following is: Fall 1975, 9185 MWe; Winter 1975-76, 9004 MWe.

(6) Gross reserve margin-dispatching system. (a) The expected minimum gross reserve margin (difference between net system capability and peak load in percent of peak load) of the dispatching system for the load periods specified are as follows: Fall 1975, 29.4 percent; Winter 1975-76, 48.3 percent.

(b) After deducting the net capacity of units scheduled for maintenance or refueling during these same load periods, The expected minimum reserve margins are: Fall 1975, 17.0 percent; Winter 1975-76, 25.2 percent.

(7) Derating. There will be no derating of the powerplants when using coal as the primary energy source.

(8) System stability. Available information regarding system stability for the dispatching system has been evaluated for each of the load periods stated in paragraph (5) and the issuance of a prohibition order to the powerplants will not cause a significant system stability problem.

(B) Reliability of service. (1) The estimated gross reserve margin of the dispatching system during the implementation period associated with the commencement of the burning of coal as a primary energy source is forecast to range between 17.0 percent and 25.2 percent, depending upon the date of the period of powerplant outage. By scheduling the implementation period during the fall and winter load periods the estimated gross dispatching system's reserve margin will be above 17.0 percent, and the Federal Power Commission considers this to be an acceptable reserve margin.

(2) If dispatching system conditions at the time of the implementation period are as presently forecast by FEA in this finding, there will be no impairment of reliability of service, within the meaning of ESECA and the regulations promulgated thereunder, in the area served by the Virginia Electric Power Company.

(3) Existing transmission system interconnections with other utilities are presently

scheduled to transfer approximately 300 megawatts out of the dispatching system; however, the capacity to transfer approximately 1800 megawatts of power into the dispatching system exists. This capacity will provide emergency resource of electric power during the implementation period and will enhance the reliability of service.

5. OFU-038, 039, BALTIMORE GAS AND ELECTRIC COMPANY, POWERPLANTS 1 AND 2, GENERATING STATION—CRANE, BALTIMORE, MARYLAND

(a) Proposed findings and rationale for findings.

1. Capability and necessary plant equipment finding. Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that on June 22, 1974, these powerplants had the capability and necessary plant equipment to burn coal. This proposed finding is based on facts, interpretations and assumptions stated below:

(A) These powerplants had in place, on June 22, 1974, a boiler that was capable of burning coal, in that such boiler had been designed and constructed, or had been modified to enable it to burn coal as its primary energy source, or to burn coal and another fossil fuel interchangeably as its primary energy source, notwithstanding the fact that on June 22, 1974, such powerplant may not have been burning coal as its primary energy source.

(B) Based on information filed with FEA on April 14, 1975 by The Baltimore Gas and Electric Company, the following significant equipment or facilities would have to be acquired or substantially refurbished:

1. Repairs to flyash transport system;
2. Rebuild crusher;
3. 2 Bulldozers;
4. Upgrade RR;
5. Car thaw pits;
6. New belting;
7. Boiler studding and sandblasting;
8. Boiler burner studding;
9. Sootblowing work;
10. Work on monkey coil and floor;
11. Rebuild gas recirculating fans;
12. Work on air heater;
13. Spare parts inventory;
14. Flyash bunker;
15. Ash blower;
16. Ash sluice pump.

FEA assumes that on June 22, 1974, these powerplants had all other significant equipment and facilities associated with the burning of coal.

(C) Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph (b) do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

(ii) Burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA. Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that the burning of coal by Powerplants #4, 5 at the Riverside Generating Station, #1, 2 at the Wagner Generating Station, #1, 2 at the Crane Generating Station, in lieu of petroleum products or natural gas, is practicable and consistent

with the purposes of ESECA. This proposed finding is based on the facts, interpretations and assumptions stated below.

(A) (1) Revenue requirements. (a) The investment costs that result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal by the above listed powerplants are estimated to be approximately \$19,717,000. This estimate is based on existing FEA information and on information filed with the FEA by the powerplants concerning items of equipment and facilities that would have to be acquired or refurbished and the costs of such acquisition or refurbishment.

(i) Costs of acquisition or refurbishing equipment are allocated as follows:

(A) \$18,440,000 to comply with air pollution control requirements of the Clean Air Act.

(B) \$3,277,000 to make those technical plant and equipment adjustments associated with the burning of coal, as well as to comply with environmental requirements other than those imposed by the Clean Air Act.

(b) The increase in operating costs other than fuel costs that result from the burning of coal are estimated to be approximately \$68,000 per year.

(c) (1) The price of petroleum products available to the powerplant is approximately \$2.20 to \$2.30 per million Btus. The price of coal of the type used by the above listed powerplants is approximately \$1.35 to \$1.45 per million Btus. The burning of coal by the above listed powerplants will result in a reduction of .75 cents to .95 cents per million Btus or \$30 million to \$40 million per year.

(ii) The Maryland Public Utility Commission permits the inclusion of increased fuel costs in the rate base through a fuel adjustment clause and, if there is a decrease in the cost of fuel as a result of burning coal, there will be a decrease in such rate base.

(d) The total annual incremental increase in revenue requirements resulting from costs associated with burning coal as opposed to oil is \$3,689,000.

(2) Financial capabilities. (a) Based on the most recent financial statements and capital expenditure programs of Baltimore Gas and Electric Company, as well as other information available to it, FEA proposes to find that the prohibition orders for the above listed powerplants is practicable. This financial assessment included an evaluation of generally accepted financial ratios; effects on capitalization as a result of the costs of burning of coal; impact on current and future construction programs; and possible impacts on rates. This assessment incorporated, but was not limited to, consideration of: the \$19.7 million investment requirement (or 1.0 percent) in relation to the net property and plant of the company of \$1.89 billion and 1975-1977 construction budget estimate of the company of \$350 million (or 1.9 percent); the total capitalization of the company of \$1.91 billion; the change in 1974 to estimated 1975 construction budgets of \$231 million to \$350 million; and the 15 years remaining useful life of the plants. These assessments, the above findings, and other evaluations of the general financial health of the company were the basis of this finding.

(B) Because this prohibition order will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to find that its issuance would be consistent with the purpose of ESECA "to provide a means to assist in meeting the essential needs of the United States for fuels." Further, on the basis of the environmental analyses conducted by FEA, the analyses of air quality impacts which EPA is required to conduct prior to effectiveness of a prohibition order, as well

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as the necessity for the powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to find that the prohibition order is also consistent with the purpose of ESECA to provide for a means to meet the Nation's essential fuel needs "in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment."

(iii) Coal and coal transportation facilities will be available during the period the prohibition order is in effect. Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1978. The period until December 31, 1978 is the period during all or part of which the prohibition order to which these findings relate will be in effect. This proposed finding is based upon the following facts, interpretations, and assumptions:

(A) (1) It is estimated that it will be practicable to produce coal nationally as follows:

Year:	Production (million tons)
1975	662
1976	679
1977	707
1978	735

(2) The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	640
1976	664
1977	688
1978	716

(3) The estimated additional national demand for coal resulting from the prohibition order to which this finding relates, and from FEA actions under authority of section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	0.7
1976	4.0
1977	13.6
1978	16.2

(4) Coal of the specific type required for use by this powerplant has been identified in the reserves of the Northern and Southern Appalachian Coal supply regions, which consist of Bureau of Mines Districts 1 through 8 and 13.

(5) It is estimated that it will be practicable to produce coal from the Northern and Southern Appalachian coal supply regions as follows:

Year:	Production (million tons)
1975	406
1976	402
1977	407
1978	412

(6) The regional and national production estimates stated in items (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately 4 percent. A 1975 study by the Bureau of Mines of the Department of the Interior indicates a national surge capacity of approximately up to 6 percent. In response to an industry survey in late 1974, the coal industry itself indicated that it had a surge capacity of up to 8 percent. By comparison, the increased national demand for coal resulting from the prohibition order to which this finding relates and other FEA actions

under section 2 of ESECA, is less than one-tenth of a percent in 1975, increasing to a maximum of 2.3 percent in 1978 of estimated national demand stated in item (2). A market survey of traditional coal suppliers to FEA Region 3 consumers indicates that there is ample production capability to support increased demand for coal from this region resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA.

(7) No State or local laws or policies which would limit the extraction of this coal have been found by FEA or brought to FEA's attention.

(8) The estimated demand for coal from these supply regions, excluding any increased demand resulting from FEA actions under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	390
1976	394
1977	395
1978	398

(9) The estimated additional demand for coal from these supply regions resulting from the prohibition order to which this finding relates and from other FEA orders under section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	0.4
1976	2.5
1977	10.2
1978	12.4

(10) On the basis of the above information, FEA proposes to find that the estimated production of coal of the specific type required for use by this powerplant exceeds the estimated demand for such coal by amounts adequate to support a conclusion that such coal will be available to these powerplants during the period until December 31, 1978.

(B) (1) Adequate rail facilities exist between these coal supply regions and the powerplant to transport the coal that will be used by such powerplant pursuant to this order.

(2) There is a spur line which will be able to deliver this coal from the main rail line to these powerplants.

(3) Sufficient rolling stock will be available to the Penn Central for transporting this coal during the period until December 31, 1978.

Powerplant designation	Fuel	Type of change	Capacity change (megawatts)	Status and effective date
Bergen No. 4	Light oil	Addition	+34	June 1975.
McKee Run No. 3	Oil	do.	+110	Do.
Eddystone No. 4	Oil	do.	+400	March 1976.
Eddystone No. 3	Oil	Retraining	+56	June 1976.
Bergen No. 4	Light oil	do.	+11	Do.

(4) Scheduled outages. (a) A scheduled outage of 4 weeks for each unit is estimated to be required to make any modification, installation, or other physical adjustment associated with cessation of the burning of natural gas or petroleum products as the powerplants' primary energy source. Immediately following modification during on-line testing and adjustment, the powerplants will be less than fully dependable. This period should not exceed 30 days. Modifications are forecast to commence approximately March 15, 1976 and to be completed and fully tested by July 15, 1976.

(b) Planned maintenance of other powerplants rated 100 MWe or higher and nuclear plant refueling during the period the power-

(iv) The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplant. Based on an analysis of the information submitted to or otherwise available to FEA, and after consultation with Federal Power Commission, FEA proposes to find that the prohibition of the Crane Units #1 and #2 powerplants of Baltimore Gas and Electric Company (BG&E) from burning natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by such powerplants. This proposed finding is based on the facts, assumptions, and interpretation stated below:

(A) (1) Interconnections and power dispatching. (a) The Riverside Units are within the geographical area of the Mid-Atlantic Area Council (MAAC) regional electric reliability council.

(b) They are interconnected with and their operations are coordinated with the Pennsylvania-New Jersey-Maryland (PJM) power pool.

(c) Dispatching of electric power in the BG&E service area is controlled by PJM.

(d) "Dispatching system" as used in this finding means PJM.

(2) Forecast peak loads. (a) Forecast of peak loads for the dispatching system during the year in which the Crane Units are expected to be implementing the herein prohibition order is as follows:

Spring Load Period (March-May) 1976, Peak 25,680 MWe, May; Summer Load Period (June-Aug.) 1976, Peak 33,670 MWe, July; Fall Load Period (Sept.-Nov.) 1976, Peak 30,730 MWe, Sept.; Winter Load Period (Dec.-Feb.) 1976-77, Peak 28,290 MWe, Jan.

(b) The peak loads forecast have been compared with peak loads in previous similar periods and the compound load growth rate for these forecasts is 5 percent, which is considered reasonable.

(3) Capacity. (a) The present net dependable capacity of all powerplants of the dispatching system that now are engaged in the sale or exchange of electric power is 41,555 MWe.

(b) Additions, retirements, and powerplant reratings on the PJM system during the period in which Baltimore Gas and Electric Company will be implementing the herein prohibition order, as listed below, will cause the following changes in net dependable capacity of such dispatching system:

Powerplant designation	Fuel	Type of change	Capacity change (megawatts)	Status and effective date
Bergen No. 4	Light oil	Addition	+34	June 1975.
McKee Run No. 3	Oil	do.	+110	Do.
Eddystone No. 4	Oil	do.	+400	March 1976.
Eddystone No. 3	Oil	Retraining	+56	June 1976.
Bergen No. 4	Light oil	do.	+11	Do.

plant will be implementing the herein prohibition order within the dispatching system are numerous. The average total capacity lost due to maintenance during the spring period is forecast as 6000 MWe and 900 MWe during the summer period.

(5) Net derating capacity. The forecast net dependable capacity for the dispatching system during the period (shown as quarter years) in which the powerplants are expected to be implementing the herein prohibition order and the next quarter following is: Spring 1976, 44,554 MWe; Summer 1976, 44,621 MWe.

(6) Gross reserve margin-dispatching system. (a) The expected minimum gross reserve margin (difference between net system

capability and peak load in percent of peak load) of the dispatching system for the load periods specified are as follows: Spring 1976, 73.5 percent; Summer 1976, 82.5 percent.

(b) After deducting the net capacity of units scheduled for maintenance or refueling during these same load periods. The expected minimum reserve margins are: Spring, 1976, 50.1 percent; Summer 1976, 59.9 percent.

(7) Derating. There will be no derating of the powerplants when using coal as the primary energy source.

(8) System stability. Available information regarding system stability for the dispatching system has been evaluated for each of the load periods stated in paragraph (5) and the issuance of a prohibition order to the powerplants will not cause a significant system stability problem.

(B) Reliability of service. (1) The estimated gross reserve margin of the dispatching system during the implementation period associated with the commencement the burning of coal as a primary energy source is forecast to range between 29.9 percent and 50.1 percent, depending upon the date of the period of powerplant outage. By scheduling the implementation period during the spring 1976 load period, the estimated gross dispatching system's reserve margin will be above 29 percent, and the Federal Power Commission considers this to be an acceptable reserve margin.

(2) If dispatching system conditions at the time of the implementation period are as presently forecast by FEA in this finding, there will be no impairment of reliability of service, within the meaning of ESECA and the regulations promulgated thereunder, in the area served by the Baltimore Gas and Electric Company.

(3) Existing transmission system interconnection with other utilities are presently scheduled to transfer approximately 50 megawatts into the dispatching system; with the capacity to transfer approximately 1000 additional megawatts of power into the dispatching system. This capacity will provide emergency resource of electric power during the implementation period and will enhance the reliability of service.

6. OFU-040, 041, BALTIMORE GAS AND ELECTRIC COMPANY, POWERPLANTS 4 AND 5, GENERATING STATION—RIVERSIDE, BALTIMORE, MARYLAND

(a) Proposed findings and rationale for findings.

1. Capability and necessary plant equipment finding. Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that on June 22, 1974, these powerplants had the capability and necessary plant equipment to burn coal. This proposed finding is based on facts, interpretations and assumptions stated below:

(A) These powerplants had in place on June 22, 1974, a boiler that was capable of burning coal, in that such boiler had been designed and constructed, or had been modified to enable it to burn coal and another fossil fuel interchangeably as its primary energy source, notwithstanding the fact that on June 22, 1974, such powerplant may not have been burning coal as its primary energy source.

(B) Based on information filed with FEA on April 14, 1975 by The Baltimore Gas and Electric Company, the following significant equipment or facilities would have to be acquired or substantially refurbished:

1. Work on ash hopper feeder;
2. Bottom ash sluice pump;
3. Boiler work;
4. Coal transport system;
5. Coal unloader;

6. Crawler crane for ash pits;
7. Bulldozer;
8. Ash transport system;
9. Spare parts inventory.

FEA assumes that on June 22, 1974, these powerplants had all other significant equipment and facilities associated with the burning of coal.

(C) Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph (b) do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

(ii) Burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA. Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that the burning of coal by Powerplants #4,5 at the Riverside Generating Station, #1,2 at the Wagner Generating Station, #1,2 at the Crane Generating Station, in lieu of petroleum products or natural gas, is practicable and consistent with the purposes of ESECA. This proposed finding is based on the facts, interpretations and assumptions stated below.

(A) (1) Revenue requirements. (a) The investment costs that result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal by the above listed powerplants are estimated to be approximately \$19,717,000. This estimate is based on existing FEA information and on information filed with the FEA by the powerplants concerning items of equipment and facilities that would have to be acquired or refurbished and the costs of such acquisition or refurbishment.

(1) Costs of acquisition or refurbishing equipment are allocated as follows:

(A) \$16,440,000 to comply with air pollution control requirements of the Clean Air Act.

(B) \$3,277,000 to make those technical plant and equipment adjustments associated with the burning of coal, as well as to comply with environmental requirements other than those imposed by the Clean Air Act.

(b) The increase in operating costs other than fuel costs that result from the burning of coal are estimated to be approximately \$68,000 per year.

(c) (i) The price of petroleum products available to the powerplant is approximately \$2.20 to \$2.30 per million Btus. The price of coal of the type used by the above listed powerplants is approximately \$1.35 to \$1.45 per million Btus. The burning of coal by the above listed powerplants will result in a reduction of 75 cents to 95 cents per million Btus or \$30 million to \$40 million per year.

(ii) The Maryland Public Utility Commission permits the inclusion of increased fuel costs in the rate base through a fuel adjustment clause and, if there is a decrease in the cost of fuel as a result of burning coal, there will be a decrease in such rate base.

(d) The total annual incremental increase in revenue requirements resulting from costs associated with burning coal as opposed to oil is \$3,689,000.

(2) Financial capabilities. (a) Based on the most recent financial statements and capital expenditure programs of Baltimore Gas and Electric Company, well as other information available to it, FEA proposes to find that the prohibition orders for the above listed powerplants is practicable. This financial assessment included an evaluation of generally accepted financial ratios; effects on capitalization as a result of the costs of burning of coal; impact on current and future construction programs; and possible impacts on rates. This assessment incorpo-

rated, but was not limited to, consideration of: the \$19.7 million investment requirement (or 1.0 percent) in relation to the net property and plant of the company of \$1.89 billion of the company of \$360 million (or 1.9 percent); the total capitalization of the company of \$1.91 billion; the change in 1974 to estimated 1975 construction budgets of \$231 million to \$350 million; and the 15 years remaining useful life of the plants. These assessments, the above findings, and other evaluations of the general financial health of the company were the basis of this finding.

(B) Because this prohibition order will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to find that its issuance would be consistent with the purpose of ESECA "to provide a means to assist in meeting the essential needs of the United States for fuels." Further, on the basis of the environmental analyses conducted by FEA, the analyses of air quality impacts which EPA is required to conduct prior to effectiveness of a prohibition order, as well as the necessity for the powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to find that the prohibition order is also consistent with the purpose of ESECA to provide for a means to meet the Nation's essential fuel needs "in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment."

(iii) Coal and coal transportation facilities will be available during the period the prohibition order is in effect. Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1978. The period until December 31, 1978 is the period during all or part of which the prohibition order to which these findings relate will be in effect. This proposed finding is based upon the following facts, interpretations, and assumptions:

(A) (1) It is estimated that it will be practicable to produce coal nationally as follows:

Year:	Production (million tons)
1975	662
1976	679
1977	707
1978	735

(2) The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	640
1976	664
1977	688
1978	716

(3) The estimated additional national demand for coal resulting from the prohibition order to which this finding relates, and from FEA actions under authority of section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	0.7
1976	4.0
1977	13.6
1978	16.2

(4) Coal of the specific type required for use by this powerplant has been identified in the reserves of the Northern and Southern



Appalachian Coal supply regions, which consist of Bureau of Mines Districts 1 through 8 and 13.

(5) It is estimated that it will be practicable to produce coal from the Northern and Southern Appalachian coal supply regions as follows:

Year:	Production (million tons)
1975	406
1976	402
1977	407
1978	412

(6) The regional and national production estimates stated in items (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately 4 percent. A 1975 study by the Bureau of Mines of the Department of the Interior indicates a national surge capacity of approximately up to 8 percent. In response to an industry survey in late 1974, the coal industry itself indicated that it had a surge capacity of up to 8 percent. By comparison, the increased national demand for coal resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA, is less than one tenth of a percent in 1975, increasing to a maximum of 2.3 percent in 1978 of estimated national demand stated in item (2). A market survey of traditional coal suppliers to FEA Region 3 consumers indicates that there is ample production capability to support increased demand for coal from this region resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA.

(7) No State or local laws or policies which would limit the extraction of this coal have been found by FEA or brought to FEA's attention.

(8) The estimated demand for coal from these supply regions, excluding any increased demand resulting from FEA actions under the authority of section 2 of ESECA, is as follows:

Year:	(million tons) Demand
1975	390
1976	394
1977	395
1978	398

(9) The estimated additional demand for coal from these supply regions resulting from the prohibition order to which this finding relates and from other FEA orders under section 2 of ESECA, will be as follows:

Year:	(million tons) Demand
1975	4
1976	2.5
1977	10.2
1978	12.4

(10) On the basis of the above information, FEA proposes to find that the estimated production of coal of the specific type required for use by this powerplant exceeds the estimated demand for such coal by amounts adequate to support a conclusion that such coal will be available to these powerplants during the period until December 31, 1978.

(B) (1) Adequate rail and barge facilities exist between these coal supply regions and the powerplant to transport the coal that will be used by such powerplant pursuant to this order.

(2) There is a waterway which will be able to deliver this coal from the main rail line to these powerplants.

(3) Sufficient rolling stock will be available to the Penn Central for transporting

this coal during the period until December 31, 1978.

(iv) *The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplants.* Based on an analysis of the information submitted to or otherwise available to FEA, and after consultation with the Federal Power Commission, FEA proposes to find that the prohibition of the Riverside Units #4 and #5 powerplants of Baltimore Gas and Electric Company (BG&E) from burning natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by such powerplants. This proposed finding is based on the facts, assumptions, and interpretation stated below:

(A) (1) *Interconnections and power dispatching.* (a) The Riverside Units are within the geographical area of the Mid-Atlantic Area Council (MAAC) regional electric reliability council.

(b) They are interconnected with and their operations are coordinated with the Pennsylvania-New Jersey-Maryland (PJM) power pool.

(c) Dispatching of electric power in the BG&E service area is controlled by PJM.

Powerplant designation	Fuel	Type of change	Capacity change (megawatts)	Status and effective date
Borgen No. 1	Light oil	Addition	+34	June 1975.
McKee Run No. 3	Oil	do.	+110	do.

(4) *Scheduled outages.* (a) A scheduled outage of one week for each unit is estimated to be required to make any modification, installation or other physical adjustment associated with cessation of the burning of natural gas or petroleum products as the powerplants' primary energy source. Immediately following modification during on-line testing and adjustment, the powerplants will be less than fully dependable. This period should not exceed 30 days.

Modifications are forecast to commence approximately November 1, 1975 and to be completed and fully tested by January 15, 1976.

(b) Planned maintenance of other powerplants and nuclear plant refueling during the period the powerplant will be implementing the herein prohibition order are numerous. Average total capability lost due to maintenance during subject period is 5700 MWe.

(5) *Net dependable capacity.* The forecast net dependable capacity for the dispatching system during the period (shown as quarter years) in which the powerplants are expected to be implementing the herein prohibition order and the next quarter following is: Fall 1975, 44,154 MWe; Winter 1975-76, 44,154 MWe.

(6) *Gross reserve margin-dispatching system.* (a) The expected minimum gross reserve margin (difference between net system capability and peak load in percent of peak load) of the dispatching system for the load periods specified are as follows: Fall 1975, 51.5 percent; Winter 1975-76, 65.3 percent.

(b) After deducting the net capacity of units scheduled for maintenance or refueling during these same load periods, the expected minimum reserve margins are: Fall 1975, 32.0 percent; Winter 1975-76, 44.0 percent.

(7) *Derating.* There will be no derating of the powerplants when using coal as the primary energy source.

(8) *System stability.* Available information regarding system stability for the dispatching system has been evaluated for each of the load periods stated in paragraph (5) and the issuance of a prohibition order to the

(d) "Dispatching system" as used in this finding means PJM.

(2) *Forecast peak loads.* (a) *Forecast of peak loads for the dispatching system during the year in which the Riverside Units are expected to be implementing the herein prohibition order is as follows:*

Summer Load Period (June-Aug.) 1975, Peak 31,930 MWe, July; Fall Load Period (Sept.-Nov.) 1975, Peak 29,140 MWe, Sept.; Winter Load Period (Dec.-Feb.) 1975-76, Peak 28,710 MWe, Jan.; Spring Load Period (March-May) 1976, Peak 25,680 MWe, May.

(b) The peak loads forecast have been compared with peak loads in previous similar periods and the compound load growth rate for these forecasts is 5 percent, which is considered reasonable.

(3) *Capacity.* (a) The present net dependable capacity of all powerplants of the dispatching system that now are engaged in the sale or exchange of electric power is 41,555 MWe.

(b) Additions, retirements, and powerplant reratings on the PJM system during the period in which Baltimore Gas and Electric Company will be implementing the herein prohibition order, as listed below, will cause the following changes in net dependable capacity of such dispatching system:

powerplants will not cause a significant system stability problem.

(B) *Reliability of service.* (1) The estimated gross reserve margin of the dispatching system during the implementation period associated with the commencement of the burning of coal as a primary energy source is forecast to range between 32% and 44%, depending upon the date of the period of powerplants outage. By scheduling the implementation period during the fall or winter load period the estimated gross dispatching system's reserve margin will be above 30%, and the Federal Power Commission considers this to be an acceptable reserve margin.

(2) If dispatching system conditions at the time of the implementation period are as presently forecast by FEA in this finding, there will be no impairment of reliability of service, within the meaning of ESECA and the regulations promulgated thereunder, in the area served by the Baltimore Gas and Electric Company.

(3) Existing transmission system interconnections with other utilities are presently scheduled to transfer approximately 50 megawatts of power into the dispatching system. This capacity will provide emergency resource of electric power during the implementation period and will enhance the reliability of service.

7. OFU-042, 043, BALTIMORE GAS AND ELECTRIC COMPANY, POWERPLANTS 1 AND 2, GENERATING STATION—WAGNER, BALTIMORE, MARYLAND

(a) *Proposed findings and rationale for findings.*

1. *Capability and necessary plant equipment finding.* Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that on June 22, 1974, these powerplants had the capability and necessary plant equipment to burn coal. This proposed finding is based on facts, interpretations and assumptions stated below:

(A) These powerplants had in place, on June 22, 1974, a boiler that was capable of

burning coal, in that such boiler had been designed and constructed, or had been modified to enable it to burn coal as its primary energy source, or to burn coal and another fossil fuel interchangeably as its primary energy source, notwithstanding the fact that on June 22, 1974, such powerplant may not have been burning coal as its primary energy source.

(B) Based on information filed with FEA on April 14, 1975 by The Baltimore Gas and Electric Company, the following significant equipment or facilities would have to be acquired or substantially refurbished:

1. Superheater;
2. Crawler crane for ash pits;
3. Boiler work;
4. Work on air heater;
5. Conveyor system;
6. Bottom ash transport system;
7. Flyash transport system;
8. Spare parts inventory;
9. Ash piling;
10. Ash sluice pump.

FEA assumes that on June 22, 1974, these powerplants had all other significant equipment and facilities associated with the burning of coal.

(C) Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph (b) do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

(ii) *Burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* Based on an analysis of the information submitted or otherwise available to FEA, FEA proposes to find that the burning of coal by Powerplants # 4, 5 at the Riverside Generating Station, # 1, 2 at the Wagner Generating Station, # 1, 2 at the Crane Generating Station, in lieu of petroleum products or natural gas, is practicable and consistent with the purposes of ESECA. This proposed finding is based on the facts, interpretations and assumptions stated below.

(A) (1) *Revenue requirements.* (a) The investment costs that result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal by the above listed powerplants are estimated to be approximately \$19,717,000. This estimate is based on existing FEA information and on information filed with the FEA by the powerplants concerning items of equipment and facilities that would have to be acquired or refurbished and the costs of such acquisition or refurbishment.

(i) Costs of acquisition or refurbishing equipment are allocated as follows:

(A) \$16,440,000 to comply with air pollution control requirements of the Clean Air Act.

(B) \$3,277,000 to make those technical plant and equipment adjustments associated with the burning of coal, as well as to comply with environmental requirements other than those imposed by the Clean Air Act.

(b) The increase in operating costs other than fuel costs that result from the burning of coal are estimated to be approximately \$68,000 per year.

(c) (1) The price of petroleum products available to the powerplant is approximately \$2.20 to \$2.30 per million Btus. The price of coal of the type used by the above listed powerplants is approximately \$1.35 to \$1.45 per million Btus. The burning of coal by the above listed powerplants will result in a reduction of .75¢ to .95¢ per million Btus or \$30 million to \$40 million per year.

(ii) The Maryland Public Utility Commission permits the inclusion of increased fuel

costs in the rate base through a fuel adjustment clause and, if there is a decrease in the cost of fuel as a result of burning coal, there will be a decrease in such rate base.

(d) The total annual incremental increase in revenue requirements resulting from costs associated with burning coal as opposed to oil is \$3,689,000.

(2) *Financial capabilities.* (a) Based on the most recent financial statements and capital expenditure programs of Baltimore Gas and Electric Company, well as other information available to it, FEA proposes to find that the prohibition orders for the above listed powerplants is practicable. This financial assessment included an evaluation of generally accepted financial ratios; effects on capitalization as a result of the costs of burning of coal; impact on current and future construction programs; and possible impacts on rates. This assessment incorporated, but was not limited to, consideration of: the \$19.7 million investment requirement (or 1.0 percent) in relation to the net property and plant of the company of \$1.89 Billion and 1975-1977 construction budget estimate of the company of \$350 million (or 1.9 percent); the total capitalization of the company of \$1.91 Billion; the change in 1974 to estimated 1975 construction budgets of \$231 million to \$350 million; and the 15 years remaining useful life of the plants. These assessments, the above findings, and other evaluations of the general financial health of the company were the basis of this finding.

(B) Because this prohibition order will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to find that its issuance would be consistent with the purpose of ESECA "to provide a means to assist in meeting the essential needs of the United States for fuels." Further, on the basis of the environmental analyses conducted by FEA, the analyses of air quality impacts which EPA is required to conduct prior to effectiveness of a prohibition order, as well as the necessity for the powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to find that the prohibition order is also consistent with the purpose of ESECA to provide for a means to meet the Nation's essential fuel needs. "In a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment."

(iii) *Coal and coal transportation facilities will be available during the period the prohibition order is in effect.* Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1978. The period until December 31, 1978 is the period during all or part of which the prohibition order to which these findings relate will be in effect. This proposed finding is based upon the following facts, interpretations, and assumptions:

A (1) It is estimated that it will be practicable to produce coal nationally as follows:

Year:	Production (million tons)
1975	662
1976	679
1977	707
1978	735

(2) The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	640
1976	664
1977	688
1978	716

(3) The estimated additional national demand for coal resulting from the prohibition order to which this finding relates, and from FEA actions under authority of section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	.7
1976	4.0
1977	13.6
1978	16.2

(4) Coal of the specific type required for use by this powerplant has been identified in the reserves of the Northern and Southern Appalachian Coal supply regions, which consist of Bureau of Mines Districts 1 through 8 and 13.

(5) It is estimated that it will be practicable to produce coal from the Northern and Southern Appalachian coal supply regions as follows:

Year:	Production (million tons)
1975	406
1976	402
1977	407
1978	412

(6) The regional and national production estimates stated in items (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately 4 percent. A 1975 study by the Bureau of Mines of the Department of the Interior indicates a national surge capacity of approximately up to 6 percent. In response to an industry survey in late 1974, the coal industry itself indicated that it had a surge capacity of up to 8 percent. By comparison, the increased national demand for coal resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA, is less than one tenth of a percent in 1975, increasing to a maximum of 2.3 percent in 1978 of estimated national demand stated in item (2). A market survey of traditional coal suppliers to FEA Region 3 consumers indicates that there is ample production capability to support increased demand for coal from this region resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA.

(7) No State or local laws or policies which would limit the extraction of this coal have been found by FEA or brought to FEA's attention.

(8) The estimated demand for coal from these supply regions, excluding any increased demand resulting from FEA actions under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	390
1976	394
1977	395
1978	398

(9) The estimated additional demand for coal from these supply regions resulting from the prohibition order to which this finding relates and from other FEA orders under section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	.4
1976	2.5
1977	10.2
1978	12.4



(10) On the basis of the above information, FEA has concluded that the estimated production of coal of the specific type required for use by this powerplant exceeds the estimated demand for such coal by amounts adequate to support a conclusion that such coal will be available to the powerplant during the period until December 31, 1978.

(b) (1) Adequate rail and barge facilities exist between these coal supply regions and the powerplant to transport the coal that will be used by such powerplant pursuant to this order.

(2) There is a waterway which will be able to deliver this coal from the main rail line to the powerplant.

(3) Sufficient rolling stock will be available to the Penn Central for transporting this coal during the period until December 31, 1978.

(iv) The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplants. Based on an analysis of the information submitted to or otherwise available to FEA, and after consultation with the Federal Power Commission, FEA proposes to find that the prohibition of the Wagner Units #1 and #2 powerplants of Baltimore Gas and Electric Company (BG&E) from burning natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by such powerplants. This proposed finding is based on the facts, assumptions and interpretations stated below:

(A) (1) *Interconnections and power dispatching.* (a) The Wagner Units are within the geographical area of the Mid-Atlantic Area Council (MAAC) regional electric reliability council.

(b) They are interconnected with and their operations are coordinated with the Pennsylvania-New Jersey-Maryland (PJM) power pool.

(c) Dispatching of electric power in the BG&E service area is controlled by PJM.

(d) "Dispatching system" as used in this finding means PJM.

(2) *Forecast peak loads.* (a) Forecast of peak loads for the dispatching system during the year in which the Wagner Units are expected to be implementing the herein prohibition order is as follows:

Summer Load Period (June-Aug.) 1975, Peak 31,930 MWe, July; Fall Load Period (Sept.-Nov.) 1975, Peak 29,140 MWe, Sept.; Winter Load Period (Dec.-Feb.) 1975-76, Peak 26,710 MWe, Jan.; Spring Load Period (March-May) 1976, Peak 25,680 MWe, May.

(b) The peak loads forecast have been compared with peak loads in previous similar periods and the compound load growth rate for these forecasts is 5 percent, which is considered reasonable.

(3) *Capacity.* (a) The present net dependable capacity of all powerplants of the dispatching system that now are engaged in the sale or exchange of electric power is 41,555 MWe.

(b) Additions, retirements, and powerplants reratings on the PJM system during the period in which Baltimore Gas and Electric Company will be implementing the herein prohibition order, as listed below, will cause the following changes in net dependable capacity of such dispatching system:

(4) *Scheduled outages.* (a) A scheduled outage of one week for each unit is estimated to be required to make any modification, installation or other physical adjustment associated with cessation of the burning of natural gas or petroleum products as the powerplants' primary energy source. Immediately following modification during on-line testing and adjustment, the powerplants will be less than fully dependable. This period should not exceed 15 days.

Modifications are forecast to commence approximately December 1, 1975, and to be complete and fully tested by February 1, 1976.

(b) Planned maintenance of other powerplants and nuclear plant refueling during the period the powerplants will be implementing the herein prohibition order, within the dispatching system are numerous. Average total capability lost due to maintenance during subject period is 5700 MWe.

(5) *Net dependable capacity.* The forecast net dependable capacity for the dispatching system during the period (shown as quarter years) in which the powerplants are expected to be implementing the herein prohibition order and the next quarter following is: Winter 1975-76, 44,154 MWe; Spring 1976, 44,554 MWe.

(6) *Gross reserve margin-dispatching system.* (a) The expected minimum gross reserve margin (difference between net system capability and peak load in percent of peak load) of the dispatching system for the load periods specified are as follows: Winter 1975-76, 65.3 percent; Spring 1976, 73.5 percent.

(b) After deducting the net capacity of units scheduled for maintenance or refuel-

ing during these same load periods. The expected minimum reserve margins are: Winter 1975-76, 44.0 percent; Spring 1976, 51.3 percent.

(7) *Derating.* There will be no derating of the powerplants when using coal as their primary energy source.

(8) *System stability.* Available information regarding system stability for the dispatching system has been evaluated for each of the load periods stated in paragraph (5) and the issuance of a prohibition order to the powerplants will not cause a significant system stability problem.

(B) *Reliability of service.* (1) The estimated gross reserve margin of the dispatching system during the implementation period associated with the commencement the burning of coal as a primary energy source is forecast to range between 44 percent and 51 percent, depending upon the date of the period of powerplant outage. By scheduling the implementation period during the winter or spring load period of 1976, the estimated gross dispatching system's reserve margin will be above 44 percent, and the Federal Power Commission considers this to be an acceptable reserve margin.

(2) If dispatching system conditions at the time of the implementation period are as presently forecast by FEA in this finding, there will be no impairment of reliability of service, within the meaning of ESECA and the regulations promulgated thereunder, in the area served by Baltimore Gas and Electric Company.

(3) Existing transmission system interconnections with other utilities are presently scheduled to transfer approximately 50 mega-

watts into the dispatching system with the capacity to transfer approximately 1000 additional megawatts of power into the dispatching system. This capacity will provide emergency resource of electric power during the implementation period and will enhance the reliability of service.

8. OFU-044, 045, 046, 047, DELMARVA POWER AND LIGHT COMPANY, POWERPLANTS 1, 2, 3, AND 4, GENERATING STATION—EDGE MOOR, WILMINGTON, DELAWARE

(a) Proposed findings and rationale for findings.

1. *Capability and necessary plant equipment finding.* Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that on June 22, 1974, these powerplants had the capability and necessary plant equipment to burn coal. This proposed finding is based on facts, interpretations and assumptions stated below:

(A) These powerplants had in place, on June 22, 1974, a boiler that was capable of burning coal, in that such boiler had been designed and constructed, or had been modified to enable it to burn coal as its primary energy source, or to burn coal and another fossil fuel interchangeably as its primary energy source, notwithstanding the fact that on June 22, 1974, such powerplants may not have been burning coal as its primary energy source.

(B) Based on information filed with FEA on April 11, 1975 by The Delmarva Power and Light Company, the following significant equipment or facilities would have to be acquired or substantially refurbished:

1. Coal handling (including repairs to locomotive, conveyors, crushers, chutes, track, electrical and instrumentation);

2. Ash handling (including repairs to grinders and ash pumps and installation of a new ash pond);

3. Dust handling (including repairs to vacuum system, silos, piping, electrical and instrumentation and acquisition of a new truck);

4. Coal fed and preparation (including repairs to coal scales, mills, feeders, exhausters, burners piping and bunkers);

5. Boiler (including repairs to combustion controls, fans, boiler ash pits, precipitator, and superheaters).

FEA assumes that on June 22, 1974, these powerplants had all other significant equipment and facilities associated with the burning of coal.

(C) Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph (b) do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

(ii) *Burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* Based on an analysis of the information submitted or otherwise available to FEA, FEA proposes to find that the burning of coal by the powerplants, in lieu of petroleum products or natural gas, is practicable and consistent with the purposes of ESECA. This proposed finding is based on the facts, interpretations and assumptions stated below.

(A) (1) *Revenue requirements.* (a) The investment costs that result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal by the powerplants are estimated to be approximately \$12,980,000. This estimate is based on existing FEA information and on information filed with the FEA by the powerplant concerning items of equipment and facilities that would have to be acquired or refurbished and the costs of such acquisition or refurbishment.

(b) Because this prohibition order will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to find that its issuance would be consistent with the purpose of ESECA "to provide a means to assist in meeting the essential needs of the United States for fuels." Further, on the basis of the environmental analyses conducted by FEA, the analyses of air quality impacts which EPA is required to conduct prior to effectiveness of a prohibition order, as well as the necessity for the powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to find that the prohibition order is also consistent with the purpose of ESECA to provide for a means to meet the Nation's essential fuel needs. "In a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment."

(iii) *Coal and coal transportation facilities will be available during the period the prohibition order is in effect.* Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1978. The period until December 31, 1978 is the period during all or part of which the prohibition order to which these findings relate will be in effect. This proposed finding is based upon the following facts, interpretations, and assumptions:

(A) (1) It is estimated that it will be practicable to produce coal nationally as follows:

Year: 1975 ----- 662  
1976 ----- 679  
1977 ----- 707  
1978 ----- 735

(2) The estimated additional demand, excluding any increased demand resulting from FEA action under the authority of section 2 of ESECA, is as follows:

Year: 1975 ----- 640  
1976 ----- 664  
1977 ----- 688  
1978 ----- 716

(3) The estimated additional national demand for coal resulting from the prohibition order to which this finding relates, and from FEA actions under authority of section 2 of ESECA, will be as follows:

Year: 1975 ----- 7  
1976 ----- 4.0  
1977 ----- 13.6  
1978 ----- 16.2

(4) Coal of the specific type required for use by this powerplant has been identified in the reserves of the Northern and Southern Appalachian Coal supply regions, which consist of Bureau of Mines Districts 1 through 8 and 13.

(5) It is estimated that it will be practicable to produce coal from the Northern and Southern Appalachian coal supply regions as follows:

Year: 1975 ----- 406  
1976 ----- 402  
1977 ----- 407  
1978 ----- 412

(6) The regional and national production estimates stated in items (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately 4 percent. A 1975 study by the Bureau of Mines of the Department of the Interior indicates a national surge capacity of approximately up to 6 percent. In response to an industry survey in late 1974, the coal industry itself indicated that it had a surge capacity of up to 8 percent. By comparison, the increased national demand for coal resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA, is less than one tenth of a percent in 1975, increasing to a maximum of 2.3 percent in 1978 of estimated national demand stated in item (2). A market survey of traditional coal suppliers to FEA Region 3 consumers indicates that there is ample production capability to support increased demand for coal from this region resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA.

(7) No State or local laws or policies which would limit the extraction of this coal have been found by FEA or brought to FEA's attention.

(8) The estimated demand for coal from these supply regions, excluding any increased demand resulting from FEA actions under the authority of section 2 of ESECA, is as follows:

Year: 1975 ----- 390  
1976 ----- 394  
1977 ----- 395  
1978 ----- 398

(9) The estimated additional demand for coal from these supply regions resulting from the prohibition order to which this finding relates and from other FEA orders under section 2 of ESECA, will be as follows:

Year: 1975 ----- 2.5  
1976 ----- 10.2  
1977 ----- 12.4

(10) On the basis of the above information, FEA proposes to find that the estimated production of coal of the specific type required for use by this powerplant exceeds the estimated demand for such coal by amounts adequate to support a conclusion that such coal will be available to these powerplants during the period until December 31, 1978.

(B) (1) Adequate rail facilities exist between these coal supply regions and the powerplant to transport the coal that will be used by such powerplant pursuant to this order.

(2) There is a spur line which will be able to deliver this coal from the main rail line to these powerplants.

(3) Sufficient rolling stock will be available to the Penn Central for transporting this coal during the period until December 31, 1978.

(iv) The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplants. Based on the analysis of the information submitted to or otherwise available to FEA, and after consultation with the Federal Power Commission, FEA proposes to find that the prohibition of the Edge Moor Units #1, #2, #3 and #4 powerplants of the Delmarva Power and Light Company from burning natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by such powerplants. This proposed finding is based on the facts, assumptions and interpretations stated below:

(A) (1) *Interconnections and power dispatching.* (a) The Edge Moor Units are within the geographical area of the Mid-Atlantic Area Council (MAAC) regional electric reliability council.

(b) They are interconnected with and their operation is coordinated with the Philadelphia Electric Company which in turn is interconnected with and its operations are coordinated with the Pennsylvania-New Jersey-Maryland (PJM) Power Pool.

(c) Dispatching of electric power is controlled by PJM.

(d) "Dispatching system" as used in this finding means PJM.

(2) *Forecast peak loads.* (a) Forecast of peak loads for the dispatching system during the year in which the Delmarva Power and Light Company is expected to be implementing the herein prohibition order is as follows:

Summer Load Period (June-Aug.) 1976, Peak 33,670 MWe, July; Fall Load Period (Sept.-Nov.) 1976, Peak 30,730 MWe, Sept.;



Winter Load Period (Dec.-Feb.) 1976-77, Peak 28,290 MWe, Jan.; Spring Load Period (March-May) 1977, Peak 27,070 MWe, May.

(b) The peak loads forecast have been compared with peak loads in previous similar periods and the compound load growth rate for these forecasts is 5 percent, which is considered reasonable.

(3) *Capacity.* (a) The present net dependable capacity of all powerplants of the dis-

patching system that now are engaged in the sale or exchange of electric power is 41,555 MWe.

(b) Additions, retirements, and powerplant reratings from the present to the end of the period in which Delmarva Power and Light Company will be implementing the herein prohibition order, as listed below, will cause the following changes in net dependable capacity of such dispatching system:

Powerplant designation	Fuel	Type of change	Capacity change (megawatts)	Status and effective date
Bergen No. 4	Light oil	Addition	+34	June 1975.
McKee Run No. 3	Oil	do	+110	Do
Eddystone No. 4	Oil	do	+100	March 1976.
Eddystone No. 3	Oil	Retiring	-54	June 1976.
Bergen No. 4	Light oil	do	+11	Do.
Gilbert No. 4	Oil	Addition	+126	November 1976.
Salem No. 1	Nuclear	do	+1100	December 1976.

(4) *Scheduled outages.* (a) A scheduled outage of 60 days is estimated to be required to make any modification, installation, or other physical adjustment associated with cessation of the burning of natural gas or petroleum products as the powerplants' primary energy source. Immediately following modification during on-line testing and adjustment, the powerplants will be less than fully dependable. This period should not exceed 30 days.

Modifications are forecast to commence approximately September 1, 1976 and to be completed and fully tested by December 1, 1976.

(b) Planned maintenance of other powerplants during the period the powerplant will be implementing the herein prohibition order within the PJM system are numerous. The average total capability lost due to maintenance during this period is 6000 MWe.

(5) *Net dependable capacity.* The forecast net dependable capacity for the dispatching system during the period (shown as quarter years) in which the powerplant is expected to be implementing the herein prohibition order and the next quarter following is: Fall 1976, 42,418 MWe; Winter 1976-77, 44,842 MWe.

(6) *Gross reserve margin-dispatching system.* (a) The expected minimum gross reserve margin (difference between net system capability and peak load in percent of peak load) of the dispatching system for the load periods specified are as follows: Fall 1976, 33.0 percent; Winter 1976-77, 58.5 percent. (b) After deducting the net capacity of units scheduled for maintenance or refueling during these same load periods. The expected minimum reserve margins are: Fall 1976, 18.5 percent; Winter 1976-77, 37.3 percent.

(7) *Derating.* There will be no derating of the powerplants when using coal as the primary energy source.

(8) *System stability.* Available information regarding system stability for the dispatching system has been evaluated for each of the load periods stated in paragraph (5) and the issuance of a prohibition order to the powerplants will not cause a significant system stability problem.

(B) *Reliability of service.* (1) The estimated gross reserve margin of the dispatching system during the implementation period associated with the commencement of the burning of coal as a primary energy source is forecast to range between 18.5 percent and 37.3 percent, depending upon the date of the period of powerplant outage. By scheduling the implementation period during the winter 1976-77 load period, the estimated gross dispatching system's reserve margin will be above 30 percent, and the Federal Power Commission considers this to be an acceptable reserve margin.

(2) If dispatching system conditions at the time of the implementation period are as presently forecast by FEA in this finding, there will be no impairment of reliability of service, within the meaning of ESECA and the regulations promulgated thereunder, in the area served by Delmarva Power and Light Company.

(3) Existing transmission system interconnections with other utilities are presently scheduled to transfer approximately 50 megawatts into the dispatching system; with the capacity to transfer approximately 1000 additional megawatts of power into the dispatching system. This capacity will provide emergency resource of electric power during the implementation period and will enhance the reliability of service.

[FR Doc.75-12878 Filed 5-15-75;8:45 am]

#### CERTAIN POWERPLANTS

##### Amendment of Notice of Intention to Issue Prohibition Orders

The Federal Energy Administration hereby amends the Notice of Intention to Issue Prohibition Orders to Certain Powerplants published in the FEDERAL REGISTER dated May 9, 1975 (40 FR 20491) that pertains to certain powerplants located in FEA Region VII, and hereby amends the Notice of Intention to Issue Prohibition Orders to Certain Powerplants published below in the FEDERAL REGISTER dated May 16, 1975 (40 FR 21516) that pertains to certain powerplants located in FEA Region III. With respect to the period for public comment, each notice is amended to provide the following:

To facilitate the submission of data, views and arguments to supplement either the oral presentation or written comments, the record of the public hearing shall remain open for a period of two weeks from the first day of the public hearing. Such supplementary written data, views or argument shall be filed with Executive Communications, Federal Energy Administration, Box DD, Washington, D.C. 20461. In the event that such supplementary data, views or argument can only be submitted by oral presentation, a request for a conference, in accordance with 10 CFR 303.171, shall be submitted to the FEA Regional Office. To ensure that FEA receives the tran-

script of such oral presentation before the record closes, any oral presentation must be made within 12 days from the first day of the public hearings.

(Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93-319); Federal Energy Administration Act of 1974 (Pub. L. 93-275); E.O. 11790 (39 FR 23185))

Issued in Washington, D.C., May 15, 1975.

ROBERT E. MONTGOMERY, JR.,  
General Counsel,  
Federal Energy Administration.

[FR Doc.75-13178 Filed 5-15-75;11:38 am]

#### FEDERAL POWER COMMISSION

[Docket No. CI75-503]

##### ANADARKO PRODUCTION CO.

##### Order Granting Intervention Setting Hearing Date and Prescribing Procedure

MAY 9, 1975.

On February 20, 1975, Anadarko Production Company (Anadarko) filed in Docket No. CI75-503 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Panhandle Eastern Pipe Line Company (Panhandle) for a period of one year with pre-granted abandonment from two wells in Morton County, and one well in Stevens County, Kansas.

Anadarko requests authority to sell to Panhandle volumes of gas available from the Low "C" Nos. 4 and 5 Gas Units in Morton County and the Taylor "B" No. 1 Gas Unit in Stevens County for one year at a price of 50.72301 cents per Mcf with a Btu adjustment from 1,000 Btu/cubic ft. Anadarko states that it proposes the subject sale to meet Panhandle's emergency need for gas supplies.

Anadarko states that it will bear the cost of all facilities necessary for the subject sale except gas metering facilities, although Anadarko claims to be able to make the subject gas sale to Panhandle without the need for substantial new facilities.

Anadarko states that upon termination of its contract with Panhandle, it will connect the subject wells to its intrastate system for delivery to industrial and domestic customers under long term contracts.

Anadarko commenced 60-day emergency sales from the Low C No. 3, Taylor B No. 1 and Low C No. 5 wells on February 14, 19 and 25, 1975, respectively, pursuant to § 157.29 of the regulations at a rate of 50.72301 cents (14.65 psia) subject to Btu adjustment plus tax reimbursement. Anadarko proposes to continue delivering to Panhandle's line<sup>1</sup> in Sec. 21-T34S-R38W, Stevens County and Sec. 17-T33S-R40W, Morton County, Kansas, all volumes available from the subject

<sup>1</sup> Panhandle advised that it has constructed facilities at a cost of \$12,600 to receive the gas.

wells (approximately 2,500 Mcf per month).

In Opinion No. 699-B (52 FPC —), which reinstated the limited-term certificate provisions of Section 2.70(b) (3) of the Commission's General Policy and Interpretations, the Commission stated that applicants for limited-term certificates "will have the burden of demonstrating by substantial evidence that the price for which certification is sought is the lowest price at which that particular supply of gas may be obtained for the interstate market and that the supply of gas is available only for the limited period for which certification is sought." (Mimeo p. 6)

Since the proposed price is equal to the national rate, there is no price issue.

In support of its request for a one year limited term certificate, Anadarko, by supplemental information filed on March 27, 1975, makes the following points:

(1) For several years Anadarko has operated an intrastate pipeline and gathering system in Western Kansas in the vicinity of the wells covered by the subject docket.

(2) This system serves industrial and domestic requirements under long term contracts—more specifically: an electric generating plant; a meat packing plant; the City of Liberal, Kansas; and numerous irrigation and agricultural service customers.

(3) The gas supply for this system has declined to the point that additional reserves are needed to support Anadarko's sales contract obligations.

(4) It intends to connect the subject wells to its own gathering system following termination of the limited term certificate.

(5) The availability of materials, right-of-way and internal budget planning are such that Anadarko is willing to make production from the wells covered by this application available to the interstate market for the period requested.

The Commission stated that the purpose of Order No. 699-B is "to attract available natural gas supplies from the intrastate market to the interstate market." On other occasions, however, the Commission has stated that it is not so interested in attracting intrastate gas to allow producers repeatedly and at short intervals to play the intrastate and interstate markets against one another in order to drive up the price of their gas.<sup>2</sup> Anadarko has not demonstrated by substantial evidence that the limited term is justified.

A petition to intervene in support of the application was filed by Panhandle on March 27, 1975.

Based on the facts currently before us, we believe that a formal hearing should be held to afford the Applicant

<sup>2</sup> Opinion No. 699-B, supra, mimeo p. 4.

<sup>3</sup> See order denying authorization for extension of emergency sale, denying limited-term certificate of public convenience and necessity, and granting petition to intervene, Wayne J. Spears, in Docket No. CI75-218, issued December 20, 1974.

an opportunity to establish through the presentation of credible evidence that the subject gas can reasonably be expected to be no longer available for sale after the prescribed limited term.

*The Commission finds.* (1) The intervention of Panhandle in this proceeding may be in the public interest.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the issues in this proceeding be scheduled for hearing in accordance with the procedures set forth below.

*The Commission orders.* (A) Panhandle is hereby permitted to intervene in this proceeding, subject to the Rules and Regulations of the Commission; *Provided, however,* That the participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in said petition for leave to intervene; and *Provided, further,* That the admission of said intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any order or orders of the Commission entered in this proceeding.

(B) Pursuant to the authority of the Natural Gas Act, particularly section 7 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act, a public hearing shall be held on June 26, 1975, at 10 a.m. (e.d.t.) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

(C) On or before June 17, 1975, Anadarko and any supporting party shall file with the Commission and serve upon all parties, including Commission Staff, their testimony and exhibits in support of their positions.

(D) An Administrative Law Judge to be designated by the Chief Administrative Law Judge—(see Delegation of Authority, 18 CFR 3.5(d)) shall preside at, and control this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure and the purposes expressed in this order.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-12881 Filed 5-15-75;8:45 am]

[Docket No. E-9419]

#### ARKANSAS-MISSOURI POWER CO.

##### Notice of Filing of Letter Agreement

MAY 8, 1975.

Take notice that on May 1, 1975, Arkansas-Missouri Power Company (Ark-Mo) tendered for filing a Letter of Agreement dated April 2, 1975 between the Arkansas Electric Cooperative (Ark-co) and Ark-Mo. Ark-Mo states that the Agreement provides for the sale by Ark-Mo of short-term firm power for the period between June 1, 1975 and May 31, 1976, and that revenues therefrom should be about \$1,159,580 for the

12-month period. Ark-Mo requests an effective date of June 1, 1975.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 21, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-12882 Filed 5-15-75;8:45 am]

[Docket Nos. CP75-317, CP75-318, CP75-319, CP75-320]

#### CONSOLIDATED GAS SUPPLY CORP.

##### Notice of Applications

MAY 8, 1975.

Take notice that on April 28, 1975, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket Nos. CP75-317, CP75-318, CP75-319 and CP75-320 applications pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon sales of natural gas onshore and offshore Louisiana, all as more fully set forth in the applications, which are on file with the Commission and open to public inspection.

Applicant states that the sales it wishes to abandon have been authorized from wells which are no longer capable of producing and from reservoirs which have been depleted.

Applicant proposes in Docket No. CP75-317 to abandon the sale of natural gas to Texas Gas Transmission Corporation from Applicant's LL&E "K" No. 1 well in the Bayou Piquant Field, Terrebonne Parish, Louisiana.

Applicant proposes in Docket No. CP75-318 to abandon the sale of natural gas to United Gas Pipe Line Company from the Waterford No. 1 Well in the Lirette Field, Terrebonne Parish, Louisiana.

Applicant proposes in Docket No. CP75-319 to abandon the sale of gas to Tennessee Gas Pipeline Company, a Division of Tenneco Inc., from the S/L 3503 No. 1 well in the East Atchafalaya Bay Field, St. Mary Parish, Louisiana.

Applicant proposes in Docket No. CP75-320 to abandon the sale to Texas Gas Transmission Corporation of gas from the S/L 1172 Nos. 1, 1D, 2, 2D, 3, 4, 4D, 5 and 8 wells, in the Block Four Field, East Cameron Area, Offshore Zone One, Louisiana.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 21,



1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, hearings will be held without further notice before the Commission on these applications if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonments are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that formal hearings are required, further notice of such hearings will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearings.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-12883 Filed 5-15-75; 8:45 am]

[Docket No. RP75-94]

#### GREAT LAKES GAS TRANSMISSION CO. Proposed Changes in FPC Gas Tariff

MAY 8, 1975.

Take notice that Great Lakes Gas Transmission Company (Great Lakes), on April 30, 1975, tendered for filing proposed changes to the following tariff sheets to its FPC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2:

FIRST REVISED VOLUME NO. 1

Fourth Revised Sheet No. 4  
First Revised Sheet No. 11  
Sixteenth Revised Sheet No. 57

ORIGINAL VOLUME NO. 2

Tenth Revised Sheet No. 53  
Second Revised Sheet No. 53-F  
First Revised Sheet No. 53-G  
First Revised Sheet No. 77

Great Lakes states that the proposed tariff sheet changes would produce increased revenues of \$12,000,000 based on sales and transportation volumes for the test year (twelve months ended December 31, 1974, as adjusted). The Company further states that the changes would

also establish a new base average cost of gas purchased for future Purchased Gas Adjustments.

Great Lakes states that the proposed rates reflect an increase in the rate of return to 10.75 percent, which includes a rate of return on equity of 16.00 percent, an increase in the depreciation rate on transmission plant from 3.75 percent to 4.65 percent and increases in other operating expenses. Great Lakes has requested an effective date of June 14, 1975, for the proposed increase.

Great Lakes also states that copies of this filing have been served upon its customers and the Public Service Commission of Michigan and Wisconsin.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 23, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-12884 Filed 5-15-75; 8:45 am]

[Docket No. E-7740]

#### INDIANA AND MICHIGAN ELECTRIC CO. Order Granting Motion in Part and Requiring the Payment of Refunds

MAY 9, 1975.

On June 13, 1972, Indiana and Michigan Electric Company (I&M) tendered for filing with the Commission a wholesale rate increase applicable to 23 municipal and cooperative customers. Of those customers, Richmond Power and Light (Richmond), Anderson, Indiana (Anderson) and a group of cooperatives (Cooperatives), filed motions to reject I&M's filing as it pertained to them, claiming their contracts with I&M prohibited unilateral changes in rates by I&M, referring to the Supreme Court's decisions in *Mobile-Sierra*.<sup>1</sup>

By order issued August 11, 1972, the Commission accepted I&M's proposed rate increase for filing, suspended its

<sup>1</sup> Indiana Statewide Rural Electric Cooperative, Inc. Fruit Belt Electric Cooperative, Inc. Jay County Rural Electric Membership Corporation, Noble County Rural Electric Membership Corporation, Paulding-Putnam Electric Cooperative, Inc., United Rural Electric Corporation, Wayne County Rural Electric Membership Corporation, and Whitley County Rural Electric Membership Corporation.

<sup>2</sup> United Gas Pipeline Co., v. Mobile Gas Service Corp., 350 U.S. 332 (1956); F.P.C. v. Sierra-Pacific Power Co., 350 U.S. 348 (1956).

effectiveness for five months, and established hearing procedures thereon. The Commission also denied the motions to reject, holding that the parties' agreements with I&M did not constitute fixed-rate contracts within the definition of *Mobile-Sierra*. The Commission, by order of October 6, 1972, denied the motions for rehearing filed by the three parties.

Richmond, Anderson and the Cooperatives each petitioned the Court of Appeals for the District of Columbia Circuit for review of the Commission's orders denying the motions to reject I&M's filing and the order denying rehearing. In *Richmond Power and Light Company v. F.P.C.*,<sup>3</sup> the Court held that I&M's contracts with Richmond and Anderson precluded I&M from filing a unilateral rate increase under section 205 and remanded those cases to the Commission with directions to reject I&M's filings for Richmond and Anderson.

The Commission, subsequent to a Supreme Court refusal to review the Richmond decision, filed with the Court of Appeals a motion requesting a remand to the Commission of the record of the Cooperatives' appeal so that we might review the Cooperative's contracts in light of the Richmond decision. Upon a remand, opportunity for all parties to file briefs, and a reconsideration of the subject contracts, we held that I&M's June 13, 1972 rate increase filing with respect to the Cooperatives was contractually impermissible under section 205 of the Federal Power Act. We therefore rejected I&M's filing under section 205 of the Act with respect to the Cooperatives and ordered refunds to be made to the Cooperatives of all amounts collected in excess of the rates effective at the time of the June 13, 1972 filing.<sup>4</sup>

Subsequent to our order denying rehearing of our June 3, 1974 order<sup>5</sup> I&M petitioned the U.S. Court of Appeals for the D.C. Circuit for review of those orders. That appeal is still pending.

On April 10, 1975, the Cooperatives filed a Motion for Enforcement Action with this Commission requesting the Commission to implement its powers under Sections 314, 315 and 316 of the Federal Power Act and enforce its order of June 13, 1974. In support of this motion the Cooperatives point out that I&M did not request of the Court or of the Commission a stay of the Commission's June 3, 1974 order and that the order therefore remained in effect and required I&M to make the appropriate refunds. I&M has not filed a response to the Cooperatives motion and has offered no justification for its failure to comply with this Commission's directive requiring the payment of refunds.

Because no stay of our June 3, 1974 order was obtained our orders in this proceeding remained in full force and effect

<sup>3</sup> 481 F.2d 490 (D.C. Cir. 1973).

<sup>4</sup> Order on Reconsideration, Docket No. E-7740, issued June 3, 1974.

<sup>5</sup> Order Denying Rehearing, Docket No. E-7740, issued August 2, 1974.

and were binding upon I&M. I&M therefore was required to refund to the Cooperatives all monies collected in excess of the rates in effect prior to June 13, 1972. We shall therefore grant the Cooperatives motion to the extent of requiring I&M, within twenty days of the issuance of this order, to refund to the Cooperatives all amounts collected in excess of the rates in effect prior to June 13, 1972. In the event I&M fails to make the required refunds within twenty days of the issuance of this order we shall take such further action as may be necessary under sections 314, 315 and 316 of the Federal Power Act to ensure compliance with this directive.

**The Commission finds.** (1) It is necessary and appropriate in carrying out the provisions of the Federal Power Act to grant the Cooperatives' motion by requiring I&M, within twenty days of the issuance of this order, to refund to the Cooperatives all amounts collected from the Cooperatives pursuant to the rates filed on June 13, 1972 in excess of the rates in effect prior to that date.

(2) In the event I&M fails to make refunds, as hereinafter ordered, within twenty days of the issuance of this order, we shall take such further action as may be necessary under sections 314, 315 and 316 of the Federal Power Act to ensure compliance with our order.

**The Commission orders.** (A) The Motion for Enforcement Action filed by the Cooperatives on April 10, 1975 is granted to the extent of requiring the payment of refunds by I&M.

(B) Within twenty days of the issuance of this order I&M shall refund with interest at 7 percent to the Cooperatives amounts collected pursuant to the June 13, 1972 filing which are in excess of the previously existing rates.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-12885 Filed 5-15-75; 8:45 am]

[Docket No. RP75-96]

#### MICHIGAN-WISCONSIN PIPE LINE CO. Proposed Rate Increase

MAY 8, 1975.

Take notice that on April 30, 1975, Michigan-Wisconsin Pipe Line Company, (MichWis), tendered for filing the following proposed changes in its FPC Gas Tariff:

SECOND REVISED VOLUME NO. 1

Tenth Revised Sheet No. 27F

FIRST REVISED VOLUME NO. 2

Sixth Revised Sheet Nos. 92, 110, 129, and 130

Fifth Revised Sheet Nos. 141, 142, and 171

Third Revised Sheet Nos. 214, and 215

Second Revised Sheet Nos. 231, 232, 297, 315, and 339  
First Revised Sheet Nos. 420, and 421

The proposed changes in rates, which will result in increased charges to jurisdictional customers in the amount of \$65,992,605 per year, are based on the test period ended January 31, 1975 with known and measurable changes through October 31, 1975. MichWis states that the reasons for the proposed increase are the following: a) Increased costs of capital which result in an overall rate of return requirement of 10.75%; b) Increased depreciation rates to obtain a timely recovery of its investment in its natural gas production, storage and transmission facilities and to provide some portion of the additional funds necessary to acquire and attach future additional gas supplies; c) Increased costs associated with the acquisition of gas supplies; d) Reduction in sales; and e) Increased cost of labor, supplies and other expenses of operation.

MichWis requests an effective date of June 1, 1975.

MichWis states that copies of its filing have been mailed to all its jurisdictional customers and all interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protests should be filed on or before May 21, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-12886 Filed 5-15-75; 8:45 am]

[Docket No. RP73-108]

#### PANHANDLE EASTERN PIPE LINE CO. Refund of Charges Pursuant to Settlement Agreement

MAY 8, 1975.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on November 14, 1974, tendered for filing its Report of Refunds made to its jurisdictional customers on October 15, 1974, pursuant to Article II, Paragraph 3 of its agreement as to rates and related matters, dated July 29, 1974, which was approved by and made a part of the Commission's order issued August 30, 1974.

Panhandle states that each of its jurisdictional customers received a copy of the refund summary and their respective detail computations.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-12887 Filed 5-15-75; 8:45 am]

[Docket No. E-7718 and E-8435]

#### PENNSYLVANIA ELECTRIC CO.

##### Postponement of Hearing

MAY 9, 1975.

Take notice that due to a schedule conflict of the Presiding Administrative Law Judge the hearing scheduled for May 13, 1975, by notice issued March 4, 1975, in the above-designated matter, is postponed until July 8, 1975, at 10 a.m. (e.d.t.).

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-12888 Filed 5-15-75; 8:45 am]

[Docket No. E-8927]

#### PENNSYLVANIA POWER AND LIGHT CO. Postponement of Hearing

MAY 9, 1975.

Take notice that due to a schedule conflict of the Presiding Administrative Law Judge the hearing scheduled for May 13, 1975, by notice issued April 16, 1975, is postponed until June 24, 1975, at 10 a.m. (e.d.t.).

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-12889 Filed 5-15-75; 8:45 am]

[Docket No. E-8953]

#### SUPERIOR WATER, LIGHT AND POWER CO.

##### Postponement of Hearing

MAY 9, 1975.

Take notice that due to a schedule conflict of the Presiding Administrative Law Judge, the hearing scheduled for May 12, 1975, by notice issued February 19, 1975, is postponed until June 26, 1975, at 10 a.m. (e.d.t.).

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-12890 Filed 5-15-75; 8:45 am]



[Docket No. RP74-39-8]

**TEXAS EASTERN TRANSMISSION CORP.  
(NORTH ALABAMA GAS DISTRICT)****Order Modifying Order Granting Extraordinary Relief and Denying Applications for Rehearing**

May 1, 1975.

Our order of February 26, 1975, granted extraordinary relief to the North Alabama Gas District (North Alabama) for the Cherokee, Alabama plant of United States Steel Corporation's Agri-Chemical Division (Ag-Chem) to supply Ag-Chem's continuing feedstock gas requirements and its process gas requirements for eighteen months, subject to certain volume limitations and use conditions. Applications for rehearing which question both our basic findings and the imposition of these special conditions have been filed by Ag-Chem and Algonquin Gas Transmission Corporation (Algonquin). North Alabama has applied for clarification or modification of the conditions attached to the relief grant. After further review of these pleadings and the complex circumstances here, we have determined that our basic conclusions are correct, but that the conditions and limitations should be amended to clarify the format for the provision of relief and the corresponding responsibilities of North Alabama and Ag-Chem.

**I. Basic findings.** At the Cherokee plant, Ag-Chem produces anhydrous ammonia by using natural gas for feedstock and as the process fuel that heats the primary reformer in which a catalytic reaction reforms the feedstock gas. Based on the expanded record after rehearing, we awarded continuing extraordinary relief for feedstock use but limited process relief to an eighteen month period, in which Ag-Chem can eliminate its process gas use by converting the reformer to oil. We concluded that "[t]he available evidence indicates that conversion is feasible." Where the record was incomplete, particularly on the question of economic feasibility, we refused to grant additional relief on the basis of speculation and resolved the conversion question against North Alabama and Ag-Chem, which had the burden of proving that relief was fully justified, and in favor of the other curtailed customers of TETCO, whose entitlements would be reduced further by the grant of full relief (Order at 13-14).

Ag-Chem has applied for rehearing of our finding on conversion feasibility, contending that this conclusion is unsupported by record evidence, based on an improper decisional standard, and the result of an unlawful imposition of the burden of proof upon the petitioner. Ag-Chem argues that the current TETCO curtailment plan, which conforms to our Statement of Policy in Order No. 467-B,<sup>1</sup> was illegally imposed upon TETCO by the Commission, after the previous pro-rata curtailment plan

<sup>1</sup> Utilization and Conservation of Natural Resources—Natural Gas Act, Docket No. R-469, 49 FFC 583 (1973).

had been approved as in the public interest. It therefore follows, according to Ag-Chem, that we have made this one customer suffer the burden of an illegal tariff, by imposing on it the burden of proof in this proceeding. It is suggested that, at most, North Alabama and Ag-Chem should have been allocated only the burden of going forward with the presentation of evidence.

Moreover, we have allegedly applied an improper standard to decide the conversion issue by giving "great weight" to three "non-economic" factors: the general gas shortage, the existing level of curtailment, and the end use priority of the customers to be affected by a grant of relief (Order at 13). The first two factors are assertedly irrelevant, since they provide no basis to distinguish among petitioners. By considering the last factor, Ag-Chem suggests that the Commission has given impermissible weight to Order No. 467-B, a mere "Statement of Policy" which is not supported by any specific evidence in this case. Finally, Ag-Chem contends that the record evidence, when measured by a proper standard of feasibility, proves that conversion is infeasible.

Our finding, that process conversion is feasible, was properly and correctly reasoned from the record evidence and will not be modified. Since the evidentiary record in an extraordinary relief proceeding is often poorly detailed or somewhat inconclusive, it is necessary to establish clearly where the burden of persuasion falls. It would be unreasonable and impractical to place that burden on the supplying pipeline or the Commission staff, rather than on the petitioner, which alone has full access to significant information and originally alleged that relief should be provided because of extraordinary circumstances involving its individual operations. Ag-Chem's specific argument is rejected as an untimely attempt to collaterally attack a previous order. If there was any merit in Ag-Chem's suggestion that the current TETCO curtailment plan is an unlawful tariff amendment, a different result would not be required; the operation of TETCO's curtailment plan was never an issue in this proceeding. North Alabama has argued simply that a certain volume of gas should be delivered to Ag-Chem, without regard to any level of industrial curtailment under any plan; there has been no suggestion that relief is required because Ag-Chem has been injured by the use of an end use curtailment plan in place of a pro-rata plan.

Conversion of the primary reformer will reduce Ag-Chem's gas requirements significantly without reducing its production capacity. The record showed that process conversion can be achieved, but at substantial expense and with some difficulty and a resulting loss of efficiency. In reaching our conclusion that conversion is feasible here, we weighed four material factors: the engineering evidence that conversion is technically possible; the general gas shortage and

the level of curtailment on the TETCO system, which are so severe that relief can be awarded only if there is no other alternative; the Category 2 service priority of the other customers to be affected by a grant of relief, which reflects the fact that those customers cannot use alternate fuels to replace the relief volumes diverted to Ag-Chem; and finally the limited economic evidence, which did not support a finding that the actual costs of conversion are unreasonable, or that the operation of the plant after conversion is economically infeasible.

While the general gas shortage, and the existing level of curtailment, or stated differently, the service priority of the affected customers, are factors which do not distinguish various relief petitions, they are relevant considerations in determining whether relief, which is sufficient to eliminate a particularly onerous conversion burden, can be awarded to one petitioner. Relief might be granted where conversion is not absolutely infeasible, if the supplying pipeline projects only short term, limited curtailments of service, or if the classification of the affected customers reflects their existing ability to use alternate fuels.

Algonquin has applied for rehearing of that portion of the order (footnote 4 at page 9) where we refused to deny or reduce relief on the basis of allegations in Algonquin's pleading that Ag-Chem spurned Algonquin's offer of SNG, apparently due to the high price. We again will not modify this complex decision because of this single unsubstantiated allegation. Furthermore, the revision of the conditions to relief, ordered here, should satisfy Algonquin, if its objections are motivated by a genuine concern that the original conditions removed any incentive to the acquisition by Ag-Chem of high priced intrastate gas or supplemental supplies to replace relief volumes from TETCO.

**II. Limitations and conditions to relief.** North Alabama has sought a nearly complete exemption from curtailment by TETCO. Since its service is classified in the Category 2 service priority, these very substantial relief volumes can be provided only through the creation of a special service priority, between Category 1 and 2, which will continue significantly large daily deliveries to Ag-Chem when TETCO is heavily or completely curtailing service for the highest priority industrial uses and for storage injection that protects peak day residential service. While recognizing the continuing need for fertilizer production, we concluded that an outright relief award in these circumstances would not be consistent with the general public interest and our statutory responsibilities. We were able to justify an award of relief only by carefully limiting deliveries, and by clearly requiring Ag-Chem to shoulder its corresponding responsibilities, including the reduction of its long term relief requirements. Accordingly, our order of

February 26, 1975, set absolute limitations and prohibitions on TETCO's deliveries and Ag-Chem's use of natural gas, when other fuels can be utilized.

After further consideration, we have determined that these conditions should be clarified to emphasize our primary concern, that relief be taken only when absolutely necessary and paid back promptly, and also should be modified to allow Ag-Chem greater flexibility in fulfilling its fuel requirements for full production. The order of February 26, 1975, as revised herein, contains the most generous terms under which we can permit the delivery of extraordinary relief volumes. If North Alabama and Ag-Chem are unwilling to comply with these necessary limitations, then they may simply reject this offer of relief and take their curtailed contractual entitlement from TETCO.

**A. Volumetric limitations.** Previously, we limited North Alabama's daily delivery from TETCO to the minimum, pro-rata volume necessary to meet Ag-Chem's indispensable gas requirements—feedstock gas permanently and process gas for eighteen months. Ag-Chem suggests that a pro-rata limitation is not necessary to protect the public interest. North Alabama argues that this limitation constitutes an abandonment pro tanto without compliance with section 7 of the Natural Gas Act. Since it was never our intent to permanently and absolutely reduce North Alabama's curtailment entitlement, we will adjust ordering paragraph (C) as necessary.

TETCO shall continue to provide its pro-rata share of the total minimum volume of gas needed to fuel Ag-Chem's indispensable requirements. The actual relief volumes, the amount by which North Alabama's ordinary curtailed entitlement under TETCO's effective curtailment plan is lower than the volume actually delivered, will be added to North Alabama's accruing payback obligation. North Alabama will also be permitted to take any excess amounts of gas, by which its curtailed contractual entitlement from TETCO exceeds the pro-rata share of the indispensably required volumes delivered ordinarily by TETCO under this grant. But, these "excess volumes" must be used in a manner consistent with the extraordinary nature of this relief award. Any gas taken from TETCO, which could be feasibly replaced by alternate fuels, must be applied to reduce any outstanding payback obligation and to replace relief from other suppliers, before this gas is actually used to fuel convertible processes.<sup>2</sup>

<sup>2</sup> When relief from TETCO's curtailment was granted, we designed these conditions to track with other possible relief awards, since Ag-Chem's other suppliers were then curtailing deliveries to the Cherokee plant. Ag-Chem and North Alabama have filed petitions for relief from curtailment by Alabama-Tennessee Gas Transmission Company (Alabama-Tennessee) and Tennessee Gas Transmission Company (Tennessee) which are being reviewed. This order should not be interpreted as a prejudgment of those petitions, or as a preliminary statement that further relief is actually necessary or justified on those systems.

These provisions are clearly reasonable; Ag-Chem, through North Alabama, is required merely to subordinate any unnecessary use of the TETCO gas in order to meet its overriding obligations—the prompt payback of relief volumes received previously for indispensable uses and the reduction of all relief takes whenever possible. They are necessary first, to avoid the diversion of gas from similar high priority customers of TETCO to remedy curtailments imposed by Ag-Chem's other suppliers, and also, to prevent the unnecessary use of gas in convertible processes while relief is being taken from other sources and past relief takes have not been paid back. No abandonment of service will result from the imposition of these temporary restrictions, which will be effective only when Ag-Chem's payback obligation has not been discharged.

Finally, the actual figures setting the maximum limitations on TETCO deliveries for indispensable uses will be increased slightly to reflect the different pressure base used on the Alabama-Tennessee system to measure contract volumes. 5,000 Mcf at 14.73 psia, the daily contract volume delivered by Alabama-Tennessee at that pressure base, is equivalent to 4,902 Mcf at 15.05 psia, the measurement pressure base of the Tennessee and TETCO systems. Therefore, the volumetric limitations in ordering paragraph (C) (1) have been recalculated using 21,702 Mcf/d, rather than 21,800 Mcf, as the total contract volume which is the basis for the ratios described in the original order (at 16).

**B. Use Prohibition.** Extraordinary relief was granted upon condition that Ag-Chem agrees to use gas "from any source" only for feedstock, and as process fuel for eighteen months (ordering paragraph (D), subparagraphs (1), (2) and (4), at 18). Ag-Chem contends that imposition of this condition is beyond our statutory authority, "grossly unfair and unduly discriminatory", and violative of the National Environmental Policy Act (NEPA) since an environmental impact statement has not been prepared and considered. North Alabama's application, which makes similar arguments, emphasizes the possible negative effect of these conditions on its financial condition and its ability to serve its other customers. If Ag-Chem violates the terms of the relief grant, TETCO must cease all deliveries to Ag-Chem, through North Alabama—the "innocent bystander". Algonquin, in its motion for clarification or supplemental application for rehearing, expresses its concerns that our order does not clearly require Ag-Chem to minimize its relief takes by developing new sources of gas or supplemental supplies and may actively discourage the acquisition of new supplies of gas.

These conditions were designed to accomplish two things in a simple direct manner. By prohibiting the use of gas from any source, we clearly established both Ag-Chem's paramount obligation to reduce its very large relief requirements through process conversion, and our intent to forestall later petitions for additional process relief, assertedly

based on the public interest in maximum fertilizer production, but actually required because Ag-Chem had not acted diligently to lessen gas consumption. Since any condition requiring prudent or diligent efforts to replace relief volumes, through development of alternate fuel supplies, would be difficult to enforce, we attempted further to assure that one alternate fuel, oil, would have to be used in convertible processes, while we guaranteed sufficient gas for feedstock use where oil cannot be substituted. After further study, these conditions appear to be deficient in two respects. They do not permit the resumption of Ag-Chem's historical use of gas once the present supply emergency is ended. Also, while the original relief grant encourages process conversion to oil, it discourages the acquisition of new supplies to replace the substantial relief volumes guaranteed for feedstock use.

We will apply an absolute prohibition on the use of gas in convertible processes only to actual relief volumes delivered to the Cherokee plant. Ag-Chem will be permitted to use newly acquired volumes of natural gas and supplemental supplies in any manner. However, while relief volumes are taken or an accrued payback obligation remains outstanding, Ag-Chem's current suppliers will reduce their deliveries and thereby eliminate relief or accelerate payback, whenever new supplies are available to Ag-Chem which can be used to fulfill Ag-Chem's indispensable requirements. Certainly, this displacement requirement is reasonable and necessary; it would be grossly inequitable to allow Ag-Chem to burn natural gas, SNG, LNG and propane in its convertible primary reformer or in the converted dryers and boilers, at the same time that relief gas or volumes which could be paid back are taken for feedstock use. Once the need for relief ends and Ag-Chem's payback obligation has been discharged, these necessary restrictions will no longer be effective.

These revised conditions will apply to all new sources of gaseous fuels "available to Ag-Chem", and not merely to those supplies which Ag-Chem receives in fact. We expect and require that Ag-Chem will apply its "best efforts" to develop and acquire new sources of intrastate and interstate gas and supplemental supplies. If it is shown convincingly that Ag-Chem has not acted diligently, upon our own investigation or after a specific complaint, then we will reevaluate this relief grant and take any necessary action. At the same time, our actions here should not be interpreted as an invitation to other parties to relitigate this proceeding, or to employ this Commission as a broker arranging individual sales.

There is no basis for a jurisdictional challenge to this revised relief award, for the one, absolute, use prohibition applies only to actual relief volumes, which are totally within our discretionary control. The other temporary limitations are unusual, but not unfair or discriminatory. These conditions are necessitated by the unusual circumstances here. Substantial volumes of relief gas are to be delivered



specially, under a high priority service category, to a plant where the use of process gas can be eliminated.

A statement on the environmental impact of this order is not required by NEPA. Even if it is assumed that conversion of Ag-Chem's primary reformer will significantly affect the human environment, conversion to oil will be required by market forces and the general fuel supply crisis, and not by our action in conditioning and limiting this award so that the grant of extraordinary relief can be justified here. If North Alabama and Ag-Chem are unwilling to accept conditioned relief, they may reject this offer and continue to receive the normal entitlement under TETCO's interim curtailment plan. Certain temporary limitations have been placed on the delivery of interstate gas to Ag-Chem; but Ag-Chem and North Alabama retain the additional options of acquiring new supplies of gaseous fuel or of adjusting production schedule, so that conversion can be avoided. We intend to comply with the requirements of NEPA "to the fullest extent possible" in directing the preparation of impact statements on the operation of permanent curtailment plans; but we concur in the statement that this requirement of NEPA should not be used as "a weapon for disappointed parties". *State of Louisiana v. F.P.C.*, 503 F.2d 499, 857 (5th Cir. 1974); *Calvert Cliffs Coordinating Committee v. A.E.C.*, 449 F.2d 1109 (D.C. Cir. 1971).

Finally, we shall modify the conditions on relief that protect Category One service and require submission of compliance statements by North Alabama and Ag-Chem. In requiring the cessation of deliveries to Ag-Chem when Category One service is curtailed by TETCO, the condition established in Order No. 716-E, issued April 18, 1974 in Docket No. RP74-39-3, Texas Eastern Transmission Corporation (Carnegie Natural Gas Company) will be applied here. North Alabama shall submit the ordered compliance statements within ninety days or promptly reject the grant; but this requirement is not intended to interfere with any lawful appeal from this order.

The Commission further finds. (A) Sufficient good cause exists to modify our order of February 26, 1975, in this docket, as hereafter ordered.

(B) The assignments of error and grounds for rehearing set forth in the petitions of Ag-Chem, North Alabama, and Algonquin present no facts or legal principles that warrant any changes in the order of February 26, 1975, in this docket, except as hereafter ordered.

The Commission orders. (A) The applications for rehearing filed by Ag-Chem, North Alabama and Algonquin are hereby denied, in part, and granted as hereafter ordered.

(B) Ordering paragraphs (C) and (D) in the order of February 26, 1975, in this docket are hereby amended as follows.

(C) (1) TETCO shall deliver the following daily volumes of gas to North Alabama for delivery to Ag-Chem:

(a) before May 1, 1975, the absolute minimum volume of gas necessary for use by Ag-Chem as feedstock and process fuel so that Ag-Chem can produce the maximum output of ammonia achievable on that day or 14,800 Mcf, whichever volume is smaller; and

(b) from May 1, 1975, through August 31, 1976, the absolute minimum volume of gas necessary for use by Ag-Chem as feedstock and process fuel so that Ag-Chem can produce the maximum output of ammonia achievable on that day or 12,017 Mcf, whichever volume is smaller; and

(c) on and after September 1, 1976, the absolute minimum volume of gas necessary for use by Ag-Chem as feedstock so that Ag-Chem can produce the maximum output of ammonia achievable on that day or 7,211 Mcf, whichever volume is smaller.

(C) (2) On any day when North Alabama's entitlement under TETCO's then effective curtailment plan exceeds the volume to be delivered under ordering paragraph (C) (1), then TETCO shall also deliver the additional volume of gas by which North Alabama's full entitlement exceeds the volume which already will be delivered under ordering paragraph (C) (1), provided that this additional volume will be used in the following manner:

(a) First, paid back to TETCO until all relief volumes taken from TETCO have been paid back; and then

(b) second, delivered to Ag-Chem, only to displace any relief volumes being taken by Ag-Chem on that day from Tennessee through North Alabama and then from Alabama-Tennessee directly; and then

(c) third, delivered to Ag-Chem only to displace volumes to be paid back to Tennessee and then Alabama-Tennessee, until all relief volumes taken from Tennessee and Alabama-Tennessee have been paid back; and then

(d) fourth, delivered to Ag-Chem outright.

(D) Extraordinary relief is granted upon the condition that:

(1) The relief volumes from TETCO—the volume delivered under ordering paragraph (C) (1) less North Alabama's entitlement under TETCO's then effective curtailment plan—shall be taken by North Alabama only if those volumes are used in the following manner:

(a) before September 1, 1976, for feedstock and process use; and

(b) on and after September 1, 1976, for feedstock alone;

(2) On any day, the relief volumes to be provided by Ag-Chem's three current interstate suppliers shall be reduced in pro-rata amounts, first by the volumes of interstate gas and the new volumes of interstate gas other than the existing total contractual entitlement of 21,702 Mcf/d, available for Ag-Chem's use on that day, and second by the BTU equivalent of any SNG, LNG or propane available for Ag-Chem's use on that day;

(3) Until all relief volumes previously taken by Ag-Chem have been paid back,

on any day, the volumes available to North Alabama under ordering paragraphs (C) (1) and (C) (2) shall be reduced first by the volumes of intrastate gas and the new volumes of interstate gas other than the existing total contractual entitlement of 21,702 Mcf/d, available for Ag-Chem's use on that day, and second by the BTU equivalent of any SNG, LNG or propane available for Ag-Chem's use on that day, but only to the extent that these available amounts of intrastate gas, interstate gas and SNG, LNG, or propane have not been used to displace relief volumes under ordering paragraph (D) (2). The amount of this reduction shall be applied to reduce the outstanding payback obligation;

(4) North Alabama shall file quarterly reports with the Commission giving all relevant information concerning Ag-Chem's daily use of gas and alternate fuels, the actual operation of this relief grant, and Ag-Chem's efforts to acquire and use other sources of gas and alternate fuels. The information supplied shall include but is not limited to the following data:

(a) the daily and monthly volumes of gas taken from every intrastate and interstate source by Ag-Chem, and by North Alabama for redelivery to Ag-Chem;

(b) the daily and monthly volumes of relief gas taken from every source by Ag-Chem and by North Alabama for redelivery to Ag-Chem, the total volumes of relief gas which have been paid back to each supplier of relief during that month, and the total outstanding volume of relief gas from each supplier that has been taken but not paid back;

(c) the daily and monthly amounts of interstate gas, intrastate gas, and supplemental supplies (LNG, SNG, or propane) available to Ag-Chem but not taken or used by Ag-Chem on each day;

(d) for each day, the reasons justifying the particular volumes of gas taken from TETCO on that day, under the terms of this order.

(e) a detailed description of all successful and unsuccessful efforts taken by Ag-Chem to convert its operations to alternate fuels, to acquire supplies of natural gas, SNG, LNG, and propane, and to reduce its need for extraordinary relief;

(5) TETCO shall unilaterally discontinue Ag-Chem's relief volumes if and when TETCO's systemwide deliveries under the curtailment plan for Category I end-use are less than the aggregate of TETCO's proportionate share of its customers' Category I requirements, as identified in TETCO's existing end-use data;

(6) Within ninety days after issuance of this order North Alabama shall file with this Commission notarized statements signed by the chief executive officers of North Alabama and Ag-Chem which set forth the conditions and limitations contained in this order and the Chem to abide by the terms of these conditions and limitations, except to the extent that these terms may later be

modified by order of a competent reviewing court.

By the Commission.

[SEAL]

MARY B. KIDD,  
Acting Secretary.

[FR Doc. 75-12892 Filed 5-15-75; 8:45 am]

[Docket No. RM75-16]

# REVISION OF PROCEDURE FOR THE ISSUANCE OF SECURITIES

## Notice of Public Meeting

May 9, 1975.

Pursuant to § 1.3 of the Commission's rules of practice and procedure (18 C.F.R. § 1.3), notice is hereby given that a public conference shall be convened on May 27 and 28, 1975, at the office of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 at 10 a.m. This conference is held under authority of the Commission's notice of proposed rulemaking issued in this docket on January 20, 1975, which stated that the "Staff, in its discretion, may grant or deny requests for conference". Of the sixteen (16) comments received in response to the notice of rulemaking, five (5) of the respondents requested that a conference be convened. The Staff has determined that such a conference is an appropriate forum for a discussion of relevant issues relating to the subject of the proposed rulemaking.

At the outset, we note explicitly that it is not the purpose of this conference for participants to engage in debate regarding the proposition of whether or not competitive bidding procedures provide advantages which are superior to those obtainable through negotiated underwritings. Rather, the purpose of this conference will be to discuss the proposed procedures enunciated in Docket No. RM75-16, and in the alternative to discuss any procedures that the participants would suggest which would aid the Commission in fulfilling its statutory responsibilities. All interested parties are requested to be prepared to discuss the issues in accordance with the agenda attached to this notice.

The conference is open to members of the general public who upon recognition by the Chairman of the conference, Daniel C. Lamke of the Commission Staff, may offer comments as to the relevant issues under discussion. This conference on relevant issues relating to RM 75-16 shall be of record. Parties desiring to place written presentations into the record should provide the Staff with at least one original and nine copies of such submission.

KENNETH F. PLUMB,  
Secretary.

### PRELIMINARY AGENDA

#### FEDERAL POWER COMMISSION STAFF CONFERENCE ON RELEVANT ISSUES

Revision of Procedure For The Issuance of Securities, Docket No. RM75-16, To Be Held at Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, May 27 and 28, 1975

Presiding: Daniel C. Lamke, Office of the  
General Counsel, Federal Power Commission.

Tuesday, May 20, 1975

10 a.m., Opening of conference, Daniel C. Lamke, presiding  
10:15, Procedures for conference announced, Registration for oral presentation  
10:45, General statements \* by interested parties, recognized by conference Chairman  
12 noon, Recess  
1 p.m., Discussion of proposed Rulemaking RM75-16  
4:30, Scheduling of presentation will be facilitated if conference participants will notify the conference Chairman in advance (202) 386-

Wednesday, May 21, 1975

10 a.m., Discussion of proposed Rulemaking RM75-16  
12 noon, Recess  
1 p.m., Discussion of proposed Rulemaking RM75-16  
4, Summary Statements  
4:30, Adjournment

[FR Doc. 75-12891 Filed 5-15-75; 8:45 am]

## FEDERAL RESERVE SYSTEM

### CLINTON BANCSHARES, INC.

#### Order Approving Formation of Bank Holding Company

Clinton Bancshares, Inc., Clinton, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 80 percent or more of the voting shares of First National Bank in Clinton, Clinton, Oklahoma ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a recently-organized corporation formed for the purpose of becoming a bank holding company through the acquisition of Bank. The proposed transaction involves the transfer of control of Bank from individuals to a corporation owned by the same individuals. Bank holds deposits of approximately \$15.3 million, representing 12.4 percent of the total deposits in commercial banks in the relevant market, and ranks as the second largest of 14 banks operating in the market. Upon acquisition of Bank, Applicant would control less than two-tenths of one percent of total deposits in commercial banks in Oklahoma. Since the transaction is essentially a reorganization of Bank's ownership and Applicant presently has no subsidiaries, it appears that consummation of the proposal would not eliminate significant existing

\* All banking data are as of June 30, 1974.

\* The relevant geographic market is approximated by all of Custer County and the northern half of Washita County in Oklahoma.

or potential competition, or have an adverse effect on other area banks. Therefore, the Board concludes that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, which will depend upon those of Bank, are regarded as satisfactory. Applicant proposes to service the debt it will assume incident to this proposal over a 12 year period primarily through dividends from Bank. In light of Bank's past earnings and its anticipated growth, it appears that the projected earnings of Bank will provide Applicant with the necessary financial flexibility to meet its annual debt servicing requirements while maintaining an adequate capital position for Bank. Thus, considerations relating to banking factors are consistent with approval of the application. Although consummation of the proposal would effect no changes in the services offered by Bank, considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. It is the Board's judgment that the proposed transaction would be consistent with the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,  
effective May 9, 1975.

[SEAL] GRIFFITH L. GARWOOD,  
Assistant Secretary  
of the Board.

[FR Doc. 75-12898 Filed 5-15-75; 8:45 am]

## FIRST BANCORP, INC.

### Acquisition of Bank

First Bancorp, Inc., Corsicana, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of First National Bank, Kaufman, Texas, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than May 30, 1975.

\* Voting for this action: Chairman Burns and Governors Mitchell, Bucher, and Holland. Absent and not voting: Governors Sheehan, Wallach and Coldwell.



Board of Governors of the Federal Reserve System, May 12, 1975.

[SEAL] ROBERT SMITH, III,  
Assistant Secretary  
of the Board.  
[FR Doc. 75-12893 Filed 5-15-75; 8:45 am]

#### FIRST UNION, INC. Acquisition of Bank

First Union, Incorporated, St. Louis, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of First National Bank of St. Peters, St. Peters, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 10, 1975.

Board of Governors of the Federal Reserve System, May 9, 1975.

[SEAL] ROBERT SMITH, III,  
Assistant Secretary  
of the Board.  
[FR Doc. 75-12894 Filed 5-15-75; 8:45 am]

#### FOB, CORP.

##### Formation of Bank Holding Company

FOB, Corp., Belleville, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of all of the voting shares of First National Bank of Belleville, Belleville, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

FOB, Corp., Belleville, Illinois has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Illinois State Trust Company, East St. Louis, Illinois. Notice of the application was published on April 6, 1975 in the Metro-East Journal, a newspaper circulated in East St. Louis, Illinois and on April 7, 1975, in the Belleville News-Democrat, a newspaper circulated in Belleville, Illinois.

Applicant states that the proposed subsidiary would engage in the activities of: performing or carrying on any one or more of the functions or activities that may be performed or carried on by a trust company, including activities of a fiduciary, agency or custodial nature, including the administration of Decedent's Estates, Trusts under Wills, Trusts under Agreements, Agencies, Escrow Agencies,

Guardianships, Conservatorships, Stock Transfer Services, Paying Agent Services, Investment Services and all other activities incidental thereto. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 9, 1975.

Board of Governors of the Federal Reserve System, May 8, 1975.

[SEAL] ROBERT SMITH, III,  
Assistant Secretary  
of the Board.

[FR Doc. 75-12899 Filed 5-15-75; 8:45 am]

#### MICHIGAN NATIONAL CORPORATION Acquisition of Bank

Michigan National Corporation, Bloomfield Hills, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less director's qualifying shares) of Michigan National Bank-Grand Traverse, Traverse City, Michigan, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 9, 1975.

Board of Governors of the Federal Reserve System, May 8, 1975.

[SEAL] ROBERT SMITH, III,  
Assistant Secretary  
of the Board.

[FR Doc. 75-12900 Filed 5-15-75; 8:45 am]

#### PADGETT AGENCY, INC.

##### Formation of Bank Holding Company

Padgett Agency, Inc., Greenleaf, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 91.67 percent of the voting shares of Citizens National Bank, Greenleaf, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Padgett Agency, Inc., Greenleaf, Kansas, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to retain voting shares of Padgett Insurance Agency, Greenleaf, Kansas. Notice of the application was published on May 1, 1975 in The Greenleaf Sentinel, a newspaper circulated in Washington County, Kansas.

Applicant states that the proposed subsidiary would engage in the activities of a general insurance agency operating in a community with a population of less than 5,000 people. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than May 30, 1975.

Board of Governors of the Federal Reserve System, May 9, 1975.

[SEAL] ROBERT SMITH, III,  
Assistant Secretary  
of the Board.

[FR Doc. 75-12901 Filed 5-15-75; 8:45 am]

#### WESTLAND BANKS, INC.

##### Order Approving Acquisition of Bank

Westland Banks, Inc., Lakewood, Colorado, a bank holding company within the

meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Castle Rock National Bank, Castle Rock, Colorado, a proposed new bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the ninth largest banking organization in Colorado, controls six banks with aggregate deposits of about \$73.3 million, representing approximately 1.1 percent of the total deposits in commercial banks in the State of Colorado.<sup>1</sup> Since Bank is a proposed new bank, consummation of the proposed acquisition would not immediately increase Applicant's share of commercial bank deposits in the State and therefore would not immediately result in an increase in the concentration of banking resources in Colorado.

Bank is to be located in Castle Rock, a long established community thirty miles south of the central business district of Denver. Applicant has no current interests in the Castle Rock market area.<sup>2</sup> Since Bank is a new bank, consummation of the proposal would not eliminate any existing competition. Nor does it appear that the transaction would have adverse effects on the development of competition in the future. Accordingly, competitive considerations are regarded by the Board as being consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant and its subsidiaries are regarded as generally satisfactory. Bank, as a proposed new bank, has no financial or operating history; however, its prospects as a subsidiary of Applicant appear favorable. These considerations relating to the banking factors are consistent with approval of the application.

The addition of a new banking alternative to the Castle Rock area should provide greater banking convenience for the residents of the area. Therefore, considerations relating to the convenience and needs of the community to be served lend weight toward approval of the application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not

<sup>1</sup> All banking data are as of June 30, 1974, and reflect bank holding company formations and acquisitions approved through November 30, 1974.

<sup>2</sup> The Castle Rock market area is defined as Douglas County and the western portion of Elbert County.

be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after that date, and (c) Castle Rock National Bank, Castle Rock, Colorado, shall be opened for business not later than six months after the effective date of this Order. Each of the periods described in (b) and (c) may be extended for good cause by the Board or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors, effective May 7, 1975.

[SEAL] GRIFFITH L. GARWOOD,  
Assistant Secretary  
of the Board.

[FR Doc. 75-12902 Filed 5-15-75; 8:45 am]

#### WESTLAND BANKS, INC.

##### Order Approving Acquisition of Bank

Westland Banks, Inc., Lakewood, Colorado, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Gunbarrel National Bank, Boulder, Colorado, a proposed new bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those submitted on behalf of Bank of Boulder, Boulder, Colorado ("Protestant"), in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the ninth largest banking organization in Colorado, controls six banks with aggregate deposits of about \$73.3 million, representing approximately 1.1 percent of the total deposits in commercial banks in the State of Colorado.<sup>1</sup> Since Bank is a proposed new bank, consummation of the proposed acquisition would not immediately increase Applicant's share of commercial bank deposits in the State.

Bank is to be located in Gunbarrel, a suburban area three miles northeast of Boulder, Colorado.<sup>2</sup> Applicant is the eighth largest banking organization in the Boulder banking market (the relevant market), with two subsidiary banks controlling about 2.4 percent of the total market deposits.<sup>3</sup> Since Bank is a new

<sup>1</sup> Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, Bucher, Holland, and Wallich. Absent and not voting: Governor Coldwell.

<sup>2</sup> All banking data are as of June 30, 1974, and reflect bank holding company formations and acquisitions approved through November 30, 1974.

<sup>3</sup> The Comptroller of the Currency has granted preliminary charter approval for Bank.

bank, consummation of the proposal would not eliminate any existing competition. Nor does it appear that the transaction would have adverse effects on the development of competition in the future. Accordingly, competitive considerations are regarded by the Board as being consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant and its subsidiaries are regarded as generally satisfactory. Bank, as a proposed new bank, has no financial or operating history; however, its future prospects as a subsidiary of Applicant appear favorable. These considerations relating to the banking factors are consistent with approval of the application.

In its consideration of the subject application, the Board has considered the comments submitted on behalf of Protestant, a bank located 3.8 miles from the proposed site of Bank. Protestant, the ninth largest bank in the market, contends generally that the economy of the area to be served by Bank will not support an additional bank and, since the proposed service area of Bank is substantially similar to that served by Protestant, the establishment of Bank would have an adverse impact on Protestant. The Board is of the view that the record, including the submissions by Protestant, does not warrant denial of the application.

The Boulder market area has been one of the fastest growing areas in the State, as reflected in a population growth of about 78 percent during the past decade. Moreover, based on projections, it is reasonable to conclude that the area's population growth will continue to surpass the rate of growth for the State as a whole. While the level of economic activity in the area may have slowed recently, the Board is of the view that the population and the prospects for growth in the area are favorable and indicate that the market could support an additional banking alternative. Furthermore, although the introduction of a new bank into the market may moderate Protestant's rate of growth, the Board is unable to conclude that the establishment of Bank by Applicant, which does not occupy a significant position in the market, would have an adverse impact on Protestant's overall prospects.

On the other hand, it appears the proposal would result in benefits to the convenience and needs of the community. At the present time, there are no banks in the city of Gunbarrel, and the area to be served by Bank contains approximately 100 businesses. This proposal would result in an additional and a more convenient source of full banking services to the businesses and residents of the area. Accordingly, the Board concludes that convenience and needs considerations lend weight toward approval

<sup>3</sup> The Boulder market area is defined as Boulder County excluding the Bloomfield area and including the Erie area in the southwestern corner of Weld County.

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of the application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after that date, and (c) Gunbarrel National Bank, Boulder, Colorado, shall be opened for business not later than six months after the effective date of this Order. Each of the periods described in (b) and (c) may be extended for good cause by the Board or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors, effective May 7, 1975.

[SEAL] GRIFFITH L. GARWOOD,  
Assistant Secretary  
of the Board.

[FR Doc.75-12903 Filed 5-15-75; 8:45 am]

#### WILLARD BANCSHARES, INC.

##### Formation of Bank Holding Company

Willard Bancshares, Inc., North St. Paul, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 86 per cent of the voting shares of First State Bank of North St. Paul, North St. Paul, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 4, 1975.

Board of Governors of the Federal Reserve System, May 7, 1975.

[SEAL] ROBERT SMITH, III,  
Assistant Secretary  
of the Board.

[FR Doc.75-12904 Filed 5-15-75; 8:45 am]

#### FEDERAL TRADE COMMISSION

##### LINE OF BUSINESS REPORTING PROGRAM

##### Confidentiality Rules and Procedures for the 1974 Reporting Year

Notice is hereby given that the Federal Trade Commission has approved and adopted certain rules and procedures hereinafter set forth prescribing the confidential handling and use of reports to be filed by companies pursuant to an Order to File Special Report under

\*Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, Bucher, Holland, and Wallach. Absent and not voting: Governor Coldwell.

the Line of Business Program. The rules and procedures shall apply to reports relating to the 1974 reporting year. They do not apply to reports relating to the 1973 reporting year the confidentiality of which are governed by the Rules and Procedures for the Use of Confidential Individual Company Data Collected Under the FTC's Line of Business Report Program issued in connection with the Commission's Resolution Requiring Annual Line of Business Reports from Corporations, dated August 2, 1974, and published in the Federal Register on August 27, 1974 (39 FR 30970).

**Definitions:** For purposes of these Rules and Procedures, the following definitions apply:

"LB Report" means a report filed by a company pursuant to an Order to File Special Report under the Line of Business (LB) Program.

"Reporting Company" means a company ordered to file an LB Report.

**Confidentiality of LB Reports With Respect to Persons Outside the Commission:** Pub. L. 93-563, which provides Federal Trade Commission appropriations for the fiscal year 1975, states in part that:

No part of these funds may be used to pay the salary of any employee, including Commissioners, of the Federal Trade Commission who—

(3) permits anyone other than sworn officers and employees of the Federal Trade Commission to examine the line-of-business reports from individual firms.

The Commission interprets this provision as prohibiting disclosure of LB Reports to any person outside the Commission including Congress, parties in court proceedings, governmental agencies and members of the public so long as the provision remains in substantially similar provision in effect. Accordingly, during the period this provision or a substantially similar provision in subsequent appropriations acts for the Federal Trade Commission remains in effect, LB Reports will not be disclosed to any person outside the Commission except pursuant to a superseding act of Congress; or pursuant to an order of a court but only after a motion by the Commission to quash and for a protective order have been disposed of by the court. In the event that the Commission receives a subpoena for an LB Report, it will promptly notify the Reporting Company.

Under section 10 of the Federal Trade Commission Act, any officer or employee of the Commission who shall make public any information obtained by the Commission, without its authority, unless directed by a court, shall be deemed guilty of a misdemeanor and upon conviction thereof, may be punished by a fine not exceeding five thousand dollars (\$5,000) or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court.

**Confidentiality of LB Reports Within the Commission:** Access to and use of LB Reports within the Commission shall be restricted as hereinafter set forth, and

persons authorized to have access thereto and use thereof shall not release any LB Report, or in any way provide access thereto, to anyone not authorized to have access. LB Reports shall be used to compile statistical and other economic reports authorized by the Commission. The latter reports may be utilized in connection with any Commission investigation or proceeding for carrying out specific law enforcement responsibilities of the Commission. However, they shall not be compiled in such a way that LB data furnished by a particular Reporting Company can be identified. LB Reports shall not be made available to any person within the Commission for use in connection with any Commission investigation or proceeding for carrying out specific law enforcement responsibilities of the Commission. However, this restriction shall not limit the authority of the Commission to require by subpoena or other compulsory process the production of any information or data from any source outside the Commission for use in connection with an investigation or proceeding for carrying out specific law enforcement responsibilities of the Commission.

Except as hereinafter provided, access to and use of LB Reports within the Commission shall be restricted to the Division of Financial Statistics, Bureau of Economics; the Statistical Reports Unit of the Economic Research and Services Section, Bureau of Economics; and the Division of Management as hereinafter set forth.

The Division of Financial Statistics plans, develops and prepares for publication statistical and other economic reports such as the Quarterly Financial Report and the Annual Line of Business Report. The Division shall have access to and use of LB Reports for planning, developing and preparing such statistical and economic reports. Procedures sufficient to assure that LB data furnished by a particular Reporting Company cannot be identified shall be developed and implemented by that Division in connection with each statistical or other economic report to be published which is derived from LB data. With respect to each such report, the Assistant Director for Financial Statistics shall certify to the Director, Bureau of Economics, that he has reviewed and approved the procedures applied thereto.

The Statistical Reports Unit of the Economic Research and Services Section, Bureau of Economics, plans, develops and prepares for publication reports such as merger statistical reports, annual statistics on aggregate concentration and other statistical and economic reports authorized by the Commission. The Unit shall have access to and use of LB Reports for planning, developing or preparing such statistical and economic reports. Publication of any report which is derived from LB data shall be conditioned upon a determination by the Assistant Director for Financial Statistics that the procedures applied therein are sufficient to assure that

LB data furnished by a particular Reporting Company cannot be identified, and certification of his determination to the Director, Bureau of Economics.

The Division of Management shall have access to LB Reports but only during and for the purpose of electronic processing of information and data contained in LB Reports. The Division may employ the services of an outside computer facility for purposes of computer processing of LB data subject to the restriction that no one other than authorized employees of the Federal Trade Commission may examine the LB Reports from individual Reporting Companies.

Employees of the Division of Financial Statistics and the Statistical Reports Unit of the Economic Research and Services Section, while assigned to either of these units, shall not participate in any Commission investigation or proceeding for carrying out specific law enforcement responsibilities of the Commission. Any employee who transfers into or out of either of these units shall be formally notified in writing that he is subject to these Rules and Procedures and to section 10 of the Federal Trade Commission Act.

The Director, Bureau of Economics, shall not have access to LB Reports. He shall, however, have supervisory responsibility and authority with respect to the Division of Financial Statistics and the Statistical Reports Unit of the Economic Research and Services Section. Such responsibility and authority shall include approving any reports prepared by them, making recommendations with respect to the preparation of such reports, and exercising any other supervisory control not requiring access to LB Reports.

Upon notification to the General Counsel by the Assistant Director for Financial Statistics that a Reporting Company has failed adequately to comply with an Order to File Special Report under the LB Program, the following additional Commission officers and employees shall have access to such parts of that company's LB Report required to evaluate the noncompliance and to advise and represent the Commission with respect to any proceeding initiated because of a refusal or failure of the Reporting Company to file an adequate LB Report: the General Counsel and his staff and the Commissioners and their assistants.

**Security of LB Reports:** All Commission members and employees authorized to have access to and use of LB Reports as hereinbefore provided shall, while in possession of any such material, be personally responsible for ensuring that unauthorized personnel do not obtain access to such material and for observing the following procedures:

1. All LB Reports and reproductions of LB data from individual Reporting Companies (such as tabulations, punch cards, tapes or printouts, etc.) shall be conspicuously marked "Confidential".

2. All rooms containing LB Reports and reproductions of LB data from individual Reporting Companies shall be locked except when occupied.

3. All LB Reports and reproductions of LB data from individual Reporting Companies shall be stored in locked drawers, files or cabinets except when being used.

4. All LB Reports and reproductions of LB data from individual Reporting Companies shall be returned to the Division of Financial Statistics immediately after any authorized use of such material is no longer required.

**Limitations:** The Rules and Procedures set forth above shall not apply to:

(1) disclosure to a court of an LB Report of a Reporting Company in connection with a proceeding initiated because of a refusal or failure of that company to file an adequate LB Report;

(2) the identity of a Reporting Company;

(3) information or data furnished by a Reporting Company in a context other than an LB Report (e.g., a motion to quash or other motion challenging an Order to File Special Report under the LB program); such information or data shall be treated as confidential pursuant to §§ 4.10-4.11 of the Commission's procedures and rules of practice only upon request with a showing of justification therefor, and a determination by the Commission, with due regard to statutory restrictions, the Commission's procedures and rules of practice and the public interest, that such information or data should not be made public;

(4) information or data which (a) are in the public domain, (b) enter the public domain from a source other than the Commission or its employees, (c) were in the Commission's possession prior to transmission to the Commission in an LB Report, or (d) are supplied to the Commission or its employees by a third party lawfully in possession thereof; or

(5) information or data which are supplied to the Commission in response to a compulsory process order other than an Order to File Special Report under the LB Program. By direction of the Commission.

Dated: May 13, 1975.

[SEAL] CHARLES A. TOBIN,  
Secretary.

[FR Doc.75-13068 Filed 5-15-75; 8:45 am]

#### LINE OF BUSINESS REPORTING PROGRAM

##### Proposed LB Reporting Form and Related Materials for Use in Collection of 1974 Data

Notice was published in the FEDERAL REGISTER on April 16, 1975 (40 FR 17081) and April 18, 1975 (40 FR 17348) that the Federal Trade Commission will hold a public hearing on May 20, 1975, for the purpose of receiving oral comments on its proposed FTC Form LB to be used for the collection of line of business data for the 1974 reporting year. Interested persons were directed to notify the Commission not later than May 9, 1975, if they wished to present oral comments. The hearing will commence at 9:30 a.m. It will be held in Room 532 at the

FTC building, 6th and Pennsylvania Streets NW., Washington, D.C. Room 432 will be used as an overflow area, if needed.

The transcript of the hearing and any written comments on the proposed Form LB and related materials will be available for examination by interested persons at the Division of Legal and Public Records, Room 130, Federal Trade Commission, Washington, D.C.

Issued: May 13, 1975.

[SEAL] CHARLES A. TOBIN,  
Secretary.

[FR Doc.75-13069 Filed 5-15-75; 8:45 am]

#### GENERAL ACCOUNTING OFFICE FEDERAL TRADE COMMISSION

##### Regulatory Reports Review Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on May 9, 1975. See 44 U.S.C. 3512 (c) & (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FTC form are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments (in triplicate) must be received on or before June 3, 1975, and should be addressed to Mr. Monte Canfield, Jr., Director, Office of Special Programs, United States General Accounting Office, 425 I Street, NW., Washington, D.C. 20548.

Further information may be obtained from the Regulatory Reports Review Officer, 202-376-5425.

FEDERAL TRADE COMMISSION

Request for review and clearance of an extension (no change) of the Federal Trade Commission's "Pre-Merger Notification Program". The special report form provides for compulsory Pre-Notification and filing of Special Reports whenever a company acquires a manufacturing company with sales or assets of \$10 million or more and the combined sales or assets exceed \$250 million, or when a company acquires a nonmanufacturing company with assets of \$10 million or more and the combined assets exceed \$250 million. Special Report forms are sent to all potential acquiring companies and are mandatory pursuant to FTC Act Section 6(b). The estimated respondent burden is 50 hours per response.

NORMAN F. HEYL,  
Regulatory Reports Review Officer.

[FR Doc.75-12928 Filed 5-15-75; 8:45 am]



# NUCLEAR REGULATORY COMMISSION Regulatory Reports Review Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on May 12, 1975. See 44 U.S.C. 3512 (c) & (d). The purpose of publishing this notice in the *FEDERAL REGISTER* is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC form are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments (in triplicate) must be received on or before June 3, 1975, and should be addressed to Mr. Monte Canfield, Jr., Director, Office of Special Programs, United States General Accounting Office, 425 I Street, NW., Washington, D.C. 20548.

Further information may be obtained from the Regulatory Reports Review Officer, 202-376-5425.

## NUCLEAR REGULATORY COMMISSION

Request for clearance of a voluntary single-time survey of NRC and Agreement State medical licensees who are authorized to use nuclear pacemakers, and a number of physicians who are experts in the field of cardiac pacing but who are not users of nuclear pacemakers, to gather information regarding the need for, the choice of, long-lived nuclear and nonnuclear powered cardiac pacemakers. The potential respondents are approximately 200 medical institutions and physicians, and respondent burden is estimated at one hour per respondent.

NORMAN F. HEYL,  
Regulatory Reports  
Review Officer.

[FR Doc.75-12929 Filed 5-15-75; 8:45 am]

# NATIONAL CAPITAL PLANNING COMMISSION FREEDOM OF INFORMATION ACT Regulations

At its meeting on May 1, 1975, the National Capital Planning Commission adopted the following regulations:

**I. Introduction.** The following regulations implement the Freedom of Information Act, as amended, 5 U.S.C. 552 (hereinafter the "Act"), and provide procedures by which information may be obtained from the National Capital Planning Commission (hereinafter the "Commission"). Official records made available pursuant to the Act shall be furnished to members of the public as prescribed herein.

**II. Organization.** The Commission is the central planning agency for the Fed-

eral Government in the National Capital. The Commission is composed of (1) ex-officio, the Secretary of the Interior, the Secretary of Defense, the Administrator of the General Services Administration, the Mayor of the District of Columbia, the Chairman of the Council of the District of Columbia, and the Chairman of the Committees on the District of Columbia of the Senate and the House of Representatives, or their alternates, and (2) five citizens, three of whom are appointed by the President, and two of whom are appointed by the Mayor of the District of Columbia.

The Commission is assisted by a staff headed by an Executive Director. The staff is organized functionally as follows:

- (1) Current Planning and Programming
- (2) Long Range Planning and Regional Affairs
- (3) Legal Services/Commission Secretariat
- (4) Administrative Services
- (5) Public Affairs

**III. Public access to information. A. General policy.** It is the Commission's general policy to facilitate the broadest possible availability and dissemination of information to the public. The Commission's staff is available to assist the public in obtaining information formally by using the procedures herein or informally by discussions with the staff. The Commission's staff may, therefore, continue to furnish informally to the public information which, prior to the amendments to the Act contained in Pub. L. 93-502, enacted November 21, 1974, was customarily furnished in the regular performance of their duties, provided the staff do so in a manner not inconsistent with these regulations. In addition, to the extent permitted by other laws, the Commission will make available records which it is authorized to withhold under the Act when it determines that such disclosure is in the public interest.

**B. Established place of obtaining information.** Information may be obtained only from the Commission's offices, which are located at 1325 G Street, NW., Washington, D.C. 20576. Its official hours are 8:30 a.m. to 5 p.m., Monday through Friday, excluding legal holidays.

**C. Information sources within the commission.** Requests for Commission publications offered for sale or informal requests for general information on the Commission should be directed to the Office of Public Affairs. All formal requests for agency records pursuant to the Act must be directed to the Commission Secretary. Any request directed initially to the wrong information source will be correctly routed by the Commission's staff and the requesting party will be so notified. The ten-day time period within which the Commission is required to determine whether to comply with a request shall not begin to run until the request reaches, or with the exercise of due diligence should have reached, the appropriate information source.

**D. Information routinely available.** The following types of information shall

be routinely available (subject to the fee schedule, *infra*) for public dissemination without recourse to the Commission's formal information request procedures unless such information falls within one of the exemptions to agency disclosure listed in 5 U.S.C. 552(b):

1. Correspondence between the Commission and the public;
2. Executive Director's Recommendations;
3. Committee Reports;
4. Commission Memorandums of Actions; and
5. Maps.

Requests for information, other than maps, shall be directed to the Commission Secretary; map requests shall be directed to the Office of Public Affairs.

**E. Formal requests for information.** All formal requests for information pursuant to the Act shall be made in writing to the Commission Secretary. To expedite internal handling of such requests, the words "Freedom of Information Request" shall appear on the face of the envelope bearing such request. The request shall state that the request is made pursuant to the Freedom of Information Act; shall reasonably describe the information sought, including the date the Commission received or produced the requested information, if known; shall state, pursuant to the fee schedule set forth *infra*, the maximum fee the party making the request would be willing to pay for the duplication of the requested records without further approval; and shall, if possible, provide a telephone number at which the requesting party can be contacted to facilitate handling of the request.

**F. Commission response to formal requests.** The Commission Secretary, upon request for information made in compliance with these regulations, shall determine within ten days (excluding Saturdays, Sundays, and legal holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefor and of the right of such person to appeal to the head of the agency any adverse determination. In unusual circumstances as specified *infra*, the ten-day time limit may be extended by written notice to the person making the request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days. As used in this paragraph, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request:

1. the need to search for and collect the requested records from establishments that are separate from the Commission's offices;
2. the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

3. the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

**G. Determination to grant request.** If the Commission Secretary makes a determination to grant a request in whole or in part, the person making such request will be so notified in writing. The notice shall also include a description of the information to be made available, a statement of the time when and the place where such information may be inspected or, alternatively, the procedure for duplication and delivery (by mail or other means) of the information to the requesting party and a statement of the total fees chargeable to the requesting person pursuant to the fee schedule *infra*.

**H. Determination to deny request—appeal procedure.** If the Commission Secretary makes a determination to deny, in whole or in part, a request for information, he shall so notify the party making the request in writing. Any appeal of such determination shall be made in writing to the Chairman of the Commission and shall include a brief statement of the legal, factual, or other basis for the party's objection to the initial decision. The Chairman shall, within twenty days (excluding Saturdays, Sundays, and legal holidays) of the receipt of any such appeal determine whether to grant or deny the appeal and shall, immediately upon making his decision, give written notice of the decision to the party, including a brief statement of the reasons therefor.

**I. Waiver.** Whenever a waiver of any of the procedures set forth herein would further the purpose of the Act by causing the public disclosure of nonconfidential information within the time period required by the Act, the Commission Secretary may, in the context of individual requests for information, waive any of the procedural requirements herein.

**J. Schedule of fees.** The fees the Commission may charge for the production of information pursuant to the Act is as follows:

1. Publications offered for sale—as marked.
2. Commission reports—\$0.15/page.
3. Committee reports—\$0.15/page.
4. Commission Memorandums of Actions—\$0.15/page.
5. Transcripts of Commission meetings and Committee meetings—\$0.15/page.
6. Other records—\$0.15/page.
7. Maps—microfilm printout—\$0.50/each ozalid maps—\$0.20/linear foot.

The Commission keeps on file a limited quantity of back copies of Executive Director's Recommendations, Committee Reports, and Commission Memorandums of Actions. The Commission will first attempt to fill specific requests for these documents from its supply of back copies and until the supply is exhausted, the Commission will provide the documents at no charge. Once the supply is exhausted, the requested document will be provided in accord with the fee schedule.

Fees will be waived when less than \$5.00 or when it is in the public interest to do so. Such a waiver will be in the public interest, for example, when in the determination of the Commission the request will not impose an undue burden or expense upon it and the request is (1) from another Government organization, Federal, State or local; (2) for the purpose of obtaining information primarily for the benefit of the general public rather than for the primary benefit of the requester, as will be the case with certain requests from news media and from organizations engaged in a non-profit activity designed for public safety, health, welfare, or education; (3) from employees and former employees seeking information from their own personnel records; (4) from or on behalf of the defending party in connection with a proceeding against such party by the Federal Government; and (5) from a low-income person and the fee would impose a financial hardship.

**K. Prior approval or advanced deposit of fees.** 1. Where the fees anticipated to result from a request are substantially greater than the amount estimated in the written request, the persons requesting the information shall be immediately notified of the estimated fees and his approval of such fees requested. Such person shall also be afforded the opportunity to revise his or her request to reduce the fees but satisfy his or her needs for information.

2. The Commission Secretary may require that the person requesting information make an advance deposit of the estimated fees.

3. The dispatch of any such request for an estimated fee approval or advance deposit shall suspend, until a reply is received by the Commission Secretary, the period pursuant to 5 U.S.C. 552 and paragraph F *supra* within which the Commission Secretary must respond to a written request for information.

**L. Payment of fees.** Fees charged a person for the production of information must be paid in full prior to release of the information. In the event that the person is in arrears or previous requests to the Commission for information, no information will be provided for any subsequent requests until the arrears have been paid in full. Payment of fees shall be made by a personal check, postal money order or bank draft on a bank in the United States, made payable to the order of the Treasurer of the United States.

DANIEL H. SHEAR,  
Secretary.

May 12, 1975.

[FR Doc.75-12930 Filed 5-15-75; 8:45 am]

# NUCLEAR REGULATORY COMMISSION

[Docket No. 50-213]

## CONNECTICUT YANKEE ATOMIC POWER CO.

### Proposed Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering issuance

of an amendment to Facility Operating License No. DPR-61 issued to Connecticut Yankee Atomic Power Company (the licensee), for operation of the Haddam Neck Plant located in Middlesex County, Connecticut.

The amendment would revise the provisions of the Technical Specifications related to safety limits—reactor core, limiting linear heat generation rate, and power distribution monitoring and control to account for Cycle VI fuel reload and operation in accordance with the licensee's application dated May 12, 1975.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By June 16, 1975, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this *FEDERAL REGISTER* notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 and to C. Duane Blinn, Esquire, Day, Berry & Howard, Counselors at Law, One Constitution Plaza, Hartford, Connecticut 06103, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the



conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated May 12, 1975, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Russell Library, 119 Broad Street, Middletown, Connecticut. The license amendment and the Safety Evaluation, when issued, may be inspected at the above locations and a copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 14th day of May, 1975.

For the Nuclear Regulatory Commission.

ROBERT A. PURPLE,  
Chief, Operating Reactors  
Branch #1, Division of Reactor Licensing.

[FR Doc.75-13128 Filed 5-15-75;9:43 am]

[License No. 20-02573-043]

#### GENERAL ELECTRIC CO.

##### Issuance of Byproduct Material License

Please take notice that the Nuclear Regulatory Commission (NRC) has, pursuant to § 32.26 of 10 CFR 32, issued License No. 20-02573-04E to General Electric Company, Housewares Business Division, Homer Avenue, Ashland, Massachusetts, which authorizes the distribution of Models 8201 and 8202 fire detectors to persons exempt from requirements for a license pursuant to 10 CFR 30.20.

1. The devices are designed to detect incipient fires by responding to the products of combustion produced by thermal decomposition of building materials or contents prior to the appearance of visible smoke, flame, or appreciable heat. The sensitive element of each device is an ionization chamber in which air flowing into the chamber is made conductive by alpha particles emitted by americium-241.

2. The byproduct material incorporated in the measure chamber and reference chamber of each device is americium-241 in the oxide form contained in foils manufactured by Nuclear Radiation Developments (Model A-001) or by Amersham/Searle (Model AMM 1001). The nominal total activity contained in a unit is 3.0 microcuries.

3. Each exempt unit will have a label identifying the manufacturer (General Electric Company) and the byproduct material (americium-241) contained in the unit and recommending that the unit be returned to General Electric Company for repair or disposal.

A copy of the license and the license application containing additional information are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

Dated at Bethesda, Maryland, May 9, 1975.

For the Nuclear Regulatory Commission.

BERNARD SINGER,  
Chief, Materials Branch, Division of Materials and Fuel, Cycle Facility Licensing.

[FR Doc.75-12937 Filed 5-15-75;8:45 am]

#### WISCONSIN PUBLIC SERVICES CORP. ET AL.

[Docket No. 50-305]

##### Proposed Issuance of Amendment to Facility Operating License

Wisconsin Public Services Corporation, Wisconsin Power and Light Company, Madison Gas and Electric Company.

The Nuclear Regulatory Commission (the Commission) is considering the issuance of an amendment to Provisional Operating License No. DPR-43 issued to Wisconsin Public Services Corporation (the licensee) for operation of the Kewaunee Nuclear Power Plant (the facility), located in Kewaunee County, Wisconsin.

In accordance with the licensee's application for a license amendment dated April 1, 1975, the amendment would modify operating limits in the Technical Specifications based upon an evaluation of ECCS performance calculated in accordance with an acceptable evaluation model that conforms to the requirements of the Commission's regulations in 10 CFR 50.46. The amendment would modify various limits established in accordance with the Commission's Interim Acceptance Criteria, and would, with respect to the Kewaunee Nuclear Power Plant, terminate the further restrictions imposed by the Commission's December 27, 1974 Order for Modification of License, and would impose instead, limitations established in accordance with the Commission's Acceptance Criteria for Emergency Core Cooling System for Light Water Nuclear Power Reactors, 10 CFR 50.46.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Act and the Commission's regulations.

By June 16, 1975, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this Federal Register Notice

and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section by the above date. A copy of the petition and/or request for a hearing should be sent to the Chief Hearing Counsel, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 and to Steven E. Keane, Esquire, Foley, Sammond & Lardner, 735 North Water Street, Milwaukee, Wisconsin 53202, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see (1) the application for amendment dated April 1, 1975, and (2) the Commission's Order for Modification of License and the documents referred to in the Order dated December 27, 1974 (published in the FEDERAL REGISTER on January 9, 1975 (40 FR 1781)), which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Kewaunee Public Library, 314 Milwaukee Street, Kewaunee, Wisconsin 54216. As they become available, the Commission's related Safety Evaluation and license amendment and any attachments may be inspected at the above locations. A copy of the license amendment and attachments and the Safety Evaluation, when available, may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 12th day of May, 1975.

For the Nuclear Regulatory Commission.

ROBERT A. PURPLE,  
Chief, Operating Reactors  
Branch #1, Division of Reactor Licensing.

[FR Doc.75-12938 Filed 5-15-75;8:45 am]

#### OFFICE OF MANAGEMENT AND BUDGET

##### CLEARANCE OF REPORTS

###### List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 13, 1975 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

###### NEW FORMS

###### VETERANS ADMINISTRATION

Research Questionnaire on Family Psychology, VA 10-68, on occasion, veterans, Reese, B. F., 395-5630.

###### SMALL BUSINESS ADMINISTRATION

402 Survey, single-time, recipients of EOL assistance, Lowry, R. L. 395-3772.

###### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

New Product Opportunity Survey—Medical Device, single-time, biomedical instrument manufacturers, science, space and energy technology; Elsing, 395-6827.

###### DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, 1975 Survey of Auction Market—Mississippi, single-time, livestock auctions, Lowry, R. L., 395-3772. Economic Research Service, Reporting Contract Terms for Processing Fruits and Vegetables (Pilot Study), single-time, bargaining association, Lowry, R. L., 395-3772.

###### DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Health Resources Administration: Mississippi Dental Association Dental Manpower Shortage Area Study, BHRD 0429, single-time, dentists practicing in Miss., Collins, L., 395-3766.

###### REVISIONS

Research in Emergency Medical Services Systems, Northeastern Kentucky, HRAHRSR1125, single-time, households, Human Resources Division, Lowry, R. L., 395-3532.

###### EXTENSIONS

###### DEPARTMENT OF AGRICULTURE

Agricultural Research Service, Investigation of Salmonella and Arizona Isolations in Poultry, NPIP 30, on occasion, State poultry inspectors, Marsha Traynham, 395-4529.

#### EXTENSIONS DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration: Maintenance, Preventive Maintenance, Rebuilding, and Alteration, FAR-PT43, on occasion, Marsha Traynham, 395-4529. Malfunction or Defects Report—Other Than Scheduled, Air Carrier, FAA 8330-2, on occasion, Marsha Traynham, 395-4529. Application for Agency Certificate and Rating and Inspection Report, FAA 8420-5, on occasion, Marsha Traynham, 395-4529. Reappointment as Aviation Medical Examiner—Including AME Identification Card (Application), FAA 8520-1, annually, Marsha Traynham, 395-4529. Application for Aviation Maintenance Technician School Certificate, FAA 8310-6, on occasion, Marsha Traynham, 395-4529. Operations Specifications En route Flight Procedure, FAA 8400-1, on occasion, Marsha Traynham, 395-4529.

PHILLIP D. LARSEN,  
Budget and Management Officer.

[FR Doc.75-13114 Filed 5-15-75;8:45 am]

#### SECURITIES AND EXCHANGE COMMISSION

[Release 34-11410]

#### DETROIT, CINCINNATI AND BOSTON STOCK EXCHANGES

##### Amended Special Offering Plans Declared Effective

The Securities and Exchange Commission has announced that it has declared effective amended Special Offering Plans filed by the Detroit ("DSE"), Boston ("BSE") and Cincinnati ("CSE") Stock Exchanges pursuant to the provisions of rule 10b-2(d) (17 CFR 240.10b-2(d)) under the Securities Exchange Act of 1934.

The Special Offering Plans of the DSE, BSE, CSE provide for the sale of the block of a listed security on those exchanges at a fixed price under certain conditions when the exchange cannot absorb the block within a reasonable time and at a reasonable price or prices. The Plans contain certain anti-manipulative controls and require members, member firms and member corporations to make certain disclosures concerning the offering to persons whose orders are solicited.

The amendments to these Special Offering Plans were proposed to conform them to the requirements of the Securities Exchange Act rule 19b-3. Under rule 19b-3, national securities exchanges may not after May 1, 1975, adopt or retain any rule that requires, or otherwise, directly or indirectly, require, their members, or any person associated with their members, to charge any person any fixed rate of commission (other than commissions for floor brokerage for members) for transactions effected on, or effected by the use of the facilities of, exchanges.

The text of the Commission's action follows:

The Securities and Exchange Commission acting pursuant to the Securities Exchange Act of 1934, particularly Sections 10 (b) and 23(a) thereof and Rule 10b-2(d) (17 CFR 240.10b-2(d)) thereunder, deeming

it necessary for the exercise of the functions vested in it, and having due regard for the public interest and for the protection of investors, hereby declares effective the Special Offering Plan of the Detroit Stock Exchange, as amended by amendments filed on April 25, 1975, the Special Offering Plan of the Boston Stock Exchange, as amended by amendments filed on April 2, 1975, and the Special Offering Plan of the Cincinnati Stock Exchange, as amended by amendments filed on April 9, 1975, on the condition that if at any time it appears to the Commission to be necessary or appropriate in the public interest or for the protection of investors so to do, the Commission may suspend or terminate the effectiveness of any of or all such Special Offering Plans by sending at least 10 days written notice to the particular exchange or exchanges involved. The Commission finds that notice and public procedure pursuant to Sections 4(a) and 4(b) of the Administrative Procedure Act are unnecessary since the amendments will conform those plans to the requirements of Securities Exchange Act Rule 19b-3 which was adopted by the Commission after notice and public procedure (See Securities Exchange Act Release No. 11203 (January 23, 1975)). The Commission further finds that Rule 10b-2(d) (17 CFR 240.10b-2(d)) and the action taken hereunder have the effect of relieving restriction and granting exemption and that, therefore, this action may be and is hereby declared effective on May 1, 1975 pursuant to Section 4(c) of the Administrative Procedure Act.

Effective May 1, 1975.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,  
Assistant Secretary.

[FR Doc.75-12921 Filed 5-15-75;8:45 am]

[File No. 500-1]

#### CONTINENTAL VENDING MACHINE CORPORATION

##### Suspension of Trading

MAY 9, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Continental Vending Machine Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from May 10, 1975 through May 19, 1975.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,  
Assistant Secretary.

[FR Doc.75-12917 Filed 5-15-75;8:45 am]

[70-4990]

#### GENERAL PUBLIC UTILITIES CORP. AND GPU SERVICE CORP.

##### Issue and Sale of Notes by Subsidiary to Parent

MAY 9, 1975.

Notice is hereby given that General Public Utilities Corporation ("GPU"), a



registered holding company, and its wholly-owned subsidiary company, GPU Service Corporation ("Service Company"), 80 Pine Street, New York, New York 10005, have filed post-effective amendments to the application-declaration in this proceeding pursuant to sections 6(a), 7, 9(a), 10, 12, 13 and rules 86 through 91, inclusive, promulgated thereunder as being applicable to the proposed transaction. All interested persons are referred to the application-declaration, as now amended, which is summarized below, for a complete statement of the proposed transaction.

By order dated April 29, 1971 (H.C.A.R. No. 17112), the Commission authorized the organization of, and conduct of business by, Service Company. The Commission's Order also authorized GPU to acquire for cash long-term unsecured notes of Service Company not exceeding \$5,000,000 aggregate principal amount at any one time outstanding. Each such note would mature 40 years from the date of issuance of the first note, would be prepayable without premium or penalty by Service Company at any time and would bear interest at a rate equal to the prime rate for short-term commercial borrowings generally in effect, from time to time, in New York City, plus not more than 20 percent thereof, such interest rate to be adjusted to conform with changes in the prime rate as of the first business day following the date of announcement of any such change. It was decided that Service Company would at all times maintain its aggregate capital, including the principal amount of notes outstanding, at an amount approximately equal to the sum of two months' operating expenses, plus the cost of its property, less applicable reserves, prepayments and petty cash working funds. At the date hereof, the aggregate outstanding amount of Service Company's unsecured notes so acquired by GPU is \$4,995,683.40.

GPU and Service Company now propose to increase to \$6,000,000 from \$5,000,000 the maximum aggregate principal amount of Service Company's unsecured notes which may be acquired by GPU. All such notes representing borrowings in excess of \$5,000,000, however, will be notes of a maturity not exceeding 2 years from the date of issuance and will bear interest at a rate equal to the actual cost of short-term borrowings by GPU, taking into consideration compensating balance requirements for such short-term borrowings by GPU. Service Company will continue to maintain its aggregate capital, including the principal amount of all notes outstanding, at all times equal to the sum of approximately two months' operating expenses, plus the cost of its property (to the extent not financed from borrowings from others), less applicable reserves, prepayments and petty cash working funds. The additional proceeds will be used to continue to finance Service Company's operations consistent with the above-mentioned formula.

The fees and expenses to be incurred by GPU or Service Company in connection with the proposed transaction are estimated at \$5,000, including legal fees of \$2,500. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 2, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendments to the application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20 (a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] SHIRLEY E. HOLLIS,  
Assistant Secretary.

[FR Doc. 75-12918 Filed 5-15-75; 8:45 am]

[File No. 500-1]

#### GENERAL REFRACTORIES CO.

##### Suspension of Trading

MAY 9, 1975.

The capital stock of General Refractories Company being traded on the New York and Philadelphia-Baltimore-Washington Stock Exchanges pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of General Refractories Company being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required

in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a) (4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from May 12, 1975 through May 21, 1975.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,  
Assistant Secretary.

[FR Doc. 75-12919 Filed 5-15-75; 8:45 am]

[File No. 500-1]

#### INTEGRITY ENTERTAINMENT CORP.

##### Suspension of Trading

MAY 9, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Integrity Entertainment Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 10:35 a.m. (EDT) on May 9, 1975 through midnight (EDT) on May 18, 1975.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,  
Assistant Secretary.

[FR Doc. 75-12920 Filed 5-15-75; 8:45 am]

#### UNITED STATES RAILWAY ASSOCIATION

##### USE OF RAILROAD PROPERTIES FOR OTHER PUBLIC PURPOSES

##### Invitation for Comments

The United States Railway Association ("Association") is preparing, in accordance with the Regional Rail Reorganization Act of 1973 ("Act"), a Final System Plan to reorganize railroads in the northeastern and midwestern regions of the United States. The Final System Plan will designate what disposition will be made of the properties of the railroads defined in the Act as "Railroads in Reorganization" (now, principally, the Penn Central, Erie Lackawanna, Lehigh Valley, Reading, Central of New Jersey, Ann Arbor, and the Lehigh and Hudson River Railroads). Among the provisions of the Act dealing with the designations which must be made is section 206 (c)(1)(E) which provides:

(c) Designations.—The Final System Plan shall designate—

(1) which rail properties of railroads in reorganization in the region or of railroads leased, operated, or contracted by any railroad in reorganization in the region—

(E) if not otherwise required to be operated by the Corporation, a government entity, or a responsible person, are suitable for

use for other public purposes including highways, other forms of transportation, conservation, energy transmission, education or health care facilities, or recreation. In carrying out this subparagraph, the Association shall solicit the views and recommendations of the Secretary, the Secretary of the Interior, the Administrator of the Environmental Protection Agency and other agencies of the Federal Government and of the States and political subdivisions thereof within the region, and the general public.

As required by that provision of the Act, the Association has solicited and is continuing to solicit the views of appropriate Federal, State and local governmental officials and agencies, as to other suitable public purposes for which specific properties of the railroads in reorganization may be used.

By this notice, the Association is soliciting the views of the general public on this subject. If you wish to present views on suitable other public purposes for which some property of a railroad in reorganization may be used, you should address your communication to the Office of Economic and Environmental Studies, United States Railway Association, 2100 Second Street SW., Washington, D.C. 20595. Some of the properties which may be available for such other uses were identified in Appendix K to the Association's Preliminary System Plan and Supplemental Preliminary System Plan, published in the FEDERAL REGISTER on March 4, 1975 (40 FR 9719, et seq.) and on May 15, 1975 (40 FR 21401).

To be considered in connection with the Association's Final System Plan, your comment must be received by June 23, 1975.

Dated: Washington, D.C., May 13, 1975.

EDWARD G. JORDAN,  
President.

United States Railway Association.

[FR Doc. 75-12945 Filed 5-15-75; 8:45 am]

#### DEPARTMENT OF LABOR

##### Occupational Safety and Health Administration

#### STANDARDS ADVISORY COMMITTEE ON COKE OVEN EMISSIONS

##### Change in Starting Time for Meeting

The May 20-21-22 meetings of the Standards Advisory Committee on Coke Oven Emissions, announced in the FEDERAL REGISTER on Monday, April 14, 1975 (40 FR 16735) will begin at 8 a.m. each day instead of the times originally announced. It is anticipated that the Committee will work evening sessions also and that the meeting will be conducted on May 23-24 if the Committee determines it necessary in order to complete its recommendations.

The schedule change was agreed to by the Committee members at a public meeting on May 13, 1975, in order to provide adequate time for it to complete its deliberations.

The meeting will be held in the South Scott Room of the Gramercy Inn, 1616

Rhode Island Avenue NW., Washington, D.C. This location was announced in the FEDERAL REGISTER on Tuesday, April 29, 1975 (40 FR 18623).

In all other respects, the details of the April 14, 1975 notice of meeting remain the same. Any questions may be addressed to:

Ms. Jeanne Ferrone  
Committee Management Office  
Occupational Safety and Health Administration  
U.S. Department of Labor  
1726 M Street, NW., Room 200  
Washington, D.C. 20210  
Phone: (202) 961-2248, 2487

This FEDERAL REGISTER notice does not meet the 15 day deadline because it was only determined at the May 13 meeting that this meeting would be necessary in order that the Committee complete its activities in the prescribed time frame. Signed at Washington, D.C. this 14th day of May 1975.

JOHN STENDER,  
Assistant Secretary of Labor.

[FR Doc. 75-13072 Filed 5-15-75; 8:45 am]

#### INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 277 (Sub-No. 1)]

#### ADEQUACY OF INTERCITY RAIL PASSENGER SERVICE

MAY 13, 1975.

At a General Session of the INTERSTATE COMMERCE COMMISSION, held at its office in Washington, D.C., on the 9th day of May 1975.

It appearing, That in November 1973, the Amtrak Improvement Act of 1973 (Pub. L. 93-146) was enacted which, pursuant to section 14 of the Act, amended section 801 of the Rail Passenger Service Act of 1970 to read, in part, as follows:

(a) The Commission shall promulgate, within 60 days from the date of enactment of the Amtrak Improvement Act of 1973, and from time to time shall revise, such regulations as it considers as necessary to provide adequate service, equipment, tracks, and other facilities for quality intercity rail passenger service.

And it further appearing, That one of the purposes of this amendment was to remove the word "safe" from section 801, which previously provided as here pertinent; as follows:

The Commission is authorized to prescribe such regulations as it considers necessary to provide safe and adequate service, equipment, and facilities for intercity rail passenger service.

And it further appearing, That pursuant to the enactment of the Rail Passenger Service Act of 1970 that this Commission promulgated certain rules including 49 C.F.R. § 1124.27, which provides as follows:

The regulation in chapter II of this title, parts 225, 228, 230-234, and 236, prescribed by the Federal Railroad Administration, Department of Transportation, under rail safety statutes, are hereby adopted, con-

firmed, and continued in effect until modification or superseded by appropriate authority as to intercity rail passenger service. (Note: this regulation was formerly cited as 49 CFR 1124.1.)

And it further appearing, That good Commission in light of the Amtrak Improvement Act of 1973 has tentatively concluded that 49 CFR § 1124.27 should be repealed:

And if further appearing, That good cause exists for making the proposed repeal effective in less than 30 days from the date of its publication in the FEDERAL REGISTER:

It is ordered, That verified statements of fact, briefs and statements of position respecting the proposed repeal described above are hereby invited to be submitted on or before May 27, 1975, by any interested person whether or not such person is already a party to this proceeding.

It is further ordered, That any party requesting oral hearing shall set forth with specificity the need therefor and the evidence to be adduced.

And it is further ordered, That a copy of this order be served upon all parties, each public utility commission or board or similar regulatory body of each state and the Secretary of the Department of Transportation; that a copy be posted in the Office of the Secretary of this Commission and in each field office; and that a copy of this order be delivered to the Director, Division of Federal Register, for publication in the FEDERAL REGISTER.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc. 75-12952 Filed 5-15-75; 8:45 am]

[Notice No. 767]

#### ASSIGNMENT OF HEARINGS

MAY 13, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 119988 Sub-74, Great Western Trucking Co., Inc., now assigned June 9, 1975, at Dallas, Texas is cancelled and the application dismissed.

MC 76032 Sub-286, Navajo Freight Lines, Inc., now assigned July 21, 1975, at Carson City, Nevada is cancelled and the application is dismissed.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc. 75-12951 Filed 5-15-75; 8:45 am]



# IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

## Elimination of Gateway Applications

MAY 12, 1975.

The following applications to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065(d)(2)), and notice thereof to all interested persons is hereby given as provided in such rules.

Carriers having a genuine interest in an application may file an original and three copies of verified statements in opposition with the Interstate Commerce Commission within 30 days from the date of publication. (This procedure is outlined in the Commission's report and order in Gateway Elimination, 119 M.C.C. 530.) A copy of the verified statement in opposition must also be served upon applicant or its named representative. The verified statement should contain all the evidence upon which protestant relies in the application proceeding including a detailed statement of protestant's interest in the proposal. No rebuttal statements will be accepted.

No. MC 102567 (Sub-No. 175G) (Correction), filed June 3, 1974, published in the FEDERAL REGISTER issue of March 20, 1975, and partially republished, as corrected, this issue. Applicant: MCNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Tom Wright, 2040 North Loop West, Houston, Tex. 77018.

NOTE.—The purposes of this correction are (A) to correct (3)(c) to read: *Petroleum products* (except liquefied petroleum gases) as defined in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Destrehan, La., to points in Arkansas. The purpose of this filing is to eliminate first a gateway in Southwestern Arkansas within 150 miles of Henderson, Tex. and second, a gateway in that part of Louisiana bounded by a line beginning at the junction of the Arkansas-Louisiana state line and the Louisiana-Texas state line and extending south along the Louisiana-Texas state line to junction U.S. Highway 84, thence east along U.S. Highway 84 to junction U.S. Highway 167, thence north along U.S. Highway 167 to the Arkansas-Louisiana state line, thence west along the Arkansas-Louisiana state line to the point of beginning including points on the specified boundary line.

(B) To correct (3)(d) to read: From Lake Charles and Destrehan, La., to points in Missouri within 200 miles of Conway, Ark., except points on or west of Missouri Highway 5. The purpose of this filing is to eliminate first, a gateway in Southwestern Arkansas within 150 miles of Henderson, Tex., second, a gateway in any point in Louisiana bounded by a line beginning at the junction of the Arkansas-Louisiana state line and the Louisiana-Texas state line, and extending south along the Louisiana-Texas state line to junction U.S. Highway 84 to junction U.S. Highway 167, thence north along U.S. Highway 167 to the Arkansas-Louisiana state line,

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thence west along the Arkansas-Louisiana state line to the point of beginning including points on the specified boundary lines, which point is also within 150 miles of Henderson, Tex., and third, the site of the pipeline terminal of the Oklahoma-Mississippi River Products Line, Inc., at or near Conway, Ark. (C) to correct (5)(a) to read: *Such petroleum products* as are dry chemicals, in bulk, in tank vehicles, from Henderson, Tex. and points in Texas within 150 miles of Henderson, Tex., to points in Alabama, Arkansas, Georgia, Louisiana, Mississippi, Oklahoma, and Tennessee. The purpose of this filing is to eliminate a gateway at Baton Rouge, La. The rest of the notice remains as originally published.

No. MC 113843 (Sub-No. 203G) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of April 16, 1975, and republished, as corrected this issue. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: William J. Boyd, Suite 222, 600 Enterprise Drive, Oak Brook, Ill. 60521. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Frozen fish*, (a) from Rockland and Portland, Maine, to points in Iowa, Kentucky, Nebraska, and Ohio. The purpose of this filing is to eliminate the gateway of Galea, Kent County, Md. (b) from Portland, Rockland and Boothbay Harbor, Maine, to points in Missouri and Tennessee. The purpose of this filing is to eliminate the gateway of Detroit, Mich. (2) *Frozen fruits, frozen vegetables and frozen vegetable products*, (a) from Houlton, Caribou, and Corinna, Maine, to Chicago, Ill., Green Bay, and Milwaukee, Wis. and points in Indiana, Michigan, New Jersey, Ohio, and Pennsylvania. The purpose of this filing is to eliminate the gateway of Syracuse, N.Y. (b) from Houlton, Caribou, and Corinna, Maine, to points in Missouri, Tennessee, and Wisconsin. The purpose of this filing is to eliminate the gateways of Syracuse, N.Y. and Detroit, Mich.

(c) From Houlton, Caribou, and Corinna, Maine, to points in Arkansas, Colorado, Kansas, Minnesota, Nebraska, and Oklahoma. The purpose of this filing is to eliminate the gateway of Dundee, N.Y. (d) from Houlton, Caribou, and Corinna, Maine, to points in Michigan (except Detroit). The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa. (e) from Houlton, Caribou, and Corinna, Maine, to Springfield, Ill., Louisville, Ky., St. Louis, Mo., Sioux City and Davenport, Iowa, Grand Forks, N. Dak., Sioux Falls, S. Dak., and Virginia. The purpose of this filing is to eliminate the gateway of Dundee, N.Y. (f) from Houlton, Caribou, and Corinna, Maine, to points in Delaware, Maryland, Kentucky, and West Virginia. The purpose of this filing is to eliminate the gateways of Buffalo or Brockport, N.Y. (g) from Houlton, Caribou, and Corinna, Maine, to points in Delaware, Maryland, Kentucky, West Virginia, Ohio, Indiana, Illinois, Missouri, Michigan, Maryland, New Jersey, Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

(h) from Houlton, Caribou, and Corinna, Maine, to points in Colorado, Iowa, Minnesota, Nebraska, and Wisconsin. The purpose of this filing is to eliminate the gateways of Brockport, Morton or Le Roy, N.Y. (3) *frozen fruits, frozen vegetables*, from Houlton, Caribou, and Corinna, Maine, to Williamsburg and Norfolk, Va., Springfield, Ill., Louisville, Ky., Kenosha, Wis., Kansas City and Vinita Park, Mo. The purpose of this filing is to eliminate the gateway of Dundee, N.Y. (4) *frozen fruits*, (a) from Houlton, Caribou, and Corinna, Maine, to points in Arkansas, Colorado, Iowa, Kansas, Kentucky, Minnesota, Missouri, Nebraska, Oklahoma, Texas, and Wisconsin. The purpose of this filing is to eliminate the gateways of Geneva, Westfield, or Penn Yan, N.Y.

(b) From Houlton, Caribou, and Corinna, Maine, to points in Arkansas, Colorado, Iowa, Kansas, Minnesota, Nebraska, Oklahoma, Texas, and Wisconsin. The purpose of this filing is to eliminate the gateway of Elmira, N.Y. (c) from Houlton, Caribou, and Corinna, Maine, to points in Iowa, Kentucky (except Louisville), Missouri (except Kansas City and Vinita Park), Texas, and Wisconsin. The purpose of this filing is to eliminate the gateway of Dundee, N.Y. (5) *frozen vegetables and frozen vegetable products*, from Caribou, Maine to points in Illinois, Indiana, Iowa, Michigan, Nebraska, Ohio, West Virginia, and Wisconsin. The purpose of this filing is to eliminate the gateway of Pocomoke City, Md. (6) *frozen potatoes and potato products*, (a) from Presque Isle, Easton and Portland, Maine, to points in Tennessee and Wisconsin. The purpose of this filing is to eliminate the gateway of Detroit, Mich. (b) from Presque Isle, Easton, and Portland, Maine, to points in New York within 75 miles of and including Rochester. The purpose of this filing is to eliminate the gateway of Athens, Pa. (c) from Presque Isle, Easton, and Portland, Maine, to Cattaraugus, Chautauque, and Erie Counties, N.Y. The purpose of this filing is to eliminate the gateway of Buffalo, N.Y.

(d) From Presque Isle, Easton and Portland, Maine, to points in Arkansas, Colorado, Kansas, Minnesota, Nebraska and Oklahoma. The purpose of this filing is to eliminate the gateways of Athens, Pa. and Dundee, N.Y. (e) from Presque Isle, Easton, and Portland, Maine, to Springfield, Ill., Louisville, Ky., St. Louis, Mo., Grand Forks, N. Dak., Sioux Falls, S. Dak., and Virginia (except Hampton and Richmond, Va.). The purpose of this filing is to eliminate the gateways of Athens, Pa. and Dundee, N.Y. (f) from Presque Isle, Easton, and Portland, Maine, to the District of Columbia, Delaware, Maryland, Kentucky, West Virginia, Virginia, New Jersey, New York, Pennsylvania (points east of the Susquehanna River). The purpose of this filing is to eliminate the gateways of Athens, Pa. and Elmira, N.Y. (g) from Presque Isle, Easton, and Portland, Maine, to points in Colorado, Minnesota, and Nebraska. The purpose of this filing is to

eliminate the gateways of Athens, Pa. and Brockport, Morton, or Le Roy, N.Y.

NOTE.—The purpose of this republication is to state that MC 113843 (Sub-No. 203G), was incorrectly published in the Federal Register of April 16, 1975 and to state the correct MC 113843 (Sub-No. 203G).

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before May 26, 1975. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successfully filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 50069 (Sub-No. E8), filed May 15, 1974. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, Ohio 43616. Applicant's representative: Jack A. Gollan (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Liquid chemicals*, from Peoria, Ill., to points in Connecticut, Delaware, Maine, Massachusetts, Maryland, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and District of Columbia; and (2) *Liquid petroleum chemicals*, from Peoria, Ill., to points in West Virginia. The purpose of this filing is to eliminate the gateways of Carpentersville, Ill., in (1) above, and Ashland, Ky., in (2) above.

No. MC 50069 (Sub-No. E9), filed May 15, 1974. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, Ohio 43616. Applicant's representative: Jack A. Gollan (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid petroleum chemicals*, from Terre Haute, Ind., to points in West Virginia and those points in New York west of a line beginning at Deposit, N.Y., and extending along New York Highway 8 to Utica, N.Y., thence along New York Highway 49 to Rome, N.Y., thence along New York Highway 69 to Camden, N.Y., thence along New York Highway 13 to Port Ontario, N.Y., and those points in Pennsylvania, north and west of a line beginning at the Ohio-Pennsylvania State line and extending along U.S. Highway 22 to Blairsville, Pa., thence due north to the New York-Penn-

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sylvania State line. The purpose of this filing is to eliminate the gateways of Titusville, Pa., Ashland, Kentucky, Lebanon, Columbus, and Warren, Ohio.

No. MC 50069 (Sub-No. E12), filed May 15, 1974. Applicant: REFINERS TRANSFER & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, Ohio 43616. Applicant's representative: Jack A. Gollan (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid acids* (except nitric acid, anhydrous ammonia, and carbon dioxide), from Cairo, Ohio, and points within five miles thereof to points in Missouri, and those points in Illinois south of U.S. Highway 136, restricted against the transportation of acetone, ethyl acetate, alcohol, vodka, gin, proprietary antifreeze preparations, and chlorine chloride. The purpose of this filing is to eliminate the gateway of Terre Haute, Ind.

No. MC 52793 (Sub-No. E2), filed June 4, 1974. Applicant: BEKINS VAN LINES, INC., P.O. Box 109, LaGrange, Ill. 60525. Applicant's representative: Robert McClure (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission: (1) from points in Washington, Idaho, Montana, and Utah, on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Jersey, New York, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin, Wyoming, Nebraska (except points within 50 miles of Sioux City, Iowa (except points within 50 miles of Omaha, Neb.)), the District of Columbia, and Idaho (except points within 50 miles of Spokane, Wash.); (2) from points in South Dakota on the one hand, and, on the other, points in Montana. The purpose of this filing is to eliminate the gateways of: in (1), Oregon, Nevada, Arizona, Colorado, Wyoming, and North Dakota; and in (2) Wyoming and North Dakota.

No. MC 52861 (Sub-No. E24), filed May 22, 1974. Applicant: WILLS TRUCKING, INC., 2535 Center Street, Cleveland, Ohio 44113. Applicant's representative: Paul F. Beery (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Ferro alloys*, in bulk, in dump vehicles, between those points in Pennsylvania and West Virginia which are within 50 miles of Weirton, W. Va., on the one hand, and, on the other, points in Michigan within 40 miles of Monroe, Mich. The purpose of this filing is to eliminate the gateway of points in Ohio.

No. MC 52861 (Sub-No. E29), filed May 22, 1974. Applicant: WILLS TRUCKING, INC., 2535 Center Street, Cleveland, Ohio 44113. Applicant's representative: Paul F. Beery (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Scrap metal*, in dump vehicles, between points in Michigan and Ohio (except Canton and points in Cuyahoga, Geauga, Lorain, and Portage Counties), on the one hand, and, on the other, those points in Pennsylvania and West Virginia within 50 miles of Weirton, W. Va. The purpose of this filing is to eliminate the gateways of points in Ohio within 50 miles of Weirton, W. Va., and points in West Virginia.

No. MC 52861 (Sub-No. E30), filed January 31, 1975. Applicant: WILLS TRUCKING, INC., 2535 Center St., Cleveland, Ohio 44113. Applicant's representative: Paul F. Beery, 8 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Ferro alloys*, in bulk, in dump vehicles, from points in Michigan within 40 miles of Monroe, Mich., to points in New York, Michigan, and Pennsylvania, except those points in Pennsylvania south of a line beginning at the Pennsylvania-Ohio State line and extending along Interstate Highway 80 to junction Interstate Highway 79 and west of a line beginning at junction Interstate Highway 79 and Interstate Highway 80 and extending along Interstate Highway 79 to junction Interstate Highway 76, thence along Interstate Highway 76 to junction Pennsylvania Highway 281, thence along Pennsylvania Highway 281 to the Pennsylvania-West Virginia State line, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateways of Toledo and Ashtabula, Ohio.

No. MC 64373 (Sub-No. E6), filed January 14, 1975. Applicant: CLARKSON BROS., INC., P.O. Box 25, Cowpens, S.C. 29330. Applicant's representative: Paul F. Sullivan Suite 711, 15th & New York Ave., NW., Washington, D.C. 20005. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes transporting: *Cotton mill machinery*, between points in that part of Tennessee on and east of a line beginning at the Alabama-Tennessee State line, and extending along U.S. Highway 31 to Nashville, thence along U.S. Highway 31E to the Tennessee-Kentucky State line, on the one hand, and, on the other, points in Cherokee, York, Chester, Lancaster, Chesterfield, Darlington, Marlboro, and Dillon Counties, S.C. The purpose of this filing is to eliminate the gateways of Gastonia, N.C., to points in Rowan and Rockingham Counties, N.C.

No. MC 64373 (Sub-No. E7), filed January 14, 1975. Applicant: CLARKSON BROS., INC., P.O. Box 25, Cowpens, S.C. 29330. Applicant's representative: Paul F. Sullivan, Suite 711, 15th & New



York Ave., NW, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cotton mill machinery*, between points in South Carolina, on the one hand, and, on the other, points in Alabama on and south of U.S. Highway 80 but including Montgomery, Ala. The purpose of this filing is to eliminate the gateway of Columbus, Ga.

No. MC 64373 (Sub-No. E8), filed January 14, 1975. Applicant: CLARKSON BROTHERS, P.O. Box 25, Cowpens, S.C. 29330. Applicant's representative: Paul F. Sullivan, Suite 711, 15th & New York Ave., NW, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cotton mill machinery*, between points in that part of Georgia, on north, and east of U.S. Highway 221, on the one hand, and, on the other, points in Tennessee on and east of Tennessee Highway 70. The purpose of this filing is to eliminate the gateways of points in Rowan and Rockingham Counties, N.C., or Gastonia, N.C.

No. MC 64808 (Sub-No. E51), filed June 4, 1974. Applicant: W. S. THOMAS TRANSFER, INC., 1854 Morgantown Ave., P.O. Box 507, Fairmont, W. Va. 26554. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty glass malt beverage containers*, from points in Wayne County, Mich., to points in Maryland, Fayette County, Pa., that part of Westmoreland County, Pa., on and east of Pennsylvania Highway 711, that part of Somerset County, Pa., on and west of U.S. Highway 219, and that part of Cambria County, Pa., on and west of U.S. Highway 219 and on and south of U.S. Highway 22. The purpose of this filing is to eliminate the gateway of Star City, W. Va.

No. MC 64808 (Sub-No. E52), filed June 4, 1974. Applicant: W. S. THOMAS TRANSFER, INC., 1854 Morgantown Ave., P.O. Box 507, Fairmont, W. Va. 26554. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from Winston-Salem, N.C., to points in Garrett County, Md., Barbour, Harrison, Lewis, Marion, Monongalia, Preston, Taylor, Upshur, and Wetzel Counties, W. Va., that part of Pennsylvania on and west of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 219 to junction U.S. Highway 6, thence along U.S. Highway 6 to Kane, Pa., thence along unnumbered highway (formerly portion U.S. Highway 219), via East Kane, Sergeant, and Dohoga, Pa., to junction U.S. Highway 219, and thence along U.S. Highway 219 to the Pennsylvania-Maryland State line, and Williams, Fulton, Lucas, Defiance, Henry, Wood, Paulding, Putnam,

Hancock, Hardin, Ottawa, Sandusky, Seneca, Wyandot, Marion, Crawford, Erie, Huron, Morrow, Richland, Knox, Lorain, Ashland, Cuyahoga, Medina, Wayne, Holmes, Coshocton, Muskingum, Lake, Ashtabula, Geauga, Portage, Trumbull, Stark, Mahoning, Columbia, Carroll, Tuscarawas, Guernsey, Noble, Monroe, Belmont, Harrison, and Jefferson Counties, Ohio. The purpose of this filing is to eliminate the gateway of Fairmont, W. Va.

No. MC 64808 (Sub-No. E53), filed June 4, 1974. Applicant: W. S. THOMAS TRANSFER, INC., 1854 Morgantown Ave., P.O. Box 507, Fairmont, W. Va. 26554. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Ohio, on the one hand, and, on the other, points in the District of Columbia. The purpose of this filing is to eliminate the gateway of Marion County, W. Va.

No. MC 64808 (Sub-No. E55), filed June 4, 1974. Applicant: W. S. THOMAS TRANSFER, INC., P.O. Box 507, Fairmont, W. Va. 26554. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Ohio in and on a line beginning at the Pennsylvania-Ohio State line and extending along Ohio Highway 87 to junction Ohio Highway 45, thence along Ohio Highway 45 to the shore of Lake Erie, on the one hand, and, on the other, points in Kentucky on and west of U.S. Highway 45 and on and east of a line beginning at the Kentucky-West Virginia State line extending along U.S. Highway 23 to junction Kentucky Highway 30, thence along Kentucky Highway 30 to junction Interstate Highway 75, thence along Interstate Highway 75 to the Kentucky-Tennessee State line. The purpose of this filing is to eliminate the gateway of Marion County, W. Va.

No. MC 64808 (Sub-No. E56), filed June 4, 1974. Applicant: W. S. THOMAS TRANSFER, INC., P.O. Box 507, Fairmont, W. Va. 26554. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Ohio on and east of a line beginning at Hannibal, Ohio, and extending along Ohio Highway 7 to Youngstown, Ohio, thence along U.S. Highway 422 to the Pennsylvania-Ohio State line, on the one hand, and, on the other, points in that part of Kentucky on and south of a line beginning at the Indiana-Kentucky State line and extending along U.S. Highway 231 to junction Kentucky Highway 80, thence along Kentucky Highway 80 to junction U.S. Highway 23, thence along U.S. Highway 23 to the

Kentucky-West Virginia State line. The purpose of this filing is to eliminate the gateway of Marion County, W. Va.

No. MC 64808 (Sub-No. E57), filed June 4, 1974. Applicant: W. S. THOMAS TRANSFER, INC., P.O. Box 507, Fairmont, W. Va. 26554. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Ohio on and east of a line beginning at the Ohio-West Virginia State line at Belpre, Ohio, and extending along Ohio Highway 7 to Martins Ferry, Ohio, on the one hand, and, on the other, points in that part of the Lower Peninsula of Michigan, on and north of a line beginning at the Michigan-Lake Michigan shore and extending along Michigan Highway C-66 to the Michigan-Lake Huron shore. The purpose of this filing is to eliminate the gateway of Marion County, W. Va.

No. MC 64808 (Sub-No. E58), filed June 4, 1974. Applicant: W. S. THOMAS TRANSFER, INC., P.O. Box 507, Fairmont, W. Va. 26554. Applicant's representative: William J. Lavelle, 2301 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Ohio, except those points on north, and east of a line beginning at the Ohio-West Virginia State line and extending along Ohio Highway 45 to junction Ohio Highway 14, thence along Ohio Highway 14 to the Ohio-Lake Erie shore, on the one hand, and, on the other, points in New Jersey. The purpose of this filing is to eliminate the gateway of Marion County, W. Va.

No. MC 64808 (Sub-No. E61), filed June 4, 1974. Applicant: W. S. THOMAS TRANSFER, INC., P.O. Box 507, Fairmont, W. Va. 26554. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Ohio on and south of a line beginning at the Ohio-Kentucky State line and extending along U.S. Highway 23 to junction Ohio Highway 124, thence along Ohio Highway 124 to Jackson, Ohio, thence along Ohio Highway 93 to McArthur, Ohio, thence along U.S. Highway 50 to Athens, Ohio, thence along Alternate U.S. Highway 50 to the Ohio-West Virginia State line, on the one hand, and, on the other, points in New York. The purpose of this filing is to eliminate the gateway of Marion County, W. Va.

No. MC 64808 (Sub-No. E62), filed June 4, 1974. Applicant: W. S. THOMAS TRANSFER, INC., P.O. Box 507, Fairmont, W. Va. 26554. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*,

by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Ohio on and south of a line beginning at the West Virginia-Ohio State line and extending along U.S. Highway 40 to junction Ohio Highway 29, thence along Ohio Highway 29 to junction U.S. Highway 36, thence along U.S. Highway 36 to the Ohio-Indiana State line, on the one hand, and, on the other, points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line, extending along U.S. Highway 219 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction Pennsylvania Highway 287, thence along Pennsylvania Highway 287 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line. The purpose of this filing is to eliminate the gateway of Marion County, W. Va.

No. MC 64808 (Sub-No. E63), filed June 4, 1974. Applicant: W. S. THOMAS TRANSFER, INC., P.O. Box 507, Fairmont, W. Va. 26554. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Ohio on and west of a line beginning at the West Virginia-Ohio State line and extending along Ohio Highway 43 to the Ohio-Lake Erie shore, on the one hand, and, on the other, points in that part of Pennsylvania on south, and east of a line beginning at the Maryland-Pennsylvania State line and extending along U.S. Highway 1 to junction Pennsylvania Highway 10, thence along Pennsylvania Highway 10 to Reading, Pa., thence along U.S. Highway 422 to junction U.S. Highway 202, thence along U.S. Highway 202 to the Pennsylvania-New Jersey State line. The purpose of this filing is to eliminate the gateway of Marion County, W. Va.

No. MC 64808 (Sub-No. E65), filed June 4, 1974. Applicant: W. S. THOMAS TRANSFER, INC., P.O. Box 507, Fairmont, W. Va. 26554. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Ohio (except points in that part of Ohio east and north of a line beginning at the West Virginia-Ohio State line and extending along U.S. Highway 40 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction Ohio Highway 4, thence along Ohio Highway 4 to the Ohio-Lake Erie shore), on the one hand, and, on the other, points in that part of Pennsylvania on and south of a line beginning at the Maryland-Pennsylvania State line and extending along U.S. Highway 219 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Interstate Highway 81, thence

along Interstate Highway 81 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Pennsylvania Highway 269, thence along Pennsylvania Highway 269 to the Pennsylvania-New York State line. The purpose of this filing is to eliminate the gateway of Marion County, W. Va.

No. MC 64808 (Sub-No. E66), filed June 4, 1974. Applicant: W. S. THOMAS TRANSFER, INC., P.O. Box 507, Fairmont, W. Va. 26554. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Ohio on and south of a line beginning at the Ohio-Indiana State line and extending along U.S. Highway 30 to junction U.S. Highway 30N, thence along U.S. Highway 30N to junction U.S. Highway 250, thence along U.S. Highway 250 to the Ohio-West Virginia State line, on the one hand, and, on the other, points in Virginia on and east of a line beginning at the North Carolina-Virginia State line and extending along U.S. Highway 301 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction Virginia Highway 39, thence along Virginia Highway 39 to the Virginia-West Virginia State line. The purpose of this filing is to eliminate the gateway of Marion County, W. Va.

No. MC 64808 (Sub-No. E67), filed June 4, 1974. Applicant: W. S. THOMAS TRANSFER, INC., P.O. Box 507, Fairmont, W. Va. 26554. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Ohio on and north of a line beginning at the West Virginia-Ohio State line and extending along U.S. Highway 33 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction U.S. Highway 35, thence along U.S. Highway 35 to the Ohio-Indiana State line, on the one hand, and, on the other, points in that part of Virginia on and east of a line beginning at the Virginia-North Carolina State line and extending along U.S. Highway 220 to junction Virginia Highway 311, thence along Virginia Highway 311 to the Virginia-West Virginia State line. The purpose of this filing is to eliminate the gateway of Marion County, W. Va.

No. MC 64808 (Sub-No. E68), filed June 4, 1974. Applicant: W. S. THOMAS TRANSFER, INC., P.O. Box 507, Fairmont, W. Va. 26554. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Ohio north and west of a line beginning at the Ohio-Indiana State line and extending along U.S. Highway 30 to junction U.S. Highway 30N, thence along Ohio Highway 89, thence along Ohio Highway 89 to the Ohio-Lake Erie shore, on the one hand, and, on the other, points in that part of Virginia on and east of a line beginning at the Virginia-Tennessee State line and extending along Virginia Highway 91 to junction U.S. Highway 58, thence along U.S. Highway 58 to junction U.S. Highway 23, thence along U.S. Highway 23 to the Kentucky-Virginia State line. The purpose of this filing is to eliminate the gateway of Marion County, W. Va.

No. MC 64808 (Sub-No. E69), filed June 4, 1974. Applicant: W. S. THOMAS TRANSFER, INC., P.O. Box 507, Fairmont, W. Va. 26554. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Ohio north and east of a line beginning at the Ohio-Lake Erie shore and extending along Ohio Highway 58 to junction Ohio Highway 89, thence along Ohio Highway 89 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 250, thence along U.S. Highway 250 to the West Virginia-Ohio State line, on the one hand, and, on the other, points in Virginia. The purpose of this filing is to eliminate the gateway of Marion County, W. Va.

No. MC 64808 (Sub-No. E70), filed June 4, 1974. Applicant: W. S. THOMAS TRANSFER, INC., P.O. Box 507, Fairmont, W. Va. 26554. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Ohio on and north of a line beginning at the Indiana-Ohio State line and extending along Interstate Highway 80/90 (Ohio Turnpike) to junction Ohio Highway 8, thence along Ohio Highway 8 to junction U.S. Highway 250, thence along U.S. Highway 250 to junction Ohio Highway 7, thence along Ohio Highway 7 to Hannibal, Ohio, on the one hand, and, on the other, points in that part of West Virginia on and east of a line beginning at the Pennsylvania-West Virginia State line and extending along U.S. Highway 19 to the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateway of Marion County, W. Va.

No. MC 64808 (Sub-No. E71), filed June 4, 1974. Applicant: W. S. THOMAS TRANSFER, INC., P.O. Box 507, Fairmont, W. Va. 26554. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Ohio on and east of a line beginning at the Ohio-Indiana State line and extending along U.S. Highway 219 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Interstate Highway 81, thence along Interstate Highway 81 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Interstate Highway 81, thence



line beginning at Lake Erie-Ohio shore and extending along Ohio Highway 45 to the West Virginia-Ohio State line, on the one hand, and, on the other, points in that part of West Virginia on and east of a line beginning at the Ohio-Kentucky State line and extending along Interstate Highway 64 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction U.S. Highway 19, thence along U.S. Highway 19 to the Pennsylvania-West Virginia State line. The purpose of this filing is to eliminate the gateway of Marion County, W. Va.

No. MC 64808 (Sub-No. E72), filed June 4, 1974. Applicant: W. S. THOMAS TRANSFER, INC., P.O. Box 507, Fairmont, W. Va. 26554. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Ohio on and north of a line beginning at the Ohio-West Virginia State line and extending along Ohio Highway 144 to junction Ohio Highway 7, thence along Ohio Highway 7 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Ohio Highway 56, thence along Ohio Highway 56 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction Ohio Highway 49, thence along Ohio Highway 49 to junction Ohio Highway 26, thence along Ohio Highway 26 to the Ohio-Indiana State line, on the one hand, and, on the other, points in that part of West Virginia on and east of a line beginning at the Virginia-West Virginia State line and extending along Ohio Highway 39 to junction Ohio Highway 20, thence along Ohio Highway 20 to junction Ohio Highway 15, thence along Ohio Highway 15 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction U.S. Highway 33, thence along U.S. Highway 33 to the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateway of Marion County, W. Va.

No. MC 64808 (Sub-No. E73), filed June 4, 1974. Applicant: W. S. THOMAS TRANSFER, INC., P.O. Box 697, Fairmont, W. Va. 26554. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Ohio, on the one hand, and, on the other, points in that part of West Virginia on and east of a line beginning at the West Virginia-Virginia State line and extending along U.S. Highway 250 to Fairmont, W. Va., thence along U.S. Highway 19 to the West Virginia-Pennsylvania State line. The purpose of this filing is to eliminate the gateway of Marion County, W. Va.

No. MC-65781 (Sub-No. E22), filed January 14, 1975. Applicant: DAWN MOVING & STORAGE, INC., 1000 First

Nat'l Bank Bldg., Minneapolis, Minn. 55402. Applicant's representative: Andrew Clark (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission; (1) between points in that part of Illinois on and north of a line beginning at the Illinois-Indiana State line, thence along Interstate Highway 80 to junction Illinois Highway 88, thence along Illinois Highway 88 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Illinois-Iowa State line, on the one hand, and, on the other, points in Alabama (any point in Wisconsin)\*; (2) between points in Iowa, on the one hand, and, on the other, points in Virginia (Chicago, Ill.)\*; (3) between points in Wisconsin, on the one hand, and, on the other, points in Virginia (Chicago, Ill.)\*; (4) between points in Wisconsin, on the one hand, and, on the other, points in Alabama (Chicago, Ill.)\*; (5) between points in Wisconsin, on the one hand, and, on the other, points in Georgia (Chicago, Ill.)\*; (6) between points in Wisconsin, on the one hand, and, on the other, points in Kentucky (Chicago, Ill.)\*; (7) between points in Illinois on and north of Interstate Highway 80, on the one hand, and, on the other, points in Virginia (points in Wisconsin)\*; and (8) between points in Illinois north of Interstate Highway 80, on the one hand, and, on the other, points in Georgia (points in Wisconsin)\*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 107002 (Sub-No. E14), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from El Dorado, Ark., to points in Florida. The purpose of this filing is to eliminate the gateway of Mississippi and Mobile, Ala.

No. MC 107002 (Sub-No. E24), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from El Dorado, Ark., to points in Kentucky. The purpose of this filing is to eliminate the gateway of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E25), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles,

from El Dorado, Ark., to points in Michigan. The purpose of this filing is to eliminate the gateway of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E26), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from El Dorado, Ark., to points in Indiana. The purpose of this filing is to eliminate the gateway of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E27), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from Cordova, Ala., to points in Louisiana. The purpose of this filing is to eliminate the gateway of Lumberton, Miss.

No. MC 107002 (Sub-No. E28), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles (except fertilizer and fertilizer ingredients), from Jackson, Miss., to points in North Carolina. The purpose of this filing is to eliminate the gateway of Fox, Ala.

No. MC 107002 (Sub-No. E29), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles (except fertilizer and fertilizer ingredients), from Jackson, Miss., to points in Florida. The purpose of this filing is to eliminate the gateway of Mobile, Ala.

No. MC 107002 (Sub-No. E30), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles (except fertilizer and fertilizer ingredients), from Jackson, Miss., to points in South Carolina. The purpose of this filing is to eliminate the gateway of Fox, Ala.

No. MC 107002 (Sub-No. E31), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as

above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles (except fertilizer, fertilizer ingredients, and liquefied petroleum gases), from Jackson, Miss., to points in West Virginia. The purpose of this filing is to eliminate the gateway of the plant site of Monsanto Chemical Company in Anniston, Ala.

No. MC 107002 (Sub-No. E32), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from El Dorado, Ark., to points in Iowa on, north, and east of a line beginning at the Missouri-Iowa State line and extending along Iowa Highway 5 to junction Interstate Highway 35, thence along Interstate Highway 35 to junction Iowa Highway 141, thence along Iowa Highway 141 to junction Iowa Highway 144, thence along Iowa Highway 144 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Iowa Highway 7, thence along Iowa Highway 7 to junction U.S. Highway 59, thence along U.S. Highway 59 to the Iowa-Minnesota State line. The purpose of this filing is to eliminate the gateway of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E33), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from El Dorado, Ark., to points in North Carolina. The purpose of this filing is to eliminate the gateway of Tuscaloosa, Ala.

No. MC 107002 (Sub-No. E34), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from El Dorado, Ark., to points in Georgia. The purpose of this filing is to eliminate the gateway of Tuscaloosa, Ala.

No. MC 107002 (Sub-No. E35), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from El Dorado, Ark., to points in South Carolina. The purpose of this filing is to eliminate the gateway of Tuscaloosa, Ala.

No. MC 107002 (Sub-No. E36), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from El Dorado, Ark., to points in Wisconsin. The purpose of this filing is to eliminate the gateway of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E37), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from El Dorado, Ark., to points in Illinois. The purpose of this filing is to eliminate the gateway of Barfield, Ark., and points within 10 miles thereof.

No. MC 107515 (Sub-No. E556), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tittlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting:

(A) (1) *Frozen edible meats, meat products, and meat by-products*, from Pekin, Ill., the plant site of Swift & Co., at Rochelle, Ill., the plant site of Agar Packing Co., at Momence, Ill., the plant site of Wilson & Co., at Monmouth, Ill., the plant site of Armour & Co., at Sterling, Ill., the plant site of Geo. A. Hormel at Bureau, Ill., the plant site of Oscar Mayer at Beardstown, Ill., and the plant site of Aurora Packing Co., at North Aurora, Ill.; (2) *Frozen dairy products*, from the plant site of Swift & Co., at Rochelle, Ill.; and (3) *Frozen foods* (except frozen fruits, frozen berries, and frozen vegetables) from Quincy, Ill., to points in that portion of California on, south, or west of a line beginning at Morro Bay and extending along California Highway 41 to junction U.S. Highway 101, thence along U.S. Highway 101 to junction California Highway 58, thence along California Highway 58 to junction U.S. Highway 395, thence along U.S. Highway 395 to junction Interstate Highway 15, thence along Interstate Highway 15 to junction Interstate Highway 5, thence along Interstate Highway 5 to the United States-Mexico International Boundary line. (B) (1) The commodities described in (A) (1) (except Quincy and Beardstown) to points in that part of Arizona, on, south, or west of a line beginning at Nogales and extending along U.S. Highway 89 to junction Interstate Highway 40, thence along Interstate Highway 40 to the Arizona-California State line; (2) *Frozen dairy products*, from the origin specified in (A) (2) to the destinations in (B) (1)

above; and (3) The commodities described in (A) (1) from Pekin, Ill., and the plant sites of Swift & Co., at Rochelle, Ill., Agar Packing Co., at Momence, Ill., Armour & Co., at Sterling, Ill., Geo. A. Hormel at Bureau, Ill., and North Aurora Packing Co., at North Auburn, Ill., to Las Vegas, Nev., and points in California on, south, or west of a line beginning at the California-Nevada State line and extending along Interstate Highway 15 to junction California Highway 58, thence along California Highway 58 to junction Interstate Highway 5, thence along Interstate Highway 5 to junction Interstate Highway 80, thence along Interstate Highway 80 to San Francisco. The purpose of this filing is to eliminate the gateway of Union City, Tenn.

No. MC 107515 (Sub-No. E609), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Fresh and cured meats and dairy products*, as described in the Appendix to the report in *Modification of Permits—Packing-house Products*, 48 MCC 628; (1) between points in Louisiana, and Mississippi, on the one hand, and, on the other, points in North Carolina and South Carolina; and (2) between points in Alabama, on the one hand, and, on the other, points in South Carolina and points in that part of North Carolina on and east of U.S. Highway 23. The purpose of this filing is to eliminate the gateway of Atlanta, Ga., or Montezuma, Ga.

No. MC 107515 (Sub-No. E610), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tittlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in vehicles equipped with mechanical refrigeration, from points in Lake and Du Page Counties, Ill., to points in that portion of New Mexico on or south of a line beginning at the Texas-New Mexico State line and extending along U.S. Highway 66 to junction New Mexico Highway 129, thence along New Mexico Highway 129 to junction New Mexico Highway 104, thence along New Mexico Highway 104, to junction New Mexico Highway 3, thence along New Mexico Highway 3 to junction New Mexico Highway 75, thence along New Mexico Highway 75 to junction New Mexico Highway 76, thence along New Mexico Highway 76 to junction New Mexico Highway 4, thence along New Mexico Highway 4 to junction New Mexico Highway 126, thence along New Mexico Highway 126 to junction New Mexico Highway 44, thence along New Mexico Highway 44 to junction New Mexico Highway 57, thence along New Mexico Highway 57 to



junction U.S. Highway 66, thence along U.S. Highway 66 to the Arizona-New Mexico State line. The purpose of this filing is to eliminate the gateway of Dyersburg, Tenn.

No. MC 107515 (Sub-No. E611), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods*; (1) from points in California on and south of a line beginning at the California-Nevada State line and extending along U.S. Highway 6 to junction California Highway 120, thence along California Highway 120 to junction Interstate Highway 205, thence along Interstate Highway 205 to junction Interstate Highway 580, thence along Interstate Highway 580 to junction Interstate Highway 80, thence along Interstate Highway 80 to San Francisco, to points in Illinois on, south, and east of a line beginning at the Illinois-Missouri State line and extending along Illinois Highway 150 to junction Illinois Highway 154, thence along Illinois Highway 154 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Interstate Highway 57, thence along Interstate Highway 57 to junction Interstate Highway 74, thence along Interstate Highway 74 to the Illinois-Indiana State line; (2) from points in California in and south of Monterey, San Benito, Fresno, Tulare, Kern, and San Bernardino Counties, Calif., to points in Cook and Will Counties, Ill., and those points in Illinois on and south and east of U.S. Highway 66, and St. Louis, Mo., and Detroit, Mich.; and (3) from Los Angeles, Calif., to points in Lake, Cook, Kane, Will, DuPage Counties, Ill., Aurora, Ill., and points in Illinois on, east, and south of a line beginning at the Illinois-Missouri State line, and St. Louis, Mo., Illinois Highway 31 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 66, thence along U.S. Highway 66 to the Illinois-Missouri State line, and St. Louis, Mo., and Detroit, Mich. The purpose of this filing is to eliminate the gateway of Florence, Ala.

No. MC 113855 (Sub-No. E15), filed May 30, 1974. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 520 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Loaders, conveyors, screens, grizzlies and when moving in combination loads on the same vehicle from the same consignor or consignors of the above-specified commodities, attachments, accessories, and parts of or for the above-specified equipment and machinery*; (a) from Waukesha and Milwaukee Counties, Wis.,

to points in Nevada and Arizona; (b) from points in Illinois bounded by an area south of a line beginning at the Iowa-Illinois State line at or near Moline, Ill., and extending along U.S. Highway 6 to Joliet, Ill., and thence along U.S. Highway 30 to the Illinois-Indiana State line near Chicago Heights, Ill., and on and north of U.S. Highway 36 to points in Nevada; (c) from points in Illinois bounded by an area south of a line beginning at the Iowa-Illinois State line at or near Moline, Ill., and extending along U.S. Highway 6 to Joliet, Ill., and thence along U.S. Highway 30 to the Illinois-Indiana State line near Chicago Heights, Ill., and on and north of Illinois Highway 17 to points in Arizona; and (d) from points in Illinois bounded by an area on and north of Illinois Highway 39 and on and south of Illinois Highway 17, to points in Arizona on and west of U.S. Highway 89. The purpose of this filing is to eliminate the gateway of Sioux Falls, S. Dak.

No. MC 113855 (Sub-No. E16), filed May 30, 1974. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 520 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Road construction machinery and equipment*; (2) *New construction, road-building, earth-moving, excavating, loading, maintenance, logging, and mining machinery and equipment tractors* (not including truck-tractors), and *pipelayers* and, when moving in combination loads on the same vehicle from the same consignor or consignors of the above-specified commodities, *generators, internal combustion engines, and generators and engines combined* (except aircraft and missile engines), and *attachments, accessories, and parts of or for the above-specified equipment and machinery*, the transportation of which, because of their size or weight, require the use of special equipment, and related machinery, parts, and related contractors' materials and supplies when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment; and (3) *Self-propelled articles* described in (2) above, not requiring special equipment for their transportation, each weighing 15,000 pounds or more and related machinery, tools, parts, and supplies moving in connection therewith, from points in Waukesha and Milwaukee Counties, Wis., points in Madison County, Ill., and points in that part of Illinois bounded by an area south of a line beginning at the Iowa-Illinois State line at or near Moline, Ill., and extending along U.S. Highway 6 to Joliet, Ill., thence along U.S. Highway 3 to the Illinois-Indiana State line near Chicago Heights, Ill., and on and north of U.S. Highway 36 to points in California, restricted against any service to pipelines, pipeline rights-of-way, pump stations, or pipeline construction

projects along such rights-of-way other than in California. The purpose of this filing is to eliminate the gateways of Beresford, S. Dak., or Sioux Falls, S. Dak., or Dell Rapids, S. Dak., or Hawarden, S. Dak.

No. MC 113855 (Sub-No. E17), filed May 30, 1974. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 520 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Power land cleaning and land clearing machinery and equipment and attachments therefor*, from Pomona, Calif., to points in North Carolina on and east of U.S. Highway 321. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 113855 (Sub-No. E18), filed May 30, 1974. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 520 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Rollers, compactors, asphalt pavers, loading and grading equipment and truck hitches for asphalt pavers*, from points in Milwaukee and Waukesha Counties, Wis., to points in California in and north of Santa Cruz, Santa Clara, Stanislaus, Calaveras and Alpine Counties, restricted against any service to pipelines, pipeline rights-of-way, pump stations, or pipeline construction projects along such right-of-way other than in California. The purpose of this filing is to eliminate the gateway of Salem, Ore.

No. MC 113855 (Sub-No. E22), filed May 30, 1974. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 520 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Tractors*; (2) *Agricultural earth-moving, excavating, loading and maintenance machinery and equipment*, and, when moving in combination loads on the same vehicle from the same consignor or consignors of the above-specified commodities; (3) *Attachments and parts, of or for the above-specified equipment and machinery*; from Milwaukee and Waukesha Counties, Wis., to points in Nevada. The purpose of this filing is to eliminate the gateway of Gwinner, N. Dak.

No. MC 113855 (Sub-No. E48), filed May 30, 1974. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 520 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting:

*Agricultural augers, front end loaders, lift trucks, and, when moving in combination loads on the same vehicle from the same consignor or consignors of the above-specified commodities, attachments and parts of or for the above-specified equipment and machinery*; (a) from points in that part of Illinois south of a line beginning at the Iowa-Illinois State line at or near Moline, Ill., and extending along U.S. Highway 6 to Joliet, Ill., and thence along U.S. Highway 30 to the Illinois-Indiana State line near Chicago Heights, Ill., and on and north of U.S. Highway 36 to points in California located north of the counties of San Luis Obispo, Kern, and San Bernardino; (b) from points in Milwaukee and Waukesha Counties, Wis., to points in Iowa-Illinois (except Imperial County and points in Riverside and San Bernardino Counties, Calif., east of U.S. Highway 395), restricted against any service to pipelines, pipeline rights-of-way, pump stations, or pipeline construction projects along such right-of-way other than in California. The purpose of this filing is to eliminate the gateways of Sioux Falls, S. Dak., and Sparks, Nev.

No. MC 113855 (Sub-No. E49), filed May 30, 1974. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 520 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Loaders, conveyors, screens, grizzlies, and attachments, accessories, and parts which are road construction materials, supplies, or equipment, from points in Minnesota north of a line beginning at East Grand Forks, Minn., and extending along U.S. Highway 2 to junction U.S. Highway 71, thence along U.S. Highway 71 to the United States-Canada International Boundary line near International Falls, Minn., including the points named and points on the indicated portions of the highways specified, to points in California (except points in Imperial County, and points in Riverside and San Bernardino Counties east of U.S. Highway 395). The purpose of this filing is to eliminate the gateways of Sparks, Nev., and Sioux Falls, S. Dak.*

No. MC 113855 (Sub-No. E50), filed May 30, 1974. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 520 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Tractors, front end loaders, lift trucks, self-propelled agricultural machinery, agricultural hoisting equipment*; (2) *Attachments for the commodities specified in (1) above; and (3) parts of the commodities specified in (1) and (2) above when moving in mixed loads with any of said commodities, from Schofield, Wis., and the facilities of Drott Manufacturing Corporation, at King and Harrison, Wis., to points in New Mexico. The*

purpose of this filing is to eliminate the gateway of Fargo or Gwinner, N. Dak.

No. MC 113855 (Sub-No. E52), filed May 30, 1974. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 520 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Asbestos cement pipe, conduit and couplings with accessories necessary for the installation thereof, from Riverside, Calif., to points in Nebraska on and north of a line beginning at the Nebraska-Iowa State line and extending along Nebraska Highway 92 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to the Nebraska-South Dakota State line, to Iowa, Minnesota, and Wisconsin. The purpose of this filing is to eliminate the gateway of Big Horn County, Wyo.*

No. MC 113855 (Sub-No. E55), filed May 30, 1974. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 520 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Commodities, the transportation of which, because of their size or weight, require the use of special equipment, and related machinery, parts, and related contractors' materials and supplies when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment; and (2) Self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith (restricted to commodities transported on trailers)*; (a) between points in Minnesota on and west of a line beginning at the United States-Canada International Boundary line on U.S. Highway 59 north of Lancaster, Minn., thence along U.S. Highway 59 to Detroit Lake, Minn., thence along U.S. Highway 10 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Iowa-Minnesota State line, on the one hand, and, on the other, points in Illinois (except points in Jo Daviess, Stephenson, Winnebago, Boone, McHenry, and Lake Counties); (b) between points in Minnesota on and east of a line beginning at the United States-Canada International Boundary line on U.S. Highway 59 north of Lancaster, Minn., thence along U.S. Highway 59 to Detroit Lake, Minn., thence along U.S. Highway 10 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Iowa-Minnesota State line, and on and west of a line beginning at the United States-Canada International Boundary line at or near Bandette, Minn., thence along Minnesota Highway 72 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction U.S. Highway

371, thence along U.S. Highway 371 to junction U.S. Highway 10, thence along U.S. Highway 10 to St. Cloud, Minn., thence along Minnesota Highway 15 to the Minnesota-Iowa State line, on the one hand, and, on the other, points in Illinois on and south of U.S. Highway 6; and (c) between points in Koochiching County, Minn., on the one hand, and, on the other, points in Illinois on and west of a line beginning at the Illinois-Missouri State line at or near Quincy, Ill., thence along Illinois Highway 104 to junction Illinois Highway 29, thence along Illinois Highway 29 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction U.S. Highway 460, thence along U.S. Highway 460 to the Illinois-Indiana State line. The purpose of this filing is to eliminate the gateway of points in Minnesota within 50 miles of Sioux Falls, S. Dak.

No. MC 113855 (Sub-No. E59), filed May 30, 1974. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 520 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Commodities, the transportation of which, because of their size or weight, require the use of special equipment, and related machinery, parts, and related contractors' materials and supplies when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment, and (2) Self-propelled articles, each weighing 15,000 pounds or more and related machinery, tools, parts, and supplies moving in connection therewith (restricted to commodities transported on trailers)*; (a) between points in Kansas on and west of U.S. Highway 281, on the one hand, and, on the other, points in Iowa on and north of a line beginning at the Iowa-Nebraska State line at the junction of the state line and Iowa Highway 175, thence along Iowa Highway 175 to junction Iowa Highway 141 to junction Interstate Highway 35, thence along Interstate Highway 35 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Iowa Highway 38, thence along Iowa Highway 38 to the Iowa-Illinois State line; (b) between points in Kansas within an area east of U.S. Highway 281 and on and west of U.S. Highway 77, on the one hand, and, on the other, points in Iowa on and north of U.S. Highway 20; and (c) between points in Kansas east of U.S. Highway 77, on the one hand, and, on the other, points in Iowa on, north, and west of a line beginning at the junction of the Iowa-Nebraska State line and U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 59, thence along U.S. Highway 59 to the Iowa-Minnesota State line. The purpose of this filing is to eliminate the gateway of South Dakota.

No. MC 113855 (Sub-No. E147), filed May 30, 1974. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Mar-

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ion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Trailers, agricultural implements and parts, and farm machinery* and parts, the transportation of which, because of their size or weight, require the use of special equipment, and related machinery parts when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment, and (2) *self-propelled articles* described in (1) above, not requiring special equipment for their transportation, each weighing 15,000 pounds or more and related parts moving in connection therewith (restricted to commodities transported on trailers), from Ottumwa, Iowa, Chicago, East Moline, Rock Island, and Springfield, Ill., to points in Minnesota on and west of a line beginning at the Minnesota-Iowa State line extending along Interstate Highway 35 to the junction of U.S. Highway 73, thence along U.S. Highway 73 to junction U.S. Highway 53, thence along U.S. Highway 53 to the International Falls, Minn., and that part of North Dakota south of a line beginning at the Montana-North Dakota State line and extending along U.S. Highway 2 to Lakota, N. Dak., thence along North Dakota Highway 1 to the United States-Canada Boundary line, not including points on the indicated portions of the highways specified other than Minot, N. Dak. The purpose of this filing is to eliminate the gateways of Alden, Minn., and points within 10 miles of Alden.

No. MC 113855 (Sub-No. E151), filed May 30, 1974. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Hay balers and parts*, and (2) *agricultural stump cutting, trench back-filling, and tree-moving equipment* and parts for such commodities, from Madras, Oreg., to points in Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, Tennessee, Kentucky, Virginia, West Virginia, Maryland, Delaware, New Jersey, Pennsylvania, Washington, District of Columbia, Connecticut, Massachusetts, Rhode Island, New York, Vermont, New Hampshire, Maine, and Michigan. The purpose of this filing is to eliminate the gateway of Pella, Iowa.

No. MC 113855 Sub-No. E154), filed May 30, 1974. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn., 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (A)

Commodities which, because of size or weight, require the use of special equipment or special handling (except boats and iron and steel articles), and related machinery parts and related contractor's equipment, materials, and supplies when their transportation is incidental to the transportation of commodities which, because of size or weight, require the use of special equipment, and (B) *Self-propelled articles*, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith (restricted to commodities which are transported in trailers); (1) between points in Iowa on and west of U.S. Highway 77, on the one hand, and, on the other, points in New Jersey and Delaware; and (2) between points in Iowa on and west of U.S. Highway 59, on the one hand, and, on the other, points in Washington, D.C. The purpose of this filing is to eliminate the gateways of points in South Dakota and points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending along unnumbered highway (formerly portion U.S. Highway 15) to junction Business U.S. Highway 15 near Fairplay, Pa., thence along Business U.S. Highway 15 through Gettysburg, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to junction unnumbered highway (formerly portion U.S. Highway 15), thence along unnumbered highway through Clear Spring, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line (except points in Berks, Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa.), and points in Pennsylvania on and east of the above-described line in Adams, York, Cumberland, Perry, Dauphin, Lebanon, and Lancaster Counties, Pa., and points in Pennsylvania on and east of U.S. Highway 15 and north of the East Branch of the Susquehanna River in Tioga, Bradford, Lycoming, Sullivan, Union, Snyder, Northumberland, Montour, and Columbia Counties, Pa.).

No. MC 114019 (Sub-No. E358) (Correction), filed May 16, 1974, published in the FEDERAL REGISTER March 6, 1975. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 S. Pulaski Rd., Chicago, Ill. 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, Classes A and B explosives, livestock, commodities in bulk, and commodities requiring special equipment), from Sparrows Point and Baltimore, Md.; New York, N.Y., and points within 30 miles thereof; points in those parts of New Jersey, Delaware, and Maryland, which are located within 30 miles of Philadelphia, Pa.; points in that part of New York on and west of a line beginning at Lake Ontario and extending along U.S. Highway 15 to junction New York Highway 245, thence along New

York Highway 245 to junction New York Highway 36, thence along New York Highway 36 to junction New York Highway 21, thence along New York Highway 21 to junction New York Highway 17, thence along New York Highway 17 to the New York-Pennsylvania State line; points in Pennsylvania and those in West Virginia in, north, and east of Wetzel, Harrison, Upshur, Randolph, and Pocahontas Counties, to points in that part of Indiana on and north of a line beginning at the Indiana-Illinois State line and extending along U.S. Highway 24 to junction Indiana Highway 3, thence along Indiana Highway 3 to the Indiana-Michigan State line. The purpose of this filing is to eliminate the gateway of Akron, Ohio. The purpose of this correction is to correct the territorial description.

No. MC 114273 (Sub-No. E7), filed June 4, 1974. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Farm implements and machinery*, except those requiring special equipment, from Jonesville, Wis., to points in Iowa on and bounded by a line beginning at Nora Springs, Iowa, and extending along U.S. Highway 18 to junction Iowa un-numbered highway at Charles City, Iowa, thence along Iowa un-numbered highway to junction Iowa Highway 188, thence along Iowa Highway 188 to junction Iowa Highway 3, thence along Iowa Highway 3 to junction Iowa un-numbered highway, thence along Iowa un-numbered highway to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 218, thence along U.S. Highway 218 to junction Iowa Highway 2, thence along Iowa Highway 2 to the Iowa-Illinois State line, thence along the Iowa-Illinois State line to the Iowa-Missouri State line, thence along the Iowa-Missouri State line to junction Iowa Highway 202, thence along Iowa Highway 202 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction Iowa Highway 5, thence along Iowa Highway 5 to junction Iowa un-numbered highway at Moravia, Iowa, thence along Iowa un-numbered highway to junction Iowa Highway 68, thence along Iowa Highway 68 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction Iowa Highway 14, thence along Iowa Highway 14 to junction Iowa un-numbered highway, thence along un-numbered highway to junction Iowa Highway 206, thence along Iowa Highway 206 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Iowa un-numbered highway to Dows, Iowa, thence along Iowa un-numbered highway to junction Iowa un-numbered highway, thence north on Iowa

un-numbered highway to junction Iowa un-numbered highway and Iowa Highway 263, thence along Iowa Highway 263 to junction Iowa un-numbered highway at Latimer, Iowa, thence along Iowa un-numbered highway to junction U.S. Highway 65, thence along U.S. Highway 65 to junction Iowa un-numbered highway, thence east and north on Iowa un-numbered highway through Rockwell, Cartersville, and Rockford, Iowa, thence north on Iowa un-numbered highway and U.S. Highway 18, thence west on U.S. Highway 18 to Nora Springs, Iowa. The purpose of this filing is to eliminate the gateway of Cedar Rapids, Iowa.

No. MC 114273 (Sub-No. E9), filed June 4, 1974. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Twine and iron and steel products* (except commodities in bulk and those requiring special equipment), from Chicago, Ill., to points in that part of Iowa in and on a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 52 to junction Iowa Highway 150, thence along Iowa Highway 150 to junction Iowa Highway 101, thence along Iowa Highway 101 to junction Iowa Highway 363, thence along Iowa Highway 363 to junction Iowa un-numbered highway at Urbana, Iowa, thence along Iowa un-numbered highway thru Shellsburg and Palo, Iowa, to junction Iowa Highway 94, thence along Iowa Highway 94 to junction U.S. Highway 218, thence along U.S. Highway 218 to junction Iowa Highway 1, thence along Iowa Highway 1 to junction Iowa Highway 92, thence along Iowa Highway 92 to junction U.S. Highway 218, thence along U.S. Highway 218 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction Iowa Highway 1, thence along Iowa Highway 1 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction Iowa un-numbered highway, thence along Iowa un-numbered highway through Mt. Sterling, Iowa, to the Iowa-Missouri State line, and thence from the Missouri-Iowa State line along Iowa Highway 202 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction Iowa Highway 5, thence along Iowa Highway 5 to junction Iowa un-numbered highway at Moravia, Iowa, thence along Iowa un-numbered highway thru Iconium and Melrose, Iowa, to junction Iowa Highway 68, thence along Iowa Highway 68 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction Iowa Highway 14.

Thence along Iowa Highway 14 to junction Iowa un-numbered highway, thence along Iowa un-numbered highway to junction Iowa Highway 206, thence along Iowa Highway 206 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 69, thence along U.S. Highway 69 to Des Moines, Iowa, thence along U.S. Highway 69 to junction U.S. Highway 20, thence

along U.S. Highway 20 to Williams, Iowa, thence along U.S. Highway 20 to junction Iowa un-numbered highway, thence along Iowa un-numbered highway to Dows, Iowa, thence along Iowa un-numbered highway to junction Iowa un-numbered highway, thence along Iowa un-numbered highway to junction Iowa Highway 263, thence along Iowa Highway 263 to junction Iowa un-numbered highway at Latimer, Iowa, thence along Iowa un-numbered highway to junction Iowa un-numbered highway, thence along Iowa un-numbered highway thru Chapin, Iowa, to junction U.S. Highway 65, thence along U.S. Highway 65 to junction Iowa un-numbered highway, thence along Iowa un-numbered highway thru Rockwell, Cartersville, and Rockford, Iowa, thence along Iowa un-numbered highway and junction U.S. Highway 28, thence along U.S. Highway 18 to Nora Springs, Iowa, thence along U.S. Highway 18 to junction Iowa un-numbered highway, thence along Iowa un-numbered highway to junction Iowa Highway 218 at Osage, Iowa, thence along U.S. Highway 218 to junction Iowa Highway 9, thence along Iowa Highway 9 to New Haven, Iowa, thence along Iowa Highway 9 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 157, thence along Iowa Highway 157 to junction Iowa un-numbered highway at Limes Springs, Iowa, thence along Iowa un-numbered highway to the Iowa-Minnesota State line. The purpose of this filing is to eliminate the gateway of Cedar Rapids, Iowa.

No. MC 114273 (Sub-No. E10), filed June 4, 1974. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prokusk (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Machinery, machinery parts, and binder twine* (except commodities in bulk, and those requiring special equipment) from Rock Island, Ill., to points in that part of Iowa in and on a line beginning at the Iowa-Minnesota State line extending along Iowa Highway 26 to junction Iowa un-numbered Highway, thence along Iowa un-numbered highway through Elon, Rossville, and Volney to junction U.S. Highway 52, thence along U.S. Highway 52 to junction Iowa Highway 13, thence along Iowa Highway 13 to junction U.S. Highway 151, thence along U.S. Highway 151 to junction Iowa Highway 149, thence along Iowa Highway 149 to junction Iowa Highway 201, thence along Iowa Highway 201 to junction Iowa un-numbered highway at Watkins, thence along Iowa un-numbered highway to West Amana, thence along Iowa un-numbered highway to Blairs-town, thence along Iowa un-numbered highway to junction Iowa Highway 212, thence along Iowa Highway 212 to junction Iowa un-numbered highway, thence along Iowa un-numbered highway through Chelsea and Haven to junction U.S. Highway 63.

Thence along U.S. Highway 63 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Iowa Highway 14, thence along Iowa Highway 14 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Iowa Highway 117, thence along Iowa Highway 117 to junction Iowa Highway 163, thence along Iowa Highway 163 to junction Iowa Highway 316, thence along Iowa Highway 316 to junction Iowa un-numbered highway, thence along Iowa un-numbered highway through Hartford and Palmyra to junction Iowa Highway 92, thence along Iowa Highway 92 to junction U.S. Highway 65/69, thence along U.S. Highway 65/69 to junction U.S. Highway 69 at Des Moines, thence along U.S. Highway 69 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Iowa un-numbered highway, thence along Iowa un-numbered highway to Dows, thence along Iowa un-numbered highway to junction Iowa Highway 263, thence along Iowa Highway 263 to junction Iowa un-numbered highway at Latimer, thence along Iowa un-numbered highway to junction Iowa un-numbered highway through Chapin to junction U.S. Highway 65, thence along U.S. Highway 65 through Sheffield to junction Iowa un-numbered highway, thence along Iowa un-numbered highway through Rockwell, Cartersville, and Rockford to junction U.S. Highway 18 at Nora Springs, thence along U.S. Highway 18 to junction Iowa un-numbered highway, thence along Iowa un-numbered highway to junction U.S. Highway 218 at Osage, thence along U.S. Highway 218 to junction Iowa Highway 9, thence along Iowa Highway 9 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 157, thence along Iowa Highway 157 to junction Iowa un-numbered highway at Lime Springs, thence along Iowa un-numbered highway to the Minnesota-Iowa State line, thence along the Iowa-Minnesota State line to the point of beginning. The purpose of this filing is to eliminate the gateway of Cedar Rapids, Iowa.

No. MC 114273 (Sub-No. E11), filed June 4, 1974. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Machinery, machinery parts and binder twine* (except commodities in bulk, and those requiring special equipment), from Sandwich, Ill., to points in that part of Iowa in and on a line beginning at the Iowa-Minnesota State line extending along Iowa Highway 76 to junction Iowa un-numbered highway at Rossville, Iowa, thence along Iowa un-numbered highway to junction U.S. Highway 52 at Minona, Iowa, thence along U.S. Highway 52 to junction Iowa Highway 13, thence along Iowa Highway 13 to junction U.S.



Highway 30, thence along U.S. Highway 30 to junction Iowa Highway 1, thence along Iowa Highway 1 to junction Iowa Highway 92, thence along Iowa Highway 92 to junction U.S. Highway 65-69, thence along U.S. Highway 65-69 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Iowa unnumbered highway, thence along Iowa unnumbered highway to Dows, Iowa, thence along unnumbered highway to junction Iowa unnumbered highway, thence along Iowa unnumbered highway to junction Iowa Highway 263 at Coulter, Iowa, thence along Iowa Highway 263 to junction Iowa unnumbered highway, thence along unnumbered highway through Chapin, Iowa, to junction U.S. Highway 65, thence along U.S. Highway 65 to junction Iowa unnumbered highway, thence along unnumbered highway through Rockwell, Cartersville, and Rockford, Iowa, to junction U.S. Highway 18, thence along U.S. Highway 18 to Nora Springs, Iowa, thence along U.S. Highway 18 to junction Iowa unnumbered highway, thence along Iowa unnumbered highway to junction U.S. Highway 218 at Osage, Iowa, thence along U.S. Highway 218 to junction Iowa Highway 9, thence along Iowa Highway 9 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 157, thence along Iowa Highway 157 to junction Iowa unnumbered highway at Lime Springs, Iowa, thence along unnumbered highway to the Iowa-Minnesota State line, thence along the Minnesota-Iowa State line to point of beginning. The purpose of this filing is to eliminate the gateway of Cedar Rapids, Iowa.

No. MC 114273 (Sub-No. E12), filed June 4, 1974. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohnski (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Machinery, machinery parts, and binder twine* (except commodities in bulk, and those requiring special equipment), from Chicago, Ill., to points in that part of Iowa in and on a line beginning at the Iowa-Minnesota State line extending along U.S. Highway 52 to junction Iowa Highway 150, thence along Iowa Highway 150 to junction Iowa Highway 101, thence along Iowa Highway 101 to junction Iowa Highway 363, thence along Iowa Highway 363 to junction Iowa unnumbered highway at Urbana, thence along Iowa unnumbered highway to junction Iowa Highway 94, thence along Iowa Highway 94 to junction U.S. Highway 218, thence along U.S. Highway 218 to junction Iowa Highway 1, thence along Iowa Highway 1 to junction Iowa Highway 92, thence along Iowa Highway 92 to junction U.S. Highway 218, thence along U.S. Highway 218 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction Iowa Highway

1, thence along Iowa Highway 1 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction Iowa unnumbered highway, thence along Iowa unnumbered highway through Mt. Sterling, to the Iowa-Missouri State line, thence along the Iowa-Missouri State line to junction Iowa Highway 202, thence along Iowa Highway 202 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction Iowa Highway 5, thence along Iowa Highway 5 to junction Iowa unnumbered highway at Moravia, thence along Iowa unnumbered highway through Iconium and Melrose, to junction Iowa Highway 68, thence along Iowa Highway 68 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction Iowa Highway 14, thence along Iowa Highway 14 to junction Iowa unnumbered highway, thence along Iowa unnumbered highway to junction Iowa Highway 206, thence along Iowa Highway 206 to junction U.S. Highway 65.

Thence along U.S. Highway 65 to junction U.S. Highway 69, thence along U.S. Highway 65/69 to Des Moines, thence along U.S. Highway 69 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Iowa unnumbered highway, thence north along Iowa unnumbered highway to Dows, thence along Iowa unnumbered highway to junction Iowa unnumbered highway, thence along Iowa unnumbered highway to junction Iowa Highway 263 at Coulter, thence along Iowa Highway 263 to junction Iowa unnumbered highway at Latimer, thence along Iowa unnumbered highway to junction Iowa unnumbered highway, thence along Iowa unnumbered highway through Chapin to junction U.S. Highway 65, thence along U.S. Highway 65 to junction Iowa unnumbered highway, thence along Iowa unnumbered highway to junction U.S. Highway 18, thence along U.S. Highway 18 to junction Iowa unnumbered highway, thence north on Iowa unnumbered highway to junction U.S. Highway 218 at Osage, thence along U.S. Highway 218 to junction Iowa Highway 9, thence along Iowa Highway 9 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 157, thence along Iowa Highway 157 to junction Iowa unnumbered highway at Lime Springs, Iowa, thence along unnumbered highway to the Iowa-Minnesota State line, thence along the Iowa-Minnesota State line to point of beginning. The purpose of this filing is to eliminate the gateway of Cedar Rapids, Iowa.

No. MC 115331 (Sub-No. E28), filed June 3, 1974. Applicant: TRUCK TRANSPORT, INC., 230 St. Clair Ave., E. St. Louis, Ill. 62201. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, in containers, from points in Georgia to Minnesota, Nebraska, Iowa, Wisconsin, points in Missouri beginning at the Missouri-Illinois State line, thence

on and north of U.S. Highway 24 to junction Missouri Highway 6, thence along Missouri Highway 6 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 136, thence along U.S. Highway 136 to the Missouri-Nebraska State line, and points in Illinois beginning at the Illinois-Indiana State line which lie on and north of Illinois Highway 17, thence along Illinois Highway 17 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction Illinois Highway 9, thence along Illinois Highway 9 to the Illinois-Iowa State line, points in Upper Michigan on and west of Michigan Highway 35 and U.S. Highway 41 to Marinette, Mich. The purpose of this filing is to eliminate the gateway of El Paso, Ill.

No. MC 115331 (Sub-No. E29), filed June 3, 1974. Applicant: TRUCK TRANSPORT, INC., 230 St. Clair Ave., E. St. Louis, Ill. 62201. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, in containers, from points in Florida to Nebraska, Iowa, Minnesota, Wisconsin, points in Michigan (except points east of U.S. Highway 27 to junction Michigan Highway 78, thence along Michigan Highway 78 to junction Michigan Highway 21, thence along Michigan Highway 21 to junction Interstate Highway 75, thence along Interstate Highway 75 to Bay City, Mich., points in Indiana on and west of U.S. Highway 31 and on and north of Indiana Highway 14, points in Missouri beginning at the Missouri-Illinois State line on and north of U.S. Highway 24 to junction Missouri Highway 6, thence along Missouri Highway 6 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 136, thence along U.S. Highway 136 to the Missouri-Nebraska State line and points in Illinois beginning at the Illinois-Indiana State line, thence on and north of Interstate Highway 74 to junction Illinois Highway 47, thence along Illinois Highway 47 to junction U.S. Highway 36, thence along U.S. Highway 36 to the Illinois-Missouri State line. The purpose of this filing is to eliminate the gateway of El Paso, Ill.

No. MC 115331 (Sub-No. E37), filed June 3, 1974. Applicant: TRUCK TRANSPORT, INC., 230 Saint Clair Ave., East St. Louis, Ill. 62201. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, in containers, from all points in Iowa to points in Kentucky on and east of U.S. Highway 41. The purpose of this filing is to eliminate the gateway of El Paso, Ky.

No. MC 115840 (Sub-No. E50), filed December 30, 1974. Applicant: COLONIAL FAST FREIGHT, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: Roger M. Shaner

(same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such farm implements* included in iron and steel articles, from Poplarville, Miss., to that portion of Alabama on, north and east of U.S. Highway 20 beginning at the Alabama-Georgia State line and extending along the junction of U.S. Highway 431, thence along U.S. Highway 431 to the Alabama-Tennessee State line, and that portion of Georgia on and north of U.S. Highway 78 beginning at the Georgia-Alabama State line, thence along U.S. Highway 78 to the intersection of U.S. Highway 20, thence along U.S. Highway 20 and also to Atlanta and Augusta, Ga. The purpose of this filing is to eliminate the gateway of Anniston, Ala.

No. MC 115841 (Sub-No. E98), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION INCORPORATED, P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Fresh meats*, and *cooked or cured meats*, in vehicles equipped with mechanical refrigeration, from Chattanooga, Tenn., to points in Maine, New Hampshire, and Vermont. The purpose of this filing is to eliminate the gateway of Nashville, Tenn.

No. MC 115841 (Sub-No. E99), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION INCORPORATED, P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except frozen commodities and commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from Chattanooga, Tenn., to points in Missouri. The purpose of this filing is to eliminate the gateway of Nashville, Tenn.

No. MC 115841 (Sub-No. E100), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION INCORPORATED, P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, unfrozen (except commodities in bulk, in tank vehicles), as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, in vehicles equipped with mechanical refrigeration, from Chattanooga, Tenn., to points in

Wisconsin and Minnesota. The purpose of this filing is to eliminate the gateway of Nashville, Tenn.

No. MC 115841 (Sub-No. E118), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION INCORPORATED, P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Bristol, Va., to points in Connecticut, Illinois, Indiana, Kentucky, Michigan, Ohio, and Rhode Island. The purpose of this filing is to eliminate the gateway of Bristol, Tenn.

No. MC 116273 (Sub-No. E8) (Correction), filed May 22, 1974, published in the FEDERAL REGISTER July 17, 1974. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, Ill. 60650. Applicant's representative: William R. Lavery (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Coal tar and coal tar products* (except coal tar chemicals), in bulk, in tank or hopper-type vehicles, from Joliet, Ill., to points in Minnesota. Restriction: The operations authorized herein are restricted to the transportation of traffic having a prior movement by rail. The purpose of this filing is to eliminate the gateway of Flexi Flo Terminal of Penn Central Transportation Company at Hammond, Ind. The purpose of this correction is to include the restriction.

No. MC 116273 (Sub-No. E41) (Correction), filed May 24, 1974, published in the FEDERAL REGISTER July 22, 1974. Applicant: D & L TRANSPORT, INC., 3800 S. Laramie Ave., Cicero, Ill. 60650. Applicant's representative: William R. Lavery (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from the Flexi-Flo Terminals of Penn Central Transportation Company at Hammond, Ind., to points in Kentucky, that part of Ohio south and east of U.S. Highway 24 and Tennessee (except Kingsport), restricted to the transportation of traffic having a prior movement by rail. The purpose of this filing is to eliminate the gateway of the plant site of Diversified Chemicals and Propellants Co., at Frankfort, Ill. The purpose of this correction is to correct the territorial descriptions.

No. MC 116273 (Sub-No. E98), filed May 25, 1974. Applicant: D & L TRANSPORT, INC., 5700 Industrial Highway, Gary, Ind. 46404. Applicant's representative: William R. Lavery (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Plastic pellets*, in bulk, in tank or hopper-type vehicles, having a prior movement by rail, from

points in the Lower Peninsula of Michigan on, south, and west of a line beginning at Manistee, Mich., and extending along Michigan Highway 55 to junction Michigan Highway 76, thence along Michigan Highway 76 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction Michigan Highway 25 to Unionville, thence along unnumbered county highway to junction Michigan Highway 53, thence along Michigan Highway 53 to junction Michigan Highway 59, thence along Michigan Highway 59 to the west bank of Lake St. Clair, and thence along the west bank of Lake St. Clair to the Detroit River and Lake Erie to the Michigan-Ohio State line, to points in California, Colorado, Idaho, Oregon, Texas, Utah, Washington, and that part of Tennessee on and west of a line beginning at Hazel, Tenn., and extending along U.S. Highway 641 to junction Tennessee Highway 69, thence along Tennessee Highway 69 to the Tennessee-Michigan State line, restricted to the transportation of shipments having a prior movement by rail. The purpose of this filing is to eliminate the gateways of the Flexi Flo Terminal of Penn Central Transportation Co., at Hammond, Ind., and Marseilles, Ill.

No. MC 116273 (Sub-No. E125), filed May 22, 1974. Applicant: D&L TRANSPORT, INC., 3800 S. Laramie Ave., Cicero, Ill. 60650. Applicant's representative: William R. Lavery (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Hydrogen gas*, in bulk, in tank vehicles, from Middletown, Ohio, to points in Iowa, Minnesota, Nebraska, South Dakota, points in Missouri on, north, and west of a line beginning at Hannibal, Mo., and extending along U.S. Highway 24 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Missouri-Kansas State line, and points in Kansas (except points in Montgomery, Labette, Cherokee, and Bourbon Counties). The purpose of this filing is to eliminate the gateway of Niota, Ill.

No. MC 116273 (Sub-No. E130), filed May 22, 1974. Applicant: D&L TRANSPORT, INC., 3800 S. Laramie Ave., Cicero, Ill. 60650. Applicant's representative: William R. Lavery (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except liquefied petroleum gas, liquid fertilizer and cryogenic liquids), in bulk, in tank vehicles, from Janesville, Wis., to points in Kansas and Missouri. The purpose of this filing is to eliminate the gateway of the plant site of the Apple River Chemical Co., at or near Niota, Ill.

No. MC 116915 (Sub-No. E5), filed May 28, 1974. Applicant: ECK MILLER TRANSPORTATION CORP., 1125 Sweeney St., Owensboro, Ky. 42301. Applicant's representative: William P. Sullivan, 1819 H St. NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over



irregular routes, transporting: *Oil well and mine machinery, pipe, and supplies* (1) between Williamson and Beckley, W. Va., and points in West Virginia north of Mingo, Wyoming, Raleigh, Summers, and Monroe Counties, on the one hand, and, on the other, points in Mississippi, those in Kentucky in and west of Hancock, Ohio, Muhlenberg, and Todd Counties, and those in Tennessee on and west of Interstate Highway 65, (2) between points in West Virginia on and south of a line beginning at Paynesville and extending along West Virginia Highway 83 to Yukon, thence along West Virginia Highway 16 to Beckley, thence along U.S. Highway 19 to Summersville, thence along West Virginia Highway 39 to the West Virginia-Virginia State line, on the one hand, and, on the other, points in Illinois on and south of Interstate Highway 74 (except Danville) and points in Indiana on, south and west of a line beginning at Terre Haute and extending along Indiana Highway 46 to Bloomington, thence along Indiana Highway 37 to the Indiana-Kentucky State line, and (3) between points in West Virginia on and north of the line described in (2) above, on the one hand, and, on the other, points in Illinois on and south of U.S. Highway 50 and points in Indiana on and south of U.S. Highway 150 extending west to junction U.S. Highway 50 and U.S. Highway to the Indiana-Illinois State line. The purpose of this filing is to eliminate the gateways of points within 35 miles of Owensboro, Ky.

No. MC 116915 (Sub-No. E16), filed May 28, 1974. Applicant: ECK MILLER TRANSPORTATION CORPORATION, Owensboro, Ky. Applicant's representative: William P. Sullivan, Federal Bar Building West, 1819 H St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum products* (other than motor vehicles), which require the use of special equipment by reason of size or weight from points in Tennessee on and east of a line beginning at the Alabama-Tennessee State line and extending along Tennessee Highway 13 to junction Tennessee Highway 49, thence along Tennessee Highway 49 to the Tennessee-Kentucky State line to points in Iowa. The purpose of this filing is to eliminate the gateway of Hancock County, Ky.

No. MC 117344 (Sub-No. E116), filed May 19, 1974. Applicant: THE MAXWELL CO., 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: Stiversen & Alden, P.O. Box 5241, Columbus, Ohio 43212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Vegetable oils*, in bulk, in tank vehicles, from points in Illinois on and north of U.S. Highway 50 (except Chicago, Decatur and Bloomington) and soya bean oil, in bulk, in tank vehicles, from Chicago, Decatur, and Bloomington, Ill., to points in North Carolina, South Carolina and Virginia (2) *vegetable oils*, in bulk, in tank vehicles, from points in Illinois on and north of Interstate Highway 74 (except Danville) and points in Indiana on, south and west of a line beginning at Terre Haute and extending along Indiana Highway 46 to Bloomington, thence along Indiana Highway 37 to the Indiana-Kentucky State line, and (3) between points in West Virginia on and north of the line described in (2) above, on the one hand, and, on the other, points in Illinois on and south of U.S. Highway 50 and points in Indiana on and south of U.S. Highway 150 extending west to junction U.S. Highway 50 and U.S. Highway to the Indiana-Illinois State line. The purpose of this filing is to eliminate the gateways of points within 35 miles of Owensboro, Ky.

*table oils*, in bulk, in tank vehicles, from points in Illinois on and north of Interstate Highway 74 (except Chicago and Bloomington) and soya bean oil, in bulk, in tank vehicles, from Chicago and Bloomington) and soya bean oil, in bulk, in tank vehicles, from Chicago and Bloomington, Ill., to points in Georgia; (3) *vegetable oils*, in bulk, in tank vehicles, from points in Indiana on, east and north of a line beginning at Madison, Ind., and extending along Indiana Highway 7 to North Vernon, thence along U.S. Highway 50 to Vincennes, Ind. (except Indianapolis), to points in North Carolina, South Carolina and Virginia; and (4) *vegetable oils*, in bulk, in tank vehicles, from points in Indiana on, east and north of a line beginning at Madison, Ind., and extending along Indiana Highway 7 to Columbus, Ind., thence along Indiana Highway 46 to Spencer, Ind., thence along U.S. Highway 231 to its junction with U.S. Highway 36, thence along U.S. Highway 36 to the Indiana-Illinois State line (except Indianapolis, Ind.), to points in Georgia. The purpose of this filing is to eliminate the gateway of Cincinnati, Ohio.

No. MC 117344 (Sub-No. E117), filed May 19, 1974. Applicant: THE MAXWELL CO., 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: Stiversen & Alden, P.O. Box 5241, Columbus, Ohio 43212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Caustic soda, alkaline cleaning compounds, sulphuric acid, hydrochloric acid, buffing, polishing and abrasive compounds, coal tar chemicals, nitric acid, ink*, in bulk, in tank vehicles, from Cincinnati, Ohio, to points in Illinois (except points in the St. Louis, Mo.-East St. Louis, Ill., Commercial Zone as defined by the Commission), the Upper Peninsula of Michigan, those in the Lower Peninsula of Michigan on and west of a line commencing at the Michigan-Indiana State line and extending along U.S. Highway 131 to its junction with U.S. Highway 31, thence along U.S. Highway 31 to Mackinaw City (except Grand Rapids, Mich., and points in its Commercial Zone as defined by the Commission), those in Tennessee on and west of a line beginning at the Tennessee-Kentucky State line and extending along Tennessee Highway 53 to junction Tennessee Highway 52, thence along Tennessee Highway 52 to junction Tennessee Highway 42, thence along Tennessee Highway 42 to Sparta, Tenn., thence along Tennessee Highway 111 to Tennessee Highway 8, thence along Tennessee Highway 8 to junction U.S. Highway 127, thence along U.S. Highway 127 to Chattanooga, Tenn. The purpose of this filing is to eliminate the gateway of Jackson County, Ind.

No. MC 117344 (Sub-No. E118) (Correction), filed May 19, 1974, published in the FEDERAL REGISTER April 23, 1974. Applicant: THE MAXWELL COMPANY, 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative:

Thomas L. Maxwell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils and products and blends thereof*, in bulk, in tank vehicles, from Covington, Ky., to points in Connecticut, Massachusetts, and Rhode Island. The purpose of this filing is to eliminate the gateway of Columbus, Ohio. The purpose of this correction is to correct the "E" number, previously published as E52.

No. MC 118831 (Sub-No. E13), filed May 9, 1974. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5044, High Point, N.C. 27262. Applicant's representative: Richard E. Shaw (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, from points in Robertson County, Tenn., to points in Delaware, New Jersey, Massachusetts, Connecticut, Rhode Island, and points in Maryland on and east of a line beginning at U.S. Highway 11 at the Maryland-West Virginia State line, to the Pennsylvania-Maryland State line; and points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending along U.S. Highway 11 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 652, thence along Pennsylvania Highway 652 to Narrowsburg, N.Y.; and points in New York on and east of a line beginning at the New York-Pennsylvania State line near Narrowsburg, N.Y., and extending along New York Highway 97 to junction U.S. Highway 209 at Port Jervis, N.Y., thence along U.S. Highway 209 to junction Interstate Highway 87, thence along Interstate Highway 87 to the United States-Canada International Boundary line. The purpose of this filing is to eliminate the gateway of Charlotte, N.C.

No. MC 118831 (Sub-No. E14), filed May 10, 1974. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5044, High Point, N.C. 27262. Applicant's representative: Richard E. Shaw (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, in tank vehicles from points in Kanawha County, W. Va., to all points in Georgia and to all points in Virginia in Accomack and Northampton Counties and to all other points in Virginia on and south of a line beginning at the Tennessee-Virginia State line extending along Virginia Highway 716 to Damascus, to junction U.S. Highway 58, thence along U.S. Highway 58 to junction Virginia Highway 57, thence along Virginia Highway 57 to junction U.S. Highway 29, thence along U.S. Highway 29 to junction Virginia Highway 40, thence along Virginia Highway 40 to Blackstone, Va., thence along U.S. Highway 460 to Petersburg, Va., thence along Virginia Highway 38 to Hopewell, Va., thence along Virginia Highway 10 to Virginia Highway 156, thence along Virginia Highway 156 (across the James River)

to Virginia Highway 5, thence along Virginia Highway 5 to Williamsburg, Va., thence along unnumbered highway to Yorktown, Va., thence over a straight line extending between the Virginia Capes to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of North Carolina.

No. MC 118831 (Sub-No. E15), filed June 3, 1974. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5044, High Point, N.C. 27262. Applicant's representative: Richard E. Shaw (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except fertilizer and vegetable oils), in bulk, from Lanett, Ala., to points in South Carolina, North Carolina, and Virginia on and east of a line beginning at the Savannah River on South Carolina Highway 72 and proceeding eastward through Greenwood to Clinton, SC, thence along South Carolina Highway 56 to Cross Anchor, S.C., thence along South Carolina Highway 49 through Union and Monarch to York, S.C., thence along U.S. Highway 321 through Gastonia to Hickory, N.C., thence along North Carolina Highway 127 to Taylorsville, N.C., thence along North Carolina Highway 16 to junction North Carolina Highway 268 through Elkin to junction U.S. Highway 601, thence along U.S. Highway 601 to Mount Airy, N.C., thence along U.S. Highway 52 through Hillsville, Va., to Bluefield, W. Va. The purpose of this filing is to eliminate the gateway of Richmond, Va.

No. MC 119702 (Sub-No. E17), filed May 31, 1974. Applicant: STAHLY CARTAGE CO., P.O. Box 486, Edwardsville, Ill. 62025. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from St. Louis, Mo., to points in that part of Illinois north of U.S. Highway 24. The purpose of this filing is to eliminate the gateway of a point in Pike County, Ill.

No. MC 119702 (Sub-No. E18), filed May 31, 1974. Applicant: STAHLY CARTAGE CO., P.O. Box 486, Edwardsville, Ill. 62025. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Cahokia and East St. Louis, Ill., to points in Illinois north of U.S. Highway 24. The purpose of this filing is to eliminate the gateway of St. Louis, Mo., and a point in Pike County, Ill.

No. MC 119875 (Sub-No. E1), filed August 29, 1974. Applicant: WAR HUNT

TRUCKING CO., INC., R.D. 2, Wiscoesville, Pa. 18106. Applicant's representative: Herbert R. Nurick, P.O. Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery and confectionery products* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from points in that part of Hunterdon County, N.J., on and east of New Jersey Highway 579 to points in Maryland (except points in Caroline, Cecil, Dorchester, Kent, Queen Annes, Somerset, Talbot, Wicomico, and Worcester Counties). The purpose of this filing is to eliminate the gateway of the plant site and warehouse facilities of M&M/Mars, a division of Mars, Incorporated at Elizabethtown, Pa.

No. MC 119875 (Sub-No. E2), filed August 29, 1974. Applicant: WAR HUNT TRUCKING CO., INC., R.D. 2, Wiscoesville, Pa. 18106. Applicant's representative: Herbert R. Nurick, P.O. Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery and confectionery products* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from points in Warren County, N.J., and those points in Hunterdon County, N.J., on and north of Interstate Highway 78, to points in Maryland (except those points in Caroline, Cecil, Dorchester, Kent, Queen Annes, Somerset, Talbot, Wicomico, and Worcester. The purpose of this filing is to eliminate the gateway of the plant site and warehouse facilities of M&M/Mars, a division of Mars, Incorporated, at Elizabethtown, Pa.

No. MC 119875 (Sub-No. E3), filed August 29, 1974. Applicant: WAR HUNT TRUCKING CO., INC., R.D. 2, Wiscoesville, Pa. 18106. Applicant's representative: Herbert R. Nurick, P.O. Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery and confectionery products* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Hackettstown, N.J., to points in Maryland (except those points in Caroline, Cecil, Dorchester, Kent, Queen Annes, Somerset, Talbot, Wicomico, and Worcester. The purpose of this filing is to eliminate the gateway of the plant site and warehouse facilities of M&M/Mars, a division of Mars, Incorporated, at Elizabethtown, Pa.

By the Commission.  
[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-12948 Filed 5-15-75; 8:45 am]

[Notice No. 289]

#### MOTOR CARRIER TRANSFER PROCEEDINGS AUTHORITY APPLICATIONS

MAY 16, 1975.  
Application filed for temporary authority under Section 210a(b) in connection

with transfer application under section 212(b) and Transfer Rules, 49 C.F.R. Part 1132:

No. MC-FC-75850. By application filed April 30, 1975, MENSCH TRUCKING, INC., 3540 So. Lawrence St., Philadelphia, PA 19148, seeks temporary authority to lease the operating rights of DONALD SUNSHINE, Trustee in Bankruptcy of LEWIS G. JOHNSON, INC., 1230 6th Ave., New York, NY 10020, under section 210a(b). The transfer to MENSCH TRUCKING, INC., of the operating rights of DONALD SUNSHINE, Trustee in Bankruptcy of LEWIS G. JOHNSON, is presently pending.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-12949 Filed 5-15-75; 8:45 am]

[Notice No. 288]

#### MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

MAY 16, 1975.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before June 5, 1975. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-75798. By order of May 8, 1975 the Motor Carrier Board approved the transfer to James S. Manlowe, San Diego, Calif., of Certificate of Registration No. MC 65185 (Sub-No. 2), issued by the Commission May 23, 1969, to A. W. Reid Draying Company, a corporation, San Francisco, Calif., evidencing the authority to perform a transportation service in interstate or foreign commerce corresponding in scope to the intrastate authority in Certificate of Public Convenience and Necessity issued July 2, 1968, by Decision No. 74345, by the Public Utilities Commission of the State of California. Martin J. Rosen, Esq., 140 Montgomery Street, San Francisco, Calif. 94104

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc.75-12950 Filed 5-15-75; 8:45 am]



# **MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS**

[Notice No. 54]

MAY 9, 1975.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the Federal Register. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

No. MC 15652 (Sub-No. 3TA), filed April 30, 1975. Applicant: HOWARD ADELMAN AND NAOMI ADELMAN, doing business as, MILLER'S EXPRESS, Road, 10 Elm Road, Middletown, N.Y. 10940. Applicant's representative: Michael R. Werner, 2 West 35th St., New York, N.Y. 10036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Wearing apparel on hangers, and materials, supplies and equipment used in the manufacture of wearing apparel*, (except commodities in bulk), serving the Town of Mt. Hope, N.Y., and Glen Rock, N.J., as off-route points in connection with its regular-route operations. SUPPORTING SHIPPERS: Monday Classics, Inc., 1350 Broadway, New York, N.Y. 10018. Lord's Sportswear, Inc., 11 Baker St., Otisville, N.Y. Manhattan Industries, 25 Deboer Dr., Glen Rock, N.J. 07452. SEND PROTESTS TO: Robert A. Radler, District Supervisor, 518 Federal Bldg., Albany, N.Y. 12207.

No. MC 106644 (Sub-No. 209 TA), filed May 2, 1975. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road NW., Atlanta, Ga. 30301. Applicant's representative: W. Randall Tye, 1400 Candler Bldg., Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Tractors (except truck tractors) and parts, implements, attachments, accessories and supplies therefor, when moving incidentally thereto as part of the same shipment (except commodities which because

of their size or weight require the use of special equipment), from Norfolk, Va., to points in Arkansas, North Carolina, South Carolina, Florida, Georgia, Tennessee, Alabama, Louisiana, Texas, and Mississippi, restricted to the transportation of traffic originating at and destined to points within the states described above, for 180 days. SUPPORTING SHIPPER: Allis-Chalmers Corporation, P.O. Box 512, Milwaukee, Wis. 53201. SEND PROTESTS TO: William L. Scroggs, District Supervisor, 1252 W. Peachtree St. NW., Room 546, Atlanta, Ga. 30309.

No. MC 124078 (Sub-No. 646TA), filed April 23, 1975. Applicant: SCHWERTMAN TRUCKING CO., 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Edible tallow*, (in bulk), from points in West Point, Miss., to points in Cincinnati, Ohio, for 180 days. SUPPORTING SHIPPER: Bryan Packing Company, Box 1177, West Point, Miss. 39773. SEND PROTESTS TO: John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 126709 (Sub-No. 7TA), filed May 2, 1975. Applicant: SABER, INC., 514 S. Floyd Blvd., Sioux City, Iowa 51101. Applicant's representative: Davey E. Delaney (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid blood*, in tank trucks, from points in Spencer, Iowa, to points in Sioux Falls, S. Dak., for 90 days. SUPPORTING SHIPPERS: John Morrell & Co., Robert L. Lee, Manager/Rates & Services, 208 South La Salle St., Chicago, Ill. 60604. Spencer Foods, Inc., Bill D. Gardner, Corporate Traffic Manager, P.O. Box 1228, Spencer, Iowa 51301. SEND PROTESTS TO: Carroll Russell, District Supervisor, Suite 620 Union Pacific Plaza, 110 North 14th St., Omaha, Nebr. 68102.

No. MC 133095 (Sub-No. 79TA), filed May 1, 1975. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, Tex. 76039. Applicant's representative: Rocky Moore (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages* (except in bulk) in vehicles equipped with mechanical refrigeration, from points in Bardstown, Lawrenceburg, Stanley, Clermont and Sam Clay, Ky., to points in Harahan, Lafayette and Shreveport, La., and Dallas, Fort Worth, Houston, San Antonio and Corpus Christi, Tex., and Little Rock, Ark., for 180 days. SUPPORTING SHIPPER: Glazer's Wholesale Drug Company, Inc., 508 Park Ave., Dallas, Tex. 75201. SEND PROTESTS TO: Roy R. Walker, Special Agent, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, Tex. 76102.

No. MC 138018 (Sub-No. 20 TA) (Correction), filed April 4, 1975, published in the FR issue of April 16, 1975, and republished as corrected this issue. Applicant: REFRIGERATED FOODS, INC., 1420 33rd Street, Denver, Colo. 80205. Applicant's representative: Donna F. Rose (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rendered lard*, (in bulk, in tank vehicles), from Downs, Kans., to points in Laredo, Houston, San Antonio, El Paso and Fort Worth, Tex., for 180 days. SUPPORTING SHIPPER: York Packing Co., Inc., York, Nebr. 68467. SEND PROTESTS TO: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 1961 Stout Street, 2022 Federal Bldg., Denver, Colo. 80202. The purpose of this republication is to add Laredo, Tex., as a destination point.

No. MC 140010 (Sub-No. 3TA), filed May 2, 1975. Applicant: JOSEPH MOVING & STORAGE CO., INC., doing business as, ST. JOSEPH MOTOR LINES, 573 Dutch Valley Road NE., Atlanta, Ga. 30324. Applicant's representative: Richard M. Tettelbaum, Suite 375, 3379 Peachtree Road NE., P.O. Box 18584, Atlanta, Ga. 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Unexposed photographic film, sensitized photographic paper, reproductive plates and materials, chemicals, film, plastic or other than plastic, and related equipment* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the storage and shipping facilities of E. I. du Pont de Nemours & Co., Inc., located at or near Doraville (De Kalb County), Ga., to points in Alabama, Florida, North Carolina, South Carolina, and Tennessee and return of pallets; unusable, refused, rejected and damaged shipments on return; and (2) *Photographic film and related materials*, from the plant of du Pont at or near Cedar Mountain, N.C., and its warehouses at or near Brevard, N.C., to the storage and shipping facilities of DuPont located at or near Doraville (De Kalb County), Ga., for 180 days. SUPPORTING SHIPPER: E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898. SEND PROTESTS TO: William L. Scroggs, District Supervisor, 1252 W. Peachtree St. NW., Room 546, Atlanta, Ga. 30309.

No. MC 140730 (Sub-No. 1TA), filed May 2, 1975. Applicant: HAROLD S. MOORE AND BILLY J. MOORE, doing business as MOORE BROTHERS TRUCKING, Route 1, Box 45A, Houston, Ark. 72070. Applicant's representative: Berby Branscum, Jr., P.O. Box 587, Perryville, Ark. 72126. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Wood shavings*, from points in Ola, Ark., to points in Lillie, La.; from points in Ola, Ark., to points in Perry, Ark., on Arkansas Highway 10; from Perry, Ark., to points in Morrilton, Ark., on Arkansas

Highway 9; from Morrilton, Ark., to points in Little Rock, Ark., on Interstate 40; from Little Rock, Ark., to points in Lillie, La., on U.S. Highway 167, for 180 days. Supporting shipper: Deltic Farm & Timber Co., Inc., Box 278, Ola, Ark. 72853. Send protests to: William H. Land, Jr., District Supervisor, 2519 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 140899 TA, filed April 28, 1975. Applicant: MATERIAL TRANSPORTERS CO., INC., OF LOUISVILLE, 4004 Crittenden Drive, Louisville, Ky. 40209. Applicant's representative: Wayne L. Merilatt, 3037 Wedgewood Way, Louisville, Ky. 40220. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from mining and supply sites and facilities in Breathitt, Clay, Knott, Knox, Jackson, Laurel, Lee, Madison, Magoffin, Morgan, Perry, Rockcastle, and Wolfe Counties, Ky., to points in Clark County, Ind., and Green, Hamilton and Montgomery Counties, Ohio, for 180 days. SUPPORTING SHIPPER: Robert Daugherty, Owner, Daugherty Construction Co., 461 Dover Road, Lexington, Ky. 40505. SEND PROTESTS TO: Elbert Brown, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, 426 Post Office Bldg., Louisville, Ky. 40202.

No. MC 140900 TA, filed April 30, 1975. Applicant: HAROLD H. DANEKAS, 3524 East Dayton Ave., Fresno, Calif. 93726. Applicant's representative: William H. Kessler, 638 Divisadero St., Fresno, Calif. 93721. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Granite*, from Knowles, Calif., to the San Francisco Bay Area Ports of San Francisco, Oakland, Alameda, Berkeley, and Richmond, Calif. for 180 days. SUPPORTING SHIPPER: Raymond Granite Company, 36733 Road 606, Raymond, Calif. 93653. SEND PROTESTS TO: Claud W. Reeves, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 140905 TA, filed May 7, 1975. Applicant: PATRICK & FORBES GRAIN COMPANY, INC., P.O. Box 141, Shaw-

## **NOTICES**

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boro, N.C. 27943. Applicant's representative: J. H. Patrick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid and solid fertilizer*, packaged and in bulk, to be carried in tank or trailer truck, as appropriate, said fertilizer to be non-pressurized and solutions other than anhydrous ammonia, to pick up and deliver in Southeastern Virginia and Eastern North Carolina as follows: IN VIRGINIA: East of Interstate U.S. 95 and South of the James River, including the counties of Prince George, Surrey, Isle of Wight, Nansemond, South Hampton, Sussex, and the Cities of Princess Ann, Chesapeake, Norfolk, Portsmouth, Virginia Beach, Petersburg, Hopewell, Emporia, and Suffolk; IN NORTH CAROLINA: East of Interstate U.S. 95 and U.S. Highway No. 701 including parts or of the following counties: North Hampton, Halifax, Edgecomb, Bertie, Hertford, Gates, Chowan, Perquimans, Dare, Hyde, Beaufort, Pitt, Wilson, Johnston, Wayne, Green, Lenoir, Craven, Pamlico, Carteret, Jones, Onslow, Duplin, Sampson, Bladen, Pender, New Hanover, Brunswick, and Columbus, for 180 days. SUPPORTING SHIPPER: G. P. Kitterell & Son, Inc., Route 1, Box 4, Corapeake, N.C. 27926. Towe-Pike Grain & Supply Co., 401 W. Maine Street, Elizabeth City, N.C. 27909. Kaiser Agricultural Chemical, P.O. Box 1148, Elizabeth City, N.C. SEND PROTESTS TO: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 140906 TA, filed May 2, 1975. Applicant: DONALD R. FERGISON, Route 1, Helena, Mo. 64559. Applicant's representative: Lucy Kennard Bell, Suite 910 Fairfax Bldg., 101 West Eleventh St., Kansas City, Mo. 64105. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry feed, feed supplements, and feed ingredients*, from points in Altoona, Iowa, to points in Union Star, Mo., under a continuing contract or contracts with James K. Young, doing business as Union Star Elevator, Union Star, Mo., for 180 days. Supporting Shipper: Union Star Elevator, Union Star, Mo. 64494. Send protests to: Vernon V. Coble, District

Supervisor, Interstate Commerce Commission, 911 Walnut, 600 Federal Bldg., Kansas City, Mo. 64106.

No. MC 140910 TA, filed May 1, 1975. Applicant: FLORENCE N. SOBLE, doing business as GENTRY FORWARDING COMPANY, 3445 Paterson Plank Road, North Bergen, N.J. 07047. Applicant's representative: Lawrence E. Lindeman, Suite 1032 Penn. Bldg., Pennsylvania Ave. & 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers, other than those designed to be drawn by passenger automobiles, containers, and trailer chassis*, between Middletown, N.Y., Fairless Hills and Berwick, Pa., on the one hand, and, on the other, points in Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia, for 180 days. Supporting shipper: Strick Corporation, 225 Lincoln Highway, Fairless Hills, Pa. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 140911 TA, filed May 1, 1975. Applicant: DONNELL CASTLEMAN, GENERAL PARK FIELDS, AND JOHN-NY WAYNE KINCAID, doing business as TENNESSEE TRANSPORT COMPANY, P.O. Box 345-A, Antioch, Tenn. 37013. Applicant's representative: Johnny Wayne Kincaid, Route 2, Antioch, Tenn. 37013. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Car-wash equipment and items related thereto, including machine parts and brushes*, from Smyrna, Tenn., to points within the United States (except Alaska and Hawaii), which are necessary to transport and deliver said commodity, for 180 days. Supporting shipper: Smith Company, Inc., Building 693—Smyrna Airport, Smyrna, Tenn. 37167. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, a-422 Federal Bldg., 801 Broadway, Nashville, Tenn. 37203.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-12953 Filed 5-15-75; 8:45 am]



# **federal register**

FRIDAY, MAY 16, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 96

PART II



## **DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

Public Health Service

■

### **PROJECT GRANTS FOR HEALTH SERVICES DEVELOPMENT**

Proposed Rules

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DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

## Public Health Service

## [42 CFR Parts 51, 51c]

PROJECT GRANTS FOR HEALTH  
SERVICES DEVELOPMENT

## Notice of Proposed Rulemaking

Notice is hereby given that the Assistant Secretary for Health of the Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, proposes to issue a new Part 51c of Title 42, Code of Federal Regulations, entitled "Project Grants for Health Services Development", and to revoke Subpart E of Part 51 of Title 42, Code of Federal Regulations, entitled "Grants for Family Health Center Projects".

The purpose of the new Part 51c is to establish regulations governing grants made for health services development projects under section 314(e) of the Public Health Service Act (42 U.S.C. 246(e)). Subpart A of the proposed Part 51c sets forth general administration and management requirements applicable to all grants under section 314(e). Subpart B contains specific program requirements applicable to grants for community health services projects. Part 51, Subpart E, which is applicable to grants awarded under section 314(e), would be revoked and its provisions reorganized, recodified and revised in Part 51c, as follows: Subpart A of such Part 51c would apply to such grants with respect to administrative and management requirements, and the specific program requirements applicable to family health center projects would be set forth in Subpart C of the new Part 51c.

Interested persons are invited to submit written comments, suggestions, or objections to the Bureau of Community Health Services, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland, 20852, on or before June 16, 1975.

Comments received will be available for public inspection at Room 7-05 during regular business hours.

It is therefore proposed to revoke Subpart E of 42 CFR Part 51 and to issue a new Part 51c Title 42, as set forth below.

Dated: April 21, 1975.

THEODORE COOPER,  
Acting Assistant Secretary  
for Health.

Approved: May 10, 1975.

STEPHEN KURZMAN,  
Acting Secretary.

1. Subpart E of 42 CFR Part 51 is revoked.

2. Title 42, CFR, is amended by the addition of a new Part 51c, to read as follows:

PART 51c—PROJECT GRANTS FOR  
HEALTH SERVICES DEVELOPMENT

## Subpart A—General Provisions

- Sec.  
51c.101 Applicability.  
51c.102 General policy.  
51c.103 Definitions.  
51c.104 Eligibility.  
51c.105 Application.  
51c.106 Accord with State health planning.  
51c.107 Grant awards.  
51c.108 Grant payments.  
51c.109 Nondiscrimination.  
51c.110 Confidentiality.  
51c.111 Inventions or discoveries.  
51c.112 Publications and copyright.  
51c.113 Grantee accountability.  
51c.114 Applicability of 45 CFR Part 74.

Subpart B—Grants for Community Health  
Service Projects

- 51c.201 Applicability.  
51c.202 Project elements.  
51c.203 Governing board or advisory committee.  
51c.204 Grant evaluation and award.  
51c.205 Use of project funds.

Subpart C—Grants for Family Health Center  
Projects

- 51c.301 Applicability.  
51c.302 Definitions.  
51c.303 Project elements.  
51c.304 Governing board or advisory committee.  
51c.305 Grant evaluation and award.  
51c.306 Use of project funds.

Authority: Secs. 215, 314(e) of the Public Health Service Act (42 U.S.C. 216, 246(e)).

## Subpart A—General Provisions

## § 51c.101 Applicability.

The regulations of this subpart are applicable to all project grants authorized by section 314(e) of the Public Health Service Act (42 U.S.C. 246(e)).

## § 51c.102 General policy.

(a) Section 314(e) of the Public Health Service Act authorizes project grants for health services development to cover part of the cost of:

(1) Providing services (including related training) to meet health needs of limited geographic scope or of specialized regional or national significance; or

(2) Developing and supporting, for an initial period, new programs of health services (including related training). Such projects must be designed to improve health services systems and the delivery of health services and may include programs to improve existing methods of delivery.

## § 51c.103 Definitions.

As used in this part:

(a) "Act" means the Public Health Service Act.

(b) "State" means one of the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, or the Trust Territory of the Pacific Islands.

(c) "Nonprofit," as applied to any private agency, institution, or organization, means one which is a corporation or association, or is owned and operated by one or more corporations or associations,

no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(d) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

## § 51c.104 Eligibility.

(a) **Eligible applicants.** Any public or private nonprofit agency, institution, or organization is eligible to apply for a grant under this part.

(b) **Eligible projects.** Grants may be made by the Secretary under section 314 (e) of the Act to cover part of the cost of:

(1) Providing services (including related training) to meet health needs of limited geographic scope or of specialized regional or national significance; or

(2) Developing and supporting for an initial period new programs of health services (including related training).

## § 51c.105 Application.

(a) An application for a grant under this part shall be submitted to the Secretary at such time and in such form and manner as the Secretary may prescribe.

(b) The application shall contain a budget and narrative plan of the manner in which the applicant intends to conduct the project and carry out the requirements of this part. The application must describe the project in sufficient detail to identify clearly the nature, need, specific objectives, plan, and methods of the project.

(c) The application must indicate (1) that the requirements of Part I of Office of Management and Budget Circular No. A-96 have been satisfied, and (2) that a reasonable opportunity of not less than 60 days for review of the application has been provided (setting forth the date of submission) to the appropriate areawide health planning or health systems agency or agencies, or if there is no such agency in the area, then to such other public or nonprofit private agency or organization (if any) which is identified by the State health planning agency as performing similar functions.

(d) The application must be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the statute, the applicable regulations of this part, and any additional conditions of the grant.

## § 51c.106 Accord with State health planning.

A grant may be made under this part only if the Secretary determines that the services to be assisted under such grant will be provided in accordance with such State plan for comprehensive health services as has been developed pursuant to section 314(a), or Title XV of the Act, as applicable, for the State or States in which such services will be provided.

## § 51c.107 Grant Awards.

(a) The amount of any award under this part will be determined by the Secretary on the basis of his estimate of the sum necessary for a designated portion of direct project costs plus an additional amount for indirect costs, if any, which will be calculated by the Secretary either:

(1) On the basis of the estimate of the actual indirect costs reasonably related to the project; or

(2) On the basis of a percentage of all, or a portion of, the estimated direct costs of the project when there are reasonable assurances that the use of such percentage will not exceed the approximate actual indirect costs. Such award may include an estimated provisional amount for indirect costs or for designated direct costs (such as fringe benefit rates) subject to upward (within the limits of available funds) as well as downward adjustments to actual costs when the amount properly expended by the grantee for provisional items has been determined by the Secretary: *Provided, however,* That no grant shall be made for an amount equal to the total cost as found necessary by the Secretary for the carrying out of the project.

(i) In determining the percentage of project costs to be borne by the grantee, factors which the Secretary will take into consideration will include the following:

(A) The ability of the grantee to finance its share of project costs from non-Federal sources;

(B) The need in the area served by the project for the services to be provided; and

(C) The extent to which the project will provide services in an innovative manner which the Secretary desires to stimulate in the interest of developing more effective health service delivery systems on a regional or national basis.

(ii) At any time after approval of an application under this subpart, the Secretary may retroactively agree to a percentage of project costs to be borne by the grantee lower than that determined pursuant to paragraph (a) (2) (i) of this section where he finds that changed circumstances justify a smaller contribution.

(iii) In determining the grantee's share of project costs, costs borne by Federal grant funds, or costs used to match other Federal grants, may not be included except as otherwise provided by law.

(b) All grant awards shall be in writing, and shall set forth the amount of funds granted and the period for which support is recommended.

(c) Neither the approval of any project nor any grant award shall commit or obligate the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved project or portion thereof. For continuation support, grantees must make separate application.

## § 51c.108 Grant payments.

The Secretary shall from time to time make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement for expenses incurred or to be incurred to the extent he determines such payments necessary to promote prompt initiation and advancement of the approved project. Such payments may include reimbursement to a grantee for health services rendered on a prepaid capitation basis.

## § 51c.109 Nondiscrimination.

(a) Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. et seq.) and in particular section 601 of such Act which provides that no person in the United States shall on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such Title VI, which applies to grants made under this part, has been issued by the Secretary of Health, Education, and Welfare with the approval of the President (45 CFR Part 80). In addition no person shall, on the grounds of sex or creed (unless otherwise medically indicated), be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity so receiving Federal financial assistance on the grounds of age, sex, creed, or marital status.

(b) Attention is called to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

## § 51c.110 Confidentiality.

All information as to personal facts and circumstances obtained by the project staff about recipients of services shall be held confidential, and shall not be divulged without the individual's consent except as may be required by law or as may be necessary to provide service to the individual. Information may be disclosed in summary, statistical, or other form which does not identify particular individuals.

## § 51c.111 Inventions or discoveries.

A grant award under this part is subject to the regulations of the Department of Health, Education, and Welfare as set forth in 45 CFR Parts 6 and 8, as amended. Such regulations shall apply to any activity for which grant funds are in fact used whether within the scope of the project as approved or otherwise. Appropriate measures shall be taken by the grantee and by the Secretary to assure that no contracts, assignments, or

other arrangements inconsistent with the grant obligation are continued or entered into and that all personnel involved in the supported activity are aware of and comply with such obligations. Laboratory notes, related technical data, and information pertaining to inventions and discoveries shall be maintained for such periods, and filed with or otherwise made available to the Secretary or those he may designate at such times and in such manner as he may determine necessary to carry out such Department regulations.

## § 51c.112 Publications and copyright.

Except as may otherwise be provided under the terms and conditions of the award, the grantee may copyright without prior approval any publications, films, or similar materials developed or resulting from a project supported by a grant under this part, subject, however, to a royalty-free, nonexclusive, and irrevocable license or right in the Government to reproduce, translate, publish, use, disseminate, and dispose of such materials and to authorize others to do so.

## § 51c.113 Grantee accountability.

(a) **Accounting for grant award payments.** All payments made by the Secretary shall be recorded by the grantee in accounting records separate from the records of all other funds, including funds derived from other grant awards. With respect to each approved project, the grantee shall account for the sum total of all amounts paid as well as matching funds and in-kind contributions by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for direct and indirect costs meeting the requirements of this part: *Provided, however,* That when the amount awarded for indirect costs was based on a predetermined fixed percentage of estimated direct costs, the amount allowed for indirect costs shall be computed on the basis of such predetermined fixed-percentage rates applied to the total, or a selected element thereof, of the reimbursable direct costs incurred.

(b) **Accounting for interest earned on grant funds.** Pursuant to section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), a State will not be held accountable for interest earned on grant funds, pending their disbursement for grant purposes. A State, as defined in section 102 of the Intergovernmental Cooperation Act, means any one of the several States, the District of Columbia, Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, but does not include the governments of the political subdivisions of the State. All grantees other than a State, as so defined, must return all interest earned on grant funds to the Federal Government.

(c) **Grant closeout.** (1) *Date of final accounting.* A grantee shall render, with respect to each approved project, a full account, as provided herein, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.



(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of:

(i) Any amount not accounted for pursuant to paragraph (a) of this section;

(ii) Any credits for earned interest pursuant to paragraph (b) of this section; and

(iii) Any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74.

Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assignees by setoff or other action as provided by law.

#### § 51c.114 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this part to States and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to grants to all other grantee organizations under this part:

#### 45 CFR PART 74

- Subpart A General.
- B Cash depositories.
- C Bonding and insurance.
- D Retention and custodial requirements for records.
- F Grant-related income.
- G Matching and cost sharing.
- K Grant payment requirements.
- L Budget revision procedures.
- M Grant closeout, suspension, and termination.
- O Property.
- Q Cost principles.

#### Subpart B—Grants for Community Health Service Projects

##### § 51c.201 Applicability.

The regulations of this subpart, in addition to the regulations of subpart A of this part, are applicable to grants awarded pursuant to section 314(e) of the Act for projects providing to a target population health services sufficient to meet a significant portion of the need for such services by such target population.

##### § 51c.202 Project elements.

An approvable project under this subpart must:

(a) Provide for an orderly sequence of planning, implementation, and evaluation procedures with regard to the developmental and operational phases of this project which will be (or have been) accomplished using, whenever feasible, specific dates.

(b) Provide services within a health services scarcity area. As used in this section, health services scarcity area means a defined geographic area selected on the basis of the Indicators of Health Services Scarcity set forth in Appendix A of this subpart, showing

(1) That there is a shortage in the number of health or health-related personnel in such area; or

(2) That health facilities in such area are inaccessible or ineffectively utilized by reason of geographic, monetary, administrative or cultural barriers.

(c) Provide for delivery, or arrange for the delivery, to a significant percentage of the population of the health service scarcity area served by the project, of services which shall include those set forth in paragraph (a) and may include those set forth in paragraph (b) of Appendix B of this subpart.

(d) Provide for operation of the project in a manner calculated to preserve human dignity and to maximize acceptability and effective utilization of services.

(e) Except as provided in § 51c.203(c), establish a governing board or advisory council which satisfies the applicable requirement of 51c.203.

(f) Provide for the coordination of project activities with the activities of other federally funded health services delivery projects and programs serving the same population.

(g) Establish basic data, cost accounting, and reporting or monitoring systems which will be compatible with applicable Federally established national reporting requirements for health service delivery projects.

(h) Provide for implementation of a system for maintaining health services records.

(i) Provide for internal and external review of the quality of care.

(j) Provide the means for evaluating progress toward the achievement of the specific objectives of the project.

(k) Provide standards and qualifications for personnel (including the project director) and standards for facilities utilized in the performance of the project.

(l) Provide for the utilization, to the maximum extent feasible, of other Federal, State, local, and private resources available for support of the project, prior to use of project funds under this subpart.

(m) Provide for the delivery of services in accordance with such plans as have been developed by the appropriate State agency pursuant to section 314(a) or Title XV of the Act, as applicable.

(n) Provide a plan for short- and long-term training programs for project personnel and for defined career ladders for both professional and nonprofessional employees of the project.

(o) Provide assurance satisfactory to the Secretary that no person shall be denied service by reason of his inability to pay therefor: *Provided, however,* That a charge for the provision of services will be made to the extent that a third party (including a Government agency) is authorized or is under a legal obligation to pay such charge: *And further provided,* That where the cost of care and services furnished by or through the project is to be reimbursed to the project under Title XIX of the Social Security Act, the appli-

cant will make reasonable efforts to obtain a written agreement with the Title XIX agency.

(p) Subject to the provisions of paragraph (o) of this section, provide for charges to be made for services rendered pursuant to the project in accordance with a schedule submitted as part of the project. Such schedule may provide for services to be rendered on a prepaid capitation basis. In those cases in which the project will provide services by contract or other similar arrangement with the actual providers of services, a plan shall be provided establishing rates and methods of payment (including payment on a prepaid capitation basis) for medical care. Such payment must be made pursuant to agreements with a schedule of rates and payment procedures maintained by the grantee. The grantee must be prepared to substantiate that such rates are reasonable and necessary.

#### § 51c.203 Governing board or advisory council.

(a) *Governing board.* Except as provided in paragraph (b) or (c) of this section, a governing board shall be established by an applicant as follows:

(1) *Size.* The board shall consist of at least 9 but not more than 25 members.

(2) *Composition.* (i) No less than one-third of the members of the board shall be individuals who are or will be served by the project.

(ii) No more than one-third of the members of the board shall be individuals who derive more than 10 percent of their annual income from the health care industry.

(iii) The remaining members of the board shall be representatives of the community in which the project service area is located and shall be selected for their expertise in community affairs, local government, finance and banking, legal affairs, trade unions, other commercial and industrial concerns, or social service agencies within the community.

(3) *Selection of members.* The method of selection of all members of the governing board shall be prescribed in the bylaws or other internal governing rules of the grantee organization. Such bylaws or other rules must specify a process by which those individuals who are selected as users of project services are broadly representative of the population to be served by the project. The bylaws or other rules are subject to approval by the Secretary.

(4) *Functions and responsibilities.* (i) The governing board shall have full legal authority for the establishment of policy in the conduct of the project.

(ii) The governing board shall hold regularly scheduled meetings, for which minutes shall be kept.

(iii) The governing board shall have specific responsibility for:

(A) Appointment and dismissal of a project director or chief executive officer of the project;

(B) Establishing personnel policies and procedures including selection and dismissal procedures, salary and benefit

scales, employee grievance procedures, and equal opportunity practices;

(C) Adopting financial management practices including a system to assure accountability for project resources, approval of annual project budget, resource allocation for project priorities, eligibility for services including criteria for partial payment schedules, and long-range financial planning;

(D) Evaluating project activities including service utilization patterns, productivity of the project, patient satisfaction, and development of a process for hearing and resolving patient grievances; and

(E) Assuring that the project is operated in compliance with applicable Federal, State, and local laws and regulations.

(b) *Advisory council.* The Secretary may, for good cause shown, make a grant award to an organization which does not meet the requirements of paragraph (a), if such agency or organization establishes an advisory council to the governing board or other policy-making body of the grantee organization, which meets the following requirements:

(1) *Size.* The advisory council shall consist of at least 9 but not more than 25 members.

(2) *Composition.* The members of the advisory council shall be selected solely from those individuals who are or will be served by the project;

(3) *Selection of members.* The method of selection of all members of the advisory council shall be prescribed in the bylaws or other internal governing rules of the grantee organization. Such bylaws or other rules must assure that a broad representation of the population to be served by the project are selected as members of the advisory council. The bylaws or other rules are subject to approval by the Secretary.

(4) *Functions and responsibilities.* (A) The advisory council shall meet with the policy-making body of the grantee organization at least twice during each 12-month period for the purpose of advising the policy-making body on the exercise of its responsibility in carrying out the project. Minutes of such meetings shall be kept, copies of which shall be included with the application for a continuation grant.

(B) The advisory council is specifically charged with responsibility for developing and implementing a patient grievance procedure and commenting on the operation of that procedure as a part of a continuation application.

(C) The Secretary may, for good cause shown, allow a grantee a period of time for compliance with the requirements of paragraph (a) or (b) of this section, as follows:

(1) *Continuation grants.* A grantee under a continuation grant may be given a reasonable period of time, not to exceed 1 year from the effective date of these regulations, to establish a governing board or advisory council meeting the requirements of paragraph (a) or (b) of this section.

(2) *Inconsistent State or local laws.* In addition, in the case of a grantee

which is a State or local government agency and which has demonstrated to the satisfaction of the Secretary that it is unable, under State or local law, to establish either a governing board or an advisory council pursuant to paragraph (a) or (b) of this section, the Secretary may allow such grantee a reasonable period of time to take the appropriate steps to have such legal disability removed: *Provided,* That, such grantee, in the interim, must establish alternate procedures, approved by the Secretary, to assure maximum participation in the development, implementation, and evaluation of the project by the population to be served consistent with the concept of a governing board or advisory council as set forth in paragraph (a) or (b) of this section.

#### § 51c.204 Grant evaluation and award.

Within the limits of funds determined by the Secretary to be available for such purpose, the Secretary may award grants under this subpart to cover part of the cost of projects to those applicants whose projects will, in his judgment, best promote the purposes of section 314(e) of the Act and the regulations in the subpart, taking into account:

(a) The degree to which the proposed project satisfactorily provides for the elements set forth in § 51c.202;

(b) The needs of the population to be served for the services to be provided;

(c) The capability of the project to provide quality health care services;

(d) The potential of the project for the development of new and effective methods for health services delivery and financing;

(e) The soundness of the fiscal plan for assuring effective utilization of grant funds and maximizing third-party reimbursement;

(f) The administrative and management capability of the applicant;

(g) The relative distribution of applications with respect to the following factors:

(1) The urban-rural area to be served;

(2) The nature of the organization applying, e.g., university, public health department, community corporation, etc.;

(3) The organizational structure for delivery of services; and

(4) The stage of development of the project; and

(h) The number of registrants/users and the level of utilization of services in previous operational periods, if any.

#### § 51c.205 Use of project funds.

(a) Any funds granted pursuant to this subpart, as well as other funds to be used in performance of the approved project, shall be expended solely for carrying out the approved project in accordance with section 314(e) of the Act, the regulations of this part, the terms and conditions of the award, and the applicable cost principles prescribed by Subpart O of 45 CFR Part 74.

(b) Project funds under this subpart may be used for, but need not be limited to, the following:

- (1) Developmental activities;
- (2) Administrative core components;

(3) Training to meet management needs of the project, including the training of the governing board or advisory council;

(4) To reimburse members of any governing board or advisory council for reasonable expenses actually incurred by reason of their participation in such board or council activities; and

(5) To reimburse any governing board or advisory council members for wages lost by reason of participation in the activities of such board or council if the member is from a family with a family income below \$10,000, or if the member is a single person with an income below \$7,000.

(c) Prior approval by the Secretary of revision of the budget and project plan is required whenever there is to be a significant change in the scope or nature of project activities.

#### Appendix A—Indicators of Health Service Scarcity

The listed indicators should be obtained for the defined geographic area being considered as well as contiguous areas. All of the indicators should be considered in relation to the population of the area. Future needs should be considered based on the ratio of anticipated resources to projected population.

(a) Quantitative lack of health and related services:

(1) Ratio of primary care physicians to population (i.e., physicians in general practice, internal medicine, general surgery, and pediatrics).

(2) Ratio of physicians in specialty practices to population.

(3) Ratio of dentists in general practice to population.

(4) Ratio of dentists in specialty practices to population.

(5) Ratio of allied medical personnel to physicians.

(6) Ratio of allied dental personnel to dentists.

(7) Ratio of nurses to hospital beds.

(8) Ratios of other paramedical personnel to hospital beds or population, as appropriate.

(9) Number of inpatient facilities by bed size and type of services offered. (Include hospitals—general and special, extended care facilities, nursing homes, personal care homes, etc.)

(10) Number of outpatient facilities by type of services offered. (Include hospital and health department clinic services, home health clinic services, home health services, emergency services, etc.)

(11) Health status indicators such as: Infant, maternal, and overall mortality rates, accident rates, disease incidence and prevalence, oral health indicators; disability rates, immunization status, work absences, and school absences may provide insight into general health status and indicate need for specific services; specific acute disease incidence and prevalence may indicate need for preventive and environmental services; suicide rates, drug abuse, crime, and alcoholism may further indicate need for mental health services.

(b) Inaccessibility of health and related services:

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## PROPOSED RULES

(1) Distance, time, and transportation costs to reach health care personnel and facilities.

(2) Hours service is available in relation to hours population is available.

(3) Income level of area.

(4) Existing modes of financing health care (i.e., restrictions, etc.).

(c) Ineffective utilization of health and related services:

(1) Number of patients and patient visits by service for inpatient and outpatient facilities.

(2) Charges and source of payment by service for inpatient and outpatient facilities.

(3) Waiting time for health care.

(d) Prior designation of the area as a medically underserved or as a scarcity area in other federally supported health programs, e.g., Community Mental Health Centers, Hospital and Medical Facilities, National Health Service Corps, or Office of Economic Opportunity.

## Appendix B—Benefits

(a) **Basic benefits.** Community health service projects must develop a basic benefit package (or packages) which will meet the health care needs of the subscribers and serve as the basis for staffing and/or contracting for services. The benefit package must contain a basic level of benefits which includes:

(1) Physician services—including consultant and referral services.

(2) Outpatient hospital services.

(3) Diagnostic laboratory and diagnostic and therapeutic radiologic services.

(4) Emergency medical services.

(5) Ambulance services.

(6) Preventive health services, including family planning, well child care, and maternity care and services.

(7) Home health care, limited to 100 visits per year.

(8) Medical supplies and devices.

(9) Outpatient drugs and biologicals.

(10) Inpatient hospital services must be provided by those projects that are networks up to 120 days in acute general hospitals per contract year, including physician services.

(b) **Supplemental benefits.** The following supplemental benefits may be provided with project funds where sufficient funds are available, consistent with the grantee's ability to adequately provide such services, and as approved in the grant award:

(1) Inpatient hospital services, not to exceed 120 days.

(2) Preventive and restorative dental services for individuals under the age of 13.

(3) Developmental vision care services, routine eye and vision examinations, and eyeglasses for individuals under the age of 13.

(4) Hearing aids and examinations for individuals under the age of 13.

(5) Mental health services on an outpatient basis, not to exceed 30 visits.

(6) Mental health services on an inpatient basis, not to exceed 30 days per year.

(7) Environmental health services, as may be appropriate for particular centers.

(8) Transportation services, as required for adequate patient care.

(9) Allied health services.

(10) Public health services (including nutrition education and social services).

(11) Health education services.

(12) Rehabilitative services (including physical therapy) and long-term physical medicine.

(13) Extended care facility services.

(14) Services which promote and facilitate optimal use of the basic health services (including services of outreach workers).

## Subpart C—Grants for Family Health Center Projects

## § 51c.301 Applicability.

The regulations of this subpart, in addition to the regulations of subpart A of this part, are applicable to the award of grants under section 314(e) of the Act for family health center projects to develop and provide, on a prepaid capitation basis, programs which are:

(a) Designed to deliver or arrange for the delivery of health maintenance and treatment services to enrolled populations in health service scarcity areas; and

(b) Designed to identify and suggest solutions to the problems of providing such health services to such populations.

## § 51c.302 Definitions.

As used in this subpart:

(a) "Health service scarcity area" or "scarcity area" means a defined geographic area in which the Secretary determines, on the basis of the indicators set forth in Appendix A of this subpart,

(1) That there is a shortage in the number of health or health related personnel in such area, or

(2) That health facilities in such areas are inaccessible or ineffectively utilized by reason of geographic, monetary, administrative, or cultural barriers.

(b) "Enrollee" means a person belonging to one of the three groups described in Appendix C of this subpart, and who under a contract or agreement with a family health center project is entitled to receive the basic and, where applicable, the supplemental benefits for a fixed periodic payment.

(c) "Non-enrollee" means a person who, without a contract or agreement with the family health center project, receives health services for which the center is reimbursed on a fee-for-service basis while the center is attempting to secure prepaid capitation contracts.

(d) "Basic" and "supplemental" benefits mean the health benefits and other such health services which are set forth in paragraphs (a) and (b), respectively, of Appendix B of this subpart, to which an enrollee is entitled.

(e) "Supplemental" means a person who, without a contract or agreement with the family health center project, receives health services for which the center is reimbursed on a fee-for-service basis while the center is attempting to secure prepaid capitation contracts.

## § 51c.303 Project elements.

An appropriate project under this subpart must provide for:

(a) An orderly sequence of planning, implementation, and evaluation procedures with regard to the developmental and operational phases of the project which will be (or have been) accomplished using, whenever feasible, specific dates.

(b) Services which shall include those set forth in paragraph (a) and may include those set forth in paragraph (b) of Appendix B of this subpart.

(c) The means of delivering or developing the capacity to deliver the basic and supplemental benefits to its enrollees within a designated scarcity area.

(d) A marketing and enrollment plan, including market analysis, marketing strategy, and enrollment growth projections.

(e) A plan for the financial management of the project for a 3 year period that includes revenue and expense statements.

(f) A plan that provides for the progress of the project toward funding on a capitation basis.

(g) The financing of the basic and supplemental benefits on a prepaid capitation basis to enrollees and/or on a fee-for-service basis to non-enrollees while the project is attempting to secure prepaid capitation contracts.

(h) A plan to provide for internal and external review of the quality of care.

(i) A plan to develop written agreements for the provision of those basic and supplemental benefits to which enrollees are entitled but which cannot be provided directly by the project.

(j) A plan for complying with State regulatory requirements.

(k) Operation of the project in a manner calculated to preserve human dignity and to maximize acceptability and effective utilization of services.

(l) Community participation in the form of contributions of cash or services, loans of full- or part-time staff, equipment, space, materials, or facilities, or other similar contributions.

(m) A governing board or advisory council in accordance with § 51c.304.

(n) Coordination of project activities with the activities of other Federally funded health services delivery projects and programs serving the same population.

(o) A management information system, including cost accounting, utilization, and enrollment subsystems, which will provide the necessary data to adequately manage the project and to meet Federal reporting requirements.

(p) The implementation of a system for maintaining health services records.

(q) A management plan for implementing the specific objectives and for evaluating progress toward the achievement of the specific objectives of the project.

(r) Standards and qualifications for personnel (including the project director) and standards for facilities utilized in the performance of the project.

(s) Delivery of services in accordance with such plans as have been developed by the appropriate State agency pursuant to section 314(a) or Title XV of the Act, as applicable.

(t) Cost sharing for Group III enrollees, in conformity with the cost-sharing provisions of Appendix D of this subpart.

## § 51c.304 Governing board or advisory council.

(a) **Governing board.** Except as provided in paragraph (b) or (c) of this section, a governing board shall be established by an applicant as follows:

(1) **Size.** The board shall consist of at least 9 but not more than 25 members.

(2) **Composition.** (i) No less than one-third of the members of the Board shall be individuals who are or will be served by the project.

(ii) No more than one-third of the members of the board shall be individuals who derive more than 10 percent of their annual income from the health care industry.

(iii) The remaining members of the board shall be representatives of the community in which the project service area is located and shall be selected for their expertise in community affairs, local government, finance and banking, legal affairs, trade unions, other commercial and industrial concerns, or social service agencies within the community.

(3) **Selection of members.** The method of selection of all members of the governing board shall be prescribed in the bylaws or other internal governing rules of the grantee organization. Such bylaws or other rules must specify a process by which those individuals who are selected as users of project services are broadly representative of the population to be served by the project. The bylaws or other rules are subject to approval by the Secretary.

(4) **Functions and responsibilities.** (i) The governing board shall have full legal authority for the establishment of policy in the conduct of the project.

(ii) The governing board shall hold regularly scheduled meetings, for which minutes shall be kept.

(iii) The governing board shall have specific responsibility for:

(A) Appointment and dismissal of a project director or chief executive officer of the project;

(B) Establishing personnel policies and procedures including selection and dismissal procedures, salary and benefits scales, employee grievance procedures, and equal opportunity practices;

(C) Adopting health care policies including scope and availability of services, location and hours of services, and quality-of-care audit procedures;

(D) Adopting financial management practices including a system to assure accountability for project resources, approval of annual project budget, resource allocation for project priorities, eligibility for services including criteria for partial-payment schedules, and long-range financial planning;

(E) Evaluating project activities including service utilization patterns, productivity of the project, patient satisfaction, and development of a process for hearing and resolving patient grievances; and

## PROPOSED RULES

(F) Assuring that the project is operated in compliance with applicable Federal, State, and local laws and regulations.

(b) **Advisory council.** The Secretary may, for good cause shown, make a grant award to an organization which does not meet the requirements of paragraph (a), if such agency or organization establishes an advisory council to the governing board or other policy-making body of the grantee organization, which meets the following requirements:

(1) **Size.** The advisory council shall consist of at least 9 but not more than 25 members.

(2) **Composition.** The members of the advisory council shall be selected solely from those individuals who are or will be served by the project;

(3) **Selection of members.** The method of selection of all members of the advisory council shall be prescribed in the bylaws or other internal governing rules of the grantee organization. Such bylaws or other rules must specify a process by which those individuals who are selected as users of project services are broadly representative of the population to be served by the project. The bylaws or other rules are subject to approval by the Secretary.

(4) **Functions and responsibilities.** (A) The advisory council shall meet with the policy-making body of the grantee organization at least twice during each 12-month period for the purpose of advising the policy-making body on the exercise of its responsibility in carrying out the project. Minutes of such meetings shall be kept, copies of which shall be included with the application for a continuation grant.

(B) The advisory council is specifically charged with responsibility for developing and implementing a patient grievance procedure and commenting on the operation of that procedure as a part of a continuation grant.

(C) The Secretary may, for good cause shown, allow a grantee a period of time for compliance with the requirements of paragraph (a) or (b) of this section, as follows:

(1) **Continuation grants.** A grantee under a continuation grant may be given a reasonable period of time, not to exceed 1 year from the effective date of these regulations, to establish a governing board or advisory council meeting the requirements of paragraph (a) or (b) of this section.

(2) **Inconsistent State or local laws.**

In addition, in the case of a grantee which is a State or local governmental agency and which has demonstrated to the satisfaction of the Secretary that it is unable, under State or local law, to establish either a governing board or an advisory council pursuant to paragraph (a) or (b) of this section, the Secretary may allow such grantee a reasonable period of time to take the appropriate steps to have such legal disability removed: *Provided*, That, such grantee, in the interim, must establish alternate procedures, approved by the Secretary, to assure maximum participation in the development, implementation, and evaluation of the project by the population to be served consistent with the concept of a governing board or advisory council as set forth in paragraph (a) or (b) of this section.

§ 51c.305 Grant evaluation and award.

Within the limits of funds determined by the Secretary to be available for such purpose, the Secretary may award grants under this subpart to cover part of the cost of projects to those applicants whose projects will, in his judgment, best promote the purposes of section 314(e) of the Act and the regulations in this subpart, taking into account:

(a) The degree to which the proposed project satisfactorily provides for the elements set forth in § 51c.303;

(b) The needs of the population to be served for the services to be provided;

(c) The capability of the project to provide quality health care services;

(d) The potential of the project for the development of new and effective methods for health services delivery and financing;

(e) The soundness of the fiscal plan for assuring effective utilization of grant funds and for maximizing third-party reimbursement.

(f) The administrative and management capability of the applicant;

(g) The relative distribution of applications with respect to the following factors:

(1) The urban-rural area to be served;

(2) The nature of the organization applying, e.g., university, public health department, community corporation, etc.;

(3) The organizational structure for delivery of services; and

(4) The stage of development of the project; and

(h) The number of enrollees and level of utilization of services in previous operational periods, if any.

## § 51c.306 Use of project funds.

(a) Any funds granted pursuant to this subpart, as well as other funds to be used in performance of the approved project, may be expended solely for carrying out the approved project in accordance with section 314(e) of the Act, the regulations of this part, the terms, and conditions of the award, and the applicable cost principles set forth in 45 CFR Part 74, Subpart Q.

(b) Project funds under this subpart may be used for the following:

(1) Developmental activities.

(2) Administrative core components.

(3) Training to meet management needs of the project, including training members of the governing board or advisory council.

(4) To provide or make arrangements for approved services to Group III enrollees.

(5) Supplementation of the benefits of Group I enrollees who meet income eligibility requirements in Appendix C of this subpart to make those benefits comparable to the benefits available to Group III enrollees.

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(6) Cost of delivering basic benefits to non-enrollees. *Provided, That:*

(i) Reasonable effort is made to collect charges under a billing and collection system, and

(ii) That such funds do not exceed the difference between total reported unit costs for the services actually provided and the sum of charges actually collected.

(7) To reimburse members of any governing board or advisory council for reasonable expenses actually incurred by reason of their participation in such board or council activities; and

(8) With respect to such members whose income is within the limits of Group III enrollees as set forth in Appendix C of this subpart, to reimburse members of any governing board or advisory council for wages lost by reason of participation in such board or council activities.

(9) To develop and maintain a reserve fund to be used in offsetting underestimates of funding needs and for complying with requirements of State law for prepaid health care services.

(10) To purchase reinsurance or lines of credit to protect the financial solvency of the project.

(11) To purchase insurance for medical emergency and out-of-area coverage.

(c) Project funds under this subpart may not be used for the following:

(1) The annual premium and "per visit" charge as set forth in Appendix D of this subpart.

(2) Capitation payments for Group II enrollees.

(d) Prior approval by the Secretary of revisions of the budget and project plan is required whenever there is to be a significant change in the scope or nature of project activities.

#### Appendix A—Indicators of Health Service Scarcity

The listed indicators should be obtained for the defined geographic area being considered as well as contiguous areas. All of the indicators should be considered in relation to the population of the area. Future needs should be considered based on the ratio of anticipated resources to projected population.

(a) Quantitative lack of health and related services:

(1) Ratio of primary care physicians to population (i.e., physicians in general practice, internal medicine, general surgery, and pediatrics).

(2) Ratio of physicians in specialty practices to population.

(3) Ratio of dentists in general practice to population.

(4) Ratio of dentists in specialty practices to population.

(5) Ratio of allied medical personnel to physicians.

(6) Ratio of allied dental personnel to dentists.

(7) Ratio of nurses to hospital beds.

(8) Ratios of other paramedical personnel to hospital beds or population, as appropriate.

(9) Number of inpatient facilities by bed size and type of services offered. (Include hospitals—general and special, extended care facilities, nursing homes, personal care homes, etc.)

(10) Number of outpatient facilities by type of services offered. (Include hospital and health department clinic services, home health clinic services, home, health services, emergency services, etc.)

(11) Health status indicators such as: Infant, maternal, and overall mortality rates, accident rates, disease incidence and prevalence, oral health indicators; disability rates, immunization status, work absences, and school absences may provide insight into general health status and indicate need for specific services; specific acute disease incidence and prevalence may indicate need for preventive and environmental services; suicide rates, drug abuse, crime, and alcoholism may further indicate need for mental health services.

(b) Inaccessibility of health and related services:

(1) Distance, time, and transportation costs to reach health care personnel and facilities.

(2) Hours service is available in relation to hours population is available.

(3) Income level of area.

(4) Existing modes of financing health care (i.e., restrictions, etc.)

(c) Ineffective utilization of health and related services:

(1) Number of patients and patient visits by service for inpatient and outpatient facilities.

(2) Charges and source of payment by service for inpatient and outpatient facilities.

(3) Waiting time for health care.

(d) Prior designation of the area as a medically underserved or as a scarcity area in other federally supported health programs, e.g., Community Mental Health Centers, Hospital and Medical Facilities, National Health Service Corps, or Office of Economic Opportunity.

#### Appendix B—Family Health Center Benefits

(a) *Basic benefits.* Family health centers must develop a basic benefit package (or packages) which will meet the health care needs of the subscribers, serve as the basis for staffing and/or contracting for services, and allow for the development of competitive premiums and capitation. The Group III benefit package must contain a basic level of benefits which includes:

(1) Physician services—including consultant and referral services.

(2) Outpatient hospital services.

(3) Diagnostic laboratory and diagnostic and therapeutic radiologic services.

(4) Emergency medical services.

(5) Ambulance services.

(6) Medically necessary out-of-area coverage (under the prepaid capitation arrangement).

(7) Preventive health services, including family planning, well-child care, and maternity care and services.

(8) Home health care, limited to 100 visits per year.

(9) Medical supplies and devices.

(10) Outpatient drugs and biologicals.

(b) *Supplemental benefits.* The following supplemental benefits may be provided with project funds where sufficient funds are available, consistent with the grantee's ability to adequately provide such services, and as approved in the grant award:

(1) Inpatient hospital services, not to exceed 120 days.

(2) Preventive and restorative dental services for individuals under the age of 13.

(3) Developmental vision care services, routine eye and vision examinations, and eyeglasses for individuals under the age of 13.

(4) Hearing aids and examinations for individuals under the age of 13.

(5) Mental health services on an outpatient basis, not to exceed 30 visits.

(6) Mental health services on an inpatient basis, not to exceed 30 days per year.

(7) Environmental health services, as may be appropriate for particular centers.

(8) Transportation services, as required for adequate patient care.

(9) Allied health services.

(10) Public health services (including nutrition education) and social services.

(11) Health education services.

(12) Rehabilitative services (including physical therapy) and long-term physical medicine.

(13) Extended care facility services.

(14) Services which promote and facilitate optimal use of the basic health services (including services of outreach workers).

#### Appendix C—Eligibility

*Group I. Families, individuals, or groups of individuals who are eligible for third-party payments for health care.* Such coverage may be from public or private health plans. This includes Medicaid, Medicare, union health plans, and other similar health insurance plans.

*Group II. Any individual, family, or group of individuals who can pay for services from personal resources.*

*Group III. Individuals and families whose incomes do not exceed the following individual and family income limits:*

Classes	Individual	Family
A	0 to \$1,749	0 to \$2,499
B	\$1,750 to \$3,499	\$2,500 to \$4,999
C	\$3,500 to \$5,249	\$5,000 to \$7,499
D	\$5,250 to \$6,999	\$7,500 to \$9,999

(a) "Individual" means a person living alone or with a family who receives services or enrolls in a family health center.

(b) "Family" means two or more individuals who are living in a place of residence maintained by one or more of them as his or their own home, who are temporary or permanent residents of the United States. An individual who is temporarily absent from the place of residence described above, for the purpose of

engaging in or seeking employment or self-employment (including military service) shall nevertheless be considered to be living in the place of residence.

(c) "Child" means an individual who is under the age of 18, or under the age of 22 and a student regularly attending a school, college, or university, or a course of vocational or technical training, designed to prepare him for gainful employment.

(d) "Income" means and shall be calculated as follows:

(1) Both earned and unearned income: (i) Remuneration of services performed as an employee or net earnings from self-employment; (ii) unearned income means all other income including support and maintenance furnished in cash or otherwise, including family assistance benefits; State supplementary payments; payments received as annuity, pension, retirement, or disability benefit, including veteran's or workmen's compensation; old age survivors and disability insurance; railroad retirement; unemployment benefits; support or alimony payments; rents, dividends, interest and royalties; regularly recurring payments which are intended to replace earned income, whether for a temporary or indefinite period of time; gifts, prizes, awards, inheritances; and proceeds from any life insurance policy which exceeds the amount expended by family members for expenses of the insured individual's last illness or burial not to exceed \$1,500.

(2) Exclusion from income. The following items shall be excluded from calculations in determining the income of a family:

(i) The earned income of each child in the family who is a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment;

(ii) (a) The total unearned income of all members of a family in a calendar quarter which is received too infrequently or irregularly to be included, up

## PROPOSED RULES

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to a limit of \$60 per quarter; and calendar quarter which is received too infrequently or irregularly to be included up to a limit of \$30 per quarter;

(iii) An amount of earned income of a member of the family equal to the cost incurred by a family member for child care deemed necessary to securing or continuing in manpower training, vocational rehabilitation, employment, or self-employment;

(iv) Food stamps or any other assistance which is based on need and provided in a form other than cash by a public or private agency;

(v) (a) Any incentive allowance from the Department of Labor to individual members of the family participating in manpower training (up to \$30 per month per individual);

(b) Any incentive allowance (not to exceed \$30 per month per individual) from the Department of Labor or the Department of Health, Education, and Welfare to individual members of the family who are unemployed and unable to work solely because of an illness or incapacity and who are receiving vocational rehabilitation services from the appropriate State agency administering or supervising the administration of the approved State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act.

(c) Allowances paid by a State or political subdivision to a member of a family participating in a Federal income main-

tenance program (not to exceed \$30 per month);

(vi) Any portion of any grant, scholarship, or fellowship received for use in paying the cost of tuition and fees at any educational (including technical or vocational education) institution;

(vii) Home produce raised by a member of the family for consumption by the household;

(viii) One-third of any payments received for the support of children who are family members, or alimony paid to family members; and

(ix) Any amounts received for the foster care of a child who is not a member of the family but who is living in the same home as the family and was placed in such home by a public or nonprofit child-placement or child-care agency.

Notwithstanding any other provision, the total amount which may be excluded under the preceding items (i), (ii), and (iii) in determining the income of any family for any year, shall not exceed the lesser of—

(1) \$2,000 plus \$200 for each member of the family in excess of four, or

(2) \$3,000 or a proportionately smaller amount for a shorter period.

#### Appendix D—Cost Sharing

(a) *Premiums.* The premiums for individual and family enrollment in a family health center shall be prepaid for stated periods and shall be determined in accordance with the following schedule:

Income class	Annual individual income	Annual family income	Percent of premium to be paid by individual and family	Premium not to exceed percent of income
A	0 to \$1,749	0 to \$2,499	0	0
B	\$1,750 to \$3,499	\$2,500 to \$4,999	10	2
C	\$3,500 to \$5,249	\$5,000 to \$7,499	25	3
D	\$5,250 to \$6,999	\$7,500 to \$9,999	50	5

(b) *Per Visit Charge.* A per-visit charge may be made to reduce overutilization; it should not, however, be so large

as to raise a barrier to receiving necessary services.

[FR Doc. 75-12815 Filed 5-15-75; 8:45 am]

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# **federal register**

FRIDAY, MAY 16, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 96

PART III



## **FEDERAL ENERGY ADMINISTRATION**

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### **OLD OIL ALLOCATION PROGRAM**

Entitlement Notice for  
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**FEDERAL ENERGY  
ADMINISTRATION  
OLD OIL ALLOCATION PROGRAM  
Entitlement Notice for March 1975**

In accordance with the provisions of 10 CFR 211.67 relating to FEA's old oil allocation program, the monthly notice specified in § 211.67(i) is hereby published. This notice corrects certain errors made by FEA in its initially released calculations of entitlement issuances for March 1975.

Based on reports submitted to FEA by refiners as to crude oil receipts and crude oil runs to stills for March 1975 and an application of the entitlement adjustment for small refiners provided in 10 CFR 211.67(e), the adjusted national old oil supply ratio for March 1975 is calculated to be .358938.

The issuance of entitlements for the month of March 1975 to refiners and to one other firm (pursuant to a Decision and Order issued by FEA's Office of Exceptions and Appeals) is set forth in the Appendix to this notice. The Appendix lists the name of each refiner and other firm to which entitlements have been issued, the number of entitlements issued to each such refiner or other firm, and the number of barrels of old oil included in each refiner's adjusted crude oil receipts.

Pursuant to 10 CFR 211.67(i) (4), FEA hereby fixes the price at which entitlements shall be sold and purchased for the month of March 1975 at \$7.31, which is the exact differential as reported for the month of March between the weighted average costs to refiners of old oil and of new, released, stripper well and imported crude oil.

In accordance with 10 CFR 211.67(b), each refiner that has been issued fewer entitlements for the month of March

1975 than the number of barrels of old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of March 1975 equal to the difference between the number of barrels of old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of March 1975 in excess of the number of barrels of old oil included in their adjusted crude oil receipts for March 1975 and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements. In addition, certain refiners are required to purchase or sell entitlements to effect corrections for prior reporting errors pursuant to 10 CFR 211.67(i) (5).

Adjustments to entitlement issuances for March 1975 due to corrections for prior reporting errors have been calculated by adjusting each affected firm's March volumes accordingly (taking only the increased entitlement price into account). FEA is in the process of determining whether further corrective adjustments to refine the initial volumetric corrective adjustments are appropriate.

The listing contained in the Appendix specifies a negative volume of old oil receipts as to certain refiners due to corrective adjustments. The total number of entitlements issued to each of those refiners under the listing includes the number specified in the "issued" column, as well as a number of entitlements equal to the number of barrels of old oil shown as the negative volume.

The listing of refiners' old oil receipts contained in the Appendix reflects any adjustments made by FEA pursuant to § 211.67(h).

The listing of entitlements issuances contained in the Appendix also reflects

relief granted in Decisions and Orders issued by FEA's Office of Exceptions and Appeals. The following refiners are not shown in the listing due to their having been exempted from the entitlement purchase requirements of the program under exception decisions: Famariss, Good Hope, Husky, Oil Shale, Powerline, Thagard and Young. The aggregate volume of old oil receipts for these firms for March 1975 was 3,108,435 barrels, which was not taken into account for purposes of making the calculations in the listing.

The total number of entitlements required to be purchased and sold under this notice is 13,924,886.

Payment for entitlements required to be purchased under 10 CFR 211.67(b) for March 1975 must be made by May 31, 1975. On or prior to June 10, 1975, each firm which is required to purchase or sell entitlements for the month of March shall file with FEA the monthly transaction report specified in 10 CFR 211.66(i) certifying its purchases and sales of entitlements for the month of March. FEA will mail monthly transaction report forms for the month of March to reporting firms in May 1975. FEA requests that firms which have been unable to locate other firms for required entitlement transactions by May 31, 1975 contact FEA at 202-634-7610 to expedite consummation of these transactions. For firms that have failed to consummate required entitlement transactions on or prior to May 31, 1975, FEA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR 211.67(j).

Issued in Washington, D.C., May 14, 1975.

ROBERT E. MONTGOMERY, JR.,  
General Counsel  
Federal Energy Administration.

**APPENDIX  
ENTITLEMENTS FOR ALLOCATION OF OLD OIL**

REPORTING FIRM SHORT NAME	OLD OIL ADJUSTED RECEIPTS	*****ENTITLEMENT POSITION***** ISSUED	REQUIRED TO BUY	REQUIRED TO SELL
A-JOHNSON	0	98,633	0	98,633
ALLIED	43,816	40,504	3,312	0
AMER-PETROFINA	1,497,587	1,833,943	0	336,356
AMERADA-HESS	3,850,285	6,418,488	0	2,568,203
AMOCO	11,761,300	8,987,493	2,773,807	0
APCO	332,273	465,821	0	133,548
ARCO	5,985,458	6,092,224	0	106,766
ARIZONA	40,816	60,523	0	19,707
ASAMERA	11,172	19,546	0	8,374
ASHLAND	2,493,037	3,627,952	0	1,134,915
BAY	27,195	122,919	0	95,724
BAYQU	29,556	38,419	0	8,863
BEACON	344,532	296,953	47,579	0
C&H	1,860	1,592	268	0
CALUMET	0	19,808	0	19,808
CANAL	53,625	44,799	8,826	0
CARIBOU	71,643	69,174	2,469	0
CHAMPLIN	2,161,064	1,558,033	603,031	0
CHARTER	751,829	971,371	0	219,542
CITGO	3,884,118	2,854,502	1,029,616	0
CLAIBORNE	90,074	48,016	42,058	0
CLARK	653,874	929,750	0	275,876
COASTAL	1,782,889	1,267,804	515,085	0
CONOCO	4,299,167	3,580,944	718,223	0
CORCO	0	1,204,677	0	1,204,677
CRA-FARMLAND	555,966	490,487	65,479	0
CROSS	10,975	39,529	0	28,554
CROWN	755,002	865,291	0	110,289
CRYSTAL-OIL	92,659*	67,058**	0	159,717
CRYSTAL-REF	24,296	32,243	0	7,947
DELTA	554,850	573,258	0	18,408
DIAMOND	683,507	528,639	154,868	0
DORCHESTER	4,323	7,513	0	3,190
EDDY	34,810	39,913	0	5,103



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## NOTICES

REPORTING FIRM SHORT NAME	OLD OIL ADJUSTED RECEIPTS	*****ENTITLEMENT POSITION***** ISSUED	REQUIRED TO BUY	REQUIRED TO SELL
EDGINGTON-OIL	453,932	175,054	278,878	0
EDGINGTON-ONN	8,318	13,844	0	5,526
EVANGELINE	42,195	27,682	14,513	0
EXXON	10,192,395	10,930,470	0	738,075
FARMERS-UN	134,758	390,925	0	256,167
FLETCHER	259,624	197,642	61,982	0
FLINT	10,789	8,431	2,358	0
GARY	1,481	75,759	0	74,278
GETTY	461,782	890,945	0	429,163
GIANT	4,228	6,356	0	2,128
GLADIEUX	92,842	128,804	0	35,962
GOLDEN-EAGLE	208,808	118,440	90,368	0
GUAM	0	180,225	0	180,225
GULF	10,841,712	8,984,591	1,857,121	0
GULF-STS	21,954	21,767	187	0
HIRI	-17,456*	395,268**	0	412,724
HOWELL	942,953	569,217	373,736	0
HUNT	214,964	152,208	62,756	0
INDIANA-FARM	139,287	234,177	0	94,890
J&W	42,768	47,301	0	4,533
KENTUCKY	1,312	5,926	0	4,614
KERR-MCGEE	2,383,241	1,658,065	725,176	0
KOCH	516,789	1,184,910	0	668,121
LAGLORIA	559,010	370,325	188,685	0
LAKESIDE	3,537	36,541	0	33,004
LAKETON	42,901	105,679	0	62,778
LITTLE-AMER	236,347	236,447	0	100
MACMILLAN	69,020	172,176	0	103,156
MARATHON	3,165,462	3,090,706	74,756	0
MARION	82,905	147,155	0	64,250
MID-AMER	8,030	38,364	0	30,334
MID-TEX	47,155	59,550	0	12,395

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## NOTICES

REPORTING FIRM SHORT NAME	OLD OIL ADJUSTED RECEIPTS	*****ENTITLEMENT POSITION***** ISSUED	REQUIRED TO BUY	REQUIRED TO SELL
MIDLAND	130,951	117,065	13,886	0
MOBIL	8,124,871	7,379,070	745,801	0
MOHAWK	472,703	488,264	0	15,561
MONSANTO	264,608	266,978	0	2,370
MORRISON	3,654	8,360	0	4,706
MOUNTAINEER	2,239	3,440	0	1,201
MURPHY	1,220,338	1,041,109	179,229	0
N-AMER-PETRO	52,355	60,939	0	8,584
NATL-COOP	658,437	642,837	15,600	0
NAVAJO	413,663	387,596	26,067	0
NEW-ENGL-PETRO	0	681,951	0	681,951
NEWHALL	50,042	88,418	0	38,376
NORCO	15,380	19,310	0	3,930
NORTHLAND	0	275	0	275
OKC	361,213	307,820	53,393	0
PASCO	920,665	672,944	247,721	0
PENNZOIL	616,170	573,592	42,578	0
PHILLIPS	3,538,942	4,121,338	0	582,396
PIONEER	11,262	10,972	290	0
PLATEAU	93,244	69,493	23,751	0
PRIDE	395,077	372,953	22,124	0
QUAKER-ST	9,757	233,368	0	223,611
ROAD-OIL	0	1,838	0	1,838
ROCK-ISLAND	488,677	388,938	99,739	0
SABER-TEX	-3,854*	0**	0	3,854
SABRE-CAL	7,753	17,963	0	10,210
SAGE-CREEK	4,831	4,933	0	102
SAN-JOQUIN	209,576	201,663	7,913	0
SEMINOLE	0	35,265	0	35,265
SHELL	11,017,756	10,317,601	700,155	0
SKELLY	904,495	837,649	66,846	0
SO-HAMPTON	99,846	95,368	4,478	0

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## NOTICES

REPORTING FIRM SHORT NAME	OLD OIL ADJUSTED RECEIPTS	*****ENTITLEMENT POSITION***** ISSUED	REQUIRED TO BUY	REQUIRED TO SELL
SOICAL	8,679,000	8,860,033	0	181,033
SOHIO	3,323,045	3,977,934	0	654,889
SOMERSET	0	38,156	0	38,156
SOUND	58,733	3,876	54,857	0
SOUTHLAND	362,436	356,115	6,321	0
SUNLAND	8,495	102,327	0	93,832
SUNOCO	6,022,438	5,989,092	33,346	0
TENNECO	1,149,889	1,158,920	0	9,031
TESORO	1,023,474	708,451	315,023	0
TEXACO	11,212,099	11,390,278	0	178,179
TEXAS-ASPH	1,008	21,169	0	20,161
TEXAS-CITY	871,608	886,656	0	15,048
THE-REFINERY	81,583	161,087	0	79,504
THRIFTWAY	21,308	29,592	0	8,284
THUNDERBIRD	138,696	155,278	0	16,582
TOKAWA	23,764	56,066	0	32,302
TORO	459,462	455,033	4,429	0
TOTAL-LEONARD	107,746	491,773	0	384,027
UNION-OIL	6,604,214	5,090,905	1,513,309	0
UNION-TEXAS	168,707	127,665	41,042	0
UNTD-IND	0	9,655	0	9,655
UNTD-REF	226,954	484,148	0	257,194
US-OIL	53,032	101,835	0	48,803
VICKERS	310,000	384,252	0	74,252
VULCAN	0	31,897	0	31,897
WARRIOR	45,926	34,075	11,851	0
WEST-COAST	-65,467*	43,141**	0	108,608
WESTERN	-8,054*	117,078**	0	125,132
WINSTON	71,735	207,483	0	135,748
WIREBACK	0	1,004	0	1,004
WITCO	129,558	159,273	0	29,715
YETTER	0	997	0	997
TOTAL	145,037,323	145,037,323	13,924,886	13,924,886

\* Reflects a correction for excessive old oil receipts reported for a prior month.

\*\* Does not include entitlements issued by virtue of the negative volume of old oil receipts shown.

[FR Doc. 75-13021 Filed 5-14-75; 10:42 am]

# federal register

FRIDAY, MAY 16, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 96



PART IV

## THE PRESIDENT

### SPECIAL MESSAGE TO CONGRESS ON BUDGET RESCISSION AND DEFERRAL

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# Special Message to Congress on Budget Rescission and Deferral

*To the Congress of the United States*

I herewith report one new proposed rescission and one new deferral as required by the Congressional Budget and Impoundment Control Act of 1974. In addition, I am transmitting one supplementary report which revises a deferral report made to the Congress in a previous special message. The details of the rescission and deferral reports are attached.

The proposed rescission would affect two programs of the Community Services Administration that duplicate several programs currently operating at Federal, State and local levels. The two deferrals are routine in nature and do not affect program levels in either case.

I urge the Congress to act promptly on this rescission and other rescission proposals now pending.

*Gerald R. Ford*

THE WHITE HOUSE,  
May 8, 1975.

## SUMMARY OF PROPOSED RESCISSIONS AND DEFERRALS

(In thousands of dollars)

Report Number	Item	Budget Authority
R75-87	Other Independent Agencies: Community Services Administration..	28,000
<u>Deferrals:</u>		
D75-161	Funds Appropriated to the President: Foreign Military Credit Sales.....	71,930
D75-98A	Commerce: Maritime Administration: Ship Construction.....	55,750
	Subtotal, Deferrals.....	127,680
	Total Rescissions and Deferrals.....	155,680

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Amounts previously reported under these headings:	
Rescissions.....	---
Deferrals.....	5,750
Change:	
Rescissions:	
For new items.....	28,000
Deferrals:	
For new items.....	71,930
To amounts previously reported.....	50,000
Subtotal, Deferrals.....	121,930
Total Change.....	149,930

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Rescission Proposal No.: R75-87

PROPOSED RESCISSION OF BUDGET AUTHORITY  
Report Pursuant to Sec. 1012 of P.L. 93-344

Agency - Community Services Administration	New budget authority (P.L. 94-7)	\$28,000,000
Appropriation Title & Symbol	Other budgetary resources	---
Economic Opportunity Program Executive 1975 - 8150500 (Emergency Food and Medical Services and Youth Recreation and Sports Programs)	Total Budgetary Resources	28,000,000
	Amount proposed for rescission	28,000,000

Justification

A rescission of Continuing Resolution authority under Section 1012 of the Impoundment Control Act of 1974 (P.L. 93-344) is proposed for the \$25.0 million Emergency Food and Medical Services (EFMS) program and the \$3.0 million Youth Recreation and Sports program. These categorical programs duplicate other, more comprehensive programs that provide aid to the same recipients.

The EFMS program overlaps the nutrition responsibility of other agencies, particularly the Department of Agriculture's Food Stamp and Child Nutrition programs, which provide greater resources for nutritionally needy Americans than does EFMS. Moreover, these programs are a more equitable means of providing assistance against national needs standards for entitlement than is this program in which benefits are provided to only some areas through the more fortuitous project grant system. The Federal Disaster Assistance Administration, by law, coordinates all Federal efforts in emergency situations and can call on all the resources of the Federal Government to aid the needy. In addition, vast State, local, and private resources (such as the Red Cross and other volunteer agencies) are available to assist those in need as a result of natural disasters.

Similarly, compared with the Youth Recreation and Sports program, a wide variety of programs exists to aid youth, with particular emphasis on summer activities. Prominent among them are the Comprehensive Employment Training Act (CETA) programs of the Department of Labor. A \$412.7 million augmentation of the Summer Youth Employment Program under this authority has been endorsed by the Administration. In addition, the summer feeding programs of the Department of Agriculture benefit 1.4 million children, as compared with the 43,000 youths enrolled in this program in which some nutrition assistance is provided.

Estimated Effects

EFMS activities are advance funded so that the effects of a rescission of FY 1975 budget authority would not be felt until FY 1976. Under this rescission, actual feeding and medical services activities can be provided in entirety by the more comprehensive authorities discussed above.

The Director of the Community Services Administration (formerly the Office of Economic Opportunity) has, in previous years, delegated to the Secretary of the Department of Health, Education, and Welfare (DHEW) the authority to administer the Youth Recreation and Sports program. This rescission proposal will discontinue contracts made by HEW with members of the National Collegiate Athletic Association (NCAA) involving the recreation program.

There will be 43,000 summer youth sports opportunities of varying quality and intensity which will not be provided. However, there will be no appreciable diminution of recreation opportunities for youth, as there exist numerous local programs capable of alternatively providing such opportunities. Substantial Federal resources on a much greater scale are available such as the CETA program (which includes the use of work opportunities to provide other youth recreation opportunities) and the summer feeding programs of the Department of Agriculture. In addition, there will be little impact on direct benefits to youth since 70% of this program is composed of staff, overhead, and operating expenses.

Finally, the expansion of nutrition and youth employment opportunities on an equitable basis through the Food Stamp, Child Nutrition, and Comprehensive Employment and Training Act programs, provide for far more substantial benefit increases than the decreases involved in not funding this small categorical program.

Total FY 1975 Outlays	Dollars in Millions
FY 1976 Budget (current estimate).....	\$22.4
Without Rescission.....	22.4
With Rescission.....	22.4
(Effect of action on FY 1976 outlays .....	-28.0)

Community Services Administration

Appropriations provided for the Emergency Food and Medical Services program and the Summer Youth Recreation program under the Economic Opportunity Act of 1964, as amended, for fiscal year 1975 in Public Law 93-324, as amended, are rescinded in the amount of \$28,000,000.

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Deferral No.: D75-161DEFERRAL OF BUDGET AUTHORITY  
Report Pursuant to Sec. 1013 of P.L. 93-344

Agency Fund Appropriated to the President	New budget authority (P.L. 94-11 )	\$ 300,000,000
Bureau	Other budgetary resources	
Appropriation Title & Symbol	Total Budgetary Resources	300,000,000
Foreign Military Credit Sales, 1975	Amount to be deferred part of year	71,930,000
115 1082	Amount to be deferred for entire year	

JUSTIFICATION

These funds have been placed in "Reserve for Contingencies" under the Anti-Deficiency Act to ensure fund availability at the end of the fiscal year. This is of particular importance in this account since the entire amount of available funds is normally obligated in the last quarter. The funds will be released prior to June 30, 1975 upon approval of specific credit sales programs by the Departments of State, Defense, and Treasury. Coordination among these Departments on each case will ensure that approved programs are consistent with the foreign, national security, and economic policies of the United States.

ESTIMATED EFFECT

This deferral will have no programmatic or budgetary impact and is not designed to be restrictive in nature. Funds are simply released on a loan by loan basis contingent on approval of the three Departments listed above.

Total FY 1975 Outlays	Dollars in Millions
1976 Budget (February transmittal).....	\$400.0
Without deferral (current estimate).....	382.0
With deferral (current estimate).....	382.0
(Effect of action on 1976 outlays.....)	( -0- )

D75-98A

Supplemental Report

Report Pursuant to Sec. 1014(c) of P.L. 93-344

This supplementary message revises deferral No. D75-98 which was transmitted to Congress on November 26, 1974, (House Document No. 93-398):

As a result of the deobligation in FY 1975 of prior year contracts, the Maritime Administration's Ship construction appropriation will show a larger deferral of FY 1975 funds than had been previously reported. No adjustments in the FY 1975 or FY 1976 programs are involved. The recovered funds are simply being carried forward into FY 1976 where they reduce the appropriation required to fund the previously planned program. An amendment to the 1976 budget will reduce the appropriation requested for this account.

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Deferral No.: D75-98A

DEFERRAL OF BUDGET AUTHORITY  
Report Pursuant to Sec. 1013 of P.L. 93-344

Agency Department of Commerce	New budget authority (P.L. 93-433 )	\$ 275,000,000
Bureau Maritime Administration	Other budgetary resources	17,003,836
Appropriation Title & Symbol	Total Budgetary Resources	292,003,836
Ship Construction 13X1708	Amount to be deferred part of year	---
	Amount to be deferred for entire year	\$ 55,750,000*

Justification:

A deferral of \$5,750,000 is for fiscal policy reasons pursuant to P.L. 93-344 as reported to Congress by the President's message of November 26, 1974.

The additional deferral of \$50,000,000 is comprised of two items:\*

- ° Expiration on March 31, 1975, of contract with Pierce Tanker Corporation for payment of construction-differential subsidy (CDS) for the construction of one 225,000 DWT tanker. Expiration of contract is based on failure of Pierce Tanker Corporation to fulfill contractual conditions relating to certain financial requirements .... \$36,630,730
- ° Termination of all contract work and payments by Maritime Subsidy Board on March 5, 1975, toward the construction of three 89,700 DWT tankers for Hawaiian International Shipping Corporation. Termination based on notice to the Board on February 27, 1975, by Todd Shipyards Corporation of default by Hawaiian International to make contract payments. Amount is based on CDS contract price (\$39,457,431), less payments to date (\$780,219), less assessment of shipyard progress through March 7 ..... \$13,369,270

Construction-differential subsidy contracts in excess of those planned for Fiscal Year 1975 would be necessary to expend the funds made available by these contract terminations. The Maritime Administration does not anticipate receiving such additional contracts.

Estimated Effects:\*

The requested deferral is related to anticipated recovery of prior obligations. Since these obligations were made in Fiscal Year 1974, deferral of the recovered funds will not reduce the

planned Fiscal Year 1975 program.

Total 1975 Outlays	Dollars in Millions
1976 Budget (February transmittal).....	\$282.8
Without deferral (current estimate) ....	\$260.0
With deferral (revised estimate) .....	\$256.0
(Effect of action on 1976 outlays .....	\$ -1.8)

[FR Doc.75-12788 Filed 5-15-75;8:45 am]

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# federal register

FRIDAY, MAY 16, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 96

PART V



## DEPARTMENT OF LABOR

Employment Standards  
Administration

■

### MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions,  
Modifications and Supersedeas  
Decisions

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DEPARTMENT OF LABOR  
Employment Standards Administration  
MINIMUM WAGES FOR FEDERAL AND  
FEDERALLY ASSISTED CONSTRUCTION  
General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and Federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER

without limitation as to time and are to be used in accordance with the provisions of 29 CFR, Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDES DECISION  
TO GENERAL WAGE DETERMINATION  
DECISIONS

Modifications and Supersedes Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedes Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and Federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedes Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR, Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the

wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE  
DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Indiana:  
IN75-2037; IN75-2038; Feb. 21, 1975  
IN75-2039; IN75-2046  
Vermont:  
AQ-3184 June 28, 1974  
Virginia:  
VA75-3004 Jan. 3, 1975  
Wisconsin:  
AR-3151; AR-3153; AR-3156 Oct. 11, 1975  
West Virginia:  
WV75-3007 Feb. 7, 1975

SUPERSEDES DECISIONS TO GENERAL  
WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State. Supersedes Decision numbers are in parentheses following the numbers of the decisions being superseded.

Massachusetts:  
MA75-2013(MA75-2077) Jan. 17, 1975  
Tennessee:  
AQ-4094(TN75-1051) Mar. 22, 1974  
Texas:  
TX75-4001(TX75-4088) Jan. 10, 1975  
TX75-4006(TX75-4089);  
TX75-4007(TX75-4091);  
TX75-4008(TX75-4093);  
TX75-4013(TX75-4087) Jan. 17, 1975  
TX75-4021(TX75-4090);  
TX75-4026(TX75-4092);  
TX75-4027(TX75-4095);  
TX75-4029(TX75-4094) Jan. 24, 1975  
TX75-4048(TX75-4088) Feb. 7, 1975  
TX75-4077(TX75-4096) Apr. 11, 1975  
Wisconsin:  
AR-3163(WI75-2064) Oct. 11, 1974

Signed at Washington, D.C., this 9th day of May 1975.

RAY J. DOLAN,  
Assistant Administrator,  
Wage and Hour Division.

MODIFICATIONS P. 2

MODIFICATIONS P. 1

DECISION #IN75-2038 - Mod. #1 (40 FR 7820 - February 21, 1975) Benton, Carroll, Cass, Clinton, Fulton, Howard, Jasper, Miami, Newton, Pottawatomie, Tippecanoe, Tipton, Wabash, & White Counties, Indiana				DECISION #IN75-2037 - Mod. #1 (40 FR 7814 - February 21, 1975) Adams, Allen, Dekalb, Elkhart, Huntington, Kosciusko, LaGrange, Marshall, Noble, Starke, Steuben, Wells, & Whitley Counties, Indiana			
Basis Hourly Rates	H & B	Fringe Benefits Payments		Basis Hourly Rates	H & B	Fringe Benefits Payments	
		Prevailing	Vacation			Prevailing	Vacation
Change: Cement masons: Tipton County Wabash County Cass, Fulton & Miami Counties Ironworkers: Fulton & Pottawatomie Counties Newton County & Northern 1/2 of Jasper Co. Painters: Cass, Fulton, & White Counties Brush Spray Benton, Clinton, Jasper, & Tippecanoe Counties: Brush Spray Howard, Miami, & Tipton Counties: Brush Spray Wabash County: Brush & Roller Spray				Change: Cement masons: Marshall County Wells County Elkhart, Kosciusko, & LaGrange Counties Ironworkers: Elkhart, Kosciusko, Marshall, Starke Counties & Western 1/2 of LaGrange Co. Laborers (Building, sewer & Tunnel Construction) Starke County: Group A Group B Group C Group D Omit: Painters: Elkhart, Kosciusko & Marshall Counties Brush, Roller & Spray Remainder of Wells County Brush, Roller & Spray Add: Painters: Elkhart, Kosciusko, & Marshall Cos., Remainder of Wells Co. Brush, Taping Sandblasters; Spray			
\$7.78 8.40 7.60 9.05 10.63 7.55 8.30 7.65 10.92 7.55 8.30 7.49 8.49	.40 .40 .40 .55 .50 .40 .40 .40 .40 .40 .40 .32 .32			\$8.86 8.40 8.93 9.05 6.95 7.15 7.25 7.95	.40 .40 .30 .55 .35 .35 .35 .35	.01 .02 .01 .09 .09 .09 .20 .40 .40	.01 .05 .07 .07

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## NOTICES

DECISION #INTS-2019 - Mod. #2 (40 FR 7824 - February 21, 1975) Blackford, Delaware, Fayette, Grant, Hamilton, Hancock, Henry, Jay, Johnson, Madison, Marion, Randolph, Rush, Shelby, Union, & Wayne Counties, Indiana	Basic Hourly Rate	H & W	Pension	Vacation	App Tr.
Change: Cement masons: Grant, Blackford, Jay, Delaware & Randolph Counties Fayette, Rush, Union & Wayne, Counties Marion & Johnson Cos., Southern 1/2 of Hamilton Co., & Western 1/2 of Hancock Co., Henry & Madison Cos., Eastern 1/2 of Hamilton Co., & Eastern 1/2 of Hancock Co.	\$8.40 8.00	.40			
Ironworkers: Blackford & Grant Cos., & NE Cor. of Delaware County	7.78	.40	.30		.04
Painters: Remainder of Counties: Brush Spray	9.70 7.55 8.30	.55 7.55 8.30	.55 .40 .40		.01
	8.20	.40			
	8.76				
	8.25 8.00		.40		
	9.445	.55	1.05		.02
	9.50	.55	.65		.05
	7.65 10.92				
	7.30 8.30				.02 .02

DECISION #INTS-2046 - Mod. #1 (40 FR 7831 - February 21, 1975) Bartholomew, Boone, Brown, Clary, Clay, Crawford, Daviess Dearborn, Decatur, Dubois, Floyd, Fountain, Franklin, Gibson, Greene, Harrison, Hendricks, Jackson, Jefferson, Jennings, Knox, Lawrence, Martin, Monroe, Montgomery, Morgan, Ohio, Orange, Owen, Parker, Perry, Pike, Posey, Putnam, Ripley, Scott, Spencer, Sullivan, Switzerland, Vander- burgh, Vermillion, Vigo, Warren, Warrick, & Washington Counties, Indiana	Basic Hourly Rate	H & W	Pension	Vacation	App. Tr.
Change: Cement masons: Daviess, Knox, Gibson, Martin & Pike Hendricks, Southern 1/2 of Boone and Northern 1/2 of Morgan Monroe, Southern 1/2 of Morgan and Southern 1/2 of Owen Decatur & Franklin Ironworkers: Dearborn, Franklin, Ohio, Ripley, Switzerland and E. 1/2 of Decatur Eastern 1/2 of Martin, Southern 1/2 of Jackson, Southern 1/2 of Jennings, S. 2/3 of Lawrence Crawford, Clark, Floyd, Harrison, Jefferson, Orange, Scott and Washington Painters: Fountain, Montgomery, Putnam and Warren: Brush Spray Sullivan and Vigo: Brush and roller Spray	8.20 8.76 8.25 8.00 9.445 9.50 7.65 10.92 7.30 8.30	.40  8.76 8.25 8.00 9.445 9.50 7.65 10.92 7.30 8.30	.40    1.05    1.05  <		

FEDERAL REGISTER, VOL. 40, NO. 96—FRIDAY, MAY 16, 1975

DECISION NO #INTS-2046 Cont'd

Painters (Cont'd): Vermilion and Patke: Brush Roller Spray Line Construction: (fountain, Warren and Vermilion Counties) Linemen - Groundman equipment operator (all crawler type equipment larger than D-4) Groundman - truck driver with winch Groundman - truck driver with out winch Groundman <th data-kind="parent" data-rs="2">Basic Hourly Rate<th data-cs="3" data-kind="parent">Fringe Benefits Payments</th><th data-kind="ghost"></th><th data-kind="ghost"></th><th data-kind="parent" data-rs="2">App. Tr.</th></th>	Basic Hourly Rate <th data-cs="3" data-kind="parent">Fringe Benefits Payments</th> <th data-kind="ghost"></th> <th data-kind="ghost"></th> <th data-kind="parent" data-rs="2">App. Tr.</th>	Fringe Benefits Payments			App. Tr.
	H & W	Pension	Vacation		
7.45				.10	
8.45				.10	
8.95				.10	
8.77		.30	12+.30		.25%
7.21		.30	12+.30		.25%
6.74		.30	12+.30		.25%
6.40		.30	12+.30		.25%

DECISION #WATS-300A - Mod. 2 (40 FR 943 January 3, 1975) York Counties and the Cities of Hampden and Weymouth New Includ- ing, Langley AFB, Fort Eustis and Fort Monroe, Virginia					
Change: Carpenters & Soft Floor Layers	\$7.40	.20	.20		.01

DECISION NO #D-31E4- Mod 43 (39 FR 24203 - June 28, 1974) Statewide, except Rutland Co., Vermont					
Change: Truck drivers: Three axle equipment Caledonia County Specialized earth moving equipment Caledonia County	\$5.50				
	5.60				

## NOTICES

FEDERAL REGISTER, VOL. 40, NO. 96—FRIDAY, MAY 16, 1975



## NOTICES

Basic Hourly Rate	Fringe Benefits Payments			App Tr
	H & W	Pension	Vacation	
DECISION #AR-3156 - Mod. #1 (39 FR 36831 - October 11, 1974) Brown, Door, Kewaunee & Oconto Counties, Wisconsin				
Change:				
Asbestos workers				
Boilermakers	.45	.20	.65	.03
Boilermakers' helpers	.70	1.00		.02
Bricklayers	.70	1.00		.02
Electricians	.38	.14	.41	.25
Electricians (North of Hwy. 100, & Oconto co.)	.38	.14	.41	.25
Electricians (Remaining)	.38	.14	.41	.25
Elevator Constructors	.45	.29	.74	.02
Elevator Constructors' helpers	.45	.29	.74	.02
Elevator Constructors' helpers (Prob.)	.45	.29	.74	.02
Ironworkers	.60	.60	.80	.11
Sheetmetal workers	.40	.20	.70	
Truck Drivers:				
Regular	d	c		
Tandem & Semi	d	c		
FOOTNOTE:				
c. Employer contributes \$17.00 per week				
d. Employer contributes \$52.30 per month				

## NOTICES

## MODIFICATIONS P. 9

Basic Hourly Rate	Fringe Benefits Payments			App Tr
	H & W	Pension	Vacation	
DECISION #AR-3156 - Mod. #1 (39 FR 36831 - October 11, 1974) Brown, Door, Kewaunee & Oconto Counties, Wisconsin				
Change:				
Asbestos workers				
Boilermakers	.45	.20	.65	.03
Boilermakers' helpers	.70	1.00		.02
Bricklayers	.70	1.00		.02
Electricians	.38	.14	.41	.25
Electricians (North of Hwy. 100, & Oconto co.)	.38	.14	.41	.25
Electricians (Remaining)	.38	.14	.41	.25
Elevator Constructors	.45	.29	.74	.02
Elevator Constructors' helpers	.45	.29	.74	.02
Elevator Constructors' helpers (Prob.)	.45	.29	.74	.02
Ironworkers	.60	.60	.80	.11
Sheetmetal workers	.40	.20	.70	
Truck Drivers:				
Regular	d	c		
Tandem & Semi	d	c		
FOOTNOTE:				
c. Employer contributes \$17.00 per week				
d. Employer contributes \$52.30 per month				



STATE: Massachusetts  
 COUNTY: Worcester  
 DATE: Date of Publication  
 SUPERSEDES Decision No. MAY5-2013, dated January 17, 1975 in 40 FR 3141  
 DESCRIPTION OF WORK: Building Construction (including residential), Heavy and Highway Construction.

## SUPERSEDES DECISION

COUNTY: Worcester

DATE: Date of Publication  
 SUPERSEDES Decision No. MAY5-2013, dated January 17, 1975 in 40 FR 3141  
 DESCRIPTION OF WORK: Building Construction (including residential), Heavy and Highway Construction.

11-MSS-1-2-3-b

Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
	M & W	Pensions	Vacation	
\$ 9.82 10.00	.57 .60	.65 10%		.01
9.55 8.95	.55 1.00	.55 .70		.03 .05
9.45 9.00	.60 .70	.60 .60		.05 .02
9.45 9.15 8.66	.60 .60 .60	.50 .50 .40		.07 .07 .07
8.93 9.15 9.55 8.29	.60 .35 .50 .48	.50 .50 .50 15.15		.07 .02 .07 .43
9.70 5.90 10.31 9.49 706R 506R	.45 .45 .51 .45 .45 .45	.35 .35 .35 .24 .29 .29		.02 .02 .02 .02 .02 .02

## BUILDING, HEAVY &amp; HIGHWAY CONSTRUCTION

## ASBESTOS WORKERS

## ROOFERS

## BRICKLAYERS; Cement masons; Plasterers; &amp; Stonemasons:

## Warren

## Hopedale, Milford, &amp; Southboro

## Ashburnham, Athol, E. Templeton,

## Fitchburg, Gardner, Harvard,

## Hubbardston, Lancaster,

## Leominster, Lunenburg, Peterborough,

## Phillipston, Princeton, Royalston,

## &amp; Winchendon

## Remainder of County

## CARPENTERS; Soft floor layers:

## Ashburnham, Athol, E. Gardner,

## E. Templeton, Fitchburg, Gardner,

## Harvard, Leominster, Lunenburg,

## M. Leominster, Peterborough,

## Phillipston, Royalston, S. Ash-

## burnham, S. Royalston, Templeton,

## Westminster, &amp; Winchendon

## Berlin, Bolton, Clinton, North-

## boro, Southboro, &amp; Westboro

## Blackstone, Millville

## Hopedale, Mendon, Milford, Upton,

## &amp; W. Upton

## Hardwick, Warren, &amp; W. Brookfield

## Remainder of County

## ELECTRICIANS; Warren

## Ashburnham, Athol, Bolton,

## Fitchburg, Gardner, Harvard,

## Hubbardston, Lancaster, Leominster,

## Lunenburg, Phillipston, West-

## minster, &amp; Winchendon

## Residential

## Remainder of County

## ELEVATOR CONSTRUCTORS

## ELEVATOR CONSTRUCTORS' HELPFERS

## ELEVATOR CONSTRUCTORS' HELPFERS

## (FROM.)

DECISION NO. MAY5-2013

Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
	M & W	Pensions	Vacation	
\$ 8.68 9.20	.47 .45	.40+.25 .56		.01 .03
8.59 9.29	.50 .55	1.40 1.40		.03 .06
7.00	.50	.45		.05
7.25	.50	.45		.05
7.50 7.75	.50 .50	.45 .45		.05 .05
7.87	.50	.45		.05
8.45	.45	.25		.05
8.72 9.25	1.35 .45	.25 .55		.01 .01
9.25	.35	.25		.01
10.26 9.26 7.60	.30 .30 .30	.15 .15 .15		.3/80th 3/80th 3/80th

## GLAZIERS

## East Douglas

## Remainder of County

## IRONWORKERS:

## Blackstone

## Remainder of County

## LABORERS (BUILDING):

## Laborers; Carpenter tenders;

## Cement finisher tenders;

## Wrecking laborers

## Jackhammer op.; Pavement

## breakers; Wagon drillers; Asphalt

## rakers; Carbide core drilling

## machine; Chain saw op.; Pipe-

## layer; Barco type jumping pump;

## ers; Laser beam; Concrete pump;

## Mason tenders; Mortar mixers;

## Ride-on motorized buggy

## Air track; Block pavers; Rammers;

## Blaster's Powdermen

## Open air caisson; Cylindrical work

## &amp; boring crew:

## Laborer; Topman

## Helper

## Bottom men

## Driller

## LABORERS:

## Sturbridge, &amp; Warren

## Clinton, Lancaster, Leominster,

## Southboro, &amp; Uxbridge

## Harvard and Lunenburg

## LEADWORKERS

## LINE CONSTRUCTION:

## Linemen

## Equipment operator

## Driver groundman

DECISION NO. MAY5-2017

Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
	M & W	Pensions	Vacation	
\$ 9.05	.70	.80		
9.00 9.55 7.94 9.38	.70 .55 .60 .60	.60 .55 .25 .50		.02 .03 .07
8.32 11.093 8.507 8.87	.50 .6667 .50 .50	.35 .4447 .35 .35		.03 .04 .03 .03
7.85 7.30 8.10 7.55 8.80 8.25	.35 .35 .35 .35 .35 .35	.35 .35 .35 .35 .35 .35		.06 .06 .06 .06 .06 .06
8.98 11.00 8.91 9.50 9.57 10.18 10.36	.75 .75 .75 .50 .55 .45 .45	.50 .50 .50 .50 .55 .40 .85		.02 .02 .02 .02 .05 .05 .05

## MARBLE SETTERS:

## Ashburnham, Fitchburg, Harvard,

## Lancaster, Leominster, Lunenburg,

## Princeton, Sterling, Westminster

## Auburn, Barre, Berlin, Blackstone

## Bolton, Boylston, Brookfield,

## Charlton, Clinton, Douglas,

## Grafton, Hardwick, Holden,

## Leicester, Mendon, Millbury,

## Millville, New Braintree,

## Northboro, Northbridge, Oakham,

## Oxford, Paxton, Rutland, Shrewsbury,

## Sturbridge, Sutton, Upton,

## Uxbridge, Webster, W. Boylston,

## Westboro, &amp; Worcester

## Warren

## MARBLE SETTERS' HELPFERS

## MILLRIGHTS

## MILLRIGHTS:

## Warren:

## Brush

## Spray stage under 40 &amp; steel

## Spray stage over 40 &amp; steel

## Holedale, Mendon, Milford, South-

## boro, Upton &amp; Westboro

## Brush (New Construction)

## Brush (Repaint)

## Steel (New Construction)

## Steel (Repaint)

## Spray (New Construction)

## Spray (Repaint)

## Remainder of County:

## Brush

## Steel

## Sandblasting; Spray

## Remainder of County

## FIREFIGHTERS

## FIREFIGHTERS: Hopedale, &amp; Southboro

## Remainder of County

## Fondville

DECISION NO. MAY5-2017

Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
	M & W	Pensions	Vacation	
\$ 7.25 9.77	.50 .53	.45 .55		.10 .05
9.20 9.93 9.23 9.95	.30 .65 .17 .55	.40 .45 .50		.05 .05 .05 .05
9.20 9.93	.30 .65	.40 .45		.05 .05

## PLASTERERS' TENDERS:

## Auburn, Barre, Berlin, Blackstone,

## Bolton, Boylston, Brookfield,

## Charlton, Clinton, Douglas,

## Dudley, E. Brookfield, Grafton,

## Hardwick, Holden, Hopedale,

## Leicester, Mendon, Milford,

## Millbury, New Braintree,

## Northboro, Northbridge, N.

## Brookfield, Oakham, Oxford,

## Paxton, Rutland, Shrewsbury,

## Southboro, Southbridge, Spencer,

## Sterling, Sturbridge, Sutton,

## Upton, Uxbridge, Warren, Webster,

## Westboro, W. Boylston, W.

## Brookfield, Whitinsville, and

## Worcester Counties

## PLUMBERS:

## Hopedale and Southboro Counties

## Ashburnham, Athol, Bolton,

## Fitchburg, Gardner, Harvard,

## Hubbardston, Lancaster,

## Leominster, Lunenburg, Peterborough,

## Phillipston, Royalston, Templeton,

## Westminster, &amp; Winchendon Cos.

## Remainder of Counties

## ROOFERS

## SHEET METAL WORKERS

## SPRINKLER FITTERS:

## Ashburnham, Athol, Bolton,

## Fitchburg, Gardner, Harvard,

## Hubbardston, Lancaster, Peterborough,

## Leominster, Lunenburg, Peterborough,

## Phillipston, Royalston, Templeton,

## Westminster, &amp; Winchendon Cos.

## Remainder of Counties



MA75-2077 BUILDING AND  
TRUCK DRIVERS' BUILDING AND  
PAVING AND HIGHWAY CONSTRUCTION

MASS - 1 - TD - 1-2-3 D  
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## DECISION NO. MA75-2077

TERRAZZO WORKERS and TILE SETTERS:  
Ashburnham, Fitchburg, Harvard,  
Lancaster, Leominster, Lunenburg,  
Princeton, Sterling and  
Westminster Counties  
Auburn, Barre, Berlin, Blackstone,  
Bolton, Boylston, Brookfield,  
Charlton, Clinton, Douglas,  
Dudley, Grafton, Hardwick,  
Holden, Leicester, Mendon,  
Millbury, Millville, New  
Braintree, Northboro,  
Northbridge, Oakham, Oxford,  
Paxton, Rutland, Shrewsbury,  
Southbridge, Spencer, Sturbridge,  
Sutton, Upton, Uxbridge, Webster,  
W. Boylston, Westboro and  
Worcester Counties

Hubbardston, Gardner, Phillipston,  
Petersham, Athol, Royalston,  
Winchendon (only Tile Setters)

TERRAZZO WORKERS' HELPERS

TILE SETTERS' HELPERS

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;

E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. \$3.30 per man per week

b. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. 6 Paid Holidays: A through F.

d. 9 Paid Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked at least 45 full days during the 120 calendar days immediately prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

e. 7 Paid Holidays: A through F and Bunker Hill Day, provided the employee has worked 10 days prior to the listed holidays.

Station wagons, panel trucks and pick-up trucks  
Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift operators, three axle equipment and tiremen  
Four and five axle equipment  
Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, vachaul, mechanics, paving restoration equipment, Specialized earth moving equipment over 35 tons  
Trailers for earth moving equipment, (double hookup)

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;

E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day, and Veterans' Day, provided an employee works two days of the calendar week in which the holiday falls.

Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
	H & W	Pensions	Vacation	
\$9.05	.70	.80		
9.00	.70	.60		.02
9.55	.55	.55		.03
9.65	.80	.60		.04
8.65	.60	.25		.05
7.94	.40	.25		.0

Basic Hourly Rates	Fringe Benefits Payments			App. Tr.	Other
	H & W	Pensions	Vacation		
\$6.80	.485	.575	a+b		
6.95	.485	.575	a+b		
7.00	.485	.575	a+b		
7.10	.485	.575	a+b		
7.20	.485	.575	a+b		
7.45	.485	.575	a+b		
7.70	.485	.575	a+b		

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## MA75-2077

## HEAVY &amp; HIGHWAY CONSTRUCTION

LABORERS:

Class I

Class II

Class III

Class IV

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Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
	H & W	Pensions	Vacation	
\$2.00	.50	.45		.10
7.25	.50	.45		.10
7.50	.50	.45		.10
7.75	.50	.45		.10

## CLASSIFICATIONS:

CLASS I  
Carpenter tenders, cement finisher tenders, laborers, wrecking laborersCLASS II  
Asphalt makers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill opCLASS III  
Air track op., block pavers, ramers, curb settersCLASS IV  
Blasters, powdermen

## BUILDING CONSTRUCTION MA75-2077

## POWER EQUIPMENT OPERATORS:

Sturbridge, Brookfield, W. Brookfield, W. Brookfield, Oakham,  
Barre, Templeton, Winchendon, Royalston, Phillipston, Athol,  
Petersham, Hardwick, New Braintree, W. Brookfield, W. Harten

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Basic Hourly Rates	Fringe Benefits Payments			App. Tr.	Other
	H & W	Pensions	Vacation		
\$8.80	.45	.70	a		.05
8.60	.45	.70	a		.05
8.40	.45	.70	a		.05
8.10	.45	.70	a		.05

Shovels, Cranes, Hydraulic Cranes  
10 ton capacity or over, Draglines,  
Derricks, Elevators with Chicago Boom,  
Backhoes, Gradalls, Elevating Graders,  
Pile Driving Rig, Concrete Road Pavers,  
three drum Hoisting and Trenching  
Machines, Belt-type Loaders, Front End  
Loaders-3 1/2 yards or over, Dual Drum  
Paver, Automatic Grader (1. s. C.H.I.)  
Combination Back Hoe-Loader-3/4 yard  
hoe or over.

Rotary Drill (with mounted compressor), Compressor House (3 to 6 compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Graders, Front End Loaders-4 yards to 5 1/2 yards, two drum hoists, High Fork Lifts with capacity of 15 feet and over, Scrapers-21 yards and over (struck load), Sonic Hammer Console.

Combination Backhoe-Loader-up to 3/4 yard hoe, bulldozers, Push Cats, Scrapers-up to 21 yards (struck load)-self propelled or tractor drawn, Tireman, Front End Loaders-up to 4 yards, Asphalt Paver, Asphalt Roller-10 ton or over, Well Drillers, Mechanics, Welders, Concrete Machines, Concrete Pumps, and similar type pumps, Engineer or Fireman on High Pressure Boiler (on job), Self-Loading Batch Plant, Well Point, Electric Pumps used in Well Point System, Pumps-12 inches and over (total discharge), Compressor (one or two) 400 cu. ft. and over, Ported Grout Truck, Automatic Grout Pumps, Boom Truck, Hydraulic Grabs-under 10 ton.

Asphalt Roller-under 10 ton.

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MASS-2-PEO-1-I				MASS-2-PEO-2-J-K			
Basic Hourly Rates	Fringe Benefits		App. Tr.	Basic Hourly Rates	Fringe Benefits		App. Tr.
	M & V	Pension			M & V	Pension	
Single Drum Hoist, Self-Propelled Roller, Self-Propelled Compactors, Power Pavement Breakers, Concrete Pavement Finishing Machines, Two Bag Mixers with Skip, McCarthy and similar drills, Batch Plants (not self-loading), Bulk Cement Plants, Self-Propelled Material Spreaders, A Frame Trucks, Fork Lifts-up to 15 feet.	.45	.70	.05				
Compressors (one or two) 315 cu. ft. to 900 cu. ft., Pumps-4 inches to 12 inches (total discharge), Tractor (without blade or bucket) Drawing Rollers, Rubber Tire Roller, Compactors or other machines used for pulverizing, Grading or Seeding.	.45	.70	.05				
Compressors (up to 315 cu. ft.), Small Mixers, Pumps (up to 4 inches), Power Heaters, Welding Machines, Conveyors, Oilers, Helpers on Grease Trucks and Grease Trucks with hand greasing equipment.	.45	.70	.05				
PAID HOLIDAYS: A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day.							
Footnote: a. Holidays: A through F, Veterans' Day and Columbus Day.							

NOTICES

FEDERAL REGISTER, VOL. 40, NO. 96—FRIDAY, MAY 16, 1975

MASS-2-PEO-2-J-K				MASS-1-PEO-1-E			
Basic Hourly Rates	Fringe Benefits		App. Tr.	Basic Hourly Rates	Fringe Benefits		App. Tr.
	M & V	Pension			M & V	Pension	
Hoists, Conveyors, Self-powered Rollers and Compactors, Power Pavement Breaker and Self-Propelled Material Spreader, Self-powered Concrete Finishing Machine, Two Bag Mixer with skip, McCarthy and similar Drills, Batch Plant (not self-loading), Bulk Cement plant.	.45	.70	.05				
Compressor (315 cu. ft. to 900 cu. ft., 1 or 2), Pumps 4" to 16" total discharge, Tractor without blade Drawing sheeps-foot roller, Rubber tired roller or other type of compactors including machines for pulverizing and aerating soil.	.45	.70	.05				
Compressor (up to 315 cu. ft.), Small Mixers with skip, Oilier, Pumps up to 4", Grease Truck, Helper on powered Grease Truck, Power Heaters, Welding Machines	.45	.70	.05				
A-Frame Trucks, Forklifts-up to 7 ft. lift and up to 3 ton capacity, Hydro Broom, Parts Man (in repair shop), Power Safety Boat.	.45	.70	.05				
Footnote: a. Paid Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans' Day; Thanksgiving and Christmas Day.							

CLASSIFICATIONS

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, chocki dozers, front end loaders, fork lifts, augers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks

CLASS II Boom over 150' including jib - additional \$1.35 per hour; Boom over 185' including jib - additional \$1.70 per hour; Boom over 210' including jib - additional \$1.00 per hour; Boom over 250' including jib - additional \$1.50 per hour

CLASS III Boom over 250' including jib - additional \$2.00 per hour; Semic or vibratory hammers, graders, scrapers, tandem scrapers, concrete pumps, bulldozers, tractors, fork rakes, mulching machines, portable steam boilers, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paving screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)

CLASS III Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphons-pulmonometers, concrete mixers, valve controlling permanent plant air or steam, conveyors, Jackson type tampers, single diaphragm pump, lighting plants

CLASS IV Assistant engineers (Firemen)

CLASS V Oilers and apprentices (Other than truck cranes and gradalls)

CLASS VI Oilers and apprentices on truck cranes and gradalls

PAID HOLIDAYS: A- New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE: a. Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day, and Patriots Day.

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## SUPRESEDEAS DECISION

STATE: Tennessee  
 COUNTY: Madison  
 DECISION NO.: TN75-1051  
 DATE: Date of Publication  
 Supersedeas Decision No.: AQ-1094, dated March 22, 1974, in 39 FR 10397.  
 DESCRIPTION OF WORK: Building construction (excluding single family homes and garden type apartments up to and including 4 stories).

57-Tennessee-1-H

Basic Hourly Rates	Principle Benefits Payments		
	H & V	Penalties	Apr. Tr.
Asbestos workers	9.10	.35	.05
Bricklayers	6.75	.30	
Carpenters	6.85		
Cement masons	6.00		
Electricians	7.85	.25	
Glaziers	6.80	.35	
Ironworkers, structural, ornamental & reinforcing	7.75	.35	.125
Laborers	3.05	.10	
Air tool operator (Jackhammer, vibrator)	3.25	.10	
Mason tenders	3.15	.10	
Mortar mixers	3.25	.10	
Plasterers tenders	3.15	.10	
Lathers	8.30	.25	.01
Line Construction:			
Linenmen	7.85	.25	
Cable splicers	8.10	.25	
Millwrights	7.05		
Painters, brush	5.60		
Piledrivers	6.85		
Plumbers	6.00		
Roofers	7.30		
Sheet metal workers	6.75		
Sprinkler fitters	7.15	.40	.02
Tile setters	8.20	.30	
Truck driver	5.65	.30	
Power Equipment Operators:	3.05	.10	
Buildings:			
Buildings	3.00		
Portlift	3.60		
Front end loader	3.75		
Grader	3.75		
Motor patrol	3.75		
Paving machine	4.35		
Pump operator	3.00		
Roller	3.25		
Tractor	3.00		
Trenching machine	3.40		
	4.00		

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## SUPRESEDEAS DECISION

STATE: Texas  
 COUNTY: Statewide (excluding Dallas-Fort Worth Regional Airport)  
 DECISION NO.: TX75-4086  
 DATE: Date of Publication  
 Supersedeas Decision No. TX75-4001, dated January 10, 1975, in 40 FR 2402.  
 DESCRIPTION OF WORK: See "Area Covered by Various Zones"

	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
Air-Tool Man	\$ -	\$ -	\$ -	\$ -	\$ -
Asphalt Meterman	3.50	3.45	3.00	3.00	2.75
Asphalt Meter	3.90	3.25	3.25	3.00	3.00
Asphalt Shovel	2.75	2.50	2.20	2.20	-
Batching Plant Scaleman	4.30	4.00	3.25	3.45	-
Batchboard Setter	4.60	3.65	3.50	3.50	2.80
Carpenter	4.00	3.25	2.75	2.80	2.65
Carpenter Helper (Paving)	4.05	4.00	3.00	3.00	3.35
Concrete Finisher (Paving)	3.45	-	3.00	2.50	2.85
Concrete Finisher (Structures)	4.30	3.50	3.75	3.15	3.50
Concrete Finisher Helper (Structures)	3.25	3.00	2.50	2.35	3.00
Concrete Rubber	-	6.25	-	2.75	2.75
Electrician	-	3.80	-	4.45	3.35
Electrician Helper	-	-	-	-	-
Fireman	4.55	-	3.85	3.05	3.50
Form Builder (Structures)	3.35	-	2.50	2.55	3.00
Form Builder Helper (Structures)	-	-	-	3.00	3.75
Form Liner (Paving and Curb)	-	-	-	3.00	-
Form Setter (Paving and Curb)	-	4.50	3.75	3.50	3.50
Form Setter Helper (Paving and Curb)	4.80	3.50	4.00	3.30	3.50
Form Setter (Structures)	3.80	2.75	3.00	2.65	2.75
Form Setter Helper (Structures)	2.70	2.60	2.50	2.20	2.25
Laborer, Common	3.00	3.00	2.75	2.50	2.50
Laborer, Utility Man	-	-	-	-	-
Mechanic	4.50	4.05	3.70	3.75	4.05
Mechanic Helper	3.60	3.00	3.10	2.75	3.00
Mechanic	3.60	3.00	3.00	3.00	3.00
Other	3.75	3.40	3.50	3.35	4.15
Service	-	-	-	-	-
Painter (Structures)	-	-	-	-	-
Painter Helper (Structures)	-	-	-	-	-
Piledriver	-	3.00	3.50	2.75	3.00
Pilelayer	-	-	2.50	2.50	2.50
Pilelayer Helper	4.20	4.00	3.50	3.00	3.25
Powerman	-	-	2.75	3.00	3.00
Powerman Helper	-	-	-	-	-
Reinforcing Steel Setter (Paving)	4.50	3.85	4.00	3.10	3.70
Reinforcing Steel Setter (Structures)	-	-	2.50	2.55	3.50
Reinforcing Steel Helper	-	-	-	-	-
Steel Worker (Structural)	-	-	-	-	-
Steel Worker Helper (Structural)	-	-	-	-	-

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## NOTICES

	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5		ZONE 6	ZONE 7	ZONE 8	ZONE 9	ZONE 10
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates		Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Power Equipment Operators (Cont'd):											
Traction (Crawler Type) 150 HP and Less	\$3.50	\$3.00	\$2.75	\$ -	\$2.50	Form Builder (Structures)	\$3.75	\$3.70	\$4.00	\$4.00	\$3.85
Traction (Crawler Type) over 150 HP	3.65	3.50	3.25	3.00	2.75	Form Liner (Paving and Curb)	2.90	3.00	2.50	3.25	4.25
Traction (Pneumatic) 80 HP and Less	2.75	3.00	2.50	2.75	2.75	Form Setter (Paving and Curb)	3.00	3.00	4.00	4.25	
Traction (Pneumatic) over 80 HP	3.35	3.50	3.25	2.75	3.25	Form Setter Helper (Paving and Curb)	2.75	2.50	2.50	3.50	
Traveling Mixer	3.75	-	-	3.25	2.60	Form Setter (Structures)	3.50	3.45	3.75	4.00	
Trenching Machine, Light	-	3.00	-	2.50	3.30	Form Setter Helper (Structures)	3.00	2.75	2.90	3.50	
Trenching Machine, Heavy	-	-	-	-	-	Laborer, Common	2.25	2.25	2.40	2.65	
Wagon Driller, Boring Machine or Post Hole Drill Operator	3.50	3.50	3.50	3.00	3.50	Laborer, Utility Man	2.45	2.45	2.70	3.00	
Truck Drivers:						Machinist	-	3.00	4.20	4.00	
Single Axle, Light	3.00	2.80	2.80	2.65	2.50	Machinist Helper	4.10	4.25	3.00	3.65	
Single Axle, Heavy	3.00	3.00	3.00	2.75	2.50	Oilier	3.25	3.50	3.00	3.20	
Tandem Axle or Semi-trailer	3.00	3.00	2.85	2.60	2.75	Service man	2.85	3.00	3.25	3.50	
Lumber-Float	-	-	-	2.65	-	Painter (Structures)	2.50	3.25	3.50	-	
Transit-Mix	-	-	2.60	2.75	-	Painter Helper (Structures)	-	-	4.50	-	
Winch	2.75	2.75	-	2.75	3.50	Piledriverman	3.90	2.75	-	3.65	
Weighman (Truck Scales)	4.00	4.00	3.90	3.30	4.00	Pipelayer	2.75	2.65	-	3.50	
Welder	-	-	-	-	-	Pipelayer Helper	2.60	-	-	4.00	
Welder Helper	-	-	-	-	3.50	Powderman	-	-	-	-	
						Powderman Helper	-	-	-	3.00	
						Reinforcing Steel Setter (Paving)	-	-	3.75	4.25	
						Reinforcing Steel Setter (Structures)	3.25	3.50	4.00	3.00	
						Reinforcing Steel Setter Helper	2.50	3.00	3.25	-	
						Steel Worker (Structural)	-	-	-	-	
						Steel Worker Helper (Structural)	-	-	3.25	3.50	
						Sign Erector	-	-	3.25	3.50	
						Sign Erector Helper	-	-	3.00	3.80	
Air Tool Man	\$ -	\$2.75	\$3.30	\$ -	\$ -	Sprayer Box Man	3.00	3.00	3.25	2.85	
Asphalt Beaterman	3.25	2.75	2.85	4.00	3.75	Sweeper	3.25	-	-	-	
Asphalt Baker	2.85	2.85	3.40	3.25	2.75	Power Equipment Operators:	-	-	-	-	
Asphalt Shovel	-	2.50	-	3.75	4.00	Asphalt Distributor	3.25	3.25	3.20	4.00	
Batching Plant Scaleman	3.40	-	3.50	3.25	-	Asphalt Paving Machine	3.50	3.60	3.75	4.00	
Batterboard Setter	-	3.00	-	4.00	4.00	Broom or Sweeper Operator	-	-	3.20	-	
Carpenter	3.40	3.50	3.50	4.00	4.00	Buildozer, 150 HP and Less	3.00	3.20	3.60	3.75	
Carpenter Helper	2.25	2.65	3.75	4.25	4.25	Buildozer, over 150 HP	3.45	3.50	4.00	3.95	
Concrete Finisher (Paving)	3.00	-	-	3.00	3.15	Concrete Paving Curing Machine	-	-	-	3.75	
Concrete Finisher Helper (Paving)	2.25	-	-	3.00	4.00	Concrete Paving Finishing Machine	-	-	-	-	
Concrete Finisher (Structures)	3.15	3.50	3.85	4.00	4.00	Concrete Paving Form Grader	-	-	-	-	
Concrete Finisher Helper (Structures)	2.25	3.00	2.75	2.50	3.25	Concrete Paving Longitudinal Float	-	-	-	-	
Concrete Rubber	2.25	-	6.00	6.00	6.35	Concrete Paving Saw	-	-	-	3.50	
Electrician	-	-	-	-	-	Concrete Paving Spreader	-	-	-	-	
Electrician Helper	-	-	-	-	-						

## NOTICES

	ZONE 6	ZONE 7	ZONE 8	ZONE 9	ZONE 10
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Power Equipment Operators (Cont'd.): Crane, Climaball, Backhoe, Darrick, Drag Line, Shovel (Less than 1½ CY) Crane, Climaball, Backhoe, Darrick, Drag Line, Shovel (1½ CY and Over)	\$3.00 4.00	\$3.50 4.00	\$3.75 4.25	\$4.00 4.25	\$4.00 4.50
Grouser or Scraping Plant Operator	-	-	-	-	-
Elevating Grader	-	-	-	-	-
Pump Loader	-	-	-	-	-
Foundation Drill Operator (Crawler Mounted)	-	-	-	-	-
Foundation Drill Operator (Truck Mounted)	-	-	4.25	3.70	4.50
Foundation Drill Operator Helper	-	-	3.60	3.75	3.75
Front End Loader (¾ CY and Less)	3.00	3.00	3.00	3.75	3.25
Front End Loader (Over ¾ CY)	3.50	3.50	3.70	4.00	4.20
Mixer (Over 1½ CY)	4.00	4.00	4.00	4.50	4.25
Motor Grader Operator, Fine Grade	3.50	3.50	3.50	4.25	4.00
Motor Grader Operator	-	-	-	-	-
Pumpcrete	-	-	-	-	-
Roller, Steel Wheel (Plant-Mix Pavements)	2.65	2.75	3.00	3.00	3.80
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.55	2.60	2.50	2.95	3.50
Roller, Pneumatic (Self-Propelled)	2.45	2.45	2.50	2.90	3.00
Scraper (17 CY and Less)	3.00	3.10	3.00	3.25	3.50
Scraper (Over 17 CY)	3.25	3.25	3.50	3.75	3.95
Self-Propelled Hammer	-	-	-	-	-
Tactor (Crawler Type) 150 HP and Less	-	2.50	2.75	3.00	3.50
Tactor (Crawler Type) over 150 HP	2.80	3.25	3.25	3.85	3.95
Tactor (Pneumatic) 80 HP and Less	2.35	2.50	-	2.75	-
Tactor (Pneumatic) over 80 HP	2.85	3.10	-	3.75	-
Traveling Mixer	3.00	2.75	-	-	-
Trenching Machine, Light	3.50	-	2.95	3.75	-
Trenching Machine, Heavy	-	-	-	-	-
Wagon Drill, Boring Machine or Post Hole Driller Operator	-	-	3.00	2.80	3.50
Truck Drivers:	-	-	-	-	-
Single Axle, Light	2.25	2.25	2.50	2.75	3.00
Single Axle, Heavy	2.25	2.70	2.50	2.50	3.00
Tridem Axle or Semitrailer	2.50	2.50	3.00	2.50	3.50
Lowboy-Float	-	3.50	-	-	-
Transit-Mix	-	-	-	-	-







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## AREA COVERED BY VARIOUS ZONES

ZONE 16	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Power Equipment Operators (Cont'd.): Tractor (Crawler Type) 150 HP and Less	93.75			
Tractor (Crawler Type) over 150 HP	4.50			
Tractor (Pneumatic) 80 HP and Less	3.15			
Tractor (Pneumatic) over 80 HP	3.75			
Traveling Mixer	2.90			
Trenching Machine, Light	-			
Trenching Machine, Heavy	-			
Wagon Drill, Boring Machine or Post Hole Driller Operator	-			
Truck Drivers:				
Single Axle, Light	2.90			
Single Axle, Heavy	3.25			
Tandem Axle or Semitrailer	2.90			
Loubov-Post	4.60			
Transit-Mix	-			
Winch	-			
Weightman (Truck Scales)	5.45			
Welder	-			
Welder Helper	-			

ZONE 1 - Archer, Armstrong, Baylor, Briscoe, Carson, Castro, Childress, Clay, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hartman, Hartley, Haskell, Hutchinson, Lipscomb, Montague, Moore, Ochiltree, Oldham, Pecos, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita & Wilbarger Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

ZONE 2 - Bailey, Borden, Cochran, Cottle, Crosby, Dawson, Dickens, Fisher, Floyd, Foard, Gaines, Garza, Hale, Haskell, Haskell, Jones, Kent, King, Knox, Lamb, Lubbock, Lynn, Motley, Scurry, Shackelford, Stephens, Stonewall, Tarrant, Throckmorton, Tarrant & Young Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

ZONE 3 - Andrews, Brown, Callahan, Coke, Coleman, Comanche, Concho, Crane, Crockett, Eastland, Fannin, Fitch, Garza, Garza, Howard, Irion, Kibbie, Loving, Martin, McCulloch, Menard, Midland, Mills, Mitchell, Nolan, Reagan, Roberts, San Saba, Schleicher, Sterling, Sutton, Taylor, Tom Green, Upton, Ward & Winkler Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

ZONE 4 - Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Pecos, Presidio, Reeves & Terrell Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

\*Not to be used for Utilities Incidental to General Building Construction in El Paso County

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ZONE 5 - Atascosa, Bandera, Bexar, Comal, Dimmit, Edwards, Frio, Guadalupe, Kendall, Kerr, Kinney, LaSalle, Maverick, McMullen, Medina, Real, Uvalde, Val Verde, Wilson & Zavala Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

ZONE 6 - Brooks, Cameron, Duval, Hidalgo, Jim Hogg, Kinney, Starr, Webb, Wilbarger & Zapata Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction, Incidental Shore Work and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

ZONE 7 - Aransas, Bee, Calhoun, DeWitt, Goliad, Jackson, Jim Wells, Karnes, Kleberg, Lavaca, Live Oak, Nueces, Refugio, San Antonio & Victoria Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction, Incidental Shore Work and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

ZONE 8 - Austin, Bastrop, Blanco, Burnet, Caldwell, Colorado, Fayette, Gillespie, Gonzales, Hays, Lee, Llano, Mason, Travis & Williamson Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

ZONE 9 - Bell, Bexar, Comal, Coryell, Falls, Freestone, Hamilton, Hill, Lampasas, Limestone, McLennan & Navarro Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

\*Not to be used for Paving & Utilities Incidental to General Building Construction in Bell & Coryell Counties

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ZONE 10 - Cooke, Denton, Hood, Jack, Johnson, Palo Pinto, Parker, Somervell, Tarrant & Wise Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels, dams & work performed on the site of water or sewage treatment facilities) and Highway Construction and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

\*Not to be used for Utilities Incidental to General Building Construction in Tarrant County

ZONE 11 - Collin, Dallas, Ellis, Grayson & McAllen Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels, dams & work performed on the site of water or sewage treatment facilities) and Highway Construction and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

ZONE 12 - Bowie, Camp, Cass, Delta, Fannin, Franklin, Gregg, Harrison, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Pecos, Red River, Rock, Smith, Titus, Upshur, Van Zandt & Wood Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

ZONE 13 - Anderson, Angelina, Cherokee, Henderson, Houston, Jasper, Macgregor, Newton, Pecos, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity & Tyler Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

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ZONE 14 - Brazos, Burtleson, Grimes, Leon, Madison, Milam, Robertson, Walker & Washington Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams and Highway Construction and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

ZONE 15 - Brazoria, Fort Bend, Galveston\*, Harris, Matagorda, Montgomery, Waller & Wharton Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction, Incidental Shore Work and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes & garden type apartments up to and including 4 stories).

\*Not to be used for Paving & Utilities Incidental to General Building Construction on Galveston Island and work performed on the site of water or sewage treatment facilities in Galveston County

ZONE 16 - Chambers, Hardin, Jefferson\*, Liberty & Orange\* Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction, Incidental Shore Work and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes & garden type apartments up to and including 4 stories).

\*Not to be used for Heavy Construction, Incidental Shore Work and Paving & Utilities Incidental to General Building Construction in Jefferson & Orange Counties

SUPERSEDES DECISION

STATE: Texas COUNTY: Wichita  
DECISION NO.: TX75-4087 DATE: Date of Publication  
Supersedes Decision No. TX75-4013, dated January 17, 1975, in 40 FR 3177.  
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
	H & B	Pensions	Vacation	
BRICKLAYERS \$7.00				
CARPENTERS 5.65				
CEMENT MASONS 4.50				
ELECTRICIANS 5.55				
LABORERS: 3.00				
Mason Tenders 3.55				
PAINTERS, BRUSH 4.52				
PLUMBERS & PIPEFITTERS 5.55				
ROOFERS 4.00				
SHORT METAL WORKERS 5.30				
SOFT FLOOR LAYERS 5.00				

DECISION NO. TX75-4087

INCIDENTAL PAVING & UTILITIES & SITE PREPARATION

Basic Hourly Rates	H & B	Pensions	Vacation	App. Tr.
Asphalt Hauler 3.50				
Asphalt Paver 3.90				
Batching Plant Scaleman 4.30				
Carpenter Helper 4.60				
Concrete Finisher (Paving) 4.00				
Concrete Finisher Helper (Paving) 3.45				
Concrete Finisher (Structures) 4.30				
Concrete Finisher Helper (Structures) 3.25				
Form Builder (Structures) 4.55				
Form Builder Helper (Structures) 3.35				
Form Setter (Structures) 4.80				
Form Setter Helper (Structures) 3.80				
Laborer, Common 2.70				
Laborer, Utility Man 3.00				
Mechanic 4.50				
Mechanic Helper 3.60				
Oilier 3.75				
Service Man 4.20				
Powderman 4.20				
Reinforcing Steel Setter (Structures) 4.50				
Sign Erector 3.50				
Sign Erector Helper 3.25				
Spreader Box Man 3.75				
Power Equipment Operators: 4.05				
Asphalt Distributor 4.45				
Asphalt Paving Machine 4.45				
Bulldozer, 150 HP and Less 3.75				
Bulldozer, over 150 HP 4.20				
Crane, Climahall, Backhoe, Derrick, Dragline, Shovel (Less than 1 1/2 CY) 4.30				
Crane, Climahall, Backhoe, Derrick, Dragline, Shovel (1 1/2 CY & Over) 4.80				
Crawler or Screening Plant Operator 4.15				
Foundation Drill Operator (Crawler Mounted) 3.90				
Foundation Drill Operator (Truck Mounted) 4.75				
Foundation Drill Operator Helper 3.25				
Front End Loader (2 1/4 CY and Less) 3.80				
Front End Loader (Over 2 1/4 CY) 4.30				



DECISION NO. TX75-4087

INCIDENTAL PAVING & UTILITIES  
& SITE PREPARATION

Basic Hourly Rates	Fringe Benefits Payments			
	H & B	Pension	Vacation	App. Tr.
Power Equipment Operator (Cont'd):				
Motor Grader Operator, Fine Grade	\$4.80			
Motor Grader Operator	4.45			
Roller, Steel Wheel (Plant-Mix Pavements)	3.60			
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.55			
Roller, Pneumatic (Self-Propelled)	3.10			
Scrapers (17 CT and Less)	4.15			
Scrapers (Over 17 CT)	4.20			
Tractor (Crawler Type) 150 HP and Less	3.50			
Tractor (Crawler Type) over 150 HP	3.65			
Tractor (Pneumatic) 80 HP & Less	2.75			
Tractor (Pneumatic) over 80 HP	3.35			
Traveling Mixer	3.75			
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.50			
Truck Drivers:				
Single Axle, Light	3.00			
Single Axle, Heavy	3.00			
Tandem Axle or Semitrailer	3.00			
Wingman (Truck Scale)	2.75			
Welder	4.80			

FEDERAL REGISTER, VOL. 40, NO. 96—FRIDAY, MAY 16, 1975

## SUPERSEDES DECISION

STATE: Texas  
DECISION NO.: TX75-4088

COUNTY: Tom Green

DATE: Date of Publication  
Supersedes Decision No. TX75-4088, dated February 7, 1975, in 40 FR 5971.  
DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Fringe Benefits Payments			
	Basic Hourly Rates	H & B	Pension	Vacation App. Tr.
BRICKLAYERS	\$7.00			
CARPENTERS	6.45			.02
CEMENT MASONS	4.75			
ELECTRICIANS:				
Zone 1 - Shall consist of the following cities of towns: Christoval & San Angelo	6.75		12	1/8%
Zone 2 - Shall consist of all areas outside the five (5) road miles of the city limits of the above named cities and towns	7.10		12	1/8%
IRONWORKERS:				
On jobs 30 miles or more from the city of San Angelo	7.03	.55	.60	.10
LABORERS	7.15	.55	.60	.10
LATHERS	2.50			.01
PAINTERS, BRUSH	7.65			.01
PLASTERERS	7.25			
PLUMBERS & PIPEFITTERS	5.50			
ROOFERS	4.00			
SHEET METAL WORKERS	5.00			
SOFT FLOOR LAYERS	5.00			
TILE SETTERS	5.00			
TRUCK DRIVERS	2.75			

FEDERAL REGISTER, VOL. 40, NO. 96—FRIDAY, MAY 16, 1975

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SUPERSEDEAS DECISION

STATE: Texas  
COUNTY: Bexar  
DECISION NO.: TX75-4089  
DATE: Date of Publication  
Supersedeas Decision No. TX75-4005, dated January 17, 1975, in 40 PR 3161.  
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & U	Pension	Vacation	
AIR CONDITIONING INSTALLERS	\$3.50				
BRICKLAYERS	7.27	.30	.30		.05
CARPENTERS	4.10				
CEMENT MASONS	7.02	.25			
DUCT INSTALLERS	3.45				
ELECTRICIANS:					
Single or multiple family dwell-					
ings or apartments up to and					
including 8 units not exceeding					
2 stories	5.55	.30	1%		1 1/2%
Over 8 units or over 2 stories	8.33	.25%	1%		1 1/2%
FORM SETTERS	3.29				
GLAZIERS	3.50				
INSULATION INSTALLERS	4.50				
IRONWORKERS	4.66				
LABORERS, UNSKILLED	2.34				
PAINTERS	3.675				
PAVE & FLOAT	4.00				
PLASTERERS	7.40				
PLUMBERS & PIPEFITTERS	7.13				
ROOFERS	3.10				
ROOFERS, SHINGLES	2.50				
SHEETROCK INSTALLER	4.00				
SOFT FLOOR LAYERS	3.71				
TILE SETTERS	2.16				
TRUCK DRIVERS	2.25				
T.V. ANTENNA INSTALLERS	3.50				
POWER EQUIPMENT OPERATORS:					
Fork lifts	2.75				
Foundation drill operator					
(Crawler mounted)	5.85				
Front end loader	2.58				
Tractor	3.75				

DECISION NO. TX75-4089

INCIDENTAL PAVING & UTILITIES & SITE PREPARATION

	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & U	Pension	Vacation	
Air Tool Man	\$2.75				
Asphalt Baker	3.00				
Backboard Setter	2.80				
Carpenter	3.60				
Carpenter Helper	2.65				
Concrete Finisher (Paving)	3.35				
Concrete Finisher Helper (Paving)	2.85				
Concrete Finisher (Structures)	3.50				
Concrete Finisher Helper (Structures)	3.00				
Concrete Rubber	2.75				
Electrician	6.25				
Electrician Helper	3.35				
Form Builder (Structures)	3.50				
Form Builder Helper (Structures)	3.00				
Form Liner (Paving and Gurb)	3.75				
Form Setter (Structures)	3.50				
Form Setter Helper (Structures)	2.75				
Laborer, Common	2.25				
Laborer, Utility Man	2.50				
Mechanic	4.05				
Mechanic Helper	3.00				
Oiler	3.00				
Serviceman	3.00				
Painter (Structures)	2.15				
Painter Helper (Structures)	3.00				
Pipelayer Helper	3.00				
Pipelayer	2.50				
Powerman	3.75				
Powerman Helper	2.50				
Reinforcing Steel Setter (Paving)	3.00				
Reinforcing Steel Setter (Structures)	3.70				
Reinforcing Steel Setter Helper	2.75				
Steel Worker (Structural)	3.50				
Sign Erector	3.50				
Sign Erector Helper	2.90				
Spreadar Box Man	3.25				
Power Equipment Operators:					
Asphalt Distributor	3.25				
Asphalt Paving Machine	3.45				
Broom or Sweeper Operator	2.90				
Bulldozer, 150 HP and Less	3.25				
Bulldozer, over 150 HP	3.75				

STATE: Texas

SUPERSEDEAS DECISION

COUNTIES: Armstrong, Carson, Castro, Childress, Collingsworth, Dallas, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler

DECISION NO.: TX75-4090  
Supersedeas Decision No. TX75-4021, dated January 24, 1975, in 40 PR 3925.  
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & U	Pension	Vacation	
BRICKLAYERS	\$8.05				
CARPENTERS	7.75				
CEMENT MASONS	7.09				
ELECTRICIANS	8.08				
LABORERS:					
Laborers	3.85	.30	1%		1 1/2%
Mason tenders	4.00	.30	.10		
PAINTERS	6.60	.30	.10		
PLUMBERS	7.73	.25	.20	.30	.04
SHEET METAL WORKERS	5.08				
TILE SETTERS	4.60				

DECISION NO. TX75-4090

INCIDENTAL PAVING & UTILITIES & SITE PREPARATION

	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & U	Pension	Vacation	
Asphalt Reclaimer	\$3.50				
Asphalt Baker	3.90				
Batching Plant Scaleman	4.30				
Carpenter	4.60				
Carpenter Helper	4.00				
Concrete Finisher (Paving)	4.05				
Concrete Finisher Helper (Paving)	3.45				
Concrete Finisher (Structures)	4.30				
Concrete Finisher Helper (Structures)	3.25				
Form Builder (Structures)	4.55				
Form Builder Helper (Structures)	3.35				
Form Setter (Structures)	4.80				
Form Setter Helper (Structures)	3.80				
Laborer, Common	2.70				
Laborer, Utility Man	3.00				
Mechanic	4.50				
Mechanic Helper	3.60				
Oiler	3.60				
Serviceman	3.75				
Powerman	4.20				
Reinforcing Steel Setter (Structures)	4.50				
Sign Erector	3.50				
Sign Erector Helper	3.25				
Spreadar Box Man	3.75				
Power Equipment Operators:					
Asphalt Distributor	4.05				
Asphalt Paving Machine	4.45				
Bulldozer, 150 HP and Less	3.75				
Bulldozer, over 150 HP	4.20				
Crane, Crawler, Backhoe, Derrick,					
Dragline, Shovel (Less than 1 1/2 CT)	4.30				
Crane, Crawler, Backhoe, Derrick,					
Dragline, Shovel (1 1/2 CT & Over)	4.80				
Crusher or Screening Plant Operator	4.15				
Foundation Drill Operator (Crawler Mounted)	3.90				
Foundation Drill Operator (Truck Mounted)	4.75				
Foundation Drill Operator Helper	3.25				
Front End Loader (2 1/2 CT & Less)	3.80				
Front End Loader (Over 2 1/2 CT)	4.30				
Motor Grader Operator, Fine Grade	4.80				

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DECISION NO. TX75-4090

INCIDENTAL PAVING & UTILITIES  
& SITE PREPARATION

Basic Hourly Rate	H & B	Fringe Benefits	Vacation	App. Tr.
Power Equipment Operators (Cont'd.):				
Motor Grader Operator	\$4.45			
Roller, Steel Wheel (Plant-Mix Pavements)	3.60			
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.55			
Roller, Pneumatic (Self-Propelled)	3.10			
Scrapers (17 CY and Less)	4.15			
Scrapers (Over 17 CY)	4.20			
Tractor (Crawler Type) 150 HP & Less	3.50			
Tractor (Crawler Type) over 150 HP	3.65			
Tractor (Pneumatic) 80 HP & Less	2.75			
Tractor (Pneumatic) over 80 HP	3.35			
Travelling Mixer	3.75			
Wagon Drill, Roring Machine or Post Hole Driller Operator	3.50			
Truck Drivers:				
Single Axle, Light	3.00			
Single Axle, Heavy	3.00			
Tandem Axle or Semitrailer	3.00			
Weighman (Truck Scales)	2.75			
Welder	4.80			

FEDERAL REGISTER, VOL. 40, NO. 96—FRIDAY, MAY 16, 1975

## SUPERSEDES DECISION

STATE: Texas

COUNTIES: Cameron, Hidalgo, Starr  
& Willacy

DECISION NO.: TX75-4091

DATE: Date of Publication  
Supersedes Decision No. TX75-4007, dated January 17, 1975, in 40 FR 3165.  
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
	H & B	Pension	Vacation	
ASBESTOS WORKERS	\$7.64	.30		
BOILERMAKERS	8.00	.76		.02
BRICKLAYERS	6.00			
CARPENTERS:				
Carpenters	5.00			.025
Millwrights	4.67			
CEMENT MASONS	3.50			
ELECTRICIANS:				
Electrical contracts under \$500,000	6.21	.35	.15	1/22
Electrical contracts \$500,000 & over	7.85	.35	.15	1/22
GLAZIERS	2.75			
LABORERS:				
Common laborers	2.10			
Mason tenders	2.10			
Pipelayers (concrete & clay)	2.10			
LINE CONSTRUCTION:				
Linemen	6.41		.15	1/22
Groundmen	3.92	.28	.15	1/22
Painters:	2.70	.28	.15	1/22
Brush	2.60			
PLASTERERS	5.00			
PLUMBERS & PIPEFITTERS	6.80	.22		.05
ROOFERS:				
Roofers	3.00			
Kettlemen	2.10			
SOFT FLOOR LAYERS	2.10			
SPRINKLER FITTERS	9.05			
TERRAZZO WORKERS	2.50			
TERRAZZO WORKERS' HELPERS	2.10			
TILE SETTERS	2.50			
TILE SETTERS' HELPERS	2.10			
TRUCK DRIVERS	2.10			
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.		.70		.08

FEDERAL REGISTER, VOL. 40, NO. 96—FRIDAY, MAY 16, 1975



STATE: Texas  
COUNTY: Gregg  
DECISION NO.: TX75-4092  
DATE: Date of Publication  
Supersedeas Decision No. TX75-4076, dated January 24, 1975, in 40 PR 3135.  
DESCRIPTION OF WORK: Building Construction, (excluding single family home and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Fringe Benefits Payments			
	Basic Hourly Rates	H & W	Pensions	Vacation
BRICKLAYERS	\$6.70			
CARPENTERS:	6.05			1/42
Millwrights	7.55			1/42
CEMENT MASONS	5.04			.04
ELECTRICIANS	7.10	.30	12	
IRONWORKERS	7.95		.35	
LABORERS	3.02			
PAINTERS, BRUSH	5.50			.06
PLUMBERS & PIPEFITTERS	7.60			.03
ROOFERS	4.56	.35	.25	
SHEET METAL WORKERS	7.245			
TILE SETTERS	4.79			
TRUCK DRIVERS	3.125			
POWER EQUIPMENT OPERATORS:				
Backhoes	4.00			
Bulldozers	4.25			
Cherry pickers	4.50			
Graders	4.00			
Loaders	4.50			
Rollers	3.95			
Scrapers	3.75			
Tractors	4.28			
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental	3.50			

STATE: Texas  
COUNTIES: Cameron, Hidalgo, Starr & Willacy  
DECISION NO.: TX75-4093  
DATE: Date of Publication  
Supersedeas Decision No. TX75-4008, dated January 17, 1975, in 40 PR 3166.  
DESCRIPTION OF WORK: Residential construction consisting of single family home and garden type apartments up to and including 4 stories.

	Fringe Benefits Payments			
	Basic Hourly Rates	H & W	Pensions	Vacation
BRICKLAYERS	\$6.00			
CARPENTERS:	5.00			.025
Millwrights	2.87			
CEMENT MASONS	3.50			
ELECTRICIANS:				
Electrical contracts under \$300,000	6.21	.35	12	1/22
Electrical contracts \$300,000 & over	7.85	.35	12	1/22
GLAZIERS	2.75			
LABORERS:				.05
Common laborers	2.10			
Mason tenders	2.10			
Pipelayers (concrete & clay)	2.10			
PLASTERERS, BRUSH	2.60			
PLASTERERS	5.00			
PLUMBERS & PIPEFITTERS	6.80			
ROOFERS:				
Roofers	3.00			
Kettlemen	2.10			
SOFT FLOOR LAYERS	2.10			
TERMAZZO WORKERS	2.50			
TERMAZZO WORKERS' HELPS	2.10			
TILE SETTERS	2.50			
TILE SETTERS' HELPS	2.10			
TRUCK DRIVERS	2.10			

DECISION NO. TX75-4093  
INCIDENTAL PAVING & UTILITIES & SITE PREPARATION

Basic Hourly Rates	H & W	Pensions	Vacation	App. Tr.
\$3.25				
Asphalt Heaterman				
Asphalt Baker	2.85			
Batching Plant Scaleman	3.40			
Carpenter	3.40			
Carpenter Helper	2.25			
Concrete Finisher (Paving)	3.00			
Concrete Finisher Helper (Paving)	2.25			
Concrete Finisher (Structures)	3.15			
Concrete Finisher Helper (Structures)	2.25			
Piceman	2.25			
Form Builder (Structures)	3.75			
Form Builder Helper (Structures)	2.90			
Form Liner (Paving and Curb)	3.00			
Form Setter (Paving and Curb)	3.00			
Form Setter Helper (Paving & Curb)	2.75			
Form Setter (Structures)	3.50			
Form Setter Helper (Structures)	3.00			
Laborer, Common	2.25			
Laborer, Utility Man	2.65			
Mechanic	4.10			
Mechanic Helper	3.25			
Oilier	2.65			
Serviceman	2.50			
Piledriverman	3.90			
Pipelayer Helper	2.75			
Pipelayer	2.60			
Reinforcing Steel Setter (Structures)	3.25			
Reinforcing Steel Setter Helper	2.50			
Spreader Box Man	3.00			
Swamp	3.25			
Power Equipment Operators:				
Asphalt Distributor	3.25			
Asphalt Paving Machine	3.50			
Bulldozer, 150 HP and Less	3.00			
Bulldozer, over 150 HP	3.45			
Crane, Crawler, Backhoe, Derrick, Dragline, Shovel (less than 1 1/2 CT)	3.00			
Crane, Crawler, Backhoe, Derrick, Dragline, Shovel (1 1/2 CT & Over)	4.00			

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INCIDENTAL PAVING & UTILITIES & SITE PREPARATION	Fringe Benefits Payments			
	Basic Hourly Rate	H & W	Pensions	Vacation App. Tr.
Power Equipment Operators (Cont'd):				
Front End Loader (2 1/2 CY & Less)	3.00			
Front End Loader (Over 2 1/2 CY)	3.50			
Motor Grader Operator, Fine Grade	4.00			
Motor Grader Operator	3.50			
Roller, Steel Wheel (Plant-Mix Pavements)	2.65			
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.55			
Roller, Pneumatic (Self-Propelled)	2.45			
Scrapers (17 CY and Less)	3.00			
Scrapers (Over 17 CY)	3.25			
Tractor (Gravel Type) over 150 HP	2.80			
Tractor (Pneumatic) 80 HP & Less	2.55			
Tractor (Pneumatic) over 80 HP	2.85			
Travelling Mixer	3.00			
Trucking Machine, Light	3.50			
Truck Drivers:				
Single Axle, Light	2.25			
Single Axle, Heavy	2.30			
Tractor Axle or Semitrailer Welder	4.00			

DECISION NO. TX75-4093

INCIDENTAL PAVING & UTILITIES  
& SITE PREPARATION

Power Equipment Operators (Cont'd):

Front End Loader (2 1/2 CY & Less) 3.00  
Front End Loader (Over 2 1/2 CY) 3.50  
Motor Grader Operator, Fine Grade 4.00  
Motor Grader Operator 3.50  
Roller, Steel Wheel (Plant-Mix Pavements) 2.65  
Roller, Steel Wheel (Other-Flat Wheel or Tamping) 2.55  
Roller, Pneumatic (Self-Propelled) 2.45  
Scrapers (17 CY and Less) 3.00  
Scrapers (Over 17 CY) 3.25  
Tractor (Gravel Type) over 150 HP 2.80  
Tractor (Pneumatic) 80 HP & Less 2.55  
Tractor (Pneumatic) over 80 HP 2.85  
Travelling Mixer 3.00  
Trucking Machine, Light 3.50  
Truck Drivers:  
Single Axle, Light 2.25  
Single Axle, Heavy 2.30  
Tractor Axle or Semitrailer Welder 4.00

SUPERSEDES DECISION

STATE: Texas  
DECISION NO.: TX75-4094  
COUNTY: Lubbock  
DATE: Date of Publication  
Supersede Decision No. TX75-4029, dated January 24, 1975, in 40 FR 3940.  
DESCRIPTION OF WORK: Building Construction, (excluding single family home and garden type apartment up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Fringe Benefits Payments			
	Basic Hourly Rate	H & W	Pensions	Vacation App. Tr.
ASBESTOS WORKERS	38.45	.35	.30	.02
BOILERMAKERS	6.00	.50	.76	.02
BRICKLAYERS & STONEMASONS	7.90	.30	.20	.01
CARPENTERS	6.85	.30	.30	.01
CEMENT MASONS	6.25			
ELECTRICIANS:				
Electricians	7.60	.30	.12	1/102
Cable splicers	7.85	.30	.12	1/102
IRONWORKERS:				
Structural; Ornamental; Reinforcing	7.03	.55	.60	.10
All ironworkers on jobs 30 miles or more from the city of Lubbock	7.155	.55	.60	.10
LABORERS:				
GROUP 1	4.025	.275	.10	.01
GROUP 2	4.30	.275	.10	.01
GROUP 3	4.225	.275	.10	.01
GROUP 4	4.375	.275	.10	.01
GROUP 5	4.625	.275	.10	.01

LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - Construction laborers, including excavation, pouring concrete, carpenter tenders, reinforcing, shoring, digging, loading and unloading materials, wrecking buildings and all structures and all construction laborers except those named below  
GROUP 2 - Air tool operator (jackhammer, vibrator, tamper, brush hammer, chipping hammer, air or electric), power buggy man, pipelayer (concrete and clay and all nonmetallic pipe), handling, laying and cleaning pumpcrete pipe  
GROUP 3 - Mortar mixers, mason tenders, plasterer tenders, cement finisher tenders, lather tenders  
GROUP 4 - Wagon drill  
GROUP 5 - Blasters and powder make-up men

LABORERS	Fringe Benefits Payments			
	Basic Hourly Rate	H & W	Pensions	Vacation App. Tr.
	36.75	.20		.01

DECISION NO. TX75-4094

	Fringe Benefits Payments			
	Basic Hourly Rate	H & W	Pensions	Vacation App. Tr.
LINE CONSTRUCTION:				
Linemen	37.60	.30	.12	
Operators	80.1R	.30	.12	
Groundmen (more than 1 year experience)	55.1R	.30	.12	
Groundmen (less than 1 year experience)	50.1R	.30	.12	
Flat bed truck operator	70.1R	.30	.12	
PAINTERS:				
Spray	5.80		.20	.04
Brush	6.45		.20	.04
PLASTERERS	7.00		.40	.04
PLUMBERS & STEAMFITTERS	7.50			
ROOFERS	3.50			
SHEET METAL WORKERS	8.68		.20	.07
SOFT FLOOR LAYERS	5.80		.20	.04
SPRINKLER FITTERS	9.05		.70	.08
TRUCK DRIVERS:				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.	3.00	.50		

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DECISION NO. TX75-4094

	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & V	Pension	Vacation	
POWER EQUIPMENT OPERATORS:					
GROUP 1	\$5.60	.30	.50		.10
GROUP 2	6.50	.30	.50		.10
GROUP 3	6.90	.30	.50		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Oilier-Fireman  
GROUP 2 - Air compressors, pumps, welding machines, throttle valves, light plants; conveyor; wagon drill; elevators, building; form graders; hoist, single drum; Ford tractor including blade and power on rear; Mixers less than 14 cubic feet; Screening plants; crushing plants; Fork lifts (short, under 25 feet); Concrete pumps (all types); hobot type equipment; Ford tractor or like with any attachments (except blade and mower on rear); All other equipment of similar nature coming under the light equipment class, when power operated continuously for 5 days; Mixers; Locomotives; Graders, 14 cubic feet or over; Blade graders, self-propelled; Cableways; Granes - power operated (to 100 feet of boom); Derricks, power operated (all types); Gradall; Hy-Ho; Hop-To; Paving mixer (all types); Pile drivers; Mobile concrete mixers over 14 cubic feet; Bulldozers, loaders, tractors; Scrapers and pullers; Welder; Trenching machines; Roller, ten tons or over; Air compressors, pumps, welding machines and light plants; Air compressor & air tugger; Rollers, two or more fired by one man; Heavy duty mechanic; All other equipment of similar nature coming under the heavy equipment class, when power operated

SUPERSTADES DECISION

STATE: Texas  
DECISION NO.: TX75-4095  
COUNTY: Howard  
DATE: Date of Publication  
Superstades Decision No. TX75-4095, dated January 24, 1975, in 40 FR 3936.  
DESCRIPTION OF WORK: Building (including Residential) Construction.  
The current heavy & highway general wage determination for Paving & Utilities incidental to Building Construction).

	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & V	Pension	Vacation	
BRICKLAYERS	\$7.00				
CARPENTERS	6.10				
CEMENT MASONS	5.00	.30	1%		1/10%
ELECTRICIANS	7.40				
IRONWORKERS, STRUCTURAL & ORNAMENTAL	7.00	.55	.60		.10
LABORERS:					
Laborers	3.06				
Men tenders	3.50				
PAINTERS	4.50				
PLUMBERS	4.26				
ROOFERS	4.00				
SHEET METAL WORKERS	5.25				
TILE SETTERS	4.00				
TRUCK DRIVERS	2.50				

DECISION NO. TX75-4095  
INCIDENTAL PAVING & UTILITIES  
& SITE PREPARATION  
(RESIDENTIAL CONSTRUCTION ONLY)

Air Tool Man  
Asphalt Reclaimer  
Asphalt Baker  
Asphalt Shovel  
Batching Plant Scaleman  
Carpenter  
Concrete Helper  
Concrete Finisher (Paving)  
Concrete Finisher (Structures)  
Concrete Finisher Helper (Structures)  
Form Builder (Structures)  
Form Builder Helper (Structures)  
Form Setter (Paving and Curb)  
Form Setter (Structures)  
Form Setter Helper (Structures)  
Laborer, Common  
Laborer, Utility Man  
Masonry Builder, Brick  
Mechanic  
Mechanic Helper  
Oiler  
Serviceman  
Pipelayer  
Pipelayer Helper  
Powderman  
Powderman Helper  
Reinforcing Steel Setter (Structures)  
Reinforcing Steel Setter Helper  
Spreader Box Man  
Power Equipment Operators:  
Asphalt Distributor  
Asphalt Paving Machine  
Broom or Sweeper Operator  
Bulldozer, 150 HP and Less  
Bulldozer, over 150 HP  
Crane, Crawler, Backhoe, Derrick, Dragline, Shovel (less than 14 CY)  
Crane, Crawler, Backhoe, Derrick, Dragline, Shovel (14 CY & Over)  
Crusher or Screening Plant Operator

	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & V	Pension	Vacation	
	\$5.00				
	3.00				
	3.25				
	2.50				
	3.25				
	3.50				
	2.75				
	3.50				
	3.00				
	3.75				
	2.50				
	3.85				
	2.50				
	3.75				
	4.00				
	3.00				
	2.50				
	2.75				
	3.00				
	3.70				
	3.10				
	3.00				
	3.50				
	2.50				
	3.50				
	2.75				
	4.00				
	2.50				
	3.25				
	3.00				
	3.40				
	3.25				
	3.50				
	4.00				
	3.80				
	4.25				
	3.00				



## NOTICES

DECISION NO. TX75-4095 INCIDENTAL PAVING & UTILITIES & SITE PREPARATION (RESIDENTIAL CONSTRUCTION ONLY)	Fringe Benefits Payments			App. Tr.
	H & V	Pensions	Vacation	
Power Equipment Operators (Cont'd)				
Elevating Grader	\$4.10			
Foundation Drill Operator (Truck Mounted)	4.50			
Front End Loader (2 1/2 CY & Less)	3.50			
Front End Loader (Over 2 1/2 CY)	3.85			
Motor Grader Operator, Fine Grade	4.25			
Motor Grader Operator	4.00			
Roller, Steel Wheel (Plant-Mix Pavements)	3.25			
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.50			
Roller, Pneumatic (Self-Propelled)	2.50			
Scrapers (17 CY and Less)	3.25			
Scrapers (Over 17 CY)	3.50			
Tractor (Crawler Type) 150 HP and Less	2.75			
Tractor (Crawler Type) over 150 HP	3.25			
Tractor (Pneumatic) 80 HP and Less	2.50			
Tractor (Pneumatic) over 80 HP	3.25			
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.50			
Truck-Drivers:				
Single Axle, Light	2.80			
Single Axle, Heavy	3.00			
Tandem Axle or Semitrailer	2.85			
Tractor-Mix	2.60			
Weldman (Truck Scales)	2.50			
Welder	3.90			

FEDERAL REGISTER, VOL. 40, NO. 96—FRIDAY, MAY 16, 1975

## SUPERSEDES DECISION

STATE: Texas  
 DECISION NO.: TX75-4096  
 SUPERSEDES DECISION NO. TX75-4077, dated April 11, 1975, in 40 FR 16637.  
 DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

COUNTIES: Galveston & Harris	Fringe Benefits Payments			App. Tr.
	H & V	Pensions	Vacation	
ASBESTOS WORKERS				
BOILERMAKERS	\$8.10	.70	.70	.06
BRECKERS & STONEMASONS	8.00	.50	.76	.02
CARPENTERS:	8.69	.325	.40	.05
Carpenters	7.96	.45	.30	.05
Millwrights	8.26	.45	.30	.05
Pile-drivers	7.96	.45	.30	.05
CEMENT MASONS:				
Harris County	7.40	.49	.42	.05
Galveston County	7.40	.49	.42	.05
ELECTRICIANS:				
Harris County	8.65	.30	.37	.04
Galveston County	8.59	.26	.37	.03
ELEVATOR CONSTRUCTORS	7.79	.445	.29	.02
ELEVATOR CONSTRUCTORS' HELPERS	7.02JR	.445	.29	.02
ELEVATOR CONSTRUCTORS' HELPERS (FWD.)	502JR			
GLAZIERS	8.22	.475	.20	.01
IRONWORKERS	7.87	.55	.60	.075
LABORERS:				
GROUP 1 - Common	5.60	.28	.30	.02
GROUP 2 - Air tool operator (jack hammer-vibrator); Mason tenders; Pipelayers (concrete & clay); Sandblasters; Power buggy operator	5.775	.28	.30	.02
GROUP 3 - Lather tender; Mortar mixers; Plaster tenders & hod carriers	5.875	.28	.30	.02
GROUP 4 - Wall driller	6.15	.28	.30	.02
GROUP 5 - Wall driller tender	5.725	.28	.30	.02
GROUP 6 - Blaster, powderman	6.025	.28	.30	.02
LATHERS (Harris County only)	8.22	.30	.15	.02
LINE CONSTRUCTION:				
Linemen	8.84	.28	.12	1/22
Groundman	6.06	.28	.12	1/22
Groundman (1st 6 mos.)	4.42	.28	.12	1/22

DECISION NO. TX75-4096

MARBLE MASONS:  
 Harris County  
 Galveston County  
 PAINTERS:  
 East Harris County:  
 GROUP 1 - All brush painting, hand rolling and all other work other than that below  
 GROUP 2 - All pneumatic and electric tools and steam cleaning  
 GROUP 3 - All tape and float on drywall  
 GROUP 4 - All paper and vinyl hanging  
 GROUP 5 - All spray painting, sandblasting and waterblasting  
 GROUP 6 - Steeple jack work, hot materials  
 Remainder of Harris County:  
 GROUP 1 - All brush painting, hand roller, steam cleaning, all pneumatic tools  
 GROUP 2 - All spray painting, sandblasting, waterblasting  
 GROUP 3 - Tape, float & drywall  
 GROUP 4 - Steeple jack work, hot materials  
 Galveston County:  
 GROUP 1 - Painters on new work  
 GROUP 2 - Painters on existing stage work or using materials injurious to the skin  
 GROUP 3 - Painters on rework & repaint  
 PIPEFITTERS:  
 Harris County and that part of Galveston County west of the Trinity River  
 That part of Galveston County east of the Trinity River:  
 Commercial work up to \$50,000  
 Commercial work \$50,000 & over

Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
	H & V	Pensions	Vacation	
\$7.56				
7.80			.25	
8.56				
8.915				
8.685				
8.81				
8.955				
9.215				
7.545	.275	.30	.40	.04
7.92	.275	.30	.40	.04
7.67	.275	.30	.40	.04
8.17	.275	.30	.40	.04
7.05	.55	.45	.665	.02
7.30	.55	.45	.665	.02
6.72	.55	.45	.665	.02
8.80	.40	.60		.045
8.56	.275	.30		.02
8.99	.275	.30		.02

## NOTICES

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DECISION NO. TX75-4096

Page 3

	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		H & B	Pension	Vacation	
PLASTERERS:					
Harris County	\$8.00	.37	.30		.02
Galveston County	8.00	.37	.30		.05
PLUMBERS:					
Harris County	8.99	.36	.32		.10
Galveston County	8.99	.36	.32		.10
Commercial work up to \$50,000 & over	8.99	.36	.32		.10
ROOFERS:					
Harris County	6.69	.20	.10	.15	.03
Galveston County	5.73	.20	.10	.15	.03
Roofers	4.48	.20	.10	.15	.03
HELPER:					
SHIET METAL WORKERS:					
Harris County	8.585	.225	.675	.20	.025
Galveston County	8.35	.15	.25		.10
SOFT FLOOR LAYERS	7.12	.25	.10		.07
SPRINKLER FITTERS	9.05	.50	.70		.08
TERRAZZO WORKERS:					
Harris County	7.26				
Galveston County	7.80				
TILE SETTERS:					
Harris County	7.26				
Galveston County	7.80				
TRUCK DRIVERS:					
GROUP 1 - Under 14 tons; wash, grease, airman, fuel pump operation when used on construction jobs	6.42				
GROUP 2 - 14 thru 24 tons; dump truck less than 7 yds.	6.74				
GROUP 3 - Over 24 tons; farm tractors; fork lifts, floats	6.92				
GROUP 4 - Euclids (not self-loading)	7.05				
GROUP 5 - Warehouseman	6.63				
GROUP 6 - Material chackers; pick-up drivers	7.49				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

## FOOTNOTES:

- a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs - 4% of basic hourly rate  
 b - Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day

## NOTICES

	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		H & B	Pension	Vacation	
POWER EQUIPMENT OPERATORS:					
GROUP 1	\$8.15	.35	.40		.04
GROUP 2	6.92	.35	.40		.04
GROUP 3	6.48	.35	.40		.04
GROUP 4	6.34	.35	.40		.04

## POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy Duty Mechanic; Blade Grader, Self-propelled; Bull Clam; Back Filler; Derrick - power operated (all types); Clam Shell; Draglines; Push Cat Operator; Bull Dozer & all types Cat Tractors; Cable-Way; Backhoe; Shovel, power operated; Crane, power operated (all types); Elevating Grader, Self-propelled; Hoist, Motor-Driven, Two Drums or more, Mix Mobile; Water Wall Drilling Machine, Used on Construction; Building Elevator, used on Construction; Tug Boat Operator, Assigned to Construction; Winch Truck; Locomotive Crane; Concrete Mixer, 14 cu. ft. or more; Paving Mixer (all types); Pile Driver; Grader, Heavy Type, over 3 cu. yds.; Trenching Machine (all sizes); Gradall; High-Lift; Roundabout Machine; Gasoline or Diesel Driven Welding Machine, 7 or more; Pumpcrete Machine Operator; Turnapull; DD-10 Caterpillar, 8-18 Euclid and similar Tractors; Asphalt Plant Mixer Operator on Job; Crusher Operator on Job; Scoopmobiles; Forklift used on construction (not including warehousing); Wall Boing Pump; Concrete Batch Plant Operator; Pneumatic Rollers, Self-propelled; All other equipment of similar nature coming under the Heavy Equipment Class, when power operated.

GROUP 2 - Air Compressor; Blade Grader, Towed; Flex Plane; Form Grader, Concrete Mixer, less than 14 cu. ft.; Pumps; Pulverizer; Truck Crane Driver; Gasoline or Diesel Driven Welding Machine (on 3 or more, up to 6 machines); Hoist, Single Drum; Scraper, 3 cu. yds. or less; Wagon Drill Operator; Conveyor; Generator, Gasoline or Diesel-Driven, over 1500 watts; Rubber Tired Tractor with attachment; A Light Equipment Operator may run 1 or 2 105 cfm compressors; All other equipment of similar nature coming under the Light Equipment Class, when power operated.

GROUP 3 - Fireman

GROUP 4 - Other

FEDERAL REGISTER, VOL. 40, NO. 96--FRIDAY, MAY 16, 1975

## SUPERSEDES DECISION

STATE: Wisconsin  
 COUNTY: Racine  
 DECISION NUMBER W175-2064  
 DATE: Date of Publication  
 Supersedes Decision No. AR-3163 dated October 11, 1974, in 39 FR 36845  
 DESCRIPTION OF WORK: Building and Residential Construction

	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		H & B	Pension	Vacation	
ASBESTOS WORKERS	\$9.87	.45	.60		.03
ROILERMAKERS	8.90	.70	1.00		.02
ROILERMAKERS' HELPERS	8.725	.70	1.00		.02
BRICKLAYERS and Stonemasons	8.70	.40	.40		
CARPENTERS (West of Hwy. #75)	8.37	.30	.25	.40	.03
Carpenters and Soft Floor Layers	8.72	.30	.25	.40	.03
Millwrights and Pile Drivemen	8.41	.40	.50		.03
CARPENTERS (Balance of County)	8.63	.40	.50		.03
Carpenters and Soft Floor Layers	8.47	.40	.50		.03
Millwrights	7.26	.40	.50	.50	
Pile Drivemen	9.66	.33	12	6.52	3/4 of 1%
COMMON MASON	9.36	.38	12	72	374a+b
ELECTRICIANS (Burlington)	9.185	.445	.29	374a+b	.02
ELECTRICIANS (Balance of County)	6.43	.445	.29	374a+b	.02
ELEVATOR CONSTRUCTORS	4.59				
ELEVATOR CONSTRUCTORS' HELPERS	9.01	.60	.50	.80	.11
(PROB.)					
IRONWORKERS	6.38	.40	.40	.20	
LABORERS:					
Laborers	6.64	.40	.40	.20	
Air Tool Operator (Jackhammer)	6.38	.40	.40	.10	
Mason Tender	6.48	.40	.40	.20	
Mortar Mixer and Plasterers'	6.64	.40	.40	.20	
Tender	6.99	.40	1.25	.20	.01
Vibrator Operator	8.75	.30	.30	c	.01
LATHERS	7.52	.40	.20		
LEAD BURNERS	7.67	.40	.20		
PAINTERS:	8.27	.40	.20		
Brush	6.70	.40	.40	.40	
Structural Steel	8.79	.40	.50	.81	
Spray	7.50	.40	.15		
PLASTERERS					
PLUMBERS and Steamfitters					
ROOFERS					

DECISION NO. W175-2064

	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		H & B	Pension	Vacation	
SHEET METAL WORKERS	\$7.99	.40	.40	.49d	.05
SPRINKLER FITTERS	9.40	.30	.40		
TERRAZZO WORKERS	7.87	.65	.60	.47	
TILE SETTERS	7.44	.40	.40		
PAID HOLIDAYS:					
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;					
E-Thanksgiving Day; F-Christmas Day					
FOOTNOTES:					
a. Holidays: A through F.					
b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employer who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.					
c. Holidays, A thru F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holidays.					
d. Includes \$.14 holiday pay.					

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POWER EQUIPMENT OPERATORS (Cont'd)  
Building, Tunnel and Sewer Construction

DECISION NO. W175-2066	POWER EQUIPMENT OPERATORS Building, Tunnel and Sewer Construction	Principals' Payments			
		Basic Hourly Rate	Hourly Rate	Per Hour	Per Hour
Group 1		\$8.77	.55	.55	.05
Group 2		8.63	.55	.55	.05
Group 3		8.52	.55	.55	.05
Group 4		8.32	.55	.55	.05
Group 5		8.22	.55	.55	.05
Group 6		8.12	.55	.55	.05
Group 7		8.02	.55	.55	.05
Group 8		7.92	.55	.55	.05
Group 9		7.82	.55	.55	.05
Group 10		7.72	.55	.55	.05
Group 11		7.62	.55	.55	.05
Group 12		7.52	.55	.55	.05

Group 1: Cranes, Shovels, Draglines, Backhoes, Clamshells, Derrick, Caisson  
Rigs, Pile Driver, Skid Rigs, Dredge Operator and Traveling Cranes (bridge  
type)

Group 2: Concrete Paver (over 27E), Concrete Spreader and Distributor

Group 3: Material Hoist, Stack Hoist, Tractor or truck mounted Hydraulic  
Backhoe, Tractor or truck mounted Hydraulic Crane, (5 tons or under), Man-  
hoist, Tractor (over 40 h.p.), Endloader (over 40 h.p.) Forklift (25' and  
over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic  
and Welder, Bituminous Plant and Paver Operator, Roller (over 5 tons) Rotary  
Drill Operator and Blaster, Trencher (wheel type or chain type having over  
8-inch bucket)

Group 4: Concrete and Grout Pumps, Backfiller, Concrete Auto Breaker (large),  
Concrete Finishing Machines (road type)

[FR Doc.75-12663 Filed 5-15-75; 8:45 am]

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Group 5: Roller (rubber tire)

Group 6: Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers  
(125 or over) Screw type Pumps, and Cypsum Pumps, Tractor, Bulldozer, End-  
loader (under 40 h.p.), Pumps, (well points), Trencher (chain type having  
8-inch and under), Industrial Locomotives

Group 7: Roller (under 5 tons) and Fireman (Pile Drivers and Derricks)

Group 8: Hoists (automatic, forklift - 12' to 25'), Tampers - Compactors  
(riding type), Assistant Engineer, "A" Frames and Winch Trucks, Concrete  
Auto Breaker, Hydrammer (small), Brooms and Sweepers, Hoist (tuggers),  
Stump Chipper (large boats - tug, safety, work, barges and launch)

Group 9: Shouldering Machine Operator, Screed Operator, Pave or Industrial  
Tractor, mounted equipment, Post Hole Digger, Stone Crushers and Screening  
Plants

Group 10: Fireman - Asphalt Plants

Group 11: Generators over 150 KW, Air Compressors over 300 cu. ft., and Pumps  
over 3", Augers (vertical and horizontal)

Group 12: Combination Small Equipment Operator: air, electric, Hydraulic Jacks  
(slip form); Compactors (under 300 CFM); Welding Machines; Heaters (mechanical)  
Prestress Machines; Bobcats; Generators (under 150 KW); Pumps (3" and under);  
Winches (small electric); Oilier and Greaser; Boiler Operators (temporary heat),  
Rotary Drill Helper; Conveyor; Forklift (12' and under)

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# federal register

MONDAY, MAY 19, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 97

Pages 21693-21926



## PART I

### HIGHLIGHTS OF THIS ISSUE

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## reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

### Rules Going Into Effect Today

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### Daily List of Public Laws

NOTE: No acts approved by the President were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

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TERMINATION OF QUARANTINE AND  
REGULATIONS

The Whitefringed Beetle Quarantine and regulations, 7 CFR 301.72, 301.72-1 through 301.72-10, are hereby terminated effective June 30, 1975. However, such provisions shall be deemed to continue in full force and effect for the purpose of sustaining any action or other proceeding with respect to any right that accrued, liability that was incurred, or violation that occurred prior to said date.

After a public hearing held in 1973, it was decided to continue the Whitefringed Beetle Quarantine and regulations thereunder (39 FR 21037). However, as a result of further evaluations by this Department, it has been determined that despite the quarantine and other available regulatory measures which the Department utilized, the whitefringed beetle has spread to much of its ecological limits and will continue to slowly spread in the United States. Accordingly, it has been determined that the Whitefringed Beetle Quarantine and regulations are no longer effective and necessary to prevent the spread of the Whitefringed Beetle. In view of this information, it has been decided to terminate the quarantine and regulations.

Although the Federal regulatory program is being terminated, funds are being retained for detection surveys on the periphery of the infested areas for the benefit of those States interested in whitefringed beetle distribution.

This action relieves restrictions and it does not appear that further public participation in rulemaking procedures concerning this action would make additional relevant information available to the Department. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such public participation with respect to this action is impracticable, and unnecessary, and contrary to the public interest, and this action may be made effective less than 30 days after publication hereof in the FEDERAL REGISTER.

(Secs. 8 and 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 160ee; 37 FR 28464, 28477; 38 FR 19141)

Effective date. The termination of the Whitefringed Beetle Quarantine and

regulations thereunder shall become effective June 30, 1975.

Done at Washington, D.C., this 13th day of May 1975.

JAMES O. LEE, Jr.,  
Acting Deputy Administrator,  
Plant Protection and Quarantine Programs.

[FR Doc. 75-13035 Filed 5-16-75; 8:45 am]

CHAPTER IX—AGRICULTURAL MARKET-  
ING SERVICE (MARKETING AGREE-  
MENTS AND ORDERS; FRUITS, VEGE-  
TABLES, NUTS), DEPARTMENT OF  
AGRICULTURE

[Nectarine Reg. 6]

PART 916—NECTARINES GROWN IN  
CALIFORNIA

Minimum Grade and Size Requirements

This regulation for California Nectarine shipments sets a minimum grade of U.S. No. 1, except that it provides an additional tolerance for individual fruit of all varieties not well formed but not badly misshapen, and an additional tolerance for the Sun Free and Golden Grand varieties affected by fairly smooth or smooth russetting. It also prescribes minimum sizes for 46 named varieties. These regulatory requirements are necessary to promote orderly marketing and provide consumers with an ample supply of acceptable-quality fruit.

Findings. (1) Pursuant to the amended marketing agreement and Order No. 916 (7 CFR Part 916), regulating the handling of nectarines grown in the State of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the Nectarine Administrative Committee, established under the aforesaid marketing agreement and order, and upon other information, it is hereby found that the regulation of shipments of nectarines, as hereinafter set forth, will tend to effectuate the declared policy of the act.

(2) The minimum grade and size requirements specified herein reflect the Department's appraisal of the need for regulation of shipments of California nectarines during the period May 20 through July 11, 1975, based on the available supply and current and prospective market demand conditions. Available data indicate that during the 1975 season fresh shipments of California nectarines will total about 9,225,000 packages. The minimum grade and size requirements specified for California neo-

tarines are prescribed during the present stage of the development of the crop to guard against the shipment of lower quality and smaller-size fruit, which tends to weaken the market for such fruit.

(3) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that, as hereinafter set forth, the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than the date hereinafter specified. A reasonable determination as to the supply of, and the demand for, such nectarines, which are currently regulated pursuant to Nectarine Regulation 5 (39 FR 17831, 22940), must await the development of the crop thereof; adequate information thereon was not available to the Nectarine Administrative Committee until the date hereinafter set forth on which an open meeting was held, after giving due notice thereof, to consider the need for, and the extent of, regulation of shipments of such nectarines; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; shipments of the current crop of such nectarines are expected to begin on or about the effective date of this regulation; this regulation should be applicable to all such shipments in order to effectuate the declared policy of the act; the provisions of this regulation are identical with the aforesaid recommendation of the committee; information concerning such provisions and effective time has been disseminated among handlers of such nectarines; and compliance with the provisions of this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof. Such committee meeting was held on May 7, 1975.

Section 916.348 is added to 7 CFR Part 916 as follows:

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## § 916.348 Nectarine Regulation 6.

(a) *Order.* (1) During the period May 20, 1975, through July 11, 1975, no handler shall handle any package or container of any variety of nectarines unless such nectarines grade at least U.S. No. 1: *Provided*, That nectarines 2 inches in diameter or smaller, or 4 x 4 size or smaller, shall not have fairly light colored, fairly smooth scars which exceed the aggregate area of a circle  $\frac{1}{8}$  inch in diameter, and nectarines larger than 2 inches in diameter, or larger than 4 x 4 size, shall not have fairly light colored, fairly smooth scars which exceed an aggregate area of a circle  $\frac{1}{2}$  inch in diameter: *Provided further*, That an additional tolerance of 25 percent shall be permitted for fruit that is not well formed but not badly misshapen: *Provided further*, That 25 percent of the surface of each fruit of the Sun Free and Golden Grand varieties may be affected by fairly smooth or smooth russetting.

(2) During the period May 20, 1975, through July 11, 1975, no handler shall handle any package or container of May red variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 130 nectarines in the lug box;

(ii) Such nectarines, when packed in a standard basket, are of a size not smaller than a size that will pack a 4 x 5 standard pack; or

(iii) Such nectarines, when packed in any container other than the containers packed as specified in subdivisions (i) and (ii) of this subparagraph (2), measure not less than 1 $\frac{1}{4}$  inches in diameter as measured by a rigid ring: *Provided*, That not more than 10 percent, by count, of the nectarines in any container may fail to meet such diameter requirement.

(3) During the period May 20, 1975, through July 11, 1975, no handler shall handle any package or container of Armking, Crimson Gold, Mayfair, or Zee Gold variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 112 nectarines in the lug box;

(ii) Such nectarines, when packed in a standard basket, are of a size not smaller than a size that will pack a 3 x 4 x 5 standard pack; or

(iii) Such nectarines, when packed in any container other than the containers packed as specified in subdivisions (i) and (ii) of this subparagraph (3), measure not less than 1 $\frac{1}{8}$  inches in diameter as measured by a rigid ring: *Provided*, That not more than 10 percent, by count, of the nectarines in any container may fail to meet such diameter requirement.

(4) During the period May 20, 1975, through July 11, 1975, no handler shall handle any package or container of June Belle, June Grand, May Grand, Red June, Spring Grand, or Sunbright variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 108 nectarines in the lug box;

(ii) Such nectarines, when packed in a standard basket, are of a size not smaller than a size that will pack a 4 x 4 standard pack; or

(iii) Such nectarines, when packed in any container other than the containers packed as specified in subdivisions (i) and (ii) of this subparagraph (4), measure not less than 2 inches in diameter as measured by a rigid ring: *Provided*, That not more than 10 percent, by count, of the nectarines in any container may fail to meet such diameter requirement.

(5) During the period May 20, 1975, through July 11, 1975, no handler shall handle any package or container of Early Sun Grand, Grandandy, Independence, Moon Grand, Star Grand I, Star Grand II, Sun Flame, Summer Grand, Sun Grand, Rose, or Kent Grand variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 96 nectarines in the lug box; or

(ii) Such nectarines, when packed in any container other than in molded forms in a No. 22D standard lug box, measure not less than 2 $\frac{1}{4}$  inches in diameter as measured by a rigid ring: *Provided*, That not more than 10 percent, by count, of the nectarines in any container may fail to meet such diameter requirement.

(6) During the period May 20, 1975, through July 11, 1975, no handler shall handle any package or container of Autumn Grand, Clinton-Strawberry, Fantasia, Flamekist, Flavortop, Gold King, Grandell, Grand Prize, Harry Grand, Hi-Red, Late Le Grand, Le Grand, Niagara Grand, Red Grand, Regal Grand, Richard's Grand, Royal Grand, September Grand, Sun Free, or Fairlane, Grand Giant, Red Free, Bob Grand, or Tom Grand variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 88 nectarines in the lug box; or

(ii) Such nectarines, when packed in any container other than in molded forms in a No. 22D standard lug box, measure not less than 2 $\frac{1}{4}$  inches in diameter as measured by a rigid ring: *Provided*, That not more than 10 percent, by count, of the nectarines in any container may fail to meet such diameter requirement.

(7) Nectarine Regulation 5 (39 FR 17831, 22940) is hereby terminated as of the effective date hereof.

(8) When used herein, "diameter," "U.S. No. 1," and "standard pack" shall have the same meaning as set forth in the United States Standards for Grades of Nectarines (7 CFR 51.3145-51.3160); the terms "standard basket" and "No.

22D standard lug box" shall have the same meanings as set forth in § 1387.11 of the "Regulations of the California Department of Food and Agriculture"; and all other terms shall have the same meaning as when used in the marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated, May 14, 1975, to become effective May 20, 1975.

CHARLES R. BRADER,  
Deputy Director, Fruit and  
Vegetable Division, Agricultural  
Marketing Service.

[FR Doc. 75-13181 Filed 5-16-75; 8:45 am]

[Peach Reg. 6]

## PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

## Regulation by Grades and Sizes

This regulation requires that all California peaches, entering interstate commerce, grade at least U.S. No. 1. It also establishes minimum sizes for certain specified varieties and a minimum size for all other varieties. This action is necessary to assure that the peaches shipped will be of suitable quality and size in the interest of consumers and producers. The regulation is the same as that which regulates intrastate shipments of California peaches.

*Findings.* (1) Pursuant to the amended marketing agreement, and Order No. 917 (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in the State of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the Peach Commodity Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of peaches, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) This regulation is based upon an appraisal of the current and prospective market conditions for California peaches. The committee estimates that 9,870,000 packages of peaches will be available for shipment in the 1975 season compared with actual shipment of 9,586,000 packages last season. Peach production in the nine Southern States is forecast at 23 percent more than last year. Industry reports indicate that 1975 shipments of fresh California plums will be down over 19 percent from last year at 8,061,000 packages. Likewise, fresh California nectarine shipments during 1975 are estimated at 9,225,000 packages—nearly nine percent less than last year. Nevertheless, the estimated crop of California plums and nectarines will provide strong market competition for California fresh peaches. The grade and size requirements hereinafter set forth are necessary to prevent the handling of California peaches of a lower grade or smaller size than specified herein for such peaches

so as to provide food quality fruit in the interest of producers and consumers pursuant to the declared policy of the act.

(3) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that, as hereinafter set forth, the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than May 20, 1975. A reasonable determination as to the supply of, and the demand for, such peaches must await the development of the crop thereof, and adequate information thereon was not available to the Peach Commodity Committee until May 7, 1975, on which date an open meeting was held, after giving due notice thereof, to consider the need for, and the extent of, regulation of shipments of such peaches. Interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified was promptly submitted to the Department on May 8, 1975; shipments of the current crop of such peaches are currently underway; this regulation should be applicable to all such shipments during the period hereinafter specified in order to effectuate the declared policy of the act; the provisions of this regulation are identical, as to minimum grade and size, with the aforesaid recommendation of the committee; information concerning such provisions and effective time has been disseminated among handlers of such peaches; and compliance with the provisions of this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

Section 917.437 is added to 7 CFR Part 917 as follows:

## § 917.437 Peach Regulation 6.

*Order.* (a) During the period May 20, 1975, through July 3, 1975, no handler shall handle:

(1) Any package or container of any variety of peaches unless such peaches meet the requirements of U.S. No. 1 grade.

(2) Any package or container of Arm Gold, Early Amber, Desert Gold, Pat's Pride, Royal April, Royal Gold, Spring Gold, or Springtime variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the box; or

(ii) Such peaches when packed in any container other than a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 70 peaches in the box; or

(iii) Such peaches, when packed in any container other than a No. 12B standard fruit (peach) box or molded forms (tray pack) in a No. 22D standard lug box, measure not less than 2 $\frac{1}{4}$  inches in diameter as measured by a rigid ring: *Provided*, That not more than 10 percent, by count, of the peaches in any such container may fail to meet such diameter requirements.

(c) (Reserved)

(d) Peach Regulation 4 (39 FR 17756, 21118) is hereby terminated as of the effective date hereof.

(e) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as given to the respective term in said amended marketing agreement and order; "U.S. No. 1" and "standard pack" shall have the same meaning, respectively, as when used in the United States Standards for Peaches (7 CFR 51.1210-1223); "No. 22D standard lug box" and "No. 12B standard fruit (peach) box" shall have the meanings as set forth, respectively, in § 1387.11 of the "Regulations of the California Department of Food and Agriculture;" and "diameter"

(f) Such peaches, when packed in any container other than molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of standard pack, not more than 108 peaches in the box; or

(ii) Such peaches, when packed in any container other than molded forms (tray pack) in a No. 22D standard lug box, measure not less than 2 inches in diameter as measured by a rigid ring: *Provided*, That not more than 10 percent, by count, of the peaches in any such container may fail to meet such diameter requirement.

(3) Any package or container of Springcrest, Early Royal May, or May Lady variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 peaches in the box; or

(ii) Such peaches, when packed in any container other than molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 peaches in the box; or

(iii) Such peaches, when packed in any container other than a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 65 peaches in the box; or

(iv) Such peaches, when packed in any container other than a No. 12B standard fruit (peach) box or molded forms (tray pack) in a No. 22D standard lug box, measure not less than 2 $\frac{1}{4}$  inches in diameter as measured by a rigid ring: *Provided*, That not more than 10 percent, by count, of the peaches in any such container may fail to meet such diameter requirement.

(4) Any package or container of Robin, any type of Babcock, Blazing Gold, Bonjour, Cardinal, Dixie, Gold Dust, June Lady, Merrill Gemfree, Royal May, or Early Coronet variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 88 peaches in the box;

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 75 peaches in the box; or

(iii) Such peaches, when packed in any container other than a No. 12B standard fruit (peach) box or molded forms (tray pack) in a No. 22D standard lug box, measure not less than 2 $\frac{1}{4}$  inches in diameter as measured by a rigid ring: *Provided*, That not more than 10 percent, by count, of the peaches in any such container may fail to meet such diameter requirement.

(5) Any package or container of Aurora, Coronet, Indian Red, Merrill Beauty, Merrill Gem, Peterson Elberta, Red Haven, Regina, or Red Top variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the box; or

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 70 peaches in the box; or

(iii) Such peaches, when packed in any container other than a No. 12B standard fruit (peach) box or molded forms (tray pack) in a No. 22D standard lug box, measure not less than 2 $\frac{1}{4}$  inches in diameter as measured by a rigid ring: *Provided*, That not more than 10 percent, by count, of the peaches in any such container may fail to meet such diameter requirements.

tainer may fail to meet such diameter requirements.

(6) Any package or container of Alamar, Angelus, Belmont, Carnival, Fairtime, Fay Elberta, Fayette, Fiesta, Fortyniner, Franciscan, Halloween, John Gee, Jody Gaye, July Elberta (Early Elberta, Kim Elberta, and Socala), Madera Gem, Mardigras, Merricle, O'Henry, Pacifica, Pageant, Parade, Paradise, Preuss Suncrest, Regular Elberta, Red Globe, Red Lady, Rio Oso Gem, Royal Faye, Royal Hale, Scarlet Lady, Summercrest, Summertime, Suncrest, Toreador, July Lady, or Windsor variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 72 peaches in the box;

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 65 peaches in the box; or

(iii) Such peaches, when packed in any container other than a No. 12B standard fruit (peach) box or molded forms (tray pack) in a No. 22D standard lug box, measure not less than 2 $\frac{1}{4}$  inches in diameter as measured by a rigid ring: *Provided*, That not more than 10 percent, by count, of the peaches in any such container may fail to meet such diameter requirement.

(b) During the period May 20 through July 3, 1975, no handler shall handle any package or container of any variety of peaches not specifically named in subparagraphs (2), (3), (4), (5), or (6) of paragraph (a) unless:

(1) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 peaches in the box; or

(2) Such peaches when packed in any container other than molded forms (tray pack) in a No. 22D standard lug box, measure not less than 2 $\frac{1}{4}$  inches in diameter as measured by a rigid ring: *Provided*, That not more than 10 percent, by count, of the peaches in any such container may fail to meet such diameter requirements.

(c) (Reserved)

(d) Peach Regulation 4 (39 FR 17756, 21118) is hereby terminated as of the effective date hereof.

(e) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as given to the respective term in said amended marketing agreement and order; "U.S. No. 1" and "standard pack" shall have the same meaning, respectively, as when used in the United States Standards for Peaches (7 CFR 51.1210-1223); "No. 22D standard lug box" and "No. 12B standard fruit (peach) box" shall have the meanings as set forth, respectively, in § 1387.11 of the "Regulations of the California Department of Food and Agriculture;" and "diameter"

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shall mean the distance through the widest portion of the cross section of a peach at right angles to a line running from the stem to the blossom end.

CHARLES R. BRADER,  
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

Dated: May 14, 1975.

[FR Doc. 75-13180 Filed 5-16-75; 8:45 am]

#### CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

##### SUBCHAPTER A—GENERAL REGULATIONS

[FmHA Instruction 104.1]

#### PART 1813—AVAILABILITY OF INFORMATION

Part 1813 of Title 7, Code of Federal Regulations, Chapter XVIII (35 FR 11120; 35 FR 13571) is revised. This revision makes the following changes:

1. Implements the Freedom of Information Act (FOIA) Amendments of 1974, requiring a response to inquiries within 10 working days as to the determination to release or deny requested information. An additional 10 working days may be allowed under specific circumstances.
2. Implements 7 CFR Subtitle A, Part 1, Subpart A, Department of Agriculture regulations pertaining to Official Records.
3. Updates and clarifies Farmers Home Administration (FmHA) interpretations of FOIA exemptions.
4. Provides for the type of information that may be furnished about FmHA borrowers to their other suppliers of credit.
5. Establishes the type of information that the Agency may furnish an FmHA applicant rejected primarily because of a credit report.
6. Provides for the furnishing of materials and records to other Government agencies.

This revision is being published without giving notice of proposed rulemaking since advance notice would delay clarification and understanding of the Freedom of Information Act amendments of 1974 at the State and County Office levels and would, therefore, be contrary to public interest. However, it is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. In accordance with the spirit of that policy, interested parties may submit written comments, suggestions, data, or arguments to the Chief, Directives Management Branch, Farmers Home Administration, United States Department of Agriculture, Room No. 6315 South Building, Washington, D.C. 20250, within 30 days after the publication of this Part. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Chief, Directives Management Branch, during regular business hours: (8:15 to

4:45). Material thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal. However, this Part as here amended shall remain effective until it is further amended in order to permit the public business to proceed expeditiously.

As revised, Part 1813 will read as follows:

- Sec.  
1813.1 General statement of purpose and policy.  
1813.2 Definitions.  
1813.3 Public inspection and copying.  
1813.4 Indexes.  
1813.5 Requests for records.  
1813.6 Delegation of authority.  
1813.7 Availability of identifiable material.  
1813.8 Determinations and appeals.  
1813.9 Compulsory process.  
1813.10 Fee schedules.

**AUTHORITY:** 7 U.S.C. 1989; 42 U.S.C. 1480; 40 U.S.C. 442; 43 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 of P.L. 93-357, 88 Stat. 392; delegation of authority by the Secretary of Agriculture, 7 CFR 2.70; delegations of authority by Director, OEO, 20 FR 14764, 23 FR 9850.

##### § 1813.1 General statement of purpose and policy.

(a) This Part is issued in accordance with the regulations of the Secretary of Agriculture in Part 1, Subpart A of Subtitle A of this Title (7 CFR 1.1-1.16), implementing the Freedom of Information Act (FOIA) (5 U.S.C. 552) including Appendix A thereto (Fee Schedule). In keeping with the spirit of the FOIA, the policy of FmHA governing access to information contained in the files, documents, and records is one of the fullest responsible disclosures, limited only by the obligations of confidentiality and the administrative necessities recognized by the Act.

(b) The vast majority of requests for material affected by the FOIA will be handled quickly and informally by providing the requester a copy of leaflets or booklets, FmHA regulations, guidelines for the preparation of forms when needed, blank forms, or materials appropriate for public use.

(c) Unless exempted from disclosure pursuant to law, records of the Agency shall be available for inspection and copying in accordance with this Part and upon payment of applicable fees.

(d) This regulation does not supersede any FmHA regulation prohibiting the removal of official records from any FmHA office.

(e) This regulation does not purport to describe or set forth every item of information which may or may not be disclosed.

##### § 1813.2 Definitions.

(a) "Act" refers to the Freedom of Information Act (FOIA), 5 U.S.C. 552.

(b) "Application" applies to the entire application process from the time of initial contact with applicant until the application is withdrawn, rejected, or approved.

(c) "Days" shall not include Saturdays, Sundays and holidays.

(d) "Department" refers to the United States Department of Agriculture.

(e) "Descriptive publications" means FmHA pamphlets, leaflets, flyers, and press, radio, and TV releases developed primarily for public consumption.

(f) "Determination" refers to the decision to release or not to release information requested under this regulation.

(g) "FmHA" refers to the Farmers Home Administration.

(h) "Forms" mean blank copies of FmHA forms and forms of other agencies utilized by FmHA, not including accountability form items such as identification cards and transportation requests.

(i) "FOIO" means Freedom of Information Officer. He is the Chief, Reports Management Branch, Management Information Systems Staff, National Office, Washington, D.C.

(j) "Indexes" mean the Procedure Table of Contents, Forms Reference List, FmHA Bulletin Checklist, and list of pamphlets.

(k) "Information" means staff manual items, forms, descriptive publications, records, and information obtained or produced by officers and employees of FmHA in the course of their official duties as well as all files, documents, records, and other information in the custody or control of any FmHA officer or employee.

(l) "OGC" refers to the Office of the General Counsel.

(m) "Records" mean any documents (including borrower case dockets), papers, and information contained in FmHA files other than staff manual items, forms, descriptive publications, and indexes.

(n) "Staff manual items" mean regulations, guidelines for the preparation of forms, internal Agency notices, and related items.

##### § 1813.3 Public inspection and copying.

(a) Facilities for inspection and copying by the public and for obtaining copies of materials will be provided by: The FOIO in the National Office, the State Director in each State Office, and the County Supervisor in each County Office. Such facilities will usually consist of a table and chairs in a convenient location in the office which can be used without undue interference with normal office procedure.

(b) A person who has requested such materials will be promptly notified that he may inspect and copy such materials, and upon payment of applicable fees, obtain copies thereof, on business days from 9:30 a.m. to 4 p.m. If any of the FmHA materials requested are not located at the office to which the request was made, the request will be forwarded to the office where such materials are available.

##### § 1813.4 Indexes.

The Agency has determined that periodic publication and distribution of indexes is unnecessary and impracticable as permitted by the FOIA but FmHA employees will explain, without charge, to

members of the public how to use any of the indexes and will render reasonable assistance to them in determining from the index the materials in which they are interested.

##### § 1813.5 Requests for records.

(a) To speed processing, requests for information should be made at the appropriate County or State Office, but requests may be mailed to the Chief, Reports Management Branch, Management Information Systems Staff, Farmers Home Administration, Washington, D.C. 20250. Requests for staff manual items, forms and descriptive publications that are readily available at the County Office need not be put in writing. All other requests must be submitted in writing. The phrase "FOIA REQUEST" should be placed in capital letters on the front of the envelope for any written requests. The requester will be given notice of the determination promptly and in writing. When a determination to release has been made, the notice will indicate when the information will be available. Any required fees shall be paid in advance of searches or receipt of service.

(b) All written requests will be date stamped upon their receipt.  
(c) A request shall not be denied on the sole ground that the record has not been properly identified, if the description together with the knowledge Agency personnel have of the contents of their files, enable the record to be located.  
(d) Requests shall be reasonably specific. If they fall within reasonably specific categories but constitute an undue burden, the FmHA official making the determination may contact the requester to discuss the request and reduce it to manageable proportions.

(e) A request relating to a matter in pending litigation must indicate the name of the court and its address.  
(f) Copies of documents or blank forms will be supplied whenever possible. If photocopies must be made, the FmHA employee will maintain control of partially exempt documents being copied to eliminate unauthorized disclosure of material.

(g) If data have been compiled and are available in the form of a record, the data shall be made available as provided herein. If administratively feasible, records may be created for the prescribed fee; however, records are not normally required to be created by compiling selected items from the files, and records are not normally required to be created to provide the requester with such data as ratios, proportions, percentages, per capita, frequency distributions, trends, correlations, comparisons and forecasts.

(h) Copies of a requested record need not be furnished if the record is known to have been published in the FEDERAL REGISTER or is available for purchase from the Superintendent of Documents of the Government Printing Office (GPO). The requester will be advised to submit his order to GPO at the following address: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Such records may be examined if an Agency office has a copy.

(i) If the material requested is the primary concern of another agency, the request will be promptly referred to that agency. If FmHA has no knowledge concerning the requested records, it shall notify the requester of that fact.

(j) Records of specified form or character are required to be destroyed after the lapse of time specified in the Records Disposal Act of 1943, 44 U.S.C. 366-380, and in accordance with FmHA disposal schedules.

##### § 1813.6 Delegation of authority.

Subject to the provisions of § 1813.8, the FOIO, each State Director, and each County Supervisor is authorized to act respectively on the State and County level on behalf of FmHA on all requests for materials and records.

##### § 1813.7 Availability of identifiable material.

(a) **Releasable information.** (1) When providing information from a file, care should be exercised so that nonreleasable information will not be revealed.

(2) The following is illustrative of information which is releasable to the public:

(i) All staff manual items, blank copies of forms, and descriptive publications.

(ii) Names, positions, titles, grades, salaries, and duty stations of FmHA employees. Home addresses and telephone numbers may not be released and names may not be used for solicitation purposes.

(iii) Final FmHA opinions.

(iv) The following loan and grant information:

(A) Names and addresses of recipients of insured, direct, or guaranteed loans, grants, and of private lenders for guaranteed loans.

(B) Names of officers, directors, stockholders, or partners of recipient firms.

(C) The kind and amount of assistance, including amount of any Emergency loan forgiveness.

(D) The purpose of the approved assistance in general terms such as a farm ownership loan, a fish processing factory, a water system, a sewage treatment plant, etc.

(E) The extent of outside participation, if any.

(F) Statistical data such as numbers of loans in an area, totals and summaries.

(G) Information available in public records, or customarily released by the applicant or recipient, or approved in writing for release by the applicant or recipient.

(H) Name, amount, of loan applied for, general loan purpose, and the name of lender for applicants, including guarantee applicants.

(v) Appraisals and inspection reports, subject to the restrictions of paragraph (c) (1) and (2) of this section.

(vi) Copies of pleadings, motions, orders, transcripts of testimony, and documentary evidence introduced in pending or closed litigation once such items are a matter of public record.

(vii) Race or sex of employees, applicants or borrowers, but only in the form of gross statistics, since any such information in FmHA records has been ob-

tained via unverified visual identification for statistical purposes only.

(viii) Any other information not justifiably exempt from disclosure by the FOIA.

(b) **FmHA information that is exempt from public disclosure under the FOIA.**

(1) Although the FOIA gives overriding emphasis to the fact that information in the Executive Branch should be more available, it recognizes that some records cannot be disclosed without violating the right of privacy, impairing the ability of the Government to function, or impairing its programs.

(2) In the remainder of this section, the quoted passages are the text of the law. Explanatory parts are not in quotation marks. Explanatory parts are for general background information only and are not intended to function as a summary of current case law interpreting the exemptions.

(3) Under the Freedom of Information Act, information may be withheld if it is:

(i) "(A) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive Order." FmHA records in this category are identified by the security classification of Confidential, Secret, and Top Secret. (Exemption No. 1 of the Act.)

(ii) "Related solely to the internal personnel rules and practices of any agency." A guideline for application of the exemption is that an agency cannot bargain effectively for the acquisition of lands or services or the disposition of surplus facilities if its instructions to its negotiators and its offers to prospective buyers or sellers are not kept confidential. Once an action is completed and the reason for confidentiality has passed, the information may be released. An agency must keep secret the circumstances under which it will conduct unannounced inspections or spot audits of supervised transactions. (Exemption No. 2 of the Act.)

(iii) "Specifically exempted from disclosure by statute." This exemption indicates an intention to preserve whatever protection is afforded under other statutes, but is not of particular relevance to FmHA. (Exemption No. 3 of the Act.)

(iv) "Trade secrets and commercial or financial information obtained from any person and privileged or confidential." This exemption covers material which would not customarily be made public by the person from whom it was obtained. It also covers certain information which is given to FmHA in confidence, since a citizen must be able to confide in his Government. This exemption is meant to protect information that is revealed to FmHA under an express or implied promise by FmHA that the information will be kept confidential. It is applied by FmHA primarily to information submitted under loan and grant programs. FmHA interprets "person" to include corporations and other organizations. (Exemption No. 4 of the Act.)

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(v) "Interagency or intra-agency memorandums or letters which would not be available by law to a private party in litigation with the agency." This exemption protects internal memorandums and letters, the release of which would inhibit the free exchange of ideas within FmHA. It cannot be used to withhold material merely because it is embarrassing or to withhold purely factual material or final opinions. (Exemption No. 5 of the Act.)

(vi) "Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." This exemption excludes from disclosure requirements all personnel and medical files, and all private or personal information contained in other files which, if disclosed to the public, would amount to a clearly unwarranted invasion of personal privacy. FmHA interprets "person" to include corporations and other organizations as well as individuals, and "files" to include loan and grant files. (Exemption No. 6 of the Act.)

(vii) "Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel." This applies to files compiled in investigations leading to administrative proceedings such as employee sanctions or debarment as well as files compiled for criminal prosecution. Files compiled primarily for other purposes cannot later be classified as law enforcement files. (Exemption No. 7 of the Act.)

(4) The Act contains two other exemptions that are not applicable to FmHA, and this comment: "This section does not authorize withholding of information or limiting the availability of records to the public, except as specifically stated in this section nor shall this section be authorized to withhold information from Congress." Reference is to official requests of Congress or its committees, not to requests from individuals serving in the House or Senate.

(c) **Nonreleasable information.** (1) When any document or file contains both releasable and nonreleasable information, the items which are not to be released will be blocked out and identified according to the nature of the information contained and the applicable exemption number(s) cited. The rest of the document will then be released. Any information withheld only under exemp-

tions No. 4 and/or No. 6 of the Act will be released to any person with the permission of the person whose confidential communication or privacy is being protected. This permission should be obtained in writing.

(2) The following is a list of items which are not available to the public with the applicable FOIA exemption number(s) indicated after each item.

(i) Sensitive internal communications such as preliminary drafts of decisions, informal opinion portions of some reports and the working papers in which policies are formulated or recommended and which, if released, would inhibit the free exchange of ideas within FmHA. (Exemption No. 5 of the Act.)

(ii) Information in the possession of the FmHA, the release of which would constitute an unwarranted invasion of the privacy of a person. This may include the identity of individuals in reports which are otherwise releasable. (Exemption No. 6 of the Act.)

(iii) Lists and case files of persons temporarily suspended under the FmHA debarment regulations, since such suspension is not a final determination and such lists are for internal use only.

(iv) The following loan and grant information:

(A) Confidential information on pending, declined, withdrawn, or cancelled applications for assistance. (Exemptions No. 4 and No. 6 of the Act.)

(B) Why applications were withdrawn or rejected. (Exemptions No. 4 and No. 6 of the Act.)

(C) Confidential, financial, or other information about borrowers obtained from any source except as noted in paragraph (d) of this section. (Exemptions No. 4 and No. 6 of the Act.)

(D) Information concerning losses, delinquencies, and defaults in individual cases. (Exemption No. 6 of the Act.)

(E) Information regarding the character, credit standing and property of applicants, borrowers, or other persons except as under paragraph (e) of this section. (Exemptions No. 4 and No. 6 of the Act.)

(F) Confidential information in case files and borrower case dockets. (Exemption No. 6 of the Act.)

(v) Investigatory files compiled for law enforcement purposes such as files compiled for debarment and personnel action to the extent permitted by Exemption No. 7. (Exemption No. 7 of the Act.)

(vi) Opinions of the Office of the General Counsel (OGC), the Office of Audit (OA), Office of Investigation (OI), or other agencies. Refer the request to the originating agency.

(vii) Lists of names and/or addresses of employees or of persons, organizations of firms for political or commercial solicitation purposes unless authorized by the individual named therein.

(d) **Credit reports.** (1) In accordance with general credit practices, when Agency officials are satisfied that the information is to be used to determine whether credit will be extended to an FmHA borrower, the following informa-

tion may be furnished to lenders: Name of borrower, date and amount of FmHA loan; loan purpose; participating bank, if any; approximate present balance; whether the loan is delinquent; but not the extent of delinquency; whether the experience with the loan has been satisfactory; and nature of collateral, such as land, buildings, equipment, etc.

(2) When an applicant for credit for personal, family, or household purposes is rejected because of a credit report from a credit reporting company, FmHA will release the source of the report to the applicant upon his request under 15 U.S.C. 1681m(a). The Fair Credit Reporting Act. When credit for similar purposes is denied because of information obtained from other sources, upon request FmHA will release the nature of the information to the applicant, but not the source, under 15 U.S.C. 1681m(b).

(3) Persons furnishing a credit reference from outside the Government can be promised confidentiality under Exemption No. 4 as it applies to commercial or financial information obtained from a person and privileged or confidential. The promise of confidentiality must be made in good faith and for good reason.

(e) **Availability of materials and records to other Government agencies.** (1) **Federal agencies.** FmHA desires the fullest cooperation with other Federal agencies. Accordingly, any information that is available to the public and most exempt information which is not confidential is usually available to other agencies. The Federal Reports Act of 1942, 44 U.S.C. 3508, however, requires that confidential information may not be released to other Federal agencies unless the person supplying the information consents or the agency has specific power to collect such information. Such agencies include the Internal Revenue Service, supported by 26 U.S.C. 7602 and the General Accounting Office, supported by 31 U.S.C. 54. FmHA officials will release confidential information to other agencies when necessary for the proper administration of FmHA programs.

(2) **State agencies.** State agencies will be treated in the same manner as the general public.

#### § 1813.8 Determinations and appeals.

(a) **Determinations.** A determination to release or deny must be made within 10 days after receipt of the request, and if the requested data is not enclosed in the reply, the approximate date that compliance will be effected shall be indicated in the reply. Prior to the issuance of a denial under Exemption No. 4 or No. 6, the FmHA official should contact the person whose privacy is at issue and request his written permission to release it, as Exemptions No. 4 and No. 6 are intended to protect individual privacy. If a denial is contemplated, OGC should be consulted. The names and titles or positions of each person responsible for the denial of a request must be set forth as a part of the written denial. This notice of denial shall also notify the requester of the reasons for the denial citing the

applicable exemption(s) under the Act; of the right of the requester to appeal the denial to the Administrator of FmHA whose address is South Building, U.S. Department of Agriculture, Washington, D.C. 20250; that appeal must be made in writing within 45 days after receipt of the denial or, in cases of partial denial, within 45 days after receipt of the information being made available; and that the phrase "FOIA APPEAL" is to be placed in capital letters on the front of the envelope containing the appeal.

(b) **Appeals.** (1) The FmHA Administrator will notify the requester in writing within 30 days after his receipt of the written appeal of the Farmers Home Administration's final determination, and if requested data is not enclosed, the requester shall be informed of the approximate date compliance will be effected. Upon a determination to deny the appeal, the Administrator will send a copy of the records requested, when practical, and of all related correspondence to OGC, Attention, Research and Operations Division. When the volume of records is so large as to make sending a copy of the records requested impractical, the Administrator will enclose an informative summary of those records. In accordance with 7 CFR 1.11(b), FmHA may, in individual cases, except where disclosure is prohibited by Executive Order or statute, or by regulations of other Government agencies, make available records exempt from disclosure that will not adversely affect the national interest or constitute an unwarranted invasion of individual privacy.

(2) The FmHA Administrator's notice of a final denial will include a statement that judicial review is available in accordance with 5 U.S.C. 552(a)(4). The notice of final denial will also inform the requester of the reason(s) for the denial and names and titles or positions of each person responsible for the denial of the appeal.

(c) **Extension of time.** (1) Any extension in the response time for an initial determination or response to an appeal must have the approval of the FOIO. Such an extension may be granted during the denial or appeal stage. Extensions will not exceed a total of 10 days. When an extension has been granted, the requester will be notified immediately in writing.

(2) For extensions of time beyond 10 days, approval of the FOIO and the requester is required in writing.

§ 1813.9 Compulsory process.

(a) When asked for records by a person or his counsel who is a party to litigation with the Government, FmHA personnel should direct the request to OGC.

(b) In any case where a subpoena or other compulsory process requires the production or disclosure of any records, materials, or information acquired by an FmHA employee in the performance of his official duties, or because of his official status, the employee will appear at the time and place required by the subpoena or other compulsory process, and will follow the instructions of the State

Director or Administrator, with the advice and assistance of the OGC, regarding the information that may or may not be disclosed.

(c) When a compulsory process or demand of the type described in paragraph (a) of this section is made upon an FmHA employee by a court or other authority while he is appearing before, or is otherwise in the presence of the court or other authority, the employee shall immediately inform the court or other authority that this section and 7 CFR 1.15(b) prohibits the employee from producing or disclosing information or material demanded without the prior approval of the Administrator; and offer to refer the demand for the prompt consideration of the Administrator. Unless the court or other authority withdraws the demand, the employee, or other appropriate Government official or attorney, shall provide the court or other authority a copy of the regulations prescribed in this paragraph and paragraph (b) of this section, and shall respectfully request the court or other authority to stay the demand pending the receipt of instructions or directions from the Administrator concerning the demand.

(d) If a final denial is contemplated, the matter will be referred by the Administrator to the Secretary of Agriculture for final determination. Unless the Secretary determines that the records, material, or information should be produced, the employee who appears in answer to the demand will respectfully decline to produce or disclose the records, material, or information demanded on the ground that the disclosure is prohibited by this section and by 7 CFR 1.15 (a). The employee shall provide the court or other authority with a copy of the regulation prescribed in this section and shall respectfully request the court or other authority.

(e) No public statements or press releases relating to particular litigation being conducted by the Department of Justice are to be made or issued without prior consent from the OGC.

§ 1813.10 Fee schedules.

(a) **Fee schedule general.** This section adopts the Fee Schedule and procedures prescribed by the Office of Plant and Operations USDA Appendix to 7 CFR Part 1, Subpart A. FmHA requires that fees be collected in full before or at the time the material or record is furnished. Subsection (b) covers fees charged by FmHA but not covered in the Department Fee Schedule.

(b) **Fee charges.** (1) **Searches.** Manual searches (locating, selecting, extracting, compiling) will be charged for at the rate of \$4 per hour for clerical time, and \$9 per hour for supervisory or professional time. Charges will be computed to the nearest quarter hour required for the search. A search may involve both clerical and supervisory or professional time.

(2) **Computer usage.** a minimum fee of \$25 if computer is needed to respond to any request.

(ii) For information which has to be compiled, the charge will include the cost of employee's time and cost of computer runs or other equipment used.

(2) **Authentications (with USDA seal affixed).** \$2 each document copy authenticated (additional to any other charge).

(3) **Certifications.** \$1 each document copy (additional to any other charge). The certification should read: "I certify this is a true copy of the original" (with signature and title affixed). The officials authorized to make this certification are the FOIO, State Directors, and County Supervisors.

(4) **Staff manual items.** \$.05 each sheet.

(5) **Forms (blank copies).** \$.05 each copy. Accountability form items (such as identification cards, transportation requests, and so forth) will not be made available. Public requests for copies of the "FmHA Record Book" will be referred to the GPO in accordance with § 1813.3(e).

(6) **Guide for construction of farm buildings.** \$1 each copy.

(7) **Construction detail (CD) sheet.** \$.20 each sheet.

(8) **Recordation data and face amount secured by mortgage or other documents recorded in the public records by FmHA.** \$1 minimum. \$.50 each document. Name and last known address of borrower, type of instrument, and approximate date of execution should be supplied by the requester.

(9) **Names and addresses of FmHA borrowers.** \$.20 each name and address.

(10) **FmHA office addresses.** \$.20 per address.

(11) **Photocopies, 8-1/2" x 14" or smaller.** \$.10 for the first copy and \$.05 for each additional copy of the same page.

(12) **Photocopies in excess of 8-1/2" x 14".** \$.25 per linear foot.

(c) **Payment of fees.** (1) Fees will be collected to the fullest extent possible in advance or at the time of the transaction. This means that when the material or record is furnished to the requester in person during the visit to the FmHA office, the fee will always be collected before or at the time the material or record is forwarded to the requester.

(2) Fee payments remitted to the FmHA by the requester will be in the form of a check, draft, or money order payable to the United States Treasury. The acceptance of cash in small amounts (\$5 or less) is permissible when the material or record is furnished to the requester in person at the FmHA office.

(3) When the fee is collected, a receipt will be issued to the payer on Form FmHA 104-1, "Public Information Receipt."

(d) **Deficiencies and refunds.** (1) When the amount covered by an advance payment is less than the final total cost of filling a request, the amount of the deficiency, if \$1 or more, will be collected not later than at the time the request is filled. Overpayment of \$1 or

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more will be refunded, but refunds of amounts less than \$1 will not be made unless specifically asked for in writing.

(2) All refunds will be processed through the Finance Office.

**Effective date.** This revision is effective on May 19, 1975.

Dated: May 5, 1975.

FRANK B. ELLIOTT,  
Administrator,  
Farmers Home Administration.

[FR Doc. 75-13036 Filed 5-16-75; 8:45 am]

#### SUBCHAPTER D—GUARANTEED LOANS

[FmHA Instructions 449.1 and 449.2]

#### PART 1842—BUSINESS AND INDUSTRIAL LOANS

##### Taxable Bond Issues

On March 25, 1975, there was published in the *FEDERAL REGISTER* (40 FR 13201) a notice of proposed rulemaking amending § 1842.61 of Part 1842, Chapter XVIII, Title 7, Code of Federal Regulations (39 FR 34267), to provide for the guarantee of taxable bonds issued by public bodies, and adding § 1842.62 to provide procedures for guaranteed loans to be made to public bodies in connection with the issuance of any class or series of taxable industrial bonds. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

No written objections have been received and the proposed regulations are hereby adopted without change and are set forth below.

**Effective date:** This amendment is effective on May 19, 1975.

Dated: May 5, 1975.

FRANK B. ELLIOTT,  
Administrator,  
Farmers Home Administration.

As amended and added, §§ 1842.61 and 1842.62 read as follows:

#### § 1842.61 Insured loans.

Applications from private parties for whom FmHA and such applicants agree that a guaranteed lender is not available, and from public bodies, shall be processed as insured loans in accordance with the applicable provisions of this Chapter and Subpart A of Part 1823 of this Chapter, including the credit elsewhere requirement, except as provided in § 1842.62, which provides for the guarantee of taxable bond issues of public bodies.

(a) **Public bodies.** Except as provided in § 1842.62, loans to public bodies may be used only to finance community facilities for the purpose of developing private business enterprises and when the requested loan is not available under Subpart A of Part 1823 of this Chapter.

(b) **Community facilities.** Community facilities include industrial parks, consisting of land, the necessary access ways to the sites, and utilities, but not improvements erected on such site.

#### § 1842.62 Guaranteed industrial development bond issues.

(a) **Guaranteed loans to public bodies.** Loans to public bodies may be made for the purpose of constructing and equipping industrial plants for lease to private businesses (not including loans for operating such businesses). Applications for such loans shall first be considered on a loan guarantee basis.

(1) Loans made to public bodies may be guaranteed only in connection with the issuance of any class or series of industrial development bonds (as defined in section 103(c)(2) of the Internal Revenue Code of 1954, as amended (IRC)), the interest on which is includable in gross income under the IRC. No part of the loan guaranteed by FmHA may extend to any class or series of industrial development bonds the interest on which is excludable from gross income under section 103(a)(1) of such Code. Prior to the execution of any Contracts of Guarantee, lender shall furnish FmHA evidence regarding interest on the bonds being taxable for Federal income tax purposes. Such evidence may be in the form of an unqualified opinion of a recognized bond counsel or a ruling from the Internal Revenue Service.

(2) If FmHA and the applicant agree that a guaranteed lender is not available, the application may be considered for an insured loan under the provisions of § 1842.61.

#### §§ 1842.63-1842.70 [Reserved]

(7 U.S.C. 1989); delegation of authority by the Sec. of Agr., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

[FR Doc. 75-13037 Filed 5-16-75; 8:45 am]

#### Title 8—Aliens and Nationality

#### CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

#### PART 211—DOCUMENTARY REQUIREMENTS: IMMIGRANTS; WAIVERS

Pursuant to section 552 of Title 5 of the United States Code (40 Stat. 383) and the authority contained in section 106 of the Immigration and Nationality Act (88 Stat. 173; 8 U.S.C. 1103), an amendment, as set forth herein, is prescribed in Part 211 of Chapter I of Title 8 of the Code of Federal Regulations.

In § 211.1(b)(3) two sentences are being added immediately preceding the existing last sentence thereof, the regulation is being amended to describe an authorized economical alternative to filing two separate applications where a returning resident immigrant has lost his Form I-151 and requires both a waiver of documents and a replacement document. The additional sentences are as follows:

Title 8 CFR is amended by adding two sentences at the end of § 211.1(b)(3) to read as follows:

#### § 211.1 Visa.

(b)(3) . . . . .  
If the returning resident alien is not presenting Form I-151 because he has

lost it, a Form I-90, (application for a replacement Form I-151) in duplicate, may be filed with the district director having jurisdiction over the port of entry who may in his discretion grant or deny without appeal a waiver of the required immigrant visa, reentry permit or Form I-151, by an immigrant alien who is returning to an unrelinquished lawful permanent residence in the United States after a temporary absence abroad not exceeding one year; filing the I-90 will serve not only as an application for replacement but also as an application for waiver of passport and visa without the necessity of a separate filing of Form I-193. An alien who is granted a waiver under this part upon presentation of Form I-90 shall, after admission into the United States, comply with the requirements of § 264.1(c) of this chapter.

Compliance with the provisions of section 553 of Title 5 of the United States Code (40 Stat. 383) as to notice of proposed rulemaking and delayed effective date is unnecessary in this instance as the amendment is to clarify agency procedure.

**Effective date.** The amendment in this order shall become effective on May 19, 1975.

Dated: May 14, 1975.

L. F. CHAPMAN, JR.,  
Commissioner of

Immigration and Naturalization.

[FR Doc. 75-13076 Filed 5-16-75; 8:45 am]

#### Title 12—Banks and Banking

#### CHAPTER I—COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

#### PART 7—INTERPRETIVE RULINGS

#### Customer-Bank Communication Terminals

##### I. INTRODUCTION

On December 12, 1974, the Comptroller of the Currency issued an interpretive ruling, 12 CFR 7.7491, Customer-Bank Communication Terminals (39 FR 44416, Dec. 24, 1974) stating his opinion that:

(a) It was a part of the banking business authorized to national banks by 12 U.S.C. 26, 27, and 24 Seventh, to communicate through computer terminals with customers of the bank concerning transactions in the customers' accounts; and

(b) Such customer-bank communication terminals, if established off premises, would not constitute "branches" within the meaning of 12 U.S.C. 38(f).

On December 19, 1974, Senator McIntyre, now Chairman of the Subcommittee on Financial Institutions of the Senate Committee on Banking, Housing & Urban Affairs, wrote the Comptroller suggesting several considerations of public policy which the Comptroller might have overlooked in announcing his interpretive ruling, and suggesting that it would have been useful for the Comptroller to convene a public hearing to consider these matters prior to the issuance of the ruling. 120 Cong.

Rec. S.22548 (Dec. 20, 1974). A similar suggestion as to the usefulness of a public hearing was received also in December 1974 from the Independent Bankers Association of America in connection with a petition filed by the IBAA seeking a decision of the Comptroller's interpretation.

After receipt of these suggestions, the Comptroller on January 16, 1975, published notice that a public hearing would be scheduled on April 2, 1975, to consider whether 12 CFR 7.7491, as amended in December 1974, should be further modified or amended. 40 FR 2836. The announced purposes of the hearing were to determine whether equitable considerations indicated further policy statements with regard to the interaction between the Comptroller's ruling and the laws of the various states, and to afford any interested person an opportunity to make his views known to the Comptroller.

Following an unsuccessful attempt by the IBAA to enjoin the holding of the hearing, the hearing was held as scheduled on April 2 and 3, 1975. Thirty-five witnesses appeared including eleven who appeared on behalf of the IBAA. Representatives of the IBAA and at least one other witness advocated complete rescission of the Comptroller's December 12, 1974, ruling, and their arguments, both written and oral, were received.

Based upon the testimony received at the Comptroller's hearing; upon written statements submitted in response to the January 16, 1975, notice of proposed rulemaking; and upon other facts which have come to the Comptroller's attention, both through hearings held on March 14, 1975, before the Senate Subcommittee on Financial Institutions and otherwise, the Comptroller has found no reason to alter his legal conclusions contained in his December 1974 ruling and explained at length in a statement accompanying that ruling. The Comptroller has, however, determined to adopt several modifications in the ruling as set forth below. These modifications reflect the experimental nature of CBCT development, and are designed to allow such developments to continue under appropriate monitoring by the Comptroller's Office.

##### II. DEFINITION OF A BRANCH

Additional testimony and evidence has been presented since the December 1974 ruling confirming the Comptroller's conclusion that a CBCT is not a "branch" within the common understanding of that term. The President-elect of the American Bankers Association, for example, testified in the Comptroller's hearing:

Electronic banking is new only in method of delivering the services, not in the services themselves, or in the fact that they are initiated away from the bank. Many banking services have traditionally been accessible from outside the conventional banking offices—either through mail service or telephone. I would seriously doubt whether any banker anywhere has not utilized such mail and telephone services in conducting the basic business of banking, irrespective of

geographic boundaries. CBCTs would do no more or no less—only faster, safer, more efficiently and with more convenience to the public.

Chairman Bomar of the Federal Home Loan Bank Board testified before the Senate Subcommittee on Financial Institutions, " . . . [I]f they are branches, so are post office boxes, so are grocery stores and department stores . . . ." Deputy Assistant Attorney General Baker of the Antitrust Division similarly told the same Subcommittee: "I don't see these CBCTs being the equivalent of branches. I think they are much more limited facilities." It also came to light during the Comptroller's hearing that as early as 1969 the Attorney General of Kentucky formally had opined: "We do not view the operation of the Electro-Teller Automatic Deposit Machine as being a 'branch bank'." Finally, since the December 1974 ruling, the states of North Dakota, Maryland, Kansas and Nebraska each have passed statutes authorizing the equivalent of CBCTs to be established and used by state banks and declaring that such terminals are not deemed to be branch banks.

One of the witnesses testifying before the Comptroller on behalf of the IBAA was an engineer who had helped to invent one form of so-called automated teller machine. He exhibited a certain amount of natural and understandable pride in these machines and stated that, in his opinion, the consumer banking functions provided by an automated teller are essentially those provided by a traditional manned branch. A state banker also appearing on behalf of the IBAA agreed at the Comptroller's hearing with this conclusion that an automated teller machine was the equivalent of a branch; yet this same state banker on September 19, 1974, testified at a hearing before the Michigan Commissioner of Financial Institutions as follows:

Legal arguments exist that branch banks imply the use and presence of human beings as representatives of the bank having contact with the public. However, the AM is a mechanical device which permits programmed segmented transactions to go to the bank for existing customers. This device, it seems, falls into the same category as the U.S. mail, telegraph, telephone, and other forms of data communication devices which have existed for many years. The ATMs cannot open a new account, cannot initially establish a credit relationship, cannot verify receipt of currency, or cannot respond to the many financial problems and inquiries of the customer. Obviously these functions occur at the normal definition of a branch bank.

In essence we have nothing more than a data-input device coupled with a box of cash whereby certain programmed transactions between the financial institution and its customers can go forward. They should not be described as automated teller machines which imply the human element, but rather a financial communication device.

Since this device is not a teller, it is not a bank, then these machines should not be considered as a branch of a bank.

Similarly, the legislative counsel of the IBAA conceded at the Comptroller's hearing that " . . . there is a distinction between the structure as we now know

it, brick and mortar structure and that kind of market construction, and the problem of a technology that has just arrived on the scene. . . ." Thus the evidence made available to the Comptroller supports the conclusion he announced in December 1974 that a CBCT is not a "branch" within the common understanding of that term.

#### III. THE USE OF CBCTs OWNED BY THIRD PARTIES

When the December 1974 ruling was issued, the type of CBCT most prominent in the Comptroller's mind were so-called "exclusive" or "dedicated" terminals established and owned by a single bank and operated principally for the benefit of its own customers. The December ruling thus was written in terms of national banks establishing and operating such devices.

In the intervening months, additional emphasis has been placed on networks of CBCTs owned by a third party and shared by a number of banks or other financial institutions. Legislation recently has been enacted in Nebraska under which it is expected that a statewide network, sponsored by the Nebraska Bankers Association, will be operational by the end of 1975. Credit Systems, Inc., a membership corporation which is the Master Charge processor for its member banks, recently has announced plans looking toward a shared EFTS network in the five state area of Missouri, Kansas, Illinois, Kentucky and Iowa. The proposed CSI network would have 130 financial convenience centers, which would be so-called automated teller machines available for use of any customer of any bank belonging to the network, and 6,000 point of sales terminals through which vendors of goods and services could be paid by electronic transfer for such goods and services. The system will be available at cost to each of 1,200 banks in the five state area served by CSI, and may be operational as early as July 1, 1976.

The Comptroller's ruling has been modified to make clear that national banks are permitted, in the Comptroller's opinion, to participate in such networks, whether or not the bank itself owns or operates the terminals. It is the Comptroller's opinion that national banks may receive and act upon instructions received from customers through such networks, just as national banks have for many years received and acted upon customers instructions received by mail or telephone. The bank need not necessarily own or operate the communication device itself in order to take advantage of this communication tool, although it may do so if it so chooses.

#### IV. GEOGRAPHIC LIMITATIONS

There has been a great fear expressed, mostly on behalf of smaller banks, that the Comptroller's ruling will permit a few large banks to dominate the banking structure of a state or, indeed, of the entire country. The Comptroller and his staff have received frequent comments from small banks located in various parts of the country that the Comptroller's



ruling would permit a giant bank, such as Bank of America of San Francisco or First National City Bank of New York City, to establish terminals throughout the country and gain a virtual monopoly on the nation's retail banking business.

The Comptroller believes that such fears are unfounded. A CBCT is useful only to a bank which has an existing customer base. Only customers who have a preestablished account at the bank and a card issued by the bank to gain access to that account through a CBCT may use a CBCT. The testimony at the Comptroller's hearing supports the conclusion that a CBCT is not a particularly useful competitive weapon for geographic market penetration. Thus it is unlikely that any national bank, whether big or small, which is interested in profitability would establish these terminals where there was no preexisting customer base, and several banks have so testified.

One witness representing a public interest group suggested at the Comptroller's hearing that, since it was unlikely that CBCTs would proliferate in the manner feared by the small banks, it might be useful for the Comptroller to impose a geographic limitation simply to allay these fears. The Comptroller believes there is much merit to this suggestion.

Much of the public discussion of the Comptroller's ruling has been in terms of big banks versus small banks or state banks versus national banks. It is not the Comptroller's intention to attempt to establish a competitive advantage for any particular group of banks. The Comptroller believes instead that electronic technology has made possible a reliable system by which rudimentary banking services can be delivered with greater locational and time convenience than before; that the limited experience available—such as that of First Federal Savings and Loan Association of Lincoln, Nebraska—with such services shows there is a great public demand for them; that savings and loan associations already are providing such services under regulations of the Federal Home Loan Bank Board (39 FR 23991, June 28, 1974), and that other institutions not normally thought of as financial institutions, such as nationwide retailers, are in an excellent position to begin providing such services; and that the banking industry should be more concerned with attempting to meet this competition from non banks and less fearful about hypothetical possibilities that CBCTs may permit one bank to gain some sort of competitive advantage over another. Even if such considerations were relevant, the Comptroller believes that the electronic transfer of funds through CBCTs will be of most advantage to small banks. Small banks will be offered an economical way to provide meaningful competition to larger banks with established geographically convenient branches. Indeed, networks such as those contemplated in Nebraska and in Missouri and its surrounding states will offer to small bank customers and to large bank customers

exactly the same time and location convenience.

The Comptroller's power to impose regulatory restrictions is not precisely defined in any statute. The courts, however, apparently have upheld reasonable legislative type regulations even in the absence of specific statutory authority. See, e.g., *American Trucking Association v. United States*, 344 U.S. 298 (1953); *National Broadcasting Co. v. United States*, 319 U.S. 190 (1943). The Comptroller is charged with the execution of all laws relating to the national banking system. This broad supervisory power, when coupled with the so-called "housekeeping" statute now found at 5 U.S.C. 301 giving the head of an executive department power to prescribe regulations "for the government of his department" and the "distribution and performance of its business" has been held to authorize the Comptroller to issue rules and regulations. *Cooper v. O'Connor*, 99 F.2d 135, 140 (D.C. Cir.), cert. denied, 305 U.S. 642 (1938); *Altman v. McClintock*, 20 F.2d 226 (D. Wy.), appeal dismissed, 28 F.2d 1007 (1927). See also *Norris v. United States*, 257 U.S. 77 (1921). It recently has been held that the Federal Trade Commission had such rulemaking authority based upon its power to adjudicate on a case by case basis what constitutes an unfair or deceptive trade practice and its power to make rules and regulations for the carrying out of its statutory duties. *National Petroleum Refiners Association v. FTC*, 482 F.2d 872 (D.C. Cir.), cert. denied, 416 U.S. 951 (1973). Under Section 202 of the Financial Institutions Supervisory Act of 1966, 12 U.S.C. 1818(b), the Comptroller is given authority to issue cease and desist orders against a bank which is engaging, has engaged, or is about to engage in an unsafe or unsound practice in conducting the business of the bank. Under the reasoning of *National Petroleum Refiners* and the other cases cited, the Comptroller would seem to have statutory authority to promulgate reasonable regulations for the sound and safe development of the banking system.

No evidence has been presented that the use of CBCTs is inherently unsafe or unsound. One witness appearing at the Comptroller's hearing and strongly supporting the Comptroller's ruling, however, suggested a modification to insure that CBCTs are installed first in a bank's own market area. If, in the opinion of the Comptroller, the bank did not prove its ability to operate CBCTs in its own market place, then it should not be permitted by the Comptroller to expand geographically into other areas. This suggestion has much merit. It will permit each national bank to experiment with CBCTs in the geographic area with which it is most familiar, and to which it has the easiest access should difficulties arise. Such a limitation also would help to allay the fears expressed on behalf of small banks, and thus promote the healthy development of the banking system, both state and national, by focusing the attention away from an un-

productive intra industry dispute and toward the development of techniques to meet competition from other industries and to serve better the banking public.

The Comptroller thus has adopted a 50 mile radius as a rough and easy to apply measure of the natural market base of a banking office. Under the amended ruling issued herewith, no national bank may establish for its exclusive use a CBCT further than 50 miles away from its main office or its branch nearest to the CBCT. This prohibition does not apply, however, to CBCTs which are available on a shared basis at a reasonable cost to one or more financial service institutions located within the trade area of the CBCT.

#### V. CONSUMER PROTECTION

Witnesses at the Comptroller's hearing and others have criticized the Comptroller's December 1974 ruling upon the grounds that it did not provide a full panoply of consumer protections. Representatives of consumer groups have pointed out that an instantaneous electronic funds transfer might eliminate the stop payment privilege which customers enjoy when paying by check. Another witness criticized the Comptroller's ruling because it did not protect against complete system failure due to windstorms, lightning, and accidents disabling the telephone and telegraph lines connecting the CBCTs to the computer. Both of these matters are beyond the Comptroller's province.

The legislative counsel for the Independent Bankers Association suggested that the Comptroller's Office could undertake regulation concerning disclosure of consumer rights so that a customer is informed, for example, of his liability for a lost or stolen debit card or other medium of access to a CBCT, and thus does not unwittingly obligate himself to unknown liabilities when he opens a checking account and receives such a card. Representatives of consumer groups have made similar suggestions. These suggestions are well taken, and the Comptroller advises all national banks to disclose clearly and meaningfully to its customers all rights and liabilities in connection with both authorized and possible unauthorized transactions involving a CBCT. The Comptroller will monitor developments in this area through a requirement that banks notify the Comptroller of their consumer disclosure practices. Similarly banks are being required by the amended ruling to notify the Comptroller what protection is provided against wrongful or accidental disclosure of confidential customer information.

The other fears concerning electronic fund transfers are unwarranted. While no system or machine is perfect, the evidence at the Comptroller's hearing demonstrated undisputedly that electronic funds transfers are more accurate, reliable, and less subject to fraud than transfers using the existing paper-based system. The Comptroller is not now

aware of any operational difficulties or any potential for fraud or other misuse of a CBCT which would warrant elaborate regulatory safeguards.

#### VI. INTERACTION WITH STATE LAW

The Comptroller's December 1974 ruling contained the following limitation: "National banks are urged prior to July 1, 1975, not to establish a CBCT in any state in which state law would prohibit a state chartered bank from establishing a similar facility." The stated purpose of this urging was to give the legislatures of such states an opportunity to consider whether they wished to place their state chartered banks on an equal competitive footing with national banks and with savings and loan associations. As already noted, one of the announced purposes of the Comptroller's rulemaking proceedings was to determine whether equitable considerations warranted further policy statements in this regard.

A representation that there should be further delay in the implementation of the Comptroller's ruling was made on behalf of only one state. The General Counsel of the Kentucky Bankers Association appeared to testify that the Kentucky legislature had not met since the Comptroller's December 1974 ruling was issued, and would not meet before January 1976. He thus urged, on behalf of the Kentucky Bankers Association, that the Comptroller's limitation on the establishment of CBCTs by national banks in Kentucky be continued until after the legislature had met.

A Kentucky statute authorizes the Commissioner of Banking and Securities to authorize by regulation state chartered banks to engage in any banking activity in which national banks may engage, provided that such activities are not "expressly prohibited or limited by the statutes of the Commonwealth." KRS § 287.020. The Comptroller's attention was called to a 1969 opinion of the Kentucky Attorney General interpreting KRS § 287.180, which permits state chartered banks to exercise their banking powers "only at their principal office," as prohibiting a state chartered bank from establishing an automated teller machine. The president of a state chartered bank in Kentucky, however, testified that, notwithstanding this statute and the 1969 Attorney General's opinion, a number of banking transactions routinely were accomplished off premises by state chartered banks in Kentucky. The Comptroller thus is not persuaded that the Commissioner of Banking and Securities could not issue a regulation under KRS § 287.020 authorizing state chartered banks to establish CBCTs. If the Commissioner believed that it was wise to do so. Similarly, the representative of the Kentucky Bankers Association could offer no guidance as to what the association's position would be when the Kentucky legislature met in January 1976, and no indication that, at the end of this legislative session, the statutes of Kentucky might be any different than they now are. In these circumstances the Comptroller does not be-

#### VII. NOTICE

The information required to be submitted to the Comptroller's Office 30 days before the establishment or use of a CBCT has been modified. The information regarding consumer protection already has been noted. Additional information is required about the insurance and security provisions protecting the CBCT and its users. The reporting requirements also are altered in the case of shared CBCTs so that, in most instances, one notice listing all of the banks involved would be sufficient.

No appearance was made on behalf of any particular state official or state bankers association other than Kentucky. The President of the Conference of State Bank Supervisors submitted to the Comptroller a written statement on behalf of the Conference stating in part:

Because the Conference believes that each state should have the right to determine the financial services to be provided by state chartered financial institutions operating within their borders, I wish to take this opportunity to reassert the position of CSBS that the decisions of the respective states as to the legality of off-premises electronic banking facilities are as binding on national banks as on state banks under provisions of the National Bank Act which incorporate state branching law. This conclusion is required by the Congressional policy of competitive equality between state and national banks based on state law as reflected in *First National Bank of Plant City, Florida v. Dickinson*, 396 U.S. 122 (1969). Where a facility of a national bank is "an additional place of business" at which "deposits are received or checks paid or money lent" and where state law forbids state banks from operating comparable facilities *Dickinson* clearly requires a finding of "branchness." State law, of course, is also applicable with respect to the establishment of an electronic banking facility in a state by a bank headquartered in another state.

In order to avoid uncertainty by banks and to maintain a regulatory environment at the state level that will promote efforts to examine the pros and cons of an evolving electronic funds transfer system, the Conference of State Bank Supervisors requests that effective July 1, 1975, your Interpretive Ruling be modified to specifically prohibit national banks from establishing a CBCT in any state in which state law would prohibit a state chartered bank from establishing a similar facility.

The Comptroller respects this position of the CSBS and, as already stated, is aware of the concerns about CBCTs of many of the state-chartered banks supervised by the CSBS members. The Comptroller must disagree, however, with the CSBS contention that CBCTs are branches and thus bound by state law. The Comptroller believes that it would be unwise to defer generally to state law in the absence of a legal requirement to do so because: (a) the National Bank Act is intended to operate without regard to state law, except where Congress specifically has stated otherwise; and (b) the various state laws tend to be vague or difficult to interpret concerning what off-premises activities are permitted to state banks, and a blanket adoption of these vague standards would generate needless controversy as to what actually would be authorized to national banks. Such considerations must be approached on a state-by-state basis, and Kentucky is the only state as to which the Comptroller was asked to undertake such an inquiry.

#### VIII. EXCLUSIONS

The Comptroller's original ruling excluded: (a) devices whose sole function was to verify credit for purposes of cashing a check or approving a credit card transaction; and (b) devices which were a part of a bank's authorized banking premises. An additional exclusion has been added to the amended ruling. The Comptroller does not require notice of, and is not undertaking to regulate, an off-premises terminal which is used solely to accomplish a funds transfer in payment for goods or services received, and through which neither cash is dispensed nor cash or checks left for subsequent deposit.

#### IX. EFFECTIVE DATE

The amended ruling issued herewith will be effective June 1, 1975. Both this ruling and the one issued in December 1974 require 30 days advance notice prior to the establishment or use of a CBCT. The restrictions relating to state law expire on July 1, 1975, as discussed above. This amended ruling is timed to be effective 30 days before the expiration of this restriction, so that any bank previously limiting its activities in accordance with the urging of the December 1974 ruling may give 30 days notice under this amended ruling and commence operations any time after July 1, 1975.

The ruling issued herewith has no expiration date, and no substantial modification is planned within the next eighteen months. Nevertheless the ruling is dealing with experimental developments, and the Comptroller will continue to monitor these developments to determine whether they warrant a change in the Comptroller's policies. In particular the Comptroller intends to review with great care any reports or recommendations of the National Commission on Electronic Funds Transfers, and to consider whether these reports or recommendations should result in modifications to the Comptroller's ruling.

Part 7 of 12 CFR Chapter I is amended by revising § 7.7491 to read as follows:

§ 7.7491 Customer-Bank Communication Terminals.

(a) A national bank may receive and act upon communications from its customers transmitted through electronic devices or machines requesting the withdrawal of funds either from the customer's deposit account or from a previously authorized line of credit, or instructing the bank to receive funds or to



transfer funds for the customer's benefit. The device or machine may be established and operated by the bank, by the customer, or by a third party. In accordance with the customer's request or instruction and subject to verification by the bank, cash or checks may be received and cash may be dispensed at the location of the device or machine. The device or machine may not be staffed by a bank employee, except that the bank for a reasonable period of time may provide an employee to instruct and assist customers in the operation of the device or machine. Any transactions initiated by such a device or machine shall be subject to verification by the bank either by direct wire transmission or otherwise. A bank may provide insurance protection under its bonding program for transactions involving such a device or machine.

(b) (1) If, at the location of a device or machine described in paragraph (a), a customer may leave cash or checks for subsequent deposit or receive cash in connection with a debit to any of his accounts, then such a device or machine may not be established or used by a national bank until 30 days after the bank has sent to the Comptroller's Office and to the appropriate Regional Administrator of National Banks written notice of the proposed establishment or use of such device or machine. The notice shall describe with regard to the device or machine:

- (i) The location;
- (ii) A general description of the area where located (e.g., shopping center, supermarket, department store, etc.) and the manner of installation at that location;
- (iii) The manner of operation, including whether the device is on-line;
- (iv) The kinds of transactions that will be performed;
- (v) Whether the device will be manned, and if so, by whose employee;
- (vi) Whether the device will be shared, and if so, under what terms and with what other institutions and their location;
- (vii) The manufacturer and, if owned, the purchase price or, if leased, the lease payments and the name of the lessor;
- (viii) Consumer protection procedures, including the disclosure of rights and liabilities of consumers and protection against wrongful or accidental disclosure of confidential information;
- (ix) The distance from the nearest banking office and from the nearest similar device of the reporting bank;
- (x) The distance from the nearest banking office and the nearest similar device of another commercial bank, which will not share the facility, and the name of such other bank or banks;
- (xi) Insurance and the security provisions protecting the installation and its users.

(2) Written notice must be given to the Comptroller's office and to the office of the appropriate Regional Administrator of National Banks 30 days before changing any of the operations de-

scribed in a notice previously given pursuant to this paragraph (b).

(3) One or more national banks sharing one or more devices or machines may give a single notice to the Comptroller's office, provided that such notice is given also to the office of each Regional Administrator of National Banks who supervises one or more of the national banks involved, and provided that the notice includes the information listed in paragraph (b) (1) of this section for each shared device or machine. The Comptroller reserves the right to adopt different reporting procedures as warranted by the circumstances of a particular network of devices or machines.

(4) No notice need be given for any device or machine which:

- (i) Is used only to transfer funds for goods or services received, and through which neither cash is dispensed nor cash or checks left for subsequent deposit;
- (ii) Is used solely to verify a customer's credit for purposes of check cashing or of a credit card transaction; or
- (iii) Is a part of a bank's authorized main office or branch.

(c) No device for which notice must be given under paragraph (b) may be established or used by a national bank at a distance greater than 50 miles from the bank's main office or closest branch, whichever is nearer, unless such device or machine is available to be shared at a reasonable cost by one or more local (i.e., within the trade area of the device or machine) financial institutions authorized to receive deposits, such as a commercial bank, a mutual savings bank, a savings and loan association, or a credit union.

(d) A device or machine established and used in accordance with this section at a location other than the main office or a branch office of a national bank does not, in the opinion of the Comptroller, constitute a "branch" within the meaning of 12 U.S.C. 36(f).

(e) To the extent consistent with the antitrust laws and with this section, national banks are permitted, but not required, to share devices or machines established or used in accordance with this section with one or more other financial institutions.

**Effective date.** This section becomes effective June 1, 1975.

Dated: May 8, 1975.

[SEAL] JAMES E. SMITH,  
Comptroller of the Currency.

[FR Doc. 75-13067 Filed 5-16-75; 8:45 am]

#### Title 14—Aeronautics and Space CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75-80-16; Amdt. 39-2210]

#### PART 39—AIRWORTHINESS DIRECTIVES Grumman American Model G-1159

A proposal to amend Part 39 of the Federal Aviation Regulations to include

an airworthiness directive requiring that the nose down electric trim authority be reduced from 8.5 degrees to 4.5 degrees on the Grumman G-1159 airplanes was published in *FEDERAL REGISTER* (40 FR 8568).

Interested persons have been afforded an opportunity to participate in the making of the amendment. Grumman American requested an extension from January 30, 1976, to April 30, 1976 for compliance. This request is granted.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 FR 13697) § 39.13 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

**GRUMMAN AMERICAN AVIATION CORPORATION.**  
Applies to Grumman G-1159 airplanes, S/N's 1 thru 156 and S/N 775, certificated in all categories.

Compliance required within the next 800 hours' time in service after the effective date of this AD, or before April 30, 1976, whichever occurs first, unless already accomplished.

To prevent unnecessarily high longitudinal stick forces due to an inadvertent excessive increase of nose down electric trim, reduce the elevator trim nose down authority from 8.5 ± 0.5 degrees to 4.5 ± 0.5 degrees in accordance with Grumman Aircraft Service Change 182 or in an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, Southern Region.

This amendment becomes effective May 22, 1975.

(Secs. 313(a), 601, 604, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1429; sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in East Point, Georgia on May 8, 1975.

P. M. SWATEK,  
Director, Southern Region ASO-1.

[FR Doc. 75-19030 Filed 5-16-75; 8:45 am]

[Docket No. 12768; Amdt. No. 135-41]

#### PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS OF SMALL AIRCRAFT

##### Certain Part 121 Equipment Requirements for Certain Airplanes

The purpose of this amendment to § 135.2 of Part 135 of the Federal Aviation Regulations is to rescind certain Part 121 equipment requirements for Part 135 certificate holders operating turbojet-powered airplanes having maximum certificated takeoff weights over 12,500 pounds but under 27,000 pounds, with passenger-carrying capacities of not more than 12 persons.

Interested persons have been afforded an opportunity to participate in the making of this amendment by a notice of proposed rulemaking (Notice 75-4) issued on February 3, 1975, and published in the *FEDERAL REGISTER* on February 11, 1975 (40 FR 6370). Due consideration has been given to all comments presented in response to the notice. Except for

minor editorial changes, and except as specifically discussed hereinafter, these amendments and the reasons therefor are the same as those in Notice 75-4.

The FAA received four public comments in response to Notice 75-4. The comments generally favored the adoption of the proposed amendment. Several commentators made recommendations that were not within the scope of the notice. Those recommendations will be retained by the FAA for future consideration.

One commentator suggested that since the requirements in §§ 121.313(f), 121.581(a), and 121.587 have not been previously imposed on the specified air taxi operators, the phrase "After May 15, 1975," should be deleted from proposed § 135.2(e) to avoid any possible confusion. The commentator contended that to include the phrase would imply that the requirements had been previously applied, but would not be applicable after May 15, 1975. The FAA agrees and this clarifying change has been made in § 135.2(e), as adopted.

In view of the imminence of the May 15, 1975, compliance date and since this amendment grants relief and imposes no additional burden on any person, I find that good cause exists for making this amendment effective on less than 30 days notice.

(Secs. 313(a), 601, 604, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, and 1424; sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

In consideration of the foregoing and for the reasons stated in Notice 75-4, § 135.2 of the Federal Aviation Regulations is amended, effective May 15, 1975, by revising the introductory clause in paragraph (a) and by revising paragraph (e) to read as follows:

**§ 135.2 Air taxi operations with large aircraft.**

(a) Except as provided in paragraph (e) of this section, no person may conduct air taxi operations in large aircraft under an individual exemption and authorization issued by the Civil Aeronautics Board or under the exemption authority of Part 298 of this title, unless that person—

(e) Air taxi operations may be conducted with a turbojet-powered airplane having a maximum certificated takeoff weight of over 12,500 pounds but under 27,000 pounds and a passenger-carrying capacity of not more than 12 persons that does not comply with—

(1) Section 121.313(f). A lockable door between the pilot and passenger compartments; § 121.587—closing and locking the door between the pilot and passenger compartments; and

(2) Section 121.581(a). Forward observer's seat on the flight deck, provided that if the forward observer's seat is not installed, a forward passenger seat with appropriate communications equipment nearby is provided for use by the Administrator while conducting en route inspections. The location and equipment

of the seat, with respect to its suitability for use in conducting en route inspections, is determined by the Administrator.

Issued in Washington, D.C., on May 18, 1975.

JAMES E. DOW,  
Acting Administrator.

[FR Doc. 75-18142 Filed 5-16-75; 8:45 am]

#### Title 15—Commerce and Foreign Trade CHAPTER VIII—BUREAU OF ECONOMIC ANALYSIS, DEPARTMENT OF COMMERCE PART 803—FOREIGN INVESTMENT AND INTERNATIONAL RECEIPTS AND PAYMENTS OF ROYALTIES AND FEES

##### Reporting Requirements

On April 1, 1975, a notice of proposed rulemaking was published in the *FEDERAL REGISTER* (40 FR 14603) changing the reporting requirements of 15 CFR, Part 803, which pertains to certain foreign business enterprises owned by U.S. persons and U.S. business enterprises owned by foreign persons. Interested persons were given until May 1, 1975, to submit written comments, suggestions, or objections. All comments received in response to the proposal supported its adoption.

The amended reporting requirements do not fall within the criteria set forth in the draft Department Administrative Order relating to the Inflationary Impact Statement required by Office of Management and Budget Circular No. A-107.

In consideration of the above and pursuant to the authority contained in Title 22, United States Code, section 786, the proposed reporting requirements are hereby adopted without change effective January 1, 1975, and are set forth below. Part 801 of 15 CFR chapter VIII is amended as follows:

1. Paragraph (b) of § 803.1 is revised to read as follows:

**§ 803.1 Who must report.**

(b) *Foreign business investment in the United States.*—(1) *Basic requirement.* A report is required to be filed with respect to every business enterprise subject to the jurisdiction of the United States in which foreign persons, either as individuals or as affiliates hold a 10 percent or more ownership interest, or which is owned in a manner indicated in paragraph (b) (2) of this section directly or indirectly by a foreign person or persons. Such business enterprises shall include, but not be limited to, corporations, partnerships, investments in real property, leaseholds, estates, trusts, and sole proprietorships or other forms of outright individual ownership.

(2) *Foreign beneficial interest.* If the foreign-owned interest in a United States business enterprise, including commercial real property, is held, exercised, or administered by a United States estate, trust (including irrevocable trusts), nominee, agent, representative, custodian, or other intermediary of the foreign beneficial owners, such intermediary shall be responsible for reporting for the

business enterprise the required information on Form BE-605, BE-606, BE-606B, or BE-606I, or shall instruct the United States business enterprise in question to submit the required information. This does not relieve the United States business enterprise of responsibility for reporting if such business enterprise has knowledge of the direct or indirect foreign-owned interest, but only one report should be filed for each such enterprise. For the purposes of this report, accounts or transactions of a United States business enterprise with a United States estate, trust, nominee, or other intermediary of foreign beneficial owners shall be considered as accounts or transactions with such beneficial owners.

(3) *Insurance companies.* Reports for U.S. branches or subsidiaries of foreign insurance companies are required on Form BE-606I.

(4) *Consolidated reports.* If a reporter held a 10 percent or more ownership interest in other United States enterprises engaged in the same type of business and is required to report, the information requested in the reporting forms may be consolidated for such reporter and enterprises, provided all accounts are fully consolidated. A list of the enterprises included in the consolidations must be provided.

2. In § 803.2(a) (2), the descriptions for Forms BE-605 and BE-606I are revised as follows:

**§ 803.2 Forms to be used and frequency of reports.**

(a) *Each reporter is required to submit reports on the following forms as applicable.* . . .

(2) Foreign direct investments in the United States.

*Form BE-605.* One Form BE-605 is to be filed quarterly for each United States corporation 10 percent or more of whose voting stock is owned directly or indirectly by a foreign person(s) or organization(s) and its United States or foreign affiliates.

*Form BE-606I.* One Form BE-606I is to be filed annually for each United States branch of a foreign insurance firm, or for United States insurance companies 10 percent or more of whose voting stock is held by foreign owners.

3. Paragraphs (a) (1) and (b) (1) of § 803.4 are revised as follows:

**§ 803.4 Exemptions.**

(a) *United States direct investments abroad.*—(1) *Exemption based on value of property.* A reporter whose investment in foreign countries, at any time during the reporting period, exceeds an aggregate value of \$2,000,000 based on the value of holdings of securities, equity in surplus accounts, and intercompany indebtedness or net branch investment in foreign countries, unless otherwise exempt from reporting, is required to report. Value is to be determined by the book value as carried on the books of the foreign organization converted into

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United States dollars. Reports for individual foreign subsidiaries, affiliates, or branches (other than banks) which are inactive, or have a book value which at no time during the reporting period exceeds \$25,000, can be omitted with a note to that effect. For foreign branches of banks, reports are required if either (i) the book value exceeds \$25,000 or (ii) the total assets exceed \$2,000,000.

(b) *Foreign direct investment in the United States*—(1) *Exemption based on value*. If the value of a foreign-owned U.S. business organization exceeds \$2,000,000 at any time during the reporting period, the business organization is required to report. Otherwise, the business organization (other than a U.S. branch or agency of a foreign bank) is not required to report. The value is to be determined by the book value of the foreign owner's holdings in the securities, surplus accounts, and liability accounts of the reporter. For banks, reports are required if total assets exceed \$3,000,000.

4. Paragraph (g) of § 903.5 is revised as follows:

§ 903.5 General definitions.

For the purpose of these reports, the following definitions are prescribed:

(g) *Parent*. Parent shall mean any person or affiliated group of persons directly owning 10 percent or more of the voting securities of a corporation or of other ownership equities in other types of organizations. In some cases, there may be more than one parent.

GEORGE JASZI,  
Director,  
Bureau of Economic Analysis.

[FR Doc. 75-13098 Filed 5-16-75; 8:45 am]

#### CHAPTER IX—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

##### PART 924—MONITOR MARINE SANCTUARY

###### Final Regulations

On January 30, 1975, the Secretary of Commerce designated as a marine sanctuary an area of the Atlantic Ocean around and above the submerged wreckage of the Civil War ironclad MONITOR pursuant to the authority of section 302 (a) of the Marine Protection, Research and Sanctuaries Act of 1972 (86 Stat. 1052, 1061, hereafter the Act). The sanctuary area (hereafter the Sanctuary) is about 16.10 miles south-southeast of Cape Hatteras (North Carolina) Light.

Section 302(f) of the Act directs the Secretary to issue necessary and reasonable regulations to control any activities permitted within a designated marine sanctuary. This section also provides that no permit, license, or other authorization issued pursuant to any other authority shall be valid unless the Secretary shall certify that the permitted activity is consistent with the purposes

of Title III of the Act ("Marine Sanctuaries"); and that it can be carried out within the regulations promulgated under section 302(f).

The authority of the Secretary to administer the provisions of the Act has been delegated to the Administrator, National Oceanic and Atmospheric Administration, U.S. Department of Commerce (hereafter the Administrator, 39 FR 10255, March 19, 1974).

On February 5, 1975, the Administrator published in the *Federal Register* interim regulations applicable to the MONITOR Marine Sanctuary (40 FR 5347), and invited comments on these regulations until March 7, 1975. Comments which have been received have suggested six changes in the regulations as follows:

1. That § 924.2, the description of the Sanctuary, be somewhat shortened and revised to read:

The Sanctuary consists of a vertical water column in the Atlantic Ocean one mile in diameter extending from the surface to the seabed, the center of which is at 35°00'23" north latitude and 75°24'32" west longitude.

2. That § 924.3, which prohibits "bottom anchoring" in the Sanctuary, be revised to read:

Anchoring in any manner, stopping, remaining, or drifting without power at any time;

3. That § 924.3(1), which prohibits the "discharging of waste material" into the waters of the Sanctuary, be revised to read:

Discharging waste material into the water in violation of any Federal statute or regulation.

It was stated that this change was felt to be desirable because of the breadth of the original language, and the difficulty of enforcing a prohibition which could be construed to extend to routine operational discharges from vessels—such as bilge, sanitary and galley wastes—which discharges would have no adverse impact on the MONITOR.

4. That § 924.4, which lists penalties for the commission of prohibited acts within the Sanctuary, be revised to read:

Section 303 of the Act authorizes the assessment of a civil penalty of not more than \$50,000 against any citizen of the United States for each violation of any regulation issued pursuant to Title III of the Act, and further authorizes proceedings in rem against any vessel used in violation of the penalty described above. See also 15 CFR 922 (published at 39 FR 23254, 23257, June 27, 1974), for details applicable to any instance of a violation of these regulations.

Essentially this change substitutes "the penalty described above" for "Any such regulations" at the end of the first sentence of the interim regulations; and rephrases the second and third sentences without substantially changing their meaning.

5. That so much of the last part of § 924.5 as provides that "except that, no permit is required for the conduct of any activity immediately necessary in con-

nection with an air or marine casualty" be revised to read:

except that, no permit is required for the conduct of any activity necessary for the protection of life, property or the environment.

The suggested change would appear to add an environmental casualty, such as oil spill, to the air and/or marine casualties already contemplated by the regulation.

6. That § 924.7, having to do with certification procedures, be revised so as to require any Federal agency which, as of the effective date of the regulations, has authorized any prohibited activity in the Sanctuary, be required to notify the Administrator of that fact in writing. The change was from "activity," as stated in the interim regulations, to "prohibited activity." It was stated that the Secretary's concern should be with any prohibited activity, not with an activity not prohibited.

Except as noted below, and for the reasons there set out, the Administrator has decided to accept these suggested changes, and they have been incorporated into the final regulations. With regard to the suggested changes in § 924.4 (paragraph 4, above), it is felt that the substitution of "penalty" for "regulations" somewhat misstates the thought involved, since the violation in question is of the regulations, not of the penalty. Otherwise, the suggested changes do not alter the meaning of the interim language. Therefore, § 924.4 will be retained in its present form. With regard to the suggested change in § 924.5 (paragraph 5, above), it is felt that there must be an immediate and urgent need for the activity if it is to be conducted without a permit. Therefore the words "immediately and urgently" will be added before "necessary." At the same time, it is felt that a permit should be required for any activity to be conducted in a sanctuary pertaining to an air or marine casualty already passed, in regard to which there is no need for immediate entry into the sanctuary, such as in relation to salvage or recovery operations. Therefore § 924.5 (a) (2) has been appropriately modified. Finally, the Administrator felt it desirable to provide for the extension of the various time limits prescribed in § 924.8 for good cause shown. This has been done by the addition of a new paragraph (e).

There having been no other comments, and the Administrator being of the view that no additional changes in the regulations are necessary at this time, there are published herewith final regulations pertaining to the MONITOR Marine Sanctuary to become effective May 19, 1975.

15 CFR Part 924 is revised as follows:

Sec.  
924.1 Authority.  
924.2 Description of the Sanctuary.  
924.3 Activities Prohibited Within the Sanctuary.  
924.4 Penalties for Commission of Prohibited Acts.  
924.5 Permitted Activities.  
924.6 Permit Procedures and Criteria.

Sec.  
924.7 Certification Procedures.  
924.8 Appeals of Administrative Action.

AUTHORITY: Secs. 302(f), 302(g), 303, Marine Protection, Research and Sanctuaries Act of 1972.

#### § 924.1 Authority.

The Sanctuary has been designated by the Secretary of Commerce pursuant to the authority of section 302(a) of the Act. The following regulations are issued pursuant to the authorities of sections 302(f), 302(g) and 303 of the Act.

#### § 924.2 Description of the Sanctuary.

The Sanctuary consists of a vertical water column in the Atlantic Ocean one mile in diameter extending from the surface to the seabed, the center of which is at 35°00'23" north latitude and 75°24'32" west longitude.

#### § 924.3 Activities prohibited within the Sanctuary.

Except as may be permitted by the Administrator, no person subject to the jurisdiction of the United States shall conduct, nor cause to be conducted, any of the following activities in the Sanctuary:

- (a) anchoring in any manner, stopping, remaining, or drifting without power at any time;
- (b) any type of subsurface salvage or recovery operation;
- (c) any type of diving, whether by an individual or by a submersible;
- (d) lowering below the surface of the water any grappling, suction, conveyor, dredging or wrecking device;
- (e) detonation below the surface of the water of any explosive or explosive mechanism;
- (f) seabed drilling or coring;
- (g) lowering, laying, positioning or raising any type of seabed cable or cable-laying device;
- (h) trawling; or
- (i) discharging waste material into the water in violation of any Federal statute or regulation.

#### § 924.4 Penalties for commission of prohibited acts.

Section 303 of the Act authorizes the assessment of a civil penalty of not more than \$50,000 for each violation of any regulation issued pursuant to Title III of the Act, and further authorizes a proceeding in rem against any vessel used in violation of any such regulation. Details are set out in Subpart (D) of Part 922 of this Chapter (39 FR 23254, 23257, June 27, 1974). Subpart (D) is applicable to any instance of a violation of these regulations.

#### § 924.5 Permitted activities.

Any person or entity may conduct in the Sanctuary any activity listed in § 924.3 of this Part if: (a) such activity is either (1) for the purpose of research related to the MONITOR, or (2) pertains to salvage or recovery operations in connection with an air or marine casualty; and (b) such person or entity is in possession of a valid permit issued by the Administrator authorizing the conduct

of such activity; except that, no permit is required for the conduct of any activity immediately and urgently necessary for the protection of life, property or the environment.

#### § 924.6 Permit procedures and criteria.

(a) Any person or entity who wishes to conduct in the Sanctuary an activity for which a permit is authorized by § 924.5 (hereafter a permitted activity) may apply in writing to the Administrator for a permit to conduct such activity citing this section as the basis for the application. Such application should be made to the Administrator, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20230. Upon receipt of such application, the Administrator shall request, and such person or entity shall supply to the Administrator, such information and in such form as the Administrator may require to enable him to act upon the application.

(b) In considering whether to grant a permit for the conduct of a permitted activity for the purpose of research related to the MONITOR, the Secretary shall evaluate such matters as (1) the general professional and financial responsibility of the applicant; (2) the appropriateness of the research method(s) envisioned to the purpose(s) of the research; (3) the extent to which the conduct of any permitted activity may diminish the value of the MONITOR as a source of historic, cultural, aesthetic and/or maritime information; (4) the end value of the research envisioned; and (5) such other matters as the Administrator deems appropriate.

(c) In considering whether to grant a permit for the conduct of a permitted activity in the Sanctuary in relation to an air or marine casualty, the Administrator shall consider such matters as (1) the fitness of the applicant to do the work envisioned; (2) the necessity of conducting such activity; (3) the appropriateness of any activity envisioned to the purpose of the entry into the Sanctuary; (4) the extent to which the conduct of any such activity may diminish the value of the MONITOR as a source of historic, cultural, aesthetic and/or maritime information; and (5) such other matters as the Administrator deems appropriate.

(d) In considering any application submitted pursuant to this Section, the Administrator may seek and consider the views of any person or entity, within or outside of the Federal Government, as he deems appropriate; except that, he shall seek and consider the views of the Advisory Council on Historic Preservation.

(e) The Administrator may, in his discretion, grant a permit which has been applied for pursuant to this Section, in whole or in part, and subject to such condition(s) as he deems appropriate, except that the Administrator shall attach to any permit granted for research related to the MONITOR the condition that any information and/or artifact(s) obtained in the research shall be made

available to the public. The Administrator may observe any activity permitted by this section; and/or may require the submission of one or more reports of the status or progress of such activity.

(f) A permit granted pursuant to this Section is nontransferable.

(g) The Administrator may amend, suspend or revoke a permit granted pursuant to this section, in whole or in part, temporarily or indefinitely, if, in his view, the permit holder (hereafter the Holder) has acted in violation of the terms of the permit; or the Administrator may do so for other good cause shown. Any such action shall be in writing to the Holder, and shall set forth the reason(s) for the action taken. Any Holder in relation to whom such action has been taken may appeal the action as provided in § 924.8 of this Part.

#### § 924.7 Certification procedures.

Any Federal agency which, as of the effective date of these regulations, already has permitted, licensed or otherwise authorized any prohibited activity in the Sanctuary shall notify the Administrator of this fact in writing. The writing shall include a reasonably detailed description of such activity, the person(s) involved, the beginning and ending dates of such permission, the reason(s) and purpose(s) for same, and a description of the total area affected. The Administrator shall then decide whether the continuation of the permitted activity, in whole or in part, or subject to such condition(s) as he may deem appropriate, is consistent with the purposes of Title III of the Act and can be carried out within these regulations. He shall inform the Federal agency of his decision in these regards, and the reason(s) therefore, in writing. The decision of the Secretary made pursuant to this section shall be final action for the purpose of the Administrative Procedure Act.

#### § 924.8 Appeals of administrative action.

(a) In any instance in which the Administrator, as regards a permit authorized by, or issued pursuant to, this Part: (1) denies a permit; (2) issues a permit embodying less authority than was requested; (3) conditions a permit in a manner unacceptable to the applicant; or (4) amends, suspends, or revokes a permit for a reason other than the violation of regulations issued under this Part, the applicant or the permit holder, as the case may be (hereafter the Appellant), may appeal the Administrator's action to the Secretary. In order to be considered by the Secretary, such appeal shall be in writing, shall state the action(s) appealed and the reason(s) therefore; and shall be submitted within 30 days of the action(s) by the Administrator to which the appeal is directed. The Appellant may request a hearing on the appeal.

(b) Upon receipt of an appeal authorized by this Section, the Secretary may request, and if he does, the Appellant shall provide, such additional information and in such form as the Secretary



may request in order to enable him to act upon the appeal. If the Appellant has not requested a hearing, the Secretary shall decide the appeal upon (1) the basis of the criteria set out in §§ 924.6 (b) or 924.6(c) of this part, as appropriate, (2) information relative to the application on file in NOAA, (3) information provided by the Appellant, and (4) such other considerations as he deems appropriate. He shall notify the Appellant of his decision, and the reason(s) therefore, in writing within 30 days of the date of his receipt of the appeal.

(c) If the Appellant has requested a hearing, the Secretary shall grant an informal hearing before a Hearing Officer designated for that purpose by the Secretary after first giving notice of the time, place, and subject matter of the hearing in the *FEDERAL REGISTER*. Such hearing shall be held no later than 30 days following the Secretary's receipt of the appeal. The Appellant and any interested person may appear personally or by counsel at the hearing, present evidence, cross-examine witnesses, offer argument and file a brief. Within 30 days of the last day of the hearing, the Hearing Officer shall recommend in writing a decision to the Secretary based upon the considerations outlined in paragraph (b) of this section and based upon the record made at the hearing.

(d) The Secretary may adopt the Hearing Officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Secretary shall notify the Appellant of his decision, and the reason(s) therefore, in writing within 15 days of his receipt of the recommended decision of the Hearing Officer. The Secretary's action, whether without or after a hearing, as the case may be, shall constitute final action for the purposes of the Administrative Procedure Act.

(e) Any time limit prescribed in this Section may be extended by the Secretary for good cause, either upon the Secretary's own motion and upon written notification to an Appellant stating the reason(s) therefore, or upon the written request of an Appellant to the Secretary stating the reason(s) therefore, except that no time limit may be extended more than 30 days.

R. L. CARNAHAN,  
Acting Assistant Administrator  
for Administration.

[FR Doc. 75-13009 Filed 5-16-75; 8:45 am]

#### Title 16—Commercial Practices CHAPTER I—FEDERAL TRADE COMMISSION

##### SUBCHAPTER A—PROCEDURES AND RULES OF PRACTICE

#### PART 2—NONADJUDICATIVE PROCEDURES

##### Subpart A—Investigations

#### EFFECT OF A MOTION TO QUASH ON THE OBLIGATIONS TO MAKE RETURN

The Federal Trade Commission's regulations regarding subpoenas in investi-

gations, orders requiring access and reports are contained in §§ 2.7, 2.11, and 2.12, respectively, of its procedures and rules of practice (16 CFR 2.7, 2.11, 2.12), and provide for the filing of motions to limit or quash investigational subpoenas, orders requiring access, and orders requiring reports or answers to specific questions. In order to clarify the effect of a motion to quash on the obligation to make a return, the Federal Trade Commission announces the amendment of §§ 2.7, 2.11, and 2.12, by the addition of paragraph (c) to read as set forth below.

Because the amendments pertain to matters of procedure and policy, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable.

1. In § 2.7, paragraph (c) is added as follows:

#### § 2.7 Subpoenas in investigations.

(c) The timely filing of a motion to limit or quash any investigational subpoena shall stay the requirement of a return on the portion challenged if the Commission has not ruled upon the motion by the return date. If it rules on or subsequent to the return date and its ruling denies the motion in whole or in part, the Commission shall either specify a new return date or direct that the office which issued the subpoena do so.

2. In §§ 2.11 and 2.12, paragraph (c) is added as follows:

#### § 2.11 Orders requiring access.

(c) The timely filing of any motion to limit or quash such an order shall stay the requirement of compliance if the Commission has not ruled upon the motion by the date of compliance. If it rules on or subsequent to the date required for compliance and its ruling denies the motion in whole or in part, the Commission shall specify a new date of compliance.

#### § 2.12 Reports.

(c) Except as otherwise provided by the Commission, the timely filing of any motion to limit or quash such an order shall stay the requirement of a return on the portion challenged if the Commission has not ruled upon the motion by the return date. If it rules on or subsequent to the return date and its ruling denies the motion in whole or in part, the Commission shall specify a new return date.

These amendments are effective May 19, 1975.

(15 U.S.C. 46, 49; 5 U.S.C. 552)

By direction of the Commission; dated May 6, 1975.

[SEAL] CHARLES A. TOBIN,  
Secretary.

[FR Doc. 75-13013 Filed 5-16-75; 8:45 am]

#### PART 4—MISCELLANEOUS RULES

##### Service of Documents by Parties Other Than the Commission

The Federal Trade Commission's regulations on the services of documents by parties other than the Commission are contained in § 4.4(b) of its procedures and rules of practice (16 CFR 4.4(b)), and provide that service of pleadings and other documents upon complaint counsel is complete upon delivery to the Secretary of the Commission.

Because of the dispersal of the litigation staff in buildings and regional offices removed from headquarters, there is an inevitable time lag before the documents reach complaint counsel. As a consequence, if the documents start the running of time for response or other action by complaint counsel, they frequently have insufficient time to act.

The Commission has concluded that to effectively resolve the problem requires a revision of its rules to place complaint counsel on an equal footing with respondents by establishing date of service as the date delivered to his/her office, rather than to the Office of the Secretary. Service upon respondent's counsel is most frequently achieved by delivery by registered or certified mail to him/her or to his/her office. In the case of complaint counsel, many of whom do not have secretaries who could receive documents in their absence, analogous service would be upon the office of the Assistant Director or Regional Director to whom complaint counsel is responsible in the handling of the case. The delivery must be by the Secretary of the Commission rather than directly by respondent to permit adequate control and record-keeping.

It is contemplated that a return receipt will be date stamped and signed by the receiving office and returned to the Secretary of the Commission who will place the receipt in the official record of the case establishing the date when service was effected.

Accordingly, the Federal Trade Commission announces the amendment of §§ 4.4(a)(1) and 4.4(b) to read as set forth below, and the deletion of § 4.4(a)(3).

Because the amendment pertains to matters of procedure and policy, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable.

In § 4.4, (a)(1) and (b) are revised as follows: (a)(2) is removed, and (a)(3) is renumbered as (a)(2).

#### § 4.4 Service.

(a) By the Commission. (1) Service of subpoenas, orders requiring access, orders requiring the filing of annual or special reports, complaints, initial decisions, and final orders of the Commission may be effected as follows:

(2) . . .

(b) By other parties. Service of documents by parties other than the Commission shall be by delivering copies

thereof as follows: Upon the Commission, by personal delivery or delivery by first-class mail to the Office of the Secretary of the Commission. Documents shall be deemed filed with the Commission when they are received by the Office of the Secretary. Where service of a document imposes time limitations upon Commission counsel for response, the time for such response shall not start running until the document is delivered to the Assistant Bureau Director or Regional Office of complaint counsel by the Office of the Secretary. A receipt, executed on behalf of Commission counsel and returned to the Secretary will establish the date of commencement of the running of time. Service of documents upon any other party shall be by delivery to the party. If the party is an individual or partnership, delivery shall be to such individual or a member of the partnership; if a corporation or unincorporated association, to an officer or agent authorized to accept service of process therefor. Delivery to a party other than the Commission means handing to the individual, partner, officer, or agent; leaving at his office with a person in charge thereof, or, if there is no one in charge or if the office is closed or if he has no office, leaving at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein; or sending by mail.

These amendments are effective May 19, 1975.

(15 U.S.C. 41, et seq., 5 U.S.C. 552)

By direction of the Commission; dated May 6, 1975.

[SEAL] CHARLES A. TOBIN,  
Secretary.

[FR Doc. 75-13012 Filed 5-16-75; 8:45 am]

#### Title 17—Commodity and Securities Exchanges

##### CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release 33-5585]

#### PART 230—GENERAL RULES AND REG- ULATIONS, SECURITIES ACT OF 1933

##### Private Offerings

The Securities and Exchange Commission announced today that it has adopted several amendments to Rule 146 (17 CFR 230.146), "Transactions by an Issuer Deemed Not To Involve Any Public Offering," which was effective for offerings commencing after June 10, 1974. [39 FR 15261] Rule 146 was designed to provide more objective standards for determining when offers or sales of securities by an issuer would be deemed to be transactions not involving any public offering within the meaning of section 4(2) of the Act and thus would be exempt from the registration provisions of the Act. The Commission believed that a rule creating greater certainty in the application of the section 4(2) exemption is in the public interest for two reasons. First, such a rule should deter reliance on that exemp-

tion for offerings of securities to persons who are unable to fend for themselves in terms of obtaining and evaluating information about the issuer and in certain situations of assuming the risk of investment. These persons need the protections afforded by the registration process. Second, such a rule should reduce uncertainty to the extent feasible and provide more objective standards upon which responsible businessmen may rely in raising capital in a manner that complies with the requirements of the Act.

The amendments adopted by the Commission are intended to clarify, and in some instances to modify, Paragraph (c) of the Rule, "Limitations on Manner of Offering"; Paragraph (e) of the Rule, "Access to or Furnishing of Information" for non-reporting companies; Paragraph (f) of the Rule, "Business Combinations," and Paragraph (g) of the Rule, "Number of Purchasers." The purpose of the amendments is to decrease burdens on issuers in complying with the Rule, consistent with section 4(2) of the Act and the protection of investors. Because Rule 146 has been subject to extensive public comment and the amendments relate to areas that were generally the subject of such comment, and because the amendments will have the effect of making the rule available in more situations, the Commission has determined that publication for comment is not necessary and that the amendments can be adopted effective upon publication in the *FEDERAL REGISTER*.

#### LIMITATIONS ON MANNER OF OFFERING

Paragraph (c) of Rule 146, "Limitations on Manner of Offering," provides that neither the issuer nor any person acting on its behalf shall offer, offer to sell, offer for sale, or sell the securities that are part of the offering made pursuant to the Rule by means of any form of general solicitation or general advertising. Paragraph (c)(3) provides that written communications addressed only to persons who are qualified offerees within the meaning of Paragraph (d)(1) will be deemed not to be a form of general advertising or solicitation if each communication contains an undertaking to provide the information specified by Paragraph (e)(1) on request.

Questions have been raised about the undertaking requirement in Paragraph (c)(3) because it appears to require an undertaking to provide information in all written communications relating to the offering. Upon reconsideration, and in light of the comments received, the Commission has decided to delete the requirement that, in order to be deemed not to be general advertising or solicitation, written communications must contain an undertaking to provide specific information upon request. This requirement was designed to discourage general solicitation which is not permitted under the Rule. However, this provision created an unnecessary burden, e.g., even if an offeree decided not to purchase, the issuer would still be required to send information to him.

Moreover, the Rule provides protections against general solicitation in that it requires that the issuer and any person acting on its behalf have reasonable grounds to believe prior to making an offer that the offeree has the requisite knowledge and experience or can bear the economic risk of the investment. Further, the Rule is not available where there is a scheme or plan to evade the registration provisions of the Act.

Therefore, the Commission is amending Paragraph (c)(3) to delete "and the communication contains an undertaking to provide the information specified by Paragraph (e)(1) on request" and is also amending the Note to Paragraph (e)(3) to delete the reference to the undertaking made pursuant to Paragraph (c)(3).

#### ACCESS TO OR FURNISHING OF INFORMATION

Paragraph (e)(1) of the Rule requires that each offeree either have access to certain information about the issuer or be furnished with such information. The "furnishing" requirement is deemed to be met if the issuer provides certain specified information to the offeree or his offeree representative, depending on whether the issuer is a reporting company under the Exchange Act (Paragraph (e)(1)(ii)(a)) or a non-reporting company (Paragraph (e)(1)(ii)(b)). Paragraph (e)(1)(ii)(b) now requires a non-reporting issuer, in order to meet the "furnishing of information" test, to supply "the information that would be required to be included in a registration statement filed under the Act on the form which the issuer would be entitled to use, provided, however, that if the issuer does not have the audited financial statements required by such form and cannot obtain them without unreasonable effort or expense, such financial statements may be provided on an unaudited basis."

The application of the provisions in Paragraph (e)(1)(ii)(b) has raised certain questions; for example, whether the financial schedules called for by Part II of the registration statement would be required to be furnished and whether the complete financial statements would need to be furnished, either on an audited or unaudited basis. Based on experience to date with the Rule, the benefits of including such information appear to be outweighed by the burdens on issuers in providing it. To give some flexibility, Paragraph (e)(1)(ii)(b), as amended, allows the issuer to omit details or employ condensation if, under the circumstances, the omitted information is not material, and the condensation does not render the statements made misleading. The issuer would have the burden of proof that any such omissions are not material and that the condensations do not render the statements made misleading. The Commission has also amended Paragraph (e)(1)(ii)(b) to provide that Regulation A financial statements may be furnished if audited and unaudited financial statements in the form required



by a registration statement are not available without unreasonable effort or expense and also that the financial schedules required in Part II of a registration statement need not be provided if they have not been prepared. It should be noted in connection with this provision that the Commission does not consider the Regulation A offering circular to be a "registration statement filed under the Act" even if the issuer would be entitled to use Regulation A for its offering.

#### BUSINESS COMBINATIONS

Paragraph (f) relating to business combinations uses the same definition of "business combinations" as that in Rule 145 under the Act, including reclassifications, mergers and consolidations, and acquisitions of assets through shareholder vote. Commentators have noted that an exchange of stock is a common way of effecting a business combination and that it may be preferable for business reasons to use such an exchange. They have noted, however, that although Rule 146 has special provisions for Rule 145 type transactions, it would treat exchanges of stock like non-business combination offerings, thereby imposing a somewhat more restrictive standard on such exchanges.

At the time of adoption of the Rule, the Commission considered whether exchange offers should be included in the definition of "business combination," but decided that in an exchange offer the issuer has a choice of offerees and therefore does not need the special provisions of Paragraph (f). However, the Commission has reconsidered this position and now believes that it is preferable not to distinguish among different types of business combinations when the result is the same, as long as there is adequate protection for investors. Therefore, the Commission is amending Paragraph (f) (1) to expand the definition of "business combination" for the purposes of the Rule to include, in addition to transactions of the type specified in Paragraph (a) of Rule 145, exchanges of stock including the type described in section 368 (a) (1) (B) of the Internal Revenue Code, commonly known as "B reorganizations."

Present Paragraphs (f) (3) and (f) (4) have been amended to reflect the inclusion of exchange offers in the business combination paragraph. In the case of a Rule 145 type transaction, the issuer's belief that the offeree is qualified must exist at the time the plan is submitted to security holders for a vote; in the case of an exchange offer, the belief must exist immediately prior to the sale.

#### NUMBER OF PURCHASERS

Paragraph (g) (1) of the Rule provides that "there shall be no more than thirty-five purchasers" in any offering pursuant to the Rule. This would mean that the issuer, even if it had exercised good faith and reasonable care in determining how many purchasers there were, would lose the Rule if the issuer had sold securities to thirty-five persons and one of the purchasers had deceived the issuer and had in fact purchased the securities

for other accounts. This appears to the Commission to be too stringent. The Commission is therefore amending Paragraph (g) (1) to provide that "the issuer shall have reasonable grounds to believe, and after making reasonable inquiry, shall believe" that there are no more than thirty-five purchasers.

The Commission has also amended the note to Paragraph (g) (2) (1) to clarify its meaning. The note was intended to mean that the issuer has to satisfy all the provisions of the Rule with respect to all purchasers, whether or not they are included in computing the number of purchasers for the purposes of Paragraph (g). The amendments should correct any misunderstanding of the note.

The amendments to Rule 146 are adopted, effective May 19, 1975, pursuant to the Securities Act of 1933, as amended, particularly sections 4(2) and 19(a).

The Commission finds that the amendments to the rule described herein are technical or generally have already been subject to recent public comment, that they generally make the rule less restrictive, and that notice and other rule-making procedures pursuant to the Administrative Procedure Act are not necessary.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

MAY 7, 1975.

Rule 146 (17 CFR 230.146) is amended by revising the introductory text of (c) and (e) (3), (e) (1) (f) (b), the note following (e) (3), (f) (1), (3), and (4), (g) (1), and the note following (g) (2) to read as follows:

§ 230.146 Transactions by an issuer deemed not to involve any public offering.

(c) *Limitation of Manner of Offering.* Neither the issuer nor any person acting on its behalf shall offer, offer to sell, offer for sale, or sell the securities by means of any form of general solicitation or general advertising, including but not limited to, the following:

(3) Any letter, circular, notice or other written communication, except that if Paragraph (d) (1) of this section is satisfied as to each person to whom the communication is directed, such communication shall be deemed not to be a form of general solicitation or general advertising.

(e) *Access to or Furnishing of Information.* (1) . . .

(b) In the case of all other issuers, the information that would be required to be included in a registration statement filed under the Act on the form which the issuer would be entitled to use, provided, however, that:

(1) the issuer may omit details or employ condensation of information if, un-

der the circumstances, the omitted information is not material or the condensation of information does not render the statements made misleading.

NOTE: The issuer would have the burden of proof to show that, under the circumstances, the omitted information is not material and that any condensation does not render the statements made misleading.

(2) If the issuer does not have the audited financial statements required by such form and cannot obtain them without unreasonable effort or expense, such financial statements may be furnished on an unaudited basis, provided that if such unaudited financial statements are not available and cannot be obtained without unreasonable effort or expense, the financial statements required by Regulation A under the Act may be furnished.

(c) If the financial schedules required by Part II of the registration statement have not been prepared, they need not be furnished.

(3) . . .

NOTE: Information need not be provided and opportunity to obtain additional information need not be continued to be provided to any offeree or offeree representative who, during the course of the transaction, indicates that he is not interested in purchasing the securities offered, or to whom the issuer or any person acting on its behalf has determined not to sell the securities.

(f) *Business Combinations.* (1) The term "business combination" shall mean any transaction of the type specified in Paragraph (a) of Rule 145 under the Act and any transaction involving the acquisition by one issuer, in exchange solely for all or a part of its own or its parent's voting stock, of stock of another issuer if, immediately after the acquisition, the acquiring issuer has control of the other issuer (whether or not it had control before the acquisition).

(3) For purposes of Paragraph (f) only, the issuer and any person acting on its behalf, after making reasonable inquiry shall have reasonable grounds to believe, and shall believe, at the time that any plan for a business combination is submitted to security holders for their approval, or in the case of an exchange, immediately prior to the sale, that each offeree either alone or with his offeree representative(s) has such knowledge and experience in financial and business matters that he is or they are capable of evaluating the merits and risks of the prospective investment.

(4) In addition to information required by Paragraphs (e) and (f) (2), the issuer shall provide, in writing, to each offeree at the time the plan is submitted to security holders, or in the case of an exchange, during the course of the transaction and prior to the sale, information about any terms or arrangements of the proposed transaction relating to any security holder that are not identical to those relating to all other security holders.

(g) *Number of purchasers.* (1) The issuer shall have reasonable grounds to believe, and after making reasonable inquiry, shall believe, that there are no more than thirty-five purchasers of the securities of the issuer from the issuer in any offering pursuant to the Rule.

(2) . . .

NOTE: The issuer has to satisfy all the provisions of the rule with respect to all purchasers whether or not they are included in computing the number of purchasers under Paragraph (g) (2) (1).

[FR Doc. 75-13063 Filed 5-16-75; 8:45 am]

[Rel. Nos. 33-5582, IC-8772]

#### PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

#### PART 271—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT COMPANY ACT OF 1940 AND GENERAL RULES AND REGULATIONS THEREUNDER

#### Hypothetical Variable Annuity Illustrations

On July 30, 1974, the Securities and Exchange Commission published notice (Securities Act Release No. 5516, Investment Company Act Release No. 8438 published in the FEDERAL REGISTER for August 20, 1974, 39 FR 30051) that it had under consideration an amendment of the Statement of Policy which would permit investment companies issuing variable annuity contracts to employ standardized illustrations based on hypothetical investment results in sales literature and prospectuses. All interested persons were invited to comment on the proposal. The Commission has considered all of the comments and suggestions received and has determined to adopt new paragraph(s) of the Statement of Policy, together with sample tables and charts, in the form set forth in the Appendix of this Release.

The Statement of Policy, which was adopted by the Commission August 11, 1950, and amended January 31, 1955, and November 5, 1957 (15 FR 5469, as amended 20 FR 793, 22 FR 8977), sets forth the respects in which the Commission considers that literature used in connection with the sale of investment company shares may be misleading and violate the standards of the securities acts which, generally speaking, provide that it shall be unlawful to offer or sell securities by means of any untrue statement or omission of a material fact or by any fraudulent or deceitful practice or device.

Illustrations based on hypothetical investment results previously have been prohibited under paragraphs (b) (2) and (c) of the Statement of Policy (as amended November 5, 1957, 22 FR 8977), which provide that "it will be considered materially misleading hereafter for sales literature: 'to represent or imply an assurance that an investor will receive a

stable, continuous, dependable, or liberal return or that he will receive any specified rate or rates of return;' or 'to represent or imply that an investor's capital will increase or that the purchase of investment company shares involves a preservation of original capital and a protection against a loss in value.'

(1) *Reasons for the Proposal.* A variable annuity is a complex investment which combines risk regarding investment returns on a portfolio of equity securities with uncertainty over how long one will live. It may involve the regular investment of specified amounts over many years. It is often a very significant investment because it is designed to furnish income to annuitants at regular intervals over their lifetimes to provide for their retirement.

One of the factors which can significantly affect the value of this investment is the costs and charges which are assessed against the payments made by the intervals over their lifetimes to provide account. These may include deductions from purchase payments, annual charges assessed against the payments made by the contract, non-recurring charges and indirect expenses resulting from the mortality table used. Because of the variety of these charges and deductions, an investor faces a bewildering task in trying to evaluate the total effect of charges on his contract. This task is compounded by the difficulty of attempting to evaluate future costs where costs vary over time and are related to the value of the account which also fluctuates over time.

To develop improved understanding of the effects of charges on investment returns and to facilitate more meaningful and complete comparisons of different variable annuity contracts, the Commission proposed that standardized illustrations based upon hypothetical investment returns of 0%, 4% and 8% be permitted to be included in prospectuses and sales literature of variable annuity separate accounts.

An appreciation of the impact of such costs and charges and of the consequences of early redemption and lapses could help to prevent such practices and to discourage "twisting." Such illustrations, if widely used, could also provide a basis for developing a more rational price structure and introducing more effective price competition in the sale of variable annuity contracts.

(2) *The Illustrations As Proposed.* Under the amendment as proposed, redemption values and annuity payments shown in the tables of permissible illustrations would have been based solely on hypothetical investment returns of 0%, 4% and 8% compounded continu-

ously, after any deductions for insurance company taxes, but before all other charges and deductions. During the accumulation period, redemption values and annuity payments would have been for the 2d, 5th, 10th and 20th years and at no other times.

For the annuity period the illustrations would have included the first monthly annuity payment in dollars at age 65 and subsequent monthly annuity payments at ages 70, 75, 80 and 85 for both male and female lives. It was based upon the final value of the accumulation account and assumed continuation throughout the annuity period of the same hypothetical investment return earned during the accumulation period reduced by the annual asset charge. In addition, a separate table would have shown the corresponding effects of charges for the annuity or payout period as well as the effects of differences in results due to the mortality table used. This is the "group effective return."

Group effective returns are the effective rates of return, after expenses, which would be achieved during the annuity period by a large group of annuitants whose lifespans are assumed to follow a standardized mortality table. By eliminating the effects of individual differences in longevity, group effective returns provide a point of reference for measuring the effects of direct charges on payments as well as any indirect charges or benefits resulting from the use by issuers of different mortality tables.

In addition, the proposal included a chart (Sample Chart C-1) and an accompanying textual explanation designed to illustrate the "basic annuity trade-off"—i.e., an investment in a variable annuity gives up other uses of his principal in exchange for the promise of regular payments of an indefinite amount over the balance of his lifetime. By assuming that hypothetical returns of 0%, 4% and 8% are earned by the separate account, Chart C-1 shows how the rate of return an annuitant receives will vary depending upon his longevity and the annuity payout option he selects.

Along with the standardized illustrations, the amendment as proposed would also have permitted an illustration tailored in certain respects to the circumstances of a particular prospect.

(3) *The Illustrations As Adopted.* The illustrations as adopted are based upon hypothetical investment returns of 0%, 4% and 8%. They retain the use of "effective rates of return" during the accumulation period and "group effective returns" during the annuity period. However, several changes have been made in the format of the presentations. Annually compounded rates have been substituted for continuously compounded rates since many variable annuity contracts express "assumed interest rates" and other contract features in annually compounded terms. Returns after the first year have been added to the illustration of the accumulation period in an attempt to discourage lapses and early redemptions by drawing attention to the severe losses which may result from early redemption.



The illustrations of the annuity period have been revised to combine in a single table the monthly annuity payments which would be received at ages 65, 70, 75, 80 and 85 and the "group effective returns" which would result from hypothetical returns of 0%, 4% and 8%. The requirement that returns for both males and females be shown in the same illustration has been omitted.<sup>1</sup> In addition, the text accompanying the illustrations has been revised in an attempt to make it simpler and to focus more clearly on the unique features of this product.

Since it is designed to accomplish a completely different objective than the illustrations of effective rates of return and group effective returns, Sample Chart C-1 and the accompanying textual explanation have been made optional. However, for those issuers who wish to include Chart C-1, the accompanying text has been revised to reflect the comments received and to focus more directly on the pooling feature of the contract.

The original proposal with respect to tailoring illustrations to fit an individual's circumstances has been substantially revised. Issuers will be permitted to illustrate the different types of contracts they offer, including various payout options and assumed interest rates, but will not be permitted to tailor illustrations to the individual's particular circumstances. These changes were made because the Commission concluded that the use of tailored illustrations would sacrifice some comparability and could be construed as suggesting actual results.

(4) *Requiring Illustrations in Variable Annuity Prospectuses.* Standardized illustrations expressed in terms of both dollars and rates could significantly improve the disclosure of costs and charges involved in the purchase of variable annuities. Therefore, the Commission intends shortly to propose for comment amendments to Forms S-5 and S-6 to require that any prospectus or post-effective amendment filed by a variable annuity separate account after a specified date shall contain hypothetical illustrations which are in accordance with paragraph(s) of the Statement of Policy which it is adopting today.

(5) *Other Questions Considered.* The notice of the proposed amendment (Securities Act Release No. 5516, Investment Company Act Release No. 8438, July 30, 1974, published in the FEDERAL REGISTER for August 20, 1974, 39 FR 30051) also requested public comment regarding illustrations for other investment companies, including mutual funds. The Commission will continue to consider the appropriateness of allowing or requiring illustrations for other investment companies, as well as the form such illustrations might take.

<sup>1</sup> Separate tables may be used for males or females. However, if the illustration appears in a prospectus, the contract should be illustrated for both male and female lives during the annuity period.

The amendment, as adopted, is attached. It shall become effective June 13, 1975. In the interim illustrations which conform to those adopted may be included in variable annuity prospectuses.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

APRIL 28, 1975.

1. Section 231.3530 (20 FR 791, Jan. 31, 1955) Statement of Policy of the Commission relating to advertising and sales literature used in the sale of investment company shares is amended by adding paragraph (s) as follows:

§ 231.3530. Statement of policy of the Commission relating to advertising and sales literature.

It will be considered materially misleading hereafter for sales literature—

(s) With respect to any variable annuity contract, to use any illustration based on hypothetical investment results which is inaccurate in factual detail or tends to create a false or misleading impression as to any material aspect of the variable annuity contract or the hypothetical nature of the illustration. Illustrations which conform to the "Approved Illustrations," described below, samples of which are set forth in the Appendix, will not be regarded as materially false and misleading in the absence of facts or circumstances which make such illustrations or their use in fact, false and misleading in a particular case.

(1) Approved illustrations should be preceded by a general discussion of how a variable annuity combines the risks of investment with uncertainty as to how long one will live. It should include the following factors which affect the value of the contract:

(i) The investment return of the separate account;

(ii) The various charges and deductions;

(iii) The mortality table on which the contract is based; and

(iv) The taxes paid by the insurance company.

(2) Approved illustrations should include a separately headed brief discussion of the impact of taxes on the results of an investment in a variable annuity including, to the extent applicable:

(i) Insurance company taxes;

(ii) Personal income taxes; and

(iii) State premium taxes.

Such discussion should also set forth the extent, if any, that the illustrations give effect to state premium taxes.

(3) Approved illustrations should contain the following information about the contract which is illustrated, to the extent applicable:

(i) Issue age and sex;

(ii) The amount and the total of the monthly purchase payments, or the amount of the single purchase payment;

(iii) The daily charge at an annual rate against the assets of the separate account and a statement that this

charge does not include deductions for insurance company taxes;

(iv) A statement explaining how the daily charge against the assets of the separate account, used in constructing the illustration, might vary in the future and a reference to relevant prospectus disclosure;

(v) Age at commencement of annuity payments for a deferred annuity;

(vi) The annuity payout option;

(vii) The annuity purchase rate for a deferred annuity or the periodic annuity payment based on the assumed interest rate for an immediate annuity; and

(viii) The assumed interest rate of the contract.

(4) Approved illustrations of the accumulation period of a deferred variable annuity contract should contain the following, in substance:

(i) A statement that after any deductions for insurance company taxes, the illustrations assume that the separate account earns hypothetical investment returns of 0%, 4%, and 8% compounded annually and that the differences between the hypothetical investment returns and the effective returns shown in Sample Table A-1 result from the charges and deductions made during the accumulation period;

(ii) A statement in bold-face type making clear that:

A. The illustrations are not intended to provide an estimate of actual or expected redemption values;

B. Actual redemption values will vary with the actual investment experience which depends, in part, on the investment objectives and policies of the separate account as are set forth in the current prospectus; and

C. No investment result is guaranteed and redemption values or annuity payments could be less than shown under 0%.

(iii) A tabular presentation listing total purchase payments, hypothetical redemption values, and effective rates of return at the end of the 1st, 2d, 5th, 10th, and 20th years based on hypothetical investment returns of 0%, 4% and 8% in that order;

(iv) A statement that the "effective rate of return" is the return realized by an individual who redeems his contract during the accumulation period;

(v) A statement, if appropriate, that the "effective rates of return" during the accumulation period do not take into account the value to the contractholder of the protection against loss of purchase payments or the mortality and expense guarantees, which should be considered when making this type of investment; and

(vi) A statement, if appropriate, that if the contractholder should die during the accumulation period, the company guarantees to return either purchase payments or the redemption value, whichever is greater, at stated ages and/or durations.

(5) Approved illustrations of the annuity payout period of a variable annuity contract should contain the following, in substance:

(i) If the contract is an immediate variable annuity, a statement that after any deductions for insurance company taxes, the illustrations assume the separate account earns hypothetical investment returns of 0%, 4%, and 8% compounded annually, and that the differences between the hypothetical investment returns and the group effective returns shown in Sample Table B-1 result from the charges and deductions made and the mortality table used by the company.

(ii) A statement in bold-face type making clear that:

A. The illustrations are not intended to provide an estimate of actual or expected annuity payments;

B. Actual annuity payments will vary with the actual investment experience which depends, in part, on the investment objectives and policies of the separate account as are set forth in the current prospectus; and

C. No investment result is guaranteed and annuity payments could be less than shown under 0%.

(iii) A tabular presentation listing the first, 80th, 120th, 180th and 240th monthly annuity payments and the group effective return, based on hypothetical investment returns of 0%, 4%, and 8% in that order;

(iv) A statement that the "group effective return" does not indicate the return that any one individual receives; instead it provides a means of measuring charges during the annuity payout period from the point of view of a large group of annuitants whose lifespans are assumed to follow a standardized mortality table. It should also contain a statement that by eliminating the effect of individual differences in longevity, the group effective return provides a point of reference for measuring the effects of direct charges on payments as well as any indirect charges or benefits resulting from the use by issuers of different mortality tables.

(6) Illustrations of the following variable annuity contracts are permitted:

(i) A periodic payment deferred variable annuity, issued at age 45, with purchase payments of \$50 per month over a 20 year accumulation period and with monthly annuity payments commencing at age 65 for a period of 10 years certain and life thereafter;

(ii) An immediate variable annuity issued at age 65 with a purchase price of \$10,000 and monthly annuity payments for a period of 10 years certain and life thereafter.

The illustration should be based in the sex of the prospective annuitant. If it is included in a prospectus, the contract should be illustrated for both male and female lives during the annuity period.

In addition, any other annuity payout option involving variable payments may be illustrated for the contracts described in items (i) and (ii) of this section provided such an illustration accompanies an illustration of a payout option with monthly annuity payments continuing for a period of ten years certain and life thereafter.

(7) The tabular portion of any approved illustration should be limited to that which is prescribed in items (4) (iii) and (5) (iii) of this paragraph (s).

(8) If the approved illustration is not contained in a current prospectus, it should be accompanied or preceded by a current prospectus.

(9) The text, detail and arrangement of an approved illustration should be substantially as shown in Sample Illustrations A and B in the Appendix, whichever is applicable.

(10) An approved illustration of the annuity payout period of a variable annuity contract may also contain a chart expressing as effective rates of return the aggregate annuity payments which would be received by an individual assuming various lifespans. Attached to it should be a discussion which indicates how individual returns depend on:

(i) The hypothetical investment returns of the separate account;

(ii) Longevity; and

(iii) The annuity payout option selected.

A sample chart and a discussion of it are contained in Sample Illustration C. The questions and answers attached to it are merely one form of explaining the material contained in the chart; other forms are also permissible.

(11) For the purpose of this paragraph(s), the following definitions apply:

(i) *Deductions from the Separate Account for Insurance Company Taxes* means any charges against (or possibly credits to) the separate account under the provision for the federal income tax liabilities of the insurance company, including amounts set aside in the separate account as a reserve for taxes or any such tax charges expressed as a constant percentage of assets.

(ii) *The Daily Charge at an Annual Rate Against the Assets of the Separate Account* refers to the average percentage charge, per accumulation unit (or per annuity unit during the annuity period), against the assets of the separate account and/or any underlying fund. This average percentage charge should be based on actual percentage charges which pertain to the contract being illustrated, averaged over the past three years. However, if the formula specifying the charges against the assets of the separate account and/or any underlying fund has changed, the average percentage charge should be determined as if the current formula was in effect over the past three years. The average percentage charge should include the management fee, the mortality and expense risk charge, and any other charges not included in the management fee such as auditing and legal expenses, director's fees, or registration fees. However, it should not include deductions from the separate account for insurance company taxes.

(iii) *Annuity Payout Option* refers to the types of life or non-life variable annuities available under a particular variable annuity contract or under different contracts offered by the same issuer.

(iv) *Annuity Purchase Amount* refers to the final value of the accumulation account for a deferred annuity or the total purchase price of an immediate annuity.

(v) *Annuity Purchase Rate* refers to the amount of the first monthly annuity payment per \$1,000 of the final value of the accumulation account for a deferred variable annuity. If the annuity purchase rate varies with the calendar year of retirement or the calendar year of birth, the annuity purchase rate should be used which would be appropriate assuming that the issue age was attained during the calendar year the illustration is presented.

(vi) *Assumed Interest Rate* refers to the constant net investment return which the separate account would have to earn in order for the annuity payments to remain constant, at the level of the first monthly annuity payment.

(vii) *Hypothetical Investment Returns* of 0%, 4%, and 8% refers to the assumption of three separate constant hypothetical investment returns for the separate account, at rates of 0%, 4%, and 8%, compounded annually, which represent returns after any deductions from the separate account for insurance company taxes but before the daily charge at an annual rate against the assets of the separate account.

(viii) *Hypothetical Redemption Values* refers to the amounts an investor would receive upon redemption of the variable annuity during the accumulation period, assuming a hypothetical investment return of 0%, 4% or 8%.

(ix) *Hypothetical Annuity Payments* refers to the annuity payments which a contract holder would receive assuming a hypothetical investment return of 0%, 4% or 8%.

(x) *Effective Rate of Return Realized by an Individual Over a Specified Number of Years During the Accumulation Period* means the return, expressed in terms of an annually compounded rate, that the purchase payments would have to earn in order to accumulate to an amount equal to the hypothetical redemption value at the end of the specified number of years, assuming no charges or deductions.

(xi) *Group Effective Return* means the return, expressed in terms of an annually compounded rate, that the aggregate annuity purchase amount paid by all the members of the group would have to earn in order to provide the hypothetical annuity payments to each member of the group according to the terms of the contract, assuming the group members live and die according to the 1971 Individual Annuity Mortality Table, which is contained in the "Transactions of the Society of Actuaries" Volume XXIII, pp. 475-550, and assuming no charges or deductions.

(xii) *Aggregate Annuity Payments Which Would be Received by an Individual, Assuming He Dies at a Specified Age, Expressed as an Effective Rate of Return* means the return, in terms of an



annually compounded rate, that the annuity purchase amount paid by the contractholder would have to earn in order to provide him (or his heirs) with the hypothetical annuity payments according to the terms of the contract, assuming he dies at the specified age. This computation assumes the annuity payments represent a return of both principal and investment earnings and should be distinguished from the interest or dividend yield which does not include a return of principal. For a non-life annuity providing variable installments over a fixed number of years, the rate of return realized by an individual contractholder will not be affected by the date of his death since he or his heirs will always receive the variable installment payments over the fixed number of years.

(d) *A Chart Expressing as Effective Rates of Return the Aggregate Annuity Payments Which Would be Received by an Individual, Assuming Various Life-spans* refers to a chart of effective rates of return based on the aggregate annuity payments which an individual would receive, plotted on a continuous basis, for each possible age at death after commencement of the annuity until age 95. For a straight life annuity, rates of return of less than -15% should not be portrayed. For a non-life annuity providing variable installments over a fixed number of years, this chart should be replaced by a table listing the three rates of return realized by an individual over the entire, fixed payout period, based on the three hypothetical investment returns of 0%, 4% and 8%.

#### SAMPLE ILLUSTRATION A

##### A DEFERRED VARIABLE ANNUITY

##### General Description of the Contract

A variable annuity, like an investment in any other security, involves risks. It combines risk regarding the investment return on a portfolio of equity securities with uncertainty as to how long one will live.

A deferred variable annuity, such as the one illustrated below, may encompass 40 years. Therefore, many changes in the securities markets, long-term economic trends, and an individual's health may occur during this period.

Unlike a fixed annuity, a variable annuity cannot guarantee a definite return or any return. Among other things, its value will be affected by:

The investment return of the separate account;

The selling expenses and charges deducted from payments and from the account;

The mortality table on which the contract is based; and

The taxes paid by the insurance company.

Because different charges are assessed throughout the life of the contract in different ways, it is often easier to understand the combined effect over time of all charges on the value of a contract through the use of illustrations which assume various constant rates of growth.

The illustrations shown below assume that after any deductions for insurance company taxes, the variable annuity separate account earns hypothetical investment returns of 0%, 4% and 8% compounded annually. The differences between the hypothetical investment returns and the effective returns shown in Sample Table A-1 result from the charges

and deductions made during the accumulation period. Such illustrations are hypothetical and cannot be used to estimate what any particular payment or return would be under the contract.

**Taxes—State Premium Taxes:** No effect has been given to State premium taxes in the illustration. Such taxes vary from state to state in both amount and point in time assessed. Premium taxes could reduce the number of dollars available for investment in the separate account.

**Insurance Company Taxes:** Investors should be aware that the tax liability of the insurance company which sponsors this contract can have a significant effect on the value of the investment.

**Personal Income Taxes:** In addition, if an investor redeems any part of his account in excess of the amount paid, such excess will be subject to taxation at ordinary income rates.

See the section on Taxation in your prospectus for more details.

**Illustration of the Accumulation or "Pay-in Period"**—The ability to continue to make payments when due will materially affect the value of your account. This illustration portrays a deferred variable annuity issued to a 45 year old man. It assumes purchase payments of \$50 per month or a total of \$12,000 over a 20-year accumulation period. The \$50 monthly purchase payments are subject to various deductions for sales and

<sup>1</sup> Deductions from purchase payments are set forth on pp. -- of the current prospectus.

<sup>2</sup> The daily charge against the assets of the separate account will not exceed 1.00% on an annual basis as provided under the expense guarantee of the contract. See pp. -- of the current prospectus for the details of the expense guarantee. The mortality guarantee covers the guarantee of the annuity purchase rate at retirement.

The accumulation period—effective rates of return (sample table A-1)

Years	Total purchase payments <sup>1</sup>	0-percent hypothetical return		4-percent hypothetical return		8-percent hypothetical return	
		Redemption value	Effective rate of return	Redemption value	Effective rate of return	Redemption value	Effective rate of return
1	\$500	\$500	-21.35	\$540	-18.02	\$551	-14.66
2	1,000	1,051	-12.20	1,085	-8.31	1,140	-4.81
5	3,000	2,589	-5.78	2,952	-1.94	3,184	2.10
10	6,000	5,049	-3.46	6,175	.57	7,598	4.59
20	12,000	9,615	-2.27	14,442	1.28	21,389	8.86

<sup>1</sup> Payment upon death: If a contract holder should die during the accumulation period, the company guarantees to return either total purchase payments or the redemption value of the account, whichever is greater.

**Illustration of the Annuity or "Payout Period"**—The illustration of the annuity or payout period assumes that the final value of the accumulation account is applied at age 65 to purchase a life annuity for a period of 10 years certain and life thereafter.

Under the terms of the contract the first monthly annuity payment would be \$6.44 per \$1,000 of the final value of the accumulation account. This dollar amount is based, in part, on the "assumed interest rate" of the contract which is 3.5%. Subsequent monthly payments will vary depending primarily upon the investment experience of the separate account.

If the investment return of the separate account after expenses and deductions should be equal to the "assumed interest rate" of 3.5%, the subsequent monthly annuity payments would remain constant, at the level of the first monthly annuity payment. If this return exceeds 3.5%, monthly annuity payments would increase; if it were less than 3.5%, they would decrease.

administrative expenses.<sup>1</sup> In addition, the investment return of the separate account is reduced by a daily charge for investment management and mortality and expense risks.<sup>2</sup>

The illustrations for the accumulation period are intended to illustrate only how these various costs and charges reduce hypothetical returns over time. They do not provide any information about the effects of investment risks, the mortality table used or insurance company taxes.

The illustrations are not intended to provide an estimate of actual or expected redemption values.

These will vary with actual investment experience which depends, in part, on the investment objectives and policies of the separate account as are set forth in the current prospectus.

No investment result is guaranteed and redemption values could be less than shown under 0%.

Sample Table A-1 below lists the redemption values at the ends of the 1st, 2d, 5th, 10th, and 20th years, for each of the hypothetical investment returns. Because of the various charges and deductions, an investor who surrenders his contract would not receive the full 0, 4, or 8% hypothetical investment return. Instead, he would receive the "effective rate of return" shown in the table.

Effective rates of return do not take into account the value to the purchaser of

(1) protection against loss of purchase payments if he dies during the accumulation period;

(2) the benefit of expense guarantees; and

(3) annuity purchase rate guarantees

which should be considered when making this type of investment.

returns" contained in Sample Table A-2 below. They do not indicate the market risks or the effect of the insurance company's taxes on the return.<sup>3</sup>

**Group effective returns** are the effective rates of return, after expenses, which would be achieved during the annuity period by a large group of annuitants whose lifespans are assumed to follow a standardized mortality table.

They are not intended to show the return which would be realized by any particular individual during the payout period. That will depend upon his longevity and the payment option he chooses. Actual results for an individual would be different from those realized by a large group.

By eliminating the effects of individual differences in longevity, group effective returns provide a point of reference for measuring the effects of direct charges on payments as well as any indirect charges or benefits resulting from the use by issuers of different mortality tables.

An investor should consider the value of (1) the promise to pay at regular intervals as long as he lives the periodic value of a specified number of annuity units;

(2) the benefit of expense guarantees; and (3) annuity purchase rate guarantees when making this type of investment.

Annuity period—group effective returns (sample table A-2)

Age:	0-percent hypothetical return		4-percent hypothetical return		8-percent hypothetical return	
	Age:	Effective rate	Age:	Effective rate	Age:	Effective rate
65	65	4.62	65	9.1	65	14.4
70	70	5.0	70	9.1	70	13.8
75	75	4.0	75	8.8	75	13.3
80	80	3.2	80	8.6	80	12.8
85	85	2.6	85	8.4	85	12.4
Percent group effective returns		-0.8		3.1		7

#### SAMPLE ILLUSTRATION B

##### AN IMMEDIATE VARIABLE ANNUITY

##### General Description of the Contract

A variable annuity, like an investment in any other security, involves risks. It combines risk regarding the investment return on a portfolio of equity securities with uncertainty as to how long one will live.

The immediate variable annuity illustrated below encompasses a 20 year period. It could involve an even longer period. Therefore, many changes in the securities markets, long-term economic trends, and an individual's health may occur during this period.

Unlike a fixed annuity, a variable annuity cannot guarantee a definite return. Among other things, its value will be affected by:

The investment return of the separate account;

The selling expenses and charges deducted from the payment and from the account;

The mortality table on which the contract is based; and

The taxes paid by the insurance company.

Because different charges are assessed throughout the life of the contract in different ways, it is often easier to understand the combined effect over time of all charges on the value of a contract through the use of illustrations which assume various constant rates of growth.

<sup>1</sup> See p. -- of the prospectus for explanation of how the tax liability of the insurance company related to the investment experience of the separate account can significantly affect annuity payments.

The illustrations shown below assume that after any deductions for insurance company taxes, the variable annuity separate account earns hypothetical investment returns of 0%, 4% and 8% compounded annually. The differences between the hypothetical investment returns and the group effective returns shown in Sample Table B-1 result from the charges and deductions made and the mortality table used by the company. Such illustrations are hypothetical and cannot be used to estimate what any particular payment or return would be under the contract.

The illustrations portray a \$10,000 single payment immediate variable annuity issued to a 65 year old man with annuity payments for a period of 10 years certain and life thereafter. The amount deducted from the purchase payment for sales and administrative expenses would be \$737.50,<sup>1</sup> leaving a net amount invested of \$9,262.50.<sup>2</sup>

Under the terms of the contract, the first monthly annuity payment would be \$61.80. This dollar amount is based, in part, on the "assumed interest rate" of the contract which is 3.5%. Subsequent monthly payments will vary depending primarily upon the investment experience of the separate account.

If the investment return of the separate account after expenses and deductions should be equal to the "assumed interest rate" of 3.5%, the subsequent monthly annuity payments would remain constant at the level of the first monthly annuity payment. If the investment return exceeds 3.5%, monthly annuity payments would increase; if the investment return were less than 3.5%, they would decrease.

**Taxes:** Investors should also be aware that the tax liability of the insurance company which sponsors this contract can have a significant effect on the value of the investment. See the section on Taxation in your prospectus.

**Illustration of the Annuity or "Payout Period"**

Sample Table B-1 below lists the first monthly annuity payment at age 65 and subsequent monthly annuity payments at ages 70, 75, 80, and 85, assuming continuation throughout the annuity payout period of the same hypothetical investment return earned during the accumulation period, reduced by a 1.00% annual asset charge which pays for investment management and expense guarantees.<sup>3</sup>

The illustrations are not intended to provide an estimate of expected future annuity payments.

These will vary with actual investment experience which depends, in part, on the investment objectives and policies of the separate account as are set forth in the current prospectus.

No investment result is guaranteed and annuity payments could be less than shown under 0%.

**Group Effective Returns**—The effects of charges for the annuity or payout period

<sup>1</sup> Deductions from purchase payments are set forth on pp. -- of the current prospectus.

<sup>2</sup> Premium taxes: The \$10,000 is assumed to be the amount remaining after any deductions for State premium taxes. No effect has been given to State premium taxes in the illustration. Such taxes vary from state to state in both amount and point in time assessed. Premium taxes could reduce the number of dollars upon which the initial annuity payment is based. (See pp. -- of the current prospectus for a more detailed illustration of State premium taxes.)

<sup>3</sup> See the current prospectus for an explanation of these guarantees.

and differences in result due to the mortality table used are shown by the "group effective returns" contained in Sample Table B-1 below. They do not indicate the market risks or the effect of the insurance company's taxes on the return.<sup>4</sup>

**Group effective returns** are the rates of return, after expenses, which would be achieved during the annuity period by a large group of annuitants whose lifespans are assumed to follow a standardized mortality table.

They are not intended to show the return which would be realized by any particular individual during the payout period. That will depend upon his longevity and the payment option he chooses. Actual results for an individual would be different from those realized by a large group.

By eliminating the effects of individual differences in longevity, group effective returns provide a point of reference for measuring the effects of direct charges on payments as well as any indirect charges or benefits resulting from the use by issuers of different mortality tables.

An investor should consider the value of (1) the promise to pay at regular intervals as long as he lives the periodic value of a specified number of annuity units;

(2) the benefit of expense guarantees; and (3) annuity purchase rate guarantees when making this type of investment.

Sample table B-1

Age:	0-percent hypothetical return		4-percent hypothetical return		8-percent hypothetical return	
	Age:	Effective rate	Age:	Effective rate	Age:	Effective rate
65	65	4.62	65	9.1	65	14.4
70	70	5.0	70	9.1	70	13.8
75	75	4.0	75	8.8	75	13.3
80	80	3.2	80	8.6	80	12.8
85	85	2.6	85	8.4	85	12.4
Percent group effective returns		-1.3		2.6		6.5

#### SAMPLE ILLUSTRATION C

##### THE BASIC ANNUITY "TRADE-OFF"

An annuity guarantees that payments will be continued at regular intervals for the lifetime of the annuitant. For a fixed annuity the amount of these payments is definite; for a variable annuity the amount of the payments will be indefinite, fluctuating with the value of the separate account.

In making a decision to purchase a variable annuity and to receive such lifetime payments, an investor gives up other uses of his principal (except to the extent that the contract guarantees a minimum number of payments). Anyone contemplating how he will provide for his retirement should understand this trade-off.

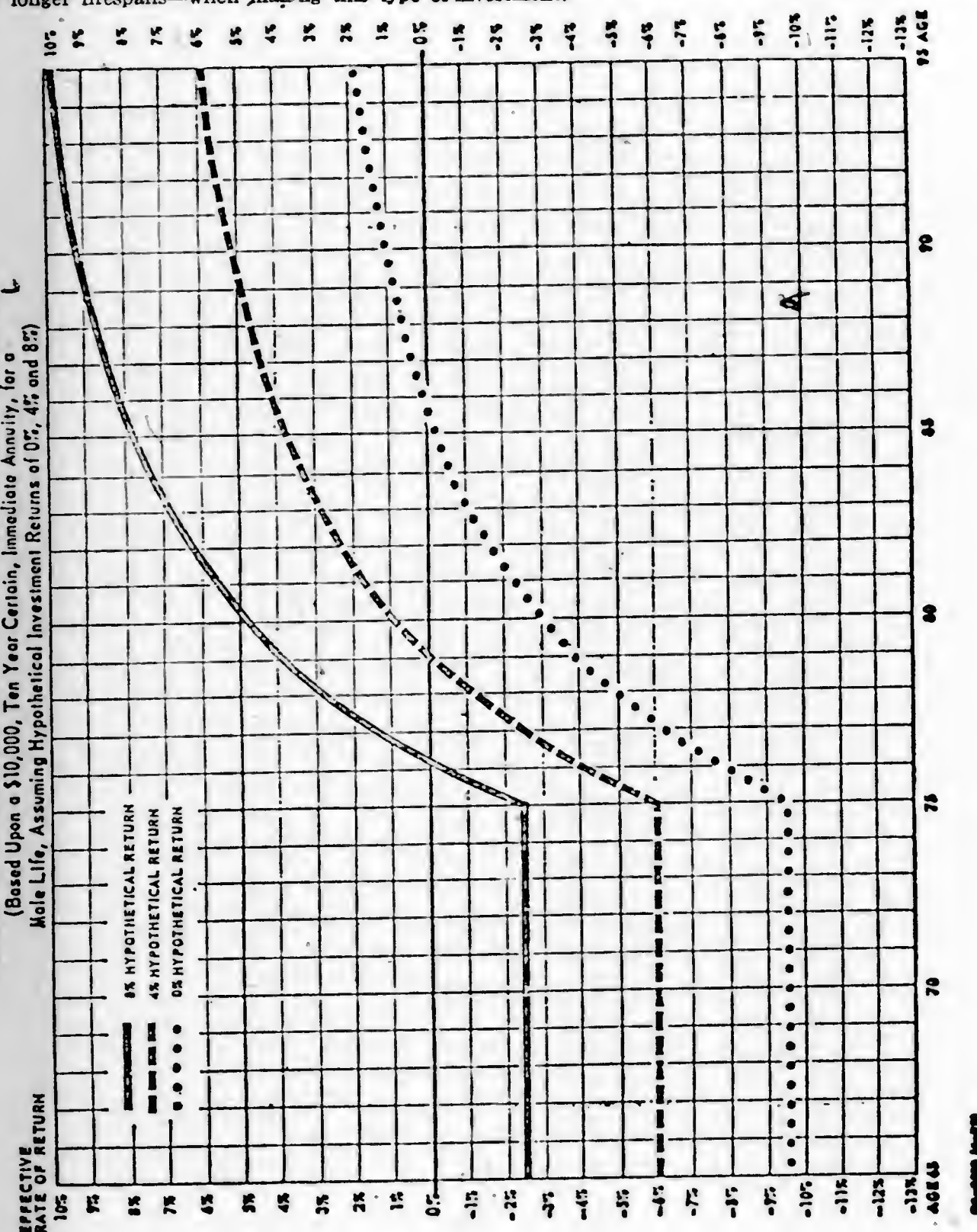
Of course, no chart can indicate, in advance, the effective investment return anyone will receive. But by assuming that gross hypothetical returns of 0%, 4% and 8% are earned by the separate account, Chart C-1 shows how the rate of return the individual receives will vary depending upon his longevity and the annuity payout option he selects.

<sup>1</sup> See p. -- of the prospectus for explanation of how the tax liability of the insurance company related to the investment experience of the separate account can significantly affect annuity payments.



Investors should consider the effect of this pooling feature of the contract—that lower returns for shorter lifespans permit higher returns for longer lifespans—when making this type of investment.

(Sample Chart C-1)  
**AGGREGATE ANNUITY PAYMENTS RECEIVED BY AN INDIVIDUAL, ASSUMING VARIOUS LIFESPANS, EXPRESSED AS EFFECTIVE RATES OF RETURN**  
 (Based Upon a \$10,000, Ten Year Certain, Immediate Annuity, for a Male Life, Assuming Hypothetical Investment Returns of 0%, 4% and 8%)



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#### SAMPLE EXPLANATION FOR CHART C-1

(1) *How Individual Returns Depend on the Hypothetical Investment Returns of the Separate Account.* How does the return an individual receives for the \$10,000 immediate variable annuity illustrated in Sample Table B-1 vary for different hypothetical investment returns of the separate account?

A. Sample Table B-1 illustrates the amounts of the monthly annuity payments, assuming hypothetical investment returns of the separate account of 0%, 4%, and 8%.

If the annuitant should live to age 85 he would receive aggregate annuity payments totalling \$9,854 for a 0% hypothetical return; \$14,077 for a 4% hypothetical return; and \$20,827 for an 8% hypothetical return.

Chart C-1 shows that if the annuitant lives to age 85 the aggregate annuity payments he receives would represent an effective rate of return of -1.9% for a 0% hypothetical return; 3.76% for a 4% hypothetical investment return; and 7.71% for an 8% hypothetical investment return.

(2) *How Individual Returns Depend on Longevity.* How does the return an individual receives from the \$10,000 immediate variable annuity illustrated in Sample Table B-1 vary depending upon his longevity?

A. For any given hypothetical investment return, the return received by an individual increases the longer he lives because the number of annuity payments he receives is greater. For example, for an 8% hypothetical return, if the annuitant should live 10 years he would receive aggregate annuity payments totalling \$8,738. These payments represent an effective rate of return of -2.45% on the \$10,000 invested.

If he should live to age 90, he would receive aggregate annuity payments totalling \$28,515 for an 8% hypothetical return. These annuity payments represent an effective rate of return of 9.16% on the investment of \$10,000. The higher returns for the longer lifespans and the lower returns for the shorter lifespans reflect the pooling feature of a variable annuity.

(3) *How Individual Returns Depend on Annuity Payout Option Selected.* How is the return an individual receives from the \$10,000 immediate variable annuity illustrated in Sample Table B-1 affected by the fact that the lifetime annuity payments continue for a period of at least 10 years?

A. For a 10 year certain annuity, the annuitant or his heirs will always receive the variable annuity payments for at least 10 years. For example, for an 8% hypothetical return, the annuity payments illustrated in Sample Table B-1 total \$8,738 over the first 10 years. These payments represent a -2.45% effective rate of return on an investment of \$10,000. Chart C-1 shows that the return received by an individual is not less than -2.45% for an 8% hypothetical return, even for lifespans of less than 10 years.

For a straight life annuity, where all annuity payments cease upon the death of the annuitant, the effective rate of return could be less than -2.45% for lifespans of less than 10 years. However, for longer lifespans, the effective rate of return for a straight life annuity would be higher than the return for a 10 year certain annuity.

#### § 271.2086 [Amended]

2. The text of Section 271.2086 is identical with that appearing in Section 231.3530 and is amended accordingly.

[FR Doc. 75-12923 Filed 5-16-75; 8:45 am]

[Rel. No. 34-11388, File No. S7-544]

#### PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

##### Fidelity Bonding Requirements for Non-Members of a National Securities Association

Notice is hereby given that the Commission adopted Rule 15b10-11 under the Securities Exchange Act of 1934 (17 CFR 240.15b10-11), effective September 1, 1975, setting forth mandatory fidelity bonding requirements for registered broker-dealers which are not members of a registered national securities association ("SECO broker-dealers"). Proposed Rule 15b10-11 (17 CFR 240.15b10-11) was originally noticed for public comment in Securities Exchange Act Release No. 11155 on December 26, 1974 and on January 9, 1975 at 40 FR 1719.

As a result of a request made by the Securities Investor Protection Corporation ("SIPC") in mid-1971 that misappropriation of assets of NASD members through employee theft and dishonesty be excluded from the losses covered by SIPC, the NASD Board of Governors in December of that year established a Committee on Bonding Coverage and instructed it to study the present bonding practices of the exchanges with a view to requiring similar coverage for NASD members.

As a result of the NASD Committee's recommendations, the NASD Board of Governors adopted Article III, section 32 (and Appendix "C" thereto) ("Section 32") of the NASD Rules of Fair Practice. The Commission subsequently considered the NASD rule and did not disapprove it on October 24, 1973 subject to certain conditions which later were satisfied. New section 32 became effective early last year. Commission Rule 15b10-11 is designed to impose comparable bonding requirements on SECO broker-dealers. Also, as in the case of Section 32, the Commission Rule provides exemptions for those firms which do not have employees as well as firms which are not required to be members of SIPC. In addition, the Rule would exempt SECO broker-dealers who are also members of certain exchanges which have in

\*The National Association of Securities Dealers, Inc. ("NASD") is the only association so registered.

effect fidelity bonding requirements for their members that are comparable to the requirements of the Rule.\*

#### DESCRIPTION OF RULE

Rule 15b10-11 (17 CFR 240.15b10-11) requires that SECO broker-dealers carry a fidelity bond in the form, amount and type of coverage prescribed by the Rule. The bond is required to contain agreements covering at least the following areas: a "Fidelity" insuring clause to indemnify the insured broker-dealer against loss of property through any dishonest or fraudulent acts of employees (this clause also generally covers losses due to "Fraudulent Trading" by employees); an "On Premises" agreement insuring against losses resulting from common law and statutory crimes such as burglary and theft and including a "Misplacement" clause specifically covering misplacement and "mysterious, unexplainable disappearances" of property of the insured (no matter where located); an "In Transit" clause indemnifying against losses occurring while property is in transit; a "Forgery and Alteration" agreement insuring against loss due to forgery or alteration of various kinds of negotiable instruments (including checks); and a "Securities Loss" clause protecting the insured against losses incurred through forgery and alteration of securities, or written documents relating to securities ownership or conveyance.

In addition, Rule 15b10-11 (17 CFR 240.15b10-11) requires SECO broker-dealers to obtain certain minimum coverages similar to the coverages set forth in the NASD's Section 32. The minimum coverage for any of the insuring agreements described above cannot be less than \$25,000; however, the required coverage for the "Fidelity," "On Premises,"

\*The proposed Rule, as published in Securities Exchange Act Release No. 11155, would have exempted those firms which are presently not subject to the requirements of Rule 15c3-1 of the Act, the "net capital" rule, by virtue of their membership in the following national securities exchanges: the American Stock Exchange, the Boston Stock Exchange, the Midwest Stock Exchange, the New York Stock Exchange, the Pacific Stock Exchange, the PBW Stock Exchange and the Chicago Board Options Exchange, Inc. However, the Commission found it necessary to revise the exemptive provision (paragraph (a)) in view of the fact that Rule 15c3-1 under the Act soon may be amended so as to apply to all registered broker-dealers irrespective of exchange affiliation. (See Securities Exchange Act Release No. 11094, dated November 11, 1974). Accordingly, the Rule has been revised so as to list the registered national securities exchanges which have in effect bonding requirements at least comparable to the requirements of the Rule. This list includes those exchanges presently exempt from the net capital rule since their bonding requirements generally satisfy this test. Revised paragraph (a) of the Rule also enables the Commission to suspend or withdraw the exemption as to members of any of the above exchanges upon ten days written notice to such exchange if the Commission deems such action "necessary or appropriate in the public interest or for the protection of investors."

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## DAIRY PRODUCTS CURRENTLY RECEIVING RESTITUTION PAYMENTS FOR EXPORT TO THE UNITED STATES—Continued

Common external tariff No.	General description	European Community Code
	Ex. 2. Exceeding 45 percent and of a dry matter content, by weight, (aa) Of 35 percent or more but less than 45 percent.....	4510-10
	(ab) Of 35 percent or more but less than 45 percent.....	4510-20
	(ac) Of 45 percent or more but less than 45 percent.....	4510-30
	(d) Of 45 percent or more and of a fat content, by weight, in the dry matter (1) Less than 35 percent.....	4510-40
	(2) Of 35 percent or more.....	4510-50
	(b) Exceeding 35 percent.....	4510-60
	Other:	
	1. Not grated or powdered, of a fat content, by weight, not exceeding 40 percent and a water content, calculated by weight, of the nonfat matter:	
	Ex. (a) Not exceeding 47 percent:	
	(1) Grana, Parmigiano Reggiano.....	4710-11
	(2) Pire Sardo, Pecorino.....	4710-15
	(3) Other, of a fat content, by weight, in the dry matter of 30 percent or more.....	4710-16
	(b) Exceeding 47 percent but not exceeding 72 percent:	
	(dd) Of 30 percent or more.....	5130-31
	(1) Asino, Casolevillo, Provola, Ragusano.....	5130-44
	(2) Dabio, Edan, Fontal, Fontina, Gouda, Havarti, Maribo, Same, Tilsit.....	5130-54
	(3) Butterkase, Esrom, Italico, Kerahem, Saint-Nectaire, Saint-Paulin, Taleggio.....	5130-58
	(4) Causal.....	5130-59
	(5) Sauté ricotta, of a fat content, by weight, of 30 percent or more.....	5130-60
	(6) Feta, of a water content calculated by weight of the nonfat matter exceeding 52 percent but not exceeding 72 percent in containers holding brine.....	5130-80
	(8) Other, of a water content, calculated by weight, of the nonfat matter (aaa) Exceeding 47 percent but not exceeding 52 percent.....	5130-86
	(bbb) Exceeding 52 percent but not exceeding 62 percent.....	5130-91
	11. Other:	
	Ex. (a) Grated or powdered, of a fat content by weight exceeding 50 percent of a lactose content by weight, less than 5 percent and of a dry matter content, by weight:	
	(1) Of 85 percent or more but less than 85 percent.....	5310-10
	(2) Of 85 percent or more but less than 85 percent.....	5310-21
	(3) Of 85 percent or more.....	5310-30

## B. SCHEDULE OF DAIRY PRODUCTS BY COMMON EXTERNAL TARIFF NUMBER NOT PRESENTLY RECEIVING RESTITUTION PAYMENTS FOR EXPORT TO THE UNITED STATES

04.01	Milk and cream, fresh, not concentrated or sweetened.....
04.02	Milk and cream, preserved, concentrated or sweetened in dry or liquid form with sugar or without sugar.....
04.03	Butter including butter oil, anhydrous milk fat, and Ghee.....
04.04	Cheese and curd (not listed in above).....
23.07	Sweetened lumps, other preparations of a kind used in animal feeding, which might include milk products.....

<sup>1</sup> Processed cheese includes specialty and exotic cheese for table use only such as garlic and spiced cheese, smoked cheese, cheese spreads, and like specialty products. These cheeses are not for further processing except for preparation for retail sale.

<sup>2</sup> Including other hard Italian table cheeses.

<sup>3</sup> Including Camembert, Brie, Port Salut, Limburger.

<sup>4</sup> Excluding those cheeses processed from Swiss- or American-type cheeses.

[FR Doc. 75-12855 Filed 5-16-75; 8:45 am]

[T.D. 75-114]

PART 159—LIQUIDATION OF DUTIES  
Dairy Products

Waiver of Countervailing Duties—Dairy Products from France, the United Kingdom, West Germany, Luxembourg, Ireland, the Netherlands, Denmark, Italy and Belgium.

Determination under section 303(d), Tariff Act of 1930, as amended, to waive countervailing duties.

In T.D. 75-113, published concurrently with this determination, it has been determined that bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) are being paid or bestowed, directly or indirectly, upon the manufacture, production, or exportation of dairy products from the European Communities (consisting of France, the United Kingdom, West Germany, Luxembourg, Ireland, the Netherlands, Denmark, Italy and Belgium).

Section 303(d) of the Tariff Act of 1930, as added by the Trade Act of 1974 (P.L. 93-618, January 3, 1975), authorizes the Secretary of the Treasury to waive

the imposition of countervailing duties during the four year period beginning on the date of enactment of the Trade Act of 1974 if he determines that:

(1) adequate steps have been taken to reduce substantially or eliminate during such period the adverse effect of a bounty or grant which he has determined is being paid or bestowed with respect to any article or merchandise;

(2) there is a reasonable prospect that, under section 102 of the Trade Act of 1974, successful trade agreements will be entered into with foreign countries or instrumentalities providing for the reduction or elimination of barriers to or other distortions of international trade; and

(3) the imposition of the additional duty under this section with respect to such article or merchandise would be likely to seriously jeopardize the satisfactory completion of such negotiations.

The European Community has taken action to suspend restitution payments on the following cheeses: Colby and Monterey (EC Code 5120-83); Industrial cheese for processing (EC Codes 5120-11,

5120-15, 5120-21); Emmentaler and Gruyere (EC Code 3800-00). Restitution payments on cheddar cheese (EC Code 4850-00) and on other dairy products, other than cheese, have been suspended since at least July 1974 and continue in a state of suspension. In view of the above, and based upon analysis of all relevant factors and consultation with interested agencies, I have concluded that the steps taken are adequate to reduce substantially the adverse effect of the bounties or grants.

After consulting with appropriate agencies, including the Department of State, the Office of the Special Representative for Trade Negotiations, and the Department of Agriculture, I have concluded (1) that there is a reasonable prospect that, under section 102 of the Trade Act of 1974, successful trade agreements will be entered into with foreign countries or instrumentalities providing for the reduction or elimination of barriers to or other distortions of international trade; and (2) that the imposition of countervailing duties on dairy products from the European Communities would be likely to seriously jeopardize the satisfactory completion of such negotiations.

Accordingly, pursuant to section 303 (d) of the Tariff Act of 1930 (19 U.S.C. 1303(d)), I hereby waive the imposition of countervailing duties as well as the suspension of liquidation ordered in T.D. 75-113 on dairy products from the European Communities.

This determination may be revoked, in whole or in part, at any time and shall be revoked whenever the basis supporting such determination no longer exists. Unless sooner revoked or made subject to a resolution of disapproval passed by either House of the Congress of the United States pursuant to section 303 (d) of the Tariff Act of 1930 (19 U.S.C. 1303(e)), this waiver of countervailing duties will, in any event, by statute cease to have force and effect on January 4, 1979.

On or after the date of publication in the FEDERAL REGISTER of a notice revoking this determination in whole or in part, the date of passage by either House of the Congress of a resolution disapproving this "Waiver of Countervailing Duties", or January 4, 1979, whichever occurs first, countervailing duties will be assessable on dairy products imported directly or indirectly from the European Communities in accordance with T.D. 75-113, published concurrently with this determination.

The table in § 159.47(f) of the Customs regulations (19 CFR 159.47(f)) is amended by inserting after the last entry for France, the United Kingdom, West Germany, Luxembourg, Ireland, the Netherlands, Denmark, Italy, and Belgium under the commodity heading "Dairy Products", the number of this Treasury Decision in the column headed "Treasury Decision", and the words "Imposition of countervailing duties waived" in the column headed "Action".

(R.S. 251, secs. 303, as amended, 624; 46 Stat. 687, 769, 88 Stat. 2051, 2052; 19 U.S.C. 66, 1303, as amended, 1824).

[SEAL] DAVID R. MACDONALD,  
Assistant Secretary of  
the Treasury.

MAY 12, 1975.

[FR Doc. 75-12856 Filed 5-16-75; 8:45 am]

## Title 21—Food and Drugs

## CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## SUBCHAPTER B—FOOD AND FOOD PRODUCTS

## PART 10—DEFINITIONS AND STANDARDS FOR FOODS

## Temporary Permits for Market Testing; Amendments

A notice of proposed rulemaking, published in the FEDERAL REGISTER of December 9, 1972 (37 FR 26340), set forth a proposal on the initiative of the Commissioner of Food and Drugs to amend § 10.5 (21 CFR 10.5), relating to temporary permits to vary from a food standard. These amendments would (1) emphasize the purpose for which temporary permits are to be granted, (2) require that a request for an extension of a permit be filed not later than 3 months prior to the expiration date of the permit and be accompanied by a petition to amend the applicable food standard, and (3) provide that, if an extension of a permit is granted, the published notice of the extension will include an invitation to all interested persons to participate in the market test. This order adopts that proposal with certain modifications.

Three responses were received with regard to the proposal:

1. One industry association stated that the additional safeguards incorporated by the proposed amendment are reasonable and in the public interest.

2. Another industry association suggested that permits be granted for 2-year periods on the basis that 1 year is simply not long enough, considering the seasonal nature of many products involved and the inevitable time lag of passing the product through the chain of distribution.

It has been the policy of the Food and Drug Administration to grant temporary permits only when market tests are shown by the applicant to be necessary for the completion or conclusiveness of an otherwise adequate investigation. Thus, on the basis of his laboratory and/or intrastate market tests, an applicant for a temporary permit should have arrived at some definite conclusions as to the suitability of the product change in regard to amending the food standard at the time he requests a permit. The Commissioner is of the opinion that, if the application for the temporary permit is submitted with sufficient lead time where seasonal factors are a concern, and the market test is properly designed and timed to cover the area and period in which the sought after data are available, in most cases it would not require a market test period of 2 years to obtain

the information necessary to support a petition for an amendment to the appropriate food standard. However, in consideration of the comment received and for the reasons set forth in paragraph 3 of this preamble, the Commissioner concludes that a market test period of 15 months is reasonable and accordingly. The Commissioner also concludes that, because of the variety of food products subject to this regulation, the establishment of an inflexible time schedule may under certain circumstances impose an impediment to the gathering of needed data. Therefore, paragraphs (b) and (c) of § 10.5 have been changed to provide that the Commissioner, for good cause shown by the applicant, may provide for a longer test market period.

3. A comment from a food manufacturer agreed that the present regulation requires modification in order to diminish the current potential for unfair competition but questioned whether the means selected will accomplish the objective and raised several questions regarding the proposal. The comment questioned the requirement that an application for extension be accompanied by a petition to amend the standard and that they both be filed 3 months before the expiration date of the permit, on the basis that the need for an extension indicates that adequate data to support a petition are lacking and that the last 3 months of the test period are crucial to the decision of proceeding with an amendment to the standard.

As explained in the preamble to the proposal, very few holders of temporary marketing permits have submitted, prior to the expiration of the market testing period, a petition for a corresponding amendment to the food standard involved. Instead, a number of permit holders have applied for one or more extensions of the time period for market testing without providing any indication of when a petition to amend the standard would be submitted. The Commissioner has concluded that this practice does not conform to the intent of § 10.5, that it is not in the best interest of consumers, and that it presents a potential for unfair competition with respect to other manufacturers who do not hold temporary permits for the same or similar products. For this reason, the Commissioner is establishing a uniform procedure that each permit holder must follow if he plans to ask for an extension of time. The important element of this requirement is that a request for an extension of time must be filed 3 months before the permit expires and that it be accompanied by a petition to amend the standard. The Commissioner recognizes that in some cases the last 3 months of a 1-year market test may be crucial and, accordingly, has amended paragraph (b) of § 10.5 to specify that under normal circumstances the initial test period shall not exceed 15 months instead of the 1-year period proposed. The additional 3 months will provide a full 12-month

market testing period for permit holders to acquire data to support the petition which must accompany the request for an extension of the market testing period. A petition to amend the standard may be submitted at any time and need not be accompanied by a request for an extension of the market testing period.

4. A comment questioned the invitation to all interested parties to participate in an extended market test on the basis that, under current regulations, interested parties can file their own application for a permit to market test the product concurrently with the initial permit holder. The comment asserted that the proposal will not accomplish its principal purpose, i.e., the prevention of unfair competition, arguing that "it makes sense to publish a proposed amendment after tests have established grounds supporting it. Temporary permission to market even very limited quantities should be terminated once the proposal of the petitioner is accepted for publication. We are confident that the interruption in marketing would segregate those who are conducting true tests from those who wish to gain a franchise with consumers before others can legally market the same product. Interruptions in shelf-space authorization and trademark promotion through advertising would assure the Commissioner's success at no cost to the consumer."

In regard to the invitation for other interested persons to participate in an extended market test, it is true that under the present regulation other manufacturers could file their own applications for permits to market test the same food concurrently with the initial permit holder. However, the proposed provision will streamline this procedure in the case where an extension is granted and broaden the base of information available to the Commissioner at the time a ruling is to be made on the proposed amendment. This provision is also intended to minimize the opportunities for permit holders to gain a franchise with consumers before others can legally market the same product. The Commissioner does not agree that temporary permission to market test should always be terminated once the proposal is accepted for publication. However, it is not the intention of the Commissioner to grant every request for an extension of a permit but only those where he concludes that the request includes persuasive reasons for extending the market test period and that the additional information expected to result from such extension would be helpful to him in formulating a final ruling on the proposed amendment. In this regard, the Commissioner wishes to emphasize that if the basis for the request for an extension is one of competitive advantage rather than a clear need for additional market test data, it will be deemed insufficient for the granting of the requested extension.

5. A comment questioned the provision that all applications and related correspondence will be available for public



disclosure after a permit is granted on the basis that product development and the flow of information to the Commissioner will be impeded and, in some cases, it will be competitively preferable to try other means of accomplishing the provisions of the amendment without prior market tests rather than subject the product to public scrutiny prematurely.

In regard to the confidentiality of applications for temporary permits after the permits have been granted, it should be understood that petitions setting forth a proposal in regard to a food standard regulation have always been filed with the Hearing Clerk in a public file. It has been required that these petitions include complete factual information that furnishes reasonable grounds in support of the proposed action so that interested persons may make a knowledgeable comment on the proposal. Similarly, it is the conclusion of the Commissioner that the information submitted in support on an application for a temporary permit, once the permit has been issued and the food can be distributed for sale to the consumer, shall be available for public disclosure except to the extent that these records contain information exempt from disclosure. Prior to a notice in the FEDERAL REGISTER granting a temporary permit, the existence of the application for temporary permit is properly regarded as confidential commercial information since it would disclose the intent of the company to pursue the marketing of a new product. Once such a notice is published, however, the application can no longer be regarded as confidential. Similarly, a request for extension of the permit shall be available for public disclosure if and when it is granted, since granting such an extension permits other manufacturers to begin marketing under the same terms and conditions as the first manufacturer. Paragraph (k) of § 10.5 was added by the final order on public information published in the FEDERAL REGISTER of December 24, 1974 (39 FR 44652) to state this policy.

6. A comment asserted that:

According to the proposal, no extension will be effective until (a) a notice of the extension is published in the FEDERAL REGISTER, (b) competitors are told that they can conduct like tests concurrently, and (c) the proposed amendment to the standard has been published (§ 10.5(i)). This schedule requires a great deal of action by the FDA within a short period of time. The Commissioner will have to analyze incomplete tests results to determine whether reasonable grounds exist in support of the proposed amendment, and despite other demands on his time the Commissioner will have to send it to the FEDERAL REGISTER in time to avoid an interruption in the period of the permit. The rush to meet this schedule seems unnecessarily wasteful when it is remembered that by the time it is published, the petitioner may for good reasons abandon his petition.

The Commissioner agrees that on some occasions it may be necessary to obtain additional data and information to supplement a petition to amend a food

standard before he can conclude that reasonable grounds have been furnished to warrant publishing the proposal. Therefore, the Commissioner has concluded that it is reasonable to amend paragraph (i) to delete the provision that the extension will become effective only after publication of a notice in the FEDERAL REGISTER setting forth a proposal to amend the affected standard. The regulation has been changed to make the extension effective on the date of publication of the notice granting the extension.

7. A comment stated that use of the words "retail unit" in § 10.5(c)(11) gave the impression that market tests by institutional or industrial customers are not permitted.

Although requests for such market tests are rare, the Commissioner advises that it was not intended that the submission of such applications would be prohibited by § 10.5. Therefore, the word "retail" has been deleted from paragraph (c)(11).

Accordingly, the Commissioner concludes, having considered the comments received and other relevant material, that § 10.5 should be amended in paragraphs (a), (b), (c) and (l) and adopted as set forth below.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sections 401, 701(a), 52 Stat. 1046, 1055-1056, as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 341, 371(a))) and under authority delegated to him (21 CFR 2.120) § 10.5 is revised to read as follows:

§ 10.5 Temporary permits for interstate shipment of experimental packs of food varying from the requirements of definitions and standards of identity.

(a) The Food and Drug Administration recognizes that before petitions to amend food standards can be submitted, appropriate investigations of potential advances in food technology sometimes require tests in interstate markets of the advantages to and acceptance by consumers of experimental packs of food varying from applicable definitions and standards of identity prescribed under section 401 of the act.

(b) It is the purpose of the Administration to permit such tests when it can be ascertained that the sole purpose of the tests is to obtain data necessary for reasonable grounds in support of a petition to amend food standards, that the tests are necessary to the completion or conclusiveness of an otherwise adequate investigation, and that the interests of consumers are adequately safeguarded; permits for such tests shall normally be for a period not to exceed 15 months. The Commissioner, for good cause shown by the applicant, may provide for a longer test market period. The Administration will therefore refrain from recommending regulatory proceedings under the act on the charge that a food does not conform to an applicable standard, if the person who introduces or causes the introduction of the food into interstate

commerce holds an effective permit from the Commissioner providing specifically for those variations in respect to which the food fails to conform to the applicable definition and standard of identity. The test period will begin on the date the person holding an effective permit from the Commissioner introduces or causes the introduction of the food covered by the permit into interstate commerce but not later than 3 months after notice of the issuance of the permit is published in the FEDERAL REGISTER. The Commissioner shall be notified in writing of the date on which the test period begins as soon as it is determined.

(c) Notice of the granting or revocation of any permit shall be published in the FEDERAL REGISTER.

(1) Name and address of the applicant.

(2) A statement of whether or not the applicant is regularly engaged in producing the food involved.

(3) A reference to the applicable definition and standard of identity (citing applicable section of regulations).

(4) A full description of the proposed variation from the standard.

(5) The basis upon which the food so varying is believed to be wholesome and nondeleterious.

(6) The amount of any new ingredient to be added; the amount of any ingredient, required by the standard, to be eliminated; any change of concentration not contemplated by the standard; or any change in name that would more appropriately describe the new product under test. If such new ingredient is not a commonly known food ingredient, a description of its properties and basis for concluding that it is not a deleterious substance.

(7) The purpose of effecting the variation.

(8) A statement of how the variation is of potential advantage to consumers. The statement shall include the reasons why the applicant does not consider the data obtained in any prior investigations which may have been conducted sufficient to support a petition to amend the standard.

(9) The proposed label (or an accurate draft) to be used on the food to be marketed. The label shall conform in all respects to the general requirements of the act and shall provide a means whereby the consumer can distinguish between the food being tested and such food complying with the standard.

(10) The period during which the applicant desires to introduce such food into interstate commerce, with a statement of the reasons supporting the need for such period. If a period longer than 15 months is requested, a detailed explanation of why a 15-month period is inadequate shall be provided.

(11) The probable amount of such food that will be distributed. The amount distributed should be limited to the smallest number of units reasonably required for a bona fide market test. Justification for the amount requested shall be included.

(12) The areas of distribution.

(13) The address at which such food will be manufactured.

(14) A statement of whether or not such food has been or is to be distributed in the State in which it was manufactured.

(15) If it has not been or is not to be so distributed, a statement showing why.

(16) If it has been or is to be so distributed, a statement of why it is deemed necessary to distribute such food in other States.

(d) The Commissioner may require the applicant to furnish samples of the food varying from the standard and to furnish such additional information as may be deemed necessary for action on the application.

(e) If the Commissioner concludes that the variation may be advantageous to consumers and will not result in failure of the food to conform to any provision of the act except section 403(g), a permit shall be issued to the applicant for interstate shipment of such food. The terms and conditions of the permit shall be those set forth in the application with such modifications, restrictions, or qualifications as the Commissioner may deem necessary and state in the permit.

(f) The terms and conditions of the permit may be modified at the discretion of the Commissioner or upon application of the permittee during the effective period of the permit.

(g) The Commissioner may revoke a permit for cause, which shall include but not be limited to the following:

(1) That the permittee has introduced a food into interstate commerce contrary to the terms and conditions of the permit.

(2) That the application for a permit contains an untrue statement of a material fact.

(3) That the need therefor no longer exists.

(h) During the period within which any permit is effective, it shall be deemed to be included within the terms of any guaranty or undertaking otherwise effective pursuant to the provisions of section 303(c) of the act.

(i) If an application is made for an extension of the permit, it shall be accompanied by a description of experiments conducted under the permit, tentative conclusions reached, and reasons why further experimental shipments are considered necessary. The application for an extension shall be filed not later than 3 months prior to the expiration date of the permit and shall be accompanied by a petition to amend the affected food standard. If the Commissioner concludes that it will be in the interest of consumers to issue an extension of the time period for the market test, a notice will be published in the FEDERAL REGISTER stating that fact. The notice will include an invitation to all interested persons to participate in the market test under the same conditions that applied to the initial permit holder, including labeling and the amount to be distributed, except that the designated

area of distribution shall not apply. The extended market test period shall not begin prior to the publication of a notice in the FEDERAL REGISTER granting the extension and shall terminate either on the effective date of an affirmative order ruling on the proposal or 30 days after a negative order ruling on the proposal, whichever the case may be. Any interested person who accepts the invitation to participate in the extended market test shall notify the Commissioner in writing of that fact, the amount to be distributed, and the area of distribution; and along with such notification, he shall submit the labeling under which the food is to be distributed.

(j) Notice of the granting or revocation of any permit shall be published in the FEDERAL REGISTER.

(k) All applications for a temporary permit, applications for an extension of a temporary permit, and related records are available for public disclosure when the notice of a permit or extension thereof is published in the FEDERAL REGISTER. Such disclosure shall be in accordance with the rules established in Part 4 of this chapter.

Effective date. The amendment to § 10.5 shall become effective on June 18, 1975.

(Secs. 401, 701(a), 52 Stat. 1046, 1055-1056, as amended by 70 Stat. 919, 72 Stat. 948 (21 U.S.C. 341, 371(a)))

Dated: May 13, 1975.

SAM D. FINE,  
Associate Commissioner  
for Compliance.

[FR Doc. 75-13025 Filed 5-16-75; 8:45 am]

#### PART 30—TABLE SIRUPS

Standards of Identity; Confirmation of Effective Date of Order

In an order published in the FEDERAL REGISTER of June 14, 1974 (39 FR 20879), the Commissioner of Food and Drugs established definitions and standards of identity for the foods: table sirup, maple sirup, cane sirup, and sorghum sirup. The action was intended to protect the consumer from economic abuse in the formulation and labeling of these foods. The standards are to become effective on July 1, 1975.

No objections to the order or requests for a hearing were received; however, four letters, each containing one or more comments, were received; a summary of the comments and the Commissioner's responses are as follows:

1. One comment said that the time allowed for compliance is not sufficient to use present stocks of labels and requested that the rule allow for the labels on hand on January 1, 1975 to be used for 6 months or until the present supply is exhausted, whichever is sooner.

A notice extending the effective date for compliance with this regulation from January 1, 1975 to July 1, 1975 was published in the FEDERAL REGISTER of November 14, 1974 (39 FR 40184).

2. A comment recommended that margarine as well as butter be listed as an optional ingredient in table sirup (21 CFR 30.1).

It is the present policy to list optional ingredients in this standard by class wherever practicable instead of by name. Margarine is considered to fall in the class of "edible fats and oils" which are permitted by 21 CFR 30.1(b)(3) as optional ingredients and, accordingly, is not listed by name. The ingredient "butter" is mentioned by name because there are specific provisions in the standard for a product to be labeled as "buttered sirup," but such is not the case for margarine or other fats and oils. Since there is no food commonly marketed as "margarined sirup," the Commissioner does not believe it is necessary to single out margarine as an optional ingredient.

3. One comment said that the name "cane sirup," as established by 21 CFR 30.3(c) is not entirely descriptive in some parts of the country and recommend that "sugar cane sirup" be permitted as an alternative name. The comment added that such sirup is made entirely at the mill from sugar cane or that it may be made at a processing establishment by using granulated sugar.

The Commissioner concludes that "sugar cane sirup" is satisfactory as an alternative name for "cane sirup" and is appropriately amending § 30.3(c) of the regulation. However, sirup made from granulated sugar, as described in the comment, would not comply with § 30.3 and could not be labeled as "cane sirup" or "sugar cane sirup." For the food to be so labeled, § 30.3 requires, among other requirements, that the food be derived by concentration and heat treatment of the juice of sugar cane or by solution in water of sugar cane concentrate made from such juice. Sirup made from granulated sugar may be labeled in accordance with the provisions of the standard for table sirup (§ 30.1) if the sirup meets all of the requirements of that standard.

4. A comment recommended that a statement be placed in § 30.4 to the effect that the word "pure" cannot be used on the label unless no optional ingredients are present in sorghum sirup.

It has been the general policy of the Food and Drug Administration for many years to discourage use of the word "pure" on the labels for food products because common use of the word has different meanings to different people. The Commissioner does not consider it appropriate to incorporate such a requirement in the standards for individual foods.

5. A comment recommended that, unless evidence shows that the addition of chemical preservatives serves a useful purpose in the interest of the consumer, § 30.4(b)(2) permitting the use of chemical preservatives as optional ingredients in sorghum sirup should be stricken.

Inasmuch as microbial growth can take place when condensate, due to frequent transferring of the food in and



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out of the refrigerator, accumulates on the surface of sorghum sirup, the Commissioner concludes that the use of chemical preservatives in such food can serve a useful purpose.

6. A comment from a trade association asked if chocolate sirup was taken into consideration in establishing §§ 30.1 through 30.4.

Sections 30.1 through 30.4 were established as definitions and standards of identity for the pancake and waffle types of sirups. They were not intended to define chocolate sirups for such uses as ice cream toppings and beverages. Such chocolate sirups are considered as non-standardized foods. Any person who believes that a separate identity standard for chocolate sirup should be promulgated may file a petition proposing such a standard.

A number of comments on the original proposal of October 2, 1970 (35 FR 15403), requested that the source of ingredients be declared on the label so as to inform those persons who may have allergic or hypersensitivity reactions to specific ingredients. In response to those comments, the preamble to the order of June 14, 1974 stated that the significance of source labeling of ingredients was being reviewed at the request of the Commissioner by the Life Sciences Research Office (LSRO), Federation of American Societies for Experimental Biology (FASEB), Bethesda, Maryland. The Commissioner indicated that if data in support of a requirement to declare the source of ingredients become available he will propose to amend the standard. The study by LSRO has been completed and a copy of the report has been placed on public display in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852. A single copy of this report may be obtained upon request to the Associate Director for Nutrition and Consumer Services, Bureau of Foods, Food and Drug Administration, 200 C St. SW., Washington, DC 20204.

The Commissioner has reviewed the report by the LSRO and finds that it is appropriate to give further consideration to the matter of requiring labeling that identifies the source of nutritive sweeteners.

The Commissioner is aware of the fact that source labeling for table sirups is of interest to those individuals who desire to avoid certain nutritive sweeteners in their diet. However, any requirement for declaring nutritive sweeteners by source as well as by common or usual name should also apply to other foods which contain nutritive sweeteners. For that reason, and also because the October 2, 1970 original proposal for table sirups did not include a requirement for source labeling, the Commissioner believes that it would be inappropriate to make such a substantive change in the standards for table sirups at this time. When a position regarding source labeling can be developed separately on broad and scientifically documented basis, the Commissioner will issue a FEDERAL REGISTER notice of such position.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1048, 1055-1056, as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 341, 371)) and under authority delegated to the Commissioner (21 CFR 2.120):

1. Notice is given that no objections were filed to the order of June 14, 1974, and the effective date for full compliance with the regulations will be July 1, 1975.

§ 30.3 Cane sirup; identity; label standard of optional ingredients. [Amended]

2. Effective July 1, 1975, § 30.3 is amended in paragraph (c) by adding to the first sentence the phrase "or 'sugar cane sirup'" immediately after the words "sugar cane."

Dated: May 12, 1975.

SAM D. FINE,  
Associate Commissioner  
for Compliance.

[FR Doc. 75-13024 Filed 5-16-75; 8:45 am]

### Title 38—Pensions, Bonuses, and Veterans' Relief

#### CHAPTER I—VETERANS ADMINISTRATION

##### PART 3—ADJUDICATION

#### Subpart A—Pension, Compensation and Dependency and Indemnity Compensation

##### PENSION AND COMPENSATION RATES

On page 12294 of the FEDERAL REGISTER of March 18, 1975, there was published a notice of proposed regularity development to amend §§ 3.452, 3.454, 3.458, 3.459 and 3.460 which relate to apportionment of benefits. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

One written comment was received. The comment was favorable but suggested an additional change to § 3.454. The suggested change is being considered for inclusion in a subsequent change to the regulations. It was not considered practical to delay issuance of the current changes. The proposed regulations are hereby adopted without change and are set forth below.

**Effective date.** Sections 3.452(c) and 3.454 (b) and (c) are effective January 1, 1974; § 3.459(b) is effective May 1, 1974; and §§ 3.454(a), 3.458, 3.459(a) and 3.460 are effective May 12, 1975.

Approved: May 12, 1975.

By direction of the Administrator.

ODELL W. VAUGHN,  
Deputy Administrator.

1. In § 3.452, paragraphs (c) (3) and (d) are revised to read as follows:

§ 3.452 Veterans benefits apportionable.

Veterans benefits may be apportioned:

(c) . . . .

(3) Where a married veteran is receiving pension at the rate provided by 38

U.S.C. 521(b) and pension is reduced under the provisions of § 3.551(c), because of hospitalization by the Veterans Administration, all or any part of the pension at the rates payable under 38 U.S.C. 521(c) or (c) and (e) in excess of \$50 monthly may be paid to the veteran's estranged wife or husband as provided in § 3.454(b) if it is affirmatively shown that hardship exists. (38 U.S.C. 3203(a).)

(d) Where additional compensation is payable on behalf of a parent and the veteran or his or her guardian neglects or refuses to contribute such an amount to the support of the parent the additional compensation will be paid to the parent upon receipt of a claim.

2. Section 3.454 is revised to read as follows:

§ 3.454 Veterans disability pension.

Apportionment of pension for a veteran based on service in the Mexican border period, World War I or later war period will be as follows:

(a) Where a veteran with wife, husband, or child is incompetent and without legal fiduciary and is maintained in an institution by the United States or any political subdivision thereof, \$10 monthly will be paid as an institutional award to the Director of a Veterans Administration hospital or chief officer of a non-Veterans Administration institution for the use of the veteran, and the balance will be paid to the dependent or dependents. If the veteran has no wife, husband, or child but has a dependent parent apportionment will be in accordance with § 3.451.

(b) Where the pension of any married veteran who is receiving pension under 38 U.S.C. 521(b) is reduced to \$50 under the provisions of § 3.551(c), an apportionment may be made to the estranged wife or husband upon an affirmative showing of hardship. The amount of the apportionment generally will be the difference between \$50 and the rate payable if pension were being paid under 38 U.S.C. 521(c). If the additional rate of \$49 per month is payable under § 3.351 (d) it may be added to the apportionment. (38 U.S.C. 3203(a).)

(c) Where pension for an incompetent veteran is subject both to reduction under § 3.551(c), and to discontinuance under § 3.557(b) because of hospitalization by the U.S. Government or any political subdivision, the rate authorized for a parent or parents will not exceed \$50 monthly. (38 U.S.C. 3203 (a), (b).)

3. In § 3.458, paragraphs (b), (c), (e), (f) and (g) are revised to read as follows:

§ 3.458 Veterans benefits not apportionable.

Veterans benefits will not be apportioned:

(b) Where the wife or husband of the disabled person has been found guilty of conjugal infidelity by a court having proper jurisdiction.

(c) For purported or legal wife or husband of the veteran if it has been

determined that he or she has lived with another person and held herself or himself out openly to the public to be the spouse of such other person, except where such relationship was entered into in good faith with a reasonable basis (for example trickery on the part of the veteran) for the wife or husband believing that the marriage to the veteran was legally terminated. No apportionment to the wife or husband will thereafter be made unless there has been a reconciliation and later estrangement.

(e) Where a child enters the active military, air, or naval service, any additional amount will be paid to the veteran unless such child is included in an existing apportionment to an estranged wife or husband. No adjustment in the apportioned award will be made based on the child's entry into service.

(f) (1) For the wife, husband, child, father or mother of a disabled veteran, where forfeiture was declared prior to September 2, 1959, if the dependent is determined by the Veterans Administration to have been guilty of mutiny, treason, sabotage, or rendering assistance to an enemy of the United States or its allies.

(2) For any dependent of a disabled veteran, widow or widower where forfeiture of benefits by a person primarily entitled was declared after September 1, 1959, by reason of fraud, treasonable acts, or subversive activities. (38 U.S.C. 3503(e); 3504(c); 3505(a).)

(g) Until the estranged wife or husband of a veteran files claim for an apportioned share. If there are any children of the veteran not in his or her custody an apportionment will not be authorized unless and until a claim for an apportioned share is filed in their behalf.

4. Section 3.459 is revised to read as follows:

§ 3.459 Death compensation.

(a) Death compensation will be apportioned if the child or children of the deceased veteran are not in the custody of the widow or widower.

(b) The widow or widower may not be paid less than \$65 monthly plus the amount of an aid and attendance allowance where applicable.

5. In § 3.460, the introductory portion preceding paragraph (a) is revised to read as follows:

§ 3.460 Death pension.

Death pension will be apportioned, if the child or children of the deceased veteran are not in the custody of the widow or widower, at the rates specified in this section. Where the widow's or widower's rate is in excess of \$70 monthly because of having been the wife or husband of the veteran during his or her service or because of need for regular aid and attendance, the additional amount will be added to the widow's or widower's share.

[FR Doc. 75-13065 Filed 5-16-75; 8:45 am]

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### Title 40—Protection of Environment CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

#### SUBCHAPTER C—AIR PROGRAMS

[FRL 365-2]

### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

#### Georgia: Approval of Plan Revisions

On December 23, 1974 (39 FR 44245), the Administrator announced proposed revisions in the Georgia implementation plan. These involved a number of changes in the State's air pollution control regulations and the removal from the plan of its regulations for the control of nitrogen oxide emissions from stationary sources. All the proposed revisions had met the requirements of 40 CFR Part 51 pertaining to notice and public hearing and plan revisions before being submitted for the Agency's approval on July 23, 1974. Copies of the proposed revisions were made available for public inspection and written comments on them were solicited. No comments were received, however. The purpose of the present notice is to set forth the Administrator's approval of the Georgia plan revisions as submitted by the State. These are now described briefly.

Subsection 391-3-1-.02(2)(a), General Provisions, of the State's regulations, is revised to include an explicit statement that whenever more than one section of the regulations can be applied to a source's emissions, the more stringent one will take precedence.

Subsection 391-3-1-.02(2)(g), Sulfur Dioxide, is revised to state that no source is exempted from the emission limits defined in paragraph (g) (1), and further revised to explicitly state that sources subject to this regulation must also meet the sulfur-in-fuel limitation of paragraph (g) (3), which remains unchanged, in addition to the provisions of paragraphs (g) (1) and (g) (2). A new paragraph (g) (4), however, allows the sulfur-in-fuel limit to be exceeded provided that sulfur oxide removal technology is used to reduce sulfur oxide emissions to that level which would be achieved by burning fuel specified in paragraph (g) (3) without sulfur oxide removal.

Removed from the Georgia implementation plan is subsection 391-3-1-.02(2) (i) of the regulations, which provides emission limitations for nitrogen dioxide from nitric acid plants. Analysis performed since the original classification of certain areas of the State as Priority I—air quality poor enough to produce health effects—for nitrogen dioxide has led the Administrator to reclassify them as Priority III—no damage to health or welfare—(39 FR 16344). Therefore, the Agency does not require a control strategy or supporting regulations for emission of this pollutant from stationary sources. These emission limits will remain a part of the State regulations and will continue to be enforceable by the State, but the Agency no longer has the power to enforce them.

An evaluation of these changes and of their effects can be obtained by consulting personnel of the Agency's Region IV Air Programs Office at 1421 Peachtree Street, NE., Atlanta, Georgia 30309 (404/526-3043).

(On March 27, 1975 (40 FR 13498), the Administrator approved the new Georgia permit regulations. At that time an erroneous entry was made under 40 CFR 52.570, Identification of plan. Due to the problems involved in coordinating a number of notices dealing with the Georgia plan, notice was given that § 52.570(c) (4) was being amended to include the date on which the permit regulations were submitted for the Agency's approval, May 20, 1974. However, subparagraph (4) did not exist at that time since it had not yet been added to § 52.570(c). Moreover, the date given was incorrect, the actual date of submittal being March 20, 1974. Therefore, the entry given below under § 52.570(c) (4) includes the date March 20, 1974, as well as the date corresponding to the submittal of the revisions which are the subject of the present notice, July 23, 1974.)

In the judgment of the Administrator, the approval of the present Georgia plan revisions will not hinder the attainment and maintenance of the national ambient air quality standards in that State, and they are hereby approved.

This action is effective immediately. The Administrator finds that good cause exists for making these changes immediately effective since they are already in effect under State law, and the Administrator's approval of them imposes no additional regulatory burden on affected facilities.

(Sec. 110(a), Clean Air Act (42 U.S.C. 1857c-5(a)))

Dated: May 12, 1975.

RUSSELL E. TRAIN,  
Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

#### Subpart L—Georgia

In § 52.570, paragraph (c) (4) is amended by inserting in chronological order the dates March 20 and July 23 [1974].

[FR Doc. 75-12960 Filed 5-16-75; 8:45 am]

[FRL 361-8]

### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

#### Iowa: Approval of Compliance Schedules

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved portions of State plans for implementation of the national ambient air quality standards.

The State of Iowa submitted to the Environmental Protection Agency compliance schedules to be considered as proposed revisions to the approved plan pursuant to 40 CFR 51.6. The approvable schedules were adopted by the State and

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## RULES AND REGULATIONS

submitted to the Environmental Protection Agency for review after notice and public hearings. The public hearings were held in accordance with the procedural requirements of 40 CFR 51.4 and 51.6 and the substantive requirements of 40 CFR 51.15 pertaining to compliance schedules. The compliance schedules have been reviewed and determined to be consistent with the approved control strategies of Iowa.

Accordingly, the Administrator proposed approval of these schedules on September 23, 1974, and September 24, 1974, in the FEDERAL REGISTER, 39 FR 34065 and 34302. The proposed approval and disapproval of these schedules published in the September 23, 1974, and September 24, 1974, FEDERAL REGISTER provided for a 30-day comment period. No comments concerning these schedules were received. Set forth below are specific compliance schedules which the Administrator approved pursuant to 40 CFR 51.8.

Each approved revision establishes a new date by which the individual source must comply with the applicable emission limitation in the federally-approved State Implementation Plan. This date is indicated in the table below, under the heading "Final Compliance Date." In all cases, the schedules include incremental steps toward compliance with the applicable emission limitations. While the tables below do not include these interim dates, the actual compliance schedules do.

Under Iowa law, the compliance schedule is not enforceable after the date on which the associated variance expires and variances cannot extend for more than one year. Therefore, to the extent that the Iowa schedules extend past the variance expiration date, they are not legally enforceable at this time. For this reason, the Environmental Protection Agency's approval of each compliance schedule is unconditional only as to that part of the schedule covered by the initial variance. Approval of the remainder of the schedule will be conditioned upon the State's renewal of the variance in identical form and substance to that included in the schedule submitted to the Environmental Protection Agency and approved herein. If the variance is renewed in this manner, the condition precedent will be satisfied and the approval of the next segment of the schedule will not require further action by the State or this Agency. If the variance is not renewed, or is modified from the version that is federally-approved herein, the condition will not be fulfilled, the approval of the remainder of the schedule would not be effective, and the State's immediately-effective regulation will again become federally enforceable. The schedules were immediately effective on the date of adoption. An "Effective Date" is not indicated on the table. The "Variance Expiration Date" is included instead.

Provisional approval of final compliance dates and extensions of variances is justifiable only because of the one-year variance limitation in the law of Iowa.

Since there will be no substantive changes in the schedules set forth below and public hearings were held on the complete schedules, there is no reason to require compliance with 40 CFR 51.6 procedures at the time Iowa renews each variance.

In the indication of approval of individual compliance schedules, the individual schedules are included by reference only. In addition, since the large number of compliance schedules preclude setting forth detailed reasons for approval of each individual schedule in the FEDERAL REGISTER, an evaluation report has been prepared for each individual compliance schedule. These evaluation reports are available for public inspection at the Environmental Protection Agency Regional Office, 1735 Baltimore, Kansas City, Missouri. The compliance schedules and the State Implementation Plans are available for public inspection at the Environmental Protection Agency Regional Office; the Environmental Protection Agency, Division of Stationary Source Enforcement, 401 M Street, SW., Washington, D.C.; and the Iowa Department of Environmental Quality, 3020 Delaware, Des Moines, Iowa.

This rulemaking will become effective immediately upon publication. The Agency finds that good cause exists for not deferring the effective date of this rulemaking because the compliance schedules are already in effect under State law and federal approval imposes no new burdens.

(Section 110 of the Clean Air Act of 1970, as amended, 42 U.S.C. 1857c-5)

Dated: May 12, 1975.

RUSSELL E. TRAIN,  
Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart Q—Iowa

1. In § 52.825, the table in paragraph (c) is amended as follows:

§ 52.825 Compliance Schedules.

(c) . . . . .

IOWA

Source	Location	Regulation involved	Date adopted	Variance expiration date	Final compliance date
Iowa Electric Light & Power Co.	Cedar Rapids				
(1) 6th Street Station, Boilers Nos. 1 and 2		26.09	Sept. 21, 1973	Note 1	June 1, 1975
(2) Prairie Creek Station, Boiler No. 4		26.09	do	do	Feb. 1, 1975
Cargill Corn Starch & Syrup Co., 16th St., SE Plant	Cedar Rapids				
(a) Germ aspiration system		26.09	Dec. 31, 1973	do	July 1, 1974
(b) Aspiration system in millhouse		26.09	do	do	Do.
(c) Starch storage bins Nos. 7 and 8		26.09	do	do	Apr. 1, 1974
(d) UCI storage tank vent		26.09	do	do	Oct. 1, 1974
(e) Fiber dryer		26.09	do	do	Do.
(f) Gluten dryer		26.09	do	do	Oct. 1, 1974
(g) P and S dryers Nos. 1 and 2		26.09	do	do	Do.
Cargill, Inc.	Cedar Rapids				
(1) 411 6th St., N.E. Plant					
(a) Extraction feed aspiration		26.09	Jan. 2, 1974	do	Mar. 1, 1975
(b) Hull meal loading		26.09	do	do	July 30, 1975
(2) 1010 16th Ave., SW. Plant					
(a) Soybean conditioning cyclones		26.09	Dec. 27, 1973	do	July 1, 1975
(b) Hull grinding cyclones		26.09	do	do	Do.
Penick and Ford, Ltd.	Cedar Rapids				
(a) Hull dryer		26.09	Dec. 21, 1973	do	Sept. 30, 1974
(b) Dust collector		26.09	do	do	Aug. 31, 1974
(c) Hull dryer pickup ring dust collector		26.09	do	do	Sept. 30, 1974
(d) No. 3 blower dust collector		26.09	do	do	Apr. 30, 1974
Diamond V Mills, Inc.	Cedar Rapids				
(a) Yeast culture (S-1)		26.09	Dec. 21, 1973	do	Oct. 31, 1974
(b) Grain storage bin (S-2)		26.09	do	do	Do.
(c) Grain storage bin (S-6)		26.09	do	do	Do.
(d) Yeast culture (S-7)		26.09	do	do	Do.
(e) Yeast load-out (S-8)		26.09	do	do	Mar. 31, 1974
(f) Yeast load-out (S-9)		26.09	do	do	Do.
(g) Railroad unloading pit (S-10)		26.09	do	do	Apr. 30, 1974
National Oats Co.	Cedar Rapids				
(a) Building II:					
(1) General suction system (S-52)		26.09	Dec. 26, 1973	do	Aug. 31, 1974
(2) Cooler (S-53)		26.09	do	do	Do.
(3) Aspiration system (S-55)		26.09	do	do	Do.
(b) Building A:					
(1) Aspiration system GA (S-20, 27, 28, 29, 30, 31, 32, 33, and 39)		26.09	do	do	Do.
(c) Building A:					
(1) Forshberg separators (S-8 and S-47)		26.09	Dec. 26, 1973	do	Nov. 30, 1974
(2) Aspiration system 4A (S-24)		26.09	do	do	Do.
(3) Aspiration system 6A (S-45)		26.09	do	do	Do.
(d) Building A:					
(1) Aspiration system 6A (S-7-1)		26.09	do	do	June 30, 1975
(2) Suction systems (S-12-1 and 12-3)		26.09	do	do	Do.
(3) Aspiration system (S-12-4)		26.09	do	do	Do.
(e) Building II:					
(1) Huller (S-12)		26.09	do	do	July 31, 1975
(2) Midds recycle cyclone (S-11-1)		26.09	do	do	Do.
(f) Building O:					
(1) Forshberg separators (S-53 and S-56)		26.09	do	do	Do.

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Source	Location	Regulation involved	Date adopted	Variance expiration date	Final compliance date
(g) Building A:					
(1) Indented cylinder separator (S-12)		26.09	do	do	Do.
(2) Separating tables (S-11)		26.09	do	do	Do.
(3) Aspiration system (S-10)		26.09	do	do	Do.
Burget Mills	Altoona				
Corn Dryer		5-23	June 20, 1974	Note 2	Dec. 31, 1974
Ankeny Concrete Block, Inc.	Ankeny				
Cement Storage Silos		5-16(L)	June 20, 1974	Note 2	Aug. 31, 1974
Midwest Concrete Co.	West Des Moines				
Cement Storage Silos		5-16(L)	June 20, 1974	Note 2	Jan. 1, 1975
Penn-Dixie Industries, Inc.	West Des Moines				
Clinker Cooler No. 7		5-15	June 20, 1974	Note 2	Dec. 30, 1974
Can-Tex Industries	Des Moines				
Clay Pipe Plant		5-23	June 20, 1974	Note 2	Jan. 1, 1975
J. C. White Concrete Co.	Des Moines				
(a) Main Plant No. 2:					
(1) Cement storage silos		3B-16(L)	June 20, 1974	Note 3	Dec. 31, 1974
(2) Truck charging point		3B-16(L)	do	do	Do.
(b) Plant 2A		3B-16(L)	do	do	Do.
(c) Plant No. 3		3B-16(L)	do	do	Do.
Mid-America Dairyman, Inc.	Des Moines				
Milk Dryer System		3B-16	June 20, 1974	Note 3	Do.
St. Regis Paper Co.	Des Moines				
Cement storage silos		3B-16(L)	June 20, 1974	Note 3	Aug. 15, 1975

Note 1—Linn County Health Department does not issue variances if source(s) is on an approvable compliance schedule.

Note 2—Polk County Department of Health does not issue variances if source(s) is on an accepted and approved compliance schedule.

Note 3—City of Des Moines, Department of Public Health does not issue variances if source(s) is on an accepted and approved compliance schedule.

[FR Doc.75-12962 Filed 5-16-75;8:45 am]

[ERL 362-1]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Kansas: Approval of Compliance Schedules

On May 31, 1972 (37 FR 10842), pursuant to Section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved portions of the State plans for implementation of the national ambient air quality standards, and in the September 22, 1972, FEDERAL REGISTER (37 FR 19809), the Administrator promulgated § 52.876 Compliance Schedules as a portion of the Kansas Implementation Plan.

The State of Kansas submitted to the Environmental Protection Agency compliance schedules as variances and enforcement orders to be considered as proposed revisions to the approved plan pursuant to 40 CFR 51.6. The approvable schedules were adopted by the State and submitted to the Environmental Protection Agency after notice and public hearings in accordance with the procedural requirements of 40 CFR 51.4, 51.6, and 51.7(d) (2), and the substantive requirements of 40 CFR 51.15 pertaining to compliance schedules. These compliance schedules have been determined to be consistent with the approved control strategy of Kansas. The schedules to be disapproved fail to meet the requirements of 40 CFR 51.15(b) (1), in that the compliance schedules extend beyond the attainment date in the State Implementation Plan. The schedule for Western Iron & Foundry Company, Wichita, is disapproved as not being expeditious.

Accordingly, the Administrator proposed approval and disapproval of these

schedules on February 26, 1975, in the FEDERAL REGISTER, 40 FR 8225. The proposed approval of these schedules published in the February 26, 1975, FEDERAL REGISTER provided for a 30-day comment period. No comments concerning these schedules were received. The Environmental Protection Agency has reviewed and considered the records of the public hearings held by Kansas. Set forth below are specific compliance schedules which the Administrator approves or disapproves pursuant to 40 CFR 51.8.

Each approved revision establishes a new date by which the individual source must comply with the applicable emission limitation in the federally approved State Implementation Plan. This date is indicated in the table below, under the heading "Final Compliance Date." In all cases, the schedules include incremental steps toward compliance with the applicable emission limitations. While the tables below do not include these interim dates, the actual compliance schedules do. The "Effective Date" column in the table refers to the date the compliance schedule becomes effective for purposes of federal enforcement.

In the indication of approval of individual compliance schedules, the individual schedules are included by reference only. In addition, since the large number of compliance schedules preclude setting forth detailed reasons for approval of individual schedules in the FEDERAL REGISTER, an evaluation report has been prepared for each individual compliance schedule. Copies of these evaluation reports are available for public inspection at the Environmental Protection Agency Regional Office, 1735 Baltimore, Kansas



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City, Missouri. The compliance schedules and State Implementation Plans are available for public inspection at the Environmental Protection Agency Regional Office; the Environmental Protection Agency, Division of Stationary Source Enforcement, 401 M Street, Washington, D.C.; and the Kansas State Department of Health and Environment, Building 740, Forbes Air Force Base, Topeka, Kansas.

This rulemaking will be effective May 19, 1975. The Agency finds that good cause exists for not deferring the effective date of this rulemaking because the compliance schedules are already in effect under State law and federal approval imposes no new burdens.

(Sec. 110 Clean Air Act, 1970; as amended, 42 U.S.C. 1857c-5.)

Dated: May 12, 1975.

RUSSELL E. TRAIN,  
Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

## Subpart R—Kansas

1. In § 52.876, the tables in paragraph (c) (1) and (c) (2) are amended by adding the following:

§ 52.876 Compliance schedules.

(c) . . .

## KANSAS

Source	Location	Regulation involved	Date adopted	Effective date	Final compliance date
Clay Center Dehydrating Co., alfalfa dehydrator.	Clay Center	28-19-20	Oct. 4, 1974	Immediately	July 1, 1975
Colorado Interstate Gas Co., safety flare.	Lakin	28-19-45	do	do	Nov. 15, 1974
Fredonia Dehydrating & Milling Co., alfalfa dehydrator.	Fredonia	28-19-20	do	do	July 1, 1975
Greenwood County Hospital, incinerator.	Eureka	28-19-40	do	do	June 1, 1975
Mid-America Dairymen, spray dryers No. 1 & No. 2.	Sabetha	28-19-20	do	do	Nov. 1, 1974
Minnesota District Hospital, incinerator.	Minneapolis	28-19-40	do	do	Oct. 1, 1974
U.S.D. No. 457:		28-19-41	do	do	do
Friend Elementary, incinerator.	Garden City	28-19-40	do	do	July 1, 1975
Jenny Barker Elementary, incinerator.	do	28-19-40	do	do	Do.
Lincoln Elementary, incinerator.	do	28-19-40	do	do	Do.
Piercesville-Hymell Elementary, incinerator.	do	28-19-40	do	do	Do.
Theodor Elementary, incinerator.	do	28-19-40	do	do	Do.
Valentine Elementary, incinerator.	do	28-19-40	do	do	Do.
U.S.D. No. 236, Marmaton Valley High, incinerator.	Moran	28-19-40	do	do	Jan. 1, 1975
North Central Foundry, Inc., Gray Iron Foundry cupola.	Enterprise	28-19-20	do	do	Dec. 31, 1974
Satanta District Hospital, incinerator.	Satanta	28-19-40	do	do	July 1, 1975
Scott County Hospital, incinerator.	Scott City	28-19-41	do	do	Apr. 30, 1975
Sherwin-Williams Co., oxide calciner exhaust.	Coffeyville	28-19-50A	do	do	July 31, 1975
Western Alfalfa Corp., alfalfa dehydrating plant.	Low	28-19-20	do	do	Do.
Certain-Tied Products Corp., K-2 Furnace Plan "A".	Kansas City	28-19-20	Nov. 22, 1974	do	Do.
C. K. Products Co., Inc., alfalfa dehydrator.	Salina	28-19-20	do	do	July 1, 1975
H. B. M. Rock Co., Inc., secondary crushing and screening.	Burlington	28-19-20	do	do	July 31, 1975
Northern Natural Gas Co., flare pit.	Holcomb	28-19-45	do	do	Mar. 1, 1977
Owens-Corning Fiberglass Corp., No. 70 glass furnace.	Kansas City	28-19-20	do	do	Do.

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Source	Location	Regulation involved	Date adopted	Effective date	Final compliance date
U.S.D. No. 415:					
Fairview Elementary, open burning.	Hiawatha	28-19-45	do	do	July 31, 1975
Hiawatha Elementary, open burning.	do	28-19-45	do	do	Do.
Hiawatha High School, open burning.	do	28-19-45	do	do	Do.
Reserve Elementary, open burning.	do	28-19-45	do	do	Do.
Robinson Elementary, open burning.	do	28-19-45	do	do	Do.
Robinson Jr. High, open burning.	do	28-19-45	do	do	Do.
U.S.D. No. 505:					
Altamont Grade School, open burning.	Altamont	28-19-45	do	do	Do.
Fairview Grade School, open burning.	do	28-19-45	do	do	Do.
Bartlett Grade School, open burning.	do	28-19-45	do	do	Do.
Edna Grade School, open burning.	do	28-19-45	do	do	Do.
Edna Grade School, open burning.	do	28-19-45	do	do	Do.
Angola Grade School, open burning.	do	28-19-45	do	do	Do.
Mound Valley Grade School, open burning.	do	28-19-45	do	do	Do.
Dennis Grade School, open burning.	do	28-19-45	do	do	Do.
Meadow View Grade School, open burning.	do	28-19-45	do	do	Do.
Rodney Milling Co.:					
Wheat cleaning suction filter "D".	Topeka	28-19-50	do	do	Apr. 30, 1975
Milo mill suction.	do	28-19-50	do	do	June 30, 1975
Yates Center Quarries, primary crushing and screening.	Iola	28-19-20	do	do	Mar. 28, 1975
Monarch Cement Co., kilns No. 1 and 2.	Humboldt	28-19-20	Mar. 22, 1974	do	June 1, 1974
Owens-Corning Fiberglass:					
J-5 oven.	Kansas City	28-19-20	Mar. 18, 1974	do	Do.
J-6 oven.	do	28-19-20	do	do	Do.
K-3 oven.	do	28-19-20	do	do	Apr. 1, 1975
K-4 oven.	do	28-19-20	do	do	Do.
Alfalfa, Inc.:					
Rotary dryer feed cyclone.	Shelbourn	28-19-50	Feb. 14, 1974	do	Mar. 1, 1974
Hammer mill feed cyclone.	do	28-19-50	do	do	Do.
Meal bin vent.	do	28-19-50	do	do	Do.
Bohm Grain Co., grain cleaner.	Osborne	28-19-20	do	do	Aug. 1, 1974
Smith Center Co-Op Mill & Elevator, elevator leg cyclone.	Smith Center	28-19-50	do	do	Mar. 11, 1974
Wade Agricultural Products, primary crusher and screening.	LaCygne	28-19-20	Jan. 14, 1974	do	Sept. 1, 1974
Buffalo Industry, Inc., cupola.	Garden City	28-19-20	Apr. 25, 1974	do	July 31, 1975
Carroll, Inc., nuclear unloading.	Wichita	28-19-20	June 4, 1974	do	July 1, 1975
Capital Non-Ferrous, Inc., chlorination process.	Fort Scott	28-19-20	May 30, 1974	do	June 1, 1975
Hi-Plains Cooperative Association, grain elevator.	Colby	28-19-50A	June 21, 1974	do	Mar. 1, 1975
Mega Petroleum Co., safety relief flare.	Ulysses	28-19-45	May 2, 1974	do	July 31, 1975
National Gypsum Co. (Gold Bond products), rotary calciners No. 1 and No. 2.	Medicine Lodge	28-19-20	June 21, 1974	do	June 1, 1975
Smith Center Co-Op Mill & elevator, grain elevator.	Smith Center	28-19-50	do	do	Mar. 1, 1975
McPherson County Highway Department, hot mix asphalt plant.	McPherson	28-19-20	Sept. 19, 1974	do	Nov. 1, 1974
A. O. Sherwood Construction Co., hot mix asphalt plant.	Independence	28-19-50A	do	do	Do.
Archer Daniels Midland Co., grain dryer transfer.	Fredonia	28-19-50A	do	do	Apr. 28, 1975
Cargill Salt Department, rotary salt dryer.	Hutchinson	28-19-50	do	do	Mar. 1, 1975
C. K. Processing Co., alfalfa dehydrator.	Manhattan	28-19-20	Oct. 8, 1974	do	July 31, 1975
Sherwin-Williams Chemicals, zinc oxide dryer.	Coffeyville	28-19-50B	do	do	May 1, 1975
Westhoff Bros. Asphalt & Sand Co., wet washer dust collector.	Great Bend	28-19-50A	do	do	Dec. 1, 1974
O. E. Industrial Group, incinerator.	Concordia	28-19-50B	Mar. 18, 1974	do	May 24, 1974
Gorham Farmers Coop Association, grain cleaner.	Gorham	28-19-20	Jan. 22, 1974	do	Aug. 1, 1974
Farmers Cooperative:					
Cyclone dust collector.	Jamestown	28-19-50	do	do	Mar. 1, 1974
Receiving pit.	do	28-19-50	do	do	Do.
Mid-America Pipeline, flaring system.	Conway	28-19-47C	do	do	June 1, 1974
Ulysses Cooperative Oil & Supply Co., hammer mill.	Ulysses	28-19-50	Feb. 7, 1974	do	Apr. 1, 1974
Udall Farmers Union Co-op Association, grain cleaner.	Udall	28-19-20	Feb. 21, 1974	do	Sept. 1, 1974
Western Alfalfa, alfalfa dehydrator.	Belle Plaine	28-19-20	Feb. 5, 1974	do	July 31, 1975
Do.	Garden City	28-19-20	do	do	Do.
Do.	Larned	28-19-20	do	do	Do.
Do.	Oxford	28-19-20	do	do	Do.
Do.	Peterson	28-19-20	do	do	Do.
Coffeyville Memorial Hospital, incinerator.	Coffeyville	28-19-40	Mar. 18, 1974	do	Oct. 1, 1974
Bayer Construction Co., rock crusher No. 1.	Manhattan	28-19-20	Aug. 15, 1974	do	Sept. 1, 1974



Source	Location	Regulation involved	Date adopted	Effective date	Final compliance date
Certain-Teed Products Corp., K-0 precipitator	Kansas City	28-19-50	Aug. 26, 1974	do.	Dec. 31, 1974
K-8 forming	do.	28-19-50	Mar. 18, 1974	do.	July 31, 1975
K-0 furnace	do.	28-19-50	Oct. 4, 1973	do.	Dec. 1, 1974
K-1, K-6, K-7 furnaces	do.	28-19-50	May 13, 1974	do.	July 31, 1975
K-5 forming	do.	28-19-50	do.	do.	do.
K-1 cooling	do.	28-19-50	do.	do.	do.
K-2 cooling	do.	28-19-50	do.	do.	do.
Collingwood Grain, Inc., elevator headhouse	Hutchinson	28-19-50	Aug. 15, 1974	do.	Mar. 15, 1975
Collingwood Grain, Inc., elevator headhouse	Copeland	28-19-50	Feb. 14, 1974	do.	Mar. 1, 1974
Garvey Elevators, Inc., grain cleaner	Wichita	28-19-50	June 19, 1974	do.	Oct. 1, 1974
Conveying system	do.	28-19-50	do.	do.	do.
County Hospital No. 5, incinerator	Harper	28-19-41B	July 9, 1974	do.	Sept. 1, 1974
Jayhawk Towers Apartments, incinerator	Lawrence	28-19-41	Sept. 5, 1974	do.	Nov. 1, 1974
Service Iron Foundry, Inc., cupola	Wichita	28-19-50	Aug. 15, 1974	do.	Mar. 1, 1975
Sylvia Cooperative Association, grain cleaner	Sylvia	28-19-50	Aug. 26, 1974	do.	Nov. 1, 1974

(2) The compliance schedules identified below are disapproved as not meeting the requirements of § 51.15 of this chapter. All regulations cited are air pollution control regulations of the State, unless otherwise noted.

## KANSAS

Source	Location	Regulation involved	Date adopted
Kansas City Power & Light, coal transfer houses	LaCygne	28-19-50	Nov. 22, 1974
Pence Food Center, incinerator	Chanute	28-19-40	Do.
Rodney Milling Co., "A" house gallery and tunnel system	Topeka	28-19-50	Do.
"B" & "C" house gallery	do.	28-19-50	Do.
Western Alfalfa Corp., alfalfa dehydrator	Dierfield	28-19-50	Do.
Do.	Tice	28-19-50	Do.
Pence Food Center, incinerator	Humboldt	28-19-40	Do.
Sherwin-Williams Chemicals, Omark P.M. Mill	Colleyville	28-19-50B	Oct. 8, 1974
Continental Grain Co., rail car loading	Hutchinson	28-19-50	Aug. 15, 1974
Far-Mar-Co, Inc., headhouse cyclones	Topeka	28-19-50	Sept. 4, 1974
Do.	Hutchinson	28-19-50	Aug. 15, 1974
Western Iron & Foundry, cupola	Wichita	28-19-50A	Oct. 4, 1974
Do.	Wichita	28-19-50A	Oct. 4, 1974

[FR Doc 75-12981 Filed 5-16-75; 8:45 am]

[FRL 398-1]

# PART 85—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

## Technical Amendments

The need for a number of technical amendments has been identified. These amendments are set forth in this publication and are described in the table below.

The Agency finds that good cause exists for omitting as unnecessary a notice

of proposed rulemaking, public rulemaking procedure, and postponement of effective date in the issuance of these amendments, in that (1) none of the changes in any way invalidate the test procedures currently used by the manufacturers as prescribed by regulation for the 1975 and 1976 model year and (2) the changes primarily provide for more uniform and accurate certification testing programs with no additional burden placed on the regulated industry.

### Explanation of technical amendment changes

Section	Change	Reason
1. 85.075-7(d)(2), 85.175-7(d)(2), 85.275-7(d)(2), and 85.376-7(d)(2).	Modify the data reporting provision to specify the desired degree of accuracy in reporting emission data results.	The provision required unnecessary precision for emission data results which were an order of magnitude below the applicable emission standard. Specifications were inadvertently omitted in July 10, 1974, publication.
2. 85.075-12(b)(1) and 85.275-12(b)(1).	Specify the volume and temperature of test fuel to be added to the test vehicle when performing an exhaust emission test.	
3. 85.075-15(a)(2), 85.175-15(a)(2), 85.275-15(a)(2), and 85.376-15(a)(2).	Add language allowing for approval of alternate road load determination procedure than those currently specified in the regulations.	Other methods of measuring road load power have been developed which provide for accurate and repeatable results. The present regulations do not allow for the use of these methods.

Part 85 of Chapter I, Title 40 of the Code of Federal Regulations as applicable beginning with the 1975 model year is amended as follows, effective on May 19, 1975.

(Secs. 202, 306, and 301(a), Clean Air Act; as amended (42 U.S.C. 1857f-1, 1857f-5, 1857g(a)).

Dated: May 12, 1975.

RUSSELL E. TRAIN,  
Administrator.

1. In § 85.075-7, paragraph (d)(2) is revised to read as follows:

§ 85.075-7 Mileage accumulation and emission standards.

(d) . . . . .  
(2) The results of all emission tests shall be rounded, using the "Rounding Off Method" specified in ASTM E 26-67, to the number of places to the right of the decimal point indicated by expressing the applicable standard in § 85.075-1 to three significant figures.

2. In § 85.075-15, paragraph (e)(2) is revised to read as follows:

§ 85.075-15 Dynamometer procedure.

(e) . . . . .  
(2) The road load power listed in the table above shall be used, or the vehicle manufacturer may determine the road load power by an alternate procedure requested by the manufacturer and approved in advance by the Administrator, or the vehicle manufacturer may determine the road load power by the following procedure and request its use:

(i) Measuring the absolute manifold pressure of a representative vehicle, of the same equivalent inertia weight class, when operated on a level road under balanced wind conditions at a true speed of 50 m.p.h., and

(ii) Noting the dynamometer indicated road load horsepower setting required to reproduce that manifold pressure when the same vehicle is operated on the dynamometer at a true speed of 50 m.p.h. The tests on the road and on the dynamometer shall be performed with the same vehicle ambient absolute pressure (usually barometric), i.e., within ±5 mm. Hg.

(iii) The road load power shall be determined according to the procedure outlined in Appendix II and adjusted according to the following if applicable.

3. In § 85.175-7, paragraph (d)(2) is revised to read as follows:

§ 85.175-7 Mileage accumulation and emission standards.

(d) . . . . .  
(2) The results of all emission tests shall be rounded, using the "Rounding Off Method" specified in ASTM E 26-67,

to the number of places to the right of the decimal point indicated by expressing the applicable standard in § 85.175-1 to three significant figures.

4. In § 85.175-13, paragraph (e)(2) is revised to read as follows:

§ 85.175-13 Dynamometer procedure.

(e) . . . . .  
(2) The road load power listed in the table above shall be used, or the vehicle manufacturer may determine the road load power by an alternate procedure requested by the manufacturer and approved in advance by the Administrator, or the vehicle manufacturer may determine the road load power by the following procedure and request its use:

(i) Measuring the absolute manifold pressure of a representative vehicle, of the same equivalent inertia weight class, when operated on a level road under balanced wind conditions at a true speed of 50 m.p.h., and

(ii) Noting the dynamometer indicated road load horsepower setting required to reproduce that manifold pressure when the same vehicle is operated on the dynamometer shall be performed with the same vehicle ambient absolute pressure (usually barometric), i.e., within ±5 mm. Hg.

(iii) The road load power shall be determined according to the procedure outlined in Appendix II and adjusted according to the following if applicable.

5. In § 85.275-7, paragraph (d)(2) is revised to read as follows:

§ 85.275-7 Mileage accumulation and emission standards.

(d) . . . . .  
(2) The results of all emission tests shall be rounded, using the "Rounding Off Method" specified in ASTM E 26-67, to the number of places to the right of the decimal point indicated by expressing the applicable standard in § 85.275-1 to three significant figures.

6. In § 85.275-15, paragraph (e)(2) is revised to read as follows:

§ 85.275-15 Dynamometer procedure.

(e) . . . . .  
(2) The road load power listed in the table above shall be used, or the vehicle manufacturer may determine the road load power by an alternate procedure requested by the manufacturer and approved in advance by the Administrator, or the vehicle manufacturer may determine the road load power by the following procedure and request its use:

(i) Measuring the absolute manifold pressure of a representative vehicle, of the same equivalent inertia weight class, when operated on a level road under balanced wind conditions at a true speed of 50 m.p.h., and

(ii) Noting the dynamometer indicated road load horsepower setting required to reproduce that manifold pressure when

the same vehicle is operated on the dynamometer at a true speed of 50 m.p.h. The tests on the road and on the dynamometer shall be performed with the same vehicle ambient absolute pressure (usually barometric), i.e., within ±5 mm. Hg.

(iii) The road load power shall be determined according to the procedure outlined in Appendix II and adjusted according to the following if applicable.

7. In § 85.076-12, paragraph (b)(1) is revised to read as follows:

§ 85.076-12 Vehicle preconditioning.

(b) . . . . .  
(1) The fuel tank(s) shall be drained and filled with the specified test fuel (§ 85.075-10(a)) to the prescribed tank(s) fuel volume, defined in § 85.002 (a)(20). The fuel added to the vehicle tank(s) shall have an initial temperature of no more than 86° F. The evaporative emission control system or device shall not be abnormally purged or loaded as a result of draining or fueling the tank(s).

8. In § 85.376-7, paragraph (d)(2) is revised to read as follows:

§ 85.376-7 Mileage accumulation and emission standards.

(d) . . . . .  
(2) The results of all emission tests shall be rounded, using the "Rounding Off Method" specified in ASTM E 26-67, to the number of places to the right of the decimal point indicated by expressing the applicable standard in § 85.376-1 to three significant figures.

9. In § 85.376-13, paragraph (e)(2) is revised to read as follows:

§ 85.376-13 Dynamometer procedure.

(e) . . . . .  
(2) The road load power listed in the table above shall be used, or the vehicle manufacturer may determine the road load power by an alternate procedure requested by the manufacturer and approved in advance by the Administrator, or the vehicle manufacturer may determine the road load power by the following procedure and request its use:

(i) Measuring the absolute manifold pressure of a representative vehicle, of the same equivalent inertia weight class, when operated on a level road under balanced wind conditions at a true speed of 50 m.p.h., and

(ii) Noting the dynamometer indicated road load horsepower setting required to reproduce that manifold pressure when the same vehicle is operated on the dynamometer at a true speed of 50 m.p.h. The tests on the road and on the dynamometer shall be performed with the same vehicle ambient absolute pressure (usually barometric), i.e., within ±5 mm. Hg.

(iii) The road load power shall be determined according to the procedure outlined in Appendix II and adjusted according to the following if applicable.

[FR Doc. 75-12958 Filed 5-16-75; 8:45 am]

## SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 375-3]

## PART 416—PLASTICS AND SYNTHETICS MANUFACTURING POINT SOURCE CATEGORY

### Miscellaneous Amendments

The FEDERAL REGISTER for April 5, 1974 (39 FR 12501 *et seq.*) contained final effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources in the Plastics and Synthetics Point Source Category pursuant to sections 301, 304 (b) and (c), 306(b) and 307(c) of the Federal Water Pollution Control Act as amended 33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316(b), and 1317(c); 86 Stat. 816 *et seq.*; P.L. 92-500 (the Act). The publication was corrected for several errors in the FEDERAL REGISTER for July 8, 1974 (39 FR 24893 *et seq.*).

The promulgated effluent limitations guidelines and standards are hereby being changed to: (1) correct a minor error in the new source performance standard for the product High Density Polyethylene polyform process in the polyethylene subcategory; (2) revise the regulation to provide for reconsideration of the acrylics subcategory limitations and new source performance standards and suspension of their applicability during the reconsideration period and (3) withdraw COD as a limitation parameter for 1977.

The error in the polyethylene subcategory for high density polyethylene polyform process new source performance standard for BOD5 is very minor. The 1977 limitations and the new source performance standards are based on the same effluent concentration (15 mg/l), hydraulic flow (260 gal/1000 lb) and variability and should be the same value numerically. Correcting the error changes the standard from 0.054 to 0.052.

In the acrylics subcategory, questions raised concerning the hydraulic flow chosen for 1977 have prompted the Agency to reexamine the data supporting that flow. The result of such a reexamination could conceivably result in revision and/or further subcategorization of the acrylics industry. The flows for 1983 and for new sources will also be reexamined. The need to reexamine the hydraulic flows for 1977, 1983 and new sources makes suspension of the whole of the Acrylics regulation appropriate. During the period of suspension, the Agency will gather additional data and will solicit the cooperation of the industry to this end.

The COD limitations were included in the regulation because COD is a measure of the chemical by-product waste of



the manufacturing process and falls under the definition of pollutant contained in the Act (§ 502(6)). All of the 1977 COD limitations were noncontrolling as to technology; that is, the COD limitations were such that adequate removal of the BOD5 would usually result in adequate removal of COD. The limitation numbers were derived from data showing the removal of COD which accompanies reduction of BOD5 to the levels set in the effluent limitations for each subcategory. A plant which is achieving the BOD5 removal required by the regulations would not need to use any additional technology to meet the proposed COD levels for BPCTCA. The presence of a COD limitation nonetheless fulfilled an important function by requiring adequate handling and treatment of discarded (bad) batches of reactants and products, so as to avoid shock or peak COD loadings which would be inadequately treated but would not be discovered by a BOD5 analysis. In addition, the COD test is a much quicker and more convenient test for the presence of oxygen demanding pollutants than is the BOD5 test. Since the BPCTCA (1977) COD limits are liberal and would be easily attainable if the BOD5 limits are met, they are being dropped as a limitation parameter for BPCTCA (1977). In order to promote the collection of data on the oxygen demanding parameters of BOD5, COD and TOC (total organic carbon), the Agency is planning to require that a majority of the plants in each subcategory monitor their raw waste loads and treated effluents for BOD5, COD and TOC. This data will be collected for a reasonable period at which time the Agency will consider revising the limitations and standards. The requirement for a COD limit for NSPS will remain unchanged since the standards were based on demonstrated attainable COD concentrations using NSPS technology.

This amendment does not involve any changes which would affect any environmental or nonenvironmental impact. The changes set forth below correct the error and make the revisions.

In FR Doc. 74-7512 appearing on pages 12502 through 12522 in the issue of April 5, 1974, make the following changes:

1. In § 416.55(c), the BOD5 effluent limitations, "Average of daily values of 30 consecutive days shall not exceed"—English units and Metric units shall be corrected to read "0.052".
2. Subpart M, Acrylics Subcategory, shall be suspended until further notice.
3. In § 415.12 (a), (b), (c), the COD effluent limitation shall be withdrawn.
4. In § 416.22, the COD effluent limitation shall be withdrawn.
5. In § 416.32 (a), (b), the COD effluent limitation shall be withdrawn.
6. In § 416.42, the COD effluent limitation shall be withdrawn.
7. In § 416.52 (a), (b), (c), the COD effluent limitation shall be withdrawn.
8. In § 416.62, the COD effluent limitation shall be withdrawn.
9. In § 416.72, the COD effluent limitation shall be withdrawn.

10. In § 416.82, the COD effluent limitation shall be withdrawn.
11. In § 416.92 (a), (b), (c), (d), the COD effluent limitation shall be withdrawn.
12. In § 416.102 (a), (b), (c), the COD effluent limitation shall be withdrawn.
13. In § 416.112 (a), (b), (c), the COD effluent limitation shall be withdrawn.
14. In § 416.122 (a), (b), (c), the COD effluent limitation shall be withdrawn.

Dated: May 12, 1975.

RUSSELL E. TRAIN,  
Administrator.

[FR Doc. 75-12956 Filed 5-16-75; 8:45 am]

#### Title 47—Telecommunication

[FCC 75-527; Docket No. 19999; RM-2142]

#### CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

#### PART 73—RADIO BROADCAST SERVICES

##### FM Broadcast Stations, Table of Assignments

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations. (Hollidaysburg, Altoona, Philipsburg, and Bellwood, Pennsylvania).

1. We here dispose of the additional issue posed by John R. Powley, licensee of FM Station WHGM, Channel 280A, Bellwood, Pennsylvania, in timely comments in this proceeding which concerned mutually exclusive proposals to assign Channel 285A to either Altoona or Hollidaysburg, Pennsylvania. Powley supported the assignment of that channel to Hollidaysburg and counterproposed that Channel 280A be assigned to Altoona, Pennsylvania, to more accurately reflect the actual use of the channel. As indicated in the *First Report and Order*, adopted March 26, 1975 (FCC 75-367; 40 Fed. Reg. 15882), Channel 280A presently assigned to Philipsburg, Pennsylvania, is licensed at Bellwood and Station WHGM is allowed a dual city identification—"Bellwood-Altoona."

2. Powley became the licensee at Bellwood under the predecessor of § 73.203 (b) that allowed an application for use of a Class A channel at an unlisted community within 25 miles (now 10) of the listed city of assignment. In March 1969, Station WHGM was granted a dual city identification as "Bellwood-Altoona" under § 73.287 (now § 73.1261) with the understanding that WHGM's primary obligation to Bellwood would remain unchanged.

3. In the *First Report and Order*, we decided to assign Channel 285A to Altoona as allowing the greater flexibility since under § 73.203(b), the channel could then be licensed to Hollidaysburg, but the reverse is not permissible (these communities are about five miles apart). We also decided to deny Powley's counterproposal but to amend the FM Table of Assignments to reflect the actual use of Channel 280A at Bellwood on obtaining appropriate concurrence from the Canadian Department of Communica-

tions as required for an FM channel assignment within 250 miles of the Canada-United States border pursuant to the Working Agreement under the Canada-United States FM Agreement of 1947. Such consent has now been given.

4. Accordingly, pursuant to authority in sections 4(i), 303(g) and (r), and 307 (b) of the Communications Act of 1934, as amended, it is ordered, That effective June 20, 1975, the FM Table of Assignments (§ 73.202(b) of the rules) is amended to read as follows for the listed communities:

City	Channel No.
Bellwood, Pennsylvania	280A
Philipsburg, Pennsylvania	

5. It is further ordered, That this proceeding is terminated.

(Secs. 4, 5, 303, 307, 48 Stat., as amended, 1066, 1068, 1082, 1083; 47 U.S.C. 154, 155, 303, 307)

Adopted: May 6, 1975.

Released: May 12, 1975.

FEDERAL COMMUNICATIONS COMMISSION,

VINCENT J. MULLINS,  
Secretary.

[FR Doc. 75-13079 Filed 5-16-75; 8:45 am]

[FCC 75-520; Docket No. 20204]

#### PART 87—AVIATION SERVICES

##### Airdrome Control Stations

In the matter of amendment of Part 87 of the Commission's rules to delete the requirement for Airdrome Control Stations to maintain a continuous listening watch on 122.5 MHz during hours of operation.

1. On October 15, 1974, we released a notice of proposed rule making in this Docket, proposing to amend Part 87 of the rules by deleting the requirement for Airdrome Control Stations to maintain a continuous listening watch on 122.5 MHz during hours of operation. It was published in the *FEDERAL REGISTER* on October 21, 1974 (39 FR 37399).

2. The requirement for all Airdrome Control Stations to monitor 122.5 MHz originated many years ago when VHF radios were manufactured with a very limited number of transmit channels and a tunable receiver. By making 122.5 MHz a universal frequency (or by designating an alternate frequency in the band 121.975-122.775 MHz on which aircraft could call), the aircraft operator could then tune his receiver to a regularly assigned frequency of the facility with which he wished to speak. This gave a much greater degree of flexibility to these aircraft radios with rather limited capability. This equipment has been largely replaced by radios with more channels, thus the dependence on a single transmit channel rarely exists.

3. On July 11, 1974, the Federal Aviation Administration (FAA) advised the FCC that it was no longer FAA policy to require mandatory monitoring of the frequency 122.5 MHz by FAA air traffic control towers. They indicated they did not

believe such a change in listening requirements for FCC licensed Airdrome Control Stations would adversely affect life and property in the air.

4. One comment was received which was from the Aircraft Owners and Pilots Association. They concurred in the proposed rule making.

5. In view of the foregoing, it is ordered, Pursuant to the provisions of sections 4(i) and 303 (b) and (r) of the Communications Act of 1934, as amended, that effective June 20, 1975, Part 87 of the Commission's rules is amended as set forth below. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Adopted: May 10, 1975.

Released: May 12, 1975.

FEDERAL COMMUNICATIONS COMMISSION,

VINCENT J. MULLINS,  
Secretary.

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Section 87.403(b) is revised to read as follows:

§ 87.403 Scope of Service.

(b) The licensee of an airdrome control station shall maintain a continuous listening watch during hours of operation on the following frequencies:

121.5 MHz  
3023.5 kHz (Alaska only)

Provided, however, The license of an airdrome control station may be exempt from these watch requirements when authorized by the Commission after a satisfactory showing has been made that an exemption will not adversely affect life and property in the air.

[FR Doc. 75-13077 Filed 5-16-75; 8:45 am]

[FCC 75-532; Docket 19662; RM-1762; RM-1692]

#### PART 89—PUBLIC SAFETY RADIO SERVICES

##### Report and Order

In the matter of amendment of Part 89 of the Commission's rules to permit expanded use of tone and impulse signaling in the Public Safety Radio Services.

1. On December 29, 1972, the Commission released a memorandum opinion and order and notice of proposed rulemaking (38 FR 808) in the above entitled matter.

2. The notice sought comments on the Commission's proposal to expand the permissible scope of secondary, point-to-point, tone signaling operations on mobile service frequencies in the Police, Fire, and Local Government Radio Services; to allow this secondary tone signaling capability in the Highway Maintenance and in the Forestry Conservation Radio Services; and to shorten the maximum duration of any one transmission from six to two seconds. Comments in response

to this proceeding were received from parties listed in Appendix A and have been carefully considered.

3. The rule changes proposed reflect recent trends in equipment development and increased interest in using tone and impulse signaling for various point-to-point alarm and confirmation functions. As noted in the Notice, the Commission believes the state-of-the-art has advanced sufficiently in the past several years to accommodate this proposed expansion of secondary tone signaling operations without causing significant interference problems to the primary use of land mobile frequencies; namely, voice communications. The basic proposal here would expand the scope of the rules to allow transmission of tones which indicate abnormal conditions and confirm the status of equipment and would permit secondary signaling operations in the Highway Maintenance, and Forestry Conservation Radio Services. This proposal was unanimously supported in the comments. The comments of the California Communications Division were typical of the reaction:

The rule changes requested will increase the capability of the Public Safety Services to meet their commitments to the public by increasing efficiency and providing vital information and/or alarms. The extension of the technique to the Forestry Conservation and Highway Maintenance Radio Services will allow the State to install intruder and equipment failure alarms in the facilities of state agencies operating in these radio services, but presently denied such alarms. As new techniques and equipment are developed, they can be added without the need for special authorizations or rule waivers.

4. The Commission believes, on the basis of the comments, that the expansion of secondary, point-to-point tone signaling in public safety operations is feasible and that such use would increase the efficiency and effectiveness of the various types of operations conducted in these services. Therefore, we are amending our rules to provide for secondary, point-to-point tone signaling capabilities in the Highway Maintenance and Forestry Conservation Radio Services and to expand the types of signaling permitted in the Public Safety Radio Services to include indication of abnormal conditions and confirmation of status.

5. However, we believe it is important to adopt measures which would limit the possibility of interference to mobile communications while allowing reasonable opportunities for licensees to conduct secondary tone signaling operations. For this purpose we proposed in the Notice to limit the message length to two seconds. We also decided to maintain the maximum permissible power at 50 watts.

6. Many of the comments opposed the Commission's decision to keep the 50 watt power limitation arguing that the restriction substantially restricts the flexibility of their communications systems by requiring additional equipment for alarm signaling operations. As APCO stated:

Operational and economic considerations will dictate in a large number of instances

that existing remote base stations and mobile repeaters be used to transmit the tone and impulse signals contemplated herein. Many such existing transmitters operate with power in excess of 50 watts so the rules as presently proposed would require many licensees to either forego the use of digital signaling techniques or substantially modify their transmitters to permit operation at reduced power during the transmission of digitally encoded data.

7. As pointed out in the Notice, the rules (§ 89.111(a)) require that the power used be no more than the minimum required for satisfactory technical operation. Since none of the comments stated that the 50 watts permitted under the present rules is insufficient to meet normal public safety needs, the Commission concludes that this figure is high enough to permit satisfactory signaling operations. Furthermore, power limitations are necessary to minimize interference. While we want to permit public safety licensees to use their radio facilities to the maximum degree possible, regular base/mobile voice communications must be afforded protection. Therefore, for these reasons we will keep the 50 watt power limitation on signaling operations at the remote alarm site.

8. Another related subject, brought up by the comments, is the use of mobile relays for relaying the alarm signals to a central control site. It is the Commission's opinion that this type of operation would be in the public interest. Mobile relay systems are common, particularly on frequencies above 450 MHz, and, as the comments pointed out, a licensee's system would not be fully useful for the secondary signaling purposes under consideration unless the mobile relay station could also be employed. Accordingly, licensees will be permitted to relay alarm transmissions through mobile relay/repeater stations in order to get extended range. However, if any harmful interference is caused to mobile service operations of any other licensee, the operation must, of course, be discontinued.

9. The other issue discussed in the comments was the Commission's proposal to limit the message length to two seconds, thereby precluding voice signaling operations. Many of the commenting parties argued that voice alarm devices have worked well in the past in police operations and should be continued. In addition, it was noted that by requiring the licensee to use complex, more expensive digital techniques, the Commission would preclude the use of radio facilities for alarm purposes by the smaller or rural police safety entities. The main opposition was submitted by Varda, which makes voice alarm equipment. Varda argued that the Commission's main reason for deleting voice alarm techniques (shorter transmissions), is not valid in the field of police radio alarms. They contend that voice alarms are usually transmitted directly to the cars, patrolmen and motorcycle officers in the immediate vicinity; while digital messages must be sent to decoders at the police station, where they must be decoded, the source of the alarm



identified, and then the message must be rebroadcast by voice to cars, patrolmen, etc., in the area of the intrusion. This process, it is argued, is cumbersome, expensive, and does not save transmitter air time.

10. We agree that voice alarm devices can be useful in police operations. Also we note that, according to several law enforcement studies, police alarms have a very low duty cycle and thus occupy very little transmitter air time. Accordingly, the Commission believes the public interest will be served if voice alarm techniques are permitted. However, the Commission still feels the transmission time for alarm transmissions should be less than the 30 seconds permitted under the present rules. Therefore, we are adopting the following standards for transmissions originating at the remote site. For voice alarm operations each alarm or signal will be limited to 3 transmissions, not to exceed six seconds each. For non-voice operations each alarm or signal will be limited to 3 transmissions, not to exceed two seconds each. The alarms may be staggered in order to improve the possibility of reception or they may be continuous. Automatic interrogation of remote sites will be permitted. However, in order to keep this a secondary operation, we feel restrictions should be placed on automatic interrogations from the base station. Therefore, we will limit the period during which the base station may interrogate the remote sites automatically and the remote sites may respond to ten seconds out of any 60-second period. For systems using manual techniques to verify status, etc., each transmission will be limited to two seconds.

11. In order for the Commission to know whether a licensee is using a mobile service frequency secondarily in a fixed operation, all new applicants proposing this type of operation will be required to so state in their application. The license issued will reflect this mode of operation by classifying the remote station (alarm site) as operational fixed, with a 50 watt power limit and a non-voice emission designator, when appropriate. Licensees currently operating alarm systems and requesting renewal of their license will also be required to supply the same information with their renewal applications.

12. In view of the foregoing, it appears that the public interest can be served by adopting the rule amendments set forth below. Accordingly, it is ordered That, pursuant to authority contained in section 303 of the Communications Act of 1934, as amended, Part 89 of the Commission's rules and regulations is amended effective June 20, 1975. It is further ordered, That this proceeding is hereby terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Adopted: May 8, 1975.

Released: May 14, 1975.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] VINCENT J. MULLINS,  
Secretary.

Part 89 of the Commission's rules is amended as follows:

1. A new § 89.126 is added to read as follows:

§ 89.126 Secondary alarm and signaling operations.

In the Local Government, Police, Fire, Highway Maintenance and Forestry Conservation Radio Services, fixed operations may be authorized for tone or impulse signalling on mobile service frequencies above 25 MHz subject to the condition that harmful interference is not caused to the primary mobile service operation of any other licensee subject to the following limitations. In the Police Radio Service voice (A3 or F3) operation may also be authorized for alarm purposes.

(a) Secondary fixed operations under this section may be used only for the following purposes:

(1) Indication of equipment malfunction.

(2) Actuation of a device to indicate the presence of an intruder, fire, or other hazardous condition on the property under the protection of the licensee.

(3) Indication of an abnormal condition in facilities under the jurisdiction of the licensee that if not promptly reported would result in danger to human life.

(4) Transmissions as may be necessary to (i) verify status of equipment (ii) adjust operating conditions (iii) correct any abnormal condition or (iv) to activate devices that alert the public to a condition affecting the safety of life or property.

(5) Confirmation of status, or that an operation or correction has been accomplished or that the alerting device has been activated.

(b) For systems authorized after June 20, 1975 to be used for the purposes outlined in paragraph (a) of this section the maximum duration of any one voice alarm may not exceed six seconds and shall not be transmitted more than three times.

(c) For systems authorized after June 20, 1975 to be used for the purposes outlined in paragraph (a) of this section the maximum duration of any one non-voice signal may not exceed two seconds and shall not be transmitted more than three times.

(d) Systems employing automatic interrogation shall be limited to non-voice techniques and shall not be activated for this purpose more than ten seconds out of any 60 second period. This 10 second time frame includes both transmit and response times.

(e) The bandwidth shall not exceed that authorized to the licensee for this primary operation on the frequency concerned.

(f) Frequency loading resulting from the use of secondary signalling will not be considered in whole or in part as a justification for authorizing additional frequencies in the licensee's mobile system.

(g) A mobile service frequency may not be used exclusively for secondary signalling.

(h) The plate power input to the final radio frequency stage shall not exceed 50 watts. (At the remote site)

(i) A1, A2, A9, F1, F2, or F9 emission may be authorized. In the Police Radio Service A3 or F3 may also be authorized.

(j) Automatic means shall be provided to deactivate the transmitter in the event the carrier remains on for a period in excess of 3 minutes.

(k) Operational fixed stations authorized pursuant to the provision of this paragraph are exempt from the requirements of §§ 89.55(e)(2), 89.113(e) and 89.153.

(l) Base, mobile relay, or mobile stations licensed in this service on frequencies above 25 MHz may transmit secondary tone or impulse signals to receivers subject to the conditions, and for the purposes set forth in § 89.101(m).

§ 89.257 [Amended]

2. Section 89.257(c) is deleted and designated [Reserved].

§ 89.307 [Amended]

3. Section 89.307(e) is deleted and designated [Reserved].

§ 89.357 [Amended]

4. Section 89.357(d) is deleted and designated [Reserved].

#### APPENDIX A

The following parties submitted timely comments and/or reply comments in response to the Notice of Proposed Rule Making in Docket 19662:

American Association of State Highway Officials  
Associated Public-Safety Communications Officers, Inc.  
California State Communications Division  
City of Bakersfield, California  
City of Corona, California  
City of Fort Lauderdale, Florida  
City of Riverside, California  
City of San Jose, California  
City of Santa Ana, California  
City of Torrance, California  
City of Tracy, California  
County of Kern, California  
Florida Department of Transportation  
GTE Sylvania  
International Association of Fire Chiefs  
International Municipal Signal Association  
National Association of Business and Educational Radio  
Northern Chapter of Associated Public-Safety Communications Officers, Inc.  
State of Idaho, Division of Communications  
VARDIA

[FR Doc. 75-13078 Filed 5-16-75; 8:45 am]

## proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

### DEPARTMENT OF AGRICULTURE

#### Agricultural Marketing Service

#### [7 CFR Part 944]

#### FRUITS; IMPORT REGULATIONS

#### Avocados

Consideration is being given to the proposal hereinafter set forth which would prescribe requirements for the importations of avocados into the United States pursuant to Part 944—Fruits; Import Regulations (7 CFR Part 944), during the period June 9, 1975, through April 30, 1976. The proposed import regulation would prescribe the same grade requirement for imported avocados as that applicable, pursuant to Order No. 915 (7 CFR Part 915), to avocados grown in South Florida. With respect to maturity the proposed regulation would apply the same minimum size or weight requirements to imported avocados of the Pollock, Catalina, and Trapp varieties as are applicable to Florida avocados of the same varieties. All other imported avocados would be required to meet minimum size or weight requirements comparable to those effective for similar types grown in Florida as variations in characteristics make application of identical requirements impractical. This import regulation would be effective pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

All persons who desire to submit written data, views, or arguments in connection with the proposal should file the same in quadruplicate with the Hearing Clerk, Room 112A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than May 26, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). As proposed, the domestic regulation under the marketing order for Florida avocados would become effective June 9, 1975. To prevent the import of immature avocados, the import regulation would be made effective on the same date. Hence, the time available does not permit preliminary notice beyond that herein provided.

It is proposed that 7 CFR § 944.15 be revised as follows:

§ 944.15 Avocado Regulation 23.

(a) On and after the effective time of this section, the importation into the

United States of any avocados is prohibited unless such avocados are inspected and meet the following requirements:

(1) All avocados imported during the period June 9, 1975, through April 30, 1976, shall grade not less than U.S. No. 3.

(2) Avocados of the Pollock variety shall not be imported (i) prior to July 7, 1975; (ii) from July 7, 1975, through July 20, 1975, unless the individual fruit in each lot of such avocados weighs at least 18 ounces or measures at least 3 1/16 inches in diameter; and (iii) from July 21, 1975, through August 4, 1975, unless the individual fruit in each lot of such avocados weighs at least 16 ounces or measures at least 3 1/16 inches in diameter.

(3) Avocados of the Catalina variety shall not be imported (i) prior to September 15, 1975; (ii) from September 15, 1975, through September 21, 1975, unless the individual fruit in each lot of such avocados weighs at least 24 ounces; and (iii) from September 22, 1975, through October 6, 1975, unless the individual fruit in each lot of such avocados weighs at least 22 ounces.

(4) Avocados of the Trapp variety shall not be imported (i) prior to August 18, 1975; (ii) from August 18, 1975, through August 31, 1975, unless the individual fruit in each lot of such avocados weighs at least 14 ounces or measures at least 3 1/16 inches in diameter; and (iii) from September 1, 1975, through September 15, 1975, unless the individual fruit in each lot of such avocados weighs at least 12 ounces or measures at least 3 1/16 inches in diameter.

(5) Avocados of any variety other than Pollock, Catalina, and Trapp varieties, of the West Indian varieties not listed elsewhere in this regulation, shall not be imported (i) prior to July 7, 1975; (ii) from July 7, 1975, through August 3, 1975, unless the individual fruit in each lot of such avocados weighs at least 18 ounces; (iii) from August 4, 1975, through September 7, 1975, unless the individual fruit in each lot of such avocados weighs at least 16 ounces; (iv) from September 8, 1975, through October 5, 1975, unless the individual fruit in each lot of such avocados weighs at least 14 ounces: *Provided*, That any lot of such avocados may be imported without regard to the date or minimum weight requirements of this paragraph if such avocados, when mature, normally change color to any shade of red or purple and any portion of the skin of the individual fruit has changed

to the color normal for that fruit when mature.

(6) Avocados of any variety of the Guatemalan type, including hybrid type seedlings, unidentified Guatemalan and hybrid varieties, and Guatemalan and hybrid varieties not listed elsewhere in the regulation shall not be imported (i) prior to September 22, 1975; (ii) from September 22, 1975, through October 19, 1975, unless the individual fruit in each lot of such avocados weighs at least 15 ounces; and (iii) from October 20, 1975, through December 21, 1975, unless the individual fruit in each lot of such avocados weighs at least 13 ounces.

(7) Notwithstanding the provisions of subparagraphs (2) through (6) of this paragraph regarding the minimum weight or diameter for individual fruit, not to exceed 10 percent, by count, of the individual fruit contained in each lot, may weigh less than the minimum specified and be less than the specified diameter: *Provided*, That such avocados weigh not over 2 ounces less than the applicable specified weight for the particular variety specified in such subparagraphs. Such tolerances shall be on a lot basis, but not to exceed double such tolerances shall be permitted for an individual container in a lot.

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is hereby designated as the governmental inspection service for the purpose of certifying the grade, size, quality, and maturity of avocados that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with appropriate evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of avocados, is required on all imports of avocados. Such inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51) but, since inspectors are not located in the immediate vicinity of some of the small ports of entry, such as those in southern California, importers of avocados should make arrangements for inspection, through the applicable one of the following offices, at least the specified number of days prior to the time when the avocados will be imported:



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Ports	Office	Advance notice (in days)
All Texas points.	L. M. Denbo, 506 South Nebraska Ave., San Juan, Tex. 78594, Phone (512) 787-4001.	1
	or Charles E. Parragon, 724 East Overland, El Paso, Tex. 79901, Phone (915) 543-7723.	1
All New York points.	Carmine J. Cavallo, Room 25A, Hunts Point Market, Bronx, N.Y. 10474, Phone (212) 991-7696 and 7699.	1
	or Charles D. Renick, 176 Niagara Frontier Food Terminal—Room 8, Buffalo, N.Y. 14206, Phone (716) 824-1565.	1
All Arizona points.	B. O. Morgan, 225 Terrace Ave., Nogales, Ariz. 85621, Phone (602) 287-2902.	1
All Florida points.	Lloyd W. Boney, 1350 NW 12th Ave.—Room 530, Miami, Fla. 33136, Phone (305) 234-6116.	1
	or J. T. Scroggs, 775 Warner Lane, Orlando, Fla. 32814, Phone (305) 864-9511.	1
	or Johnnie L. Corbett, Unit 46—2306 North Edgewood Ave., Jacksonville, Fla. 32204, Phone (904) 454-5883.	1
All California points.	Daniel P. Thompson, 784 South Central Ave.—Room 205, Los Angeles, Calif. 90021, Phone (213) 623-6756.	3
All Louisiana points.	Jesse M. Anderson, 5627 Federal Office Bldg., 701 Loyola Ave., New Orleans, La. 70113, Phone (504) 589-6741 and 6742.	1
All other points.	D. S. Matheson, F. & V. Division—AMS—USDA, Washington, D.C. 20250, Phone (202) 447-5870.	3

(c) Inspection certificates shall cover only the quantity of avocados that is being imported at a particular port of entry by a particular importer.

(d) The inspection performed, and certificates issued, by the Federal or Federal-State Inspection Service shall be in accordance with the rules and regulations of the Department governing the inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51). The cost of any inspection and certification shall be borne by the applicant therefor.

(e) Each inspection certificate issued with respect to any avocados to be imported into the United States shall set forth, among other things:

- (1) The date and place of inspection;
- (2) The name of the shipper or applicant;
- (3) The commodity inspected;
- (4) The quantity of the commodity covered by the certificate;
- (5) The principal identifying marks on the container;
- (6) The railroad car initials and number, the truck and the trailer license number, the name of the vessel, or other identification of the shipment; and
- (7) The following statement, if the facts warrant: Meets U.S. import requirements under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.

(f) Notwithstanding any other provisions of this regulation, any importation of avocados which, in the aggregate, does not exceed 55 pounds may be imported without regard to the restrictions specified herein.

(g) It is hereby found that the application of the maturity restrictions being imposed, pursuant to Order No. 915 (7 CFR Part 915), upon avocados grown in South Florida to imported avocados, other than of the Pollock, Catalina, and Trapp varieties, is not practicable because of variations in characteristics between the domestic and imported avocados; and the maturity restrictions applicable to imported avocados other than of the Pollock, Catalina, and Trapp varieties are comparable to those imposed upon the domestic commodity. The quality restrictions for all imported avocados, and the maturity restrictions for imported avocados of the Pollock, Catalina, and Trapp varieties, are the same as those being imposed upon the domestic commodity.

(h) No provisions of this section shall supersede the restrictions or prohibitions on avocados under the Plant Quarantine Act of 1912.

(i) Nothing contained in this section shall be deemed to preclude any importer from reconditioning, prior to importation, any shipment of avocados for the purpose of making it eligible for importation.

(j) The terms relating to grade, as used herein, shall have the same meaning as when used in the United States Standards for Florida Avocados (7 CFR 51.3050-51.3069). "Diameter" shall mean the greatest dimension measured at right angles to a line from the stem to the blossom end of the fruit. "Importation" means release from custody of the United States Bureau of Customs.

Dated: May 13, 1975.

CHARLES R. BRADER,  
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.75-13007 Filed 5-16-75; 8:45 am]

## DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. OSH-87]

## STANDARD FOR EXPOSURE TO INORGANIC ARSENIC

Proposed Standard; Extension of Time To File Post-Hearing Comments

On January 21, 1975, notice was published in the FEDERAL REGISTER (40 FR 3392), of a proposed standard for inorganic arsenic pursuant to the authority in section 8(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1593, 29 U.S.C. 655), Secretary of Labor's Order No. 12-71 (36 FR 8754), and 29 CFR Part 1911.

In accordance with that notice, an informal public hearing was held, under

section 6(b) of the Act and 29 CFR Part 1911, on April 8, 9, 10, 11, 14, 15 and 16, 1975. At the conclusion of the hearing, the presiding Administrative Law Judge set May 15, 1975, as the final date for filing written post-hearing comments containing additional evidence, and June 13, 1975, as the final date for the submission of post-hearing statements of position and analysis.

Subsequent to the conclusion of the hearing, one of the hearing participants requested that the time period for the filing of post-hearing comments be extended to permit the submission of new, relevant evidence.

Therefore, in order to provide for receipt of that, and other relevant evidence, and to allow a reasonable period for statements of position and analysis, notice is hereby given that the period for filing post-hearing evidence on the proposal for inorganic arsenic will be extended until June 13, 1975, and the period for filing statements of position and analysis will be extended until July 8, 1975.

Notice is further given that all submissions made on or after May 27, 1975, should be sent to the Technical Data Center, New Department of Labor Building, Room 3620, 200 Constitution Avenue, NW., Washington, D.C. 20210.

The record of this proceeding, including post-hearing submissions will be available for inspection and copying at the present address up until May 23, 1975. Thereafter it will be available at the above address.

(Secs. 6, 8(g), Pub. L. 91-59, 84 Stat. 1593, 1600 (29 U.S.C. 655, 657), Secretary of Labor's Order No. 12-71 (36 FR 8754))

Signed at Washington, D.C. this 14th day of May 1975.

JOHN STENDER,  
Assistant Secretary of Labor.

[FR Doc.75-13143 Filed 5-16-75; 8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 26]

## NUTRITIVE SWEETENERS

Proposal To Amend Standards of Identity for Glucose Sirup and Dried Glucose Sirup

The Commissioner of Food and Drugs is proposing to amend the standards of identity for glucose sirup (21 CFR 26.3) and dried glucose sirup (21 CFR 26.4) to provide for a distinctive optional name for each such food when it is made from sorghum grain. The purpose of this proposal is to minimize confusion between the names of sirups made from sorghum grain starch and the names of sirups derived from the juice of sorghum cane. Interested persons have until July 18, 1975 to submit comments on the proposal.

Glucose sirups are nutritive sweeteners from the starch component of various plants such as corn, wheat, tapioca, and sorghum grain. Section 26.3(c) provides that when glucose sirup is derived from a

specific type of starch, the name of the food is "glucose sirup" or, optionally, "sirup," the blank to be filled in with the name of the starch. As the standard is presently written, if the glucose sirup is made from the starch of sorghum grain, an optional name of the food is "sorghum sirup."

The Commissioner issued an order, published in the FEDERAL REGISTER of June 14, 1974 (39 FR 20879), establishing an identity standard for sorghum sirup (21 CFR 30.4) made by the concentration and heat treatment of the juice of sorghum cane. The effective date of the order, July 1, 1975, is confirmed elsewhere in this issue of the FEDERAL REGISTER. The food has been produced and marketed under the name "sorghum" or "sorghum sirup" in this country for many years. The Commissioner is of the opinion that, to avoid confusion between two different foods, the name "sorghum" or "sorghum sirup" should apply only to that sirup made from the juice of sorghum cane and that the name "sorghum grain sirup" should be the alternative name used in the standard for glucose sirup (26.3) when the nutritive sweetener is made from the starch of sorghum grain.

For purposes of consistency, the standard for dried glucose sirup (26.4) should also be amended so as to limit the optional names of the food made from sorghum grain starch to "dried sorghum grain sirup" or "sorghum grain sirup solids."

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055-1056, as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 341, 371)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that 21 CFR Part 26 be amended as follows:

1. By revising § 26.3(c) to read as follows:

§ 26.3 Glucose sirup; identity.

(c) The name of the food is "glucose sirup." When the food is derived from a specific type of starch, the name may alternatively be "sirup," the blank to be filled in with the name of the starch. For example, "corn sirup," "wheat sirup," "tapioca sirup." When the starch is derived from sorghum grain, the alternative name of the food is "sorghum grain sirup." Alternatively, the word "sirup" may be spelled "syrup."

2. By revising § 26.4(b) to read as follows:

§ 26.4 Dried glucose sirup; identity.

(b) The name of the food is "dried glucose sirup" or "glucose sirup solids." When the food is derived from a specific type of starch, the name may alternatively be "dried sirup" or "sirup solids," the blank to be filled in with the name of the starch; for example, "dried corn sirup," "corn sirup solids," "dried wheat sirup," "wheat sirup solids," "dried tapioca sirup,"

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"tapioca sirup solids." When the starch is derived from sorghum grain, the alternative name of the food is "dried sorghum grain sirup" or "sorghum grain sirup solids." Alternatively, the word "sirup" may be spelled "syrup."

Interested persons may, on or before July 18, 1975, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in triplicate) regarding this proposal. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: May 12, 1975.

SAM D. FINE,  
Associate Commissioner  
for Compliance.

[FR Doc.75-13023 Filed 5-16-75; 8:45 am]

## Social and Rehabilitation Service

[45 CFR Parts 205, 206, 233]

FINANCIAL ASSISTANCE PROGRAMS  
Quality Control

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations reflect decisions announced by the Secretary in his press release of March 26, 1975, to refrain from taking any disallowances of Federal financial participation pursuant to the Department's quality control regulations at 45 CFR 205.40 and 205.41 (published October 18, 1975, 39 FR 37195) for the interim periods of July 1, 1974 through June 30, 1975, and to publish revised regulations reflecting certain changes in that program.

The proposed revision of 45 CFR 206.10 would require a State plan to specify a budget period and a payment month. The budget period is a specific time period established by the State agency during which the circumstances of the assistance unit are considered for eligibility and for the amount of the assistance payment for a particular month. The month for which the payment is received is the payment month.

Because the Department recognizes that States need time for administrative action, the regulation would permit States to allow a reasonable administrative period between the close of the budget period and the beginning of the payment month during which to perform those administrative tasks.

For example, a State might establish March as the payment month corresponding to the January budget period, thus leaving the month of February for all required administrative actions. The payment month must begin no later than 34 days after the end of the corresponding budget period. The payment month and the budget period may coincide for initial payments even if they do not coincide for subsequent assistance payments.

The proposed revision of 45 CFR 205.40 reflects the view that the Social Security Act places upon the Department the responsibility for assuring that States take all necessary actions to eliminate erroneous payments from their public assistance programs under title IV-A (and titles I, X, XVI, and XVII (AABD) for Guam, Puerto Rico, and the Virgin Islands). Authority for this view lies in the mandates of sections 402(a)(5) and 1102 (and 2(a)(5), 1002(a)(5), 1402(a)(5), and 1602(a)(5) for Guam, Puerto Rico, and the Virgin Islands of the Social Security Act. Section 1102 provides that the Secretary shall publish such rules, which are not inconsistent with the Social Security Act, "as may be necessary to the efficient administration of the functions with which [the Secretary] is charged under [the] Act." Section 402(a)(5) (and the provisions of the titles applying to the territories cited above) provides authority for the Secretary to establish such methods of administration as he finds to be necessary for the proper and efficient administration of the States' plans. The Secretary believes that the elimination of erroneous State payments will further the proper and efficient administration of the States' plans by serving the dual purposes of maintaining the integrity of the public fisc (thereby maintaining public confidence in the program) and assuring that States are able to devote their limited resources to providing the maximum amount of assistance to eligible persons.

Specifically the revised regulation would require that State plans under title IV-A (and titles I, X, XIV, and XV, (AABD) for Guam, Puerto Rico, and the Virgin Islands) provide for a continuing and comprehensive system of quality control to include: the application of prescribed sampling methods; field investigations; providing of resources to analyze quality control findings; taking of appropriate corrective action on any improperly authorized assistance and any system weakness; reporting of case error rates and other required data to the Department; and affording access by Federal staff to required information. State agencies would also be required to submit to the Department a description of their sampling plan, periodic reports and periodic corrective action plans for reducing their rates of erroneous payments.

It would also require that State agencies continue to submit corrective action plans to reduce further their case error rates even after achieving the acceptable tolerance levels established in 45 CFR 205.41. This reflects the Secretary's determination that States take all appropriate corrective action to reduce their rates of erroneous payments to the greatest extent possible.

The proposed revision of 45 CFR 205.41 reflects the Department's view that the Social Security Act requires the Department to exclude from Federal financial participation States' erroneous payments to ineligible recipients and overpayments



to eligible recipients above reasonable limits established by the Secretary.

The basis for the interpretation is found in the mandates of section 403, 406, and 1102 of the Social Security Act. Section 403 requires that the Secretary of Health, Education, and Welfare certify for payments to each State an amount equal to certain proportions of " . . . total amounts expended . . . as aid to families with dependent children under the State plan . . . ." Section 406 provides specific definition of the scope of aid to families with dependent children (namely, certain forms of payments to or on behalf of a dependent child (as defined therein) and certain relatives of such child as specified therein. Further, State plans define the parameters of that aid. Thus, section 403 specifically authorizes Federal financial participation only in specified payments as defined in the Act and only in the amount specified in each State's plan. As such, these provisions do not specifically authorize Federal financial participation in States' payments to persons not eligible for such aid or in payments in excess of the amount provided for in the State plans.

However, the Department believes that section 1102 enables the Secretary to permit Federal financial participation in a certain level of erroneous State payments below which he determines most States are presently incapable of reducing their error rates.

The proposal reflects the Secretary's awareness that, under administrative structures presently existing in most States, a requirement at this time that States eliminate all erroneous payments, with a resultant disallowance of Federal financial participation in any erroneous payments, is unrealistic.

For this reason, the regulation would provide for Federal financial participation in erroneous State payments up to case error rates of three percent for ineligibility and five percent for overpayments in periods subsequent to June 30, 1975. If the case error rate exceeds these levels, the amount to be excluded from Federal financial participation will be that portion of the State's expenditures for ineligibility and overpayments in excess of the allowable tolerance levels. For purposes of Federal financial participation both the case error rate and the dollar error rate will be determined by the Social and Rehabilitation Service (SRS). In making that determination SRS will utilize State quality control data supplied pursuant to 45 CFR 205.40 and Federal quality control subsample data applying the lower limit at the 95 percent confidence level of a statistical regression formula in computing both case and dollar error rates. The dollar conversion formula and the regression formula methodology are described in an Information Memorandum issued by the Service, (SRS-IM-75-5, dated May 6, 1975). A copy of the Information Memorandum may be obtained from the Executive Secretariat, Social and Rehabilitation Service, 330 C Street, SW., Washington, D.C. 20201.

It should be noted that the error rate determined by use of the regression formula is the best statistical estimate of the rates of error and will be used as the State's official error rate; however, for the purpose of disallowance of Federal financial participation, the lower bound of the 95 percent confidence level will be used.

The revision of 45 CFR 233.10 would make that regulation consistent with the proposed revision of 45 CFR 205.41. To the extent that provisions of the Handbook of Public Assistance Administration (specifically Part IV—5512 and 5514) conflict with any provisions of the proposed regulations set forth below, these provisions of the Handbook will be superseded on publication of these regulations in final form.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions or objections thereto which are received in writing by the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, P.O. Box 2372, Washington, D.C. 20013, on or before June 18, 1975. Comments will be available for public inspection in Room 5326 of the Department's offices at 330 C Street SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (area code 202-245-0950).

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302))

(Catalog of Federal Domestic Assistance Program No. 13.781, Public Assistance—Maintenance Assistance (State Aid))

Dated: May 1, 1975.

JAMES S. DWIGHT JR.,  
Administrator.

Approved: May 13, 1975.

CASPAR W. WEINBERGER,  
Secretary.

Chapter II, Title 45 of the Code of Federal Regulations is revised as follows:

1. Section 205.40 is revised to read as set forth below:

§ 205.40 Quality control system.

(a) *Definitions.* For purposes of this section and § 205.41, notwithstanding any other regulations in this chapter:

(1) "Assistance unit" means all individuals whose needs, income, and resources are considered in determining the amount of an assistance payment for which Federal financial participation is claimed under this chapter.

(2) "Budget period" means a specific time period established by the State agency, during which the circumstances of the assistance unit are considered for eligibility and the amount of the assistance payment for a specific payment month.

(3) "Case error" means an overpayment, underpayment or payment for ineligibility, as defined in this section. Case error exists even though the assistance received was required to be paid because the State agency failed to make a finding (regarding eligibility or the amount of payment) under § 206.10(a) (5) of this

chapter. There is no case error where payment is required to be continued unadjusted because a hearing has been requested.

(4) "Ineligibility" refers to a financial assistance payment received by or for an assistance unit, for a payment month, when no amount of such payment, based on circumstances relating to categorical eligibility as of the last day of the budget period, and the amount of income and resources during the budget period, should have been paid to such assistance unit under the approved State plan.

(5) "Overpayment" means a financial assistance payment received by or for an assistance unit, for a payment month, which is in excess of the amount that should have been paid, based on circumstances during the budget period, to such assistance unit under the approved State plan.

(6) "Payment month" means the specific period of time for which a particular financial assistance payment (or two successive payments, where the State pays on a semi-monthly basis) is received. Such period may be either a calendar month or a fiscal month. The payment month must begin no later than 34 days after the end of the corresponding budget period. The budget period and the payment month may coincide for initial payments even if they do not coincide for subsequent payments.

(7) "Underpayment" means a financial assistance payment received by or for an assistance unit for a payment month which is less than the amount that should have been paid, based on circumstances during the budget period, to such assistance unit under the approved State plan.

Nothing in this paragraph shall affect the agency's responsibility to promptly terminate or adjust the assistance payment where eligibility for such payment changes subsequent to the budget period and prior to the payment month, pursuant to § 206.10 of this chapter.

(b) *State plan requirements.*—A State plan under title IV-A or I, X, XIV or XVI of the Social Security Act must provide for a continuing system of quality control for assuring that assistance is furnished in accordance with State plan provisions. Under this requirement:

(1) The State agency's system of quality control shall:

(i) Apply the sampling methods and schedules in accordance with instructions prescribed by the Social and Rehabilitation Service;

(ii) Conduct field investigations, including a personal interview in all cases which fall within the sample;

(iii) Provide for the necessary resources, organizational structure and systems for the analysis of the findings of the system;

(iv) Take appropriate corrective action on improperly authorized assistance and system weaknesses; and

(v) Assure access by DHEW staff to State and local records relating to public assistance, to recipients, and to third parties.

(2) The State agency shall submit to the Social and Rehabilitation Service, in such form and at such times as it prescribes:

(i) A description of the State's sampling plan;

(ii) Data required by Form SRS-QC 341.1, within 60 days of the close of the 6-month sampling period to which such data apply;

(iii) A corrective action plan for reducing the case error rates of ineligibility, overpayments, and underpayments, within 90 days of the close of the 6-month sampling period to which they apply, even after achieving the case error rates specified in paragraph (a) of § 205.41 of this chapter; and

(iv) Data required by Forms SRS-QC 431.2, 341.3 and 341.4, at the same time the corrective action plan is submitted.

2. Section 205.41 is revised to read as set forth below:

§ 205.41 Federal financial participation in relation to erroneous State payments.

(a) Effective with the July-December 1975 Quality Control sampling period and for periods thereafter, the case error rates shall be deemed to be within tolerance if they do not exceed:

(1) 3% for ineligibility;

(2) 5% for overpayments; and

(3) 5% for underpayments.

(b) There shall be excluded from Federal financial participation in payments as Aid to Families with Dependent Children that portion of a State's expenditures for ineligibility, represented by the case error rate in excess of 3%, commencing with the July-December, 1975 Quality Control sampling period and for subsequent 6-month sampling periods.

(c) There shall be excluded from Federal financial participation in payments as Aid to Families with Dependent Children that portion of a State's expenditures for overpayments, represented by the case error rate in excess of 5%, commencing with the July-December, 1975 Quality Control sampling period and for subsequent 6-month sampling periods.

(d) The case error rates for ineligibility and overpayments in excess of 3% and 5%, respectively, shall be converted to dollar error rates in determining the amount to be excluded from Federal financial participation. The dollar error rates shall be applied to the Federal share of expenditures for assistance payments made during the sampling period, excluding payments for emergency assistance, AFDC foster care and presumptive eligibility, and vendor payments.

(e) The amount to be excluded from Federal financial participation shall be based on error rates determined by the Social and Rehabilitation Service on the basis of State quality control data and Federal quality control sub-sample data. In computing case error rates and dollar error rates for purposes of determining any such exclusions, the Service will use the lower limit at the 95 percent confidence level of a statistical regression formula applied to case and dollar error rates obtained from both the State and Federal

data. For purposes of analyzing findings of the system and for taking corrective action as required by § 206.40 of this chapter, the Service will use the figures derived from the application of this regression formula method as case and dollar error rates as opposed to using such lower limit. The dollar conversion formula and the regression formula methodology limit are described in the Information Memorandum issued by the Social and Rehabilitation Service, (SRS-IM-75-5, dated May 6, 1975.)

(f) For Guam, Puerto Rico, and the Virgin Islands, this section is also applicable to public assistance under title I, X, XIV, or XVI of the Social Security Act, except that the State expenditures for ineligibility and overpayment, in excess of the 3% and 5% tolerance levels, shall be excluded from Federal financial participation only to the extent that such excess is greater than the portion of State expenditures that is eligible for Federal financial participation but is not participated in because of the statutory limitations on Federal funds payable to these jurisdictions.

3. Section 206.10 is amended by revising paragraph (a) (9) (ii), and adding new subparagraphs (a) (13) and (b) (3) and (4), as set forth below:

§ 206.10 Application, determination of eligibility and furnishing of assistance.

(a) *State plan requirements.* . . .

(9) Where an individual has been determined to be eligible, eligibility will be reconsidered or redetermined:

(i) When required on the basis of information the agency has obtained previously about anticipated changes in the individual's situation;

(ii) Promptly, after a report is obtained which indicates changes in the individual's circumstances that may affect the amount of assistance to which he is entitled or may make him ineligible; and

(iii) Periodically, within agency-established time standards, but not less frequently than every 6 months in AFDC, and every 12 months in the other categories, including medical assistance, on eligibility factors subject to change.

(13) With respect to financial assistance programs, specify the "budget period" and "payment month", as defined in paragraph (b) of this section, which the State agency uses in initiating, adjusting, continuing or terminating assistance payments.

(b) *Definitions.* For purposes of this section:

(1) "Applicant" is a person who has, directly, or through his authorized representative, or where incompetent or incapacitated, through someone acting responsibly for him, made application for public assistance from the agency administering the program, and whose application has not been terminated.

(2) "Application" is the action by which an individual indicates in writing to the agency administering public assistance his desire to receive assistance. The relative with whom a child is living or will live ordinarily makes application for the child for AFDC. An application is distinguished from an inquiry, which is simply a request for information about eligibility requirements for public assistance.

Such inquiry may be followed by an application.

(3) "Budget period" means a specific time period established by the State agency, during which the circumstances of the assistance unit are considered for eligibility and the amount of the assistance payment for a specific payment month. Nothing in this definition shall affect the agency's responsibility to promptly terminate or adjust the assistance payment where eligibility for such payment changes subsequent to the budget period and prior to the payment month.

(4) "Payment month" means the specific period of time for which a particular financial assistance payment (or two successive payments where the State pays on semi-monthly basis) is received. Such period may be either a calendar month or a fiscal month. The payment month must begin no later than 34 days after the end of the corresponding budget period. The budget period and the payment month may coincide for initial payments even if they do not coincide for subsequent payments.

4. Section 233.10 is amended by revising paragraph (b) (3) to read as set forth below:

§ 233.10 General provisions regarding coverage and eligibility.

(a) *State plan requirements.* . . .

(b) Federal financial participation.

(3) Except as provided in § 205.41 of this chapter, where circumstances existing in the budget period make an assistance unit ineligible or eligible for a smaller amount of assistance than was paid for the payment month, Federal financial participation is not available in excess payments to such assistance unit, unless assistance is required to be continued unadjusted because a hearing has been requested.

[FR Doc. 75-13042 Filed 5-16-75; 8:45 am]

## DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Parts 148, 149]

[CGD 75-002]

## DEEPWATER PORTS

## Notice of Proposed Rule Making

## Correction

In FR Doc. 75-11971 appearing on page 19956 in the issue for Wednesday, May 7, 1975, make the following changes:



## PROPOSED RULES

1. § 148.109(y) (5) (ii) and (iii), appearing on page 19962, were incorrectly combined as (ii) and should read as follows:

(ii) The date, title, subject, author, and addresses for each document listed as required in subparagraph 5(i) of this paragraph.

(iii) A certificate signed by each applicant and affiliate attesting that the documents listed as required in subparagraph 5(i) of this paragraph will be made available during normal business hours to authorized examiners of the Federal Trade Commission for inspection and copying upon 24 hours notice.

2. The second line of § 149.403(1), which appears on page 19967, now reading: "maintenance ships, and refueling facilities", should read "maintenance shops, and refueling facilities".

## [ 14 CFR Part 71 ]

[Airspace Docket No. 75-SO-48]

## TRANSITION AREA

## Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Jacksonville, Fla., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30620. All communications received on or before June 18, 1975 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 645, 3400 Whipple Street, East Point, Ga.

The Jacksonville transition area described in § 71.181 (40 FR 441) would be amended as follows: "• • • long. 81° 25'15" W.; • • • would be deleted and "• • • long. 81°25'15" W.); within an 8.5-mile radius of OLF Whitehouse Field, Fla. (lat. 30°21'00" N., long. 81°52'00" W.) • • • would be substituted therefor.

The proposed alteration is required to provide controlled airspace protection for IFR operations at OLF Whitehouse Field. Instrument approach procedures to this airport, utilizing U.S. Navy radar, are proposed in conjunction with the alteration of this transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348 (a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on May 8, 1975.

PHILLIP M. SWATEK,  
Director, Southern Region.

[FR Doc. 75-13031 Filed 5-16-75; 8:45 am]

## [ 14 CFR Part 71 ]

[Airspace Docket No. 75-SO-51]

## TRANSITION AREA

## Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Covington, Tenn., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before June 18, 1975 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 645, 3400 Whipple Street, East Point, Ga.

The Covington transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Covington Municipal Airport (Lat. 35°35'15" N., Long. 89°35'15" W.); within 3 miles each side of the 004° bearing from Covington RBN (Lat. 35°35'22" N., Long. 89°35'14" W.), extending from the 6.5-mile radius area to 8.5 miles north of the RBN.

The proposed designation is required to provide controlled airspace protection for IFR operations at Covington Municipal Airport. A prescribed instrument approach procedure to this airport, utilizing the Covington (private) Nondirectional Beacon, is proposed in conjunction with the designation of this transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348 (a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on May 9, 1975.

PHILLIP M. SWATEK,  
Director, Southern Region.

[FR Doc. 75-13032 Filed 5-16-75; 8:45 am]

## [ 14 CFR Part 93 ]

[Docket No. 14004; Notice No. 75-18]

## VALPARAISO, FLA.

## Proposed Alteration of Special Air Traffic Rules

## Correction

In FR Doc. 75-12653 appearing at page 20826 in the Tuesday, May 13, 1975, issue the second number in the third line from the bottom of the second column on page 20826 should read R-2915B.

## ENVIRONMENTAL PROTECTION AGENCY

## [ 40 CFR Part 416 ]

[FRL 375-4]

## PLASTICS AND SYNTHETICS MANUFACTURING POINT SOURCE CATEGORY

## Effluent Limitations and Guidelines

Notice is hereby given that the Environmental Protection Agency (EPA) is proposing to amend 40 CFR 416—Plastics and Synthetics Manufacturing Point Source Category. The Federal Register for April 5, 1974 (39 FR 12501 et seq.) contained final effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources in the Plastics and Synthetics Point Source Category pursuant to sections 301, 304 (b) and (c), 306(b) and 307(c) of the Federal Water Pollution Control Act as amended 33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316 (b), and 1317(c); 86 Stat. 916 et seq.; P.L. 92-500 (the Act). The publication was corrected for several errors in the Federal Register dated July 8, 1974 (39 FR 24893 et seq.).

After careful review, a revision to the regulation is being proposed. The revision involves a change of the 1983 limitation and new source standards for the COD parameter in the Polypropylene Subcategory.

It has been found that the parameter COD was not treated in a consistent fashion in the polypropylene subcategory. The COD limitation for 1977 was based upon a COD effluent concentration of 75 mg/l (COD/BOD ratio of 5 multiplied by 1977 BOD limitation of 15), but the new source standard and 1983 limitation were based on an effluent COD concentration of 100 mg/l. This latter figure was obviously too high. Review of the data shows actually achieved COD concentrations in the exemplary plant on the order of 75 mg/l. The Agency is therefore amending the 1983 and new source regulation to reflect an effluent concentration of 75 mg/l rather than 100 mg/l—a decrease in the new source standard and the 1983 limitation for COD for Polypropylene of 25%.

The recommended treatment technology, which was discussed in the final "Development Document", will achieve these limitations and, therefore, the cost of treatment as previously reported will not change. In addition, this proposed amendment does not involve any changes which would affect any environmental or nonenvironmental impact.

A brief summary of the findings and data collected during the evaluation is available for inspection and copying at the EPA Freedom of Information Center, Room 204, West Tower, Waterside Mall, 401 M Street, SW., Washington, D.C.

Interested persons may participate in the rulemaking by submitting written comments in triplicate to the EPA Office of Public Affairs, Environmental Protection Agency, Washington, D.C. 20460, Attention: Ms. Ruth Brown, A-107. Comments on all aspects of the proposed regulation are solicited. In the event comments are in the nature of criticisms as to the adequacy of data which is available, or which may be relied upon by the Agency, comments should identify and, if possible, provide any additional data which may be available and should indicate why such data is essential to the development of the regulations. In the event comments address the approach taken by the Agency, EPA solicits suggestions as to what alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of sections 301, 304(b), and 306 of the Act. All comments received on or before May 19, 1975, will be considered. Steps previously taken by the Environmental Protection Agency to facilitate public response within this time period are outlined in the advance notice concerning public review procedures published on August 6, 1973 (38 FR 21202). It is hereby proposed that 40 CFR Part 416 be amended as set forth below.

Dated: May 12, 1975.

RUSSELL E. TRAM,  
Administrator.

It is proposed that 40 CFR Part 416 be amended as follows:

1. In § 416.43, the COD effluent limitations, "Maximum for any 5 day"—English units and Metric units shall be revised to read "2.4" and the "Average of daily values for 30 consecutive days shall not exceed"—English units and Metric units shall be revised to read "1.6."

2. In § 416.45, the COD effluent limitations, "Maximum for any 1 day"—English units and Metric units shall be revised to read "2.2" and the "Average of daily values for 30 consecutive days shall not exceed"—English units and Metric units shall be revised to read "1.1."

[FR Doc. 75-12957 Filed 5-16-75; 8:45 am]

## PROPOSED RULES

## FEDERAL COMMUNICATIONS COMMISSION

## [ 47 CFR Part 73 ]

[Docket No. 20478; RM-2440]

## FM BROADCAST STATIONS

## Table of Assignments; Penn. and W. Va.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Waynesburg, Pennsylvania, and Fairmont, West Virginia).

1. Petitioner, proposal and comments. (a) Petition for rule making filed August 30, 1974, by Kenneth R. Strawberry proposing assignment of Channel 276A to Waynesburg, Pennsylvania, as its first FM assignment.

(b) This proposal requires the deletion of unoccupied and unapplied for Channel 276A at Fairmont, West Virginia. No other changes in the existing Table of Assignments are required.

(c) The transmitter for a station operating on Channel 276A at Waynesburg must be located 2 miles southeast of the community in order that minimum mileage separation requirements be met.

2. Demographic Data. (a) Location: Waynesburg, the seat of Greene County is located approximately 43 miles south of Pittsburgh, Pennsylvania, and 30 miles southeast of Wheeling, West Virginia. Fairmont, the seat of Marion County, is approximately 25 miles south of Waynesburg.

(b) Population—1970 U.S. Census: Waynesburg—5,152; Greene County—36,090; Fairmont—26,093; Marion County—61,356.

(c) Present local broadcast service: Waynesburg receives local service from daytime-only station WABN(AM). Fairmont is provided unlimited-time AM service from Stations WMMN and WTCS. That community is now assigned unoccupied and unapplied for Channel 276A and Channel 250 for which a construction permit has been granted (BPH-8882).

(d) Economic considerations: Petitioner has adduced sufficient economic evidence to indicate a need for a first FM assignment in the community.

3. Preclusions. As this proposal requests a first FM assignment to a community not near a major population center, no preclusion study is required.

4. Additional considerations. Because this proposal requires the deletion of a second FM assignment from a community of significant size, we request that petitioner submit, in his comments, a Roanoke Rapids-Goldsboro, N.C., 9 F.C.C. 672 (1967) showing, as modified by Anamosa-Iowa City, Ia., 40 F.C.C. 2d 250 (1974), to determine the availability of aural service at Waynesburg and the loss of service at Fairmont.

5. In light of the above, the Commission proposes to amend the FM Table of Assignments, Section 73.202(b) as follows:

## § 73.202 Table of assignments.

City	Channel No.	
	Present	Proposed
Waynesburg, Pa.		276A
Fairmont, W. Va.	250, 276A	250

6. The Commission's authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix and are incorporated herein.

7. Interested parties may file comments on or before July 7, 1975, and reply comments on or before July 28, 1975.

Adopted: May 9, 1975.

Released: May 14, 1975.

## FEDERAL COMMUNICATIONS COMMISSION.

[SEAL] WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.

## APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 807(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this Appendix is attached.

2. Showings required. Comments are invited on the proposal(s) discussed in the notice of proposed rule making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only re-submits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. Cut-off procedures. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. Comments and reply comments; service. Pursuant to applicable procedures set out in §§ 1.418 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before



## PROPOSED RULES

the dates set forth in the notice of proposed rulemaking to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of copies.* In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and fourteen copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 75-13082 Filed 5-16-75; 8:45 am]

## [47 CFR Part 73]

[Docket No. 20474; RM-2442]

## FM BROADCAST STATIONS

## Table of Assignments; Cal.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Paso Robles, California.)

1. *Petitioner, proposal and comments.* (a) Petition for rule making filed September 3, 1974, by F. Ray Bryant and Nancy L. Bryant, licensees of Paso Robles Stations KPRL(AM) and KPRA (Channel 232A), proposing to substitute Channel 223 for that community's only FM assignment, Channel 232A, and requesting that their KPRA license be modified accordingly.

(b) No other changes in the existing Table of Assignments are required.

(c) Petitioners allege that the substitution must be made in order to "meet the pertinent coverage conditions, enable a Paso Robles station to survive competitively, and assure appropriate service to the public." The second reason is not material to the rule making process.

2. *Demographic Data.* (a) *Location.* Paso Robles, in San Luis Obispo County, is located midway between San Francisco and Los Angeles, California: 175 miles from each.

(b) *Population—1970 Census:* Paso Robles—7,168; San Luis Obispo County—105,690.

(c) *Present Local Broadcast Service:* Local service is provided by petitioners' two stations: unlimited time Class IV AM Station KPRL and KPRA (Channel 232A).

(d) Petitioners allege sufficient data to show that the community and surrounding areas are growing ones, to which a Class B channel can be assigned.

3. *Preclusions:* Preclusion will occur on five channels. The preclusion on Channels 220, 221A, and 222 is *de minimus*, affecting either very small land areas that contain no communities with

populations in excess of 1,000 persons or communities which already have either an FM assignment or receive FM service from a nearby community. Petitioners' preclusion study shows that Coalinga, California (pop. 6,161), in Fresno County (pop. 413,053), and Avenal, California (pop. 3,035), in Kings County (pop. 64,610), would be precluded from future assignment of Channel 223, and that Coalinga would also be precluded from future assignment of Channel 224A. The study, confirmed by Commission staff engineers, demonstrates that if petitioners' request were to be adopted, Channel 232A may be used at either of these communities and within most of the preclusion area on Channel 224A. The Bryants' engineering study also presents a list of three Class B channels, viz., 258, 275, and 295, that would be available for assignment at or near Paso Robles, should future broadcast service demand require a second Class B channel assignment.

4. *Additional Considerations:* (a) A *Roanoke Rapids-Goldsboro, N.C.* study, 9 F.C.C. 2d 672 (1967), was submitted which shows the proposed station's 1 mV/m contour extending 33 miles and providing first FM service to 471 persons in a 230 square-mile area and second FM service to 2,076 persons in a 1,030 square-mile area.

(b) As it is the petitioners' own station's license which would have to be modified, should their proposal be adopted, an *Order to Show Cause* is not required.

5. In light of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) as follows:

## § 73.202 Table of assignments.

City	Channel No.	
	Present	Proposed
Paso Robles, Calif. ....	232A	223

6. The Commission's authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix and are incorporated herein.

7. Interested parties may file comments on or before July 7, 1975, and reply comments on or before July 28, 1975.

Adopted: May 6, 1975.

Released: May 12, 1975.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.

## APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b) (6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the

Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rule making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only re-submits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments:* service. Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission's rules.)

5. *Number of copies.* In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and fourteen copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 75-13083 Filed 5-16-75; 8:45 am]

## [47 CFR Part 73]

[Docket No. 20473; RM-2436; RM-2438]

## FM BROADCAST STATIONS

## Table of Assignments, Fla.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (High Springs and Macclesney, Florida.)

1. *Petitioner, proposal and comments.* (a) Joint consideration of two mutually exclusive petitions for rule making. The requested assignments may be made without affecting existing assignments.

(1) Ray W. Forrester requests assignment of Channel 221A to High Springs, Florida, as its first FM assignment (RM-2436, filed August 14, 1974).

(2) Woodrow W. Rhoden requests that Channel 221A be assigned to Macclesney, Florida, as that community's first FM assignment (RM-2438, filed August 21, 1974).

(b) Rhoden filed comments on October 16, 1974, which indicated that Channel 285A could be assigned to High Springs. If such an assignment were made, each community could be assigned a first FM channel. The Commission's engineering analysis indicates that a Channel 285A at High Springs assignment would conform to the Commission's minimum mileage separation requirements. A preclusion study, however, should be submitted by Rhoden, the proponent of the assignment, because of High Springs' proximity to Jacksonville, Florida. Forrester has indicated that he would apply for a construction permit should Channel 285A be assigned to High Springs.

2. *Demographic Data.* (a) *Location:* (1) High Springs, in Alachua County, is located approximately 20 miles northwest of Gainesville, Florida. The community is within the Gainesville Standard Metropolitan Statistical Area but not the Gainesville Urbanized Area.

(2) Macclesney, the seat of Baker County, is located approximately 25 miles from downtown Jacksonville. It is within neither the Jacksonville Standard Metropolitan Statistical Area nor the Jacksonville Urbanized Area.

(b) *Population—1970 U.S. Census:* High Springs—2,787; Alachua County—104,764; Macclesney—2,733; Baker County—9,242.

(c) *Present Local Broadcast Service:* (1) High Springs is presently without local aural service. (2) Neither Macclesney nor Baker County receives any local service.

(d) *Economic considerations:* Each petitioner has alleged data which indicate sufficient economic activity in the communities to justify assignment of a first FM channel.

3. *Preclusion considerations.* Assignment of Channel 221A to Macclesney would cause preclusion on noncommercial educational Channels 219 and 220 (assuming Class C operation on each) and on commercial Channels 221A and 222.

(a) The preclusion occurring on Channel 219 affects an area east and south-east of Wacacross, Georgia. This affected area is not near the Grade B contour of a television station operating on Channel 6, however, so that other educational channels could be assigned to this area, should future need arise.

## PROPOSED RULES

## APPENDIX

(1) Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b) (6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rule making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rule making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only re-submits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments:* service. Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.419 of the Commission's rules and regulations, an original and fourteen copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 75-13084 Filed 5-16-75; 8:45 am]

Adopted: May 6, 1975.

Released: May 12, 1975.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.



## notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

### DEPARTMENT OF STATE

Agency for International Development

[Number 99.1.71]

GLENWOOD P. ROANE

Redelegation of Authority Regarding the Contracting Function

Pursuant to the authority delegated to me by Redelegation of Authority No. 99.1 dated May 1, 1973 (38 FR 12836) from the Assistant Administrator for Program and Management Services, I hereby redelegate to Mr. Glenwood P. Roane authority to sign or approve:

(1) U.S. Government contracts financed in whole or in part by AID;  
(2) Country contracts for technical assistance activities financed in whole or in part by an AID grant;

(3) Grants (other than grants to foreign government or agencies of foreign governments) for technical assistance activities;

(4) Project implementation orders/technical services (PIO/T) for activities for which the Assistant Administrator for Program and Management Services has program responsibility;

(5) With respect to those contracts and grants referred to above, to make findings and determinations with respect to advance payments, including those financed by Federal Reserve letters of credit and to approve the contract provisions relating to such advance payments. This authority is limited to advance payments on nonprofit contracts with nonprofit educational or research institutions, including international organizations.

The authority herein redelegated to the officer named above may not be further redelegated by such officer, but may be exercised by a duly authorized person who is performing the function of such officer in an "Acting" capacity.

The authorities redelegated herein are to be exercised in accordance with regulations, procedures, and policies now or hereafter established or modified and promulgated within the Agency for International Development.

Actions within the scope of this redelegation heretofore taken by the official designated herein are hereby ratified and confirmed.

This redelegation of authority shall be effective immediately.

Dated: May 8, 1975.

HUGH L. DWELLEY,  
Acting Director,  
Office of Contract Management.

[FR Doc. 75-13020 Filed 5-16-75; 8:45 am]

### DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1974 Rev., Supp. No. 13]

MERCANTILE AND GENERAL REINSURANCE COMPANY OF AMERICA

Surety Companies Acceptable on Federal Bonds; Change of Name

The Prudential Insurance Company of Great Britain Located in New York, a New York corporation, has formally changed its name to The Mercantile and General Reinsurance Company of America, effective March 31, 1975. Documents evidencing the change of name are on file in the Treasury.

A new Certificate of Authority as an acceptable surety on Federal bonds, dated March 31, 1975, has been issued by the Secretary of the Treasury to The Mercantile and General Reinsurance Company of America, New York, under sections 6 to 13 of Title 6 of the United States Code, to replace the certificate issued July 1, 1974 (39 FR 26368, July 18, 1974) to the company under its former name. The Prudential Insurance Company of Great Britain Located in New York. The underwriting limitation of \$974,000 previously established for the company remains unchanged.

The change in name of The Prudential Insurance Company of Great Britain Located in New York does not affect its status or liability with respect to any obligation in favor of the United States or in which the United States has an interest, which it may have undertaken pursuant to the Certificate of Authority issued by the Secretary of the Treasury.

Certificates of Authority expire on June 30 each year, unless sooner revoked and new certificates are issued on July 1, so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1, in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the Circular, when issued, may be obtained from Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: May 12, 1975.

JOHN K. CARLOCK,  
Fiscal Assistant Secretary.

[FR Doc. 75-13041 Filed 5-16-75; 8:45 am]

[Dept. Circ. 570, 1974 Rev., Supp. No. 12]

RURAL MUTUAL INSURANCE CO.

Surety Companies Acceptable on Federal Bonds; Termination of Authority

Notice is hereby given that the Certificate of Authority issued by the Treasury to the Rural Mutual Insurance Company, Madison, Wisconsin, under sections 6 to 13 of Title 6 of the United States Code, to qualify as an acceptable surety on Federal bonds is hereby terminated, effective May 15, 1975.

The company was last listed as an acceptable surety on Federal bonds at 39 FR 26368, July 18, 1974.

Bond-approving officers of the Government should, in instances where such action is necessary, secure new bonds in lieu of bonds executed by Rural Mutual Insurance Company.

Dated: May 12, 1975.

JOHN K. CARLOCK,  
Fiscal Assistant Secretary.

[FR Doc. 75-13040 Filed 5-16-75; 8:45 am]

### DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

May 8, 1975.

The USAF Scientific Advisory Board ad hoc Committee on the Location, Identification and Destruction of Surface Targets by Tactical Air Forces under All-Weather Conditions will hold a meeting on June 2 and 3, 1975, from 9 a.m. to 5 p.m. each day at the Pentagon, Room 5C1042.

The meeting will be closed to the public in accordance with Title 5, U.S.C. 552 (b) (1), (4) and (5). The ad hoc Committee will meet to hear classified briefings from the Army on enemy and U.S. Army doctrine/concepts of operation in a projected European armored thrust scenario.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-8845.

JACK R. BENSON,  
Colonel, USAF,  
Director of Administration.

[FR Doc. 75-13010 Filed 5-16-75; 8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

May 8, 1975.

The USAF Scientific Advisory Board Strategic Panel will hold a meeting on

June 9, 1975, from 9 a.m. to 5 p.m. at Headquarters, Strategic Air Command (SAC), Offutt Air Force Base, Nebraska and on June 10, 1975, from 9 a.m. to 5 p.m. at Air Force Systems Command Aeronautical Systems Division, Wright-Patterson Air Force Base, Ohio.

The meeting will be closed to the public in accordance with Title 5, U.S.C. 552(b) (1), (4) and (5). The Study Group will hear classified briefings, review proprietary information, and conduct internal planning for further activity of the Group.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-4648.

JACK R. BENSON,  
Colonel, USAF.

Director of Administration.

[FR Doc. 75-13011 Filed 5-16-75; 8:45 am]

### DEPARTMENT OF THE INTERIOR

Bureau of Land Management

OUTER CONTINENTAL SHELF OFF LOUISIANA AND TEXAS

Oil and Gas Lease Sale #38 and #38A; Amendments and Corrections

The following amendments and corrections are hereby made to the FEDERAL REGISTER notice which appeared on Friday, April 25, 1975, beginning on page 18192 of Vol. 40, No. 81.

1. In paragraph 13, page 18195, strike the acreage figure for Tract 38-93, appearing as "5757" and substitute for it the figure "5760".

2. In paragraph 13, page 18197, Tract 38-529, has been withdrawn from Sale #38. This tract will be offered in Sale #38A to be held July 29, 1975. This tract will be subject to all prior applicable stipulations plus Stipulation No. 4. Stipulation No. 4 is as follows:

All reservoirs underlying this lease which extend into a royalty bid lease, as indicated by drilling and other information, shall be operated and produced only under a unit agreement covering this royalty bid lease and approved by the Supervisor. Such a unit agreement shall provide for a fair and equitable allocation of production costs. The Supervisor shall prescribe the method of allocating production and costs in the event operators are unable to agree on such a method.

CURT BERKLUND,  
Director,

Bureau of Land Management.

Approved May 15, 1975.

JACK O. HORTON,  
Assistant Secretary  
of the Interior.

[FR Doc. 75-13136 Filed 5-16-75; 8:45 am]

### DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[FmHA Instruction 449.2]

BUSINESS AND INDUSTRIAL LOANS

Insured Loan Interest Rates

Notice is hereby given by the Farmers Home Administration that the current

rate of interest for insured business and industrial loans, established pursuant to 7 CFR § 1842.23(d) is as follows:

a. Insured loans to private entrepreneurs will be at the rate of ten and three-quarters percent (10¾%). This rate will remain in effect until a change is published in the FEDERAL REGISTER.

b. The rate for guaranteed loans is as agreed upon between the borrower and lender.

Effective date. This notice shall be effective Monday, May 19, 1975.

F. W. NAYLOR, Jr.,  
Acting Administrator,  
Farmers Home Administration.

MAY 14, 1975.

[FR Doc. 75-13127 Filed 5-16-75; 8:45 am]

### Forest Service

SISKIYOU, SIUSLAW AND UMPQUA NATIONAL FORESTS, OREG.

Availability of Final Addendum

In the matter of vegetation management using selective herbicides on the Siskiyou, Siuslaw and Umpqua National Forests, Oregon, for the period July 1, 1975 through June 30, 1976.

Pursuant to section 102(2) (C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final addendum to the final environmental statement for vegetation management using selective herbicides on the Siskiyou, Siuslaw, and Umpqua National Forests, Oregon, for the period July 1, 1975 through June 30, 1976.

USDA-FS-R6-DES (Adm) 75-07.

The final addendum concerns a proposed use of herbicides 2,4-D, 2,4,5-T, 2,4,5-TP, Amitrole-T, atrazine, picloram and dicamba to reduce the competition from native vegetation where it hampers forest management activities in Oregon. The proposed uses of the herbicides are for reforestation site preparation, release of conifers, right-of-way maintenance, maintenance of physical facilities, range improvement work, and thinning and weeding of conifer plantations.

Committee name Date, time, place Type of meeting and contact person

L Panel on Review of Skin June 9 and 7, 9 a.m., Room 121, Open June 6, 9 to 10 a.m., closed June 6 after 10 a.m., closed June 7, Clay St., (HFB-5), 8800 Rockville Pike, Bethesda, MD. 20014, 301-496-4546.

Purpose. Reviews and evaluates all available data concerning the safety, effectiveness, and adequacy of labeling of currently marketed biological products that are used in diagnostic substances for dermal tests.

Agenda. Open session: Presentation of previous minutes, communications received, and comments and presentations by interested persons. Closed session: Continuing review of skin test antigens under investigation.

Committee name Date, time, place Type of meeting and contact person

2 Surgical Drugs, Advisory June 9, 9 a.m., Conference Room Open 9 to 10 a.m., closed after 10 a.m., Gerald Rachanow, (HFD-100), 5600 Fishers Lane, Rockville, MD. 20852, 301-443-8500.

This final addendum was transmitted to CEQ on May 8, 1975. Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service  
South Agriculture Bldg., Room 3231  
12th & Independence Ave., S.W.  
Washington, D.C. 20250

USDA, Forest Service  
Pacific Northwest Region  
319 S.W. Pine Street  
Portland, Oregon 97204

Siskiyou National Forest  
Federal Building  
P.O. Box 440  
Grants Pass, Oregon 97526

Siuslaw National Forest  
Federal Building  
P.O. Box 1148  
Corvallis, Oregon 97330

Umpqua National Forest  
Federal Building  
P.O. Box 1008  
Roseburg, Oregon 97470

A limited number of single copies are available upon request to Regional Forester T. A. Schlaffer, Pacific Northwest Region, P.O. Box 3623, Portland, Oregon 97208.

Copies of the final addendum have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

CURTIS L. SWANSON,  
Regional Environmental Coordinator,  
Planning, Program-  
ming and Budgeting.

MAY 8, 1975.

[FR Doc. 75-13071 Filed 5-16-75; 8:45 am]

### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ADVISORY COMMITTEES

Notice of Meetings

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92-463, 86 Stat. 770-776; 5 U.S.C. App. I), the Food and Drug Administration announces the following public advisory committee meetings and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act:



## NOTICES

**Purpose.** Reviews and evaluates available data concerning the safety and effectiveness of presently marketed and new prescription drug products proposed for marketing for use in the practice of surgery.

**Agenda.** Agenda items to be announced.

Committee name	Date, time, place	Type of meeting and contact person
3. Panel on Review of Allergic Extracts.	June 13 and 14, 9 a.m., Room 121, Building 29, National Institutes of Health, 8500 Rockville Pike, Bethesda, MD.	Open June 13, 9 to 10 a.m., closed June 13 after 10 a.m., closed June 14, Clay Blak, (HFD-6), 8500 Rockville Pike, Bethesda, MD. 20014, 301-495-4545.

**Purpose.** Reviews and evaluates available data concerning the safety effectiveness, and adequacy of labeling of currently marketed biological products or materials, either singly or in combination, that are administered to man for the diagnosis, prevention, or treatment of allergies and allergic diseases.

**Agenda.** Open session: Presentation of previous minutes, communications received, and comments and presentations by interested persons. Closed session: Continuing review of allergenic extracts under investigation.

Committee name	Date, time, place	Type of meeting and contact person
4. Panel on Review of Bacterial Vaccines and Toxoids.	June 19 and 20, 9 a.m., Room 121, Building 29, National Institutes of Health, 8500 Rockville Pike, Bethesda, MD.	Open June 19, 9 to 10 a.m., closed June 19 after 10 a.m., closed June 20, Jack Gertzel, (HFD-5), 8500 Rockville Pike, Bethesda, MD. 20014, 301-495-4545.

**Purpose.** Advises the Commissioner of Food and Drugs on the safety and effectiveness of bacterial vaccines and toxoids with standards of potency.

**Agenda.** Open session: Presentation of previous minutes, communications received, and comments and presentations by interested persons. Closed session: Continuing review of bacterial vaccines and toxoids under investigation.

Committee name	Date, time, place	Type of meeting and contact person
5. Panel on Review of Miscellaneous Internal Drug Products.	June 22 and 23, 9 a.m., Conference Room B, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Closed June 22, open June 23, 9 to 10 a.m., closed June 23 after 10 a.m., Armond M. Welch, (HFD-510), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4960.

**Purpose.** Reviews and evaluates available data concerning the safety and effectiveness of active ingredients, and combinations thereof, of currently marketed nonprescription drug products containing miscellaneous internal drug products.

**Agenda.** Open session: Comments and presentations by interested persons. Closed session: Continuing review of over-the-counter miscellaneous internal drug products under investigation.

Committee name	Date, time, place	Type of meeting and contact person
6. FDA/NIDA Drug Abuse Research Advisory Committee.	June 23, 8:30 a.m., Conference Room 372, Rockwall Bldg. 11, 400 Rockville Pike, Rockville, MD.	Closed 8:30 a.m. to 12:30 p.m., open after 12:30 p.m., John A. Reighano, Ph.D., (HFD-130), 5600 Fishers Lane, Rockville, MD. 20852, 301-443-4960.

**Purpose.** Advises FDA on action to be taken on Notices of Claimed Investigational New Drugs for substances with abuse potential; advises NIDA on supplies of substances for clinical studies and quantities of substances for animal and in vitro studies.

**Agenda.** Open session: Discussion of the Freedom of Information Act—E. C. Tocus, Ph.D.; patients consent for outside confirmation of suitability as research subject; and methodology for quantitating degree of physical dependence to opiates. Closed session: Presentation of previous minutes, review of IND applications, and review of progress reports.

Committee name	Date, time, place	Type of meeting and contact person
7. Gastrointestinal Drugs Advisory Committee.	June 23 and 24, 9:30 a.m., Conference Room F, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open June 23, 9:30 to 10:30 a.m., closed June 23 after 10:30 a.m., open June 24, 10 a.m., Joan C. Standart, (HFD-140), 5600 Fishers Lane, Rockville, MD. 20852, 301-443-4730.

**Purpose.** Reviews and evaluates all available data concerning the safety and effectiveness of presently marketed and new prescription drug products proposed for marketing for the treatment of gastrointestinal diseases.

**Agenda.** Open session: Discussion of NDA 11-640 (Modumate, Abbott), and comments and presentations by interested persons. Closed session: Discussion of NDA 17-690 and NDA 17-694.

## NOTICES

Committee name	Date, time, place	Type of meeting and contact person
8. Anti-Infective Agents Advisory Committee.	June 23 and 24, 9 a.m., Conference Room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open—Mary K. Bruch, (HFD-140), 5600 Fishers Lane, Rockville, MD. 20852, 301-443-4960.

**Purpose.** Reviews and evaluates all available data concerning the safety and effectiveness of presently marketed and new prescription drug products proposed for marketing for use in the treatment of infectious diseases.

**Agenda.** (1) The renal toxicity of cephaloridine—introduction by FDA personnel and presentation by Eli Lilly; (2) use of a group treated with trimethaprim alone in a clinical study of the effectiveness of trimethaprim-sulfa

combination in the treatment of chronic bacterial prostatitis—introduction by FDA personnel and presentation by Burroughs-Wellcome; and (3) (a) request for a change in the labeling of minocycline as to indication and statements concerning the treatment of staphylococcal infections and (b) reports of toxicity (vestibular disturbance) of minocycline in the treatment of meningococcal carriers—presentation by FDA personnel.

Committee name	Date, time, place	Type of meeting and contact person
9. Clinical Chemistry and Statistics Subcommittees of the Diagnostic Products Advisory Committee.	June 23 and 24, 9 a.m., Room 1409, FB-8, 200 C St. SW., Washington, DC.	Closed June 23, 9 a.m. to 5 p.m., open June 24, 9 to 10 a.m., closed June 24 after 10 a.m., Eloise Eavenson, Ph.D., (HFD-200), 5600 Fishers Lane, Rockville, MD. 20852, 301-443-4550.

**Purpose.** Reviews and evaluates available data pertaining to performance standards for selected diagnostic products, evaluates and recommends appropriate reference methodologies and standards of precision and accuracy for measuring such products, and recommends priorities on presently marketed products for standard setting by the Food and Drug Administration.

**Agenda.** Open session: Interested parties are encouraged to present data pertinent to the development of product class standards and classification of clinical chemistry products. Those desiring to make formal presentations should notify Dr. Eloise Eavenson (address noted above) in writing by June 1, 1975.

They should submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also indicate the approximate time required to make their comments. A report on the status of the proposed glucose product class standard and the proposal for a draft of a calibrator product class standard will be presented. Closed session: Review revisions for the proposed glucose product class standard and associated statistical matters. Review revised proposal for a draft of the calibrator product class standard.

Committee name	Date, time, place	Type of meeting and contact person
10. Panel on Review of Contraceptives and Other Vaginal Drug Products.	June 23 and 24, 9 a.m., Conference Room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open June 23, 9 to 10 a.m., closed June 23 after 10 a.m., closed June 24, Armond M. Welch, (HFD-510), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4960.

**Purpose.** Reviews and evaluates available data concerning the safety and effectiveness of active ingredients, and combinations thereof, of currently marketed nonprescription drug products containing contraceptives and other vaginal drug products.

**Agenda.** Open session: Comments and presentations by interested persons. Closed session: Continuing review of over-the-counter contraceptives and other vaginal drug products.

Committee name	Date, time, place	Type of meeting and contact person
11. Neurologic Drugs Advisory Committee.	June 23 and 24, 9:30 a.m., Conference Room M, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open June 23, 9:30 to 10:30 a.m., closed June 23 after 10:30 a.m., closed June 24, Stephen Graft, (HFD-120), 5600 Fishers Lane, Rockville, MD. 20852, 301-443-3800.

**Purpose.** Reviews and evaluates available data concerning the safety and effectiveness of presently marketed and new prescription drug products proposed for marketing for the treatment of neurologic diseases.

**Agenda.** Open session: Discussion of clinical guidelines for anti-convulsant drugs; revised labeling of Levodopa; NDA 16-087 (Hoffman-LaRoche); and adequate and well-controlled studies. Closed session: Review of protocols for IND's in neurology unit and formulation of recommendations.

Committee name	Date, time, place	Type of meeting and contact person
12. Panel on Review of Obstetrical and Gynecology Devices.	June 23 and 24, 9 a.m., Room 6821, FB-8, 200 C St. SW., Washington, DC.	Open June 23, 9 a.m. to 3 p.m., closed June 23 after 3 p.m., open June 24, 9 a.m. to 2 p.m., closed June 24 after 2 p.m., Lillian Yin, Ph.D., (HFD-400), 5600 Fishers Lane, Rockville, MD. 20852, 301-443-3550.

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## NOTICES

**Purpose.** Reviews and evaluates available data concerning safety, effectiveness, and reliability of obstetrical and gynecological devices currently in use.

**Agenda.** Open session: Interested parties are encouraged to present information pertinent to developing scientific review procedure guidelines for hysteroscopes as a system and for vibratory dilators. Those desiring to make formal presentations should notify Dr. Lillian Yin, Executive Secretary (address noted above), in writing by June 16, 1975. They should submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants,

references to any data to be relied on, and also indicate the approximate time required to make their comments. The panel will review the tentative classification results of the obstetrical and gynecological device list by checking the answers to the 18 questions of the logic scheme. The panel will set standard priorities for all obstetrical and gynecological devices tentatively classified in the standards category. Closed session: The panel will continue to designate those characteristics of obstetrical and gynecological devices placed in the premarket approval category that cannot be adequately controlled by standards.

Committee name	Date, time, place	Type of meeting and contact person
13. Panel on Review of Dentifrices and Dental Care Agents.	June 24, 25, and 26, 9 a.m., Conference Room K, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open June 24, 9 to 10 a.m., closed June 24 after 10 a.m., closed June 25 and 26, Michael D. Kennedy, (HFD-510), 5600 Fishers Lane, Rockville, MD. 20852, 301-443-4960.

**Purpose.** Reviews and evaluates available data concerning the safety and effectiveness of active ingredients, and combinations thereof, of currently marketed nonprescription drug products containing dentifrices and dental care

agents under investigation.  
**Agenda.** Open session: Comments and presentations by interested persons. Closed session: Continuing review of over-the-counter dentifrices and dental care agents under investigation.

Committee name	Date, time, place	Type of meeting and contact person
14. National Advisory Food and Drug Committee.	June 24 and 25, 9 a.m., Conference Room H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open—William V. Whitehorn, M.D., (HFG-1), 5600 Fishers Lane, Rockville, MD. 20852, 301-443-1647.

**Purpose.** Reviews and evaluates agency programs and provides advice and guidance to the Secretary, Assistant Secretary for Health, and the Commissioner of Food and Drugs on policy matters of national significance as they relate to FDA's statutory mission in the areas of foods, drugs, cosmetics, medical devices,

biological products, and electronic products. Reviews and makes recommendations on applications for grants-in-aid for research projects relevant to the mission of FDA as required by law.  
**Agenda.** Agenda items to be announced.

Committee name	Date, time, place	Type of meeting and contact person
15. Panel on Review of Internal Analgesics.	June 25, 26, and 27, 9 a.m., Conference Room B, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open June 25, 9 to 10 a.m., closed June 25 after 10 a.m., closed June 26 and 27, Lee Gelsmar, (HFD-510), 5600 Fishers Lane, Rockville, MD. 20852, 301-443-4960.

**Purpose.** Reviews and evaluates available data concerning the safety and effectiveness of active ingredients, and combinations thereof, of currently marketed nonprescription drug products for human use containing internal analgesic agents.

**Agenda.** Open session: Comments and presentations by interested persons. Closed session: Continuing review of nonprescription internal analgesic drug products under investigation.

Committee name	Date, time, place	Type of meeting and contact person
16. Dental Drug Products Advisory Committee.	June 26, 9 a.m., Conference Room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open—Clarence C. Gilkes, D.D.S., (HFD-160), 5600 Fishers Lane, Rockville, MD. 20852, 301-443-3550.

**Purpose.** Reviews and evaluates all available data concerning the safety and effectiveness of presently marketed and new prescription drug products proposed for marketing for use in the practice of dentistry.

**Agenda.** Development of guidelines for clinical studies of dental drug products.

Committee name	Date, time, place	Type of meeting and contact person
17. Panel on Review of Blood and Blood Derivatives.	June 26, 9 a.m., Room 121, Building 29, National Institutes of Health, 8800 Rockville Pike, Bethesda, MD.	Open 9 to 11:30 a.m., closed after 11:30 a.m., Clay Sisk, (HFB-6), 8800 Rockville Pike, Bethesda, MD. 20014, 301-496-4545.

## NOTICES

**Purpose.** Reviews and evaluates available data concerning the safety, effectiveness, and adequacy of labeling of currently marketed biological products consisting of whole human blood and fractions thereof, such as human red blood cells, cryoprecipitated antihemophilic factor and other diseases.

**Agenda.** Open session: Orientation of panel members; introductions; and questions and comments from interested persons. Closed session: Presentation of manufacturer's data submissions and planning of the review.

Committee name	Date, time, place	Type of meeting and contact person
18. Psychopharmacological Agents Advisory Committee.	June 26 and 27, 9:30 a.m., Conference Room M, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open June 26, 9:30 to 10:30 a.m., closed June 26 after 10:30 a.m., closed June 27, Stephen C. Grott, (HFD-120), 5600 Fishers Lane, Rockville, MD. 20852, 301-443-3800.

**Purpose.** Reviews and evaluates all available data concerning the safety and effectiveness of presently marketed and new prescription drug products proposed for marketing for use in the practice of psychiatry and related fields.

**Agenda.** Open session: Box warning about long term use of antidepressants and anxiolytics; NDA 17-543 (Ludomil,

CIBA-Geigy)—review of available data relating to the efficacy; guidelines for the clinical evaluation of hypnotic drugs; and the report of the Subcommittee on MAO Inhibitors. Closed session: Discussion of NDA 11-909, NDA 12-342, and NDA 11-961; and foundation of recommendations.

Committee name	Date, time, place	Type of meeting and contact person
19. Panel on Review of Neurology Devices.	June 27 and 28, 9:30 a.m., Room 1409, FB-8, 300 C St. SW., Washington, DC.	Open June 27, 9:30 a.m. to 12 p.m., closed June 27 after 12 p.m., closed June 28, James R. Veale, (HFK-400), 5600 Fishers Lane, Rockville, MD. 20852, 301-443-3550.

**Purpose.** Reviews and evaluates available data concerning safety effectiveness, and reliability of neurological devices currently in use.

**Agenda.** Open session: The status of medical device legislation will be discussed. Presentations will be given by Trent Wells on stereotaxic instruments and Donlin M. Long, M.D. on transcutaneous nerve stimulators. Interested parties are encouraged to present information pertinent to the classification of neurological devices listed in this announcement. Submission of data is also invited on the tentative classification findings which may be obtained from James R. Veale, Executive Secretary (address noted above). Those desiring to make formal presentations should notify Mr. Veale in writing by June 13, 1975. They should submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses proposed participants, references to any data to be relied on, and also indicate the approximate time required to make their comments. The devices to be classified at this meeting are as follows: Electrical stimulators; evoked response; (mechanical stimulators; sonic; aural) stimulators; audiometers; discriminators; dynamometers; encephaloscopes; esthesiometer; foreign body locators (magnetometers); neurodermometers; neurothermogram; ophthalmodynamometers; ophthalmoscopes; percussion hammers; percussors; pinwheels; rheoencephalograms; rigidity analyzers; specula tuning forks; ventric-

uloscopes; ataxiographs; averaging computers; chronaximeters; correlation computers; EEG signal spectrum analyzers; EEG test signal injectors; electroencephalograph units; electromyograph units, with stimulator; electromyograph units, without stimulator; electronystagmograph units; tape recorders, magnetic; tape recorders, digital; intracranial pressure transducers; physiological signal amplifiers/preamplifiers; physiological signal conditioners; physiological signal recording couplers; recorder time interval markers; spike enhancers; strip chart recorders, physiological signal; strip chart recording paper; telemetry receivers, physiological signal; telemetry transmitters, physiological signal; tremor transducers; cortical electrodes; depth electrodes; EEG lead sets; electroconductive media; electrode/lead testers; needle recording electrodes; nasopharyngeal electrodes; sphenoidal electrodes; surface recording electrodes; calibration test blocks, ultrasonic; echoencephalograph units; ultrasonic transducers; lesion temperature monitors; temperature monitoring electrodes; tissue impedance monitors; alpha rhythm monitors; brain viability monitors; epileptic seizure monitors; sleep monitors; surgical EEG monitors; transcutaneous nerve stimulators; shunt connectors; shunt reservoirs; shunt surgical instruments; instrumentation for spinal interbody fusion. Closed session: The panel will review and classify the above devices.

Committee name	Date, time, place	Type of meeting and contact person
20. Panel on Review of Bacterial Vaccines and Bacterial Antigens.	June 27 and 28, 9 a.m., Room 219, Building 29, National Institutes of Health, 8800 Rockville Pike, Bethesda, Md.	Open June 27, 9 to 10 a.m., closed June 27 after 10 a.m., closed June 28, Jack Gertzog, (HFB-6), 8800 Rockville Pike, Bethesda, Md. 20014, 301-496-4545.



**Purpose.** Advises the Commissioner of Food and Drugs on the safety and effectiveness of bacterial vaccines and bacterial antigens with no U.S. standards of potency.

**Agenda.** Open session: Previous min-

utes, communications received, and comments and presentations by interested persons. Closed session: Continuing review of bacterial vaccines and bacterial antigens under investigation.

Committee name	Date, time, place	Type of meeting and contact person
21. Panel on Review of Miscellaneous External Drug Products.	June 27 and 28, 9 a.m., Conference Room K, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open June 27, 9 to 10 a.m., closed June 27 after 1 a.m., closed June 28, Thomas D. DeCillis, (HFD-510), 5600 Fishers Lane, Rockville, MD. 20852, 301-443-4090.

**Purpose.** Reviews and evaluates available data concerning the safety and effectiveness of active ingredients, and combinations thereof, of currently marketed nonprescription drug products containing miscellaneous external drug products.

**Agenda.** Open session: Comments and presentations by interested persons. Closed session: Continuing review of over-the-counter miscellaneous external drug products under investigation.

Committee name	Date, time, place	Type of meeting and contact person
22. Panel on Review of Antimicrobial Agents.	June 27, 28, and 29, 9 a.m., Conference Room F, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open June 27, 9 to 10 a.m., closed June 27 after 1 a.m., closed June 28 and 29, Armond M. Welch, (HFD-510), 5600 Fishers Lane, Rockville, MD. 20852, 301-443-4090.

**Purpose.** Reviews and evaluates available data concerning the safety and effectiveness of active ingredients of currently marketed nonprescription drug products containing antimicrobial agents.

**Agenda.** Open session: Comments and presentations by interested persons. Closed session: Continuing review of over-the-counter antimicrobial agents under investigation.

Agenda items are subject to change as priorities dictate.

During the open sessions shown above, interested persons may present relevant information or views orally to any committee for its consideration. Information or views submitted to any committee in writing before or during a meeting shall also be considered by the committee.

A list of committee members and summary minutes of meetings may be obtained from the contact person for the committee both for meetings open to the public and those meetings closed to the public in accordance with section 10(d) of the Federal Advisory Committee Act.

Most Food and Drug Administration advisory committees are created to advise the Commissioner of Food and Drugs on pending regulatory matters. Recommendations made by the committees on these matters are intended to result in action under the Federal Food, Drug, and Cosmetic Act, and these committees thus necessarily participate with the Commissioner in exercising his law enforcement responsibilities.

The Freedom of Information Act recognized that the premature disclosure of regulatory plans, or indeed internal discussions of alternative regulatory approaches to a specific problem, could have adverse effects upon both public and private interests. Congress recognized that such plans, even when finalized, may not be made fully available in advance of the effective date without damage to such interests, and therefore

provided for this type of discussion to remain confidential. Thus, law enforcement activities have long been recognized as a legitimate subject for confidential consideration.

These committees often must consider trade secrets and other confidential information submitted by particular manufacturers which the Food and Drug Administration by law may not disclose, and which Congress has included within the exemptions from the Freedom of Information Act. Such information includes safety and effectiveness information, product formulation, and manufacturing methods and procedures, all of which are of substantial competitive importance.

In addition, to operate most effectively, the evaluation of specific drug or device products requires that members of committees considering such regulatory matters be free to engage in full and frank discussion. Members of committees have frequently agreed to serve and to provide their most candid advice on the understanding that the discussion would be private in nature. Many experts would be unwilling to engage in candid public discussion advocating regulatory action against a specific product. If the committees were not to engage in the deliberative portions of their work on a confidential basis, the consequent loss of frank and full discussion among committee members would severely hamper the value of these committees.

The Food and Drug Administration is relying heavily on the use of outside experts to assist in regulatory decisions. The Agency's regulatory actions uniquely affect the health and safety of every citizen, and it is imperative that the best advice be made available to it on a continuing basis in order that it may most effectively carry out its mission.

A determination to close part of an advisory committee meeting does not mean that the public should not have

ready access to these advisory committees considering regulatory issues. A determination to close the meeting is subject to the following conditions: First, any interested person may submit written data or information to any committee, for its consideration. This information will be accepted and will be considered by the committee. Second, a portion of every committee meeting will be open to the public, so that interested persons may present any relevant information or views orally to the committee. The period for open discussion will be designated in any announcement of a committee meeting. Third, only the deliberative portion of a committee meeting, and the portion dealing with trade secret and confidential information, will be closed to the public. The portion of any meeting during which nonconfidential information is made available to the committee will be open for public participation. Fourth, after the committee makes its recommendations and the Commissioner either accepts or rejects them, the public and the individuals affected by the regulatory decision involved will have an opportunity to express their views on the decision. If the decision results in promulgation of a regulation, for example, the proposed regulation will be published for public comment. Closing a committee meeting for deliberations on regulatory matters will therefore in no way preclude public access to the committee itself or full public comment with respect to the decisions made based upon the committee's recommendation.

The Commissioner has been delegated the authority under section 10(d) of the Federal Advisory Committee Act to issue a determination in writing, containing the reasons therefor, that any advisory committee meeting is concerned with matters listed in 5 U.S.C. 552(b), which contains the exemptions from the public disclosure requirements of the Freedom of Information Act. Pursuant to this authority, the Commissioner hereby determines, for the reasons set out above, that the portions of the advisory committee meetings designated in this notice as closed to the public involve discussion of existing documents falling within one of the exemptions set forth in 5 U.S.C. 552(b), or matters that, if in writing, would fall within 5 U.S.C. 552(b), and that it is essential to close such portions of such meetings to protect the free exchange of internal views and to avoid undue interference with Agency and committee operations. This determination shall apply only to the designated portions of such meetings which relate to trade secrets and confidential information or to committee deliberations.

Dated: May 13, 1975.

SHERWIN GARDNER,  
Acting Commissioner of  
Food and Drugs.

[FR Doc.75-13026 Filed 5-16-75; 8:45 am]

[DESI 11145; Docket No. FDC-D-322; NDA 11-145 etc.]

#### CERTAIN THIAZIDES

#### Drugs for Human Use: Drug Efficacy Study Implementation Follow-up Notice and Notice of Opportunity for Hearing

On July 26, 1972 (37 FR 14896) (DESI 11145) the Food and Drug Administration published its evaluations of the effectiveness of the following single active entity thiazides, drugs which are used to treat high blood pressure and to relieve excessive accumulation of fluids in body tissues. The specific indications "hypertension of pregnancy" and "edema due to pregnancy" were initially rated as effective, but now are regarded as inappropriate terms. There is increasing concern regarding the possibly excessive use of these drugs in pregnancy. Interested persons are now invited to comment by July 18, 1975 on various aspects of the use of thiazides in pregnancy, and these issues will be brought before the Obstetrics and Gynecology Advisory Committee of the Food and Drug Administration. Requests for hearing concerning the claims now regarded as ineffective are due by June 18, 1975.

1. Fovane Tablets, containing benzthiazide; Pfizer Laboratories, Div. of Pfizer, Inc., 235 East 42d Street, New York, NY 10017 (NDA 12-128).

2. Esidrix Tablets, containing hydrochlorothiazide; Ciba Pharmaceutical Co., Div. of Ciba-Geigy Corp., 556 Morris Avenue, Summit, NJ 07901 (NDA 11-793).

3. Exna Tablets, containing benzthiazide; A. H. Robins Co., 1407 Cummings Drive, Richmond, VA 23220 (NDA 12-489).

4. Saluron Tablets, containing hydroflumethiazide; Bristol Laboratories, Division of Bristol-Myers Co., Thompson Road, Post Office Box 657, Syracuse, NY 13201 (NDA 11-949).

5. Renese Tablets, containing polythiazide; Pfizer Laboratories (NDA 12-845).

6. Metahydrin Tablets, containing trichloromethiazide; Lakeside Laboratories, Inc., 1707 East North Avenue, Milwaukee, WI 53201 (NDA 12-594).

7. Diuril Syrup, containing chlorothiazide; Merck Sharp & Dohme, Division of Merck and Company, Inc., West Point, PA 19486 (NDA 11-870).

8. Diuril Lyovac Powder for Injection, containing chlorothiazide as the sodium salt; Merck Sharp & Dohme (NDA 11-145).

9. Diuril Tablets, containing chlorothiazide; Merck Sharp and Dohme (NDA 11-145).

10. Naqua Tablets, containing trichloromethiazide; Schering Corp., 60 Orange Street, Bloomfield, NJ 07003 (NDA 12-265).

11. Hydrodiuril Tablets, containing hydrochlorothiazide; Merck Sharp & Dohme (NDA 11-835).

12. Enduron Tablets, containing methyclothiazide; Abbott Laboratories, 14th Street and Sheridan Road, North Chicago, IL 60064 (NDA 12-524).

13. Oretic Tablets, containing hydrochlorothiazide; Abbott Laboratories (NDA 11-971).

14. Naturetin Tablets, containing bendroflumethiazide; E. R. Squibb and Sons, Inc., Georges Road, New Brunswick, NJ 08903 (NDA 12-164).

15. Saluron Syrup, containing hydroflumethiazide; Bristol Laboratories (NDA 12-058).

With the exception of NDA 12-058 (Saluron Syrup), all of the above new drug applications have been supplemented to remove from labeling the indications concluded to lack substantial evidence of effectiveness which were described in the notice of July 26, 1972. The holder of NDA 12-058 informed the Administration that the product is no longer marketed and requested that approval of the NDA be withdrawn. A notice withdrawing approval of NDA 12-058 appears elsewhere in this issue of the FEDERAL REGISTER.

In addition to the holders of the new drug applications specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, which is CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20852.

The notice of July 26, 1972 listed the indications for which the drugs were regarded as effective, probably effective, possibly effective, and lacking substantial evidence of effectiveness, including various conditions occurring in pregnancy. With respect to the indications for use in pregnancy, the "indications" set forth in the Labeling conditions were as follows:

**Effective indications:**  
"severe edema when due to pregnancy"

"in the management of hypertension either as the sole therapeutic agent or to enhance the effect of other antihypertensive drugs in the more severe forms of hypertension and in the control of hypertension of pregnancy."

**Probably effective indications:**  
"in toxemia of pregnancy (eclampsia)"

The following indication with respect to pregnancy, evaluated as possibly effective, was not included in the "indications" set forth in the Labeling conditions:

"prevention of the development of toxemia during pregnancy"

The following indication with respect to pregnancy was evaluated as lacking substantial evidence of effectiveness:

"prevention of edema of pregnancy"



One of the "Contraindications" included in the Labeling conditions was as follows:

"The routine use of diuretics in an otherwise healthy pregnant woman with or without mild edema is contraindicated and possibly hazardous."

There has been increasing concern expressed in the medical literature (for example, a review of maternal nutrition in *Obstetrics and Gynecology* (40: 773-785, 1972)) and in letters to the Administration, that the thiazide diuretics are being used excessively during pregnancy and that this is potentially hazardous to both mother and fetus. This excessive use is said in these letters and in the medical literature to persist in spite of the contraindication, which presently appears in the labeling for thiazide diuretics, against routine use of diuretics in otherwise healthy pregnant women with or without mild edema. It has in fact been stated that the present labeling encourages overuse of these drugs in pregnancy.

These sources have further commented on specific labeled indications for thiazide use: It has been stated that there is good evidence that thiazides are not effective in the prevention of toxemia. It has been further stated that treatment of edema during pregnancy is usually unnecessary and that there is no distinct pathological entity that can be called severe edema of pregnancy. Moreover, it is argued that, while the use of thiazides in toxemia may reduce the blood pressure and may mobilize edema fluid, this has not been shown to increase survival of mother or child, and there are at least theoretical objections to use of drugs which lower the plasma volume in a disease (toxemia) characterized by decreased plasma volume.

The Director of the Bureau of Drugs is concerned about all ineffective uses of drugs, but particularly ineffective uses during pregnancy. Although the FDA is not aware of evidence demonstrating that the thiazides are hazardous to the human fetus in an unexpected way, they clearly are able to cause, in both mother and fetus, the usual range of adverse reactions, some of them very dangerous (for example, thrombocytopenia), that are known to be associated with other uses of the thiazides. In addition, other diuretics, such as furosemide, are capable of causing damage to the developing fetal urinary tract of some animals when administered during pregnancy.

To assure that labeling clearly defines the safe and effective use of diuretics in patient care, the Director of the Bureau of Drugs has reevaluated the available data and the present labeling for thiazide diuretics and has determined that there are certain changes in the labeling for thiazide diuretics that can and should be made at the present time. In addition several other issues related to the use of thiazide diuretics during pregnancy will be considered in an open meeting of the Obstetrics and Gynecology Committee of the Food and Drug Administration in the

near future. The following indications have been reevaluated.

(1) *Hypertension of pregnancy.* There is no established condition that is properly described as "hypertension of pregnancy". Therefore, no drug can be considered effective for such an indication. Accordingly, the indication "hypertension of pregnancy" is to be eliminated from the labeling for thiazide diuretics. The drugs will remain indicated for hypertension, as stated in the current indications section for thiazide diuretics, without reference to whether or not the patient is pregnant. They will continue to be contraindicated for routine use in pregnancy.

(2) *Edema due to pregnancy.* The edema associated with pregnancy may arise from various physiological or pathological processes. There is therefore no basis for the broad indication "severe edema when due to pregnancy," which does not take into account the cause of the edema. Accordingly, this indication will be removed from the labeling for thiazide diuretics. The drugs will remain indicated for edema, as stated in the current indications section, without reference to whether or not the patient is pregnant. The contraindication for routine use in pregnancy will remain.

Withdrawal of this over-broad indication does not represent a conclusion that there are no safe and effective uses of the drug during pregnancy apart from treatment of edema due to cardiac, renal, or hepatic disease or drug administration. The Agency is prepared to consider narrower and more specific indications related to edema in pregnancy and will consider this question at an open meeting of the Obstetrics and Gynecology Advisory Committee (see below).

(3) *Prevention of the development of toxemia during pregnancy.*

This indication was initially evaluated by the National Academy of Sciences/National Research Council and classified by FDA as possibly effective. The Director has now concluded that thiazides lack substantial evidence of effectiveness for this indication. There have been no studies of which the Food and Drug Administration is aware since the NAS/NRC review to support this indication. Controlled studies, such as those of Kraus, et al. (*J.A.M.A.* 19: 1150-1154, 1966) which were reviewed by the NAS/NRC, suggest that thiazides are not effective prophylaxis for toxemia.

The above changes will leave "toxemia of pregnancy" as the only indication for thiazide diuretics that makes specific reference to pregnancy. This indication is still considered "probably effective". In addition, the use of thiazides to treat edema and hypertension when these conditions are present during pregnancy would be indicated as part of the general indications for these drugs in the light of the contraindications and precautions related to pregnancy. These uses of thiazides in pregnancy appear to be widespread but are also controversial. Letters to officials of the Food and Drug Administration have stated that the use

of thiazides during pregnancy is a major hazard, the cause of many maternal and fetal deaths. At the same time, diuretics are important and effective drugs in the treatment of hypertension (which is not uncommon in women of childbearing age), are effective in many women of childbearing age, are effective in many cases of edema which occur during pregnancy, and are widely used in treating toxemia of pregnancy (and may relieve the edema and elevated blood pressure of toxemia even if their ability to reduce mortality in this condition is not established).

The literature references and communications to the Food and Drug Administration cited in this notice are on display in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852.

In view of the concern expressed by responsible physicians regarding the hazards of thiazide diuretic use during pregnancy and the important uses to which thiazides are put during pregnancy, it is essential that there be a full review and consideration of all available information pertaining to the uses and hazards of thiazide diuretics during pregnancy.

To assure such a full consideration, these issues will be brought before the Obstetrics and Gynecology Advisory Committee of the Food and Drug Administration at an open meeting. The Committee will be asked to consider at least the following questions:

(1) Is there substantial evidence consisting of adequate and well-controlled investigations, including clinical investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, that thiazide diuretics are effective in the treatment of toxemia of pregnancy?

(2) What is the magnitude of the known and potential maternal and/or fetal hazard from the use of thiazide diuretics in pregnancy? Does this hazard depend upon whether the use is long term (e.g., hypertension), or short term (toxemia), or intermittent (edema), or upon the condition being treated? Is there any labeled use of diuretics in non-pregnant women that should be avoided during pregnancy?

(3) Assuming that routine use of diuretics in pregnant women is contraindicated, is it possible to define further and more precisely the situations in which it is reasonable and appropriate to treat edema (e.g., only when the edema is due to certain pathological processes, only after certain other measures have failed, or only if discomfort is "severe", or only if certain associated conditions exist) as well as a regimen that is safe and effective under those circumstances?

(4) Is there evidence that other antihypertensive drugs are safer than thiazide diuretics and should be substituted during pregnancy? Should some degrees of hypertension not be treated during pregnancy?

(5) The present section called Usage in Pregnancy states: "Usage of thiazides in women of childbearing age requires that the potential benefits of the drug be weighed against its possible hazards to the fetus." Is there any reason for the warning to refer to "women of childbearing age" or should it refer specifically to "pregnant women"?

Any individual wishing to provide comment on these or other questions pertaining to the use of thiazide diuretics during pregnancy is invited to do so no later than July 18, 1975. Comments should be in writing, submitted in triplicate, and addressed to the Director, Division of Metabolic and Endocrine Drug Products, Bureau of Drugs (HFD-130), 5600 Fishers Lane, Rockville, MD 20852.

Following receipt of comments, a meeting of the Obstetrics and Gynecology Advisory Committee will be scheduled to consider these and possibly other issues. The date of that meeting will be announced in the *FEDERAL REGISTER*. All persons wishing to address the committee are invited to inform Adolph T. Gregoire, Ph.D., Division of Metabolic and Endocrine Drug Products (HFD-130), at the address given above (Telephone No.: 301-443-3510), of that intention and of the amount of time requested for the presentation. Such requests must be made by July 18, 1975. If the time requested by an individual will not be practicable, in view of the numbers of persons who wish to make a presentation, Dr. Gregoire will contact each such person to inform him of the time to be allocated to his presentation. Individuals and organizations with common interests are urged to consolidate their presentations in view of the limitations of time.

All written data or information submitted in response to this notice for consideration by the Advisory Committee will be made available for public review in the office of the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, MD 20852, during working hours, Monday through Friday.

No data were submitted in support of any of the indications evaluated as possibly effective in the notice July 26, 1972 and those indications have been reclassified as lacking substantial evidence of effectiveness. The following indications previously evaluated as probably effective remain so-classified pending further review: toxemia of pregnancy (discussed above); angina accompanying congestive heart failure and/or hypertension; and "drug induced" edema. No data were submitted in support of the indications previously evaluated as lacking substantial evidence of effectiveness.

Accordingly, the notice of July 26, 1972 is amended to read as set forth below:

Such drugs are regarded as new drugs (21-U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required



from any person marketing such drug without approval.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that:

1. These thiazide drugs in the dosage forms listed above are effective as adjunctive therapy in the treatment of edema due to congestive heart failure, hepatic cirrhosis, and corticosteroid and estrogen administration; edema caused by renal disorders such as nephrotic syndrome, acute glomerulonephritis, and chronic renal failure; and in the management of hypertension when used alone or as adjunctive therapy. The routine use of diuretics in an otherwise healthy pregnant woman is contraindicated and possibly hazardous.

2. These drugs are less than effective (probably effective) for treatment of toxemia of pregnancy; angina accompanying congestive heart failure and/or hypertension; and "drug induced" edema.

3. The drugs lack substantial evidence of effectiveness for all of their other labeled indications.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* Such preparations are in a form suitable for oral administration. Chlorothiazide, as the sodium salt, is a powder suitable for reconstitution and intravenous administration.

2. *Labeling conditions.* a. The labels bear the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are labeled to comply with all requirements of the Act and regulations and their labeling bears adequate information for safe and effective use of the drug. Those parts of the labeling indicated below are substantially as follows:

Except for the following revised sections of the labeling guidelines, all other sections are unchanged from those published in the notice of July 26, 1972.

#### INDICATIONS

----- is indicated as adjunctive (Drug) therapy in edema associated with congestive heart failure, hepatic cirrhosis and corticosteroid and estrogen therapy.

----- has also been found useful (Drug) in edema due to various forms of renal dysfunction as: nephrotic syndrome; acute glomerulonephritis; and chronic renal failure.

Diuretics are indicated in the management of hypertension either as the sole therapeutic agent or to enhance the effect of other antihypertensive drugs in the more severe forms of hypertension.

The drug is also indicated in toxemia of pregnancy (eclampsia); angina due to congestive heart failure and/or hypertension; and "drug induced" edema.

For intravenous chlorothiazide add: Use only when patients are unable to take oral medication.

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study" published in the FEDERAL REGISTER July 14, 1970 (35 FR 11273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling and an abbreviated supplement for updating information as described in paragraphs (a) (1) and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application as described in paragraph (a) (3) (i) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

d. The indications classified as less than effective (probably effective) (included in the "Indications" section above) may continue to be used pending resolution of their status.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111 (a) (5), demonstrating the effectiveness of the drug(s) for hypertension of pregnancy, severe edema when due to pregnancy, prevention of the development of toxemia of pregnancy, edema of localized origin, and premenstrual acne flare.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) (or, if indicated above, those parts of the application(s) providing for the drug product(s) listed above) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to above in this section on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supple-

mented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in § 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR 310.314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before June 18, 1975, a written notice of appearance and request for hearing, and (2) on or before July 18, 1975, the data, information and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 130.14 as published and discussed in detail in the FEDERAL REGISTER of March 13, 1974 (39 FR 9750), recodified as 21 CFR 314.200 on March 29, 1974 (39 FR 11680).

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of

[DESI 11145; Docket No. FDC-D-322; NDA 12-058]

#### HYDROFLUMETHIAZIDE SYRUP Withdrawal of Approval of New Drug Application

A notice (DESI 740) was published in the FEDERAL REGISTER of July 26, 1972 (37 FR 14896) concerning certain thiazide drug products. Thiazides are used in the treatment of high blood pressure and related diseases. The notice stated that those products are effective for some indications, probably or possibly effective for some, and lacking substantial evidence of effectiveness for others. That notice offered an opportunity for a hearing to persons who wished to contest the finding that their drug product lacks substantial evidence of effectiveness for certain of its labeled indications. No person requested a hearing. All holders of the new drug applications involved, except for the one described below, revised their labeling to be in accord with that set forth in the notice.

NDA 12-058; Saluron Syrup containing hydroflumethiazide; Bristol Laboratories, Division of Bristol-Myers Co., Thompson Road, Post Office Box 657, Syracuse, NY 13201.

Subsequent to the notice of July 26, 1972, Bristol Laboratories notified the Food and Drug Administration that Saluron Syrup had not been marketed since 1962 and requested that approval of the new drug application be withdrawn. This notice withdraws approval of the application as requested.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application reviewed and are subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20852.

The Director of the Bureau of Drugs, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1053, as amended; 21 U.S.C. 355), and under authority delegated to him (21 CFR 2.121), finds that on the basis of new information before him with respect to the drug product, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug product will have all of the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of new drug application No. 12-058 and all amendments and supplements applying thereto is withdrawn effective on May 29, 1975.

Shipment in interstate commerce of the above-listed product or of any identical, related, or similar products, not the

effectiveness referred to above in this section may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk (address given below) during regular business hours, Monday through Friday.

Communications forwarded in response to this announcement, other than those concerning the indication to be considered by the Obstetrics and Gynecology Advisory Committee, should be identified with the reference number DESI 11145, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852:

Supplements (Identify with NDA number): Documents and Records Section (HFD-106), Bureau of Drugs.

Original abbreviated new drug applications (Identify as such): Generic Drug Staff (HFD-530), Bureau of Drugs.

Request for Hearing (Identify with Docket Number): Hearing Clerk, Food and Drug Administration, Room 4-65, Parklawn Building.

Requests for the Academy's report: Data Preparation Branch (HFD-614), Division of Drug Information Resources, Bureau of Drugs.

Other communications regarding this announcement: Drug Efficacy Study Implementation Project Manager (HFD-101), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 2.121).

Dated: May 5, 1975.

J. RICHARD CROUT,  
Director, Bureau of Drugs.

[FR Doc. 75-13028 Filed 5-16-75; 8:45 am]



subject of an approved new drug application, will then be unlawful.

Dated: May 5, 1975.

J. RICHARD CROUT,  
Director, Bureau of Drugs.  
[FR Doc. 75-13027 Filed 5-16-75; 8:45 am]

#### Office of Education

#### VETERANS' COST-OF-INSTRUCTION PROGRAM—PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION

##### Notice of Extension of Closing Date for Receipt of Applications

Notice is hereby given that the U.S. Commissioner of Education has extended the May 12, 1975 closing date for receipt of applications for funds under the Veterans' Cost-of-Instruction Program, which was previously published in the FEDERAL REGISTER on April 11, 1975 to May 30, 1975.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: Veterans' Programs Branch, U.S. Office of Education, ROB #3, Room 4616, 400 Maryland Avenue SW., Washington, D.C. 20202, Attention 13.540. An application sent by mail will be considered to be received on time by the Veterans' Programs Branch if:

(1) The application was sent by registered or certified mail not later than the fifth calendar day prior to the closing date (or if such fifth calendar day is a Saturday, Sunday, or Federal holiday, not later than the next following business day), as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education).

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education, Veterans' Programs Branch, Room 4616, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

C. *Program information and forms.* Information and application forms may be obtained from the Veterans' Programs Branch, U.S. Office of Education, Room 4616, ROB #3, 7th and D Streets, SW., Washington, D.C. 20202, or from the various Regional Offices of the Office of Education.

D. *Applicable regulations.* The regulations applicable to this program were

#### NOTICES

published as a notice of proposed rule making in the FEDERAL REGISTER on January 6, 1975, page 1053. Because of the need to receive, process, and approve applications before the end of the fiscal year, applications will be received under the proposed regulations.

(Catalog of Federal Domestic Assistance Program No. 13.540, Higher Education—Cost of Veterans' Instruction (VCIP))

Dated: May 15, 1975.

T. H. BELL,  
U.S. Commissioner of Education.  
[FR Doc. 75-13164 Filed 5-16-75; 8:45 am]

#### SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

#### ALLIED EQUITIES CORP.

##### Suspension of Trading

MAY 8, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Allied Equities Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 11:15 a.m. (e.d.t.) on May 8, 1975 through midnight (e.d.t.) on May 17, 1975.

By the Commission.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 75-13055 Filed 5-16-75; 8:45 am]

[File No. 500-1]

#### AMERICAN AGRONOMICS CORP.

##### Suspension of Trading

MAY 12, 1975.

The common stock of American Agronomics Corp. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of American Agronomics Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the

period from May 13, 1975 through May 22, 1975.

By the Commission.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 75-13056 Filed 5-16-75; 8:45 am]

#### AMERICAN STOCK EXCHANGE, INC.

##### Proposed Amendment to Option Plan

Notice is hereby given that the American Stock Exchange, Inc. (AMEX) has filed an amendment to its Option Plan pursuant to Rule 9b-1 under the Securities Exchange Act of 1934 (17 CFR 240.9b-1). The AMEX proposes to adopt Rule 959 concerning cabinet trading.

AMEX has found that the cabinet trading is desirable to provide orderly and convenient procedures for the liquidation of positions that no longer have substantial value. AMEX has therefore submitted a proposed Rule 959, which is substantially identical to the Chicago Board Options Exchange, Inc., Rule 6.45.

All interested persons are invited to submit their views and comments on the proposed amendment to AMEX's plan either before or after it has become effective. Written statements of views and comments should be addressed to the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to file number 10-26. The proposed amendment is, and all such comments will be, available for public inspection at the Public Reference Room of the Securities and Exchange Commission at 1100 L Street NW., Washington, D.C.

Dated: May 8, 1975.

[SEAL] SHIRLEY E. HOLLIS,  
Assistant Secretary.

[FR Doc. 75-13062 Filed 5-16-75; 8:45 am]

#### AMERICAN STOCK EXCHANGE, INC.

##### Proposed Amendment to Option Plan

Notice is hereby given that the American Stock Exchange, Inc. ("AMEX") has filed an amendment to its Option Plan pursuant to Rule 9b-1 under the Securities Exchange Act of 1934 (17 CFR 240.9b-1). The AMEX proposes to amend its Rule 110 concerning the minimum capital requirements applicable to registered traders who elect to trade in options only.

This proposed amendment would provide for reduced minimum capital requirements for registered traders who elect to confine their floor trading activities to options only. At present, the rule requires each registered trader to

The expression "cabinet trading" refers to exchange trading where there is no assigned specialist or market maker in the security with normal market making obligations. Limit orders are left with a clerk to be matched against incoming limit and market orders.

have available for his floor trading activities initial minimum capital of at least \$75,000, and that he thereafter maintain for such activities minimum capital of at least \$52,000. Under the proposed amendment, a registered trader electing to trade only in options would be required to have initial minimum capital of not less than \$25,000 and to maintain minimum capital for options trading of not less than \$15,000. Registered traders who engage in trading both equity securities and options would continue to be subject to the higher capital requirements.

The proposed amendment is designed to expand the professional market-making capability in the AMEX options market. As part of its options trading plan the AMEX imposed upon registered traders who elect to trade options an obligation to assist in the maintenance of a fair and orderly market. Moreover, registered traders are required to concentrate their trading activities in those classes of options to which they have been assigned. In addition, experience has demonstrated that a considerable amount of options trading by professional market-makers involves spread and arbitrage transactions and because these are basically "hedge" or "limited risk" transactions, the amount of the margin required is substantially less than in the case of most stock trading. As a result, a smaller amount of capital may be effectively employed by a registered trader in a limited number of classes of options to augment the market-making activities of the specialists.

The Exchange has indicated that a registered trader having only a minimum amount of capital would be assigned only a small number of options. As a result his capital would be concentrated so as to permit him to participate in an effective manner when the need arises. If the registered trader commits additional capital, he could be assigned more classes of options, thus providing an incentive to devote more capital to market-making functions. The AMEX anticipates that with this proposed amendment a substantial number of additional AMEX members may be willing to participate and thus provide greater depth and liquidity in its options markets.

The proposed amendment will become effective upon the 30th day after this notice appears in the FEDERAL REGISTER, or upon such earlier date as the Commission may allow unless the Commission shall disapprove the change in whole or in part as being inconsistent with the public interest or the protection of investors.

All interested persons are invited to submit their views and comments on the proposed amendment to AMEX's plan either before or after it has become effective. Written statements of views and comments should be addressed to the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to file number 10-26. The proposed amendment is, and all such comments will be, available for public inspection at the Public Reference Room of the Securities and Exchange Commission at 1100 L Street NW., Washington, D.C.

and Exchange Commission at 1100 L Street NW., Washington, D.C.

Dated: May 13, 1975.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 75-13110 Filed 5-16-75; 8:45 am]

[File No. 500-1]

#### BBI, INC.

##### Suspension of Trading

MAY 13, 1975.

The common stock of BBI, Inc., being traded on the American Stock Exchange and the Philadelphia-Baltimore-Washington Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of BBI, Inc. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from May 14, 1975 through May 23, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 75-13109 Filed 5-16-75; 8:45 am]

[File No. 500-1]

#### M. H. FISHMAN COMPANY, INC.

##### Suspension of Trading

MAY 8, 1975.

The common stock of M. H. Fishman Company, Inc. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of M. H. Fishman Company, Inc. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from 11:15 a.m. (e.d.t.) on May 8, 1975 through midnight (e.d.t.) on May 17, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 75-13057 Filed 5-16-75; 8:45 am]

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[File No. 500-1]

I.C.H. CORP.

## Suspension of Trading

MAY 8, 1975.

The common stock of I.C.H. Corp. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of I.C.H. Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a) (4) and 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from 11:15 a.m. (e.d.t.) on May 8, 1975 through midnight (e.d.t.) on May 17, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.75-13058 Filed 5-16-75; 8:45 am]

[File No. 500-1]

ROYAL PROPERTIES INC.

## Suspension of Trading

MAY 12, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Royal Properties Incorporated being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from May 13, 1975 through May 22, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.75-13059 Filed 5-16-75; 8:45 am]

SEC REPORT COORDINATING GROUP  
(ADVISORY)

## Public Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act, Pub. L. 92-463, 86 Stat. 770, the Securities and Exchange Commission announces a public advisory committee meeting.

The Commission's Report Coordinating Group (Advisory), will hold a meeting on June 2, 1975 at the Securities and Exchange Commission, 500 North Capitol Street, Room 876, Washington, D.C.

The meeting will commence at 10 a.m. local time and will be for the purpose of discussing the FOCUS Report of financial and operational information and the development of simplified trading forms and assessment forms.

The Group's meetings are open to the public. Any interested person may attend and appear before or file statements with the advisory committee. Said statements, if in written form, may be filed before or after the meeting. Oral statements shall be made at the time and in the manner permitted by the Report Coordinating Group.

The Report Coordinating Group was formed to assist the Commission in developing a coherent, industry-wide, coordinated reporting system. In carrying out this objective, the Report Coordinating Group is to review all reports, forms and similar materials required of broker-dealers by the Commission, the self-regulatory community and others. The Group is expected to advise the Commission on such matters as eliminating unnecessary duplication in reporting, reducing reporting requirements where feasible, and developing the FOCUS Report of financial and operational information. (Securities Exchange Act Release No. 10612; Securities Exchange Act Release No. 10959; Securities Exchange Act Release No. 11140).

Information concerning the meeting, including the procedures for submitting statements to the Group, may be obtained by contacting: Mr. Daniel J. Pillero II, Secretary, SEC Report Coordinating Group, Securities and Exchange Commission, Washington, D.C. 20549.

Dated: May 9, 1975.

[SEAL] SHIRLEY E. HOLLIS,  
Assistant Secretary.

[FR Doc.75-13061 Filed 5-16-75; 8:45 am]

[File No. 500-1]

WINNER INDUSTRIES, INC.

## Suspension of Trading

MAY 12, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Winner Industries, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

THEREFORE, pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from May 13, 1975 through May 22, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.75-13060 Filed 5-16-75; 8:45 am]

## CIVIL AERONAUTICS BOARD

[Docket No. 27751; Order 75-5-53]

## BRITISH WEST INDIAN AIRWAYS, LTD.

## Order Dismissing Complaint

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 14th day of May 1975.

By tariffs filed April 1, 1975 for effect May 1, 1975, British West Indian Airways, Limited (BWIA) established round-trip economy-class group inclusive tour (GIT) fares from Miami/New York to Trinidad and Tobago, West Indies at the direction of the Government of Trinidad and Tobago. The fares, at levels of \$165 and \$199 from Miami and New York, respectively, apply to groups of 10 passengers; have a 7/14-day minimum/maximum stay period; and do not permit stopovers. A written application must be submitted at least 14 days prior to commencement of travel; tickets for all members of the group must be issued at least 7 days prior to departure; and each passenger must purchase \$100 in tour arrangements above the published fare for the minimum-stay period, plus \$10 for each additional day. The fares would be available all week from May 1 to December 15 (except during July and August when availability would be restricted to Tuesdays, Wednesdays and Thursdays of each week) and are subject to a \$10 surcharge each way for travel commencing Friday through Sunday.

Pan American World Airways, Inc. (Pan American) has filed a complaint requesting that the fares be suspended pending investigation on the ground that carriers cannot sustain any revenue dilution in Caribbean markets, where the marginal economics of air service have previously been acknowledged by the Board. Pan American contends that BWIA's proposed GIT fares undercut the approved IATA individual inclusive tour (IIT) fares in the Miami/New York-Port of Spain markets by amounts ranging from 25 to 32 percent depending upon season; that even the IATA advance-purchase group (APEX) fare in the markets involved is higher than BWIA's GIT fare; and that the fare is not related to cost. The carrier further contends that the relative lack of meaningful restrictions on use of the fare would subject it to considerable misuse, and cites five specific restrictions normally applicable to GIT fares which are not attached to BWIA's fare.

Pan American maintains that without such restrictions the fare would be available for individual travel and will lead to diversion from higher fares. Upon consideration of the complaint and all relevant factors, the Board has concluded to dismiss Pan American's complaint. The fare is apparently intended to attract low season vacation travel to Trinidad and Tobago on terms approximately equal to IATA 7/14 GIT fares for similar group sizes which are

<sup>1</sup> John M. Sampson, Agent, Tariff C.A.B. No. 15, 39th Revised Page 274C and Rule No. 95B, 5th Revised Page 78C.

available for travel to competing destinations within the area. The fares proposed by BWIA do undercut comparable IATA GIT fares to the competing destinations. However, we are unable to conclude that they are uneconomic on this basis since the IATA fares permit free stopovers whereas BWIA's do not. For example, the BWIA New York-Trinidad fare is only \$2 less than the off-season, IATA-agreed New York-Aruba GIT fare on which two free stopovers are permitted. While BWIA's fare is \$31 less than the IATA New York-Caracas GIT fare, the latter also permits a free stopover and this somewhat greater disparity is also a result of the fact that fares to/from Venezuela have historically been set at levels slightly higher than other IATA fares for comparable distance.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof,

It is ordered, That:

The complaint of Pan American World Airways, Inc. in Docket 27751 be and hereby is dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,  
Secretary.

[FR Doc.75-13092 Filed 5-16-75; 8:45 am]

[Docket No. 25280; Order 75-5-52]

INTERNATIONAL AIR TRANSPORT  
ASSOCIATIONOrder Relating to North and Mid-Atlantic  
Cargo Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of May 1975.

In the matter of Docket No. 25280, Agreement C.A.B. 24851, Agreement C.A.B. 24873, R-1 through R-6.

By Order 75-2-111 (February 27, 1975) the Board approved increases in North Atlantic cargo rates, but disapproved a 5 percent increase in all general and specific commodity rates between the U.S. Virgin Islands/Puerto Rico and Europe/Middle East/Africa over the Mid-Atlantic in view of the projected carrier earnings position on the total Atlantic and the absence of specific carrier justification for the Mid-Atlantic.

<sup>1</sup> While Eastern Air Lines, Inc. does not provide direct service to Trinidad and Tobago from Miami, it has filed an answer supporting Pan American's complaint.

<sup>2</sup> Briefly these are: (1) noncombinability with other fares; (2) group travel together requirement; (3) description of tour features; (4) provisions for refunds or other actions in the event the group falls below the requisite number; and (5) provisions concerning issuance and control of vouchers.

<sup>3</sup> Similarly, we are not persuaded that Pan American's arguments concerning lack of meaningful restrictions placed on use of the BWIA fare have merit. The only significant problem would be the lack of a requirement that the group travel together, and BWIA has placed such a requirement on its fare in a subsequent filing.

In a petition, filed March 18, 1975, Pan American World Airways, Inc. (Pan American) requests the Board to reconsider and approve the proposed 5 percent Mid-Atlantic rate increase.

Pan American's petition for reconsideration is grounded essentially upon its contention that the Board disapproved the proposed five percent increase solely because Pan American World Airways, Inc. did not "specifically address" this increase in its justification and, therefore, the Board could not conclude that the proposed increase is warranted. Pan American further maintains its justification included a specific explanation of the Mid-Atlantic agreement and contends that there is no point to separate cost justification for Mid-Atlantic agreements since this has not been previously required, the Mid-Atlantic is a small fraction of its total Atlantic operations and cost allocation of cargo in combination service is difficult.

Upon full consideration of Pan American's petition and all relevant factors, the Board has concluded to deny the petition. Pan American's petition does not reflect accurately the basis for the Board's disapproval of the Mid-Atlantic agreement. In disapproving the Mid-Atlantic agreement, the Board noted that Pan American forecast a return on investment of 13.9 percent for total Atlantic cargo operations. In view of Pan American's favorable forecast earnings for its total Atlantic operations, the fact that it is the only U.S. carrier providing service in the Mid-Atlantic market, and the absence of data from Pan American to support an increase in the Mid-Atlantic, that agreement was disapproved.

The disapproval of the Mid-Atlantic agreement was not inconsistent with Board approval of the North Atlantic increases. Were Pan American the only U.S. carrier providing cargo service over the North Atlantic, it is doubtful that the proposed North Atlantic increases would have been approved, for that carrier was in a favorable earnings position in the market. However, there are two other

<sup>1</sup> In its petition the carrier states that its Mid-Atlantic scheduled cargo revenue represents only 1.1 percent of its total transatlantic cargo revenue and that the Mid-Atlantic rate increase would represent only 0.6 percent or \$50,000 of the combined \$9 million revenue impact of both agreements. In view of the small impact of the Mid-Atlantic rates agreement on its total Atlantic operations, we must conclude that disapproval of that agreement would not significantly reduce the carrier's total 13.9 percent forecast rate of return.

<sup>2</sup> The two Atlantic rate agreements disposed of in Order 75-2-111 followed an earlier Board disapproval in Order 74-10-88 (October 17, 1974) of a fuel-related agreement which would have increased all North and Mid-Atlantic cargo rates by 5 percent. Subsequently, the carriers convened a North Atlantic Cargo Policy Meeting on November 1974 at which it was decided to issue a mail-vote agreement which, among other things, increased North Atlantic cargo rates. After this meeting, at the request of several carriers, a separate mail vote was issued reinstating the earlier Mid-Atlantic 5 percent increase insofar as rates between Puerto Rico/Virgin Islands-ITC were concerned.



U.S. carriers, TWA and Seaboard, providing North Atlantic cargo service. Because of the difficulties in costing out cargo operations in combination service and the recent North Atlantic route realignment, all of which are discussed in detail in the February order, the Board found it more appropriate to evaluate the North Atlantic agreement in terms of the operations of Seaboard World Airlines, Inc. On that basis, the Board concluded that approval of the North Atlantic rate agreement was warranted.<sup>1</sup>

In these circumstances, the Board cannot find that Pan American's petition raises any new substantive or factual issues and, therefore, will deny the relief sought by Pan American.

Accordingly, it is ordered, That: The petition of Pan American World Airways, Inc. for reconsideration of Order 75-2-111 be and hereby is denied. This order will be published in the Federal Register.

By the Civil Aeronautics Board.  
(SEAL) EDWIN Z. HOLLAND,  
Secretary.

[FR Doc.75-13091 Filed 5-16-75; 8:45 am]

#### COMMISSION ON CIVIL RIGHTS CONNECTICUT STATE ADVISORY COMMITTEE

##### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Connecticut State Advisory Committee (SAC) to this Commission will convene at 7:30 p.m., on June 5, 1975, at the Holiday Inn Room 224, 900 E. Main Street, Meriden, Connecticut 06450.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting is to brief SAC reference the June 12 public employment hearing.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 13, 1975.

ISAIAH T. CRESWELL, Jr.,  
Advisory Committee  
Management Officer.  
[FR Doc.75-13043 Filed 5-16-75; 8:45 am]

#### CONNECTICUT STATE ADVISORY COMMITTEE

##### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations

<sup>1</sup>In addition, it is obvious from the data set forth in the February order that the composite of the returns forecast by each of these carriers insofar as North Atlantic cargo operations are concerned would be well below the benchmark considered reasonable by the Board.

of the U.S. Commission on Civil Rights, that a planning meeting of the Connecticut State Advisory Committee (SAC) to this Commission will convene at 7:30 p.m., on June 11, 1975, at the Holiday Inn, 30 Wholley Avenue.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting is to brief Advisory Committee members on hearing on public employment.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., May 13, 1975.

ISAIAH T. CRESWELL, Jr.,  
Advisory Committee  
Management Officer.  
[FR Doc.75-13044 Filed 5-16-75; 8:45 am]

#### CONNECTICUT STATE ADVISORY COMMITTEE

##### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Connecticut State Advisory Committee (SAC) to this Commission will convene at 8:45 a.m., on June 12, 1975, at Southern New England Telephone Company.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting is to have a hearing on public employment.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., May 13, 1975.

ISAIAH T. CRESWELL, Jr.,  
Advisory Committee  
Management Officer.  
[FR Doc.75-13045 Filed 5-16-75; 8:45 am]

#### FLORIDA STATE ADVISORY COMMITTEE

##### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Florida State Advisory Committee (SAC) to this Commission will convene at 6 p.m. on June 19, 1975 and end at 7:30 p.m. on June 21, 1975, at the Federal Building, 51 SW First Avenue, Miami, Florida 33130.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, Room 362, Citizens Trust Bank Building, 75 Piedmont Avenue, N.E. Atlanta, Georgia 30303.

The purpose of this meeting is to discuss Police and Community Relations

for City of Miami and the Dade County Public Safety Department.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., May 13, 1975.

ISAIAH T. CRESWELL, Jr.,  
Advisory Committee  
Management Officer.

[FR Doc.75-13046 Filed 5-16-75; 8:45 am]

#### FLORIDA STATE ADVISORY COMMITTEE

##### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a press conference of the Florida State Advisory Committee (SAC) to this Commission will convene at 8 a.m. on June 19, 1975, at the Dural Room, Jacksonville Hilton Hotel 565 S. Main, Jacksonville, Florida 32207.

Persons wishing to attend this press conference should contact the Committee Chairperson, or the Southern Regional Office of the Commission, Room 362, Citizens Trust Bank Building, 75 Piedmont Avenue NE., Atlanta, Georgia 30303.

The purpose of this press conference is to release SAC report Toward Policy Community Detente in Jacksonville.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., May 13, 1975.

ISAIAH T. CRESWELL, Jr.,  
Advisory Committee  
Management Officer.  
[FR Doc.75-13047 Filed 5-16-75; 8:45 am]

#### MASSACHUSETTS STATE ADVISORY COMMITTEE

##### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Massachusetts State Advisory Committee (SAC) to this Commission will convene at 12:15 p.m. on June 9, 1975, 27 School Street, Boston, Massachusetts 02130.

Persons wishing to attend this meeting should contact the Committee Chairperson or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting is to discuss plans on the school desegregation project.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., May 13, 1975.

ISAIAH T. CRESWELL, Jr.,  
Advisory Committee  
Management Officer.  
[FR Doc.75-13048 Filed 5-16-75; 8:45 am]

#### MICHIGAN STATE ADVISORY COMMITTEE

##### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Michigan State Advisory Committee (SAC) to this Commission will convene at 1 p.m. on June 13, 1975, at Grand Rapids City Hall, Monroe & Michigan Streets, Grand Rapids, Michigan 49502 (room to be posted).

Persons wishing to attend this meeting should contact the Committee Chairperson or the Midwestern Regional Office of the Commission, Room 1428, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to discuss procedures for the release of Community Development Report #1 (based on Livonia hearing), (2) Discuss plans for Community Development Hearing #2 (on the issue of Model Cities Phase-out in 8 cities) to be held June 26-27 in Lansing, (3) Public participation (if requested), and (4) Other old and new business.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., May 13, 1975.

ISAIAH T. CRESWELL, Jr.,  
Advisory Committee  
Management Officer.  
[FR Doc.75-13049 Filed 5-16-75; 8:45 am]

#### NEW YORK STATE ADVISORY COMMITTEE

##### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New York State Advisory Committee (SAC) to this Commission will convene at 1:30 p.m., on June 11, 1975, at the Federal Building, 26 Federal Plaza, New York, New York.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting is to discuss the treatment of women in pharmaceutical advertisement project of the sex discrimination Subcommittee.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., May 14, 1975.

ISAIAH T. CRESWELL, Jr.,  
Advisory Committee  
Management Officer.  
[FR Doc.75-13050 Filed 5-16-75; 8:45 am]

#### COMMODITY FUTURES TRADING COMMISSION

##### CONTRACT MARKETS

##### Extensions of Provisional Designations of Boards of Trade

On April 18, 1975, the Commodity Futures Trading Commission ("Commission"), pursuant to rule 1.52 under the Commodity Exchange Act, as amended, granted various provisional designations of boards of trade as contract markets for a 15-day period expiring May 5, 1975.<sup>1</sup> On May 5, 1975, pursuant to rule 1.52, the Commission entered orders extending the provisional designations for a period expiring upon the close of business July 18, 1975, as follows:

(1) The Board of Trade of the City of Chicago as a contract market for plywood, stud lumber, silver, gold, and iced broilers;

(2) The Chicago Mercantile Exchange as a contract market for lumber and turkeys;

(3) The Commodity Exchange, Inc. as a contract market for gold, silver, copper, mercury, and rubber;

(4) The International Monetary Market of the Chicago Mercantile Exchange as a contract market for gold, United States Silver Coins, Canadian Silver Coins, copper, German Deutsche Marks, Japanese Yen, Swiss Francs, French Francs, Canadian Dollars, Mexican Pesos, Dutch Guilders, and Pounds Sterling;

(5) The MidAmerica Commodity Exchange as a contract market for silver, United States Silver Coins, and gold;

(6) The New York Cocoa Exchange, Inc. as a contract market for cocoa and natural rubber;

(7) The New York Coffee and Sugar Exchange, Inc. as a contract market for coffee and sugar;

(8) The New York Mercantile Exchange as a contract market for aluminum, apples, British Pound, Canadian Dollar, Deutsche Mark, Dutch Guilder, heating oil, industrial fuel oil, Italian Lira, Japanese Yen, Mexican Peso, Swiss Franc, Belgian Franc, gold, palladium, platinum, and U.S. Silver Coins;

(9) The Pacific Commodities Exchange, Inc. as a contract market for silver; and

(10) The Petroleum Associates of the New York Cotton Exchange, Inc. as a contract market for crude oil and liquid propane gas.

In addition, on May 5, 1975, the Commission entered an order extending the New York Mercantile Exchange's ("Exchange") provisional designation as a contract market for nickel and plywood for a period to expire upon the close of business May 13, 1975. During this period, the Exchange may submit additional information relevant to the issue

<sup>1</sup> 40 FR 19035 (May 1, 1975).

of whether substantial hardships would occur if the Exchange's provisional designations as a contract market for nickel and plywood were to expire.

Issued in Washington, D.C. on May 12, 1975.

By the Commission.

WILLIAM T. BAGLEY,  
Chairman.

[FR Doc.75-13039 Filed 5-16-75; 8:45 am]

#### ENVIRONMENTAL PROTECTION AGENCY

[FRL 371-4]

##### NEW HAMPSHIRE

##### Marine Sanitation Device Standard; Receipt of Petition

Notice is hereby given that a petition has been received from the State of New Hampshire that the Administrator, by regulation, prohibit the discharge from a vessel of any sewage (whether treated or not) into the waters of the State of New Hampshire, with the exception of that portion of the Piscataqua River Estuary, located southeast (downstream) of a straight line extending northeast from "Bloody Point," Newington, New Hampshire (Lat. 42°07.1' N; Long. 70°49.2' W), and except those portions of the coastal waters which are open to the Atlantic Ocean. This action is requested pursuant to section 312(f) (3) of Pub. L. 92-500.

The petition certifies that the State has had a "no-discharge" law in effect since January 1, 1969; that pump-out facilities are available, or will be required by State statute to be available, to service all vessels that may be reasonably anticipated to require such services; that vessel sewage from each designated pump-out facility is required by State statute to receive adequate treatment in accordance with existing rules and regulations of the Environmental Protection Agency; and that a hearing on this matter will be held at the Water Supply and Pollution Control Commission, Conference Room, 105 Loudon Road, Concord, New Hampshire 03301, on May 28, 1975. The hearing will be open at 10 a.m. and remain in session until all attendees have been given an opportunity to be heard.

Comments and views regarding this requested action may be filed within 45 days of the date of publication of this notice. Such communications, or requests for a copy of the applicant's petition, should be addressed to the Director, Criteria and Standards Division (WH-451), Office of Water Planning and Standards, OWHM, Room 737, East Tower, Waterside Mall, Washington, D.C. 20460.

Comment closing date: July 8, 1975.

Dated: May 12, 1975.

RUSSELL E. TRAIN,  
Administrator.

[FR Doc.75-12963 Filed 5-16-75; 8:45 am]



## NOTICES

[FRL 374-8]

## WORKING GROUP ON IMPLEMENTATION OF 1972 AMENDMENTS TO THE FEDERAL WATER POLLUTION CONTROL ACT (COMMITTEE OF TEN)

## Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name. Working Group on Implementation of the 1972 Amendments to the Federal Water Pollution Control Act (Committee of Ten).  
Date. June 4, 1975.

Place. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., Room 3305 Mail (because of building security requirements, all attendees should enter the West Tower).

Time. 9 a.m.-4:15 p.m.

## Proposed Agenda:

Time	Topic and Speaker
9-9:15 a.m.	Introductory Remarks, Mr. Quarles.
9:15-10:30	Construction Grants Program, Mr. Agee/Mr. Rhett.
	Status of Obligations
	Acceleration of Program
	Secondary Treatment Regulations / Stabilization Policy
	Disinfection Policy
	Construction Grants
	Audits and Subagreements on Architectural / Engineering Services, Mr. Alm.
10:30-10:45	Break.
10:45-Noon	Legislative Amendments, Review of House Committee Amendments to the Act, Discussion on Construction Grant Public Hearing Issues.
12-1:30 p.m.	Lunch.
1:30-2	Statewide Planning and Proposed Regulations (Parts 130/131), Mr. Pisano.
2-2:15	Review of 208 Designations and Grant Awards, Mr. Pisano.
2:15-2:30	Status of Vessel Regulations, Mr. Mackenthun.
2:30-2:45	Break.
2:45-3:30	State Program Regulations and Plan Submission.
3:30-3:45	Formal Establishment as an Advisory Committee.
3:45-4:15	State Comments on Non-Agenda Items, States.
4:15 p.m.	Adjourn.

The work group meeting is open to the public. Any member of the public may file a written statement with the work group before, during, or after the meeting. All communications regarding this work group should be addressed to: The Administrator, Environmental Protection Agency, 401 M Street, SW. (A-100), Washington, D.C. 20460

Dated: May 12, 1975.

JAMES L. AGE, Assistant Administrator for Water and Hazardous Materials.

[FR Doc.75-12964 Filed 5-16-75; 8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

[FCC 75-452; Docket No. 20453]

## AT&amp;T

## Private Line Service Tariff

1. As a result of discussions which took place during the settlement negotiations in Docket No. 20099, AT&T filed the following revisions to the title page of its Private Line Service tariff (Tariff F.C.C. No. 260) describing the application of that tariff:

... services between points within the boundaries of a State which services are furnished to a customer for communicating with points outside the State when connected by means of Telephone Company arrangements with services furnished by the Telephone Company for through communications service, ...

... services between points within the boundaries of a State which services are furnished to a customer for communicating with points outside the State when connected by means of Telephone Company arrangements with facilities of Other Participating Carriers, as set forth herein, ...

2. These tariff revisions were filed in response to allegations of price disparity for interexchange channels furnished to customers by Bell System companies between points within a single state depending upon whether an interstate channel arranged for use in connection with such a channel is provided to the same customer by a Bell System company or an OCC. While removing the alleged discrimination, these tariff revisions raise certain additional questions.

3. Both tariff revisions contain the phrase "when connected by means of Telephone Company arrangements". Thus, the application of AT&T's Tariff F.C.C. No. 260 to a channel between points within a state which is connected to an interstate channel appears to depend upon whether AT&T provides the switch or connection between the two channels. This raises the questions of: (1) are the "Telephone company arrangements" referred to in the tariff revisions technically and operationally necessary, and (2) does an otherwise interstate communication become intrastate because the connection between facilities of one or more carriers is accomplished by means of customer-provided equipment?

4. Accordingly, it is ordered That, pursuant to the provisions of sections 4(1), 201-205 and 403 of the Communications Act, an investigation is hereby instituted into the matters referred to above.

5. It is further ordered That American Telephone and Telegraph Company is hereby named party respondent herein.

6. It is further ordered That any interested persons may participate herein by filing comments on the above matters on or before June 18, 1975, and replies on or before July 3, 1975.

7. It is further ordered That this is a restricted rule-making proceeding and the Commission's decision herein will be

based on matters submitted for or incorporated into the record herein.

8. It is further ordered That an original and 14 copies of all comments and replies shall be filed with the Commission.

Adopted: April 23, 1975.

Released: May 7, 1975.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS, Secretary.

[FR Doc.75-13085 Filed 5-16-75; 8:45 am]

[FCC 75-449; Docket No. 18920]

## DOMESTIC PUBLIC POINT-TO-POINT MICROWAVE RADIO SERVICE

## Order Re Policy Statement

In the matter of establishment of policies and procedures for consideration of applications to provide specialized common carrier services in the Domestic Public Point-to-Point Microwave Radio Service and proposed amendment to Parts 21, 43 and 61 of the Commission's rules.

1. A further notice of inquiry and proposed rule making in the above-captioned proceeding was released March 18, 1975 (40 FR 12816) (FCC 75-288), to seek a resolution of those questions within Issue D (quality and reliability of service) of this proceeding.

2. On April 7, 1975, Data Transmission Company (Datran) filed a motion to clarify and/or enlarge issues and scope of proceeding in this matter. On April 10 and 16, 1975 supporting comments were filed by MCI Telecommunications Corporation and Southern Pacific Communications Co., respectively. An opposition was filed on April 17, 1975 by American Telephone and Telegraph Co. Datran contends that it is difficult to determine whether the Commission's intent in this proceeding is to develop quality and reliability policies, rules and standards to be applied to:

- (1) Terrestrial microwave carriers only, or
- (2) Any carriers which construct and operate their own facilities for specialized service provision to the public, whether directly or indirectly, or
- (3) Any carriers or entities which provide specialized communications services to the public, whether directly or indirectly.

In Datran's view, the inquiry appears to be directed toward those microwave carriers that were an outgrowth of the resolution of other issues in this proceeding, which implication, if true, is in no way justified. It is Datran's belief that the inquiry should encompass all competitive services, whether provided by a microwave specialized common carrier, an established carrier, or by others. (The term competitive services as defined by Datran, is all services the offering of which provide alternative choices to a subscriber to satisfy a particular communications requirement.)

3. It was not our intent to limit the scope of this inquiry or the application of any rules resulting therefrom to only

microwave specialized common carriers. In context with competition among carriers for specialized services we indicated in the inquiry, at paragraph 2, that the technical performance standards would apply to "all carriers providing such services." This is consistent with our approach throughout the Docket 18920 proceedings. Our intention, then, is to consider within the scope of Issue D all carriers offering specialized services, whether by terrestrial microwave, cable, domestic satellite, or other transmission means. We recognize that it may be difficult to define the exact boundaries of the competitive specialized services. To the extent this may create uncertainty, we would solicit inclusion in the comments to be submitted any recommendations for the definition of specialized services for the purposes of this proceeding.

4. Accordingly, it is hereby ordered, That Datran's motion filed in this proceeding is granted to the extent indicated above but is otherwise denied.

Adopted: April 23, 1975.

Released: May 2, 1975.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS, Secretary.

[FR Doc.75-13080 Filed 5-16-75; 8:45 am]

## LAND MOBILE WORKING GROUP

## Meeting

To establish and assist in the preparations for the 1979 World Administrative Conference, the Land Mobile Working Group, headed by Neal Pike, will hold its second meeting on June 4, 1975 from 9 a.m. to 4 p.m. at the Commission's office at 2025 M Street, NW, Washington, D.C. in Room 8210.

The meeting will be open to the public and any member of the public is invited to participate and present oral or written statements of relevance to the agenda upon recognition by the Chairman.

The meeting will be conducted in accordance with the following agenda:

1. Call of the agenda.
2. Opening Remarks of the Chairman.
3. Progress reports from the Informal Sub-group Chairman.
4. Discussion and review of work progress to date.
5. Delineation of main subjects for future work and establishment of informal schedules to accomplish this work.
6. Set next meeting date.
7. Further business.
8. Adjournment.

No part of this meeting will be concerned with matters which are within the exemptions of the Public Information Act, 5 U.S.C. 555(b).

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS, Secretary.

[FR Doc.75-13090 Filed 5-16-75; 8:45 am]

## NOTICES

## 1979 WARC CONFERENCE WORKING GROUP

## Cable Television Related Services; Cancelled Meetings

MAY 8, 1975.

The Satellite Distribution Working Group and Radio Relay Working Group Meetings originally scheduled for May 13, 1975, have been postponed. Notice of the new meeting date will be given in the near future. Persons wishing additional information should communicate with: Anthony M. Rutkowski, Room 6216, FCC, Washington, D.C. 20554; telephone 202-632-9797.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS, Secretary.

[FR Doc.75-13089 Filed 5-16-75; 8:45 am]

[Docket Nos. 20445, etc.; File Nos. BPH-8862, BPH-8923, BPH-9157]

## PIONEER BROADCASTING CO., ET AL.

## Applications for Construction Permits

In re applications of: Pioneer Broadcasting Company, Austin, Texas, Docket No. 20445, File No. BPH-8862, Req: 102.3 mHz, Channel No. 272, 3 kW(H&V); 300 feet; Allandale Baptist Church of Austin, Austin, Texas, Docket No. 20446, File No. BPH-8923, Req: 102.3 mHz, Channel No. 272, 3 kW(H&V); 300 feet;

Dynamic Communications of Austin, Inc., Austin, Texas, Docket No. 20447, File No. BPH-9157, Req: 102.3 mHz, Channel No. 272, 0.741 kW(H&V); 548 feet; for construction permits.

1. The Commission, by the Chief of the Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned applications for construction permits which are mutually exclusive in that they seek the same channel in Austin, Texas.

2. Analysis of the financial information associated with the application of Allandale Baptist Church of Austin (Allandale), reveals that the projected costs of construction and operation of the proposed facility will be met by reliance upon a \$90,000 loan from the North Austin State Bank. Although the applicant purports to have a firm commitment from this institution for the loan, the letter submitted by Allandale is too conditional to allow the Commission to conclude that the necessary funds will in fact be available to the applicant. The letter specifically refuses to state whether and what collateral is required, the rate of interest to be applied, or any additional terms of the loan, as required by section III, paragraph 4(e), of FCC Form 301. An issue will be designated in order to determine whether Allandale will have sufficient funds available to meet the anticipated costs of construction and operation of the proposed station.

3. In addition, Allandale's application is deficient in that the community leader

survey omits any reference to consultations held with representatives of manufacturing and industrial interests despite the presence of more than 400 large industrial and manufacturing concerns within the proposed service area. Although correspondence from the applicant indicates that interviews with such leaders were conducted, several amendments to the application failed to provide the data to substantiate this assertion. As a consequence, an appropriate issue will be specified against Allandale concerning its survey of community leaders.

4. Similarly, the ascertainment study submitted by Dynamic Communications of Austin, Inc. (Dynamic), is deficient in that no consultations with students are disclosed; however, the demographic data supplied by the applicant indicates that public school enrollment in Austin exceeds 58,000, in addition to more than 40,000 students in attendance at the University of Texas. In a community with such an extensive student population, failure to contact a single student leader constitutes a serious omission, and an appropriate issue is therefore designated.

5. Pioneer Broadcasting Company (Pioneer) proposes to broadcast "currently popular music" of a general market nature, while Dynamic proposes to broadcast entirely in Spanish and Allandale proposes a predominantly religious format. Because of these differing proposals, the relative need for these types of programming will be considered under the standard comparative issue. Ward L. Jones, FCC 67-82 (1967); Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393, fn. 9 at 397 (1965).

6. Dynamic and Pioneer each request a waiver of § 73.315(a) of the Commission's rules, which requires that the transmitter site be so located as to provide a 3.16mV/m signal over the entire community of license. These applicants assert that the proposals substantially comply with the rule, as the portions of Austin which will not receive a primary grade signal are small, recently annexed areas, with sparse population. The applicants have noted their efforts to situate the transmitter in such a manner as to obtain maximum coverage over the city of Austin, consistent with the provisions of § 73.315(a) of the rules. As the Commission has granted relief in similar situations in the past—especially where, as here, the size of the community of license is such that an applicant proposing maximum power is unable to achieve full compliance with the rule—the coverage of Austin proposed by Dynamic and Pioneer is acceptable, and no issue with respect thereto will be specified.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, it is ordered, That, pursuant to section 309(e) of the Com-



munications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether Allendale is financially qualified to construct and operate its proposed station.
2. To determine the efforts made by Allendale to ascertain the community problems of the area to be served and the means by which the applicant proposes to meet these problems.
3. To determine the efforts made by Dynamic to ascertain the community problems of the area to be served and the means by which the applicant proposes to meet these problems.
4. To determine which of the proposals would, on a comparative basis, best serve the public interest.
5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issue specified in this order.

10. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible, and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: April 29, 1975.

Released: May 9, 1975.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.

[FR Doc. 75-13086 Filed 5-16-75; 8:45 am]

[FCC 75-463; Docket No. 20456; File Nos. BR-1329 and BRH-725.]

WHITE MOUNTAIN BROADCASTING CO.,  
INC.

Applications for Renewal of Licenses

1. The Commission has before it for consideration: (a) the captioned applications, and (b) its inquiries into the operation by White Mountain Broadcasting Co., Inc., of Stations WMOU and WXLQ(FM), Berlin, New Hampshire.

2. Information before the Commission raises serious questions as to whether the captioned applicant possesses the qualifications to be or to remain a licensee of the captioned stations. In view of these questions, the Commission is unable to find that a grant of the renewal applications would serve the public interest, convenience and necessity, and must, therefore, designate the applications for hearing.

3. Accordingly, it is ordered, That the captioned applications are designated for hearing in a consolidated proceeding pursuant to section 309(e) of the Communications Act of 1934, as amended, at a time and place specified in a subsequent Order, upon the following issues:

- (a) To determine whether the applicant engaged in fraudulent billing practices in the operation of Stations WMOU and WXLQ(FM), in violation of Section 73.1205 of the Commission's Rules;
- (b) To determine whether the licensee has failed to maintain adequate program logs for Station WXLQ(FM) in violation of §§ 73.281 and 73.282 of the rules;
- (c) To determine whether the licensee has failed to retain program logs in violation of §§ 73.115 and 73.285 of the rules; and
- (d) To determine, in light of the evidence adduced under the preceding issues, whether the applicant possesses the requisite qualifications to be or to remain a licensee of the Commission, and whether a grant of the captioned applications would serve the public interest, convenience and necessity.

4. It is further ordered, That the Chief, Broadcast Bureau, is directed to serve upon the captioned applicant within thirty (30) days of the release of this Order, a Bill of Particulars with respect to Issues (a) through (c).

5. It is further ordered, That if it is determined that the hearing record does not warrant an order denying the captioned applications for renewal of license for Stations WMOU and WXLQ(FM), it shall also be determined whether the applicant has willfully or repeatedly violated §§ 73.115, 73.281, 73.282, 73.285, and 73.1205 of the Commission's rules.<sup>1</sup> If so, it shall also be determined whether an Order of Forfeiture pursuant to section 503(b) of the Communications Act of 1934, as amended, in the amount of \$10,000 or some lesser amount, should be issued for violations which occurred within one year preceding the issuance of the Bill of Particulars in this matter.

6. It is further ordered, That this document constitutes a notice of apparent liability for forfeiture for violation of §§ 73.115, 73.281, 73.282, 73.285 and 73.1205 of the Commission's rules. The Commission has determined that, in every case designated for hearing involving revocation or denial of renewal of license for alleged violations which also come within the purview of section 503(b) of the Act, it shall, as a matter of course, include this forfeiture notice so as to maintain the fullest possible flexibility of action. Since the procedure is thus a routine or standard one, we stress that inclusion of this Notice is not to be taken as in any way indicating what the initial or final disposition of the case should be; that judgment is, of course, to be made on the facts of each case.

7. It is further ordered, That the Broadcast Bureau proceed with the initial presentation of the evidence with respect to Issues (a) through (c), and the applicant then proceed with its evidence and have the burden of establishing that it possesses the requisite qualifications to be a licensee of the Commission and that a grant of its applications would serve the public interest, convenience and necessity.

<sup>1</sup> See Bill of Particulars for specific dates of each violation.

fications to be a licensee of the Commission and that a grant of its applications would serve the public interest, convenience and necessity.

8. It is further ordered, That to avail itself of the opportunity to be heard, the applicant herein, pursuant to § 1.221 of the Commission's rules, in person or by attorney, shall file with the Commission, within twenty (20) days of the mailing of this order, a written appearance in triplicate, stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

9. It is further ordered, That the applicant herein, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, shall give notice of the hearing within the time and in the manner prescribed in such rule and shall advise the Commission thereof as required by § 1.594(g) of the rules.

10. It is further ordered, That the Secretary of the Commission send a copy of this order by certified mail—return receipt requested to White Mountain Broadcasting Co., Inc., licensee of WMOU and WXLQ(FM), Berlin, New Hampshire.

Adopted: April 23, 1975.

Released: May 8, 1975.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] VINCENT J. MULLINS,  
Secretary.

[FR Doc. 75-13087 Filed 5-16-75; 8:45 am]

[FCC 75R-187; Docket Nos. 20243 and 20244; File Nos. BPH-8842 and BPH-8954]

ROBERT M. AND HILLARY E. ZITTER AND  
DAN COMMUNICATIONS, INC.

Applications for Construction Permits

1. This proceeding involves the mutually exclusive applications of Robert M. Zitter and Hillary E. Zitter (Zitter) and Dan Communications, Inc. (Dan) for a new FM broadcast station at Monticello, New York. The Review Board now has before it a motion to enlarge issues, filed December 16, 1974 (39 FR 41771), by Zitter requesting the addition of various issues inquiring into Dan's financial qualifications.

The Board also has before it the following related pleadings: (a) opposition, filed January 15, 1975, by Dan; (b) comments, filed January 14, 1975, by the Broadcast Bureau; (c) reply, filed January 20, 1975, by Zitter; (d) motion for leave to file supplement to (a), filed April 3, 1975, by Dan; and (e) supplement to (a), filed April 3, 1975, by Dan. Although supplemental pleadings are not authorized by the Commission's Rules, the filing of supplements occasionally can be justified. See *Filing of Supplemental Pleadings Before the Review Board*, 40 FCC 2d 1028 (1972). This is such a case since Dan's supplement was submitted to the Board so that it would be notified of the Presiding Judge's Order, FCC 75M-598, released April 2, 1975, which accepted a financial amendment to Dan's application. As such, the supplement will be allowed. See para. 3 *infra*.

2. In support of its motion, Zitter initially contends that Dan has no existing funds or at least the existence of current capital is not discernible from the papers submitted with its application. Since Daniel S. Dayton has not submitted to the Commission a copy of his personal balance sheet and since it does not appear that any of Dan's subscription obligations have been called, argues movant, an issue should be designated to determine how Dan's application has so far been financed and how its ongoing prosecution will be maintained. Next, movant contends that there is a question as to whether Dayton can meet his obligation to Dan to subscribe to \$25,000 in stock and debentures. Zitter argues that Dan is committed to total first year costs of \$151,087 and expects to meet these costs with new capital of \$46,500, loans in the amount of \$88,000, and a deferred equipment credit of \$25,726, for a total of \$160,226. If there is a question about Dayton's ability to meet his subscription obligation, submits Zitter, then only \$135,266 would be available to meet Dan's first year costs of \$151,087.<sup>1</sup> To substantiate his ability to meet his \$25,000 subscription obligation, Zitter further contends, Dayton submitted to the Commission a bank letter, dated April 26, 1974, from Orange County Trust Company, proposing a loan. According to movant, however, the bank letter does not meet Commission requirements because: (1) it is a proposal to Dan rather than to Daniel S. Dayton personally; and (2) the bank letter proposes a loan contingent on making by Carl S. Dayton,<sup>2</sup> and Carl S. Dayton has not indicated that he will cosign such a note to Orange County Trust. Finally, movant argues that Dan cannot count on the \$25,000 Daniel S. Dayton has subscribed to even if Dayton were capable of producing it since, according to the subscription agreement and corporate papers, Daniel S. Dayton, as controlling stockholder and sole director, has the option to call or not to call his own subscription.<sup>3</sup>

3. In opposition, Dan initially claims that its application shows the availability of \$146,500, consisting of stock subscriptions and debentures, which provides a surplus of funds in excess of \$5,000 over its first year needs. Attached to its opposition, Dan submits a copy of petition for leave to amend and accompanying amendment to its application both tendered to the Presiding Judge on January 15, 1975. The amendment reveals that Dayton is no longer relying on the Orange County Trust Company loan commitment in order to pay his \$25,000 stock and debenture subscription,<sup>4</sup> but has obtained mortgage proceeds of \$25,000<sup>5</sup> in lieu of the above-mentioned loan commitment. Of this amount, submits Dan, \$10,000 has already been placed in the corporation's checking account and the balance of \$15,000 is presently maintained in a U.S. Treasury Bill. Dan also contends that movant's questioning of its "intervening and periodic costing" is irrelevant, since the Commission looks to an applicant's financial qualifications as a whole. In any event, alleges Dan, the January 15, 1975 amendment reflects a sum in excess of \$10,000 in the corporation's checking account as of January 10, 1975.

4. In reply, movant contends that Dan's tendered amendment does not fully address the questions raised in the instant motion to enlarge issues. Zitter maintains that the process of licensee selection should inquire into how the costs of Dan's application have so far been met, since it appears that Dayton has no significant assets other than those recently bestowed on him by his parents.

5. The Review Board will add a limited financial issue. Based on the most recent information in Dan's amended application, Dan proposes to meet its first year costs of \$144,861<sup>6</sup> with \$102,500 in de-

vides a surplus of funds in excess of \$5,000 over its first year needs. Attached to its opposition, Dan submits a copy of petition for leave to amend and accompanying amendment to its application both tendered to the Presiding Judge on January 15, 1975. The amendment reveals that Dayton is no longer relying on the Orange County Trust Company loan commitment in order to pay his \$25,000 stock and debenture subscription,<sup>4</sup> but has obtained mortgage proceeds of \$25,000<sup>5</sup> in lieu of the above-mentioned loan commitment. Of this amount, submits Dan, \$10,000 has already been placed in the corporation's checking account and the balance of \$15,000 is presently maintained in a U.S. Treasury Bill. Dan also contends that movant's questioning of its "intervening and periodic costing" is irrelevant, since the Commission looks to an applicant's financial qualifications as a whole. In any event, alleges Dan, the January 15, 1975 amendment reflects a sum in excess of \$10,000 in the corporation's checking account as of January 10, 1975.

4. In reply, movant contends that Dan's tendered amendment does not fully address the questions raised in the instant motion to enlarge issues. Zitter maintains that the process of licensee selection should inquire into how the costs of Dan's application have so far been met, since it appears that Dayton has no significant assets other than those recently bestowed on him by his parents.

5. The Review Board will add a limited financial issue. Based on the most recent information in Dan's amended application, Dan proposes to meet its first year costs of \$144,861<sup>6</sup> with \$102,500 in de-

<sup>1</sup> Dayton is committed to purchase 3000 shares of Class A voting stock for \$15,000 and a debenture bond for \$10,000.

<sup>2</sup> On January 10, 1975, Eleanor R. Dayton, the mother of Daniel S. Dayton, deeded a duplex dwelling and property located in Middletown, New York, to Wanda Lynne Dayton, Daniel S. Dayton's wife. On the same date, Daniel S. and Wanda Lynne Dayton placed first and second mortgages on this property. The first mortgage in the sum of \$25,000 was given to Orange County Trust Company. The second mortgage was given to Carl S. and Eleanor R. Dayton for \$25,000, payable January 10, 1985. Copies of these mortgages were submitted to the Commission with Dan's petition for leave to amend dated January 15, 1975. Also attached to that petition for leave to amend was an agreement between Daniel Coughlin and Dan wherein the former agreed to purchase a \$2,500 debenture bond.

<sup>3</sup> Dan's first year costs are as follows:

Downpayment on equipment...	\$9,456
1 year's payment of principal and interest on equipment...	12,105
Tower land lease.....	1,500
Building.....	6,000
Studio lease.....	5,000
1st year's payment of interest on debentures.....	12,000
Legal costs.....	7,500
Engineering costs.....	1,800
Installation costs.....	1,500
Miscellaneous costs.....	3,000
Filing and grant fees.....	1,000
1st year operating costs.....	84,000
Total.....	144,861

<sup>4</sup> Paragraph 5 of Daniel S. Dayton's subscription agreement provides that his commitment to put up \$25,000 shall be demanded by "the corporation."

<sup>5</sup> This total includes the \$2,500 debenture bond pledged by Daniel Coughlin. See n. 8, *supra*.

<sup>6</sup> Of Dayton's remaining \$15,000 commitment, \$10,861 is necessary for Dan to be financially qualified.

<sup>7</sup> This section provides, *inter alia*, that each person (except financial institutions) who has agreed to furnish funds or purchase stock must submit a balance sheet or, in lieu thereof, a financial statement showing all liabilities and containing current and liquid assets sufficient in amount to meet current liabilities and, in addition, to indicate financial ability to comply with the terms of the agreement.

ventures<sup>7</sup> and \$46,500 in stock subscriptions (\$149,000), leaving a surplus of \$4,139, if all of the assets relied on are available. However, while Dayton has paid \$10,000 of his \$25,000 commitment, he still owes \$15,000<sup>8</sup> and has not submitted a balance sheet or other personal financial statement from which his ability to meet the remainder of his commitment can be established. See FCC Form 301, section III, page 3, para. 4b.<sup>9</sup> The fact that Dayton now owns a \$15,000 Treasury Bill is not sufficient to establish that it will be available to the applicant without some showing of Dayton's current liabilities. Thus, inquiry into Dayton's financial ability to meet the remainder of his subscription obligation must be made. However, the Board will not add the other financial issues requested by Zitter. First, it is mere speculation to allege that Dayton, as controlling stockholder and a director of Dan, would not call his own subscription. See Section 1.229(c) of the Commission's rules. See also *Mt. Carmel Broadcasting Co.*, 8 FCC 2d 1033, 10 RR 2d 961 (1967); and *KFOX, Inc.*, FCC 65R-143, 5 RR 2d 32. Second, as to movant's request that an issue be specified inquiring into the financing "so far" of Dan's application, we agree with the Bureau that, absent some indication that an applicant has already spent funds it is relying on to meet future expenses or that it has incurred expenses for which it has not budgeted, the Commission only concerns itself with the overall financial qualifications of an applicant to meet its construction costs and expenses for the first year of operation. See *Ultravision Broadcasting Co.*, 1 FCC 2d 544, 5 RR 2d 343 (1965). Moreover, petitioner has raised no question concerning the source of these funds.

The Bureau in its calculations fails to include as Dan's first year expenses the \$5,000 studio lease cost and the \$1,000 filing fee, thus concluding that Dan's first year costs would be \$138,861. Furthermore, the differences between the Board's and the applicant's (Zitter and Dan) computations, as they appear in the pleadings, are based on the inclusion or exclusion of Dan's net deferred equipment credit of \$25,726, the 12% interest Dan must pay on its debentures during the first year, the filing fee, and its studio and tower land lease costs.

6. Accordingly, it is ordered, That the motion for leave to file supplement to opposition to motion to enlarge issues, filed April 3, 1975, by Dan Communications, Inc. is granted, and the supplement is accepted; and



7. *It is further ordered*, That the motion to enlarge issues filed December 16, 1974, by Robert M. Zitter and Hillary E. Zitter, is granted, to the extent indicated below, and is denied in all other respects; and

8. *It is further ordered*, That the issues in this proceeding are enlarged by the addition of the following issue:

To determine whether Daniel S. Dayton has sufficient funds available to meet the remainder of his \$25,000 commitment to Dan Communications, Inc., and, in light thereof, whether Dan Communications, Inc. is financially qualified.

9. And, *it is further ordered*, That the burdens of proceeding and proof under the issue herein added shall be on Dan Communications, Inc.

Adopted: May 8, 1975.

Released: May 12, 1975.

**FEDERAL COMMUNICATIONS COMMISSION,**

[SEAL] VINCENT J. MULLINS,  
Secretary.

[FR Doc.75-13088 Filed 5-16-75; 8:45 am]

**FEDERAL MARITIME COMMISSION  
EQUIPMENT INTERCHANGE AGREEMENT**

**Notice of Agreement Filed**

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before June 9, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

John R. Mahoney, Esq.  
Casey, Lane & Mittendorf  
26 Broadway  
New York, New York 10004

Agreement No. 10089-1 will amend Agreement No. 10089, an equipment in-

terchange agreement, to include as parties thereto Associated Container Transportation (Australia) Ltd. and the Australia Shipping Commission, trading as Australia National Line.

By order of the Federal Maritime Commission.

Dated: May 13, 1975.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc.75-13094 Filed 5-16-75; 8:45 am]

[Independent Ocean Freight Forwarder License No. 1046]

**GOTHAM SHIPPING CO., INC.**

**Order of Revocation**

On April 25, 1975, the Federal Maritime Commission received notification that Gotham Shipping Co., Inc., 11 Broadway, New York, New York 10004 wishes to voluntarily surrender its Independent Ocean Freight Forwarder License No. 1046 for revocation effective May 1, 1975.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) Section 7.04(f) dated 9/15/73;

*It is ordered*, That Independent Ocean Freight Forwarder License No. 1046 of Gotham Shipping Co., Inc. be returned to the Commission for cancellation.

*It is further ordered*, That Independent Ocean Freight Forwarder License No. 1046 be and is hereby revoked effective May 1, 1975, without prejudice to reapply for a license at a later date.

*It is further ordered*, That a copy of this Order be published in the FEDERAL REGISTER and served upon Gotham Shipping Co., Inc.

ROBERT S. HOPE,  
Managing Director.

[FR Doc.75-13096 Filed 5-16-75; 8:45 am]

[Independent Ocean Freight Forwarder License No. 1102-R]

**P & O, INC.**

**Order of Revocation**

On May 5, 1975, the Federal Maritime Commission received notification that P & O, Inc., 3435 Wilshire Boulevard, Los Angeles, California 90010 wishes to voluntarily surrender its Independent Ocean Freight Forwarder License No. 1102-R for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) § 7.04(f) (dated 9/15/73);

*It is ordered*, That Independent Ocean Freight Forwarder License No. 1102-R of P & O, Inc. be and is hereby revoked effective May 5, 1975, without prejudice to reapply for a license in the future.

*It is further ordered*, That Independent Ocean Freight Forwarder License No. 1102-R of P & O, Inc. be and is hereby revoked effective May 5, 1975, without prejudice to reapply for a license in the future.

*It is further ordered*, That a copy of this Order be published in the FEDERAL REGISTER and served upon P & O, Inc.

ROBERT S. HOPE,  
Managing Director.

[FR Doc.75-13095 Filed 5-16-75; 8:45 am]

**PACIFIC COAST-AUSTRALASIAN TARIFF BUREAU**

**Notice of Agreement Filed**

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before June 9, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

F. Conger Fawcett, Esq.  
Graham & James  
One Maritime Plaza  
San Francisco, California 94111

Agreement No. 50-31 is an application on behalf of the member lines of the Pacific Coast-Australasian Tariff Bureau to extend the presently approved intermodal authority as set forth in Articles II and III(c) of the conference agreement, for an unlimited period beyond the present expiration date of July 25, 1975. The Pacific Coast-Australasian Tariff Bureau provides for the establishment and maintenance of rates for the movement of cargo in the trades from Pacific Coast ports of the United States and Canada (not including Alaska), and Hawaii, to ports in Australia and New Zealand and to ports in various Islands of the Pacific specifically named therein, including cargo moving under intermodal conditions from, to or between inland points

via ports within the scope of the conference agreement.

Dated: May 14, 1975.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc.75-13093 Filed 5-16-75; 8:45 am]

**FEDERAL POWER COMMISSION**

[Docket No. E-9424]

**ARIZONA PUBLIC SERVICE CO.**

**Supplement to Agreement**

MAY 12, 1975.

Take notice that on May 5, 1975, Arizona Public Service Company (APS), tendered for filing Supplement No. 13 to Agreement with Navajo Tribal Utility Authority (NTUA). APS states that this Supplement provides for the delivery of a portion of NTUA's entitlement from the Company's Four Corners Generating Station on the Navajo Reservation near Farmington, New Mexico, to Public Service Company of New Mexico at the 230 kV interconnecting point with the Company for the account of NTUA for delivery to NTUA at Church Rock, New Mexico.

APS requests waiver of the Commission's regulations to permit an effective date of April 13, 1972, the date on which service under the Agreement was actually commenced.

APS states that a copy of this filing was served upon the Arizona Corporation Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 23, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-12965 Filed 5-16-75; 8:45 am]

[Docket Nos. CI74-489; and CI74-490]

**BELCO PETROLEUM CORP.**

**Petition To Waive Condition of Order, or in the Alternative, To Amend Order**

MAY 12, 1975.

Take notice that on April 28, 1975, Belco Petroleum Corporation, Agent for Belco 1972 Oil and Gas Fund, Ltd. (Petitioner), c/o Vinson, Elkins, Searls, Connolly & Smith, 2500 First City National Bank Building, Houston, Texas 77002, filed in Docket Nos. CI75-489 and CI75-

490 a petition to effect relief from the conditions imposed by ordering paragraph (G) of the order issued in the subject dockets on May 9, 1974, so as to permit Applicant to increase the rate charged for natural gas sold pursuant to authorization issued by said order to the nationwide rate promulgated by § 2.56a of the Commission's General Policy and Interpretations (18 CFR 2.56a), all as more fully set forth in the petition, which is on file with the Commission and open to public inspection.

The Commission, in the May 9, 1974, order, issued 18-month limited-term certificates to Applicant to sell gas for resale in interstate commerce to El Paso Natural Gas Company (El Paso) from Eddy and Lea Counties, New Mexico. The certificates are conditioned upon a rate of 45 cents per Mcf to remain in effect for the term of the authorization. Applicant states it commenced deliveries on May 10, 1974.

Applicant now petitions the Commission to permit the charging of the nationwide rate prescribed in § 2.56a as of January 30, 1975, when Applicant submitted notices of change in price for the subject sales.

Applicant asserts that the contractual rate for the subject sales was originally 55 cents per Mcf, but that it advised the Commission of its willingness to accept a rate of 45 cents per Mcf, the price level at which the Commission was issuing limited-term certificates without formal hearings at the time the applications were filed. Applicant maintains that, when the contracts were amended to provide for the 45-cent rate, it agreed with El Paso that such a price would be subject to escalation in the event the Commission established a higher just and reasonable nationwide rate that would be applicable to sales of the subject gas. Applicant submitted notices of change in price on January 30, 1975. The notices were rejected by letter dated March 4, 1975.

Applicant states that the subject gas qualifies as "new gas" within the meaning of § 2.56a because it is being produced from wells commenced after January 1, 1973, and the gas was not sold in interstate commerce previous to that date. Applicant asserts that it has a contractual right to the nationwide just and reasonable rate of 51 cents per Mcf plus adjustments. Applicant further asserts that it could not have been known at the time it agreed to accept certificates at the 45-cent rate that the Commission would have ultimately found the just and reasonable nationwide rate to be in excess of 45 cents. Applicant urges that it is neither just nor reasonable to invoke the condition inserted by the Commission in ordering paragraph (G) of the May 9, 1974, order so as to deny Applicant its contractual right to sell gas at the just and reasonable nationwide rate for new gas. Applicant further states that this is all the more true in light of the fact that Applicant specifically bargained for the contractual provision providing for such increase in price in return for agreeing to commence

sales at a price 10 cents below the original contract price.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 29, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-12966 Filed 5-16-75; 8:45 am]

[Docket No. E-9404]

**BOSTON EDISON CO. AND CAMBRIDGE ELECTRIC LIGHT CO.**

**Initial Rate Schedule Filing**

MAY 12, 1975.

Take notice that on April 28, 1975, Boston Edison Company (Edison) tendered for filing an initial rate schedule between itself and the Montaup Electric Company. According to Edison, the rate schedule sets forth the payments provisions for support of (2) 345 kV switching tap bridges constructed by Edison for Montaup adjacent to Montaup's Auburn Street Station. Edison asks that the rate schedule be allowed to become effective on May 1, 1975 (estimated in-service date), and as such, necessitates waiver of § 35.3 of the regulations.

Any person desiring to be heard or to make any protest with reference to the subject matter of this Notice, should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before May 23, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the documents referred to herein are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-12967 Filed 5-16-75; 8:45 am]

[Docket No. CI75-389, etc.]

**CHEVRON OIL CO. ET AL**

**Postponement of Hearing**

MAY 12, 1975.

The California Company, a Division of Chevron Oil Company, Docket No. CI75-



389; Kerr-McGee Corporation, Doc. No. CI75-391; Phillips Petroleum Co., Doc. No. CI75-393.

Take notice that due to a schedule conflict of the Presiding Administration Law Judge, the hearing scheduled for May 15, 1975, by notice issued April 10, 1975, in the above-designated matter, is postponed until June 4, 1975, at 10 a.m., e.d.t.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-12968 Filed 5-16-75; 8:45 am]

[Docket No. E-8884; Phase II]

#### CAROLINA POWER & LIGHT CO.

##### Further Extension of Procedural Dates

MAY 12, 1975.

On April 17, 1975, Electricities of North Carolina and the Cities of Bennettsville and Camden, South Carolina, filed a motion to indefinitely extend the procedural dates fixed by order issued August 26, 1974, as most recently modified by notice issued March 10, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Intervenor's Testimony, June 16, 1975.

Service of Staff's Testimony, July 7, 1975.

Service of Company's Testimony, July 21, 1975.

Service of Intervenor's Rebuttal, August 4, 1975.

Hearing, August 19, 1975 (10 a.m., e.d.t.)

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-12969 Filed 5-16-75; 8:45 am]

[Docket No. CP73-149]

#### CENTRAL FLORIDA GAS CORP. AND FLORIDA GAS TRANSMISSION CO.

##### Postponement of Hearing

MAY 12, 1975.

On May 8, 1975, Florida Gas Transmission Company filed a motion to postpone the hearing date fixed by order issued March 24, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the hearing date in the above matter is postponed until June 2, 1975, at 10 a.m. (e.d.t.).

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-12970 Filed 5-16-75; 8:45 am]

[Docket Nos. E-8885 and E-8846]

#### CINCINNATI GAS AND ELECTRIC CO.

##### Further Extension of Procedural Dates

MAY 12, 1975.

On May 7, 1975, Staff Counsel filed a motion to defer the procedural dates

fixed by order issued August 30, 1974, as most recently modified by notice issued April 24, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, June 9, 1975.

Service of Intervenor's Testimony, June 23, 1975.

Service of Company Rebuttal, July 7, 1975.

Hearing, July 15, 1975 (10 a.m., e.d.t.).

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-12971 Filed 5-16-75; 8:45 am]

[Docket No. RP74-4]

#### CITIES SERVICE GAS CO.

##### Further Extension of Procedural Dates

MAY 9, 1975.

On May 7, 1975, Cities Service Gas Company filed a motion to extend the procedural dates fixed by order issued January 23, 1975, as most recently modified by notice issued April 15, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Company's Supplemental Testimony, June 6, 1975.

Service of Staff's Testimony, June 20, 1975.

Service of Intervenor's Testimony, July 3, 1975.

Service of Company Rebuttal, July 15, 1975.

Hearing, July 22, 1975 (10 a.m., e.d.t.).

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-12972 Filed 5-16-75; 8:45 am]

[Docket No. RP75-47-5]

#### COLUMBIA GAS TRANSMISSION CORP. ET AL.

##### Order Setting Procedural Dates

MAY 12, 1975.

On March 5, 1975, E. I. DuPont de Nemours and Company (DuPont) filed a petition for extraordinary relief from the pro-rata curtailment plan of Columbia Gas Transmission Corporation (Columbia). Columbia Gas of West Virginia, Inc. DuPont's distributor supplier of natural gas, filed a petition of joinder on March 18, 1975.

On April 8, 1975, this Commission issued an order providing for hearing on the merits of DuPont's petition and setting dates for the filing of DuPont's case in chief.

On April 11, 1975, DuPont filed a motion to defer the procedural schedule fixed by our April 8 order. In support of its motion DuPont stated that in the absence of an order by the Commission extending Columbia's pro-rata curtailment plan, that plan would expire on April 30, 1975. DuPont requested that, in the event

that Columbia's pro-rata plan were to expire on April 30, its petition for extraordinary relief be deemed withdrawn and that this proceeding be terminated. DuPont stated that inasmuch as the pro-rata plan could have terminated only eight days after the hearing scheduled by our April 8 order, it wished to avoid the time and expense of presenting its case at a formal hearing until such time as we issued an order extending the life of Columbia's pro-rata plan.

On April 16, 1975, we issued a notice granting DuPont's motion and deferring the procedural dates established by our order of April 8, pending further Commission action.

On April 25, 1975, we issued an order in Docket No. RP72-89 extending for six months Columbia's pro-rata plan.

In light of the above we shall reschedule the procedural dates deferred by our notice of April 16.

The Commission finds: Good cause exists to reschedule an expeditious, formal evidentiary hearing on DuPont's request for permanent extraordinary relief from Columbia's pro-rata curtailment plan.

The Commission orders: The procedural dates deferred by our notice issued April 16, 1975, are rescheduled as follows:

Service of Testimony by all supporting parties, May 21, 1975.

Formal Hearing, June 5, 1975.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-12973 Filed 5-16-75; 8:45 am]

[Docket No. E-8952]

#### CONNECTICUT LIGHT & POWER CO.

##### Extension of Procedural Dates

MAY 9, 1975.

On April 30, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued March 7, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, June 17, 1975.

Service of Intervenor's Testimony, August 1, 1975.

Service of Company Rebuttal, August 15, 1975.

Hearing, September 3, 1975 (10 a.m., e.d.t.)

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-12974 Filed 5-16-75; 8:45 am]

[Docket No. RI75-129]

#### C. CRADY DAVIS, ET AL.

##### Extension of Procedural Dates

MAY 12, 1975.

On April 24, 1975, C. Crady Davis, et al. filed a motion to extend the procedural dates fixed by order issued April 18, 1975, in the above-designated matter.

The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Applicant's and Supporting Intervenor's Testimony, May 27, 1975.

Service of Staff's and Opposing Intervenor's Testimony, June 17, 1975.

Service of all Rebuttal Testimony, June 24, 1975.

Hearing, July 1, 1975 (10 a.m., e.d.t.).

Filing of Notices or Petitions to Intervene, May 20, 1975.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-12975 Filed 5-16-75; 8:45 am]

[Docket No. RP67-6, etc.]

#### EL PASO NATURAL GAS CO.

##### Tendered Report of Refunds

MAY 9, 1975.

In the matter of El Paso Natural Gas Company; Docket No. RP67-9 and Area Rate Proceedings, Docket Nos. AR61-1, et al. and AR64-1, et al.

Take notice that on April 23, 1975, El Paso Natural Gas Company (El Paso), submitted to this Commission, in purported compliance with the requirements established at the above-referenced dockets, its report of refunds received from its producer-suppliers during the period January 1, 1973, through December 31, 1974, and flowed through to its jurisdictional customers and the refunds received during the period January 1, 1975, through March 31, 1975, and being retained subject to refund. El Paso states that on March 27, 1975, it refunded to its jurisdictional customers \$39,645,682.66, representing the amounts retained by El Paso, subject to refund, through December 31, 1974. In addition, the company states that during the period January 1, 1975, through March 31, 1975, it received \$6,619.43 from certain interstate producer-suppliers, which money El Paso has retained and commingled with its corporate funds.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 22, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 22, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 22, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

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KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-12976 Filed 5-16-75; 8:45 am]

[Docket No. CP70-48]

#### EL PASO NATURAL GAS CO. Rate Schedule Cancellation

MAY 12, 1975.

Take notice that on April 18, 1975, El Paso Natural Gas Company ("El Paso"), tendered for filing First Revised Sheet No. 265 to its FPC Gas Tariff, Third Revised Volume No. 2. Such sheet, when accepted for filing and permitted to become effective, will serve to cancel Rate Schedule X-22 contained in said tariff. El Paso states that Rate Schedule X-22 is comprised of a Letter Agreement dated August 1, 1969, between El Paso and Colorado Interstate Gas Company, a Division of Colorado Interstate Corporation ("Colorado") and Northern Natural Gas Company ("Northern") providing for the limited term delivery of certain volumes of natural gas on an emergency standby basis by El Paso to Colorado at a point on El Paso's pipeline system in Hutchinson County, Texas. In exchange therefor, Colorado would make delivery of like quantities of gas to Northern, for the account of El Paso, at the point of interconnection of the facilities of Colorado and Northern in Moore County, Texas. The subject letter agreement comprising Rate Schedule X-22 expired by its own terms on November 1, 1974, upon completion of the balancing of all deliveries by the parties.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 22, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-12977 Filed 5-16-75; 8:45 am]

[Docket No. E-7548]

#### GEORGIA POWER CO.

##### Revised Rates and Charges Pursuant to Commission Order

MAY 13, 1975.

Take notice that Georgia Power Company (Georgia Power) on May 5, 1975 tendered for filing Second Revised Sheet No. 23 and Second Revised Sheet No. 24 to its FPC Electric Tariff, Original Volume No. 1, pursuant to Commission order in Opinion No. 711 and 711-A, issued November 15, 1974 and April 3, 1975,

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-12976 Filed 5-16-75; 8:45 am]

respectively. Georgia Power avers that the rates and charges contained in the tendered tariff sheets are those set forth in its Settlement Agreement which were approved by the Commission in Opinion No. 711. The revised rates and charges would be made effective as of January 1, 1971 through December 12, 1973.

(No statement of service of copies of the filing, pursuant to §§ 35.13(a) and 1.17(b) of the Commission's regulations under the Federal Power Act, and no proposed notice for publication in the FEDERAL REGISTER, pursuant to § 2.1(a) of the Commission's rules of practice and procedure and § 35.8(a) of the Commission's regulations (50 FPC 125) were included in the filing.)

Any person desiring to be heard or to protest said application should file a petition to intervene (if not previously filed herein) or to protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 28, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-12978 Filed 5-16-75; 8:45 am]

[Docket No. CP75-324]

#### GRAND VALLEY TRANSMISSION CO.

##### Application

MAY 13, 1975.

Take notice that on May 1, 1975, Grand Valley Transmission Company (Applicant), 117 East Fourth South, Salt Lake City, Utah 84111, filed in Docket No. CP 75-324 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon service to Northwest Pipeline Corporation (Northwest) and facilities related to that service located in Grand and Uintah Counties, Utah, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is a small gathering company which purchases gas from various producers in Grand and Uintah Counties and sells such gas to Northwest (successor in interest to El Paso Natural Gas Company) pursuant to an order of the Commission issued

On April 18, 1975, Northwest filed an application in Docket No. CP75-310 for authorization to acquire and operate the subject facilities. Notice of the application was issued on May 1, 1975.



## NOTICES

June 20, 1961 (25 FPC 1178), as amended. Applicant further states that in accordance with a purchase agreement dated March 20, 1975, it proposes to sell to Northwest on or before August 1, 1975, all of Applicant's gathering and transmission system facilities, including all appurtenances, contracts, rights-of-way, assets, interests, rights and properties presently owned and operated by Applicant. The application indicates that the facilities will be purchased at a cost which is to be the lesser of \$560,000 or the net book value as of the closing date, which cost shall be determined in accordance with generally accepted accounting principles.

The application indicates that upon acquisition of the facilities of Applicant Northwest would continue to operate the facilities in essentially same manner as Applicant and that there will be no reduction in service.

Applicant claims the reason for the proposed sale is that the facilities as operated by Applicant are too isolated and small an economic entity to operate profitably, whereas the same facilities operated by Northwest can be profitable because Northwest has extensive business operations in the general area of said facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 27, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided, for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-12979 Filed 5-16-75; 8:45 am]

[Docket No. RI75-136]  
**JOHN B. HAWLEY, JR. TRUST NO. 1**  
**Petition for Special Relief**

MAY 12, 1975.

Take notice that on April 28, 1975, John B. Hawley, Jr. Trust No. 1 (Petitioner), 1915-57th Avenue North, Minneapolis, Minnesota 55430, filed a petition for special relief in Docket No. RI75-136, pursuant to Order No. 481 and § 2.76 of the Commission's General Policy and Interpretations for the sale of gas to Cities Service Gas Company from its Longbotham No. 1 Well located in section 3, Township 30 South, Range 32 West, Haskell County, Kansas.

Petitioner states that it no longer is economical to operate the well at the current rate of 13.15 cents per Mcf and seeks an increase to 34 cents per Mcf for the sale of natural gas to Cities under FPC Gas Rate Schedule No. 1. Petitioner further states that if relief is not granted it will be necessary to abandon prematurely said well.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 27, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13003 Filed 5-16-75; 8:45 am]

[Docket No. CP75-321]  
**KANSAS-NEBRASKA NATURAL GAS**  
**COMPANY, INC.**  
**Application**

MAY 12, 1975.

Take notice that on April 30, 1975, Kansas-Nebraska Natural Gas Company, Inc., (Applicant), P.O. Box 608, Hastings, Nebraska 68901, filed in Docket No. CP75-321 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity to commence service to Peoples Natural Gas Division of Northern Natural Gas Company (Peoples) through existing delivery points in Finney County, Kansas, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant states that it presently provides natural gas to Peoples at Goodland, Kansas, pursuant to Commission authorization, and that neither the applicable service agreement nor the delivery point is affected by this application. Applicant has agreed to deliver to Peoples a daily volume of 115 Mcf of gas

and 165 Mcf of gas under its Rate Schedules CD-1 and WPS-1, respectively, at the delivery points in Finney County. The gas delivered, according to Applicant, will be used to meet the existing requirements of the rural farm residential and commercial customers located along Applicant's gathering line. These customers are presently served by Applicant through existing metering and associated distribution facilities, which Applicant will sell Peoples.

The area proposed to be served by Peoples is north of Garden City, Kansas, which is currently served by Peoples. The application states that because Garden City has continued to extend its boundaries to the rural areas adjacent thereto, Applicant and Peoples have entered into an agreement whereby those rural customers now served by Applicant from its gathering line located in Finney County will be served by Peoples. The delivery points are as follows:

Meadowlark Trailer Park  
KUPK Radio  
Lewis  
Eagles  
Etherly  
Peerless Plastics  
O.O. North  
Oswald Industries

Applicant states that the change in service proposed herein will not reflect a decrease in Applicant's gas supply or delivery capacity. Applicant states further that since the sales to the aforesaid customers are made by Applicant pursuant to authorization of the State Corporation Commission of Kansas, Applicant is filing with said commission an application requesting permission to abandon service to said customers and Peoples is filing a corresponding application seeking authorization to serve the same customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 29, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity.

ence and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-12980 Filed 5-12-75; 8:45 am]

[Docket No. CI74-215]

**KRENNERMAN OIL AND GAS CO.**  
**Order Setting Matter for Hearing and**  
**Prescribing Procedures**

MAY 12, 1975.

On October 2, 1973, Krennerman Oil and Gas Company (Krennerman) filed an Application for Abandonment and cancellation of Federal Power Commission jurisdiction involving a sale of natural gas to Gas Transport Inc. (GT) from forty-five oil wells located in the Ravenswood and Grant District, Jackson County, West Virginia (Appalachian Basin South Sub-Area) under an expired contract dated January 12, 1954 as amended.<sup>1</sup> Krennerman stated in its application that due to the costs of operation it will continue to incur substantial losses which would threaten termination of its business if it continued to sell gas to GT at a rate of 25.0¢ per Mcf (at 15.025 psia).<sup>2</sup>

By letters dated January 22, 1975 and April 4, 1975 Krennerman now informs the Commission that the forty-five sub-merged wells have produced for twenty-two years, but now the reservoir pressure has dropped and production has declined. Krennerman states that it is necessary to conserve the gas and repressure the reservoir thereby maintaining oil production. Furthermore, Krennerman states that it has installed a compressor station for this purpose and that no gas has been delivered to GT since the expiration of the contract on December 31, 1972. The contract provided that should the oil production seriously decline by reason of producing gas under the terms of the contract, the seller was entitled to reserve such gas as necessary to recycle or repressure the properties to maintain oil production.

Krennerman's application contains a letter dated January 21, 1972 from GT offering to pay 30.0¢ per Mcf (the area ceiling rate for old gas) for gas from any new wells, but stating that it could not offer to increase the price for gas from

<sup>1</sup> Applicant has a blanket small producer certificate issued pursuant to Commission Order No. 411.

<sup>2</sup> The basic rate of the original contract was 21.0¢ per Mcf and was subsequently amended to a rate of 25.0¢ per Mcf (effective May 21, 1960), for the remainder of the life of the contract or any extension thereof. The contract expired December 31, 1972.

existing wells above the established 25.0¢ contract rate. By letter dated March 7, 1974, the Commission Staff informed GT that by virtue of Order No. 428 small producers (including those covered by Order No. 411) were entitled to collect their contract rates subject to a refund obligation. By a letter dated April 4, 1975, GT states that in anticipation of a favorable ruling in the Commission's rule-making proceeding in Docket No. R-393<sup>3</sup> and as an inducement to Krennerman to increase the production rate, it has offered 50.0¢ for the first 5,000 Mcf produced each month, and 75.0¢ per Mcf for all monthly volumes over 5,000 Mcf subject to refund pending final determination by the Commission of a just and reasonable rate. GT also indicates that it has a standing offer of 75.0¢ for all new gas subject to Commission approval. GT claims Krennerman has refused the offer and has not indicated a price at which it would be willing to continue and expand production. Therefore, GT requests that the proposed abandonment be denied.

Pursuant to section 7(b) we are compelled to set this application for an expeditious formal hearing to determine the extent to which the supply of natural gas contained in the underlying reservoir of Krennerman's wells have in fact been depleted to the extent that continuance of the existing service is unwarranted or that the present or future public convenience and necessity would permit such abandonment. In order to meet such statutory criteria we will require Krennerman to present in its direct case evidence consisting of inter alia: the estimated amount of remaining reserves underlying the subject acreage; the estimated productive life of such acreage; annual sales made to GT from 1971 through the present; any additional facilities and the cost thereof of any additional facilities necessary to maintain service to GT; a detailed study showing the rate per Mcf required to make it economically feasible to continue service to GT, and whether applicant and/or GT would be willing to continue service at such price; the feasibility of recovering for continued service any volumes of gas injected for repressurization of the subject wells necessary for oil production; and a detailed presentation indicating the proposed disposition of the remaining gas reserves should abandonment be granted.

No petitions to intervene or protests were filed in the above captioned docket pursuant to the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) prior to the November 15, 1973 expiration date for such filings.

The Commission finds: Sufficient cause exists for setting for formal hearing the

<sup>3</sup> Instituted by notice issued September 9, 1974 wherein the Commission proposes to permit small producers to charge up to a maximum of 150 percent of the applicable ceiling rates established for comparable sales by large producers.

## NOTICES

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issues involved in the aforementioned pleadings and for establishing the procedures for that hearing as hereinafter ordered.

The Commission Orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 7 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter 1), a public hearing shall be held commencing July 1, at 10 a.m. (e.d.t.) in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, concerning the propriety of issuing a certificate of public convenience and necessity to the applicant for the proposed abandonment of the sale requested by his application of October 2, 1973.

(B) On or before June 17, applicant shall file and serve its testimony and exhibits comprising its case-in-chief consistent with the evidentiary requirements as set forth in this order in support of its application upon all parties to this proceeding including Commission Staff.

(C) An Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearings in this proceeding and shall prescribe all relevant procedural matters not herein provided.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-12981 Filed 5-16-75; 8:45 am]

[Docket No. CP75-315]

**MICHIGAN WISCONSIN PIPE LINE CO.**  
**Application**

MAY 12, 1975.

Take notice that on April 28, 1975, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP75-315 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the twelve-month period commencing July 13, 1975, and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas in various producing areas generally coextensive with its system, or the system of other natural gas companies authorized to transport or exchange natural gas with Applicant. The total cost of the proposed facilities will not exceed \$12,000,000, with no single offshore project costing in excess of \$2,500,000, and no single onshore project cost-



ing in excess of \$1,500,000. Applicant states that these costs will be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 29, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-12982 Filed 5-16-75; 8:45 am]

[Docket No. E-9058]

**MISSISSIPPI POWER AND LIGHT CO.**  
Further Extension of Procedural Dates

MAY 9, 1975.

On May 8, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued December 20, 1974, as most recently modified by notice issued March 6, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, July 8, 1975.  
Service of Intervenor's Testimony, July 22, 1975.  
Service of Company Rebuttal, August 5, 1975.  
Hearing, August 19, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-12983 Filed 5-16-75; 8:45 am]

[Docket No. RP72-149 and PGA75-8b]

**MISSISSIPPI RIVER TRANSMISSION CORP.**

Proposed Change in Rates

MAY 12, 1975.

Take notice that Mississippi River Transmission Corporation (MRT), on May 2, 1975, tendered for filing Second Substitute Twenty-Ninth Revised Sheet No. 3A and Second Substitute Alternate Twenty-Ninth Revised Sheet No. 3A to its FPC Gas Tariff, First Revised Volume No. 1, to be effective April 1, 1975.

The purpose of the filing is to reflect MRT's compliance with the Commission's April 24, 1975, order rejecting Twenty-Ninth Revised Sheet No. 3A, MRT's PGA filing of March 10, 1975. On April 23, 1975, MRT had submitted Substitute Twenty-Ninth Revised Sheet No. 3A and Substitute Alternate Twenty-Ninth Revised Sheet No. 3A in substitution for the aforementioned March 10, 1975, filing to reflect the effect of MRT's April 18, 1975, filing in Docket No. RP75-20. MRT advises that the instant filing modifies Substitute Twenty-Ninth Revised Sheet No. 3A and Substitute Alternate Twenty-Ninth Revised Sheet No. 3A in accordance with the Commission's April 24, 1975, order. MRT has recomputed its April 1, 1975, PGA rate change without reflecting the Mills Ranch purchases during the months of December 1974 through March 1975 and the offsetting revenues from Natural Gas Pipeline Company of America.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protests should be filed on or before May 23, 1975. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-12984 Filed 5-16-75; 8:45 am]

[Docket No. RP72-149 and PGA75-9a]

**MISSISSIPPI RIVER TRANSMISSION CORP.**

Proposed Change in Rates

MAY 12, 1975.

Take notice that Mississippi River Transmission Corporation (MRT) on May 5, 1975 tendered for filing Substitute Thirtieth Revised Sheet No. 3A and Substitute Alternate Thirtieth Revised Sheet No. 3A to its FPC Gas Tariff, First Revised Volume No. 1, to become effective May 20, 1975.

The purpose of the filing is to modify the rates reflected in MRT's April 28, 1975 filing of Thirtieth Revised Sheet No. 3A and Alternate Thirtieth Revised Sheet

No. 3A in light of the Commission's April 24, 1975 order rejecting MRT's March 10, 1975 PGA filing. MRT has applied for rehearing of the order of April 24, 1975.

Thirtieth Revised Sheet No. 3A and Alternate Thirtieth Revised Sheet No. 3A were necessitated by MRT's April 18, 1975 submission of Substitute Twenty-Eighth Revised Sheet No. 3A and Substitute Alternate Twenty-Eighth Revised Sheet No. 3A in Docket No. RP75-20. In the April 18, 1975 filing MRT requested the Commission to approve a change in MRT's PGA clause "base average cost", as reflected in Substitute Alternate Twenty-Eighth Revised Sheet No. 3A. The Commission has as yet taken no action on this request.

MRT advises that, depending on the Commission's disposition of MRT's application for rehearing of the April 24, 1975 order and the request contained in the April 18, 1975 filing in Docket No. RP75-20, the following combinations are possible:

If Substitute Twenty-Eighth and Substitute Twenty-Ninth Revised Sheet No. 3A become effective, then Thirtieth Revised Sheet No. 3A is to be effective.

If Substitute Alternate Twenty-Eighth and Substitute Alternate Twenty-Ninth Revised Sheet No. 3A become effective, then Alternate Thirtieth Revised Sheet No. 3A is to be effective.

If Substitute Twenty-Eighth and Second Substitute Twenty-Ninth Revised Sheet No. 3A become effective, then Substitute Thirtieth Revised Sheet No. 3A is to be effective.

If Substitute Alternate Twenty-Eighth and Second Substitute Alternate Twenty-Ninth Revised Sheet No. 3A become effective, then Substitute Alternate Thirtieth Revised Sheet No. 3A is to be effective.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 23, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene unless such petition has previously been filed. Copies of the filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-12985 Filed 5-16-75; 8:45 am]

[Project No. 2301-Montana]

**MONTANA POWER CO.**

Availability of Environmental Impact Statement for Inspection

Notice is hereby given that on May 19, 1975, as required by the Commission rules and regulations under Order 415-C, issued December 18, 1972, a final environmental impact statement prepared by the Commission's Staff pursuant to

section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91-100) was placed in the public files of the Federal Power Commission. This statement deals with an application for a new license filed pursuant to the Federal Power Act for the existing Mystic Lake Project No. 2301, located on West Rosebud Creek in Stillwater and Carbon Counties, Montana. The application also seeks approval of a proposed 49-acre re-regulating reservoir which would be constructed about one mile downstream from the existing powerhouse. This statement is available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE, Washington, D.C. 20426, and its Chicago Regional Office located at 230 South Dearborn Street, Chicago, Illinois 60604. Copies may be ordered from the Commission's Office of Public Information, Washington, D.C. 20426.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-12986 Filed 5-16-75; 8:45 am]

[Docket Nos. RP74-35 and RP74-100 (PGA 75-10)]

**NATIONAL FUEL GAS SUPPLY CORP.**  
Order Accepting for Filing and Suspending Proposed Increase in Rates

MAY 12, 1975.

On April 2, 1975, National Fuel Gas Supply Corporation (Supply Corporation) filed herein to increase the rate under Rate Schedule SO of the tariff of a predecessor company, United Natural Gas Company (United Natural). Supply Corporation adopted United Natural's tariff at the time of realignment of United Natural and other affiliated companies approved by this Commission. The proposed rate increase totals 19 cents per Mcf, and represents increased purchased gas costs which have become effective through April 2, 1975. Supply Corporation proposes that the increased rate become effective on May 1, 1975.

The adopted tariff proposed to be revised by means of the present filing has been superseded by Supply Corporation's currently effective tariff, which became effective following suspension in Docket No. RP74-100 on January 12, 1975. The currently effective tariff does not contain rate schedule SO. However, Supply Corporation has continued to provide this service to the sole customer, Sylvania Corporation, pursuant to the prior adopted tariff which has now been superseded.<sup>1</sup>

Based on a review of the facts of this case, it appears that Supply Corporation should immediately amend its currently effective tariff to incorporate Rate Schedule SO. We shall so require. There is a further question, which cannot be resolved on the basis of the information presently available, as to what the SO rate should be under the currently effective tariff, which applies to post-realignment operations. Supply Corporation's proposed rate for service under Rate Schedule SO has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, referential, or otherwise unlawful. We shall therefore accept the instant proposed tariff change for filing, suspend it for one day, and consolidate it for purposes of hearing and decision with Supply Corporation's current rate proceeding in Docket No. RP74-100.

Notice of the present filing was issued on April 14, 1975, providing for protests or petitions to intervene to be filed on or before April 27, 1975. A petition to intervene was filed in response to the notice by Peoples Natural Gas Company. This petition will be granted.

The Commission orders: (A) The tariff changes proposed herein by Supply Corporation, consisting of Fifteenth Revised Sheet No. 3A and Fourth Revised Sheet No. 16A to the former FPC Gas Tariff of United Natural Gas Company, Original Volume No. 1, are accepted for filing, suspended for one day, and permitted to become effective thereafter on May 2, 1975, subject to refund.

(B) Within 15 days from the date of this order, Supply Corporation shall submit an amendment to its currently effective tariff incorporating Rate Schedule SO.

(C) Supply Corporation's filing herein is consolidated for purposes of hearing and decision with the general rate proceeding now pending in Docket No. RP 74-100.

(D) The above-named petitioner is hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission: *Provided, However*, That the participation of such intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in said petition for leave to intervene; and *Provided, further*, That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(E) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-12987 Filed 5-16-75; 8:45 am]

[Docket No. RP74-100 (PGA 75-8)]

**NATIONAL FUEL GAS SUPPLY CORP.**  
Compliance Tariff Filing

MAY 12, 1975.

Take notice that on May 5, 1975, National Fuel Gas Supply Corporation (Na-

<sup>1</sup> The rate schedule designation SO refers to Seller's Option. Under this arrangement gas is sold to Sylvania Corporation at the option of the seller, Supply Corporation, for storage by Sylvania and resale to Supply Corporation for distribution.

tional) tendered for filing as part of its FPC Gas Tariff, Original Volume No. 1, First Revised Sheet No. 35, First Revised Sheet No. 36 and Original Sheet No. 36A, proposed to be effective May 1, 1975.

National states that the sole purpose of these revised tariff sheets is to comply with Ordering Paragraph (C) issued April 9, 1975, in the above referenced docket. The revision is to the General Terms and Conditions of National's tariff relating to its PGA adjustment clause.

It is stated that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 30, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-12988 Filed 5-16-75; 8:45 am]

[Docket No. CP73-332]

**NORTHWEST PIPELINE CORP.**

Petition To Amend

MAY 12, 1975.

Take notice that on April 25, 1975, Northwest Pipeline Corporation (Petitioner), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP73-332 a petition to amend the order issued in said docket on February 26, 1975, pursuant to section 7(c) of the Natural Gas Act so as to authorize the sale for resale of 1,500 Mcf of natural gas per day to Northwest Natural Gas Company (Northwest Natural) and Southwest Gas Corporation (Southwest) originally allocated to Washington Water Power Company (Water Power), all as more fully set forth in the petition to amend, which is on file with the Commission and open to public inspection.

By order issued February 26, 1975, in the subject docket the Commission affirmed and adopted with modification, the initial decision of the presiding administrative law judge authorizing Petitioner to import from October 1, 1975, through April 30, 1977 up to 55,000 Mcf per day of natural gas from Canada and to sell such gas for resale. The gas is purchased by Petitioner from Westcoast Transmission Company Limited and sold by Petitioner pursuant to its Rate Schedule TS-1.

Petitioner states that subsequent to its application Water Power, one of the participating customers, released the volumes of gas it had requested, resulting in a reallocation of the volumes of

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gas to be delivered pursuant to the Rate Schedule TS-1. Petitioner further states that the reallocation represents a shift of 1,500 Mcf per day from Water Power, divided equally between two of the other participating customers, Northwest Natural and Southwest. Petitioner provides the following tabulation as a comparison of the contract demands initially proposed in the certificate application with the revised allocations resulting from Water Power's release of requested volumes:

Customer	Contract demand allocation	
	Initial (Mcf)	Revised (Mcf)
California-Pacific Utilities Co.	2,000	2,000
Cascade Natural Gas Co.	8,000	8,000
Intermountain Gas Co.	5,000	5,000
Northwest Natural Gas Co.	28,000	28,750
Southwest Gas Corp.	4,000	4,750
Washington Natural Gas Co.	1,500	1,500
The Washington Water Power Co.	1,500	1,500
Total	50,000	50,000

Petitioner states that the volumes in question will be purchased by customers who had previously agreed to participate in this project and who will require the short-term emergency volumes of gas to serve high priority customers on peak days.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 27, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-12989 Filed 5-16-75; 8:45 am]

[Docket No. E-7777 (Phase II)]  
**PACIFIC GAS & ELECTRIC CO.**  
Order Granting Interventions and Designating a Party Respondent

MAY 12, 1975.

On June 24, 1974, the cities of Anaheim, Riverside, Banning, Colton, and Azusa, California (Southern Cities) filed a Motion to Intervene in Docket No. E-7777 (Phase II), and Motion to Join Southern California Edison Company (SoCalEd) as a Respondent Party in Docket No. E-7777 (Phase II). Also on June 24, 1974, Anza Electric Cooperative, Inc. (Anza) filed a similar motion. Anza

and the Southern Cities are customers of SoCalEd. In their petitions Anza and the Southern Cities alleged that SoCalEd has engaged in certain anti-competitive behavior. These allegations focus on certain contracts which both SoCalEd and Pacific Gas and Electric (PG&E) have signed.

Anza attempted to raise anti-competitive issues concerning these contracts in another docket, Docket No. E-8570, which involved a rate increase application filed by SoCalEd. We did not allow those issues to be raised there because we had already instituted an investigation pursuant to section 206 of the Federal Power Act, into these contracts in the present docket, and found that any contractual remedies which Anza may wish to pursue could be fully considered in this proceeding.<sup>1</sup>

Two of the contracts referred to above are (1) the "California Power Pool" and (2) the "Seven Party Agreement". However, since we granted the Staff's motion to sever from Docket No. E-7777 (Phase II) the issues related to the "Seven Party Agreement",<sup>2</sup> we will here treat Southern Cities' filing as a Motion to Intervene in E-7777 (II) based on complaints relating to the California Power Pool. The California Power Pool is a contract to which both PG&E and SoCalEd are parties and is under investigation in E-7777 (II). In support of their petition to intervene Southern Cities state "It appears to the Cities that, without modification, the California Power Pool operates to restrict the ability of (SoCalEd's) wholesale customers to plan and develop their power supply resources most effectively and economically, and that it may have the effect of limiting access to energy sources." Southern Cities state that they are "actively pursuing plans" for alternative power sources so that they will no longer receive all their power from SoCalEd. In order to achieve this status Southern Cities asserts a need for a "non-restrictive California Power Pool".

SoCalEd has opposed these motions to intervene. In support of its position they assert that the petitions fail to meet the standards as set out by the Commission in our order of May 31, 1973, in *Indiana & Michigan Electric Company*, Docket No. E-7740 (49 FPC 1232). In addition, So. Cal. Ed. raises the possibility that the Southern Cities are merely seeking an additional bargaining chip in unrelated rate proceedings.

We are not persuaded by SoCalEd's allegations. We reiterate our deep concern over charges such as are made by Anza and the Southern Cities. Anza and Southern Cities have alleged anti-competitive behavior and asked for contract modification such as the Commission is empowered to accomplish. We shall, therefore, grant the requested interventions. However, in granting intervention,

<sup>1</sup> Southern California Edison Company, Docket No. E-8570, order issued June 5, 1974.  
<sup>2</sup> Pacific Gas and Electric Company, Pacific Power and Light Company, et al., Order issued July 8, 1974.

we do not intend to relieve those who would offer evidence to establish anti-competitive conduct from their traditional burden of establishing the relevancy of such evidence to the issues in the proceeding, including their relevancy to the specific relief which we have the power and authority to grant.

For good cause shown, we shall grant Southern Cities and Anza's petitions to intervene in E-7777 (Phase II). Because SoCalEd is not now a party to this docket but has been charged with anti-competitive behavior arising out of the subject matter of this investigation, we shall make SoCalEd a party respondent. The granting of these petitions shall not be the basis for the delay of any of the procedural dates heretofore prescribed in this proceeding.

**The Commission finds:** Participation by the above-mentioned intervenors and party respondent may be in the public interest.

**The Commission orders:** (A) SoCalEd is hereby designated a party respondent to Docket No. E-7777 (Phase II).

(B) The above-mentioned intervenors are permitted to intervene subject to the rules and regulations of the Commission: *Provided, however,* The intervention of such intervenors is limited to the issues as they relate to the above-named party respondent and which may affect asserted rights and interests as specifically set forth in the petitions to intervene: *Provided, further,* That the admission of any such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(C) The granting of these petitions to intervene shall not be the basis for any delay in the procedural dates described in this proceeding.

(D) The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-12990 Filed 5-16-75; 8:45 am]

[Project No. 77]

**PACIFIC GAS & ELECTRIC CO.**  
Extension of Time

MAY 12, 1975.

On May 7, 1975, California Trout Incorporated filed a motion to extend the time for objecting to the petition to intervene filed April 17, 1975, in the above-designated matter.

Upon consideration, notice is hereby given that the time for answers to the above petition is extended to and including May 16, 1975.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-12991 Filed 5-16-75; 8:45 am]

[Docket No. E-9322]  
**SOUTH CAROLINA ELECTRIC AND GAS CO.**  
Order Instituting Section 206 Proceeding  
MAY 13, 1975.

On March 4, 1975, the South Carolina Electric and Gas Company (SCE&G) filed two petitions requesting the Commission to institute an investigation under section 206(a) of the Federal Power Act of the Company's present wholesale rates to Carolina Power and Light (CP&L), Duke Power Company (Duke), and Georgia Power Company (GPC).

SCE&G has on file separate contracts<sup>1</sup> which provide for the annual sale from SCE&G's Saluda Hydroelectric Station of 150,000,000 kWh (maximum) to CP&L and 75,000,000 kWh (maximum) to Duke at the fixed rate of 6 mills/kWh. Both of these agreements have fixed terms of 50 years ending on July 1, 1980. The third agreement,<sup>2</sup> dated October 31, 1963, provides for the sale of firm power to GPC at a maximum demand of 75,000 kW for a fixed charge of \$1.98 per kW demand per month plus an energy charge of 3.10 mills per kWh, subject to a fuel adjustment of 1/100 mills per kWh for each mill increase in SCE&G's fuel cost above 30¢ per million BTU. This is a fixed term contract running from November 1, 1963, through February 9, 1979. SCE&G's contracts with CP&L and Duke have three year notice provisions by either party for early contract termination, but there are no allegations of such notice having been exercised.

SCE&G complains that the presently effective contract rates unreasonably impair the Company's financial integrity and ability to continue to serve and unjustly discriminate against the Company's other classes of customers.

SCE&G requests that the Commission (1) initiate investigations under section 206(a) of the Federal Power Act, (2) declare the rates unreasonable, unjust and contrary to the public interest, and (3) permit the parties to negotiate new rates which are just and reasonable. In regard to the rate schedules with CP&L and Duke, SCE&G requests permission to collect, on an interim basis, effective May 1, 1975, an amount equal to its system-average production costs on sales, subject to refund.

In support of its position, SCE&G elaborates on its "severe financial deterioration in recent years and months," particularly in regard to interest expense on debt and deteriorating earnings on common equity. SCE&G also states that by the end of 1974, its systemwide production cost per kWh, including fuel cost, had risen to 14.24 mills per kWh and that systemwide fuel cost increased from

<sup>1</sup> The contracts were originally executed in 1927 with Lexington Water Power Co. before it merged with SCE&G in 1943. They were redesignated as: South Carolina Electric & Gas Company Rate Schedule FPC No. 2 (CP&L) and Rate Schedule FPC No. 3 (Duke).  
<sup>2</sup> Rate Schedule F.P.C. No. 13 (GPC).

6.32 to 12.74 mills per kWh. Citing these "costs," SCE&G states that the 6 mills per kWh charge to CP&L and Duke is obviously inadequate. Similarly, SCE&G believes its estimated revenues for firm power service to GPC of "3.10 mills per kWh, plus a fuel adjustment of 9.19 mills per kWh" is inadequate.<sup>3</sup>

Notice of SCE&G's two petitions was issued on March 25, 1975, with protests or petitions to intervene due on or before April 4, 1975. Timely filed were petitions to intervene by CP&L and Duke, an Answer by GPC, and a Notice of Intervention by the South Carolina Public Service Commission.

The customers allege that their contracts are the fixed rate type within the scope of the rule of *Sierra-Mobile*<sup>4</sup> and that SCE&G has not raised substantial enough allegations to warrant instituting a section 206(a) proceeding. Furthermore, they allege that the Commission has no authority under the Federal Power Act to grant the interim relief requested.

The South Carolina Commission in its Notice of Intervention asked that it be permitted to participate in any proceedings instituted.

SCE&G's contracts with its three customers are all fixed rate, fixed term contracts. All three contracts specifically prohibit the unilateral filing of rate increases by SCE&G. Therefore, any request for change by SCE&G in the three contracts is governed by the *Sierra*<sup>5</sup> rule.

However, our review of the three contracts indicates that issues have been raised which require development in an evidentiary hearing.

We conclude that a section 206(a) investigation of SCE&G's Rate Schedules FPC Nos. 2, 3, and 13 is necessary to determine whether a sufficient showing can be made by SCE&G to satisfy the test enunciated by the Supreme Court in the *Sierra* case.

With respect to SCE&G's request for interim relief on the rates to CP&L and Duke, the Commission's authority to prescribe rates and charges under section 206 of the Federal Power Act is limited to rates and charges to be imposed after a favorable decision by the Commission and the Commission is without authority under section 206 to authorize collection, even under a duty to refund, prior to its rendering a final decision on the merits of the case.<sup>6</sup>

**The Commission finds:** (1) It is neces-

<sup>3</sup> Elsewhere in its petition SCE&G estimates its unit charge under the contract for annual service at 5.88 mills per kWh plus fuel adjustment.

<sup>4</sup> Federal Power Commission v. Sierra Pacific Power Company, 350 U.S. 348 (1956); United Gas Pipe Line Company v. Mobile Gas Service Corporation, 350 U.S. 332 (1956).

<sup>5</sup> F.P.C. v. Sierra Pacific Power Company, 350 U.S. 348 (1956).

<sup>6</sup> Federal Power Commission v. Sierra Pacific Power Company, 350 U.S. 348 (1956); Indiana & Michigan Electric Company v. Federal Power Commission, 502 F.2d 338 (CA-DC 1974).

sary and proper in the public interest and in carrying out the provisions of the Federal Power Act, that the Commission enter upon a hearing concerning the lawfulness of SCE&G's fixed rate contracts with CP&L, Duke, and GPC.

(2) There is no basis in the Federal Power Act for granting the interim relief requested by SCE&G.

(3) Good cause exists to grant the intervention of CP&L, Duke, GPC, and the South Carolina Public Service Commission.

**The Commission orders:** (A) Pursuant to the authority of the Federal Power Act, particularly section 206 thereof, the Commission's rules of practice and procedure, and the regulations under the Federal Power Act, a public hearing shall be held on September 16, 1975, in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, concerning the lawfulness of the rates, charges, classifications and services contained in SCE&G's fixed rate contracts with CP&L, Duke, and GPC.

(B) SCE&G shall serve its direct testimony and exhibits on or before June 24, 1975. Staff shall serve its testimony on or before July 15, 1975. Intervenor shall serve their direct case on or before August 5, 1975. SCE&G shall serve its rebuttal evidence on or before August 26, 1975.

(C) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5 (d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure.

(D) The above-named petitioners are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *Provided, however,* That participation of such parties shall be limited to matters affecting asserted rights and interests as specifically set forth in their petitions; and *Provided, further,* That the admission of such petitioners shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in these proceedings.

(E) SCE&G's request for interim relief is denied.

(F) Nothing contained herein shall be construed as limiting the rights of the parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to § 1.8 of the Commission's rules of practice and procedure.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-12992 Filed 5-16-75; 8:45 am]



[Docket No. E-9418]

**SOUTH CAROLINA ELECTRIC & GAS CO.**  
Proposed Changes in Rates and Charges

May 12, 1975.

Take notice that South Carolina Electric & Gas Company (SCE&G) on May 1, 1975, tendered for filing proposed changes in its rates and charges to its three (3) municipal, five (5) rural electric cooperatives, and one (1) public power body sales-for-resale customers, as embodied in SCE&G's proposed Rate Schedule WR. The proposed changes, which SCE&G proposes to put into effect as of June 1, 1975, would increase revenues from jurisdictional sales and service by \$588,797.00, based on the twelve-month period ending May 31, 1975.

SCE&G states that it expects to earn a rate of return of 8.09 percent from service to these sales-for-resale customers during the calendar 1975 test year in the absence of rate relief. The proposed rates are designed to enable SCE&G to improve the rate of return earned from its service to these sales-for-resale customers, which the Company believes is necessary if it is to attract the necessary amounts of capital and if it is to continue to provide adequate service to its present and future customers.

Copies of the filing have been served upon SCE&G's jurisdictional customers.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 20, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-12993 Filed 5-16-75; 8:45 am]

[Docket No. CP75-316]

**SOUTHERN NATURAL GAS CO.**  
Application

May 12, 1975.

Take notice that on April 28, 1975, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP75-316 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas in interstate commerce and the construction and operation of attendant facilities, all as more fully set forth in the application, which is on file with the

Commission and open to public inspection.

Applicant requests authorization to transport approximately 20,940 Mcf per day of natural gas pursuant to a gas transportation agreement with Hunt Oil Company (Hunt) from points of delivery in South Marsh Island Blocks 268, 269 and 281 offshore Louisiana, to a point near Applicant's Shadyside Compressor station in St. Mary Parish, Louisiana.

Applicant intends to effect the proposed transportation of gas for Hunt by using a portion of its transportation capacity in the facilities of Trunkline Gas Company (Trunkline). Trunkline has filed an application in Docket No. CP75-149 requesting a certificate of public convenience and necessity authorizing the transportation of gas purchased by Applicant from the South Marsh Island Blocks 268, 269, and 281, North Addition, to the point of interconnection with facilities proposed by Applicant in the instant application and in Applicant's application in Docket No. CP75-163.

In order to implement delivery of Hunt's gas from Trunkline's system into its facilities, Applicant proposes to construct up to 1,800 horsepower of compression facilities, as needed, at its Shadyside compressor station and to construct receiving station facilities at the interconnection of Trunkline's 30-inch pipeline and Applicant's 18-inch pipeline in St. Mary Parish. The cost of the additional compression facilities is estimated at \$862,800; the cost of the additional receiving station facilities is estimated at \$31,920. Applicant states that the receiving station facilities proposed herein will result in increasing the size of the receiving station proposed in its application in Docket No. CP75-163.

The proposed cost to Hunt of the transportation is to be a proportion of the price Applicant pays to Trunkline for the use of the capacity of Trunkline's facilities. Applicant's total payment to Trunkline for delivery of up to 140,000 Mcf per day is \$301,000 per month, according to the gas transportation contract between Applicant and Trunkline dated September 11, 1974.

Hunt, in Docket No. CP75-68, has filed an application requesting a certificate of public convenience and necessity authorizing the sale of gas to Applicant produced from the South Marsh Island Blocks 268, 269 and 281. The transportation service proposed in the instant application is the result of certain reservations by Hunt of the gas from the subject blocks.

Applicant also proposes to transport approximately 49,000 Mcf of gas per day pursuant to a gas transportation agreement with Placid Oil Company, Hunt, Hunt Industries, Hunt Petroleum Corporation, Hamilton Brothers Oil Company, Hamilton Brothers Exploration Company, and Hamilton Brothers Petroleum Corporation (collectively referred to as "Placid Group") from a point near Applicant's Shadyside compressor station to a point in Ascension Parish, Louisiana. Applicant proposes to effect this transportation of gas by using its existing pipeline facilities and new facilities consisting of 11.7 miles of 10 3/4-inch O.D. pipeline to be constructed from Applicant's West Leg Pipeline to the vicinity of an ammonia plant, said to be constructed, which is to be operated by First Mississippi Corporation, near Donaldville, Louisiana, in Ascension Parish. Applicant further proposes to construct measuring facilities at the terminus of the proposed new facilities to effect delivery of the transportation gas to the Placid Group. The cost of the pipeline is estimated to be \$1,892,640; the cost of the measuring facilities is estimated to be \$63,780.

Pursuant to the agreement with the Placid Group, Applicant shall be paid the total costs, including overhead, of the facilities, whether new facilities or unutilized existing compression horsepower, required to effect the transportation of gas. According to the agreement the Placid Group shall pay a monthly charge of \$27,500, to be adjusted for any gas Applicant purchases after tender by any of the members of the Placid Group.

In part consideration for entering into the transportation agreements with the Placid Group, Applicant states that it has received the right to purchase up to 50 percent of the reserves of any gas, other than from the South Marsh Island Blocks 268, 269 and 281, which the Placid Group desires to have transported under said agreement.

Applicant maintains that the public convenience and necessity requires the granting of a certificate in the instant proceeding because it has secured from Hunt a substantial commitment of reserves from the South Marsh Island blocks referred to above and has received rights to purchase gas from the Placid Group.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 29, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and pro-

<sup>1</sup> The proceedings in Docket No. CP75-163 have been set for formal hearing by order issued April 14, 1975.

cedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-12994 Filed 5-16-75; 8:45 am]

[Project No. 2749]

**SOUTHSIDE ELECTRIC COOPERATIVE**  
Extension of Time

May 9, 1975.

On April 25, 1975, the United States Department of the Interior filed a motion to extend the comment period fixed by notice issued April 3, 1975, in the above-designated matter.

Upon consideration, notice is hereby given that the time for filing comments or protests in the above matter is extended to and including July 9, 1975.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-12995 Filed 5-16-75; 8:45 am]

[Docket No. RP75-66-1]

**SOUTH TEXAS NATURAL GAS GATHERING CO.**

Order Setting Hearing

May 9, 1975.

On January 29, 1975, Mr. Grady Allen (Allen) of El Campo, Wharton County, Texas filed a petition for relief from the cessation of natural gas deliveries by South Texas Natural Gas Gathering Company (South Texas). Allen uses natural gas as a fuel to pump water to irrigate his rice farm in South Texas. The irrigation system is powered by two 225 horsepower engines that uses approximately 100 Mcf per day from April to September and from 5,000 to 6,000 Mcf intermittently during the remainder of the year.

During the years 1965 through 1973, South Texas sold gas to Lo Vaca Gathering Company (Lo Vaca) for resale to Allen under South Texas FPC Gas Rate Schedule No. 6. That sale ceased in 1973 due to the dedication of South Texas' surplus gas to Transcontinental Gas Pipe Line Corporation (Transco). During 1974, Allen purchased 7,238 Mcf from South Texas pursuant to a one-year contract. Last deliveries were made in August, 1974, and thereafter the facilities were disconnected and the meter removed. In its Answer filed March 19, 1975, South Texas states that the gas

sold to Allen in 1974 was available from an imbalance of 18,000 Mcf then remaining under South Texas' transportation-exchange agreement with Transco. South Texas asserts that it has no surplus gas available at this time to supply Allen. Additionally, South Texas states that it has assisted Allen in securing an alternate source of gas supply, which would enable Allen to take delivery of gas from Intrastate Gathering Corporation.

Further, a memorandum from the Texas Railroad Commission, which was submitted by Allen with his petition, states that Allen owns his own production and is presently selling gas to Houston Natural Gas Corporation (Houston Natural). The hearing hereinafter ordered should explore, inter alia, the possibility of Allen and Houston Natural entering into an exchange agreement to use Allen's own production for his irrigation needs.

On March 17, 1975, South Texas filed a petition for leave to intervene together with its Answer. South Texas has shown sufficient interest to permit it to intervene. Additionally, its Answer has set forth sufficient justification to require a formal hearing to determine whether or not the relief requested by Allen should be granted.

The Commission finds: (1) Good cause exists to set for hearing the request for relief filed by Allen and to establish the procedures for that hearing, all as hereinafter ordered.

(2) The participation of South Texas in this proceeding may be in the public interest.

The Commission orders: (A) Pursuant to the authority granted to the Commission under the Natural Gas Act, particularly sections 4, 5, 7, 15, and 16 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act, a public hearing shall be held on June 17, 1975, at 10 a.m. (e.d.t.) in a hearing room at the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning the issues raised by the pleadings in the instant proceedings.

(B) On or before May 30, 1975, Allen and other parties in support of its petition shall file with the Commission and serve upon all parties, including Commission Staff, testimony and exhibits in support of their position. Answering testimony shall be filed with the Commission and served upon all parties, including Commission Staff, on or before June 13, 1975.

(C) An Administrative Law Judge to be designated by the Chief Administrative Law Judge—see, Delegation of Authority, 18 CFR § 3.5(d)—shall preside at and control this proceeding in accordance with the policies expressed in the Commission's rules and shall set further procedural procedures not herein expressly provided for in order to expeditiously determine the issues involved in this proceeding.

(D) South Texas is hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Com-

mission; *Provided, however*, That the participation of South Texas shall be limited to matters affecting asserted rights and interests as specifically set forth in its petition for leave to intervene; and, *Provided, further*, That the admission of South Texas shall not be construed as recognition by the Commission that it might be aggrieved by any order or orders of the Commission entered in this proceeding.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-12996 Filed 5-16-75; 8:45 am]

[Docket No. CP73-19]

**SOUTHWEST GAS CORP.**

Petition To Amend

May 13, 1975.

Take notice that on April 14, 1975, Southwest Gas Corporation (Petitioner), P.O. Box 1450, Las Vegas, Nevada 89101, filed in Docket No. CP73-19 a petition to amend the order of the Commission issued in the subject docket on January 17, 1973 (49 FPC 245), pursuant to section 7(c) of the Natural Gas Act, as implemented by section 157.7(c) of the regulations thereunder (18 CFR 157.7(c)), to allow an increase in the cost of facilities constructed pursuant to said order, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the order of January 17, 1973, Petitioner was authorized to construct during the calendar year 1973 various natural gas facilities in the total maximum cost of \$435,000. By order dated January 29, 1974, in the subject docket an extension was granted authorizing Petitioner to complete said construction by June 30, 1974. Petitioner states that it completed construction and placed said facilities in service on June 28, 1974, but that the total cost of the facilities was \$565,847.37. Petitioner explains that the cost of its 16-inch, 1800-foot auxiliary river crossing exceeded original estimates by \$64,981 primarily because of the unexpected cost of contract labor and that the cost of its 8-inch, 3-mile loop pipeline exceeded original estimates by \$105,696.48 because of construction delays and increases in labor and material costs. Petitioner states that the other facilities authorized by the Commissioner were constructed at actual costs below the estimated costs.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 27, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action



to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-12997 Filed 5-16-75; 8:45 am]

[Docket Nos. E-9007 and E-9054]

#### TAMPA ELECTRIC CO.

##### Order Accepting Initial Rate Schedule

APRIL 30, 1975.

On September 4, 1974, Tampa Electric Company (Tampa) tendered for filing in Docket No. E-9007 as an Initial Rate Schedule an Agreement for Interchange Service<sup>1</sup> between Tampa and City of Lakeland (Lakeland). The Agreement had been executed on April 21, 1969. The agreement provides for several classes of service, including emergency, scheduled, surplus an economy interchange received.

Notice of this filing was issued on September 21, 1974, with protests and/or petitions to intervene due on or before October 18, 1974. No response has been received.

On October 7, 1974, Tampa tendered for filing in Docket No. E-9054 an Amendment to the original Agreement which provides for increased rates for all the service schedules in the original Agreement.<sup>2</sup> Tampa alleged that the original rates under the Agreement were inadequate due to the increased cost of fuel as well as increases in the cost of operation and maintenance of the power plant equipment.

Tampa additionally proposed that inasmuch as it and Lakeland have incurred increasing costs in rendering the services provided for under the Agreement, the prior notice requirement of § 35.3 of the Commission's regulations should be waived and the revised energy charges contained in the aforementioned Amendment become effective on September 1, 1974.

Notice of this filing was issued on October 17, 1974, with protests and/or petitions to intervene due on or before October 24, 1974. No response has been received.

Deficiency letters dated October 16, 1974, November 4, 1974, and December 26, 1974, were issued by the Secretary of the Federal Power Commission

<sup>1</sup> Designated as: Service Schedule A—Emergency Interchange Service, Service Schedule B—Scheduled Interchange Service, Service Schedule C—Surplus Interchange Service, Service Schedule D—Economy Energy Interchange Service.

<sup>2</sup> Designated as: Tampa Electric Company, Rate Schedule FPC No. 3 and Supplement Nos. 1 through 4 thereto. Tampa Electric Company Supplement Nos. 5 through 8 to FPC No. 3 (Supergas Supplement Nos. 1 through 4) (Revised Service Schedule A through D).

with respect to Tampa's initial and amended Agreements. Tampa, in response to those letters, submitted supplemental data on various occasions, and completed its filing on April 2, 1975.

Our review of the Initial and Amended Agreements between Tampa and Lakeland indicates that the proposed rates and charges in the Amendment have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Accordingly, we shall reject Tampa's request for waiver of the notice requirements of the Commission's regulations, accept for filing the Amendment to the Service Schedules contained in the Initial Agreement and suspend it for one day until May 4, 1975, when it shall be permitted to become effective subject to refund, and set the matter for hearing. Because we are suspending the effectiveness of the Amended Agreement and providing for a hearing we shall require Tampa to file its prepared testimony and exhibits which were not submitted with this filing.

Our analysis of the Service Schedules under both the Initial and Amended Agreements indicates that they are subject to a gross receipts tax clause. The Amended Agreement further provides that charges for Scheduled Interchange Service (Service Schedule B) and (Service Schedule D) are to be negotiated. We remind Tampa and Lakeland at this time that implementation of any such clause or negotiated charge will be viewed as a change in rate pursuant to section 205 of the Federal Power Act and should be filed as such.

*The Commission finds:* (1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Tampa's Amended Rate Schedule as proposed in Docket No. E-9054 and that the tendered Amended Rate Schedule be suspended as hereinafter provided.

(2) Good cause does not exist to grant Tampa's requested waiver of the notice requirements of the Commission's rules and regulations.

*The Commission orders:* (A) Pursuant to authority of the Federal Power Act, particularly sections 205 thereof, and the Commission's rules and regulations (18 CFR, Chapter I), a public hearing for purposes of cross-examination concerning the lawfulness and reasonableness of the rates and charges in Tampa's Amended Agreement shall be held commencing on October 14, 1975, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426.

(B) Pending a hearing and a decision thereon, Tampa's proposed changes in its rates and charges, tendered on October 7, 1974, and completed on April 2, 1975 (designated as Docket E-9045), are accepted for filing as of May 3, 1975, and

suspended for one day, the use thereof deferred until May 4, 1975, subject to refund.

(C) On or before June 13, 1975, Tampa shall file its prepared testimony and exhibits. On or before September 2, 1975, the Commission Staff shall serve its prepared testimony and exhibits. Any intervenor evidence will be filed on or before September 16, 1975. Any rebuttal evidence by Tampa shall be served on or before September 30, 1975.

(D) Tampa's request for waiver of the notice requirements of the Commission's rules and regulations is hereby denied.

(E) Tampa's proposed Initial Agreement for Interchange Service, filed on September 4, 1974 and completed on April 2, 1975, in Docket No. E-9007, is accepted for filing to become effective May 3, 1975, subject to the terms and conditions of this Order.

(F) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences of officers of settlement pursuant to § 1.18 of the Commission's rules of practice and procedure.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-12998 Filed 5-16-75; 8:45 am]

[Docket No. RP75-73]

#### TEXAS EASTERN TRANSMISSION CORP.

##### Order Accepting Tariff Sheets

APRIL 30, 1975.

On March 14, 1975, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing proposed changes in its FPC Gas Tariff, Fourth Revised Volume No. 1<sup>1</sup> and Original Volume No. 2.<sup>2</sup> Texas Eastern states that the proposed rate change would increase its overall rate of return to 10.25 per cent, and would reflect an overall depreciation rate of 5.5 per cent. Texas Eastern proposes that the increase be permitted to become effective on May 1, 1975.

According to Texas Eastern, the changes proposed in the instant filing would increase annual revenues from jurisdictional sales and service by \$103,200,000, based on sales volumes during the 12 months ended December 31, 1974, as adjusted. In support of its filing, Texas Eastern states that the increase is necessitated by its declining gas supply, as well as increases in the costs of labor, capital, materials and supplies. The Com-

<sup>1</sup> The proposed revisions to Fourth Revised Volume No. 1 are designated Ninth Revised Sheet Nos. 14, 14A, 14B, 14C, and 14D, and First Revised Sheet No. 112.

<sup>2</sup> The proposed revisions to Original Volume No. 2 are designated Tenth Revised Sheet No. 286, Sixth Revised Sheet No. 24f, Eleventh Revised Sheet No. 322, and First Revised Sheet No. 449.

pany states further that approximately \$14,800,000 of the proposed increase is attributable to purchased gas cost increases not accounted for in the rate level currently in effect.

Public notice of Texas Eastern's filing was issued on March 19, 1975, with comments, protests and petitions to intervene due on or before April 2, 1975. Petitions to intervene were filed by 47 parties.<sup>3</sup> (Good cause appearing, we shall grant intervention to each petitioner, as hereinafter ordered.)

Based on our review of Texas Eastern's proposed rate increase, including the documents, information and studies submitted therewith as required by the Commission's regulations, and the aforementioned petitions to intervene, we find that the requested increase may be excessive or otherwise unlawful under the Natural Gas Act. Accordingly, the proposed increase shall be accepted for filing, suspended for the full statutory period, and set for hearing.

We note that the rate design included in the instant filing reflects the unmodified Seaboard method of cost classification and cost allocation.

In Opinion No. 671 we expressed our concern over the worsening gas supply situation and particularly as it existed on United's system. Based upon the record in that case we concluded that more weight should be given to annual use of United's pipeline system than is characteristic of the unmodified Seaboard methodology. Therefore, we assigned 75 percent of fixed costs to the commodity component of two-part rates and to the straight-line rates. Part of our rationale was that in view of the gas supply shortage, low priority usage should be discouraged and the price gap between natural gas and alternative fuels in the interruptible industrial market should, at the minimum, be narrowed.

In light of our policy of considering competitive fuel prices in setting commodity rate levels and of the present supply and market conditions on the Texas Eastern system, all parties to this proceeding should direct their attention, and file any evidence they wish to submit, as to the propriety of the continued use of the Seaboard method of cost classification and allocation, as well as to the propriety of Texas Eastern's rate design proposed herein. Further, we urge all parties to suggest alternative methods of cost classification, allocation and rate design which they believe may more closely reflect or implement the Commission's objectives in this area.

As previously noted, Texas Eastern's request for increased rates is based in part upon the fact that its deliverability of gas from connected sources is declining. The present gas shortage in this country, to which this Commission has often called attention, is a problem which

<sup>3</sup> See Appendix A.  
<sup>4</sup> See: Footnote 3 in our order of May 31,

is shared by most if not all major interstate transmission pipelines in varying degrees of magnitude. The effect upon the risk of capital invested in gas pipeline operations resulting from inadequate and declining gas supplies as well as the uncertainties and contingencies inherent in possible supplemental sources of supply are of direct and primary concern to us. It also seems clear that the gas shortage may result in situations where the useful or economic life of gas pipeline facilities may be substantially less than their physical life. Accordingly, we request that the evidence in this proceeding, including that to be filed by our Staff, give full and careful consideration to these factors in the development of recommendations on the issues of rate of return and depreciation so as to enable this Commission to formulate sound regulatory policies in these areas.

*The Commission finds:* (1) The revised tariff sheets listed in footnotes "1" and "2" at page 1 of this order, tendered by Texas Eastern on March 14, 1975, should be accepted for filing and suspended as hereinafter ordered.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act, that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Texas Eastern's FPC Gas Tariff, as proposed to be amended in Docket No. RP75-73.

(3) Participation in this proceeding of those parties listed in Appendix A may be in the public interest, provided that such participation is limited as hereinafter ordered.

*The Commission orders:* (A) Texas Eastern's tariff sheets proffered in Docket No. RP75-73 are accepted for filing and suspended for the full statutory period of five months until October 1, 1975, or until such time as they are made effective in the manner provided by the Natural Gas Act, subject to refund.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8 and 15 thereof, and the Commission's rules and regulations, a hearing shall be held to determine the justness and reasonableness of the rates proposed in Texas Eastern's March 14, 1975, filing.

(C) On or before August 15, 1975, the Commission Staff shall serve its prepared testimony and exhibits of intervenors shall be served on or before August 29, 1975. Company rebuttal shall be served September 12, 1975. Cross-examination of the evidence shall commence on September 30, 1975, at 10 a.m., prevailing local time, in a hearing room at the Federal Power Commission, Washington, D.C. 20426.

(D) The petitioners listed in Appendix A hereof are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be

limited to matters affecting rights and interests specifically set forth in the respective petitions to intervene, and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they, or any of them, might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose. (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe necessary procedures not provided for by this order, and shall otherwise conduct the hearing in accordance with the terms of this order and the Commission's rules and regulations.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

#### APPENDIX A

##### PETITIONS TO INTERVENE

Public Service Electric and Gas Company  
Orange and Rockland Utilities, Inc.  
Equitable Gas Company  
United Cities Gas Company  
New Jersey Natural Gas Company  
Bay State Gas Company  
Boston Gas Company  
Bristol and Warren Gas Company  
Cape Cod Gas Company  
Commonwealth Gas Company  
The Connecticut Gas Company  
Connecticut Natural Gas Corporation  
Fall River Gas Company  
The Hartford Electric Light Company  
Town of Middleborough (Mass.) Municipal Gas and Electric Department  
New Bedford Gas and Edison Light Company  
North Attleboro Gas Company  
City of Norwich (Conn.) Department of Public Utilities  
Pequot Gas Company  
Providence Gas Company  
South County Gas Company  
The Southern Connecticut Gas Company  
Tiverton Gas Company  
Texas Gas Transmission Corporation  
Indiana Gas Company, Inc.  
Rochester Gas and Electric Corporation  
Algonquin Gas Transmission Company  
Central Illinois Public Service Company  
Philadelphia Gas Works  
Philadelphia Electric Company  
The Cincinnati Gas and Electric Company  
Lawrenceburg Gas Company  
Elizabethtown Gas Company  
Columbia Gas of Ohio, Inc.  
Tennessee Public Service Commission  
Consolidated Gas Supply Corporation  
Consolidated Edison Company of New York, Inc.  
Columbia Gas Transmission Corporation  
The Municipal Defense Group

##### Untimely Petitions to Intervene<sup>1</sup>

The Brooklyn Union Gas Company  
Arkansas Louisiana Gas Company  
Mississippi Valley Gas Company

<sup>1</sup> Not filed within the time prescribed by notice issued in this docket on March 19, 1975.



Missouri Utilities Company  
Arkansas-Missouri Power Company  
Associated Natural Gas Company  
The City of Columbus, Ohio

[FR Doc. 75-12999 Filed 5-16-75; 8:45 am]

[Docket No. RP74-39423]

**TEXAS EASTERN TRANSMISSION CORP.**  
**Petition for Extraordinary Relief**

MAY 13, 1975.

On April 25, 1975, the Pulaski Natural Gas Company of Pulaski, Tennessee (Pulaski) filed a petition for extraordinary relief pursuant to § 1.7(b) of the Commission's rules of practice and procedure. Specifically, Pulaski requests that the Commission issue an order directing Texas Eastern Transmission Corporation (TETCO) to deliver 800 Mcf per day to Pulaski for the use of Federal Copper and Aluminum Company (Federal Copper), a manufacturer of copper tubing.

Federal Copper is presently receiving 150 Mcf per day from Pulaski. It requests an increase of 650 Mcf per day.

In 1972, prior, Pulaski states, to any curtailments it has suffered, it gave assurances to Federal Copper that it had sufficient gas supply to permit the company to triple its casting capacity. The cost of enlarging Federal Copper's facilities and of adding a new casting furnace was \$1.5 million. Federal Copper spent \$600,000 of its own funds and financed the remainder with industrial revenue bonds issued by the City of Pulaski.

The new furnace came on line in March, 1975, but has since been forced, due to curtailments, to shut down. Without gas to operate its new furnace, Federal Copper may have difficulty meeting its bond payment obligations.

Without the requested relief, Pulaski states, 75 jobs may be lost at the plant.

Any person desiring to be heard or to make protest with reference to said petition should on or before May 30, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The petition is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13000 Filed 5-16-75; 8:45 am]

**NOTICES**

[Docket No. RP72-64]

**TEXAS GAS TRANSMISSION CORP.**  
**Motion for Approval of Fourth Stipulation and Interim Agreement**

MAY 13, 1975.

Take notice that Texas Gas Transmission Corporation (Texas Gas), on May 1, 1975, submitted a motion for approval of a Fourth Stipulation and Interim Agreement, together with certain implementing tariff sheets contained in the Appendices thereto, which Texas Gas proposes to be effective April 1, 1975. This settlement agreement is a result of discussions among Texas Gas, the Commission Staff, and interested parties in the above-entitled proceeding. Authorization for Texas Gas' currently effective tariff provisions relating to priority of service during periods of curtailment and demand charge adjustments expired on March 31, 1975.

The principal terms and conditions of the Fourth Stipulation and Interim Agreement, among other things, provide for: (1) Continuation of the currently effective curtailment procedures reflecting priorities of service prescribed by Commission Order No. 467-B issued March 2, 1973, for the period April 1, 1975, through March 31, 1976; (2) extension of the provisions relating to the Index of Quantity Entitlements, emergency situation relief, overrun penalty charges, demand charge adjustments, and arrangements between buyers through March 31, 1978; (3) the addition of § 10.4(b) to the General Terms and Conditions of Texas Gas' FPC Gas Tariff imposing a penalty of \$10 per Mcf for customer takes in excess of 102% of authorized volumes during any period of daily curtailment by the pipeline; and (4) a procedure enabling any party to the proceeding to seek a change in the end-use data utilized by Texas Gas in calculating curtailments.

It appears reasonable and consistent with the public interest in this proceeding to prescribe a period shorter than 15 days for the filing of comments and petitions to intervene. Therefore, any person desiring to be heard or to protest said motion should, on or before May 21, 1975, file such comment or petition to intervene with the Federal Power Commission, Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

mission's rules. Persons that have previously filed a notice or petition for intervention in this proceeding need not file additional notices or petitions to become parties with respect to the instant filing. The filing which was made with the Commission is available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13124 Filed 5-16-75; 8:45 am]

[Docket No. RP75-75]

**TRANSCONTINENTAL GAS PIPELINE CORP.**

**Order Accepting for Filing Proposed Rate Increase**

APRIL 30, 1975.

On March 14, 1975, Transcontinental Gas Pipeline Corporation (Transco), tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2.<sup>1</sup> Transco states that the proposed changes would increase revenues from jurisdictional sales, transportation and storage services by approximately \$39,500,000 based on the 12-month period ending December 31, 1974, as adjusted. The proposed effective date is May 1, 1975.

Transco states that the sole reason for the rate increase filing is the increase in unit cost of operation of its pipeline system.

Transco's filing includes pro forma tariff sheets to the General Terms and Conditions which will provide Transco the right to (1) "track" in its GSS Storage Service rate schedule any changes in the rates for storage service furnished to Transco by Consolidated Gas Supply Corporation under the latter's Rate Schedule GSS and (2) "track" in its Rate Schedule S-2 any changes in the rates for storage service furnished by Transco by Texas Eastern Transmission Corporation under the latter's Rate Schedule X-28.

In addition, Transco submitted pro forma tariff sheets in the filing incorporating a Volumetric Variation Adjustment Clause (VVAC) in the General Terms and Conditions of Transco's tariff. According to Transco this provision would permit it to change its rates to reflect changes in unit fixed costs as a result of changes in gas supply and to collect the jurisdictional portion of such fixed costs based on the formula contained therein.

Transco has requested that any decision on the pro forma sheets be prospective only. Accordingly, consistent with our Order issued August 30, 1974 in

<sup>1</sup> See Appendix A.

Docket Nos. RP73-3 and RP74-48, we will make these pro forma sheets and their clause issues in this proceeding and will take no action upon them until final resolution of the issues raised by such sheets and the clauses contained therein.

Numerous petitions to intervene have been received; some timely, some untimely. Good cause exists to grant all these petitions. Transco's proposed changes have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Moreover, our review of Transco's proposed changes that certain issues of fact and law are raised therein which may require development at an evidentiary hearing. Accordingly, we will suspend their use for five months and order hearings as set out below.

The Commission finds: (1) The proposed changes in Transco's FPC Gas Tariff, as shown in Appendix A, should be accepted for filing, suspended, and the use thereof deferred until October 1, 1975.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed rates and charges in Transco's FPC Gas Tariff, as proposed to be amended in this docket.

(3) Good cause exists to permit the intervention of petitioners designated in Appendix B.

(4) The disposition of this proceeding should be expedited in accordance with the procedure set forth below.

The Commission orders: (A) Pending a hearing and decision thereon, the proposed tariff sheets as shown in Appendix A, are accepted for filing and suspended for the full statutory period and the use thereof deferred until October 1, 1975, or until such time as they are made effective in the manner provided in the Natural Gas Act.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, the Commission's rules of practice and procedure under the Natural Gas Act (18 CFR, Chapter I), a public hearing shall be held commencing September 30, 1975, at 10 a.m., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, concerning the lawfulness of the rates, charges, classifications, and service contained in Transco's FPC Gas Tariff, as proposed to be amended.

(C) On or before August 19, 1975, the Commission Staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of any or all intervenors shall be served on or before September 2, 1975. Any rebuttal evidence shall be served on or before September 16, 1975.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose

<sup>2</sup> See Appendix B.

**NOTICES**

(See Delegation of Authority, 18 CFR (3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, shall control this proceeding in accordance with the policies expressed in § 2.59 of the Commission's rules of practice and procedure.

(E) The parties designated in Appendix B are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however*, That the participation of such intervenors shall be limited to matters affecting the rights and interests specifically set forth in the respective petitions to intervene, and *Provided, further*, That the admission of such intervenors shall not be construed as recognition that they or any of them might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(F) Pending such hearing and decision thereon, Transco's proposed revised tariff sheets are hereby suspended and the use thereof deferred until October 1, 1975, or until such time as they are made effective in the manner provided in the Natural Gas Act.

(G) Nothing contained herein shall be construed as limiting the rights of the parties of this proceeding regarding the convening of conferences or offers or settlement pursuant to § 1.18 of the Commission's rules of practice and procedure.

(H) The pro forma sheets filed on March 14, 1975, and discussed herein will be a subject for review in this proceeding and any determination by this Commission with respect to the pro forma sheets will have prospective effect only.

(I) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

**APPENDIX A**

First Revised Volume No. 1  
Fourteenth Revised Sheet No. 5  
Tenth Revised Sheet No. 6

Original Volume No. 2  
Fifteenth Revised Sheet No. 52  
Second Revised Sheet No. 121  
Eleventh Revised Sheet No. 221  
Fourth Revised Sheet No. 351  
Seventh Revised Sheet No. 416  
Sixth Revised Sheet No. 495

**APPENDIX B**

South Jersey Gas Company  
Public Service Electric and Gas Company  
Piedmont Natural Gas Company, Inc.  
Carolina Pipeline Company  
Public Service Company of North Carolina, Inc.  
United Cities Gas Company  
Philadelphia Gas Works  
Commonwealth Natural Gas Corporation  
Rochester Gas and Electric Corporation  
Virginia Pipe Line Company  
Consolidated Edison Company of New York, Inc.  
Philadelphia Electric Company  
Elizabethtown Gas Company  
Public Service Commission of the State of New York

Washington Gas Light Company  
North Carolina Utilities Commission  
Consolidated Gas Supply Corporation  
Consolidated Edison Company of New York, Inc.

Atlanta Gas Light Company  
Columbia Gas Transmission Corporation  
Sun Oil Company  
Commissioners of Public Works of the City of Greenwood, South Carolina  
The Brooklyn Union Gas Company  
The South Carolina Public Service Commission  
Eastern Shore Natural Gas Company

[FR Doc. 75-13006 Filed 5-16-75; 8:45 am]

[Docket No. RP75-74]

**TRANSWESTERN PIPELINE CO.**

**Order Rejecting Revised R&D Clause**

APRIL 30, 1975.

On March 14, 1975, Transwestern Pipeline Company (Transwestern) tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1 which would increase revenues from jurisdictional sales and service by \$34,400,000 annually based upon the 12 months ended December 31, 1974, as adjusted. Transwestern states that the increase reflects, inter alia, increases in the cost of labor, supplies, expenses, and return and taxes related to plant additions and working capital requirements; the need for an increased rate of return to 10.5 percent which would yield 13,704 percent on common equity; an increase in its composite rate of depreciation to 7.0 percent; increased taxes; and an increase to reflect lower sales volumes projected since Transwestern's last general rate increase filing. Transwestern also proposes several changes in the General Terms and Conditions of its FPC Gas Tariff including, inter alia, a change from the volumetric (Mcf) basis of measurement to an energy basis (dekatherms) for the purpose of determining sales units for billing purposes and a minor revision to § 11.3(2) of its curtailment plan that would move small firm industrial loads under 300 dekatherms a day, from priority (3) to priority (2). The effective date for the proposed changes is May 1, 1975.

Transwestern also proposes to change its Research and Development Cost Adjustment Clause (R&D clause) to provide for a deferred account for the purpose of recording deferred R&D expenditures and subsequently recovering such costs through a R&D surcharge. Our review of Order No. 483 and § 154.38(d) (5) of the regulations indicates that deferred accounting was not contemplated and is not permitted by the regulations. Accordingly, we shall reject Transwestern's revised R&D clause without prejudice to Transwestern's right to file a R&D clause which conforms to the § 154.38(d) (5) of the regulations and does not contain a deferred accounting provision.

We note further, with respect to Transwestern's R&D clause, that it does not provide for reduction of amounts in Account 188 by the applicable deferred taxes included in Account 283 as



provided in Order No. 504.<sup>1</sup> Accordingly, any substitute R&D clause filed by Transwestern should provide for reduction of amounts in Account 188 by the applicable deferred taxes in Account 283.<sup>2</sup>

Notice of the filing was issued on March 19, 1975. Numerous petitions to intervene were received. (See Appendix A). Moreover, a Notice of Intervention was received from The People of the State of California and the Public Utilities Commission of the State of California.

Our review of the portion of Transwestern's filing other than the R&D clause indicates that certain issues are raised which may require development in an evidentiary proceeding. The proposed changes in rates, charges and conditions of service have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Accordingly, we shall accept for filing and suspend for 5 months that portion of Transwestern's filing, other than the revised R&D clause, and establish hearing procedures.

The Commission finds: (1) Good cause exists to reject Transwestern's proposed R&D clause as hereinafter ordered and conditioned.

(2) It is necessary and appropriate in the public interest and to aid in the enforcement of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates, charges and conditions of service contained in Transwestern's FPC Gas Tariff, as proposed to be amended in this docket, and that the tendered filing, with the exception of the revised R&D clause, be suspended as hereinafter ordered and conditioned.

(3) Participation in the proceeding by the petitioner listed in Appendix A may be in the public interest.

The Commission orders: (A) Transwestern's proposed revised R&D clause is rejected without prejudice to their right to submit a substitute clause which conforms to Order No. 483 and § 154.38 (d) (5) of the regulations and does not contain a deferred accounting provision. The revised clause should also provide that amounts in Account 188 be credited by applicable deferred taxes in Account 283, as provided by Order No. 504.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing shall be held for purposes of cross-examination in a hearing room of the Federal Power Commission, Washington, D.C. 20426, concerning the lawfulness of the rates, charges, classifications, and services contained in Transwestern's FPC

Gas Tariff, as proposed to be amended herein.

(C) On or before August 1, 1975, the Commission Staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of all intervenors shall be served on or before August 22, 1975. Any rebuttal evidence by Transwestern shall be served on or before September 12, 1975. The public hearing herein ordered shall convene on September 23, 1975, at 10 a.m.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in § 2.59 of the Commission's rules of practice and procedure.

(E) Pending hearing and a decision thereon, Transwestern's filing, with the exception of the revised R&D clause, is accepted for filing and suspended for five months and the use thereof deferred until October 1, 1975, and until such further time as it is made effective in the manner provided in the Natural Gas Act.

(F) The petitioners listed in Appendix A are hereby permitted to intervene in these proceedings, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting rights and interests specifically set forth in the respective petitions to intervene and *Provided, further,* That the admission of such intervenors shall not be construed as recognition that they or any of them might be aggrieved because of any order or orders issued by the Commission in these proceedings.

(G) Pursuant to § 2.59(c) of the Commission's rules of practice and procedure, Transwestern shall promptly serve copies of its filing upon all of the above mentioned intervenors, unless such service has already been effected pursuant to Part 154 of the regulations under the Natural Gas Act.

(H) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlements pursuant to Section 1.18 of the Commission's rules of practice and procedure.

(I) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL]

KENNETH F. PLUMB,

APPENDIX A

Southern California Gas Company  
Pacific Lighting Service Company  
Southern California Edison Company  
San Diego Gas & Electric Company  
City Group Gas Defense Association  
California Gas Producers Association  
Cities Service Gas Company

<sup>1</sup> See: *Tennessee Gas Pipe Line Company*, issued April 10, 1974, in Docket No. RP74-73.

<sup>2</sup> We note that in a pending settlement in Docket No. RP74-62, Transwestern proposes to amend its existing R&D clause to so provide.

City of Springfield, Missouri and Board of Public Utilities of Springfield, Missouri  
[FR Doc. 75-13001 Filed 5-16-75; 8:45 am]

[Docket No. E-9423]

#### VIRGINIA ELECTRIC & POWER CO.

##### Tendering of Supplemental Contract

MAY 12, 1975.

Take notice that on May 2, 1975, Virginia Electric and Power Company (Virginia), tendered for filing a contract supplement dated April 7, 1975, to the Agreement designated as Virginia's Rate Schedule FPC No. 82-18 between Virginia and Prince George Electric, Cooperative (Prince George).

Said supplement requests Commission authorization for Virginia's voltage conversion from 13.2 kV to 34.5 kV on its line serving Prince George's Wilkerson's Corner Delivery Point. The delivery voltage remained 13.2 kV as Virginia installed a 1 MVA, 34.5-12.5 kV step down station to serve the radial to the delivery point. The voltage conversion for Prince George's Wilkerson's Delivery Point, located on the east side of Route 638, approximately 0.25 mile north of Route 685, Sussex County, Virginia, was completed August 23, 1972.

Virginia requests that the authorization become effective on August 23, 1972, the date the voltage conversion was completed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 22, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,

Secretary.

[FR Doc. 75-13002 Filed 5-16-75; 8:45 am]

#### GENERAL SERVICES ADMINISTRATION

##### ARCHIVES ADVISORY COUNCIL

##### Meeting

Notice is hereby given that the Archives Advisory Council shown below will meet at the time and place indicated. Anyone who is interested in attending or wants additional information should contact the person shown below.

REGIONAL ARCHIVES ADVISORY COUNCIL—  
REGION 3

Meeting date: June 6, 1975.

Time: 9:30 a.m.—5 p.m.

Place: Archives Branch, Federal Archives

#### NATIONAL SCIENCE FOUNDATION ADVISORY PANEL FOR REGULATORY BIOLOGY

##### Meeting

The Advisory Panel for Regulatory Biology will hold a meeting on June 5 and 6, 1975, at 9 a.m. in Rm. 338 at 1800 G Street, NW., Washington, D.C.

The purpose of this Panel is to provide advice and recommendations as part of the review and evaluation process for specific research proposals that have been assigned to the Regulatory Biology Program. This Panel functions in accordance with the Federal Advisory Committee Act, Pub. L. 92-463.

This meeting will not be open to the public because the Panel will be reviewing, discussing, and evaluating individual research proposals. Also, these proposals contain information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within the exemptions of 5 U.S.C. 552 (b) (4), (5), and (6). The closing of this meeting is in accordance with the determination by the Director of the National Science Foundation dated February 21, 1975, pursuant to the provisions of section 10(d) of Pub. L. 92-463.

For further information about this Panel, please contact Dr. Jack W. Hudson, Program Director for Regulatory Biology, Rm. 323, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-4298.

Dated: May 14, 1975.

FRED K. MURAKAMI,

Committee Management Officer.

[FR Doc. 75-13112 Filed 5-16-75; 8:45 am]

#### ADVISORY PANEL FOR SOCIOLOGY

##### Meeting

The Advisory Panel for Sociology will hold its meeting on June 5 and 6, 1975, beginning at 9 a.m. in Rm. 643 at 1800 G Street, NW., Washington, D.C.

The purpose of this Panel is to provide advice and recommendations as part of the review and evaluation process for specific research proposals that have been assigned to the Sociology Program. This Panel functions in accordance with the Federal Advisory Committee Act, Pub. L. 92-463.

This meeting will not be open to the public because the Panel will be reviewing, discussing, and evaluating individual research proposals. Also, these proposals contain information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within the exemptions of 5 U.S.C. 552(b) (4), (5), and (6). The closing of this meeting is in

accordance with the determination by the Director of the National Science Foundation dated February 21, 1975, pursuant to the provisions of section 10(d) of Pub. L. 92-463.

For further information about this Panel, please contact Mr. Garry W. Wallace, Assistant Program Director for Sociology, Rm. 206G, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-4204.

Dated: May 14, 1975.

FRED K. MURAKAMI,

Committee Management Officer.

[FR Doc. 75-13113 Filed 5-16-75; 8:45 am]

#### NUCLEAR REGULATORY COMMISSION

[Docket No. 50-313]

#### ARKANSAS POWER & LIGHT CO.

##### Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 2 to Facility Operating License No. DFR-51 issued to Arkansas Power and Light Company which revised Technical Specifications for operation of the Arkansas Nuclear One—Unit 1, located in Pope County, Arkansas. The amendment is effective 30 days after its date of issuance.

The amendment: (1) provides for automatic setting of the 5 percent over-power trip, (2) requires a redefinition of the total specific activity limit in the reactor coolant and reduces the radiolodine activity limit in the secondary coolant, (3) adds a radiolodine activity limit for the reactor coolant, (4) deletes the Core Flooding Tank (CFT), pressure and level instrumentation maintenance restrictions, (5) adds setpoints for the Decay Heat Removal System (DHRS) regarding isolation valve closure and relief valve opening, (6) makes the operational power imbalance envelope curve compatible with the protective system maximum allowable setpoints, (7) permits the change in testing requirements for DHRS isolation valve closure, (8) requires additional sampling and analysis frequency and tests on the reactor coolant and secondary coolant, (9) deletes certain sampling and analysis tests on the reactor coolant and secondary coolant, (10) adds testing requirements as notes to the Minimum Sampling and Analysis Frequency Table, (11) requires test frequency of personnel hatch and emergency hatch door seals to comply with Appendix J, 10 CFR Part 50, and (12) requires testing of all three battery chargers.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the



Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated January 17, 1975, and March 28, 1975, (2) Amendment No. 2 to License No. DPR-51, with Change No. 2, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Arkansas Polytechnic College, Russellville, Arkansas.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland this 9th day of May 1975.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,  
Chief, Operating Reactors  
Branch No. 2, Division of  
Reactor Licensing.

[FR Doc.75-13051 Filed 5-16-75; 8:45 am]

[Docket No. 50-389]

**FLORIDA POWER AND LIGHT CO. (ST. LUCIE NUCLEAR POWER PLANT, UNIT 2)  
Reconstitution of Board**

John B. Farmakides, Esq., has been Chairman of the Atomic Safety and Licensing Board for the above proceeding. Because of his appointment to the Atomic Safety and Licensing Appeal Panel, he is unable to continue his service on this Board.

By Order of the Commission, Edward Luton, Esq., whose address is Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, has been appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with Section 2.704 of the Commission's rules of practices, as amended.

Dated at Bethesda, Maryland this 13th day of May 1975.

NATHANIEL H. GOODRICH,  
Chairman, Atomic Safety and  
Licensing Board Panel.

[FR Doc.75-13052 Filed 5-16-75; 8:45 am]

[Docket No. 50-410]

**NIAGARA MOHAWK POWER CO.;  
NINE MILE POINT NUCLEAR STATION  
UNIT 2**

Availability of Decision of the Atomic Safety and Licensing Appeal Board

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in Appendix D, Section A.9 and A.11, to 10 CFR Part 50, applicable to this proceeding, notice is hereby given that a Decision dated April 8, 1975, by

the Atomic Safety and Licensing Appeal Board, which modifies the Initial Decision of the Atomic Safety and Licensing Board, dated June 14, 1974, in the above captioned proceeding, but affirms authorization of the issuance of a construction permit to the Niagara Mohawk Power Corporation for construction of the Nine Mile Point Nuclear Station Unit 2 located in Oswego County, New York, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C., and in the Oswego City Library, 120 East Second Street, Oswego, New York 13126. The Decision by the Atomic Safety and Licensing Appeal Board is also being made available at the New York State Office of Planning Services, 488 Broadway, Albany, New York 12207, and at the Central New York Regional Planning and Development Board, 321 East Water Street, Syracuse, New York 13202.

Any decision or action taken by the Atomic Safety and Licensing Appeal Board in connection with the Initial Decision may be reviewed by the Commission.

Based on the record developed in the public hearing in the above captioned matter, the Decision of the Atomic Safety and Licensing Appeal Board modifies in certain respects the Initial Decision of the Atomic Safety and Licensing Board as well as supplement the contents of the Final Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation dated June 1973 related to the construction of the Nine Mile Point Nuclear Station Unit 2. Copies of the Initial Decision and the Final Environmental Statement are also available for public inspection at the above designated locations.

Pursuant to the provisions of 10 CFR Part 50, Appendix D, Section A.11, the Initial Decision of the Atomic Safety and Licensing Board and the Final Environmental Statement are deemed amended by the Decision of the Appeal Board. As required by section A.11 of Appendix D, copies of the Decision by the Atomic Safety and Licensing Appeal Board and copies of the Initial Decision by the Atomic Safety and Licensing Board have been transmitted to the Council on Environmental Quality and made available to the public as noted herein.

Single copies of the Initial Decision by the Atomic Safety and Licensing Board, the Decision by the Atomic Safety and Licensing Appeal Board and the Final Environmental Statement may be obtained by writing the U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 12th day of May 1975.

For the Nuclear Regulatory Commission.

WM. H. REGAN, Jr.,  
Chief, Environmental Projects  
Branch 4, Division of Reactor  
Licensing.

[FR Doc.75-13053 Filed 5-16-75; 8:45 am]

[Docket Nos. 50-529, 50-260]

**TENNESSEE VALLEY AUTHORITY  
Issuance of Amendments to Facility  
Operating Licenses**

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 9 to Facility Operating License No. DPR-33 and Amendment No. 6 to Facility Operating License No. DPR-52 issued to Tennessee Valley Authority which revised Technical Specifications for operation of the Browns Ferry Nuclear Plant, Units 1 and 2, located in Limestone County, Alabama. The amendments are effective as of their date of issuance.

The amendments revise the Technical Specifications, taking into account the present condition of plant systems, so as to assure that the two units will remain in a safe and stable posture during the period of plant shutdown resulting from damage due to a fire which occurred on March 22, 1975. The amendments do not authorize removal of fire damaged components or systems or restoration of the facility to operable conditions. This will be subsequently considered.

The application for these amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the license amendments. Prior public notice of these amendments is not required since the amendments do not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated May 8, 1975, (2) Amendment No. 9 to License No. DPR-33 and Amendment No. 6 to License No. DPR-52 with Change No. 10, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Alabama 35611.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 9th day of May 1975.

For the Nuclear Regulatory Commission.

ROBERT A. PURPLE,  
Chief, Operating Reactors  
Branch No. 1, Division of Re-  
actor Licensing.

[FR Doc.75-13054 Filed 5-16-75; 8:45 am]

**ADVISORY COMMITTEE ON REACTOR  
SAFEGUARDS' SUBCOMMITTEE ON  
PILGRIM STATION, UNIT 2**

**Meeting Cancellation**

The ACRS Pilgrim Station, Unit 2, Subcommittee meeting scheduled for

May 21, 1975 in Newton, Massachusetts has been cancelled. The notice of this meeting was previously published at 40 FR 16100, April 9, 1975 and 17319 on April 18, 1975. The new expected date for this meeting is June 25, 1975. Notice will be published later.

Dated: May 14, 1975.

JOHN C. HOYLE,  
Advisory Committee  
Management Officer.

[FR Doc.75-13196 Filed 5-16-75; 8:45 am]

**ADVISORY COMMITTEE ON REACTOR  
SAFEGUARDS' WORKING GROUP ON  
HYPOTHETICAL CORE DISRUPTIVE AC-  
CIDENT (HCDA)**

**Meeting**

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards' Working Group on HCDA will hold a meeting on June 3, 1975 in room 1046, 1717 H Street, NW., Washington, D.C. 20555. The purpose of the meeting will be to discuss the REXCO and ICECO Computer Codes and various extensions to these Codes which are being developed by the Argonne National Laboratory.

The following constitutes that portion of the Working Group's agenda for the above meeting which will be open to the public:

Tuesday, June 3, 1975, 9 a.m.-4 p.m. Presentations will be made on the various aspects of the Computer Codes. Discussions will be held with representatives of the Argonne National Laboratory, the Energy Research and Development Administration, and the NRC Staff.

In connection with the above agenda item, the Working Group will hold Executive Sessions, not open to the public, at 8:30 a.m. and at the end of the day to consider matters relating to the above Codes. These sessions will involve an exchange of opinions and discussions of preliminary views and recommendations of Working Group members and internal deliberations for the purpose of formulating recommendations to the ACRS.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that the above-noted Executive Sessions will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b). Further, any non-exempt material that will be discussed during the above closed sessions will be inextricably intertwined with exempt material, and no further separation of this material is considered practical. It is essential to close such portions of the meeting to protect the free interchange of internal views, to avoid undue interference with agency or Working Group operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Working Group is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incomplete open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by mailing 25 copies thereof, postmarked no later than May 27, 1975 to the Executive Secretary, Advisory Committee on Reactor Safeguards, Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Mr. T. G. McCreless.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Working Group. To the extent that the time available for the meeting permits, the Working Group will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Working Group between the hours of 1:30 p.m. and 3:30 p.m. on June 3, 1975.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Working Group who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on June 2, 1975 to the Office of the Executive Secretary of the Committee (telephone 202/634-1374, Attn: Mr. T. G. McCreless) between 8:15 a.m. and 5 p.m., Eastern Time.

(e) Questions may be propounded only by members of the Working Group and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) A copy of the transcript of the open portion of the meeting will be available for inspection on or after June 5, 1975 at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second St., NE, Washington, D.C. 20002 (telephone 202/547-6222) upon payment of appropriate charges.

(i) On request, copies of the minutes of the meeting will be made available for inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 after September 3, 1975. Copies may be obtained upon payment of appropriate charges.

Dated: May 16, 1975.

CHASE R. STEPHENS,  
Acting Advisory Committee  
Management Officer.

[FR Doc.75-13267 Filed 5-16-75; 9:37 am]

**OFFICE OF MANAGEMENT AND  
BUDGET**

**CLEARANCE OF REPORTS**

**List of Requests**

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 14, 1975 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529) or from the reviewer listed.

**NEW FORMS**

**DEPARTMENT OF THE INTERIOR**

Departmental and other:  
State Reporting Form, Youth Conservation Corps Work Accomplishment YCC 5(8), annually, government agencies, Sunderhauf, M. B., Lowry, R. L., 395-4911.

Departmental and other:  
State Grant Program Youth Conservation Corps Statistical Research Information Sheet, annually, youth enrolled in State YCC programs, Sunderhauf, M. B., Lowry, R. L., 395-4911.

Departmental and other:  
Youth Conservation Corps End of Camp Questionnaire, annually, youth enrolled in State YCC programs, Sunderhauf, M. B., Lowry, R. L., 395-4911.

**NEW FORMS**

**DEPARTMENT OF TRANSPORTATION**

National Highway Traffic Safety Administration:  
Preliminary Plan for Operational Factors Regarding FMVSS 121 Requirements, on occasion, truck fleets, Strasser, A., Lowry, R. L., 395-3880.



## Departmental and other:

Railroad Classification Yard Analysis-Yardmaster Survey, single-time, railroad yardmasters, Strasser, A., 395-3880.

PHILLIP D. LARSEN,  
Budget and Management  
Officer.

[FR Doc. 75-13243 Filed 5-16-75; 8:45 am]

## VETERANS ADMINISTRATION

## HOME LOANS

## Condominiums

Notice is hereby given of the publication of Veterans Administration policies and procedures concerning condominium loans pursuant to 38 U.S.C. 1810 as amended by section 3 (2) and (4) of Public Law 93-569 (88 Stat. 1863) effective April 1, 1975.

In order to obtain the views of the public, interested persons are invited to submit written comments, suggestions, data, or arguments to the Administrator of Veterans Affairs (262), 810 Vermont Ave. NW., Washington, D.C. 20420 before June 18, 1975. Material thus submitted will be evaluated and considered in any future revision. The circular is effective immediately and these policies and procedures will remain in effect until such time as the circular is amended.

Set forth below is material extracted from DVB Circular 20-75-46; "Policies and Procedures, Condominium Loans Under 38 U.S.C. 1810(a) (6), Public Law 93-569." The numbering system used is that of the circular.

Dated: May 8, 1975.

By direction of the Administrator.

[SEAL] ODELL W. VAUGHN,  
Deputy Administrator.

## POLICIES AND PROCEDURES

## CONDOMINIUM LOANS UNDER 38 U.S.C. 1810(A) (6), PUBLIC LAW 93-569

1. **Purpose.** Public Law 93-569 removed the limitation that only condominium projects insured by FHA (Federal Housing Administration) under section 234 of the National Housing Act are eligible as security for VA loans. This provision of the law, effective April 1, 1975, will be implemented by the following policies and procedures, and applicable VA regulations.

2. **Objective.** The VA approach to this new program area is intended to be of sufficient flexibility to provide protection to veterans as potential homeowners and to VA as guarantor while assuring the viability of the program.

3. **Definitions.** For purposes of the policies and procedures herein, the following definitions shall apply.

a. **Existing Condominium.** A condominium project originally built and sold as a condominium where all onsite and offsite improvements were completed prior to appraisal by VA.

b. **Proposed Condominium.** A condominium project that is to be constructed or is under construction.

c. **High Rise Condominium.** A condominium project which is a multi-story elevator building.

d. **Low Rise Condominium.** A condominium project in which all or part of a living unit extends over or under another living

unit. Such a project may contain one or more elevators. (Also referred to as a garden apartment or walk-up project.)

e. **Horizontal Condominium.** A condominium project in which generally no part of a living unit extends over or under another living unit; e.g. detached, semi-detached, row, and quadruplex. These projects are designed in a manner similar to that of most planned unit developments.

4. **Eligibility of Projects and Units.**

a. Existing policies governing proposed or newly constructed condominium projects approved by FHA under section 234 shall be continued for all such projects in which VA had issued commitments prior to April 1, 1975. However, any new section 234 project submitted on and after April 1, 1975 will be processed in accordance with this circular.

b. Any one-family residential unit in a new condominium housing development or project, or in an existing condominium (built and sold as a condominium) will be eligible for VA loan purposes subject to requirements stated below. *Condominium conversions are ineligible for loan guaranty.* Conversions are defined as those projects not originally built and sold as condominium units but subsequently converted to condominium use.

5. **Requirements for Approval.** Prior to VA guaranty of an individual unit loan in a condominium, the requestor must apply for and receive VA acceptance of the overall project and its documentation, based on a review of the condominium organizational documents (items 1a through m of exhibit A as applicable). In addition to construction requirements and standards described below, projects must meet the following general requirements prior to approval (except as noted). (The requirements of subpara. h through n may be waived on a case basis with Central Office concurrence, however any waiver will be reflected in the unit's valuation.)

a. **Legal Description.** The description of the unit and the delineations of the common elements must be clear and accurate with the unit owner being given a specified undivided interest in the common elements.

b. **Title.** The veteran must receive an estate in realty that meets the requirements of VA Regulation 4350. The veteran's estate may not be subject to unreasonable restraints upon alienation which would adversely affect the title to, or the marketability of the unit. (The most common examples of such restraints are the right of first refusal, except as allowed in VA Regulation 4350; prohibition against leasing; and the requirement of prior approval by the association for sale or rental.)

c. **Lien.** The loan must be secured by a first lien on the realty, superior to any assessment lien that may be imposed by the condominium regime.

d. **Taxes.** Real estate taxes must be assessed and be lienable only against the individual units, together with their undivided interests in the common elements, and not against the multi-family structure. The condominium association usually owns no real estate, so it has no obligation concerning ad valorem taxes. Unless this limitation is made, a tax lien could amount to more than the value of any particular unit in the structure.

e. **Earnest Money Deposits.** Developer may not use GI loan downpayments or earnest money deposits for construction purposes, but must place the same in a trust fund or escrow in accordance with 38 U.S.C. 1806. This is not applicable to resales.

f. **Documentation.** Documentation must be in compliance with the law of the jurisdiction in which the property is located.

g. **Warranty.** In proposed or existing units not previously occupied, the builder, seller,

or the real party of interest in the transaction must deliver to the veteran purchasing a condominium unit estate with the aid of a guaranteed loan, a warranty against structural defects on the individual unit for 1 year from the date of occupancy or the date of settlement (whichever first occurs), and on all of the common elements for 1 year from such time as units to which 60 percent of the votes in the unit owners' association appertain have been transferred to unit owners other than the warrantor. For the purposes of this requirement, structural defects shall be those items reasonably requiring the repair, renovation, restoration, or replacement of any of the components constituting the unit or common elements. (Nothing in this requirement shall be construed to make the warrantor responsible for any items of maintenance relating to the unit or common elements.) This warranty shall be in addition to, and not in derogation of, all other rights and privileges which the veteran-purchaser may have under any other law or instrument, and shall survive the conveyance of title, delivery of possession of the property, or other final settlement made by the veteran-purchaser, and shall be binding on the warrantor notwithstanding any provision to the contrary contained in the contract of purchase or other writing executed by the owner. Builders may submit their own warranty forms (provided the requirements stated above are included) until such time as a VA form for this purpose is issued.

h. **Completion of All Units.** All units in the individual project considered must be completed. Until all units comprising the condominium are constructed, there is no certainty as to the unit ratio for purposes of common area ownership, voting rights, and assessment liability. An exception to this requirement is made in the incremental approach. (See paragraph 7.)

i. **Amenities.**

(1) All amenities of the condominium (to include offsite community facilities), that are to be considered in the unit value, must be legally bound to the condominium regime. All such amenities as well as the common elements of the project must be fully installed, completed, and available for use by unit owners. Exceptions may be made by local VA offices if there is substantial completion, and adequate funds are escrowed to assure that amenities are to be completed free and clear of mechanics', materialmen's, and other liens, together with an adequate protection from liability should there be continued construction. (If an amenity is not to be a common element under the condominium regime, but is to be owned by a homeowners' association with mandatory membership by condominium unit owners, the VA policy applicable to planned unit developments must also be satisfied, and the submission must be forwarded to Central Office for concurrence in the local VA office's initial review as presently required. Local VA offices must also submit condominiums in "New Towns" for review by Central Office, unless such "New Town" has been previously approved. The "New Town" organizational documents must all be first reviewed as presently required.

(2) The number of units in the condominium shall be adequate to reasonably support the common elements.

j. **Presale Requirement—Proposed or New Construction.** Bona fide agreements of sale must have been executed by purchasers (who are contractually obligated to complete the purchase and who intend to occupy the property as their principal place of residence) of 70 percent of the total number of units in the project. Lenders shall certify as to satisfaction of the presale requirement. Multiple purchases of condominium units by one

owner are to be counted as one sale when computing the number of sales within a condominium regime to determine if this requirement has been met. When a seller can demonstrate that a lower percentage would be justified, the local VA office may consider on a case basis, a presale requirement of less than 70 percent, but not less than 51 percent. Proposed presale requirements of less than 51 percent will require Central Office approval. Reduction of the 70 percent presale requirement will be considered when:

(1) Strong initial sales demonstrate a ready market, or

(2) The builder will provide cash assets or acceptable bonds for payment of full common area assessments to the owners' association until such assessments are assumed by unit purchasers, or

(3) Subsequent phases of an overall development are being undertaken in a proven market area, or

(4) Developer's previous experience in similar projects in the same market area indicates strong market acceptance, or

(5) The development is in a market area that has repeatedly indicated acceptance of such projects.

k. **Presale Requirement—Multiphase Developments.** When project approval covers an individual phase of a multiphase development, the presale requirement of paragraph j above will be applicable to that phase only, taking into consideration that each individual phase must be capable of self-support in the event that the developer proceeds no further.

l. **Occupancy Level—Existing Condominiums.** For existing condominiums, an occupancy level based on owner residency of 70 percent of the total units will apply. As in the case of proposed condominiums, local VA offices may on a case basis and when justified, consider a lesser occupancy percentage but not lower than 51 percent. Any lesser requirement proposed must be submitted to Central Office.

m. **Rights Reserved by Developer.** Any rights reserved by the developer of a condominium project must be reasonable and consistent with the overall plan. Local VA offices will determine, based on the circumstances of each submission, what reserved rights are reasonable. The following rights when reserved by the developer, its affiliates, the sponsor of a project, or any other party, usually would be unacceptable:

(1) Leasing of common areas to the owners' association (no leasehold of community or recreational facilities may be approved without Central Office concurrence);

(2) Accepting leases from the owners' association for the common area, for the use of which, the lessor may then charge unit owners, the common area owner(s) or non-unit owners (whose use, if permitted, may also decrease the value of the common areas to the unit owners);

(3) Accepting franchises or licenses from the owners' association for the provision of central television antenna or like services;

(4) Reserving the right to include in the condominium adjoining land without adequate restriction assuring that its future improvement will be of comparable style, quality, size, and cost;

(5) Retaining rights, without adequate restriction, to change the style, floor plan, size, and quality of future buildings to be constructed as part of the condominium project; and

(6) Retaining the right, by virtue of continued association control or otherwise, to veto acts of the owners' association or to enter into management agreements or other contracts which extend beyond the date unit owners obtain majority control of the owners' association.

n. **Information Brochure.** When units are being sold by the developer/builder (not applicable to resales) an information brochure must be given to veteran-buyers prior to the time a downpayment is received and an agreement is signed. Information brochures must be written in simple terms to inform buyers about the subject condominium regime, and the rights and obligations of unit owners. The information brochure must inform buyers that the association does not provide owner's title insurance and that if such insurance is desired, it is the buyer's responsibility to purchase it. Buyers must also be told that, like any other homeowners, personal liability policies are their responsibility. In the event the development is phased, there must be full disclosure of the impact of the total development plan. An effective bulletin will (1) adequately inform the prospective purchaser of all future rights and obligations he or she will have as the owner of an individual condominium estate, and (2) assure the buyer that consumer interests are well-protected.

6. **Additional Requirements—Series Developments Only.** The following requirements will also apply when local VA offices determine that a condominium project submission concerns one of a series of adjoining condominium projects, whether with phased onsite community facilities, or with offsite community facilities. (The requirements may be waived only with Central Office concurrence.)

a. **Phase Processing.** Each phase in the series approach is to be considered as a separate project. A separate set of legal documents must be filed for each phase or project that relate to the condominium within its own boundary. The master deed for each phase must describe the particular project as a part of the whole development area, but subject only the one phase to the condominium regime. A separate unit ratio must be established that would relate each unit to all units of the particular condominium for purposes of ownership in the common areas, voting rights and assessment liability. A separate association may be created to govern the affairs of each condominium. Each phase is subject to a separate presale requirement.

b. **Ownership and Operation of the Offsite Facility.** Central office concurrence in the initial review of the VA local office is necessary when the project is developed with offsite facilities owned by a homeowners' association with mandatory membership by condominium unit owners.

(1) Evidence must be presented that the offsite facility has been completed and conveyed by the developer to a VA-approved nonprofit corporation with title insured by an owner's title policy or other acceptable title evidence showing title in the nonprofit corporation free of encumbrances.

(2) In the case of proposed projects, or projects under construction, the master deed should state the number of total units that the developer intends to build on other sections of the development area. This is essential in order to give the consumer and VA sufficient information to make a judgment at the feasibility stage as to whether the amenity facilities are sufficient to accommodate the number of units planned.

(3) The master deed for each condominium, and the articles of incorporation of the nonprofit corporation which owns the offsite facility must provide that:

(a) The owner of a condominium unit is automatically a member of the offsite facility nonprofit corporation and that upon the sale of the unit, membership is automatically transferred to the new owner/purchaser. If membership is in an offsite homeowners' association is voluntary, no credit in the CRV (certificate of reasonable value) valuation

may be given for such offsite amenities, and it shall not be necessary to forward such cases to Central Office.

(b) Each member of the nonprofit corporation must have a representative vote at meetings of the corporation.

(c) Each member must agree by acceptance of the unit deed to pay a share of the expenses of the nonprofit corporation as assessed by the corporation for upkeep, insurance, reserve fund for replacements, maintenance and operation of the offsite facility. The share of said expenses shall be equitably determined. Failure to pay such assessment must result in a lien against the individual unit in the same manner as unpaid assessments by the association of owners of the condominium.

(4) Until the developer has completed all of the intended condominium phases in a total condominium development and established each condominium regime by filing a separate master deed, approved by VA for each project, the balance of the total sum of the expenses of the offsite facility not covered by the assessment against the unit owners should be assessed against and be payable by the developer commencing on the first day of the first month after the first unit is conveyed to a homeowner in the first phase. If this balance is not paid, it must become a lien against those parcels of land in the development area which are owned by the developer. The collection of such debt and enforcement of such lien may be by foreclosure or such other remedies afforded the nonprofit corporation under local law.

c. Until the first annual meeting of the nonprofit corporation may be governed by an interim board composed of developer representatives. VA recommends that the annual meeting of the nonprofit corporation take place within 45 days after the first condominium unit is conveyed as this should allow sufficient time for the requisite number of units to be conveyed to the purchasers. At such annual meeting the interim board will be replaced by an elected board of directors composed primarily of the owners/purchasers of the condominium units.

7. **Additional Requirements Applicable to Incremental (Add-on) Developments Only.** The following requirements must be met in proposed or new construction where the incremental approach is to be employed in the condominium development:

a. The approach will be restricted to developers who can show excellent financial responsibility, and a market for the total contemplated development.

b. The developer must build each phase in accordance with an approved plan for the total condominium development that is supported by detailed plat and plans. Each condominium regime should contain a covenant that it may not be amended or merged with a successor condominium regime without prior written approval by the local VA office. In this type of case the VA local office would not give its approval for amendment or merger until the successor condominium has been completed and constituted.

(c) If substantial community facilities are to be included, it is recommended that they be included in the first section.

d. The unit owner shall have a minimum percentage or undivided interest in the common elements based on the proposed maximum number of units to be built (the maximum number of units to be built should be that which would not exceed the capacity of the common facility), and a maximum interest based on the proposed minimum number of units (the minimum number of units to be built should be that which would be adequate to reasonably support the common elements), each such possible percent-



age to be stated in the master deed with the actual percentage interest to be established upon completion of construction.

e. The conditions on which any change in such percentage of undivided interest in common elements may take place must be fully described in the master deed, together with a description of the real property which will become subject to the condominium regime if such alternative percentage becomes effective.

f. No change in the percentage interests in the common elements may be effected pursuant to such incremental or add-on plan more than 7 years after the date the master deed becomes effective.

g. The developer must agree to purchase (at developer's own expense) a liability insurance policy in an amount determined by the VA local office to cover any liability to which owners of previously sold units might be exposed. This is particularly necessary when owners already have an undivided interest in streets or other land being built upon by the developer. This policy should be endorsed "as owner's interest might appear."

8. **Recommended Features and Considerations.** VA encourages developers and builders to employ the following whenever possible.

a. **Reserve Fund and Working Capital Fund.** The establishment of an adequate reserve fund for replacement of common element components which is to be funded by monthly payments rather than by extraordinary special assessments is recommended as is the establishment of a working capital fund for the initial months of operation equal to a minimum of 2 months' estimated common area charges for each unit.

b. **Fidelity Bond Coverage.** The securing of appropriate fidelity bond coverage is recommended for any person or entity handling funds of the homeowners' association, including, but not limited to, employees of the professional managers. Such fidelity bonds should name the association as an obligee, and be written in an amount equal to at least 150 percent of the estimated annual operating expenses of the condominium project, including reserves.

c. **Personal Liability Insurance.** Appropriate insurance, if available, should be purchased by the condominium association for the protection of its directors and officers from personal liability in the management of the association's affairs.

d. **Property Insurance.** Mortgagees are required to secure adequate insurance coverage to protect their security. (VA Regulation 4326) The association of owners presumably will wish to be covered by hazard insurance, and if applicable by flood insurance, as well as liability insurance to provide protection against damage suits arising from injuries sustained on the premises. If there is a steam boiler or boilers in operation in connection with the condominium, specific boiler explosion insurance may be desired in an adequate amount. Whether this coverage should take the form of a multi-peril policy is a matter for the association to decide. Representatives of the insurance industry have suggested that the most practical method of handling the problem is by a multi-peril type of policy covering the replacement cost of the entire building (or buildings) rather than individual policies on each family unit. The policy would be issued to the association as trustee or as required by the lenders and set forth in the declaration for all the unit owners as their respective interests appear. (Individual owners would not be precluded from obtaining additional insurance should they so desire.) The loss payable clause should provide that losses under the policy shall be adjusted

with and be payable to the trustee for the benefit of all individual unit owners and mortgagees as their interests may appear. In the foregoing case, the property insurance premium should be made a common expense payable as part of the monthly assessments due the condominium association.

e. **Optional Housing Extras.** A developer may offer optional housing extras to condominium home buyers (e.g., dishwasher, garbage disposal, etc.) just as in the case of a single-family subdivision home purchaser. Condominium developments differ from single-family subdivisions, however, in that the initial values assigned to the various units may determine the unit ratios of common area ownership, voting rights and assessment liability. The unit ratios as initially established in the master deed must not change during the life of the condominium project notwithstanding the installation of optional extras, without the 100 percent approval of all unit owners.

f. **Professional Management.** Many condominiums are small enough and their common areas so minimal that professional management is not necessary. VA does not have an absolute requirement for professional management of condominiums. The powers given to the condominium association by the master deed and by-laws are fundamentally for "use control" and maintenance of the undivided interest of all the owners have in the common areas. These powers normally include management which may, if desired, be delegated to a professional manager. However, if the Board wants professional management, the management agreement must be terminable with cause upon 30 days' notice, and run for a reasonable period of from 1 to 3 years renewable by consent of the association and management. (Management contracts negotiated by the developer should not exceed 1 year.)

g. **Rights of Mortgagees.** The VA has no objection to the condominium regime specifying the following rights for the holders of first mortgages:

(1) Prior approval of all first mortgagees before the association can:

(a) Abandon condominium status, or partition or subdivide a unit or the common elements;

(b) Change the percentage interest of unit owners;

(c) Materially amend the legal documents; or

(d) Terminate professional management and attempt self-management.

(2) Timely written notice to first mortgagees of:

(a) Any condemnation or eminent domain proceeding;

(b) Any substantial damage or destruction to the common elements; and

(c) Any unit owner's non-payment of assessment 30 days past due.

(3) First mortgagees also may be given the right to examine the books and the records of the association, to receive annual audited financial statements, to be given notice of association meetings and to be entitled to send a representative.

9. **Appraisal and Inspection Requirements.**

a. **Existing Condominiums.** Any such project must have been originally constructed and sold as a condominium. Appraisal of the first individual unit or master in an existing condominium project will be predicated in all instances upon the acceptance by the local VA office of the condominium organizational documents required by exhibit A. In all cases, the project and unit(s) proposed as security for guaranteed financing shall be appraised to ensure that they meet MPR's (Minimum Property Requirements),

are safe, sanitary, and structurally sound. Sponsors will submit VA Form 26-1805, Request For Determination of Reasonable Value to obtain appraisals; organizational documents may be submitted with VA Form 26-1805. (See par. 10.)

(1) **MPR's.** The VA MPR's for existing construction for condominium application are the same as those utilized for existing construction in single-family residential construction, except those references relating to water, heating, ventilating, air-conditioning and sewer service which, for purposes of condominiums, may be supplied from a central source.

(2) **Repair Requirements.** Repair requirements shall be specified for two areas, the individual living units and the common elements. (Common elements are those parts of the project in which all residents share an equal usage right; i.e., recreational facilities, hallways, rooftops, elevators, lobbies, etc.)

(a) **Individual Unit Deficiencies.** Deficiencies noted in the individual unit(s) deemed mandatory for repair to meet the MPR's shall be appraised "as repaired." Any compliance inspection required shall be noted on the CRV.

(b) **Common Element Deficiencies.** Those deficiencies in the common areas will be noted, depreciated accordingly, and reflected in value, unless they endanger the health and safety of the occupants, in which case they shall become a repair requirement on the CRV.

(3) **Termite Inspection Requirements.** A termite inspection and wood destroying insect infestation clearance certification will be required on horizontal condominiums. Such certification is not required for low rise and high rise condominiums; however, at time of appraisal, the fee appraiser will note any observed infestation or conditions relevant to the MPR's.

b. **Proposed Condominiums**

(1) **Low Rise and High Rise**

(a) **Submissions.** Sponsors shall submit VA Form 26-8492 (ASP-1). The organizational documents, plans, and specifications (if any) as outlined in exhibit A may be submitted with (ASP-1).

(b) **Construction Standards.** Proposed condominiums shall conform to standards and/or inspection requirements as announced by local VA offices.

(c) **Inspections.** Inspections during construction shall be performed in accordance with instructions of local VA offices. In all cases, there shall be a final VA inspection to verify the completion and inclusion of those visible items (including all of the project's buildings and common elements) upon which VA based its valuation from the plans and specifications. This will be accomplished by a fee or staff inspection, documented by completion of VA Form 26-1839, Compliance Inspection Report, for each unit appraised.

(2) **Horizontal Condominiums.**

(a) **Submissions.** Sponsor shall submit VA Form 26-8492 (ASP-1) with the same exhibits now required for single-family construction.

(b) **MPS (Minimum Property Standards).** HUD Handbook 4900.1, "Minimum Property Standards, One and Two Family Dwellings," with the exception of the last sentence of paragraph 202-2 shall apply, and the construction and valuation policies and procedures now applicable to single-family residential construction shall also apply to such submissions.

c. **Change Orders.** Should the builder/developer desire to change plans upon commencement of sales or thereafter, the change shall be effected by the utilization of VA Form 26-1844, Request for Acceptance of Change in Approved Drawings and Specifications, provided the change is within the in-

dividual purchaser's air lot. However, any change affecting the ratio of ownership interest or a change in the common elements, must be approved by a unanimous (or as required by State statute) vote of the membership of the condominium association. A written statement signed by an officer of the Board of Directors of the Council of Co-owners is required as evidence of said approval. This statement must be submitted with VA Form 26-1844. In those circumstances when the builder/developer desires VA Form 26-1844 changes prior to the first sale in a condominium project, such changes may require amendment of the organizational documents. All changes must have the written prior approval of the local VA office.

d. **Commercial Areas.** With respect to existing and proposed condominiums, VA has no objection to the presence of commercial areas within condominium developments, but such interests will be considered in the valuation process.

10. **Request For Appraisal (Proposed and Existing Condominiums).** VA Form 26-1806 shall be completed in accordance with instructions therein except for the following special instructions.

(1) **Item 4. Property Address.** Include the apartment number or similar identification of the unit.

(2) **Item 8. Lot Dimensions.** Not required.

(3) **Item 10. Legal Description.** Include grant deed verbiage which refers to master deed with appropriate legal description.

(4) **Item 11. Title Limitations.** Include condominium assessment fee and specify whether utilities are covered by assessment fee.

11. **Loan Submissions and Policies.**

a. Prior to VA guaranty of an individual loan in a condominium, any limiting conditions to VA's overall project approval must be acceptably cleared. All condominium loans shall be submitted on a prior approval basis (VA Regulation 4358(A)), and loan packaging shall conform to present requirements for prior approval single-family loan submissions. Items 11 d, e, and f of VA Form 26-1802a, Application For Home Loan Guaranty, must accurately reflect the condominium assessment fee and any special assessments.

b. Combination residential and business property loans (VA Regulation 4353), supplemental loans (VA Regulation 4355), and expenditures for correction of structural defects (VA Regulation 4364) are not applicable to condominiums. (See VA Regulation 4358 (D)).

c. Veterans may not be charged for certifications of architects or engineers which may be required by local VA offices in lieu of local building code inspections.

d. Individual loan submissions shall be subject to the limitations of VA Regulation 4312.

RUFUS H. WILSON,  
Chief Benefits Director.  
DVB Circular 20-75-46  
Exhibit A

# CONDOMINIUM SUBMISSIONS - REQUIRED FORMS AND DOCUMENTS

	NEW PROJECTS	EXISTING PROJECTS
o Submit all documents in duplicate unless otherwise indicated.		
o Legend: X - required		
o Section 1, Organizational Documents - One time submission only for each project or individual request. Draft documents are acceptable.		
o Section 2, Unit and Project Data - Items a through c: one time submission only, for each project or individual request; items d through h: for each request involving existing units.		
o Section 3, Appraisal Requests		
o Section 4, Special Requirements - If applicable, these items must be submitted before guaranty of any loan.		
1. ORGANIZATIONAL DOCUMENTS		
a. Master Deed for the project, including any addendums	X	X
b. By-laws of the condominium association	X	X
c. Recorded project plat, map and/or air lot survey. (If not yet recorded as with proposed projects, submit final form plat, map, or air lot survey, with all proposed certifications, dedications, and other narrative material included or incorporated by reference.)	X	X
d. Management agreement	AA	AA
e. Articles of incorporation of the condominium association	AA	AA
f. Proposed condominium association budget	X	X
g. Documents for non-profit offsite corporation to include:		
(1) Declaration of Covenants	AA	AA
(2) Conditions and Restrictions	AA	AA
(3) Articles of Incorporation	AA	AA
(4) By-laws	AA	AA
(5) Plat or survey showing the location of the section of land upon which the offsite recreational facility will be built, including design and size of offsite recreational facility.	AA	AA
h. Cross-easements	AA	AA
i. Service contracts	AA	AA
j. Facilities leases	AA	AA
k. Developer's general plan and schedule for development	X	X
l. State reviewing agency's report	AA	AA
m. Form of grant deed or leasehold agreement (in those jurisdictions where leaseholds previously authorized by VA) to be used in conveying individual living units	X	X



## NOTICES

DVB Circular 20-75-46  
Exhibit A

	NEW PROJECTS		EXISTING PROJECTS	
	PROPOSED	UNDER CONSTRUCTION	BUILDER/DEVELOPER	RESALES INDIVIDUAL UNITS
<b>2. UNIT AND PROJECT DATA</b>				
a. VA Form 26-8492 (ASP-1)	X	X		
b. Information brochure	X	X	X	
c. Form of purchase contract for individual living unit	X	X	X	
d. Minutes of last two Council of Co-owners meeting		AA	X	X
e. Current condominium budget		AA	X	X
f. Current financial statement of condominium project (including reserves)		AA	X	X
g. Statement signed by officer of Board of Directors of Council of Co-owners specifying any existing or pending special assessments and any pending litigation affecting the condominium		AA	X	X
h. Plat, map, and/or air lot survey to adequately identify subject unit(s)	AA	AA	X	X
<b>3. APPRAISAL REQUESTS</b>				
a. VA Form 26-1305 (One set for each plan type or individual unit)	X	X	X	X
b. Complete set of plans and specifications (for total project) bearing seal of registered professional architect and/or engineer (low rise and high rise condominium). For horizontal condominiums, submit VA Form 26-1352, Plans and Specifications, according to current requirements	X	X		
<b>4. SPECIAL REQUIREMENTS</b>				
a. Submit certified copies of recorded organizational documents all conforming to previously accepted drafts	X	X	X	X
b. Lender's certification that presale requirement has been met	X	X	AA	AA
c. Warranty against structural defects	X	X	AA	
d. Evidence of completion of construction of project (including common elements) by final municipal approval and occupancy authorization and final VA compliance inspection (low rise and high rise condominiums only)	X	X	AA	
e. VA compliance inspection procedures or VA acceptance of FHA compliance inspection procedure applicable to proposed construction (Horizontal condominium only)	X	AA	AA	AA
f. Evidence of flood insurance	AA	AA	AA	AA
g. Termite certification (horizontal condominiums only)				X

[FR Doc. 75-13066 Filed 5-16-75; 8:45 am]

## DEPARTMENT OF LABOR

## Manpower Administration

## EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

## Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in

the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924 (b), 1932, or 1942 (b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely

to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75, published January 29, 1975 (40 FR 4393). In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Manpower, 601 D Street, NW, Washington, D.C. 20213.

Signed at Washington, D.C. this 12th day of May, 1975.

BEN BURDETSKY,  
Deputy Assistant Secretary  
for Manpower.

## NOTICES

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Applications received during the week ending May 9, 1975

Name of applicant	Location of enterprise	Principal product or activity
Tompkins County Industrial Development Agency for Morse Chain Division of Borg Warner (tenant of town of Lansing)	Tompkins County, N.Y.	Manufacture and sale of power transmission equipment.
The Justin Atlantic Corp. (tenant of Sussex County Industrial Air Park)	Georgetown, Del.	Chemical storage tanks.
Jane Lew Water Commission PSD for Pittsburgh Tube Co.	Jane Lew, W. Va.	Manufacture of tube for automotive and farm machinery.
Virginia Home Manufacturing of Delaware, Inc. (tenant of Sussex County Industrial Air Park)	Georgetown, Del.	Manufacture of modular homes.
Princeton Hosiery Mills, Inc.	Princeton, Ky.	Manufacture of hosiery.
Collins Volkswagen, Inc.	Sylacauga, Ala.	Automobile dealership.
Hoffman Cooperative Creamery Association	Hoffman, Minn.	Manufacture of dairy products.
SKB Products	Claremont, Minn.	Manufacture of Portland cement.
M&S Co., Inc.	Rayville, La.	Custom spray drying food products.
Chickasaw Industries, Inc. (tenant of Ada)	Ada, Okla.	Manufacture of men's apparel.
Gulf Coast Agri-Construction, Inc.	Eagle Lake, Tex.	Electronic components.
Key Industries, Inc. (tenant of city of Stockton)	Stockton, Mo.	Construction, installation and repair of grain storage bins.
Rich Plan Corp.	Ottumwa, Iowa	Manufacture of boys' and men's jackets.
Exxon Chemical Co., U.S.A., Twine Division (tenant of Kingman)	Kingman, Kans.	Meat cutting.
Ashley Grain Co.	Ashley, N. Dak.	Manufacture of synthetic and plastic twine.
Dallas Cooperative warehouse	Rickreall, Oreg.	Buying and marketing of all farm grains.
		Storage, cleaning, shipping, and marketing of grain.

[FR Doc. 75-12872 Filed 5-12-75; 8:45 am]

Occupational Safety and Health Administration  
ADVISORY COMMITTEE ON  
CONSTRUCTION SAFETY AND HEALTH  
Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 656), will meet on Tuesday, June 3, and Wednesday, June 4, 1975. The meeting will begin at 9 a.m. in Conference Room B of the Interdepartmental Auditorium, located on Constitution Avenue between 12th and 14th Streets, Northwest, Washington, D.C. This meeting will be open to the public, and all interested parties are encouraged to attend.

The proposed agenda for the ensuing meeting calls for the committee to discuss standards for lasers and ionizing radiation. Furthermore, other miscellaneous amendments to Part 1926 of 29 CFR will be discussed.

Any member of the public wishing to submit written presentations and/or recommendations to the Committee may do so by filing such a statement, together with 20 duplicate copies with the Committee Management Officer by May 28, 1975.

Such submissions will be provided to the members of the Committee and will be included in the record of the meeting.

The Committee Chairman may permit oral statements before the Committee by interested persons. Consequently, persons desiring to make an oral presentation should submit a written request to be heard to the Committee Management Officer by May 25, 1975. The request must bear the name and address of the person wishing to appear, the capacity in which he will appear, a short summary of the

intended presentation, and the approximate amount of time required for his presentation. Such submissions will be provided to the Chairman for his consideration.

All materials which have been submitted to or developed by the Committee as well as the official record of all Committee proceedings are available for public inspection and copying at the Committee Management Office. Any copying will be done at the cost of 10¢ per page. However, it should be understood that no arrangement will be made to supply Committee materials to the public at any meeting site.

Any communications relating to Committee activities or requests for copies of materials utilized by the Committee should be addressed to:

Jay Arnoldus  
Committee Management Office  
Occupational Safety and Health Administration  
U.S. Department of Labor  
1726 M Street, Northwest, Room 200  
Washington, D.C. 20210  
Phone: (202) 981-2248, 2487

Signed at Washington, D.C. this 14th day of May, 1975.

JOHN STENDER,  
Assistant Secretary of Labor.

[FR Doc. 75-13194 Filed 5-16-75; 11:16 am]

STANDARDS ADVISORY COMMITTEE ON  
HAZARDOUS MATERIALS LABELING  
Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I) notice is hereby given that an additional meeting of the Standards Advisory Committee on Hazardous Materials Labeling is being scheduled for June 5, 1975, in Conference Room B, Departmental Auditorium, Constitution Avenue between 12th and 14th Streets, NW, Washington, D.C. This meeting will be held in the event that the Committee is unable to complete its recommendations and all related activities at the final meeting scheduled for May 29 and 30,

1975, at the same location. The meeting on June 5 will begin at 11 a.m. and will be open to the public. This Committee was established under section 7(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 656).

Should the Committee complete its final recommendations at the May 29 and 30 meeting, a notice of cancellation will be published in the FEDERAL REGISTER immediately. Interested persons are encouraged to maintain communication with the Committee Management Office at the following address: Mr. Jay Arnoldus, Committee Management Office, U.S. Department of Labor, Occupational Safety and Health Administration, 1726 M Street, NW, Room 200, Washington, D.C. 20210. Phone: (202) 961-2248, 2487.

Signed at Washington, D.C., this 14th day of May, 1975.

JOHN STENDER,  
Assistant Secretary of Labor.

[FR Doc. 75-13195 Filed 5-16-75; 11:16 am]

## Office of the Secretary

[TA-W-23]

## AMERICAN GIRL FASHIONS, INC.

## Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On May 6, 1975 the Department of Labor received a petition filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of the administrative offices of American Girl Fashions, Inc., Braintree, Massachusetts (TA-W-23). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with footwear for women produced by American Girl Fashions, Incorporated or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of



Trade Adjustment Assistance, at the address shown below, not later than May 29, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 7th day of May, 1975.

MARVIN M. FOOKS,  
Acting Director, Office of  
Trade Adjustment Assistance.

[FR Doc. 75-13014 Filed 5-16-75; 8:45 am]

[TA-W-22]

#### GENERAL ELECTRIC CO.

##### Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On May 6, 1975, the Department of Labor received a petition filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of the Portsmouth, Virginia plant of the General Electric Company, Syracuse, New York (TA-W-22). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with television receivers produced by General Electric Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 29, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 7th day of May 1975.

MARVIN M. FOOKS,  
Acting Director, Office of  
Trade Adjustment Assistance.  
[FR Doc. 75-13016 Filed 5-16-75; 8:45 am]

[TA-W-21]

#### GENERAL ELECTRIC CO.

##### Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On May 6, 1975 the Department of Labor received a petition filed under section 221(a) of the Trade Act of 1974 ("the Act") by the worker representatives of General Electric's marketing section on behalf of the workers and former workers of the Audio Electronic Products Department's plant in Decatur, Illinois and its headquarters staff in Syracuse, New York of General Electric Company, Syracuse, New York (TA-W-21). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with radios, tape recorders, portable phonographs, youth electronics and audio systems and components produced by General Electric or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 29, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 7th day of May, 1975.

MARVIN M. FOOKS,  
Acting Director, Office of Trade  
Adjustment Assistance.  
[FR Doc. 75-13017 Filed 5-16-75; 8:45 am]

[TA-W-25]

#### G.T.E. SYLVANIA

##### Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On May 6, 1975 the Department of Labor received a petition filed under section 221(a) of the Trade Act of 1974 ("the Act") by the International Union of Electrical, Radio and Machine Workers, AFL-CIO on behalf of the workers and former workers of the G.T.E. Sylvania plant, Batavia, New York (TA-W-25). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with radios, yokes, flybacks and television receivers produced by G.T.E. Sylvania or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 29, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 13th day of May, 1975.

MARVIN M. FOOKS,  
Acting Director, Office of Trade  
Adjustment Assistance.

[FR Doc. 75-13073 Filed 5-16-75; 8:45 am]

[TA-W-20]

#### MANHATTAN SHIRT CO.

##### Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On May 6, 1975 the Department of Labor received a petition filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and

former workers of the Ashburn, Georgia plant of Manhattan Shirt Company, Glenrock, New Jersey (TA-W-20). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's, women's and children's apparel produced by Manhattan Shirt Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 29, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 7th day of May, 1975.

MARVIN M. FOOKS,  
Acting Director, Office of  
Trade Adjustment Assistance.

[FR Doc. 75-13018 Filed 5-16-75; 8:45 am]

[TA-W-24]

#### MAVEST, INC.

##### Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On May 7, 1975 the Department of Labor received a petition filed under sec-

tion 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Mavest, Inc., Timonium, Maryland, a division of Kayser Roth Corporation, New York, New York (TA-W-24). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's casual apparel produced by Mavest, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 29, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 7th day of May, 1975.

MARVIN M. FOOKS,  
Acting Director, Office of  
Trade Adjustment Assistance.  
[FR Doc. 75-13019 Filed 5-16-75; 8:45 am]



# INTERSTATE COMMERCE COMMISSION

[Notice No. 708]

## ASSIGNMENT OF HEARINGS

MAY 14, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 51146 Sub-403, Schneider Transport, Inc., now assigned June 19, 1975, at St. Louis, Mo., is cancelled and transferred to Modified Procedure.

MC 113434 Sub-62, Gra-Bell Truck Line, Inc., now assigned June 17, 1975, at Chicago, Illinois, will be held in the Moot Court Room, Northwestern University, 360 East Superior.

MC 114457 Sub-202, Dart Transit Company, now assigned June 3, 1975, at Chicago, Illinois, will be held in the Moot Court Room, Northwestern University, 360 East Superior.

MC 95876 Sub-160, Anderson Trucking Service, Inc., now assigned June 5, 1975, at Chicago, Illinois, will be held in the Moot Court Room, Northwestern University, 360 East Superior.

MC 51146 Sub-399, Schneider Transport, Inc., now assigned June 6, 1975, at Chicago, Illinois, will be held in the Moot Court Room, Northwestern University, 360 East Superior.

MC 129407 Sub-222, Sawyer Transport, Inc., now assigned June 5, 1975 at Chicago, Illinois, will be held in the Moot Court Room, Northwestern University, 360 East Superior.

MC 114273 Sub-211, Cedar Rapids Steel Transportation, Inc., now assigned June 9, 1975 at Chicago, Illinois, will be held in the Moot Court Room, Northwestern University, 360 East Superior.

MC 139499 Sub-3, U.S. Transport, Inc., now assigned June 9, 1975 at San Francisco, California; will be held in Room 13025 Federal Building, 450 Golden Gate Avenue.

MC 125433 Sub-54, F-B Truck Line Company, now assigned June 11, 1975 at San Francisco, California; will be held in Room 13025 Federal Building, 450 Golden Gate Avenue.

MC 134922 Sub-95, B. J. McAdams, Inc., now assigned June 12, 1975 at San Francisco, California; will be held in Room 13025 Federal Building, Golden Gate Avenue.

MC 119777 Sub-311, Ligon Specialized Hauler, Inc., now assigned June 13, 1975 at San Francisco, California; will be held in Room 13025 Federal Building, 450 Golden Gate Avenue.

MC 124964 Sub-20, Joseph M. Booth, DBA J. M. Booth Trucking, now assigned June 16, 1975 at San Francisco, California; will be held in Room 13025 Federal Building, 450 Golden Gate Avenue.

MC-F-12360, Tri-State Motor Transit Co.—Purchase (Portion)—National Carriers, Inc. and MC 109397 Sub 307, Tri-State Motor Transit Co., now assigned June 16, 1975 at San Francisco, California will be

held in Room 13025 Federal Building, 450 Golden Gate Avenue.

MC-F-12313, Wells Cargo, Inc.—Purchase—Western Truck Lines and MC 43269 Sub-60, Wells Cargo, Inc., now assigned June 23, 1975 at San Francisco, California; will be held in Room 13025 Federal Building, 450 Golden Gate Avenue.

F. D. 26223, New Hope and Ivyland Railroad Company Reorganization now assigned May 20, 1975, at Philadelphia is postponed to May 21, 1975, at Philadelphia, in Room 3240, William J. Green, Jr., Federal Bldg., 600 Arch Street.

MC-F-12190, National Freight, Inc.—Purchase—Northeastern Trucking Company, MC-F-11327, National Freight, Inc.—Control-Cross Transportation, Inc., MC-F-11332, Boston & Taunton Transportation—Purchase (Portion)—Cross Transportation, Inc., MC-F-11336, Garton's Express, Inc.—Purchase (Portion)—Cross Transportation, Inc., MC 1385 Sub-4, Garton's Express, Inc.—Extension of Operations, MC-F-11337, Burgmeyer Bros.—Purchase (Portion)—Cross Transportation, Inc., MC-F-11338, Kenmore Transportation Co.—Purchase (Portion)—Cross Transportation, Inc., MC-F-11343, Towers Transportation, Inc.—Purchase (Portion)—Cross Transportation, Inc., and MC 2860 Sub-144, National Freight, Inc., hereby assigned for pre-hearing conference rather than oral hearing on June 3, 1975, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 116370 Sub-1, Charles W. Napier, DBA Catawase Coach Lines, now assigned June 24, 1975 at Williamsport, Pennsylvania, will be held in Court Room 2 Post Office Building, 245 W. 4th Street.

MC 114004 Sub-127, Chandler Trailer Convoy, Inc., Extension—Buildings, now assigned June 17, 1975, at Nashville, Tenn., will be held in Room A961, 801 Broadway.

MC 111170 Sub-217, Wheeling Pipe Line, Inc., now assigned June 23, 1975, at Memphis, Tenn., will be held in Room 844, Federal Office Building, 167 N. Main Street.

MC 133655 Sub-79, Trans-National Truck, Inc., now assigned June 24, 1975, at Memphis, Tenn., will be held in Room 844, Federal Office Building, 167 N. Main Street.

MC 134892 Sub-75, B. J. McAdams, Inc., now assigned June 26, 1975, at Memphis, Tenn., will be held in Room 844, Federal Office Building, 167 N. Main Street.

MC-C-8392, Steigerwald's Western Tours, Inc.—Revocation of Certificate—, now assigned July 8, 1975 at Cleveland, Ohio, is canceled.

MC 51146 Sub-414, Schneider Transport, Inc., application dismissed.

MC 139495 Sub-13, National Carriers, Inc., now being assigned June 19, 1975 (1 day) at St. Louis, Mo.; in Courtroom No. 2, 5th Floor, 1114 Market Street.

MC 116073 Sub-277, Barrett Mobile Home Transport, Inc., now being assigned June 17, 1975 (4 days), in Room 1614, Everett McKinley Dirksen Building, 219 South Dearborn St., Chicago, Ill.

MC-C-8594, Alexander Truck Line, Inc.—Investigation and Revocation of Certificate—now being assigned July 22, 1975 (1 day), at Dallas, Texas; in a hearing room to be designated later.

MC 128273 Sub-171, Midwestern Distribution, Inc., now being assigned July 23, 1975 (1 day), at Dallas, Texas; in a hearing room to be designated later.

MC 74321 Sub-107, B. F. Walker, Inc., now being assigned July 24, 1975 (1 day), at Dallas, Texas; in a hearing room to be designated later.

MC 136008 Sub-42, Joe Brown Company, Inc., now being assigned July 26, 1975, at Dallas, Texas; in a hearing room to be designated later.

las, Texas; in a hearing room to be designated later.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-13103 Filed 5-16-75;8:45 am]

## NOTICES

las, Texas; in a hearing room to be designated later.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-13103 Filed 5-16-75;8:45 am]

## ERIE-LACKAWANNA

### Public Hearings

[Ex Parte No. 203; Sub. No. 5]

Pursuant to section 207(a)(2) of the Regional Rail Reorganization Act of 1973, notice is hereby given that the Rail Services Planning Office will conduct hearings on the Erie-Lackawanna Supplement to the Preliminary System Plan of the United States Railway Association:

It is therefore ordered that: (1) The following dates and hearing sites are established together with the local contact coordinator who will receive requested appearance times at the respective hearings:

### HEARING SITES

MONDAY, JUNE 9, 1975

Goshen, New York—County Legislative Chamber, Orange County Government Center, Goshen, New York.

Contact: Marjorie Maxwell, c/o ICC Office, 518 New Federal Building, Malden Lane and Broadway, Albany, New York 12207 Phone: 518/472-2273.

Olean, New York—City Council Chamber, Olean City Hall, Olean, New York.

Contact: Anne Siler, c/o ICC Field Office 612 Federal Building, 111 West Huron Street, Buffalo, New York 14202 Phone: 716/842-2008.

Scranton, Pennsylvania—Hilton Inn, 229 North Washington Avenue, Scranton, Pennsylvania.

Contact: Mildred McDonough, c/o ICC Office 314 U.S. Post Office, North Washington Avenue and Linden Street, Scranton, Pa. 18503 Phone: 717/344-7111, Ext. 324.

Marion, Ohio—Ohio State University—Marion Campus, Auditorium #100, 1465 Mt. Vernon Avenue, Marion, Ohio.

Contact: Mary White, c/o ICC Office, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215 Phone: 614/469-5620.

Youngstown, Ohio—City Hall Council Chambers, 6th Floor, Phelps and Boardman Streets, Youngstown, Ohio.

Contact: Carolyn Halloran, c/o ICC Office, 181 Federal Building, 1240 East Ninth Street, Cleveland, Ohio 44199 Phone: 216/522-4000.

WEDNESDAY, JUNE 11, 1975

Newark, New Jersey—Court Room 201, Essex County Hall of Records, High Street, Newark, New Jersey.

Contact: Sarah Mormile, c/o ICC Office, 9 Clinton Street, Room 618, Newark, New Jersey 07102 Phone: 201/645-3550.

Decatur, Indiana—Decatur Youth and Community Center, East Monroe Street, Decatur, Indiana.

Contact: Cassandra Forbes, c/o ICC Office, 345 West Wayne Street, Room 304, Ft. Wayne, Indiana 46802 Phone: 219/422-6131.

FRIDAY, JUNE 13, 1975

Hammond, Indiana—City Council Chambers, Hammond City Hall, 5925 Calumet Avenue, Hammond, Indiana.

## NOTICES

21803

Contact: Nancy Clawson, c/o ICC Office, Everett McKinley Dirksen Building, Room 1086, 219 South Dearborn Street, Chicago, Illinois 60604 Phone: 312/353-6124.

(2) Pursuant to section 205(d)(2) of the Regional Rail Reorganization Act of 1973, attorneys have been retained by the Office to provide free legal assistance to communities, users of rail service and other interested parties in the preparation of their testimony on the Erie-Lackawanna Supplement to the Preliminary System Plan. The assistance of these attorneys may be obtained pursuant to the hearing rules set forth below.

(3) The following uniform rules, procedures, and practices for the hearings are established:

(a) Pursuant to section 207(a)(2) of the Regional Rail Reorganization Act of 1973, only testimony relevant to the United States Railway Association's Erie-Lackawanna Supplement to the Preliminary System Plan will be received.

(b) Oral testimony will be limited to fifteen minutes.

(c) Persons who wish to testify at the hearings should call or write the local contact coordinator who is identified in Part (1) of this notice.

(d) Prospective witnesses will be asked to provide: Their name, address, telephone number, business association, if any, the general areas of the Preliminary System Plan to which their testimony will pertain, and the date and time when they wish to appear. This information will be relayed to an outreach attorney from the Office of Public Counsel.

If prospective witnesses need the assistance of an outreach attorney, they should so inform the contact coordinator.

(e) The outreach attorney assigned to the hearing city will schedule all witnesses and either the attorney or the local contact coordinator will notify prospective witnesses of confirmed hearing appearance times. The outreach attorney will attempt to accommodate prospective witnesses who appear at the hearing without a prescheduled appearance time.

(f) In order to facilitate the creation of a comprehensive and well-organized record, the outreach attorneys will attempt to schedule prospective witnesses according to the general area of interest which their testimony will address.

(g) All written material for the record should be submitted on 8½x11 paper in (10) ten copies at the hearing or sent directly to the Rail Services Planning Office, 1900 L Street NW, Washington, D.C. 20036. Statements sent to the Office should arrive no later than June 13, 1975, and should indicate the hearing site most convenient to the witnesses' home or place of business. Since the Office has a very short time for review of the testimony, statements received after June 13, 1975, will be made a part of the record but may not be reviewed by the Office.

(h) Witnesses with common interests are urged to make joint submissions. In order to prevent unnecessary duplication

in the record, written statements which essentially correspond to oral presentations will not be received by the outreach attorneys at the hearing.

(i) The proceeding is legislative, not judicial in nature. It is designed to elicit public views on the Association's Erie-Lackawanna Supplement to the Preliminary System Plan. Witnesses will not be required to testify under oath nor will there be any cross-examination or rebuttal testimony. Only questions from the presiding officer and the representative of the Office of Public Counsel will be permitted.

(j) In order to insure that the public is fully informed of the contents of the Preliminary System Plan and its possible impacts upon communities and rail users, the usual Interstate Commerce Commission limitations on radio and television coverage during the hearing will be relaxed. The presiding officer will permit live news coverage in the hearing room, provided that the conduct of the media representatives and the presence of radio and television equipment do not disturb the orderly conduct of the proceeding. Where court room facilities are used, however, the rules of the court regarding media participation will apply. The customary rules of the Commission prohibiting smoking and talking during the hearing will apply.

(k) Hearings will commence and end on the days specified in Part (1) of this notice.

(l) Hearings will convene promptly at 9:30 a.m. and adjourn at 5:30 p.m., except in Decatur, Indiana where they will adjourn at 4:00 p.m. Additional sessions may be scheduled at the discretion of the outreach attorney and the hearing officer.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-13105 Filed 5-16-75;8:45 am]

[Notice No. 290]

## MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

MAY 19, 1975.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before June 6, 1975. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon

by petitioners must be specified in their petitions with particularity.

No. MC-FC-75769. By order of May 12, 1975, the Motor Carrier Board approved the transfer to David A. Moreland, Sr., Inc., Pasadena, Pa., of the operating rights in Permit No. MC 88256 issued August 7, 1957, to David A. Moreland, Baltimore, Md., authorizing the transportation of such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, equipment, materials and supplies used in the conduct of such business, between specified areas and points in Virginia, Delaware, Maryland, and Pennsylvania, Francis P. Desmond, 115 East 5th Street, Chester, Pa. 19013, attorney for applicants.

No. MC-FC-75795. By order entered May 9, 1975 the Motor Carrier Board approved the transfer to Schwerman Trucking Co. of Fla., Inc., Milwaukee, Wis., of the operating rights set forth in Certificate No. MC 124078 (Sub-No. 386), issued June 26, 1970, to Schwerman Trucking Co., Milwaukee, Wis., authorizing the transportation of malt beverages and related advertising matter, from Pabst, Houston County, Ga., to points in Alabama, Florida, Mississippi, North Carolina, South Carolina, and points in that part of Tennessee on and east of Interstate Highway 65; and returned shipments of the above-specified commodities, from points in the above-specified destination territory to Pabst, Houston County, Ga. James R. Ziperski, P.O. Box 1601, Milwaukee, Wis. 53201, attorney for applicants.

No. MC-FC-75800. By order of May 12, 1975, the Motor Carrier Board approved the transfer to Konrad Steck, Joppa, Md., of the operating rights in Certificate No. MC 128726 (Sub-No. 1), issued June 27, 1967, to Quinton B. Moulds, doing business as Mouldsdale Bus Service, Aberdeen, Md., authorizing the transportation of passengers and their baggage, and express and newspapers in the same vehicle with passengers, between Delta, Pa., and Belcamp, Md., serving all intermediate points. H. Neil Garson, 1400 N. Uhle Street, Arlington, Va. 22201, Attorney for applicants.

No. MC-FC-75801. By order of May 12, 1975, the Motor Carrier Board approved the transfer to T & B Leasing, Inc., Bayville, N.J., of the operating rights in Certificate No. MC 129909 (Sub-No. 1), issued July 14, 1969, to Cor-Nel Contracting Corp., Bayville, N.J., authorizing the transportation of crude iron oxide, in bulk, in dump vehicles from ports of entry on the United States-Canada Boundary line located at or near Buffalo, Niagara Falls, and Lewiston, N.Y. to points in Edison Township, N.J. Edward L. Nehez, 744 Broad St., Newark, N.J. 07102, Representative for applicants.

No. MC-FC-75804. By order of May 12, 1975, the Motor Carrier Board approved the transfer to Ronald Pearson, doing business as Pearson's Express, Somerset,



Mass., of Certificate of Registration No. MC 120880 (Sub-No. 1), issued September 1965, to Ferreira's Transportation Co., Inc., Fall River, Mass., evidencing a right to engage in transportation in interstate commerce as described in Irregular Route Common Carrier Certificate No. 3269 issued by the Massachusetts Department of Public Utilities, Louis G. Loeb, 85 Devonshire St., Boston, Mass. 02109, Attorney for applicants.

No. MC-FC-75805. By order entered May 12, 1975, the Motor Carrier Board approved the transfer to Eudell Watts, III, doing business as Watts Transfer & Delivery Service, Rock Island, Ill., of the operating rights set forth in Certificate No. MC 93186, issued March 23, 1970, to Mid-Continent Warehouse, Inc., Rock Island, Ill., authorizing the transportation of general commodities, with the usual exceptions, between East Moline, Moline, Milan, Rock Island, and Silvis, Ill.; and between Bettendorf and Davenport, Iowa, on the one hand, and, on the other, East Moline, Moline, Milan, Rock Island, and Silvis, Ill. James J. Coryn, 312 First National Bank Bldg., Rock Island, Ill., attorney for applicants.

No. MC-FC-75807. By order of May 12, 1975, the Motor Carrier Board approved the transfer to Martin Trucking Company, Inc., Wilton, Wis., of the operating rights in Certificates No. MC 128927 and MC 128927 (Sub-No. 1) issued October 24, 1967, and April 23, 1973, respectively to Allan L. Martin and Norman V. Martin, a partnership, doing business as Vern A. Martin & Sons, Wilton, Wis., authorizing the transportation of various commodities from and to specified points and areas in Wisconsin, Michigan, Illinois, Iowa and Minnesota, Edward Solie, 4513 Vernon Blvd., Madison, Wis. 53705, Attorney for applicants.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc. 75-13102 Filed 5-16-75; 8:45 am]

[Notice No. 55]

#### MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 13, 1975.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a (a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR 1131) published in the FEDERAL REGISTER, Issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such serv-

ice has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. and also in field office to which protests are to be transmitted.

#### MOTOR CARRIERS OF PROPERTY

No. MC 2304 (Sub-No. 33 TA), filed April 25, 1975. Applicant: THE KAPLAN TRUCKING COMPANY, 2900 Chester Ave., Cleveland, Ohio 44114. Applicant's representative: James M. Burtch, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Springs and related parts thereof*, from Columbia, Tenn., to points in DuBois, Pa., and (2) *Springs, materials, and supplies used in the manufacture and installation of springs*, from DuBois, Pa., to points in Columbia, Tenn., for 180 days. SUPPORTING SHIPPER: Triangle Auto Spring Co., P.O. Box 425, DuBois, Pa. 15801. SEND PROTESTS TO: James Johnson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 181 Federal Office Bldg., 1240 East Ninth St., Cleveland, Ohio 44199.

No. MC 30378 (Sub-No. 57 TA), filed May 2, 1975. Applicant: ASSOCIATED TRANSPORTS, INC., 9050 Pershall Road, Hazelwood, Mo. 63042. Applicant's representative: Marshall D. Becker, Suite 530 Univac Bldg., 7100 W. Center Road, Omaha, Nebr. 68106. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Trucks*, in secondary movements in driveway service, from the plantsite of Ford Motor Company at Claycomo, Mo., to points in Kansas, Missouri, Oklahoma, and Nebraska, for 180 days. SUPPORTING SHIPPER: Ford Motor Company, Rotunda and Southfield, Dearborn, Mich. 48121. SEND PROTESTS TO: J. P. Werthmann, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1465, 210 N. 12th St., St. Louis, Mo. 63101.

No. MC 58553 (Sub-No. 30TA), filed May 5, 1975. Applicant: PULASKI HIGHWAY EXPRESS, INC., P.O. Box 1081, Nashville, Tenn. 37203. Applicant's representative: A. O. Buck, 618 Hamilton Bank Bldg., Nashville, Tenn. 37219. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), between Nashville, Tenn., and the plantsite of Arco, Inc., at Elkton, Ky., from Nashville, Tenn., over U.S. Highway 41 to Hopkinsville, Ky., thence over U.S. Highway 68 to Elkton, Ky., and return over the same route, serving no intermediate points. Applicant intends to tack and interline at all authorized service

points embraced in its Certificate No. MC 56553 and Subs 15, 16, 20, 21, 22 and 26, for 180 days. SUPPORTING SHIPPER: Arco, Inc., P.O. Box 457, Elkton, Ky. 42220. SEND PROTESTS TO: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, A-422 Federal Bldg., 801 Broadway, Nashville, Tenn. 37203.

No. MC 57880 (Sub-No. 14TA), filed May 1, 1975. Applicant: ASHTON TRUCKING CO., P.O. Box 472, Monte Vista, Colo. 81144. Applicant's representative: Leslie R. Kehl, Suite 1600 Lincoln Center Bldg., 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Animal feed*, in bags, from points in Fort Lupton, Colo., to points in Texas, for 150 days. Supporting shipper: Albers Milling Company, 1st & Main, Fort Lupton, Colo. 80621. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 2022 Federal Bldg., Denver, Colo. 80202.

No. MC 109689 (Sub-No. 288TA), filed April 30, 1975. Applicant: W. S. HATCH CO., 643 South 800 West Woods Cross, Utah 84078. Applicant's representative: Mark K. Boyle, 345 South State St., Salt Lake City, Utah, 84111. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dry chemical defoliant*, from points in Henderson, Nev., plantsite of Kerr McGee Chemical Corp., to points in Dothan, Ala.; Casa Grande, Ariz.; Keo, Ark.; Jacksonville, Fla.; Brandon, Miss.; Williamston, N.C.; Florence, S.C.; Brownsville and Harlingen, Tex., and points within 50 miles of each destination, for 180 days. Supporting shipper: Kerr McGee Chemical Corporation, 680 South Wilshire Place, Los Angeles, Calif. 90005. Send protests to: Lyle D. Helfer, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5301 Federal Bldg., 125 South State St., Salt Lake City, Utah 84138.

No. MC 112595 (Sub-No. 59TA), filed May 2, 1975. Applicant: FORD BROTHERS, INC., P.O. Box 727, Ironton, Ohio 45638. Applicant's representative: Walter S. Dail (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Pulverized coal*, in bulk, from Greenup, Ky., to points in Alabama, Georgia, Illinois, Indiana, Kentucky, Michigan, Mississippi, Missouri, New York, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia, for 180 days. Supporting shipper: Industrial Supply House of Greenup, 422 Harrison St., Greenup, Ky. 41144. Send protests to: H. R. White, District Supervisor, Interstate Commerce Commission, 3108 Federal Office Bldg., 500 Quarrier St., Charleston, W. Va. 25301.

No. MC 114897 (Sub-No. 116TA), filed April 30, 1975. Applicant: WHITEFIELD TANK LINES, INC., 300-316 N. Clark Dr., P.O. Drawer 9897, El Paso, Tex. 79989. Applicant's representative: J. P. Rose (same address as applicant). Au-

thority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid soil conditioner*, in bulk, in tank vehicles, from points in El Paso, Tex., to points in San Diego and Woodland, Calif., for 180 days. Supporting shipper: Natural Oxygen Products, Inc., 1308 Montana Ave., El Paso, Tex. 79902. Send protests to: Haskell E. Ballard, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box H-4395 Herring Plaza, Amarillo, Tex. 97101.

No. MC 118989 (Sub-No. 126TA), filed April 29, 1975. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th Street, Milwaukee, Wis. 53221. Applicant's representative: Albert A. Andrin, 127 North Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Metal containers and metal container ends*, from the plantsite of American Can Company, located in Edison, N.J., to points in Milwaukee, Wis., for 180 days. SUPPORTING SHIPPER: American Can Company, 815 Harger Lane, Oak Brook, Ill. 60110. SEND PROTESTS TO: John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 118989 (Sub-No. 127TA), filed April 29, 1975. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th Street, Milwaukee, Wis. 53221. Applicant's representative: Robert H. Levy, 29 South LaSalle St., Chicago, Ill. 60603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Cans and can ends*, from the plantsite and storage facilities of Green Giant Company at Ripon, Wis., to points in Fremont, Mich., for 180 days. SUPPORTING SHIPPER: Green Giant Company, 1100 N. Fourth St., LeSueur, Minn. 56058. SEND PROTESTS TO: John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 119726 (Sub-No. 59TA), filed April 29, 1975. Applicant: N.A.B. TRUCKING CO., INC., 3220 Bluff Road, Indianapolis, Ind. 46217. Applicant's representative: James L. Beattey, 130 E. Washington St., #1000, Indianapolis, Ind. 46204. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Clay* (except in bulk and on flat-bed equipment), from the plantsite and warehouse facilities of Oil-Dri Corp., of America, at or near Ripley, Miss., to points in Tennessee, Ohio, Indiana, Illinois, Iowa, Hopkins, Minn., and Omaha, Nebr., for 180 days. SUPPORTING SHIPPER: Oil-Dri Corporation of America, 520 North Michigan Ave., Chicago, Ill. SEND PROTESTS TO: Frances Sterling, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 802 Century Bldg., 36 S. Penn. St., Indianapolis, Ind. 46204.

No. MC 123115 (Sub-No. 14 TA), filed May 1, 1975. Applicant: BEN PACKER, doing business as PACKER TRANSPORTATION CO., 465 South Rock Blvd., Sparks, Nev. 89431. Applicant's representative: Ben Packer (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Lumber and wood products*, between points in Carson City, Churchill, Clark, Douglas, Lyon and Washoe Counties, Nev., to points in the following states, Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, South Carolina, South Dakota, Tennessee, Virginia, West Virginia, Wisconsin, for 180 days. SUPPORTING SHIPPER: Sundown Timber Company, P.O. Box 265 Silver Springs, Nev. 89429. Sundown Sales Corp., P.O. Box 265, Silver Springs, Nev. 89429. Union Forest Products, 735 S. Sutter Stockton, Calif. Lakeside Lumber Co., Inc., P.O. Box 545, Gardnerville, Nev. 89410. SEND PROTESTS TO: Robert G. Harrison, District Supervisor, Interstate Commerce Commission, 203 Federal Bldg., 705 North Plaza St., Carson City, Nev. 89701.

No. MC 123534 (Sub-No. 3 TA), filed May 5, 1975. Applicant: ADDIEVILLE TRUCKING COMPANY, INC., 1315 West 4th Ave., Belleville, Ill. 62221. Applicant's representative: G. M. Rebman, Suite 1230 Boatmen's Bank Bldg., St. Louis, Mo. 63102. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (under a continuing contract or contracts with Sealtest Foods Division, Kraftco Corporation, of St. Louis, Mo.), between points in St. Louis, Mo., on the one hand, and, on the other, points in Illinois on and south of Interstate Highway 80 and Atkinson Ill., for 180 days. SUPPORTING SHIPPER: L. L. Gross, Distribution Manager, Sealtest Foods, 2001 Chestnut Street, St. Louis, Mo. 63103. SEND PROTESTS TO: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 135982 (Sub-No. 9 TA), filed May 5, 1975. Applicant: S. L. HARRIS, doing business as P.B.I., P.O. Box 7130, Longview, Tex. 75601. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, Tex. 76116. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages, and related advertising materials*, and (2) *materials, supplies and equipment used in the manufacture, sale and distribution of malt beverages, including the return of empty malt beverage containers*; (1) from Fort Worth, Tex., to all points in Louisiana, and (2) from all points in Louisiana to points in Fort Worth, Tex., for 180 days. SUPPORTING SHIPPER: Miller Brewing Company, 4000 West State St., Milwaukee, Wis.

SEND PROTESTS TO: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75202.

No. MC 136464 (Sub-No. 8TA), filed May 2, 1975. Applicant: CAROLINA WESTERN EXPRESS, INC., 650 Eastwood Drive, P.O. Box 3961, Gastonia, N.C. 28050. Applicant's representative: David L. Bayne (same address as applicant). Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (a) *Commodities used in the construction, maintenance and operation of amusement parks or facilities* (including, but not limited to, amusement rides, amusement sets, show sets, show props, set dressings, theatrical hardware, sound equipment, stage equipment and lighting, costumes, souvenirs, electronic and mechanical animation, and materials, required for theatrical construction); (b) (1) between Burbank, North Hollywood, Sun Valley and Mountain View, Calif., on the one hand, and, on the other, the Omni International Amusement Park, at or near Atlanta, Ga., Busch Gardens at or near St. Louis, Mo., Busch Gardens at or near Williamsburg, Va., and Six Flags at or near Dallas, Tex., and the warehouse or storage facilities used by Krofft Development Corporation located in Atlanta, Ga., St. Louis, Mo., Dallas, Tex., and Williamsburg, Va., and (2) between the amusement, warehouse and storage facilities of Krofft Development Corporation listed in (1) above, located at or near Atlanta, Ga., St. Louis, Mo., Dallas, Tex., and Williamsburg, Va. RESTRICTION: The above-described service to be restricted to transportation to be performed under a continuing contract, or contracts, with Krofft Development Corporation of Sun Valley, Calif., for 180 days. SUPPORTING SHIPPER: Krofft Development Corporation, 7200 Vineland Avenue, Sun Valley, Calif. 91352. SEND PROTESTS TO: Terrell Price, District Supervisor, Interstate Commerce Commission, 800 Briar Creek Road, Room CC516, Mart Office Bldg., Charlotte, N.C. 28205.

No. MC 136720 (Sub-No. 3 TA), filed May 2, 1975. Applicant: APEX BULK COMMODITIES, 11902 E. Washington Blvd., Santa Fe Springs, Calif. 90671. Applicant's representative: William J. Monheim, 15942 Whittier Blvd., P.O. Box 1756, Whittier, Calif. 90609. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk from Monolith Portland Cement Company plantsite at or near Monolith, Calif., to points in Nevada, for 180 days. SUPPORTING SHIPPER: Monolith Portland Cement Company, 3328 San Fernando Rd., Los Angeles, Calif. 90065. SEND PROTESTS TO: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Room 1312 Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.



No. MC 138891 (Sub-No. 3TA), filed May 2, 1975. Applicant: FRANK TRANSFER & STORAGE, INC., 324 East 8th St., Sioux Falls, S. Dak. 57102. Applicant's representative: A. J. Swanson, 521 South 14th St., P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) (a) *Poultry feedings systems and equipment*, from the facilities of A. R. Wood Manufacturing Co., at or near Luverne, Minn., to points in Sioux Falls, S. Dak., restricted to the transportation of traffic having a subsequent movement by rail in trailer on flat car or container on flat car service, and (b) *empty trailers*, from Sioux Falls, S. Dak., to the facilities of A. R. Wood Manufacturing Co., at or near Luverne, Minn.; and (2) (a) *steam cleaners, pressure washers, combination cleaner-washers and hot water heaters*, from the facilities of Sioux Steam Cleaner Corp., at or near Beresford, S. Dak., to Sioux Falls, S. Dak., restricted to the transportation of traffic having a subsequent movement by rail in trailer on flat car or container on flat car service and (b) *empty trailers*, from Sioux Falls, S. Dak., to the facilities of Sioux Steam Cleaner Corp., at or near Beresford, S. Dak. Applicant intends to tack, shipments are to be tendered at Sioux Falls, S. Dak., to various railroads, for 180 days. SUPPORTING SHIPPER: A. R. Wood Manufacturing Co., Box 218, Luverne, Minn. 56156. Sioux Steam Cleaner Corp., Highway 46 and I-29, Beresford, S. Dak. 57002. SEND PROTESTS TO: J. L. Hammond, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 369, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 140067 (Sub-No. 1TA), filed April 29, 1975. Applicant: McDOWELL HOUSE AND TANK MOVERS, 6005 Ox-bow, Amarillo, Tex. 79106. Applicant's representative: Roy Dwane McDowell, Route 1, Box 139, Canyon, Tex. 79015. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Houses, boxcars, buildings* (excluding oilfield buildings), from Amarillo, Tex., to points in New Mexico and east of a line beginning at the Texas-New Mexico State line and extending along U.S. Highway 285 to the junction of U.S. Highway 85 and 285, thence along U.S. Highway 85 to the New Mexico-Colorado State line, including points on the indicated portions of the highways specified, points in Colorado east of U.S. Highway 85 to Trinidad, Colo., thence along U.S. Highway 160 to the Colorado-Kansas State line, including all points south of U.S. Highway 160, points in Kansas south of U.S. Highway 160, to the junction of Kansas State 27 and U.S. Highway 160, including points on the indicated portions of the highways, thence north along Kansas State 27 to the junction of Kansas State 96, including all points along and east of Kansas State 27, thence along Kansas State 96 to the junction of Kansas State 96 and U.S. Highway 281, including all points on and south of Kan-

sas State 96, thence south along U.S. Highway 281, to the Oklahoma State line, including all points west and along U.S. Highway 281, thence south along U.S. Highway 281 from the Kansas-Oklahoma State line to the junction of U.S. Highway 183, including all points along and west of U.S. Highway 281, thence south along U.S. Highway 183 to the junction of U.S. Highway 62, including all points along and west of U.S. Highway 183, thence west along U.S. Highway 62 to the Texas State line, including all points along and north of U.S. Highway 62, for 180 days. SUPPORTING SHIPPER: Pierce Construction Co., 912 N. Arthur, Amarillo, Tex. 79109. SEND PROTESTS TO: Has-kell E. Ballard, District Supervisor, Box H-4395 Herring Plaza, Interstate Commerce Commission, Bureau of Operations, Amarillo, Tex. 79101.

No. MC 140194 TA, filed May 2, 1975. Applicant: DOBSON TRUCKING, INC., P.O. Box 498, Dobson, N.C. 27017. Applicant's representative: George W. Clapp, P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Sand, stone, rock, top soil, road building aggregates, and hot and cold plant mixed asphalt*, in bulk, in dump vehicles, from points in Surry County, N.C., to I-77 from the North Carolina-Virginia State line, north to Carroll County Road 775, for 180 days. SUPPORTING SHIPPER: Ararat Rock Products Company, P.O. Box 988, Mt. Airy, N.C. 27030. SEND PROTESTS TO: Terrell Price, District Supervisor, Interstate Commerce Commission, 800 Briar Creek Road, Room CC516, Mart Office Bldg., Charlotte, N.C. 28205.

No. MC 140896 TA, filed April 28, 1975. Applicant: CARLOS MORENO AND HENRY MORENO, doing business as, MORENO BROS. TRUCKING (Partnership), P.O. Box 856, Tempe, Ariz. 85281. Applicant's representative: Anita Lewis, 2541 N. 14th Street, Phoenix, Ariz. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Food, animal or poultry*, between points in Colton, Calif., and points in Arizona, over irregular routes, under a continuing contract or contracts with Soto's Universal Feed, for 180 days. SUPPORTING SHIPPER: Soto's Universal Feeds, 415 W. Paseo Way, Phoenix, Ariz. 85041. SEND PROTESTS TO: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, 3427 Federal Bldg., 230 N. First Ave., Phoenix, Ariz. 85025.

No. MC 140915 TA, filed May 1, 1975. Applicant: K. W. MCKINNEY AND WILLIE JANE MCKINNEY, doing business as QUIK SERVICE RELIVERY, 2318 Schilder, Houston, Tex. 77016. Applicant's representative: Thomas F. Sedberry, 1102 Perry-Brooks Bldg., Austin, Tex. 78701. Authority sought to operate as a common carrier, by motor vehicle,

over irregular routes, transporting: *Liquid refrigerants*, in one ton tanks and 55 gallon drums, between Houston, Tex., on the one hand, and, on the other, points in Louisiana and Oklahoma, for 180 days. SUPPORTING SHIPPER: Sid Harvey Standard, 1160 Laurel St., Beaumont, Tex. 77701. Solar Supply, Inc., 1232 Twelfth Street, Lake Charles, La. 70601. SEND PROTESTS TO: John Mensings, District Supervisor, Interstate Commerce Commission, Room 8610 Federal Bldg., 515 Rusk, Houston, Tex. 77002.

By the Commission.  
[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.  
[FR Doc.75-13014 Filed 5-16-75; 8:55 am]

#### IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY Elimination of Gateway Applications

MAY 13, 1975.

The following applications to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's gateway elimination rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

Carriers having a genuine interest in an application may file an original and three copies of *verified statements* in opposition with the Interstate Commerce Commission on or before June 18, 1975. (This procedure is outlined in the Commission's report and order in *Gateway Elimination*, 119 M.C.C. 530.) A copy of the verified statement in opposition must also be served upon applicant or its named representative. The verified statement should contain all the evidence upon which protestant relies in the application proceeding including a detailed statement of protestant's interest in the proposal. No rebuttal statements will be accepted.

No. MC 107515 (Sub-No. 951G) (correction), filed June 4, 1974, published in the FR issue of April 14, 1975, and re-published as corrected this issue. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road NE, Atlanta, Ga. 30328. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Fresh and cured meats*, as described in the Appendix to the Report in *Modification of Permits—Packinghouse Products*, 48 M.C.C. 628, from (a) Atlanta, Ga. and points within 10 miles thereof; (b) Albany, Macon, Columbus, Griffin, and Montezuma, Ga. and points in their commercial zones; and (c) points in Louisiana, Mississippi, Alabama, Florida, North Carolina, South Carolina, and Tennessee (except Nashville and McMinnville), to points in Virginia, West Virginia, Ohio, Maryland, Delaware, New Jersey, Pennsylvania, New

York, Massachusetts, Connecticut, and Rhode Island: The purpose of this filing is to eliminate the gateways at Gatesville and Rocky Mount, N.C., points within 10 miles of Atlanta, Ga. (except Atlanta), and points within 5 miles of Albany, Macon, Columbus, Griffin, and Montezuma, Ga.

NOTE.—The purpose of this republication is to correctly indicate the scope of applicant's territorial request for authority which was previously published in error. In addition, the gateway to be eliminated at Rocky Gatesville, N.C. has been corrected to indicate Rocky Mount, N.C.

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

MAY 13, 1975.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission within 10 days from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 21170 (Sub-No. E135), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Food products and commodities* exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to commodities as are dealt in by retail, wholesale and chain grocery stores, from points in that part of Minnesota on, south and west of a line beginning at the South Dakota-Minnesota State line and extending along Minnesota Highway 30 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction Minnesota Highway 68, thence along Minnesota Highway 68 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Minnesota Highway 30, thence along Minnesota Highway 30 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction Minnesota Highway 4, thence along Minnesota Highway 4 to the Minnesota-Iowa State line, to points in that part of Delaware on and south of a line beginning at the Maryland-Delaware State line and extending along Delaware Highway 44 to junction Delaware Highway 8, thence along Delaware Highway 8 to the Delaware Bay. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo.

NOTE.—The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Co., pursuant to No. MC-F-10199.

No. MC 21170 (Sub-No. E137), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier,

Highway 222, thence along U.S. Highway 222 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction Pennsylvania Highway 562, thence along Pennsylvania Highway 562 to junction Pennsylvania Highway 100, thence along Pennsylvania Highway 100 to junction unnumbered highway at Shimerville, thence along unnumbered highway through Limeport to junction Pennsylvania Highway 309, thence along Pennsylvania Highway 309 to junction Pennsylvania Highway 191, thence along Pennsylvania Highway 191 to junction Pennsylvania Highway 412, thence along Pennsylvania Highway 412 to junction Pennsylvania Highway 212, thence along Pennsylvania Highway 212 to the Pennsylvania-New Jersey State line. The purpose of this filing is to eliminate the gateways of the facilities of Ralston Purina Co., located at or near California, Mo.

NOTE.—The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Co., pursuant to No. MC-F-10199.

No. MC 21170 (Sub-No. E136), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Food products and commodities* exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale and chain grocery stores, from points in that part of Minnesota on, south and west of a line beginning at the South Dakota-Minnesota State line and extending along Minnesota Highway 7 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction Minnesota Highway 68, thence along Minnesota Highway 68 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Minnesota Highway 30, thence along Minnesota Highway 30 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction Minnesota Highway 4, thence along Minnesota Highway 4 to the Minnesota-Iowa State line, to points in that part of Delaware on and south of a line beginning at the Maryland-Delaware State line and extending along Delaware Highway 44 to junction Delaware Highway 8, thence along Delaware Highway 8 to the Delaware Bay. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo.

by motor vehicle, over irregular routes, transporting: *Food products and commodities* exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale and chain grocery stores, from points in that part of Minnesota on, south and west of a line beginning at the South Dakota-Minnesota State line and extending along Minnesota Highway 49 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction Minnesota Highway 67, thence along Minnesota Highway 67 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Minnesota Highway 30, thence along Minnesota Highway 30 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction Minnesota Highway 4, thence along Minnesota Highway 4 to the Minnesota-Iowa State line, to points in that part of New Jersey, on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 33 to junction U.S. Highway 130, thence along U.S. Highway 130 to junction New Jersey Highway 33, thence along New Jersey Highway 33 to junction New Jersey Highway 66, thence along New Jersey Highway 66 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo.

NOTE.—The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Co., pursuant to No. MC-F-10199.

No. MC 21170 (Sub-No. E138), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Food products and commodities* exempt from economic regulation pursuant to the provision of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale and chain grocery stores, from points in that part of Minnesota on, south and west of a line beginning at the South Dakota-Minnesota State line and extending along U.S. Highway 14 to junction Minnesota Highway 91, thence along Minnesota Highway 91 to junction unnumbered highway near Currant Lake, thence along unnumbered highway to junction U.S. Highway 59, thence along U.S. Highway 59 to the Minnesota-Iowa State line, to points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 57 to junction U.S. Highway 46, thence along U.S. Highway 46 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction U.S. Highway 46, thence along U.S. Highway 46 to junction U.S. Highway 202, thence along







Highway 237 to the Indiana-Kentucky State line. The purpose of this filing is to eliminate the gateways of the facilities of Ralston Purina Co., located at or near California, Mo.

NOTE.—The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Co., pursuant to No. MC-F-10199.

No. MC 21170 (Sub-No. E159), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohaski (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Food products and commodities* exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale and chain grocery stores, from points in that part of Minnesota on, south and west of a line beginning at the South Dakota-Minnesota State line extending along U.S. Highway 14 to junction unnumbered highway near Tracy, thence along unnumbered highway to junction U.S. Highway 59 near Currie, thence along U.S. Highway 59 to the Minnesota-Iowa State line, to points in New Hampshire. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo.

NOTE.—The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Co., pursuant to No. MC-F-10199.

No. MC 21170 (Sub-No. E160), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohaski (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Food products and commodities* exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale and chain grocery stores, from points in that part of Minnesota on, south and west of a line beginning at the South Dakota-Minnesota State line extending along unnumbered highway through Cresson, and Cazenovia to junction U.S. Highway 75, thence along U.S. Highway 75 to junction Minnesota Highway 30, thence along Minnesota Highway 30 to junction U.S. Highway 59, thence along U.S. Highway 59 to the Minnesota-Iowa State line, to points in that part of Ohio on and south of a line beginning at the Kentucky-Ohio State line extending along U.S. Highway 62 to junction Ohio Highway 353, thence along Ohio Highway 353 to junction Ohio Highway 125, thence along Ohio Highway 125 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction Ohio Highway 522, thence along Ohio Highway 522 to junction Ohio Highway 93, thence along Ohio Highway

93 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction Ohio Highway 141, thence along Ohio Highway 141 to junction Ohio Highway 217, thence along Ohio Highway 217 to the Ohio-West Virginia State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo.

NOTE.—The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Co., pursuant to No. MC-F-10199.

No. MC 21170 (Sub-No. E161), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohaski (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Food products and commodities* exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale and chain grocery stores, from points in that part of Minnesota on and south of a line beginning at the South Dakota-Minnesota State line extending along Minnesota Highway 68 to junction unnumbered highway at Ghent, thence along unnumbered highway to junction U.S. Highway 14, thence along U.S. Highway 14 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction Minnesota Highway 15, thence along Minnesota Highway 15 to the Minnesota-Iowa State line, to the District of Columbia. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo.

NOTE.—The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Co., pursuant to No. MC-F-10199.

No. MC 21170 (Sub-No. E162), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohaski (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Food products and commodities* exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale and chain grocery stores, from points in that part of Minnesota on and west of a line beginning at the United States-Canada International Boundary line extending along Minnesota Highway 72 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Minnesota Highway 29, thence along Minnesota Highway 29 to junction Minnesota Highway 104, thence along Minnesota Highway 104 to junction U.S. Highway 212, thence along U.S. Highway 212 to junction Minnesota Highway 15, thence along Minnesota Highway 15 to junction U.S. Highway 14, thence along U.S. Highway 14 to

junction U.S. Highway 35, thence along U.S. Highway 35 to the Minnesota-Iowa State line, to points in that part of Virginia on and south of a line beginning at the Virginia-West Virginia State line extending along U.S. Highway 19/460 to junction Virginia Highway 61, thence along Virginia Highway 61 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction U.S. Highway 29, thence along U.S. Highway 29 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction the Colonial National Historical Parkway, thence along the Colonial National Historical Parkway to the Chesapeake Bay. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo.

NOTE.—The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Co., pursuant to No. MC-F-10199.

No. MC 21170 (Sub-No. E163), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohaski (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Food products and commodities* exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale and chain grocery stores, from points in that part of Minnesota on and west of a line beginning at the United States-Canada International Boundary line extending along Minnesota Highway 72 to junction Minnesota Highway 1, thence along Minnesota Highway 1 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Minnesota Highway 92, thence along Minnesota Highway 92 to junction Minnesota Highway 32, thence along Minnesota Highway 32 to junction Minnesota Highway 34, thence along Minnesota Highway 34 to junction Minnesota Highway 9, thence along Minnesota Highway 9 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction Minnesota Highway 9, thence along Minnesota Highway 9 to junction Minnesota Highway 29, thence along Minnesota Highway 29 to junction U.S. Highway 212, thence along U.S. Highway 212 to junction Minnesota Highway 15, thence along Minnesota Highway 15 to junction U.S. Highway 14, thence along U.S. Highway 14 to junction Minnesota Highway 83, thence along Minnesota Highway 83 to junction Minnesota Highway 30, thence along Minnesota Highway 30 to junction Minnesota Highway 13, thence along Minnesota Highway 13 to junction U.S. Highway 65, thence along U.S. Highway 65 to the Minnesota-Iowa State line, to points in that part of Virginia on and south of a line beginning at the Virginia-West Virginia State line extending along Virginia Highway 39 to junction Virginia Highway 42, thence along Virginia Highway 42 to junction U.S. Highway 250, thence along U.S. Highway 250 to junction

U.S. Highway 64, thence along U.S. Highway 64 to junction Virginia Highway 33, thence along Virginia Highway 33 to junction U.S. Highway 17, thence along U.S. Highway 17 to junction Virginia Highway 33, thence along Virginia Highway 33 to the Chesapeake Bay, and points in that part of Virginia on and south of Virginia Highway 184. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo.

NOTE.—The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Co., pursuant to No. MC-F-10199.

No. MC 21170 (Sub-No. E164), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohaski (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Food products and commodities* exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale and chain grocery stores, from points in that part of Minnesota on and west of a line beginning at the United States-Canada International Boundary line extending along Minnesota Highway 72 to junction Minnesota Highway 46, thence along Minnesota Highway 46 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction Minnesota Highway 6, thence along Minnesota Highway 6 to junction Minnesota Highway 200, thence along Minnesota Highway 200 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction Minnesota Highway 210, thence along Minnesota Highway 210 to junction Minnesota Highway 371, thence along Minnesota Highway 371 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction Minnesota Highway 25, thence along Minnesota Highway 25 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction Minnesota Highway 19, thence along Minnesota Highway 19 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction U.S. Highway 218, thence along U.S. Highway 218 to the Minnesota-Iowa State line, to points in that part of Virginia on and south of a line beginning at the Kentucky-Virginia State line extending along U.S. Highway 119 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction U.S. Highway 58, thence along U.S. Highway 58 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction U.S. Highway 58, thence along U.S. Highway 58 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction U.S. Highway 221, thence along U.S. Highway 221 to junction Virginia Highway 8, thence along Virginia Highway 8 to junction Virginia Highway 40, thence along Virginia Highway 40 to junction Virginia Highway 10, thence

along Virginia Highway 10 to junction Virginia Highway 31, thence along Virginia Highway 31 to junction the Colonial National Historical Parkway, thence along the Colonial National Historical Parkway to the Chesapeake Bay. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo.

NOTE.—The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Co., pursuant to No. MC-F-10199.

No. MC 33093 (Sub-No. E13), filed May 16, 1974. Applicant: GRAY VAN LINES, INC., P.O. Box 25085, Oklahoma City, Okla. 73125. Applicant's representative: Robert J. Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, uncrated, between points in Oklahoma, on the one hand, and, on the other, points in Mississippi on and south of U.S. Highway 90. The purpose of this filing is to eliminate the gateway of Columbia County, Ark., and New Orleans, La.

No. MC 33093 (Sub-No. E16), filed May 16, 1974. Applicant: GRAY VAN LINES, INC., P.O. Box 25085, Oklahoma City, Okla. 73125. Applicant's representative: Robert Gallagher, 1776 Broadway, New York, N.Y. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, uncrated between points in Oklahoma, on the one hand, and, on the other, points in Louisiana. The purpose of this filing is to eliminate the gateway of Columbia County, Ark.

No. MC 33093 (Sub-No. E17), filed May 16, 1974. Applicant: GRAY VAN LINES, INC., P.O. Box 25085, Oklahoma City, Okla. 73125. Applicant's representative: Robert Gallagher, 1776 Broadway, New York, N.Y. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, uncrated, between points in Texas on and north of U.S. Highway 66, on the one hand, and, on the other, points in Louisiana. The purpose of this filing is to eliminate the gateways of Columbia County, Ark., and points in Atoka, Choctaw, Haskell, Le Flore, Latimer, McCurtain, McIntosh, Pittsburg, and Pushmataha Counties, Okla.

No. MC 33093 (Sub-No. E18), filed May 16, 1974. Applicant: GRAY VAN LINES, INC., P.O. Box 25085, Oklahoma City, Okla. 73125. Applicant's representative: Robert Gallagher, 1776 Broadway, New York, N.Y. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, uncrated between points in Louisiana on and north of U.S. Highway 90, on the one hand, and, on the other, points in Missouri on and north of U.S. Highway 66. The purpose of this filing is to eliminate the gateways of Columbia County, Ark., and Atoka, Choctaw, Haskell, Le Flore, Latimer, Mc-

Curtain, McIntosh, Pittsburg, and Pushmataha Counties, Okla.

No. MC 33093 (Sub-No. E22), filed May 16, 1974. Applicant: GRAY VAN LINES, INC., P.O. Box 25085, Oklahoma City, Okla. 73125. Applicant's representative: Robert Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, uncrated, between points in Oklahoma, on the one hand, and, on the other, points in Mississippi on and south of U.S. Highway 90. The purpose of this filing is to eliminate the gateways of Columbia County, Ark., and New Orleans, La.

No. MC 33093 (Sub-No. E23), filed May 16, 1974. Applicant: GRAY VAN LINES, INC., P.O. Box 25085, Oklahoma City, Okla. 73125. Applicant's representative: Robert Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, uncrated, between points in Texas on and north of U.S. Highway 66, on the one hand, and, on the other, points in Mississippi on and east of Interstate Highway 59 to junction U.S. Highway 98, thence all points south and west of U.S. Highway 98. The purpose of this filing is to eliminate the gateways of Columbia County, Ark., New Orleans, La., and Atoka, Choctaw, Haskell, Le Flore, Latimer, McCurtain, McIntosh, Pittsburg, and Pushmataha Counties, Okla.

No. MC 33093 (Sub-No. E24), filed May 16, 1974. Applicant: GRAY VAN LINES, INC., P.O. Box 25085, Oklahoma City, Okla. 73125. Applicant's representative: Robert Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, uncrated, between points in Missouri on and east of U.S. Highway 71 to Kansas City, Mo., and thence on and west of U.S. Highway 69 to the Missouri-Iowa State line, on the one hand, and, on the other, points in Mississippi on and north of U.S. Highway 90. The purpose of this filing is to eliminate the gateways of Columbia County, Ark., New Orleans, La., and Atoka, Choctaw, Haskell, Le Flore, Latimer, McCurtain, McIntosh, Pittsburg, and Pushmataha Counties, Okla.

No. MC 33093 (Sub-No. E25), filed May 16, 1974. Applicant: GRAY VAN LINES, INC., P.O. Box 25085, Oklahoma City, Okla. 73125. Applicant's representative: Robert Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, uncrated, between points in Arkansas on and west of U.S. Highway 71, on the one hand, and, on the other, points in Mississippi on and south of U.S. Highway 90. The purpose of this filing is to elimi-



nate the gateways of Columbia County, Ark., and New Orleans, La.

No. MC 33093 (Sub-No. E26), filed May 16, 1974. Applicant: GRAY VAN LINES, INC., P.O. Box 25085, Oklahoma City, Okla. 73125. Applicant's representative: Robert Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Household goods, uncrated, between points in Kansas on and west of U.S. Highway 83, on the one hand, and, on the other, points in Alabama on and south of U.S. Highway 90. The purpose of this filing is to eliminate the gateways of Columbia County, Ark., New Orleans, La., and Atoka, Choctaw, Haskell, LeFlore, Latimer, McCurtain, McIntosh, Pittsburg, and Pushmataha Counties, Okla.

No. MC 33093 (Sub-No. E27), filed May 16, 1974. Applicant: GRAY VAN LINES, INC., P.O. Box 25085, Oklahoma City, Okla. 73125. Applicant's representative: Robert Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Household goods, uncrated, between points in Oklahoma, on the one hand, and, on the other, points in Alabama on and south of U.S. Highway 90. The purpose of this filing is to eliminate the gateways of Columbia County, Ark., and New Orleans, La.

No. MC 33093 (Sub-No. E28), filed May 16, 1974. Applicant: GRAY VAN LINES, INC., P.O. Box 25085, Oklahoma City, Okla. 73125. Applicant's representative: Robert Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Household goods, uncrated, between points in Texas on and north of U.S. Highway 68, on the one hand, and, on the other, points in Alabama on and south of U.S. Highway 90 to junction Interstate Highway 65 north to Montgomery, thence along U.S. Highway 231 to the Alabama-Georgia State line. The purpose of this filing is to eliminate the gateways of Columbia County, Ark., New Orleans, La., and Atoka, Choctaw, Haskell, LeFlore, Latimer, McCurtain, McIntosh, Pittsburg, and Pushmataha Counties, Okla.

No. MC 33093 (Sub-No. E30), filed May 16, 1974. Applicant: GRAY VAN LINES, INC., P.O. Box 25085, Oklahoma City, Okla. 73125. Applicant's representative: Robert Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Household goods, uncrated, between points in that part of Arkansas on and east of U.S. Highway 72, on the one hand, and, on the other, points in that part of Alabama on and south of U.S. Highway 90. The purpose of this filing is to eliminate the gateway of Columbia County, Ark., and New Orleans, La.

No. MC 33093 (Sub-No. E33), filed May 16, 1974. Applicant: GRAY VAN

LINES, INC., P.O. Box 25085, Oklahoma City, Okla. 73125. Applicant's representative: Robert Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Household goods, uncrated, between points in that part of Texas on and north of U.S. Highway 68, on the one hand, and, on the other, points in that part of Georgia on and south of U.S. Highway 80. The purpose of this filing is to eliminate the gateways of Atoka, Choctaw, Haskell, LeFlore, Latimer, McCurtain, McIntosh, Pittsburg, and Pushmataha Counties, Okla., Columbia County, Ark., and New Orleans, La.

No. MC 33093 (Sub-No. E35), filed May 16, 1974. Applicant: GRAY VAN LINES, INC., P.O. Box 25085, Oklahoma City, Okla. 73125. Applicant's representative: Robert Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Household goods, uncrated, between points in that part of Kansas on and west of U.S. Highway 83, on the one hand, and, on the other, points in that part of Florida on and north of U.S. Highway 90. The purpose of this filing is to eliminate the gateways of Atoka, Choctaw, Haskell, LeFlore, Latimer, McCurtain, McIntosh, Pittsburg, and Pushmataha Counties, Okla., Columbia County, Ark., and New Orleans, La.

No. MC 33093 (Sub-No. E36), filed May 16, 1974. Applicant: GRAY VAN LINES, INC., P.O. Box 25085, Oklahoma City, Okla. 73125. Applicant's representative: Robert Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Household goods, uncrated, between points in that part of Missouri on and east of U.S. Highway 71 to Kansas City, thence on and west of U.S. Highway 69 to the Missouri-Iowa State line, on the one hand, and, on the other, points in that part of Florida on and north of U.S. Highway 90. The purpose of this filing is to eliminate the gateway of Atoka, Choctaw, Haskell, LeFlore, Latimer, McCurtain, McIntosh, Pittsburg, and Pushmataha Counties, Okla., and Columbia County, Ark., and New Orleans, La.

No. MC 50069 (Sub-No. E26), filed May 15, 1974. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, Ohio 43616. Applicant's representative: Jack A. Gollan (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Petroleum and petroleum products as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Jackson, Mich., to points in that part of Pennsylvania bounded by a line beginning at the Ohio-Pennsylvania State line extending along U.S. Highway 22 to Blairsville, Pa., thence due north to the Pennsylvania-New York State line; points in West Virginia west of a line

beginning at Sistersville, W. Va., extending along West Virginia Highway 18 to Troy, thence along West Virginia Highway 47 to Glenville, thence along West Virginia Highway 5 to Napier, thence along U.S. Highway 19 to the West Virginia-Virginia State line; and (2) Petroleum products (except petrochemicals) from Jackson, Mich., to points in New Jersey and New York. The purpose of this filing is to eliminate the gateways of Toledo, Ohio, to points in Pennsylvania, New York and New Jersey; and Ironton, Ohio, to points in West Virginia.

No. MC 50069 (Sub-No. E27), filed May 15, 1974. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, Ohio 43616. Applicant's representative: Jack A. Gollan (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Petroleum and petroleum products, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from points in Huntington County, Ind., to points in Missouri within 135 airline miles of East St. Louis, Ill.; and petrochemicals from Huntington County, Ind., to points in Iowa and Missouri. The purpose of this filing is to eliminate the gateways of Peoria, Ill., to points in Iowa and Missouri; and Peoria, Ill., and East St. Louis, Ill., to points in Missouri.

No. MC 50069 (Sub-No. E28), filed May 15, 1975. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, Ohio 43616. Applicant's representative: Jack A. Gollan (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Liquid chemicals, in bulk, in tank vehicles, from Danville, Ill., to points in Missouri; and (2) Petrochemicals from Danville, Ill., to points in that part of Pennsylvania north and west of a line beginning at the Ohio-Pennsylvania State line extending along U.S. Highway 22 to Blairsville, thence along an imaginary line due north to the New York-Pennsylvania State line; points in that part of West Virginia on and west of a line beginning at Sistersville, extending along West Virginia Highway 18 to Troy, thence along West Virginia Highway 47 to Linn, thence along U.S. Highway 119 to Glenville, thence along West Virginia Highway 5 to Napier, thence along U.S. Highway 19 to Summersville, thence along West Virginia Highway 41 to junction U.S. Highway 19, thence along U.S. Highway 19 to the West Virginia-Virginia State line; and points in that part of New York west of a line beginning at the New York-Pennsylvania State line from Deposit along New York Highway 18 to junction New York Highway 49, thence along New York Highway 49 to junction New York Highway 69, thence along New York Highway 13 to Port Ontario, N.Y. RESTRICTED against the transportation

of acetone, ethyl acetate, alcohol, vodka, gin, proprietary anti-freeze preparations and choline chloride. The purpose of this filing is to eliminate the gateways of Terre Haute, Ind., to points in Missouri; Lima, Ohio, to points in Pennsylvania; Ironton, Ohio, to points in West Virginia, and Lima, Ohio, and Titusville, Pa., to points in New York.

No. MC 50069 (Sub-No. E29), filed May 15, 1974. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, Ohio 43616. Applicant's representative: Jack A. Gollan (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Petroleum products, in bulk, in tank vehicles, from Niles, Mich., and points within 5 miles thereof to points in (a) Missouri (within 135 air line miles of E. St. Louis, Ill.); (b) Kentucky; (c) Pennsylvania north and west of a line beginning at the Ohio-Pennsylvania State line extending along U.S. Highway 22 to Blairsville, Pa., thence along an imaginary line running due north to the New York-Pennsylvania State line; and (d) West Virginia on and west of a line beginning at Sistersville extending along West Virginia Highway 18 to Troy, thence along West Virginia Highway 47 to Linn, thence along U.S. Highway 119 to Glenville, thence along West Virginia Highway 5 to Napier, thence along U.S. Highway 19 to Summersville, thence along West Virginia Highway 41 to junction U.S. Highway 19, thence along U.S. Highway 19 to the West Virginia-Virginia State line; and (2) Petroleum products except petrochemicals, from Niles, Mich., to points in (a) Connecticut, Delaware, Massachusetts, New Hampshire, New Jersey, Rhode Island, Vermont, Virginia; and (b) points in that part of New York west of a line beginning at the New York-Pennsylvania State line from Deposit, N.Y., along New York Highway 8 to junction New York Highway 49, thence along New York Highway 49 to junction New York Highway 69, thence along New York Highway 13, thence along New York Highway 13 to Port Ontario, N.Y.; and (3) Petrochemicals, from Niles, Mich., to points in Iowa and Missouri. The purpose of this filing is to eliminate the gateways of Peoria, Ill., and East St. Louis, Ill., in (1) (a) above; Lebanon, Ind., and Seymour, Ind., in (1) (b) above; Toledo, Ohio, in (1) (c) above; Ironton, Ohio, in (1) (d) above; East Liverpool, Ohio, Midland, Pa., and Congo, W. Va., in (2) (a) above; Toledo, Ohio and Titusville, Pa., in (2) (b) above; and Peoria, Ill., in (3) above.

No. MC 50069 (Sub-No. E32), filed May 15, 1974. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, Ohio 43616. Applicant's representative: Jack A. Gollan (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Formaldehyde, in

bulk, in tank vehicles, from Toledo, Ohio, and points within 5 miles thereof, to points in (1) Iowa and Missouri; and (2) Wisconsin; restricted against the transportation of acetone, alcohol, vodka, gin, proprietary anti-freeze preparations and choline chloride. The purpose of this filing is to eliminate the gateway of Terre Haute, Ind., in (1) above, and Lemont, Ill., in (2) above.

No. MC 50069 (Sub-No. E33), filed May 15, 1974. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, Ohio 43616. Applicant's representative: Jack A. Gollan (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Phosphoric acid, in bulk, in tank vehicles, from Trenton, Mich., to points in (1) Missouri; and (2) Alabama, Kansas, Nebraska, Mississippi, Oregon, and South Dakota, restricted against the transportation of acetone, ethyl acetate, alcohol, vodka, gin, proprietary anti-freeze preparations, and choline chloride. The purpose of this filing is to eliminate the gateway of Terre Haute, Ind., in (1) above, and Swanton, Ohio, in (2) above.

No. MC 50069 (Sub-No. E36), filed May 15, 1974. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, Ohio 43616. Applicant's representative: Jack A. Gollan (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Synthetic resins, varnishes, lacquers and liquid glue, in bulk, in tank vehicles, from Toledo, Ohio, to points in (1) Iowa, and (2) Missouri; restricted against the transportation of acetone, ethyl acetate, alcohol, vodka, gin, proprietary anti-freeze preparations and choline chloride. The purpose of this filing is to eliminate the gateway of Peoria, Ill., in (1) above and Terre Haute, Ind., in (2) above.

No. MC 75110 (Sub-No. E25), filed May 16, 1974. Applicant: ATLANTIC & PACIFIC MOVING CO., P.O. Box 25085, Oklahoma City, Okla. 73125. Applicant's representative: Robert Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Household goods; (1) between points in Kansas, on the one hand, and, on the other, points in Illinois within a 25 mile radius of St. Louis, Mo.; and (2) between points in Colorado on and west of Interstate Highway 25, on the one hand, and, on the other, points in Tennessee on and east of Interstate Highway 65. The purpose of this filing is to eliminate the gateway of a 20 mile radius of Clay Center, Kans., 25 mile radius of Kansas City, Mo., 25 mile radius of St. Louis, Mo., and 50 mile radius of St. Louis, Mo.

No. MC 107002 (Sub-No. E55), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. MILLER, Jr. (same as

above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Anthol, cymene, esterified tall oil, liquid soap, nylene, paracymene, paramethane, hydro peroxide, pinene, pine oil, pine pitch, pine tar, rosin, rosin liquor, rosin sizing, rosin solution, synthetic gums and resins, tall oil, tall oil fatty acids, tall oil pitch, turpentine, and zinc resins, which are naval stores, in bulk, in tank vehicles, from Panama City, Fla., to points in New York. The purpose of this filing is to eliminate the gateway of Bay Minette, Ala.

No. MC 107002 (Sub-No. E56), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Anthol, cymene, esterified tall oil, liquid soap, nylene, paracymene, paramethane, hydro peroxide, pinene, pine oil, pine pitch, pine tar, rosin, rosin liquor, rosin sizing, rosin solution, synthetic gums and resins, tall oil, tall oil fatty acids, tall oil pitch, turpentine, and zinc resins, which are naval stores, in bulk, in tank vehicles, from Panama City, Fla., to points in Pennsylvania. The purpose of this filing is to eliminate the gateway of Bay Minette, Ala.

No. MC 107002 (Sub-No. E57), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquid chemicals, in bulk, in tank vehicles, from Taylorsville, Miss., to points in North Carolina. The purpose of this filing is to eliminate the gateway of Fox, Ala.

No. MC 107002 (Sub-No. E58), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Anhydrous ammonia and acids, liquid, in bulk, and ammonium nitrate, urea, fertilizer and fertilizer ingredients, in bulk, in tank vehicles, from the plant and storage facilities of Arkla Chemical Corporation, in Phillips County, Ark., to points in North Carolina, restricted to the transportation of shipments originating at the plant and storage facilities of Arkla Chemical Corporation, in Phillips County, Ark. The purpose of this filing is to eliminate the gateway of the plant site of Monsanto Chemical Company in Anniston, Ala.

No. MC 107002 (Sub-No. E59), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. MILLER, Jr. (same as



sentative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except liquefied petroleum gases), in bulk, in tank vehicles, from Taylorsville, Miss., to points in West Virginia. The purpose of this filing is to eliminate the gateway of the plant site of Monsanto Chemical Company in An-niston, Ala.

No. MC 107002 (Sub-No. E60), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals* (except caustic soda), in bulk, in tank vehicles, from Taylorsville, Miss., to points in Ohio. The purpose of this filing is to eliminate the gateway of McIntosh, Ala.

No. MC 107002 (Sub-No. E61), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Anthol, cymene, esterified tall oil, liquid soap, nylene, paracymene, paramethane, hydro peroxide, pinene, pine oil, pine pitch, pine tar, rosin, rosin liquor, rosin sizing, rosin solution, synthetic gums and resins, tall oil, tall oil fatty acids, tall oil pitch, terpeneol, turpentine, and zinc resins*, which are naval stores, in bulk, in tank vehicles, from Panama City, Fla., to points in Ohio. The purpose of this filing is to eliminate the gateway of Bay Minette, Ala.

No. MC 107002 (Sub-No. E62), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Anthol, cymene, esterified tall oil, liquid soap, nylene, paracymene, paramethane, hydro peroxide, pinene, pine oil, pine pitch, pine tar, rosin, rosin liquor, rosin sizing, rosin solution, synthetic gums and resins, tall oil, tall fatty acids, tall oil pitch, terpeneol, turpentine, and zinc resins*, which are naval stores, in bulk, in tank vehicles, from Panama City, Fla., to points in New Jersey. The purpose of this filing is to eliminate the gateway of Bay Minette, Ala.

No. MC 107002 (Sub-No. E76), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dry chemicals* (except fertilizer and fertilizer ingredients), in bulk, in tank vehicles, from Memphis, Tenn., to points in Illi-

nois (except points in the East St. Louis Commercial Zone, as defined by the Commission). The purpose of this filing is to eliminate the gateway of Arlington, Tenn.

No. MC 107002 (Sub-No. E77), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dry chemicals* (except fertilizer and fertilizer ingredients), in bulk, in tank vehicles, from Memphis, Tenn., to points in Michigan. The purpose of this filing is to eliminate the gateways of those points in Tennessee within 10 miles of Barfield, Ark.

No. MC 107002 (Sub-No. E78), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, restricted to naval stores and naval store products, in bulk, in tank vehicles, from Mobile, Ala., to points in New York. The purpose of this filing is to eliminate the gateway of Picayune, Miss.

No. MC 107002 (Sub-No. E79), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, restricted to naval stores and naval store products, in bulk, in tank vehicles, from Mobile, Ala., to points in Rhode Island. The purpose of this filing is to eliminate the gateway of Picayune, Miss.

No. MC 107002 (Sub-No. E80), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, restricted to naval stores and naval store products, in bulk, in tank vehicles, from Mobile, Ala., to points in New Jersey. The purpose of this filing is to eliminate the gateway of Picayune, Miss.

No. MC 107002 (Sub-No. E81), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Barfield, Ark., and points within 10 miles thereof, to points in North Carolina. The purpose of this filing is to eliminate the gateway of Collierville, Tenn.

No. MC 107002 (Sub-No. E82), filed May 12, 1974. Applicant: MILLER

TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, from Hattiesburg, Miss., to those points in Minnesota on, north and east of a line beginning at the Wisconsin-Minnesota State line and extending along U.S. Highway 14 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction Minnesota Highway 60, thence along Minnesota Highway 60 to junction U.S. Highway 14, thence along U.S. Highway 14 to the Minnesota River, to the Minnesota-South Dakota State line. The purpose of this filing is to eliminate the gateway of Cedartown, Ga.

No. MC 107002 (Sub-No. E83), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dry chemicals* (except fertilizer and fertilizer ingredients), in bulk, in tank vehicles, from Memphis, Tenn., to points in Texas, (except Chambers, Montgomery, Harris, Fort Bend, Galveston, Liberty, and Brazoria Counties). The purpose of this filing is to eliminate the gateway of Arlington, Tenn.

No. MC 107002 (Sub-No. E84), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Nitric acid and fertilizer solutions, liquids*, in bulk, in tank vehicles, from the plant of Mississippi Chemical Corporation near Yazoo City, Miss., to points in North Carolina. The purpose of this filing is to eliminate the gateway of Fox, Ala.

No. MC 107002 (Sub-No. E85), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Vegetable oil*, in bulk, in tank vehicles, from points in Georgia to points in Oklahoma. The purpose of this filing is to eliminate the gateway of Fox, Ala.

No. MC 107002 (Sub-No. E86), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Vegetable oil*, in bulk, in tank vehicles, from points in Georgia to points in Texas. The purpose of this filing is to eliminate the gateway of Hattiesburg, Miss.

No. MC 107002 (Sub-No. E87), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Vegetable oil*, in bulk, in tank vehicles, from points in Mississippi to points in North Carolina. The purpose of this filing is to eliminate the gateway of Fox, Ala.

No. MC 107002 (Sub-No. E88), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dry chemicals* (except fertilizer and fertilizer ingredients), in bulk, in tank vehicles, from Memphis, Tenn., to those points in Missouri on, east and north of a line beginning at the Illinois-Missouri State line and extending along U.S. Highway 61 to junction Missouri Highway 72, thence along Missouri Highway 72 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction Missouri Highway 8, thence along Missouri Highway 8 to junction Missouri Highway 21, thence along Missouri Highway 21 to junction Missouri Highway 47, thence along Missouri Highway 47 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Missouri-Kansas State line. The purpose of this filing is to eliminate the gateways of those points in Tennessee within 10 miles of Barfield, Ark.

No. MC 107002 (Sub-No. E89), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Nitric acid, dry fertilizer and fertilizer solutions*, in bulk, in tank or hopper-type vehicles, from the site of the plant of Mississippi Chemical Corporation near Yazoo City, Miss., to points in Kansas. The purpose of this filing is to eliminate the gateways of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E90), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Nitric acid, dry fertilizer and fertilizer solutions*, in bulk, in tank or hopper-type vehicles, from the site of the plant of Mississippi Chemical Corporation near Yazoo City, Miss., to points in Missouri. The purpose of this filing is to eliminate the gateways of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E110), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid anhydrous ammonia*, in bulk, in tank vehicles, from the plant site of Mississippi Chemical Corporation near Yazoo City, Miss., to points in Wisconsin. The purpose of this filing is to eliminate the gateway of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E111), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a com-

mon carrier, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from the plant site of Mississippi Chemical Corporation near Yazoo City, Miss., to points in Wisconsin. The purpose of this filing is to eliminate the gateway of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E114), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Taylorsville, Miss., to points in South Carolina. The purpose of this filing is to eliminate the gateway of Fox, Ala.

No. MC 107002 (Sub-No. E115), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Barfield, Ark., and points within 10 miles thereof, to points in South Carolina. The purpose of this filing is to eliminate the gateway of Collierville, Tenn.

No. MC 107002 (Sub-No. E116), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, restricted to anhydrous ammonia and acids, and ammonium nitrate, urea, fertilizer, and fertilizer ingredients, in bulk, from the plant and storage facilities of Arkla Chemical Corporation, in Phillips County, Ark., to points in Wisconsin. The purpose of this filing is to eliminate the gateway of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E117), filed May 12, 1974. Applicant: MILLER TRANSPORTATION, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from the plant site of Mississippi Chemical Corporation near Yazoo City, Miss., to points in Kansas. The purpose of this filing is to eliminate the gateway of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E118), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a com-

mon carrier, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from the plant site of Mississippi Chemical Corporation near Yazoo City, Miss., to points in Missouri. The purpose of this filing is to eliminate the gateway of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E119), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from the plant site of Mississippi Chemical Corporation near Yazoo City, Miss., to points in Iowa. The purpose of this filing is to eliminate the gateway of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E120), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from the plant site of Mississippi Chemical Corporation near Yazoo City, Miss., to points in Indiana. The purpose of this filing is to eliminate the gateway of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E121), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from the plant site of Mississippi Chemical Corporation near Yazoo City, Miss., to points in Ohio. The purpose of this filing is to eliminate the gateway of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E122), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid anhydrous ammonia*, in bulk, in tank vehicles, from the plant site of Mississippi Chemical Corporation near Yazoo City, Miss., to points in North Carolina. The purpose of this filing is to eliminate the gateway of Fox, Ala.

No. MC 107002 (Sub-No. E123), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid anhydrous ammonia*, in bulk, in tank vehicles, from the plant site of Mississippi Chemical



Corporation near Yazoo City, Miss., to points in South Carolina. The purpose of this filing is to eliminate the gateway of Fox, Ala.

No. MC 107002 (Sub-No. E124), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Chemicals* (except caustic soda), in bulk, in tank vehicles, from McIntosh, Ala., to points in Indiana, Iowa, and Illinois (except points in the East St. Louis commercial zone) (Arlington, Tenn.); (2) *Liquid caustic soda*, in bulk, in tank vehicles, from McIntosh, Ala., to points in Illinois (except points in the East St. Louis commercial zone), Indiana, Iowa, Louisville, Miss., and Arlington, Tenn.; and those in Kentucky on and west of a line beginning at the Kentucky-Tennessee State line and extending along U.S. Highway 41 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction U.S. Highway 431, thence along U.S. Highway 431 to the Kentucky-Indiana State line (Louisville, Miss., and Memphis, Tenn.); (3) *Chemicals* (except caustic soda, fertilizer, and fertilizer ingredients, and liquid nitrogen, liquid oxygen, and liquid hydrogen), in bulk, in tank vehicles, from McIntosh, Ala., to points in the East St. Louis, Ill., commercial zone, Kansas, Michigan, Missouri, and Wisconsin (Memphis, Tenn., and those points in Tennessee within 10 miles of Barfield, Ark.); (4) *Liquid caustic soda* (except fertilizer and fertilizer ingredients, and liquid nitrogen, liquid oxygen, and liquid hydrogen, from McIntosh, Ala., to points in Kansas, Michigan, Missouri, Wisconsin, and those in the East St. Louis commercial zone (Louisville, Miss., Memphis, Tenn., and those points in Tennessee within 10 miles of Barfield, Ark.); and (5) *Liquid chemicals* (except hydrogen peroxide and liquid caustic soda), in bulk, in tank vehicles, from McIntosh, Ala., to points in Kentucky (Memphis, Tenn.). The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 107002 (Sub-No. E125), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Anthracite, cymene, esterified tall oil, nalcene, paracymene, pinene, pine pitch, point tar, rosin, rosin liquor, rosin sizing, rosin solution, tall oil fatty acids, tall oil pitch, terpeneol, and turpentine*, which are liquid chemicals, in bulk, in tank vehicles, from Panama City, Fla., to points in Oklahoma. The purpose of this filing is to eliminate the gateways of Bay Minetta, Ala., and Memphis, Tenn.

No. MC 111401 (Sub-No. E22), filed May 12, 1974. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative:

Victor R. Comstock (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid petrochemicals*, in bulk, in tank vehicles, from points in Oklahoma on and west of Oklahoma Highway 23 to points in Kentucky, Louisiana, Ohio, Indiana, Demopolis, Ala., and Chicago, and Ringwood, Ill. The purpose of this filing is to eliminate the gateway of Kings Mill, Tex.

No. MC 111401 (Sub-No. E33), filed May 12, 1974. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petrochemicals*, in bulk, in tank vehicles, from points in Texas on and east of U.S. Highway 77 and on and south of U.S. Highway 87 to points in Arkansas, Louisiana, and Missouri. The purpose of this filing is to eliminate the gateway of Freeport, Tex.

No. MC 111401 (Sub-No. E81), filed February 10, 1975. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from the plant site of the Union Carbide Corporation at Taft, La., to points in Arizona, Idaho, Iowa, Kansas, Montana, Nevada, New Mexico, North Dakota, Oklahoma, South Dakota, Utah, Wyoming, and those points in Missouri on and north of a line beginning at the Missouri-Oklahoma State line and extending along Interstate Highway 44 to junction Missouri Highway 5, thence along Missouri Highway 5 to junction U.S. Highway 54, thence along U.S. Highway 54 to the Missouri-Illinois State line. The purpose of this filing is to eliminate the gateway of Longview, Tex.

No. MC 113855 (Sub-No. E29), filed May 30, 1974. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marlan Rd., S.E., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment (except boats and iron and steel articles), and related machinery, parts, and related contractors' materials and supplies when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment, and (2) *Self-propelled articles*, each weighing 15,000 pounds or more and related machinery, tools, parts, and supplies moving in connection therewith (restricted to commodities transported on trailers), between points in Missouri on and west of U.S. Highway 71 starting at the Missouri-Iowa State line to St. Joseph, Mo.

The purpose of this filing is to eliminate the gateways of South Dakota and points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending along unnumbered highway (formerly portion U.S. Highway 15) to junction Business U.S. Highway 15, near Fairplay, Pa., thence along Business U.S. Highway 15 through Gettysburg, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to junction unnumbered highway (formerly portion U.S. Highway 15), thence along unnumbered highway through Clearspring, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line (except points in Berks, Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa., and points in Pennsylvania on and east of the above described line in Adams, York, Cumberland, Perry, Dauphin, Lebanon, and Lancaster Counties, Pa., and points in Pennsylvania on and east of U.S. Highway 15 and north of the East Branch of the Susquehanna River in Tioga, Bradford, Lycoming, Sullivan, Union, Snyder, Northumberland, Montour, and Columbia Counties, Pa.).

No. MC 113855 (Sub-No. E181), filed May 30, 1974. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marlan Rd., S.E., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle over irregular routes, transporting: *Agricultural machinery, implements, attachments, and parts*, because of their size or weight, require the use of special equipment, or special handling and related machinery, parts, or self-propelled articles, each weighing 15,000 pounds or more; (a) from points in Delaware, Maryland, New Jersey, North Carolina, Virginia, Connecticut, Massachusetts, New York, Rhode Island, to points in Alaska (South Dakota, Gwinner, N. Dak., and points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending along unnumbered highway (formerly portion U.S. Highway 15), to junction Business U.S. Highway 15, near Fairplay, Pa., thence along Business U.S. Highway 15 through Gettysburg, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to junction unnumbered highway (formerly portion U.S. Highway 15), thence along unnumbered highway through Clear Springs, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line (except points in Berks, Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa., and points in Pennsylvania on and east of the above described line in Adams, York, Cumberland, Perry, Dauphin, Lebanon, and Lancaster Counties, Pa., and points in Pennsylvania on and east of U.S. Highway 15 and north of the East Branch of the Susquehanna River in Tioga, Bradford, Lycoming, Sullivan, Union, Snyder, Northumberland, Montour, and Columbia Counties, Pa.); (b)

from points in West Virginia and Kentucky to points in Alaska (Elgin, Ill., South Dakota, Gwinner, N. Dak.); (c) from points in Wyoming, Ohio, Pennsylvania, Illinois, Indiana, Kansas, Michigan, Missouri, Wisconsin, Colorado, Iowa, and Nebraska to points in Alaska (South Dakota, Gwinner, N. Dak.); (d) from points in South Dakota and Minnesota to points in Alaska (Gwinner, N. Dak.). The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 114273 (Sub-No. E2), filed June 4, 1974. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Frohush (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Farm implements and machinery*, except those requiring the use of special equipment, from Sandwich, Ill., to points in Iowa in and on a line beginning at the Iowa-Minnesota State line and extending along Iowa Highway 76 to junction Iowa un-numbered highway at Roesville, Iowa, thence along Iowa un-numbered highway to junction U.S. Highway 52, thence along U.S. Highway 52 to junction Iowa Highway 13, thence along Iowa Highway 13 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Iowa Highway 1, thence along Iowa Highway 1 to junction Iowa Highway 92, thence along Iowa Highway 92 to junction U.S. Highway 65/69, thence along U.S. Highway 65/69 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Iowa un-numbered highway, thence along Iowa un-numbered highway to junction Iowa un-numbered highway and Iowa Highway 263, thence along Iowa Highway 263 to junction Iowa un-numbered at Latimer, Iowa, thence along Iowa un-numbered highway through Chapin, Iowa, to junction Iowa un-numbered highway and U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 65 and Iowa un-numbered highway, thence along Iowa un-numbered highway through Rockwell, Cartersville and Rockford, Iowa, thence along Iowa un-numbered highway to junction Iowa un-numbered highway and U.S. Highway 18, thence along U.S. Highway 18 to junction U.S. Highway 18 and Iowa un-numbered highway, thence along Iowa un-numbered highway to junction Iowa un-numbered highway and U.S. Highway 218, thence along U.S. Highway 218 to junction Iowa Highway 9, thence along Iowa Highway 9 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 157, thence along Iowa Highway 157 to junction Iowa un-numbered highway at Line Springs, Iowa, thence along Iowa un-numbered highway to the Iowa-Minnesota State line, thence along the Iowa-Minnesota State line to the point of beginning. The purpose of this filing is to eliminate the gateway of Cedar Rapids, Iowa.

No. MC 114273 (Sub-No. E5), filed June 4, 1974. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Frohush (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Farm implements and machinery*, except those requiring special equipment, from Batavia, Ill., to points in Iowa on and bounded by a line beginning at the Iowa-Minnesota State line and extending along Iowa Highway 26 to junction Iowa un-numbered highway at Lansing, Iowa, thence along Iowa un-numbered highway through Village Creek, Waterville and Valney, Iowa to junction U.S. Highway 52, thence along U.S. Highway 52 to junction Iowa Highway 13, thence along Iowa Highway 13 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Iowa Highway 1, thence along Iowa Highway 1 to junction Iowa Highway 92, thence along Iowa Highway 92 to junction U.S. Highway 218, thence along U.S. Highway 218 to junction Iowa un-numbered highway through Vincennes, Iowa to the Iowa-Missouri State line, thence along the Iowa-Missouri State line to junction Iowa Highway 202, thence along Iowa Highway 202 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction Iowa Highway 5, thence along Iowa Highway 5 to junction Iowa un-numbered highway at Moravia, Iowa, thence along Iowa un-numbered highway through Iconium and Melrose, Iowa, to junction Iowa Highway 68, thence along Iowa Highway 68 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction Iowa Highway 14, thence along Iowa Highway 14 to junction Iowa un-numbered highway, thence along Iowa un-numbered highway to junction Iowa un-numbered highway and Iowa Highway 206, thence along Iowa Highway 206 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 69.

Thence along U.S. Highway 69 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Iowa un-numbered highway to Dows, Iowa, thence along Iowa un-numbered highway to junction Iowa un-numbered highway and Iowa Highway 263, thence along Iowa Highway 263 to junction Iowa un-numbered highway at Latimer, Iowa, thence along Iowa un-numbered highway to junction Iowa un-numbered highway and Iowa Highway 206, thence along Iowa Highway 206 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Iowa un-numbered highway at Dows, Iowa, thence along Iowa un-numbered highway to junction Iowa un-numbered highway and Iowa Highway 263, thence along Iowa Highway 263 to junction Iowa un-numbered highway at Latimer, Iowa, thence along Iowa un-numbered highway to junction Iowa un-numbered highway and U.S. Highway 18, thence along U.S. Highway 18, to junction Iowa un-numbered highway, thence along Iowa un-numbered highway to junction Iowa un-numbered highway and

U.S. Highway 218, thence along U.S. Highway 218, to junction Iowa Highway 9, thence along Highway 9 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 157, thence along Iowa Highway 157 to junction Iowa un-numbered highway at Line Springs, Iowa, thence along Iowa un-numbered highway to the Iowa-Minnesota State line, thence along the Iowa-Minnesota State line to the point of beginning. The purpose of this filing is to eliminate the gateway of Cedar Rapids, Iowa.

No. MC 114273 (Sub-No. E6), filed June 4, 1974. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Frohush (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Farm implements and machinery*, except those requiring special equipment, from Racine and Milwaukee, Wisc., to points in Iowa on and bounded by a line beginning at Nora Springs, Iowa, and extending along U.S. Highway 18 to junction U.S. Highway 218, thence along U.S. Highway 218 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Iowa Highway 150, thence along Iowa Highway 150 to junction Iowa Highway 13, thence along Iowa Highway 13 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Iowa Highway 1, thence along Iowa Highway 1 to junction U.S. Highway 218, thence along U.S. Highway 218 to junction Iowa Highway 2, thence along Iowa Highway 2 to the Iowa-Illinois State line, thence along the Iowa-Illinois State line to the Iowa-Missouri State line, thence along the Iowa-Missouri State line to junction Iowa Highway 202, thence along Iowa Highway 202 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction Iowa Highway 5, thence along Iowa Highway 5 to junction Iowa un-numbered highway at Moravia, Iowa, thence along Iowa un-numbered highway through Iconium and Melrose, Iowa, to junction Iowa Highway 68, thence along Iowa Highway 68 to junction U.S. Highway 34, thence along U.S. Highway 34, to junction Iowa Highway 14, thence along Iowa Highway 14 to junction Iowa un-numbered highway, thence along Iowa un-numbered highway to junction Iowa un-numbered highway and Iowa Highway 206, thence along Iowa Highway 206 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Iowa un-numbered highway at Dows, Iowa, thence along Iowa un-numbered highway to junction Iowa un-numbered highway and Iowa Highway 263, thence along Iowa Highway 263 to junction Iowa un-numbered highway at Latimer, Iowa, thence along Iowa un-numbered highway to junction Iowa un-numbered highway and U.S. Highway 18, thence along U.S. Highway 18, to junction Iowa un-numbered highway, thence along Iowa un-numbered highway to junction Iowa un-numbered highway and



Iowa un-numbered highway through Rockwell, Cartersville, and Rockford, Iowa, thence along Iowa un-numbered highway to junction Iowa un-numbered highway and U.S. Highway 18, thence along U.S. Highway 18 to Nora Springs, Iowa. The purpose of this filing is to eliminate the gateway of Cedar Rapids, Iowa.

No. MC 114273 (Sub-No. E8), filed June 4, 1974. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushl (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, except commodities in bulk, and those requiring special equipment, from Portage, Ind., to points in Iowa in and on a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 52 to junction Iowa Highway 150, thence along Iowa Highway 150 to junction Iowa Highway 56, thence along Iowa Highway 56 to junction Iowa Highway 13, thence along Iowa Highway 13 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Iowa Highway 1, thence along Iowa Highway 1 to junction U.S. Highway 218, thence along U.S. Highway 218 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction Iowa Highway 1, thence along Iowa Highway 1 to the Iowa-Missouri State line, thence along the Iowa-Missouri State line to junction Iowa Highway 202, thence along Iowa Highway 202 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction Iowa Highway 5, thence along Iowa

Highway 5 to junction Iowa un-numbered highway at Moravia, Iowa, thence along Iowa un-numbered highway through Iconium and Melrose, Iowa, to junction Iowa Highway 68, thence along Iowa Highway 68 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction Iowa Highway 14, thence along Iowa Highway 14 to junction Iowa un-numbered highway, thence along Iowa un-numbered highway and Iowa Highway 206, thence along Iowa Highway 206 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Iowa un-numbered highway to Dows, Iowa, thence along Iowa un-numbered highway to junction Iowa un-numbered highway and Iowa Highway 263, thence along Iowa Highway 263 to junction Iowa un-numbered highway at Latimer, Iowa, thence along Iowa un-numbered highway to junction Iowa un-numbered highway and Iowa un-numbered highway through Chapin, Iowa, to junction Iowa un-numbered highway and U.S. Highway 65, thence along U.S. Highway 65 to junction Iowa un-numbered highway thence along Iowa un-numbered highway through Rockwell, Cartersville, and Rockford, Iowa, thence along Iowa un-numbered highway to junction Iowa un-numbered highway and U.S. Highway 18, thence along U.S. Highway 18 to junction Iowa un-numbered highway, thence along Iowa un-numbered highway to junction Iowa un-numbered highway and U.S. Highway 218, thence along U.S. Highway 218 to junction Iowa Highway 9,

thence along Iowa Highway 9 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 157, thence along Iowa Highway 157 to junction Iowa un-numbered highway at Line Springs, Iowa, thence along Iowa un-numbered highway to the Iowa-Minnesota State line, thence along the Iowa-Minnesota State line to the point of beginning. The purpose of this filing is to eliminate the gateway of Cedar Rapids, Iowa.

No. MC 119641 (Sub-No. E1), filed May 9, 1974. Applicant: RINGLE EXPRESS, INC., Fowler, Ind. Applicant's representative: Robert C. Doran, Route 1, P.O. Box 335, Moline, Ill. 61265. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials*, from Joliet, Ill. to points in Wisconsin on and north of a line beginning at the Iowa-Wisconsin State line and extending along Wisconsin Highway 82 to junction Wisconsin Highway 35, thence along Wisconsin Highway 35 to junction U.S. Highway 53, thence along U.S. Highway 53 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction Wisconsin Highway 13, thence along Wisconsin Highway 13 to junction Wisconsin Highway 97, thence along Wisconsin Highway 97 to junction Wisconsin Highway 64, thence along Wisconsin Highway 64 to Marinette, Wis. The purpose of this filing is to eliminate the gateway of Whiting, Ind.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc. 75-13101 Filed 5-16-75; 8:46 am]

# federal register

MONDAY, MAY 19, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 97

PART II



## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

### MEDICAL DEVICE CLASSIFICATION PROCEDURES

Notice to Manufacturers



DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFAREFood and Drug Administration  
MEDICAL DEVICE CLASSIFICATION  
PROCEDURES

## Notice to Manufacturers

In his consumer affairs message to the Congress on October 30, 1969, the President directed the Secretary of Health, Education, and Welfare to determine the scope and nature of additional legislative controls necessary to protect the public against unreasonable risk of injury or illness from medical devices. In accordance with this directive, the Secretary established the Study Group on Medical Devices under the chairmanship of Theodore Cooper, M.D., then Director of the National Heart and Lung Institute. The Study Group (Cooper Committee) report, entitled "Medical Devices: A Legislative Plan," was released in September 1970.

The report is available for public review at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, during regular working hours Monday through Friday. The report may be purchased from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22151.

The Cooper Committee report called for the enactment of new device legislation which would include provisions requiring the systematic review of existing medical devices for the purpose of grouping them into three categories: Those devices subject to general regulatory controls but exempt from standard setting and premarket approval; those for which standards should be set and enforced; and those requiring premarket approval.

In December 1971, following the recommendations of the Cooper Committee, the Secretary forwarded proposed medical device legislation to Congress. The legislation was introduced but no action was taken on it during that session of Congress. Legislation was again introduced in both the House of Representatives and the Senate in 1973. Hearings on the new medical device legislation were held by the Subcommittee on Health, Committee on Labor and Public Welfare of the Senate in September 1973, and by the Subcommittee on Public Health and Environment, Committee on Interstate and Foreign Commerce of the House of Representatives in October 1973. A medical device bill was passed in the Senate on February 1, 1974, but the House of Representatives did not enact device legislation during the 93rd Congress. During the 94th Congress, a medical device bill was introduced on March 26, 1975 in the House of Representatives. Soon after, on April 17, 1975, the Senate passed a medical device bill containing provisions comparable to those passed during the previous Congress and forwarded it to the House of Representatives for consideration.

Pending introduction and enactment of appropriate medical device legislation,

the Secretary requested the Commissioner of Food and Drugs to develop an inventory of existing medical devices. The inventory was developed in 1971, primarily from information obtained from questionnaires sent to over 4,000 manufacturers in the United States. Approximately 2,000 replies were received. About 1,000 firms in the United States were identified as manufacturers of medical devices. A list of approximately 8,000 devices was compiled. That list subsequently has been broken down into the 14 classification panel specialty areas and is available through Bureau of Medical Devices and Diagnostic Products (BMDDP), HFK-100 (Division of Compliance), 5600 Fishers Lane, Rockville MD 20852.

The Secretary also requested the Commissioner to classify such devices into the three categories called for in the Cooper Committee report. The device classification process was preceded by the work of ad hoc committees composed of experts from the orthopaedic and cardiovascular specialty areas which were organized to develop and recommend general procedures and criteria that could be used to formulate a system for the classification of all medical devices. The recommendations of these committees were reviewed and revised by the Food and Drug Administration with the assistance of the health professions and regulated industry. These efforts resulted in the development of a classification logic system for determining one or more appropriate levels of control for any medical device. The resulting device classification system included a series of questions relating to a device's characteristics that are determinative of its appropriate classification. These questions have been incorporated into a classification logic system which is the central element in the classification process.

The classification process itself was initiated by dividing all devices into 14 separate categories generally based on medical specialties: Orthopaedic; cardiovascular; dental; anesthesiology; obstetrical and gynecological; gastroenterology and urology; radiology; neurology; ear, nose and throat; ophthalmic; general and plastic surgery; physical medicine (physiatry); diagnostic products; and general hospital and personal use. The initial device categorization list is on public display in the office of the Hearing Clerk, Food and Drug Administration, at the address given above.

Fourteen classification panels were established corresponding with the medical specialties above and comprised of experts skilled in the use of, or experienced in the development, manufacture, or utilization of medical devices. Panel members have been selected and the panels are presently functioning in review and classification of devices that fall within their respective areas.

The 14 classification panels and their members are listed below. Of these 14 panels, the first four were established from lists of experts compiled by the Commissioner. (See 38 FR 19060, July 17, 1973.) Prior to selecting members for 9

of the other 10 panels, an opportunity was provided, through notices published in the FEDERAL REGISTER, for interested persons to nominate qualified individuals with diversified expertise in such fields as clinical and administrative medicine, engineering, biological and physical sciences, and other related professions (38 FR 34353, Dec. 13, 1973; 39 FR 7191, Feb. 25, 1974; 39 FR 12268, Apr. 4, 1974). It was from these nominations that the Commissioner appointed the expert panel members to the panels. The tenth panel, the diagnostic products panel, received nominations from professional clinical laboratory and scientific associations and the panel members were chosen on the basis of expertise in the area of in vitro diagnostic products. Opportunity was provided for the nomination of a nonvoting consumer and industry representative to each of the 14 panels and from these the Commissioner appointed consumer and industry panel members to all 14 panels. Full-time employees of the Food and Drug Administration were not appointed as panel members.

The membership of the panels is listed below:

**Orthopaedic:**  
Victor H. Frankel, M.D., Ph.D., Chairman.  
Charles H. Epps, Jr., M.D.  
Floyd H. Jergensen, M.D.  
Jacquelin Perry, M.D.  
Robert F. Hochman, Ph.D.  
Consumer liaison: Arthur L. Foley, M.D., Ph.D.  
Industry liaison: Vacant.

**Cardiovascular:**  
John J. Collins, Jr., M.D., Chairman.  
Nina Starr Braunwald, M.D.  
Clarence Dennis, M.D., Ph.D.  
Jerome Liebman, M.D.  
Arthur Miller, Sc.D.  
Gabriel Gregoratos, M.D.  
Leslie A. Geddes, Ph.D.  
Consumer liaison: Margaret L. Arnold.  
Industry liaison: Kenneth D. Serkes, M.D.

**Dental:**  
John W. Stanford, Ph.D., Chairman.  
Garrett V. Ridgley, D.D.S.  
W. Arthur George, D.D.S.  
George E. Myers, D.D.S.  
Floyd A. Peyton, D.Sc.  
Harold E. Boyer, D.D.S.  
Frank L. Baasch.  
Consumer liaison: Claire Davis.  
Industry liaison: Robert H. Mercer.

**Anesthesiology:**  
Leslie Rendell-Baker, M.D., Chairman.  
James A. Meyer, M.D., LTC, MC.  
Eugene L. Nagel, M.D.  
Stanley W. Weltzner, M.D.  
Penelope Cave Smith, M.B.  
Henning Pontoppidan, M.D.  
John P. Swope, M.D.  
Consumer liaison: Alma Ashley.  
Industry liaison: Chalmers M. Goodyear.

**Gastroenterology and Urology:**  
George R. Nagamatsu, M.D., Chairman.  
Irving M. Bush, M.D.  
Joseph B. Dowd, M.D.  
Joyce D. Gryboski, M.D.  
W. Ray Hancock, M.D.  
Victor F. Scott, M.D.  
Orvar Swenson, M.D.  
Consumer liaison: S. Nathan Zilber.  
Industry liaison: Lawrence E. Curtiss.

**Obstetrical and Gynecological:**  
Horace E. Thompson, M.D., Chairman.  
Juel P. Borders, M.D.  
Richard P. Dickey, M.D., Ph.D.  
Theodore H. Freilich, D.O.

**Radiology:**  
William J. Tuddenham, M.D., Chairman.  
Leslie L. Alexander, M.D.  
Valerie A. Brookeman, Ph.D.  
Charles A. Kelsey, Ph.D.

**General Hospital and Personal Use:**  
George H. C. Stoble, M.D., Chairman.  
Ruth H. Bryce, R.N.  
Philip B. Johnson, M.D.  
Roetta S. Pildes, M.D.  
William R. Cole, M.D.  
William E. Matory, M.D.  
Edith Heldeman, R.N.  
Consumer liaison: Vacant.  
Industry liaison: Theodore J. Medrek, M.D.

**Neurology:**  
Charles Burton, M.D., Chairman.  
John S. Barlow, M.D.  
William B. Jarzembek, Ph.D.  
Michelle Maccario, M.D.  
Joseph T. McFadden, M.D.  
Blaine S. Nashold, M.D.  
Harold Stevens, Ph.D., M.D.  
Consumer liaison: Valerie W. Bulkeley.  
Industry liaison: Charles D. Ray, M.D.

**Ear, Nose & Throat:**  
Harry W. McCurdy, M.D., Chairman.  
Rita B. Eisenberg, Sc.D.  
James Jerger, Ph.D.  
Arthur F. Niemoeller, D.Sc.  
P. Blair, Simmons, M.D.  
Gabriel F. Tucker, Jr., M.D.  
Walter C. McLean, M.D.  
Consumer liaison: Jean L. McCarrey.  
Industry liaison: Russell Lee Thompson.

**General & Plastic Surgery:**  
Harold Laufman, M.D., Ph.D., Chairman.  
Bohn D. Allen, M.D.  
Louis R. M. Del Guercio, M.D.  
John B. Lynch, M.D.  
Frederick J. McCoy, M.D.  
Rose Marie McWilliams, R.N.  
Alma D. Morani, M.D.  
Consumer liaison: Michael C. Watson, M.D.  
Industry liaison: Paul C. Haffey.

**Ophthalmic:**  
Robert D. Reinecke, M.D., Chairman.  
Richard F. Brubaker, M.D.  
Jesse B. Eskridge, Ph.D.  
Theodore Lawwill, M.D.  
Donald G. Pitta, Ph.D.  
Abraham Schlossman, M.D.  
Michael A. Wainstock, M.D.  
Consumer liaison: Gladys V. Haugen, Mrs.  
Industry liaison: Charles J. Koester, Ph.D.

**Physical Medicine (Psychiatry):**  
Margaret M. Kenrick, M.D., Chairman.  
W. Hadely Hoyt, D.O.  
James L. Cockrell, Ph.D.  
Joy Cordery  
Justus F. Lehmann, M.D.  
Herbert W. Park III, M.D.  
Herman Wing, M.D.  
Consumer liaison: Hollis K. Russell, Jr.  
Industry liaison: Leslie W. Partridge.

Robert D. Moseley, Jr., M.D.  
Andrew K. Poznanaki, M.D.  
Arch W. Templeton, M.D.  
Consumer liaison: Richard A. Victor.  
Industry liaison: William D. Ashby.

The curriculum vitae of panel members are on public display at the office of the Hearing Clerk, Food and Drug Administration, address noted above.

The provisions of the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act presently authorize the Food and Drug Administration to engage in medical device classification. The Commissioner has concluded that, pending enactment of new legislation containing specific classification procedures, interim procedures consistent with the recommendations of the Cooper Committee and proposed legislation should be published in order to formalize, on a temporary basis, the current classification process. These procedures are set forth below. They are designed to enable the Commissioner to determine which devices should be subject to general controls, performance standards, or premarket approval. Further, they provide to manufacturers and importers of devices early notice and information that they can use to enable them to prepare for the application of such controls, standards, or approval to the devices handled by them, when new legislation is enacted.

The Commissioner has reviewed the classification logic system and has concluded that it is consistent with the proposed legislation and that it represents a reasonable mechanism for device classification. Accordingly, he finds that this system shall remain in effect until or unless modified by legislation.

Under the proposed legislation, in vitro diagnostic products are regulated as devices. The present system can also be applied to these products. Accordingly, the diagnostic products classification panel is applying this system.

The following interim procedures relating to the classification of medical devices intended for human use (including in vitro diagnostic products) are hereby adopted.

## INTERIM CLASSIFICATION PROCEDURES

1. **Panel membership.** The procedure for the nomination of members to serve on medical device classification panels already has been the subject of previous notices that were published in various issues of the FEDERAL REGISTER. The citations to these notices are: July 17, 1973 (38 FR 19060); December 13, 1973 (38 FR 34353); February 25, 1974 (39 FR 7191); April 4, 1974 (39 FR 12268). The Commissioner concludes that this process is consistent with the proposed legislation and that no change is warranted at this time.

A panel in existence prior to this notice shall continue in existence in accordance with the terms of the charter by which the panel was established. Members appointed to such panels will continue to serve for the duration of the panel, or until their terms of appointment expire, they resign, or are removed from membership by the Commissioner.

Appointment of new panel members shall be initiated by a notice published in the FEDERAL REGISTER calling for nomination of members. Scientific, trade, consumer, and professional organizations, and interested individuals may submit nominations in accordance with the procedures published in the FEDERAL REGISTER notices cited above.

Experts appointed to a panel will be qualified by training, education, or experience to evaluate the safety and effectiveness of the devices to be referred to the panel to which they are appointed. Such persons will be skilled in the use of, or experienced in, the development, manufacture, or utilization of such devices. The panel membership will consist of members with adequately diversified expertise in such fields as clinical and administrative medicine, engineering, biological and physical sciences, or other related professions; and there will be a non-voting consumer and industry representative on each panel. The consumer and industry representatives will be selected to represent the interests of and serve as liaison with interested individuals, associations, and organizations.

Full-time employees of the Food and Drug Administration will not be appointed as panel members but do serve as executive secretaries to panels. These executive secretaries will have no vote.

2. **Device classification logic system.** Each device subject to classification shall be sequentially carried through the device classification logic system to determine which of the following controls apply: General controls, performance standards, or premarket approval. The determination is made after the consideration of 18 logic system questions relating to the safety and effectiveness characteristics of the device under consideration. All human medical devices will be subject to the minimum level of general controls; some such devices also will be subject to other controls. The 18 classification logic system questions are designed to designate those devices for which additional controls are or are not appropriate or necessary. The least restrictive level of control will be determined consistent with the overall objective of ensuring that the device is both safe and effective. The level of control selected for a particular device must be the most practical means of materially reducing whatever risk is associated with it, consistent with appropriate public health considerations. Although experts in the use and application of the device under review can best utilize the classification system, it is designed so that one generally familiar with a particular device can classify the device by using the system.

The following device classification logic system which has been in use by the panels is adopted:

Question 1: Is the device custom made?  
Answer: Yes—Go to question 2. No—Go to question 3.  
Question 2: Although the device is custom made, can standards be applied?  
Answer: Yes—Appropriate and applicable standards apply; go to question 17. No—Go to question 17.

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Question 3: Is the device life-sustaining or life-supporting?

Answer: Yes—Go to question 5. No—Go to question 4.

Question 4: Is the device or diagnostic information derived from use of the device potentially hazardous to life or good health when properly used?

Answer: Yes—Go to question 5. No—Go to question 7. Do not know—Go to question 6.

Question 5: Is the device of such a nature that: (a) sufficient scientific and medical data exist from which adequate standards governing the device safety and efficacy could now be established; and; (b) development and application of such a standard would be adequate to control the device?

Answer: Yes—Go to question 7. No—Go to question 6. Do not know—Go to question 6.

Question 6: Is the device currently in use and marketed in the United States?

Answer: Yes—Premarket approval and general controls apply; go to question 7. No—(Assuming that the device is ready for and will be introduced into full scale marketing.) Premarket approval and general controls apply. Go to question 7.

Question 7: When the device is used, is it remote from the body? (Remote means no physical or energy connection to the body nor is it used as a part of or a delivery system for gases, fluids or other materials to or from the body.)

Answer: Yes—Go to question 14. No—Go to question 8. (Device is not remote if it is: (1) associated with the body through some form of energy transmission or conduction or used as a delivery system for gases, fluids or other materials to or from the body; (2) used on surface of the body; (3) used in contact with an internal body surface or cavity or used as a short-term implant; and/or (4) used as a long-term implant that is designed to be inserted into the body and reside indefinitely within the body.) Do not know—Go to question 8.

Question 8: Is the device powered by a nonmanual external or internal source (such as electrical, pneumatic, nuclear, etc.)?

Answer: Yes—Go to question 9. No—Go to question 13.

Question 9: Will the use of device or failure of power or device power source present a potential hazard to the patient?

Answer: Yes—Electrical, mechanical or some other safety standard which reflects the powered nature of the device will apply. Go to question 10. No—Go to question 10. Do not know—Electrical, mechanical or some other safety standard which reflects the powered nature of the device will apply; go to question 10.

Question 10: Does the device emit and/or inject any form of energy to or into the body?

Answer: Yes—Go to question 11. No—Go to question 13.

Question 11: Have the energy levels used been shown to be acceptable?

Answer: Yes—Go to question 12. No—Energy level standards apply. Go to question 12.

Question 12: Will malfunction of the device result in safe energy levels?

Answer: Yes—Go to question 13. No—Energy level standards for the device apply. Go to question 13. Do not know—Energy level standards for the device apply; go to question 13.

Question 13: Does the device use material for contact with the body which is generally acceptable or has known and acceptable properties which can be provided with no additional control requirements?

Answer: Yes—Go to question 14. No—Standards for material applicable for that portion of the device which comes in con-

tact with the body, body fluids, or materials delivered to the body; go to question 14. Do not know—Standards for material applicable for that portion of the device which comes in contact with the body fluids, or materials delivered to the body; go to question 14.

Question 14: Does the device have any known hazards, limitations, or shortcomings which can be avoided by promulgation of Federal regulations applicable to the device in question?

Answer: Yes—Go to question 15. Proscriptions apply (limitations, hazards, difficulties, problems of a device or class of devices which can be controlled by specific regulations concerning the devices in question). No—Go to question 15.

Question 15: If the device performs some measurement function, should the accuracy, reproducibility or limitations of the information supplied be clearly indicated to the user by appropriate labeling, instructions, or precautions?

Answer: Yes—Go to question 16. Measurement characteristics which should be clearly indicated in the labeling so this information is readily available to the user). No—Go to question 16.

Question 16: Does the device have performance characteristics which should be maintained at a satisfactory level, such level having general agreement among the user groups?

Answer: Yes—Specific performance standards apply. Go to question 17. No—Go to question 17.

Question 17: Is the device used with other devices in such a way that the system in which it is used can be hazardous if the system is not assembled, used or maintained in a satisfactory fashion?

Answer: Yes or do not know—System considerations and general controls apply. (System considerations, as a control category, at present are beyond the jurisdiction of the Federal Food, Drug, and Cosmetic Act but should be encouraged by working with outside organizations (Inter-Society Commission for the Accreditation of Hospitals, American Hospital Association, local and state regulatory authorities, medical societies, etc.) which may have more jurisdiction and authority.) No—General controls apply.

Question 18: Is the device potentially hazardous to the fetus or the gonads when properly used?

Answer: Yes or do not know—The device will be reviewed by the obstetrical and gynecological and the classifying panels jointly for further classification.

3. Panel meetings—open and closed sessions. One portion of any panel meeting shall be open to provide an opportunity for all interested persons to present oral data, technical information and views. The panel also may meet in closed session for deliberation and consideration of data and information exempt from public disclosure. Only panel members (including the industry and consumer representatives) and such other FDA employees and consultants as may be authorized by the Commissioner shall be permitted to attend a closed session.

4. Submission of data to the committee—opportunity for presentation. The Commissioner believes that all interested persons should have an opportunity to submit relevant data, technical information, and views to the Food and Drug Administration for consideration by the applicable device classification panel in its deliberations. Not less than 15 days

prior to each meeting, a notice will be published in the FEDERAL REGISTER stating the name of the classification panel which is meeting; the date, time, and location of the meeting; the time of the open and closed portions of the meeting (including the reasons for closing); the time specifically set aside for oral statements by interested persons and other public participation; a statement that written submission may be made to the panel at any time; the name, address, and telephone number of the contact person for the panel; and the list of all devices whose classification will be considered at the meeting. The list of devices will also be available by mail prior to the publication of the notice of the meeting in the FEDERAL REGISTER. If requested in writing from the contact person for the panel.

Any individual or organization may present to the panel oral data, technical information and views relating to the proper classification of a device. Additionally, individuals or organizations may present data, technical information and views in writing.

Individuals and organizations requesting an opportunity for oral presentation shall inform the contact person, no later than 10 days prior to the panel meeting, of that intention, with a brief statement of the general nature of the proposed presentation is expected to begin. Where the names and addresses of proposed participants, and references to any data to be relied upon. The contact person shall determine the time to be allocated to each oral presentation and shall inform the individual or organization of the time allocated and the approximate time the presentation is expected to begin. Whenever possible, all written data and information to be discussed in the presentation to the panel shall be furnished in advance to the contact person who shall distribute it to the panel members.

Individuals or organizations submitting written presentations shall forward 15 copies to the contact person. These shall be accompanied by a brief summary of the data, technical information and views presented, as well as names and addresses of the presenters. Material not received far enough in advance of the meeting to allow distribution to the panel members prior to that meeting will be given to the panel members for their consideration at the next meeting.

Presentations may be given to a complete panel or a subpanel of a panel. All presentations shall be open to the public, except to the extent matters are presented that are prohibited from public disclosure, pursuant to the provisions of 21 CFR Part 4. The panel may establish a cut-off date after which submissions of data, technical information or views will not be considered, unless after a preliminary review the panel determines that in the public interest they should be reviewed and considered in depth.

After considering the written comments and oral presentations, the panel, through the use of the classification logic system set out in paragraph 2, shall decide on the appropriate classification for each specific device or class of de-

vices. The panel's decision shall be documented by a completed classification logic system questionnaire for the device.

5. Release of data and information submitted to panel. Two types of information generally may be presented to the medical device classification panels: (a) Manufacturing data including design, production, quality control, and similar information, and (b) data relating specifically to safety and effectiveness. The release of such data and information is governed by the new public information regulations in 21 CFR Part 4 as promulgated in the FEDERAL REGISTER of December 24, 1974 (39 FR 44602), as follows:

(a) Manufacturing data. All manufacturing data and information submitted to a medical device classification panel including data relating to design, production, quality control, and similar information which is used in one's business and which gives him an opportunity to obtain an advantage over competitors who do not know or use it shall be retained as confidential trade secret information and not released to the public at any time, unless it has previously been disclosed in a lawful manner to any member of the public or is abandoned and thus is no longer confidential.

(b) Safety and effectiveness data. The release of safety and effectiveness data relating to medical devices shall be handled in the same manner as such data are handled for drugs, as discussed in detail in the preamble to the notice promulgating the new public information regulations published in the FEDERAL REGISTER of December 24, 1974 (39 FR 44602). Under the Federal Food, Drug, and Cosmetic Act, new drugs are regulated by private licenses rather than public regulations. No one may market a new drug without first obtaining his own approved new drug application. Accordingly, the Commissioner has concluded that the safety and effectiveness data for new drugs fall within the trade secrets exemption and thus are not available for public disclosure, unless the applicant previously has made the information public, or the drug has been disapproved or withdrawn from the market, or the drug has reached the stage where it may be marketed without submission of such data to the agency for approval.

In contrast to new drugs, antibiotic drugs are regulated by public regulation. Anyone who meets the requirements of the regulation may lawfully market the antibiotic drug without obtaining any further approval. Accordingly, the Commissioner has concluded that the safety

and effectiveness data for antibiotic drugs do not fall within the trade secrets exemption and are available for public disclosure immediately.

Because premarket approval of a device under the proposed legislation follows the same individual product license approach as premarket approval of new drugs, the Commissioner concludes that the economic value of the safety and effectiveness data for medical devices subject to premarket approval is similar to such data included in new drug applications. Accordingly, the release of information for devices which are classified in this category will be handled in the same manner as for new drugs. Similarly, where a device is classified as subject only to standards, which are public regulations, the release of information will be handled in the same manner as for antibiotic drugs.

However, the Commissioner will not be able to determine the confidentiality of safety and effectiveness data submitted for devices until he makes a final decision on classification. Therefore, safety and effectiveness data and information submitted to a panel, except for material that has previously been disclosed to the public, shall be considered confidential until a decision on final classification is reached. Upon final classification by the Commissioner, data and information which fall within the confidentiality provisions established in 21 CFR Part 4, or which relate to the safety and effectiveness of devices determined to require premarket approval, shall be retained as confidential. Safety and effectiveness data and information for those devices classified in either the performance standard or general regulatory controls categories shall, within 30 days after such final classification, be made available to the public, unless the person who submitted the information demonstrates that it should remain confidential in accordance with the provisions of 21 CFR Part 4.

All views expressed by non-panel members with respect to the proper classification of a device shall be available to the public upon receipt of such submission. The industry and consumer representatives and other panel members may relate and discuss all aspects of the closed portions of a panel meeting (including summary data), except those involving trade secrets, confidential commercial or financial matters, or any other matter for which FDA or the panel concludes that disclosure would be premature. The views of individual panel members shall not be disclosed.

6. Release of panel's tentative classification recommendations. The tentative

classification recommendations of a panel for each device or class of device, in the form of a completed classification logic system questionnaire, will be available after each panel meeting from the Hearing Clerk, Food and Drug Administration, address noted above. Interested persons will then have an opportunity to present information to the panel relative to the tentative classification of a device pursuant to the procedures set forth in paragraph 4.

The minutes of the panel meetings shall include the proposed classification of the devices considered at the meeting. The minutes, as approved by the panel and certified by the chairman, excluding matter nondisclosable pursuant to 21 CFR Part 4, will be available from the Hearing Clerk.

Periodically, a FEDERAL REGISTER notice of availability will be issued listing the tentative classification conclusions of the classification panels and the availability of the tentative classification results and questionnaires.

These interim procedures shall remain in effect until such time as new regulations are promulgated and become effective. It is anticipated that the tentative classification recommendations will be referred back to the panels for ratification or amendment once proposed legislation is enacted. However, the Commissioner believes that these interim procedures established in this notice reflect the intent of proposed legislation and the bulk of the classification work will not have to be duplicated. This will enable the Commissioner to proceed with the final classification process with a minimum of delay once the legislation is enacted.

The Commissioner will issue, in the near future, comprehensive new procedural regulations in 21 CFR Part 2 that will include provisions governing all aspects of the activities of advisory committees, including the device classification panels, such as the preparation of panel records and the release of information coming before the panel.

This notice is published pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 201 et seq., 52 Stat. 1040 et seq. as amended (21 U.S.C. 321 et seq.)) and the Public Health Service Act (sec. 1 et seq., 58 Stat. 682 et seq., as amended (42 U.S.C. 201 et seq.)) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: May 12, 1975.

SHERWIN GARDNER,  
Deputy Commissioner  
of Food and Drugs.

[FR Doc. 75-13022 Filed 5-16-75; 8:46 am]



# **federal register**

MONDAY, MAY 19, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 97



PART III

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## **DEPARTMENT OF THE INTERIOR**

Office of the Secretary

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### **UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION GUIDELINES**

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## RULES AND REGULATIONS

## Title 41—Public Contracts and Property Management

## CHAPTER 114—DEPARTMENT OF THE INTERIOR

## PART 114-50—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES

## Guidelines

Pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894; 42 U.S.C. 4601), and the authority of the Secretary of the Interior as contained in 5 U.S.C. 301, the Department is amending Chapter 114, Title 41 of the Code of Federal Regulations to incorporate revisions in the guidelines for agency implementation of the aforementioned Act as provided for by publication of the General Services Administration Federal Management Circular 74-8 on October 4, 1974.

On February 13, 1975 (40 FR 6667) the Department first published these amendments for public comment as notice of proposed rulemaking. The Department has considered the comments received and made minor substantive changes discussed below. Because the regulations are interpretive rules and statements of policy (5 U.S.C. 553(d)(2)), the amendatory regulations will be effective on May 19, 1975.

In commenting on the proposed regulation it was suggested that in condemnation action where repayment of a portion or all of a provisional replacement housing payment was required that repayment be accomplished through an offset against the condemnation award. This procedure was rejected because it was determined that the court would not have jurisdiction in a condemnation proceeding to require such an offset. Accordingly where the acquisition price determined by the court is greater than the government's offer upon which the provisional replacement housing payment is based, a homeowner will be required to refund the appropriate portion of a provisional replacement housing payment, including interest, pursuant to an agreement with the government.

The comment that Item No. 9 in the interest payment format contained in Appendix I to Subpart 114-50.8 should be revised to reflect the matching regulation requirement that the discount rate used in determining increased interest costs, if any, shall be the mean annual interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located, has been accepted.

The suggestion that any claims made under these regulations and the Act should be adjudicated on the basis of the regulations in effect when the decision is issued rather than when the claim was filed was not adopted. The Department is concerned that persons displaced by or under programs administered by the several bureaus of the Department be assured of accurate and timely assistance in the preparation and filing of their

claims. Adoption of this suggestion would in the Department's judgment impair the agency's ability to implement the Act in an equitable and uniform manner. Accordingly, Chapter 114 is amended as hereafter provided.

JAMES T. CLARKE,  
Assistant Secretary  
of the Interior.

MAY 8, 1975.

## Subpart 114-50.1—General

1. The table of contents for Subpart 114-50.1 is revised to read as follows:

## SUBPART 114-50.1—GENERAL

Sec.	Purpose.
114-50.100	Adjudication of claims.
114-50.101	Scope.
114-50.102	Applicability.
114-50.103	Notice of displacement.
114-50.104	Eligibility requirements.
114-50.105	Extension of eligibility.
114-50.105-1	Relocation costs treated separately from purchase price of real property acquired under Federal law.
114-50.106	Filing applications for benefits.
114-50.107	Time limitation for filing applications for benefits.
114-50.107-1	Forms used for filing applications for benefits.
114-50.107-2	Payments not to be considered income.
114-50.108	Multiple Occupancy.
114-50.109	Effects upon property acquisition.
114-50.110	Withholding from relocation payments.
114-50.111	Bureau and Office procedures.

## Subpart 114-50.1—General

2. Sections 114-50.100 and 114-50.101 are revised as follows:

## § 114-50.100 Purpose.

These regulations prescribe policies and procedures to insure the fair, equitable, and uniform treatment of persons displaced by Federal and federally assisted programs. They implement the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, hereinafter referred to as the Act, and General Services Administration Guidelines. All references in these regulations to sections or subsections are references to sections or subsections of the Act.

## § 114-50.101 Adjudication of claims.

Any claims made under these regulations and the Act shall be adjudicated on the basis of the regulations in effect when the claim was filed.

3. Section 114-50.107-2 is revised as follows:

## § 114-50.107-2 Forms used for filing applications for benefits.

Department of the Interior Forms DI-380 and DI-381, "Application for Reimbursement, Moving and Related Expenses Under Act of January 2, 1971," and Instructions for their preparation, Forms DI-380a, and DI-381a, are prescribed for use by all Bureaus and Offices.

4. Existing § 114-50.111 is redesignated as § 114-50.112 and a new § 114-50.111 is added as follows:

## § 114-50.111 Withholding from relocation payments.

To insure equitable treatment, no displaced person is to have a relocation payment withheld or amounts deducted therefrom (including closings in escrow) to satisfy claims or obligations to others, including the acquiring agency. Moving costs and relocation payments are intended to lessen the impact of the forced relocation and to permit satisfactory relocation into decent, safe, and sanitary housing. Other legal remedies are available to the displacing Bureau or Office to satisfy the displacee's credit obligations rather than withholding amounts from relocation payments.

## Subpart 114-50.2—Definitions

5. In § 114-50.201, paragraphs (b), (d) (4), and (g) are revised to read as follows:

## § 114-50.201 Definition of terms.

(b) *Bureaus and Offices.* Means the following agencies of the Department of the Interior:

- (1) Fish and Wildlife Service.
- (2) Bureau of Mines.
- (3) Bureau of Indian Affairs.
- (4) Bureau of Land Management.
- (5) Bureau of Reclamation.
- (6) Bureau of Outdoor Recreation.
- (7) National Park Service.
- (8) Geological Survey.
- (9) Bonneville Power Administration.
- (10) Southeastern Power Administration.

(11) Southwestern Power Administration.

(12) Alaska Power Administration.

(13) Office of Water Research and Technology.

(14) Mining Enforcement and Safety Administration.

(d) . . . . .

(4) *Located in an area not generally less desirable than the one in which the acquired dwelling is located with respect to:*

. . . . .

(g) *Displacing agency.* A Bureau or Office in the case of a direct Federal project or a State agency, as defined in the Act, in the case of a project receiving Federal financial assistance.

## Subpart 114-50.4—Relocation Assistance Advisory Services

6. The table of contents for Subpart 114-50.4 is revised to read as follows:

## SUBPART 114-50.4—RELOCATION ASSISTANCE ADVISORY SERVICES

Sec.	Purpose.
114-50.400	Relocation assistance advisory program.
114-50.401	Organizational requirements.
114-50.402	Relocation plan.
114-50.403	Coordination of planned relocation activities.
114-50.404	Local coordination.
114-50.405	Coordination with project work.
114-50.406	Public information.

Sec.	Purpose.
114-50.407	Contracting for relocation services.
114-50.407-1	Agreements with central relocation agency.
114-50.407-2	Contracting with private concerns.
114-50.407-3	Additional sources of advisory services.
114-50.407-4	Relocation services—federally assisted programs.
114-50.408	Displaced person declining to accept relocation services.

7. In § 114-50.403, paragraph (a) and (b) are revised to read as follows:

## § 114-50.403 Coordination of planned relocation activities.

(a) Bureaus and Offices causing displacement shall:

(1) Consult with the appropriate field office of the Department of Housing and Urban Development within the jurisdictional area concerning the availability of housing;

(2) Provide the Housing and Urban Development field office with information regarding the projects which will cause displacement; and

(3) Designate at least one representative who will meet periodically with representatives of other Interior Bureaus and other Federal agencies causing displacement in the community to review the impact of their respective programs on the community or area.

(b) A directory of the Department of Housing and Urban Development field offices is contained in Appendix I to this subpart. The Department of Housing and Urban Development will maintain this directory on a current basis and furnish updated copies upon request.

8. Existing § 114-50.407-3 is redesignated as § 114-50.407-4 and new § 114-50.407-3 is added as set forth below:

## § 114-50.407-3 Additional sources of advisory services.

The following additional sources of advisory services may be available in the project area and should be considered and utilized whenever practicable:

(a) *Veterans Administration (VA).* The Veterans Administration maintains a housing counseling service and a displaced persons priority program for providing VA owned housing to displaced persons. These services may be made available to persons displaced by Federal and federally assisted programs and the local VA Loan Guarantee Office should be contacted.

(b) *Small Business Administration.* The Small Business Administration provides technical and loan counseling services for small businesses. A displaced businessman should be advised of these services.

(c) *Department of Agriculture.* The Department of Agriculture provides many services through its direct action farmer assistance programs, activities in rural nonfarm communities, and also urban communities of under 10,000 population. Coordination with the Farmer's Home Administration, Department of

## RULES AND REGULATIONS

## REGION II

Regional Administrator, S. William Green,  
26 Federal Plaza, Room 3541,  
New York, New York 10007,  
Tel. (212) 264-8088.

## AREA OFFICES

New Jersey, Camden 08103,  
The Parkade Building,  
519 Federal Street,  
FTS Tel. (609) 963-2301,  
Commercial Number: 963-2541,  
Area Director: Philip G. Sadler.  
New Jersey, Newark 07102,  
Gateway 1 Building,  
Raymond Plaza,  
Tel. (201) 645-3019,  
Area Director: James P. Sweeney.  
New York, Buffalo 14202,  
Grant Building,  
560 Main Street,  
Tel. (716) 842-3510,  
Area Director: Frank D. Cerabone.  
New York, New York 10007,  
120 Church Street,  
Tel. (212) 264-2870,  
Area Director: Joseph D. Monticciolo (Acting).

## Commonwealth Area Office

Puerto Rico, San Juan 00936,  
255 Ponce de Leon Avenue,  
Hato Rey, Puerto Rico,  
Mailing Address:  
G Post Office Box 3869,  
San Juan, Puerto Rico.  
FTS Tel. (Dial 202-967-1221—ask operator for 6220201; from Washington, D.C.—dial Code 106—ask operator for 622-0201).  
Commercial Number: 809-765-0404.  
Area Administrator: Jose E. Febres Silva (Acting).

## Insuring Offices

New York, Albany 12206,  
Westgate North,  
30 Russell Road,  
Tel. (518) 472-3587,  
Director: Robert J. Wolf (Acting).  
New York, Hempstead 11550,  
175 Fulton Avenue,  
Tel. (516) 485-5000,  
Director: Michael Leen (Acting).

## REGION III

Regional Administrator, Theodore R. Robb,  
Curtis Building,  
6th and Walnut Streets,  
Philadelphia, Pennsylvania 19106,  
Tel. (215) 597-2560.

## AREA OFFICES

District of Columbia, Washington 20008,  
Universal North Building,  
1875 Connecticut Ave. NW.,  
Tel. (202) 382-4855,  
Area Director: Harry W. Staller (Acting).  
Maryland, Baltimore 21201,  
Two Hopkins Plaza,  
Mercantile Bank and Trust Building,  
Tel. (301) 982-2121,  
Area Director: Allen T. Clapp.  
Pennsylvania, Philadelphia 19106,  
Curtis Building,  
625 Walnut Street,  
Tel. (215) 597-2665,  
Area Director: Joseph A. LaSala (Acting).  
Pennsylvania, Pittsburgh 15212,  
Two Allegheny Center,  
Tel. (412) 644-2802,  
Area Director: Charles J. Lieberth.  
Virginia, Richmond 23219,  
701 East Franklin Street,  
Tel. (804) 782-2721,  
Area Director: Carroll A. Mason



## RULES AND REGULATIONS

## Insuring Offices

Delaware, Wilmington 19801,  
Farmers Bank Building, 14th Floor,  
919 Market Street,  
FTS Tel. (302) 571-6330,  
Director: Henry McC. Winchester, Jr.  
West Virginia, Charleston 25330,  
New Federal Building,  
500 Quarrier Street,  
Post Office Box 2948,  
FTS Tel. (304) 343-1321,  
Commercial Number: 343-6181,  
Director: H. William Rogers.

## Special Recovery Office

Scranton, Pennsylvania 18503,  
Lackawanna County Building,  
Spruce and Adams Avenue,  
Tel. 717-344-7393,  
Director: James D. Corbin.

## Region IV

Regional Administrator, E. Lamar Seals,  
Peachtree-Seventh Building,  
50 Seventh Street NE.,  
Atlanta, Georgia 30323,  
Tel. (404) 526-5585.

## Area Offices

Alabama, Birmingham 35233,  
Daniel Building,  
15 South 20th Street,  
Tel. (205) 325-3264,  
Area Director: Jon Will Pitts.  
Florida, Jacksonville 32204,  
Peninsula Plaza,  
661 Riverside Avenue,  
Tel. (904) 791-2626,  
Area Director: Forrest W. Howell.  
Georgia, Atlanta 30303,  
Peachtree Center Building,  
230 Peachtree Street NW.,  
Tel. (404) 526-4576,  
Area Director: William A. Hartman, Jr.  
(Acting).  
Kentucky, Louisville 40201,  
Children's Hospital Foundation Bldg.,  
601 South Floyd Street,  
Post Office Box 1044,  
Tel. (502) 582-5251,  
Area Director: Virgil G. Kinnaird.  
Mississippi, Jackson 39213,  
101-C Third Floor Jackson Mall,  
300 Woodrow Wilson Avenue W.,  
FTS Tel. (601) 948-2267,  
Commercial Number: 366-2634,  
Area Director: James B. Roland.  
North Carolina, Greensboro 27408,  
2309 West Cone Boulevard,  
Northwest Plaza,  
FTS Tel. (919) 275-9361,  
Commercial Number: 275-9111,  
Area Director: Richard E. Barnwell.  
South Carolina, Columbia 29202,  
1801 Main Street,  
Jefferson Square,  
Tel. (803) 765-5591,  
Area Director: Clifton G. Brown.  
Tennessee, Knoxville 37919,  
One Northshore Building,  
1111 Northshore Drive,  
FTS Tel. (615) 524-4561,  
Commercial Number: 584-8627,  
Area Director: Carroll G. Oakes.

## Insuring Offices

Florida, Coral Gables 33134,  
3001 Ponce de Leon Boulevard,  
FTS Tel. (305) 350-6221,  
Commercial Number: 445-2561,  
Director: Louis T. Baine (Acting).  
Florida, Tampa 33606,  
4224-28 Henderson Boulevard,  
Post Office Box 18165,  
Tel. (813) 228-2501,  
Director: K. Wayne Swiger.

Tennessee, Memphis 38103,  
28th Floor, 100 North Main Street,  
Tel. (901) 534-3141,  
Director: Glynn G. Raby, Jr. (Acting).  
Tennessee, Nashville 37203,  
1717 West End Building,  
Tel. (615) 749-5521,  
Director: George N. Gragson.

## Region V

Regional Administrator, George J. Vavoulis,  
300 South Wacker Drive,  
Chicago, Illinois 60606,  
Tel. (312) 353-5680.

## Area Offices

Illinois, Chicago 60602,  
17 North Dearborn Street,  
Tel. (312) 353-7660,  
Area Director: John L. Waner.  
Indiana, Indianapolis 46205,  
Willowbrook 5 Building,  
4720 Kingsway Drive,  
Tel. (317) 633-7188,  
Area Director: Choice Edwards (Acting).  
Michigan, Detroit 48226,  
5th Floor, First National Building,  
680 Woodward Avenue,  
Tel. (313) 266-7900,  
Area Director: John E. Kane (Acting).  
Minnesota, Minneapolis-St. Paul,  
Griggs-Midway Building,  
1821 University Avenue,  
St. Paul, Minnesota 55104,  
Tel. (612) 725-4701,  
Area Director: Thomas T. Feeney.  
Ohio, Columbus 43215,  
60 East Main Street,  
Tel. (614) 489-7345,  
Area Director: Elmer C. Binford (Acting).  
Wisconsin, Milwaukee 53203,  
744 North 4th Street,  
Tel. (414) 224-3223,  
Area Director: Richard A. Kaiser (Acting).

## Insuring Offices

Illinois, Springfield 62704,  
Lincoln Tower Plaza,  
524 South Second Street, Room 600,  
Tel. (217) 525-4414,  
Director: Boyd O. Barton.  
Michigan, Grand Rapids 49508,  
Northbrook Building Number 11,  
2922 Fuller Avenue N.E.,  
Tel. (616) 456-2225,  
Director: Alfred Raven.  
Ohio, Cincinnati 45202,  
Federal Office Building,  
550 Main Street, Room 9009,  
Tel. (513) 684-2864,  
Director: Charles Collins II (Acting).  
Ohio, Cleveland 44199,  
Federal Building,  
1240 East 9th Street,  
Tel. (216) 522-4065,  
Director: Charles P. Lucas.

## Region VI

Regional Administrator, Richard L. Morgan,  
Room 14B35, New Dallas Federal Building,  
1100 Commerce Street,  
Dallas, Texas 75202,  
Tel. (214) 749-7401.

## Area Offices

Arkansas, Little Rock 72201,  
Room 1490, Union National Plaza,  
Tel. (501) 378-6401,  
Area Director: Thomas E. Barber.  
Louisiana, New Orleans 70113,  
Plaza Tower,  
1001 Howard Avenue,  
Tel. (504) 527-2063,  
Area Director: Thomas J. Armstrong.

Oklahoma, Oklahoma City 73102,  
301 North Hudson Street,  
FTS Tel. (405) 231-4891,  
Commercial Number: 231-4181,  
Area Director: Robert H. Breeden.

Texas, Dallas 75202,  
2001 Bryan Tower, 4th Floor,  
Tel. (214) 749-1601,  
Area Director: Manuel Sanchez III.

Texas, San Antonio 78285,  
Kallison Building,  
410 South Main Avenue,  
Post Office Box 9163,  
FTS Tel. (512) 225-4685,  
Commercial Number: 225-5511,  
Area Director: Fennis E. Jolly.

## Insuring Offices

Louisiana, Shreveport 71101,  
514 Ricou-Brewster Building,  
425 Milam Street,  
FTS Tel. (318) 425-6601,  
Commercial Number: 425-1241,  
Director: Rudy Langford.

New Mexico, Albuquerque 87110,  
635 Truman Street NE.,  
Tel. (505) 766-3251,  
Director: Luther G. Branham.

Oklahoma, Tulsa 74152,  
1708 Utica Square,  
Post Office Box 4054,  
Tel. (918) 581-7435,  
Director: Robert H. Gardner.

Texas, Fort Worth 76102,  
819 Taylor Street,  
Room 13A01 Federal Building,  
Tel. (817) 334-3233,  
Director: Richard M. Hazlewood.

Texas, Houston 77046,  
Two Greenway Plaza East, Suite 200,  
Tel. (713) 226-4335,  
Director: William A. Painter.  
Texas, Lubbock 79408,  
Courthouse and Federal Office Building,  
1206 Texas Avenue,  
Post Office Box 1647,  
FTS Tel. (806) 747-3265,  
Commercial Number: 747-3711,  
Director: Don D. Earney.

## Region VII

Regional Administrator, Elmer E. Smith,  
Federal Office Building, Room 300,  
911 Walnut Street,  
Kansas City, Missouri 64106,  
Tel. (816) 374-2661.

## Area Offices

Kansas, Kansas City 66101,  
Two Gateway Center,  
4th and State Streets,  
Tel. (816) 374-4355,  
Area Director: William R. Southerland.

Missouri, St. Louis 63101,  
210 North 12th Street,  
Tel. (314) 622-4760,  
Area Director: Elmo O. Turner.

Nebraska, Omaha 68106,  
Univac Building,  
7100 West Center Road,  
Tel. (402) 221-9301,  
Area Director: Guy J. Birch.

## Insuring Offices

Iowa, Des Moines 50309,  
210 Walnut Street,  
Room 259 Federal Building,  
Tel. (515) 284-4812,  
Director: Nate Ruben.  
Kansas, Topeka 66603,  
700 Kansas Avenue,  
Tel. (913) 234-8241,  
Director: Jim Hall (Acting).

## Region VIII

Regional Administrator, Robert C. Rosenheim,  
Federal Building,  
1961 Stout Street,  
Denver, Colorado 80202,  
Tel. (303) 837-4881.

## Insuring Offices

Colorado, Denver 80202,  
4th Floor, Title Building,  
909 - 17th Street,  
Tel. (303) 837-2441,  
Director: Joseph G. Wagner.

Montana, Helena 59601,  
616 Helena Avenue,  
Tel. (406) 442-3237,  
Director: Orvin B. Fjare.

North Dakota, Fargo 58102,  
Federal Building,  
653 - 2nd Avenue N.,  
Post Office Box 2483,  
Tel. (701) 237-5136,  
Director: Duane R. Liffing.

South Dakota, Sioux Falls 57102,  
119 Federal Building U.S. Courthouse,  
400 S. Phillips Avenue,  
FTS Tel. (605) 336-2223,  
Commercial Number: 336-2980,  
Director: Rodger L. Rosenwald.

Utah, Salt Lake City 84111,  
125 South State Street,  
Post Office Box 11009,  
Tel. (801) 524-5237,  
Director: L. C. Romney.

Wyoming, Casper 82601,  
Federal Office Building,  
100 East B Street,  
Post Office Box 580,  
FTS Tel. (307) 265-3252,  
Commercial Number: 265-5550,  
Director: Marshall F. Elliott (Acting).

## Region IX

Regional Administrator, Robert H. Balda,  
450 Golden Gate Avenue,  
Post Office Box 36003,  
San Francisco, California 94102,  
Tel. (415) 556-4752.

## Area Offices

California, Los Angeles 90057,  
2500 Wilshire Boulevard,  
Tel. (213) 688-5973,  
Area Director: Roland E. Camfield  
(Acting).

California, San Francisco 94111,  
1 Embarcadero Center,  
Suite 1600,  
Tel. (415) 556-2238,  
Area Director: James H. Price.

## Insuring Offices

Arizona, Phoenix 85002,  
244 West Osborn Road,  
Post Office Box 13468,  
FTS Tel. (602) 261-4434,  
Commercial Number: 261-4441,  
Director: Merritt R. Smith.

California, Sacramento 95809,  
801 I Street,  
Post Office Box 1978,  
Tel. (916) 449-3471,  
Director: Richard D. Chamberlain.

California, San Diego 92112,  
110 West C Street,  
Post Office Box 2648,  
Tel. (714) 293-6310,  
Director: Albert E. Johnson.

California, Santa Ana 92701,  
1440 East First Street,  
FTS Tel. (714) 838-2451,  
Commercial Number: (714) 838-2451,  
Director: Robert L. Simpson.

## RULES AND REGULATIONS

Hawaii, Honolulu 96813,  
1000 Bishop Street, 10th Floor,  
Post Office Box 3377,  
FTS Tel. (Dial 415-556-0220 and ask op-  
erator for 546-2136).  
Commercial Number: 546-2136,  
Director: Alvin K. H. Pang.

Nevada, Reno 89505,  
1050 Bible Way,  
Post Office Box 4700,  
Tel. (702) 784-5356,  
Director: Morley W. Griswold.

## Region X

Regional Administrator, Oscar P. Pederson,  
Arcade Plaza Building,  
1321 Second Avenue,  
Seattle, Washington 98101,  
Tel. (206) 442-5415.

## Area Offices

Oregon, Portland 97204,  
520 Southwest 6th Avenue,  
Tel. (503) 221-2558,  
Area Director: Russell H. Dawson.  
Washington, Seattle 98101,  
Arcade Plaza Building,  
1321 Second Avenue,  
Tel. (206) 442-7456,  
Area Director: Marshall D. Majors.

## Insuring Offices

Alaska, Anchorage 99501,  
334 West 5th Avenue,  
FTS Tel. (Dial 208) 442-0150 and ask op-  
erator for 265-4790).  
Commercial Number: (907) 272-5561 Ext.  
791,  
Director: James Tveit (Acting).

Idaho, Boise 83707,  
331 Idaho Street,  
Post Office Box 32,  
FTS Tel. (208) 342-2232,  
Commercial Number: 342-2711,  
Director: Charles L. Holley, Jr.

Washington, Spokane 99201,  
West 920 Riverside Avenue,  
Tel. (509) 456-4571,  
Director: E. Daryl Mabey.

Subpart 114-50.5—Assurance of Ade-  
quate Replacement Housing Prior to  
Displacement

10. The introductory paragraph of  
§ 114-50.500 is revised to read as follows:  
§ 114-50.500 Determination of avail-  
ability of replacement housing.

Bureaus and Offices shall not proceed  
with any phase of any project or author-  
ize a State agency to proceed with any  
phase of a project which will cause the  
displacement of any person until it has  
determined, or received satisfactory as-  
surances from the displacing State  
agency that, within a reasonable period  
of time prior to displacement, decent,  
safe, and sanitary housing as defined in  
114-50.201(e) will be available on a basis  
consistent with the requirements of ti-  
tle VIII of the Civil Rights Act of 1968  
(Pub. L. 90-284) and the Flood Disaster  
Protection Act of 1973 (Pub. L. 93-234),  
in areas not generally less desirable in  
regard to public utilities and public and  
commercial facilities and at rents or  
prices within the financial means of the  
families and individuals being displaced.  
Such dwellings are to be equal in number  
to the number of, and available to, per-  
sons being displaced who require dwell-  
ings and reasonably accessible to their  
places of employment.

Subpart 114-50.7—Payments in Lieu of  
Moving and Related Expenses

11. Sections 114-50.702, 114-50.702-1,  
and 114-50.703 are revised to read as  
follows:

## § 114-50.702 Displaced farm operation.

A person displaced from his farm op-  
eration, as defined in Section 114-50.201  
(k), may elect to receive a fixed payment  
of not less than \$2,500 nor more than  
\$10,000 in lieu of actual moving expenses  
in accordance with the same criteria es-  
tablished for a person displaced from a  
business in Section 114-50.703. Such a  
payment may be made to the displaced  
operator of a farm operation only if the  
acquiring Bureau or Office determines  
that the farm operator has discontinued  
his entire farm operation at the present  
location or has relocated the entire farm  
operation.

## § 114-50.702-1 Farms—Partial taking.

In the case of a partial taking, the op-  
erator will be considered to have been  
displaced from a farm operation if:

- (a) The part taken met the definition  
of a farm operation prior to the taking  
and the part remaining does not; or
- (b) The taking caused the operator to  
be displaced from the farm operation on  
the remaining land; or
- (c) The taking caused such a substan-  
tial change in the nature of the existing  
farm operation as to constitute a dis-  
placement.

Note: If application of the above criteria  
obviously creates an inequity in any given  
case, the head of the Bureau or Office may  
approve the use of other criteria as deter-  
mined appropriate.

## § 114-50.703 Displaced business.

(a) A person displaced from his busi-  
ness, as defined in Section 114-50.201(c)  
(1), (2), and (3), may elect to receive a  
fixed payment of not less than \$2,500 nor  
more than \$10,000 in lieu of actual mov-  
ing and related expenses, provided that,  
the displacing Bureau or Office deter-  
mines that, during the two taxable years  
prior to displacement, or during such  
other period as the head of the Bureau or  
Office determines to be more equitable,  
the business:

- (1) Had average annual gross receipts  
of at least \$2,000 in value; or
- (2) Had average annual net earnings  
of at least \$1,000 in value; or
- (3) Contributed at least 33 1/3 percent  
of the average gross annual income of  
the owner(s) from all sources, including  
welfare.

Note: If application of the above criteria  
obviously creates an inequity in any given  
case, the head of the Bureau or Office may  
approve the use of other criteria as deter-  
mined appropriate.

Subpart 114-50.8—Replacement Housing  
Payment for Homeowners

12. In § 114-50.802-1, paragraph (d)  
is redesignated as paragraph (e), para-  
graph (c) is revised and a new paragraph  
(d) is added as set forth below:



### § 114-50.802-1 Differential payment for replacement housing.

(c) *Alternate method.* In the event that neither the schedule or comparative methods is feasible, the displacing agency should develop criteria for computing replacement housing payments. In the case of a Federally-assisted program, any alternate method proposed by a State agency should be subject to the prior concurrence of the Bureau or Office administering such program.

(d) The method of determining the replacement housing differential payment shall be selected by the acquiring agency.

(e) . . . . .

13. Section 114-50.802-2 is revised to read as follows:

### § 114-50.802-2 Interest payment.

Displaced persons shall be compensated for increased interest costs, if any, only if the acquired dwelling was encumbered by a bona fide mortgage. The payment for any increased interest costs including points, incurred by the displaced person, shall be determined in consideration of the following:

(a) The payment shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the bona fide mortgage on the acquired dwelling, at the time of acquisition, over the remaining term of the mortgage on the acquired dwelling, reduced to discounted present value.

(b) The discount rate shall be the mean annual interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

(c) A "bona fide mortgage" is one which was a valid lien on the acquired dwelling for not less than 180 days prior to the initiation of negotiations. All bona fide mortgages on the dwelling acquired by the displacing agency will be used to compute the increased interest cost portion of the replacement housing payment.

(d) The computation of the payment for increased interest costs will be based on the actual term of the new mortgage or the remaining term of the old mortgage, whichever is the lesser, and the computation will be based on the actual amount of the new mortgage or the unpaid amount of the old mortgage, whichever is the lesser.

(1) Seller's points are not to be included in the interest computation.

(2) The actual interest rate of the new mortgage will be used in the computation.

(3) Purchaser's points and/or loan origination fees will be added to the computed interest payment.

(e) However, the interest payment shall be based on the present value of the reasonable cost of the interest differential, including points paid by the pur-

chaser, on the amount financed not to exceed the amount of the unpaid debt on the acquired dwelling for its remaining term.

(f) The format prescribed in Appendix I to this Subpart 114-50.8 shall be used in the computation of the interest payment.

14. The introductory paragraph of § 114-50.802-3(a) is revised to read as follows:

### § 114-50.802-3 Incidental expenses.

(a) The payment for incidental expenses, i.e., the amount necessary to reimburse a displaced person for reasonable costs incurred by him incident to purchase of a replacement dwelling, shall be determined in consideration of such costs as:

15. Section 114-50.804 is revised to read as follows:

### § 114-50.804 Advance payment in condemnation cases.

In a condemnation proceeding involving a declaration of taking an advance replacement housing payment may be made to a homeowner if determination of the acquisition price of the acquired dwelling will be delayed pending the outcome of condemnation proceedings. Inasmuch as the exact amount of the re-

placement housing payment cannot be ascertained until final adjudication of the condemnation suit, a provisional replacement housing payment may be determined based on the displacing agency's offer for the property acquired. No such payment may be made, however, unless the homeowner agrees, in writing, that:

(a) Upon final determination of the condemnation proceeding, the replacement housing payment will be recomputed on the basis of the acquisition price determined by the court;

(b) If the acquisition price as determined by the court is greater than the displacing agency's offer upon which the provisional replacement housing payment was based, the difference up to the extent of the replacement housing payment advanced, shall be refunded (including interest computed at the same rate as that paid by the agency on that portion of the acquisition price above the agency's offer) to the displacing agency; and

(c) If the acquisition price as determined by the court is less than the displacing agency's offer upon which the provisional replacement housing payment was based, the difference shall be paid to the homeowner.

16. A new Appendix 1 is added to subpart 114-50.8;

### APPENDIX I

#### FORMAT

#### COMPUTATION OF INTEREST PAYMENT

##### REQUIRED INFORMATION

1. Outstanding balance of mortgage on acquired dwelling	\$	-----
2. Outstanding balance of mortgage on replacement dwelling	\$	-----
3. Lesser of Line 1 or Line 2	\$	-----
4. Number of months remaining until last payment is due for mortgage on acquired dwelling	-----	
5. Number of months remaining until last payment is due for mortgage on replacement dwelling	-----	
6. Lesser of Line 4 or Line 5	-----	
7. Annual interest rate of mortgage on acquired dwelling	-----	%
8. Annual interest rate of mortgage on replacement dwelling (or, if it is lower, the prevailing annual interest rate currently charged by mortgage lending institutions in the general area in which the replacement dwelling is located)	-----	%
9. Mean annual interest rate paid on standard passbook savings accounts by commercial banks	-----	%
10. If applicable, any debt service costs on the loan on the replacement dwelling, such as points paid by the purchaser which are not reimbursable as an incidental expense	\$	-----

##### DEVELOPMENT OF MONTHLY PAYMENT FIGURES

A. Monthly payment required to amortize a loan of \$ (Line 3) in (Line 6) months at an annual interest rate of (Line 7) %	\$	-----
B. Monthly payment required to amortize a loan of \$ (Line 3) in (Line 6) months at an annual interest rate of (Line 8) %	\$	-----
C. Monthly payment required to amortize a loan of \$ (Line 3) in (Line 6) months at an annual interest rate of (Line 9) %	\$	-----

##### CALCULATION OF INTEREST PAYMENT

##### STEP 1

Subtract A from B		
Monthly payment based on rate for replacement dwelling (B)	\$	-----
Monthly payment based on rate for acquired dwelling (A)	\$	-----
Result (difference)	\$	-----

Divide result (difference) of Step 1 by C (Carry to 6 decimal places)		
Result (difference) from Step 1	\$	-----
Monthly payment based on savings rate (C)	\$	-----
Result (quotient)		

Multiply outstanding balance of mortgage on acquired dwelling by result (quotient) of Step 2		
Outstanding balance (from Line 3)	\$	-----
Result (quotient) of Step 2	X	-----

Add to result (product) of Step 3 any debt service costs on the loan on the replacement dwelling	\$	-----
Result (product) of Step 3, 1st mortgage	\$	-----
Result (product) of Step 3, 2nd mortgage	\$	-----
Sum or difference, as applicable	\$	-----
Debt service costs on loan on replacement dwelling (Line 10)	\$	-----
Amount of interest payment	\$	-----

If there is more than one outstanding mortgage on an acquired dwelling, the discounted value of each mortgage must be determined. To do this, a separate computation is made for each mortgage through Step 3. A consolidated Step 4 is then completed.

### Subpart 114-50.9—Replacement Housing Payment for Tenants and Certain Others

17. The table of contents for Subpart 114-50.9 is revised to read as follows:

#### Subpart 114-50.9—Replacement Housing Payment for Tenants and Certain Others

Sec.	
114-50.900	Eligibility requirements.
114-50.901	Notification to tenants.
114-50.902	Replacement housing payment.
114-50.903	Computation of replacement housing rental differential payment for tenants and certain others.

114-50.904	Reserved.
114-50.905	Computation of replacement housing payment—purchasers.
114-50.906	Disbursement of rental replacement housing differential payment.

18. Section 114-50.900 is revised to read as follows:

### § 114-50.900 Eligibility requirements.

(a) *Displaced tenant or owner-occupant of less than 180 days.* A displaced tenant (including a sleeping room occupant) or owner-occupant of a dwelling for less than 180 days, is eligible for a replacement housing payment if he actually occupied the dwelling as a permanent abode for not less than 90 days immediately prior to the initiation of negotiations (see § 114-50.201(p)) for acquisition of the property.

19. Section 114-50.902 is revised to read as follows:

### § 114-50.902 Replacement housing payment.

A displaced tenant or owner-occupant of less than 180 days who meets the eligibility requirements of § 114-50.900(a) is eligible for either:

(a) The differential payment necessary to enable him to lease or rent, for a period not to exceed 4 years, a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, and reasonably accessible to his place of employment, but not to exceed \$4,000, or

(b) If he purchases and occupies replacement housing within 1 year from

displacement, the amount necessary to enable him to make a downpayment, including incidental expenses, on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and commercial and public facilities, but not to exceed \$4,000, except that if such amount exceeds \$2,000, such person must equally match any such amount in excess of \$2,000, in making the downpayment.

20. Section 114-50.903 is amended by the following:

a. Revise the heading to read as follows:

### § 114-50.903 Computation of replacement housing rental differential payment for tenants and certain others.

b. In the seventh line of paragraph (a) (2), the word "shall" is changed to "may".

c. Paragraph (e) is revised to read as follows:

(e) *Limitation.* The amount of the rental replacement housing payment (within the \$4,000 limitation) for tenants and owner-occupants who rent instead of purchase replacement housing, shall be computed by subtracting the economic rent of the acquired dwelling from the lesser of:

(1) The amount of rent actually paid for the replacement dwelling; or

(2) The amount determined by the displacing agency as necessary to rent a comparable replacement dwelling.

d. A new paragraph (f) is added reading as follows:

(f) The amount initially established and approved as the rental replacement housing payment shall not be adjusted to compensate for subsequent increases or decreases, if any, in the amount of rent actually paid by the displacee.

21. Section 114-50.904 is deleted in its entirety and the heading is revised to read as follows:

### § 114-50.904 [Reserved]

22. Section 114-50.905 is revised to read as follows:

### § 114-50.905 Computation of replacement housing payment—Purchasers.

(a) The amount of the downpayment shall be the lesser of:

(1) The amount that would be required as a downpayment for financing a conventional loan on a comparable dwelling; or

(2) The amount required as a downpayment for financing of a conventional loan on the replacement dwelling actually purchased.

To the amount determined pursuant to (a) (1) or (a) (2) of this section will be added the amount required to be paid by the purchaser as points and/or origination or loan services fee if such fees are normal to real estate transactions in the area, on the comparable dwelling or the replacement dwelling, whichever is the lesser.

23. Section 114-50.906 is revised to read as follows:

### § 114-50.906 Disbursement of rental replacement housing differential payment.

The amount of the rental replacement housing payment, determined in accordance with § 114-50.903, shall be paid in a lump sum, except that it shall be paid in installments when this method of payment is requested by the displaced person.

### Subpart 114-50.10—Federally Assisted Programs

24. The table of contents for Subpart 114-50.10 is revised to read as follows:

#### Subpart 114-50.10—Federally Assisted Programs

Sec.	
114-50.1000	Acceptance of real property furnished by a State incident to Federal program.
114-50.1001	Assurances—Section 210.
114-50.1002	Assurances—Section 305.
114-50.1003	Compliance with Section 210.
114-50.1004	Compliance with Sections 301 and 302.
114-50.1005	Inability to provide assurances under Section 305.
114-50.1006	Assurances not required.
114-50.1007	Monitoring assurances.
114-50.1008	Federal share of costs.
114-50.1009	Relocation assistance programs.
114-50.1010	Waiving of benefits.
114-50.1011	Appeal procedures.

25. Section 114-50.1000 is revised to read as follows:

### § 114-50.1000 Acceptance of real property furnished by a State incident to Federal program.

Whenever real property is acquired by a State agency and furnished as a required contribution incident to a Federal program or project, the Bureau or Office administering the program or project may not accept such property unless the State agency has made all payments and provided all assistance and assurances as are required of a State agency by sections 210 and 305 of the Act. The State agency shall pay the cost of such requirements in the same manner and to the same extent as the real property acquired for such project.



## RULES AND REGULATIONS

26. Section 114-50.1003 is revised to read as follows:

§ 114-50.1003 Compliance with section 210.

In all cases, State agencies must comply fully with the assurances required by section 210 of the act.

27. Section 114-50.1004 is revised to read as follows:

§ 114-50.1004 Compliance with sections 301 and 302.

A State agency's assurances under section 305 shall be accompanied by a statement indicating the extent to which it can comply with the provisions of sections 301 and 302. In the event a State agency maintains that it is unable to comply fully with any of the prescribed policies, its statement shall be supported by an opinion of the chief legal officer of the State agency. State agencies shall comply with sections 301 and 302 if compliance is legally possible under State law.

28. Section 114-50.1005 is revised to read as follows:

§ 114-50.1005 Inability to provide assurances under section 305.

If a State agency's assurances are accompanied by a statement that it is unable to comply fully with the provisions of section 305, the head of the Bureau or Office administering the Federally-assisted project involved may prescribe procedures setting forth the conditions under which the project will be approved.

29. Section 114-50.1006 is revised to read as follows:

§ 114-50.1006 Assurances not required.

If the federally assisted program or project will not result in either the acquisition of real property or the displacement of persons, a grant, contract, or agreement may be executed with the State agency without regard to such State agencies' ability or inability to provide the assurances required by sections 210 and 305.

§ 114-50.1008 [Deleted]

30. The present § 114-50.1008 is deleted, and § 114-50.1009 is redesignated as § 114-50.1008 and revised to read as follows:

§ 114-50.1008 Federal share of costs.

The cost to a State agency of providing the payments and assistance required by the regulations in this Part 114-50 shall be included as part of the cost of a program or project for which Federal financial assistance is available to the State agency.

(a) The State agency shall be eligible for Federal financial assistance with respect to such payments and assistance in the same manner and to the same extent as other project or program costs.

(b) No payment or assistance under section 210 or 305 shall be required or included as a program or project cost under this § 114-50.1008 if the displaced person receives a payment required by

State law of eminent domain which is determined by the Bureau or Office to have substantially the same purpose and effect as would a payment under this paragraph, and to be part of the cost of the program or project for which Federal financial assistance is available.

(c) Bureaus and Offices may advance to a State agency the Federal share of the cost of any payments or assistance by the State agency pursuant to sections 206, 210, 215, and 305 of the Act, when they determine that such action is necessary for the expeditious completion of a program or project.

31. Existing § 114-50.1010 is redesignated as § 114-50.1009 and a new § 114-50.1010 is added reading as follows:

§ 114-50.1010 Waiving of benefits.

The following policy shall be observed in connection with those Federally-assisted projects which are funded in part from the Land and Water Conservation Fund:

(a) Whenever a State agency provides that the owner of a single-family residence may, at his option, elect to retain a right of use and occupancy for not less than six months from the date of acquisition of such residence and such owner elects to retain such a right, such owner shall be deemed to have waived any benefits under sections 203, 204, 205, and 206 of the act and for the purposes of these sections, such owner shall not be considered a displaced person as defined in section 101(6) of the Act. (See sec. 2, Pub. L. 93-303, approved June 7, 1974.)

(b) The above policy applies only to those acquisitions which occurred subsequent to June 7, 1974.

(c) Retention of a residence under a use and occupancy agreement must be compatible with the intended use of the project site. Moreover, the appraisal should properly reflect the effect such a retention of use has upon the property's fair market value.

(d) In no case shall a State refuse to pay relocation payments for homeowners who were allowed temporary occupancy while waiting for replacement property.

(e) An owner of a single-family residence who elects to retain a right of use and occupancy for not less than six months from date of acquisition of such residence shall be informed that any benefits to which he may be entitled under sections 203, 204, 205, and 206 of the Act will be deemed to have been waived as a result of such use and occupancy.

§ 114-50.1011 [Deleted]

32. The present § 114-50.1011 is deleted and existing § 114-50.1012 is redesignated as § 114-50.1011.

Subpart 114-50.12—Annual Report

33. Section 114-50.1200 is revised to read as follows:

§ 114-50.1200 General.

Each Bureau and Office having responsibilities for Federal or federally assisted programs that come within the

purview of Public Law 91-646 shall prepare and submit an annual report to the Assistant Secretary-Management, on its activities related to programs and policies established or authorized by the Act. This report, which is required by Section 214 of the Act, shall consist of both a narrative and statistical report.

34. In § 114-50.1200-1, paragraph (f) is deleted, paragraph (g) is redesignated as (f), and paragraphs (b), (c) (4), (d), and (e) are revised as set forth below.

§ 114-50.1200-1 Narrative report.

(b) Bureau or Office actions to achieve objectives of the Act.

(1) Describe the actions taken by the Bureau or Office to achieve the objectives of the policies of the Congress to provide uniform and equal treatment, to the greatest extent practicable, for all persons displaced by or having real property taken for Federal or federally assisted programs.

(2) Describe the provisions adopted by the Bureau or Office for coordination with other Federal State and local displacing agencies.

(c) . . . . .

(4) For federally assisted programs administered by your Bureau or Office, enumerate the States not in compliance with the Act on the reporting date. If compliance by any State does not extend to any or all federally assisted programs conducted or administered by the Bureau or Office, the programs excepted should be indicated and an explanation furnished for the basis of the State's inability to comply. In all such instances, indicate the expected date for full compliance by the State.

(d) Effect of Act on the public. Describe any indicated effects of the relocation program and policies on the public, reporting conclusions obtained from surveys, special studies, and other sources relating to the effects of implementation of the Act on a neighborhood or community.

(e) Recommendations. Furnish your recommendations for further improvement in relocation assistance and land acquisition programs, policies, and implementing laws and regulations. Include any proposals for amendments or revisions to:

(1) General Services Administration Guidelines.

(2) Federal legislation.

(3) State legislation.

35. Section 114-50.1200-3 is revised to read as follows:

§ 114-50.1200-3 Submission.

The annual report shall be prepared on a fiscal year basis and submitted, in duplicate, to reach the Assistant Secretary-Management by not later than September 1 of each year.

36. Appendices 1 and 2 to Subpart 114-50.12 have been revised as follows:

## RULES AND REGULATIONS

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APPENDIX 1  
Subpart 114-50.12

AGENCY: \_\_\_\_\_ PROGRAM: \_\_\_\_\_

UNIFORM RELOCATION AND REAL PROPERTY ACQUISITION  
ACT OF 1970, PT 19  
PAYMENTS & EXPENSES UNDER TITLE II

☐ FEDERAL PROGRAM  
☐ FEDERALLY ASSISTED PROGRAM

PART I	SUMMARY - FISCAL YEAR 19__				PROJECTED FUND REQUIREMENTS				
	NUMBER OF CLAIMS PAID (1)	AMOUNT PAID (2)	AVERAGE PMT. PER CLAIM: COL 2 ÷ COL 1 (3)	TOTAL AMT. PAID FROM FEDERAL FUNDS (4)	TOTAL AMT. PD. CONTRIBUTED NON-FEDERAL FUNDS (5)	FOR FISCAL YR 19__ FEDERAL FUNDS (6)	FOR FISCAL YR 19__ CONTRIBUTED NON-FED. FD (7)	FOR FISCAL YR 19__ FEDERAL FUNDS (8)	FOR FISCAL YR 19__ CONTRIBUTED NON-FED. FD (9)
MOVING AND RELATED EXPENSE (SEC. 202)									
OR PAYMENT FOR ACTUAL MOVING EXPENSE (SEC 202a)									
Persons Displaced From:									
1 Dwellings									
2 Businesses									
3 Farms									
4 Non-Profit Organizations									
OR PAYMENT FOR MOVING EXPENSE BASED ON FIXED SCHEDULE INCLUDING DISLOCATION ALLOWANCE (202b)									
Persons Displaced From:									
5 Dwellings									
OR IN-LIEU PAYMENT FOR MOVING EXPENSE (SEC 202c)									
Persons Displaced From:									
6 Businesses									
7 Farms									
8 Non-Profit Organizations									
TOTAL (Sum of lines 1-8)									
EXPENSE FOR SEARCH FOR REPLACEMENT (202a(3))									
9 *Business									
10 *Farm									
11 *Non-Profit Organization									
TOTAL (Sum of lines 9-11)									

\*Amounts shown for lines 9, 10 and 11 are included in amounts shown on lines 2, 3 and 4 above.

APPENDIX 1 (Cont'd.)  
Subpart 114-50.12

AGENCY: \_\_\_\_\_ PROGRAM: \_\_\_\_\_

UNIFORM RELOCATION AND REAL PROPERTY ACQUISITION  
ACT OF 1970, PT 19  
PAYMENTS & EXPENSES UNDER TITLE II

☐ FEDERAL PROGRAM  
☐ FEDERALLY ASSISTED PROGRAM

PART I (continued)	SUMMARY - FISCAL YEAR 19__				PROJECTED FUND REQUIREMENTS				
	NUMBER OF CLAIMS PAID (1)	AMOUNT PAID (2)	AVERAGE PMT. PER CLAIM: COL 2 ÷ COL 1 (3)	TOTAL AMT. PAID FROM FEDERAL FUNDS (4)	TOTAL AMT. PD. CONTRIBUTED NON-FEDERAL FUNDS (5)	FOR FISCAL YR 19__ FEDERAL FUNDS (6)	FOR FISCAL YR 19__ CONTRIBUTED NON-FED. FD (7)	FOR FISCAL YR 19__ FEDERAL FUNDS (8)	FOR FISCAL YR 19__ CONTRIBUTED NON-FED. FD (9)
REPLACEMENT HOUSING FOR HOMEOWNER (203)									
12 Payment For Comparable Replacement Housing (203a(1)(A))									
13 Payment For Increased Interest (203a(1)(B))									
14 Payment For Closing Costs (203a(1)(C))									
TOTAL (Sum of lines 12-14)									
REPLACEMENT HOUSING FOR TENANTS AND CERTAIN OTHERS (204)									
15 Rental Payments (204 (1))									
16 Down Payments (204 (2)) (incl. closing costs)									
TOTAL (Sum of lines 15 & 16)									
TOTAL (Sum of lines 1-8 and 12-16)									
RELOCATION ADVISORY SERVICES (205)									
17 Cost Of Services (205)									
18 Other Administrative Costs (As applicable) (Total Cost Of Adv. Prog)									
TOTAL (Sum of lines 17 & 18)									
19 GRAND TOTAL-TITLE II (Lines 1-8 and 12-18)									

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## RULES AND REGULATIONS

APPENDIX 1 (Cont'd.)  
Subpart 114-50.12

AGENCY: \_\_\_\_\_ UNIFORM RELOCATION AND REAL PROPERTY ACQUISITION ACT OF 1970, FY 19 \_\_\_\_\_  
 PROGRAM: \_\_\_\_\_ PAYMENTS & EXPENSES UNDER TITLE II  
☐ FEDERAL PROGRAM  
☐ FEDERALLY ASSISTED PROGRAM

PART II RANGE OF PAYMENTS TO HOMEOWNERS, TENANTS AND CERTAIN OTHERS FY 19 _____					
REPLACEMENT HOUSING FOR HOMEOWNERS			REPLACEMENT HOUSING FOR TENANTS & CERTAIN OTHERS		
ACTUAL PAYMENTS FOR COMPARABLE REPLACEMENT HOUSING		TOTAL RENTAL CLAIMS APPROVED		ACTUAL DOWN PAYMENTS	
RANGE:	NO. OF CLAIMS PAID	RANGE:	NO. OF CLAIMS	RANGE:	NO. OF CLAIMS PAID
\$ 0 - 2,500	_____	\$ 0 - 500	_____	\$ 0 - 1,000	_____
2,501 - 5,000	_____	501 - 1,000	_____	1,001 - 2,000	_____
5,001 - 7,500	_____	1,001 - 2,000	_____	2,001 - 3,000	_____
7,501 - 10,000	_____	2,001 - 3,000	_____	3,001 - 4,000	_____
10,001 - 12,500	_____	3,001 - 4,000	_____		
12,501 - 15,000	_____				
TOTAL	_____	TOTAL	_____	TOTAL	_____

PART III RESIDENTIAL RELOCATION DISPLACEMENT STATISTICS							
*CLAIMANTS DISPLACED DURING FY _____							
	Negro/Black	Spanish Surnamed	American Indian	Asian American/Oriental	All Others	Total All Groups	
	Owner Tenant	Owner Tenant	Owner Tenant	Owner Tenant	Owner Tenant	Owner Tenant	
UNDER AGE 62							
62 AND OVER							
TOTAL							

**PEOPLE DISPLACED DURING FY _____							
	Negro/Black	Spanish Surnamed	American Indian	Asian American/Oriental	All Others	Total All Groups	
TOTAL							

\*Total shown should equal the total number of claims paid reported on lines 1 and 5, Exhibit 1, Part 1.  
 \*Report total number of people displaced.

Note: Under "Spanish Surnamed" include persons of Puerto Rican, Mexican American, Cuban, Central or South American, or other Spanish descent. Under "Asian American/Oriental" include Chinese, Japanese and Korean. Under "All Others" include white persons not of Spanish descent.

## RULES AND REGULATIONS

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APPENDIX 2  
Subpart 114-50.12

☐ FEDERAL PROGRAM  
☐ FEDERALLY ASSISTED PROGRAM

AGENCY: \_\_\_\_\_

PROGRAM: \_\_\_\_\_

UNIFORM REAL PROPERTY ACQUISITION POLICY - TITLE III

PART I LAND ACQUISITION (301)		
	NO. OF TRACTS	% OF TOTAL
1/ 1. ACQUIRED BY NEGOTIATION		3/
2/ 2. ACQUIRED BY CONDEMNATION		4/
3. TOTAL (SUM OF LINES 1 & 2)		100%

PART II TRACTS FOR WHICH FINAL SETTLEMENTS WERE COMPLETED					TOTAL AMOUNT PAID FROM FEDERAL FUNDS	TOTAL AMOUNT CONTRIBUTED NON-FEDERAL FUNDS
	NUMBER OF TRACTS	APPRAISED VALUE	OPTION/ AWARD PAID	% OVER APPRAISAL		
NEGOTIATED:						
1. a. At Appraised Value				XXXXXX		
2. b. Over Appraised Value				5/		
3. c. Under Appraised Value				XXXXXX		
TOTAL (Sum of Lines 1, 2 & 3)				XXXXXX		
CONDEMNED:						
4. a. Awards at Appraised Value				XXXXXX		
5. b. Award over Appraised Val.				5/		
TOTAL (Sum of Lines 4 & 5)				XXXXXX		
TOTAL SETTLEMENTS (Sum of Lines 1 thru 5)				XXXXXX		

PART III INCIDENTAL EXPENSES (303 & 304)			
	NUMBER OF TRACTS	AMOUNT PAID	Non-Fed. Funds
1. RECORDING FEES, TRANSFER TAXES			
PENALTY COSTS & R.E. TAXES (303)			
2. LITIGATION EXPENSES (304)			
TOTAL (Sum of Lines 1 & 2)			

## NOTES:

- 1/ Negotiated tracts include all tracts acquired by any method other than condemnation for reason of price disagreement.  
 2/ Include only tracts condemned because of price disagreement.

3/ Divide tracts shown on Line 1 by tracts shown on Line 3.

4/ Divide tracts shown on Line 2 by tracts shown on Line 3.

5/ Divide amount by which the option or award exceeds the appraised value by the appraised value.

[FR Doc.75-12941 Filed 5-16-75; 8:45 am]

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# **federal register**

MONDAY, MAY 19, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 97

PART IV



## **DEPARTMENT OF TRANSPORTATION**

**Federal Aviation  
Administration**

### **AIRWORTHINESS REVIEW PROGRAM**

**Powerplant Proposals**

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DEPARTMENT OF  
TRANSPORTATION

Federal Aviation Administration

[ 14 CFR Parts 1, 23, 25, 27, 29, 33, and 35 ]

[ Docket No. 14606; Notice No. 75-19 ]

## AIRWORTHINESS REVIEW PROGRAM

## Notice No. 3: Powerplant Proposals

The Federal Aviation Administration is considering amending Parts 1, 23, 25, 27, 29, 33, and 35 of the Federal Aviation Regulations to update and improve the airworthiness standards applicable to the type certification of aircraft engines and propellers and of aircraft with respect to the provisions relating to powerplant installations.

This is the third in a series of notices of proposed rule making issued, or to be issued, as a part of the First Biennial Airworthiness Review Program. Notice No. 74-33 (39 FR 36595; October 11, 1974) was the first. Amendments 21-43, 23-16, and 25-37, issued on December 31, 1974 (40 FR 2576; January 14, 1975) pursuant to that notice, incorporated certain form number and clarifying revisions into the Federal Aviation Regulations. Notice No. 75-10 (40 FR 10802; March 7, 1975) was the second.

Interested persons, including the general public, manufacturers and users of aircraft and their components, both foreign and domestic, and foreign airworthiness authorities, are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments relating to any significant environmental or economic impact that might result because of the adoption of the proposals contained herein may also be submitted. Comments should identify this regulatory docket or notice number (Docket No. 14606; Notice No. 75-19) and be submitted in duplicate to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW, Washington, D.C. 20591. All communications received on or before August 18, 1975, will be considered by the Administrator before taking action on the proposed rules. However, interested persons are urged to submit their comments as early as possible to facilitate rapid resolution of any issues raised. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket for examination by interested persons.

On February 12, 1974, the FAA issued an invitation to all interested persons to submit proposals for consideration during the First Biennial Airworthiness Regulations Review (see Notice 74-5, 39 FR 5785, February 16, 1974). In that notice, the FAA announced that it would make available for comment by interested persons a compilation of proposals that were to be given further consideration as possible agenda items for the First Biennial Airworthiness Review Conference. On May 22, 1974, the FAA

## PROPOSED RULES

issued an announcement of the availability of the Compilation of Proposals containing over 1000 submissions by the FAA and interested persons, and invited all interested persons to submit comments on the proposals it contained (see Notice 74-5A, 39 FR 18662, May 29, 1974).

In response to that invitation for comments, the FAA received over 4900 individual comments contained in 74 submissions. Based on those comments and on the Compilation of Proposals, the FAA prepared a number of working documents, for the Airworthiness Review Conference held in Washington, D.C., on December 2-11, 1974. The FAA distributed those documents to all persons who had participated in the Airworthiness Review Program and to all other interested persons who requested them (see Notice 74-5B, 39 FR 36594, October 11, 1974).

For reasons given in Notice 74-5B, not all of the proposals contained in the Compilation were included in the agenda for the conference. However, the proposals not included in the agenda were listed in a conference workbook titled "Proposals Not in Agenda." In general, Notice 75-10 deals with the proposals identified as "Items for Notice" in that workbook.

On November 25, 1974, the FAA issued a Notice of Conference that set forth the schedule for the conference and invited all interested persons to attend the conference (see Notice 74-5C, 39 FR 41319, November 28, 1974).

The Airworthiness Review Conference was attended by over 586 individuals representing 22 foreign airworthiness authorities as well as aircraft manufacturers and users. Except for the opening and closing plenary sessions of the conference, one or more committees discussed agenda items during conference working hours. Summaries were given by the FAA Committee Chairman at the close of discussions on each agenda item. Persons present were given an opportunity to correct those oral summaries. Those summaries were transcribed with editorial revisions and combined with an attendee list for the conference as well as with transcripts of certain plenary session speeches and distributed in accordance with a Notice of Availability issued February 4, 1975 (see Notice 74-5D; 40 FR 5810; February 7, 1975).

In general this notice deals with the proposals that were contained in the Committee workbook titled "Committee IV—Powerplant." That workbook contained the proposals discussed by the Powerplant Committee at the Airworthiness Review Conference as well as written comments that were received for those proposals in response to Notice 74-5A. Another conference working document used was the Agenda for the Airworthiness Review Conference. That document, in addition to providing general information relating to the conference, included detailed information on how the proposals were grouped into agenda items, and the scheduling of those items for discussion. Both the workbooks and the agenda

were updated and corrected by a supplemental working document distributed prior to and at the conference to participating individuals as well as to other interested persons. These workbooks along with the committee discussions and written information submitted by conference attendees has provided the basis upon which the FAA has developed this notice.

A number of proposals contained in this notice were not included in the Committee IV workbook. They are directly related to the proposals in the workbook and are included for the sake of clarity, consistency, and comprehensiveness. However, two circumstances exist in which this is not the case. This notice deals with several proposals that were discussed in Committee I—Procedures and Special Issues. Those proposals are included since they relate directly to the general subject matter covered by this notice. Several proposals also dealt with in this notice were "Items for Notice" in the "Proposals Not in Agenda" workbook but were withheld from consideration pending the completion of the Airworthiness Review Conference (see Appendix I to Notice 75-10 for a list of those proposals).

A number of proposals contained in the Committee IV workbook are not included in this notice. These proposals fall into three general categories—(1) those proposals which are being deferred to a later notice or to the next Airworthiness or Operations Review; (2) those proposals withdrawn by their proponent; and (3) those proposals removed by the FAA from consideration as a part of the Airworthiness Review Program.

Appendix I of this notice lists the proposals in the first category, and Appendix II of this notice lists those in the second. In general it is felt by the FAA that the proposals in Appendix I that will appear in the next Airworthiness or Operations Review, unless withdrawn by their proponent, have sufficient merit to warrant further consideration, but because of the complexity of the proposal, the need for additional data, or the operational character of the proposal, further consideration within this Airworthiness Review Program is not feasible. The other group of proposals included in Appendix I are being deferred to be dealt with in a later notice to be issued as a part of this Airworthiness Review Program. Appendix III lists those proposals being removed from consideration as a part of the Airworthiness Review Program. Reasons for these actions are presented for each proposal.

The FAA believes that the airworthiness standards should, to the extent practical, be consistent throughout the airplane and rotorcraft certification parts (Parts 23, 25, 27, and 29). Therefore, the FAA has attempted within the time frame of this Airworthiness Review Program, to make consistent and parallel proposals, where appropriate, for each of these certification parts.

To avoid unnecessary repetition, in a number of instances the proposals developed for purposes of consistency are not

set forth in their entirety if those proposals are substantively identical to another proposal in this notice. A short-form proposal referring to a proposal that is expressly set forth in this notice is used. Where a short-form proposal is used, however, there may be a need, if the proposal is to be adopted as a final rule, to change paragraph designations, cross references, or aircraft terminology (e.g., "airplane" to "rotorcraft", or vice versa) from that used in the referenced express proposal.

The FAA recognizes that there may exist additional instances in which a proposed rule change prescribed in this notice as expressly applying only to certain parts of the Federal Aviation Regulations should more appropriately apply to additional parts as well. Therefore, with respect to each proposal in this notice relating to Parts 23, 25, 27, or 29 of the Federal Aviation Regulations for which similar proposals do not exist for all of those parts, comments are solicited from all interested persons with respect to the applicability of that proposal (and its stated explanation) to those parts for which the proposal has not been expressly presented. Such comments received in response to this notice will either be dealt with as a part of the 1974-1975 Airworthiness Review Program or be considered as a part of the next Biennial Airworthiness Review.

For convenience, each proposal in this notice is numbered separately. The FAA requests that interested persons, when submitting comments, refer to proposals by these numbers, or by the sections to which they relate. Each proposal contains, or references a proposal that contains, a reference to the Airworthiness Review Program proposal number, section, and agenda item to which that proposal relates. Comments on this notice should not refer to the Airworthiness Review Program proposal numbers or section numbers without also referring to the corresponding proposal numbers as set forth in this notice. Each proposal in this notice is provided with an explanation. In addition, to avoid confusion several of the proposals in this notice reference proposals in Notice 75-10 that deal with the same regulatory provisions. Several explanations deal with comments received in response to Notice 74-5A; however, all comments submitted in response to Notice 74-5A or submitted for the Airworthiness Review Conference, dealing with proposals contained in this notice, should be resubmitted if it is desired that they be considered as a part of this rulemaking action.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend Parts 1, 23, 25, 27, 29, 33, and 35 of the Federal Aviation Regulations as follows:

## PROPOSED RULES

## PART 1—DEFINITIONS AND ABBREVIATIONS

3-1. By inserting in § 1.1 between the definitions of "Alternate airport" and "Appliance" a definition of "Altitude engine" and between the definitions of "Route segment" and "Second in command" a definition of "Sea level engine" to read as follows:

## § 1.1 General definitions.

"Altitude engine" means a reciprocating aircraft engine having a rated take-off power that is produceable from sea level to an established higher altitude.

"Sea level engine" means a reciprocating aircraft engine having a rated take-off power that is produceable only at sea level.

*Explanation.* The terms "altitude engine" and "sea level engine" are used in the induction system icing protection requirements of Parts 23, 27, and 29. The definitions would clarify the meanings of those terms.

*Ref.* Proposal No. 560; § 1.1; Agenda Item D-11.

## PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, AND ACROBATIC CATEGORY AIRPLANES

3-2. By adding a new § 23.739 to read as follows:

## § 23.739 Electrical ground connection.

Provision must be made on the landing gear for attaching an electrical ground connection.

*Explanation.* A suitably identified point on the landing gear which is satisfactory for grounding the airplane could preclude damage to vital parts of the airplane caused by static discharge.

*Ref.* Proposal No. 104; § 23.973; Agenda Item F-25.

3-3. By inserting a semicolon at the end of § 23.901(b)(1) and adding a sentence to the end of § 23.901(b)(2), a new § 23.901(b)(3), and a new § 23.901(c) to read as follows:

## § 23.901 Installation.

(b) . . . .

(2) . . . . Engine cowls and nacelles must be easily removable or openable by the pilot to provide adequate access and exposure of the engine compartment for preflight checks; and

(3) Each turbine engine powerplant must be constructed, arranged, and installed to provide continued engine operation without a sustained loss of power or thrust when being operated at the maximum power or thrust approved for takeoff and at flight idle in rain for at least three minutes with the rate of rain ingestion being not less than four percent, by weight, of the engine induction airflow rate.

(c) The installation must comply with—

(1) The installation instructions provided under § 33.5 of this chapter; and

(2) The applicable provisions of this subpart.

*Explanation.* Some engine cowls are so difficult to open or remove that the pilot is discouraged from performing essential preflight checks of the engine compartment. The proposed revision of § 23.901(b)(2) is directed at this problem.

In addition, there have been many reports of turbine engine power loss while flying in heavy rain. The proposal would also provide for the consideration of engine operation in rain in Part 23.

For the proposed addition of a new § 23.901(c), see the proposal for § 29.901.

*Ref.* Proposal Nos. 639, 640; §§ 23.901(b)(2), 23.901; Agenda Items E-12, E-13.

## § 23.939 [Amended]

3-4. By deleting § 23.939(b) and marking it "[Reserved]".

## § 23.943 [New]

3-5. By adding a new § 23.943 that would be substantively identical to the proposed new § 25.943.

*Explanation.* See the proposal for § 25.943.

## § 23.959 [Amended]

3-6. By adding a sentence at the end of § 23.959 to read—"Fuel system component failures need not be considered."

*Explanation.* The proposal would clarify the present rule in which the most adverse fuel feed condition is intended to include only normal operation.

*Ref.* Proposal Nos. 99, 271, and 272; §§ 23.959, 25.959; Agenda Item F-22.

3-7. By deleting the word "and" from § 23.967(a)(4)(ii) and revising § 23.967(a)(5) to read as follows:

## § 23.967 Fuel tank installation.

(a) . . . .

(5) A positive pressure must be maintained within the vapor space of each bladder cell under all conditions of operation unless it is shown for a particular condition that a zero or negative pressure will not cause the bladder cell to collapse; and

*Explanation.* It is difficult to maintain a positive pressure in some bladder cells during all operations. The FAA believes a zero or negative pressure during operations should be allowed if it will not cause the bladder cell to collapse.

*Ref.* Proposal No. 102; § 23.967(a)(5); Agenda Item F-24.

3-8. By adding a new § 23.973(d) to read as follows:

## § 23.973 Fuel tank filler connection.

(d) Each fuel filling point must have a provision for electrically bonding the airplane to ground fueling equipment.

*Explanation.* To avoid possible static discharge sparks between the fuel dispensing nozzle and the airplane, a bonding point needs to be available adjacent



to the filler cap so that the fuel dispensing nozzle can be bonded before the cap is opened.

Ref. Proposal Nos. 104, 278; §§ 23.973, 25.973; Agenda Item F-25.

3-9. By deleting the word "and" from § 23.975(a)(5); by inserting a semicolon at the end of § 23.975(a)(6); and by adding new § 23.975(a)(7) and (a)(8) to read as follows:

**§ 23.975 Fuel tank vents and carburetor vapor vents.**

- (a) . . . . .
- (7) Vents must be arranged to prevent the loss of fuel when the airplane is parked in any direction on a ramp having a one-percent slope; and
- (8) Each fuel tank must incorporate at least two separate and independent vents except that two vents need not be provided if other tank or vent provisions are incorporated to prevent—
  - (i) Ice blockage of vent openings;
  - (ii) Fuel siphoning after blockage of primary vent provisions;
  - (iii) Blockage of vent openings by insects and dirt; and
  - (iv) Failure of any vent valve in the system.

*Explanation.* Proposed paragraph (a)(7) would require fuel vents that preclude fuel loss through the vent in normal parking situations. With respect to the proposed paragraph (a)(8), vents having both primary and alternate openings have had both openings covered with ice, insect nests, or dirt; have had fuel siphon through the alternate opening when the primary opening was blocked; and have been blocked by failed check valves. Therefore, the FAA believes that at least two separate vents are needed to prevent excessive fuel tank pressure differentials unless provisions are made to prevent such blockages.

Ref. Proposal Nos. 644 and 645; §§ 23.975(a) and 23.975(a)(7); Agenda Item F-26.

**§ 23.995 [Amended]**

3-10. By deleting § 23.995(c)(1) and marking it "[Reserved]".

*Explanation.* See the proposals for §§ 23.1141 and 25.1141.

**§ 23.1093 [Amended]**

3-11. By amending § 23.1093(b) in a manner substantively identical to that proposed for § 25.1093(b).

3-12. By revising § 23.1121(b) and adding a new § 23.1121(h) to read as follows:

**§ 23.1121 General.**

- (b) Exhaust system parts must be located or shielded so that leakage from any system carrying flammable fluids or vapors will not result in a fire caused by impingement of the fluid or vapor on any part of the exhaust system.

- (h) Each exhaust heat exchanger must incorporate means to prevent blockage of the exhaust port after any internal heat exchanger failure.

*Explanation.* The present wording in §§ 23.1121(b), 25.1121(b), and 29.1121(b) requires, in part, that a determination be made as to whether exhaust system parts are dangerously close to a system carrying flammable fluids or vapors. Section 27.1121(d) contains a similar provision. This has resulted in difficulty in administration of the requirement. The revised wording is intended to clarify the rule.

In addition, engine stoppages caused by blockage of engine ports resulting from exhaust heat exchanger failures have occurred in service. The proposal would also require that exhaust heat exchangers be designed to prevent such engine port blockages.

Ref. Proposal Nos. 661, 762, 855, 937, 662; §§ 23.1121(b), 25.1121(b), 27.1121(d), 29.1121(b), 23.1121(h); Agenda Items J-49, J-50.

**§ 23.1141 [Amended]**

3-13. By adding a new § 23.1141(g) that would be substantively identical to the proposed new § 25.1141(f).

**§ 23.1145 [Amended]**

3-14. By amending § 23.1145(c) in a manner substantively identical to that proposed for § 25.1145(c).

3-15. By revising the heading of § 23.1193 and by adding a new § 23.1193(f) to read as follows:

**§ 23.1193 Cowling and nacelle.**

- (f) Each nacelle of a multi-engine airplane with supercharged engines must be designed and constructed so that with the landing gear retracted, a fire in the engine compartment will not burn through a cowling or nacelle and enter a nacelle area other than the engine compartment.

*Explanation.* Service experience indicates that multi-engine airplanes with supercharged engines are particularly susceptible to critical structural damage that could result from a fire which has entered other nacelle areas from the engine compartment. The proposal would require a fire to be kept within the engine compartment or be prevented from penetrating the nacelle.

Ref. Proposal Nos. 670, 106; §§ 23.1193, 23.993; Agenda Items L-60, L-57.

3-16. By adding a new § 23.1203 to read as follows:

**§ 23.1203 Fire detector system.**

For multi-engine turbine powered airplanes and multi-engine reciprocating engine powered airplanes incorporating turbo-superchargers the following apply:

- (a) There must be a means which ensures the prompt detection of a fire in the engine compartment.
- (b) Each fire detector must be constructed and installed to withstand the vibration, inertia, and other loads to which it may be subjected in operation.
- (c) No fire detector may be affected by any oil, water, other fluids, or fumes that might be present.
- (d) There must be means to allow the crew to check, in flight, the functioning of each fire detector electric circuit.

- (e) Wiring and other components of each fire detector system in the engine compartment must be at least fire resistant.

*Explanation.* Turbine engine tailpipe and reciprocating engine turbo-supercharger exhaust component surfaces can become ignition sources for leaking flammable fluids. For those type engines installed on multi-engine powered airplanes, fire detectors are necessary so that the flight crew can take early action after a fire starts. Reciprocating engines without turbo-superchargers are not covered because they do not have extensive hot surfaces and single engine airplanes are not covered because fires in single engine airplanes are quickly recognizable.

Ref. Proposal No. 671; § 23.1203; Agenda Item L-56.

3-17. By revising § 23.1305(h) and adding a new § 23.1305(w) to read as follows:

**§ 23.1305 Powerplant instruments.**

- (h) A manifold pressure indicator for each engine that can exceed the maximum allowable manifold pressure limitations prescribed under § 23.1521 at any power control position.

- (w) A fire warning indicator for those airplanes required to comply with § 23.1203.

*Explanation.* The proposal would extend the applicability of the rule to cover derated engines since the manifold pressure limitations for such engines can be exceeded and an indication to the pilot of such a condition is needed. For the proposed addition of § 23.1305(w), see the proposal for § 23.1203.

Ref. Proposal Nos. 676, 677; §§ 23.1305(h), 23.1305; Agenda Items N-72, N-73.

3-18. By revising § 23.1337(a), including its heading, to read as follows:

**§ 23.1337 Powerplant instruments.**

- (a) *Instruments and instrument lines.*
  - (1) Each powerplant instrument line must meet the requirements of § 23.993.
  - (2) Each line carrying flammable fluids under pressure must—
    - (i) Have restricting orifices or other safety devices at the source of pressure to prevent the escape of excessive fluid if the line fails; and
    - (ii) Be installed and located so that the escape of fluids would not create a hazard.
  - (3) Each powerplant instrument that utilizes flammable fluids must be installed and located so that the escape of fluid would not create a hazard.

*Explanation.* Powerplant instruments and instrument lines sometimes utilize flammable fluids. The proposal would require that those instruments and lines be installed and located so that leakage of the fluid would not create a hazard. The proposal would also editorially revise § 23.1337(a) for clarity. Parallel proposals are made for Parts 25, 27, and 29, but it should be noted that the present rules in these parts make reference to

other line and fitting requirements besides the rule corresponding with § 23.993. It should also be noted that Notice No. 2 (Notice 75-10) contains proposals for §§ 25.1337(a) and 29.1337(a) relating to the coverage of auxiliary power unit instruments.

Ref. Proposal No. 116; § 23.1337; Agenda Item N-75.

3-19. By adding a new § 23.1557(e) to read as follows:

**§ 23.1557 Miscellaneous markings and placards.**

- (e) *Electrical ground connection.* Provisions for attaching electrical ground connections must be marked with the words "Attach ground here."

*Explanation.* See the proposal for § 23.739.

**PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES**

**§ 25.739 [New]**

3-20. By adding a new § 25.739 that would be substantively identical to the proposed new § 23.739.

3-21. By revising § 25.901(b)(1) and (c) to read as follows:

**§ 25.901 Installation.**

- (b) . . . . .
- (1) The installation must comply with—
  - (i) The installation instructions provided under § 33.5 of this chapter; and
  - (ii) The applicable provisions of this subpart;

- (c) For each powerplant and auxiliary power unit installation, it must be established that no single failure or malfunction or probable combination of failures will jeopardize the safe operation of the airplane except that the failure of structural elements need not be considered if the probability of such failure is extremely remote.

*Explanation.* The FAA believes that the proposal would provide for a higher degree of airplane-engine compatibility. The need for such a proposal was disclosed in the discussions on Proposal No. 270, § 25.939.

In addition, the proposal would delete the reference in the section to § 25.1309. That reference is not necessary since that section applies to the powerplant installation by its own terms. A generalized failure requirement, however, would be added.

Ref. Proposal Nos. 917, 737, 270; §§ 29.901(b)(6), 25.901, 25.939; Agenda Items E-14, E-15, E-19.

3-22. By revising § 25.903 by—

- (1) Revising the heading of § 25.903(c);
- (2) Deleting from the second sentence of § 25.903(c) the words "and restarting";
- (3) Deleting the third sentence of § 25.903(c); and
- (4) Adding a new § 25.903(e) to read as follows:

**§ 25.903 Engines.**

- (c) *Control of engine rotation.*

- (e) *Restart capability.*

(1) Means to restart any engine in flight must be provided.

(2) An altitude and airspeed envelope must be established for in-flight engine restarting, and each engine must have a restart capability within that envelope.

(3) For turbine engine powered airplanes, if the minimum windmilling speed of the engines, following the in-flight shutdown of all engines, is insufficient to provide the necessary electrical power for engine ignition, a power source independent of the engine-driven electrical power generating system must be provided to permit in-flight engine ignition for restarting.

*Explanation.* The proposal would delete the requirement that certain components of the engine restarting system be fire resistant since the need for such components after a fire is questionable. However, a means to restart any engine in flight when there has been no fire would continue to be required.

In addition, although § 25.1585(a)(3) requires that the Airplane Flight Manual contain recommended procedures for restarting turbine engines in flight, there exists no specific requirement for establishing the conditions of altitude and airspeed for which the restarting capability must exist. The proposal would add such a requirement and would editorially revise § 25.903 for clarity.

The proposal would ensure that a source of ignition energy for in-flight engine restarting exists in the event of loss of combustion in all engines during flight.

Ref. Proposal Nos. 267, 268, 769; §§ 25.903(c), 25.903, 25.1165(h); Agenda Items E-17, K-53.

3-23. By revising § 25.933(a) to read as follows:

**§ 25.933 Reversing systems.**

- (a) Reversing systems intended for ground operation only must be designed so that after any reversal in flight the engine will produce no more than idle forward thrust. In addition, it must be shown by analysis or test, or both, that—
  - (1) The reverser can be restored to the forward thrust position; or
  - (2) The aircraft is capable of continued safe flight and landing under any possible thrust reverser system condition.

*Explanation.* Reversers intended for ground operation only have reversed in flight. The proposal would provide additional safeguards in the event of such occurrences.

Ref. Proposal Nos. 739 and 182; §§ 25.933(a)(1) and 25.255; Agenda Item E-18.

**§ 25.939 [Amended]**

3-24. By deleting § 25.939(b) and marking it "[Reserved]".

*Explanation.* See the proposal for § 25.943.

3-25. By adding a new § 25.941 to read as follows:

**§ 25.941 Augmentation system.**

- (a) *General.* Each fluid injection system must provide a flow of fluid at the rate and pressure established for proper engine functioning under each intended operating condition. If the fluid can freeze, fluid freezing may not damage the airplane or adversely affect airplane performance.

(b) *Fluid tanks.* Each augmentation system fluid tank must meet the following requirements:

- (1) Each tank must be able to withstand without failure the vibration, inertia, fluid, and structural loads that it may be subjected to in operation.
- (2) The tanks as mounted in the airplane must be able to withstand without failure or leakage an internal pressure 1.5 times the operating pressure.

(3) Each tank must be vented from the top part of the expansion space so that venting is effective under any normal flight condition.

(4) Each tank filler cap must be marked to identify the fluid and to specify the tank capacity.

(5) Each fiberglass tank that would be exposed to weathering and rain erosion must be able to withstand the weathering and rain erosion expected in service without deterioration of the tank structural integrity.

(c) *Augmentation system drains* must be designed and located in accordance with § 25.1455 if—

- (1) The augmentation system fluid is subject to freezing; and
- (2) The fluid may be drained in flight or during ground operation.

(d) This section does not apply to fuel injection systems.

*Explanation.* A requirement is needed to ensure that augmentation system operation is compatible with engine functioning characteristics and that the system's strength and operating characteristics are adequate for its intended function.

Ref. Proposal No. 754; § 25.1031; Agenda Item E-20.

3-26. By adding a new § 25.943 to read as follows:

**§ 25.943 Negative acceleration.**

No hazardous malfunction of an engine, an auxiliary power unit approved for use in flight, or any component or system associated with the powerplant or auxiliary power unit may occur when the airplane is operated at the negative accelerations within the flight envelopes prescribed in § 25.333. This must be shown for the greatest duration expected for the acceleration.

*Explanation.* See the proposal for § 25.939.

Powerplant and APU components and systems other than the engine fuel system can be adversely affected during negative acceleration. The proposal would make the current provision clearly applicable to such components and systems and would place it in a separate section. In addition, the proposal would revise the section to make it applicable to reciprocating engines as well as turbine engines as is presently the case in § 23.939(b).

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## PROPOSED RULES

Ref. Proposal No. 741; § 25.939(b); Agenda Item E-19.

3-27. By adding a new § 25.952 to read as follows:

**§ 25.952 Fuel system analysis and test.**

(a) Proper fuel system functioning under all probable operating conditions must be shown by analysis and those tests found necessary by the Administrator. Tests, if required, must be made using the airplane fuel system or a test article that reproduces the general fuel system operating characteristics, temperature regulation, fueling and defueling provisions, pressure regulation, and fuel transfer provisions.

(b) The likely failure of any heat exchanger using fuel as one of its fluids may not result in the contamination of either fluid by the other.

*Explanation.* Analysis and in some instances tests of the entire fuel system or a facsimile thereof is necessary to disclose problems with the functional interrelationship of portions of the system.

Ref. Proposal No. 744; § 25.952; Agenda Item F-29.

**§ 25.959 [Amended]**

3-28. By revising § 25.959 in a manner substantively identical to that proposed for § 23.959.

3-29. By adding a new § 25.963(f) to read as follows:

**§ 25.963 Fuel tanks: general.**

(f) For pressurized fuel tanks, a means must be provided to regulate fuel tank pressure in flight. The means must operate automatically and must incorporate fail-safe features to prevent the buildup of an excessive pressure difference between the inside and the outside of the tank.

*Explanation.* The rules do not presently consider the fuel tank overpressurization effect that might occur during operation with a pressurized fuel tank. For tanks that would be pressurized, the proposal would require automatic regulation of tank pressure and the proposal for § 25.1305 would require a means to check operation of the regulating means before flight.

Ref. Proposal No. 746; § 25.963; Agenda Item F-31.

3-30. By adding a new § 25.965(d) to read as follows:

**§ 25.965 Fuel tank tests.**

(d) For pressurized fuel tanks, it must be shown by tests that the fuel tanks can withstand the maximum pressure likely to occur on the ground or in flight.

*Explanation.* The use of pressurized fuel tanks is not specifically provided for in the fuel tank test requirements. This proposal would include consideration of the pressure effects of a tank pressurization system.

Ref. Proposal No. 275; § 25.965; Agenda Item F-23.

3-31. By deleting the word "and" from § 25.973(b); by adding a semicolon and

the word "and" at the end of § 25.973(c); and by adding a new § 25.973(d) to read as follows:

**§ 25.973 Fuel tank filler connection.**

(d) Each fuel filling point must have a provision for electrically bonding the airplane to ground fueling equipment.

*Explanation.* To avoid possible static discharge sparks between the fuel dispensing nozzle and the airplane, a bonding point needs to be available adjacent to the filler cap so that the fuel dispensing nozzle can be bonded before the cap is opened.

Ref. Proposal No. 278; § 25.973; Agenda Item F-25.

**§ 25.995 [Amended]**

3-32. By deleting § 25.995(a) and marking it "[Reserved]."

*Explanation.* See the proposal for § 25.1141(f).

3-33. By revising §§ 25.1091(a)(1) and (d), and adding a new § 25.1091(e) to read as follows:

**§ 25.1091 Air induction.**

(a) The air induction system for each engine and auxiliary power unit must supply—

(1) The air required by that engine and auxiliary power unit under each operating condition for which certification is requested; and

(d) For turbine engine powered airplanes and airplanes incorporating auxiliary power units—

(1) There must be means to prevent hazardous quantities of fuel leakage or overflow from drains, vents, or other components of flammable fluid systems from entering the engine or auxiliary power unit intake system; and

(2) The airplane must be designed to prevent water or slush on the runway, taxiway, or other airport operating surfaces from being directed into the engine or auxiliary power unit air inlet ducts in hazardous quantities, and the air inlet ducts must be located or protected so as to minimize the ingestion of foreign matter during takeoff, landing, and taxiing.

(e) Each turbine powerplant installation must comply with § 33.77 of this chapter.

*Explanation.* The proposal would revise the air induction requirements of §§ 25.1091(a) and (d) to make those provisions applicable to auxiliary power units. The proposal would ensure an adequate supply of inlet air to the APU and would protect it from the intake of flammable fluids and of water, slush, or other foreign objects. It would also be required that turbine powerplant installations comply with the foreign object ingestion requirements of § 33.77 that currently apply to turbine engines.

Ref. Proposal No. 757; §§ 25.1091(d), (e), (f), (g), (h); Agenda Item I-45.

3-34. By revising § 25.1093(b) to read as follows:

**§ 25.1093 Induction system deicing and anti-icing provisions.**

**(b) Turbine engines.**

(1) Each turbine engine and its air inlet system must function properly throughout the flight power range of the engine (including idling), within the limitations established for the airplane, without the accumulation of ice on engine or inlet system components that would adversely affect engine operation or cause a serious loss of power or thrust—

(i) Under the icing conditions specified in Appendix C of this part; and

(ii) In snow, both falling and blowing.

(2) Each turbine engine must idle for 30 minutes on the ground with the air bleed available for engine icing protection at its critical condition, without adverse effect, in an atmosphere that is at a temperature of 29° F and has a liquid water content of 0.6 grams per cubic meter in the form of drops having a mean effective diameter of 40 microns, followed by a momentary operation at takeoff power or thrust.

*Explanation.* The FAA believes that ice accumulation on inlet system components such as noise attenuating rings, vortex generators, and starters could have an adverse effect on engine operation. The proposal would make it clear that the effect of ice accumulation on components of the inlet system as well as on engine components must be considered.

Ref. Proposal No. 759; § 25.1093(b); Agenda Item I-43.

3-35. By revising the heading of § 25.1103 and § 25.1103(d) to read as follows:

**§ 25.1103 Induction system ducts and air duct systems.**

(d) For turbine engine air duct systems no hazard may result if a duct rupture or failure occurs at any point between the air duct source and the airplane unit served by the air.

*Explanation.* There exist turbine engine air duct systems that are used to carry substances other than engine bleed air. The present requirement would be revised to cover those other systems.

Ref. Proposal No. 286; § 25.1103(d); Agenda Item I-46.

**§ 25.1121 [Amended]**

3-36. By inserting the words, "For powerplant and auxiliary power unit installations the following apply:", as the lead-in of § 25.1121; by deleting the word "compartment" at the end of § 25.1121(c) and inserting the words "and auxiliary power unit compartments" in its place; and by amending § 25.1121(b) in a manner substantively identical to that proposed for § 23.1121(b).

*Explanation.* The proposal would make it clear that the requirements of § 25.1121 apply to auxiliary power unit exhaust systems. Also see the proposal for § 23.1121.

Ref. Proposal No. 761; § 25.1121; Agenda Item A-1 (Committee I).

**§ 25.1123 [Amended]**

3-37. By inserting the sentence, "For powerplant and auxiliary power unit installations, the following apply:", as the lead-in of § 25.1123.

*Explanation.* The proposal would make it clear that the provisions of § 25.1123 apply to auxiliary power unit exhaust piping.

Ref. Proposal No. 764; § 25.1123; Agenda Item A-1 (Committee I).

3-38. By adding a new § 25.1129 to read as follows:

**§ 25.1129 Variable-geometry exhaust systems.**

(a) Each variable-geometry exhaust actuating and control system must be investigated to establish that no single failure or probable combination of failures will jeopardize the safe operation of the airplane.

(b) The effects of the malfunctions specified in paragraph (a) of this section on engine operation and limitations must be taken into consideration in the investigation specified in that paragraph.

*Explanation.* Variable-geometry exhaust failures should be investigated with respect to their effect on airplane operation. The proposal would provide for such an investigation. Comments are specifically requested as to whether proposed § 25.901(c) adequately covers this proposal.

Ref. Proposal No. 765; § 25.1129; Agenda Item J-51.

3-39. By deleting § 25.1141(e) and marking it "[Reserved]" and by adding a new § 25.1141(f) to read as follows:

**§ 25.1141 Powerplant controls: general.**

(f) Powerplant valve controls located in the cockpit must have—

(1) For manual valves, positive stops in the open and closed position; and

(2) For power-assisted valves, a means to indicate the actual valve position to the flight crew.

*Explanation.* The proposed revision of § 25.901(c) would make § 25.1141(e) redundant.

It is also proposed that the fuel valve requirement of § 25.995(a) be deleted. Its substance would be generalized under this proposal and extended to cover power-assisted valves as well as manual valves and would recognize the acceptability of intransit light indicators for such valves.

Ref. Proposal Nos. 751, 289; §§ 25.995(a), 25.1141(f); Agenda Items F-32, K-52.

3-40. By revising § 25.1145(c) to read as follows:

**§ 25.1145 Ignition switches.**

(c) Each master ignition control and group of ignition switches must have a means to prevent its inadvertent operation.

## PROPOSED RULES

*Explanation.* The proposal is directed at preventing the inadvertent shutdown of engines. The FAA is aware of no data to indicate that the proposal should not apply to turbine engine powered aircraft.

Ref. Proposal Nos. 664, 768, 859, 400, 940; §§ 23.1145(d), 25.1145(d), 27.1145(c), 29.1145(c) and 29.1145(d); Agenda Item K-53.

**§ 25.1195 [Amended]**

3-41. By amending § 25.1195(b) by inserting the phrase "for each other designated fire zone," in place of "For other designated fire zones," in the third sentence and by deleting the fourth sentence.

*Explanation.* The proposal would make it clear that each discharge provided need not be directable to all engines but that at least two discharges must be available to each engine.

Ref. Proposal No. 291; § 25.1195(b); Agenda Item L-56.

**§ 25.1197 [Amended]**

3-42. By amending § 25.1197 by deleting from paragraph (b) the words "methyl bromide, carbon dioxide, or any other" and inserting "any" in their place and by deleting paragraph (c).

*Explanation.* See the proposal for § 29.1197.

3-43. By revising §§ 25.1199(b) and (c) to read as follows:

**§ 25.1199 Extinguishing agent containers.**

(b) The discharge end of each discharge line from a pressure relief connection must be located so that discharge of the fire extinguishing agent would not damage the airplane. The line must also be located or protected to prevent clogging caused by ice or other foreign matter.

(c) There must be a means for each fire extinguishing agent container to indicate that the container has discharged or that the charging pressure is below the established minimum necessary for proper functioning.

*Explanation.* The pressure relief of newer, noncorrosive fire extinguishing agents need not discharge outside the airplane; the proposal would revise the present requirement in this regard. In addition, the increasing size of newer transport category airplanes makes compliance with the current requirement of § 25.1199(c) impractical. The proposal would make optional the location of the means to indicate a discharge. Additional requirements would be added relating to low pressure indications and the location of discharge lines with respect to clogging.

Ref. Proposal No. 778; §§ 25.1199(b), (c); Agenda Item L-63.

3-44. By adding a new § 25.1207 to read as follows:

**§ 25.1207 Compliance.**

Compliance with the requirements of §§ 25.1181 through 25.1203 must be shown

by a full scale fire test or by one or more of the following methods:

(a) Tests of similar powerplant configurations.

(b) Bench fire tests of components.

(c) Service experience of aircraft with similar powerplant configurations.

(d) Analysis.

*Explanation.* The proposal would clarify the fire protection requirements by setting forth the various ways by which compliance with them could be shown.

Ref. Proposal No. 780; § 25.1207; Agenda Item L-64.

3-45. By adding a new § 25.1305(a)(9) to read as follows:

**§ 25.1305 Powerplant instruments.**

(a) . . . .

(9) A means for each fuel tank pressure regulator to provide an indication prior to flight of whether the regulator is operating.

*Explanation.* See the proposal for § 25.983.

**§ 25.1337 [Amended]**

3-46. By amending § 25.1337(a) in a manner substantively identical to that proposed for § 23.1337(a).

3-47. By revising the heading, lead-in and paragraph (d) of § 25.1549 to read as follows:

**§ 25.1549 Powerplant and auxiliary power unit instruments.**

For each required powerplant and auxiliary power unit instrument—

(d) Each engine, auxiliary power unit, or propeller speed range that is restricted because of excessive vibration stresses must be marked with red arcs.

*Explanation.* The proposal would update that instrument marking requirements to cover auxiliary power units. A proposal to amend § 25.1549 to cover the marking of vertical tape instruments, was made in Notice 75-10.

Ref. Proposal No. 825; § 25.1549; Agenda Item A-1 (Committee I).

**§ 25.1557 [Amended]**

3-48. By adding a new § 25.1557(e) that would be substantively identical to the proposed new § 23.1557(e).

3-49. By deleting the word "and" from the end of § 25.1585(a)(7); by adding a semicolon and the word "and" to the end of § 25.1585(a)(8); and by adding a new § 25.1585(a)(9) to read as follows:

**§ 25.1585 Operating procedures.**

(a) . . . .

(9) Restoring a deployed thrust reverser intended for ground operation only to the forward thrust position in flight or continuing flight and landing with the thrust reverser in any position except forward thrust.

*Explanation.* See the proposal for § 25.933(a).



# PART 27—AIRWORTHINESS STANDARDS: NORMAL CATEGORY ROTORCRAFT

## § 27.571 [Amended]

3-50. By amending § 27.571(a) in a manner substantively identical to that proposed for § 29.571(a).

3-51. By adding a new § 27.901(c) to read as follows:

## § 27.901 Installation.

(c) The installation must comply with—

- (1) The installation instructions provided under § 33.5 of this chapter; and
- (2) The applicable provisions of this subpart.

*Explanation.* See the proposal for § 29.901.

3-52. By revising §§ 27.923 (a), (b), (c), (d), and (e), and by adding a new § 27.923(j) to read as follows:

## § 27.923 Rotor drive system and control mechanism tests.

(a) Each part tested as prescribed in this section must be in a serviceable condition at the end of the tests. No intervening disassembly which might affect test results may be conducted.

(b) Each rotor drive system and control mechanism must be tested for not less than 100 hours. The test must be conducted on the rotorcraft, and the torque must be absorbed by the rotors to be installed, except that other ground or flight test facilities with other appropriate methods of torque absorption may be used if the conditions of support and vibration closely simulate the conditions that would exist during a test on the rotorcraft.

(c) A 60-hour part of the test prescribed in paragraph (b) of this section must be run at not less than the torque corresponding to maximum continuous engine power and r.p.m. In this test, the main rotor must be set in the position that will give maximum longitudinal cyclic pitch change to simulate forward flight. The auxiliary rotor controls must be in the position for normal operation under the conditions of the test.

(d) A 30-hour part of the test prescribed in paragraph (b) of this section must be run at not less than the torque corresponding to 75 percent of maximum continuous engine power and the minimum engine speed intended for this power. The main and auxiliary rotor controls must be in the position for normal operation under the conditions of the test.

(e) A 10-hour part of the test prescribed in paragraph (b) of this section must be run at not less than the torque corresponding to takeoff engine power and r.p.m. The main and auxiliary rotor controls must be in the normal position for vertical ascent. For multi-engine helicopters for which the use of 2½-minute power is requested, three runs during the 10-hour test must be conducted as follows:

- (1) Each run must consist of at least one period of 2½ minutes at the torque corresponding to takeoff power and speed on all engines.

(2) Each run must consist of at least one period of 2½ minutes, for each engine in sequence, during which an engine shutdown is simulated and the remaining engines are run at the torque corresponding to 2½-minute power and speed.

(j) For multi-engine helicopters for which the use of 30-minute power is requested, a run must be made at the torque corresponding to 30-minute power and minimum speed intended for this power, in which each engine, in sequence, is shut down and the remaining engines are run for a 30-minute period.

*Explanation.* The proposal provides tests to demonstrate that the rotor drive system is capable of absorbing the torque output of engines operating at 2½-minute and 30-minute power. The endurance test requirement would also be revised to reference torque inputs to the rotor drive system rather than power inputs because torque is a more meaningful term. In addition, paragraph (d) of the current rule would be revised to include a more realistic torque condition. Finally, it is proposed that § 27.923 (a) be revised to prohibit during tests any disassembly that might affect test results.

*Ref.* Proposal Nos. 362, 923; §§ 27.923, 29.923; Agenda Item M-65.

3-53. By revising the lead-in of § 27.927 (b) and §§ 27.927(b) (2) and (3) and by adding a new § 27.927(c) to read as follows:

## § 27.927 Additional tests.

(b) If turbine engine torque output to the transmission can exceed the highest engine or transmission torque rating limit, and that output is not directly controlled by the pilot under normal operating conditions (such as where the primary engine power control is accomplished through the flight control), the following test must be made:

(2) For multi-engine rotorcraft under conditions associated with each engine, in turn, becoming inoperative, apply to the remaining transmission torque outputs the maximum torque attainable under probable operating conditions, assuming that torque limiting devices, if any, function properly. Each transmission input must be tested at this maximum torque for at least 1 hour.

(3) The tests prescribed in this paragraph must be conducted on the rotorcraft and the torque must be absorbed by the rotors to be installed, except that other ground or flight test facilities with other appropriate methods of torque absorption may be used if the conditions of support and vibration closely simulate the conditions that would exist during a test on the rotorcraft.

(c) It must be shown by tests that the rotor drive system is capable of operating under autorotative conditions for 15 minutes after the loss of rotor drive system oil pressure.

*Explanation.* See the proposal for § 29.927, with respect to the change from

"power" to "torque". A proposal to reduce the period of maximum torque application from one hour to 15 minutes in §§ 27.927(b) (2) and 29.927(b) (2) is contained in Notice No. 2 (Notice 75-10).

In addition, proposed § 27.927(c) would require that the rotor drive system be shown by test to be capable of operating under a condition that could occur in service.

*Ref.* Proposal Nos. 850 and 925; §§ 27.927(c) and 29.927; Agenda Item M-68.

3-54. By revising § 27.965 to read as follows:

## § 27.965 Fuel tank tests.

(a) Each fuel tank must be able to withstand the applicable pressure tests in this section without failure or leakage. If practicable, test pressures may be applied in a manner simulating the pressure distribution in service.

(b) Each conventional metal tank, nonmetallic tank with walls that are not supported by the rotorcraft structure, and integral tank must be subjected to a pressure of 3.5 p.s.i. unless the pressure developed during maximum limit acceleration or emergency deceleration with a full tank exceeds this value, in which case a hydrostatic head, or equivalent test, must be applied to duplicate the acceleration loads as far as possible. However, the pressure need not exceed 3.5 p.s.i. on surfaces not exposed to the acceleration loading.

(c) Each nonmetallic tank with walls supported by the rotorcraft structure must be subjected to the following tests:

(1) A pressure test of at least 2.0 p.s.i. This test may be conducted on the tank alone in conjunction with the test specified in paragraph (c) (2) of this section.

(2) A pressure test, with the tank mounted in the rotorcraft structure, equal to the load developed by the reaction of the contents, with the tank full, during maximum limit acceleration or emergency deceleration. However, the pressure need not exceed 2.0 p.s.i. on surfaces not exposed to the acceleration loading.

(d) Each tank with large unsupported or unstiffened flat areas, or with other features whose failure or deformation could cause leakage, must be subjected to the following test or its equivalent:

(1) Each complete tank assembly and its support must be vibration tested while mounted to simulate the actual installation.

(2) The tank assembly must be vibrated for 25 hours while two-thirds full of any suitable fluid. The amplitude of vibration may not be less than one thirty-second of an inch, unless otherwise substantiated.

(3) The test frequency of vibration must be as follows:

(i) If no frequency of vibration resulting from any r.p.m. within the normal operating range of engine or rotor system speeds is critical, the test frequency of vibration, in number of cycles per minute must, unless a frequency based on a more rational calculation is used, be the number obtained by averaging the maximum and minimum power-on en-

gine speeds (r.p.m.) for reciprocating engine powered rotorcraft or 2000 c.p.m. for turbine engine powered rotorcraft.

(ii) If only one frequency of vibration resulting from any r.p.m. within the normal operating range of engine or rotor system speeds is critical, that frequency of vibration must be the test frequency.

(iii) If more than one frequency of vibration resulting from any r.p.m. within the normal operating range of engine or rotor system speeds is critical, the most critical of these frequencies must be the test frequency.

(4) Under paragraphs (d) (3) (ii) and (iii) of this section, the time of test must be adjusted to accomplish the same number of vibration cycles as would be accomplished in 25 hours at the frequency specified in paragraph (d) (3) (i).

(5) During the test, the tank assembly must be rocked at the rate of 16 to 20 complete cycles per minute through an angle of 15 degrees on both sides of the horizontal (30 degrees total), about the most critical axis, for 25 hours. If motion about more than one axis is likely to be critical, the tank must be rocked about each critical axis for 12½ hours.

*Explanation.* The fuel tank test provisions proposed are consistent with those contained in § 29.965 and the proposal for that section. The FAA believes those requirements to be appropriate for all rotorcraft irrespective of the Part under which they are certificated.

*Ref.* Proposal No. 363; § 27.965; Agenda Item F-31.

## § 27.1093 [Amended]

3-55. By amending § 27.1093(b) in a manner substantively identical to that proposed for § 25.1093(b).

## § 27.1121 [Amended]

3-56. By amending § 27.1121(d) in a manner substantively identical to that proposed for § 23.1121(b), and by adding a new § 27.1121(g) that would be substantively identical to the proposed new § 23.1121(h).

3-57. By adding a new § 27.1141(c) that would be substantively identical to the proposed new § 25.1141(f) and by adding a new § 27.1141(d) to read as follows:

## § 27.1141 Powerplant controls; general.

(d) For turbine-engine-powered rotorcraft, no single failure or malfunction, or probable combination thereof, in any powerplant control system may cause the failure of any powerplant function necessary for safety.

*Explanation.* The proposal would incorporate into Part 27 the same requirement that exists in § 23.1141(e). The Part 23 airplane requirement is appropriate for Part 27 rotorcraft turbine powerplant controls.

*Ref.* Proposal No. 857; § 27.1141; Agenda Item K-54.

## § 27.1145 [Amended]

3-58. By amending § 27.1145(b) in a manner substantively identical to that proposed for § 25.1145(c).

## § 27.1305 [Amended]

3-59. By amending § 27.1305(e) in a manner substantively identical to that proposed for § 23.1305(h).

## § 27.1337 [Amended]

3-60. By amending § 27.1337(a) in a manner substantively identical to that proposed for § 23.1337(a).

# PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

## § 29.571 [Amended]

3-61. By amending § 29.571(a) by revising the parenthetical statement contained therein to read—"the flight structure includes rotors, rotor drive systems between the engines and the rotor hubs, controls, fuselage, and their related primary attachments".

*Explanation.* The proposal would make it clear that the fatigue evaluation of flight structure required under § 29.571 applies to portions of the rotor drive system.

*Ref.* Proposal No. 922; §§ 29.917(c), (d); Agenda Item M-66.

3-62. By revising § 29.901(b) (1) and adding a new § 29.901(c) to read as follows:

## § 29.901 Installations.

(b) . . .  
(1) The installation must comply with—

- (i) The installation instructions provided under § 33.5 of this chapter;
- (ii) The applicable provisions of this subpart; and
- (iii) For turbine powerplant installations, any other requirements necessary for safety;

(c) For each powerplant and auxiliary power unit installation, it must be established that no single failure or malfunction or probable combination of failures will jeopardize the safe operation of the rotorcraft except that the failure of structural elements need not be considered if the probability of such failure is extremely remote.

*Explanation.* With the revision of § 33.5 in Amendment 33-8, the FAA believes it appropriate to require the engine installation to meet the instructions for installation required to be provided by the engine manufacturer.

A generalized failure requirement would also be added consistent with the proposal being made for § 29.901.

*Ref.* Proposal Nos. 917, 938; §§ 29.901 (b) (6), 29.1141; Agenda Items E-14, K-54.

## § 29.903 [Amended]

3-63. By deleting §§ 29.903 (d) and (e) and marking them "[Reserved]".

*Explanation.* See the proposal for § 29.908.

3-64. By adding a new § 29.908 to read as follows:

## § 29.908 Cooling fans.

For cooling fans that are a part of a powerplant installation the following apply:

(a) *Category A.* For cooling fans installed in category A rotorcraft, there must be means to ensure that a fan failure will not affect the operation of the engines or prevent continued safe flight except that the loss of cooling need not be considered.

(b) *Category B.* For cooling fans installed in category B rotorcraft, there must be means to protect the rotorcraft and allow a safe landing if a fan fails. It must be shown that—

- (1) The fan would be contained in the case of a failure;
- (2) Each fan is located so that a failure will not jeopardize safety; or
- (3) Each fan can withstand an ultimate load of 1.5 times the centrifugal force expected in service, limited by either—

(i) The highest rotational speeds achievable under uncontrolled conditions; or

(ii) An overspeed limiting device.

*Explanation.* Present §§ 29.903 (d) and (e) apply only to fan blades of engine cooling fans. The FAA believes that the requirement should apply to the entire cooling fan, whether or not a part of the engine, if the fan is a part of the powerplant installation.

*Ref.* Proposal No. 920; § 29.903(d); Agenda Item E-21.

## § 29.927 [Amended]

3-65. By adding a new § 29.927(c) that would be substantively identical to the proposed new § 27.927(c).

3-66. By revising § 29.965(d) (3) (i) to read as follows:

## § 29.965 Fuel tank tests.

(d) . . .  
(3) . . .

(i) If no frequency of vibration resulting from any r.p.m. within the normal operating range of engine or rotor system speeds is critical, the test frequency of vibration, in number of cycles per minute, must, unless a frequency based on a more rational analysis is used, be the number obtained by averaging the maximum and minimum power-on engine speeds (r.p.m.) for reciprocating engine powered rotorcraft or 2000 c.p.m. for turbine engine powered rotorcraft.

*Explanation.* The 0.9 factor of maximum continuous speed currently specified is inappropriate since for many helicopters it could dictate a test speed below the power-on operating range. The proposed averaging process would assure use of a meaningful test value and the alternative rational calculation would permit discretion in obtaining a satisfactory test. A realistic test frequency for turbine installations is also proposed.

*Ref.* Proposal No. 929; § 29.965(d); Agenda Item F-23.



## PROPOSED RULES

## § 29.991 [Amended]

3-67. By amending § 29.991(b) by adding a sentence at the end thereof to read: "Each pump used for this purpose must be activated automatically or operated continuously so that enough fuel pressure will be maintained to prevent engine stoppage."

*Explanation.* The proposal would make § 29.991(b) substantively identical to § 29.991(b).

*Ref.* Proposal No. 931; § 29.991(b); Agenda Item F-35.

## § 29.995 [Amended]

3-68. By deleting § 29.995(a) and marking it "[Reserved]."

*Explanation.* See the proposals for §§ 29.1141 and 25.1141.

## § 29.1093 [Amended]

3-69. By amending § 29.1093(b) in a manner substantively identical to that proposed for § 25.1093(b).

## § 29.1121 [Amended]

3-70. By amending § 29.1121 in a manner substantively identical to that proposed for § 25.1121.

## § 29.1141 [Amended]

3-71. By adding a new § 29.1141(f) that would be substantively identical to the proposed new § 25.1141(f).

## § 29.1145 [Amended]

3-72. By amending § 29.1145(c) in a manner substantively identical to that proposed for § 25.1145(c).

## § 29.1193 [Amended]

3-73. By amending § 29.1193(e) by deleting from the lead-in the words "category A."

*Explanation.* Under Part 29 certain category B rotorcraft are not required to have fire extinguishing systems or fire detector systems. Moreover, there are presently no fire containment provisions for such rotorcraft. It is therefore possible for a fire to burn in the engine of these category B rotorcraft without being detected and to spread rapidly through the aircraft. Paragraph (e) of § 29.1193 is designed to prevent such an undetected engine fire from spreading. However, that paragraph currently applies only to category A rotorcraft. This proposal would make the provisions of paragraph (e) applicable to all rotorcraft to be certificated under Part 29.

*Ref.* Proposal No. 943; § 29.1193(e); Agenda Item L-60.

3-74. By revising § 29.1195(b) to read as follows:

## § 29.1195 Fire extinguishing systems.

(b) For multi-engine powered rotorcraft, the fire extinguishing system, the quantity of extinguishing agent, and the rate of discharge must—

(1) For each auxiliary power unit and combustion equipment, provide at least one adequate discharge; and

(2) For each other designated fire zone, provide two adequate discharges.

*Explanation.* See the proposal for § 25.1195.

*Ref.* Proposal No. 291; § 25.1195(b); Agenda Item L-56.

## § 29.1197 [Amended]

3-75. By amending § 29.1197 by deleting from paragraph (b) the words "methyl bromide, carbon dioxide, or any other" and inserting "any" in their place and by deleting paragraph (c).

*Explanation.* The proposal would remove specific references to obsolete extinguishing agents. A proposal to revise paragraph (a) is contained in Notice Number 2 (Notice 75-10).

*Ref.* Proposal No. 402; § 29.1197; Agenda Item L-62.

## § 29.1199 [Amended]

3-76. By amending § 29.1199(b) and (c) in a manner substantively identical to that proposed for §§ 25.1199(b) and (c).

## § 29.1305 [Amended]

3-77. By amending § 29.1305(a) (5) in a manner substantively identical to that proposed for § 23.1305(h).

## § 29.1337 [Amended]

3-78. By amending § 29.1337(a) in a manner substantively identical to that proposed for § 23.1337(a).

## PART 33—AIRWORTHINESS STANDARDS; AIRCRAFT ENGINES

## § 33.15 [Amended]

3-79. By amending § 33.15 in a manner substantively identical to that proposed for § 35.17.

3-80. By revising § 33.17(a) by inserting the words "reciprocating engines" in place of the words "the engine" and by adding a new § 33.17(f) to read as follows:

## § 33.17 Fire prevention.

(f) The design and construction of turbine engines must minimize the probability of the occurrence of an internal fire that could result in structural failure, overheating, or other hazardous condition.

*Explanation.* Section 33.17(a) was developed for reciprocating engines and therefore does not adequately cover the problems associated with internal fires in turbine engines. The failure of internal turbine engine components can liberate hot air in the presence of a flammable fluid or liberate a flammable fluid in the presence of an ignition source. Such occurrences could lead to an internal fire that could result in

structural failure, overheating, or other hazardous conditions. The proposal would therefore make § 33.17(a) applicable to reciprocating engines only and would add an appropriate requirement applicable to turbine engines.

*Ref.* Proposal No. 992; § 33.17; Agenda Item C-7.

## PART 35—AIRWORTHINESS STANDARDS; PROPELLERS

3-81. By revising § 35.17 to read as follows:

## § 35.17 Materials.

The suitability and durability of materials used in the propeller must—

(a) Be established on the basis of experience or tests; and

(b) Conform to approved specifications (such as industry or military specifications, or Technical Standard Orders) that ensure their having the strength and other properties assumed in the design data.

*Explanation.* The proposal would clarify the current rule.

*Ref.* Proposal No. 429; § 35.17; Agenda Item P-82.

3-82. By revising § 35.35 to read as follows:

## § 35.35 Blade retention test.

The hub and blade retention arrangement of propellers with detachable blades must be subjected to a centrifugal load of twice the maximum centrifugal force to which the propeller would be subjected during operations within the limitations established for the propeller. This may be done by either a whirl test or a static pull test.

*Explanation.* The proposal would revise the present rule to make it clear that the centrifugal load application required is twice the maximum load expected during propeller operations within established limits.

*Ref.* Proposal No. 433; § 35.35; Agenda Item P-84.

## APPENDIX I COMMITTEE IV (POWERPLANT) PROPOSALS DEFERRED

## GROUP 1

Based upon the discussions at the Airworthiness Review Conference, the FAA has determined that the proposals listed below appear to have sufficient merit to warrant further consideration but for various reasons should be deferred for consideration at the next Airworthiness Review or Operations Review as appropriate. Included in the reasons for deferral are the following:

1. The proposal is so complex or extensive that more time is required than is available within the 1974-75 Airworthiness Review to give it full consideration.

2. More data is needed, to supplement or support the proposal, before a decision can be reached.

3. The proposal would be more appropriately considered during an operations review.

The deferral of these proposals does not foreclose the FAA from taking separate rule-making action on the deferred proposals if a need for such action should arise.

## 14 CFR (FAR) Proposal No. Agenda Item Proponent

Pt. 23..... 58 L-56..... National Transportation Safety Board.

Pt. 23..... 56 N-60..... Do.

23.33..... 62 O-79..... General Aviation Manufacturers Association.

23.907..... 96 O-80..... Do.

23.1041..... 108 H-30..... The Dee Howard Co.

23.1045..... 109 H-40..... Do.

23.1048..... 110 I-43..... General Aviation Manufacturers Association.

23.1305..... 113 N-69..... A. R. P. Industries.

23.1337..... 117 N-76..... Department of Transportation—Australia.

25.934..... 269 E-18..... Aerospace Industries Association.

25.1011..... 281 G-36..... Do.

27.1015..... 364 G-38..... Unifroyal, Inc.

29.991..... 399 F-35..... Aerospace Industries Association.

33.97..... 424 C-10..... General Aviation Manufacturers Association.

35.37..... 435 P-86..... Department of Transportation—Australia.

35.37..... 436 P-86..... General Aviation Manufacturers Association.

Pt. 1..... 9 B-4..... Rolls-Royce, Ltd.

23.967..... 108 F-24..... General Aviation Manufacturers Association.

23.991..... 648 Not in agenda. Federal Aviation Administration.

23.1047..... 654 H-41..... Do.

23.1337..... 661 N-74..... Do.

Pt. 25..... 140 B-6..... Rolls-Royce, Ltd.

25.901..... 736 A-1 (Committee I). Federal Aviation Administration.

25.913..... 738 do. Do.

25.939..... 740 B-3 (Committee I). Do.

25.1103..... 760 A-1 (Committee I). Do.

25.1185..... 775 L-56..... Do.

25.1205..... 783 N-78..... Do.

29.923..... 923 M-65..... Do.

29.927..... 924 M-65..... Do.

Pt. 33..... 423 B-5..... Rolls-Royce, Ltd.

33.65..... 495 B-3 (Committee I). Federal Aviation Administration.

35.5..... 428 P-81..... General Aviation Manufacturers Association.

35.36..... 434 P-85..... Do.

35.39..... 998 P-87..... Federal Aviation Administration.

23.993..... 649 F-28..... Federal Aviation Administration.

23.1047..... 655 H-41..... Do.

23.1091..... 656 I-42..... Do.

23.1093..... 657 I-43..... Do.

23.1103..... 660 I-44..... Do.

23.1189..... 668 L-59..... Do.

23.1205..... 674 N-70..... Do.

25.967..... 277 F-24..... Joint Airworthiness Requirements Committee.

## PROPOSED RULES

## 14 CFR (FAR) Proposal No. Agenda Item Proponent

25.967..... 748 F-24..... Federal Aviation Administration.

25.975..... 749 F-26..... Do.

25.1001..... 758 I-42..... Do.

25.1133..... 773 L-61..... Do.

25.1208..... 779 L-56..... Do.

25.1305..... 783 N-70..... Do.

27.975..... 851 F-26..... Do.

27.999..... 852 F-34..... Do.

27.1001..... 853 I-45..... Do.

27.1091..... 854 I-42..... Do.

27.1143..... 858 K-55..... Do.

27.1193..... 861 L-60..... Do.

27.1337..... 869 Not in agenda. Do.

29.961..... 928 F-30..... Do.

29.975..... 930 F-26..... Do.

29.999..... 932 F-34..... Do.

29.1091..... 935 Not in agenda. Do.

29.1091..... 936 I-48..... Do.

29.1143..... 939 K-55..... Do.

29.1165..... 401 K-53..... Aerospace Industries Association.

29.1205..... 948 N-70..... Federal Aviation Administration.

33.23..... 993 C-8..... Do.

33.63..... 994 C-9..... Do.

35.19..... 431 P-82..... General Aviation Manufacturers Association.

35.41..... 999 P-88..... Federal Aviation Administration.

Pt. 127..... 1097 L-56..... Do.

APPENDIX III—COMMITTEE IV (POWERPLANT) PROPOSALS REMOVED FROM CONSIDERATION FROM THE FIRST BIENNIAL AIRWORTHINESS REVIEW

Based on the FAA's review of the discussions at the Airworthiness Review Conference and of the information submitted by interested persons, the following proposals considered by Committee IV at the Airworthiness Review Conference are removed from consideration during the First Biennial Airworthiness Review for the reasons listed below:

14 CFR (FAR) Proposal No. Agenda Item Proponent

Pt. 1..... 8 A-1..... Rolls-Royce, Ltd.

23.965..... 101 F-28..... Unifroyal, Inc.

23.977..... 105 F-27..... General Aviation Manufacturers Association.

23.1182..... 111 L-58..... Do.

23.1305..... 112 N-71..... Do.

Pt. 25..... 133 A-3..... Rolls-Royce, Ltd.

25.901..... 264 E-14..... Joint Airworthiness Requirements Committee.

25.901..... 265 E-15..... Do.

25.901..... 273 F-30..... Do.

25.963..... 274 F-24..... Do.

25.965..... 276 F-28..... Unifroyal, Inc.

25.968..... 280 F-29..... Joint Airworthiness Requirements Committee.

25.1027..... 282 G-37..... Do.

25.1108..... 285 I-46..... Do.

25.1107..... 287 I-47..... Do.

25.1183..... 290 L-61..... Do.

25.1208..... 292 L-56..... Aerospace Industries Association.

25.1305..... 294 N-77..... Joint Airworthiness Requirements Committee.

Pt. 27..... 344 F-33..... Swiss Federal Air Office.

Pt. 29..... 375 F-33..... Do.

29.928..... 397 M-67..... Aerospace Industries Association.

29.965..... 398 F-28..... Unifroyal, Inc.

Pt. 33..... 422 A-2..... Rolls-Royce, Ltd.

35.33..... 432 P-83..... General Aviation Manufacturers Association.

Proposal No. 8—See Proposal No. 422 with respect to contingency ratings.

Proposal No. 101—The proponent suggested that §§ 23.965(b) and (d), 25.965(b) and 29.965 be revised to make it clear that production fuel tanks need not be tested in accordance with these requirements. However, since these provisions clearly only require testing for the type certification of the aircraft, there is no need to amend the rule.

The proponent also suggested that the fuel tank sloshing test requirement of § 23.965(d) be revised to require one test at 110°F with a specified test fluid and with vibration being applied concurrently. With respect to requiring one test at 110°F instead of the currently required two tests, one at room temperature and one at 110°F, the results obtained would not be sufficiently conservative since the test at room temperature could be the more critical. With respect to requiring the use of the specific test fluid suggested by the proponent, that fluid is commonly used; however, to require only its use would be unduly restrictive. Finally, vibration tests are not needed for all non-metallic tanks. Section 23.965(b) already requires vibration tests for those kinds of tanks that need such tests.

Proposal No. 105—The substance of this proposal was covered in Notice No. 2 (Notice 75-10).

Proposal No. 111—The proponent suggested that § 23.1182 be revised to require a test at a flame temperature of 2000±50°F. The FAA believes that the current regulation, requiring a 2000°F minimum flame temperature is adequate, and the proponent did not present substantial justification for the requested revision.

Proposal No. 112—The proposal would amend § 23.1305(g) to permit the installation of a means equivalent to the required fuel pressure indicator to indicate proper fuel flow to the engines. While other means, such as a flow meter, might provide useful information, engine certification under FAR 33 is predicated on minimum and maximum pressure limits. Since certain fuel system failures can result in a pressure less than the minimum or greater than the maximum permissible, an indication of pressure is necessary to show proper fuel system functioning.

Proposal No. 138—See Proposal No. 422 with respect to contingency ratings.

Proposal No. 264—This proposal requests that § 25.671(b) be made applicable to powerplant installation components whose incorrect assembly would jeopardize safe aircraft operations. The FAA does not agree. The proposal is too general in nature. Where service experience indicates that incorrect assembly of a component would jeopardize safe aircraft operation, provisions similar to § 25.671(b) have and will be incorporated into the regulations with respect to specific kinds of components.

Proposal No. 265—It was proposed that testing of the powerplant installation be required under hot climate conditions. The FAA does not agree. Sections 25.939, 25.1041, and 25.1045 and the extrapolation used to establish operating limitations for hot weather conditions, provide for more conservative limitations than would the testing proposed.

Proposal No. 273—The proposal sets forth advisory material and rulemaking has not been shown to be necessary. However, while not discussed at the Conference, the FAA believes that there is no assurance that the use of higher vapor pressure fuels at a lower



## PROPOSED RULES

fuel temperature, as suggested by the proponent, to simulate the test condition specified in § 25.961(a)(5), will provide adequate results since there exists no assurance that the vapor forming tendencies of the differing fuels at the differing temperatures will be the same. Therefore, the proposal is inappropriate for rulemaking.

Proposal No. 274—The proponent suggested that § 25.963(a) be revised to cover fuel tank corrosion caused by microbial contamination of fuel; however, § 25.609(a)(2) currently provides for such consideration and the revision is therefore unnecessary.

Proposal No. 276—See Proposal No. 101 with respect to testing of production tanks.

Proposal No. 280—This proposal to permit the use of means equivalent to flexible hose assemblies under § 25.993(c) is unnecessary since it is already permitted under § 21.21(b)(1).

Proposal No. 282—The proponent suggested that § 25.1027(b) be revised to require that sufficient oil be available to engine-oil-dependent propeller feathering systems to allow for the feathering and unfeathering of the propeller after certain lubrication system failures. The current rule requires only that there be sufficient oil to feather the propeller. Presented as a rationale for the proposed change was the possible need to restart the shutdown engine and unfeather the propeller in the event of a two engine failure situation. The FAA does not agree because the FAA believes that the proposal would result in the incorporation of unnecessary design features.

Proposal No. 285—The proponent suggested that § 25.1103(a) be revised by making that paragraph applicable to reciprocating engine induction systems and that § 25.1103(d) be revised to specify a particular failure condi-

tion. With respect to § 25.1103(a), since the provision refers to superchargers, by its own terms it only applies to reciprocating engine installations, and with respect to § 25.1103(d) the proposal is advisory in nature. In neither case has regulatory action been shown to be needed.

Proposal No. 287—The proponent suggested that the title of § 25.1107 be revised to make it clear that the section applies only to reciprocating engine installations, however, since the provision refers to inter-coolers and after-coolers, by its own terms it applies only to such installations. Regulatory action has not been shown to be needed.

Proposal No. 290—The objective of this proposal to require that certain components within designated fire zones be fireproof is currently adequately covered in the Powerplant Fire Protection provisions.

Proposal No. 292—The proposal would add the phrase "except where other means acceptable to the Administrator are shown" at the beginning of § 25.1203(a). The proposal is unnecessary as equivalency is provided for under § 21.21.

Proposal No. 294—The proposal sets forth acceptable means of compliance which is advisory only and rulemaking has not been shown to be necessary.

Proposal No. 344—The proponent suggested that standards be provided for fuel jettisoning systems installed in rotorcraft. While the proposal may have merit, the FAA is unaware of any interest in installing such a system in a civilian helicopter planned for type certification, and the proposal, therefore, is unnecessary. However, if application is made to install such a system, standards could be adopted in the form of Special Conditions.

Proposal No. 375—See Proposal No. 344.

Proposal No. 397—As explained by the proponent, the proposal would permit rotor brake bench testing instead of compliance with § 29.923(j) if after type certification and compliance with § 29.923(j) the rotor brake is modified. The FAA does not believe a rule change is necessary. The certificating region under the provisions of Part 21 has sufficient authority to permit brake bench tests under the circumstances presented if there exists no need to reconduct the original endurance test for the new installation.

Proposal No. 398—See Proposal No. 101 with respect to testing of production tanks.

Proposal No. 422—The proponent suggested that contingency ratings be developed for airplane turbine engines. Based on Conference discussions the FAA believes that the emergency thrust concept of Proposal No. 154, § 25.101(c) (Agenda Item F-32, Committee II—Flight) sets forth a more agreeable concept than that proposed here. Therefore, these proposals are being removed in favor of continued consideration of the concept of Proposal No. 154 with the emergency thrust being limited by the maximum approved takeoff thrust.

Proposal No. 432—The proponent suggested that § 25.33(b) be revised to make it clear that the applicant for a propeller type certificate need not furnish its own testing facilities for the required tests. However, the current rule clearly permits the use of test facilities not owned by the applicant, and the suggested revision, therefore, is unnecessary.

J. A. FERRAISE,  
Acting Director,  
Flight Standards Service.

Issued in Washington, D.C. on May 13, 1975.

[FR Doc. 75-13074 Filed 3-16-75; 8:45 am]

# federal register

MONDAY, MAY 19, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 97



PART V

## FEDERAL COMMUNICATIONS COMMISSION

### STATIONS ON SHIPBOARD IN THE MARITIME SERVICE

Auto Alarm Receiver Tolerances



## A N N E X

We consider a system employing clocks and digital counters with a tolerance specified for the clock period. It is required to mark the duration of three intervals given the following constraints:

- (a) The interval 0 - 1.5 seconds, where the indication of 1.5 seconds will come as close to the termination of a true 1.5 second duration as may reasonably be expected in the light of the specified clock tolerance, but in no event to come before the completion of the 1.5 second period;
- (b) The interval 0 - 3.5 seconds, where the indication of 3.5 seconds will come as close to the termination of a true 3.5 second duration as may reasonably be expected in the light of the specified clock tolerance, but in no event to extend beyond the completion of the 3.5 second period;
- (c) The interval 0 - 6 seconds with constraints similar to those in (a) above.

It is evident that in (a) we should set our clock timing,  $n$ , so that at the multiple,  $m$ , selected by the counter the interval will be greater than 1.5 seconds by at least an amount generated by the clock tolerance,  $Tmn$ . Let the difference  $mn - 1.5 = Tmn + p$ . Simultaneously, (b) requires that we should seek a second multiple,  $k$ , of the same clock rate,  $n$ , yielding an interval less than 3.5 by at least an amount due to the clock tolerance. Here let  $3.5 - kn = Tkn + q$ . If we wish to relate  $q$  to  $p$  by the ratio of the multiple chosen for each (i.e. if  $q$  should be  $\frac{k}{m}$  or roughly  $\frac{3.5}{1.5}$

times greater than  $p$ ), then we may proceed as follows:

$$mn - Tmn = 1.5 + p \quad (1)$$

$$kn + Tkn = 3.5 - \frac{k}{m}p \quad (2)$$

$$\text{or } bmn + bTmn = 3.5 - bp \quad (3)$$

where  $b = \frac{k}{m}$ ;

$n$  = the period of the clock in seconds;

$m$  = smallest number of counts yielding an interval  $\geq 1.5$  seconds;

$k$  = greatest number of counts yielding an interval  $\leq 3.5$  seconds;

$T$  = tolerance of the clock expressed as a decimal;

$p$  = a kind of margin of safety in seconds defined by (1).

$$\text{From (1)} \quad bmn - bTmn = 1.5b + bp \quad (4)$$

$$\text{From (3) and (4)} \quad 2bmn = 3.5 + 1.5b \quad (5)$$

$$\text{or} \quad mn = .75 + \frac{1.75}{b} \quad (6)$$

$$\text{From (1) and (6)} \quad (1 - T)\left(.75 + \frac{1.75}{b}\right) = 1.5 + p \quad (7)$$

The optimum case obviously occurs when  $p = 0$ .

Under this limiting condition, we can solve for  $b$ , given any tolerance  $T$ .

Thus if we have a clock tolerance of .02, then the limiting value of  $b$  is 2.2418300653595. Since  $b$  is defined in terms of a rational fraction with integral numerator and denominator, its value may be approximated by the following series of ratios, all less than the limiting value.

V 4 0 - 9 7

M A Y 1 9 7 5

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## RULES AND REGULATIONS

Table I

Ratio	Decimal Values
6 : 3	2.0
11 : 5	2.2
20 : 9	2.222
29 : 13	2.23076923....
38 : 17	2.235294....
47 : 21	2.238095....
56 : 25	2.24
65 : 29	2.2413793103448
Limit	2.2418300653595

Present day equipment is usually set up for a ratio of 7 : 3 with a clock timing of  $n = .5$  seconds. This of course allows for a tolerance of zero as may be seen from equation (7).

$$(1 - 0) \left( .75 \div \frac{1.75}{\frac{7}{3}} \right) = \frac{3}{4} + \frac{\frac{7}{4}}{\frac{7}{3}} = \frac{3}{4} + \frac{3}{4} = 1.5$$

Consequently for this value  $T = p = 0$  and, therefore, this ratio 7 : 3 which equals 2.333.... is unacceptable. However, from the point of view of retrofitting, it is desirable to leave  $n$  as close as possible to .5 seconds, to have  $b$  represented by a simple fraction whose numerator and denominator are integers as close to 7 and 3 respectively as is practicable, and whose  $T$  is of the order of .02.

## RULES AND REGULATIONS

With  $T$  equal to .02, three ratios from the table commend themselves to our attention: 6 : 3, 11 : 5, and 65 : 29. The first offers a great advantage in that the retrofit presents no substantial economic problem. The clock timing is changed from .5 seconds to .5416 seconds, and the second count is reduced from 7 to 6. Unfortunately,  $p$  is high — of the order of 5% — so that the overall reject is in the neighborhood of 10%. That is to say, with a two percent clock tolerance, when the timing is set to .5416 in order to ensure the legitimacy of a space 1.5 seconds in duration, we can not guarantee the rejection of any space less than 1.6575. And similarly with the upper and lower dash limits.

If we reduce the clock timing to .3091 seconds and use the ratio  $b = 11 : 5$ , then the reject value drops to 1.576.. or approximately 5%. Here the possibility of false alarms is reduced but the price of retrofitting may be substantially increased.

Lastly, if we reduce the clock timing to .0528 and make use of the ratio  $b = 65 : 29$ , the reject value becomes 1.5614 or a little more than 4% (the theoretical minimum is  $.04 = 2T$ ). Here the rejection is close to ideal but the retrofitting may pose still greater difficulties.

The analysis thus far is based on a tolerance of  $T = .02$  and the requirement  $q = \frac{k_p}{m}$ . In this connection the simple ratio 9 : 4 looks attractive but its decimal value is equal to 2.25 and this is clearly greater than the 2.24183.... that is the limit for  $T = .02$ .

V  
4  
0  
-  
9  
7M  
A  
Y  
1  
9  
7  
5

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If however we solve equation (7) for  $T$  assuming values of  $b = 2.25$  and  $p = 0$ , we arrive at a value of tolerance equal to .01818. This value is only slightly more difficult to meet than .02, but it gives us the advantages of a high clock period of approximately .362, with low counts of 4 and 9 for the 1.5 and 3.5 intervals respectively. The reject for 1.5 is 1.555 or the minimum possible since  $p = 0$  and the reject for 3.5 is 3.375 or the maximum possible since  $q = 0$ .

Another avenue worth exploring is to remove the restriction that  $q = \frac{k}{m}p$ . Here, for a tolerance of .02, a ratio of 12 : 6 : 3, and a choice of  $n = .511$ , we may arrive at reject values of 1.5637 for 1.5, and 3.0 for 3.5. Other combinations may easily be found. A summary of the cases considered is given in Table II.

Table II

	$p = \frac{k}{m}q$				$p \neq \frac{k}{m}q$
Clock Tolerance $T$	.01818...	.02			
Ratio $j : k : m$	16 : 9 : 4	12 : 6 : 3	20 : 11 : 5	116 : 65 : 29	12 : 6 : 3
Clock Period $n$ (seconds)	.381944...	.5416	.30909...	.052785...	.511
$mn$	1.52777...	1.625	1.54545...	1.53076923...	1.533
$Tmn$	.02777...	.0325	.030909...	.03061538...	.03066
$(1 - T) mn$	1.5	1.5925	1.514545...	1.500153846	1.50234
$(1 - T) mn - 1.5 = ?$	0	.0925	.014545...	.0001538	.00234
Reject 1.5 = $(1 + T) mn$	1.5555...	1.6575	1.576363...	1.56138461	1.56366
$kn$	3.4375	3.25	3.4	3.43103443	3.066
$Tkn$	.0625	.065	.068	.06862069...	.06132
$(1 + T) kn$	3.5	3.315	3.468	3.49965517...	3.12732
$3.5 - (1 + T) kn = ?$	0	.185	.032	.00034483	.37268
Reject 3.5 = $(1 - T) kn$	3.375	3.185	3.332	3.36241379	3.00468

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PART VI

## **OFFICE OF MANAGEMENT AND BUDGET**

### **BUDGET RESCISSIONS AND DEFERRALS**

Report as of May 1, 1975

V 40-97

MAY 1975

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# OFFICE OF MANAGEMENT AND BUDGET

## CUMULATIVE REPORT OF FISCAL YEAR 1975 RESCISSIONS AND DEFERRALS, MAY 1975

This report is submitted in fulfillment of the requirements of section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344). Section 1014(e) provides for a monthly report listing all budget authority with respect to which, as of the first day of such month, a special message has been transmitted to the Congress. This report includes those rescissions and deferrals contained in the ten special messages transmitted to the Congress since July 12, 1974, the date on which the Act was signed into law.

**Rescissions (Attachment A).** The following table summarizes the status of rescissions proposed by the President as of May 1, 1975.

Status of Presidential rescission requests, in millions of dollars

Action	Proposed for rescission	Rescinded
Completed:		
Public Law 93-529	672.2	131.5
Public Law 94-14	885.3	243.4
Public Law 94-15	1,097.5	18.5
Total considered	2,455.0	393.4
Pending before the Congress:		
Special Message No. 9	1.0	
Special Message No. 10	238.3	
Total pending	239.3	

<sup>1</sup> Excludes referrals reported by the Comptroller General to be rescissions. Actions on these items are considered in the deferrals sections of this report.  
<sup>2</sup> Total does not add due to rounding.  
<sup>3</sup> Includes \$1 million not yet considered by the Congress, but currently available. See R75-82 in attachment A.

## NOTICES

Attachment A to this report shows the status as of May 1, 1975, of each rescission proposed by the President. In several cases, funds were, as required, made available following the expiration of 45 days of continuous Congressional session but were subsequently rescinded. In these cases, the releases are shown in brackets under the columns "Amount Made Available" and "Date Made Available" and the subsequent rescissions appear on the following line under the columns "Amounts Rescinded" and "Date Rescission Act Signed".

The status of deferrals reported by the Comptroller General to be rescissions is shown in Attachment B to the report.

**Deferrals (Attachment B).** As of May 1, 1975, the cumulative total of deferrals reported in the 10 special messages is \$25,211 million. This total contains the \$24,843 million appearing in the column entitled "Amount Transmitted in Special Message, Current." In addition, this total also contains \$494 million of the amounts appearing in the column entitled "Amount Transmitted in Special Message, Superseded." This \$494 million reflects deferrals which were subsequently superseded by events, e.g., in some cases, enacted appropriations nullified deferrals under the continuing resolution; in others, deferred amounts were later incorporated in proposed rescissions.

Of this cumulative total of \$25,211 million reported as deferred, Congress had, as of May 1, completed action overturning \$9,272 million in deferrals in ten impoundment resolutions. These resolu-

tions, together with other actions—releases by the Executive Branch as well as other adjustments—bring the total deferred as of May 1, to \$5,170 million.

**Ruling by the Attorney General.** The Attorney General has ruled that several withholdings reported in special messages are not subject to Congressional ratification or disapproval under the Impoundment Control Act since they were concluded before the Act became effective on July 12, 1974. These items, marked by asterisks, are included in the report to provide more complete information on the status of withheld funds.

**Information from Special Messages.** The ten special messages containing information on each of the rescissions and deferrals covered by the cumulative report are contained in the FEDERAL REGISTERS of:

Monday, September 23 (Vol. 39, No. 185, Part III),  
 Tuesday, October 8 (Vol. 39, No. 196, Part V),  
 Tuesday, November 5 (Vol. 39, No. 214, Part III),  
 Tuesday, November 19 (Vol. 39, No. 224, Part III),  
 Thursday, December 5 (Vol. 39, No. 235, Part IV),  
 Wednesday, January 8 (Vol. 40, No. 5, Part IV),  
 Thursday, February 6 (Vol. 40, No. 26, Part III), and  
 Friday, April 25 (Vol. 40, No. 81, Part IV).

Attachments.

PAUL H. O'NEILL,  
 Acting Director, Office of  
 Management and Budget.

MAY 9, 1975.

## NOTICES

### ATTACHMENT A

#### STATUS OF RESCISSIONS FISCAL YEAR 1975 (Amounts in thousands)

As of May 1, 1975

Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Executive Office of the President							
Special Action Office for Drug Abuse Programs	[R75-45]	[2,760]	[11-26-74]	-2,760	04-08-75	[2,760]	[03-01-75]
Pharmacological Research							
Special Fund for Drug Abuse	[R75-46]	[2,240]	[11-26-74]	-2,240	04-08-75	[2,240]	[03-01-75]
Funds Appropriated to the President							
Appalachian Regional Development Commission	[R75-1]	[40,000*]	[09-20-74]				
Appalachian Regional Development Programs	[R75-1A]	[40,000]	[11-13-74]	-40,000	12-21-74		
Department of Agriculture							
Extension Service	[R75-47]	[3,200]	[01-30-75]			3,200	03-17-75
Extension Service							
Farmer Home Administration							
Rural Development Grants	[R75-50]	[3,750]	[01-30-75]			3,750	03-17-75
Rural Community Fire Protection Grants	[R75-51]	[3,500]	[01-30-75]			3,500	03-17-75

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Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Recission Act Signed	Amount Made Available 1/	Date Made Available
Agricultural Stabilization and Conservation Service Agricultural Conservation Program (REAP)	[R75-3]	[85,000*]2/	[10-04-74]				
	[R75-48]	[156,250]	[01-30-75]			156,250	03-17-75
Water Bank Act Program	[R75-8]	[11,213]	[11-26-74]				
	[R75-8A]	[21,213]	[01-30-75]			[11,213] [10,000] 13,357	[03-01-75] [03-17-75]
				-7,856	04-08-75		
Rural Electrification Administration Loans	[R75-2]	[455,635*]	[09-20-74]			455,635	12-11-74
Forest Service Cooperation in Forest Fire Control	[R75-9]	[4,921]	[11-26-74]			4,921	03-01-75
	[R75-10]	[10,000]	[11-26-74]			10,000	03-01-75
Forest Roads and Trails and Roads and Trails for State National Forest Fund	[R75-4]	[63,553*]	[10-04-74]				
	[R75-4A]	[61,611]	[11-13-74]	-61,611	12-21-74		
Forestry Incentive Programs	[R75-49]	[25,000]	[01-30-75]	-10,000	04-08-75	[25,000] 15,000	[03-17-75]
Department of Commerce Social and Economic Statistics Administration Salaries and Expenses	[R75-11]	[373]	[11-26-74]	-373	04-08-75	[373]	[02-28-75]
Economic Development Administration Economic Development Assistance Programs	[R75-12]	[2,000]	[11-26-74]			2,000	02-28-75

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Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Recission Act Signed	Amount Made Available 1/	Date Made Available
Domestic and International Business Administration Financial and Technical Assistance	[R75-13]	[12,000]	[11-26-74]	-12,000	04-08-75	[12,000]	[03-01-75]
United States Travel Service Salaries and Expenses	[R75-14]	[250]	[11-26-74]	-250	04-08-75	[250]	[03-01-75]
Inter-American Cultural and Trade Center	[R75-52]	[5,000]	[01-30-75]	-5,000	04-08-75	[5,000]	[03-14-75]
National Oceanic and Atmospheric Administration Operations, Research and Facilities	[R75-15]	[500]	[11-26-74]			[500]	[03-01-75]
	[R75-15A]	[3,227]	01-30-75	-927	04-08-75	[2,727] 2,300	[03-17-75]
Patent Office Salaries and Expenses	[R75-16]	[700]	[11-26-74]	-700	04-08-75	[700]	[03-01-75]
Department of Defense, Military Operation and Maintenance Army	[R75-17]	[41,000]	[11-26-74]	-20,500	04-08-75	[41,000] 20,500	[03-01-75]
	[R75-18]	[27,500]	[11-26-74]	-13,750	04-08-75	[27,500] 13,750	[03-01-75]
Navy, Marine Corps	[R75-19]	[5,000]	[11-26-74]	-2,500	04-08-75	[5,000] 2,500	[03-01-75]
	[R75-20]	[40,000]	[11-26-74]	-20,000	04-08-75	[40,000] 20,000	[03-01-75]
Air Force Defense Agencies	[R75-21]	[1,900]	[11-26-74]	-950	04-08-75	[1,900] 950	[03-01-75]

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Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available 1/	Date Made Available
Army Reserve	[R75-22]	[1,800]	[11-26-74]	-900	04-08-75	[1,800] 900	[03-01-75]
Navy Reserve	[R75-23]	[1,100]	[11-26-74]	-550	04-08-75	[1,100] 550	[03-01-75]
Air Force Reserve	[R75-24]	[400]	[11-26-74]	-200	04-08-75	[400] 200	[03-01-75]
Army National Guard	[R75-25]	[1,400]	[11-26-74]	-700	04-08-75	[1,400] 700	[03-01-75]
Air National Guard	[R75-26]	[500]	[11-26-74]	-250	04-08-75	[500] 250	[03-01-75]
Aircraft Procurement Army	[R75-27]	[13,500]	[11-26-74]				
	[R75-27A]	[5,700]	[01-30-75]			5,700	03-01-75
Air Force	[R75-28]	[248,000]	[11-26-74]				
	[R75-28A]	[152,500]	[01-30-75]	-122,900	04-08-75	[152,500] 29,600	[03-01-75]
Special Foreign Currency Program, 1973/1975	[R75-53]	[915]	[01-30-75]	-915	04-08-75	[915]	[03-17-75]
Special Foreign Currency Program, 1974/1975	[R75-54]	[40]	[01-30-75]	-40	04-08-75	[40]	[03-17-75]
Department of Health, Education and Welfare Health Services Administration: Health Services	[R75-55]	[25,681]	[01-30-75]				
Health Services	R75-83	1,623	04-18-75			25,681	03-17-75
Center for Disease Control: Preventive Health Services	[R75-56]	[9,805]	[01-30-75]			9,805	03-17-75
National Institutes of Health: National Cancer Institute	[R75-57]	[123,006]	[01-30-75]			123,006	03-17-75

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Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available 1/	Date Made Available
National Heart and Lung Institute	[R75-58]	[37,730]	[01-30-75]			37,730	03-17-75
National Institute of Dental Research	[R75-59]	[7,489]	[01-30-75]			7,489	03-17-75
National Institute of Arthritis, Metabolism, and Digestive Diseases	[R75-60]	[28,473]	[01-30-75]			28,473	03-17-75
National Institute of Neurological Diseases and Stroke	[R75-61]	[30,283]	[01-30-75]			30,283	03-17-75
National Institute of Allergy and Infectious Diseases	[R75-62]	[13,975]	[01-30-75]			13,975	03-17-75
National Institute of General Medical Sciences	[R75-63]	[30,794]	[01-30-75]			30,794	03-17-75
National Institute of Child Health and Human Development	[R75-64]	[23,978]	[01-30-75]			23,978	03-17-75
National Eye Institute	[R75-65]	[6,512]	[01-30-75]			6,512	03-17-75
National Institute of Environmental Health Sciences	[R75-66]	[6,922]	[01-30-75]			6,922	03-17-75
Research Resources	[R75-67]	[40,560]	[01-30-75]			40,560	03-17-75
Fogarty International Center	[R75-68]	[1,020]	[01-30-75]			1,020	03-17-75
National Library of Medicine	[R75-69]	[385]	[01-30-75]			385	03-17-75
Alcohol, Drug Abuse and Mental Health Administration: Alcohol, Drug Abuse and Mental Health	[R75-70]	[103,894]	[01-30-75]			103,894	03-17-75
Alcohol, Drug Abuse and Mental Health	R75-84	14,250	04-18-75				

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Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Health Resources Administration: Health Resources	[R75-71]	[25,477]	[01-30-75]			25,477	03-17-75
DC Medical Facilities Construction	R75-85	2,000	04-18-75				
Health Manpower/Health Facilities	R75-86	220,450	04-18-75				
Health Services Planning and Development	[R75-29]	[372,466]	[11-26-74]				
	[R75-29A]	[284,719]	[01-30-75]			284,719	02-07-75
Office of Education: Elementary and Secondary Education	[R75-72]	[35,856]	[01-30-75]				
Education for the Handicapped	[R75-73]	[102,500]	[01-30-75]				
Occupational, Vocational and Adult Education	[R75-74]	[39,712]	[01-30-75]			39,712	03-17-75
Higher Education	[R75-75]	[58,300]	[01-30-75]			58,300	03-17-75
Library Resources	[R75-76]	[49,433]	[01-30-75]			49,433	03-17-75
Social and Rehabilitation Services: Public Assistance	[R75-77]	[12,900]	[01-30-75]			12,900	03-17-75
Rehabilitation Services	[R75-78]	[29,848]	[01-30-75]			29,848	03-17-75
Office of Human Development: Human Development	[R75-79]	[41,582]	[01-30-75]			41,582	03-17-75
Department of Housing and Urban Development: Housing Production and Mortgage Credit							
College Housing*	[R75-5]	[14,518*]	[10-04-74]	-14,518	12-21-74		

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Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Department of the Interior: Bureau of Land Management Public Lands Development Roads and Trails	[R75-6] [R75-6A]	[4,891*] [4,891]	[10-04-74] [11-13-74]	-4,891	12-21-74		
National Park Service Road Construction	[R75-7] [R75-7A]	[14,000] [10,461]	[10-08-74] [11-13-74]	-10,461	12-21-74		
Department of Justice: Federal Bureau of Investigation Salaries and Expenses	[R75-30]	[5,300]	[11-26-74]			5,300	03-01-75
Immigration and Naturalization Service Salaries and Expenses	[R75-31]	[1,300]	[11-26-74]			1,300	03-01-75
Bureau of Prisons Salaries and Expenses	[R75-32]	[5,250]	[11-26-74]	-5,250	04-08-75	[5,250]	[03-01-75]
Buildings and Facilities	[R75-33]	[1,750]	[11-26-74]	-1,750	04-08-75	[1,750]	[03-01-75]
Drug Enforcement Administration Salaries and Expenses	[R75-34]	[2,400]	[11-26-74]	-2,400	04-08-75	[2,400]	[03-01-75]
Department of Labor: Manpower Administration: Community Service Employment: For Older Americans	[R75-80]	[12,000]	[01-30-75]			12,000	03-17-75

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## NOTICES

Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available 1/	Date Made Available
Department of State International Organizations and Conferences Contributions to International Organizations	[R75-35]	[2,000]	[11-26-74]	-2,000	04-08-75	[2,000]	[03-01-75]
International Trade Negotiations	[R75-36]	[100]	[11-26-74]	-100		[100]	[03-01-75]
Department of Transportation Federal Highway Administration: Railroad-Highway Demonstration Projects	[R75-82]	[1,000] [10,443] 3/	[04-18-75]			1,000 [10,443] 3/	04-25-75 4/
Department of Treasury Office of the Secretary Salaries and Expenses	[R75-37]	[310]	[11-26-74]	-310	04-08-75	[310]	[03-01-75]
Federal Law Enforcement Training Centers Salaries and Expenses	[R75-38]	[60]	[11-26-74]	-60	04-08-75	[60]	[03-01-75]
Bureau of Accounts Salaries and Expenses	[R75-39]	[630]	[11-26-74]	-630	04-08-75	[630]	[03-01-75]
U.S. Customs Service Salaries and Expenses	[R75-40]	[3,000]	[11-26-74]			3,000	03-01-75
Internal Revenue Service Salaries and Expenses	[R75-41]	[530]	[11-26-74]	-530	04-08-75	[530]	[03-01-75]
Accounts, Collection and Taxpayer Service Compliance	[R75-42] [R75-43]	[9,230] [10,240]	[11-26-74] [11-26-74]			9,230 10,240	03-01-75 03-01-75

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Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available 1/	Date Made Available
General Services Administration Public Buildings Service Federal Buildings Fund	[R75-44]	[20,023]	[11-26-74]	-20,023	04-08-75	[20,023]	[03-01-75]
Other Independent Agencies Consumer Product Safety Commission: Salaries and Expenses	[R75-81]	[1,709]	[01-30-75]	-500	04-08-75	[1,709] 1,209	[03-17-75]

## TOTAL

238,323 391,295 1,979,626 5/

1/ All amounts listed were made available as a result of the expiration of the 45-day period except for the REA loans item released on 12-11-74.

2/ Contract Authority lapsed December 31, 1974. Not included in the above Attachment A totals.

3/ Transfer authority.

4/ On February 28, 1975, the Comptroller General reported to the Congress that the Executive Branch was remiss in not having reported this item as a proposed rescission. Although this item was subsequently reported to the Congress in the ninth special message, the 45-day period expired April 25, 1975 and the funds have been made available for obligation.

5/ Excludes \$10,443 in transfer authority identified in R75-82.

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## STATUS OF DEFERRALS

FISCAL YEAR 1975  
(Amounts in thousands)

## Agency: Funds Appropriated to the President

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Current	Date of Action	OMB/Agency	Releases resulting from Subsequent Actions Taken by House	Senate	Adjustments	Amount Deferred as of 03-01-75
Agency for International Development									
Prototype Desalting Plant, Economic Assistance*	D75-19		20,000*	10-04-74					20,000
TOTAL			20,000						20,000

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## STATUS OF DEFERRALS

FISCAL YEAR 1975  
(Amounts in thousands)

## Agency: Department of Agriculture

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Current	Date of Action	OMB/Agency	Releases resulting from Subsequent Actions Taken by House	Senate	Adjustments	Amount Deferred as of 03-01-75
Agricultural Research Service									
Agricultural Research Service (Construction)	D75-11	[770]		09-20-74 04-18-75				-770 1/	0
	D75-11A		770	04-18-75					770
Foreign Agriculture Service									
Special Foreign Currency Program*	D75-20		2,516*	10-04-74					2,516
Agricultural Stabilization and Conservation Service									
Emergency Conservation Measures	D75-21	[5,000]		10-04-74 01-30-75				-5,000 1/	0
	D75-21A		11,688	01-30-75					11,688
Water Bank Program	D75-139		1,266	01-30-75 03-17-75				-1,266	0
Agricultural Marketing Service									
Marketing Services	D75-22	[903*]		10-04-74 01-30-75				-903 1/	0
	D75-22A		1,459	01-30-75					1,459
Perishable Agricultural Commodities Act Fund	D75-23	[341*]		10-04-74 01-30-75				-341 1/	0
	D75-23A		511	01-30-75					511
Forest Service: Youth Conservation Corps	D75-88		3,081	11-13-74					3,081

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Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded Current	Date of Action	Releases resulting from Subsequent Actions Taken by OMB/Agency House Senate	Amount Deferred as of 05-01-75
Forest Roads and Trails and Roads and Trails for State National Forest Fund	D75-24	(420,000*)	10-04-74 11-13-74	-420,000 1/	0
	D75-24A	420,000	11-13-74		420,000
Construction and Land Acquisition	D75-90	6,865	11-26-74		6,865
Forest Fire Prevention	D75-25	(152)	10-04-74 01-30-75	-152 1/	0
	D75-25A	173	01-30-75		173
Expense, Brush Disposal	D75-26	(18,747*)	10-04-74 01-30-75	-18,747 1/	0
	D75-26A	26,141	01-30-75		26,141
TOTAL		445,913	474,470	-445,913	473,204

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1/ Subsequently incorporated in a supplementary report.

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# STATUS OF DEFERRALS FISCAL YEAR 1975 (Amounts in thousands)

Agency: Department of Commerce

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded Current	Date of Action	Releases resulting from Subsequent Actions Taken by OMB/Agency House Senate	Amount Deferred as of 05-01-75
General Administration: Special Foreign Currency	D75-140	1,500	01-30-75		1,500
Economic Development Administration: Job Opportunities Program	D75-141	125,000	01-30-75 04-11-75	-125,000	0
Social and Economic Statistics Administration: Periodic Censuses and Programs	D75-91	327	11-26-74		327
Domestic and International Business Administration: Operations and Administration	D75-92	750	11-26-74		750
Financial and Technical Assistance, Trade Adjustment Assistance*	D75-27	(1,780*)	10-04-74 11-26-74	-1,780 1/	0
United States Travel Service: Inter-American Cultural and Trade Center*	D75-28	(4,891*)	10-04-74 11-26-74 01-30-75	-1,420 -3,471 2/	0
Inter-American Cultural and Trade Center	D75-93	(1,420)	11-26-74 01-30-75	-1,420 2/	0
National Oceanic and Atmospheric Administration: Operations Research and Facilities	D75-94	6,800	11-26-74 01-30-75 03-25-75	-2,727 3/	0

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Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Date of Action	Releases resulting from Subsequent Actions Taken by		Adjustments	Amount Deferred as of 05-01-75
				OMB/Agency	House Senate		
Costal Zone Management	D75-30	[3,175*]	10-04-74 10-26-74 12-27-74	-1,000		-2,175 4/	0
	D75-30A		2,175				2,175
	D75-95		1,000				1,000
Coastal Zone Management							
Promote and Develop Fishery Products and Research Pertaining to American Fisheries	D75-131		1,871				1,871
Fisheries Loan Fund	D75-12	[4,039*]	09-20-74 12-27-74			-4,039 4/	0
	D75-12A		5,292				5,292
National Fire Prevention and Control Administration Operations, Research and Administration	D75-96		500				500
National Bureau of Standards Construction and Facilities*	D75-29		231*				0
Office of Assistant Secretary for Science, Technology, Scientific and Technical Research and Services	D75-97	[3,718]	11-26-74 01-30-75			-3,718 1/	0
	D75-97A		4,628				4,628
Maritime Administration Ship Construction	D75-98		5,750				5,750
Research and Development	D75-99	[3,468]	11-26-74 01-30-75			-3,468 1/	0
	D75-99A		7,768				7,768
Operations and Training	D75-100		1,300				1,300

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Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Date of Action	Releases resulting from Subsequent Actions Taken by		Adjustments	Amount Deferred as of 05-01-75
				OMB/Agency	House Senate		
Office of the Assistant Secretary for Science and Technology: Scientific and Technical Research and Services	D75-31	[2,468*]	10-04-74 11-26-74			-2,468 5/	0
TOTAL		24,959	164,892	-126,231	-4,073	-26,686	32,861

1/ See Rescission No. R75-13.  
 2/ See Rescission No. R75-52.  
 3/ Amount proposed for rescission (R75-15A) was \$3,227K. On 3-1-75, \$500K was released.  
 4/ Subsequently incorporated in a supplementary report.  
 5/ See Deferral No. D75-97.

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STATUS OF DEFERALS  
FISCAL YEAR 1975  
(Amounts in thousands)

Agency: Department of Defense, Military

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded Current	Date of Action	Releases resulting from Subsequent Actions Taken by OMB/Agency House Senate	Adjustments	Amount Deferred as of 05-01-75
Procurement of Weapons and Tracked Combat Vehicles, Army	D75-155	200	04-18-75			200
Procurement of Ammunition, Army	D75-156	66,349	04-18-75 04-18-75	-66,349		0
Other Procurement, Army	D75-157	6,200	04-18-75			6,200
Shipbuilding and Conversion, Navy	D75-32	[497,990]	10-04-74 12-27-74		-497,990 1/	0
	D75-32A	[1,244,760]	12-27-74 04-18-75		-1,244,760 1/	0
	D75-32B	1,793,590	04-18-75			1,793,590
Military Construction, All	D75-33	[156,893]	10-04-74 10-25-74 11-18-74 12-04-74 04-18-75	-19,598 -1,636 -10,037		0
	D75-33A	634,321	04-18-75 03-13-75 03-27-75 03-31-75 04-07-75 04-18-75	-170,398 -44,343 -7,890 -31,462 -5,245		374,983
Family Housing, Defense	D75-158	41,314	04-18-75		-125,622 1/	41,314

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Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded Current	Date of Action	Releases resulting from Subsequent Actions Taken by OMB/Agency House Senate	Adjustments	Amount Deferred as of 05-01-75
Special Foreign Currency Program Appropriations	D75-34	[955]	10-04-74 01-30-75			0
TOTAL		1,900,598 2,541,974		-356,958	-1,869,327	2,216,287

1/ Subsequently incorporated in a supplementary report.

2/ See Rescission Nos. R75-53 and R75-54.

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STATUS OF DEFERRALS  
FISCAL YEAR 1975  
(Amounts in thousands)

Agency: Department of Defense, Civil

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Current	Date of Action	Releases resulting from Subsequent Actions Taken by OMB/Agency House	Senate	Adjustments	Amount Deferred as of 05-01-75
Corps of Engineers, Civil Construction, General	D75-1	108	09-20-74 04-30-75	-108				0
	D75-81	43,945	10-31-74 03-12-75	-43,945				0
	D75-82	14,503	10-31-74 03-12-75	-14,503				0
Flood Control, Mississippi River and Tributaries	D75-35	[613*]	10-04-74 10-01-74 11-13-74	-179			-434 1/	0
	D75-35A	434	11-13-74					434
Soldiers' and Airmen's Home Capital Outlay	D75-36	[500*]	10-04-74 11-13-74				-500 1/	0
	D75-36A	500	11-13-74					500
Wildlife Conservation Military Reservations	D75-37	[297*]	10-04-74 11-13-74				-297 1/	0
	D75-37A	[343]	11-13-74 04-18-75				-343 1/	0
Panama Canal Zone Capital Outlay	D75-37B	[432]	04-18-75 04-18-75				-432 1/	0
	D75-37C	437	04-18-75					437
TOTAL		2,185	59,927	-287	-58,448		-2,006	1,371

1/ Subsequently incorporated in a supplementary report.

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STATUS OF DEFERRALS  
FISCAL YEAR 1975  
(Amounts in thousands)

Agency: Department of Health, Education, and Welfare

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Current	Date of Action	Releases resulting from Subsequent Actions Taken by OMB/Agency House	Senate	Adjustments	Amount Deferred as of 05-01-75
Health Services Administration Health Services Delivery*	D75-38	2,250*	10-04-74 10-31-74	-2,250				0
	D75-142	13,996	01-30-75 03-17-75	-13,996 4/				0
Indian Health Facilities*	D75-39	88*	10-04-74 11-15-75	-88				0
	D75-153	1,000	04-18-75					1,000
National Institutes of Health Buildings and Facilities	D75-40	[10,441*]	10-04-74 11-18-74 12-27-74	-4,009			-6,432 1/	0
	D75-40A	[6,432]	12-27-74 04-18-75				-6,432 1/	0
Research Resources	D75-40B	7,806	04-18-75					7,806
	D75-143	6,305	01-30-75 03-17-75	-6,305 4/				0
Alcohol, Drug Abuse and Mental Health Administration: Alcohol, Drug Abuse, and Mental Health	D75-144	2,326	01-30-75 03-17-75	-2,326 4/				0
	D75-145	2,823	01-30-75 03-17-75	-777 4/			-2,046	0

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Amount  
Deferred  
as of  
05-01-75

Adjustments

Releases resulting from  
Subsequent Actions Taken by  
OMB/Agency House SenateDate of  
ActionAmount Transmitted  
in Special Message  
Superseded CurrentDeferral  
Number

Bureau/Account

Health Resources  
(Health Facilities  
Construction)

Health Resources

Health Manpower

Health Manpower

Program Management

Office of Assistant  
Secretary for Health  
Scientific Activities  
OverseasEducation Division:  
Office of Education:  
Elementary and Second-  
ary Education:  
Supplementary  
ServicesEquipment and Minor  
Remodeling

Nutrition and Health

School Assistance in  
Federally Affected  
Areas

## NOTICES

-15,148

15,148

-9,278 2/

-6,562 2/

-1,900 2/

-16,000 1/

-64,000 3/

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Amount  
Deferred  
as of  
05-01-75

Adjustments

Releases resulting from  
Subsequent Actions Taken by  
OMB/Agency House SenateDate of  
ActionAmount Transmitted  
in Special Message  
Superseded CurrentDeferral  
Number

Bureau/Account

Higher Education

(University Community  
Services)

(Land Grant Colleges)

(State Postsecondary  
Education Commission)(Basic Opportunity  
Grants)Library Resources:  
(Public Libraries)

Library Resources

Emergency School Aid

Social and Rehabilitation  
Service:  
Public Assistance  
(Child Welfare  
Assistance)

Work Incentives

## NOTICES

298,714

161,493

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Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded Current	Date of Action	Releases resulting from Subsequent Actions Taken by		Amount Deferred as of 05-01-75
				OMB/Agency	House Senate	
Rehabilitation Services (Innovation and Expansion)	D75-7	(5,000)	09-20-74 12-27-74		-5,000 1/	0
	D75-7A	(10,000)	12-27-74 12-07-74		-10,000 2/	0
	D75-43	8,158	10-04-74			8,158
	D75-44	(15,393)*	10-04-74 11-22-74 12-27-74	-2,865	-12,528 1/	0
Research and Training Activities Overseas	D75-44A	(12,528)	12-27-74 01-30-75		-12,528 1/	0
	D75-44B	20,576	01-30-75			20,576
	D75-45	803*	10-04-74 01-07-75	-803		0
Special Institutions Model Secondary School for the Deaf*	D75-46	(11,490)*	10-04-74 01-30-75		-11,490 1/	0
Howard University	D75-46A	6,323	01-30-75			6,323
Gallaudet College (Construction)	D75-149	1,267	01-30-75			1,267
Office of the Secretary Departmental Management	D75-106	(1,902)	11-26-74 12-20-74		-1,902	0
TOTAL		594,422 706,937		-43,617	-583,028	674,714

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1/ Subsequently incorporated in a supplementary report.  
 2/ Extract of P.L. 93-517 (December 7, 1974) ended deferral of funds provided by the Continuing Resolution.  
 3/ Extract of P.L. 93-554 (December 27, 1974) ended deferral of these funds.  
 4/ Release of pay raise transfers previously reclassified as rescissions by the Comptroller General.  
 5/ Amounts for Hill-Burton (D75-187) were deleted by Congress from the Continuing Resolution for the fourth quarter; remaining amounts previously deferred have been proposed for rescission (R75-86).

FEDERAL REGISTER, VOL. 40, NO. 97—MONDAY, MAY 19, 1975

STATUS OF DEFERRALS  
 FISCAL YEAR 1975  
 (Amounts in thousands)

Agency: Department of Housing and Urban Development

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded Current	Date of Action	Releases resulting from Subsequent Actions Taken by		Amount Deferred as of 05-01-75
				OMB/Agency	House Senate	
Housing Production and Mortgage Credit Nonprofit Sponsor Assistance*	D75-47	7,995*	10-04-74			7,995
	D75-48	264,117*	10-04-74 03-13-75			264,117
Community Planning and Development Comprehensive Planning Grants	D75-107	50,000	11-26-74 03-13-75		50,000	0
	D75-49	55,161*	10-04-74 01-01-75		-55,161 2/	0
Open Space Land Programs*	D75-50	48*	10-04-74 01-01-75		-48 2/	0
	D75-51	401,734*	10-04-74 01-01-75		-401,734 2/	0
Grants for Basic Water and Sewer Facilities*	D75-52	(199,290*)	10-04-74 11-13-74	-15,356	-183,934 3/	0
	D75-52A	183,934	11-13-74 01-01-75		-183,934 2/	0
New Communities Administration: New Communities Assistance Grants*	D75-53	1,799*	10-04-74			1,799

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Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Date of Action	Releases resulting from Subsequent Actions Taken by OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 05-01-75
Policy Development and Research	D75-108	8,000	11-26-74					8,000
Research and Technology								
TOTAL		199,290	972,789	-15,356		-50,000 5/	-824,811	281,911

1/ On November 6, 1974, the Comptroller General advised the Congress that, in his opinion, this item was misclassified and should have been submitted as a rescission.

2/ Authority for these programs expired January 1, 1975.

3/ Subsequently incorporated in a supplementary report.

4/ The Senate has passed an Impoundment Resolution disallowing this deferral, however, the Attorney General has ruled that the item is not subject to Congressional action under the provisions of the Impoundment Control Act since the funds were reserved prior to the effective date of that Act.

5/ Excludes amounts for Homeownership Assistance (D75-48).

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STATUS OF DEFERRALS  
FISCAL YEAR 1975  
(Amounts in thousands)

Agency: Department of the Interior

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Current	Date of Action	Releases resulting from Subsequent Actions Taken by OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 05-01-75
Bureau of Land Management									
Public Lands Development Roads and Trails	D75-54	[30,000*]		10-04-74 11-13-74				-30,000 1/	0
	D75-54A		30,000	11-13-74					30,000
Oregon and California Grant Lands	D75-13	[23,693]		09-20-74 04-18-75				-23,693	0
	D75-13A		17,029	04-18-75					17,029
Bureau of Reclamation Loan Program	D75-83		900	10-31-74 03-12-75		-900			0
Construction and Rehabilitation:	D75-14		1,055	09-20-74 09-27-74	-25				1,030
	D75-84		17,955	10-31-74 03-12-75		-17,955			0
Colorado River Basin Project	D75-85		2,525	10-31-74 03-12-75		-2,525			0
Upper Colorado River Storage Project	D75-86		1,730	10-31-74 03-12-75		-1,730			0
Upper Colorado River Basin Fund	D75-15		1,150	09-20-74					1,150
Bureau of Outdoor Recreation Land and Water Conservation Fund	D75-55		30,000*	10-04-74					30,000
Land and Water Conservation Fund	D75-109		20,000 (10,000) 2/	11-26-74 2/11-26-74					20,000 (10,000)

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Bureau/Account	Deferment Number	Amount Transmitted in Special Message Superseded	Date of Action	OMB/Agency	Releases resulting from Subsequent Actions Taken by House	Senate	Adjustments	Amount Deferred as of 05-01-75
Fish and Wildlife Service Federal Aid in Fish Restoration and Management	D75-56	[6,924]	10-04-74 04-18-75				-6,924	0
	D75-56A		04-18-75					6,077
Federal Aid in Wildlife Restoration	D75-57	[19,375]	10-04-74 04-18-75				-19,375	0
	D75-57A		04-18-75					18,791
National Wildlife Refuge Fund	D75-58	3,642	10-04-74					3,642
Proceeds from Sales, Water Resources Development Projects	D75-59	4*	10-04-74 03-06-75		-4			0
National Park Service Road Construction	D75-60	312,098	10-04-74 10-10-74 12-18-74		-55,962 -7,500			248,636
U.S. Geological Survey Payments from Proceeds, Sale of Water, Mineral Leasing Act, 1920	D75-61	[28*]	10-04-74 10-25-74 11-13-74		-1			0
	D75-61A		11-13-74					27
Bureau of Mines Drainage of Anthracite Mines	D75-62	3,575*	10-04-74					3,575
Helium Fund	D75-133	47,500	12-27-74					47,500
Bureau of Indian Affairs Road Construction	D75-63	[110,423]	10-04-74 01-30-75				-110,423 1/2	0
	D75-63A		01-30-75					135,175

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Bureau/Account	Deferment Number	Amount Transmitted in Special Message Superseded	Date of Action	OMB/Agency	Releases resulting from Subsequent Actions Taken by House	Senate	Adjustments	Amount Deferred as of 05-01-75
Acquisition of Land and Loans to Indians of Oklahoma, Act of June 26, 1939*	D75-64	105*	10-04-74					105
TOTAL		190,443	649,338		-63,492	-23,110	-190,442	562,737

1/ Subsequently incorporated in a supplementary report.  
2/ Deferral of outlays only.

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STATUS OF DEFERRALS  
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(Amounts in thousands)

Agency: Department of Justice

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Date of Action	OMB/Agency (Releases)	Subsequent Actions Taken by House	Adjustments	Amount Deferred as of 05-01-75
Bureau of Prisons Buildings and Facilities	D75-65	19,320	10-04-74				19,320
TOTAL		19,320					19,320

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Agency: Department of Labor

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Date of Action	OMB/Agency	Releases resulting from Subsequent Actions Taken by House	Adjustments	Amount Deferred as of 05-01-75
Manpower Administration: Program Administration	D75-135	{200}	12-27-74 12-07-74			-200 1/	0
Comprehensive Manpower Assistance	D75-134	[5,000]	12-27-74 12-07-74			-5,000 1/	0
Departmental Management: Salaries and expenses	D75-136	[60]	12-27-74 12-07-74			-60 1/	0
Special Foreign Currency	D75-150	200	01-30-75 02-06-75		-200		0
Pension Benefit Guarantee Corporation: Pension Guaranty Fund	D75-89	343	11-13-74 01-06-75		-343		0
TOTAL		5,260			-543	-5,260	0

1/ Enactment of P.L. 93-517 (December 7, 1974) ended deferral of funds provided by the Continuing Resolution.

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## Agency: Department of State

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded Current	Date of Action	Releases resulting from Subsequent Actions Taken by OMB/Agency House	Senate Adjustments	Amount Deferred as of 05-01-75
Administration of Foreign Affairs						
Acquisition, Operation, and Maintenance of Buildings Abroad	D75-66	33,310	10-04-74 02-13-75	-7,850		25,460
International Boundary and Water Commission, U.S. and Mexico Construction	D75-67	[4,696*]	10-04-74 11-13-74		-4,696 1/	0
	D75-67A	4,696	11-13-74			4,696
International Center, Washington, D.C.	D75-16	500	09-20-74			500
TOTAL		4,696	38,506	-7,850	-4,696	30,656

1/ Subsequently incorporated in a supplementary report.

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## Agency: Department of Transportation

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded Current	Date of Action	Releases resulting from Subsequent Actions Taken by OMB/Agency House	Senate Adjustments	Amount Deferred as of 05-01-75
United States Coast Guard						
Acquisition, Construction, and Improvements	D75-68	7,614	10-04-74			7,614
Federal Aviation Administration						
Civil Supersonic Aircraft Development	D75-69	8,113	10-04-74			8,113
Termination and Civil Supersonic Aircraft Development	D75-70	260,824	10-04-74			260,824
Facilities and Equipment						
Federal Highway Administration						
Rail Crossings - Demonstration Projects	D75-72	8,015	10-04-74			8,015
National Scenic and Recreational Highway and Trust Fund Share of Other Highway Programs	D75-71	90,000	10-04-74			90,000
Federal Aid Highways 1975 and prior	D75-17	[4,370,090]	09-20-74			
1976	D75-17	[6,357,500]	09-20-74 02-13-75 04-18-75	-1,591,104 1/		0
	D75-17A	9,136,486	04-18-75 04-25-75	-9,136,486 2/		0

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Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Date of Action	Releases resulting from Subsequent Actions Taken by OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 05-01-75
National Highway Traffic Safety Administration	D75-151	1,800	01-30-75					1,800
Traffic and Highway Safety								
TOTAL		10,727,590	9,512,852	-1,591,104		-9,136,486	-9,136,486	376,366

1/ This figure includes the release of \$2 billion announced by the President and \$409 million in other adjustments. A proposed change in the amount of this deferral is being prepared for transmission to the Congress.

2/ Impoundment resolution, S. Res. 69, passed the Senate April 24, 1975 rejecting this deferral.

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Agency: Department of the Treasury

Deferral Number	Amount Transmitted in Special Message Superseded	Current	Date of Action	Releases resulting from Subsequent Actions Taken by OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 05-01-75
D75-154	93,420	04-18-75						93,420
Office of the Secretary State and Local Government Fiscal Assistance Trust Fund								
TOTAL	93,420							93,420

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(Amounts in thousands)

Agency: Energy Research and Development Administration 1/

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Date of Action	OMB/Agency	Releases resulting from Subsequent Actions Taken by House Senate	Adjustments	Amount Deferred as of 05-01-75
Operating Expenses Weapons Program	D75-110	4,000	11-26-74				4,000
Civilian Reactor Research and Development	D75-111	8,000	11-26-74				8,000
Civilian Reactor Research and Development	D75-112	6,700	11-26-74				6,700
Physical Research	D75-113	2,700	11-26-74				2,700
Controlled Thermonuclear Research	D75-114	8,000	11-26-74				8,000
Biomedical and Environmental Research and Safety	D75-115	4,000	11-26-74				4,000
Operating Expenses/Plant and Capital Equipment Weapons Program	D75-116	4,700	11-26-74				4,700
Plant and Capital Equipment	D75-73	[1,500]	10-04-74 11-26-74			-1,500 2/	0
Plant and Capital Equipment Nuclear Materials	D75-117	12,000	11-26-74				12,000
Nuclear Materials	D75-118	12,000	11-26-74				12,000
Civilian Reactor Research and Development	D75-119	10,000	11-26-74				10,000
Civilian Reactor Research and Development	D75-120	1,500	11-26-74				1,500

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Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Date of Action	OMB/Agency	Releases resulting from Subsequent Actions Taken by House Senate	Adjustments	Amount Deferred as of 05-01-75
Civilian Reactor Research and Development	D75-121	12,100	11-26-74				12,100
Civilian Reactor Research and Development and Controlled Thermonuclear Research	D75-122	13,000	11-26-74 04-15-75	-11,000			2,000
Other Capital Equipment	D75-123	13,900	11-26-74				13,900

TOTAL

1,500 112,600

-11,000

-1,500

101,600

1/ Effective January 19, 1975 all AEC deferrals were transferred to FRDA. AEC programs transferred to the Nuclear Regulatory Commission contained no deferrals. EPA, NSF, and Interior programs transferred to ERDA contained no deferrals.

2/ See Deferral No. D75-120.

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STATUS OF DEFERRALS  
FISCAL YEAR 1975  
(Amounts in thousands)

Agency: Environmental Protection Agency

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded Current	Date of Action	OMB/Agency	Releases resulting from Subsequent Actions Taken by House Senate	Adjustments	Amount Deferred as of 05-01-75
Abatement and Control Water Program Operations	D75-74	2,000	10-04-74				2,000
Water Planning and Standards	D75-75	30,000	10-04-74				30,000
Construction Grants	D75-9	9,000,000*	09-20-74 01-31-75 02-21-75	-4,000,000 -5,000,000			0
Air and Water Control Agency Grants	D75-152	9,375	01-30-75				9,375
TOTAL		9,041,375		-9,000,000			41,375

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STATUS OF DEFERRALS  
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Agency: General Services Administration

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded Current	Date of Action	OMB/Agency	Releases resulting from Subsequent Actions Taken by House Senate	Adjustments	Amount Deferred as of 05-01-75
Automatic Data and Telecommunications Activities: Automatic Data Processing	D75-10	18,300	09-20-74 09-30-74 12-10-74	-4,300 -14,000			0
Property Management and Disposal Service: Rare Silver Dollar Program	D75-137	2,184	12-27-74				2,184
TOTAL		20,484		-18,300			2,184

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STATUS OF DEFERRALS  
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(Amounts in thousands)

Agency: National Aeronautics and Space Administration

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded Current	Date of Action	Releases resulting from Subsequent Actions Taken by OMB/Agency House Senate	Adjustments	Amount Deferred as of 05-01-75
Research and Development Manned Space Flight	D75-124	20,000	11-26-74			20,000
Space Science and Applications	D75-125	16,000	11-26-74			16,000
Aeronautical Research and Space Supporting Activities	D75-126	36,000	11-26-74			36,000
TOTAL		72,000				72,000

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Agency: Other Independent Agencies

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded Current	Date of Action	Releases resulting from Subsequent Actions Taken by OMB/Agency House Senate	Adjustments	Amount Deferred as of 05-01-75
District of Columbia Loans for Capital Outlay	D75-76	96,800	10-04-74			96,800
Federal Energy Admin- istration Salaries and expenses	D75-77	11,929	10-04-74 01-25-75	-11,929		0
Foreign Claims Settle- ment Commission Payment of Vietnam Prisoners of War Claims	D75-18	10,500	09-20-74			10,500
Advisory Commission on Intergovernmental Relations Salaries and Expenses	D75-138	50	12-27-74 01-02-75	-50		0
National Foundation on the Arts and Humanities Salaries and expenses	D75-127	18,000	11-26-74 04-01-75	-18,000		0
National Science Foundation Salaries and Expenses	D75-128	15,000	11-26-74			15,000
Salaries and Expenses (Energy R&D Appropria- tion Act, 1975)	D75-129	5,000	11-26-74			5,000
American Revolution Bicentennial Adminis- tration Salaries and Expenses	D75-78	11,000	10-04-74 11-20-74	-11,000		0
Commemorative Activi- ties Fund	D75-79	6,310	10-04-74 12-05-74	-4,810		1,500

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Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Date of Action	Releases resulting from Subsequent Actions Taken by OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 05-01-75
Railroad Retirement Board								
Railroad Unemployment Administrative Expenses Trust Fund*	D75-80	4,716*	10-04-74					4,716
Small Business Administration								
Business Loan and Investment Fund	D75-130	36,000	11-26-74					36,000
TOTAL		215,305		-45,789				169,516
TOTAL, ALL DEFERRALS		14,096,856	24,716,731	-11,281,793	-85,631	-9,186,486	-13,090,155	5,169,522

\*Action concluded prior to July 12, 1974, the day the Impoundment Control Act became effective.

[FTR Doc.76-12813 Filed 6-16-76;8:45 am]

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WASHINGTON, D.C.

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## presidential documents

### Title 3—The President

Memorandum of May 9, 1975

#### Designation of Certain Officials of the Nuclear Regulatory Commission To Classify National Security Information

Memorandum for the Commissioners and the Executive Director  
for Operations of the Nuclear Regulatory Commission

THE WHITE HOUSE,  
Washington, May 9, 1975.

Pursuant to the provisions of paragraph (A), section 2 of Executive Order 11652, I hereby designate the following officials to originally classify national security information or material as "Top Secret":

- Each of the five Commissioners on the Nuclear Regulatory Commission.
- The Executive Director for Operations of the Nuclear Regulatory Commission.

This designation shall be published in the FEDERAL REGISTER.

*Gerald R. Ford*

[FR Doc.75-13306 Filed 5-16-75;2:46 pm]

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# rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## Title 5—Administrative Personnel CHAPTER I—CIVIL SERVICE COMMISSION PART 213—EXCEPTED SERVICE Federal Energy Administration

Section 213.3388 is amended to show that one position of Staff Assistant, Congressional Affairs, Office of Congressional Affairs, is no longer excepted under Schedule C. This section is further amended to show that one position of Special Assistant to the Director, Office of Congressional Affairs, is excepted under Schedule C.

Effective on May 20, 1975, § 213.3388(d) (2) is amended and (d) (4) is added as set out below:

§ 213.3388 Federal Energy Administration.

(d) Office of Congressional Affairs.

(2) Three Staff Assistants, Congressional Affairs.

(4) One Special Assistant to the Director.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc.75-13153 Filed 5-19-75; 8:45 am]

## PART 213—EXCEPTED SERVICE General Services Administration

Section 213.3137 is amended to show that one position of Receptionist-Guide, Region 9, Public Buildings Service, is no longer excepted under Schedule A.

§ 213.3137 [Amended]

Effective on May 20, 1975, § 213.3137 (b) is revoked.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc.75-13154 Filed 5-19-75; 8:45 am]

## PART 213—EXCEPTED SERVICE Department of Justice

Section 213.3310 is amended to show that three positions of Confidential As-

sistant to the Director, Office of Justice Policy and Planning are excepted under Schedule C.

Effective on May 20, 1975, § 213.3310 (x) (1) is amended as set out below:

§ 213.3310 Department of Justice.

(x) Office of Justice Policy and Planning.

(1) Four Confidential Assistants to the Director.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc.75-13155 Filed 5-19-75; 8:45 am]

## PART 213—EXCEPTED SERVICE National Labor Relations Board

Section 213.3341 is amended to show that one position of Executive Assistant to the Chairman is excepted under Schedule C.

Effective on May 20, 1975, § 213.3341 (f) is added as set out below:

§ 213.3341 National Labor Relations Board.

(f) One Executive Assistant to the Chairman.

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,  
JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc.75-13156 Filed 5-19-75; 8:45 am]

## Title 7—Agriculture

### CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Regulation 497, Amendment 1]

### PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

#### Limitation of Handling

This regulation increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period

May 9-15, 1975.<sup>1</sup> The quantity that may be shipped is increased due to improved market conditions for California-Arizona Valencia oranges. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908.

(a) Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674) and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of oranges available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Valencia Orange Regulation 497 (40 FR 20063). The marketing picture now indicates that there is a greater demand for Valencia oranges than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of Valencia oranges to fill the current demand thereby making a greater quantity of Valencia oranges available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of Valencia oranges grown in Arizona and designated part of California.

<sup>1</sup> This document was received by the Office of the Federal Register at 11:45 a.m., May 15, 1975.

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(b) *Order, as amended.* The provisions in paragraph (b) (1) (i) and (iii) of § 908.797 (Valencia Orange Regulation 497 (40 FR 20063)) are hereby amended to read as follows:

(i) District 1: 254,000 cartons;  
(iii) District 3: 242,000 cartons.  
(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: May 14, 1975.

CHARLES R. BADER,  
Deputy Director, Fruit and  
Vegetable Division, Agricultural  
Marketing Service.

[FR Doc. 75-13182 Filed 5-19-75; 8:45 am]

[Valencia Orange Regulation 491,  
Amendment 1]

#### PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

##### Minimum Size Regulation

This amendment extends through January 15, 1976, the current minimum diameter requirement of 2.20 inches for shipments of Valencia oranges grown in District 2 of the California-Arizona production area. Shipments of such Valencia oranges are currently regulated by size through May 22, 1975, pursuant to Orange Regulation 491. The specified minimum size requirement is consistent with the size composition and available supply of the crop of Valencia oranges grown in District 2.

Notice was published in the *Federal Register* on April 23, 1975 (40 FR 17848), that consideration was being given to a continuation of the size regulation for Valencia oranges grown in District 2, pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposed amendment was recommended by the Valencia Orange Administrative Committee, established under said amended marketing agreement and order as the agency to administer the terms and provisions thereof. The notice provided that all written data, views, or arguments in connection with the proposed amendment be submitted by May 9, 1975. None were received.

The minimum size requirement specified herein reflects the Department's appraisal of the crop and current and prospective marketing conditions. The 1974-75 season crop of Valencia oranges is currently estimated at 61,500 cartons. The demand in regulated market channels will require about 35 percent of this volume, and the remaining 65 percent will be available for utilization in export, processing and other outlets. Fresh shipments of Valencia oranges from District 2 are now in progress. The volume and size composition of the crop of Valencia oranges grown in District 2 are such that ample supplies of the

more desirable sizes are available to satisfy the demand in regulated channels. Equivalent fresh on-tree returns for California-Arizona Valencia oranges averaged \$0.88 per carton for the season through April 1975 or 37 percent of the equivalent parity price. The regulation herein specified is necessary to permit shipment of ample supplies of fruit of the more desirable sizes in the interest of both growers and consumers. The action is necessary to maintain order, marketing conditions, provide consumer satisfaction and guard against the shipment of undesirable sizes of Valencia oranges which tend to weaken the market for such fruit. The regulation therefore is consistent with the objective of the act of promoting orderly marketing and protecting the interest of consumers.

After consideration of all relevant matter presented, including the proposal set forth in the aforesaid notice and other available information, it is hereby found that the regulation of shipments of Valencia oranges, as hereinafter set forth, is in accordance with said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for making this amendment effective at the time hereinafter set forth and for not postponing the effective date hereof until 30 days after publication in the *Federal Register* (5 U.S.C. 553) in that (1) notice of proposed rulemaking concerning this amendment was published in the *Federal Register* on April 23, 1975 (40 FR 17848), and no objection to it was received; (2) the regulatory provisions are the same as those contained in said notice; (3) the recommendation and supporting information for regulation of Valencia oranges were submitted to the Department after an open meeting of the committee on March 18, 1975, which was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; (4) information concerning such provisions and effective time has been disseminated among handlers of such oranges; and (5) compliance with the regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

Order. In § 908.791 (Valencia Orange Regulation 491; 40 FR 16211) the provisions of paragraph (a) are amended to read as follows:

§ 908.791 Valencia Orange Regulation 491.

(a) During the period May 23, 1975, through January 15, 1976, no handler shall handle any Valencia oranges grown in District 2 which are of a size smaller than 2.20 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: Provided, That not to exceed 5 percent, by count, of the Valencia oranges con-

tained in any type of container may measure smaller than 2.20 inches in diameter.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated, May 15, 1975, to become effective May 23, 1975.

CHARLES R. BRADER,  
Deputy Director, Fruit and  
Vegetable Division, Agricultural  
Marketing Service.

[FR Doc. 75-13183 Filed 5-19-75; 8:45 am]

#### Title 10—Energy CHAPTER II—FEDERAL ENERGY ADMINISTRATION

##### PART 213—OIL IMPORT REGULATIONS

##### Allocations for the Period Beginning May 1, 1975

On April 24, 1975, the Federal Energy Administration (FEA) issued regulations for the purpose of updating its allocation procedures under the Mandatory Oil Import Program for the period beginning May 1, 1975 (40 FR 18766, April 30, 1975). Through an oversight, however, FEA updated the formula in § 213.15(d) dealing with allocations of residual fuel oil in District I, but omitted to update the introductory language. In order to remove any potential confusion with respect to the effect of that section, FEA hereby amends § 213.15(d) to be consistent with the allocation procedures applicable during the period May 1, 1975 through April 30, 1976.

(Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790, 39 FR 23185; Trade Expansion Act of 1962, Pub. L. 87-794, as amended; Proclamation No. 3279, 24 FR 1781, as amended by Proclamation No. 4210, 38 FR 9645, Proclamation No. 4227, 38 FR 16195, Proclamation No. 4317, 38 FR 35103, Proclamation No. 4341, 40 FR 3956, Proclamation No. 4355, 40 FR 10437, and Proclamation No. 4370.)

In consideration of the foregoing, Part 213 of Chapter II, Title 10 of the Code of Federal Regulations is amended as set forth below, effective May 1, 1975.

Issued in Washington, D.C., May 15, 1975.

ROBERT E. MONTGOMERY, Jr.,  
General Counsel.

Section 213.15 is amended by revising paragraph (d) to read as follows:

§ 213.15 Allocations of residual fuel oil—District I.

(d) For the allocation period May 1, 1975 through April 30, 1976, each eligible applicant under this section shall receive an allocation not subject to license fee but subject to supplemental fee of imports of residual fuel oil into District I to be used as fuel in District I computed according to the following formula:

Applicant's average B/D allocation made pursuant to § 213.15 for the allocation period May 1, 1974 through April 30, 1975  
Average B/D allocations made pursuant to § 213.15 to all applicants for the allocation period May 1, 1974 to April 30, 1975

[FR Doc. 75-13187 Filed 5-15-75; 12:00 pm]

#### Title 12—Banks and Banking CHAPTER II—FEDERAL RESERVE SYSTEM

##### SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. H]

##### PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FED- ERAL RESERVE SYSTEM

##### Loans by State Member Banks in Flood-Prone Areas

The Board of Governors of the Federal Reserve System is amending Part 208 by adding paragraph (e) (5) to § 208.8. This amendment incorporates into § 208.8(e), which prohibits real estate loans in non-participating communities on or after July 1, 1975, the one-year grace period provided in section 201(d) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 2001, et seq.) ("Act").

Section 201(d) of the Act provides that a member bank may not make, increase, extend or renew a loan secured by improved real estate or a mobile home located in a special flood hazard area, if the community is not participating in the national flood insurance program by July 1, 1975, or the expiration of one year from notification to the chief executive officer of a community by the Secretary of Housing and Urban Development that the community is one having special flood hazards, whichever is later. After the applicable date, all such loans will be prohibited unless the community is participating, and the borrower obtains flood insurance in the required amount.

The provisions of section 553 of Title V, United States Code, relating to notice, public participation and deferred effective date were not followed in connection with this amendment because this amendment merely clarifies Regulation H by implementing statutory provisions of the Federal Flood Disaster Protection Act of 1973 (42 U.S.C. 4001, et seq.) without significant exercise of administrative discretion or interpretation.

Effective immediately, § 208.8 is amended by adding a new paragraph (e) (5) as follows:

§ 208.8 Banking practices.

(e) Loans by State member banks in identified flood hazard areas.

(5) On and after July 1, 1975, or after one year following the date of official notification to the chief executive officer of a community that the community is one containing special flood hazard areas, whichever is later, no State member bank shall make, increase, extend, or renew any loan secured by improved real estate or a mobile home located or

to be located in such a special flood hazard area so identified by the Secretary of Housing and Urban Development unless the community in which such area is situated is then participating in the national flood insurance program.

By order of the Board of Governors, May 12, 1975.

[SEAL] GRIFFITH L. GARWOOD,  
Assistant Secretary  
of the Board.

[FR Doc. 75-13203 Filed 5-19-75; 8:45 am]

#### Title 14—Aeronautics and Space CHAPTER I—FEDERAL AVIATION ADMIN- ISTRATION, DEPARTMENT OF TRAN- SPORTATION

[Airspace Docket No. 75-RM-8]

##### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CON- TROLLED AIRSPACE, AND REPORTING POINTS

##### Transition Area; Designation

On March 7, 1975, a notice of proposed rulemaking was published in the *Federal Register* (40 FR 10692) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a transition area at Gwinner, No. Dak.

Interested persons were given 30 days in which to submit written comments, suggestions or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.M.T., August 14, 1975.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Aurora, Colorado, on May 20, 1975.

M. M. MARTIN,  
Director, Rocky Mountain Region.

In Federal Aviation Regulation § 71.181 (40 FR 441) add the following transition area:

GWINNER, No. DAK.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Gwinner Municipal Airport (latitude 46°13'10" N, longitude 97°38'27" W); and that airspace extending upward from 1200 feet above the surface within a 12-mile radius of the Gwinner Municipal Airport, and within 9.5 miles west and 4.5 miles east of the 167°T bearing from the Gwinner NDB (latitude 46°13'24" N, longitude 97°38'35" W), extending from the 12-mile radius area to 18.5 miles south of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

[FR Doc. 75-13149 Filed 5-19-75; 8:45 am]

#### Title 15—Commerce and Foreign Trade CHAPTER II—DOMESTIC AND INTERNA- TIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

##### EXPORTS TO CAMBODIA AND SOUTH VIETNAM

##### Revision of Controls

Effective 12:01 a.m. e.d.t. May 16, 1975, Cambodia and South Vietnam are removed from Country Group V and are designated Group Z destinations. These two destinations are now subject to the general policies set forth in § 385.1(a) of the Export Administration Regulations. Accordingly, the Export Administration Regulations are revised as follows:

##### PART 370—EXPORT LICENSING GEN- ERAL POLICY AND RELATED INFORMA- TION

1. By deleting "Communist-controlled areas of Vietnam" and by adding "North Vietnam", "South Vietnam", and "Cambodia" under the heading "Country Group Z" in Supplement No. 1 to Part 370;

##### PART 371—GENERAL LICENSES

2. By altering §§ 371.9 and 371.10 as follows:

(a) Wherever the phrase "North Vietnam, North Korea, or Cuba" appears, insert in lieu thereof "North Korea, North Vietnam, South Vietnam, Cambodia, or Cuba".

(b) Wherever the phrase "North Vietnam and North Korea" or "North Vietnam or North Korea" appears, insert in lieu thereof "North Korea, North Vietnam, South Vietnam, or Cambodia".

(c) At the end of § 371.9(b) (1) (i), substitute a comma for the semicolon and add "except that in the case of vessels that have called at ports controlled by South Vietnam or Cambodia, this restriction is applicable only if the vessel has called at such ports after 12:01 a.m. e.d.t. May 16, 1975".

(d) At the end of § 371.10(b) (1) add "except that in the case of aircraft that have called at any point under the control of South Vietnam or Cambodia, this restriction is applicable only if the aircraft has called at such points after 12:01 a.m. e.d.t. May 16, 1975".

##### PART 373—SPECIAL LICENSING PROCEDURES

##### PART 374—REEXPORTS

3. By deleting "Cambodia" and "Vietnam, Republic of" from the lists of countries in § 373.3(a) (2) and § 374.3(d) (1) (b),

##### PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS

4. By amending § 376.9 as follows:  
(a) Wherever the phrase "North Vietnam or North Korea" appears, insert in



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lieu thereof "North Korea, North Vietnam, South Vietnam, or Cambodia".

(b) Wherever the phrase "North Vietnam, North Korea, or Cuba" appears, insert in lieu thereof "North Korea, North Vietnam, South Vietnam, Cambodia, or Cuba".

# PART 385—SPECIAL COUNTRY POLICY AND PROVISIONS

5. By revising the heading of § 385.1(a) to read "(a) North Korea, North Vietnam, South Vietnam, and Cambodia" and by deleting the portion of the first sentence of § 385.1(a) that follows the word "Korea" and inserting in lieu thereof a comma and the words "North Vietnam, South Vietnam, or Cambodia.".

6. By deleting § 385.4(d).

# PART 386—EXPORT CLEARANCE

7. By deleting the words "Communist controlled areas of Vietnam" in § 386.6 (d) (2) (i) (b) and § 386.6(d) (3), and inserting in lieu thereof "North Vietnam, South Vietnam, Cambodia," and

# PART 390—GENERAL ORDERS

8. By adding a new § 390.5 to read as follows:

§ 390.5 General order revoking validated licenses for export to South Vietnam and Cambodia.

Effective 12:01 a.m., e.d.t. May 16, 1975, all validated export licenses or authorizations that had not previously been revoked, authorizing export or reexport of any commodity or technical data to South Vietnam or Cambodia, are revoked.

(Sec. 4, 83 Stat. 842 (50 U.S.C. App. 2403); E.O. 11533, 35 FR 8790, 3 CFR, 1970 Comp., p. 134; E.O. 11693, 37 FR 17813, 3A CFR, 1972 Comp., p. 202.)

Effective date of action: 12:01 a.m., e.d.t. May 16, 1975.

LAWRENCE J. BRADY,  
Acting Director,  
Office of Export Administration.

[FR Doc. 75-13264 Filed 5-15-75; 4:56 pm]

# Title 16—Commercial Practices

# CHAPTER I—FEDERAL TRADE COMMISSION

[Docket C-1986]

# PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Bestline Products Corporation, et al.

Correction

In accordance with Commission order of April 22, 1975, reopening the proceeding upon corporate respondents' motion for the purpose of modification of the order to cease and desist (FR Doc. 75-11591) appearing on page 19447 of the *FEDERAL REGISTER* issue for Monday, May 5, 1975, the following corrections in Part II of the order, in addition to those already effected, are made:

Page 19448, middle column, paragraph 2, line 9: omit "therein";

Page 19449, left-hand column, paragraph 13. (a), lines 1, 2, and 10, omit "orally and", "terms" and "such" respectively.

The Order reopening Proceedings and Correcting Order to Cease and Desist was issued April 22, 1975.<sup>1</sup>

CHARLES A. TOBIN,  
Secretary.

[FR Doc. 75-13204 Filed 5-19-75; 8:45 am]

# Title 19—Customs Duties

# CHAPTER I—UNITED STATES CUSTOMS SERVICE

[T.D. 75-112]

# PART 162—INSPECTION, SEARCH, AND SEIZURE

# Examination of Importer and Others

Customs Delegation Order No. 49 (T.D. 75-111) delegates authority to issue citations under section 509, Tariff Act of 1930, as amended (19 U.S.C. 1509), to regional directors of investigations, assistant regional directors of investigations, special agents in charge, resident agents, Customs attaches, and senior Customs representatives of the United States Customs Service. Such authority was previously delegated to district directors of Customs and regional commissioners of Customs by Customs Delegation Order No. 22 (T.D. 56470, 30 FR 11180), to the area directors of Customs for the Customs district of New York City, New York, by Customs Delegation Order No. 40 (T.D. 71-61, 36 FR 3830), and to special agents in charge and others by Customs Delegation Order No. 38 (T.D. 70-194, 35 FR 14223), which was superseded by Customs Delegation Order No. 49.

Section 162.2 of the Customs Regulations (19 CFR 162.2) presently requires that the citation under section 509, Tariff Act of 1930, as amended, be signed by the district director. The amendment set forth below, by substituting "appropriate Customs officer" for "district director", will have the effect of conforming the Customs Regulations with the Customs delegation orders currently in effect.

Accordingly, the first sentence of § 162.2 of the Customs Regulations (19 CFR 162.2) is amended to read as follows:

§ 162.2 Examination of importer and others.

The citation of a person to appear and testify pursuant to section 509, Tariff Act of 1930, as amended (19 U.S.C. 1509), authorizing such examination, shall be in writing and signed by the appropriate customs officer. . . .

(R.S. 251, as amended, secs. 509, 624, 46 Stat. 733, as amended, 750 (19 U.S.C. 66, 1509, 1624))

Because this amendment conforms the regulations with a Customs Delegation

<sup>1</sup>Copy of the order filed with the correction document.

Order and relates to agency management, notice and public procedure thereon is found to be unnecessary, and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

Effective date. This amendment shall become effective May 20, 1975.

[SEAL] VERNON D. ACREE,  
Commissioner of Customs.

Approved: May 7, 1975.

DAVID R. MACDONALD,  
Assistant Secretary of the  
Treasury.

[FR Doc. 75-13177 Filed 5-19-75; 8:46 am]

# Title 21—Food and Drugs

# CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

# SUBCHAPTER B—FOOD AND FOOD PRODUCTS

# PART 11—STANDARDS OF QUALITY FOR FOODS FOR WHICH THERE ARE NO STANDARDS OF IDENTITY

# Quality Standards for Bottled Water

This order, ruling on the objections and requests for hearing on the final regulation that established a standard of quality for bottled water, confirms the regulation and establishes June 19, 1975 as the new effective date.

A notice of proposed rulemaking was published in the *FEDERAL REGISTER* of January 8, 1973 (38 FR 1019) to amend 21 CFR Part 11 by adding § 11.7 to Subpart B to establish quality standards for bottled water. Interested persons were invited to submit comments on the proposal within the provided 60-day comment period. A correction of § 11.7(b) (1) (i) of the proposal was published in the *FEDERAL REGISTER* of January 23, 1973 (38 FR 2319). The time for filing comments was extended an additional 30 days by notice published in the *FEDERAL REGISTER* of March 30, 1973 (38 FR 8273). The Commissioner, after evaluating and responding to 33 comments filed in response to the original proposal, issued in the *FEDERAL REGISTER* of November 26, 1973 (38 FR 32558), a final regulation establishing quality standards for bottled water. A 30-day period was provided for filing objections and requests for hearing by any person adversely affected by the order. Five objections, including one request for hearing, were received from industry representatives and a trade association.

The final order for Subpart A of 21 CFR Part 11, which consists of general procedural rules issued under section 701 (a) of the Federal Food, Drug, and Cosmetic Act, was promulgated in the *FEDERAL REGISTER* of August 2, 1973 (38 FR 20726) and became effective on February 4, 1974. The validity of those regulations is not at issue.

Each of the objections filed on § 11.7 (21 CFR 11.7) has been reviewed; a summary of the objections and the Commissioner's conclusions are as follows:

1. One objection requested a definition of "analytical unit." No hearing was requested on this objection.

The Commissioner notes that the term "analytical unit" was defined in § 11.2 (21 CFR 11.2), which was promulgated pursuant to section 701(a) of the act in the *FEDERAL REGISTER* of August 2, 1973, and became effective on February 4, 1974. For clarification, an "analytical unit" is defined as the portion(s) of food (water) taken from a subsample (consumer unit) of a sample for analysis; § 11.2(c) is being amended accordingly. Thus the 5 portions of equal volume taken from each subsample of water constitute an "analytical unit."

2. One objection contended that the final order should specifically provide for labeling that distinguishes between spring water and water from other sources. The objection argued that the regulation, as written, would permit consumers to be misled by deceptive advertising or labeling practices, specifically, failure to prohibit the word "spring" in labeling for water that is not natural spring water. The objection referred to the agency's obligation under section 403 (a) of the act in regard to misleading labeling but agreed that the purity or wholesomeness of nonspring versus natural spring water was not at issue in this proceeding. A hearing was requested if the term "spring" in the labeling of bottled water was not regulated.

The Commissioner concludes, as he did in paragraph 22 of the preamble to the final order (38 FR 32558), that there is no need for a requirement that the source of the bottled drinking water be declared on the label. The source of bottled water is not an issue within the scope of a standard of quality, which is designed to regulate the microbiological, physical, chemical, and radioactive content of bottled water.

Under other provisions of the act, not involved in this regulation, all information on the label and in labeling must be truthful, factual, and in no way misleading. Section 403(a) of the act provides that a food shall be deemed to be misbranded if its labeling is false or misleading in any way. The statutory authority thus provides for regulatory action when false or misleading statements are made about the source or treatment of bottled water.

The Commissioner concludes that the objection does not raise an issue of fact, that it relates to a matter not reasonably encompassed within the involved regulation, and that it is irrelevant to the quality standard for bottled water. Accordingly, there is no basis for holding a hearing on this issue.

3. One objection stated that the order should require bottled water containing fluoride to be so labeled. The objection asserted that consumers who get their water from a public water supply are informed whether it is or is not fluoridated. The objection also argued that a parent or physician has to know whether or not bottled water contains fluoride to determine if a fluoride supplement is

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necessary for an infant or child receiving bottled water. A hearing was not requested on this objection.

The Commissioner notes that this objection is essentially the same as those comments received in response to the original proposal. The objection contained no data or information not considered by the Commissioner prior to promulgating the final order. The regulation defines bottled water as water that may contain fluoride and provides limits for it. The limit on fluoride in bottled water was taken directly from the drinking water standards set by the United States Public Health Service (now the responsibility of the Environmental Protection Agency) and, as is true for this entire quality standard, will be revised when necessary to be kept compatible with revisions of the drinking water standards.

As pointed out in paragraph 21 of the preamble to the final order (38 FR 32558), bottled water obtained from municipal water sources and some wells and springs may contain significant amounts of fluoride. The Commissioner concludes that it would be unreasonable to require bottled water to which fluoride has been added to be labeled differently from bottled water containing fluoride naturally present or from municipal water supplies to which fluoride has been added. If any distributor of bottled water wishes to promote his product as containing fluoride, a specific amount of fluoride, or no fluoride, he may properly do so if such claims are accurate and truthful.

4. One objection suggested that the statement of the permissible range for naturally present fluoride in paragraph 21 of the preamble to the final order (38 FR 32558) has a typographical error in the mg./liter figure for "added fluoride." The Commissioner agrees. The statement "The range of fluoride levels permitted by the drinking water standards is 1.4 to 2.4 mg./liter for naturally present fluoride and 0.8 to 1.17 mg./liter for added fluoride," is hereby corrected to read "The range of fluoride levels permitted by the drinking water standards is 1.4 to 2.4 mg./liter for naturally present fluoride and 0.8 to 1.17 mg./liter for added fluoride."

5. One objection was received regarding the limit on iron established in the final regulation. The objection, which was essentially the same as those comments received in response to the proposed regulation (38 FR 1019), stressed the nutritional significance of iron in certain bottled water and argued that the limit on iron in bottled water should be raised. The objection argued that the limit on iron in the standard may require a reduction in iron content for some products, which would alter the product's taste and result in adverse consumer reaction. The objection suggested that safety should be the sole criterion for establishing limitations on the permissible iron concentrations. The objection also argued that bottled water does not pass through plumbing fixtures, as ordinary

drinking water does, and therefore a limit on iron content to control rust deposition is of questionable logic. No hearing was requested on this objection.

The Commissioner advises that quality standards are promulgated to promote honesty and fair dealing in the consumers' interest, and he may properly establish limits on ingredients, regardless of the question of safety. Bottled water may come from such sources as tap water from municipal water supplies, springs, or wells. The Commissioner concludes that, regardless of the water source, the water will in most cases contact metal equipment surfaces thus contributing iron to the water.

As stated in paragraph 18 of the preamble to the final order (38 FR 32558), the Commissioner concludes that taste and rust deposition are quality attributes. The limit for iron established by the quality standard for bottled water is intended to control rust deposition and taste contributed by iron and should be the same as the limits established in the drinking water standard. The Commissioner also concludes that bottled water cannot be relied upon as a significant source of nutritional minerals because consumption varies, and it comes from a variety of sources in which the type and amount of minerals vary widely.

Bottled water that contains amounts of iron exceeding the limits established in this standard of quality may properly be sold if the label requirement established in § 11.7(f) (2) (ii) (21 CFR 11.7 (f) (2) (ii)) is met. However, if nutritional claims are made for a product containing quantities of iron in excess of this standard, the product will be subject to the labeling requirements for dietary supplements or to requirements for nutrition labeling.

6. One objection requested that stabilized chlorine dioxide at 50 parts per million be included in the list of chemical substances permitted by § 11.7(d) (1) (21 CFR 11.7(d) (1)) to be included in bottled water. A hearing was not requested on this objection.

The Commissioner advises that the bottled water standard establishes quantitative limits for certain chemical substances commonly found in bottled water, through addition or otherwise. The standard is not intended to encompass all chemicals that may be found in bottled water, nor is it intended to specify the method by which these substances are added to water. However, substances that are food additives within the meaning of section 201(s) of the Federal Food, Drug, and Cosmetic Act shall be used in bottled water only in accordance with section 409 of the act and regulations promulgated thereunder (21 CFR Part 121).

A GRAS affirmation petition has been submitted to the Food and Drug Administration, notice of which was published in the *FEDERAL REGISTER* of Mar. 23, 1973 (38 FR 7578), pursuant to § 121.40 (21 CFR 121.40) for use of stabilized chlorine dioxide in potable water. This petition is currently under review, and



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the final decision will be published in the *FEDERAL REGISTER*.

7. One objection requested clarification of § 11.7(b)(1) (21 CFR 11.7(b)(1)), stating that it was not clear "how it is possible to determine a most probable number of coliforms by the multiple-tube fermentation technique by a single 5 ml. portion." No hearing was requested on this objection.

Confusion on this point has developed because an error was made in paragraph 16 of the preamble to the final order (38 FR 32558), in response to a comment. The Commissioner advises that the response in paragraph 16 should read as follows: The coliform criteria in the proposal and in § 11.7(b)(1) of the final regulation are essentially the same as those of the drinking water standard. These criteria are based upon the laboratory testing of a representative sample of water from a lot. A sample is composed of 10 subsamples. For the multiple tube fermentation method, from each subsample of water, five portions of equal volume are removed for analysis. The five portions constitute one analytical unit. Not more than one analytical unit may have a MPN (most probable number) of 2.2 or more coliform organisms/100 ml., and none of the analytical units may have an MPN of 9.2 or more coliform organisms/100 ml. Thus this coliform requirement is based upon the results from each analytical unit and not upon the average value of the 10 analytical units.

The Commissioner concludes that the only request for a hearing involved an issue that is irrelevant to establishing a quality standard for bottled water; consequently, there is no basis for granting a hearing; and that the other submitted objections do not justify a change in the regulation.

Therefore, pursuant to the Federal Food, Drug, and Cosmetic Act (secs. 401, 403(b), 701, 52 Stat. 1046-1047, 1065-1066, as amended, 70 Stat. 919, 72 Stat. 948 (21 U.S.C. 341, 343(h), 371)) and under authority delegated to the Commissioner (21 CFR 2.120), notice is given that (1) the regulation amending § 11.7 as published in the *FEDERAL REGISTER* of November 26, 1973 (38 FR 32558) is confirmed and the effective date is amended to be June 19, 1975, and (2) effective May 20, 1975, § 11.2 is amended by changing the words "a portion" to read "the portion(s)".

Dated: May 14, 1975.

SAM D. FINE,  
Associate Commissioner  
for Compliance.

[FR Doc.75-13170 Filed 5-19-75; 8:45 am]

## PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

## ADHESIVES

The Commissioner of Food and Drugs is amending the food additive regulations

in § 121.2520 *Adhesives* (21 CFR 121.2520) to provide for safe use of a preservative in food-packaging materials, effective May 20, 1975.

The Commissioner, having evaluated the data in a petition (PAP 4B2979) filed by Drew Chemical Corp., subsidiary of United States Filter Corp., P.O. Box 248, Parsippany, NJ 07054, and other relevant material, concludes that the food additive regulations should be amended, as set forth below, to provide for safe use of tributyltin chloride complex of ethylene oxide condensate of dehydroabietylamine as a preservative in adhesives for food-packaging materials. The preservative effect is to inhibit microbial growth.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2520(c)(5) is amended by alphabetically inserting an item in the list of substances, to read as follows:

§ 121.2520 *Adhesives*.

COMPONENTS OF ADHESIVES	
Substances	Limitations
(c) . . . .	
(5) . . . .	
Tributyltin chloride complex of ethylene oxide condensate of dehydroabietylamine.	For use as preservative only.

Any person who will be adversely affected by the foregoing order may at any time on or before June 19, 1975 file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

*Effective date.* This order shall become effective May 20, 1975.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

Dated: May 13, 1975.

SAM D. FINE,  
Associate Commissioner  
for Compliance.

[FR Doc.75-13171 Filed 5-19-75; 8:45 am]

## Title 23—Highways

## CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

## SUBCHAPTER H—RIGHT-OF-WAY AND ENVIRONMENT

## PART 750—HIGHWAY BEAUTIFICATION

## Outdoor Advertising

Subpart B, Part 750, Subchapter H, Chapter I, Title 23, Code of Federal Regulations, is amended to reflect changes made to section 131, Title 23, United States Code, by the Federal-Aid Highway Amendments of 1974, Pub. L. 93-643, section 109, January 4, 1975, 88 Stat. 2284 (hereafter referred to as the 1974 Amendments). These changes are:

(1) The 1974 Amendments amended 23 U.S.C. 131(c)(1) by striking the word "other" in referring to directional and official signs. The change made here is only a "housekeeping" measure, designed to keep the language of the National Standards in conformity with the language of 23 U.S.C. 131. No additional outdoor advertising devices will be permitted as a result of this change, nor should existing State standards or procedures governing directional and official signs be altered or broadened. It is the view of the Federal Highway Administration that the striking of the word "other" made no substantial changes in the law. With the foregoing caveat in mind, Subpart B must be amended to reflect this change as follows:

(a) The title of Subpart B is amended by striking the word "Other" and will read: "Subpart B—National Standards for Directional and Official Signs."

§§ 750.151, 750.153, 750.155 [Amended]

(b) Sections 750.151(a)(2), 750.153(m), and 750.155, 23 CFR, is amended by striking the word "Other" between the words "Directional and" and the words "Official Signs" in the first sentence.

(2) In addition a change similar to those referred to in paragraph (1) above, § 750.152, 23 CFR, must be amended to reflect an expansion in the area subject to control. Thus, existing § 750.152 is revised to read as follows:

§ 750.152 *Application.*

The following standards apply to directional and official signs and notices located within six hundred and sixty (660) feet of the right-of-way of the Interstate and Federal-aid primary systems and to those located beyond six hundred and sixty (660) feet of the right-of-way of such systems, outside of urban areas, visible from the main traveled way of such systems and erected with the purpose of their message being read from such main traveled way. These standards do not apply to directional and official signs erected on the highway right-of-way.

(3) A new definition is added to § 750.153, 23 CFR, as follows:

§ 750.153 *Definitions.*

(t) *Urban area* means an urbanized area or, in the case of an urbanized area encompassing more than one State, that part of the urbanized areas in each such State, or an urban place as designated by the Bureau of the Census having a population of five thousand or more and not within any urbanized area, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of the Census.

These changes become effective on the date of issuance.

Issued on: May 12, 1975.

NORMAN T. TIEMANN,  
Federal Highway Administrator.

[FR Doc.75-13152 Filed 5-19-75; 8:45 am]

## Title 24—Housing and Urban Development

## CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT—FEDERAL HOUSING COMMISSIONER (FEDERAL HOUSING ADMINISTRATION), DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-75-333]

## PART 215—RENT SUPPLEMENT PAYMENTS

## Asset Limits for Tenant Eligibility; Interim Rule

The Department is amending Part 215 by changing the asset limits with respect to tenant eligibility for rent supplement benefits. In the case of the non-elderly, the new asset limit is equal to the dollar amount of the applicable income limit for the particular locality and in the case of the elderly, the new limit is three times the dollar amount of the applicable income limit.

This amendment is necessary because the old limits—\$2,000 for the non-elderly and \$5,000 for the elderly—have not been revised since the inception of the rent supplement program in 1966, notwithstanding the vast economic changes which have occurred since that time. In light of the pressing need for revised asset limits in some localities, the publication of this regulation for comment in advance of the effective date is deemed contrary to the public interest; instead, this amendment is being published as an interim rule effective upon publication.

However, the Department invites interested persons to submit data, views, and suggestions with respect to this rule and is providing 60 days in lieu of the usual 30 days in which to file comments. All relevant material received on or before July 21, 1975, will be considered by the Department before a final rule is adopted. Filings should refer to the above Docket number and should be filed with the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, Room 10245, 451

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Seventh Street, SW, Washington, D.C. 20410. Copies of comments submitted will be available during business hours at the above address for examination by interested persons.

The Department has determined that an Environmental Impact Statement is not required with respect to this rule. The Finding of Inapplicability is available for inspection at the above address.

Section 215.20 of Title 24 is amended by revising paragraphs (a)(1), (2) and (3) to read as follows:

§ 215.20 *Qualified tenant.*

(a) . . . .

(1) Have an annual income below the maximum amount established by the Secretary, which amount shall not be higher than can be established in the area where the property is located for occupancy in a low-rent public housing project assisted under the United States Housing Act of 1937. The limits are determined by the Secretary on the basis of recommended limits and supporting data and information received from the Public Housing Agency or the HUD field office serving the locality. The limits are available for inspection in the HUD field office. In computing a tenant's income for the purpose of this section, \$300 shall be deducted for each minor person who is a member of the immediate family of the tenant and residing with the tenant and any earnings of such minor shall not be included in computing the tenant's income.

(2) In a case involving an elderly individual or a family whose head or spouse is elderly, have assets not exceeding three times the dollar amount of the applicable income limit for the locality as determined in accordance with the second sentence in paragraph (a)(1) of this section.

(3) In a case involving other than the elderly, have assets not exceeding the dollar amount of the applicable income limit for the locality as determined in accordance with the second sentence in paragraph (a)(1) of this section.

(Sec. 101(g), 79 Stat. 354 (12 U.S.C. 1701s))

*Effective date.* This amendment is effective May 20, 1975.

SANFORD A. WITKOWSKI,  
Acting Assistant Secretary for  
Housing Production and  
Mortgage Credit—Federal  
Housing Commissioner.

[FR Doc.75-13262 Filed 5-19-75; 8:45 am]

## Title 29—Labor

## CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

## PART 1908—CONTRACTS FOR ON-SITE CONSULTATION PROGRAMS

## Notice of Final Rulemaking

1. *Background.* On January 15, 1975, a notice of proposed rulemaking was published in the *FEDERAL REGISTER* (40 FR 2703) concerning regulations under sections 7(c)(1) and 21(c) of the Occupational Safety and Health Act of 1970 (29

U.S.C. 651 et seq.) (hereinafter called the Act) which set out policies and procedures through which on-site consultation services may be furnished to employers by State personnel, with partial Federal funding.

After consideration of the relevant material which has been submitted by interested persons, the proposal is hereby adopted with various changes.

2. *Public comments.* Numerous public comments were received pursuant to the proposal. Statements of support were received from the Associated Industries of Massachusetts, the Building Trades Employers Association of the City of New York, Richard J. Kos, Gooch Packing Company, Inc., the Painting and Decorating Contractors of America, the National Environmental System Contractors Association, the National Oil Jobbers Council, the Southern Industrial Distributors Association, Senator George McGovern, B. H. Electronics, the Concrete Reinforcing Steel Institute, the National Wholesale Druggists Association, the Nebraska Association of Commerce and Industry and others.

Many important issues were raised in other comments. These comments voiced objection to the use of a consultant's report in a subsequent compliance inspection, the lack of mandatory employee participation, and the limitation to States without approved plans. Questions were also raised concerning qualifications for consultants, number of consultants, action upon discovery of imminent danger, monitoring, and the system of priorities. These comments are discussed below.

3. *Discussion of changes.* Several substantive changes were made in the regulations as follows:

(a) In consideration of comments received from the Massachusetts Department of Labor and Industries, the New York State Department of Labor, the National Association of Wholesale Distributors, and others, the limitation on the number of consultants each State would be permitted has been revised. Under the final regulation, the number of consultants in each State will be determined by the State's individual needs as determined by the employer demand for consultative services and the recommendation of the Occupational Safety and Health Administration Assistant Regional Director.

(b) The Edison Electric Institute, the U.S. Small Business Administration, and the National Small Business Administration, all recommended that, in addition to using the size of an employer's establishment to determine priority for consultation visits, consideration should be given to the hazardous nature of the business. Therefore, in order to increase the protection to workers whose exposure would be greatest, §§ 1908.1 and 1908.5(c)(2) have been changed to provide for such consideration. Thus, the hazardous nature of an employer's activities has been included as an additional consideration in establishing priorities for consultation.



(c) The Health Research Group raised the objection that the proposed regulation provided that the consultant be required to seek elimination of hazards only in imminent danger situations and not of serious violations. We believe that the vast majority of conscientious employers seeking consultant's advice under these regulations, upon learning that conditions at their workplaces could reasonably be expected to cause death or serious physical harm to employees, will take the necessary action to eliminate such conditions. We have therefore modified the regulation to provide that the consultant be required to seek the elimination of any observed conditions that present hazards which could reasonably be expected to cause death or serious physical harm to employees, without regard to the characterization of the hazard in terms of imminent danger or serious violation, which is relevant primarily for determining the action to be taken in an enforcement context. This provision will afford practical guidance to the consultant as to whether the hazard is of sufficient seriousness to require him to seek its immediate elimination. If such elimination is not achieved, employees shall be informed and the matter will be referred to OSHA for a determination as to the appropriate enforcement procedure to be undertaken. Section 1908.5(c)(7) and other sections have been changed accordingly.

Under the final regulation, where the consultant observes conditions presenting hazards that could reasonably be expected to cause death or serious physical harm to employees, he shall immediately request the employer to eliminate the hazard at once, or, if this is not possible, to prohibit the presence of any employees in the danger area. A follow-up visit shall be made by the consultant where elimination of the hazard has not been effected immediately, unless the consultant is otherwise satisfied, on the basis of documentary or other evidence, that such elimination has taken place. If the employer fails to take the necessary action to eliminate the hazard, the consultant shall immediately inform the affected employees and advise the OSHA Assistant Regional Director, who will take appropriate enforcement action.

(d) Comments were received from Congressman William A. Steiger, the Chamber of Commerce of the United States and others regarding notice to employers of the imminent danger requirements under the proposal. Changes have been made in § 1908.4(c)(6) (renumbered § 1908.5(c)(6)) to require that consultants explain to employers before the walk through what actions they are required to take upon the discovery of conditions that present hazards which could reasonably be expected to cause death or serious physical harm.

In addition, § 1908.5(c)(6)(1) of the final regulation requires that the consultant advise each employer that, in the event of a subsequent compliance inspection, the compliance officer would

not be legally bound by the advice of the consultant concerning specific hazards or the failure of the consultant to point out a specific hazard. This section also requires that the written report inform the employer of the above requirements and restrictions.

(e) Numerous comments were received concerning § 1908.4(c)(12) which provides for a written consultant's report and the use of the report in the event of a future compliance inspection. The Edison Electric Institute, National Pest Control Association, Tenneco, National Association of Manufacturers, New York State Department of Labor, the National Roofing Contractors Association and others expressed opinions that this section would seriously jeopardize the on-site consultation program since it could result in more severe penalties being imposed upon employers who made use of the consultation program. The final regulation has, therefore, been changed to afford the employer the option of furnishing the report to the compliance officer and provides that the failure to furnish the report would not create a presumption of bad faith. However, we have decided to retain the requirement for a written report since it would more clearly inform the employers of the consultant's findings, and will assist in the monitoring of the effectiveness of the consultation program.

(f) The Health Research Group, International Brotherhood of Teamsters, American Federation of State, County and Municipal Employees, the United Paperworkers International Union and others objected to § 1908.4(c)(9) of the proposal which provided that employees would not participate in the consultation, except upon the specific request of the employer.

The consultation program is designed to advise employers since they, and not employees, are the persons subject to possible legal sanctions under the Act. Employers specifically request consultative services, and are immediately benefitted by the identification of potential violations at their worksites. Even though employees also ultimately benefit from the consultant's advice, especially with respect to the elimination of hazards which could reasonably be expected to cause death or serious physical harm, the consultation program is primarily to assist the employer who is the person subject to the sanctions of the Act. Therefore, the final decision on employee participation must ultimately rest with the employer. However, since the employer may wish to build upon existing safety expertise and experience by involving joint labor management committees or employee groups in the consultation, § 1908.5(c)(6)(iii), provides that the consultant shall ask the employer prior to the walk through, whether such participation is desired. Thus, the final provision advises the employer that such participation is permitted, and even encouraged, whereas under the proposed regulation, the em-

ployer could easily assume that employee participation was not permitted.

4. *Discussion of provisions which were not changed and clarifications.* (a) Comments on consultants' qualifications were received from the Association of General Contractors of St. Louis, the National Association of Manufacturers, the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry, the New Mexico Environmental Improvement Agency, the American Society of Safety Engineers and others. Concern was expressed that consultants would not have adequate qualifications for the performance of their duties. The proposal and the final regulations define the qualification requirements in general terms and indicate that the Assistant Secretary will set out requirements in addition to those provided by the State. These requirements have been set forth in Occupational Safety and Health Administration Program Directive No. 75-1. These requirements include four years of experience in safety and health or a Bachelor of Science degree. The applicants will also be interviewed by the Assistant Regional Director of the Occupational Safety and Health Administration (OSHA-ARD) and must be qualified in his judgment to perform consultation services. We believe that these requirements are sufficient to insure that State consultants will be qualified to carry out their responsibilities under this program.

(b) Several comments, including those by the Central Illinois Light Company, National Association of Home Builders, E. L. LeBaron Foundry Company, the National Maritime Safety Association and others, suggested that this program should be extended to States with approved 18(b) plans. However, this extension would be unnecessary owing to the fact that States with approved plans are encouraged to and do provide for on-site consultation services under their approved plans. Guidelines for those State services are set out in Program Directive #72-27 and #74-13, and fifty percent Federal funding is provided for both programs. Thus, any State, whether the State has an approved plan or not, has an opportunity to participate in an on-site consultation program. Extension of this program to States with approved plans would therefore be redundant.

(c) The Health Research Group submitted extensive comments which, in part, challenged the authority for the entire program proposed under the regulation. This challenge was based upon the Health Research Group's assertion that the on-site consultation program was an illegal delegation of the Secretary of Labor's authority under the Act. It contends that, since the Secretary is delegating the Act's right of entry to State personnel, consultants will be "authorized representatives" of the Secretary and would therefore be

required to comply with other mandatory provisions of the Act, including citations for observed violations and employee participation.

The Assistant Secretary, however, is not in fact delegating any enforcement authority to a State. Entry by a consultant does not stem from the right of entry under the Act, but rather is by employer request and permission.

Further, under this program, the State is not given authority to do anything that it may not already do. Any State, should it so desire, could engage in a program whereunder State employees may advise employers in the State concerning provisions of this or any Act. This regulation merely provides Federal requirements for eligibility for Federal funding through reimbursement of expenses under section 7(c)(1) of the Act. This is consistent with the intent of the Congress, which was to provide consultation services primarily to small employers who could not ordinarily afford to hire private consultants.

(d) Several comments expressed confusion over the language of § 1908.4(c)(10) which required the separation of consultation and enforcement staffs. This provision was intended to deal with the situation in States which have 7(c)(1) enforcement agreements in addition to 7(c)(1) consultation agreements, and the paragraph (now § 1908.5(c)(10)) has been amended to so indicate.

(e) It became apparent from reviewing the public comments that the overall organization of the regulation was subject to some confusion. In the proposal, provisions which were actually directed to Federal activities were included within the section regarding consent of agreements. These provisions have therefore been deleted and placed in a new § 1908.4, with appropriate renumbering of the original sections.

(f) Although the term "consultation" is used throughout the regulation, the consultative service to be provided by State personnel is not necessarily the same type of service provided by insurance companies or private consulting firms. The purpose of the consultative service to be provided under the regulation is to advise employers on how to comply with OSHA standards, and rules and regulations.

(g) Because of the importance of the recognition of potential health hazards, § 1908.5(c)(6)(viii) has been revised to more clearly define the consultant's responsibilities. Under the final regulation, the consultant is required to ensure to the best of his ability that all possible health hazards are identified.

This program has already been subject to intense evaluation by the public and extensive comments have been received. In addition, the proposed regulations were discussed at a meeting of the National Advisory Committee on Occupational Safety and Health. In view of the fact that services are being provided for the assistance of the public, it is desirable that the program be implemented

as soon as possible. Therefore, good cause is found and this regulation shall be effective immediately.

In accordance with the above, Chapter XVII of Title 29, Code of Federal Regulations is hereby amended by adding a new Part 1908 as follows:

Sec.  
1908.1 Purpose and scope.  
1908.2 Definitions.  
1908.3 Eligibility.  
1908.4 General provisions.  
1908.5 Making of agreements.  
1908.6 Actions upon requests for agreements.  
1908.7 Termination of agreements.  
1908.8 Exclusion.

AUTHORITY: Secs. 7(c)(1), 21(c), 84 Stat. 1598, 1612; (29 U.S.C. 656(c)(1), 670(c))

#### § 1908.1 Purpose and scope.

This part contains procedures for the negotiation and award of contracts under section 7(c)(1) of the Occupational Safety and Health Act of 1970 (hereinafter called the Act (29 U.S.C. 651, et seq.) to States for the purpose of using State personnel to conduct on-site consultations under authority of sections 7(c)(1) and 21(c) of the Act, and the requirements for the content of such agreements. Under this part, States which do not have a plan approved under section 18(c) of the Act are eligible to participate in the program with 50 percent funding by the Federal government. The number of consultants who will provide consultative services under the terms of the 7(c)(1) contracts will be determined on the basis of the number of employer requests for consultation in each State. These consultants will provide on-site consultative services upon employer request only, and such services would be limited to the scope of that request; the smaller the business, the less specific the request will have to be. However, in carrying out the consultative visit as requested by the employer, the consultant will bring to the employer's attention any hazards observed. In providing these services, priority will be given to small businesses, to be determined on the basis of the number of employees of the employer, with further consideration given to the hazardous nature of the workplace. The consultant will provide information on how the employer may comply with the Act by pointing out specific hazards in the workplace and suggesting corrective measures. The consultant's visit will not result in an enforcement inspection except in cases where hazards which could reasonably be expected to cause death or serious physical harm are discovered and the employer fails to cooperate in their elimination. However, the consultant's report may be requested by the Compliance Safety and Health Officer and used to determine the employer's good faith or lack thereof in the event of a subsequent inspection. The employer, however, may refuse to provide the report, and such refusal shall not be regarded as bad faith. Any agreement made hereunder shall incorporate the requirements of this part.

#### § 1908.2 Definitions.

As used in this part and in consultation agreements entered into pursuant to this part:

"Act" means the Williams-Steiger Occupational Safety and Health Act of 1970.

"ARD" means the Assistant Regional Director for Occupational Safety and Health of the Region in which the State concerned is located.

"Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health.

"CHSO" means a compliance safety and health officer.

"OSHA" means the Occupational Safety and Health Administration.

"State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

#### § 1908.3 Eligibility.

Each State without an occupational safety and health plan approved under section 18(c) of the Act is eligible to enter into an on-site consultation agreement with the Assistant Secretary under sections 7(c)(1) and 21(c) of the Act.

#### § 1908.4 General provisions.

(a) *Qualifications of consultants.* State consultants serving under 7(c)(1) agreements must have adequate education and experience in occupational safety and health to satisfy the ARD, after interview, that they have the ability to perform satisfactorily pursuant to the agreement. All consultants under the agreement shall be qualified under State requirements for employment in occupational safety and health, and shall meet additional requirements as may be established by the Assistant Secretary. All consultants shall be selected in accordance with the provisions of Executive Order 11246 of September 24, 1965, as amended.

(b) *Training.* All consultants under the agreement shall receive consultative training which includes successful completion of the training course requirements for OSHA CHSO's. The consultants shall also receive such additional training as may be deemed necessary by the Assistant Secretary in order to efficiently perform their duties as consultants. Consultants shall receive appropriate State credentials upon successful completion of their training. Transportation and per diem for purposes of training shall be at Federal expense.

(c) *Number of consultants.* The number of consultants who will provide consultative services under the terms of a 7(c)(1) agreement will be determined on the basis of the number of employer requests for consultation in each State, and the recommendation of the ARD.

(d) *Effect upon enforcement activities.* (1) A consultative visit shall not generate any enforcement activity by OSHA, except as provided in § 1908.5(c)(7). The file of the consultant's visit shall not be forwarded to OSHA for use



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in compliance activities, but may be used for the purpose of monitoring the effectiveness of the program by OSHA in accordance with § 1908.4(d) (5).

(2) Federal inspection and enforcement activity shall be conducted independently of any consultation activity by a State. However, a consultative visit in progress will delay an initial compliance inspection until after the visit is completed. OSHA accident investigations, responses to complaints, imminent danger investigations, or follow-up inspections shall not be delayed.

(3) In the event of a subsequent OSHA inspection of an employer who has had a consultation visit, the CSO may request a copy of the consultant's written report to the employer. The report may be used to determine the employer's good faith or lack thereof for purposes of proposing penalties. The employer is not required, however, to furnish the report, and his refusal to do so shall not give rise to any inference of bad faith.

(4) In the event of a subsequent OSHA inspection, the opinions, suggestions, advice and interpretations of a consultant shall not be binding on a CSO and will not affect the regular conduct of the inspection, or preclude the finding of alleged violations or the proposing of penalties. Further, the CSO shall not be bound by the consultant's failure to identify specific hazards. However, the fact that an employer took advantage of consultative services and was in compliance with a consultant's advice shall be a major factor in the determination of an employer's good faith, but shall not operate as a defense to any enforcement action.

(5) A State's performance under the agreement shall be monitored by the ARD and changes may be directed pursuant to such evaluation and OSHA's consultation policy. In such monitoring, special attention shall be given to determine whether those hazards which could reasonably be expected to cause death or serious physical harm disclosed during a consultation visit remain unabated. This monitoring shall not include the utilization of OSHA enforcement personnel.

#### § 1908.5 Making of agreements.

(a) *Who may make agreements.* The Assistant Secretary may make an agreement under section 7(c)(1) of the Act with any State agency designated for that purpose by the Governor.

(b) *Commencement of negotiations.* Negotiations for making an agreement may be commenced by the Governor of the State, or a State agency which is designated for this purpose under paragraph (a) of this section in such manner as the Assistant Secretary may prescribe. Instructions may be obtained through the ARD. The contents of the agreement shall be those described in paragraph (c) of this section.

(c) *Contents of the agreement.* Any agreement, including any modification thereof, shall be in writing and shall contain but not be limited to the following provisions:

(1) A statement that the State agency is authorized by the Governor to perform the obligations under the agreement and is authorized to receive and expend Federal funds and matching State funds.

(2) A statement of purpose that the State agency shall provide consultative services to employers, with priority to small business, to be determined by the number of employees of the employer, with further consideration given to the hazardous nature of the employer's activities. Consultants shall advise employers of their obligations and responsibilities under the Act and its implementing regulations.

(3) A statement that the State will adequately publicize the availability of consultative services for employers in the State, and inform employers of the procedures to be followed in requesting such services.

(4) A statement that consultants under the agreement shall be qualified under State requirements for employment in the occupational safety and health field, and shall meet the requirements as set out in § 1908.4(a) and any additional requirements as may be established by the Assistant Secretary.

(5) A statement that consultants under the agreement shall receive consultative training as set out in § 1908.4(b) and as may be deemed necessary by the Assistant Secretary in order to efficiently perform their duties as consultants.

(6) Provisions that consultative visits will be made only at the request of the employer, and that the consultation shall consist of an opening conference (introduction), a walk through the work place, and a closing conference with a subsequent written report (summary). During the visit the consultant shall:

(i) Advise the employer that, in the event of a subsequent OSHA inspection, the compliance officer will not be legally bound by the advice given by the consultant or the failure of the consultant to point out a specific hazard. The consultant shall also advise the employer that he may, but is not required to provide a copy of the written report to the inspecting compliance officer and if he chooses to make the report available to the CSO it may be used to determine the employer's good faith or lack thereof. This information shall also be contained in the written report under paragraph (c) (6) (x) of this section.

(ii) Advise the employer as to the actions and the consultant's responsibility described in paragraph (c) (7) of this section.

(iii) Ask the employer whether, and under what circumstances, the consultant may confer with employees in the course of his visit.

(iv) Explain to the employer which OSHA standards and rules and regulations apply to his workplace;

(v) Explain the technical language and application of the standards when necessary;

(vi) Advise if and how the employer is not in compliance with OSHA standards and rules and regulations;

(vii) Where feasible and within his technical competence, suggest means by which identified hazards may be abated;

(viii) Ask the employer to identify all potential health hazards present in the workplace, and ensure, to the best of his ability, that all other possible health hazards have been identified to the employer. For those hazards on which additional information, or laboratory analyses is needed, the employer will be advised of available sources of information or further assistance to confirm the existence of such hazards;

(ix) Advise the employer of additional sources of assistance;

(x) Advise the employer that the visit to his workplace will be followed by a written report. The report shall contain the information in paragraph (c) (6) (i) of this section, and shall identify the specific hazards discovered and describe their nature, including a reference to the specific applicable OSHA standard, and where feasible, a suggested means of abatement.

(7) A statement that consultants, upon discovery of hazards which could reasonably be expected to cause death or serious physical harm, shall immediately request the employer to eliminate the hazards, or if this is not possible to prohibit the presence of any employee in the danger area. A follow-up visit shall be made by the consultant where elimination of the hazard has not been effected immediately unless the consultant is otherwise satisfied, on the basis of documentary or other evidence, that such elimination has taken place. If the employer fails to take the necessary action in eliminating those hazards, the consultant shall immediately inform the affected employees and advise the ARD of the situation.

(8) A provision for the protection of the confidentiality of trade secrets disclosed during the consultant's visit.

(9) A statement that employees or their representatives, or members of a joint labor-management safety committee, may participate in the consultation visit, with the express permission of the employer.

(10) A statement that the State will maintain a clear separation between paragraph 7(c)(1) of this section enforcement and paragraph 7(c)(1) of this section consultation staffs.

(11) A detailed budget of the State's proposed expenditures under this agreement.

(d) *Location of sample agreement.* A copy of a sample agreement under these provisions is available for inspection at the Office of Regional Programs, Room N-3112, 200 Constitution Ave., NW, Washington, D.C. 20210, and all Regional Offices of the Occupational Safety and Health Administration of the U.S. Department of Labor.

§ 1908.6 Action upon requests for agreements.

The State shall be notified within a reasonable time of any decision concerning its request for an agreement. If a request is denied, the State shall be

informed in writing of the reasons therefor. If an agreement is negotiated, the initial funding shall specify the period for which that agreement is contemplated. Additional funds may be added at a later time provided the activity is satisfactorily carried out and appropriations are available. The State may also be required to amend the agreement for continued support.

#### § 1908.7 Termination of agreement.

(a) *Termination by the parties.* Either party may terminate this agreement upon 15 days written notice to the other party.

(b) *Termination upon plan approval.* In no event shall an agreement under this part continue in effect beyond 30 days after a State's occupational safety and health plan has been approved under section 18(c) of the Act.

#### § 1908.8 Exclusion.

This agreement does not restrict in any manner the authority and responsibility of the Assistant Secretary under sections 8, 9, 10, 13, and 17 of the Act.

Signed at Washington, D.C. this 15th day of May 1975.

JOHN STENDER,  
Assistant Secretary of Labor.

[FR Doc. 75-13246 Filed 5-19-75; 8:45 am]

### Title 40—Protection of the Environment CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

#### SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS [FRL 375-21]

#### PART 419—PETROLEUM REFINING POINT SOURCE CATEGORY

##### Effluent Limitations, Guidelines and Pretreatment Standards; Amendments

On May 9, 1974, effluent limitations, guidelines, and standards of performance and pretreatment standards for new sources were published applicable to the topping subcategory, cracking subcategory, petrochemical subcategory, lube subcategory, and integrated subcategory of the petroleum refining category of point sources. Public participation procedures for those regulations were described in the preamble thereto, and are further discussed below.

Petitions for review of the regulations were filed by the American Petroleum Institute and others on August 28, 1974.

After the regulations were published, comments were received criticizing certain aspects of the regulations. As a result of these comments, the Agency concluded that the ranges used in preparing the size and process factors were too broad. Accordingly, a notice was published in the Federal Register (Thursday, October 17, 1974, 39 FR 37069) of the Agency's intention to reduce the range sizes.

In response to the October 17 notice, a variety of detailed comments were received concerning all aspects of the regulations. The commenters sought major modifications of the regulations as promulgated.

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The Environmental Protection Agency has carefully evaluated all comments which were received. The data base and methodology have been reexamined, and, in some cases, new data have been gathered and reviewed.

Most commenters favored the changes outlined in the modifications proposed on October 17th. However, many more substantial changes were sought by commenters. The Agency has concluded that promulgation of the proposed modifications is appropriate. However, the record does not warrant, except in two instances, the additional modifications sought. The bases for the Agency's conclusions are set forth in detail below, with responses to all major comments received.

#### HISTORY OF THE REGULATIONS DEVELOPMENT

*Background.* With the enactment of the 1972 Amendments to the Federal Water Pollution Control Act (FWPCA), the Effluent Guidelines Division of the Environmental Protection Agency (EPA) assumed responsibility for the preparation of effluent guidelines and limitations under sections 301 and 304 of the Act.

The Petroleum Refining Industry in the United States and its territories is made up of 253 refineries. These refineries produce a wide range of petroleum and petrochemical products and intermediates from crude oil and natural gas liquids.

The size and type of hydrocarbon molecules and impurities contained in crude oils from around the world vary greatly, as do the products produced at each refinery. The configuration of a refinery is therefore a function of the type of feedstock used (crude oil and natural gas liquids) and the products which are to be produced. There are several hundred different processes used in this industry because of these variations in feedstocks and products. The general categories of processes used are: (1) Distillation, which separates hydrocarbon molecules by differences in their physical properties (boiling points); (2) cracking, which is the breaking down of high molecular weight hydrocarbons to lower weight hydrocarbons; (3) polymerization and alkylation, which rebuild the hydrocarbon molecules; (4) isomerization and reforming, which rearrange molecular structures; (5) solvent refining, which is the separation of different hydrocarbon molecules by differences in solubility in other compounds; (6) desalting and hydrotreating, which remove impurities occurring in the feedstock; (7) the removal of impurities from finished products by various treating and finishing operations; and (8) other processes.

Several years ago, the industry began classifying refineries into five categories: A, B, C, D, and E. Each category was defined as follows:

- A—Refineries using distillation and any other processes except cracking.
- B—Refineries using distillation, cracking, and any other process, but with no petrochemical or lube oil manufacturing.
- C—Category B, with the addition of petrochemicals.
- D—Category B, with the addition of lube oils.
- E—Category B, with the addition of both petrochemicals and lube oils.

Petrochemicals as used by the industry meant any amount of production in a group of compounds historically defined as "petrochemicals". These compounds included some produced through processes normally associated with refineries, such as isomerization or distillation, and will be referred to as first generation petrochemicals. The second group of compounds considered petrochemicals were those produced through more complex chemical reactions. These compounds will be referred to as second generation petrochemicals.

The Agency was given the task of establishing effluent limitations for this diverse group of refineries. The first step needed was a breakdown of the industry into smaller groups of refineries, since the flow per unit of production within the industry was too diverse to be fit by a single set of limitations. Refineries were subcategorized based upon process configurations, i.e., the process used on the feedstock.

Once the industry was subcategorized, it was necessary to determine how the effluent limitations would be derived and what limitations would be established for each subcategory. Since refinery performance data (effluent concentrations) seemed to be independent of subcategory, EPA concluded that a single set of effluent concentrations could be achieved by all subcategories. It was then necessary to define a flow base and a method by which the amount of production at any given refinery could be taken into account. Since the industry produces many hundreds of products and those products produced are a function of process configuration and feedstock, it was decided to base the limits on the quantity of feedstock consumed. The flows were therefore based on a unit of flow per unit of feedstock consumed.

The resulting limits were therefore defined as a quantity of pollutant per unit of feedstock (mass allocation), derived by multiplying a predicted flow per unit of production times an achievable concentration.

A more detailed discussion is set forth below of how the subcategories, flows, achievable concentrations, and short-term limits were derived, beginning with the contractor's report and ending with EPA's reconsideration.

1. *Subcategorization.* The earliest subcategorization of the Petroleum Refining Industry for pollution control purposes was made by the Office of Permit Programs in the preparation of their Effluent Guidance for the issuance of discharge permits under the 1899 Refuse Act. This initial subcategorization, which was made prior to the enactment of the FWPCA, followed a classification of the industry made by the industry itself, as discussed above.

Roy F. Weston, Inc., which had previously assisted EPA in preparing Effluent



Guidance for the Petroleum Refining Industry, was retained to prepare a Draft Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Petroleum Refining Point Source Category. After an additional six-month study of the industry, Weston submitted a draft report in June, 1973, which proposed a somewhat different subcategorization approach than had been used previously. These modifications in subcategorization were in recognition of the wide range of industry complexities found within the original five subcategories and constituted division of the B subcategory (into B-1 and B-2) based on the amount of cracking, and the combining of the D and E subcategories.

Many comments on the draft report subcategorization argued that splitting B into B-1 and B-2 was a step in the right direction, but it was inappropriate to combine D and E. It was also argued that a further breakdown of the industry was warranted because of the wide range of sizes and complexities within each subcategory.

In response to these early comments, EPA, in its proposed regulation published December 14, 1973, 38 FR 34542, modified Weston's subcategorization by redefining the term petrochemicals, once again separating the D and E subcategories, and establishing a new specialty lube subcategory. The 16 specialty lube refineries in the U.S. were not covered by the proposed regulation, because of the lack of data available at the time.

As in the case of the draft report, many comments on the proposed regulation argued that the proposed subcategorization did not adequately consider the wide range of plants within each subcategory. Representatives of the American Petroleum Institute Environmental Committee (including both API personnel and employees of several member companies) met with EPA on several occasions in January, February, and March, 1974. At these meetings API presented a new subcategorization technique which had been developed by one of its subcommittees. Additional meetings were held with API through April for further discussion of the API proposed subcategorization technique and of EPA's response to their proposal.

API proposed a method of predicting raw waste loads for each refinery based on a regression analysis (best fit) performed on the data for various waste parameters drawn from the 1973 refinery survey carried out jointly by API and EPA. This approach would predict expected flows and raw waste load levels for such parameters as BOD, COD, etc. API proposed guidelines that were to be derived from the raw waste loads by assuming a removal efficiency for each parameter.

There were several major problems with the specific approach recommended by API: (1) After initially running their regressions, API discarded 70 percent of the data points in order to improve the correlation. Much of the discarded data pertained to large refineries. Thus, the

validity of the analysis, particularly as applied to these refineries, is open to serious questions. (2) API adjusted the results of the mathematical analysis by making "engineering judgments." The Agency could find no defensible basis for these judgments. (3) The results of the regression on raw waste load showed little hope for a further subcategorization because of the poor correlations found. This might, in part, be explained by the fact that the regression data base included only a single day's sample for each refinery for each of the raw waste load parameters (BOD, COD, etc.).

A major drawback to API's proposal that EPA use these analyses was that a separate regression and set of criteria (achievable removal efficiency) would be required for each parameter (BOD, COD, suspended solids, oil and grease, phenolics, ammonia, sulfides, and chromium). Based on API's initial work, this approach did not appear to be workable. API expected to complete, by September 1974, a report embodying their recommended approach; this report has never been submitted to the Agency.

Nevertheless, it appeared that the regression analysis proposed by API might work well in predicting differences in flow volumes from refineries based on the configuration of each refinery, because the dry weather flows from refineries are relatively constant and the one day's data (taken during dry weather) gathered in the API/EPA survey would therefore be representative. A procedure for predicting flows based on refinery characteristics would also be usable in connection with the approach used in the proposed regulations, since the limitations were based on achievable concentrations for each parameter multiplied by a flow for each subcategory.

After several months of work, EPA arrived at a technique, utilizing regression analysis, for predicting flows. The promulgated regulations are based upon this technique. It was found that size as well as complexity (type of processing carried on in each refinery) had an effect on the expected flow volume. Using the results of a regression analysis would then allow the limits to vary up or down for each refinery based on the actual characteristics of the individual refinery.

EPA compared the median flows used in the proposed regulations and the flows predicted by the regression, to the actual refinery flows given in the API/EPA survey. It was found that the regression predicted flows for the individual refineries more accurately than did the median for the appropriate subcategory.

In the final regulations, EPA's regression analysis was used to develop factors by which the median flows are adjusted up or down, depending upon the complexity and size of the refinery. For example, a complex, very large refinery would be predicted to have a higher flow per unit of production than a simple, less complex refinery.

2. *Sources of data.* One of the difficulties encountered in developing these regulations has been, except for the data supplied by the API for flows, obtaining

usable data. Few refineries either kept data on their effluent or reported it if kept. The data used and relied upon by EPA represents a significant fraction of all the pertinent data extant.

The draft contractor's report utilized, for its flow data, information from 94 of the refineries of the 1973 API/EPA Raw Waste Load Survey. The achievable concentrations in the report for Best Practicable Technology (BPT) (1977) were based upon data from 12 refineries, upon reference materials, and upon pilot plants. These 12 refineries, nicknamed "exemplary" refineries, were selected because they had treatment in place and data available; they did not necessarily represent the best or even the better refineries. The achievable concentrations in the contractor's report for Best Available Technology (BAT) (1983) were based upon pilot plant and reference materials. The variabilities used in the report were derived from those of the 12 "exemplary" refineries for which long-term data were available.

The proposed regulations were issued using the same data as that in the contractor's report.

The flow basis of the final regulations was the same as that of the contractor's report. The BPT achievable concentrations used in the final regulations were the same as those in the contractor's report, except that three additional refineries were used to calculate the chemical oxygen demand (COD) concentrations. The BAT achievable concentrations for those regulations were the same as the contractor's. For variabilities, data from five additional refineries were added to those used in the contractor's report.

For EPA's reconsideration of the regulations, leading to promulgation of the amendments to the effluent limitations guidelines, the flow basis did not change from that utilized in the contractor's report. In reexamining the BPT achievable concentrations, however, additional refinery data were used, as well as the data from the above-cited 12 refineries used for the final regulations. In reexamining the BAT achievable concentrations, additional references and pilot plant data were used. Long-term data for 7 additional refineries were used in the reconsideration of the variabilities.

3. *Flow basis.* In the draft contractor's report the flows from the refineries were broken down into three categories: 1) process water, 2) storm runoff, and 3) once-through cooling water. The process waters included: waters which come into direct contact with a product, intermediate, or raw material; contaminated storm runoff; and cooling tower blowdown. Process waters were considered to require treatment, and were to be segregated and discharged separately from clean storm runoff and once-through cooling water which were presumed to be uncontaminated. If the clean storm runoff and once-through cooling water were contaminated, however, no additional allocations were made.

The process flows appropriate to each subcategory were derived from the 1973

API/EPA survey. This survey gave total flow data (process water plus once-through cooling water) for 136 refineries. Since Weston's proposed allocation was to be based on process flow, it was appropriate to restrict this data base to the 94 refineries having less than 3 percent removal of heat by once-through cooling water. Of the 94 refineries, 75 had no once-through cooling water.

EPA continued to use the 94-refinery data base, because it was believed that the inclusion of the 19 refineries with 1-3 percent of heat removal by once-through cooling would only cause a slight overestimate of the process water flows and that the disadvantage of the resultant over-allocation of process flow would be more than offset by the advantage of using a larger data base.

The proposed regulation differed from the contractor's report in several respects. The definition of process water remained the same, except that an added allocation was given for ballast water and contaminated storm water, over and above the basic allocation. In addition, concentration limits were set for both clean storm runoff and once-through cooling water. These changes meant that the basic pollutant allocation was now actually based on process water flows, and the contaminated storm runoff, ballast, clean storm runoff and once-through cooling water each received separate allocations.

In the promulgated regulation, the subcategory definitions were changed. This change altered the number of refineries in each subcategory, and consequently altered the median flows for each subcategory. However, these flows continued to be based upon the same 94 refineries, and the previous definitions of different types of waste streams (process water, ballast water, etc.) were retained. EPA has not modified the contractor's original approach to identifying flows used in the calculation of the BAT limitations. BAT flow is the average of the flows for those refineries in each subcategory having less flow than the BPT median flows. These flow values have changed as the subcategory definitions have changed.

4. *Achievable concentrations.* The effluent concentrations used to calculate the pound allocations (BPT and new source) were the same for both the contractor's draft report and the proposed regulations. The achievable concentrations were recommended by the contractor and were based upon actual performance within this and other industries, and in pilot plants.

When the effluent regulations were promulgated the achievable concentrations for chemical oxygen demand (COD) and ammonia were changed. The COD limitations were increased (for the cracking, petrochemical, lube, and integrated subcategories) to account for differences in treatability of raw waste associated with various feedstocks (specifically heavy crudes). The changes in the ammonia limitations were a consequence of the changes in subcategorization.

During the past several months EPA has obtained additional data, including

data on refineries in cold climates. Analysis of these data shows that the pollutant parameter concentrations established for BPT are in fact practically attainable. In fact, a number of refineries are achieving all of the regulations concentrations. As expected, refineries processing light crudes generally discharge COD concentrations 20-30 percent lower than the concentrations on which the final regulations are based. Only the ammonia limitations are occasionally being exceeded by a few of the refineries examined. However, most of these refineries are currently designing or installing additional stripping capacity or a second stage of sour water stripping which will allow them to achieve the ammonia limitations.

5. *Variability factor.* The flow basis and achievable concentrations discussed to this point are based on the limits refineries are designed to attain and expected to achieve over a long period of time (generally considered to be one year). For enforcement purposes, shorter term limits were set to allow determination to be made more quickly whether or not a given refinery is in compliance with its permit limitations.

In order to derive short-term limitations from long-term data, the dispersion of short-term values about a long-term mean must be taken into account. Some daily values will be higher than the mean, some will be lower. The daily variability is the magnitude of this dispersion of daily values about the long-term mean. The monthly averages will also show variability about the long-term mean, but to a lesser extent.

Variability occurs in both flow and concentration. Some of the factors which cause variability are listed below:

- I. Flow volume variations—
  - A. Storm runoff in addition to dry weather flow
  - B. The varying throughput of the refinery, since it will not always operate at its rated capacity
  - C. Variations in pump capacity and pressure losses through the refinery
  - D. Variations in blowdown volume from the cooling towers because of the evaporation rate from the towers
  - E. Others
- II. Variation in treatment system efficiency (effluent concentration)—
  - A. Flow variations result in varying retention times (since the biological treatment system for a given refinery are fixed in size, the retention time will vary with flow-volume and the removal efficiency varies with retention time)
  - B. System upsets
  - C. Raw waste variations
  - D. Amount of equalization, which controls the impact of system upsets or raw waste variations
  - E. Slugging of storm runoff
  - F. Start-up and shut downs
  - G. Spills
  - H. Extreme or unusual weather conditions
  - I. Temperature effects
- III. Factors affecting both flow and concentrations—
  - A. Sampling techniques
  - B. Measurement error and variability

Many of the factors listed above can be minimized through proper design and

operation of a given facility. Some techniques used to minimize variability are as follows:

1. *Storm-runoff.* Storm water holding facilities should be used. Their design capacity should be based on the rainfall history and area being drained at each refinery. They allow the runoff to be drawn off at a constant rate to the treatment system.

2. *Flow variations, system upsets and raw waste variations.* The solution to these problems is similar to that for storm runoff; leveling off the peaks through equalization. Equalization is simply a retention of the wastes in a holding system to average out the influent to the treatment system.

3. *Spills.* Spills which will cause a heavy loading on the system for a short period of time, can be most damaging. A spill may not only cause high effluent levels as it goes through the system, but may also kill or damage a biological treatment system and therefore have longer term effects. Equalization helps to lessen the effects of spills. However, long-term, reliable control can only be attained by an aggressive spill prevention and maintenance program including careful training of operating personnel.

4. *Start-up and shut-down.* These should be reduced to a minimum and their effect dampened through equalization or retention, as with storm runoff.

5. *Temperature.* The design operation and choice of type of biological treatment system should in part be based on the temperature range encountered at the refinery location so that this effect can be minimized. The data base utilized by the Agency includes refinery data from cold climates and very large summer-winter temperature differences.

6. *Sampling techniques and analytical error.* These can be minimized through utilization of trained personnel and careful procedures.

From the beginning it was realized that the causes of variability could not be quantified individually. The variability (variation from average) must therefore be calculated from actual refinery data, representing the combined effect of all causes. The information sought from the data were the maximum daily and monthly average limits, which should not be exceeded if the refinery is meeting the prescribed long-term averages.

The contractor analyzed data from several refineries. To determine the daily variability (variations of single values from the average) he arranged the data from each refinery for each parameter in ascending order. The data point that was exceeded only 5 percent of the time, and the median point (50 percent above, 50 percent below) were identified. The ratio of these values (95 percent probability/50 percent probability) was called the daily variability. For the monthly variability, the daily values for each month's data were averaged and these monthly averages were analyzed as above. The resulting daily and monthly variabilities for each parameter were averaged with the variabilities for the same parameter for all of the refineries



to yield the daily and monthly variabilities for the entire industry. These industry variabilities were then multiplied by the long-term average limits to obtain the maximum daily and maximum monthly average limits.

For the proposed regulation, all of the variabilities were recalculated. The approach used by the contractor was rejected because it was inappropriate except for extremely large quantities of data, and it made no attempt to differentiate between preventable and unpreventable variability. EPA selected from the contractor's data those periods believed to represent proper operation. The data used by the contractor for some refineries contained unexplained periods of high values. Attempts were made to determine the causes of these values. In one case, one month of extremely high values occurred after a major hurricane hit the refinery in 1971. Not until a month later was the treatment system back in normal operation. In another case the treatment system operated with relatively low variability for over one year and then showed an unexplained large increase in variability the following year. Since the data for the first year of operation demonstrated that lower variability could be achieved over a long period of time, that year was selected for analysis.

The contractor determined daily variability by dividing the 95th percentile point by the 50th percentile point. EPA modified this approach by selecting the predicted 99th percentile divided by the mean. The change from 95th to 99th percentile was intended to minimize the chance that a refinery would be found in violation on the basis of random samples exceeding the limitations. Similarly, EPA selected the 98th percentile for use in determining the maximum monthly average.

The upper percentiles were derived based on the assumption that the data were distributed according to a normal or bell shaped distribution. An average variability for each parameter was then calculated and that average multiplied by the long-term average to set the daily maximum and maximum monthly averages.

Between proposal and promulgation, data were given to EPA by the American Petroleum Institute for five additional refineries, which were said to have BPT end-of-pipe treatment or its equivalent. EPA did not know the names or locations of these refineries and therefore could not check potential causes of variability. The BOD<sub>5</sub> data from these refineries were studied, and the data base used to calculate the proposed BOD<sub>5</sub> limits was reexamined. It was found that for most refineries the data more nearly approximate a log-normal (where the logarithm of the data is normally distributed) rather than a normal distribution. The variabilities were then recalculated assuming either a normal or log-normal distribution, whichever was the better fit. This analysis yielded an average daily variability for BOD<sub>5</sub> of 3.1,

instead of the proposed value of 2.1. The final regulations were based on the recalculated BOD<sub>5</sub> value of 3.1. The monthly average variabilities were not changed. For other parameters, the variabilities in the proposed regulations were multiplied by the ratio of the recalculated BOD<sub>5</sub> variability (3.1/2.3=1.35). The daily maximum to the median BOD<sub>5</sub> variability assuming normal distribution limits were determined by multiplying the long-term average by the recalculated variability.

On reexamination following promulgation of the regulations, EPA has reviewed 1974 data from seven refineries on all parameters. With the exception of suspended solids, the variability factors derived from these data confirm the variability factors originally established. This additional data on suspended solids indicated that the daily variability of 2.9 and the monthly variability of 1.7 originally calculated may be too low. Accordingly, a daily variability of 3.3 and a monthly variability of 2.1 have been established, based on the addition of this new data.

No existing plant employs the treatment technology (biological treatment followed by activated carbon) specified for 1983. The variability used for 1983 was, however, based upon the lowest variability achieved by any plant for each parameter. The Agency believes that this low variability represents the best prediction that can be made at the present time of variabilities which will be achieved by 1983. These should be much lower than the average variabilities presently being attained for the following reasons: 1) the additional step of treatment should tend to dampen peaks in the data; 2) most of the effluent data were not from systems with a filter or polishing step after biological treatment and this should help dampen peaks; 3) the activated carbon is unaffected by several of the factors causing variability in biological systems; and 4) the industry will have 10-11 years of additional experience in the area of treatment plant operation and control from the time when data was taken.

#### SUMMARY OF MAJOR COMMENTS

The following responded to the request for comments which was made in the preamble to the proposed amendment: Shell Oil Company, The American Petroleum Institute, and Texaco Inc.

Each of the comments received was carefully reviewed and analyzed. The following is a summary of the significant comments and EPA's response to those comments.

(1) One commenter stated that the regulations and the Development Document fail to disclose or explain the criteria employed by the engineering contractor or EPA for selecting the thirty candidate refineries for "exemplary plant treatment," and that EPA had not explained or justified why and how the thirty candidate refineries were narrowed down to only twelve "exemplary" refineries.

The sources of information available to the contractor for the development of the subcategorization and the choice of well-operated refineries (in terms of pollution abatement) were as follows:

1. 1972 EPA/API Raw Waste Load Survey
2. Corps of Engineers (Refuse Act) Permit Applications
3. Self-reporting discharge data from Texas, Illinois, and Washington
4. Monitoring data from state agencies and/or regional EPA offices for individual refineries.

A preliminary analysis of these data indicated an obvious need for additional information. Although 136 refineries were surveyed during the 1972 EPA/API Raw Waste Load Survey, the survey did not include any effluent data.

Refuse Act Permit Application data were limited to identification of the treatment systems used, and reporting of final concentrations (which were diluted with cooling waters in many cases); consequently, operating performance could not be established.

Self-reporting data was available from Texas, Illinois, and Washington. These reports show only the final effluent concentrations and in only some cases identify the treatment system in use; rarely is there production information available which would permit the establishment of unit waste loads.

Additional data in the following areas were required: (1) Currently practiced or potential in-process waste control techniques; (2) Identity and effectiveness of end-of-pipe waste control techniques; and (3) long-term data to establish the variability of performance of the end-of-pipe waste control techniques. The best source of information was the petroleum refineries themselves. New information was obtained from direct interviews and inspection visits to petroleum refinery facilities. Verification of data relative to long-term performance of waste control techniques was obtained by the use of standard EPA reference samples to determine the reliability of data submitted by the petroleum refineries, and by comparison with monitoring data from the state agencies and/or regional EPA offices.

The selection of petroleum refineries as candidates to be visited was guided by the trial categorization, which was based on the 1972 EPA/API Raw Waste Load Survey. The final selection was developed from identifying information available in the 1972 EPA/API Raw Waste Load Survey, Corps of Engineers Permit Applications, State self-reporting discharge data, and contacts within regional EPA offices and the industry. Every effort was made to choose facilities where meaningful information on both treatment facilities and manufacturing processes could be obtained.

After development of a probability plot for the respective raw waste loads from the tentative refinery categorization, the tentative categorization was presented to API and EPA for review and comment. Three refineries in each category were then tentatively designated as "exemplary" refineries based

on low raw waste loads determined by the API/EPA survey. Simultaneously, tentative lists of additional refineries were collected from each of the Regional EPA offices. Several lists were then prepared and submitted to EPA. From the approximately 30 refineries on these lists, the refineries for further study were then selected.

During this screening process, arrangements were made to either visit the refineries or collect additional information relative to plant operations. In some cases, refineries declined to participate in the program. As a result of the screening program, twenty-three (23) refineries were then involved in plant visits. These refineries are listed in Table 1.

The purpose of the refinery visits was to collect sufficient data in the areas of wastewater plant operations to define raw waste loads, effluent treatment schematics, operating conditions, and effluent analyses. As a result of these plant visits, data from only twelve (12) refineries (designated by stars in Table 1) were found to be available for a sufficiently long-term period (one year or more) to provide an adequate data basis for further definitive projections. Consequently, operating data from these twelve (12) refineries were then used as one of the major data sources in development of the regulations.

TABLE 1

REFINERIES VISITED UNDER CONTRACT NO. 68-01-0598

Company	Location
Union Oil	Lenmont, Ill.
Amoco	Whiting, Ind.
Amoco	Yorktown, Va.
Coastal States	Corpus Christi, Tex.
Champion	Do.
Total Leonard	Alma, Mich.
Union Oil	Beaumont, Tex.
Exxon	Baton Rouge, La.
Marathon	Texas City, Tex.
Shell	Deer Park, Tex.
OKC Refining	Oklmulgee, Okla.
Texaco	Lockport, Ill.
Phillips	Sweeney, Tex.
U.S. Oil & Refining	Tyooma, Wash.
Shell	Marine, Calif.
BP	Philadelphia, Pa.
Gulf	Do.
Amerasia Hess	Port Reading, N.J.
Arco	Philadelphia, Pa.
Gulf	Port Arthur, Tex.
Sun	Duncan, Okla.
Kerr-McGee	Wynwood, Okla.
Laketon Refinery	Lakeside, Ind.

\* Chosen as "exemplary" refineries.

As can be seen from the above, the selection of these twelve refineries was in large part dictated by the limited availability of information.

More complete or more recent data show some of the original twelve refineries to be less than "exemplary." See Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Petroleum Refining Point Source Category, pp. 12-14; "Draft Development Document for Effluent Limitations Guidelines and Standards of Performance, Petroleum Refining Industry," pp. III-2-4.

(2) One commenter objected to the calculation of 1977 flow rates from only 94 refineries, 40 percent of the industry.

Of a total of 253 petroleum refineries, EPA holds permit applications for surface water discharge for 190-200 refineries. The remaining 50-60 refineries are either "zero discharge" operations or are currently discharging to municipal waste treatment systems. EPA is aware of a number of zero discharge refineries in arid or semi-arid areas of Texas, New Mexico and Southern California, and several refineries in Los Angeles County are currently discharging to municipal waste treatment. Since none of these plants have direct surface discharge, they are excluded as potential sources of data.

Of the remaining 190-200 discharging refineries, 136 were included in the 1972 API/EPA survey, which is the only available comprehensive source of data on refinery water use. Since the survey does not show process water use as a separate discharge, but instead lists total flow volume, this limited the number of refineries for which data could be used to those for which process flow constituted most or all of the total wastewater discharged. Data from refineries removing more than 3 percent of heat by means of once-through cooling were not used, since cooling water would cause any estimate of process flow based on total plant flow to be greatly overstated for those refineries. Thus, EPA could use data from only 94 refineries. Since the API/EPA raw waste load survey was designed to be representative of the total industry, and since EPA used all of the refineries in the survey with 3 percent or less heat removal by once-through cooling water, the flows used are actually higher than the process water flows achieved by the industry. (See "Flow Basis" portion of the History of Guidelines Development in this Document).

(3) One commenter stated that, of the twelve "exemplary" refineries only one actually complies with the prescribed 1977 levels for every pollutant parameter.

EPA based the regulations not upon the overall performance of the so-called "exemplary" refineries, but on the efflu-

ent concentrations achieved by the "exemplary" refineries and plants in other industries, the variabilities achieved by the "exemplary" refineries, and flows achieved by the industry as a whole. EPA did not expect that these refineries would uniformly comply with all limitations, since they did not have all the recommended technology in place. For example, few of the "exemplary" refineries were expected to meet the degree-of-ammonia removal specified, since few were practicing adequate ammonia stripping.

EPA has obtained effluent data covering a full year for six of the twelve refineries. Four of these had no violations of the 1977 limitations, while another had only five data points, out of several hundred data points, above the limits.

In addition, EPA now has data on 10 additional refineries in the United States which had no violations of the regulation limits in 1974, and four others that only exceeded the ammonia limits.

Included in this group of 18 refineries (14 with no violations and 4 exceeding the ammonia limits) are "sour" crude users and refineries that are not located in areas with water shortages. It should be noted that these 18 refineries do not necessarily represent all of the refineries in the country currently meeting the regulations. The available data cover only 12 of 33 States which have refineries. EPA has requested the American Petroleum Institute to supply additional effluent data.

(4) One commenter stated that EPA failed to base the standards on the average of the best existing performances by plants currently in place.

EPA has based its limitations upon the best existing performance of plants currently providing treatment except where the industry is uniformly providing inadequate treatment. In every case, the limitations for the Petroleum Refining Point Source Category reflect actual performance of plants currently in place.

The following table summarizes the approach followed by the Agency in developing the regulations.

EPA set the BPT, BAT and New Source limits as follows:

Level	Flow	Concentration	Variability
BPT (1977)	Flow being met by 50 percent of the plants in place adjusted for process and complexity factors.	Average of the best plants for which data were available.	The average of those plants with treatment in place for which long-term data were available.
BAT (1963)	Average of the best.	Based on pilot plants.	Best individual refinery.
BADT (new source)	do.	Average of the best plants for which data were available.	The average of those plants with treatment in place for which long-term data were available.

(See Sections IV, V, IX, X, XI of the Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Petroleum Refining Point Source Category, and Supplement B—"Probability Plots", refinery data and analysis files, "Variability Analysis.")

(5) One commenter objected to the Agency's reliance upon refineries in Texas and California, arguing that EPA's sample should be representative

of the geographical distribution of the industry. The commenter noted that subcategories "C", "D", and "E" are represented solely by refineries in the coastal areas of Texas and California.

A. EPA's flow data base includes refineries from all areas of the country.

B. Of the four refineries selected by the contractor in the "A" and "B" subcategories, only one was located in Texas or California.

C. There is only one "E" refinery (Phillips, Kansas City) which is not located in Texas, California, or in a coastal area.



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D. The data base for "D" refineries has been broadened by adding a refinery in Illinois.

E. Of the 17 "C" refineries in the country, 9 are in Texas, California, or in a coastal area. The agency has broadened its data base to include a "C" refinery in Illinois.

(6) Several commenters stated that EPA has ignored the effect of crude oil feedstock characteristics on the treatability of refinery effluent. They claim that feedstocks containing heavy crudes, in particular crudes from California, have a substantial impact on effluent quality.

Subsequent to publication of the proposed regulations, the Shell Oil Company and the Phillips Petroleum Company submitted data for three refineries processing California crudes: Shell at Martinez, California; Shell at Wilmington, California; and Phillips at Avon, California. These data indicated that these refineries appeared to have experienced higher pollutant raw waste loads (the quantities of pollutants in the waste stream before treatment) than the median refineries of their subcategories. EPA considered this additional information in assessing whether an additional pollutant allocation should be allowed those refineries processing heavy crudes.

EPA was interested in determining whether the above-median raw waste loads of the three refineries could be clearly attributed to their California crude feedstocks, or whether their high waste loads reflected the complexities of their refinery processes. Each of the three refineries is well above-average in complexity for its subcategory.

The commenters provided raw waste loads for five parameters (BOD<sub>5</sub>, COD, TOC, phenols and ammonia) from each of the three refineries. Of these raw waste loads, 13 out of the 15 instances were above the applicable subcategory median. This is shown by the following table:

REFINERY RAW WASTE LOAD AS PERCENT ABOVE THE MEDIAN FOR THE APPROPRIATE SUBCATEGORY

	Phillips Avon	Shell Wilmington	Shell Martinez	3 refineries average
BOD <sub>5</sub> .....	29	116	99	81
COD.....	7	198	330	178
TOC.....	77	43	111	94
Ammonia....	20	261	47	85
Phenols....	917	1,284	642	948

However, if refinery complexity is taken into account, by dividing each refinery's reported raw waste loads by that refinery's process factor, the resulting "complexity adjusted" raw waste loads exceed the appropriate subcategory median in only 7 of the 15 instances. This is demonstrated by the following table:

REFINERY RAW WASTE LOAD DIVIDED BY THE REFINERY PROCESS FACTOR AS PERCENT ABOVE THE MEDIAN FOR THE APPROPRIATE SUBCATEGORY

	Phillips Avon	Shell Wilmington	Shell Martinez	3 refineries average
BOD <sub>5</sub> .....	-8	-11	-12	-10
COD.....	-24	23	90	29
TOC.....	-25	-21	-6	-1
Ammonia....	-49	85	-77	-12
Phenols....	621	509	237	456

The above table shows that the increased refinery complexity associated with those refineries processing California crudes might well be a cause of their higher raw waste loads. Since the process factor is a component of the allowed effluent limitations, it adequately compensates (with the possible exception of phenols) for the larger raw waste loads of those refineries. Existing treatment facilities have demonstrated that the phenol limits are achievable, even when raw waste loads are greatly in excess of the median.

Even if it were possible unequivocally to attribute an increased raw waste load to a feedstock type, this would not in itself justify an increased effluent limitation for refineries processing that feedstock. The long-term average quantity of a pollutant in a refinery effluent depends more upon the design and operation of the treatment system than upon the average raw waste load input to the system.

To determine whether there exists in practice a relationship between average effluent quality and raw waste load, EPA compared, for 14 refineries with both raw waste load and effluent data available, the average amount of pollutant in the effluent with the raw waste load of the pollutant. No meaningful correlation between average effluent and raw waste load was observed for the pollutants BOD<sub>5</sub>, TSS, oil and grease, phenols, and ammonia.

Thus, for these pollutants, differences in effluent quality between refineries are associated more with other factors (e.g., differences in treatment systems or in-plant controls) than with differences in raw waste load. However, EPA did find a significant correlation between the quantity of COD in the effluent of each of the refineries and the refineries' raw waste loads.

This finding merely supports EPA's action, when it promulgated the regulations, in increasing the COD limitations to avoid any possible inequity to processors of heavy crudes. (See "History of the Regulations", Part 4, "achievable concentrations".)

In addition, EPA examined data from one refinery which processed a mixture of crude types. In particular, it was claimed that the effluent quality for BOD<sub>5</sub>, phenols, and ammonia decreased as the percentage of Arabian crude in the feedstock increased. The Agency could find no significant correlation between effluent quality and the percent of Arabian crude used.

(7) One commenter stated that operating experience with the full-scale carbon adsorption system at BP's Marcus Hook refinery has been less than satisfactory, that Gulf Oil Company has found that carbon treatment is not feasible for their Port Arthur refinery wastewater, and that Texaco has apparently reached the same conclusion with regard to its Eagle Point refinery.

The best available technology economically achievable specified for the petroleum refining industry is the application of carbon adsorption to the effluent from a well operated biological/physical

treatment plant of the type required to meet the 1977 limitations. In each case specified by the commenter, activated carbon treatment was applied to wastewaters of considerably poorer quality than is required for 1977, since activated carbon was being used in lieu of biological treatment.

(8) Comments were received which assert that special unproven techniques, such as biological nitrification—denitrification for ammonia removal, and some unspecified technology for phenols, would be required to meet the ammonia and phenol limitations.

The achievable ammonia limits are based on in-plant sour water stripping techniques which are currently in use in the refining industry. A number of plants in this industry are meeting the ammonia limits using this technology. (See "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Petroleum Refining Point Source Category", pp. 95-97; 40 CFR Part 419, 39 FR 16562 (23) May 9, 1974.)

The achievable phenol limits are based on the refinery effluent data and references cited in Tables 26 and 27 of the Development Document. In addition, EPA has recently acquired phenol effluent data from 11 refineries not cited in the Development Document, which data show an average phenol effluent concentration of 0.058 mg/l (0.10 mg/l was used as the achievable concentration in setting the BPT limits).

(9) Some commenters stated that neither the regulation nor the Development Document explains or assesses how refineries of widely varying age, process, geographic location, load availability, and other circumstances can further reduce flows to the 1983 volumes.

The methods currently being applied by the industry to achieve flow reductions are listed on page 169 of the Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Petroleum Refining Point Source Category.

Some other methods of reducing flows not listed on page 169 are:

1. Maximum reuse of treatment plant effluent, evaporation, and consumptive use.
2. Lime and lime soda softening to reduce hardness to allow further recycling.
3. Use of specially designed high dissolved solids cooling towers which would use the blowdown from other cooling towers as make-up water.

Of the 94 refineries used in determining the flow base for the 1977 limitations, 26 were doing as well or better than the 1983 flow base. These 26 refineries are located in 15 different states (Alaska, California, Colorado, Illinois, Kansas, Kentucky, Louisiana, Montana, North Dakota, New Mexico, Ohio, Oklahoma, Texas, Utah, and Wyoming).

(10) One commenter stated that the control efficiencies needed to meet the limitations are higher than those attained by municipal plants employing traditional secondary treatment, and are derived partially from EPA's inclusion of polishing steps, including granular filtration or polishing ponds. The commenter

argued that EPA's own publications concede that there is no carefully documented filter operating experience with wastewater, and that the operating experience of the two refineries using granular media filtration (Amoco, Yorktown; BP, Marcus Hook) shows that this technology will not achieve the limits.

Many dischargers will be able to meet the limitations without a polishing step. However, the cost of filters was included in the estimates since some refineries might need a polishing step to achieve the suspended solids and oil and grease limits.

The average effluent suspended solids for the 12 refineries for which EPA has 1974 suspended solids data is 15.1 mg/l (10 mg/l is the guideline basis). Only one of these plants (Marathon Oil, Robinson, Ill.) has a filter in operation. Several are achieving less than 10 mg/l of suspended solids without a polishing step. The ten refineries for which EPA has 1974 oil and grease data are averaging 5.0 mg/l (5.0 mg/l is the regulation basis).

Experience with granular media filters, as well as with other polishing steps, is extensive and well documented. EPA's "Process Design Manual for Suspended Solids Removal" gives the results of studies of filtration of effluent from secondary biological treatment for 32 facilities. These 32 show an average suspended solids effluent concentration of 6.6 mg/l, with only 3 of the 32 over 10 mg/l.

In addition, there are approximately 2500 granular media filters being used for suspended solids removal in the Water Supply industry. Many filters are in operation in other industries, such as steel, for oil and solids removal.

Within the petroleum industry many filters are being employed for oil removal from production water before its discharge from offshore oil platforms. Filters are also being used prior to secondary treatment (BP, Marcus Hook, Pa.; Exxon, Bayonne, N.J.; Amara-Hess, Port Reading, N.J., etc.).

Two filters are currently being used as a polishing step for secondary treatment effluents (Amoco, Yorktown, Va. and Marathon, Robinson, Ill.) and several others are now in design or under construction.

It is true that the two installations with filters now in place do not achieve the 10 mg/l of suspended solids and 5 mg/l of oil and grease expected from these units. This is a result of the conditions under which these installations have been operated. EPA's 1977 treatment model assumes that the influent to a polishing step will be an effluent from a well designed, well operated secondary treatment plant, and that the average suspended solids and oil and grease influents to the filters will be 15-25 mg/l and 5-10 mg/l, respectively.

The following data from Amoco, Yorktown's filter operation show a distinct improvement in effluent quality when the influent is within the expected range:

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Date	Suspended solids (mg/l)		Oil and grease (mg/l)	
	Influent	Effluent	Influent	Effluent
July 1971 to Aug. 1971.....	18	4.8	7	1.9
Sept. 1971 to Nov. 1971.....	43	13.6	16	5.3
Dec. 1971 to Feb. 1972.....	68	39	16	10
Mar. 1972 to May 1972.....	60	38	17	13
Sept. 1972 to Nov. 1972.....	90	42	9	16

<sup>1</sup> Lower than the monthly maximum limit of 17 mg/l for suspended solids, and of 8 mg/l for oil and grease, assuming median flow.

The above data indicates adequate performance of the filter when the secondary treatment effluent was within the ranges of expected operation, in spite of the following unusual (and correctable) difficulties encountered at the facility: 1) filter media losses and channeling eventually forced replacement of the entire filter bed; 2) an unexpected increase in flow volume was caused by refinery acceptance of ballast water; 3) untreated lagoon water (used for backwash) was left in the filter after backwashing; and 4) the filter was not properly designed for both summer and winter influent conditions.

Not as much information was available to EPA on the Marathon, Robinson filters as was available on Amoco, but the following is known: The data for the 9 months (8/72-4/73) of operation prior to the installation of the filters show a suspended solids effluent from the secondary treatment plant of 19 mg/l average. The secondary treatment plant effluent for the 12 months of 1974 showed an average suspended solids concentration of 49 mg/l. Thus, the filters were operating at a level well above their design limits and on 2.6 times higher influent suspended solids concentration than at their initial installation. It should be noted that in spite of this, the filter effluent averaged 12 mg/l of suspended solids for the first 18 months of operation.

Granular media filters are not a cure-all or a substitute for a well designed and well operated secondary treatment system, but rather, as EPA intended, a polishing step to further improve a good secondary treatment plant effluent. Thus employed, they can productively be part of a system to meet the 1977 limitations.

(11) In support of the previous comment opposing the use of granular media filtration, a discussion of the results from a pilot plant study carried out by Standard of Ohio at its Lima, Ohio Refinery was submitted. The pilot study was designed to determine the reductions achievable in BOD<sub>5</sub>, COD, and suspended solids when a granular media filter was used to treat the effluent from their biological treatment pond.

The commenter claimed that the growth of algae precluded attainment of the BPT suspended solids, BOD<sub>5</sub>, and COD limits.

As in the cases cited in response to comment no. 10, these filters were being used for more than the polishing step EPA intended. EPA did not base the regulations on the use of granular media filtration for BOD<sub>5</sub> and COD removal. The treatment model assumes the influent to the filter be below 25 mg/l of suspended solids and 15 mg/l of BOD<sub>5</sub>. Thus, the biological treatment step preceding filtration should deliver an effluent of such quality to the filters. Such treatment can be accomplished by several techniques, either separately or in combination, including activated sludge, biological ponds, trickling filters, and aerated lagoons. The technique selected depends upon an engineering evaluation of the specific site and raw waste characteristics.

Where lagoons are employed, the effluent quality of a lagoon system can be affected adversely during certain periods of the year by the algae generated in the system. The algae can settle out in the bottom of a receiving stream or lake, undergo death and degradation, exert an oxygen demand in effluent samples and in the stream, and will be measured as part of the solids in the effluent.

There are, however, a variety of approaches which can be used to control the quantity of solids in the effluent. Most of these approaches either are in use or have been thoroughly demonstrated and can be used where needed. Under specific design and operational conditions, each approach can be economical. Applicable approaches include micro-straining, coagulation-flocculation, land disposal, granular media or intermittent sand filtration, and chemical control.

Micro-strainers have been used successfully in numerous applications for the removal of algae and other suspended material from water. In a series of nine investigations over a period of years, plankton removal averaged 89 percent. Micro-straining requires little maintenance and can be used for the removal of algae from stabilization ponds or lagoons.

Coagulation-flocculation, followed by sedimentation, has been applied extensively for the removal of suspended and colloidal material from water.

Land disposal (spray irrigation) for all or a portion of the lagoon effluent can reduce outflow to a stream during periods of high algae. This reduction can compensate for the increased solids concentrations and permit the limitations to be attained. Spray irrigation in a controlled manner onto adjacent land can be accomplished without additional environmental problems.

Although EPA did not contemplate using granular media filtration specifically to remove algae, filters have been shown to achieve the BPT limits even when influent quality was degraded due to algal growth. The Lima Refinery pilot project showed that the limits were obtained with certain media sizes and flow rates.



Chemical measures for the control of excessive algae growths in lagoons are also effective. Proper application depends upon the type, magnitude, and frequency of growth, the local conditions, and the degree of control that is necessary. For maximum effectiveness, algal control measures should be undertaken before the development of the algal bloom.

Thus, there are many alternatives that can be used for algae control and/or removal to assure that the lagoon effluent quality meets the described limitations. The alternative selected at a specific refinery will be a function of land availability, available operating personnel, degree of difficulty in meeting the limitations, and overall waste management economics.

(12) A commenter suggested that the BPT flow basis was based on flows experienced by refineries which apply good water conservation practices, and that only 50 (37 percent) of the 136 refineries in the 1972 API/EPA survey are meeting the EPA flow basis.

EPA based the BAT and BATD (1983 and New Source) flow bases on refineries employing good water conservation practices. The BPT flows were based on what one-half of the industry was achieving in 1972. In fact, 51 (54 percent) of the 94 refineries used from the 1972 API/EPA survey were at or below the BPT process water flows. No assessment of process water flows was made for the remaining 42 of the 136 refineries in the survey, since their flow volumes included large amounts of once-through cooling water, which was not included in the flow base definition. It must be recognized that the flow base is not a flow limitation, and that the pollutant allocations allowed by the regulations can be met with flows higher than predicted if the effluent concentrations are lower than those used by EPA. Since a number of refineries are achieving concentrations for each pollutant parameter that are considerably below the concentrations used by EPA, a refinery might be able to meet the effluent limits with a higher than predicted flow. The same result might be achieved by careful control and design and consequent lowered variability.

(13) Some commenters stated that EPA did not adequately consider the effects of climate on biological wastewater treatment and that substantially higher reductions can be achieved in southern states and for installations requiring summer operations only. Included were several examples of claimed summer-winter variations in refinery effluents.

EPA has collected data from ten refineries located in Illinois, Montana, North Dakota, Washington, and Utah. Effluent data from these ten refineries for the parameters which could be affected by cold climates are as follows: BOD<sub>5</sub>—13.2 mg/l average (the limitation basis is 15 mg/l), COD—75.5 mg/l average (the limitation basis for these refineries varies between 110–115 mg/l) and phenols—0.049 mg/l average (the limitation basis is 0.10 mg/l).

The commenters own data submitted with the comment provide little support for the position taken in the comment. These data tend to show, and EPA agrees, that temperature variations, with a host of other factors, do affect refinery variability. This effect is fully taken into account by the variability factors and does not appear to depend on refinery location.

(14) A commenter argued that EPA regulations would require in-plant modifications, and that EPA was not authorized under the law to require such modifications for 1977.

EPA's regulations do not require any particular form of treatment, nor do they require in-plant modifications. The regulations require the achievement of effluent limitations which are based upon the performance of good existing plants. Since the total effluent loading in pounds or kilograms is controlled by three variables, the total effluent flow, the concentration of pollutant in the effluent, and the variability, reduction of one or more of these components can be used to achieve the limitations. The limitations are based upon flow, concentration, and variability figures which are readily achievable. If a discharger's flow is higher than the flow upon which the regulations are based, the discharger has three options: he may reduce his flow to or below the predicted level, and maintain the appropriate effluent concentrations and variability; he may modify his treatment system so as to achieve lower effluent concentrations; or he may design and operate more carefully to achieve lower variability. EPA has data on dischargers which are achieving concentrations, flows, and variabilities well below those upon which the limitations are based.

EPA is aware, however, that for most such dischargers reduction of flow would be the most economical and, in the long run, the most effective means of meeting the regulations. Accordingly, our cost estimates are based upon the installation of treatment necessary to meet the regulations, and for any inplant modifications necessary to reduce process water flow commensurately.

It should be emphasized that, even for those dischargers who choose to reduce process water flow by in-plant modifications, such modifications amount to nothing more than modification and re-piping of existing processes. To meet the 1983 guidelines, more extensive changes may be appropriate. For example, dischargers employing fluid catalytic cracking may change to hydro-cracking; or those acid treating may change to hydro-treating, to help in meeting the 1983 limitations. However, such changes will not be necessary for any discharger to meet the 1977 limitations.

(15) One commenter argued that EPA made many errors in its development of the median raw waste loads from the API/EPA survey used in the regression analysis.

The median raw waste loads (Tables 18–22 in the Development Document)

were not used in the regression analysis. The regression analysis was based on the size, flow, and refining processes of each refinery used.

(16) A comment was received to the effect that EPA used median values rather than mean values to determine allowable effluent loadings and variability factors.

The commenter was incorrect. Mean values, not medians, were calculated from the "exemplary" refineries. These means were used to develop the achievable concentrations.

In calculating the variabilities for each refinery, the 99 percent probability limit was divided by the mean because the variabilities were used to predict 30-day and daily maximums from an annual average (mean).

(17) A commenter noted that the variability allowed in many of EPA's other industrial guidelines is greater than that used for the Petroleum Refining limitations. The commenter therefore requested higher variability factors, especially to cover upset conditions.

The variabilities used by EPA in setting the Petroleum Refining limitations are derived from extensive long-term data from refinery operations. These variabilities therefore reflect what is currently being achieved in this industry.

Comparison to variabilities in other industries is considered invalid for several reasons:

1. The data base used to calculate the variabilities in the Refining industry was at least 10 times larger than that available in any of the other industries mentioned by the commenter.

2. In other industries, the Agency was often required to establish variabilities based upon relatively little long-term data. In such cases, variabilities were often conservatively set at a high level, in order to compensate for the lack of data. Because of the availability of good long-term data on petroleum refineries, the Agency is confident that these variabilities are readily achievable by all refineries over the long-term.

3. The technology specified as the best practicable control technology currently available has been in use in the petroleum refining industry for a long period of time. The experience accumulated over this period of time has enabled the industry to iron out many irregularities which contribute to variability. This has enabled the petroleum industry to achieve lower variabilities than many other industries with less experience in pollution abatement. The Agency believes that the industry as a whole should be required to maintain the level of control presently practiced by many refineries.

The commenter also requested higher variabilities to cover upset conditions. As has been stated previously, data taken during periods of spills, in-plant upset conditions, etc., were included in calculating the variabilities. However, a few data points, which reported either preventable upsets of catastrophic events (such as the effects of hurricane Agnes on a coastal refinery in Texas), were deleted from the variability data base, since they did not reflect the normal operation of a well run, carefully-maintained operation.

(18) One comment shows that EPA used an incorrect equation in the calculation of sample variance.

A minor error was made in the calculations used in preparation of the proposed regulations. However, since the approach used for data analysis after publication of the proposed regulations corrected that error, it did not appear in the final regulation.

(19) A commenter complained of biased data selection on the part of EPA in determining the variabilities.

The commenter presented four charts showing the monthly average loading for BOD, TSS, oil and grease, and ammonia from January, 1970 through April, 1973 for Shell, Martinez. EPA selected one year's data, for each parameter, to calculate the variability. For BOD, TSS, and oil and grease, EPA chose the year after the installation of Shell's waste treatment plant in September, 1971. The data for these parameters prior to that date could not be used because it was representative of raw waste and not effluent variability. A period of one year was chosen for several reasons: 1) one year's data should adequately represent the unpreventable causes of variability; and 2) the quantity of data is sufficient for statistical analysis and prediction of both variability and long-term performance.

For oil and grease, EPA did erroneously analyze data for a period before the installation of biological treatment. However, EPA has recomputed the variability using data from the same period (after installation of treatment) used for the other parameters. The difference is negligible.

EPA believes, as indicated previously, that low variability is concomitant with good plant operation. For this reason a year different from that used for the other parameters, a year in which low ammonia variability was attained, was selected for calculating ammonia variability. It is immaterial that this year preceded installation of the biological treatment system, since most ammonia removal is accomplished by a separate system.

The commenter also pointed to several data points that were deleted from the data analyzed from the Marathon, Texas City Refinery. Five data points were dropped during the analysis of the ammonia data as not being representative of the normal plant operation. The data points were all of the data from the period 10/11/72 through 12/6/72. The data prior to 10/11/72 ranged from 2.2 to 23.4 mg/l and the data after 12/6/72 ranged from 3.2 to 39.4. The points dropped were 0.6, 0, 0, 0, and 80 mg/l. These data points were dropped because: 1) they immediately followed a 23 day period for which no data were recorded; and 2) for whatever reason (EPA has been unable to determine the cause of these aberrant values), these five consecutive deleted data points are both startlingly lower and higher than all the rest of the data. They thus may represent sampling or analytical errors. These data are clearly so atypical that EPA decided not to use them in the analysis.

Six data points are depicted as having been ignored by EPA in its analysis of Marathon's COD data. Two of these points are duplicates (1/12/72 and 1/15/73), and one point (1/31/73) was mistakenly deleted by EPA. However, the deletion of this single point (which was a low value) would have no significant effect on the regulations. The remaining four data points were deleted because Weston's trip report identified them as the result of operator mistakes.

(20) A commenter questioned the inclusion of three data points since they were preceded by the symbol meaning "less than the sensitivity at that level."

For all analytical techniques a limit of sensitivity exists below which the method does not yield reliable quantitative measurements. EPA, throughout its analysis of the Refinery Industry data, has used the level of analytical sensitivity as the data points where a "less than sensitivity" indicator appeared in the data. It is believed that elimination of these low data points might significantly bias the analysis of the total data base.

(21) A commenter questioned EPA's variability analysis on Amoco, Yorktown's BOD<sub>5</sub> data, on the grounds that two analyses by EPA of the same data yielded strikingly different results (4.54 vs. 2.29).

This supposed inconsistency arose as a result of the progression followed by EPA in preparing the regulations (see "Variability" above). The 2.29 daily variability is the result of fitting Amoco's data to a normal distribution, while the 4.54 figure is based on a log-normal fit. The improved methodology now being used by EPA results in a 2.80 daily variability. The corrections made initially for the facts that the data fit only imperfectly to either a normal or log-normal distribution are no longer necessary.

(22) A commenter stated that EPA erred in using 2.3 as the BOD<sub>5</sub> variability for three refineries in calculating variabilities for other parameters, since the mean of the three refineries' BOD<sub>5</sub> variabilities is 2.14.

The mean of the three refineries' BOD<sub>5</sub> variabilities is in fact 2.22; however, EPA used the median value, 2.3, instead of the mean.

(23) A commenter indicated that EPA did not avail itself of the data in the Brown and Root Variability study.

EPA did in fact utilize data from five of the refineries used in the Brown and Root Variability Study. However, the Brown and Root Variability Study itself could not be used in deriving the limitations. The study did not give any raw data, or identify the refineries used in the study. Thus, EPA had no knowledge of the operation of these refineries and no opportunity to determine the causes of suspect data. Moreover, the statistical approach used by Brown and Root was inconsistent with that selected by the Agency.

The data from five of the refineries used in the Brown and Root Variability Study were used, along with other re-

finery data, to make the adjustment to the original variabilities which had been based upon a normal distribution. Since EPA has been unable to obtain the names of the refineries used by Brown and Root, it has been unable to make further use of these data.

(24) One commenter stated that since there is enormous variation in the variability factors themselves, their statistical veracity must be challenged.

The validity of a variability factor increases as the number of data points and the length of time analyzed increase. The commenter has calculated daily variabilities within each month and a coefficient of variation (standard deviation divided by the mean) for each month. Thus, his calculations would be expected to show relatively wide fluctuations. EPA used longer term data (in most cases, a full year). Accordingly, the uncertainty observed by the commenter is minimized by EPA's method of analysis.

The commenter also compared the daily variabilities based on long-term data to show the wide range of values. EPA is perfectly aware of the wide range of variabilities, and one of the intentions of the limitations is to prevent these widely varying discharges. In defining BPT, operational control is considered extremely important.

The prevention of spills, operator education, limiting analytical error, and proper treatment plant design for the control of variability are just as important as flow minimization or designing to achieve a long-term concentration limit.

(25) One commenter stated that, since EPA based effluent limits (in pounds) on the product of flow times concentration times variability, and since the commenter found no consistent correlation between flow and any effluent parameter, EPA should reevaluate the basis of its effluent limits.

The commenter provided EPA with a list of ten refineries for which he examined the correlation of effluent load with flow, and a list of those effluent parameters which he found to be significantly correlated with flow. These lists, for which the commenter failed to provide either the data on which they are based or the regression model he used to analyze that data, constitute merely a summary of results obtained.

EPA determined which effluent parameters were reported by each of the ten refineries used by the commenter. None of the ten refineries reported all effluent parameters, although the commenter's lists might lead one to believe they did. Based upon the commenter's own submission, then, the following table can be constructed:

Effluent parameter	Number of refineries (with more than 25 data points) reporting the effluent parameter	Number of refineries with significant correlation between effluent parameter and flow
BOD <sub>5</sub> .....	6	5
COD.....	8	7
TSS.....	1	1
Phenol.....	8	6
Oil and grease.....	9	6



Thus, in most cases where the refinery recorded data on a specific parameter, the commenter actually reported a significant correlation between effluent loading and flow. There was no reason, therefore, for EPA to reevaluate the basis for its effluent limits.

(26) One commenter stated that, since data from Shell's Martinez refinery were not distributed either normally or log-normally, EPA's approach to variability was incorrect.

The commenter provided with his comment a table summarizing the statistical parameters he investigated at the Martinez refinery. He did not provide EPA with the data he used. From the number of data points he reported, however, he apparently used data taken over approximately a three-year period. Since the treatment plant at the Martinez refinery was not installed until late in 1971, it is likely that the commenter combined in his summary data taken both before and after the treatment facilities were installed. If two such disparate statistical populations were so combined, the results obtained would be meaningless.

In addition, the procedure now used by EPA to determine the variability factor does not require that the data be distributed either normally or log-normally over its entire range.

(27) A commenter analyzed BOD data from Exxon's Baytown refinery, and derived a variability factor of 3.06, not 2.03 as given by EPA.

The commenter's value of 3.06 is the ratio between the 99th percentile of the variability distribution and the 50th percentile of that distribution (C99/C50) for the Baytown refinery. EPA actually defines the variability factor as the ratio between the 99th percentile of the variability distribution and the mean (C99/A). The correct variability factor for the Baytown refinery therefore is 2.69. EPA originally gave the figure 2.03 as that factor. Upon reanalyzing the Baytown data, EPA discovered that it had made an error in transcribing the original figures from the work sheets. EPA then recomputed the overall variability factor using the 2.69 figure, and found it remained unchanged, to within the round-off limits.

(28) A commenter argued that EPA has not demonstrated the availability of carbon adsorption as a proper basis for establishing the 1983 limitations. The commenter cited several references, in addition to those used by EPA, in making this argument.

Carbon adsorption technology has been used by industry for many years for the removal of organic contamination in the Sugar and Liquor Industries. In 1960, the detailed evaluation of carbon adsorption as a possible wastewater treatment technology began as part of the mandate of Congress (Pub. L. 87-88) to investigate advanced waste treatment technology.

A 1974 article by Hager in *Industrial Water Engineering* cites sixteen examples of full-scale industry wastewater treat-

ment installations using activated carbon. In addition, the article gives the results of 220 carbon isotherm tests, depicting the almost universal applicability of activated carbon as a viable treatment.

Much of the work done to date on activated carbon adsorption has been to show it is an alternative to biological treatment. However, carbon adsorption seems more universally applicable as a polishing step after biological treatment. A paper by Short and Myers states: "the best levels of reduction were obtained with biological treatment followed by carbon adsorption. Apparently, bio-treatment and activated carbon complement each other very well and those materials which are resistant to biological degradation are adsorbed fairly easily while those materials which are not adsorbed by carbon are biologically degradable." This statement is confirmed by: (1) A paper by Hale and Myers entitled "The Organics Removed by Carbon Treatment of Refinery Wastewater"; (2) A study carried out by Union Carbide Corporation on 93 organic compounds; (3) a paper by E. G. Paulson, "Adsorption as a Treatment of Refinery Effluent" in which carbon isotherm tests show higher BOD and COD percent removals from biological effluents than from raw wastes; and (4) the 1974 pilot plant study at the BP, Marcus Hook Refinery where a Bio-Disk was used to remove a portion of BOD5 prior to carbon adsorption, resulting in substantially better effluent quality than provided by the carbon alone.

The Agency derived its achievable BAT effluent concentrations from the information available on the results of activated carbon polishing of biologically treated effluents. The sources used to confirm the probable achievability of these effluent concentrations are as follows: Short and Myers—"Pilot Plant Activated Carbon Treatment of Petroleum Refining Wastewater"; The BP, Marcus Hook 1974 pilot plant study of Filtration and Activated Carbon (Bio-Disk); EPA Process Design Manual for Carbon Adsorption, especially the South Lake Tahoe, California, and Orange, California, biological-activated carbon treatment plant studies.

An important factor in the EPA's choice of activated carbon adsorption as a treatment step on which to base the 1983 limitations was the fact that it would be an add-on to the 1977 treatment technology. In addition, the current interest in activated carbon adsorption should make available sufficient information for the Agency to determine, prior to the implementation of BAT technology not later than 1983, if the limitations will require modification.

The commenter also questioned the justification for lower ammonia concentrations for 1983, since activated carbon does not remove ammonia. While the commenter is correct, he misunderstood the BAT ammonia limitation. That limitation is not based upon use of carbon adsorption, but rather is based on improved control of the amount of am-

monia released from the ammonia stripper to reach the amount just needed to satisfy the nutrient needs of the biological treatment plant. The Agency concluded that several additional years of experience and experimentation with both ammonia strippers and individual biological system should result in better control of stripper effluents and more complete knowledge of the nutrient needs of biological systems. Therefore, the Agency set the BAT ammonia limitations to reflect the expected reduction in "excess" ammonia (the difference between the amount discharged from strippers now and the amount of ammonia needed by biological systems).

(29) Several comments were received concerning the apparent anomaly in the final pound allocations (base limits times process factors times size factor) for certain subcategories. That is, hypothetically, in some instances, if sufficient petrochemical operations were added to either cracking refineries ("B") or lube refineries ("D") to change their classifications to, respectively, petrochemical refineries ("C") or integrated refineries ("E"), the final pound allocations for those refineries would decrease. The commenters suggested two solutions for this anomaly; either (1) add a weighting factor for the various petrochemical operations to increase the size of their process factors, or (2) eliminate the "C" and "E" subcategories, and add to the pound allocations for "B" and "D" refineries additional pounds based upon the regulations for the plastics, rubber, and organic chemical industries.

In calculating the flows, based upon the API/EPA survey (see "flow basis" above), EPA attempted to derive from the survey data the actual process wastewater flow which would require treatment. For the most part, the flows listed in the survey combined both process water and once-through cooling water. Since the once-through cooling water would ordinarily not require treatment, it was necessary to develop a means for deriving the process flow from the total flow listed in the survey.

The promulgated regulations were based upon the flows from 94 of the refineries in the API/EPA survey. Of these 94 refineries, 75 had no once-through cooling and 19 removed less than 3 percent of their heat by means of once-through cooling water. It was considered that total flow for these 94 refineries would correspond closely to process flow.

After promulgation of the regulations, EPA undertook to identify the cause of the apparent anomaly identified by the commenters. Upon careful examination of the flows in the API/EPA survey, it was found that the actual process flows for 108 of these 136 refineries (including all the original 94) could be calculated. When these process flows were compared to the total flows used, the reason for the anomaly became apparent: of the original 94 refineries, most of those with more than zero but less than 3 percent once-through heat removed by cooling water (13 of 19) were in the cracking ("B") or lube ("C") subcategories. This

cooling water appeared in the process flow allocations for the cracking and lube refineries, giving those refineries an extra "cushion" which will make the regulations easier to attain for such refineries.

EPA does not believe that the excess water allocations for the cracking and lube subcategories require modification of the regulations. Such modification would have the effect of decreasing the quantity of pollutants allowed to be discharged by refineries in these subcategories. Petrochemical and integrated refineries would be less affected, since the original flow data for these subcategories included a relatively lower proportion of once-through cooling water.

It is clear, in any event, that the solutions proposed by the commenters would be inappropriate. Since the regulations are based upon actual performance by refineries in each subcategory, it would be absurd to attempt to modify them on the basis of regulations designed for other industries. Moreover, no "weighting factor" is necessary to account for petrochemical operations, since the flows contributed by such operations are fully reflected in the flow data from petrochemical and integrated refineries used to develop the regulations.

(30) One commenter argued that the limitation for hexavalent chromium was unreasonable since technology to measure such low concentrations was unavailable.

The commenter was correct. Consequently, the achievable concentration for hexavalent chromium has been changed from 0.005 mg/l to 0.02 mg/l in the amended regulations.

(31) Several commenters stated that EPA underestimated the costs of achieving compliance with the regulations.

EPA reexamined the economic impact analysis assuming that the cost of compliance would be 50 percent higher than the costs estimated when the regulations were originally analyzed. That is, the conclusions of the analysis were checked using cost estimates that were 50 percent higher than those shown in the economic impact report (EPA 230/2-74-020) for BAT treatment and for the "b" inplant cost extrapolation (see Table III on page II-30). The conclusion of this sensitivity analysis was that the impact of the regulations would not be appreciably changed even if the costs were assumed to be 50 percent higher. Thus, even if this assumption about costs were correct, the results of the impact study and the appropriateness of the regulations would be unchanged.

Specifically, using the higher cost assumption, the analysis indicates that a total of ten small refineries, representing a total of 33,000 barrels per day capacity, would be economically threatened by the regulations. Two of these refineries, representing 7,000 barrels per day capacity, would face a significant threat of closure. These essentially are the impacts projected under the original analysis using the lower cost estimates, and may be affected in any event by governmental policy.

This sensitivity analysis was conducted using a 50 percent increase in the

cost estimates, whereas the industry has suggested that the costs actually are as much as 150 percent higher than originally estimated. This claim was believed to be totally unrealistic for several reasons. Specifically, the estimates should not include "sunk costs" (those costs that already have been increased in the past for pollution abatement). Neither should costs which would be incurred regardless of EPA regulations be included in the estimated costs of the guidelines. Therefore, an increase in the cost estimates of 50 percent is more than adequate to test for the possibility that the original costs were in error. This is particularly true because it is likely that any price increases which might have raised the costs since the original analysis was made would be offset by the conservative assumptions which were built into the original cost estimates.

The cost estimates are based upon a complete activated sludge treatment system including equalization, flotation cells, and polishing with mixed media filters. However, from the data before the Agency, it is clear that such an elaborate system will not be required in all cases. Of the plants which are achieving the limitations, a number use only aeration lagoons for treatment. Where adequate land is available at a reasonable cost, the costs of constructing a lagoon system can be considerably lower than the costs associated with installing an activated sludge system. Moreover, the operating costs of a lagoon system are minimal. Thus, if EPA cost estimates are in error, they are more likely to overstate, rather than to understate, the required capital and operating costs.

(c) As a result of the review undertaken by EPA in response to public comment upon the promulgated regulations, and upon the modifications thereto proposed on October 14, 1974, the following changes have been made in the regulations as promulgated:

Revision of the proposed amendment and promulgated regulation:

(1) The proposed amendments have been promulgated without change (See 39 FR 37069);

(2) The achievable concentration for hexavalent chromium has been changed from .005 mg/l to .02 mg/l; and

(3) The daily and monthly variabilities for suspended solids have been changed from 2.9 and 1.7 to 3.3 and 2.1 respectively.

40 CFR Chapter I, Subchapter N, Part 419 is hereby amended as set forth below to be effective June 19, 1975.

Dated: May 9, 1975.

RUSSELL E. TRAIN,  
Administrator.

EFFLUENT LIMITATIONS GUIDELINES FOR EXISTING SOURCES AND STANDARDS OF PERFORMANCE AND PRETREATMENT STANDARDS FOR NEW SOURCES FOR THE PETROLEUM REFINING POINT SOURCE CATEGORY

(1) The tables in § 419.12 (a), (b) (1) and (2), and (c) (1) and (2) are revised to read as follows:

§ 419.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) \* \* \*

Effluent characteristic	Effluent limitations	
	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
Metric units (kilograms per 1,000 m <sup>3</sup> of feedstock)		
BOD <sub>5</sub> .....	22.7.....	12.0
TSS.....	15.8.....	10.1
COD.....	117.....	60.3
Oil and grease.....	6.9.....	3.7
Phenolic compounds.....	.168.....	.076
Ammonia as N.....	2.81.....	1.27
Sulfide.....	.149.....	.08
Total chromium.....	.345.....	.50
Hexavalent chromium.....	.028.....	.012
pH.....	Within the range 6.0 to 9.0.	

English units (pounds per 1,000 bbl of feedstock)		
BOD <sub>5</sub> .....	8.0.....	4.25
TSS.....	6.6.....	3.6
COD.....	41.2.....	21.3
Oil and grease.....	2.5.....	1.3
Phenolic compounds.....	.060.....	.027
Ammonia as N.....	.99.....	.45
Sulfide.....	.063.....	.024
Total chromium.....	.122.....	.071
Hexavalent chromium.....	0.10.....	.044
pH.....	Within the range 6.0 to 9.0.	

(b) \* \* \*

(1) Size factor.

1,000 bbl of feedstock per stream day:	Size factor
Less than 24.9.....	1.02
25.0 to 49.9.....	1.06
50.0 to 74.9.....	1.16
75.0 to 99.9.....	1.26
100.0 to 124.9.....	1.38
125.0 to 149.9.....	1.50
150.0 or greater.....	1.57

(2) Process factor.

Process configuration:	Process factor
Less than 2.49.....	0.62
2.5 to 3.49.....	0.67
3.5 to 4.49.....	0.80
4.5 to 5.49.....	0.95
5.5 to 6.49.....	1.07
6.5 to 7.49.....	1.17
7.5 to 8.49.....	1.27
8.5 to 9.49.....	1.39
9.5 to 10.49.....	1.51
10.5 to 11.49.....	1.64
11.5 to 12.49.....	1.79
12.5 to 13.49.....	1.95
13.5 to 14.49.....	2.12
14.5 to 15.49.....	2.31
15.5 to 16.49.....	2.51
16.5 to 17.49.....	2.73
17.5 to 18.49.....	2.98
18.5 to 19.49.....	3.24
19.5 to 20.49.....	3.53
20.5 to 21.49.....	3.84
21.5 to 22.49.....	4.18
22.5 or greater.....	4.36

(c) \* \* \*

(1) \* \* \*



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Effluent limitations			Process factor
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—	
Metric units (kilograms per cubic meter of flow)			
BOD <sub>5</sub> .....	0.048.....	0.026.....	1.39
TSS.....	0.03.....	0.021.....	1.51
COD.....	0.37.....	0.19.....	1.64
Oil and grease.....	0.15.....	0.08.....	1.79
pH.....	Within the range 6.0 to 9.0.....		1.95
English units (pounds per 1,000 gal of flow)			
BOD <sub>5</sub> .....	0.40.....	0.21.....	1.39
TSS.....	0.30.....	0.17.....	1.51
COD.....	3.1.....	1.6.....	1.64
Oil and grease.....	1.25.....	0.67.....	1.79
pH.....	Within the range 6.0 to 9.0.....		1.95

(3) The tables in § 419.15(a), (b) (1) and (2), and (c) (1) and (2) are revised to read as follows:

#### § 419.15 Standards of performance for new sources.

(a) \* \* \*

Effluent limitations			Process factor
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—	
Metric units (kilograms per cubic meter of flow)			
BOD <sub>5</sub> .....	0.048.....	0.026.....	1.39
TSS.....	0.03.....	0.021.....	1.51
COD.....	0.37.....	0.19.....	1.64
Oil and grease.....	0.15.....	0.08.....	1.79
pH.....	Within the range 6.0 to 9.0.....		1.95
English units (pounds per 1,000 gal of flow)			
BOD <sub>5</sub> .....	0.40.....	0.21.....	1.39
TSS.....	0.30.....	0.17.....	1.51
COD.....	3.1.....	1.6.....	1.64
Oil and grease.....	1.25.....	0.67.....	1.79
pH.....	Within the range 6.0 to 9.0.....		1.95

(2) The tables in § 419.13(b) (1) and (2) are revised to read as follows:

#### § 419.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(b) \* \* \*

(1) Size factor.

1,000 bbl of feedstock per stream day:	Size factor
Less than 24.9.....	1.02
25.0 to 49.9.....	1.06
50.0 to 74.9.....	1.18
75.0 to 99.9.....	1.26
100.0 to 124.9.....	1.38
125.0 to 149.9.....	1.50
150.0 or greater.....	1.57

(2) Process factor.

Process configuration:	Process factor
Less than 2.49.....	0.62
2.5 to 3.49.....	0.67
3.5 to 4.49.....	0.80
4.5 to 5.49.....	0.95
5.5 to 6.49.....	1.07
6.5 to 7.49.....	1.17
7.5 to 8.49.....	1.27

(b) \* \* \*

(1) Size factor.

1,000 bbl of feedstock per stream day:	Size factor
Less than 24.9.....	1.02
25.0 to 49.9.....	1.06
50.0 to 74.9.....	1.18
75.0 to 99.9.....	1.26
100.0 to 124.9.....	1.38
125.0 to 149.9.....	1.50
150.0 or greater.....	1.57

(2) Process factor.

Process configuration:	Process factor
Less than 2.49.....	0.62
2.5 to 3.49.....	0.67
3.5 to 4.49.....	0.80
4.5 to 5.49.....	0.95
5.5 to 6.49.....	1.07
6.5 to 7.49.....	1.17
7.5 to 8.49.....	1.27

(c) \* \* \*

(1) \* \* \*

Effluent limitations

Effluent characteristic

Maximum for any one day

Average of daily values for thirty consecutive days shall not exceed—

Metric units (kilograms per cubic meter of flow)

BOD <sub>5</sub> .....	0.048.....	0.026.....
TSS.....	0.03.....	0.021.....
COD.....	0.37.....	0.19.....
Oil and grease.....	0.15.....	0.08.....
pH.....	Within the range 6.0 to 9.0.....	

English units (pounds per 1,000 gal of flow)

BOD <sub>5</sub> .....	0.40.....	0.21.....
TSS.....	0.30.....	0.17.....
COD.....	3.1.....	1.6.....
Oil and grease.....	1.25.....	0.67.....
pH.....	Within the range 6.0 to 9.0.....	

(2) \* \* \*

Effluent limitations

Effluent characteristic

Maximum for any one day

Average of daily values for thirty consecutive days shall not exceed—

Metric units (kilograms per cubic meter of flow)

BOD <sub>5</sub> .....	0.048.....	0.026.....
TSS.....	0.03.....	0.021.....
COD.....	0.37.....	0.19.....
Oil and grease.....	0.15.....	0.08.....
pH.....	Within the range 6.0 to 9.0.....	

English units (pounds per 1,000 gal of flow)

BOD <sub>5</sub> .....	0.40.....	0.21.....
TSS.....	0.30.....	0.17.....
COD.....	3.1.....	1.6.....
Oil and grease.....	1.25.....	0.67.....
pH.....	Within the range 6.0 to 9.0.....	

(4) The tables in § 419.22 (a) and (b) (1) and (2) are revised to read as follows:

#### § 419.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) \* \* \*

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(2) Process factor.

Process configuration:

Less than 2.49.....	0.58
2.5 to 3.49.....	0.63
3.5 to 4.49.....	0.74
4.5 to 5.49.....	0.88
5.5 to 6.49.....	1.00
6.5 to 7.49.....	1.09
7.5 to 8.49.....	1.19
8.5 to 9.49.....	1.29
9.5 to 10.49.....	1.41
10.5 to 11.49.....	1.53
11.5 to 12.49.....	1.67
12.5 to 13.49.....	1.82
13.5 to 14.49.....	1.89
14.5 or greater.....	1.89

(6) The tables in § 419.25 (a) and (b) (1) and (2) are revised to read as follows:

#### § 419.25 Standards of performance for new sources.

(a) \* \* \*

Effluent limitations

Effluent characteristic

Maximum for any one day

Average of daily values for thirty consecutive days shall not exceed—

Metric units (kilograms per 1,000 m<sup>3</sup> of feedstock)

BOD <sub>5</sub> .....	16.3.....	8.7.....
TSS.....	11.3.....	7.2.....
COD.....	118.....	61.....
Oil and grease.....	4.8.....	2.6.....
pH.....	Within the range 6.0 to 9.0.....	

English units (pounds per 1,000 bbl of feedstock)

BOD <sub>5</sub> .....	12.1.....	6.5.....
TSS.....	8.3.....	5.25.....
COD.....	74.....	38.4.....
Oil and grease.....	3.9.....	2.1.....
pH.....	Within the range 6.0 to 9.0.....	

(b) \* \* \*

(1) Size factor.

1,000 bbl of feedstock per stream day:	Size factor
Less than 24.9.....	0.73
25.0 to 49.9.....	0.76
50.0 to 74.9.....	0.83
75.0 to 99.9.....	0.91
100.0 to 124.9.....	0.99
125.0 to 149.9.....	1.08
150.0 or greater.....	1.13

(2) Process factor.

Process configuration:

Less than 2.49.....	0.73
2.5 to 3.49.....	0.80
3.5 to 4.49.....	0.91
4.5 to 5.49.....	0.99
5.5 to 6.49.....	1.08
6.5 to 7.49.....	1.17
7.5 to 8.49.....	1.28
8.5 to 9.49.....	1.39
9.5 to 10.49.....	1.51
10.5 to 11.49.....	1.65
11.5 to 12.49.....	1.82
12.5 to 13.49.....	1.89
13.5 to 14.49.....	1.89
14.5 or greater.....	1.89

(8) The tables in § 419.33(b) (1) and (2) are revised to read as follows:



§ 419.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) . . .

(1) Size factor.

1,000 bbl of feedstock per stream day:	Size factor
Less than 24.9	0.73
25.0 to 49.9	0.76
50.0 to 74.9	0.83
75.0 to 99.9	0.91
100.0 to 124.9	0.99
125.0 to 149.9	1.08
150.0 or greater	1.13

(2) Process factor.

Process configuration:	Process factor
Less than 4.49	0.73
4.5 to 5.49	0.80
5.5 to 5.99	0.91
6.0 to 6.49	0.99
6.5 to 6.99	1.08
7.0 to 7.49	1.17
7.5 to 7.99	1.28
8.0 to 8.49	1.39
8.5 to 8.99	1.51
9.0 to 9.49	1.55
9.5 or greater	1.72

(9) The tables in § 419.35 (a) and (b) (1) and (2) are revised to read as follows:

§ 419.35 Standards of performance for new sources.

(a) . . .

Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
BOD <sub>5</sub>	21.8	11.8
TSS	14.9	9.5
COD	133	69
Oil and grease	6.6	3.5
Phenolic compounds	158	0.77
Ammonia as N	23.4	10.7
Sulfide	149	0.63
Total chromium	33	0.19
Hexavalent chromium	0.25	0.012
pH	Within the range 6.0 to 9.0	

Metric units (kilograms per 1,000 m <sup>3</sup> of feedstock)	Effluent limitations
BOD <sub>5</sub>	50.6
TSS	35.6
COD	360
Oil and grease	16.2
Phenolic compounds	38
Ammonia as N	23.4
Sulfide	33
Total chromium	77
Hexavalent chromium	0.06
pH	Within the range 6.0 to 9.0

English units (pounds per 1,000 bbl of feedstock)	Effluent limitations
BOD <sub>5</sub>	7.7
TSS	8.3
COD	47
Oil and grease	2.4
Phenolic compounds	0.66
Ammonia as N	8.3
Sulfide	0.66
Total chromium	118
Hexavalent chromium	0.004
pH	Within the range 6.0 to 9.0

(b) . . .

(1) Size factor.

1,000 bbl of feedstock per stream day:	Size factor
Less than 24.9	0.73
25.0 to 49.9	0.76
50.0 to 74.9	0.83
75.0 to 99.9	0.91
100.0 to 124.9	0.99
125.0 to 149.9	1.08
150.0 or greater	1.13

(2) Process factor.

Process configuration:	Process factor
Less than 4.49	0.73
4.5 to 5.49	0.80
5.5 to 5.99	0.91
6.0 to 6.49	0.99
6.5 to 6.99	1.08
7.0 to 7.49	1.17
7.5 to 7.99	1.28
8.0 to 8.49	1.39
8.5 to 8.99	1.51
9.0 to 9.49	1.65
9.5 or greater	1.72

(10) The tables in § 419.42 (a) and (b) (1) and (2) are revised to read as follows:

§ 419.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) . . .

Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
BOD <sub>5</sub>	50.6	25.3
TSS	35.6	22.7
COD	360	187
Oil and grease	16.2	8.5
Phenolic compounds	38	184
Ammonia as N	23.4	10.6
Sulfide	33	150
Total chromium	77	45
Hexavalent chromium	0.06	0.030
pH	Within the range 6.0 to 9.0	

Metric units (kilograms per 1,000 m <sup>3</sup> of feedstock)	Effluent limitations
BOD <sub>5</sub>	50.6
TSS	35.6
COD	360
Oil and grease	16.2
Phenolic compounds	38
Ammonia as N	23.4
Sulfide	33
Total chromium	77
Hexavalent chromium	0.06
pH	Within the range 6.0 to 9.0

English units (pounds per 1,000 bbl of feedstock)	Effluent limitations
BOD <sub>5</sub>	17.0
TSS	12.5
COD	127
Oil and grease	5.7
Phenolic compounds	433
Ammonia as N	8.3
Sulfide	118
Total chromium	273
Hexavalent chromium	0.024
pH	Within the range 6.0 to 9.0

(b) . . .

(1) Size factor.

1,000 bbl of feedstock per stream day:	Size factor
Less than 49.9	0.71
50.0 to 74.9	0.74
75.0 to 99.9	0.81
100.0 to 124.9	0.88
125.0 to 149.9	0.97
150.0 to 174.9	1.05
175.0 to 199.9	1.14
200.0 or greater	1.19

(2) Process factor.

Process configuration:	Process factor
Less than 6.49	0.81
6.5 to 7.49	0.88
7.5 to 7.99	1.00
8.0 to 8.49	1.09
8.5 to 8.99	1.19
9.0 to 9.49	1.29
9.5 to 9.99	1.41
10.0 to 10.49	1.53
10.5 to 10.99	1.67
11.0 to 11.49	1.82
11.5 to 11.99	1.98
12.0 to 12.49	2.15
12.5 to 12.99	2.34
13.0 or greater	2.44

(11) The tables in § 419.43 (b) (1) and (2) are revised to read as follows:

§ 419.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) . . .

1,000 bbl of feedstock per stream-day:	Size factor
Less than 49.9	0.71
50.0 to 74.9	0.74
75.0 to 99.9	0.81
100.0 to 124.9	0.88
125.0 to 149.9	0.97
150.0 to 174.9	1.05
175.0 to 199.9	1.14
200.0 or greater	1.19

Process configuration:	Process factor
Less than 6.49	0.81
6.5 to 7.49	0.88
7.5 to 7.99	1.00
8.0 to 8.49	1.09
8.5 to 8.99	1.19
9.0 to 9.49	1.29
9.5 to 9.99	1.41
10.0 to 10.49	1.53
10.5 to 10.99	1.67
11.0 to 11.49	1.82
11.5 to 11.99	1.98
12.0 to 12.49	2.15
12.5 to 12.99	2.34
13.0 or greater	2.44

English units (pounds per 1,000 bbl of feedstock)	Effluent limitations
BOD <sub>5</sub>	17.0
TSS	12.5
COD	127
Oil and grease	5.7
Phenolic compounds	433
Ammonia as N	8.3
Sulfide	118
Total chromium	273
Hexavalent chromium	0.024
pH	Within the range 6.0 to 9.0

(12) The tables in § 419.45 (a) and (b) (1) and (2) are revised to read as follows:

§ 419.45 Standards of performance for new sources.

(a) . . .

Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
BOD <sub>5</sub>	34.6	18.4
TSS	23.4	14.9
COD	245	126
Oil and grease	10.5	5.6
Phenolic compounds	26	12
Ammonia as N	23.4	10.7
Sulfide	220	10
Total chromium	42	31
Hexavalent chromium	0.06	0.021
pH	Within the range 6.0 to 9.0	

Metric units (kilograms per 1,000 m <sup>3</sup> of feedstock)	Effluent limitations
BOD <sub>5</sub>	34.6
TSS	23.4
COD	245
Oil and grease	10.5
Phenolic compounds	26
Ammonia as N	23.4
Sulfide	220
Total chromium	42
Hexavalent chromium	0.06
pH	Within the range 6.0 to 9.0

English units (pounds per 1,000 bbl of feedstock)	Effluent limitations
BOD <sub>5</sub>	12.2
TSS	8.3
COD	87
Oil and grease	3.8
Phenolic compounds	0.68
Ammonia as N	8.3
Sulfide	0.78
Total chromium	160
Hexavalent chromium	0.022
pH	Within the range 6.0 to 9.0

(b) . . .

(1) Size factor.

1,000 bbl of feedstock per stream day:	Size factor
Less than 49.9	0.71
50.0 to 74.9	0.74
75.0 to 99.9	0.81
100.0 to 124.9	0.88
125.0 to 149.9	0.97
150.0 to 174.9	1.05
175.0 to 199.9	1.14
200.0 or greater	1.19

Process configuration:	Process factor
Less than 6.49	0.81
6.5 to 7.49	0.88
7.5 to 7.99	1.00
8.0 to 8.49	1.09
8.5 to 8.99	1.19
9.0 to 9.49	1.29
9.5 to 9.99	1.41
10.0 to 10.49	1.53
10.5 to 10.99	1.67
11.0 to 11.49	1.82
11.5 to 11.99	1.98
12.0 to 12.49	2.15
12.5 to 12.99	2.34
13.0 or greater	2.44

English units (pounds per 1,000 bbl of feedstock)	Effluent limitations
BOD <sub>5</sub>	12.2
TSS	8.3
COD	87
Oil and grease	3.8
Phenolic compounds	0.68
Ammonia as N	8.3
Sulfide	0.78
Total chromium	160
Hexavalent chromium	0.022
pH	Within the range 6.0 to 9.0

(13) The tables in § 419.52 (a) and (b) (1) and (2) are revised to read as follows:

§ 419.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) . . .

Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
BOD <sub>5</sub>	54.4	28.9
TSS	37.8	23.7
COD	388	198
Oil and grease	17.1	9.1
Phenolic compounds	40	192
Ammonia as N	23.4	10.6
Sulfide	35	158
Total chromium	82	48
Hexavalent chromium	0.08	0.022
pH	Within the range 6.0 to 9.0	

Metric units (kilograms per 1,000 m <sup>3</sup> of feedstock)	Effluent limitations
BOD <sub>5</sub>	54.4
TSS	37.8
COD	388
Oil and grease	17.1
Phenolic compounds	40
Ammonia as N	23.4
Sulfide	35
Total chromium	82
Hexavalent chromium	0.08
pH	Within the range 6.0 to 9.0

English units (pounds per 1,000 bbl of feedstock)	Effluent limitations
BOD <sub>5</sub>	19.2
TSS	13.2
COD	136
Oil and grease	6.0
Phenolic compounds	14
Ammonia as N	8.3
Sulfide	124
Total chromium	29
Hexavalent chromium	0.025
pH	Within the range 6.0 to 9.0

(b) . . .

(1) Size factor.

1,000 bbl of feedstock per stream day:	Size factor
Less than 124.9	0.73
125.0 to 149.9	0.76
150.0 to 174.9	0.83
175.0 to 199.9	0.91
200.0 to 224.9	0.99
225 or greater	1.04

Process configuration:	Process factor
Less than 6.49	0.75
6.5 to 7.49	0.82
7.5 to 7.99	0.92
8.0 to 8.49	1.00
8.5 to 8.99	1.10
9.0 to 9.49	1.20
9.5 to 9.99	1.30
10.0 to 10.49	1.42
10.5 to 10.99	1.54
11.0 to 11.49	1.68
11.5 to 11.99	1.83
12.0 to 12.49	1.99
12.5 to 12.99	2.17
13.0 or greater	2.26

English units (pounds per 1,000 bbl of feedstock)	Effluent limitations
BOD <sub>5</sub>	41.6
TSS	28.1
COD	235
Oil and grease	12.6
Phenolic compounds	30
Ammonia as N	23.4
Sulfide	36
Total chromium	64
Hexavalent chromium	0.024
pH	Within the range 6.0 to 9.0

(14) The tables in § 419.53 (b) (1) and (2) are revised to read as follows:

§ 419.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
BOD <sub>5</sub>	14.7	7.8
TSS	9.9	6.3
COD	104	54
Oil and grease	4.8	2.4
Phenolic compounds	105	0.61
Ammonia as N	8.3	3.8
Sulfide	0.68	0.042
Total chromium	220	13
Hexavalent chromium	0.019	0.004
pH	Within the range 6.0 to 9.0	

(b) . . .



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## (1) Size factor.

Size factor	Factor
1,000 bbl of feedstock per stream day:	
Less than 124.9	0.73
125.0 to 149.9	0.76
150.0 to 174.9	0.83
175.0 to 199.9	0.91
200.0 to 224.9	0.99
225 or greater	1.04

## (2) Process factor.

Process configuration	Process factor
Less than 6.49	0.75
6.5 to 7.49	0.82
7.5 to 7.99	0.92
8.0 to 8.49	1.00
8.5 to 8.99	1.10
9.0 to 9.49	1.20
9.5 to 9.99	1.30
10.0 to 10.49	1.42
10.5 to 10.99	1.54
11.0 to 11.49	1.68
11.5 to 11.99	1.83
12.0 to 12.49	1.99
12.5 to 12.99	2.17
13.0 or greater	2.26

[FR Doc. 75-17959 Filed 5-19-75; 8:45 am.]

## Title 41—Public Contracts and Property Management

## CHAPTER 114—DEPARTMENT OF THE INTERIOR

## PART 114-47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

## Reassignment by Agencies and Report of Identical Bids

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301, and sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)), Subparts 114-47.2 and 114-47.3, Chapter 114, of Title 41 of the Code of Federal Regulations, are amended as set forth below.

It is the general policy of the Department of the Interior to allow time for interested parties to take part in the rulemaking process. However, these amendments are entirely administrative in nature. Therefore, the public rulemaking process is waived and these amendments will become effective on May 20, 1975.

LEONARD R. HITE,  
Deputy Assistant Secretary  
of the Interior.

MAY 12, 1975.

## Subpart 114-47.2—Utilization of Excess Real Property

Section 114-47.203-1 is amended by revising paragraph (d) to read as follows:

§ 114-47.203-1 Reassignment of real property by the agencies.

(d) Circularization of power transmission facilities. The approval of the appropriate program Assistant Secretary shall be obtained prior to circularization of any available power transmission line or related facility having an estimated fair market value of \$1,000 or more.

(1) In the case of planned disposal of facilities held by the Bonneville Power

Administration, Alaska Power Administration, and the Southwestern Power Administration such approval shall be obtained from the Assistant Secretary—Energy and Minerals.

(2) In the case of planned disposal of facilities held by the Bureau of Reclamation, approval of the Assistant Secretary—Land and Water Resources shall be obtained.

(3) Requests for approval to initiate action to dispose of power transmission facilities shall be accompanied by a complete description of the circumstances which the holding Bureau believes makes such disposal feasible. A copy of each request shall be furnished the Assistant Director for Property Management, Office of Management Services.

## Subpart 114-47.3—Surplus Real Property Disposal

Section 114-47.304-8 is revised to read as follows:

## § 114-47.304-8 Report of identical bids.

(a) The reporting requirements specified in FPMR 114-47.304-8 are applicable to all sales of Government-owned property made on a competitive basis whether competition is obtained through sealed bid, negotiation, auction, or spot bid procedures. They apply to:

(1) Program sales made pursuant to special statutes authorizing the Secretary of the Interior to sell specific real properties, and

(2) Sales of surplus real property made pursuant to the provisions of the Federal Property and Administrative Services Act of 1949, as amended.

(b) Reports on identical bids required by this subsection shall be submitted by the heads of Bureaus and Offices directly to the Attorney General in accord with FPMR 101-47.304-8. A copy of the transmittal letter and a copy of the abstract of bids shall be furnished to the Assistant Director for Property Management, Office of Management Services.

[FR Doc. 75-18148 Filed 5-19-75; 8:45 am.]

## Title 45—Public Welfare

## CHAPTER 1—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## PART 100a—DIRECT PROJECT GRANT AND CONTRACT PROGRAM

## PART 184—ETHNIC HERITAGE STUDIES PROGRAM

## Miscellaneous Amendments

Notice of proposed rule making was published in the FEDERAL REGISTER on December 31, 1974 (39 FR 45297), setting forth regulations for the Ethnic Heritage Studies Program (Title IX of the Elementary and Secondary Education Act) as added by section 504 of the Education Amendments of 1972, Pub. L. 92-318 (20 U.S.C. 900 to 900a-5), and amended by section 111 of the Education Amendments of 1974, Pub. L. 93-380.

These proposed rules would replace standards and funding criteria which were published on April 12, 1974 (39 FR

13297) by adding a new Part 184 to the Code of Federal Regulations. This program was administered under the April 12 standards last fiscal year.

The following paragraphs reiterate the fundamental changes between the standards published on April 12, 1974 and the regulations as they will be published in final form.

a. The standards published in April required all authorized activities (curriculum development, dissemination, and training) to be performed by a grant recipient. This may have had the result of unduly restricting entry into the program because some applicants with the ability to perform some activities lacked the capacity to perform all activities. Section 184.11(a) of the rule permits an applicant to qualify for consideration if it can perform at least one of the three activities listed. This change results from a substantive amendment to the Act made by section 111 of Pub. L. 93-380.

b. Previously, the Act required that curriculum materials developed be for use in elementary and secondary schools and institutions of higher education. The amendment contained in section 111 of Pub. L. 93-380 permits the development of materials for elementary schools, secondary schools, or institutions of higher education, thus allowing a more flexible approach. This change is reflected in § 184.11(a) (i) of the rule.

c. As a result of the 1974 amendments, funding criteria have been added for separate activities (curriculum, dissemination, and training). (see § 184.31(c).)

d. The section on advisory councils (§ 184.12) is essentially in the form set forth in the previous standard, with some drafting and clarifying changes.

Interested parties were invited to submit written comments, suggestions and objections. Below is a summary of the comments received pertaining to the proposed rule and the responses from this Office. All comments received were given careful consideration, but none was sufficiently substantive to merit a change in the proposed rules. Several technical corrections were made in the citations of legal authority under the table of contents and under subpart D, Funding Criteria. Several typographical errors were also corrected.

1. *Comment.* A commenter, an Indian tribe, requested that American Indian tribes be specifically designated as eligible applicants in the regulations.

*Response.* Title IX acknowledges the importance of the ethnic heritage of all Americans, consequently the scope of the legislative intent encompasses native American tribes and organizations as eligible to the extent that they are nonprofit and have an educational purpose. Section 184.21 states the parties eligible for assistance, as provided by the statute, including nonprofit educational organizations. The nonprofit educational organizations of an Indian tribe would be eligible under this language. This office received applications from several different Indian organizations which were considered in the preceding year.

2. *Comment.* A commenter, a nonprofit organization, commended the flexibility of the regulations and indicated a belief that they implemented congressional intent. The commenter specifically supports three facets of the regulations: (a) the dissemination of curriculum materials; (b) the equal emphasis given to the development and training in the use of curriculum materials; and (c) the multi-ethnic preference accorded to applications.

*Response.* The proposed rule was designed to introduce a greater degree of flexibility in the program regulations and to respond to concerns previously expressed to the program that participation by ethnic groups might have been hampered by regulatory requirements. The Office of Education appreciates the commenter's expression of views that this purpose has, in large measure, been achieved, particularly in the respects mentioned by the commenter.

3. *Comment.* A commenter stresses the importance of dissemination of ethnic heritage materials, including materials developed under the program.

*Response.* Dissemination of materials is an authorized activity under the proposed rules at § 184.11(a) (ii). This activity is considered an essential aspect of the program in creating a national awareness of ethnic heritage studies. Dissemination of materials also serves to maximize independent efforts and eliminates duplication of materials.

4. *Comment.* A commenter submitted several comments. They are particularized below with response.

(a) *Comment.* With regard to § 184.2, relating to definitions, the commenter suggests that a definition of "ethnic," which excluded racial or religious groups, should be incorporated.

*Response.* The regulations follow the approach set by Congress which did not define "ethnic" in the legislation itself. The commenter's point relating to exclusion of minority and religious groups is at odds with the legislative history of Title IX which includes reference to such groups. See Senate Report No. 93-763 at page 50.

(b) *Comment.* Commenter requests that the regulations "spell out" that "genuine ethnic organizations" should be a prime vehicle for assistance.

*Response.* A conscious effort was made to encourage and enhance participation of ethnic groups and ethnic organizations as evidenced by § 184.12 (a) and (b), § 184.21, § 184.22 (a) and (b), § 184.31 (b) (6) (iii) and § 184.31 (c) (i).

However, under the legislation, ethnic organizations are not the sole category of eligible applicants. Furthermore, to accord one eligible applicant category priority over others merely by virtue of that category would be outside the congressional intent and an unauthorized action. Awards are based on competition among eligible applicants found in § 184.21.

(c) *Comment.* Commenter suggests that it should be specifically required that ethnic groups which have been organized within the past two years be

required to submit proof that they are a bona fide ethnic group.

*Response.* Documentation of the organizational legal status of nonprofit applicants has been a concern of the Ethnic Heritage Studies Program. In an attempt to determine this status, certain information is required for submission. From the documentation submitted under § 184.21 (charter, notarized articles of incorporation, by-laws, etc.) we believe the program has sufficient data to judge an applicant's status.

(d) *Comment.* Commenter wishes to declare ineligible any applicant which has hired a former OE employee within the last 12 months.

*Response.* The conflict of interest statutes govern situations regarding use of former employees by a grantee organization. It would be inappropriate for the Office to develop a particularized set of prohibitions for this program.

(e) *Comment.* Commenter wishes to deny preferential treatment to any previous grantee.

*Response.* Eligible applicants which were previously awarded grants under Title IX are not given preferential treatment in these rules.

Accordingly, after consideration of the above comments, part 100a of Title 45 as amended and Part 184 of Title 45 of the Code of Federal Regulations are adopted to read as set forth below.

*Effective date:* The notice of proposed rulemaking was transmitted to Congress on December 24, 1974 pursuant to section 431(d) of the General Education Provisions Act. (20 U.S.C. 1232(d).) The time period set forth therein for congressional action has expired without such action having been taken. Therefore these criteria shall become effective on May 20, 1975.

(Catalog of Federal Domestic Assistance Number 13.549, Ethnic Heritage Studies)

Dated: May 1, 1975.

T. H. BELL,  
U.S. Commissioner of Education.  
Approved: May 14, 1975.

CASPAR W. WEINBERGER,  
Secretary of Health,  
Education, and Welfare.

Title 45 of the Code of Federal Regulations is amended as follows:

1. § 100a.10 is amended by adding a new paragraph (a) (33) to read as follows:

§ 100a.10 Scope.

(a) . . .

(33) Financial assistance for carrying out Ethnic Heritage Studies Programs under Title IX of the Elementary and Secondary Education Act.

(20 U.S.C. 900)

2. A new Part 184 is added, to read as follows:

Subpart A—Purpose; Scope; Definition; General Provisions

Sec.  
184.1 Purpose.  
184.2 Definition.  
184.3 Applicability and general provisions.

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## Subpart B—Authorized Activities and Program Advisory Councils

Sec.  
184.11 Authorized activities.  
184.12 Advisory councils.

## Subpart C—Eligibility and Applications for Assistance

184.21 Eligibility for financial assistance.  
184.22 Application for assistance.  
184.23 Costs.  
184.24 Coordination of efforts.

## Subpart D—Criteria

184.31 Criteria for assistance.

*Authority:* Title IX of ESEA as added by sections 901-907 of P.L. 92-318 (1972) (20 U.S.C. 900a to 900a-5) and as amended by Section 111 of P.L. 93-380 (1974).

## Subpart A—Purpose; Scope; Definition; General Provisions

## § 184.1 Purpose.

The purpose of the Act is to provide assistance designed to afford students opportunities to learn about the nature of their own cultural heritage and to study the contributions of the cultural heritages of the other ethnic groups of the Nation.

(20 U.S.C. 900)

## § 184.2 Definition.

As used in this notice, "Act" means title IX of the Elementary and Secondary Education Act of 1965, as added by section 504 of the Education Amendments of 1972 (P.L. 92-318), and amended by section 111 of the Education Amendments of 1974 (P.L. 93-380).

(20 U.S.C. 900 to 900a-5)

## § 184.3 Applicability and general provisions.

The regulations in this part apply to assistance provided under the Act. Such assistance is also subject to the provisions of Part 100a of the Office of Education General Provisions Regulations. (45 CFR Part 100a).

(20 U.S.C. 900)

## Subpart B—Authorized Activities and Program Advisory Councils

## § 184.11 Authorized activities.

(a) Any ethnic heritage studies program assisted under the Act, in accordance with section 903 of the Act.

(1) (i) Shall develop curriculum materials for use in elementary or secondary schools or institutions of higher education, relating to the culture of the ethnic group or groups with which the program is concerned, and the contributions of that group or groups to the American heritage in such areas as history, geography, society, economy, literature, arts, music, drama, language or general culture; or

(ii) Shall disseminate such curriculum materials to permit their use in elementary or secondary schools or institutions of higher education throughout the Nation; or

(iii) Shall provide training for persons using, or preparing to use, ethnic heritage curriculum materials developed under the Act whether or not such materials were developed by the applicant; and



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(2) Shall cooperate with persons and organizations which have a special interest in the ethnic group or groups with which the program is concerned to assist them in promoting, encouraging, developing, or producing programs or other activities which relate to the history, culture, or traditions of that group or groups.

(b) An application which does not make adequate provision for the carrying out by the applicant of one or more of the activities in paragraph (a) (1) of this section and the activities described in paragraph (a) (2) of this section will not be approved.

(20 U.S.C. 900a-1; 900a-2(a) (2))

## § 184.12 Advisory councils.

(a) The Act requires that an ethnic heritage studies program assisted under the Act must be planned and carried out in consultation with an advisory council which is representative of the ethnic group or groups with which the program is concerned.

(20 U.S.C. 900a-2)

(b) The appointment of council members shall be made with the participation of appropriate ethnic and community groups and shall meet the following requirements:

(1) Each of the ethnic groups with which the program is concerned is represented on the council;

(2) More than one-half of the membership of the council consists of community representatives of the ethnic group or groups with which the program is concerned;

(3) The council is broadly representative of educational and professional backgrounds relevant to the program, and at least one member of the council is affiliated with an educational organization or institution and has expertise and experience in curriculum development, training of personnel, and/or dissemination of curriculum materials.

(4) The members of the council are not employed by, or otherwise associated with, the applicant.

(c) (1) An applicant for assistance under the Act shall consult with an advisory council (as described above) regarding the planning of the program for which assistance is requested and the preparation and submission of the application.

(2) In carrying out a program assisted under the Act, a recipient shall:

(i) Consult periodically (and in no event less frequently than once a month) with such council regarding such program;

(ii) Provide such council in a timely fashion with advance copies of all reports required by the Commissioner with respect to the program and all materials prepared or distributed pursuant to it;

(iii) Request semi-annual assessment of the program and its effect by the council; and

(iv) Otherwise involve the council in its advisory capacity in the planning,

implementation, and evaluation of the program.

(20 U.S.C. 900a-2(a) (3))

## Subpart C—Eligibility and Applications for Assistance

## § 184.21 Eligibility for financial assistance.

The Commissioner will make grants to public and private nonprofit educational agencies, institutions, and organizations to assist them in developing and implementing ethnic heritage studies programs pursuant to the Act and this part. Eligible organizations include ethnic, community, and professional associations and local educational agencies, State educational agencies, and institutions of higher education as defined in section 801 of the Elementary and Secondary Education Act of 1965.

(20 U.S.C. 881; 20 U.S.C. 900a)

## § 184.22 Application for assistance.

(a) An applicant other than a local educational agency, State educational agency, or institution of higher education shall furnish a copy of its charter or other documentary evidence (such as notarized articles of incorporation, bylaws, or other appropriate organic documents) which demonstrates that it is a nonprofit organization and that it has an educational purpose. (See 45 CFR § 100.1 for definition of nonprofit organization.)

(20 U.S.C. 900a; 900a-2(a))

(b) An application for assistance under the Act shall contain information indicating the manner in which the requirements of § 184.12 have been and will be implemented.

(20 U.S.C. 900a-2(a) (3))

## § 184.23 Costs.

(a) Funds will be made available to cover all or part of the cost of establishing and implementing ethnic heritage studies programs, including such items as the cost of research materials and resources, ethnic group and academic consultants, and related training of educational and community resource persons.

(b) Funds are not available under the Act for construction or remodeling of facilities.

(c) Funds requested under this Act for nonexpendable items such as printing equipment, copying machines, typewriters and audiovisual machines will be allowable only in exceptional circumstances.

(20 U.S.C. 900a; 900a-3)

(d) The Commissioner is prohibited from making any payment under the Act for religious worship or instruction.

(20 U.S.C. 885)

## § 184.24 Coordination of efforts.

In approving applications under the Act, the Commissioner will require that adequate provision is made for cooperation and coordination of efforts among

the programs assisted under the Act, including exchange of materials and information. An applicant for assistance under this part will provide an affirmative assurance that it will cooperate and coordinate efforts with other programs assisted under the Act.

(20 U.S.C. 900a-2(b))

## Subpart D—Criteria

## § 184.31 Criteria for assistance.

(a) General criteria. Applications for assistance under the Act which qualify for consideration will be evaluated in accordance with the following general criteria:

(1) General criteria set forth in § 100a.26(b) of Part 100a of the Office of Education General Provisions Regulations (45 CFR 100a.26(b)); and

(2) The overall quality of the program, with respect to the activities described in section 903 of the Act, and § 184.11 in helping students learn about their own cultural heritage and about the cultural heritages of other ethnic groups.

(b) Specific criteria. Applications for assistance under the Act will also be evaluated on the extent to which:

(1) There is evidence of commitment by the applicant and other interested groups to the program and to its continuation upon the expiration of Federal assistance;

(2) There is a clear demonstration of a specific contribution which the proposed program will make toward meeting the purpose of the Act;

(3) Approval of the application would promote an appropriate distribution of ethnic heritage studies programs throughout the Nation;

(4) The impact of the program is multi-ethnic;

(5) The program materials are designed for widespread use in schools or institutions of higher education and not exclusively for the applicants or the ethnic group(s) with which the program is concerned; and

(6) Provision is made for cooperation:

(i) With persons and organizations having a special interest in the program, as provided in section 903(4) of the Act;

(ii) With other programs assisted under this Act, including such joint activities as exchange of materials, personnel development models and cooperative dissemination efforts; and

(iii) Between ethnic or community groups and educational institutions or other agencies in order to implement the goals of the program.

(c) Additional criteria. (1) Programs described in § 184.11(a) (1) (i) (relating to development of curriculum materials) shall also be evaluated on the extent to which provision is made for:

(i) Obtaining data from resources within the community;

(ii) Field-testing curriculum materials to determine their effectiveness prior to use; and

(iii) Incorporating tested materials within the regular curriculum of schools or colleges;

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(2) Programs described in § 184.11(a) (1) (ii) (relating to dissemination) shall also be evaluated on the extent to which provision is made for:

(i) Analysis of the materials to be disseminated;

(ii) Dissemination of materials on a nationwide basis; and

(iii) Facilitating exchange of materials among programs assisted under the Act.

(3) Programs described in § 184.11(a) (1) (iii) (relating to training) shall also be evaluated on the extent to which provision is made for:

(i) Maximum involvement of such leadership personnel as community leaders, teachers, teacher trainers, educational administrators, and/or curriculum development specialists and supervisors; and

(ii) Evaluation of the training program.

(20 U.S.C. 900a-900a-5)

[FR Doc. 75-13214 Filed 5-19-75; 8:45 am]

## PART 183—FINANCIAL ASSISTANCE FOR ENVIRONMENTAL EDUCATION PROJECTS

## Funding Priorities

Notice of proposed rulemaking was published in the *FEDERAL REGISTER* on November 26, 1974 (39 FR 41260) which described priorities for determining the award of Environmental Education Act funds (Pub. L. 91-516, as amended). This program provides financial assistance for research, demonstration, and pilot projects designed to educate the public on problems of environmental quality and ecological balance. Pursuant to section 431(d) of the General Education Provisions Act, as amended, (20 U.S.C. 1231 (d)) these regulations were transmitted to the Congress concurrently with the publication of the notice of proposed rulemaking in the *FEDERAL REGISTER*. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the day of such transmission, subject to the provisions therein concerning congressional action and adjournment.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed priorities. No comments have been received and the proposed priorities are hereby adopted without change and are set forth below.

**Effective date.** The notice of proposed rulemaking was transmitted to Congress on November 20, 1974, pursuant to section 431(d) of the General Education Provisions Act (20 U.S.C. 1231(d)). The time period set forth therein for congressional action has expired without such action having been taken. These priorities shall become effective on May 20, 1975.

(Catalog of Federal Domestic Assistance No. 13.522, Environmental Education)

Dated: April 28, 1975.

T. H. BELL,  
U.S. Commissioner of Education.

Approved: May 14, 1975.

CASPAR W. WEINBERGER,  
Secretary of Health, Education,  
and Welfare.

Part 4 of the Guidelines appendix to Part 183 is revised as follows:

## GUIDELINES

## ENVIRONMENTAL EDUCATION ACT

Financial Assistance for Pilot and Demonstration Projects to Educate the Public on Problems of Environmental Quality and Ecological Balance

## Part 4—Funding Objectives and Areas of Special Interest

**Sec. 4.1 General projects.**—(a) Objectives. General projects should be designed to assist the development of effective environmental education practices and materials suitable for use by formal and/or nonformal education sectors.

Financial assistance may also be awarded for projects designed to assist the utilization of effective environmental education processes, practices, and materials.

"Formal education sectors" means all public and nonprofit private accredited educational agencies, institutions, and organizations; "nonformal education sectors" means public or nonprofit private agencies or organizations that contribute, directly or indirectly, toward the education of citizens, such as libraries, museums, community centers, organized citizens' groups, and similar organizations.

(20 U.S.C. 1532(b) (2))

## (b) Areas of special interest for funding.

(1) Resource material development projects. Resource material development projects foster the development of supplementary, guide, or curriculum materials, primarily for one or more grades, at the junior and senior high school levels (grades 7-12) and for nonformal/community education.

The projects should focus on the material resource needs of specific schools or organizations while at the same time developing these materials in such a way that they can be used by a large number of schools and organizations around the country.

(2) Personnel development projects. Personnel development projects are designed primarily for educational personnel associated with grades 7 through 12 and for personnel in other fields whose decisions and activities have an impact on environmental problems and environmental education opportunities in schools, communities, and elsewhere.

The purpose of personnel development projects should be to provide participants with skills and techniques in communicating environmental principles and concepts to

others and in utilizing these concepts within the framework of their jobs.

(3) Community education projects. Community education projects are designed to test or demonstrate promising methods of providing broad sectors of a community with an understanding of environmental principles, concepts, and problems.

Such projects should focus on the local environment and local environmental problems as they relate to local needs, public policies, and laws.

(4) Elementary and secondary education projects. Elementary and secondary education projects are sponsored primarily by local school districts and are designed to assist the introduction of environmental education concepts into the existing curriculum of the school district.

Such project will deal with community environmental problems and will be conducted and in many cases designed by students.

(20 U.S.C. 1532(b) (2))

(c) Additional areas for funding. Grant assistance may be considered for other environmental education general projects if funding is available and if such projects show unusual potential in advancing the art of environmental education. Such general project activities include information dissemination relating to environmental education curricula; preservice training programs; planning of outdoor ecological study centers; preparation of environmental education materials for use by the mass media; and evaluation of environmental education activities.

(20 U.S.C. 1532(b) (2))

**Sec. 4.2. Minigrant workshops.** (a) Examples of minigrant workshops may include:

(1) Workshops for community residents on the positive and negative environmental, economic, and social effects of a proposed industrial air pollution ban;

(2) Symposia on the past, present, and future—impacts of community population distribution and change on the physical, economic, and social environment of the community;

(3) Seminars on the environmental implications of alternative urban renewal or land use plans; or

(4) Conferences on community energy needs, current use patterns, and alternatives.

(20 U.S.C. 1534(a); 45 CFR 183.20)

(b) The specific objective of any such project might be that of assisting citizen participation in the determination of local policies and practices which impact on the environment, or it might address the resolution of a specific issue. Activities might include such things as: a survey of target group knowledge of and attitude toward the issue to be addressed, followed by the conduct of town or neighborhood meetings for discussion sessions with representatives of various interests involved and with technical and environmental impact experts; a community symposium to translate in lay terms and disseminate the impact of new local, State, regional or Federal laws or standards on local environmental resources and needs.

(20 U.S.C. 1534(a); 45 CFR 183.20)

[FR Doc. 75-13214 Filed 5-19-75; 8:45 am]



## RULES AND REGULATIONS

**Title 46—Shipping**  
**CHAPTER I—COAST GUARD,**  
**DEPARTMENT OF TRANSPORTATION**  
 [CGD 74-275]

**SUBCHAPTER D—TANK VESSELS**  
**SUBCHAPTER O—CERTAIN BULK DANGEROUS**  
**CARGOES**

**PART 30—GENERAL PROVISIONS**  
**PART 151—UNMANNED BARGES**  
**Unmanned Barges Carrying Certain Bulk**  
**Dangerous Cargoes**

On January 15, 1975, there was published in the *FEDERAL REGISTER* (40 FR 2702) a notice of proposed rulemaking deleting ethylenimine from the list of cargoes permitted to be carried under the provisions of Subchapters D and O. The Coast Guard also proposed to redesignate reference to § 111.60-40 in Subpart 151.05 to § 111.80-5. Interested parties were given the opportunity to submit, not later than February 28, 1975, written data, views or arguments.

No comments have been received, and the proposed amendments are hereby adopted without change as set forth below.

§§ 30.25-5, 151.01-10, 151.05, 151.05-1 and 151.50-60 [Amended]

Parts 30 and 151 of Chapter I of Title 46, Code of Federal Regulations, are amended as follows:

1. By striking out ethylenimine from Tables 30.25-5, 151.01-10(b) and 151.05.
2. By revoking § 151.50-60.
3. By striking out references to § 111.60-40 in § 151.05-1(p) and Table 151.05 and inserting § 111.80-5 in place thereof.

(90 Stat. 937; 46 U.S.C. 170, 891a, 375, 416; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b) and (O) (4))

**Effective date.** These amendments become effective on: August 18, 1975.

Dated: May 8, 1975.

O. W. SILVER,  
 Admiral, U.S. Coast Guard  
 Commandant.

[FR Doc. 75-13210 Filed 5-19-75; 8:45 am]

**Title 47—Telecommunication**  
**CHAPTER I—FEDERAL**  
**COMMUNICATIONS COMMISSION**  
 [FCC 75-519; 34931]

**PART 1—PRACTICE AND PROCEDURE**  
**Order; Designation of Decision-Making**  
**Personnel**

1. The Commission has under consideration a proposal to amend §§ 1.1205 and 1.1209 of the rules (47 CFR 1.1205 and 1.1209) to list the Chief of the Office of Plans and Policy and his staff as "Decision-making Commission personnel" in restricted adjudicative and restricted rule making proceedings, respectively.

2. At present, § 1.1205 designates the following categories of persons as decision-making personnel in restricted adjudicative proceedings:

- a. The Commissioners and their personal office staffs.
- b. The Chief of the Office of Opinions and Review and his staff.
- c. The Review Board and its staff.
- d. The Chief Administrative Law Judge, the Administrative Law Judges, and the staff of the Office of Administrative Law Judges.
- e. The General Counsel and his staff.
- f. The Chief Engineer and his staff.

3. In addition, § 1.1209 designates the following categories of persons as decision-making personnel in restricted rule making proceedings:

- a. The Commissioners and their personal office staffs.
- b. The Chief of the Office of Opinions and Review and his staff.
- c. The Chief Administrative Law Judge, the Administrative Law Judges, and the staff of the Office of Administrative Law Judges.
- d. The Chief of the Common Carrier Bureau and his staff.
- e. The General Counsel and his staff.
- f. The Chief Engineer and his staff.
- g. The Chief of the Cable Television Bureau and his staff when participating in proceedings involving service by common carriers to community antenna television systems.

4. In its 1965 Report and Order adopting the rules concerning ex parte communications (1 FCC 2d 49), the Commission designated as decision-making personnel those who play a part or participate in the process of deciding adjudicative and record rule making proceedings. The functions of the Office of Plans and Policy have been broadly drawn. The Office "... assists, advises, and makes recommendations to the Commission with respect to the development and implementation of communications policies in all areas of Commission authority and responsibility." 47 CFR § 0.21. The Office has the duty "... [t]o review and comment on all significant actions proposed to be taken by the Commission. . . ." and "... [t]o prepare briefings, position papers, proposed Commission actions, or other agenda items as appropriate. . . ." 47 CFR § 0.21 (d) and (f). In carrying out these responsibilities, it is quite likely that the Office would be advising the Commission on matters under consideration in restricted adjudicative or rule making proceedings.

5. We believe, therefore, that the Chief of the Office of Plans and Policy and his staff should be listed as decision-making personnel in §§ 1.1205 and 1.1209 of our rules.

6. Authority for this amendment is contained in section 4 (i) and (j) of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i) and (j). Because the amendment relates to a matter of agency organization and practice, the

notice and effective date provisions of 5 U.S.C. 553 are inapplicable.

7. In view of the foregoing, it is ordered, effective May 21, 1975, that §§ 1.1205 and 1.1209 of the rules and regulations are amended as set out below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Adopted: May 6, 1975.

Released: May 12, 1975.

FEDERAL COMMUNICATIONS  
 COMMISSION,  
 [SEAL] VINCENT J. MULLINS,  
 Secretary.

Part 1 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 1.1205 is amended to read as follows:

§ 1.1205 Decision-making Commission personnel (restricted adjudicative proceedings).

The following categories of persons are designated as decision-making Commission personnel in restricted adjudicative proceedings:

- (a) The Commissioners and their personal office staffs.
- (b) The Chief of the Office of Opinions and Review and his staff.
- (c) The Review Board and its staff.
- (d) The Chief Administrative Law Judge, the Administrative Law Judges, and the staff of the Office of Administrative Law Judges.
- (e) The General Counsel and his staff.
- (f) The Chief Engineer and his staff.
- (g) The Chief of the Office of Plans and Policy and his staff.

2. Section 1.1209 is amended to read as follows:

§ 1.1209 Decision-making Commission personnel (restricted rule making proceedings).

The following categories of persons are designated as decision-making Commission personnel in restricted rule making proceedings:

- (a) The Commissioners and their personal office staffs.
- (b) The Chief of the Office of Opinions and Review and his staff.
- (c) The Chief Administrative Law Judge, the Administrative Law Judges, and the staff of the Office of Administrative Law Judges.
- (d) The Chief of the Common Carrier Bureau and his staff.
- (e) The General Counsel and his staff.
- (f) The Chief Engineer and his staff.
- (g) The Chief of the Cable Television Bureau and his staff when participating in proceedings involving service by common carriers to cable television systems.
- (h) The Chief of the Office of Plans and Policy and his staff.

[FR Doc. 75-13237 Filed 5-19-75; 8:45 am]

**Title 49—Transportation**  
**CHAPTER X—INTERSTATE COMMERCE**  
**COMMISSION**

**SUBCHAPTER A—GENERAL RULES AND**  
**REGULATIONS**  
 [S.O. No. 1213]

**PART 1033—CAR SERVICE**

**St. Louis-San Francisco Railway Co.**

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 14th day of May, 1975.

It appearing, That because of unsafe track conditions, the St. Louis-San Francisco Railway Company (SLSF) is unable to operate over its line between Mulberry, Kansas, and Pittsburg, Kansas, a distance of approximately fourteen (14) miles; that SLSF service between these two points can be accomplished by the use of The Kansas City Southern Railway Company (KCS); that the KCS has consented to such use of its tracks by the SLSF; that operation by the SLSF over the aforementioned tracks of the KCS is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That: § 1033.1213 Service Order No. 1213 (St. Louis-San Francisco Railway Company authorized to operate over tracks of the Kansas City Southern Railway Company)

(a) The St. Louis-San Francisco Railway Company (SLSF) be, and it is hereby, authorized to operate over tracks of The Kansas City Southern Railway Company (KCS) between a point of connection of SLSF and KCS at KCS milepost 119.3 near Mulberry, Crawford County, Kansas, and KCS milepost 129.7 near Pittsburg, Crawford County, Kansas, a distance of approximately ten (10) miles.

(b) Application. The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) Rates applicable. Inasmuch as this operation by the SLSF over tracks of the KCS is deemed to be due to carrier's disability, the rates applicable to traffic moved by the SLSF over these tracks of the KCS shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) Effective date. This order shall become effective at 11:59 p.m., May 18, 1975.

(e) Expiration date. The provisions of this order shall expire at 11:59 p.m., November 15, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Serv-

## RULES AND REGULATIONS

ice Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] JOSEPH M. HARRINGTON,  
 Acting Secretary.

[FR Doc. 75-13254 Filed 5-19-75; 8:45 am]

**SUBCHAPTER B—PRACTICE AND PROCEDURE**  
 [Ex Parte No. 274; Sub-No. 1]

**PART 1121—ABANDONMENT OF**  
**RAILROAD LINES**

**Special Procedures for Proposed Railroad Abandonments Where the Requirements of Public Convenience and Necessity Are Minimal or Non-Existent**

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 1st day of May 1975.

On April 3, 1975, the Commission, on its own motion, reopened the proceeding in Ex Parte No. 274 (Sub-No. 1) for the purpose of amending 49 CFR 1121.21(d). This section prescribes the information to be included in railroad abandonment applications filed under the Commission's "Special Rules for Railroads Proposing Abandonments Where the Requirements of Public Convenience and Necessity Are Minimal or Non-Existent", frequently referred to as the "34-car rule".

Presently, this section requires that railroads seeking authority to abandon trackage or operations under the "34-car rule", submit, among other information, the names of the "consignor and/or consignee" of each car moved over the abandonment trackage. However, such a requirement may be in conflict with the prohibition of section 15(11) of the Interstate Commerce Act, 49 U.S.C. § 15(11), which makes it unlawful for a railroad to disclose, or for any person or corporation to solicit or receive "any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to such common carrier for interstate transportation which information may be used to the detriment or prejudice of such shipper or consignee, or which may improperly disclose his business transactions to a competitor. . . ." The Commission has, therefore, determined that the subject rule should be amended to eliminate this potential conflict.

The Commission further finds that the amendment prescribed herein is in the public interest and constitutes a procedural rule change within the exception to section 553 of the Administrative Procedure Act, 5 USC 553, that notice and hearing in connection with the proposed amendment is not required, and

good cause exists for making the amendment effective upon publication hereof in the *FEDERAL REGISTER*.

Accordingly, Title 49 of the Code of Federal Regulations is amended by revising § 1121.21(d) to read as follows:

§ 1121.21 Form of application.

(d) Information to establish the presumption described in § 1121.23. Applicant shall submit a list of all freight car-

loads moved by the applicant over the abandonment trackage during the preceding 12 months, the dates of such shipments, the railroad mileposts, stations or points of interchange, or connection with other railroads between which each moved, and the distance each moved over the abandonment trackage. On the basis of these facts, the applicant shall prepare and submit its computations in terms of the statistical criterion, i.e., average number of carloads per mile of abandonment trackage. Thus, for a 10-mile segment, a total carload figure less than 340, or an average carloads-per-mile figure less than 34, would suffice to establish the presumption.

It is ordered, That this order shall become effective on May 20, 1975, and

It is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

NOTE: This decision is not a major Federal action having a significant impact on the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,  
 Acting Secretary.

[FR Doc. 75-13252 Filed 5-19-75; 8:45 am]

**SUBCHAPTER C—ACCOUNTS, RECORDS AND**  
**REPORTS**

[No. 35129; Sub-No. 4]

**PART 1249—REPORTS OF MOTOR**  
**CARRIERS**

**Quarterly Financial Reports of Class I Common and Contract Motor Carriers of Property**

At a General Session of the Interstate Commerce Commission, held at its Office in Washington, D.C., on the 9th day of April 1975.

Past experience shows that in order for the Commission to properly monitor the financial condition of Class I motor carriers of property under our Early Warning Program, it is necessary that we obtain certain balance sheet information not presently reported quarterly. The selected items are shown in the enclosed appendix.<sup>1</sup>

Because the selected information is readily available from the accounting records and is reported annually to the

<sup>1</sup> Appendix filed as part of the original document.



Commission, the addition of page 11 to Form QFR is not considered burdensome or controversial. Therefore, rulemaking proceedings under section 553 of the Administrative Procedures Act (5 U.S.C. 553) are unnecessary.

Wherefore, and for good cause appearing:

*It is ordered*, That quarterly report Form QFR for Class I Common and Contract Motor Carriers of Property is hereby revised as shown in the appendix to this order.

*It is further ordered*, That the prescribed amendment shall be effective for

all quarters beginning with the first quarter in 1975 following receipt of the requisite clearance of the General Accounting Office.

*It is further ordered*, That service of this order shall be made on all Class I common and contract motor carriers of property; and to the Governor of every state and to the Public Utilities Commission or boards of each state having jurisdiction over transportation; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington,

D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

(49 U.S.C. 304, 320)

**NOTE:** This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc. 75-13253 Filed 5-19-75; 8:45 am]

## DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[27 CFR Parts 178, 181]

[Notice No. 277]

### COMMERCE IN FIREARMS AND AMMUNITION AND IN EXPLOSIVES

#### Notice of Proposed Rulemaking

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Director, Bureau of Alcohol, Tobacco and Firearms, with the approval of the Secretary of the Treasury or his delegate. This notice contains proposed amendments to Part 178 (Commerce in Firearms and Ammunition) and Part 181 (Commerce in Explosives) of Title 27 of the Code of Federal Regulations, the primary objective being to exempt from regulatory provisions commercially manufactured black powder in quantities not to exceed fifty pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or in antique devices.

#### BACKGROUND

The proposed regulations are drafted to implement Public Law 93-639, effective January 4, 1975. The legislation removes the exemption in 18 U.S.C. 845 (a) (5) on all black powder in quantities not exceeding five pounds. In its place, the new law permits anyone to purchase and use commercially manufactured black powder in quantities of fifty pounds or less for sporting, recreational, or cultural purposes in antique firearms, as defined in 18 U.S.C. 921(a) (16), or in antique devices, as exempted from the term "destructive device" in 18 U.S.C. 921(a) (4). 18 U.S.C. 921(a) (4) is also amended by Pub. L. 93-639 to add language exempting antiques such as small muzzle-loading cannons used for sporting, recreational, or cultural purposes, from the definition of "destructive device".

The Department of the Treasury has supported strict controls on black powder in the past, because it is a hazardous explosive material and has often been used for criminal purposes. However, many feel the previous five pound limitation on amounts of black powder exempt from regulation has severely restricted the legitimate use by sporting, recreational, and cultural enthusiasts. The new law eliminates some of these restrictions, while at the same time permits some control to prevent the use of black powder for improper purposes.

## proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

#### EXPLANATION OF PUB. L. 93-639

Essentially, Pub. L. 93-639 applies only to the black powder user and has four main points:

(1) The user is restricted to the purchase of commercially manufactured black powder. The sportsman is only able to employ high-grade commercially manufactured black powder in the safe operation of antique weapons and has no use for crude, homemade black powder. The law removes any homemade black powder, often found in terrorist bombs, from the exemption to the law and regulations.

(2) The user is limited to purchases of commercially manufactured black powder in quantities of fifty pounds or less. This amount relieves the hardships that legitimate sporting users have had in obtaining black powder and yet retains some regulatory controls on quantities which may be purchased.

(3) The purchase of fifty pound quantities or less of commercially manufactured black powder is exempt only if it is intended to be used for sporting, recreational, or cultural purposes in antique firearms or in antique devices.

(4) In addition to the black powder exemption, certain igniters used in antique weapons are exempted, if intended for sporting, recreational, or cultural purposes. These are percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers.

#### EFFECT OF PUB. L. 93-639 ON REGULATIONS

In commenting on the proposed bill, the House of Representatives, Committee on the Judiciary, stated:

The Committee also wishes to stress that the bill will not unduly disrupt the regulatory scheme established under regulations by ATF. The regulations need only be modified so that retailers will be required to keep records of their sales of black powder under the new exemption. Moreover, it is the expectation of the Committee that ATF will promulgate regulations and establish forms to require sporting users to identify themselves on purchase of black powder. Moreover, such ATF regulations could require that a purchaser-sportsman certify by affidavit that he intends to use the black powder for sporting, recreational, or cultural purposes. Such a regulatory scheme would identify the purchasers of black powder and would aid in the enforcement of the law and prosecution of violators.

[House Report (Judiciary Committee) No. 93-1570, December 11, 1974]

It is clear from the preceding passage that we are acting within the intent of Congress. Based on the foregoing, the Bureau, with the approval of the De-

partment of the Treasury, is proposing the following changes to the regulations in 27 CFR Parts 178 and 181:

(1) *Definition of "destructive device"*. The definition of "destructive device", found in Part 178, is proposed to be amended by the addition of language exempting antique devices, such as small muzzle-loading cannons used for sporting, recreational, or cultural purposes, from the term "destructive device". (§ 178.11 amended.)

(2) *Licenses*. Under the previous law, black powder in amounts of five pounds, for any purpose, was exempt from the licensing provisions of Part 181. Since Pub. L. 93-639 requires a determination as to whether commercially manufactured black powder in quantities of fifty pounds or less is going to be used solely for sporting, recreational, or cultural purposes, the retailer will be required to keep records certifying that the purchaser intends to use the black powder in accordance with the provisions of the law. We must, therefore, require that all dealers be licensed to permit ATF officers to maintain such a check on distributions of black powder, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers. (§§ 181.26 and 181.41 amended.)

(3) *User permits*. A user permit is required in order to acquire explosive materials in interstate or foreign commerce. Under the proposed regulatory amendments, it will not be necessary for a person to obtain a user permit, if he intends to receive in interstate or foreign commerce, commercially manufactured black powder in quantities not to exceed fifty pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, to be used solely for sporting, recreational, or cultural purposes in antique firearms or in antique devices.

(§§ 181.28 and 181.41 amended.)

(4) *Transaction record for black powder and certain igniters to be used in antique weapons*. The proposed regulations provide that a licensee or permittee may sell to a nonlicensee or nonpermittee commercially manufactured black powder in quantities not to exceed fifty pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, to be used in antique weapons, if he records the transaction on new Form 5400.3. The executed transaction record will identify the purchaser and will contain his certification that the materials purchased are intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or in antique devices.



(§§ 181.105, 181.106, 181.122, 181.123, 181.124 and 181.125 amended and § 181.130 added.)

#### ALTERNATE METHODS AND PROCEDURES

In addition to the proposed regulatory amendments implementing Pub. L. 93-639, we are also proposing an administrative change to provide alternate methods or procedures, in lieu of methods or procedures prescribed in Part 181. Subject to certain conditions, the Director may approve an alternate method or procedure if (1) good cause is shown, (2) the requested method or procedure is substantially equivalent to that prescribed, and (3) no increased cost to the Government or hindrance to the effective administration of the regulations will result.

Presently, the Director may approve variations from the requirements of Part 181, only where an emergency exists and the requested method or procedure is judged necessary. Occasionally, however, a condition arises, often the result of the frequent technological advances being made by the industry, that is not covered under the regulations. The inflexible requirements of the regulations have prevented the approval of alternate methods or procedures and have thus imposed unnecessary hardships and financial burdens upon the industry. Permitting the approval of variations, under specifically stated conditions, allows the Bureau to be adaptable to change and still maintain important controls.

#### PUBLIC PARTICIPATION

Prior to final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226, on or before June 4, 1975. Written comments or suggestions which are not exempt from disclosure by the Bureau of Alcohol, Tobacco and Firearms, may be inspected by any person upon compliance with 27 CFR 71.22 (d) (7). The provisions of 27 CFR 71.31 (b) shall apply with respect to designation of portions of comments or suggestions as exempt from disclosure. Any interested person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request in writing, to the Director, Bureau of Alcohol, Tobacco and Firearms, on or before June 4, 1975.

The proposed regulations are to be issued under the authority contained in 18 U.S.C. 847 (84 Stat. 959) and 18 U.S.C. 926 (82 Stat. 1226).

#### SPECIFIC CHANGES TO THE REGULATIONS

In consideration of the foregoing, the following specific changes to the regulations are proposed:

#### PART 178—COMMERCE IN FIREARMS AND AMMUNITION

PARAGRAPH 1. Section 178.11 is changed by amending the definition of "destructive device". As amended, § 178.11 reads as follows:

#### § 178.11 Meaning of terms.

**Destructive device.** (a) Any explosive, incendiary, or poison gas (1) bomb, (2) grenade, (3) rocket having a propellant charge of more than 4 ounces, (4) missile having an explosive or incendiary charge of more than one-quarter ounce, (5) mine, or (6) device similar to any of the devices described in the preceding subparagraphs of this definition; (b) any type of weapon (other than a shotgun or a shotgun shell which the Director finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and (c) any combination of parts either designed or intended for use in converting any device into any destructive device described in paragraph (a) or (b) of this definition and from which a destructive device may be readily assembled. The term shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684 (2), 4685, or 4686 of title 10, United States Code; or any other device which the Director finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, recreational, or cultural purposes.

#### PART 181—COMMERCE IN EXPLOSIVES

PAR. 2. Section 181.11 is amended to (1) change the definition of "Assistant Regional Commissioner", and (2) add a definition for "regional director" immediately following the definition of "Regional Commissioner". As amended, § 181.11 reads as follows:

#### § 181.11 Meaning of terms.

**Assistant Regional Commissioner.** Whenever used in this part shall mean a regional director as defined in this section.

**Regional director.** A regional director who is responsible to, and functions under the direction and supervision of, the Director, Bureau of Alcohol, Tobacco and Firearms.

PAR. 3. Section 181.22 is revised to provide for alternate methods or procedures, in lieu of methods or procedures prescribed in Part 181. As revised, § 181.22 reads as follows:

#### § 181.22 Alternate methods or procedures; and emergency variations from requirements.

(a) **Alternate methods or procedures.** The permittee or licensee, on specific approval by the Director as provided by this paragraph, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in this part. The Director may approve an alternate method or procedure, subject to stated conditions, when he finds that—

(1) Good cause has been shown for the use of the alternate method or procedure;

(2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure and that such alternate method or procedure is substantially equivalent to that specifically prescribed method or procedure; and

(3) The alternate method or procedure will not be contrary to any provision of law and will not result in an increase in cost to the Government or hinder the effective administration of this part.

Where the permittee or licensee desires to employ an alternate method or procedure, he shall submit a written application, in triplicate, to the regional director, for transmittal to the Director. The application shall specifically describe the proposed alternate method or procedure and shall set forth the reasons therefor. Alternate methods or procedures shall not be employed until the application has been approved by the Director. The permittee or licensee shall, during the period of authorization of an alternate method or procedure, comply with the terms of the approved application. Authorization of any alternate method or procedure may be withdrawn whenever, in the judgment of the Director, the effective administration of this part is hindered by the continuation of such authorization. As used in this paragraph, alternate methods or procedures shall include alternate construction or equipment.

(b) **Emergency variations from requirements.** The Director may approve construction, equipment, and methods of operation other than as specified in this part, where he finds that an emergency exists and the proposed variations from the specified requirements are necessary and the proposed variations—

(1) Will afford security and protection that are substantially equivalent to those prescribed in this part;

(2) Will not hinder the effective administration of this part; and

(3) Will not be contrary to any provisions of law.

Variations from requirements granted under this paragraph are conditioned on compliance with the procedures, conditions, and limitations set forth in the approval of the application. Failure to comply in good faith with such procedures, conditions, and limitations shall automatically terminate the authority for

such variations and the licensee or permittee thereupon shall fully comply with the prescribed requirements of regulations from which the variations were authorized. Authority for any variation may be withdrawn whenever, in the judgment of the Director, the effective administration of this part is hindered by the continuation of such variation. Where the licensee or permittee desires to employ such variation, he shall submit a written application, in triplicate, to the regional director, for transmittal to the Director. The application shall describe the proposed variation and set forth the reasons therefor. Variations shall not be employed until the application has been approved, except when the emergency requires immediate action to correct a situation that is threatening to life or property. Such corrective action may then be taken concurrent with the filing of the application and notification of the Director via telephone.

(c) **Retention of approved variations.** The licensee or permittee shall retain, as part of his records available for examination by alcohol, tobacco and firearms officers, any application approved by the Director under the provisions of this section.

PAR. 4. Section 181.26 is amended to provide that a nonlicensee or nonpermittee is not prohibited from shipping, transporting, or receiving in interstate or foreign commerce, commercially manufactured black powder in quantities not to exceed fifty pounds and certain igniters, intended to be used solely for sporting, recreational, or cultural purposes in antique weapons. As revised, § 181.26 reads as follows:

#### § 181.26 Prohibited shipment, transportation, or receipt of explosive materials.

(a) No person, other than a licensed importer, licensed manufacturer, licensed manufacturer-limited, licensed dealer, or permittee, shall transport, ship, cause to be transported, or receive in interstate or foreign commerce any explosive materials: *Provided*, That the provisions of this paragraph shall not apply to—

(1) The transportation, shipment, or receipt of explosive materials by a nonlicensed person or nonpermittee who lawfully purchases explosive materials from a licensee in a State contiguous to the purchaser's State of residence if, (i) the purchaser's State of residence has enacted legislation, currently in force, specifically authorizing a resident of that State to purchase explosive materials in a contiguous State, (ii) the provisions of § 181.105(c) are fully complied with, and (iii) the purchaser is not otherwise prohibited under paragraph (b) of this section from shipping or transporting explosive materials in interstate or foreign commerce or receiving explosive materials which have been shipped or transported in interstate or foreign commerce; or

(2) The lawful purchase by a nonlicensee or nonpermittee of commercially manufactured black powder in quantities not to exceed fifty pounds, percussion

caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, if (1) the materials are intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or in antique devices, and (ii) the provisions of § 181.105(g) are fully complied with.

(b) No person may ship or transport any explosive material in interstate or foreign commerce or receive any explosive materials which have been shipped or transported in interstate or foreign commerce who (1) is under indictment for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year, (2) is a fugitive from justice, (3) is an unlawful user of or addicted to marijuana (as defined in section 4761 of the Internal Revenue Code of 1954; 26 U.S.C. 4761) or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. 321(v)), or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954; 26 U.S.C. 4731(a)), or (4) has been adjudicated as a mental defective or has been committed to a mental institution.

PAR. 5. Paragraph (a) of § 181.41 is amended to exclude users of commercially manufactured black powder in quantities not to exceed fifty pounds and certain igniters, intended to be used solely for sporting, recreational, or cultural purposes in antique weapons, from the permit requirements of Part 181. As revised, § 181.41(a) reads as follows:

#### § 181.41 General.

(a) Each person intending to engage in business as an importer or manufacturer of, or a dealer in, explosive materials, including black powder, shall, before commencing such business, obtain the license required by this subpart for the business to be operated. Each person who intends to acquire for use explosive materials from a licensee in a State other than the State in which he resides, or from a foreign country, or who intends to transport explosive materials in interstate or foreign commerce, shall obtain a permit under the provisions of this subpart: *Provided*, That it is not necessary to obtain such permit if the user intends to lawfully purchase—

(1) Explosive materials from a licensee in a State contiguous to the user's State of residence and the user's State of residence has enacted legislation, currently in force, specifically authorizing a resident of that State to purchase explosive materials in a contiguous State, or

(2) Commercially manufactured black powder in quantities not to exceed fifty pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or in antique devices.

PAR. 6. A new paragraph (g) is added to § 181.105, permitting a licensee to distribute commercially manufactured

black powder in quantities not to exceed fifty pounds and certain igniters to a nonlicensee or nonpermittee, if (1) they are intended to be used solely for sporting, recreational, or cultural purposes in antique weapons, and (2) a transaction record is executed. As added, new § 181.105(g) reads as follows:

#### § 181.105 Distributions to nonlicensees and nonpermittees.

(g) Notwithstanding any other provision of this section, a licensed importer, licensed manufacturer, or licensed dealer may sell or distribute commercially manufactured black powder in quantities of fifty pounds or less, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, to a nonlicensee or nonpermittee if:

(1) The above materials are intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or in antique devices, and

(2) The nonlicensee or nonpermittee furnishes to the licensee the transaction record, Form 5400.3, required by § 181.130. Disposition of Form 5400.3 shall be made in accordance with the provisions of § 181.130(c).

PAR. 7. Paragraph (a) of § 181.106 is amended to provide that a licensee is not prohibited from distributing to an out-of-State nonlicensee or nonpermittee, commercially manufactured black powder in quantities not to exceed fifty pounds and certain igniters intended to be used solely for sporting, recreational, or cultural purposes in antique weapons. As revised, § 181.106(a) reads as follows:

#### § 181.106 Certain prohibited distributions.

(a) A licensed importer, licensed manufacturer, licensed manufacturer-limited, or licensed dealer shall not distribute explosive materials to any person not licensed or holding a permit under this part, who the licensee knows or has reason to believe does not reside in the State in which the licensee's place of business is located: *Provided*, That the foregoing provisions of this paragraph shall not apply to—

(1) The distribution of explosive materials to a resident of a State contiguous to the State in which the licensee's place of business is located, if the requirements of § 181.105(c) are fully met, or

(2) The purchase of commercially manufactured black powder in quantities not to exceed fifty pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or in antique devices, if the requirements of § 181.105(g) are fully met.

PAR. 8. Section 181.108 is revised to provide procedures for the release from customs custody to a nonlicensee or nonpermittee, of imported commercially



manufactured black powder in quantities not to exceed fifty pounds and certain igniters intended to be used solely for sporting, recreational, or cultural purposes in antique weapons. As revised, § 181.108 reads as follows:

**§ 181.108 Importation.**

(a) Explosive materials imported or brought into the United States by a licensed importer or permittee may be released from customs custody to the licensed importer or permittee upon proof of his status as a licensed importer or permittee. Such status shall be established by the licensed importer or permittee furnishing to the Customs officer a certified copy of his license or permit (see § 181.104).

(b) A nonlicensee or nonpermittee may import or bring into the United States commercially manufactured black powder in quantities not to exceed fifty pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers. Upon submitting to the Customs officer completed Form 5400.3, certifying the above materials are intended to be used solely for sporting, recreation, or cultural purposes in antique firearms or in antique devices, they may be released from customs custody. The Customs officer shall forward the executed Form 5400.3 in accordance with the instructions on the form.

(c) The provisions of this section are in addition to, and are not in lieu of, any applicable requirement under 27 CFR Part 47.

PAR. 9. Section 181.122 is amended to add a new paragraph (f) instructing licensed importers to maintain separate records of distributions of commercially manufactured black powder in quantities not to exceed fifty pounds and certain igniters to be used in antique weapons. As revised, § 181.122(f) reads as follows:

**§ 181.122 Records maintained by importers.**

(f) Each licensed importer shall maintain separate records of the sales or other distributions made to nonlicensees or nonpermittees of commercially manufactured black powder in quantities not to exceed fifty pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or in antique devices. Such records shall be maintained in the form and manner as prescribed by § 181.130.

PAR. 10. Section 181.123 is amended to add a new paragraph (f) instructing licensed manufacturers to maintain separate records of distributions of commercially manufactured black powder in quantities not to exceed fifty pounds and certain igniters to be used in antique weapons. As added, § 181.123(f) reads as follows:

**§ 181.123 Records maintained by licensed manufacturers.**

(f) Each licensed manufacturer shall maintain separate records of the sales

or other distributions made to nonlicensees or nonpermittees of commercially manufactured black powder in quantities not to exceed fifty pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or in antique devices. Such records shall be maintained in the form and manner as prescribed by § 181.130.

PAR. 11. Section 181.124 is amended to add a new paragraph (g) instructing licensed dealers to maintain separate records of distributions of commercially manufactured black powder in quantities not to exceed fifty pounds and certain igniters to be used in antique weapons. As added, § 181.124(g) reads as follows:

**§ 181.124 Records maintained by dealers.**

(g) Each licensed dealer shall maintain separate records of the sales or other distributions made to nonlicensees or nonpermittees of commercially manufactured black powder in quantities not to exceed fifty pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or in antique devices. Such records shall be maintained in the form and manner as prescribed by § 181.130.

PAR. 12. Section 181.125 is amended to instruct licensed manufacturers, limited and permittees to maintain separate records of dispositions of surplus stocks of commercially manufactured black powder in quantities not to exceed fifty pounds and certain igniters to be used in antique weapons. As amended, § 181.125 (b) and (c) read as follows:

**§ 181.125 Records maintained by licensed manufacturers, limited and permittees.**

(b) A licensed manufacturer, limited and permittee shall maintain separate records of dispositions of surplus stocks of commercially manufactured black powder in quantities not to exceed fifty pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or in antique devices. Such records shall be maintained in the form and manner as prescribed by § 181.130.

(c) Each licensee or permittee shall maintain separate records of dispositions of surplus stocks of commercially manufactured black powder in quantities not to exceed fifty pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or in antique devices. Such records shall be maintained in the form and manner as prescribed by § 181.130.

(c) Each permittee shall record in a permanent record the manufacturers' marks of identification (if any), the quantity and class of explosive materials, as prescribed in the Explosives List, he daily acquires, the date of such acquisition, and the name, address and license number of the person from whom explosive materials were obtained. The information required by this paragraph shall be recorded not later than the close of the next business day following the date of such acquisition. A permittee disposing of surplus stocks of explosive materials to other permittees or to licensees shall record in the permanent record not later than the close of the next business day following the date of the disposition, the information prescribed in § 181.124(d). Each permittee shall maintain separate records of dispositions of surplus stocks of explosive materials to nonlicensees or nonpermittees. Such records shall be maintained in the form and manner as prescribed by § 181.126. Each permittee shall maintain separate records of dispositions of surplus stocks of commercially manufactured black powder in quantities not to exceed fifty pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or in antique devices. Such records shall be maintained in the form and manner as prescribed by § 181.130.

PAR. 13. Section 181.126 is amended to (1) provide for the disposition of the copy of Form 4710 to be made in accordance with the instructions on the form, and (2) inform licensees and permittees that supplies of Form 4710 may now be obtained, upon request, from the Director. As revised, § 181.126 (c) and (f) read as follows:

**§ 181.126 Explosives transaction record.**

(c) Form 4710 shall be completed in duplicate, the original of which shall be retained by the licensee or permittee as part of his permanent records in accordance with the requirements in paragraph (d) of this section, and the copy shall be forwarded in accordance with the instructions on the form on or before the close of business on the business day next succeeding that on which the transaction occurs.

(f) A licensee or permittee may obtain, upon request, a supply of Form 4710 from the Director.

PAR. 14. A new section, § 181.130, is added immediately following § 181.129, providing instructions for the use and disposition of the new transaction record for commercially manufactured black powder in quantities not to exceed fifty pounds and certain igniters to be used in antique weapons. As added, new § 181.130 reads as follows:

**§ 181.130 Transaction record for black powder and certain igniters to be used in antique weapons.**

(a) A licensee or permittee shall not sell or otherwise distribute to a nonlicensee or nonpermittee commercially manufactured black powder in quantities of fifty pounds or less, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational or cultural purposes in antique firearms or in antique devices, unless he records the transaction on Form 5400.3.

(b) Prior to the sale or other distribution of the materials in paragraph (a) to a nonlicensee or nonpermittee who is acquiring them under the provision contained in § 181.105(g), the licensee or permittee so distributing the black powder or other materials listed shall obtain an executed Form 5400.3 from the distributor. The Form 5400.3 shall contain all the information as indicated by the headings on the form and the instructions thereon or issued in respect thereto, and as required by this part.

(c) Form 5400.3 shall be completed, in duplicate, the original of which shall be retained by the licensee or permittee as part of his permanent records in accordance with the requirements of paragraph (d) of this section, and the copy shall be forwarded in accordance with the instructions on the form, on or before the close of business on the business day next succeeding that on which the transaction occurs.

(d) Each original Form 5400.3 shall be retained in numerical (by transaction serial number) order commencing with "1" and continuing in regular sequence. When the numbering of any series reaches "1,000,000", the licensee or permittee may recommence the series. The recommenced series shall be given an alphabetical prefix or suffix. Where there is a change in proprietorship, or in the individual, firm, corporate name, or trade name, the series in use at the time of such change may be continued.

(e) The requirements of this section shall be in addition to any other record-keeping requirement contained in this part.

(f) A licensee or permittee may obtain, upon request, a supply of Form 5400.3 from the Director.

PAR. 15. Section 181.141 is revised to (1) delete the current general exemption from the regulations with respect to black powder in quantities not to exceed five pounds, and (2) insert a new paragraph (b) specifically addressing the exemption from the regulations of black powder as provided by Pub. L. 93-639. As revised, § 181.141 reads as follows:

**§ 181.141 Exemptions.**

(a) General. The provisions of this part shall not apply with respect to:

(1) Any aspect of the transportation of explosive materials via railroad, water, highway, or air which are regulated by the U.S. Department of Transportation, and agencies thereof.

(2) The use of explosive materials in medicines and medicinal agents in the forms prescribed by the official United States Pharmacopoeia, or the National Formulary.

(3) The transportation, shipment, receipt, or importation of explosive materials for delivery to any agency of the United States or to any State or political subdivision thereof.

(4) Small arms ammunition and components thereof.

(5) The manufacture under the regulation of the military department of the United States of explosive materials for, or their distribution to or storage or possession by the military or naval services or other agencies of the United States.

(6) Arsenals, navy yards, depots, or other establishments owned by, or operated by or on behalf of, the United States.

(7) The importation and distribution of fireworks in a finished state, commonly sold at retail for personal use in compliance with State laws or local ordinances.

(8) Gasoline, fertilizers, propellant actuated devices, or propellant actuated industrial tools manufactured, imported, or distributed for their intended purposes.

(b) Black powder. The provisions of this part shall not apply with respect to commercially manufactured black powder in quantities not to exceed fifty pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers: *Provided*, That such materials are intended to be used solely for sporting, recreational, or cultural purposes in antique firearms, as defined in 18 U.S.C. 921(a)(16), or in antique devices, as exempted from the term "destructive device" in 18 U.S.C. 921(a)(4), and the provisions of §§ 181.105(g) and 181.130 are fully complied with.

Dated: April 23, 1975.

REX D. DAVIS,  
Director, Bureau of Alcohol,  
Tobacco and Firearms.

Dated: May 12, 1975.

Approved:  
DAVID R. MACDONALD,  
Assistant Secretary of the  
Treasury.

[FR Doc. 75-13162 Filed 5-19-75; 8:45 am]

**Internal Revenue Service**

[26 CFR Parts 31, 301]

**EMPLOYMENT TAX LIABILITY OF THIRD PARTIES PAYING OR PROVIDING FOR WAGES; DISCHARGE OF LIENS**

**Notice of Proposed Rule Making**

Notice is hereby given that the regulation set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments pertaining thereto which

are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by June 19, 1975. Pursuant to 26 CFR 601.601(b), designations of material as confidential or not to be disclosed, contained in such comments, will not be accepted. Thus, a person submitting written comments should not include therein material that he considers to be confidential or inappropriate for disclosure to the public. It will be presumed by the Internal Revenue Service that every written comment submitted to it in response to this notice of proposed rule making is intended by the person submitting it to be subject in its entirety to public inspection and copying in accordance with the procedures of 26 CFR 601.702(d)(9). Any person submitting written comments who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by June 19, 1975. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] DONALD C. ALEXANDER,  
Commissioner of Internal Revenue.

This document contains proposed amendments to the Employment Tax Regulations (26 CFR Part 31) in order to provide regulations under section 3505 of the Internal Revenue Code of 1954, as added by section 105 of the Federal Tax Lien Act of 1966 (80 Stat. 1138), relating to the employment tax liability of third parties paying or providing for wages. Further, this document contains proposed amendments to the Regulations on Procedure and Administration (26 CFR Part 301) to provide regulations under section 7425 of such Code, as added by section 109 of such Act (80 Stat. 1141), relating to the discharge of liens.

Section 31.3505-1 of the proposed regulations provides rules relating to the liability for withholding taxes imposed upon third persons who finance employers' payrolls. Generally, these provisions apply to a lender, surety, or other person who directly pays wages to the employees of another person or who supplies funds to an employer for the specific purpose of paying wages of the employees of that employer with actual notice or knowledge that the employer does not intend to, or will not be able to, pay the withholding taxes.

Section 301.7425-1(c) of the proposed regulations contains provisions relating to the discharge of a Federal tax lien in the case of formal judicial proceedings, concerning property on which the United States has or claims a tax lien.



where the United States is not joined as a party.

Section 301.7425-2 of the proposed regulations contains provisions relating to the discharge of a Federal tax lien in the case of a nonjudicial foreclosure sale of property on which the United States has or claims a tax lien. The provisions of § 301.7425-2 are presently set forth, without significant difference, under § 400.4-1(b) of the Temporary Regulations Under the Federal Tax Lien Act of 1966 (26 CFR Part 400).

Section 301.7425-3 of the proposed regulations contains provisions prescribing the manner and form of giving notice to the United States of nonjudicial foreclosure sales of property on which the United States has or claims a tax lien. Without significant change, the provisions of §§ 400.4-1 (c), (d), (e), and (f) of the Temporary Regulations Under the Federal Tax Lien Act of 1966 (26 CFR Part 400) are contained in §§ 301.7425-3(a), relating to notice of sale requirements, 301.7425-3(b), relating to consent to sale, 301.7425-3(c), relating to perishable goods, and 301.7425-3(d), relating to content of notice of sale, respectively.

Section 301.7425-4 of the proposed regulations contains provisions relating to the redemption by the United States of real property that is sold in a nonjudicial foreclosure sale to satisfy a lien prior to a Federal tax lien on such property. Provisions relating to such redemptions are presently contained in § 400.5-1 of the Temporary Regulations Under the Federal Tax Lien Act of 1966 (26 CFR Part 400). These temporary regulations are to be superseded upon the adoption of the proposed regulations. Generally, § 400.5-1(c) of the temporary regulations provides that the redemption price shall consist of the sum of the amount bid and paid by the purchaser at the foreclosure sale, interest thereon at six percent per annum, and the excess of certain expenses necessarily incurred in connection with the property over the income therefrom. The proposed regulations under subparagraphs (1) and (4) of § 301.7425-4(b) would expand the items to be taken into account in determining the redemption price to be paid by the United States by providing a procedure under which the purchaser at the foreclosure sale may claim reimbursement for the payments he has made to a senior lienor prior to redemption by the United States. Under the proposed regulations, reimbursement for such payments will be made only if the purchaser waives, or assigns to the United States, any interest in, or lien on, such property which may arise under local law with respect to the payments.

#### PROPOSED AMENDMENTS TO THE REGULATIONS

In order to provide regulations under section 3505 of the Internal Revenue Code of 1954, as added by section 105 (a) of the Federal Tax Lien Act of 1966 (Public Law 89-719, 80 Stat. 1138) and under section 7425 of such Code, as added

by section 109 of such Act (80 Stat. 1141), the Employment Tax Regulations (26 CFR Part 31) and the Regulations on Procedure and Administration (26 CFR Part 301) are amended as follows: Section 301.7425 and §§ 301.7425-1 through 301.7425-4 (inclusive) of the regulations hereby adopted supersede §§ 400.4, 400.4-1, 400.5, and 400.5-1 of this chapter (Temporary Regulations under the Federal Tax Lien Act of 1966) which were prescribed by T.D. 6944, approved January 17, 1968 (33 FR 732).

PARAGRAPH 1. There are added immediately after § 31.3504-1 the following new §§ 31.3505 and 31.3505-1.

§ 31.3505 Statutory provisions; liability of third parties paying or providing for wages.

Sec. 3505. *Liability of third parties paying or providing for wages.*—(a) *Direct payment by third parties.* For purposes of sections 3102, 3202, 3402, and 3403, if a lender, surety, or other person, who is not an employer under such sections with respect to an employee or group of employees, pays wages directly to such an employee or group of employees, employed by one or more employers, or to an agent on behalf of such employee or employees, such lender, surety, or other person shall be liable in his own person and estate to the United States in a sum equal to the taxes (together with interest) required to be deducted and withheld from such wages by such employer.

(b) *Personal liability where funds are supplied.* If a lender, surety, or other person supplies funds to or for the account of an employer for the specific purpose of paying wages of the employees of such employer, with actual notice or knowledge (within the meaning of section 6323(1)(1)) that such employer does not intend to or will not be able to make timely payment or deposit of the amounts of tax required by this subtitle to be deducted and withheld by such employer from such wages, such lender, surety, or other person shall be liable in his own person and estate to the United States in a sum equal to the taxes (together with interest) which are not paid over to the United States by such employer with respect to such wages. However, the liability of such lender, surety, or other person shall be limited to an amount equal to 25 percent of the amount so supplied to or for the account of such employer for such purpose.

(c) *Effect of payment.* Any amounts paid to the United States pursuant to this section shall be credited against the liability of the employer.

(Sec. 3505 as added by sec. 105(a), Federal Tax Lien Act 1966 (80 Stat. 1138))

§ 31.3505-1 Liability of third parties paying or providing for wages.

(a) *Personal liability in case of direct payment of wages.*—(1) *In general.* A lender, surety, or other person—

(i) Who is not an employer for purposes of section 3102 (relating to deduction of tax from wages under the Federal Insurance Contributions Act), section 3202 (relating to deduction of tax from compensation under the Railroad Retirement Tax Act), or section 3402 (relating to deduction of income tax from wages) with respect to an employee or group of employees, and

(ii) Who pays wages on or after January 1, 1967, directly to such employee or

group of employees, employed by one or more employers, or to an agent on behalf of such employee or employees, shall be liable in his own person and estate for payment to the United States of an amount equal to the sum of the taxes required to be deducted and withheld from those wages by the employer under subtitle C of the Code and interest from the due date of the employer's return relating to such taxes for the period in which the wages are paid.

(2) *Example.* The provisions of this paragraph may be illustrated by the following example:

*Example.* Pursuant to a wage claim of \$200, A, a surety company, paid a net amount of \$158 to B, an employee of the X Construction Company. This was done in accordance with A's payment bond covering a private construction job on which B was an employee. If X Construction Company fails to make timely payment or deposit of \$42.00, the amount of tax required by subtitle C of the Code to be deducted and withheld from a \$200 wage payment to B, A becomes personally liable for \$42.00 (i.e., an amount equal to the unpaid taxes), plus interest upon this amount from the due date of X's return.

(b) *Personal liability where funds are supplied.*—(1) *In general.* A lender, surety, or other person who—

(i) Advances funds to or for the account of an employer for the specific purpose of paying wages of the employees of that employer, and

(ii) At the time the funds are advanced, has actual notice of knowledge (within the meaning of section 6323(1)(1)) that the employer does not intend to, or will not be able to, make timely payment or deposit of the amounts of tax required by subtitle C of the Code to be deducted and withheld by the employer from those wages,

shall be liable in his own person and estate for payment to the United States of an amount equal to the sum of the taxes which are required by subtitle C of the Code to be deducted and withheld from wages paid on or after January 1, 1967, and which are not paid over to the United States by the employer, and interest from the due date of the employer's return relating to such taxes. However, the liability of the lender, surety, or other person for such taxes shall not exceed 25 percent of the amount supplied by him for the payment of wages. The preceding sentence and the second sentence of section 3505(b) limit the liability of a lender, surety, or other person arising solely by reason of section 3505, and they do not limit the liability which the lender, surety or other person may incur to the United States as a third-party beneficiary of an agreement between the lender, surety, or other person and the employer. The liability of a lender, surety, or other person does not include penalties imposed on the taxpayer.

(2) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

*Example (1).* D, a savings and loan association, advances \$10,000 to Y for the specific purpose of paying the net wages of

Y's employees. D advances those funds with knowledge that Y will not be able to make timely payment of the taxes required to be deducted and withheld from those wages by subtitle C of the Code. Y uses the \$10,000 to pay the net wages of his employees but fails to remit withholding taxes under subtitle C in the amount of \$2,600. D's liability, under this section, is limited to \$2,600, 25 percent of the amount supplied for the payment of wages to Y's employees, plus interest thereon.

*Example (2).* E, a loan company, advances \$15,000 to F, a contractor, for the specific purpose of paying \$20,000 of net wages due to F's employees. E advances those funds with knowledge that F will not be able to make timely payment of the taxes required to be deducted and withheld from these wages by subtitle C of the Code. F applies \$5,000 of its own funds toward payment of these wages. The amount of tax required to be deducted and withheld from the gross wages is \$4,500. The limitation applicable to E's liability for withholding taxes is \$3,750 (25 percent of \$15,000). However, because E furnished only a portion of the total net wages, E is liable for \$3,375 of the taxes required to be deducted and withheld (\$4,500 × \$15,000/\$20,000) plus interest thereon.

*Example (3).* J, a prime contractor, agrees to periodically advance funds to K, a subcontractor, to cover the net weekly payrolls indicated on payroll sheets submitted by K. J advances the funds with the knowledge that K will not be able to make timely payment of the taxes required to be deducted and withheld from these wages under subtitle C of the Code. K does not make any deposit of the tax required to be deducted and withheld from the weekly payrolls. J is personally liable in an amount equal to the unpaid taxes (subject to the limitation upon J's liability for withholding taxes of 25 percent of the funds supplied) plus interest from the due date of K's return for the period in which the net wages were paid. It is immaterial for purposes of imposing liability under section 3505 that subsequent to the advances J learns that K has other funds from which payment of the taxes could have been made.

(3) *Ordinary working capital loan.* The provisions of section 3505(b) do not apply in the case of an ordinary working capital loan made to an employer, even though the person supplying the funds knows that part of the funds advanced may be used to make wage payments in the ordinary course of business. Generally, an ordinary working capital loan is a loan which is made to enable the borrower to meet current obligations as they arise. The person supplying the funds is not obligated to determine the specific use of an ordinary working capital loan or the ability of the employer to pay the amounts of tax required by subtitle C of the Code to be deducted and withheld. However, section 3505(b) is applicable where the person supplying the funds has actual notice or knowledge (within the meaning of section 6323(1)(1)) at the time of the advance that the funds, or a portion thereof, are to be used specifically to pay net wages, whether or not the written agreement under which the funds are advanced states a different purpose. Whether or not a lender has actual notice or knowledge that the funds are to be used to pay net wages, or merely that the funds

may be so used, depends upon the facts and circumstances of each case. For example, a lender, who has actual notice or knowledge that the withheld taxes will not be paid, will be deemed to have actual notice or knowledge that the funds are to be used specifically to pay net wages where substantially all of the employer's ordinary operating expenses consist of salaries and wages even though funds for other incidental operating expenses may be supplied pursuant to an agreement described as a working capital loan agreement.

(c) *Definition of other person.*—(1) *In general.* As used in this section, the term "other person" means any person who directly pays the wages or supplies funds for the specific purpose of paying the wages of an employee or group of employees of another employer. It does not include a person acting only as agent of the employer or as agent of the employees.

(2) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

*Example (1).* Pursuant to an agreement between L, a labor union, and M, an employer, M makes monthly vacation payments (of a sum equal to a certain percentage of the remuneration paid to each union member employed by M during the previous month) to a union administered pool plan under which each employee's rights are fully vested and nonforfeitable from the time the money is paid by M. Vacation allowances are accumulated by the plan and distributed to eligible employees during their vacations. L, acting merely as a conduit with respect to these payments, would incur no liability under section 3505.

*Example (2).* N, a construction company, maintains a payroll account with the O Bank in which N deposits its own funds. Pursuant to an automated payroll service agreement between N and O, O prepares payroll checks and earnings statements for each of N's employees reflecting the net pay due each such employee. These checks are delivered to N for signature. After the checks are signed, O distributes them directly to N's employees on the regularly scheduled pay day. O, acting only in the capacity of a disbursing agent of N's funds, would incur no liability under section 3505 with respect to these payroll distributions. However, O may incur liability under section 3505 in the capacity of a lender if it supplies the funds for the payment of wages.

(d) *Payment of taxes and interest.*—

(1) *Procedure for payment.* A lender, surety, or other person may satisfy the personal liability imposed upon him by section 3505 by executing Form 4219 and filing it, accompanied by payment of the amount of tax and interest due the United States, in accordance with the instructions for the form. In the event the lender, surety, or other person does not satisfy the liability imposed by section 3505, the United States may collect the liability by appropriate civil proceeding commenced within 6 years after assessment of the tax against the employer.

(2) *Effect of payment.*—(i) *In general.* A person paying the amounts of tax required to be deducted and withheld by subtitle C of the Code as a result of sec-

tion 3505 and this section is not required to pay the employer's portion of the payroll taxes upon those wages, or file an employer's tax return with respect to those wages, or furnish annual wage and tax statements to the employees.

(ii) *Amounts paid by a lender, surety, or other person.* Any amounts paid by the lender, surety, or other person to the United States pursuant to this section shall be credited against the liability of the employer on whose behalf those payments are made and shall also reduce the total liability imposed upon the lender, surety, or other person under section 3505 and this section.

(iii) *Amounts paid by the employer.*

Any amounts paid to the United States by an employer and applied to his liability under subtitle C of the Code shall reduce the total liability imposed upon that employer by subtitle C. Such payments will also reduce the liability imposed upon a lender, surety, or other person under section 3505 except that such liability shall not be reduced by any portion of an employer's payment applied against the employer's liability under subtitle C which is in excess of the total liability imposed upon the lender, surety, or other person under section 3505. For example, if a lender supplies \$1,000 to an employer for the payment of net wages, upon which \$300 withholding tax liability is imposed, a part-payment of \$25 by the employer which is applied to this liability would reduce the employer's total liability under subtitle C of the Code by that amount, but the liability imposed upon the lender by section 3505(b) in an amount equal to the withholding tax liability of the employer, which is limited to 25 percent of the amount supplied by him, would remain \$250. However, if the employer makes another payment of \$200 which is applied to his liability for the withholding taxes, the lender's liability under section 3505 attributable to the withholding taxes is reduced by \$175 (\$225 less \$50 (the amount by which the employer's liability exceeds the lender's liability after application of the limitation)). Thus, after the second payment by the employer, the lender's liability under section 3505(b) is \$75 (\$250 less \$175) plus interest due on the underpayment for the period of underpayment.

(e) *Returns required by employers and statements for employees.* This section does not relieve the employer of the responsibilities imposed upon him to file the returns and supply the receipts and statements required under subchapter A, Chapter 61 of the Code (relating to returns and records).

(f) *Time when liability arises.* The liability under section 3505 and this section of a lender, surety, or other person paying or supplying funds for the payment of wages is incurred on the last day prescribed for the filing of the employer's Federal employment tax return (determined without regard to any extension of time) in respect of such wages.

PAR. 2. Section 301.7425 is amended by renumbering such section as § 301.7427,



by renumbering section 7425 of such section as Sec. 7427, and by adding a historical note. These renumbered and added provisions read as follows:

**§ 301.7427 Statutory provisions; cross references.**

Sec. 7427. Cross references. . . .

[Sec. 7427 as renumbered by sec. 109, Federal Tax Lien Act 1966 (80 Stat. 1141)]

PAR. 3. There are added immediately after § 301.7424-1 the following new §§ 301.7425 through 301.7425-4.

**§ 301.7425 Statutory provisions; discharge of liens.**

(a) Section 7425 of the Internal Revenue Code of 1954, as added by section 109 of the Federal Tax Lien Act of 1966:

Sec. 7425. Discharge of liens.—(a) Judicial proceedings. If the United States is not joined as a party, a judgment in any civil action or suit described in subsection (a) of section 2410 of title 28 of the United States Code, or a judicial sale pursuant to such a judgment, with respect to property on which the United States has or claims a lien under the provisions of this title—

(1) Shall be made subject to and without disturbing the lien of the United States, if notice of such lien has been filed in the place provided by law for such filing at the time such action or suit is commenced; or

(2) Shall have the same effect with respect to the discharge or divestment of such lien of the United States as may be provided with respect to such matters by the local law of the place where such property is situated, if no notice of such lien has been filed in the place provided by law for such filing at the time such action or suit is commenced or if the law makes no provision for such filing.

If a judicial sale of property pursuant to a judgment in any civil action or suit to which the United States is not a party discharges a lien of the United States arising under the provisions of this title, the United States may claim, with the same priority as its lien had against the property sold, the proceeds (exclusive of costs) of such sale at any time before the distribution of such proceeds is ordered.

(b) Other sales. Notwithstanding subsection (a) a sale of property on which the United States has or claims a lien, or a title derived from enforcement of a lien, under the provisions of this title, made pursuant to an instrument creating a lien on such property, pursuant to a confession of judgment on the obligation secured by such an instrument, or pursuant to a nonjudicial sale under a statutory lien on such property—

(1) Shall, except as otherwise provided, be made subject to and without disturbing such lien or title, if notice of such lien was filed or such title recorded in the place provided by law for such filing or recording more than 30 days before such sale and the United States is not given notice of such sale in the manner prescribed in subsection (c) (1); or

(2) Shall have the same effect with respect to the discharge or divestment of such lien or such title of the United States, as may be provided with respect to such matters by the local law of the place where such property is situated, if—

(A) Notice of such lien or such title was not filed or recorded in the place provided by law for such filing more than 30 days before such sale,

(B) The law makes no provision for such filing, or

(C) Notice of such sale is given in the manner prescribed in subsection (c) (1).

(c) Special Rules.—(1) Notice of sale. Notice of a sale to which subsection (b) applies shall be given (in accordance with regulations prescribed by the Secretary or his delegate) in writing, by registered or certified mail or by personal service, not less than 25 days prior to such sale, to the Secretary or his delegate.

(2) Consent to sale. Notwithstanding the notice requirement of subsection (b) (2) (C), a sale described in subsection (b) of property shall discharge or divest such property of the lien or title of the United States if the United States consents to the sale of such property free of such lien or title.

(3) Sale of perishable goods. Notwithstanding the notice requirement of subsection (b) (2) (C), a sale described in subsection (b) of property liable to perish or become greatly reduced in price or value by keeping, or which cannot be kept without great expense, shall discharge or divest such property of the lien or title of the United States if notice of such sale is given (in accordance with regulations prescribed by the Secretary or his delegate) in writing, by registered or certified mail or by personal service, to the Secretary or his delegate before such sale. The proceeds (exclusive of costs) of such sale shall be held as a fund subject to the liens and claims of the United States, in the same manner and with the same priority as such liens and claims had with respect to the property sold, for not less than 30 days after the date of such sale.

(d) Redemption by United States.—(1) Right to redeem. In the case of a sale of real property to which subsection (b) applies to satisfy a lien prior to that of the United States, the Secretary or his delegate may redeem such property within the period of 120 days from the date of such sale or the period allowable for redemption under local law, whichever is longer.

(2) Amount to be paid. In any case in which the United States redeems real property pursuant to paragraph (1), the amount to be paid for such property shall be the amount prescribed by subsection (d) of section 2410 of title 28 of the United States Code.

(3) Certificate of redemption.—(A) In general. In any case in which real property is redeemed by the United States pursuant to this subsection, the Secretary or his delegate shall apply to the officer designated by local law, if any, for the documents necessary to evidence the fact of redemption and to record title to such property in the name of the United States. If no such officer is designated by local law or if such officer fails to issue such documents, the Secretary or his delegate shall execute a certificate of redemption therefor.

(B) Filing. The Secretary or his delegate shall, without delay, cause such documents or certificate to be duly recorded in the proper registry of deeds. If the State in which the real property redeemed by the United States is situated has not by law designated an office in which such certificate may be recorded, the Secretary or his delegate shall file such certificate in the office of the clerk of the United States district court for the judicial district in which such property is situated.

(C) Effect. A certificate of redemption executed by the Secretary or his delegate shall constitute prima facie evidence of the regularity of such redemption and shall, when recorded, transfer to the United States all the rights, title, and interest in and to such property acquired by the person from whom

the United States redeems such property by virtue of the sale of such property.

[Sec. 7425 as added by sec. 109, Federal Tax Lien Act of 1966 (80 Stat. 1141)]

(b) Section 2410 of title 28 of the United States Code, as amended by section 201 of the Federal Tax Lien Act of 1966:

Sec. 2410. Actions affecting property on which United States has lien. . . .

(d) In any case in which the United States redeems real property under . . . section 7425 of the Internal Revenue Code of 1954, the amount to be paid for such property shall be the sum of—

(1) The actual amount paid by the purchaser at such sale (which, in the case of a purchaser who is the holder of the lien being foreclosed, shall include the amount of the obligation secured by such lien to the extent satisfied by reason of such sale),

(2) Interest on the amount paid (as determined under paragraph (1)) at 6 percent per annum from the date of such sale, and

(3) The amount (if any) equal to the excess of (A) the expenses necessarily incurred in connection with such property, over (B) the income from such property plus (to the extent such property is used by the purchaser) a reasonable rental value of such property.

[Sec. 2410 (d) as amended by sec. 201, Federal Tax Lien Act 1966 (80 Stat. 1147)]

**§ 301.7425-1 Discharge of liens; scope and application; judicial proceedings.**

(a) In general. A tax lien of the United States, or a title derived from the enforcement of a tax lien of the United States, may be discharged or divested under local law only in the manner prescribed in section 2410 of Title 28 of the United States Code or in the manner prescribed in section 7425 of the Internal Revenue Code. Section 7425 (a) contains provisions relating to the discharge of a lien when the United States is not joined as a party in the judicial proceedings described in subsection (a) of section 2410 of Title 28 of the United States Code. These judicial proceedings are plenary in nature and proceed on formal pleadings. Section 7425 (b) contains provisions relating to the discharge of a lien or a title derived from the enforcement of a lien in the event of a nonjudicial sale with respect to the property involved. Section 7425 (c) contains special rules relating to the notice of sale requirements contained in section 7425 (b). Section 301.7425-2 contains rules with respect to the nonjudicial sales described in section 7425 (b). Paragraph (a) of § 301.7425-3 contains rules with respect to the notice of sale provisions of section 7425 (c) (1). Paragraph (b) of § 301.7425-3 contains rules relating to the consent to sale provisions of section 7425 (c) (2). Paragraph (c) of § 301.7425-3 contains rules relating to the sale of perishable goods provisions of section 7425 (c) (3). Paragraph (d) of § 301.7425-3 contains the requirements with respect to the contents of a notice of sale. Section 301.7425-4 prescribes rules with respect to the redemption of real property by the United States.

(b) Effective date. The provisions of section 7425, as added by the Federal Tax Lien Act of 1966, are effective with respect to sales described in section 7425 occurring after November 2, 1966. The notice of sale provisions of section 7425 (c) (1) or (3) do not apply to sales occurring after November 2, 1966, if the seller of the property performed an act before November 3, 1966, which act at the time of performance was required and effective under local law with respect to the sale. An example of such an act is publication of a notice of the sale in a local newspaper before November 3, 1966, if local law requires such publication before a sale and the publication is effective under local law. Accordingly, in such a case, it is not necessary to notify the Internal Revenue Service pursuant to the provisions of section 7425 (c) (1) or (3). With respect to a notice of sale required under section 7425 (c) (1) or (3)—

(1) Any notice of sale given to an office of the Internal Revenue Service or the Treasury Department during the period November 3, 1966, through December 21, 1966, shall be considered as adequate;

(2) Any notice of sale given during the period December 22, 1966, through January 31, 1968, which complies with the provisions of either—

(i) Revenue Procedure 67-25, 1967-1 C.B. 626 (based on Technical Information Release 873, dated December 22, 1966), or

(ii) Section 301.7425-3, shall be considered as adequate; and

(3) Any notice of sale given after January 31, 1968, which complies with the provisions of § 301.7425-3 shall be considered as adequate.

(c) Judicial proceedings.—(1) In general. Section 7425 (a) provides rules, where the United States is not joined as a party, to determine the effect of a judgment in any civil action or suit described in subsection (a) of section 2410 of title 28 of the United States Code (relating to joinder of the United States in certain proceedings), or a judicial sale pursuant to such a judgment, with respect to property on which the United States has or claims a lien under the provisions of this title. If the United States is improperly named as a party to a judicial proceeding, the effect is the same as if the United States were not joined.

(2) Notice of lien filed when the proceeding is commenced. Where the United States is not properly joined as a party in the court proceeding and a notice of lien has been filed in accordance with section 6323 (f) or (g) in the place provided by law for such filing at the time the action or suit is commenced, a judgment or judicial sale pursuant to such a judgment shall be made subject to and without disturbing the lien of the United States.

(3) Notice of lien not filed when the proceeding is commenced.—(i) General rule. Where the United States is not joined as a party in the court proceeding and either a notice of lien has not been filed in accordance with section 6323 (f)

or (g) in the place provided by law for such filing at the time the action or suit is commenced, or the law makes no provision for that filing, a judgment or judicial sale pursuant to such a judgment shall have the same effect with respect to the discharge or divestment of the lien of the United States as may be provided with respect to these matters by the local law of the place where the property is situated.

(ii) Examples. The provisions of subparagraph (3) may be illustrated by the following examples:

Example (1). A, the first mortgagee of an apartment building located in State Y, commenced a foreclosure action on the mortgage prior to the time that a notice of a Federal tax lien, on that building, had been filed. Under the law of Y, junior liens on real property are discharged by a judicial sale pursuant to a judgment in a foreclosure action. Therefore, the Federal tax lien on the building will be discharged by the judicial sale. This result is the same whether the tax lien arose before or after the date of commencement of the foreclosure action and whether notice of the tax lien was filed at any time after commencement of the foreclosure action.

Example (2). On January 10, 1966, B dies testate and devises Blackacre to C. At B's death, Blackacre is subject to a first mortgage held by D. Realty is subject to administration as part of a decedent's estate under the laws of State X. However, C takes possession of Blackacre with the assent of E, the executor of B's estate. On January 5, 1970, D commences a foreclosure action on the mortgage. Under the law of X, junior liens on real property are discharged by a judicial sale pursuant to a judgment in a foreclosure action. After commencement of the proceedings, an assessment for estate taxes is made and, thereafter, a notice of lien is filed in accordance with section 6323. The special lien on Blackacre, arising at the date of B's death, for estate taxes under section 6324(a) will be discharged by the judicial sale because there are no provisions for filing a notice thereof under law and junior liens are discharged by the sale under local law. The lien is discharged even though the executor failed to obtain a discharge of his personal liability under section 2204. Furthermore, the general lien on Blackacre under section 6321 will be discharged by the judicial sale because the foreclosure action was commenced prior to the time that a notice of lien was filed.

(4) Proceeds of a judicial sale. If a judicial sale of property pursuant to a judgment in any civil action or suit to which the United States is not a party discharges a lien of the United States arising under the provisions of the Internal Revenue Code of 1954, the United States may claim the proceeds of the sale (exclusive of costs) prior to the time that distribution of the proceeds is ordered. The claim of the United States in such a case is treated as having the same priority with respect to the proceeds as the lien had with respect to the property which was discharged from the lien by the judicial sale.

**§ 301.7425-2 Discharge of liens; nonjudicial sales.**

(a) In general. Section 7425 (b) contains provisions with respect to the effect on the interest of the United States in

property in which the United States has or claims a lien, or a title derived from the enforcement of a lien, of a sale made pursuant to—

(1) An instrument creating a lien on the property sold,

(2) A confession of judgment on the obligation secured by an instrument creating a lien on the property sold, or

(3) A statutory lien on the property sold.

For purposes of this section, such a sale is referred to as a "nonjudicial sale." The term "nonjudicial sale" includes, but is not limited to, the divestment of the taxpayer's interest in property which occurs by operation of law, by public or private sale, by forfeiture, or by termination under provisions contained in a contract for a deed or a conditional sales contract. Under section 7425 (b) (1), if a notice of lien is filed in accordance with section 6323 (f) or (g), or the title derived from the enforcement of a lien is recorded as provided by local law, more than 30 days before the date of sale, and the appropriate district director is not given notice of the sale (in the manner prescribed in § 301.7425-3), the sale shall be made subject to and without disturbing the lien or title of the United States. Under section 7425 (b) (2) (C), in any case in which notice of the sale is given to the district director not less than 25 days prior to the date of sale (in the manner prescribed in section 7425 (c) (1)), the sale shall have the same effect with respect to the discharge or divestment of the lien or title as may be provided by local law with respect to other junior liens or other titles derived from the enforcement of junior liens. A nonjudicial sale pursuant to a lien which is junior to a tax lien does not divest the tax lien, even though notice of the nonjudicial sale is given to the appropriate district director. However, under the provisions of section 6325 (b) and § 301.6325-1, a district director may discharge the property from a tax lien, including a tax lien which is senior to another lien upon the property.

(b) Date of sale. In the case of a nonjudicial sale subject to the provisions of section 7425 (b), in order to compute any period of time determined with reference to the date of sale, the date of sale shall be determined in accordance with the following rules:

(1) In the case of divestment of junior liens on property resulting directly from a public sale, the date of sale is deemed to be the date the public sale is held, regardless of the date under local law on which junior liens on the property are divested or the title to the property is transferred.

(2) In the case of divestment of junior liens on property resulting directly from a private sale, the date of sale is deemed to be the date title to the property is transferred, regardless of the date junior liens on the property are divested under local law, and

(3) In the case of divestment of junior liens on property not resulting directly from a public or private sale, the date of sale is deemed to be the date on which



junior liens on the property are divested under local law.

For provisions relating to the right of redemption of the United States, see section 7425(d) and § 301.7425-4.

(c) *Examples.* The provisions of this section may be illustrated by the following examples:

*Example (1).* (i) Under the law of State M, upon entry of judgment, the judgment creditor obtains a statutory lien upon the real property of the judgment debtor, and certain procedures are provided by which the judgment creditor may execute by public sale upon such real property. These procedures provide, among other things, for notification by personal service or registered or certified mail to other lien creditors, if any, and publication of a notice of the sale in a local newspaper. After the expiration of a prescribed period of time after such notification and publication, the sheriff of the county where the real property is located may sell the property at public sale. After payment of the amount bid at the public sale, the sheriff issues to the purchaser a deed to the real property, and the interests of junior lienors in the property are divested.

(ii) For purposes of this section, such an execution sale is a nonjudicial sale described in section 7425(b) because the sale is made pursuant to a statutory lien on the property sold. The date of sale, for purposes of computing a period of time determined with reference to the date of sale, is the date on which the public sale is held because junior liens on the real property are divested directly as a result of the public sale. This result obtains even though the junior liens are legally divested on a later date when the sheriff issues the deed.

*Example (2).* (i) Under the law of State N, mortgages on real property may contain a power of sale which authorizes the mortgagee, upon breach by the mortgagor of one of the conditions of the mortgage, to have the mortgaged property sold at public sale. This public sale must be preceded by notice by advertisement in a local newspaper, and the time, place, description of the property, and other terms of the sale must be specified. The purchaser at such a public sale obtains a title to the real property which is not subject to a right of redemption by the mortgagor and which divests the interests of the junior lienors in the property.

(ii) For purposes of this section, a sale pursuant to such a power of sale is a nonjudicial sale described in section 7425(b) because the sale is made pursuant to the mortgage instrument which created a lien on the property sold. The date of the sale, for purposes of computing a period of time determined with reference to the date of sale, is the date of the public sale because junior liens on the property are divested directly as a result of the public sale.

*Example (3).* Assume the same facts as in example (2) except that the purchaser at the public sale obtains a title which is defeasible by the exercise of a right of redemption in the mortgagor. The purchaser's title divests the interests of junior lienors in the property as of the time of public sale. The interests of junior lienors in the property revive if the mortgagor exercises his right of redemption. The date of the sale, for purposes of computing a period of time determined with reference to the date of sale, is the date of the public sale because junior liens on the property are divested directly as a result of the public sale although such junior liens may be revived by a subsequent redemption by the mortgagor.

*Example (4).* (i) Under the law of State O, upon breach by a mortgagor of real property of one of the conditions of the mortgage, the mortgagee may foreclose the mortgage by securing possession of the property by one of several procedures provided by statute. These procedures are generally referred to as "strict foreclosure." In order for a foreclosure to be effective under these procedures, a certificate attesting the fact of entry must be recorded with the proper registrar of deeds within 30 days after the mortgagee enters the property. During the one-year period following the date on which the certificate of entry is recorded, the mortgagor or a junior lienor may redeem the property by paying the mortgagee the amount of the mortgage obligation. If, during such one-year period the property is not redeemed and the mortgagee's possession is continued, the interests of the mortgagor and the junior lienors in the property are divested as of the date such one-year period expires.

(ii) For purposes of this section, such a foreclosure procedure is a nonjudicial sale described in section 7425(b) because it results in the divestment of the mortgagor's interest in the property by operation of law pursuant to the mortgage which created a lien on the property. In addition, because there is no public or private sale which directly results in the divestment of junior liens on the property, the date of sale, for purposes of computing a period of time determined with reference to the date of sale, is the date on which the one-year period following the recording of the certificate of entry expires.

*Example (5).* The law of State P contains a procedure which permits a county to collect a delinquent tax assessment with respect to real property by the means of a tax sale of the property. First, a notice of a public auction with respect to the tax assessment on the real property is published in a local newspaper. At the public auction, the purchaser, upon payment of the delinquent taxes and interest, obtains from the county tax collector a tax certificate with respect to the real property. Because the obtaining of this tax certificate does not directly result in the divestment of either the owner's title or junior liens with respect to the property, the public auction is not a nonjudicial sale described in section 7425(b). At any time before a tax deed with respect to the property is issued by the clerk of the county court, the owner or any holder of a lien or other interest with respect to the property may obtain the tax certificate by paying the holder of the tax certificate the amount of the taxes, interest, and costs. After a date which is two years after the date on which the tax assessment became delinquent, the holder of the tax certificate may request the clerk of the county court to have the property advertised for sale. After advertisement of the sale, the clerk of the county court conducts a public sale of the real property and the purchaser obtains a tax deed. The interests of all junior lienors in the property are divested and the property is not subject to a right of redemption under the law of State P. For purposes of this section, this public sale is considered to be a nonjudicial sale described in section 7425(b) because the sale is made pursuant to a statutory lien on the property sold. The date of the sale, for purposes of computing a period of time determined with reference to the date of sale, is the date on which the public sale is held at which the purchaser obtains a tax deed as this sale directly results in the divestment of junior liens on the property.

*Example (6).* The law of State Q contains a provision which permits a county to collect a delinquent tax assessment with respect to

real property by the means of a tax sale of the property. After public notice is given, a "tax sale" of the real property is conducted. Upon payment of the delinquent taxes and interest, a purchaser obtains a tax certificate with respect to the real property. If there is no purchaser at the tax sale, the property is deemed to be bid in by the State. Because the obtaining of this tax certificate by a purchaser or State Q does not directly result in the divestment of either the owner's title or junior liens with respect to the property, the tax sale is not a nonjudicial sale described in section 7425(b). Following the tax sale, there is a three year period during which any person having an interest in the property may redeem the property by paying the holder of the tax certificate the amount of taxes, interest, and costs. Unless redeemed, the holder of the tax certificate may obtain an absolute title at the expiration of the period of redemption provided he serves a notice of the expiration of the redemption period upon the owner at least 60 days prior to the date of expiration. Because there is no public or private sale which directly results in the divestment of junior liens on the property, the date of sale, for purposes of computing a period of time determined with reference to the date of sale, is the date on which the holder of the tax certificate obtains absolute title.

#### § 301.7425-3 Discharge of liens; special rules.

(a) *Notice of sale requirements.*—(1) *In general.* Except in the case of the sale of perishable goods described in paragraph (c) of this section, a notice (as described in paragraph (d) of this section) of a nonjudicial sale shall be given, in writing by registered or certified mail or by personal service, not less than 25 days prior to the date of sale (determined under the provisions of paragraph (b) of § 301.7425-2), to the district director (marked for the attention of the chief, special procedures staff) for the internal revenue district in which the sale is to be conducted. Thus, under this section, a notice of sale is not effective if it is given to a district director other than the district director for the internal revenue district in which the sale is to be conducted. The provisions of sections 7502 (relating to timely mailing treated as timely filing) and 7503 (relating to time for performance of acts where the last day falls on Saturday, Sunday, or legal holiday) apply in the case of notices required to be made under this paragraph.

(2) *Postponement of scheduled sale.*—(i) *Where notice of sale is given.* In the event that notice of a sale is given in accordance with subparagraph (1) of this paragraph with respect to a scheduled sale which is postponed to a later time or date, the seller of the property is required to give notice of the postponement to the district director in the same manner as is required under local law with respect to other secured creditors. For example, assume that in State M local law requires that in the event of a postponement of a scheduled foreclosure sale of real property, an oral announcement of the postponement at the place and time of the scheduled sale constitutes sufficient notice to secured creditors of the postponement. Accordingly, if at the place and time of a scheduled sale in State M an oral announcement of the

postponement is made, the Internal Revenue Service is considered to have notice of the postponement for the purpose of this subparagraph.

(ii) *Where notice of sale is not given.* In the event that—

(A) Notice of a nonjudicial sale would not be required under subparagraph (1) of this paragraph if the sale were held on the originally scheduled date.

(B) Because of a postponement of the scheduled sale, more than 30 days elapse between the originally scheduled date of the sale and the date of the sale, and

(C) A notice of lien with respect to the property to be sold is filed more than 30 days before the date of the sale, notice of the sale is required to be given to the district director in accordance with the provisions of paragraph (a) (1) of this section. In any case in which notice of sale is required to be given with respect to a scheduled sale, and notice of the sale is not given, any postponement of the scheduled sale does not affect the rights of the United States under section 7425 (b).

(iii) *Examples.* The provisions of subdivision (ii) of this subparagraph may be illustrated by the following examples:

*Example (1).* A nonjudicial sale of Blackacre, belonging to A, a delinquent taxpayer, is scheduled for December 2, 1968. As no notice of lien is filed applicable to Blackacre more than 30 days before December 2, 1968, no notice of sale is given to the district director. On December 2, 1968, the sale of Blackacre is postponed until January 15, 1969. A notice of lien with respect to Blackacre is properly filed on January 2, 1969. The sale of Blackacre is held on January 15, 1969. Even though more than 30 days elapsed between the originally scheduled date of the sale (December 2, 1968) and the date of the sale (January 15, 1969), no notice of sale is required to be given to the district director because the notice of lien was not filed more than 30 days before the date of the sale.

*Example (2).* Assume the same facts as in example (1) except that a notice of lien is filed on November 29, 1968 in accordance with section 6323. Because more than 30 days elapsed between the originally scheduled date of the sale and the date of the sale, and the notice of lien is filed (on November 29, 1968) more than 30 days before the date of the sale (January 15, 1969), notice of the sale, in accordance with the provisions of subparagraph (1) of this paragraph, is required to be given to the district director.

*Example (3).* A nonjudicial sale of Whiteacre, belonging to B, a delinquent taxpayer, is scheduled for December 2, 1968. A notice of lien applicable to Whiteacre is filed on November 12, 1968 in accordance with section 6323. As the notice of lien was not filed more than 30 days before December 2, 1968, no notice of sale is given to the district director. On December 2, 1968, the sale of Whiteacre is postponed until December 20, 1968. The sale of Whiteacre is held on December 20, 1968. Even though more than 30 days elapsed between the date notice of lien was filed (November 12, 1968) and the date of the sale (December 20, 1968), no notice of sale is required to be given to the district director because not more than 30 days elapsed between the date of the originally scheduled sale (December 2, 1968) and the date the sale was actually held (December 20, 1968).

(b) *Consent to sale.*—(1) *In general.* Notwithstanding the notice of sale pro-

visions of paragraph (a) of this section, a nonjudicial sale of property shall discharge or divest the property of the lien or title of the United States if the district director for the internal revenue district in which the sale occurs consents to the sale of the property free of the lien or title. Pursuant to section 7425 (c) (2), where adequate protection is afforded the lien or title of the United States, a district director may, in his discretion, consent with respect to the sale of property in appropriate cases. Such consent shall be effective only if given in writing and shall be subject to such limitations and conditions as the district director may require. However, a district director may not consent to a sale of property under this section after the date of sale, as determined under paragraph (b) of § 301.7425-2. For provisions relating to the authority of the district director to release a lien or discharge property subject to a tax lien, see section 6325 and the regulations thereunder.

(2) *Application for consent.* Any person desiring a district director's consent to sell property free of a tax lien or a title derived from the enforcement of a tax lien of the United States in the property shall submit to the district director for the internal revenue district in which the sale is to occur a written application, in triplicate, declaring that it is made under penalties of perjury, and requesting that such consent be given. The application shall contain the information required in the case of a notice of sale, as set forth in paragraph (d) (1) of this section; and, in addition, shall contain a statement of the reasons why the consent is desired.

(c) *Sale of perishable goods.*—(1) *In general.* A notice (as described in paragraph (d) of this section) of a nonjudicial sale of perishable goods (as defined in subparagraph (2) of this paragraph) shall be given in writing, by registered or certified mail or delivered by personal service, at any time before the sale, to the district director (marked for the attention of the chief, special procedures staff) for the internal revenue district in which the sale is to be conducted. Thus, under this section, a notice of sale is not effective if it is given to a district director other than the district director for the internal revenue district in which the sale is to be conducted. If a notice of a nonjudicial sale is timely given in the manner described in this paragraph, the nonjudicial sale shall discharge or divest the tax lien, or a title derived from the enforcement of a tax lien, of the United States in the property. The provisions of sections 7502 (relating to timely mailing treated as timely filing) and 7503 (relating to time for performance of acts where the last day falls on Saturday, Sunday, or a legal holiday) apply in the case of notices required to be made under this paragraph. The seller of the perishable goods shall hold the proceeds (exclusive of costs) of the sale as a fund, for not less than 30 days after the date of the sale, subject to the liens and claims of the United States, in the same manner

and with the same priority as the liens and claims of the United States had with respect to the property sold. If the seller fails to hold the proceeds of the sale in accordance with the provisions of this paragraph and if the district director asserts a claim to the proceeds within 30 days after the date of sale, the seller shall be personally liable to the United States for an amount equal to the value of the interest of the United States in the fund. However, even if the proceeds of the sale are not so held by the seller, but all the other provisions of this paragraph are satisfied, the buyer of the property at the sale takes the property free of the liens and claims of the United States. In the event of a postponement of the scheduled sale of perishable goods, the seller is not required to notify the district director of the postponement. For provisions relating to the authority of the district director to release a lien or discharge property subject to a tax lien, see section 6325 and the regulations thereunder.

(2) *Definition of perishable goods.* For the purpose of this paragraph, the term "perishable goods" means any tangible personal property which, in the reasonable view of the person selling the property, is liable to perish or become greatly reduced in price or value by keeping, or cannot be kept without great expense.

(d) *Content of notice of sale.*—(1) *In general.* With respect to a notice of sale described in paragraph (a) or (c) of this section, the notice will be considered adequate if it contains the information described in paragraph (d) (1) (i), (ii), (iii), and (iv) of this section.

(i) The name and address of the person submitting the notice of sale;

(ii) A copy of each Notice of Federal Tax Lien (Form 668) affecting the property to be sold, or the following information as shown on each such Notice of Federal Tax Lien—

(A) The internal revenue district named thereon;

(B) The name and address of the taxpayer, and

(C) The date and place of filing of the notice;

(iii) With respect to the property to be sold, the following information—

(A) A detailed description, including location, of the property affected by the notice (in the case of real property, the street address, city, and State and the legal description contained in the title or deed to the property and, if available, a copy of the abstract of title);

(B) The date, time, place, and terms of the proposed sale of the property, and

(C) In the case of a sale of perishable property described in paragraph (c) of this section, a statement of the reasons why the property is believed to be perishable; and

(iv) The approximate amount of the principal obligation, including interest, secured by the lien sought to be enforced and a description of the other expenses (such as legal expenses, selling costs, etc.) which may be charged against the sale proceeds.



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(2) *Inadequate notice.* Except as otherwise provided in this subparagraph, a notice of sale described in paragraph (a) of this section which does not contain the information described in paragraph (d)(1) of this paragraph shall be considered inadequate by a district director. If a district director determines that the notice is inadequate, he will give written notification of the items of information which are inadequate to the person who submitted the notice. A notice of sale which does not contain the name and address of the person submitting such notice shall be considered to be inadequate for all purposes without notification of any specific inadequacy. In any case where a notice of sale, given after [a date to be specified in the Treasury decision adopting final regulations under this section], does not contain the information required under paragraph (d)(1)(ii) of this section with respect to a Notice of Federal Tax Lien, the district director may give written notification of such omission without specification of any other inadequacy and such notice of sale shall be considered inadequate for all purposes. In the event the district director gives notification that the notice of sale is inadequate, a notice complying with the provisions of this section (including the requirement that the notice be given not less than 25 days prior to the sale in the case of a notice described in paragraph (a) of this section) must be given. However, in accordance with the provisions of paragraph (b)(1) of this section, in such a case the district director may, in his discretion, consent to the sale of the property free of the lien or title of the United States even though notice of the sale is given less than 25 days prior to the sale. In any case where the person who submitted a timely notice which indicates his name and address does not receive, more than 5 days prior to the date of the sale, written notification from the district director that the notice is inadequate, the notice shall be considered adequate for purposes of this section.

(3) *Acknowledgment of notice.* If a notice of sale described in paragraph (a) or (c) of this section is submitted in duplicate to the district director with a written request that receipt of the notice be acknowledged and returned to the person giving the notice, this request will be honored by the district director. The acknowledgment by the district director will indicate the date and time of the receipt of the notice.

(4) *Disclosure of adequacy of notice.* The district director for the internal revenue district in which the sale was held or is to be held is authorized to disclose, to any person who has a proper interest, whether an adequate notice of sale was given under paragraph (d)(1) of this section. Any person desiring this information should submit to the district director a written request which clearly describes the property sold or to be sold, identifies the applicable notice of lien, gives the reasons for requesting the

information, and states the name and address of the person making the request.

#### § 301.7425-4 Discharge of liens; redemption by United States.

(a) *Right to redeem.*—(1) *In general.* In the case of a nonjudicial sale of real property to satisfy a lien prior to the tax lien or a title derived from the enforcement of a tax lien, the district director may redeem the property within the redemption period (as described in paragraph (a)(2) of this section). The right of redemption of the United States exists under section 7425(d) even though the district director has consented to the sale under section 7425(c)(2) and § 301.7425-3(b). For purposes of this section, the term "nonjudicial sale" shall have the same meaning as used in paragraph (a) of § 301.7425-2.

(2) *Redemption period.* For purposes of this section, the redemption period shall be—

(i) The period beginning with the date of the sale (as determined under paragraph (b) of § 301.7425-2) and ending with the 120th day after such date, or

(ii) The period for redemption of real property allowable, with respect to other secured creditors, under the local law of the place where the real property is located, whichever expires later. Which-ever period is applicable, section 7425 and this section shall govern the amount to be paid and the procedure to be followed.

(3) *Limitations.* In the event a sale does not ultimately discharge the property from the tax lien (whether by reason of local law or the provisions of section 7425(b)), the provisions of this section do not apply because the tax lien will continue to attach to the property after the sale. In a case in which the Internal Revenue Service is not entitled to a notice of sale under section 7425(b) and § 301.7425-3, the United States does not have a right of redemption under section 7425(d). However, in such a case, if a tax lien has attached to the property at the time of sale, the United States has the same right of redemption, if any, which is afforded to any secured creditor under the local law of the place in which the property is situated.

(b) *Amount to be paid.*—(1) *In general.* In any case in which a district director exercises the right to redeem real property, the amount to be paid is the sum of the following amounts—

(i) The actual amount paid for the property (as determined under paragraph (b)(2) of this section) being redeemed (which, in the case of a purchaser who is the holder of the lien being foreclosed, shall include the amount of the obligation secured by such lien to the extent legally satisfied by reason of the sale);

(ii) Interest on the amount paid (described in paragraph (b)(1)(i) of this section) at the sale by the purchaser of the real property computed at the rate of 6 percent per annum for the period from the date of the sale (as determined under paragraph (b) of § 301.7425-2) to the date of redemption;

(iii) The amount, if any, equal to the excess of (A) the expenses necessarily incurred to maintain such property (as determined under paragraph (b)(3) of this section) by the purchaser (and his successor in interest, if any) over (B) the income from such property realized by the purchaser (and his successor in interest, if any) plus a reasonable rental value of such property (to the extent the property is used by or with the consent of the purchaser or his successor in interest or is rented at less than its reasonable rental value); and

(iv) With respect to a redemption made after [a date to be specified in the Treasury decision adopting final regulations under this section], the amount, if any, of a payment made by the purchaser or his successor in interest after the foreclosure sale to a holder of a senior lien (to the extent provided under paragraph (b)(4) of this section).

(2) *Actual amount paid.* (i) The actual amount paid for property by a purchaser, other than the holder of the lien being foreclosed, is the amount paid by him at the sale. For purposes of this subdivision, the amount paid by the purchaser at the sale includes deferred payments upon the bid price. The actual amount paid does not include costs and expenses incurred prior to the foreclosure sale by the purchaser except to the extent such expenses are included in the amount bid and paid for the property. For example, the actual amount paid does not normally include the expenses of the purchaser such as title searches, professional fees, or interest on debt incurred to obtain funds to purchase the property.

(ii) In the case of a purchaser who is the holder of the lien being foreclosed, the actual amount paid is the sum of (A) the amount of the obligation secured by such lien to the extent legally satisfied by reason of the sale and (B) any additional amount bid and paid at the sale. For purposes of this section, a purchaser who acquires title as a result of a nonjudicial foreclosure sale is treated as the holder of the lien being foreclosed if a lien (or any interest reserved, created, or conveyed as security for the payment of a debt or fulfillment of other obligation) held by him is partially or fully satisfied by reason of the foreclosure sale. For example, a person whose title is derived from a tax deed issued under local law shall be treated as a purchaser who is the holder of the lien foreclosed in a case where a tax certificate, evidencing a lien on the property arising from the payment of property taxes, ripens into title. The amount paid by a purchaser at the sale includes deferred payments upon any portion of the bid price which is in excess of the amount of the lien being foreclosed. The actual amount paid does not include costs and expenses incurred prior to the foreclosure sale by the purchaser except to the extent such expenses are included in the amount of the lien being foreclosed which is legally satisfied by reason of the sale or in the amount bid and paid at

the sale. Where the lien being foreclosed attaches to other property not subject to the foreclosure sale, the amount legally satisfied by reason of the sale does not include the amount of such lien that attaches to the other property. However, for purposes of the preceding sentence, the amount of the lien that attaches to the other property shall be considered to be equal to the amount by which the value of the other property exceeds the amount of any other senior lien on that property. Where, after the sale, the holder of the lien being foreclosed has the right to the unpaid balance of the amount due him, the amount legally satisfied by reason of the sale does not include the amount of such lien to the extent a deficiency judgment may be obtained therefor. However, for purposes of the preceding sentence, an amount, with respect to which the holder of the lien being foreclosed would otherwise have a right to a deficiency judgment, shall be considered to be legally satisfied by reason of the foreclosure sale to the extent that the holder has waived his right to a deficiency judgment prior to the foreclosure sale. For this purpose, the waiver must be in writing and legally binding upon the foreclosing lienholder as of the time the sale is concluded. If, prior to the foreclosure, payments have been made by the foreclosing lienholder to a holder of a superior lien, the payments are included in the actual amount paid to the extent they give rise to an interest which is legally satisfied by reason of the foreclosure sale.

(3) *Excess expenses incurred by purchaser.* (i) Expenses necessarily incurred in connection with the property after the foreclosure sale and before redemption by the United States are taken into account in determining if there are excess expenses payable under paragraph (b)(1)(iii) of this section. Expenses incurred by the purchaser prior to the foreclosure sale are not considered under this subparagraph. (See paragraph (b)(2)(ii) of this section for circumstances under which such expenses may be included in the amount to be paid.) Expenses necessarily incurred in connection with the property include, for example, rental agent commissions, repair and maintenance expenses, utilities expenses, legal fees incurred after the foreclosure sale and prior to redemption in defending the title acquired through the foreclosure sale, and a proportionate amount of casualty insurance premiums and ad valorem taxes. Improvements made to the property are not considered as an expense unless the amounts incurred for such improvements are necessarily incurred to maintain the property.

(ii) At any time prior to the expiration of the redemption period applicable under paragraph (a)(2) of this section, the district director may, by certified or registered mail or hand delivery, request a written itemized statement of the amount claimed by the purchaser or his successor in interest to be payable under paragraph (b)(1)(iii) of this sec-

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tion. Unless the purchaser or his successor in interest furnishes the written itemized statement within 15 days after the request is made by the district director, it shall be presumed that no amount is payable for expenses in excess of income and the Internal Revenue Service shall tender only the amount otherwise payable under paragraph (b)(1) of this section. If a purchaser or his successor in interest has failed to furnish the written itemized statement within 15 days after the request therefor is made by the district director, or there is a disagreement as to the amount properly payable under paragraph (b)(1)(iii) of this section, a payment for excess expenses shall be made after the redemption within a reasonable time following the verification by the district director of a written itemized statement submitted by the purchaser or his successor in interest or the resolution of the disagreement as to the amount properly payable for excess expenses.

(4) *Payments made by purchaser or his successor in interest to a senior lienor.* (i) The amount to be paid upon a redemption by the United States made after [a date to be specified in the Treasury decision adopting final regulations under this section], shall include the amount of a payment made by the purchaser or his successor in interest to a holder of a senior lien to the extent a request for the reimbursement thereof (made in accordance with paragraph (b)(4)(ii) of this section) is approved as provided under paragraph (b)(4)(iii) of this section. This paragraph applies only to a payment made after the foreclosure sale and before the redemption to a holder of a lien that was, immediately prior to the foreclosure sale, superior to the lien foreclosed. A payment of principal or interest to a senior lienor shall be taken into account. Generally, the portion, if any, of a payment which is to be held in escrow for the payment of an expense, such as hazard insurance or real property taxes, is not considered under this paragraph. However, a payment by the escrow agent of a real property tax or special assessment lien, which was senior to the lien foreclosed, shall be considered to be a payment made by the purchaser or his successor in interest for purposes of this paragraph. With respect to real property taxes assessed after the foreclosure sale, see paragraph (b)(3)(i) of this section, relating to excess expenses incurred by the purchaser.

(ii) Before the expiration of the redemption period applicable under paragraph (a)(2) of this section, the district director shall, in any case where a redemption is contemplated, send notice to the purchaser (or his successor in interest of record) by certified or registered mail or hand delivery of his right under this subparagraph to request reimbursement (payable in the event the right to redeem under section 7425(d) is exercised) for a payment made to a senior lienor. No later than 15 days after the notice from the district director is sent, the request for reimbursement shall be

mailed or delivered to the office specified in such notice and shall consist of—

(A) A written itemized statement, signed by the claimant, of the amount claimed with respect to a payment made to a senior lienor, together with the supporting evidence requested in the notice from the district director, and

(B) A waiver or other document that will be effective upon redemption by the United States to discharge the property from, or transfer to the United States, any interest in or lien on the property that may arise under local law with respect to the payment made to a senior lienor.

Upon a showing of reasonable cause, a district director may, in his discretion and at any time before the expiration of the applicable period for redemption, grant an extension for a reasonable period of time to submit, amend, or supplement a request for reimbursement. Unless a request for reimbursement is timely submitted (determined with regard to any extension of time granted), no amount shall be payable to the purchaser or his successor in interest on account of a payment made to a senior lienor if the right to redeem under section 7425(d) is exercised. A waiver or other document submitted pursuant to this subdivision shall be treated as effective only to the extent of the amount included in the redemption price under this paragraph. If the right to redeem is not exercised or a request for reimbursement is withdrawn, the district director shall, by certified or registered mail or hand delivery, return to the purchaser or his successor any waiver or other document submitted pursuant to this subdivision as soon as is practicable.

(iii) A request for reimbursement submitted in accordance with paragraph (b)(4)(ii) of this section shall be considered to be approved for the total amount claimed by the purchaser, and payable in the event the right to redeem is exercised, unless the district director sends notice to the claimant, by certified or registered mail or hand delivery, of the denial of the amount claimed within 30 days after receipt of the request or 15 days before expiration of the applicable period for redemption, whichever is later. The notification of denial shall state the grounds for denial. If such notice of denial is given, the request for reimbursement for a payment made to a senior lienor shall be treated as having been withdrawn by the purchaser or his successor and the Internal Revenue Service shall tender only the amount otherwise payable under paragraph (b)(1) of this section. If a request for reimbursement is treated as having been withdrawn under the preceding sentence, payment for amounts described in this subparagraph may, in the discretion of the district director, be made after the redemption upon the resolution of the disagreement as to the amount properly payable under paragraph (b)(1)(iv) of this section.

(5) *Examples.* The provisions of paragraph (b)(1)(i) of this section may be illustrated by the following examples:



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**Example (1).** A, a delinquent taxpayer, owns Blackacre located in State X upon which B holds a mortgage. After the mortgage is properly recorded, a notice of tax lien is filed under section 6323(f) which is applicable to Blackacre. Subsequently, A defaults on the mortgage and B forecloses on the mortgage which has an outstanding obligation in the amount of \$100,000. At the foreclosure sale, B bids \$50,000 and obtains title to Blackacre as a result of the sale. At the time of the foreclosure sale, Blackacre has a fair market value of \$75,000. Under the laws of State X, the mortgage obligation is fully satisfied by operation of the foreclosure sale per se and the mortgagee cannot obtain a deficiency judgment. Under paragraph (b) (1) (i) of this section, the district director must pay \$100,000 in order to redeem Blackacre.

**Example (2).** Assume the same facts as in example (1) except that under the laws of State X, the amount bid is the amount of the obligation legally satisfied as a result of the foreclosure sale, and in the case in which the amount of the obligation exceeds the amount bid, the mortgagee has the right to a judgment for the deficiency computed as the difference between the amount of the obligation and the amount bid. B does not waive, prior to the foreclosure sale, his right to a deficiency judgment. In such a case, the district director must, under paragraph (b) (1) (i) of this section, pay \$50,000 in order to redeem Blackacre, whether or not B seeks a judgment for the deficiency.

**Example (3).** C, a delinquent taxpayer, owns Greenacre located in State Y upon which D holds a first mortgage and E holds a second mortgage. After the mortgages are properly recorded, a notice of tax lien is filed under section 6323(f) which is applicable to Greenacre. Subsequently, C defaults on both mortgages and E pays \$6,000 to D, which is the portion of D's obligation which is in default. The second mortgage held by E is an outstanding obligation in the amount of \$100,000. Under the laws of State Y, E may treat the amount paid to D as an addition to his second mortgage upon foreclosure by him. E forecloses upon the security interest held by him. At the foreclosure sale, E bids \$50,000 and obtains title to Greenacre subject to D's mortgage as a result of the foreclosure sale. Under the laws of State Y, the mortgage obligation legally satisfied is the amount bid and E has the right to a judgment for a deficiency in the amount of \$55,000 (\$100,000 plus \$5,000 less \$50,000). In such a case, the district director must, under paragraph (b) (1) (i) of this section, pay \$50,000 in order to redeem Greenacre, whether or not E seeks a judgment for the deficiency.

**Example (4).** The law of State Z contains a procedure which permits a county to collect a delinquent tax assessment with respect to real property by the means of a "tax sale" of the property. Pursuant to this procedure, a public auction is conducted on January 15, 1970, to collect the delinquent property taxes assessed against Whiteacre, which is owned by F. At the auction, a bid of \$1,000 (representing the tax, costs, and interest due at the time of the auction) is made by G. Subsequently, G pays the amount bid to the county and obtains a tax certificate with respect to Whiteacre. Under this tax sale procedure, the obtaining of the tax certificate does not directly result in the divestment of either F's title or any junior liens on Whiteacre. On January 15, 1973, the period under this tax sale procedure during which F could have redeemed Whiteacre expires. Further, more than 30 days before January 15, 1973, a notice of tax lien affecting Whiteacre is filed under section 6323(f) with respect to F's delinquent Federal income taxes. Under the state tax sale procedure, the amount which would be required

to be paid by F to G on January 15, 1973, to redeem Whiteacre is \$1,350 (the \$1,000 amount bid, interest of \$300, and costs of \$50). However, Whiteacre is not redeemed by F under the state procedure and, on January 15, 1973, G obtains a tax deed to Whiteacre. Under the law of State Z, the issuance of the tax deed results in the divestment of F's title and junior liens on Whiteacre. Thus, under § 301.7425-2(b), the date of sale is January 15, 1973, for purposes of section 7425(b). The amount legally satisfied by reason of the sale is the amount G is entitled to receive, immediately prior to the expiration of the period for redemption under the law of State Z. If Whiteacre were redeemed at such time, the district director must, under paragraph (b) (1) (i) of this section pay \$1,350 in order to redeem Whiteacre.

(c) **Certificate of redemption.** (1) In general. If a district director exercises the right of redemption of the United States described in paragraph (a) of this section, he shall apply to the officer designated by local law, if any, for the documents necessary to evidence the fact of redemption and to record title to the redeemed property in the name of the United States. If no such officer has been designated by local law or if the officer designated by local law fails to issue the necessary documents, the district director is authorized to issue a certificate of redemption for the property redeemed by the United States.

(2) **Filing.** The district director shall, without delay, cause either the documents issued by the local officer or the certificate of redemption executed by the district director to be filed with the local office where certificates of redemption are generally filed. If a certificate of redemption is issued by the district director and the State in which the real property redeemed by the United States is situated has no office with which certificates of redemption may be filed, the district director shall file the certificate of redemption in the office of the clerk of the United States district court for the judicial district in which the redeemed property is situated.

(3) **Effect of certificate of redemption.** A certificate of redemption executed pursuant to paragraph (c) (1) of this section, shall constitute prima facie evidence of the regularity of the redemption. When a certificate of redemption is recorded, it shall transfer to the United States all the rights, title, and interest in and to the redeemed property acquired by the person, from whom the district director redeemed the property, by virtue of the sale of the property. Therefore, if under local law the purchaser takes title free of liens junior to the lien of the foreclosing lienholder, the United States takes title free of such junior liens upon redemption of the property. If a certificate of redemption has been erroneously prepared and filed because the redemption was not effective, the district director shall issue a document revoking such certificate of redemption and such document shall be conclusively binding upon the United States against a purchaser of the property or a holder of a lien upon the property.

(4) **Application for release of right of redemption.** Upon application of a party with a proper interest in the real property sold in a nonjudicial sale described in section 7425(b) and § 301.7425-2 which real property is subject to the right of redemption of the United States described in this section, the district director may, in his discretion, release the right of redemption with respect to the property. The application for the release shall be submitted in writing to a district director and shall contain such information as the district director may require. If the district director determines that the right of redemption of the United States is without value, no amount shall be required to be paid with respect to the release of the right of redemption.

[FR Doc. 75-13185 Filed 5-19-75; 8:45 am]

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## [50 CFR Part 17]

## SEA TURTLES

## Proposed "Threatened" Status

The Director, United States Fish and Wildlife Service, and the Director, National Marine Fisheries Service, hereby issue a notice of proposed rulemaking that would determine the green sea turtle (*Chelonia mydas*), the loggerhead sea turtle (*Caretta caretta*), and the Pacific ridley sea turtle (*Lepidochelys olivacea*), to be threatened species (as defined in the Endangered Species Act of 1973 (16 U.S.C. 1531-1543)) in 50 CFR 17.32 and establish appropriate protective regulations in 50 CFR 17.32 and in 50 CFR Part 227 (Subpart C) (published elsewhere in this issue, see FR Doc. 75-13188, *infra*) to provide for the conservation of such species.

## BACKGROUND

On April 23, 1974, Dr. F. Wayne Kling, Director of Conservation and Environmental Education for the New York Zoological Society, petitioned the Department of the Interior to list the green sea turtle as an "endangered" species, and to list the loggerhead sea turtle and the Pacific ridley sea turtle as "threatened" species. This petition, and supporting data, were examined by the Fish and Wildlife Service and the National Marine Fisheries Service who determined that sufficient evidence existed to warrant a review of the status of these species; a notice to that effect was placed in the FEDERAL REGISTER on August 16, 1974 (39 FR 29605-29607). The Governors of States in which one or more of these species are resident, and the Governors of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and the High Commissioner of the Trust Territory of the Pacific Islands, were notified of the review and were requested to supply data relative to the status of the species. As a result of this review, the Director of the Fish and Wildlife Service and the Director of the National Marine Fisheries Service find that there are

sufficient data to warrant a proposed rulemaking that the green sea turtle, the loggerhead sea turtle, and the Pacific ridley sea turtle are "threatened" species.

On August 15, 1974, Mariculture, Ltd., P.O. Box 645, Grand Cayman Island, British West Indies, a business involved in the raising and marketing of captive green sea turtles, petitioned the Secretary of the Interior and the Secretary of Commerce to list the green sea turtle as a "threatened" species, but to exempt specimens bred or raised in captivity from this classification. This petition was considered in the overall review of sea turtles.

The Endangered Species Act of 1973 (16 U.S.C. 1533(a) (1)) states that the Secretary of the Interior or the Secretary of Commerce may determine a species to be an endangered species or a threatened species because of any of five factors. These factors, and their applications to the green, loggerhead, and Pacific ridley sea turtles are as follows:

(1) **Present or threatened destruction, modification, or curtailment of habitat or range.**—(a) **Green sea turtle.** This species has a circumglobal distribution in the tropics, but has been greatly reduced in numbers and distribution, especially in the Caribbean Sea, Gulf of Mexico, and parts of the Pacific Ocean. Development of coastal areas for industry and tourism, within the species range, is progressively destroying nesting sites.

(b) **Loggerhead sea turtle.** Coastal development is resulting in a decline in numbers and distribution.

(c) **Pacific ridley sea turtle.** Apparently, there has been little recent change in overall distribution, but certain rookeries have been eliminated, and suitable habitat along coastlines is decreasing because of human development.

(2) **Overutilization for commercial, sporting, scientific, or educational purposes.**—(a) **Green sea turtle.** This species is probably the most commercially valuable reptile in the world and one of the most extensively utilized.

Its meat, eggs, and calipee (cartilage used in soup) have been eaten for centuries, and in recent years its skin and oil have found increased use in industry. An international market in turtle products now exists, with the United States being among the largest consumers. Heavy egg harvests continue, especially in southeast Asia, and sometimes nearly all clutches on a nesting beach are taken. This intensive exploitation has been causing a steady decline in numbers throughout much of the world.

(b) **Loggerhead sea turtle.** While not subject to the same heavy hunting pressure as the green sea turtle, loggerhead eggs are intensively harvested, and some turtles are killed for meat or sport.

(c) **Pacific ridley sea turtle.** This species seldom is taken commercially for meat, but egg harvesting is intensive along the coasts of Central America and Southeast Asia. Egg collecting and disturbance of nests were the main causes

of a great reduction of turtles in Sri Lanka.

A recent rise in the commercial take of turtles in Mexico was stimulated by the development of a market for turtle leather, partly as a substitute for alligator hides. Large numbers of hides and finished products have been either sold in the United States or transshipped through the United States to Europe or Asia.

(3) **Disease and predation.**—(a) **Green sea turtle.** Disease or predation are not presently known to constitute a major threat to the species, but these factors could develop into serious problems if populations become more restricted in distribution and numbers.

(b) **Loggerhead sea turtle.** Raccoons prey heavily on eggs in nests along the coasts of the southeastern United States. This problem was intensified because of man's elimination of cougars and other natural predators of raccoons.

(c) **Pacific ridley sea turtle.** Disease and predation are not presently known to constitute a major threat to the species, but these could develop into serious problems if populations become more restricted in distribution and numbers.

(4) **The inadequacy of existing regulatory mechanisms.**—(a) **Green sea turtle.** Present laws and enforcement measures are not adequate with regard to exploitation and importation of turtles and turtle products. The United States and Europe continue to serve as major outlets for the world market, even though populations are declining. In some areas turtles are protected on nesting sites, but are subject to unregulated hunting at sea.

(b) **Loggerhead sea turtle.** Although there is legal protection along the coasts of the United States and Australia, some other countries permit the commercial taking of turtles and eggs. The lack of restrictions on importing loggerhead sea turtles into the United States encourages this exploitation.

(c) **Pacific ridley sea turtle.** Importation of turtle products by the United States may be encouraging excessive exploitation in Mexico.

(5) **Other natural or manmade factors affecting its existence.**—(a) **Green sea turtle.** Commercial fishermen accidentally catch and drown green sea turtles in nets. Much of the incidental catch is by fishermen trawling for shrimp.

(b) **Loggerhead sea turtle.** Many of these turtles are accidentally caught and killed by trawl fishermen. Along some coastlines bright city or highway lights confuse hatchlings, and attract them inland where they die.

(c) **Pacific ridley sea turtle.** Accidental catching also may be a problem for this species in some areas.

Factors 1, 2, and 4 are considered the major reasons for the decline of these species.

## DESCRIPTION OF THE PROPOSAL

The proposed listing would add the three sea turtles—the green sea turtle,

the loggerhead sea turtle, and the Pacific ridley sea turtle—to the threatened wildlife list.

The proposal also lists all the activities which are prohibited in regard to these species. These include taking, importing, exporting, interstate transportation in the course of a commercial activity, and interstate sale. However, the prohibitions on interstate transportation and sale will not apply until after 1 year from the date of publication of these proposed regulations.

There would also be a series of exceptions to the prohibitions, including mariculture operations and economic hardship. Specifically, the exceptions are as follows:

(1) Permits for scientific purposes, or enhancement of propagation or survival could be issued on the same basis as they are for endangered species under Fish and Wildlife Service regulations, except that the mandatory 30-day public review period would not apply;

(2) Injured, dead, or stranded specimens could be salvaged or disposed of by Federal or State officials;

(3) Incidental catch of sea turtles during fishing or research activities conducted at sea would be exempted, provided that the fishing or research are not taking place in areas of substantial breeding or feeding, and that the sea turtles are immediately returned to the sea;

(4) An exception, under controls, would be authorized for mariculture, for two years, if there is a periodic showing of significant progress, deemed sufficient by both the Fish and Wildlife Service and the National Marine Fisheries Service, towards raising the turtles in captivity from a completely self-sustaining stock; after the second year the exception would be continued only if the sea turtles are being raised in captivity from a completely self-sustaining stock;

(5) Live specimens or products held as of the date of the proposal would be exempted from the prohibitions, provided they were not held in the course of a commercial activity; and

(6) Permits would be available for economic hardship, on the same basis as they are for endangered species under Fish and Wildlife Service regulations.

While we recognize that there is some subsistence taking of these species for food purposes by persons subject to the jurisdiction of the United States, these regulations do not allow for such taking. It is believed that in no case should taking for food purposes be allowed on or near nesting beaches. Although there may be a limited subsistence taking in other areas for food purposes, we do not believe it to be a dominant factor in maintaining life, as there are alternative food sources from species other than those that are believed to be threatened with extinction.

At a later time, a description of certain breeding and feeding areas of these species of sea turtles will be proposed in the FEDERAL REGISTER to be designated as critical habitat.



## PROPOSED RULES

## PERMIT REGULATIONS

Several of the exceptions referred to above allow the issuance of permits. Although these three sea turtles are proposed as threatened species, and not endangered species, certain permits for their use would be issued under the rules and procedures proposed by the Fish and Wildlife Service for endangered species. It is felt that this will simplify permit administration, and will make permit procedures simpler and more uniform for the public.

Simultaneously with this proposal, the Fish and Wildlife Service has proposed amendments to §§ 17.22 and 17.23, to revise and update those sections. With these amendments, the permit regulations of the Fish and Wildlife Service will be appropriate for endangered species, and for threatened species of sea turtles under these regulations. Permit applications must be submitted to the Fish and Wildlife Service, under its regulations. Processing of applications and issuing of permits will be carried out jointly by the Fish and Wildlife Service and the National Marine Fisheries Service. This will simplify permit processing for the public, while assuring adequate review of all applications, for the benefit of the wildlife resource.

## PUBLIC COMMENTS SOLICITED

The Directors of the Fish and Wildlife Service and the National Marine Fisheries Service, intend that finally adopted rules be as responsive as possible to the conservation of sea turtles. They therefore desire to obtain the comments and suggestions of the public, other concerned State and Federal Governmental agencies and private interest groups, on these proposed rules.

During this comment period, the Services will consult, in cooperation with the Secretary of State, with other nations within whose territories these turtles occur in the wild or whose citizens harvest them upon the high seas. Those views will be considered prior to publication of final regulations.

Final promulgation of sea turtle regulations will take into consideration the comments received by the Directors. Such comments and any additional information received, may lead the Directors to adopt final regulations that differ from this proposal. The Fish and Wildlife Service and the National Marine Fisheries Service have under preparation an environmental assessment concerning this matter.

## SUBMITTAL OF WRITTEN COMMENTS

Written comments, views, and objections may be made, preferably in triplicate, to the Director (FWS/LE), Fish and Wildlife Service, U.S. Department of the Interior, P.O. Box 19183, Washington, D.C. 20036, on or before July 18, 1975. Final regulations will be promulgated as soon as possible after the 60-day comment period required by the Endangered Species Act of 1973. If any person feels that he may be adversely affected by the proposed regulations, he

may file objections thereto and request a public hearing thereon on or before July 3, 1975. Comments received will be available for public inspection during normal business hours at the Fish and Wildlife Service Office in Suite 600, 1612 K Street, N.W., Washington, D.C.

This notice of proposed rulemaking is issued under the authority of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543).

ROBERT W. SCHONING,  
Director,  
National Marine Fisheries Service.

Common name	Scientific name	Range	Portion of range where threatened
(e) Reptiles:			
(1) Green sea turtle	<i>Chelonia mydas</i> (including species <i>C. agassizi</i> Boucort).	Global	Entire range.
(2) Loggerhead sea turtle	<i>Caretta caretta</i>	do.	Do.
(3) Pacific ridley sea turtle	<i>Lepidochelys olivacea</i>	do.	Do.

(1) *Prohibitions.* The following prohibitions apply to *Chelonia mydas* (including *C. agassizi* Boucort), *Caretta caretta*, and *Lepidochelys olivacea*. Except as provided in paragraph (e) (3) (ii) of this section, it is unlawful for any person subject to the jurisdiction of the United States to:

(A) Import any such species into, or export any such species from, the United States;

(B) Take any such species within the United States or the territorial sea of the United States;

(C) Take any such species upon the high seas;

(D) Possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such species taken in violation of prohibitions in paragraph (e) (3) (i) (B) and (C) of this section;

(E) Deliver, receive, carry, transport or ship in foreign commerce by any means whatsoever and in the course of a commercial activity, or sell or offer for sale in foreign commerce, any such species; and

(F) After May 20, 1976, deliver, receive, carry, transport, or ship in interstate commerce by any means whatsoever and in the course of a commercial activity, or sell or offer for sale in interstate commerce, any such species.

(ii) *Exceptions.* The following exceptions apply to *Chelonia mydas* (including *C. agassizi* Boucort), *Caretta caretta*, and *Lepidochelys olivacea*, listed above.

(A) *Scientific purposes, enhancement of propagation or survival.* The Director and the Director of the National Marine Fisheries Service may jointly process applications and issue permits for activities which would otherwise be prohibited regarding such wildlife, for scientific purposes or to enhance the propagation or survival of such species. The requirements of section 10(a) of the Endangered Species Act of 1973 (16 U.S.C. 1539(a)) regarding permits for endangered species shall apply to applications for permits under this provision as if such wildlife were classified "endangered," but in no case shall the requirements of section

MAY 15, 1975.

LYNN A. GREENWALT,  
Director,  
U.S. Fish and Wildlife Service.

Accordingly, it is proposed to amend Subpart D, Threatened Wildlife, in Subchapter B, Chapter I of Title 50, Code of Federal Regulations by adding a new paragraph (e) to § 17.32, reading as follows:

## § 17.32 Threatened Wildlife List.

10(c) of the Act apply to such permits. Application shall be made in accordance with Part 13 of this subchapter, and the requirements of § 17.22. The duration of permits under this provision shall be designated on the face of the permit.

(B) *Injured, dead or stranded specimens.* In the case of such wildlife found injured, dead, or stranded in the wild, any officer or employee of the Service, of the National Marine Fisheries Service, of the U.S. Coast Guard, or any officer or employee of a State government may, in the course of official duty, take such wildlife for rehabilitation, return to its environment or other appropriate action, including collection for scientific research. Wherever possible, live specimens shall be returned to their aquatic environment as soon as practicable. Every such action shall be reported in writing to the Directors within six months from the occurrence, and such reports may be cumulative for the six month period. Reports shall be mailed to the Director (FWS/SE), U.S. Fish and Wildlife Service, Washington, D.C., and shall contain the following information:

(1) Name and official position of the officer or employee involved;

(2) Description of the specimen(s) involved;

(3) Date and location of disposal;

(4) Circumstances requiring the action;

(5) Method of disposal;

(6) Disposition of the specimen(s), including cases where the turtle(s) has been retained in captivity, a description of the place and means of confinement and the measures taken for its maintenance and care; and

(7) Such other information as the Directors may require.

(C) *Incidental catch.* The incidental catch of such wildlife during fishing or research activities conducted at sea shall not be prohibited provided:

(1) The specimen was caught by fishing gear incidental to fishing effort or research not directed toward such species; and

(2) The person responsible for the fishing gear or vessel was fishing in an area of substantial breeding or feeding of any such wildlife; and

(3) Any such wildlife which is caught is immediately returned to its aquatic environment whether dead or alive, with due care to minimize injuries to live specimens.

(D) *Mariculture.* The Director and the Director of the National Marine Fisheries Service may jointly issue permits for mariculture operations. For a period of two years from the effective date of these regulations, any person may apply for a permit to conduct any of the activities otherwise prohibited in § 17.32(e) (3) (i) regarding such wildlife, provided that such wildlife is taken for or derived from a captive population in the course of mariculture operations. After two years from the effective date of these regulations permits may be issued or renewed only if the applicant or permittee can demonstrate to the satisfaction of the Directors, that such wildlife is derived from a closed-cycle farming operation consisting of a captive-bred population which is completely self-sustaining and independent of wild stocks.

(i) Applications shall be made, and permits shall be issued, in accordance with Part 13 of this Title 50, except that all applications will be reviewed and all permits issued jointly by the Director and the Director of the National Marine Fisheries Service. The information requirements of § 17.22(a) shall apply to permits issued under this provision, except that in addition to the information required in that section, the applicant shall also present complete information demonstrating the following points:

(i) that during the first two years such wildlife will be either

(A) derived from a captive-bred population that is completely self-sustaining and independent of wild stocks, or (B) taken for or derived from a captive population that is demonstrably in the process of becoming a captive breeding population that is completely self-sustaining and independent of wild stocks, but is temporarily sustained in part by the addition of turtles or eggs taken in the wild, the taking of which is demonstrably not a major threat to wild stocks;

(ii) That the applicant or the applicant's supplier has an accurate system of record keeping showing the origin and numbers of such wildlife taken for addition to the captive population, and showing all subsequent transactions with such wildlife;

(iii) That the applicant or the applicant's supplier is prepared to institute a system of marking or other identification of any such wildlife transferred from the propagating facility. The markings or other identification must be capable of remaining on the wildlife, in any form, until after retail sale or export from the United States;

(iv) That if any of the applicant's facilities, or the facilities of any supplier of the applicant or the area of collec-

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tion of such wildlife, are located outside the jurisdiction of the United States, the applicant has made suitable arrangements for the inspection visits referred to in § 13.47, including quarters, and any necessary permission of the government of the jurisdiction in which such facilities or area are located; and

(v) That the applicant or the applicant's supplier has submitted with the application a complete listing or inventory of all specimens held by him as of the date of the application. This listing or inventory shall be certified by the applicant to be a true and correct statement and subject to the penalties for false statements under section 1001, Title 18, United States Code.

(2) In addition to the conditions for permits issued under § 17.22(c), any permits issued under this provision will be subject to the following conditions:

(i) That the permittee or the permittee's supplier mark or otherwise identify all such wildlife transferred in any way from the propagating facility, and that the mark or other identification remain on the wildlife until after the retail sale or export from the United States of such wildlife;

(ii) That the permittee provide proof, when requested by either Director, of the origin of such wildlife held in his rearing and propagating facilities or the facilities of his supplier; such proof may be in the form of the invitation of observers appointed by either Director, at the permittee's expense, to any taking of such wildlife;

(iii) That the permit shall terminate automatically at the end of two years from the effective date of these regulations and thereafter at annual intervals, unless the permittee has demonstrated to the satisfaction of the Directors that for each succeeding one-year period the wildlife to be covered by the permit will be derived from a captive-bred population which is completely self-sustaining and independent of wild stocks; and

(iv) That if such wildlife involved in the mariculture operation is taken outside the jurisdiction of the United States, the government of the country in which the taking occurs sends a certificate to the Directors stating that (A) such wildlife is legally protected from over-exploitation in that country and (B) the taking of such wildlife in that country will not be detrimental to the survival of the species in the wild; in the event that such certification is unobtainable, the Directors may accept such other certification as they deem sufficient.

(E) *Wildlife held in captivity or a controlled environment.* The prohibitions in § 17.32(e) (3) (i) shall not apply to any such wildlife held in captivity or a controlled environment on the date of the Federal Register notice proposing to add such wildlife to the threatened wildlife list, provided that the person claiming such exemption can show by documentary evidence to the satisfaction of the Directors, that the specimen was held in

captivity or in a controlled environment on the required date, and was not being held in the course of a commercial activity. Such documentary evidence may include bills of sale or inventory or other records which are certified therein.

(F) *Economic hardship.* The Directors may issue permits to import or export such wildlife in order to prevent undue economic hardship. Applications shall be made and permits shall be issued in accordance with Part 13 of this title, and the provisions of § 17.23, except that all applications will be reviewed and all permits will be issued jointly by the Director and the Director of the National Marine Fisheries Service. In addition, the requirements of section 10(b) of the Endangered Species Act of 1973 (16 U.S.C. 1539(b)) regarding hardship exemptions shall apply to applications for hardship exemptions under this provision as if such wildlife were classified "endangered." The tenure of any economic hardship permit issued for such wildlife under this provision will be for one year from the effective date of these regulations. No economic hardship permit will be granted which will result in the killing of sea turtles.

[FR Doc.75-13189 Filed 5-19-75;8:45 am]

[50 CFR Part 17]  
ENDANGERED AND THREATENED  
WILDLIFE  
Proposed Amendments To Permit  
Provisions

In January 1974, the United States Fish and Wildlife Service promulgated regulations completely revising Subchapter B of Chapter I of Title 50. These regulations became effective January 4, 1974, through publication in the Federal Register (39 FR 1154). Included was a new Part 17, now entitled "Endangered and Threatened Wildlife."

It has recently become apparent that there are a number of conflicts between Part 17 and the Endangered Species Act of 1973 [hereinafter "the Act"]. First of all, Part 17 was originally issued under authority of the Endangered Species Conservation Act of 1969, and consequently regulates only the importation of endangered species. The Act regulates many activities in addition to importation, but Part 17 has not been revised to reflect this.

Secondly, § 17.21 of Part 17 apparently implies that the Act's restrictions on importation apply only to the endangered species listed in § 17.11 of Part 17 ("foreign"), and not to the species listed in § 17.12 ("native"). This implication is in direct conflict with section 4(c) (3) of the Act (16 U.S.C. 1533(c) (3)). That section clearly indicates that the Act's importation restrictions apply to all species listed as endangered, including those listed in § 17.12. Nevertheless, the public, relying on § 17.21, has imported without permit several endangered species listed in § 17.12.

Finally, Part 17, as presently written, states that permits may be obtained to

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authorize the importation of endangered species for zoological and educational purposes. The Act, unlike the Endangered Species Conservation Act of 1969, does not authorize zoological or educational permits. However, it is apparent that a number of persons, relying on Part 17, may take or purchase endangered species overseas, with the idea of importing, transporting, and selling such species under authority of zoological or educational permits.

**Description of the amendment.** The amendment changes § 17.21 by listing specifically all the activities prohibited by the Act for endangered species. These include, among other things, import, export, interstate shipment or receipt in the course of a commercial activity, and taking.

The list of the prohibitions in § 17.21 contains a reference to the species listed in both §§ 17.11 and 17.12, in order to make it clear that all the prohibitions apply equally to what are still termed in the regulations "native" endangered species as well as "foreign" endangered species. The *Federal Register* rulemaking of January 9, 1974, (39 FR 1441) stated that the two lists in §§ 17.11 and 17.12 together were what were referred to as "endangered species." It was intended that this statement would be understood to mean that since the prohibitions in section 9 of the Act all applied to "endangered species," they therefore applied to all species listed in §§ 17.11 and 17.12. It has become apparent that this meaning has not been clear to the public.

The amendment also revises the permit provisions in §§ 17.22 and 17.23, to clarify the types of permits available under the Act, and the terms and conditions of their issuance. Primarily, the amendment to § 17.22 avoids the misleading effect of the present section, by referring specifically to the types of permits available under section 10(a) of the Act. That section authorizes permits for scientific research, or for purposes which will enhance the propagation or the survival of the species. This is a more restrictive permit provision than under the previous act, which authorized permits for "zoological" and "educational" purposes, as well as those described above. The informational requirements, the issuance criteria, and the special terms and conditions have been modified to reflect the permits which are now authorized under the Act.

**Public comments solicited.** The Director intends that finally adopted rules be as responsive as possible to all concerned interests. He therefore desires to obtain the comments and suggestions of the public, other concerned governmental agencies and private interest on these proposed rules.

Final promulgation of these regulations will take into consideration the comments received by the Director. Such comments and any additional information received, may lead the Director to adopt final regulations that differ from this proposal.

**Submission of written comments.** Written comments, views, and objections may

be made, preferably in triplicate, to the Director (FWS/LE), Fish and Wildlife Service, U.S. Department of the Interior, P.O. Box 19813, Washington, D.C. 20036, on or before July 21, 1975. Final regulations will be promulgated as soon as possible after the 60-day comment period required by the Endangered Species Act of 1973. If any person feels that he may be adversely affected by the proposed regulations, he may file objections thereto and request a public hearing thereon on or before June 19, 1975. Comments received will be available for public inspection during normal business hours at the Fish and Wildlife Service Office in Suite 600, 1612 K Street NW., Washington, D.C.

This notice of proposed rulemaking is issued under the authority of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543).

LYNN A. GREENWALT,  
Director, U.S. Fish  
and Wildlife Service.

MAY 9, 1975.

Accordingly, it is hereby proposed to amend part 17, subchapter B, chapter I of title 50, Code of Federal Regulations, as follows:

1. Revise § 17.21 to read:

§ 17.21 General prohibitions.

Except as permitted in §§ 17.22 or 17.23 of this part, no person shall:

- Import into the United States any species listed as endangered in §§ 17.11 or 17.12 of this part;
- Export from the United States any species listed as endangered in §§ 17.11 or 17.12 of this part;
- Take within the United States any species listed as endangered in §§ 17.11 or 17.12 of this part;
- Take within the territorial sea of the United States any species listed as endangered in §§ 17.11 or 17.12 of this part;
- Take upon the high seas any species listed as endangered in §§ 17.11 or 17.12 of this part;
- Possess, sell, deliver, carry, transport, or ship any species (1) listed as endangered in §§ 17.11 or 17.12 of this part, and (2) taken in violation of paragraphs (c) through (e) of this section;
- In the course of a commercial activity, deliver, receive, carry, transport, or ship, in interstate or foreign commerce, any species listed as endangered in §§ 17.11 or 17.12 of this part;
- Sell or offer for sale, in interstate or foreign commerce, any species listed as endangered in §§ 17.11 or 17.12 of this part;
- Attempt to commit, cause to be committed, or solicit another to commit, any act covered in paragraphs (a) through (h) of this section.

2. Revise § 17.22 to read:

§ 17.22 Permits for scientific purposes, or for the enhancement of propagation or survival.

Upon receipt of a complete application, the Director may issue a permit authorizing any activity otherwise prohibited

by § 17.21, in accordance with the issuance criteria of this section, for scientific research or for enhancing the propagation or survival of endangered wildlife.

(a) **Application requirements.** Applications for permits under this section must be submitted to the Director by the person who wishes to engage in the activity prohibited by § 17.21. Each application must contain the general information and certification required by § 13.12(a) of this subchapter, plus all of the following information:

(1) The common and scientific names of the species sought to be covered by the permit, as well as the number, age, and sex of such species, and the activity sought to be authorized (such as taking, exporting, selling in interstate commerce, etc.);

(2) A statement as to whether, at the time of application, the wildlife sought to be covered by the permit (i) is still in the wild, (ii) has already been removed from the wild, or (iii) was born in captivity;

(3) A resume of the applicant's attempts to obtain the wildlife sought to be covered by the permit in a manner which would not cause the death or removal from the wild of such wildlife;

(4) If the wildlife sought to be covered by the permit has already been removed from the wild, the country and place where such removal occurred; if the wildlife sought to be covered by the permit was raised in captivity, the country and place where such wildlife was born;

(5) A complete description and address of the institution or other facility where the wildlife sought to be covered by the permit will be used, displayed, or maintained;

(6) If the applicant seeks to have live wildlife covered by the permit,

(i) A complete description, including photographs or diagrams, of the area and facilities where such wildlife will be housed and cared for;

(ii) A brief resume of the technical expertise of the persons who will care for such wildlife, including any experience the applicant or his personnel have had in raising, caring for, and propagating similar wildlife, or any closely related wildlife;

(iii) A statement of the applicant's willingness to participate in a cooperative breeding program, and to maintain or contribute data to a studbook; and

(iv) A detailed description of the type, size and construction of all containers into which such wildlife will be placed during transportation or temporary storage, if any, and of the arrangements for feeding, watering and otherwise caring for such wildlife during that period;

(v) For the 5 years preceding the date of this application provide a detailed description of all mortalities involving the species covered in the application (or any other wildlife of the same genus or family by the applicant), including the causes of such mortalities and the steps taken to avoid or decrease such mortalities.

(7) Copies of the contracts and agreements pursuant to which the activities sought to be authorized by the permit will be carried out; such copies must identify all persons who will engage in the activities sought to be authorized, and must also give the dates for such activities; and

(8) A full statement of the reasons why the applicant is justified in obtaining the permit, including:

(i) The details of the activities sought to be authorized by the permit;

(ii) The details of how such activities will be carried out;

(iii) The relationship of such activities to scientific objectives or to objectives enhancing the propagation or survival of the wildlife sought to be covered by the permit; and

(iv) The planned disposition of such wildlife upon termination of the activities sought to be authorized.

(b) **Issuance criteria.** Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a permit should be issued. In making his decision, the Director shall consider the following factors:

(1) Whether the purpose for which the permit is requested is adequate to justify removing from the wild or otherwise changing the status of the wildlife sought to be covered by the permit;

(2) The probable direct and indirect effect which issuing the permit would have on the wild populations of the wildlife sought to be covered by the permit;

(3) Whether the permit, if issued, would in any way, directly or indirectly, conflict with any known program intended to enhance the survival probabilities of the population from which the wildlife sought to be covered by the permit was or would be removed;

(4) Whether the purpose for which the permit is requested would be likely to reduce the threat of extinction facing the species of wildlife sought to be covered by the permit;

(5) The opinions or views of scientists or other persons or organizations having expertise concerning the wildlife or other matters germane to the application; and

(6) Whether the expertise, facilities or other resources available to the applicant appear adequate to successfully accomplish the objectives stated in the application.

(c) **Permit conditions.** In addition to the general conditions set forth in Part 13 of this subchapter, every permit issued under this section shall be subject to the following special conditions:

(1) In addition to any reporting requirements contained in the permit itself, the permittee shall also submit to the Director a written report of his activities pursuant to the permit. Such report must be postmarked or actually delivered no later than 10 days after completion of the activity.

(2) The death or escape of all living wildlife covered by the permit shall be immediately reported to the Service's Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036.

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(3) The carcass of any dead wildlife covered by the permit shall be stored in a manner which will preserve its use as a scientific specimen.

(d) **Duration of permits.** The duration of permits issued under this section shall be designated on the face of the permit.

3. Revise § 17.23 to read:

§ 17.23 Economic hardship permits.

Upon receipt of a complete application, the Director, in order to prevent undue economic hardship, may issue, in accordance with the issuance criteria of this section, a permit authorizing any activity otherwise prohibited by § 17.21 of this Part.

(a) **Application requirements.** Applications for permits under this section must be submitted to the Director by the person allegedly suffering undue economic hardship because his desired activity is prohibited by § 17.21. Each application must contain the general information and certification required by § 13.12(a) of this subchapter, plus the following additional information:

(1) The common and scientific names of the species sought to be covered by the permit, as well as the number, age, and sex of such species, and the activity sought to be authorized (such as taking, exporting, selling in interstate commerce, etc.);

(2) A resume of the applicant's attempts to obtain the wildlife sought to be covered by the permit in a manner which would not cause the death or removal from the wild of such wildlife;

(3) If the wildlife sought to be covered by the permit will be transported or taken, the methods and locations of such transportation or taking;

(4) If the wildlife sought to be covered by the permit will be imported or exported, the date and designated port of entry for such importation or exportation;

(5) If the applicant seeks to have live wildlife covered by the permit;

(i) A complete description, including photographs or diagrams, of the area and facilities where such wildlife will be housed and cared for;

(ii) A brief resume of the technical expertise of the persons who will care for such wildlife, including any experience the applicant or his personnel have had in raising, caring for, and propagating similar wildlife, or any closely related wildlife;

(iii) A statement of the applicant's willingness to participate in a cooperative breeding program, and to maintain or contribute data to a studbook; and

(iv) A detailed description of the type, size, and construction of all containers into which such wildlife will be placed during transportation or temporary storage, if any, and of the arrangements for feeding, watering, and otherwise caring for such wildlife during that period;

(6) The purpose of the activity sought to be authorized by the permit;

(7) The possible legal, economic or subsistence alternatives to the activity sought to be authorized by the permit;

(8) A full statement, accompanied by copies of all relevant contracts and correspondence, showing the applicant's involvement with the wildlife sought to be covered by the permit (as well as his involvement with similar wildlife) including, where applicable, that portion of applicant's income derived from the taking of such wildlife, or the subsistence use of such wildlife, during the calendar year immediately preceding either the notice in the *Federal Register* of review of the status of the species or of the proposal to list such wildlife as endangered; whichever is earliest;

(9) Where applicable, proof of a contract or other binding legal obligation which:

(i) Deals specifically with the wildlife sought to be covered by the permit;

(ii) Became binding prior to the date when the notice of a review of the status of the species or the notice of proposed rulemaking proposing to list such wildlife as endangered was published in the *Federal Register*, whichever is earlier; and

(iii) Will cause monetary loss of a given dollar amount if the permit sought under this section is not granted.

(b) **Issuance criteria.** Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a permit should be issued under any of the three categories of economic hardship, as defined in section 10(b)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1539(b)(2)). In making his decision, the Director shall consider the following factors:

(1) Whether the purpose for which the permit is being requested is adequate to justify removing from the wild or otherwise changing the status of the wildlife sought to be covered by the permit;

(2) The probable direct and indirect effect which issuing the permit would have on the wild populations of the wildlife sought to be covered by the permit;

(3) The economic, legal, subsistence, or other alternatives or relief available to the applicant;

(4) The amount of evidence that the applicant was in fact party to a contract or other binding legal obligation which:

(i) Deals specifically with the wildlife sought to be covered by the permit; and

(ii) Became binding prior to the date when the notice of proposed rulemaking proposing to list such wildlife as endangered was published in the *Federal Register*.

(5) The severity of economic hardship which the contract or other binding legal obligation referred to in paragraph (b)(4) of this section would cause if the permit were denied; and

(6) Where applicable, the portion of the applicant's income which would be lost if the permit were denied, and its relationship to the balance of his income; and

(7) Where applicable, the nature and extent of subsistence taking generally by the applicant;



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(3) The likelihood that the applicant can reasonably carry out his desired activity within 1 year from the date when the notice either to review the status of such wildlife or to list such wildlife as endangered sought to be covered by the permit was published in the FEDERAL REGISTER, whichever was earlier.

(c) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, every permit issued under this section shall be subject to the following special conditions:

(1) In addition to any reporting requirements contained in the permit itself, the permittee shall also submit to the Director a written report of his activities pursuant to the permit. Such report must be postmarked or actually delivered no later than 10 days after completion of the activity.

(2) The death or escape of all living wildlife covered by the permit shall be immediately reported to the Service's Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036.

(3) The carcass of any dead wildlife covered by the permit shall be stored in a manner which will preserve its use as a scientific specimen.

(d) *Duration of permits.* The duration of permits issued under this section shall be designated on the face of the permit, but no permit issued under this section shall ever be valid for more than 1 year from the date when the notice either to review the status of such wildlife or to list as endangered the wildlife covered by such permit was published in the FEDERAL REGISTER, whichever is earlier.

[FR Doc. 75-13259 Filed 5-19-75; 8:45 am]

## [ 50 CFR Part 20 ]

## MIGRATORY BIRDS

## Proposed Rule Making

## Correction

In FR Doc. 75-12078, appearing at page 20090 in the issue for Thursday, May 8, 1975, the following changes should be made.

On page 20091, in the third column, paragraph 16:

1. The eleventh line should read "clapper falls may be taken during the"

2. In the fifteenth line the word now reading "kings" should be changed to read "king" and

3. In the sixteenth line the word now reading "Staes" should be changed to read "States"

## DEPARTMENT OF AGRICULTURE

## Agricultural Marketing Service

## [ 7 CFR Part 915 ]

## AVOCADOS GROWN IN SOUTH FLORIDA

## Proposed Limitation of Handling

Consideration is being given to the following proposal, as hereinafter set forth, which would limit the handling of fresh avocados grown in South Florida by establishing minimum quality and maturity requirements, pursuant to § 915.51 *Issuance of regulations*, which were recommended by the Avocado Administrative Committee, established pursuant to the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida. The proposed regulation would establish U.S. No. 3 as the minimum grade and would prescribe minimum weights or diameters by specified dates as the maturity requirements for handling of designated varieties of avocados, effective on and after June 9, 1975. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

All persons who desire to submit written data, views, or arguments in connection with the proposal should file the same in quadruplicate with the Hearing Clerk, Room 112A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than May 26, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

A reasonable determination as to the quality and maturity of avocados must await the development of the crop and adequate information thereon was not available to the Avocado Administrative Committee until April 24, 1975, on which date an open meeting was held after giving due notice thereof to consider the need for and the extent of regulation of shipments of such avocados. Interested persons were afforded an opportunity to submit information and views at this meeting. In view of this, and the need

for making the regulation effective on June 9, 1975, to prevent shipment of immature avocados in the interest of producers and consumers, preliminary notice beyond that herein provided is impractical.

The recommendations of the Avocado Administrative Committee reflect its appraisal of the avocado crop and current and prospective market conditions. Shipments of avocados are expected to begin on or about June 9, 1975. The committee has considered and recommended the quality and maturity requirements, including shipping periods, for the designated varieties and types of avocados, to prevent the handling of immature and other undesirable quality fruit. Such recommendation is designed to recognize the differences in the consumer demand within and outside the production area and to provide the trade and consumers with an adequate supply of mature avocados of a satisfactory quality commensurate with crop conditions in the interest of producers and consumers pursuant to the declared policy of the act.

Such proposal reads as follows:

## § 915.317 Avocado Regulation 17.

(a) *Order.* (1) During the period June 9, 1975, through April 30, 1976, no handler shall handle any avocados unless such avocados grade at least U.S. No. 3 grade: *Provided*, That avocados which fail to meet the requirements of such grade may be handled within the production area, if such avocados meet all other applicable requirements of this section and are handled in containers other than the containers prescribed in § 915.305, as amended (7 CFR Part 915), for the handling of avocados between the production area and any point outside thereof;

(2) On and after the effective time of this regulation, except as otherwise provided in paragraphs (a) (11) and (12) of this section, no avocados of the varieties listed in Column 1 of the following Table I shall be handled prior to the date listed for the respective variety in Column 2 of such table, and thereafter each such variety shall be handled only in conformance with paragraphs (a) (3), (4), (5), (6), (7), (8), (9), and (10) of this section.

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TABLE I

Variety	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Kosel	June 9, 1975	15 oz, 3 1/4 in.	June 23, 1975	13 oz, 3 1/4 in.	July 21, 1975	10 oz, 2 1/4 in.	Aug. 11, 1975
Fuchs	June 23, 1975	14 oz, 3 1/4 in.	July 7, 1975	12 oz, 3 1/4 in.	July 28, 1975	10 oz, 2 1/4 in.	Aug. 11, 1975
K-5	June 20, 1975	18 oz, 3 1/4 in.	July 14, 1975	14 oz, 3 1/4 in.	July 28, 1975	10 oz, 2 1/4 in.	Aug. 11, 1975
Dr. DuPuis No. 2	June 23, 1975	16 oz, 3 1/4 in.	July 7, 1975	14 oz, 3 1/4 in.	July 21, 1975	10 oz, 2 1/4 in.	Aug. 4, 1975
Hardee	July 7, 1975	16 oz, 3 1/4 in.	July 14, 1975	14 oz, 3 1/4 in.	July 21, 1975	10 oz, 2 1/4 in.	Aug. 4, 1975
Pollock	do.	16 oz, 3 1/4 in.	do.	14 oz, 3 1/4 in.	do.	10 oz, 2 1/4 in.	Aug. 4, 1975
Simmonds	do.	16 oz, 3 1/4 in.	July 14, 1975	12 oz, 3 1/4 in.	July 21, 1975	10 oz, 2 1/4 in.	Oct. 6, 1975
Nadir	do.	14 oz, 3 1/4 in.	July 14, 1975	12 oz, 3 1/4 in.	Aug. 4, 1975	10 oz, 2 1/4 in.	Oct. 6, 1975
Katherine	do.	16 oz.	July 21, 1975	14 oz.	Aug. 4, 1975	10 oz.	Oct. 6, 1975
West Indian seedling	do.	18 oz.	Aug. 4, 1975	16 oz.	Aug. 18, 1975	10 oz.	Oct. 6, 1975
Halle	do.	20 oz.	July 28, 1975	14 oz.	Aug. 18, 1975	10 oz.	Oct. 6, 1975
Dawn	July 21, 1975	12 oz, 3 1/4 in.	Aug. 4, 1975	10 oz, 3 1/4 in.	Aug. 18, 1975	8 oz, 2 1/4 in.	Sept. 8, 1975
Peterson	July 28, 1975	14 oz, 3 1/4 in.	Aug. 11, 1975	10 oz, 3 1/4 in.	Aug. 25, 1975	8 oz, 2 1/4 in.	Sept. 1, 1975
Gretchen	Aug. 4, 1975	14 oz.	Aug. 18, 1975	12 oz, 3 1/4 in.	Sept. 1, 1975	10 oz, 3 1/4 in.	Sept. 15, 1975
Trapp	Aug. 18, 1975	14 oz, 3 1/4 in.	Sept. 1, 1975	12 oz, 3 1/4 in.	Sept. 15, 1975	10 oz, 3 1/4 in.	Sept. 29, 1975
Waldin	do.	14 oz, 3 1/4 in.	do.	12 oz, 3 1/4 in.	do.	10 oz, 3 1/4 in.	Sept. 1, 1975
Ruchie	July 21, 1975	18 oz, 3 1/4 in.	July 28, 1975	16 oz, 3 1/4 in.	Aug. 4, 1975	14 oz, 3 1/4 in.	Sept. 15, 1975
Pinell	Aug. 4, 1975	18 oz, 3 1/4 in.	Aug. 18, 1975	16 oz, 3 1/4 in.	Sept. 1, 1975	14 oz, 3 1/4 in.	Sept. 15, 1975
Miguel	do.	22 oz, 3 1/4 in.	do.	20 oz, 3 1/4 in.	do.	18 oz, 3 1/4 in.	Do.
Webb 2	July 21, 1975	18 oz.	Aug. 4, 1975	16 oz.	Aug. 18, 1975	14 oz, 3 1/4 in.	Do.
Nebitt	do.	18 oz.	Aug. 18, 1975	16 oz, 3 1/4 in.	Aug. 25, 1975	14 oz, 3 1/4 in.	Do.
Beta	Aug. 18, 1975	18 oz.	Sept. 1, 1975	16 oz.	Sept. 15, 1975	14 oz, 3 1/4 in.	Do.
K-9	do.	16 oz.	Sept. 8, 1975	14 oz.	Sept. 29, 1975	12 oz.	Do.
Tower 2	do.	14 oz.	Sept. 1, 1975	12 oz.	Sept. 29, 1975	10 oz, 2 1/4 in.	Sept. 22, 1975
Smula	Sept. 1, 1975	14 oz, 3 1/4 in.	Sept. 15, 1975	12 oz, 3 1/4 in.	Sept. 29, 1975	10 oz, 3 1/4 in.	Oct. 6, 1975
Toungue	do.	16 oz, 3 1/4 in.	do.	14 oz, 3 1/4 in.	do.	12 oz, 3 1/4 in.	Do.
Fairchild	do.	18 oz, 3 1/4 in.	do.	16 oz, 3 1/4 in.	do.	14 oz, 3 1/4 in.	Do.
Nitrody	do.	18 oz, 3 1/4 in.	do.	16 oz, 3 1/4 in.	do.	14 oz, 3 1/4 in.	Do.
Black Prince	Sept. 15, 1975	22 oz.	Sept. 29, 1975	20 oz.	Oct. 6, 1975	18 oz, 3 1/4 in.	Do.
Catalina	do.	24 oz.	Oct. 20, 1975	22 oz.	Oct. 27, 1975	20 oz, 3 1/4 in.	Do.
Guatemalan Seedling	Sept. 22, 1975	15 oz.	Oct. 20, 1975	13 oz.	Oct. 27, 1975	10 oz.	Do.
Blair	Sept. 15, 1975	16 oz, 3 1/4 in.	Sept. 29, 1975	14 oz.	Oct. 20, 1975	12 oz, 3 1/4 in.	Do.
Collinson	Sept. 29, 1975	16 oz, 3 1/4 in.	Oct. 13, 1975	10 oz, 3 1/4 in.	Oct. 27, 1975	8 oz, 2 1/4 in.	Nov. 3, 1975
Chica	do.	30 oz, 3 1/4 in.	Oct. 6, 1975	24 oz, 3 1/4 in.	Oct. 20, 1975	18 oz, 3 1/4 in.	Nov. 3, 1975
Kue	do.	30 oz, 3 1/4 in.	Oct. 27, 1975	24 oz, 3 1/4 in.	Oct. 27, 1975	18 oz, 3 1/4 in.	Nov. 3, 1975
Booth 5	Oct. 6, 1975	16 oz, 3 1/4 in.	Oct. 20, 1975	12 oz, 3 1/4 in.	Oct. 27, 1975	10 oz, 3 1/4 in.	Nov. 24, 1975
Hickson	do.	16 oz, 3 1/4 in.	Oct. 20, 1975	12 oz, 3 1/4 in.	Oct. 27, 1975	10 oz, 3 1/4 in.	Nov. 24, 1975
Simpson	do.	16 oz, 3 1/4 in.	Oct. 27, 1975	14 oz.	Nov. 3, 1975	10 oz.	Nov. 24, 1975
Vaca	do.	16 oz.	Nov. 17, 1975	14 oz.	Nov. 17, 1975	10 oz.	Nov. 24, 1975
Sherman	do.	16 oz.	Nov. 17, 1975	14 oz.	Nov. 17, 1975	10 oz.	Nov. 24, 1975
Marcus	do.	32 oz.	Nov. 17, 1975	14 oz.	Nov. 17, 1975	10 oz.	Nov. 24, 1975
Booth 10	Oct. 13, 1975	16 oz, 3 1/4 in.	Oct. 27, 1975	14 oz, 3 1/4 in.	Oct. 27, 1975	10 oz, 3 1/4 in.	Nov. 10, 1975
Booth 7	Sept. 29, 1975	18 oz, 3 1/4 in.	Oct. 13, 1975	16 oz, 3 1/4 in.	Oct. 27, 1975	14 oz, 3 1/4 in.	Nov. 10, 1975
Avon	Oct. 13, 1975	16 oz, 3 1/4 in.	Nov. 3, 1975	14 oz.	Nov. 3, 1975	10 oz.	Nov. 10, 1975
Booth 11	do.	16 oz, 3 1/4 in.	Oct. 27, 1975	14 oz.	Oct. 27, 1975	10 oz.	Nov. 10, 1975
Leona	do.	18 oz, 3 1/4 in.	Nov. 3, 1975	14 oz, 3 1/4 in.	Nov. 3, 1975	10 oz, 3 1/4 in.	Dec. 1, 1975
Winslow	do.	26 oz, 3 1/4 in.	Oct. 27, 1975	20 oz, 3 1/4 in.	Nov. 3, 1975	10 oz, 3 1/4 in.	Dec. 1, 1975
Nelson	do.	14 oz, 3 1/4 in.	do.	20 oz, 3 1/4 in.	Nov. 3, 1975	10 oz, 3 1/4 in.	Dec. 1, 1975
Hall	do.	26 oz, 3 1/4 in.	Nov. 3, 1975	20 oz, 3 1/4 in.	Nov. 3, 1975	10 oz, 3 1/4 in.	Dec. 1, 1975
Lala	Oct. 20, 1975	18 oz, 3 1/4 in.	Nov. 3, 1975	14 oz, 3 1/4 in.	Nov. 3, 1975	10 oz, 3 1/4 in.	Dec. 1, 1975
Choquette	do.	24 oz, 4 1/4 in.	Dec. 1, 1975	20 oz, 3 1/4 in.	Dec. 1, 1975	10 oz, 3 1/4 in.	Dec. 1, 1975
Monroe	Nov. 17, 1975	24 oz, 4 1/4 in.	Dec. 1, 1975	20 oz, 3 1/4 in.	Dec. 1, 1975	10 oz, 3 1/4 in.	Dec. 1, 1975
Herman	Oct. 20, 1975	16 oz, 3 1/4 in.	Nov. 3, 1975	14 oz, 3 1/4 in.	Nov. 3, 1975	10 oz, 3 1/4 in.	Dec. 8, 1975
Murphy	do.	16 oz.	Nov. 17, 1975	14 oz.	Nov. 17, 1975	10 oz.	Dec. 8, 1975
Alta (B-7-B)	Oct. 27, 1975	18 oz, 3 1/4 in.	Nov. 17, 1975	14 oz.	Nov. 17, 1975	10 oz.	Dec. 8, 1975
Booth 1	Nov. 24, 1975	16 oz, 3 1/4 in.	Dec. 1, 1975	14 oz.	Dec. 1, 1975	10 oz.	Dec. 8, 1975
Booth 3	Oct. 27, 1975	16 oz, 3 1/4 in.	Nov. 17, 1975	14 oz.	Nov. 17, 1975	10 oz.	Dec. 8, 1975
Taylor	do.	14 oz, 3 1/4 in.	Nov. 24, 1975	14 oz, 3 1/4 in.	Nov. 24, 1975	10 oz, 3 1/4 in.	Dec. 29, 1975
Dunedin	Nov. 10, 1975	16 oz, 3 1/4 in.	Dec. 8, 1975	14 oz, 3 1/4 in.	Dec. 8, 1975	10 oz, 3 1/4 in.	Dec. 29, 1975
Byars	Nov. 17, 1975	16 oz, 3 1/4 in.	Dec. 8, 1975	14 oz, 3 1/4 in.	Dec. 8, 1975	10 oz, 3 1/4 in.	Dec. 29, 1975
Linda	do.	18 oz, 3 1/4 in.	do.	14 oz.	do.	10 oz.	Dec. 29, 1975
Nabal	do.	14 oz, 3 1/4 in.	Dec. 15, 1975	10 oz.	Dec. 29, 1975	10 oz.	Dec. 29, 1975
Zio	Dec. 1, 1975	12 oz.	Dec. 22, 1975	10 oz, 3 1/4 in.	Jan. 5, 1976	10 oz.	Feb. 23, 1976
Wagner	Dec. 8, 1975	12 oz, 3 1/4 in.	Jan. 12, 1976	11 oz.	Jan. 26, 1976	10 oz.	Feb. 23, 1976
Maya	Dec. 29, 1975	13 oz.	Jan. 12, 1976	11 oz.	Jan. 26, 1976	10 oz.	Feb. 23, 1976
Brookside	Jan. 12, 1976	14 oz.	Jan. 26, 1976	12 oz.	Jan. 26, 1976	10 oz.	Feb. 23, 1976
Rehmidt	Jan. 19, 1976	do.	do.	do.	do.	do.	do.
Itzama	Feb. 16, 1976	do.	do.	do.	do.	do.	do.

(3) From the date listed for the respective variety in Column 2 of Table I to the date listed for the respective variety in Column 4 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in Column 3 of such table or is of at least the diameter specified for such variety in said Column 3;

(4) From the date listed for the respective variety in Column 4 of Table I to the date listed for the respective variety in Column 6 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in Column 5 of such table or is of at least the diameter specified for such variety in said Column 5;

(5) From the date listed for the respective variety in Column 6 of Table I to the date listed for the respective variety in Column 8 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in Column 7 of such table or is of at least the diameter specified for such variety in said Column 7;

(6) No handler shall handle during the period June 16, 1975, through July 21, 1975, any Arue variety avocados unless the individual fruit in each lot of such avocados weighs at least 14 ounces, or is at least 3 1/4 inches in diameter;

(7) No handler shall handle (i) prior to August 25, 1975, any Lisa variety avocados, (ii) during the period August 25, 1975, through August 31, 1975, any Lisa

variety avocados unless the individual fruit in each lot of such avocados weighs at least 12 ounces, (iii) during the period September 1, 1975, through September 7, 1975, any Lisa variety avocados unless the individual fruit in each lot of such avocados weighs at least 11 ounces, (iv) during the period September 8, 1975, through September 14, 1975, any Lisa variety avocados unless the individual fruit in each lot of such avocados weighs at least 10 ounces, (v) during the period September 15, 1975, through September 22, 1975, any Lisa variety avocados unless the individual fruit in each lot of such avocados weighs at least 9 ounces;

(8) No handler shall handle (i) prior to September 15, 1975, any Booth 8 variety avocados, (ii) during the period September 15, 1975, through October 5,



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1975, any Booth 8 variety avocados unless the individual fruit in each lot of such avocados weighs at least 16 ounces, or is at least 3 3/16 inches in diameter, or (iii) during the period October 6, 1975, through October 19, 1975, any Booth 8 variety avocados unless the individual fruit in each lot of such avocados weighs at least 14 ounces, or is at least 3 3/16 inches in diameter, or (iv) during the period October 20, 1975, through November 2, 1975, any Booth 8 variety avocados unless the individual fruit in each lot of such avocados weighs at least 12 ounces, or is at least 3 3/16 inches in diameter, or (v) during the period November 3, 1975, through November 17, 1975, any Booth 8 variety avocados unless the individual fruit in each lot of such avocados weighs at least 10 ounces or is at least 3 3/16 inches in diameter.

(9) Except as otherwise provided in paragraphs (a) (11) and (12) of this section, varieties of the West Indian type of avocados not listed in Table I shall not be handled except in accordance with the following terms and conditions:

(i) Such avocados shall not be handled prior to July 7, 1975.

(ii) From July 7, 1975, through August 3, 1975, the individual fruit in each lot of such avocados shall weigh at least 18 ounces.

(iii) From August 4, 1975, through September 7, 1975, the individual fruit in each lot of such avocados shall weigh at least 16 ounces.

(iv) From September 8, 1975, through October 5, 1975, the individual fruit in each lot of such avocados shall weigh at least 14 ounces.

(v) Except as otherwise provided in paragraphs (a) (11) and (12) of this section, varieties of avocados not covered by paragraphs (a) (2) through (9) hereof shall not be handled except in accordance with the following terms and conditions:

(i) Such avocados shall not be handled prior to September 22, 1975.

(ii) From September 22, 1975, through October 19, 1975, the individual fruit in each lot of such avocados shall weigh at least 15 ounces.

(iii) From October 20, 1975, through December 21, 1975, the individual fruit in each lot of such avocados shall weigh at least 13 ounces.

(iv) Notwithstanding the provisions of paragraphs (a) (2) through (10) hereof regarding the minimum weight or diameter for individual fruit, up to 10 percent, by count, of the individual fruit contained in each lot may weigh less than the minimum specified weight and be less than the minimum specified diameter: *Provided*, That such avocados weigh not more than two ounces less than the applicable specified weight for the particular variety as prescribed in Columns 3, 5, or 7 of Table I in (a) (2) of this section or in paragraphs (a) (6), (7), (8), (9), and (10). Such tolerances shall be on a lot basis, but not to exceed double such tolerances shall be permitted for an individual container in a lot.

(12) The provisions of paragraphs (a) (2) through (11) of this section shall not apply to any variety, except the Linda variety, of avocados which, when mature, normally change color to any shade of red or purple and any portion of the skin of the individual fruit has changed to the color for that fruit when mature.

(b) Terms used in the amended marketing agreement and order, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order; the term "diameter" shall mean the greatest dimension measured at right angles to a line from the stem to the blossom end of the fruit; and the terms "U.S. No. 3" shall have the same meaning as set forth in the United States Standards for Florida Avocados (7 CFR 51.3050-51.3069).

(c) The provisions of this regulation shall become effective June 9, 1975.

Dated: May 13, 1975.

CHARLES R. BRADER,  
Deputy Director, Fruit and  
Vegetable Division, Agricultural  
Marketing Service.

[FR Doc.75-13008 Filed 5-19-75; 8:45 am]

#### Animal and Plant Health Inspection Service [9 CFR Parts 303, 381] PUBLIC HEARING

On April 8, 1975, there appeared in the FEDERAL REGISTER (40 FR 15906-15907) a notice that the Animal and Plant Health Inspection Service is considering amendments to the Federal Meat and Poultry Inspection Regulations concerning with sales by exempt retail stores in designated States. The amendments, if implemented, would permit retail stores exempted from Federal inspection in designated States to sell in intrastate commerce certain prepackaged inspected meat and poultry products in normal retail quantities to nonhousehold consumers without affecting percentage and annual dollar sales limitations provided in § 303.1(d) (2) (iii) and § 381.10(d) (2) (iii) of the regulations.

Comments and views expressed to the Department on the proposed amendments to the regulations indicate they have widespread interest, and it appears there are vastly differing opinions on the desirability of their provisions and effects on products and consumers if implemented.

The Department has concluded, therefore, that these circumstances require that information and data to the fullest extent on the subject matter be available for review prior to decisions being made on the nature of the final regulations. To foster the assembly of such information, the Department has scheduled a public hearing to consider the proposed amendments. The hearing will be held before a representative of USDA on July 9, 1975, beginning at 10:00 a.m., in the Jefferson Auditorium, South Building, U.S. Department of Agriculture, Independence Avenue between 12th and 14th Streets, Washington, D.C. 20250. At the hearing, a representative of the Animal and Plant Health Inspection Service will present a statement explaining the purpose and basis of the proposal. Any interested person may appear and be heard either in person or by attorney. Also, any interested person or his attorney will be afforded an opportunity to ask relevant questions concerning the proposal.

Any interested person who desires to submit written data, views, or arguments on the proposal may do so by filing the same in duplicate, on or before July 9, 1975, with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, with the presiding officer at the hearing, or if the material is deemed to be confidential, with the Inspection Standards and Regulations Staff, Scientific and Technical Services, Meat and Poultry Inspection Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, on or before July 9, 1975. All written submissions made pursuant to this notice will be made available for public inspection in the office of the Hearing Clerk during regular business hours unless the person making the submission requests that it be held confidential. A determination by the Administrator will be made whether a proper showing in support of the request has been made on the grounds that disclosure of the material submitted could adversely affect any person by disclosing information in the nature of trade secrets or commercial or financial information obtained from any person and privileged or confidential. If it is determined that a proper showing has been made in support of the request, the material will be held confidential; otherwise, notice will be given of denial of such a request and an opportunity afforded for withdrawal of the submission. Requests for confidential treatment will be held confidential as provided in 7 CFR 1.27(c).

After consideration of all information presented at the hearing and submitted pursuant to this notice and the notice of April 8, 1975, and any other information available to the Department, a determination will be made as to whether the regulations will be amended as proposed.

Done at Washington, D.C., on May 15, 1975.

HARRY C. MUSSMAN,  
Acting Administrator, Animal and  
Plant Health Inspection Service.

[FR Doc.75-13215 Filed 5-19-75; 8:45 am]

#### DEPARTMENT OF COMMERCE National Oceanic and Atmospheric Administration [50 CFR Part 227]

##### SEA TURTLES

##### Proposed "Threatened" Status

The Director, National Marine Fisheries Service, and the Director, United States Fish and Wildlife Service, hereby issue a notice of proposed rulemaking that would determine the green sea turtle (*Chelonia mydas*), the loggerhead sea turtle (*Caretta caretta*), and the Pacific ridley sea turtle (*Lepidochelys olivacea*), to be threatened species (as defined in the Endangered Species Act of 1973 (16 U.S.C. 1531-1543)) in 50 CFR 17.32 (published elsewhere in this issue, see FR Doc. 75-13189, *supra*) and establish appropriate protective regulations in 50 CFR 17.32 and in 50 CFR Part 227 (Subpart C) to provide for the conservation of such species.

On April 23, 1974, Dr. F. Wayne King, Director of Conservation and Environmental Education for the New York Zoological Society, petitioned the Department of the Interior to list the green sea turtle as an "endangered" species, and to list the loggerhead sea turtle and the Pacific ridley sea turtle as "threatened" species. This petition, and supporting data, were examined by the Fish and Wildlife Service and the National Marine Fisheries Service who determined that sufficient evidence existed to warrant a review of the status of these species; a notice to that effect was placed in the FEDERAL REGISTER on August 16, 1974 (39 FR 29605-29607). The Governors of States in which one or more of these species are resident, and the Governors of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and the High Commissioner of the Trust Territory of the Pacific Islands, were notified of the review and were requested to supply data relative to the status of the species. As a result of this review, the Director of the Fish and Wildlife Service and the Director of the National Marine Fisheries Service find that there are sufficient data to warrant a proposed rulemaking that the green sea turtle, the loggerhead sea turtle, and the Pacific ridley sea turtle are "threatened" species.

On August 15, 1974, Mariculture, Ltd., P.O. Box 645, Grand Cayman Island, British West Indies, a business involved in the raising and marketing of captive green sea turtles, petitioned the Secretary of the Interior and the Secretary of Commerce to list the green sea turtle as a "threatened" species, but to exempt specimens bred or raised in captivity from this classification. This petition was considered in the overall review of sea turtles.

The Endangered Species Act of 1973 (16 U.S.C. 1533(a) (1)) states that the Secretary of the Interior or the Secretary of Commerce may determine a species to be an endangered species or a threatened species because of any of five factors. These factors, and their applications to the green, loggerhead, and Pacific ridley sea turtles are as follow:

(1) *Present or threatened destruction, modification, or curtailment of habitat or range*—(a) *Green sea turtle*. This species has a circumglobal distribution in the tropics, but has been greatly reduced in numbers and distribution, especially in the Caribbean Sea, Gulf of Mexico,

and parts of the Pacific Ocean. Development of coastal areas for industry and tourism, within the species range, is progressively destroying nesting sites.

(b) *Loggerhead sea turtle*. Coastal development is resulting in a decline in numbers and distribution.

(c) *Pacific ridley sea turtle*. Apparently, there has been little recent change in overall distribution, but certain rookeries have been eliminated, and suitable habitat along coastlines is decreasing because of human development.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes*—(a) *Green sea turtle*. This species is probably the most commercially valuable reptile in the world and one of the most extensively utilized. Its meat, eggs, and calipee (cartilage used in soup) have been eaten for centuries, and in recent years its skin and oil have found increased use in industry. An international market in turtle products now exists, with the United States being among the largest consumers. Heavy egg harvests continue, especially in southeast Asia, and sometimes nearly all clutches on a nesting beach are taken. This intensive exploitation has been causing a steady decline in numbers throughout much of the world.

(b) *Loggerhead sea turtle*. While not subject to the same heavy hunting pressure as the green sea turtle, loggerhead eggs are intensively harvested, and some turtles are killed for meat or sport.

(c) *Pacific ridley sea turtle*. This species seldom is taken commercially for meat, but egg harvesting is intensive along the coasts of Central America and Southeast Asia. Egg collecting and disturbance of nests were the main causes of a great reduction of turtles in Sri Lanka.

A recent rise in the commercial take of turtles in Mexico was stimulated by the development of a market for turtle leather, partly as a substitute for alligator hides. Large numbers of hides and finished products have been either sold in the United States or transshipped through the United States to Europe or Asia.

(3) *Disease and predation*—(a) *Green sea turtle*. Disease or predation are not presently known to constitute a major threat to the species, but these factors could develop into serious problems if populations become more restricted in distribution and numbers.

(b) *Loggerhead sea turtle*. Raccoons prey heavily on eggs in nests along the coasts of the southeastern United States. This problem was intensified because of man's elimination of cougars and other natural predators of raccoons.

(c) *Pacific ridley sea turtle*. Disease and predation are not presently known to constitute a major threat to the species, but these could develop into serious problems if populations become more restricted in distribution and numbers.

(4) *The inadequacy of existing regulatory mechanisms*—(a) *Green sea turtle*. Present laws and enforcement measures are not adequate with regard to

## PROPOSED RULES

exploitation and importation of turtles and turtle products. The United States and Europe continue to serve as major outlets for the world market, even though populations are declining. In some areas turtles are protected on nesting sites, but are subject to unregulated hunting at sea.

(b) *Loggerhead sea turtle*. Although there is legal protection along the coasts of the United States and Australia, some other countries permit the commercial taking of turtles and eggs. The lack of restrictions on importing loggerhead sea turtles into the United States encourages this exploitation.

(c) *Pacific ridley sea turtle*. Importation of turtle products by the United States may be encouraging excessive exploitation in Mexico.

(5) *Other natural or manmade factors affecting its existence*—(a) *Green sea turtle*. Commercial fishermen accidentally catch and drown green sea turtles in nets. Much of the incidental catch is by fishermen trawling for shrimp.

(b) *Loggerhead sea turtle*. Many of these turtles are accidentally caught and killed by trawl fishermen. Along some coastlines bright city or highway lights confuse hatchlings, and attract them inland where they die.

(c) *Pacific ridley sea turtle*. Accidental catching also may be a problem for this species in some areas.

Factors 1, 2, and 4 are considered the major reasons for the decline of these species.

## DESCRIPTION OF THE PROPOSAL

The proposed listing would add the three sea turtles—the green sea turtle, the loggerhead sea turtle, and the Pacific ridley sea turtle—to the threatened wildlife list.

The proposal also lists all the activities which are prohibited in regard to these species. These include taking, importing, exporting, interstate transportation in the course of a commercial activity, and interstate sale. However, the prohibitions on interstate transportation and sale will not apply until after 1 year from the date of publication of these proposed regulations.

There would also be a series of exceptions to the prohibitions, including mariculture operations and economic hardship. Specifically, the exceptions are as follows:

(1) Permits for scientific purposes, or enhancement of propagation or survival could be issued on the same basis as they are for endangered species under Fish and Wildlife Service regulations, except that the mandatory 30-day public review period would not apply;

(2) Injured, dead, or stranded specimens could be salvaged or disposed of by Federal or State officials;

(3) Incidental catch of sea turtles during fishing or research activities conducted at sea would be exempted, provided that the fishing or research are not taking place in areas of substantial breeding or feeding, and that the sea turtles are immediately returned to the sea;

(4) An exception, under controls, would be authorized for mariculture, for



## PROPOSED RULES

two years, if there is a periodic showing of significant progress, deemed sufficient by both the Fish and Wildlife Service and the National Marine Fisheries Service, toward raising the turtles in captivity from a completely self-sustaining stock; after the second year the exception would be continued only if the sea turtles are being raised in captivity from a completely self-sustaining stock;

(5) Live specimens or products held as of the date of the proposal would be exempted from the prohibitions, provided they were not held in the course of a commercial activity; and

(6) Permits would be available for economic hardship, on the same basis as they are for endangered species under Fish and Wildlife Service regulations.

While we recognize that there is some subsistence taking of these species for food purposes by persons subject to the jurisdiction of the United States, these regulations do not allow for such taking. It is believed that in no case should taking for food purposes be allowed on or near nesting beaches. Although there may be a limited subsistence taking in other areas for food purposes, we do not believe it to be a dominant factor in maintaining life, as there are alternative food sources from species other than those that are believed to be threatened with extinction.

At a later time, a description of certain breeding and feeding areas of these species of sea turtles will be proposed in the FEDERAL REGISTER to be designated as critical habitat.

## PERMIT REGULATIONS

Several of the exceptions referred to above allow the issuance of permits. Although these three sea turtles are proposed as threatened species, and not endangered species, certain permits for their use would be issued under the rules and procedures proposed by the Fish and Wildlife Service for endangered species. It is felt that this will simplify permit administration, and will make permit procedures simpler and more uniform for the public.

Simultaneously with this proposal, the Fish and Wildlife Service has proposed amendments to §§ 17.22 and 17.23, to revise and update those sections. With these amendments, the permit regulations of the Fish and Wildlife Service will be appropriate for endangered species, and for threatened species of sea turtles under these regulations. Permit applications must be submitted to the Fish and Wildlife Service, under its regulations. Processing of applications and issuing of permits will be carried out jointly by the Fish and Wildlife Service and the National Marine Fisheries Service. This will simplify permit processing for the public, while assuring adequate review of all applications, for the benefit of the wildlife resource.

## PUBLIC COMMENTS SOLICITED

The Directors of the Fish and Wildlife Service and the National Marine Fisheries Service, intend that finally adopted rules be as responsive as possible to the

conservation of sea turtles. They therefore desire to obtain the comments and suggestions of the public, other concerned State and Federal Governmental agencies and private interest groups on these proposed rules.

During this comment period, the Services will consult, in cooperation with the Secretary of State, with other nations within whose territories these turtles occur in the wild or whose citizens harvest them upon the high seas. Those views will be considered prior to publication of final regulations.

Final promulgation of sea turtle regulations will take into consideration the comments received by the Directors. Such comments and any additional information received, may lead the Directors to adopt final regulations that differ from this proposal. The Fish and Wildlife Service and the National Marine Fisheries Service have under preparation an environmental assessment concerning this matter.

## SUBMITTAL OF WRITTEN COMMENTS

Written comments, views, and objections may be made, preferably in triplicate, to the Director (FWS/LE), Fish and Wildlife Service, U.S. Department of the Interior, P.O. Box 19183, Washington, D.C. 20036, on or before July 18, 1975. Final regulations will be promulgated as soon as possible after the 60-day comment period required by the Endangered Species Act of 1973. If any person feels that he may be adversely affected by the proposed regulations, he may file objections thereto and request a public hearing thereon on or before July 3, 1975. Comments received will be available for public inspection during normal business hours at the Fish and Wildlife Service Office in Suite 600, 1612 K Street, N.W., Washington, D.C.

This notice of proposed rulemaking is issued under the authority of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543).

ROBERT W. SCHONING,  
Director, National Marine  
Fisheries Service.

LYNN A. GREENWALT,  
Director, U.S. Fish and  
Wildlife Service.

MAY 15, 1975.

Accordingly, it is proposed to add a new Subpart C, Green Sea Turtle (*Chelonia mydas*), Loggerhead Sea Turtle (*Caretta caretta*), and Pacific Ridley Sea Turtle (*Lepidochelys olivacea*), in Part 227, Threatened Species—Fish, (proposed 39 FR 14777-14778), Chapter II of Title 50, Code of Federal Regulations, as follows:

Subpart C—Green Sea Turtle (*Chelonia mydas*), Loggerhead Sea Turtle (*Caretta caretta*), and Pacific Ridley Sea Turtle (*Lepidochelys olivacea*)

Sec.  
227.21 Prohibitions.  
227.22 Exceptions to the prohibitions.

Authority: Endangered Species Act of 1973, Pub. L. 93-205 (16 U.S.C. 1531 et seq.) (the Act).

Subpart C—Green Sea Turtle (*Chelonia mydas*), Loggerhead Sea Turtle (*Caretta caretta*), and Pacific Ridley Sea Turtle (*Lepidochelys olivacea*)

## § 227.21 Prohibitions.

The following prohibitions apply to green sea turtles, *Chelonia mydas* (including *C. agassizi* Boucort), loggerhead sea turtles, *Caretta caretta*, and Pacific ridley sea turtles *Lepidochelys olivacea*. (For a listing of these sea turtles as threatened species, see § 17.32(e) (1), (2), and (3) of Chapter I of this title.) Except as provided in § 227.22 below, it is unlawful for any person subject to the jurisdiction of the United States to:

(a) Import any such species into, or export any such species from, the United States;

(b) Take any such species within the United States or the territorial sea of the United States;

(c) Take any such species upon the high seas;

(d) Possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such species taken in violation or prohibitions in paragraphs (b) and (c) of this section;

(e) Deliver, receive, carry, transport or ship in foreign commerce by any means whatsoever and in the course of a commercial activity, or sell or offer for sale in foreign commerce, any such species; and

(f) After one year from the date of publication of these proposed regulations, deliver, receive, carry, transport, or ship in interstate commerce by any means whatsoever and in the course of a commercial activity, or sell or offer for sale in interstate commerce, any such species.

## § 227.22 Exceptions to the prohibitions.

The following exceptions apply to the prohibitions, as set forth in § 227.21, governing sea turtle species *Chelonia mydas* (including *C. agassizi* Boucort), *Caretta caretta*, and *Lepidochelys olivacea*.

(a) *Scientific purposes, enhancement of propagation or survival.* The Directors of the National Marine Fisheries Service and the Fish and Wildlife Service (hereinafter referred to as the "Directors") may jointly process applications and issue permits for activities which would otherwise be prohibited regarding such sea turtles, for scientific purposes or to enhance the propagation or survival of such species. The requirements of section 10(a) of the Endangered Species Act of 1973 (16 U.S.C. 1539(a)) regarding permits for endangered species shall apply to applications for permits under this provision as if such sea turtles were classified "endangered," but in no case shall the requirements of section 10(c) of the Act apply to such permits. Application shall be made in accordance with Part 13 of Subchapter B, Chapter I of this Title 50, and the requirements of § 17.22 of Subchapter B, Chapter I of this Title 50. The duration of permits under this provision shall be designated on the face of the permit.

(b) *Injured, dead or stranded specimens.* In the case of such sea turtles found injured, dead, or stranded in the wild, any officer or employee of the National Marine Fisheries Service, of the Fish and Wildlife Service, of the U.S. Coast Guard, or any officer or employee of a State government may, in the course of official duty, take such wildlife for rehabilitation, return to its environment or other appropriate action, including collection for scientific research. Wherever possible, live specimens shall be returned to their aquatic environment as soon as practicable. Every such action shall be reported in writing to the Directors within six months from the occurrence, and such reports may be cumulative for the six month period. Reports shall be mailed to the Director (FWS/SE), U.S. Fish and Wildlife Service, Washington, D.C., and shall contain the following information:

(1) Name and official position of the official or employee involved;

(2) Description of the specimen(s) involved;

(3) Date and location of disposal;

(4) Circumstances requiring the action;

(5) Method of disposal;

(6) Disposition of the specimen(s), including cases where the turtle(s) has been retained in captivity, a description of the place and means of confinement and the measures taken for its maintenance and care; and

(7) Such other information as the Directors may require.

(c) *Incidental catch.* The incidental catch of such sea turtles during fishing or research activities conducted at sea shall not be prohibited provided:

(1) The specimen was caught by fishing gear incidental to fishing effort or research not directed toward such species; and

(2) The person responsible for the fishing gear or vessel was fishing in an area of substantial breeding or feeding of any such wildlife; and

(3) Any such wildlife which is caught is immediately returned to its aquatic environment whether dead or alive, with due care to minimize injuries to live specimens.

(d) *Mariculture.* The Directors may jointly issue permits for mariculture operations. For a period of two years from the effective date of these regulations, any person may apply for a permit to conduct any of the activities otherwise prohibited in § 227.21 regarding such wildlife, provided that such wildlife is taken for or derived from a captive population in the course of mariculture operations. After two years from the effective date of these regulations permits may be issued or renewed only if the applicant or permittee can demonstrate to the satisfaction of the Directors, that such wildlife is derived from a closed-cycle farming operation consisting of a captive-bred population which is completely self-sustaining and independent of wild stocks. Applications shall be made, and permits shall be issued, in accordance with Part 13 of Subchapter B,

## PROPOSED RULES

Chapter I of this Title 50, except that all applications will be reviewed and all permits issued jointly by the Directors.

(1) The information requirements of § 17.22(a) of Subchapter B, Chapter I of this Title 50, shall apply to permits issued under this provision, except that in addition to the information required in that section, the applicant shall also present complete information demonstrating the following points:

(i) That during the first two years such wildlife will be either (A) derived from a captive-bred population that is completely self-sustaining and independent of wild stocks, or (B) taken for or derived from a captive population that is demonstrably in the process of becoming a captive breeding population that is completely self-sustaining and independent of wild stocks, but is temporarily sustained in part by the addition of turtles or eggs taken in the wild, the taking of which is demonstrably not a major threat to wild stocks;

(ii) That the applicant or the applicant's supplier has an accurate system of record keeping showing the origin and numbers of such wildlife taken for addition to the captive population, and showing all subsequent transactions with such wildlife;

(iii) That the applicant or the applicant's supplier is prepared to institute a system of marking or other identification of any such wildlife transferred from the propagating facility. The markings or other identification must be capable of remaining on the wildlife, in any form, until after retail sale or export from the United States;

(iv) That if any of the applicant's facilities, or the facilities of any supplier of the applicant or the area of collection of such wildlife, are located outside the jurisdiction of the United States, the applicant has made suitable arrangements for the inspection visits referred to in § 13.47 of Subchapter B, Chapter I of this Title 50, including quarters, and any necessary permission of the government of the jurisdiction in which such facilities or area are located; and

(v) That the applicant or the applicant's supplier has submitted with the application a complete listing or inventory of all specimens held by him as of the date of the application. This listing or inventory shall be certified by the applicant to be a true and correct statement and subject to the penalties for false statements under the penalties for false statements under section 1001, title 18, United States Code.

(2) In addition to the conditions for permits issued under § 17.22(c) of Subchapter B, Chapter I of this Title 50, any permits issued under this provision will be subject to the following conditions:

(i) That the permittee or the permittee's supplier mark or otherwise identify all such wildlife transferred in any way from the propagating facility, and that the mark or other identification remain on the wildlife until after the retail sale or export from the United States of such wildlife;

(ii) That the permittee provide proof, when requested by either the Director of the National Marine Fisheries Service or the Director of the Fish and Wildlife Service, of the origin of such wildlife held in his rearing and propagating facilities or the facilities of his supplier; such proof may be in the form of the invitation of observers appointed by either the Director of the National Marine Fisheries Service or the Director of the Fish and Wildlife Service, at the permittee's expense, to any taking of such wildlife;

(iii) That the permit shall terminate automatically at the end of two years from the effective date of these regulations and thereafter at annual intervals, unless the permittee has demonstrated to the satisfaction of the Directors that for each succeeding one-year period the wildlife to be covered by the permit will be derived from a captive-bred population which is completely self-sustaining and independent of wild stocks; and

(iv) That if such wildlife involved in the mariculture operation is taken outside the jurisdiction of the United States, the government of the country in which the taking occurs sends a certificate to the Directors stating that (A) such wildlife is legally protected from over-exploitation in that country and (B) the taking of such wildlife in that country will not be detrimental to the survival of the species in the wild; in the event that such certification is unobtainable, the Directors may accept such other certification as they deem sufficient.

(e) *Wildlife held in captivity or a controlled environment.* The prohibitions in § 227.21 shall not apply to any such wildlife held in captivity or a controlled environment on the date of the FEDERAL REGISTER notice proposing to add such wildlife to the threatened wildlife list, provided, That the person claiming such exemption can show by documentary evidence to the satisfaction of the Directors, that the specimen was held in captivity or in a controlled environment on the required date, and was not being held in the course of a commercial activity. Such documentary evidence may include bills of sale or inventory or other records which are certified therein.

(f) *Economic hardship.* The Directors may issue permits to import or export such wildlife in order to prevent undue economic hardship. Applications shall be made and permits shall be issued in accordance with Part 13, Subchapter B, Chapter I of this Title 50, and the provisions of § 17.23 of Subchapter B, Chapter I of this Title 50, except that all applications will be reviewed and all permits will be issued jointly by the Directors. In addition, the requirements of section 10(b) of the Endangered Species Act of 1973 (16 U.S.C. 1539(b)) regarding hardship exemptions shall apply to applications for hardship exemptions under this provision as if such wildlife were classified "endangered." The tenure of any economic hardship exemption permit issued for such wildlife under this provision will be for one year from the effective date of these regulations. No economic hardship permit will be granted

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which will result in the killing of sea turtles.

[FR Doc. 75-13188 Filed 5-19-75; 8:45 am]

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 416]

[Regulation No. 18]

## SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Representation of Parties

### ADMINISTRATIVE REVIEW OF ACTION WITH RESPECT TO ATTORNEY FEES

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553), that the amendment to the regulations set forth in tentative form is proposed by the Commissioner of Social Security with the approval of the Secretary of Health, Education, and Welfare. The proposed amendment provides for administrative review of actions with respect to attorney fees subsequent to the expiration of the time limitation for requesting such review.

At present, Regulations No. 16 precludes any administrative review of a fee determination upon failure on the part of either the representative or the claimant to request such review within the prescribed 30-day time limit under any circumstances. The proposed amendment would make the provision in Regulations No. 16 conform exactly to the provision of Regulations No. 4, which permits review upon a requestor's showing of good cause for not filing the request timely and includes examples of what constitutes "good cause".

Prior to the final adoption of the proposed amendment to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare, Social Security Administration, P.O. Box 1585, Baltimore, Maryland 21203, on or before June 19, 1975.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

The proposed amendment is issued under the authority of sections 1102 and 1631(d) of the Social Security Act; 49 Stat. 647, as amended, and 86 Stat. 1476; 42 U.S.C. 1302 and 1383(d).

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program)

Dated: May 5, 1975.

J. B. CARDWELL,  
Commissioner of Social Security.

Approved: May 15, 1975.

CASPAR W. WEINBERGER,  
Secretary of Health,  
Education, and Welfare.

It is proposed to amend Part 416 of title 20 as follows:

Section 416.1510 of Chapter III of Title 20 of the Code of Federal Regulations is amended by revising paragraph (d) and adding paragraph (e) to read as follows:

§ 416.1510 Fee for services performed for an individual before the Administration.

(d) Administrative review of fee authorization. (1) Request timely filed. Administrative review of a fee authorization will be granted if either the representative or the claimant files a written request for such review at an office of the Social Security Administration within 30 days after the date of the notice of the fee authorization. The party requesting the review shall send a copy of the request to the other party. An authorized official of the Social Security Administration who did not participate in the fee authorization in question will review the authorization. Written notice of the decision made on the administrative review shall be mailed to the representative and the claimant at their last known addresses.

(2) Request not timely filed. Where the representative or the claimant files a request for administrative review, in accordance with paragraph (d)(1) of this section, but more than 30 days after the date of the notice of the fee authorization, the person making the request shall state in writing the reasons why it was not filed within the 30-day period. The Social Security Administration will grant the review only if it determines that there was good cause for not filing the request timely. For purposes of this section, "good cause" is defined as any circumstance or event which would prevent the representative or the claimant from filing the request for review within such 30-day period or would impede his efforts to do so. Examples of such circumstances include the following:

(i) The representative or claimant was seriously ill or had a physical or mental impairment and such illness prevented him from contacting the Social Security Administration in person or in writing;

(ii) There was a death or serious illness in the individual's family;

(iii) Pertinent records were destroyed by fire or other accidental cause;

(iv) The representative or claimant was furnished incorrect or incomplete

information by the Social Security Administration about his right to request review;

(v) The individual failed to receive timely notice of the fee authorization;

(vi) The individual transmitted the request to another government agency in good faith within such 30-day period and the request did not reach the Social Security Administration until after such period had expired.

(e) Payment of fees. The Social Security Administration assumes no responsibility for the payment of a fee for services rendered for an individual in any proceeding under title XVI of the Act before the Social Security Administration (see § 416.1525).

[FR Doc. 75-13217 Filed 5-19-75; 8:45 am]

## DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 75]

[Airspace Docket No. 75-EA-23]

### JET ROUTES AND AREA HIGH ROUTES

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 75 of the Federal Aviation Regulations that would: 1. realign J-150 and J-174 between Hampton, N.Y., and Hyannis, Mass.; 2. realign J-808R between waypoint Patty and waypoint Whale; 3. realign J-809R between waypoint Patty and waypoint Daves.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before June 19, 1975 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International

Civil Aviation, which pertain to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The airspace action proposed in this docket would:

1. Realign Jet Routes J-150/J-174 between Hampton, N.Y., and Hyannis, Mass., via the DNT of Hampton 069°T(082°M) and Hyannis 237°T(262°M) radials.

2. Realign Area High Route J-808R between waypoint Patty and waypoint Whale via waypoint Nantucket, Mass.

3. Realign Area High Route J-809R between waypoint Patty and waypoint Daves via waypoint Nantucket, Mass.

Realignment of the combined J-150/J-174 route between Hampton and Hyannis, as proposed, would provide adequate separation from J-55/J-121 to permit simultaneous operation on these routes northeast of Hampton. Realignment of J-808R and J-809R as proposed would provide a more orderly transition of the North Atlantic overseas traffic in the New York Center's area, reduce Boston and New York Center coordination and reduce fuel consumption.

This amendment is proposed under the authority of sec. 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510), Executive Order 10854 (24 FR 9565) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on May 14, 1975.

F. L. CUNNINGHAM,  
Acting Chief, Airspace and  
Air Traffic Rules Division.

[FR Doc. 75-13181 Filed 5-19-75; 8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 2, 60, 61, 79, 125, 167, 180]

[FRL 363-7]

### PUBLIC INFORMATION

Proposed Rulemaking

The Environmental Protection Agency (EPA) is considering promulgation of regulations to prescribe rules for the handling of purported trade secrets and other possibly confidential business information in EPA's possession. One purpose of the regulation is to state clearly and explicitly the substantive rules which EPA will apply, so that both submitters of such information and those who request that it be made available to the public will be better aware of EPA policy. EPA also desires to establish procedures that will allow more expeditious processing of determinations, and to foster awareness on the part of submitters of information of the method for claiming entitlement to confidentiality and the type of substantiation EPA will require before determining that information is entitled to confidential treatment.

Interested persons may participate in this proposed rulemaking by submitting written data, views or arguments to the Office of General Counsel (EG-334), Environmental Protection Agency, Washington, D.C. 20460. Each person submitting a comment should include his name and address, a reference to this notice, and reasons to support his comment. Comments received on or before July 7, 1975, will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination by interested persons between the hours of 9 a.m. and 4:30 p.m. on working days in Room 221, Waterside Mall West Tower, 401 M St., SW., Washington, D.C. The proposal may be changed in light of the comments received. No hearing is contemplated.

It is proposed to establish a new subpart B in part 2 of Title 40, Code of Federal Regulations, to contain all substantive EPA regulations governing the treatment of business information alleged to be entitled to confidential treatment. A number of existing regulations (some of which contain substantive rules, others of which are merely cross-references) in various parts of chapter I of Title 40 would be revoked or revised to conform to the new subpart. The prior regulation on the subject, at 40 CFR 2.107a, was superseded by the revisions published in 40 FR 10460, March 6, 1975.

Relationship to subpart A. One of the purposes of the proposed subpart B is to supplement the provisions of the Agency's general regulations concerning the handling of requests for records (subpart A of part 2 of Title 40, Code of Federal Regulations, 40 FR 10460). Subpart B would come into play when EPA received a request for records containing business information, and would establish special supplemental procedures designed to allow EPA to ascertain whether a business has asserted (or wishes to assert) a business confidentiality claim, and to determine the validity of any such claim. (Subpart A contains no provisions expressly requiring the consultation of non-Government persons who may have a protectible interest in the disclosure or non-disclosure of information concerning them. Although consultation may be necessary from case to case for reasons other than those with which subpart B is concerned (for instance, where personal privacy rights are concerned), the need for a detailed procedure is especially acute with regard to the large volume of business information in EPA's possession.)

Policy pending final promulgation of subpart B. In responding to requests for information under 5 U.S.C. 552, EPA will follow the procedures of subpart A and, where business information is requested, will follow the general approach outlined in the proposed subpart B until a final version of subpart B is promulgated. However, pending final promulgation, EPA will not rely on those provisions of the proposed subpart B that would establish new, affirmative requirements on businesses which desire that EPA not release information concerning those businesses.

Thus, proposed § 2.203, which deals with requirements for timely assertion of a claim of entitlement to confidential treatment and the consequences of failure to mark information at the time it is submitted, will not be relied upon to justify disclosure of information over the objections of a business. Nor will EPA change its present practice of holding information which it has determined is not entitled to confidential treatment for a period of 30 days after the business has been informed of the determination, despite proposed § 2.205(f) (which would normally allow a business 10 days to institute an action in court, failing which the information would be released).

However, EPA will require substantiation of a business confidentiality claim by the business in question, and will require that substantiation be furnished speedily so that the issuance of initial and appeal determinations may be accomplished within the periods allowed by the Freedom of Information Act, as amended, 5 U.S.C. 552. The substantive criteria for determining the entitlement of information to confidential treatment which are proposed in subpart B will be used by EPA in its determinations prior to promulgation of a final regulation. In addition, disclosure of information to parties in connection with a proceeding in the circumstances described in proposed § 2.301 through § 2.304 and to authorized representatives under proposed § 2.301, § 2.302 and § 2.304, will be handled in accordance with those proposed sections pending their final promulgation.

Background; need for regulatory guidance. EPA possesses, and will continue to acquire, a great deal of information generated by businesses. Some of this information is regarded as very sensitive by the businesses which it concerns. Private financial data such as production costs, data concerning proposed new products, vendor and customers lists and



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contractual arrangements, secret manufacturing processes and formulas, proposals for expansion and contraction of production, and details of personnel arrangements are among the types of data which EPA collects for use in various programs.

Members of the public may be greatly interested in obtaining release of some of the business information EPA possesses. Businesses and public interest groups, for example, sometimes assert that they need such information in connection with litigation challenging EPA actions. Under 5 U.S.C. 552, commonly known as the Freedom of Information Act, a request for agency records by any member of the public must be honored unless the Government can demonstrate the applicability of a statutory exemption to the disclosure requirement. Although the identity of a requestor or his reason for requesting the information is usually irrelevant to the issue of whether release is required, EPA has noted that requests for information concerning a business sometimes come from a competitor of that business.

EPA itself has various interests relating to the treatment of business information. In the first place, EPA needs access to business information in order to make informed decisions under the various laws EPA is charged with implementing. Although some of these laws empower EPA to require submission of information, much time and effort would be required to actually compel production of information through court actions. Moreover, some extremely useful information is not subject to compulsory production, and may only be obtained voluntarily. EPA is therefore vitally interested in encouraging businesses to submit information on a voluntary basis. But businesses will cooperate in the submission of information only if they believe EPA will fairly evaluate confidentiality claims and withhold from public disclosure information which qualifies for confidential treatment.

EPA also desires that the public understand the basis of its decisions and policies and have the fullest possible appreciation of the facts which lead to Agency actions. EPA wishes to cooperate to the fullest possible extent with efforts of members of the public to become more fully informed. In particular, EPA is committed to the encouragement of public participation in its rulemaking and adjudicatory proceedings, and access to information is often a prerequisite to effective public participation.

Finally, EPA is aware that on the one hand, its officers and employees may be criminally punished under 18 U.S.C. 1905 for the wrongful disclosure of certain information received in confidence, and that on the other hand, disciplinary proceedings may be brought against any of its officers or employees who are found to have arbitrarily and capriciously withheld information requested under 5 U.S.C. 552. These possibilities suggest the need for issuance by EPA of guidance to employees whose duties require them to decide whether to release information.

Given these varied and often conflicting interests in the treatment of business information, it thus often occurs that when a member of the public has requested release of an item of information, the business which the information concerns alleges that ruinous consequences would be caused by its release. The Federal agency must then decide whether to deny the request for the information in order to increase the likelihood of a continued flow of similar information to the agency and to protect the interests of the business, or to grant the request in order that the public might better appreciate and understand the situation the information concerns.

To help resolve such questions, some basic principles are necessary. In the proposed regulation, some basic ideas are: (1) It is the responsibility of a business which makes a confidentiality claim to substantiate that claim, and EPA's responsibility to afford a reasonable opportunity for such substantiation.

(2) If the business does show that the information is entitled to confidential treatment, EPA should not release the information by exercising discretion it may possess to release it.

(3) Where Congress has indicated in a statute that otherwise-confidential information may be made available to the public in connection with proceedings conducted by the Agency, EPA should construe that authorization broadly to foster the usefulness of such proceedings by facilitating the presentation of various viewpoints.

(4) Disclosure to the public of allegedly confidential information is an irreversible act. When there is substantial doubt about the propriety of release, the Agency should act in a manner which would preserve the issues for possible judicial resolution, rather than in a manner which would not only moot the matter from a judicial standpoint but also expose agency officers and employees to possible criminal prosecution under 18 U.S.C. 1905.

**Summary of procedural provisions.** If a request for disclosure of business information were received under 5 U.S.C. 552, or if for any other reason an EPA office desired to know whether business information was entitled to confidential treatment, it would first ascertain whether a prior controlling determination on the matter had been made. If no such determination existed, the office would ascertain whether the information was covered by a business confidentiality claim. (Where no claim was apparent from examining the document in question, but the office saw a substantial likelihood of entitlement to confidential treatment, inquiry would be made of the business, at which time a claim could be asserted. However, no such inquiry would be required where the information had previously been made publicly available, nor where the business had previously waived or withdrawn its claim or had declined a specific opportunity to assert a claim covering the information.) Information not covered by a claim would be made available to the public.

Information covered by a claim would be the subject of further inquiry. If the EPA office determined that confidential treatment of the information was precluded, the business would be so notified and the business would have an opportunity, before release of the information, to seek judicial review. If, on the other hand, the EPA office concluded that the information might be entitled to confidential treatment, it would afford the business a period of time in which the business could substantiate its claim by furnishing EPA data necessary for a final determination. An EPA legal office would consider any substantiation received and make such other inquiries as it found necessary, and would issue a final determination. If the legal office's determination were adverse to the business, the business would be afforded a period during which it might seek judicial review of the Agency's decision. If no judicial order barring release were obtained during that period, the information would be available to the public.

Once EPA finally determined that business information is entitled to confidential treatment, EPA would not normally exercise any discretion it might possess to release the information.

Information received by EPA after 60 days after the effective date of the new subpart B, but not accompanied when received by a business confidentiality claim, would be determined not to be entitled to confidential treatment unless the business were able to show that the failure to attach a confidentiality claim to the information at the time of submission was due to circumstances beyond the control of the business. (Once again, a business would be afforded a period to obtain judicial review of such a determination.)

**Determinations in response to requests under the Freedom of Information Act.** 5 U.S.C. 552, as recently amended, allows 10 working days from receipt of a request for information until issuance of an initial determination granting or denying the request. No provision was made in the statute for extending the 10-day period in order to obtain the comments of the business which has asserted a confidentiality claim. Such comments normally could not be requested, generated and furnished within the 10 days allowed for an initial determination. While it would be possible to issue confidentiality determinations under a procedure which was begun as soon as business information was first received by EPA, rather than waiting until the time a particular item of information was requested under 5 U.S.C. 552, this would in many cases be extremely inefficient, because of the likelihood that no occasion for disclosing the information would ever arise. EPA therefore expects that in many cases where information covered by a confidentiality claim is requested under 5 U.S.C. 552, it will be necessary to issue an initial determination responding to that request before the comments of the affected business have been received or evaluated.

Such a determination will state in substance that the information may be entitled to confidential treatment, that the views of the affected business are being solicited, that a final determination will be issued after passage of a comment period, and that accordingly the request is initially denied. When such an initial denial is issued, EPA will continue the process of determining whether the information is ultimately entitled to confidential treatment.

Twenty working days are allowed by 5 U.S.C. 552 for the processing of an appeal from an initial denial of a request for information. EPA has tentatively determined that a period of 15 calendar days from the date of receipt by a business of a request for comments is a reasonable period for the business to furnish comments and substantiating data concerning its claim. In some cases the comments may not be received by EPA in time to allow an evaluation and determination on the merits of whether the information is entitled to confidential treatment within the 20-day appeal period. (Once again, the statute does not grant an agency the right to an extension in order to obtain comments of interested persons outside the Government.) In such a case, EPA will seek from the requestor approval of an extension. If such an extension is not agreed to, EPA will deny the request if there remains a substantial question of entitlement of the information to confidential treatment, in order to preserve the question for possible judicial review. When it is necessary to issue such a denial of an appeal, EPA will continue its determination process and shall issue a determination on the merits as soon as possible.

Initial determinations would be issued by the various EPA offices having custody of the requested information. Final determinations would be made by the EPA legal office which services the office having custody of the information (either the various offices of EPA Regional Counsel or the Office of General Counsel).

**Judicial review of determinations denying entitlement to confidential treatment.** The proposed regulation contains a provision (§ 2.205(f)) which would afford a business a waiting period after an EPA determination that information is not entitled to confidential treatment, during which the information would not be released and during which the business could seek judicial review of the EPA determination. The proposed provision was suggested by recent cases and by recently enacted statutes. *Sears, Roebuck & Co. v. General Services Administration*, C.A. No. 2149-73 (D.D.C., Sept. 10, 1974), *aff'd on other grounds*, C.A. 74-1946 (D.C. Cir., Dec. 9, 1974), holds that the judicial review provisions of the Administrative Procedure Act, 5 U.S.C. 701 *et seq.*, confer jurisdiction on Federal district courts to review the proposed release of information by a Federal agency, upon complaint of an aggrieved business. In order to allow a business the time necessary to institute such an action, the proposed regulation

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would provide that when EPA denied a business confidentiality claim the information would not be released for a period of 10 calendar days after notice to the business of the Agency determination. If such an action were commenced within the 10 days, the information would not be released until the passage of 30 days after notice to the business of the determination. If within that 30-day period a court had ordered EPA not to release the information, the information would be held in confidence by EPA until such an order no longer applied.

Two recently-enacted statutes furnish further precedent for the principle of delaying release after the determination is made. Section 10 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended in 1972, 7 U.S.C. 136(h), requires that whenever EPA determines that information covered by a confidentiality claim is not entitled to confidential treatment, it shall not be released until the passage of 30 days after notice of the determination is furnished to the submitter, during which time an action for a declaratory judgment may be commenced. Section 1445 (d) of the Safe Drinking Water Act, Pub. Law 93-523, Dec. 16, 1974, 88 Stat. 1660, 42 U.S.C. 3301 *et seq.*, provides that information covered by a confidentiality claim but found by EPA not to be entitled to confidential treatment shall not be released until the passage of 30 days after notice of the determination is furnished, unless the public health or safety requires earlier release. (The latter Act does not contain express language concerning judicial review, but no other purpose for the 30-day delay is apparent.)

5 U.S.C. 552(a)(6)(c), as amended, requires that records be made promptly available once a determination has been made to comply with a request for their release. EPA believes that the 10-day and 30-day waiting periods are in accord with this requirement. The 10-day and 30-day deadlines are designed to encourage prompt and diligent pursuit of any available judicial remedies, and to protect the interests of any person who may have requested release of the information. (The 10-day requirement would not be imposed where a statute, such as FIFRA or the Safe Drinking Water Act, prescribes a longer waiting period; and under FIFRA, the mere commencement of an action to obtain a declaratory judgment would suffice to delay release of information to which section 10 of FIFRA applies.)

EPA believes that the failure of a business to seek or obtain judicial relief within the time allowed under the proposed regulation would substantially diminish the force of a subsequent allegation that an EPA employee's release of the information violated 18 U.S.C. 1905.

**Advance confidentiality determinations.** In some cases an EPA office may desire to obtain, but lack the authority to compel production of, information held by a business, which the business will furnish only if EPA first assures the business that the information is entitled

to confidential treatment. A procedure for determining whether such treatment is justified would be useful, and would seem to require a decision by a part of EPA which is unlikely to have an ongoing substantive interest in the information (such as a legal office). If the information were determined to be entitled to confidential treatment, it could be passed on to interested EPA offices; if it were not, it could be returned to the business.

Although such a determination might not require examination of the information itself (the submission could in some cases include of a description of the information, e.g., sales figures for a certain company for a certain year), it might be necessary in other cases to conduct an examination of the information itself, and in those cases a problem could arise. A legal office would possess information which EPA would not otherwise have, for the sole purpose of making a confidentiality determination. If a request under 5 U.S.C. 552 is made for the information while the legal office holds it under such circumstances, and if the information would not be entitled to confidential treatment if it had been received by EPA under other circumstances, must it be disclosed? If disclosure is required, the rationale underlying the advance confidentiality determination process is weakened, perhaps fatally, for disclosure is precisely what the business was attempting to avoid. But if there is a basis for withholding the information under such circumstances, it must be either that the information is not within the category of "agency records" (documents that are not agency records need not be disclosed under 5 U.S.C. 552), or that it constitutes an agency record which is exempt from disclosure under 5 U.S.C. 552 (b)(4) because of the particular circumstance of EPA's acquisition of it. EPA does not know whether such information would be held to constitute agency records, and believes that under such circumstances it would be improper to return all copies of the information in the face of a pending request under 5 U.S.C. 552. Under the regulation EPA would deny the request, citing 5 U.S.C. 552(b)(4), and would retain in the EPA legal office a copy of the information solely in order that judicial resolution of the issue might be obtained.

**Summary of substantive criteria.** In order for EPA to determine that information is entitled to confidential treatment for reasons of business confidentiality, the proposed regulation would require a business to show to EPA's satisfaction that the information is in fact confidential in the hands of the business, that the confidentiality claim is reasonable in view both of the interests and practices of other businesses, that no statute requires disclosure, and that disclosure would be likely either to cause substantial harm to the competitive position of the business or to affect adversely EPA's ability to obtain information. (These criteria would be modified in certain respects with regard to information



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obtained under various statutes which authorize EPA to require production of information; the modifications are discussed separately below.)

The proposed regulation would not define "trade secret" as opposed to other "commercial or financial information obtained from a person and privileged or confidential," despite the use of those phrases in 5 U.S.C. 552(b)(4). Rather, the proposed regulation would entitle "business information" to confidential treatment "for reasons of business confidentiality," upon a showing that the criteria just mentioned had been satisfied. It is not believed that any useful purpose would be served by attempting to state definitions of the two statutory phrases. Whether or not they were defined, the inquiry would still have to focus on the nature of the information, the practices of the particular business and of other businesses, the effects of disclosure, and special statutory disclosure provisions.

**Special rules mandated by various statutes.** Sections 2.301 through 2.309 of the proposed regulation would modify the basic rules of §§ 2.200-2.210 to provide special rules which would apply to various categories of information gathered under a number of statutes which authorize EPA to compel production of certain information and also contain specific guidance concerning the disclosure or confidentiality of such information.

(1) *The Clean Air Act.* Section 2.201 would provide special rules to govern the treatment of information obtained under Sections 114, 208, and 307(a) of the Clean Air Act, 42 U.S.C. 1857c-9, 1857f-6, and 1857h-5(a).

One significant provision of each of these Clean Air Act sections is the requirement that "emission data" be made available to the public, despite any claim of confidentiality. The Clean Air Act does not define "emission data"; § 2.301 (a) (2) would supply a definition, which would exclude from its coverage information pertaining to the emissions of certain devices of a strictly research nature; such data could, upon a proper showing, qualify for confidential treatment. EPA would appreciate comments on the definition and on the "research device" exclusion.

Another important provision of the Clean Air Act is the language in sections 114 and 208 which requires the information gathered thereunder be available to the public unless its disclosure would divulge "methods or processes entitled to protection as trade secrets," and the similar language in section 307 concerning divulgence of "trade secrets or secret processes." EPA has given considerable attention to the question of whether the quoted phrases were intended to restrict confidential treatment to only such information as would disclose details of manufacturing methods or physical or chemical processes carried on by a business, or whether instead the phrase is a term of art encompassing other types of data which in many cases businesses

regard as confidential, such as operating costs, profits and losses, details of transactions with others, plans for capital investment, marketing information, proposed new products, input and output rates, and similar information. In the proposed rule, the latter approach would be taken. EPA has noted that the meager legislative history concerning these provisions (like that concerning the similar language in section 308 of the Federal Water Pollution Control Act (FWPCA)) tends to indicate that Congress contemplated confidential treatment of all "trade secrets" or "proprietary data" except emission data. EPA has not been able to conclude that Congress intended either the Clean Air Act or the FWPCA to compel automatic disclosure of the vast amount of closely-held business information, production of which EPA may require under those statutes. Certainly the legislative histories give no indication that the drafters considered this possibility. Moreover, it is not apparent how automatic public availability of this information would further the overall purposes of either Act. (When such information is relevant to a matter in controversy in a proceeding under either Act, it could be made available, as explained below.) Finally, many businesses would oppose EPA requests for information if they knew that EPA would immediately make it available to the public; this could seriously hamper EPA programs by requiring diversion of the Agency's resources to time-consuming and expensive efforts to compel the firms to provide the information, by use of court process. EPA is especially interested in comments on this issue.

The third significant change from the basic rules would implement the provision of all three cited sections of the Clean Air Act which authorizes EPA to release information (despite allegations of business confidentiality) when the information is "relevant to any proceeding under" the Clean Air Act. (Similar language appears in the FWPCA, the Noise Control Act of 1972, the Safe Drinking Water Act.) "Proceeding" is not defined in the Clean Air Act, and the proposed regulation would adopt the definition used in the Administrative Procedure Act, 5 U.S.C. 551(12), which includes all rulemaking, adjudication and licensing proceedings. Under the proposed regulations, if any person entitled to participate in a proceeding (other than an EPA employee) requested disclosure of information and showed that the disclosure was required to avoid significant impairment to his ability to present evidence on a significant matter which is (or is likely to be) in controversy in the proceeding, the information could be made available to him, subject to certain safeguards. The EPA Office directly concerned with the proceeding could also release information in connection with a proceeding if it determined that the public interest would be served thereby. A reasonable period for comment by the affected business would be afforded prior to the determination to disclose, and prior to actual

disclosure the business would be afforded an opportunity to obtain judicial review of the proposed disclosure.

Finally, each of the three Clean Air Act sections authorizes the Administrator to disclose information (despite allegations of business confidentiality) to "other officers, employees or authorized representatives of the United States" concerned with carrying out the provisions of the Clean Air Act. EPA regards authorized representatives as including persons who are not officers or employees of the United States. Authority to release information to "authorized representatives" would, however, be limited under the proposed regulation to releases to other Federal, interstate, State and local government units with duties or responsibilities under the Clean Air Act or implementing regulations, and to persons under contract to EPA to perform work for EPA in connection with the Act or its implementing regulations. Such disclosure would be accompanied by notification of claims or determinations concerning the confidentiality of the information, and in the case of contractors would be conditioned upon a contractual agreement restricting further use or disclosure.

In considering the implementation of the confidentiality provisions of the Clean Air Act, one problem EPA has faced is defining the range of information to which a given statutory provision applies. Each of the Clean Air Act sections first authorizes EPA to require production of certain information and then specifies rules for treatment of the information obtained under the authority of the statute. For example, section 114 (a) authorizes EPA to require production of information from the owner or operator of any stationary emission source for certain stated purposes. Other sections of the Act allow EPA to issue an order for the production of section 114 information, violation of which is criminally punishable, and to seek injunctive relief to compel production of such information. But EPA normally is able to acquire information described by section 114(a) without resort to orders or injunctions. Sometimes a request for the information does not mention Section 114, yet is complied with, and sometimes the information is submitted even in the absence of a request by EPA.

Section 114(c) specifies special confidentiality rules for "... information obtained under subsection (a) ..." of section 114. Should section 114(c) treatment be afforded only to information which was obtained under the compulsion of an order or injunction? Should it apply only to information requested by EPA, and if so, should it matter whether section 114 was cited in the request? EPA has determined that it would be impracticable and unfair to differentiate between similar items of information on the basis of whether or not certain procedural steps were followed in the acquisition process. Such differentiation would produce unlike treatment of like information, would discourage voluntary

compliance with requests for section 114 (a) information, and would tend for no good reason to increase the flow of paperwork. The proposed regulation would apply the special rules implementing section 114(c) to all information which was or could have been obtained under the authority of section 114(a). A similar approach would be taken under the proposed rules which would implement provisions of the FWPCA, the Noise Control Act of 1972, and the Safe Drinking Water Act.

(2) *The Federal Water Pollution Control Act (FWPCA).* The proposed regulation's § 2.302 would provide special rules to govern the treatment of information obtained under Section 308 of the FWPCA, 33 U.S.C. 1318. Section 308 provides EPA broad authority to obtain from the owner or operator of any point source of effluents any information "whenever required to carry out the objective of" the FWPCA. A definition of "effluent data," similar to that for "emission data" in § 2.301, would be established. Provisions concerning the section's coverage, the substantive criteria for withholding information, and release of information in connection with a proceeding or to authorized representatives also parallel those of § 2.301.

(3) *The Noise Control Act of 1972.* Proposed § 2.303 would provide special rules to govern the treatment of information obtained under Section 13 of the Noise Control Act of 1972, 42 U.S.C. 4912. The provisions of § 2.303 concerning coverage and the release of information in connection with a proceeding parallel those of § 2.301.

(4) *The Safe Drinking Water Act.* Proposed § 2.304 would provide special rules to govern the treatment of certain information obtained under the Safe Drinking Water Act, Pub. L. 93-523, Dec. 16, 1974, 88 Stat. 1660 (to be codified as 42 U.S.C. 300f et seq.). The coverage provisions of section 1445 of the Act are repeated. Special rules which would establish substantive criteria for withholding information and for release of information in connection with a proceeding or to authorized representatives parallel those of § 2.301.

(5) *The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).* Proposed § 2.307 would provide special rules to govern the treatment of certain information obtained from applicants under FIFRA, 7 U.S.C. 136 et seq. The coverage provision would specify that § 2.307, and not § 2.308 (which provides rules governing certain information submitted for the purpose of satisfying provisions of section 408 of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(h), which concerns petitions for issuance of tolerances for pesticides on raw agricultural commodities) shall govern information submitted in connection with a petition for a tolerance but then incorporated into a FIFRA submission. This treatment accords with the EPA policy that when two statutes, each with rules governing the confidentiality of specific information, could be said to apply to the same

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item of information, the statute allowing greater public access to the information should be deemed to control.

Proposed § 2.307 would provide that information stating the methodology or results of tests concerning the safety, toxicity or efficacy of a pesticide which is or has been registered under the Act or for which a notice of application for registration has been published under section 3(c)(4) of the Act, 7 U.S.C. 136a(c)(3), or information stating the effects on humans of exposure to such a pesticide, shall be available to the public (subject to the judicial review provisions). EPA believes that as a matter of public policy, data concerning effects of such pesticides on humans cannot qualify for confidential treatment. And FIFRA and its legislative history evidence a strong Congressional intent that safety, toxicity and efficacy test data should be available for public inspection.

The section would provide for discretionary disclosure of information to other Federal agencies, and to physicians, pharmacists and other qualified persons, including EPA contractors, for certain limited purposes.

(6) *Section 408 of the Federal Food, Drug and Cosmetic Act (FDCA).* Proposed § 2.308 would provide special rules to govern information submitted to EPA by a petitioner solely in support of a petition for issuance of a pesticide chemical (or for an exemption from the tolerance requirement) under section 408(d) of the FDCA, 21 U.S.C. 346a(d).

Section 408(f) of the FDCA, 21 U.S.C. 346a(f), states that such information shall be treated in absolute confidence (no reference is made to the confidentiality of the information in the petitioner's hands prior to submission, to the nature or value of the information, or to such things as trade practices). This absolute protection does not even require the submitter to make confidentiality claim as a prerequisite.

The protection afforded by section 408 (f), although absolute, is of limited duration. As soon as a regulation is published establishing a tolerance (or an exemption from the requirement), section 408(f) ceases to apply and, unless some other statute specifically applies (FIFRA, for instance), release of the information is governed by 5 U.S.C. 552. In order to allow EPA to determine at one time the entitlement of such information to confidential treatment under all statutes that may apply, proposed § 2.308 would require a business to advance all its arguments concerning confidentiality upon EPA's solicitation of substantiation.

(7) *The Marine Protection, Research and Sanctuaries Act of 1972 (MPRSA).* Proposed § 2.309 would provide special rules to govern information obtained by EPA as part of any application for, or in connection with, any permit for ocean disposal under the MPRSA, 33 U.S.C. 1401 et seq. Section 104(f) of the MPRSA, 33 U.S.C. 1414(f), is almost the opposite of section 408(f) of the FDCA, discussed above. It affirmatively requires that in-

formation be made available to the public, notwithstanding any confidentiality claim. The only problem lies in determining to which information the requirement applies. Information contained in a permit application should be easy to identify, but difficulties may be experienced in determining what information was received by EPA "in connection with any permit granted" under the MPRSA.

Where information is required by the MPRSA to be made available to the public, its entitlement under some other statute to confidential treatment would not, under the proposed regulation, override the MPRSA public availability requirement.

This notice or proposed rulemaking is issued under the authority of provisions of the Administrative Procedure Act, 5 U.S.C. 552, 553; sections 114, 208, 301 and 307 of the Clean Air Act, as amended, 42 U.S.C. 1857c-9, 1857f-6, 1857h-5; sections 308 and 501 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1318, 1361; section 13 of the Noise Control Act of 1972, 42 U.S.C. 4912; sections 1445 and 1450 of the Safe Drinking Water Act, 42 U.S.C. 300j-4, 300j-9; sections 10, 12 and 25 of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. 136h, 136j, 136v; section 408(f) of the Federal Food, Drug and Cosmetic Act, as amended, 21 U.S.C. 346a(f); and sections 104(f) and 108 of the Marine Protection, Research and Sanctuaries Act of 1972, 33 U.S.C. 1414 (f), 1418.

It is therefore proposed to amend Chapter I of Title 40, Code of Federal Regulations, in the manner set forth below.

Dated: May 13, 1975.

RUSSELL E. TRAIN,  
Administrator.

## PART 2—PUBLIC INFORMATION

1. By amending part 2 by adding a new subpart B and by making corresponding additions to the list of sections, as follows:

Subpart B—Confidentiality of Business Information	
Sec.	Information
2.201	Definitions.
2.202	Applicability of subpart; priority where provisions conflict.
2.203	Business confidentiality claim to accompany information.
2.204	Initial action by EPA office possessing information.
2.205	Final confidentiality determination by EPA legal office.
2.206	Special procedure for advance confidentiality determinations.
2.207	Class determinations.
2.208	Substantive criteria for use in confidentiality determinations.
2.209	Disclosure of business information in special circumstances.
2.210	Nondisclosure for reasons other than business confidentiality or where disclosure is prohibited by statute.



Sec.	EPA procedures to safeguard business information.
2.211	[Reserved]
2.212-2.300	[Reserved]
2.301	Special rules governing certain information obtained under the Clean Air Act.
2.302	Special rules governing certain information obtained under the Federal Water Pollution Control Act.
2.303	Special rules governing certain information obtained under the Noise Control Act of 1972.
2.304	Special rules governing certain information obtained under the Safe Drinking Water Act.
2.305	[Reserved]
2.306	[Reserved]
2.307	Special rules governing certain information obtained under the Federal Insecticide, Fungicide and Rodenticide Act.
2.308	Special rules governing certain information obtained under the Federal Food, Drug and Cosmetic Act.
2.309	Special rules governing certain information obtained under the Marine Protection, Research and Sanctuaries Act of 1972.

#### Subpart B—Confidentiality of Business Information

##### § 2.201 Definitions.

For the purposes of this subpart:

(a) "Person" means an individual, partnership, corporation, association, or other public or private organization or legal entity, including Federal, State or local governmental bodies and agencies and their employees.

(b) "Business" means any person engaged in a business, trade, employment, calling or profession, whether or not all or any part of the net earnings derived from such engagement by such person inure (or may lawfully inure) to the benefit of any private shareholder or individual.

(c) "Business information" (sometimes referred to simply as "information") means any information which pertains to the interests of any business, which was developed or acquired by that business, and (except where the context otherwise requires) which is possessed by EPA in recorded form.

(d) "Affected business" means, with reference to an item of business information, a business on behalf of which an unwaived business confidentiality claim covering the information has been made, or a business which could be expected to make such a claim if it were aware that disclosure of the information to the public was proposed.

(e) "Reasons of business confidentiality" include the concept of trade secrecy and other related legal concepts which give (or may give) a business the right to preserve the confidentiality of business information and to limit its use or disclosure by others in order that the business may obtain or retain business advantages it derives from its rights in the information. "Reasons of business confidentiality" include any concept which authorizes a Federal agency to withhold business information under 5

U.S.C. 552(b)(4), and any concept which requires EPA to withhold information from the public for the benefit of a business under 18 U.S.C. 1905 or any of the various statutes cited in § 2.301 through § 2.309.

(f) Information which is "entitled to confidential treatment" is information which, for reasons of business confidentiality, will not be made available to the public or otherwise disclosed to any person not employed by EPA, except as expressly otherwise provided in this subpart. (Information which is not "entitled to confidential treatment" is not necessarily available to the public, because reasons other than business confidentiality may require or authorize EPA to withhold the information from the public.)

(g) Information which is "available to the public" is information in EPA's possession which EPA will furnish to any member of the public upon request and which EPA may make public, release or otherwise make available to any person whether or not its disclosure has been requested.

(h) "Business confidentiality claim" (or, simply, "claim") means a claim or allegation that business information is entitled to confidential treatment, or a request for a determination that such information is entitled to such treatment.

(i) "Voluntarily submitted information" means business information in EPA's possession—

(1) The submission of which EPA had no authority to require; and

(2) The submission of which was not prescribed by statute or regulation as a condition of obtaining some benefit or avoiding some disadvantage under a regulatory scheme of general applicability (for example, a permit, licensing, registration or certification program, but excluding programs concerned with the award and administration of grants or contracts).

(j) "Recorded" means written or otherwise registered in some form for preserving information, including such forms as drawings, photographs, videotape, sound recordings, punched cards, and computer tape or disk.

(k) "EPA" means the United States Environmental Protection Agency.

(l) "Administrator," "Regional Administrator," "General Counsel" and "Regional Counsel" mean the EPA officials so titled.

§ 2.202 Applicability of subpart; priority where provisions conflict.

(a) Sections 2.201 through 2.211 establish basic rules governing business confidentiality claims, the handling by EPA of business information which is or may be entitled to confidential treatment, and determinations by EPA of whether information is entitled to confidential treatment for reasons of business confidentiality.

(b) Various statutes (other than 5 U.S.C. 552) under which EPA operates contain special provisions concerning the entitlement to confidential treatment of information gathered under such stat-

utes. Sections 2.301 through 2.309 prescribe special rules for treatment of certain categories of business information obtained under the various statutory provisions. Paragraph (b) of each of those sections should be consulted to determine whether any of those sections applies to the particular information in question.

(c) The basic rules of §§ 2.201 through 2.211 govern except to the extent that they are modified or supplanted by the special rules of §§ 2.301 through 2.309. In the event of a conflict between the provisions of the basic rules and those of a special rule which is applicable to the particular information in question, the provisions of the special rule shall govern.

(d) If two or more of the sections containing special rules apply to the particular information in question, and the applicable sections prescribe conflicting special rules for the treatment of the information, the rule which provides greater or wider availability to the public of the information shall govern.

(e) This subpart does not apply to questions concerning entitlement to confidential treatment of information which concerns an individual in his personal, as opposed to business, capacity.

§ 2.203 Business confidentiality claim to accompany information.

(a) Any business which causes or permits its business information to be submitted to EPA (whether directly by such business to EPA, or through or by some third person), or which submits its information to another person including state or local pollution control agencies, and firms under contract to EPA) with knowledge that such other person has a duty imposed by statute, regulation or contract to submit such information to EPA, and which desires that EPA shall afford confidential treatment to such information for reasons of business confidentiality, shall take all steps reasonably necessary to ensure that at the time the information is first received by EPA it is accompanied by a clear and prominent written (or otherwise suitably recorded) business confidentiality claim, consisting of a cover sheet, stamp, typed legend or other suitable form of notice on (or firmly attached to) each copy of the information received by EPA, employing language such as "trade secret," "confidential" or "proprietary." Where only one or more portions of a submission are claimed to be entitled to confidential treatment, each such portion shall be identified.

(b) If an EPA office acting under § 2.204, or an EPA legal office acting under § 2.205, finds that the information in question was first received by EPA after 60 days after the effective date of this subpart, but was not, when received by EPA, accompanied by a business confidentiality claim in accordance with paragraph (a) of this section, such office will determine that the information is not entitled to confidential treatment for reasons of business confidentiality unless the business which claims entitlement to

confidential treatment has shown to such office's satisfaction that circumstances beyond the control of the business were responsible for the failure to comply with § 2.202.

§ 2.204 Initial action by EPA office possessing information.

(a) Situations requiring action. This section prescribes procedures to be used by EPA offices in making initial determinations of whether business information is entitled to confidential treatment for reasons of business confidentiality.

Action shall be taken under this section whenever an EPA office learns that it is responsible for responding to a request under 5 U.S.C. 552 for the release of business information in its possession; in such a case, the office shall issue an initial determination within the period specified in § 2.112. This section's procedures shall also be followed when an EPA office desires to determine whether business information in its possession is entitled to confidential treatment, even though no request for release of the information has been received.

(b) Previous confidentiality determinations. The EPA office shall first attempt to ascertain whether there has been a previous, controlling determination of the question of the entitlement of the information to confidential treatment. For the purposes of this section, a controlling determination is: a final, unappealable order of a Federal court; a class determination (see § 2.207) or other determination by EPA under this subpart that the information is entitled to confidential treatment; or any determination under this subpart that the information is not entitled to confidential treatment, as to which determination no action to obtain judicial review is pending and as to which any period provided by a notice under § 2.205(f) for obtaining judicial review has expired.

(1) If a controlling determination states that the information is not entitled to confidential treatment, and if that determination was issued by a Federal court or was issued by EPA with notice under § 2.205(f) furnished to each affected business presently involved, then (subject to § 2.210) the information is available to the public, without need for further notice to the affected business, and the EPA office shall so inform any person whose request for the information is pending under 5 U.S.C. 552.

(2) If a controlling determination states that the information is entitled to confidential treatment, the EPA office shall furnish any person who has requested release of the information under 5 U.S.C. 552 an initial determination (see § 2.111 and § 2.113) that the information has previously been determined to be entitled to confidential treatment, and that the person's request is therefore denied. If the controlling determination is more than one year old, or if the EPA office questions the continuing validity of the determination, the EPA office shall also—

(A) Refer the matter to the appropriate EPA legal office, furnishing the data

prescribed by paragraphs (f)(1) and (f)(2) of this section, a copy of the prior determination (or a reference to its date and subject, if a copy is unavailable), any information the office possesses concerning any relevant circumstances which may have changed since the date of the prior determination, and any opinion the office may have concerning the correctness of such determination; and

(B) Notify each affected business (by letter sent by certified mail, return receipt requested, or by personal delivery) that EPA is engaged in determining under this subpart whether the prior determination of entitlement to confidential treatment remains valid. The notice shall state the reason(s) why EPA is making a new determination, shall either identify the prior determination by date and subject or enclose a copy of it, and shall invite the affected business to furnish comments to the appropriate EPA legal office within 15 calendar days of the date of receipt of such notice. The notice shall state that the information may be made available to the public without further notice if comments are not received by EPA within the 15-day period (or such other period as is established in lieu thereof, see § 2.205(b)) and shall invite the affected business to state whether the business continues to assert a business confidentiality claim covering the information, whether any relevant circumstances have changed since the date of the determination, and the significance of any such changes.

(3) In all other cases, the EPA office shall take action under paragraph (c) of this section.

(c) Determining whether a business confidentiality claim exists. (1) Whenever action under this paragraph is required by paragraph (b)(3) of this section, the EPA office in possession of the information shall examine it to determine whether a written business confidentiality claim covering it is attached to it or is otherwise apparent. If such a claim is found to cover the information, action shall be taken under paragraph (d) of this section.

(2) (A) If the examination under paragraph (c)(1) of this section discloses no claim, but it is apparent to the EPA office that but for the absence of a claim there would be a substantial likelihood that the information would be entitled to confidential treatment, the EPA office shall inquire of each affected business to learn whether the business asserts a claim covering the information. However, no such inquiry need be made if the information has previously been made available to the public without restriction (e.g., by furnishing copies to persons on request, or by location of the information in a file which has been open to public examination); nor need inquiry be made of any business which has previously failed to assert a claim covering the information after EPA had afforded the business a specific opportunity to make such a claim, or which has otherwise waived or withdrawn its claim.

(B) If, as the result of an inquiry under paragraph (c)(2)(A) of this section, a claim is made covering information which was first received by EPA after 60 days after the effective date of this subpart, the EPA office shall further inquire why the information was not, when received by EPA, marked in accordance with § 2.203.

(C) A record shall be kept of the results of any inquiry under this paragraph (c)(2). If any business makes a claim covering the information, the EPA office shall take further action under paragraph (d) of this section.

(D) If a request for release of the information under 5 U.S.C. 552 is pending at the time inquiry is made under this paragraph (c)(2), the inquiry shall be made by telephone or equally prompt means.

(3) If, after examination under paragraph (c)(1) (and any inquiry required by paragraph (c)(2)) of this section, the EPA office knows of no claim covering the information, it shall be treated for purposes of this subpart as not entitled to confidential treatment. In such a case, unless reasons other than business confidentiality (see § 2.210) authorize withholding of the information, the EPA office shall furnish any person who has requested release of the information under 5 U.S.C. 552 a determination that the information will be released promptly.

(d) Preliminary determination under substantive criteria. Whenever action under this paragraph is required by paragraph (c)(1) or (c)(2)(C) of this section, the EPA office shall determine whether, under § 2.208 (or any other applicable substantive criteria in this subpart (and § 2.203 the information is (or may be) entitled to confidential treatment.

(1) If the information is (or may be) entitled to confidential treatment, the EPA office shall—

(A) Furnish to each affected business the notice and request for substantiating comments prescribed by paragraph (e) of this section;

(B) Furnish any person whose request for release of the information under 5 U.S.C. 552 is pending a determination (in accordance with § 2.113) that the information may be entitled to confidential treatment, that further inquiry by EPA into the matter is required before a final determination can be issued, that the request is therefore initially denied, and that after further inquiry a final determination will be issued by the EPA legal office; and

(C) Refer the matter to the appropriate EPA legal office, furnishing the data prescribed by paragraph (f) of this section.

(2) If the EPA office determines that the information is clearly not entitled to confidential treatment under the substantive criteria of this subpart, or is clearly not entitled to confidential treatment because the business inexcusably failed to comply with applicable requirements of § 2.203, the EPA office shall furnish each affected business the notice,

(3) If the EPA office determines that the information is clearly not entitled to confidential treatment under the substantive criteria of this subpart, or is clearly not entitled to confidential treatment because the business inexcusably failed to comply with applicable requirements of § 2.203, the EPA office shall furnish each affected business the notice,



and take the other actions, required by § 2.205(f), including issuance of an initial determination (in accordance with subpart A and § 2.205(f)(5)) to any person whose request for the information is pending under 5 U.S.C. 552.

(e) *Notice to affected businesses soliciting comments on confidentiality claim.* Whenever required by paragraph (d)(1) of this section, the EPA office in possession of the information shall furnish each affected business, (by letter sent by certified mail, return receipt requested, or by personal delivery) notice that EPA is engaged in determining under this subpart whether the information is entitled to confidential treatment. The notice shall include a statement of the statutory and regulatory provisions which govern (or may govern) disclosure, and an invitation to the business to furnish to the Regional Counsel or General Counsel (as appropriate) detailed comments substantiating the claim of entitlement to confidential treatment of the information within 15 calendar days of the date of receipt of such notice. The notice shall state that the information may be made available to the public without further notice if detailed comments responding to all applicable portions of the request for comments are not received by EPA within the 15-day period (or any approved extension, see § 2.205(b)). The notice shall invite comments from the business on the following specific matters (except to the extent that comment on any such matter is unnecessary, e.g., where a class determination under § 2.207(b)(2) has been issued):

- (1) The portions of the information which are alleged to be entitled to confidential treatment, and what other allegedly confidential information, if any, would be divulged by disclosure of the information in question;
- (2) The applicability of any special statutory or regulatory provisions (i.e., §§ 2.301 through 2.309 and statutes cited therein) which govern or may govern the treatment of the information;
- (3) When and how the information was furnished to EPA;
- (4) Whether a business confidentiality claim accompanied the information when it was furnished to EPA, and if not, why not;
- (5) Measures taken by the business to protect the confidentiality of the information, and of similar information;
- (6) Prior disclosures to others of the information, and the extent to which the information is known by others;
- (7) The ease or difficulty of a competitor's obtaining the information;
- (8) Practices of other businesses concerning their policies regarding confidentiality of similar information;
- (9) How the information is used by the business, and why it is important to the business;
- (10) Why possession of the information confers a competitive advantage over others;
- (11) Adverse consequences to the business, financial and otherwise, that would

result from disclosure of the information;

(12) Whether the information was voluntarily submitted to EPA (see § 2.201(i)), and if so, whether and how disclosure of the information would tend to lessen the availability of similar information to EPA; and

(13) The existence and applicability of any prior determinations by EPA or by other Federal agencies concerning the entitlement to confidential treatment of the information in question.

(f) *Referral to EPA legal office.* Whenever required by paragraph (d)(1) of this section, the EPA office taking action under this section shall furnish to the EPA legal office the following items:

- (1) A copy of the information in question or (where the quantity or form of the information makes forwarding a copy of the information impractical) representative samples, a description of the information, or both;
- (2) Any request for release of the information under 5 U.S.C. 552, any initial determination responding to such request, and associated materials;
- (3) The referring office's categorization of the information under paragraphs (c) and (d) of this section;
- (4) Any business confidentiality claim(s) covering the information, including when and how the claims were asserted;
- (5) Any correspondence, memoranda of telephone conversations, prior determinations or pledges of confidentiality, or other written matter concerning confidentiality of the information;
- (6) A description of the circumstances and date of EPA's acquisition of the information;
- (7) Any statute which specifically authorized acquisition of the information or which may prescribe special rules for its treatment;
- (8) A statement of why the information is or is not thought to constitute voluntarily submitted information (see § 2.201(i));
- (9) Any information the EPA office may possess concerning the applicability of the pertinent substantive criteria of this subpart to the information in question, including any knowledge of the steps taken by the affected business to preserve the information's confidentiality, the ease or difficulty with which others could obtain the information, prior disclosures of the information, trade practices concerning confidentiality of the type of information in question, the harm that might be suffered by the affected business if the information were disclosed, and the likely effects of disclosure upon the receipt by EPA in the future of similar information;
- (10) The name, address and telephone number of the EPA employee(s) most familiar with the information and its acquisition;
- (11) The name, address and telephone number of each known affected business, and of its cognizant representative, if known; and
- (12) Any other comments the office believes might be useful.

#### § 2.205 Final confidentiality determination by EPA legal office.

(a) *Role of EPA legal office.* The appropriate EPA legal office (see paragraph (i) of this section) shall make the final determination of whether or not business information is entitled to confidential treatment, whenever a matter is referred to such office under § 2.204(b)(4) or § 2.204(d)(1). When release of the information has been requested under 5 U.S.C. 552, the EPA legal office's final determination shall serve as the determination on appeal from an initial determination adverse to the requestor, and applicable time limits for making such determinations shall be observed. If the legal office finds that it cannot properly determine within the time allowed by 5 U.S.C. 552(a)(6), it shall consider issuance of an extension notice in accordance with § 2.117, and, if necessary, may seek approval from the requestor of additional time for the determination. If available extensions do not provide sufficient time for a proper determination, the request shall be denied and the denial shall state that the determination process is continuing.

(b) *Period for comments by business.* Each business which has been furnished the notice and invitation to comment prescribed by § 2.204(b)(4)(B) or § 2.204(c) shall furnish the appropriate EPA legal office any comments the business desires to make in response to such invitation, in a manner which will ensure their receipt at the appropriate EPA installation within 15 calendar days of the date of receipt by the business of such notice, or within such other period for the furnishing of comments as is established under this section. The 15-day period may be extended if, during the 15-day period, an extension is requested by the business and approved by the EPA legal office. The 15-day period may be shortened if the business and the EPA legal office agree that the full 15-day period is unnecessary to protect the rights of each interested person, or if action is taken under paragraph (g) of this section. If comments are not received by the appropriate EPA installation within the 15-day period (or such other period as is established in lieu thereof), the EPA legal office shall make prompt inquiries to ensure that delay of the mails is not responsible. If delay of the mails is responsible, the legal office shall extend the period for comments by one day for each day of delay.

(c) *Failure to make timely comments; waiver or withdrawal of claim.* Failure by a business which has been invited to furnish comments to furnish such comments to EPA within the prescribed 15-day period (or such other period as is established in lieu thereof) for any reason other than delay of the mails shall constitute a waiver of the business's claim. Whenever the EPA legal office finds that all claims covering the information have been waived or otherwise withdrawn, it shall determine that the information is not entitled to confidential treatment. In such a case, subject to

§ 2.210, the information shall be available to the public, and the EPA legal office shall so inform any person who has requested release of the information under 5 U.S.C. 552.

(d) *Matters to be considered in making determination.* The EPA legal office shall consider all comments received within the 15-day period (or such other period as is established in lieu thereof), and shall consider such other evidence and views, and obtain such other comments, as appear necessary. The EPA legal office shall, after consideration of the procedural requirements and substantive criteria prescribed by this subpart, determine whether the information is entitled to confidential treatment.

(e) *Determination of entitlement to confidential treatment.* If the EPA legal office determines that the information is entitled to confidential treatment, EPA shall thereafter maintain the information in confidence, subject to § 2.209 and the other provisions of this subpart which authorize disclosure in specified circumstances, and the EPA legal office shall so inform each business on behalf of which an unwaived claim has been made. If any person has requested the release of the information under 5 U.S.C. 552, the EPA legal office shall furnish him a determination denying his request, which determination shall constitute the final determination by EPA on such request.

(f) *Determination of nonentitlement to confidential treatment; notice and waiting period.* (1) Notice of denial of a business confidentiality claim, in the form prescribed by paragraph (f)(2) of this section, shall be furnished—

(A) By the EPA office taking action under § 2.204, to each business on behalf of which a claim has been made, whenever § 2.204(b)(3) or § 2.204(d)(2) requires such notice; and

(B) By the EPA legal office acting under this section, to each business on behalf of which a claim has been made and which has furnished timely comments under paragraph (b) of this section, whenever the EPA legal office determines that the business has failed to satisfactorily explain any noncompliance with applicable requirements of § 2.203, or determines that comments submitted under § 2.205(b) consist merely of generalizations and conclusions or otherwise fail to satisfactorily substantiate the claim, or determines that the information is not entitled to confidential treatment under the applicable substantive criteria.

(2) The notice required by paragraph (f)(1) of this section shall be written, and shall be furnished by certified mail (return receipt requested) or by personal delivery. The notice shall state the basis for the determination, that it constitutes final agency action denying the business confidentiality claim made by or on behalf of the business, and that such final agency action may be subject to judicial review under chapter 7 of title 5, United States Code. The notice shall further state that unless EPA determines that the information is exempt from mandatory disclosure under 5 U.S.C. 552(b) for

reasons other than business confidentiality and cannot or should not be made available to the public, the information will be made available to the public—

(A) 10 calendar days after the date of receipt by the business of the notice, unless within that 10-day period EPA has been notified that the business has commenced an action in a Federal court to obtain judicial review of the denial of the business confidentiality claim; or

(B) 30 calendar days after the date of receipt by the business of the notice, unless within that 30-day period a Federal court (in an action instituted within the prescribed 10-day period) has ordered EPA not to make the information available to the public.

(3) If the 10-day period referred to in paragraph (f)(2)(A) of this section passes without receipt by EPA of notice that an action to obtain judicial review of the denial of the business confidentiality claim has been instituted, the office which furnished notice to the business under paragraph (f)(1) of this section shall make prompt inquiries to ensure that delay of the mails is not responsible. If delay of the mails is found to be responsible, the 10-day period shall be appropriately extended and interested persons shall be notified of the extension. If delay of the mails is not responsible, the information shall be made available to the public unless EPA determines that it is exempt from mandatory disclosure for reasons other than business confidentiality and cannot or should not be made available to the public.

(4) If, within the 10-day period referred to in paragraph (f)(2)(A) of this section, EPA is notified of the institution of an action to obtain judicial review of the denial of the business confidentiality claim, the information shall not be made available to the public until the end of the 30-day period referred to in paragraph (f)(2)(B) of this section. If, within such 30-day period, a Federal court (in an action instituted within such 10-day period) orders EPA not to make the information available to the public, the information shall be afforded confidential treatment until such time as EPA is no longer required by court order to maintain the confidentiality of the information, at which time, subject to § 2.210, the information shall be made available to the public. If, within such 30-day period, no such order is issued, the information shall be made available to the public, subject to § 2.210.

(5) If any person has submitted a request under 5 U.S.C. 552 for release of information and that request is pending at the time a notice concerning that information is furnished by EPA under paragraph (f)(2) of this section, the office which furnished the notice shall at the same time furnish such person a determination under 5 U.S.C. 552 that the information will be released in accordance with the provisions of paragraphs (f)(3) and (4) of this section.

(g) *Emergency situations.* When the Regional Counsel or General Counsel

finds that information on which he is acting under this section is relevant to a situation posing an imminent and substantial danger to public health or safety, he may prescribe and make known to interested persons such shorter comment period (paragraph (b) of this section), post-determination waiting period (paragraph (f) of this section), or both, as he finds necessary under the circumstances.

(h) *Effect of prior determinations.* If EPA receives a request under 5 U.S.C. 552 for information which has previously been determined by EPA to be entitled to confidential treatment for reasons of business confidentiality, or if an EPA office desires to make such information available to the public, the information shall, subject to § 2.210, be made available to the public if (and only if) the EPA legal office determines that confidential treatment is no longer warranted because of changes in the applicable law, newly-discovered facts, or the passage of time, or because the previous determination was clearly erroneous. The notice and comment procedure of § 2.204(b)(3)(B) and paragraphs (b) through (d) of this section, and the determination and release procedures of paragraphs (e) through (g) of this section, shall be used in making determinations under this paragraph (h).

(i) *Responsibility of various EPA legal offices; delegation.* Unless the General Counsel otherwise directs, or this subpart otherwise specifically provides, determinations and actions required by this subpart to be made or taken by the appropriate EPA legal office shall be made or taken by the appropriate Regional Counsel whenever the EPA office taking action under § 2.204 reports to an EPA Regional Administrator, and by the General Counsel in all other cases. The Regional Counsel and General Counsel may delegate their responsibilities under this subpart to other attorneys employed on a full-time basis by EPA.

#### § 2.206 Special procedure for advance confidentiality determinations.

(a) If an EPA office has requested that a business furnish EPA with business information which, if furnished, would be voluntarily submitted information (see § 2.201(i)), but the business refuses to submit the information for use by EPA unless EPA first determines that the information is entitled to confidential treatment, the EPA office may obtain an advance determination from the EPA legal office by—

(1) Arranging to have the business furnish directly to the appropriate EPA legal office a copy of the information (or, where feasible, a description of the information sufficient to allow a determination of entitlement to confidentiality to be made) with the business's comments responsive to paragraphs (e)(1), (e)(5) through (9), (e)(11) and (e)(12) of § 2.204; and

(2) Furnishing to the EPA legal office the data prescribed in paragraphs (e)(8) through (12) of § 2.204, with a request



for an advance determination under this section.

(b) If the EPA legal office determines that information described by paragraph (a) of this section is not entitled to confidential treatment, it shall so inform the concerned EPA office and the business, stating the basis for the determination, and shall return to the business all copies of the information which it may have received from the business (except that if a request under 5 U.S.C. 552 for release of the information is received while the EPA legal office is in possession of the information, the legal office shall retain a copy of the information, but shall not disclose it unless ordered by a Federal court to do so). The EPA legal office shall not disclose the information to any other EPA office and shall not use the information for any purpose except the determination under this section, unless otherwise directed by a Federal court.

(c) If the EPA legal office determines that information described by paragraph (a) of this section is entitled to confidential treatment, the information shall be forwarded to the concerned EPA office, and § 2.205(e) shall apply to the information.

#### § 2.207 Class determinations.

(a) If, while making a determination under § 2.205 or § 2.206, the Regional Counsel or General Counsel finds that the business information under consideration is part of a class of similar information held (or from time to time obtained) by EPA, he shall consider issuing a determination concerning the entitlement or nonentitlement of all information in that class to confidential treatment. A class determination may be issued by the General Counsel (or by the Regional Counsel, after consultation with the General Counsel) if—

(1) It is anticipated that questions of entitlement to confidential treatment of information within the class will continue to arise; and

(2) With respect to all information within the class, there exists a common factual situation which is determinative of whether all such information meets one or more of the applicable substantive criteria for entitlement to confidential treatment.

(b) A class determination shall take one of the following forms:

(1) A determination that for all information within the class, there has been a satisfactory showing that all the applicable substantive criteria for entitlement to confidential treatment have been met, and that accordingly any information within the class is entitled to confidential treatment if it is covered by a business confidentiality claim;

(2) A determination that for all information within the class, there has been a satisfactory showing that one or more, but not all, of the applicable substantive criteria have been met, and that accordingly any information within the class is entitled to confidential treatment if it is covered by a claim and if a showing satisfactory to the EPA legal office

is made concerning the remaining applicable substantive criteria; or

(3) A determination that none of the information within the class is entitled to confidential treatment, because it is impossible for any of the information in the class to meet one or more of the applicable substantive criteria.

(c) A class determination shall clearly define the class of information to which it pertains and the determinative factual situation upon which it is based.

#### § 2.208 Substantive criteria for use in confidentiality determinations.

Except where a statute not cited in this subpart requires that business information be afforded confidential treatment (see § 2.210(b)), the EPA legal office acting under § 2.205 will determine that information is entitled to confidential treatment for reasons of business confidentiality if (and only if) it is not ineligible for such treatment under § 2.203, § 2.204 or § 2.205(c), and a detailed showing, by (or on behalf of) a business on behalf of which a business confidentiality claim has been made, satisfies the EPA legal office that—

(a) The business has taken reasonable measures to protect the confidentiality of the information;

(b) The information is not readily obtainable by others by legitimate means;

(c) The business confidentiality claim covering the information is not unreasonable in view of the nature of the information, the interests and normal practices of the business, and the practices of other businesses;

(d) No statute specifically requires disclosure of the information; and

(e) Either—

(1) There is a substantial likelihood that disclosure of the information would substantially harm the competitive position of the business; or

(2) The information is voluntarily submitted information (see § 2.201(i)), and there is a substantial likelihood that its disclosure by EPA would lessen the availability of information to EPA, to the detriment of EPA's ability to perform its functions.

#### § 2.209 Disclosure of business information in special circumstances.

Notwithstanding the fact that information otherwise may be entitled to confidential treatment for reasons of business confidentiality, EPA may disclose any business information—

(a) If EPA has obtained the prior consent of each affected business to such disclosure;

(b) Upon a proper request, to either House of Congress, a committee of either House of Congress, or the Comptroller General (EPA will notify the requesting body of any prior business confidentiality claim covering the information, and of any prior EPA determination concerning entitlement to confidential treatment);

(c) Upon a proper request, and upon a showing that disclosure is required by law or authorized by 44 U.S.C. 3508, to another Federal agency (EPA will notify the requesting agency of any business

confidentiality claim covering the information, and of any prior EPA determination concerning entitlement to confidential treatment); or

(d) If its disclosure is duly ordered by a Federal court.

#### § 2.210 Nondisclosure for reasons other than business confidentiality or where disclosure is prohibited by statute.

(a) Whenever it is determined under any provision of this subpart that business information is not entitled to confidential treatment for reasons of business confidentiality, the information shall be available to the public on request unless EPA determines (under subpart A of this part) that the information is exempt from mandatory disclosure under 5 U.S.C. 552(b) for reasons other than business confidentiality and cannot or should not be made available to the public.

(b) Notwithstanding any other provision of this subpart, if business information is required to be given confidential treatment for reasons of business confidentiality under the provisions of any statute not cited in this subpart, the information shall be maintained in confidence by EPA. Questions concerning the applicability of this section shall be brought to the attention of an EPA legal office.

#### § 2.211 EPA procedures to safeguard business information.

No EPA office or employee may disclose, or permit to be disclosed, any recorded business information in EPA's possession, except as authorized by this subpart. An EPA office or employee may disclose such information to another EPA office or employee that has an official interest in the information. Each EPA office or employee that holds such information shall take appropriate steps to guard against its unauthorized disclosure.

#### §§ 2.212-2.300 [Reserved]

#### § 2.301 Special rules governing certain information obtained under the Clean Air Act.

(a) Definitions. For the purposes of this section.

(1) "Act" means the Clean Air Act, as amended, 42 U.S.C. 1857 et seq.

(2) "Emission data" means, with reference to any prior, existing or contemplated source of emission of any substance into the air, information stating the experienced or predicted amount, frequency, concentration, temperature, velocity or nature of any emission from the source, or any combination of the foregoing; a description of the location or nature of the source sufficient to identify it and to distinguish it from other sources (including, when necessary for identification, a description of the device, installation or operation constituting the source); and any information necessary to determine the emissions which a standard or limitation permits a source to emit. However, "emission

data" does not include information concerning research, or the results of research, on any product, device or laboratory-scale installation (or component thereof) which was produced, installed and used only for research purposes, and which does not belong to a class of products, devices or installations which are, or which are definitely scheduled to be, made commercially available or used for other than research purposes.

(3) "Standard or limitation" means any emission standard or limitation established or proposed pursuant to the Act or pursuant to any regulation under the Act.

(4) "Proceeding" means any rule-making, adjudication or licensing process conducted by EPA under the Act or under regulations which implement the Act, except for determinations under this subpart.

(5) "Manufacturer" has the meaning given it in section 214(1) of the Act, 42 U.S.C. 1857f-7(1).

(b) Applicability. (1) This section applies only to business information which was—

(A) Provided or obtained under section 114 of the Act, 42 U.S.C. 1857c-9, by the owner or operator of any stationary source, for the purpose (i) of developing or assisting in the development of any implementation plan under section 110 or 111(d) of the Act, 42 U.S.C. 1857c-5, 1857c-6(d), any standard of performance under section 111 of the Act, 42 U.S.C. 1857c-6, or any emission standard under section 112 of the Act, 42 U.S.C. 1857c-7, (ii) of determining whether any person is in violation of any such standard or any requirement of such a plan, or (iii) carrying out section 119 or 303 of the Act, 42 U.S.C. 1857c-10, 1857h-1;

(B) Provided or obtained under section 208 of the Act, 42 U.S.C. 1857f-6, by any manufacturer, for the purpose of enabling the Administrator to determine whether such manufacturer has acted or is acting in compliance with the Act and regulations under the Act; or

(C) Provided in response to a subpoena for the production of papers, books or documents issued under the authority of section 307(a) of the Act, 42 U.S.C. 1857-5(a).

(2) Information will be deemed to have been provided under section 114 or 208 of the Act if it was provided in response to a request by EPA or its authorized representative (or by a state air pollution control agency) made for any of the purposes stated in either such section, or if its submission could have been required under either such section, regardless of whether either such section was cited as authority in any request for the information; whether an order to provide such information was issued under section 113(a) of the Act, 42 U.S.C. 1857c-8(a); whether an action was brought under section 113(b) or 204 of the Act, 42 U.S.C. 1857c-8(b), 1857f-3; or whether the information was provided directly to EPA or through some third person.

(3) This section specifically does not apply to information obtained under section 115(j) or 211(b) of the Act, 42 U.S.C. 1857d(j), 1857f-4c(b).

(c) Basic rules which apply without change. Section 2.201 through § 2.205, § 2.207, § 2.209, and § 2.211 apply without change to information to which this section applies.

(d) Special procedure for advance confidentiality determinations. Section 2.206 does not apply to information to which this section applies, since by definition such information is not voluntarily submitted.

(e) Substantive criteria for use in confidentiality determinations. Section 2.208 does not apply to information to which this section applies. The EPA legal office acting under § 2.205 will determine that such information is entitled to confidential treatment for reasons of business confidentiality if (and only if) it is not ineligible for such treatment under § 2.203, § 2.204 or § 2.205(c), and a detailed showing, by (or on behalf of) a business on behalf of which a business confidentiality claim has been made, satisfies the EPA legal office that—

(1) The business has taken reasonable measures to protect the confidentiality of the information;

(2) The information is not readily obtainable by others by legitimate means;

(3) The business confidentiality claim covering the information is reasonable in view of the nature of the information, the interests and normal practices of the business, and the practices of other businesses;

(4) There is a substantial likelihood that disclosure of the information would substantially harm the competitive position of the business; and

(5) The information is neither emission data (see § 2.301(a)(2)) nor a standard or limitation (see § 2.301(a)(3)).

(f) Availability of information not entitled to confidential treatment. Section 2.210 does not apply to information to which this section applies. Emission data, standards or limitations, and any other information provided under section 114 or 208 of the Act which is determined under this subpart not to be entitled to confidential treatment, shall be available to the public notwithstanding any other provision of this part. Emission data, standards or limitations, and any other information provided in response to a subpoena for the production of papers, books or documents issued under the authority of section 307(a) of the Act, which is determined under this subpart not to be entitled to confidential treatment, shall be available to the public, unless EPA determines that the information is exempt from mandatory disclosure under 5 U.S.C. 552(b) for reasons other than business confidentiality and cannot or should not be made available to the public.

(g) Disclosure of information relevant to a proceeding. (1) Under sections 114, 206 and 307 of the Act, any information to which this section applies may be re-

leased by EPA because of its relevance to a matter in controversy in a proceeding (as defined in § 2.301(a)(4)), whether or not the information would otherwise be entitled to confidential treatment under this subpart. Release of information because of its relevance to a matter in controversy in a proceeding shall be made only in accordance with this paragraph (g).

(2) The procedures of this paragraph (g) may be initiated by the EPA office which will present EPA's position at a hearing in the proceeding (or, if the proceeding will not or may not include a hearing at which an EPA position will be presented, the EPA office which has primary responsibility for the proceeding). Any person who is not employed by EPA and who is participating in the proceeding may also initiate the procedures of this paragraph (g) by furnishing to the EPA office mentioned in the preceding sentence a written request for release of information under this paragraph (g), which request shall include:

(A) A description of the information sought;

(B) Prominent mention of this paragraph (g) and of the particular proceeding involved;

(C) Any information necessary for a determination under paragraph (g)(6) of this section; and

(D) Any commitment the requestor may wish to make concerning limitations on further use or disclosure of the information.

(3) If information is available to the public under § 2.204(b) or § 2.204(c) without need for further notice to any affected business, any request for or proposed release of the information shall be treated in accordance with § 2.204 rather than this paragraph (g).

(4) If the information may not be made available to the public under § 2.204(b) or § 2.204(c) without further notice to one or more affected businesses, and if the EPA office mentioned in paragraph (g)(2) of this section finds that the information appears to be relevant to a matter which is or is likely to be in controversy in the proceeding, the EPA office shall furnish each such affected business a written notice (by certified mail, return receipt requested, or by personal delivery) stating that EPA is considering release of the information under this paragraph (g). The notice shall indicate which proceeding is involved, shall state which EPA office or other person suggested release of the information, and shall enclose a copy of any request made under paragraph (g)(2) of this section. The notice shall afford the business an opportunity to furnish the EPA office comments concerning objections to the proposed release and/or possible protective arrangements or commitments that should be a condition of release, and shall state a date (found by the EPA office to be reasonable in the circumstances) for receipt by the EPA office of such comments. The notice shall further state that if comments are not submitted in a timely manner in response



to such notice, any claim covering the information will be treated as waived or withdrawn and the information will thereafter be available to the public.

(5) Unless all proposals for release of the information under this paragraph (g) have been withdrawn, in any case where timely comments are received in response to the notice under paragraph (g) (4) of this section the EPA office shall forward all documents pertaining to the matter to the hearing officer who is presiding over the proceeding (or, if no hearing officer is presiding, to the Regional Counsel or General Counsel), with a statement by the head of the office concerning the relevance of the information in question to matters which are or are likely to be in controversy in the proceeding, and a statement of whether release of the information would serve the public interest.

(6) The hearing officer (or Regional Counsel or General Counsel) to whom such documents have been furnished shall determine that the information may be released under this paragraph (g) if (and only if) he finds that the information is relevant to a matter which is or is likely to be in controversy in the proceeding, and—

(i) The EPA office which forwarded the documents to him has determined that release of the information would serve the public interest; or

(ii) He finds that a person not employed by EPA and who is participating in the proceeding has satisfactorily shown that (A) with respect to a significant matter which is or is likely to be in controversy in the proceeding, the person's ability to participate effectively in the proceeding will be significantly impaired unless the information is released, and (B) the harm to any affected business which is not a party to the proceeding (and not a necessary party) that would result from the proposed release of the information is outweighed by the harm which would result to the requesting person and to the public interest if release were not made.

(7) Whenever it is determined under paragraph (g) (6) of this section that information may be released under this paragraph (g), the EPA office mentioned in paragraph (g) (2) of this section shall furnish each business which has furnished timely comments concerning such release a notice (by certified mail, return receipt requested, or by personal delivery). The notice shall enclose a copy of the determination. The notice shall state that the information will be released in accordance with the determination, ten calendar days after the date of receipt by the business of the notice (except that a hearing officer may prescribe such shorter waiting period in his determination as he finds necessary to avoid delay of a proceeding which either concerns a situation posing an imminent and substantial danger to public health or welfare or is required by statute to be completed by a certain date).

(8) The hearing officer, Regional Counsel or General Counsel who deter-

mines under this paragraph (g) that information may be released may condition such release on the making of such protective arrangements and commitments as he finds warranted. Release of information under this paragraph (g) shall not, of itself, affect the entitlement of information to confidential treatment under other provisions of this subpart.

(h) *Disclosure to authorized representatives of EPA.* (1) Under sections 114, 208 and 307 of the Act, any information to which this section applies may be disclosed to any authorized representative of the United States, notwithstanding any other provision of or determination under this subpart. Such disclosures shall be made only in accordance with this paragraph (h).

(2) Except as otherwise approved by the General Counsel in specific instances, information will be disclosed under this paragraph (h) only to—

(i) Federal, State, interstate or local governmental bodies which have duties or responsibilities under the Act or under regulations which implement the Act; or

(ii) Persons under contract to EPA to perform work for EPA in connection with the Act or regulations which implement the Act.

(3) Information will be disclosed under this paragraph (h) only when it appears to the EPA office in possession of the information that the potential recipient of the information requires it in order to carry out duties, responsibilities or contract work under the Act or under regulations which implement the Act.

(4) Any information disclosed under this paragraph (h) shall bear (or be accompanied by) a clear and prominent notice stating that the information is or may be entitled to confidential treatment for reasons of business confidentiality.

(5) No disclosure under this paragraph (h) shall be made to any person under contract to EPA unless the contractor has first agreed in the contract that the contractor and its employees will use the information only for the purpose of carrying out the contract with EPA and will refrain from disclosing the information to anyone other than EPA without the prior written approval of each affected business or of an EPA legal office, and that the contractor will notify each of its employees having access to the information of such restrictions on use and disclosure of the information.

**§ 2.302 Special rules governing certain information obtained under the Federal Water Pollution Control Act.**

(a) *Definitions.* For the purposes of this section:

(1) "Act" means the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(2) "Effluent data" means, with reference to any prior, existing or contemplated source of any pollutant (as that term is defined in section 502(6) of the Act, 33 U.S.C. 1362(6)), information stating the experienced or predicted amount, frequency, concentration, temperature,

velocity or nature of any pollutant discharged from the source, or any combination of the foregoing; a description of the location or nature of the source sufficient to identify it and distinguish it from other sources (including, where necessary for identification, a description of the device, installation or operation constituting the source); and any information necessary to determine the emissions which a standard or limitation permits a source to emit. However, "effluent data" does not include information concerning research, or the results or research, on any product, device or laboratory-scale installation (or component thereof) which was produced, installed and used only for research purposes, and which does not belong to a class of products, devices or installations which are, or which are definitely scheduled to be, made commercially available or used for other than research purposes.

(3) "Standard or limitation" means any effluent limitation, or any toxic, pretreatment or new source performance standard established or proposed pursuant to the Act or pursuant to regulations under the Act, including limitations in a permit issued by EPA or by a State under section 402 of the Act, 33 U.S.C. 1342.

(4) "Proceeding" means any rulemaking, adjudication or licensing process conducted by EPA under the Act or under regulations which implement the Act, except for determinations under this subpart.

(b) *Applicability.* (1) This section applies only to information obtained or provided under section 308 of the Act, 33 U.S.C. 1318, by the owner or operator of any point source, for carrying out the objective of the Act.

(2) Information will be deemed to have been obtained or provided under section 308 of the Act if it was provided in response to a request by EPA (or a request by a state water pollution control agency) made for the purpose of carrying out the objective of the Act, or if its submission could have been required under section 308, regardless of whether section 308 was cited as authority for the request, whether an order to provide such information was issued under section 309 (a) (3) of the Act, 33 U.S.C. 1319(a) (3), whether a civil action was brought under section 309(b) of the Act, 33 U.S.C. 1319 (b), and whether the information was provided directly to EPA by the affected business or through some third person.

This section does not apply to information obtained under sections 310(d), 312 (g) (3) or 509(a) of the Act, 33 U.S.C. 1320(d), 1322(g) (3), 1369(a).

(c) *Basic rules which apply without change.* Section 2.201 through § 2.205, § 2.207, § 2.209 and § 2.211 apply without change to information to which this section applies.

(d) *Special procedure for advance confidentiality determinations.* Section 2.206 does not apply to information to which this section applies, since by definition such information is not voluntarily submitted.

(e) *Substantive criteria for use in confidentiality determinations.* Section 2.208 does not apply to information to which this section applies. The EPA legal office acting under § 2.205 will determine that such information is entitled to confidential treatment for reasons of business confidentiality if (and only if) it is not ineligible for such treatment under § 2.203, § 2.204 or § 2.205(c), and a detailed showing, by (or on behalf of) a business on behalf of which a business confidentiality claim has been made, satisfies the EPA legal office that—

(1) The business has taken reasonable measures to protect the confidentiality of the information;

(2) The information is not readily obtainable by others by legitimate means;

(3) The business confidentiality claim covering the information is reasonable in view of the nature of the information, the interests and normal practices of the business, and the practices of other businesses;

(4) There is a substantial likelihood that disclosure of the information would substantially harm the competitive position of the business; and

(5) The information is neither effluent data (see § 2.302(a) (2)) nor a standard or limitation (see § 2.302(a) (3)).

(f) *Availability of information not entitled to confidential treatment.* Section 2.210 does not apply to information to which this section applies. Effluent data, standards or limitations, and any other information to which this section applies which is determined under this subpart not to be entitled to confidential treatment, shall be available to the public notwithstanding any other provision of this part.

(g) *Disclosure of information relevant to a proceeding.* Under section 308 of the Act, any information to which this section applies may be released by EPA because of its relevance to a matter in controversy in a proceeding (as defined in § 2.302(a) (4)), whether or not the information would otherwise be entitled to confidential treatment under this subpart. Release of information because of its relevance to a matter in controversy in a proceeding shall be made only in accordance with this paragraph (g). The provisions of § 2.301(g) (2) through § 2.301(g) (8) are incorporated by reference as paragraphs (g) (2) through (g) (8) of this section.

(h) *Disclosure to authorized representatives of EPA.* Under section 308 of the Act, any information to which this section applies may be disclosed to any authorized representative of the United States, notwithstanding any other provision of or determination under this subpart. Such disclosures shall be made only in accordance with this paragraph (h). The provisions of § 2.301(h) (2) through § 2.301(h) (5) are incorporated by reference as paragraphs (h) (2) through (h) (5) of this section. For the purposes of this paragraph (h), references in the incorporated paragraphs to "Act" shall be deemed to be references to "Act" as defined in paragraph (a) (1) of this section.

**§ 2.303 Special rules governing certain information obtained under the Noise Control Act of 1972.**

(a) *Definitions.* For the purposes of this section:

(1) "Act" means the Noise Control Act of 1972, 42 U.S.C. 4901 et seq.

(2) "Manufacturer" has the meaning given it in 42 U.S.C. 4902(6).

(3) "Product" has the meaning given it in 42 U.S.C. 4902(3).

(4) "Proceeding" means any rulemaking, adjudication or licensing process conducted by EPA under the Act or under regulations which implement the Act, except for any determination under this part.

(b) *Applicability.* This section applies only to information provided to or obtained by EPA under section 13 of the Act, 42 U.S.C. 4912, by or from any manufacturer of any product to which regulations under section 6 or 8 of the Act (42 U.S.C. 4905, 4907) apply. Information will be deemed to have been provided or obtained under section 13 of the Act if it was provided in response to a request by EPA made for the purpose of enabling EPA to determine whether the manufacturer has acted or is acting in compliance with the Act, or if its submission could have been required under section 13 of the Act, regardless of whether section 13 was cited as authority for the request, whether an order to provide such information was issued under section 11(d) of the Act, 42 U.S.C. 4910 (d), and whether the information was provided directly to EPA by the manufacturer or through some third person.

(c) *Basic rules which apply without change.* Section 2.201 through § 2.205 and § 2.207 through § 2.211 apply without change to information to which this section applies.

(d) *Special procedure for advance confidentiality determinations.* Section 2.206 does not apply to information to which this section applies, since by definition such information is not voluntarily submitted.

(e) [Reserved.]

(f) [Reserved.]

(g) *Disclosure of information relevant to a proceeding.* Under section 13 of the Act, any information to which this section applies may be released by EPA because of its relevance to a matter in controversy in a proceeding (as defined in § 2.303(a) (4)), whether or not the information would otherwise be entitled to confidential treatment under this subpart. Release of information because of its relevance to a matter in controversy in a proceeding shall be made only in accordance with this paragraph (g). The provisions of § 2.301(g) (2) through § 2.301(g) (8) are incorporated by reference as paragraphs (g) (2) through (g) (8) of this section.

**§ 2.304 Special rules governing certain information obtained under the Safe Drinking Water Act.**

(a) *Definitions.* For the purposes of this section:

(1) "Act" means the Safe Drinking Water Act, Pub. L. 93-523 (Dec. 16, 1974), 88 Stat. 1660, 42 U.S.C. 300f et seq.

(2) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(3) "Proceeding" means any rulemaking, adjudication or licensing process conducted by EPA under the Act or under regulations which implement the Act, except for any determination under this part.

(b) *Applicability.* (1) This section applies only to information—

(A) Which was provided to or obtained by EPA pursuant to a requirement of a regulation which was issued by EPA under the Act for the purpose of—

(i) Assisting the Administrator in establishing regulations under the Act;

(ii) Determining whether the person providing the information has acted or is acting in compliance with the Act; or

(iii) Administering any program of financial assistance under the Act; and

(B) Which was provided by a person—

(i) Who is a supplier of water, as defined in section 1401(5) of the Act, 42 U.S.C. 300f(5);

(ii) Who is or may be subject to a primary drinking water regulation under section 1412 of the Act, 42 U.S.C. 300g-1;

(iii) Who is or may be subject to an applicable underground injection control program, as defined in section 1422(d) of the Act, 42 U.S.C. 300h-1(d);

(iv) Who is or may be subject to the permit requirements of section 1424(b) of the Act, 42 U.S.C. 300h-3(b);

(v) Who is or may be subject to an order issued under section 1441(c) of the Act, 42 U.S.C. 300j(c); or

(vi) Who is a grantee, as defined in section 1445(e) of the Act, 42 U.S.C. 300j-4(e).

(2) This section applies to any information which is described by paragraph (b) (1) of this section if it was provided in response to a request by EPA or its authorized representative (or by a State agency administering any program under the Act) made for any purpose stated in paragraph (b) (1) of this section, or if its submission could have been required under section 1445 of the Act, 42 U.S.C. 300j-4, regardless of whether such section was cited in any request for the information, or whether the information was provided directly to EPA or through some third person.

(c) *Basic rules which apply without change.* Section 2.201 through § 2.205, § 2.207, § 2.209, and § 2.211 apply without change to information to which this section applies.

(d) *Special procedure for advance confidentiality determinations.* Section 2.206 does not apply to information to which this section applies, since by definition such information is not voluntarily submitted.

(e) *Substantive criteria for use in confidentiality determinations.* Section 2.208 does not apply to information to which this section applies. The EPA legal office acting under § 2.205 will determine that such information is entitled to confidential treatment for reasons of business confidentiality if (and only if) it is not ineligible for such treatment under







## PROPOSED RULES

(2) Under 33 U.S.C. 1414, information received by EPA "in connection with any permit granted" under the Act is also required to be available to the public. It may not always be immediately clear whether given information was received by EPA in connection with a permit granted under the Act, however. When there is substantial doubt whether this section applies to the information in question, the various actions prescribed by § 2.204 should be taken; but if at any time it is clear that the information was received by EPA in connection with any permit granted under the Act, the information shall be determined to be available to the public and no further notice, inquiry or waiting period requirements need be followed.

(e) *Final confidentiality determination by EPA legal office.* Section 2.205 applies to information to which this section applies, except that the limitations contained in paragraph (d) of this section also apply to § 2.205 and to actions taken thereunder by an EPA legal office.

(f) *Special procedure for advance confidentiality determinations.* Section 2.206 does not apply to information to which this section applies.

(g) *Substantive criteria for use in confidentiality determinations.* Section 2.208 does not apply to information to which this section applies. Such information shall not be determined to be entitled to confidential treatment for reasons of business confidentiality or for any other reason and shall be available to the public.

(h) *Nondisclosure for reasons other than business confidentiality.* Section 2.210 does not apply to information to which this section applies; see paragraph (g) of this section.

## PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

2. By revising § 60.9 to read as follows:

## § 60.9 Availability of information.

The availability to the public of information provided to, or otherwise obtained by, the Administrator in accordance with this part shall be governed by part 2 of this chapter. Information submitted voluntarily to the Administrator for the purposes of §§ 60.5-60.8 is governed by § 2.200 through § 2.210 of this chapter and not by § 2.301 of this chapter.

## PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

3. By revising § 61.15 to read as follows:

## § 61.15 Availability of information.

The availability to the public of information provided to, or otherwise obtained by, the Administrator in accordance with this part shall be governed by part 2 of this chapter.

## PART 79—REGISTRATION OF FUEL ADDITIVES

4. By revising § 79.3 to read as follows:

## § 79.3 Availability of information.

The availability to the public of information provided to, or otherwise obtained by, the Administrator in accordance with this part shall be governed by part 2 of this chapter.

## PART 125—NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

5. By revising § 125.37 to read as follows:

## § 125.37 Public access to information.

Certifications issued pursuant to section 401 of the Act, the comments of all governmental agencies on a permit application, and draft permits prepared pursuant to § 125.31 shall be available to the public without restriction. The availability to the public of other information submitted by an applicant to the Administrator in connection with a permit application or which may be furnished by a permittee in connection with required periodic reports shall be governed by the provisions of part 2 of this chapter.

## PART 167—REGISTRATION OF PESTICIDE-PRODUCING ESTABLISHMENTS, SUBMISSION OF PESTICIDES REPORTS, AND LABELING

6. By revising § 167.5 to read as follows:

## § 167.5 Pesticides reports.

(d) The availability to the public of information provided to, or otherwise obtained by, the Administrator in accordance with this part shall be governed by part 2 of this chapter.

## PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

7. By revising paragraph (c) of § 180.7 to read as follows:

## § 180.7 Petitions proposing tolerances or exemptions for pesticide residues in or on raw agricultural commodities.

(c) Except as noted in paragraph (d) of this section, a petition shall not be accepted for filing if any of the data prescribed by section 408(d) are lacking or are not set forth so as to be readily understood. The availability to the public of information provided to, or otherwise obtained by, the Agency under this part shall be governed by part 2 of this chapter.

(5 U.S.C. 552, 553; secs. 114, 208, 301, and 307 of the Clean Air Act, as amended, 42 U.S.C. 1857c-9, 1857f-6, 1857g, 1857h-5; secs. 308 and 501 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1318, 1361; sec. 13 of the Noise Control Act of 1972, 42 U.S.C. 4912; secs. 1445 and 1450 of the Safe Drinking Water Act, 42 U.S.C. 300j-4, 300j-9; secs. 10 and 25 of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. 136h, 136v; sec. 408(f) of the Fed-

eral Food, Drug, and Cosmetic Act, as amended, 21 U.S.C. 346a(f); and secs. 104(f) and 108 of the Marine Protection, Research and Sanctuaries Act of 1972, 33 U.S.C. 1414 (f), 1418.)

[FR Doc. 75-13247 Filed 5-19-75; 8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

## [47 CFR Part 73]

[Docket No. 20480; RM-2515 etc.]

## FM BROADCAST STATIONS; CALIFORNIA AND TENNESSEE

## Table of Assignments; Notice of Proposed Rulemaking

1. This notice of proposed rulemaking sets forth five proposals for a first FM channel assignment. Each petitioner requests assignment of a Class A channel which would satisfy the spacing requirements. All petitioners state that they will apply for use of the channels and build promptly if the channels are assigned. A sixth proposal, that of Young Radio, Inc., requests an exchange of Class A channel assignments between St. Helena and Santa Rosa, California.

2. *St. Helena/Santa Rosa, California (RM-2515).* Young Radio, Inc., permittee of Station KVVN(FM) (Channel 269A, St. Helena, California), requests that the assignments at St. Helena and Santa Rosa be exchanged. Petitioner alleges that the change will provide a means by which to significantly improve the coverage for its area of service, the Napa Valley. Petitioner presents engineering data to show that the channel exchange will not adversely affect the Santa Rosa facility, KVRE-FM (Channel 257A). Since petitioner has submitted into the record a letter from the KVRE, Inc. president stating that that corporation has no objections to the exchange, we are not issuing an Order to Show Cause. We refer petitioner to the leading cases on reimbursement since KVRE, Inc.'s approval is conditioned upon its receiving the costs incurred because of the change.<sup>1</sup>

3. *Kalkaska, Michigan (RM-2519).* Roy E. Henderson requests the assignment of Channel 249A to Kalkaska as its first FM assignment. Kalkaska, approximately 55 miles south of the Mackinaw Bridge, has a population of 1,475 persons and is located in Kalkaska County (pop. 5,272). Neither the community nor the county presently receives local aural service. Petitioner alleges economic data which demonstrate the need for an FM channel. All minimum mileage separation requirements can be met without altering the existing Table of Assignments. No preclusion study is required. Since Kalkaska is within 250 miles of the Canada-United States border, Canadian approval of the proposal is required according to the Working Agreement under the Canada-United States FM Agreement of 1947.

<sup>1</sup> Circleville, Ohio, 8 F.C.C. 2d 159 (1967); Kenton and Bellefontaine, Ohio, 3 F.C.C. 2d 598 (1966).

4. *Newberry, Michigan (RM-2513).* Leon B. Van Dam asks that Channel 237A be assigned to Newberry as its first FM assignment. Newberry, approximately 100 miles north of Gaylord, Michigan, is the seat of Luce County (pop. 6,789) and has a population of 2,334 persons. Petitioner states that the nighttime services of an FM channel are required to provide the community with severe weather warnings. Minimum mileage separation requirements can be complied with and no preclusion study is necessary. Since Newberry is within 250 miles of the Canada-United States border, Canadian approval of the proposal is required according to the Working Agreement under the Canada-United States FM Agreement of 1947.

5. *Tarkio-Rock Port, Missouri (RM-2516).* Petitioner, Ashdown Broadcasters, Inc., asks that Channel 228A be assigned to Tarkio-Rock Port as the area's first FM assignment. The communities, in Atchison County (pop. 9,240), are located in northwest Missouri, just east of the Nebraska border and 11 miles south of the Iowa state line. Adequate evidence of need for a channel is submitted. Minimum mileage separation requirements are met and no preclusion study need be submitted. Since Tarkio is the larger of the two communities, population of 2,517 as compared to 1,575, the Commission proposes the assignment to that community. If assigned to Tarkio, the channel could be used at Rock Port since the two communities are approximately 7 miles apart. (Rules and regulations, § 73.203(b)).

6. *Surfside Beach, South Carolina (RM-2525).* Theodore J. Gray, Jr., requests the assignment of Channel 276A to Surfside Beach as its first FM assignment. Surfside Beach (pop. 1,329), in Horry County (pop. 69,992), is located approximately four miles south of Myrtle Beach, South Carolina. Sufficient economic data evidencing need for a channel have been submitted. Minimum mileage separation requirements can be met without changing the existing Table of Assignments. No preclusion study is necessary. Surfside presently has no local aural facility.

7. *Trenton, Tennessee (RM-2526).* Trentone Incorporated, licensee of WTNE(AM), Trenton, requests the assignment of Channel 249A to that community as its first FM assignment. Trenton (pop. 4,226), the seat of Gibson County (pop. 47,871), is located in central Tennessee, approximately 93 miles northwest of Memphis, Tennessee. Minimum mileage separation requirements can be met if the transmitter site is located 1 mile northeast of the community.

## § 73.202 [Amended]

8. In light of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) as follows:

## PROPOSED RULES

City	Channel number	
	Present	Proposed
St. Helena, Calif.	269A	257A
Santa Rosa, Calif.	257A, 261A	261A, 269A
Kalkaska, Mich.		249A
Newberry, Mich.		237A
Tarkio, Mo.		228A
Surfside Beach, S.C.		276A
Trenton, Tenn.		249A

9. The Commission's authority to institute rule making proceedings; showings required; cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated herein.

10. Interested parties may file comments on or before July 7, 1975, and reply comments on or before July 28, 1975.

Adopted: May 9, 1975.

Released: May 14, 1975.

FEDERAL COMMUNICATIONS COMMISSION,  
[SEAL] WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.

## APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(5) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the notice of proposed rulemaking to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this Appendix is attached. All submissions by parties to

this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 75-13239 Filed 5-19-75; 8:45 am]

## [47 CFR Part 73]

[Docket No. 20481 RM-2388]

## FM BROADCAST STATIONS, OREGON

## Table of Assignments; Notice of Proposed Rulemaking

In the Matter of § 73.202(b).

1. On April 29, 1974, KBND, Inc. (licensee of standard broadcast station KBND at Bend, Oregon) filed a petition for rule making requesting the assignment of FM Channel 243 to Bend, Oregon. No other revisions in our FM Table of Assignments were proposed. The petition was supplemented on May 3 and June 3, 1974.

2. Public notice of the filing of the petition was given by the Commission on June 18, 1974. A timely opposition to the petition was filed by Paulina Broadcasting Corporation (Paulina), licensee of FM Station KICE at Bend. Petitioner filed a response to the opposition.

3. Bend, Oregon (population 13,710)<sup>1</sup> (1960 population 11,936) is the seat of Deschutes County (population 30,442 (1960 population 23,100)). There are two standard broadcast stations in the community—KBND, licensed to petitioner and KGRL a daytime-only station which is licensed to Juniper Broadcasting, Inc. Two FM channels are assigned to Bend—231 (KXIQ) and 264 (KICE). Juniper Broadcasting, Inc. and Paulina are their respective licensees.

4. Bend, Oregon, is located approximately 90 miles east of Eugene, Oregon, and 120 miles southeast of Portland, Oregon. In advancing the assignment of a third FM channel to the community petitioner offers, and relies on, the following population statistics as facts which describe a rapidly accelerating growth in the Bend area.

... Bend's population as of February 1974 was estimated at 17,215, and the population of Deschutes County on that date was

<sup>1</sup> Population figures are from the 1970 U.S. Census unless otherwise specified.



## PROPOSED RULES

estimated at 37,340. . . . of primary significance is the fact that both Bend and Deschutes County are experiencing accelerated rates of growth, which are expected to continue. From 1960 to 1970, Bend grew from 11,936 people to 13,710 people, a gain of 1774 persons (or 14.9 percent). But since 1970, Bend's population has increased at a pace over 4 times greater than the growth rate experienced by the city during the 1960s. The average annual rate of growth between 1960 and 1970 was about 1.5 percent, but since 1970 it has accelerated to a level of about 6.6 percent. Another significant characteristic of the recent growth spurt has been the population's spillover beyond the corporate limits of Bend into the adjacent urban fringe area of Deschutes County. This was not a dominant feature of growth until the past several years. According to Albert D. Kreisker and Associates of Pasadena, California, the Bend Urban Area population as of February 1974 was almost 26,000 people. In 1970 that total was about 19,000 people. Thus, in the last four years the Bend Urban Area has grown by about 7,000 people, or by 34 percent. This volume of growth represents over 90 percent of the total growth in Deschutes County between 1970 and 1974, and the annual rate of growth for the Bend Urban Area since 1970 has been almost 9 percent. This is indeed dramatic growth. Since 1970 the population of Deschutes County has increased by 22.7 percent. Contrasted to the growth between 1960 and 1970, during which decade Deschutes County grew by only about 7,000 people, there is also accelerated growth in the county. The growth population characteristics in this area can be seen by the following graph:

"Population growth—1940-74"

"Area"	1940	1950	1960	1970	1974
City of Bend	10,921	11,409	11,936	13,710	17,215
Bend urban area				19,150	25,660
Deschutes County	18,631	21,812	23,100	30,442	37,340 <sup>1</sup>

<sup>1</sup> The quoted statistics offered by petitioner are maintained to have been drawn from: U.S. census; land use survey; urban area planning study; and Albert D. Kreisker and Associates.

Petitioner supports the above statistics concerning population with statistics demonstrating rapid growth in the following sectors of the area's life-education, employment, manufacturing, wholesale-retail trade, and contract construction which, for example, grew by 252 percent between 1962 and 1972 (building valuation in Bend increased from \$2.2 million in 1962 to almost \$18 million in 1973—a rate of 698 percent). The Bend Urban Area is predicted, by Albert D. Kreisker and Associates, to have a population of 45,000 people by 1985.

5. KBND, Inc.'s engineering study indicates that its proposal would not provide a first or second FM service to any part of the proposed coverage area, inasmuch as this area is already served by facilities on Channel 231 (KXIQ) and Channel 264 (KICE). Further, the proposed service would not provide nighttime service for any new areas. However, petitioner estimates that its proposal would provide a third potential FM service to a population of 22,538 in a 2,111 square mile area; a fourth potential FM service to a population of 17,658 in a 850

square mile area; and a fifth potential FM service to a population of 1,796 in a 219 square mile area.

6. With respect to channel preclusion—although the petitioner's engineering study indicates that the proposed assignment would result in preclusions on Channel 243 and on several adjacent channels, such preclusions fall on areas having a number of unoccupied assignments. Moreover, in most instances where such preclusion would occur the petitioner has proposed alternate assignments which appear to be technically feasible. Therefore, it is argued that the preclusion effects created by the petitioner's proposal are comparatively insignificant with respect to future availability of local FM services within the affected areas.

7. KBND, Inc.'s final assertion is that this rule making proceeding is in the public interest because it is an effort to maximize the available aural services at Bend while minimizing the delay in implementing them by avoiding a lengthy (and costly) comparative hearing between itself and Juniper Broadcasting, Inc., for the use of Channel 231 assigned to Bend (see Docket Nos. 19667-8). Petitioner maintains that it will promptly apply for the use of Channel 243 if it is assigned to Bend and if granted a construction permit, build a new FM station.

8. Paulina raises a variety of interrelated questions in connection with petitioner's proposal. It points out that its station would be at a severe disadvantage in the event petitioner's proposal is successful. KICE would be in competition with two AM-FM combinations at Bend—Juniper Broadcasting, Inc.'s KGRL and KXIQ and petitioner's KBND and the proposed Channel 243 operation. Paulina maintains that such a circumstance is violative of the public interest in that it advances an anti-competitive situation. The opposition goes on to state that granting petitioner's alleged population for Bend in 1974 (17,215), Bend already has more than ample aural service in its existing two AM and two FM stations and that this is particularly true if one considers the fact that a variety of distant FM signals are provided to the community over the local cable system. With regard to distant stations, it is asserted that the signals of several of them (KEZI and KFMV, Eugene, Oregon and KPAM-FM, Portland, Oregon) will be interfered with at Bend by the activation of a Channel 243 there. In addition, Paulina underscores the Commission's rule of thumb that communities under 50,000 in population normally should be assigned only two FM channels and argues that the said rule or policy precludes the assignment of Channel 243 to Bend. Finally, Paulina argues that it is Commission policy that a request for an additional assignment will normally not be considered if it is merely to eliminate a comparative hearing (citing Bangor, Maine, 21 RR 2d 1742 (1971)).

9. In response to the Paulina opposition, KBND, Inc. intimates that Paulina is preoccupied only with avoiding future

competition. KBND, Inc., explains that the AM-FM combination it hopes for in Bend meets the requirements of § 73.35 of our rules as to the proposed joint ownership. With regard to the question of the need of Bend for additional service, petitioner reiterates some of its demographic statistics underscoring the fact that Bend and its county are growing at a very rapid rate. Commenting on the allegation that a Channel 243 at Bend interferes with reception of some distant signals in Bend, KBND, Inc. simply remarks that the proposed FM service will be constructed in full accordance with the Commission's minimum mileage separation requirements—requirements which give other stations all the protection from interference they are due.

10. As to our population criteria which suggest the assignment of one or two channels to communities of under 50,000 population, petitioner asserts that where, as here, there is no adverse preclusionary impact there is good reason to exceed the criteria where there is an interested applicant. It further states that as pointed out by the Commission in Yakima, Washington, 42 F.C.C. 2d 548 (1973), the population guidelines are not viewed as a straitjacket precluding consideration of special circumstances.

11. Finally, petitioner argues that in trying to analogize the instant petition to the Bangor situation, Paulina has failed to mention that in the Bangor case there was preclusion of future assignments in a substantial area, which is not the situation here, and that the proposed Bangor assignment was contingent on another channel not being assigned to Augusta, Maine. Petitioner also asserts that the Commission has no per se ban on petitions for rule making to eliminate a comparative hearing but, rather, it will normally not consider that ground to be a sufficient showing. It implies that this situation is not normal since the proposed assignment to Bend may be made without any negative preclusionary impact, since it will be an assignment to a dramatically growing area, and since it will be applied for by a well-qualified and experienced broadcaster.

12. An evaluation of the pleadings in this proceeding at this time indicates that the matter requires a close examination of both the facts and the manner of application of both the facts and the manner of application of section 307(b) of the Communications Act. Hence, we find it in the public interest to commence a rule making proceeding to more closely evaluate petitioner's proposal to assign FM Channel 243 to Bend, Oregon.

13. Accordingly, we propose, for consideration, the following revision in our FM Table of Assignments (§ 73.202(b) of our rules) with respect to the city listed below:

City	Channel number	
	Present	Proposed
Bend, Oreg.	231, 264	231, 243, 264

14. Comments in this proceeding must be filed on or before July 7, 1975, while reply comments must be filed on or before July 28, 1975.

15. Authority for the institution of this rule making proceeding and the procedural rules and regulations governing it are set out and/or cited in the attached Appendix.

Adopted: May 9, 1975.

Released: May 15, 1975.

FEDERAL COMMUNICATIONS  
COMMISSION,  
[SEAL] WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.  
APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 73.202(b) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.419 of the Com-

## PROPOSED RULES

22005

mission's Rules and Regulations, an original and fourteen copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc.75-13238 Filed 5-19-75;8:45 am]

## [47 CFR Part 73]

[Docket No. 20479; RM-2447]

FM BROADCAST STATIONS,  
WEST VIRGINIA

## Table of Assignments; Notice of Proposed Rulemaking

1. *Petitioner, proposal, and comments.* (a) Petition for rulemaking filed August 5, 1974, by Hillbilly Broadcaster, Inc., proposing in the alternative, assignment of either Channel 224A or 265A to Princeton, West Virginia, as its second FM assignment.

(b) The assignment of Channel 224A requires no changes in the existing Table of Assignments. In order to assign Channel 265A to Princeton, however, unoccupied and unapplied for Channel 265A at Montgomery, West Virginia, would have to be deleted. Petitioner proposes Channel 296A as a substitute Montgomery assignment, should its Channel 265A alternative be adopted.

(c) Petitioner views a Channel 265A assignment as more desirable because it provides a greater number of transmitter site options.

2. *Demographic data.* (a) *Location:* Princeton, the seat of Mercer County, is approximately 75 miles south-southeast of Charleston, West Virginia. Montgomery, located on the Kanawha and Fayette Counties' border, is approximately 25 miles southeast of Charleston and 58 miles north-northwest of Princeton.

(b) *Population—1970 U.S. Census:* Princeton—7,253; Mercer County—63,206; Montgomery—2,525; Fayette County—49,332; Kanawha County—229,515.

(c) *Present local broadcast service:* Princeton receives local service from Class IV AM Station WAEY and WAEY-FM (Channel 240A). Local service is provided at Montgomery by Class IV AM Station WMON. Montgomery is also currently assigned unoccupied and unapplied for Channel 265A.

(d) *Economic considerations:* Petitioner has adduced economic evidence to indicate sufficient need for a second FM assignment.

3. *Preclusions.* The 224A alternative would cause preclusion on the co-channel and on Channel 225. If the Channel 265A assignment were made only co-channel preclusion would occur. Less area would be precluded by a Channel 265A assignment than would be precluded by a Channel 224A assignment. Moreover, were Channel 265A to be assigned to Princeton, Channel 224A would

be available for assignment in much of the Channel 265A preclusion area.

## § 73.202 [Amended]

4. In light of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) as follows:

City	Channel number	
	Present	Proposed
Princeton, W. Va.	240A	240A, 265A
Montgomery, W. Va.	265A	265A, 296A
Princeton, W. Va.	240A	242A, 240A

5. The Commission's authority to institute rule making proceedings, showings required; cut-off procedures; and filing requirements are contained in the attached Appendix and are incorporated herein.

6. Interested parties may file comments on or before July 7, 1975, and reply comments on or before July 28, 1975.

Adopted: May 9, 1975.

Released: May 13, 1975.

FEDERAL COMMUNICATIONS  
COMMISSION,  
[SEAL] WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.  
APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b) (6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rule making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rule making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See section 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.



4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of section 1.419 of the Commission's rules and regulations, an original and fourteen copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW, Washington, D.C.

[FR Doc.75-13081 Filed 5-19-75; 8:45 am]

# FEDERAL POWER COMMISSION

[18 CFR Parts 2, 154, 157]

[Docket No. RM75-14]

## NATURAL GAS

### National Rates for Jurisdictional Sales; Further Extension of Time

MAY 13, 1975.

National rates for jurisdictional sales of natural gas dedicated to interstate commerce on or after January 1, 1973, for the period January 1, 1975, to December 31, 1976.

Notice is hereby given that the date for filing comments in the above matter, set by notice issued March 4, 1975 (40 FR 11739, March 13, 1975), is further extended to and including May 30, 1975, and the date for filing reply comments is further extended to and including June 30, 1975.

By direction of the Commission.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13126 Filed 5-19-75; 8:45 am]

## notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

### DEPARTMENT OF STATE

[CM-5/49]

#### ADVISORY COMMITTEE ON THE LAW OF THE SEA

##### Closed Meeting

In accordance with section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the Advisory Committee on the Law of the Sea will hold both closed and open meetings on Friday, June 27 and Saturday, June 28, 1975, in the International Conference Room, Room 1309, U.S. Department of State, Washington, D.C. The open session of the meeting will take place on Saturday, June 28, 1975, at 1 p.m.

The purpose of the closed meeting is to review developments of the 1975 Geneva Session of the Third United Nations Conference on the Law of the Sea and to discuss preparations for further negotiations. During these closed sessions, documents classified under the provisions of Executive Order 11652 will be discussed.

These documents, which contain new substantive proposals as well as revisions of earlier policy statements, relate to the issues which the United States will be further negotiating in the Conference. The documents are exempt under 5 USC 552(b) (1), and are required to be withheld from disclosure in the public interest.

The issues cover such subjects as freedom of navigation on the high seas and in international straits, the establishment of a deep seabeds mining regime, the breadth of the continental margin, the juridical content of the economic zone, and other related topics involving U.S. national security matters. Premature disclosure of the contents of these documents could adversely affect our foreign relations interests and jeopardize the chances of obtaining a timely and satisfactory Law of the Sea Treaty.

The open session of the Advisory Committee meeting will discuss all principal agenda issues to be considered during the Third United Nations Conference on the Law of the Sea, including those issues stated above, but will not examine the classified items discussed during the closed session.

The Advisory Committee on the Law of the Sea represents a broad cross-section of industries, professions, academic disciplines and other public groups. As such, it will comprehensively review the pro-

posals which will come before the Conference.

Dated: April 30, 1975.

OTHO E. ESKIN,  
Staff Director, NSC Interagency  
Task Force on the Law of the  
Sea.

[FR Doc.75-13148 Filed 5-19-75; 8:45 am]

[CM-5/50]

#### ADVISORY COMMITTEE ON PRIVATE INTERNATIONAL LAW

##### Meeting

A meeting of the Study Group on Matrimonial Matters, a subgroup of the Secretary of State's Advisory Committee on Private International Law, will take place on Wednesday, June 4, 1975, at Pleasant Hall, Louisiana State University, Baton Rouge, Louisiana. The meeting, which will begin at 10 a.m., will be open to the public.

The purpose of the meeting is to review the conclusions provisionally adopted by the first session of the Hague Conference's Special Commission on Matrimonial Property and to review a draft convention based on those conclusions that will be considered at a second meeting of the Special Commission beginning on June 9.

Members of the public who desire to attend the meeting will be admitted up to the limits of the capacity of the meeting room. It is requested that prior to June 2, 1975, members of the general public who plan to attend the meeting inform their name and affiliation and address to Mr. Robert E. Dalton, Office of the Legal Adviser, Department of State; the telephone number is area code 202, 632-2107.

Dated: May 14, 1975.

ROBERT E. DALTON,  
Executive Director.  
[FR Doc.75-13163 Filed 5-19-75; 8:45 am]

### DEPARTMENT OF THE TREASURY

#### Customs Service

##### CHEESE FROM AUSTRIA

##### Preliminary Countervailing Duty Determination

On January 15, 1975, a "Notice of Receipt of Countervailing Duty Petitions" was published in the FEDERAL REGISTER (40 FR 2718). The notice stated that

petitions had been received, including among others, a petition alleging that payments, bestowals, rebates or refunds, granted by the Government of Austria upon the manufacture, production, or exportation of cheese constitute the payment or bestowal of a bounty or grant, directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303).

It has been tentatively determined that payments are being made, directly or indirectly upon the manufacture, production, or exportation of Austrian cheese, which constitute a bounty or grant within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303).

Information indicates that the bounty or grant on certain soft cheeses range from approximately \$0.02 to \$0.40 per pound, and on certain hard cheeses from approximately \$0.20 to \$0.33 per pound.

Interested persons are invited to submit any relevant data, views, or arguments with respect to this preliminary determination in writing to the Commissioner of Customs, 2100 K Street, NW., Washington, D.C. 20229, in time to be received by his office not later than June 19, 1975.

This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

[SEAL] VERNON D. ACREE,  
Commissioner of Customs.

Approved: May 7, 1975.

DAVID R. MACDONALD,  
Assistant Secretary of the Treasury.

[FR Doc.75-12859 Filed 5-19-75; 8:45 am]

[T.D. 75-111; Customs Delegation Order No. 49]

#### REGIONAL DIRECTORS OF INVESTIGATIONS ET AL

##### Customs Officers Delegation of Authority

MAY 9, 1975.

By virtue of authority vested in me by Treasury Department Order No. 165, Revised (T.D. 53654, 19 FR 7241), as amended, there are hereby delegated to regional directors of investigations, assistant regional directors of investigations, special agents in charge, resident agents, Customs attaches and senior Customs representatives of the United States Customs Service the functions,



rights, privileges, powers, and duties under section 509 of the Tariff Act of 1930, as amended (19 U.S.C. 1509), to cite to appear before them and examine upon oath, which they are authorized to administer, any owner, importer, consignee, agent, or other person upon any matter or thing which they may deem material with respect to any imported merchandise then under consideration or previously imported within one year, in ascertaining the classification or the value thereof or the rate or amount of duty; to require the production of any letters, accounts, contracts, invoices, or other documents relating to said merchandise; and to require such testimony to be reduced to writing. This delegation of authority will become effective May 20, 1975.

The above delegation of authority in no way affects similar delegations of authority to various other Customs officers contained in Customs Delegation Orders No. 22 and 40 (T.D. 56470, 30 FR 11180; T.D. 71-61, 36 FR 3830).

This order supersedes Customs Delegation Order No. 38, dated September 1, 1970 (T.D. 70-194, 35 FR 14223).

[SEAL] VERNON D. ACREE,  
Commissioner of Customs.  
[FR Doc.75-13176 Filed 5-19-75; 8:45 am]

## DEPARTMENT OF DEFENSE

### Department of the Army MILITARY HISTORY RESEARCH COLLECTION ADVISORY COMMITTEE Meeting Cancellation

This is to announce that the planned meeting of the U.S. Army Military History Research Collection Advisory Committee which was scheduled for May 22 and 23, 1975, in Upton Hall, Carlisle Barracks, Pennsylvania will not be held. The meeting was announced on page 18189 of the April 25, 1975, issue of the FEDERAL REGISTER.

By authority of the Secretary of the Army.

Dated: May 12, 1975.

FRED R. ZIMMERMAN,  
Lt. Colonel, U.S. Army,  
Chief, Plans Office, TAGO.

[FR Doc.75-13139 Filed 5-19-75; 8:45 am]

### Department of the Navy CHIEF OF NAVAL OPERATIONS EXECUTIVE PANEL ADVISORY COMMITTEE Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations Executive Panel Advisory Committee will hold a closed meeting on June 5 and 6, 1975, at the Pentagon, Washington, D.C. The sessions will commence at 9:00 a.m. and terminate at 5:30 p.m. daily. The agenda will consist of matters required by Executive Order to be kept secret in the interest of national defense, including intelligence systems and applications,

anti-submarine warfare technology, and long-range Navy plans. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that this meeting be closed to the public because it will be concerned with matters listed in section 552(b)(1) of title 5, United States Code.

Dated: May 14, 1975.

WILLIAM O. MILLER,  
Rear Admiral, JAGC, U.S. Navy  
Acting Judge Advocate General.

[FR Doc.75-13140 Filed 5-19-75; 8:45 am]

### CHIEF OF NAVAL OPERATIONS INDUSTRY ADVISORY COMMITTEE FOR TELE- COMMUNICATIONS (CIATC)

#### Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given of a closed meeting of the Chief of Naval Operations Industry Advisory Committee for Telecommunications (CIATC) on June 11 and 12, 1975. The meeting will commence at 9 a.m. on both days, at the facilities of the Naval Electronics Systems Command Headquarters, Arlington, Virginia. The purpose of the meeting is to solicit the advice of the committee concerning command and control and communications developments being undertaken by the Navy pertaining to matters which are classified in the interest of national defense and required to be kept secret. For that reason, the Secretary of the Navy has determined in writing that the entire meeting be closed to the public because it will be concerned with matters listed in section 552(b)(1) of title 5, United States Code.

Dated: May 14, 1975.

WILLIAM O. MILLER,  
Rear Admiral, JAGC, U.S. Navy  
Acting Judge Advocate General.

[FR Doc.75-13141 Filed 5-19-75; 8:45 am]

### Office of the Secretary DEPARTMENT OF DEFENSE COMMITTEE MANAGEMENT PROGRAM Organization and Functions

The Deputy Secretary of Defense approved the following:

- Refs.:
- (a) P. L. 92-463, "Federal Advisory Committee Act"
  - (b) Executive Order 11789, "Advisory Committee Management"
  - (c) OMB Circular A-63, "Advisory Committee Management," March 27, 1974
  - (d) Title 5 U.S.C. Section 552, "Freedom of Information Act"
  - (e) DoD Directive 5105.18, "Department of Defense Committee Management Program," August 25, 1969 (hereby cancelled)
  - (f) DoD Instruction 5030.13, "Regulations for the Formation and Use of Advisory Committees," April 20, 1962 (hereby cancelled)
  - (g) DoD Instruction 5030.39, "Interagency Committees," December 9, 1968 (hereby cancelled)

(h) DoD Directive 5000.19, "Policies for the Management and Control of DoD Information Requirements," June 2, 1971

(i) DASD(A) Multiaddressee Memorandum, "Committee Management," June 26, 1972 (hereby cancelled)

(j) SecDef Multiaddressee Memorandum, "Interagency and Advisory Committees," December 28, 1973 (hereby cancelled)

I. Purpose. This Directive implements references (a), (b), and (c); defines terms; establishes policy, and assigns responsibilities for the Department of Defense Committee Management Program.

II. Cancellations. References (e), (f), (g), (i), (j), and Report Control Symbols DD-A(A) 923, DD-A(A) 1195, and DD-A(A) 1319 are hereby superseded and cancelled.

III. Applicability. The provisions of this Directive apply to the Office of the Secretary of Defense, Organization of the Joint Chiefs of Staff, Unified and Specified Commands, Military Departments, and Defense Agencies (hereinafter referred to collectively as "DoD Components").

IV. Definitions. As used herein, the following definitions apply:

A. Committee. A committee is a body of persons with a collective responsibility appointed to consider, investigate, advise or take action, and usually to report on specific problems or subject areas. The prime characteristic, however, is the corporate or collective responsibility. The term "committee," applies to any committee, board, commission, council, conference, panel, task force or other similar group or any subcommittee or any subgroup thereof which is established by statute or reorganization plan, or established or utilized by the President, or established or utilized by one or more agencies in the interest of obtaining advice or recommendations for the President, or one or more agencies or officers of the Federal Government.

1. Advisory Committee. Any committee which is not composed wholly of full-time officers or employees of the Federal Government.

2. Interagency Committee. Any committee which has membership that consists wholly of representatives from two or more departments or agencies of the Federal Government.

3. International Committee. Any committee established by formal agreement between the United States and the government of another country(s), or by an international body in which the United States participates.

4. Operational Committee. Operational committees are those whose primary functions and responsibilities are operational rather than advisory in nature. An operational committee which is not composed wholly of full-time officers or employees of the Federal Government will not be established without the express approval of the DoD Committee Management Officer. This approval will be given only after consultation with the General Counsel.

5. Joint DoD Committee. Any committee which has a membership that consists wholly of DoD representatives from two or more DoD Components.

6. Intra-component Committee. Any committee which has a membership that consists wholly of representatives from one DoD Component.

V. Policy. A. Committees will not be established to perform duties, responsibilities and functions that can be accomplished effectively through command or staff actions.

B. Committees will be established to perform such tasks as fact-finding, research, special studies, audit, review, and inspections.

C. Advisory committees will not be established to perform operational, administrative, or management responsibilities such as administering programs and making determinations, or to effect coordination required in the performance of such responsibilities.

D. Nothing contained in this Directive will be construed to limit or restrict the free exchange of information, advice and ideas between representatives of DoD Components or other Departments and Agencies of the Executive Branch through regular or occasional meetings or other means, as long as such arrangements do not require the issuance of formal charters or terms of reference or the formal designation of membership on a committee.

VI. Responsibilities. A. The Assistant Secretary of Defense (Comptroller) or his designee shall:

1. Provide policy guidance and prescribe operating procedures for the DoD Committee Management Program to ensure compliance with the requirements of this Directive and references (a) through (d).

2. Recommend approval or disapproval to the Office of Management and Budget (OMB) of the establishment of the continuation of DoD advisory committees.

3. Obtain such information, analyses, reports, and assistance from DoD Components as he deems necessary to perform his assigned functions consistent with the policies and criteria of DoD Directive 5000.19 (reference (h)).

4. Maintain liaison with the OMB and other Government Agencies as required.

5. Designate a DoD Committee Management Officer who is responsible for ensuring compliance with this Directive and references (a) through (c).

B. Secretaries of the Military Departments, Chairman, Joint Chiefs of Staff, Principal Staff Assistants to the Secretary of Defense (Director of Defense Research and Engineering, Assistant Secretaries of Defense, and Assistant to the Secretary of Defense or equivalent) and Directors of Defense Agencies shall:

1. Ensure that the committees under their cognizance comply with the require-

ments of this Directive and references (a) through (d).

2. Provide supplemental guidance as required for the efficient operation of the DoD Committee Management Program.

3. Manage all aspects, including internal reporting requirements and the approval or disapproval of proposals for the establishment, revision, continuation or termination of interagency, operational, Joint DoD and Intra-component committees under their cognizance.

4. Approve or disapprove proposals for participation by their components on committees chaired by another DoD Component or Federal department or agency.

5. Submit to the Assistant Secretary of Defense (Comptroller) proposals to establish, revise, continue or terminate all advisory committees under their cognizance.

6. Maintain information about the program, objectives, and activities of each committee established within their organizations (including affiliation and participation) and providing, as required, reports to the Assistant Secretary of Defense (Comptroller) on such matters.

7. Ensure that action is taken to respond to requests submitted under the "Freedom of Information Act" (reference (d)) requesting information concerning committees.

8. Provide assistance to the Assistant Secretary of Defense (Comptroller) in the review of existing committees and development of recommendations for revision, consolidation, or termination.

9. Make a determination, when appropriate, that part or all of an advisory committee meeting shall be closed to the public in accordance with section 10(d) of the Federal Advisory Committee Act (reference (a)).

10. Submit required reports on a timely basis.

11. Designate a Committee Management Officer to assist in the performance of the above responsibilities and functions. The individual so designated will be of sufficient stature in the organization, that he or she will be capable of effectively carrying out this program.

VII. Operating guidelines for advisory committees. A. Except when the President determines otherwise for reasons of national security, a notice of each advisory committee meeting will be published in the FEDERAL REGISTER at least 15 days before the date of the meeting. If an emergency situation arises whereby a notice of meeting has to be published giving less than 15 days' notice, such notice shall not be published without prior approval of the DoD Committee Management Officer.

B. The notice should state the name of the advisory committee, time, place and purpose of the meeting (including where possible a summary of the agenda). Notices should state whether meetings are open or closed to the public. If the meeting is to be closed, in whole or in part, the notice should give good reason and cite the applicable Section of 5 U.S.C. 552(b) (reference (d)).

1. Filed as part of original. Copies available from U.S. Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, Pennsylvania 19120. Attention: Code 300.

C. Subject to 5 U.S.C. 552(b), the records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agenda, or other documents which were made available to or prepared for or by each advisory committee will be available for public inspection and copying at a single location in the offices of the advisory committee or the Agency to which the advisory committee reports.

D. Detailed minutes of each advisory committee meeting will be kept and will contain a record of persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the advisory committee. The accuracy of all minutes will be certified to by the chairman of the advisory committee.

E. There will be designated an officer or employee of the Federal Government to chair or attend each meeting of each advisory committee. The officer or employee so designated is authorized, whenever he determines it to be in the public interest, to adjourn any such meeting. Advisory committee meetings will not be conducted in the absence of that officer or employee.

F. Advisory committees will not hold any meetings except at the call, or with the advance approval of, a designated officer or employee of the Federal Government.

G. Eight copies of each report made by an advisory committee will be filed with the Library of Congress.

VIII. Reporting requirements. As prescribed in references (a) through (c), annual reports on Federal Advisory Committees are required by the General Services Administration and OMB. These information requirements are assigned Interagency Report Control Number 1121-GSA-AN, which supersedes Report Control Symbol DD-A(A) 1319. Since the due dates and formats of these reports have varied from year to year, no specific reporting requirements are included in this Directive. Every attempt will be made to provide all DoD Components with as much lead time as possible.

IX. Effective date and implementation. This Directive is effective immediately. Two copies of implementing regulations shall be forwarded to the Assistant Secretary of Defense (Comptroller) within 90 days.

MAURICE W. ROCHE,  
Director, Correspondence and  
Directives OASD (Comptroller).

MAY 15, 1975.  
[FR Doc.75-13244 Filed 5-19-75; 8:45 am]

DEFENSE SCIENCE BOARD TASK FORCE  
ON "ELECTRONIC TEST EQUIPMENT"

Advisory Committee Meeting

Pursuant to the provisions of Pub. L. 92-463, notice is hereby given that the Defense Science Board Task Force on "Electronic Test Equipment" will meet in open session on 9 and 10 June in Room 9W67, National Center Building #1, 2511



Jefferson Davis Highway, Arlington, Virginia. The session will commence at 9 a.m. each day.

The mission of the Defense Science Board is to advise the Secretary of Defense and Director of Defense Research and Engineering on overall research and engineering and to provide long-range guidance in these areas to the Department of Defense.

The primary responsibility of the Task Force is to examine the greater use of the Department of Defense of privately-developed, commercially-available, off-the-shelf electronic test equipment, including modifications thereof, with the goal of achieving economy and reliability benefits for the several Armed Services and to recommend policies and procedures which will maximize these benefits.

This will be the fourth meeting of the Task Force. The planned agenda will cover three general areas:

1. Procurement.
2. Logistics.
3. Applications, Requirements and Equipment.

The detailed discussions and investigations into these general areas will be conducted by working groups made up of designated Task Force members or their designated representatives and selected Task Force observers. The working groups will meet as required and all interested parties and observers are invited, and encouraged, to attend these meetings. Each working group will formulate proposals related to its general area of responsibility corresponding to one of the three specified above. These proposals will be discussed with the Task Force as a whole for consideration, consolidation, modification and approval. The working group proposals as approved by the Task Force will form the basis for the ultimate Task Force recommendations.

Persons wishing to attend are advised that a reasonable quantity of seating for observers will be available on a first-come, first-seated basis. No specific arrangements or notification of desire to attend is necessary.

The Executive Secretary for the Task Force is Mr. Rudolph J. Sgro, OASD (I&L) WS Room 2A318, Pentagon, Washington, D.C. 20301.

MAURICE W. ROCHE,  
Director, Correspondence and  
Directives OASD (Comptrol-  
ler).

MAY 15, 1975.

[FR Doc. 75-13245 Filed 5-19-75; 8:45 am]

#### DEPARTMENT OF JUSTICE

##### Antitrust Division

#### UNITED STATES VS. REAL ESTATE BOARD OF ROCHESTER, N.Y., INC.

##### Proposed Consent Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. 16(b)-(h), that a proposed consent judgment and a com-

petitive impact statement as set out below have been filed with the United States District Court for the Western District of New York in Civil Action No. 74-535, United States v. Real Estate Board of Rochester, N.Y., Inc. The judgment was entered on December 23, 1974; however, the effective date has been stayed pending compliance with the APPA. The complaint in this case alleges that the defendant, Real Estate Board of Rochester, N.Y., Inc. ("Board") and co-conspirator members of the Board had combined and conspired to restrain trade and commerce in the commissions and fees charged in the sale, exchange, rental, leasing and mortgage of real estate in violation of section 1 of the Sherman Act. The proposed judgment forbids the Board and its members, among other things, from establishing, suggesting or otherwise attempting to influence rates, commission or other fees to be charged by its salesmen. The proposed judgment additionally prohibits the Board from requiring that its members only accept exclusive listings and also prohibits the Board from maintaining unreasonably high membership dues or otherwise excluding qualified applicants from the Board and from using its multiple listing service. Public comment is invited on or before July 19, 1975. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be addressed to Bernard Wehrmann, Antitrust Division, Department of Justice, 26 Federal Plaza, Room 3630, New York, New York 10007.

Dated: May 13, 1975.

THOMAS E. KAUPER,  
Assistant Attorney General  
Antitrust Division.

UNITED STATES DISTRICT COURT, WESTERN  
DISTRICT OF NEW YORK

(Civil No. 74-535)

UNITED STATES OF AMERICA, PLAINTIFF, V. REAL  
ESTATE BOARD OF ROCHESTER, N.Y., INC., DE-  
FENDANT

Filed: November 19, 1974.

Entered: December 23, 1974.

##### STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

(1) The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court at any time after the expiration of thirty (30) days following the date of filing of this Stipulation without further notice to any party or other proceedings, either upon the motion of any party or upon the Court's own motion, provided that plaintiff has not withdrawn its consent as provided herein.

(2) The plaintiff may withdraw its consent hereto at any time within said period of thirty (30) days by serving notice thereof upon the defendant herein and filing said notice with the Court.

(3) In the event plaintiff withdraws its consent hereto, this Stipulation shall be of no effect whatever in this or any other proceeding and the making of this Stipulation shall not in any manner prejudice any consenting party in any subsequent proceedings.

Dated: October —, 1974.

For the Plaintiff: Thomas E. Kauper, Assistant Attorney General; Baddia J. Rashid, Bernard M. Hollander, Bernard Wehrmann, Attorneys, Department of Justice; Philip F. Cody, Paul D. Sapienza, Attorneys, Department of Justice; John T. Elfin, United States Attorney; By Gerald Houlihan, Assistant United States Attorney.

For the Defendant: Real Estate Board of Rochester, N.Y., Inc., Elliott Horton, Harris, Beach and Wilcox, Two State Street, Rochester, New York 14614 (716) 232-4440; C. Richard Cole, Wiser, Shaw, Freeman, Van Graafeiland, Harter & Secrest, 700 Midtown Tower, Rochester, New York 14604 (716) 232-6500; Attorneys for Defendant.

So ordered: Rochester, N.Y.

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

(Civil Action No. 74-535)

UNITED STATES OF AMERICA, Plaintiff,  
v. REAL ESTATE BOARD OF ROCHESTER,  
N.Y., INC., Defendant.

Entered: December 23, 1974.

##### FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint here in on Nov. 19, 1974, and Plaintiff and Defendant by their respective attorneys, having consented to the making and entry of this Final Judgment, without admission by either party in respect to any issue and without this Final Judgment constituting evidence or an admission by any party hereto with respect to any issue;

Now, therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, adjudged and decreed, as follows:

I. This Court has jurisdiction over the subject matter of this action and of the parties hereto. The Complaint states claims upon which relief may be granted against the Defendant under section 1 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. § 1), commonly known as the Sherman Act.

II. As used in this Final Judgment:

(A) "Board" shall mean the Defendant Real Estate Board of Rochester, N.Y., Inc.;

(B) "Multiple Listing Service" shall mean any plan or program for the circulation of real property listings among brokers;

(C) "Person" shall mean any individual, partnership, firm, association, corporation, real estate agency, member of Defendant or other business or legal entity.

III. The provisions of this Final Judgment shall apply to the Defendant and to each of its subsidiaries, successors and assigns, to its directors, officers, agents, and employees, when acting in such capacity, and, in addition, to all its members and other persons in active concert or participation with them who receive notice of this Final Judgment by personal service or otherwise.

IV. The Board, whether acting unilaterally or in concert or agreement with any other person, is enjoined and restrained from:

(A) Fixing, establishing or maintaining any rate or amount of commissions or other fees for the sale, exchange, rental, lease, management, or mortgage of real estate;

(B) Urging, recommending or suggesting that any of its members adhere to any schedule or other recommendation concerning the rates or amounts of commissions or other fees for the sale, exchange, rental, lease, management, or mortgage of real estate;

(C) Adopting, suggesting, publishing or distributing any schedule or other recommendation concerning the rates or amounts

of commissions or other fees for the sale, exchange, rental, lease, management, or mortgage of real estate;

(D) Conducting, publishing or distributing any survey or study relating to rates or amounts of commissions or ranges thereof or other fees for the sale, exchange, rental, lease, management, or mortgage of real estate;

(E) Including in any instructional course or other educational material any recommended or suggested rates or amounts of commissions or other fees for the sale, exchange, rental, lease, management, or mortgage of real estate;

(F) Adopting, adhering to, maintaining, enforcing or claiming any rights under any bylaw, rule, regulation, plan or program which restricts or limits the right of any of its members or any other person engaged in the business of real estate in accordance with his own business judgment to agree with his client on any commissions or fees for the sale, exchange, rental, lease, management, or mortgage of real estate;

(G) Taking any punitive action against any of its members where such action is based upon the member's failure or refusal to adhere to any rate or amount of commission or fee for the sale, exchange, rental, lease, management, or mortgage of real estate;

(H) Fixing, maintaining, suggesting or enforcing any division or split between a selling broker and a listing broker of commissions or other fees for the sale, exchange, rental, lease, management, or mortgage of real estate;

(I) Refusing to accept for multiple listing any listing for the sale of real estate because of the rate or amount of commission set forth in such listing;

(J) Adopting, adhering to, maintaining, enforcing or claiming any rights under any bylaw, rule, regulation, plan or program that requires members or any group of members to accept only exclusive rights to sell or exclusive agencies;

(K) Adopting, adhering to, maintaining, enforcing or claiming any rights under any bylaw, rule, regulation, plan or program that requires any member to file that member's listings only with the Defendant's Multiple Listing Service or any other Multiple Listing Service;

(L) Establishing, maintaining, or enforcing any fees or dues for membership in the Board or any Multiple Listing Service, which are not approximately related to the cost, including the accumulation and maintenance of reasonable reserves for developing, maintaining, or improving such organization as a going concern; and

(M) Establishing or organizing any other person to do any of those acts prohibited in (A) through (L) above.

V. Defendant is ordered and directed to, upon application made, admit to membership in the Board any person duly licensed to sell real estate and to membership in any Multiple Listing Service any person duly licensed as a real estate broker by the appropriate governmental authority; provided, however, that the Board may adopt and maintain reasonable and nondiscriminatory written requirements for membership in the Board and any Multiple Listing Service, not otherwise inconsistent with the provisions of this Final Judgment.

VI. Defendant is ordered and directed within ninety (90) days from the date of entry of this Final Judgment to:

(A) Insert in all bylaws, rules, regulations, contracts, and forms requiring a client's signature, a provision, prominently situated in all-capital letters, that rates of commissions or other fees for the sale, exchange, rental, lease, management, or mortgage of real estate shall be negotiable between a broker and his client.

(B) Insert in the written material for all instructional courses given and other educational materials disseminated under its auspices, a provision, prominently situated in all-capital letters that rates of commissions and other fees for the sale, exchange, rental, lease, management, or mortgage of real estate shall be negotiable between a broker and his client.

VII. (A) Defendant is ordered and directed within ninety (90) days from the date of entry of this Final Judgment to amend its constitutional provisions, bylaws, rules, regulations, code of ethics, professional standards of practice, contracts, and all forms by eliminating therefrom any provision which is contrary to or inconsistent with any provision of this Final Judgment and send amended copies of each such constitutional provision, bylaw, rule, regulation, code of ethics, professional standards of practice, contract, and form to each of its members.

(B) The defendant is ordered and directed within ninety-five (95) days from the date of entry of this Final Judgment to file with the Plaintiff a true copy of its constitution, bylaws, rules, regulations, code of ethics, professional standards of practice, contracts and forms as aforesaid amended and distributed.

(C) Upon amendment of its constitution, bylaws, rules, regulations, code of ethics, professional standards of practice, contracts and forms as aforesaid, Defendant is thereafter enjoined and restrained from adopting, adhering to, enforcing or claiming any rights under any constitutional provision, bylaw, rule, regulation, code of ethics, professional standard of practice, contract or form which is contrary to or inconsistent with any of the provisions of this Final Judgment.

VIII. Defendant is ordered and directed to mail within sixty (60) days after the date of entry of this Final Judgment, a copy of this Final Judgment to each of its members and within one hundred and twenty (120) days from the aforesaid date of entry to file with the Clerk of this Court and with the Plaintiff, an affidavit setting forth the fact and manner of compliance with sections VI (A)-(B) and VII(A) above.

IX. For a period of ten (10) years from the date of entry of this Final Judgment, Defendant is ordered to file with the Plaintiff, on each anniversary date of such entry, a report setting forth the steps which it has taken during the prior year to advise the Defendant's appropriate officers, directors, agents, employees, members and all appropriate committees of its and their obligations under this Final Judgment.

X. For the purpose of determining or securing compliance with this Final Judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, be permitted, subject to any legally recognized privilege, and subject to the presence of counsel if so desired:

(A) Access during its office hours to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession of or under the control of Defendant relating to any matters contained in this Final Judgment; and

(B) Subject to the reasonable convenience of Defendant, and without restraint or interference from it to interview officers or employees of Defendant regarding any such matters.

Upon such written request, Defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested.

No information obtained by the means provided in this section X shall be divulged by any representative of the Department of Justice to any person, other than a duly authorized representative of the Executive Branch of Plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance therewith; and for the punishment of violations thereof.

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

(Civil No. 74-535)

UNITED STATES OF AMERICA, PLAINTIFF, V. REAL  
ESTATE BOARD OF ROCHESTER, N.Y., INC., DE-  
FENDANT.

Filed: May 13, 1975.

##### COMPETITIVE IMPACT STATEMENT

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16 (b)-(h)), the United States of America hereby files this Competitive Impact Statement relating to the Final Judgment entered herein on December 23, 1974. The effective date of the Judgment was stayed by the Order of this Court, entered on February 18, 1975, until such time as the requirements of the Antitrust Procedures and Penalties Act are satisfied with respect to said Judgment. The Judgment is subject to a stipulation between the United States and the defendant, which provides that the United States may withdraw its consent to the Judgment at any time before the Court vacates its Order of February 18, 1975.

On November 19, 1974, the Department of Justice filed a civil antitrust suit against the defendant Real Estate Board of Rochester, N.Y., Inc. ("Board") alleging that it and co-conspirator members of the Board had combined and conspired to restrain trade and commerce in the commissions and fees charged for the sale, rental, management and mortgage of real estate in violation of section 1 of the Sherman Act.

During the course of the investigation of the Board by the Antitrust Division, the Board, through its counsel, formally requested the opportunity to avail itself of the Department of Justice's "prefile procedure," which permits negotiations on the terms of a consent judgment prior to the filing of a case by the Antitrust Division. Pursuant to this procedure, an agreement was reached between the Board and the Antitrust Division, and on November 19, 1974, the Government's Complaint, a Stipulation and proposed Final Judgment were filed in the District Court in Rochester, New York. The Stipulation and proposed Final Judgment were marked filed, by the District Court Clerk's Office in Buffalo, New York on November 21, 1974.

##### DESCRIPTION OF THE BUSINESS INVOLVED

The Board is a New York corporation with its principal place of business in Rochester, New York. It is an association of real estate brokers and salesmen with about 2,000 members. The members of the Board are engaged in bringing together buyers and sellers of real estate and assisting in negotiating and arranging the prices and terms of real estate sales in Monroe County, New York, in return for fees or commissions.



A principal function of the Board is the operation of a multiple listing service ("MLS"). Membership in the Board is a prerequisite for MLS membership and those Board members who join the MLS are generally called "service members." The MLS operates by having its individual service members submit to it detailed information concerning listings of real estate for sale in Monroe County. The MLS then copies and distributes such information to all service members thus providing potential sellers of real estate with wide dissemination of the available status of their property.

The service member who lists a property with the MLS is known as the "listing broker." Once a property is listed with the MLS, any MLS member may negotiate its sale and become the "selling broker." If the listing broker and selling broker involved in connection with the sale of a piece of property are different, the brokerage commission or fee earned is divided between them according to schedules prescribed by the Board. In 1972, sales of over 7,000 parcels of real property were made through the MLS, totaling over \$174 million. Because of a high incidence of sales of homes listed with the MLS, it represents a valuable service for homeowners, brokers and salesmen. MLS membership is, therefore, considered advantageous to brokers and salesmen doing business in Monroe County.

#### VIOLATIONS ALLEGED

The Complaint filed by the Government challenged an alleged conspiracy among the Board and its co-conspirator members whereby they had agreed and conspired to raise, fix, and maintain the amounts of commissions or fees which Board members were to charge for their services when selling, leasing or managing property. The Complaint also alleged that the Board and its members conspired to unreasonably exclude certain persons from membership in the Board and, therefore, from participation in the MLS; and with adopting rules and regulations restricting competition between real estate brokers and salesmen.

The Complaint then went on to allege specifically that in carrying out the conspiracy the Board and its members (1) established and followed commission schedules for the sale of real estate and for determining the percentage division of commissions between listing and selling brokers; (2) agreed that all listings of one, two, and three family lived-in houses obtained by service members had to be listed with the MLS and that before any property could be listed with the MLS the listing broker must have obtained the exclusive right to sell the property; and (3) established arbitrary and unreasonably restrictive requirements for membership in the Board and MLS.

According to the Complaint, the conspiracy has had the following effects: commissions and fees charged for real estate services have been raised, fixed, and maintained at artificial and noncompetitive levels; price competition among members of the Board in providing real estate services has been eliminated and, therefore, persons using the services of Board members have been denied such use at competitively determined prices; licensed brokers and salesmen have been unreasonably restricted in the conduct of their business and have been restrained in competing in the sale of real estate listed with MLS. These have had an overall adverse effect on competition in real estate services in Monroe County and on the interstate commerce in financing, insurance, and other commodities associated with the sale of real estate.

#### PROVISIONS OF THE FINAL JUDGMENT

The Final Judgment applies to the Board and its members and other persons acting

with them who have notice of the Judgment.

With regard to fees and commissions, the Final Judgment forbids the Board under penalty of contempt of court, from establishing or recommending any rates or schedules of commissions to be charged by its brokers or salesmen in connection with the sale, exchange, rental, lease, management or mortgage of real estate. The Board may not take any action under its by-laws or other rules against a member or other person engaged in the sale of real estate which limits his right to agree with the client on any commission or fee charged. Nor may the Board take any punitive action against a member for failure or refusal to adhere to any specified commission or fee.

The Judgment further prohibits the Board from publishing or distributing recommended commission and fee schedules or surveys showing the range of commissions and fees charged in real estate transactions. In addition, the Board may not refuse to accept for its MLS any listing for the sale of real estate because of the rate of commission specified in the listing.

The Judgment provides that the Board may not fix, enforce, or suggest how the commission or fees for the sale, rental, lease, or management of property are to be split between the listing broker and the selling broker.

The Judgment further forbids the Board from requiring Board members or any group of members to accept real estate listings only if the property owner gives the member an exclusive right to the listing. This prohibition should leave Board members free to accept nonexclusive listings if they so wish, and should also permit property owners to list their property on a nonexclusive basis with agreeable Board members, as well as with independent brokers. In addition, the Board may not require any of its members to file their real estate listings only with its MLS or only with another multiple listing service. This provision should permit a Board member who does list property with MLS to share this listing with independent brokers as well as with any other multiple listing service.

As to membership in the Board and the MLS, the Final Judgment prohibits the Board from establishing any fees or dues for membership in the Board or MLS which are not approximately related to the reasonable costs of maintaining, improving and developing the organization as a going concern. In addition, the Final Judgment orders the Board to admit to membership in the Board any person duly licensed to sell real estate, and to membership in the MLS any person duly licensed as a real estate broker by the appropriate governmental authority. It is provided, however, that the Board may adopt and maintain reasonable and nondiscriminatory written requirements for membership in the Board and its MLS, as long as the requirements are not otherwise inconsistent with the terms of the Judgment.

The Judgment orders the Board to insert in all Board by-laws, rules, regulations, contracts, forms requiring a client's signature, written materials for instructional courses and other educational materials disseminated under its auspices a provision, prominently situated in all-capital letters, that rates of commissions and other fees for the sale, exchange, rental, lease, management or mortgage of real estate shall be negotiable between a broker and his client.

In order to comply with the Judgment, the Board must amend constitutions, by-laws, rules, codes of ethics, and contracts eliminating any provisions contrary to the terms of the Judgment. The Board must mail to its members amended copies of these,

and must file such copies with the government. In addition, for a period of ten years, the Board must file yearly reports with the Antitrust Division, stating what steps it has taken to ensure compliance with the Judgment.

By its terms, the Final Judgment provides for retention of jurisdiction of this action in order, among other things, to permit either of the parties thereto to apply to the Court for such orders as may be necessary or appropriate for its modification.

#### EFFECTS OF THE FINAL JUDGMENT

The provisions of the Final Judgment should serve to increase competition by removing and prohibiting, under penalty of contempt of court, unreasonable restraints imposed by the Board upon its members with respect to the amount of commissions or fees to be charged for their services and by removing unreasonable barriers to membership in the Board and participation in its MLS.

#### ALTERNATIVE RELIEF CONSIDERED

Alternative relief considered by the Antitrust Division included a provision submitted to the Board's counsel in writing which would have prohibited the Board from requiring service members to list all their real estate listings of a certain type (e.g., lived-in homes) with the MLS. The Board indicated that prohibiting a requirement that service members must list all their listings of a certain type with the MLS would work to the detriment of smaller service members who depend heavily on the MLS inventory of listings and, by the same token, unduly advantage larger, more firmly established service members who would be able to keep more promising listings to themselves while listing only the less promising with MLS. The Board also asserted that elimination of such requirement could also adversely affect open-housing efforts in Rochester.

After due consideration of these factors, the Antitrust Division determined that competition would be adequately enhanced by a provision in the Final Judgment which prohibited the Board from requiring its service members to list their properties with the MLS exclusively. This provision, which is noted above, and was consented to by the Board, prohibits the Board from preventing any individual service members from sharing their own listings, which they are required to list with MLS, with anyone else as well, such as independent brokers or any other multiple listing service which may exist. Such provision avoids the possibility of any detrimental effects upon smaller service members or upon open-housing efforts which might have been attendant to a broad prohibition against the Board's requiring service members to list all their listings of a certain type with MLS.

Another form of alternative relief considered by the Antitrust Division was a provision submitted to the Board's counsel in writing which would have prohibited the Board from requiring that any applicant for membership be a member of the National Association of Realtors and of the New York State Realtor Association. The Board's counsel represented to the Antitrust Division that the National Association of Realtors, of which the Board is a member, requires its local member boards to, in turn, require their members to maintain membership in the National Association of Realtors and the State Realtor Association. Annual dues for both the National and State Associations total about \$55. The Antitrust Division determined that a case such as the instant one, i.e., a proceeding against a local real estate board, was not a proper vehicle in which to test this requirement.

By letter of November 19, 1974, Thomas E. Kauper, Assistant Attorney General, Antitrust Division, advised counsel that paragraph V of the Final Judgment requires the defendant Board to admit to membership in the Board anyone licensed to sell real estate and to membership in the MLS anyone licensed as a broker by the appropriate governmental authority. The letter states that the Judgment further provides that "the Board may adopt and maintain reasonable and nondiscriminatory written requirements for membership in the Board and the Multiple Listing Service, not otherwise inconsistent with the provisions of the Judgment."

Mr. Kauper's letter went on to state that: "The Judgment is silent with respect to a requirement by the defendant Board that its members must also become members of the National Association of Realtors and a state realtors association. This silence must not be construed as approval by the Department of Justice of such requirement or as an indication that we have concluded that such a requirement is reasonable and nondiscriminatory under Paragraph V."

His letter concluded by advising that should the National Association of Realtors eliminate its requirement that its local member boards require their member brokers to maintain membership in the national and state realtor associations, the Department may well view the defendant Board's dual membership requirement as "an unreasonable and impermissible membership requirement, not encompassed within the reasonable and nondiscriminatory requirements allowable pursuant to Paragraph V" of the Final Judgment. (A copy of this letter is attached as Exhibit "A".)

The only other alternative to the Final Judgment herein considered was a full trial on the merits. The Antitrust Division determined that the proposed Final Judgment immediately provided substantially all the relief which might reasonably be expected following a trial and a decision favoring the Government, without the commitment of manpower and delay involved in a trial.

#### EFFECTS ON PRIVATE PLAINTIFFS

Any potential private plaintiffs who might have been damaged by the alleged violations will retain the same right to sue for monetary damages and any other legal and equitable remedies which they would have had, were the Final Judgment not entered. However, this Judgment may not be used as prima facie evidence in private litigation pursuant to Section 5(a) of the Clayton Act, as amended, 15 U.S.C. 16(a).

#### OPPORTUNITY FOR COMMENTS FROM THE PUBLIC

As provided by the Antitrust Procedures and Penalties Act, any persons believing that the Final Judgment should be modified may for a 60-day period submit written comments to Bernard Wehrmann, Antitrust Division, Department of Justice, 26 Federal Plaza, Room 3630, New York, New York 10007, who will file with the Court and publish in the FEDERAL REGISTER such comments and responses to such comments. The Department of Justice will thereafter evaluate any and all such comments and determine whether there is any reason for withdrawal of its consent to the Final Judgment.

#### DOCUMENTS DETERMINATIVE IN FORMULATING THE JUDGMENT

The letter of Assistant Attorney General Thomas E. Kauper to counsel for the Board, described above, is a document of the type described in section (b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16

(b)) and was considered in formulating this Final Judgment.

PAUL D. SAPHENZA,  
PHILIP P. COBY,  
Attorneys, Department of Justice.

Dated: May 13, 1975.

#### EXHIBIT A

Re: United States v. Real Estate Board of Rochester, N.Y., Inc. (Civ. 74-335 W.D.N.Y.)

ELLIOTT HOATON, Esq.  
Harris, Beach and Wilcox,  
Two State Street,  
Rochester, NY

NOVEMBER 19, 1974.

File: 60-223-50

DEAR MR. HORTON: Paragraph V of the Final Judgment in the captioned case orders and directs the defendant Board to admit to membership in the Board any person duly licensed to sell real estate and to membership in the Multiple Listing Service any person duly licensed as a broker, provided, however, that the Board may adopt and maintain reasonable and nondiscriminatory written requirements for membership in the Board and the Multiple Listing Service, not otherwise inconsistent with the provisions of the Judgment. The Judgment is silent with respect to a requirement by the defendant Board that its members must also become members of the National Association of Realtors and a state realtors association. This silence must not be construed as approval by the Department of Justice of such requirement or as an indication that we have concluded that such a requirement is reasonable and nondiscriminatory under Paragraph V.

It is our understanding that the National Association of Realtors requires its local member boards of realtors to, in turn, require their member brokers to maintain membership in the National Association of Realtors and state realtor associations. Should the National Association of Realtors at any time eliminate this requirement, the Department of Justice may well view a requirement on the part of the defendant Board that its members must join any national or state realtor associations to be an unreasonable and impermissible membership requirement, not encompassed within the reasonable and nondiscriminatory requirements allowable pursuant to Paragraph V.

Sincerely yours,

THOMAS E. KAUPER,  
Assistant Attorney General  
Antitrust Division.

[FR Doc.75-13208 Filed 5-19-75; 8:45 am]

#### Law Enforcement Assistance Administration

#### NATIONAL ADVISORY COMMITTEE ON CRIMINAL JUSTICE STANDARDS AND GOALS

##### Meeting

This is to provide notice of a meeting of the Disorders and Terrorism Task Force to the National Advisory Committee on Criminal Justice Standards and Goals.

The Disorders and Terrorism Task Force will meet on Tuesday, June 3, 1975. The meeting will be held at the New York University School of Law, Law Club Lounge, Main Floor, 40 Washington Square, South, New York, New York. The meeting will convene at 1 p.m. and will be open to the public.

The meeting will focus on the progress report on definition of the scope of problems and the work underway in the field.

For further information, contact William T. Archey, Acting Director, Law Enforcement Assistance Administration, Policy Analysis Division, Office of Planning and Management, 633 Indiana Avenue, NW, Washington, DC 20531.

GERALD H. YAMADA,  
Attorney-Advisor,  
Office of General Counsel.

[FR Doc.75-13147 Filed 5-19-75; 8:45 am]

#### DEPARTMENT OF THE INTERIOR

##### Bureau of Land Management

##### BURLEY DISTRICT MULTIPLE USE ADVISORY BOARD

##### Cancelled Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that the meeting of the Burley District Multiple Use Advisory Board which was scheduled for May 30, 1975, has been postponed until further notice.

NICK JAMES COZAKOS,  
District Manager.

[FR Doc.75-13207 Filed 5-19-75; 8:45 am]

#### Office of the Secretary

##### WATCHES AND WATCH MOVEMENTS

Allocation of Duty-Free Quotas for Calendar Year 1975 Among Producers Located in Guam and American Samoa

CROSS REFERENCE: For a document issued jointly by the Department of Commerce and the Department of the Interior, on watch and watch movements in Guam and American Samoa, see FR Doc. 75-13190, *supra*.

#### DEPARTMENT OF AGRICULTURE

##### Agricultural Marketing Service

##### RAISIN ADVISORY BOARD

##### Notice of Public Meeting

Under the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770), notice is given of a meeting of the Raisin Advisory Board at 1:30 p.m., June 11, 1975, in the Forum of the Sheraton Inn, Freeway 99 and Clinton Avenue, Fresno, California.

The purpose of the meeting is to: Review and discuss marketing policy for the 1975-76 crop year. The meeting will be open to the public.

The Raisin Advisory Board is established under the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

The names of Board members, agenda, summary of the meeting and other information pertaining to the meeting may



be obtained from Clyde E. Nef, Manager, Raisin Administrative Committee, 732 North Van Ness Street, Fresno, California, 93720; telephone 209-268-5666.

Dated: May 15, 1975.

JOHN C. BLUM,  
Associate Administrator.

[FR Doc.75-13184 Filed 5-19-75;8:45 am]

#### Forest Service

#### MULTIPLE USE PLAN STILLMAN POINT PLANNING UNIT

##### Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for Stillman Point Planning Unit, Forest Service Report Number USDA-FS-DES (Adm).

The environmental statement concerns a proposed land use plan for the Stillman Point Planning Unit, Selway Ranger District, Nezperce National Forest, Idaho County, Idaho. It presents resource information, resource allocation decisions, management guidance, and documents public involvement. Also discussed are management alternatives, environmental impacts, economic analysis, short term vs. long term use of environment and irretrievability of resource commitment. The 60,000 acre planning unit is divided into 15 logical management units for resource allocation and direction.

This draft environmental statement was filed with CEQ on May 13, 1975.

Copies are available for inspection during regular working hours at the following locations:

USDA Forest Service  
South Agriculture Bldg., Room 3231  
12th St. & Independence Ave., SW  
Washington, DC 20250

USDA Forest Service  
Northern Region  
Federal Building  
Missoula, MT 59801

USDA Forest Service  
Nezperce National Forest  
319 East Main  
Grangeville, Idaho 83530

USDA Forest Service  
Selway Ranger District  
Kootenai, Idaho 83539

A limited number of single copies are available upon request to Forest Supervisor Donald L. Biddison, Nezperce National Forest, 319 E. Main St., Grangeville, Idaho 83530.

Copies of the environmental statement have been sent to various Federal, state, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from state and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which

comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Donald L. Biddison, Nezperce National Forest, 319 E. Main St., Grangeville, Idaho 83530. Comments must be received by July 13, 1975 in order to be considered in the preparation of the final environmental statement.

Dated: May 13, 1975.

KEITH M. THOMPSON,  
Acting Regional Forester,  
Northern Region, Forest Service.

[FR Doc.75-13138 Filed 5-19-75;8:45 am]

#### Office of the Secretary

#### NATIONAL AGRICULTURAL RESEARCH PLANNING COMMITTEE

##### Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the National Agricultural Research Planning Committee (NPC) will be held beginning at 9 a.m., June 10, 1975, in Room 4306, South Building, U.S. Department of Agriculture, Washington, D.C.

The Committee is jointly sponsored and chaired by the Department of Agriculture and the National Association of State Universities and Land Grant Colleges. The Committee deals with the planning element of the Agricultural Research Policy Advisory Committee (ARPAC).

The matters to be considered at this meeting include activities and progress in national and regional planning for agricultural research, implementation of task force reports, and future NPC plans and actions.

The meeting will be open to the public. Attendance will be limited to the space available. While no oral presentations will be entertained, anyone may file with the Committee, before or after the meeting, a written statement concerning the matters to be discussed. Persons who wish to file written statements may submit them to Dr. David J. Ward, Research Planning and Coordination, Office of the Secretary, Room 307-A, USDA, Washington, D.C. 20250—Telephone 202-447-3854. A record of the meeting will be available for public inspection at the above address three weeks after the meeting.

Dated: May 15, 1975.

PAUL A. VANDER MYDE,  
Deputy Assistant Secretary for  
Conservation, Research, and  
Education.

[FR Doc.75-13257 Filed 5-19-75;8:45 am]

#### Soil Conservation Service

#### KAHALUU WATERSHED PROJECT, HAWAII Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of

1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental impact statement (EIS) for the Kahaluu Watershed Project, City and County of Honolulu, Hawaii. USDA-SCS-EIS-WS-(ADM)-75-3(F)-HI.

The EIS concerns a plan for watershed protection, flood prevention, and recreational facilities. The planned works of improvement provide for conservation land treatment; enlarging the lower reaches of Waihee, Kahaluu, and Ahuimanu Streams and lining them with concrete; and constructing a 28-acre, multipurpose lagoon where the streams come together before discharging into Kaneohe Bay. In addition, the City and County of Honolulu will construct a recreational park surrounding the multipurpose lagoon.

The final EIS has been filed with the Council on Environmental Quality.

A limited supply is available at the following location to fill single copy requests:

Soil Conservation Service, USDA, 440 Alexander Young Building, Honolulu, Hawaii 96813

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: May 9, 1975.

WILLIAM B. DAVEY,  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

[FR Doc.75-13137 Filed 5-19-75;8:45 am]

#### CHOCTAW CREEK WATERSHED PROJECT, TEXAS

##### Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Choctaw Creek Watershed project, Grayson County, Texas.

The environmental assessment of this Federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Edward E. Thomas, State Conservationist, Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76501, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention.

The remaining planned works of improvement as described in the negative declaration include conservation land treatment supplemented by seven single purpose floodwater retarding structures.

The environmental assessment file is available for inspection during the regular working hours at the following location:

Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76501

Requests for the negative declaration should be sent to the above address.

No administrative action on implementation of the proposal will be taken until June 4, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

JOSEPH W. HAAS,  
Acting Deputy Administrator  
for Water Resources, Soil  
Conservation Service.

MAY 8, 1975.

[FR Doc.75-13200 Filed 5-19-75;8:45 am]

#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

[Docket No. Sub-B-38/50]

#### PAN-ALASKA FISHERIES, INC.

##### Hearing; Correction

MAY 15, 1975.

In FR Doc. 75-12427 appearing on page 20660 in the issue for Monday, May 12, 1975, the words "excluding a 200-mile zone off the east coast of the United States" should be inserted after the words "in the Atlantic Ocean" appearing in line 9 of the center column.

ROBERT W. SCHONING,  
Director.

[FR Doc.75-13265 Filed 5-19-75;8:45 am]

#### Office of the Secretary

#### WATCHES AND WATCH MOVEMENTS

##### Allocation of Duty-Free Quotas for Calendar Year 1975 Among Producers Located in Guam and American Samoa

On January 6, 1975, the Departments of the Interior and Commerce published a Joint Notice announcing the rules to be used by the Departments in the allocation of 1975 calendar year quotas for duty-free entry into the customs territory of the United States of watches and watch movements assembled in Guam and American Samoa (40 FR 1113). This notice provided that annual quotas for calendar year 1975 would be based on the following criteria:

Guam—(1) the number of units assembled by each producer in the territory and entered by it duty-free into the customs territory of the United States during calendar year 1974, and (2) the total dollar amount of wages subject to FICA taxes paid by each producer in the territory during calendar year 1974 to persons whose pay was attributable to its Headnote 3(a) watch assembly operation.

In making allocations under these criteria, equal weight was assigned to production and

shipment history and to wages subject to FICA taxes.

American Samoa—No allocation formula is provided for American Samoa as there is only one producer in the territory.

As a temporary measure, pending announcement of final statistics to be issued by the United States International Trade Commission (formerly Tariff Commission) on total apparent United States watch consumption during 1974, and the verification of data submitted in support of individual quota applications by producers located in Guam and American Samoa, initial 1975 calendar year quotas were allocated to eligible producers that had received duty-free watch quotas for calendar year 1974.

Representatives of the Departments visited each quota holder in Guam and American Samoa during March, 1974, to verify the data submitted in support of individual quota applications. The verification indicated that firms had been accurate in reporting the number of units which were entered into the customs territory of the United States during calendar year 1974, and generally accurate in reporting the amount of wages subject to FICA taxes paid during calendar year 1974 to persons whose pay was attributable to Headnote 3(a) watch assembly operations in the territories.

The number of watches and watch movements authorized for shipment on or after January 1, 1975, under initial quotas previously allocated by the Departments are to be applied against the following allocations, which are issued for the full calendar year 1975. Quotas of producers located in Guam reflect (1) adjustments made as a result of the verification of data submitted by individual applicants, and (2) reallocation of voluntarily relinquished quota pursuant to section 2 of the 1975 allocation rules.

GUAM	
Name of firm:	Number of units
1. Hallmark Watch Factory, Inc.	45,552
2. Maro Watch Co., Inc.	286,309
3. Phoenix Industries, Inc.	45,948
4. Stratton Watch Corp.	24,191
5. Westminster Time Corp.	70,000

AMERICAN SAMOA	
Name of firm:	Number of units
1. Pacific Time Corp.	237,000

Assigned quotas for Guam may be adjusted at anytime during this calendar year in the event it becomes apparent that shipments through December 31, 1975, by any firm will be less than 90 percent of the number of units allocated to it.

Dated: May 9, 1975.

EMMETT RICE,  
Acting Director, Office of Territorial Affairs, Department of the Interior.

ALAN POLANSKY,  
Deputy Assistant Secretary for Resources and Trade Assistance, Department of Commerce.

[FR Doc.75-13190 Filed 5-19-75;8:45 am]

#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

##### Food and Drug Administration

[FAP 5B3052]

#### E. I. DUPONT DE NEMOURS & CO., INC.

##### Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 5B3052) has been filed by E. I. duPont de Nemours & Co., Inc., 1007 Market St., Wilmington, DE 19898 proposing that the food additive regulations (21 CFR Part 121) be amended to provide for the safe use of polyoxymethylene resins produced by polymerization of formaldehyde and containing Nylon 66/610/6 terpolymer, 2,2'-methylenebis (4-methyl-6-tert-butylphenol), N,N'-distearyl ethylenediamine, polyethylene glycol 6000 and tetrakis (methylene (3,5-di-tert-butyl-4-hydroxyhydrocinnamate)) methane as optional adjuvant substances in articles intended to contact food.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, during working hours, Monday through Friday.

Dated: May 12, 1975.

HOWARD R. ROBERTS,  
Acting Director,  
Bureau of Foods.

[FR Doc.75-13172 Filed 5-19-75;8:45 am]

[FDA-225-75-4033]

#### ARTX TELECOMMUNICATION EQUIPMENT

##### Memorandum of Understanding With the Nevada Department of Health, Welfare & Rehabilitation (Health Division)

Pursuant to the notice published in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697), stating that future memoranda of understanding between the Food and Drug Administration and others would be published in the FEDERAL REGISTER, the Commissioner of Food and Drugs issues the following notice:

The Food and Drug Administration executed a Memorandum of Understanding with the Nevada Department of Health, Welfare & Rehabilitation (Health Division) on March 26, 1975. The purpose of the memorandum is to establish the procedures and guidelines for the operation, maintenance, and protection of FDA-rented ARTX Telecommunication Equipment. It reads as follows:



**MEMORANDUM OF UNDERSTANDING BETWEEN  
THE NEVADA DEPARTMENT OF HEALTH, WELFARE & REHABILITATION (HEALTH DIVISION)  
AND THE FOOD AND DRUG ADMINISTRATION**

I. *Purpose.* To establish the procedures and guidelines for the operation, maintenance and protection of FDA-rented ARTX Telecommunication Equipment located in Room 131, Bureau of Environmental Health, Consumer Health Protection Services, 201 So. Fall St., Carson City, Nevada 89701.

II. *Background.* The FDA, Assistant Secretary for Health, Department of HEW, and the General Services Administration have approved a program to install full telecommunication transmit and receive terminals in a number of prime state food and drug agencies. Although terminals will be placed in a number of prime food and drug regulatory agencies, there are a number of other agencies with food and drug responsibilities in each state, where no terminal will be installed. Therefore, your agency, being one that received a terminal, must agree to share the terminal with other food and drug agencies in your state to assure that the communication system is accessible to all agencies with food and drug related responsibilities.

In addition to terminal-sharing, it is necessary for our two agencies to assure that proper operation and necessary supporting requirements for the equipment is maintained and proper security is provided for the equipment.

III. *Substance of Agreement.* A. The Food and Drug Administration agrees:

1. To arrange for the installation of the equipment in the location designated by your agency.

2. To support financially the cost of initial installation of the equipment and pay directly to GSA and Western Union the monthly rental cost. After the initial installation, the state will be responsible for relocation installation cost, unless relocation is in conjunction with a major move of the terminal agency to a new location address.

3. To identify for you those units in your state on which terminal-sharing must be accomplished.

4. To require that the terminal location agency (your agency) submit to FDA a terminal-sharing plan to be developed by you and other sharing units in your state.

5. To arrange through Western Union for training of terminal operators.

6. To provide operation instruction manual.

7. To withdraw financial support for the terminal if gross misuse of the terminal is practiced after due notice.

B. The State Terminal Agency agrees:

1. To provide suitable physical location for equipment with adequate security protection.

2. To provide and pay for electric power source to operate the terminal. (110 volts)

3. To provide for paper, tape and other material necessary for the operation of the equipment.

4. To share the terminal with other food and drug agencies in the state according to a terminal-sharing plan agreed to by each potential user.

5. To submit to the FDA Regional Office monthly traffic log. (Form to be furnished by FDA)

6. To submit promptly all messages received for addressees other than your agencies. Transmit promptly messages to FDA received from other appropriate agencies.

7. Maintain operator coverage for the terminal between normal working hours of your agency.

8. Notify vendor (Western Union) of any breakdown of the equipment or other needs for maintenance.

9. Notify FDA (Regional or Headquarters) of periods that the equipment is out-of-service.

10. That the system will be used only for communication between your state and FDA (Regional, District, or Headquarters Office). It is understood that the equipment is not to be used for communication between state agencies.

IV. *Name and Address of Terminal Agency.* Nevada State Department of Health, Welfare and Rehabilitation, Health Division, 201 So. Fall Street, Carson City, Nevada 89701.

V. *Liaison Officers.* For Nevada Department of Health, Welfare & Rehabilitation (Health Division): Ernest Scruggs, Dir., Div. of Consumer Health Protection.

Address: 201 So. Fall Street, Carson City, Nevada 89701. Telephone No.: (702) 882-7870.

For FDA: John S. Rynd, Dir., Investigations Branch. Address: Food and Drug Administration. Telephone No.: (415) 556-8576.

VI. *Period of Agreement.* This agreement, when accepted by both parties, will have an effective period of performance three (3) years from date of signature and may be modified by mutual consent by both parties or may be terminated by either party upon a thirty (30) day advance written notice to the other.

Approved and accepted for the Nevada Department of Health, Welfare & Rehabilitation: s/Ernest N. Scruggs, Consumer Health Protection Services. Date: March 7, 1975.

Approved and accepted for the Food and Drug Administration: s/Irwin B. Berch Regional Food and Drug Director, Food & Drug Administration, Reg. 9. Date: March 26, 1975.

*Effective date.* This Memorandum of Understanding became effective March 26, 1975.

Dated: May 14, 1975.

SAM D. FINE,  
Associate Commissioner for  
Compliance.

[FR Doc.75-13175 Filed 5-19-75; 8:45 am]

[FDA-225-75-4045]

**ARTX TELECOMMUNICATION  
EQUIPMENT**

**Memorandum of Understanding With the  
Maine Department of Agriculture**

Pursuant to the notice published in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697), stating that future memoranda of understanding between the Food and Drug Administration and others would be published in the FEDERAL REGISTER, the Commissioner of Food and Drugs issues the following notice:

The Food and Drug Administration executed a Memorandum of Understanding with the Maine Department of Agriculture on March 18, 1975. The purpose of the memorandum is to establish the procedures and guidelines for the operation, maintenance, and protection of FDA-rented ARTX Telecommunication Equipment. It reads as follows:

MEMORANDUM OF UNDERSTANDING BETWEEN  
THE MAINE DEPARTMENT OF AGRICULTURE  
AND THE FOOD AND DRUG ADMINISTRATION

I. *Purpose.* To establish the procedures and guidelines for the operation, maintenance and protection of FDA-rented ARTX Telecommunication Equipment located in a TWX room within the general offices of the Maine Department of Agriculture, ROOM 601, State Office Building, Augusta, Maine.

II. *Background.* The FDA, Assistant Secretary for Health, Department of HEW, and the General Services Administration have approved a program to install full telecommunication transmit and receive terminals in a number of prime state food and drug agencies. Although terminals will be placed in a number of prime food and drug regulatory agencies, there are a number of other agencies with food and drug responsibilities in each state, where no terminal will be installed. Therefore, your agency, being one that received a terminal, must agree to share the terminal with other food and drug agencies in your state to assure that the communication system is accessible to all agencies with food and drug related responsibilities.

In addition to terminal-sharing, it is necessary for our two agencies to assure that proper operation and necessary supporting requirements for the equipment is maintained and proper security is provided for the equipment.

III. *Substance of Agreement.* A. The Food and Drug Administration agrees:

1. To arrange for the installation of the equipment in the location designated by your agency.

2. To support financially the cost of initial installation of the equipment and pay directly to GSA and Western Union the monthly rental cost. After the initial installation, the state will be responsible for relocation installation cost, unless relocation is in conjunction with a major move of the terminal agency to a new location address.

3. To identify for you those units in your state on which terminal-sharing must be accomplished.

4. To require that the terminal location agency (your agency) submit to FDA a terminal-sharing plan to be developed by you and other sharing units in your state.

5. To arrange through Western Union for training of terminal operators.

6. To provide operation instruction manual.

7. To withdraw financial support for the terminal if gross misuse of the terminal is practiced after due notice.

B. The State Terminal Agency agrees:

1. To provide suitable physical location for equipment with adequate security protection.

2. To provide and pay for electric power source to operate the terminal. (110 volts)

3. To provide for paper, tape and other material necessary for the operation of the equipment.

4. To share the terminal with other food and drug agencies in the state according to a terminal-sharing plan agreed to by each potential user.

5. To submit to the FDA Regional Office monthly traffic log. (Form to be furnished by FDA)

6. To submit promptly all messages received for addressees other than your agencies. Transmit promptly messages to FDA received from other appropriate agencies.

7. Maintain operator coverage for the terminal between normal working hours of your agency.

8. Notify vendor (Western Union) of any breakdown of the equipment or other needs for maintenance.

IV. *Name and Address of Terminal Agency.* Maine Department of Agriculture, Room 601, State Office Building, Augusta, Maine 04330.

V. *Liaison Officers.* For Maine Department of Agriculture: Maynard C. Dolloff, Commissioner, Department of Agriculture.

Address: Room 601, State Office Building, Augusta, Maine 04330. Telephone No.: (207) 289-3871.

For FDA: Richard J. Davis. Address: Boston. Telephone No.: 223-5067.

VI. *Period of Agreement.* This agreement, when accepted by both parties, will have an effective period of performance three (3) years from date of signature and may be modified by mutual consent by both parties or may be terminated by either party upon a thirty (30) day advance written notice to the other.

Approved and accepted for the Maine Department of Agriculture: s/Maynard C. Dolloff, Commissioner, Department of Agriculture. Date: March 18, 1975.

Approved and accepted for the Food and Drug Administration: s/A. J. Beebe, Jr., Reg. Food and Drug Director. Date: March 13, 1975.

*Effective date.* This Memorandum of Understanding became effective March 18, 1975.

Dated: May 14, 1975.

SAM D. FINE,  
Associate Commissioner for  
Compliance.

[FR Doc.75-13174 Filed 5-19-75; 8:45 am]

**RETORTABLE LAMINATED POUCHES  
Public Meeting**

The Food and Drug Administration announces a public meeting to be held at 10 a.m., June 8, 1975, in Rm. 1409, Federal Office Building 8, 200 C St. SW., Washington, DC 20204. The subject of the meeting will be the use of retortable laminated pouches to package food.

The Food and Drug Administration will outline potential problems concerning the proposed use of these retortable laminated pouches and will specify the testing necessary to provide a scientific basis for judging the safety of retortable laminated pouches. Further information concerning the meeting may be obtained by telephoning Thomas C. Brown, Division of Food and Color Additives, Bureau of Foods (202) 245-1186.

Dated: May 14, 1975.

SAM D. FINE,  
Associate Commissioner for  
Compliance.

[FR Doc.75-13173 Filed 5-19-75; 8:45 am]

**National Institutes of Health  
NATIONAL CANCER ADVISORY BOARD  
SUBCOMMITTEE ON CENTERS  
Meeting**

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Cancer Advisory Board Subcommittee on Centers, National Cancer Institute, on June 15, 1975, National Institutes of Health, from 8 p.m. to adjournment, in Building 31, Conference Room 7, Bethesda, Maryland. This meeting

will be open to the public from 8 p.m. to 8:30 p.m. on June 15, 1975, to review and evaluate the cancer centers program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552(b)(4), 552(b)(5) and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting of the Subcommittee will be closed to the public on June 15 from 8:30 p.m. to adjournment, for the review, discussion and evaluation of individual initial pending, supplemental, and renewal center grant applications. The closed portions of the meetings involve solely the internal expression of views and judgments of committee members on individual grant applications containing detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 3A18, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5708) will furnish summaries of the meeting and roster of committee members.

Dr. John W. Yarbro, Executive Secretary, Westwood Building, Room 832, National Institutes of Health, Bethesda, Maryland 20014 (301/496-7427) will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.312)

Dated: May 12, 1975.

SUZANNE L. FREMAU,  
Committee Management Officer, NIH.  
[FR Doc.75-13158 Filed 5-19-75; 8:45 am]

**NATIONAL EYE INSTITUTE  
Meeting**

Notice is hereby given of a change in the meeting which will be held June 9, 1975, at 9 a.m., in Bethesda, Maryland, of the National Advisory Eye Council, National Eye Institute, in Building 31, Conference Room No. 8, National Institutes of Health, which was published in the FEDERAL REGISTER on April 24, 1975 (40 FR 18020-1).

In addition to the review, discussion and evaluation of academic investigator awards and individual and institutional applications under the National Research Services Awards program, there will also be reviewed initial pending, supplemental and renewal grant applications and Core Center grants.

Dated: May 14, 1975.

SUZANNE L. FREMAU,  
Committee Management Officer, NIH.  
[FR Doc.75-13160 Filed 5-19-75; 8:45 am]

**NATIONAL INSTITUTE OF ARTHRITIS,  
METABOLISM, AND DIGESTIVE DISEASES  
Meetings**

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Na-

tional Arthritis, Metabolism, and Digestive Diseases Advisory Council, National Institute of Arthritis, Metabolism, and Digestive Diseases on June 24-25, 1975, from 9 a.m. to 5 p.m., in Building 31, Conference Room 10, Bethesda, Maryland. This meeting will be open to the public from 9 a.m. to 1:00 p.m. on June 24, 1975, to discuss administrative reports. Attendance by the public will be limited to space available. In addition, a meeting of the Digestive Diseases Committee of the above Council will be held from 9 a.m. to 5 p.m. on June 23, 1975, in Building 31, Conference Room 8, Bethesda, Maryland.

In accordance with the provisions set forth in sections 552(b)(4), 552(b)(5) and 552(b)(6), Title 5, U.S. Code and section 10(d) of P.L. 92-463, the meeting of the Council will be closed to the public on June 24 from 1 p.m. to 5 p.m. and on June 25, 1975, from 9 a.m. to 5 p.m., for the review, discussion and evaluation of individual initial, pending, supplemental and renewal grant applications. The Digestive Diseases Committee of the above Council will be closed to the public from 9 a.m. to 5 p.m. on June 23, 1975, also for the review, discussion and evaluation of individual initial, pending, supplemental and renewal grant applications. The closed portions of the meetings involve solely the internal expression of views and judgments of committee members on individual grant applications containing detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mr. Victor Wartofsky, Information Officer, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Maryland 20014, (301) 496-3583, will furnish rosters of committee members, summaries of the meetings, and other information pertaining to the meetings.

(Catalog of Federal Domestic Assistance Program No. 13.309, National Institutes of Health)

Dated: May 14, 1975.

SUZANNE L. FREMAU,  
Committee Management Officer, NIH.  
[FR Doc.75-13159 Filed 5-19-75; 8:45 am]

**PRESIDENT'S CANCER PANEL  
Meeting**

Notice is hereby given of a change in the meeting date of the President's Cancer Panel, National Cancer Institute, which was published in the FEDERAL REGISTER on April 3, 1975, Vol. 40, No. 65—page 14965.

This President's Cancer Panel was to have convened on May 29, 1975, but has been changed to June 18, 1975, National Cancer Institute, Building 31, Conference Room 6, National Institutes of Health.

The meeting will be open to the public from 2:30 p.m. to 3:30 p.m. and will



be closed to the public from 3:30 p.m. to adjournment.

Dated: May 13, 1975.

SUZANNE L. FREMEAUX,  
Committee Management Officer, NIH.  
[FR Doc. 75-13157 Filed 5-19-75; 8:45 am]

#### PRESIDENT'S CANCER PANEL Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the President's Cancer Panel, National Cancer Institute, July 8, 1975, 9:30 a.m. to adjournment, National Institutes of Health, Building 31, Conference Room 8. This meeting will be open to the public from 9:30 a.m. to 12 noon for a report from the Director, National Cancer Institute, and a report from the Chairman, President's Cancer Panel. Attendance by the public will be limited to space available. The meeting will be closed to the public from 1:30 p.m. to adjournment for review and discussion of the proposed fiscal year 1977 budget in accordance with the provisions set forth in section 552(b)(5) of Title 5 U.S. Code and 10(d) of Pub. L. 92-463.

Dr. Richard A. Tjalma, Executive Secretary, Building 31, Room 11A46, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5854) will provide substantive program information, transcripts of the open meeting and roster of committee members.

Dated: May 14, 1975.

SUZANNE L. FREMEAUX,  
Committee Management Officer, NIH.  
[FR Doc. 75-13161 Filed 5-19-75; 8:45 am]

#### Office of Education NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION Public Meeting

Notice is hereby given, pursuant to the Federal Advisory Committee Act, Pub. L. 92-463 that the next meeting of the National Advisory Council on Extension and Continuing Education will be held June 13-14, 1975, in Salons A and B at the Westbury Hotel, 480 Sutter Street, San Francisco, California. The meetings will begin at 9 a.m. each day.

The National Advisory Council on Extension and Continuing Education is authorized under Pub. L. 89-329. The Council is directed to advise the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Title I, and to report to the President and to the Secretary of Health, Education and Welfare on the administration and effectiveness of all federally supported extension and continuing education programs, including community service programs.

The meeting of the Council will be open to the public. The meeting is expected to consist largely of work sessions at which committees develop in greater

detail their parts of the plan for next year and at which the Council approves these plans and sets priority for use of Council resources. All records of Council proceedings are available for public inspection at the Council's Staff Office, located in Suite 710, 1325 G Street NW., Washington, D.C.

LLOYD H. DAVIS,  
Executive Director.

MAY 13, 1975.

[FR Doc. 13145 Filed 5-19-75; 8:45 am]

#### FOREIGN LANGUAGE AND AREA STUDIES RESEARCH PROGRAM

##### Priorities for Funding Proposals for Fiscal Year 1975

On pages 11930 and 11931 of the FEDERAL REGISTER of March 14, 1975, there was published a notice of proposed rule making which set forth priorities for funding proposals for Fiscal Year 1975 for financial assistance under section 602 of the National Defense Education Act of 1958, as amended (20 U.S.C. 512). Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed regulations.

No objections have been received and the proposed priorities are hereby adopted without change and are set forth below.

**Effective date.** The notice of proposed rule making was transmitted to Congress on March 11, 1975 pursuant to section 431(d) of the General Education Provisions Act (20 U.S.C. 1232(d)). The time period set forth therein for congressional action has expired without such action having been taken. Therefore these priorities shall become effective May 20, 1975.

(Catalog of Federal Domestic Assistance Program: 13.436 Foreign Language and Area Studies—Research)

Dated: May 1, 1975.

T. H. BELL,  
U.S. Commissioner of Education,  
Approved: May 14, 1975.

CASPAR W. WEINBERGER,  
Secretary of Health, Education,  
and Welfare.

Section 602 of the National Defense Education Act of 1958, as amended (20 U.S.C. 512), authorizes the Commissioner of Education to contract for studies and surveys to determine the need for increased or improved instruction in modern foreign languages and related fields needed to provide a full understanding of the areas, regions, or countries in which such languages are commonly used, to conduct research on more effective methods of teaching such languages and such fields, and to develop specialized materials for use in training students and language teachers. For Fiscal Year 1975, the Commissioner has decided

\* Note: This document was published as a notice document in the issue of March 14, 1975.

to accept proposals for such contracts as unsolicited proposals and to evaluate them in accordance with the requirements and evaluation criteria listed in § 3-4.5203-2(b) of the HEW procurement regulations (41 CFR 3-4.5203-2(b)). For the convenience of potential applicants, the funding priorities for such proposals are set forth in Paragraph A and the HEW procurement criteria are set forth in Paragraph B, below.

**A. Funding Priorities.** Priority will be given to proposals dealing with: (1) The preparation of specialized instructional material particularly for languages which are not widely taught in the United States and for which there is no commercial market, and for area studies concerned with the non-Western world; (2) teaching methodology, and more specifically methodology which applies linguistic, psycholinguistic and sociolinguistic theories to projects which can thereby be expected to increase our understanding of second language acquisition and improve teaching and learning methodology; and (3) conferences, studies, and surveys to assess the state of the art of foreign language and area studies in the United States, to determine new directions as needed, to identify priority needs for specialized materials, and to observe national trends through surveys of enrollments and degree requirements.

**B. HEW Procurement Criteria for evaluating unsolicited proposals.** The criteria listed in § 3-4.5203-2(b) of the HEW Procurement Regulation include:

- (1) The overall scientific and technical merit of the proposed effort;
- (2) The potential contribution which the proposed effort is expected to make to specific program objective(s), if supported at this time;
- (3) The unique capabilities, related experience, facilities, instrumentation, or techniques which the offeror possesses and offers, and which are considered to be integral factors for achieving the scientific, technical, or technological objective(s) of the proposal; and
- (4) The unique qualifications, capabilities, and experiences of the proposed principal investigator and/or key personnel.

For the further information of applicants, unsolicited proposals under the HEW procurement regulations (41 CFR 3-4.5202-1(b)), must include the following information:

- (1) Name and address of the organization or individual submitting the proposal;
- (2) Date of preparation or submission;
- (3) Type of organization (profit, non-profit, educational, other);
- (4) Concise title and clear and concise abstract. Extensive material should be included only in appendices;
- (5) An outline and discussion of the purpose of the proposed effort or activity, the method of approach to the problem, and the nature and extent of the anticipated results;
- (6) Names of the key personnel to be involved, brief biographical information, including principal publications and relevant experience;

(7) Proposed starting and completion dates;

(8) Equipment, facility, and personnel requirements;

(9) Proposed budget, including separate cost estimates for salaries and wages, equipment, expendable supplies, services, travel, subcontracts, other direct costs and overhead;

(10) Names of any other Federal agencies receiving the unsolicited proposal and/or funding the proposed effort or activity;

(11) Brief description of the offeror's facilities, particularly those which would be used in the proposed effort or activity;

(12) Brief outline of the offeror's previous work and experience in the field;

(13) A current financial statement and, if available, a descriptive brochure;

(14) Period for which unsolicited proposal is valid;

(15) Names and telephone numbers of offeror's primary business and technical personnel whom the agency may contact during evaluation and/or negotiation;

(16) Identification, on the cover sheet, of technical data which the offeror intends to be used by HEW for evaluation purposes only (see 41 CFR 3-1.353(c)); and

(17) Signature of a responsible official of the proposing organization of a person authorized to contractually obligate such organization.

(20 U.S.C. 512)

[FR Doc. 75-13215 Filed 5-19-75; 8:45 am]

#### Office of the Secretary HUMAN SUBJECTS

##### Submission of Assurances and Certificates Concerning Protection

On August 14, 1974, the Department of Health, Education, and Welfare published in the FEDERAL REGISTER (39 FR 29212) a notice concerning submission of certification of institutional review and approval of grants and contracts in support of activities involving human subjects as required by §§ 46.11 and 46.12 of 45 CFR Part 46.

Said notice was to remain in force until the effective date of regulations implementing section 212 of the National Research Act, Pub. L. 93-348. These regulations appeared in the FEDERAL REGISTER on March 13, 1975 (40 FR 11853) and became effective as of that date. They in effect readopted Part 46, with only minor changes.

These regulations require each institution to submit in or with any application or proposal for support of an activity involving human subjects an assurance that it has established an Institutional Review Board satisfying the requirements of Part 46. However, §§ 46.11 and 46.12 thereof authorize the Secretary to permit institutions to delay review and approval of applications or proposals by their Institutional Review Boards until after the applications or proposals have been submitted to DHEW. This notice is for the purpose

of permitting such delay to the limited extent prescribed below.

Whenever possible, such review and approval should occur prior to submission of the application or proposal and a certification to that effect should be included in or with the application or proposal itself. Under no circumstances will the review of an application by DHEW be completed until certification is received from the institution that its Institutional Review Board has reviewed and approved the application.

Institutions having on file with DHEW an approved general assurance must submit such certification within 30 days of the receipt of a written request therefor; and in any event these institutions must submit such certification within 90 days after the deadline for which the application or proposal was submitted or, if no deadline is specified, within 90 days following the submission date of the application or proposal.

Institutions not having on file an approved general assurance must submit in or with the application or proposal for activities covered by 45 CFR Part 46, a special assurance that shall: (a) identify the specific application or proposal by its full title, and by the name of the activity director or other person immediately responsible for the conduct of the activity; and (b) include a statement, executed by an appropriate institutional official, indicating that the institution has established an Institutional Review Board satisfying the requirements of §§ 46.6(b) and 46.7(b) of Part 46. This statement may take the following form:

Assurance is hereby given that this institution will comply with requirements of the DHEW Regulations on Protection of Human Subjects (45 CFR Part 46), that it has established an Institutional Review Board for the protection of human subjects which meets said requirements, and that it will submit to DHEW, upon request, such additional documentation and assurances of compliance with said requirements as may be deemed necessary by DHEW.

Institutions having submitted such a special assurance must submit additional assurances of compliance and a certification of review and approval of the application or proposal by its Institutional Review Board, as well as required documentation, within 30 days of the receipt of a written request for the submission of such additional assurances, certification, and documentation.

The provisions of this notice will be re-evaluated no later than 18 months after publication to determine whether there is any need for modification thereof.

Dated: May 14, 1975.

CASPAR W. WEINBERGER,  
Secretary of Health,  
Education, and Welfare.

[FR Doc. 75-13218 Filed 5-19-75; 8:45 am]

#### NATIONAL INSTITUTE OF EDUCATION Statement of Organization, Functions, and Delegations of Authority

The Statement of Organization, Functions, and Delegations of Authority of the

Department of Health, Education, and Welfare is amended to add a new Part 12 for the National Institute of Education. The previous statement for this organization was contained in Part 7 of the Department's statement and published in the FEDERAL REGISTER (37 FR 19158, September 19, 1972). It is superseded by a revised statement which is included in Part 12 and reads as follows:

**Section 12.00 Mission.** The National Institute of Education carries out the policies set forth by Congress in the General Education Provisions Act, (GEPA), as amended, as follows: to provide every person an equal opportunity to receive an education of high quality regardless of race, color, religion, sex, national origin, or social class; to help solve or to alleviate the problems of, and promote the reform and renewal of American education; to advance the practice of education, as an art, science, and profession; to strengthen the scientific and technological foundations of education; and to build an effective educational research and development system.

The Director of the Institute, through the Institute, conducts educational research; collects and disseminates the findings of educational research; trains individuals in educational research; assists and fosters such research, collection dissemination, or training, through grants, technical assistance to, or jointly financed cooperative agreements with, public organizations, institutions, agencies or individuals; promotes the coordination of such research and research support within the Federal Government; and constructs or provides (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes. The term "Educational Research" as used in Section 405(e)(1) of GEPA includes "Research (basic and applied), planning, surveys, evaluations, investigations, experiments, developments and demonstrations in the field of education (including career education)."

**Sec. 12.10 Organization.** The National Institute of Education consists of a National Council on Educational Research (NCER) and a Director of the Institute. The Director is responsible to the Assistant Secretary for Education, and reports to the Secretary through the Assistant Secretary for Education. The organization responsible to the Director is as follows: Office of the Director; Office of Government and External Relations; Office of Public Affairs; NCER Staff; NIE Fellows Program Staff; Office of Planning, Budget and Program Analysis; Office of Administration and Management; Dissemination and Resources Group; Basic Skills Group; Finance and Productivity Group; School Capacity for Problem-Solving Group; Education and Work Group; and Educational Equity Group.

**Sec. 12.20 Functions.** A. The National Council on Educational Research: Establishes general policies for, and reviews the conduct of the Institute; advises the Assistant Secretary for Education and the Director of the Institute on the development of programs to be carried out



by the Institute; presents to the Assistant Secretary for Education and the Director such recommendations as it may deem appropriate for the strengthening of educational research, the improvement of methods of collecting and disseminating the findings of educational research, and ensuring the implementation of educational renewal and reform based upon the findings of educational research; conducts such studies as may be necessary to fulfill its functions; prepares an annual report to the Assistant Secretary for Education on the current status and needs of educational research in the United States; submits an annual report to the President on the activities of the Institute, and on educational research in general which (1) shall include such recommendations and comments as the Council may deem appropriate, and (2) shall be submitted to the Congress not later than March 31 of each year.

B. The Office of the Director: Coordinates and directs the activities of the Institute.

C. Office of Government and External Relations: Carries out responsibilities for coordinating and improving NIE relations with Congress, State and local governments, minority communities, and special interest groups in education to increase understanding of NIE's activities and the policies of the National Council on Educational Research.

D. Office of Public Affairs: Carries out responsibilities for planning, developing and implementing a coordinated media relations, internal communications, publications, and public information program for NIE and the National Council on Educational Research.

E. NCER Staff: Carries out responsibilities for the preparation of policy recommendations, statements, and reports about education issues and NIE programs for the National Council on Educational Research; for communicating, and interpreting NCER policies and interests to NIE, other government officials, and the public; for advising the Council and its individual members in their duties; for overseeing the preparation of the NCER annual report; and for providing administrative support to the NCER.

F. NIE Fellows Program Staff: Carries out responsibilities for a residential scholars program to affiliate senior level researchers and practitioners with NIE to address special needs and provide expertise to the Institute in various areas.

G. Office of Planning, Budget and Program Analysis: Carries out responsibilities for the preparation, presentation and execution of the Institute's annual budget; for the development and operation of the Institute's annual and long range program planning process; for program review and analysis; and for preparing with the assistance of the Committee on Equal Educational Opportunity (with Institute-wide membership), descriptions and analyses of the Institute's programs as they relate to equality of educational opportunity.

H. Office of Administration and Management: Carries out responsibilities for

administrative and managerial systems required for the operation of the Institute; for the internal review of functions related to the fiscal operations of the Institute; for the development of standards and guidelines for the administration of Institute programs and the review and coordination of regulations development for new activities; and for ensuring that the Institute in its internal operations is sensitive to the concerns of minorities and women by pursuing equal employment opportunity.

I. Dissemination and Resources Group: Responsible for improving the dissemination and use of knowledge for solving educational problems, and for activities to study, evaluate, and improve the capabilities of institutions and individuals to produce and use knowledge in improving education.

J. Basic Skills Group: Responsible for carrying out research on the teaching and learning of basic subjects (primarily reading and mathematics) and on the measurement of student progress in these areas. Through the application of research findings and new developments to classroom instruction, the Basic Skills Group expects to provide a sound basis for the improvement of education and for equal education opportunity.

K. Finance and Productivity Group: Responsible for carrying out a program to improve the effectiveness and efficiency of educational institutions through a program of policy studies; research and development in the areas of finance, management, organization, alternative delivery systems; and the application of competency concepts.

L. School Capacity for Problem-Solving Group: Responsible for identifying and understanding how school systems develop the capacity for problem solving and for finding ways of helping other schools to do so. This Group will (1) study the workings and assess the effectiveness of selected organizational strategies in initiating and sustaining school improvements; (2) identify and study policy and basic research issues involved in the development and implementation of such strategies; and (3) develop ways of utilizing the knowledge generated by the study of policy and basic research issues to help schools and school systems to employ various strategies.

M. Education and Work Group: Responsible for carrying out a program to improve the preparation of youth and adults for entering and progressing in careers. This Group will develop and test projects that increase understanding of the issues and problems associated with education and work; support programs that will develop the skills and abilities necessary for successful entry and progression in careers; and conduct policy studies to determine how to ensure effective dissemination and implementation of the results of Education and Work programs and projects, and to determine directions for new activities.

N. Educational Equity Group: Responsible for carrying out a program of research and development activities

which will assist schools in providing more adequate education for many students who have been limited in their choice of educational programs because of their home, language, culture, ethnicity, sex, or economic status.

Sec. 12.30 *Vested and delegated authority.* The Director of the National Institute of Education has program authority directly vested in him by the Education Amendments of 1972, as amended as well as certain delegated program authorities as follows:

(A) In order to accomplish the functions set forth in section 12.20, section 408(a) of GEPA authorizes the Director of the Institute (1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of the agency; (2) in accordance with those provisions of Title 5, United States Code, relating to the appointment and compensation of personnel and subject to such limitations as are imposed in part A of GEPA to appoint and compensate such personnel as may be necessary to enable the agency to carry out its functions; (3) to accept unconditional gifts or donations of services, money, or property (real, personal, or mixed; tangible or intangible); (4) without regard for section 3648 of the Revised Statutes of the United States (31 U.S.C. 529), to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary for the conduct of the agency; (5) with funds expressly appropriated for such purpose, to construct such facilities as may be necessary to carry out functions vested in him or in the agency of which he is head, and to acquire and dispose of property; and (6) to use services of other Federal agencies and reimburse such agencies for such services.

(B) Pursuant to the Delegations of Authorities, dated June 19, 1973, and approved by the President on July 6, 1973, from the Director-designate of the Office of Economic Opportunity (OEO) to the Secretary of Health, Education, and Welfare, the Secretary's redelegation of July 11, 1973 to the Assistant Secretary for Education, and the Assistant Secretary's redelegation, the Director of the National Institute of Education is authorized to administer those grants, contracts, or other agreements made or entered into which constitute the program described in paragraph three (3) clause five (5) of that document ("educational voucher demonstrations and other projects designed to study or test ways to improve educational opportunities for the disadvantaged.")

Sec. 12.40 *Order of succession.* In the absence of the Director or in the event that there is a vacancy in that office, the Deputy Director shall serve as Acting Director. In the event that both the Director and Deputy Director are absent or there is a vacancy in both offices, the following shall serve as Acting Director in the order indicated: Associate Director for Administration and Management;

Associate Director for Planning, Budget and Program Analysis.

CASPER W. WEINBERGER,  
Secretary of Health,  
Education, and Welfare.

MAY 12, 1975.

[FR Doc.75-13219 Filed 5-19-75;8:45 am]

#### SOCIAL SECURITY ADMINISTRATION

Organizational Location of the Provider  
Reimbursement Review Board; Correction

In FR Doc. 75-8174 appearing at page 14350 in the FEDERAL REGISTER of March 31, 1975 (Volume 40, Number 62), the third line of paragraph 3 in section 4-02-30 is corrected to read as follows: "Education, and Welfare or his delegate, on."

Dated: May 12, 1975.

THOMAS S. McFEE,  
Deputy Assistant Secretary for  
Management Planning and  
Technology.

[FR Doc.75-13212 Filed 5-19-75;8:45 am]

#### OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

##### Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research provisionally scheduled for May 23 and 24, 1975, in Conference Room 10, C Wing, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014 and announced in the FEDERAL REGISTER on Tuesday May 6, 1975, Vol. 40.

Dated: May 16, 1975.

CHARLES U. LOWE,  
Executive Director, National  
Commission for the Protection  
of Human Subjects of  
Biomedical and Behavioral  
Research.

[FR Doc.75-13342 Filed 5-19-75;8:45 am]

#### ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

##### COMMITTEE ON RULEMAKING

##### Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Rulemaking of the Administrative Conference of the United States, to be held at 10 a.m., June 5, 1975, in the offices of The Administrative Conference of the United States, 2120 L St., NW, Suite 500, Washington, D.C. 20037.

The Committee will meet to hold preliminary discussions with Professor Edward A. Tomlinson on the use of the Federal Register and with Professor Barry Boyer on the new FTC trade regulation rulemaking requirements. The Committee will also discuss Professor Stephen F. Williams' report, "Hybrid

Rulemaking: The Evolution of Notice-and-Comment Procedures Under Section 553 of the Administrative Procedure Act."

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least one day in advance. Members of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this Committee meeting contact Lynda S. Zengerle, 202-254-7065. Minutes of the meeting will be available on request.

RICHARD K. BERG,  
Executive Secretary.

MAY 14, 1975.

[FR Doc.75-13199 Filed 5-19-75;8:45 am]

#### NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-488; 50-489; 50-490]

#### DUKE POWER CO. (PERKINS NUCLEAR STATION, UNITS 1, 2 AND 3)

##### Order for Prehearing Conference

The Atomic Safety and Licensing Board will hold a prehearing conference on June 13, 1975, at 10 a.m. in the Davie County Courthouse (Square), Mocksville, N.C. 27028. Representatives of the parties will attend and members of the public may do so.

This prehearing conference is to be held in connection with the application of the Duke Power Company for issuance of a construction permit for the proposed Perkins Nuclear Station, Units 1, 2 and 3 for which notice of hearing was published on July 19, 1974, in 39 F.R. 26470 and will consider the matters set forth in 10 CFR 2.752 including simplification of the issues, the obtaining of stipulations and admissions of fact, identification of witnesses, the setting of a hearing schedule and such other matters as may aid in the orderly disposition of the proceeding.

The evidentiary hearing, at which the parties present evidence and persons making limited appearances make statements, will be held in the future at a time to be set by the Board. Limited appearances will not be heard at this conference.

It is so ordered.

Dated at Bethesda, Maryland, this 12th day of May, 1975.

ATOMIC SAFETY AND LICENSING BOARD,  
FREDERIC J. COUFAL,  
Chairman.

[FR Doc.75-13129 Filed 5-19-75;8:45 am]

[Docket Nos. 50-491; 50-492; 50-493]

#### DUKE POWER CO. (CHEROKEE NUCLEAR STATION, UNITS 1, 2 AND 3)

##### Order for Prehearing Conference

The Atomic Safety and Licensing Board will hold a prehearing conference on June 12, 1975, at 10 a.m. in

the Cherokee County Courthouse, East Smith Street, Gaffney, S.C. 29340. Representatives of the parties will attend and members of the public may do so.

This prehearing conference is to be held in connection with the application of the Duke Power Company for issuance of a construction permit for the proposed Cherokee Nuclear Station, Units 1, 2 and 3 for which notice of hearing was published on July 19, 1974, in 39 F.R. 26470 and will consider the matters set forth in 10 CFR 2.752 including simplification of the issues, the obtaining of stipulations and admissions of fact, identification of witnesses, the setting of a hearing schedule and such other matters as may aid in the orderly disposition of the proceeding.

The evidentiary hearing, at which the parties present evidence and persons making limited appearances make statements, will be held in the future at a time to be set by the Board. Limited appearances will not be heard at this conference.

It is so ordered.

Dated at Bethesda, Maryland, this 12th day of May, 1975.

ATOMIC SAFETY AND LICENSING BOARD,  
FREDERIC J. COUFAL,  
Chairman.

[FR Doc.75-13130 Filed 5-19-75;8:45 am]

[Docket No. 50-315]

#### INDIANA AND MICHIGAN ELECTRIC CO. AND INDIANA AND MICHIGAN POWER CO. (DONALD C. COOK NUCLEAR PLANT UNIT 1)

##### Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 5 to Facility Operating License No. DPR-58 issued to Indiana and Michigan Electric Company and Indiana and Michigan Power Company. The amendment revises the Technical Specifications for operation of the Donald C. Cook Nuclear Plant Unit 1 located in Berrien County, Michigan, and is effective as of its date of issuance.

The amendment changes certain Technical Specifications to clarify their intent, to correct proofreading errors, to make specifications consistent with Standard Technical Specifications being developed for other plants, and to correct inadvertent restrictions on plant operation.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings required by the Act and the Commission's rules and regulations in 10 CFR Chapter I. These findings are set forth in the license amendment. Prior public notice of this amendment is not required because the amendment does not involve a significant hazards consideration.



For further details with respect to this action, see (1) the application for amendment dated April 23, 1975, (2) Amendment No. 5 to License No. DPR-58, with Change No. 5, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the St. Joseph Public Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland this 14th day of May 1975.

For the Nuclear Regulatory Commission.

KARL KNIEL,  
Chief, Light Water Reactors  
Branch 2-2, Division of Reactor Licensing.

[FR Doc. 75-13132 Filed 5-19-75; 8:45 am]

[Docket No. 50-331]

#### IOWA ELECTRIC LIGHT AND POWER CO. ET AL.

##### Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 8 to Facility Operating License No. DPR-49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative and Corn Belt Power Cooperative which revised Technical Specifications for operation of the Duane Arnold Energy Center, located in Linn County, Iowa. The amendment is effective as of its date of issuance.

The amendment permits changes to the Technical Specifications that would modify limiting conditions for operation and surveillance requirements for installed filters in the standby gas treatment system and in the control room air treatment system.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated January 28, 1975 and supplement dated March 5, 1975 (2) Amendment No. 8 to License No. DPR-49, with Change No. 9 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW.,

Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue, SE, Cedar Rapids, Iowa 52401.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, May 13, 1975.

For the Nuclear Regulatory Commission.

GEORGE LEAR,  
Chief, Operating Reactors  
Branch 2-3, Division of Reactor Licensing.

[FR Doc. 75-13135 Filed 5-19-75; 8:45 am]

[Docket No. 50-320]

#### METROPOLITAN EDISON CO. ET AL. (THREE MILE ISLAND NUCLEAR STATION, UNIT 2)

##### Availability of Applicants' Environmental Report Supplement 2, Operating License Stage

Pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in Appendix D to 10 CFR Part 50, Metropolitan Edison Company, Jersey Central Power & Light Company, and Pennsylvania Electric Company have jointly filed the Environmental Report Supplement 2, Operating License Stage, dated February 28, 1975 in support of their application to operate the Three Mile Island Nuclear Station, Unit 2, located in Londonderry Township, Dauphin County, Pennsylvania. Notice of receipt of the application was published in the FEDERAL REGISTER on May 28, 1974 (39 FR 18497). Notice of availability of the applicants' Environmental Report dated December 10, 1971 was published in the FEDERAL REGISTER on June 24, 1972.

The Environmental Report Supplement 2, Operating License Stage, updates the discussion of environmental considerations related to the operation of the proposed facility set forth in the Environmental Report dated December 10, 1971, as amended, and indicates the results of ongoing monitoring programs. Both documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Government Publications Section, State Library of Pennsylvania, Box 1601 (Education Building), Harrisburg, Pennsylvania, 17126. Copies of the Environmental Report Supplement 2, Operating License Stage, are also being made available at the Pennsylvania State Clearinghouse, Governor's Budget Office, 624 Main Capitol Building, Harrisburg, Pennsylvania, 17120, and at the Tri-County Regional Planning Commission, 2001 N. Front Street, Harrisburg, Pennsylvania 17102.

After the Environmental Report Supplement 2, Operating License Stage, has been analyzed by the Commission's Division of Reactor Licensing staff, a draft

environmental statement will be prepared. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials will be made available when received. The draft environmental statement will focus on any matters which differ from those previously discussed in the Final Environmental Statement dated December, 1972. Upon consideration of comments submitted with respect to the draft environmental statement, the staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

For further details, see the application to operate the Three Mile Island Nuclear Station, Unit 2 dated April 4, 1974, and amendments thereto; the Commission's Draft Detailed Statement dated June, 1972; and the Final Environmental Statement dated December, 1972; all of which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Government Publications Section, State Library of Pennsylvania, Box 1601 (Education Building), Harrisburg, Pennsylvania 17126.

Dated at Rockville, Maryland, this 13th day of May, 1975.

For the Nuclear Regulatory Commission.

WM. H. REGAN, Jr.,  
Chief, Environmental Projects  
Branch 4, Division of Reactor Licensing.

[FR Doc. 75-13133 Filed 5-19-75; 8:45 am]

[Docket Nos. 50-352, 50-353]

#### PHILADELPHIA ELECTRIC CO. (LIMERICK GENERATING STATION, UNITS 1 & 2)

##### Order Extending Construction Completion Dates

Philadelphia Electric Company is the holder of Construction Permits CPPR-106 and CPPR-107 issued by the Commission on June 19, 1974. These permits authorize the construction of the Limerick Generating Station, Units 1 & 2, presently under construction at the Company's site. This site is located on the Schuylkill River, near Pottstown, in Limerick Township, Montgomery County, Pennsylvania. On September 10, 1974, Philadelphia Electric Company filed a request for an extension of the earliest and latest construction completion dates for these units.

Philadelphia Electric Company gave as reasons for the schedule change a reduction in their planned construction program by approximately \$600 million for the five-year period 1974-1978 due to (1) high interest rates, (2) extremely tight credit, (3) the severely depressed stock

market, and (4) uncertain economic conditions. This action involves no significant hazards consideration. Good cause has been shown for extension of the earliest and latest construction completion dates for Unit 1 to October 1, 1979 and April 1, 1981, respectively. Good cause has also been shown for extension of the earliest and latest construction completion dates for Unit 2 to March 1, 1981 and April 1, 1982, respectively. The bases for the extension of these dates is set forth in a staff evaluation, dated May 13, 1975.

It is hereby ordered That the earliest and latest completion date for CPPR-106 be extended from:

Earliest: April 1, 1979 to October 1, 1979.  
Latest: October 1, 1979 to April 1, 1981.

and that the earliest and latest completion date for CPPR-107 be extended from:

Earliest: September 1, 1980 to March 1, 1981.  
Latest: March 1, 1981 to April 1, 1982.

Date of Issuance: May 13, 1975.

For the Nuclear Regulatory Commission.

RICHARD C. DEYOUNG,  
Assistant Director for Light  
Water Reactors Group 1, Division of Reactor Licensing.

[FR Doc. 75-13131 Filed 5-19-75; 8:45 am]

#### REGULATORY GUIDE

##### Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 5.32, Revision 1, "Communication with Transport Vehicles," describes radiotelephone equipment and systems, and procedures for their use, that are acceptable to the NRC staff for complying with the Commission's regulations regarding radiotelephone communication in connection with road or rail shipments of special nuclear material. This revision reflects comments received from the public and other factors.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed (listed below) or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

Regulatory Guides are available for inspection at the Commission's Public

[Docket Nos. 50-266, 50-301]

#### WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

##### Proposed Issuance of Amendments to Facility Operating Licenses

The Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. DPR-24 and DPR-27 issued to Wisconsin Electric Power Co. and Wisconsin Michigan Power Co. (the licensees) for operation of the Point Beach Nuclear Plant Units Nos. 1 and 2, located in the Town of Two Creeks, Manitowish County, Wisconsin.

In accordance with the licensees application for license amendments dated March 28, 1975, the proposed amendments would add revisions to the Technical Specifications relating to the use of six new spent fuel storage racks and two existing racks which would be relocated within the spent fuel storage facility. The proposed revisions to the Technical Specifications would (1) place restrictions on spent fuel storage to limit the decay heat input to the spent fuel water and (2) restrict the use of the two relocated spent fuel storage racks which would be seismically unrestrained. When installed, the new spent fuel storage racks would provide increased storage capacity by utilizing a closer design center-to-center spacing between fuel assemblies. The proposed modifications would increase the spent fuel storage capacity from 206 to 399 fuel assemblies.

Prior to issuance of the proposed license amendments, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By June 19, 1975, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Bruce W. Churchill, Esquire, Shaw, Pittman, Potts, Trowbridge & Madden, Barr Building, 910 17th Street, NW, Washington, D.C. 20006, the attorney for the licensee.

Document Room, 1717 H Street NW, Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted and Commission approval is not required to reproduce them.

Other Division 5 Regulatory Guides currently being developed include the following:

- Mass Calibration Techniques for Nuclear Material Control
- Calibration and Error Estimation Methods for Nondestructive Assay
- Management Review of Materials and Plant Protection Programs and Activities
- Protection of Nuclear Power Plants Against Industrial Sabotage
- Measurement Control Program for Special Nuclear Material Control and Accounting
- Monitoring Transfers of Special Nuclear Material
- Considerations for Determining the Systematic Error of Special Nuclear Material Accounting Measurement
- Interior Intrusion Alarm Systems
- Preparation of Uranyl Nitrate Solution as a Working Standard
- Shipping and Receiving Control of Special Nuclear Materials
- Barrier Design and Placement
- Nondestructive Assay of U-235 Content of Unpolished Low-Enrichment Uranium Fuel Rods
- Methods for the Accountability of Uranium Dioxide
- Internal Security Audit Procedures
- Standard Format and Content for the Physical Protection Section of a License Application (For Facilities Other Than Nuclear Power Plants)
- Nondestructive Assay of Plutonium-Bearing Fuel Rods
- Training and Qualifying Personnel for Performing Measurement Associated with the Control and Accounting of Special Nuclear Material
- Auditing of Measurement Control Program
- Reconciliation of Statistically Significant Shipper-Receiver Differences
- Prior Measurement Verification
- Verification of Prior Measurements by NDA
- Nondestructive Assay of High-Enrichment Uranium Scrap by Active Neutron Interrogation
- Control and Accounting for Highly Enriched Uranium in Waste
- Considerations for Determining the Random Error of Special Nuclear Material Accounting Measurement
- Use of Closed Circuit TV for Area Surveillance
- Preparation of Working Calibration and Test Materials for Analytical Laboratory Measurement Control Programs—Part I: Plutonium Nitrate Solutions

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 12th day of May 1975.

For the Nuclear Regulatory Commission.

ROBERT B. MINOCUE,  
Acting Director,

Office of Standards Development.

[FR Doc. 75-13134 Filed 5-19-75; 8:45 am]



## NOTICES

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated March 28, 1975, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Document Department, University of Wisconsin—Stevens Point Library, Stevens Point, Wisconsin 54481. The license amendment and the Safety Evaluation, when issued, may be inspected at the above locations and a copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland this 13th day of May 1975.

For The Nuclear Regulatory Commission.

GEORGE LEAR,  
Chief Operating Reactors  
Branch #3 Division of Re-  
actor Licensing.

[FR Doc. 75-13193 Filed 5-19-75; 8:45 am]

#### ADVISORY COMMITTEE ON REACTOR SAFEGUARDS' SUBCOMMITTEE ON CLINCH RIVER BREEDER REACTOR Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards' Subcommittee on Clinch River Breeder Reactor will hold a meeting on June 4, 1975 in room 1062, 1717 H Street, NW, Washington, DC 20555. The purpose of this meeting will be to develop information for consideration by the ACRS in its review of the combined application of the Tennessee Valley Authority (TVA) and Project Management Corporation (PMC) for a permit to construct this nuclear power plant.

The facility will be located in Oak Ridge, Tennessee. The plant is to use a liquid metal fast breeder reactor and is to have a gross capacity of 380 MW(e).

The agenda for the subject meeting shall be as follows:

Wednesday, June 4, 1975, 9:00 a.m. until the conclusion of business. The Subcommittee will hear presentations by representatives of the NRC Staff and the TVA and/or PMC and will hold discussions with these groups pertinent to the review of the combined application of the TVA and PMC for a permit to construct the Clinch River Breeder Reactor Plant.

In connection with the above agenda item, the Subcommittee will hold Executive Sessions, not open to the public at 8:30 a.m. and at the end of the day to consider matters relating to the above application. These sessions will involve an exchange of opinions and discussion of preliminary views and recommendations of Subcommittee members and internal deliberations for the purpose of formulating recommendations to the ACRS.

I have determined, in accordance with Subsection 10(d) of Pub. L. 92-463, that the above-noted Executive Sessions will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b). Further, any non-exempt material that will be discussed during the above closed sessions will be inextricably intertwined with exempt material, and no further separation of this material is considered practical. It is essential to close such portions of the meeting to protect the free interchange of internal views, to avoid undue interference with agency or Subcommittee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incomplete open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by mailing 25 copies thereof, postmarked no later than May 28, 1975 to the Executive Secretary, Advisory Committee on Reactor Safeguards, Nuclear Regulatory Commission, Washington, D.C., 20555, Attn: Mr. T. G. McCrless. Such comments shall be based upon the Preliminary Safety Analysis Report for this facility and related documents on file and available for public inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. 20555, and the Oak Ridge Public Library, Circulation Center, Oak Ridge, Tenn. 37830, and, also, at the Lawson McGee Public Library, 500 W. Church Street, Knoxville, Tenn. 37902.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee between the hours of 10:00 a.m. and 11:00 a.m.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on June 3, 1975 to the Office of the Executive Secretary of the Committee (telephone 202/634-1374, Attn: Mr. T. G. McCrless) between 8:15 a.m. and 5:00 p.m., Eastern Time.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) Persons desiring to attend portions of the meeting where proprietary information, other than plant security information, is to be discussed may do so by providing to the Executive Secretary, Advisory Committee on Reactor Safeguards, 1717 H Street, NW, Washington, D.C. 20555, seven days prior to the meeting, a copy of an executed agreement with the owner of the proprietary information to safeguard this material.

(i) A copy of the transcript of the open portion of the meeting will be available for inspection on or after June 6, 1975 at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, DC. 20555 and within approximately nine days at the Oak Ridge Public Library, Circulation Center, Oak Ridge, Tenn. 37830 and at the Lawson McGee Public Library, 500 W. Church Street, Knoxville, Tenn. 37902. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second Street, NE, Washington, DC. 20002 (telephone 202/547-6222) upon payment of appropriate charges.

(j) On request, copies of the minutes of the meeting will be made available for inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, DC. 20555 after September 4, 1975. Copies may be obtained upon payment of appropriate charges.

Dated: May 16, 1975.

CHASE R. STEPHENS,  
Acting Advisory Committee  
Management Officer.

[FR Doc. 75-13269 Filed 5-19-75; 8:45 am]

#### ADVISORY COMMITTEE ON REACTOR SAFEGUARDS' SUBCOMMITTEE ON ST. LUCIE NUCLEAR GENERATING STATION, UNIT 1

##### Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards' Subcommittee on St. Lucie Nuclear Generating Station, Unit 1, will hold a meeting on June 4, 1975 in Room 1046 at 1717 H St. NW., Washington, D.C. The purpose of this meeting will be to develop information for consideration by the ACRS in its review of the application of the Florida Power and Light Company for a permit to operate this nuclear power plant. The facility is located in St. Lucie County, Florida, about halfway between Fort Pierce and Stuart on the East Coast.

The agenda for the subject meeting shall be as follows:

Wednesday, June 4, 1975, 9:00 a.m. until the conclusion of business. The Subcommittee will hear presentations by representatives of the NRC Staff and the Florida Power and Light Company and will hold discussions with these groups pertinent to its review of the application of the Florida Power and Light Company for a permit to operate the St. Lucie Station, Unit 1.

In connection with the above agenda item, the Subcommittee will hold Executive Sessions, not open to the public, at 8:30 a.m. and at the end of the day to consider matters relating to the above application. These sessions will involve an exchange of opinions and discussion of preliminary views and recommendations of Subcommittee members and internal deliberations for the purpose of formulating recommendations to the ACRS.

In addition to the Executive Sessions, the Subcommittee may hold closed sessions with representatives of the NRC Staff and Applicant for the purpose of discussing privileged information concerning plant physical security and other matters related to plant design, construction and operation, if necessary.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that the above-noted Executive Sessions will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b).

## NOTICES

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and that a closed session may be held, if necessary, to discuss certain documents and information which are privileged and fall within exemption (4) of 5 U.S.C. 552(b). Further, any non-exempt material that will be discussed during the above closed sessions will be inextricably intertwined with exempt material, and no further separation of this material is considered practical. It is essential to close such portions of the meeting to protect the free interchange of internal views, to avoid undue interference with agency or Subcommittee operation, and to avoid public disclosure of proprietary information.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incomplete open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by mailing 25 copies thereof, postmarked no later than May 27, 1975 to the Executive Secretary, Advisory Committee on Reactor Safeguards, Nuclear Regulatory Commission, Washington, D.C. 20555. Such comments shall be based upon the Final Safety Analysis Report for this facility and related documents on file and available for public inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee between the hours of 10:00 a.m. and 11:00 a.m. on June 4, 1975.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on June 3, 1975 to the Office of the Executive Secretary of the Committee (telephone 202/634-1393, Attn: Mr. Gary

Quittschreiber) between 8:15 a.m. and 5:00 p.m., Eastern Time.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) Persons desiring to attend portions of the meeting where proprietary information, other than plant security information, is to be discussed may do so by providing to the Executive Secretary, Advisory Committee on Reactor Safeguards, 1717 H Street, NW., Washington, D.C. 20555, seven days prior to the meeting, a copy of an executed agreement with the owner of the proprietary information to safeguard this material.

(i) A copy of the transcript of the open portion of the meeting will be available for inspection on or after June 6, 1975 at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and within approximately nine days at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second Street, NE, Washington, D.C. 20002 (telephone 202/547-6222) upon payment of appropriate charges.

(j) On request, copies of the minutes of the meeting will be made available for inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 after September 4, 1975. Copies may be obtained upon payment of appropriate charges.

Dated: May 16, 1975.

CHASE R. STEPHENS,  
Acting Advisory Committee  
Management Officer.

[FR Doc. 75-13268 Filed 5-19-75; 8:45 am]

#### COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN INDIA

Entry or Withdrawal From Warehouse for Consumption

MAY 13, 1975.

Under the Bilateral Cotton Textile Agreement of August 6, 1974, between the Governments of the United States and India, the Government of India has undertaken to limit exports of cotton textiles and cotton textile products to the United States to certain designated levels. Pursuant to this agreement, an administrative mechanism has been established which is intended to preclude



## NOTICES

circumvention of the licensing system for exports to the United States of cotton textiles and cotton textile products produced or manufactured in India. The purpose of this notice is to announce the implementation of this administrative mechanism.

Effective on June 19, 1975, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products, produced or manufactured in India and exported to the United States from India on and after March 15, 1975, for which the Government of India has not issued an appropriate export visa, will be prohibited.

The visa will be a stamped marking in blue ink on the front of the invoice (Special Customs Invoice Form 5515, successor document, or commercial invoice, when such form is used) and will bear the signature of the official issuing the visa.

Further, pursuant to Article 12, paragraph 3, of the Arrangement Regarding International Trade in Textiles, done at Geneva on December 20, 1973, the Governments of the United States and India have established a procedure to exempt from the levels of restraint of the aforementioned bilateral agreement certified hand-loomed and folklore products. To qualify for exemption, shipments of such items, exported to the United States on and after March 15, 1975, must be accompanied by a certification issued by the Government of India. In addition to the aforementioned textile export visa. The certification will also be a stamped marking in blue ink on the front of the invoice (Special Customs Invoice Form 5515, successor document, or commercial invoice, when such form is used). It will include the signature and title of the official issuing the certification; identify the items exempted; indicate the date the certification was signed and certified; and carry the certificate number. A list of the officials authorized to issue textile export visas and certifications for exempt items is published below. Facsimiles of the visa and certification stamps and a list of exempt items are published as enclosures to the letter to the Commissioner of Customs.

Interested parties are advised to take all necessary steps to assure that cotton textiles and cotton textile products, produced or manufactured in India and exported to the United States, which are to be entered into the United States for consumption, or withdrawn from warehouse, for consumption, will meet the stated visa and certification requirements.

There is published below a letter of May 13, 1975 from the Chairman of the Committee for the Implementation of Textile Agreements, to the Commissioner of Customs, implementing this administrative mechanism.

ALAN POLANSKY,  
Chairman, Committee for the  
Implementation of Textile  
Agreements, and Deputy Assistant Secretary for Resources  
and Trade Assistance, U.S.  
Department of Commerce.

# GOVERNMENT OF INDIA OFFICIALS AUTHORIZED TO ISSUE VISAS AND CERTIFICATES FOR EX- EMPT COTTON TEXTILE ITEMS EXPORTED TO THE UNITED STATES

R. C. Abbi  
A. Abraham  
R. L. Agarwal  
S. N. Agarwal  
P.A.N. Bashaar  
Ahmed

H. Ahmed  
J. M. Ahmed  
B. V. Alur  
K. C. Angirish  
J.V.S.S. Anjaneyulu  
J. K. Arora  
S. K. Arora  
D. C. Bagchi  
S. C. Baisya  
U. L. Baliai

S. K. Bandopadhyay  
M. L. Banerji  
H. M. Basu  
K. Basu  
T. K. Basu  
N. S. Bhadrar  
R. K. Bhagotra

V. B. Bhambr  
M. R. Bhandari  
R. D. Bhatnagar  
S. K. Bhatnagar  
P. Bhowmik  
B. K. Biswas  
Chandrashekar  
Biswas

A. K. Chakraborty  
K. Chakraborty  
S. P. Chakraborty  
S. N. Chatterjee  
N. K. Chatterjee  
S. N. Chatterjee  
P. K. Chattopadhyay

S. Chaudhuri  
G. S. Chauhan  
Chukkamuniyappa  
K. V. Chitnis  
P. P. Chumble  
S. P. Dadiani  
V. Dasappa

R. K. Dasgupta  
B. R. Dass  
M. R. Dass  
K. K. Datta  
S. K. Datta  
R. V. Dave  
A. K. Deb

A. K. Dhar  
A. B. Dutta  
A. B. Dutta  
M. R. Fansatkar  
D. S. Gahlot  
K. K. Gandhi

A. K. Ghosh  
D. B. Ghosh  
D. K. Ghosh  
T. K. Ghosh  
N. D. Gianchandani  
B. A. Goel

B. H. Gopalakrishna  
M. Gopalan  
P. Gopalan  
U. N. Gopalakrishna  
Biswanath Gope  
T. K. Goswami

A. K. Guharay  
R. N. Guhathakur-  
tha  
K. C. Gupta  
L. R. Gupta  
R. K. Gupta

R. S. Gupta  
D. T. Hadagall  
R. C. Jain  
N. K. Jhingran  
K. T. John  
G. M. Kamra

K. S. Kansla  
P. K. Karunakaran  
J. D. Katiyar  
P. R. Khedkar

B. R. Kowshik  
P. Krishnan  
V. Krishnan  
H. V. Prasanna  
Kumar  
M. S. Vasantha  
Kumar

P. R. Kwatra  
Ram Singh Lamba  
R. Lekshmanan  
S. N. Mahata  
M. M. Maheshwari  
D. R. Malra  
A. Majumdar

P. K. Majumdar  
M. S. Mandal  
P. K. Mandal  
K. Mathew  
J. B. Mazumder  
R. L. Mehndru  
A. M. Mirza

B. K. Mitra  
J. Mitra  
G. Murl Mohan  
C. S. Mokashi  
V. P. Mokashi  
N. C. Mondal  
V. G. Morab

G. P. Mukherjee  
A. K. Mukherjee  
B. Mukherjee  
G. P. Mukherjee  
J. K. Mukherjee  
G. N. Murty  
T. S. Muthukrish-  
nan

R. K. Nadar  
S. Nag  
K. Nagajapati  
V. Nagarajan  
R. V. Nandekar  
T. Narayanan  
T. S. Narayanan  
N. K. Nayyar

K. S. Padmanabhan  
K. V. Padmanabhan  
R. C. Pal  
R. M. Panchaksha-  
raiah  
A. S. Parameswaran  
S. R. Patil  
T. K. Paul

K. Sreedharan Pillai  
V. S. Pillai  
B. N. K. Prasad  
S. V. Prasad  
M. L. Premi  
S. L. Radhakrishnan  
K. R. Rajagopalan  
M. G. Rajan

S. Soundara Rajan  
V. Ramachandran  
V. P. Ramalingam  
R. Ramanathan  
S. Ramiah  
G. Ranganath  
K. R. Ranganathan  
A. S. Rama Rao

B. V. Venkata Rao  
C. S. Nagoojee Rao  
K. Narayana Rao  
M. R. Rama Rao  
T. N. Lakshman Rao  
T. Ravindran  
R. Rengaraja

Arun Roy  
G. P. Saha  
P. K. Saha  
C. S. Rao Sahib  
K. B. Sakpal  
P. K. Sanyal  
J. C. Sarkar

K. Sathyanarayana  
C. V. Savale  
R. C. Saxena  
P. J. Sebastian

A. K. Sen  
P. R. Sen  
V. K. Seth  
T. V. Shanmugham  
N. Shanthamurthy  
B. D. Sharma  
R. K. Sharma  
N. S. Shivashankar

K. K. Shukla  
Harbhajan Singh  
L. S. Singh  
Virinder Singh  
S. K. Sinha  
P. Sivan  
B. Sivaraman

S. Sivaraman  
S. Sivaraman  
Sohaniai  
K. Somadevan  
B. M. Somasekhar  
T. Somasekharan  
M. N. Somasundaram

S. C. Sood  
V. K. Sood  
C. Subramaniam

G. S. V. Subraman-  
yam  
K. Sugavanam  
M. S. Sumant  
P. B. Surendranath  
S. C. Suri  
H. S. Swami  
M. M. Syal

S. Naryanan Thampy  
K. V. Thuthija  
D. V. Tyagi  
H. K. Umashankar  
S. D. Vaidya  
S. V. Venkatesh  
R. K. Verma

K. Vidyanta  
R. Vijendrachar  
A. N. Vittal  
B. Wadhawan  
S. K. Walla  
P. S. Warang

COMMITTEE FOR THE IMPLEMENTATION OF  
TEXTILE AGREEMENTS  
Commissioner of Customs  
Department of the Treasury  
Washington, D.C.

MAY 13, 1975.

DEAR MR. COMMISSIONER: Under the terms  
of the Arrangement Regarding International  
Trade in Textiles, done at Geneva on Decem-  
ber 20, 1973, pursuant to paragraph 18 of  
the Bilateral Cotton Textile Agreement of  
August 6, 1974, between the Governments of  
the United States and India, and in accordance  
with the provisions of Executive Order  
11651 of March 3, 1972, you are directed to  
prohibit, effective on June 19, 1975, and until  
further notice, entry into the United States  
for consumption and withdrawal from ware-  
house for consumption of cotton textiles and  
cotton textile products in Categories 1  
through 64, produced or manufactured in  
India and exported to the United States on  
and after March 15, 1975, for which the Gov-  
ernment of India has not issued an appro-  
priate visa, fully described below.

The visa will be a stamped marking in  
blue ink on the front of the invoice (Special  
Customs Invoice Form 5515, successor docu-  
ment, or commercial invoice, when such  
form is used) and will bear the signature of  
the official issuing the visa.

In addition, properly certified hand-loomed  
and folklore products shall be exempt from  
the levels of restraint established pursuant  
to the bilateral agreement. To qualify for  
exemption, goods exported on and after  
March 15, 1975 shall be accompanied by a  
certification issued by the Government of  
India. The certification shall be a stamped  
marking in blue ink on the front of the in-  
voice (Special Customs Invoice Form 5515,  
successor document, or commercial invoice,  
when such form is used). It will include the  
signature and title of the official issuing the  
certification; identify the items exempted;  
indicate the date the certification was  
signed and certified; and carry the certificate  
number. Facsimiles of the visa and the cer-  
tification for exemption are enclosed. Also  
enclosed is the list of exempt items.

In addition to the certification stamp,  
each shipment of hand-loomed and folklore  
products will also be accompanied by the  
aforementioned visa.

All merchandise covered by an invoice  
which has an exempt certification but con-  
tains both exempt and non-exempt textile  
items will be prohibited entry.

You are further directed to permit entry  
into the United States for consumption and  
withdrawal from warehouse for consumption  
of designated shipments of cotton textiles  
and cotton textile products, produced or

manufactured in India and exported to the  
United States from India, notwithstanding  
the designated shipment or shipments do not  
fulfill the aforementioned visa and certifica-  
tion requirements, whenever requested to do  
so in writing by the Chairman of the Com-  
mittee for the Implementation of Textile  
Agreements.

Hand-loomed and folklore products which  
have been certified exempt from the levels of  
restraint of the Bilateral Cotton Textile  
Agreement of August 6, 1974, between the  
Governments of the United States and India,  
should be reported in accordance with the  
instructions transmitted in the letter of  
March 7, 1975.

A detailed description of the categories  
in terms of T.S.U.S.A. numbers was published  
in the *Federal Register* on February 3, 1975  
(40 FR 5010).

In carrying out the above directions, entry  
into the United States for consumption  
shall be construed to include entry for con-  
sumption into the Commonwealth of Puerto  
Rico.

The actions taken with respect to the  
Government of India and with respect to  
imports of cotton textiles and cotton tex-  
tile products from India have been deter-  
mined by the Committee for the Imple-  
mentation of Textile Agreements to involve  
foreign affairs functions of the United  
States. Therefore, the directions to the Com-  
missioner of Customs, being necessary to  
the implementation of such actions, fall  
within the foreign affairs exception to the  
rulemaking provision of 5 U.S.C. 553. This  
letter will be published in the *FEDERAL  
REGISTER*.

Sincerely,  
ALAN POLANSKY,  
Chairman, Committee for the Im-  
plementation of Textile Agree-  
ments, and Deputy Assistant Sec-  
retary for Resources and Trade  
Assistance, U.S. Department of  
Commerce.

manufactured in India and exported to the  
United States from India, notwithstanding  
the designated shipment or shipments do not  
fulfill the aforementioned visa and certifica-  
tion requirements, whenever requested to do  
so in writing by the Chairman of the Com-  
mittee for the Implementation of Textile  
Agreements.

Hand-loomed and folklore products which  
have been certified exempt from the levels of  
restraint of the Bilateral Cotton Textile  
Agreement of August 6, 1974, between the  
Governments of the United States and India,  
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mentation of Textile Agreements to involve  
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missioner of Customs, being necessary to  
the implementation of such actions, fall  
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letter will be published in the *FEDERAL  
REGISTER*.

Sincerely,  
ALAN POLANSKY,  
Chairman, Committee for the Im-  
plementation of Textile Agree-  
ments, and Deputy Assistant Sec-  
retary for Resources and Trade  
Assistance, U.S. Department of  
Commerce.

## FACSIMILES OF VISAS

## GOVERNMENT OF INDIA

Certificate No.  
EXEMPTED ITEMS

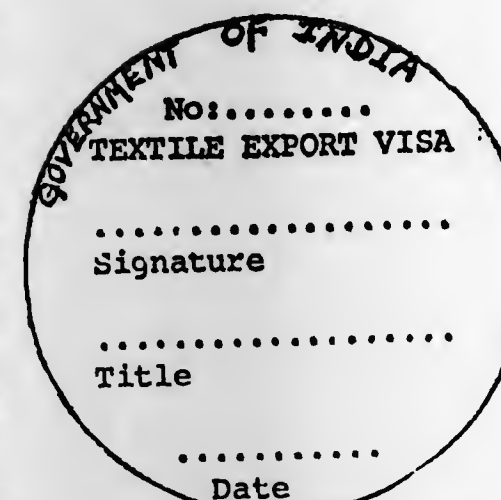
Description

.....19....  
Certified on

Authorized Signature

Title

## NOTICES



## HAND-LOOMED AND FOLKLORE PRODUCTS

These are traditional Indian products, cut,  
sewn, or otherwise processed and fabricated  
by hand in cottage units of the cottage in-  
dustry. Indian traditional dresses and other  
products are made of hand-printed and/or  
hand-painted cotton textiles, including  
Kalamakari, Batik, Tie-dye with or without  
traditional embroidery with wooden beads,  
glass beads, conch shells, mirrors, phulkari  
work and applique work. They also include  
items made of fabrics having extra weft  
ornamentation of cotton, silk, zari, wool, or  
any other fiber yarn.

1. Kurtha—A loose-fitting tunic, almost  
straight, in short, medium and long sizes.  
Some typical examples of Kurtha are: Ka-  
thiawar mirrored kurtha, wooden beaded  
Delhi kurtha, Delhi embroidered kurtha,  
Bandini kurtha, Lucknow chikan kurtha,  
Madras short kurtha, Sangner printed kurta,  
Phulkari kurta, etc.

2. Churidar Pyjama or Churidar set—A  
pair of trousers, loose at waist, with either  
drawn string or hooks and tapering to a tight  
fit at ankle. It is traditionally a Moghul cos-  
tume, worn by Indian women since 16th cen-  
tury, along with a kurta and Dupatta (an  
oblong scarf).

3. Jawahar Jacket—A loose-fitting waist  
coat, with or without buttons, traditionally  
worn over kurtas or kameez by men and  
women.

4. Pherron—A full length dress loose and  
longer than the kurta with long loose sleeves  
worn originally by Kashmiris. Intricate em-  
broidery depicting floral designs is done  
around the neck of this costume.

5. Angharkha—A traditional dress of Mog-  
hul times, open down the front with deco-  
rative string or ribbon, used to tie at the sides  
or centre. (This also includes Angharkha of  
ribbed cotton worn in Rajasthan).

6. Bagal Bendini—A garment similar to  
Angharkha, short or long, with a wrap-  
around effect and tied at the sides.

7. Ghagras/Lahngas—Long, wide skirt with  
drawn string or hooks. A garment usually  
reaching up to or below ankles.

8. Pavada—A long wide shirt similar to  
Ghagras often in two-piece ensemble, as an  
accessory worn with saree or dupatta.

9. Choli—A short blouse worn on festive  
occasions by the tribals of Kuch and Ra-  
jasthan.

10. Lungi or Lungi set—A long garment  
worn as a wrap-around the lower half of the  
body, with or without a kurta, or a loose-fit  
blouse or a choli.

11. Salwar/Gararra—Loose-fit trousers,  
legs may be straight or baggy at the thighs.  
This also includes Gararra which is a straight  
trouser up to the knee and down below,  
shaped like a Ghagra, with frills etc.

12. Dupatta—A scarf usually about 4 ft.  
long, wrapped by women along with kurta  
and churidar. This also includes other types  
of scarves worn in varied sizes, the charac-  
teristics being the same as above.

13. Ohdhar—An oblong cloth about 6 to 7  
ft. long and 3 to 4 ft. wide with overall em-  
broidery or a woven jacquard weave with  
traditional designs like himroo shawl or  
made up of a fabric decorated with cotton/  
silk/wool/zari or any other fibre yarn used  
to cover the body.

14. Chola—An ankle-length, loose fit, long  
Kurta traditionally worn by religious priests.

15. Safa—Headwear made up of printed or  
embroidered fabrics.

16. Aba—An overgarment, close fit at the  
upper part, and a Ghagra type skirt touching  
up to ankles.

17. Burka—Overgarment worn by Muslim  
women to cover overhead to ankles.

18. Jama—A long kurta traditionally worn  
by a special class of people.

19. Patka—A long traditional stole with  
Indian designs ornamented with art work of  
various types.

20. Tamba/Tambi—Loose fit trousers  
usually worn in North India.

21. Thalis—Tobags, purses, pouch bags  
and similar accessories to traditionally In-  
dian dresses.

22. Toran—A long embroidered strip of  
cloth elegantly embroidered with plain or  
applique work embroidery, used for decorat-  
ing the entrance doors of Indian residences.  
This represents a wide variety of fine em-  
broidered pieces connected with folk art,  
particularly from Kathiawar in Gujarat  
(West Coast of India).

23. Phulkari—Decorative, embroidered,  
rough-spun cotton fabric with close darning  
stitch employed with strands of untwisted  
silk to make the flower-like embroidery.

24. Thombal—Cylindrical hanging with  
hand-made applique work of hand-printed/  
hand-painted/hand-embroidered fabrics.  
These are traditionally used in South Indian  
temples as decorative hangings from ceil-  
ings or in doorways for gala affairs.

25. Puri Chatta—Flat, highly decorative  
umbrella with applique work.

26. Gabba—Embroidered floor covering  
using waste rags. Usually embroidered or  
made in applique work on old woolen blan-  
ket or jute base with cotton backing peculiar  
to Kashmir region.

27. Shamiana—Canopy or awning used as  
ceiling decoration.

28. Kalamkari—Hand painted/printed  
with wax resist wall pieces depicting mytho-  
logical characters.

29. Chakla—Wall hangings with folk em-  
broidery, with or without mirror work,  
framed and unframed. The stitches are in-  
terspersed and interlaced.

30. Batik wall pieces—Wall hangings made  
of cotton fabrics hand painted with batik  
technique. The designs are usually mytho-  
logical narrations.

31. Chahdani Posh—A protective covering  
used normally in rural areas to keep tea or  
coffee pots warm.

32. Takla Gilaf—A cushion cover in oblong,  
square, round or other shape using indig-  
enous materials and motifs.

33. Chandni/Gaddiposh—A decorative  
floor spread, also used sometimes as cover on  
wooden Takhat (sort of Divan).

34. Temple Hangings—Made of handwoven,  
hand-painted/printed traditional textiles  
with Indian motifs.

35. Gulubahdk—Traditionally decorative  
piece of cloth worn round the neck, with In-  
dian traditional art work.

36. Kamarbandh—Traditional decorative  
item worn around the waist.



37. Mathapatti—A decorative piece used to decorate the forehead in varying length and width.

38. Bazuband—A decorative piece worn around the arm.

[PR Doc. 75-12946 Filed 5-19-75; 8:45 am]

# FEDERAL COMMUNICATIONS COMMISSION

[Report No. 753]

## COMMON CARRIER SERVICES INFORMATION

### Domestic Public Radio Services Applications Accepted for Filing

MAY 12, 1975.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cut-off dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60 day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,  
[SEAL] VINCENT J. MULLINS,  
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21546-CD-AL-75, David W. Gustafson, Consent to Assignment of License from David W. Gustafson, Assignor to Answer Iowa, Inc., Assignee, Station: KFI900, Minneapolis, Minnesota.

All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

The above alternative cut-off rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

21547-CD-P-(3)-75, James W. Corn d.b.a. Omnicom (KOF914), C.P. to delete facilities operating on 152.03 MHz at Loc. #1: 3300 Clark Street, Missoula, Montana; and to change antenna system, replace transmitter and establish standby facilities operating on 152.03 & 152.12 MHz at Loc. #2: TV Mountain, 9 miles north of Missoula, Montana.

21548-CD-P-75, WJBC Communications Corporation (KSA746), C.P. for additional standby facilities to operate on 152.15 MHz at Loc. #2: Watterson Towers South, Normal, Illinois.

21549-CD-P-75, Car-Tel Communications, Inc. (KUC960), C.P. to relocate facilities operating on 454.075 MHz to Hwy. #34, 4 miles West of Newman, Georgia.

21550-CD-P-(2)-75, Advanced Electronics, Inc. (New), C.P. for a new station to operate on 152.09 and 152.18 MHz to be located at Sacrifice Cliff, 2 miles SE. of Billings, Montana.

21551-CD-P-75, United Telephone Mutual Aid Corporation (New), C.P. for a new 1-way station to operate on 158.10 MHz to be located at 411 Seventh Avenue, Langdon, North Dakota.

21552-CD-P-75, United Telephone Mutual Aid Corporation (New), C.P. for a new one-way station to operate on 158.10 MHz to be located 50 ft. South of Walhalla City, Water Tower, NW 1/4, S20, T163N, R56W, Walhalla, North Dakota.

21553-CD-P-(2)-75, Texoma Mobilfone, Inc. (KLB524 & KLB523), C.P. to replace transmitter, change antenna system and relocate facilities operating on 152.18 MHz to be located 1 mile South of Highway 82, 2 miles East of Gainesville, Texas; and also to consolidate existing facilities of KLF524 under KLF523 operating on 152.15 MHz to be located same as above.

21554-CD-P-75, Talton Communications Corporation (KUC904), C.P. to relocate facilities operating on 152.24 MHz to Landline Road, Selma, Alabama.

21555-CD-P-(2)-75, Talton Communications Corporation (KTS209), C.P. to relocate facilities operating on 152.18 MHz and for additional facilities to operate on 152.09 MHz at Landline Road, Selma, Alabama.

21556-CD-P-75, James D. and Lawrence D. Garvey d.b.a. Radiofone (KSV974), C.P. for additional facilities to operate on 454.275 MHz to be located at 700 Poydras St., New Orleans, Louisiana.

21557-CD-P-75, James D. and Lawrence D. Garvey d.b.a. Radiofone (KRS632), C.P. for additional facilities operating on 152.12 MHz at Loc. #2: 700 Poydras St., New Orleans, Louisiana.

21558-CD-P-75, Airtel International, Inc. (KOA796), C.P. to relocate facilities and change antenna system operating on 35.58 MHz at Loc. #1: 4636 S.W. Council Crest Drive, Portland, Oregon.

21559-CD-P-75, McClellanville Telephone Company, Inc. (New), C.P. for a new 1-way station to operate on 158.10 MHz to be located Near Intersection of Hwy. U.S. 17 and 45, 0.5 mile NW of McClellanville, South Carolina.

21560-CD-AL-75, Yakima Telephone Answering Service, Inc., Consent to Assignment of License from Yakima Telephone Answering Service, Assignor to Robert S. Ditton d.b.a. Mobilfone Northwest, Assignee, Station: KTS216, Yakima, Washington.

21561-CD-P-75, Charles L. Escue (KSV947), C.P. for additional facilities to operate on 43.22 MHz at Loc. #3: Birmingham, Alabama.

21562-CD-P-(2)-75, Radio Relay Corp., Illinois (KSC645), C.P. for additional facilities to operate on 35.58 MHz at Loc. #10: 4800 S. Chicago Beach Dr., Chicago, Illinois.

nois; and Loc. #11: 171 Hart Road, Batavia, Illinois.

21563-CD-P-75, New England Telephone & Telegraph Company (KCA207), C.P. to change antenna system and relocate facilities operating on 454.625 MHz to be located 4.2 miles West of Andover, Massachusetts.

21564-CD-AL-(2)-75, Tidewater Telephone Company, Consent to Assignment of License from Tidewater Telephone Company, Assignor to Continental Telephone Company of Virginia, Assignee, Stations: K1Y 767, Warsaw, Virginia and K1Y768, Killmar-nock, Virginia.

21565-CD-AL-75, Commonwealth Telephone Company of Virginia, Consent to Assignment of License from Commonwealth Telephone Company of Virginia, Assignor to Continental Telephone Company of Virginia, Assignee, Station: K1Y597, Haymarket, Virginia.

21566-CD-AL-(2)-75, First Colony Telephone Company, Consent to Assignment of License from First Colony Telephone Company, Assignor to Continental Telephone Company of Virginia, Assignee, Stations: K1M907, Haymarket, Virginia and K1J361, Amherst, Virginia.

## MAJOR AMENDMENT

21190-CD-P-(2)-75, Dakota Radio Paging, Inc., Sioux Falls, South Dakota (KQZ777), Amend to change base frequency 152.09 MHz to 152.15 MHz and mobile frequency 158.55 MHz to 158.61 MHz at Location #2, Water tower, 2 miles SSE of Sioux Falls (Lincoln), South Dakota. All other particulars are to remain the same as reported on PN #744 dated March 10, 1975.

6807-C2-P-(2)-70, (New), Mobile Radio Telephone Service, Inc., Monroe, Utah (Air-Ground), Amend to change control/repeater frequencies from 454.025, 454.150, and 454.325 MHz to 75.42, 75.46, and 75.50 MHz for control; and from 459.825 and 459.950 MHz to 72.96 and 72.98 MHz for repeater. All other particulars of operation remain as reported in PN #489 dated April 27, 1970.

## CORRECTION

21110-CD-P-75, Michigan Bell Telephone Company (KQK548), Correct call sign to read (KQK578). All other particulars are to remain the same as reported on PN #740 dated February 10, 1975.

## INFORMATIVE

It appears that the following applications may be mutually exclusive and subject to the Commission's Rules regarding Ex Parte presentations by reason of potential electrical interference.

Answerite Professional Telephone Service (New), 21648-C2-P-(4)-74, Tampa, Florida. Peacock Radio Service, (K1J357), 20376-CD-P-(2)-75, Clearwater, Florida.

## RURAL RADIO

60335-CR-P-75, Nolan G. Lacey (New), C.P. for a new subscriber station to operate on 157.950 MHz to be located 21 miles WNW of Cut Bank, Montana.

60336-CR-P/L-75, Southwestern Bell Telephone Company (KVD61), C.P. for additional facilities to operate on 157.77, 157.83, 157.98 and 158.07 MHz located 17.2 miles NW of Crane, Texas.

## POINT TO POINT MICROWAVE RADIO SERVICE

3435-CF-P-75, The Mountain States Telephone and Telegraph Company (KPR35), 107 East 1st North Street, Price, Utah. Lat. 39°36'08" N. Long. 110°48'30" W. C.P. to add antenna system and freq. 2128.0V MHz towards Soldier Summit, Utah on azimuth 317°41'.

3433-CF-P-75, Same (KPR36), Soldier Summit, 8 miles NW of Helper, Utah. Lat. 39°45'22" N. Long. 110°59'24" W. C.P. to add antenna system and freqs. 2178.0V MHz towards Price, Utah on azimuth 137°34'; add 2162.0V MHz towards Soldier Summit, Utah via passive reflector.

3471-CF-P-75, Same (New), 115 Center Street, Scofield, Utah. Lat. 39°43'25" N. Long. 111°09'36" W. C.P. for a new station on 2112.0V MHz via passive reflector towards Soldier Summit, Utah.

3486-CF-P-75, General Telephone Company of Florida (KYJ44), 201 South Gall Blvd., Zephyrhills, Florida. Lat. 28°13'39" N. Long. 82°10'46" W. C.P. to change antenna system and add freqs. 5945.2H and 6004.5H, 6063.8H, 6123.1H, and 5974.8V MHz towards a new point of communication at San Antonio, Florida on azimuth 313°31'.

3493-CF-R-75, Hawaiian Telephone Company (KUQ93), Location: Temporary fixed-State of Hawaii. Renewal of Radio Station License (Developmental) expiring May 23, 1975. Term: May 23, 1975 to May 23, 1976.

3495-CF-P-75, Wiggins Telephone Association (New), Near telephone office, Briggsdale, Colorado. Lat. 40°38'02" N. Long. 104°19'38" W. C.P. for a new station on freq. 2128.0H MHz towards Crow Valley Hill, Colorado on azimuth 319°19'.

3513-CF-P-75, The Ponderosa Telephone Company (KNL20), Central Office, O'Neals, California. Lat. 37°07'39" N. Long. 119°41'39" W. C.P. to change antenna system and location, replace transmitters on freqs. 6256.5H and 6404.8H MHz towards Fresno, California via passive reflector; change emission and power.

3507-CF-P-75, The Ohio Bell Telephone Company (KQM38), 3526 Ridge Road, Warren, Ohio. Lat. 41°12'30" N. Long. 80°48'55" W. C.P. to change alarm system, transmitter, protection ratio and freq. 11365 MHz to 6308.4V MHz towards Youngstown, Ohio on azimuth 147°13'.

3508-CF-P-75, Same (KQM39), 3715 Southern Blvd., Youngstown, Ohio. Lat. 41°03'41" N. Long. 80°39'25" W. C.P. to change alarm center, transmitter, protection ratio; and freq. 10915 MHz to 6056.4V MHz towards Warren, Ohio on azimuth 327°118'.

3498-CF-P-75, New England Telephone and Telegraph Company (KCK73), Dodge Mountain Road, Rockland, Maine. Lat. 44°08'01" N. Long. 69°08'00" W. C.P. to construct a new tower and transfer existing antenna towards Vinalhaven, Maine.

3499-CF-P-75, New England Telephone and Telegraph Company (KCK87), 45 Forest Avenue, Portland, Maine. Lat. 43°39'21" N. Long. 70°15'52" W. C.P. to change frequencies 11225.0V, 11345.0H, 11505.0H, and 11545.0V MHz to 11265.0H, 11305.0V, 11425.0H, and 11585.0H MHz toward Gray, Maine on azimuth 343°57'; replace transmitters and change power.

3500-CF-P-75, Same (KCK89), on Dutton Hill, 2.6 miles SW. of Gray, Maine. Lat. 43°50'55" N. Long. 70°20'28" W. C.P. to change frequencies 10895.0V, 11015.0H, 11055.0V, and 11175.0H MHz to 10775.0H, 10935.0H, 11095.0H, and 11135.0V MHz toward Portland, Maine on azimuth 163°54'; change 6308.4H and 6367.7H MHz to 6286.2H and 6345.5H MHz toward Bowdoin, Maine on azimuth 43°41'; replace transmitters and change power.

3501-CF-P-75, Same (KCO98), Bowdoin, on Whitten Hill, 4.9 miles NW. of The Village of Bowdoin Center, Maine. Lat. 44°06'07" N. Long. 70°00'17" W. C.P. to change frequencies 6056.4H and 6115.7H MHz to 6034.2H and 6093.5H MHz toward Gray, Maine on azimuth 223°55'; change 6071.2V

and 6130.5H MHz to 5974.8V and 6152.8V MHz toward Vassalboro, Maine on azimuth 39°25'; replace transmitters and change power.

3502-CF-P-75, Same (KOC97), Vassalboro, on Telco Hill, 3 miles NE. of the Village of East Vassalboro, Maine. Lat. 44°28'52" N. Long. 69°34'07" W. C.P. to change frequencies 6323.3V and 6382.6V MHz to 6228.9V and 6404.8V MHz toward Bowdoin, Maine on azimuth 219°43'; change 6352.9H and 11115.0V MHz to 10795.0V and 11155.0H MHz toward Augusta, Maine on azimuth 224°03'; replace transmitters and change power.

3503-CF-P-75, Same (KZI41), On Burnt Hill, 0.8 mile NW. of Augusta, Maine. Lat. 44°19'16" N. Long. 69°47'02" W. C.P. to change frequencies 6100.9H and 11645.0V MHz to 11245.0V and 11605.0H MHz toward Vassalboro, Maine on azimuth 43°54'; replace transmitters and change power.

3972-CF-P-75, RCA Alaska Communications, Inc. (WAH417), Donnelly Dome, White Alice Communication Site at Mile 248 Richardson Hwy., 145 miles South of Delta Junction, Alaska. Lat. 63°47'14" N. Long. 145°51'42" W. C.P. to change antenna system and frequency 2128.0V MHz toward Pump Station #9, Alaska to 2168.0H MHz toward a new point of communication at Delta Junction, Alaska on azimuth 13°16'; replace transmitter and change power.

3973-CF-P-75, Same (New), White Alice Communication Site, 1/10 mile SE. of Delta Junction, Alaska. Lat. 64°02'15" N. Long. 145°43'37" W. C.P. for a new station on frequency 2118.0H MHz toward Donnelly Dome, Alaska on azimuth 193°23.

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

The following applications for Modifications of License were filed to correct coordinates:

3524-CF-ML-75, (KAA65), Homestead, Iowa. Change from Lat. 41°45'38" N. Long. 91°50'55" W. to read Lat. 41°45'38" N. Long. 91°50'45" W.

3528-CF-ML-75, (KAB26), Prospect Valley, Colorado. Change from Lat. 40°04'31" N. Long. 104°17'23" W. to read Lat. 40°04'25" N. Long. 104°17'01" W.

3529-CF-ML-75, (KAB27), Fort Morgan, Colorado. Change from Lat. 40°23'25" N. Long. 103°42'47" W. to read Lat. 40°23'32" N. Long. 103°42'30" W.

3533-CF-ML-75, (KAC31), Ogallala, Nebraska. Change from Lat. 41°10'58" N. Long. 101°39'58" W. to read Lat. 41°11'01" N. Long. 101°40'19" W.

3537-CF-ML-75, (KAC39), Columbus, Nebraska. Change from Lat. 41°18'30" N. Long. 97°20'43" W. to read Lat. 41°18'21" N. Long. 97°20'56" W.

3546-CF-ML-75, (KAC69), Matfield Green, Kansas. Change from Lat. 38°08'53" N. Long. 96°26'06" W. to read Lat. 38°08'40" N. Long. 96°26'13" W.

3547-CF-ML-75, (KAC70), Halls Summit, Kansas. Change from Lat. 38°20'19" N. Long. 95°40'21" W. to read Lat. 38°20'06" N. Long. 95°40'27" W.

3548-CF-ML-75, (KAC71), Worden, Kansas. Change from Lat. 38°47'22" N. Long. 95°26'11" W. to read Lat. 38°47'07" N. Long. 95°26'09" W.

3568-CF-ML-75, (KAK74), Sebeka, Minnesota. Change from Lat. 46°34'10" N. Long. 95°07'05" W. to read Lat. 46°34'17" N. Long. 95°07'15" W.

3571-CF-ML-75, (KAL47), Cape Girardeau, Missouri. Change from Lat. 37°23'12" N. Long. 89°38'46" W. to read Lat. 37°23'16" N. Long. 89°38'36" W.

3581-CF-ML-75, (KAM48), Mullinville, Kansas. Change from Lat. 37°32'24" N. Long. 99°28'02" W. to read Lat. 37°32'10" N. Long. 99°27'59" W.

3582-CF-ML-75, Cullison, Kansas. Change from Lat. 37°34'33" N. Long. 98°55'36" W. to read 37°34'17" N. Long. 98°55'42" W.

3586-CF-ML-75, (KAN21), Winslow, Iowa. Change from Lat. 41°37'24" N. Long. 96°24'48" W. to read Lat. 41°37'30" N. Long. 96°25'03" W.

3587-CF-ML-75, (KAN23), Griswold, Iowa. Change from Lat. 41°15'45" N. Long. 95°13'58" W. to read Lat. 41°15'28" N. Long. 95°13'58" W.

3588-CF-ML-75, (KAN90), La Veta Pass, Colorado. Change from Lat. 37°36'17" N. Long. 105°14'09" W. to read Lat. 37°36'17" N. Long. 105°14'16" W.

3593-CF-ML-75, (KAO46), Minneapolis, Kansas. Change from Lat. 39°06'49" N. Long. 97°49'09" W. to read Lat. 39°06'39" N. Long. 97°49'07" W.

3596-CF-ML-75, (KAO49), Beattie, Kansas. Change from Lat. 39°56'58" N. Long. 96°24'26" W. to read Lat. 39°57'01" N. Long. 96°24'56" W.

3599-CF-ML-75, (KAO54), Leon, Iowa. Change from Lat. 40°47'23" N. Long. 93°35'11" W. to read Lat. 40°47'25" N. Long. 93°35'33" W.

3605-CF-ML-75, (KAR43), Pierceville, Kansas. Change from Lat. 37°48'22" N. Long. 100°38'58" W. to read Lat. 37°48'36" N. Long. 100°39'07" W.

3609-CF-ML-75, (KAR49), Eads, Colorado. Change from Lat. 38°20'03" N. Long. 102°45'03" W. to read Lat. 38°20'08" N. Long. 102°45'23" W.

3615-CF-ML-75, (KAR76), Buxton, North Dakota. Change from Lat. 47°35'57" N. Long. 97°14'01" W. to read Lat. 47°35'56" N. Long. 97°13'39" W.

3616-CF-ML-75, (KAR78), Pisek, North Dakota. Change from Lat. 38°18'41" N. Long. 97°46'48" W. to read Lat. 48°18'43" N. Long. 97°47'11" W.

3617-CF-ML-75, (KAR79), Olga, North Dakota. Change from Lat. 48°45'51" N. Long. 97°59'01" W. to read Lat. 48°45'42" N. Long. 97°58'25" W.

3623-CF-ML-75, (KAS85), Cedarwood, Colorado. Change from Lat. 38°01'30" N. Long. 104°29'38" W. to read Lat. 38°02'02" N. Long. 104°29'20" W.

3626-CF-ML-75, (KAY72), Atlanta, Kansas. Change from Lat. 37°27'02" N. Long. 96°44'28" W. to read Lat. 37°26'49" N. Long. 96°44'33" W.

3628-CF-ML-75, (KAZ59), La Junta, Colorado. Change from Lat. 37°54'10" N. Long. 103°25'38" W. to read Lat. 37°54'15" N. Long. 103°26'12" W.

3629-CF-ML-75, (KAZ60), Frick, Colorado. Change from Lat. 37°39'50" N. Long. 102°53'04" W. to read Lat. 37°39'55" N. Long. 102°53'39" W.

3635-CF-ML-75, (KBI32), Red Wing, Colorado. Change from Lat. 37°43'51" N. Long. 105°27'29" W. to read Lat. 37°44'10" N. Long. 105°27'17" W.

3636-CF-ML-75, (KBI34), South Fork, Colorado. Change from Lat. 37°43'24" N. Long. 106°33'59" W. to read Lat. 37°43'34" N. Long. 106°33'53" W.

3638-CF-ML-75, (KBI40), Dove Creek, Colorado. Change from Lat. 37°45'43" N. Long. 108°51'43" W. to read Lat. 37°45'32" N. Long. 108°51'46" W.

3644-CF-ML-75, (KBT52), Woods, Kansas. Change from Lat. 37°15'44" N. Long. 101°00'43" W. to read Lat. 37°15'31" N. Long. 101°00'46" W.

3683-CF-ML-75, (KEC91), Lone Man Mtn., Texas. Change from Lat. 30°04'36" N. Long. 98°05'03" W. to read Lat. 30°04'37" N. Long. 98°05'18" W.

3688-CF-ML-75, (KKH70), Wayne, Oklahoma. Change from Lat. 34°55'52" N. Long. 97°22'12" W. to read Lat. 34°56'05" N. Long. 97°21'54" W.



## NOTICES

- 3689-CF-ML-75, (KKH71), Norman, Oklahoma. Change from Lat. 35°12'07" N. Long. 97°35'55" W. to read Lat. 35°12'06" N. Long. 97°36'02" W.
- 3694-CF-ML-75, (KKK43), Coweta, Oklahoma. Change from Lat. 35°58'52" N. Long. 95°37'44" W. to read Lat. 35°58'39" N. Long. 95°37'42" W.
- 3695-CF-ML-75, (KKK44), Ketchum, Oklahoma. Change from Lat. 36°34'02" N. Long. 95°01'17" W. to read Lat. 36°34'02" N. Long. 95°01'23" W.
- 3696-CF-ML-75, (KKK45), Pryor, Oklahoma. Change from Lat. 36°18'40" N. Long. 95°24'34" W. to read Lat. 36°18'35" N. Long. 95°24'57" W.
- 3705-CF-ML-75, (KKO38), Vega, Texas. Change from Lat. 35°07'48" N. Long. 102°15'58" W. to read Lat. 35°07'53" N. Long. 102°15'44" W.
- 3708-CF-ML-75, (KKP83), Santa Rosa, New Mexico. Change from Lat. 35°08'04" N. Long. 104°56'15" W. to read Lat. 35°03'04" N. Long. 104°56'34" W.
- 3713-CF-ML-75, (KKP98), Lindale, Texas. Change from Lat. 32°32'16" N. Long. 95°22'27" W. to read Lat. 32°32'28" N. Long. 95°22'25" W.
- 3718-CF-ML-75, (KKP98), Crosby, Texas. Change from Lat. 29°53'47" N. Long. 95°00'28" W. to read Lat. 29°54'01" N. Long. 95°00'35" W.
- 3721-CF-ML-75, (KKX58), Rincon, New Mexico. Change from Lat. 32°41'46" N. Long. 107°03'47" W. to read Lat. 32°41'44" N. Long. 107°05'31" W.
- 3723-CF-ML-75, (KKZ89), Seguin, Texas. Change from Lat. 29°29'01" N. Long. 97°53'07" W. to read Lat. 29°29'02" N. Long. 97°52'49" W.
- 3724-CF-ML-75, (KLC41), Shiner, Texas. Change from Lat. 29°28'03" N. Long. 97°14'29" W. to read Lat. 29°28'01" N. Long. 97°14'19" W.
- 3737-CF-ML-75, (KLS80), Kiowa, Oklahoma. Change from Lat. 34°37'45" N. Long. 95°54'54" W. to read Lat. 34°37'48" N. Long. 95°55'04" W.
- 3745-CF-ML-75, (KLS91), Woodson, Texas. Change from Lat. 33°03'12" N. Long. 98°54'03" W. to read Lat. 33°03'11" N. Long. 98°53'53" W.
- 3748-CF-ML-75, (KLS97), Albany, Texas. Change from Lat. 32°52'17" N. Long. 99°26'11" W. to read Lat. 32°52'12" N. Long. 99°26'00" W.
- 3747-CF-ML-75, (KLS98), Stamford, Texas. Change from Lat. 32°52'04" N. Long. 99°51'30" W. to read Lat. 32°52'04" N. Long. 99°51'34" W.
- 3754-CF-ML-75, (KLT27), Orla, Texas. Change from Lat. 31°49'45" N. Long. 103°57'12" W. to read Lat. 31°49'32" N. Long. 103°56'53" W.
- 3759-CF-ML-75, (KLV83), Henryetta, Oklahoma. Change from Lat. 35°25'38" N. Long. 96°02'20" W. to read Lat. 35°25'44" N. Long. 96°02'30" W.
- 3772-CF-ML-75, (KLW21), Noble, Oklahoma. Change from Lat. 35°09'39" N. Long. 97°22'07" W. to read Lat. 35°09'40" N. Long. 97°22'38" W.
- 3774-CF-ML-75, (KOB27), Pratt, Pass, Utah. Change from Lat. 40°49'54" N. Long. 111°39'26" W. to read Lat. 40°49'43" N. Long. 111°39'13" W.
- 3776-CF-ML-75, (KOB29), Evanston, Wyoming. Change from Lat. 41°17'06" N. Long. 110°46'16" W. to read Lat. 41°16'58" N. Long. 110°46'52" W.
- 3777-CF-ML-75, (KOB61), Church Butte, Wyoming. Change from Lat. 41°24'57" N. Long. 110°05'03" W. to read Lat. 41°24'43" N. Long. 110°05'03" W.
- 3778-CF-ML-75, (KOB63), Rock Springs, Wyoming. Change from Lat. 41°39'23" N. Long. 109°09'42" W. to read Lat. 41°39'22" N. Long. 109°09'20" W.
- 3779-CF-ML-75, (KOB64), Bitter Creek, Wyoming. Change from Lat. 41°42'46" N. Long. 108°35'00" W. to read Lat. 41°43'23" N. Long. 108°35'21" W.
- 3780-CF-ML-75, (KOB65), Creston, Wyoming. Change from Lat. 41°45'00" N. Long. 107°49'32" W. to read Lat. 41°44'40" N. Long. 107°49'46" W.
- 3785-CF-ML-75, (KOU96), Teapot, Wyoming. Change from Lat. 43°07'10" N. Long. 106°18'30" W. to read Lat. 43°07'15" N. Long. 106°18'55" W.
- 3786-CF-ML-75, (KOU99), Fort McKinney, Wyoming. Change from Lat. 44°14'06" N. Long. 106°41'57" W. to read Lat. 44°13'55" W.
- 3788-CF-ML-75, (KOY56), Miles City, Montana. Change from Lat. 46°29'26" N. Long. 105°39'47" W. to read Lat. 46°29'31" N. Long. 105°37'41" W.
- 3790-CF-ML-75, (KOY60), Pompey's Pillar, Montana. Change from Lat. 46°01'57" N. Long. 107°58'20" W. to read Lat. 46°01'51" N. Long. 107°58'32" W.
- 3800-CF-ML-75, (KPZ20), Tieton, Washington. Change from Lat. 46°42'57" N. Long. 121°06'20" W. to read Lat. 46°43'02" N. Long. 121°05'59" W.
- 3466-CF-P-75, West Texas Microwave Company, (KLU86), 4.5 miles West Aledo, Texas. Lat. 32°41'38" N. Long. 97°40'29" W. C.P. to replace transmitter, to change power and to change antenna system on path to Mineral Wells.
- 3467-CF-P-75, Same (KLU87), Mineral Wells, Texas. Lat. 32°48'53" N. Long. 98°06'13" W. C.P. to change antenna system, to replace transmitter and to change power on path to Brackeen Ranch, Texas.
- 3468-CF-P-75, Same (KLU88), Brackeen Ranch, Texas. Lat. 32°46'43" N. Long. 98°29'10" W. C.P. to replace transmitter and to change power on paths to Breckenridge and Graham, Texas.
- 3469-CF-P-75, Same (KLU89), Breckenridge, Texas. Lat. 32°45'33" N. Long. 98°55'43" W. Mod. of C.P. (2084-CF-MP-75) to change polarities to 5974.8H MHz, 6063.8H MHz, 6152.8V MHz, and 6034.2H MHz on path to Eastland, Texas; to replace transmitters, and to change power on paths to Cisco, Davis Ranch, Albany and Eastland, all in Texas.
- 3470-CF-P-75, Same (KLU91), Davis Ranch, 8.0 miles West of Albany, Texas. Lat. 32°42'17" N. Long. 99°25'26" W. C.P. to replace transmitters and to change power on paths to Clyde and Estes Ranch, Texas.
- 3401-CF-MP-75, Western Union Telegraph Company (WAU208), Los Angeles #2 (KJOI-TV), California. Lat. 34°07'08" N. Long. 118°23'30" W. Mod. of C.P. (1792/2498-CF-P-75) (a) to change point of communication to Los Angeles (CBS-TV Center), California, on azimuth 148°18'; (b) to change antenna system; and (c) to change alarm center location.
- 3402-CF-MP-75, Same (WAU253), CBS-TV Center, First and Genesee Avenues, Los Angeles, California. Lat. 34°04'29" N. Long. 118°21'31" W. Mod. of C.P. (2504-CF-P-75) (a) to relocate station to foregoing coordinates and (b) to change azimuth toward point of communication at Los Angeles #2 (KJOI-TV), California, to 328°19', frequency unchanged (11565H MHz).

[FR Doc. 75-13241 Filed 5-19-75; 8:45 am]

[Docket No. 20463; File No. BR-3690]

## NEW SOUTH RADIO, INC.

## Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In the matter of application of New South Radio, Inc., Tuscaloosa, Alabama,

for renewal of license of WACT, Tuscaloosa, Alabama.

1. The Commission has before it for consideration (i) the above-captioned application for renewal of license for Station WACT, Tuscaloosa, Alabama; (ii) a petition to deny the application filed by John Bivens and Steven Suits individually and as representatives of the Civil Liberties Union of Alabama (petitioners); (iii) an opposition to the petition to deny filed by the licensee; (iv) a reply filed by petitioners; and (v) various other related pleadings.<sup>1</sup>

## BACKGROUND OF THE PROCEEDING

2. The proceeding has become somewhat complex in view of the number of pleadings which have been filed. Therefore, we will set forth a brief resume of the history of the proceeding to facilitate a clearer understanding of the matters which have been raised by the parties and our final disposition of those matters.

3. The license for WACT-AM was last renewed on April 1, 1970 for a term ending April 1, 1973. New South Radio, Inc., licensee herein, timely filed application for renewal of the license for Station WACT-AM on December 20, 1972.

4. Section 309(d) (1) of the Communications Act of 1934, as amended, 47 U.S.C. 309(d) (1), provides that any party in interest may file a petition to deny any application filed with the Commission, including a license renewal application. Pursuant to § 1.580(i) of the Commission's rules, 47 CFR 1.580(i), a petition to deny a timely filed license renewal application must be filed on or before the first day of the last full calendar month preceding the expiration date of the station's license being challenged. Here, petitioners submitted their challenge to the WACT license renewal application at 5:03 p.m. on March 1, 1973. The Commission's business hours are from 8:00 a.m. until 4:30 p.m. At that time in 1973, documents could be accepted for filing with the Commission up to 5:00 p.m. of any business day. Thus, the petition was filed three minutes late, and the Secretary of the Commission indicated that the petition could not be stamped as received until the opening of business on March 2, 1973. Subsequently, on March 12, 1973, petitioners filed for a motion for acceptance of the late petition. On March 27, 1973, the licensee filed its opposition to petitioners' motion, and petitioners filed their reply to that opposition on April 9, 1973.

5. In support of their motion to accept the petition as a timely filed document, petitioners argue that two related events

<sup>1</sup> Also before us are the following pleadings: Petitioners' motion for acceptance of their petition to deny filed three minutes late on March 12, 1973; the licensee's opposition to that motion filed March 27, 1973; petitioners' reply to that opposition filed April 9, 1973; petitioners' motion to strike licensee's amendment to the subject application filed June 11, 1973; the licensee's opposition to that motion to strike filed June 27, 1973; and petitioners' reply to the opposition filed July 9, 1973.

combined to prevent timely filing; and that acceptance by the Commission does not prejudice the licensee. On February 28, 1973, just one day before the deadline for the filing of petitions to deny against Alabama license renewal application, petitioner Steven Suits met with Clyde W. Price, president of the licensee, and Mr. Suits advised Mr. Price for the first time that a petition to deny would be filed against WACT-AM. On March 1, 1973, Mr. Suits requested of Mr. Price a fourteen-day continuance for the filing of the group's petition to deny. Mr. Price communicated his unwillingness to agree to the extension. Later that afternoon, meanwhile, counsel for petitioners was assembling the necessary papers for the filing of additional petitions to deny against eight other Alabama licensees.

On March 1, 1973, counsel set aside the processing of the instant petition upon learning from petitioners that a continuance might be agreed to by Mr. Price. However, when counsel learned that no continuance would be forthcoming, an attempt was made to file the petition with the Commission before 5:00 p.m. That attempt failed by three minutes and now petitioners move that the Commission accept the petition as having been timely filed. The licensee notes that the petition as filed was not only three minutes late, but was also lacking the required affidavit in support of its contents.<sup>2</sup>

6. The timely filing of a complete legal document is a requirement that must be preserved to insure the orderly functioning of this agency. However, our regulations are not so inflexible as to inhibit actions which may seek to further the public interest. Accordingly, the cut-off dates for filing petitions to deny can be extended upon a proper showing of good cause. NAACP-MTCCC Negotiating Committee, 42 FCC 2d 235 (1973) and WSM, Inc., 24 FCC 2d 561 (1970). However, in view of all the surrounding circumstances and the petitioners' degree of non-compliance with our procedural rules, we have decided to grant petitioners' motion to accept its petition to deny as a timely filed document. In no way should the implication arise that this decision signals a shift in the enforcement of our filing requirements; we believe that such a unique factual situation will rarely occur in the future. Additionally, we will accept the documents eventually attached to the petition (see note 2, above) as also being timely filed. Meyer Broadcasting Co., 20 FCC 2d 532 (1969).

7. Petitioners state that the Civil Liberties Union of Alabama is an organization composed in part of persons residing in and around Tuscaloosa who are listeners of WACT. Further, in their individual capacities as petitioners Steven Suits and John Bivens are listeners of WACT and reside in the station's service area. Accordingly, we find that petitioners have standing in this proceeding as parties

<sup>2</sup> The petition as filed also was missing a monitoring study, though reference to same was made in the body of the petition.

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ties in interest within the purview of section 309(d) (1) of the Communications Act of 1934, as amended. Office of Communications of the United Church of Christ v. F.C.C., 359 F.2d 944 (D.C. Cir. 1969).

8. On March 19, 1973, the Commission wrote the licensee seeking further clarification and additional information regarding certain aspects of this subject application.<sup>3</sup> On April 13 the licensee amended the application in response to the March 19, 1973, Commission letter and on June 11, petitioners filed a motion to strike the contents of the amendment.<sup>4</sup> Petitioners argue that while a licensee may amend its renewal application as a matter of right (see § 1.522(a) of our rules), "it is also clear that at some point, the amendment process becomes subject to abuse" resulting in the licensee's ignoring its obligation to submit complete applications until caught by watchful citizens or the Commission. Stone v. F.C.C., 466 F.2d 320, 322, (D.C. Cir. 1972). Petitioners contend that the licensee abused its privilege by withholding information to meet a possible future challenge. Initially, the licensee's proposed commercial practices in the application were questioned by the Commission in a letter dated February 2, 1973, and were questioned further in the March 19 Commission letter based upon the licensee's first amendment filed February 8. Petitioners point out that this behavior should not escape sanction by the Commission. Petitioners also argue that the licensee has abused its amendment privilege by withholding ascertainment findings of its own until questioned about those efforts by the Commission. The April 13th, amendment provided information regarding racial composition of the community and a complete listing of community needs, which petitioners contend were critical omissions in terms of the licensee's ability to respond to the concerns of the black population of the service area. We will not accept petitioners' argument that the licensee's April 13th amendment be stricken. We stress initially that the licensee's April 13th amendment was filed as a reply to our inquiries and not on the licensee's own motion or in a further response to the petition to deny. Since the Commission generated this amendment, it cannot be stated that the licensee, through the amendment, is attempting to upgrade a deficient application. Further, we do not feel that this amendment represents a pattern of dilatory conduct by the licensee, Stone, supra at page 332, nor does our acceptance of it amount to al-

<sup>3</sup> By letter dated February 2, 1973, the Commission pointed out certain errors in the licensee's logging practices and requested clarification of WACT's commercial practices. The licensee, on February 8, 1973, amended its application in response to our request. The March 19 Commission letter requested ascertainment information and an explanation for the licensee's deviation from its 1970 proposed commercial policy.

<sup>4</sup> The licensee's opposition to the motion to strike was filed on June 27, 1973, and petitioners replied thereto on July 9, 1973.

lowing belated upgrading after a challenge has been initiated. As will be noted below, however, the licensee's April 13th amendment fails to provide sufficient information to remedy all the shortcomings of the WACT ascertainment of community needs.

## ASCERTAINMENT

9. Petitioners allege that the licensee's ascertainment of community needs is deficient since it fails to provide a demographic breakdown of the community showing its ethnic composition as required by questions 9 and 10 of the Primer on Community Ascertainment, 27 FCC 2d 650 (1971). Also, the licensee's survey of community leaders is deficient since only five, or 9% of those interviewed, were black while blacks comprise 24 percent of the population served by WACT. Petitioners contend that the licensee has not met the Primer's requirement of listing all of the significant community needs uncovered by its survey. In addition, petitioners state that the licensee has failed to meet the Commission's requirements by not listing the specific needs it intends to cover in its proposed programming and has not related its programming to ascertained needs.

10. In response to the Commission letter of March 19, 1973, the licensee amended its application on April 13, and argues that the amendment supplies sufficient information to resolve both the Commission's and petitioners' concerns regarding community ascertainment. The amendment includes a demographic breakdown of WACT's service area showing a 26 percent black population. The licensee states that its amended survey covers all significant black groups in Tuscaloosa and that of those community leaders surveyed, 11 percent were black. The licensee also states that it is now aware that all the needs brought out in its survey of community leaders, not merely a representative sample, must be reported and therefore amends its list of needs.<sup>5</sup> Petitioners respond by stating that the licensee's amended survey fails to correct the underrepresentation of blacks and fails to indicate the specific programs which will deal with specific needs ascertained.

11. We have examined the material before us and find that the licensee has provided a demographic breakdown of the community showing its ethnic composition which is sufficient to satisfy the requirements of the Primer, supra. With regard to the allegation that the licensee has failed to interview an adequate number of minority leaders, we must emphasize that there is no exact formula for determining the correct number of community leaders to be surveyed. All that the Commission requires is a survey of a representative cross-section of community leaders. Here, the licensee has satisfied that requirement by consulting with

<sup>5</sup> These needs include: Need for more doctors, the lack of pride, the need for more black policemen and firemen, the need for improved paving of the streets and the need for a detention center for delinquents.



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a number of minority group leaders representing various groups within Tuscaloosa's black community. Since licensees have broad discretion in selecting from among the leaders of each significant segment within the community, the Commission declines to substitute its judgment for that of broadcast licensees in the absence of specific evidence of abuse of that discretion in selecting leaders to be interviewed or the omission of a significant segment of his service area. WSBC Broadcasting Company, 34 FCC 2d 651, 653 (1972). Merely pointing to the fact that the percentage of minority community leaders interviewed does not equal the minority population percentage fails, without more, to raise a substantial or material question of fact regarding the representativeness of a licensee's ascertainment survey. Ben. L. Parker, 48 FCC 2d 603 (1974) and Westinghouse Broadcasting Company, Inc., 48 FCC 2d 1123 (1974). Petitioners have made no showing which would raise a substantial or material question of fact surrounding the licensee's ascertainment surveys themselves.

12. However, upon review of all the materials before us, we must agree with petitioners that the licensee has failed to follow the guidelines set forth in Question and Answer 29 of the Primer, supra, linking broadcast matter with ascertained community problems. The purpose of the whole ascertainment process and the policy behind the issuance of the Primer was an effort to

... aid broadcasters in being more responsive to the problems of their communities, add more certainty to their efforts in meeting Commission standards, make available to other interested parties standards by which they can judge applications for stations licensed to their community and aid our staff in applying our standards uniformly. (Primer, supra at 651)

While we have approved the licensee's ascertainment survey methods, finding them to have resulted in a representative sampling of needs and interests in WACT's service area, we are unable to conclude that the proposed programming for WACT will in fact address those ascertained needs and interests. There has been no attempt made, either in the application or in the licensee's opposition, to set out the community problems which will be treated by any of the proposed programming. Without this required linking, we are unable to address petitioners' allegations that WACT's proposed programming fails to serve the public interest; we cannot grant a renewal of WACT's license unless this issue is resolved. Accordingly, we find that petitioners have raised a substantial and

\* In our review of the subject application's proposed programming section, we gave the licensee the benefit of the doubt in an attempt to make the required linkage between its ascertained problems and the programs WACT proposed in response. We were unable to accomplish this linkage without assuming facts which we could not properly assume. Ultimately, therefore, the licensee must provide these necessary facts in a hearing before complete resolution of the issue is possible.

material question of fact regarding the adequacy of the licensee's proposed programming that will require an administrative hearing for its resolution.

## Employment

13. Petitioners allege that the licensee has discriminated in the hiring of blacks, citing WACT's FCC Form 395 for 1973 which shows that of the nine employees, none is black, while the station's service area includes a high percentage of blacks. In addition, they see no indication that the station has adopted training programs or review practices which would insure a real opportunity for equal employment and promotion. Petitioners contend that the licensee's Equal Employment Opportunity Program is a paraphrasing of the Commission's own statement of the necessary features of such a program, without any indication that it does in fact have a training program for prospective or actual employees.

14. The licensee responds by pointing to its EEO program as set out in its renewal application, claiming that the Commission must have found its program adequate since Commission letters on two occasions regarding its license renewal application made no mention of employment practices or policies. Moreover, the licensee reiterates its pledge to follow its EEO program of non-discrimination in hiring. The licensee also contends that it has not discriminated in the past, and outlines its affirmative but unsuccessful efforts to hire a black employee. Further, the licensee maintains that with eight full-time and three part-time employees it would be impracticable for it to engage in a training program since it has neither the facilities, personnel nor money to effectively accomplish such training.

15. In response, the petitioners argue that the results of WACT's recruitment efforts, not its stated intentions, should guide the Commission in judging the licensee's compliance with its EEO program. They assert that WACT has failed to provide affirmative evidence of the absence of qualified or qualifiable blacks in its service area or that it has made a thorough effort to locate black employees.

16. The Commission rules, § 73.125, provide in part that equal opportunity in employment shall be afforded by all licensees to all qualified persons, and no persons shall be discriminated against in employment because of race, color, religion, national origin or sex. Our rules also maintain that an equal employment opportunity program shall be established by each licensee for each station it is licensed to operate and said program shall set forth a positive continuing program of specific practices designed to assure equal opportunity in every aspect of station employment policy and practice.

\* By a supplement to its opposition pleading submitted November 8, 1973, the licensee advised the Commission that in mid-September it hired a black female, Mrs. Charles Woods, to perform secretarial and bookkeeping duties of WACT-AM.

Thus, the rules embody two concepts: non-discrimination and affirmative action. Licensees must not only ensure employment neutrality with regard to race, color, religion, national origin and sex, but also must make additional positive efforts to recruit, employ and promote qualified minority group members. As part of a licensee's affirmative action obligation, particularly in cases where its employment statistics fall outside a zone of reasonableness, the licensee must modify or supplement its recruitment practices and policies in an effort to locate and encourage the candidacy of qualified minorities. Employment Policies and Practices—Florida, 44 FCC 2d 735 (1974).

17. In interpreting our rules, we have stated that directly proportional employment of minorities is not required as we do not believe that equal employment opportunity practices will necessarily result in the employment of any minority group in direct proportion to its percentage of the community population. *Report and Order in Docket Number 18244*, 23 FCC 2d 430, 431 (1971). The Courts have also concurred in this view by recognizing that non-proportionate minority group employment at a station does not necessarily evidence discrimination. *Bilingual Bicultural Coalition of Mass Media, Inc. v. F.C.C.*, 429 F. 2d 656 (D.C. Cir. 1974) and *Chuck Stone v. F.C.C.*, 466 F. 2d 316 (D.C. Cir. 1972). However, highly disproportionate representation of minorities employed by a licensee in relation to their presence in the workforce might raise a question warranting further inquiry in the absence of affirmative efforts to modify the imbalance. In the instant case, WACT employed nine full-time and three part-time employees, one of whom was black, as of November 1973. Its minority employment percentage of total work-force, amounting to 8.3% in an SMSA of 24.2%, parallels the minority employment percentage reviewed by the Court in *Chuck Stone v. F.C.C.*, supra. However, that fact alone does not demonstrate compliance with our EEO rules and policies, for as the Court has recently said:

... Stone represented an initial effort not a final codification. While we did not endorse the statistical challenge raised in Stone, we did not signal satisfaction with the status quo on employment discrimination.

*Bilingual Bicultural Coalition of Mass Media, Inc. v. F.C.C.*, supra at 659.

18. Upon full review of WACT's equal employment policies and practices, however, we believe that petitioners have failed to raise a substantial or material question of fact. In the past, absent complaint, we have chosen not to analyze the year-to-year figures in female and minority employment profiles of licensees with less than 10 full-time employees, for the reason that statistical comparisons

\* At the time the instant petition was filed, WACT employed no minority persons. In 1974, FCC Form 395 lists ten full-time employees (one black) and fifteen full and part-time employees (two blacks).

become distorted when numbers are small. See *Triple X Broadcasting Company, Inc.*, FCC 75-243 released March 6, 1975, and *Alabama Educational Television Commission*, 50 FCC 2d 461, 474 (1974). Of course, each licensee with five or more employees is required to file an EEO Program as Section VI of its renewal application. Here, WACT's affirmative action program appears designed to assure that all persons, regardless of race or origin, will be afforded an equal opportunity to acquire employment and advancement. Finally, the licensee has demonstrated that it has pursued and is actively continuing a course of recruitment to acquire full-time minority employees, including: contacting black employees at other area stations; contacting the Alabama State Employment Service, the University of Alabama, the Alabama Broadcasters Association and area colleges with predominantly minority enrollment. We would expect that the continued operation of this affirmative action program would result in additional employment and promotion of minorities in the future, when opportunities to either hire or promote arise. Only if it is found that no additional efforts were undertaken to recruit, employ, and promote minority persons, or that efforts undertaken are clearly insufficient, which is not the case here, would additional administrative action to secure compliance with the Commission's rules be appropriate.

## PAST PROGRAMMING

19. Petitioners allege that WACT has failed to provide adequate programming service to blacks in its service area. They object to the news coverage given to the black community of Tuscaloosa, arguing that the station limits such coverage to reports of alleged criminal acts committed by blacks. They also allege that the licensee's list of 18 typical and illustrative programs broadcast during the past license term (Exhibit F) with one exception, gave no indication of featuring any black participants or discussion of topics of particular concern to the black community. The one program which petitioners view as being directly significant to the black community—"Emancipation Proclamation Commem-

\* The allegation that the licensee lacks a training program is not material, since such a program is not required by our rules. *Report and Order in Docket Number 18244*, supra.

\* Petitioners also argue that there are a number of indications that the licensee has an "affirmative policy of avoiding programming that is likely to serve the black community." Petitioners' one example of this policy has been denied by the licensee in an affidavit. We find petitioners' conclusion to be hardly supported by this one incident. Moreover, petitioners' allegation fails to conform to our pleading requirements in that specific allegations of fact are missing. We hold that petitioners' bare allegation of a conscious policy of program discrimination by the licensee, supported (without affidavit) by one disputed example, does not raise a substantial or material question of fact.

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orative Service"—was, according to petitioners, inadequate to demonstrate substantial service to the black community since it was a one-hour, one-time-only broadcast. Petitioners argue that the licensee has failed to meet its 1970 programming promises relating to news and public affairs, having promised 20 hours of news and public affairs and 260 PSA's each week, but actually broadcasting only 15 hours and 10 minutes of news and public affairs and 205 PSA's during the composite week.<sup>11</sup> Petitioners note that the licensee's failure in this area is even more flagrant in light of the fact that the licensee did not meet its proposed total hours of operation, thereby raising the percentage of deficient performance.

20. Petitioners also allege that the licensee has failed to follow its 1970 commercial policies and maintains a consistent practice of overcommercialization. In its 1970 composite week, the licensee exceeded its 18-minute normal limit for commercials per hour 24 times and in seven hourly segments exceeded its 23-minute outer limit for commercials per hour. In Exhibit M of its 1970 renewal application, the licensee promised not to exceed the 18-minute limit more than 10% of its broadcast hours and again set a 23-minute limit which it promised never to exceed. Petitioners maintain that the licensee's 1973 renewal application reveals a blatant disregard of those 1970 proposals: the licensee exceeded the 18-minute limit 23 times in the composite week and exceeded its 23-minute outer limit 15 times. Despite the licensee's reiteration in its 1973 renewal application of the 23-minute "outer limit" pledge, petitioners allege that while they were monitoring WACT on February 2, 1973, the licensee ran 24:33 minutes of commercial matter between 6:00 a.m. and 7:00 a.m. and 23:55 minutes of commercial matter between 8:00 a.m. and 9:00 a.m. (The licensee has not challenged these figures.) This, they maintain, demonstrates that the licensee continues to violate its own commercial policy pledges to the Commission. Finally, petitioners allege that the licensee's "Ask the authority" program—wherein an "authority" answers listener questions regarding various aspects of gardening—constitutes a program length commercial. In their view, the "authority" does little more than promote his own commercial in-

	1970 proposals		1973 composite week	
	Hours and minutes	Percent	Hours and minutes	Percent
News.....	12:00	13.3	9:15	11.1
P.A. ....	8:00	8.8	5:55	7.1
Other.....	20:00	22.2	21:22	25.8
Total hours per week....	90		53:15	

terests and the program as a whole represents a subordination of programming in the public interest to salability. Moreover, according to petitioners, the licensee fails to disclose to the listener that the authority is the proprietor of a lawn and pet store who promotes his own products.<sup>12</sup> The petitioners cite this program as raising a question as to whether there is an inconsistency in the licensee's representation to the Commission in regard to the maximum amount of commercial matter to be broadcast by WACT in the coming license term.

21. In opposition to the allegations made by petitioners, the licensee maintains that all newsworthy items are broadcast without regard to race. It lists among its news sources the services of United Press International, a black news "stringer" from Birmingham and the news releases of Stillman College (a predominantly black institution) to support its claimed lack of bias in news reporting. Additionally, the licensee lists programs and announcements, other than news, which it maintains serve the entire community, including its black residents.

22. The licensee explains that the composite week contained 83 hours and 15 minutes of programming instead of the 90 hours proposed in 1970 due to several "short days." Accordingly, these short days also account for its failure to meet its proposed hours of programming in news, public affairs and number of PSA's during the composite week. The licensee points out, however, that its percentage of proposed news, public affairs and "other" programs in 1970 was nearly equalled in the 1970 composite week. The licensee adds that its news programming was less than proposed due to the sale of commercial time which reduced newscasts from the five minutes originally allocated to three minutes. The licensee also maintains that the public affairs programming of the station is not adequately portrayed by the composite week, as many of the public affairs programs previously aired did not occur in the composite week, resulting in an apparent reduction in actual programming.

23. As for the commercial policies of WACT, the licensee points to a Commission letter of March 19, 1973, in which reference was made to the hourly segments where the licensee exceeded the 18 minutes-per-hour commercial limit, noting the licensee's explanation of the excess for four of the six days involved. Since this letter asked for additional information concerning proposed commercial policy of the station, but did not request further explanation of past commercials broadcast, the licensee assumes that the Commission is

<sup>11</sup> Our examination of petitioners' own transcript of the licensee's "Ask the Authority" for February 7, 1973, reveals that the authority was, in fact, identified as the proprietor of the Spiller Field and Garden Shop. (Attachment C, page 3. Reply to the Opposition to Petition to Deny.)



satisfied with its prior explanations and therefore there is no further need to respond to petitioners' allegations in this regard. In the amendment, submitted April 13, 1973, the licensee states that the traffic girl will be given instructions not to insert more than 18 commercial minutes within any hour and that if a situation arises where she must place up to 20 minutes (or 22 minutes in the case of political announcements) within an hour, she will first check with the Program Director before exceeding the 18-minute limit. The Program Director will then check the particular calendar week to determine that such additional commercials are consistent with policy of not permitting 18 minutes in more than 10% of the hours broadcast in any week. The Program Director will be instructed to report to Clyde W. Price, president of the licensee, any possible conflicts with this policy. Any questions will be resolved to insure adherence to the commercial policy. Finally, all personnel will be instructed not to insert any last minute commercials in any segment without obtaining prior approval of the Program Director. The licensee also denies that the program, "Ask the Authority," constitutes a program length commercial. In its view a good portion of the program is devoted to answering questions relating to gardening and pets. If a listener asks the authority whether a particular product is available at his store, he will state whether it is or it isn't or he will suggest other stores where the product is available. The licensee states that whenever mention is made of items for sale at the authority's store, such references are logged as commercial. Moreover, such references have not amounted to the entire content of the program.

24. In reply to the licensee's opposition pleading, petitioners argue that the licensee has failed to cite a specific instance of news coverage of the black community or give a specific example of a news report by its black news "stringer." Petitioners see the fact that the licensee employs a black news stringer as unresponsive to their allegation that WACT fails to provide adequate coverage of news events in the black community of either Birmingham or Tuscaloosa. Petitioners argue that news coverage of Stillman College is inadequate to demonstrate that the licensee has provided continuing news coverage of the black community in its service area. Petitioners maintain that during the week in which they monitored WACT, only two events involving local blacks were broadcast. Both events allegedly took place outside the black community served by the station and involved criminal acts. These results, they assert, dispute the licensee's contention that adequate news coverage of the black community is provided and demonstrate that the licensee unnecessarily mentions the racial identity of persons involved in criminal acts. Petitioners argue that the licensee's list of programs and assurances to the Commission that such programs are of interest to blacks is inadequate

without examples showing how such programs insure responsiveness to the needs of blacks in its service area. In particular, petitioners monitored the licensee's "Community Bulletin Board" program yet heard no predominantly black organization making use of the program, nor did they hear an announcement informing listeners how to get on the program. While the licensee states that blacks have appeared on its programs, petitioners state that their monitoring disclosed such appearances to be an insignificant percentage of the total broadcasts. They allege that none of the licensee's PSA's directed to ethnic groups was for a predominantly black group. In conclusion, petitioners argue that the licensee has failed to refute their charge that the black community receives no program service of particular interest to it or especially directed to black residents. Petitioners fail to find any indication that within the programs broadcast the licensee "is making an effort to assure that they are responsive to the needs of black people." (Reply, page 11 A.)

25. Touching on the promise versus performance allegation, petitioners do not agree that the variances are slight: i.e., 1970 news and public affairs proposals of 20 hours per week compared with only 15 hours 10 minutes (15:10) broadcast during the composite week. Additionally, petitioners argue that the licensee's explanation for its performance during the composite week, is, in effect, an admission that the composite week is not reflective of its actual program service; namely but for the "short days" it would have met its 1970 proposals. These excuses cannot now be raised since the renewal application provides the licensee with every opportunity to fairly present its program service.<sup>14</sup> Petitioners further argue that the licensee's present failure to adhere to its 1970 commercial policies is merely a continuation of overcommercialization that extends back to 1964. In that year, the licensee set forth a commercial policy limiting commercial matter to not more than 18 minutes per hour and, with certain seasonal and political exceptions, an outer limit of 23 minutes per hour. Further, the licensee stated that the 18-minute commercial limit

<sup>14</sup> Petitioners' analysis of the licensee's appendix containing 54 letters—purporting to show that the station has been the voice for all the citizens, including blacks—suggests that 80% of the letters predate the current license term and 30% predate the 1967 license term. Of the 13 that do relate to the service of WACT during the current license term, eight involve letters of appreciation, guest appearances, acknowledgement for appearances or the civic activities of Clyde Price. Not one of the remaining letters comes from a predominantly black organization and therefore, according to petitioners, such letters do not conclusively demonstrate service to the black community. We agree with petitioners that these support letters add little of value to the licensee's application. Our concern focuses upon the licensee's past programming efforts, and it is upon that record we measure service to the public.

would not be exceeded during more than 10% of the station's total weekly hours of operation. Finally, the licensee proposed never to exceed its outer limit of 23 minutes. In its 1967 composite week, there were 24 hours in which the licensee exceeded 20 minutes of commercials per hour (over 20% of its total hours of operation during that week.) In five of those hours, the licensee exceeded 30 minutes per hour. These deviations were explained, and the licensee pledged to adhere to the same commercial policy it had prior to the February 8th amendment. (See note 3, above.) However, in 1970 the 18-minute limit was exceeded 25% of the composite week hours (including seven segments over 23 minutes). In the 1973 composite week, the 18-minute outer limit was exceeded in 15 hourly segments. Additionally, petitioners point to their monitoring of WACT on February 8th, noting that during that period of time the 18-minute limit was exceeded 10 times, "plainly over 10% of the hours broadcast during the monitored week." (Nine of those 10 hours exceeded the licensee's 23-minute outer limit.)

26. In reviewing a licensee's past programming performance several fundamental concepts must be adhered to. A licensee's primary obligation is to serve the public interest of the community as a whole. In our 1960 Programming Policy Statement, 25 FR 7291, 20 RR 1901 (1960), we stated that the licensee should consider the tastes, needs and desires of its service area in developing its programming, and should exercise conscientious efforts not only to ascertain them, but also to carry them out as well as he reasonably can. Of course, in fulfilling that obligation, he may choose, in his good faith discretion, to present particular programs designed to meet the specific problems of identifiable groups within the service area. The amount of

<sup>15</sup> While "short days" allegedly account for the low news and public affairs during the composite week, petitioners point out that the licensee fails to list any programs that it was unable to broadcast on these short days. Additionally, petitioners point out that had the licensee met its proposed hours of operation (i.e., 90), its five hours and fifty minutes of public affairs programming would have amounted to only 6.6% instead of 7.1% of its total programming. Similarly, its nine hours and fifteen minutes of news would have been only slightly more than 10%, instead of 11.1% of its total programming. Petitioners find the licensee's admission that news proposals could not be met due to overcommercialized newscasts both "astounding" and a further indication that the licensee "subordinate(s) the public interest to commercial gain." (Reply, page 30)

<sup>16</sup> Petitioners observe that these figures do not include commercial matter carried on "Ask the Authority." Including those commercials would raise to 15 the number of hours the 18-minute limit was exceeded (and would raise to 14 the number of hours the 23-minute limit was exceeded). Although some of these allegations represent new matter in the Reply, this becomes immaterial in light of our treatment of the petition as an informal objection.

such specifically-oriented programming need not be correlated to the representation of a particular group or groups in the population. Rather, it is a function of the licensee's evaluation of the relative importance of all of the problems of the entire service area. *Chuck Stone v. F.C.C.*, supra, and *Capitol Broadcasting Company*, 38 FCC 2d 1135 (1965). And in making that evaluation, a licensee is allowed broad discretion to use his good faith judgment. While we have in the past stated that the major portion of a station's programming may be directed to the public as a whole rather than to individual racial groups within that public, we also recognize that the problems of minorities cannot be ignored. *Radio Marion, Incorporated*, FCC 75-296 released March 26, 1975. We do believe that in order to serve the public interest, a licensee must address some of the needs and interests present in its community, as discovered in its ascertainment survey. And in this programming a licensee must take into consideration the problems of significant minorities in the area he is licensed to serve. *Time-Life Broadcasting Corp.*, 33 FCC 2d 1081, 1093 (1972).

27. We have carefully reviewed WACT's application for renewal of license, the amendments to that application and the various pleadings before us. We conclude that the licensee has made a reasonable and good faith effort to meet its programming obligations to its community during the past license term. We also conclude that petitioners' allegations clearly fall short of the specific allegations of fact supported by affidavits from person or persons with personal knowledge sufficient to show that a grant of the application would be prima facie inconsistent with the public interest. 47 U.S.C. section 309(d) (1). *Radio Marion, Incorporated*, supra. Accordingly, petitioners' allegations have failed to present a prima facie question of fact to which the licensee must respond. Compare *Storor Broadcasting Company*, 48 FCC 2d 1223 (1974). Contrary to petitioners' allegations, it appears that WACT has provided meaningful programming designed to meet the needs and interests of the whole community, and that a portion of the station's programming also served to meet the needs and interests of the black community. WACT broadcast a variety of programs to meet community needs and interests, and petitioners have presented no information to indicate that the station failed to make a reasonable and good faith determination of which problems merited treatment, or failed to present programming that was responsive to those problems. A review of the application reveals that WACT's overall programming reasonably met the problems, needs and interest of its service area and, in the absence of specific factual allegations to show abuse of discretion, or that the programming failed to meet community needs, the Commission will not disturb the licensee's programming judgment. *Storor Broadcasting Company*, 41 FCC 2d 792 (1971).

28. Specifically, during the 1970-1973 license term, WACT presented two different daily local programs constituting a forum for the discussion and presentation of a variety of local community issues, including issues relevant to the minority community. Until January 1, 1972, the licensee broadcast "Breakfast at the Stafford" (daily, 9:00 a.m.-10:00 a.m.) which featured discussions and interviews centering on local topics. This program also featured individuals and topics from the black community. While the licensee has not provided us with a complete list of either the topics or the interviewees featured on the programs, information that was supplied clearly overcomes petitioners' allegation that the licensee failed to program in the public interest. From January 1, 1972, through the balance of the license term, WACT presented "Getting It Said" (daily 9:00 a.m.-10:00 a.m.) which retained the format of a daily community topic as the basis of discussion with a local community member, but added the opportunity for public participation through telephone calls to the station while the program was being aired. Both programs provided a forum for members of the local minority community (as well as the general public) and presented programming in an effort to meet a wide variety of community needs and interests. Moreover, both programs featured blacks either as interviewees or, in the case of "Getting It Said," participants in the daily discussions. It seems clear to us that these programs provided ample opportunity for both black participation and discussion of topics of particular concern to the black community. Finally, the licensee has listed other programs that dealt with local community issues on a reasonable basis, thereby providing further evidence of its efforts to address the needs and interests of the community as a whole, including minority needs and interests. "Washington Window" (30 minutes on Sundays) presented interviews with nationally known public figures on issues of national concern. "Community Billboard" (seven times daily) provided a forum for local community and civic organizations to announce items of interest to their members and the public. And "Employment Service News" (three times daily) presented announcements of job opportunities available in WACT's service area. In conclusion, we find that petitioners have failed to allege specific facts to establish that the applicant's past programming was inadequate to deal with community problems or that it failed to deal with any significantly expressed problem. As previously noted, the station's programming dealt with a variety of problems of interest to the community in general and the minority community in particular. Accordingly, a review of WACT's past programming efforts raises no substantial or material question of fact.

2. As noted, petitioners also fault the licensee for its alleged failure to cite specific instances of news coverage of the black community, and for its failure to

provide a forum for the discussion of minority topics. We do not expect nor endorse separate programming for minorities and majorities, so long as service to the entire community takes reasonable account of its diverse elements. *Radio Marion, Incorporated*, supra. There is ample evidence to support the licensee in its conclusion that the public interest, including that of some service to minorities, has been met through WACT's programming. Additionally, the licensee has set down the sources for its news and its policy of journalistic neutrality. Without specific showings from petitioners that the licensee has ignored minority news events, either in bad faith or in an unreasonable manner, this agency will not require further explanation from the licensee in the face of merely conclusory allegations. To do so would be simply to second-guess the broadcaster's news judgment in a manner threatening to his freedom as a journalist. *Taft Broadcasting Co.*, 38 FCC 2d 770 (1972). While petitioners attack the licensee's alleged failure to present more minority news events, we are not persuaded from the information supplied by petitioners, that any such failure can be remedied by the Commission. Petitioners' monitoring occurred after the license term expired and the results of it were reported to the Commission for the first time in petitioners' reply pleading, without chance for licensee comment. While exclusion of news coverage of a particular group does disserve the public interest, and raises a question as to the licensee's qualifications for renewal, *Radio Station WSNT, Inc.*, 27 FCC 2d 993 (1971), petitioners here simply conclude without explanation that the licensee has excluded minority events, and put the burden on the licensee to rebut. "(W)e will not interfere with the exercise of the licensee's news judgment where, as here, there is no showing that the licensee consistently and unreasonably ignored matters of public concern." *WOIC, Inc.*, 39 FCC 2d 355, 367 (1973). See also *Hunger in America*, 20 FCC 2d 143 (1969).

30. In view of our finding that the licensee's past programming reasonably served the public interest, petitioners' arguments comparing the licensee's composite week performance percentages against its 1970 proposals fail to raise a substantial or material question of fact. A licensee has considerable discretion in programming choices as long as its programming meets the needs of the community. *Columbia Broadcasting System, Inc.*, FCC 75-149, released February 19, 1975. Essentially, petitioners assert that failure to program in virtually the exact amounts previously proposed should raise questions regarding a licensee's past performance.<sup>18</sup> This Commission's rejection

<sup>18</sup> See Paragraph 19 and note 9, supra, showing that licensee decreased total non-entertainment from proposed 40 out of 90 weekly hours (44.3%) in 1970 to an actual 36:32 out of 83:15 (44%) weekly hours in 1973.



of such assertions has been upheld by the courts. *RadiOhio, Inc.*, 38 FCC 2d 721 (1973) aff'd sub nom. *Columbus Broadcasting Coalition v. F.C.C.*, 505 F.2d 320 (D.C. Cir. 1974). Similarly, we find no merit in petitioners' argument that the licensee is attempting to remedy its allegedly deficient past performance by lowering its 1973 programming proposals in public service programming. Our examination of those 1973 proposals reveals that the only category in which the licensee proposes to reduce its public service programming is in news, and then only by 2.2% from its 1970 proposals. Such a minor variation—particularly where total non-entertainment remains so high in proportion—fails to raise any substantial or material question of fact.

31. Finally, we believe that the licensee's commercial practices—and promises to the Commission thereupon—do warrant further inquiry. As set out above, petitioners have recounted in great detail WACT's past commercial proposals and the alleged violations of these policies during subsequent license terms. Additionally, petitioners have set forth data indicating that the licensee's 1973 commercial policies are currently being violated. We note that petitioners' monitoring of WACT's commercial practices coincides with the licensee's letter of February 8, 1973, wherein continued observance of a more strict commercial policy is promised. The licensee's only response in the pleadings is yet another promise for future compliance with its self-selected commercial policies. Petitioners' data is never challenged or questioned. In view of the licensee's repeated disregard for the commercial representations made to the Commission—and the degree of divergence therefrom—we find issues requiring resolution. Accordingly, we will seek further information in an administrative hearing, not only on the licensee's past and proposed commercial policies, but concerning possible misrepresentations as well.

32. Also before us is a transcript of the "Ask the Authority" program aired February 7, 1973, which has not been questioned or challenged in any way by the licensee. Logs for the composite week list the following commercial announcements as having been aired during "Ask the Authority":

Date *	Total spots (in seconds)	Spiller spots (in seconds) †
Feb. 1, 1973.....	110	20
Apr. 16, 1971.....	140	20
Mar. 18, 1972.....	94	20
Apr. 28, 1972.....	90	20
Jan. 27, 1973.....	150	20
Dec. 1, 1971.....	80	20

\* On each day of the composite week, Spiller Field and Garden Shop's spots were aired before any other. As noted above, the authority is the owner and operator of Spiller Field and Garden Shop.

We have recently stated in our Public Notice Concerning the Applicability of Commission Policies on Program-Length Commercials, 44 FCC 2d 985, 986 (1974):

The fact that an interested commercial entity sponsors a program, the content of which is related to the sponsor's products or services does not, in and of itself, make a program entirely commercial. The situation which causes the Commission concern is where a licensee quite clearly broadcasts program matter which is designed primarily to promote the sale of a sponsor's product or services, rather than to serve the public by either entertaining or informing it. The primary test is whether the purportedly non-commercial segment is so inter-woven with the sponsor's advertising . . . to the point that the entire program constitutes a single commercial promotion for the sponsor's products or services. This test will be construed strictly and the determination that a program is entirely commercial will be reached only when the facts clearly justify that conclusion.

33. Applying that test to the information before us, we find a substantial and material question of fact concerning both the existence of a program length commercial and the accuracy of the licensee's logging practices. From the information available to us, we can reasonably assume that the February 7, 1973 transcript is an accurate representation of a typical "Ask the Authority" program and that the composite week logs reflect typical licensee logging practices regarding the commercial content of "Ask the Authority" as recognized by WACT. From the language of the transcript, the program appears designed, arguably, to promote the sale of Spiller products and services. While the licensee claims that the primary purpose of the program is to instruct and inform the public on the various aspects of gardening and pets, our reading of this one program reveals cross referencing, to a large degree, between this purpose and the authority's vocation. In addition to our concern that "Ask the Authority" may amount to a program length commercial, the licensee's logging practices hardly seem to reflect the actual commercial content of this program. Assuming, as we have throughout, that both the transcript and the composite week logs are typical, a substantial and material question of fact is presented as to whether one 20-second spot per program from Spiller Field and Garden Shop accurately measures reality. From our present perspective, we cannot resolve that issue in the licensee's favor without further exploration in an evidentiary hearing. Accordingly, we will seek further information surrounding the licensee's logging practices concerning the "Ask the Authority" program and further information regarding the primary thrust of this program, be it commercial totally or instructional as the licensee argues.

34. Accordingly, *It is ordered*, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned license renewal application, is designated for hearing at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine whether New South Radio, Inc.'s programming for the 1973-1976 license term will reasonably meet the community needs and interests for WACT's service area as ascertained by the licensee.

(2) To determine whether New South Radio, Inc. misrepresented to the Commission its plans regarding the maximum amounts of commercial matter to be contained in any sixty minute period of time and during any typical broadcast week.

(3) To determine whether New South Radio, Inc., through the broadcast of "Ask the Authority," has violated the Commission's policy against the broadcast of a program length commercial.

(4) To determine whether New South Radio, Inc. has accurately logged the commercial content of its "Ask the Authority" program.

(5) To determine whether, in light of the evidence adduced pursuant to the foregoing issues, a grant of the subject license renewal application would serve the public interest, convenience and necessity.

35. *It is further ordered*, That petitioners' "Motion for Acceptance of Petition to Deny Filed Three Minutes Late" is granted and their "Motion to Strike Amendment" is denied.

36. *It is further ordered*, That the petition to deny the aforementioned license renewal application, filed by John Bivens and Steven Sults individually and as representatives of the Civil Liberties Union of Alabama is granted.

37. *It is further ordered*, That John Bivens and Steven Sults individually and as representatives of the Civil Liberties Union of Alabama, are hereby named as parties respondent to the hearing ordered herein.

38. *It is further ordered*, That in accordance with section 309(e) of the Communications Act of 1934, as amended, the burden of proceeding with the introduction of evidence, shall be on the parties respondent as to issues (1) through (4). The burden of proceeding with respect to issue (5), as well as the burden of proof with respect to all of the issues herein, shall be upon New South Radio, Inc.

39. *It is further ordered*, That, to avail themselves of the opportunity to be heard, New South Radio, Inc., and the parties respondent, pursuant to § 1.221 (c) of the Commission's rules, in person or by attorney, shall within twenty (20) days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in the Order.

40. *It is further ordered*, That New South Radio, Inc. shall, pursuant to § 311(a)(2) of the Communications Act

† Petitioners' transcript of the February 7, 1973 "Ask the Authority" broadcast reveals that seventeen persons called into the program in responding to eight of them. Mr. Spiller specifically mentioned products available at his store. During the course of the program, there occur twelve separate, specific references to products or services sold by Mr. Spiller. The transcript is eleven pages long and on eight of the pages, Mr. Spiller announces products or services available at his shop.

of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rules, and shall advise the Commission of the publication of such notice as required by § 1.594 (g) of the rules.

Adopted: April 23, 1975.

Released: May 9, 1975.

FEDERAL COMMUNICATIONS COMMISSION,  
[SEAL] VINCENT J. MULLINS,  
Secretary.

[FR Doc.75-13242 Filed 5-19-75; 8:45 am]

[Docket Nos. 20471, 20472; File Nos. BPH-9023, BPH-9301]

#### UPPER ROCK ISLAND COUNTY HOLDING CO. AND KSST, INC.

##### Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Upper Rock Island County Holding Co., East Moline, Illinois (requests: 101.3 MHz, Channel No. 267, 50 kW(H&V), 500 feet) (Docket No. 20471; File No. BPH-9023); KSST, Inc., East Moline, Illinois (requests: 101.3 MHz, Channel No. 267, 50 kW(H&V), 500 feet) (Docket No. 20472; File No. BPH-9301) for construction permits.

1. The Commission, by the Chief of the Broadcast Bureau, acting pursuant to delegated authority, has before it the two above-captioned applications, which are mutually exclusive in that they seek the same channel in East Moline, Illinois.

2. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

3. Accordingly, *It is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

4. *It is further ordered*, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

5. *It is further ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible

and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594 (g) of the rules.

Adopted: May 13, 1975.

Released: May 14, 1975.

FEDERAL COMMUNICATIONS COMMISSION,  
[SEAL] WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.

[FR Doc.75-13240 Filed 5-19-75; 8:45 am]

#### FEDERAL ENERGY ADMINISTRATION

##### RETAIL DEALERS ADVISORY COMMITTEE Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770) notice is hereby given that the Retail Dealers Advisory Committee will meet Monday, June 16, 1975, at 9:30 a.m. in Room 303, Regional Conference Room B, J. W. McCormack Post Office Building, Post Office & Courthouse, Boston, Massachusetts.

The Committee was established to provide the Federal Energy Administration with technical and timely information on a wide range of business activities associated with the retailing of gasoline and diesel fuel.

The agenda for the meeting is as follows:

1. Discussion of Extension of the Emergency Petroleum Allocation Act of 1973.
2. Discussion of Market Shares.
3. Remarks from the Floor—10 Minute Rule.
4. Discussion of Branded Dealer Problems (Margins).
5. Discussion of Priority Projects.
  - a. Surplus Product.
  - b. Market Force vs. Allocation and Conservation.
  - c. Entitlements—Their Effects in the Market Place and an Updated Review.
  - d. EPA Controls—How Much of a Burden Are They and Are They Effective.
  - e. Change of Supplier During Base Period.
  - f. Acquiring Product For New Locations and an Increase in Base Period Volume.
  - g. Tank Wagon Prices vs. Rack Prices.

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lois Weeks, Advisory Committee Management Officer, (202) 961-7022 at least 5 days before the meeting and reasonable provisions will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

Minutes of the meeting will be made available for public inspection at the

Federal Energy Administration, Washington, D.C.

Issued at Washington, D.C. on May 15, 1975.

ROBERT E. MONTGOMERY, Jr.,  
General Counsel.

[FR Doc.75-13186 Filed 5-15-75; 12:00 pm]

#### FEDERAL POWER COMMISSION

[Docket No. G-8606, etc.]

##### CONTINENTAL OIL CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates

MAY 9, 1975.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 29, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

This notice does not provide for consolidation for hearing of the several matters covered herein.



## NOTICES

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI-8905 4-10-75	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., a Division of Tennessee Inc., South Crowley Field, Acadia Parish, La.	\$59.021377	15.025
CI-11762 CF 4-11-75	Sun Oil Company (successor to Graham-Mitchell Drilling Co.), P.O. Box 2880, Dallas, Tex. 75221.	Northern Natural Gas Co., Harper Ranch Field, Clark County, Kansas.	18.0	14.65
CI-101-1024 D 4-23-75	Mobil Oil Corp. (Operator), et al., 3 Greenway Plaza East, Suite 800, Houston, Tex. 77040.	Natural Gas Pipeline Co. of America, North Custer City Field, Custer County, Okla.	Leases expired.	
CI-106-1124 D 4-18-75	Anadarko Production Co., P.O. Box 1330, Houston, Tex. 77001.	Natural Gas Pipeline Co. of America, Ziebler Well, South Taloga Field, Dewey County, Okla.	(9)	
CI-175-621 (G-3962) F 4-14-75	Blackwood & Nichols Co. Ltd. (successor to Northeast Blanco Development Corp.), 3013 First National Center, Oklahoma City, Okla. 73102.	El Paso Natural Gas Co., Blanco Field, San Juan and Rio Arriba Counties, N. Mex.	\$29.23 \$53.98 \$62.8852	15.025 15.025 15.025
CI-175-623 A 4-21-75	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Northern Natural Gas Co., Yates Casinghead Gas Plant, Pecos County, Tex.	\$25.5	14.65
CI-175-624 A 4-21-75	Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102.	Panhandle Eastern Pipe Line Co., Acreage in Morton County, Kansas.	\$51.7776	14.65
CI-175-625 A 4-21-75	Helmerich & Payne, Inc., 1579 East 21 St., Tulsa, Okla. 74114.	Michigan Wisconsin Pipe Line Co., Moccasin-Laverne Field, Beaver County, Okla.	\$54.880	14.73
CI-175-627 A 4-19-75	Sun Calvert Co., P.O. Box 2880, Dallas, Tex. 75221.	Arkansas Louisiana Gas Co., Kinta Field, Haskell County, Okla.	\$74.95	14.65
CI-175-628 F 4-16-75	Austral Oil Co., Inc., 2700 Exxon Bldg., Houston, Tex. 77002.	El Paso Natural Gas Co., Acreage in Lea County, N. Mex.	17.10	14.65
CI-175-630 A 4-19-75	Anadarko Production Co., P.O. Box 1330, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., South Taloga Field, Dewey County, Okla.	\$50.7236	14.65
CI-175-631 A 4-23-75	Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102.	Kansas-Nebraska Natural Gas Co., Inc. Acreage in Pawnee County, Kansas.	\$25.0	14.65
CI-175-632 A 4-24-75	Monsanto Co. (Operator), et al., 1300 Post Oak Tower, 5061 Westheimer, Houston, Tex. 77027.	Transwestern Pipeline Co., Thompson No. 1 Well, Dewey County, Okla.	\$4.5909	14.65
CI-175-633 A 4-24-75	MRT Exploration Co., 9500 Clayton Rd., St. Louis, Mo. 63124.	Mississippi River Transmission Corp., Washcom Field, Harrison County, Tex.	\$55.8303	14.65

Filing code: A—Initial service.  
B—Abandonment.  
C—Amendment to add acreage.  
D—Amendment to delete acreage.  
E—Succession.  
F—Partial succession.

1 Request for authorization to continue sale of gas under a renegotiated and extended contract which had expired, with rate change.  
2 Includes 7.0 cents per Mcf tax adjustment and is subject to upward and downward Btu adjustment.  
3 The Ziebler well pressure declined to the point that it is unable to produce into the pipeline of purchaser.  
4 Rate in effect subject to refund in Docket No. R175-62, effective on Apr. 21, 1975.  
5 Rate in effect subject to refund in Docket No. R175-116, effective on Sept. 21, 1975.  
6 Applicant proposes to cover its own interest in the sale of natural gas heretofore authorized to be made by Marathon Oil Co.  
7 Subject to upward and downward Btu adjustment; estimated upward adjustment is 2.28 cents per Mcf; price includes 1.5 cents per Mcf gathering allowance.  
8 Applicant is willing to accept a certificate in accordance with Opinion No. 602.  
9 Subject to upward and downward Btu adjustment.  
10 Applicant is willing to accept a certificate in accordance with sec. 2.56a of the Commission's General Policy and Interpretations.  
11 Includes 4.95 cents per Mcf tax reimbursement and is subject to upward and downward Btu adjustment.  
12 Successor to Petroleum Corp. of Texas (CS70-37), Reserve Oil & Gas Co. (CS66-72), Albert Gackle (CS66-10), W. K. Byrom (CS66-37), Frank Bateman (CI83-273), Getty Oil Co. (G-6264), Atlantic Richfield Co. (G-4841), Ralph L. Clarke and Atlantic Richfield Co. (G-13393).  
13 Includes 4.1127 cents per Mcf State production tax and 0.9946 cents per Mcf gathering allowance.

[FR Doc.75-13004 Filed 5-19-75; 8:46 am]

[Docket No. CI81-636, etc.]

## CONTINENTAL OIL CO. ET AL

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates<sup>1</sup>

MAY 13, 1975.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

<sup>1</sup> This notice does not provide for consolidation for hearing of the several matters covered herein.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 6, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections

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## NOTICES

22039

[Docket No. CP75-325]

## CABOT CORP.

## Application

MAY 13, 1975.

Take notice that on April 21, 1975, Cabot Corporation (Applicant), P.O. Box 1101, Pampa, Texas 79065, filed in Docket No. CP75-325 an application pursuant to section 1(c) of the Natural Gas Act for an exemption from the provisions of the Natural Gas Act, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant states that it owns and operates a pipeline system in Carson and Gray Counties, Texas, which it uses to gather and transport natural gas obtained from third parties, as well as gas produced by Applicant from its own wells, for delivery and consumption in Applicant's plants and facilities in the area and for delivery, sale and consumption in a Celanese Corporation chemical plant for the account of Pioneer Natural Gas Company. Applicant further states that approximately 1,500 Mcf per day of the natural gas so gathered and transported is received from Transwestern Pipeline Company (Transwestern) under an exchange agreement certificated by the Commission in the proceeding in Docket No. CP68-93. The gas received from Transwestern is said to be commingled with the other gas in Applicant's system and comprises a part of the deliveries to Applicant's plants and facilities and to the Celanese Plant. Applicant asserts that all of the gas gathered and transported by Applicant in its pipeline system, including the volumes received from Transwestern, is transported and ultimately consumed entirely within Texas.

Applicant states that it is in the process of replacing a portion of the subject system and is requesting that the exemption issued cover these replacement facilities also.

Applicant requests the instant exemption solely for the above-described facilities and operations, including the transportation and sale of the gas received by Applicant from Transwestern. The application does not pertain to Applicant's sales of natural gas to pipeline companies in West Virginia and in the Southwest.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 23, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to

7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to

intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUME,  
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI-161-636 D 4-21-75	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	Transwestern Pipeline Co., Bell Lake Field, Lea County, N. Mex.	(*)	(*)
CI-163-31 E 4-23-75	Sun Oil Co. (successor to Forest Oil Corp.), P.O. Box 2880, Dallas, Tex. 75221.	Colorado Interstate Gas Co., a Division of Colorado Interstate Corp., Patriek Draw Field, Sweetwater County, Wyo.	\$23.6811	14.65
CI-163-385 E 4-23-75	Sun Oil Co. (successor to Forest Oil Corp.).	Colorado Interstate Gas Co., a Division of Colorado Interstate Corp., Patriek Draw Field, Sweetwater County, Wyo.	\$23.6811	14.65
CI-172-651 C 4-25-75	Anadarko Production Co., P.O. Box 1330, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., Block "A" 1 Well, Hemphill County, Tex.	\$50.7230	14.65
CI-175-639 A 4-28-75	Monsanto Co., 1300 Post Oak Tower, 5061 Westheimer, Houston, Tex. 77027.	Transwestern Pipeline Co., Nash Federal No. 1 Well, Eddy County, N. Mex.	\$4.9016	14.65
CI-175-640 A 4-28-75	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	Mountain Fuel Supply Co., Brady Area, Sweetwater County, Wyo.	\$59.758	14.73
CI-175-641 A 4-25-75	Marathon Oil Co., 539 South Main St., Findlay, Ohio 43840.	Texas Eastern Transmission Corp., Eugene Island Area, Block 349, offshore Louisiana.	\$1.44	15.025
CI-175-642 A 4-25-75	Louisiana Land Offshore Exploration Co., Inc., 225 Baronne St., P.O. Box 60350, New Orleans, La. 70160.	Texas Eastern Transmission Corp., Block 349, Eugene Island Area, offshore Louisiana.	\$1.44	15.025
CI-175-643 A 4-25-75	Tenneco Oil Co., P.O. Box 2511, Houston, Tex. 77001.	El Paso Natural Gas Co., Basin Dakota Field, Rio Arriba County, N. Mex.	\$56.3856	15.025
CI-175-644 A 4-28-75	Sohio Petroleum Co., 1100 Penn Tower, Oklahoma City, Okla. 73118.	Northern Natural Gas Co., Drinkard Field, Lea County, N. Mex.	\$64.5151	14.65
CI-175-645 A 4-30-75	Lone Star Producing Co., 301 South Harwood St., Dallas, Tex. 75201.	Natural Gas Pipeline Company of America, Acreage in Sutton County, Tex.	\$62.97	14.65
CI-175-646 A 4-30-75	Union Texas Petroleum, a Division of Allied Chemical Corp., P.O. Box 2120, Houston, Tex. 77001.	Transwestern Pipeline Co., Burton Flat Field, Eddy County, N. Mex.	\$54.1511	14.65
CI-175-647 A 4-30-75	Arkla Exploration Co., P.O. Box 1724, Shreveport, La. 71151.	Arkansas Louisiana Gas Co., Witcherville Field, Sebastian County, Ark.	\$51.3	14.65
CI-175-648 A 5-2-75	Mitchell Energy Offshore Corp., 3400 One Shell Plaza, Houston, Tex. 77002.	Natural Gas Pipeline Co. of America, 22-L Field, offshore Jefferson County, Tex.	\$60.0	14.65
CI-175-649 A 5-2-75	Sun Oil Co., P.O. Box 2880, Dallas, Tex. 75221.	Mississippi River Transmission Corp., Mills Ranch Field, Wheeler County, Tex.	\$54.5357	14.65
CI-175-651 A 5-3-75	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Tennessee Gas Pipeline Co., a Division of Tenneco Inc., West Cameron Block 177, offshore Louisiana.	\$52.02	15.025
CI-175-652 A 5-5-75	Texas Pacific Oil Co., Inc., 1700 One Main Place, Dallas, Tex. 75201.	Northern Natural Gas Co., Drinkard Field, Lea County, N. Mex.	\$51.0	14.65
CI-175-653 A 5-5-75	Diamond Shamrock Corp., P.O. Box 631, Amarillo, Tex. 79173.	Arkansas Louisiana Gas Co., South Pocola Field, LeFlore County, Okla.	\$51.0	14.73

Filing code: A—Initial service.  
B—Abandonment.  
C—Amendment to add acreage.  
D—Amendment to delete acreage.  
E—Succession.  
F—Partial succession.

\* Leases have ceased to produce or never were productive.  
1 Includes 0.5211 cents per Mcf tax reimbursement.  
2 Subject to upward and downward Btu adjustment.  
3 Includes 5.611 cents per Mcf upward Btu adjustment, 2.147 cents per Mcf tax reimbursement and 1.0 cent per Mcf gathering allowance.  
4 Applicant is willing to accept a certificate in accordance with sec. 2.56a of the Commission's General Policy and Interpretations.  
5 Includes 4.3642 cents per Mcf tax reimbursement and is subject to upward and downward Btu adjustment.  
6 Includes 10.3007 cents per Mcf upward Btu adjustment.  
7 Subject to upward and downward Btu adjustment; includes 4.12 cents per Mcf tax reimbursement and 1.492 cents per Mcf gathering allowance.

[FR Doc.75-18005 Filed 5-19-75; 8:45 am]

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make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13115 Filed 5-19-75;8:45 am]

[Docket No. E-9415]

**CENTRAL ILLINOIS PUBLIC SERVICE CO.**  
**Proposed Changes in FPC Electric Service Tariffs**

MAY 14, 1975.

Take notice that Central Illinois Public Service Company (CIPS) on May 1, 1975 tendered for filing Rate Schedule W-2 for wholesale electric service to municipalities. CIPS states that the proposed tariff would increase revenues from jurisdictional sales and service by \$656,215, based on the 12-month period ending May 31, 1975.

CIPS states that the proposed tariff will become effective June 1, 1975 and applicable for service being provided to the municipalities upon the expiration of the effective period for the rates and charges currently specified in the various agreements between the Company and the municipalities.

CIPS states that copies of the filing were served upon the Company's jurisdictional customers. CIPS states that none of the municipalities has indicated any objection to this filing.

CIPS included in the submittal of this proposed rate increase a motion to incorporate by reference under Section 35.19 of the Commission's rules and regulations material previously submitted to the Commission, according to CIPS, in Docket No. E-9138 in lieu of resubmission. CIPS states that this material includes the following:

1. Statements A to L for Period I (12 months ending June 30, 1974).
2. Statements A to L for Period II (12 months ending June 30, 1975).
3. CIPS Exhibit 2.0 (testimony of William F. Grant, Comptroller and Assistant Secretary, and attached affidavit of William F. Grant).
4. CIPS Exhibit 4.0 (testimony of L. Sanford Reis, attached Schedules 1 through 27, and attached affidavit of L. Sanford Reis).
5. Working papers supporting Statements A to O for Period II.

CIPS motion also included a request to use the test periods utilized in Docket No. E-9138 for the proceeding in Docket No. E-9415.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 23, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken,

but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13221 Filed 5-19-75;8:45 am]

[Docket No. CP75-299]

**CITIES SERVICE GAS CO. v.**  
**W. D. GREENSHIELDS, INC.**

**Notice of Withdrawal**

MAY 14, 1975.

Cities Service Gas Co. v. W. D. Greenshields, Inc.

On April 25, 1975, Cities Service Gas Company filed a withdrawal of its Petition for a Declaratory Order filed March 7, 1975, in the above-designated matter.

Notice is hereby given that pursuant to § 1.11(d) of the Commission's rules of practice and procedure, the withdrawal of the above petition shall become effective May 27, 1975.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13222 Filed 5-19-75;8:45 am]

[Docket No. RP74-4]

**CITIES SERVICE GAS CO.**

**Notice of Conference**

MAY 14, 1975.

Take notice that on Tuesday, May 20, 1975, a conference of all interested persons in the above-referenced docket will be convened at 10:00 a.m. in Room No. 3401 at the offices of the Federal Power Commission, North Building, 825 North Capitol Street, NE, Washington, D.C. 20426.

The conference will be held pursuant to § 1.18 (Conferences, Offers of Settlement) of the Commission's rules of practice and procedure (18 CFR 1.18). Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, such attendance at the conference will not be deemed to authorize such intervention as a party in the proceedings.

In accordance with the provisions of § 1.18 of the rules, all parties will be expected to come fully prepared to discuss the merits of all issues concerning the lawfulness of Cities Service Gas Company's proposed tariff changes, any procedural matters preparatory to a full evidentiary hearing, or to make commitments with respect to such issues and any offers of settlement or stipulations discussed at the conference. Failure to attend the conference shall constitute a waiver of all objections to stipulations and agreements reached by the parties in attendance at the conference.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13223 Filed 5-19-75;8:45 am]

[Docket No. E-9430]

**DUKE POWER CO.**

**Notice of Contract Supplement**

MAY 14, 1975.

Take notice that Duke Power Company (Duke) tendered for filing on May 7, 1975, a supplement to Duke's Electric Power Contract with Lockhart Power Company (LPC).

Duke states that aforementioned Electric Power Contract is on file with the Commission as Duke Power Company Rate Schedule FPC No. 252.

Duke states that Exhibit A-1, Delivery Point No. 1, dated February 10, 1975, provides for an increase in contract demand from 10,000 kw to 12,000 kw; and Exhibit A-1, Delivery Point No. 2, dated February 10, 1975, provides for an increase in contract demand from 22,000 kw to 33,000 kw. Duke states that both changes were made at the request of the customer.

Duke states that service will be billed on Schedule 10. Duke states that no new facilities have been installed to provide the service described in the Exhibits.

Duke states that a copy of the filing was mailed to LPC.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 29, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13224 Filed 5-19-75;8:45 am]

[Docket No. E-9431]

**DUKE POWER CO.**

**Contract Supplement**

MAY 14, 1975.

Take notice that Duke Power Company (Duke) tendered for filing on May 7, 1975, a supplement to Duke's Electric Power Contract with Surry-Yadkin Electric Membership Corporation.

Duke states that this Electric Power Contract is on file with the Commission as Duke Power Company Rate Schedule FPC No. 140.

Duke states that the five Exhibits A are dated October 9, 1974, and provide for an increase in designated kw demand as follows:

Delivery point No.	Designated kilowatts	
	Present	Proposed
1	11,000	12,000
2	2,200	2,500
3	11,000	12,000
4	4,000	5,000
5	2,000	2,500

Duke states that these changes were made at the request of the customer.

Duke states that the contract with the Rural Electric Cooperatives served by Duke provides for service at all delivery points, plus any new delivery points to be added in the future, in one contract, by Exhibits A attached to the contract. Duke states that this contract contains an "all requirements" provision, and there is no Contract Demand at any delivery point. Exhibit A therefore shows only "designated kilowatts", "location" and other information. Duke states that when the character of the service changes at a given Delivery Point, Exhibit A is superseded by A-1, A-2, etc.

Duke proposes an effective date for the Exhibits A of June 20, 1975.

Duke states that its facilities are adequate to serve the increased designated kilowatts at Delivery Points No. 1, 2, 3, and 5. To serve the revised Exhibit A-4 agreement for the increased designated kilowatts for Delivery Point No. 4, Duke states that it proposes to increase its metering capacity.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 29, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13225 Filed 5-19-75;8:45 am]

[Docket No. E-8911]

**GULF POWER CO.**

**Further Extension of Procedural Dates**

MAY 13, 1975.

On April 30, 1975, the Cooperatives (Intervenors) filed a motion to extend the procedural dates fixed by order issued August 13, 1974, as most recently modified by notice issued February 28, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Intervenor's Testimony, June 18, 1975.

Service of Company Rebuttal, July 14, 1975.  
Hearing, July 22, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13116 Filed 5-19-75;8:45 am]

[Docket No. E-9427]

**KANSAS GAS & ELECTRIC CO.**

**Filing of Letter Agreement**

MAY 14, 1975.

Take notice that on April 22, 1975, Kansas Gas & Electric Company (KG&E), tendered for filing copies of a letter agreement dated December 11, 1974 which supplements the Electric Interconnection Contract between Western Power Division of Central Telephone and Utilities Corporation and Kansas Gas and Electric Company dated June 28, 1960, designated FPC Rate Schedule 101. KG&E states that the Letter Agreement provides for the sale by KG&E of 50 megawatts of La Cygne Unit No. 1 Participation Power for a twelve month period running from the requested effective date of July 1, 1975. KG&E further states it (KG&E) desires to sell the 50 megawatts of capacity to reduce its excess reserves and that Central Telephone and Utilities Corporation desires to purchase this capacity.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protests should be filed on or before May 27, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13226 Filed 5-19-75;8:45 am]

[Docket No. E-9426]

**KANSAS POWER AND LIGHT CO.**

**Proposed Changes in Rates and Charges**

MAY 13, 1975.

Take notice that on May 5, 1975, The Kansas Power and Light Company (Kansas) tendered for filing a newly executed renewal contract dated February 10, 1975, with the city of Marion, Kansas for wholesale electric service to that community. Kansas states that this is a renewal of a similar contract dated May 25, 1964, and designated KPL Rate Schedule FPC No. 70. The proposed effective date is July 1, 1975. According to Kansas, the net billing for the twelve months succeeding the proposed change in agreements was \$171,655.85. In addition, Kansas states that copies of the

contract have been mailed to the city of Marion and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 27, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13117 Filed 5-19-75;8:45 am]

[Docket No. E-9425]

**KENTUCKY UTILITIES CO.**

**Filing of Contract**

MAY 12, 1975.

Take notice that on May 5, 1975, the Kentucky Utilities Company (KU) tendered for filing a contract for electric service to the City of Nicholasville, Kentucky at a new delivery point. KU states that the proposed Contract provides for delivery at 69,000 volts, billing on Rate Schedule WPS-73 which is on file with this Commission. The Company has requested that the Commission waive the notice requirement and allow the aforementioned rate schedule to become effective as of October 24, 1974.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 27, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13118 Filed 5-19-75;8:45 am]

[Docket No. CP74-92]

**MCCULLOCH INTERSTATE GAS CORP.**

**Amendment to Application**

MAY 14, 1975.

Take notice that on April 17, 1975, McCulloch Interstate Gas Corporation (Applicant), 10880 Wilshire Boulevard, Los Angeles, California 90024, filed in

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## NOTICES

Docket No. CP74-92 an amendment to its application filed in the subject docket on October 5, 1973, pursuant to section 7(c) of the Natural Gas Act requesting authorization for the transportation of gas by setting forth an enlarged area from which gas would be produced for transportation by Applicant for the account of Colorado Interstate Gas Company, a Division of Colorado Interstate Corporation (CIG), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that its application in this proceeding contemplates transportation of gas by Applicant for CIG's account from volumes produced in a limited area of Converse County, Wyoming, as described in the agreement between the two parties dated September 5, 1973. Applicant further states that on November 29, 1974, it executed an amendment agreement with CIG which enlarges said production area by the addition of 54 sections in the Anadarko Fox area, Converse County, Wyoming.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before May 29, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons who have heretofore filed petitions to intervene, notices of intervention or protests to the granting of the application in this proceeding need not file again.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13227 Filed 5-19-75; 8:45 am]

[Docket No. E-9140]

## NEW ENGLAND POWER CO.

## Application To Change Suspended Rate Schedule

MAY 14, 1975.

Take notice that on May 5, 1975, New England Power Service Company filed on behalf of New England Power Company (NEPCO), an application under § 35.17 (b) of the Regulations under the Federal Power Act for permission to change its rate schedule Rate R-9 at this docket

<sup>1</sup> Notice of the application was published in the FEDERAL REGISTER on October 30, 1973 (38 FR 29927). On June 10, 1974, Applicant received temporary authority to perform the transportation service for which authorization is sought in its application.

which is under suspension by order of the Commission issued December 31, 1974. The R-9 filing proposed both an increase in the level of the rate in NEPCO's wholesale tariff and a major redesign of the wholesale rate structure. The company claims it is requesting this change upon complaint of its non-affiliated wholesale customers. The company claims further that this proposed change does not affect the level of the R-9 rate increase. An effective date of June 1, 1975, is proposed, which is the same date that NEPCO's suspended rates are scheduled to go into effect. NEPCO states that this filing does not represent a settlement of the rate design issue.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 27, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13119 Filed 5-19-75; 8:45 am]

[Docket No. E-9411]

## OKLAHOMA GAS AND ELECTRIC CO.

## Filing of Agreement

MAY 13, 1975.

Take notice that on April 30, 1975, Oklahoma Gas and Electric Company (OG&E) tendered for filing an agreement between OG&E and the Public Service Company of Oklahoma (PSCO). OG&E states that the agreement provides for the sale by OG&E of 100,000 kilowatts of Contract Capacity and accompanying energy to PSCO from June 1, 1975 to May 31, 1976 and for the sale by PSCO to OG&E of 100,000 kilowatts of Contract Capacity and accompanying energy from June 1, 1976 to May 31, 1977. PSCO concurrently filed a Certificate of Concurrence.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 27, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing

are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13120 Filed 5-19-75; 8:45 am]

[Docket No. E-9410]

## OKLAHOMA GAS AND ELECTRIC CO.

## Filing of Agreement

MAY 13, 1975.

Take notice that on April 30, 1975, Oklahoma Gas and Electric Company (OG&E) tendered for filing an agreement to provide electric service to the Town of Mannford, Oklahoma (Mannford). The proposed effective date is June 1, 1975. OG&E states that it will provide service under its standard Resale Rate Schedule, PN-1.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 27, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13121 Filed 5-19-75; 8:45 am]

[Docket No. E-9409]

## OKLAHOMA GAS &amp; ELECTRIC CO.

## Filing of Agreement

MAY 13, 1975.

Take notice that on April 30, 1975, Oklahoma Gas & Electric Company (OG&E) tendered for filing an agreement between OG&E and the City of Kingfisher, Oklahoma (Kingfisher). OG&E states that Kingfisher will be provided electric service under OG&E's standard Resale Rate Schedule PN-1. OG&E states that it anticipates beginning service on August 1, 1975.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 27, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this

filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13122 Filed 5-19-75; 8:45 am]

[Docket Nos. RP71-119, RP74-31-25]

PANHANDLE EASTERN PIPE LINE CO.  
AND OKIE PIPE LINE CO.

## Proposed Stipulation and Agreement in Settlement of Proceeding

MAY 14, 1975.

Take Notice that on January 8, 1973, Okie Pipe Line Company (Okie) filed a petition for extraordinary relief pursuant to § 1.7(b) of the Commission's rules of practice and procedure requesting relief from the natural gas curtailments imposed under the provisions of the presently effective 467-B interim plan which was filed by Panhandle Eastern Pipe Line Company (Panhandle) on November 6, 1973.

Okie owns and operates a gas liquids pumping station located at Liberal, Kansas. The station operates a stand-by natural gas powered engine used to pump liquids in the event of failure of primary electric pumps. Okie also owns homes at Liberal Station used by company employees, each of which relies upon natural gas for heating and cooking. Panhandle is the source of supply of Liberal Station.

In its petition Okie alleges that it was advised by Panhandle that pursuant to its effective curtailment plan that deliveries to the Liberal Station would be completely curtailed during the course of the winter months.

Okie asserts in its petition that the projected curtailment creates an emergency at its Liberal Station. If auxiliary power is needed, there would be no alternative source to turn to at this station. In addition, Okie's employees will have no source of heating during the winter.

In its petition it further reflects that it requires varying volumes during the course of the different months with a maximum monthly volume of 3,530 Mcf in January and a minimum volume of 1200 Mcf in the month of August.

A formal hearing with respect to this matter commenced and was terminated on April 23, 1975. During the course of this hearing, the participating parties tendered the following Stipulation and Agreement to the Presiding Administrative Law Judge for certification to the Commission in the hope that this proceeding could be resolved in this manner:

1. The following natural gas requirements of the Okie Pipe Line Company for heating and other residential purposes at its Liberal Pumping Station shall be considered as Category 1 volumes and shall be subject to curtailment along with other Category 1 volumes: January 1000; February 800; March 800; April 600; May 500; June 300; July 300; August 300; September 450; October 450; November 450; December 700.

2. The natural gas requirements of the Okie Pipe Line Company at its Liberal Pumping Station for:

(a) Emergency standby pumping purposes in the event of actual failure of its primary electric pump or actual electrical power failure, and for

(b) Actual peak pumping periods shall be considered Category 2 deliveries. Category 2 volumes taken for emergency standby pumping purposes shall be made available by Panhandle Eastern Pipe Line Company in an amount not to exceed 100 Mcf per day for the duration of each equipment failure or power failure. In respect to peak pumping volumes, Okie shall be limited to an amount not to exceed 100 Mcf per day for no more than 5 days in each of the months of December through March, provided, however, that, such volumes shall be subject to curtailment along with all other Category 2 volumes.

3. To the extent that Okie invokes any part of the provisions of paragraph 2, gas shall be made available by Panhandle Eastern Pipe Line Company upon 24 hours notice by Okie Pipe Line Company of an equipment failure, power failure or peak pumping period.

4. The Okie Pipe Line Company shall file a semi-annual report, verified by an officer of the Company, with the Federal Power Commission each April 1st and October 1st summarizing the gas taken as a result of each power or equipment failure and describing the nature of each such power failure or equipment failure and the volumes taken and repaid.

5. Okie shall be required to repay all volumes taken pursuant to the provisions of paragraph 2 hereof from the volumes of gas allocated to Okie under Panhandle's effective curtailment plan so that all extraordinary relief volumes are repaid annually by October 31st of each year except as to volumes taken in October which shall be repaid the following year.

6. This stipulation will be continued in effect as long as an interim plan established by a Commission Order of November 6, 1973, in Docket No. RP71-119 remains effective.

7. This stipulation shall not constitute a waiver of any party's rights in Docket No. RP71-119 to contest the categorization of any volumes.

8. This stipulation is made solely to settle issues raised in Okie Pipe Line Company's petition for extraordinary relief and is without prejudice to its rights to apply for extraordinary relief in any new or additional curtailment plan put into effect by Panhandle Eastern Pipe Line Company (Tr. 32-36).

The participating parties indicated that there were no present objections to the Stipulation and Agreement. They did, however, request to be afforded the opportunity to indicate the existence of objections in the event that such a course of action subsequently became necessary. It was decided that this could be accomplished by providing all interested persons with an opportunity to make comment as provided for in a Notice relating to the proposed Stipulation and Agreement to be issued at a subsequent date.

(Tr. 13). The Presiding Judge certified

## NOTICES

this proposed Stipulation and Agreement along with the record developed in this proceeding to the Commission on May 1, 1975.

Any interested persons or parties desiring to be heard with respect to this Stipulation and Agreement should on or before June 16, 1975, file with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, comments indicating its support or opposition to this proposal.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13228 Filed 5-19-75; 8:45 am]

[Docket No. CP75-322 and CP75-327]

## SOUTHWEST GAS CORP.

## Application

MAY 14, 1975.

Take notice that on April 30, 1975, Southwest Gas Corporation (Applicant), P.O. Box 1450, Las Vegas, Nevada 89101, filed in Docket No. CP75-322 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a compressor station on its northern Nevada transmission system for the purpose of adding to that system main line capacity so as to protect and provide reliable service to the Applicant's present and future northern Nevada priority 1 and 2 customers, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

The application states that Applicant's three existing compressor stations have experienced a gradual increase over recent years in the amount of hours each is out of service, due to both scheduled and unscheduled outages, and that simultaneously, the number of priority 1 and 2 customers Applicant serves in the northern Nevada area has steadily increased. The application further states that to insure reliable service to its present and future priority 1 and 2 customers through the 1976-1977 heating season the proposed compressor station is essential.

The proposed facility will consist of one 3830 horsepower packaged gas turbine unit together with necessary accessory equipment which will be placed on Applicant's northern Nevada transmission system at a site approximately 164 miles from the Idaho-Nevada border in Pershing County, Nevada. The estimated cost of the facility is \$1,667,800, to be financed with working funds, supplemented as required by short-term borrowings.

Take further notice that on May 2, 1975, Applicant filed in Docket No. CP75-327 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas under an amendment of the proration of impaired deliveries subsection of the force majeure provisions of its FPC Gas



Tariff, Original Volume No. 1, all as more fully set forth in the application in Docket No. CP75-327, which is on file with the Commission and open to public inspection.

Specifically, Applicant requests authority to include a Maximum Daily Reliable Quantity (MDRQ) entitlement in the proration of impaired deliveries subsection of the force majeure provisions of its tariff which shall limit volumes of priority 1 and priority 2 gas the buyer is entitled to receive, and represents the maximum daily delivery obligation to the buyer from Applicant's northern Nevada transmission system. Applicant states that the MDRQ entitlements are to be the maximum volumes that it will be obligated to deliver to both its resale customers and its distribution systems at any time pursuant to requested change.

Applicant states the reason for this volumetric limitation is that it is approaching its reliable capacity for the northern Nevada transmission system and presently lacks the financial resources to construct the compressor station in Docket No. CP75-322. Applicant further states that, temporarily, it cannot undertake sufficient long-term financing to pay off its short-term borrowings and to support a construction budget which includes the money for the compressor station.

Applicant states that while the restriction proposed in its application in Docket No. CP75-327 will deny natural gas to premises not previously served, it will not cause any discontinuance, modification or restriction of service to any customer heretofore served by Applicant.

Applicant proposes the following MDRQ entitlements:

	Thousand cubic feet
California Pacific Utilities Co. (Interstate sale for resale)	9,338
Sierra Pacific Power Co. (Interstate sale for resale)	47,009
Southwest Gas Corp. (California distribution)	3,697
Southwest Gas Corp. (Nevada distribution)	28,737

The impact of the volumetric limitation is estimated by Applicant to be the same as the 1974-1975 winter heating season, given the identical degree days, since its transmission facility is limited to available capacity. Applicant asserts that, if no restrictions are imposed immediately as proposed in the application in Docket No. CP75-327, approximately 2,500 priority 1 customers could lose service.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 30, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken

but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, hearings will be held without further notice before the Commission on these applications if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matters finds that grants of the certificates are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that formal hearings are required, further notice of such hearings will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearings.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13229 Filed 5-10-75; 8:45 am]

[Docket Nos. CI75-45, etc.; Docket No. CP75-316]

**TENNECO OIL CO., ET AL. AND  
SOUTHERN NATURAL GAS CO.  
Order Consolidating Proceedings, Granting  
and Denying Motions**

MAY 14, 1975.

By order issued April 14, 1975, the Commission, inter alia, consolidated a number of proceedings in Docket No. CI75-45, et al., granted petitions to intervene, ordered a formal hearing, to convene on May 19, 1975, and prescribed procedures to be followed therein.

Subsequent to the issuance of the Commission's April 14, 1975 order, Southern Natural Gas Company (Southern) filed an application in Docket No. CP75-316 seeking a certificate of public convenience and necessity authorizing the transportation of certain volumes of gas for Hunt Oil Company (Hunt) from offshore Louisiana to a point onshore Louisiana, the transportation of certain volumes of gas for Placid Oil Company and others (Placid Group) from a point near Southern's Shadyside Compressor Station to the tailgate of an ammonia plant in Ascension Parish, Louisiana, and the construction and operation of certain facilities to accomplish the foregoing. On May 1, 1975 Southern filed a motion for consolidation of the instant proceeding with Docket No. CP75-45, et al. which alleged a substantial interrelationship and/or identity of issues with respect to the gas sales, transportation services and facilities applications involved in the presently separate proceedings.

The Commission in considering Southern's motion has taken careful note of the relationship of the issues contained in the instant proceeding to those set forth in Docket No. CP75-45, et al. The present application involves the initial sale of gas by Hunt to Southern in Docket No. CI75-68, the further transportation of offshore reserves by Trunkline Gas Company in Docket No. CP75-149, and Southern's associated application in Docket No. CP75-163, which dockets have previously been consolidated with Docket No. CP75-45, et al. Since the issues of law and fact raised by Southern in the present application are similar to the applications filed in the aforementioned consolidated proceedings and in view of the sufficiency of Southern's motion, we shall, as herein-after ordered, consolidate the instant proceeding with those listed above.

We have also considered the joint motion filed on May 5, 1975, by Ashland Oil, Inc., Hamilton Brothers Oil Company, Hamilton Brothers Explorations, Ltd., Highland Resources, Inc., Hunt Industries, Hunt Oil Company, Hunt Petroleum Corporation, Kewanee Oil Company, and Placid Oil Company for severance and rescheduling of the hearing and procedural dates. In so doing, we have carefully reviewed the prior findings contained in our order issued April 14, 1975, the length of time movant's application's have been pending in the subject dockets, and the arguments set forth in the instant motion, and have concluded that said motion does not present grounds which constitute persuasive or substantial justification for the Commission action sought therein.

The Commission finds: (1) The proceeding involved in Docket No. CP75-316 contains common questions of law and fact with the proceedings in Docket No. CP75-45, et al., consequently, good cause exists to consolidate this proceeding with Docket No. CP75-45, et al. as alleged in Southern's motion for consolidation.

(2) Good cause exists to modify the procedural date set forth in the Commission's order of April 14, 1975, to the extent that Southern may be permitted additional time within which to serve prepared testimony on all parties.

The Commission orders: (A) The proceeding involved in Docket No. CP75-316 is hereby consolidated with the proceedings in Docket No. CP75-45, et al., for purposes of hearing and decision.

(B) The procedural dates set forth in our order of April 14, 1975, in Docket No. CP75-45, et al., are hereby modified to the extent that Southern shall file and serve their prepared testimony in Docket No. CP75-316 on all parties including the Administrative Law Judge and Commission Staff at the start of the hearing on May 19, 1975, at 10 a.m. (e.d.t.) in a hearing room at the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426.

(C) The motion for severance of Docket No. CI75-59, et al., from Docket No. CP75-45 et al. and the rescheduling

of hearing and procedural dates filed by Ashland Oil, Inc., et al. on May 5, 1975 is hereby denied.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13230 Filed 5-19-75; 8:45 am]

[Rate Schedule Nos. 138, etc.]

**TEXACO INC. ET AL.**

**Rate Change Filings**

MAY 14, 1975.

Take notice that the producers listed in the Appendix attached hereto have filed proposed increased rates to the applicable new gas national ceiling based on the interpretation of vintage concepts set forth by the Commission in its Opinion No. 699-H, issued December 4, 1974.

The information relevant to each of these sales is listed in the Appendix below.

Any person desiring to be heard or to make any protest with reference to said filing should on or before May 30, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,  
Secretary.

Appendix				
Filing date	Producer	Rate schedule No.	Buyer	Area
May 5, 1975	Texaco Inc., P.O. Box 52332, Houston, Tex. 77052	138	Tennessee Gas Pipeline Co.	Texas Gulf Coast.
Do	Amoco Production Co., P.O. Box 3062, Houston, Tex. 77001	573	do	Do.

[FR Doc.75-13235 Filed 5-19-75; 8:45 am]

[Docket No. RP72-64]

**TEXAS GAS TRANSMISSION CORP.**

**Further Extension of Procedural Dates**

MAY 13, 1975.

On May 5, 1975, Texas Gas Transmission Corporation filed a motion to defer the procedural dates fixed by order issued March 28, 1975, as most recently modified by notice issued April 23, 1975, in the above-designated matter, pending Commission action on a settlement proposal filed May 1, 1975. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Company's Testimony, June 25, 1975.

Service of Intervenor's Testimony, July 9, 1975.

Hearing, July 17, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13123 Filed 5-19-75; 8:45 am]

[Docket No. E-9432]

**VERMONT ELECTRIC POWER CO., INC.**

**Filing of Purchase Agreement**

MAY 14, 1975.

Take notice that on May 8, 1975, the Vermont Electric Power Company, Inc. (Velco), tendered for filing the following rate schedule:

Purchase Agreement for the sale of fifty-five thousand kilowatts (55,000 KW) and

related energy from the Vermont Yankee Nuclear Generating Unit in Vernon, Vermont, to the Boston Edison Company (Boston Edison), by the Vermont Electric Power Company, Inc., dated as of January 24, 1975.

Velco states that service under this Agreement began at 11:59 p.m. on January 31, 1975, and terminated at 11:59 p.m. on April 30, 1975. The amount of power to be sold under the contract is estimated at 24 million KwHrs per month, with estimated monthly revenues of \$400,000. Velco states that charges paid to it will be credited to Central Vermont and Green Mountain in proportion to the amount of capacity and energy released by them to Velco for this sale, and that therefore there will be no change in overall rate of return for Velco.

Velco requests a waiver of § 35.3 of the Commission's rules and regulations to allow an effective date of February 1, 1975, citing extended contract negotiations with Boston Edison, and no effect upon purchasers of Velco power under other rate schedules if granted.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 27, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person

wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13231 Filed 5-19-75; 8:45 am]

[Docket No. R-472]

**GRAND VALLEY TRANSMISSION CO.**

**Waivers of report of supply and Requirements**

**Findings and Order Granting Waiver**

MAY 13, 1975.

By Order No. 489, issued August 24, 1973, in Docket No. R-472 (50 FPC 561), as amended by Order No. 523, issued February 6, 1975, in said docket (53 FPC ), the Commission promulgated § 260.12 of Part 260—Statements and Reports (Schedules), Subchapter G—Approved Form, Natural Gas Act, Chapter I of Title 18 of the Code of Federal Regulations to prescribed FPC Form No. 16, Report of Supply and Requirements, to be filed by natural gas pipeline companies making sales in interstate commerce of natural gas for resale. The Commission stated in Order No. 489 that it would consider requests by any company for waiver of the requirement to file Form No. 16 and would grant such requests upon good cause being shown.

On April 21, 1975, Grand Valley Transmission Company (Grand Valley) filed a request for waiver of the requirement to file Form No. 16 stating that it operates a gathering-type pipeline transporting gas purchased from producers in Utah. Grand Valley sells such gas only to one customer, Northwest Pipeline Corporation (Northwest), for resale. Since Grand Valley sells all of its gas to Northwest, its supply is reflected in Northwest's Form No. 16, and, accordingly, Grand Valley should be excused from filing Form No. 16.

The Commission finds: Good cause having been shown, it is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the request by Grand Valley for waiver of the requirement to file Form No. 16 be granted.

The Commission orders: Grand Valley's request for waiver of the requirement to file Form No. 16 is granted subject to further review should Grand Valley's operations change in the future.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13125 Filed 5-19-75; 8:45 am]

**FEDERAL RESERVE SYSTEM**

**FIRST COMMUNITY BANCORPORATION**

**Order Approving Acquisition of Bank**

First Community Bancorporation, Joplin, Missouri ("Applicant"), a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under



## NOTICES

section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of The McDonald County Bank, Pineville, Missouri ("Bank").

The application has been processed by the Federal Reserve Bank of Kansas City, pursuant to authority delegated by the Board of Governors of the Federal Reserve System, under the provisions of § 265.2(f)(24) of the rules regarding delegation of authority.

Notice of the application, affording an opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The Federal Reserve Bank has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the eighteenth largest banking organization in Missouri, controls four operating banks with aggregate deposits of \$88.5 million,<sup>1</sup> representing .59 percent of the commercial bank deposits in the State. Acquisition of Bank would increase Applicant's share of deposits only slightly, and would not result in a significant increase in the concentration of banking resources in Missouri. Applicant's ranking among banking organizations in the State would remain unchanged.

Consummation of the proposed acquisition would neither eliminate any significant existing competition nor foreclose the development of potential competition between any of Applicant's subsidiary banks and Bank. Bank (\$6.2 million in deposits) is the second largest of five banking organizations in the McDonald County banking market and holds 21.04 percent of the deposits in commercial banks in the market. None of Applicant's subsidiary banks are located in Bank's market area. Current population per banking office ratios suggest that de novo entry is unlikely. Competitive considerations are, therefore, consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant and its subsidiaries and Bank appear satisfactory. Affiliation with Applicant should enable Bank to offer expanded banking services, including improved agricultural lending and trust services. These factors, as they relate to the convenience and needs of the community to be served, lend some weight for approval of the application. It is the Reserve Bank's judgement that consummation of the proposed acquisition is in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this

<sup>1</sup> All banking data are as of June 30, 1974, and are adjusted to reflect bank holding company acquisitions approved by the Board to date.

Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City, pursuant to delegated authority.

[SEAL] JOHN F. ZOELLNER,  
Vice President.

MAY 9, 1975.

[FR Doc. 75-13201 Filed 5-19-75; 8:45 am]

## PFISTER, INC.

Order Approving Formation of Bank Holding Company and Acquisition of a General Insurance Agency

Pfister, Inc., Clifton, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 92.4 per cent of the voting shares of The First National Bank of Clifton, Clifton, Kansas ("Bank"). Applicant has also applied, pursuant to section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire Pfister Insurance, Clifton, Kansas ("Agency"), a company that engages in the activities of a general insurance agency in a community with a population not exceeding 5,000 persons. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(9)(iii)).

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with sections 3 and 4 of the Act (40 FR 12716 (1975)). The time for filing comments and views has expired, and the Board has considered the applications and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)), and the considerations specified in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant is a recently organized corporation formed for the purposes of becoming a bank holding company through the acquisition of Bank and of operating as a general insurance agency. Bank (deposits of \$2.6 million),<sup>1</sup> the only bank in Clifton, controls approximately 4.3 per cent of total deposits in commercial banks in the relevant banking market,<sup>2</sup> and is the seventh largest of ten banks in the market. Since the proposal represents merely a restructuring of the present ownership of Bank and Agency and Applicant has no present subsidiaries, consummation of the proposal would have no adverse effects on existing or potential competition. Therefore, the Board concludes that competitive considerations are consistent with approval of the application.

The financial condition, managerial resources, and future prospects of Bank are

<sup>1</sup> All data are as of June 30, 1974.

<sup>2</sup> The relevant banking market is approximated by the southwest corner of Washington County, the northern third of Clay County, and the northeast corner of Cloud County.

regarded as satisfactory and consistent with approval of the application. The management of Applicant is satisfactory, and Applicant's financial condition and future prospects, which are dependent upon profitable operations by both Bank and Agency, appear favorable. Although Applicant will incur debt in connection with the proposal, its projected income from Bank and the insurance agency activities should provide sufficient revenue to service the debt without impairing the financial condition of Bank. Consummation of the transaction would have no immediate effect on the area's banking convenience and needs; however, some expansion of services may result in the future under the more flexible corporate structure of the holding company. Considerations relating to the convenience and needs of the community to be served, therefore, are regarded as being consistent with approval of the application. It is the Board's judgment that consummation of the proposed transaction would be in the public interest and that the application to acquire Bank should be approved.

Agency is a general insurance agency and conducts its business currently from the premises of Bank in Clifton, a community with a population of less than 5,000. Applicant proposes to engage in these insurance agency activities, pursuant to § 225.4(a)(9)(iii) of Regulation Y, as a result of its acquisition of Agency. Approval of this proposal would enable Applicant to continue to offer Bank's customers a convenient source of insurance services, which factor the Board regards as being in the public interest. Furthermore, it does not appear that Applicant's acquisition of Agency would have any significant effect on existing or future competition, and there is no evidence in the record indicating that consummation of the proposal would result in any undue concentration of resources, unfair competition, conflicts of interest, unsound banking practices or other adverse effects on the public interest.

Based on the foregoing and other considerations reflected in the record, the Board has determined, in accordance with the provisions of section 4(c)(8), that consummation of the proposal with respect to Agency can reasonably be expected to produce benefits to the public that outweigh possible adverse effects and the application to acquire Agency should be approved.

Accordingly, the applications are approved for the reasons summarized above. The acquisition of Bank shall not be made before the thirtieth calendar day following the effective date of this Order. The acquisition of Bank and Agency shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority. The determination as to Applicant's insurance activities is subject to the conditions set forth in section 225.4(c) of Regulation Y and to the Board's authority to require reports by, and make examinations of, holding

companies and their subsidiaries and to require such modification or termination of the activities of a bank holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,<sup>3</sup> effective May 12, 1975.

[SEAL] GRIFFITH L. GARWOOD,  
Assistant Secretary of the Board.

[FR Doc. 75-13202 Filed 5-19-75; 8:45 am]

GENERAL ACCOUNTING OFFICE  
REGULATORY REPORTS REVIEW

Interstate Commerce Commission; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on May 14, 1975. See 44 U.S.C. 3512 (c) & (d). The purpose of publishing this notice in the *FEDERAL REGISTER* is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC form are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments (in triplicate) must be received on or before June 9, 1975, and should be addressed to Mr. Monte Canfield, Jr., Director, Office of Special Programs, United States General Accounting Office, 425 I Street, NW., Washington, D.C. 20548.

Further information may be obtained from the Regulatory Reports Review Officer, 202-376-5425.

## INTERSTATE COMMERCE COMMISSION

Request for clearance of an extension without change of the Designation of Agents—Motor Carriers and Brokers, Form BOC-3. The Form is filed by Interstate Commerce Commission regulated carriers to designate an agent to accept service of legal process on behalf of the carrier from any court in any action brought against the carrier in the state named. An agent must be named for each state in or through which a carrier operates. The file is used by the public. Designations are submitted on occasion, as changes occur in operating authority or agent redesignations. Designations are mandatory under the In-

<sup>3</sup> Voting for this action: Chairman Burns and Governors Mitchell, Sheehan and Coldwell. Absent and not voting: Governors Bucher, Holland and Wallich.

## NOTICES

terstate Commerce Act. Respondent burden is estimated at 15 minutes per form.

NORMAN F. HEYL,  
Regulatory Reports Review Officer.  
[FR Doc. 75-13258 Filed 5-19-75; 8:45 am]

GENERAL SERVICES  
ADMINISTRATION

[Wildlife Order 126]

CAMP ROBERTS MILITARY  
RESERVATION

## Transfer of Property

Pursuant to section 2 of Pub. L. 537, Eightieth Congress, approved May 19, 1948 (16 U.S.C. 667c), notice is hereby given that:

1. By deed from the United States of America dated November 15, 1974, the property comprising approximately 735 acres of unimproved land identified as a portion of Camp Roberts Military Reservation, Counties of Monterey and San Luis Obispo, California, has been conveyed to the State of California.

2. The above described property was conveyed for wildlife conservation purposes in accordance with the provisions of Section 1 of said Pub. L. 537 (16 U.S.C. 667b), as amended by Pub. L. 92-432.

Dated: May 8, 1975.

W. A. MEISEN,  
AIA, Acting Commissioner,  
Public Building Service.

[FR Doc. 75-13205 Filed 5-19-75; 8:45 am]

## THIRD ANNUAL REPORT OF THE PRESIDENT ON FEDERAL ADVISORY COMMITTEES COVERING CALENDAR YEAR 1974; COMPILATION OF AGENCY SUBMISSIONS

## Availability of Microfilm

This compilation has been microfilmed and accessioned by the National Archives. It is available for viewing in the reading rooms of the Central Archives (Washington, DC) and the 11 Regional Archives. In addition, copies of the two roll 16mm microfilm set may be ordered at a total cost of \$24.00 from the National Archives and Records Service (NEPS), Washington, DC 20408, by requesting Micro Copy No. A-1199.

Dated: May 9, 1975.

JAMES B. RHOADS,  
Archivist of the United States.  
[FR Doc. 75-13206 Filed 5-19-75; 8:45 am]

NATIONAL SCIENCE FOUNDATION  
ADVISORY PANEL FOR NEUROBIOLOGY  
AND ADVISORY PANEL FOR PSYCHOBIOLOGY

## Joint Meeting

The Advisory Panel for Neurobiology and Psychobiology will hold a joint meeting on June 5 and 6, 1975, at 9 a.m. in Room 517 at 1800 G Street, NW., Washington, DC.

The purpose of these Panels is to provide advice and recommendations as part

of the review and evaluation process for specific research proposals that have been assigned to the Neurobiology and the Psychobiology Programs. These Panels function in accordance with the Federal Advisory Committee Act, Pub. L. 92-463.

This meeting will not be open to the public because the Panels will be reviewing, discussing, and evaluating individual research proposals. Also, these proposals contain information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within the exemptions of 5 U.S.C. 552(b)(4), (5), and (6). The closing of this meeting is in accordance with the determination by the Director of the National Science Foundation dated February 21, 1975, pursuant to the provisions of section 10(d) of Pub. L. 92-463.

For further information about either of these Panels, please contact Dr. David Birch, Program Director, Psychobiology Program, or Dr. James Brown, Program Director, Neurobiology Program, Room 333, National Science Foundation, Washington, DC 20550, telephone (202) 632-4264.

FRED K. MURAKAMI,  
Committee Management Officer.

MAY 15, 1975.

[FR Doc. 75-13165 Filed 5-19-75; 8:45 am]

SECURITIES AND EXCHANGE  
COMMISSION

[812-3797; Rel. No. 8790]

## 399 FUND

Filing of Application for Exemption

MAY 14, 1975.

Notice is hereby given that 399 Fund, 399 Park Avenue, New York, New York, 10022 ("Applicant"), an open-end, non-diversified investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on April 16, 1975 for an order of temporary exemption from the provisions of Section 15(a) of the act to permit Thorndike, Doran, Paine & Lewis, Inc. ("TDP&L"), a wholly-owned subsidiary of Wellington Management Company ("WMC"), to render investment advisory services to Applicant after the termination of Applicant's present advisory contract. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicant TDP&L and WMC are parties to an amended investment advisory contract ("Amended Contract") which would ordinarily be in effect until December 1, 1975. TDP&L and WMC have informed Applicant, however, that a controlling block of approximately 32 percent of the outstanding voting securities of WMC will have been sold on May 1, 1975, to certain existing officers



and directors of WMC. Applicants were also informed that such sale is being made in connection with the internalization of the corporate and administrative affairs of the eleven registered investment companies for which WMC acts as investment adviser, manager and underwriter.

Section 2(a)(4) of the Act defines "assignment" to include the transfer of a controlling block of the outstanding voting securities of the assignor by a security holder of the assignor. The Amended Contract provides for its automatic termination in the event of an assignment. Accordingly, upon the sale and transfer of the WMC securities, the Amended Contract will terminate.

Section 15(a) of the Act provides, in pertinent part, that it shall be unlawful for any person to serve or act as an investment adviser of a registered investment company except pursuant to a written contract which must be approved by the vote of the majority of the outstanding voting securities of such registered investment company and must provide for automatic termination in the event of its assignment.

TDP&L has advised Applicant that it is willing to continue to provide investment advice and services pursuant to the Amended Contract, without change or amendment, and, if the temporary exemption requested by the application is granted, to re-execute and readopt the Amended Contract, pending approval by the stockholders of Applicant of new contractual arrangements in such form as the directors and stockholders may approve.

The application states that the Board of Directors of Applicant, none of whom are parties to the Amended Contract and a majority of whom are not interested persons of any such party, has approved the re-execution and readoption of the existing Amended Contract for a period commencing on the date of its assignment and extending until the stockholders of the Applicant shall have approved a new investment advisory contract subject to the granting of the temporary exemption requested by the application.

Applicant further requests that, if appropriate, the Commission make its order retroactive to the date of the assignment.

As a condition of granting the requested temporary exemption, Applicant has undertaken (1) to submit an investment advisory contract for approval by the vote of a majority of the outstanding voting securities of the Applicant at the 1975 annual meeting of Applicant scheduled for October 14, 1975 and no later than on October 17, 1975, and (2) to submit for approval by the holders of a majority of its voting securities, at the same time that the investment advisory contract is submitted, the payment of investment advisory fees during the period of the requested temporary exemption at the rates provided in the readopted Amended Contract.

Applicant asserts that the granting of the application is necessary or appropriate in the public interest and consistent

with the protection of investors and the purposes fairly intended by the policy and provisions of the Act for, among others, the following reasons:

1. The requested temporary exemption would extend for a limited period of time, from the date of the assignment, expected to be May 1, 1975, until the date of Applicant's annual meeting.

2. A continuation of the investment advisory relationship of Applicant and TDP&L on the same basis for a limited period will eliminate any possibility that Applicant would operate for some period of time without an investment advisory contract.

3. Applicant is advised by TDP&L that the assignment of the controlling block of the outstanding voting securities of WMC will not result in any change of the personnel of TDP&L or the investment philosophies and approaches which guide TDP&L in providing its investment advisory services to Applicant and that there will be no change in TDP&L materially affecting the management of Applicant's investments as a consequence of the assignment.

4. If the Application is not granted, the effect will be to require Applicant to hold a special stockholders' meeting to consider and approve a new investment advisory contract. Applicant, it is stated, is a relatively small investment company with net assets at December 31, 1974 of \$1,492,178. The judgment of its Board of Directors is that, under the circumstances, it is the prudent course to avoid the holding of a special meeting of the stockholders.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction from any provision of the Act if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than June 9, 1975 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above.

Proof of service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations under the Act, an order disposing of the application herein will be issued as of course following said date, unless the Commission

thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive any notices or orders issued in the matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.75-13191 Filed 5-19-75; 8:45 am]

[File No. 500-1]

#### PARAMOUNT LEASING CORP.

##### Suspension of Trading

May 13, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Paramount Leasing Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 12:45 p.m. (e.d.t.) on May 13, 1975 through midnight (e.d.t.) on May 22, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.75-13192 Filed 5-19-75; 8:45 am]

#### SMALL BUSINESS ADMINISTRATION SAN DIEGO DISTRICT ADVISORY COUNCIL Meeting

The Small Business Administration San Diego District Advisory Council will meet at 9 a.m. (p.d.t.), Thursday, June 12, 1975, Small Business Administration, Conference Room at 110 West C Street, Suite 705, San Diego, California 92101, to discuss such business as may be presented by members, the staff of the Small Business Administration, and others attending. For further information, call or write Fred D. Sergeant, at the above address, (714) 293-5430.

Dated: May 12, 1975.

ANTHONY S. STASIO,  
Chief Counsel for Advocacy  
Small Business Administration.

[FR Doc.75-13209 Filed 5-19-75; 8:45 am]

#### DEPARTMENT OF LABOR

##### Office of Secretary

[International Labor Affairs Order No. 1]

##### WORKER ADJUSTMENT ASSISTANCE

##### Assignment of Responsibility and Designation of Certifying Officers

1. Purpose. To assign responsibility and designate officials as certifying of-

ficers to carry out functions required under the worker adjustment assistance provisions of the Trade Act of 1974 (Pub. L. 93-618; hereinafter referred to as the Act) and the implementing regulations published in 29 CFR Part 90.

2. Background. Pursuant to the Act and the implementing regulations, the Secretary of Labor must expeditiously process petitions filed by worker groups and promptly reach a determination of whether such groups should be certified as eligible to apply for adjustment assistance. The Act and the regulations also provide for the issuance of subpoenas and, when requested by petitioners or other interested parties, public hearings concerning determinations on petitions. Secretary's Order 3-75 (40 FR 17863) delegated general responsibility for administration of the petitioning and determination processes to the Deputy Under Secretary for International Affairs; and the regulations (29 CFR Part 90) authorize persons titled "certifying officers" to issue subpoenas, preside at public hearings, make determinations, issue certifications, and perform such other duties as may be required. This order is issued to establish those persons who shall act as certifying officers under the implementing regulations.

##### 3. Assignment of Responsibility and Designation of Officials.

a. The following officials of the Bureau of International Labor Affairs are hereby designated as certifying officers under 29 CFR Part 90:

- (1) The Deputy Under Secretary for International Affairs;
- (2) The Associate Deputy Under Secretary for International Affairs;
- (3) The Associate Deputy Under Secretary for Trade and Adjustment Policy;
- (4) The Director of the Office of Foreign Economic Policy; and
- (5) The Director of International Planning and Evaluation.

b. Persons designated as certifying officers are hereby assigned responsibility to make determinations and issue certifications of eligibility to apply for adjustment assistance, preside at public hearings held under 29 CFR 90.13, issue subpoenas under 29 CFR 90.14, issue determinations of certifications of eligibility under 29 CFR 90.17, and make findings of fact concerning determinations, pursuant to 29 CFR 90.16 and 90.17.

c. Any certifying officer who receives the recommendations of the Director of the Office of Trade Adjustment Assistance, pursuant to 29 CFR 90.15, shall generally continue to act as the certifying officer with regard to the particular petition involved until a notice of negative determination or a notice of certification is issued covering the group of workers involved.

4. Effective Date. This order is effective immediately.

JOEL E. SEGALL,  
Deputy Under Secretary  
for International Affairs.

May 13, 1975.

[FR Doc.75-13144 Filed 5-19-75; 8:45 am]

#### INTERSTATE COMMERCE COMMISSION

##### IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

##### Elimination of Gateway Letter Notices

May 14, 1975.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before May 30, 1975. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 5470 (Sub-No. E20) (Correction), filed May 20, 1974, published in the FEDERAL REGISTER April 29, 1975. Applicant: TAJON, INC., R.D. 5, Box 146, Mercer, Pa. 16137. Applicant's representative: Patrick McEligat, 918 Sixteenth St. NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Pig iron, scrap metal, alloys, ores, and silicon metals, in dump vehicles, between points in Arkansas, points in Alabama (except ores from and to points in Colbert and Lauderdale Counties), on the north of a line beginning at the Alabama-Georgia State line, thence along Interstate Highway 85 to Montgomery, thence along U.S. Highway 331 to the Alabama-Florida State line, Louisiana, Mississippi (except ores from and to points in Tishomingo County), Missouri, points in Tennessee on and west of Interstate Highway 65 (except ores from and to points in Wayne and Hardin Counties), and Wisconsin, on the one hand, and, on the other, points in Rhode Island. The purpose of this filing is to eliminate the gateways of a railroad in Conneaut (Ashtabula County), Ohio, and points in Pennsylvania within 60 miles of such railroad (Erie, Pa.). The purpose of this correction is to correct the exception.

No. MC 21170 (Sub-No. E140), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulation pursuant to the provisions of Sec-

tion 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in that part of Minnesota on, south, and west of a line beginning at the South Dakota-Minnesota State line and extending along U.S. Highway 75 to junction U.S. Highway 212, thence along U.S. Highway 212 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Minnesota Highway 30, thence along Minnesota Highway 30 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction Minnesota Highway 15, thence along Minnesota Highway 15 to the Minnesota-Iowa State line to points in Rhode Island. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina located at or near California, Mo.

NOTE.—The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Co., pursuant to No. MC-F-10199.

No. MC 21170 (Sub-No. E141), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in that part of Minnesota on, south, and west of a line beginning at the South Dakota-Minnesota State line and extending along U.S. Highway 14 to junction Minnesota Highway 91, thence along Minnesota Highway 91 to junction unnumbered highway, thence along unnumbered highway to junction Highway 59, thence along U.S. Highway 59 to the Minnesota-Iowa State line, to points in that part of New York on and south of a line beginning at the New Jersey-New York State line and extending along New York Highway 17A to junction New York Highway 17A-210, thence along New York Highway 17A-210 to junction New York Highway 210, thence along New York Highway 210 to junction U.S. Highway 9W, thence along U.S. Highway 9W to junction U.S. Highway 6, thence along U.S. Highway 6 to the New York-Connecticut State line. The purpose of this filing is to eliminate the facilities of Ralston Purina Co., located at or near California, Mo.

NOTE.—The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Co., pursuant to No. MC-F-10199.

No. MC 21170 (Sub-No. E142), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and



commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in that part of Minnesota on, south, and west of a line beginning at the South Dakota-Minnesota State line and extending along Minnesota Highway 30 to junction Minnesota Highway 91, thence along Minnesota Highway 91 to the Iowa-Minnesota State line, to points in that part of New York on and east of a line beginning at the New Jersey-New York State line and extending along U.S. Highway 209 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction New York Highway 23, thence along New York Highway 23 to junction U.S. Highway 9, thence along U.S. Highway 9 to junction New York Highway 150, thence along New York Highway 150 to junction New York Highway 40, thence along New York Highway 40 to junction New York Highway 197, thence along New York Highway 197 to junction U.S. Highway 4, thence along U.S. Highway 4 to junction New York Highway 28, thence along New York Highway 28 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction New York Highway 73, thence along New York Highway 73 to junction New York Highway 86, thence along New York Highway 86 to junction New York Highway 192, thence along New York Highway 192 to junction New York Highway 30, thence along New York Highway 30 to the United States-Canada International Boundary line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo.

NOTE.—The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Co., pursuant to No. MC-P-10199.

No. MC 21170 (Sub-No. E143), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Minnesota on, south, and west of a line beginning at the South Dakota-Minnesota State line and extending along Minnesota Highway 68 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction U.S. Highway 14, thence along U.S. Highway 14 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Minnesota Highway 30, thence along Minnesota Highway 30 to junction unnumbered highway at Westbrook, thence along unnumbered highway to junction Minnesota Highway 62, thence along

Minnesota Highway 62 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Minnesota-Iowa State line, to points in New York on and south of a line (including Long Island, N.Y.) beginning at the New York-New Jersey State line and extending along U.S. Highway 87-287 to junction New York Highway 22, thence along New York Highway 22 to junction U.S. Highway 684, thence along U.S. Highway 684 to the New York-Connecticut State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo.

NOTE.—The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Co., pursuant to No. MC-P-10199.

No. MC 21170 (Sub-No. E144), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in that part of Minnesota on, south, and west of a line beginning at the South Dakota-Minnesota State line and extending along Minnesota Highway 68 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction U.S. Highway 14, thence along U.S. Highway 14 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Minnesota Highway 30, thence along Minnesota Highway 30 to junction unnumbered highway to junction Minnesota Highway 62, thence along Minnesota Highway 62 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Minnesota-Iowa State line to points in Connecticut.

NOTE.—The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Co., pursuant to No. MC-P-10199.

No. MC 21170 (Sub-No. E145), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in that part of Minnesota on and east of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 63 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction Minnesota Highway 58, thence along Minnesota Highway 58 to the Minnesota-

Wisconsin State line, to points in that part of Kansas on and south of a line beginning at the Oklahoma-Kansas State line and extending along Kansas Highway 1 to junction unnumbered highway at Coldwater, thence along unnumbered highway to junction unnumbered highway, thence along unnumbered highway to junction U.S. Highway 160 near Protection, thence along U.S. Highway 160 to junction unnumbered highway at Ashland, thence along unnumbered highway through Englewood, to junction U.S. Highway 54, thence along U.S. Highway 54 to the Oklahoma-Kansas State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo.

NOTE.—The above authorities were purchased by Cedar Rapids Steel Transportation Co., pursuant to No. MC-P-10199.

No. MC 33093 (Sub-No. E21), filed May 16, 1974. Applicant: GRAY VAN LINES, INC., P.O. Box 25085, Oklahoma City, Okla. 73125. Applicant's representative: Robert Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, uncrated, between points in Kansas on and west of Kansas Highway 83, on the one hand, and, on the other, points in Mississippi on and North of U.S. Highway 90. The purpose of this filing is to eliminate the gateways of Columbia County, Ark., New Orleans, La., and Atoka, Choctaw, Haskell, LeFlore, Latimer, McCurtain, McIntosh, Pittsburg, and Pushmataha Counties, Okla.

No. MC 33093 (Sub-No. E29), filed May 16, 1974. Applicant: GRAY VAN LINES, INC., P.O. Box 25085, Oklahoma City, Okla. 73125. Applicant's representative: Robert Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, uncrated, between points in Missouri on and east of U.S. Highway 71 to Kansas City, and west of U.S. Highway 69 to the Missouri-Iowa State line, on the one hand, and, on the other, points in Alabama on and south of U.S. Highway 90. The purpose of this filing is to eliminate the gateway of Columbia County, Ark., Atoka, Choctaw, Haskell, LeFlore, Latimer, McCurtain, McIntosh, Pittsburg, and Pushmataha Counties, Okla., and New Orleans, La.

No. MC 33093 (Sub-No. E31), filed May 16, 1974. Applicant: GRAY VAN LINES, INC., P.O. Box 25085, Oklahoma City, Okla. 73125. Applicant's representative: Robert Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, uncrated, between points in that part of Kansas on and west of U.S. Highway 83, on the one hand, and, on the other, points in that part of Georgia on and south of U.S. Highway 80. The purpose of this filing is to eliminate the gateways of Atoka,

Choctaw, Haskell, LeFlore, Latimer, McCurtain, McIntosh, Pittsburg, and Pushmataha Counties, Okla., Columbia County, Ark., and New Orleans, La.

No. MC 52861 (Sub-No. E28), filed May 22, 1974. Applicant: WILLS TRUCKING, INC., 2535 Center Street, Cleveland, Ohio 44113. Applicant's representative: Paul F. Beery (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Recarbonizing coke*, in bags, from Toledo and Cleveland, Ohio, to points in West Virginia within 50 miles of Weirton, W.Va. The purpose of this filing is to eliminate the gateway of points in Ohio within 50 miles of Weirton, W.Va.

No. MC 59323 (Sub-No. E1), filed June 5, 1974. Applicant: BAY MOTOR EXPRESS, INC., 150th and Exterior St., New York, N.Y. 10451. Applicant's representative: A. L. J. Smidinger (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (a) between points in Passaic, Bergen, Hudson, Essex, Union, Middlesex, Morris, Sussex, Somerset, and Monmouth Counties, N.J., on the one hand, and, on the other, points in Rockland, Westchester, Nassau, and Suffolk Counties, N.Y., and (b) between points in Rockland and Westchester Counties, N.Y., on the one hand, and, on the other, points in Nassau and Suffolk Counties, N.Y.; and (2) *Such merchandise* as dealt in by food business houses, between points in Passaic, Bergen, Hudson, Essex, Union, Middlesex, Morris, Sussex, Somerset, and Monmouth Counties, N.J., and Rockland, Westchester, Nassau, and Suffolk Counties, N.Y., on the one hand, and, on the other, points in Fairfield, New Haven, Litchfield, and Hartford Counties, Conn., with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateways of New York, Great Neck Estates, Valley Stream, and Floral Park, N.Y., in (1) above; and the warehouse of the Carnation Co., in Englewood, N.J., and Bronx, N.Y., in (2) above.

No. MC 63792 (Sub-No. E11), filed March 11, 1975. Applicant: TOM HICKS TRANSFER CO., INC., P.O. Box 16006, Houston, Tex. 77022. Applicant's representative: C. W. Ferebee (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, which because of size or weight, require the use of special equipment, from points in Jefferson and Orange Counties, Tex., to points in Arkansas and Mississippi. The purpose of this filing is to eliminate the gateways of points in Louisiana.

No. MC 64373 (Sub-No. E2), filed January 14, 1975. Applicant: CLARKSON BROTHERS, INC., P.O. Box 25, Cowpens, S.C. 29330. Applicant's representative: Paul F. Sullivan, Suite 711, 15th & New York Ave. NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cotton mill machinery*, between points in Georgia north of U.S. Highway 80, on the one hand, and, on the other, points in Virginia east of U.S. Highway 21. The purpose of this filing is to eliminate the gateways of Gastonia, N.C., and points in Rowan and Rockingham Counties, N.C.

No. MC 64373 (Sub-No. E3), filed January 14, 1975. Applicant: CLARKSON BROTHERS, INC., P.O. Box 25, Cowpens, S.C. 29330. Applicant's representative: Paul F. Sullivan, Suite 711, 15th & Pennsylvania Ave. NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cotton mill machinery*, between points in that part of South Carolina on and west of a line beginning at the North Carolina-South Carolina State line and extending along U.S. Highway 601 to junction U.S. Highway 78, thence along U.S. Highway 78 to the Georgia-South Carolina State line, on the one hand, and, on the other, points in Virginia east of U.S. Highway 21. The purpose of this filing is to eliminate the gateways of Gastonia, N.C., and points in Rowan and Rockingham Counties, N.C.

No. MC 64373 (Sub-No. E4), filed January 14, 1975. Applicant: CLARKSON BROTHERS, INC., P.O. Box 25, Cowpens, S.C. 29330. Applicant's representative: Paul F. Sullivan, Suite 711, 15th & New York Ave. NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cotton mill machinery*, between points in Virginia east of U.S. Highway 21, on the one hand, and, on the other, points in Alabama on and south of U.S. Highway 80, but including Montgomery, Ala. The purpose of this filing is to eliminate the gateways of Gastonia, N.C., or points in Rowan and Rockingham Counties, N.C., and Columbus, Ga.

No. MC 89084 (Sub-No. E1), filed May 11, 1974. Applicant: INTERSTATE HEAVY HAULING, INC., 2035 NE. Columbia Blvd., Portland, Ore. 97211. Applicant's representative: Lawrence V. Smart, 1419 NW. 23rd Ave., Portland, Ore. 97210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors' equipment and heavy machinery*, the transportation of which requires the use of special equipment, between points in Clark, Skamania, Cowlitz, Wahkiakum, and Pacific Counties, Wash., on the one hand, and, on the other, points in Washington east of U.S. Highway 97. The purpose of this filing is to eliminate the gateway of points in Multnomah County, Ore.

No. MC 94285 (Sub-No. E1), filed May 31, 1974. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, Va. 23487. Applicant's representative: Wilmer B. Hill, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Imported frozen meats*, in vehicles equipped with mechanical refrigeration, from New Haven, Conn., to Norfolk, Portsmouth, Virginia Beach, Chesapeake, Suffolk, Franklin, Williamsburg, Hamilton, and Newport News, Va., points in York, James City, Isle of Wight, Southampton, and Greensville Counties, Va., points in Virginia on U.S. Highway 58, between Emporia and Danville, Va., and points in that part of Virginia south of and bounded by a

Wilmer B. Hill, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Imported frozen meats*, in vehicles equipped with mechanical refrigeration, from Bridgeport and Stamford, Conn., to Norfolk, Portsmouth, Virginia Beach, Chesapeake, Suffolk, Franklin, Williamsburg, Hampton, and Newport News, Va., and points in James City, York, Isle of Wight, and Southampton Counties, Va., points in Tennessee on and west of a line beginning at Chattanooga, Tenn., and extending along U.S. Highway 27 to junction Tennessee Highway 68, thence along Tennessee Highway 68 to Crossville, thence along U.S. Highway 127 to the Tennessee-Kentucky State line, and points in North Carolina, South Carolina, Georgia, Alabama, and Mississippi. The purpose of this filing is to eliminate the gateway of Smithfield, Va.

No. MC 94265 (Sub-No. E2), filed May 31, 1974. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, Va. 23487. Applicant's representative: Wilmer B. Hill, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Imported frozen meats*, in vehicles equipped with mechanical refrigeration, from New London, Conn., to Norfolk, Portsmouth, Virginia Beach, Chesapeake, Hampton, Newport News, Suffolk, Franklin, and Williamsburg, Va., and points in James City, York, Isle of Wight, Southampton, and Greensville Counties, Va., points in Virginia on U.S. Highway 58, from Emporia to Martinsville, and points in that part of southern Virginia on, west, and south of a line beginning at the North Carolina-Virginia State line and extending along U.S. Highway 301 to Emporia, thence along U.S. Highway 58 to Martinsville, and on and east of a line extending from Martinsville along U.S. Highway 220 to the Virginia-North Carolina State line to points in Tennessee (except points in Johnson, Sullivan, Carter, Unicoi, Washington, Hawkins, Cocke, and Sevier Counties), and to points in North Carolina, South Carolina, Georgia, Alabama, and Mississippi. The purpose of this filing is to eliminate the gateway of Smithfield, Va.

No. MC 94265 (Sub-No. E3), filed May 31, 1974. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, Va. 23487. Applicant's representative: Wilmer B. Hill, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Imported frozen meats*, in vehicles equipped with mechanical refrigeration, from New Haven, Conn., to Norfolk, Portsmouth, Virginia Beach, Chesapeake, Suffolk, Franklin, Williamsburg, Hamilton, and Newport News, Va., points in York, James City, Isle of Wight, Southampton, and Greensville Counties, Va., points in Virginia on U.S. Highway 58, between Emporia and Danville, Va., and points in that part of Virginia south of and bounded by a

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line beginning at the North Carolina-Virginia State line and extending along U.S. Highway 301 to Emporia, thence along Highway 58 to Danville and thence along U.S. Highway 29 to the Virginia-North Carolina State line, points in Tennessee on and west of a line beginning at the Georgia-Tennessee State line and extending along U.S. Highway 27 to junction Tennessee Highway 68, thence along Tennessee Highway 68 to Crossville, thence along U.S. Highway 127 to the Tennessee-Kentucky State line, and points in North Carolina, South Carolina, Georgia, Alabama, and Mississippi. The purpose of this filing is to eliminate the gateway of Smithfield, Va.

No. MC 94265 (Sub-No. E4), filed May 31, 1974. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, Va. 23487. Applicant's representative: Wilmer B. Hill, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Imported frozen meats*, in vehicles equipped with mechanical refrigeration, from Boston and New Bedford, Mass., and Newport, R.I., to Norfolk, Portsmouth, Virginia Beach, Chesapeake, Hampton, Newport News, Suffolk, Franklin, and Williamsburg, Va., and points in York, James City, Isle of Wight, Southampton, Greensville, Brunswick, Nottoway, Lunenburg, Mecklenburg, Halifax, Pittsylvania, Henry, Patrick, and Carroll Counties, Va., points in Tennessee (except points in Sullivan and Johnson Counties), and points in North Carolina, South Carolina, Georgia, Alabama, and Mississippi. The purpose of this filing is to eliminate the gateway of Smithfield, Va.

No. MC 94265 (Sub-No. E5), filed May 31, 1974. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, Va. 23487. Applicant's representative: Wilmer B. Hill, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Imported frozen meats*, in vehicles equipped with mechanical refrigeration, from Gloucester, Mass., to Norfolk, Portsmouth, Virginia Beach, Chesapeake, Hampton, Newport News, Suffolk, Franklin, and Williamsburg, Va., points in York, James City, Isle of Wight, Southampton, Greensville, Brunswick, Nottoway, Lunenburg, Mecklenburg, Halifax, Pittsylvania, Henry, Patrick, Carroll, Grayson, and Washington Counties, Va., and points in North Carolina, South Carolina, Georgia, Alabama, Mississippi, and Tennessee. The purpose of this filing is to eliminate the gateway of Smithfield, Va.

No. MC 94265 (Sub-No. E6), filed May 31, 1974. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, Va. 23487. Applicant's representative: Wilmer B. Hill, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Imported frozen*

*meats*, in vehicles equipped with mechanical refrigeration, from Providence, R.I., to Norfolk, Portsmouth, Virginia Beach, Chesapeake, Hampton, Newport News, Suffolk, Franklin, and Williamsburg, Va., points in York, James City, Isle of Wight, Southampton, Greensville, Brunswick, Nottoway, Lunenburg, Mecklenburg, Halifax, Pittsylvania, and Henry Counties, Va., points in Tennessee (except points in Sullivan, Johnson, Hawkins, and Washington Counties), and points in North Carolina, South Carolina, Georgia, Alabama, and Mississippi. The purpose of this filing is to eliminate the gateway of Smithfield, Va.

No. MC 94265 (Sub-No. E7), filed May 31, 1974. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, Va. 23487. Applicant's representative: Wilmer B. Hill, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Imported frozen meats*, from Philadelphia, Pa., to Norfolk, Newport News, Suffolk, and Franklin, Va., points in Isle of Wight, and Southampton Counties, Va., points in that part of North Carolina on and east of a line beginning at the Virginia-North Carolina State line and extending along U.S. Highway 1 to Raleigh, thence along U.S. Highway 64 to Asheboro, and thence along North Carolina Highway 49 to the North Carolina-South Carolina State line, points in Buncombe, Henderson, Polk, Transylvania, Jackson, Macon, and Clay Counties, N.C., points in Tennessee on and west of Tennessee Highway 13, points in Wayne, Lawrence, Giles, Maury, Lewis, Perry, Humphreys, Houston, and Montgomery Counties, Tenn., and points in South Carolina, Georgia, Alabama, and Mississippi. The purpose of this filing is to eliminate the gateway of Smithfield, Va.

No. MC 94265 (Sub-No. E8), filed May 31, 1974. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, Va. 23487. Applicant's representative: Wilmer B. Hill, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Imported frozen meats*, from New York, N.Y., to Norfolk, Portsmouth, Newport News, Hampton, Williamsburg, Chesapeake, Virginia Beach, Suffolk, and Franklin, Va., points in James City, York, Isle of Wight, Southampton, and Greensville Counties, Va., points in that part of North Carolina on and east of a line beginning at the North Carolina-Virginia State line and extending along the Blue Ridge Parkway to junction U.S. Highway 276, thence along U.S. Highway 276 to the North Carolina-South Carolina State line, points in that part of Tennessee on and west of a line beginning at the Kentucky-Tennessee State line and extending along U.S. Highway 231 to Murfreesboro, thence along U.S. Highway 70S to McMinnville, thence along Tennessee Highway 56 to junction Tennessee Highway 108, thence along Tennessee High-

way 108 to Tennessee Highway 27, thence along Tennessee Highway 27 to Chattanooga, points in Sumner, Wilson, Rutherford, Cannon, Warren, Grundy, and Marion Counties, Tenn., and points in South Carolina, Georgia, Alabama, and Mississippi. The purpose of this filing is to eliminate the gateway of Smithfield, Va.

No. MC 94265 (Sub-No. E9), filed May 31, 1974. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, Va. 23487. Applicant's representative: Wilmer B. Hill, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Imported frozen meats*, from Albany, N.Y., to Norfolk, Portsmouth, Virginia Beach, Chesapeake, Newport News, Hampton, Williamsburg, and Suffolk, Va., points in James City, York, Isle of Wight, Southampton, and Greensville Counties, Va., points in that part of southern Virginia bounded by a line beginning at the North Carolina-Virginia State line and extending along U.S. Highway 301 to Emporia, thence along U.S. Highway 58 to Danville, thence along U.S. Highway 29 to the Virginia-North Carolina State line, points in North Carolina (except points in Rockingham, Stokes, Surry, Allegheny, Ashe, Watauga, Avery, Mitchell, Yancey, Madison, Haywood, Swain, Graham, Cherokee, Clay, Macon, and Jackson Counties), points in Tennessee on, east, and south of a line beginning at Chattanooga, and extending along U.S. Highway 127 to junction Tennessee Highway 8, thence along Tennessee Highway 8 to McMinnville, thence along U.S. Highway 70S to Murfreesboro, thence along U.S. Highway 41/70S to Nashville, thence along Interstate Highway 40 to Memphis, and points in South Carolina, Georgia, Alabama, and Mississippi. The purpose of this filing is to eliminate the gateway of Smithfield, Va.

No. MC 94265 (Sub-No. E10), filed May 31, 1974. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, Va. 23487. Applicant's representative: Wilmer B. Hill, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Imported frozen meats*, from Rochester, N.Y., to Norfolk, Portsmouth, Newport News, Hampton, Virginia Beach, Chesapeake, Suffolk, Williamsburg, and Cheriton, Va., points in Northampton, James City, York, Isle of Wight, and Southampton Counties, Va., points in that part of North Carolina on and east of a line beginning at the Virginia-North Carolina State line and extending along Interstate Highway 95 to Weldon, thence along U.S. Highway 158 to Oxford, thence along U.S. Highway 15 to Durham, thence along U.S. Highway 15/501 to Pittsboro, thence along U.S. Highway 64 to Ramseur, thence along North Carolina Highway 49 to the North Carolina-South Carolina State line, points in South Carolina, points in that part of Georgia on and south of a line

beginning at the South Carolina-Georgia State line and extending along Interstate Highway 85 to Atlanta, thence along U.S. Highway 78 to the Georgia-Alabama State line, points in Montgomery, Macon, Russell, Lowndes, Bullock, Barber, Wilcox, Clarke, Washington, Monroe, Butler, Crenshaw, Pike, Coffee, Dale, Henry, Houston, Geneva, Covington, Escambia, Conecuh, Mobile, and Baldwin Counties, Ala., Pascagoula, Biloxi, and Gulfport, Miss., and points in Hancock, Harrison, Jackson, Stone, George, and Greene Counties, Miss. The purpose of this filing is to eliminate the gateway of Smithfield, Va.

No. MC 94265 (Sub-No. E11), filed May 31, 1974. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, Va. 23487. Applicant's representative: Wilmer B. Hill, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Imported frozen meats*, from Wilmington, Del., to Suffolk, Franklin, and Smithfield, Va., points in Isle of Wight and Southampton Counties, Va., points in that part of North Carolina on and east of a line beginning at the Virginia-North Carolina State line and extending along U.S. Highway 1 to Raleigh, thence along U.S. Highway 64 to Asheboro, and thence along North Carolina Highway 49 to the North Carolina-South Carolina State line, points in Buncombe, Henderson, Polk, Transylvania, Jackson, Macon, and Clay Counties, N.C., points in Tennessee west of Tennessee Highway 69, and points in South Carolina, Georgia, and Alabama. The purpose of this filing is to eliminate the gateway of Smithfield, Ala.

No. MC 102560 (Sub-No. E1), filed May 20, 1974. Applicant: FREILER INDUSTRIES, INC., P.O. Box 636, Amite, La. 70422. Applicant's representative: Herbert C. Freiler (same as above). Authority sought to operate as a common carrier, by motor vehicle over irregular routes, transporting: *Steel pipe, angles, and round iron*, from points in Orleans Parish, La., to points in Texas on and east of U.S. Highway 77. The purpose of this filing is to eliminate the gateways of the plant site of Dibert, Barcroft & Ross Co., Ltd., near Amite, La.

No. MC 105045 (Sub-No. E2), filed July 5, 1974. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, Ind. 47701. Applicant's representative: George H. Veech (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Self-propelled construction equipment* weighing 15,000 pounds or more and *parts and attachments* for such commodities, from Chattanooga, Tenn., to points in Iowa, Kansas, Maryland, Michigan, Missouri, Nebraska, Ohio, Oklahoma, Pennsylvania, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia, restricted to the transportation of shipments originating at the facilities of Lo-

rain Division, Koekring, Inc., and the Koekring Southern Division, Koekring, Inc., of Chattanooga, Tenn., and further restricted to commodities which are transported on trailers. The purpose of this filing is to eliminate the gateway of points in Kentucky.

No. MC 107002 (Sub-No. E91), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from the plant site of Mississippi Chemical Corporation near Yazoo City, Miss., to points in Michigan. The purpose of this filing is to eliminate the gateways of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E92), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except petroleum products, plasticizers, and titanium dioxide), in bulk, in tank vehicles, from Hamilton, Miss., to points in Wisconsin, restricted against the transportation of liquid hydrogen, liquid oxygen, and liquid nitrogen when moving to missile storage or launching sites, missile test facilities or manufacturing plants producing liquid hydrogen, liquid oxygen, or liquid nitrogen. The purpose of this filing is to eliminate the gateways of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E93), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Barfield, Ark., and points within 10 miles thereof, to those points in Tennessee east and north of a line beginning at the Kentucky-Tennessee State line and extending along U.S. Highway 27 to junction U.S. Highway 70, thence along U.S. Highway 70 to the Tennessee-North Carolina State line (except Kingsport and Elizabethtown, Tenn.). The purpose of this filing is to eliminate the gateway of Collierville, Tenn.

No. MC 107002 (Sub-No. E94), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Barfield, Ark., and points within 10 miles thereof, to Elizabethtown and Kingsport, Tenn., restricted against the transportation of liquid hydrogen, liquid nitrogen, and

liquid oxygen, when moving to missile storage or launching sites, missile test facilities or manufacturing plants producing liquid hydrogen, liquid oxygen, or liquid nitrogen, and petrochemicals. The purpose of this filing is to eliminate the gateway of Decatur, Ala.

No. MC 107002 (Sub-No. E95), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Tall oil and tall oil products* which are liquid chemicals, in bulk, in tank vehicles, from Panama City, Fla., to points in Indiana. The purpose of this filing is to eliminate the gateway of Cedartown, Ga.

No. MC 107002 (Sub-No. E96), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39250. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Tall oil and tall oil products*, which are liquid chemicals, in bulk, in tank vehicles, from Panama City, Fla., to points in Minnesota. The purpose of this filing is to eliminate the gateway of Cedartown, Ga.

No. MC 107002 (Sub-No. E97), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39250. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Tall oil*, in bulk, in tank vehicles, from Panama City, Fla., to points in Missouri. The purpose of this filing is to eliminate the gateway of Memphis, Tenn.

No. MC 107002 (Sub-No. E98), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Tall oil*, in bulk, in tank vehicles, from Panama City, Fla., to points in Oklahoma. The purpose of this filing is to eliminate the gateway of Hattiesburg, Miss.

No. MC 107002 (Sub-No. E99), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Tall oil*, in bulk, in tank vehicles, from Panama City, Fla., to points in Texas. The purpose of this filing is to eliminate the gateway of Harrison and Jackson Counties, Miss.

No. MC 107002 (Sub-No. E100), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jack-



son, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Tall oil*, in bulk, in tank vehicles, from Panama City, Fla., to points in West Virginia. The purpose of this filing is to eliminate the gateway of the plant site of Monsanto Chemical Company in Anniston, Ala.

No. MC 107064 (Sub-No. E18), (correction), filed May 21, 1974, republished in the *FEDERAL REGISTER* April 18, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from points in that part of Texas in and west of Bailey, Lamb, Hale, Floyd, Crosby, Garza, Fisher, Nolan, Coke, Tom Green, Schleicher, Sutton, and Val Verde Counties, Tex., to points in Indiana. The purpose of this filing is to eliminate the gateway of any point in Ector County, Tex. The purpose of this correction is to correct the origin points.

No. MC 107403 (Sub-No. E294), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Non-flammable liquids*, in bulk, in tank trucks (except petroleum and petroleum products other than medicinal petroleum products and liquid wax, and except wine, cider, vinegar, milk, road oil, coal, and coal tar products, from points in Pennsylvania, to points in Maine and New Hampshire. The purpose of this filing is to eliminate the gateway of Newark, N.J.

No. MC 107678 (Sub-No. E3), filed June 4, 1974. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, Houston, Tex. 77015. Applicant's representative: Jay W. Elston, Bank of The Southwest Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products; and *Machinery, equipment, materials, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, except the stringing and picking-up of pipe in connection with the construction and dismantling of pipe lines, between all points in Louisiana, on the one hand, and, on the other, points in Utah. The purpose of this filing is to eliminate the gateway of Harris County, Tex.

the one hand, and, on the other, all points in Sioux and Dawes Counties of Nebraska. The purpose of this filing is to eliminate the gateway of Casper, Wyo.

No. MC 107678 (Sub-No. E4), filed June 4, 1974. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, Houston, Tex. 77002. Applicant's representative: Jay W. Elston, Bank of The Southwest Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products; and *Machinery, equipment, materials, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up of pipe in connection with main or trunk pipe lines; between all points in Texas in and west of Gaines, Dawson, Howard, Glasscock, Regan, Pecos, and Terrell Counties, Tex., on the one hand, and, on the other, all points in North Dakota on and east of North Dakota Highway 30 and in and north of Benson, Ramsey, and Walsh Counties, N. Dak. The purpose of this filing is to eliminate the gateway of Casper, Wyo.

No. MC 107678 (Sub-No. E10), filed June 4, 1974. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, Houston, Tex. 77015. Applicant's representative: Jay W. Elston, Bank of The Southwest Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products; and *Machinery, equipment, materials, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, except the stringing and picking up of pipe in connection with the construction and dismantling of pipe lines, between all points in Louisiana, on the one hand, and, on the other, points in Utah. The purpose of this filing is to eliminate the gateway of Harris County, Tex.

No. MC 107678 (Sub-No. E11), filed June 4, 1974. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, Houston, Tex. 77015. Applicant's representative: Jay W. Elston, Bank of The Southwest Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, trans-

mission, and distribution of natural gas and petroleum and their products and by-products; and *Machinery, equipment, materials, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof, except the stringing and picking up of pipe in connection with main or trunk pipe lines, between all points in Louisiana on and south of Interstate Highway 10, on the one hand, and, on the other, all points in Sioux and Dawes Counties of Nebraska. The purpose of this filing is to eliminate the gateways of Texas and Casper, Wyo.

No. MC 107678 (Sub-No. E13), filed June 4, 1974. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, Houston, Tex. 77015. Applicant's representative: Jay W. Elston, Bank of The Southwest Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products; *Machinery, equipment, materials, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof, except the stringing and picking up of pipe in connection with main or trunk pipe lines, between all points in Louisiana (except Claiborne, Union, Morehouse, West Carroll, and East Carroll Parishes), on the one hand, and, on the other, all points in South Dakota in Lawrence, Pennington, Custer, Fall River, and Shannon Counties. The purpose of this filing is to eliminate the gateways of Texas, and Casper, Wyo.

No. MC 111401 (Sub-No. E38) (Correction), filed May 12, 1974, published in the *FEDERAL REGISTER* April 15, 1975. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid petrochemicals*, in bulk, in tank vehicles, from points in Oklahoma located on and west of a line extending from the Oklahoma-Kansas State line along U.S. Highway 283 to junction Oklahoma Highway 51, and on and north of Oklahoma Highway 51 to the Oklahoma-Texas State line, to points in Louisiana. The purpose of this filing is to eliminate the gateway of Texas City, Tex. The purpose of this correction is to add the destination.

No. MC 113624 (Sub-No. E40), (Correction), filed May 20, 1974, published in the *FEDERAL REGISTER* March 3, 1975. Applicant: WARD TRANSPORT, INC., P.O. Box 735, Pueblo, Colo. 81002. Applicant's representative: Marion Jones,

Suite 1600, 1660 Lincoln St., Denver, Colo. 80203. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, other than crude oil in its natural state, from points in that part of Nebraska in and east of Knox, Antelope, Wheeler, Greeley, Howard, Hall, Kearney, and Franklin Counties, Nebr., to points in Lincoln, Sublette, Uinta, Sweetwater, and Carbon Counties, Wyo. The purpose of this filing is to eliminate the gateway of Denver, Colo. The purpose of this correction is to correct the destination areas.

No. MC 113855 (Sub-No. E42), filed May 30, 1974. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Hay balers*, and (2) *agricultural and road construction, stump-cutting, cable-laying, trench-digging, trench-backfilling, and tree-moving equipment*, (3) *parts and attachments* for the commodities named in (1) and (2) above, and (4) *trailers* designed for the transportation of commodities named in (1) and (2) above, in foreign commerce only; (a) from Portal, N. Dak., to points in Missouri, Indiana, Ohio, Kentucky, Tennessee, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, North Carolina, South Carolina, Virginia, West Virginia, Maryland, Delaware, Pennsylvania, New Jersey, Connecticut, Rhode Island, Massachusetts, District of Columbia, Maine, Vermont, and New Hampshire; (b) from Sweetgrass, Mont., to points in Missouri, Indiana, Ohio, Kentucky, Tennessee, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, North Carolina, South Carolina, Virginia, West Virginia, Maryland, Delaware, Pennsylvania, Connecticut, Rhode Island, Massachusetts, Maine, Vermont, New Hampshire, and the District of Columbia; (c) from Portal, N. Dak., to points in Texas on and east of a line beginning at the Texas-Oklahoma State line extending along Interstate Highway 35 to Denton, thence along Interstate Highway 35W to Hillsboro, Tex., thence along Interstate Highway 35 to Waco, Tex., thence along U.S. Highway 77 to the United States-Mexico International Boundary line at or near Brownsville, Tex., and points in Oklahoma and Kansas on and east of U.S. Highway 75; and (d) from Sweetgrass, Mont., to points in Texas on and east of a line beginning at the Texas-Oklahoma State line extending along Interstate Highway 35 to junction Interstate Highway 35W, thence along Interstate Highway 35, thence along Interstate Highway 35 to junction Interstate Highway 81, thence along Interstate Highway 81 to the United States-Mexico International Boundary line, points in Okla-

homa on and east of Interstate Highway 35, and points in Kansas on, east, and south of a line beginning at the Kansas-Nebraska State line extending along U.S. Highway 75 to Topeka, Kans., thence along Interstate Highway 35 to the Kansas-Oklahoma State line. The purpose of this filing is to eliminate the gateway of Pella, Iowa.

No. MC 113855 (Sub-No. E53), filed May 30, 1974. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Hay balers and parts*, (2) *Irrigation sprinklers and winches* designed for use with irrigation sprinklers, (3) *Stump-cutting, cable-laying, trench-digging, trench-backfilling, and tree-moving equipment*, (4) *Parts and attachments* for the commodities named in (2) and (3) above, and (5) *Trailers* designed for the transportation of commodities named in (2) and (3) above, the transportation of which, because of their size or weight, require the use of special equipment, and (6) *Self-propelled articles* described in (1) and (3) above not requiring special equipment for their transportation, each weighing 15,000 pounds or more and related machinery, tools, parts, and supplies moving in connection therewith (restricted to commodities transported on trailers); (a) from points in Oregon, Washington, and Idaho, to points in Tennessee, Mississippi, Alabama, Georgia, Florida, and South Carolina; (b) from points in Oregon and Washington to points in Arkansas and Louisiana; (c) from points in Idaho, to points in Louisiana on and east of a line beginning at the Arkansas-Louisiana State line extending along U.S. Highway 167 to the north border of Lafayette County, La., thence along the western borders of Lafayette and Iberia Counties to Vermillion Bays and Arkansas on, north, and east of a line beginning at the Arkansas-Oklahoma State line extending along Arkansas Highway 8, thence along Arkansas Highway 8 to junction U.S. Highway 167, thence along U.S. Highway 167 to the Arkansas-Louisiana State line; and (d) from points in Idaho on and west of a line beginning at the Idaho-Nevada State line extending along U.S. Highway 93 to the southern border of Custer County, Idaho, thence along the western boundaries of Custer and Lemhi Counties, Idaho, to the Idaho-Montana State line, to those points in Louisiana and Arkansas excluded in (c) above. The purpose of this filing is to eliminate the gateways of Logan, Utah, and Pella, Iowa.

No. MC 113855 (Sub-No. E95), filed May 30, 1974. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to oper-

ate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment (except boats and iron and steel articles), and related machinery, parts, and supplies when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment; and (2) *Self-propelled articles*, each weighing 15,000 pounds or more and related machinery, tools, parts, and supplies moving in connection therewith (restricted to commodities transported on trailers); (a) between points in Montana on, west, and south of a line beginning at the United States-Canada International Boundary line at or near Sweetgrass, Mont., thence along U.S. Highway 91 to junction Interstate Highway 90, thence along Interstate Highway 90 to Billings, thence along U.S. Highway 87 to the Wyoming-Montana State line, on the one hand, and, on the other, points in New York; (b) between points in Montana north and east of a line beginning at the United States-Canada International Boundary line at or near Sweetgrass, Mont., thence along U.S. Highway 91 to junction Interstate Highway 90, thence along Interstate Highway 90 to Billings, thence along U.S. Highway 87 to the Wyoming-Montana State line, on the one hand, and, on the other, points in New York (except points in Chautauqua County).

(c) Between points in Montana, on the one hand, and, on the other, points in Virginia (except points in and west of Patrick, Floyd, Montgomery, and Craig Counties); (d) between points in Montana in and west of Park, Meagher, Judith Basin, Fergus, and Phillips Counties, on the one hand, and, on the other, points in North Carolina on and east of U.S. Highway 52; (e) between points in Montana east of Park, Meagher, Judith Basin, Fergus, and Phillips Counties, on the one hand, and, on the other, points in North Carolina on and east of U.S. Highway 301; and (f) between points in Montana, on the one hand, and, on the other, points in Maryland. The purpose of this filing is to eliminate the gateways of points in South Dakota east of the Missouri River and points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending along unnumbered highway (formerly portion U.S. Highway 15), to junction Business U.S. Highway 15, near Fairplay, Pa., thence along Business U.S. Highway 15 through Gettysburg, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to junction unnumbered highway (formerly portion U.S. Highway 15), thence along unnumbered highway through Clear Spring, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line (except points in Berks, Bucks, Chester, Delaware, Montgomery, and Philadelphia, Pa., and points in Pennsylvania on and east of the above



described line in Adams, York, Cumberland, Perry, Dauphin, Lebanon, and Lancaster Counties, Pa., and points in Pennsylvania on and east of U.S. Highway 15 and north of the East Branch of the Susquehanna River in Tioga, Bradford, Lycoming, Sullivan, Union, Snyder, Northumberland, Montour, and Columbia Counties, Pa.).

No. MC 114211 (Sub-No. E244) (Correction) filed June 4, 1974, published in the FEDERAL REGISTER December 17, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Such material handling equipment, winches, compaction and road making equipment, rollers, and mobile cranes, as are self-propelled vehicles (except motor vehicles as defined in Section 203(a) (13) of the Interstate Commerce Act and commodities moving in driveway service), or equipment designed for use in conjunction with self-propelled vehicles (except tank semi-trailers), and (2) Parts, attachments, and accessories of the commodities described in (1) above, from the plant sites of Hyster Company located at Danville, Kewanee, and Peoria, Ill., to points in Washington, Oregon, Montana, Idaho, North Dakota, Nevada, that part of California on and north of a line beginning at the California-Nevada State line extending along Interstate Highway 15 to junction California Highway 91, thence along California Highway 91 to junction California Highway 55, thence along California Highway 55 to the Pacific Ocean, that part of Utah on and west of a line beginning at the Utah-Idaho State line extending along U.S. Highway 89/91, thence along U.S. Highway 89/91 to junction Interstate Highway 15, thence along Interstate Highway 15 to the Utah-Arizona State line, and that part of Wyoming on and north of a line beginning at the Nebraska-Wyoming State line extending along U.S. Highway 20 to junction U.S. Highway 26, thence along U.S. Highway 26 to the Wyoming-Idaho State line. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn. The purpose of this correction is to reflect the gateway.*

No. MC 114211 (Sub-No. E296) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER January 13, 1975. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Tractors, road making machinery and contractors' equipment and supplies from points in that part of Minnesota on and east of a line beginning at the Minnesota-Iowa State line extending along U.S. Highway 71 to junction U.S. Highway 12, thence along U.S. Highway 12 to the Minnesota-Wisconsin State line, to points in*

that part of Utah on and south of a line beginning at the Utah-Idaho State line extending along U.S. Highway 91 to junction U.S. Highway 89, thence along U.S. Highway 89 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Utah-Colorado State line and to points in that part of Oregon on and south of a line beginning at the Oregon-Nevada State line extending along U.S. Highway 95 to junction Oregon Highway 78, thence along Oregon Highway 78 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 97, thence along U.S. Highway 97 to junction Oregon Highway 138, thence along Oregon Highway 138 to junction Oregon Highway 38, thence along Oregon Highway 38 to Reedsport, Ore., restricted to traffic originating at the plant sites, warehouse sites and experimental farms of Deere and Company. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa. The purpose of this correction is to reflect the gateway.

No. MC 114211 (Sub-No. E302) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER January 22, 1975. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Self-propelled tractors, road making machinery, and contractors' equipment and supplies, from points in that part of Minnesota on and west of a line beginning at the Minnesota-Wisconsin State line extending along Interstate Highway 94 to junction Minnesota Highway 3, thence along Minnesota Highway 3 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction U.S. Highway 218, thence along U.S. Highway 218 to the Minnesota-Iowa State line, and from points in that part of Minnesota bounded on the north by the Wisconsin-Minnesota State line extending along Interstate Highway 94 to junction Minnesota Highway 3, thence along Minnesota Highway 3 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction U.S. Highway 218, thence along U.S. Highway 218 to the Minnesota-Iowa State line, thence along the Minnesota-Iowa State line to junction U.S. Highway 69, thence along U.S. Highway 69 to junction Minnesota Highway 109, thence along Minnesota Highway 109 to junction Minnesota Highway 22, thence along Minnesota Highway 22 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction Interstate Highway 494, thence along Interstate Highway 494 to junction U.S. Highway 12, thence along U.S. Highway 12 to the Minnesota-Wisconsin State line, to points in New York, and to points in that*

part of Ohio on and east of a line beginning at the Ohio-Kentucky State line extending along Interstate Highway 71 to junction Ohio Highway 13, thence along Ohio Highway 13 to junction U.S. Highway 250, thence along U.S. Highway 250 to Sandusky, Ohio, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of the plant site of Stinar Corp., in Minneapolis, Minn. The purpose of this correction is to reflect the destination points.

No. MC 114211 (Sub-No. E367) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER January 15, 1975. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Tractors (except those with vehicle beds, bed frames, and fifth wheels), road making machinery, and contractors' equipment and supplies, from points in that part of Minnesota on and north of a line beginning at the South Dakota-Minnesota State line extending along Minnesota Highway 19 to junction Minnesota Highway 5, thence along Minnesota Highway 5 to junction U.S. Highway 12, thence along U.S. Highway 12 to the Minnesota-Wisconsin State line to points in Indiana, Kentucky, Ohio, West Virginia, Virginia, Maryland, the District of Columbia, New Jersey, Pennsylvania, New York, Rhode Island, Connecticut, Massachusetts, Vermont, New Hampshire, Delaware, Maine, and to points in that part of Michigan on and south of a line beginning at Muskegon, Mich., extending along Interstate Highway 96 to Detroit, Mich., restricted to the transportation of traffic originating at the plant sites and warehouse facilities of Deere and Company and with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateways of Minneapolis, Minn., and Horicon, Wis. The purpose of this correction is to reflect the gateways.*

No. MC 114211 (Sub-No. E393) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER January 20, 1975. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof, from points in that part of Iowa on and northwest of a line beginning at the Iowa-Minnesota State line extending along U.S. Highway 169 to junction U.S. Highway 20, thence along U.S. Highway 20 to the Iowa-Nebraska State line, to points in the Upper Peninsula of Michigan and to points in that part of Wisconsin on and north of a line beginning at the Wisconsin-Minnesota State line extending along U.S. Highway 12 to junction Wisconsin Highway 29,*

thence along Wisconsin Highway 29 to Kewanee, Wis., and to points in that part of Florida on and south of a line beginning at Daytona Beach, Fla., extending along U.S. Highway 92 to junction U.S. Highway 17, thence along U.S. Highway 17 to junction Florida Highway 40, thence along Florida Highway 40 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction Alternate U.S. Highway 27, thence along Alternate U.S. Highway 27 to junction Florida Highway 345, thence along Florida Highway 345 to junction Florida Highway 24, thence along Florida Highway 24 to Lukens, Fla., with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn. The purpose of this correction is to reflect the gateway.

No. MC 114211 (Sub-No. E395) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER January 20, 1975. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Agricultural implements and parts thereof, from points in that part of Kansas on and west of a line beginning at the Nebraska-Kansas State line, thence along U.S. Highway 75 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Kansas Highway 99, thence along Kansas Highway 99 to junction Kansas Highway 13, thence along Kansas Highway 13 to junction Kansas Highway 77, thence along Kansas Highway 77 to junction Kansas Highway 177, thence along Kansas Highway 177 to junction Kansas Highway 77, thence along Kansas Highway 77 to the Kansas-Oklahoma State line to points in that part of Ohio on and north of a line beginning at the Indiana-Ohio State line extending along Ohio Highway 502 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Ohio Highway 4, thence along Ohio Highway 4 to junction Ohio Highway 161, thence along Ohio Highway 161 to junction Ohio Highway 16, thence along Ohio Highway 16 to junction Ohio Highway 60, thence along Ohio Highway 60 to junction Ohio Highway 208, thence along Ohio Highway 208 to junction Ohio Highway 93, thence along Ohio Highway 93 to junction Ohio Highway 83, thence along Ohio Highway 83 to junction Ohio Highway 209, thence along Ohio Highway 209 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Ohio-West-Virginia State line, with no transportation for compensation on return except as otherwise authorized restricted against movement to oil field locations. The purpose of this filing is to eliminate the gateway of Beatrice, Nebr. The purpose of this correction is to reflect the gateway.*

No. MC 114211 (Sub-No. E424) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER January 23, 1975. Applicant: WARREN TRANSPORT,

INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Cast iron pressure pipe and fittings and accessories thereof when moving with such pipe, the transportation of which because of size or weight requires special equipment from points in that part of Nebraska on and southeast of a line beginning at the Iowa-Nebraska State line extending along Interstate Highway 80 to junction U.S. Highway 77, thence along U.S. Highway 77 to the Nebraska-Kansas State line to points in Minnesota. The purpose of this filing is to eliminate the gateway of the plant site of Griffin Pipe Products Co., of Council Bluffs, Iowa. The purpose of this correction is to reflect the correct gateway.*

No. MC 115841 (Sub-No. E28), filed June 3, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs, in vehicles equipped with mechanical refrigeration, from points in North Carolina to points in Arkansas, California, Louisiana, Mississippi, Oregon, and Washington, restricted to the transportation of shipments originating at points in North Carolina. The purpose of this filing is to eliminate the gateway of Birmingham, Ala.*

No. MC 115841 (Sub-No. E80), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Oleomargarine, shortenings, animal oils, vegetable oils, and blends thereof (except in bulk or in tank vehicles), in vehicles equipped with mechanical refrigeration, from Brundidge, Ala., and points in Alabama on and north of U.S. Highway 80, to points in Maine, New Hampshire, and Vermont, restricted against the transportation of traffic originating in Cullman, Ala. The purpose of this filing is to eliminate the gateways of Birmingham, Ala., and Chattanooga, Tenn.*

No. MC 119777 (Sub-No. E48), filed April 23, 1974. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, Ky. 42431. Applicant's representative: Ronald E. Butler (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Pallets, skids, bases, boxes, crating, oak treads, oak risers, oak sills, oak molding, cardboard cartons, nails, and lumber; (1) (a) between points in Colorado, on the one hand, and, on the other, points in*

Florida on, east, and south of a line beginning at the Florida-Alabama State line, thence along U.S. Highway 331 to junction U.S. Highway 98, thence along U.S. Highway 98 to junction Florida Highway 283, thence along Florida Highway 283 to Greyton Beach at the Gulf of Mexico; (b) between points in Colorado, on and west of a line beginning at the Colorado-Wyoming State line, thence along Colorado Highway 789 to junction U.S. Highway 550, thence along U.S. Highway 550 to the Colorado-New Mexico State line, on the one hand, and, on the other, points in Illinois, on and east of a line beginning at the Illinois-Indiana State line, thence along U.S. Highway 50 to junction Illinois Highway 1, thence along Illinois Highway 1 to junction Illinois Highway 15, thence along Illinois Highway 15 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction Illinois Highway 14, thence along Illinois Highway 14 to junction Interstate Highway 57, thence along Interstate Highway 57 to junction U.S. Highway 51, thence along U.S. Highway 51 to the Illinois-Kentucky State line.

(c) Between points in Colorado, on and west of a line beginning at the Wyoming-Colorado State line, thence along Interstate Highway 25 to the Colorado-New Mexico State line, on the one hand, and, on the other, points in Indiana, on and south of a line beginning at the Illinois-Indiana State line, thence along U.S. Highway 50 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction Indiana Highway 67, thence along Indiana Highway 67 to junction Indiana Highway 39, thence along Indiana Highway 39 to junction Indiana Highway 44, thence along Indiana Highway 44 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Indiana-Ohio State line; (d) between points in Colorado, on and south of a line beginning at the Colorado-Utah State line, thence along U.S. Highway 666 to junction U.S. Highway 160, thence along U.S. Highway 160 to junction Interstate Highway 25, thence along Interstate Highway 25 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 160, thence along U.S. Highway 160 to the Colorado-Kansas State line, on the one hand, and, on the other, points in Michigan on, east, and south of a line beginning at the Ohio-Michigan State line, thence along U.S. Highway 127 to junction U.S. Highway 27 at Lansing, Mich., thence along U.S. Highway 27 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction Michigan Highway 32, thence along Michigan Highway 32 to Alpena, on Lake Huron; (e) between points in Colorado, on and north of a line beginning at the Colorado-Kansas State line, thence along U.S. Highway 24 to junction Colorado Highway 9, thence along Colorado High-



way 9 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 24, thence along U.S. Highway 6 and 24 to the Colorado-Utah State line, on the one hand, and, on the other, points in Mississippi, on and east of a line beginning at the Tennessee-Mississippi State line, thence along Mississippi Highway 15 to junction Mississippi Highway 503, thence along Mississippi Highway 503 to junction U.S. Highway 80, thence along U.S. Highway 80 to the junction of U.S. Highway 45, thence along U.S. Highway 45 to the Alabama-Mississippi State line.

(f) Between points in Colorado, on the one hand, and, on the other, points in New York, on and east of a line beginning at Lake Ontario at Rochester, N.Y., thence along New York Highway 31 to junction New York Highway 14, thence along New York Highway 14 to the New York-Pennsylvania State line; (g) between points in Colorado, on the one hand, and, on the other, points in Ohio, on and south of a line beginning at the Indiana-Ohio State line, thence along Ohio Highway 129 to junction Ohio Highway 4, thence along Ohio Highway 4 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Ohio Highway 3, thence along Ohio Highway 3 to junction Ohio Highway 585, thence along Ohio Highway 585 to junction Ohio Highway 21, thence along Ohio Highway 21 to junction Interstate Highway 76, thence along Interstate Highway 76 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 422, thence along U.S. Highway 422 to the Ohio-Pennsylvania State line; (h) between points in Colorado, on the one hand, and, on the other, points in Pennsylvania, on, south, and east of a line beginning at the Ohio-Pennsylvania State line, thence along Pennsylvania Highway 68 to junction Interstate Highway 76, thence along Interstate Highway 76 to junction Pennsylvania Highway 28, thence along Pennsylvania Highway 28 to junction Pennsylvania Highway 85, thence along Pennsylvania Highway 85 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction Pennsylvania Highway 255, thence along Pennsylvania Highway 255 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction Pennsylvania Highway 287, thence along Pennsylvania Highway 287 to junction U.S. Highway 15, thence along U.S. Highway 15 to the New York-Pennsylvania State line; and (2) (a) between points in Connecticut, on the one hand, and, on the other, points in Florida, on and west of a line beginning at the Florida-Alabama State line, thence along U.S. Highway 331 to junction U.S. Highway 98, thence along U.S. Highway 98 to junction Florida Highway 283, thence along Florida Highway 283 to the terminus at Greyton Beach, Fla., on the Gulf of Mexico; (b) between points in Connecticut, on the one hand, and, on the other, points in Illinois, on and south of a line beginning at the Illinois-Indiana State line, thence along U.S. Highway 50 to junction Illinois Highway 127, thence along Illinois Highway 127 to junction Illinois Highway 140, thence along Illinois Highway 140 to Alton, Ill., on the Missouri-Illinois State line.

(c) Between points in Connecticut, on the one hand, and, on the other, points in Indiana, on and west of a line beginning at the Illinois-Indiana State line, thence along U.S. Highway 50 to junction Indiana Highway 61, thence along Indiana Highway 61 to junction Indiana Highway 56, thence along Indiana Highway 56 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Indiana Highway 64, thence along Indiana Highway 64 to junction Indiana Highway 145, thence along Indiana Highway 145 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction Indiana Highway 37, thence along Indiana Highway 37 to junction Indiana Highway 66, thence along Indiana Highway 66 to junction Indiana Highway 237, thence along Indiana Highway 237 to the Indiana-Kentucky State line; (d) between points in Connecticut, on the one hand, and, on the other, points in Iowa, on and south of a line beginning at the Iowa-Nebraska State line, thence along U.S. Highway 34 to junction Iowa Highway 48, thence along Iowa Highway 48 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction Iowa Highway 5, thence along Iowa Highway 5 to the Iowa-Missouri State line; (e) between points in Connecticut, on the one hand, and, on the other, points in Missouri, on, west, and south of a line beginning at the Iowa-Missouri State line, thence along U.S. Highway 63 to junction U.S. Highway 136, thence along U.S. Highway 136 to junction Missouri Highway 15, thence along Missouri Highway 15 to junction Missouri Highway 6, thence along Missouri Highway 6 to junction Missouri Highway 16, thence along Missouri Highway 16 to the Illinois-Missouri State line at Canton, Mo.; (f) between points in Connecticut, on the one hand, and, on the other, points in Nebraska, on, south, and west of a line beginning at the Nebraska-South Dakota State line, thence along U.S. Highway 83 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to junction U.S. Highway 34, thence along U.S. Highway 34 to the Nebraska-Iowa State line.

(g) Between points in Connecticut, on and east of a line beginning at the Connecticut-Massachusetts State line, thence along U.S. Highway 7 to junction U.S. Highway 44, thence along U.S. Highway 44 to junction Connecticut Highway 8, thence along Connecticut Highway 8 to junction Interstate Highway 95, thence along Interstate Highway 95 to the Connecticut-New York State line, on the one hand, and, on the other, points in North Dakota, on, north, and west of a line beginning at the United States-Canada International Boundary line, thence along U.S. Highway 85 to junction North Dakota Highway 50, thence along North Dakota Highway 50 to the North Dakota-

Montana State line; (h) between points in Connecticut, on the one hand, and, on the other, points in South Dakota, on and west of a line beginning at the South Dakota-Nebraska State line, thence along U.S. Highway 83 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction South Dakota Highway 73, thence along South Dakota Highway 73 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction South Dakota Highway 79, thence along South Dakota Highway 79 to junction U.S. Highway 85, thence along U.S. Highway 85 to the South Dakota-North Dakota State line; and (i) between points in Connecticut, on the one hand, and, on the other, points in Tennessee, on and west of a line beginning at the Tennessee-Kentucky State line, thence along Tennessee Highway 42 to junction U.S. Highway 70S, thence along U.S. Highway 70S to junction Tennessee Highway 55, thence along Tennessee Highway 55 to junction U.S. Highway 41-A, thence along U.S. Highway 41-A to junction U.S. Highway 64, thence along U.S. Highway 64 to junction Tennessee Highway 56, thence along Tennessee Highway 56 to the Tennessee-Alabama State line.

(3) (a) Between points in Delaware, on and south of a line beginning at the Delaware-Maryland State line, thence along Delaware Highway 273 to New Castle, Del., on the Delaware River, on the one hand, and, on the other, points in Illinois, on and south of a line beginning at the Illinois-Missouri State line, thence along U.S. Highway 54 to junction Illinois Highway 96, thence along Illinois Highway 96 to junction Illinois Highway 100, thence along Illinois Highway 100 to junction Illinois Highway 16, thence along Illinois Highway 16 to junction Illinois Highway 185, thence along Illinois Highway 185 to junction Illinois Highway 37, thence along Illinois Highway 37 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Illinois-Indiana State line; (b) between points in Delaware, on the one hand, and, on the other, points in Indiana, on, west, and south of a line beginning at the Indiana-Illinois State line, thence along Indiana Highway 64 to junction U.S. Highway 331, thence along U.S. Highway 331 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction Indiana Highway 545, thence along Indiana Highway 545 to junction Indiana Highway 66, thence along Indiana Highway 66 to junction Indiana Highway 237, thence along Indiana Highway 237 to the Indiana-Kentucky State line; (c) between points in Delaware, on the one hand, and, on the other, points in Iowa, on and south of a line beginning at the Iowa-Missouri State line, thence along U.S. Highway 169 to junction Iowa Highway 2, thence along Iowa Highway 2 to the Iowa-Nebraska State line; (d) between points in Delaware, on the one hand, and, on the other, points in Mississippi, on, north, and west of a line beginning at the Mississippi-Louisiana State line, thence along Interstate Highway 59 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction Mississippi

Highway 26, thence along Mississippi Highway 26 to junction U.S. Highway 49, thence along U.S. Highway 49 to the junction of Mississippi Highway 42, thence along Mississippi Highway 42 to junction Mississippi Highway 63, thence along Mississippi Highway 63 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Mississippi Highway 16, thence along Mississippi Highway 16 to the Mississippi-Alabama State line.

(e) Between points in Delaware, on the one hand, and, on the other, points in Missouri, on, west, and south of a line beginning at the Missouri-Iowa State line, thence along U.S. Highway 65 to junction Missouri Highway 6, thence along Missouri Highway 6 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Missouri Highway 154, thence along Missouri Highway 154 to junction U.S. Highway 54, thence along U.S. Highway 54 to the Missouri-Illinois State line; (f) between points in Delaware, on the one hand, and, on the other, points in Nebraska, on, south, and west of a line beginning at the Nebraska-South Dakota State line, thence along U.S. Highway 83 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to junction U.S. Highway 34, thence along U.S. Highway 34 to the Nebraska-Iowa State line; (g) between points in Delaware, on the one hand, and, on the other, points in North Dakota, on, north, and west of a line beginning at the United States-Canada International Boundary line, thence along U.S. Highway 85 to junction North Dakota Highway 50, thence along North Dakota Highway 50 to the North Dakota-Montana State line; (h) between points in Delaware, on the one hand, and, on the other, points in South Dakota, on, south, and west of a line beginning at the North Dakota-South Dakota State line, thence along U.S. Highway 85 to junction South Dakota Highway 20 to junction South Dakota Highway 73, thence along South Dakota Highway 73 to junction South Dakota Highway 34, thence along South Dakota Highway 34 to junction U.S. Highway 83, thence along U.S. Highway 83 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction South Dakota Highway 47, thence along South Dakota Highway 47 to the Nebraska-South Dakota State line; and (i) between points in Delaware, on the one hand, and, on the other, points in Tennessee, on and west of a line beginning at the Kentucky-Tennessee State line, thence along U.S. Highway 231 to the Tennessee-Alabama State line. The purpose of this filing is to eliminate the gateways of Logan County, Ky., and Muhlenberg County, Ky.

No. MC 119777 (Sub-No. E49), filed April 23, 1974. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer "L", Madisonville, Ky. 42431. Applicant's

representative: Ronald E. Butler (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Pallets, skids, bases, boxes, crating oak treads, oak risers, oak sills, oak molding, cardboard cartons, nails, and lumber; (1) between points in Alabama, on the one hand, and, on the other, points in Indiana, Iowa, Michigan, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin; (2) between points in Arkansas, on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia; (3) between points in Colorado, on the one hand, and, on the other, points in Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, North Carolina, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia; (4) between points in Connecticut, on the one hand, and, on the other, points in Arkansas, Colorado, Kansas, Louisiana, Mississippi, Oklahoma, and Texas; (5) between points in Delaware, on the one hand, and, on the other, points in Arkansas, Colorado, Kansas, Louisiana, Oklahoma, and Texas; (6) between points in Florida, on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin; (7) between points in Georgia, on the one hand, and, on the other, points in Colorado, Illinois, Iowa, Kansas, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin; (8) between points in Illinois, on the one hand, and, on the other, points in Florida, Georgia, and South Carolina; (9) between points in Indiana, on the one hand, and, on the other, points in Alabama, Florida, Louisiana, and Mississippi; (10) between points in Iowa, on the one hand, and, on the other, points in Alabama, Florida, Georgia, North Carolina, and South Carolina; (11) between points in Kansas, on the one hand, and, on the other, points in Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, Vermont, and Virginia; (12) between points in Louisiana, on the one hand, and, on the other, points in Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Vermont; (13) between points in Maine, on the one hand, and, on the other, points in Arkansas, Colorado, Kansas, Louisiana, Mississippi, Oklahoma, and Texas; (14) between points in Maryland, on the one hand, and, on the other, points in Arkansas, Colorado, Kansas, Louisiana, Oklahoma, and Texas; (15) between points in Massachusetts, on the one hand, and, on the other, points in Arkansas, Colorado, Kansas, Louisiana, Mississippi, Oklahoma, and Texas; (16) between points in Michigan, on the one

hand, and, on the other, points in Alabama, Florida, Louisiana, and Mississippi; (17) between points in Minnesota, on the one hand, and, on the other, points in Alabama, Florida, Georgia, North Carolina, and South Carolina; (18) between points in Mississippi, on the one hand, and, on the other, points in Connecticut, Indiana, Maine, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Vermont; (19) between points in Missouri, on the one hand, and, on the other, points in New Jersey, North Carolina, Rhode Island, and South Carolina; (20) between points in Nebraska, on the one hand, and, on the other, points in Alabama, Florida, Georgia, North Carolina, and South Carolina; (21) between points in New Hampshire, on the one hand, and, on the other, points in Arkansas, Colorado, Kansas, Louisiana, Mississippi, Oklahoma, and Texas; (22) between points in New Jersey, on the one hand, and, on the other, points in Arkansas, Colorado, Kansas, Louisiana, Mississippi, Missouri, Oklahoma, and Texas.

(23) Between points in New York, on the one hand, and, on the other, points in Arkansas, Kansas, Louisiana, Mississippi, Oklahoma, and Texas; (24) between points in North Carolina, on the one hand, and, on the other, points in Colorado, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, and South Dakota; (25) between points in North Dakota, on the one hand, and, on the other, points in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee; (26) between points in Ohio, on the one hand, and, on the other, points in Louisiana, Mississippi, and Texas; (27) between points in Oklahoma, on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia; (28) between points in Pennsylvania, on the one hand, and, on the other, points in Arkansas, Louisiana, Mississippi, Oklahoma, and Texas; (29) between points in Rhode Island, on the one hand, and, on the other, points in Arkansas, Colorado, Kansas, Louisiana, Mississippi, Missouri, Oklahoma, and Texas; (30) between points in South Carolina, on the one hand, and, on the other, points in Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Wisconsin; (31) between points in South Dakota, on the one hand, and, on the other, points in Alabama, Florida, Georgia, North Carolina, and South Carolina; (32) between points in Tennessee, on the one hand, and, on the other, points in North Dakota; (33) between points in Texas, on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia; (34) between points in Vermont, on the one hand, and, on the other, points in Arkansas-



sas, Colorado, Kansas, Louisiana, Mississippi, Oklahoma, and Texas; (35) between points in Virginia, on the one hand, and, on the other, points in Arkansas, Colorado, Kansas, Oklahoma, and Texas; (36) between points in West Virginia, on the one hand, and, on the other, points in Arkansas, Colorado, Oklahoma, and Texas; and (37) between points in Wisconsin, on the one hand, and, on the other, points in Alabama, Florida, Georgia, and South Carolina. The purpose of this filing is to eliminate the gateways of Logan County, Ky., and Muhlenberg County, Ky.

No. MC 120021 (Sub-No. E1), filed June 4, 1974. Applicant: THE COTTER MOVING & STORAGE CO., 265 W. Bowery St., Akron, Ohio 44308. Applicant's representative: Thomas R. Kingsley, 1819 H St. NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, between points in the District of Columbia, on the one hand, and, on the other, points in Indiana, Arkansas, Illinois, Minnesota, Missouri, Nebraska, Wisconsin, and those in Kentucky in and west of Whitley, Laurel, Rockcastle, Madison, Estill, Powell, Menifee, Rowan, and Lewis Counties. The purpose of this filing is to eliminate the gateway of Dayton, Ohio, and points within 25 miles thereof.

No. MC 120021 (Sub-No. E2), filed June 4, 1974. Applicant: THE COTTER MOVING & STORAGE CO., 265 W. Bowery St., Akron, Ohio 44308. Applicant's representative: Thomas R. Kingsley, 1819 H St. NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, between points in West Virginia, on the one hand, and, on the other, points in Arkansas, Illinois, Indiana, Minnesota, Missouri, Nebraska, and Wisconsin. The purpose of this filing is to eliminate the gateway of Dayton, Ohio, and points within 25 miles thereof.

No. MC 120021 (Sub-No. E4), filed June 4, 1974. Applicant: THE COTTER MOVING & STORAGE CO., 265 W. Bowery St., Akron, Ohio 44308. Applicant's representative: Thomas R. Kingsley, 1819 H St. NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, between points in Vermont, on the one hand, and, on the other, points in Arkansas, Illinois, Indiana, Minnesota, Missouri, Nebraska, and Wisconsin, and those in Kentucky in and west of McCreary, Pulaski, Lincoln, Garrard, Jessamine, Fayette, Scott, and Grant Counties. The purpose of this filing is to eliminate the gateway of Dayton, Ohio, and points within 25 miles thereof.

No. MC 120021 (Sub-No. E7), filed June 4, 1974. Applicant: THE COTTER MOVING & STORAGE CO., 265 W. Bowery St., Akron, Ohio 44308. Applicant's representative: Thomas R. Kingsley, 1819 H St. NW., Washington, D.C.

20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Rhode Island, on the one hand, and, on the other, Indiana, Illinois, Kentucky, Arkansas, Missouri, Minnesota, Nebraska, and Wisconsin. The purpose of this filing is to eliminate the gateway of Dayton, Ohio, and points within 25 miles thereof.

No. MC 120021 (Sub-No. E8), filed June 4, 1974. Applicant: THE COTTER MOVING & STORAGE CO., 265 W. Bowery St., Akron, Ohio 44308. Applicant's representative: Thomas R. Kingsley, 1819 H St. NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, between points in Pennsylvania, on the one hand, and, on the other, points in Indiana, Illinois, Kentucky, Missouri, Minnesota, Nebraska, and Wisconsin. The purpose of this filing is to eliminate the gateway of Dayton, Ohio, and points within 25 miles thereof.

No. MC 120021 (Sub-No. E11), filed June 4, 1974. Applicant: THE COTTER MOVING & STORAGE CO., 265 W. Bowery St., Akron, Ohio 44308. Applicant's representative: Thomas R. Kingsley, 1819 H St. NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, between points in New Jersey, on the one hand, and, on the other, points in Indiana, Illinois, Kentucky, Arkansas, Missouri, Nebraska, Minnesota, and Wisconsin. The purpose of this filing is to eliminate the gateway of Dayton, Ohio, and points within 25 miles thereof.

No. MC 120021 (Sub-No. E14), filed June 4, 1974. Applicant: THE COTTER MOVING & STORAGE CO., 265 W. Bowery St., Akron, Ohio 44308. Applicant's representative: Thomas R. Kingsley, 1819 H St. NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, between points in Massachusetts, on the one hand, and, on the other, points in Arkansas, Illinois, Indiana, Kentucky, Minnesota, Missouri, Nebraska, and Wisconsin. The purpose of this filing is to eliminate the gateway of Dayton, Ohio, and points within 25 miles thereof.

No. MC 120021 (Sub-No. E15), filed June 4, 1974. Applicant: THE COTTER MOVING & STORAGE CO., 265 W. Bowery St., Akron, Ohio 44308. Applicant's representative: Thomas R. Kingsley, 1819 H St. NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, between points in Maryland, on the one hand, and, on the other, points in Arkansas, Illinois, Indiana, Minnesota, Missouri, Nebraska, Wisconsin, and that part of Kentucky in and west of McCreary, Pulaski, Rockcastle, Estill, Powell, Men-

fee, Rowan, Fleming, Mason, Bracken, Pendleton and Campbell Counties. The purpose of this filing is to eliminate the gateway of Dayton, Ohio, and points within 25 miles thereof.

No. MC 120021 (Sub-No. E16), filed June 4, 1974. Applicant: THE COTTER MOVING & STORAGE CO., 265 W. Bowery St., Akron, Ohio 44308. Applicant's representative: Thomas R. Kingsley, 1819 H St. NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, between points in Maine, on the one hand, and, on the other, points in Arkansas, Illinois, Indiana, Kentucky, Minnesota, Missouri, Nebraska, Wisconsin, and in Mingo, Logan, Wayne, Lincoln, Cabell, Putnam, Mason, and Jackson Counties, W. Va. The purpose of this filing is to eliminate the gateway of Dayton, Ohio, and points within 25 miles thereof.

No. MC 120021 (Sub-No. E18), filed June 4, 1974. Applicant: THE COTTER MOVING & STORAGE CO., 265 W. Bowery St., Akron, Ohio 44308. Applicant's representative: Thomas R. Kingsley, 1819 H St. NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, between points in Iowa, on the one hand, and, on the other, points in North Carolina, Maryland, West Virginia, Pennsylvania, New York, Rhode Island, and those in Kentucky in and east of Clinton, Russell, Casey, Marion, Washington, Anderson, Franklin, Bowen, and Carroll Counties. The purpose of this filing is to eliminate the gateway of Dayton, Ohio, and points within 25 miles thereof.

No. MC 120021 (Sub-No. E20), filed June 4, 1974. Applicant: THE COTTER MOVING & STORAGE CO., 265 W. Bowery St., Akron, Ohio 44308. Applicant's representative: Thomas R. Kingsley, 1819 H St. NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, between points in Illinois, on the one hand, and, on the other, points in Maryland, Pennsylvania, New Jersey, New York, Rhode Island, those in West Virginia, in and east of Pocahontas, Randolph, Upshur, Harrison, Wetzel, Marshall, Ohio, and Brooke Counties, and those in Northampton, Hertford, Bertie, Gates, Chowan, Perquimans, Pasquotank, Camden, and Currituck Counties, N.C. The purpose of this filing is to eliminate the gateway of Dayton, Ohio, and points within 25 miles thereof.

No. MC 120021 (Sub-No. E23), filed June 4, 1974. Applicant: THE COTTER MOVING & STORAGE CO., 265 W. Bowery St., Akron, Ohio 44308. Applicant's representative: Thomas R. Kingsley, 1819 H St. NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, between points in Connecticut, on the one hand, and, on the other, points in Arkansas, Illinois, Indiana, Kentucky,

Minnesota, Missouri, Nebraska, and Wisconsin. The purpose of this filing is to eliminate the gateway of Dayton, Ohio, and points within 25 miles thereof.

No. MC 120021 (Sub-No. E24), filed June 4, 1974. Applicant: THE COTTER MOVING & STORAGE CO., 265 W. Bowery St., Akron, Ohio 44308. Applicant's representative: Thomas R. Kingsley, 1819 H St. NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, between points in Alabama, on the one hand, and, on the other, points in Minnesota, Wisconsin, Maryland, Pennsylvania, New Jersey, New York, Rhode Island, those in Illinois in and north of Whiteside, Dixon, DeKalb, Kane, DuPage, Cook, and Will Counties, those in Hobart, Lake, Porter, LaPorte, Starke, Marshall and St. Joseph Counties Ind., and those in West Virginia in and north of Wood, Wirt, Ritchie, Doddridge, Harrison, Barbour, and Preston Counties. The purpose of this filing is to eliminate the gateway of Dayton, Ohio, and points within 25 miles thereof.

No. MC 121420 (Sub-No. E5), filed June 4, 1974. Applicant: DART TRUCKING CO., INC., 61 Railroad Street, Canfield, Ohio 44406. Applicant's representative: Paul F. Beery, 8 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such commodities* as are usually transported in dump truck equipment, between points in Ashtabula County, Ohio, on the one hand, and, on the other, points in Guernsey, Noble, Monroe, and Belmont Counties, Ohio, and Marshall and Wetzel Counties, W. Va., within 50 miles of Toronto, Ohio. The purpose of this filing is to eliminate the gateway of Mercer County, Pa.

No. MC 121420 (Sub-No. E6), filed June 4, 1974. Applicant: DART TRUCKING CO., INC., 61 Railroad Street, Canfield, Ohio 44406. Applicant's representative: Paul F. Beery, 8 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such commodities* as are usually transported in dump truck equipment, between points in Ashtabula County, Ohio, on and north of U.S. Highway 20 and east of Ohio Highway 45, on the one hand, and, on the other, points in those parts of Wayne, Holmes, Coshocton, Tuscarawas, Carroll, Harrison, and Jefferson Counties, Ohio, and Hancock, and Brook Counties, W. Va., that are within 50 miles of Toronto, Ohio. The purpose of this filing is to eliminate the gateway of Mercer County, Pa.

No. MC 121420 (Sub-No. E7), filed June 4, 1974. Applicant: DART TRUCKING CO., INC., 61 Railroad Street, Canfield, Ohio 44406. Applicant's representative: Paul F. Beery, 8 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transport-

ing: *Such commodities* as are unusually transported in dump truck equipment, between points in that part of Portage County, Ohio, north of a line beginning at the Portage-Summit County line, extending along Interstate Highway 76 to junction Ohio Highway 44, thence along Ohio Highway 44 to junction Ohio Highway 5, thence along Ohio Highway 5 to the Portage-Trumbull County line, on the one hand, and, on the other, points in those parts of Lawrence, Butler, and Armstrong Counties, Pa., that are within 50 miles of Toronto, Ohio. The purpose of this filing is to eliminate the gateway of Mercer County, Pa.

No. MC 121420 (Sub-No. E8), filed June 4, 1974. Applicant: DART TRUCKING CO., INC., 61 Railroad Street, Canfield, Ohio 44406. Applicant's representative: Paul F. Beery, 8 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Limestone and limestone products, insecticides, herbicides, fungicides, fertilizer, and fertilizer ingredients and materials* (other than such commodities in bulk liquid form), and iron bearing agglomerates, in dry bulk form, from points in Columbiana County, Ohio, to points in Lucas County, Ohio, east of U.S. Highway 23; and (2) *Iron bearing fines*, as are transported in dump vehicles, from Lucas County, Ohio, east of U.S. Highway 23 to points in Columbiana County, Ohio. The purpose of this filing is to eliminate the gateways of Mahoning Township, Lawrence County, Pa.

No. MC 121420 (Sub-No. E9), filed June 4, 1974. Applicant: DART TRUCKING CO., INC., 61 Railroad Street, Canfield, Ohio 44406. Applicant's representative: Paul F. Beery, 8 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Limestone and limestone products, insecticides, herbicides, fungicides, fertilizer, and fertilizer ingredients and materials* (other than such commodities in bulk liquid form), and iron bearing agglomerates, in dry bulk form, from points in those parts of Beaver, Allegheny, Armstrong, Lawrence, and Westmoreland Counties, Pa., that are within 50 miles of Toronto, Ohio, to points in Lucas County, Ohio, on and east of U.S. Highway; and (2) *Iron bearing fines*, as are transported in dump vehicles, from points in Lucas County, Ohio, east of U.S. Highway 23 to points in those parts of Beaver, Allegheny, Armstrong, Lawrence, and Westmoreland Counties, Pa., that are within 50 miles of Toronto, Ohio. The purpose of this filing is to eliminate the gateway of Mahoning Township, Lawrence County, Pa.

No. MC 121420 (Sub-No. E10), filed June 4, 1974. Applicant: DART TRUCKING CO., INC., 61 Railroad St., Canfield, Ohio 44406. Applicant's representative: Paul F. Beery, 8 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transport-

ing: *Such commodities*, as are usually transported in dump truck equipment, between points in Ashtabula County, Ohio, on the one hand, and, on the other, points in those parts of Lawrence, Beaver, Allegheny, Washington, Green, Westmoreland, Fayette, Butler, and Armstrong Counties, Pa., that are within 50 miles of Toronto, Ohio. The purpose of this filing is to eliminate the gateway of Mercer County, Pa.

No. MC 121420 (Sub-No. E11), filed June 4, 1974. Applicant: DART TRUCKING CO., INC., 61 Railroad Street, Canfield, Ohio 44406. Applicant's representative: Paul F. Beery, 8 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Limestone and limestone products, insecticides, herbicides, fungicides, fertilizer and fertilizer ingredients and materials* (other than such commodities in bulk liquid form), and iron bearing agglomerates, in dry bulk form, from points in Ashtabula County, Ohio, to points in Lawrence, Gallia, Jackson, Vinton, Meigs, Athens, Hocking, Fairfield, Perry, Morgan, Washington Counties, Ohio, and those parts of the Ohio Counties of Pickway, Ross, Pike, and Scioto east of U.S. Highway 23; and (2) *Iron bearing fines*, as are transported in dump vehicles, from points in Lawrence, Gallia, Jackson, Vinton, Meigs, Athens, Hocking, Fairfield, Perry, Morgan, and Washington Counties, Ohio and those parts of Pickway, Ross, Pike, and Scioto Counties, in Ohio, east of U.S. Highway 23 to points in Ashtabula County, Ohio. The purpose of this filing is to eliminate the gateways of Mercer County, Pa., and Mahoning Township, Lawrence County, Pa.

No. MC 124211 (Sub-No. E28), filed April 22, 1974. Applicant: HILT TRUCKING LINE, INC., P.O. Box 988 D.T.S., Omaha, Neb. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Unfrozen malt beverages*, (1) from Kansas City, Mo., to points in Oregon and Washington (Omaha, Neb.); (2) from Chicago, Ill., to points in Oregon, Washington, Colorado, and Wyoming (Omaha and Lincoln, Neb.); those in Nebraska on and west of U.S. Highway 81 and those in Kansas on and west of U.S. Highway 75 (Lincoln, Neb.); and (3) from St. Louis, Mo., to points in Oregon, Utah, and Washington (Omaha, Neb.). The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

No. MC 124211 (Sub-No. E29), filed April 22, 1974. Applicant: HILT TRUCKING LINE, INC., P.O. Box 988 D.T.S., Omaha, Neb. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles* distributed by meat packing-houses as described in Sections A and C







22064-22090

# NOTICES

MC 133095 Sub 61, Texas Continental Express, Inc.  
 MC 133119 Sub 58, Heyl Truck Lines, Inc.  
 MC 133566 Sub 39, Gangloff & Downham Trucking Co., Inc.  
 MC 133655 Sub 77, Trans-National Truck, Inc.  
 MC 134182 Sub 25, Milk Producers Marketing Company, DBA All-Star Transportation.  
 MC 134477 Sub 70, Schanno Transportation, Inc.  
 MC 134755 Sub 38, Charter Express, Inc.  
 MC 134777 Sub 23, Sooner Express, Inc.  
 MC 134783 Sub 23, Direct Service, Inc.  
 MC 135007 Sub 44, American Transport, Inc.  
 MC 135185 Sub 20, Columbine Carriers, Inc.  
 MC 135684 Sub 5, Bass Transportation Co., Inc.  
 MC 136062 Sub 8, Security Carriers, Inc.  
 MC 136408 Sub 18, Cargo Contract Carriers Corp.  
 MC 136689 Sub 2, Processed Beef Express, Inc.  
 MC 136786 Sub 58, Robco Transportation, Inc.  
 MC 138018 Sub 18, Refrigerated Foods, Inc.  
 MC 138469 Sub 5, Donco Carriers, Inc.  
 MC 139933 Sub 2, Tasco, Inc.  
 MC 139923 Sub 3, Miller Trucking Co., Inc.; and  
 MC 140033 Sub 4, Cox Refrigerated Express, Inc., now being assigned July 28, 1975 (1 week), at Amarillo, Texas, in a hearing room to be designated later.

MC-F-12257, International Carriers, Inc.—Purchase—Motor Dispatch, Inc., now being assigned continued hearing June 23, 1975 (5 days) at Detroit, Michigan; in Conference Room B, 7th Floor, City County Building, 2 Woodward Avenue.

[SEAL] JOSEPH M. HARRINGTON,  
 Acting Secretary.

[FR Doc.75-13249 Filed 5-19-75;8:45 am]

[Notice No. 291]

## MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

MAY 20, 1975.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested

person may file a petition seeking reconsideration of the following numbered proceedings on or before June 9, 1975. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-75806. By order of May 13, 1975, the Motor Carrier Board approved the transfer to Grover Trucking Co., a corporation, Idaho Falls, Idaho, of the operating rights in certificate No. MC-115904 and subnumbers thereunder issued to Louis Grover, Idaho Falls, Idaho, authorizing the transportation of lumber, wood chips, lumber mill products, composition board, gypsum products, plastic pipe and fittings, sawmill products, and wallboard to and from points as specified in Idaho, Nevada, Oregon, Washington, Montana, Colorado, Wyoming, and Arizona.

Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111 Attorney for applicants.

[SEAL] ROBERT L. OSWALD,  
 Secretary.

[FR Doc.75-13251 Filed 5-19-75;8:45 am]

# federal register

TUESDAY, MAY 20, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 98



## PART II

## FEDERAL COMMUNICATIONS COMMISSION

### COMMUNITY PROBLEMS; ASCERTAINMENT BY BROADCAST APPLICANTS

Notice of Inquiry and Proposed Rulemaking

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# FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 1]

[FCC 75-540; Docket No. 19715]

## COMMUNITY PROBLEMS; ASCERTAINMENT BY BROADCAST APPLICANTS

### Notice of Inquiry and Proposed Rulemaking

In the matter of ascertainment of community problems by broadcast applicants.

1. The Commission has before it for consideration its Notice of Inquiry in the above-entitled matter, relating to Ascertainment of Community Problems by Broadcast Applicants, (Docket No. 19715), 40 FCC 2d 379 (1973). Also before the Commission for consideration are the 137 comments and 38 reply comments received in response to the Notice of Inquiry in this proceeding. As set forth below, we deal here only with ascertainment requirements for renewal applicants.

#### INTRODUCTION

2. In its Report and Statement of Policy Re: Commission En Banc Programming Inquiry, 25 FR 7291, 20 RR 1901 (1960), the Commission stated that "... the principal ingredient of the licensee's obligation to operate his station in the public interest is the diligent, positive and continuing effort ... to discover and fulfill the tastes, needs and desires of his service area, for broadcast service." In the fulfillment of this obligation, broadcasters were advised that they should conduct consultations in two main areas: First, with members of the listening public who will receive the station's signal; and, second, with leaders of community life—public officials, educators, religious, agriculture, business, labor, professional, eleemosynary organizations, and others who bespeak the interests which make up the community.

3. Following several years of confusion as to the ascertainment requirements—particularly as to the purpose of the consultations—set forth in the 1960 Programming Policy Statement, supra, the Commission, on February 23, 1973, issued a Primer on Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 650, 36 FR 4092 (hereinafter Primer), in an effort to clarify the broadcast applicant's obligation in this area.<sup>1</sup>

<sup>1</sup>In issuing its Primer, the Commission noted that its guidelines applied to applicants for construction permits for new broadcast stations and for a facilities change where the station's proposed field intensity contour (Grade B for TV, the 1 mV/m for FM, and the 0.5 mV/m for AM) encompasses a new area equal to or greater than 50 percent of the area within the station's present contours; for construction permit applications or license modifications to change station location; construction permits for satellite television stations; and the assignee's or transferee's (except in cases of proforma transfer) portion of assignment or transfer applications. Primer, supra, at 682. Additionally, the Commission noted that, "... as an interim measure until other standards are adopted, renewal applicants will be required to comply with the Primer." Primer, supra, at 655.

4. To begin, under the guidelines set forth in the Primer, applicants must determine the demographics and composition of the city of license, indicating its economic, social, racial, ethnic and other significant characteristics. Thereafter, and within the six month period prior to filing a broadcast application, the applicant must conduct two surveys—one of community leaders and the other of members of the general public. These surveys must be conducted to ascertain community "problems, needs and interests" as distinguished from program preferences.

5. As indicated, to ascertain the community's problems, needs and interests, the applicant's principals or management level employees must interview community leaders representing a cross-section of the community as revealed in the compositional study. While an applicant is expected to make reasonable and good faith efforts to interview leaders in each significant community element (e.g., labor, religious, etc.), interviews with leaders of all groups within each significant element are not required. The applicant, in this respect, has broad discretion in selecting leaders from each significant element in the community—discretion the Commission will not disturb absent a showing, supported by appropriate data, that a significant element of the community has been omitted. The applicant must also identify each leader interviewed by name, position and organization represented.

6. With respect to the general public survey, applicants must make efforts to consult with a random sample thereof. The random sample need not be a statistically reliable sampling, but may be taken from a city directory, or may be done on a geographical basis. Also, the applicant has a wider choice as to who can conduct the general public survey—namely, principals, management level or other employees, and professional research organizations. The applicant, in this connection, need not identify members of the public interviewed, but must identify the number of consultations and the methods used.

7. Having completed its community leader and general public surveys, the Primer requires the applicant to list all problems (excluding the frivolous) ascertained. Based on its evaluation of these problems, the applicant must determine which problems merit treatment on its facilities. The applicant, in this regard, is not expected to treat all ascertained problems. With respect to those problems it proposes to treat, however, the applicant must propose what programs it will broadcast to deal with those problems, giving a description of the program or program series, its anticipated time segment, duration and frequency of broadcast.

#### NOTICE OF INQUIRY

##### PART I—THE ROLES OF RADIO AND TELEVISION

8. In the instant Notice of Inquiry we set out to explore, first, whether there is

a difference between the respective roles of radio and television in discharging their statutory responsibility to serve the "public interest, convenience and necessity"; and, second, whether the ascertainment guidelines set forth in the Primer, supra, should be modified, particularly with respect to applicants seeking renewal of their broadcast licenses.

9. The comments received only touched upon Part I of the instant Notice in a peripheral manner, if at all. Those commenting on Part I, however, generally recognize differences between radio and television in terms of economics, station and market size, and the number of employees. The commenting parties also recognize that radio stations—which generally offer a specialized format—serve more localized audiences than do television stations which, for the most part, are located in larger markets and provide programming of more "general interest." Despite these differences, however, most commenting parties seem to agree—to one extent or another—that the basic purpose of both radio and television is to present entertainment and informational programming to the public. Any differences cited in this respect seem to relate to the means of providing that programming. As noted by the Community Coalition For Media Change, for example, the roles are the same and such differences as there are derive from the fact that one offers aural communication and the other aural and visual communication. These differences, it is maintained, only relate to how a licensee of a radio or television station through its programming efforts fulfills its public interest obligation. The comments do reveal a point of contention, however. Some parties maintain that the differences noted above have a direct bearing on each licensee's ascertainment efforts. These parties assert, therefore, that the Commission must take such factors into account when establishing ascertainment guidelines. Spanish International Communications Corporation, for example, maintains that radio stations with specialized formats should be permitted to limit their ascertainment efforts to their audiences; and, moreover, that they should be permitted to limit their broadcast material dealing with community problems, needs and interests to those audiences. Comments to the contrary maintain that there are and should be no differences between the ascertainment requirements for radio and television stations. Black Efforts For Soul in Television (BEST), for example, states: "It is true that radio and television are different modes of communication that provide primary service to different groups in terms of age, sex, income and taste, and serve them at different times of the day and at different listening or viewing locations." But, continues BEST, "these factors do not provide rational grounds for the Commission to determine that either medium should have different standards for ascertaining the problems, needs and interests of the communities they seek to serve ..."

10. In the 1930's and 1940's, radio was the sole electronic communications medium for bringing to the general public a "rapid and efficient" nationwide broadcast service (47 U.S.C. 151). Since the 1950's, however, we have witnessed the spectacular growth of television—a broadcast medium which now reaches over 96 percent of the nation's homes. The phenomenal growth of television has had a dramatic effect on radio in terms of station operation and programming technique. With the rapid development of television and the divergence of national advertising revenues to this new medium, radio broadcasters were forced to cut operating costs—operating staffs were cut to a minimum by using combination positions where possible, by having the program log kept by the announcer, newperson, or disc jockey (by the person on duty.) Joint studio-transmitter operations, remote control, automation, and other operating techniques became the rule rather than the exception during the 1950's, and have remained so today. Radio programming was revamped for casual listening. Background music, news and other bits of information interspersed by the disc jockey between records became, and have remained, the staple of radio programming.

11. The nature, scope and reasons for these changes in radio cannot go unrecognized if we are to develop ascertainment guidelines that are workable and useful. A station with few employees, for instance, cannot be expected to conduct a community survey as extensive as its larger television counterpart.<sup>2</sup> Similarly, how a licensee of a radio station decides to respond to the many conflicting and competing problems and needs of the public within its service area may differ substantially from the manner in which its television counterpart serves the public.

12. Some broadcasters contend that radio, by comparison with television, operates with a handicap not often recognized. They claim that any pronounced amount of talk on radio has a tendency to cause listeners to tune to another station, usually in search of music. The aural and visual techniques of television, it is asserted, make talk on this medium more attractive than it seems to be on radio. In providing listeners with their favorite music, news capsules and other tidbits of information without requiring extended concentration, radio may have no peer. This does not mean, however, that radio stations are under no obligation to provide programming related to community problems, needs and interests. Of course, any notion that a program is not a program unless at least 15 or 30 minutes in length fails to comprehend radio broadcasting as it currently

<sup>2</sup>In 1973, television stations averaged about 59 full-time and 6 part-time employees (see Television Broadcast Financial Data—1973, released August 28, 1974), whereas radio stations averaged about 11 full-time and 4 part-time employees (see AM and FM Broadcast Financial Data—1973, released January 17, 1975).

exists. Given today's medium, we think it important to reiterate our opinion that an effective public service job can be done on radio programs of a shorter duration—vignettes, they might be called. See Columbia Broadcasting System, Inc., FCC 75-149, 32 RR 2d 1270 (1975); Great Trails Broadcasting Corp., 39 FCC 2d 39 (1972). In sum, the types of appropriate service may differ from community to community, from service to service, from station to station, and from time to time. The licensee's prudent judgment on how to best serve its community will therefore be accorded great weight by the Commission. In the final analysis, however, we must concur with the comments of BEST and others filing similar comments that the differences between radio and television do not provide a reasonable basis for developing different ascertainment standards for AM and FM on the one hand and TV on the other. While each service performs a somewhat different role in serving the public, all broadcast licensees have the same basic obligation to discover and fulfill the problems, needs and interests of the public within their service areas, for broadcast service.<sup>3</sup>

**Summary of action taken.** 13. Based on our review of the record in this proceeding, thus far, we are convinced that different ascertainment guidelines for renewal applicants vis-a-vis all other broadcast applicants are justified. As discussed in more detail below, since an existing licensee's obligation is to make a continuing effort to discover and fulfill the problems and needs of the public within the station's service area, we believe the more appropriate procedure for renewal applicants calls for ascertainment throughout the license term rather than during the six months prior to filing of the application. This continuous ascertainment effort must, of course, involve consultations with both a representative cross-section of community leaders and a generally random sample of members of the general public. For an existing licensee, however, we believe that these interviews can be conducted by principals, management-level and other employees of the station acting under the direction and supervision of a principal or management level employee. Further, the interview process proposed herein will allow for a multiplicity of dialogue techniques (e.g., community leader luncheons, joint consultations, person-to-person interviews during regular business meetings, etc.).

<sup>3</sup>As set forth in paragraphs 65-69, infra, we are proposing an exemption from most of the revised documentation and filing proposals herein for stations licensed to smaller communities. As is made clear elsewhere in this Further Notice, we do not intend to relieve such broadcasters from the obligation to ascertain their communities, but only from most of the requirements of FCC record-keeping. A staff inquiry indicates that some 1,900 radio stations and 14 television stations are currently licensed to communities whose populations are less than 10,000, and which lie outside all Standard Metropolitan Statistical Areas (SMSA's). See Appendix E.

14. As noted above, under existing requirements new applicants are required to conduct a compositional study of the city of license to become familiar with its population characteristics and community institutions and elements. While a renewal applicant, under the procedures suggested herein, will be required to have on file certain population data, a detailed compositional study will no longer be required. In lieu thereof, we have identified 19 typical institutions and elements normally present in a community (Appendix C), and we expect the licensee to utilize this listing in conducting its community leader survey.<sup>4</sup> Absent a compelling showing to the contrary, interviews with leaders in each of the enumerated categories on an annual basis will establish a prima facie case of compliance with the Commission's ascertainment guidelines. So far as the general public survey is concerned, under the procedures recommended herein a licensee must make a reasonable and good faith effort to consult with a generally random sample at a period of his choosing during the license term. If the licensee follows a method designed to produce a roughly random sample, compliance with our requirements will be achieved. A licensee may, of course, continue to use a professional research firm to conduct its general public survey.

15. With respect to documentation, we have set out for particular comment the following proposals for non-exempt stations, involving modification of the present § 1.526 of the Commission's rules (Appendix A):

(a) That each licensee deposit in its public inspection file yearly, on the anniversary date upon which the station's renewal application normally would be filed, an annual community leader checklist showing the number of such leaders interviewed in the enumerated categories during the preceding 12 months;

(b) That within 45 days following such a community-leader interview, each licensee place in its public inspection file information identifying the: (i) name and address of the leader consulted, (ii) group or organization represented, (iii) date, time and place of the interview, (iv) problem(s), need(s) or interest(s) identified during the interview, (v) name of the licensee representative conducting the interview, and (vi) name of the reviewer of the completed record of consultation (a principal or management-level employee).

(c) That at some time prior to filing for renewal of license, the licensee place in the station's public inspection file a narrative description of the methods used to survey members of the general public and the number of people consulted during the survey. Also to be deposited is information relating to the population characteristics of its community of license and service area.

<sup>4</sup>This documentation would not be required for exempt small-community licensees (Note 3, supra), although the checklist might be helpful to them.



16. At renewal time each licensee to whom these documentation requirements apply would be asked to certify, on the renewal application itself, that all appropriate data has been placed in the station's public inspection file. Additionally, the annual community leader checklists would be submitted as exhibits in support of the renewal application.

17. Certain proposals for documentation of the ascertainment effort would apply to all licensees, even those whose stations come under the small-community exemption discussed at paragraph 67, *infra*. Thus, every licensee would be required to place in the station's public inspection file yearly, on the anniversary date upon which the station's renewal application normally would be filed, an annual listing of what the licensee believes to have been the most significant problems and needs (up to 10) discovered during the preceding 12 months, together with typical and illustrative programs or program series—excluding ordinary news inserts—broadcast to help meet those problems and needs. At renewal time, these annual problem-program lists would be filed as exhibits with the renewal application itself.

#### PART II—ASCERTAINMENT GUIDELINES FOR RENEWAL APPLICANTS

18. Although neither the comments received in this Inquiry nor our own recent experiences give us a basis for varying, as between radio and television, the standards for ascertainment as a process, we have found in the record of Docket 19715 reason to believe that the public interest would be served by some modification of the requirements of the present Primer as they apply to commercial broadcast license renewal applicants, whether their service is aural only, or aural and visual.<sup>1</sup> Moreover, we have reason to anticipate that some of the changes proposed for renewal candidates might also be feasible and justifiably applied to other broadcast applications. Therefore, for the moment, we choose to resolve this Inquiry only insofar as it applies to ascertainment of their communities by renewal applicants, and will hold the docket open for such further action with respect to other kinds of broadcast applications as we may determine hereafter to be in the public interest.

Should an Ascertainment of Community Problems Be Made Six Months Before Filing an Application, as Now Required, at Some Different Time, or on a Continuing Basis? How Should It Be Documented?

19. Comments favoring some form of "continuing ascertainment" [Question II

<sup>1</sup> This Inquiry and its resolution cover only applications for commercial broadcast licenses. A Notice of Inquiry and Notice of Proposed Rulemaking on ascertainment of community problems by non-commercial educational broadcast facilities (Docket No. 19816) was released on September 11, 1973, (42 FCC 2d 690) and remains under consideration by the Commission.

(b)(1)] outnumbered, by a large margin, the combination of those supporting the current six months pre-filing requirement plus those arguing for some "different" but uniform time period within which licensees should survey their communities. Certain proponents of continuing ascertainment, such as the National Association of Broadcasters (NAB) and Westinghouse (Group W), argue that an on-going process is simply natural, and even necessary, because "problems change." Other proponents perceived a negative effect of the six-month pre-filing requirement. The North Carolina Association of Broadcasters, for example, found a disincentive to undertake surveys throughout the license period because the licensee knows "he will receive little credit for his efforts." University of Chicago Professors Milton Friedman (economics) and Harry Kalven Jr. (law) and WAIT Radio President Maurice Rosenfield, filing individually and on behalf of WAIT, suggest that:

[A] station is encouraged—indeed, again, it is warned—to stay even with the projections of three years earlier and keep its problem programming frozen to what was proposed.

20. Although posed as such for convenience of discussion, the question of continuous ascertainment does not really represent an option for the renewal candidate. It is not an "either/or" by comparison with the current six months pre-filing requirement. It is an undiminished obligation that dates back at least to the 1960 Programming Policy Statement, *supra*, there expressed as the "diligent, positive and continuing effort by the licensee to discover and fulfill the tastes, needs and desires of his community or service area." (Emphasis supplied) 25 FR at 7294. It is important to observe that the quote refers to an existing licensee, not to a new applicant nor to a prospective assignee. Since the adoption of the Primer in 1971, of course, the still-viable idea of continuous ascertainment has been somewhat overshadowed by the administrative convenience of a "record" ascertainment taking place within a fixed time period. We have found it useful that new applicants and assignees should be prescribed a period not too far removed from the filing dates of their applications—such as six months prior—within which to begin to write the history of their broadcast services through the conduct of ascertainment surveys. For them, there is no "continuity" from the past. Once they become licensees, looking toward renewal, the 1960 obligation attaches.

21. Thus, with respect to renewal applicants, the point of the instant Inquiry has been to determine the feasibility of establishing a continuous ascertainment procedure actually capable of being monitored and evaluated. For the reasons noted above, we submit that an ascertainment reporting requirement of six months every three years is not only artificial

when applied to renewal applicants, but in fact discontinuous. Yet, on the record, during this interim period since 1971, it is all we have had by which the licensee, his public and the Commission could measure the likelihood that future service would be in the public interest.

22. In the discussion which follows, we shall set forth a procedure by which we believe continuous ascertainment for existing licensees looking toward renewal can be accomplished and documented in the public interest. Before proceeding to that explanation, however, we wish to acknowledge two principal concerns expressed in comments favoring retention of the present six months pre-filing requirement on the timing of ascertainment. Black Efforts for Soul in Television (BEST) suggested, for example, that the six-month period "represents a good compromise between the desires to have the most recent data possible and yet to also give the broadcaster sufficient time to analyze the results and conduct of a profitable dialogue with community leaders and groups about them." A professional survey firm, Media Statistics, commented that "lack of a designated period could increase the end cost of ascertainment by reducing the opportunity for savings in cooperative ascertainment efforts."

23. We believe that the procedure set out below accounts for both these concerns, and many others as well. Continuous ascertainment—and the means by which we ask it to be documented—will still yield recent data, since the spread of documented community leader interviews, for example, will cover the third year of the license term as well as the first and second years. Moreover, the third of the annual filings of lists of community problems and illustrative programs (See paragraph 57, *infra*) would take place at renewal time itself. Even more obviously, this procedure for continuous ascertainment would increase the "sufficient time" which as BEST correctly states, the broadcaster needs to analyze survey results and to apply them to local dialogue with his listeners. As for the "cooperative" or joint licensee ascertainment efforts mentioned by Media Statistics, there is nothing in the procedure set out below which would prevent continuation of this practice. To say that licensees no longer need to conduct their entire "record" ascertainment in the space of a final six months is not to say they can't get together for surveys either inside or outside that time frame. If they choose. Moreover, to the extent that the mounting of the survey effort within six months has been a burden on money and resources, especially for smaller broadcasters, the continuous ascertainment procedure should at least spread that burden over time, and may to some extent diminish the need for joint ascertainment—even though that method remains acceptable. (See paragraph 41, *infra*).

Are Consultations With Community Leaders and Members of the Public, in the Manner Provided by the Primer, Helpful to the Station and to the Public Which the Station Is Licensed To Serve?

24. On the record before us, the answers to this section [II(b)(2)] of the Inquiry are mixed. Even strong proponents of the existing Primer are not completely satisfied with it. The United Church of Christ (UCC), for example, believes that a community leader interview must consist of more than "a casual question at a chance encounter between a station employee and the person consulted," which UCC claims does occur under the present procedures. BEST suggests that "more basic ascertainment data should be made available to the public," particularly as regards "lists of problems and needs the broadcaster claims to have formulated" from his surveys. At the other extreme the National Association of FM Broadcasters (NAFMB), while arguing that present ascertainment requirements "either should be deleted in their entirety or, at least, substantially modified," nevertheless submitted in reply comments a survey of its membership indicating that nearly 20 percent of those answering the survey "relied on formal ascertainment" in connection with renewal to discover and meet community problems.

25. We find unacceptable as a rationale for regulatory change the declarations that Primer-style consultations are "hog-wash" and a "complete waste of time," on the alleged ground that "not once have we learned anything about our community that we didn't already know." At the same time, we can respond usefully, we believe, to comments from broadcasters that the currently rather formal, relatively detailed ascertainment procedure of the Primer is not only more burdensome than it need be—especially to smaller stations—but also may be counter-productive to the extent that it causes community-leader and other interviewees to become, as Station KRSA of Salinas put it, "frankly tired of talking to us." Viewed against the mixed record of comments both supporting and attacking Primer methods of community consultation, the modifications we outline below strike something of a middle course perhaps summed up by this quote from the comments of the South Carolina Broadcasters Association:

Consultations with community leaders and members of the public have proven invaluable to station management in their efforts to ascertain community needs and problems, but not necessarily "in the manner provided by the Primer." We believe that each station must devise its own method for maintaining continuing and meaningful contact at all community levels.

While we believe it important—not only for the public but for the broadcast licensee itself—that the FCC continue

<sup>2</sup> For a contrary view, see the discussion of studies reported by UCLA and Citizens United for Better Broadcasting, at Paragraphs 49-50, *infra*.

to provide some common framework for ascertainment, we are suggesting that the public interest actually will be advanced rather than set back by more flexible procedures which, because they are "continuous" rather than fixed in time, can be directed more to the substance and results of ascertainment than to its form and method.

26. A number of comments on this record, as well as our own experience of four years with the present Primer, persuade us that for renewal applicants, one unnecessary exaltation of form over substance may be the so-called "compositional study" discussed in Questions 4, 9 and 10 of the 1971 ascertainment guidelines. In theory and in form, the compositional study—containing both structural/institutional and demographic data on a community—is meant to provide a first order of data from which is derived both the representative selection of community leaders and the population yardsticks against which general public surveys may be measured. In practical effect, Question 10 of the 1971 Primer appears to have given most renewal applicants filing since that year the bulk of what they choose to submit about the socioeconomic and institutional structures of their communities. They are able to appropriate Question 10's list of such elements as "government, education, religion, agriculture, business, labor" and so on simply because these features are characteristic of most areas of human habitation. Similarly, and again in the words of the Primer, the gathering of demographic data appears not so much an independent study as the extracting of "minority, racial or ethnic" breakdowns of population from publications of the U.S. Census Bureau.

27. Upon reflection, it strikes us that the requirement of a compositional study was intended not so much to make competent sociologists out of busy broadcasters as it was to add weight to the warning of Primer Question 5 that no applicant could "rely upon long-time residency in, or familiarity with, the area to be served" as a substitute for ascertainment. Now that this point has been made beyond a peradventure, we feel it is time—at least for renewal purposes—to stop expecting a "study" when what we really seek is the relatively uncomplicated identification of typical community institutions and elements, including simple demographic characteristics. We propose to retain these two features in the form of a list of common socioeconomic and other characteristics to be used for leader consultations (Appendix C) and in the required compilation of certain demographic data (Appendix A) which should prove useful not only to ascertainment of both leaders and citizens but also to licensee evaluation and improvement of equal employment opportunity programs. Specifically, the list of common socioeconomic elements includes: government, business, labor, agriculture, education, professions, charities, civic organizations, public health and safety, recreation, environment, student and youth organizations, asso-

ciations of and for the elderly, religion, ethnic groups, minority representation, women's organizations, the military, culture and consumer services. As noted below, this list may be added to, or subtracted from, as the licensee may deem appropriate for his community. The demographic data consists of population of the community of license and station service area, broken down as to: male and female, youth (17 and under, 18 and above), minorities and elderly (65 and above). Also asked for is a brief narrative statement of the techniques and sources for the general public survey (see Paragraph 59, *infra*), which may include U.S. Census and similarly reliable statistics. To the extent that these techniques and sources also have a bearing on the design of the community leader consultations—e.g., interviews with representatives of such population elements as minority and ethnic groups, youth, elderly, etc.—the licensee could cover this in the narrative statement.

28. Although the matter of the compositional study was not expressly set out for comment in the current Inquiry, we note that the response of the Federal Communications Bar Association suggests a course such as we adopt here. We are also aware of the comment from Black Efforts for Soul in Television (BEST) "that the trouble with ascertainment is not with the Primer, but with the licensees themselves . . ." and that this sort of criticism might be applied to most licensees' compositional studies. Our recommended answer is to reduce the compositional information requested of the licensee—either for filing with the Commission or retention in station public files—to that directly supportive of community leader and public interviewing, as outlined in the present Primer. To ask anything further would be superfluous.

29. Questions II(b)(3) through II(b)(6) of the Inquiry focus chiefly on licensee consultations with community leaders. The discussion below takes up this aspect of the survey process first, then moves into an analysis of the general public survey. The emphasis in both these sections is upon certain modifications in the actual execution of these two types of ascertainment. A third section discusses changes in the documentation and reporting of both community leader and general public surveys.

#### Community leader consultations

30. For the reasons indicated in Paragraph 27, *supra*, we seek to replace the present Primer requirement of a separate compositional study of the city of license with (a) a list of institutional and structural elements which, we believe, are common to most if not all communities; and (b) a compilation of certain demographic information useful to the evaluation not only of the community leader consultations but also the general public survey. The list of community elements, of course, may be suggested by the licensee to take account of—in the words of the current Primer—"any other factors or activities that



make (its) particular community distinctive." (Question 9) Conversely, a licensee would be permitted to show that his community lacks one or more of the elements of the typical list provided.

31. We intend that if the licensee consults with one or more leaders in each of these elemental categories annually and is able to certify to that effect on its renewal application, this will create a presumption of the adequacy of this part of the community ascertainment, rebuttable only by a clear and convincing showing to the contrary. If made in the context of a complaint, petition to deny or competing application, such a showing must establish a substantial and material question of fact in order to warrant our further administrative inquiry or designation of the issue for hearing.

**Number of leaders.** Suggestions that the Commission establish minimum numbers of consultations that would virtually assure compliance have been made by both proponents and opponents of the current Primer. Action for a Better Community submitted a formula which, while designed for the general public survey, could be extended by analogy to community leader consultations. It viewed the number of interviews as a direct function of population of the licensee's service area and an inverse function of the number of other stations serving that area. McKenna & Wilkinson, on behalf of several radio clients, suggested minimum numbers of leader interviews based on population and ranging from 175 consultations in areas of one million or more people to 15 consultations in areas of less than 10,000. The Federal Communications Bar Association (FCBA) proposed that minimum numbers of interviews with "minority" leaders be keyed to the proportion of that minority in the overall population, but that with respect to the non-demographic structural elements (e.g., professions, labor, etc.) the Commission:

[S]hould simply insist all of those categories be represented in the survey or an explanation be provided as to why the omission of one or more categories is appropriate.

32. Like BEST, "we are wary of fixed formulas for determining the number of spokesmen to be consulted." We are attracted to the proposal from Storer Broadcasting that:

The Commission would provide a great service . . . by publicly disavowing the "numbers" game which has led to excesses in current surveys. It could do this by adopting guidelines specifying certain community elements which should be consulted during the license period, and by announcing that coverage of the entire spectrum will constitute prima facie compliance without regard to total numbers.

We believe that one or more community leaders in each of the listed categories present in the service area should be contacted annually rather than triennially, and to this extent we depart from the Storer suggestion above. This does not mean, necessarily, that three consultations with one or more leaders in a given category (i.e., one consultation per

year) would suffice to withstand any inquiry or challenge. The test remains representativeness of the community sought to be ascertained. While quantitative factors such as population, and qualitative considerations such as the "importance" or "influence" of an element or its leaders, all are germane to the idea of representativeness, we refuse to infringe upon either the discretion of the licensee or the freedom of the licensee's critics by establishing acceptable minimum numbers of community leader consultations.

**Level of consultation.** Question II(b) (3) of the Inquiry specifically asks whether community leader consultations should continue to be conducted "by principals and management-level employees only," as in the current Primer, "or by other employees as well," or even by "non-employees." To take the latter category of non-employees first, relatively few respondents were willing to consider total fulfillment of leader consultations by outside interviewers, and then only "if they are professional," (e.g., KGMI, Bellingham, Washington). The majority of the comments, from broadcasters and non-broadcasters alike, indicated that station employees are the appropriate participants in the leader survey process. Several respondents, however, recognized a value in non-employee interviews used to supplement or—as Station KFJZ of Fort Worth put it—"substantiate" findings. We agree that leader consultations are best conducted by individuals who have the identifiability and accountability of a permanent employment relationship with the licensee, although purely supplementary interviews by non-employees are permissible.

33. Comments were received on both sides of the choice between management-level and "other" employees. A number of broadcasters favored the restrictions of the present Primer, usually on the ground that the very directness of the contact between the station's decision-makers and the interviewed community leaders enhanced the possibilities for truly responsive programming. On the other hand, many licensees argued that (a) communication between station decision-makers and community leaders need not be attenuated just because other employees act as intermediaries; (b) frequently, certain non-managerial employees are well suited by their training, skills and daily patterns of outside contact to conduct leader consultations; and (c) to permit the licensee's principals and managers to delegate interview authority, so long as they do not shun the ultimate responsibility for ascertainment, is simply consistent with the traditional discretion of the licensee to conduct his business as he deems best fitted to the public interest.

34. As noted earlier, the 1960 Programming Policy Statement views ascertainment as the "principal ingredient" in the execution of the licensee's obligation to serve the public interest. Under such a view, which we here reaffirm, it is difficult to imagine the licensee's principals and/or managers being permitted to take

anything less than a substantial interest in the ascertainment process. We think it justifiable that where these individuals are in some sense new to a community—as in the case of applicants for a prospective facility, or assignees of an existing facility—their interest ought to be accounted for by direct participation in surveying leaders of the community in question. Where the facility is not new but established, where its managers have become to some degree known and acclimated, and where the facility seeks renewal, we believe a somewhat less restrictive approach to leader consultation can be taken.

35. We are inclined to agree with the comment of Action for a Better Community that even in a renewal ascertainment "licensee owners and managers should be required to do at least some of the interviewing." We also are attracted to the view of the Rocky Mountain Broadcasters Association (RMBA) that: "All employees could make consultation with community leaders providing that they report directly to principals and management upon completion of such consultations." In fact, where interviewers other than principals or management-level employees are involved in interviewing—an involvement which we here permit—we expect that their activity will not only be reported to, but be carried on under the supervision of, a principal or manager of the licensee. In this connection, we believe that the "Suggested Leader Contact Form" (Appendix D) should prove useful both to the licensee and to those monitoring the conduct or results of his ascertainment.

36. The matter of how many community leaders should be contacted by management, and how many by other employees of the stations should, we believe, be resolved by balancing two basic interests. First, it is important that community leaders have some access to the people at the top, the decision-making personnel of a station. These are ultimately the people upon whom the impressions must be registered, and this may, perhaps, be more effectively accomplished if they are directly involved in the face-to-face interviewing. Similarly, there is, we believe, some need for the upper-level people at a station to get out and talk with the leaders of the community, to further their involvement in it even beyond the routine daily contacts which so many of the broadcasters' comments mentioned. See e.g., comments of Station KWPM, West Plains, Missouri. The second consideration is that the Commission is interested in expanding the range of possible contacts, and an effective way of doing so is offered by KRSA, Salina, Kansas: "By expanding our source of comments we can't help but do a better job." On the other hand, the frequent value of lower-level contacts is suggested by KLTF, Little Falls, Minnesota: "Many times staff members are able to elicit information from community leaders and are received with greater candor than is accorded management or ownership." On balance, both these considerations appear valid. We, therefore, are proposing that at least

50 percent of the leader interviews during the license term be done by principals and management-level employees, with the balance permitted to non-managerial employees if the station so chooses. In order to assure that these managerial contacts are distributed over each of the elements of the community leader checklist (Appendix C), we are asking that the totality of leader interviews throughout the license term show that one or more of the interviews in each element was conducted by a principal or manager.

37. It is well to note that even the present Primer's resolution of the question in favor of solely principal and management-level interviewers was recognized not as an eternal verity but as a matter of "balancing" different considerations. 27 FCC 2d at 664, 36 FR at 4097. The Primer's discussion in 1971 observed that "principals or management-level personnel may not be as expert in conducting consultations as some lower-level members of their staffs." In view of this recognition—and in view of the repeated urgings from smaller broadcasters, especially, that we permit them to make more effective use of their limited resources—we suggest striking the balance differently for renewal applicants than was done in the 1971 Primer. By easing the restriction as to employee interviews of community leaders, we would permit the utilization of each wide-ranging and conversationally-skilled individuals as salesmen, news reporters and on-air program hosts. At the same time, we are recommending that their consultative activities be properly supervised at the management level.

**Format of leader consultations.** Questions II(b) (4) through (6) of the Inquiry go to the advisability of certain relaxations in the setting and method—the format, it might be termed—of community leader interviews. To the extent that subquestion (4) concerns use of non-employees to conduct community leader consultations, we believe we have resolved the issue adequately above.

As a matter of policy, we are not permitting fulfillment by outside sources of the leader ascertainment by any single licensee. Accordingly, it follows that such non-employee interviewing "for all stations in the community collectively" similarly is disallowed.

38. Question II(b) (5) of the Inquiry asks whether community leader consultations ought to be allowed to take place in "group," on-the-air ("broadcast programming") and "Town Hall" settings. The comments received suggest that first, and more fundamentally, we must address ourselves to the degree to which leader interviews should be formally pre-arranged and conducted with full awareness by all parties that an ascertainment, per se, is taking place. On this record, a substantial number of comments call for some reduction in what the writers perceive as an undue formality in the present requirements. These respondents wish to make use of—and would like to receive credit for—the myriad of less formal contacts and encounters daily between licensee's repre-

sentatives and community leaders. The relaxation regarding non-management interviews, discussed at Paragraph 36 above, would seem to lead in this direction. On the other hand, we cannot dismiss lightly the comment of the United Church of Christ:

We believe that an adequate consultation requires a face to face meeting expressly prearranged for the purpose of exploring community needs. We believe that a more meaningful dialogue will result if the person interviewed is advised of the purpose of the interview and the nature of a broadcaster's responsibilities in connection with it.

39. On the surface, there is something appealing about the UCC's idea that a deeper exploration, a "more meaningful dialogue," will result from such formalities as prior appointment and full notice. On the other hand, the record in this proceeding is rife with comments—particularly from communities with multiple broadcast services—that community leaders are growing weary of near-simultaneous requests for individual appointments by large numbers of licensees. In fact, the group interview to be discussed below arose as one means of dealing with such frustrations. Moreover, there is some indication, in comments like the following, that interviewees may tend to "freeze up" in a format that tends toward the self-conscious:

[W]e have to just about put words in their mouth to get some expression of various community problems. (WFAY, Marion, South Carolina)

40. In sum, we have no quarrel with UCC's feelings in this matter, but we doubt that they are so universally valid as to require the suggested modifications. Face-to-face interviewing should remain the staple of the community leader ascertainment, but the formality of the process is likely to depend on circumstances the Commission cannot predict and has no desire to control. Nor can it be said with certainty what effect the formality of the setting has on the fruitfulness of an interview. The realities of politics and power may dictate, for example, that a relatively small station in a large, multi-station market will not have as ready access to a city mayor as a larger competing facility would have. Given these hypothetical circumstances, it would be ironic for that smaller station's sole newsmen to miss the opportunity of an ascertainment interview with the mayor—through a chance encounter with the dignitary—just because the consultation could not be prearranged nor the interviewee put on notice as to the full purpose of the consultation. In fact, even if the dialogue between reporter and dignitary were entirely devoted to "news" at the time, we see no reason why the same encounter could not generate a "problem, need or interest" in some other context. As one respondent put it, news can raise problems and problems can be news. We continue to recognize, none-

\*We would caution here that not every news interview or question is "designed to elicit sufficient information" about a prob-

theless, an obligation upon each licensee to dig out problems that may not represent news to everyone—problems that have not really reached the threshold of public consciousness.

41. These considerations shape our approach to the three parts of Inquiry Question II(b) (5). Pragmatically speaking, we see no reason to restrict the present Primer's flexibility regarding group consultations. At the same time, we continue to believe that the joint consultation must allow what amounts to a multiplicity of one-on-one dialogues. As we said in a footnote to this question in the Inquiry, citing Southern California Broadcasters Association 30 FCC 2d 705 (1971) and Metro Portland Broadcast Committee 31 FCC 2d 148 (1971):

Each individual community leader must be given an opportunity to freely present his opinion of community problems; each broadcaster present must have an opportunity to question each leader; and the joint meetings should include community leaders who are [on] the same or equal plane of interest and responsibility.

In affirming this allowance of joint leader consultations we are cognizant of the criticism expressed in some of the comments, to the effect that group interviews often are not as productive as individual sessions and ought not be permitted to account for the entirety of the community leader ascertainment. We suggest that, with the new flexibility given the renewal applicant by this document, the licensee would be unwise to open himself to charges of abuse by employing only one of the many formats available for leader consultations. At the same time, we would hope that the new continuity of ascertainment throughout the license term—as well as the aforementioned flexibility—would

tem (Question 19, Primer) so as to qualify as an ascertainment contact. A reporter's questions frequently are highly structured, even "closed-ended," seeking not the existence of a problem but a newsmaker's reaction to a problem or event. By contrast, an ascertainment question ordinarily should be "open" enough to assure that the response is not dictated by the form of the inquiry.

\*We do not believe this approach to be inconsistent with the present Primer's answer to Question 19, although to the extent there is some difference in emphasis, we shall explain ourselves further. We take the Primer's disfavor of "a brief or chance encounter" to be, in the context of Question 19, chiefly a warning to the licensee who tries to claim that he went through the motions of ascertainment but obtained little or no information from his interviewees. To the extent that the renewal applicant—by then, established in his community—can make productive use of information acquired in a brief or chance encounter, we encourage him to document and evaluate it as a part of his ascertainment. The Primer's concern that a licensee may be misled by the expression of "programming preferences" instead of real problems, or by the couching of problems "in terms of exposure or publicity for [a] particular group" is simply not so crucial for the renewal applicant, who will have been a part of the community long enough to properly distinguish and evaluate such responses.



work to make joint consultations less necessary than they may have been over the past four years, when the six months pre-filing requirement made it difficult to spread out the costs and burdens of community surveys except by such techniques as group interviews.

42. With respect to the use of broadcast programming as a means of ascertainment, many of the comments both pro and con seemed to imagine that we might make on-air consultations an exclusive vehicle. One smaller Florida broadcaster, for example, replied that "this method, in our opinion, would accomplish exactly the same end as making a costly and time consuming ascertainment survey . . ." The Community Coalition for Media Change (CCMC) contended, by contrast, that "ascertainment by broadcast programming would not be a valid way to reach the total community . . ." Media Statistics, apparently having in mind broadcast announcements inviting comments on community problems, warned of "extreme response bias," while WCVB-TV of Boston, seemingly still thinking of ascertainment within a fixed period of time, commented that to ascertain by programming would be a "cart-before-the-horse situation."

43. Recognizing a certain validity in all of these responses, we tend to agree with the National Broadcasting Company (NBC), on the one hand, that "certainly the licensee should not be forced to ignore"—and, indeed, should be given ascertainment credit for—"a problem revealed in his own programming." On the other hand, we suspect that Station WTLV of Jacksonville is right, when it suggests: "Leaders could not be expected to speak frankly at all times if their interviews were broadcast." For this reason, and for the reason that leader interviews ought not be confined to those who would make good or provocative on-air guests or commentators, we expect that licensees will not over-rely on ascertainment via programming. As for WCVB-TV's cart-before-horse criticism, that largely disappears in the face of our encouragement for continuous ascertainment by renewal applicants. Naturally, a broadcast ascertainment should be credited forward, toward future programming, not backward in some belated match-up with a past program. Under a continuous procedure, including the annual listings of problems discovered and illustrative programs designed to treat them, there is always a way to make use of new ascertainment information.

44. The "Town Hall" sub-question posed by the inquiry was answered by many respondents in relation to surveys of the general public, and their comments are analyzed under that heading below. To the extent it was applied to community leader consultations, not even those favoring the technique seemed to believe it could satisfy the entire obligation. Among the difficulties believed to arise from the sheer size of such meetings were domination by the

more forceful interviewers or interviewees; inhibiting effects of the size of the audience; and possible attendance bias toward splinter groups or special interests not particularly representative of community leadership or the general public.

45. In our judgment, the "Town Hall" concept as applied to leader consultations becomes, for the conscientious licensee, simply a question of how large he can permit a "group" interview (paragraph 41) to become and still meet the guidelines set out in our 1971 letter to the Southern California Broadcasters, supra. Even where the licensee is not sharing interview time with other licensees, but instead is the sole host or sponsor of a large event, he must take care to see that any interviews for which credit is sought provided at least a reasonable opportunity for dialogue with each leader-guest. Most "community leader luncheons," which some licensees use as one means of consultation, apparently are small enough to enable genuine consultation between guests and qualified members of the licensee's staff. It is debatable whether a "Town Hall" full of leaders could be so well organized.

46. Telephone interviews. Question II (b) (6) of the Inquiry asks whether telephone consultations with community leaders should continue to be permitted. A strong majority of comments answered in the affirmative, for reasons ranging from convenience and efficiency—and occasional necessity—to the declaration that more interesting interviews sometimes result than in face-to-face talks. Most of these comments, however, in keeping with the question's reference to our current practice, stated that the use of telephone should be secondary or supplemental rather than exclusive, primary or basic. The respondents opposing telephone interviews said that the medium was not personal enough to produce adequate dialogue; that "fear . . . of unknown voices" would be inhibiting; and that use of the telephone led to a "bias against minorities," apparently on the assumption that many such individuals would not be able to afford telephones.

47. As is well known, the Commission has construed the silence of the present Primer to allow telephone interviewing of community leaders. Recently, we addressed ourselves to a question raised by a broadcast organization whether "in view of the current energy crisis, the Primer permits telephone interviews with community leaders outside the city of license and, if so, what percentage of those interviews may be conducted by telephone." Southern California Broadcasters Association, 47 FCC 2d 519 (1974). There we expressed ourselves as reluctant, in view of the instant Inquiry, to "establish a rule of thumb as to the permissible percentage of ascertainment interviews which may be conducted by telephone . . ." We added that a licensee employing this medium ought to document its results through "contemporaneous notes" or follow-up letters, and be prepared to demonstrate that

the interview "resulted in a meaningful dialogue." Id.

48. On the basis of the strong majority favoring continued use of the telephone, going beyond the question of distance of the interviewee from the city of license, we are inclined not only to continue to permit the practice but—in the spirit of the new flexibility accorded the renewal applicant—to consider other rationales in a given case. However, as in other areas in increased ascertainment flexibility, we caution against the abuse of over-reliance on any single medium such as the telephone when such a variety of interview formats is permitted the renewal applicant.

#### General public surveys

49. Although few of the instant proceeding's questions referred directly to ascertainment of the general public in and around the community of license, many useful comments on the subject were received. In reply to Question II (b) (2) on the general value of Primer-style consultations with both leaders and citizens, the Communications Law Program at the UCLA Law School reported results of a study involving six VHF and two UHF television stations in the Los Angeles area. Two students in the program interviewed station personnel "responsible for implementation of the Primer's requirements," utilizing "over 50 open and closed-end questions." Among their conclusions:

While a majority of the station personnel felt that community leader surveys are more valuable, some stations felt that the general public survey was more useful, and two stations felt they were both equally important . . . .

All the interviewees said that each type of survey has a special function, and that important information might easily be lost if one relied exclusively on only one kind of survey.

50. A Lansing organization, Citizens United for Better Broadcasting, reported on a Michigan State University study of ascertainment which compared perceptions of community problems and needs among broadcast station personnel, community leaders and members of the general public in the areas served by two facilities: WZZM-TV of Grand Rapids, Michigan, and WSON Radio of Henderson, Kentucky. Besides concluding that perceptions differed markedly in numbers as well as subject matter of significant problems identified, the study noted particularly that variations between concerns identified by leaders and those identified by public interviewees might bear some correlation to community size.

51. On the other hand, both American Broadcasting Company and Storer Broadcasting Company—while supporting retention of a modified leader ascertainment—urged abolition of the general public surveys. Storer was particularly emphatic on this point:

Experience shows that it [public survey] has chiefly benefited the survey salesmen and the renewal attackers, and that the costs are far out of proportion to usefulness . . . gen-

eral public surveys tend to elicit problems which are already well known and publicized . . . .

Tending to agree with the latter point, the FCBA suggested that public surveys "do not often unearth community problems not mentioned by leaders." The bar association saw a value, however, where in larger markets "the general public will sometimes place a somewhat different priority on various problems than the leadership group." The FCBA concluded that in markets of 50,000 or more a public survey "might be kept separate from the leader survey," but "in very small markets . . . a separate survey serves no useful purpose and should not be required."

52. On the record before us, we cannot conclude that public surveys add nothing or little of value to the licensee's ascertainment. This is not to say that we find the studies reported by UCLA and CUBB to be determinative, in any final sense, of the value of interviewing citizens concerning community problems. Rather, in the absence of a clear demonstration that public surveying is unwarranted, we prefer to stick fairly close to the status quo of the present Primer. That is, we would retain the requirement that the licensee survey a random sample of the general public in his community of license.

53. In keeping with our proposed elimination of the fixed pre-filing period within which renewal ascertainment previously have been conducted, we are permitting the licensee to survey the general public at any time of his choosing within the license period. We have considered, but would reject, the idea of accomplishing for this public interview a continuity similar to that achieved for the community leader consultations. Without intending to hold ourselves out as statisticians, we are concerned that requiring public surveys to be distributed throughout the license period could result in interviews with relatively small samples of the general populace at any given time. This development, in turn, could lead to challenges of the statistical reliability of the continuous surveying, insofar as it purported to reflect public sentiment at any given time. While the Commission has never demanded, even under the 1971 Primer, proof of a public survey's scientific validity—but instead has accepted rough demonstrations of randomness—we see no reason to risk confusion and uncertainty when a fixed-period public survey would avoid these potential difficulties. Thus we are not requiring that the public survey performed for "record" purposes in connection with the renewal ascertainment be continuous throughout the license term. Instead, we have confidence that such recent Commission actions as the Report and Order in Docket 19153, 38 FR 28762 (1973), setting forth new means and en-

[E]liminate possible unnecessary material from being included on the renewal and therefore wasting the Commission's time, and it would stop the mad rush by broadcasters to have a larger and better documented filing than the station next door . . . . [A]ny other information the broadcaster feels is important and might be useful in a future hearing could be dated and placed in the station's public file.

While we have no objection to better documentation, we must agree—and have so stated to Congressional committees investigating agency and industry burdens of paperwork—that the volume of paper generated by government regulations, and the consumption of time and resources represented on the paper, must constantly be monitored to see if it bears rational relationship to the public mission it is supposed to serve.

56. In fact, it is well to remember that the Notice of Inquiry in the instant proceeding grew out of the work and the

\*This is not to say that a licensee who wishes to ascertain the public continuously could not do so, as long as he is satisfied with the sampling reliability of his methods.

couragement for local contacts and dialogue between the licensee and his public, will provide a supplemental, non-record continuity to the scheme of ascertaining the general populace. Similarly useful in this supplemental sense would be the "group" interview, on-air (broadcast) and "Town Hall" formats discussed above (paragraphs 41-45). Although mentioned there in the context of community leader consultations, there is no reason why such methods—although usually non-random—could not be applied supplementarily to ascertainment of the general public.

54. To conclude this consideration of public surveying for renewal purposes, we find the record in this proceeding to date supportive of the reasoning of the current Primer, which permits public interviews to be conducted by non-employees of the licensee if professionally performed under the licensee's general supervision. We also would affirm the general usefulness of the telephone in random surveying—as is currently permitted—and further recognize its value in any supplementary, non-random public consultations which the licensee might wish to perform. Finally, we continue to believe in the validity of pre-printed questionnaires for surveys of the general populace, as discussed in Question 17 of the 1971 Primer.

#### Documentation

55. Currently, reporting of "Ascertainment of Community Needs" is covered by Part I of sections IV-A (radio) and IV-B (television) of the present Application for Renewal of Broadcast License (Form 303). It requires a minimum of three exhibits from the radio applicant and four from the TV applicant. One regional broadcast group, commenting on the apparent "one-upsmanship" involved in the size of these exhibits, called for the Commission to set a page limit on them, claiming this would

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\*We note, however, that Question 17 cautions, with respect to community leaders, that questionnaires are a "useful guide . . . but cannot be used in lieu of personal consultations."

recommendations of the Commission's task force on broadcast re-regulation, a continuing body which has not ceased its efforts to assure that every one of the Commission's rules, regulations and procedures—and the paperwork associated with them—remains fully justified as a service to the public interest, particularly in light of changing technology. Although not expressly stated in the questions of the Inquiry, the call for comments on whether differences in broadcast station and market size warranted variations in our ascertainment requirements implied our strongly felt concern for the regulatory burdens imposed upon the small (and even the large) broadcaster. As indicated elsewhere in this report and order, it appears from many of the comments received that our concern was well placed.

We have undertaken to examine, in the light of this record and of our four years' experience with the Primer, whether some relaxation of restrictions and reduction of sheer detail might draw away some of the allegedly overweening attention now devoted to the methodology of ascertainment, in order to place the focus where it really belongs, especially for the renewal applicant; upon the licensee's obligations to discover and fulfill the problems and needs of his community. We think such an approach is inherently faithful to the 1960 Programming Policy Statement, supra, from which recent ascertainment philosophy springs.

57. The documentation we suggest in support of the ascertainment revisions here proposed for non-exempt renewal applicants (see paragraph 67, infra) reduces the number of exhibits required for filing with the Commission to two. Moreover, since each exhibit ordinarily would be composed entirely of three checklists, it is not likely to become so voluminous as to require page limitations. The first of these exhibits would contain annual checklists of community leaders contacted in each year of the current license term. (See Appendix C) Other documentation of community leader consultations usually would not have to be filed with the Commission but could simply be retained in the public file at the broadcast station. This locally deposited information, fully and timely accessible to the public, would include: name and address of the leader contacted; the group or organization or interest he or she represents, and any title or position held in this connection; the date, time and place of the contact; the name of the licensee representative carrying out the consultation (plus that representative's supervisor, if the representative is not a principal or manager); the problems, needs and interests identified by the consultation; and the date of review of the completed record of consultation by a principal or manager of the licensee. (See Appendix A for rule changes involved.) In this regard, the Commission is offering a sample community leader contact form, in partial

\*Except as proposed in the new matter of § 1.526(a) (9), Appendix A.



response to the suggestion, e.g., of the American Broadcasting Company that we adopt "a standardized reporting technique." Our interest in facilitating the exercise of licensee discretion stops us short of imposing undue uniformity, but we offer the sample contact form for whatever assistance it may provide. (Appendix D)

58. The second set of three annual checklists proposed as an exhibit for the renewal application's ascertainment section involves new lists—requested of all licensees—of problems identified through community consultations and of illustrative programming offered to meet these problems. To the extent that this does represent some slight imposition upon the licensee, we feel it is justified in the light of our general endorsement of "continuous" ascertainment, and also in view of the wishes of some commentators, particularly public-interest groups, for more and better documentation by which to evaluate the licensee's ascertainment and programming performance during the course of the license term. The comment of BEST is pertinent here:

[I]t would seem to be sound regulatory policy for [the Commission] to require additional information collected by a broadcaster during ascertainment to be available in the station's public file to aid citizens groups in [politicizing broadcaster performance].

59. Respecting the documentation of the general public survey, the non-exempt licensee would be required to place in his station's public file—within 45 days of the completion of the survey—a brief narrative statement covering the techniques and results of the canvass. Similarly, in keeping with our decision to retain essential demographic information (see discussion, paragraph 27, supra), we are requiring the licensee to retain data on the population characteristics of his community of license. This information can be applied, of course, not only to the general public survey but also to the design of community leader consultations.

60. Revision of our renewal application forms to achieve the purposes set out here will be accomplished through another proceeding.<sup>12</sup> Briefly, we propose—as questions under a new section on "programming information"—to ask the applicant whether he has:

Placed in the station's public inspection file at the appropriate times the required documentation related to efforts to ascertain community problems, needs and interests, including demographic data;

Placed in the station's public inspection file at the appropriate times the annual lists of those problems, needs and interests which, in the applicant's judgment, warranted treatment by the station, as well as the typical and illustrative programming broadcast in response thereto.

The Community Leader Annual Checklists (Appendix C) would accompany the application in support of a "yes" answer to the first question, while the three yearly listings of problems and illustrative programming would document an affirmative response to the second question. If the applicant answers "no" to either query, the Commission would ask for explanation and further information. Naturally, if our examination of the ascertainment exhibits filed with the renewal application also discloses deficiencies or raises questions, we will not hesitate to pursue these with the licensee upon our own motion. One satisfactory explanation for not depositing all of the above-described documentation in the public inspection file would be the applicant's eligibility for the small-market exemption from most ascertainment record-keeping requirements, first mentioned at Note 3, supra, and referred to elsewhere above. We turn now to a discussion of that exemption.

61. The "small-market" exemption. More than a year prior to the issuance of the Instant Notice of Inquiry, the Commission had established a task force on re-regulation of broadcasting, focusing particularly on radio in smaller markets. We alluded to that on-going study in opening the present Docket 19715, 40 FCC 2d at 380:

Over 600 comments have been filed in our re-regulation study. Many contend that various specific requirements of the ascertainment process are unnecessary, impractical, unduly burdensome and, thus, should be modified or deleted.

Accordingly, we asked for further comment—through the medium of this Notice—on how the size of a station's market and "other variables" might affect the licensee's discharge of its statutory obligation to serve the public interest, inviting suggestions as to how "small market" might be defined. We also specifically elicited views on whether such variables as market size called for varying ascertainment requirements.

62. Some comments opposing any such variation met the question directly and substantively, for example those of BEST:

Small-market radio and television stations may have fewer people to serve, but their program choices are far more important to their communities since they frequently are the only locally-based source of news and public affairs information. . . . Thus, if anything (they) should bear the greatest burden of detailed ascertainment.

Further, small market broadcasters are not, due to the size of their communities, inherently or significantly more knowledgeable about their needs, problems and interests than are large market broadcasters. . . . From our past experience, we know that no matter how active a broadcaster may believe that he is in the community, there are no guarantees that he will be exposed to all the significant views and thoughts regarding its welfare.

Action for a Better Community, based in Rochester, New York, attributed special significance to the views and thoughts of groups it believes to be "under-represented."

The ascertainment process is of particular interest to minority groups, since both methods commonly used by broadcasters to gauge audience acceptance of programming decisions—advertiser sponsorship and ratings—tend to discriminate against minorities. . . .

Thus ascertainment surveys may be the only way Blacks have to overcome the under-representations of their actual interest in television and radio programming.

63. Other comments opposing variation in ascertainment requirements according to size of market pointed to the procedural confusions that might arise from an "ever-increasing number of unsatisfactory and complicated rules. Witness the current Primer and many questions arising therefrom." (KWKH Radio, Shreveport, La.) The National Association of Broadcasters struck the same theme:

Factors such as market size, staff size and programming significantly affect the role of the individual station in discharging its responsibility to serve the public interest, convenience and necessity. To take cognizance of dissimilar ascertainment requirements endemic to particular sub-groups of licensees, however, would necessitate multiple "Primers" . . . . An increase in the number of guidelines would most likely harvest a corollary accretion in the struggle to comply with Commission ascertainment policies.

64. On the other hand, many licensees from relatively small communities spoke out vigorously against the essential redundancy and pointless ritual they experienced in making the rounds—for the FCC record—of leaders, citizens and problems already well known to them. Chester County Broadcasting (WCOJ) of Coatesville, Pennsylvania stated:

There is no necessity to visit countless officials under formalized procedures to hear a recitation of the problems in their areas of authority or expertise. Broadcasters are of necessity already familiar—often on a first-name basis—with local governmental, business, charitable, and minority group leaders.

Chesapeake Broadcasting (WASA-AM-FM) of Havre de Grace, Maryland added that:

By its very nature, it is obvious that small stations cannot afford the staff that large metropolitan area stations can and do have. . . . Therefore, small stations who are conscious of this find a real solution in community involvement.

Radio Station KWPM, West Plains, Missouri, expanded on the theme of community knowledge through community involvement:

We continually work with these people on practically a daily basis in schools, service clubs, youth groups, churches, veterans groups, historical societies, etc., not just as broadcasters but as co-workers in the many projects that keep a small community alive. For us to schedule interviews with these people simply to have a record of such consultation for a renewal application is wasteful and expensive redundancy for them and for us.

Nor were all such comments from broadcasters, for example the statement of the National Organization for Women (NOW):

Ascertainment requirements should not vary according to whether a station is a radio or television station. Instead, they should be based upon the size of the market, the size of the station and that station's gross revenues. The present ascertainment requirements, if strictly interpreted and enforced, might be unduly burdensome to some

of the small radio and television broadcasting stations.

65. Despite their differences, comments on both sides of the question of varying ascertainment requirements agree on certain basic points. No one, for example, whatever the refinements of his position, is arguing for an end to ascertainment as such. The small-community broadcasters quoted at paragraph 64, supra, contend that they always have ascertained, and always will, in a very natural way that makes the 1971 Primer's formal guidelines, when applied to them, unnecessarily ritualistic and redundant. BEST expresses doubts that this organic, small-town process described by the broadcasters makes them "inherently or significantly more knowledgeable" than their large-market counterparts, and argues that Primer-style ascertainment still is needed to fill inevitable gaps of knowledge and to guard against a licensee's refusal to educate himself voluntarily. Another ground of agreement by respondents on both sides of the question concerns the complexity of any Primer-like guidelines. For the NAB, this inescapable complexity is so burdensome as to militate against the success of any effort to prescribe differing ascertainment for different-sized markets. Many small-market broadcasters, on the other hand, suggest that the way to remove complexity is simply to relieve them of the formal record-keeping of the 1971 Primer, giving them credit for continual engagement in a process which need not be reduced to writing.

66. Bearing in mind these common themes—keep the ascertainment obligation, but keep it as simple as possible—we propose to test the opposed views of, e.g., BEST and Station KWPM, as to the knowability of broadcast licensees in smaller markets. We suggest that, on an experimental basis, stations in smaller communities should be exempt from any Commission oversight of their methods of ascertainment. We are firm in our belief that these stations must continue to ascertain community issues, but during the test period we propose that the FCC avoid any inquiry into the number of persons interviewed, the composition of the interview sample, or any other matter relating to how the licensee discerned which particular problems should be covered. These licensees would also be exempt from record keeping and reporting requirements concerning the ascertainment process.

67. We would continue the experimental partial exemption in effect long enough to test it throughout the country, namely for at least the three years it would take each licensee—under the present term—to come up for renewal at least once. The suggested exemption would not include the annual lists of up to 10 significant community problems, together with illustrative programming responsive to those problems, discussed at paragraph 58, supra, and proposed as an amendment to § 1.526(a)(9) of our rules. (See Appendix A) As noted, the obligation to deposit these lists annually

in the station file, and to report the three together as an exhibit to the renewal application, would devolve upon all licensees, exempt as well as non-exempt. Exempt licensees would not be required, however, to maintain any of the other ascertainment-related records covered by proposed new §§ 1.526(a)(11) and (12) of the Commission's rules on public-file documentation, including the proposed annual Community Leader Checklist (Appendix C) data concerning community leader interviews (see the sample "Contact Sheet" at Appendix D), and information relating to the demographics of the community of license, and the design and results of the general public survey. Naturally, since exempt licensees would not be required to maintain such information in their public files, they would not be expected to file it with their renewal applications.

68. For the purpose of this test, we propose to define a small community of license as one with a population of 10,000 or less (as enumerated in the 1970 U.S. Census) and which is located outside all officially designated Standard Metropolitan Statistical Areas (SMSA's).<sup>13</sup> Our effort here is twofold: to create a large enough sample of "exempt" licensees to make the experiment meaningful, and yet to keep the size of the exempt community—as well as the nature of its environment such as to admit of a reasonable assumption that the broadcaster knows his town thoroughly. It is our tentative suggestion that communities outside all SMSA's have at least the general resemblance of non-metropolitan environments and that these are not "bedroom" suburbs where citizens might not be well informed on their particular portion of the larger community. Moreover, we believe the choice of "community of license" population to be not only justifiable but convenient. First, the broadcaster's chief obligation is to his community of license. Second, official city and county data is readily available from Census Bureau publications, while figures for broadcast service areas are not so easily obtained nor readily accepted. Finally, we understand from the Census Bureau that the process of defining and delimiting the present 275 or so SMSA's in the country is virtually complete, and that information in this regard soon will be readily available.

69. At its best, ascertainment constitutes an effort to dig beneath the surfaces of majority opinion and conventional wisdom to discover and deal with needs that might not otherwise be exposed. We expect all licensees to strive for that ideal, including those small market licensees who would be exempted from most reporting requirements under the experiment proposed herein. For the purpose of this experiment, we will accept as a given the hypothesis that the broadcaster in the smaller community knows

<sup>13</sup> We specifically invite comment on whether the 10,000 figure is an appropriate cut off. Our tentative count indicates that this standard would exempt approximately 1900 commercial radio stations and 14 commercial TV stations.

his town thoroughly, not only its majorities but also its minority elements. The exempt licensee who fails, during this period of testing, to program for the latter—notably the racial minorities protected under the Civil Rights Acts of 1964 and 1972, as well as our own rules—weakens this hypothesis, to the point which may cause us to inquire further into his trusteeship of a scarce broadcast frequency. Columbus Broadcasting Coalition v. F.C.C. 505 F. 2d 320 (D.C. Cir. 1974). Chuck Stone v. F.C.C. 466 F. 2d 316 reh. den. 466 F. 2d 311 (D.C. Cir. 1972).

#### CONCLUSIONS

70. This Further Notice has discussed, analyzed and endeavored to resolve in the public interest the multiple questions posed by the Notice of Inquiry in Docket 19715. Under Part I, we have considered the roles and functions of the radio and television media in discharging their statutory responsibilities for service to the public interest; and how the execution of those responsibilities might be affected by variations in station and market size, station format and numbers of outlets in a given market. We have suggested that television and radio differ in substantial and meaningful ways, but that these differences do not necessarily call for different standards of community ascertainment. On the other hand, such distinctions as station size and format may reasonably affect the way in which common ascertainment standards are met, as well as the manner in which programming responsive to ascertainment problems is designed and carried out.<sup>14</sup>

71. Under Part II, we have proposed to apply any modifications for renewal of commercial broadcast licenses, expressly holding open this Docket, 19715, for further consideration of such changes as may be warranted for other kinds of broadcast applications. We also adverted to the pendency of another Docket, 19816, in which ascertainment requirements for non-commercial educational broadcast facilities are under study.

72. We next have recommended that "continuous ascertainment" is not only preferable and feasible for renewal applicants, but actually is expected of them under the 1980 Programming Policy Statement. Therefore, we have advanced our views of how continuous ascertainment could be accomplished, documented and reported—specifically pointing out where modifications of the current Primer are necessary and/or desirable. We have set forth our reasons for replacing the licensee's initial compositional study of his community with a procedure by which the essential informational products of that study—a structural/institutional breakdown and a demographic profile of the community—may be obtained simply and effectively. This information is then applied to community

<sup>14</sup> We are seeking empirical data on the conduct of ascertainment in small markets through the experimental exemption discussed in paragraphs 67-69, supra, and set out for comment by Paragraph 77, infra.



## PROPOSED RULES

leader consultations and to surveying of the general public in much the same fashion—albeit with greater flexibility—as laid out in the present Primer. Perhaps the principal modification of the 1971 document, as applied to renewal applicants, lies in the suggestion that up to 50 percent of community leader interviews may be conducted by non-principal, non-managerial employees of the broadcast licensee, so long as they are supervised by—and report timely and directly to—a principal or manager.

73. Finally, in dealing with the question of documenting and reporting renewal ascertainment under the modified procedures, we have attempted to strike a proper public-interest balance between the burdens repeatedly alleged on this record to inhere in the present Primer—particularly for the smaller broadcaster—and the benefits claimed to result from provision for more and better documentation at the local level of the licensee's efforts to ascertain and program for community problems and needs.

74. The recommendations we have made would require certain modifications in § 1.526 of our rules regarding records to be maintained locally for public inspection by applicants, permittees and licensees. (See Appendix A) Section (a) (9) would be revised to add for commercial radio broadcast facilities the requirement that annual listings of "what the licensee or permittee believes to have been significant problems and needs of the area served" be deposited by a date certain in the station's public files. The requirement already applies to commercial television facilities. Furthermore, new § 1.526(a) (11) and (12) would carry out our intent (see discussion, paragraphs 57-59, *supra*) that certain information concerning community leader consultations as well as the sources, methods and results of the general public surveys, also be timely deposited in the public files of every non-exempt station. Comment is requested on these rule modifications by paragraph 76, *infra*. As we noted earlier, the changes in the basic commercial license renewal application form necessary to implement the above modifications will be accomplished in another proceeding.<sup>12</sup>

75. With regard to the phasing in of these changes in ascertainment for renewal applicants, we propose that licensees be given approximately a year's notice between the date we release a final order on any changes in ascertainment for renewal applicants and the date they would be expected to file under the new procedures. By that time, we believe that circumstances, rules and forms will be in such readiness as to allow them to ascertain, document and report for renewal purposes under the modified procedures discussed in this Further Notice Order. For example, licensees with authorizations expiring in December of 1976 would have approximately one year before their filing deadlines (August of 1976) to perform a new-style, continu-

<sup>12</sup> Revision of FCC Form 303, *supra*.

ous ascertainment. Naturally, as we move beyond December 1, 1976, into a time when licensees filing thereafter will have had more than a year in which to implement the new procedures, the acknowledged difficulties and confusions of transition will diminish. On balance, we believe the benefits of the modified ascertainment for renewal applicants are sufficient to warrant their earliest possible implementation.

76. Based on the foregoing discussion, and pursuant to the authority contained in sections 4 (i) and (j) and 303, 307 and 493 of the Communications Act of 1934, as amended, comments are invited upon the matter discussed in this Further Notice. Particular emphasis should be placed on the following:

The proposed amendments of § 1.526 of the Commission's rules, as discussed herein and set forth at Appendix A, as well as the proposed checklist reproduced in Appendix C.

The proposed exemption from certain recordkeeping and filing requirements of community ascertainment, discussed at paragraph 61 *et seq.*

Interested parties responding to this Further Notice of Inquiry and Notice of Proposed Rule Making may file comments at the Commission's headquarters, Washington, D.C., on or before June 30, 1975. Because of the lengthy record already established in this proceeding, and because of the refinement of the proposals herein made possible by that record, we are exercising our discretion to provide for the receipt of comments only, and not for reply comments. For these same reasons, we do not contemplate any extensions of time for comments beyond the date set out above. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs, and comments filed shall be furnished to the Commission. However, in an effort to obtain the widest possible response in this proceeding from licensees and members of the public, informal comments (without extra copies) will be accepted. Copies of all pleadings filed in this matter will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Adopted: May 8, 1975.

Released: May 15, 1975.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] VINCENT J. MULLINS,  
Secretary.

It is proposed to amend 47 CFR Part 1 as set forth below.<sup>13</sup>

Part 1 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

<sup>13</sup> The concurring statement of Commissioner Hooks is filed as part of the original document.

<sup>14</sup> The proposed amendments were submitted with the original document as appendix A.

1. In § 1.526(a), subparagraph (9) is revised and subparagraphs (11) and (12) are added as follows:

§ 1.526 Records to be maintained locally for public inspection by applicants, permittees and licensees.

(a) . . .

(9) Every year, on the anniversary date on which the station's renewal application would be due for filing with the Commission, each licensee or permittee of a commercial radio or television station shall place in its public inspection file a listing of no more than ten significant problems and needs of the area served by the station during the preceding twelve months. In relation to each problem or need cited, licensees and permittees shall indicate typical and illustrative programs or program series, excluding ordinary news inserts of breaking events, which were broadcast during the preceding twelve months in response to those problems and needs. Such a listing shall include the title of the program or program series, its source, type, brief description, time broadcast and duration. The third annual listing shall be placed in the station's public inspection file on the due date of the filing of the station's application for renewal of license. Provided, however, upon the filing of the station's application for renewal of license, the three annual problem-program listings shall be forwarded to the Commission as part of the application for renewal of license. The annual listings are not to exceed five pages, but may be supplemented at any time by additional material placed in the public inspection file and identified as a continuation of the information submitted to the Commission.

(11) Each licensee or permittee of a commercially operated radio or television station shall place in the station's public inspection file appropriate documentation relating to its efforts to interview a representative cross-section of community leaders to ascertain community problems and needs. Such documentation shall be placed in the station's public inspection file within forty-five days of the date of completion of each interview, and shall include: (i) the name, address, organization, and position or title of the community leader interviewed; (ii) the date, time and place of the interview; (iii) the name of the principal, management-level or other employee of the station conducting the interview; (iv) the problems and needs discussed during the interview; and (v) the date of review of the interview record by a principal or management-level employee of the station. Additionally, each year on the anniversary date on which the station's application for renewal would normally be filed with the Commission, each licensee and permittee shall place in the station's public inspection file a checklist indicating the number of community leaders interviewed during the preceding twelve

months representing elements found on FCC Form; *Provided, That, if a community lacks one of the enumerated institutions or elements, the licensee and permittee should so indicate by providing a brief explanation on its checklist. The third annual checklist shall be placed in the station's public inspection file on the due date of the filing of its application for renewal of license. Upon the filing of the application for renewal of license, however, the three annual checklists for the current license term shall be forwarded to the Commission as part of the application for renewal of license.*

(12) Each licensee or permittee of a commercially operated radio and television station shall place in the station's public inspection file documentation relating to its efforts to consult with a generally random sample of members of the general public to ascertain community problems and needs. Such documentation shall consist of: (i) information relating to the total population of the station's service area, including the numbers and proportions of males and females; of minorities; of youth (17 and under, 18 and above); and the numbers and proportions of the elderly (65 and above); (ii) a narrative statement of the sources consulted and the methods followed in conducting the general public survey, including the number of people surveyed and the results thereof. Such documentation shall be placed in the public inspection file within 45 days of completion of the survey but in no event later than the due date for filing the station's application for renewal of license. Upon filing its application for renewal of license, each licensee and permittee must certify that the above-noted documentation has been placed in the station's public inspection file.

2. The present "Notes" in § 1.526 relating to the engineering sections of certain applications would become "Note 1," to be followed by "Note 2," as below.

NOTE 2: Paragraphs (a) (11) and (a) (12) above shall not apply to commercial radio and television stations licensed to communities which: (1) have a population, according to the immediately preceding decennial U.S. Census, of 10,000 persons or less; and (2) are located outside all Standard Metropolitan Statistical Areas (SMSA's), as defined by the Federal Bureau of the Census.

## APPENDIX B

PARTIES FILING COMMENTS AND REPLY  
COMMENTS IN DOCKET NO. 19715

Action for a Better Community, Inc.  
Action for Children's Television  
Alexandria Broadcasting Corporation (KXRA and KXRA-FM, Alexandria, Minnesota)  
American Broadcasting Companies, Inc.  
American Civil Liberties Union  
American Contemporary Radio Network Affiliates Association  
American FM Radio Network Affiliates Association  
American Information Radio Network Affiliates Association  
Argonaut Broadcasting Company (KFAX, San Francisco, California)  
Black Efforts for Soul in Television  
Blackstone Broadcasting Company (KTEB, Tyler, Texas)

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Bonebrake and Company (KOBY, Oklahoma City, Oklahoma)  
Boston Broadcasters, Inc. (WCVB-TV, Boston, Massachusetts)  
Broadcast House Pacific (KNDI, Honolulu, Hawaii)  
Capital Broadcasting Corp. (WKXL and WKXL-FM, Concord, New Hampshire)  
CBS, Inc.  
Chesapeake Broadcasting Corp. (WASA and WASA-FM, Harve de Grace, Maryland)  
Chester County Broadcasting Company (WCOJ, Coatesville, Pennsylvania)  
Citizens United for Better Broadcasting, Lansing, Michigan  
Lauren A. Colby, Esquire, Washington, D.C.  
Committee on Children's Television  
Communications Investment Corp. and Gem State Broadcasting Corp.  
Community Coalition for Media Change  
Council on Children, Media and Merchandising  
Crawford Broadcasting Company (WDJC-FM, Birmingham, Alabama, WDCX-FM, Buffalo, New York, WMUZ-FM, Detroit, Michigan, KELR, El Reno, Oklahoma, WYCA-FM, Hammond, Indiana, KPMK-FM, Houston, Texas, WDAC-FM, Lancaster, Pennsylvania, WVGW, Nashville, Tennessee, and WPEO, Peoria, Illinois)  
Dixie Broadcasting, Inc.  
Dodge City Broadcasting Co., Inc. (KGNO and KGNO-FM, Dodge City, Kansas)  
Elkins Educational Research Foundation, Inc.  
Emporium Broadcasting Company (WLEM, Emporium, Pennsylvania)  
Federal Communications Bar Association (Special Committee on Reregulation of Radio) and the Communications Law Committee of the Administrative Law Section of the American Bar Association  
First Illinois Cable TV, Inc. (KPFJ and KWXI-FM, Fort Worth, Texas)  
Fisher's Blend Station, Inc. (KOMO and KOMO-TV, Seattle, Washington)  
Professor Joseph M. Foley, Ohio State University  
Franklin Broadcasting Corp. (WYSR, Franklin, Virginia)  
Milton Friedman, and (on behalf of WAIT, Chicago, Illinois) Harry Kalven, Jr., and Maurice Rosenfield  
General Electric Broadcasting Company, Inc.  
Golden Strand Broadcasting Co. (WMBY and WMBY-FM, Myrtle Beach, South Carolina)  
Haley, Bader and Potts, Washington, D.C.  
Heart O'Wisconsin Broadcasters, Inc. (WISM, Madison, Wisconsin)  
Independent Music Broadcasters, Inc. (WVCG and WYOR-FM, Coral Gables, Florida)  
Indian River Broadcasting Company (WIRA and WOVV-FM, Lincolnton, North Carolina)  
James Broadcasting Company (WJTN, Jamestown, New York, WDOE, Dunkirk, New York, WWYN, Erie, Pennsylvania, WVMT, Burlington, Vermont, and WSYB, Rutland, Vermont)  
Jesup Broadcasting Corp. (WLOP and WIPO (FM), Jesup Georgia)  
Joint Comments of the Evening News Association, Lee Enterprises, Inc., RKO General, Inc., Time-Life Broadcast, Inc., Universal Communications Corporation and WKY Television System, Inc.  
Joint Comments of 31 Radio Licensees  
Joint Comments of 10 Television Licensees  
Joint Reply Comments of 38 Radio and Television Licensees  
Mr. Ellwood F. Jones, Jr., Conshohocken, Pennsylvania  
Juniper Broadcasting, Inc. (KGRI, Bend, Oregon, KACI, The Dalles, Oregon and KTX, Pendleton, Oregon)  
KAGO, Klamath Falls, Oregon  
KAMC, Arlington, Texas

KERRY Radio, Inc. (KOOS, Coos Bay, Oregon)  
Key Television, Inc. (KEYT-TV), Santa Barbara, California)  
KFAB Broadcasting Company  
KFKA, Greeley, Colorado  
KFSC, Denver, Colorado  
KFSD, Boise, Idaho  
KFXM Broadcasting Company (KFXM, San Bernardino, California and KDUO (FM), Riverside, California)  
KGMI, Inc. (KGMI and KISM (FM), Bellingham, Washington)  
KHUB and KHUB-FM, Fremont, Nebraska  
KOTE-FM, Lancaster, California  
KPOK and KPOK-FM, Portland, Oregon  
KREW, Sunnyvale, Washington  
KRNR, Roseburg, Oregon  
KROK, Crookston, Minnesota  
KSRV, Ontario, California  
KSUB, Cedar City, Utah  
KTRF Radio Corp. (KTRF, Thief River Falls, Minnesota)  
KTRR and KZNN (FM), Rolla, Missouri  
KUGN, Eugene, Oregon  
KVOW, Riverton, Wyoming  
KWEH, Shreveport, Louisiana  
KWFM, West Plains, Missouri  
KYOU and KGRE (fm), Greeley, Colorado  
Lakeland FM Broadcasting, Inc. (WVFM, Lakeland, Florida)  
Lincoln County Broadcasting Company, Inc. (WLON, Lincolnton, North Carolina)  
Little Falls Broadcasting Company (KLTF, Little Falls, Minnesota)  
Lunde Corporation (KLFM, Ames, Iowa)  
May Broadcasting Company  
McGraw-Hill Broadcasting Company, Inc. (KMGH-TV, Denver, Colorado, WRTV, Indianapolis, Indiana, KGTU, San Diego, California and KERO-TV, Bakersfield, California)  
Media Statistics, Inc.  
Menomonee Broadcasting Co. (WMNE and WDMW (FM), Menomonee, Wisconsin)  
Metromedia, Inc.  
Midland Broadcasters, Inc.  
Mitchell Broadcasting, Inc. (KGRN, Grinnell, Iowa)  
Nassau Broadcasting Company (WHWH, Princeton, New Jersey, WPST, Trenton, New Jersey, and WPSB, Bridgeport, Connecticut)  
National Association of Broadcasters  
National Association of FM Broadcasters  
National Broadcasting Company, Inc.  
National Organization for Women  
Nebraska Broadcasters Association  
960 Radio, Inc. (KLAD, Klamath Falls, Oregon)  
North Carolina Association of Broadcasters  
Northwest Radio and TV (KWNA, Winnemucca, Nevada)  
Nutmeg Broadcasting Company (WILL, Willimantic, WINY, Putnam and WNTY, Southington, Connecticut)  
Oregon Association of Broadcasters  
Oregon Radio, Inc. (KSLM and KSLM-FM, Salem, Oregon)  
Our Lady of the Snows Broadcasting Corporation (WMRY (FM), East St. Louis, Illinois)  
Pacific FM Incorporated (KIOI (FM), San Francisco, California)  
Pickens County Broadcasting Co. (WELP and WELP-FM, Easley, South Carolina)  
Radio Athens, Inc. (WATH and WATH-FM, Athens, Ohio)  
Radio WBAW, Inc. (WBAW and WBAW-FM, Barnwell, South Carolina)  
Rio Broadcasting Company (KIRT, Mission, Texas and KQXX (FM), McAllen, Texas)  
Rocky Mountain Broadcasters Association  
Sarasota-Charlotte Broadcasting Corporation (WENG, Englewood, Florida)  
Scotts Bluff Broadcasting Corp. (KNEB and KNEB-FM, Scottsbluff, Nebraska)  
Sioux Empire Broadcasting Co. (KCHF and KCHF-FM, Sioux Falls, South Dakota)



## PROPOSED RULES

South Central Broadcasting Corporation  
Southern California Broadcasters Association  
Southern Broadcasting Company  
Spanish International Communications Corporation (KMEK-TV, Los Angeles, California, KFTV, Hanford, CA, KWEX-TV, San Antonio, Texas, WLTW, Miami, Florida, and WXTV, Patterson, New Jersey)  
Storer Broadcasting Company  
Sundial Broadcasting Corp. (KIBE, Palo Alto, KDFC, San Francisco, California)  
Suzanne Broadcasting Company (WNER, Live Oak, Florida)  
Television 12 of Jacksonville, Inc. (WTLV, Jacksonville, Florida)  
Texas Coast Broadcasters, Inc. (KNUZ and KQUE, Houston, Texas)  
Top O' Texas Broadcasting Company (KPDN, Fampa, Texas)  
Trans World Broadcasting Corporation (WZAK, Cleveland, Ohio)  
Tri-City Broadcasting Company, Inc. (WTYC, Rock Hill, South Carolina)  
Tri-State Broadcasting Co. (WTVB and WANG, Coldwater, Michigan)  
222 Corporation (WKQT and WCKW, Garyville, Louisiana)  
Office of Communication, United Church of Christ  
United Communications, Inc. (KMMJ, Grand Island, Nebraska)

## APPENDIX C—Sample—community leader annual checklist

Institution/element	Number	Not applicable (explain briefly)
1. Government (local, county, State and Federal)		
2. Business		
3. Labor		
4. Agriculture		
5. Education		
6. Professions		
7. Churches		
8. Civic, Neighborhood and Fraternal Organizations		
9. Public safety, health, and welfare		
10. Recreation		
11. Environment		
12. Organizations of and for youth and students		
13. Organizations of and for the elderly		
14. Religion		
15. Minority and ethnic groups		
16. Organizations of and for women		
17. Military		
18. Culture		
19. Consumer Services		

While the following are not regarded as separate community elements for purposes of this survey, indicate the number of leaders interviewed in all elements above who are:

- (a) Blacks  
(b) Spanish-surnamed Americans  
(c) American Indians  
(d) Orientals

## APPENDIX D

## SUGGESTED LEADER CONTACT FORM

Date: \_\_\_\_\_  
Name and address of person contacted: \_\_\_\_\_  
Organization(s) or group(s) represented by person contacted: \_\_\_\_\_  
Date, time and place of contact: \_\_\_\_\_  
Method of contact: \_\_\_\_\_  
Problems, needs and interests identified by person contacted: \_\_\_\_\_  
Name of interviewer: \_\_\_\_\_  
Reviewed by: \_\_\_\_\_  
Position: \_\_\_\_\_  
Date: \_\_\_\_\_

## APPENDIX E

## TABLE 1. STANDARD METROPOLITAN STATISTICAL AREAS

Area code and title  
0040—Abilene, TX  
Callahan County, Jones County, Taylor County.  
0800—Akron, OH  
Portage County, Summit County.  
0120—Albany, GA  
Dougherty County, Lee County.  
0160—Albany-Schenectady-Troy, NY  
Albany County, Montgomery County, Rensselaer County, Saratoga County, Schenectady County.  
0200—Albuquerque, NM  
Bernalillo County, Sandoval County.  
0220—Alexandria, LA  
Grant Parish, Rapides Parish.  
0240—Allentown-Bethlehem-Easton, PA-NJ  
Carbon County, PA, Lehigh County, PA, Northampton County, PA, Warren County, NJ

## Area code and title

0280—Altoona, PA  
Blair County.  
0320—Amarillo, TX  
Potter County, Randall County.  
0360—Anaheim-Santa Ana-Garden Grove, CA  
Orange County.  
0380—Anchorage, AK  
Anchorage Census Division.  
0400—Anderson, IN  
Madison County.  
0440—Ann Arbor, MI  
Washtenaw County.  
\*0450—Anniston, ALA  
Calhoun County.  
0460—Appleton-Oshkosh, WI  
Calumet County, Outagamie County, Winnebago County.  
0480—Asheville, NC  
Buncombe County, Madison County.  
0520—Atlanta, GA  
Butts County, Cherokee County, Clayton County, Cobb County, De Kalb County, Douglas County, Fayette County, Forsyth County, Fulton County, Gwinnett County, Henry County, Newton County, Paulding County, Rockdale County, Walton County.  
0560—Atlantic City, NJ  
Atlantic County.  
0600—Augusta, GA-SC  
Columbia County, GA, Richmond County, GA, Aiken County, SC.  
0640—Austin, TX  
Hays County, Travis County.  
0680—Bakersfield, LA  
Kern County, MD.  
0720—Baltimore, MD  
Baltimore city, Anne Arundel County, Baltimore County, Carroll County, Harford County, Howard County.  
0760—Baton Rouge, LA  
Ascension Parish, East Baton Rouge Parish, Livingston Parish, West Baton Rouge Parish.  
0780—Battle Creek, MI  
Barry County, Calhoun County.  
0800—Bay City, MI  
Bay County.  
0840—Beaumont-Port Arthur-Orange, TX  
Hardin County, Jefferson County, Orange County.  
0880—Billings, MT  
Yellowstone County.  
0920—Biloxi-Gulfport, MS  
Hancock County, Harrison County, Stone County.  
0960—Binghamton, NY-PA  
Broome County, NY, Tioga County, NY, Susquehanna, PA.  
1000—Birmingham, AL  
Jefferson County, St. Clair County, Shelby County, Walker County.  
1040—Bloomington-Normal, IL  
McLean County.  
1080—Boise City, ID  
Ada County.  
1120—Boston, MA  
Essex County (part); Beverly city, Lynn city, Peabody city, Salem city, Boxford town, Danvers town, Hamilton town, Lynnfield town, Manchester town, Marblehead town, Middleton town, Nahant town, Saugus town, Swampscott town, Topsfield town, Wrentham town.

## Area code and title

1120—Boston, MA—Continued  
Middlesex County (part); Cambridge city, Everett city, Malden city, Medford city, Melrose city, Newton city, Somerville city, Waltham city, Woburn city, Acton town, Arlington town, Ashland town, Bedford town, Belmont town, Boxborough town, Burlington town, Carlisle town, Concord town, Framlingham town, Holliston town, Lexington town, Lincoln town, Natick town, North Reading town, Reading town, Sherborn town, Stoneham town, Sudbury town, Wakefield town, Watertown town, Wayland town, Weston town, Wilmington town, Winchester town.  
Norfolk County (part); Quincy city, Bellingham town, Braintree town, Brookline town, Canton town, Cohasset town, Dedham town, Dover town, Foxborough town, Franklin town, Holbrook town, Medfield town, Medway town, Mills town, Milton town, Needham town, Norfolk town, Norwood town, Randolph town, Sharon town, Stoughton town, Walpole town, Wellesley town, Westwood town, Weymouth town, Wrentham town.  
Plymouth County (part); Abington town, Duxbury town, Hanover town, Hanson town, Hingham town, Hull town, Kingston town, Marshfield town, Norwell town, Pembroke town, Rockland town, Scituate town.  
Suffolk County; Boston city, Chelsea city, Revere city, Winthrop town.  
1160—Bridgeport, CT  
Fairfield County (part); Bridgeport city, Shelton city, Easton town, Fairfield town, Monroe town, Stratford town, Trumbull town, New Haven County; Derby city, Milford city.  
1170—Bristol, CT  
Hartford County (part); Bristol city, Burlington town.  
Litchfield County (part); Plymouth town.  
1200—Brockton, MA  
Bristol County (part); Easton town, Norfolk County (part); Avon town, Plymouth County (part); Brockton city, Bridgewater town, East Bridgewater town, Halifax town, West Bridgewater town, Whitman town.  
1240—Brownsville-Harlingen-San Benito, TX  
Cameron County.  
1260—Bryan-College Station, TX  
Brazos County.  
1280—Buffalo, NY  
Erie County, Niagara County.  
1300—Burlington, NC  
Alamance County.  
1310—Caguas, PR  
Caguas Municipio, Gurabo Municipio, San Lorenzo Municipio.  
1320—Canton, OH  
Carroll County, Stark County.  
1360—Cedar Rapids, IA  
Linn County.  
1400—Champaign-Urbana-Rantoul, IL  
Champaign County.  
1440—Chickadee, SC  
Berkeley County, Charleston County, Dorchester County.  
1480—Charleston, WV  
Kanawha County, Putnam County.

## PROPOSED RULES

## Area code and title

1520—Charlotte-Gastonia, NC  
Gaston County, Mecklenburg County, Union County.  
1560—Chattanooga, TN-GA  
Hamilton County, TN, Marion County, TN, Sequatchie County, TN, Catoosa County, GA, Dade County, GA, Walker County, GA.  
1600—Chicago, IL  
Cook County, Du Page County, Kane County, Lake County, McHenry County, Will County.  
1640—Cincinnati, OH-KY-IN  
Clermont County, OH, Hamilton County, OH, Warren County, OH, Boone County, KY, Campbell County, KY, Kenton County, KY, Dearborn County, IN.  
\*1660—Clarksville-Hopkinsville, TN-KY  
Montgomery County, TN, Christian County, KY.  
1680—Cleveland, OH  
Cuyahoga County, Geauga County, Lake County, Medina County.  
1720—Colorado Springs, CO  
El Paso County, Teller County.  
1740—Columbia, MO  
Boone County.  
1780—Columbia, SC  
Lexington County, Richland County.  
\*1800—Columbus, GA-AL  
Columbus, GA (cons. gov.), Chatahoochee County, GA, Russell County, AL.  
1840—Columbus, OH  
Delaware County, Fairfield County, Franklin County, Madison County, Pickaway County.  
1880—Corpus Christi, TX  
Nueces County, San Patricio County.  
1920—Dallas-Fort Worth, TX  
Collin County, Dallas County, Denton County, Ellis County, Hood County, Johnson County, Kaufman County, Parker County, Rockwall County, Tarrant County, Wise County.  
\*1930—Danbury, CT  
Fairfield County (part); Danbury city, Bethel town, Brookfield town, New Fairfield town, Newtown town, Redding town, Litchfield County (part); New Milford town.  
\*1960—Davenport-Rock Island-Moline, IA-IL  
Scott County, IA, Henry County, IL, Rock Island County, IL.  
2000—Dayton, OH  
Greene County, Miami County, Montgomery County, Preble County.  
2020—Daytona Beach, FL  
Volusia County.  
2040—Decatur, IL  
Macon County.  
2080—Denver-Boulder, CO  
Adams County, Arapahoe County, Boulder County, Denver County, Douglas County, Gilpin County, Jefferson County.  
2120—Des Moines, IA  
Polk County, Warren County.  
2160—Detroit, MI  
Lapeer County, Livingston County, Macomb County, Oakland County, St. Clair County, Wayne County.  
2200—Dubuque, IA  
Dubuque County.  
2240—Duluth-Superior, MN-WI  
St. Louis County, MN, Douglas County, WI.  
2280—(Deleted) See 6640.

## Area code and title

2320—El Paso, TX  
El Paso County.  
2335—Elmira, NY  
Chemung County.  
2360—Erie, PA  
Erie County.  
2400—Eugene-Springfield, OR  
Lane County.  
2440—Evansville, IN-KY  
Gibson County, IN, Posey County, IN, Vanderburgh County, IN, Warrick County, IN, Henderson County, KY.  
2480—Fall River, MA-RI  
Bristol County (part), MA, Fall River city, Dighton town, Somerset town, Swansea town, Westport town.  
Newport County (part), RI, Little Compton town, Portsmouth town, Tiverton town.  
2520—Fargo-Moorhead, ND-MN  
Cass County, ND, Clay County, MN.  
2560—Fayetteville, NC  
Cumberland County.  
2580—Fayetteville-Springdale, AR  
Benton County, Washington County.  
2600—Fitchburg-Leominster, MA  
Middlesex County (part), Shirley town, Townsend town.  
Worcester County (part), Fitchburg city, Leominster city, Lunenburg town, Westminster town.  
2640—Flint, MI  
Genesee County, Shiawassee County.  
2650—Florence, AL  
Colbert County, Lauderdale County.  
2680—Fort Lauderdale-Hollywood, FL  
Broward County.  
2700—Fort Myers, FL  
Lee County.  
2720—Fort Smith, AR-OK  
Crawford County, AR, Sebastian County, AR, Le Flore County, OK.  
2760—Fort Wayne, IN  
Adams County, Allen County, De Kalb County, Wells County.  
2800—(Deleted) See 1920.  
2840—Fresno, CA  
Fresno County.  
2880—Gadsden, AL  
Etowah County.  
2900—Gainesville, FL  
Alachua County.  
2920—Galveston-Texas City, TX  
Galveston County.  
2960—Gary-Hammond-East Chicago, IN  
Lake County, Porter County.  
2970—(Deleted) See 1520.  
3000—Grand Rapids, MI  
Kent County, Ottawa County.  
3040—Great Falls, MT  
Cascade County.  
3080—Green Bay, WI  
Brown County.  
3120—Greensboro - Winston - Salem - High Point, NC  
Davidson County, Forsyth County, Guilford County, Randolph County, Stokes County, Yadkin County.  
3160—Greenville-Spartanburg, SC  
Greenville County, Pickens County, Spartanburg County.  
3200—Hamilton-Middletown, OH  
Butler County.  
3240—Harrisburg, PA  
Cumberland County, Dauphin County, Perry County.



## PROPOSED RULES

## Area code and title

3280—Hartford, CT  
Hartford County (part); Hartford city, Avon town, Bloomfield town, Canton town, East Granby town, East Hartford town, Farmington town, Glastonbury town, Granby town, Manchester town, Marlborough town, Newington town, Rocky Hill town, Simsbury town, South Windsor town, Suffield town, West Hartford town, Wethersfield town, Windsor town, Windsor Locks town.  
Litchfield County (part); New Hartford town.  
Middlesex County (part); Cromwell town, East Hampton town, Portland town.  
New London County (part); Colchester town.  
Tolland County (part); Andover town, Bolton town, Columbia town, Coventry town, Ellington town, Hebron town, Stafford town, Tolland town, Vernon town, Willington town.  
3320—Honolulu, HI  
Honolulu County.  
3360—Houston, TX  
Brazoria County, Fort Bend County, Harris County, Liberty County, Montgomery County, Waller County.  
3400—Huntington-Ashland, WV-KY-OH  
Cabell County, WV; Wayne County, WV; Boyd County, KY; Greenup County, KY; Lawrence County, OH.  
3440—Huntsville, AL  
Limestone County, Madison County, Marshall County.  
3480—Indianapolis, IN  
Boone County, Hamilton County, Hancock County, Hendricks County, Johnson County, Marion County, Morgan County, Shelby County.  
3520—Jackson, MI  
Jackson County.  
3560—Jackson, MS  
Hinds County, Rankin County.  
3600—Jacksonville, FL  
Baker County, Clay County, Duval County, Nassau County, St. Johns County.  
3640—Jersey City, NJ  
Hudson County.  
3680—Johnstown, PA  
Cambria County, Somerset County.  
3720—Kalamazoo-Portage, MI  
Kalamazoo County, Van Buren County.  
3760—Kansas City, MO-KS  
Cass County, MO; Clay County, MO; Jackson County, MO; Platte County, MO; Ray County, MO; Johnson County, KS; Wyandotte County, KS.  
3800—Kenosha, WI  
Kenosha County.  
3810—Killeen-Temple, TX  
Bell County, Coryell County.  
3815—Kingsport-Bristol, TN-VA  
Hawkins County, TN; Sullivan County, TN; Bristol city, VA; Scott County, VA; Washington County, VA.  
3840—Knoxville, TN  
Anderson County, Blount County, Knox County, Union County.  
3870—La Crosse, WI  
La Crosse County.

## Area code and title

3880—Lafayette, LA  
Lafayette Parish.  
3920—Lafayette-West Lafayette, IN  
Tippecanoe County.  
3960—Lake Charles, LA  
Calcasieu Parish.  
3980—Lakeland-Winter Haven, FL  
Polk County.  
4000—Lancaster, PA  
Lancaster County.  
4040—Lansing-East Lansing, MI  
Clinton County, Eaton County, Ingham County, Ionia County.  
4080—Laredo, TX  
Webb County.  
4120—Las Vegas, NV  
Clark County.  
4160—Lawrence-Haverhill, MA-NH  
Essex County (part), MA; Lawrence city, Haverhill city, Amesbury town, Andover town, Georgetown town, Groveland town, Merrimac town, Methuen town, North Andover town, Salisbury town, West Newbury town.  
Rockingham County (part), NH; Atkinson town, Hampstead town, Kingston town, Newton town, Plaistow town, Salem town, Windham town.  
4200—Lawton, OK  
Comanche County.  
4240—Lewiston-Auburn, ME  
Androscoggin County (part); Auburn city, Lewiston city, Lisbon town.  
\*4280—Lexington-Fayette, KY  
Bourbon County, Clark County, Fayette County, Jessamine County, Scott County, Woodford County.  
4320—Lima, OH  
Allen County, Auglaize County, Putnam County, Van Wert County.  
4360—Lincoln, NE  
Lancaster County.  
4400—Little Rock-North Little Rock, AR  
Pulaski County, Saline County.  
4410—Long Branch-Asbury Park, NJ  
Monmouth County.  
4440—Lorain-Elyria, OH  
Lorain County.  
4480—Los Angeles-Long Beach, CA  
Los Angeles County.  
4520—Louisville, KY-IN  
Bullitt County, KY; Jefferson County, KY; Oldham County, KY; Clark County, IN; Floyd County, IN.  
4560—Lowell, MA-NH  
Middlesex County (part), MA; Lowell city, Billerica town, Chelmsford town, Dracut town, Tewksbury town, Tyngsborough town, Westford town.  
Hillsborough County (part), NH; Pelham town.  
4600—Lubbock, TX  
Lubbock County.  
4640—Lynchburg, VA  
Lynchburg city, Amherst County, Appomattox County, Campbell County.  
4680—Macon, GA  
Bibb County, Houston County, Jones County, Twiggs County.  
4720—Madison, WI  
Dane County.  
4760—Manchester, NH  
Hillsborough County (part); Manchester city, Bedford town, Goffstown town.  
Merrimack County (part); Allenstown town, Hooksett town, Pembroke town.  
Rockingham County (part); Derry town, Londonderry town.

## Area code and title

4800—Mansfield, OH  
Richland County.  
4840—Mayaguez, PR  
Añasco Municipio, Hormigueros Municipio, Mayaguez Municipio.  
4880—McAllen-Pharr-Edinburg, TX  
Hidalgo County.  
4900—Melbourne-Titusville-Cocoa, FL  
Brevard County.  
4920—Memphis, TN-AR-MS  
Shelby County, TN; Tipton County, TN; Crittenden County, AR; De Soto County, MS.  
4960—Meriden, CT  
New Haven County (part); Meriden city.  
5000—Miami, FL  
Dade County.  
5040—Midland, TX  
Midland County.  
5080—Milwaukee, WI  
Milwaukee County, Ozaukee County, Washington County, Waukesha County.  
5120—Minneapolis-St. Paul, MN-WI  
Anoka County, MN; Carver County, MN; Chisago County, MN; Dakota County, MN; Hennepin County, MN; Ramsey County, MN; Scott County, MN; Washington County, MN; Wright County, MN; St. Croix County, WI.  
5160—Mobile, AL  
Baldwin County, Mobile County.  
5170—Modesto, CA  
Stanislaus County.  
5200—Monroe, LA  
Ouachita Parish.  
5240—Montgomery, AL  
Autauga County, Elmore County, Montgomery County.  
5280—Muncie, IN  
Delaware County.  
5320—Muskegon-Muskegon Heights, MI  
Muskegon County, Oceana County.  
5350—Nashua, NH  
Hillsborough County (part); Nashua city, Amherst town, Hudson town, Merrimack town, Milford town.  
5360—Nashville-Davidson, TN  
Cheatham County, Davidson County, Dickson County, Robertson County, Rutherford County, Sumner County, Williamson County, Wilson County.  
5380—Nassau-Suffolk, NY  
Nassau County, Suffolk County.  
5400—New Bedford, MA  
Bristol County (part); New Bedford city, Acushnet town, Dartmouth town, Fairhaven town, Freetown town.  
Plymouth County (part); Lakeville town, Marion town, Mattapoisett town.  
5440—New Britain, CT  
Hartford County (part); New Britain city, Berlin town, Plainville town, Southington town.  
5460—New Brunswick-Perth Amboy-Sayreville, NJ  
Middlesex County.  
5480—New Haven-West Haven, CT  
Middlesex County (part); Clinton town, Killingworth town.  
New Haven County (part); New Haven city, West Haven city, Bethany town, Branford town, East Haven town, Guilford town, Hamden town, Madison County, North Branford town, North Haven town, Orange town, Wallingford town, Woodbridge town.

## Area code and title

5520—New London-Norwich, CT-RI  
Middlesex County (part), CT; Old Saybrook town.  
New London County (part), CT; New London city, Norwich city, Bozrah town, East Lyme town, Griswold town, Groton town, Ledyard town, Lisbon town, Montville town, Old Lyme town, Preston town, Sprague town, Stonington town, Waterford town.  
Washington County (part), RI; Hopkinton town, Westerly town.  
5560—New Orleans, LA  
Jefferson Parish, Orleans Parish, St. Bernard Parish, St. Tammany Parish.  
5600—New York, NY-NJ  
Bronx County, NY; Kings County, NY; New York County, NY; Putnam County, NY; Queens County, NY; Richmond County, NY; Rockland County, NY; Westchester County, NY; Bergen County, NJ.  
5640—Newark, NJ  
Essex County, Morris County, Somerset County, Union County.  
5680—Newport News-Hampton, VA  
Hampton city, Newport News city, Williamsburg city, Gloucester County, James City County, York County.  
\*5720—Norfolk-Virginia Beach-Portsmouth, VA-NC  
Chesapeake city, VA, Norfolk city, VA, Portsmouth city, VA, Suffolk city, VA, Virginia Beach city, VA, Currituck County, NC.  
5745—Northeast Pennsylvania  
Lackawanna County, Luzerne County, Monroe County.  
5760—Norwalk, CT  
Fairfield County (part); Norwalk city, Weston town, Westport town, Wilton town.  
5800—Odessa, TX  
Ector County.  
5840—(Deleted) See 7160  
5880—Oklahoma City, OK  
Canadian County, Cleveland County, McClain County, Oklahoma County, Pottawatomie County.  
5920—Omaha, NE-IA  
Douglas County, NE, Sarpy County, NE, Pottawattamie County, IA.  
5960—Orlando, FL  
Orange County, Osceola County, Seminole County.  
5990—Owensboro, KY  
Davies County.  
6000—Oxnard-Simi Valley-Ventura, CA  
Ventura County.  
6020—Parkersburg-Marietta, WV-OH  
Wirt County, WV, Wood County, WV, Washington County, OH.  
6040—Paterson-Clifton-Passaic, NJ  
Passaic County.  
6080—Pensacola, FL  
Escambia County, Santa Rosa County.  
6120—Peoria, IL  
Peoria County, Tazewell County, Woodford County.  
6140—Petersburg-Colonial Heights-Hopewell, VA  
Colonial Heights city, Hopewell city, Petersburg city, Dinwiddie County, Prince George County.  
6160—Philadelphia, PA-NJ  
Bucks County, PA, Chester County, PA, Delaware County, PA, Montgomery County, PA, Philadelphia County, PA, Burlington County, NJ, Camden County, NJ, Gloucester County, NJ.

## PROPOSED RULES

## Area code and title

6200—Phoenix, AZ  
Maricopa County.  
6240—Pine Bluff, AR  
Jefferson County.  
6280—Pittsburgh, PA  
Allegheny County, Beaver County, Washington County, Westmoreland County.  
6320—Pittsfield, MA  
Berkshire County (part); Pittsfield city, Adams town, Cheshire town, Dalton town, Lanesborough town, Lee town, Lenox town, Stockbridge town.  
6360—Ponce, PE  
Juana Diaz Municipio, Ponce Municipio, Villalba Municipio.  
6400—Portland, ME  
Cumberland County (part); Portland city, South Portland city, Westbrook city, Cape Elizabeth town, Cumberland town, Falmouth town, Freeport town, Gorham town, Scarborough town, Windham town, Yarmouth town.  
York County (part); Saco city, Old Orchard Beach town.  
6440—Portland, OR-WA  
Clackamas County, OR; Multnomah County, OR; Washington County, OR; Clark County, WA.  
6460—Poughkeepsie, NY  
Dutchess County.  
6480—Providence-Warwick-Pawtucket, RI-MA  
Bristol County, RI; Barrington town, Bristol town, Warren town, Kent County (part), RI; Warwick city, Coventry town, East Greenwich town, West Warwick town, Newport County (part), RI; Jamestown town.  
Providence County (part), RI; Central Falls city, Cranston city, East Providence city, Pawtucket city, Providence city, Woonsocket city, Burrillville town, Cumberland town, Johnston town, Lincoln town, North Providence town, North Smithfield town, Scituate town, Smithfield town, Washington County (part), RI; Narragansett town, North Kingstown town, South Kingstown town.  
Bristol County (part), MA; Attleboro city, North Attleborough town, Norton town, Rehoboth town, Seekonk town.  
Norfolk County (part), MA; Plainville town.  
Worcester County (part), MA; Blackstone town, Millville town.  
6520—Provo-Orem, UT  
Utah County.  
6560—Pueblo, CO  
Pueblo County.  
6600—Racine, WI  
Racine County.  
6640—Raleigh-Durham, NC  
Durham County, Orange County, Wake County.  
6680—Reading, PA  
Berks County.  
6720—Reno, NV  
Washoe County.  
6740—Richland-Kennebec, WA  
Benton County, Franklin County.  
6760—Richmond, VA  
Richmond city, Charles City County, Chesterfield County, Goochland County, Hanover County, Henrico County, Powhatan County.

## Area code and title

6780—Riverside-San Bernardino, Ontario, CA  
Riverside County, San Bernardino County.  
6800—Roanoke, VA  
Roanoke city, Salem city, Botetourt County, Craig County, Roanoke County.  
6820—Rochester, MN  
Olmstead County.  
6840—Rochester, NY  
Livingston County, Monroe County, Ontario County, Orleans County, Wayne County.  
6880—Rockford, IL  
Boone County, Winnebago County.  
6920—Sacramento, CA  
Placer County, Sacramento County, Yolo County.  
6960—Saginaw, MI  
Saginaw County.  
6980—St. Cloud, MN  
Benton County, Sherburne County, Stearns County.  
7000—St. Joseph, MO  
Andrew County, Buchanan County.  
7040—St. Louis, MO-IL  
St. Louis city, MO, Franklin County, MO, Jefferson County, MO, St. Charles County, MO, St. Louis County, MO, Clinton County, IL, Madison County, IL, Monroe County, IL, St. Clair County, IL.  
7080—Salem, OR  
Marion County, Polk County.  
7120—Salinas-Seaside-Monterey, CA  
Monterey County.  
7160—Salt Lake City-Ogden, UT  
Davis County, Salt Lake County, Tooele County, Weber County.  
7200—San Angelo, TX  
Tom Green County.  
7240—San Antonio, TX  
Bexar County, Comal County, Guadalupe County.  
7320—San Diego, CA  
San Diego County.  
7360—San Francisco-Oakland, CA  
Alameda County, Contra Costa County, Marin County, San Francisco County, San Mateo County.  
7400—San Jose, CA  
Santa Clara County.  
7440—San Juan, PR  
Bayamon Municipio, Canóvanas Municipio, Carolina Municipio, Cataño Municipio, Guaynabo Municipio, Loíza Municipio, San Juan Municipio, Toa Baja Municipio, Trujillo Alto Municipio.  
7480—Santa Barbara-Santa Maria-Lompoc, CA  
Santa Barbara County.  
7485—Santa Cruz, CA  
Santa Cruz County.  
7500—Santa Rosa, CA  
Sonoma County.  
7510—Sarasota, FL  
Sarasota County.  
7520—Savannah, GA  
Bryan County, Chatham County, Effingham County.  
7560—(Deleted) See 5745  
7600—Seattle-Everett, WA  
King County, Snohomish County.  
7640—Sherman-Denison, TX  
Grayson County.  
7680—Shreveport, LA  
Bossier Parish, Caddo Parish, Webster Parish.  
7720—Sioux City, IA-NE  
Woodbury County, IA, Dakota County, NE.  
7760—Sioux Falls, SD  
Minnehaha County.

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## PROPOSED RULES

## Area code and title

7800—South Bend, IN  
Marshall County, St. Joseph  
County.  
7820—(Deleted) See 3100  
7840—Spokane, WA  
Spokane County.  
7880—Springfield, IL  
Menard County, Sangamon County.  
7920—Springfield, MO  
Christian County, Greene County.  
7960—Springfield, OH  
Champaign County, Clark County.  
8000—Springfield-Chicopee-Holyoke, MA—  
CT  
Hampden County (part), MA;  
Chicopee city, Holyoke city,  
Springfield city, Westfield city,  
Agawam town, East Longmeadow  
town, Hampden town, Long-  
meadow town, Ludlow town,  
Monson town, Palmer town,  
Southwick town, West Spring-  
field town, Wilbraham town,  
Hampshire County (part), MA;  
Northampton city, Belchertown  
town, Easthampton town, Gran-  
by town, Hadley town, Hatfield  
town, South Hadley town, South-  
ampton town.  
Worcester County (part), MA;  
Warren town.  
Tolland County (part), CT; Somers  
town.  
8040—Stamford, CT  
Fairfield County (part); Stamford  
city, Darien town, Greenwich  
town, New Canaan town.  
8080—Steubenville-Weirton, OH-WV  
Jefferson County, OH, Brooke Coun-  
ty, WV, Hancock County, WV  
8120—Stockton, CA  
San Joaquin County.  
8160—Syracuse, NY  
Madison County, Onondaga Coun-  
ty, Oswego County.  
8200—Tacoma, WA  
Pierce County.  
8240—Tallahassee, FL  
Leon County, Wakulla County.

## Area code and title

8280—Tampa-St. Petersburg, FL  
Hillsborough County, Pasco Coun-  
ty, Pinellas County.  
8320—Terre Haute, IN  
Clay County, Sullivan County, Ver-  
million County, Vigo County.  
8360—Texarkana, TX-Texarkana, AR  
Bowie County, TX, Little River  
County, AR, Miller County, AR.  
8400—Toledo, OH-MI  
Fulton County, OH, Lucas County,  
OH, Ottawa County, OH, Wood  
County, OH, Monroe County, MI.  
8440—Topeka, KS  
Jefferson County, Osage County,  
Shawnee County.  
8480—Trenton, NJ  
Mercer County.  
8520—Tucson, AZ  
Pima County.  
8560—Tulsa, OK  
Creek County, Mayes County, Osage  
County, Rogers County, Tulsa  
County, Wagoner County.  
8600—Tuscaloosa, AL  
Tuscaloosa County.  
8640—Tyler, TX  
Smith County.  
8680—Utica-Rome, NY  
Herkimer County, Oneida County.  
8720—Vallejo-Fairfield-Napa, CA  
Napa County, Solano County.  
\*8760—Vineland-Millville-Bridgeton, NJ  
Cumberland County.  
8800—Waco, TX  
McLennan County.  
\*8840—Washington, DC-MD-VA  
District of Columbia, Charles Coun-  
ty, MD, Montgomery County, MD,  
Prince Georges County, MD, Alex-  
andria city, VA, Fairfax city, VA,  
Falls Church city, VA, Arlington  
County, VA, Fairfax County, VA,  
Loudoun County, VA, Prince Wil-  
liam County, VA.  
8880—Waterbury, CT  
Litchfield County (part); Thomas-  
ton town, Watertown town,  
Woodbury town.

## Area code and title

8880—Waterbury, CT—Continued  
New Haven County (part); Water-  
bury city, Naugatuck borough,  
Beacon Falls town, Cheshire  
town, Middlebury town, Prospect  
town, Southbury town, Wolcott  
town.  
8920—Waterloo-Cedar Falls, IA  
Black Hawk County.  
8960—West Palm Beach-Boca Raton, FL  
Palm Beach County.  
9000—Wheeling, WV-OH  
Marshall County, WV, Ohio County,  
WV, Belmont County, OH.  
9040—Wichita, KS  
Butler County, Sedgwick County.  
9080—Wichita Falls, TX  
Clay County, Wichita County.  
9120—(Deleted) See 5745  
9140—Williamsport, PA  
Lycoming County.  
9160—Wilmington, DE-NJ-MD  
New Castle County, DE, Salem  
County, NJ, Cecil County, MD.  
9200—Wilmington, NC  
Brunswick County, New Hanover  
County.  
9240—Worcester, MA  
Worcester County (part); Worcester  
city, Auburn town, Berlin town,  
Boylston town, Brookfield town,  
Charlton town, East Brookfield  
town, Grafton town, Holden town,  
Leicester town, Millbury town,  
Northborough town, Northbridge  
town, North Brookfield town, Ox-  
ford town, Paxton town, Shrews-  
bury town, Spencer town, Sterling  
town, Sutton town, Upton town,  
Uxbridge town, Webster town,  
Westborough town, West Boylston  
town.  
9260—Yakima, WA  
Yakima County.  
9280—York, PA  
Adams County, York County.  
9320—Youngstown-Warren, OH  
Mahoning County, Trumbull Coun-  
ty.  
[FR Doc. 75-12862 Filed 5-19-75; 8:45 am]

## federal register

TUESDAY, MAY 20, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 98

PART III

DEPARTMENT OF  
TRANSPORTATIONFederal Aviation  
AdministrationAIRWORTHINESS  
REVIEW PROGRAMProposed Type Certification Standards;  
Equipment Deviation ListV  
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DEPARTMENT OF  
TRANSPORTATION

Federal Aviation Administration

[ 14 CFR Parts 1, 23, 25, 27, 29, 43, 91,  
135 ]

[ Docket No. 14607; Notice No. 75-20 ]

## AIRWORTHINESS REVIEW PROGRAM

Proposed Type Certification Standards; Notice  
Number 4; Equipment Deviation List

The Federal Aviation Administration is considering amending (1) Parts 1, 23, 25, 27, and 29 of the Federal Aviation Regulations to provide for the type certification of aircraft with "Equipment Deviation Lists" containing conditions and limitations for the operation of aircraft with missing and inoperable equipment and to provide standards for the development of such lists; (2) Part 43 with respect to the approval for return to service of aircraft having such a list; and (3) Part 91 with respect to the operation of such aircraft. It is also proposed that § 135.143(b) be revised to more clearly indicate the circumstances under which equipment required by Part 135 must be in an operable condition.

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments relating to any significant environmental or economic impact that might result because of the adoption of the proposals contained herein may also be submitted. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. All communications received on or before August 18, 1975, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This notice is the fourth issued as a part of the First Biennial Airworthiness Review Program. The proposals contained herein are based on the FAA's evaluation of the discussions relating to the following proposals in the Procedures and Special Issues Committee (Committee I) at the Airworthiness Review Conference, held in Washington, D.C. from December 2 through 11, 1974:

Proposal No.	FAA sections	Proposed	Agenda Items
713	23.1583	FAA	H-14
831	25.1583	Do.	Do.
884	27.1583	Do.	Do.
971	29.1583	Do.	Do.
1004	43.13	Do.	Do.
1009	91.29	Do.	Do.
1010	91.31	Do.	Do.
1011	91.33	Do.	Do.
1016	91.34	Do.	Do.
477	Part 91	GAMA <sup>1</sup>	H-15
490	91.33	GMC <sup>2</sup>	Do.
480	91.33	North American <sup>3</sup>	Do.
550	135.143	ALPA <sup>4</sup>	Do.

<sup>1</sup> General Aviation Manufacturers Association.  
<sup>2</sup> General Motors Corp.  
<sup>3</sup> North American Rockwell Corp.  
<sup>4</sup> Air Line Pilots Association.

Modern aircraft are being operated with increasing amounts of installed equipment. Much of that equipment is required for certain kinds of operation (such as VFR day or IFR) or for certain types of operating conditions (such as operations in icing conditions). Other equipment may be installed in the aircraft for the convenience of the operator. For whatever purpose installed, the aircraft must, with the installed equipment, continue to meet the regulatory standards under which it was type certificated, and the equipment, itself, must meet the applicable requirements in those standards.

In that connection, § 21.181(a) (1) provides, in pertinent part, that a standard airworthiness certificate for an aircraft is effective as long as the maintenance, preventive maintenance, and alterations are performed in accordance with Parts 43 and 91, and § 91.27(a) prohibits aircraft operations unless the aircraft has a current airworthiness certificate. Section 91.165 provides that aircraft must be regularly inspected and that between those inspections defects must be repaired in accordance with Part 43. Under § 43.13, the person maintaining an aircraft must ensure that the aircraft is at least equal to its original or properly altered condition after its having undergone maintenance.

Those provisions in conjunction with the aircraft type certificate act to prohibit the operation of an aircraft with certain equipment deviations (installed inoperable equipment or equipment required for an aircraft operating condition or kind of operation, under the aircraft's type certificate, that is not installed in the aircraft). Therefore, even though an item of equipment may have been installed purely for the convenience of the operator, aircraft operations with that item of installed equipment inoperable might be prohibited. In some circumstances that prohibition would be appropriate, such as where a pilot might rely on an inoperable item of equipment. However, in such circumstances the aircraft could be safely operated if the equipment were to be removed.

With respect to equipment required for a particular kind of operation or operating condition, the absence of

operable items of such equipment in the aircraft should not result in a prohibition against aircraft operations in which the equipment is not needed provided that the pilot is aware of the status of the equipment and appropriate operating conditions and limitations are available to the pilot to indicate the procedures that must be followed for the safe operation of the aircraft.

In order to make it clear to the pilot that, in general, aircraft operation with equipment deviations is prohibited, it is proposed that an operating limitation containing such a prohibition be presented as provided under the applicable type certification requirements (Parts 23, 25, 27, and 29). However, to provide for those circumstances in which safe operations could be conducted with equipment deviations, the type certification requirements would be amended to provide for the development of an "Equipment Deviation List". That list would contain the information needed by a pilot to safely operate the aircraft with equipment deviations. The term "equipment deviations" would be defined in Part 1. Comments are specifically requested with respect to the appropriateness of the term "Equipment Deviation List" as well as any terms that might be more appropriate.

It should be noted that the type certification standards, if revised as proposed, could be utilized to obtain an "Equipment Deviation List" for aircraft already type certificated by amendment to their type certificates or by obtaining supplemental type certificates.

Consistent with the proposed revisions to Parts 1, 23, 25, 27, and 29, Part 43 would be revised to provide for the approval of aircraft with equipment deviations for return to service, and § 91.165 would be revised to provide for aircraft operations, with equipment deviations as provided for in the "Equipment Deviation List." However, the amendments proposed herein would not relieve an operator from compliance with the equipment requirements of any applicable operating rule.

It is also proposed that § 135.143(b) be revised to make it clear that the additional equipment and instruments required by Part 135 for particular operating conditions or kinds of operation must be in an operable condition only for those operating conditions or kinds of operation for which those items of equipment and instruments are required. With respect to equipment required by Part 135 for all operating conditions and kinds of operation, the proposed revision of § 135.143(b) would have no effect.

Finally, in order to avoid unnecessary repetition, a short-form proposal is used in this notice where substantively identical proposals are being made for each of the aircraft certification parts (Parts 23, 25, 27, and 29). In each such case the short-form proposal refers to a Part 23 proposal. The proposals for Part 23 are

set forth herein in their entirety. If these proposals are adopted, however, the word "airplane" as used in the Part 23 proposals would be changed to "rotorcraft" for the Part 27 and 29 proposals. In addition, comments are specifically requested with respect to the appropriateness of the information contained in proposed § 23.1591(d) for rotorcraft.

(Secs. 313(a), 601, 603, 604, 605, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, 1424, 1425); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

In consideration of the foregoing, it is proposed to amend Parts 1, 23, 25, 27, 29, 43, 91, and 135 of the Federal Aviation Regulations as follows:

PART 1—DEFINITIONS AND  
ABBREVIATIONS

4-1. By inserting between the definitions of "Decision height" and "Equivalent airspeed" in § 1.1 the following definition:

## § 1.1 General definitions.

"Equipment deviation", as used with respect to an "Equipment Deviation List", means an item of inoperable equipment that is installed in an aircraft or an item of equipment required for any aircraft operating condition or kind of operation, under the aircraft's type certificate, that is not installed in the aircraft.

PART 23—AIRWORTHINESS STANDARDS:  
NORMAL, UTILITY, AND ACROBATIC  
CATEGORY AIRPLANES

4-2. By adding a new § 23.1583(m) to read as follows:

## § 23.1583 Operating limitations.

## (m) Equipment.

(1) Except as provided in paragraph (m) (2) of this section, an operating limitation must be established that indicates that airplane operation with inoperable items of installed equipment or with items of equipment required under the airplane's type certificate not installed is prohibited.

(2) For airplanes having an "Equipment Deviation List", an operating limitation must be established that indicates that airplane operation with an equipment deviation is prohibited unless those operations are conducted in accordance with the operating conditions and limitations contained in the "Equipment Deviation List."

4-3. By adding a new § 23.1591 to read as follows:

## § 23.1591 "Equipment Deviation List."

(a) An "Equipment Deviation List" may be provided if it—

(1) Contains the information specified in paragraph (b) of this section;

(2) Is approved under paragraph (c) of this section; and

(3) Is presented in accordance with paragraph (e) of this section.

(b) The list must contain—

(1) The equipment deviations and combinations of equipment deviations permitted during an airplane operation;

(2) The airplane operating conditions under which safe operation is possible with each listed equipment deviation;

(3) The additional operating limitations that are necessary for operating the airplane with each listed equipment deviation; and

(4) A statement that indicates that the operating rules of this chapter include provisions that require that specific equipment be installed and be in an operable condition and that irrespective of the "Equipment Deviation List", those provisions apply according to their terms.

(c) If the Administrator finds that the level of safety for an aircraft operating with each listed equipment deviation under the applicable operating conditions and limitations prescribed in accordance with paragraph (b) of this section, is equivalent to that established in the airworthiness standards applicable to the type certification of the aircraft, the list is approved.

(d) For purposes of this section the term "operating conditions" includes the following:

(1) Operations under VFR day, VFR night, and IFR conditions.

(2) Operations in icing conditions.

(3) Operations at altitudes at which oxygen and cabin pressurization are not necessary.

(4) Operations in a cargo-only configuration with respect to passenger compartment emergency evacuation equipment.

(5) Operations over land only with respect to ditching equipment.

(6) Operations in positive controlled airspace.

(e) An "Equipment Deviation List" may be included in a separate manual or be presented in a manner specified in § 23.1581.

PART 25—AIRWORTHINESS STANDARDS:  
TRANSPORT CATEGORY AIRPLANES

§§ 25.1583, 25.1591 [Amended]

4-4. By adding a new § 25.1583(d) that would be substantively identical to the proposed new § 23.1583(m).

4-5. By adding new § 25.1591 that would be substantively identical to the proposed new § 23.1591.

PART 27—AIRWORTHINESS STANDARDS:  
NORMAL CATEGORY ROTORCRAFT

§ 27.1583, 27.1591 [Amended]

4-6. By adding a new § 27.1583(g) that would be substantively identical to the proposed new § 23.1583(m).

4-7. By adding a new § 27.1591 that would be substantively identical to the proposed new § 23.1591.

PART 29—AIRWORTHINESS STANDARDS:  
TRANSPORT CATEGORY ROTORCRAFT

§§ 29.1583, 29.1591 [Amended]

4-8. By adding a new § 29.1583(h) that would be substantively identical to the proposed new § 23.1583(m).

4-9. By adding a new § 29.1591 that would be substantively identical to the proposed new § 23.1591.

PART 43—MAINTENANCE, PREVENTIVE  
MAINTENANCE, REBUILDING, AND AL-  
TERATION

4-9. By adding a new § 43.9(d) to read as follows:

§ 43.9 Content, form and disposition of maintenance, rebuilding and alteration records (except 100-hour, annual, and progressive inspections).

(d) Each person approving for return to service an aircraft with equipment deviations in accordance with this section must include in the required maintenance record entry a description of each such equipment deviation if the aircraft has an "Equipment Deviation List" which provides for the operation of the aircraft with such equipment deviations.

4-11. By adding a new § 43.11(c) to read as follows:

§ 43.11 Content, form, and disposition of annual, 100-hour, and progressive inspection records.

(c) Each person approving for return to service an aircraft with equipment deviations in accordance with this section must include in the required maintenance record entry a description of each such equipment deviation if the aircraft has an "Equipment Deviation List" which provides for the operation of the aircraft with such equipment deviations.

PART 91—GENERAL OPERATING AND  
FLIGHT RULES

§ 91.31 [Amended]

4-12. By inserting the phrase "Equipment Deviation List" in quotes between the words "Flight Manual" and "approved manual" in the lead-in of § 91.31(b).

4-13. By redesignating present § 91.165 as § 91.165(a), and by adding a new § 91.165(b) to read as follows:

§ 91.165 Maintenance required.

(b) For an aircraft having an "Equipment Deviation List," the term "defect" as used in paragraph (a) of this section does not include an equipment deviation if—

(1) The "Equipment Deviation List" of the aircraft provides for the operation of the aircraft with that equipment deviation; and



## PROPOSED RULES

(2) That equipment deviation is described in the aircraft's maintenance records.

**PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS OF SMALL AIRCRAFT**

4-14. By revising § 135.143(b) to read as follows:

**§ 135.143 General requirements.**

(b) No person may operate an aircraft in operations to which this part applies, unless the instruments and equipment required by this part for the operation being conducted have been approved and are in an operable condition.

Issued in Washington, D.C. on May 13, 1975.

J. A. FERRARESE,  
Acting Director,  
Flight Standards Service.

[FR Doc. 75-13075 Filed 5-19-75; 8:45 am]

# federal register

TUESDAY, MAY 20, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 98

**PART IV**



## DEPARTMENT OF JUSTICE

### CRIMINAL JUSTICE INFORMATION SYSTEMS

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**Title 28—Judicial Administration**  
**CHAPTER I—DEPARTMENT OF JUSTICE**

[Order No. 601-75]

**PART 20—CRIMINAL JUSTICE**  
**INFORMATION SYSTEMS**

This order establishes regulations governing the dissemination of criminal record and criminal history information and includes a commentary on selective sections as an appendix. Its purpose is to afford greater protection of the privacy of individuals who may be included in the records of the Federal Bureau of Investigation, criminal justice agencies receiving funds directly or indirectly from the Law Enforcement Assistance Administration, and interstate, state or local criminal justice agencies exchanging records with the FBI or these federally-funded systems. At the same time, these regulations preserve legitimate law enforcement need for access to such records.

Pursuant to the authority vested in the Attorney General by 28 U.S.C. 509, 510, 534, and Pub. L. 92-544, 86 Stat. 1115, and 5 U.S.C. 301 and the authority vested in the Law Enforcement Assistance Administration by sections 501 and 524 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Crime Control Act of 1973, Pub. L. 93-83, 87 Stat. 197 (42 U.S.C. § 3701 et seq. (Aug. 6, 1973)), this addition to Chapter I of Title 28 of the Code of Federal Regulations is issued as Part 20 by the Department of Justice to become effective June 19, 1975.

This addition is based on a notice of proposed rule making published in the Federal Register on February 14, 1974 (39 FR 5636). Hearings on the proposed regulations were held in Washington, D.C. in March and April and in San Francisco, California in May 1974. Approximately one hundred agencies, organizations and individuals submitted their suggestions and comments, either orally or in writing. Numerous changes have been made in the regulations as a result of the comments received.

**Subpart A—General Provisions**

Sec.	Purpose.
20.1	Authority.
20.2	Definitions.
20.3	
<b>Subpart B—State and Local Criminal History Record Information Systems</b>	
20.20	Applicability.
20.21	Preparation and submission of a Criminal History Record Information Plan.
20.22	Certification of Compliance.
20.23	Documentation: Approval by LEAA.
20.24	State laws on privacy and security.
20.25	Penalties.
20.26	References.
<b>Subpart C—Federal System and Interstate Exchange of Criminal History Record Information</b>	
20.30	Applicability.
20.31	Responsibilities.
20.32	Includable offenses.
20.33	Dissemination of criminal history record information.
20.34	Individual's right to access criminal history record information.

Sec.	National Crime Information Center Advisory Policy Board.
20.35	Participation in the Computerized Criminal History Program.
20.36	Responsibility for accuracy, completeness, currency.
20.37	Sanction for noncompliance.

Authority: Pub. L. 93-83, 87 Stat. 197, (42 U.S.C. 3701, et seq.; 28 U.S.C. 534), Pub. L. 92-544, 86 Stat. 1115.

**Subpart A—General Provisions**

**§ 20.1 Purpose.**

It is the purpose of these regulations to assure that criminal history record information wherever it appears is collected, stored, and disseminated in a manner to ensure the completeness, integrity, accuracy and security of such information and to protect individual privacy.

**§ 20.2 Authority.**

These regulations are issued pursuant to sections 501 and 524(b) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Crime Control Act of 1973, Pub. L. 93-83, 87 Stat. 197, 42 U.S.C. 3701, et seq. (Act), 28 U.S.C. 534, and Pub. L. 92-544, 86 Stat. 1115.

**§ 20.3 Definitions.**

As used in these regulations:

(a) "Criminal history record information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation or dissemination of criminal history record information.

(b) "Criminal history record information" means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision, and release. The term does not include identification information such as fingerprint records to the extent that such information does not indicate involvement of the individual in the criminal justice system.

(c) "Criminal justice agency" means: (1) courts; (2) a government agency or any subunit thereof which performs the administration of criminal justice pursuant to a statute or executive order, and which allocates a substantial part of its annual budget to the administration of criminal justice.

(d) The "administration of criminal justice" means performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information.

(e) "Disposition" means information disclosing that criminal proceedings have been concluded, including information

disclosing that the police have elected not to refer a matter to a prosecutor or that a prosecutor has elected not to commence criminal proceedings and also disclosing the nature of the termination in the proceedings; or information disclosing that proceedings have been indefinitely postponed and also disclosing the reason for such postponement. Dispositions shall include, but not be limited to, acquittal, acquittal by reason of insanity, acquittal by reason of mental incompetence, case continued without finding, charge dismissed, charge dismissed due to insanity, charge dismissed due to mental incompetency, charge still pending due to insanity, charge still pending due to mental incompetency, guilty plea, nolle prosequi, no paper, nolo contendere plea, convicted, youthful offender determination, deceased, deferred disposition, dismissed—civil action, found insane, found mentally incompetent, pardoned, probation before conviction, sentence commuted, adjudication withheld, mistrial—defendant discharged, executive clemency, placed on probation, paroled, or released from correctional supervision.

(f) "Statute" means an Act of Congress or State legislature of a provision of the Constitution of the United States or of a State.

(g) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(h) An "executive order" means an order of the President of the United States or the Chief Executive of a State which has the force of law and which is published in a manner permitting regular public access thereto.

(i) "Act" means the Omnibus Crime Control and Safe Streets Act, 42 U.S.C. 3701 et seq. as amended.

(j) "Department of Justice criminal history record information system" means the Identification Division and the Computerized Criminal History File systems operated by the Federal Bureau of Investigation.

**Subpart B—State and Local Criminal History Record Information Systems**

**§ 20.20 Applicability.**

(a) The regulations in this subpart apply to all State and local agencies and individuals collecting, storing, or disseminating criminal history record information processed by manual or automated operations where such collection, storage, or dissemination has been funded in whole or in part with funds made available by the Law Enforcement Assistance Administration subsequent to July 1, 1973, pursuant to Title I of the Act.

(b) The regulations in this subpart shall not apply to criminal history record information contained in: (1) posters, announcements, or lists for identifying or apprehending fugitives or wanted persons; (2) original records of entry such as police blotters maintained by criminal justice agencies, compiled chronologically and required by law or

long standing custom to be made public, if such records are organized on a chronological basis; (3) court records of public judicial proceedings compiled chronologically; (4) published court opinions or public judicial proceedings; (5) records of traffic offenses maintained by State departments of transportation, motor vehicles or the equivalent thereof for the purpose of regulating the issuance, suspension, revocation, or renewal of driver's, pilot's or other operators' licenses; (6) announcements of executive clemency.

(c) Nothing in these regulations prevents a criminal justice agency from disclosing to the public factual information concerning the status of an investigation, the apprehension, arrest, release, or prosecution of an individual, the adjudication of charges, or the correctional status of an individual, which is reasonably contemporaneous with the event to which the information relates. Nor is a criminal justice agency prohibited from confirming prior criminal history record information to members of the news media or any other person, upon specific inquiry as to whether a named individual was arrested, detained, indicted, or whether an information or other formal charge was filed, on a specified date, if the arrest record information or criminal record information disclosed is based on data excluded by paragraph (b) of this section.

**§ 20.21 Preparation and submission of a Criminal History Record Information Plan.**

A plan shall be submitted to LEAA by each State within 180 days of the promulgation of these regulations. The plan shall set forth operational procedures to:

(a) **Completeness and accuracy.** Insure that criminal history record information is complete and accurate.

(1) Complete records should be maintained at a central State repository. To be complete, a record maintained at a central State repository which contains information that an individual has been arrested, and which is available for dissemination, must contain information of any dispositions occurring within the State within 90 days after the disposition has occurred. The above shall apply to all arrests occurring subsequent to the effective date of these regulations.

(2) Procedures shall be established for criminal justice agencies to query the central repository prior to dissemination of any criminal history record information to assure that the most up-to-date disposition data is being used. Inquiries of a central State repository shall be made prior to any dissemination except in those cases where time is of the essence and the repository is technically incapable of responding within the necessary time period. (3) To be accurate means that no record containing criminal history record information shall contain erroneous information. To accomplish this end, criminal justice agencies shall institute a process of data collection, entry, storage, and systematic

audit that will minimize the possibility of recording and storing inaccurate information and upon finding inaccurate information of a material nature, shall notify all criminal justice agencies known to have received such information.

(b) **Limitations on dissemination.** Insure that dissemination of criminal history record information has been limited, whether directly or through any intermediary only to:

(1) Criminal justice agencies, for purposes of the administration of criminal justice and criminal justice agency employment;

(2) Such other individuals and agencies which require criminal history record information to implement a statute or executive order that expressly refers to criminal conduct and contains requirements and/or exclusions expressly based upon such conduct;

(3) Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement. The agreement shall specifically authorize access to data, limit the use of data to purposes for which given, insure the security and confidentiality of the data consistent with these regulations, and provide sanctions for violation thereof;

(4) Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency. The agreement shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, insure the confidentiality and security of the data consistent with these regulations and with section 524(a) of the Act and any regulations implementing section 524(a), and provide sanctions for the violation thereof;

(5) Agencies of State or federal government which are authorized by statute or executive order to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information; and

(6) Individuals and agencies where authorized by court order or court rule.

(c) **General policies on use and dissemination.** Insure adherence to the following restrictions:

(1) Criminal history record information concerning the arrest of an individual may not be disseminated to a non-criminal justice agency or individual (except under § 20.21(b) (3), (4), (5), (6)) if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

(2) Use of criminal history record information disseminated to non-criminal justice agencies under these regulations shall be limited to the purposes for which it was given and may not be disseminated further.

(3) No agency or individual shall confirm the existence or non-existence of criminal history record information for

employment or licensing checks except as provided in paragraphs (b) (1), (b) (2), and (b) (5) of this section.

(4) This paragraph sets outer limits of dissemination. It does not, however, mandate dissemination of criminal history record information to any agency or individual.

(d) **Juvenile records.** Insure that dissemination of records concerning proceedings relating to the adjudication of a juvenile as delinquent or in need of supervision (or the equivalent) to non-criminal justice agencies is prohibited, unless a statute or Federal executive order specifically authorizes dissemination of juvenile records, except to the same extent as criminal history records may be disseminated as provided in § 20.21 (b) (3), (4), and (6).

(e) **Audit.** Insure that annual audits of a representative sample of State and local criminal justice agencies chosen on a random basis shall be conducted by the State to verify adherence to these regulations and that appropriate records shall be retained to facilitate such audits. Such records shall include, but are not limited to, the names of all persons or agencies to whom information is disseminated and the date upon which such information is disseminated.

(f) **Security.** Insure confidentiality and security of criminal history record information by providing that wherever criminal history record information is collected, stored, or disseminated, a criminal justice agency shall—

(1) Institute where computerized data processing is employed effective and technologically advanced software and hardware designs to prevent unauthorized access to such information;

(2) Assure that where computerized data processing is employed, the hardware, including processor, communications control, and storage device, to be utilized for the handling of criminal history record information is dedicated to purposes related to the administration of criminal justice;

(3) Have authority to set and enforce policy concerning computer operations;

(4) Have power to veto for legitimate security purposes which personnel can be permitted to work in a defined area where such information is stored, collected, or disseminated;

(5) Select and supervise all personnel authorized to have direct access to such information;

(6) Assure that an individual or agency authorized direct access is administratively held responsible for (i) the physical security of criminal history record information under its control or in its custody and (ii) the protection of such information from unauthorized accesses, disclosure, or dissemination;

(7) Institute procedures to reasonably protect any central repository of criminal history record information from unauthorized access, theft, sabotage, fire, flood, wind, or other natural or man-made disasters;

(8) Provide that each employee working with or having access to criminal history record information should be made



familiar with the substance and intent of these regulations; and

(9) Provide that direct access to criminal history records information shall be available only to authorized officers or employees of a criminal justice agency.

(g) **Access and review.** Insure the individual's right to access and review of criminal history information for purposes of accuracy and completeness by instituting procedures so that—

(1) Any individual shall, upon satisfactory verification of his identity be entitled to review without undue burden to either the criminal justice agency or the individual, any criminal history record information maintained about the individual and obtain a copy thereof when necessary for the purpose of challenge or correction;

(2) Administrative review and necessary correction of any claim by the individual to whom the information relates that the information is inaccurate or incomplete is provided;

(3) The State shall establish and implement procedures for administrative appeal where a criminal justice agency refuses to correct challenged information to the satisfaction of the individual to whom the information relates;

(4) Upon request, an individual whose record has been corrected shall be given the names of all non-criminal justice agencies to whom the data has been given;

(5) The correcting agency shall notify all criminal justice recipients of corrected information; and

(6) The individual's right to access and review of criminal history record information shall not extend to data contained in intelligence, investigatory, or other related files and shall not be construed to include any other information than that defined by § 20.3(b).

#### § 20.22 Certification of Compliance.

(a) Each State to which these regulations are applicable shall with the submission of each plan provide a certification that to the maximum extent feasible action has been taken to comply with the procedures set forth in the plan. Maximum extent feasible, in this subsection, means actions which can be taken to comply with the procedures set forth in the plan that do not require additional legislative authority or involve unreasonable cost or do not exceed existing technical ability.

(b) The certification shall include—

(1) An outline of the action which has been instituted. At a minimum, the requirements of access and review under 20.21(g) must be completely operational;

(2) A description of any legislation or executive order, or attempts to obtain such authority that has been instituted to comply with these regulations;

(3) A description of the steps taken to overcome any fiscal, technical, and administrative barriers to the development of complete and accurate criminal history record information;

(4) A description of existing system capability and steps being taken to up-

grade such capability to meet the requirements of these regulations; and

(5) A listing setting forth all non-criminal justice dissemination authorized by legislation existing as of the date of the certification showing the specific categories of non-criminal justice individuals or agencies, the specific purposes or uses for which information may be disseminated, and the statutory or executive order citations.

#### § 20.23 Documentation: Approval by LEAA.

Within 90 days of the receipt of the plan, LEAA shall approve or disapprove the adequacy of the provisions of the plan and certification. Evaluation of the plan by LEAA will be based upon whether the procedures set forth will accomplish the required objectives. The evaluation of the certification(s) will be based upon whether a good faith effort has been shown to initiate and/or further compliance with the plan and regulations. All procedures in the approved plan must be fully operational and implemented by December 31, 1977, except that a State, upon written application and good cause, may be allowed an additional period of time to implement § 20.21(f)(2). Certification shall be submitted in December of each year to LEAA until such complete compliance. The yearly certification shall update the information provided under § 20.21.

#### § 20.24 State laws on privacy and security.

Where a State originating criminal history record information provides for sealing or purging thereof, nothing in these regulations shall be construed to prevent any other State receiving such information, upon notification, from complying with the originating State's sealing or purging requirements.

#### § 20.25 Penalties.

Any agency or individual violating subpart B of these regulations shall be subject to a fine not to exceed \$10,000. In addition, LEAA may initiate fund cut-off procedures against recipients of LEAA assistance.

#### Subpart C—Federal System and Interstate Exchange of Criminal History Record Information

##### § 20.30 Applicability.

The provisions of this subpart of the regulations apply to any Department of Justice criminal history record information system that serves criminal justice agencies in two or more states and to Federal, state and local criminal justice agencies to the extent that they utilize the services of Department of Justice criminal history record information systems. These regulations are applicable to both manual and automated systems.

##### § 20.31 Responsibilities.

(a) The Federal Bureau of Investigation (FBI) shall operate the National Crime Information Center (NCIC), the computerized information system which includes telecommunications lines and

any message switching facilities which are authorized by law or regulation to link local, state and Federal criminal justice agencies for the purpose of exchanging NCIC-related information. Such information includes information in the Computerized Criminal History (CCH) File, a cooperative Federal-State program for the interstate exchange of criminal history record information. CCH shall provide a central repository and index of criminal history record information for the purpose of facilitating the interstate exchange of such information among criminal justice agencies.

(b) The FBI shall operate the Identification Division to perform identification and criminal history record information functions for Federal, state and local criminal justice agencies, and for noncriminal justice agencies and other entities where authorized by Federal statute, state statute pursuant to Public Law 92-544 (86 Stat. 1115), Presidential executive order, or regulation of the Attorney General of the United States.

(c) The FBI Identification Division shall maintain the master fingerprint files on all offenders included in the NCIC/CCH File for the purposes of determining first offender status and to identify those offenders who are unknown in states where they become criminally active but known in other states through prior criminal history records.

##### § 20.32 Includable offenses.

(a) Criminal history record information maintained in any Department of Justice criminal history record information system shall include serious and/or significant offenses.

(b) Excluded from such a system are arrests and court actions limited only to nonserious charges, e.g., drunkenness, vagrancy, disturbing the peace, curfew violation, loitering, false fire alarm, non-specific charges of suspicion or investigation, traffic violations (except data will be included on arrests for manslaughter, driving under the influence of drugs or liquor, and hit and run). Offenses committed by juvenile offenders shall also be excluded unless a juvenile offender is tried in court as an adult.

(c) The exclusions enumerated above shall not apply to Federal manual criminal history record information collected, maintained and compiled by the FBI prior to the effective date of these Regulations.

##### § 20.33 Dissemination of criminal history record information.

(a) Criminal history record information contained in any Department of Justice criminal history record information system will be made available:

(1) To criminal justice agencies for criminal justice purposes; and

(2) To Federal agencies authorized to receive it pursuant to Federal statute or Executive order.

(3) Pursuant to Public Law 92-544 (86 Stat. 115) for use in connection with licensing or local/state employment or for other uses only if such dissemination

is authorized by Federal or state statutes and approved by the Attorney General of the United States. When no active prosecution of the charge is known to be pending arrest data more than one year old will not be disseminated pursuant to this subsection unless accompanied by information relating to the disposition of that arrest.

(4) For issuance of press releases and publicity designed to effect the apprehension of wanted persons in connection with serious or significant offenses.

(b) The exchange of criminal history record information authorized by paragraph (a) of this section is subject to cancellation if dissemination is made outside the receiving departments or related agencies.

(c) Nothing in these regulations prevents a criminal justice agency from disclosing to the public factual information concerning the status of an investigation, the apprehension, arrest, release, or prosecution of an individual, the adjudication of charges, or the correctional status of an individual, which is reasonably contemporaneous with the event to which the information relates.

##### § 20.34 Individual's right to access criminal history record information.

(a) Any individual, upon request, upon satisfactory verification of his identity by fingerprint comparison and upon payment of any required processing fee, may review criminal history record information maintained about him in a Department of Justice criminal history record information system.

(b) If, after reviewing his identification record, the subject thereof believes that it is incorrect or incomplete in any respect and wishes changes, corrections or updating of the alleged deficiency, he must make application directly to the contributor of the questioned information. If the contributor corrects the record, it shall promptly notify the FBI and, upon receipt of such a notification, the FBI will make any changes necessary in accordance with the correction supplied by the contributor of the original information.

##### § 20.35 National Crime Information Center Advisory Policy Board.

There is established an NCIC Advisory Policy Board whose purpose is to recommend to the Director, FBI, general policies with respect to the philosophy, concept and operational principles of NCIC, particularly its relationships with local and state systems relating to the collection, processing, storage, dissemination and use of criminal history record information contained in the CCH File.

(a) (1) The Board shall be composed of twenty-six members, twenty of whom are elected by the NCIC users from across the entire United States and six who are appointed by the Director of the FBI. The six appointed members, two each from the judicial, the corrections and the prosecutive sectors of the criminal justice community, shall serve for an indeterminate period of time. The twenty elected members shall serve for a term of

two years commencing on January 5th of each odd numbered year.

(2) The Board shall be representative of the entire criminal justice community at the state and local levels and shall include representation from law enforcement, the courts and corrections segments of this community.

(b) The Board shall review and consider rules, regulations and procedures for the operation of the NCIC.

(c) The Board shall consider operational needs of criminal justice agencies in light of public policies, and local, state and Federal statutes and these Regulations.

(d) The Board shall review and consider security and privacy aspects of the NCIC system and shall have a standing Security and Confidentiality Committee to provide input and recommendations to the Board concerning security and privacy of the NCIC system on a continuing basis.

(e) The Board shall recommend standards for participation by criminal justice agencies in the NCIC system.

(f) The Board shall report directly to the Director of the FBI or his designated appointee.

(g) The Board shall operate within the purview of the Federal Advisory Committee Act, Public Law 92-463, 86 Stat. 770.

(h) The Director, FBI, shall not adopt recommendations of the Board which would be in violation of these Regulations.

##### § 20.36 Participation in the Computerized Criminal History Program.

(a) For the purpose of acquiring and retaining direct access to CCH File each criminal justice agency shall execute a signed agreement with the Director, FBI, to abide by all present rules, policies and procedures of the NCIC, as well as any rules, policies and procedures hereinafter approved by the NCIC Advisory Policy Board and adopted by the NCIC.

(b) Entry of criminal history record information into the CCH File will be accepted only from an authorized state or Federal criminal justice control terminal. Terminal devices in other authorized criminal justice agencies will be limited to inquiries.

##### § 20.37 Responsibility for accuracy, completeness, currency.

It shall be the responsibility of each criminal justice agency contributing data to any Department of Justice criminal history record information system to assure that information on individuals is kept complete, accurate and current so that all such records shall contain to the maximum extent feasible dispositions for all arrest data included therein. Dispositions should be submitted by criminal justice agencies within 120 days after the disposition has occurred.

##### § 20.38 Sanction for noncompliance.

The services of Department of Justice criminal history record information systems are subject to cancellation in regard to any agency or entity which fails

to comply with the provisions of Subpart C.

EDWARD H. LEVI,  
Attorney General.

MAY 15, 1975.

RICHARD W. VELDE,  
Administrator, Law Enforcement  
Assistance Administration.

MAY 15, 1975.

#### APPENDIX—COMMENTARY ON SELECTED SECTIONS OF THE REGULATIONS ON CRIMINAL HISTORY RECORD INFORMATION SYSTEMS

Subpart A—§ 20.3(b). The definition of criminal history record information is intended to include the basic offender-based transaction statistics/computerized criminal history (OBTS/CCH) data elements. If notations of an arrest, disposition, or other formal criminal justice transactions occur in records other than the traditional "rap sheet" such as arrest reports, any criminal history record information contained in such reports comes under the definition of this subsection.

The definition, however, does not extend to other information contained in criminal justice agency reports. Intelligence or investigative information (e.g. suspected criminal activity, associates, hangouts, financial information, ownership of property and vehicles) is not included in the definition of criminal history information.

§ 20.3(c). The definitions of criminal justice agency and administration of criminal justice of 20.3(c)(d) must be considered together. Included as criminal justice agencies would be traditional police, courts, and corrections agencies as well as subunits of non-criminal justice agencies performing a function of the administration of criminal justice pursuant to Federal or State statute or executive order. The above subunits of non-criminal justice agencies would include for example, the Office of Investigation of the U.S. Department of Agriculture which has as its principal function the collection of evidence for criminal prosecutions of fraud. Also included under the definition of criminal justice agency are umbrella-type administrative agencies supplying criminal history information services such as New York's Division of Criminal Justice Services.

§ 20.3(e). Disposition is a key concept in the section 524(b) of the Act and in § 20.21(a)(1) and § 20.21(b)(2). It, therefore, is defined in some detail. The specific dispositions listed in this subsection are examples only and are not to be construed as excluding other unspecified transactions concluding criminal proceedings within a particular agency.

Subpart B—§ 20.20(a). These regulations apply to criminal justice agencies receiving Safe Streets funds for manual or automated systems subsequent to July 1, 1973. In the hearings on the regulations, a number of those testifying challenged LEAA's authority to promulgate regulations for manual systems by contending that section 524(b) of the Act governs criminal history information contained in automated systems.

The intent of section 524(b), however, would be subverted by only regulating automated systems. Any agency that wished to circumvent the regulations would be able to create duplicate manual files for purposes contrary to the letter and spirit of the regulations.

Regulations of manual systems, therefore, is authorized by section 524(b) when coupled with Section 501 of the Act which authorizes the Administration to establish rules and regulations "necessary to the exercise of its functions . . ."



The Act clearly applies to all criminal history record information collected, stored, or disseminated with LEAA support subsequent to July 1, 1973.

§ 20.20(b)(c). Section 20.20(b)(c) exempts from regulations certain types of records vital to the apprehension of fugitives, freedom of the press, and the public's right to know.

Section 20.20(b)(11) attempts to deal with the problem of computerized police blotters. In some local jurisdictions, it is apparently possible for private individuals and/or newsmen upon submission of a specific name to obtain through a computer search of the blotter a history of a person's arrests. Such files create a partial criminal history data bank potentially damaging to individual privacy, especially since they do not contain final dispositions. By requiring that such records be accessed solely on a chronological basis, the regulations limit inquiries to specific time periods and discourage general fishing expeditions into a person's private life.

Subsection 20.20(c) recognizes that announcements of ongoing developments in the criminal justice process should not be precluded from public disclosure. Thus announcements of arrest, convictions, new developments in the course of an investigation may be made within a few days of their occurrence. It is also permissible for a criminal justice agency to confirm certain matters of public record information upon specific inquiry. Thus, if a question is raised: "Was X arrested by your agency on January 3, 1952" and this can be confirmed or denied by looking at one of the records enumerated in subsection (b) above, then the criminal agency may respond to the inquiry.

§ 20.21. Since privacy and security considerations are too complex to be dealt with overnight, the regulations require a State plan to assure orderly progress toward the objectives of the Act. In response to requests of those testifying on the draft regulations, the deadline for submission of the plan was set at 180 days. The kind of planning document anticipated would be much more concise than, for example, the State's criminal justice comprehensive plan.

The regulations deliberately refrain from specifying who within a State should be responsible for preparing the plan. This specific determination should be made by the Governor.

§ 20.21(a)(1). Section 524(b) of the Act requires that LEAA insure criminal history information be current and that, to the maximum extent feasible, it contain disposition as well as current data.

It is, however, economically and administratively impractical to maintain complete criminal histories at the local level. Arrangements for local police departments to keep track of dispositions by agencies outside of the local jurisdictions generally do not exist. It would, moreover, be bad public policy to encourage such arrangements since it would result in an expensive duplication of files.

The alternatives to locally kept criminal histories are records maintained by a central State repository. A central State repository is a State agency having the function, pursuant to statute or executive order of maintaining comprehensive statewide criminal history record information files. Ultimately, through automatic data processing the State level will have the capability to handle all requests for in-State criminal history information.

Section 20.21(a)(1) is written with a centralized State criminal history repository in mind. The first sentence of the subsection states that complete records should be retained at a central State repository. The word "should" is permissive; it suggests but does not mandate a central State repository.

The regulations do require that States establish procedures for State and local criminal justice agencies to query central State repositories wherever they exist. Such procedures are intended to insure that the most current criminal justice information is used.

As a minimum, criminal justice agencies subject to these regulations must make inquiries of central State repositories whenever the repository is capable of meeting the user's request within a reasonable time. Presently, comprehensive records of an individual's transactions within a State are maintained in manual files at the State level, if at all. It is probably unrealistic to expect manual systems to be able immediately to meet many rapid-access needs of police and prosecutors. On the other hand, queries of the State central repository for most non-criminal justice purposes probably can and should be made prior to dissemination of criminal history record information.

§ 20.21(b). The limitations on dissemination in this subsection are essential to fulfill the mandate of section 524(b) of the Act which requires the Administration to assure that the "privacy of all information is adequately provided for and that information shall only be used for law enforcement and criminal justice and other lawful purposes." The categories for dissemination established in this section reflect suggestions by hearing witnesses and respondents submitting written commentary.

§ 20.21(b)(2). This subsection is intended to permit public or private agencies to have access to criminal history record information where a statute or executive order:

- (1) Denies employment, licensing, or other civil rights and privileges to persons convicted of a crime;
- (2) Requires a criminal record check prior to employment, licensing, etc.

The above examples represent statutory patterns contemplated in drafting the regulations. The sine qua non for dissemination under this subsection is statutory reference to criminal conduct. Statutes which contain requirements and/or exclusions based on "good moral character" or "trustworthiness" would not be sufficient to authorize dissemination.

The language of the subsection will accommodate Civil Service suitability investigations under Executive Order 10450, which is the authority for most investigations conducted by the Commission. Section 3(a) of 10450 prescribes the minimum scope of investigation and requires a check of FBI fingerprint files and written inquiries to appropriate law enforcement agencies.

§ 20.21(b)(3). This subsection would permit private agencies such as the Vera Institute to receive criminal histories where they perform a necessary administration of justice function such as pretrial release. Private consulting firms which commonly assist criminal justice agencies in information systems development would also be included here.

§ 20.21(b)(4). Under this subsection, any good faith researchers including private individuals would be permitted to use criminal history record information for research purposes. As with the agencies designated in § 20.21(b)(3) researchers would be bound by an agreement with the disseminating criminal justice agency and would, of course, be subject to the sanctions of the Act.

The drafters of the regulations expressly rejected a suggestion which would have limited access for research purposes to certified research organizations. Specifically "certification" criteria would have been extremely difficult to draft and would have inevitably led to unnecessary restrictions on legitimate research.

Section 524(a) of the Act which forms part of the requirements of this section states:

"Except as provided by Federal law other than this title, no officer or employee of the Federal Government, nor any recipient of assistance under the provisions of this title shall use or reveal any research or statistical information furnished under this title by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained in accordance with this title. Copies of such information shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings."

LEAA anticipates issuing regulations pursuant to Section 524(a) as soon as possible.

§ 20.21(b)(5). Dissemination under this section would be permitted not only in cases of investigations of employment suitability, but also investigations relating to clearance of individuals for access to information which is classified pursuant to Executive Order 11652.

§ 20.21(c)(1). "Active prosecution pending" would mean, for example, that the case is still actively in process, the first step such as an arraignment has been taken and the case docketed for court trial. This term is not intended to include any treatment alternative-type program which might defer prosecution to a later date. Such a deferral prosecution is a disposition which should be entered on the record.

§ 20.21(c)(3). Presently some employers are circumventing State and local dissemination restrictions by requesting applicants to obtain an official certification of no criminal record. An employer's request under the above circumstances gives the applicant the unenviable choice of invasion of his privacy or loss of possible job opportunities. Under this subsection routine certifications of no record would no longer be permitted. In extraordinary circumstances, however, an individual could obtain a court order permitting such a certification.

§ 20.21(c)(4). The language of this subsection leaves to the States the question of who among the agencies and individuals listed in § 20.21(b) shall actually receive criminal records. Under these regulations a State could place a total ban on dissemination if it so wished.

§ 20.21(d). Non-criminal justice agencies will not be able to receive records of juveniles unless the language or statute or Federal executive order specifies that juvenile records shall be available for dissemination. Perhaps the most controversial part of this subsection is that it denies access to records of juveniles by Federal agencies conducting background investigations for eligibility to classified information under existing legal authority.

§ 20.21(e). Since it would be too costly to audit each criminal justice agency in most States (Wisconsin, for example, has 1075 criminal justice agencies) random audits of a "representative sample" of agencies are the next best alternative. The term "representative sample" is used to insure that audits do not simply focus on certain types of agencies.

§ 20.21(f)(2). In the short run, dedication will probably mean greater costs for State and local governments. How great such costs might be is dependent upon the rapidly advancing state of computer technology. So that there will be no serious hardship on States and localities as a result of this requirement, § 20.23 provides that additional time will be allowed to implement the dedication requirement. For example, where local systems now in place contain criminal history information of only that State, used purely for intrastate purposes, in a shared environment, consideration will be given to

granting extensions of time under this provision.

§ 20.21(f)(5), (8). "Direct access" means that any non-criminal agency authorized to receive criminal justice data must go through a criminal justice agency to obtain information.

§ 20.21(g)(1). A "challenge" under this section is an oral or written contention by an individual that his record is inaccurate or incomplete; it would require him to give a correct version of his record and explain why he believes his version to be correct. While an individual should have access to his record for review, a copy of the record should ordinarily only be given when it is clearly established that it is necessary for the purpose of challenge.

The drafters of the subsection expressly rejected a suggestion that would have called for a satisfactory verification of identity by fingerprint comparison. It was felt that states ought to be free to determine other means of identity verification.

§ 20.21(g)(5). Not every agency will have done this in the past, but henceforth adequate records including those required under § 20.21(e) must be kept so that notification can be made.

§ 20.21(g)(6). This section emphasizes that the right to access and review extends only to criminal history information and does not include other information such as intelligence or treatment data.

§ 20.22(a). The purpose for the certification requirement is to initiate immediate compliance with these regulations wherever possible. The term "maximum extent feasible" acknowledges that there are some areas such as the completeness requirement which create complex legislative and financial problems.

NOTE: In preparing the plans required by these regulations, States should look for guidance to the following documents: National Advisory Commission on Criminal Justice Standards and Goals, Report on the Criminal Justice System; Project SEARCH: Security and Privacy Considerations in Criminal History Information Systems, Technical Report #2; Project SEARCH: A Model State Act for Criminal Offender Record Information, Technical Memorandum #3; and Project SEARCH: Model Administrative Regulations for Criminal Offender Record Information, Technical Memorandum #4.

Subpart C—§ 20.31. Defines the criminal history record information system operated by the Federal Bureau of Investigation. Each state having a record in the Computerized Criminal History (CCH) file must have a fingerprint card on file in the FBI Identification Division to support the CCH record concerning the individual.

Paragraph b is not intended to limit the identification services presently performed

by the FBI for Federal, state and local agencies.

§ 20.32. The grandfather clause contained in the third paragraph of this Section is designed, from a practical standpoint, to eliminate the necessity of deleting from the FBI's massive files the non-includable offenses which were stored prior to February, 1973.

In the event a person is charged in court with a serious or significant offense arising out of an arrest involving a non-includable offense, the non-includable offense will appear in the arrest segment of the CCH record.

§ 20.33. Incorporates the provisions of a regulation issued by the FBI on June 26, 1974, limiting dissemination of arrest information not accompanied by disposition information outside the Federal government for non-criminal justice purposes. This regulation is cited in 28 CFR 50.12.

§ 20.34. The procedures by which an individual may obtain a copy of his manual identification record are particularized in 28 CFR 18.30-34.

The procedures by which an individual may obtain a copy of his Computerized Criminal History record are as follows:

If an individual has a criminal record supported by fingerprints and that record has been entered in the NCIC CCH File, it is available to that individual for review, upon presentation of appropriate identification, and in accordance with applicable state and Federal administrative and statutory regulations.

Appropriate identification includes being fingerprinted for the purpose of insuring that he is the individual that he purports to be. The record on file will then be verified as his through comparison of fingerprints.

Procedure. 1. All requests for review must be made by the subject of his record through a law enforcement agency which has access to the NCIC CCH File. That agency within statutory or regulatory limits can require additional identification to assist in securing a positive identification.

2. If the cooperating law enforcement agency can make an identification with fingerprints previously taken which are on file locally and if the FBI identification number of the individual's record is available to that agency, it can make an on-line inquiry of NCIC to obtain his record on-line or, if it does not have suitable equipment to obtain an on-line response, obtain the record from Washington, D.C., by mail. The individual will then be afforded the opportunity to see that record.

3. Should the cooperating law enforcement agency not have the individual's fingerprints on file locally, it is necessary for that agency to relate his prints to an existing record by having his identification prints compared with those already on file in the FBI or, possibly, in the State's central identification agency.

4. The subject of the requested record shall request the appropriate arresting agency, court, or correctional agency to initiate action necessary to correct any stated inaccuracy in his record or provide the information needed to make the record complete.

§ 20.36. This section refers to the requirements for obtaining direct access to the CCH file. One of the requirements is that hardware, including processor, communications control and storage devices, to be utilized for the handling of criminal history data must be dedicated to the criminal justice function.

§ 20.37. The 120-day requirement in this section allows 30 days more than the similar provision in Subpart B in order to allow for processing time which may be needed by the states before forwarding the disposition to the FBI.

[FR Doc.75-13197 Filed 5-19-75; 8:45 am]

[Order No. 802-75]

#### PART 50—STATEMENTS OF POLICY

##### Release of Information by Personnel of the Department of Justice Relating to Criminal and Civil Proceedings

This order amends the Department of Justice guidelines concerning release of information by personnel of the Department of Justice relating to criminal and civil proceedings by deleting the provision permitting disclosure of criminal history record information on request.

By virtue of the authority vested in me as Attorney General of the United States, § 50.2(b)(4) of Chapter I, Title 28 of the Code of Federal Regulations is amended to read as follows:

§ 50.2 Release of information by personnel of the Department of Justice relating to criminal and civil proceedings.

• • • • •

(4) Personnel of the Department shall not disseminate any information concerning a defendant's prior criminal record.

• • • • •

MAY 15, 1975.

EDWARD H. LEVI,  
Attorney General.

[FR Doc.75-13198 Filed 5-19-75; 8:45 am]



Just Released

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federal register

WEDNESDAY, MAY 21, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 99

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**federal register**

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Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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### List of Public Laws

NOTE: No acts approved by the President were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.



## presidential documents

### Title 3—The President

Executive Order 11860

May 19, 1975

#### Establishing the President's Advisory Committee on Refugees

Since the arrival of the first settlers on our eastern seaboard nearly 400 years ago, America has been a refuge for victims of persecution, intolerance and privation from around the world. Tide after tide of immigrants has settled here and each group has enriched our heritage and added to our well-being as a nation.

For many residents of Southeast Asia who stood by America as an ally and who have lost their homeland in the tragic developments of the past few weeks, America offers a last, best hope upon which they can build new lives. We are a big country and their numbers are proportionately small. We must open our doors and our hearts.

The arrival of thousands of refugees, mostly children, will require many adjustments on their part and considerable assistance on ours. But it is in our best interest as well as theirs to make this transition as gracious and efficient as humanly possible.

I have determined that it would be in the public interest to establish an advisory committee to the President on the resettlement in the United States of refugees from Indochina.

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, and as President of the United States, it is ordered as follows:

SECTION 1. *Establishment of a Presidential Advisory Committee.* There is hereby established the President's Advisory Committee on Refugees, hereinafter referred to as the Committee. The Committee shall be composed of such citizens from private life as the President may, from time to time, appoint. The President shall designate one member of the Committee to serve as chairman.

SEC. 2. *Functions of the Advisory Committee.* The Committee shall advise the President and the heads of appropriate Federal agencies concerning the expeditious and coordinated resettlement of refugees from Southeast Asia. The Committee shall include in its advice, consideration of the following areas:

- (a) Health and environmental matters related to resettlement;
- (b) the interrelationship of the governmental and volunteer roles in the resettlement;

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- (c) educational and cultural adjustments required by these efforts;
- (d) the general well-being of resettled refugees and their families in their new American communities; and
- (e) such other related concerns as the President may, from time to time, specify.

The Committee shall also seek to facilitate the location, solicitation, and channeling of private resources for these resettlement efforts, and to establish lines of communication with all concerned governmental agencies, relevant voluntary agencies, the Vietnamese-American community and the American public at large. The Committee shall conclude its work within one year.

*Sec. 3. Assistance, Cooperation, and Expenses.*

(a) All executive departments and agencies of the Federal government, to the extent permitted by law, are directed to cooperate with the Committee and to furnish such information, facilities, funds, and assistance as the Committee may require.

(b) No member of the Committee shall receive compensation from the United States by reason of service on the Committee, but may, to the extent permitted by law, be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703).

*Sec. 4. Federal Advisory Committee Act.* Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act (5 U.S.C. App. 1), except that of reporting annually to Congress, which are applicable to the advisory committee established by this Order, shall be performed by the Secretary of Health, Education, and Welfare.

*Gerald R. Ford*

THE WHITE HOUSE,  
May 19, 1975.

[FR Doc. 75-13531 Filed 5-20-75; 10:17 am]

EDITORIAL NOTE: For the texts of the President's remarks on signing Executive Order 11860 and a White House announcement of the Advisory Committee's membership, see the Weekly Compilation of Presidential Documents (vol. 11, no. 21).

## rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

### Title 10—Energy CHAPTER II—FEDERAL ENERGY ADMINISTRATION

#### PART 210—GENERAL ALLOCATION AND PRICE RULES

##### Stripper Well Lease Exemption

On February 28, 1975, the Federal Energy Administration gave notice of a proposal (40 FR 10195, March 5, 1975) to revise its regulations implementing the stripper well lease exemption set forth in section 4(e)(2) of the Emergency Petroleum Allocation Act of 1973 ("EPAA", Pub. L. 93-159, as amended, Pub. L. 93-511). FEA proposed the amendment in order to remove a disincentive to increased production from such marginally-producing stripper well leases that exists under the current regulation. Because the current regulation affords an exemption only in the year following a calendar year in which production from the lease was at or below the statutory stripper well level of ten barrels or less per well per day, there exists no incentive for producers to increase production levels above the ten barrel per well per day limit, either through work-overs or enhanced recovery techniques, because such increased per-well production for a calendar year would then result in a loss of the stripper well lease exemption in the following year.

The amendment proposed in the February 28 Notice would have provided that once the property qualified for the exemption on the basis of its production for any calendar year commencing after December 31, 1973, the exemption would not be lost if production from the lease exceeded the statutory stripper well level in a subsequent year. The February 28 Notice stated the FEA's preliminary determination that "rather than effecting the deregulation of any presently price-controlled crude oil . . . the proposed amendment is expected to encourage the production of additional crude oil which producers would not otherwise produce because threatened by the loss of the stripper well lease exemption that would result under present regulations." (40 FR 10195.)

Comments were received from twenty-nine interested persons and a public hearing was held on March 21, 1975, at which five interested persons presented oral testimony. Consideration of all the written and oral presentations has led the FEA to conclude that this analysis of the existing regulation is correct, and that if continued, the regulation would have the effect of seriously discouraging the implementation of enhanced recovery

techniques on marginally-producing properties that are now subject to primary production techniques.

The comments and oral testimony indicated that many of these properties, now enjoying the stripper well lease exemption, have not been converted to enhanced recovery projects because of the prospective loss of the exemption. For example, many comments indicate that a producer who operates a property currently enjoying the stripper well lease exemption generally would not increase production from the lease (either by initiating enhanced recovery techniques or by reworking existing producing wells) if the result would be to increase the property's average daily production above ten barrels per well per day, thereby losing the property's exempt status under § 210.32 in the following year. Thus, for legitimate economic reasons, many operators of stripper well properties will not take the steps that could provide an additional source of domestic crude oil.

More significant, however, is that production from oil-producing properties generally reaches a point where implementation of enhanced recovery techniques must be undertaken if a significant portion of recoverable oil is not to be lost forever. For example, in an enhanced recovery project using waterflood techniques, as the water front progresses across the oil field, more and more producing wells must be shut in or converted to water injection wells, so that the water front can proceed uniformly across the field. Otherwise, large pockets of oil are likely to be trapped behind the water front and become unrecoverable. Since only producing wells are counted in calculations for purposes of the stripper well lease exemption, a producer of crude oil from a stripper well lease would lose the exemption in circumstances where the conversion of a producing well to an injection well had the effect of reducing the number of producing wells, and thereby increasing the property's average daily production above 10 barrels per well per day.

The FEA concludes that the effect of this amendment will be to remove these kinds of disincentives to increased production, which are inherent in the present regulations, and encourage the implementation of enhanced recovery techniques resulting in the production of additional supplies of crude oil, which might not otherwise have been produced.

The FEA has further concluded that the amendment should be modified so as to provide that once a property has qualified for the exemption on the basis of its per well production for any calendar year commencing after December 31,

1972, the property will retain the exemption notwithstanding increased production from the lease above the stripper well limit in a subsequent year. This modification in the form of the amendment is intended to ensure that, as to properties that qualified for the stripper well lease exemption in 1973, but which exceeded the 10 barrel per well per day level in 1974 through work-overs or other production-stimulation techniques, the incentive to permit production again to decline naturally to stripper well levels will be removed, and further steps to maintain and increase production will be encouraged.

FEA recognizes that besides encouraging the production of additional crude oil that would not otherwise have been produced, the modified amendment may also have the effect of releasing from the ceiling price of 10 CFR 212.73 some crude oil produced in 1975 and thereafter from properties that had qualified as stripper well leases on the basis of production in calendar year 1973, but then lost their stripper well lease exemptions for 1975 because of production in excess of the stripper well limit in calendar year 1974.

Comments received during the course of the proceeding questioned the FEA's authority to promulgate the proposed amendment without first complying with the congressional review procedures outlined in the EPAA. Section 4(g)(2) of the EPAA provides that the President may exempt crude oil, residual fuel oil, or any refined petroleum product from the allocation and price regulations required by the EPAA, only after submission of the exempting amendment, with appropriate findings, to the Congress for its review. The FEA questions whether section 4(g)(2) is applicable to this limited exemption—which is consistent with the stripper well lease exemption contained in the EPAA itself—given Congress' original intent that the EPAA would expire on February 28, 1975. However, if this amendment were to be adopted without its prior submission to Congress, and if the challenge that has been raised in this proceeding were then pursued in a judicial forum, the purpose of the amendment would be significantly frustrated. Producers of crude oil from stripper well leases might continue in their reluctance to increase production from those properties for fear that if the FEA's authority to promulgate the amendment were not ultimately upheld, the properties' stripper well lease exemptions might be lost as a result of having increased production above the ten barrel per well per day limit.

Therefore, due to the nature of the modified amendment, and in order to

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avoid the uncertainty that would necessarily accompany a judicial challenge to this amendment, the FEA has concluded that the procedures of section 4(g)(2) of the EPAA should be followed in this instance. The FEA recognizes that this amendment results in the modification of at least the express terms—though not necessarily the intent—of a specific, congressionally-created exemption and represents a change in the crude oil pricing regulations that were promulgated by the Cost of Living Council and were in effect at the time Congress enacted the EPAA. This amendment is, therefore, unlike the Cost of Living Council's "two-tier" pricing system, which Congress clearly recognized could be continued under the EPAA see "Conf. Rep. No. 628, 93d Cong., 1st Sess. 26 (1973)," and which consequently has been continued. Accordingly, the modified amendment is adopted, as set forth below, effective June 1, 1975 or upon the expiration of the period required pursuant to section 4(g)(2) of the EPAA, whichever is later. In the interim, this Notice and modified amendment will be forwarded to Congress for its review.

**Findings.** It is clear from the legislative history, as well as from the language of the EPAA, that application of the allocation and price regulations to the first sale of crude oil produced from leases whose average daily production is 10 barrels or less per well as not deemed necessary to implement the overall congressional policy embodied in the Act.

The report of the House Interstate and Foreign Commerce Committee indicates that "pricing controls and forced allocation of [crude oil produced from stripper well leases] would unnecessarily inhibit production" since "pricing restrictions imposed under other federal authority have demonstrably had the effect of inhibiting production from such wells." The Committee clearly stated its intent "that a similar result should not be made possible by the Mandatory Petroleum Allocation Program called for [by the EPAA]."

Similarly, the legislative history of the Trans-Alaska Pipeline Authorization Act of 1973 (Pub. L. 93-153, enacted eleven days prior to the EPAA) contained a similar exemption for stripper wells, again indicating a clear congressional policy in favor of ensuring that price controls would not inhibit the continued production from these marginally-producing properties. The Senate Committee on Interior and Insular Affairs stated the purpose of the exemption as being "to insure that direct or indirect price ceilings do not have the effect of resulting in any loss of domestic crude oil production from the premature shutdown of stripper wells for economic reasons." (Emphasis added.) Continuation of the existing regulation, however, would have effects contrary to those that Congress expressly sought to achieve.

The FEA finds that there is currently no shortage of crude oil available to refiners in the United States, and that this amendment will not have an adverse im-

pact on other products covered by FEA regulations. These findings, however, although called for by the EPAA, are not necessarily material considerations in the adoption of this amendment, which is designed to encourage the increased domestic production of crude oil from marginally-producing stripper well leases, and thereby more adequately to carry out the intent of the congressionally-mandated stripper well lease exemption. The impact, therefore, of the amendment on crude oil and other products should be simply to displace with increased domestic production the crude oil that would otherwise need to be imported in order to maintain adequate and reliable supplies of petroleum products. Continuation of the regulation in its present form, on the other hand, would effectively eliminate this potential source of additional domestic crude oil, and would tend to accelerate the decline in production from marginally-producing properties. Accordingly, the FEA finds that the continued regulation of this narrow category of crude oil is unnecessary to carry out the purposes and objectives of the EPAA, and that the effect of the amendment will be to promote the increased production of domestic crude oil, thereby decreasing the Nation's dependence on foreign supplies.

This amendment is not intended to effect any change in the method of measuring the number of barrels of production from a property or in the method of counting the number of production wells for purposes of the stripper well lease exemption. These aspects of the stripper well lease exemption were specifically treated in Ruling 1974-29 and Ruling 1974-30, neither of which is altered in any way by the amendment adopted herein. The amendment is also intended to have no effect on the continued viability of Ruling 1974-28 (Inapplicability of the "Stripper Well Lease" Exemption of 10 CFR 210.32 to Gas Wells), which the FEA is currently reconsidering in a separate proceeding (40 FR 18004, April 24, 1975).

Insofar as the amendment might have the effect of releasing from the ceiling price some crude oil that is produced from properties that lost the stripper well lease exemption because of production levels in excess of ten barrels per well per day during calendar year 1974, the amendment will operate prospectively only. Therefore, for those properties in this narrow category, crude oil may be sold without regard to the ceiling price rule of 10 CFR 212.73, as of the effective date of the amendment. However, such producers may not retroactively increase the price of such crude oil for sales that occurred prior to the effective date of this amendment.

**Conclusion.** After having considered all the comments and testimony submitted in connection with this proceeding, the FEA has concluded that the amendment should be adopted as modified. For the reasons stated herein, this Notice and amendment will be submitted to Congress for its review in accordance with the

procedures of section 4(g)(2) of the EPAA.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511; Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790 (39 FR 23185))

In consideration of the foregoing, Part 210 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below, effective June 1, 1975 or upon the expiration of the period required pursuant to section 4(g)(2) of the EPAA, whichever is later.

Issued in Washington, D.C., May 15, 1975.

ROBERT E. MONTGOMERY, Jr.,  
General Counsel.

Section 210.32 is revised to read as follows:

§ 210.32 Stripper well leases.

(a) The first sale of crude oil, including condensates, produced from any stripper well lease is exempt from the provisions of Parts 211 and 212 of this title.

(b) **Definitions.**  
"Average daily production" means the qualified maximum total production of crude oil, including condensates, produced from a property, divided by a number equal to the number of days in the year times the number of wells that produced crude oil, including condensates, from that property in that year. To qualify as maximum total production, each well on the property must have been maintained at the maximum feasible rate of production, in accordance with recognized conservation practices, and not significantly curtailed by reason of mechanical failure or other disruption in production.

"First sale" means the first transfer for value by the producer or royalty owner.

"Property" is the right that arises from a lease in existence in 1972 or from a fee interest to produce crude oil in existence in 1972 and is coextensive with the term "property" used in § 212.72 for purposes of determining "base production control level crude petroleum."

"Stripper well lease" means a "property" whose average daily production of crude oil, including condensates, per well did not exceed 10 barrels per day during any preceding calendar year beginning after December 31, 1972.

[FR Doc. 75-13287 Filed 5-16-75; 10:51 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 72-WE-8-AD; Amdt. 39-2211]

PART 39—AIRWORTHINESS DIRECTIVES  
Beech Models Aircraft

Beech Models C-45G, TC-45G, C-45H, TC-45H, TC-45J (SNB-5), RC-45J (SNB-5P), D18C, D18S, E18S, E18S-9700, G18S, H18, JRB-6, 3N, 3NM, and 3TM

Aircraft with Volpar Tricycle Landing Gear (STC SA4-1531, STC SA111WE, STC SA1832WE or any other STC modification incorporating the provisions of this installation).

Amendment 39-1494 (37 FR 15421), AD 72-16-2, as further amended by Amendment 39-1549 (37 FR 23418), provides, among other things, procedures for the inspection and replacement of the Volpar nose landing gear fork, P/N 347, for airplanes equipped with Volpar tri-gear which do not incorporate the Volpar P/N 884 nose landing gear fork. After issuing Amendment 39-1494, due to two additional failures, the agency has determined that the periodic inspection interval should provide for a maximum number of landings in addition to the hour time in service since the last inspection. The service experience indicates that the number of landings relates significantly to the possibility of the occurrence of the cracks in the fork. To minimize the possibility of the cracks progressing to a point of incipient failure, a visual preflight check of the fork is incorporated into this amendment.

Therefore, paragraph 1 of this AD is being amended to relate the nose landing gear fork inspection interval to both the number of landings and the time in service and to provide for a visual preflight check for cracks.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1494, (37 FR 15421), AD 72-16-2, as further amended by Amendment 39-1549 (37 FR 23418), is amended as follows:

Amend paragraph 1 to read:

1. **Nose Landing Gear Fork**

a. For airplanes incorporating Volpar nose landing gear fork P/N 347 perform the following:

(1) Within the next 50 hours time in service or 25 landings, whichever occurs earlier, after the effective date of this amendment to AD 72-16-2, unless already accomplished within the last 50 hours time in service or 25 landings, and thereafter at intervals not to exceed 100 hours time in service or 50 landings, whichever occurs earlier, from the last inspection, inspect the fork for cracks using dye penetrant or fluorescent penetrant inspection methods in accordance with Volpar Service Bulletin No. 17, as revised July 29, 1969, or later FAA-approved revisions, or an equivalent inspection approved by the Chief, Aircraft Engineering Division, FAA Western Region, until modified in accordance with paragraph 1b. below.

(2) Before each flight conduct a visual check of fork P/N 347 for cracks until modified in accordance with 1b. below. This visual check may be performed by the pilot in command and shall be recorded in the appropriate aircraft records per FAR 91.173.

b. If cracks are found by the inspections or checks per paragraph 1.a.(1) or 1.a.(2) above, replace fork prior to further flight with Volpar P/N 884.

c. The inspections and checks required per paragraphs 1.a.(1) and 1.a.(2) may be discontinued when Volpar fork P/N 884 is installed.

This amendment becomes effective May 27, 1975.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on May 9, 1975.

ROBERT H. STANTON,  
Director, FAA Western Region.

[FR Doc. 75-13277 Filed 5-20-75; 8:45 am]

[Airworthiness Docket No. 74-WE-17-AD, Amdt. 39-2213]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-9 and Military C-9A, C-9B and VC-9C Airplanes

Amendment 39-1906 (39 FR 27645), AD 74-16-02, effective August 5, 1974, requires visual and nondestructive inspection and replacement of the spoiler links and fittings, revision to the Model DC-9 FAA-approved Airplane Flight Manual (AFM), and installation of a placard on McDonnell Douglas DC-9 (-10, -20, -30 and -40 series) and Military C-9A and C-9B airplanes. After issuance of Amendment 39-1906, the agency has received reports of failure of the spoiler link attach pin, P/N 4923307-1 and -501. The agency has determined that failure of the pin could result in an unsafe condition. In one instance an airplane experienced a roll as the result of sudden spoiler deployment which was attributed to fatigue failure of the spoiler link attach pin, P/N 4923307-501, and subsequent fatigue failure of the spoiler link. Failure occurred during approach when the pilot was selecting 40° flaps. The manufacturer has issued Service Bulletin S/B 27-163 to operators of the Model DC-9 and Military C-9A, C-9B and VC-9C airplanes, providing instructions for retrofit of a new improved spoiler link attach pin, P/N 4923307-503, and spoiler link and/or fitting as necessary. The agency has determined that installation of the spoiler link attach pin, P/N 4923307-503, described in Douglas Service Bulletin 27-163, or later FAA-approved revisions, is an approved modification and must be accomplished. The new part, P/N 4923307-503, was incorporated in the DC-9 production line on fuselage number F/N 793 and subsequent airplanes.

Since this condition is likely to exist or develop in other airplanes of the same type design, Airworthiness Directive, AD 74-16-02, is being amended to add a Part III which provides for a one-time-only replacement of the spoiler link attach pin per the manufacturer's instructions specified in Service Bulletin 27-163, interim actions pending accomplishment of the replacement instructions for the new pin, and terminating action.

The AD applicability statement is being amended to include the military VC-9C airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1906 (39 FR 27645), AD 74-16-02, is amended as follows:

(1) Amend the applicability statement to read as follows:

McDONNELL DOUGLAS, Applies to Model DC-9 (-10, -20, -30, -40 and Military C-9A, C-9B and VC-9C Series) airplanes certificated in all categories, as provided below.

(2) Add a new Part III as follows:

PART III

Applies to all DC-9 airplanes, certificated in all categories, as indicated below.

To prevent damage or failure of the spoiler actuating link attach pins, P/N 4923307-1 and -501, and the spoiler actuating links, P/N 3923250-3, -5 and -7, and/or the spoiler fittings, P/N 3923251-3-NC through "G" change, accomplish the following:

(A)(1) On airplanes incorporating spoiler pins, P/N 4923307-1 and/or -501 with 12,000 hours or more time in service, on or after the effective date of this amendment of AD 74-16-02, prior to the accumulation of additional 1,600 hours time in service on the pins, replace those pins with new pins, P/N 4923307-503, in accordance with the instructions in Douglas Service Bulletin S/B 27-163, or later FAA-approved revisions, or an equivalent modification approved by the Chief, Aircraft Engineering Division, FAA Western Region. Mark the discarded high-time pins in a conspicuous manner to prevent inadvertent return to service.

(2) On airplanes incorporating spoiler pins, P/N 4923307-1 and/or -501 with 12,000 hours or more time in service, on or after the effective date of this amendment to AD 74-16-02, on which modification (A)(1) of Part III has not been incorporated, before the accumulation of 300 additional hours in service on these pins accomplish the following:

(a) Install the appropriate placard in accordance with the instructions per paragraph (A) of Part II of this AD; and,

(b) Comply with the "Limitations" requirements per paragraphs (B)(1) and (B)(2) of Part II of this AD.

(3) For airplanes with less than 12,000 hours time in service on the spoiler link attach pins, P/N 4923307-1 and -501, on the effective date of this amendment, the procedures outlined in (A)(1) or (A)(2) of Part III will become applicable when the pins attain 12,000 hours time in service.

(4) On or before July 1, 1978, on all airplanes, unless previously accomplished, replace the spoiler link attach pins, P/N 4923307-1 and -501 with new pins, P/N 4923307-503, per the instructions, referenced in (A)(1) of Part III, above.

(5) At the time of removal of the hinge pins per (A)(1), (3) or (4) of Part III, inspect the pins for condition. If the pin(s), P/N 4923307-1 and/or -501 is found to be damaged to the extent requiring replacement, then replace the spoiler link, P/N 3923250-(any dash number configuration), and spoiler fitting, P/N 3923251-(any dash number configuration), prior to further flight with a new link and fitting (any dash



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number configuration) in accordance with the instructions in Douglas Service Bulletin S/B 27-163, or later FAA-approved revisions. Comply with the requirements of this AD applicable to that "Dash Number" part(s) used as replacements.

**NOTE:** For the purpose of Part III of this AD, if the ~~base~~ time in service of the spoiler link attach pin cannot be established, the part will be considered to have the same number of hours time in service as the airplane on which it is installed.

(6) The "Placard" may be removed and the "Limitations" as specified in (A)(2) of Part III, may be terminated when the requirements of paragraphs (A)(1) or (4) of Part III have been accomplished on that DO-9 airplane.

(B) The airplane may be flown in accordance with FAR's 21.197 and 21.199 with cracks in the spoiler pin and/or fitting and/or link, using the applicable limitations and procedures prescribed in Part II, and in paragraphs (A)(2)(a) and (A)(2)(b) of Part III of this AD, to a base where the inspection and/or maintenance can be performed.

This amendment to AD 74-16-02 becomes effective May 27, 1975.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Los Angeles, Calif., on May 12, 1975.

ROBERT H. STANTON,  
Director, FAA Western Region.  
[FR Doc.75-13275 Filed 5-20-75; 8:45 am]

[Airworthiness Docket No. 74-WE-52-AD, Amdt. 39-2214]

# **PART 39—AIRWORTHINESS DIRECTIVES** **Certain AiResearch Model TPE331-1, -2, -3, -5, and -6 Series Engines**

Amendment 39-2054 (39 FR 44439), AD 74-26-11, as amended by Amendment 39-2092 (40 FR 6771), requires inspection and modification to the oil supply system for the high speed pinion gear bearing assembly. This action is required because several failures have occurred in the oil supply tube which can result in failure of the high speed pinion gear bearings. After issuing Amendment 39-2092, the agency has determined that the manufacturer has developed an improved oil tube assembly which, when installed, negates the need for a recurring inspection required by the AD. Therefore, the AD is being further amended to include this provision and to require the installation of these improved parts before exceeding the engine operating time in service at the manufacturer's recommended mid-term inspection or overhaul. The manufacturer has also established a production incorporation point after which new engines will incorporate all of these improved parts, thereby making these inspections and modifications required by this AD unnecessary for these engines.

Since a situation exists that requires immediate adoption of the regulation, it is found notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13897), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-2054 (39 FR 44439) AD 74-26-11, as amended by Amendment 39-2092 (40 FR 6771), is further amended to read as follows:

1. Revise paragraph (2) to read as follows:

(2) Engines listed in (1) above, as well as the following: TPE331-1-101B, S/N 93062, 93063; TPE331-1-151A, S/N 92355 through 92357; TPE331-1-151K, S/N 26015 through 26023; TPE331-2-201A, S/N 90279 through 90296; TPE331-3U-303G or TPE331-3UW-303G, S/N 03181 through 03183, 03193, 03195, 03197, 05043 through 05048, 05052; TPE331-5-251C, S/N 22058 through 22103, 22119; TPE331-5-251K, S/N 06443, 06455 through 06537, 06556; TPE331-6-251M or -6-252M, S/N 20534 through 20577. Within the next 100 hours time in service, unless accomplished within the last 100 hours time in service prior to the effective date of this AD, as amended, and thereafter at intervals not to exceed 200 hours time in service, inspect the integral support bracket associated with the oil transfer tube, P/N 3101187-1, or clamp P/N 3101484-1, used with the tube assembly described in (b), below, per the instruction in paragraph 2.C. of the above referenced AiResearch TPE331-72-0092 Service Bulletin. If the oil transfer tube bracket or clamp is cracked or separated, either:

(a) Replace with a serviceable P/N 3101187-1, or,  
(b) Accomplish the installation of a tube, P/N 3101187-2, clamp, P/N 3101484-1, and washer, P/N AN960C416L, using the existing clamp bolt, per the instructions of paragraph 2.E. of the service bulletin.

**NOTE 1.** Revision 1, to AiResearch Service Bulletin TPE331-72-0092, dated January 27, 1975, contains instructions for expanded inspection and maintenance of the high speed pinion (HSP) gear bearing lubricating system. Revision 1 is FAA-approved, and if accomplished, constitutes compliance with paragraph (1) of this AD. Accomplishment of Revision 1 is recommended.

2. Add a new paragraph (3) as follows:

(3) The recurring inspection required in paragraph (2), above, may be discontinued when the following have been accomplished:

(a) The oil transfer tube, P/N 3101187-1, is removed and replaced with a serviceable oil transfer tube, P/N 3101187-2, which has been aged (heat treated) and re-identified as -3 per AiResearch Service Bulletin TPE331-72-0092, Revision 1, dated January 27, 1975, Revision 2, dated April 30, 1975, or later FAA-approved revision, or replaced with a serviceable -3.

(b) The oil supply tube, P/N 3101185-2 (Model TPE331-3U/-3UW) or -1 (all other affected models) is replaced with a tube, P/N 3101605-2 (Model TPE331-3U/-3UW) or P/N 3101605-1 (all other affected models) per AiResearch Service Bulletin TPE331-72-0092, Revision 2, dated April 30, 1975, or later FAA-approved revisions.

(c) Notwithstanding a satisfactory inspection record, all affected engines must be modified to incorporate the modification described in sub-paragraphs (a) and (b) above, before either exceeding a total time in service since new or overhaul equal to the manufacturer's recommended mid-term inspection time as defined in paragraphs 2.A, 2.C or 2.D of AiResearch Service Bulletin No. 606, Revision No. 7, dated March 20, 1975, or later revisions; or, if this inspection

has already been accomplished prior to the effective date of this AD, incorporate these modifications before exceeding the recommended overhaul period as defined in paragraph 1.A of AiResearch Service Bulletin No. 606, Revision No. 7, dated March 20, 1975, or later revisions.

**NOTE 2.** Engine Models TPE331-6-252B and -252M are not specifically included in the above referenced Service Bulletin No. 606. Refer to paragraph 2.D of Service Bulletin No. 606 for mid-term inspection and overhaul times applicable to these engine models.

**NOTE 3.** The modifications described in paragraph (3) are recommended on engines not modified as a result of inspections performed under the original or previous amendment of this AD.

3. Re-identify existing paragraphs (3) and (4) as (4) and (5), respectively.

This amendment becomes effective May 27, 1975.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Los Angeles, Calif., on May 12, 1975.

ROBERT H. STANTON,  
Director, FAA Western Region.  
[FR Doc.75-13276 Filed 5-20-75; 8:45 am]

[Airspace Docket No. 74-GL-52]

# **PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS**

## **Control Zone; Correction**

In FR Doc. 75-10650, appearing at page 17986 in the FEDERAL REGISTER of April 24, 1975, the following sentences were inadvertently omitted and should be inserted after the description of the control zone:

This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airmen's Information Manual.

Issued in Des Plaines, Ill., on May 2, 1975.

R. O. ZIEGLER,  
Acting Director, Great Lakes Region.  
[FR Doc.75-13281 Filed 5-20-75; 8:45 am]

[Airspace Docket No. 74-GL-55]

# **PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS**

## **Control Zone; Correction**

In FR Doc. 75-10649, appearing at page 17986 in the FEDERAL REGISTER of April 24, 1975, the following sentences were inadvertently omitted and should be inserted after the description of the control zone:

This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will be thereafter continuously published in the Airman's Information Manual.

Issued in Des Plaines, Ill., on May 2, 1975.

R. O. ZIEGLER,  
Acting Director, Great Lakes Region.  
[FR Doc.75-13282 Filed 5-20-75; 8:45 am]

[Airspace Docket No. 75-CE-7]

# **PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS**

## **Alteration of Control Zone**

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Topeka, Kansas, control zone.

The United States Air Force is reducing the hours of airport traffic control and weather reporting services at Forbes Air Force Base, Topeka, Kansas. Accordingly, it is necessary to alter that portion of the Topeka control zone serving Forbes Air Force Base to reflect the change from a continuous to a part-time control zone. The new hours for the Topeka control zone will initially be published in advance by a Notice to Airmen. Thereafter, the effective date and time of the control zone and any changes thereto will be continuously published in the Airmen's Information Manual.

Since this alteration is relaxatory in nature and is in the interest of safety, compliance with the notice and public procedure provisions of the Administrative Procedure Act is unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective immediately as hereinafter set forth:

In § 71.171 (40 FR 353), the following control zone is amended to read:

## **TOPEKA, KANSAS (FORBES AFB)**

Within a 5-mile radius of Forbes AFB (latitude 38°57'10" N., longitude 95°39'50" W.), within 2 miles each side of the Forbes AFB TACAN 321° radial extending from the 5-mile radius zone to 6 miles NW of the TACAN, and within 2 miles each side of the Forbes AFB ILS localizer SE course, extending from the 5-mile radius zone to 1 mile SE of the OM, excluding the portion subtended by a chord drawn between the points of intersection of the 5-mile radius zone with the Topeka, Kans. (Philip Billard Airport) control zone. This control zone will be effective as established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airmen's Information Manual.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Kansas City, Mo., on May 1, 1975.

C. R. MELUGIN, JR.,  
Director, Central Region.  
[FR Doc.75-13278 Filed 5-20-75; 8:45 am]

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[Airspace Docket No. 75-EA-21]

# **PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS**

## **Alteration of Transition Area**

On page 14780 of the FEDERAL REGISTER for April 2, 1975, the Federal Aviation Administration published a proposed rule which would alter the Hazleton, Pa., transition area (40 FR 508).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 g.m.t. June 26, 1975.

(Sec. 307(a), Federal Aviation Act of 1958, (72 Stat. 749; 49 U.S.C. 1348); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c)))

Issued in Jamaica, N.Y., on May 7, 1975.

JAMES BISPO,  
Acting Director, Eastern Region.

Amend § 71.181 of Part 71, Federal aviation regulations so as to amend the description of the Hazleton, Pa. Transition Area by adding, "within 4.5 miles each side of the Hazleton Municipal Airport ILS localizer east course, extending from the OM to 10 miles east of the OM." following, "east of the VOR."

[FR Doc.75-13280 Filed 5-20-75; 8:45 am]

[Airspace Docket No. 75-EA-34]

# **PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS**

## **Alteration of Control Zone**

The Federal Aviation Administration is amending § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the Calverton, N.Y., control zone (40 FR 364).

The control zone is currently designated during the hours 0800, local time to sunset, Monday through Saturday. The weather and communications requirements for the control zone designation are provided by the Peconic (nonfederal) Tower. The Tower plans to curtail its hours of operations to "0800 hours to 1730, local time, Monday through Friday" as soon as it can be authorized to do so. This requires a change in the control zone description.

Since the amendment is less restrictive in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 g.m.t. August 14, 1975, as follows:

1. Amend § 71.171 of Part 71, Federal Aviation Regulations by altering the text of the Calverton, New York Control Zone as follows: In the text delete, "0800 hours local time to sunset, Monday through

Saturday." and substitute therefor, "0800 to 1730 hours, local time, Monday through Friday."

(Sec. 307(a), Federal Aviation Act of 1958, (72 Stat. 749; 49 U.S.C. 1348); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c)))

Issued in Jamaica, N.Y., on May 7, 1975.

JAMES BISPO,  
Acting Director, Eastern Region.  
[FR Doc.75-13279 Filed 5-20-75; 8:45 am]

# **Title 16—Commercial Practices** **CHAPTER I—FEDERAL TRADE COMMISSION**

## **PART 255—GUIDES CONCERNING USE OF ENDORSEMENTS AND TESTIMONIALS IN ADVERTISING**

On December 1, 1972, there was published in the FEDERAL REGISTER (37 FR 25548) a proposal to amend Title 16, Chapter I by adding a new Part 255—Guides Concerning the Use of Endorsements and Testimonials in Advertising. Written comments were invited from interested parties concerning those proposed guides. Comments were placed on the public record and were considered by the Commission. The Commission is publishing two guides in final form as set forth below under §§ 255.3 and 255.4. Title 16, Chapter I is thus amended by adding a new Part 255.

The Commission is also republishing two proposed Guides for additional public comment under the proposed rules section of this issue of the FEDERAL REGISTER, also under 16 CFR Part 255 and is publishing a third proposed guide which is entirely new.

These guides address major issues peculiar to endorsement and testimonial advertising, and state the views of the Commission concerning situations and techniques that are frequently presented in such advertising. They do not address issues not peculiar to endorsements and testimonials that may also determine the legality of an advertisement. Thus, the fact that a particular advertisement conforms to these Guides does not mean that such advertisement is necessarily in compliance with the Federal Trade Commission Act. Specific issues concerning, for example, the products to which a comparison is being made, or what constitutes "typical" performance of a product, are not resolved by the Guides but should be resolved with reference to the basic principles of Section 5 (15 U.S.C. 45).

The Commission has always expressed particular concern for advertising addressed to children. Because of the special problems which such advertising entails, it was determined that the area of children's advertising could not be completely covered in these Guides. Consequently, even though these Guides apply generally to all advertisements, practices which would conform to these



Guides in adult advertising may nevertheless be questioned in cases of child audiences.

While the Guides are interpretive of laws administered by the Commission, and thus are advisory in nature, proceedings to enforce the requirements of law as explained in the Guides may be brought under the Federal Trade Commission Act (15 U.S.C. Secs. 41-58) which, briefly stated, makes it illegal for one to engage in "unfair methods of competition in or affecting commerce and unfair or deceptive acts or practices in or affecting commerce", as "commerce" is defined therein.

Inquiries and requests for copies of the Guides should be directed to the Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

Part 255 is added to read as follows:

- Sec.  
255.0 Definitions.  
255.1 [Reserved.]  
255.2 [Reserved.]  
255.3 Expert endorsements.  
255.4 Endorsements by organizations.

**AUTHORITY:** The provisions of this Part 255 issued under 38 Stat. 717, as amended; 15 U.S.C. 41-58.

#### § 255.0 Definitions.

(a) The Commission intends to treat endorsements and testimonials identically in the context of its enforcement of the Federal Trade Commission Act and for purposes of this part. The term "endorsements" is therefore generally used hereinafter to cover both terms and situations.

(b) For purposes of this part, an "endorsement" means any advertising message (including verbal statements, demonstrations, or depictions of the name, signature, likeness or other identifying personal characteristics of an individual or the name or seal of an organization) which message consumers are likely to believe reflects the opinions, beliefs, findings, or experience of a party other than the sponsoring advertiser. The party whose opinions, beliefs, findings, or experience the message appears to reflect will be called the endorser and may be an individual, group or institution.

(c) For purposes of this part, the term "product" includes any product, service, company or industry.

(d) For purposes of this part, an "expert" is an individual, group or institution possessing, as a result of experience, study or training, knowledge of a particular subject, which knowledge is superior to that generally acquired by ordinary individuals.

**Example 1:** A film critic's review of a movie is excerpted in an advertisement. When so used, the review meets the definition of an endorsement since it is viewed by readers as a statement of the critic's own opinions and not those of the film producer, distributor or exhibitor. Therefore, any alteration in or quotation from the text of the review which does not fairly reflect its substance would be a violation of the standards set by this part.

**Example 2:** A TV commercial depicts two women in a supermarket buying a laundry detergent. The women are not identified out-

side the context of the advertisement. One comments to the other how clean her brand makes her family's clothes, and the other then comments that she will try it because she has not been fully satisfied with her own brand. This obvious fictional dramatization of a real life situation would not be an endorsement.

**Example 3:** In an advertisement for a pain remedy, an announcer who is not familiar to consumers except as a spokesman for the advertising drug company praises the drug's ability to deliver fast and lasting pain relief. He purports to speak, not on the basis of his own opinions, but rather in the place of and on behalf of the drug company. Such an advertisement would not be an endorsement.

**Example 4:** A manufacturer of automobile tires hires a well-known professional automobile racing driver to deliver its advertising message in television commercials. In these commercials, the driver speaks of the smooth ride, strength, and long life of the tires. Even though the message is not expressly declared to be the personal opinion of the driver, it may nevertheless constitute an endorsement of the tires. Many consumers will recognize the spokesman as being primarily a racing driver and not an advertising announcer. Accordingly, they may well believe he would not speak for an automotive product unless he actually believed in what he was saying and had personal knowledge sufficient to form that belief. Hence they would think that the advertising message reflects his personal views as well as those of the sponsoring advertiser. This attribution of the underlying views to the driver brings the advertisement within the definition of an endorsement for purposes of this part.

**Example 5:** A television advertisement for golf balls shows a prominent and well-recognized professional golfer hitting the golf balls. This would be an endorsement by the golfer even though he makes no verbal statement in the advertisement.

#### § 255.3 Expert endorsements.

(a) Whenever an advertisement represents, directly or by implication, that the endorser is an expert with respect to the endorsement message, then the endorser's qualifications must in fact give him the expertise that he is represented as possessing with respect to the endorsement.

(b) While the expert may, in endorsing a product, take into account factors not within his expertise (e.g., matters of taste or price), his endorsement must be supported by an actual exercise of his expertise in evaluating product features or characteristics with respect to which he is expert and which are both relevant to an ordinary consumer's use of or experience with the product and also are available to the ordinary consumer. This evaluation must have included an examination or testing of the product at least as extensive as someone with the same degree of expertise would normally need to conduct in order to support the conclusions presented in the endorsement. Where, and to the extent that, the advertisement implies that the endorsement was based upon a comparison such comparison must have been included in his evaluation; and as a result of such comparison, he must have concluded that, with respect to those features on which he is expert and which are relevant and available to an ordinary consumer, the

endorsed product is at least equal overall to the competitors' products. Moreover, where the net impression created by the endorsement is that the advertised product is superior to other products with respect to any such feature or features, then the expert must in fact have found such superiority.

**Example 1:** An endorsement of a particular automobile by one described as an "engineer" implies that the endorser's professional training and experience are such that he is well acquainted with the design and performance of automobiles. If the endorser's field is, for example, chemical engineering, the endorsement would be deceptive.

**Example 2:** A manufacturer of automobile parts advertises that its products are approved by the "American Institute of Science." From its very name, consumers would infer that the "American Institute of Science" is a bona fide independent testing organization with expertise in judging automobile parts and that, as such, it would not approve any automobile part without first testing its efficacy by means of valid scientific methods. Even if the American Institute of Science is such a bona fide expert testing organization, as consumers would expect, the endorsement may nevertheless be deceptive unless the Institute has conducted valid scientific tests of the advertised products and the test results support the endorsement message.

**Example 3:** A manufacturer of a non-prescription drug product represents that its product has been selected in preference to competing products by a large metropolitan hospital. The hospital has selected the product because the manufacturer, unlike its competitors, has packaged each dose of the product separately. This package form is not generally available to the public. Under the circumstances, the endorsement would be deceptive because the basis for the choice of the manufacturer's product, convenience of packaging, is neither relevant nor available to consumers.

**Example 4:** The president of a commercial "home cleaning service" states in a television advertisement that the service uses a particular brand of cleanser in its business. Since the cleaning service's professional success depends largely upon the performance of the cleansers it uses, consumers would expect the service to be expert with respect to judging cleaning ability, and not be satisfied using an inferior cleanser in its business when it knows of a better one available to it. Accordingly, the cleaning service's endorsement must at least conform to those consumer expectations. The service must, of course, actually use the endorsed cleanser. Additionally, on the basis of its expertise, it must have determined that the cleaning ability of the endorsed cleanser is at least equal (or superior, if such is the net impression conveyed by the advertisement) to that of competing products with which the service has had experience and which remain reasonably available to it. Since in this example, the cleaning service's president makes no mention that the endorsed cleanser was "chosen," "selected," or otherwise evaluated in side-by-side comparisons against its competitors, it is sufficient if the service has relied solely upon its accumulated experience in evaluating cleansers without having to have performed side-by-side or scientific comparisons.

**Example 5:** An association of professional athletes states in an advertisement that it has "selected" a particular brand of beverages as its "official breakfast drink". As in Example 4, the association would be regarded as expert in the field of nutrition for purposes of this section, because consumers would

expect it to rely upon the selection of nutritious foods as part of its business needs. Consequently, the association's endorsement must be based upon an expert evaluation of the nutritional value of the endorsed beverage. Furthermore, unlike Example 4, the use of the words "selected" and "official" in this endorsement imply that it was given only after direct comparisons had been performed among competing brands. Hence, the advertisement would be deceptive unless the association has in fact performed such comparisons between the endorsed brand and its leading competitors in terms of nutritional criteria, and the results of such comparisons conform to the net impression created by the advertisement. [Guide 3]

#### § 255.4 Endorsements by organizations.

Endorsements by organizations, especially expert ones, are viewed as representing the judgment of a group whose collective experience exceeds that of any individual member, and whose judgments are generally free of the sort of subjective factors which vary from individual to individual. Therefore an organization's endorsement must be reached by a process sufficient to ensure that the endorsement fairly reflects the collective judgment of the organization. Moreover, if an organization is represented as being expert, then, in conjunction with a proper exercise of its expertise in evaluating the product under § 255.3 (Expert endorsements), it must utilize an expert or experts recognized as such by the organization or standards previously adopted by the organization and suitable for judging the relevant merits of such products.

**Example:** A mattress seller advertises that its product is endorsed by a chiropractic association. Since the association would be regarded as expert with respect to judging mattresses, its endorsement must be supported by an expert evaluation by an expert or experts recognized as such by the organization, or by compliance with standards previously adopted by the organization and aimed at measuring the performance of mattresses in general and not designed with the particular attributes of the advertised mattress in mind. (See also § 255.3, Example 5.) [Guide 4]

Sections 255.0, 255.3, 255.4 are promulgated by the Federal Trade Commission and become effective May 21, 1975.

[SEAL] CHARLES A. TOBIN,  
Secretary.

[FR Doc.75-13295 Filed 5-20-75;8:45 am]

#### Title 17—Commodity and Securities Exchanges

#### CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 34-11419, 35-18983, IC-8789]

#### PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

##### Tender Offers

The Commission today announced an amendment to its regulations governing delegation of authority to authorize members of the Commission's staff to take actions in questions presented in

certain tender offers. Rule 14d-2 (17 CFR 240.14d-2) under the Securities Exchange Act of 1934 (the "Act") declares that certain communications relating to tender offers are not subject to Regulation 14D (17 CFR 240.14d-1—240.14d-101) thereunder. One of these, Rule 14d-2(f), provides for a so-called "stop, look and listen" type of notification under which the issuer agrees "on or before a specified date (which shall be not later than 10 days prior to the date specified in the offer, request, or invitation, as the last date on which tenders will be accepted or such shorter period as the Commission may authorize) [to] advise security holders as to management's recommendation to accept or reject" a tender offer for its shares. No authority has in the past been delegated to the Director of the Division of Corporation Finance pursuant to 17 CFR 200.30-1(d) (4) to authorize management to advise security holders as to its position relating to tender offers for an issuer's shares within periods of time less than that prescribed in Rule 14d-2(f).

Given the need for prompt action in such requests and otherwise to expedite the operations of the Commission in this area, the Commission has determined that authority should be delegated to the Director of the Division of Corporation Finance to authorize management of an issuer which is the subject of a tender offer to advise security holders as to its position within periods of time less than that prescribed in Rule 14d-2(f). To accomplish this purpose, the Commission hereby amends the last clause of 17 CFR 200.30-1(d) (4).

17 CFR 200.30-1(d) (4) is amended to read as follows:

§ 200.30-1 Delegation of authority to Director of Division of Corporation Finance.

(d) . . . . .

(4) To authorize the use of forms of proxies, proxy statements, or other soliciting material within periods of time less than that prescribed in Rules 14a-6, 14a-8(d), and 14a-11 (§§ 240.14a-6, 240.14a-8(d), 240.14a-11 of this chapter); to authorize the filing of information statements within periods of time less than that prescribed in Rule 14c-5 (a) (§ 240.14c-5(a) of this chapter); and to authorize the filing of information pursuant to Rule 14d-2(f) (§ 240.14d-2(f) of this chapter) and Rule 14f-1 (§ 240.14f-1 of this chapter) within periods of time less than that prescribed in those sections.

The Commission finds that the foregoing action relates solely to agency organization, procedure or practice and that notice and procedures under 5 U.S.C. 553 are unnecessary. Accordingly, the foregoing action which was taken pursuant to Pub. L. 87-592, 76 Stat. 394, 395 (15 U.S.C. 78d-1, 78d-2), becomes effective immediately.

(Secs. 1, 2, Pub. L. 87-592, 76 Stat. 394, 395 (15 U.S.C. 78d-1, 78d-2))

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

MAY 14, 1975.

[FR Doc.75-13332 Filed 5-20-75;8:45 am]

[Release 35-18963; AS-171]

#### PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

#### Adoption of and Rescission of Uniform System of Accounts for Public Utility Holding Companies

The Securities and Exchange Commission today announced the adoption of revised Rule 26 (17 CFR 250.26) under the Public Utility Holding Company Act of 1935 and the rescission of the uniform system of accounts for holding companies ("uniform system"). The purpose of the change is to facilitate adjustment of registered holding company accounts to generally accepted accounting standards.

The revision was noticed for comment in Release 35-18782, January 23, 1975 (40 FR 5372, February 5, 1975). Six responses were received, all endorsing the change in substance.

**Commission action.** Pursuant to authority in sections 15 and 20 of the Public Utility Holding Company Act of 1935, the Securities and Exchange Commission hereby adopts revised § 250.26 of Chapter II of Title 17 of the Code of Federal Regulations to read as follows:

#### § 250.26 Financial statement and record-keeping requirements for registered holding companies and subsidiaries.

(a) Every registered holding company and every subsidiary company thereof:

(1) Shall conform to the requirements of Regulation S-X as to form and content of financial statements; and

(2) Shall make and keep current accounts, books and other records of all of its transactions in sufficient detail to permit examination, audit and verification of the financial statements, schedules and reports it is required to file with the Commission or which it issues to stockholders. Such accounts, books and other records shall be maintained in appropriate form and in sufficient detail to provide all of the information with respect to the business of the company specified by such Commission filing requirements as are in effect when the transactions recorded occur.

(b) Every registered holding company shall identify in its Form U5S the chart of accounts used by it and by each subsidiary company.

(1) The initial identification shall be made in the Form U5S, or a supplement thereto, filed in the year in which the use of such accounts is to begin, or in the year 1975 for charts of accounts already in use or proposed to be used in that year. Subsequent Forms U5S need



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merely state that no change in the accounts used has occurred, if that is the fact.

(2) A copy of each chart of accounts shall be annexed as an exhibit to the filing in which it is identified, except that it is unnecessary to file a copy of an official chart of accounts which any company subject to this rule is required to use by the Federal Power Commission, a state commission or by § 250.27 or § 250.93 under the Act. A company electing to use a chart of accounts promulgated by the Federal Power Commission also need not file a copy thereof.

(3) An amendment to Form U5S shall be filed as to any modification of such chart of accounts, except a modification made to an official chart of accounts by the commission which promulgated it. The amendment shall describe the nature, purpose and effect of the proposed modification and the date it is to be placed in effect. It shall be filed at least 30 days prior to its effective date. Unless the Commission directs otherwise, the chart of accounts, as so modified, shall be used thereafter.

(c) Every registered holding company and every subsidiary company thereof shall hereafter follow the equity method of accounting for investments in any subsidiary company.

(1) Each investment shall be recorded at its carrying value heretofore established and the actual cost of investments hereafter made. Each investment shall be periodically adjusted for the proportionate share of earnings or losses or capital changes of the subsidiary company since its acquisition, crediting any dividends received from such subsidiary company.

(2) Every company subject to this rule shall maintain a subaccount to its retained earnings account which shall be periodically debited or credited with its proportionate share of undistributed retained earnings of subsidiary companies.

(3) No company subject to this rule shall declare or pay any dividends or reacquire any of its own securities from or on the basis of any balances recorded in the subaccount referred to in paragraph (c) (2) of this section, except pursuant to a declaration under section 12(c) of the Act.

(d) No registered holding company which is not a public utility company shall dispose, without authorization from the Commission, of any accounts, books or other records, except pursuant to Public Utility Holding Company Act Release No. 14093 of November 29, 1959 (17 CFR, Appendix to Part 257 of this chapter), as it may be amended from time to time.

(e) This rule shall not modify or revoke any order of the Commission heretofore entered as to the accounting by any company subject to this rule including any continuing provision as to amortization or other disposition of any item governed thereby.

(f) Nothing in this rule shall relieve any company subject thereto from compliance with the requirements as to recordkeeping and retention that may be prescribed by any other regulatory agency.

(g) Any references in other rules, forms or releases under the Act to the uniform system of accounts shall be hereafter deemed to refer to this rule.

**Statutory basis.** Section 15(a) of the Act authorizes the Commission to prescribe the records and accounts to be maintained and the periods during which they are to be retained for inspection and audit by every registered holding company and every subsidiary. Section 15(e) of the Act requires that only an accounting system approved by the Commission be used. And Rule 28 prohibits, with the exceptions stated therein, the use of financial statements inconsistent with the book accounts so maintained.

We hereby authorize, as a transitional measure, the adjustment of all accounts for the calendar year 1975 to conform to the new accounting system adopted in that year by any company subject to the rule, as though such system had been in effect since the beginning of 1975. We have already granted in Holding Company Act Release No. 18782, January 23, 1975, an exception from Rule 28, to permit companies which intend to adopt such accounting system in 1975 pursuant to the amended rule to publish financial statements for the year 1974 on the new basis. This exception is hereby renewed and extended to financial statements for the year 1975 or portions thereof.

**Background and purpose.** We have determined that the uniform system, prescribed in 1936, has become obsolete in significant respects and that there is no longer a need for a single prescribed system of accounts for holding companies. The change will allow holding companies to take the initiative in developing accounting systems adapted to their particular requirements.

The rescission of the uniform system eliminates discrepancies which have developed since the uniform system was adopted between the accounts prescribed and generally accepted accounting principles. The principal effects are the use of the equity method of accounting for investments in subsidiaries in place of the cost method and the presentation of extraordinary gains and losses on the income statement, rather than in retained earnings.

**Record retention.** The rule published herein differs from that proposed in that it adopts rather than rescinds the detailed schedule of record retention requirements which has been in effect since 1959. It should be noted that, under paragraph (g) of the revised Rule 26, references in that schedule to the uniform system of accounts now are to be read as references to Rule 26. We are aware that this schedule needs some change and expect to publish an amendment for comment.

In reviewing the proposed rule in the light of the comments received, it became apparent that the substitution of proposed paragraph (c) for the existing specific instructions as to record retention created uncertainties and ambiguities which should be avoided. It would not be appropriate to defer action on the basic accounting change proposed for republication of record retention require-

ments, so it is necessary to retain the existing requirements until the procedures necessary for change can be completed.

**Other changes from the rule as proposed.** Textual alterations have been made to clarify certain questions raised in the comments. The second sentence of paragraph (c) (2), which would have required that undistributed earnings of subsidiaries be segregated on the parent company's balance sheet, has been deleted. This conforms to our basic policy of leaving the form of financial statements to Regulation S-X. Although the legal restrictions on the use of that portion of the parent company's retained earnings will normally be material, that restriction will usually overlap with similar restrictions imposed by bond indentures or loan agreements, which are customarily described by footnote. A mandatory use of a balance sheet caption for one such restriction could complicate an already difficult problem of disclosure.

The final clause of paragraph (c) (3), which referred to a section 12(c) application becoming effective under Rule 23, is deleted because such an application can become effective in more than one way.

Filing requirements, which originally appeared as paragraph (b) (5), have been restated in a separate paragraph (b). Each existing registered holding company should identify the accounts to be used in its system as part of its Form U5S for 1974, due May 1, 1975, or by supplement thereto. A company electing to continue to use the old uniform system until January 1, 1976, should so state in that filing but must specify the accounts to be used in a supplement thereto filed by December 1, 1975. This conforms to the 30-day advance filing requirement for amendment.

This portion of the rule has been elaborated to make it clear that the filing need not be repeated each year and that copies of official charts of accounts, such as those promulgated by the Federal Power Commission, need not be filed.

Some companies subject to the rule may wish to adopt an official system used by their subsidiaries or associates, even though not required to do so. The rule permits this choice. Such companies are free to modify the system so selected. Any variation from an official system would, of course, preclude meeting the filing requirements by a simple reference. However, official systems are a matter of official notice and may be incorporated by reference in a filing, as long as the variations therefrom are unequivocally stated.

Concern has been expressed that paragraph (b) (9) of Rule 14a-3 under the Securities Exchange Act of 1934 would require inclusion of the entire chart of accounts in the material which the issuer is required to furnish on request to its security holders. That rule specifies the conditions on which exhibits to such filings are to be furnished and is fully adequate to cover the contingency.

**Application of Rule 26.** Rule 26 is co-extensive with section 15(a) of the Act and applies, except as expressly limited,

to every registered holding company and every subsidiary thereof. The proposed text has been rearranged to segregate in paragraph (c) the provisions dealing with the equity method of accounting for investments in subsidiaries, which are inherently limited to such companies in a registered system as have a subsidiary.

The record retention requirements, now paragraph (d), apply only to registered holding companies which are not public utility companies. Such requirements for public utility companies, whether or not holding companies, are specified by the Federal Power Commission or state commissions. We do not, at this time, see a need for additional requirements as to these companies.

"Subsidiary company" as used in this rule has the special meaning prescribed in section 2(a) (8) of the Act, and includes any company regardless of form of organization in which 10% or more of the voting securities are directly or indirectly owned, controlled or held with power to vote by a holding company. The rule does not prohibit use of the equity method of accounting for investments in nonsubsidiaries. Its use for such investments would be governed by applicable accounting standards.

Rule 26 is adopted pursuant to authority conferred on the Commission by the Public Utility Holding Company Act of 1935, particularly sections 15 and 20 thereof, and shall be effective forthwith.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

MAY 1, 1975.

[FR Doc. 75-13302 Filed 5-20-75; 8:45 am]

## Title 21—Food and Drugs

## CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD AND FOOD PRODUCTS  
PART 121—FOOD ADDITIVES

## SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

## PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

## Bambermycins, Amprolium, Ethopabate, Roxarsone

The Commissioner of Food and Drugs has evaluated new animal drug applications (95-543V, 95-547V, 95-548V, 95-549V) filed by Hoechst-Roussel Pharmaceuticals, Inc., Somerville, NJ 08876, proposing safe and effective use of several combinations of bambermycins, amprolium, ethopabate, and roxarsone in complete feeds for broiler chickens. The applications are approved.

The Commissioner is amending Parts 121 and 558 (Part 558 formerly Part 135e prior to recodification published in the FEDERAL REGISTER of March 27, 1975 (40 FR 13802)) to reflect the approval as set forth below. This amendment shall become effective May 21, 1975.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), in accordance with § 510.6

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(formerly § 3.517), and under authority delegated to the Commissioner (21 CFR 2.120), Parts 121 and 558 are amended as follows:

1. Part 121, Subpart C, is amended as follows:

a. In § 121.210(c) in table 1 by adding four new items after item 2.11, to read as follows:

§ 121.210 Amprolium.

(c) . . . . .

TABLE 1—Amprolium in complete chicken and turkey feed

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
2.12 Amprolium.	113.5 (0.0125%)	Bambermycins. + Ethopabate.	2-3 36.3 (0.004%)	For broiler chickens; feed continuously as the sole ration; as sole source of amprolium; amprolium, ethopabate as provided by No. 00006 in sec. 510.600(c) of this chapter, bambermycins as provided by No. 00009 in sec. 510.600(c) of this chapter.	As an aid in the prevention of coccidiosis where severe exposure to coccidiosis from <i>E. acervulina</i> , <i>E. maxima</i> , and <i>E. brunetti</i> is likely to occur. For increased rate of weight gain and improved feed efficiency.
2.13 Amprolium.	113.5 (0.0125%)	Bambermycins. + Ethopabate. + Roxarsone.	2-3 36.3 (0.004%) 22.8-34.1 (0.0025-0.00375%)	For broiler chickens; feed continuously as the sole ration; as sole source of amprolium and organic arsenic; amprolium and ethopabate as provided by No. 00006 in sec. 510.600(c) of this chapter, roxarsone by No. 017210, bambermycins by No. 00009. Withdraw 5 ds before slaughter.	As an aid in the prevention of coccidiosis where severe exposure to coccidiosis from <i>E. acervulina</i> , <i>E. maxima</i> , and <i>E. brunetti</i> is likely to occur. For increased rate of weight gain, improved feed efficiency, and improved pigmentation.
2.14 Amprolium.	113.5 (0.0125%)	Bambermycins. + Ethopabate. + Roxarsone.	2-3 3.63 (0.0004%) 22.8-34.1 (0.0025-0.00375%)	do.	As an aid in the prevention of coccidiosis. For increased rate of weight gain, improved feed efficiency, and improved pigmentation.
2.15 Amprolium.	113.5 (0.0125%)	Bambermycins. + Roxarsone.	2-3 22.8-34.1 (0.0025-0.00375%)	For broiler chickens; feed continuously as the sole ration; as sole source of amprolium and organic arsenic; amprolium as provided by No. 00006 in sec. 510.600(c) of this chapter, roxarsone by No. 017210, bambermycins by No. 00009. Withdraw 5 d before slaughter.	Do.

b. In § 121.262(c), table 1 by adding three new items following item 1.24, to read as follows:

§ 121.262 3-Nitro-4-hydroxyphenylarsonic acid.

(c) . . . . .

TABLE 1—3-Nitro-4-hydroxyphenylarsonic acid in complete chicken and turkey feed

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
1.25 3-Nitro-4-hydroxyphenylarsonic acid (roxarsone).	22.8-34.1 (0.0025-0.00375%)	Bambermycins. + Amprolium. + Ethopabate.	2-3 113.5 (0.0125%) 36.3 (0.004%)	For broiler chickens; feed continuously as the sole ration; as sole source of amprolium and organic arsenic; amprolium and ethopabate as provided by No. 00006 in sec. 510.600(c) of this chapter, bambermycins by No. 00009, roxarsone by No. 017210. Withdraw 5 d before slaughter.	As an aid in the prevention of coccidiosis where severe exposure to coccidiosis from <i>E. acervulina</i> , <i>E. maxima</i> , and <i>E. brunetti</i> is likely to occur. For increased rate of weight gain, improved feed efficiency, and improved pigmentation.
1.26 3-Nitro-4-hydroxyphenylarsonic acid (roxarsone).	22.8-34.1 (0.0025-0.00375%)	Bambermycins. + Amprolium. + Ethopabate.	2-3 113.5 (0.0125%) 3.63 (0.0004%)	do.	As an aid in the prevention of coccidiosis. For increased rate of weight gain, improved feed efficiency, and improved pigmentation.
1.27 3-Nitro-4-hydroxyphenylarsonic acid (roxarsone).	22.8-34.1 (0.0025-0.00375%)	Bambermycins. + Amprolium.	2-3 113.5 (0.0125%)	For broiler chickens; feed continuously as the sole ration; as sole source of amprolium and organic arsenic; amprolium as provided by No. 00006 in sec. 510.600(c) of this chapter, bambermycins by No. 00009, roxarsone by No. 017210. Withdraw 5 d before slaughter.	Do.

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## RULES AND REGULATIONS

2. Part 558 is amended in § 558.95 (formerly § 135e.65) by designating paragraphs (e) (2) and (3) as (e) (1) (i) and (ii) respectively and adding new paragraph (e) (2), (3), (4), and (5). As revised, paragraph (e) reads as follows:

## § 558.95 Bambermycins.

(e) *Conditions of use.* It is used in feed for broiler chickens as follows:

(1) *Amount per ton.* 1 to 2 grams.  
(2) *Indications for use.* For increased rate of weight gain and improved feed efficiency.

(ii) *Limitations.* Feed continuously as the sole ration.

(2) *Amount per ton.* Bambermycins, 2 to 3 grams plus amprolium, 113.5 grams (.0125 percent) plus ethopabate, 36.3 grams (.004 percent).

(i) *Indications for use.* As an aid in the prevention of coccidiosis where severe exposure to coccidiosis from *E. acervulina*, *E. maxima*, and *E. brunetti* is likely to occur. For increased rate of weight gain and improved feed efficiency.

(ii) *Limitations.* Feed continuously as the sole ration; as sole source of amprolium; amprolium and ethopabate as provided by No. 000006 in § 510.600(c) of this chapter.

(3) *Amount per ton.* Bambermycins, 2 to 3 grams plus amprolium, 113.5 grams (.0125 percent) plus ethopabate, 36.3 grams (.004 percent) plus roxarsone, 22.8 to 34.1 grams (.0025-.00375 percent).

(i) *Indications for use.* As an aid in the prevention of coccidiosis where severe exposure to coccidiosis from *E. acervulina*, *E. maxima*, and *E. brunetti* is likely to occur. For increased rate of weight gain, improved feed efficiency, and improved pigmentation.

(ii) *Limitations.* Feed continuously as the sole ration; as sole source of amprolium and organic arsenic; amprolium and ethopabate as provided by No. 000006 in § 510.600(c) of this chapter, roxarsone as provided by No. 017210 in § 510.600(c) of this chapter. Withdraw 5 days before slaughter.

(4) *Amount per ton.* Bambermycins, 2 to 3 grams plus amprolium, 113.5 grams (.0125 percent) plus ethopabate, 3.83 grams (.0004 percent) plus roxarsone, 22.8 to 34.1 grams (.0025-.00375 percent).

(i) *Indications for use.* As an aid in the prevention of coccidiosis. For increased rate of weight gain, improved feed efficiency, and improved pigmentation.

(ii) *Limitations.* Feed continuously as the sole ration; as sole source of amprolium and organic arsenic; amprolium and ethopabate as provided by No. 000006 in § 510.600(c) of this chapter, roxarsone as provided by No. 017210 in § 510.600(c) of this chapter. Withdraw 5 days before slaughter.

(5) *Amount per ton.* Bambermycins, 2 to 3 grams plus amprolium, 113.5 grams (.0125 percent) plus roxarsone, 22.8 to 34.1 grams (.0025-.00375 percent).

(i) *Indications for use.* As an aid in the prevention of coccidiosis. For increased rate of weight gain, improved feed efficiency, and improved pigmentation.

(ii) *Limitations.* Feed continuously as the sole ration; as sole source of amprolium and organic arsenic; amprolium as provided by No. 000006 in § 510.600(c) of this chapter, roxarsone as provided by No. 017210 in § 510.600(c) of this chapter. Withdraw 5 days before slaughter.

*Effective date.* This order shall be effective on May 21, 1975.

(Sec. 512(i), 92 Stat. 347 (21 U.S.C. 360b(1)).  
Dated: May 13, 1975.

C. D. VAN HOUWELING,  
Director, Bureau of Veterinary  
Medicine.

[FR Doc. 75-13169 Filed 5-20-75; 8:45 am]

[FRL 377-3]

## PART 123—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

## PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

## Methanearsonic Acid

A petition (FAP 5H5060) was filed (39 FR 31945) by The Ansil Co., PO. Drawer 1165, Weslaco, TX 78596, proposing establishment of food additive tolerances (21 CFR Part 121 now recodified as Parts 123 and 561) for residues of the herbicide methanearsonic acid (expressed as As<sub>2</sub>O<sub>3</sub>) in sugarcane byproducts (bagasse, molasses, sirup, and sugar) at 1 part per million resulting from application of its di- and monosodium salts to sugarcane.

Subsequently, the petitioner amended the petition by (1) withdrawing the request for food additive tolerances for residues of the herbicide resulting from application of its disodium salt to growing sugarcane, (2) restricting the food additive tolerances to provide for residues that may occur from use of the herbicide in a proposed experimental program involving application to growing sugarcane, and (3) withdrawing the request for food additive tolerances for residues of the herbicide in bagasse.

The Reorganization Plan No. 3 of 1970, published in the FEDERAL REGISTER of October 6, 1970 (35 FR 15623), transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency the functions vested in the Secretary of Health, Education, and Welfare for establishing tolerances for pesticide chemicals under sections 406, 408, and 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346, 346a, and 348).

Having evaluated the data in the petition and other relevant material, it is concluded that:

1. Residues of the herbicide will result in sugarcane molasses, sirup, and sugar from carryover and concentration under agricultural uses provided for by an experimental permit under the Federal Insecticide, Fungicide, and Rodenticide Act. (For a related document, see this issue of the FEDERAL REGISTER, page 22166.)

2. The proposed tolerances should be established to coincide with the experimental permit.

Therefore, pursuant to provisions of the Act (sec. 409(c) (1), (4), 72 Stat. 1786; 21 U.S.C. 348(c) (1), (4)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (39 FR 18805, (a) Part 123 is amended by adding the following new section to Subpart A:

## § 123.284 Methanearsonic acid.

Tolerances of 1 part per million are hereby established for residues of the herbicide methanearsonic acid (expressed as As<sub>2</sub>O<sub>3</sub>) in sugarcane byproducts (molasses, sirup, and sugar), resulting from application of its monosodium salt to the growing sugarcane. Such residues may be present therein only as a result of the application of the monosodium methanearsonate to the growing sugarcane treated under an experimental program, which expires May 15, 1976, and on which said sugarcane a temporary pesticide tolerance for residues of the herbicide expiring the same date has been established. Residues remaining in or on the above commodities after expiration of these tolerances will not be considered actionable if the pesticide is legally applied during the term and in accordance with provisions of the temporary permit/food additive tolerances.

(b) Section 561.280 is revised as follows:

## § 561.280 Methanearsonic acid.

(a) Tolerances of 1 part per million are hereby established for residues of the herbicide methanearsonic acid (expressed as As<sub>2</sub>O<sub>3</sub>) in the sugarcane byproduct (molasses), resulting from application of its monosodium salt to the growing sugarcane. Such residues may be present therein only as a result of the application of monosodium methanearsonate to the growing sugarcane treated under an experimental program, which expires May 15, 1976, and on which said sugarcane a temporary pesticide tolerance for residues of the herbicide expiring the same date has been established. Residues remaining in or on the above commodity after expiration of this tolerance will not be considered actionable if the pesticide is legally applied during the term and in accordance with provisions of the temporary permit/food additive tolerance.

(b) A tolerance of 0.9 part per million (expressed as As<sub>2</sub>O<sub>3</sub>) is established for residues of the herbicide methanearsonic acid in cottonseed hulls from application of the disodium and monosodium salts of methanearsonic acid in the production of cotton.

Any person who will be adversely affected by the foregoing order may at any time on or before June 20, 1973, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall

show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support.

*Effective date.* This order shall become effective on May 21, 1975.  
(Sec. 409(c) (1), (4), 72 Stat. 1786; (21 U.S.C. 348(c) (1), (4)))

Dated: May 15, 1975.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

[FR Doc. 75-13355 Filed 5-20-75; 8:45 am]

## Title 39—Postal Service

## CHAPTER I—U.S. POSTAL SERVICE

## PART 111—GENERAL INFORMATION ON POSTAL SERVICE

## Postal Service Manual; Miscellaneous Amendments

Chapter I of the Postal Service Manual, which has been incorporated by reference in the FEDERAL REGISTER (see 39 CFR 111.1), has been amended by the issuance of Post Office Services (Domestic) Transmittal Letter 36, Issue 102, dated May 1, 1975.

In accordance with 39 CFR 111.3 notice of these changes is hereby published in the FEDERAL REGISTER as an amendment to that section and the text of the changes is filed with the Director, Office of the Federal Register. Subscribers to the Manual will receive these amendments automatically from the Government Printing Office. (For other availability of Chapter I of the Postal Service Manual, see 39 CFR 111.2.)

Description of these amendments to Chapter I of the Postal Service Manual follows:

## PART 114—COMPLAINTS

1. The list in 114.2 of addresses of inspectors in charge is updated.

## PART 132—SECOND CLASS

2. Section 132.33c is revised by deleting reference to an incorrect special advertising rate.

## PART 135—FOURTH CLASS

3. Section 135.312 is revised to include a specific reference to official postage and fees paid mail and prepaid government mail.

## PART 159—UNDELIVERABLE MAIL

4. Section 159.721d is revised by correcting cross references.

## PART 161—REGISTERED MAIL

5. Section 161.34 is revised to include additional instructions for preparing firm registration books.

## RULES AND REGULATIONS

6. Sections 161.35 and 161.45 are revised to delete reference to obsolete endorsements "Deliver to Addressee Only" or "Deliver to Addressee or Order."

## PART 162—INSURED MAIL

7. Section 162.31 is revised to delete reference to the obsolete endorsement "Deliver to Addressee Only."

8. Section 162.441 is revised to include additional instructions for preparing firm mailing books.

## PART 163—COD MAIL

9. Section 163.416 is revised to include additional instructions for preparing firm mailing books.

10. Section 163.418 is revised to restate the use of the COD endorsement on all COD parcels by use of the rubber COD stamp.

## PART 164—INDEMNITY CLAIMS

11. Section 164.44c is revised to include Seattle, Washington in the list of port post offices handling claims.

In consideration of the foregoing, 39 CFR 111.3 is amended as follows:

## § 111.3 Amendments to Chapter I of the Postal Service Manual.

## Amendments to Postal Service Manual

Transmittal letter	Date	FR publication
Letter 36, Issue 102	May 1, 1975	40 FR 4000

These amendments are effective immediately.

(5 U.S.C. 552(a), 39 U.S.C. 401, 404, 407, 408, 3001-3011, 3201-18, 3403-05, 3621, 50 U.S.C. 1463-64)

ROGER P. CRAIG,  
Deputy General Counsel.

[FR Doc. 75-13319 Filed 5-20-75; 8:45 am]

## Title 45—Public Welfare

## CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## NATIONAL DIRECT STUDENT LOAN PROGRAM, COLLEGE WORK-STUDY PROGRAM, AND SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS PROGRAM

## Annual Review of Needs Analysis Systems

Notice of proposed rulemaking was published in the FEDERAL REGISTER on February 19, 1975 (40 FR 7100-7106) setting forth proposed amendments to the regulations governing the National Direct Student Loan (NDSL) Program, the College Work-Study (CWS) Program, and the Supplemental Educational Opportunity Grants (SEOG) Program. (These regulations are set forth in Parts 144, 175, and 176, respectively, of Title 45 of the Code of Federal Regulations.) The purpose of the proposed amendments was to provide procedures and standards by which the Commissioner of Education would review and approve, on an annual basis, the various private systems used

by institutions of higher education for calculating the expected family contributions for dependent students who apply for assistance under these three programs.

Interested parties were invited to submit comments, suggestions or objections regarding the proposed regulations. These comments are summarized and the responses of the Office of Education are provided in Paragraph A, below.

## A. SUMMARY OF COMMENTS AND RESPONSES.

*Comment.* Several commenters stated that it is unreasonable for OE to attempt to implement the proposed rule for the 1975-76 academic year, because (i) awards have already been made or (ii) awards need to be made before the earliest date on which the rule can become effective. In their view, the uncertainty caused by this proposal will result in the loss of prospective students who need to know what financial aid they will have at a date earlier than will be possible if the rule applies to awards for academic year 1975-76.

*Response.* In recognition of these difficulties, the final regulation provides for the standard to be voluntary with respect to awards for the 1975-76 academic year.

*Comment.* Several commenters contended that the proposed two-tiered over-award provision (permitting the use of non-Federal funds to fill the difference between the Federal standard of need and alternative outputs of approved systems) is discriminatory to the students at those institutions whose only financial aid funds are Federal. At such schools that difference must go unfilled. By contrast, schools with other sources of financial aid will be able to use those funds to meet that difference. Several commenters also objected to the use of different standards for dependent and independent students.

*Response.* The regulation has been revised to eliminate such distinctions. The amount of need which may be met with Federal funds has been set at the same level as the amount which may be met with non-Federal funds, and an approved system may be used for both dependent and independent students. The regulation is thus similar to the SEOG regulation previously published on October 21, 1974 (45 CFR 176.14), with the added provision that the total amount of aid awarded to the student shall not exceed his cost of education.

*Comment.* Several commenters offered the speculation that the purpose of the proposed rule was budgetary. Those commenters advanced the argument that the proposed adjustments were motivated by a desire to decrease the demand for Federal funds and that the proposed standard was therefore not a measurement of parental ability to pay, but rather a rationing device.

*Response.* The appropriations for these Federal programs are made by the Congress and are not necessarily determined by the estimated aggregate amount of student need. The regulation is designed



to carry out the Commissioner's responsibility to provide basic criteria in order that Federal funds will be awarded to the neediest students, irrespective of the level of appropriations.

**Comment.** Several commenters offered the view that adjusting by 20 percent the expected contributions shown on the 1974-75 CSS Table E is not the proper way to adjust for an inflation of 20 percent. According to this view, the proper way of accomplishing such an adjustment would be to increase by 20 percent the adjusted effective income at which a given contribution is expected and then also increase that contribution by 20 percent. As an example of what is meant, a family with two dependent children and an adjusted effective income of \$10,000 was expected to contribute \$1,066 according to the 1974-75 CSS Table E. According to the viewpoint expressed by those commenters, that \$10,000 adjusted effective income has become equivalent to a present adjusted effective family income of \$12,000, and the formerly expected contribution of \$1,066 would now be equal to a contribution of \$1,279.

**Response.** The Commissioner desires to offer a method which can be easily understood and can be implemented quickly and easily. He also desires to avoid detailed regulation of the internal mechanics of any system. In recognition of the valid arguments raised about the announced way of deriving benchmark figures, however, the final regulations provide for the use of factors, related to the family's ability to pay, other than inflation in computing contributions for academic year 1976-77 and subsequent years.

**Comment.** Several commenters objected to the intended 20 percent adjustment as being (i) arbitrary, (ii) not based on research data, (iii) a departure from historical precedents, or (iv) unrealistic in view of the recent rapid rate of inflation.

**Response.** The proposed rule was based upon the generally accepted historical precedent of updating expected parental contributions in accordance with inflation. As revised, the final regulation also allows for the use of other factors relevant to determining a family's ability to pay.

**Comment.** A number of commenters objected to the exercise of the Commissioner's authority to establish criteria and schedules for determining need. They contended that voluntarism and local control are preferable and that progress is currently being made, through the National Task Force on Student Aid Problems (commonly known as the Keppel Task Force), toward eliminating the difference among the systems. Other commenters felt that the establishment of specific procedures for the exercise of this authority was long overdue.

**Response.** The Commissioner has statutory responsibility to provide basic criteria and schedules for the guidance of institutions in making awards to needy students. The Commissioner wishes to

rely on private systems and local judgments to the extent possible, but believes he cannot abrogate his statutory responsibility. This regulation does not remove from the student financial aid officer at the institution of higher education the authority to determine, in any individual case, that the expectation calculated according to an approved system does not accurately reflect a given family's ability to pay and to make appropriate adjustments accordingly.

**Comment.** Several commenters objected to the requirement of annual review and annual publication in the FEDERAL REGISTER of the list of approved systems, on the grounds that there is a probability that such review and publication will not be accomplished in a timely fashion, with the result that the institutions' schedule for making awards to students will be disrupted.

**Response.** It is the Commissioner's intention to accomplish the required review in a timely fashion and to publish the list of approved systems in the FEDERAL REGISTER by September 1 of each year. He does not regard such a schedule as being disruptive of award processing. No change has been made in this timetable for completion of the required annual review.

**Comment.** Various commenters objected to the proposed rule on the grounds that it was issued without adequate prior consultation with the student financial aid community.

**Response.** The proposed rule was issued as a Notice of Proposed Rule Making with a 30-day period for public comment, and there was a public hearing on February 28 in order to elicit further public comment. This is the official mechanism for consultation with the public and changes in the proposed rule have been made as a result of this process of consultation.

**Comment.** Several commenters objected to the proposed rule on the grounds that failure to show what they consider to be "true" need would have the result of decreasing the availability of funds from non-Federal sources.

**Response.** The aggregate amount of need calculated pursuant to the proposed rule would clearly exceed the total amount of Federal funds available for meeting it. The Commissioner considers the responsibility for meeting that need to be one shared among a number of public and private parties. He hopes and believes that this regulation will not have the effect of decreasing the amount of non-Federal funds available for student aid.

**Comment.** Several commenters objected to the proposed rule on the grounds that the objective of preventing a shifting of Federal funds from lower to higher income groups could be accomplished in other ways, such as requiring that Federal aid recipients be chosen in rank order of need or by categories of need, or by relying on student financial aid officers to aid the neediest students first.

**Response.** These suggestions may well be suitable methods of choosing which students will be aided when there are not enough funds to aid all needy students. Moreover, student financial aid officers may need to follow such methods in distributing limited resources. However, the Commissioner does not wish either to adopt a complex regulation governing each detail of the award process or to avoid his statutory responsibility to provide guidance for that process. This regulation provides guidance, while preserving a role for private systems and individual judgments.

**Comment.** Numerous commenters were critical of the Office of Education because of the length of time which elapsed between the public announcement in August 1974 by CSS of the changes it was making and the February 19 date on which the Office announced its proposed rule.

**Response.** The Office of Education agrees that the time at which its proposed rule was announced was too late for it to be made mandatory for student awards for academic year 1975-76. The standard has therefore been made voluntary with respect to awards for that academic year.

**Comment.** Several commenters objected to the use, in deriving the benchmark expected family contributions, of the private system (other than the income tax system) used by the largest number of students, on the grounds that use of a system in a heavily populated area does not necessarily make it the best system.

**Response.** The Office of Education agrees that population density in various geographical areas has no necessary bearing on a system's excellence. The decision to construct benchmarks on the basis of the most frequently used system was made on the grounds that it would be the one most familiar to the largest number of institutional users and that its use by the largest number of students would indicate the broadest general acceptance.

**Comment.** Several commenters expressed the view that the proposed regulation could have the opposite of the intended effect and could shift funds from more-needy to less-needy students. This would occur if an institution awarded all available funds to its most-needy students and then discovered that some of those students had received funds in excess of their need as that need is calculated pursuant to the proposed rule. When the excess amount awarded is withdrawn from most-needy students, it can then be made available only to less-needy students.

**Response.** Technically, such a result could happen. In order for it to happen, however, both of the following conditions would have to be met: (i) an institution would have distributed all of the financial aid funds available to it; and (ii) no student to whom aid was denied would be more needy than any student to whom aid was awarded. Even if such a result were to obtain in some

particular institution, the Commissioner would not consider it unjustified, because otherwise some individuals would receive aid in excess of a reasonable estimate of need at the expense of denying aid to other needy students.

#### B. EFFECT OF REVISIONS

(1) Date of implementation. In the preamble of the notice of proposed rule-making, the Commissioner had stated his intention to implement the annual review procedures and standards immediately. The Commissioner has now concluded that other adjustments, related to the family's ability to meet educational expenses, should be taken into consideration. Consequently, it is the Commissioner's intention to publish as soon as possible proposed additional adjustment factors that will be used in conjunction with the Consumer Price Index in deriving benchmark figures.

(2) Derivation of initial benchmark figures. As noted above, it was the Commissioner's intent to implement this regulation immediately, using the 1974-75 CSS schedule adjusted by 20 percent for the Consumer Price Index. Thereafter, the base for the derivation of benchmark expected family contribution figures would be the figures for that system which had been approved under this regulation and which was used by the greatest number of students. However, since the implementation of this regulation has now been postponed, except on a voluntary basis, it is necessary for the Commissioner to revise his approach. In deriving benchmark figures for the review of systems to be used in the 1976-77 academic year, the Commissioner will use the 1974-75 "Expected Parent's Contributions From Adjusted Effective Income" published by the College Scholarship Service, reduced in accordance with the Consumer Price Index for 1974, the estimated Consumer Price Index for 1975, and the other factors which the Commissioner will have established as indicated above in paragraph (2).

(4) "Over-award" provisions. Notice of proposed rulemaking contained a provision, for the coordination of all student aid made available by an institution, which permitted the use of two levels of expected family contributions. That provision has been deleted. The provision contained in this regulation is now the same as that set forth in previously applicable regulations, with the addition of the provision that the total amount of aid made available to a student shall not exceed the student's cost of education and with other minor changes in wording. (See 45 CFR 176.14)

C. Pursuant to the authority contained in sections 464, 444, 413B, and 413C of the Higher Education Act of 1965, as amended (20 U.S.C. 1087dd, 42 U.S.C. 2754, and 20 U.S.C. 1070b-1 and 1070b-2), Parts 144, 175 and 176 of Title 45 of the Code of Federal Regulations are amended as set forth below.

**Effective date.** Pursuant to Section 431 (d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d))

these regulations have been transmitted to the Congress concurrent with the publication of this document in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

(Catalog of Federal Domestic Assistance No. 13.418, Supplemental Educational Opportunity Grants Program; No. 13.463, Higher Education Work-Study; No. 13.471, National Direct Student Loans)

Dated: April 17, 1975.  
Approved: May 14, 1975.

T. H. BELL,  
U.S. Commissioner of Education.  
CASPAR W. WEINBERGER,  
Secretary of Health, Education,  
and Welfare.

PART 144—NATIONAL DIRECT  
STUDENT LOAN PROGRAM

1. Part 144 of Title 45 of the Code of Federal Regulations is amended by adding §§ 144.14 and 144.15, which read as follows:

§ 144.14 Approved need analysis systems.

(a) In order to comply with the requirements of § 144.7(b), an institution shall utilize a need analysis system or method of calculation approved by the Commissioner for that purpose pursuant to this section.

(b) Dependent students. (1) The Commissioner has approved the following systems for the purpose of § 144.7(b), with respect to dependent students:

(i) The method of calculating an expected family contribution used in the Basic Educational Opportunity Grants Program (45 CFR Part 190); and

(ii) The Income Tax System, if adjusted to reflect the number of the parents' dependent children who are attending institutions of higher education. For purposes of this section, the expected family contribution calculated according to the Income Tax System shall be an amount equal to the amount of Federal income tax paid by the parents of a student, plus 5 percent of such parents' net assets in excess of \$10,000 and any amount the student is reasonably able to contribute.

(2) The Commissioner will approve any other need analysis system for the purpose of § 144.7(b), for use with respect to dependent students, which is submitted in accordance with the procedures set forth in paragraph (d) of this section and which meets the following criteria:

(i) The system must produce, as its standard output, expected parents' contribution figures for dependent students which: (a) increase in reasonably smooth increments as the parents' financial strength, measured in real terms, increases; and (b) are equal for families of equal measured financial strength; and



(ii) The system must produce expected parents' contribution figures which, for at least 75 percent of a set of sample cases developed and made available by the Commissioner, deviate by less than \$50 from the figures produced for such sample cases by adjusting the figures produced by the largest private system (excluding the Income Tax System) approved for use during the current fiscal year in accordance with (a) the estimated percent increase in the Consumer Price Index between the December immediately preceding and the December immediately following the submission of the system for approval; and (b) such other criteria related to a family's ability to pay educational costs as are determined by the Commissioner and published in the *FEDERAL REGISTER*.

(ij) In developing the set of sample cases to be made available for this purpose, the Commissioner shall select cases in which: (a) The parental income, net of Federal and State income taxes, social security tax and business expenses, is equal in the prior year and the current year; (b) parental assets, net of related debt and retirement allowance, are equal in the prior year and the current year; and (c) other family and financial circumstances are identical in the prior year and the current year.

(c) Independent students. (1) The Commissioner has approved the following systems for the purpose of § 144.7(b), with respect to independent students:

(i) The method of calculating an expected family contribution used in the Basic Educational Opportunity Grants Program (45 CFR Part 190); and

(ii) The system of need analysis published by the American College Testing Service; and

(iii) The system of need analysis published by the College Scholarship Service.

(2) The Commissioner will approve any other need analysis system for the purpose of § 144.7(b), for use with respect to independent students, which is submitted in accordance with the procedures set forth in paragraph (d) of this section and which meets the following criteria:

(i) The system must produce, as its standard output, expected family contribution figures for independent students which: (a) Increase in reasonably smooth increments as the family financial strength, measured in real terms, increases; and (b) are equal for families of equal measured financial strength; and

(ii) The system must produce expected family contribution figures which are comparable to those produced by one of the systems specified in paragraph (c) (1) of this section.

(d) Application procedures for system approval. Any person or institution seeking to have a need analysis system approved by the Commissioner pursuant to paragraph (b) (2) of this section shall submit such system to the Commissioner prior to June 30 of each year. Such submission shall consist of sufficient information to enable the Commissioner to determine that the system meets the criteria

set forth in that subparagraph, including the expected family contribution figures produced by the system for the sample cases developed and made available by the Commissioner. Any person or institution seeking to have a need analysis system approved by the Commissioner pursuant to paragraph (c) (2) of this section shall, prior to June 30 of any year, submit to the Commissioner sufficient information to enable him to determine that the system meets the criteria set forth in that subparagraph. On or before September 1 of each year, the Commissioner will publish in the *FEDERAL REGISTER* a list of all need analysis systems or methods of calculation which have been approved for use in the succeeding academic year.

(e) Duration of approval. Need analysis systems approved pursuant to paragraphs (b) (1) and (c) (1) of this section are approved without a specific expiration date. A need analysis system approved pursuant to paragraph (b) (2) of this section, and included on the list published by the Commissioner on or before September 1, of one year, may be used by an institution (1) in preparing its application for funds under this part which is to be submitted on or before the published closing date next following that September 1; and (2) in determining the eligibility of students for loans under this part, and in calculating the amount of such loans, to be used by the students during any academic year commencing not earlier than 10 months and not later than 22 months following that September 1. A need analysis system approved pursuant to paragraph (c) (2) of this section shall be approved for an indefinite period of time, but the Commissioner may request periodic confirmation that the system remains in compliance with the criteria set forth in that paragraph.

(f) Adjustments. The institution may, in an individual case, further adjust the expected family contribution calculated according to one of the need analysis systems approved pursuant to this section if the student financial aid officer of the institution has reason to believe that such expected family contribution does not realistically reflect the ability of the student and his parents to contribute towards the student's cost of education. Such adjustments shall be documented in writing, with an accompanying explanation, and made a part of the institution's records with respect to this part.

(20 U.S.C. 1087d)

§ 144.15 Coordination of student financial aid programs and overaward.

(a) Coordinating official. The institution shall appoint an official who shall have the responsibility of coordinating the program covered by this part with the institution's other Federal and non-Federal programs of student financial aid.

(b) Total award. The institution shall not award a loan under this part to a student in an amount which, when combined with all of the resources

made available to the student from Federal and non-Federal sources, would exceed the difference between the student's cost of education and his expected family contribution, as determined in accordance with one of the need analysis systems or methods of calculations approved by the Commissioner pursuant to § 144.14; provided, however, That in no event may the total amount of aid received from all Federal and non-Federal sources exceed the student's cost of education.

(c) Resources. For purposes of paragraph (b) of this section, the term "resources made available to the student from Federal and non-Federal sources" includes any waiver of tuition and fees, any scholarship or grant-in-aid including athletic scholarships, any fellowship or assistantship, any loan made under the Guaranteed Student Loan Program (Title IV-B of the Higher Education Act) except in cases in which paragraph (d) of this section applies, any long-term loan made by the institution other than under the Guaranteed Student Loan Program, and any expected net earnings from employment during periods for which the student receives a loan under this part. For purposes of this section, "net earnings" means gross earnings minus required withholdings and any costs incidental to obtaining such earnings.

(d) Treatment of guaranteed loans. (1) Except as provided in paragraph (d) (2) of this section, loans made under the Guaranteed Student Loan Program shall not be considered to be a student resource and may be used to satisfy the expected family contribution of the borrower calculated in accordance with § 144.14. If the amount of such a loan exceeds the borrower's expected family contribution, only such excess shall be considered a student resource.

(2) Loans for which interest benefits are payable under section 428 of Title IV-B of the Higher Education Act (20 U.S.C. 1078) shall be considered a student resource and may not be used to satisfy a student's expected family contribution in cases in which the borrower has an adjusted family income of more than \$15,000, as determined in accordance with applicable Guaranteed Student Loan Program Regulations (45 CFR Part 177), or in cases in which the amount of the loan would cause the total amount of the borrower's loans insured by the Commissioner, or by a State or non-profit private institution having an agreement with the Commissioner under section 428(b) of the Higher Education Act (20 U.S.C. 1078(b)), to exceed \$2,000 for that academic year.

(e) Administrative responsibility. The institution's responsibility under paragraph (b) of this section shall extend only to those resources which the institution itself makes available to the student, or about which it knows or has reason to know, or can reasonably anticipate at the time that the proceeds of the loan made under this part are disbursed to the

student. The amount of net earnings from any employment provided by the institution for any academic period covered by the loan under this part shall be deemed to have been known by the institution at the time of the disbursement of such loan. However, an institution will not be deemed to have violated the requirements of this section if the sum of all the resources made available to the student, including a loan under this part, exceeded that student's need by not more than \$100.

(20 U.S.C. 1087dd)

#### PART 175—COLLEGE WORK-STUDY PROGRAM

2. Part 175 of Title 45 of the Code of Federal Regulations is amended by adding §§ 175.17 and 175.18, which read as follows:

##### § 175.17 Approved need analysis systems.

(a) In order to comply with the requirements of § 175.5(c), an institution shall utilize a need analysis system or method of calculation approved by the Commissioner for that purpose pursuant to this section.

(b) Dependent students. (1) The Commissioner has approved the following systems for the purpose of § 175.5(c), with respect to dependent students:

(i) The method of calculating an expected family contribution used in the Basic Educational Opportunity Grants Program (45 CFR Part 190); and

(ii) The Income Tax System, if adjusted to reflect the number of the parents' dependent children who are attending institutions of higher education. For purposes of this section, the expected family contribution calculated according to the Income Tax System shall be an amount equal to the amount of Federal income tax paid by the parents of a student, plus 5 percent of such parents' net assets in excess of \$10,000 and any amount the student is reasonably able to contribute.

(2) The Commissioner will approve any other need analysis system for the purpose of § 175.5(c), for use with respect to dependent students, which is submitted in accordance with the procedures set forth in paragraph (d) of this section and which meets the following criteria:

(i) The system must produce, as its standard output, expected parents' contribution figures for dependent students which: (a) Increase in reasonably smooth increments as the parents' financial strength, measured in real terms, increases; and (b) are equal for families of equal measured financial strength; and

(ii) The system must produce expected parents' contribution figures which, for at least 75 percent of a set of sample cases developed and made available by the Commissioner, deviate by less than \$50 from the figures produced for such sample cases by adjusting the figures produced by the largest private system (excluding the Income Tax System) approved for use during the current fiscal

year in accordance with (a) the estimated percent increase in the Consumer Price Index between the December immediately preceding and the December immediately following the submission of the system for approval; and (b) such other criteria related to a family's ability to pay educational costs as are determined by the Commissioner and published in the *FEDERAL REGISTER*.

(iii) In developing the set of sample cases to be made available for this purpose, the Commissioner shall select cases in which: (a) The parental income, net Federal and State income taxes, social security tax and business expenses, are equal in the prior year and the current year; (b) parental assets, net of related debt and retirement allowance, are equal in the prior year and the current year; and (c) other family and financial circumstance are identical in the prior year and the current year.

(c) Independent students. (1) The Commissioner has approved the following systems for the purpose of § 175.5(c), with respect to independent students:

(i) The method of calculating an expected family contribution used in the Basic Educational Opportunity Grants Program (45 CFR Part 190);

(ii) The system of need analysis published by the American College Testing Service; and

(iii) The system of need analysis published by the College Scholarship Service.

(2) The Commissioner will approve any other need analysis system for the purpose of § 175.5(c), for use with respect to independent students, which is submitted in accordance with the procedures set forth in paragraph (d) of this section and which meets the following criteria:

(i) The system must produce, as its standard output, expected family contribution figures for independent students which: (a) Increase in reasonably smooth increments as the family financial strength, measured in real terms, increases; and (b) are equal for families of equal measured financial strength; and

(ii) The system must produce expected family contribution figures which are comparable to those produced by one of the systems specified in paragraph (c) (1) of this section.

(d) Application procedures for system approval. Any person or institution seeking to have a need analysis system approved by the Commissioner pursuant to paragraph (b) (2) of this section shall submit such system to the Commissioner prior to June 30 of each year. Such submissions shall consist of sufficient information to enable the Commissioner to determine that the system meets the criteria set forth in that subparagraph, including the expected family contribution figures produced by the system for the sample cases developed and made available by the Commissioner. Any person or institution seeking to have a need analysis system approved by the Commissioner pursuant to paragraph (c) (2) of this section shall, prior to June 30 of any year, submit to the Commissioner sufficient information to enable him to

determine that the system meets the criteria set forth in that subparagraph on or before September 1 of each year, the Commissioner will publish in the *FEDERAL REGISTER* a list of all need analysis systems or methods of calculation which have been approved for use in the succeeding academic year.

(e) Duration of approval. Need analysis systems approved pursuant to paragraphs (b) (1) and (c) (1) of this section are approved without a specified expiration date. A need analysis system approved pursuant to paragraph (b) (2) of this section, and included on the list published by the Commissioner on or before September 1 of one year, may be used by an institution (1) preparing its application for funds under this part which is to be submitted on or before the published closing date next following that September 1; and (2) in determining the eligibility of students for employment under this part and in calculating the amount of such employment to be made available to a student during any academic year commencing not earlier than 10 months and not later than 22 months following that September 1. A need analysis system approved pursuant to paragraph (c) (2) of this section shall be approved for an indefinite period of time, but the Commissioner may request periodic confirmation that the system remains in compliance with the criteria set forth in that paragraph.

(f) Adjustments. The institution may, in an individual case, further adjust the expected family contribution calculated according to one of the need analysis systems approved pursuant to this section if the student financial aid officer of the institution has reason to believe that such expected family contribution does not realistically reflect the ability of the student and his parents to contribute towards the student's cost of education. Such adjustments shall be documented in writing, with an accompanying explanation, and made a part of the institution's records with respect to this part.

(42 U.S.C. 2754)

##### § 175.18 Coordination of student financial aid programs and over-award.

(a) Coordinating official. The institution shall appoint an official who shall have the responsibility of coordinating the program covered by this part with the institution's other Federal and non-Federal programs of student financial aid.

(b) Total award. The institution shall not award assistance under this part to a student in an amount which, when combined with all of the resources made available to the student from Federal and non-Federal sources, would exceed the difference between the student's cost of education and his expected family contribution, as determined in accordance with one of the need analysis systems or methods of calculations approved by the Commissioner pursuant to § 175.17; provided, however, That in no event may the total amount of aid received from all Federal



and non-Federal sources exceed the student's cost of education.

(c) *Resources.* For purposes of paragraph (b) of this section, the term "resources made available to the student from Federal and non-Federal sources" includes any waiver of tuition and fees, any scholarship or grant-in-aid including athletic scholarships, any fellowships or assistantship, any loan made under the Guaranteed Student Loan Program (Title IV-B of the Higher Education Act) except in cases in which paragraph (d) of this section applies, any long-term loan made by the institution other than under the Guaranteed Student Loan Program, and any expected net earnings from employment during periods for which the student receives assistance under this part. For purposes of this section, "net earnings" means gross earnings minus required withholdings and any costs incidental to obtaining such earnings.

(d) *Treatment of guaranteed loans.* (1) Except as provided in paragraph (d)(2) of this section, loans made under the Guaranteed Student Loan Program shall not be considered to be a student resource and may be used to satisfy the expected family contribution of the borrower calculated in accordance with § 176.17. If the amount of such a loan exceeds the borrower's expected family contribution, only such excess shall be considered a student resource.

(2) Loans for which interest benefits are payable under section 428 of Title IV-B of the Higher Education Act (20 U.S.C. 1078) shall be considered a student resource and may not be used to satisfy a student's expected family contribution in cases in which the borrower has an adjusted family income of more than \$15,000, as determined in accordance with applicable Guaranteed Student Loan Program Regulations (45 CFR Part 177), or in cases in which the amount of the loan would cause the total amount of the borrower's loan insured by the Commissioner, or by a State or nonprofit private institution having an agreement with the Commissioner under section 428 (b) of the Higher Education Act (20 U.S.C. 1078(b)), to exceed \$2,000 for the academic year.

(e) *Administrative responsibility.* The institution's responsibility under paragraph (b) of this section shall extend only to those resources which the institution itself makes available to the student, or about which it knows or has reason to know, or can reasonably anticipate at the time that the assistance under this part is disbursed to the student. The amount of net earnings from any employment provided by the institution for any academic period during which the student is receiving assistance under this part shall be deemed to have been known by the institution at the time of the disbursement of such assistance. However, an institution will not be deemed to have violated the requirements of this section if the sum of all the resources made available to the student, including assistance under this part, ex-

ceeded that student's need by not more than \$100.

(42 U.S.C. 2754)

#### PART 176—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS PROGRAM

3. Sections 176.13 and 176.14 of Title 45 of the Code of Federal Regulations are revised to read as follows:

##### § 176.13 Approved need analysis systems.

(a) In order to comply with the requirements of § 176.12, an institution shall utilize a need analysis system or method of calculation approved by the Commissioner for that purpose pursuant to this section.

(b) Dependent students. (1) The Commissioner has approved the following systems for the purpose of § 176.12(a):

(i) The method of calculating an expected family contribution used in the Basic Educational Opportunity Grants Program (45 CFR Part 190); and

(ii) The Income Tax System, if adjusted to reflect the number of the parents' dependent children who are attending institutions of higher education. For purposes of this section, the expected family contribution calculated according to the Income Tax System shall be an amount equal to the amount of Federal income tax paid by the parents of a student, plus 5 percent of such parents' net assets in excess of \$10,000 and any amount the student is reasonably able to contribute.

(2) The Commissioner will approve any other need analysis system for the purpose of § 176.12(a) which is submitted in accordance with the procedures set forth in paragraph (d) of this section and which meets the following criteria:

(i) The system must produce, as its standard output, expected parents' contribution figures for dependent students which: (a) increase in reasonably smooth increments as the parents' financial strength, measured in real terms, increases; and (b) are equal for families of equal measured financial strength; and

(ii) The system must produce expected parents' contribution figures which, for at least 75 percent of a set of sample cases developed and made available by the Commissioner, deviate by less than \$50 from the figures produced for such sample cases by adjusting the figures produced by the largest private system (excluding the Income Tax System) approved for use during the current fiscal year in accordance with (a) the estimated percent increase in the Consumer Price Index between the December immediately preceding and the December immediately following the submission of the system for approval; and (b) such other criteria related to a family's ability to pay educational costs as are determined by the Commissioner and published in the FEDERAL REGISTER.

(iii) In developing the set of sample cases to be made available for this purpose, the Commissioner shall select cases in which: (a) the parental in-

come, net of Federal and State income taxes, social security tax, and business expenses, are equal in the prior year and the current year; (b) parental assets, net of related debt and retirement allowance, are equal in the prior year and the current year; and (c) other family and financial circumstances are identical in the prior year and the current year.

(c) Independent students. (1) The Commissioner has approved the following systems for the purpose of § 176.12 (b) with respect to independent students:

(i) The method of calculating an expected family contribution used in the Basic Educational Opportunity Grants Program (45 CFR Part 190);

(ii) The system of need analysis published by the American College Testing Service; and

(iii) The system of need analysis published by the College Scholarship Service.

(2) The Commissioner will approve any other need analysis system for the purpose of § 176.12(b) for use with respect to independent students, which is submitted in accordance with the procedures set forth in paragraph (d) of this section and which meets the following criteria:

(i) The system must produce, as its standard output, expected family contribution figures for independent students which: (a) increase in reasonably smooth increments as the family financial strength, measured in real terms, increases; and (b) are equal for families of equal measured financial strength; and

(ii) The system must produce expected family contribution figures which are comparable to those produced by one of the systems specified in paragraph (c) (1) of this section.

(d) Application procedures for system approval. Any person or institution seeking to have a need analysis system approved by the Commissioner pursuant to paragraph (b) (2) of this section shall submit such system to the Commissioner prior to June 30 of each year. Such submission shall consist of sufficient information to enable the Commissioner to determine that the system meets the criteria set forth in that subparagraph, including the expected family contribution figures produced by the system for the sample cases developed and made available by the Commissioner. Any person or institution seeking to have a need analysis system approved by the Commissioner pursuant to paragraph (c) (2) of this section shall, prior to June 30 of any year, submit to the Commissioner sufficient information to enable him to determine that the system meets the criteria set forth in that subparagraph. On or before September 1 of each year, the Commissioner will publish in the FEDERAL REGISTER a list of all need analysis systems or methods of calculation which have been approved for use in the succeeding academic year.

(e) Duration of approval. Need analysis systems approved pursuant to paragraphs (b) (1) and (c) (1) of this section are approved without a specified expiration date. A need analysis system approved pursuant to paragraph (b) (2) of this section, and included on the list published by the Commissioner on or before September 1 of one year, may be used by an institution (1) in preparing its application for funds under this part which is to be submitted on or before the published closing date next following that September 1; and (2) in determining the eligibility of students for awards under this part, and in calculating the amount of such awards, to be used by the students during any academic year commencing not earlier than 10 months and not later than 22 months following that September 1. A need analysis system approved pursuant to paragraph (c) (2) of this section shall be approved for an indefinite period of time, but the Commissioner may request periodic confirmation that the system remains in compliance with the criteria set forth in that paragraph.

(f) Adjustments. The institution may, in an individual case, further adjust the expected family contribution calculated according to one of the need analysis systems approved pursuant to this section if the student financial aid officer of the institution has reason to believe that such expected family contribution does not realistically reflect the ability of the student and his parents to contribute towards the student's cost of education. Such adjustments shall be documented in writing, with an accompanying explanation, and made a part of the institution's records with respect to this part.

(g) The institution shall appoint an official who shall have the responsibility of coordinating the program covered by this part with the institution's other Federal and non-Federal programs of student financial aid.

(20 U.S.C. 1070b-1 and 1070b-2)

##### § 176.14 Coordination of student financial aid programs and over-award.

(a) The institution shall appoint an official who shall have the responsibility

of coordinating the program covered by this part with the institution's other Federal and non-Federal programs of student financial aid.

(b) Total award. The institution shall not award a Supplemental Grant to a student in an amount which, when combined with all of the resources made available to the student from Federal and non-Federal sources, would exceed the difference between the student's cost of education and his expected family contribution, as determined in accordance with one of the need analysis systems or methods of calculations approved by the Commissioner pursuant to § 176.13; provided, however, that in no event may the total amount of aid received from all Federal and non-Federal sources exceed the student's cost of education.

(c) Resources. For purposes of paragraph (b) of this section, the term "resources made available to the student from Federal and non-Federal sources" includes any waiver of tuition and fees, any scholarship or grant-in-aid including athletic scholarships, any fellowships or assistantship, any loan made under the Guaranteed Student Loan Program (Title IV-B of the Higher Education Act) except in cases in which paragraph (d) of this section applies, any long-term loan made by the institution other than under the Guaranteed Student Loan Program, and any expected net earnings from employment during periods for which the student receives a grant. For purposes of this section, "net earnings" means gross earnings minus required withholdings and any costs incidental to obtaining such earnings.

(d) (1) Except as provided in paragraph (d) (2) of this section, loans made under the Guaranteed Student Loan Program shall not be considered to be a student resource and may be used to satisfy

the expected family contribution of the borrower calculated in accordance with § 176.13. If the amount of such a loan exceeds the borrower's expected family contribution, only such excess shall be considered a student resource.

(2) Loans for which interest benefits are payable under section 428 of Title IV-B of the Higher Education Act (20 U.S.C. 1078) shall be considered a student resource and may not be used to satisfy a student's expected family contribution in cases in which the borrower has an adjusted family income of more than \$15,000, as determined in accordance with applicable Guaranteed Student Loan Program Regulations (45 CFR Part 177), or in cases in which the amount of the loan would cause the total amount of the borrower's loans insured by the Commissioner, or by a State or nonprofit private institution having an agreement with the Commissioner under section 428(b) of the Higher Education Act (20 U.S.C. 1078(b)), to exceed \$2,000 for that academic year.

(e) *Administrative responsibility.* The institution's responsibility under paragraph (b) of this section shall extend only to those resources which the institution itself makes available to the student, or about which it knows or has reason to know, or can reasonably anticipate at the time that the Supplemental Grant is disbursed to the student. The amount of net earnings from any employment provided by the institution for any academic period covered by the grant award shall be deemed to have been known by the institution at the disbursement of such grant. However, an institution will not be deemed to have violated the requirements of this section if the sum of all the resources made available to the student, including a grant under this part, exceeded that student's need by not more than \$100.

(20 U.S.C. 1070b-1 and 1070b-2)



U.S. OFFICE OF EDUCATION  
EXPECTED PARENTAL CONTRIBUTIONS  
SAMPLE CASES AND BENCHMARK FIGURES  
FOR 1975-76 ACADEMIC YEAR

NET ASSETS FAMILY SIZE	10000						20000						30000					
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
8000		170				30					380					590		
10000		590				370					810					1230		
12000			1020			760						1490					1780	
14000				1930		1160							2130					2540
16000					2130									2980				
18000						2390									3860			
20000							3270									4740		

The figures above are parents' contribution figures calculated under the following assumptions:

- 1) Two parents, one with income;
- 2) One dependent in postsecondary education;
- 3) No business and/or farm assets;
- 4) Age of main wage earner--50 years;
- 5) No unusual circumstances;
- 6) Student lives at home with parents 3 months.

[FR Doc. 75-13213 Filed 5-20-75; 8:45 am]

## proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

### DEPARTMENT OF THE INTERIOR Bureau of Indian Affairs [ 25 CFR Part 41 ] FORT SILL APACHE INDIANS Preparation of Rolls of Indians

MAY 13, 1975.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

Notice is hereby given that it is proposed to amend § 41.3, Part 41, Subchapter F, Chapter I, of Title 25 of the Code of Federal Regulations by the addition of a new paragraph (u). These regulations are proposed pursuant to the authority contained in the Chiricahua Apache plan for use and distribution of judgment funds which was prepared pursuant to the Act of October 19, 1973 (87 Stat. 466), and which became effective March 16, 1975. The proposed regulations will govern the preparation of a roll of Fort Sill Apache Indians as provided in the March 16, 1975 plan to be used for the per capita distribution of the Fort Sill Apache portion of the award of the Indian Claims Commission in Dockets 30, 30-A, 48 and 48-A.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding the proposed regulations to the Director, Office of Indian Services, Bureau of Indian Affairs, Washington, D.C. 20245, on or before June 20, 1975.

It is proposed to amend § 41.3, Part 41, Subchapter F, Chapter I, Title 25 of the Code of Federal Regulations by the addition of a new paragraph (u) to read as follows:

#### § 41.3 Qualifications for enrollment and the deadline for filing applications.

(u) Fort Sill Apache Tribe: (1) All persons who meet the following requirements shall be entitled to be enrolled to share in the distribution of the Fort Sill Apache Tribe's share of the judgment funds awarded the Chiricahua Apache Indians in Indian Claims Commission Dockets 30, 30-A, 48 and 48-A:

(i) They are persons of Fort Sill Apache blood living on March 16, 1975, who remained in Oklahoma after being released as prisoners of war in 1913 and received land pursuant to the Acts of August 24, 1912, June 30, 1913, or January 22, 1923; or

(ii) They were born on or prior to and were living on March 16, 1975, possess at

least one-eighth ( $\frac{1}{8}$ ) degree Fort Sill Apache blood and are lineal descendants of persons of Fort Sill Apache blood who remained in Oklahoma after being released as prisoners of war in 1913 and received land pursuant to one of the Acts designated in (i) above, regardless of whether such ancestor is living or deceased.

(2) No person who is entitled to benefit from the share of the judgment funds due the Mescalero Apache Tribe by virtue of their membership in that tribe shall be entitled to share in the portion of the judgment funds that are due the Fort Sill Apache Tribe.

(3) Applications for enrollment must be filed with the Area Director, Bureau of Indian Affairs, Post Office Box 368, Anadarko, Oklahoma 73005, and must be received by the Director no later than close of business on August 29, 1975.

MORRIS THOMPSON,  
Commissioner of Indian Affairs.  
[FR Doc. 75-13328 Filed 5-20-75; 8:45 am]

### DEPARTMENT OF AGRICULTURE Agricultural Marketing Service [ 7 CFR Part 918 ] FRESH PEACHES GROWN IN GEORGIA Expenses and Rate of Assessment for the 1975-76 Fiscal Period

This notice invites written comment relative to the proposed expenses of \$13.165 and rate of assessment of \$0.015 per bushel basket of peaches (net weight of 48 pounds), or an equivalent of peaches in other containers or in bulk, to support the activities of the Industry Committee for the 1975-76 fiscal period under Marketing Order No. 918.

Consideration is being given to the following proposals submitted by the Industry Committee, established under the marketing agreement, as amended, and Order No. 918, as amended (7 CFR Part 918), regulating the handling of fresh peaches grown in the State of Georgia, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), as the agency to administer the terms and provisions thereof:

(1) That expenses that are reasonable and necessary to be incurred by the Industry Committee during the period March 1, 1975, through February 29, 1976, will amount to \$13.165.

(2) That rate of assessment for said period, payable by each handler in accordance with § 918.41, is fixed at \$0.015 per bushel basket of peaches (net weight of 48 pounds), or an equivalent of peaches in other containers or in bulk.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than June 9, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: May 15, 1975.

CHARLES R. BRADER,  
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 75-13294 Filed 5-20-75; 8:45 am]

### [ 7 CFR Part 981 ] ALMONDS GROWN IN CALIFORNIA Revision of Cert in Provisions

Notice is given of a proposal to amend Subpart—Administrative Rules and Regulations (7 CFR 981.441-981.481; 39 FR 23239, 39258; 40 FR 3005, 4416, 6475) by revising certain provisions. These provisions pertain to crediting for paid advertising, reserve matters, and reporting requirements.

The subpart is pursuant to the marketing agreement, as amended, and Order No. 981, as amended (7 CFR Part 981; 40 FR 4416), hereinafter collectively referred to as the "order", regulating the handling of almonds grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposal is based on a unanimous recommendation of the Almond Control Board.

Section 981.441 prescribes the procedure for giving a handler credit for paid advertising expenditures against his pro rata expense assessment obligation pursuant to § 981.41(c). Paragraph (b) of § 981.441 currently provides that the media used must be listed in publications of the Standard Rate and Data Service, the Buyer's Guide to Advertising, or station or publication rate cards. The purpose of this is to permit verification of the advertising rates. However, not all weekly newspapers and other media are covered by these sources, and therefore some advertisements, which would otherwise be creditable, are excluded. It is proposed that paragraph (b) be amended to allow credit for these advertisements by providing for the Almond Control Board to grant the claim if it is consistent with rates for comparable outlets. It is



## PROPOSED RULES

also proposed that current § 981.441(f) (3) be deleted to bring § 981.441(f) in conformity with the proposal to amend paragraph (b).

Section 981.441(c) currently provides that the major theme of each advertisement shall promote the sale, consumption, or use of California almonds and nothing in the advertising shall detract from this objective. However, crediting involves handler advertisements of their brands of almonds, and some advertisements appear to have as their major theme a specific brand of almonds. In order to avoid questions of interpretation, it is proposed that paragraph (c) be amended so that the clear and evident purpose, rather than the major theme, of each advertisement would be to promote the sale, consumption or use of California almonds and nothing should detract from this purpose.

Section 981.441(d) (5), (6) and (7) provide the method for computing handler credit for advertising almonds and almond products in retail stores and catalogs. Subparagraphs (5) and (7) were previously suspended for the 1974-75 crop year (40 FR 6495). It is now proposed that these subparagraphs, as well as subparagraph (6) be deleted. These paragraphs have gone unused, require the submission of sales data other than for almonds, and cover advertisements which can be judged adequately under other provisions of § 981.441.

Section 981.441 does not cover advertisements which direct consumers to one or more named retail outlets, other than those which are operated by the handler. These advertisements are deemed to cause buyers to purchase one brand of almonds in preference to another—not increase the consumption, or use, of California almonds. Under the proposal, a new § 981.441(f) (3), which would prohibit crediting for such advertisements, would replace current paragraph (f) (3).

Section 981.441(g) set forth the requirements and procedures for handlers in filing claims for advertising credit. Currently, paragraph (g) provides that claims for credit must be filed within 60 days of the appearance of the advertisement or July 15, whichever is sooner. That provision makes it difficult for some handlers to receive credit because 60 days is insufficient time for them to obtain all of the necessary documentation and file their claims. Paragraph (g) would be amended by deleting all references to 60 days after the advertisements have been published, broadcast, or posted, and require only that in order to obtain credit the handler must file his claim no later than July 15 of the succeeding crop year.

Section 981.441(g) would also be amended to delete provisions requiring unnecessary or duplicate information. This would include deletion of subparagraph (5). Subparagraphs (1), (2) and (3) would be revised to require a handler to submit the agency invoice as well as the invoice for publication or display. The revision includes a redesignation of certain provisions.

Section 981.450 provides for the exemption from program requirements of

almonds disposed of in certain outlets. In order to obtain the exemption and to assure accountability to the Board, a handler is required to submit: A notice of intent to dispose of almonds in exempt outlets; a schedule of processing; an invoice or other instrument to verify shipment; and a user certification that the almonds have been crushed or fed. These requirements, however, are deemed excessive to verify the delivery and disposition of almonds to an exempt outlet. Section 981.450 is proposed to be amended by eliminating the provision requiring the handler to notify the Board of his intention to ship almonds in such outlets. It would also eliminate the need for a written authorization to permit Board employees to observe the storage and processing or other disposition of almonds.

Section 981.467(b) sets forth the forms to be issued by handlers for disposition of almonds in reserve outlets. Currently, separate forms are required which are used only as vehicles for transmitting documents and are not issued by the Board in any way for the handler to prove completion of the reserve obligation. The proposal would delete the requirement for two such forms.

Currently, § 981.472(b) requires a report of production by counties three times a year—as of December 31, March 31 and June 30. Since the greatest need for total production by counties is soon after December 31, and since practically the entire crop is accounted for by March 31, it is proposed that a report of production by counties of production for the period of April 1 to June 30 be deleted. Section 981.472(b) would be amended by deleting that period for reporting and replacing it with a statement giving the Board the power to request this information as needed.

Section 981.473 requires redetermination data by variety as of December 31, March 31 and June 30. A varietal breakdown each time requires a submission of several worksheet forms plus a summary form. However, none of the varietal information has been reproduced and given the industry and other interested parties except after June 30. Section 981.473 would be amended to eliminate the need to report redetermination data by variety.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal should file the same in quadruplicate with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, to be received not later than June 5, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during official hours of business (7 CFR 1.27(b)).

The proposal is to amend Subpart Administrative Rules and Regulations (7 CFR 981.441-981.481; 39 FR 23239, 33258; 40 FR 3005, 4416, 6475) as follows:

1. In § 981.441, revise paragraphs (b), (c), (f) (3) and (g), and delete para-

graphs (d) (5), (6) and (7). The revised portions of § 981.441 would read as follows:

§ 981.441 Crediting for paid advertising.

(b) Each advertisement must be published, broadcast, or displayed during the crop year for which credit is requested. The credit granted by the Board shall be that which is appropriate when compared to the applicable outlet rate published in the domestic or Canadian catalogs of Standard Rate and Data Service, The Buyers Guide to Outdoor Advertising, or station or publisher rate cards. In the case of claims for credit not covered by any such source, the Board shall grant the claim if it is consistent with rates for comparable outlets.

(c) The clear and evident purpose of each advertisement shall be to promote the sale, consumption or use of California almonds and nothing therein shall detract from this purpose.

(d) . . . .  
(5) [Removed]  
(6) [Removed]  
(7) [Removed]

(f) Credit granted a handler shall be subject to other conditions as follows:

(3) Advertisements which direct consumers to one or more named retail outlets, other than handler operated shall not be eligible for credit.

(g) A handler must file a claim with the Control Board to obtain credit for an advertising expenditure. No claim shall be granted if it is filed later than July 15 of the succeeding crop year. Each claim must be submitted on ACB Form 31 and accompanied by appropriate proof of performance as follows: (1) For published advertisements, submit a copy of the publication invoice, agency invoice, if any, and tear sheet of the advertisement; (2) for radio advertisements, submit a copy of the station invoice, a copy of the script, or reference to a copy on file with the Control Board, and the agency invoice, if any; (3) for television advertisements, submit a copy of the station invoice, a copy of the script and the agency invoice, if any; (4) for outdoor advertisements, submit a copy of the company invoice, a photograph of the display or a reference to a photograph in the Control Board files, and the agency invoice, if any; and (5) each claim shall also include a certification to the Secretary of Agriculture and to the Control Board that the claim is just and conforms to requirements set forth in § 981.41(c). The Control Board shall advise the handler promptly of the extent to which such claim has been allowed.

2. Revise § 981.450 to read as follows: § 981.450 Exempt dispositions.

As provided in § 981.50, any handler who intends to dispose of almonds, other than those withheld to meet a reserve obligation, for crushing into oil, or for poultry or animal feed, may have the kernelweight of these almonds excluded from his receipts and exempted from program obligations so long as: (1) The handler qualifies as, or delivers such almonds to a feeder or crusher acceptable to the Control Board; (2) each shipment of such almonds is directly to the place of disposition, is certified to the Control Board by the handler on ACB Form 8 and is supported by a sales invoice or bill of lading; and (3) the receiver (user) certifies that the almonds have been crushed, fed, or so commingled with other feed products or otherwise processed that they have lost their identity as almonds, no later than June 30 of the crop year in which the almonds were received.

3. Revise § 981.467(b) to read as follows:

§ 981.467 Disposition in reserve outlets by handlers.

(b) Forms. Intentions to divert almonds shall be reported to the Board on ACB Form 13 and completion of diversion on ACB Form 14. Sales in export shall be reported on ACB Form 18 and completion of deliveries in export on ACB Form 19. On ACB Form 14 and 19, the handler shall report whether the shipment is a disposition of reserve almonds withheld in satisfaction of reserve obligation or a disposition of salable almonds in a reserve outlet pursuant to paragraph (c) of this section.

4. Revise § 981.472(b) to read as follows:

§ 981.472 Report of almonds received.

(b) Each handler shall submit a summary report of almonds received for his own account during the following periods:

July to December 31;  
January 1 to March 31.

Each summary report shall be submitted to the Control Board within 30 days after the end of the reporting period and shall show the quantity of almonds received for the handler's own account during the reporting period by county of production and such varieties as may be requested by the Board.

5. Revise § 981.473 by deleting all references to "variety" as follows:

§ 981.473 [Amended]

(a) In paragraphs (a) and (b), insert a comma after "all almonds" and delete "by variety."

(b) In paragraph (c), delete "variety."

(c) In paragraph (e), delete "the variety of almonds in the lot."

## PROPOSED RULES

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(d) In paragraph (f), delete "the variety".

Dated: May 15, 1975.

CHARLES R. BRADER,  
Deputy Director,  
Fruit and Vegetable Division.  
[FR Doc. 75-13293 Filed 5-20-75; 8:45 am]

## DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric  
Administration

[50 CFR Part 246]

## TRANSPORTATION OF WILDLIFE

Proposed Procedures for Assessment of  
Civil Penalties

Section 43 Title 18, United States Code prohibits the transportation in interstate or foreign commerce of any wildlife taken in violation of any Act of Congress, State laws, or foreign law or any regulation issued pursuant to such laws. The Act applies not only to the actual wildlife but to any products or parts thereof and to any false records, accounts, label or identifications thereof. Under the Act, it is immaterial whether the wildlife is shipped for commercial or noncommercial purposes.

A person who knowingly and willfully violates the Act is subject to criminal penalties. In addition, a person who knowingly or who, in the exercise of due care, should know that he is violating the Act may be assessed a civil penalty of not more than \$5,000 for each violation. Each violation constitutes a separate offense.

Therefore, it is the purpose of these proposed regulations to add a new part to carry out the objectives and purposes of the Act insofar as they relate to the civil penalties that may be imposed. The proposed regulations deal with the following matters:

(1) Wildlife refers only to mollusk or crustacean. The Act applies also to wild mammals, wild birds, amphibians, and reptiles but these species are under the jurisdiction of the Department of the Interior.

(2) Enforcement of the Act and procedures for search and seizure of wildlife.

(3) Procedures to be followed in the imposition of a civil penalty.

(4) Appeal procedures from a decision of an administrative law judge.

(5) Enforcement in a U.S. District Court by the Attorney General of any civil penalty imposed.

(6) Institution of forfeiture proceedings against any wildlife seized following the completion of any proceedings involving a civil penalty.

In accordance with Executive Order 11821 dated November 27, 1974, it is hereby certified that the inflationary impact of this action on the nation has been carefully evaluated. The additional federal expenditures required are so minimal that no substantial impact on the nation is anticipated.

These proposed regulations are issued under the authority contained in 18 U.S.C. 43. Written comments, views, or objections on these proposed regulations may be made to the Director, National Marine Fisheries Service, NOAA, U.S. Department of Commerce, Washington, D.C. 20235 no later than June 24, 1975. After reviewing all comments, final regulations will be published as soon as possible.

Issued at Washington, D.C., and dated May 15, 1975.

JACK W. GEHRINGER,  
Acting Director.

## PART 246—TRANSPORTATION OF WILDLIFE

Sec.  
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246.16 Payment of penalty.  
246.17 Disposition of seized wildlife, products, property, or items.

AUTHORITY: 18 U.S.C. 43; Reorganization Plan No. 4 of 1970 (35 FR 15627).

## § 246.1 Purpose of regulations.

The regulations contained in this part provide uniform rules and procedures for the assessment of civil penalties in connection with violations of the so-called Lacey Act as it relates to mollusks or crustaceans. For regulations regarding other forms of wildlife see Department of the Interior regulations at Parts 11 and 12 of this title.

## § 246.2 Definitions.

(a) "Act" means the provisions of section 43 of Title 18, U.S. Code.

(b) "Authorized Official" means Enforcement Agents of the National Marine Fisheries Service.

(c) "Director" means the Director of the National Marine Fisheries Service or his delegate.

(d) "Person" means any individual, firm, corporation, association, or partnership.

(e) "Respondent" means a person against whom an action is brought under the Act.

(f) "Secretary" means the Secretary of Commerce pursuant to Reorganization Plan No. 4 of 1970 (84 Stat. 2090) or his delegate.

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(g) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and Guam.

(h) "taken" means captured, killed, collected or otherwise possessed.

(i) "wildlife" means any mollusk or crustacean or any part, egg or offspring thereof; the dead body or parts thereof; or any product thereof.

#### § 246.3 Prohibitions.

Subsections (a) and (b) of the Act provide that:

(a) Any person who—

(1) Delivers, carries, transports, or ships, by any means whatsoever, or causes to be delivered, carried, transported, or shipped for commercial or noncommercial purposes or sells or causes to be sold any wildlife taken, transported, or sold in any manner in violation of any Act of Congress or regulation issued thereunder; or

(2) Delivers, carries, transports, or ships, by any means whatever, or causes to be delivered, carried, transported, or shipped for commercial or noncommercial purposes or sells or causes to be sold in interstate or foreign commerce any wildlife, taken, transported, or sold in any manner in violation of any law or regulation of any State or foreign country;

(b) Any person who—

(1) Sells or causes to be sold any products manufactured, made, or processed from any wildlife taken, transported, or sold in any manner in violation of any Act of Congress or regulation issued thereunder; or

(2) Sells or causes to be sold in interstate or foreign commerce any products manufactured, made, or processed from any wildlife taken, transported, or sold in any manner in violation of any law or regulation of a State or a foreign country; or

(3) Having purchased or received wildlife imported from any foreign commerce or shipped, transported, or carried in interstate commerce, makes or causes to be made any false record, account, label, or identification thereof; or

(4) Receives, acquires, or purchases for commercial or noncommercial purposes any wildlife—

(i) Taken, transported, or sold in violation of any law or regulation of any State or foreign country and delivered, carried, transported, or shipped by any means or method in interstate or foreign commerce; or

(ii) Taken, transported, or sold in violation of any Act of Congress or regulation issued thereunder . . .

shall be subject to the penalties prescribed . . .

#### § 246.4 Enforcement.

(a) Any authorized official or any officer of the Customs Service is authorized to execute any warrant to search for and seize any wildlife, product, property, records, or item used or possessed in violation of the Act with respect to which a civil penalty under § 246.3 may be assessed.

(b) The Director shall notify the owner or consignee of any wildlife, product, property, or item so seized as soon as practicable following such seizure.

(c) Such wildlife, product, property, or item so seized shall be held by such authorized official until proceedings involving the imposition of a civil penalty are completed.

(d) In lieu of holding such wildlife, product, property, or item so seized, the Director may, in his sole discretion, permit such person to post a bond or other surety satisfactory to the Director.

#### § 246.5 Penalties.

Any person who knowingly violates or who, in the exercise of due care, should know that he is violating any provision of subsection (a) or (b) of the Act (see § 246.3) may be assessed a civil penalty by the Director of not more than \$5,000 for each violation. Each violation shall constitute a separate offense. Such person shall be given notice and opportunity for a hearing with respect to such violation. Such hearing shall follow the procedures set forth in § 246.6-246.16.

#### § 246.6 Notice of proposed assessment; opportunity for hearing.

(a) Prior to the assessment of a civil penalty pursuant to § 246.5 a notice of proposed assessment issued by the Director shall be served personally or by registered or certified mail, return receipt requested, upon the respondent. The notice shall contain:

(1) A concise statement of the facts believed to show a violation;

(2) A specific reference to the provisions of the Act;

(3) The amount of penalty proposed to be assessed.

The notice shall inform the respondent that he has 20 days from receipt of the notice in which to request a hearing or to waive it. The request or waiver shall be in writing and addressed to the Director, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235. The notice shall further inform the respondent that if he does not respond to the notice within the 20 days allowed, he shall be deemed to have waived his right to a hearing and to have consented to the making of an assessment without a hearing.

(b) With his request for a hearing or with his written waiver of a hearing, the respondent may submit objections to the proposed assessment. He may deny the existence of the violation or ask that no penalty be assessed or that the amount be reduced. The respondent must set forth in full all facts supporting his denial of the alleged violation or his request for relief.

#### § 246.7 Waiver of hearing; assessment of penalty.

(a) If a written waiver of a hearing is timely made, or if a hearing is deemed to have been waived as provided in § 246.6(a), the Director shall proceed either to make an assessment of a civil penalty or to rescind the proposed assessment taking into consideration such showing as may have been made by respondent pursuant to § 246.6(b). Such action shall become the final administrative decision of the Secretary when rendered and any civil penalty assessed shall be collected in accordance with § 246.16. Notice of such final decision shall be promptly sent to the respondent

by registered or certified mail, return receipt requested.

(b) If, despite the waiver of a hearing, the Director believes that there are material facts at issue which cannot otherwise be satisfactorily resolved, he may refer the case to an administrative law judge as provided in § 246.8.

#### § 246.8 Appointment of Administrative Law Judge and Agency Representative; notice of hearing.

(a) If a written request for a hearing has been timely made, or the Director determines, pursuant to § 246.7(b), that a hearing should be held, the case shall be assigned to an administrative law judge appointed pursuant to 5 U.S.C. 3105. Written notice of the assignment shall promptly be given to the respondent by the Director, together with the name and address of the person who will present evidence on behalf of the Secretary at the hearing (the agency representative), and thereafter all pleadings and other documents shall be filed directly with the administrative law judge, with a copy served on the agency representative or the respondent as the case may be.

(b) The Director shall deliver to the administrative law judge a copy of the notice of proposed assessment, and response to the respondent thereto, and other materials deemed relevant to the case and shall furnish to the respondent a copy of any such materials not already in respondent's possession.

(c) The administrative law judge shall promptly cause to be served on the parties notice of the time and place of the hearing, which shall not be less than ten (10) days after service of the notice of hearing except in extraordinary circumstances.

#### § 246.9 Failure to appear; official transcript; record for decision.

(a) If the respondent fails to appear at the hearing, he will be deemed to have consented to a decision being rendered on the record made at the hearing.

(b) The Director shall provide the services of an official reporter who shall make the only official transcript of the proceedings. Copies of the official transcript may be obtained from the official reporter upon payment of the charges therefor.

(c) The transcript of testimony and exhibits, together with all papers and requests filed in the proceedings, shall constitute the exclusive record for decision.

#### § 246.10 Duties and powers of the Administrative Law Judge.

(a) It shall be the duty of the administrative law judge to inquire fully into the facts as they relate to the matter before him. Upon assignment to him and before submission of the case, pursuant to § 246.12, to the Secretary, the administrative law judge shall have authority to:

(1) Rule on offers of proof and receive relevant evidence;

(2) Take or cause depositions to be taken whenever the ends of justice would be served thereby;

(3) Regulate the course of the hearing and, if appropriate, exclude from the hearings persons who engage in misconduct, and strike all testimony of witnesses refusing to answer any questions ruled to be proper which are related to such questions;

(4) Hold conferences for the settlement or simplification of the issues by consent of the parties or upon his own motion;

(5) Dispose of procedural requests, motions or similar matters and order hearings reopened prior to issuance of the administrative law judge's report and recommendations;

(6) Grant requests for appearance of witnesses or production of documents;

(7) Limit lines of questioning or testimony which are immaterial, irrelevant, or unduly repetitious;

(8) Examine and cross-examine witnesses and introduce into the record documentary or other evidence;

(9) Request the parties at any time during the hearing to state their respective positions concerning any issue in the case or theory in support thereof;

(10) Continue, at his discretion, the hearing from day-to-day, or adjourn it to a later date or to a different place;

(11) Take official notice of any matters not appearing in evidence in the record which are among the traditional matters of judicial notice; or of technical or scientific facts within the general or specialized knowledge of the Department of Commerce as an expert body; or of a document required to be filed with or published by a duly constituted Government body: *Provided*, That the parties shall be given notice, either during the hearing or by reference in the administrative law judge's decision, of the matters so noticed, and shall be given adequate opportunity to show the contrary;

(12) Prepare, serve, and submit his initial decision pursuant to § 246.14.

(13) Take any other action necessary and not prohibited by this section or the Act.

#### § 246.11 Appearance of the respondent and the agency representative.

The respondent and the agency representative shall have the right to appear at such hearing in person, by counsel, or by other representative, to examine and cross-examine witnesses to the extent required for a full and true disclosure of the facts, to conduct oral argument at the close of testimony and to introduce into the record relevant documentary or other evidence, except that the participation of either party shall be limited to the extent prescribed by the administrative law judge.

#### § 246.12 Evidence.

All evidence which is relevant, material, reliable, and probative, and not unduly repetitious or cumulative, shall be admissible in the hearing.

#### § 246.13 Filing of briefs.

The respondent and the agency representative may submit a brief to the administrative law judge. The original and one copy of such brief shall be filed within 7 days after the close of the hearing, except that the administrative law judge may, for good cause, grant an extension of such time for filing.

#### § 246.14 Decisions.

(a) After the close of the hearing and the receipt of briefs, if any, the administrative law judge shall expeditiously prepare an initial decision. The initial decision shall contain findings of fact, conclusions, and the reasons or basis therefore, upon the material issues presented, and shall specifically find whether the respondent committed the violations alleged and, if so, the amount of the civil penalty to be assessed.

(b) The administrative law judge shall cause his initial decision to be served on the respondent and the agency representative within 20 days after the close of the hearing or the receipt of all briefs, whichever is later, and shall forthwith transfer the record in the case to the Secretary through the Director.

(c) Within 10 days of receipt of the initial decision of the administrative law judge, either the respondent or the agency representative may file with the Secretary by serving the Director, an appeal of the initial decision. If no appeal is received within such period, the initial decision shall become the final administrative decision of the Secretary. If an appeal is received within such period, the Secretary shall render a final decision after considering the record and the appeal. Notice of an appeal by either party shall be promptly given in writing to the other party and notice of the Secretary's final decision upon appeal shall be promptly given in writing to both parties.

#### § 246.15 Remission, mitigation, or compromise.

For good cause shown, the Secretary may at any time remit, mitigate, or compromise the assessment of a civil penalty made under the provisions of these regulations.

#### § 246.16 Payment of penalty.

The respondent shall have 30 days from receipt of the final assessment decision within which to pay the penalty assessed. Upon a failure to pay the penalty, the Secretary may request the Attorney General to institute a civil action in the appropriate United States District Court to collect the penalty.

#### § 246.17 Disposition of seized wildlife, products, property, or items.

(a) Upon the completion of proceeding involving a civil penalty, the Director may proceed in any court of competent jurisdiction against any wildlife, product, property, or item seized as a result of its use or possession in connection with a violation of the Act to have such wildlife, product, property, or item forfeited to the Director.

(b) Any wildlife, product, property, or item forfeited to the Director may be disposed of in such manner as he deems appropriate.

(c) The Director shall return any wildlife, product, property or item seized or the monetary amount if a bond was posted to the owner or consignee if he does not begin an action to have such wildlife, product, property, or item in a court of competent jurisdiction within 30 days following the disposition of the civil penalty pursuant to § 246.7 or § 246.14, whichever is applicable.

[FR Doc. 75-13271 Filed 5-20-75; 8:45 am]

### ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 376-6]

#### IDAHO

#### Approval and Promulgation of Implementation Plans; Extension of Comment Period

This notice extends to June 11, 1975 the period for comments to the notice, published April 10, 1975 (40 FR 16218), proposing disapproval of Regulation S, "Control of Sulfur Oxides Emissions," of the "rules and regulations for the Control of Air Pollution in Idaho." The revised Regulation S was submitted to EPA by the Governor of Idaho as a proposed revision to the Idaho Air Quality Implementation Plan on January 10, 1975.

A request for an extension was submitted on May 8, 1975 by The Bunker Hill Company of Kellogg, Idaho, the source affected by the revised Regulation. EPA has determined that the request is reasonable in that it would allow Bunker Hill time to submit additional comments. Therefore EPA is granting an extension of the comment period to June 11, 1975.

This extension does not provide an extension for comments relating to two additional revisions which were proposed for approval on April 10 in the same FEDERAL REGISTER notice. These revisions are Regulation A, "General Provisions," and Regulation C, "Ambient Air Quality Standards," of the "rules and regulations for the Control of Air Pollution in Idaho."

All interested persons are encouraged to submit written comments on whether the proposed revision should be approved or disapproved as required by section 110 of the Clean Air Act, as amended. Comments received on or before June 11, 1975 will be considered. Comments should be directed to the Regional Administrator, Region X, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Attention: Ms. K. Higley, M/S 629. Public comments received will be available for public inspection at the EPA Regional Office and EPA Headquarters at the Freedom of Information Center, Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460.



This notice is issued under the authority of section 110 of the Clean Air Act, as amended. (42 U.S.C. 1857c-5).

Dated: May 14, 1975.

ROGER STRELOW,  
Assistant Administrator for Air  
and Waste Management.  
[FR Doc.75-13357 Filed 5-20-75; 8:45 am]

#### [ 40 CFR Part 180 ] CHLOROTHALONIL

[FRL 376-7; PPSE1509/P2]

#### Proposed Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, State Agricultural Experiment Station, Rutgers University, New Brunswick NJ 08903, submitted a pesticide petition (PP 5E1569) to the Environmental Protection Agency on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Hawaii. This petition proposed establishment of a tolerance for residues of the fungicide Chlorothalonil (tetrachloroisophthalonitrile) and its metabolite 4-hydroxy-2,5,6-trichloroisophthalonitrile in or on the raw agricultural commodity passion fruit at 3.0 parts per million. (Chlorothalonil has been accepted as the common name for tetrachloroisophthalonitrile.)

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought, and there is no reasonable expectation of residues in eggs, meat, milk, or poultry and § 180.6(a)(3) applies. The tolerance established by amending § 180.275 will protect the public health.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before June 20, 1975, that this proposal be referred to any advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this proposal to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Room 423, East Tower, 401 M St. SW, Washington D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in reviewing them. The comments must be received on or before June 20, 1975, and should bear a notation indicating the subject (PP5E1569/P2). All written comments filed pursuant to this notice will be available for public inspection in the Office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)))

Dated: May 15, 1975.

JOHN B. RITCH, Jr.,  
Director, Registration Division.  
It is proposed that § 180.275, Subpart C, Part 180, be amended by inserting the new paragraph "3 parts per million . . ." after the paragraph "5 parts per million . . ." to read as follows.

§ 180.275 Chlorothalonil; tolerances for residues.

3 parts per million in or on passion fruit.

[FR Doc.75-13358 Filed 5-20-75; 8:45 am]

#### FEDERAL ENERGY ADMINISTRATION

[ 10 CFR Part 211 ]

#### PASSENGER TRANSPORTATION SERVICES—INCLUSION OF AIR FACILITIES AND SERVICES, FILING PROCEDURES FOR AIR TAXI/COMMERCIAL OPERATORS, PUBLIC AIR CARRIERS

##### Cancellation of Public Hearing

The Federal Energy Administration hereby gives notice that the public hearing scheduled for May 22, 1975 in the above captioned proceeding has been cancelled. Only two requests to make oral presentations were received by FEA as of 4:30 p.m., May 16, 1975. One of the requests has been withdrawn and the person who made the only other request indicated in his request that in the absence of other participants of the hearing he would submit written comments in lieu of making an oral presentation. Written comments and other data with respect to the proposed amendment may still be submitted to Executive Communications, Room 3309, Federal Energy Administration, Box CR, Washington, D.C. 20461. All such materials received by 4:30 p.m., May 20, 1975 will be considered by FEA before final action is taken on the proposed regulations.

ROBERT E. MONTGOMERY, Jr.,  
General Counsel.  
MAY 16, 1975.

[FR Doc.75-13365 Filed 5-9-75; 8:45 am]

#### FEDERAL TRADE COMMISSION

[ 16 CFR Parts 3, 4 ]

#### SEPARATION OF FUNCTIONS AND EX PARTE COMMUNICATIONS

##### Notice of Extension of Time To File Comments

##### Correction

In FR Doc. 75-12778 appearing on page 21047 in the issue of Thursday, May 15, 1975, the headings should read as set forth above.

[ 16 CFR Part 255 ]

#### GUIDES CONCERNING USE OF ENDORSEMENTS AND TESTIMONIALS IN ADVERTISING

##### Opportunity To Submit Written Views to Proposed Guides

In addition to the two Guides concerning endorsements by experts and by organizations (16 CFR §§ 255.3 and 255.4) which are published in final form today in the rules and regulations section of this issue of the FEDERAL REGISTER, the Commission is proposing to amend Title 16, Part 255 further by adding three new §§ 255.1, 255.2 and 255.5.

§ 255.1 is an entirely new Guide 1—General considerations—which states certain basic principles that are applicable to all endorsements. Paragraph (a) of this proposed Guide requires that every endorsement reflect the honest views of the endorser, and it incorporates a long established prohibition against statements in endorsements that could not be supported if presented in the advertiser's words rather than the endorser's. See, e.g., "United States v. John J. Fulton Co.," 33 F. 2d 506 (9th Cir. 1929); "American Chemical Paint Co.," 45 F.T.C. 9 (1948).

Paragraph (b) of proposed Guide 1 deals with the advertiser's presentation of endorsement messages. While it does not preclude the editing of an endorser's exact words, it prohibits the obviously deceptive practice of distorting the endorser's opinion or experience with the product by rewording the endorsement or by presenting it out of context. See, e.g., "Country Tweeds, Inc.," 61 F.T.C. 1250, aff'd, 326 F. 2d 144 (2d Cir. 1964); P. Lorillard Co., 46 F.T.C. 735, aff'd, 186 F. 2d 52 (4th Cir. 1950). The first sentence of this paragraph allows an advertiser to continue using an endorsement only so long as he has good reason to believe that the endorser continues to subscribe to the views presented. See "National Dynamics Corp.," 82 F.T.C. 488, mod. on other grds, 492 F. 2d 1333 (2d Cir. 1974), cert. denied, 95 S.Ct. 303 (1974).

Paragraph (c) of proposed Guide 1 concerns representations that the endorser uses the endorsed product, and it requires such an endorser to be a "bona fide" user of the product at the time the endorsement was given. The standard of "bona fide" use requires more than mere actual use and reflects the principle stated in the Commission's opinion in "National Dynamics Corp.," supra, that an endorsement may be used only as long as the endorser continues to subscribe to the views presented. An endorsement of a product which is used by an endorser, but which he does not like, would violate this principle, since an endorser's use of a product impliedly represents his approval of it.

§ 255.2 is proposed Guide 2—Consumer endorsements—which was previously published in somewhat different form on

December 1, 1972 (37 FR 25548) as proposed Guide 4 (§ 255.4). Paragraph (a) recites the general principle that endorsements reflecting the experience of an individual consumer will be interpreted as representing the typical performance of the product under like circumstances. See "National Dynamics Corp.," Dkt. 8803 (modified order, March 4, 1975).

Paragraph (b) of proposed Guide 2 relates to the use of professional actors in consumer endorsements. Endorsements which purport to represent the views or opinions of ordinary consumers derive much of their persuasive ability from the fact that the endorser's opinions or reactions are spontaneous and reflect the speaker's actual experiences with or reactions to the advertised product. The undisclosed use of professional actors to simulate this spontaneity may therefore be similar to the undisclosed use of "mock-ups" to simulate actual tests, demonstrations, or experiments. Use of such mock-ups has been prohibited by the Commission in numerous cases. See, e.g., "F.T.C. v. Colgate-Palmolive Co.," 380 U.S. 374 (1964).

Paragraph (c) of proposed Guide 2 would prohibit lay endorsements concerning the effectiveness of drug products. The addition of such a paragraph was suggested in a comment of the Lehigh Valley Committee Against Health Frauds, Lehigh Valley, Pa. In this connection the Commission wishes to call attention to its opinion in "Brown Auto Stabilizer Co.," 81 F.T.C. 745, 760-761 (1972) where, with regard to a "user endorsement," the Commission held that "this type of evidence inherently lacks probative value when a product's efficacy is not readily apparent and can be measured by more objective means." The Commission also directs attention to the conclusion of the Food and Drug Administration, in connection with its review of over-the-counter drug products, that "the patient's subjective judgment is not a proper standard for determining [the] effectiveness" of such products. 37 FR 9464, 9469 (May 11, 1972).

§ 255.5 is proposed Guide 5—Disclosure of material connections—which was also previously published in somewhat different form on December 1, 1972 (37 FR 25548) as proposed Guide 3. This proposed Guide states the general rule that connections between the endorser and the seller of an advertised product which would materially affect the weight or credibility of the endorsement must be fully disclosed. The first sentence of the proposed Guide incorporates, with only minor stylistic modifications, the originally-proposed Guide 3.

The second sentence of the Guide, as presently proposed, is intended to clarify the application of the general principle to one particular connection: the giving of, or promise of, compensation in advance of the giving of an endorsement by an individual. The Guide makes clear that, ordinarily, the prior giving or promise of such compensation need be disclosed only when the individual endorser is a non-expert consumer, and

that such compensation need not ordinarily be disclosed when the endorser is a celebrity.

The Commission believes it is appropriate to treat endorsements by "ordinary consumers" differently from endorsements by celebrities with respect to disclosure of compensation, because it believes that the consuming public generally expects that celebrities, unlike ordinary consumers, generally are compensated in advance for the use of their name in an advertisement. Similarly, with respect to payments to consumers made after an unsolicited endorsement has been given, the Commission does not believe that the fact of such payment, coming only after an endorsement has already been given, would be deemed by the consuming public to bear on the credibility of the endorsement. The Commission would welcome any survey data or other information relating to consumer beliefs or expectations concerning the payment of compensation for the endorsement of celebrities or non-expert consumers.

By indicating certain instances when the compensation of an endorser will be deemed a material connection requiring disclosure, the Commission does not in any way imply that other connections, such as an advertiser's relationship with a testing company or an endorser's financial interest in the advertising company, may not be equally material. The Commission has merely determined that these issues can be more effectively handled by way of the examples to the proposed Guide.

Opportunity is hereby extended by the Federal Trade Commission to any and all persons, firms, corporations, organizations, or other parties affected by or having an interest in the Guides on Endorsements and Testimonials to present to the Commission their views concerning the proposed changes in the Guides, including such pertinent information, suggestions, or objections as they may desire to submit. For this purpose, copies of the Guides may be obtained upon request to the Commission. Such data, views, information and suggestions may be submitted by letter, memorandum, brief, or other written communication not later than July 21, 1975, to the Assistant Director, Division of National Advertising, Bureau of Consumer Protection, Federal Trade Commission, Pennsylvania Avenue and Sixth Street, NW., Washington, D.C. 20580. All such statements filed not later than will be considered by the Commission in determining appropriate final action on the proposed Guides.

#### Text of the proposed Guides follows: PART 255—GUIDES CONCERNING USE OF ENDORSEMENTS AND TESTIMONIALS IN ADVERTISING

Sec.  
255.1 General considerations.  
255.2 Consumer endorsements.  
255.5 Disclosure of material connections.

AUTHORITY: The provisions of this Part 255 are issued under 38 Stat. 717, as amended; 15 U.S.C. 41-56.

#### § 255.1 General considerations.

(a) Endorsements must always reflect the honest opinions, findings, beliefs, or experience of the endorser. Furthermore, they may not contain any representations which would be deceptive, or could not be substantiated if made directly by the advertiser.

(b) The endorsement message need not be phrased in the exact words of the endorser, unless the advertisement affirmatively so represents. However, the endorsement may neither be presented out of context nor reworded so as to distort in any way the endorser's opinion or experience with the product. An advertiser may use an endorsement only as long as he has good reason to believe that the endorser continues to subscribe to the views presented.

(c) In particular, where the advertisement represents that the endorser uses the endorsed product, then the endorser must have been a bona fide user of it at the time the endorsement is given. Additionally, the advertiser may continue to run the advertisement only so long as he has good reason to believe that the endorser remains a bona fide user of the product.

Example: A magazine advertisement for cigars shows a picture of a well-known entertainer holding a lighted cigar. In fact, the entertainer does not smoke cigars, but posed for the picture only because of compensation paid to him by the cigar manufacturer. The advertisement conveys the impression that the entertainer actually uses the cigars, and this would be a deceptive endorsement of the cigars by the entertainer. [Guide 1]

#### § 255.2 Consumer endorsements.

(a) An advertisement employing an endorsement reflecting the experience of an individual consumer will be interpreted as a claim that such experience represents the typical performance of the product under circumstances similar to those depicted in the advertisement. Therefore if the represented performance is not in fact typical, the advertisement should clearly and conspicuously disclose what the typical or ordinary performance would be in the depicted circumstances. The simple disclosure that "not all consumers will get this result" is not sufficient.

(b) Advertisements presenting endorsements by what is represented, directly or by implication, to be an "actual consumer" should utilize actual consumers, in both the audio and the video, or clearly and conspicuously disclose that the persons in such advertisements are professional actors, appearing for compensation.

(c) Claims concerning the efficacy of any drug or other article or device intended (1) to affect the structure or any function or the body of man or other animals and/or intended (2) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals shall not be made in lay endorsements.

Example 1: An appliance manufacturer prints a statement by a satisfied user that the product served adequately for over eight



years. Even if it is literally true that a particular customer got eight years of life out of an appliance the endorsement would be deceptive if the typical life of the product is substantially less and such typical life is not revealed.

*Example 2:* An advertisement for a certain brand of flashlight batteries includes a statement by a consumer that the batteries saved his life by lasting three nights while he was lost at sea. If the product would not typically perform the same way in these unusual circumstances, then the advertisement must disclose what the typical performance would be in such circumstances. [Guide 2]

#### § 255.5 Disclosure of material connections.

When there exists a connection between the endorser and the seller of the advertised product which might materially affect the weight or credibility of the endorsement, such connection must be fully disclosed. Such a connection would not ordinarily include the payment or promise of payment to an individual (as distinguished from an organizational) endorser as long as the advertiser does not represent that the endorsement was given without compensation. However, when the endorser is neither represented in the advertisement as an expert

nor is known to a significant portion of the viewing public, the payment or promise of payment of compensation prior to the giving of the endorsement must be disclosed.

*Example 1:* A drug company commissions research on its product by a well-known research organization. The drug company pays a substantial share of the expenses of the research project, but the test design is under the control of the research organization. A subsequent advertisement by the drug company mentions the research results as the "findings" of the well-known research organization. The advertisement should reveal the advertiser's role in originating and financing the study, such as by stating that the study was "commissioned" or "sponsored" by the advertiser. Alternatively, if the drug firm designs the test as well as pays for it, that should be revealed as well.

*Example 2:* A well-known research organization, acting on its own initiative and not by prior arrangement with any drug company, publishes its findings with respect to products of various drug companies. A subsequent advertisement for one of the drug companies whose product fared well in the tests highlights the findings and mentions the testing organization. Notwithstanding the fact that the drug company may have paid the research organization for the use of its name and findings, such payment

would not materially affect the credibility of the endorsement and thus would not need to be disclosed.

*Example 3:* A film star endorses a particular food product. The endorsement regards only points of taste and individual preference. This endorsement must of course comply with § 255.1; but even though the compensation paid the endorser is substantial, neither the fact nor the amount of compensation need be revealed.

*Example 4:* A patron of a restaurant, who is neither known to the public nor presented as an expert, is asked for his opinion of a food product served in the restaurant. Consumers generally expect such an endorsement to be given without prior compensation, and the advertisement implies that is the case here. Therefore, the fact of prior compensation must be disclosed.

*Example 5:* A former astronaut is either on the Board of Directors of, or owns substantial stock in, a motel chain. The astronaut subsequently endorses the company's motels. In either case, the connection between him and the company would be material and should be disclosed. [Guide 5]

Issued May 21, 1975.

By direction of the Commission.

(SEAL) CHARLES A. TOBIN,  
Secretary.

[FR Doc. 75-13296 Filed 5-20-75; 8:45 am]

## notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

### DEPARTMENT OF THE TREASURY

#### Office of the Secretary

(Dept. Circular, Public Debt Series—No. 16-75, Supplement)

#### TREASURY NOTES OF SERIES I-1977

##### Announcement of Interest Rate

MAY 15, 1975.

The Secretary of the Treasury announced on May 14, 1975, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 16-75, dated May 9, 1975, will be 6½ percent per annum. Accordingly, the notes are hereby redesignated 6½ percent Treasury Notes of Series I-1977. Interest on the notes will be payable at the rate of 6½ percent per annum.

JOHN K. CARLOCK,  
Fiscal Assistant Secretary.

[FR Doc. 75-13266 Filed 5-16-75; 9:22 am]

(Dept. Circular, Public Debt Series, No. 17-75)

#### TREASURY NOTES OF SERIES O-1976

Dated and Bearing Interest From June 6, 1975

MAY 16, 1975.

##### I. INVITATION FOR TENDERS

The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, act amended, invites tenders on a yield basis for \$1,500,000,000, or thereabouts, of notes of the United States, designated Treasury Notes of Series O-1976. The interest rate for the notes will be determined as set forth in Section III, paragraph 3, hereof. Additional amounts of these notes may be issued at the average price of accepted tenders to Government accounts and to Federal Reserve Banks for themselves and as agents of foreign and international monetary authorities. Tenders will be received up to 1:30 p.m., Eastern Daylight Saving time, Thursday, May 22, 1975, under competitive and noncompetitive bidding, as set forth in Section III hereof.

##### II. DESCRIPTION OF NOTES

1. The notes will be dated June 6, 1975, and will bear interest from that date, payable on a semiannual basis on October 31, 1975, April 30, 1976, and October 31, 1976. They will mature October 31, 1976, and will not be subject to call for redemption prior to maturity.
2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift or other excise taxes, whether Federal or

State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of \$5,000, \$10,000, \$100,000 and \$1,000,000. Book-entry notes will be available to eligible bidders in multiples of those amounts. Interchanges of notes of different denominations and of coupon and registered notes, and the transfer of registered notes will be permitted.

5. The notes will be subject to the general regulations of the Department of the Treasury, now or hereafter prescribed, governing United States notes.

##### III. TENDERS AND ALLOTMENTS

1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to the closing hour, 1:30 p.m., Eastern Daylight Saving time, Thursday, May 22, 1975. Each tender must state the face amount of notes bid for, which must be \$5,000 or a multiple thereof, and the yield desired, except that in the case of noncompetitive tenders the term "noncompetitive" should be used in lieu of a yield. In the case of competitive tenders, the yield must be expressed in terms of an annual yield, with two decimals, e.g., 7.11. Fractions may not be used. Noncompetitive tenders from any one bidder may not exceed \$500,000.

2. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, may submit tenders for account of customers provided the names of the customers are set forth in such tenders. Others will not be permitted to submit tenders except for their own account. Tenders will be received without deposit from banking institutions for their own account, Federally-insured savings and loan associations, States, political subdivisions or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks and foreign States, dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, and

Government accounts. Tenders from others must be accompanied by payment of 5 percent of the face amount of notes applied for.

3. Immediately after the closing hour tenders will be opened, following which public announcement will be made by the Department of the Treasury of the amount and yield range of accepted bids. Those submitting competitive tenders will be advised of the acceptance or rejection thereof. In considering the acceptance of tenders, those with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established at the nearest ½ of one percent necessary to make the average accepted price 100.000 or less. That will be the rate of interest that will be paid on all of the notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price corresponding to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders, in whole or in part, including the right to accept tenders for more or less than the \$1,500,000,000 of notes offered to the public, and his action in any such respect shall be final. Subject to these reservations, noncompetitive tenders for \$500,000 or less without stated yield from any one bidder will be accepted in full at the average price (in three decimals) of accepted competitive tenders.

##### IV. PAYMENT

Settlement for accepted tenders in accordance with the bids must be made or completed on or before June 6, 1975, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. Payment must be in cash, in other funds immediately available to the Treasury by June 6, 1975, or by check drawn to the order of the Federal Reserve Bank to which the tender is submitted, or the United States Treasury if the tender is submitted to it, which must be received at such Bank or at the Treasury no later than: (1) Tuesday, June 3, 1975, if the check is drawn on a bank in the Federal Reserve District of the Bank to which the check is submitted, or the Fifth Federal Reserve District in the case of the Treasury, or (2) Friday, May 30, 1975, if the check is



drawn on a bank in another district. Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at a Federal Reserve Bank. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with the tender up to 5 percent of the amount of notes allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States.

#### V. GENERAL PROVISIONS

1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid tenders allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

WILLIAM E. SIMON,  
Secretary of the Treasury.

[FR Doc. 76-13211 Filed 5-16-75; 2:33 pm]

#### WATER CIRCULATING PUMPS, WET MOTOR TYPE

Use in Residential and Commercial Hydronic Heating Systems, From the United Kingdom; Antidumping Proceeding

On April 25, 1975, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), indicating a possibility that water circulating pumps, wet motor type, suitable for use in residential and commercial hydronic heating systems, from the United Kingdom are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States. This evidence indicates that substantial unit and dollar volume decreases have occurred in the United States industry during the latest three-year period, that there is utilization of less than half the capacity of the U.S. industry, and that imports of the subject merchandise from all sources during the latest three-year period have increased substantially. On the basis of such evidence, it is not deemed necessary to refer the case to the International Trade Commission

pursuant to section 201(c)(22) of the Act (19 U.S.C. 160(c)(22)).

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

Dated: May 15, 1975.

(SEAL) DAVID R. MACDONALD,  
Assistant Secretary of  
the Treasury.

[FR Doc. 75-13207 Filed 5-20-75; 8:45 am]

#### DEPARTMENT OF DEFENSE

##### Office of the Secretary

#### ADVISORY GROUP ON ELECTRON DEVICES

##### Advisory Committee Meeting

Working Group D (Mainly Laser Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session at Lincoln Laboratory, Lexington, Massachusetts on June 11 and 12, 1975.

The purpose of the Advisory Group is to provide the Director of Defense Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group D meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The laser area includes programs on developments and research related to low energy lasers for such applications as battlefield surveillance, target designation, ranging, communications, weapon guidance and data transmission. The review will include classified program details and will result in advice or recommendations to government research and development agencies preliminary to decisions or actions, the preliminary disclosure of which would interfere with the orderly conduct of government.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, specifically subpara-

graphs (1) and (5) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,  
Director, Correspondence and  
Directives OASD (Comptroller).

MAY 16, 1975.

[FR Doc. 75-13321 Filed 5-20-75; 8:45 am]

#### ADVISORY GROUP ON ELECTRON DEVICES

##### Advisory Committee Meeting

Working Group C (Special Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, 9th Floor, New York, NY 10014 on June 11, 1975.

The purpose of the Advisory Group is to provide the Director of Defense Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The special device area includes such programs as infrared and night vision sensors. The review will include classified program details and will result in advice or recommendations to government research and development agencies preliminary to decisions or actions, the preliminary disclosure of which would interfere with the orderly conduct of government.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, specifically subparagraphs (1) and (5) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,  
Director, Correspondence and  
Directives OASD (Comptroller).

MAY 16, 1975.

[FR Doc. 75-13322 Filed 5-20-75; 8:45 am]

#### DEFENSE SCIENCE BOARD TASK FORCE ON VERIFICATION

##### Advisory Committee Meeting

The Defense Science Board Task Force on Verification will meet in closed session on June 14, 1975, at The Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long range guidance in these areas to the Department of Defense.

The Task Force will provide an analysis of techniques proposed for verifying compliance with the limitations of the Threshold Test Ban Treaty.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,  
Director, Correspondence and  
Directives OASD (Comptroller).

MAY 16, 1975.

[FR Doc. 75-13323 Filed 5-20-75; 8:45 am]

#### DEFENSE SCIENCE BOARD TASK FORCE ON THEATER NUCLEAR FORCES R&D REQUIREMENTS

##### Advisory Committee Meeting

The Defense Science Board Task Force on Theater Nuclear Forces R&D Requirements will meet in closed session on July 7, 8, and 9, 1975 in the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long range guidance in these areas to the Department of Defense.

The Task Force will provide an analysis of technology and systems applicable to theater nuclear forces and indicate promising solutions to the problem area for possible implementation within the Department of Defense.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,  
Director, Correspondence and  
Directives, OASD (Comptroller).

MAY 16, 1975.

[FR Doc. 75-13324 Filed 5-20-75; 8:45 am]

#### DDR&E HIGH ENERGY LASER REVIEW GROUP (HELRG)

##### Meeting; Correction

Reference is made to the closed meetings of the DDR&E High Energy Laser Review Group (HELRG), Joint Meetings of Subpanels on Laser Hardened Materials and Structures and Vulnerability and Effects, scheduled for July 7-10, 1975, in the San Jose, California area and published at 40 FR 20331, May 9, 1975. Notice is hereby given of a change

in dates to read: July 8-11, 1975. The location of the meetings remains the same.

MAURICE W. ROCHE,  
Director, Correspondence and  
Directives OASD (Comptroller).

MAY 16, 1975.

[FR Doc. 75-13288 Filed 5-20-75; 8:45 am]

#### DEPARTMENT OF THE INTERIOR

##### Bureau of Indian Affairs

#### COEUR D'ALENE INDIAN RESERVATION, IDAHO

#### Ordinance Governing Sale, Distribution and Taxation of Tobacco Products and Liquor

MAY 13, 1975.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 FR 13938), and in accordance with the Act of August 15, 1953, Pub. L. 277, 83rd Congress, 1st Session (67 Stat. 588).

I certify that the following ordinance governing the sale, distribution and taxation of tobacco and liquor products on the Coeur d'Alene Indian Reservation was adopted on April 15, 1974 by the Coeur d'Alene Tribe of Indians which has jurisdiction over the area of Indian country included in the ordinance reading as follows:

Whereas, the Coeur d'Alene Tribal Council as the governing body of the Coeur d'Alene Indian Tribe is charged by the Tribal Constitution and By-Laws to manage the affairs of the Coeur d'Alene Tribe and has the responsibility of protecting the health, security and general welfare of the Tribe and its members, and

Whereas, the State of Idaho is without jurisdiction on the Coeur d'Alene Indian Reservation to regulate and control Indian Smoke Shops and Liquor Outlets operated by Tribal members, and

Whereas, the Coeur d'Alene Tribal Council deems it essential to the health, security and general welfare of the Coeur d'Alene Tribe and its members to enact a comprehensive tobacco and liquor ordinance regulating sale and distribution of cigarettes and other tobacco products and liquor products and levying an excise tax upon their distribution and sale on the Coeur d'Alene Indian Reservation,

Now, therefore, the Coeur d'Alene Tribal Council does hereby promulgate and enact the following ordinance:

AN ORDINANCE GOVERNING SALE, DISTRIBUTION AND TAXATION OF TOBACCO AND LIQUOR PRODUCTS WITHIN THE COEUR D'ALENE INDIAN RESERVATION

##### SECTION 1. Title.

This ordinance shall be known as the Coeur d'Alene Tobacco and Liquor Ordinance.

##### SEC. 2. Definitions.

As used in this ordinance, the following words and phrases shall each have the designated meaning unless a different meaning is expressly provided or the context is clearly indicated:

(1) "Tribe" shall mean the Coeur d'Alene Indian Tribe.

(2) "Council" shall mean the Coeur d'Alene Tribal Council.

(3) "Cigarettes" shall mean any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective

of the tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any material, except where such wrapper is wholly or in the greater part made of natural leaf tobacco in its natural state.

(4) "Tobacco Products" shall mean cigarettes, cigars, smoking tobacco, snuff, chewing tobacco, and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking.

(5) "Tobacco Outlets or Liquor Outlets" shall mean a Tribally licensed retail or wholesale business selling tobacco or liquor products on the Coeur d'Alene Indian Reservation.

(6) "Operator" shall mean an enrolled member of the Coeur d'Alene Tribe licensed by the Tribe to operate a Tobacco Outlet or Liquor Outlet.

(7) "Liquor Products" shall mean all spirituous liquors and beverages.

SEC. 3. Licensing of Tobacco Outlets or Liquor Outlets.

The Council may license one or more Tobacco Outlets or Liquor Outlets within the Coeur d'Alene Indian Reservation.

##### SEC. 4. Nature of Outlet.

Each Tobacco Outlet or Liquor Outlet licensed hereunder shall be managed by an operator pursuant to a license granted by the Council hereunder, and shall also be managed pursuant to a Federal Indian Trader's License as provided in Section 7 hereof.

##### SEC. 5. Application for Tobacco Outlet or Liquor Outlet License.

Any enrolled member of the Coeur d'Alene Indian Tribe may apply upon an application form provided by the Council for Tobacco Outlet or Liquor Outlet License. The Tribal Secretary-Treasurer shall receive and process applications, and be the official representatives of the Tribe and the Council in matters relating to Tobacco Outlets or Liquor Outlets excise tax collections, etc. Each application shall be accompanied by an application charge or fee of \$50.00.

##### SEC. 6. Tobacco Outlet or Liquor Outlet License.

Upon approval of an application, the Council shall issue the applicant a Tobacco Outlet or Liquor Outlet License for a one-year period which shall entitle the operator to establish and maintain one Tobacco Outlet or Liquor Outlet on the Coeur d'Alene Indian Reservation. The license shall be non-transferable. It shall be renewable at the discretion of the Council each year by filing a new application form and payment of the application fee as provided in section 5.

##### SEC. 7. Trader's License.

No Tobacco Outlet or Liquor Outlet license shall be issued to an operator until he has obtained a Federal Indian Trader's license from the Superintendent of the Northern Idaho Indian Agency. Provided, however, that a full blooded Coeur d'Alene Indian need not obtain a Federal Indian Trader's License to qualify for a Tobacco Outlet license. Revocation of the Federal Indian Trader's License shall be grounds for revocation of the operator's Tobacco Outlet or Liquor Outlet license.

##### SEC. 8. Excise Tax Imposed.

There is levied and there shall be collected as hereinafter provided, a tax upon the distribution of all cigarettes sold or distributed by a Tobacco Outlet or Liquor Outlet in the amount of 1½ cents per package, which tax may be adjusted and changed by the Council. The Council may levy an additional tax upon the distribution of cigarettes and other



## NOTICES

tobacco or liquor products as it deems desirable.

The excise tax levied hereunder shall be added to the retail selling price of tobacco or liquor products sold to the ultimate consumer.

#### Sec. 9. Purchase of Tobacco or Liquor Inventory.

All wholesale purchases of cigarettes and tobacco products by a Tobacco Outlet shall be from wholesalers within the State of Idaho. Exception to this section can be made as to cigarettes or other tobacco or liquor products that cannot be purchased from an Idaho wholesaler. The Tribe shall have no legal responsibility for any unpaid bills owed by a Tobacco Outlet or Liquor Outlet to a wholesale supplier or to any other person. The Operator shall make arrangements with his wholesalers to send copies of all his Purchase Invoices to the Tribal Office, Plummer Sub-Agency.

#### Sec. 10. Restricted Sales to Non-Indians.

An operator may not sell more than five cartons of cigarettes per sale to a non-Indian. The Council may restrict sales of other tobacco or liquor products to non-Indians as it deems necessary.

#### Sec. 11. Restricted Sales to Minors.

An Operator may not sell any tobacco or liquor products to any person under the age of 18 years.

#### Sec. 12. Tribal Liquor Regulations.

The Council will promulgate regulations governing the operation of liquor outlets before it issues licenses therefor.

#### Sec. 13. Other Business by Operator.

An Operator may conduct another business simultaneously with managing a Tobacco Outlet or Liquor Outlet for the Tribe. The other business may be conducted on the same premises and the Operator shall not be required to maintain separate books of account for the other business.

#### Sec. 14. Tribal Liability and Credit.

An Operator is forbidden to represent or give the impression to any supplier or any other person with whom he does business that he is an official representative of the Tribe, authorized to pledge tribal credit or financial responsibility for any of the expenses of his business operation. The operator shall hold the Coeur d'Alene Indian Tribe harmless from all claims and liability of whatever nature. The Tribal Council may revoke the operator's Outlet License if it is not operated in a business like manner or if it does not remain financially solvent or does not pay its operating expenses and bills before they become delinquent.

The Operator shall maintain at his expense adequate insurance covering liability, fire, theft, vandalism and other insurable risks. The liability insurance shall have coverage of at least \$10,000.00 per person and \$25,000.00 per incident.

#### Sec. 15. Audit and Inspection Bond.

All of the books and other business records of the Tobacco Outlet or Liquor Outlet shall be available for inspection and audit by the Tribal Council or its authorized representative at any reasonable time.

The excise tax owed the Tribe shall be remitted to the Tribal offices monthly with reports thereof on forms to be supplied by the Tribe. The Operator shall furnish a satisfactory bond to the Tribe in the principal amount of \$10,000.00, guaranteeing his payment of excise tax.

#### Sec. 16. Revocation of Tobacco Outlet and Liquor Outlet Licenses.

Failure of an operator to abide by the requirements of this ordinance and any additional requirement imposed by the Council will constitute grounds for revocation of the operator's Tobacco Outlet or Liquor Outlet license as well as enforcement of the penalties provided in sec. 17 below.

#### Sec. 17. Violation—Penalties.

Any person violating the provisions of this ordinance shall be guilty of an offense and subject to a fine in Tribal Court of not less than \$50.00 nor more than \$250.00 and forfeiture of all of the remaining stock of tobacco products or liquor products distributed hereunder and situate in his Tobacco Outlet or Liquor Outlet. The Tribal law enforcement officers shall be empowered to seize forfeited tobacco or liquor products.

#### Sec. 18. Severability.

If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance, or the application of the provision to other persons or circumstances is not affected.

MORRIS THOMPSON,  
Commissioner of Indian Affairs.

[FR Doc.75-13326 Filed 5-20-75; 8:45 am]

#### INDIAN TRIBES PERFORMING LAW AND ORDER FUNCTIONS

##### Determination

MAY 13, 1975.

This notice is published in exercise of authority delegated by the Secretary of

Tribal entities recognized by Federal Government by State	To employ tribal police	To establish tribal court	To adopt a tribal law and order code	To undertake correction functions	To undertake programs aimed at preventing adult crime and juvenile delinquency	To undertake adult and juvenile rehabilitation programs
Florida Seminole.....	X	X	X	X	X	X

MORRIS THOMPSON,  
Commissioner of Indian Affairs.

[FR Doc.75-13327 Filed 5-20-75; 8:45 am]

#### Bureau of Land Management

[Serial No. F-21269]

#### CLIFFORD W. MOSSBERG

#### Application for Airport Lease

MAY 13, 1975.

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211-214) Clifford W. Mossberg has applied for an airport lease for the following land:

FAIRBANKS MERIDIAN, ALASKA

T. 5 N., R. 3 E.,  
Sec. 25, W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 35, NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ .

The purpose of this notice is to inform the public that the filing of this application segregates the described land from all other forms of use or disposal under the public land laws.

Interested persons desiring to express their views should promptly send their

the Interior to the Commissioner of Indian Affairs by 230 DM 2.

Section 601(d), Title 1 of the Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. 90-351, places responsibility on the Secretary of the Interior to determine those Indian tribes which perform law and order functions. The listing published beginning on page 13758 of the May 25, 1973, FEDERAL REGISTER (38 FR 13758) identified all eligible Indian tribes and the specific law and order functions they have responsibility to exercise. Determination concerning Indian tribes not listed is made on an individual basis upon application by such tribes under provisions of the Act of the Law Enforcement Assistance Administration, Department of Justice. The Secretary's authority to make such determination was delegated to the Commissioner of Indian Affairs by 230 DM 1.

It has been determined by the Commissioner of Indian Affairs that the Seminole Indian Tribe of Florida has responsibility to perform all six law and order functions listed in the May 25, 1973, FEDERAL REGISTER (38 FR 13758) and amended at page 42392 of the December 4, 1974, FEDERAL REGISTER (39 FR 42392) is further amended by adding the listing for the Seminole Tribe of Indians to have law and order responsibility reading as follows:

Therefore, the listing published beginning at page 13758 of the May 25, 1973, FEDERAL REGISTER (38 FR 13758) and amended at page 42392 of the December 4, 1974, FEDERAL REGISTER (39 FR 42392) is further amended by adding the listing for the Seminole Tribe of Indians to have law and order responsibility reading as follows:

Tribal entities recognized by Federal Government by State	To employ tribal police	To establish tribal court	To adopt a tribal law and order code	To undertake correction functions	To undertake programs aimed at preventing adult crime and juvenile delinquency	To undertake adult and juvenile rehabilitation programs
Florida Seminole.....	X	X	X	X	X	X

MORRIS THOMPSON,  
Commissioner of Indian Affairs.

[FR Doc.75-13327 Filed 5-20-75; 8:45 am]

name and address to the District Manager, Bureau of Land Management, P.O. Box 1150, Fairbanks, Alaska 99707.

HAROLD E. WALDO,  
Chief,  
Division of Land Office.

[FR Doc.75-13314 Filed 5-20-75; 8:45 am]

#### IDAHO

##### Modification of District Boundaries

Pursuant to the authority vested in the Secretary of the Interior by the Taylor Grazing Act of June 28, 1934 (48 Stat. 1269) as amended and delegated to the Director, Bureau of Land Management by 235 DM 1.1, it is ordered as follows:

The district boundary modification notice appearing on page 16862 of the April 15, 1975 edition of the Federal Register (FR Doc. 75-9784), and transferring administrative responsibility of cer-

tain public lands from the Burley to the Idaho Falls District of the Bureau of Land Management is hereby amended to include the following described lands:

BOISE MERIDIAN, IDAHO

T. 12 S. to 15 S. inclusive, R. 46 E.,

Sec. 5, W $\frac{1}{2}$ ;

Secs. 6, 7, All;

Sec. 8, W $\frac{1}{2}$ ;

Sec. 17, W $\frac{1}{2}$ ;

Secs. 18, 19, All;

Sec. 20, W $\frac{1}{2}$ ;

Sec. 20, W $\frac{1}{2}$ ;

Secs. 30, 31, All;

Sec. 32, W $\frac{1}{2}$ .

T. 16 S., R. 46 E.,

Sec. 5, W $\frac{1}{2}$ ;

Secs. 6, 7, All;

Sec. 8, W $\frac{1}{2}$ ;

Sec. 17, W $\frac{1}{2}$ ;

Secs. 18, 19, All;

Sec. 20, W $\frac{1}{2}$ ;

Sec. 20, Lots 3, 4, 5 and 6;

Sec. 30, Lots 1 to 8 inclusive.

This transfer of jurisdiction will not affect the status or use of the public lands involved and shall become effective

May 21, 1975.

GEORGE L. TURCOIT,  
Associate Director.

MAY 13, 1975.

[FR Doc.75-13313 Filed 5-20-75; 8:45 am]

[M 31435]

#### MONTANA

##### Airport Lease Application

MAY 12, 1975.

Notice is hereby given that pursuant to the Act of May 24, 1928, 49 U.S.C. 211-214, the Montana Division of Aeronautics has applied for an airport lease for the following land:

PRINCIPAL MERIDIAN, MONTANA

T. 11 N., R. 16 W.,

Sec. 7, A tract of land in the E $\frac{1}{2}$ NE $\frac{1}{4}$ , more particularly described as follows: Beginning at the section corner common to Sections 7 and 8 on the south line of Sec. 5, thence South 0°24' East, a distance of 720.09 feet to a point on the boundary of Shriner Placer, MS 3387, between Corner No. 4 and Corner No. 5; thence South 88°23' West, a distance of 434.19 feet to Corner No. 5 of MS 3387; thence South 43°43' West, a distance of 649.59 feet to a point on the boundary of MS 3387 between Corner No. 5 and Corner No. 6, which is the true point of beginning; thence South 43°43' West, a distance of 53.41 feet to Corner No. 6 of MS 3387; thence South 07°47' East, a distance of 481.39 feet to a point on the boundary of MS 3387 between Corner No. 6 and Corner No. 7; thence North 88°48' West, a distance of 517.14 feet to a point; thence due north a distance of 495.21 feet to a point; thence South 88°48' East, a distance of 491.53 feet to the point of beginning.

The purpose of this notice is to inform the public that the filing of this applica-

## NOTICES

tion segregates the described land from all other forms of use or disposal under the public land laws.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 1819 Holborn Street, Missoula, MT 59801.

LEIGH W. FREEMAN,  
Chief, Lands  
Adjudication Section.

[FR Doc.75-13310 Filed 5-20-75; 8:45 am]

[NM 25485]

#### NEW MEXICO

##### Application

MAY 13, 1975.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Llano, Inc., has applied for one 4 inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 27 E.,

Sec. 7, SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;

Sec. 18, NW $\frac{1}{4}$ NE $\frac{1}{4}$  and NE $\frac{1}{4}$ NW $\frac{1}{4}$ .

This pipeline will convey natural gas across 0.232 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions. Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201.

RAUL E. MARTINEZ,  
Acting Chief, Branch of Lands  
and Minerals Operations.

[FR Doc.75-13311 Filed 5-20-75; 8:45 am]

[NM 25435, 25500, 25506]

#### NEW MEXICO

##### Applications

MAY 13, 1975.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for three 4½ inch natural gas pipelines rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 30 N., R. 8 W.,

Sec. 25, SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;

Sec. 29, Lots 4, 5, 12 and 13;

Sec. 35, S $\frac{1}{2}$ NW $\frac{1}{4}$ .

These pipelines will convey natural gas across 1.037 miles of national resource lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, NE, Albuquerque, NM 87107.

RAUL E. MARTINEZ, Acting  
Chief, Branch of Lands  
and Minerals Operations.

[FR Doc.75-13312 Filed 5-20-75; 8:45 am]

#### SHOSHONE DISTRICT MULTIPLE USE ADVISORY BOARD

##### Postponed Meeting

MAY 14, 1975.

The notice of the scheduled Shoshone District Multiple Use Advisory Board meeting appearing in FR Doc. 75-9826 at page 17047 in the issue of Wednesday, April 18, 1975, and the correction in FR Doc. 75-10693 at page 18013 in the issue of Thursday, April 24, 1975, has been postponed and will be re-scheduled at a later date.

CHARLES J. HASZIER,  
District Manager.

[FR Doc.75-13309 Filed 5-20-75; 8:45 am]

#### IDAHO FALLS DISTRICT ADVISORY COMMITTEE

##### Postponement of Meeting

Notice is hereby given that the meeting of the Idaho Falls District Advisory Committee which was scheduled for May 29, 1975 at the Bureau of Land Management building, 940 Lincoln Road, Idaho Falls, Idaho has been postponed. The meeting will be rescheduled in the future at which time a notice will be published.

O'DELL A. FRANDSEN,  
District Manager.

MAY 13, 1975.

[FR Doc.75-13274 Filed 5-20-75; 8:45 am]

#### Fish and Wildlife Service

##### ENDANGERED SPECIES PERMIT

##### Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Jacob M. Valentine, Jr., U.S. Fish and Wildlife Service, University of Southwestern Louisiana, Box 4763, Lafayette, Louisiana 70501.



DEPARTMENT OF THE INTERIOR  
U.S. FISH AND WILDLIFE SERVICE  
FEDERAL FISH AND WILDLIFE  
LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (check one only)  
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:  
Collect Mississippi Sandhill Crane (*Grus canadensis pulla*) eggs in Mississippi and ship or carry to Patuxent Wildlife Research Center.

3. APPLICANT, (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)  
Jacob M. Valentine, Jr.  
U.S. Fish and Wildlife Service  
Box 4753, Univ. of Southwestern La.  
Lafayette, La. 70501  
Phone: (318) 234-4833  
FTS: (504) 348-6630

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:  
NAME: ☐ MR. ☐ MRS. ☐ MISS ☐ M. 6-3 190  
DATE OF BIRTH: 12 May 1917 COLOR HAIR: Gray COLOR EYES: Blue  
PHONE NUMBER WHERE EMPLOYED: (318) 234-4833 SOCIAL SECURITY NUMBER: 383-07-5212  
OCCUPATION: Wildlife Biologist  
U.S. Fish and Wildlife Service

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:  
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.  
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED  
Mississippi - Sandhill cranes  
Louisiana - Alligators

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT?  
(If yes, list license or permit number) YES ☒ NO ☐  
4 - SC - 429

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSED?  
(If yes, list jurisdiction and type of document) YES ☒ NO ☐  
Miss. Game and Fish Commission  
Scientific collecting

9. CERTIFIED CHECK OR MONEY ORDER PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF \$

10. DESIRED EFFECTIVE DATE  
1/1/75

11. DURATION NEEDED  
Yearly renewable

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 17.23) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION  
I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 17, OF THE CODE OF FEDERAL REGULATION AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER 1 OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.  
Signature: Jacob M. Valentine, Jr. Date: 6 December 1974

ATTACHMENT TO FEDERAL FISH AND WILDLIFE  
LICENSE/PERMIT APPLICATION

Jacob M. Valentine, Jr.

1723—Mississippi Sandhill Crane (*Grus canadensis pulla*), an endangered species.

Activity: (1) To collect a maximum of six (6) eggs in Jackson County, Mississippi during 1975, to be shipped or carried to Patuxent Wildlife Research Center, Laurel, Maryland for propagation purposes. This study has been approved by Regional Director, Fish and Wildlife Service, Atlanta, Georgia, as part of Wildlife Management Study (Refuge Division): "The reintroduction of sandhill cranes into southwestern Louisiana. The study also has the approval of the Mississippi Game and Fish Commission and permits are issued each year. (2) To hold cranes, dead or alive, or parts thereof, if found dead, wounded or sick, in the course of studies in the area, until the cranes (and parts) can

be disposed of as directed by Director, Fish and Wildlife Service, or his representative.

APRIL 15, 1975.

Mr. C. R. BAVIN, Chief,  
Division of Law Enforcement,  
U.S. Department of the Interior,  
Fish and Wildlife Service,  
Washington, D.C. 20240

DEAR MR. BAVIN: Reference is made to FWS/LE PRT 8-143-C. I am submitting the following in response to your questions:

1. What effect will the removal of the 6 eggs have on the wild population?

One egg will be taken only from each nest containing two eggs. Two cranes are rarely raised to subadulthood in one breeding season by a pair of cranes. The average number of nests found per year (1966-1974) is 5.3. In 1974 five nests were found. There are so many limiting factors, such as illegal shooting, disease, constricting nesting habi-

tats, etc., that no one can assess the impact of the removal of 6 eggs on the wild population. Thirty-eight (38) eggs have been removed from the wild (1966-1974), an average of 3.8 eggs per year. From those eggs, eight (8) adults survive; another young was raised from eggs from a captive pair.

2. How will the eggs be shipped to Patuxent Wildlife Research Center?

The eggs will be shipped by commercial air freight in a specially prepared egg case, marked special handling, from New Orleans International Airport; and will be met by Patuxent personnel the same day at Baltimore, Maryland, and carried to the Propagation Center, Patuxent Wildlife Research Center, where they will be placed in commercial incubators. This method has been used the past two years.

3. Where will the hatched birds be kept? The hatched birds will be kept in brooders until they are old enough to be put in small cages. Later, they will be placed in larger pens with other young cranes.

4. Will you attempt to reintroduce these birds into the wild? If so where?

The birds will not be introduced into the wild. At the present time, a breeding flock is being developed. The program goal is to raise ten (10) breeding pairs at Patuxent. When that objective is reached, then plans will be formulated as to how, when, where, and to what extent reintroduction will be accomplished.

Reference is made to my request for an endangered species permit for alligator research. You may cancel that request until I receive directions from the Regional Director, Atlanta, Georgia, as to my activities relating to the alligator.

Sincerely yours,

JACOB M. VALENTINE, JR.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before June 20, 1975 will be considered.

Dated: May 15, 1975.

C. R. BAVIN,  
Chief, Division of Law Enforcement,  
U.S. Fish and Wildlife Service.

[PR Doc.75-13300 Filed 5-20-75; 8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Daniel D. Berger, 1328 N. Jefferson Street, Milwaukee, Wisconsin 53202.

DEPARTMENT OF THE INTERIOR  
U.S. FISH AND WILDLIFE SERVICE  
FEDERAL FISH AND WILDLIFE  
LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (check one only)  
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:  
Attachment of USFWS bands and radio transmitters for use in tracking during migration, and during the post nesting period, the young and adults of peregrine falcons.

3. APPLICANT, (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)  
Daniel D. Berger  
1328 N. Jefferson St.  
Milwaukee, WI 53202  
(414) 271-5661

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:  
NAME: ☐ MR. ☐ MRS. ☐ MISS ☐ M. 6' 3" 175  
DATE OF BIRTH: 7/17/31 COLOR HAIR: Br. COLOR EYES: BR  
PHONE NUMBER WHERE EMPLOYED: 271-5661 SOCIAL SECURITY NUMBER: 399 26 2420  
OCCUPATION: self employed  
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: Mostly in Wisconsin, near Cedar Grove and Green Bay. Possibly also in Colo., and Texas.

5. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED  
Mostly in Wisconsin, near Cedar Grove and Green Bay. Possibly also in Colo., and Texas.

6. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT?  
(If yes, list license or permit number) YES ☒ NO ☐  
3-SC-158 and 00627

7. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSED?  
(If yes, list jurisdiction and type of document) YES ☒ NO ☐  
Wis. Banding Permit

8. CERTIFIED CHECK OR MONEY ORDER PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF \$

9. DESIRED EFFECTIVE DATE  
Sept. '75

10. DURATION NEEDED  
1975 & 1976

11. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 17.23) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.  
Pertinent attachments under 50 CFR 17.23 are attached.

CERTIFICATION  
I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 17, OF THE CODE OF FEDERAL REGULATION AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER 1 OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.  
Signature: Daniel D. Berger Date: 19 April 1975

Additional information required under 50 CFR 17.23.

(1) I propose the attachment of USFWS leg bands, and colored plastic leg bands (in cooperation with Dr. F. Prescott Ward's color marking scheme), and radio transmitters to the young and adults of the species peregrine falcon, *Falco peregrinus*. Judging from previous years experience, we can expect to handle from 3 to 20 or so.

(2) None to be imported.

(3) For justification of permit see attached appendix prepared by William W. Cochran, Associate Wildlife Specialist with the Illinois Natural History Survey, Urbana, IL. All radio tracking will be done with the help of, and in cooperation with, Mr. Cochran. In addition to performing this work on peregrines in arctic Canada and in Greenland, we intend also to continue past research by trapping migrant peregrines during September and October, principally at two trapping sites: Little Suamico, WI and Cedar Grove, WI. Mr. Tom Erdman conducts the trapping at the Little Suamico site and is the holder of Federal Banding Permit No.

9873. The above in part would be done in conjunction with a long term raptor migration study that I have been involved in since 1950.

Submitted by:

DANIEL D. BERGER,  
1328 N. Jefferson St.,  
Milwaukee, Wis. 53202.

APRIL 19, 1975.

DEVELOPMENT OF A MINIMUM-BIAS RADIO ATTACHMENT FOR PEREGRINE FALCONS AND OTHER BIRDS OF PREY

NOVEMBER 1974.

In late September and early October 1971 tests were conducted on Assateague Island to test the feasibility of using telemetry devices for the study of wild peregrine falcons. Mr. Earl Baysinger, Assistant Chief of the Rare and Endangered Species Section of the BSWF, supervised the work. Scott Ward, Robert Berry, Captain Williston Shor, and myself conducted the tests. The first objective was to test attachment techniques to find one that would in no way harm or encumber the bird and if successful in this

we had hoped to follow a peregrine for a portion of its migratory flight.

In the period September 30 through October 4, five peregrines were fitted with transmitters. Two were fitted with a 2-pound test fine plastic covered wire that held the 1.7 gram transmitter to the back. The wire went around the middle, in front of the legs and behind the wings. Both these were removed by the birds within hours of release. Two were fitted with a 1.6 gram transmitter tied under a tail feather with cotton thread and glued for additional support. Both these slid off in less than 24 hours. They were slipped over the end of the feather without breaking the securing thread. Two were fitted with a transmitter under a tail feather but held in place with a leather bewit-like fastener devised by Captain Shor. Both stayed on for at least two days. One of these was placed on one of the birds which had been used first and had lost its transmitter and was re-captured.

A hurricane to the south and rainy weather conspired to delay migration past the time when our volunteer pilot (and airplane) had to go. Robbed of a means of tracking, there was little point in continuing.

Practically no behavior data was collected except on the one bird that was recaptured, and even this was only for one full day. As far as could be told, there were no ill effects caused by attachment of a 1.6 gram transmitter to the base and underside of an outside tail feather. All participants were in agreement that a tail feather attachment was ideal because (1) there was no contact with living tissue, (2) attachment under an outside tail feather caused no change in aerodynamic properties and (3) a tail feather is ultimately lost in moult.

Further work was postponed.

In late September of 1972 a second opportunity arose when an immature male peregrine was captured and banded by Dan Berger at Cedar Grove, Wisconsin. I used an attachment that was identical to the tie-on method used at Assateague. Although the leather fastener had proved more durable than others tried at Assateague, I hoped its added bulk could be avoided by some modification on the tie-on method. In this case I used a few dabs of fast setting epoxy in place of the Duco cement. The only other change was that the transmitter weight was reduced to 1.4 grams for a 25 day battery life. The transmitter stayed on for three days. This bird was observed visually many times during the three days but was never seen to pull at or preen the tail feather, although he was observed pulling at his leg-band on one occasion. His flight seemed peregrine perfect as far as could be judged by observations. He made numerous kills and migrated to near West Lafayette, Indiana during the period of observation.

He hunted briefly, made a kill, and then migrated after his release. This contrasts with sharp-shinned hawk behavior which, with a body harness, involves a considerable amount of time perched and preening or pulling at the transmitter. This may last from one to several days depending, I assume, on how well the fit is made.

Thus, although the tail-feather attachment was ideal for the bird, for most studies it would be nearly useless if it worked for only a few days. Studies of the behavior of birds raised in captivity and released into the wild would be infinitely improved if telemetry techniques could be used but these would need to last for at least several weeks. Migration or territorial studies also require more time if they are to be of much value. Thus the answer was not just at hand.



## NOTICES

## National Park Service

## VOYAGEURS NATIONAL PARK DRAFT MASTER PLAN Meetings

Public meetings on the draft master plan for Voyageurs National Park in Minnesota will begin at 7:30 p.m. June 10, 1975 at International Falls, Minnesota and continue at other locations on subsequent evenings through June 14. The purpose of the meetings is to elicit public comment on the draft plan prior to its being put into final form.

Each of the meetings will begin at 7:30 p.m. The schedule:

June 10, Rainy River Community College Theater, Highway 71, west edge of International Falls, Minnesota.  
June 11, High School, Orr, Minnesota.  
June 12, Council Chambers (Room 19), City Hall, 4th and First Street South, Virginia, Minnesota.  
June 13, County Commissioners Board Room, St. Louis County Courthouse, 5th Avenue West and First Street, Duluth, Minnesota.  
June 14, Solarium Room, Curtis Hotel, 10th and Third Avenue South, Minneapolis, Minnesota.

Individuals wishing to make oral statements are requested to fill out cards available at the door prior to the meeting at which they wish to appear. Written statements may be submitted to the Superintendent, Voyageurs National Park, P.O. Box 50, International Falls, Minnesota 56649 up to 30 days after the meeting.

Dated: May 13, 1975.

MERRILL D. BEAL,  
Regional Director  
Midwest Region.

[FR Doc.75-13413 Filed 5-20-75; 8:45 am]

## Office of the Secretary

[INT PES 75-47]

CENTRAL VALLEY PROJECT,  
CALIFORNIASupplement to the Final Environmental  
Statement Tehama-Colusa Canal

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a supplement to the final environmental statement on the Tehama-Colusa Canal (PES 72-17) dated June 7, 1972. The supplement describes features not covered in the final environmental statement including 2,250 acre-foot Funks Dam and Reservoir, a dual-purpose wasteway and the execution of 13 water distribution and/or water service contracts. The proposed features are located in Glenn, Colusa, Tehama and Yolo Counties, California.

Copies are available for inspection at the following locations:

Office of Assistant to the Commissioner—Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240; Telephone (202) 343-4991.

Division of Engineering Support, Technical Services and Publications Branch, E&R Center, Denver Federal Center, Denver, Colorado 80225; Telephone (303) 234-3000. Office of the Regional Director, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825; Telephone (916) 484-4792.

Single copies of the final environmental statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. Please refer to the statement number above.

Dated: May 16, 1975.

STANLEY D. DOREMUS,  
Deputy Assistant Secretary  
of the Interior.

[FR Doc.75-13317 Filed 5-20-75; 8:45 am]

GENERAL ADJUSTMENTS IN POWER  
RATESProcedures for Public Participation in  
General Adjustments in Power Rates

In 1973 the Secretary of the Interior promulgated increased power rates for five Federal reclamation projects. Special procedures were developed to allow public participation in the review of the proposed rates, but the procedures were subject to some criticism.

The ratesetting process for Federal power projects is a complex one that involves literally thousands of determinations in connection with the assembly and analysis of factual data, the application of expert methodology in the fields of hydrology, engineering, law, and accounting, and the exercise of judgment on many questions of policy. It is not an adversary process. It is a legislative-type process that involves a balancing of various viewpoints, including the interest of the water users in the use of power revenues to help repay irrigation costs, the interest of the Federal Government and the taxpayers in the prompt payment of all costs assignable to power, the interest of the power users in obtaining the lowest possible rates consistent with sound business principles, and the interest of Congress in obtaining compliance with congressional objectives.

Although there is not statutory requirement for public participation in the ratesetting process, it is the Department's policy to allow reasonable opportunity for such participation in making general adjustments in power rates. Accordingly, the Department proposes to establish procedures to govern public participation in general adjustments in power rates of the Bureau of Reclamation. They would not apply to the other Interior power marketing agencies. The proposed procedures are set forth below.

The Central Valley Project in California was one of the five projects mentioned above. On November 1, 1973, the Secretary of the Interior promulgated a power rate increase for the Central Valley Project in two steps, the first of approximately 23 percent to be effective

April 1, 1974, and the second step of approximately 25 percent to be effective January 1, 1977. In August 1974 the Department instituted procedures for the review of the second step, including a number of meetings with customers and the conduct of computer studies to test the financial effects of alternative criteria. On February 27, 1975, the United States District Court for the District of Columbia set aside the rates "until hearings which comport with due process are held" but stayed its order with respect to the first step pending appeal.

It is proposed in the case of the Central Valley Project to continue with the activities now in progress by completing the computer studies based on various criteria, as developed in consultation with the customers, and making the results of those studies available to customers and the public. That activity is expected to be completed by the end of May 1975, after which the general procedures as set forth below, or as they may be modified after public comment, will be followed in connection with further activities on the Central Valley Project power rate adjustment.

Public comments on the proposed procedures should be submitted in writing, in duplicate, on or before June 20, 1975, to the Commissioner of Reclamation at the following address:

Commissioner, Attention: 600  
Bureau of Reclamation, Room 7612  
Department of the Interior  
Washington, D.C. 20240  
Telephone: (202) 343-6337

After all public comments have been carefully reviewed, a final decision will be made and publicly announced as to the procedures that will be followed.

Dated: May 14, 1975.

ROLAND G. ROBINSON, Jr.,  
Deputy Assistant Secretary  
of the Interior.

## PROPOSED PROCEDURES

## PUBLIC PARTICIPATION IN GENERAL ADJUSTMENTS IN POWER RATES

1. *Purpose and scope.* The purpose of these procedures is to afford interested members of the public a reasonable opportunity for meaningful participation in the development of general adjustments in power rates for Federal reclamation projects. It applies to general adjustments in the power rates for a project that are necessary to assure financial feasibility, but it does not apply to other rate actions that have a minor impact on financial feasibility, such as technical adjustments in rates, the adoption of special rates for limited purposes, the adoption of rates for use in connection with power pool operations, and the like.

2. *Statutory authority.* The establishment of power rates for Federal reclamation projects is pursuant to the Reclamation Act of 1902, as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c), and the acts specifically

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applicable to the project in question. Consideration also is given to the statutes under which other Interior power marketing agencies operate, particularly section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, and the Bonneville Project Act, as amended, 16 U.S.C. 832 et seq.

3. *Definitions.* As used herein—

a. "Departmental" refers to all personnel and components of the Department of the Interior including, but not limited to, the Office of the Secretary, the Office of the Solicitor, and the Bureau of Reclamation.

b. "Secretary" includes the following officers of the Department of the Interior: Secretary, Acting Secretary, Under Secretary, Acting Under Secretary, Deputy Under Secretary, Assistant Secretary, Acting Assistant Secretary, and Deputy Assistant Secretary.

4. *Tentative rates.* The Secretary will announce by the issuance of a press release that tentative adjusted rates for the project have been prepared and are under consideration. The Department will make available to the power customers of the project and other interested persons information in writing concerning (1) the tentative rates, (2) the principal criteria used in determining the rates, and (3) the schedule for public participation in the review of the tentative rates and in the development of the final rates.

5. *Consultation and comment period.* For a period ending 90 days after the issuance of the press release, or 15 days after the close of the formal public hearing described in paragraph 7, below, whichever is later, all interested persons will have the opportunity to consult with, and obtain information from, departmental representatives, to examine backup data, and to make suggestions for modification of the rates or criteria. At any time during this period any person may file written comments with the Regional Director of the Bureau of Reclamation responsible for power marketing from the project.

6. *Public information meetings.* During the consultation and comment period, one or more public information meetings will be held, during which departmental representatives will explain the tentative rates and criteria, answer questions concerning them, and receive comments from interested persons. Questions which cannot be answered by departmental representatives at the meeting will be answered in writing at least 15 days before the formal public hearing described in paragraph 7, below. The number of such meetings will depend upon the size of the power marketing area of the project, the number of power customers, and the degree of interest shown. A transcript of each meeting will be made and copies will be available on request for a fee.

7. *Formal public hearing.* Not less than 60 days after the issuance of the press release, a formal public hearing will be held for the primary purpose of permitting interested persons to submit written comments or make oral presentations of their views and comments. It

will be conducted by a presiding officer who may be an administrative law judge of the Department. Departmental representatives will be present, and they and the presiding officer may ask questions of the witnesses. Persons interested in speaking should submit a request to the Regional Director at least 3 days before the hearing so a witness list can be developed. The presiding officer may allow others to speak if time allows. The hearing normally will last not more than a day. A transcript of the hearing will be made, and copies will be available on request for a fee.

8. *Proposed decision on rate adjustment.* Following departmental review of the information and comments gathered in the course of the proceedings described above, the Secretary will announce his proposed decision on the rate adjustment. He will issue an explanation of the principal factors leading to such decision.

9. *Review period.* Interested persons will be given at least 30 days to submit comments in writing to the Secretary on the proposed decision.

10. *Final decision on rate adjustment.* Following departmental review of the further written comments, the Secretary will announce his final decision on the rate adjustment and the effective date of the adjusted rates. He will issue an explanation of the principal reasons therefor. The effective date shall be not less than 60 days after the announcement.

[FR Doc.75-13320 Filed 5-20-75; 8:45 am]

WATER RESEARCH AND EDUCATION  
ADVISORY COMMITTEE

## Committee Establishment

This notice is issued in accordance with the provisions of 5 U.S.C. 552(a)(1), and section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). The Secretary of the Interior has established a Water Research and Education Advisory Committee to help solve national, regional and local problems concerning the productive and efficient use of the water resources, to provide scientific expertise to Federal, State and local government agencies, private organizations and individuals; to provide scientific expertise and research support to water programs that relate to foreign relations; to provide scientific competence for teaching and to make available increased research opportunities for graduate students; and to support the rapid dissemination of water research findings and new technologies to the water resource community and to the general public. The Water Research and Education Advisory Committee was established after consultation with the Office of Management and Budget, in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463). The Committee charter, which contains a description of its nature and purpose and a certification that its establishment is in the public interest, is published in



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its entirety below. Further information regarding the document may be obtained from Jack C. Jorgensen, Assistant Director—Technology Transfer, Office of Water Research and Technology, U.S. Department of the Interior, Washington, D.C. 20240, telephone (202) 343-8445, or 343-8783.

Dated: May 15, 1975.

Jack O. Horton,  
Assistant Secretary of the Interior.

## ADVISORY COMMITTEE CHARTER

1. *Official designation.* Water Research and Education Advisory Committee.

2. *Objectives.* To provide advice and develop recommendations for policy with respect to planning, evaluating, coordinating and supporting long range research programs; defining pressing water resource problem areas; establishing water research priorities; and delineating the appropriate areas of responsibility of Federal and State agencies in carrying out water research and training programs.

3. *Scope.* The Advisory Committee will serve the following purposes:

Provide a means for the exchange of information and ideas on water science among USDI agencies and State universities and Land-Grant colleges.

Serve as a forum (a) for the analysis of existing and proposed programs with emphasis on program development, (b) for the development of recommendations on policy matters and program activities and (c) for effective mobilization of manpower and other resources.

The Committee and its activities will be fully subject to the provisions of the Federal Advisory Committee Act, P.L. 92-463, 5 USC Sec. 1 et seq. (Supp. III, App. I) and will operate in accordance with existing statutes, regulations and directives for Federal advisory committees.

4. *Period of time to carry out its purpose.* It is expected the Committee will continue beyond the foreseeable future. However, its continuation will be subject to biennial review and renewal as required by Section 14 of P.L. 92-463.

5. *To whom does committee report?* The Committee will report annually to the Secretary of the Interior and the President, National Association of State Universities and Land Grant Colleges concerning the Committee's activities and recommendations.

6. *Responsibility for support services.* An Executive Secretary will be designated by the Assistant Secretary—Land and Water Resources from his staff to be responsive for the official minutes meeting, calls and arrangements, reimbursement for travel and other official expenses of Committee members will be arranged for by the organizations they represent.

7. *Description of duties.* The Committee is solely advisory in nature. It shall provide a joint effort directed toward attainment of the following goals:

To help solve national, regional and local problems concerning the productive and efficient use of the water resource.

To provide scientific expertise to Federal, State and local government agencies, private organizations and individuals.

To provide scientific expertise and research support to water programs that relate to foreign relations.

To provide scientific competence for teaching and to make available increased research opportunities for graduate students.

To support the rapid dissemination of water research findings and new technol-

gies to the water resource community and to the general public.

8. *Estimated annual operating costs.* \$5000—2 man year staff support.

9. *Frequency of meetings.* The committee will hold regular semi-annual meetings and such additional special meetings on call of the Chairmen.

10. *Termination date.* The committee will terminate on December 13, 1976, unless prior to that date renewal action is taken as described in paragraph 3 above.

11. *Committee membership.* The committee will function under Co-Chairmen appointed by the Secretary of the Interior and the President of the National Association of State Universities and Land-Grant Colleges. The committee will include an equal number of representatives of USDI and NASULGC as listed below to provide for and attain a balanced membership. The USDI representatives will be designated by the Secretary. The NASULGC representatives will be named by the President of NASULGC. Terms of members will normally be for two years and will be staggered to provide continuity. A representative of the Water Resources Council will serve at the invitation of the Secretary. Initial membership on the committee will be as follows:

## USDI (7)

Asst. Sec.—L&W Resources (Co-Chairman); Dir., Office of Water Research and Technology; Comm., Bureau of Reclamation; Dir., Bureau of Land Management; Dir., Office of Land Use and Water Planning; Dir., U.S. Geological Survey; Director, Water Resources Council.

## NASULGC (7)

4 representatives of NASULGC: Chairman of the NASULGC Water Committee (Co-Chairman) and 3 others designated by NASULGC to include a President or Chancellor of a significant Water Science University, Vice President or Dean of Research or sciences university; Chairman of the National Graduate Studies of a significant water national Association of Water Research Institute Directors; 2 representatives of UCOWR: (Chairman and one other representative).

12. *Authority.* 42 USC 1961 c provides that the Secretary of the Interior shall obtain the continuing advice and cooperation of—private institutions and individuals to assure that the programs authorized (by law) will supplement and not duplicate established water research in otherwise neglected areas and to contribute to a comprehensive, nationwide program of water and water-related resources research—

13. *Determination.* The establishment of the Water Research and Education Advisory Committee is determined to be in the public interest in connection with duties imposed on the Department of the Interior by law (42 USC 1961 c).

Dated: April 8, 1975.

Rogers C. B. Morton,  
Secretary of the Interior.

[FR Doc.75-13315 Filed 5-20-75; 8:45 am]

## DEPARTMENT OF AGRICULTURE

## Cooperative State Research Service

## COOPERATIVE FORESTRY RESEARCH ADVISORY BOARD AND ADVISORY COMMITTEE

## Meeting

The Cooperative Forestry Research Advisory Board and the Cooperative Forestry Research Advisory Committee will

meet June 2-4, 1975, at Olympia, Wash., at 1 p.m.

The meetings are open to the public and will be held in the Greenwood Motel.

The Advisory Board, in separate meeting, will consider recommendations for the allocation of research funds.

The Advisory Committee, in separate meeting, will evaluate forestry research requirements and make suggestions for cooperative research activities.

In joint sessions the Board and Committee will review McIntire-Stennis research accomplishments and evaluate progress in planning systems to achieve coordinated, comprehensive forestry research programs.

The names of Board and Committee members and agenda are available upon request to the recording secretary of the Board, R. L. Lovvorn, USDA, CSRS, Washington, D.C. 20250, or the recording secretary of the Committee, J. D. Sullivan, USDA, CSRS, Washington, D.C. 20250. Written statements may be filed with the Committee before or after the meeting.

R. L. LOVVORN,  
Administrator.

[FR Doc.75-13341 Filed 5-20-75; 8:45 am]

## Farmers Home Administration

[Notice of Designation Number A222]

## FLORIDA

## Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in Holmes County, Fla., as a result of a natural disaster consisting of excessive rainfall and flooding from April 9 to 18, 1975.

Therefore, the Secretary has designated this area as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Reubin O'D. Askew that such designation be made.

Applications for Emergency loans must be received by this Department no later than July 10, 1975, for physical losses and February 12, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 16th day of May 1975.

FRANK B. ELLIOTT,  
Administrator,  
Farmers Home Administration.

[FR Doc.75-13338 Filed 5-20-75; 8:45 am]

[Notice of Designation Number A221]

## IDAHO

## Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in the following counties in Idaho:

Bear Lake                      Washington  
Oneida

The Secretary has found that this need exists as a result of a natural disaster consisting of drought March 1 to October 30, 1974, and a hailstorm July 2, 1974, in Bear Lake County, drought May 1 to September 1, 1974, in Oneida County and drought May 1 to October 1, 1974, in Washington County.

Therefore, the Secretary has designated these areas as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Cecil D. Andrus that such designation be made.

Applications for Emergency loans must be received by this Department no later than July 10, 1975, for physical losses and February 12, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 16th day of May 1975.

FRANK B. ELLIOTT,  
Administrator,  
Farmers Home Administration.

[FR Doc.75-13334 Filed 5-20-75; 8:45 am]

[Notice of Designation Number A218]

## KANSAS

## Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in the following counties in Kansas:

Johnson                      Wyandotte  
Ottawa

The Secretary has found that this need exists as a result of a natural disaster consisting of drought June 15 to August 15, 1974, in Johnson County, drought June 1 to November 1, 1974, in Ottawa County and drought June 20 to August 15, 1974, in Wyandotte County.

Therefore, the Secretary has designated these areas as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of former Governor Robert B. Coking and Governor Robert F. Bennett that such designation be made.

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Applications for Emergency loans must be received by this Department no later than July 10, 1975, for physical losses and February 12, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invited public participation.

Done at Washington, D.C., this 16th day of May 1975.

FRANK B. ELLIOTT,  
Administrator,  
Farmers Home Administration.  
[FR Doc.75-13335 Filed 5-20-75; 8:45 am]

[Notice of Designation Number A217]

## LOUISIANA

## Designation of Emergency Areas

The secretary of Agriculture has found that a general need for agricultural credit exists in the following parishes in Louisiana:

Rapides  
Grant

The Secretary has found that this need exists as a result of a natural disaster consisting of excessive rainfall August 1 through September 30, 1974, and November 1 through December 31, 1974; and Hurricane Carmen September 7 and 8, 1974.

Therefore, the Secretary has designated these areas as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Edwin Edwards that such designation be made.

Applications for emergency loans must be received by this Department no later than July 10, 1975, for physical losses and February 12, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas make it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 16th day of May 1975.

FRANK B. ELLIOTT,  
Administrator,  
Farmers Home Administration.  
[FR Doc.75-13336 Filed 5-20-75; 8:45 am]

[Notice of Designation Number A220]

## MICHIGAN

## Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricul-

tural credit exists in Oakland County, Mich., as a result of a natural disaster consisting of excessive rainfall May 3 through June 21, 1974, drought July 5 through August 10, 1974, and an early freeze September 23, 1974.

Therefore, the Secretary has designated this area as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor William G. Milliken that such designation be made.

Applications for Emergency loans must be received by this Department no later than July 10, 1975, for physical losses and February 12, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 16th day of May 1975.

FRANK B. ELLIOTT,  
Administrator,  
Farmers Home Administration.  
[FR Doc.75-13337 Filed 5-20-75; 8:45 am]

[Notice of Designation Number A223]

## NEW MEXICO

## Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in Santa Fe County, N. Mex., as a result of a natural disaster consisting of continuous drought from September 1, 1973, through July 31, 1974, frost May 19 and 20, 1974, and excessive rainfall August 15 through September 30, 1974.

Therefore, the Secretary has designated this area as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Jerry Apodaca that such designation be made.

Applications for Emergency loans must be received by this Department no later than July 10, 1975, for physical losses and February 12, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 16th day of May 1975.

FRANK B. ELLIOTT,  
Administrator,  
Farmers Home Administration.  
[FR Doc.75-13338 Filed 5-20-75; 8:45 am]



## NOTICES

[Notice of Designation Number A219]

## PENNSYLVANIA

## Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in Washington County, Pa., as a result of a natural disaster consisting of a severe snowstorm December 1 and 2, 1974.

Therefore, the Secretary has designated this area as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Milton J. Shapp that such designation be made.

Applications for Emergency loans must be received by this Department no later than July 10, 1975, for physical losses and February 12, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rule-making and invite public participation.

Done at Washington, D.C., this 16th day of May 1975.

FRANK B. ELLIOTT,  
Administrator,  
Farmers Home Administration.  
[FR Doc. 75-13339 Filed 5-20-75; 8:45 am]

[Notice of Designation Number A224]

## SOUTH DAKOTA

## Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in the following counties in South Dakota:

Clark Shannon

The Secretary has found that this need exists as a result of a natural disaster consisting of drought June 1 to December 31, 1974, in Clark County and drought April 10 to October 1, 1974, in Shannon County.

Therefore, the Secretary has designated these areas as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Richard F. Kneip that such designation be made.

Applications for Emergency loans must be received by this Department no later than July 10, 1975, for physical losses and February 12, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of

proposed rulemaking and invite public participation.

Done at Washington, D.C., this 16th day of May 1975.

FRANK B. ELLIOTT,  
Administrator,  
Farmers Home Administration.  
[FR Doc. 75-13340 Filed 5-20-75; 8:45 am]

## Forest Service

## ASPEN-HORSETHIEF TIMBER SALES

## Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Aspen-Horsethief Timber Sales, Sierra National Forest, [USDA-FS-R5-PES(Adm) 75-4].

The environmental statement concerns a proposal to continue with the preparation and eventual sale of the Aspen-Horsethief Timber Sales. These proposed timber sales are southeast of Mammoth Pool Reservoir on the Pineridge District, Sierra National Forest, Fresno County, California. The total area under study comprises 4,870 acres of National Forest lands within the 25,400-acre Kaiser Inventoried Roadless Area. Roughly 1,000 acres within the Study Area would be scheduled for various types of timber harvesting at the first stage of entry. The remaining acreage would be logged at varying intervals during the next 100 years. The ultimate goal of this proposal is to place the Study Area under long-term multiple use management which includes the production of timber resources.

This final environmental statement was transmitted to CEQ on May 12, 1975.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service  
South Agriculture Bldg., Rm. 3230  
12th St. & Independence Ave., SW.,  
Washington, D.C. 20250  
Sierra National Forest  
Federal Building  
1130 "O" Street  
Fresno, CA 93721  
Fresno County Library  
Central Headquarters  
2420 Mariposa  
Fresno, CA 93721  
USDA, Forest Service  
California Region  
630 Sansome St., Rm. 531  
San Francisco, CA 94111  
Pineridge Ranger District  
Big Creek Ranger Station  
P.O. Box 38  
Big Creek, CA 93603  
Calif. State University at Fresno  
6241 North Maple Ave.  
Fresno, CA 93740

A limited number of single copies are available upon request to Sotero Muniz, Forest Supervisor, Sierra National For-

est, Federal Building, 1130 "O" Street, Fresno, California 93721.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

DOUGLAS LEISZ,  
Regional Forester,  
California Region.

[FR Doc. 75-13273 Filed 5-20-75; 8:45 am]

NEBRASKA NATIONAL FOREST  
LIVESTOCK ADVISORY BOARD  
Meeting

The Nebraska National Forest Livestock Advisory Board will meet at 8 p.m., c.d.t., June 17, 1975, at the Forest Service Office, Halsey, Nebraska.

The purpose of this meeting is to elect advisory board members and to discuss various grazing resource management practices.

The meeting will be open to the public. Persons who wish to attend should notify the District Ranger, Bessey Ranger District, Halsey, Nebraska 69142, phone (308) 533-2257.

The Committee has established the following rules for public participation:

1. Members of the public may present oral statements at any time during discussions.
2. Any member of the public who wishes to do so should file a written statement with the Committee, either before or after the meeting.

Dated: May 14, 1975.

R. W. TICE,  
Acting Forest Supervisor.  
[FR Doc. 75-13304 Filed 5-20-75; 8:45 am]

ROCK CREEK ADVISORY COMMITTEE  
Meeting

The Rock Creek Advisory Committee will meet at 7 p.m., on June 17, 1975. Meeting place will be in Drummond, Montana, in the basement of St. Michael's Catholic Church.

The purpose of this meeting is to evaluate four land use management options and to hear a report on the spring runoff of Rock Creek.

The meeting will be open to the public. Any member of the public who wishes to do so shall be permitted to file a written statement with the Committee before or after the meeting. To the extent that time permits, the Committee Chairman may permit interested persons to present oral statements at the meeting.

General participation by members of the public, or questioning of Committee members or other participants shall not be permitted unless approved by the majority of Committee members.

Dated: May 14, 1975.

ROBERT W. DAMON,  
Forest Supervisor,  
Deerlodge National Forest.  
[FR Doc. 75-13303 Filed 5-20-75; 8:45 am]

## NOTICES

22161

Rural Electrification Administration  
CONTINENTAL TELEPHONE CO. OF  
MISSOURI

## Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 320-22, "Guarantee of Loans for Telephone Facilities," dated February 4, 1975, published in proposed form in the FEDERAL REGISTER, September 16, 1974, (Vol. 39 No. 180, pages 33228-33229) notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of \$7,100,000 to Continental Telephone Company of Missouri, Wentzville, Missouri. The loan funds will be used to finance the construction of facilities to extend telephone service to subscribers and improve telephone service for existing subscribers.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information and details of the proposed project from Mr. Donald E. Feaster, President, Continental Telephone Company of Missouri, P.O. Box 307, Wentzville, Missouri 63385.

To assure consideration, proposals must be submitted on or before June 20, 1975 to Mr. Donald E. Feaster. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as the Continental Telephone Company of Missouri, and REA deem appropriate. Prospective lenders are advised that financing for this project is available from the Federal Financing Bank under a standing loan commitment agreement with the Rural Electrification Administration.

Copies of the REA Bulletin 320-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 13th day of May, 1975.

DAVID A. HAMIL,  
Administrator, Rural  
Electrification Administration.  
[FR Doc. 75-13292 Filed 5-20-75; 8:45 am]

## ALABAMA ELECTRIC COOPERATIVE, INC.

## Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of \$265,000,000 to Alabama Electric Cooperative, Inc. These loan funds will be used to finance a project consisting of two 210 MW coal

fired generating units, anti-pollution control equipment, approximately 135 miles of 230 kV transmission lines and related terminal facilities and the acquisition of coal reserves and mining equipment.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Charles Lowman, Manager, Alabama Electric Cooperative, Inc., P.O. Box 550, Andalusia, Alabama 36420.

In order to be considered, proposals must be submitted on or before June 20, 1975 to Mr. Lowman. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Alabama Electric and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 13th day of May, 1975.

DAVID A. HAMIL,  
Administrator, Rural  
Electrification Administration.  
[FR Doc. 75-13291 Filed 5-20-75; 8:45 am]

## Soil Conservation Service

KAERCHER CREEK WATERSHED,  
PENNSYLVANIA

## Availability of Negative Declaration

Pursuant to section 102(B)(C) of the National Environmental Policy Act of 1969; part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Kaercher Creek Watershed Project, Berks County, Pennsylvania.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Benny Martin, State Conservationist, Soil Conservation Service, USDA, Box 985, Federal Square Station, Harrisburg, Pennsylvania 17108, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection, flood prevention and

recreation. The remaining planned works of improvement as described in the negative declaration include conservation land treatment supplemented by installation of recreation facilities on 30 acres of a 170-acre park.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA  
Box 985, Federal Square Station  
Harrisburg, Pennsylvania 17108

Requests for the negative declaration should be sent to above address.

No administrative action on implementation of the proposal will be taken until June 5, 1975.

(Catalog of Federal Domestic Assistance Program No. 101904, National Archives Reference Services.)

Dated: May 14, 1975.

WILLIAM B. DAVEY,  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

[FR Doc. 75-13307 Filed 5-20-75; 8:45 am]

SALT LICK CREEK WATERSHED  
PROJECT, KENTUCKY

## Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Salt Lick Creek Watershed Project, Bath and Menifee Counties, Kentucky.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Glen E. Murray, State Conservationist, Soil Conservation Service, USDA, 333 Waller Avenue, Lexington, Kentucky 40504, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. The remaining planned works of improvement as described in the negative declaration include conservation land treatment supplemented by one single-purpose floodwater retarding structure.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA  
333 Waller Avenue  
Lexington, Kentucky 40504

Requests for the negative declaration should be sent to above address.

No administrative action on implementation of the proposal will be taken until June 5, 1975.



(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: May 14, 1975.

WILLIAM B. DAVEY,  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

[FR Doc.75-13305 Filed 5-20-75; 8:45 am]

#### WEST FORK OF BAYOU LACASSINE WATERSHED PROJECT, LOUISIANA

##### Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental impact statement (EIS) for the West Fork of Bayou Lacassine Watershed Project, Jefferson Davis Parish, Louisiana, USDA-SCS-EIS-WS-(ADM)-75-4-(P)-1A.

The EIS concerns a plan for watershed protection, flood prevention, and drainage. The EIS is prepared for conservation land treatment and 34 miles of channel work. The channel work will involve clearing and debris removal on 2 miles of existing channel and 32 miles of channel enlargement by excavation. Of the 34 miles of work proposed on existing man-made or previously modified streams or channels, 31 miles will involve those with ephemeral flow. The balance involves existing ponded water.

The final environmental impact statement has been filed with the Council on Environmental Quality.

A limited supply of copies is available at the following location to fill single copy requests:

Soil Conservation Service, USDA  
3737 Government Street  
Alexandria, Louisiana 71301

Dated: May 14, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

[FR Doc.75-13308 Filed 5-20-75; 8:45 am]

#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

##### Alcohol, Drug Abuse, and Mental Health Administration

##### ADVISORY COMMITTEES

##### Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory bodies scheduled to assemble during the month of June 1975:

NATIONAL ADVISORY MENTAL HEALTH COUNCIL  
June 16-18; 9:30 a.m.  
Conference Room 14-105, Parklawn Bldg.,  
Rockville, Maryland.  
Open—June 16.  
Closed—Otherwise.  
Contact Mrs. Zella Diggs, Parklawn Bldg.,  
Rm. 17C-26, 5600 Fishers Lane, Rockville,  
Md. 20852, 301-443-4333.

**Purpose.** The National Advisory Mental Health Council advises the Secretary, Department of Health, Education, and Welfare, Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, regarding the policies and programs of the Department in the field of mental health. The Council reviews applications for grants-in-aid relating to research, training, and services in the field of mental health and makes recommendations to the Secretary with respect to approval of applications for, and the amount of, these grants.

**Agenda.** June 16 will be devoted to discussion of NIMH policy issues. These will include current administrative, legislative, and program developments. On June 17-18, the Council will conduct a final review of grant applications for Federal assistance and this session will not be open to the public, in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to provisions set forth in section 552(b)(4), 552(b)(5), and 552(b)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

MENTAL HEALTH SMALL GRANT COMMITTEE  
June 26; 1:00 p.m.  
June 27-28; 8:30 a.m.  
Suite G100 and G101, Sheraton-Park Hotel,  
2900 Woodley Road, NW., Washington, D.C.  
Open—June 26, 4:00-5:00 p.m.  
Closed—Otherwise.  
Contact Mary E. Enyart, Parklawn Bldg., Rm.  
10C-14, 5600 Fishers Lane, Rockville, Md.  
20852, 301-443-4337.

**Purpose.** The Committee is charged with the initial review of small grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to mental health research and makes recommendations to the National Advisory Mental Health Council for final review.

**Agenda.** From 4 to 5 p.m., June 26, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of sections 552(b)(4), 552(b)(5), and 552(b)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact persons listed above.

The NIMH Information Officer who will furnish summaries of the meetings

and rosters of the committee members is Mr. Edwin Long, Deputy Director, Division of Scientific and Technical Information, NIMH, Room 15-105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone (301) 443-3600.

Dated: May 16, 1975.

CAROLYN T. EVANS,  
Committee Management Officer,  
Alcohol, Drug Abuse, and  
Mental Health Administration.

[FR Doc.75-13299 Filed 5-20-75; 8:45 am]

#### Food and Drug Administration CARDIOVASCULAR AND RENAL ADVISORY COMMITTEE

##### Meeting Cancellation

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announced in a notice published in the FEDERAL REGISTER of April 30, 1975 (40 FR 18828), public advisory committee meeting and other required information in accordance with provisions set forth in section 10(a)(1) and (2) of the act.

Notice is hereby given that the Cardiovascular and Renal Advisory Committee meeting scheduled for May 20, 1975, is canceled.

Dated: May 15, 1975.

SAM D. PINE,  
Associate Commissioner for  
Compliance.

[FR Doc.75-13298 Filed 5-20-75; 8:45 am]

#### National Institutes of Health NATIONAL COMMISSION ON ARTHRITIS AND RELATED MUSCULOSKELETAL DIS- EASES

##### Meeting

Pursuant to Pub. L. 92-463, the National Institute of Arthritis, Metabolism, and Digestive Diseases hereby gives notice of the meeting of the National Commission on Arthritis and Related Musculoskeletal Diseases on June 2, 1975, from 1 p.m. to 5 p.m. in the Tulane Room of the Fairmont Hotel, New Orleans, Louisiana. Having agreed at the meeting of May 13-14 on the kinds of consultants required for developing the arthritis plan, a follow-up meeting at the earliest possible date was found to be essential to meet the stringent time requirements. These circumstances precluded earlier public notice.

In accordance with the provisions set forth in section 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the entire meeting will be closed to the public for the discussion and evaluation of individuals being considered for consultant roles to the above Commission, including consideration of qualifications and expertise of these individuals, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Victor Wartofsky, Information Officer, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Maryland 20014 (301) 496-3583, will provide summaries of the meeting and rosters of the Commission members.

(Catalog of Federal Domestic Assistance Program No. 13.846, National Institutes of Health)

Dated: May 19, 1975.

SUZANNE L. FREMEAUX,  
Committee Management Officer,  
National Institutes of Health.

[FR Doc.75-13414 Filed 5-20-75; 8:45 am]

#### ACTION

##### NATIONAL VOLUNTARY SERVICE ADVISORY COUNCIL

##### Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Council meeting:

Name: National Voluntary Service Advisory Council  
Date: May 22, 1975  
Place: ACTION, 806 Connecticut Avenue NW., Washington, D.C., Room 522  
Time: 8 to 9 am

**Purpose of the Meeting:** To meet with the Chairman of the Special Subcommittee on Human Resources of the Senate Committee on Labor and Public Welfare.

Meeting of the Advisory Council is open to the public. Any member of the public may file a written statement with the Council before, during, or after the meeting. To the extent that time permits, the Council Executive Officer may allow public presentation of oral statements at the meeting.

All communications regarding this Advisory Council should be addressed to Ms. Elizabeth Allemang, Advisory Council Executive Officer, 806 Connecticut Avenue NW., Washington, D.C. 20525.

ELIZABETH ALLEMANG,  
Staff Assistant,  
Office of the Director.

[FR Doc.75-13467 Filed 5-20-75; 8:45 am]

#### ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

##### PUBLIC MEETING

Notice is hereby given, pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, that the membership of the Administrative Conference of the United States, which makes recommendations to administrative agencies, to the President, Congress, and the Judicial Conference of the United States regarding the efficiency, adequacy, and fairness of the administrative procedures used by administrative agencies in carrying out their programs, will meet in Plenary Session on Thursday, June 5, 1975 at 1:30 p.m. and on Friday, June 6, 1975 at 9:30 a.m. in Hearing Rooms A and B of the Interstate Commerce Commission, 14th Street and

Constitution Avenue, NW., Washington, D.C.

The Conference will consider (not necessarily in the order stated) the following matters:

1. A proposed statement of the Administrative Conference on strengthening regulatory agency management through seminars for agency officials.
2. A proposed recommendation regarding licensing decisions of the federal banking agencies.
3. A proposed recommendation regarding affirmative action for equal opportunity in nonconstruction employment.
4. A proposed statement of the Administrative Conference on open meeting legislation.
5. A proposed recommendation regarding the choice of forum for judicial review of administrative action.
6. A proposed recommendation regarding procedures to ensure federal facilities compliance with environmental quality standards.

Plenary Sessions of the Conference are open to the public. Further information on the meeting, including copies of proposed recommendations and statements and supporting reports, may be obtained from the Office of the Chairman, 2120 L Street, NW., Suite 500, Washington, D.C. 20037, telephone (202) 254-7020.

Dated: May 14, 1975.

RICHARD K. BERG,  
Executive Secretary.

[FR Doc.75-13272 Filed 5-20-75; 8:45 am]

#### CIVIL AERONAUTICS BOARD

[Docket No. 27701; Order 75-5-81]

##### PHILIPPINE AIR LINES, INC. ET AL. Order Instituting Investigation Regarding U.S.-Manila 30/90 Day Economy-Class Round-Trip Group Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of May 1975.

On October 30, 1974, Philippine Air Lines, Inc. (PAL), China Airlines, Ltd. (CAL), Japan Air Lines Company, Ltd. (JAL), and Northwest Airlines, Inc. (Northwest) filed tariff revisions, effective November 29, 1974, extending the validity of the Philippine Government-ordered 30/90-day economy-class round-trip group fares to February 29, 1976. The levels of the previously effective west coast-Manila and Honolulu-Manila 30/90-day fares were increased by approximately 8 percent to \$650 and \$546, respectively, and the Anchorage-Manila 30/90-day fare was reduced to the current Honolulu level for an effective 9 percent reduction.

A complaint requesting suspension and investigation of the tariffs was filed by Pan American World Airways, Inc. (Pan American). PAL and Northwest submitted answers in opposition to the complaint. Pan American submitted a reply to PAL's answer.

See Appendix A for currently effective pages.

Upon consideration of the complaint and responses thereto, the Board adopted an order suspending the tariff pending investigation. As required by the provisions of section 801(b) of the Federal Aviation Act of 1958, this order was submitted to the President of the United States. Thereafter, by letter dated April 25, 1975, the President disapproved the Board's proposed order of suspension.

The Board has determined to proceed with an investigation of the fares. Pan American's complaint, except to the extent granted herein, will be dismissed. Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a), 403, and 1002(j) thereof.

It is ordered, That:

1. An investigation be instituted to determine whether the fares and provisions set forth in Appendix A hereto, including subsequent revisions and reissues thereof, and rules, regulations and practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to take appropriate action to prevent the use of such fares and provisions or rules, regulations, or practices;
2. Except to the extent granted herein, Pan American's complaint in Docket 27250 be and hereby is dismissed;
3. The investigation ordered herein be assigned for hearing before an Administrative Law Judge of the Board at a time and place hereafter to be designated;
4. The motions of Pan American and Northwest to file unauthorized or untimely documents are granted; and
5. Copies of this order be served upon Philippine Air Lines, Inc., China Airlines, Ltd., Japan Air Lines Company, Ltd., Northwest Airlines, Inc. and Pan American World Airways, Inc., which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

(SEAL) EDWIN Z. HOLLAND,  
Secretary.

[FR Doc.75-13325 Filed 5-20-75; 8:45 am]

#### COMMODITY FUTURES TRADING COMMISSION

##### PUBLIC INFORMATION

##### Availability of Transition Reports

The Commodity Futures Trading Commission has decided to make available to the public 22 of the 23 reports prepared for the Commission by a task force of the Interagency Steering Committee, which



## NOTICES

was established by the Office of Management and Budget to facilitate the transfer to the Commission of the administration and enforcement of the Commodity Exchange Act, 7 U.S.C. 1 et seq., pursuant to the Commodity Futures Trading Commission Act of 1974, Pub. Law 93-463, 88 Stat. 1395.<sup>1</sup>

While the analytical portions of these reports are exempt from the disclosure requirements of the Freedom of Information Act, 5 U.S.C. 552(b)(5), and reflect the type of internal communications that the Commission may not always disclose in the future, the Commission believes that the disclosure of these reports is appropriate in view of their unique nature. It should be understood that these reports do not necessarily reflect the views of the Commission.

Brief descriptions of all 22 reports and the attachments thereto are set forth below. Persons requesting copies should identify the documents desired by reference to the list below. Copies will be made available at a cost not to exceed 10 cents per page. Requests should be addressed to the Commodity Futures Trading Commission, 1120 Connecticut Avenue, NW., Washington, D.C. 20036.

## TASK FORCE REPORTS AVAILABLE

Project No.	Title and description
201-a-----	<b>Definition of "Future Contract":</b> Discussion of the various considerations involved in defining a "future contract" (7 pages); Exhibit A—CEA release announcing issuance of Complaint against R. Stovall and Stovall & Stovall, Inc. (lp.), and Complaint and Notice of Hearing (6 pages) and Annexation (copy) of Transactions Reported to Customers by R. L. Stovall (24 pages).
201-b-----	<b>Designation of Contract Markets:</b> Discussion of the various requirements of the Act and of existing regulations for contract market designations (23 pages); Attachment A—Task Force Memorandum discussing economic data that must be submitted to justify designation as a contract market (8 pages); Attachment B—Task Force Memorandum discussing necessary elements of contract market rule enforcement program (8 pages).

<sup>1</sup> The one report that will not be disclosed—No. 101-b, Collegial Action Procedures—relates to internal Commission matters and is based upon confidential interviews with secretaries of various agencies.

In addition, the Commission is withholding all legal memoranda concerning the Commodity Futures Trading Commission Act that were prepared by attorneys for the task force.

The Commission is also withholding the attachments to the report on Leverage Contracts (No. 217). They reflect confidential interviews—with state securities commissioners, industry persons and others—and to some extent contain confidential commercial and financial information which is itself exempt from disclosure, 5 U.S.C. 552(b)(4).

Project No.	Title and description
201-c-----	<b>Reporting Requirements for "New" Commodities:</b> Recommendations on extending large-trader reporting system, establishment of reporting levels, reporting on certain foreign market trades and positions, consideration of a "universal" firm system; rule changes necessary to implement these proposals; discussion of issues and options (20 pages); Exhibit A—Text of sections 41, rules 15.00-15.04, 17.00-19.04 (10 pages); Exhibit B—Table showing Quantities of Commodities Fixed for Reporting (1 page); Exhibit C—Table showing Open Contracts in Commodity Futures as of February 28, 1975 (3 pages); Exhibit D—Forms (4 pages).
201-d-----	<b>Speculative Limits:</b> The report recommends that speculative trading and position limits should be established for the newly-regulated commodities, but that the Commission should initially focus its efforts on those commodities in which futures trading is reasonably active. (6 pages); Exhibit A—Text of section 4a (2 pages); Exhibit B—Copy of FEDERAL REGISTER Notice re Proposed Limits on Position and Daily Trading (3 pages); Exhibit C—Testimony of Walter L. Frankland, Jr., Paul Franklin and Charles Matvey before Senate Agriculture Committee (10 pages); Exhibit D—Task Force Memorandum re Rationale for Developing Speculative Limit Levels (10 pages); Exhibit E—Letter to Mr. W. Lebeck (Chicago Board of Trade) from Mr. A. Caldwell re silver futures, and reply (7 pages); Letter to Mr. C. Matvey (Commodity Exchange, Inc.) from Mr. A. Caldwell re silver futures, and reply (4 pages).
201-e-----	<b>Commodity Specialists Program:</b> Discusses the need for developing a staff of economists with specialized knowledge in each actively traded commodity; a proposal and implementation plan. (16 pages).
201-f-----	<b>Registration of New Futures Commission Merchants and Floor Brokers:</b> Discussion of the procedures followed by the CEA for the registration of futures commission merchants and floor brokers in the newly-regulated commodities (4 pages); Exhibit A—Text of sections 4d and 4f (2 pages); Exhibit B—Application and related Forms for Registration as a Floor Broker and a Futures Commission Merchant (28 pages); Exhibit C—Letter to Messrs. T. R. McMinn, R. Kirchhoff and C. Pials from Charles Robinson re registration of "new" commodity floor brokers and

Project No.	Title and description
201-f (—Cont.)	futures commission merchants with enclosures (notices informing commodity firms of registration requirements) (6 pages); Exhibit D—Letter of 12/19/74 to Mr. W. Lebeck of the Chicago Board of Trade from Mr. A. Caldwell informing him that copies of notices were sent to persons acting as floor brokers or as commodity brokerage firms solely in new commodities (1 page).
201-g-----	<b>Trust-fund Treatment of Customers' Funds and Positions in "New" Commodities:</b> Discussion of requirement that futures commission merchants give trust-fund treatment to customers' funds and positions and the relationship of that requirement to the expanded definition of "commodity" (3 pages); Exhibit A—Text of section 4d (2 pages); Exhibit B—CEA Notice of 2/21/74 to Newly Registered Futures Commission Merchants re Segregation of Commodity Customers' Funds and Attachments (relating to CEA rules) (7 pages); Exhibit C—CEA Notice of 2/26/75 to Clearing Associations of Commodity Exchanges re Segregation of Commodity Customers' Money, Securities and Property and Attachments (relevant to CEA rules) (7 pages); Exhibit D—CEA Notice of 2/27/75 to Registered Futures Commission Merchants re Segregation of Commodity Customers' Money, Securities and Property (1 page).
201-h-----	<b>Regulatory Gap:</b> Discussion of (1) the exclusive jurisdiction provision of section 2(a)(1) and its impact upon commodity option transactions, commodity futures contracts executed upon foreign exchanges and leverage contracts, and (2) applicability of antifraud provision, section 4b, to these non-contract market transactions (3 pages); Exhibit A—Text of section 201 of the CFTCA (1 page).
202 and 204	<b>Registration of Commodity Trading Advisors and Commodity Pool Operators:</b> Brief description of the CEA's activities respecting the registration of commodity trading advisors and commodity pool operators, including suggested rules published in FEDERAL REGISTER and the public comments received respecting those suggested rules. (4 pages); Exhibit A—Text of section 202 of the CFTCA (1 page); Exhibit B—Text of section 205 (2 pages); Exhibit C—CEA Notice of Inquiry Concerning Commodity Trading Advisors and Commodity Pool Operators (3 pages); Exhibit D—Public comments in re-

Project No.:  
202 and 204—  
(Continued)

Project No.	Title and description
203-a and 203-b	<b>Dual Trading by Floor Brokers and FCM's:</b> Describes alternative courses of action the Commission might consider on the dual trading issue, recommends a course of action, summarizes industry position, recommends language for proposed regulations (9 pages); Exhibit A—Text of section 4j (1 page); Exhibit B—A Report of the Subcommittee on Special Small Business Problems, House Report No. 93-963 (pp. 52, 53 & 54) (2 pages); Exhibit C—Proposed Rules re dual trading by floor brokers (2 pages); Exhibit D—Proposed Rules re dual trading by futures commission merchants (1 page).
204	<b>Registration of Associated Persons:</b> Brief description of the CEA's activities respecting the registration of associated persons, including suggested rules published in FEDERAL REGISTER, and of the public comments received respecting those suggested rules. (8 pages); Exhibit A—Text of section 204 (1 page); Exhibit B—CEA Notice of Inquiry re suggested Regulations for Registration of Associated Persons (6 pages); Exhibit C—CEA memo of 12/12/74 to all Futures Commission Merchants (4 pages); Exhibit D—Letter of 12/13/74 to Chicago Mercantile Exchange from A. Caldwell enclosing a notice and supplemental material sent to all registered FCM's. List of active and inactive contract markets and non-regulated commodity markets (3 pages); Exhibit E—Application form for Registration as Associated Person (2 pages); Exhibit F—Letter of 1/15/75 from A. Caldwell to FCM's (6 pages); Exhibit G—CEA Memo of 1/28/75 to agents of FCM's (2 pages); Exhibit H—Registration card (1 page); Exhibit I—Responses to Notice of Inquiry (20 pages).
207-----	<b>"Public Interest" Test and "Economic Purpose" Test of Futures Trading:</b> Discussion of various options regarding these two tests (4 pages);

## NOTICES

Project No.	Title and description
207—Cont.	Exhibit A—Task Force Memorandum re Economic Justification of a Contract Market (8 pages).
208-----	<b>Multiple Delivery Points Procedures:</b> Discussion of proposed policy for evaluating delivery-point adequacy and proposed remedial procedures (31 pages); Exhibit A—Task Force proposed Policy Statement Regarding Deliverable Grades, Delivery Points, Quality Price Differentials, and Locational Price Differentials (6 pages); Exhibit B—Text of section 5a (1 page); Exhibit C—Text of section 5 (1 page).
210-----	<b>Approval of Exchange Rules:</b> Discussion of proposed requirements for contract market submission on exchange rules; proposed definition of "emergency"; proposed actions on exchange administrative rules; proposed review procedures (6 pages); Exhibit A—Text of section 210 of the CFTCA (1 page); Exhibit B—Letter of 11/5/74 to exchanges from A. Caldwell (4 pages); Exhibit C—Responses to letter of 11/5/74 (17 pages); Section 5a(12) of the CFTCA (7 pages); Exhibit D—Task Force Report No. 201-b (34 pages).
217-----	<b>Trading in Leverage Contracts For Gold and Silver:</b> An extensive discussion of leverage contracts including background material and analyses on how such contracts are sold, the impact of state commodity laws, recommendations for Commission actions (91 pages).
401-----	<b>Codes of Conduct and Ethics:</b> The report recommends the adoption of a code of conduct for employees and members of the Commission. The proposed code is similar to that of the SEC. (4 pages); Exhibit A—Proposed Code (8 pages); Exhibit B—Proposed Conduct Regulation (35 pages); Exhibit C—Proposal for Report of Security Transactions (2 pages); Exhibit D—Proposal to Require Statements of Financial Interests and Outside Employment (3 pages); Exhibit E—Proposed Form of Statement of Financial Interest and Outside Employment (2 pages); Exhibit F—Proposed Employee Form (2 pages).
402-----	<b>"Put" and "Call" Trading:</b> Discussion of Commission approaches regarding option trading regulations and recommends "naked" puts and calls be prohibited as quickly as possible (5 pages); Exhibit A—Text of section 4c (1 page).
404-----	<b>Definition of Bona Fide Hedging:</b> Discussion of Commission options regarding defining "bona fide" hedging (4 pages); Exhibit A—Proposed Federal Register document adopting hedging definition (11 pages).

Project No.	Title and description
406-----	<b>U.S. Standards:</b> Discussion of Commission options regarding adopting U.S. commodity-grade standards (5 pages).
C-----	<b>"New" Commodity Data Processing and Analysis:</b> Discussion of CEA's data processing and analysis system and the need for expansion and updating of the system and equipment; discusses the publication and reporting performed by CEA currently and options for change (14 pages); Exhibit A—Procedures for Processing Large-Trader Reports (7 pages); Exhibit B—Data sheets (2 pages); Exhibit C—USDA Report reopen interest as of 2/28/75 (9 pages).
F-----	<b>Orientation and Training:</b> Outline of proposed orientation and training program for new employees of the CFTC (4 pages); Exhibit A—Orientation Schedule (2 pages); Exhibit B—Training Program for Market Surveillance Staff (16 pages); Exhibit C—Training Program for Compliance Staff (16 pages).
Unnumbered	<b>Summary and Explanation of Projects Deferred:</b> No. 105—Annual Report to Congress; No. 106—Customer Reparatons; No. 206—Training and Experience Standards; No. 209—Exchange Arbitration Procedures; No. 211—Injunction Procedures; No. 213—Alteration or Supplementation of Exchange Rules; No. 214—Nonmember Rules; No. 215—Emergency Actions by Exchanges; No. 216—Review of Exchange Disciplinary Action; No. 301—Registration of National Futures Associations; No. 403—Definition of "International Arbitrage"; No. 411-b—Revision and Renumbering of Regulations; No. 414—Cash Investigations and Reports; No. 415—Clearinghouse Records and Reports; No. 416-a—Study of Computerized Trading; No. 416-b—Development of Additional Material for Public Use; No. 417—Report on Need for Futures Trading Insurance; G—Revise Rules of Practice; H—Referrals for Prosecuting Consideration for Criminal Action. (29 pages).

Dated: May 15, 1975.

By the Commission.

WILLIAM T. BAGLEY,  
Chairman.

[FR Doc.75-13290 Filed 5-20-75;8:45 am]

# ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION HANFORD PLANT, RICHLAND, WASH. Negative Declaration

Notice is hereby given that a negative declaration has been prepared by the



Energy Research and Development Administration (ERDA) and placed in the ERDA Public Document Rooms at 1717 H Street, Washington, D.C., and at the Richland Operations Office, Federal Building, Richland, Washington, for public inspection. The negative declaration covers a project proposed for the FY 1976 Budget which has been submitted to the Congress. The declaration sets forth the background for the decision that an environmental statement is not required to support the project and the reasons therefor. The proposed project is to construct additional double-shelled waste storage tanks at the ERDA Hanford Plant at Richland, Washington. The environmental assessment prepared for the project is also available for inspection in the same Public Document Rooms.

Dated at Washington, D.C., this 7th day of May 1975.

For the Energy Research and Development Administration.

JAMES L. LIVERMAN,  
Assistant Administrator for  
Environment and Safety.

[FR Doc.75-13286 Filed 5-20-75; 8:45 am]

#### HIGH LEVEL WASTE STORAGE, SAVANNAH RIVER PLANT, S.C.

##### Negative Declaration

Notice is hereby given that a negative declaration has been prepared by the Energy Research and Development Administration (ERDA) and placed in the ERDA Public Document Rooms at 1717 H Street, Washington, D.C., and at the Savannah River Operations Office, Savannah River Plant, Aiken, South Carolina for public inspection. The negative declaration covers a project proposed for the FY 1976 Budget which has been submitted to the Congress. The declaration sets forth the background for the decision that an environmental statement is not required to support the project and the reasons therefor. The proposed project is to construct Additional Facilities for High Level Waste Storage at the ERDA Savannah River Plant, Aiken, South Carolina. The environmental assessment prepared for the project is also available for inspection in the same two Public Document Rooms.

Dated at Washington, D.C., this 7th day of May 1975.

For the Energy Research and Development Administration.

JAMES L. LIVERMAN,  
Assistant Administrator for  
Environment and Safety.

[FR Doc.75-13285 Filed 5-20-75; 8:45 am]

#### LIQUID METAL FAST BREEDER REACTOR PROGRAM

Availability of Staff Statement for Public Hearing Concerning Proposed Final Environmental Statement

By notice in the FEDERAL REGISTER of Friday, April 25, 1975 (40 FR 18218), the

U.S. Energy Research and Development Administration (ERDA), announced a public hearing concerning the Proposed Final Environmental Statement on the Liquid Metal Fast Breeder Reactor (LMFBR) Program. The hearing will commence at 10:00 a.m. on May 27, 1975, in the auditorium of the General Services Administration, 18th and F Streets, NW., Washington, D.C. The notice advised that an ERDA staff statement summarizing and addressing the issues raised in the written comments on the Proposed Final Statement will be made available prior to the hearing to all hearing participants.

Accordingly, notice is hereby given that the referenced ERDA staff statement is now available. That statement has been sent to all persons that have signified their intention to participate in the hearing and to all persons who submitted written comments on the Proposed Final Environmental Statement. The statement will be made available to others upon written request to W. H. Pennington, Office of the Assistant Administrator for Environment and Safety, ERDA, Washington, D.C. 20545, received not later than 10:00 a.m. on May 27, 1975.

Dated at Washington, D.C. this 15th day of May 1975.

JAMES L. LIVERMAN,  
Assistant Administrator for  
Environment and Safety.

[FR Doc.75-13284 Filed 5-20-75; 8:45 am]

#### ENVIRONMENTAL PROTECTION AGENCY

[FRL 376-5]

##### AMERICAN CYANAMID CO.

##### Renewal of Temporary Tolerance

American Cyanamid Co., PO. Box 400, Princeton, NJ 08540, was granted a temporary tolerance for combined negligible residues of the herbicide N-(ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzylamine, formerly N-(1-ethylpropyl)-2,6-dinitro-3,4-xylylidene, and its metabolite 4-[(1-ethylpropyl)amino]-2-methyl-3,5-dinitrobenzyl alcohol in or on corn grain at 0.1 part per million on April 10, 1974, in connection with Pesticide Petition No. 4G1451 (notice was published in the FEDERAL REGISTER of April 18, 1974, (39 FR 13913)). This tolerance expired April 10, 1975.

The company has requested a 1-year renewal of the temporary tolerance to obtain additional experimental data. It is concluded that such a renewal of the temporary tolerance will protect the public health. A condition under which this temporary tolerance is renewed is that the herbicide be used in accordance with the temporary permit which is being issued concurrently and which provides for distribution under the American Cyanamid Co. name.

This temporary tolerance expires May 15, 1976. Residues remaining in or on the above raw agricultural commodity after expiration of this tolerance will not

be considered actionable if the pesticide is legally applied during the term, and in accordance with provisions of the temporary permit/tolerance.

This section is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (39 FR 18805).

Dated: May 15, 1975.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

[FR Doc.75-13361 Filed 5-20-75; 8:45 am]

[FRL 377-4]

##### ANSUL CO.

##### Establishment of Temporary Tolerance

The Ansul Co., PO. Drawer 1165, Weslaco, TX 78596, submitted a petition (PP 3G1357) requesting establishment of a temporary tolerance for residues of the herbicide methanearsonic acid (expressed as As<sub>2</sub>O<sub>3</sub>), resulting from application of its monosodium salt, in or on the raw agricultural commodity sugarcane at 0.39 part per million. (This petition was originally designated Pesticide Petition No. 3F1357, and was filed (38 FR 8016) on March 8, 1973. Subsequently, the petitioner amended the petition by proposing a temporary tolerance for residues of the herbicide resulting from application of its monosodium salt (only) in or on sugarcane at 0.39 part per million.)

It has been determined that this temporary tolerance will protect the public health. It is therefore established on condition that the herbicide be used in accordance with the temporary permit being issued concurrently and which provides for distribution under the Ansul Co. name. (For a related document, see this issue of the FEDERAL REGISTER, page 22132.)

This temporary tolerance expires May 15, 1976. Residues remaining in or on the above raw agricultural commodity after expiration of this tolerance will not be considered actionable if the pesticide is legally applied during the term, and in accordance with provisions of the temporary permit/tolerance.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346 a(j)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (39 FR 18805).

Dated: May 15, 1975.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

[FR Doc.75-13356 Filed 5-20-75; 8:45 am]

[FRL 378-4]

#### AREAWIDE WASTE TREATMENT

##### Management Planning Approvals; Area and Agency Designations

Pursuant to section 208 of the Federal Water Pollution Control Act Amendments of 1972, notice is hereby given of approvals of designation of areawide waste treatment management planning areas and agencies for the period April 5, 1975 through May 1, 1975.

The following area and agency designations have been approved:

Boston, Massachusetts (Metropolitan Area Planning Council, 44 School Street, Boston, Massachusetts 02108)

Worcester, Massachusetts (Central Massachusetts Regional Planning Commission, 70 Elm Street, Worcester, Massachusetts 01609)

Fitchburg, Massachusetts (Montachusett Regional Planning Commission, 150 Main Street, Fitchburg, Massachusetts 01420)

Puerto Rico (Commission for the Development and Administration of Areawide Waste Treatment Plans for the North Metropolitan Area, Puerto Rico Environmental Quality Board, San Juan, Puerto Rico 00910)

Nassau-Suffolk Counties, Long Island, New York (Nassau-Suffolk Regional Planning Board, Planning Building, Suffolk County Center, Veterans Memorial Highway, Hauppauge, Long Island, New York 11787)

Volusia County, Florida (Volusia Council of Governments, County Courthouse Annex, Daytona Beach, Florida 32014)

Brevard County, Florida (Brevard County Planning and Zoning Department, 2575 N. Courtenay Parkway, Merritt Island, Florida 32952)

Bay County, Florida (Northwest Florida Planning and Advisory Council, 5321 'E' W. Highway 98, Panama City, Florida 32401)

Dallas-Ft. Worth, Texas (North Central Texas Council of Governments, PO Drawer COG, Arlington, Texas 76011)

Beaumont-Port Arthur, Texas (Southeast Texas Regional Planning Commission, PO Drawer 1967, Nederland, Texas 77627)

Houston, Texas (Houston-Galveston Area Council, PO. Box 22777, Houston, Texas 77027)

Powder River, Wyoming (Powder River Areawide Planning Organization, Box 688, Cherdan, Wyoming 82801)

Southeast, Utah (Southeastern Utah Association of Governments, 109 S. Carbon Avenue, Price, Utah 84501)

Yellowstone Tongue, Montana (Areawide Planning Organization, Powder River County Courthouse, Broadus, Montana 59317)

Rifle, Colorado (Colorado West Area Council of Governments, PO. Box 351, Rifle, Colorado 81650)

Clark County, Washington (Regional Planning Council of Clark County, 2400 T Street, Vancouver, Washington 98601)

Seattle, Washington (Municipality of Metropolitan Seattle, 410 West Harrison, Seattle, Washington 98119)

JAMES L. AGEZ,  
Assistant Administrator for  
Water and Hazardous Materials.

MAY 15, 1975.

[FR Doc.75-13363 Filed 5-20-75; 8:45 am]

[FRL 378-8; OPP-180014A]

#### MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH

##### Denial of Request for Specific Exemption To Use DDT To Control Rabid Bats

On July 3, 1974, a notice appeared in the FEDERAL REGISTER (39 FR 24530) which announced the issuance of a specific exemption to the Massachusetts Department of Public Health (hereafter referred to as the "Applicant") to use DDT for emergency rabid bat control; this action was taken pursuant to the provisions of section 18 (40 CFR Part 166) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136). Part 166 was issued on December 3, 1973 (38 FR 33303), and prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

The specific exemption was granted on the basis of information provided by the Applicant to the Environmental Protection Agency (EPA); it was noted that since DDT would only be applied in a judiciously supervised program to the attics of houses or to the exit holes of roofs where bats might be located, no irreversible adverse environmental effects were anticipated as a result of the use of DDT in that control program. The program was authorized from June 14 to September 30, 1974.

The Applicant has now submitted an application for a specific exemption during calendar year 1975, which, if granted, would terminate on June 30, 1975. Interested parties are referred to the application on file in the Office of the Director, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., SW., Room E-347, Washington, D.C. 20460.

##### BACKGROUND

The rabies virus is endemic to Massachusetts populations of the big brown bat (*Eptesicus fuscus*) and the little brown bat (*Myotis lucifugus*). The exemption granted previously was subject to the following conditions:

- That the bats were dwelling with humans;
- That the above be confirmed by the local health agents, the colony located and the exit(s) determined. In such cases as the local officials needed help, the Department of Public Health personnel would provide on-site consultations;
- That the DDT be placed in exits and/or in places where bats rest if such were accessible or access could be provided;
- That the property owner or occupant agreed to make the necessary structural modifications to prevent reinfestations;
- That all pest control operators who would be exposed to bats had had pre-exposure duck-embryo rabies vaccine;
- That the actual control operation be under the supervision of State health officials or competent local health agents approved by the State; and
- That a final report be submitted to EPA regional personnel.

Considering information which the Applicant has gathered on the habits of these bats and the incidence of bat bites, he feels that there is a small but real possibility that rabies may be transmitted to humans; in addition, even though the possibility is small, the fact that it exists creates a fear in the minds of people and can lead to widespread concern. The Applicant expects that the nature and scope of the problem will remain constant and that it will recur each year between April and September, and to some extent, during warm spells in the winter, as the Applicant has observed in early 1974.

##### DECISION

After consideration of the material submitted by the Applicant, evaluation of the public health risk associated with Massachusetts' bat populations containing endemic rabies, and consultation with the Rabies Control Unit, Center for Disease Control, DHEW, Atlanta, Georgia, EPA has decided to deny the request for a specific exemption, because:

- The Applicant has failed to demonstrate that significant public health problems will occur without the use of DDT, this being one of the requirements of the section 18 regulations (§ 168.1) which allow exemptions to be granted under the amended FIFRA; and
- In fact, treatment of bat populations with DDT will likely increase the probability of humans or pets being bitten, because bats intoxicated with DDT often fall to the ground and die very slowly.

This decision is also based on the following factors: The low frequency of endemic rabies prevalent in bat populations of both species would result in many bats that may be a nuisance but do not carry or transmit rabies being killed; and in recent years, there have been no cases of human rabies due to bat bites.

It should be noted that modifications of the EPA Rules of Practice were promulgated on March 12, 1975, providing special procedures to be followed in the case of an application under section 3 or 18 of the amended FIFRA to allow use of a pesticide at a site and on a pest for which registration has been finally cancelled; the modifications were published in the FEDERAL REGISTER on March 18, 1975 (40 FR 12261). These special procedures do not apply in this case, since the registration of DDT for use by public health officials in disease control programs has not been cancelled (FEDERAL REGISTER of July 7, 1972 (37 FR 13375)).

Finally, the Applicant is advised that, pursuant to § 166.5 of the section 18 regulations and the conditions under which the previous specific exemption was granted, a final report on the 1974 program which utilized DDT to suppress bat populations in Massachusetts is required.

Dated: May 16, 1975.

JAMES L. AGEZ,  
Assistant Administrator for  
Water and Hazardous Materials.

[FR Doc.75-13650 Filed 5-20-75; 8:45 am]



[FRL 377-2; OPP-180019A]

## NEW HAMPSHIRE DEPARTMENT OF AGRICULTURE AND DIVISION OF PUBLIC HEALTH

## Denial of Request for Specific Exemption To Use DDT To Control Rabid Bats

On September 3, 1974, a notice appeared in the *FEDERAL REGISTER* (39 FR 31944) which announced the issuance of a specific exemption to the New Hampshire Department of Agriculture and Division of Public Health (hereafter referred to as the "Applicant") to use DDT for emergency rabid bat control; this action was taken pursuant to the provisions of section 18 (40 CFR Part 166) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136). Part 166 was issued on December 3, 1973 (38 FR 33303), and prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

The specific exemption was granted on the basis of information provided by the Applicant to the Environmental Protection Agency (EPA); it was noted that since DDT would only be applied in a judiciously supervised program to the attics of houses or to the exit holes of roofs where bats might be located, no irreversible adverse environmental effects were anticipated as a result of the use of DDT in that control program. The final report of the 1974 program has been filed with the EPA in compliance with the reporting requirements under § 166.5 of the section 18 regulations. The program was authorized from August 27 to October 30, 1974.

The Applicant has now submitted an application for a specific exemption during calendar year 1975, which if granted, would terminate on October 30, 1975. Interested parties are referred to the application on file in the Office of the Director, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., SW., Room E-347, Washington, D.C. 20460.

## BACKGROUND

The rabies virus is endemic to New Hampshire populations of the big brown bat (*Eptesicus fuscus*) and the little brown bat (*Myotis lucifugus*). The exemption granted previously was subject to the following conditions:

- That the bats were dwelling with humans;
- That the above be confirmed by the local health agents, the colony located and the exit(s) determined. In such cases as the local officials needed help, the Department of Agriculture or Department of Public Health personnel would provide on-site consultations;
- That the DDT be placed in exits and/or in places where bats rest if such were accessible or access could be provided;
- That the property owner or occupant agreed to make the necessary structural modifications to prevent reinfestations;
- That all pest control operators who would be exposed to bats had had pre-exposure duck-embryo rabies vaccine;

- That the actual control operation be under the supervision of State health officials or competent local health agents approved by the State;
- That the applicant reported the amount of DDT used to the New Hampshire Department of Agriculture within three days after treatment and;
- That a final report be submitted to EPA regional personnel.

Considering information which the Applicant has gathered on the habits of these bats and the incidence of bat bites, he feels that there is a small but real possibility that rabies may be transmitted to humans; in addition, even though the possibility is small, the fact that it exists creates a fear in the minds of people and can lead to widespread concern. The Applicant expects that the nature and scope of the problem will remain constant and that it will recur each year between April and September, and to some extent, during warm spells in the winter.

## DECISION

After consideration of the material submitted by the Applicant, evaluation of the public health risk associated with New Hampshire's bat populations containing endemic rabies, and consultation with the Rabies Control Unit, Center for Disease Control, DHEW, Atlanta, Georgia, EPA has decided to deny the request for a specific exemption, because:

- The Applicant has failed to demonstrate that significant public health problems will occur without the use of DDT, this being one of the requirements of the section 18 regulations (§ 166.1) which allow exemptions to be granted under the amended FIFRA; and
- In fact, treatment of bat populations with DDT will likely increase the probability of humans or pets being bitten, because bats intoxicated with DDT often fall to the ground and die very slowly.

This decision is also based on the following factors: the low frequency of endemic rabies prevalent in bat populations of both species would result in many bats that may be a nuisance but do not carry or transmit rabies being killed; and in recent years, there have been no cases of human rabies due to bat bites.

It should be noted that modifications of the EPA rules of practice were promulgated on March 12, 1975, providing special procedures to be followed in the case of an application under section 3 or 18 of the amended FIFRA to allow use of a pesticide at a site and on a pest for which registration has been finally cancelled; the modifications were published in the *FEDERAL REGISTER* on March 18, 1975 (40 FR 12261). These special procedures do not apply in this case, since the registration of DDT for use by public health officials in disease control programs has not been cancelled (*FEDERAL REGISTER* of July 7, 1972 (37 FR 13375)).

Dated: May 16, 1975.

JAMES L. AGEE,  
Assistant Administrator for Water  
and Hazardous Materials.

[FR Doc. 75-13360 Filed 5-20-75; 8:45 am]

[FRL 377-1]

## OFFICE OF RESEARCH AND DEVELOPMENT

## Plans To Evaluate Proprietary Equipment

The Environmental Protection Agency (EPA), Office of Research and Development, plans to conduct comparison studies of prototype instrumentation to measure carbon monoxide and suspended particulates. The prototype instrumentation will be compared with existing instrumentation and with the reference method if applicable.

Specifically, EPA is seeking instrumentation for carbon monoxide measurement which uses coulometry as its measurement principle, has a measurement range of 0-5 ppm, is portable and is suitable for field use. Instrumentation for suspended particulates must employ beta-gauge technique and give both respirable and total suspended particulates. The period of performance is 9 months, with an effective date of the study June 1, 1975.

Any developer/manufacture wishing to offer the loan of such a device for use in these studies without fee and at no expense to the government may do so by applying directly to the Director, Chemistry and Physics Laboratory, NERC, Research Triangle Park, N.C.

As a condition to such offer and acceptance, the lender must agree that the results of the aforementioned study shall not be used to indicate or imply that EPA approves, recommends or endorses any proprietary product or proprietary material, or which has as its purpose an intent to cause directly or indirectly the advertised product to be used or purchased because of EPA study reports or results.

EPA reserves the right to restrict and/or limit the acceptance of devices to those which EPA deems to be best suited for the purpose of this study.

Applications in response to this notice must be received by the Laboratory Director concerned no later than June 5, 1975.

Dated: May 15, 1975.

WILSON K. TALLEY,  
Assistant Administrator  
for Research and Development.

[FR Doc. 75-13363 Filed 5-20-75; 8:45 am]

[FRL 376-3; OPP-32000/252]

## RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

## Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the *FEDERAL REGISTER* (38 FR 31862) its interim policy with respect to the administration of section 3(c) (1) (d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the *FEDERAL REGISTER* a notice containing the information shown

below. The labeling furnished by applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street SW., Washington, D.C. 20460.

On or before July 21, 1975, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c) (1) (D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the *FEDERAL REGISTER* of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after July 21, 1975.

Dated: May 14, 1975.

JOHN B. RITCH, Jr.,  
Director,  
Registration Division.

APPLICATIONS RECEIVED (OPP-32000/252)

- EPA File Symbol 10607-UO. Aero Mist, Inc., 990 Industrial Park Dr., Marietta GA 30060. MISTY RESIDUAL AND FLYING INSECT KILLER. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylate 0.350%; Related compounds 0.048%; Aromatic petroleum hydrocarbons 0.464%. Method of Support: Application proceeds under 2(c) of interim policy. PM17
- EPA File Symbol 5590-RAR. Aerosol Techniques, Inc., Old Gate Ln., Billford CT 06460. SPRAY DISINFECTANT AND AIR DEODORANT. CODE NO. 239-31D. Active Ingredients: Ethyl Alcohol 44.25%; Essential Oils 0.10%; n-Alkyl (50% C14, 40% C12, 10% C16) dimethyl benzyl ammonium chloride 0.33%; o-phenylphenol 0.25%. Method of Support: Application proceeds under 2(a) of interim policy. PM32
- EPA File Symbol 901-TT. Aerosol Co., Inc., PO Box 120, 525 N. 11th St., Neodesha KS 66767. INSECTICIDE. AEROSOL RESMETHRIN-2%. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylate 2.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM17
- EPA File Symbol 150-UI. Anderson Chem. Co., Box 141, Litchfield MN 55355. A-DINE IODINE SANITIZER. Active Ingredients: Butoxy polypropoxy polyethoxy ethanol-iodine complex 12.47%; Polyethoxy polypropoxy polyethoxy ethanol-iodine complex (providing 1.6% titratable iodine) 0.37%. Method of Support: Application proceeds under 2(b) of interim policy. PM34
- EPA Reg. No. 1526-264. Arizona Agrochemical Co., PO Box 21537, Phoenix AZ 85036. SEVIN 7.5 with 50% SULFUR. Active Ingredients: Carbaryl (1-naphthyl-N-methylcarbamate) 7.50%; Sulfur 50.00%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Added pest. PM12
- EPA File Symbol 10088-LT. Athes Labs, Inc., 4180 N. 1st St., Milwaukee WI 53212. SELECTIVE HERBICIDE #5 WEED KILLER. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 12.25%. Method of Support: Application proceeds under 2(c) of interim policy. PM23
- EPA File Symbol 8812-TE. B & G Co., PO Box 20372, Dallas TX 75220. B & G TAPP-1.3. Active Ingredients: Pyrethrins 1.3%. Method of Support: Application proceeds under 2(c) of interim policy. PM17
- EPA File Symbol 3487-EG. Bacon Products Co., Inc., PO Box 8127, Chattanooga TN 37421. EAGLES-7 SPRA-KILL INSECT BOMB. Active Ingredients: o-Isopropoxyphenyl methylcarbamate 0.500%; 2,2-dichlorovinyl dimethyl phosphate 0.186%; Related compounds 0.014%; Petroleum distillates 70.843%. Method of Support: Application proceeds under 2(c) of interim policy. PM12
- EPA File Symbol 4-EUI. Bonide Chem. Co., Inc., 2 Wurz Ave., Yorkville NY 13495. BONIDE CROTOX (T) SEED PROTECTOR POWDER. Active Ingredients: Thiram (Tetramethylthiuram disulfide) 99.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM11
- EPA File Symbol 5440-RNI. Cardinal Chem. Co., Green & Sansome St., San Francisco CA 94111. 3-8-10 CONCENTRATED INSECTICIDE. Active Ingredients: Pyrethrins 3.00%; Piperonyl butoxide, technical (Consists of 4.80% (butylcarbityl) (6-propylpiperonyl) ether and 1.20% related compounds) 6.00%; N-octyl bicycloheptene dicarboximide 10.00%; Petroleum distillate 81.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM17
- EPA File Symbol 10882-RU. Chem-Power, Hanover Industrial Park, 15 Wing Dr., Cedar Knolls NJ 07927. STRIKE OUTDOOR FOG SPRAY. Active Ingredients: Pyrethrins 0.3%; Piperonyl Butoxide, Technical (Equivalent to 2.4% of (butylcarbityl) (6-propylpiperonyl) ether and 0.57% related compounds) 2.86%; N-octyl bicycloheptene dicarboximide 2.88%; 2-(1-Methylethoxy) phenol methylcarbamate 14.28%; Petroleum distillate 5.72%. Method of Support: Application proceeds under 2(c) of interim policy. PM12
- EPA File Symbol 35932-R. Chemetics Labs., Inc., 11394 Harry Hines Blvd., Dallas TX 75229. C-L DISINFECTANT CLEANER #800. Active Ingredients: Didecyl dimethyl ammonium chloride 4.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium carbonate 1.0%; Sodium metasilicate, anhydrous 0.5%. Method of Support: Ap-

Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylate 2.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 150-UI. Anderson Chem. Co., Box 141, Litchfield MN 55355. A-DINE IODINE SANITIZER. Active Ingredients: Butoxy polypropoxy polyethoxy ethanol-iodine complex 12.47%; Polyethoxy polypropoxy polyethoxy ethanol-iodine complex (providing 1.6% titratable iodine) 0.37%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA Reg. No. 1526-264. Arizona Agrochemical Co., PO Box 21537, Phoenix AZ 85036. SEVIN 7.5 with 50% SULFUR. Active Ingredients: Carbaryl (1-naphthyl-N-methylcarbamate) 7.50%; Sulfur 50.00%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Added pest. PM12

EPA File Symbol 10088-LT. Athes Labs, Inc., 4180 N. 1st St., Milwaukee WI 53212. SELECTIVE HERBICIDE #5 WEED KILLER. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 12.25%. Method of Support: Application proceeds under 2(c) of interim policy. PM23

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EPA File Symbol 3487-EG. Bacon Products Co., Inc., PO Box 8127, Chattanooga TN 37421. EAGLES-7 SPRA-KILL INSECT BOMB. Active Ingredients: o-Isopropoxyphenyl methylcarbamate 0.500%; 2,2-dichlorovinyl dimethyl phosphate 0.186%; Related compounds 0.014%; Petroleum distillates 70.843%. Method of Support: Application proceeds under 2(c) of interim policy. PM12

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EPA File Symbol 5440-RNI. Cardinal Chem. Co., Green & Sansome St., San Francisco CA 94111. 3-8-10 CONCENTRATED INSECTICIDE. Active Ingredients: Pyrethrins 3.00%; Piperonyl butoxide, technical (Consists of 4.80% (butylcarbityl) (6-propylpiperonyl) ether and 1.20% related compounds) 6.00%; N-octyl bicycloheptene dicarboximide 10.00%; Petroleum distillate 81.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 10882-RU. Chem-Power, Hanover Industrial Park, 15 Wing Dr., Cedar Knolls NJ 07927. STRIKE OUTDOOR FOG SPRAY. Active Ingredients: Pyrethrins 0.3%; Piperonyl Butoxide, Technical (Equivalent to 2.4% of (butylcarbityl) (6-propylpiperonyl) ether and 0.57% related compounds) 2.86%; N-octyl bicycloheptene dicarboximide 2.88%; 2-(1-Methylethoxy) phenol methylcarbamate 14.28%; Petroleum distillate 5.72%. Method of Support: Application proceeds under 2(c) of interim policy. PM12

EPA File Symbol 35932-R. Chemetics Labs., Inc., 11394 Harry Hines Blvd., Dallas TX 75229. C-L DISINFECTANT CLEANER #800. Active Ingredients: Didecyl dimethyl ammonium chloride 4.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium carbonate 1.0%; Sodium metasilicate, anhydrous 0.5%. Method of Support: Ap-

lication proceeds under 2(b) of interim policy. PM31

EPA File Symbol 35934-R. Chemply, Inc., PO Box 18049, Pittsburgh PA 15236. LIQUID CHLORINE. Active Ingredients: Chlorine 100%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA File Symbol 4715-GUR. Colorado International Corp., 5321 Dahlia St., Commerce City CO 80022. GRAIN GARD DUST NO. 2. Active Ingredients: Malathion: 0,0-dimethyl dithiophosphate of diethyl mercaptosuccinate 2%. Method of support: Application proceeds under 2(c) of interim policy. PM16

EPA File Symbol 14762-E. Conco Chem. International, Box 2057, Bayamon PR 00619. CONOSECT. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylate 0.250%; Related compounds 0.034%; Aromatic petroleum hydrocarbons 0.331%; Petroleum distillate 99.375%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA Reg. No. 121-5. Cutte Labs, Inc., 4th & Parker St., Berkeley CA 94710. CUTTER INSECT REPELLENT. Active Ingredients: N,N-Diethyl-metaltolamide 28.74%; Other Isomers 1.51%; Dimethyl Phthalate 1.5%; Butyl dimethyl dihydro-gamma-pyrone carboxylate 1.25%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 6754-AI. Dettelbach Pesticide Corp., PO Box 9986, 4111 Peachtree Rd., NE, Atlanta GA 30319. PROFESSIONAL ORKINBAN LAWN INSECTICIDE. Active Ingredients: Chlorpyrifos (O,O-diethyl 0-(3,5,6-trichloro-2-pyridyl)phosphorothioate) 12.8%; 2,2-Dichlorovinyl dimethyl phosphate 3.1%; Related compounds 0.2%; Aromatic Petroleum Derivative Solvent 7.2%. Method of Support: Application proceeds under 2(c) of interim policy. PM13

EPA Reg. No. 464-368. Dow Chem., U.S.A., Ag-Organics Dept., PO Box 1708, Midland MI 48640. DURSABAN M INSECTICIDE. Active Ingredients: O,O-Diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate 41.2%; Aromatic petroleum derivative solvent 29.5%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Added use. PM12

EPA File Symbol 279-GNNI. FMC Corp., Agricultural Chem. Div., 100 Niagara St., Middleport NY 14105. SUPER LEAF DROPPER DEFOLIANT. Active Ingredients: Sodium chlorate (NaClO3) 28.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM25

EPA File Symbol 1021-RGAN. McLaughlin Gormley King Co., 8810 10th Ave. N., Minneapolis MN 55427. PYROCID INTERMEDIATE 7253. Active Ingredients: Pyrethrins 1.43%; Piperonyl butoxide, technical (Equivalent to 3.29% (butylcarbityl) (6-propylpiperonyl) ether and 0.57% related compounds) 2.86%; N-octyl bicycloheptene dicarboximide 2.88%; 2-(1-Methylethoxy) phenol methylcarbamate 14.28%; Petroleum distillate 5.72%. Method of Support: Application proceeds under 2(c) of interim policy. PM12

EPA File Symbol 11800-RI. Midwest Agricultural Warehouse Co., 150 S. Main, Freemont NB 68025. CLEAN CROP DIAZINON AG500 INSECTICIDE. Active Ingredients: 0,0-diethyl 0-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 48%; Xylene 36%. Method of Support: Application proceeds under 2(c) of interim policy. PM15



EPA File Symbol 12310-RL. Misco International Chem. Inc., 1021 S. Noel Ave., Wheeling IL 60090. SELECT-K #1 LAWN WEED KILLER. Active Ingredients: Dimethylamine salt of 2-(2-methyl-4-chlorophenoxy) propionic acid 3.66%; Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 8.07%; Dimethylamine salt of Dicamba (3,6-Dichloro-o-anisic acid) 0.84%; Dimethylamine salts of related compounds 0.11%. Method of Support: Application proceeds under 2(c) of Interim policy. Republished: Method of Support changed from 2(b) to 2(c). PM25

EPA File Symbol 12310-RA. Misco International Chem. Inc., 1021 S. Noel Ave., Wheeling IL 60090. SELECT-K #2 ST. AUGUSTINE GRASS BROADLEAF HERBICIDE. Active Ingredients: Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 3.23%; Dimethylamine salt of 2-(2-methyl-4-chlorophenoxy) propionic acid 10.59%; Dimethylamine salt of Dicamba (3,6-dichloro-o-anisic acid) 1.28%. Method of Support: Application proceeds under 2(c) of Interim policy. Republished: Method of Support changed from 2(b) to 2(c). PM25

EPA File Symbol 11602-E. Molar Enterprises, Inc., 1621 Hennepin Ave. S., Minneapolis MN 55403. MOLAR HOSPITAL DISINFECTANT CLEANER Q-1000. Active Ingredients: Didecyl dimethyl ammonium chloride 4.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium carbonate 1.0%; Sodium metasilicate, anhydrous 0.5%. Method of Support: Application proceeds under 2(b) of Interim policy. PM31

EPA File Symbol 11602-G. Molar Enterprises, Inc., 1621 Hennepin Ave. S., Minneapolis MN 55403. MOLAR FORMULATION TBQ. Active Ingredients: Octyl decyl dimethyl ammonium chloride 1.950%; Didecyl dimethyl ammonium chloride 0.625%; Didecyl dimethyl ammonium chloride 0.625%; Alkyl (C8 7%, C10 8%, C12 46%, C14 24%, C16 10%, C18 5%) amino betaine 1.000%; Hydrogen chloride 8.000%. Method of Support: Application proceeds under 2(b) of Interim policy. PM31

EPA File Symbol 4476-TT. Morton Pharmaceuticals, Inc., 1625-39 N. Highland, Memphis TN 38108. MORTON FLEA & TICK KILLER. Active Ingredients: Pyrethrins 0.06%; Piperonyl butoxide, technical (Equivalent to 0.48% (butylcarbityl) (6-propylpiperonyl) ether and 0.12% other related compounds) 0.60%; Butoxypropylene glycol 5.00%; Carbaryl (1-naphthyl N-methylcarbamate) 1.00%; 2,2'-Methylene bis(4-chlorophenol) 0.10%; Petroleum distillate 1.26%. Method of Support: Application proceeds under 2(c) of Interim policy. PM12

EPA File Symbol 35926-R. Mutual Hardware Corp., 5-45 49th Ave., Long Island City NY 11101. MARINE X-FOUL BOTTOM COAT. Active Ingredients: Tributyltin Fluoride 12.04%. Method of Support: Application proceeds under 2(c) of Interim policy. PM24

EPA Reg. No. 5316-42. Namco Chemicals, 765 Landess Ave., Milpitas CA 95035. NAMCO NAMFUME. Active Ingredients: Methyl Bromide 99.75%; Chloropicrin 0.25%. Method of Support: Application proceeds under 2(c) of Interim policy. PM11

EPA Reg. No. 5316-41. Namco Chemicals, 765 Landess Ave., Milpitas CA 95035. NAMCO METHYL BROMIDE FOR USE ONLY BY PROFESSIONAL FUMIGATORS. Active Ingredients: Methyl Bromide 100%. Method of Support: Application proceeds under 2(c) of Interim policy. PM11

EPA Reg. No. 10659-46. Occidental Petroleum Co., PO Box 1185, Houston TX 77001. OXY LEAPEX-3. Active Ingredients: Sodium

Chlorate 28%. Method of Support: Application proceeds under 2(c) of Interim policy. Republished: Additional uses. PM25

EPA File Symbol 5576-GL. Regal Supply & Chemical, PO Box 1955, El Paso TX 79950. FIBRO SOLV. Active Ingredients: Blue Vitriol, CUSO4H2O 100%. Method of Support: Application proceeds under 2(c) of Interim policy. PM24

EPA File Symbol 5576-GA. Regal Supply & Chemical, PO Box 1955, El Paso TX 79950. ROOT OUT WITH BC-60. Active Ingredients: Blue Vitriol, CUSO4H2O 4.00%. Method of Support: Application proceeds under 2(c) of Interim policy. PM24

EPA File Symbol 4981-LL. Redwood Chemical Inc., PO Box 45916, Houston TX 77045. DIAZINON AG500. Active Ingredients: 0,0-Diethyl 0-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 48%; Xylene 36%. Method of Support: Application proceeds under 2(c) of Interim policy. PM15

EPA File Symbol 4981-LA. Redwood Chemical Inc., PO Box 45916, Houston TX 77045. REDWOOD'S DIAZINON 140 GRANULAR INSECTICIDE. Active Ingredients: 0,0-diethyl 0-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 14.3%. Method of Support: Application proceeds under 2(c) of Interim policy. PM15

EPA File Symbol 2155-IA. I. Sehneld, Inc., PO Box 93188, Martech Station, Atlanta GA 30318. W.T.C. ALGAECIDE AND ALGAL SLICIDICIDE "2500". Active Ingredients: n-Alkyl (80% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 10.0%; n-Alkyl (88% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 10.0%. Method of Support: Application proceeds under 2(c) of Interim policy. PM31

EPA File Symbol 3745-GUT. Southern Agricultural Chemicals, Inc., PO Drawer 527, Kingstree SC 29556. DITHANE M-22 DUST. Active Ingredients: Maneb (Manganese Ethylenebis(dithiocarbamate) 1.40%. Method of Support: Application proceeds under 2(c) of Interim policy. PM21

EPA Reg. No. 6730-175. Southern Mill Creek Products Co., Inc., PO Box 1096, Tampa FL 33601. SMCP DURSBAH MOLE CRICK-ET BAIT. Active Ingredients: Chlorpyrifos (0,0-diethyl 0-(3,5,6-trichloro-2-pyridyl) phosphorothioate 0.50%. Method of Support: Application proceeds under 2(c) of Interim policy. PM12

EPA File Symbol 35931-R. Town & Country Pools, 3773 E. Morgan Rd., Ypsilanti MI 48197. HIGH-PO-CHLOR. Active Ingredients: Sodium Hypochlorite 12 1/2%. Method of Support: Application proceeds under 2(c) of Interim policy. PM34

EPA Reg. No. 11687-65. Transvaal, Inc., PO Box 69, Marshall Rd., Jacksonville AR 72076. TRANSVAAL BRUSH-RHAP LV 3D-3T HERBICIDE. Active Ingredients: Isooctyl Ester of 2,4-Dichlorophenoxyacetic Acid (Equivalent to 30.67% or 3 lb./gallon of 2,4-Dichlorophenoxyacetic Acid) 46.24%; Isooctyl Ester of 2,4,5-Trichlorophenoxyacetic Acid (Equivalent to 30.67% or 3 lb./gallon of 2,4,5-Trichlorophenoxyacetic Acid) 44.13%. Method of Support: Application proceeds under 2(c) of Interim policy. PM23

EPA Reg. No. 11687-64. Transvaal, Inc., TRANSVAAL BRUSH-RHAP LV OXY-3D-3T HERBICIDE. Active Ingredients: Butoxyethyl Ester of 2,4-Dichlorophenoxyacetic Acid (Equivalent to 29.9% or 3 lb./gallon of 2,4-Dichlorophenoxyacetic Acid) 43.5%; Butoxyethyl Ester of 2,4,5-Trichlorophenoxyacetic Acid (Equivalent to 29.9% or 3 lb./gallon of 2,4,5-Trichlorophenoxyacetic Acid) 41.7%. Method of Support: Application proceeds under 2(c) of Interim policy. PM23

EPA Reg. No. 11687-22. Transvaal, Inc. TRANSVAAL BRUSH-RHAP OLV-6T HERBICIDE. Active Ingredients: Isooctyl Ester of 2,4,5-Trichlorophenoxyacetic Acid (Equivalent to 61.2% or 6 pounds per gallon of 2,4,5-Trichlorophenoxyacetic Acid) 88.0%. Method of Support: Application proceeds under 2(c) of Interim policy. PM23

EPA Reg. No. 11687-12. Transvaal, Inc. RANSVAAL BRUSH-RHAP OLV-4T HERBICIDE. Active Ingredients: Isooctyl Ester of 2,4,5-Trichlorophenoxyacetic Acid (Equivalent to 45.66% or 4 pounds per gallon of 2,4,5-Trichlorophenoxyacetic Acid) 65.7%. Method of Support: Application proceeds under 2(c) of Interim policy. PM23

EPA File Symbol 36919-R. Union Pool Marts, 2154 Eureka, 8085 Telegraph, Wyandotte MI 48192. KLEAR-KLOR. Active Ingredients: Sodium Hypochlorite 12.5%. Method of Support: Application proceeds under 2(c) of Interim policy. PM34

EPA File Symbol 400-REE. Uniroyal Chemical, Div. of Uniroyal, Inc., Elm St., Naugatuck CT 06770. THIOSTAT M TECHNICAL. Active Ingredients: Disodium ethylene bis(dithiocarbamate) 30%. Method of Support: Application proceeds under 2(c) of Interim policy. PM21

EPA File Symbol 400-REG. Uniroyal Chemical, THIOSTAT MB 5743 TECHNICAL. Active Ingredients: Sodium dimethyl dithiocarbamate 17.2%; Disodium ethylene bis(dithiocarbamate) 17.1%. Method of Support: Application proceeds under 2(c) of Interim policy. PM21

EPA File Symbol 400-REN. Uniroyal Chemical, THIOSTAT B TECHNICAL. Active Ingredients: Sodium dimethyl dithiocarbamate 40%. Method of Support: Application proceeds under 2(c) of Interim policy. PM21

EPA File Symbol 400-RER. Uniroyal Chemical, THIOSTAT BM 5545 TECHNICAL. Active Ingredients: Sodium dimethyl dithiocarbamate 22%; Disodium ethylene bis(dithiocarbamate) 13.5%. Method of Support: Application proceeds under 2(b) of Interim policy. PM21

EPA File Symbol 400-RRO. Uniroyal Chemical, THIOSTAT BM 1515 TECHNICAL. Active Ingredients: Sodium dimethyl dithiocarbamate 15%; Disodium ethylene bis(dithiocarbamate) 15%. Method of Support: Application proceeds under 2(c) of Interim policy. PM21

EPA File Symbol 7401-ETN. Voluntary Purchasing Groups, Inc., PO Box 460, Bonham TX 75418. FERTI-LOME RABBIT & DOG CHASER. Active Ingredients: Naphthalene 15%; Dried Blood 15%; Tobacco Dust (Nicotine 0.35%) 70%. Method of Support: Application proceeds under 2(c) of Interim policy. PM11

EPA File Symbol 5427-AT. Wright Chemical Corp., 1319 Wabasha Ave., Chicago IL 60622. WRICO TQB. Active Ingredients: octyl dodecyl dimethyl ammonium chloride 20.0%; a-bis(tributyltin) oxide 4.0%; Isopropyl alcohol 10.0%. Method of Support: Application proceeds under 2(c) of Interim policy. PM31

EPA File Symbol 1270-ROL. Zep Manufacturing Co., 1310 Seaboard Industrial Bldg., NW, PO Box 2015, Atlanta GA 30301. ZEP X-6075 ALGAECIDE. Active Ingredients: Disodium cyanodithiolimidocarbonate 4.90%; Potassium N-methyldithiocarbamate 6.76%. Method of Support: Application proceeds under 2(b) of Interim policy. PM33

[FR Doc.75-13364 Filed 5-20-75; 8:45 am]

# FEDERAL ENERGY ADMINISTRATION ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT Intention To Issue Prohibition Orders to Certain Powerplants

The Federal Energy Administration ("FEA") hereby gives notice of its intention to issue prohibition orders, pursuant to the authorities granted it by section 2 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA) and in accordance with 10 CFR Parts 303 and 305, to the following powerplants:

Docket No.	Owner	Powerplant No.	Generating station	Location
OPU-048	Wisconsin Public Service Corp.	2	Weston	Rotchford, Wis.
OPU-049	Detroit Edison Co.	5	St. Clair	East China Township, Mich.

FEA hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments on these proposed prohibition orders.

The proposed orders would prohibit the powerplants listed above from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a prohibition order to a powerplant, section 2 of ESECA requires that FEA make certain findings. FEA's initial conclusions with respect to, and rationale in support of, these findings are set out, with respect to each of the powerplants, at the conclusion of this notice. These findings and rationales may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings will be included, with any amendments, in a prohibition order when it is issued.

Upon conclusion of the proceedings described in this notice, FEA may determine to issue prohibition orders to some, or all of the powerplants listed above. These prohibition orders will not become effective, however, (1) until either, (a) the Administrator of the Environmental Protection Agency ("EPA") notifies the FEA, in accordance with section 119(d) (1)(B) of the Clean Air Act, that the powerplant will be able on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a compliance date extension under section 119, or (b) if no notification is given by EPA the date that the Administrator of EPA certifies pursuant to section 119(d)(1)(B) of the Clean Air Act is the earliest date that the powerplant will be able to comply with all applicable air pollution requirements of section 119 of that Act; and (2) until FEA has considered the environmental impact of such order pursuant to § 305.9 of the FEA regulations that implement section 2 of ESECA and has served the affected powerplant a Notice of Effectiveness, as provided in §§ 303.10(b) and 303.37(b) of those regulations. The date the prohibition order will be effective will be stated in the Notice of Effectiveness.

The Notice of Effectiveness will contain a compliance schedule to insure that the powerplant will be able to comply with the prohibition on the burning of natural gas or petroleum products as a primary energy source on the date the order becomes effective.

Public comment on the proposals to issue prohibition orders to the powerplants listed above is invited in the form of written and oral presentation of data, views and arguments. Comments should relate to individual docket numbers and should make clear to which docket number the individual comment is addressed.

Comments should address (1) the adequacy and validity of each of the proposed findings and the rationale in support of the findings; (2) the identification of any site-specific environmental impacts resulting from the proposed prohibition orders that were not identified or described in the Environmental Impact Statement (FES 75-1, dated April 25, 1975) for the FEA program to implement section 2 of ESECA; and (3) any other relevant aspects or impacts of the proposed prohibition order. With respect to comments regarding any impact on air quality that might result from a proposed prohibition order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality, and for determining the applicable air pollution requirements that apply to the powerplant that has been issued an order. It is expected that in almost every case, a powerplant to which a prohibition order is issued will be eligible to apply to EPA for a compliance date extension. In connection with that application, EPA must also provide an opportunity for written comment and oral presentation of data, views and arguments by interested persons. In addition, FEA will make a site-specific environmental analysis after the issuance of each order, but prior to service of the Notice of Effectiveness, and there will be an opportunity for public comment if the analysis indicates that significant site-specific impacts are likely to result from a prohibition order.

If oral presentation is to be made, it is requested that any detailed technical data, views, and arguments be made in written comments submitted in support of the oral presentation, and that the oral presentation itself be a summary of those more detailed comments.

A public hearing on the proposed prohibition orders will be held beginning at 10:30 a.m., c.d.t. on June 2, 1975, in the Federal Building, 219 South Dearborn, Room 2525, Chicago, Illinois 60603, to receive oral presentation of data, views

and arguments from interested persons. Any person who has an interest in the subject of the hearing, or who is a representative of a group or class of persons which has an interest in the subject of the hearing, may make a written request, or a verbal request if confirmed in writing, for an opportunity to make oral presentation. That request should be directed to David Stein, FEA Region V, 175 West Jackson Boulevard, Room A-342, Chicago, Illinois 60604, (312) 353-0542 and must be received before 4:30 p.m. c.d.t., May 28, 1975. The request may be hand-delivered to David Stein 175 West Jackson Boulevard, Room A-342, Chicago, Illinois between the hours of 8 a.m. and 4:30 p.m. c.d.t., Monday through Friday. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through May 30, 1975. Each person selected to be heard will be so notified by the FEA by 4:30 p.m. c.d.t., May 29, 1975, and must submit a minimum of 20 copies of the statement to David Stein, 175 West Jackson Boulevard, Room A-342, Chicago, Illinois 60604 before 4:30 p.m., May 30, 1975.

The FEA reserves the right to limit the number or representatives of a particular group or class of persons to be heard at the hearing, to schedule their or other person's presentations, and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. It will not be a judicial or evidentiary-type hearing. During an oral presentation, questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons making oral presentations. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making an oral presentation at the hearing to FEA Region V, David Stein, 175 West Jackson Boulevard, Room A-342, Chicago, Illinois 60604, before 9:00 a.m. c.d.t., June 2, 1975. Any person who makes an oral statement or any other person who wishes to ask a question at the hearing may submit the questions, in writing, to the presiding officer. The FEA, or the presiding officer if the question is submitted at the hearing, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules necessary for the proper conduct of the hearing will be announced by the presiding officer.



A transcript of the hearing will be made and the entire record of the hearing, including the transcript will be retained by the FEA and made available for inspection at the FEA Region V, Room A-333, 175 West Jackson Boulevard, Chicago, Illinois, and FEA Administrator's Reception Area, Room 3400, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, or arguments with respect to the proposed prohibition order to Executive Communications, Federal Energy Administration, Box DD, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope in which they are transmitted and on other documents submitted to FEA Executive Communications with the designation "Proposed Prohibition Order for the \_\_\_\_\_ Powerplant." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., e.d.t., June 4, 1975, all oral presentations and all other relevant information submitted to or otherwise available to FEA will be considered by FEA prior to issuance of any prohibition order.

**Supplemental comment period.** To facilitate the submission of data, views and arguments to supplement either the oral presentation or written comments, FEA shall keep the record of the public hearing open for a period of 10 days from the first day of the public hearing. Such supplementary written data, views or argument shall be filed with Executive Communications, Federal Energy Administration, Box DD, Washington, D.C. 20461. In the event that such supplementary data, views or argument can only be submitted by oral presentation, a verbal request for a conference, in accordance with 10 CFR 303.171, shall be submitted to David Stein, FEA Region V, 175 West Jackson Boulevard, Room A-342, Chicago, Illinois 60604, (312) 353-0542. To ensure that FEA receives the transcript of such oral presentation before the record closes, any oral presentation must be made within 8 days from the first day of the public hearing.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

The sections of ESECA that are relevant to the proposed prohibition orders are stated below:

#### SECTION 1. Short-Title; purpose.

(b) The purposes of this Act are (1) to provide for a means to assist in meeting the essential needs of the United States for fuels, in a manner which is consistent, to the fullest extent practi-

cable, with existing national commitments to protect and improve the environment . . . .

SEC. 2. *Coal conversion and allocation.* (a) The Federal Energy Administrator—

(1) Shall by order, prohibit any powerplant, and

(2) May, by order, prohibit any major fuel burning installation, other than a powerplant, from burning natural gas or petroleum products as its primary energy source, if the Federal Energy Administrator determines such powerplant or installation on the date of enactment of this Act (June 22, 1974) has the capability and necessary plant equipment to burn coal, and if the requirements of subsection (b) are met.

(b) The requirements referred to in subsection (a) are as follows:

(1) An order under subsection (a) may not be issued with respect to a powerplant or installation unless the Federal Energy Administrator finds (A) that the burning of coal by such plant or installation, in lieu of petroleum products or natural gas, is practicable and consistent with the purposes of this Act, (B) that coal and coal transportation facilities will be available during the period the order is in effect, and (C) in the case of a powerplant, that the prohibition under subsection (a) will not impair the reliability of service in the area served by such plant. Such an order shall be rescinded or modified to the extent the Federal Energy Administrator determines that any requirement described in subparagraph (A), (B), or (C) of this paragraph is no longer met; and such an order may at any time be modified if the Federal Energy Administrator determines that such order, as modified, complies with the requirements of this section.

(3) (A) Before issuing an order under subsection (a) which is applicable to a powerplant or installation after June 30, 1975 (or modifying an order to which paragraph (2) applies, so as to apply such order to a powerplant or installation after such date), the Federal Energy Administrator shall give notice to the public and afford interested persons an opportunity for oral and written presentations of data, views, and arguments.

(B) An order (or modification thereof) described in subparagraph (A) of this paragraph shall not become effective until (i) the Administrator of the Environmental Protection Agency notifies the Federal Energy Administrator under section 119(d)(1)(B) of the Clean Air Act that such plant or installation will be able on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a compliance date extension under section 119(c) of such Act, or (ii) if such notification is not given, the date which the Administrator of the Environmental Protection Agency certifies pursuant to section 119(d)(1)(B) of such Act is the earliest date that such plant or installa-

tion will be able to comply with all applicable requirements of such section 119. Such order (or modification) shall not be effective during any period certified by the Administrator of the Environmental Protection Agency under section 119(d)(3)(B) of the Act.

(e) For purposes of this section:

(1) The term "powerplant" means a fossil-fuel fired electric generating unit which produces electric power for purposes of sale or exchange.

(2) The term "coal" includes coal derivatives.

(f) (1) Authority to issue orders or rules under subsections (a) through (d) of this section shall expire at midnight, June 30, 1975. Such a rule or order may take effect at any time before January 1, 1979.

(2) Authority to amend, repeal, rescind, modify, or enforce such rules or orders shall expire at midnight, December 31, 1978; but the expiration of such authority shall not affect any administrative or judicial proceeding which relates to any act or omission which occurred prior to January 1, 1979.

Copies of the FEA regulations implementing section 2 of ESECA (10 CFR Parts 303, 305, and 307) are available from the FEA Regional Office, 175 West Jackson Boulevard, Room A-342, Chicago, Illinois 60604 (312) 353-0542.

Any questions regarding this notice should be directed to David Stein, FEA Region V, 175 West Jackson Boulevard, Chicago, Illinois 60604 (312) 353-0542. (Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93-319); Federal Energy Administration Act of 1974 (Pub. L. 93-275); E.O. 11790 (39 FR 23185)).

Issued in Washington, D.C., May 15, 1975.

ROBERT E. MONTGOMERY, JR.,  
General Counsel,  
Federal Energy Administration.

1. OPU-048, WISCONSIN PUBLIC SERVICE CORPORATION, POWERPLANT #2, GENERATING STATION—WESTON, ROTCHILD, WISCONSIN

(a) Proposed findings and rationale for findings:

1. *Capability and necessary plant equipment finding.* Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that on June 22, 1974, this powerplant had the capability and necessary plant equipment to burn coal. This proposed finding is based on facts, interpretations and assumptions stated below:

(A) This powerplant had in place, on June 22, 1974 a boiler that was capable of burning coal, in that such boiler had been designed and constructed, or had been modified to enable it to burn coal as its primary energy source, or to burn coal and another fossil fuel interchangeably as its primary energy source, notwithstanding the fact that on June 22, 1974, such powerplant may not have been burning coal as its primary energy source.

(B) Based on information filed with FEA on March 13, 1975 by the Wisconsin Public Service Corporation, the following significant equipment or facilities have to be acquired or substantially refurbished:

1. Two long retractable soot blowers in the superheater section;

2. Two stationary soot blowers in the economizer section.

FEA assumes that on June 22, 1974, this powerplant had all other significant equipment and facilities associated with the burning of coal.

(C) Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph (B) do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

(ii) *Burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that the burning of coal by the powerplant in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This proposed finding is based on the facts, interpretations and assumptions stated below.

(A) The powerplant has acquired or modified, or is currently acquiring or modifying the equipment and facilities necessary for the burning of coal as its primary energy source, and such actions are not being undertaken as a result of (or in contemplation of) the issuance of a prohibition order. These acquisitions or modifications include those necessary for compliance with the requirements of Clean Air Act.

(B) The costs associated with the acquisitions or modifications necessary for the burning of coal are identified in the Wisconsin Public Service Corporation's current and prospective budgetary plans.

(C) (1) FEA assumes that the decision by the Wisconsin Public Service Corporation to acquire or modify such equipment and facilities in order to burn coal as a primary energy source was based on an analysis of the financial capability of such corporation to assume such costs (including the requirement to obtain a rate increase) and, therefore the conclusion by such corporation that the burning of coal in lieu of petroleum products is practicable.

(2) If the Wisconsin Public Service Corporation has found that the burning of coal in lieu of petroleum products or natural gas is practicable, FEA proposes to find that the burning of coal by such powerplant is practicable within the meaning of ESECA and the regulations promulgated thereunder.

(A) The issuance of this proposed prohibition order will discourage the use of natural gas or petroleum products and encourage the increased use of coal, and such order is a means that, by virtue of the necessity for the powerplant to com-

ply with the Clean Air Act and other applicable environmental protection requirements, is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

(iii) *Coal and coal transportation facilities will be available during the period the prohibition order is in effect.* Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that coal and coal transportation facilities will be available to this powerplant during the period until December 31, 1978. The period until December 31, 1978 is the period during all or part of which the prohibition order to which these findings relate will be in effect. This proposed finding is based upon the following facts, interpretations and assumptions:

(A) (1) It is estimated that it will be practicable to produce coal nationally as follows:

Year:	Production (million tons)
1975	662
1976	679
1977	707
1978	735

(2) The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	640
1976	664
1977	688
1978	716

(3) The estimated additional national demand for coal resulting from the prohibition order to which this finding relates, and from FEA actions under authority of section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	7
1976	4.0
1977	13.6
1978	16.2

(4) Coal of the specific type required for use by this powerplant has been identified in the reserves of the Northern and Southern Appalachian, Midwest, Gulf, and Northern Great Plains, coal supply regions, which consist of Bureau of Mines Districts 1-15, 19, 21, and 22.

(5) It is estimated that it will be practicable to produce coal from these coal supply regions as follows:

Year:	Production (million tons)
1975	624
1976	635
1977	657
1978	679

(6) The regional and national production estimates stated in items (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately 4 percent. A 1975 study by the Bureau of Mines of the Department of the Interior indicates a national surge capacity of approximately 6 per-

cent. In response to an industry survey in late 1974, the coal industry itself indicated that it had a surge capacity of up to 8 percent. By comparison, the increased national demand for coal resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA, is less than one tenth of a percent in 1975, increasing to a maximum of 2.3 percent in 1978 of estimated national demand stated in item (2). A market survey of traditional coal suppliers to FEA Region 5 consumers indicates that there is ample production capability to support increased demand for coal from this region resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA.

(7) No State or local laws or policies which would limit the extraction of this coal have been found by FEA or brought to FEA's attention.

(8) The estimated demand for coal from these supply regions, excluding any increased demand resulting from FEA actions under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	602
1976	621
1977	640
1978	660

(9) The estimated additional demand for coal from these supply regions resulting from the prohibition order to which this finding relates and from other FEA orders under section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	7
1976	3.9
1977	13.4
1978	16.0

(10) On the basis of the above information, FEA proposes to find that the estimated production of coal of the specific type required for use by this powerplant exceeds the estimated demand for such coal by amounts adequate to support a conclusion that such coal will be available to this powerplant during the period until December 31, 1978.

(1) Adequate rail facilities exist between these coal supply regions and the powerplant to transport the coal that will be used by such powerplant pursuant to this order.

(2) There is a spur line which will be able to deliver this coal from the main rail line to this powerplant.

(3) Sufficient rolling stock will be available to the Baltimore and Ohio Railroad or the Chicago-Milwaukee and St. Paul and Pacific Railroads for transporting this coal during the period until December 31, 1978.

(iv) *The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplant.* Based on an analysis of the information submitted to or otherwise available to FEA, and after consultation with the Federal



Power Commission, FEA proposes to find that the prohibition of the Weston #2 powerplant of the Wisconsin Public Service Corporation from burning natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by such powerplant. This finding is based on the facts, assumptions and interpretations stated below:

#### INTERCONNECTIONS AND POWER DISPATCHING

(1)(a) The Weston Powerplant #2 is within the geographical area of the Mid-America Interpool Network (MAIN) regional electric reliability council.

(b) It is interconnected with and its operations and planning are coordinated with the Wisconsin Power Pool.

(c) Dispatching of electric power is controlled by Wisconsin Public Service Corporation.

(2) The subject powerplant now uses coal on a regular basis. When gas has been available the powerplant has used gas.

(3) No reconversion or outage time for reconversion is necessary, other than three days scheduled in June 1975. (B) For the reasons set forth above, the FEA finds that the burning of coal by Weston #2 powerplant, in lieu of petroleum products or natural gas will not result in the impairment of the reliability of service within the area served within the meaning of ESECA and the regulations promulgated pursuant thereto.

2. OFU-049, DETROIT EDISON COMPANY, POWERPLANT #5, GENERATING STATION—ST. CLAIR, E. CHINA TOWNSHIP, MICHIGAN

(a) Proposed findings and rationale for findings.

1. *Capability and necessary plant equipment finding.* Based on an analysis of the information submitted to or otherwise available to FEA, FEA hereby proposes to find that on June 22, 1974, this powerplant had the capability and necessary plant equipment to burn coal. This proposed finding is based on facts, interpretations and assumptions stated below:

(A) This powerplant had in place, on June 22, 1974, a boiler that was capable of burning coal, in that such boiler had been designed and constructed, or had been modified to enable it to burn coal as its primary energy source, or to burn coal and another fossil fuel interchangeably as its primary energy source, notwithstanding the fact that on June 22, 1974, such powerplant may not have been burning coal as its primary energy source.

(B) Based on information filed with FEA on April 11, 1975 by the Detroit Edison Company, the following significant equipment or facilities would have to be acquired or substantially refurbished:

1. I. D. Fans;
2. Cyclones, primary furnace and floor;
3. Ductwork;
4. Soot-blowing equipment;
5. Flyash system;
6. Bottom ash and slag tap;
7. Coal handling and feeder systems;
8. Control and electrical equipment.

FEA assumes that on June 22, 1974, this powerplant had all other significant equipment and facilities associated with the burning of coal.

(C) Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph (B) do not individually or in combination constitute a lack of capability and necessary equipment to burn coal as of June 22, 1974.

(f) *Burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* Based on an analysis of the information submitted or otherwise available to FEA, FEA proposes to find that the burning of coal by the powerplant, in lieu of petroleum products or natural gas, is practicable and consistent with the purposes of ESECA. This proposed finding is based on the facts, interpretations and assumptions stated below:

(1) *Revenue requirements.* (a) The investment costs that result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal by the powerplant are estimated to be approximately \$14,090,000. This estimate is based on existing FEA information and on information filed with the FEA by the company concerning items of equipment and facilities that would have to be acquired or refurbished and the costs of such acquisition or refurbishment.

(b) Costs of acquisition or refurbishing equipment are allocated as follows:

(A) \$7,140,000 to comply with air pollution control requirements of the Clean Air Act.

(B) \$6,950,000 to make those technical plant and equipment adjustments associated with the burning of coal, as well as to comply with environmental requirements other than those imposed by the Clean Air Act.

(b) The increase in operating costs other than fuel costs that result from the burning of coal are estimated to be approximately \$397,000 per year.

(c) (i) The price of petroleum products available to the powerplant is approximately \$1.85 to \$1.95 per million Btu's. The price of coal of the type used by the powerplant is approximately \$.90 to \$1.00 per million Btu's. The burning of coal by the powerplant will result in a reduction of \$.85 to \$1.05 per million Btu's or \$15 to \$19 million per year.

(ii) The Michigan Public Utility Commission permits the inclusion of increased fuel costs in the rate base through a fuel adjustment clause and, if there is a decrease in the cost of fuel as a result of burning coal, there will be a decrease in such rate base.

(d) The total annual incremental increase in revenue requirements resulting from costs associated with burning coal as opposed to oil is \$3,537,000.

(2) *Financial capabilities.* (a) Based on the most recent financial statements and capital expenditure programs of the Detroit Edison Company as well as other information available to FEA, it has been determined that the prohibition order for the powerplant is practicable. This

financial assessment included an evaluation of generally accepted financial ratios; effects on capitalization as a result of the costs of burning coal; impact on current and future construction programs; and possible impacts on rates. This assessment incorporated, but was not limited to, consideration of: the \$14.1 million investment requirement (or .5%) in relation to net property and plant of the company of \$3.1 billion and 1975-1977 construction budget of the company of \$1.08 billion (or 1.3%); the total capitalization of the company of \$2.7 billion; the change in 1974 to 1975 construction budgets of \$362 million to \$252 million; and the 20 years remaining useful life of the plant. These assessments, the above findings, and other evaluations of the general financial health of the company were the basis of this finding.

(b) Because this prohibition order will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to find that its issuance will be consistent with the purpose of ESECA "to provide a means to assist in meeting the essential needs of the United States for fuels." Further, on the basis of the environmental analyses conducted by FEA, the analyses of air quality impacts which EPA is required to conduct prior to effectiveness of a prohibition order, as well as the necessity for the powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to find that the prohibition order is also consistent with the purpose of ESECA to provide for a means to meet the Nation's essential fuel needs "in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment."

(iii) *Coal and coal transportation facilities will be available during the period the prohibition order is in effect.* Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that coal and coal transportation facilities will be available to this powerplant during the period until December 31, 1978. The period until December 31, 1978 is the period during all or part of which the prohibition order to which these findings relate will be in effect. This proposed finding is based upon the following facts, interpretations, and assumptions:

A(1) It is estimated that it will be practicable to produce coal nationally as follows:

Year:	Production (million tons)
1975	662
1976	679
1977	707
1978	735

(2) The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	640
1976	664
1977	698
1978	716

(3) The estimated additional national demand for coal resulting from the prohibition order to which this finding relates, and from FEA actions under authority of section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	.7
1976	4.0
1977	13.6
1978	16.2

(4) Coal of the specific type required for use by this powerplant has been identified in the reserves of the Northern and Southern Appalachian, Mid West, Gulf, and Northern Great Plains Coal Supply Regions, which consist of Bureau of Mines District 1-15, 19, 21, and 22.

(5) It is estimated that it will be practicable to produce coal from these coal supply regions as follows:

Year:	Production (million tons)
1975	624
1976	665
1977	657
1978	679

(6) The regional and national production estimates stated in items (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately 4 percent. A 1975 study by the Bureau of Mines of the Department of the Interior indicates a national surge capacity of approximately up to 6 percent. In response to an industry survey in late 1974, the coal industry itself indicated that it had a surge capacity of up to 8 percent. By comparison, the increased national demand for coal resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA, is less than one tenth of a percent in 1975, increasing to a maximum of 2.3 percent in 1978 of estimated national demand stated in item (2). A market survey of traditional coal suppliers to FEA Region V consumers indicates that there is ample production capability to support increased demand for coal from this region resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA.

(7) No State or local laws or policies which would limit the extraction of this coal have been found by FEA or brought to FEA's attention.

(8) The estimated demand for coal from these supply regions, excluding any increased demand resulting from FEA actions under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	602
1976	621
1977	640
1978	660

(9) The estimated additional demand for coal from these supply regions result-

ing from the prohibition order to which this finding relates and from other FEA orders under section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	.7
1976	3.9
1977	13.4
1978	16.0

(10) On the basis of the above information, FEA proposes to find that the estimated production of coal of the specific type required for use by this powerplant exceeds the estimated demand for such coal by amounts adequate to support a conclusion that such coal will be available to this powerplant during the period until December 31, 1978.

B(1) Adequate rail and barge facilities exist between these coal supply regions and the powerplant to transport the coal that will be used by such powerplant pursuant to this order.

(2) There is a spur line and waterway which will be able to deliver this coal to this powerplant.

(3) Sufficient rolling stock will be available to the Burlington Northern and sufficient barges will be available to the Detroit Edison Company for transporting this coal during the period until December 31, 1978.

(iv) *The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplant.* Based on an analysis of the information submitted to or otherwise available to FEA, and after consultation with the Federal Power Commission, FEA proposes to find that the prohibition of the St. Clair #5 powerplant of the Detroit Edison Company from burning natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by such powerplant. This finding is based on the facts,

Powerplant designation	Fuel	Type of change	Capacity change	Status and effective date
Karn No. 4....	Oil.....	Addition.....	+663 MWe.....	Under construction start of commercial operation December 1976.

(4) *Scheduled outages.* (a) A scheduled outage of 8 months is estimated to be required to make any modification, installation or other physical adjustment associated with cessation of the burning of natural gas or petroleum products as the powerplant primary energy source. Immediately following modification during on-line testing and adjustment, the powerplant will be less than fully dependable. This period should not exceed 30 days.

Modifications are forecast to commence approximately September 1, 1976, and to be complete and fully tested by May 1, 1977.

(b) Planned maintenance of other powerplants and nuclear plant refueling during the period the powerplant will be implementing the herein prohibition order within the dispatching system will

assumptions and interpretations stated below:

(A) (1) *Interconnections and power dispatching.* (a) The St. Clair Unit #5 is within the geographical area of the East Central Area Reliability Coordination Agreement (ECAR) regional electric reliability council.

(b) It is interconnected with and its operations and planning are coordinated with the Detroit Edison Company and Consumers Power Company which form the Michigan Electric Coordination System (MECS) power pool.

(c) Dispatching of electric power is controlled by MECS.

(d) "Dispatching system" as used later in this finding means MECS.

(2) *Forecast peak loads.* (a) Forecast of peak loads for the dispatching system during the year in which the Detroit Edison Company is expected to be implementing the herein prohibition order is as follows:

Fall Load Period (Sept.-Nov.) 1976, Peak 11085 MWe Sept.  
Winter Load Period (Dec.-Feb.) 1976-77, Peak 10670 MWe Jan.  
Spring Load Period (March-May) 1977, Peak 10180 MWe April.  
Summer Load Period (June-Aug.) 1977, Peak 12720 MWe Aug.

(b) The peak loads forecast have been compared with peak loads in previous similar periods and the compound load growth rate for these forecasts is 6.6 percent, which is considered reasonable.

(3) *Capacity.* (a) The present net dependable capacity of all powerplants of the dispatching system that now are engaged in the sale or exchange of electric power is 15234 MWe.

(b) Additions, retirements, and powerplant ratings during the period in which Detroit Edison Company will be implementing the herein prohibition order, as listed below, will cause the following changes in net dependable capacity or such dispatching system:

cause an average of about 630 MWe to be unavailable.

(5) *Net dependable capacity.* The forecast net dependable capacity for the dispatching system during the period (shown as quarter years) in which the powerplant is expected to be implementing the herein prohibition order and the next quarter following is:

Fall 1976..... 15234 MWe  
Winter 1976-77..... 15697 MWe  
Spring 1977..... 15897 MWe  
Summer 1977..... 15897 MWe

(6) *Gross reserve margin-dispatching system.* (a) The expected minimum gross reserve margin (difference between net system capability and peak load in percent of peak load) of the dispatching system for the load periods specified are as follows:



	Percent
Fall 1976	37.4
Winter 1976-77	48.9
Spring 1977	56.2
Summer 1977	25.0

(b) After deducting the net capacity of units scheduled for maintenance or refueling during these same load periods. The expected minimum reserve margins are:

	Percent
Fall 1976	31.7
Winter 1976-77	43.1
Spring 1977	50.0
Summer 1977	20.0

(7) *Derating.* The St. Clair Unit #5 is projected to have a net dependable capacity of 286 MWe following the commencement of the burning of western bituminous coal as a primary energy source. This is a reduction in capacity of 72 MWe, in relation to its capacity using oil as a primary energy source.

(8) *System stability.* Available information regarding system stability for the dispatching system has been evaluated for each of the load periods stated in paragraph (5) and the issuance of a prohibition order to the powerplant will not cause a significant system stability problem.

(B) *Reliability of service.* (1) The estimated gross reserve margin of the dispatching system during the implementation period associated with the commencement of the burning of coal as primary energy source is forecast to range between 20.0% and 50.0%, depending upon the date of the period of powerplant outage. By scheduling the implementation period during the Winter and Spring load period, the estimated gross dispatching system's reserve margin will be above 43 percent, and the Federal Power Commission considers this to be an acceptable reserve margin.

(2) If dispatching system conditions at the time of the implementation period are as presently forecast by FEA in this finding, there will be no impairment of reliability of service, within the meaning of ESECA and the regulations promulgated thereunder, in the area served by Detroit Edison Company.

(3) Existing transmission system interconnections with other utilities are presently scheduled to transfer approximately 630 megawatts from the dispatching system; with the capacity to transfer approximately 3000 additional megawatts of power into or from the dispatching system. This capacity will provide emergency resource of electric power during the implementation period and will enhance the reliability of service.

(4) The 20 percent derating resulting from the burning of coal as the primary energy source will not impair the reliability of service within the meaning of ESECA and the regulations promulgated thereunder, in the area served by the powerplant.

[FR Doc.75-18263 Filed 5-16-75; 8:45 am]

## FEDERAL MARITIME COMMISSION

SEA-LAND SERVICE, INC. AND MAHER TERMINALS, INC.

## Agreements Filed

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before June 10, 1975. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

## Notice of Agreement Filed by:

Gary R. Edwards, Esq.  
Ragan & Mason  
The Farragut Building  
900 Seventeenth Street NW.  
Washington, D.C. 20006

Agreement No. T-3093, between Sea-Land Service, Inc., (Sea-Land) and Maher Terminals, Inc., (Maher) provides for the interchange of container handling cranes between Sea-Land and Maher. In consideration of the agreement Sea-Land and Maher will share equally the expense incurred to effect the interchange of cranes. The cranes shall be available for interchange whenever a crane is not being used by its owner or undergoing maintenance.

By Order of the Federal Maritime Commission.

Dated: May 15, 1975.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc.75-13330 Filed 5-30-75; 8:45 am]

PRUDENTIAL LINES INC. AND WATERMAN STEAMSHIP CORP.

## Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before June 10, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

## Notice of Agreement Filed by:

J. R. Leyh, Assistant Secretary  
Waterman Steamship Corporation  
910 17th Street NW.  
Washington, D.C. 20006

Agreement No. 10127-1, between Waterman Steamship Corporation and Prudential Lines, Inc., modifies the approved basic Equipment Interchange Agreement which permits the lines to interchange barges and related equipment in conjunction with their LASH operations, by amending said agreement in its entirety, essentially incorporating therein the present provisions of the basic agreement, and by including various new provisions as set forth in the agreement.

By Order of the Federal Maritime Commission.

Dated: May 14, 1975.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc.75-13330 Filed 5-20-75; 8:45 am]

OCEANIC CRUISES DEVELOPMENT, INC. AND/OR ORIENT OVERSEAS SERVICES, INC.

## Order of Revocation

Certificate of financial responsibility for indemnification of passengers for

nonperformance of transportation No. P-122 and certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages No. C-1,118.

Whereas, Oceanic Cruises Development, Inc. and/or Orient Overseas Line, Inc. (Orient Overseas Line) have ceased to operate the passenger vessel Oriental President.

It is ordered, That Certificate (Performance) No. P-122 and Certificate (Casualty) No. C-1,118 covering the Oriental President be and are hereby revoked effective May 12, 1975.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served on the Certificants.

By the Commission, May 12, 1975.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc.75-13331 Filed 5-20-75; 8:45 am]

## FEDERAL POWER COMMISSION

[Docket No. CS71-523, etc.]

C. H. LYONS, JR., ET AL.  
Applications for Small Producer  
Certificates<sup>1</sup>

MAY 14, 1975.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 11, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required

<sup>1</sup> This notice does not provide for consolidation for hearing of the several matters covered herein.

herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

Docket No.	Date filed	Applicant
CS71-523	Apr. 24, 1974	C. H. Lyons, Jr., executor, Suite 1500, Beck Bldg., Shreveport, La. 71101.
CS72-553	Apr. 28, 1975	W. D. Greenshields, P.O. Box 630, Ponca City, Okla. 74601.
CS75-438	Apr. 21, 1975	T. Jack Foster Trust "A", P.O. Box 4100, Foster City, Calif. 94404.
CS75-439	do	Dan L. Duncan, 1100 Milam, Suite 2900, Houston, Tex. 77002.
CS75-440	do	Joe D. Havens, 1100 Milam, Suite 2900, Houston, Tex. 77002.
CS75-441	Apr. 22, 1975	Hunter Oil Corp., P.O. Box 9168, Amarillo, Tex. 79105.
CS75-442	Apr. 23, 1975	Langford Drilling Co., 906 City National Bldg., Wichita Falls, Tex. 76301.
CS75-443	do	Wayne L. Kirkman, P.O. Box 18148, Wichita, Kans. 67218.
CS75-444	Apr. 24, 1975	Andrade Trusts No. 1910-15, P.O. Box 241, Dallas, Tex. 75221.
CS75-445	do	George L. Herrell, 1500 Beck Bldg., Shreveport, La. 71101.
CS75-446	do	Richard J. Davenport, 1500 Beck Bldg., Shreveport, La. 71101.
CS75-447	do	John Michael Hilliard, 1500 Beck Bldg., Shreveport, La. 71101.
CS75-448	do	Bayou Land & Mineral Co., Inc., P.O. Box 1713, Shreveport, La. 71166.
CS75-449	Apr. 25, 1975	The Olean Freres Corp., 224 1 Bala Cynwyd Plaza, Bala Cynwyd, Pa. 19004.
CS75-450	do	Penn Resources, Inc. 72, 224 1 Bala Cynwyd Plaza, Bala Cynwyd, Pa. 19004.
CS75-451	do	Bryn Mawr Resources, Inc., 224 1 Bala Cynwyd Plaza, Bala Cynwyd, Pa. 19004.
CS75-452	do	James W. Staples, P.O. Box 76, Tuleta, Tex. 78162.
CS75-453	Apr. 28, 1975	Panther Oil Co., 900 American National Bank Bldg., Amarillo, Tex. 79101.
CS75-454	do	Salt Fork Producers, Inc., P.O. Box 902, Blackwell, Okla. 74631.
CS75-455	do	Hays Oil Co., 1312 Midland Savings Bldg., Midland, Tex. 79701.
CS75-456	May 1, 1975	Patricia R. Dixon, 8215 Avalon Pl., Houston, Tex. 77019.
CS75-457	Apr. 25, 1975	Hellon Fox Wright Rogers et al., 3875 Sleepy Hollow, Jackson, Miss. 39211.
CS75-458	May 2, 1975	Great Lakes Chemical Corp., P.O. Box 2200 (Highway 52 N.), West Lafayette, Ind. 47906.
CS75-459	do	Hulsache Operating Co., 1540 Bank & Trust Tower, Corpus Christi, Tex. 78401.
CS75-460	do	D. A. Kimbell, 800 Oil and Gas Bldg., Wichita Falls, Tex. 76301.
CS75-461	do	Amelia Mae Evans, P.O. Box 1252, Kilgore, Tex. 75662.
CS75-462	do	O. T. Kimbell, 800 Oil and Gas Bldg., Wichita Falls, Tex. 76301.

Docket No.	Date filed	Applicant
CS75-463	do	Hunter Parks, P.O. Box 1252, Kilgore, Tex. 75662.
CS75-464	do	Cynthia Gay Follard, P.O. Box 1252, Kilgore, Tex. 75662.
CS75-465	do	J. B. Hinkle, d.b.a. Hinkle Oil Co., 1016 Union Center Bldg., Wichita, Kans. 67202.
CS75-466	do	Williams Well Surveys, Inc., 3105 Grand Central Ave., Vienna, W. Va. 26105.
CS75-467	May 5, 1975	Jarrett Oil Co., P.O. Box 7151, Amarillo, Tex. 79105.
CS75-468	do	Gas Systems, Inc., 1308 Continental National Bank, Fort Worth, Tex. 76102.

<sup>1</sup> Petition to amend to substitute C. H. Lyons, Jr., executor, in lieu of C. H. Lyons, Sr., deceased.  
<sup>2</sup> Petition to amend to include W. D. Greenshields, Inc. under applicant's small producer certificate.

[FR Doc.75-13233 Filed 5-20-75; 8:45 am]

[Docket No. R175-138]

## SHELL OIL CO.

Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund

MAY 14, 1975.

Respondent has filed a proposed change in rate and charge for the jurisdictional sale of natural gas, as set forth in Appendix A below.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Chapter II and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column. This supplement shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the Regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.



## NOTICES

## APPENDIX "A"

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until	Cents per Mcf <sup>1</sup>	Rate in effect subject to refund in docket Nos.
RI75-126	Shell Oil Co.	309	23	Montana-Dakota Utilities Co. (Wyoming) (Rocky Mountain).	\$30,447	4-21-75		10-22-75	24.7204	25.7501

<sup>1</sup> Unless otherwise stated, the pressure base is 14.73 psia.  
<sup>2</sup> Production from wells commenced prior to January 1, 1973 only.

The proposed rate increase of Shell exceeds the applicable rate established in Opinion No. 658 and is suspended for five months.

[FR Doc.75-13234 Filed 5-20-75;8:45 am]

[Docket Nos. RI75-139 and RI75-107]  
**TEXACO INC.**

Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund<sup>1</sup>

MAY 14, 1975.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A below.

<sup>1</sup> Does not consolidate for hearing or disposition of the several matters herein.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until	Cents per Mcf <sup>1</sup>	Rate in effect subject to refund in docket Nos.
RI75-139	Texaco Inc.	45	10	Mountain Fuel Supply Co. (Colorado) (Rocky Mountain).	\$613,000	4-14-75	4-14-75	(9)	28.2374	60.8135
			11		47,000	4-14-75	4-14-75	(9)	27.2553	29.8098
			12			4-14-75	4-14-75	(9)	(7)	(9)

<sup>1</sup> Unless otherwise stated, the pressure base is 15.025 lb/in<sup>2</sup> a.  
<sup>2</sup> Unless otherwise stated, the rate shown is the total rate, inclusive of any applicable British thermal unit adjustment of any applicable British thermal unit adjustment and tax.  
<sup>3</sup> Replacement contract dated Dec. 30, 1971, which supersedes contract dated Feb. 1, 1965 (Texaco Inc. R/S No. 45), and Nov. 15, 1967, contract (Texaco Inc. R/S No. 174).

Texaco had previously filed a unilateral rate increase to the national rate for sales under its PPC Gas Rate Schedule No. 45. Although the primary term of Texaco's contract had expired, there was no replacement contract. Hence the sales did not qualify for the national rate under Opinion No. 699, as amended, and Texaco's previous rate increase was suspended until July 9, 1975 in Docket No. RI75-107. Since the parties have now entered into a replacement contract, the sale now qualifies for the national rate. Consequently, the national rate proposed in Supplement No. 11 is acceptable. In addition, Docket No. RI75-107 is now moot and is hereby terminated.

The proposed rate of 29.8098¢ per Mcf contained in Supplement No. 12 exceeds the applicable ceiling rate under Opinion No. 658 and is therefore suspended for five months.

[FR Doc.75-13236 Filed 5-20-75;8:45 am]

[Docket No. E-9420]  
**YANKEE ATOMIC ELECTRIC CO.**  
**Rate Change Filing**

MAY 14, 1975.

Take notice that on May 1, 1975, Yankee Atomic Electric Company (Yankee) tendered for filing an executed contract between Yankee and ten of its eleven owner companies to supersede the presently effective contract dated June 30, 1959 for sale of the net output of Yankee's nuclear power plant at Rowe, Massachusetts. Yankee states that the owner companies' percentage shares of Yankee common stock and of the net output of the plant are as follows:

	Stock percent- age	Power percent- age
New England Power Co.	30.0	30.0
The Connecticut Light & Power Co.	15.0	15.0
Boston Edison Co.	9.5	9.5
Central Maine Power Co.	9.5	9.5
The Hartford Electric Light Co.	9.5	9.5
Western Massachusetts Electric Co.	7.0	7.0
Public Service Co. of New Hampshire	7.0	10.5
Montauk Electric Co.	4.5	4.5
New Bedford Gas & Edison Co.	2.5	2.5
Cambridge Electric Co.	2.0	2.0
Central Vermont Public Service Corp.	2.5	3.5
	100.0	100.0

Yankee states that Central Maine Power Company, not being located in a state adjoining Massachusetts, is not en-

suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder. (C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
 Secretary.

## APPENDIX "A"

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titled to purchase electrical energy from Yankee and that Public Service Company of New Hampshire supplies power to Central Maine in amounts equivalent to 9.5 percent of the net electrical output of the Yankee plant, after appropriate allowance for transmission losses.

According to Yankee, the revised contract provides for the following changes in the present contract:

1. Under the present contract, the ten owner companies taking shares of the net output of the plant (and Central Maine through its contract with Public Service Company of New Hampshire) reimburse Yankee for its total cost of service in proportion to those shares. The cost of service includes a fixed overall return of five percent on net rate base. Under the payment provisions in section 6 of the revised contract, Yankee's charges would reflect instead an overall return on net rate base equal to Yankee's composite cost of debt plus two percent.

2. Section 6 also provides for an interest charge on any payment delayed beyond thirty days after receipt by the customer of a monthly statement and that Yankee may terminate the contract by written notice if payment is delayed beyond six months.

3. Section 6 provides that Yankee's cost of service shall include accruals to any reserve established by Yankee's board of directors to provide for decommissioning the plant on or after July 1, 1991.

4. Section 11 of the new contract gives Yankee the right to amend section 6 by unilateral filing with the Federal Power Commission.

5. The new contract has an expiration date of June 30, 1991 instead of the June 30, 1981 expiration date in the present contract.

6. The new contract provides that the plant shall be subject to central dispatch pursuant to section 12 of the New England Power Pool agreement dated as of September 1, 1971, as from time to time amended.

7. The arbitration clause in section 8 of the new contract is simpler than the arbitration clause in the present contract.

Yankee requests that the enclosed contract be permitted to become effective on June 1, 1975. If any suspension is ordered, Yankee requests that it be for the minimum one day period.

Yankee states that it enclosed with its filing testimony and exhibits including Statements A through N for the 12 month periods ended January 31, 1975 (Period I) and January 31, 1976 (Period II). Yankee says that Statement O is not included since the new contract does not contain a fuel adjustment clause. Since the Price Commission is no longer active according to Yankee, Yankee requests waiver of the requirement for Statement P.

Yankee states that the revenue comparisons submitted by Yankee for the 12 months ended May 31, 1975 indicate an increase of \$4,468,000. Yankee states that the comparisons for the 12 months ended

May 31, 1976 indicate an increase of \$3,994,000 assuming an overall return of 10 percent and \$4,540,000 assuming an overall return of 12 percent.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 23, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
 Secretary.

[FR Doc.75-13232 Filed 5-20-75;8:45 am]

**FEDERAL PREVAILING RATE  
 ADVISORY COMMITTEE  
 COMMITTEE MEETINGS**

Pursuant to the provisions of section 10 of Pub. L. 92-463, effective January 5, 1973, notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, June 5, 1975  
 Thursday, June 12, 1975  
 Thursday, June 19, 1975  
 Thursday, June 26, 1975

The meetings will convene at 10 a.m. and will be held in Room 5A06A, Civil Service Commission Building, 1900 E Street NW., Washington, D.C.

The committee's primary responsibility is to study the prevailing rate system and from time to time advise the Civil Service Commission thereon.

At these scheduled meetings, the committee will consider proposed plans for implementation of Pub. L. 92-392, which law establishes pay systems for Federal prevailing rate employees.

The meetings will be closed to the public on the basis of a determination under section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C., section 552(b)(2), that the closing is necessary in order to provide the members with the opportunity to advance proposals and counter-proposals in meaningful debate on issues related solely to the Federal Wage System with the view toward ultimately formulating advisory policy recommendations for the consideration of the Civil Service Commission.

However, members of the public who wish to do so, are invited to submit material in writing to the Chairman concerning matters felt to be deserving of the committee's attention. Additional information concerning these meetings may be obtained by contacting the Chairman, Federal Prevailing Rate Advisory Com-

mittee, Room 5451, 1900 E Street NW., Washington, D.C. 20415.

DAVID T. ROADLEY,  
 Chairman, Federal Prevailing  
 Rate Advisory Committee.

MAY 15, 1975.

[FR Doc.75-13289 Filed 5-20-75;8:45 am]

**NATIONAL SCIENCE FOUNDATION  
 ADVISORY PANEL FOR METABOLIC  
 BIOLOGY**

**Meeting**

The Advisory Panel for Metabolic Biology will hold a meeting on June 6 & 7, 1975, at 9 a.m. in Room 511 at 1800 G Street, NW., Washington, D.C.

The purpose of this Panel is to provide advice and recommendations as part of the review and evaluation process for specific research proposals that have been assigned to the Metabolic Biology Program. This Panel functions in accordance with the Federal Advisory Committee Act, Pub. L. 92-463.

This meeting will not be open to the public because the Panel will be reviewing, discussing, and evaluating individual research proposals. Also, these proposals contain information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within the exemptions of 5 U.S.C. 552(b)(4), (5), and (6). The closing of this meeting is in accordance with the determination by the Director of the National Science Foundation dated February 21, 1975, pursuant to the provisions of section 10(d) of Pub. L. 92-463.

For further information about this Panel, please contact Dr. Elijah B. Romanoff, Program Director for Metabolic Biology, Room 323, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-4312.

Dated: May 16, 1975.

FRED K. MURAKAMI,  
 Committee Management Officer.

[FR Doc.75-13166 Filed 5-20-75;8:45 am]

**ADVISORY PANEL FOR POLITICAL  
 SCIENCE**

**Meeting**

The Advisory Panel for Political Science will hold a meeting on June 6, 1975, at 9 a.m. in Room 621, 1800 G Street, NW., Washington, D.C.

The purpose of this Panel is to provide advice and recommendations as part of the review and evaluation process for specific research proposals that have been assigned to the Political Science Program. This Panel functions in accordance with the Federal Advisory Committee Act, Pub. L. 92-463.

This meeting will not be open to the public because the Panel will be reviewing, discussing, and evaluating individ-



## NOTICES

ual research proposals. Also, these proposals contain information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within the exemptions of 5 U.S.C. 552(b) (4), (5), and (6). The closing of this meeting is in accordance with the determination by the Director of the National Science Foundation dated February 21, 1975, pursuant to the provisions of section 10(d) of Pub. L. 92-463.

For further information about this Panel, please contact Dr. David C. Leege, Program for Political Science, Room 205, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-4348.

Dated: May 15, 1975.

FRED K. MURAKAMI,  
Committee Management Officer.

[FR Doc. 75-13167 Filed 5-20-75; 8:45 am]

# NUCLEAR REGULATORY ADVISORY COMMITTEE ON REACTOR SAFEGUARDS Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on June 5-7, 1975, in Room 1046, 1717 H Street NW., Washington, D.C.

The following constitutes that portion of the Committee's agenda for the above meeting which will be open to the public:

THURSDAY, JUNE 5, 1975

11:45 a.m.-12:45 p.m. and 1:45 p.m.-3:45 p.m.—Joseph M. Farley Nuclear Plant Units 1 and 2. The Committee will hear presentations by and hold discussions with representatives of the Alabama Power Company and the NRC Staff regarding the application for an Operating License for this facility. This portion of the meeting will include closed sessions if required to discuss proprietary information related to the design, construction and/or operation of this plant. Closed portions will also be held if required to discuss security arrangements for this facility and for Committee deliberative sessions.

4:15 p.m.-8:15 p.m.: Diablo Canyon Site Units 1 and 2. The Committee will hear presentations by and hold discussions with representatives of the Pacific Gas & Electric Company and the NRC Staff regarding the application for an Operating License for this facility. This portion of the meeting will include closed sessions if required to discuss proprietary information related to the design, construction and/or operation of this plant. Closed portions will also be held if required to discuss security arrangements for this facility and for Committee deliberative sessions.

FRIDAY, JUNE 6, 1975

9:30 a.m.-12:30 p.m.: Washington Public Power Supply System Units 1 and 2. The Committee will hear presentations by and

hold discussions with representatives of the applicant and the NRC Staff regarding the request for a Construction Permit for this facility. This portion of the meeting will include closed sessions if required to discuss proprietary information related to the design, construction and/or operation of this plant. Closed portions will also be held if required to discuss security arrangements for this facility and for Committee deliberative sessions.

1:30 p.m.-2:30 p.m.: Meeting with NRC Staff. The Committee will meet with representatives of the NRC Staff to hear presentations and to discuss items related to recent operating experience and licensing actions regarding nuclear power plants.

3:00 p.m.-6:15 p.m.: St. Lucie Plant Unit 1. The Committee will hear presentations by and hold discussions with representatives of the Florida Power and Light Company and the NRC Staff regarding the request for an Operating License for this plant. This portion of the meeting will include closed sessions if required to discuss proprietary information related to the design, construction and/or operation of this plant. Closed portions will also be held if required to discuss security arrangements for this facility and for Committee deliberative sessions.

It should be noted that, in addition to the closed portions of the agenda items noted above, the Committee will hold other sessions not open to the public under the authority of section 10(d) of Pub. L. 92-463 (the Federal Advisory Committee Act), to consider the above applications and other matters. I have determined in accordance with subsection 10(d) of Pub. L. 92-463 that it is necessary to close such portions of the meeting to protect proprietary data (5 U.S.C. 552(b) (4)), and to protect the free interchange of internal views to avoid undue interference with agency or Committee operation (5 U.S.C. 552(b) (5)). Any non-exempt material that may be discussed during the closed portions of the meeting will be inextricably intertwined with discussion of exempt material and no further separation is practical. Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Committee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incomplete open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than May 21, 1975, to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Such written comments shall be based on documents related to the agenda items noted above, and related documents on file and available for public inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and as follows:

Diablo Canyon Site Units 1 and 2  
San Luis Obispo County Free Library  
888 Morro Street (P.O. Box 3)  
San Luis Obispo, California 93406

Joseph M. Farley Nuclear Plant Units 1 and 2  
George S. Houston Memorial Library  
213 W. Vurdeshaw Street  
Dothan, Alabama 36301

St. Lucie Unit 1  
Indian River Junior College Library  
3209 Virginia Avenue  
Ft. Pierce, Florida 33450

Washington Public Power Supply System  
Units 1 and 2  
Richland Public Library  
Swift and Northgate Streets  
Richland, Washington 99352

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Committee. To the extent that the time available for the meeting permits, the Committee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Committee.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Committee, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting or portions of the meeting have been cancelled or rescheduled, and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on June 4, 1975, to the Office of the Executive Secretary of the Committee (Telephone: 202-634-1371) between 8:30 a.m. and 5:15 p.m., et. It should be noted that the schedule noted above is tentative, based on the anticipated availability of related information, etc. It may be necessary to reschedule items during the same day to accommodate required changes. The ACRS Executive Secretary will be prepared to describe these changes on June 4, 1975.

(e) Questions may be propounded only by members of the Committee and its consultants.

(f) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in sessions.

(g) Persons desiring to attend portions of the meeting where proprietary information, other than plant security information, is being discussed may do so by providing to the Executive Secretary 7 days prior to the meeting, a copy of an executed agreement with the owner of the proprietary information providing for access to this information.

(h) A copy of the transcript of the open portions of the meeting will be available for inspection during the following workday at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C. On request, copies of the minutes of the meeting will be made available for inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C. on or after September 3, 1975. Copies may be obtained upon payment of appropriate charges.

Dated: May 19, 1975.

SAMUEL J. CHILK,  
Advisory Committee  
Management Officer.

[FR Doc. 75-13483 Filed 5-20-75; 8:45 am]

## REGULATORY GUIDE Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications per permits and licenses.

Regulatory Guide 7.3, "Procedures for Picking Up and Receiving Packages of Radioactive Material," describes a method acceptable to the NRC staff for licensees to comply with the Commission's regulations with respect to arrangements for receipt, pickup, and monitoring of packages containing radioactive material and with respect to reporting of packages which, on receipt, show evidence of leakage or excessive radiation levels.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed (listed below) or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 7.3 will, however, be particularly useful in evaluating the need for an early revision if received by July 18, 1975.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

Regulatory Guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated.

## NOTICES

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commodated. Regulatory Guides are not copyrighted and Commission approval is not required to reproduce them.

Other Division 7 Regulatory Guides currently being developed include the following:

- Leakage Tests on Packages for Shipment of Radioactive Materials
- Administrative Guide for Obtaining Exemptions from Certain NRC Requirements over Radioactive Material Shipments
- Standard Format for Applications of Part 71 for Packaging of Type B

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 13th day of May 1975.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,  
Acting Director,  
Office of Standards Development.  
[FR Doc. 75-13270 Filed 5-20-75; 8:45 am]

## OFFICE OF MANAGEMENT AND BUDGET CLEARANCE OF REPORTS List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 15, 1975 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

### NEW FORMS

#### ACTION

LRV/UYA reference forms, single-time, individuals, Caywood, D.P., 395-3443.

#### DEPARTMENT OF COMMERCE

Bureau of the Census, Bunker Coal or Fuel Oil Laden on Vessels Cleared for Foreign Countries, Monthly, Customs District Headquarters Ports, Caywood, D.P., 395-3443.

#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration, Evaluation of Specialized Training for Dentists Treating Children with Handicaps, BCHS 0430, single-time, periodontists and general dentists, Human Resources Division, Dick Elisinger, 395-3532.

Social Security Administration, Utah Cost Improvement Project; Provider Interview Guides, SSA-3157, SSA-3158, single-time, hospitals, nurses, Caywood, D.P., 395-3443.

Health Resources Administration, New Jersey Dental Association, Dental Manpower Shortage, area study, BHRD 0428, single-time, dentists, Dick Elisinger, Lowry, R.L., 395-4716.

Office of the Secretary, Mail Questionnaire, OS-29-75, single-time, project director at title VII project, Human Resources Division, Reese, B.F., 395-3532.

Site Director Interview Form, OS-27-75, single-time, title VII Site Managers at Nutrition Sites, Human Resources Division, Reese, B.F., 395-3532.

Outreach Worker Interview Form, OS-28-75, single-time, outreach workers at title VII sites, Human Resources Division, Reese, B.F., 395-3532.

Project Director Project Interview Form, OS-26-75, single-time, project directors of title VII nutrition program, Human Resources Division, Reese, B.F., 395-3532.

Elderly Outreach Activities, Nutrition Program: Project Director Site Interview Form, OS-30-75, single-time, Project Directors of Title VII Program, Human Resources Division, Reese, B.F., 395-3532.

#### DEPARTMENT OF LABOR

Bureau of Labor Statistics, Retail Prices—Initiation and Collection of Food, Commodity and Service Prices, BLS 3400, BLS 3400A, BLS 3400B, BLS 3400C, BALS 3401, monthly, retail establishments, Strasser, A., 395-3880.

#### DEPARTMENT OF THE INTERIOR

Geological Survey, Earthquake Report, on occasion, Postmasters, Lowry, R. L., 395-3772.

#### REVISIONS

COMM. ON REVIEW OF NATIONAL POLICY TOWARD GAMBLING

National Gambling Study Proposal, on occasion, national sample of adults, Hall, George, 395-4097.

#### DEPARTMENT OF COMMERCE

Bureau of the Census, Survey of Gallonage Sales of Gasoline, SG-1, SG-2, SG-3, monthly, retail gasoline service stations, Lowry, R. L., 395-3772.

#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration, Evaluation of the Effectiveness of CHPS Agency Assessments and Technical Assistance Activities, BERD 0410, single-time, staff and associates of 314 (A) and (B) agencies, Human Resources Division, Caywood, D.P., 395-3532.

National Institutes of Health, International Fellowship Application and Instruction Sheets, NIH-FI-1, annually, recent post-doctoral basic medical research scientists, Lowry, R. L., 395-3772.

Virus Cancer Program Serum Bank Inventory Report, NIH-CA-25, on occasion, hospitals and clinics, Caywood, D.P., 395-3443.

#### EXTENSIONS

#### DEPARTMENT OF COMMERCE

Economic Development Administration, Potential Project Report for Field Staff Screening of Business Loan Applicants, ED-233T, on occasion, firms considering new/expanding plants, Caywood, D.P., 395-3443.

PHILLIP D. LARSEN,  
Budget and Management Officer.  
[FR Doc. 75-13488 Filed 5-20-75; 8:45 am]



# GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.;  
Temporary Reg. A-11]

## INCREASE IN MILEAGE ALLOWANCES FOR USE OF PRIVATELY OWNED AUTOMOBILES

### Changes to Federal Travel Regulations

1. *Purpose.* This regulation amends Federal Property Management Regulations 101-7, Federal Travel Regulations, (a) to implement the Travel Expense Amendments Act of 1975 (Pub. L. 94-22, approved May 19, 1975) and (b) to provide for increases in the mileage allowances for use of privately owned automobiles when used in lieu of Government-furnished automobiles.

2. *Effective date.* This regulation is effective for travel performed on or after May 19, 1975.

3. *Expiration date.* This regulation expires May 1, 1976. Prior to expiration, the provisions of this regulation will be incorporated, as appropriate, in the Federal Travel Regulations (FTR), FPMR 101-7.

4. *Applicability.* The provisions of this regulation apply to the official travel of employees of Government agencies as defined in 5 U.S.C. 5701, except employees of the judicial branch.

5. *Background.* a. Pub. L. 94-22, Travel Expense Amendments Act of 1975, hereinafter referred to as the act, authorizes increases in the statutory maximum travel allowances and makes certain other technical and clarifying changes by amending Subchapter 1 of Chapter 57 of Title 5 of the United States Code (5 U.S.C. 5701-5709). It also establishes a new concept of high rate geographical areas to accommodate those areas where unusually high travel costs are incurred. In addition, the act authorizes the Administrator of General Services to provide regulations setting per diem and mileage allowances not to exceed the statutory maximum amounts and to prescribe the conditions of travel and reimbursement.

b. Because of increased costs of operating Government motor vehicles, mileage rates for use of a privately owned vehicle when such use is in lieu of a Government-furnished vehicle are increased.

c. In consonance with the provisions of this regulation, and to achieve maximum uniformity, the General Services Administration (GSA) proposes to publish additional criteria for the computation of per diem rates for official travel including circumstances which require reduced per diem and/or where the lodgings-plus method may not be appropriate. This action will be reflected in a proposed revision to the FTR after a thorough review has been made of the various travel circumstances and agency comments and recommendations.

6. *Explanation of changes.* Provisions stated in attachment A to this regulation amend the FTR for the reasons given below. It should be noted that cer-

tain existing FTR paragraphs have been incorporated for clarity and continuity purposes and to facilitate use of this regulation. The following changes are made in the FTR which are incorporated by reference into 41 CFR Part 101-7 and transmitted by GSA Bulletin FPMR A-40:

a. Paragraph 1-1.2 is revised to clarify the applicability of Chapter 1 of the FTR to include certain experts and consultants and individuals serving without pay or at \$1 a year who were covered under 5 U.S.C. 5703 prior to amendment by the act. These individuals are now considered to be employees for purposes of the administration of travel allowances under Chapter 1. It also specifically excludes employees of the judicial branch of the Government.

b. Paragraph 1-1.3c is amended to add new definitions and to incorporate modified definitions previously in FPMR Temporary Regulation A-9.

c. Paragraph 1-2.2 is revised to incorporate modified provisions of FPMR Temporary Regulation A-9 to clarify the methods and priorities of transportation to be used for official travel.

d. Paragraph 1-4.1c is revised to authorize reimbursement for the cost of airplane parking, landing, and tiedown fees in addition to the mileage allowance.

e. Paragraph 1-4.2 is amended to increase mileage allowances for use of privately owned conveyances when such use is advantageous to the Government.

f. Paragraph 1-4.4 is amended to increase the mileage allowances for use of a privately owned automobile when such use is in lieu of a Government-furnished automobile.

g. Paragraph 1-7.1a is revised for clarification because of the new high rate geographical area provisions in Part 8.

h. Paragraph 1-7.2 is amended to increase the maximum per diem allowance for official travel within the conterminous United States to \$33.

i. Paragraph 1-7.3c is revised to establish a uniform set rate of \$14 for meals and miscellaneous subsistence expenses and to clarify the method to be used in computing the average cost of lodgings.

j. Paragraphs 1-8.1, 1-8.2, and 1-8.3 are revised to increase the maximum allowance for actual subsistence expense travel, to provide for the newly authorized high rate geographical area method, and to include more detailed and uniform guidance for the authorization and reimbursement of actual subsistence expense travel.

k. Paragraph 1-8.6 is added to designate those cities or areas that have been determined to be high rate geographical areas and to prescribe the maximum allowable rate of reimbursement.

l. Paragraph 2-2.3 is amended to increase the maximum allowable mileage rates for use of a privately owned automobile during permanent change of station travel.

m. The table of contents is amended to add the captions of the new paragraphs provided herein through appropriate annotations.

n. The table of contents is amended to add the captions of the new paragraphs provided herein through appropriate annotations.

7. *Assistance.* Agencies may obtain additional information and assistance concerning the provisions of this regulation by contacting the General Services Administration (FZR), Washington, D.C. 20406, telephone: (703) 557-9030.

8. *Effect on other issuances.* FPMR Temporary Regulation A-9 dated February 6, 1974, and Supplement 2 thereto dated January 24, 1975, are canceled. The applicable provisions of the canceled regulation are modified and incorporated herein.

9. *Agency comments.* Comments and recommendations concerning the provisions of this regulation are requested and should be submitted to the General Services Administration (FZ), Washington, D.C. 20406, within 60 calendar days of the effective date of this regulation for possible incorporation into the permanent regulation. Comments are also desired concerning the proposal to prescribe guidance and rates applicable to all agencies for computation of per diem and for travel circumstances that require reduced per diem rates as described in subparagraph 5c. Comments should include descriptions of travel circumstances requiring reduced per diem (especially those situations unique to the agency commenting) and recommendations for specific rates, if appropriate.

ARTHUR P. SAMPSON,  
Administrator of  
General Services.

MAY 19, 1975.

### CHANGES TO FEDERAL TRAVEL REGULATIONS, FPMR 101-7

1. Paragraph 1-1.2 is revised to read as follows:

1-1.2. *Applicability.*

(a) The provisions of this chapter apply to official travel of civilian employees of Government agencies, including civilian employees of the Department of Defense, as authorized under 5 U.S.C. 5701-5709, but excluding employees of the judicial branch of the Government.

(b) The provisions of this chapter also apply to official travel of individuals employed intermittently in the Government service as consultants or experts and paid on a daily when-actually-employed (WAE) basis and of individuals serving without pay or at \$1 a year. These individuals are not considered to have a "permanent duty station" within the general meaning of that term; however, they may be allowed travel or transportation expenses under this chapter while traveling on official business for the Government away from their homes or regular places of business and while at places of Government employment or service. Maximum rates prescribed herein are applicable unless a higher rate is specifically authorized in an appropriation or other statute.

2. Paragraph 1-1.3c is amended by adding new subparagraphs as follows:

1-1.3. *General rules.*

c. *Definitions.*

(3) *Government-furnished automobile.*

The term Government-furnished automobile includes an automobile which is (a) owned by an agency, (b) assigned or dispatched to an agency on a rental basis from a GSA interagency motor pool, or (c) leased by the Government for a period of 30 days or longer from a commercial firm.

(4) *Government-contract rental automobile.* A Government contract rental automobile is an automobile obtained from a commercial firm under the provisions of an appropriate General Services Administration (GSA) Federal Supply Schedule contract.

(5) *Special conveyance.* Special conveyance is any method of transportation other than common carrier, Government-furnished or privately owned, which requires specific authorization or approval for the use thereof. Such transportation generally includes conveyances obtained through commercial rental means for less than 30 days.

(6) *Employee.* As used in this chapter, employee means an individual employed in or under an agency, including an individual employed intermittently in the Government service as an expert or consultant and paid on a daily when-actually-employed (WAE) basis and an individual serving without pay or at \$1 a year.

(7) *Government.* Government means the Government of the United States and the government of the District of Columbia.

(8) *Agency.* Agency means an executive agency; a military department; an office, agency, or other establishment in the legislative branch; and the government of the District of Columbia but does not include a Government-controlled corporation; a member of Congress; or an office or committee of either House of Congress or of the two Houses.

3. Paragraph 1-2.2 is revised as follows:

1-2.2. *Methods of transportation.*

a. *Authorized methods.* Methods of transportation authorized for official travel include railroads, airlines, helicopter service, ships, buses, streetcars, subways, taxicabs; Government-furnished and contract rental automobiles and airplanes; privately owned and rented automobiles and airplanes; and any other necessary means of conveyance.

b. *Selecting method of transportation to be used.* Travel on official business shall be by the method of transportation which will result in the greatest advantage to the Government, cost and other factors considered. In selecting a particular method of transportation to be used, consideration shall be given to energy conservation and to the total cost to the Government, including costs of per diem, overtime, lost work time, and actual transportation costs. Additional factors to be considered are the total distance of travel, the number of points visited, and the number of travelers. 5 U.S.C. 5733 requires that, "The travel of an employee shall be by the most expeditious means of transportation practicable and shall be commensurate with

the nature and purpose of the duties of the employee requiring such travel."

c. *Presumptions as to most advantageous method of transportation.* (1) *Common carrier.* Since travel by common carrier (air, rail, or bus) will generally result in the most efficient use of energy resources and in the least costly and most expeditious performance of travel, this method shall be used whenever it is reasonably available. Other methods of transportation may be authorized as advantageous only when the use of common carrier transportation would seriously interfere with the performance of official business or impose an undue hardship upon the traveler, or when the total cost by common carrier would exceed the cost by some other method of transportation. The determination that another method of transportation would be more advantageous to the Government than common carrier transportation shall not be made on the basis of personal preference or minor inconvenience to the traveler resulting from common carrier scheduling.

(2) *Government-furnished automobiles.* When it is determined that common carrier transportation is not advantageous to the Government and that an automobile is required for official travel, a Government-furnished automobile shall be used whenever it is reasonably available.

(3) *Privately owned conveyance.* Except as provided in 1-2.2d, the use of a privately owned conveyance shall be authorized only when such use is advantageous to the Government. A determination that the use of a privately owned conveyance would be advantageous to the Government shall be preceded by a determination that common carrier transportation or Government-furnished vehicle transportation is not available or would not be advantageous to the Government. To the maximum extent possible, these determinations and the authorization to use a privately owned conveyance shall be made before the performance of travel.

(4) *Special conveyance.* Commercially rented vehicles and other special conveyances shall be used only when it is determined that use of other methods of transportation discussed in 1-2.2c would not be more advantageous to the Government. In the selection of commercially rented vehicles, first consideration shall be given to Government-contract rental vehicles available under an appropriate GSA Federal Supply Schedule contract.

d. *Permissive use of a privately owned conveyance.* When an employee uses a privately owned conveyance as a matter of personal preference and such use is compatible with the performance of official business, although not determined to be advantageous to the Government under 1-2.2c(3), such use may be authorized or approved: *Provided,* That reimbursement is limited in accordance with the provisions of 1-4.

4. Paragraph 1-4.1c is revised as follows:

1-4.1. *Basic rules.*

c. *Other allowable costs.* Reimbursement for parking fees; ferry fees; bridge, road, and tunnel costs; and airplane parking, landing, and tiedown fees shall be allowed in addition to the mileage allowance unless the travel orders or other administrative determinations restrict such allowance.

5. Paragraph 1-4.2 is amended as follows:

1-4.2. *When use of a privately owned conveyance is advantageous to the Government.*

a. *Mileage rate determinations.* When it is determined that use of a privately owned conveyance by the traveler is advantageous to the Government as provided in 1-2.2c(3), the reimbursement mileage rates shall be as follows:

(1) 8 cents per mile for use of a privately owned motorcycle.

(2) 15 cents per mile for use of a privately owned automobile.

(3) 22 cents per mile for use of a privately owned airplane.

c. *To and from common carrier terminals and office.* (1) *Round trip when in lieu of taxicab to carrier terminals.* In lieu of the use of a taxicab under 1-2.3c, payment on a mileage basis at the rate of 15 cents per mile and other allowable costs as set forth in 1-4.1c shall be allowed for the round-trip mileage of a privately owned automobile used by an employee going from either his home or place of business to a terminal or from a terminal to either his home or place of business. However, the amount of reimbursement for the round trip shall not in either instance exceed the taxicab fare, including tip, allowable under 1-2.3c for a one-way trip between the applicable points.

(2) *Round trip when in lieu of taxicab between residence and office on day of travel.* In lieu of the use of taxicab under 1-2.3d, payment on a mileage basis at the rate of 15 cents per mile and other allowable costs as set forth in 1-4.1c shall be allowed for round-trip mileage of a privately owned automobile used by an employee going from his residence to his place of business or returning from place of business to residence on a day travel is performed. However, the amount of reimbursement for the round trip shall not exceed the taxicab fare, including tip, allowable under 1-2.3d for a one-way trip between the points involved.

6. Paragraph 1-4.4 is amended as follows:

1-4.4. *When use of a privately owned conveyance is in lieu of a Government-furnished automobile.*

b. *Reimbursement based on Government costs.* Based upon average rental rates which agencies pay for GSA motor pool automobiles and the administrative



cost to the user agency. It has been determined that the average mileage cost for use of a Government-furnished automobile for travel in the conterminous United States is 11 cents. Therefore, the mileage rate for authorized use of a privately owned conveyance when use of a Government-furnished automobile would be most advantageous to the Government shall be 11 cents. Exceptions to the above limitation may be authorized if an agency determines that, because of unusual circumstances, the cost of providing a Government-furnished automobile would be higher than 11 cents. In such instances the agency may allow reimbursement at such higher rate within the statutory maximum that will most nearly equal the cost of providing a Government-furnished automobile in those circumstances. In addition to mileage for the distance allowed under 1-4.1b, the employee may be reimbursed for expenses authorized under 1-4.1c which would have been incurred if a Government-furnished vehicle had been used.

c. *Partial reimbursement when Government automobile is available.* When an employee who is committed to using a Government-furnished automobile, or who because of the availability of Government-furnished automobiles, would not ordinarily be authorized to use a privately owned conveyance in lieu of a Government-furnished automobile nevertheless requests use of a privately owned conveyance, reimbursement may be authorized or approved. The rate of reimbursement shall be 6 cents per mile, which is the approximate cost of operating a Government-furnished automobile, fixed costs excluded.

d. *Reimbursement claims.* When claiming mileage at the 11 cent rate, the employee shall state on his voucher that he had not made a commitment to use a Government-furnished automobile and that reimbursement for use of a privately owned automobile was not limited under 1-4.4c.

7. Paragraph 1-7.1a is revised as follows:

1-7.1. *Coverage.*  
a. *Travel for which per diem shall be paid.* Per diem allowances under 1-7 shall be paid for official travel except when it is determined that reimbursement should be on the basis of actual subsistence expenses as provided in 1-8.

8. Paragraph 1-7.2 is amended as follows:

1-7.2. *Maximum locality rates.* A per diem allowance in lieu of actual subsistence expenses for travel on official business shall be authorized or approved with the following maximum rates:

a. *Conterminous United States.* Reimbursement for official travel within the limits of the conterminous United States shall be a daily rate not in excess of \$33 except when actual subsistence expenses travel is authorized or approved due to the unusual circumstances of the travel assignment or for travel to a designated

high rate geographical area as provided in 1-8.1.

10. Paragraphs 1-8.1 thru 1-8.3 are revised as follows:

1-8.1. *Authorization or approval.*  
a. *General.* Authority for reimbursement of actual and necessary subsistence expenses incurred during official travel is normally contingent upon the entitlement to per diem (see 1-7) and the determination that the authorized maximum per diem allowance would be inadequate to cover the actual and necessary expenses of the traveler. A traveler may be reimbursed for the actual and necessary expenses of the official travel when the maximum per diem allowance otherwise allowable is determined to be inadequate due to the unusual circumstances of the travel assignment, or for travel to high rate geographical areas. Heads of those agencies defined in 5 U.S.C. 5701, or their designees (see 1-8.3), shall authorize or approve reimbursement for the actual and necessary subsistence expenses of a traveler incurred during official travel in accordance with the provisions of this part.

b. *Travel to high rate geographical areas.* Actual subsistence expense reimbursement shall be authorized or approved whenever temporary duty travel is performed to or in a location designated as a high rate geographical area in 1-8.6, except when the high rate geographical area is only an intermediate stopover point at which no official duty is performed.

c. *Unusual circumstances of the travel assignment.* Actual subsistence expense reimbursement may be authorized or approved for specific travel assignments within and outside the conterminous United States when it is determined that maximum per diem allowance (see 1-7.2) would be inadequate due to the unusual circumstances of the travel assignment.

(1) The actual subsistence expense basis of reimbursement shall not be authorized or approved in instances in which the actual and necessary subsistence expenses exceed the maximum per diem allowable only by a small amount. The actual subsistence expense basis may appropriately be authorized or approved for travel assignments which otherwise meet conditions prescribed herein and by the head of the agency if, due to unusual circumstances:

(a) The actual and necessary subsistence expenses exceed the maximum per diem allowance (see 1-7.2) by 10 percent or more; or

(b) The traveler has no alternative but to incur hotel costs which absorb all or nearly all of the maximum per diem allowance (see 1-7.2), since hotel accommodations constitute the major portion of necessary subsistence expenses.

(2) Notwithstanding the criteria outlined above, actual subsistence expense reimbursement shall not be authorized or approved solely on the basis of inflated lodging and/or meal costs since

inflated costs are common to all travelers; some unusual circumstances of the travel assignment must be involved to cause the lodging and/or meal costs to be higher than those which normally would be incurred at a particular location (42 Comp. Gen. 440).

(3) Travel which involves unusual circumstances may include, but is not limited to, the following situations:

(a) The traveler attends a meeting, conference, or training session away from his official duty station where lodging and/or meals must be procured at a prearranged place (such as the hotel where the meeting, conference, or training session is being held) and the lodging costs, incurred because of such prearranged accommodations, absorb all or practically all of the maximum per diem allowance.

(b) The traveler, by reason of the assignment, necessarily incurs unusually high expenses in the conduct of official business such as for superior or extraordinary accommodations including a suite or other quarters for which the charge is well above that which he would normally have to pay for accommodations.

(c) The traveler necessarily incurs unusually high expenses incident to his assignment to accompany another traveler in a situation as described above.

d. *Maximum to be stated in travel authorization.* The amount per calendar day authorized by the agency or as prescribed herein for high rate geographical areas shall be stated in the travel authorization for a specific travel assignment.

e. *Conditions warranting approval.* If travel is performed without prior authorization or is authorized on a per diem basis and otherwise conforms to the provisions of this part, the actual and necessary subsistence expenses incurred may be approved within the authorized maximum rates as stated herein.

1-8.2. *Authorized reimbursement.*

a. *Maximum daily reimbursement.* When the actual subsistence expenses incurred during any one day are less than the daily rate authorized, the traveler will be reimbursed only for the lesser amount. The daily rate shall not be prorated for fractions of a day; however, expenses incurred and claimed for a fraction of a day shall be reviewed and allowed only to the extent determined to be reasonable by the agency concerned. The maximum amount of reimbursement for actual subsistence expense travel which may be authorized or approved for each calendar day or fraction thereof, is limited as follows:

(1) For travel within the conterminous United States to designated high rate geographical areas, under the provisions of 1-8.1b, the maximum authorized rates have been set administratively as provided in 1-8.6. These are uniform maximum actual subsistence expense rates and are not subject to change by the agencies concerned. However, this does not preclude agency determination of other appropriate and necessary rates

under 1-8.2a(2) if the travel to a high rate geographical area also involves unusual circumstances of the travel assignment.

(2) For travel within the conterminous United States involving unusual circumstances, the statutory maximum daily rate is \$50. Agencies shall determine appropriate and necessary daily maximum rates not to exceed this amount.

(3) For travel outside the conterminous United States involving unusual circumstances, the statutory maximum daily rate is \$21 per day plus the maximum per diem allowance official established for the overseas locality in which the travel is performed (see 1-7.2). Agencies shall determine appropriate and necessary daily maximum rates not to exceed this limitation.

b. *Allowable expenses.* Actual subsistence expense reimbursement shall be allowed for the same type of expenses normally covered by the per diem allowance under the provisions of 1-7.1b.

c. *Special rules for mixed travel (per diem and actual subsistence expense).* Travel may be authorized or approved on both a per diem basis and an actual subsistence expense basis during a single trip when travel is performed in several locations including high rate geographical areas; however, only one method of reimbursement (per diem or actual subsistence expense) shall be authorized within the same day.

(1) *Rate and method of reimbursement determined by location.* In instances of mixed travel involving both per diem and actual subsistence expense, or several high rate geographical areas, the method of reimbursement and authorized rate for a calendar day (beginning at 12:01 a.m.) shall be determined by the location where the lodgings are obtained for that day. For example, when a traveler performs travel in a per diem area for part of a day and completes that day's travel in a high rate geographical area where he performs official duty and obtains lodging, the traveler shall be reimbursed under the

actual subsistence expense method for the entire day not to exceed the maximum rate prescribed for the high rate geographical area where the lodgings were obtained.

(2) *Reimbursement for day of return.* The method of reimbursement for the day of return to home or official station (where lodgings are not involved) shall be the same method of reimbursement authorized for the first day of travel. For example, if a traveler is authorized actual subsistence expense reimbursement for the first day of travel, reimbursement for the day of return to home or official station shall also be on an actual subsistence expense basis; if per diem is authorized for the first day of travel, per diem shall also be authorized for the day of return to home or official station.

(3) *Reimbursement computation.* A traveler's claim for reimbursement may include several different rates depending upon the location(s) in which travel is performed. See figure 1-8.2c for examples showing computation of mixed travel reimbursement.

1-8.3 *Agency responsibilities, review, and administrative controls.*

a. *Delegation of authority.* Heads of agencies may delegate, with provisions for limited redelegation, authority to authorize or approve travel on an actual subsistence expense basis.

(1) The delegation or redelegation of authority to authorize or approve travel on an actual subsistence expense basis due to unusual circumstances of the travel assignment shall be held to as high an administrative level as practicable to ensure adequate consideration and review of the circumstances surrounding the need for travel on the actual subsistence expense basis.

(2) Since travel to designated high rate geographical areas is automatically on an actual subsistence expense basis, the delegation or redelegation of authority to authorize or approve this type of travel should be at a lower administrative level than that stated in (1), above.

b. *Review and administrative controls.* Heads of agencies shall establish necessary administrative arrangements for an appropriate review of the justification for travel on the actual subsistence expense basis and of the expenses claimed by a traveler to determine whether they are allowable subsistence expenses and were necessarily incurred in connection with the specific travel assignment. Agencies shall ensure that travel on an actual subsistence expense basis is properly administered and shall take necessary action to prevent abuses.

11. Paragraph 1-8.6 is added as follows:

1-8.6. *Designated high rate geographical areas.* Pursuant to the provisions of 1-8.1b and 1-8.2a(1), for temporary duty travel to or within the cities designated as high rate geographical areas below, a traveler automatically shall be placed in an actual subsistence expense status and shall be reimbursed for the actual and necessary subsistence expenses incurred not to exceed the maximum rate prescribed for the particular geographical area involved.

Designated High Rate Geographical Areas	Prescribed maximum daily rates
Boston, Mass. (all locations within the corporate limits of Boston and Cambridge, Massachusetts).....	\$38
Chicago, Ill. (all locations within the corporate limits thereof).....	39
Los Angeles, Calif. (all locations within the corporate limits of the city of Los Angeles).....	37
New York, N.Y.—all locations within the:	
Boroughs of Brooklyn and Queens...	39
Boroughs of Manhattan, Bronx, Staten Island.....	50
San Francisco, Calif. (all locations within the corporate limits of San Francisco and Oakland, Calif.).....	39
Washington, D.C. (all locations within the corporate limits of Washington, D.C.; and the county of Arlington and the city of Alexandria, Va.)....	42



FPMR Temp. Reg. A-  
Attachment A

REIMBURSEMENT COMPUTATION FOR MIXED TRAVEL  
(PER DIEM AND ACTUAL SUBSISTENCE EXPENSE)

Itinerary

8/5 Depart residence 7 a.m., enroute to Atlanta  
8/6 Depart Atlanta 4 p.m., enroute to Washington, DC (high rate geographical area)  
8/7 TDY - Washington, DC  
8/8 Depart Washington, DC, 11 a.m., enroute to Chicago (high rate geographical area)  
8/9 Depart Chicago 3 p.m., arrive residence 6 p.m.

Reimbursement

8/5	3/4 day per diem = \$22.50 (Atlanta)*		
8/6	Actual expenses (based on where lodgings are obtained)		
	Atlanta .....	Breakfast	\$ 2.15
		Lunch	3.75
	Washington, DC .....	Dinner	6.40
		Lodging	28.50
			<u>\$40.80</u>
8/7	Actual expenses		
	Washington, DC .....	Breakfast	\$ 1.95
		Lunch	3.95
		Dinner	7.00
		Lodging	28.50
			<u>\$41.40</u>
8/8	Actual expenses		
	Washington, DC .....	Breakfast	\$ 1.85
	Chicago .....	Lunch	2.75
		Dinner	5.95
		Lodging	26.00
			<u>\$36.55</u>
8/9	3/4 day per diem = \$22.50 (day of return to official station based on 1st day travel status)*		

Lodgings-plus method

Atlanta	\$16 Lodging
	\$14 Meals and miscellaneous rate
	\$30 Per diem rate

Summary

1 1/2 days at \$30.00	\$ 45.00
1 day actual expense	40.80
1 day actual expense	41.40
1 day actual expense	36.55
Total claimed	<u>\$163.75</u>

Figure 1-8.2c. Illustration of computation of reimbursement for mixed travel (per diem and actual subsistence expense)  
(Part 1 of 3)

FPMR Temp. Reg. A-  
Attachment A

REIMBURSEMENT COMPUTATION FOR MIXED TRAVEL  
(PER DIEM AND ACTUAL SUBSISTENCE EXPENSE)

Itinerary

9/7 Depart residence 2:00 p.m., enroute to San Francisco (high rate geographical area)  
9/8 TDY - San Francisco  
9/9 Depart San Francisco 4:15 p.m., enroute to Las Vegas  
9/10 TDY - Las Vegas  
9/11 Depart Las Vegas 11:00 a.m., enroute to Denver  
9/12 Depart Denver 9:05 a.m. via Chicago, arrive residence 3:45 p.m.

Reimbursement

9/7	Actual expense		
	San Francisco .....	Dinner	\$ 4.75
		Tips to porter	1.00
		Lodging	25.00
			<u>\$30.75</u>
9/8	Actual expense		
	San Francisco .....	Breakfast	\$ 2.10
		Lunch	3.25
		Dinner	6.00
		Lodging	25.00
		Tips to porter	1.00
			<u>\$37.35</u>
9/9	1 day per diem = \$31.00 (Las Vegas)* (based on where lodgings are obtained)		
9/10	1 day per diem = \$31.00 (Las Vegas)*		
9/11	1 day per diem = \$31.00 (Denver)*		
9/12	Actual expense (day of return to official station based on 1st day of travel status)		
	Denver .....	Breakfast	\$ 2.25
	Chicago .....	Lunch	3.10
			<u>\$ 5.35</u>

\* Lodgings-plus method

Las Vegas	\$16 Lodging
Las Vegas	\$16 Lodging
Denver	\$17 Lodging
	<u>\$49 ÷ 3 nights = \$16.33 Average cost of lodging</u>
	+ \$14.00 Meals and miscellaneous rate
	<u>\$30.33 (rounded to \$31 per diem rate)</u>

Summary

3 days at \$31.00	\$ 93.00
1 day actual expense	30.75
1 day actual expense	37.35
1 day actual expense	5.35
Total claimed	<u>\$166.45</u>

Figure 1-8.2c. Illustration of computation of reimbursement for mixed travel (per diem and actual subsistence expense)  
(Part 2 of 3)



FPMR Temp. Reg. A-  
Attachment A

**REIMBURSEMENT COMPUTATION FOR MIXED TRAVEL**  
(PER DIEM AND ACTUAL SUBSISTENCE EXPENSE)

**Itinerary**

10/1 Depart residence 8:00 a.m., enroute to Harrisburg, PA  
10/2 TDY - Harrisburg  
10/3 Depart Harrisburg 9:00 a.m., enroute to Philadelphia, PA (unusual circumstances)  
10/4 Depart Philadelphia 3:15 p.m., arrive residence 5:35 p.m.

**Reimbursement**

10/1 3/4 day per diem = \$24.00 (Harrisburg)\*  
10/2 1 day per diem \$32.00 (Harrisburg)\*  
10/3 Actual expense (Philadelphia) (based on where lodgings are obtained)  
Harrisburg ..... Breakfast \$ 1.55  
Philadelphia ..... Lunch 3.15  
Dinner 4.95  
Lodging 25.00  
\$34.65

10/4 3/4 day per diem = \$24.00 (day of return to official station based on 1st day travel status)\*

**\*Lodgings-plus method**

Harrisburg \$18 Lodging  
Harrisburg \$18 Lodging  
\$36 ÷ 2 nights = \$18.00 Average cost of lodging  
\$14.00 Meals and miscellaneous rate  
\$32.00 Per diem

**Summary**

2 1/2 days at \$32.00 \$ 80.00  
1 day actual expense 34.65  
Total claimed \$114.65

Figure 1-8.2c. Illustration of computation of reimbursement for mixed travel (per diem and actual subsistence expense)  
(Part 3 of 3)

12. Paragraph 2-2.3 is amended as follows:

2-2.3. For use of a privately owned automobile in connection with permanent change of station.

b. Mileage rates prescribed. Payment of mileage allowances when authorized or approved in connection with the transfer shall be allowed as follows:

Occupants of automobile	Mileage rate (cents)
Employee only; or 1 member of immediate family	8
Employee and 1 member; or 2 members of immediate family	10
Employee and 2 members; or 3 members of immediate family	12
Employee and 3 or more members; or 4 or more members of immediate family	15

c. Mileage rates in special circumstances. Heads of agencies may prescribe that travel orders or other administrative determinations specify higher mileage rates not in excess of 15 cents for individual transfers of employees or transfers of groups of employees when:

[FR Doc. 75-13532 Filed 5-20-75; 10:50 am]

**INTERSTATE COMMERCE COMMISSION**

[Ex Parte No. 293 (Sub-No. 4)]

**ACQUISITION OF RAIL PROPERTIES BY PROFITABLE CARRIERS**

Consideration by the Commission Under the Interstate Commerce Act and the Regional Rail Reorganization Act of 1973 of Acquisition of rail lines by profitable carriers; Request for necessary and appropriate information concerning acquisitions proposed by the United States Railway Association in its Supplement to the Preliminary System Plan relating to the Erie Lackawanna Railway Company.

On May 8, 1975, the United States Railway Association issued a supplement to its Preliminary System Plan, which supplement was published in the FEDERAL REGISTER on May 15, 1975 (40 FR 21401). This report examines the economic viability of light density lines of the Erie Lackawanna Railway Company and, as is pertinent hereto, contains 18 acquisition proposals which generally entail the acquisition by profitable carriers of rail lines of the Erie Lackawanna. These acquisition proposals supplement those contained in Appendix D to the Association's Preliminary System Plan, dated February 28, 1975.

The Commission presently has under consideration, in the above-referenced proceeding, various acquisitions proposed by the Association in its Preliminary System Plan and its Errata to the Plan. This consideration is pursuant to section 206 (d) (3) of the Regional Rail Reorganization Act of 1973, which section requires the Commission to make a determination that each proposed acquisition of rail properties by profitable railroads operating in the region "will be in full accord and comply with the provisions

and standards of section 5 of Part I of the Interstate Commerce Act." In order to formulate these determinations, the Commission requested all interested parties to submit information and specified data, by notices in the FEDERAL REGISTER on February 25, 1975, at pages 8152 through 8153 and on April 21, 1975, at page 17674.

The publication by the Association of the Erie-Lackawanna Supplement to its preliminary system plan, necessitates the further solicitation by the Commission of the public comment and data with respect to those line segments and major market extension projects, subject to acquisition by profitable carriers contained in this supplement. To assure an adequate data base for thorough consideration of each of the newly proposed acquisitions, information with respect to and comments on each proposal are requested from all interested persons included but not limited to the United States Railway Association, railroads involved in or affected by proposed acquisitions, Amtrak, concerned state, regional and local reorganizations, shippers served by the rail properties involved, and the Commission's Rail Services Planning Office.

The newly listed acquisition proposals, contained in the supplement to the Preliminary System Plan, for which the Commission seeks comments are as follows: (1) in Appendix D-2, line numbers: 1262, 1261, 1207, 1239, 1240, 1246, 1247, 1253, 1260, 1263, 1266, 1222, 1224, 1252, 1254; and, (2) in Appendix D-3, Part II projects: USRA-6, USRA-7, and USRA-8. The full description of these acquisition proposals is contained in the Association's report of May 8, 1975, as published in the FEDERAL REGISTER on May 15, 1975 (40 FR 21401).

In submitting comments and data to the Commission, it is requested that interested persons supply such information and views in conformity with the guidelines and specific data requested by the Commission in its above-mentioned notice in the FEDERAL REGISTER of February 25, 1975, at pages 8152 through 8153. An original and 8 copies of all such materials should be filed with the Secretary of the Commission on or before June 6, 1975. Kindly note on all envelopes in which materials are filed, the docket number of this proceeding, Ex Parte No. 293 (Sub-No. 4). It is also requested that separate statements be filed for each individual proposed acquisition, in which parties are interested, and that specific reference be made to each acquisition by USRA project number on the front of all statements.

Notice of intent of the Interstate Commerce Commission to consider the acquisition of rail properties by profitable carriers contained in the supplement to the Preliminary System Plan of the United States Railway Association and to request information from interested parties with regard thereto shall be given to: The United States Railway Association, the Rail Services Planning Office, Amtrak, all Class I and Class II railroads operating in the region and the Gover-

nors, Public Utility Commissions and the Departments of Transportation of all states located within the region.

Issued in Washington, D.C., on the 16th day of May 1975.

By the Commission, Commissioner Tuggle.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc. 75-13532 Filed 5-20-75; 8:45 am]

[No. MC-99161 (Sub-No. 5)]

**ALABAMA FREIGHT, INC., EXTENSION, BIRMINGHAM AND MOBILE, ALA.**

**Application for Amended Certificate of Public Convenience and Necessity**

At a session of the Interstate Commerce Commission, Review Board Number 1, held at its office in Washington, D.C., on the 7th day of May 1975.

It appearing, that by application filed October 5, 1973, Alabama Freight, Inc., of Birmingham, Ala., seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, (1) of plastic pipe, and articles made of brass, bronze, iron, copper, or steel, between the plant site and warehouse facilities of O'Neal Steel, Inc., located at Birmingham, Ala., on the one hand, and, on the other points in Georgia, Tennessee, Florida, and Mississippi; and (2) iron and steel articles and aluminum articles from the plant site and storage facilities of O'Neal Steel, Inc., located at Mobile, Ala., to points in Georgia, Tennessee, Florida, and Mississippi;

It further appearing, that the application has been processed under the Commission's modified procedure; that applicant has filed verified statements in support of the application; that protestants Howard Hall Company, Deaton, Inc., Poole Truck Line, Inc., Colonial Fast Freight Lines, Inc., Melton Trucking Lines, Bowman Transportation, Inc., and Osborne Truck Line, Inc., individually, and Georgia-Florida-Alabama Transportation Company (GFA), and Bay Transportation Co., Inc., jointly, motor common carriers, have filed verified statements in opposition to the application; and that the supporting shipper filed a verified statement in rebuttal;

It further appearing, that applicant in its verified statement asks leave to amend its application so as to seek authority to transport plastic pipe and articles made of iron, brass, bronze, copper, steel, or aluminum to or from both origins; that although the proposed amendment will broaden the scope of the original application, we believe applicant has shown sufficient and proper reasons for allowing the relief sought, and applicant will be permitted to amend its application in the manner requested; and good cause appearing therefor:

It is ordered, That applicant, be, and it is hereby, permitted to amend its application in the manner described in the next preceding paragraph.



## NOTICES

It further appearing, that applicant holds authority from this Commission to transport specified commodities from a named plant site at Birmingham to named points in North Carolina, but is primarily a carrier of Alabama intrastate traffic; that it operates 54 power units and 105 flat-bed trailers including 4 which can be extended up to 60 feet and maintains terminals at Birmingham and Mobile; that applicant offers expedited service, timed deliveries and scheduled pickups, split deliveries involving an unlimited number of stopoffs, and deliveries to jobsites and remote areas; and that applicant has submitted appropriate financial data;

It further appearing, that O'Neal Steel Co., Inc., the supporting shipper herein, is engaged in business as a metals service center; that shipper stocks approximately 8,000 articles fashioned from a wide variety of metals which it purchases from suppliers such as steel mills and metal fabricators; that its customers include auto body shops, machine shops, furniture manufacturers, and building and construction companies which can be located at virtually any point in the territory sought; that the commodities shipped vary in size and weight from less than 1 inch in length and a few ounces in weight, to articles measuring 60 feet long and weighing several thousand pounds; that as its customers maintain small inventories and many require timed deliveries, the ability to perform expedited movements is essential to shipper's operations; that from its Birmingham facility it ships annually approximately 5,000 truckloads outbound and receives an unspecified number of inbound shipments; that shipper's Mobile plant commenced operations in April 1973, and shipper expects that this plant will have transportation requirements identical to those of its other plants; that shipper's service requirements include spotting equipment for loading, flat-bed equipment including units which can be extended to accommodate over-length loads, and split deliveries of LTL shipments (which comprise a majority of the traffic involved) timed to coincide with customer production schedules; that shipper states that it uses common carrier service to the extent that it can, but finds such services inadequate, the general commodity carriers because of their limited regular-route operations, restrictions against transporting so-called "size and weight" commodities, and provisions in their tariffs limiting the number of split deliveries offered, and carriers of specified commodities because of their inability to transport a complete line of its products; that the bulk of shipper's traffic is currently handled by O'Neal's large fleet of private equipment which shipper would prefer to reduce; and that at the outset of the proposed operation, shipper would tender applicant approximately two to four shipments a week, a number which shipper expects should increase as it becomes more dependent upon applicant's service;

It further appearing, that generally protestants operate suitable flatbed

equipment, maintain terminals in the Birmingham or Mobile area, and would perform up to four stopoffs per shipment; that certain protestants indicate current traffic that would be subject to diversion by a grant of authority herein and urge that any grant be restricted to protect their interests; and that specific information concerning protestants' authority to perform the proposed operations and traffic transported for the supporting shipper is set forth in the appendix attached hereto;

It further appearing, that in rebuttal the supporting shipper restates its need for a carrier able to handle a full line of its products, its desire to reduce its private carrier operation, and the inability of existing carriers to provide the service required;

It further appearing, that because shipper's outbound traffic may be delivered to any combination of points throughout the sought four-State destination territory, and so that it may combine numerous less-than-truckload orders for delivery at intermediate stops en route to final destination, it is imperative that O'Neal have available a carrier which can serve all the points sought and provide a multiple delivery service; that none of the protestants holds sufficient territorial and commodity authority to perform the complete service required; that inasmuch as applicant's proposed service will have the effect of reducing shipper's private carriage operations, rather than diverting traffic enjoyed by several of the protestants, protestants have not specifically shown that their operations will be affected adversely by our grant of authority set forth below; and that in any event the need of the supporting shipper for the services of a carrier able to transport the involved commodities expeditiously to all existing and potential customer locations takes precedence over the limited interests of the opposing carriers, and we are convinced that the benefits accruing to shipper far outweigh the adverse effects, if any, on protestants which might arise by virtue of our grant;

It further appearing, that inasmuch as certain protestants have submitted data indicating that portions of their present traffic could be subject to diversion unless a grant of authority herein is restricted to the transportation of shipments originating at or destined to the named shipper's facilities, and because we are of the view that such a restriction in the circumstances of this proceeding is warranted and in the public interest, we shall impose it in our findings below; and that this restriction will protect the interests of protestants without affecting applicant's ability to perform the proposed service;

It further appearing, that since it is possible that other parties who have relied upon the notice in the FEDERAL REGISTER of the application as originally published may have an interest in and would be prejudiced by the lack of proper notice of the grant of authority in our findings herein; a notice of the authority actually granted will be published in the

FEDERAL REGISTER and issuance of the certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in the proceeding setting forth in detail the precise manner in which it has been prejudiced;

And it further appearing, that the evidence establishes that applicant is experienced and has the requisite equipment to perform the type of service proposed, and is fit and able, financially and otherwise, to conduct the proposed service; and that the evidence amply warrants the grant of authority set forth below;

Wherefore, and good cause appearing therefor:

We find, that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of plastic pipe, and articles made of brass, bronze, iron, copper, steel, or aluminum, (1) between the facilities of O'Neal Steel, Inc., located at Birmingham, Ala., on the one hand, and, on the other, points in Georgia, Tennessee, Florida, and Mississippi; and (2) from the facilities of O'Neal Steel, Inc., located at Mobile, Ala., to points in Georgia, Tennessee, Florida, and Mississippi, restricted to the transportation of traffic originating at or destined to the facilities of O'Neal Steel, Inc., at Birmingham or Mobile, Ala.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; that this decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969; that an appropriate certificate should be granted; and that the application in all other respects should be denied.

It is further ordered, That said application, except to the extent granted herein, be, and it is hereby, denied.

It is further ordered, That upon compliance by applicant with the requirements of sections 215, 217, and 221(c) of the Interstate Commerce Act and with the Commission's rules and regulations thereunder, within the time specified in the next succeeding paragraph, a certificate be issued to applicant authorizing operation, as a common carrier by motor vehicle, in the manner described above, subject to prior publication in the FEDERAL REGISTER of a notice of the authority actually granted in this order.

And it is further ordered, That unless compliance is made by applicant with the requirements of sections 215, 217, and 221(c) of the Act within 90 days after the date of service of this order, or within such additional time as may be authorized by the Commission, the grant of authority made herein shall be considered as null and void, and the application shall stand denied in its entirety effective upon the expiration of the said compliance time.

By the Commission, Review Board  
Number 1.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

## APPENDIX

## PROTESTANTS' PERTINENT AUTHORITY AND EVIDENCE

1. Howard Hall holds authority to transport general commodities, except those requiring special equipment, between Birmingham, on the one hand, and, on the other, points in Georgia on and south of U.S. Highway 90, and points in Florida. Protestant has handled an unspecified amount of traffic for the supporting shipper.

2. Deaton holds authority to transport iron and steel and iron and steel articles, castings, and forgings, from Birmingham to points in Georgia, Tennessee, Florida, and Mississippi. Protestant can also transport general commodities, except those requiring special equipment, over regular routes, between Birmingham and points in Mississippi, and pipe from Birmingham to points in Tennessee, Florida, and Georgia, by tacking regular and irregular-route authority at Anniston, Ala. During 1973 Deaton handled 995.5 tons of the involved commodities for the supporting shipper from Birmingham.

3. Poole holds authority to transport (1) iron and steel articles from Mobile to points in Florida, Georgia, Mississippi, and Tennessee, and (2) building materials from Mobile to specified portions of the States sought. Protestant has transported nearly 3 million pounds of iron and steel commodities from Mobile docks to two points in Alabama and one each in Mississippi and Florida.

4. Colonial Fast Freight holds authority to transport iron and steel mill products and so-called "size and weight" commodities outbound from Birmingham to the entire destination territory sought, and iron and steel articles from Mobile to points in Georgia, Florida, and Mississippi. Colonial has also filed data pursuant to the Commission's Gateway Elimination Rules, which if approved would allow it to transport aluminum articles, the transportation of which because of their size or weight require the use of special equipment, from Birmingham to all points in the sought destination territory. During 1973 and January 1974 Protestant transported a total of 136 shipments within the scope of this proceeding earning \$46,607 therefrom.

5. Bowman holds direct authority to transport general commodities, except those requiring special equipment, over a network of regular routes between points in Alabama within 65 miles of Birmingham, on the one hand, and, on the other, points in Tennessee, Georgia, and Florida by observing one of five north Georgia gateways. Bowman has not transported traffic for the supporting shipper.

6. As pertinent, Osborne holds authority to transport (1) iron and steel products and "size and weight" commodities, between Birmingham and points in the destination States, and (2) pipe, iron and steel, and iron and steel articles from Birmingham to points in Florida. Protestant states that it handles some traffic for shipper inbound to Birmingham but does not provide any specific information with respect to commodities transported, tonnage, or revenue.

7. GFA holds authority to transport general commodities, except those requiring special equipment, over a network of regular routes between (1) Atlanta, Ga., and Mobile, Ala., (2) Birmingham and Mobile, (3) Birmingham and Pensacola, Fla., (4) Birmingham and Dothan, Ala., and (5) Pensacola

## NOTICES

22191

## FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

May 16, 1975.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a) (6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by § 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commerce hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

California Docket No. 55675, filed May 7, 1975. Applicant: HAWAIIAN CONTAINER CORPORATION, a Corporation, 5915 Hollis Street, Emeryville, Calif. 94608. Applicant's representative: John Paul Fischer, 140 Montgomery St., San Francisco, Calif. 94104. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: General Commodities between points and places in the San Francisco Territory as follows: San Francisco territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Line meets the Pacific Ocean; thence easterly along said County Line to a point one mile west of State Highway 82; southerly along an imaginary line one mile west of and paralleling State Highway 82 to its intersection with Southern Pacific Company right-of-way at Arastradero Road; southeasterly along the Southern Pacific Company right-of-way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific right-of-way to the Campbell-Los Gatos City Limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to

and Hattiesburg, Jackson, and Meridian, Miss., serving all intermediate points in Alabama, Florida, and Mississippi. Bay operates over a regular route between Columbus, Ga., and Panama City, Fla., serving all intermediate points in the transportation of general commodities.

8. Melton holds no authority conflicting with that sought herein. Melton does hold plastic pipe authority from Slacomb, Ala., to points in the four surrounding States, and from Columbia, Miss., to points in the United States (except Alaska and Hawaii). Protestant fears diversion of its present traffic by applicant's tacking any authority granted herein with already existing authority and argues that an appropriate plant site restriction should be imposed.

[FR Doc.75-13353 Filed 5-20-75; 8:45 am]

[Notice 771]

## ASSIGNMENT OF HEARINGS

May 16, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. 36064, Jiffy Enterprises, Inc. v. Modern Transfer Co., Inc., now being assigned July 15, 1975, at the offices of the Interstate Commerce Commission, Washington, D.C.

I&SM-28528, Increased Rates on Small Shipments, May 1975, Rocky Mountain Territory, now being assigned July 8, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. 35786, Feed Grains to New England, now being assigned continued hearing June 12, 1975 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 107295 Sub 743, Pre-Fab Transit Co., now assigned July 10, 1975 at St. Louis, Mo. is canceled and application dismissed.

W-78 Sub 12, The Valley Line Company, W-104 Sub 12, Union Mechling Corp., and W-377 Sub 15, Dixie Carriers, Inc., now assigned May 28, 1975, at Washington, D.C. is postponed indefinitely.

MC 139814, Erin Tours, Inc., now assigned May 21, 1975, at New York, N.Y. is canceled and application dismissed.

MC 106644 Sub 180, Superior Trucking Company, Inc., now assigned June 30, 1975 at Washington, D.C. is canceled and the application is dismissed.

MC 73165 Sub 356, Eagle Motor Lines, Inc., application dismissed.

MC 114457 Sub 217, Dart Transit Company, application dismissed.

MC 32882 Sub 71, Mitchell Bros. Truck Lines and MC 125433 Sub 44, F-B Truck Line Company, now assigned May 19, 1975, at Washington, D.C. is canceled.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-13345 Filed 5-20-75; 8:45 am]



## NOTICES

McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Blvd.) via Mission San Jose and Niles to Hayward; northerly along Foothill Blvd. and MacArthur Blvd. to Seminary Avenue; easterly along Seminary Avenue to Mountain Blvd.; northerly along Mountain Blvd. to Warren Blvd. (State Highway 13); northerly along Warren Blvd. to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland Boundary line; northerly along said boundary line to the Campus Boundary of the University of California; westerly, northerly and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue to and including the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning. Subject to the following restrictions: Applicant shall not transport any shipments of:

1. Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in salesmen's hand sample cases, suitcases, overnight or boston bags, brief cases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard, or straw matting).
2. Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis.
3. Livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers.
4. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
5. Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle.
8. Logs.
9. Articles of extraordinary value.
10. Trailer coaches and campers, including

integral parts and contents when the contents are within the trailer coach or camper. 11. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment. 12. Explosives subject to U.S. Department of Transportation Regulations governing the Transportation of Hazardous Materials. Intrastate, interstate and foreign commerce authority sought.

HEARING: Date, time and place not fixed. Requests for procedural information should be addressed to Public Utilities Commission, State of California, State Bldg., Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc. 75-13349 Filed 5-20-75; 8:45 am]

## FOURTH SECTION APPLICATIONS FOR RELIEF

MAY 16, 1975.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1100.40) and filed on or before June 5, 1975.

FSA No. 42990—*Single Empty Freight Trailers Between Points in Southwestern and Southern Territories and Points in Illinois, Kansas and Missouri*. Filed by Southwestern Freight Bureau, Agent, (No. B-526), for interested rail carriers. Rates on single empty freight trailers, new or used, as described in the applica-

tion, between points in southwestern territory, also Natchez, Miss., and Memphis, Tenn., on the one hand, and points in Illinois, Kansas and Missouri, on the other.

Grounds for relief—Rate relationship, short-line distance formula and grouping.

Tariff—Supplement 72 to Southwestern Freight Bureau, Agent, tariff SW 74-G, I.C.C. No. 5127. Rates are published to become effective on June 16, 1975.

FSA No. 42991—*Billets, Bars, Iron or Steel to Russellville, Arkansas*. Filed by Southwestern Freight Bureau, Agent, (No. B-533), for interested rail carriers. Rates on billets, bars, iron or steel, in carloads, as described in the application, from specified points in Illinois, Missouri and Texas, to Russellville, Arkansas.

Grounds for relief—Market and water competition.

Tariff—Supplement 119 to Southwestern Freight Bureau, Agent, tariff 301-F, I.C.C. No. 5098. Rates are published to become effective on June 17, 1975.

## AGGREGATE-OF-INTERMEDIATES

FSA No. 42992—*Billets, Bars, Iron or Steel to Russellville, Arkansas*. Filed by Southwestern Freight Bureau, Agent, (No. B-534), for interested rail carriers. Rates on billets, bars, iron or steel, in carloads, as described in the application, from specified points in Illinois, Missouri and Texas, to Russellville, Arkansas.

Grounds for relief—Maintenance of depressed rates published to meet market and water competition without use of such rates as factors in constructing combination rates.

Tariff—Supplement 119 to Southwestern Freight Bureau, Agent, tariff 301-F, I.C.C. No. 5098. Rates are published to become effective on June 17, 1975.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc. 75-13346 Filed 5-20-75; 8:45 am]

[Notice 49]

## TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
Quality Carriers, Inc., MC-110420 Sub-674	MC-110420 Sub-680	June 14, 1972
Chemical Leman Tank Lines, Inc., MC-110625 Sub-1064	MC-110625 Sub-1068	June 5, 1974
Greenflyke Transport, Inc., MC-111401 Sub-384	MC-111401 Sub-392	Do.
Parolite Courier Corp., MC-112750 Sub-246	MC-112750 Sub-301	Do.
Lester C. Newton Trucking Co., MC-113388 Sub-98	MC-113388 Sub-99	Do.
Automobile Carriers, Inc., MC-113436 Sub-3	MC-113436 Sub-4	Do.
Erickson Transport Corp., MC-113998 Sub-238	MC-113998 Sub-244	June 17, 1974
Backers Dispatch Corp., MC-114532 Sub-281	MC-114532 Sub-284	June 4, 1974
S. F. Douglas Truck Lines, Inc., MC-114600 Sub-6	MC-114600 Sub-7	June 18, 1974
Protractor Security, Inc., MC-114906 Sub-6	MC-114906 Sub-11	Do.
J & M Transportation Co., Inc., MC-114311 Sub-108	MC-114311 Sub-109	Do.
Redwing Refrigerated, Inc., MC-115322 Sub-91	MC-115322 Sub-95	June 14, 1974
W. J. Dighy, Inc., MC-115829 Sub-194	MC-115829 Sub-196	June 4, 1974
Robertson Truck Lines, Inc., MC-116777 Sub-340, 342, 343	MC-116777 Sub-346	Do.
Motor Service Co., Inc., MC-117245 Sub-89	MC-117245 Sub-88	June 5, 1974
Prod Carpenter, MC-117848 Sub-6	MC-117848 Sub-7	June 7, 1974
Imco Express, Inc., MC-119639 Sub-6	MC-119639 Sub-10	June 25, 1974
Keoff Trucking, Inc., MC-119634 Sub-134	MC-119634 Sub-135	June 24, 1974
Arrow Truck Lines, Inc., MC-121000 Sub-11	MC-121000 Sub-13	June 18, 1974
O. K. Warehouse Co., Inc., MC-121343 Sub-2	MC-121343 Sub-3	June 8, 1974

[SEAL]

ROBERT L. OSWALD,  
Secretary.

[FR Doc. 75-13354 Filed 5-20-75; 8:45 am]

## NOTICES

[Notice No. 18]  
MOTOR CARRIER ALTERNATE ROUTE  
DEVIATION NOTICES

MAY 16, 1975.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

## MOTOR CARRIERS OF PASSENGERS

No. MC 13300 (Deviation No. 31), CAROLINA COACH COMPANY, 1201 South Blount Street, Raleigh, N.C. 27602, filed May 7, 1975. Carrier's representative: Lawrence E. Lindeman, Suite 1032, Pennsylvania Bldg., Pa. Ave. & 13th St., NW., Washington, D.C. 20004. Carrier proposes to operate as a common carrier, by motor vehicle, of passengers and their baggage, and express and newspapers in the same vehicle with passengers, over a deviation route as follows: From Greenville, N.C., over U.S. Highway 13 to Bethel, N.C., thence over North Carolina Highway 11 to Oak City, N.C., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Greenville, N.C., over North Carolina Highway 43 to Pinetops, N.C., thence over U.S. Highway 258 to Tarboro, N.C., thence over North Carolina Highway 44 to Oak City, N.C., and return over the same route.

No. MC 111383 (Deviation No. 17), BRASWELL MOTOR FREIGHT LINES, INC., 3925 Singleton Blvd., P.O. Box 4447, Dallas, Tex. 75208, filed April 17, 1975. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: From Sildell, La., over U.S. Highway 190 to Hammond, La., and return over the same route for operating convenience only. The notice indicates that the carrier is

presently authorized to transport the same commodities, over a pertinent service route as follows: From Sildell, La., over U.S. Highway 59 to New Orleans, La., thence over U.S. Highway 61 (Interstate Highway 10) to Hammond, La., and return over the same route.

No. MC 647 (Deviation No. 1), EXHIBITORS SERVICE COMPANY, 85 Helen Street, McKees Rocks, Pa. 15136, filed May 8, 1975. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: From Youngstown, Ohio over U.S. Highway 422 to Ebensburg, Pa., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Youngstown, Ohio over Ohio Highway 7 to Boardman, Ohio, thence over U.S. Highway 224 to New Castle, Pa., thence over Pennsylvania Highway 18 to Rochester, Pa., thence over Pennsylvania Highway 88 to Pittsburgh, Pa., thence over U.S. Highway 22 to Ebensburg, Pa., and return over the same route.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc. 75-13350 Filed 5-20-75; 8:45 am]

(Notice No. 39)

## MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

MAY 16, 1975.

The following publications include motor carrier, water carrier, broker, freight forwarder and rail proceedings indexed as follows: (1) grants of authority requiring republication prior to certification; (2) notices of filing of petitions for modification of existing authorities; (3) new operating rights applications directly related to and processed on a consolidated record with finance applications filed under sections 5(2) and 212(b); (4) notices of filing of sections 5(2) and 210a(b) finance applications; and (5) notices of filing of section 212(b) transfer applications.

Each applicant (except as otherwise specifically noted) states that there will be no significant effect on the quality of the human environment resulting from approval of its application in compliance with the requirements of 49 CFR 1100.250.

Protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this Federal Register notice (unless otherwise specified). Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest should comply with section 247(d) or section 240(c) as appropriate of the Commission's general rules of practice which requires that it set forth specifically the grounds upon

which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and a detailed description of the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest (except for petitions and Finance Dockets under Rule 40 requiring the original and six (6) copies of the protest) shall be filed with the Commission, and a copy shall be served concurrently upon applicant's or petitioner's representative, or applicant or petitioner if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) or section 240(c)(4) of the special rules, and shall include the certification required therein.

No. MC 99780 (Sub-No. 48) (Republication), filed October 15, 1974, and published in the FEDERAL REGISTER issue of November 14, 1974, and republished this issue. Applicant: CHIPPER CARTAGE COMPANY, INC., 1327 NE. Bond Street, Peoria, Ill. 61603. Applicant's representative: John R. Zang, P.O. Box 1345, Peoria, Ill. 61601. An Order of the Commission, Operating Rights Board, dated April 21, 1975, and served May 6, 1975, finds that the present and future public convenience and necessity require operation by applicant, in foreign commerce only, as a common carrier, by motor vehicle, over irregular routes, of soybean products, in containers, from the facilities of Central Soya Company, Inc., at Gibson City, Ill., to points in Illinois, restricted to the transportation of traffic having an immediately subsequent movement by rail; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; The purpose of this republication is to modify the commodity and territorial descriptions. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a Certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

MC 117647 (Sub-No. 6) (Republication) filed May 10, 1974, and published in



the *FEDERAL REGISTER* issue of June 20, 1974, and republished this issue. Applicant: BILL J. ELKINS, R.R. No. 4, Box 124, West Terre Haute, Ind. 47885. Applicant's representative: Mark Bell, 8403 North Michigan Road, Indianapolis, Ind. 46268. An Order of the Commission, Operating Rights Board, dated March 24, 1975, and served April 17, 1975, finds, that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of coal tar and coal tar products, in bulk, in tank vehicles, (1) from the facilities of Western Tar Products Corporation, at Terre Haute, Ind., to points in Kentucky, Illinois, Iowa, Michigan, Missouri, Ohio, Tennessee, and Wisconsin, and (2) from Memphis, Tenn., to the facilities of Western Tar Products Corporation at Terre Haute, Ind.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to modify the authority requested from contract route to common route authority, and to modify the territorial description. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

MC 128988 (Sub-No. 40) (Republication), filed January 16, 1974, and published in the *FEDERAL REGISTER* issue of February 22, 1974, and republished this issue. Applicant: JO/KEL, INC., 159 South Seventh Avenue, P.O. Box 1249, City of Industry, Calif. 91749. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, P.O. Box 82038, Lincoln, Nebr. 68501. An Order of the Commission, Review Board Number 3, dated April 21, 1975, and served May 8, 1975, finds, that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of gears, condensers, and turbines, from the facilities of Westinghouse Electric Corporation, at or near Sunnyvale, Calif., to Pascagoula, Miss., North Huntingdon Township, Pa., and High Point, N.C., restricted against the transportation of commodities in bulk and those which by reason or size or weight require the use of special equipment, under a continuing contract or contracts with Westinghouse Electric Corporation, of Pittsburgh, Pa., will be consistent with the public interest and the national transportation policy. The purpose of this republication is to sub-

stitute North Huntingdon Township, Pa., and High Point, N.C. as destination points in lieu of Irwin, Pa., and Greensboro, N.C. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a Permit in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 113855 (Sub-No. 85) (Notice of filing of petition to modify commodity description), filed April 28, 1975. Petitioner: INTERNATIONAL TRANSPORT, INC., 2450 Marlon Road, SE, Rochester, Minn. 55901. Petitioner's representative: Alan Poes, 502 First National Bank Building, Fargo, N. Dak. 58102. Petitioner holds a motor common carrier certificate in No. MC 113855 (Sub-No. 85), issued October 22, 1965, authorizing transportation, as pertinent, over irregular routes, of wood fencing and building board, from points in Montana, Idaho, Washington, Oregon, California, Arizona, and Washoe County, Nev., to points in Kentucky, Indiana, Ohio, Wisconsin, Illinois, Iowa, the Lower Peninsula of Michigan, and that part of Missouri on and east of U.S. Highway 65.

By the instant petition, petitioner seeks to modify the commodity description in the above authority so as to read, Wood products, in lieu of Wood fencing and building board. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the *FEDERAL REGISTER*.

No. MC 114917 (Sub-No. 6) (Notice of filing of petition to modify a territorial description), filed May 2, 1975. Petitioner: DART TRANSPORTATION SERVICE, a Corporation, 1430 S. Eastman Ave., P.O. Box 23035, Lugo Station, Los Angeles, Calif. 90023. Petitioner's representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017. Petitioner holds a motor contract carrier permit in No. MC 114917 (Sub-No. 6), issued September 27, 1973, authorizing transportation, over irregular routes, of such merchandise as is dealt in by mail order and chain retail department business houses, from Los Angeles, Calif., and points in the Los Angeles, Calif., Harbor Zone, as defined by the Commission, to points in that part of California located north and west of Ventura, Los Angeles, San Bernardino, Inyo, and Mono Counties, Calif., under a continuing contract or contracts with Sears, Roebuck and Co.

By the instant petition, petitioner seeks to modify the territorial description in the above authority so as to read, between points in Los Angeles and Orange

Counties, Calif., on the one hand, and, on the other, points in California. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the *FEDERAL REGISTER*.

No. MC 133979 (Notice of filing of petition to modify a territorial description), filed May 9, 1975. Petitioner: CHRIS DRAKOS, doing business as MONTANA BRAND PRODUCE CO., 111 West Fireclay Avenue, Murray, Utah 84107. Petitioner's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Petitioner holds a motor contract carrier permit in No. MC 133979, issued November 2, 1971, authorizing transportation, over irregular routes, of such merchandise as is dealt in by wholesale, retail, and chain grocers and food business houses (except commodities in bulk), between points in Washington, Oregon, California, Nevada, Utah, Idaho, Montana, Wyoming, and Colorado, under a continuing contract or contracts with Albertson's Inc., of Salt Lake City, subject to the following restrictions: carrier shall conduct separately its contract carrier operation and its other business activities; carrier shall maintain separate accounts and records therefor; and carrier shall not transport property as both a private and contract carrier in the same vehicle at the same time.

By the instant petition, petitioner seeks to modify the territorial description in the above authority so as to read, between points in Washington, Oregon, California, Nevada, Utah, Idaho, Montana, Wyoming, Colorado, Texas, Arizona, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Iowa, Missouri, Arkansas, Louisiana, Mississippi, Alabama, Georgia, South Carolina, and Florida. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the *FEDERAL REGISTER*.

#### APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's Special Rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

#### APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 2095 (Sub-No. 2), filed April 21, 1975. Applicant: KEIM TRANSPORTATION, INC., 420 North Sixth, (R.F.D. 2, Box 10), Sabetha, Kans. 66534. Applicant's representative: Clyde N.

Christey, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Plasterboard, plaster products, and metal lathe, clips, nails, and miscellaneous building materials used with, or in the installation of, plasterboard and plaster products, from Blue Rapids, Kans., to Omaha, Nebr. The purpose of this filing is to eliminate the gateway at Honey Creek, Nebr. This application is a gateway elimination request filed pursuant to the Commission's Policy Statement in Ex Parte No. 55 (Sub-No. 8) noticed in the *FEDERAL REGISTER* issue of December 9, 1974; and is directly related to MC-F-12506 published in the *FEDERAL REGISTER* of May 7, 1975.

No. MC 44735 (Sub-No. 22), filed January 31, 1975. Applicant: KISSICK TRUCK LINES, INC., 7101 East 12th Street, Kansas City, Mo. 64126. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Clay and clay products (except in bulk) between points in Illinois, Iowa, and Nebraska on the one hand, and, on the other, points in Arkansas, Kansas, Missouri, Oklahoma, and Texas, restricted against: (1) the transportation of pipe between points in Kansas (except the Kansas City, Kansas City, Mo. Commercial Zone), Oklahoma, Texas, and Arkansas, (2) the transportation of composition or prepared roofing from Dallas, Tex., and (3) the transportation of precast concrete products from Little Rock, Ark. The purpose of this filing is to eliminate a gateway at points in the Kansas City, Kansas City, Mo. Commercial Zone. This application is a gateway elimination request filed pursuant to the Commission's Policy statement in Ex Parte 55 (Sub-No. 8) noticed in the *FEDERAL REGISTER* issue of December 9, 1974; and is directly related to MC-F-12235 published in the *FEDERAL REGISTER* issue of June 19, 1974.

No. MC 95876 (Sub-No. 171) (correction), filed February 3, 1975, published in the *FEDERAL REGISTER* issue of April 30, 1975, and partially republished, as corrected this issue. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Donald A. Morken, 1000 First National Bank Building, Minneapolis, Minn. 55402.

NOTE.—The purposes of this partial republication are (A) to correct the territorial description in (12)(A) to read: from Waukegan, Ill., to points in Minnesota, North Dakota, South Dakota and points in Wisconsin beginning at U.S. Highway 61 near Dubuque, Iowa on and west of U.S. Highway 61 to LaCrosse, thence Highway 35 to its junction with Highway 63, thence Highway 63 to its junction with Highway 121 at Whitehall, thence west on Highway 121 to its junction with Highway 93, thence north on Highway 93 to Eau Claire, thence north on Highway 53 to its junction with Highway 63 near Trego, thence northeast on Highway 63 to Baldwin, thence north on Highway 27 to Lake Superior, (B) to correct the territorial

description in (19)(A) to read: from points in South Dakota that are on, west, and north of the following line: Over Highway 85 from the North Dakota-South Dakota State line, south to its junction with Highway 79, then Highway 79 to its junction with Highway 14 near Sturgis, thence Highway 14 to Rapid City, thence Highway 79 to its junction with Highway 36, thence over Highway 36 to its junction with A-16, thence over Highway A-16 to its junction with Highway 16, thence 16 to the South Dakota-Wyoming border to points in Illinois that are on, east, and north of the following line: Over Highway 61 from near the Illinois-Wisconsin State line at South Beloit, thence south on Highway 61 to its junction with Highway 36 near Decatur, thence east on Highway 36 to the Illinois-Indiana State line.

(C) to correct the territorial description in (31)(A) to read: between points in Iowa on and west of State Highway 60, points in South Dakota on and south of U.S. Highway 14 beginning at the Minnesota-South Dakota State line, thence west to the junction with U.S. Highway 16, thence west on U.S. Highway 16 to the South Dakota-Wyoming State line and points in the Upper Peninsula of Michigan located on and east of State Highway 95 near Iron Mountain, then north to U.S. Highway 41, then east to Marquette, Mich., ending at Marquette, Mich. (D) to correct the commodity description in (37) to read: cast iron pressure pipe and fittings and accessories therefor, when moving with such pipe and when moving as contractors' and construction equipment, materials and supplies, and (E) to correct the territorial description in (47)(A) to read: from points in South Dakota, to points in Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, West Virginia, Ohio, Kentucky, Tennessee, Alabama, Mississippi, Louisiana, New Jersey, District of Columbia, Arkansas, Illinois, points on and south of Highway 6, Indiana, Missouri, Nebraska, points on and south and east of Highway 80 from Omaha to its junction with Highway 81, thence Highway 81 to the Nebraska-Kansas State line, points in Kansas on and east of Highway 81, points in Oklahoma on and east of Highway 1-35, points in Texas on and east of Highway 1-35, points in Michigan on and south of U.S. Highway 10, from Ludington to Bay City, thence Highway 15 and 46 to Lake Huron. The rest of the application remains as originally published.

No. MC 105902 (Sub-No. 18), filed April 14, 1975. Applicant: PENN YAN EXPRESS, INC., 100 West Lake Road, Penn Yan, N.Y. 14527. Applicant's representative: Herbert M. Canter, 315 Seitz Building, 201 East Jefferson Street, Syracuse, N.Y. 13202. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (A) (1) Between Albany, N.Y. and Richfield Springs, N.Y.: From Albany over U.S. Highway 20 to Duaneburg, thence over New York Highway 7 to Oneonta, thence over New York Highway 28 to Cooperstown, thence over New York Highway 80 to junction U.S. Highway 20, thence over U.S. Highway 20 to Richfield Springs, and return over the same route; (2) Between Richfield

Spring, N.Y. and Albany, N.Y.: From Richfield Springs over U.S. Highway 20 to Albany, and return over the same route; (3) Between Cherry Valley, N.Y. and Milford, N.Y.: From Cherry Valley over New York Highway 166 to Milford, and return over the same route; (4) Between Cobleskill, N.Y. and junction New York Highway 145 and U.S. Highway 20: From Cobleskill over New York Highway 145 to junction U.S. Highway 20, and return over the same route; (5) Between Cobleskill, N.Y. and junction New York Highway 10 and U.S. Highway 20: From Cobleskill over New York Highway 10 to junction U.S. Highway 20 and return over the same route; and (6) Between Cooperstown, N.Y. and junction unnumbered Highway with New York Highway 166: From Cooperstown over an unnumbered Highway to junction New York Highway 166, and return over the same route; serving all intermediate points on the routes specified in (A), above, and the off-route points of Altamont, Delanson, and Voorheesville, N.Y.; (B) (1) Between Albany, N.Y. and Oneonta, N.Y.: From Albany over New York Highway 32 to Menands, thence over bridges to Troy, thence over New York Highway 7 to Oneonta, and return over the same route; and (2) Between Oneonta, N.Y. and Norwich, N.Y.: From Oneonta over New York Highway 23 to Norwich, and return over the same route, serving all intermediate points on the routes specified in (B) above and the off-route points of Rensselaer, Cohoes, Scotia, and Franklin, N.Y.

The definitions of Commercial Zones to be served for the cities of Albany, N.Y.; Schenectady, N.Y.; Troy, N.Y.; Hornell, N.Y.; Niagara Falls, N.Y.; and Olean, N.Y. as set forth hereinafter, are from Section 850.1 of Title 17 of the Official Compilation of Codes, Rules, and Regulations of the State of New York and are so defined herein pursuant to the authority and precedent of *The Adley Corp.-Pur-New York & Albany Dispatch, Inc.* 101 M.C.C. 388, 401-462. Commercial zones for Albany, N.Y.; Schenectady, N.Y.; and Troy, N.Y., to be served under (A) and (B) above are as follows: (1) The City of Albany: The city of Albany. The town of Bethlehem, Albany County. The town of Guildford, Albany County. The town of Colonie, Albany County. The city of Rensselaer. The village of Menands, Albany County. The village of Green Island, Albany County. That part of the town of East Greenbush, Rensselaer County, bounded as follows: Beginning at the intersection of the easterly boundary of the city of Rensselaer with the boundary line between the towns of North Greenbush and East Greenbush, thence easterly along the said boundary line between North Greenbush and East Greenbush about 1½ miles to the highway known as U.S. Route No. 4, thence southerly along said U.S. Route No. 4 to the Columbia turnpike, thence southerly along the said Columbia turnpike to the boundary line between the towns of East Greenbush and Schodack, thence westerly along the said boundary line to the



east bank of the Hudson River, thence northerly along the said east bank of the Hudson River to the southerly boundary line of the city of Rensselaer, thence easterly and northerly long the southerly and easterly boundary lines of the city of Rensselaer to the point of beginning.

That portion of the town of New Scotland, Albany County, bounded as follows: Beginning at the intersection of the boundary line of the towns of New Scotland and Bethlehem and the highway known as State Route 32, thence westerly and northerly along said Route 32 and a county road leading through the hamlets of Unionville and Stony Hill to the hamlet of New Scotland, thence continuing northerly and westerly along State Routes Nos. 85A and 85 to the village of Vooreville, thence along the southerly and westerly boundaries of the said village and the said westerly boundary line continued to the boundary line between the towns of New Scotland and Guilderland, thence easterly along the said boundary line between the towns of New Scotland and Guilderland to the boundary line between the towns of New Scotland and Bethlehem, thence southerly along the last-mentioned boundary line to the place of beginning, and including all of the hamlet of Feura Bush.

(2) \* The City of Schenectady: The city of Schenectady and the towns of Rotterdam, Glenville, Niskayuna, and that portion of the town of Colonie lying west of the highway known as U.S. Route No. 9.

(3) \* The City of Troy: The cities of Troy, Watervliet, and Cohoes. The villages of Menands, Green Island, and Waterford. The towns of North Greenbush, Brunswick, and Waterford. That portion of the town of Colonie lying east of the highway known as U.S. Route No. 9. That portion of the town of Schaghticoke lying south of the highway known as the "City of Troy Road", which highway extends from the hamlet of Melrose to the Tomhannock reservoir, and the town road extending west from the hamlet of Melrose to the Hudson River.

(C) (1) Between Jasper, N.Y. and Buffalo, N.Y.: (a) From Jasper over New York Highway 17 to Olean, thence over New York Highway 10 to Buffalo, and return over the same route; (b) From Jasper over New York Highway 17 to Jamestown, thence over New York Highway 17 to Kennedy, thence over U.S. Highway 62 to Buffalo, and return over the same route; (2) Between Wayland, N.Y. and Batavia, N.Y.: From Wayland over New York Highway 63 to Batavia, and return over same route; (3) Between Jasper, N.Y. and Caledonia, N.Y.: From Jasper over New York Highway 21 to Hornell, thence over New York Highway 36 to Caledonia, and return over the same route; (4) Between Genesee, N.Y. and Buffalo, N.Y.: From Genesee over New York Highway 39 to Avon, thence over U.S. Highway 20 and New York Highway 130 to Buffalo, return over the same

route; (5) Between Buffalo, N.Y. and Niagara Falls, N.Y.: From Buffalo over U.S. Highway 62 to Niagara Falls and return over the same route, serving all intermediate points on the routes specified in (C) above, and the off-route points of: Lackawanna, Lockport, Livonia, Alfred, Troupsburg, Howard, Lindley, Perkinsville, Pine City, Presheo, Seeley Creek, and Springwater, N.Y. Commercial zones for Hornell, N.Y., Niagara Falls, N.Y. and Olean, N.Y., to be served under (C) above are as follows: (1) The City of Hornell: The city of Hornell and the town of Hornellsville. (2) The City of Niagara Falls: The city of Niagara Falls and the towns of Lewiston, Niagara, Wheatfield and Grand Island.

(3) The City of Olean: The City of Olean and the towns of Olean and Allegany.

D. (1) Between Owego, N.Y. and Ithaca, N.Y.: (a) From Owego over New York Highway 96 to Ithaca, and return over the same route. (b) From Owego over New York Highway 38 to Richford, thence over New York Highway 79 to Ithaca, and return over the same route; and (2) Between Horseheads, N.Y. and Ithaca, N.Y.: From Horseheads over New York Highway 13 to Ithaca, and return over the same route, serving all intermediate points on the routes specified in (D), above and the off-route points of Wellsburg, Erin, and Straits Corners, N.Y.

NOTE.—By the instant application, applicant seeks to convert a portion of a Certificate of Registration it is seeking to acquire to a Certificate of Public Convenience and Necessity. This is a matter directly related to a Section 5 proceeding in MC-P-12492, published in the *FEDERAL REGISTER* issue of April 23, 1975. If a hearing is deemed necessary, applicant requests it be held at either Syracuse, Binghamton, Jamestown, or Buffalo, N.Y., or Washington, D.C.

No. MC 106644 (Sub-No. 203), filed February 10, 1975. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. Box 916, Atlanta, Ga. 30301. Applicant's representative: Guy H. Postell, Suite 713, 3384 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting: (1) (A) *Commodities*, the transportation of which because of size, weight, or shape require the use of special equipment or special handling (except pipe, pipeline machinery, equipment, and supplies incidental to and used in connection with the construction, operation, repair, servicing, and dismantling of pipelines and the stringing or picking up thereof), (1) (a) between points in Oklahoma and Missouri (except points in Missouri west of U.S. Highway

67 beginning at the Mississippi River north of St. Louis, Mo. and extending to the Missouri-Arkansas line) and (b) between points in Oklahoma and Missouri (west of U.S. Highway 67 in Missouri). The purpose of this filing is to eliminate the gateway of St. Charles, Mo. and/or on and east of U.S. Highway 67 in Missouri beginning at the Mississippi River, thence U.S. Highway 67 By-Pass to Junction U.S. Highway 61, thence U.S. Highway 61 to Missouri-Arkansas line.

(2) (a) between points in Oklahoma and points in Iowa on and east of U.S. Highway 61 between Dubuque, Iowa and the Missouri-Iowa line and (b) between points in Oklahoma and points in Iowa west of U.S. Highway 61 beginning at Dubuque, Iowa to the Missouri-Iowa line. The purpose of this filing is to eliminate the gateway of St. Charles, Mo. and/or on and east of U.S. Highway 67 in Missouri beginning at the Mississippi River, thence U.S. Highway 67 By-Pass to Junction U.S. Highway 61, thence U.S. Highway 61 to Missouri-Arkansas line.

(3) (a) between points in Missouri and Illinois and (b) between points in Oklahoma and Illinois. The purpose of this filing is to eliminate the gateway of St. Charles, Mo. and/or on and east of U.S. Highway 67 in Missouri beginning at the Mississippi River, thence U.S. Highway 67 By-Pass to Junction U.S. Highway 61, thence U.S. Highway 61 to Missouri-Arkansas line.

(4) (a) between points in Oklahoma, on the one hand, and, on the other, points in Indiana, Ohio, Kentucky and Tennessee (except points in Tennessee south and west of Tennessee Highway 19 beginning at the Mississippi River, thence Tennessee Highway 19 to Junction Tennessee Highway 76, thence Tennessee Highway 76 to Junction Tennessee Highway 57, thence Tennessee Highway 57 to Junction Tennessee Highway 18, thence Tennessee Highway 18 to Tennessee-Mississippi line) and (b) between points in Oklahoma and points in Tennessee south and west of Tennessee Highway 19 beginning at the Mississippi River, thence Tennessee Highway 19 to Junction Tennessee Highway 76, thence Tennessee Highway 76 to Junction Tennessee Highway 57, thence Tennessee Highway 57 to Junction Tennessee Highway 18, thence Tennessee Highway 18 to Tennessee-Mississippi line. The purpose of this filing is to eliminate the gateway of St. Louis, Mo. and/or on and east of U.S. Highways 67-61 in Missouri.

(5) (a) between points in Oklahoma (except south of Interstate 44 from the Oklahoma-Missouri line to Junction Interstate 40, thence Interstate 40 to the Oklahoma-Texas line) and Alabama (except south of U.S. Highway 84 from the Alabama-Mississippi line to Junction Alabama 55, thence Alabama Highway 55 to Alabama-Florida line) (b) between points in Oklahoma (except east and south of Oklahoma Highway 1 from Oklahoma-Arkansas line to Junction Oklahoma Highway 7, thence Oklahoma Highway 7 to Junction U.S. Highway 81, thence U.S. Highway 81 to the Oklahoma-Texas line, on the one hand, and, on the other, points in Virginia west of U.S. Highway 52 between the North Carolina and Kentucky lines. The purpose of this filing is to eliminate the gateway of points in Missouri on and east of U.S. Highway 61 north of the Arkansas-Missouri line, Tennessee, and in North Carolina one mile south of Mouth of Wilson, Virginia.

(8) between points in Oklahoma and Maryland. The purpose of this filing is to

eliminate the gateway of points in Missouri on and east of U.S. Highway 61 north of the Arkansas-Missouri line, Tennessee, and in North Carolina one mile south of Mouth of Wilson, Virginia.

(9) between points in Oklahoma and New Jersey, Massachusetts, and Rhode Island. The purpose of this filing is to eliminate the gateway of points in Missouri on and east of U.S. Highway 61 north of the Arkansas-Missouri line, Tennessee, and in North Carolina one mile south of Mouth of Wilson, Virginia.

(10) (a) between points in Oklahoma and Pennsylvania (except west of U.S. Highway 15 between the New York and Maryland lines) and (b) between points in Oklahoma and points in Pennsylvania west of U.S. Highway 15 between the New York and Maryland lines. The purpose of this filing is to eliminate the gateway of points in Missouri on and east of U.S. Highway 61 north of the Arkansas-Missouri line and Tennessee.

(11) (a) between points in Oklahoma and Georgia, North Carolina, South Carolina, and Florida (except between points in Oklahoma east and south of Oklahoma Highway 9 from the Arkansas line to Oklahoma Highway 7, thence Oklahoma Highway 7 to U.S. Highway 81, thence U.S. Highway 81 to the Texas line, on the one hand, and, on the other, points in Florida west of the Apalachicola River) and (b) between points in Oklahoma east and south of Oklahoma Highway 9 from the Arkansas line, thence Oklahoma Highway 9 to Oklahoma Highway 7, thence Oklahoma Highway 7 to U.S. Highway 81, thence U.S. Highway 81 to the Texas line, on the one hand, and, on the other, points in Florida west of the Apalachicola River. The purpose of this filing is to eliminate the gateways of points in Missouri on and east of U.S. Highway 61 north of Arkansas-Missouri line and Tennessee.

(7) (a) between points in Oklahoma (except east and south of Oklahoma Highway 1 from the Oklahoma-Arkansas line to Junction Oklahoma Highway 7, thence Oklahoma Highway 7 to Junction U.S. Highway 81, thence U.S. Highway 81 to the Oklahoma-Texas line) and Virginia (except west of U.S. Highway 52 in Virginia between North Carolina line and Kentucky line) and (b) between points in Oklahoma east and south of Oklahoma Highway 1 from the Oklahoma-Arkansas line to Junction Oklahoma Highway 7, thence Oklahoma Highway 7 to Junction U.S. Highway 81, thence U.S. Highway 81 to the Oklahoma-Texas line, on the one hand, and, on the other, points in Virginia west of U.S. Highway 52 between the North Carolina and Kentucky lines. The purpose of this filing is to eliminate the gateway of points in Missouri on and east of U.S. Highway 61 north of the Arkansas-Missouri line, Tennessee, and in North Carolina one mile south of Mouth of Wilson, Virginia.

(8) between points in Oklahoma and Maryland. The purpose of this filing is to

eliminate the gateway of points in Missouri on and east of U.S. Highway 61 north of the Arkansas-Missouri line, Tennessee, and in North Carolina one mile south of Mouth of Wilson, Virginia.

(9) between points in Oklahoma and New Jersey, Massachusetts, and Rhode Island. The purpose of this filing is to eliminate the gateway of points in Missouri on and east of U.S. Highway 61 north of the Arkansas-Missouri line, Tennessee, and in North Carolina one mile south of Mouth of Wilson, Virginia.

(10) (a) between points in Oklahoma and Pennsylvania (except west of U.S. Highway 15 between the New York and Maryland lines) and (b) between points in Oklahoma and points in Pennsylvania west of U.S. Highway 15 between the New York and Maryland lines. The purpose of this filing is to eliminate the gateway of points in Missouri on and east of U.S. Highway 61 north of the Arkansas-Missouri line and Tennessee.

(11) (a) between points in Oklahoma and Georgia, North Carolina, South Carolina, and Florida (except between points in Oklahoma east and south of Oklahoma Highway 9 from the Arkansas line to Oklahoma Highway 7, thence Oklahoma Highway 7 to U.S. Highway 81, thence U.S. Highway 81 to the Texas line, on the one hand, and, on the other, points in Florida west of the Apalachicola River) and (b) between points in Oklahoma east and south of Oklahoma Highway 9 from the Arkansas line, thence Oklahoma Highway 9 to Oklahoma Highway 7, thence Oklahoma Highway 7 to U.S. Highway 81, thence U.S. Highway 81 to the Texas line, on the one hand, and, on the other, points in Florida west of the Apalachicola River. The purpose of this filing is to eliminate the gateways of points in Missouri on and east of U.S. Highway 61 north of Arkansas-Missouri line and Tennessee.

(7) (a) between points in Oklahoma (except east and south of Oklahoma Highway 1 from the Oklahoma-Arkansas line to Junction Oklahoma Highway 7, thence Oklahoma Highway 7 to Junction U.S. Highway 81, thence U.S. Highway 81 to the Oklahoma-Texas line) and Virginia (except west of U.S. Highway 52 in Virginia between North Carolina line and Kentucky line) and (b) between points in Oklahoma east and south of Oklahoma Highway 1 from the Oklahoma-Arkansas line to Junction Oklahoma Highway 7, thence Oklahoma Highway 7 to Junction U.S. Highway 81, thence U.S. Highway 81 to the Oklahoma-Texas line, on the one hand, and, on the other, points in Virginia west of U.S. Highway 52 between the North Carolina and Kentucky lines. The purpose of this filing is to eliminate the gateway of points in Missouri on and east of U.S. Highway 61 north of the Arkansas-Missouri line, Tennessee, and in North Carolina one mile south of Mouth of Wilson, Virginia.

(8) between points in Oklahoma and Maryland. The purpose of this filing is to

eliminate the gateway of points in Missouri on and east of U.S. Highway 61 north of the Arkansas-Missouri line, Tennessee, and in North Carolina one mile south of Mouth of Wilson, Virginia.

(9) between points in Oklahoma and New Jersey, Massachusetts, and Rhode Island. The purpose of this filing is to eliminate the gateway of points in Missouri on and east of U.S. Highway 61 north of the Arkansas-Missouri line, Tennessee, and in North Carolina one mile south of Mouth of Wilson, Virginia.

(10) (a) between points in Oklahoma and Pennsylvania (except west of U.S. Highway 15 between the New York and Maryland lines) and (b) between points in Oklahoma and points in Pennsylvania west of U.S. Highway 15 between the New York and Maryland lines. The purpose of this filing is to eliminate the gateway of points in Missouri on and east of U.S. Highway 61 north of the Arkansas-Missouri line and Tennessee.

(11) (a) between points in Oklahoma and Georgia, North Carolina, South Carolina, and Florida (except between points in Oklahoma east and south of Oklahoma Highway 9 from the Arkansas line to Oklahoma Highway 7, thence Oklahoma Highway 7 to U.S. Highway 81, thence U.S. Highway 81 to the Texas line, on the one hand, and, on the other, points in Florida west of the Apalachicola River) and (b) between points in Oklahoma east and south of Oklahoma Highway 9 from the Arkansas line, thence Oklahoma Highway 9 to Oklahoma Highway 7, thence Oklahoma Highway 7 to U.S. Highway 81, thence U.S. Highway 81 to the Texas line, on the one hand, and, on the other, points in Florida west of the Apalachicola River. The purpose of this filing is to eliminate the gateways of points in Missouri on and east of U.S. Highway 61 north of the Arkansas-Missouri line, Tennessee, and in North Carolina one mile south of Mouth of Wilson, Virginia.

(12) (a) between points in Texas and Illinois, Indiana, Ohio, and Kentucky, (b) between points in Texas and points in Missouri except points west of Missouri Highway 15 beginning at the Missouri-Iowa line, thence Missouri Highway 15 to Junction Missouri Highway 22, thence Missouri Highway 22 to Junction Missouri Highway 19, to Junction Missouri Highway 49, thence Missouri Highway 49 to Junction Missouri Highway 21, thence Missouri Highway 21 to the Missouri-Arkansas line, (c) between points in Texas and points in Iowa except points in Iowa west of U.S. Highway 63 between the Iowa-Minnesota line and the Iowa-Missouri line, (d) between points in Texas and points in Tennessee except points in Tennessee west of U.S. Highway 45 beginning at the Tennessee-Mississippi line, thence to Junction Tennessee Highway 20, thence Tennessee Highway 20 to the Tennessee-Missouri line, (e) between points in Texas and points in Missouri west of Missouri Highway 15 beginning at the Missouri-Iowa line, thence Missouri Highway 15 to

Junction Missouri Highway 22, thence Missouri Highway 22 to Junction Missouri Highway 19, thence Missouri Highway 19 to Junction Missouri Highway 49, thence Missouri Highway 49 to Junction Missouri Highway 21, thence Missouri Highway 21 to the Missouri-Arkansas line, (f) between points in Texas and points in Iowa west of U.S. Highway 63 between the Iowa-Minnesota line and the Iowa-Missouri line, and (g) points in Texas and points in Tennessee west of U.S. Highway 45 beginning at the Tennessee-Mississippi line, thence U.S. Highway 45 to Junction Tennessee Highway 20, thence Tennessee Highway 20 to the Tennessee-Missouri line. The purpose of this filing is to eliminate the gateway of points in Missouri on and east of U.S. Highway 61-67.

(13) (a) between points in Texas on and west of north of U.S. Highway 287 from the Texas-Oklahoma line to Junction U.S. Highway 87, thence U.S. Highway 87 to Junction U.S. Highway 80, thence U.S. Highway 80 to the Texas-New Mexico line, and points in Alabama, on and east of U.S. Highway 231 from the Alabama-Florida line to Junction I-65, thence I-65 to the Alabama-Tennessee line, and (b) between points in Texas east and south of U.S. Highway 287 from the Texas-Oklahoma line to Junction U.S. Highway 87, thence U.S. Highway 87 to Junction U.S. Highway 80, thence U.S. Highway 80 to the Texas-New Mexico line, and points in Alabama west of U.S. Highway 231 from the Alabama-Florida line to Junction I-65, thence I-65 to the Alabama-Tennessee line. The purpose of this filing is to eliminate the gateway of points in Missouri on and east of U.S. Highway 61 north of the Arkansas-Missouri line and Tennessee.

(14) (a) between points in Texas on and north and west of U.S. Highway 287 from the Texas-Oklahoma line to Junction U.S. Highway 87, thence U.S. Highway 87 to Junction U.S. Highway 80, thence U.S. Highway 80 to the Texas-New Mexico line, and points in Mississippi on and east of U.S. Highway 45 from the Mississippi-Tennessee line to Junction of Alternate U.S. Highway 45, thence Alternate U.S. Highway 45 to Junction U.S. Highway 45 to Junction Mississippi Highway 16, thence Mississippi Highway 16 to the Mississippi-Alabama line, and (b) between points in Texas and Louisiana, and (c) between points in Texas east and south of U.S. Highway 287 from the Texas-Oklahoma line to Junction U.S. Highway 87, thence U.S. Highway 87 to Junction U.S. Highway 80, thence U.S. Highway 80 to the Texas-New Mexico line, and points in Mississippi west of U.S. Highway 45 from the Mississippi-Tennessee line to Junction Alternate U.S. Highway 45, thence Alternate U.S. Highway 45 to Junction U.S. Highway 45 to Junction Mississippi Highway 16, thence Mississippi Highway 16 to the Mississippi-Alabama line. The purpose of this filing is to eliminate the gateway of points in Missouri on and east of U.S.



Highway 61 north of the Arkansas-Missouri line and Tennessee.

(II) *aluminum ingots, pigs, billets, blooms and plates* which because of size or weight require the use of special equipment, from points in Oklahoma to points in Connecticut, Delaware, and the District of Columbia. The purpose of this filing is to eliminate the gateway of points in Missouri on and east of U.S. Highway 61 north of the Arkansas-Missouri line, Tennessee, and Scottsboro, Ala.

(III) (a) *heat exchangers or equalizers* (b) *heating, cooling, humidifying and dehumidifying machinery and equipment*, and (c) *parts, attachments and accessories* for use in the installation and operation of the above named commodities in (a) and (b), and when commodities in (a), (b), and (c) require special equipment to load and/or unload, from points in Oklahoma and Texas, to points in Connecticut, Delaware, Maine, New Hampshire, Vermont, and the District of Columbia. The purpose of this filing is to eliminate the gateway of points in Missouri on and east of U.S. Highway 61 north of the Arkansas-Missouri line, Montgomery County, Tenn.

(IV) *electric controllers and instruments* which because of size or weight require the use of special equipment, from points in Oklahoma and Texas to points in Delaware, District of Columbia, Connecticut, Vermont, New Hampshire, and Maine. The purpose of this filing is to eliminate the gateway of points in Missouri on and east of U.S. Highway 61, Tennessee, North Carolina, and Roanoke County, Va. This application is a gateway elimination request filed pursuant to the Commission's Policy Statement in Ex Parte No. 55 (Sub-No. 8) noticed in the FEDERAL REGISTER issue of December 9, 1974; and is directly related to MC-F-11318 published in the FEDERAL REGISTER of September 29, 1972.

MC 126588 (Sub-No. 2), filed March 30, 1975. Applicant: KERR MOTOR LINES, INC., 1/4 Jackson Street, Binghamton, N.Y. 13903. Applicant's representative: Norman M. Pinsky, 345 South Warren Street, Syracuse, N.Y. 13202. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in New York and Pennsylvania as authorized in applicant's certificate No. MC 126588 on the one hand, and, on the other, points in specified counties in New York as authorized in Dexter's Delivery, Inc. Certificate of Registration No. MC 121616 (Sub-No. 1) which applicant is seeking to acquire. The purpose of this filing is to eliminate a gateway at points in Schoharie County, N.Y. and to convert a Certificate of Registration applicant is seeking to acquire to a Certificate of Public Convenience and Necessity. This application is a gateway elimination request filed pursuant to the Commission's Policy Statement

in Ex Parte No. 55 (Sub-No. 8) noticed in the FEDERAL REGISTER issue of December 9, 1974; and is directly related to MC-F-12482 published in the FEDERAL REGISTER issue of April 23, 1974.

No. MC-F-11043. (Supplemental) (Colonial Motor Freight Line, Inc.—Control—Griggs Trucking Company), published in the December 16, 1970, issue of the FEDERAL REGISTER. By report and order decided February 21, 1974, and served March 27, 1974, the Commission, Division 3, among other things, approved and authorized the acquisition by Colonial Freight Line, Inc., of control of Griggs Trucking Company, through the purchase of capital stock and the merger of the operating rights and property of the latter into the former for ownership, management, and operation.

No. MC-F-11563. (Supplemental) (ROSS TRUCK LINES, INC.—PURCHASE (portion)—ROBERT FOLTZ), published in the June 14, 1972 issue of the FEDERAL REGISTER on page 11818. By petition filed June 14, 1974, Dan E. Turner, Trustee in Bankruptcy of Robert Foltz, sought to be substituted as the transfer or in this proceeding. Turner's petition was granted, and subject to the present republication, the purchase of a portion of the interstate operating rights of Robert Foltz (Dan E. Turner, Trustee in Bankruptcy) of Ottawa, Kans. by Ross Truck Lines, Inc. of Paola, Kans. was authorized by order of the Commission, Review Board Number 5, dated March 20, 1975.

No. MC-F-12495. Authority sought to be purchased by RINGSBY TRUCK LINES, INC., 5773 S. Prince St., Littleton, CO 80120, of a portion of the operating rights of RINGSBY-PACIFIC, LTD., also of Littleton, CO 80120, and for acquisition by J. W. RINGSBY, also of Littleton, CO 80120, of control of such rights through the purchase. Applicants' attorney: Alvin J. Melklejohn, Jr., Suite 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80203. Operating rights sought to be transferred: *General commodities*, excepting among others, class A and B explosives, household goods and commodities in bulk, as a common carrier over regular routes, between Kalispell, Mont., and Coram, Mont., serving all intermediate points, and serving points within 5 miles of Coram as off-route points, between Spokane, Wash., and Great Falls, Mont., serving all intermediate points between Milltown, Mont. (not including Milltown), and Great Falls, between Coram, and Shelby, Mont., serving all intermediate points, between Browning, and Great Falls, Mont., serving no intermediate points, between Shelby, and Great Falls, Mont., serving no intermediate points, between Spokane, and Oroville, Wash., serving no intermediate and off-route points, between Oroville, Wash., and the United States-Canada Boundary Line approximately 8 miles north of Oroville, serving no immediate points, between points in Washington, serving all intermediate points, between Yakima, Wash., and

Portland, Oreg., serving the intermediate point of Toppenish, Wash., and the off-route point of Wapato, Wash.; *general commodities*, excepting among others, high explosives, and commodities in bulk, over irregular routes, from Portland, Oreg., to points in Yakima County, Wash., except Yakima, Wapato, and Toppenish, Wash.; *farm products*, except in bulk in tank vehicles, from points in Yakima County, Wash., to Portland, Oreg., and Seattle, Wash. (except from Yakima, Wapato, and Toppenish, Wash., to Portland, Oreg.); *paper*, from Oregon City, Oreg., to Hanford, Wash., and points in Yakima County, Wash.; *spray and spray materials*, except in bulk in tank vehicles, from Portland, Oreg., to Wenatchee, Wash., from Yakima, Wash., to Hood River, Oreg.; *powdered milk*, except in bulk in tank vehicles, from Sunnyside, Wash., to Portland, Oreg., over one alternate route for operating convenience only. Vendee is authorized to operate as a common carrier in all of the States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

NOTE.—MC-52709 (Sub-No. 330) directly related matter.

No. MC-F-12496. Authority sought for purchase by RINGSBY-PACIFIC, LTD., 5773 S. Prince St., Littleton, CO 80120, of a portion of the operating rights of RINGSBY TRUCK LINES, INC., also of Littleton, CO 80120, and for acquisition by J. W. RINGSBY, J. V. RINGSBY, D. W. RINGSBY, SUSAN R. PETREZAK, LINDA RINGSBY, and GARY RINGSBY, all of Littleton, CO 80120, of control of such rights through the purchase. Applicants' attorney: Alvin J. Melklejohn, Jr., Suite 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80203. Operating rights sought to be transferred: *General commodities*, excepting among others, Classes A and B explosives, livestock, household goods and commodities in bulk, as a common carrier over regular routes, between Aberdeen, and Hoquiam, Wash., between Mt. Vernon, and Sedro Woolley, Wash., serving the intermediate and off-route points of Burlington and Clear Lake, Wash., and those within three miles of Mt. Vernon, between Mt. Vernon, and Bellingham, Wash., serving all intermediate points; and off-route points within three miles of Mt. Vernon, between Anacortes, and Stanwood, Wash., serving all intermediate points; and off-route point of La Conner, Wash., and those within three miles of Mt. Vernon, between Vancouver, and Tacoma, Wash., serving various intermediate and off-route points, between Seattle and Bellingham, Wash., serving the intermediate points of Everett and Mt. Vernon, Wash., and all intermediate points between Mt. Vernon and Bellingham, Wash., and those within 30 miles of Mt. Vernon, Wash., between Aberdeen, and Olympia, Wash., between Aberdeen, and Centralla, Wash., serving all intermediate points, between Tenino, and Tacoma, Wash., between Bellingham,

Wash., and the Boundary line between the United States and Canada, serving various intermediate and off-route points with restriction: *meat, meat-products and meat by-products* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, between Bellingham, and Blaine, Wash., serving no intermediate points, with restriction; *cranberry food products*, serving Markham, Wash., as an off-route point in connection with carrier's authorized regular route operations to and from Aberdeen, Wash., over one alternate route for operating convenience only; *shakes, shingles, and shingle trim*, over irregular routes, from points in Grays Harbor County, Wash., and points in that part of Jefferson County, Wash., west of the Olympic Mountains, to Portland, Oreg. Vendee is authorized to operate as a common carrier in California, Nevada, Oregon and Washington. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC-108398 (Sub-No. 43), directly related matter.

No. MC-F-12510. (Correction) (IMPERIAL VAN LINES, INC.—CONTROL—MARTIN VAN LINES, INC.), Joseph O. Earp, Trustee, published in the May 7, 1975, issue of the FEDERAL REGISTER on page 19889. Prior notice should be modified to include under commodities of *Household goods* as defined by the Commission, between points in Rosebud, Custer, and Treasure Counties, Mont., except Forsyth, Mont., on the one hand, and, on the other, points in Minnesota, South Dakota, North Dakota, Wyoming, Idaho, Washington, and Montana, between Forsyth, Mont., on the one hand, and, on the other, points in Montana more than 125 miles from Forsyth, and those in Minnesota, South Dakota, North Dakota, Wyoming, Idaho, and Washington; in lieu of between points in Rosebud, Custer and Treasure Counties, Mont., except Forsyth, Mont., on the one hand, and, on the other, points in Montana more than 125 miles from Forsyth, and those in Minnesota, South Dakota, North Dakota, Wyoming, Idaho, and Washington.

No. MC-F-12514. Authority sought for control by CHROMALLOY AMERICAN CORPORATION, a non-carrier, 120 S. Central Ave., St. Louis, MO 63105, of F.M.S. TRANSPORTATION, INC., 900 North Alvarado, Los Angeles, CA 90026. Applicants' attorneys: E. Stephen Helsley, Suite 805, 666 Eleventh St., NW, Washington, DC 20001, and Kent E. Friedman, 120 S. Central Ave., St. Louis, MO 63105. Operating rights sought to be controlled: Order in No. MC-139206, conditioned the grant of authority therein upon the filing of this application by CHROMALLOY AMERICAN CORPORATION. Operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of textiles and textile products and materials, equipment

and supplies used in the same, manufacture, processing, production, and distribution of the above-named commodities (except commodities in bulk) between Laredo, Brenham, and Houston, Tex., Wellsville, Mo., and Johnson City, Tenn., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Chromalloy American Corporation has control of the Valley Line Company a regulated water carrier operating pursuant to certificate issued in W-78. Chromalloy American also controls American Transit Corp., which in turn controls certain motor carriers of passengers holding certificates from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-12517. Authority sought for control by GRAVES TRUCK LINE, INC., 2130 South Ohio, Salina, KS 67401, of THOMAS CARTAGE, INC., 301 N. Wilson St., Amarillo, TX 79105, and for acquisition by WILLIAM H. GRAVES, also of Salina, KS 67401, of control of THOMAS CARTAGE, INC., through the acquisition by GRAVES TRUCK LINE, INC. Applicants' attorney: John E. Jandera, 641 Harrison St., Topeka, KS 66603. Operating rights sought to be controlled: *General commodities*, excepting among others, classes A and B explosives, household goods, and commodities in bulk, as a common carrier over regular routes, between Texhoma, Okla., on the Oklahoma-Texas State line, and Guymon, Okla., serving all intermediate points, between Amarillo, and Turkey, Tex., serving the intermediate points of Silberton and Quitaque, Tex., between Amarillo, Tex., and the Texas-Oklahoma State line, serving all intermediate points between Amarillo and Dumas, Tex., the intermediate points of Etter, Stratford, and Texhoma, Tex., and the off-route point of Sunray, Tex., between Amarillo, and Sunray, Tex., serving the intermediate points of Dumas, and Sheerin, Tex.; serving various off-route points, between Stratford, Tex., and Keyes, Okla., serving all intermediate points and the off-route point of the Bureau of Hines Keys Heliport Plant, Okla., between Dumas, and Stratford, Tex., serving all intermediate points, except Etter, Tex. GRAVES TRUCK LINE, INC., is authorized to operate as a common carrier in Kansas, Oklahoma, Nebraska, Texas, Missouri, and Colorado. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-12518. Authority sought for purchase by BRADA MILLER FREIGHT SYSTEM, INC., 1210 South Union St., Kokomo, IN 46901, of the operating rights of SHERIDAN EXPRESS CO., P.O. Box 486, Lansing, OH 43934, and for acquisition by BELFORD INVESTMENT CO., INC., also of Kokomo, IN 46901, of control of such rights through the purchase. Applicants' attorney: Edward K. Wheeler, 704 Southern Bldg., Washington, DC 20005. Operating rights sought to be transferred: *General commodities*, excepting among others, class

A and B explosives, household goods and commodities in bulk, as a common carrier over irregular routes, between points in Belmont County, Ohio, on the one hand, and, on the other, points in Brooke, Hancock, Marshall, and Ohio Counties, W. Va. Vendee is authorized to operate as a common carrier in Michigan, Ohio, Indiana, Illinois, Kentucky, Pennsylvania, Missouri, West Virginia, Iowa, Wisconsin, Tennessee, Kansas, Nebraska, South Dakota, North Dakota, Minnesota, and New York. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-12519. Authority sought for purchase by AL ZEFFIRO TRANSFER AND STORAGE, INC., P.O. Box 296, Murrysburg, PA 15668, of a portion of the operating rights of DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA, and for acquisition by MAWSON & MAWSON, INC., P.O. Box 125, Langhorne, PA 19047, of control of such rights through the purchase. Applicants' attorneys: James W. Patterson, 2107 The Fidelity Bldg., Philadelphia, PA 19109, P. F. Sullivan, Suite 711 Washington Bldg., 15th & New York Ave. NW, Washington, D.C. 20005, and James W. Hagar, 100 Pine St., Harrisburg, PA 17108. Operating rights sought to be transferred: *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment, and *related iron and steel and iron and steel products* when their transportation is incidental to the transportation of said carrier of commodities which by reason of size or weight require special equipment, as a common carrier over irregular routes, between points within 80 miles of Columbus, Ohio, including Columbus, on the one hand, and, on the other, points in Wayne County, Ohio, Guernsey County, Ohio, and Athens County, within 80 miles of Columbus, Ohio, between points in Wayne County, Ohio, Guernsey County, Ohio, and Athens County, Ohio, within 80 miles of Columbus, Ohio, on the one hand, and, on the other, points in Kentucky, West Virginia, Indiana, Michigan, Pennsylvania, Illinois, and New York. Vendee is authorized to operate as a common carrier in Pennsylvania, Ohio, Delaware, Maryland, New York, West Virginia, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

Notice is hereby given that on April 17, 1975, an application was filed in Finance Docket No. 27891 by the BRUSCO TOWBOAT COMPANY, a Washington Corporation, to acquire by purchase all of the outstanding common stock of COLUMBIA TUG BOAT COMPANY, an Oregon Corporation, from Robert Brusco and upon Commission approval to thereafter merge the properties of COLUMBIA TUG BOAT COMPANY, into BRUSCO TOWBOAT COMPANY by statutory merger and for Roland E. Brusco to acquire control of the rights and properties of COLUMBIA TUG BOAT COMPANY, through controlling stock ownership of BRUSCO TOWBOAT COMPANY.



## NOTICES

The operating rights of Columbia Tug Boat Co. which are proposed to be acquired and merged into Brusco Towboat Company will extend Brusco Towboat's authority to perform general towing by non-self-propelled vessels and separate towing vessels from Vancouver, Washington, to points along the Columbia River as far east as Bonneville Dam and from Wauna, Oregon, as far west as the mouth of the Columbia River and on the Willamette River from Portland to Oregon City, Oregon.

Applicants have stated that the requested Commission action involves no known effect on the quality of the human environment. In accordance with the Commission's regulations (49 CFR 1100.250) in Ex Parte No. 55 (Sub-No. 4), *Implementation-National Environmental Policy Act, 1969*, 340 I.C.C. 431 (1972), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall include information relating to the relevant factors set forth in Ex Parte No. 55 (Sub-No. 4), supra, Part (b) (1)-(5), 340 I.C.C. 431, 461.

No applicant for temporary authority pertaining to this proceeding has been filed under Section 311(b). The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission on or before June 20, 1975.

Roland Brusco,  
P.O. Box 1060,  
Longview, Washington 98632.  
BRUSCO TOWBOAT COMPANY,  
P.O. Box 1060,  
Longview, Washington 98632.  
Robert Brusco,  
P.O. Box 158,  
Cathlamet, Washington 98612.  
COLUMBIA TUG BOAT CO.,  
P.O. Box 158,  
Cathlamet, Washington 98612.  
Alex L. Parks,  
White, Sutherland, Parks & Allen,  
Attorneys for Applicants,  
1200 Jackson Tower,  
Portland, Oregon 97205.

Finance Docket No. 27589 (Petitions for Reopening and Modification to Approve and Authorize Participation of 25 Additional Common Carriers by Railroad) (American Rail Box Car Company and Trailer Train Company et al.—For Approval of the Pooling of Car Service in Respect to Box Cars), published in the March 12, 1974, issue of the *FEDERAL REGISTER*. By petition filed March 27, 1975, 25 additional common carriers by railroad seek modification of the report and order of August 1, 1974, as modified by supplemental report and order of September 24, 1974, which approved the box car pooling agreement in the above-entitled proceeding, subject to conditions, in order to permit the petitioning railroads to join in the box car pooling arrangement as full and equal participants. The 25 petitioning railroads are:

Alameda Belt Line  
The Apache Railway Company  
Atlanta & Saint Andrews Bay Railway Company  
Camino, Placerville & Lake Tahoe Railroad Company  
Chattahoochee Valley Railway Company  
Chicago Short Line Railway Company  
The Colorado and Southern Railway Company  
Columbia & Cositz Railway Company  
Des Moines and Central Iowa Railway Company  
Duluth & Northeastern Railroad Company  
East Camden & Highland Railroad Company  
East Erie Commercial Railroad  
Fort Worth and Denver Railway Company  
Green Mountain Railroad Corporation  
Houston Belt & Terminal Railway Company  
Kansas City Terminal Railway Company  
Manufacturers' Junction Railway Company  
Marquette, Tomahawk & Western Railroad Company  
The Oakland Terminal Railway  
Oregon, California & Eastern Railway Company  
Public Belt Railroad Commission  
Sabine River & Northern Railroad Company  
St. Johnsbury & Lamoille County Railroad  
Vaidosta Southern Railroad Company  
Wharton & Northern Railroad Company

Duluth, Missabe and Iron Range Railway Company (DMIR) with offices at Room 500, Missabe Building, Duluth, Minnesota 55802, represented by Mr. Daniel H. Core, Jr., hereby gives notice, that on the 22nd day of April, 1975 it filed with the Interstate Commerce Commission at Washington, D.C. in Finance Docket No. 27893 an Application for authority to use and operate over approximately 10.0 miles of main line track of the Duluth, Winnipeg and Pacific Railway Company (DWP) from a point near DWP Milepost 77 north of the City of Virginia, St. Louis County, Minnesota, to a point at Ramshaw, Minnesota, south and west of the City of Eveleth, St. Louis County, Minnesota, for the purpose of performing common carrier service for the new Monroca Plant of Inland Steel Mining Company.

Applicant contends that the granting of the authority to operate over the trackage in question is not a major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1100.250) in Ex Parte No. 55 (Sub-No. 4), *Implementation-National Environmental Policy Act, 1969*, 340 I.C.C. 431 (1972), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall include information relating to the relevant factors set forth in Ex Parte No. 55 (Sub-No. 4), supra, Part (b) (1)-(5), 340 I.C.C. 431, 461.

The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission on or before June 30, 1975.

The Crown Zellerbach Corporation, One Bush Street, San Francisco, California 94119, represented by Mr. Arthur L. Winn, Jr., Attorney At Law, 743 Investment Building, Washington, D.C. 20005, hereby gives notice that on April 10, 1975, in Finance Docket No. 27884, an application was filed for authority to control by stock ownership, the Palantic Steamship Company, Inc., a contract carrier by water by self-propelled vessels and by non-propelled vessels with the use of separate towing vessels of lumber products from Pacific coast ports in the States of Washington, Oregon and California to Atlantic coast ports in the States of New York, Connecticut, Rhode Island, Pennsylvania, Delaware and Maryland while continuing to control, through stock ownership, Western Transportation Co., a common carrier by non-self-propelled vessels with the use of separate towing vessels of commodities generally on the Columbia River below Bonneville Dam and its tributaries but not including the Willamette River above Pulp, Oregon and in the performance of freight-car ferry service between Cathlamet and Longview, Washington. The water carriers referred to have conducted operations for many years under the authority held by them; and no change in such operations is contemplated as a result of the proposed transaction. No application for temporary authority under section 311 (b) has been filed in connection with this transaction.

In the opinion of the applicant, the granting of this application will have no effect upon the quality of the human environment. In accordance with the Commission's regulations (49 CFR 1100.250) in Ex Parte No. 55 (Sub-No. 4), *Implementation-National Environmental Policy Act, 1969*, 340 I.C.C. 431 (1972), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall include information relating to the relevant factors set forth in Ex Parte No. 55 (Sub-No. 4), supra, Part (b) (1)-(5), 340 I.C.C. 431, 461. The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission no later than thirty days from the day of first publication in the *FEDERAL REGISTER*.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc. 75-13361 Filed 5-20-75; 8:45 am]

[Notice No. 292]

#### MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

MAY 21, 1975.

Synopses of orders entered by the Motor Carrier Board of the Commission

## NOTICES

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pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before June 10, 1975. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-75615. By order of May 14, 1975 the Motor Carrier Board approved the transfer to Willetts' Travel Service, Inc., Frostburg, Md., of the operating rights in Certificate No. MC-135176 issued April 28, 1971 to Charles J. Everly, Hagerstown, Md., authorizing the transportation of passengers and their baggage, and express, newspapers, and mail, over regular routes between specified points in Maryland and West Virginia. S. Harrison Kahn, Suite 733 Investment Bldg., Washington, D.C. 20005 Attorney for applicants.

No. MC-FC-75812. By order of May 14, 1975 the Motor Carrier Board approved the transfer to Bux Mont Express Co., a corporation, Lansdale, Pa., of that portion of the operating rights in Certificate No. MC-133082 issued June 4, 1974, to Moore's Hauling, Inc., Lansdale, Pa., authorizing the transportation of packaging materials, from the plant site of Paramount Packaging Corp., in the Borough of Chalfont, Bucks County, Pa., to points in New York, New Jersey, Maryland, and the District of Columbia. Peter A. Greene, 1425 K Street NW, Washington, D.C. 20006 Attorney for applicants.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc. 75-13347 Filed 5-20-75; 8:45 am]

[Notice No. 56]

#### MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 15, 1975.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR 1131) published in the *FEDERAL REGISTER*, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the

granting of an application must be filed with the field official named in the *FEDERAL REGISTER* publication, within 15 calendar days after the date of notice of the filing of the application is published in the *FEDERAL REGISTER*. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

No. MC 52858 (Sub-No. 113TA) (Correction), filed April 28, 1975, published in the *FEDERAL REGISTER* issue of May 12, 1975, and republished as corrected this issue. Applicant: CONVOY COMPANY, 3900 NW. Yeon Ave., Portland, Ore. 97210. Applicant's representative: William C. Parks (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Automobiles and trucks* in truckaway service in secondary movements, between points in Colorado, on the one hand, and, points in Oklahoma on the other, for 180 days. Supporting shippers: There are approximately 20 statements attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field named below. Send protests to: W. J. Huetig, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Ore. 97204. The purpose of this republication is to state irregular routes, in lieu of regular routes.

No. MC 59640 (Sub-No. 44TA) (Correction), filed April 24, 1975, published in the *FEDERAL REGISTER* issue of May 9, 1975, and republished as corrected this issue. Applicant: PAULS TRUCKING CORPORATION, Three Commerce Drive, Cranford, N.J. 07106. Applicant's representative: Charles J. Williams, 47 Lincoln Park, Newark, N.J. 07102. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Such commodities* as is dealt in by wholesale, retail and chain grocery and food business houses, catalogue showroom stores, and home center stores, and in connection therewith, equipment, materials and supplies used in the conduct of such businesses, except commodities in bulk over irregular routes, (1) between Milford, Conn., on the one hand, and, on the other, points in Delaware, New York, New Jersey, Massachusetts, and Pennsylvania, and (2) between North Berwick, Maine, on the one hand, and, on the other, points in Connecticut, Delaware, New Jersey, New York, Massachusetts, and Pennsylvania. Restriction: The authority sought herein is limited to a transportation serv-

ice to be performed under a continuing contract or contracts, with Supermarkets General Corporation, for 180 days. Supporting shipper: Supermarkets General Corporation, 301 Blair Road, Woodbridge, N.J. 07095. Send protests to: Robert E. Johnston, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102. The purpose of this republication is to state irregular routes, in lieu of regular routes.

No. MC 88594 (Sub-No. 26TA), filed May 7, 1975. Applicant: CARLETON G. WHITAKER, INC., P.O. Box 93, Route 17, Deposit, N.Y. 13754. Applicant's representative: Martin Werner, 2 West 45th St., New York, N.Y. 10036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dairy products*, in vehicles equipped with mechanical refrigeration, from points in North Lawrence, N.Y., to points in Cleveland, Ohio, for 180 days. Supporting shipper: Sealtest Foods, North Lawrence, N.Y. 12967. Send protests to: Robert A. Radler, District Supervisor, 518 Federal Bldg., Albany, N.Y. 12207.

No. MC 97863 (Sub-No. 6TA), filed May 6, 1975. Applicant: VICTORVILLE-BARSTOW TRUCK LINE, 4366 East 26th Street, Los Angeles, Calif. 90023. Applicant's representative: Carl H. Fritze, 1545 Wilshire Blvd., Los Angeles, Calif. 90017. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Harvard Sliding, Calif., via Interstate Highway 15. Applicant intends to join the requested authority to his existing authority, thus rendering through service to points sought herein. Supporting shippers: Tenneco Oil Company, 55515 Dunn Road, Dunn, Calif. 92398. Johns-Manville Products Corp., P.O. Box 968, Yermo, Calif. 92398. Send protests to: Philip Yallowitz, District Supervisor, Interstate Commerce Commission, Room 1312 Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 103993 (Sub-No. 853TA), filed May 7, 1975. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Ave., Elkhart, Ind. 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Portable traffic control devices*, mounted on wheeled undercarriages, from points in Taylor, Mich., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Visi-Flash Rentals of Michigan, Inc., 12760 Allen Road, Taylor, Mich. 48180. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802.



No. MC 113678 (Sub-No. 592TA), filed April 30, 1975. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City (Denver), Colo. 80022. Applicant's representative: David L. Metzler (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Source Plasma Human (Blood Plasma)*, from Cheyenne, Wyo., to Berkeley and Oakland, Calif., for 180 days. Supporting shipper: Cutter Laboratories, Inc., 4th and Parker Sts., Berkeley, Calif. 94710. Send protests to: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, 2022 Federal Building, Denver, Colo. 80202.

No. MC 111729 (Sub-No. 539TA), filed May 7, 1975. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: John M. Delany (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Clinical laboratory specimens and samples, including human tissue samples, blood, and blood specimens*; (2) *Business papers, records, and audit and accounting media of all kinds*, between points in St. Louis, Mo., on the one hand, and, on the other, points in Iowa, Nebraska, and South Dakota, for 180 days. Supporting shipper: Clinical Laboratories of St. Louis, Inc., 11636 Administration Drive, Creve Coeur, Mo. 63141. Send protests to: Anthony D. Gialmo, District Supervisor, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 114604 (Sub-No. 33TA), filed May 5, 1975. Applicant: CAUDELL TRANSPORT, INC., State Farmers Market, Forest Park, Ga. 30050. Applicant's representative: K. Edward Wolcott, 1600 First Federal Bldg., Atlanta, Ga. 30303. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from points in Chattanooga, Tenn., to points in Virginia and West Virginia, for 180 days. Supporting shippers: Swift Edible Oil Company, P.O. Box 7068, Chattanooga, Tenn. 37410. Dairy Poultry and Oils Groups of Armour Foods Co., Room 937, Greyhound Tower, Phoenix, Ariz. 85077. Send protests to: William L. Scroggs, District Supervisor, 1252 West Peachtree St., NW., Room 546, Atlanta, Ga. 30309.

No. MC 117765 (Sub-No. 193TA), filed May 5, 1975. Applicant: HAHN TRUCK LINE, INC., 5315 NW. Fifth St., Oklahoma City, Okla. 73107. Applicant's representative: R. E. Hagan (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Waste water treating vinyl core filter packs*, from Port of Catoosa, Okla., to points in Lawton, Okla., having a prior movement by barge, for 180 days. Supporting shipper: B. F. Goodrich Company, Donald M. Murray, Dir. of Transportation, 500 S. Main, Akron, Ohio

44318. Send protests to: Marie Spillars, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Room 240 Old P.O. Bldg., 215 NW. Third, Oklahoma City, Okla. 73102.

No. MC 117975 (Sub-No. 6TA), filed May 6, 1975. Applicant: MOTOR EXPRESS, INC., P.O. Box 604, Edinburg, Tex. 78539. Applicant's representative: Clayte Binion, 1108 Continental Life Bldg., Fort Worth, Tex. 76102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Bananas* and (2) *bananas when transported in mixed loads with agricultural commodities exempt from economic regulation under Section 203(b) (6) of the Act*, from points in Brownsville, Hidalgo, Laredo, McAllen, Rio Grande City, and Roma, Tex., and points within their commercial zones, to all points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Fisher Bros., Inc., FBI Foods, Ltd., Fisher Bros. (USA), Inc., 1610 DeBeauharnois, Montreal, Quebec H4N 1J5. Send protests to: Richard H. Dawkins, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 301 Broadway, Room 206, San Antonio, Tex. 78206.

No. MC 119240 (Sub-No. 9TA), filed May 6, 1975. Applicant: CENTRAL COAST TRUCK SERVICE, INC., P.O. Box AD, Watsonville, Calif. 95076. Applicant's representative: Michael P. Groom, 500 The Swenson Bldg., 777 North First St., San Jose, Calif. 95112. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Edible meat fat trimmings*, in vehicles equipped with mechanical refrigeration for account of Safeway Stores, Incorporated, from points in Maricopa, Mojave, Yavapai, and Yuma Counties, Ariz., to points in Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura Counties, Calif., for 180 days. Supporting shipper: Safeway Stores, Incorporated (Scott D. Flegal, Manager, Traffic Department), 5725 E. 14th St., Oakland, Calif. 94660. Send protests to: Claud W. Reeves, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 450 Golden Gate Ave., Box 36004, San Francisco, Calif. 94102.

No. MC 123407 (Sub-No. 236TA), filed May 7, 1975. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Stephen H. Loeb (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Steel tubing*, from points in Sebewaing, Mich., to points in Lincoln, Nebr., for 180 days. Supporting shipper: Acme Roll Forming Company, 812 North Beck St., Sebewaing, Mich. 48759. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 124117 (Sub-No. 11TA), filed May 7, 1975. Applicant: EARL FREEMAN, doing business as MID-TENN EXPRESS, P.O. Box 101, Eagleville, Tenn. 37060. Applicant's representative: Robert L. Baker, Hamilton Bank Bldg., Suite 618, Nashville, Tenn. 37219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Scrap paper*, from points in Pulaski, Franklin, Mt. Pleasant, Sparta, Shelbyville, Lebanon, Nashville, and Fayetteville, Tenn., to points in Alton, Ill., for 180 days. Supporting shipper: Alton Box Board Company, 401 Alton St., Alton, Ill. 62002. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, A-422 Federal Bldg., 801 Broadway, Nashville, Tenn. 37203.

No. MC 124328 (Sub-No. 81TA), filed May 7, 1975. Applicant: BRINK'S, INC., 234 E. 24th Street, Chicago, Ill. 60616. Applicant's representative: Chandler L. van Orman, 704 Southern Bldg., Washington, D.C. 20005. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Metals (coins-medallions-bullion), coin collections, rare coins, philatelic collections, articles of extraordinary value*, between points in Englewood, Ohio, on the one hand, and, points in the Continental United States, (except Alaska and Hawaii), on the other, for 180 days. Supporting shipper: Paramount International Coin Corporation, 600 Union Road, Englewood, Ohio. Send protests to: Richard K. Shullaw, District Supervisor, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 125777 (Sub-No. 156TA), filed May 5, 1975. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Ave., Gary, Ind. 46403. Applicant's representative: Donald B. Levine, 39 South LaSalle St., Chicago, Ill. 60603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Livingston, Ky., to points in Gary, Ind., for 180 days. Supporting shipper: Alexander Enterprises, Route 3, Box 131, Murray, Ky. 42071. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 127505 (Sub-No. 75TA), filed May 7, 1975. Applicant: RALPH H. BOELK, doing business as R. H. BOELK TRUCK LINES, Route 2, Mendota, Ill. 61342. Applicant's representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, Ill. 60174. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Plastic pipe, and fittings and accessories thereof*, except those which because of size or weight require special equipment or special handling, from points in Bristol, Ind. to points in Denver, Colo.;

Woodland, Calif.; Illinois: Alton, Champaign, Chicago Commercial Zone, Belleville, Danville, Decatur, Dixon, Elgin, East St. Louis, Kankakee, Peoria, Quincy, Rockford, Springfield, Rock Island, Moline; Iowa: Des Moines, Mason City, Forest City; Kansas: Kansas City, Junction City; Minnesota: Minneapolis, St. Paul, Montevideo; Missouri: Jefferson City, Kansas City, St. Louis; Montana: Sweetgrass (Port of Entry); Nebraska: Grand Island, Omaha; Wisconsin: Green Bay, Madison, Milwaukee, Sheboygan, Sturgeon Bay, Oshkosh, Wausau, for 180 days. Supporting shipper: Bristol Products, Inc., 503 Vista St., Bristol, Ind. 46507. Send protests to: William J. Gray, District Supervisor, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 129480 (Sub-No. 19TA), filed May 6, 1975. Applicant: TRI-LINE EXPRESSWAYS, LTD., 550 71 Avenue SE, Calgary, Alberta, Canada T2H 0S6. Applicant's representative: Richard S. Mandelson, Suite 1800 Lincoln Center, Denver, Colo. 80203. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Materials, equipment and supplies used in the manufacturing of mobile homes*; from points in Cayon and Ada Counties, Idaho, to the International Boundary between Canada and Montana, at Sweetgrass and Roosville, on the International Boundary, continuing in foreign commerce to Red Deer, Alberta, Canada, for 180 days. Supporting shipper: Fleetwood Homes of Alberta, Ltd., P.O. Box 800, Red Deer, Alberta, Canada. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Room 222, U.S. P.O. Bldg., Billings, Mont. 59101.

No. MC 135046 (Sub-No. 10TA), filed April 24, 1975. Applicant: ARLINGTON J. WILLIAMS, INC., R.D. 2, S. Dupont Highway, Smyrna, Del. 19777. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Fibre, fibre products, plastics, plastic products, and insulating materials*, from Yorklyn, Del., and Kennett Square, Pa., to Addison, Ill., for 180 days. Supporting shipper: Francis A. Brady, Jr., Asst. Traffic Manager, NVF Company, Yorklyn Road, Yorklyn, Del. 19736. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Building, Baltimore, Md. 21201.

No. MC 138317 (Sub-No. 1TA), filed May 6, 1975. Applicant: CEMENT TRANSPORT, INC., P.O. Box 176, Valley Station, Ky. 40202. Applicant's representative: Ollie L. Merihant, 328 Starks Bldg., Louisville, Ky. 40202. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, in tank vehicles, and in bags, from the plantsite of The Flintkote Company, Diamond

Kosmos Division, at or near Kosmosdale, Ky., to points in West Virginia, for 180 days. Supporting shipper: C. R. Williams, Traffic Manager, The Flintkote Company, Diamond-Kosmos Cement Division, Kosmosdale, Ky. 40272. Send protests to: Elbert Brown, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 426 Post Office Bldg., Louisville, Ky. 40203.

No. MC 139579 (Sub-No. 4TA), filed May 8, 1975. Applicant: DIRECT COURIER, INC., 2780 S. Jefferson Davis Highway, Arlington, Va. 22202. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Live laboratory animals*, between points in New Jersey, Pennsylvania, Delaware, Maryland, District of Columbia, Virginia, West Virginia, New York, Connecticut, Rhode Island, and Massachusetts, for 180 days. Supporting shippers: Camm Research Institute, Inc., 414 Black Oak Ridge Road, Wayne, N.J. 07470. Charles River Labs, 251 Ballardvale St., Wilmington, Mass. 01887. Send protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, Room 317, 12th & Constitution Ave. NW., Washington, D.C. 20423.

No. MC 140255 (Sub-No. 1TA), filed April 29, 1975. Applicant: DELBERT DEWEY, doing business as DEWEY'S TRUCKING, 1227 P Street, Fairbury, Nebr. 68352. Applicant's representative: Duane L. Stromer, Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Bricks and brick pavers*, from the plantsite of Endicott Clay Products Co., at or near Endicott, Nebr., to points in Arizona, California, Nevada, New Mexico, Oregon, Texas, and Utah. Restriction: Restricted to a transportation service under a continuing contract or contracts with Endicott Clay Products Co., of Endicott, Nebr., for 180 days. Supporting shipper: Stanley Judd, Vice President, Endicott Clay Products Co., Endicott, Nebr. 68350. Send protests to: Max H. Johnston, District Supervisor, 320 Federal Bldg. & Court House, Lincoln, Nebr. 68508.

No. MC 140259 (Sub-No. 3TA), filed May 5, 1975. Applicant: JAMES SHEPHERD, doing business as SHEPHERD TRUCKING, 1001 30th Avenue South, Cranbrook, B.C., Canada VIC 3K9. Applicant's representative: Clyde H. MacIver, 1900 Peoples National Bank Bldg., 1415 Fifth Avenue, Seattle, Wash. 98171. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Caterpillar machine parts for bulldozers, scrapers, loaders, and other heavy machinery*, from points in Spokane, Wash., to the United States-Canada International Boundary line at or near Eastport, Idaho, for movement to Cranbrook, British Columbia where the subject traffic is interlined for final delivery to Sparwood and Nelson, British Columbia, for 180 days. Support-

ing shipper: Finning Tractor 1959 Ltd., 815 Cranbrook St., Cranbrook, B.C., Canada. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., 915 Second Avenue, Seattle, Wash. 98174.

No. MC 140925 (Sub-No. 1TA), filed May 6, 1975. Applicant: FAYETTE TRUCKING CORPORATION, W234 S5502 Big Bend Road, Waukesha, Wis. 53186. Applicant's representative: Richard C. Alexander, 710 North Plankinton Ave., Milwaukee, Wis. 53203. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Fertilizer*, in bulk, in dump vehicles, from the facilities of Michigan Gypsum Company, at or near Whittemore, Mich., to points in Wisconsin, for 180 days. Supporting shipper: Farmers Feed & Fertilizer of Wisconsin, Route 1, Hartford, Wis. Send protests to: John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 140926 (Sub-No. 1TA), filed May 6, 1975. Applicant: GERALD HAM-SHER, R.D. #1, Nunda, N.Y. 14517. Applicant's representative: S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Fertilizer*, in bulk, in dump vehicles, and in bags, from points in Livingston and Wayne Counties, N.Y., to points in Bradford, Lackawanna, Potter, Susquehanna, Tioga, Wayne, and Wyoming Counties, Pa., for 180 days. Supporting shipper: Swift Chemical Company, Lima, N.Y. 14485. Send protests to: Morris H. Gross, District Supervisor, Interstate Commerce Commission, Room 104, 301 Erie Blvd. West, Syracuse, N.Y. 13202.

No. MC 140929 TA, filed May 5, 1975. Applicant: TRE-POL, INC., 110 W. Borderland Road, El Paso, Tex. 79932. Applicant's representative: M. Ward Bailey, 2412 Continental Life Bldg., Fort Worth, Tex. 76102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Baled waste paper*, from points in El Paso, Tex., to points in Snowflake, Ariz., for 180 days. Supporting shipper: Southwest Forest Industries, Inc., 3443 N. Central Ave., Phoenix, Ariz. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395, Herring Plaza, Amarillo, Tex. 79101.

No. MC 140930 TA, filed May 6, 1975. Applicant: FLOYD J. FULBRIGHT, doing business as F & W TRUCKING CO., 339 Terrell Drive, Toccoa, Ga. 30577. Applicant's representative: Virgil H. Smith, 1587 Phoenix Blvd., Suite 12, Toccoa, Ga. 30577. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Plastic covers or tops, screw type*, from the plantsite of The Afa Corporation, at or near Toccoa, Stephens County, Ga., to points in Kentucky, Peoria, and Pekin,



Ill., Boston, Mass.; and Hartford, Conn., for 180 days. Supporting shipper: The Alfa Corporation, P.O. Box 908, Toccoa, Ga. 30577. Send protests to: William L. Scroggs, District Supervisor, 1252 W. Peachtree St. NW., Room 546, Atlanta, Ga. 30309.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc. 75-13348 Filed 5-20-75; 8:45 am]

# IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

## Elimination of Gateway Letter Notices

MAY 15, 1975.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065) and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before June 2, 1975. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 21170 (Sub-No. E140), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in that part of Minnesota on and east of a line beginning at Lake Superior and extending along U.S. Highway 61 to junction Minnesota Highway 1, thence along Minnesota Highway 169, thence along Minnesota Highway 169 to junction Minnesota County Truck Highway 18, thence along Minnesota County Truck Highway 18 to the United States-Canada International Boundary line, to points in Kansas on and south of a line beginning at the Missouri-Kansas State line and extending along U.S. Highway 54 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction Kansas Highway 7, thence along Kansas Highway 7 to junction

Kansas Highway 39, thence along Kansas Highway 39 to junction Kansas Highway 96, thence along Kansas Highway 96 to junction unnumbered highway at Predmont, thence along unnumbered highway to junction U.S. Highway 77, thence along U.S. Highway 77 to junction Kansas Highway 15, thence along Kansas Highway 15 to junction Kansas Highway 55, thence along Kansas Highway 55 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction unnumbered highway, thence along unnumbered highway to junction Kansas Highway 2, thence along Kansas Highway 2 to junction U.S. Highway 160, thence along U.S. Highway 160 to junction U.S. Highway 270, thence along U.S. Highway 270 to junction U.S. Highway 56, thence along U.S. Highway 56 to the Kansas-Oklahoma State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The above authorities were purchased by Cedar Rapids Steel Transportation pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E147), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in that part of Minnesota on, south, and west of a line beginning at the South Dakota-Minnesota State line and extending along U.S. Highway 14 to junction unnumbered highway near Tracy, thence along unnumbered highway through Currie to junction U.S. Highway 59, thence along U.S. Highway 59 to the Minnesota-Iowa State line, to points in Vermont. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The above authorities were purchased by Cedar Rapids Steel Transportation pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E148), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in that part of Minnesota on, south, and west of a line beginning at the South Dakota-Minnesota State line and extending along Minnesota Highway 28 to junction

U.S. Highway 75, thence along U.S. Highway 75 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction Minnesota Highway 119, thence along Minnesota Highway 119 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction U.S. Highway 212, thence along U.S. Highway 212 to junction Minnesota Highway 67, thence along Minnesota Highway 67 to junction Minnesota Highway 274, thence along Minnesota Highway 274 to junction Minnesota Highway 68, thence along Minnesota Highway 68 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Minnesota Highway 30, thence along Minnesota Highway 30 to junction Minnesota Highway 15, thence along Minnesota Highway 15 to the Minnesota-Iowa State line, to points in Maine. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The above authorities were purchased by Cedar Rapids Steel Transportation pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E149), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in that part of Minnesota on a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 35 to junction Minnesota Highway 30, thence along Minnesota Highway 30 to junction Minnesota Highway 83, thence along Minnesota Highway 83 to junction Minnesota Highway 22, thence along Minnesota Highway 22 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction Minnesota Highway 93, thence along Minnesota Highway 93 to junction Minnesota Highway 19, thence along Minnesota Highway 19 to junction unnumbered highway, thence along unnumbered highway to junction U.S. Highway 212 near Glencoe, thence along U.S. Highway 212 to junction Minnesota Highway 4, thence along Minnesota Highway 4 to junction Minnesota Highway 7, thence along Minnesota Highway 7 to junction Minnesota Highway 104, thence along Minnesota Highway 104 to junction Minnesota Highway 9, thence along Minnesota Highway 9 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Minnesota Highway 55, thence along Minnesota Highway 55 to junction unnumbered highway at Nashua, thence along Minnesota unnumbered highway to junction Minnesota Highway 210, thence along Minnesota Highway 210 to the Minnesota-North Dakota State line, to points in Maine on and east of a line beginning at the

Maine-New Hampshire State line and extending along Maine Highway 15 to junction U.S. Highway 95, thence along U.S. Highway 95 to junction Maine Highway 11, thence along Maine Highway 11 to the United States-Canada International Boundary line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The above authorities were purchased by Cedar Rapids Steel Transportation pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E150), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in that part of Minnesota on and east of a line beginning at the Iowa-Minnesota State line and extending along Minnesota unnumbered highway to junction Minnesota Highway 16 at Albert Lea, thence along Minnesota Highway 16 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction Minnesota Highway 60, thence along Minnesota Highway 60 to junction Minnesota Highway 3, thence along Minnesota Highway 3 to junction unnumbered highway near Northfield, thence along unnumbered highway through Hampton to junction U.S. Highway 61, thence along U.S. Highway 61 to the Minnesota-Wisconsin State line, to points in that part of Colorado on and south of a line beginning at the New Mexico-Colorado State line and extending along U.S. Highway 84 to junction U.S. Highway 160, thence along U.S. Highway 160 to junction Colorado Highway 184, thence along Colorado Highway 184 to junction Colorado Highway 147, thence along Colorado Highway 147 to junction U.S. Highway 666, thence along U.S. Highway 666 to the Colorado-Utah State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The above authorities were purchased by Cedar Rapids Steel Transportation pursuant to MC-F-10199.

No. MC 33093 (Sub-No. E11), filed May 16, 1974. Applicant: GRAY VAN LINES, INC., P.O. Box 25085, Oklahoma City, Okla. 73125. Applicant's representative: Robert J. Gallagher, 1776 Broadway, New York, N.Y. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Household goods, as uncrated between points in Oklahoma, on the one hand, and, on the other, points in Illinois. The purpose of this filing is to eliminate the gateways of Atoka, Choctaw, Haskell, Le Flore, Latimer, McCurtain, McIntosh, Pittsburg, and Pushmataha Counties, Okla.

No. MC 52704 (Sub-No. E8) (Correction), filed June 3, 1974, published in the FEDERAL REGISTER May 2, 1975. Applicant: GLENN MCCLENDON TRUCKING CO., INC., Lafayette, Ala. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 W. Peachtree NW., Atlanta, Ga. 30309. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Glass containers, for beverages and food, from points in Georgia south of Interstate Highway 20 but including Augusta, Ga., to points in West Virginia on and east of U.S. Highway 19, and on and north of U.S. Highway 33. The purpose of this filing is to eliminate the gateway of Henderson, N.C. The purpose of this correction is to correct the "E" number, previously published as E81.

No. MC 100666 (Sub-No. E232), filed May 25, 1974. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Richard W. May (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Composition or prepared roofing, from points in Arkansas (except those points on, north, and east of a line beginning at junction U.S. Highway 63 and the Missouri-Arkansas State line, thence along U.S. Highway 63 to junction U.S. Highway 61, thence along U.S. Highway 61 to the Mississippi River, on the one hand, and, on the other, points in Tennessee on, west, and north of a line beginning at junction U.S. Highway 45W and the Kentucky-Tennessee State line, thence along U.S. Highway 45W to junction Kentucky Highway 54, thence along Kentucky Highway 54 to junction with the Hatchie River, thence along the Hatchie River to junction with the Mississippi River. The purpose of this filing is to eliminate the gateway of West Memphis, Ark.

No. MC 107002 (Sub-No. E63), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Anthol, cymene, esterified tall oil, liquid soap, nalene, paracymene, paramethane, hydroperoxide, ptene, pine oil fatty acids, tall oil pitch, turpentine, and zinc resinates, in bulk, in tank vehicles, from Harrison and Jackson Counties, Miss., to points in New Jersey. The purpose of this filing is to eliminate the gateway of Bay Minette, Ala.

No. MC 107002 (Sub-No. E64), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Anhy-

drous ammonia and acids, in bulk, and ammonium nitrate, fertilizer and fertilizer ingredients, in bulk, in tank vehicles, from the plant and storage facilities of Arkla Chemical Corporation, in Phillips County, to points in South Carolina, restricted to the transportation of shipments originating at the plant and storage facilities of Arkla Chemical Corporation, in Phillips County, Ark. The purpose of this filing is to eliminate the gateway of Decatur, Ala.

No. MC 107002 (Sub-No. E65), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Anhydrous ammonia and acids, liquid, in bulk, and ammonium nitrate, fertilizer and fertilizer ingredients, which are liquid chemicals (except hydrogen peroxide), in bulk, from the plant and storage facilities of Arkla Chemical Corporation, in Phillips County, Ark., to points in Ohio, restricted to the transportation of shipments originating at the plant and storage facilities of Arkla Chemical Corporation, in Phillips County, Ark. The purpose of this filing is to eliminate the gateway of Memphis, Tenn.

No. MC 107002 (Sub-No. E66), filed May 12, 1974. Applicant: MILLER TRANSPORTS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Anhydrous ammonia and acids, liquid, in bulk, and ammonium nitrate, fertilizer and fertilizer ingredients, which are liquid chemicals, liquid, in bulk, in tank vehicles, from the plant and storage facilities of Arkla Chemical Corporation in Phillips County, Ark., to points in Georgia. The purpose of this filing is to eliminate the gateway of Fox, Ala.

No. MC 107002 (Sub-No. E67), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquid caustic soda, in bulk, in tank vehicles, from McIntosh, Ala., to points in West Virginia. The purpose of this filing is to eliminate the gateway of the plant site of Monsanto Chemical Company in Anniston, Ala., and Harrison and Jackson Counties, Miss.

No. MC 107002 (Sub-No. E68), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Naval stores and naval store products, restricted to chemicals, in bulk, in tank vehicles, from Mobile, Ala., to points in Pennsylvania. The purpose of this filing



is to eliminate the gateway of Picayune, Miss.

No. MC 107002 (Sub-No. E69), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dry chemicals* (except fertilizer and fertilizer ingredients), in bulk, in tank vehicles, from Memphis, Tenn., to those points in Kansas on, north, and west of a line beginning at the Kansas-Missouri State line, and extending along Interstate Highway 70 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Kansas Turnpike, thence along Kansas Highway 99, thence along Kansas Highway 99 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Interstate Highway 35, thence along Interstate Highway 35 to junction Kansas Highway 177, thence along Kansas Highway 177 to junction U.S. Highway 54, thence along U.S. Highway 54 to junction U.S. Highway 77, thence along U.S. Highway 77 to the Kansas-Oklahoma State line. The purpose of this filing is to eliminate the gateway of those points in Tennessee which are within 10 miles of Barfield, Ark.

No. MC 107002 (Sub-No. E70), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dry chemicals* (except fertilizer and fertilizer ingredients), in bulk, in tank vehicles, from Memphis, Tenn., to points in Kentucky. The purpose of this filing is to eliminate the gateway of those points in Tennessee which are within 10 miles of Barfield, Ark.

No. MC 107002 (Sub-No. E71), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dry chemicals* (except fertilizer and fertilizer ingredients), in bulk, in tank vehicles, from Memphis, Tenn., to points in Ohio. The purpose of this filing is to eliminate the gateway of those points in Tennessee which are within 10 miles of Barfield, Ark.

No. MC 107002 (Sub-No. E72), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from points in Covington, Jones, Wayne, Greene, Perry, Forrest, Lamar, Marion, Walthall, Pike, Pearl River, Stone, George, Hancock,

Harrison, and Jackson Counties, Miss., to points in Michigan. The purpose of this filing is to eliminate the gateway of Mobile, Ala.

No. MC 107002 (Sub-No. E73), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dry chemicals* (except fertilizer and fertilizer ingredients), in bulk, in tank vehicles, from Memphis, Tenn., to points in Iowa. The purpose of this filing is to eliminate the gateway of Arlington, Tenn.

No. MC 107002 (Sub-No. E74), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dry chemicals* (except fertilizer and fertilizer ingredients), in bulk, in tank vehicles, from Memphis, Tenn., to points in Indiana. The purpose of this filing is to eliminate the gateway of Arlington, Tenn.

No. MC 107002 (Sub-No. E75), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia and acids*, in bulk, and *ammonium nitrate, fertilizer and fertilizer ingredients*, which are chemicals, in bulk, from the plant and storage facilities of Arkla Chemical Corporation, in Phillips County, Ark., to points in Michigan. The purpose of this filing is to eliminate the gateways of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E101), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except arsenic acid, acetic acid, wood alcohol, and hydrogen peroxide), in bulk, in tank vehicles, from Barfield, Ark., and points within 10 miles thereof, to Longview, Tex., and those points in Texas on, west, and south of a line beginning at the Texas-Oklahoma State line and extending along U.S. Highway 281 to junction U.S. Highway 87, thence along U.S. Highway 87 to the Gulf of Mexico. The purpose of this filing is to eliminate the gateway of Memphis, Tenn.

No. MC 107002 (Sub-No. E102), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Anhydrous am-*

*monia and acids*, and *ammonium nitrate, fertilizer, and fertilizer ingredients*, in bulk, in tank or hopper-type trailers, from the plant and storage facilities of Arkla Chemical Corporation, in Phillips County, Ark., to points in Florida. The purpose of this filing is to eliminate the gateway of Mobile, Ala.

No. MC 107002 (Sub-No. E103), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals* (except liquid hydrogen, liquid oxygen, or liquid nitrogen), in bulk, in tank vehicles, from Taylorsville, Miss., to points in Michigan. The purpose of this filing is to eliminate the gateway of those points in Louisiana which are within the Vicksburg, Miss., commercial zone, and Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E104), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Nitric acid, dry fertilizer, and fertilizer solutions*, in bulk, in tank, or hopper-type vehicles, from the plant of Mississippi Chemical Corporation near Yazoo City, Miss., to points in Kentucky. The purpose of this filing is to eliminate the gateway of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E105), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Nitric acid, dry fertilizer, and fertilizer solutions*, in bulk, in tank or hopper-type vehicles, from the site of the plant of Mississippi Chemical Corporation near Yazoo City, Miss., to points in Indiana. The purpose of this filing is to eliminate the gateway of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E106), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Nitric acid, dry fertilizer, and fertilizer solutions*, in bulk, in tank or hopper-type vehicles, from the plant site of Mississippi Chemical Corporation near Yazoo City, Miss., to points in Illinois. The purpose of this filing is to eliminate the gateway of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E107), filed May 12, 1974. Applicant: MILLER

TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Nitric acid, dry fertilizer, and fertilizer solutions*, in bulk, in tank or hopper-type vehicles, from the plant site of Mississippi Chemical Corporation near Yazoo City, Miss., to points in Michigan. The purpose of this filing is to eliminate the gateway of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E108), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Nitric acid, dry fertilizer, and fertilizer solutions*, in bulk, in tank or hopper-type vehicles, from the plant site of Mississippi Chemical Corporation near Yazoo City, Miss., to points in Wisconsin. The purpose of this filing is to eliminate the gateway of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E109), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Nitric acid, dry fertilizer, and fertilizer solutions*, in bulk, in tank or hopper-type vehicles, from the plant site of Mississippi Chemical Corporation near Yazoo City, Miss., to points in Iowa. The purpose of this filing is to eliminate the gateway of Barfield, Ark., and points within 10 miles thereof.

No. MC 107403 (Sub-No. E647), (Correction), filed January 31, 1975, published in the *FEDERAL REGISTER* May 2, 1975. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Gasoline and fuel oil*, in bulk, in tank vehicles, from Syracuse, N.Y., to points within 150 miles of Monongahela, Pa., in Ohio, West Virginia, and Pennsylvania (except points in Pennsylvania east of U.S. Highway 220). The purpose of this filing is to eliminate the gateway of Bradford, Pa. The purpose of this correction is to correct the "E" number, previously published as E487.

No. MC 107515 (Sub-No. E518) (Correction), filed January 27, 1975, published in the *FEDERAL REGISTER* May 2, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 380, Forest Park, Ga. 33050. Applicant's representative: R. M. Tittlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over

irregular routes, transporting: (3) *Yeast and yeast products* (except in bulk), in vehicles equipped with mechanical refrigeration, from Belle Chase, La., to all points in Virginia and West Virginia and that part of Kentucky on and east of a line beginning at the Kentucky-Tennessee State line and extending along Kentucky Highway 61 to junction U.S. Highway 31E, thence along U.S. Highway 31E to the Kentucky-Indiana State line. The purpose of this filing is to eliminate the gateway of Atlanta, Ga. The purpose of this partial correction is to expand the destination territory. The remainder of this letter-notice remains as previously published.

No. MC 107515 (Sub-No. E612), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods*; (1) from points in California on and south of a line beginning at the California-Nevada State line and extending along Interstate Highway 80 to junction California Highway 20, thence along California Highway 20 to the Pacific Ocean, to points in that

portion of Indiana on, south, or east of a line beginning at the Indiana-Illinois State line and extending along Indiana Highway 154 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction Indiana Highway 54, thence along Indiana Highway 54 to junction Indiana Highway 45, thence along Indiana Highway 45 to junction Indiana Highway 37, thence along Indiana Highway 37 to junction Indiana Highway 67, thence along Indiana Highway 67 to the Ohio-Indiana State line, and points in that portion of Ohio on, south, or east of a line beginning at the Ohio-Indiana State line and extending along Ohio Highway 29 to junction U.S. Highway 25, thence along U.S. Highway 25 to junction U.S. Highway 224, thence along U.S. Highway 224 to junction Ohio Highway 18, thence along Ohio Highway 18 to junction Ohio Highway 269, thence along Ohio Highway 269 to Lake Erie; (2) from points in California in and south of Marin, Contra Costa, San Joaquin, Stanislaus, Mariposa, Madera, Fresno, and Inyo Counties, Calif., to points in that portion of Ohio on, south, or east of U.S. Highway 24; (3) from points in that portion of California on, south, or west of a line beginning at San Francisco and extending along Interstate Highway 80 to junction Interstate Highway 580, thence along Interstate Highway 580, to junction California Highway 99, thence along California Highway 99 to junction California Highway 58, thence along California Highway 58 to junction U.S. Highway 66, thence along U.S. Highway 66 to the California-Arizona State line, to points in that portion of Indiana on or south of a line beginning at the Illinois-Indiana State line and extending

along U.S. Highway 136 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction Indiana Highway 28, thence along Indiana Highway 28 to junction Indiana Highway 25, thence along Indiana Highway 25 to junction Indiana Highway 24, thence along Indiana Highway 24 to the Ohio-Indiana State line; and (4) from points in that portion of California on and south of a line beginning at the Pacific Ocean at Moss Landing, Calif., and extending along California Highway 1 to junction California Highway 156, thence along California Highway 156 to junction California Highway 25, thence along California Highway 25 to junction California Highway J-2, thence along California Highway J-1 to junction California Highway 80 near Mendota, thence along California Highway 180 to Fresno, thence along California Highway 99 to junction California Highway 198, thence along California Highway 198 to junction California Highway 65, thence along California Highway 65 to junction California Highway 58, thence along California Highway 58 to junction U.S. Highway 66, thence along U.S. Highway 66 to the California-Arizona State line, to points in Ohio and Indiana. The purpose of this filing is to eliminate the gateway of Florence, Ala.

No. MC 107678 (Sub-No. E15), filed June 4, 1974. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, Houston, Tex. 77015. Applicant's representative: Jay W. Elston, Bank of The Southwest Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof (except in connection with main or trunk pipe lines), between all points in New Mexico in Union, Quay, Curry, Roosevelt, Lea, Eddy, Chaves, De Baca, Otero, and Dona Ana Counties, N. Mex., on the one hand, and, on the other, all points in Montana and Wyoming. The purpose of this filing is to eliminate the gateway of Texas.

No. MC 107678 (Sub-No. E16), filed June 4, 1974. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, Houston, Tex. 77015. Applicant's representative: Jay W. Elston, Bank of The Southwest Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission,



and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof (except in connection with main or trunk pipelines), between all points in and east of Dona Ana, Otero, Chaves, DeBaca, Quay, Harding, and Colfax Counties, N. Mex., on the one hand, and, on the other, all points in Nevada. The purpose of this filing is to eliminate the gateway of Texas or Oklahoma.

No. MC 107678 (Sub-No. E19), filed June 4, 1974. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, Houston, Tex. 77015. Applicant's representative: Jay W. Elston, Bank of The Southwest Bldg., Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof (except in connection with main or trunk pipe lines); (a) between all points in Nevada, on the one hand, and, on the other, all points in Kansas in and southeast of Greeley, Wichita, Scott, Lane, Ness, Ellis, Russell, Lincoln, Mitchell, Cloud, and Republic Counties, Kans.; and (b) between all points in Kansas, on the one hand, and, on the other, all points in Nevada in and west of Washoe, Churchill, Nye, and Clark Counties, Nev. The purpose of this filing is to eliminate the gateway of Texas or Oklahoma.

No. MC 107678 (Sub-No. E20), filed June 4, 1974. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, Houston, Tex. 77015. Applicant's representative: Jay W. Elston, Bank of The Southwest Bldg., Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, restricted against the stringing or picking up of pipe in connection with pipelines, over irregular routes, between all points in that portion of Colorado located on and south of U.S. Highway 40 from the Colorado-Kansas State line to Denver, Colo., and on and west of U.S. Highway 85 from

the Colorado-Wyoming State line to Denver, Colo., on the one hand, and, on the other, all points in that portion of Mississippi located on and south of U.S. Highway 80, all points in that portion of Alabama located on and south of U.S. Highway 80, all points in that portion of Georgia, located on and south of U.S. Highway 280, and all points in Florida. The purpose of this filing is to eliminate the gateway of Harris County, Tex.

No. MC 107678 (Sub-No. E21), filed June 4, 1974. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, Houston, Tex. 77015. Applicant's representative: Jay W. Elston, Bank of The Southwest Bldg., Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, restricted against the stringing or picking up of pipe in connection with pipe lines, over irregular routes, between all points in Utah, on the one hand, and, on the other, all points in Arkansas in Union, Ashley, and Chicot Counties, Ark., all points in Mississippi in and south of Washington, Humphreys, Holmes, Attala, Choctaw, Oktobeha, and Lowndes Counties, Miss., all points in Alabama in and south of Pickens, Tuscaloosa, Jefferson, Saint Clair, Etowah, and Cherokee Counties, Ala., all points in Georgia in and south of Floyd, Gordon, Pickens, Dawson, Lumpkin, White, and Rabun, and all points in Florida. The purpose of this filing is to eliminate the gateway of Harris County, Tex.

No. MC 107678 (Sub-No. E25), filed June 4, 1974. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, Houston, Tex. 77015. Applicant's representative: Jay W. Elston, Bank of The Southwest Bldg., Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, restricted against the stringing or picking up of pipe in connection with pipe lines, over irregular routes, between all points in North Dakota on and west of a line beginning at the United States-Canada International Boundary line extending along North Dakota Highway 30 to junction unnumbered highway at Lehr, N.

Dak., thence along unnumbered highway to junction North Dakota Highway 3, thence along North Dakota Highway 3 to the North Dakota-South Dakota State line, on the one hand, and, on the other, points in Arkansas in and south of Polk, Montgomery, Garland, Saline, Pulaski, Lonoke, Prairie, Monroe, St. Francis, and Chittenden Counties, Ark., all points in Mississippi in and south of DeSoto, Tate, Lafayette, Union, Lee, and Itawamba Counties, Miss., all points in Alabama, in and south of Marion, Winston, Cullman, Blount, Etowah, Calhoun, and Cleburne Counties, Ala., all points in Georgia in and south of Polk, Paulding, Cobb, Gwinnett, Walton, Morgan, Greene, Taliaferro, Warren, Jefferson, and Richmond Counties, Ga., and all points in Florida. The purpose of this filing is to eliminate the gateway of Texas.

No. MC 107678 (Sub-No. E26), filed June 4, 1974. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, Houston, Tex. 77015. Applicant's representative: Jay W. Elston, Bank of The Southwest Bldg., Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, restricted against the stringing or picking up of pipe in connection with pipelines, over irregular routes, between points in South Dakota west of the Missouri River and on and north of U.S. Highway 14, on the one hand, and, on the other, points in Mississippi in and south of DeSoto, Tate, Lafayette, Union, Lee, and Itawamba Counties, Miss., in and south of Marion, Winston, Cullman, Blount, Etowah, Calhoun, and Cleburne Counties, Ala., all points in Georgia in and south of Polk, Paulding, Cobb, Gwinnett, Walton, Morgan, Greene, Taliaferro, Warren, Jefferson, and Richmond Counties, Ga., and all points in Florida. The purpose of this filing is to eliminate the gateway of Texas.

No. MC 113855 (Sub-No. E33), filed May 30, 1974. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment (except boats and iron and steel articles), and related *machinery, parts, and supplies* when their transportation is incidental to

the transportation by said carrier of commodities which by reason of size or weight require special equipment; and (2) *Self-propelled articles*, each weighing 15,000 pounds or more and related *machinery, tools, parts, and supplies* moving in connection therewith (restricted to commodities transported on trailers); (a) between points in Minnesota on and west of U.S. Highway 59 from the Minnesota-Manitoba border in a southerly direction to the junction of U.S. Highway 2, thence along U.S. Highway 71 to the Minnesota-Iowa State line, on the one hand, and, on the other, points in New York on and east of New York Highway 30 from the United States-Canada International Boundary line in a southerly direction to junction New York Highway 17, thence along New York Highway 17 to the New York-Pennsylvania State line; and (b) between points in Minnesota on, south, and west of Minnesota Highway 28 from the Minnesota-South Dakota State line to junction U.S. Highway 59, thence along U.S. Highway 59 to the Minnesota-Iowa State line, on the one hand, and, on the other, points in New York on and east of a line beginning at Oswego, N.Y., along New York Highway 57 to junction Interstate Highway 81, thence along Interstate Highway 81 to the New York-Pennsylvania State line. The purpose of this filing is to eliminate the gateways of South Dakota and points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending along unnumbered highway (formerly portion U.S. Highway 15) to junction Business U.S. Highway 15, near Fairplay, Pa., thence along Business U.S. Highway 15 through Gettysburg, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to junction unnumbered highway (formerly portion U.S. Highway 15), thence along unnumbered highway through Clear Spring, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line (except points in Berks, Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa., and points in Pennsylvania on and east of the above described line in Adams, York, Cumberland, Perry, Dauphin, Lebanon, and Lancaster Counties, Pa., and points in Pennsylvania on and east of U.S. Highway 15 and north of the East Branch of the Susquehanna River in Tioga, Bradford, Lycoming, Sullivan, Union, Snyder, Northumberland, Montour, and Columbia Counties, Pa.).

No. MC 113855 (Sub-No. E33), filed May 30, 1974. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, the transportation of which, because of their size or weight, require the use of special equip-

ment (except boats and iron and steel articles), and related *machinery, parts and supplies* when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment, and (2) *Self-propelled articles*, each weighing 15,000 pounds or more and related *machinery, tools, parts, and supplies* moving in connection therewith (restricted to commodities transported on trailers); (a) between points in that part of Iowa on and west of U.S. Highway 71 and on and north of Iowa Highway 175, on the one hand, and, on the other, points in that part of Kentucky east and south of a line beginning at the Tennessee-Kentucky State line at or near Jellico extending along Interstate Highway 75 to Lexington, Ky., thence along Interstate Highway 64 to the Kentucky-West Virginia State line (except points on the described line) (South Dakota or points in Minnesota or Iowa within 50 miles of Sioux Falls, S. Dak., and Elgin, Ill.\*);

(b) Between points in that part of Iowa on and north and west of a line beginning at Council Bluffs, Iowa, extending along Interstate Highway 80 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Iowa Highway 175, thence along Iowa Highway 175 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Iowa-Minnesota State line, on the one hand, and, on the other, points in West Virginia and points in Kentucky (except points in Kentucky east and south of a line beginning at the Tennessee-Kentucky State line at or near Jellico extending along Interstate Highway 75 to Lexington, thence along Interstate Highway 64 to the Kentucky-West Virginia State line) (South Dakota or points in Minnesota or Iowa within 50 miles of Sioux Falls, S. Dak., and Elgin, Ill.\*); (c) between points in that part of Iowa on, west, and north of a line beginning at Council Bluffs extending along Interstate Highway 80 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Iowa Highway 175, thence along Iowa Highway 175 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Iowa-Minnesota State line, on the one hand, and, on the other, points in that part of New York on and east of a line beginning at Oswego, N.Y., extending along New York Highway 57 to junction Interstate Highway 81, thence along Interstate Highway 81 to the New York-Pennsylvania State line and

(d) Between points in that part of Iowa on and west of U.S. Highway 169 beginning at the Iowa-Minnesota State line extending along U.S. Highway 20 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Iowa-Missouri State line (except points described in (c) above), on the one hand, and, on the other, points in that part of New York east of a line beginning at the United States-Canada International Boundary line extending along New York Highway 30 to junction New York Highway 17, thence along New York Highway 17 to the New York-Pennsylvania State line at

Hancock, N.Y. (as to (c) and (d) above), the gateway eliminated is points in South Dakota and points in that part of Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line extending along unnumbered highway (formerly portion U.S. Highway 15) to junction Business U.S. Highway 15 near Fairplay, thence along Business U.S. Highway 15 through Gettysburg to junction U.S. Highway 15, thence along U.S. Highway 15 to junction unnumbered highway (former portion U.S. Highway 15), thence along unnumbered highway through Clear Spring to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line (except points in Berks, Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa., and points in Pennsylvania on and east of the above-described line in Adams, York, Cumberland, Perry, Dauphin, Lebanon, and Lancaster Counties, Pa., and points in Pennsylvania on and east of U.S. Highway 15 and north of the East Branch of the Susquehanna River in Tioga, Bradford, Lycoming, Sullivan, Union, Snyder, Northumberland, Montour, and Columbia Counties, Pa.);

(e) Between points in that part of Iowa on and west of a line beginning at the Iowa-Minnesota State line extending along U.S. Highway 169 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Iowa-Missouri State line, on the one hand, and, on the other, points in Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware and the District of Columbia (points in South Dakota or points in Iowa or points in Minnesota within 50 miles of Sioux Falls, S. Dak., and points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line extending along unnumbered highway (formerly portion U.S. Highway 15) to junction Business U.S. Highway 15 near Fairplay, thence along Business U.S. Highway 15 through Gettysburg to junction U.S. Highway 15, thence along U.S. Highway 15 to junction unnumbered highway (formerly portion U.S. Highway 15), thence along unnumbered highway through Clear Spring, to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line (except points in Berks, Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa., and points in Pennsylvania on and east of the above-described line in Adams, York, Cumberland, Perry, Dauphin, Lebanon, and Lancaster Counties, Pa., and points in Pennsylvania on and east of U.S. Highway 15 and north of the East Branch of the Susquehanna River in Tioga, Bradford, Lycoming, Sullivan, Union, Snyder, Northumberland, Montour, and Columbia Counties, Pa., or, alternately, the gateways described immediately above with Elgin, Ill., and that area in Pennsylvania described immediately above which is within the area bounded by points in Scranton, Reading, Allentown, Harrisburg, Lancaster, and Hazleton, Pa., and



mines in that part of Pennsylvania south and west of a line beginning at the Pennsylvania-Ohio State line extending along U.S. Highway 224 to junction U.S. Highway 422, thence along U.S. Highway 19, thence along U.S. Highway 19 to junction unnumbered highway near Portersville, thence along unnumbered highway via Prospect to junction U.S. Highway 422, thence along U.S. Highway 422 to Ebensburg, thence along U.S. Highway 22 to junction U.S. Highway 522, thence along U.S. Highway 522 to junction Pennsylvania highway 641 (formerly Pennsylvania Highway 433), thence along Pennsylvania Highway 641 to junction Pennsylvania Highway 997, thence along Pennsylvania Highway 997 to the Pennsylvania-Maryland State line including points on the indicated portions of the Highway specified<sup>1)</sup>; and

(f) Between points in that part of Iowa on, west and north of a line beginning at the Iowa-Minnesota State line extending along U.S. Highway 71 to junction Iowa Highway 175, thence along Iowa Highway 175 to the Iowa-Nebraska State line, on the one hand, and, on the other, points in that part of Virginia on and east of a line beginning at the West Virginia-Virginia State line extending along U.S. Highway 522 to junction Interstate Highway 64, thence along Interstate Highway 64 to junction U.S. Highway 301, thence along U.S. Highway 301 to the Virginia-North Carolina State line and points in Maryland (except points in Garrett and Allegheny Counties), (points in South Dakota, and points in that part of Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line extending along unnumbered highway (formerly portion U.S. Highway 15) to junction Business U.S. Highway 15 near Fairplay, thence along Business U.S. Highway 15 through Gettysburg to junction U.S. Highway 15, thence along U.S. Highway 15 to junction unnumbered highway, (formerly portion U.S. Highway 15), thence along unnumbered highway through Clear Spring to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line (except points in Berks, Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa., and points in Pennsylvania on and east of the above-described line in Adams, York, Cumberland, Perry, Dauphin, Lebanon, and Lancaster Counties, Pa., and points in Pennsylvania on and east of U.S. Highway 15 and north of the East Branch of the Susquehanna River in Tioga, Bedford, Lycoming, Sullivan, Union, Snyder, Northumberland, Montour, and Columbia Counties, Pa.<sup>2)</sup>). The purpose of this filing is to eliminate the gateways indicated by the asterisks above.

No. MC 113855 (Sub-No. E96), filed May 30, 1974. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Commodities* (except boats), the transportation of which, because of their size or weight, require the use of special equipment, and related machinery, parts, and related contractors' materials and supplies when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment, and (2) *Self-propelled articles*, each weighing 15,000 pounds or more and related machinery, tools, parts, and supplies moving in connection therewith (restricted to commodities transported on trailers); (a) between points in Nevada (except points in Esmeralda, Nye, White Pine, Lincoln, and Clark Counties), on the one hand, and, on the other, points in Kansas, points on, east, and north of a line beginning at the Kansas-Nebraska State line along U.S. Highway 183 to junction Kansas Highway 96, thence along Kansas Highway 96 to junction U.S. Highway 281, thence along U.S. Highway 281 to junction U.S. Highway 54, thence along U.S. Highway 54 to junction U.S. Highway 35W, thence along U.S. Highway 35W and 35 to the Kansas-Oklahoma State line; and (b) between points in Ely and Tonopah, Nev., on the one hand, and, on the other, Kansas City, Kans. The purpose of this filing is to eliminate the gateways of Utah and South Dakota.

No. MC 113855 (Sub-No. E98), filed May 30, 1974. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Commodities* (except boats) the transportation of which, because of their size or weight, require the use of special equipment, and related machinery, parts and related contractors' materials and supplies when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment, and (2) *Self-propelled articles*, each weighing 15,000 pounds or more and related machinery, tools, parts and supplies moving in connection therewith (restricted to commodities transported on trailers); (a) between points in Idaho (except points in and north of Lemhi, Valley, and Idaho Counties), on the one hand, and, on the other, points in North Dakota (except points in and west of Renville, Ward, McLean, Oliver, Morton, and Sioux Counties); (b) between points in that part of Idaho in and north of Lemhi, Valley, and Idaho Counties, on the one hand, and, on the other, points in that part of North Dakota in and east of Pembina, Walsh, Nelson, Eddy, Wells, Kidder, Burleigh, and Emmons Counties; (c) between points in that part of Idaho west and south of Cassia, Blaine, Custer, Valley, and Adams Counties, on the one hand, and, on the other, points in Burke,

Montrail, Renville, Ward, McLean, Mercer, Oliver, Morton, Grant, and Sioux Counties, N. Dak. (points in Montana and South Dakota east of the Missouri River in (a), (b), and (c) above<sup>3)</sup>); and (3) *Heavy machinery* and other contractors' materials, supplies and equipment, which because of size or weight require the use of special equipment, over irregular routes, and (4) *Self-propelled articles*, each weighing 15,000 pounds or more and related machinery, tools, parts and supplies moving in connection therewith (restricted to commodities transported on trailers), between points in Idaho, on the one hand, and, on the other, points in Bowman, Adams, Slope, Hettlinger, Stark, Billings, Golden Valley, and Dunn Counties, N. Dak. (points in Montana and points in South Dakota east of S. Dakota Highway 73<sup>4)</sup>). The purpose of this filing is to eliminate the gateways indicated by the asterisks above.

No. MC 114273 (Sub-No. E1), filed June 4, 1974. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Farm implements and machinery (except those requiring the use of special equipment), from Chicago, Ill., to points in Iowa bounded by a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 52 through Decorah, Iowa, to junction Iowa Highway 150 at Calmar, Iowa, thence along Iowa Highway 150 through West Union, Iowa, thence along Iowa Highway 150 through West Union, Oelwein, and Independence, Iowa, thence along Iowa Highway 150 to junction Iowa Highway 101, thence along Iowa Highway 101 to junction Iowa Highway 363, thence along Iowa Highway 363 to junction Iowa unnumbered highway at Urbana, Iowa, thence along Iowa unnumbered highway through Shellsburg and Palo, Iowa, to junction Iowa unnumbered highway and Iowa Highway 94, thence along Iowa Highway 94 to junction U.S. Highway 218 at Cedar Rapids, Iowa, thence along U.S. Highway 218 to junction Iowa Highway 1 at Iowa City, Iowa, thence along Iowa Highway 1 to junction Iowa Highway 92 at Washington, Iowa, thence along Iowa Highway 92 to junction U.S. Highway 218 one mile east of Ainsworth, Iowa, thence along U.S. Highway 218 to junction U.S. Highway 34 at Mt. Pleasant, Iowa, thence along U.S. Highway 34 to junction Iowa Highway 1 and through Fairfield, Iowa, thence along U.S. Highway 1 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction Iowa unnumbered highway, thence along Iowa unnumbered highway through Mt. Sterling, Iowa, to the Iowa-Missouri State line, and thence along the Iowa-Missouri State line to junction Iowa Highway 202, thence along Iowa Highway 202 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction Iowa Highway 5 at Centerville, Iowa, thence along Iowa Highway 5 to junction Iowa unnumbered highway at Moravia, Iowa, thence along Iowa unnumbered

highway through Iconium and Malong, Iowa, to junction Iowa Highway 68, thence along Iowa Highway 68 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction Iowa Highway 14 at Chariton, Iowa, thence along Iowa Highway 14 to junction Iowa unnumbered highway, thence along Iowa unnumbered highway to junction Iowa unnumbered highway and Iowa Highway 206, thence along Iowa Highway 206 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 69, thence along U.S. Highway 65-69 through Indianola, Iowa, to Des Moines, Iowa, thence from Des Moines, Iowa, on U.S. Highway 69 through Ankeny, Huxley, Ames, and Jewell, Iowa, thence north from Jewell, Iowa along U.S. Highway 69 to junction U.S. Highway 20, thence along U.S. Highway 20 to Williams, Iowa, thence along U.S. Highway 20 to junction Iowa unnumbered highway to Dows, Iowa, thence along Iowa unnumbered highway to junction Iowa unnumbered highway and Iowa unnumbered highway, thence along Iowa unnumbered highway to junction Iowa unnumbered highway and Iowa Highway 263 at Coulter, Iowa, thence along Iowa Highway 263 to junction Iowa unnumbered highway at Latimer, Iowa, thence along Iowa unnumbered highway to junction Iowa unnumbered highway and Iowa unnumbered highway, thence along Iowa unnumbered highway, thence along Iowa unnumbered highway through Chapin, Iowa, to junction Iowa unnumbered highway and U.S. Highway 65, thence along U.S. Highway 65 through Sheffield, Iowa, to junction Iowa unnumbered highway, thence along Iowa unnumbered highway through Rockwell, Cartersville, and Rockford, Iowa, thence along Iowa unnumbered highway to junction Iowa unnumbered highway and U.S. Highway 18, thence along U.S. Highway 18 to Nora Springs, Iowa, thence along U.S. Highway 18 to junction Iowa unnumbered highway, thence along Iowa unnumbered highway to junction U.S. Highway 218 at Osage, Iowa, thence along U.S. Highway 218 to junction Iowa Highway 9, thence along Iowa Highway 9 to New Haven, Iowa, thence along Iowa Highway 9 through Riceville and Saratoga to junction U.S. Highway 63 at Davis Corners, Iowa, thence along U.S. Highway 63 to junction Iowa Highway 157, thence along Iowa Highway 157 to junction Iowa unnumbered highway at Lime Springs, Iowa, thence along Iowa unnumbered highway to the Iowa-Minnesota State line, thence along the Iowa-Minnesota State line to the point of beginning. The purpose of this filing is to eliminate the gateway of Cedar Rapids, Iowa.

No. MC 114273 (Sub-No. E3), filed June 4, 1974. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Farm implements and machinery (except those requiring the use

of special equipment), from East Moline, Moline, and Rock Island, Ill., to points in Iowa bounded by a line beginning at the Iowa-Minnesota State line and extending south through New Albin, Iowa, along Iowa Highway 26 to junction Iowa unnumbered highway, thence along Iowa unnumbered highway through Elon, Rossville, and Volney, Iowa, to junction Iowa unnumbered highway and U.S. Highway 52 at Monona, Iowa, thence along U.S. Highway 52 to junction U.S. Highway 52 and Iowa Highway 13, thence along Iowa Highway 13 through Elkade, Strawberry Point, Manchester, and Cogen, Iowa, to junction Iowa Highway 13 and U.S. Highway 151 at Marion, Iowa, thence along U.S. Highway 151 to junction Iowa Highway 149 at Cedar Rapids, Iowa, thence along Iowa Highway 149 through Fairfax and Walford, Iowa, to junction Iowa Highway 201 at Norway, Iowa, thence along Iowa Highway 201 to junction Iowa unnumbered highway at Watkins, Iowa, thence along Iowa unnumbered highway to West Amara, Iowa, thence along Iowa unnumbered highway to Blairtown, Iowa, thence along Iowa unnumbered highway to junction Iowa Highway 212 at Belle Plaine, Iowa, thence along Iowa Highway 212 to junction Iowa unnumbered highway, thence along Iowa unnumbered highway through Chelsea and Haven, Iowa, to junction U.S. Highway 63, thence along U.S. Highway 63 to junction U.S. Highway 30 at Tama, Iowa, thence along U.S. Highway 30 to junction Iowa Highway 14 near Marshalltown, Iowa, thence along Iowa Highway 14 to junction U.S. Highway 6 at Newton, Iowa, thence along U.S. Highway 6 to junction Iowa Highway 117 at Colfax, Iowa, thence along Iowa Highway 117 to junction Iowa Highway 163 at Prairie City, Iowa, thence along Iowa Highway 163 to junction Iowa Highway 316, thence along Iowa Highway 316 to junction Iowa unnumbered highway, thence along unnumbered highway through Hartford and Palmyra, Iowa, to junction Iowa unnumbered highway and Iowa Highway 92, thence along Iowa Highway 92 through Ackworth, Iowa, to junction U.S. Highway 65-69 at Indianola, Iowa, thence along U.S. Highway 65-69 to junction U.S. Highway 69 at Des Moines, Iowa, thence along Des Moines, Iowa, on U.S. Highway 69 through Ankeny, and Jewell, Iowa, to junction U.S. Highway 20 to Williams, Iowa, thence along U.S. Highway 20 to junction Iowa unnumbered highway, thence along Iowa unnumbered highway to Dows, Iowa, thence from Dows, Iowa, on Iowa unnumbered highway to junction Iowa unnumbered highway, thence along Iowa unnumbered highway to junction Iowa unnumbered highway and Iowa Highway 263 at Coulter, Iowa, thence along Iowa Highway 263 to junction Iowa unnumbered highway at Latimer, Iowa, thence along Iowa unnumbered highway to junction Iowa unnumbered highway and Iowa unnumbered highway, thence along Iowa unnumbered highway through Chapin,

Iowa, to junction Iowa unnumbered highway and U.S. Highway 65, thence along U.S. Highway 65 through Sheffield, Iowa, to junction Iowa unnumbered highway, thence along Iowa unnumbered highway through Rockwell, Cartersville, and Rockford, Iowa, thence along Iowa unnumbered highway to junction U.S. Highway 18 at Nora Springs, Iowa, thence along U.S. Highway 18 to junction U.S. Highway 18 and Iowa unnumbered highway, thence along Iowa unnumbered highway to junction Iowa unnumbered highway and U.S. Highway 218 at Osage, Iowa, thence along U.S. Highway 218 to junction Iowa Highway 9, thence along Iowa Highway 9 to New Haven, Iowa, thence along Iowa Highway 9 through Riceville, and Saratoga, Iowa, to junction U.S. Highway 63 at Davis Corner, Iowa, thence along U.S. Highway 63 to junction Iowa Highway 157, thence along Iowa Highway 157 and Iowa unnumbered highway at Lime Springs, Iowa, thence along Iowa unnumbered highway to the Iowa-Minnesota State line, thence along the Iowa-Minnesota State line to the point of beginning. The purpose of this filing is to eliminate the gateway of Cedar Rapids, Iowa.

No. MC 114273 (Sub-No. E4), filed June 4, 1974. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Farm implements and machinery (except those requiring special equipment), from Kewanee, Ill., to points in Iowa on and bounded by a line beginning at the Iowa-Minnesota State line and extending along Iowa Highway 26 to junction Iowa unnumbered highway at Lansing, Iowa, thence along Iowa unnumbered highway through Village Creek, Waterville, and Volney to junction U.S. Highway 52 at Monona, Iowa, thence along U.S. Highway 52 to junction Iowa Highway 13, thence along Iowa Highway 13 through Strawberry Point, Manchester, and Coggon, Iowa, to junction U.S. Highway 151, thence along U.S. Highway 151 to junction Iowa Highway 149 at Cedar Rapids, Iowa, thence along Iowa Highway 149 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Iowa Highway 212 at Marengo, Iowa, thence along Iowa Highway 212 through Belle Plaine, Iowa, to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Iowa Highway 14 at Marshalltown, Iowa, thence along Iowa Highway 14 to junction U.S. Highway 6 at Newton, Iowa, thence along U.S. Highway 6 to junction Iowa Highway 117 at Colfax, Iowa, thence along Iowa Highway 117 to junction Highway 163 at Prairie City, Iowa, thence along Iowa Highway 163 to junction U.S. Highway 69 at Des Moines, Iowa, thence along U.S. Highway 69 through Ankeny, Huxley, Ames, and Jewell, Iowa, thence along U.S. Highway 69 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction



Iowa unnumbered highway to Dows, Iowa, thence along Iowa unnumbered highway to junction Iowa unnumbered highway and Iowa Highway 263 at Coulter, Iowa, thence along Iowa Highway 263 to junction Iowa unnumbered highway at Latimer, Iowa, thence along Iowa unnumbered highway to junction Iowa unnumbered highway and Iowa unnumbered highway, thence along Iowa unnumbered highway through Chapin, Iowa, to junction Iowa unnumbered highway and U.S. Highway 65, thence along U.S. Highway 65 through Sheffield, Iowa, to junction Iowa unnumbered highway, thence along Iowa unnumbered highway through Rockwell, Cartersville, and Rockford, Iowa, thence along Iowa unnumbered highway to junction Iowa unnumbered highway and U.S. Highway 18, thence along U.S. Highway 18 to Nora Springs, Iowa, thence along U.S. Highway 18 to junction Iowa unnumbered highway, thence along Iowa unnumbered highway to junction Iowa unnumbered highway and U.S. Highway 218 to Osage, Iowa, thence along U.S. Highway 218 to junction Iowa Highway 9, thence along Iowa Highway 9 to New Haven, Iowa, thence along Iowa Highway 9 through Riceville and Saratoga, Iowa, to junction U.S. Highway 63 at Davis Corners, Iowa, thence along U.S. Highway 63 to junction Iowa Highway 157, thence along Iowa Highway 157 to junction Iowa unnumbered highway at Lime Springs, Iowa, thence along Iowa unnumbered highway to the Iowa-Minnesota State line, thence along the Iowa-Minnesota State line to the point of beginning. The purpose of this filing is to eliminate the gateway of Cedar Rapids, Iowa.

No. MC 115841 (Sub-No. E41), filed June 3, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from points in Columbia, Dutchess, and Ulster Counties, N.Y., to points in California and Oregon, restricted to traffic originating at the facilities of Clermont Fruit Packers, Inc., located in the above-named counties. The purpose of this filing is to eliminate the gateway of Birmingham, Ala.

No. MC 115841 (Sub-No. E42), filed June 3, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except liquid commodities, in bulk and in tank vehicles), in vehicles equipped with mechanical refrigeration, from New York, N.Y., points in that part of Rockland County, N.Y., east of the Garden State Parkway and south of Interstate Highway 287,

that part of Nassau County, N.Y., west of Nassau County Highway 1, and points in Bergen, Essex, Hudson, Passaic, and Union Counties, N.J., to points in California. The purpose of this filing is to eliminate the gateways of Pittsburgh, Pa., and Birmingham, Ala.

No. MC 119777 (Sub-No. E46), filed April 23, 1974. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, Ky. 42431. Applicant's representative: Ronald E. Butler (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Pallets, skids, bases, boxes, crating, oak treads, oak risers, oak sills, oak molding, cardboard boxes, nails, and lumber*; (a) between points in Alabama on and north of a line beginning at the Alabama-Tennessee State line, thence along Alabama Highway 117 to junction U.S. Highway 72, thence along U.S. Highway 72 to the Alabama-Tennessee State line, on the one hand, and, on the other, points in Arkansas, on and north of a line beginning at the Arkansas-Oklahoma State line, thence along Arkansas Highway 156 to junction Arkansas Highway 59, thence along Arkansas Highway 59 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction Arkansas Highway 16, thence along Arkansas Highway 16 to junction Arkansas Highway 7, thence along Arkansas Highway 7 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction Arkansas Highway 5, thence along Arkansas Highway 5 to junction Arkansas Highway 56, thence along Arkansas Highway 56 to junction Arkansas Highway 9, thence along Arkansas Highway 9 to the Arkansas-Missouri State line; (b) between points in Alabama on and northeast of a line beginning at the Mississippi-Alabama State line, thence along U.S. Highway 78 to junction U.S. Highway 43, thence along U.S. Highway 43 to junction Alabama Highway 69, thence along Alabama Highway 69 to junction Alabama Highway 61, thence along Alabama Highway 61 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction Alabama Highway 41, thence along Alabama Highway 41 to junction Alabama Highway 89, thence along Alabama Highway 89 to junction Alabama Highway 28, thence along Alabama Highway 28 to junction Alabama Highway 21, thence along Alabama Highway 21 to junction Alabama Highway 10, thence along Alabama Highway 10 to junction Alabama Highway 47, thence along Alabama Highway 47 to junction Alabama Highway 83, thence along Alabama Highway 83 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction Alabama Highway 55, thence along Alabama Highway 55 to junction U.S. Highway 331, thence along U.S. Highway 331 to the Alabama-Florida State line, on the one hand, and, on the other, points in Colorado; (c) Between points in Alabama on and west of a line beginning at the Alabama-Tennessee State line, extending thence along Alabama Highway 117 to junction U.S. Highway 72, thence along U.S. Highway 72 to junction Alabama Highway 79, thence along Alabama Highway 79 to junction U.S. Highway 431, thence along U.S. Highway 431 to junction Alabama Highway 21, thence along Alabama Highway 21 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction U.S. Highway 331, thence along U.S. Highway 331 to the Alabama-Florida State line, on the one hand, and, on the other, points in Connecticut; (d) between points in Alabama on, north, and east of a line beginning at the Tennessee-Alabama State line, thence along U.S. Highway 231 to junction Alabama Highway 69, thence along Alabama Highway 69 to junction Alabama Highway 18, thence along Alabama Highway 18 to junction Alabama Highway 98, thence along Alabama Highway 98 to junction Alabama Highway 17, thence along Alabama Highway 17 to junction Alabama Highway 14, thence along Alabama Highway 14 to junction U.S. Highway 43, thence along U.S. Highway 43 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Alabama-Mississippi State line, on the one hand, and, on the other, points in Delaware; (e) between points in Alabama, on the one hand, and, on the other, points in Illinois on and north of a line beginning at the Illinois-Iowa State line, thence along U.S. Highway 136 to junction Illinois Highway 94, thence along Illinois Highway 94 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Illinois Highway 99, thence along Illinois Highway 99 to junction Illinois Highway 100, thence along Illinois Highway 100 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Illinois Highway 106, thence along Illinois Highway 106 to junction Illinois Highway 108, thence along Illinois Highway 108 to junction Interstate Highway 55, thence along Interstate Highway 55 to junction Illinois Highway 16, thence along Illinois Highway 16 to junction Illinois Highway 185, thence along Illinois Highway 185 to junction Illinois Highway 37, thence along Illinois Highway 37 to junction U.S. Highway 37, thence along U.S. Highway 37 to junction Illinois Highway 142, thence along Illinois Highway 142 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 13, thence along Illinois Highway 13 to the Illinois-Kentucky State line; (f) Between points in Alabama, on and east of a line beginning at the Mississippi-Alabama State line, thence along U.S. Highway 78 to junction U.S. Highway 43, thence along U.S. Highway 43 to junction Alabama Highway 171, thence along Alabama Highway 171 to junction U.S. Highway 43, thence along U.S. Highway 43 to junction Interstate Highway 10, thence along Interstate Highway 10 to the Alabama-Mississippi State line, on the one hand, and, on the other, points in Kansas on and north of a line beginning at the Colorado-Kansas State line on U.S. Highway 40, thence along U.S. Highway 40 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction Kansas Highway 4, thence along Kansas Highway 4 to junction U.S.

way 72 to junction Alabama Highway 79, thence along Alabama Highway 79 to junction U.S. Highway 431, thence along U.S. Highway 431 to junction Alabama Highway 21, thence along Alabama Highway 21 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction U.S. Highway 331, thence along U.S. Highway 331 to the Alabama-Florida State line, on the one hand, and, on the other, points in Connecticut; (d) between points in Alabama on, north, and east of a line beginning at the Tennessee-Alabama State line, thence along U.S. Highway 231 to junction Alabama Highway 69, thence along Alabama Highway 69 to junction Alabama Highway 18, thence along Alabama Highway 18 to junction Alabama Highway 98, thence along Alabama Highway 98 to junction Alabama Highway 17, thence along Alabama Highway 17 to junction Alabama Highway 14, thence along Alabama Highway 14 to junction U.S. Highway 43, thence along U.S. Highway 43 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Alabama-Mississippi State line, on the one hand, and, on the other, points in Delaware; (e) between points in Alabama, on the one hand, and, on the other, points in Illinois on and north of a line beginning at the Illinois-Iowa State line, thence along U.S. Highway 136 to junction Illinois Highway 94, thence along Illinois Highway 94 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Illinois Highway 99, thence along Illinois Highway 99 to junction Illinois Highway 100, thence along Illinois Highway 100 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Illinois Highway 106, thence along Illinois Highway 106 to junction Illinois Highway 108, thence along Illinois Highway 108 to junction Interstate Highway 55, thence along Interstate Highway 55 to junction Illinois Highway 16, thence along Illinois Highway 16 to junction Illinois Highway 185, thence along Illinois Highway 185 to junction Illinois Highway 37, thence along Illinois Highway 37 to junction U.S. Highway 37, thence along U.S. Highway 37 to junction Illinois Highway 142, thence along Illinois Highway 142 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 13, thence along Illinois Highway 13 to the Illinois-Kentucky State line; (f) Between points in Alabama, on and east of a line beginning at the Mississippi-Alabama State line, thence along U.S. Highway 78 to junction U.S. Highway 43, thence along U.S. Highway 43 to junction Alabama Highway 171, thence along Alabama Highway 171 to junction U.S. Highway 43, thence along U.S. Highway 43 to junction Interstate Highway 10, thence along Interstate Highway 10 to the Alabama-Mississippi State line, on the one hand, and, on the other, points in Kansas on and north of a line beginning at the Colorado-Kansas State line on U.S. Highway 40, thence along U.S. Highway 40 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction Kansas Highway 4, thence along Kansas Highway 4 to junction U.S.

way 72 to junction Alabama Highway 79, thence along Alabama Highway 79 to junction U.S. Highway 431, thence along U.S. Highway 431 to junction Alabama Highway 21, thence along Alabama Highway 21 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction U.S. Highway 331, thence along U.S. Highway 331 to the Alabama-Florida State line, on the one hand, and, on the other, points in Connecticut; (d) between points in Alabama on, north, and east of a line beginning at the Tennessee-Alabama State line, thence along U.S. Highway 231 to junction Alabama Highway 69, thence along Alabama Highway 69 to junction Alabama Highway 18, thence along Alabama Highway 18 to junction Alabama Highway 98, thence along Alabama Highway 98 to junction Alabama Highway 17, thence along Alabama Highway 17 to junction Alabama Highway 14, thence along Alabama Highway 14 to junction U.S. Highway 43, thence along U.S. Highway 43 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Alabama-Mississippi State line, on the one hand, and, on the other, points in Delaware; (e) between points in Alabama, on the one hand, and, on the other, points in Illinois on and north of a line beginning at the Illinois-Iowa State line, thence along U.S. Highway 136 to junction Illinois Highway 94, thence along Illinois Highway 94 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Illinois Highway 99, thence along Illinois Highway 99 to junction Illinois Highway 100, thence along Illinois Highway 100 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Illinois Highway 106, thence along Illinois Highway 106 to junction Illinois Highway 108, thence along Illinois Highway 108 to junction Interstate Highway 55, thence along Interstate Highway 55 to junction Illinois Highway 16, thence along Illinois Highway 16 to junction Illinois Highway 185, thence along Illinois Highway 185 to junction Illinois Highway 37, thence along Illinois Highway 37 to junction U.S. Highway 37, thence along U.S. Highway 37 to junction Illinois Highway 142, thence along Illinois Highway 142 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 13, thence along Illinois Highway 13 to the Illinois-Kentucky State line; (f) Between points in Alabama, on and east of a line beginning at the Mississippi-Alabama State line, thence along U.S. Highway 78 to junction U.S. Highway 43, thence along U.S. Highway 43 to junction Alabama Highway 171, thence along Alabama Highway 171 to junction U.S. Highway 43, thence along U.S. Highway 43 to junction Interstate Highway 10, thence along Interstate Highway 10 to the Alabama-Mississippi State line, on the one hand, and, on the other, points in Kansas on and north of a line beginning at the Colorado-Kansas State line on U.S. Highway 40, thence along U.S. Highway 40 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction Kansas Highway 4, thence along Kansas Highway 4 to junction U.S.

Highway 281, thence along U.S. Highway 281 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Kansas-Missouri State line; (g) between points in Alabama, on the one hand, and, on the other, points in Maine, on and north of a line beginning at Belfast, Maine, at the Atlantic Ocean, thence along Maine Highway 7 to junction U.S. Highway 2, thence along U.S. Highway 2 to the Maine-New Hampshire State line; (h) between points in Alabama, on and west of a line beginning at the Alabama-Tennessee State line, thence along U.S. Highway 231 to junction Alabama Highway 36, thence along Alabama Highway 36 to junction Interstate Highway 65, thence along Interstate Highway 65 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction Alabama Highway 69, thence along Alabama Highway 69 to junction U.S. Highway 82, thence along U.S. Highway 82 to junction Alabama Highway 219, thence along Alabama Highway 219 to junction Alabama Highway 14, thence along Alabama Highway 14 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Alabama-Florida State line, on the one hand, and, on the other, points in Maryland on and west of U.S. Highway 11; (i) Between points in Alabama, on and west of a line beginning at the Alabama-Georgia State line, thence along Alabama Highway 9 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Alabama Highway 87, thence along Alabama Highway 87 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction U.S. Highway 331, thence along U.S. Highway 331 to the Florida-Alabama State line, on the one hand, and, on the other, points in Massachusetts; (j) between points in Alabama, on the one hand, and, on the other, points in Missouri, on and north of a line beginning at the Missouri-Illinois State line at Hannibal, Mo., thence along U.S. Highway 36 to junction Missouri Highway 13, thence along Missouri Highway 13 to junction U.S. Highway 136, thence along U.S. Highway 136 to junction Missouri Highway 46, thence along Missouri Highway 46 to junction Missouri Highway 113, thence along Missouri Highway 113 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction U.S. Highway 159, thence along U.S. Highway 159 to the Missouri-Nebraska State line; (k) between points in Alabama, on and west of a line beginning at the Alabama-Georgia State line, thence along Alabama Highway 74 to junction Alabama Highway 21, thence along Alabama Highway 21 to junction U.S. Highway 280, thence along U.S. Highway 280 to junction Alabama Highway 22, thence along Alabama Highway 22 to junction Alabama Highway 9, thence along Alabama Highway 9 to junction U.S. Highway 82, thence along U.S. Highway 82 to junction U.S. Highway 29, thence along U.S. Highway 29 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Alabama-Florida State line, on the one hand, and, on the other, points in New Hampshire;

(l) Between points in Alabama on, north, and west of a line beginning at the Alabama-Tennessee State line, thence along U.S. Highway 231 to junction Alabama Highway 79, thence along Alabama Highway 79 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction Interstate Highway 65, thence along Interstate Highway 65 to junction Alabama Highway 22, thence along Alabama Highway 22 to junction Alabama Highway 41, thence along Alabama Highway 41 to junction Alabama Highway 47, thence along Alabama Highway 47 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction U.S. Highway 43, thence along U.S. Highway 43 to the terminus at Mobile, Ala., on the Gulf of Mexico, on the one hand, and, on the other, points in New Jersey on, north, and east of a line beginning at the Pennsylvania-New Jersey State line, thence along U.S. Highway 30 to junction New Jersey Highway 168, thence along New Jersey Highway 168 to junction of the Atlantic City Expressway, thence along the Atlantic City Expressway to junction New Jersey Highway 50, thence along New Jersey Highway 50 to junction New Jersey Highway 49, thence along New Jersey Highway 49 to junction New Jersey Highway 47, thence along New Jersey Highway 47 to junction U.S. Highway 9, thence along U.S. Highway 9 to Cape May, N.J., at Atlantic City; (m) between points in Alabama, on and west of a line beginning at the Alabama-Georgia State line, thence along Alabama Highway 48 to junction U.S. Highway 431, thence along U.S. Highway 431 to Phenix City, Ala., on the Georgia-Alabama State line, on the one hand, and, on the other, points in New York, on, north, and west of a line beginning at the New York-Pennsylvania State line, thence along New York Highway 26 to junction New York Highway 434, thence along New York Highway 434 to junction New York Highway 7, thence along New York Highway 7 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Interstate Highway 787, thence along Interstate Highway 787 to junction U.S. Highway 4, thence along U.S. Highway 4 to junction New York Highway 2, thence along New York Highway 2 to the New York-Massachusetts State line; (n) Between points in Alabama, on the one hand, and, on the other, points in Ohio, on and north of a line beginning at the Kentucky-Ohio State line, thence along U.S. Highway 22 to junction Ohio Highway 37, thence along Ohio Highway 37 to junction Ohio Highway 60, thence along Ohio Highway 60 to the Ohio-West Virginia State line; (o) between points in Alabama, on and east of a line beginning at the Alabama-Tennessee State line, thence along U.S. Highway 31 to junction Interstate Highway 65 (below Decatur), thence along Interstate Highway 65 to junction U.S. Highway 31 (below Montgomery), thence along U.S. Highway 31 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Alabama-Florida State line, on the one hand, and, on the other, points in New Hampshire;

State line, on the one hand, and, on the other, points in Oklahoma, on and north of a line beginning at the Kansas-Oklahoma State line, thence along U.S. Highway 75 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction Oklahoma Highway 8, thence along Oklahoma Highway 8 to junction Oklahoma Highway 45, thence along Oklahoma Highway 45 to junction U.S. Highway 281, thence along U.S. Highway 281 to junction Oklahoma Highway 15, thence along Oklahoma Highway 15 to the Oklahoma-Texas State line; (p) between points in Alabama, on and west of a line beginning at the Georgia-Alabama State line, thence along Alabama Highway 22 to junction U.S. Highway 431, thence along U.S. Highway 431 to junction U.S. Highway 280, thence along U.S. Highway 280 to the Alabama-Georgia State line, on the one hand, and, on the other, points in Pennsylvania, on, north, and west of a line beginning at the West Virginia-Pennsylvania State line, thence along Pennsylvania Highway 18 to junction Pennsylvania Highway 21, thence along Pennsylvania Highway 21 to junction Pennsylvania Highway 88, thence along Pennsylvania Highway 88 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction Pennsylvania Highway 201, thence along Pennsylvania Highway 201 to junction Pennsylvania Highway 711, thence along Pennsylvania Highway 711 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction Pennsylvania Highway 53, thence along Pennsylvania Highway 53 to junction Pennsylvania Highway 504, thence along Pennsylvania Highway 504 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction Pennsylvania Highway 287, thence along Pennsylvania Highway 287 to junction Pennsylvania Highway 184, thence along Pennsylvania Highway 184 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction Pennsylvania Highway 414, thence along Pennsylvania Highway 414 to junction Pennsylvania Highway 14, thence along Pennsylvania Highway 14 to the New York-Pennsylvania State line; (q) Between points in Alabama, on and west of a line beginning at the Alabama-Georgia State line, thence along Alabama Highway 9 to junction U.S. Highway 78, thence along U.S. Highway 78 to junction U.S. Highway 431, thence along U.S. Highway 431 to junction Alabama Highway 9, thence along Alabama Highway 9 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Alabama Highway 87, thence along Alabama Highway 87 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction U.S. Highway 331, thence along U.S. Highway 331 to the Alabama-Florida State line, on the one hand, and, on the other, points in Rhode Island; (r) between points in Alabama, on and south of a line beginning at the Alabama-Mississippi State line, thence



along U.S. Highway 84 to the Alabama-Georgia State line, on the one hand, and, on the other, points in Tennessee on, north, east, and west of a line beginning at the Kentucky-Tennessee State line, thence along Tennessee Highway 48 to junction U.S. Highway 79, thence along U.S. Highway 79 to junction U.S. Highway 41-A, thence along U.S. Highway 41-A to junction Tennessee Highway 76, thence along Tennessee Highway 76 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction Tennessee Highway 25, thence along Tennessee Highway 25 to junction U.S. Highway 31-W, thence along U.S. Highway 31-W to the Tennessee-Kentucky State line; (s) between points in Alabama, on, north, and east of a line beginning at the Alabama-Tennessee State line, thence along U.S. Highway 31 to junction U.S. Highway 278, thence along U.S. Highway 278 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Interstate Highway 59, thence along Interstate Highway 59 to junction Alabama Highway 77, thence along Alabama Highway 77 to junction Interstate Highway 20, thence along Interstate Highway 20 to junction Alabama Highway 9, thence along Alabama Highway 9 to junction Alabama Highway 46, thence along Alabama Highway 46 to the Georgia-Alabama State line, on the one hand, and, on the other, points in Texas, on and north of a line beginning at the Texas-New Mexico State line, thence along U.S. Highway 60 to the Texas-Oklahoma State line;

(t) Between points in Alabama, on and west of a line beginning at the Alabama-Georgia State line, thence along Alabama Highway 74 to junction Alabama Highway 9, thence along Alabama Highway 9 to junction U.S. Highway 82, thence along U.S. Highway 82 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Alabama-Florida State line, on the one hand, and, on the other, points in Vermont; (u) between points in Lauderdale County, Ala., on the one hand, and, on the other, points in Highland County, Va.; and (v) between points in Alabama, on and west of a line beginning at the Alabama-Tennessee State line, thence along U.S. Highway 231 to junction Alabama Highway 79, thence along Alabama Highway 79, to junction U.S. Highway 31, thence along U.S. Highway 31 to junction U.S. Highway 331, thence along U.S. Highway 331 to the Alabama-Florida State line, on the one hand, and, on the other, points in West Virginia, on and north of a line beginning at the Kentucky-West Virginia State line, thence along U.S. Highway 60 to junction West Virginia Highway 10, thence along West Virginia Highway 10 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction West Virginia Highway 61, thence along West Virginia Highway 61 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction U.S. Highway 33, thence

along U.S. Highway 33 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction West Virginia Highway 93, thence along West Virginia Highway 93 to junction U.S. Highway 50, thence along U.S. Highway 50 to the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateways of Logan County, Ky., and Muhlenberg County, Ky.

No. MC 100666 (Sub-No. E75), filed May 30, 1974. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Richard W. May (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Sheet iron roofing*, from points in Arkansas, except those points south and east of a line beginning at the junction of U.S. Highway 270 and the Oklahoma-Arkansas State line, thence along U.S. Highway 270 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction U.S. Highway 63, thence along U.S. Highway 63 to the Missouri-Arkansas State line, on the one hand, and, on the other, points in Mississippi on, north, and west of a line beginning at junction U.S. Highway 82 and the Mississippi River, thence along U.S. Highway 82 to the Mississippi-Alabama State line. The purpose of this filing is to eliminate the gateway of Camden, Ark.

No. MC 100666 (Sub-No. E203), filed May 30, 1974. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Richard May (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Composition or prepared roofing*, from points in Arkansas, except those points on, south, and west of a line beginning at junction Arkansas Highway 234 and the Arkansas-Oklahoma State line, thence along Arkansas Highway 234 to junction U.S. Highways 59 and 71, thence along U.S. Highways 59 and 71 to junction Interstate Highway 30, thence along Interstate Highway 30 to junction Arkansas Highway 4, thence along Arkansas Highway 4 to junction Arkansas Highway 376, thence along Arkansas Highway 376 to junction Arkansas Highway 7, thence along Arkansas Highway 7 to junction U.S. Highway 167, thence along U.S. Highway 167 to junction Arkansas Highway 4, thence along Arkansas Highway 4 to Arkansas City and the Mississippi River, on the one hand, and, on the other, points in Florida west of Florida Highway 71. The purpose of this filing is to eliminate the gateway of West Memphis, Ark.

No. MC 123685 (Sub-No. E6) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER April 23, 1975. Applicant: PEOPLES CARTAGE, INC., 8045 Navarre Road, SW., Massillon, Ohio 44646. Applicant's representative: James W. Muldoon (same as above). Authority sought to operate as a common carrier,

by motor vehicle, over irregular routes, transporting: *Pulpboard, pulpboard products, and paper wrappers*, (2) from those points in Ohio on, east and south of a line beginning at the Ohio-West Virginia State line extending along Ohio Highway 151 to junction U.S. Highway 250, thence along U.S. Highway 250 to junction Ohio Highway 94, thence along Ohio Highway 94 to junction Interstate Highway 271, thence along Interstate Highway 271 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Ohio-Pennsylvania State line, to points in Indiana. The purpose of this filing is to eliminate the gateway of the facilities of Grief Board Corporation, at Stark County, Ohio. The purpose of this correction is to distinguish part (2) from remainder of the letter-notice and to reflect the correct destination State. The remainder of the letter-notice remains as previously published.

No. MC 123685 (Sub-No. E21) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER April 23, 1975. Applicant: PEOPLES CARTAGE, INC., 8045 Navarre Road, SW., Massillon, Ohio 44646. Applicant's representative: James W. Muldoon (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Fertilizer, fertilizer ingredients, and pesticides*, in bulk, in dump vehicles, (2) between points in Ohio on, south, west, and north of a line beginning at the Ohio-Kentucky State line extending along Interstate Highway 71 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Ohio Highway 60, thence along Ohio Highway 60 to junction Ohio Highway 83, thence along Ohio Highway 83 to junction U.S. Highway 224, thence along U.S. Highway 224 to junction Ohio Highway 114, thence along Ohio Highway 114 to the Ohio-Indiana State line, on the one hand, and, on the other, points in New York; and (3) between points in Ohio on, west, and south of a line beginning at the Ohio-Kentucky State line extending along Interstate Highway 71 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Ohio-Indiana State line, on the one hand, and, on the other, those points in Pennsylvania on and west of a line beginning at Lake Erie extending along U.S. Highway 322 to junction Pennsylvania Highway 36, thence along Pennsylvania Highway 36 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction Pennsylvania Highway 56, thence along Pennsylvania Highway 56 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Pennsylvania-Maryland State line. The purpose of this filing is to eliminate the gateway of Orrville, Ohio. The purpose of this partial correction is to correctly set forth the authority sought in parts (2) and (3) above. The remainder of the letter-notice remains as previously published.

No. MC 124211 (Sub-No. E78), filed June 3, 1974. Applicant: HILT TRUCK LINE, INC., P.O. Box 988 D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Food products and canned goods* (except (a) frozen food products, (b) meat, meat products, and meat byproducts, dairy products, and articles distributed by meat packinghouses, as described by the Commission, and (c) commodities in bulk), from Kansas City, Mo., to points in California, Nevada, Utah, those in Arizona on and west of U.S. Highway 89, and San Juan County, N. Mex. The purpose of this filing is to eliminate the gateway of Grand Island, Nebr.

No. MC 124211 (Sub-No. E79), filed June 3, 1974. Applicant: HILT TRUCK LINE, INC., P.O. Box 988 D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Groceries*, restricted to food products, (except frozen foods, potato products, and meat and packinghouse products, and commodities in bulk), from Wichita, Kans., to points in Nebraska on, north and east of a line beginning at the Nebraska-South Dakota State line, and extending along U.S. Highway 81 to junction Nebraska Highway 92, thence along Nebraska Highway 92 to junction Nebraska Highway 15, thence along Nebraska Highway 15 to junction U.S. Highway 34, thence along U.S. Highway 34 to the Nebraska-Iowa State line, and Alliance, Nebraska City, O'Neill, and Scottsbluff, Nebr. (Waverly, Nebr.); (2) *Groceries*, restricted to foodstuffs, (except (a) frozen foodstuffs, (b) meat, meat products and meat byproducts, dairy products, and articles distributed by meat packinghouses, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and (c) commodities in bulk), from Wichita, Kans., to those points in California in and north of Fresno, Mono, and Monterey Counties, Calif., those in Nevada on and north of U.S. Highway 50, and those in Utah on and north of U.S. Highway 80 (Waverly, Nebr.); (3) *Groceries*, restricted to foodstuffs, (except candy and confectionery, except meats and packinghouse products, dairy products, frozen foods, potato products, and commodities in bulk), from Wichita, Kans., to points in Oregon, Washington, and Wyoming (Waverly, Nebr.);

(4) *Groceries*, restricted to foods and food products (except commodities in bulk, dairy products, frozen foods, meats, meat products and meat byproducts, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766), from Wichita, Kans., to points in Michigan, Minnesota, and Wisconsin, and those points in Illinois on and north of Illinois Highway 9,

points in Indiana on and north of U.S. Highway 24, and points in Iowa on and north of U.S. Highway 34, restricted to the transportation of shipments destined to points in the above-described destination territory (Waverly, Nebr.); (5) *Groceries*, restricted to foodstuffs (except commodities in bulk, frozen foods, meats, meat products, meat byproducts, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766), from Wichita, Kans., to points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont, those points in Ohio on and north of U.S. Highways 30 and 30S, and Dover, Del., and Baltimore, Md. (Waverly, Nebr.); and (6) *Food products* (except frozen foods, dairy products, potato products, meat and packinghouse products, and commodities in bulk), from Wichita, Kans., to points in Idaho, Montana, North Dakota, and South Dakota (Lincoln, Nebr.). The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

No. MC 124211 (Sub-No. E80), filed June 3, 1974. Applicant: HILT TRUCK LINE, INC., P.O. Box 988 D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from LaCrosse, Wis., to points in Colorado, Oklahoma, those in Iowa on and south of a line beginning at the Iowa-Nebraska State line and extending along U.S. Highway 34 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Iowa-Missouri State line, those in Missouri on and west of a line beginning at the Missouri-Iowa State line and extending along U.S. Highway 71 to junction U.S. Highway 36, thence along U.S. Highway 36 to the Missouri-Kansas State line, and those in Wyoming on and south of U.S. Highway 26. The purpose of this filing is to eliminate the gateway of Omaha, Nebr.

No. MC 124211 (Sub-No. E81), filed June 3, 1974. Applicant: HILT TRUCK LINE, INC., P.O. Box 988 D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Malt beverages*, unfrozen, from Pueblo, Colo., to points in Illinois, Indiana, Minnesota, South Dakota, and Wisconsin, those points in Kansas on and north of U.S. Highway 36, and Kansas City, Kans., Detroit, Mich. (Nebraska), and *Malt beverages*, from Pueblo, Colo., to points in Iowa, those points in Missouri on and north of a line beginning at the Missouri-Iowa State line and extending along U.S. Highway 65 to junction U.S. Highway 36, thence along U.S. Highway 36 to the Missouri-Illinois State line, and St. Louis, Mo. (Omaha, Nebr.). The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 124211 (Sub-No. E82), filed June 3, 1974. Applicant: HILT TRUCK LINE, INC., P.O. Box 988 D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Macaroni, noodles, grain products, pancake and cake flour* (except in bulk), *spaghetti, and vermicelli*, from points in Idaho and Montana to points in Indiana; and, from those points in Nebraska on, north and west of a line beginning at the Nebraska-Iowa State line and extending along U.S. Highway 77 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Nebraska-Colorado State line, those in North Dakota on and west of U.S. Highway 83, and those in South Dakota on, west and south of a line beginning at the North Dakota-South Dakota State line and extending along U.S. Highway 281 to junction U.S. Highway 14, thence along U.S. Highway 14 to junction U.S. Highway 77, thence along U.S. Highway 77 to the Nebraska-South Dakota State line, to those points in Indiana on and south of U.S. Highway 24; (2) *macaroni, noodles, grain products, pancake and cake flour, spaghetti, and vermicelli* (except commodities in bulk and frozen foods), from those points in Oklahoma on and west of U.S. Highway 83, to those points in Indiana on and north of U.S. Highway 24. The purpose of this filing is to eliminate the gateway of Lincoln, Nebr.

No. MC 127840 (Sub-No. E10) filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn St., Chicago, Ill. 60620. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Animal fats, animal oils, and vegetable oils, and edible blends and edible products of animal fats, animal oils, and vegetable oils* (except liquid chemicals), in bulk, in tank or hopper type vehicles, from points in (1) that part of Illinois on and north of a line beginning at the Illinois-Iowa State line, thence along Interstate Highway 80 to its junction with Illinois Highway 47, thence along Illinois Highway 47 to its junction with Illinois Highway 17, thence along Illinois Highway 17 to the Illinois-Indiana State line and (2) that part of Indiana within the Commercial Zone of Chicago, Ill., as defined by the Commission, to points in that part of Kentucky on and east of a line beginning at the Kentucky-Tennessee State line, thence along U.S. Highway 41 to its junction with Kentucky Highway 91, thence along Kentucky Highway 91 to the Kentucky-Illinois State line. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 127840 (Sub-No. E12), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn St., Chicago, Ill.



60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Animal fats, animal oils and vegetable oils, and edible blends and edible products of animal fats, animal oils, and vegetable oils* (except liquid chemicals), in bulk, in tank or hopper-type vehicles, from points in that part of Illinois on and within a line beginning at the Illinois-Iowa State line extending along U.S. Highway 34 to junction Illinois Highway 167, thence along Illinois Highway 167 to junction Illinois Highway 78 to junction Illinois Highway 17, thence along Illinois Highway 17 to the Illinois-Indiana State line, thence along the Illinois-Indiana State line to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction Illinois Highway 9, thence along Illinois Highway 9 to junction Illinois Highway 41, thence along Illinois Highway 41 to junction U.S. Highway 136, thence along U.S. Highway 136 to the Illinois-Iowa State line, thence along the Illinois-Iowa State line to the place of beginning, to points in Ohio on and north of a line beginning at the Ohio-Indiana State line extending along Ohio Highway 34 to junction Ohio Highway 15, thence along Ohio Highway 15 to junction Ohio Highway 115, thence along Ohio Highway 115 to junction Ohio Highway 65, thence along Ohio Highway 65 to junction U.S. Highway 30S, thence along U.S. Highway 30S to junction Ohio Highway 31, thence along Ohio Highway 31 to junction U.S. Highway 33, thence along U.S. Highway 33 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction U.S. Highway 35, thence along U.S. Highway 35 to the Ohio-West Virginia State line. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 127840 (Sub-No. E13), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Animal fats, animal oils and vegetable oils, and edible blends and edible products of animal fats, animal oils, and vegetable oils* (except liquid chemicals), in bulk, in tank or hopper-type vehicles, from points in (1) that part of Illinois on and north of a line beginning at the Illinois-Iowa State line extending along U.S. Highway 34 to junction Illinois Highway 167, thence along Illinois Highway 167 to junction Illinois Highway 78, thence along Illinois Highway 78 to junction Illinois Highway 17, thence along Illinois Highway 17 to the Illinois-Indiana State line, and (2) that part of Indiana within the commercial zone of Chicago, Ill., as defined by the Commission, to points in Ohio. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 127840 (Sub-No. E14), filed June 4, 1974. Applicant: MONTGOM-

ERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Animal fats, animal oils, and vegetable oils, and edible blends and edible products of animal fats, animal oils, and vegetable oils* (except liquid chemicals), in bulk, in tank or hopper-type vehicles, from points in that part of Illinois on and north of a line beginning at the Illinois-Missouri State line extending along U.S. Highway 36 to junction Illinois Highway 47, thence along Illinois Highway 47 to junction Illinois Highway 10, thence along Illinois Highway 10 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction Illinois Highway 9, thence along Illinois Highway 9 to junction Illinois Highway 41, thence along Illinois Highway 41 to junction U.S. Highway 136, thence along U.S. Highway 136 to the Illinois-Iowa State line to points in Ohio. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 127840 (Sub-No. E15), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William Towle, 127 N. Dearborn St., Suite 1133, Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Animal fats, animal oils, and vegetable oils* (except petroleum products, fertilizers, and chemicals), in bulk, in tank vehicles, from that part of Illinois on and east of a line beginning at the Illinois-Wisconsin State line extending along U.S. Highway 45 to junction Illinois Highway 53, thence along Illinois Highway 53 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Interstate Highway 57, thence along Interstate Highway 57 to the Illinois-Missouri State line to points in Minnesota and points in that part of Wisconsin on and west of a line beginning at the Illinois-Wisconsin State line extending along U.S. Highway 61 to junction Wisconsin Highway 27, thence along Wisconsin Highway 27 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction U.S. Highway 2, thence along U.S. Highway 2 to Lake Superior. The purpose of this filing is to eliminate the gateway of Bradley and Chicago, Ill., and Dubuque, Iowa.

No. MC 127840 (Sub-No. E16), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Animal fats, animal oils, and vegetable oils, and edible blends and edible products of ani-*

mal fats, animal oils, and vegetable oils (except liquid chemicals), in bulk, in tank or hopper-type vehicles, from points in that part of Illinois on and within an area bounded by a line beginning at the Illinois-Iowa State line extending along U.S. Highway 34 to junction Illinois Highway 167, thence along Illinois Highway 167 to junction Illinois Highway 78, thence along Illinois Highway 78 to junction Illinois Highway 17, thence along Illinois Highway 17 to junction Illinois Highway 47, thence along Illinois Highway 47 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Illinois-Iowa State line, to points in that part of Kentucky on and east of a line beginning at the Kentucky-Indiana State line extending along Interstate Highway 65 to junction Kentucky Highway 61, thence along Kentucky Highway 61 to the Kentucky-Tennessee State line. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 127840 (Sub-No. E17), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (A) *Animal fats, animal oils, and vegetable oils, and edible blends and edible products of animal fats, animal oils, and vegetable oils* (except liquid chemicals), in bulk, in tank or hopper-type vehicles, from points in (1) that part of Illinois on, north, and east of a line beginning at the Illinois-Wisconsin State line, thence along Illinois Highway 47 to junction U.S. Highway 36, thence along U.S. Highway 36 to the Illinois-Indiana State line, and (2) that part of Indiana within the commercial zone of Chicago, Ill., as defined by the Commission, to points in that part of Iowa on, west, and north of a line beginning at the Iowa-Minnesota State line, thence along U.S. Highway 65 to junction U.S. Highway 20, thence along U.S. Highway 20 to the Iowa-Nebraska State line; and (B) *Animal fats, animal oils, and vegetable oils* (except liquid chemicals), in bulk, in tank vehicles, from points in that part of Illinois on, east, and south of a line beginning at the Illinois-Indiana State line, thence along U.S. Highway 36 to junction U.S. Highway 51, thence along U.S. Highway 51 to the Illinois-Kentucky State line, to points in that part of Iowa, on, west, and north of a line beginning at the Iowa-Minnesota State line, thence along U.S. Highway 65 to junction U.S. Highway 20, thence along U.S. Highway 20 to the Iowa-Nebraska State line. The purpose of this filing is to eliminate the gateways of Chicago and Bradley, Ill.

No. MC 127840 (Sub-No. E18), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a

common carrier, by motor vehicle, over irregular routes, transporting: *Animal fats, animal oils, and vegetable oils, and edible blends and edible products of animal fats, animal oils, and vegetable oils* (except liquid chemicals), in bulk, in tank or hopper-type vehicles, from points in (1) that part of Illinois on, north, and east of a line beginning at the Illinois-Wisconsin State line, thence along Illinois Highway 47 to junction U.S. Highway 24, thence along U.S. Highway 24 to the Illinois-Indiana State line, and (2) that part of Indiana within the commercial zone of Chicago, Ill., as defined by the Commission, to points in Iowa on and west of U.S. Highway 69. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 127840 (Sub-No. E19), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Animal fats, animal oils, and vegetable oils and edible blends and edible products of animal fats, animal oils and vegetable oils* (except liquid chemicals), in bulk, in tank or hopper-type vehicles, from points in (1) that part of Illinois on and east of a line beginning at the Illinois-Wisconsin State line, thence along U.S. Highway 51 to its junction with U.S. Highway 52, thence along U.S. Highway 52 to its junction with Illinois Highway 47, thence along Illinois Highway 47 to its junction with U.S. Highway 150, thence along U.S. Highway 150 to its junction with Illinois Highway 130, thence along Illinois Highway 130 to its junction with U.S. Highway 36, thence along U.S. Highway 36 to the Illinois-Indiana State line and (2) that part of Indiana within the Commercial Zone of Chicago, Illinois as defined by the Commission, to points in Nebraska on and west of U.S. Highway 81. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 127840 (Sub-No. E20), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Animal fats, animal oils and vegetable oils and edible blends and edible products of animal fats, animal oils and vegetable oils* (except liquid chemicals), in bulk, in tank or hopper type vehicles, from (1) that part of Illinois east of a line beginning at Illinois-Wisconsin State line, thence along U.S. Highway 51 to its junction with U.S. Highway 30, thence along U.S. Highway 30 to its junction with Illinois Highway 47, thence along Illinois Highway 47 to its junction with Illinois Highway 113, thence along Illinois Highway 113 to its junction with Illinois Highway 17, thence along Illinois Highway 17 to the Illinois-Indiana State line and (2)

that part of Indiana within the Commercial Zone of Chicago, Ill., as defined by the Commission, to points in Kansas. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 127840 (Sub-No. E30), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Animal fats, animal oils, and vegetable oils, and edible blends and edible products of animal fats, animal oils, and vegetable oils* (except liquid chemicals), in bulk, in tank or hopper-type vehicles, from points in (1) that part of Illinois on, east, and north of a line beginning at the Illinois-Wisconsin State line, thence along U.S. Highway 45 to junction Illinois Highway 176, thence along Illinois Highway 176 to junction Illinois Highway 59, thence along Illinois Highway 59 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction Illinois Highway 17, thence along Illinois Highway 17 to the Illinois-Indiana State line, and (2) that part of Indiana within the commercial zone of Chicago, Ill., as defined by the Commission, to points in that part of Iowa on, west, and south of a line beginning at the Iowa-Missouri State line, thence along U.S. Highway 61 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction U.S. Highway 218, thence along U.S. Highway 218 to junction Iowa Highway 150, thence along Iowa Highway 150 to junction U.S. Highway 20, thence along U.S. Highway 20 to the Iowa-Nebraska State line. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 127840 (Sub-No. E31), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (A) *Animal fats, animal oils, and vegetable oils, and edible blends and edible products of animal fats, animal oils, and vegetable oils* (except liquid chemicals), in bulk, in tank or hopper-type vehicles, from points in (1) that part of Illinois on, east, and north of a line beginning at the Illinois-Wisconsin State line, thence along U.S. Highway 45 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction Illinois Highway 47, thence along Illinois Highway 47 to junction U.S. Highway 36, thence along U.S. Highway 36 to the Illinois-Indiana State line, and (2) that part of Chicago, Ill., within the commercial zone of Chicago, Ill., as defined by the Commission, to points in Iowa on and north of U.S. Highway 20; and (B) *Animal fats, animal oils, and vegetable oils* (except liquid chemicals), in bulk, in tank vehicles, from points in that part of Illinois on, east, and south of a line beginning at the Illinois-Indiana State line,

thence along U.S. Highway 36 to junction Interstate Highway 57 to the Illinois-Kentucky State line to points in Iowa on and north of U.S. Highway 20. The purpose of this filing is to eliminate the gateways of Bradley and Chicago, Ill.

No. MC 127840 (Sub-No. E33), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17830 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Animal fats, animal oils, and vegetable oils* (except liquid chemicals), in bulk, in tank vehicles, from points in that part of Illinois on and south of U.S. Highway 36 to points in Michigan, New Jersey, New York, that part of Indiana on and north of a line beginning at the Indiana-Illinois State line, thence along Indiana Highway 2 to junction Indiana Highway 8, thence along Indiana Highway 8 to junction Indiana Highway 17, thence along Indiana Highway 17 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Indiana-Ohio State line, points in that part of Ohio on and north of a line beginning at the Ohio-Indiana State line, thence along U.S. Highway 6 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Ohio Highway 18, thence along Ohio Highway 18 to junction U.S. Highway 224, thence along U.S. Highway 224 to the Ohio-Pennsylvania State line, and that part of Pennsylvania on and north of a line beginning at the Pennsylvania-Ohio State line, thence along U.S. Highway 224 to junction Pennsylvania Highway 108, thence along Pennsylvania Highway 108 to junction Pennsylvania Highway 8, thence along Pennsylvania Highway 8 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 322, thence along U.S. Highway 322 to junction Interstate Highway 83, thence along Interstate Highway 83 to the Pennsylvania-Maryland State line. The purpose of this filing is to eliminate the gateway of Chicago and Bradley, Ill.

No. MC 127840 (Sub-No. E52), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Vegetable oil*, in bulk, from that part of Illinois on and north of a line beginning at the Illinois-Missouri State line, thence along Illinois Highway 150 to junction Illinois Highway 3, thence along Illinois Highway 3 to junction Illinois Highway 149, thence along Illinois Highway 149 to junction Illinois Highway 13, thence along Illinois Highway 13 to the Illinois-Kentucky State line to points in Idaho,



Oregon, Washington, and that part of California on and west of a line beginning at the California-Nevada State line, thence along U.S. Highway 395 to junction Interstate Highway 15, thence along Interstate Highway 15 to junction Interstate Highway 805, thence along Interstate Highway 805 to the United States-Mexico International Boundary line. The purpose of this filing is to eliminate the gateways of Bradley and Chicago, Ill., and Des Moines, Iowa.

No. MC 127840 (Sub-No. E53), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Vegetable oils*, in bulk, from that part of Illinois in Kankakee, Iroquois, Ford, Vermillion, Champaign, Piatt, Moultrie, Douglas, Edgar, Coles, Shelby, Cumberland, Clark, Effingham, Jasper, Crawford, Clay, Richland, Lawrence, Wayne, Edwards, Wabash, Hamilton, and White Counties, Ill., to points in Nobles, Rock, Pipestone, Murray, Lyon, Lincoln, Yellow Medicine, Lac Qui Parle, Chippewa, Big Stone, and Traverse Counties, Minn., and points in North Dakota and South Dakota. The purpose of this filing is to eliminate the gateways of Bradley and Chicago, Ill., and Des Moines, Iowa.

No. MC 127840 (Sub-No. E56), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Vegetable oils*, in bulk, in tank vehicles; (a) from points in Dubuque, Jackson, Jones, Cedar, Clinton, Johnson, Muscatine, Scott, Louisa, Des Moines, Washington, Henry, and Lee Counties, Iowa, to points in Oregon and in west of Multnomah, Clackamas, Marion, Linn, Lane, Douglas, and Jackson Counties; (b) from points in Dubuque, Jackson, Clinton, Scott, Muscatine, Louisa, Des Moines, and Lee Counties Iowa, to points in California in and north of Monterey, Kings, Tulare, Fresno, Madera, Tuolumne, and Alpine Counties; and (c) from points in Scott, Muscatine, Louisa, Des Moines, and Lee Counties, Iowa, to points in Washington. The purpose of this filing is to eliminate the gateways of Des Moines, Iowa, and Chicago, Ill. (except points in its commercial zone).

No. MC 127840 (Sub-No. E58), filed June 4, 1974. Applicant: MONTGOM-

ERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Inedible animal and vegetable oil residues* (except fatty acids), in bulk, in tank vehicles, from Yorkville, Ohio, to points in Colorado, Iowa, Kansas, Minnesota, Nebraska that part of Illinois on and north of a line beginning at the Illinois-Missouri State line thence along U.S. Highway 66 to junction Illinois Highway 48, thence along Illinois Highway 48 to junction Illinois Highway 47, thence along Illinois Highway 47 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 9, thence along Illinois Highway 9 to the Illinois-Indiana State line, and that part of Indiana on, north, and west of a line beginning at the Indiana-Illinois State line, thence along Indiana Highway 26 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Indiana Highway 51, thence along Indiana Highway 51 to Lake Michigan. The purpose of this filing is to eliminate the gateway of Bradley, Ill.

No. MC 127840 (Sub-No. E60), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Animal fats, animal oils and vegetable oils*, including products and blends of said commodities (except fertilizers and chemicals), in bulk, in tank vehicles, from Bradley, Ill., to points in that part of Wisconsin in and west of Iron, Prime, Taylor, Clark, Jackson, Monroe, Vernon, Richland, and Grant Counties. The purpose of this filing is to eliminate the gateway of Dubuque, Iowa.

No. MC 127840 (Sub-No. E61), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such commodities*, as are usually dealt in, or used by, meat packinghouses (except petroleum products, fertilizers, and chemicals), in bulk, in tank vehicles, from Chicago, Ill., to points in Min-

nesota and points in that part of Wisconsin on and west of a line beginning at the Wisconsin-Illinois State line extending along Wisconsin Highway 78 to junction Wisconsin Highway 11, thence along Wisconsin Highway 11 to its junction with Wisconsin Highway 23, thence along Wisconsin Highway 23 to junction Wisconsin Highway 39, thence along Wisconsin Highway 39 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction Wisconsin Highway 80, thence along Wisconsin Highway 80 to junction Wisconsin Highway 56, thence along Wisconsin Highway 56 to junction Wisconsin Highway 131, thence along Wisconsin Highway 131 to junction Wisconsin Highway 33, thence along Wisconsin Highway 33 to junction Wisconsin Highway 27, thence along Wisconsin Highway 27 to junction Wisconsin Highway 70, thence along Wisconsin Highway 70 to junction Wisconsin Highway 13, thence along Wisconsin Highway 13 to Lake Superior. The purpose of this filing is to eliminate the gateway of Dubuque, Iowa.

No. MC 128273 (Sub-No. E1) (Correction), filed May 2, 1974, published in the FEDERAL REGISTER January 20, 1975. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, (e) from Mobile, Ala., and Moss Point, Miss., to points in Indiana, points in that part of Pennsylvania on and west of U.S. Highway 15, points in that part of Ohio on, west and north of a line beginning at a point on the Ohio-Pennsylvania State line near Sharon, Pa., extending along U.S. Highway 62 to Columbus, thence along U.S. Highway 23 to Circleville, thence along U.S. Highway 22 to Cincinnati, and points in that part of Illinois north and west of a line beginning at the Illinois-Indiana State line extending along U.S. Highway 36 to junction U.S. Highway 29, thence along U.S. Highway 29 to junction U.S. Highway 51, thence along U.S. Highway 51 to the Illinois-Wisconsin State line. The purpose of this filing is to eliminate the gateway of Wickliffe, Ky. The purpose of this correction is to reflect the precise authority sought in (e) above. The remainder of the letter-notice remains as previously published.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-13344 Filed 5-20-75; 8:45 am]

# federal register

WEDNESDAY, MAY 21, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 99

PART II



## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

## STATE ADULT EDUCATION PROGRAMS

Guidelines for the Preparation of State  
Applications



## Title 45—Public Welfare

## CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## PART 166—STATE ADULT EDUCATION PROGRAMS

## Appendix C—Guidelines for the Preparation of Annual Program Plans

Under the authority contained in the Adult Education Act, as amended (20 U.S.C. 1201-1211a), notice is hereby given that the U.S. Commissioner of Education is adding a new Appendix C to the regulations for the State Adult Education Program which were published in the FEDERAL REGISTER on April 23, 1975 (40 FR 17950-17960).

Appendix C provides guidelines for the preparation of State applications for Federal assistance under the Adult Education Act. The guidelines will read as set forth below.

**Effective date.** These guidelines become effective on June 20, 1975.

(Catalog of Federal Domestic Assistance No. 13.400, Adult Education—Grants to States)

T. H. BELL,

U.S. Commissioner of Education.

MAY 15, 1975.

## APPENDIX C—GUIDELINES FOR THE PREPARATION OF ANNUAL PROGRAM PLANS

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## PART 1—INTRODUCTION

## Sec. 1.1 Scope of guidelines.

(a) The guidelines contained in this document are recommendations and suggestions for meeting the legal requirements which apply to annual program plans for Federal assistance under the Adult Education Act. The guidelines are not to be construed as requirements. However, where the guidelines set forth a permissible means of meeting a legal requirement, the guidelines may be relied upon.

(20 U.S.C. 1208; 113 Cong. Rec. 5936, 5939 (daily ed. May 23, 1967); United States v. Jefferson County Board of Education, 372 F.2d 836, at 857 (1966)).

(b) Where a guideline is issued in connection with or affecting a provision in the regulations, the pertinent regulation and the citation of legal authority will appear in parentheses immediately following the relevant section of the guidelines. For example, if the legal authority for a particular provision of the guidelines is section 306(a) of the Act (20 U.S.C. 1205(b)), and the guideline affects § 166.7 of the regulations (45 CFR 166.7), the following citation will be placed on the line immediately following the guideline (20 U.S.C. 1205(b); 45 CFR 166.7). If no particular section of the Act or regulations is affected, no citation to the Code of Federal Regulations (CFR) will be made.

(20 U.S.C. 1232(a))

## Sec. 1.2 Applicable statutes and regulations.

Annual program plans for adult education are to be prepared and implemented in accordance with applicable Federal statutes and regulations. Pertinent provisions include the Adult Education Act (20 U.S.C. 1201-1211a), the General Education Provisions Act (20 U.S.C. 1221 et seq.), the Adult Education Regulations (45 CFR Part 166), the "General Provisions for Office of Education Programs," (45 CFR Part 100b.) relating to fiscal, administrative, property management and other matters, hereinafter called "General Education Provisions Regulations" (GEPR). The State educational agency should carefully review the above references prior to preparing the annual program plan for adult education.

(20 U.S.C. 1201-1211a; 20 U.S.C. 1221 et seq.; 45 CFR Part 166; 45 CFR Part 100b and Appendices.)

## Sec. 1.3 Purpose of the annual program plan.

(a) The annual program plan for the Adult Education State Grant Programs is similar to the annual program plan requirements for several cooperative Federal-State programs. The annual program plan under the Adult Education Act provides, among other things:

- (1) The basis on which the State, through its State educational agency, will qualify to participate in and receive Federal funds for programs under the Adult Education Act;
- (2) A basis for planning, justifying, and organizing the proposed allocation of funds;
- (3) A basis for common understanding and communication among the State agency, other participating agencies (including State advisory councils), the U.S. Office of Education, and the program reviewers and auditors; and
- (4) A basis for both immediate and long-range planning and for systematic and continuous evaluation.

(b) In order to facilitate communication and program support in the development of the annual program plans, it is recommended that local adult education teachers, administrators, and State and local decisionmakers provide input.

transmitted by memorandum from Commissioner Ottina to the Chief State School Officers on April 22, 1974. The Commissioner's memorandum clearly stated that "obligations must be made during the period of availability not only by the State educational agency, but also by the secondary recipient . . ."

(20 U.S.C. 1205, 1232c(b); 45 CFR 166.11)

## PART 2—ADMINISTRATIVE PROVISIONS

## Sec. 2.1 Civil rights.

(a) Federal financial assistance is subject to the regulations in Part 80 of this title, issued by the Secretary of Health, Education, and Welfare and approved by the President, to effectuate the provisions of Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352).

(42 U.S.C. 2000d; 45 CFR 100b.262(a))

(b) Federal financial assistance is also subject to the provisions of Title IX of the Education Amendments of 1972 (prohibition of sex discrimination) and any regulations issued thereunder.

(20 U.S.C. 1681-1683; 45 CFR 100b.262(b))

## Sec. 2.2 Annual program plan requirements.

(a) General. Subpart C of the regulations contained at 45 CFR Part 166.11 through 166.16 describes certain requirements with regard to submitting the annual program plan for adult education. Appendix A of these regulations also contains the required cover sheet and State-Federal agreement.

(20 U.S.C. 1232c(b))

(b) Transmittal. (1) In order to participate in the program, section 434 of the General Education Provisions Act requires that each State submit to and maintain on file with the Commissioner a general application which meets the requirements of section 434 (b)(1)(A) of the Act. Such general application shall (a) provide for the submission by the State and approval by the Commissioner of an annual program plan with respect to the particular programs in which the State desires to participate, and (b) provide assurances, as set forth in GEPR.

(2) The State educational agency must submit an annual program plan (which consists of a cover sheet, a State-Federal agreement, a narrative description of priorities and objectives for the fiscal year, and a long-range plan, if such a plan exists) to the Assistant Regional Commissioner, Occupational and Adult Education Programs (OAE). The Assistant Regional Commissioner, OAE, reviews and recommends approval of the annual program plan to the U.S. Commissioner of Education. Upon approval of the plan by the Commissioner, two copies of the cover sheet and the State-Federal agreement will be returned to the appropriate Regional Office of the U.S. Office of Education. One of these approved copies will be returned to the State educational agency.

(20 U.S.C. 1205, 1232c(b); 45 CFR 166.11 through 166.16)

(3) Obligation by recipients. The grant period (which is that period of time during which costs may be charged against a grant for a project) may not exceed the period of availability of the Federal allotment. The period of availability of the Federal allotment is prescribed by section 412(b) of GEPA which authorizes the obligation and expenditure of education funds (including those appropriated under the Adult Education Act) for one year succeeding the fiscal year for which appropriated (i.e., two years). This means that all funds appropriated under the Adult Education Act must be obligated or expended, not only by the State educational agency, but also by the secondary recipient (i.e., the school district), during the two-year period of availability of the Federal allotment. An interpretation of this ruling was

transmitted by memorandum from Commissioner Ottina to the Chief State School Officers on April 22, 1974. The Commissioner's memorandum clearly stated that "obligations must be made during the period of availability not only by the State educational agency, but also by the secondary recipient . . ."

The notification of grant award document should specify the "grant period" of the project. Although there is no prohibition against the State educational agency making a commitment to fund multi-year projects, subject to satisfactory performance on the part of the grantee and to continued availability of program funds, it is recommended that the commitment to fund any project under the authority of the Act not exceed a period of three consecutive years.

(20 U.S.C. 1232c(b)(1); 45 CFR 100b.55)

## Sec. 2.3 Administrative organizations.

(a) State administrative agency. It is often helpful for the annual program plan to include the following:

- (1) A State map. This map should show the pertinent administrative agencies within the State (for example, local educational agencies) and the geographical areas for which each such administrative agency is responsible. Such a map could assist the State educational agency in assuring that substantial progress can be made with respect to all segments of the adult population and all areas of the State toward carrying out the purpose of the Act and applicable regulations, particularly when used in conjunction with the adult needs survey referred to in section 3.2 of these guidelines.
- (2) An organizational chart. The annual program plan should include a chart of the organizational structure of the State Department of Education. This chart should reflect the line of authority from the Chief State School Officer to the State Director of Adult Education and show the positions of all persons, by title, serving the State educational agency in the conduct of the adult education program, manpower programs (including programs under the Comprehensive Employment and Training Act), reading programs for adults, community school programs, and other programs that serve the adult citizenry. Show on a separate sheet all positions that are directly involved in the administration of programs under the Adult Education Act.

(b) State and local advisory councils and committees—(1) State advisory councils. Any State which receives assistance under this title may establish and maintain a State advisory council, or may designate and maintain an existing State advisory council, which shall be, or has been, appointed by the Governor or, in the case of a State in which members of the State board which governs the State educational agency are elected (including election by the State legislature), by such board. Such advisory councils should include members of the client group, as set forth in the Act and in § 166.5 of the regulations. It is recommended that representation of women, the elderly, minority and ethnic groups, persons of limited English-speaking ability, and the educationally disadvantaged comprise not less than 50 percent of the membership of the State advisory council. It is also suggested that the annual program plan describe how the advisory council, if such council exists, might assist in carrying out the activities authorized under the Act and Subpart B of the regulations in 45 CFR 166.4 through 166.10. For example, such activities might include (i) an active review of the annual program plan during its development, (ii) the review of projects proposed for funding under sections 308 and 309, (iii) the

evaluation of projects funded under the authority of section 309 of the Act, and (iv) service agency coordination.

(2) Allowable costs. Costs incurred by State advisory council members to perform services for the State adult education program must be classified as a cost of administration. The State educational agency may choose to pay all or some portion of these costs from State and local revenues. However, if Federal funds are to be used for this purpose, such costs must be paid from the 5 percent allowance for the cost of administration.

(20 U.S.C. 1208(b); 45 CFR Part 100b, Subpart G)

(3) Local advisory committees. A local advisory committee (or planning group) can often be a valuable resource, and, therefore, a description of any involvement of such a committee would be appropriate for inclusion in the annual program plan. Local advisory groups may include members of the client group (such as teachers and participants) and may be appointed by the State educational agency or by a local administrative agency.

The annual program plan should describe how the local advisory group(s) assist in carrying out the activities under the Act. For instance, a local council may assist in any of the following activities: (i) Local project design; (ii) annual program plan development; (iii) policy development; (iv) needs assessment; (v) project review; (vi) staff development; (vii) recruitment of program participants; (viii) evaluation and monitoring; (ix) dissemination and reporting; and (x) program promotion.

(c) Other organizations. It is often helpful to hold public hearings and meetings periodically throughout the State to encourage the participation of other concerned groups and members of the general public.

(20 U.S.C. 1205 and 1208(b))

(d) Planning charts referred to throughout these guidelines are attached as Exhibit 1. Copies of these documents may be obtained from the USOE Regional Office.

(20 U.S.C. 1205)

Sec. 3.2 Adult learning needs survey.

(a) It is suggested that a needs survey be conducted without regard to fiscal constraints or anticipated revenues from State, Federal, or local sources, in order to determine the full extent of adult learning needs in the State. Such surveys may be conducted under the authority of section 306 or section 309 of the Act. A survey chart (such as adult program planning chart A) may be used by the State agency or by the local agency in identifying adult learning needs and annual program accomplishments.

(b) Charts similar to adult program planning chart A may also be useful for surveying needs at the adult basic education and adult secondary education levels, as set forth in the regulations in § 166.12(b).

(c) Since this survey will affect subsequent decisions, it is suggested that the county breakdown reflected in the most current census also be examined carefully and compared with the survey data. (See the general social and economic characteristics column of the State census for years of school completed by females and males over 25 years of age according to county. See also educational attainment data of the age group between 16 and 25 by States.)

(d) Resource materials which may be useful in designing an adult education needs survey include:

- (1) Publications of the National Center for Educational Statistics, Office of the Assistant Secretary of Education, DHEW, concerning adult education data;
- (2) Reports of evaluation studies available through the ERIC Clearinghouse on Career Education, Northern Illinois University, 204 Gabel Hall, DeKalb, Illinois.

(3) Teacher training studies produced by the University of Missouri at Kansas City;

(4) Reports of evaluations of other Adult Education State Grant Programs;

(5) The Adult Basic Education Evaluation Model produced by Teachers College, Columbia University;

(6) Regional staff development plan, for the region in which the State is located;

(7) National Advisory Council on Adult Education reports;

(a) Federal Activities in Support of Adult Education, 1972;

(b) Adult Education—State Demographic Data, 1973;

(c) A Target Population in Adult Education, 1974; and

(8) Selected publications of the Educational Policy Research Center, Syracuse, New York.

Sec. 3.3 Inventory of resources.

In addition to the identification of adult learning needs, it is recommended that the State educational agency compile an inventory of those resources that can be applied toward alleviating those needs. An inventory of available resources might include the following:

(a) Personnel. In order to clarify the extent of personnel currently available in the field of adult education and those desired, a chart might be included in the annual program plan. (See adult education program planning chart B.)

(b) Facilities. Identify, by geographical area, facilities that are available for use for the adult education program, such as classrooms, laboratories, libraries or other facilities appropriate for instruction of students, or for research or for administration of the educational programs.

(c) Subsequent sections of these guidelines describe each of the above steps in the planning process.



(c) *Instructional materials.* Identify and catalog those materials which are available which assist in providing instruction, such as audiovisual materials, guidance services, library materials, textbooks, and other supplies for instruction.

(20 U.S.C. 1233c(b))

(d) *Community resources.* Experience indicates that the success of the education program relates closely to the extent to which total community resources are utilized with a view toward maximizing services required by the individual. Community resources should be identified, assessed, and cataloged to determine the contributions that they might make to adult instructional programs. Examples of such resources are local educational agencies, public libraries, museums, television and radio stations, newspapers, transportation, recreational and cultural organizations, business and industry, public health agencies, social security offices, day care centers, hospitals, correctional institutions, learning centers, colleges or community colleges, technical institutes, and other appropriate organizations. During the planning survey, an effort might also be made to identify facilities which are convenient to adult learners and which provide other required services, such as health and welfare services.

(20 U.S.C. 1205)

SEC. 3.4 *Determining program priorities.*  
(a) The State educational agency is required to establish program priorities and objectives and to allocate resources accordingly. A statement setting forth these priorities and objectives must be included in the State's annual program plan, as required by section 434(b)(1)(B) of the General Education Provisions Act and the regulations at § 166.12(b). Such a statement should provide a succinct description of each priority and the basis for establishing each such priority.

(20 U.S.C. 1232c(b))

(b) In accordance with § 166.25 of the regulations, the Commissioner of Education will identify national priorities annually in the field of adult education and, as necessary, will publish current priorities in the *FEDERAL REGISTER*. The State educational agency is urged to take these priorities into consideration in determining its annual priorities and objectives and to describe in its annual program plan how the priorities established for the State relate to the current national priorities.

(c) It is suggested that the State educational agency formulate and disseminate its policies, procedures, criteria, and priorities to concerned persons and organizations in order to guide agencies and individuals in applying for program support, consistent with Subpart C (annual program plan provisions) and Subpart D (special experimental demonstration projects and teacher training) of the regulations.

(d) It is imperative that the State provide a coordinated statewide program which focuses upon the established priorities and concomitantly upon the urgent needs of each locality or group.

To fulfill this responsibility, the State educational agency may wish to request applications which (as described in section 309 of the Act) focus on a particular need not otherwise addressed.

(20 U.S.C. 1205, 1208; 45 CFR 166.11, 12, 13 and 25)

SEC. 3.5 *Allocation of resources.*

(a) *State administration.* Section 313(b) of the Adult Education Act limits the amount

of Federal funds that may be used to pay the cost of development and administration of the annual program plan, and other activities required pursuant to the Act, to 6 percent of the sum appropriated under the Act for any given fiscal year. As stated in § 166.42 of the regulations and in accordance with the authority of section 313(b) of the Act, the Commissioner shall determine and advise the States annually of the maximum allowable amount that each State may use of its annual Federal allotment for administrative expenses.

It is important to note that the 5 percent limitation on administrative costs applies only to the Federal share. This means there is no prohibition against the utilization of State and local revenues to supplement the Federal allowance for paying the cost of State administration of the program.

(b) *Eligible costs for administration of annual program plan.* To the extent that they are reasonably necessary for and attributable to carrying out the annual program plan, the eligible administrative costs, at the discretion of the State educational agency, may include the following:

(1) Salaries of the professional and clerical staff, including all amounts deducted or withheld as contributions to retirement, health, or other welfare benefit funds maintained for such staff. For employees of the State educational agency, the retirement fund contributions may be computed in conformity with State laws or regulations governing the State's share of such contribution;

(2) Fees and approved expenses of consultants, panel members, and other persons or groups acting in an advisory capacity (see Appendix B of GEPR);

(3) Expenses connected with committees, workshops, and conferences which relate to State administration;

(4) Travel expenses of staff and consultants are allowable in accordance with established appropriate State, local, or institutional travel regulations and limitations;

(5) Communications costs;

(6) Supplies, printing, and printed materials;

(7) Rental of, or, where economically justified, purchase of office and program equipment;

(8) Rental cost of space in a privately or publicly owned building is allowable (including the cost of utilities and custodial services) if: The cost does not exceed comparable rental on a square foot basis in the particular locality for the period of occupancy; the expenditure represents an actual cost; and like charges are made to other agencies occupying similar space for similar purposes;

(9) Maintenance and operation costs (such as utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, normal repairs and alterations) are allowable to the extent they are not otherwise included in rental or other charges for space, and

(10) Costs incurred for rearrangements and alterations of facilities required specifically for the grant program or those that materially increased the value or useful life of the facilities are allowable when specifically approved by the grantor agency.

(45 CFR Part 100b, Appendix B)

(c) *Programs of instruction.* The State agency is requested to set forth the policies and procedures to be used to allocate the adult education funds available to it for the purposes of the Act. Each State is expected to use such funds on a broad statewide basis in terms of the purposes specified in the Act and in §§ 166.12 and 166.13 of the regulations. In planning the allocation of such funds, the State agency should also give consideration to the distribution of local funds among

each of the population groups for adult programs and services.

In the development of its annual program plan, the State educational agency is encouraged to examine the functional competencies concept developed by the Adult Performance Level (APL) project. The APL project has developed a research process which has identified competencies which are important to success as adults. Using an assessment method which stems from viewing functional competence as a function of individual capabilities and societal requirements, the APL project has produced data which suggest that, contrary to popular belief, many adults do not have the basic education for living which is indicated for even minimal levels of success. These results, and the objectives upon which they are based, can have profound implications for educational practice, and form a base of information and evidence which can be used to make different educational systems more responsive to the needs of both their clients and society.

In examining this concept, the State educational agency may wish to contact the Division of Extension, The University of Texas, Austin, Texas, as well as those States which are now implementing, or shortly will implement, Adult-Performance Level-related projects or programs. Such States are Alabama, Colorado, Kansas, Mississippi, New Jersey, New York, Oregon, Rhode Island and Texas.

(1) *Adult basic education.* Describe the policies and procedures to be followed by the State educational agency for assuring that special program emphasis will be given to adult basic education programs, as prescribed by the Act. The plan should identify characteristics of the total eligible population in terms of social, economic, racial, ethnic, and geographic factors, and describe the following:

(i) The criteria to be used to identify eligible persons (as defined in § 166.2 of the regulations); (ii) the methods to be used to determine the appropriate design, and to develop and implement relevant programs of instruction; (iii) the proposed level of activity during the fiscal year; (iv) the rationale for the allocation of funds in terms of dollars (or percentage of allotment) by performance levels of instruction; and (v) the reciprocal relationship of proposed activities and the findings of adult learning needs surveys.

(2) *Adult secondary education.* Describe the policies and procedures to be followed by the State educational agency to make available the opportunity for an adult secondary education to eligible persons, as defined in § 166.2 of the regulations. The plan should describe: (i) The criteria to be used to identify eligible persons; (ii) the characteristics of the total eligible population in terms of social, economic, racial, ethnic, and geographic factors; (iii) the methods to be used to assure the availability of relevant programs of instruction; (iv) the rationale for allocation of funds in terms of dollars (or percentage of the allocation) and the proposed level of activity, and (v) procedures to be utilized to assure that the total annual expenditure of Federal funds for adult secondary education programs, including adult secondary education programs for institutionalized persons, does not exceed 20 percent of the total annual allotment of Federal funds.

The plan should also provide information on the procedures to be used to coordinate adult secondary education programs assisted under the Act with other adult secondary education programs operating within the State. For each of the other adult education programs, describe the source of funding.

the number of persons served, characteristics of target population and geographical data, and other pertinent and descriptive program information.

(3) *Programs for institutionalized persons.* Describe the policies and procedures to be followed by the State educational agency to identify eligible institutionalized persons, as defined in § 166.2 of the regulations. The plan should contain a statement which describes: (i) The criteria to be used in identifying institutionalized persons by type of institution represented; (ii) the methods to be used to determine the appropriate design, and to develop and implement relevant programs of instruction; (iii) the proposed level of activity, including information on the estimated number of persons to be served by type of institution; (iv) the rationale for the allocation of funds in terms of dollars (or percentage of allocation); and (v) the procedures to be used to assure that the total annual expenditure of funds for programs for institutionalized persons does not exceed 20 percent of the total expenditure (from Federal funds and State and local matching funds) for the purposes of the Act for any given fiscal year. The plan should also provide information on the procedures to be used to coordinate programs assisted under the Act with other Federal, federally assisted, State, and local programs for institutionalized persons.

(4) *Bilingual adult education programs.* Describe the policies and procedures to be followed by the State agency for providing bilingual adult education programs for persons of limited English-speaking ability, as defined in § 166.2 of the regulations. The plan should describe (i) the criteria to be used to identify persons of limited English-speaking ability; (ii) the methods to be used to determine the appropriate design, and to develop and implement relevant programs of instruction; (iii) the proposed level of activity, including the number and location of persons to be served; and (iv) the rationale for the allocation of funds in terms of dollars (or percentage of allocation). Since title VII funds are awarded directly to the local educational agency by the Commissioner, the local educational agency must assure the State educational agency that expenditures for bilingual adult education programs will supplement title VII monies and not amount to a duplication of effort.

(d) *Eligible program costs.* Expenses incurred by the State educational agency staff which are associated with or attributable directly to program development costs may be classified under the appropriate function or program assignment. For guidance in classifying and prorating items of costs incurred by both State and local educational agencies, use of the following publication of the National Center for Educational Statistics is recommended: "Financial Accounting—Classification and Standard Terminology for Local and State School Systems," 1973, Handbook II, Revised (OE 73-11800).

(20 U.S.C. 1205; 45 CFR 166.42; 45 CFR 100b, Appendix B)

SEC. 3.6 *Program coordination.*

(a) Insofar as practicable, the State educational agency is requested to take such actions as may be necessary to assure (1) conformity of the goals and objectives of the adult education program with the educational goals and policies of the State, and (2) consistency in applying established State-administrative practices.

(b) Activities to be funded under the Adult Education Act should be coordinated with other Federal, federally assisted, State, and local programs, and the State educa-

tional agency is encouraged to set the stage for instituting a more systematic and continuous coordination effort in order to:

(1) Facilitate State and local initiatives and responsibility in developing organizational and procedural arrangements for coordinating program activities;

(2) Eliminate overlap, duplication, and competition in State and local planning activities assisted or required under Federal programs, and to facilitate the most effective use of State and local resources; and

(3) Encourage the States to exercise leadership in delineating and establishing a system of planning and development which can provide a consistent base for the coordination of Federal, State, and local programs.

(c) The State educational agency is requested to include in the annual program plan a statement which describes the objectives and procedures of the adult education program for coordinating its activities with other Federal, federally assisted, State, and local programs concerned with meeting the needs of institutionalized persons and persons of limited English-speaking ability, as defined in the regulations in § 166.2.

(d) It is suggested that the annual program plan provide information on the procedures to be utilized to effectuate cooperative arrangements between programs administered under the Adult Education Act and other adult education programs, in general; the following organizations and agencies should be provided an opportunity to comment on the development of the annual program plan: State Manpower Services Council (section 107 of CETA); State health authority; Community Action, Work Experience, VISTA, Work Study, programs designed to provide reading instruction for adults, and other programs relating to the antipoverty effort. The annual program plan should also describe procedures to effectuate coordination with the following programs: Manpower programs (including programs under CETA) and occupational education programs, community education programs, consumer education programs, career education programs, metric education programs for adults, and programs for the aging assisted under the Older Americans Act. Such coordination might cover provisions for joint studies, utilization of resources, organizational arrangements, and utilization of common and consistent statistics, projects, and assumptions about future activities.

(e) Although program coordination with specific programs is required, this is not to be construed as prescribing the form or substance of the coordination or cooperation to be affected. These are matters to be negotiated between the State agency and the other Federal, federally assisted, State, and local programs.

(20 U.S.C. 1205(a); 45 CFR 166.12 and 166.13; 45 CFR Part 100b, Subpart Q; 20 U.S.C. 1231a(a)(3))

SEC. 3.7 *Program evaluation.*

(a) *Monitoring of program activities.* The annual program plan should contain a statement which sets forth the policies, procedures and practices of the State educational agency for assuring that the performance of adult education programs assisted under the Act are constantly monitored to assure adequate progress is being made toward achieving the goals of the grant. As required by § 100b.431 of GEPR, these reviews shall be made for each function or activity of each grant as set forth in the annual program plan.

Each State educational agency is strongly urged to monitor and report on not less than 10 percent of the adult education programs each year. The State educational agency

should establish and set forth in the annual program plan the sampling procedures to be used for selecting the 10 percent of the total adult education projects to be monitored and reported on annually, and for excluding from the current sample those projects which have been examined as a part of this effort during a preceding fiscal year. For each program that is examined, a report should be prepared and submitted to the U.S. Commissioner of Education, as authorized under § 166.12(b)(4) of the regulations and section 434(b) of the General Education Provisions Act.

In establishing procedures for instituting the monitoring and reporting system, consideration should be given in the sampling procedures to examining the adult education programs which serve the largest number of adults.

(b) *Evaluation of selected program issues.* In accordance with § 166.12(b)(4) of the regulations, the State educational agency should set forth in the annual program plan the procedures which the State educational agency will use to conduct evaluations of all activities under section 306 and 309 of the Act. The State educational agency may wish to evaluate local educational programs directly or use third-party evaluators. However, for the purpose of conducting an evaluation study of the State adult education program, it is recommended that the State educational agency contract with a third party for such services.

The following issues are suggested for consideration for evaluation studies:

(i) Are local programs of instruction designed in harmony with and in response to the findings of adult learning needs surveys and to what degree are they supportive of the consideration that special program emphasis be given to adult basic education?

(ii) Are local programs of instruction reviewed on a recurring basis? This is very important, since the State educational agency or the USOE Regional Office may be able to provide technical assistance which could strengthen the program.

(iii) Is systematic staff development taking place within local programs?

(iv) Have the evaluation studies conducted by the State educational agency included administrative and management components, such as maintaining adequate financial records, systematically providing for program audits, and retention of records?

(v) Have the regulations for the Adult Education program (which includes the State-Federal agreement and the national priorities) and the General Education Provisions Regulations been distributed to all participating agencies?

(vi) How successful has the State been in reaching the most disadvantaged adults (i.e., persons who have completed not more than five grades of schooling) into the program? What is the participant dropout rate in adult basic education programs? In adult secondary education programs?

(vii) What State and/or local efforts, if any, have been made to upgrade the level of instruction and to improve overall program efficiency, including the incorporation of innovative methods and techniques?

(viii) To what extent, if any, are special projects and teacher training activities coordinated on a statewide basis? regional national?

(ix) To what extent are guidance and counseling services available to participants in adult education programs assisted under the Act?

(x) What percentage of the program participants receive guidance and counseling services? In the adult basic education program? In the adult secondary education program?

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(xi) To what extent, if any, are follow-up studies conducted to determine program effectiveness in terms of serving the goals and needs of the participants.

(20 U.S.C. 1205(a); 45 CFR 166.12(b)(4); 45 CFR Part 100b, Subpart Q)

### Sec. 3.8 Annual program plan format.

The annual program plan must set forth a statement describing the purposes for which Federal funds allotted to a State under section 305 of the Act will be expended during the fiscal year for which the annual program is submitted. In presenting the requirements of the annual program plan, as prescribed by section 434 of GEPA and the regulations at §§ 166.12 and 166.13, a State educational agency may wish to prepare its plan along the lines of the following format:

(a) *General program goal statements.* This portion of the plan should contain a brief introductory overview of the general program goals.

(b) *Needs survey and resource inventory.* This portion of the plan should contain a description of the conclusions of a needs survey and a resource inventory, including information and planning charts such as those discussed in section 3.2 and 3.3.

(c) *Specific program priorities and objectives.* This portion of the program plan should describe the specific program objectives which reflect priorities established in accordance with section 3.4 of these guidelines. Examples of suggested program objectives are to:

(1) Review project applications to assure their compliance with Federal and State guidelines;

(2) Provide on-site visits by State agency staff for technical assistance;

(3) Provide on-site visits in connection with the annual monitoring of at least 10 percent of the adult education programs;

(4) Provide pre-service and in-service training activities;

(5) Establish a State advisory council which will meet \_\_\_\_\_ times a year;

(6) Increase enrollments in adult basic education programs by \_\_\_\_\_ for an increase of \_\_\_\_\_ percent;

(7) Increase enrollments in adult secondary education programs by \_\_\_\_\_ for an increase of \_\_\_\_\_ percent;

(8) Establish \_\_\_\_\_ programs for institutionalized persons for an increase of \_\_\_\_\_;

(9) Establish \_\_\_\_\_ bilingual adult education programs for an increase of \_\_\_\_\_ percent;

(10) Establish \_\_\_\_\_ programs in cooperation with community school programs for an increase of \_\_\_\_\_ percent;

(11) Establish \_\_\_\_\_ programs in cooperation with business and industry for an increase of \_\_\_\_\_ percent;

(12) Add \_\_\_\_\_ new programs during the program year; and

(13) Complete and submit required reports by the deadline date.

(d) *Activities and procedures.* Describe the activities and procedures to be used to address each priority or objective. It is suggested that each priority or objective be discussed individually. (Where appropriate, utilize the suggestions and planning charts referred to in section 3.2.)

(e) *Evaluation.* This portion of the annual program plan may include a discussion of evaluation activities, including:

(1) Evaluation activities proposed to be conducted in the year for which the annual program plan is submitted (see section 3.7); and

(2) The extent to which completed evaluation studies have indicated strengths and weaknesses that have affected the design of the currently proposed activities and procedures.

(20 U.S.C. 1205, 1208, 45 CFR 166.11, 12, 13 and 25)

### PART 4—LONG-RANGE PROGRAM PLAN

#### Sec. 4.1 Long-range program plan.

The State education agency may wish to develop a long-range program plan to be updated annually and submitted to the U.S. Commissioner of Education along with the annual program plan, which is required by the new State application procedure.

(a) The long-range program plan may be developed by the State educational agency with the advice of the State advisory council, if such council exists, as permitted under section 310A of the Act, and in consultation with appropriate staff of the U.S. Office of Education. Such annual revisions should take into consideration: (1) The results of evaluations and surveys made or sponsored by the State educational agency, the State advisory council, if such council exists; and (2) recommendations of the National Advisory Council on Adult Education, and the U.S. Office of Education. Appropriate revisions and a one-year extension to the long-range program plan should be incorporated as a part of the annual program plan which is submitted to the U.S. Commissioner of Education for any given fiscal year.

(b) The long-range program plan may contain the following:

(1) A description of the State's identified projected educational needs of adults, especially as they relate to adult basic education; and

(2) A plan of action for using Federal funds available under the Act to meet identified needs for the duration of the long-range plan, beginning with the fiscal year in which the annual program plan is submitted.

### PART 5—SPECIAL EXPERIMENTAL DEMONSTRATION PROJECTS AND TEACHER TRAINING

#### Sec. 5.1 Applicability.

Federal funds are authorized to be administered by the State educational agency for special projects in adult education under subsection (1) and adult education personnel training under subsection (2) of section 309 of the Act.

(20 U.S.C. 1208)

#### Sec. 5.2 Allocation of resources.

(a) The State educational agency must establish and set forth in its annual program plan the policies and procedures under which it will use not less than 15 percent of the funds allotted to it for any given fiscal year under section 305 of the Act for special projects and teacher training, as prescribed by section 309 of the Act.

(b) The funds available for the purposes of section 309 of the Act must be expended by the State educational agency in such a way as to provide support from each annual allotment for both special projects and teacher training programs. The distribution of such funds among the two programs must be determined by the State educational agency in accordance with the overall objectives of its annual program plan.

#### Sec. 5.3 Eligible projects.

(a) *Special projects.* From each annual Federal allotment to the State educational agency for the purposes of the Act, funds will be available under section 309(1) for special projects which:

(1) Involve the use of innovative methods, systems, materials, or programs which (i) may have national significance, or

(ii) may be of special value in promoting effective programs under the Act, or

(2) Involve programs of adult education which are part of community school programs carried out in cooperation with other Federal, federally assisted, State, or local

programs which have unusual promise in promoting a comprehensive or coordinated approach to the problems of persons with educational deficiencies.

(b) *Teacher training.* From each annual Federal allotment to the State educational agency, funds will be available under section 309(2) of the Act to train persons engaged, or preparing to engage, as personnel in programs designed to carry out the purposes of this Act.

(20 U.S.C. 1208(2); 45 CFR 166.22)

#### Sec. 5.4 Eligible applicants.

(a) *Special projects and teacher training.* Federal funds authorized for the purposes of section 309 of the Act may be used for grants, contracts, or other arrangements, if appropriate under applicable State laws, to provide support for special projects and teacher training. Eligible applicants include the following:

(1) State and local educational agencies;

(2) Public and private agencies, institutions, and organizations; and

(3) Individuals (unless precluded by State law).

(20 U.S.C. 1208; 45 CFR 166.23)

(b) *Ineligible applicants.* No funds may be used from the State's allotment under this part for programs conducted by any school or department of divinity, as defined in section 312 of the Act.

(20 U.S.C. 1210)

#### Sec. 5.5 Project applications.

(a) Since funds to support special projects and teacher training under section 309 of the Act will be available from the appropriate State educational agency, information on policies and procedures for applying for such support should be incorporated into the annual program plan and disseminated widely. A separate application form is recommended for each proposed project.

(b) *Special projects.* Projects should be designed to:

(1) Meet the special educational needs of adults, including persons of limited English-speaking ability, as defined in § 166.2 of the regulations;

(2) Address one or more of the current statewide adult education program priorities which have been identified and published by the State educational agency. Such priorities should be prepared in consultation with the State advisory council, if such advisory council exists, and take into consideration relevant recommendations of the National Advisory Council on Adult Education and, as appropriate, reflect the national adult education program priorities which have been identified by the U.S. Commissioner of Education and appear as Appendix B to the regulations (45 CFR Part 166);

(3) Be consistent with the educational program which the State proposes to conduct under its annual program plan; and

(4) Ensure coordination with community education programs and other Federal, federally assisted, and State and local programs and projects for the education of adults.

(c) *Teacher training.* Applications should be designed to:

(1) Be consistent with State staff development plans developed under regional staff development projects; and

(2) Meet the special training needs of various adult education personnel, including teachers, para-professionals, administrators, counselors, and others; or

(3) Meet the special training needs of personnel employed in priority programs such as bilingual adult education programs for persons with limited English-speaking ability, and community education programs; or

(4) Meet the special training needs of persons preparing to engage in adult education programs.

(d) The State educational agency may not assign any part of its responsibility to another agency. This does not, however, prevent a State educational agency from exercising its authority under the Act to coordinate activities with other Federal, federally assisted, State, and local programs, nor prevent two or more applicants in one or more States from conducting a joint program or project (including a planning project).

(20 U.S.C. 1208; 45 CFR 166.24)

#### Sec. 5.6 Establishment of national priorities in adult education.

(a) Based on the findings of surveys and studies conducted by the U.S. Office of Education, recommendations of the National Advisory Council on Adult Education, and on evaluations by State educational agencies, State advisory councils, and other appropriate information bases, the U.S. Office of Education will annually review and identify national priorities in the field of adult education and, as necessary, will publish current priorities in the Federal Register. In establishing its priorities, the State educational agency may take the national priorities into consideration in the development of the annual program plan. Such priorities are contained in the regulations (45 CFR Part 166) as Appendix B.

(b) In soliciting applications for special projects and adult education personnel training programs, it is recommended that the State educational agency identify and publish, annually, statewide adult education program priorities and evaluation criteria which have been determined in accordance with the requirements contained in the regulations at 45 CFR 166.25. The annual program plan should identify the organizational unit and official(s), by title, that are responsible for establishing procedures for and the identification of program priorities for any given fiscal year.

(c) In order to assure that all interested persons and organizations in all segments of the adult education community throughout the State are aware of the availability of Federal funds for support of special projects and teacher training programs, wide circulation of the announcement of program priorities and criteria is necessary. All Federal funds are to be distributed equitably among the applicants solely on the basis of merit. Therefore, the State educational agency is urged to establish procedures which will provide maximum open and free competition to assure that all citizens of the general public have an equal opportunity to compete for the available Federal funds. The State educational agency is urged to establish procedures for the award of grants as well as contracts which adhere to the procurement standards set forth in subpart I of GEPR. However, when contracts are used as the funding mechanism for awarding Federal funds, the State educational agency must adhere to the requirements of Subpart I of GEPR.

(d) In evaluating applications for special projects and adult education personnel training programs, the State educational agency is encouraged to give special emphasis to applications judged as having a potential for national significance.

(20 U.S.C. 1208; 45 CFR 166.12(b)(4))

#### Sec. 5.7 Criteria for review of project applications.

The State educational agency should establish, publish in the annual program plan, and disseminate the criteria to be used in reviewing project applications from local educational agencies, public and private organizations, or individuals. Such criteria should

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be applied in conjunction with the criteria developed under §§ 166.12, 166.13 and Appendix B of the regulations contained in 45 CFR Part 166. The value to be assigned to each of the applicable criteria shall be the responsibility of the State.

(a) *General criteria.* It is recommended that the following general criteria be utilized in evaluating both special projects and teacher training applications:

(1) Objectives are sharply defined, clearly stated, capable of being attained by the proposed procedures, and capable of being measured;

(2) Proposed plan of operation is sound;

(3) Proposed activity is relevant to the priority or needs addressed;

(4) Proposed activity is needed in the area to be served by the applicant;

(5) Designated project personnel possess qualifications and experience to adequately carry out project activities;

(6) Facilities and other resources are adequate to carry out the objectives of the project;

(7) Size, scope, and duration of the project would secure productive results, and the estimated cost is reasonable in relation to these results;

(8) Potential for replication and utilization of the results of the project in other adult education programs and the provisions for disseminating these results are judged to be adequate;

(9) Provisions are included for an adequate evaluation of the project's effectiveness and for determining the extent to which its objectives are accomplished.

(b) *Special projects.* In evaluating applications for special projects, it is suggested that the State educational agency give consideration to such factors as whether and to what extent the project:

(1) Involves the use of innovative methods, systems, materials, or programs and which may have national significance and will serve residents of the State or be of special value in promoting effective programs under the Act;

(2) Is to be carried out in cooperation with other federally assisted, State, or local programs which have unusual promise in promoting a comprehensive or coordinated approach to the problems of persons with educational deficiencies;

(3) Is designed to address critical educational needs which have been identified as State or national priorities for adult education;

(4) Has unusual promise for the development of concepts, practices, and techniques which can be adapted or adopted elsewhere in establishing or improving adult education;

(5) Is related to and is carried out in cooperation with appropriate training activities whether or not assisted under the Act;

(6) Will result in the development of materials and methods which may be of value in increasing the effectiveness of adult education programs;

(7) Provides for cooperation and coordination with business and industry, labor and other agencies, institutions, and community education programs and other related programs, as identified in § 166.13 of the regulations, in order to strengthen the project and prevent duplication of effort;

(8) Provides, where appropriate, for cooperation and continuation by the local educational agencies and other public and private agencies; and

(9) Will strengthen the adult education delivery systems within the State.

(c) *Teacher training.* In evaluating applications for training grants, it is suggested that the State educational agency give consideration to such factors and whether as to what extent the project—

(1) Is consistent with the objectives set forth in the annual program plan for the development and training of adult education personnel;

(2) Will include training in the utilization and development of innovative methods, systems, materials, or programs;

(3) Will meet local needs for adult education personnel;

(4) Is designed to address critical training needs which have been identified as State or national priorities for adult education;

(5) Provides for periodic, systematic, and objective reviews and evaluations of the project;

(6) Is coordinated with appropriate special experimental demonstration projects which may be operating in the geographic area served by the applicant;

(7) Is coordinated with adult education programs being sponsored in the State in which the applicant is located or with a consortium of the States from which trainees are drawn or to which trainees may be expected to return;

(8) Is to be carried out in cooperation with other federally assisted, State, or local programs;

(9) Provides for cooperation and coordination with business and industry, labor and other agencies, as identified in § 166.13 of the regulations, to strengthen the project and prevent duplication;

(10) Provides for cooperation and continuation by the local educational agencies and other public and private agencies; and

(11) Includes criteria for eligibility for participation in the project.

(20 U.S.C. 1208; 45 CFR 166.24)

Sec. 5.8 *Submission of applications.* The State educational agency should establish policies and procedures to regulate the submission of applications for special projects and teacher training under section 309 of the Act. Such applications should be submitted in accordance with State laws, regulations, policies, and procedures. It is recommended that the State educational agency:

(a) Develop and implement procedures which will ensure that information concerning the availability of Federal funds for special projects and teacher training is disseminated to all segments of the adult education community in all areas of the State;

(b) Issue a public announcement concerning the availability of funds for special projects and teacher training programs which requests applications that address current statewide adult education program priorities, which have been determined in accordance with the requirements of § 166.25 of the regulations;

(c) Establish and announce closing date for receipt of applications for consideration for funding during the current fiscal year;

(d) Provide forms to be used in submitting applications for special projects and teacher training programs under section 309 of the Act;

(e) All proposals submitted to the State educational agencies for approval and funding should contain at least the signature of the chief executive officer of the organization submitting the proposal.

(20 U.S.C. 1208; 45 CFR 166.24)

Sec. 5.9 *Application review panel.* The State educational agency may wish to establish one or more panels to review and evaluate applications submitted under section 309 of the Act. In the establishment of any such review panel, it is suggested that the State educational agency take into consideration the following factors:

(a) The establishment of criteria for the selection of panel members;



## RULES AND REGULATIONS

(b) The establishment of procedures to assure that each application is reviewed by at least three panel members; and

(c) The identification of subject-matter areas to be represented by panelists to assure that the qualifications of the panelists are relevant to program priorities. It is recommended that panel membership include at least one representative of each of the following: the State agency, the State advisory council on adult education (if such council exists); agencies representing institutionalized persons and persons of limited-English speaking ability, and agencies representing community school programs. Such panel membership should also include women, minority and ethnic groups which reflect the general population of the State.

(20 U.S.C. 1208; 45 CFR 166.24)

**SEC. 5.10 Selection of participants for teacher training projects.**

(a) The State educational agency should establish criteria to be used to select participants of teacher training programs. Such criteria should consider the objectives of the national priorities (which are published periodically in the FEDERAL REGISTER and appear as Appendix B to the regulations (45 CFR Part 166)), and on the priorities and objectives set forth in the annual program plan for the State adult education program. Such criteria should be designed to assure that, among other things, participants are engaged, or are preparing to engage, as personnel in adult education programs designed to carry out the purposes of the Act. The criteria to be used in the final selection of participants from among the applicants should be clearly stated in the application materials.

(b) In the development of selection criteria, consideration should be given to the fact that no person should be declared ineligible to participate in the program solely for the reason that he or she does not possess an academic degree. Such persons should include those who are engaged, or preparing to engage as teachers, guidance counselors, administrators, or other support personnel in adult education programs designed to carry out the purposes of the Act.

(20 U.S.C. 1208; 45 CFR 166.24)

**SEC. 5.11 Disposition of applications.**

(a) It is recommended that the State educational agency establish and describe in the annual program plan the procedures to be used for the disposition of project applications.

(b) Each applicant who submits an application should be advised in writing within a reasonable period of time as to whether or not the project will be funded.

(1) Each awardee should receive a properly executed award document which contains appropriate financial and administrative information as well as any general and special terms and conditions which pertain to the project.

(11) Each unsuccessful applicant should be notified of the reasons why the application was not selected for funding.

(20 U.S.C. 1208; 45 CFR 166.24)

**SEC. 5.12 Hearings.**

The State educational agency should establish an Appeal Board and set forth in the annual program plan the procedures by which any applicant or recipient aggrieved by the final action of the State educational agency may request a hearing under the provisions of section 425 of GEPA.

(20 U.S.C. 1208; 45 CFR 166.24)

**SEC. 5.13 Program evaluation procedures.**

(a) Each program or project application should include an evaluation plan for the purpose of determining the effectiveness of the program or project.

(20 U.S.C. 1208; 45 CFR 166.12(b)(4))

**SEC. 5.14 Reports.**

(a) It is recommended that the annual program plan set forth the policies and procedures to be used by the State educational agency for obtaining reports from recipients of Federal funds to conduct special projects and training under the authority of section 309 of the Act. Such project reports should provide all information that is needed by the State educational agency to comply with the requirements of § 166.52 of the regulations, Subparts P and Q of 45 CFR 100b, and section 424 of the General Education Provisions Act.

(b) *Requested reports.* It is recommended that the State educational agency obtain at least the following reports from each recipient of section 309 funds.

(1) *Final report.* This report should be submitted to the State educational agency 30 days after the expiration or termination of the project and should contain: (i) A financial status report, in accordance with Subpart P of 45 CFR Part 100b, (ii) a report of any products developed by the project, and (iii) a performance report acceptable to the State educational agency. The performance report should include: (1) A summary

of the accomplishments which relate to the objectives outlined in the scope of work (as well as a lack of accomplishments in the case of grants, and the reasons therefor); (2) a statement of the findings, recommendations, and conclusions; and (3) a brief abstract which describes the methodology and operation of the program.

(2) *Special reports.* (i) The grantee should submit project reports to the State agency in accordance with the terms and conditions of the award document and upon request from the State educational agency.

(ii) For teacher training projects, it should be the responsibility of the project director to develop brochures which describe the project activity, as well as appropriate application forms in order to provide potential participants with sufficient information to submit applications for participation in the project.

(3) *Independent evaluation.* The State educational agency should develop policies and procedures for obtaining copies of any independent evaluation of the project (including its operational objectives and conclusions). A copy of such evaluations should be forwarded to the Clearinghouse on Adult Education.

(c) It is recommended that the State educational agency indicate how the results of the project will strengthen the State grant program. This critique should be submitted along with the final report of the project to the U.S. Commissioner of Education, as required by § 166.52(d)(1) of the regulations.

(d) It is recommended that final reports of projects funded under the Act be made available to the general public through the facilities of the Education Resources Information Center (ERIC).

(20 U.S.C. 1208; 45 CFR 166.52)

**SEC. 5.15 Dissemination of materials produced by projects.**

The State educational agency should develop policies and procedures for obtaining copies of all materials that are produced by projects which are funded from its Federal allotment under the authority of section 309 of the Act. It is recommended that the State educational agency include in each award document issued under section 309 of the Act the requirements of the grantee regarding the dissemination of any products produced by the project (e.g., surveys, films, publications, and other materials).

(20 U.S.C. 1208; 45 CFR 166.30)

[FR Doc.75-13316 Filed 5-20-75; 8:45 am]



# **federal register**

WEDNESDAY, MAY 21, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 99

PART III



## **DEPARTMENT OF TRANSPORTATION**

**Federal Aviation  
Administration**

■

**IFR ALTITUDES**

**Miscellaneous Changes**

**V 40-99**

**MAY**

**21**

**75**

**XUM**



## RULES AND REGULATIONS

Title 14—Aeronautics and Space  
CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 14006, Amdt. 95-259]

PART 95—IFR ALTITUDES

Miscellaneous Changes

The purpose of this amendment to Part 95 of the Federal Aviation Regula-

tions is to make changes in the IFR altitudes at which all aircraft shall be flown over a specified route or portion thereof. These altitudes, when used in conjunction with the current changeover points for the routes or portions thereof, also assure navigational coverage that is adequate and free of frequency interference for that route or portion thereof.

As a situation exists which demands immediate action in the interest of safety, I find that compliance with the

notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (24 FR 5662), Part 95 of The Federal Aviation Regulations is amended, effective June 19, 1975, as follows:

1. By amending Subpart C as follows:

§95.1001 DIRECT ROUTES—U.S.  
is amended to delete:

FROM	TO	MEA
Alpine, N.Y. RBN	Gibson INT, N.Y.	*3800
*3100—MOCA		
Alpine, N.Y. RBN	Thurston INT, N.Y.	*3700
*3000—MOCA		
Ithaca N.Y. VOR	Gibson INT, N.Y.	*3500
*3100—MOCA		
Kilmer INT, N.J.	Robbinsville, N.J. VOR	2000
		MAA—6000
Massena, N.Y. VOR	Ottawa, Canada VOR	18000
		MAA—45000
Plattsburgh, N.Y. VOR	Massena, N.Y. VOR	18000
		MAA—45000
Fayetteville, N.C. VOR	Seymour Johnson, N.C. NDB	*2000
*1500—MOCA		
Seymour Johnson, N.C. VOR	Raleigh Durham, N.C. VOR	*3000
*2800—MOCA		
Washington, D.C. VOR	Int 320 M rad Washington VOR & 097 M rad Herndon VOR	3000
		MAA—4000
Mapleville INT, Md.	Braddock INT, Md.	4000
Braddock INT, Md.	Herndon, Va. VOR	4000
Int. 097 M rad Herndon VOR & 320 M rad Washington VOR	Herndon, Va. VOR	3000
		MAA—4000
Biltmore, N.C. LF/RBN	Barretts Mountain, N.C. VOR	8000
Biltmore, N.C. RBN	Boone, Tenn. RBN	*8000
*7000—MOCA		
Charlotte, N.C. VOR	*Midland INT, N.C.	3000
*2500—MRA		
*Calleit INT, N.C.	Barretts Mountain, N.C. VOR	5000
*7000—MOCA Calleit INT, NW-bound		
Anderson, S.C. VOR	Toccoa, Ga. VOR	*3500
*2800—MOCA		
*Beaverton INT, Ala.	Hamilton, Ala. VOR	2200
*3000—MRA		
Bethel INT, Tenn.	Huntsville, Ala. VOR	*3000
*2600—MOCA		
Bluff INT, Ala.	Huntsville, Ala. VOR	*3000
*2600—MOCA		
Bristol INT, Fla.	Tallahassee, Fla. VOR	*2000
*1400—MOCA		
Brookwood, Ala. VOR	Bessemer INT, Ala.	*3000
*2500—MOCA		
Cairns, Ala. VOR	Clayton INT, Ala.	2400
Cairns, Ala. VOR	Dazier INT, Ala.	*2000
*1600—MOCA		
Chesterfield, S.C. VOR	Fort Mill, S.C. VOR	2300
Chipley INT, Fla.	Dathan, Ala. VOR	*2000
*1700—MOCA		
Creek INT, Fla.	Tallahassee, Fla. VOR	*2000
*1900—MOCA		
Crenshaw INT, Fla.	Montgomery, Ala. VOR	2500
Crestview, Fla. VOR	Dazier INT, Ala.	*2000
*1700—MOCA		
Crestview, Fla. VORTAC	La Grange, Ga. VORTAC	18000
	COP 93 CEW	MAA—45000

## RULES AND REGULATIONS

22239

Crestview, Fla. VORTAC	Ridge INT, Fla.	*2000
*1600—MOCA		
Florence, S.C. VOR	Chesterfield, S.C. VOR	*2300
Via FLO 325 M rad/CTF 100 M rad		
*1900—MOCA		
Florence, S.C. VOR	Myrtle Beach, S.C. VOR	*2000
*1600—MOCA		
Decatur, Ala. VOR	Int. 147 M rad Huntsville VOR & 113 M rad Decatur VOR	*3000
*2600—MOCA		
Dazier INT, Ala.	Andalusia INT, Ala.	*2000
*1700—MOCA		
Eufaula, Ala. VOR	Seale INT, Ala.	2000
Fairview INT, Ala.	Decatur, Ala. VOR	*3000
*2200—MOCA		
Greenhead INT, Fla.	Chipley INT, Fla.	*1900
*1600—MOCA		
Greenville, Fla. VOR	Eufaula, Ala. VOR	*3700
*1900—MOCA	COP 109 GEF	
Huntsville, Ala. LMN	Huntsville, Ala. VOR	*2600
*2500—MOCA		
Langley INT, Ga.	Greenwood, S.C. VOR	3000
Mc Lendon, Ala. RBN	Trussville INT, Ala.	2800
Norway INT, S.C.	Vance, S.C. VOR	*2000
*1700—MOCA		
Panama City, Fla. VOR	Greenhead INT, Fla.	*1800
*1500—MOCA		
Roundtree INT, Ala.	Huntsville, Ala. VOR	*2600
*2400—MOCA		
Sauflay, Fla. VOR	Montgomery, Ala. VOR	*5000
*2500—MOCA		
Springville INT, Ala.	Talladega, Ala. VOR	*3300
*2700—MOCA		
Talladega, Ala. VOR	La Grange, Ga. VOR	4000
Talladega, Ala. VOR	Steele INT, Ala.	*3000
*2500—MOCA		
Talladega, Ala. VOR	Tyrone INT, Ga.	*5500
*4000—MOCA		
Tallahassee, Fla. VOR	Eufaula, Ala. VOR	2200
	COP 92 TLH	
Tuscaloosa, Ala. VOR	Huntsville, Ala. VOR	*3000
*2500—MOCA		
Tuskegee, Ala. VOR	Seale INT, Ala.	*2200
*2000—MOCA		
Channel INT, Hawaii	Lanai, Hawaii VOR	5000
Malakoi, Hawaii VOR	Channel INT, Hawaii	*4000
*3500—MOCA		
Atlanta, Ga. VOR	Rome, Ga. VOR	*3000
*2400—MOCA		

§95.1001 DIRECT ROUTES—U.S.

is amended by adding:

FROM	TO	MEA
Chain INT, Hawaii	Lanai, Hawaii VOR	5000
Malakoi, Hawaii VOR	Chain INT, Hawaii	*4000
*3500—MOCA		
Toccoa, Ga. VORTAC	Charleston, W.Va. VORTAC	29000
		MAA—43000



## RULES AND REGULATIONS

§95.5000 HIGH ALTITUDE RNAV ROUTES  
CHANGEOVER POINT

FROM/TO	TOTAL DISTANCE	DISTANCE GEOGRAPHIC	FROM LOCATION	TRACK ANGLE	MEA	MAA
J805R is amended to read in part:						
Sioux Falls, S.D. W/P	224	112	Sioux Falls	090/270 to COP	18000	45000
Wildt, Iowa W/P				099/279 to Wildt		
Wildt, Iowa W/P	153	77	Wildt	099/279 to COP	18000	45000
Stock, Ill. W/P				103/283 to Stock		

§95.6001 VOR FEDERAL AIRWAY 1  
is amended to read in part:

FROM	TO	MEA
Charleston, S.C. VOR	Haney INT, S.C.	2000

§95.6003 VOR FEDERAL AIRWAY 3  
is amended to read in part:

FROM	TO	MEA
Fraser INT, Pa.	Mazie INT, Pa.	2400
Mazie INT, Pa.	Int 112 M rad East Texas VOR	2200
	& 237 M rad Solberg VOR	
Savannah, Ga. VOR	Vance, S.C. VOR	2000
Vance, S.C. VOR	Florence, S.C. VOR	2000
Florence, S.C. VOR	Dunbar INT, S.C.	2000
Dunbar INT, S.C.	Pinehurst, N.C. VOR	2400

§95.6004 VOR FEDERAL AIRWAY 4  
is amended to read in part:

FROM	TO	MEA
*Glendale INT, Kans.	Salina, Kans. VOR	**3600
Via S alter.	Via S alter.	
*4000-MRA		
**2700-MOCA		
Salina, Kans. VOR	Custer INT, Kans.	3000
Fleming INT, Mo.	Lexington INT, Mo.	2500

§95.6005 VOR FEDERAL AIRWAY 5  
is amended to read in part:

FROM	TO	MEA
Alma, Ga. VOR	Dublin, Ga. VOR	2000
Dublin, Ga. VOR	Athens, Ga. VOR	2500

§95.6006 VOR FEDERAL AIRWAY 6  
is amended to read in part:

FROM	TO	MEA
Albin INT, Wyo.	Sidney, Neb. VOR	*8500
*7800-MOCA		

§95.6007 VOR FEDERAL AIRWAY 7  
is amended to read in part:

FROM	TO	MEA
Homo INT, Fla.	Otter INT, Fla.	*3000
*1500-MOCA		
Otter INT, Fla.	Cross City, Fla. VOR	*2000
*1300-MOCA		

§95.6008 VOR FEDERAL AIRWAY 8  
is amended to read in part:

FROM	TO	MEA
Halyake INT, Colo.	Kayes Center, Neb. VOR	MEA
Via N alter.	Via N alter.	*6000
*4800-MOCA		

§95.6009 VOR FEDERAL AIRWAY 9  
is amended to read in part:

FROM	TO	MEA
Greenwood, Miss. VOR	Memphis, Tenn. VOR	2000
Via W alter.	Via W alter.	
Plano INT, Ill.	Hinck INT, Ill.	*3000

FROM	TO	MEA
*2200-MOCA		
Jackson, Miss. VOR	*Vaughan INT, Miss.	2000
Via E alter.	Via E alter.	
*3500-MRA		
Vaughan INT, Miss.	Greenwood, Miss. VOR	2000
Via E alter.	Via E alter.	
Jackson, Miss. VOR	Greenwood, Miss. VOR	2000
Via W alter.	Via W alter.	
Crystal City INT, Mo.	Arnold INT, Mo.	*3000
*2000-MOCA		
Arnold INT, Mo.	Imperial INT, Mo.	*2800
*2200-MOCA		

§95.6010 VOR FEDERAL AIRWAY 10  
is amended to read in part:

FROM	TO	MEA
Dodge City, Kans. VOR	Dundee INT, Kans.	*4500
Via N alter.	Via N alter.	
*3900-MOCA		
Walton INT, Kans.	*Florence INT, Kans.	3300
*5000-MRA		
Utica INT, Mo.	Kirkville, Mo. VOR	2700

§95.6012 VOR FEDERAL AIRWAY 12  
is amended to read in part:

FROM	TO	MEA
Leeds INT, Mo.	Blue Springs, Mo. VOR	3000
Anthony, Kans. VOR	*Milton INT, Kans.	3000
*3400-MRA		
Anthony, Kans. VOR	Milan INT, Kans.	2900
Via S alter.	Via S alter.	
Milan INT, Kans.	Wichita, Kans. VOR	3400
Via S alter.	Via S alter.	
Readsville INT, Mo.	Hermann INT, Mo.	2600

§95.6013 VOR FEDERAL AIRWAY 13  
is amended to read in part:

FROM	TO	MEA
Butler, Mo. VOR	Kansas City, Mo. VOR	3100

§95.6014 VOR FEDERAL AIRWAY 14  
is amended to read in part:

FROM	TO	MEA
St. Louis, Mo. VOR	Prairie INT, Ill.	2200
St. Louis, Mo. VOR	Godfrey INT, Ill.	2200
Via N alter.	Via N alter.	
Springfield, Mo. VOR	Vicky, Mo. VOR	3000
Via N alter.	Via N alter.	

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§95.6015 VOR FEDERAL AIRWAY 15  
is amended to read in part:

FROM	TO	MEA
*Blencoe INT, Iowa	Sioux City, Iowa VOR	3000
*4000-MRA		

§95.6017 VOR FEDERAL AIRWAY 17  
is amended to read in part:

FROM	TO	MEA
Meade INT, Kans.	Garden City, Kans. VOR	4700

§95.6018 VOR FEDERAL AIRWAY 18  
is amended to read in part:

FROM	TO	MEA
Monroe, La. VOR	*Altos INT, La.	2000
Via S alter.	Via S alter.	
*3000-MRA		
Altos INT, La.	*Bolton INT, Miss.	**2300
Via S alter.	Via S alter.	
*3400-MRA		
*1800-MOCA		
Monroe, La. VOR	*Rayville INT, La.	2000
*3000-MRA		
Rayville INT, La.	*Signal INT, Miss.	2000
*3800-MRA		
Sardis INT, S.C.	Allendale, S.C. VOR	2000
Via S alter.	Via S alter.	
Allendale, S.C. VOR	Charleston, S.C. VOR	2000
Via S alter.	Via S alter.	

§95.6020 VOR FEDERAL AIRWAY 20  
is amended to read in part:

FROM	TO	MEA
Athens, Ga. VOR	Anderson, S.C. VOR	*2800
*2100-MOCA		
Anderson, S.C. VOR	Palzer INT, S.C.	2600
Palzer INT, S.C.	Spartanburg, S.C. VOR	*2900
*2300-MOCA		

§95.6027 VOR FEDERAL AIRWAY 27  
is amended to read in part:

FROM	TO	MEA
*Rogue River INT, Ore.	Ledge DME Fix, Ore.	6400
*11000-MRA		
Ledge DME Fix, Ore.	North Bend, Ore. VOR	4060
North Bend, Ore. VOR	*Gardiner INT, Ore.	4000
*6200-MRA		

§95.6030 VOR FEDERAL AIRWAY 30  
is amended to read in part:

FROM	TO	MEA
Pullman, Mich. VOR	Cooper INT, Mich.	3000
Cooper INT, Mich.	Leroy INT, Mich.	*3000
*2200-MOCA		

§95.6035 VOR FEDERAL AIRWAY 35  
is amended to read in part:

FROM	TO	MEA
Athens, Ga. VOR	Anderson, S.C. VOR	*2800
*2100-MOCA		
Anderson, S.C. VOR	Easley INT, S.C.	*2800
*2200-MOCA		
Easley INT, S.C.	Cleveland INT, S.C.	3400
Cleveland INT, S.C.	Tuxedo INT, N.C.	5000

§95.6037 VOR FEDERAL AIRWAY 37  
is amended to read in part:

FROM	TO	MEA
Savannah, Ga. VOR	*Tillman INT, S.C.	2000
*3000-MRA		
Tillman INT, S.C.	*Wixon INT, S.C.	2000
*3300-MRA		
Wixon INT, S.C.	Allendale, S.C. VOR	2000
Allendale, S.C. VOR	Columbia, S.C. VOR	2000
Columbia, S.C. VOR	Blythwood, S.C. VOR	2300
Blythwood, S.C. INT	Fort Mill, S.C. VOR	2400

§95.6051 VOR FEDERAL AIRWAY 51  
is amended to read in part:

FROM	TO	MEA
Alam, Ga. VOR	Dublin, Ga. VOR	2000
Dublin, Ga. VOR	Athens, Ga. VOR	2500

§95.6052 VOR FEDERAL AIRWAY 52  
is amended to read in part:

FROM	TO	MEA
Bussey INT, Iowa	Ottumwa, Iowa VOR	2700
Ottumwa, Iowa VOR	Luray INT, Mo.	2600

§95.6053 VOR FEDERAL AIRWAY 53  
is amended to read in part:

FROM	TO	MEA
St. George INT, S.C.	*Ernie INT, S.C.	2200
*2500-MRA		
Ernie INT, S.C.	Columbia, S.C. VOR	2200
Columbia, S.C. VOR	*White Rock INT, S.C.	2300
*2500-MRA		
White Rock INT, S.C.	Monticello INT, S.C.	*2400
*1800-MOCA		
Monticello INT, S.C.	Whitmire INT, S.C.	*2400
*1700-MOCA		
Whitmire INT, S.C.	Buffalo INT, S.C.	2500
Buffalo INT, S.C.	Spartanburg, S.C. VOR	2800

§95.6054 VOR FEDERAL AIRWAY 54  
is amended to read in part:

FROM	TO	MEA
Memphis, Tenn. VOR	Slayden INT, Miss.	2000
Dillard INT, Ga.	Sunset INT, S.C.	6500
Sunset INT, S.C.	Cleveland INT, S.C.	5600
Spartanburg, S.C. VOR	*Gaffney INT, S.C.	2600
*3000-MRA		

§95.6056 VOR FEDERAL AIRWAY 56  
is amended to read in part:

FROM	TO	MEA
Augusta, Ga. VOR	Granite INT, S.C.	2300
Granite INT, S.C.	Sam INT, S.C.	2400
Sam INT, S.C.	Columbia, S.C. VOR	*2400
*1700-MOCA		
*Langley INT, S.C.	Columbia, S.C. VOR	2300
Via S alter.	Via S alter.	
*2900-MCA Langley INT, SW-bound		
Columbia, S.C. VOR	Florence, S.C. VOR	2000

§95.6058 VOR FEDERAL AIRWAY 58  
is amended to read in part:

FROM	TO	MEA
Hartford, Conn. VOR	Salem INT, Conn.	2600
Salem INT, Conn.	*Watch Hill INT, Conn.	2300
*3000-MRA		



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<b>§95.6063 VOR FEDERAL AIRWAY 63</b> is amended to read in part:			<b>VOR FEDERAL AIRWAY 71—cont'd.</b>		
FROM	TO	MEA	Natchez, Miss. VOR	*Altas INT, La.	**3000
Garfield INT, Mo.	Billings INT, Mo.	*3300	Via E alter.	Via E alter.	
*2700—MOCA			*3000—MRA		
*Roach INT, Mo.	Barnett INT, Mo.	**4000	**1600—MOCA		
*3200—MRA			Altas INT, La.	Monroe, La. VOR	2000
*2500—MOCA			Via E alter.	Via E alter.	
Barnett INT, Mo.	Jamestown INT, Mo.	3000			
<b>§95.6065 VOR FEDERAL AIRWAY 65</b> is amended to read in part:			<b>§95.6072 VOR FEDERAL AIRWAY 72</b> is amended to read in part:		
FROM	TO	MEA	FROM	TO	MEA
Lansing INT, Kans.	New Market INT, Mo.	2500	Maples, Mo. VOR	Bunker INT, Mo.	3000
<b>§95.6066 VOR FEDERAL AIRWAY 66</b> is amended to read in part:			<b>§95.6073 VOR FEDERAL AIRWAY 73</b> is amended to read in part:		
FROM	TO	MEA	FROM	TO	MEA
Athens, Ga. VOR	Ina INT, S.C.	*2600	Canton INT, Kans.	Salina, Kans. VOR	3300
*2000—MOCA			Via E alter.	Via E alter.	
Union INT, S.C.	Fort Mill, S.C. VOR	2500			
Athens, Ga. VOR	Greenwood, S.C. VOR	2500			
Via S alter.	Via S alter.				
<b>§95.6069 VOR FEDERAL AIRWAY 69</b> is amended to read in part:			<b>§95.6074 VOR FEDERAL AIRWAY 74</b> is amended to read in part:		
FROM	TO	MEA	FROM	TO	MEA
Crystal City INT, Mo.	Arnold INT, Mo.	*3000	Safer INT, Kans.	Anthony, Kans. VOR	3400
*2000—MOCA			Anthony, Kans. VOR	Pioneer, Okla. VOR	3000
Arnold INT, Mo.	Imperial INT, Mo.	*2800	Via N alter.	Via N alter.	
*2200—MOCA					
<b>§95.6070 VOR FEDERAL AIRWAY 70</b> is amended to read in part:			<b>§95.6077 VOR FEDERAL AIRWAY 77</b> is amended to read in part:		
FROM	TO	MEA	FROM	TO	MEA
Vienna, Ga. VOR	Allendale, S.C. VOR	*3000	Topeka, Kans. VOR	St. Joseph, Mo. VOR	2600
*1800—MOCA			Pioneer, Okla. VOR	Mayfield INT, Kans.	3000
<b>§95.6070 VOR FEDERAL AIRWAY 70</b> is amended to delete:			<b>§95.6077 VOR FEDERAL AIRWAY 77</b> is amended by adding:		
FROM	TO	MEA	FROM	TO	MEA
Eufaula, Ala. VOR	Byron INT, Ga.	*3000	Waterloo, Iowa VOR	Waukan, Iowa VOR	*3000
Via N alter.	Via N alter.		*2400—MOCA		
*2000—MOCA					
Byron INT, Ga.	Macan, Ga. VOR	2000			
Via N alter.	Via N alter.				
Macan, Ga. VOR	Dublin, Ga. VOR	2300			
Via N alter.	Via N alter.				
Dublin, Ga. VOR	Oconee INT, Ga.	*2000			
Via N alter.	Via N alter.				
*1700—MOCA					
<b>§95.6071 VOR FEDERAL AIRWAY 71</b> is amended to read in part:			<b>§95.6094 VOR FEDERAL AIRWAY 94</b> is amended to read in part:		
FROM	TO	MEA	FROM	TO	MEA
Kansas City, Mo. VOR	Rushville INT, Mo.	2500	Lambert INT, Miss.	Memphis, Tenn. VOR	2000
*Woodville INT, La.	**Wilkinson INT, Miss.	2000			
*3000—MRA					
**2500—MRA					
Wilkinson INT, Miss.	Natchez, Miss. VOR	2000			
Baton Rouge, La. VOR	Natchez, Miss. VOR	2000			
Via E alter.	Via E alter.				
Reeds INT, Mo.	Spoke INT, Mo.	*3000			
*2200—MOCA					
Garfield INT, Mo.	Billings INT, Mo.	*3300			
Via W alter.	Via W alter.				
*2700—MOCA					
Butler, Mo. VOR	Kansas City, Mo. VOR	3100			

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<b>§95.6130 VOR FEDERAL AIRWAY 130</b> is amended by adding:			<b>§95.6155 VOR FEDERAL AIRWAY 155</b> is amended to read in part:		
FROM	TO	MEA	FROM	TO	MEA
Norwich, Conn. VOR	Cutti INT, Mass.	*2300	Augusta, Ga. VOR	Monetta INT, S.C.	2400
*1700—MOCA			Monetta INT, S.C.	*White Rock INT, S.C.	2500
Cutti INT, Mass.	Martha's Vineyard, Mass. VOR	*2000	*2500—MRA		
*1300—MOCA			White Rock INT, S.C.	Blythwood INT, S.C.	2500
Martha's Vineyard, Mass. VOR	Hyannis, Mass. VOR	*1900	Blythwood INT, S.C.	Chesterfield, S.C. VOR	2300
*1400—MOCA			Chesterfield, S.C. VOR	Pinehurst, N.C. VOR	2300
<b>§95.6130 VOR FEDERAL AIRWAY 130</b> is amended to read in part:			<b>§95.6157 VOR FEDERAL AIRWAY 157</b> is amended to read in part:		
FROM	TO	MEA	FROM	TO	MEA
Monterey INT, Mass.	Colebrook INT, Mass.	4000	Vance, S.C. VOR	Florence, S.C. VOR	2000
<b>§95.6130 VOR FEDERAL AIRWAY 130</b> is amended to delete:			<b>§95.6159 VOR FEDERAL AIRWAY 159</b> is amended to read in part:		
FROM	TO	MEA	FROM	TO	MEA
Norwich, Conn. VOR	Lafayette INT, R.I.	*2300	Holden INT, Mo.	Blue Springs, Mo. VOR	3000
*1700—MOCA			Blue Springs, Mo. VOR	Kansas City, Mo. VOR	3000
			Kansas City, Mo. VOR	Dearborn INT, Mo.	3000
			*Blencoe INT, Iowa	Sioux City, Iowa VOR	3000
			*4000—MRA		
			Sioux City, Iowa VOR	Yankton, S.D. VOR	3300
			Yankton, S.D. VOR	Mitchell, S.D. VOR	3300
			Hamilton, Ala. VOR	Holly Springs, Ala. VOR	2300
			Hamilton, Ala. VOR	Wyatte INT, Miss.	2400
			Via W alter.	Via W alter.	
<b>§95.6132 VOR FEDERAL AIRWAY 132</b> is amended to read in part:			<b>§95.6170 VOR FEDERAL AIRWAY 170</b> is amended to read in part:		
FROM	TO	MEA	FROM	TO	MEA
Waltan INT, Kans.	*Florence INT, Kans.	3000	Pecor INT, Minn.	Fairmont, Minn. VOR	3200
*5000—MRA			Via N alter.	Via N alter.	
Int. 051 M rad Springfield VOR	Forney, Mo. VOR	3000	Hickory INT, Mich.	*Posie INT, Mich.	**4500
& 260 M rad Forney VOR			*3000—MRA		
			**3000—MOCA		
			Posie INT, Mich.	Lessy INT, Mich.	*4500
			*3000—MOCA		
<b>§95.6138 VOR FEDERAL AIRWAY 138</b> is amended by adding:			<b>§95.6171 VOR FEDERAL AIRWAY 171</b> is amended to read in part:		
FROM	TO	MEA	FROM	TO	MEA
Fort Dodge, Iowa VOR	Mason City, Iowa VOR	*3000	Joliet, Ill. VOR	Hinck INT, Ill.	*3000
*2600—MOCA			*2200—MOCA		
Mason City, Iowa VOR	Waukan, Iowa VOR	*3000	Hinck INT, Ill.	Malta INT, Ill.	*2600
*2600—MOCA			*2200—MOCA		
			Malta INT, Ill.	*Nahe INT, Ill.	*2700
			*5000—MRA		
			**2100—MOCA		
			Nahe INT, Ill.	Rockford, Ill. VOR	*2700
			*2100—MOCA		
<b>§95.6149 VOR FEDERAL AIRWAY 149</b> is amended by adding:			<b>§95.6173 VOR FEDERAL AIRWAY 173</b> is amended to read in part:		
FROM	TO	MEA	FROM	TO	MEA
Mazie INT, Pa.	Allentown, Pa. VOR	5000	Herscher INT, Ill.	Big Run INT, Ill.	*3500
			*2100—MOCA		
<b>§95.6149 VOR FEDERAL AIRWAY 149</b> is amended to delete:			<b>§95.6177 VOR FEDERAL AIRWAY 177</b> is amended by adding:		
FROM	TO	MEA	FROM	TO	MEA
Turner INT, Pa.	Allentown, Pa. VOR	5000	Wausau, Wis. VOR	Hayward, Wis. VOR	*4500
			Via W alter.	Via W alter.	
			Hayward, Wis. VOR	Duluth, Wis. VOR	3000
			Via W alter.	Via W alter.	
<b>§95.6154 VOR FEDERAL AIRWAY 154</b> is amended to read:					
FROM	TO	MEA			
Macon, Ga. VOR	Dublin, Ga. VOR	2100			
Dublin, Ga. VOR	*Oconee INT, Ga.	2000			
*3000—MRA					
Oconee INT, Ga.	Lotts INT, Ga.	*3000			
*1800—MOCA					



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§95.6177 VOR FEDERAL AIRWAY 177 is amended to read in part:			§95.6229 VOR FEDERAL AIRWAY 229 is amended by adding:		
FROM	TO	MEA	FROM	TO	MEA
Brimson INT, Minn.	Ely, Minn. VOR	*3700	Atlantic City, N.J. VOR	Light House, INT, N.J.	1800
*3000-MOCA			Light House INT, N.J.	Kennedy, N.Y. VOR	*4500
			*1400-MOCA		MAA-7000
§95.6179 VOR FEDERAL AIRWAY 179 is amended to read in part:			§95.6233 VOR FEDERAL AIRWAY 233 is amended to read in part:		
FROM	TO	MEA	FROM	TO	MEA
Dublin, Ga. VOR	Sinclair INT, Ga.	*2500	Litchfield, Mich. VOR	*Pasie INT, Mich.	*2800
*1800-MOCA			*3000-MRA		
§95.6185 VOR FEDERAL AIRWAY 185 is amended to read in part:			§95.6234 VOR FEDERAL AIRWAY 234 is amended to read in part:		
FROM	TO	MEA	FROM	TO	MEA
August, Ga. VOR	Greenwood, S.C. VOR	2300	Walton INT, Kans.	*Florence INT, Kans.	3300
Greenwood, S.C. VOR	*Inman INT, S.C.	3000	Crystal City INT, Mo.	Centralia, Ill. VOR	*3000
*4000-MCA Inman INT, N-bound			*2100-MOCA		
§95.6188 VOR FEDERAL AIRWAY 188 is amended to read in part:			§95.6238 VOR FEDERAL AIRWAY 238 is amended to read in part:		
FROM	TO	MEA	FROM	TO	MEA
Waco INT, Mo.	Miller INT, Mo.	3000	Maples, Mo. VOR	Lenox INT, Mo.	3000
Int. 051 M rad Springfield	Forney, Mo. VOR				
VOR & 260 M rad Forney VOR					
Via S alter.	Via S alter.	3000			
§95.6190 VOR FEDERAL AIRWAY 190 is amended to read in part:			§95.6244 VOR FEDERAL AIRWAY 244 is amended to read in part:		
FROM	TO	MEA	FROM	TO	MEA
Waco INT, Mo.	Miller INT, Mo.	3000	*Glendale INT, Kans.	Salina, Kans. VOR	*3600
Maples, Mo. VOR	Bunker INT, Mo.	3000	*4000-MRA		
			*2700-MOCA		
§95.6191 VOR FEDERAL AIRWAY 191 is amended to read in part:			§95.6245 VOR FEDERAL AIRWAY 245 is amended to read in part:		
FROM	TO	MEA	FROM	TO	MEA
Herscher INT, Ill.	Big Run INT, Ill.	*3500	Larto INT, La.	Natchez, Miss. VOR	2000
*2100-MOCA			Jackson, Miss. VOR	*Sharon INT, Miss.	2000
			*2700-MRA		MAA-7000
§95.6206 VOR FEDERAL AIRWAY 206 is amended to read in part:			§95.6246 VOR FEDERAL AIRWAY 246 is amended to read in part:		
FROM	TO	MEA	FROM	TO	MEA
Blue Springs, Mo. VOR	Lexington INT, Mo.	2500	Milra INT, Wis.	Stevens Point, Wis. VOR	2900
Lexington INT, Mo.	*Tina INT, Mo.	2600			
*4000-MRA					
§95.6210 VOR FEDERAL AIRWAY 210 is amended by adding:			§95.6267 VOR FEDERAL AIRWAY 267 is amended to read in part:		
FROM	TO	MEA	FROM	TO	MEA
Lancaster, Pa. VOR	Bucktown INT, Pa.	2800	*Lake Helen INT, Fla.	Ormond Beach, Fla. VOR	1600
Bucktown INT, Pa.	Propp INT, Pa.	*3000	Via E alter.	Via E alter.	
*1900-MOCA			*3000-MRA		
Propp INT, Pa.	Yardley, Pa. VOR	*3000	Tarboro INT, Ga.	Dixie INT, Ga.	*4000
*1500-MOCA			*1600-MOCA		
§95.6210 VOR FEDERAL AIRWAY 210 is amended to delete:			§95.6218 VOR FEDERAL AIRWAY 218 is amended to read in part:		
FROM	TO	MEA	FROM	TO	MEA
Lancaster, Pa. VOR	Int. 103 M rad Lancaster VOR	2800	Dixie INT, Ga.	*Baxley INT, Ga.	*5000
	& 152 M rad Pottstown VOR		*3000-MRA		
			*1700-MOCA		
			*3000-MRA		
			*1700-MOCA		
			Baxley INT, Ga.	Dublin, Ga. VOR	*3000
			*1700-MOCA		
			Dublin, Ga. VOR	Athens, Ga. VOR	2500

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§95.6285 VOR FEDERAL AIRWAY 285 is amended to read in part:			§95.6402 HAWAII VOR FEDERAL AIRWAY 2 is amended to read in part:		
FROM	TO	MEA	FROM	TO	MEA
Indianapolis, Ind. VOR	Kokomo, Ind. VOR	*2800	Lihue, Hawaii VOR	Hydes INT, Hawaii	
*2300-MOCA				SE-bound	3000
Westfield INT, Ind.	Kokomo, Ind. VOR	2600		NW-bound	4000
Via E alter.	Via E alter.			Broms INT, Hawaii	*3000
§95.6289 VOR FEDERAL AIRWAY 289 is amended to read in part:			§95.6311 VOR FEDERAL AIRWAY 311 is amended to read in part:		
FROM	TO	MEA	FROM	TO	MEA
Harrison, Ark. VOR	Dogwood, Mo. VOR	*3400	Greenwood, S.C. VOR	Columbia, S.C. VOR	2300
Dogwood, Mo. VOR	Stout INT, Mo.	*5500			
*3000-MOCA					
§95.6319 VOR FEDERAL AIRWAY 319 is amended to read in part:			§95.6322 VOR FEDERAL AIRWAY 322 is amended to read in part:		
FROM	TO	MEA	FROM	TO	MEA
Worland, Wyo. VOR	Cody, Wyo. VOR	8500	Concord, N.H. VOR	Grump INT, N.H.	4000
			Grump INT, N.H.	*North Conway INT, N.H.	*5000
			*600-MCA North Conway INT, N-bound		
			*4700-MOCA		
§95.6323 VOR FEDERAL AIRWAY 323 is amended to read:			§95.6403 HAWAII VOR FEDERAL AIRWAY 3 is amended to read:		
FROM	TO	MEA	FROM	TO	MEA
Eufaula, Ala. VOR	Byron INT, Ga.	*3000	Mynah INT, Hawaii	*Jason INT, Hawaii	3500
*2000-MOCA			*4700-MCA Jason INT, NE-bound		
Byron INT, Ga.	Macon, Ga. VOR	2000	Jason INT, Hawaii	Kamuela, Hawaii VOR	6500
Macon, Ga. VOR	Hampton INT, Ga.	2500	Kamuela, Hawaii VOR	Hamak INT, Hawaii	6500
§95.6325 VOR FEDERAL AIRWAY 325 is amended to read in part:			§95.6404 HAWAII VOR FEDERAL AIRWAY 4 is amended to read:		
FROM	TO	MEA	FROM	TO	MEA
Athens, Ga. VOR	Vesta INT, Ga.	2500	*Paten INT, Hawaii	Kaka Head, Hawaii VOR	4000
Vesta INT, Ga.	Columbia, S.C. VOR	2400	*5000-MRA		
			Kaka Head, Hawaii	Papay INT, Hawaii	4000
			Papay INT, Hawaii	Crabs INT, Hawaii	5000
				NE-bound	3000
				SW-bound	3000
				*Rises INT, Hawaii	7000
				NE-bound	5000
				SW-bound	5000
				*7000-MRA	
§95.6335 VOR FEDERAL AIRWAY 335 is amended to read in part:			§95.6405 HAWAII VOR FEDERAL AIRWAY 5 is amended to read:		
FROM	TO	MEA	FROM	TO	MEA
Imperial INT, Mo.	Arnold INT, Mo.	*2800	Kona, Hawaii VOR	*Mynah INT, Hawaii	5000
*2200-MOCA			*3500-MCA Mynah INT, SE-bound		
Arnold INT, Mo.	Crystal City INT, Mo.	*3000	Mynah INT, Hawaii	Altis INT, Hawaii	2000
*2000-MOCA			Altis INT, Hawaii	Maken INT, Hawaii	
§95.6401 HAWAII VOR FEDERAL AIRWAY 1 is amended to read:				NW-bound	*8000
FROM	TO	MEA		SE-bound	*7000
Adise INT, Hawaii	*Hicus INT, Hawaii	*3000			
*3000-MRA					
*1000-MOCA					
Hicus INT, Hawaii	*Ramie INT, Hawaii	*2000			
*9000-MRA					
*1000-MOCA					
Ramie INT, Hawaii	Hilo, Hawaii VOR	2000			



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## VOR FEDERAL AIRWAY 5—cont'd.

Rowin INT, Hawaii      Maken INT, Hawaii  
Via W alter.      Via W alter.  
\*6100—MOCA

## §95.6406 HAWAII VOR FEDERAL AIRWAY 6

is amended to read:

FROM	TO	MEA
Blush INT, Hawaii	Maui, Hawaii VOR	5000
Maui, Hawaii VOR	Sweep INT, Hawaii	5000
Sweep INT, Hawaii	Halli INT, Hawaii	7000
	E-bound	6000
	W-bound	
Halli INT, Hawaii	*Rabat INT, Hawaii	**7000
	NW-bound	**6000
	SE-bound	

\*10000—MRA  
\*\*1000—MOCA  
Rabat INT, Hawaii      Punic INT, Hawaii  
\*10000—MRA  
\*\*1000—MOCA  
Punic INT, Hawaii      \*Arbor INT, Hawaii  
\*8000—MRA  
\*\*2800—MOCA  
Arbor INT, Hawaii      Hilo, Hawaii VOR

## §95.6407 HAWAII VOR FEDERAL AIRWAY 7

is amended to read in part:

Kona, Hawaii VOR      Reefs INT, Hawaii  
\*Reefs INT, Hawaii      Moana INT, Hawaii  
\*3600—MCA Reefs INT, SE-bound

## §95.6408 HAWAII VOR FEDERAL AIRWAY 8

is amended to read:

FROM	TO	MEA
Makai INT, Hawaii	Lindy INT, Hawaii	2000
Lindy INT, Hawaii	Molokai, Hawaii VOR	3500
Molokai, Hawaii VOR	Blush INT, Hawaii	5000
Blush INT, Hawaii	Fishe INT, Hawaii	4000

## §95.6409 HAWAII VOR FEDERAL AIRWAY 9

is amended to read:

FROM	TO	MEA
*Lulus INT, Hawaii	Villa INT, Hawaii	**9000
*9000—MRA **1000—MOCA Villa INT, Hawaii	Coral INT, Hawaii	*6000
*1000—MOCA Coral INT, Hawaii	*Makai INT, Hawaii	**4000
*4000—MCA Makai INT, S-bound **1000—MOCA Makai INT, Hawaii	Piper INT, Hawaii	*2000
*1000—MOCA Piper INT, Hawaii	Honolulu, Hawaii VOR	4000
	N-bound	2000
	S-bound	

## §95.6411 HAWAII VOR FEDERAL AIRWAY 11

is amended to read:

FROM	TO	MEA
Reefs INT, Hawaii	*Flitt INT, Hawaii	2000
*4500—MCA Flitt INT, N-bound	Upolu Pt, Hawaii VOR	5400
Flitt INT, Hawaii	Pulps INT, Hawaii	5400
Upolu Pt, Hawaii VOR	Sweep INT, Hawaii	*5000
Pulps INT, Hawaii		
*3300—MOCA Sweep INT, Hawaii	Maui, Hawaii VOR	5000

## VOR FEDERAL AIRWAY 11—cont'd.

Maui, Hawaii VOR	*Napir INT, Hawaii	5000
*7000—MCA Napir INT, W-bound		
Napir INT, Hawaii	*Molokai, Hawaii VOR	7000
*5000—MCA Molokai VOR, E-bound		
Molokai, Hawaii VOR	Lindy INT, Hawaii	3500
Lindy INT, Hawaii	Makai INT, Hawaii	2000

## §95.6413 HAWAII VOR FEDERAL AIRWAY 13

is amended to read:

FROM	TO	MEA
Lihue, Hawaii VOR	Hella INT, Hawaii	4000
Hella INT, Hawaii	Koko Head, Hawaii VOR	4000
Koko Head, Hawaii VOR	Bambo INT, Hawaii	4500
Bambo INT, Hawaii	Toads DME Fix, Hawaii	*5000
	*1000—MOCA	

## §95.6415 HAWAII VOR FEDERAL AIRWAY 15

is amended to read in part:

FROM	TO	MEA
South Kauai, Hawaii VOR	Morey INT, Hawaii	5000
Morey INT, Hawaii	Catty INT, Hawaii	5500
Catty INT, Hawaii	Honolulu, Hawaii VOR	5000
*Molokai, Hawaii VOR	Palli INT, Hawaii	7000
*5000—MCA Molokai VOR, E-bound		
Palli INT, Hawaii	*Maui, Hawaii VOR	8000
*6800—MCA Maui VOR, W-bound		
Maui, Hawaii VOR	Barby INT, Hawaii	7000
Barby INT, Hawaii	*Rabit INT, Hawaii	**10000
*10000—MRA **1000—MOCA Rabit INT, Hawaii	*Punic INT, Hawaii	**6000
*10000—MRA **1000—MOCA Punic INT, Hawaii	*Arbor INT, Hawaii	**4000
*8000—MRA **2800—MOCA Arbor INT, Hawaii	Hilo, Hawaii VOR	3000
Hilo, Hawaii VOR	Hoday INT, Hawaii	2000
Hoday INT, Hawaii	Eelic DME Fix, Hawaii	*10000
	*1000—MOCA	

## §95.6416 HAWAII VOR FEDERAL AIRWAY 16

is amended to read:

FROM	TO	MEA
Honolulu, Hawaii VOR	Piper INT, Hawaii	4000
	N-bound	2000
	S-bound	
Piper INT, Hawaii	Makai INT, Hawaii	*2000
*1000—MOCA Makai INT, Hawaii	Sampa INT, Hawaii	2000
Sampa INT, Hawaii	Lanai, Hawaii VOR	4000
Lanai, Hawaii VOR	Lavas INT, Hawaii	4300
Lavas INT, Hawaii	*Upolu Point, Hawaii VOR	6000
*5800—MCA Upolu Point VOR, E-bound		
Upolu Point, Hawaii VOR	Hamak INT, Hawaii	7000
Hamak INT, Hawaii	*Arbor INT, Hawaii	**8000
*8000—MRA **5500—MOCA Arbor INT, Hawaii	*Ramie INT, Hawaii	**9000
*9000—MRA **2000—MOCA Ramie INT, Hawaii	Hilo, Hawaii VOR	2000

## RULES AND REGULATIONS

## §95.6417 HAWAII VOR FEDERAL AIRWAY 17

is amended to read:

FROM	TO	MEA
Rolly INT, Hawaii	Merlo INT, Hawaii	*4000
*2700—MOCA Merlo INT, Hawaii	Maui, Hawaii VOR	6000

## §95.6419 HAWAII VOR FEDERAL AIRWAY 19

is amended to read:

FROM	TO	MEA
Hilo, Hawaii VOR	*Ramie INT, Hawaii	2000
*9000—MRA Ramie INT, Hawaii	*Hibus INT, Hawaii	**2000
*3000—MRA **1000—MOCA Hibus INT, Hawaii	Int. 075 M rad Maui VOR & 002 M rad Hilo VOR	*6000
	*1000—MOCA	

## §95.6420 HAWAII VOR FEDERAL AIRWAY 20

is amended to read:

FROM	TO	MEA
Honolulu, Hawaii VOR	Onote INT, Hawaii	4000
	NW-bound	2000
	SE-bound	
Onote INT, Hawaii	Poble INT, Hawaii	2000
Poble INT, Hawaii	Typha INT, Hawaii	8000
Typha INT, Hawaii	Robin INT, Hawaii	3000
Robin INT, Hawaii	Kona, Hawaii	5000
	*3800—MCA Robin INT, SE-bound	

## §95.6421 HAWAII VOR FEDERAL AIRWAY 21

is amended to read:

FROM	TO	MEA
Curtle DME Fix, Hawaii	Hicus INT, Hawaii	*21000
*1000—MOCA Hicus INT, Hawaii	*Punic INT, Hawaii	14000
*10000—MRA Punic INT, Hawaii	Harpo INT, Hawaii	10000
*7000—MCA Harpo INT, E-bound		
Harpo INT, Hawaii	Merlo INT, Hawaii	6000
Merlo INT, Hawaii	Keiki INT, Hawaii	3000
Keiki INT, Hawaii	*Lanai, Hawaii VOR	5000
*4400—MCA Lanai VOR, E-bound		
Lanai, Hawaii VOR	Sampa INT, Hawaii	4000
Sampa INT, Hawaii	Makai INT, Hawaii	2000

## §95.6422 HAWAII VOR FEDERAL AIRWAY 22

is amended to read:

FROM	TO	MEA
Maui, Hawaii VOR	*Barby INT, Hawaii	7000
*11000—MCA Barby INT, S-bound		
Barby INT, Hawaii	Sards INT, Hawaii	*11000
*1000—MOCA Sards INT, Hawaii	Bonus INT, Hawaii	*8000
*1000—MOCA Bonus INT, Hawaii	*Hilo, Hawaii VOR	6000
*3200—MCA Hilo VOR, NW-bound		
Hilo, Hawaii VOR	Sesaw DME Fix, Hawaii	2000
Sesaw DME Fix, Hawaii	Bates DME Fix, Hawaii	*10000
	*1000—MOCA	

## §95.6423 HAWAII VOR FEDERAL AIRWAY 23

is amended to read:

FROM	TO	MEA
Upolu Pt, Hawaii VOR	Fires INT, Hawaii	6000

## §95.6424 HAWAII VOR FEDERAL AIRWAY 24

is amended to read:

FROM	TO	MEA
*Lanai, Hawaii VOR	*Maui, Hawaii VOR	**9000
*5100—MCA Lanai VOR- NE-bound		
**6700—MCA Maui VOR, SW-bound		
Maui, Hawaii VOR	*Bassy INT, Hawaii	**14000
*14000—MRA **5200—MOCA Bassy INT, Hawaii	Lobbs DME Fix, Hawaii	*19000
	*1000—MOCA	

## §95.6425 HAWAII VOR FEDERAL AIRWAY 25

is amended to read:

FROM	TO	MEA
Hilo, Hawaii VOR	Cooke INT, Hawaii	*3000
*2200—MOCA Cooke INT, Hawaii	*Bassy INT, Hawaii	**6000
*14000—MRA **1000—MOCA Bassy INT, Hawaii	Caddy DME Fix, Hawaii	*9000
	*1000—MOCA	

## §95.6426 VOR FEDERAL AIRWAY 426

is amended to read in part:

FROM	TO	MEA
St. Louis, Mo. VOR	Godfrey INT, Ill.	2200

## §95.6430 VOR FEDERAL AIRWAY 430

is amended to read in part:

FROM	TO	MEA
Williston, N.D. VOR	Minot, N.D. VOR	*4500
	*3900—MOCA	

## §95.6437 VOR FEDERAL AIRWAY 437

is amended to read in part:

FROM	TO	MEA
Charleston, S.C. VOR	Wessels INT, S.C.	1800
Wessels INT, S.C.	Florence, S.C. VOR	2000

## §95.6441 VOR FEDERAL AIRWAY 441

is amended to read in part:

FROM	TO	MEA
St. Petersburg, Fla. VOR	Boyport INT, Fla.	2000
St. Petersburg, Fla. VOR	Dade City INT, Fla.	
	Via E alter.	2000

## §95.6454 VOR FEDERAL AIRWAY 454

is amended to read in part:

FROM	TO	MEA
Maddi INT, Ga.	Vesta INT, Ga.	*4000
*1800—MOCA Vesta INT, Ga.	Greenwood, S.C. VOR	2500



## RULES AND REGULATIONS

§95.7106 JET ROUTE NO. 106 is amended to read in part:

FROM	TO	MEA	MAA
Green Bay, Wis. VORTAC	Flint, Mich. VORTAC	18000	45000

§95.7127 JET ROUTE NO. 127 is amended to read:

FROM	TO	MEA	MAA
King Salmon, Alas. VORTAC	Nandalton INT, Alas.	18000	45000

§95.7133 JET ROUTE NO. 133 is amended to read:

FROM	TO	MEA	MAA
Biorka Island, Alas. VORTAC	Hinchinbrook, Alas. NDB	18000	45000
Hinchinbrook, Alas. NDB	Johnstone Point, Alas. VORTAC	18000	45000

§95.7195 JET ROUTE NO. 195 is added to read:

FROM	TO	MEA	MAA
Amette Island, Alas. VORTAC	Biorka Island, Alas. VORTAC	18000	45000

2. By amending Sub-part D as follows:

§95.8003 VOR FEDERAL AIRWAY CHANGEOVER POINTS

AIRWAY SEGMENT	TO	CHANGEOVER POINTS DISTANCE FROM	
FROM			
V-5 is amended to delete: Dublin, Ga. VOR	Athens, Ga. VOR	44	Dublin
V-51 is amended to delete: Dublin, Ga. VOR	Athens, Ga. VOR	44	Dublin
V-154 is amended to delete: Dublin, Ga. VOR	Savannah, Ga. VOR	58	Dublin
V-177 is amended by adding: Wausaw, Wis. VOR Via Walter.	Hayward, Wis. VOR Via Walter.	46	Hayward

(Secs. 307, 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1510))

Issued in Washington, D.C., on May 13, 1975.

JAMES M. VINES,  
Chief,  
Aircraft Programs Division.

[FR Doc. 75-13150 Filed 5-20-75; 8:45 am]

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# federal register

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WASHINGTON, D.C.

Volume 40 ■ Number 100

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Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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# rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## Title 14—Aeronautics and Space CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 74-SW-47;  
Amdt. 39-2203]

### PART 39—AIRWORTHINESS DIRECTIVES

#### Cessna Model 305A Airplanes

Amendment 39-2067 (40 FR 5347), AD 75-04-04, requires replacement of aluminum oil line fittings on Cessna Model 305A airplanes modified in accordance with Supplemental Type Certificate SA568SW or SA504SW. After issuing Amendment 39-2067, the agency determined that an alternate steel fitting is available in addition to the brass fitting noted in AD 75-04-04. Therefore, the AD is being amended to provide for the use of an alternate fitting.

Since this amendment provides an alternative means of compliance, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

#### § 39.13 [Amended]

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), section 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-2067 (40 FR 5347), AD 75-04-04, is amended by changing the third paragraph to read:

"To prevent failure of the aluminum elbow fitting, P/N X34352, remove the fitting from the oil cooler and replace with a fitting of the same part number fabricated from brass, or Weatherhead P/N C5405X10X6, or an equivalent part approved by the Chief, Engineering and Manufacturing Branch, Flight Standards Division, Southwest Region, Federal Aviation Administration, Fort Worth, Texas."

This amendment becomes effective upon May 22, 1975.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)).)

Issued in Fort Worth, Texas, on May 6, 1975.

HENRY L. NEWMAN,  
Director, Southwest Region.

[FR Doc. 75-13401 Filed 5-21-75; 8:45 am]

[Docket No. 75-NE-21; Amdt. 39-2212]

### PART 39—AIRWORTHINESS DIRECTIVES Sikorsky S-58 Helicopters Certificated in All Categories

Amendment 191 (25 FR 8026), AD 60-17-3 as amended by Amendment 495

(27 FR 10117), Amendment 747 (29 FR 7668), Amendment 199 (31 FR 3064), and Amendment 39-1552 (37 FR 23711) removed some S-58 main rotor blades from service and established inspections for others. It also provided for an extension of service life limits for certain rotor blades which had been inspected at the times and in the manner set forth in Sikorsky Service Bulletin No. 58B15-4G. After Amendment 39-1552 was issued, the manufacturer issued a revised Service Bulletin, No. 58B15-4H which incorporated an extension of the inspection interval of the blade inspection units from 2 to 3 hours.

The Agency has determined that it is permissible to use the extended inspection interval set forth in Sikorsky Service Bulletin No. 58B15-4H. Therefore, the AD is being revised to change the reference from Sikorsky Service Bulletin No. 58B15-4G to Sikorsky Service Bulletin No. 58B15-4H.

Since this amendment extends an inspection interval and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

#### § 39.13 [Amended]

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), section 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 191 (25 FR 8026), AD 60-17-3 as amended by Amendment 495 (27 FR 10117), Amendment 747 (29 FR 7668), Amendment 199 (31 FR 3064), and Amendment 39-1552 (37 FR 23711) is further amended as follows:

In paragraph (e) delete "No. 58B15-4G dated September 12, 1972" and insert in its place: No. 58B15-4H.

This amendment becomes effective June 4, 1975.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Burlington, Massachusetts, on May 12, 1975.

QUENTIN S. TAYLOR,  
Director,  
New England Region.

[FR Doc. 75-12402 Filed 5-21-75; 8:45 am]

[Airspace Docket No. 75-GL-35]

### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

#### Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regula-

tions is to alter the Carbondale, Illinois, control zone.

A review of the controlled airspace at Carbondale, Illinois, indicates the control zone extensions are no longer required to protect any approach procedures.

Since this alteration is minor in nature and is in the interest of safety, compliance with the notice and public procedure provisions of the Administrative Procedures Act is unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., August 14, 1975, as hereinafter set forth:

#### § 71.171 [Amended]

In § 71.171 (40 FR 354), the following control zone is amended to read:

#### CARBONDALE, ILLINOIS

Within a 5-mile radius of the Southern Illinois Airport (Latitude 37°46'45" N., Longitude 89°15'00" W.). This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airman's Information Manual.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Des Plaines, Illinois, on May 7, 1975.

R. O. ZIEGLER,  
Acting Director,  
Great Lakes Region.

[FR Doc. 75-13403 Filed 5-21-75; 8:45 am]

[Airspace Docket No. 75-EA-33]

### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

#### Alteration of Control Zone and Transition Area

The Federal Aviation Administration is amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Allentown, Pa., Control Zone (40 FR 356) and Transition Area (40 FR 444).

A pending change in the Allentown-Bethlehem-Easton Airport localizer Back Course instrument approach procedure to Runway 24 will require a corresponding change in the Allentown, Pa., Control Zone and 700-foot floor Transition Area designations.

Since the amendment is less restrictive in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary.



## RULES AND REGULATIONS

In view of the foregoing, the proposed regulations are hereby adopted, effective 0901 G.m.t., August 14, 1975, as follows:

## § 71.171 [Amended]

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the description of the Allentown, Pennsylvania, Control Zone by deleting, "within 3 miles each side of the Allentown-Bethlehem-Easton Airport localizer northeast course extending from the localizer to 12.5 miles northeast of the localizer";

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the description of the Allentown, Pennsylvania, 700-foot floor Transition Area by deleting, "within 5 miles each side of the Allentown-Bethlehem-Easton Airport localizer northeast course, extending from the localizer to 16 miles northeast of the localizer," and by substituting "," following the phrase "to the Allentown VORTAC 104° radial".

(Sec. 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348] and section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)]).

Issued in Jamaica, N.Y., on May 7, 1975.

JAMES BISPO,  
Acting Director,  
Eastern Region.

[FR Doc.75-13405 Filed 5-21-75; 8:45 am]

[Airspace Docket No. 75-EA-35]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

## Alteration of Control Zone

The Federal Aviation Administration is amending § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the Wrightstown, N.J., Control Zone (40 FR 439).

The control zone is described, in part, by reference to the McGuire AFB ILS outer marker. The U.S. Air Force plans to decommission the outer marker within the next few months. This will require an editorial change in the description of the control zone by substituting a distance from the localizer in lieu of the reference to the outer marker.

Since the amendment is editorial in nature, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

## § 71.171 [Amended]

In view of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective May 22, 1975, as follows:

1. Amend § 71.171 of Part 71, Federal Aviation Regulations so as to alter the description of the Wrightstown, New Jersey, Control Zone by deleting "to the OM" and by substituting therefor, "to 8 miles southwest of the localizer".

(Sec. 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348] and section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)]).

Issued in Jamaica, N.Y., on May 7, 1975.

JAMES BISPO,  
Acting Director,  
Eastern Region.

[FR Doc.75-13405 Filed 5-21-75; 8:45 am]

[Airspace Docket No. 75-SW-13]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING ROUTES

## Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Lafayette, La., transition area.

On March 31, 1975, a notice of proposed rule making was published in the FEDERAL REGISTER (40 FR 14334) stating the Federal Aviation Administration proposed to alter the Lafayette, La., transition area.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 14, 1975, as hereinafter set forth.

## § 71.181 [Amended]

In § 71.181 (40 FR 441), the Lafayette, La., transition area is amended to read:

LAFAYETTE, LA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Lafayette Airport (latitude 30°12'00" N., longitude 91°59'40" W.); within 2 miles each side of the Lafayette ILS localizer north course extending from the OM to the 5-mile radius area; within 2 miles each side of the Lafayette ILS localizer south course extending from the 5-mile radius area to the 5-mile radius area of the Abbeville Municipal Airport (latitude 29°58'19" N., longitude 92°05'08" W.); within 2 miles each side of the Lafayette VORTAC 171° radial extending from the 5-mile radius area of the Lafayette Airport to 8 miles south of the VORTAC; within 2 miles each side of the 278° bearing from the Lafayette RBN (latitude 30°11'35" N., longitude 91°52'58" W.) extending from the RBN to the 5-mile radius area; within 2 miles each side of the Lafayette VORTAC 206° radial extending from the VORTAC to the 5-mile radius area of the Abbeville Airport; within a 5-mile radius of Acadiana Regional Airport (latitude 30°02'15" N., longitude 91°53'00" W.); within 2 miles each side of the Lafayette VORTAC 139° radial extending from the 5-mile radius area of Lafayette Airport to the 5-mile radius area of Acadiana Regional Airport; within 3 miles each side of the Lafayette VORTAC 145° radial extending from the 5-mile radius area of Acadiana to 17.5 miles from the Lafayette VORTAC; within 3 miles either side of the 348° and 168° bearings from the Acadiana NDB (latitude 29°57'21" N., longitude 91°51'45" W.) extending from the 5-mile radius area of the

Acadiana Regional Airport to 8 miles south of the Acadiana Regional Airport.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Fort Worth, Tex., on May 12, 1975.

ALBERT H. THURBURN,  
Acting Director,  
Southwest Region.

[FR Doc.75-13404 Filed 5-21-75; 8:45 am]

## Title 21—Food and Drugs

## CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## SUBCHAPTER B—FOOD AND FOOD PRODUCTS

## PART 19—CHEESES, PROCESSED CHEESES, CHEESE FOODS, CHEESE SPREADS, AND RELATED FOODS

## Label Requirements for Cottage Cheese Products; Confirmation of Effective Date of Order Amending Standards of Identity

The Commissioner of Food and Drugs issued a final order, published in the FEDERAL REGISTER of October 30, 1974 (39 FR 38222), amending the labeling provisions in the standards of identity for cottage cheese and cottage cheese dry curd (21 CFR 19.530, 19.525) by deleting the undesignated paragraphs immediately following §§ 19.530(e) (4) and 19.525(e) (3) for the purpose of removing an inconsistency between these standards and the requirements of § 1.8d Food labeling; information panel (21 CFR 1.8d).

One objection not relevant to the order was filed by a consumer who felt that he might be adversely affected. The objection stated that polysorbate 80 is permitted in cottage cheese and does not have to be declared on the label. This is erroneous. While polysorbate 80 (21 CFR 121.1009(c) (13)) is permitted as an optional ingredient in the creaming mixture for cottage cheese, § 19.530(e) requires that the name of each optional ingredient used in the food be declared on the label as required by the applicable sections of Part 1 of this chapter.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055-1056, as amended, 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 341, 371)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no relevant objections were filed to the subject order. Accordingly, the amendment promulgated by that order became effective November 30, 1974.

Dated: May 15, 1975.

SAM D. FINE,  
Associate Commissioner for  
Compliance.

[FR Doc.75-13430 Filed 5-21-75; 8:45 am]

## RULES AND REGULATIONS

22251

PART 121—FOOD ADDITIVES  
Components of Paper and Paperboard in Contact With Aqueous and Fatty Foods

Notice was given by publication in the FEDERAL REGISTER of October 25, 1974 (39 FR 38010) that a petition (FAP 4B3007) had been filed by GAF Corp., 140 West 51st St., New York, N.Y. 10020, proposing that § 121.2526 Components of paper and paperboard in contact with aqueous and fatty foods (21 CFR 121.2526) be amended to provide for the safe use of castor oil, polyoxyethylated (42 moles ethylene oxide) as an emulsifier in the manufacture of paper and paperboard intended to contact food.

## § 121.2526 Components of paper and paperboard in contact with aqueous and fatty foods.

(b) . . .  
(2) . . .

List of substances	Limitations
Castor oil, polyoxyethylated (42 moles ethylene oxide).	For use only as an emulsifier in nitrocellulose coatings for paper and paperboard intended for use in contact with food only of the types identified in paragraph (c) of this section, table 1, under types IV A, V, VII A, VIII, and IX; and limited to use at a level not to exceed 8 percent by weight of the coating solids.

Any person who will be adversely affected by the foregoing order may at any time on or before June 23, 1975 file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective May 22, 1975.

(Sec. 409(c) (1), 72 Stat. 1786; 21 U.S.C. 348 (c) (1).)

Dated: May 15, 1975.

SAM D. FINE,  
Associate Commissioner for  
Compliance.

[FR Doc.75-13431 Filed 5-21-75; 8:45 am]

The Commissioner of Food and Drugs, having evaluated data in the petition and other relevant material, is amending the regulation as set forth below to provide for use of the additive as proposed by the petitioner. This amendment is effective May 22, 1975.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (Sec. 409(c) (1), 72 Stat. 1786; 21 U.S.C. 348(c) (1) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2526(b) (2) is amended by alphabetically inserting in the list of substances a new item, as follows:

## § 121.2526 Components of paper and paperboard in contact with aqueous and fatty foods.

(b) . . .  
(2) . . .

SUBCHAPTER D—DRUGS FOR HUMAN USE  
PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS  
Nonaqueous Titrations Test and Anhydrotetracyclines and 4-Epi-anhydrotetracyclines Test.

The Commissioner of Food and Drugs is amending the antibiotic drug regulations to correct errors which appear in two sections of Part 436—Tests and Methods of Assay of Antibiotic and Antibiotic-containing Drugs, effective May 22, 1975.

An order was published in the FEDERAL REGISTER of September 23, 1974 (39 FR 34031), which provided for the certification of amoxicillin trihydrate by amending Part 436, among others. Two items were inserted into the table in § 436.213(c). Under the column headed "Weight in milligrams of sample", the figure "500" appears twice. This figure is incorrect. It should read "100" in both instances.

An order promulgating § 141.580 (now § 436.309 (21 CFR 436.309) pursuant to recodification published in the FEDERAL REGISTER of May 30, 1974 (39 FR 18922)) was published in the FEDERAL REGISTER of January 31, 1974 (39 FR 3935) which established a maximum limit for 4-eplanhydrotetracycline in certain tetracycline products. It also included a

screening procedure for total anhydrotetracyclines content and a determination of anhydrotetracyclines and 4-eplanhydrotetracycline content. In § 436.309(b) (6) (i) and (ii), the portion of the test method which provides for calculating percent anhydrotetracyclines and 4-eplanhydrotetracycline in dosage forms contains an error; the word "Labeled" should be deleted from the denominators of the calculations.

The Commissioner recognizes that the correct information is well known to persons conducting these tests, and publication of these changes merely clarifies the existing procedures.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner (21 CFR 2.120), Chapter I of Title 21 of the Code of Federal Regulations is amended in Part 436 as follows:

1. In § 436.213(c), change the figure "500" to read "100" in the table under the heading "Weight in milligrams of sample". As revised, the table reads as follows:

## § 436.213 Nonaqueous titrations.

(c) . . .

Antibiotic	Weight in milligrams of sample	Solvent
Amoxicillin-acid titration.	100	20 milliliters dimethylsulfoxide and 30 milliliters methyl alcohol.*
Amoxicillin-base titration.	100	50 milliliters glacial acetic acid.
Ampicillin-acid titration.	100	20 milliliters dimethylsulfoxide and 30 milliliters methyl alcohol.*
Ampicillin-base titration.	100	50 milliliters glacial acetic acid.
Ampicillin sodium-base titration.	50	Do.
Cephalexin-base titration.	50	Do.

\*The methyl alcohol is added after the sample has dissolved in dimethylsulfoxide.

## § 436.309 [Amended]

2. In § 436.309(b) (6) (i) and (ii) delete the word "Labeled" from the denominator of the calculations for determining "Percent anhydrotetracyclines in dosage forms" and "Percent 4-eplanhydrotetracycline in dosage forms."

Effective date. This order shall be effective May 22, 1975.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357.)

Dated: May 15, 1975.

SAM D. FINE,  
Associate Commissioner for  
Compliance.

[FR Doc.75-13432 Filed 5-21-75; 8:45 am]



PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

PART 448—PEPTIDE ANTIBIOTIC DRUGS  
Neomycin Sulfate and Polymyxin B Sulfate

The Commissioner of Food and Drugs is amending the antibiotic drug regulations to provide for certification of neomycin sulfate-polymyxin B sulfate-hydrocortisone otic suspension, effective immediately. The Commissioner, in a notice published in the *Federal Register* of June 29, 1972 (37 FR 12855), announced his conclusion regarding Cortisporin Otic Drops containing polymyxin B sulfate, neomycin sulfate, and hydrocortisone, marketed by Burroughs-Wellcome and Co., Inc., 3030 Cornwallis Rd., Research Triangle Park, NC 27709 (NDA 60-613).

The notice stated that the drug product was regarded as lacking substantial evidence of effectiveness for one indication and possibly effective for all other other labeled indications.

Based on a reevaluation of the drug product, the Commissioner issued a second notice, which appeared in the *Federal Register* of August 9, 1973 (38 FR 21513), setting forth the indications for which it is regarded as effective.

Since revised labeling information has been provided by the manufacturer in accord with the August 9, 1973 announcement, the Commissioner concludes that the antibiotic regulations should be amended, as set forth below, to provide for the certification of this drug product.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner (21 CFR 2.120), Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

In Part 444:

1. A new § 444.42 is added to Subpart A—"Bulk Drugs" to read as follows:

§ 444.42 Neomycin sulfate.

(a) *Requirements for certification—(1) Standards of identity, strength, quality, and purity.* Neomycin sulfate is the sulfate salt of a kind of neomycin or a mixture of two or more such salts. It is so purified and dried that:

(i) Its potency is not less than 600 micrograms of neomycin per milligram, calculated on an anhydrous basis.

(ii) It passes the safety test.

(iii) Its loss on drying is not more than 8.0 percent.

(iv) Its pH in an aqueous solution containing 33 milligrams per milliliter is not less than 5.0 and not more than 7.5.

(v) It gives a positive identity test for neomycin.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, loss on drying, pH, and identity.

(ii) Samples required: 10 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay—(1) Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1M potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(2) *Safety.* Proceed as directed in § 436.33 of this chapter.

(3) *Loss on drying.* Proceed as directed in § 436.200(a) of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using a solution containing 33 milligrams of neomycin per milliliter.

(5) *Identity—(i) Reagents.* (a) Sulfuric acid solution: Mix concentrated sulfuric acid and distilled water in volumetric proportions of 40:60.

(b) Xylene.

(c) *p-Bromoaniline:* (Prepare and store this reagent in brown, nonactinic glassware.) Place 380 milliliters of thiourea-saturated glacial acetic acid solution in the bottle, add 10 milliliters of 20 percent sodium chloride solution, 5 milliliters of 5 percent oxalic acid solution, and 5 milliliters of 10 percent disodium phosphate solution, and mix well. Add 8 grams of *p*-bromoaniline and mix well. Let this reagent stand overnight before use. Prepare the reagent once weekly.

(ii) *Procedure.* Place about 10 milligrams of the sample into a test tube (19 millimeters × 150 millimeters), dissolve with 1 milliliter of water, and then carefully add 5 milliliters of the sulfuric acid solution. Heat in a boiling water bath for 100 minutes. Cool to room temperature. Add 10 milliliters of xylene to the test tube. Stopper the tube and shake vigorously for about 1 minute. Let the two layers separate and then decant the xylene layer into a second test tube. Add 10 milliliters of the *p*-bromoaniline reagent to the xylene solution, shake, and let stand. The development of a vivid pink-red color is a positive identity test for neomycin.

2. A new § 444.442g is added to Subpart E—"Otic Dosage Forms," to read as follows:

§ 444.442g Neomycin sulfate-polymyxin B sulfate-hydrocortisone otic suspension.

(a) *Requirements for certification—(1) Standards of identity, strength, quality, and purity.* Neomycin sulfate-polymyxin B sulfate-hydrocortisone otic suspension contains in each milliliter 3.5 milligrams neomycin, 10,000 units polymyxin B, and 10 milligrams hydrocortisone in a suitable and harmless vehicle. It may also contain one or more suitable and harmless buffers, dispersants, and preservatives. Its neomycin sulfate content is satisfactory if it is not less than

90 percent and not more than 130 percent of the number of milligrams of neomycin that it is represented to contain. Its polymyxin B sulfate content is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of polymyxin B that it is represented to contain. It is sterile. Its pH is not less than 3.0 and not more than 5.5. The neomycin sulfate used conforms to the standards prescribed by § 444.42(a) (1), except safety. The polymyxin B sulfate used conforms to the standards prescribed by § 448.30(a) (1) of this chapter, except safety.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(a) The neomycin sulfate used in making the batch for potency, loss on drying, pH, and identity.

(b) The polymyxin B sulfate used in making the batch for potency, loss on drying, pH, and identity.

(c) The batch for potency, sterility, and pH.

(ii) Samples required:

(a) The neomycin sulfate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(b) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(c) The batch:

(i) For all tests except sterility: A minimum of six immediate containers.

(2) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay—(1) Potency—(i) Neomycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dilute an accurately measured representative portion with sufficient 0.1M potassium phosphate buffer, pH 8.0 (solution 3), to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(ii) *Polymyxin B content.* Proceed as directed in § 436.105 of this chapter, except add to each concentration of the polymyxin B standard response line a quantity of neomycin to yield the same concentration of neomycin as that present when the sample is diluted to contain 10 units of polymyxin B per milliliter. Prepare the sample for assay as follows: Dilute an accurately measured representative portion with sufficient 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e) (1) of that section, except if the steroid prevents solubilization, use 0.25 milliliter of sample in lieu of 1 milliliter and proceed as directed in paragraph (e) (2) of that section.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using the undiluted sample.

3. In Part 448 a new § 448.30 is added to Subpart A—"Bulk Drugs", to read as follows:

§ 448.30 Polymyxin B sulfate.

(a) *Requirements for certification—(1) Standards of identity, strength, quality, and purity.* Polymyxin B sulfate is the sulfate salt of a kind of polymyxin or a mixture of two or more such salts. It is a white to buff-colored powder. It is so purified and dried that:

(i) Its potency is not less than 6,000 units of polymyxin B per milligram on an anhydrous basis.

(ii) It passes the safety test.

(iii) Its loss on drying is not more than 7.0 percent.

(iv) Its pH in an aqueous solution containing 5 milligrams per milliliter is not less than 5.0 and not more than 7.5.

(v) It gives positive color identity tests for polymyxin.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, loss on drying, pH, and identity.

(ii) Samples required: 10 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay—(1) Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Add 2.0 milliliters of sterile distilled water to each 5 milligrams of an accurately weighed portion of the sample. Dilute with sufficient 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to give a stock solution containing 10,000 units of polymyxin B per milliliter (estimated). Further dilute an aliquot of the stock solution with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Safety.* Proceed as directed in § 436.33 of this chapter.

(3) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using a solution containing 5 milligrams per milliliter.

(5) *Identity.* (i) To a solution of 2 milligrams of the sample in 5.0 milliliters of water, add 0.5 milliliter of triketohydrindene solution (1:1,000) and 2 drops of pyridine. Boil for 1 minute and cool. A blue color is a positive test.

(ii) To a solution of 2 milligrams of the sample in 5 milliliters of water, add 5 milliliters of sodium hydroxide solution (1:10) and mix well. Add, dropwise, 5 drops of a cupric sulfate solution (1:100), mixing after the addition of each drop. A reddish-violet color is a positive test.

Since the conditions prerequisite to providing for certification of subject antibiotic drug have been complied with

and since the matter is noncontroversial in nature, notice and public procedures are not prerequisites to this promulgation.

*Effective date.* This order becomes effective May 22, 1975.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: May 15, 1975.

MARY A. MCENIRY,  
Assistant to the Director for  
Regulatory Affairs, Bureau of  
Drugs.

[FR Doc.75-13433 Filed 5-21-75; 8:45 am]

Title 24—Housing and Urban Development  
SUBTITLE A—OFFICE OF THE SECRETARY

[Docket No. R-75-297]

PART 58—ENVIRONMENTAL REVIEW  
PROCEDURES FOR THE COMMUNITY  
DEVELOPMENT BLOCK GRANT PROGRAM

Miscellaneous Amendments

On January 7, 1975, these procedures were published for effect in the *Federal Register* (40 FR 1392-99). In part, the published procedures implement a provision of section 104(h) (3) of the Housing and Community Development Act of 1974, Pub. L. 93-383, 88 Stat. 639, which permits certain certifications to be made and certain responsibilities to be assumed " . . . by the chief executive officer or other officer of the applicant qualified under regulations of the Secretary . . . . " However, the published procedures permit such certifications to be made and such responsibilities to be assumed only by the applicant's chief executive officer. Experience with the procedures as published has indicated a need to modify those procedures in order to fully implement the statutory authorization to permit certifications and assumptions of responsibility to be made by a duly qualified officer of the applicant other than the chief executive officer.

In accordance with 24 CFR 10.5 (36 FR 24423, December 22, 1971), the Secretary of Housing and Urban Development has determined that advance publication of this modification of the subject procedures is impracticable, unnecessary and contrary to the public interest because the modification (1) is required to facilitate the filing by April 15, or such later date as may be specifically approved by HUD, of applications under the Community Development Block Grant Program, and (2) relaxes an existing requirement for the benefit of the only affected interest group.

A finding of inapplicability has been prepared on this modification in accordance with HUD Circular 1390.1, which was published October 20, 1972 at 37 FR 22673.

§§ 58.5, 58.30, 58.31 [Amended]

Accordingly, Part 58 is amended by changing (1) in § 58.5(a) the reference to the "chief executive officer" in lines 10, 23-24 and 25-26 to read "chief executive

officer or other officer of the applicant approved by HUD", (2) in § 58.30(a) (6) the reference to "chief executive officer" in line 10 to read "chief executive officer or other officer of the applicant approved by HUD" and the reference to "chief executive officer of the applicant" in lines 26-27 to read "chief executive officer or other officer of the applicant approved by HUD", (3) in § 58.30(b) the reference to "chief executive officer" in lines 6, 27-8, 48-9, 56-7, 58, 69-70, 75, 81, 84-5, 89, and 102-3 to read "chief executive officer or other officer of the applicant approved by HUD", and (4) in § 58.31(b) (1) the reference to "chief executive officer of the applicant" in lines 3-4 to read "chief executive officer or other officer of the applicant approved by HUD".

(Sec. 7(d) of the Department of HUD Act, (42 U.S.C. 3535(d))).

*Effective date:* This amendment is effective on May 22, 1975.

CARLA A. HILLS,  
Secretary of Housing  
and Urban Development.

[FR Doc.75-13429 Filed 5-21-75; 8:45 am]

Title 38—Pensions, Bonuses, and  
Veterans' Relief

CHAPTER I—VETERANS  
ADMINISTRATION

PART 3—ADJUDICATION

Subpart A—Pension, Compensation and  
Dependency and Indemnity Compensation

EFFECTIVE DATES OF AWARDS

On page 16092 of the *Federal Register* of April 9, 1975, there was published a notice of proposed regulatory development to amend § 3.667 to provide that dependency and indemnity compensation will be payable from the first day of the month in which the child attains age 18 or commences a course of instruction, whichever is applicable. In addition, instructions as to actions to be taken when notice of school attendance is not timely received have been deleted. Editorial changes have been made in § 3.666 designed to reflect agency policy to avoid any appearance of seeming to preclude benefits for female veterans. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

No written comments have been received and the proposed regulations are hereby adopted without change and are set forth below.

*Effective date.* Section 3.667 is effective May 16, 1975.

Approved: May 16, 1975.

By direction of the Administrator.

[SEAL] ODELL W. VAUGHN,  
Deputy Administrator.

1. In § 3.666, paragraphs (a) (2), (b) (1) and (2), (c) and (d) are revised to read as follows:



**§ 3.666 Penal institutions.**

(a) **Disability pension.** Payment may be made to the wife, husband, child or children of a veteran disqualified under this section:

(2) If the annual income of the wife (husband) or child is within the statutory limitations which would be applicable to the payment of death pension.

(b) **Death pension.** Payment may be made to a child or children where a widow (widower) or child is disqualified under this section:

(1) If widow (widower) is disqualified, to child or children at the rate of death pension payable if there were no such widow or widower; or

(2) If a child is disqualified, to a widow (widower) or other child or children at the rate of death pension payable if there were no such child, and

(c) **Resumption of pension upon release from incarceration.** Pension will be resumed as of the day of release if notice (which constitutes an informal claim) is received within 1 year following release; otherwise resumption will be effective the date of receipt of such notice. Where an award or increased award was made to any other payee based upon the disqualification of the veteran, widow (widower), or child while in prison, such award will be reduced or discontinued as of date of last payment and pension will be resumed to the released prisoner at a rate which will be the difference, if any, between the total pension payable and the amount which was paid to the other person or persons through the date of last payment and thereafter the full rate.

(d) **Veteran entitled to compensation.** If an imprisoned veteran is entitled to a lesser rate of disability compensation such compensation will be awarded as of the 61st day of imprisonment in lieu of the pension he (she) was receiving provided:

(1) He (she) is single, or  
(2) He (she) is married, from the date the veteran requests that the Veterans Administration take such action.

2. In § 3.667, paragraphs (a) and (b) are revised to read as follows:

**§ 3.667 School attendance.**

(a) **General.** (1) Pension or compensation may be paid from a child's 18th birthday based upon school attendance if the child was at that time pursuing a course of instruction at an approved school and a claim for such benefits is filed within 1 year from the child's 18th birthday.

(2) Pension or compensation based upon a course which was begun after a child's 18th birthday may be paid from the commencement of the course if a claim is filed within 1 year from that date.

(3) **An initial award of dependency and indemnity compensation to a child**

in its own right may be paid from the first day of the month in which the child attains age 18 if the child was pursuing a course of instruction at an approved school on the 18th birthday and a claim for such benefits is filed within 1 year from the child's 18th birthday.

(38 U.S.C. 3010(e))

(4) An initial award of dependency and indemnity compensation to a child in its own right based upon a course which was begun after the child's 18th birthday may be paid from the first day of the month in which the course commenced if a claim is filed within 1 year from that date.

(38 U.S.C. 3010(e))

(5) Where a child was receiving dependency and indemnity compensation in its own right prior to age 18, payments may be continued from the 18th birthday if the child was then attending an approved course of instruction and evidence of such school attendance is received within 1 year from the 18th birthday. Where the child was receiving dependency and indemnity compensation in its own right prior to age 18 and was not attending school on the 18th birthday but commences an approved course of instruction after the 18th birthday, payments may be resumed from the commencing date of the course if evidence of such school attendance is filed within 1 year from that date.

(b) **Vacation periods.** A child is considered to be in school during a vacation or other holiday period if he or she was attending school at the end of the preceding school term and resumes attendance, either in the same or a different approved school, at the beginning of the next term. If an award has been made covering a vacation period, and the child fails to commence or resume school attendance, benefits will be terminated the date of last payment or the last day of the month preceding the date of failure to pursue the course, whichever is the earlier.

[FR Doc. 75-13510 Filed 5-21-75; 8:45 am]

**Title 40—Protection of Environment**

[FRL 365-3]

**CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY****SUBCHAPTER C—AIR PROGRAMS****PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS****Approval of Revisions to Washington Implementation Plan**

Section 110 of the Clean Air Act, as amended, and the implementing regulations of 40 CFR Part 51, require each State to submit a plan which provides for the implementation, maintenance and enforcement of national ambient air quality standards throughout the State. On May 31, 1972 (37 FR 10842), the Administrator of the Environmental Protection Agency (EPA) approved, with certain exceptions, the State of Wash-

ington Air Quality Implementation Plan. Contained in that plan are selected chapters of the Washington Administrative Code (WAC) dealing with the control of air pollution in the State by the Department of Ecology.

On February 15, 1973, the Governor of the State of Washington submitted for the Administrator's approval amendments to WAC chapters 18-04 (General Regulation for Air Pollution Sources), 18-40 (Suspended Particulate Standards) and 18-12 (Open Burning), and a new chapter 18-06 (Sensitive Areas). These revisions to the Implementation Plan were submitted after proper notice and public hearing, in accordance with 40 CFR 51.4 and 51.6.

On February 26, 1974, (39 FR 7433), the Administrator proposed for approval and invited public comment on WAC chapters 18-04, 18-40 and 18-06, as submitted on February 15, 1973. No comments were received during the 30-day public comment period.

WAC 18-12, as submitted on February 15, 1973, has been superseded by supplemental amendments to WAC 18-12, submitted to EPA on September 10, 1973. On November 5, 1974 (39 FR 39048), EPA published a notice in the *Federal Register* informing the public that EPA has requested additional information from the State of Washington to be used in making a final decision to approve or disapprove WAC 18-12 and other proposed State Implementation Plan revisions submitted on September 10, 1973, relating to open burning. The final decision on the State's open burning regulations will appear in a separate *Federal Register* Notice of Final Rulemaking.

The amended chapter 18-04 (General Regulation for Air Pollution Sources) contains a generalized compliance schedule for all sources subject to a future effective regulation. The amended chapter also imposes additional emission limitations on asphalt batch plants and requires control of fugitive dust and all wood waste burners.

The amendments to WAC 18-40 (Suspended Particulate Standards) are minor "housekeeping" changes designed to clarify various portions of the regulation. The Administrator has determined that the changes to the regulation are for purposes of clarification and will not interfere with the attainment of the national ambient air quality standards.

The new chapter WAC 18-06 (Sensitive Areas) designates sensitive areas in the State and sets more stringent requirements for wigwam burners in designated sensitive areas than apply otherwise under WAC 18-04 (General Regulation).

The revisions have been reviewed by the Administrator and found to be consistent with the Federal Clean Air Act, as amended, the implementing regulations of 40 CFR Part 51, and the approved State Implementation Plan. The Administrator hereby approves the amendments to WAC chapters 18-04 and

18-40 and the new chapter WAC 18-06, as submitted on February 15, 1973.

The Administrator finds good cause for making this rulemaking effective immediately as the regulations are already in effect under State law and EPA approval will impose no additional burden on the State.

(Sec. 110(a) of the Clean Air Act, as amended. (42 U.S.C. 1857c-5(a)).)

Dated: May 16, 1975.

RUSSELL E. TRAIN,  
Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

**Subpart WW—Washington**

1. In § 52.2470, paragraph (c) (1) is revised to read as follows:

§ 52.2470 Identification of plan.

(c) Supplemental information was submitted on:

(1) January 28, May 5, July 19, and September 11, 1972; February 15 (compliance schedules and WAC 18-04, 18-06 and 18-40), April 13, and October 11, 1973; and June 14, 1974 (Washington Complex Source Regulation (WAC 18-24)), and

[FR Doc. 75-13481 Filed 5-21-75; 8:45 am]

**Title 41—Public Contracts and Property Management****CHAPTER 5A—FEDERAL SUPPLY SERVICE, GENERAL SERVICES ADMINISTRATION****PART 5A-11—FEDEKAL, STATE, AND LOCAL TAXES****Policies and Procedures**

This change to the General Services Administration Procurement Regulations (GSPR) updates the policies and procedures concerning Federal, State, and local taxes.

The table of contents for Part 5A-11 is amended as follows:

5A-11.401-71 [Reserved]

**Subpart 5A-11.2—Exemptions From Federal Excise Taxes**

Section 5A-11.270 is revised as follows:

**§ 5A-11.270 Federal excise taxes.**

(a) Federal excise taxes are not imposed on purchases by the Government (see § 1-11.201(b) and 1-11.202(b)) of supplies for export, or for shipment to a possession of the United States, including Puerto Rico, where:

(1) The purchase is substantial;  
(2) Exportation or shipment to a possession is intended to follow not more than 6 months after the title to the supplies passes to the United States; and  
(3) The supplies are in fact exported or shipped to a possession in due course.

(b) The term "substantial" in (a) (1) above, is defined as any transaction where the estimated Federal excise tax exceeds \$200.

(1) **Definite quantity contracts for nonstock items.** When the estimated Federal excise tax exceeds \$200, the clause set forth in § 1-11.401-3(b) shall be included in the solicitation, appropriately amended, as prescribed in the referenced Federal Procurement Regulations section.

(2) **Requirements contracts.** (i) When the requirements contract expressly sets forth the Federal excise taxes; e.g., in contracts for tires and tubes, the export delivery orders issued under these contracts shall exclude the excise tax and the following statement shall be clearly set forth on the order: FOR EXPORT OR SHIPMENT TO A POSSESSION.

(ii) When the requirements contract does not expressly set forth the Federal excise tax, the delivery orders issued under these contracts may include the Federal excise taxes, except when it is known or estimated that the Federal excise tax will exceed \$200. In the latter instance, the contracting officer or ordering office, as appropriate, shall determine the amount of the tax. The order shall exclude this tax, and be marked for EXPORT OR SHIPMENT TO A POSSESSION.

(iii) In compliance with (a) (2) above, delivery orders for shipment to a geographical location within the United States for export or reshipment to a United States possession (including Puerto Rico) within 6 months from the date the title to supplies passes to the United States Government, shall be processed in the same manner as set forth in (b) (2) (i) or (ii) above. The requisitioning documents on which the procurement action is based, will bear an appropriate statement that the items are destined for export or shipment to a United States possession (including Puerto Rico) within 6 months from the date the title to the supplies to be ordered passes to the Government.

(c) The above provisions do not apply to contracts made on behalf of the Agency for International Developmental (AID). GSA Form 1248, GSA Supplemental Provisions (AID Procurement), is a part of these contracts. (See § 5A-2.201-70(f)).

**Subpart 5A-11.4—Contract Clauses**

Section 5A-11.401-71 is deleted and reserved.

§ 5A-11.401-71 [Reserved]

**Subpart 5A-11.5—Tax Exemption Forms**

Section 5A-11.501-1 is revised as follows:

§ 5A-11.501-1 Certificate of export to a possession or to Puerto Rico.

Purchase orders for export or shipment to a possession or Puerto Rico are not subject to manufacturers excise taxes (see § 1-11.202) and, in certain cases, retailers excise taxes. (See § 1-11.201.) When requested by the contractor, proof of export or shipment to a possession or Puerto Rico shall be furnished in the form of a certificate similar to that in § 1-11.501-1. Certificates shall be signed by officials designated in the Delegations of Authority Manual, ADM P 5450.39A.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))  
*Effective date.* These regulations are effective on the date shown below.

Dated: May 7, 1975.

M. J. TIMBERS,  
Commissioner, ESS.

[FR Doc. 75-13379 Filed 5-21-75; 8:45 am]

**CHAPTER 9—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION****PART 9-7—CONTRACT CLAUSES****Subpart 9-7.50—Use of Standard Clauses****MISCELLANEOUS AMENDMENT**

This revision to the ERDA-PR is being made to recognize the need to shorten the period between reimbursement of accrued pension costs by ERDA and the payment to the pension fund by the contractor.

In Subpart 9-7.50, Use of Standard Clauses, § 9-7.5006-25(a) is revised as follows:

§ 9-7.5006-25 Payments (cost-type contracts where funds are not advanced).

(a) **Payments on account of allowable costs.** Once each month (or at more frequent intervals, if approved by the Contracting Officer) the contractor may submit to the Contracting Officer, in such form and reasonable detail as he may require, an invoice or voucher supported by a statement of cost incurred by the contractor in the performance of this contract and claimed to constitute allowable costs. When pension contributions are paid by the Contractor to the retirement fund less frequently than quarterly, accrued costs therefor shall be excluded from indirect costs for payment purposes until such costs are paid. If pension contributions are paid on a quarterly or more frequent basis, accruals therefor may be included in indirect costs for payment purposes provided that they are paid to the fund within 30 days after the close of the period covered. If payments are not made to the fund within such 30-day period, pension contribution costs shall be excluded from indirect cost for payment purposes until payment has been made. Promptly after receipt of each invoice or voucher the Government shall, subject to the provisions of (c) of this section, make payment thereon as approved by the Contracting Officer.

Note: For supply-type contracts make last sentence read "make payment to the extent of 90 percent thereon."

*AUTHORITY:* Sec. 105 of the Energy Reorganization Act of 1974 (Pub. L. 93-438).

*Effective date.* This amendment is effective May 22, 1975.

Dated at Germantown, Maryland this 13th day of May, 1975.

JOSEPH L. SMITH,  
Director of Procurement.

[FR Doc. 75-13494 Filed 5-21-75; 8:45 am]



# CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

## SUBCHAPTER H—UTILIZATION AND DISPOSAL [FPMR Amendment H-89]

### PART 101-47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

#### Surplus Real Property for Historic Monument Purposes and Miscellaneous Changes

Part 101-47 is amended pursuant to Pub. L. 92-362, approved August 4, 1972, to provide that the Administrator of General Services may convey surplus real and related personal property to any State, political subdivision, instrumentality thereof, or municipality, without monetary consideration, which the Secretary of the Interior determines is suitable and desirable for use as a historic monument for the benefit of the public. No property shall be determined to be suitable or desirable for use as a historic monument except in conformity with the recommendation of the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments.

For property to be classified as historic for the purposes of this program, it must be either on the National Register of Historic Places or eligible for listing on the National Register. The criteria that is used by the National Park Service, Department of the Interior, in determining eligibility for listing on the National Register may be found in the National Register of Historic Places under the section headed National Register Criteria of Evaluation. The National Register is revised annually and published in the FEDERAL REGISTER in February of each year. Further information concerning eligibility requirements may be obtained from the Historic Preservation Officer for the State in which the property is located or the Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, Washington, DC 20240.

The Administrator of General Services also may authorize the use of property conveyed under subsection 203(k)(3) or the Surplus Property Act of 1944, as amended, for revenue-producing activities if the Secretary of the Interior:

(a) Determines that such activities, as described in the applicant's proposed program of utilization, are compatible with the use of the property for historic monument purposes;

(b) Approves the grantee's plan for repair, rehabilitation, restoration, and maintenance of the property;

(c) Approves the grantee's plan for financing the repair, rehabilitation, restoration, and maintenance of the property (The plan shall not be approved unless it provides that incomes in excess of costs of repair, rehabilitation, restoration, and maintenance shall be used by the grantee only for public historic preservation, park, or recreational purposes.); and

(d) Examines and approves the grantee's accounting and financial procedures for recording and reporting on revenue-producing activities. In addition,

tion, § 101-47.308-7(p) is revised to provide that upon reversion of real property conveyed for public park and recreation areas, the grantee shall be required to provide protection and maintenance for the property until title reverts to the Federal Government, including the period of any notice of intent to revert.

The table of contents for Part 101-47 is amended by revising two entries and adding one entry as follows:

- 101-47.308-3 Property for use as historic monuments.
- 101-47.4904-1 Instructions for preparation of GSA Form 1334, Request for Transfer of Excess Real and Related Personal Property.
- 101-47.4912 Regional offices of the Bureau of Outdoor Recreation, Department of the Interior.

#### Subpart 101-47.2—Utilization of Excess Real Property

1. Section 101-47.202-2(b) (8) is added as follows:

##### § 101-47.202-2 Report forms.

- (b) . . . . .
- (8) The historical significance of the property, if any, and whether the property is listed, is eligible for, or has been nominated for listing in the National Register of Historic Places or is in proximity to a property on the National Register. If the holding agency is aware of any effort by the public to have the property listed on the National Register, this information should be included.

2. Section 101-47.203-5(b) is revised as follows:

##### § 101-47.203-5 Screening of excess real property.

- (b) Notices of availability for information of the Secretary of Health, Education, and Welfare in connection with the exercise of the authority vested in him under the provisions of section 203(k)(1) of the act and for information of the Secretary of the Interior in connection with the exercise of the authority vested in him under the provisions of section 203(k)(2) of the act or a possible determination under the provisions of section 203(k)(3) of the act, will be sent to the offices designated by the Secretaries to serve the areas in which the properties are located. A similar notice of availability for the information of the Secretary of Housing and Urban Development in connection with a possible transfer (assignment) and disposal under section 414 of the Housing and Urban Development Act of 1969, as amended (40 U.S.C. 484b) will be sent to the central office of the Department of Housing and Urban Development.

#### Subpart 101-47.3—Surplus Real Property Disposal

1. Section 101-47.303-2 is amended as follows:

#### § 101-47.303-2 Disposals to public agencies.

The disposal agency, in compliance with the Office of Management and Budget Circular No. A-95, Revised, shall solicit the comments of the Governor, local elected officials, and State and area-wide clearinghouses concerning the compatibility of the proposed disposal with State, regional and local development plans and programs. Simultaneously, eligible public agencies are to be afforded the opportunity to procure the property. Citations of the statutes authorizing the disposal of property to public agencies, the type of property the public agencies may procure under each statute, and the public agencies eligible to procure such property are given in § 101-47.4905.

- (1) Notice for property located in a State shall be given to the Governor of the State, to the county clerk or other appropriate official of the county in which the property is located, to the mayor or other appropriate official of the city or town in which the property is located, to the head of any other eligible local governmental body known to be interested in the property, and to appropriate State and area-wide clearinghouses.

(2) Notice for property located in the District of Columbia shall be given to the Mayor of the District of Columbia and to appropriate clearinghouses.

(3) Notice for property located in the Virgin Islands shall be given to the Governor of the Virgin Islands and to appropriate clearinghouses.

(4) Notice for property located in the Commonwealth of Puerto Rico shall be given to the Governor of the Commonwealth of Puerto Rico and to appropriate clearinghouses.

2. Section 101-47.304-9(a) (5) (iii) is deleted and § 101-47.304-9(b) is revised as follows:

##### § 101-47.304-9 Negotiated disposals.

- (a) . . . . .
- (5) . . . . .
- (iii) [Deleted]

(b) Appraisal data required pursuant to the provisions of § 101-47.303-4, when needed for the purpose of conducting negotiations under § 101-47.304-9(a) (3), (4), or (5) (i) shall be obtained under contractual arrangements with experienced and qualified real estate appraisers familiar with the types of property to be appraised by them: *Provided, however, That in any case where the cost of obtaining such data from a contract appraiser would be out of proportion to the expected recoverable value of the property, or if for any other reason employing a contract appraiser would not be in the best interest of the Government, the head of the disposal agency or his designee should authorize any other method of obtaining an estimate of the fair market value of the*

property or the fair annual rental he may deem to be proper.

3. Section 101-47.308-3 is amended as follows:

#### § 101-47.308-3 Property for use as historic monuments.

(a) Under section 203(k)(3) of the act, the disposal agency may, in its discretion, convey, without monetary consideration, to any State, political subdivision, instrumentality thereof, or municipality, surplus real and related personal property for use as a historic monument for the benefit of the public provided the Secretary of the Interior has determined that the property is suitable and desirable for such use. No property shall be determined to be suitable or desirable for use as a historic monument except in conformity with the recommendation of the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments. In addition, the disposal agency may authorize the use of property conveyed under subsection 203(k)(3) of the act or the Surplus Property Act of 1944, as amended, for revenue-producing activities if the Secretary of the Interior:

(1) Determines that such activities, as described in the applicant's proposed program of utilization, are compatible with the use of the property for historic monument purposes;

(2) Approves the grantee's plan for repair, rehabilitation, restoration, and maintenance of the property;

(3) Approves the grantee's plan for financing the repair, rehabilitation, restoration, and maintenance of the property. The plan shall not be approved unless it provides that incomes in excess of costs of repair, rehabilitation, restoration, and maintenance shall be used by the grantee only for public historic preservation, park, or recreational purposes; and

(4) Examines and approves the grantee's accounting and financial procedures for recording and reporting on revenue-producing activities.

(b) The disposal agency shall notify State and area-wide clearinghouses and eligible public agencies, in accordance with the provisions of § 101-47.303-2, that property which may be disposed of for use as a historic monument has been determined to be surplus. A copy of the holding agency's Standard Form 118, Report of Excess Real Property, with accompanying schedules shall be transmitted with the copy of each such notice when it is sent to the proper regional office of the Bureau of Outdoor Recreation as provided in § 101-47.308-2(d).

(c) Upon request, the disposal agency shall furnish eligible public agencies with an application form to acquire real property for permanent use as a historic monument and advise the potential applicant that it should consult with the appropriate Bureau of Outdoor Recreation Regional Office early in the process of developing the application.

(d) Eligible public agencies shall submit the original and two copies of the completed application to acquire real

property for use as a historic monument in accordance with the provisions of § 101-47.303-2 to the appropriate Bureau of Outdoor Recreation Regional Office which will forward one copy of the application to the appropriate regional office of the disposal agency. After consultation with the National Park Service, the Bureau of Outdoor Recreation shall promptly submit to the disposal agency the determination required of the Secretary of the Interior under section 203(k)(3) of the act for disposal of the property for a historic monument and compatible revenue-producing activities or shall inform the disposal agency that no such recommendation will be submitted.

(e) Upon receipt of the determination, the disposal agency may with the approval of the head of the disposal agency or his designee convey to an eligible public agency property determined by the Secretary of the Interior to be suitable and desirable for use as a historic monument for the benefit of the public and for compatible revenue-producing activities subject to the provisions of section 203(k)(3) of the act.

(f) The Secretary of the Interior has the responsibility for enforcing compliance with the terms and conditions of disposals; the reformation, correction, or amendment of any disposal instrument; the granting of releases; and any action necessary for recapturing such property in accordance with the provisions of section 203(k)(4) of the act. Any such action shall be subject to the disapproval of the head of the disposal agency.

(g) The Department of the Interior shall notify the appropriate GSA regional Real Property Division, Public Buildings Service, immediately by letter when title to such historic property is to be reversioned in the United States for noncompliance with the terms and conditions of disposal or for other cause. The notification shall cite the legal and administrative actions that the Department must take to obtain full title and possession of the property. In addition, it shall include an adequate description of the property, including any improvements constructed thereon since the original conveyance to the grantee. Upon receipt of a statement from the Department that title to the property has reversioned, GSA will assume custody and accountability of the property. However, the grantee shall be required to provide protection and maintenance of the property until such time as the title reverts to the Federal Government, including the period of any notice of intent to revert. Such protection and maintenance shall, at a minimum, conform to the standards prescribed in § 101-47.4913.

4. Sections 101-47.308-4(k) and 101-47.308-4(l) are revised as follows:

#### § 101-47.308-4 Property for educational and public health purposes.

(k) The Secretary of Health, Education, and Welfare has the responsibility

for enforcing compliance with the terms and conditions of transfer; for the reformation, correction, or amendment of any transfer instrument; for the granting of releases; and for the taking of any necessary actions for recapturing such property in accordance with the provisions of section 203(k)(4) of the act. Any such action shall be subject to the disapproval of the head of the disposal agency. Notice to the head of the disposal agency by the Secretary of any action proposed to be taken shall identify the property affected, set forth in detail the proposed action, and state the reasons therefor.

(l) In each case of repossession under a terminated lease or reverter of title by reason of noncompliance with the terms and conditions of sale or other cause, the Department of Health, Education, and Welfare shall, at or prior to such repossession or reversion of title, provide the appropriate GSA regional Real Property Division, Public Buildings Service, with an accurate description of the real and related personal property involved. Standard Form 118, Report of Excess Real Property, and the appropriate schedules shall be used for this purpose. Upon receipt of advice from the Department that such property has been repossessed or title has reversioned, GSA will assume custody and accountability of the property. However, the grantee shall be required to provide protection and maintenance for the property until such time as the title reverts to the Federal Government, including the period of any notice of intent to revert. Such protection and maintenance shall, at a minimum, conform to the standards prescribed in § 101-47.4913.

5. Sections 101-47.308-7(o) and 101-47.308-7(p) are revised as follows:

#### § 101-47.308-7 Property for use for public park or recreation purposes.

(o) The Secretary of the Interior has the responsibility for enforcing compliance with the terms and conditions of transfer; the reformation, correction, or amendment of any transfer instrument; the granting of releases; and any necessary actions for recapturing such property in accordance with the provisions of section 203(k)(4) of the act. Any such action shall be subject to the disapproval of the head of the disposal agency. Notice to the head of the disposal agency by the Secretary of any action proposed to be taken shall identify the property affected, set forth in detail the proposed action, and state the reasons therefor.

(p) The Department of the Interior shall notify the appropriate GSA regional Real Property Division, Public Buildings Service, immediately by letter when title to property transferred for use as a public park or recreation area is to be reversioned in the United States for noncompliance with the terms and conditions of disposal or for other cause. The notification shall cite the legal and administrative actions that the Department must take to obtain full title and possession of the property. In addition, it shall include an adequate description of the



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property, including any improvements constructed thereon since the original conveyance to the grantee. Upon receipt of a statement from the Department that title to the property has reverted, GSA will assume custody and accountability of the property. However, the grantee shall be required to provide protection and maintenance for the property until such time as the title reverts to the Federal Government, including the period of any notice of intent to revert. Such protection and maintenance shall, at a minimum, conform to the standards prescribed in § 101-47.4913.

## Subpart 101-47.49—Illustrations

1. Section 101-47.4904-1(e) is amended by retitling the section and adding subparagraph j as follows:

§ 101-47.4904-1. Instructions for preparation of GSA Form 1334, Request for Transfer of Excess Real and Related Personal Property.

(e) Page 5 of Instructions for Preparation of GSA Form 1334.

(j) When the requested property is listed or may be eligible for listing on the

National Register of Historic Places, or is in the immediate vicinity of a property on the National Register, evaluate the effect on the historic character of the property of the proposed use of the property and any planned repair, rehabilitation, restoration, and maintenance work by applying the "Criteria for Effect" in the Procedures for Compliance with section 106 of the National Historic Preservation Act of 1966, issued by the Advisory Council on Historic Preservation. If it is decided there is a beneficial effect or no effect, state the decision and basis. If it appears that there may be an adverse effect on the property, the agency requesting the transfer of the property shall be responsible for taking all action required under the procedures of the Advisory Council on Historic Preservation to mitigate the adverse effects. The agency shall record actions taken and their disposition, and attach copies of appropriate documents.

2. Section 101-47.4905 is revised to read as follows:

§ 101-47.4905. Extract of statutes authorizing disposal of surplus real property to public agencies.

Statute	Type of property <sup>1</sup>	Eligible public agency
40 U.S.C. 484(k)(1)(A). Disposals for school, classroom, or other educational purposes.	Any surplus real property, including buildings, fixtures, and equipment situated thereon, exclusive of (1) minerals having a commercial value separate and apart from the surface, and (2) property which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to sec. 204(c) of the act.	States and their political subdivisions and instrumentalities thereof, and tax-supported educational institutions; District of Columbia; Commonwealth of Puerto Rico; and the Virgin Islands.
40 U.S.C. 484(k)(1)(B). Disposals for public health purposes including research.	Any surplus real property, including buildings, fixtures, and equipment situated thereon, exclusive of (1) minerals having a commercial value separate and apart from the surface, and (2) property which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to sec. 204(c) of the act.	States and their political subdivisions and instrumentalities thereof, and tax-supported medical institutions; District of Columbia; Commonwealth of Puerto Rico; and the Virgin Islands.
40 U.S.C. 484(k)(2). Disposals for public park or recreation areas.	Any surplus real property recommended by the Secretary of the Interior as being needed for use as a public park or recreation area, including buildings, fixtures, and equipment situated thereon, exclusive of (1) minerals; (2) improvements without land; (3) military chapels subject to disposal as a shrine, memorial, or for religious purposes under the provisions of sec. 101-47.308-5; and (4) property which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to sec. 204(c) of the act.	Any State, political subdivision, or municipality; District of Columbia; Commonwealth of Puerto Rico; and the territories and possessions of the United States.
40 U.S.C. 484(k)(3). Disposals for historic monuments.	Any surplus real and related personal property, exclusive of (1) minerals; (2) improvements without land; (3) military chapels subject to disposal as a shrine, memorial, or for religious purposes under the provisions of sec. 101-47.308-5; and (4) property for which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to sec. 204(c) of the act. Before property may be conveyed under this statute, the Secretary of the Interior must determine that the property is suitable and desirable for use as a historic monument for the benefit of the public. No property shall be determined to be suitable or desirable for use as a historic monument except in conformity with the recommendation of the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments established by sec. 3 of the act entitled "An Act for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes," approved Aug. 21, 1935 (49 Stat. 666), and only so much of any such property shall be so determined to be suitable or desirable for such use as is necessary for the preservation and proper observation of its historic features. The Administrator of General Services may authorize the use of the property conveyed under this subsection for revenue-producing activities if the Secretary of the Interior (1) determines that such activities are compatible with use of the property for historic monument purposes, (2) approves the grantee's plan for repair, rehabilitation, restoration, and maintenance of the property, (3) approves the grantee's plan for financing repair, rehabilitation, restoration, and maintenance of the property which must provide that incomes in excess of the costs of such items shall be used by the grantee only for public historic preservation, park, or recreational purposes, and (4) approves the grantee's accounting and financial procedures for recording and reporting on revenue-producing activities.	Any State, political subdivision, or municipality; District of Columbia; Commonwealth of Puerto Rico; and the territories and possessions of the United States.

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Statute	Type of property <sup>1</sup>	Eligible public agency
50 U.S.C. app. 1622(g). Disposals for public airport purposes.	Any surplus real or personal property, exclusive of (1) military chapels subject to disposal as a shrine, memorial or for religious purposes under the provisions of Sec. 101-47.308-5; (2) property subject to disposal as a historic monument site under the provisions of Sec. 101-47.308-3; (3) property the highest and the best use of which is determined by the disposal agency to be industrial and which shall be so classified for disposal, and (4) property which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to sec. 204(c) of the act.	Any State, political subdivision, municipality, or tax-supported institution; Commonwealth of Puerto Rico; and the Virgin Islands.
16 U.S.C. 667b-d. Disposals for wildlife conservation purposes.	Any surplus real property (with or without improvements) that can be utilized for wildlife conservation purposes other than migratory birds, exclusive of (1) oil, gas, and mineral rights, and (2) property which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to sec. 204(c) of the act.	The agency of the State exercising the administration of the wildlife resources of the State.
23 U.S.C. 107 and 317. Disposals for Federal aid and other highways.	Any real property or interests therein determined by the Secretary of Transportation to be reasonably necessary for the right-of-way of a Federal aid or other highway (including control of access thereto from adjoining lands) or as a source of material for the construction or maintenance of any such highway adjacent to such real property or interest therein, exclusive of (1) minerals having a commercial value separate and apart from the surface, and (2) property which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to sec. 204(c) of the act.	State wherein the property is situated for such political subdivision of the State as its law may provide, including the District of Columbia and Commonwealth of Puerto Rico.
40 U.S.C. 484(c). Disposals for authorized widening of public highways, streets, or alleys.	Such interest in surplus real property as the head of the disposal agency determines will not be adverse to the interests of the United States, exclusive of (1) minerals having a commercial value separate and apart from the surface, (2) property subject to disposal for Federal aid and other highways under the provisions of 23 U.S.C. 107 and 317, and (3) property which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to sec. 204(c) of the act.	State or political subdivision of a State.
50 U.S.C. app. 1622(d). Disposals of power transmission lines needful for or adaptable to the requirements of a public power project.	Any surplus power transmission line and the right-of-way acquired for its construction.	Any State or political subdivision thereof or any State agency or instrumentality.
40 U.S.C. 484(c)(3)(H). Disposals by negotiations.	Any surplus real property including related personal property.	Any State, political subdivision thereof, or tax-supported agency therein; Commonwealth of Puerto Rico; and the Virgin Islands.
40 U.S.C. 122. Transfer to the District of Columbia of jurisdiction over properties within the District for administration and maintenance under conditions to be agreed upon.	Any surplus real property, except property which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to sec. 204(c) of the act.	District of Columbia.

<sup>1</sup> The Commissioner, Public Buildings Service, General Services Administration, Washington, D.C. 20405, in appropriate instances, may waive any exclusions listed in this column, except for those required by law.

3. Section 101-47.4906 is amended by revising the second paragraph of the notice as follows:

§ 101-47.4906. Sample notice to public agencies of surplus determination.

This property is surplus property available for disposal pursuant to the provisions of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.) and applicable regulations. The applicable regulations provide that public agencies (non-Federal) shall be allowed a reasonable period

of time to submit a formal application for surplus real property in which they may be interested. Disposal of this property or portions thereof may be made to public agencies for the public uses stated below whenever the Government determines that the property is available for such uses and that disposal thereof is authorized by the statutes cited and applicable regulations.<sup>1</sup>

<sup>1</sup> List only the statutes (showing type of disposal) applicable to disposal to public bodies of the property determined to be surplus.

Statute	Type of disposal
23 U.S.C. 107 and 317.	Federal aid and certain other highways.
40 U.S.C. 484(e) (3) (H).	Negotiated sales to public bodies for use for public purposes generally. <sup>1</sup>
40 U.S.C. 484(k) (1) (A).	School, classroom, or other educational purposes.
40 U.S.C. 484(k) (1) (B).	Protection of public health, including research.
40 U.S.C. 484(k) (2).	Public park or recreation area.
40 U.S.C. 484(k) (3).	Historic monument.
50 U.S.C. app. 1622(g).	Public airport.

<sup>1</sup> List only for properties having an estimated fair market value of \$10,000 or more.



5. Section 101-47.4912 is added as follows:

**§ 101-47.4912 Regional offices of the Bureau of Outdoor Recreation, Department of the Interior.**

Address communications to: Regional Director, Bureau of Outdoor Recreation, Department of the Interior.

Region and jurisdiction	Address and telephone
Northeast region: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and District of Columbia.	Federal Bldg., 600 Arch St., Philadelphia, Pa. 19106. Code 215, 597-7989.
Southeast region: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and Virgin Islands.	148 Cain St., Atlanta, Ga. 30303. Code 404, 526-4405.
Lake Central region: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.	3853 Research Park Dr., Ann Arbor, Mich. 48104. Code 313, 769-3211.
Midcontinent region: Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming.	Building 41, Denver Federal Center, P.O. Box 25387, Denver, Colo. 80225. Code 303, 234-2634.
South Central region: Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.	Patio Plaza Bldg., 5000 Marble Ave., NE, Albuquerque, N. Mex. 87110. Code 505, 843-3514.
Northwest region: Alaska, Idaho, Oregon, and Washington.	United Pacific Bldg., 1000 Second Ave., Seattle, Wash. 98104. Code 206, 442-4706.
Pacific Southwest region: American Samoa, Arizona, California, Guam, Hawaii, and Nevada.	Box 36062, 450 Golden Gate Ave., San Francisco, Calif. 94102. Code 415, 556-0182.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

**Effective date.** This regulation is effective on May 22, 1975.

Dated: May 14, 1975.

(Catalog of Federal Domestic Assistance Program No. 39.002, Disposal of Federal Surplus Real Property.)

ARTHUR F. SAMPSON,  
Administrator of General Services.

[FR Doc. 75-13380 Filed 5-21-75; 8:45 am]

**Title 43—Public Lands: Interior**

**SUBTITLE A—OFFICE OF THE SECRETARY**

**PART 26—GRANTS TO STATES FOR ESTABLISHING YOUTH CONSERVATION CORPS PROGRAMS**

**Grant Regulations**

Part 26, to Title 43, Subtitle A of the Code of Federal Regulations is revised as a final regulation. The Interim Regulation for implementing the pilot grant program was published on November 30, 1973 (38 FR 33082). The Interim Regulations invited comments or recommendations from interested persons to be submitted by November 1, 1974. No substantive comments or recommendations were received except for three letters from States, each of which took exception to the administrative determination that a maximum of 50 percent of total cost of State projects is to be financed by Federal grant. Pub. L. 93-408 provided that States may receive grants up to but not to exceed 80 percent of the cost of funding a project from the Federal Government (§ 26.6(b)).

These regulations were developed jointly by the Department of Agriculture and the Department of the Interior. The

Department of Agriculture will publish the same interim regulations under Title 36 of the Code of Federal Regulations, Part 214.

**Findings and Determinations.** It has been determined that the delay in making these regulations effective would be contrary to the public interest; accordingly, they shall be effective May 22, 1975.

In consideration of the above, the Interim Regulation, issued in Part 26 of Title 43 of the Code of Federal Regulations is superseded and final regulations issued to read as follows:

**PART 26—GRANTS TO STATES FOR ESTABLISHING YOUTH CONSERVATION CORPS PROGRAM**

Sec.	
26.1	Introduction.
26.2	Definitions.
26.3	Program purpose and objectives.
26.4	Legislation.
26.5	Administrative requirements.
26.6	Request for grant.
26.7	Application format and instructions.
26.8	Program reporting requirements.
26.9	Consideration and criteria for awarding grants.

**AUTHORITY:** Sec. 4, 86 Stat. 1320, as amended, 88 Stat. 1097.

**§ 26.1 Introduction.**

(a) The Youth Conservation Corps (YCC) is a program of summer employment for young men and women, aged 15 through 18, who work, earn, and learn together by doing projects which further the development and conservation of the natural resources of the United States. The Corps is open to youth of both sexes, and youth of all social, economic, and racial classifications who are permanent

residents of the United States, its territories, possessions, or trust territories.

(b) The Youth Conservation Corps Act of 1970 (Pub. L. 91-378) provided for a 3-year pilot program to be carried out on lands and waters under the jurisdiction of the Secretary of Agriculture or the Secretary of the Interior. Pub. L. 92-597 amended the 1970 Act to include a pilot program (beginning in FY 1974) under which grants shall be made to States, to assist them in meeting the cost of Youth Conservation Corps projects on non-Federal public lands and waters within the States. Pub. L. 93-408 made the Youth Conservation Corps program permanent.

**§ 26.2 Definitions.**

(a) Terms used in these regulations are defined as follows:

(1) **Act.** The Youth Conservation Corps Act of 1970, Pub. L. 91-378 as amended.

(2) **Secretaries.** The Secretaries of Agriculture and the Interior, or their designated representatives, who jointly administer the grant program. Within the Department of Agriculture, the YCC program is administered by the Forest Service; within the Department of the Interior, it is administered by the Office of Manpower Training and Youth Activities.

(3) **States.** Any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa.

(4) **Grant.** Money, or property provided in lieu of money, paid or furnished by the Secretaries pursuant to the Act to a State to carry out YCC programs on non-Federal public lands and waters. The amount of any grant shall be determined jointly by the Secretaries, except that no grant for any project may exceed 80 per centum of the cost (as determined by the Secretaries) of said project.

(5) **Grantee.** Any State which receives a Federal grant for the operation of a YCC grant program.

(6) **Sub-Grantee.** Any public organization, municipality or agency which administers non-Federal public lands and waters which successfully applied through a State for the operation of a Youth Conservation Corps project within that State.

(7) **Contractor.** Any public agency or organization or any private non-profit agency or organization which has been in existence for at least 5 years which operates a YCC project for a grantee or sub-grantee.

(8) **Program Agent.** Agent designated by the State to have program responsibility for all aspects of YCC operations in that State except for those projects conducted under Federal auspices.

(9) **Grant Program.** The YCC program which consists of one or more projects operated by the State with State funds and Federal grant funds.

(10) **Project.** The operating unit or camp of the State YCC grant program, either of residential or nonresidential program type, as follows:

(1) **Residential Project.**—One in which youths reside either seven or five days per week at a camp on or adjacent to the public lands where they conduct their work-education program.

(11) **Nonresidential Project.**—One in which youths reside at home and daily commute to the public lands to conduct their work-education program.

(11) **Operating Year.** January 1 to December 31.

(12) **Non-Federal Public Lands and Waters.** Any lands or waters within the territorial limits of a State owned either in fee simple by a State or political subdivision thereof or over which a State or political subdivision thereof has, as determined by the Secretaries, sufficient long-term jurisdiction so that improvements made as the result of a grant will accrue primarily to the benefit of the public as a whole. Federally owned public lands and waters administered by a State or political subdivision thereof under agreement with a Department or Agency of the Federal Government are eligible under such definition if the Secretaries determine that the State or political subdivision thereof is entitled to or is likely to retain administrative responsibility for an extended period of time sufficient to justify classification as non-Federal public lands or waters.

**§ 26.3 Program purpose and objectives.**

(a) The purpose of the Act is to further the development and maintenance of the natural resources of the United States, by American youth and in so doing prepare them for the ultimate responsibility of maintaining and managing these resources for the American people. The Departments of Agriculture and the Interior have stressed the following three equally important objectives of the Youth Conservation Corps as reflected in the law:

(1) Accomplish needed conservation work on public lands.

(2) Provide gainful employment for 15 through 18 year-old males and females from all social, economic, ethnic, and racial backgrounds.

(3) Develop an understanding and appreciation, in participating youths, of the Nation's natural environment and heritage.

(b) These objectives will be accomplished in a manner that will provide the youth with an opportunity to acquire increased self-dignity and self-discipline, to work and relate with peers and supervisors, and build lasting cultural bridges between youth from various social, ethnic, racial, and economic backgrounds.

**§ 26.4 Legislation.**

State programs must meet all of the requirements of section 4 of the Act. Section 4 of the Act which applies to the grant program reads in part as follows:

Sec. 4 (a) The Secretary of the Interior and the Secretary of Agriculture shall jointly establish a program under which grants shall be made to States to assist them in meeting the cost of projects for the employment of young men and women to develop, preserve, and maintain non-Federal public lands and

waters within the States. For purposes of this section, the term "States" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa.

(b) (1) No grant may be made under this section unless an application therefore has been submitted to, and approved by, the Secretary of the Interior and the Secretary of Agriculture. Such application shall be in such form, and submitted in such manner, as the Secretaries shall jointly by regulation prescribe, and shall contain—

(A) assurances satisfactory to the Secretaries that individuals employed under the project for which the application is submitted shall: (i) have attained the age of fifteen but not attained the age of nineteen, (ii) be permanent residents of the United States or its territories, possessions, or Trust Territory of the Pacific Islands, (iii) be employed without regard to the personnel laws, rules, and regulations applicable to full-time employees of the applicant, (iv) be employed for a period of not more than ninety days in any calendar year, and (v) be employed without regard to their sex or social, economic, or racial classification; and

(B) such other information as the Secretaries may jointly by regulation prescribe.

(2) The Secretaries may approve applications which they determine (A) meet the requirements of paragraph (1) and (B) are for projects which will further the development, preservation, or maintenance of the non-Federal public lands or waters within the jurisdiction of the applicant.

(c) (1) The amount of any grant under this section shall be determined jointly by the Secretaries, except that no grant for any project may exceed 80 per centum of the cost (as determined by the Secretaries) of such project.

(2) Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretaries find necessary.

(d) Thirty per centum of the sums appropriated under section 6 for any fiscal year shall be made available for grants under this section for such fiscal year.

**§ 26.5 Administrative requirements.**

The following administrative requirements must be met:

(a) Recruitment and selection will be conducted in a manner designated to assure a full opportunity for American youth to participate in the Youth Conservation Corps. The grantee and sub-grantee will assure that the YCC program is open to all eligible youth, from all parts of the Country including urban and rural youth of both sexes and youth of all social, economic, racial and ethnic classifications. A well balanced YCC camp enrollment should also include representation of urban and rural youth, non-public school youth, the disadvantaged, and youth having quit school before graduation.

(b) To the maximum extent practicable, enrollees should be selected from an area within one day's surface travel from their residence to a YCC camp.

(c) Capital outlays for facilities should be kept at a minimum.

(d) YCC projects may be conducted during periods other than summer months provided that enrollees will not leave school in order to participate.

(e) The enrollee is an employee of the grantee or subgrantee. The Enrollee Pay

Plan must comply with Federal or State Minimum Wage Laws whichever may be higher. To the maximum extent practicable, State YCC enrollees should receive the same rate of pay as Federal YCC enrollees.

(f) Grantees must provide for an effective accident control, health, and safety program. As a minimum, grantees should follow U.S. Department of Labor Bulletin 158, "State Child Labor Standards."

(g) Grantees will have a financial management system which will provide the information called for in Attachment G of FMC 74-7.

(h) "Request for Advance or Reimbursement" as outlined in FMC 74-7 will be used to obtain an advance to start and/or maintain the program. It can also be used to obtain a reimbursement during or at the end of a project. An advance, not to exceed one month's needs may be made after approval of the grant application.

(i) "Financial Status Report" as outlined in FMC 74-7 will be submitted to Secretaries' Representatives within 90 days upon completion of the project funded under the grant program. The same functional headings used in preparing Part II of the application should be used in preparing the Financial Status Report. Instructions and forms will be supplied to the grantee at time of grant award.

(j) Allowable costs under the grant program are defined in FMC 74-7 and FMC 74-4.

(k) Records retention and custodial requirements for records are prescribed by Attachment C to FMC 74-7.

(l) Because of the short duration of each project, budget revisions normally should be unnecessary; however, if a budget revision becomes necessary, the grantee will be governed by Attachment K of FMC 74-7.

(m) Grantees shall comply with the provisions of Attachments O and N of FMC 74-7 in regard to nonexpendable personal property and procurement standards.

(n) Grantees shall permit the Secretaries to periodically inspect the conduct of the program by the State.

(o) Grantees will supervise those projects in the State being administered by sub-grantees and contractors. Sub-grantees and contractors will be required to operate in accordance with the procedures outlined in these regulations and the grant agreement with the State. Periodic inspection of sub-grantee projects will be made by the grantee under the direction of the Program Agent or his designee. Grantees or sub-grantees may contract with a qualified non-profit agency or organization for the operation of their YCC project.

(p) No grant is to be made for construction of residential facilities other than to provide temporary facilities and their necessary basic infrastructure and necessary renovation or modification of existing facilities.

(q) If the grantee fails to comply with the grant award stipulations, standards,



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or conditions, the Secretaries may suspend the grant. Subsequent to or during any period of suspension of the grant, the Federal Government shall not be obligated to reimburse the grantee for any incurrence of obligations other than direct salaries of enrollees and then only for a period of time which the Secretaries shall determine to be reasonable. In addition, the Secretaries may terminate the grant. Termination shall be effected by a notice of termination.

Upon receipt of a notice of termination, the grantee shall:

- (1) Discontinue further commitments of grant funds.
- (2) Cancel all subgrants or contracts, where possible, scheduled for payment with grant funds.
- (3) Supply the Secretaries within two months after receipt of the notice of termination, a final financial statement, along with a refund check for any unused portion of funds advanced, or a request for reimbursement for allowable expenditures incurred in the grant program.

## § 26.6 Request for grant.

(a) Of the amount available for the Youth Conservation Corps, 30 percent will be allocated for State projects. All States will be given an opportunity to participate in the program. Allocated funds not needed by a State will be reallocated based on the merits of proposals submitted in accordance with § 26.6(c) or a pre-application in accordance with Attachment M of FMC 74.7. All proposed projects should be listed by priority. Grant funds are for State projects only. A grant to a State must be matched by the State for each project. Matching can consist of either direct expenditures or services of an in-kind nature.

(b) Pursuant to section 4(c) (1) of Pub. L. 93-408, States may receive grants up to but not to exceed 80 percent of the cost of funding a project from the Federal Government.

(c) "Application for Federal Assistance (short form)" will be used by applicants in applying for grants under this program. Application forms will be supplied to Program Agents. Only a Program Agent may submit an application. A separate form will be submitted for each proposal. Similar projects may be included in a single proposal. Separate proposals should be submitted for projects operated by sub-grantees and contractors. If there is more than one proposal submitted by a State, the State should indicate priorities of proposals for consideration and approval of the Secretaries.

(d) The Secretaries have designated individuals in each State who will jointly represent them. Grant applications (original and two copies) must be submitted to the designated representative of either Secretary. January 1 has been established as the deadline date for acceptance of applications for each operating year, except for the 1975 program, February 15, 1975, is the deadline for submission of applications. Names and

addresses of designated representatives will be furnished to each State. The Secretaries' representatives must jointly approve grant proposals. Approval or disapproval of proposals will be documented by a formal letter to the Program Agent. The Secretaries' representatives will also be available for technical assistance and advice.

## § 26.7 Application format and instructions.

Grant proposals must be made using the Office of Management and Budget approved form entitled "Application for Federal Assistance (short form)." Instruction for completing the form by part numbers follow.

- (a) Part I—Shall be completed.
- (b) Part II—(Budget Data) lines 1-8 need not be used. However, the following information is needed relative to the YCC program. Please prepare a supplemental sheet using the following functional headings:

General  
Staff Pay  
Enrollee Pay  
Camp Opening and Closing Costs  
Food  
Work Project Costs  
Program Direction

A description of the items to be included under each of these functional headings are:

**General.** Include expenditures for (1) construction, (2) other (medical, first-aid expense, utilities, maintenance costs, recreation, all supplies not otherwise identified).

**Staff pay.** Includes pay, benefits, and travel, net of any deductions made for meals and quarters furnished.

**Enrollee pay.** Includes pay, benefits, and transportation of enrollees.

**Camp opening and closing costs.**

**Food.** Includes cost of food and related freight charges.

**Work project costs.** Safety equipment, transportation, and work supplies and materials.

**Program direction.** Includes support services, and program administration expenses at locations other than at projects. The total of the above categories should be entered on line 9 of Part II, and the rest of Part II completed.

**Indirect costs.** Compute the appropriate allowance for indirect costs on line 15 and enter on line 10.

(c) Part III—(Program Narrative Statement) should include the following information:

- (1) Location of project (address and county).
- (2) Distance to nearest town; name of town.
- (3) Number of youth planned for project.
- (4) Type of project (7-day residential; 5-day residential; nonresidential; other).
- (5) Length of session (i.e., number of weeks) and proposed beginning and ending dates.
- (6) Description of living conditions (types of facilities, age, condition, tents, cabins, dormitories).
- (7) Project staff (number and position titles).

(8) Complete calculation for daily rate of enrollee pay including deduction for food and lodging.

(9) Description of health and safety program.

(10) Enrollee recruiting system and recruiting areas.

(11) Description of the work-learning program.

(12) Types of work projects that will be available (an integrated environmental-work-learning program is preferred).

(13) States agreement to administer tests, conduct interviews, or otherwise assist the Federal Government in collecting data on the grant program. The data is to be used for the required report to the President and Congress on accomplishing the purposes of the Act. A statement to this effect must be written into the proposal by the applicant.

(d) Part IV—(Assurances) is pre-printed and is to be included as part of the application.

## § 26.8 Program reporting requirements.

(a) Monitoring and reporting of program performance will be in accordance with Attachment I of FMC 74-7. Grantees will submit performance reports with the Financial Status Report filed at the end of each project to the Secretaries' representatives. This report is due 90 days after termination of the project. The performance report will include the number of youth enrolled in the project, number of weeks of camp operation, youth loss rate, value of work accomplished by resource category (for example, timber management, recreation, etc.), narratives of significant project accomplishments, hours of youth work-learning experience by resource category and value of work supplies and materials by resource category.

(b) As a part of the performance report, grantees must provide the Secretaries' representatives with detailed information on the demographic characteristics of enrollees in State projects as follows:

- (1) Number of youth by age.
- (2) Number of male and female, by project.
- (3) Number from communities of up to 2,500 population, 2,500 to 50,000 population, 50,000 to 750,000 population, and over 750,000 population.
- (4) Number from families of under \$5,000 annual family income, \$5,000 to \$10,000 family income, \$10,000 to \$15,000 family income, and over \$15,000 family income.
- (5) Race of enrollees; number of Black, White, Spanish Surname, American Indian, Oriental, and other.

(c) The reporting and/or record-keeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

## § 26.9 Consideration and criteria for awarding grants.

(a) The decision by the Secretaries' representatives on grants to individual States will consider the following:

(1) Amount of grant funds appropriated and available.

(2) The population and non-Federal public land ownership of each State in relation to the total for all States.

(3) The amount of Federal program funds allotted to the State.

(4) States with few Federal public lands will be given preference, assuming that applications are comparable.

(5) The quality of the proposed program in terms of meeting program objectives as reflected in the State application. After the initial year, actual performance of the States in administering YCC projects in prior years will also be considered.

(6) The cost to the Federal Government of the State program in relation to quality and quantity of projects proposed.

(b) To place each State on equal footing, evaluation of an application will be based on the proposed cost for enrollee, calculated on an eight-week operating cycle regardless of project duration in the proposal.

RICHARD R. HITE,  
Deputy Assistant Secretary  
of the Interior.

MAY 15, 1975.

[FR Doc. 75-13457 Filed 5-21-75; 8:45 am]

## Title 49—Transportation

## CHAPTER I—DEPARTMENT OF TRANSPORTATION

## SUBCHAPTER A—HAZARDOUS MATERIALS REGULATIONS BOARD

[Docket No. HM-102; Amdt. No. 173-78A]

## PART 173—SHIPPERS

## Flammable, Combustible, and Pyrophoric Liquids; Definitions

The purpose of these revisions to the amendment made under Docket HM-102; Amdt. 173-78 is to:

- (1) Permit the use of an additional test method for the determination of flash points.
- (2) Modify the evaporation requirements for mixtures.
- (3) Permit the marking of the flash point range of materials as an alternative to the marking of a specific flash point on the outside package.
- (4) Specify the minimum flash point of certain aqueous solutions containing alcohol.
- (5) Grant a special exemption for alcoholic beverages, and
- (6) Extend the mandatory compliance date of amendments made under Docket HM-102.

On January 24, 1974, the Board published amendments 172-23, 173-78, 174-19, and 177-29 (39 FR 2768) to: (1) specify a new definition for the class of materials identified as "Flammable liquid"; (2) create and define a new class of materials identified as "Combustible liquid"; (3) modify the definition for pyrophoric liquids within the flammable liquid class; and (4) set forth the requirements for the materials that are covered by the new definitions. Since

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publication of the amendments, a large number of petitions have been received by the Board pertaining to the amendments and the Board has decided that many of the petitions have merit.

**Setaflash tester.** Several petitions have been received for the addition of the Setaflash closed tester for flash point testing. This apparatus has been subjected to extensive testing within the United States and Europe. Standard test procedures for its use have been issued by the American Society for Testing and Materials (ASTM), The International Standards Organization (ISO), and the British Standards Institution (BSI). The Setaflash tester has been presented as suitable for highly viscous materials such as pastes. Special advantages of the Setaflash tester include: (1) increased safety due to small sample size required (2 milliliters vs. 50 to 70 milliliters for Tag or Pensky-Martens); (2) a decrease in the time necessary to run a test due to the small sample size, with a corresponding reduction in the heating time at different temperatures; and (3) data comparing the Setaflash tester with other flash point testers indicates that the Setaflash test gives better reproducibility and repeatability because it produces liquid-vapor equilibrium test results. Based on these considerations, the Board has decided to specify two standard test methods, using the Setaflash tester, as alternate test methods for the determination of flash points.

**Evaporation procedures.** A number of questions concerning the validity of the evaporation requirement and the double testing of mixtures having components of widely differing volatilities and flash points have been raised. The Board believes safety considerations require that provisions be made for the most hazardous situation that could reasonably be expected to occur and, since flash point is the sole criterion specified for the classification of flammable and combustible liquids, it is necessary to classify a material according to the lowest flash point that could reasonably be expected to occur. The requirement for the evaporation of 90% of the original volume before retesting is not feasible for mixtures containing 10% or less volatiles. Therefore, the Board has changed the requirements to specify an evaporation time as an alternative to the 90% evaporation requirement. Also, no evaporation temperature was specified in the amendment; therefore, in many cases it would have been possible to selectively remove any component desired. By specifying an evaporation temperature in conjunction with an evaporation time or volume decrease, the Board believes these concerns will be alleviated.

**Specification of flash point vs. flash point range.** In order to use the partial exemptions specified in § 173.118 (a) (3) and (b), for flammable liquids with a flash point between 73° F. and 100° F., amendment 173-78 required that the flash point must be marked on the outside of the package. It is not necessary to show the exact flash point of a flammable liquid as long as marking indi-

cates that the flash point is 73° F. or higher. Therefore, changes are being made to permit an alternative marking.

One petitioner questioned the need for marking flash points on containers in order to qualify for these partial exemptions since no similar requirement exists for such a marking on smaller quantity packagings. The reason for the marking is to provide a visual affirmation that the material in the package has a flash point high enough to qualify for partial exemptions when in quantities of more than one quart. The small quantity partial exemption presently in effect differentiates between metal containers (up to one quart) and other kinds of containers (up to one pint). The new partial exemption (up to and including one gallon) applies to flammable liquids having flash points from 73° F. to 100° F. and does not specify the material of construction for their packaging. Therefore, the marking will be an indication that the flammable liquid (73-100° F.) is authorized under the partial exemption where the absence of such a marking will be an indication that specification packaging, marking, and labeling is required. The same applies to packaging having capacities of more than 1 gallon which would not be subject to the specification packaging requirements if they are marked to indicate that the flash point is 73° F. or higher. Therefore, the petition for removal of the flash point marking requirement is hereby denied.

**Alcohol water solutions.** The Board has decided to make a declaration in the regulations that the flash point of dilute alcohol water solutions, containing no more than 24 percent alcohol by volume, are considered to have flash points of 100° F. or higher because the Board believes the combustible liquid classification is more appropriate for such materials (if they have a flash point below 200° F.). The declaration is applicable only when the remainder of the solution does not meet any definition of a hazardous material as defined in Title 49 CFR including those of a flammable or a combustible liquid. This decision is based in part on petitions for reconsideration received relative to wine and certain consumer commodities. The maximum alcohol content specified is based on the maximum alcohol content for wine as defined in 27 CFR 4.10 which is 24% by volume alcohol. Rather than restrict this revision to the wine industry, it has been expanded to include other alcohol water solutions.

**Exemption for alcoholic beverages.** A special provision for alcoholic beverages is included in this amendment to provide complete exemption from the Department's Hazardous Materials Regulations when they are shipped in containers having a rated capacity of one gallon or less. These beverages are restricted to those defined in 27 CFR 4.10 and 5.11 as wine and distilled spirits. Due to the controls exercised by the Department of the Treasury pertaining to these products, the Board believes that it is unnecessary,



from a transportation safety standpoint, to make them subject to the Department's regulations.

**Environmental impact.** Pursuant to the provisions of section 102(2)(c) of the National Environmental Policy (42 U.S.C. 4321 et seq.), the Board has considered the requirements of that Act concerning Environmental Impact Statements and has determined that this amendment would not have a significant impact upon the environment. Accordingly, an Environmental Impact Statement is not necessary and will not be issued with respect to this amendment.

For purposes of clarity, several editorial changes have been made to §§ 173.115 and 173.118, and the two sections are set forth in this amendment in their entirety.

In consideration of the foregoing, §§ 173.115 and 173.118 of Part 173 are revised to read as follows:

1. In Part 173 Table of Contents, the headings of Subpart C and § 173.115 are revised to read as follows:

Subpart C—Flammable, Combustible and Pyrophoric Liquids; Definitions and Preparation Sec. 173.115 Flammable, Combustible, and Pyrophoric Liquids; Definitions.

2. § 173.115 is revised to read as follows:

§ 173.115 Flammable, combustible, and pyrophoric liquids; definitions.

(a) Flammable liquid. (1) For the purposes of this subchapter, a flammable liquid means any liquid having a flash point below 100° F. (37.8° C.), with the following exceptions:

(i) Any liquid meeting one of the definitions specified in § 173.300;

(ii) Any mixture having one component or more with a flash point of 100° F. (37.8° C.) or higher, that makes up at least 99 per cent of the total volume of the mixture;

**NOTE 1:** A flammable liquid with a flash point of 73° F. or higher in packaging having a capacity of 110 gallons or less packaged prior to January 1, 1976, may be shipped and transported without being subject to any of the requirements of this subchapter applicable to flammable liquids until January 1, 1977.

(2) For the purposes of this subchapter, a distilled spirit of 140 proof or lower is considered to have a flash point no lower than 73° F.

(b) Combustible liquid. (1) For the purposes of this subchapter, a combustible liquid is defined as any liquid that does not meet the definition of any other classification specified in this subchapter and has a flash point at or above 100° F. (37.8° C.) and below 200° F. (93.3° C.) except any mixture having one component or more with a flash point at 200° F. (93.3° C.) or higher, that makes up at least 99 per cent of the total volume of the mixture.

(2) For the purposes of this subchapter, an aqueous solution containing 24 per cent or less alcohol by volume is considered to have a flash point no less than

100° F. (37.8° C.) if the remainder of the solution does not meet the definition of a hazardous material as defined in this subchapter.

(3) 200° F. (93.3° C.) is a limitation of the application of the regulations in this subchapter and should not be construed as indicating that liquids with higher flash points will not burn. Markings such as "NONFLAMMABLE" or "NONCOMBUSTIBLE" should not be used on a vehicle containing a material that has a flash point of 200° F. (93.3° C.) or higher.

(c) Pyrophoric liquids. (1) For the purposes of this subchapter, a pyrophoric liquid is any liquid that ignites spontaneously in dry or moist air at or below 130° F. (54.5° C.).

**NOTE 1:** The Bureau of Explosives is equipped to test samples of flammable liquids to determine whether or not they are pyrophoric.

(d) Flash point. (1) "Flash point" means the minimum temperature at which a liquid gives off vapor within a test vessel in sufficient concentration to form an ignitable mixture with air near the surface of the liquid and shall be determined as follows:

(i) For a homogeneous, single-phase, liquid having a viscosity less than 45 S.U.S. at 100° F. (37.8° C.) that does not form a surface film while under test, one of the following test procedures shall be used:

(A) Standard Method of Test for Flash Point by Tag Closed Tester, (ASTM D56-70);

(B) Standard Method of Test for Flash Point of Aviation Turbine Fuels by Setaflash Closed Tester, (ASTM D3243-73) or

(C) Standard Methods of Test for Flash Point of Liquids by Setaflash Closed Tester, (ASTM D3278-73).

(ii) For a liquid other than one meeting all of the criteria of subparagraph (d)(1)(i) of this paragraph, one of the following test procedures shall be used:

(A) Standard Method of Test for Flash Point by Pensky-Martens Closed Tester, (ASTM D93-71). Alternate tests authorized in this standard may be used.

(B) Standard Method of Test for Flash Point of Aviation Turbine Fuels by Setaflash Closed Tester, (ASTM D3243-73), or

(C) Standard Methods of Test for Flash Point of Liquids by Setaflash Closed Tester, (ASTM D3278-73).

(2) For a liquid that is a mixture of compounds that have different volatility and flash points, its flash point shall be determined as specified in paragraph (d)(1) of this section, on the material in the form in which it is to be shipped. If it is determined by this test that the flash point is higher than 20° F. (-6.67° C.) a second test shall be made on a sample of the liquid evaporated from an open beaker (or similar container), under ambient pressure and temperature (20 to 25° C.) conditions, to 90 percent of its original volume or for a period of 4 hours, whichever comes first. The lower

flash point of the two tests shall be the flash point of the material.

(3) For flash point determinations by Setaflash closed tester, the glass syringe specified need not be used as the method of measurement of the test sample if a minimum quantity of 2 milliliters is assured in the test cup.

(e) "S.U.S." means Saybolt Universal Seconds as determined by the Standard Method of Test for Saybolt Viscosity (ASTM D88-56) (reapproved 1968) and may be determined by use of the S.U.S. conversion tables specified in ASTM Method D2161-66 following determination of viscosity in accordance with the procedures specified in the Standard Method of Test for Viscosity of Transparent and Opaque Liquids (ASTM D445-65).

(f) Viscous liquids. Flammable liquids are described as viscous flammable liquids based on the viscosity as determined by one of the following methods:

(1) The viscosity of the liquids must be determined in a Stormer viscometer with an actuating weight of 400 grams and with the liquid maintained at a temperature of 28° C. The cylinder of the viscometer must be immersed in the liquid.

(2) For transparent liquids the sample may be tested in a vertical glass tube, 1-inch inside diameter by approximately 13 inches long, having two marks 10 inches apart engraved thereon, the lower mark being 2 inches above the bottom of the tube. The liquid to be tested shall be poured into the tube until its surface rises one-half inch above the upper mark and must be maintained at a temperature of 28° C. during the test; a polished steel ball one-fourth inch in diameter shall be supported one-half inch above the surface of the liquid at the center of the tube and dropped therein.

(3) When the speed of the cylinder in the first test does not exceed 10 revolutions per 13 seconds, or the time required in the second test for the steel ball to fall the vertical distance between the two lines upon the glass tube is not less than 4 seconds, the material is classed as "viscous."

(g) If experience or other data indicate that the hazard of a material is greater or less than indicated by the criteria specified in paragraphs (a), (b), and (c) of this section, the Department may revise its classification or make the material subject to the requirements of Parts 170-189 of this subchapter.

3. In § 173.118 paragraphs (a) and (b) are revised; paragraphs (c) and (d) are redesignated paragraphs (d) and (e) respectively; a new paragraph (c) is added to read as follows:

§ 173.118 Exemptions for flammable and combustible liquids.

(a) Flammable liquids, except those for which no exemptions are provided as indicated by the "No exemption" statement in § 172.5 of this subchapter are, unless otherwise provided, exempt from specification packaging, marking, and labeling requirements when packed in

accordance with one of the following subparagraphs of this paragraph except that marking name of contents on the outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 177 of this subchapter except § 177.817:

(1) In metal containers not over 1 quart capacity each, packed in strong outside containers,

(2) In containers having a capacity not over 1 pint or 16 ounces by weight each, packed in strong outside containers, or

(3) In inside containers having a rated capacity of one gallon or less when packed in strong outside containers. The provisions of this partial exemption apply only if the flash point of the material is 73° F. or higher and the flash point, or an indication that the flash point is 73° F. or higher is marked on the outside package.

(b) A flammable liquid having a flash point of 73° F. or higher is not subject to the specification packaging requirements of this Part when in a packaging having a capacity of 110 gallons or less. The provisions of this paragraph apply only if the flash point of the material, or an indication that its flash point is 73° F. or higher, is marked on the outside package.

(c) Alcoholic beverages (wine and distilled spirits as defined in 27 CFR 4.10 and 5.11) in containers having a rated capacity of one gallon or less are not subject to the requirements of this subchapter.

(d) Combustible liquids in portable tanks, cargo tanks, or tank cars are exempt from the requirements of this subchapter except those that pertain to:

(1) Shipping papers, waybills, switching orders or other billing,

(2) Marking of portable tanks,

(3) Marking or placarding rail cars and motor vehicles, and

(4) Reporting incidents as prescribed in §§ 171.15 and 171.16 of this subchapter.

(e) The requirements of this subchapter do not apply to combustible liquids in packaging having capacities of 110 gallons or less.

**Effective date:** This amendment is effective January 1, 1976. However, immediate compliance with the regulations, as amended herein, is authorized except as they pertain to the placarding of tank cars containing combustible liquids.

(18 U.S.C. 831-835; Sec. 6, Pub. L. 90-670, 80 Stat. 937 (49 U.S.C. 1655); Title VI and Sec. 902(h) of Pub. L. 85-726 (49 U.S.C. 1421-1431, 1472(h)))

Issued in Washington, D.C. on May 16, 1975.

R. P. SKULLY,  
Board Member for the  
Federal Aviation Administration.

KENNETH L. PIERSON,  
Alternate Board Member for the  
Federal Highway Administration.

R. H. WRIGHT,  
Alternate Board Member for the  
Federal Railroad Administration.

[FR Doc. 75-13500 Filed 5-21-75; 8:45 am]

# Title 7—Agriculture

## CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Reg. 353]

### PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

#### Limitation of Handling

This regulation fixes the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period May 23-29, 1975. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907. The quantity of Navel oranges so fixed was arrived at after consideration of the total available supply of Navel oranges, the quantity currently available for market, the fresh market demand for Navel oranges, Navel orange prices, and the relationship of season average returns to the parity price for Navel oranges.

#### § 907.653 Navel Orange Regulation 353.

(a) Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the respective quantities of Navel oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Navel orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Navel oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Navel oranges is declining. Prices f.o.b. averaged \$3.57 per carton on a reported sales volume of 862 cartons last week, compared with an average f.o.b. price of \$3.72 per carton and sales of 1,104 cartons a week earlier. Track and rolling supplies at 257 cars were down 145 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Navel oranges

which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on May 20, 1975.

(b) Order. (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period May 23, 1975, through May 29, 1975, are hereby fixed as follows:

(i) District 1: 500,000 cartons;

(ii) District 2: Unlimited movement;

(iii) District 3: Unlimited movement.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674))

Dated: May 21, 1975.

CHARLES R. BRADER,  
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 75-13678 Filed 5-21-75; 12:17 pm]

[Valencia Orange Reg. 499]

### PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

#### Limitation of Handling

This regulation fixes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period May 23-29,



1975. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908. The quantity of Valencia oranges so fixed was arrived at after consideration of the total available supply of Valencia oranges, the quantity of Valencia oranges currently available for market, the fresh market demand for Valencia oranges, Valencia orange prices, and the relationship of season average returns to the parity price for Valencia oranges.

**§ 908.799 Valencia Orange Regulation 499.**

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the respective quantities of Valencia oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Valencia oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Valencia oranges is fairly good for larger sizes. Prices f.o.b. averaged \$3.38 per carton on a reported sales volume of 655,000 cartons last week, compared with an average f.o.b. price of \$3.35 per carton and sales of 483,000 cartons a week earlier. Track and rolling supplies at 396 cars were up 52 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Valencia oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regula-

tion must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on May 20, 1975.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period May 23, 1975, through May 29, 1975, are hereby fixed as follows:

- (i) District 1: 210,000 cartons;
  - (ii) District 2: 345,000 cartons;
  - (iii) District 3: 195,000 cartons.
- (2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674))

Dated: May 21, 1975.

CHARLES R. BRADER,  
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 75-13677 Filed 5-21-75; 12:16 pm]

**CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE**

**PART 984—WALNUTS GROWN IN CALIFORNIA, OREGON, AND WASHINGTON**

**Amendment of Administrative Rules and Regulations**

Notice was published in the April 28, 1975, issue of the FEDERAL REGISTER (40 FR 18449) regarding a proposal to amend Subpart—Administrative Rules and Regulations (7 CFR 984.437-984.480; 40 FR 12481). The subpart is operative pursuant to the marketing agreement, as amended, and Order No. 984 (7 CFR Part

984; 39 FR 35377; 35999), regulating the handling of walnuts grown in California, Oregon, and Washington. The marketing agreement and order (hereinafter referred to collectively as the "order"), are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The amendment is based on a recommendation of the Walnut Marketing Board.

The notice afforded interested persons an opportunity to submit written data, views, or arguments on the proposal. None were received.

The order was amended October 1, 1974. The amendment, among other things, changed the Board's procedures for voting by mail and telegram, added provisions requiring handlers to report walnut receipts from growers, deleted provisions on reports of controlled walnuts, inshell volume regulation, and deferment of time in meeting a surplus obligation, and replaced setaside requirements for surplus walnuts with holding requirements. The amendment recognizes these changes in the order.

The amendment includes provisions designating the inspection services which can inspect walnuts under the order. The order provides that inspections shall be performed by the inspection service designated by the Board with the approval of the Secretary. The DFA of California, an association which serves dried fruit and tree nut processors in California, is designated as the inspection service for handlers in the State of California. For handlers in the States of Oregon and Washington, the designated inspection service is the Oregon State Department of Agriculture, Federal-State Shipping Point Inspection Service.

The amendment also changes some of the provisions in the subpart so they more accurately reflect current industry operating practices, and simplifies and reorganizes other provisions.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Board, and other available information, it is found that the amendment of Subpart—Administrative Rules and Regulations (7 CFR 984.437-984.480; 40 FR 12481) will tend to effectuate the declared policy of the act. The amendment is the same as proposed in the April 28, 1975, issue of the FEDERAL REGISTER (40 FR 18449) except for one minor correction. In the first sentence of § 984.450(a), the word "shelled" is changed to "inshell".

It is further found that good cause exists for not postponing the effective time for this action until after June 23, 1975 (5 U.S.C. 553), and for making this action effective at the time hereinafter specified in that: (1) This action recognizes order changes effective October 1, 1974, and simplifies and reorganizes some of the provisions in the subpart; (2) this action facilitates operations under and administration of the order, and should be effective as soon as possible; (3) handlers have been aware of this action and need no additional time or

preliminary preparation to comply therewith; and (4) no useful purpose would be served by postponing the effective time of this action.

Therefore, Subpart—Administrative Rules and Regulations (7 CFR 984.437-984.480; 40 FR 12481) is amended as follows:

1. A new § 984.445 is added to read as follows:

**§ 984.445 Procedures for voting by mail or telegram.**

Whenever the Board votes upon any proposition by mail or telegram at least six members or alternates acting as members must vote and one dissenting vote shall prevent its adoption. Each proposition to be voted upon by either of these methods shall specify a time limit for members to vote, after which the alternates shall be given the opportunity to vote.

2. Section 984.450 is revised to read as follows:

**§ 984.450 Minimum kernel content requirements for surplus.**

(a) *For inshell walnuts.* Any lot of inshell walnuts withheld from handling to meet any part or all of a handler's surplus obligation shall have a certified kernelweight of not less than 10 percent of the inshell weight of the lot. No inshell lot may be exported unless it meets the minimum requirements for merchantable inshell walnuts effective pursuant to § 984.50(a).

(b) *For shelled walnuts.* Any lot of shelled walnuts withheld from handling to meet any part or all of a handler's surplus obligation shall have a certified kernelweight of kernels  $\frac{3}{4}$ 's of an inch or larger, of not less than 10 percent of the total weight of the lot. This minimum kernel size requirement shall not apply to any lot of walnut meal certified by the designated inspection service as having been derived from chopping, slicing, or dicing merchantable shelled walnuts. No shelled lot may be exported unless it meets the minimum requirements for merchantable shelled walnuts effective pursuant to § 984.50(b).

3. Section 984.451 is revised to read as follows:

**§ 984.451 Inspection and certification of inshell and shelled walnuts.**

(a) The inspection service for handlers in the State of California shall be the DFA of California. For handlers in the States of Oregon or Washington, the inspection service shall be the Oregon State Department of Agriculture, Federal-State Shipping Point Inspection Service.

(b) Inspection of all shelled walnuts shall be made on the premises of the handler prior to moving them to any other location.

(c) Each handler shall make each container of each lot of walnuts accessible for sampling and sealing or stamping in connection with the inspection and certification of any lot of inshell or shelled walnuts.

(d) Inshell and shelled walnuts for export pursuant to 984.56(b) shall be inspected and certified within 60 days of shipment from the handler's plant.

**§ 984.454 [Deleted]**

4. Section 984.454 is deleted.

5. Section 984.456 is revised to read as follows:

**§ 984.456 Designation of agents for export of surplus walnuts.**

Any handler may be designated an agent of the Board to export merchantable surplus walnuts upon execution of an "Export Agreement for Surplus Walnuts" furnished by the Board setting forth the terms and conditions for export sales.

6. A new § 984.458 is added to read as follows:

**§ 984.458 Transfer of excess surplus credits.**

Any handler who desires to transfer excess surplus credits to another handler shall submit a request to the Board for such transfer on WMB Form No. 17 signed by both handlers. The request shall show (1) the name of the handler requesting the transfer, (2) the name of the handler to whom the transfer is to be made, and (3) the quantity of credits to be transferred.

**§ 984.460 [Deleted]**

7. Section 984.460 is deleted.

**§ 984.461 [Deleted]**

8. Section 984.461 is deleted.

9. Section 984.462 is revised to read as follows:

**§ 984.462 Surplus pool.**

Each lot of surplus walnuts delivered to the Board for pooling and disposition shall be separately weighed by a public weighmaster either upon removal from the handler's premises or in transit to Board storage facilities or diversion point. A tare weight of one pound shall be used for bags and tare weights for other containers shall be actual weights. Such tare weights shall be used in determining net weight. A copy of each weighmaster certificate shall be forwarded to the Board by the handler.

**§ 984.464 [Amended]**

10. In paragraph (b) of § 984.464, "WCB" is deleted and "WMB" is inserted in lieu thereof.

11. Section 984.471 is revised to read as follows:

**§ 984.471 Reports of handler carryover.**

Reports of handler carryover as of August 1, January 1, and April 1 of each marketing year shall be submitted to the Board on WMB Form No. 4 for inshell walnuts and on WMB Form No. 5 for shelled walnuts, on or before August 15, January 15, and April 15 respectively, of that marketing year.

12. Section 984.472 is revised to read as follows:

**§ 984.472 Reports of merchantable walnuts handled.**

(a) *Inshell.* Reports of merchantable inshell walnuts handled during a month shall be submitted to the Board on WMB Form No. 6 not later than the 5th day of the following month. Such reports shall include all shipments during the preceding month and shall show (1) the quantity shipped, (2) whether they were shipped into domestic or export channels, and (3) for exports, the quantity by country of destination. If a handler makes no shipments during any month he shall submit a report marked "None". If a handler has completed his shipments for the season he shall mark the report "Completed" and he shall not be required to submit any additional WMB Form No. 6 reports during the remainder of that marketing year.

(b) *Shelled.* Reports of merchantable shelled walnuts handled during a month shall be submitted to the Board on WMB Form No. 9 not later than the 5th day of the following month. Such reports shall include all shipments during the preceding month and shall show (1) the quantity shipped and (2) whether they were shipped into domestic or export channels. If a handler makes no shipments during any month he shall submit a report marked "None". If a handler has completed his shipments for the season he shall mark the report "Completed" and he shall not be required to submit any additional WMB Form No. 9 reports during the remainder of that marketing year.

(c) *Reports of walnuts purchased from growers for manufacturing or for retail sale.* Reports of walnuts purchased directly from growers by handlers who are manufacturers or retailers shall be submitted to the Board on WMB Form No. 6 for inshell walnuts and on WMB Form No. 9 for shelled walnuts, not later than the 5th day of the month following the month in which the walnuts were purchased. Such reports shall show the quantity of walnuts purchased and the quantity inspected and certified as merchantable walnuts.

13. Section 984.473 is revised to read as follows:

**§ 984.473 Report of walnut receipts.**

Each handler shall file a report of his walnut receipts from growers on or before January 15 of each marketing year on forms supplied by the Board.

14. Section 984.474 is revised to read as follows:

**§ 984.474 Reports of shipment of walnuts between States of production.**

Any shipment of walnuts between the States of California, Oregon, and Washington for sale or delivery to a handler shall be reported to the Board on WMB Form No. 15 upon receipt by the receiving handler.

15. Section 984.476 is revised to read as follows:



**§ 984.476 Declaration of privilege.**

Declarations of intentions to handle shall be on WMB Form No. 10.

16. Section 984.480 is revised to read as follows:

**§ 984.480 Books and other records.**

Each handler shall maintain true and complete records of all inshell and shelled walnuts and walnut material, by categories, received, held, or disposed of by him. The records shall be maintained in such form as to permit verification of all transactions involved and shall be

made available during normal business hours to authorized representatives of the Board or the Secretary of Agriculture. These records shall include the following:

(a) The names and addresses of the persons from whom received, and the quantities received from each such person;

(b) The names and addresses of the persons to whom disposal is made, and the quantities disposed of to each such person;

(c) The quantities used by the handler for such purposes as manufacturing,

production of oil, and livestock feeding; and

(d) The quantities held on August 1, January 1, and April 1 of each marketing year.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated May 19, 1975, to become effective June 1, 1975.

CHARLES R. BRADER,  
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 75-13491 Filed 5-21-75; 8:45 am]

## proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

### DEPARTMENT OF AGRICULTURE

#### Agricultural Marketing Service

#### [7 CFR Part 916]

#### HANDLING OF NECTARINES GROWN IN CALIFORNIA

#### Proposed Rulemaking With Respect to Container and Pack Regulations for Nectarines

This proposal would specify container and pack requirements applicable to fresh shipments of California nectarines effective June 30, 1975. The proposed regulation is designed to ensure shipment of containers of nectarines which are tightly packed and well-filled in accordance with the specifications of standard pack and to provide information to the trade by requiring that (1) the name of the variety, if known, or the words "unknown variety," if not known, be stamped on each container of nectarines, (2) the count of nectarines packed in molded forms in cartons, lug boxes, or flats and the size of nectarines loose-filled, loose-packed, or tight-filled in any container be stamped on each container, and (3) the specified net weights be stamped on standard lug boxes 22D and 22E of loose-filled or loose-packed nectarines. The proposed regulation contains the same container and pack requirements set forth in Amendment 3 of Nectarine Regulation 2, which is currently effective through June 29, 1975. The proposed regulation is consistent with the objective of the act of promoting orderly marketing and protecting the interest of consumers.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposal shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than June 13, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Notice is hereby given that the Department is considering a proposed Nectarine Regulation 3 setting forth container and pack requirements for California nectarines, pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 916, as amended (7 CFR Part 916), regulating the handling of nectarines grown in California. (This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposed regulation was recommended by the Nectarine

Administrative Committee, established under said amended marketing agreement and order as the agency to administer the terms and provisions thereof.

The proposal is as follows:

#### § 916.349 Nectarine Regulation 3.

Order. (a) On and after June 30, 1975, no handler shall handle any package or container of any variety of nectarines except in accordance with the following terms and conditions:

(1) Such nectarines, when packed in any closed container, shall conform to the requirements of standard pack.

(2) Each package or container of nectarines shall bear, on one outside end in plain sight and in plain letters, the name of the variety, if known or, when the variety is not known, the words "unknown variety."

(3) Each package or container of nectarines shall bear, on one outside end in plain sight and in plain letters, the following count or size description of the nectarines as applicable:

(i) The size of nectarines packed in molded forms (tray packs) in cartons, lug boxes, or flats shall be indicated in accordance with the number of nectarines in each container, such as "80 count," "88 count," etc.

(ii) The size of nectarines loose-filled, loose-packed, or tight-filled (not packed in rows) in No. 22D standard lug boxes shall be indicated according to the number of such nectarines when packed in molded forms in said boxes in accordance with the requirements of standard pack, such as "80 size," "88 size," etc.

(iii) The size of nectarines loose-filled, loose-packed, or tight-filled (not packed in rows) in any container, other than the No. 22D standard lug box, shall be indicated according to the number of such nectarines when packed in molded forms in a No. 22D standard lug box in accordance with the requirements of standard pack, such as "80 size," "88 size," etc.

(4) Each No. 22D standard lug box of loose-filled or loose-packed nectarines (not packed in rows) shall bear on one outside end, in plain sight and in plain letters, the words "25 pounds net weight."

(5) Each No. 22E standard lug box of loose-filled or loose-packed nectarines (not packed in rows) shall bear on one outside end, in plain sight and in plain letters, the words "35 pounds net weight."

(b) As used herein, "standard pack" shall have the same meaning as set forth in the U.S. Standards for Grades of Nectarines (§ 51.3145-51.3160 of this title); the terms "No. 22D standard lug box" and "No. 22E standard lug box" shall have the same meaning as set forth in

§ 1387.11 of the "Regulations of the California Department of Food and Agriculture"; and all other terms shall have the same meaning as when used in the marketing agreement and order.

Dated: May 19, 1975.

CHARLES R. BRADER,  
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 75-13492 Filed 5-21-75; 8:45 am]

#### Animal and Plant Health Inspection Service

#### [9 CFR Parts 331, 381]

#### MEAT AND POULTRY INSPECTION

#### Intended Designation of New York

Statement of considerations. A representative of the Governor of the State of New York has advised this Department that, effective July 15, 1975, the State of New York will no longer be in a position to continue administering the State meat and poultry inspection programs, with respect to establishments within the State at which cattle, sheep, swine, goats, equines, or poultry are slaughtered or their carcasses, or parts or products thereof, are prepared for use as human food, solely for distribution within such State, and with respect to intrastate operations and transactions concerning meat products and poultry products and articles and animals subject to the Acts, and persons, firms, and corporations engaged therein.

The Secretary heretofore determined that the State of New York had developed and activated requirements at least equal to the requirements under titles I and IV of the Federal Meat Inspection Act and sections 1-4, 6-10, and 12-22 of the Poultry Products Inspection Act. However, such provisions contemplate a continuous, ongoing program, and in view of the termination date now applicable to the New York program, notice is hereby given that unless the circumstances change, the Secretary of Agriculture intends to designate the said State under section 301(c)(3) of the Federal Meat Inspection Act and section 5(c)(3) of the Poultry Products Inspection Act, 30 days prior to July 15, 1975. It is further intended that effective July 15, 1975, upon the expiration of 30 days after such designation, the provisions of titles I and IV of the Federal Meat Inspection Act and sections 1-4, 6-10, 12-22 of the Poultry Products Inspection Act would apply to intrastate operations and transactions and person engaged therein, in said State, to the same extent and in the same manner



as if such operations and transactions were conducted in or for "commerce," within the meaning of the Acts and that any establishment in said State which conducts any slaughtering of livestock or poultry or processing of meat or poultry products as described above must have Federal inspection or cease its operations unless it qualifies for any exemption under section 23(a) or 301(c) of the Federal Meat Inspection Act or section 5 (c) (2) or 15 of the Poultry Products Inspection Act. The exemption provisions of these Acts are limited.

Necessary arrangements will be made for determining which establishments in this State are eligible for Federal inspection, for providing inspection at the eligible establishments, and for otherwise enforcing the applicable provisions of the Federal Acts with respect to intrastate activities in this state when the said provisions of the acts become effective.

Therefore, the operator of each such establishment in the State of New York who desires to continue such operations after designation of the State becomes effective should immediately communicate with the Regional Director specified below:

Dr. M. J. Hatter, Director, Northeastern Region for Meat and Poultry Inspection Program, Seventh Floor, 1421 Cherry Street, Philadelphia, Pennsylvania 19102, Telephone: Area Code (215) 597-4216.

Done at Washington, D.C., on: May 20, 1975.

F. J. MULHERN,  
Administrator, Animal and Plant  
Health Inspection Service.  
[FR Doc.75-13632 Filed 5-21-75; 8:45 am]

#### Federal Crop Insurance Corporation [7 CFR Part 401]

##### SUGAR BEETS

#### Proposed Revisions Applicable in all States Except California

Pursuant to a Statement of Policy issued by the Secretary of Agriculture on July 20, 1971 (36 FR 13804), notice is hereby given that the Board of Directors of the Federal Crop Insurance Corporation is considering and tentatively approved at its meeting on May 15, 1975, an amendment to the Federal Crop Insurance Regulations for the 1969 and Succeeding Crop Years, as amended, (7 CFR 401.101 et seq.) to be effective beginning with the 1976 Crop Year, which would amend § 401.140 in its entirety, as follows:

§ 401.140 The sugar beet endorsement applicable in all States except California.

1. *Insured crop.* The crop insured shall be sugar beets grown under a contract with a processor for processing as sugar. Item 1 of the second sentence of subsection 2(c) of the policy shall not be applicable to sugar beets.

Insurance shall not attach or be considered to have attached to any acreage (1) excluded from the processor contract for, or during, the crop year, and (2) unless otherwise pro-

vided on the county actuarial table, planted to sugar beets the preceding crop year in Michigan, Minnesota, and Ohio, or the two preceding years in other states.

2. *Production guarantees.* The applicable production guarantees in tons per acre shall be those shown on the county actuarial table (hereinafter called "actuarial table") and are progressive as follows:

(1) *First Stage.*—From planting until July 1 or upon determination by the Corporation that the acreage was damaged prior to July 1 to the extent that growers in the area usually would not further care for the crop.

(2) *Second Stage.*—From July 1 until 15 percent of the per acre production guarantee for the third stage has been harvested.

(3) *Third Stage.*—After 15 percent of the per acre production guarantee for this stage has been harvested.

The stage of production applicable in any case shall not be determined to be the same for an entire insurance unit unless the entire unit meets the requirements for the same stage. When the entire unit does not meet the requirements for the same stage, the stages of production shall be determined for the various portions of the unit.

3. *Insurance period.* Insurance on any insured acreage shall attach at the time the sugar beets are planted and shall cease upon harvesting, but in no event shall insurance remain in effect later than the applicable date set forth below of the calendar year in which the sugar beets are normally harvested.

Michigan, Minnesota, Montana, and North Dakota.....	Nov. 10
Ohio.....	Nov. 25
All other States.....	Nov. 15

4. *Claim for loss.* (a) Any claim for loss on an insurance unit (hereinafter called "unit") must be submitted to the Corporation, on a form prescribed by the Corporation, no later than 60 days after the applicable calendar date for the end of the insurance period (see section 3 above). The Corporation reserves the right to provide additional time if it determines that circumstances beyond the control of either party prevent compliance with this provision.

(b) It is the responsibility of the insured to provide complete information of all production from the unit, to establish that the loss claimed was caused during the insurance period by one or more of the hazards insured against, and to furnish such other information about the loss as may be required by the Corporation.

(c) *Losses shall be determined separately for each unit.* The amount of loss with respect to any unit shall be determined by (1) multiplying the insured acreage of sugar beets on the unit by the applicable production guarantee per acre; which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in (3) by the insured interest: *Provided,* That if for the unit the insured fails to report all of his interest or insurable acreage, the amount of loss shall be determined with respect to all of his interest and insurable acreage, but in such cases or otherwise, if the premium computed on the basis of the insurable acreage and interest exceeds the premium on the reported acreage and interest, or the acreage and interest when determined by the Corporation under section 3 of the policy, the amount of loss shall be reduced proportionately.

The total production to be counted for a unit shall be determined by the Corporation, and subject to provisions hereinafter, shall

include all harvested production and any appraisals made by the Corporation for unharvested or potential production, poor farming practices, uninsured causes of loss, or for acreage abandoned or put to another use without the consent of the Corporation: *Provided,* That for unharvested acreage or acreage not qualifying for the third stage production guarantee only the amount of appraised and harvested production in excess of the difference between the third stage production guarantee and the production guarantee applicable to such acreage shall be counted except that for acreage abandoned, put to another use without prior written consent of the Corporation, or damaged solely by an uninsured cause, not less than the applicable production guarantee shall be counted.

(d) Any harvested production of sugar beets shall be adjusted by the factor (rounded to three decimal places) obtained by dividing the average percentage of sugar in the sugar beets, as determined from individual tests made at the time of delivery to the processor, by the percentage of sugar shown on the actuarial table: *Provided,* however, That if individual tests of sugar content are not made by the processor at the time of delivery of the sugar beets, the factor to be used shall be 1.000: *Provided, further,* That for harvested sugar beets which are not acceptable under the contract with a processor due to an insurable cause of loss occurring within the insurance period, the Corporation will determine the production to count by dividing the value of the beets, as determined by the Corporation, by the value of undamaged beets containing the percentage of sugar shown on the actuarial table and multiplying the result obtained by the tons of beets harvested: *Provided, further,* That any Corporation appraisals in the preceding paragraph shall be the tons appraised with no adjustment for quality.

5. *Cancellation and termination for indebtedness dates.* For each year of the contract the cancellation date is the December 31 and the termination date for indebtedness the April 15 immediately preceding the beginning of the crop year.

6. *Annual premium.* If at any time the cumulative dollar amount of indemnities paid under this endorsement exceeds the cumulative premiums earned through the previous crop year, the premium discounts referred to in section 6(b) of the policy shall not thereafter be applicable until the cumulative earned premiums equal or exceed the cumulative indemnities.

7. *Meaning of terms.* (a) "Harvest" means the lifting and topping of the sugar beets for the purpose of delivery to a processor.

Since the Sugar Act of 1948, as amended, was discontinued effective for the 1975 Crop Year, it has become necessary for a complete revision of the sugar beet endorsement, currently in use, inasmuch as the present endorsement contains certain contractual provisions that are based on the sugar program as was administered under the now defunct Sugar Act of 1948, as amended, including the establishment of production and acreage records, which are now no longer available, and upon which coverage guarantees were previously based.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed amendment should send the same to Melvin R. Peterson, Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions must be delivered or postmarked no later than June 23, 1975

to be sure of consideration. All written submissions made pursuant to this notice will be available for public inspection at the Office of the Manager during regular business hours, 8:15 A.M. to 4:45 P.M., Monday through Friday (7 CFR 1.27(b)).

Dated: May 16, 1975.

[SEAL] PETER F. COLE,  
Secretary, Federal Crop  
Insurance Corporation.  
[FR Doc.75-13434 Filed 5-21-75; 8:45 am]

#### DEPARTMENT OF TRANSPORTATION

##### Federal Aviation Administration

##### [14 CFR Part 21]

[Docket No. 14611; Notice 75-21]

#### STATUS OF FAA PILOTS AND APPLICANTS DURING FLIGHT TESTS

##### Proposed Rule Making

The Federal Aviation Administration is considering amending Part 21 of the Federal Aviation Regulations to clarify the status of FAA pilots and applicants during flight tests required for the certification of an aircraft.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. All communications received on or before August 19, 1975, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Section 1.1 defines "pilot in command" as the "pilot responsible for the operation and safety of an aircraft during flight time." The definition indicates those individuals upon whom the duties and obligations of a pilot in command, as required by the regulations, are imposed. The standard set forth in the definition involves a factual determination based on the circumstances of each flight. Even though that is the case, at times the definition has been improperly applied to FAA pilots performing official aircraft certification flight test duties aboard aircraft. In order to permit application of the definition properly and effectively, the status of the FAA pilot must be made unmistakably clear to all concerned.

With respect to the testing provided for in Part 21 of the Federal Aviation Regulations, there are numerous situations where an FAA pilot is aboard the aircraft as an observer. On other occa-

sions, the FAA pilot may be at the controls with the applicant or his representative, but the actual control of the aircraft and the inherent responsibility for the aircraft's safe operation lies with the applicant's pilot who should have the greatest experience with the aircraft being tested. Under these circumstances, the applicant, and not the FAA pilot, is in charge of the aircraft and is responsible for its safe operation. In the past, § 3.16-1(g) of the Civil Aeronautics Manual conveyed that information to the FAA pilot and the applicant. The FAA now believes that if that information is to be effectively conveyed to both the FAA pilot and the applicant it must be in a regulatory form.

The FAA recognizes that under certain circumstances, such as with single seat aircraft, the FAA pilot must have actual control and command of the aircraft being tested. Therefore, under the proposal, the FAA pilot may assume the position of pilot in command if a written agreement is made prior to flight between the FAA pilot and the applicant or the pilot provided by the applicant.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)).)

#### § 21.37 Status of FAA pilots and applicants during flight tests.

In consideration of the foregoing, it is proposed to amend Part 21 of the Federal Aviation Regulations as follows:

1. By adding to the end of § 21.37 the phrase, "and to act as pilot in command during those flight tests."

2. By adding a new § 21.38 to read as follows:

#### § 21.38 Status of FAA pilots and applicants during flight tests.

(a) Except as provided in paragraph (b) of this section, an FAA pilot is not the pilot in command of an aircraft during any of the flight tests prescribed in this subchapter. The applicant or the pilot provided by the applicant under § 21.37 is responsible for the planning, scheduling, and location of all flight tests and is responsible for the operation and safety of the aircraft during those flight tests.

(b) An FAA pilot may act as pilot in command during a flight if a written agreement is made to that effect prior to that flight with the applicant or the pilot provided by the applicant.

Issued in Washington, D.C., on May 15, 1975.

J. A. FERRARESE,  
Acting Director,  
Flight Standards Service.  
[FR Doc.75-13407 Filed 5-21-75; 8:45 am]

#### [14 CFR Part 39]

[Docket No. 75-NW-14-AD]

#### BOEING MODEL 727 SERIES AIRPLANES Proposed Airworthiness Directive

Amendment 39-1456 (37 FR 11235),  
AD 72-12-1, as amended by Amendment

39-2026 (39 FR 41248), requires inspections of the main landing gear downlock torque shaft, P/N 65-23366, for cracks on Boeing Model 727 series airplanes. The AD requires the inspections at intervals not to exceed 1200 landings, either by the magnetic particle method or by the dye penetrant method with the shaft loaded. After issuing Amendment 39-2026, an operator discovered a failed torque shaft which had been magnetic inspected 417 landing cycles prior to failure. Therefore, the agency is considering further amending Amendment 39-1456, as amended, to require the inspections at more frequent intervals of 400 landings.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Department of Transportation, Federal Aviation Administration, Northwest Region, Attention: The Regional Counsel, Airworthiness Rules Docket, 9010 East Marginal Way South, Seattle, Washington 98108. All communications received on or before July 11, 1975, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

#### § 39.13 [Amended]

In consideration of the foregoing, it is proposed to amend § 39.13 of the Federal Aviation Regulations, Amendment 39-1456 (37 FR 11235) as amended by Amendment 39-2026 (39 FR 41248) as follows:

1. By striking out the words "900 landings" and "1200 landings" from Paragraph (a) and inserting the words "100 landings" and "400 landings", respectively, in place thereof.

2. By adding the following new paragraphs at the end of the AD:

"The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a) (1)."

"All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. The documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington."

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Seattle, Washington, May 14, 1975.

C. B. WALK, Jr.,  
Director Northwest Region.  
[FR Doc.75-13400 Filed 5-21-75; 8:45 am]

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## PROPOSED RULES

## [ 14 CFR Part 71 ]

[Airspace Docket No. 75-SW-26]

## CONTROL ZONE

## Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to change the effective times of the part-time control zone at Dallas, Tex. (Redbird Airport).

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before June 23, 1975 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

## § 71.171 [Amended]

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.171 (40 FR 441), the Dallas, Tex. (Redbird Airport), control zone is amended by deleting "This control zone is effective from 0600 to 2200 hours, local time, daily," and substituting therefor, "This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airmen's Information Manual."

This change will provide flexibility for more compatible hours of operation through the issuance of appropriate Notices to Airmen.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Fort Worth, Tx., on May 12, 1975.

ALBERT H. THURBURN,  
Acting Director, Southwest Region.  
[FR Doc.75-13410 Filed 5-21-75;8:45 am]

## [ 14 CFR Part 71 ]

[Airspace Docket No. 75-SW-25]

## TRANSITION AREA

## Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a 700-foot transition area at Many, La.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before June 23, 1975 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

## § 71.181 [Amended]

In § 71.181 (40 FR 441), the following transition area is added:

## MANY, LA.

That airspace extending from 700 feet above the surface within an 8.5-mile radius of the Hart Airport (latitude 31°32'43" N., longitude 93°29'15" W.) and within 3.5 miles each side of the 300° bearing from the NDB (latitude 31°34'18" N., longitude 93°32'29" W.) extending from the 8.5-mile-radius area to a point 12 miles west of the NDB.

The proposed transition area will provide controlled airspace for aircraft executing the proposed NDB RWY 11, Original, instrument approach procedure.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Fort Worth, Tx., on May 12, 1975.

ALBERT H. THURBURN,  
Acting Director, Southwest Region.  
[FR Doc.75-13409 Filed 5-21-75;8:45 am]

## [ 14 CFR Part 71 ]

[Airspace Docket No. 75-EA-37]

## TRANSITION AREA

## Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Gaithersburg, Md., Transition Area (40 FR 498).

A revision to the NDB Rwy 14 instrument approach procedure for Montgomery County Airpark, Gaithersburg, Md., requires alteration of the Gaithersburg, Md., transition area to provide the additional controlled airspace required to protect aircraft executing the procedure.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before June 30, 1975 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Gaithersburg, Maryland, proposes the airspace action hereinafter set forth:

## § 71.181 [Amended]

1. Amend § 71.181 of Part 71, Federal Aviation Regulations by deleting the description of the Gaithersburg, Md. Transition Area and by substituting the following in lieu thereof:

"That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center (39°09'54" N., 77°10'00" W.), of Montgomery County Airpark, Gaithersburg, Md.; within 5 miles each side of the Frederick, Md. VOR 178° radial, extending from the VOR to 13 miles south of the VOR; and within 4.5 miles south and 9.5 miles north of a 292° bearing from the Gaithersburg, Md. RBN (39°10'08" N., 77°09'42" W.), extending from the RBN to 18.5 miles west of the RBN."

(Sec. 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348] and section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)].)

Issued in Jamaica, N.Y., on May 7, 1975.

JAMES BISPO,  
Acting Director, Eastern Region.  
[FR Doc.75-13408 Filed 5-21-75;8:45 am]

## Hazardous Materials Regulations Board

## [ 49 CFR Part 179 ]

[Docket HM-109; Notice 75-3]

## TANK CAR HEAD SHIELDS

## Notice of Proposed Rulemaking; Correction

On April 23, 1975, the Hazardous Materials Regulations Board published in the FEDERAL REGISTER (40 FR 17855) a notice that it is considering amending § 179.100-23 of Part 179 to allow a small opening on a head shield applied to DOT 112A and 114A tank cars built before September 1, 1974, to permit an existing hand brake bracket to pass through the head shield.

The second paragraph of the preambulatory text of that notice is amended to read as follows:

Except for the requirement that the hand brake bracket be mounted on a 3/4-inch thick steel pad that is continuously welded to the head of the tank shell, this proposed amendment was requested by the Project Review Committee of the Railway Progress Institute—Association of American Railroads

## PROPOSED RULES

Tank Car Research and Test Project. It would supplement the amendments proposed in the March 11, 1975 issue of the FEDERAL REGISTER (40 FR 11362).

Issued in Washington, D.C., on May 15, 1975.

R. H. WRIGHT,  
Acting Associate Administrator  
for Safety, Federal Railroad  
Administration, Alternate  
Member, Hazardous Materials  
Regulations Board.

[FR Doc.75-13392 Filed 5-21-75;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

## [ 47 CFR Part 73 ]

[Docket No. 20362 RM-2304 RM-2489]

## FM BROADCAST STATIONS; TABLE OF ASSIGNMENTS

## Order Extending Time for Filing Reply Comments; Berryville, Va., and Harpers Ferry, W. Va.

In the matter of the amendment of § 73.202(b), table of assignments, FM Broadcast Stations. (Berryville, Virginia and Harpers Ferry, West Virginia).

1. On February 18, 1975, the Commission adopted a notice of proposed rule making in the above-entitled proceeding. Publication was given in the FEDERAL

REGISTER on March 4, 1975, (40 FR 8965). The date for filing comments has expired and reply comments are presently due May 15, 1975.

2. On May 8, 1975, counsel for Elektra Broadcasting Corporations (one of the proponents in this proceeding) requested that the time for filing reply comments be extended to and including May 26, 1975. Counsel states that Elektra's consulting engineers need the additional time to study the engineering data submitted in this proceeding.

3. We are of the view that the public interest would be served by extending the time in this proceeding. Since May 26, is a holiday, it is ordered, that the date for filing reply comments is extended to and including May 27, 1975.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and §§ 0.281 and 1.46 of the Commission's rules.

Adopted: May 13, 1975.

Released: May 15, 1975.

## FEDERAL COMMUNICATIONS

## COMMISSION,

[SEAL] WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.

[FR Doc.75-13470 Filed 5-21-75;8:45 am]



## notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

### DEPARTMENT OF STATE

[Public Notice 449]

#### ASSISTANCE TO ARGENTINA Secretarial Determination

Pursuant to section 664 of the Foreign Assistance Act of 1961, as amended (the "Act"), and in accordance with Executive Order 10973, as amended, I hereby determine that the use of not to exceed \$100,000 in FY 1975 for the grant of military training to Argentina and the issuance of not to exceed \$14.6 million of housing investment guarantees for projects in Argentina, notwithstanding section 620(a)(3) of the Act is in the national interest.

HENRY A. KISSINGER,  
Secretary of State.

APRIL 30, 1975.

[FR Doc.75-13469 Filed 5-21-75;8:45 am]

[CM-5/51]

#### ADVISORY PANEL ON MUSIC Meeting

Pursuant to Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that the Advisory Panel on Music has scheduled a meeting to be held on Tuesday, June 11, in Room 1408 at the Department of State, 2201 C Street NW, Washington, D.C. The meeting hours will be from 9:30 a.m. to 12:30 p.m. and from 2 p.m. to 5:30 p.m.

The sessions will be open to the public. The agenda is:

- (1) Review of recent overseas tours in the music field sponsored by the Department of State;
- (2) Evaluation of tapes and records of performing artists who are planning tours abroad, and other performers who wish to be considered as candidates for grants, sponsorship or other assistance in connection with overseas tours. In order to protect the reputations of the persons involved, the tapes and records will not be identified either to the panel members or to the general public during the meeting.

Members of the public in attendance who wish to comment on the agenda items may do so, subject to restrictions of time and direction of the Chair.

For the purpose of fulfilling building security requirements, it is requested that persons wishing to attend this open session advise the Executive Secretary, Beverly Gerstein, by telephone before June 6; the telephone number is (area code 202) 632-2846.

The meeting room has a seating capacity of 40, so the public will be admitted on a first-come, first-served basis.

Dated: May 15, 1975.

GUY E. CORIDEN,  
Director, Office of International  
Arts Affairs.

[FR Doc.75-13389 Filed 5-21-75;8:45 am]

[CM-5/52]

#### NATIONAL REVIEW BOARD FOR THE CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST

##### Meeting

The National Review Board for the Center for Cultural and Technical Interchange Between East and West (East-West Center) will meet in open session at the East-West Center, 1777 East-West Road, Honolulu, Hawaii on June 30, 1975. The meeting will be held in the Asia Room from 9 a.m. to 4 p.m.

The Board will discuss its report to the Secretary of State on the developments that have taken place at the East-West Center during the past six years.

Dated: May 15, 1975.

CAROL M. OWENS,  
Executive Secretary.

[FR Doc.75-13390 Filed 5-21-75;8:45 am]

[CM-5/53]

#### OCEAN AFFAIRS ADVISORY COMMITTEE Meeting

The Marine Science Section of the Ocean Affairs Advisory Committee will meet on June 26, 1975, in conference room 6320 of the Department of State, 2201 C Street NW, Washington, D.C. at 9 a.m. Presentations will be made on activities pertaining to marine science at the March-May 1975 session of the Third U.N. Law of the Sea Conference, and to current problems facing the U.S. in the Intergovernmental Oceanographic Commission with particular reference to its Ninth Assembly, October 22-November 4, 1975, followed by a discussion. At or about 10:30 a.m. the meeting will continue not open to the public since the discussions will then be devoted to matters exempt from public disclosure under 5 USC 552 (b)(1) and the public interest requires that such discussions be withheld from disclosure. These discussions will be confined to classified documents and briefings on the Law of the Sea and Intergovernmental Oceanographic Commission activities.

The portion of the meeting from 9 a.m. to 10:30 a.m. will be open to the public to the extent of the seating capacity, and the public will be invited to participate in the discussions.

Dated: May 15, 1975.

WILLIAM L. SULLIVAN, Jr.,  
Coordinator of Oceans and  
Fisheries Affairs.

[FR Doc.75-13391 Filed 5-21-75;8:45 am]

### DEPARTMENT OF JUSTICE

#### Antitrust Division

#### UNITED STATES V. KEWANE OIL CO.

##### Proposed Consent Judgment and Competitive Impact Statement

Notice is hereby given that a proposed consent Final Judgment as well as a Competitive Impact Statement have been filed in United States v. Kewanee Oil Company, Civil Action No. 72 Civ. 369, Southern District of New York. The Complaint in this action alleged that Kewanee Oil Company, during a period of shortage of nickel, required its customers to purchase other electroplating materials in order to obtain nickel.

The proposed Final Judgment enjoins the defendant from: selling or offering to sell nickel on the condition that a purchaser buy electroplating materials from defendant; allotting nickel to any person conditioned on such person's purchasing electroplating materials from defendant; or refusing to sell, or discriminating in price of nickel, conditioned on the fact that the purchaser will not agree to buy electroplating materials.

Written comments on the Judgment from the public are invited on or before July 21, 1975. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to Hugh P. Morrison, Jr., Chief, Special Trial Section, Antitrust Division, Department of Justice, Washington, D.C. 20530.

Dated: May 15, 1975.

THOMAS E. KAUPER,  
Assistant Attorney General,  
Antitrust Division.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
Stipulation

United States of America, plaintiff v. Kewanee Oil Company, defendant, Civil Action No. 72 Civ. 369, filed: May 15, 1975.

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the

Court, upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to either party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to plaintiff and defendant in this and any other proceeding.

Dated: May 15, 1975.

For the Plaintiff.

Thomas E. Kauper, Assistant Attorney General; William H. McManus, Baddia J. Rashid, and Charles F. B. McAleer, Attorneys, Department of Justice.

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK

#### FINAL JUDGMENT

United States of America, plaintiff v. Kewanee Oil Company, defendant, Civil Action No. 72 Civ. 369 filed: May 15, 1975.

Plaintiff, United States of America, having filed its complaint herein on January 26, 1972, and defendant, Kewanee Oil Company, having filed its answer thereto denying the substantive allegations thereof and the parties hereto, by their respective attorneys, having consented to the making and entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without admission by any party in respect to any such issue;

NOW, THEREFORE, before the taking of any testimony and upon said consent of the parties hereto, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I. This Court has jurisdiction of the subject matter hereof and the parties hereto. The complaint states claims against defendant upon which relief may be granted under Section 1 of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", commonly known as the Sherman Act, as amended, and under Section 3 of the Act of Congress of October 15, 1914, commonly known as the Clayton Act, as amended.

II. As used herein:

A. "Person" shall mean any individual, partnership, corporation, association or any other business or legal entity;

B. "Electroplating materials" shall mean chemicals and equipment for nickel electroplating processes, including but not limited to brighteners, alkaline cleaners, boric acid and other acids, salts and tanks;

C. "Nickel" shall mean electrolytic nickel, S.D. nickel, nickel anode bars, S.D. nickel chips and each of them.

III. The provisions of this Final Judgment applicable to the defendant shall also apply to each of its officers, agents, servants, employees and attorneys, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. The provisions of this Final Judgment shall not apply to sales of electroplating materials or nickel for use outside the United States except for sales of electroplating materials to or for the use of plaintiff or any instrumentality or agency thereof.

IV. Defendant is ordered and directed, within thirty (30) days after the date of this

Final Judgment, to advise in writing each of its nickel electroplating customers that this Final Judgment prohibits defendant from selling or offering to sell nickel on the condition or understanding that purchasers buy electroplating materials from defendant, and that this Final Judgment prohibits defendant from allocating nickel among its customers conditioned on their purchasing of electroplating materials from defendant.

V. Defendant is enjoined and restrained from directly or indirectly in any manner: A. Selling or offering to sell nickel on the condition, agreement or understanding that any purchaser buy electroplating materials from defendant;

B. Allocating the amount of nickel to any person conditioned on such person's purchasing of electroplating materials from defendant; provided, however, that nothing contained in this Final Judgment shall prevent defendant from allocating nickel on a fair and equitable basis;

C. Refusing to sell, or unlawfully discriminating in prices of nickel, conditioned on the fact the purchaser has or has not bought, is or is not buying, or will or will not agree to buy electroplating materials from defendant.

VI. For a period of six (6) years from the date of entry of this Final Judgment, the defendant is ordered to file with the plaintiff, on each anniversary date of this Final Judgment, a report setting forth the steps which it has taken during the prior year to advise the defendant's appropriate officers, directors, and employees of its and their obligations under this Final Judgment.

VII. For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant, made through its principal office, be permitted (1) access during office hours to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendant relating to any of the subject matters contained in this Final Judgment, and (2) subject to the reasonable convenience of defendant, and without restraint or interference from it to interview officers, or employees of the defendant who may have counsel present, regarding any such matters; and upon such request defendant shall submit such reports in writing to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested. No information obtained by the means provided in this section VII shall be divulged by any representative of the Department of Justice to any person; other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

VIII. Upon sixty (60) days' written notice to the Attorney General, the defendant may file a petition with this Court, at any time after ten years following entry of this Final Judgment, for abatement of the provisions in paragraph V herein. In any such proceeding, the burden shall be upon the defendant to establish that such provisions are no longer needed either to restore competition, or to remove the effects of the violations of law alleged in the Complaint, or to prevent their recurrence.

IX. Jurisdiction is retained for the purposes of enabling any of the parties to this

Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment or for the modification of any of the provisions thereof, and for the enforcement of compliance therewith and the punishment of violations thereof.

X. The entry of this Final Judgment is in the public interest.

Dated:

United States District Judge.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

United States of America, plaintiff v. Kewanee Oil Company, defendant, Civil Action No. 72 Civ. 369 Proposed Consent Decree: Competitive Impact Statement, filed: May 15, 1975.

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16 (b)-(h)), the United States of America hereby files this Competitive Impact Statement relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

Nature of case. On January 26, 1972, the Department of Justice filed a civil antitrust suit alleging that Kewanee Oil Company, of Bryn Mawr, Pa., during a period of shortage of nickel, required its customers to purchase other electroplating materials in order to obtain nickel, in violation of Section 1 of the Sherman Act and Section 3 of the Clayton Act. Kewanee Oil Company ("Kewanee"), a wholly owned subsidiary, is a distributor of primary nickel to the electroplating industry for the International Nickel Co., Inc. It is estimated that it sells annually approximately \$12,000,000 worth of nickel and \$6,000,000 worth of electroplating materials exclusive of tanks and other equipment.

The Industry. Nickel, a hard malleable metallic element, is nearly silver white, and capable of a high polish. Its strength and resistance to heat and corrosion give it wide usefulness as an alloy for both industrial and military application. One of the significant uses for nickel is the coating of metal objects by the electroplating process. In this process the object to be coated is immersed in a solution containing a salt of the metal to be plated onto such object. Nickel in various forms is also placed in the solution and a high amperage current is passed through the solution which removes metal ions from the nickel and carries them to the object to be plated and deposits them in the form of a coating. There is no practical substitute for nickel in the electroplating process. By the addition of so-called "brighteners" to the solution, the coated object is given a high polish without the necessity of buffing. Nickel used in the electroplating process is estimated to be valued in excess of \$50,000,000 in 1970.

Except for Canada and Russia, all of the world's industrial nations must import the vast bulk of their nickel requirements. In the past 30 years the United States has imported in excess of 90 percent of its total requirements of nickel from Canada. One of the aspects of this industry is that one company, The International Nickel Co. of Canada Ltd., (Inco, Ltd.) controls the production and distribution of nickel in the United States. Inco, Ltd. is a producing company with its principal place of business at Copper Cliff, Ontario, Canada. It mines nickel in Canada and arranges through its subsidiary International Nickel Co. Inc. ("Inco"), to have its nickel distributed and sold throughout the United States. Inco has no sales and distribution organization in the United States, but distributes and sells nickel through 10 American distributors. Five of these distributors

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are engaged in the distribution and sale of nickel to the electroplating industry.

While 15 percent of the nickel used in the United States for electroplating is furnished by two Canadian companies and one American supplier, these companies do not have sufficient capacity to serve the entire industry during times of shortage. For all intents and purposes the hundreds of electroplating companies scattered throughout the United States must rely upon nickel produced by Inco's parents and distributed by Inco through its five distributors.

Because of periodic strikes at the mines owned by Inco, Ltd., there have been several severe shortages of nickel in this country. One of these strikes took place in 1965, and as a result of the shortage it created, Inco and its five distributors allocated nickel to their customers' previous purchases. This allocation lasted until the latter part of 1970. Because of this allocation program, a company engaged in electroplating could only look to its previous supplier of nickel in order to satisfy its demands.

**Restrictive practices alleged.** It is alleged that the defendant has used the shortage of nickel as leverage to tie-in sales of their other products, with special emphasis on the sale of so-called brighteners. The ability to tie other products to the sale of nickel carries over to periods of ample supply as the threat of future shortages forces customers to purchase brighteners and other electroplating materials only from their nickel distributor in order to obtain nickel from their distributor when the next period of short supply occurs. This restrains independent suppliers of these tied products from freely selling their product.

The development of brighteners (which are organic chemical compounds) has greatly simplified the electroplating process. Nickel plated materials are now removed from the plating bath in finished condition, whereas prior to the development of brighteners such products required polishing and buffing in order to be put into a final form. All of the Inco distributors (including Kewanee) who sell nickel to the electroplating industry have their own brighteners. Total industry sales of brighteners to the nickel electroplating industry are substantial and run into the millions of dollars. There are a number of manufacturers and sellers of brighteners to the nickel electroplating industry other than the distributors of nickel.

A tying arrangement is defined as an agreement by a party to sell one product but only on the condition that the buyer also purchase a different (or tied) product, or at least agrees that he will not purchase that product from any other supplier. The distributors of nickel taken together, or separately, possess the requisite economic power over the tying product nickel which is both a unique and desirable product. The leverage possessed by the distributors is quite pronounced in that, as a group, they distribute 85 percent of all of the nickel used by the electroplating industry in the United States. Individually, each distributor is in a dominant position both during normal periods of supply and during times of shortage. During times of shortage, an individual distributor will normally supply only a customer that has a history of purchases from him. As the nickel industry has a history of shortages the customer will usually only deal with one supplier during normal periods for fear of losing his allocation during periods of short supply. Thus the customer's free choice of a source of supply for the tied products is restrained.

It is apparent that each distributor possesses sufficient economic power over nickel

to its customers and that the amount of commerce involved in the tied products (viz, nickel brighteners and other electroplating materials) is substantial.

**Proposed judgment.** The proposed consent decree provides a combination of measures to dispel the anticompetitive effects alleged by the Complaint. Defendant is enjoined from: selling or offering to sell nickel on the condition that a purchaser buy electroplating materials from defendant; allotting the amount of nickel to any person conditioned on such person's purchasing of electroplating materials from defendant; or refusing to sell, or discriminating in prices of nickel, conditioned on the fact the purchaser has or has not bought, is or is not buying, or will or will not agree to buy electroplating materials from defendant. In addition, the defendant is ordered, within thirty (30) days after the date of the decree, to advise in writing each of its nickel electroplating customers the terms of the decree and for a period of six (6) years the defendant is ordered to file with the plaintiff, on each anniversary date of the decree, a report setting forth the steps which it has taken during the prior year to advise defendant's appropriate officers, directors and employees of its and their obligations under the decree. The decree also contains provisions for access by the Antitrust Division to records and documents of defendant and to officers and employees of defendant relating to any matters covered by the decree. Jurisdiction is retained by the Court to enable any party to apply to the Court for such further orders and directions as may be necessary for the construction or carrying out of the decree or for the modification of any provisions thereof. In addition, the defendant upon sixty (60) days written notice to the Attorney General, may file a petition with the Court, at any time after ten years following the entry of the decree, for abatement of the provisions of the decree.

**Alternative relief.** The prayer for relief in this case asks for injunctive relief against the defendant to prevent the defendant from engaging in "tie-in" practices as alleged in the Complaint. It is our belief that the provisions of the proposed consent decree encompass all of the relief requested in the Complaint except in one regard. The Complaint requested, and the plaintiff sought relief to the effect that the defendant be perpetually enjoined from engaging in the practices complained of. The defendant argued strongly during negotiations that the judgment should be limited to 10 years. The matter was compromised by section VIII which permits the defendant, after ten years, to make a showing to the satisfaction of the Court that the need for the judgment no longer exists.

**Private remedies.** Any potential private plaintiff who might have been damaged by the alleged violations will retain the same right to sue for monetary damages and any other legal and equitable remedies which they would have had, were the proposed consent decree not entered. However, this judgment may not be used as prima facie evidence in private litigation pursuant to section 5(a) of the Clayton Act, as amended, 15 U.S.C. 16(a).

**Modification of judgment.** The proposed Final Judgment is subject to a stipulation by and between the United States and the Defendant, which provides that the United States may withdraw its consent to the proposed Final Judgment at any time until the Court has found that entry of the proposed judgment is in the public interest. By its terms, the proposed judgment also provides for retention of jurisdiction of this action in order, among other things, to permit either of the parties thereto to apply

to the Court for such orders as may be necessary or appropriate for its modification.

This case is a companion case with U.S. v. M&T Chemicals (Civil Action No. 72 Civ. 368) and U.S. v. Udyllite Corporation (Civil Action No. 72 Civ. 370). The relief to be obtained in settlement of the M&T case is identical with the relief set forth in the Kewanee Judgment. Soon after the filing of these three cases the Department of Justice learned that the Federal Trade Commission on June 3, 1970, had entered a Consent Order against Udyllite's parent corporations, Occidental Petroleum Corporation and Hooker Chemical Corporation, requiring relief that was substantially identical to the relief requested by the Department of Justice in the case against Udyllite. Seeing no compelling need to have Udyllite under an Order by both the Federal Trade Commission and the Department of Justice covering the same matter, it is the intention of the Department of Justice to dismiss its pending suit against Udyllite. The attached letter of Counsel reflects the Department's intention to insure equal enforcement of the three Orders.

**Comments.** As provided by the Antitrust Procedures and Penalties Act, any persons wishing to comment on the proposed judgment may, for a 60-day period, submit written comments to Hugh P. Morrison, Esquire, United States Department of Justice, Antitrust Division, Washington, D.C. 20530. The Division will file with the Court and publish in the Federal Register such comments and its response thereto. The Department of Justice will evaluate any and all such comments and determine whether there is any reason for withdrawal of its consent to the proposed Final Judgment.

No materials and documents of the type described in Section (b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)) were considered in formulating this proposed judgment.

Dated: May 15, 1975.

WILLIAM H. McMANUS,  
Attorney,  
Department of Justice.

MAY 8, 1975.

Re Letter of Understanding on Uniform Enforcement Policy of Final Judgments and Consent Order.

THOMAS E. KAUPER,  
Assistant Attorney General,  
Antitrust Division,  
U.S. Department of Justice,  
Washington, D.C. 20530

DEAR MR. KAUPER: This letter shall constitute a letter of understanding between Kewanee Oil Company and the United States Department of Justice respecting future enforcement of the Negotiated Final Judgments entered this date against M&T Chemicals, Inc. and Kewanee Oil Company, and the Federal Trade Commission's outstanding Consent Order entered June 3, 1970, against Occidental Petroleum Corporation and Hooker Chemical Corporation.

On January 26, 1972, the United States of America filed complaints in the Southern District of New York against M&T Chemicals, Inc. (Civil Action No. 72 Civ. 368), Kewanee Oil Company (Civil Action No. 72 Civ. 369) and the Udyllite Corporation, a subsidiary of Occidental Petroleum (Civil Action No. 72 Civ. 370), alleging illegal tying of nickel and electroplating materials. In order to avoid the expense of litigation regarding the various allegations made against it, Kewanee has consented this date to the entry of a Final Judgment in substantially identical terms to the Final Judgment to be entered against M&T Chemicals, Inc. The Department of Justice has stated, however, that

it intends to dismiss its suit against the Udyllite Corporation in light of an existing Federal Trade Commission Consent Order entered June 3, 1970, against Udyllite's parent corporation, Occidental Petroleum Corporation and Hooker Chemical Corporation.

It is our understanding as part of its even-handed enforcement policy, that should the Department of Justice determine to proceed against Kewanee Oil Company with respect to any matter related to the aforesaid Final Judgment, and if the Department has reason to believe that either M&T or Udyllite or both are engaged in the same or similar acts and practices, then the Department shall not proceed against Kewanee until it proceeds simultaneously against M&T and/or until the Department has called the alleged violations on the part of Occidental and Udyllite to the attention of the Federal Trade Commission and has given the Commission a reasonable opportunity to proceed against Occidental and Udyllite.

It is our further understanding that the Department agrees that a copy of this letter may be filed in the above-referred to proceeding against Kewanee Oil Company in the Southern District of New York and that the Department will promptly forward a copy of such letter to the Federal Trade Commission with the request that such letter be incorporated into the docket file of the Commission's proceeding against Occidental and Udyllite.

Sincerely yours,

KEWANEE OIL COMPANY,  
EBEN H. COCKLEY,  
Attorney.

[FR Doc.75-13384 Filed 5-21-75;8:45 am]

#### UNITED STATES v. M&T CHEMICALS, INC.

##### Proposed Consent Judgement and Competitive Impact Statement

Notice is hereby given that a proposed consent Final Judgment as well as a Competitive Impact Statement have been filed in United States v. M&T Chemicals, Inc., Civil Action No. 72 Civ. 368, Southern District of New York. The Complaint in this action alleged that M&T Chemicals, Inc., during a period of shortage of nickel, required its customers to purchase other electroplating materials in order to obtain nickel.

The proposed Final Judgment enjoins the defendant from: selling or offering to sell nickel on the condition that a purchaser buy electroplating materials from defendant; allotting nickel to any person conditioned on such person's purchasing electroplating materials from defendant; or refusing to sell, or discriminating in price of nickel, conditioned on the fact that the purchaser will not agree to buy electroplating materials.

Written comments on the Judgment from the public are invited on or before July 21, 1975. Such comments and responses thereto will be published in the Federal Register and filed with the Court. Comments should be directed to Hugh P. Morrison, Jr., Chief, Special Trial Section, Antitrust Division, Department of Justice, Washington, D.C. 20530.

Dated: May 15, 1975.

THOMAS E. KAUPER,  
Assistant Attorney General,  
Antitrust Division.

UNITED STATES DISTRICT COURT,  
SOUTHERN DISTRICT OF NEW YORK

#### STIPULATION

United States of America, plaintiff, v. M&T Chemicals, Inc., defendant. Civil action No. 72 Civ. 368, filed: May 15, 1975.

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. §16), and without further notice to either party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to plaintiff and defendant in this and any other proceeding.

Dated: May 15, 1975.

For the Plaintiff: Thomas E. Kauper, Assistant Attorney General; William H. McManus, Baddia J. Rashid, Charles F. B. McAleer, Attorneys, Department of Justice.

For the Defendant M&T Chemicals, Inc.: J. Randolph Wilson, Covington & Burling.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

#### Final Judgment

United States of America, plaintiff, v. M&T Chemicals, Inc., defendant. Civil action No. 72 Civ. 368, filed: May 15, 1975.

Plaintiff, United States of America, having filed its complaint herein on January 26, 1972, and defendant, M&T Chemicals, Inc., without admitting any violations of law as alleged in such complaint, and the parties hereto, by their respective attorneys, having consented to the making and entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without admission by any party in respect to any such issue;

Now, Therefore, before the taking of any testimony and upon said consent of the parties hereto, it is hereby Ordered, Adjudged and Decreed as follows:

I. This Court has jurisdiction of the subject matter hereto and the parties hereto. The complaint states claims against defendant upon which relief may be granted under Section 1 of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", commonly known as the Sherman Act as amended, and under Section 3 of the Act of Congress of October 15, 1914, commonly known as the Clayton Act, as amended.

II. As used herein:  
A. "Person" shall mean any individual, partnership, corporation, association or any other business or legal entity;

B. "Electroplating materials" shall mean chemicals and equipment for nickel electroplating processes, including, but not limited to brighteners, alkaline cleaners, boric acid and other acids, salts and tanks;

C. "Nickel" shall mean electrolytic nickel, S. D. nickel, nickel anode bars, S. D. nickel chips and each of them.

III. The provisions of this Final Judgment applicable to the defendant shall also apply to each of its officers, agents, servants, employees and attorneys, and to all other persons in active concert or participation with any of them who receive actual notice of this

Final Judgment by personal service or otherwise. The provisions of this Final Judgment shall not apply to sales of electroplating materials or nickel for use outside the United States except for sales of electroplating materials to or for the use of plaintiff or any instrumentality or agency thereof.

IV. Defendant is ordered and directed, within thirty (30) days after the date of this Final Judgment, to advise in writing each of its nickel electroplating customers that this Final Judgment prohibits defendant from selling or offering to sell nickel on the condition or understanding that purchasers buy electroplating materials from defendant, and that this Final Judgment prohibits defendant from allocating nickel among its customers conditioned on their purchasing of electroplating materials from defendant.

V. Defendant is enjoined and restrained from directly or indirectly in any manner:  
A. Selling or offering to sell nickel on the condition, agreement or understanding that any purchaser buy electroplating materials from defendant;

B. Allocating the amount of nickel to any person conditioned on such person's purchasing of electroplating materials from defendant; provided, however, that nothing contained in this Final Judgment shall prevent defendant from allocating nickel on a fair and equitable basis;

C. Refusing to sell, or unlawfully discriminating in prices of nickel, conditioned on the fact the purchaser has or has not bought, is or is not buying, or will or will not agree to buy electroplating materials from defendant.

VI. For a period of six (6) years from the date of entry of this Final Judgment, the defendant is ordered to file with the plaintiff, on each anniversary date of this Final Judgment, a report setting forth the steps which it has taken during the prior year to advise the defendant's appropriate officers, directors, and employees of its and their obligations under this Final Judgment.

VII. For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant, made through its principal office, be permitted (1) access during office hours to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendant relating to any of the subject matters contained in this Final Judgment, and (2) subject to the reasonable convenience of defendant, and without restraint or interference from it to interview officers or employees of the defendant, who may have counsel present, regarding any such matters; and upon such request defendant shall submit such reports in writing to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested. No information obtained by the means provided in this Section VII shall be divulged by any representative of the Department of Justice to any person, other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

VIII. Upon sixty (60) days' written notice to the Attorney General, the defendant may file a petition with this Court, at any time after ten years following entry of this Final Judgment, for abatement of the provisions



In Paragraph V herein. In any such proceeding, the burden shall be upon the defendant to establish that such provisions are no longer needed either to restore competition, or to remove the effects of the violations of law alleged in the Complaint, or to prevent their recurrence.

IX. Jurisdiction is retained for the purposes of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment or for the modification of any of the provisions thereof, and for the enforcement of compliance therewith and the punishment of violations thereof.

X. The entry of this Final Judgment is in the public interest.

Dated: \_\_\_\_\_  
United States District Judge.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

United States of America, plaintiff, v. M&T Chemicals, Inc., defendant. Civil action No. 72 Civ. 368 Proposed Consent Decree: Competitive Impact Statement. filed: May 15, 1975.

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16 (b)-(h)), the United States of America hereby files this Competitive Impact Statement relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

**Nature of case.** On January 26, 1972, the Department of Justice filed a civil antitrust suit alleging that M&T Chemicals, Inc., of New York, N.Y., during a period of shortage of nickel, required its customers to purchase other electroplating materials in order to obtain nickel, in violation of Section 1 of the Sherman Act and Section 3 of the Clayton Act. M&T Chemicals, Inc. ("M&T"), a wholly owned subsidiary of American Can Company, in addition to selling chemicals and certain basic metals, is also a distributor of primary nickel to the electroplating industry for the International Nickel Co., Inc. It is estimated that it sells annually approximately \$5,000,000 worth of nickel and \$2,500,000 worth of electroplating materials exclusive of tanks and other equipment.

**The industry.** Nickel, a hard malleable metallic element, is nearly silver white, and capable of a high polish. Its strength and resistance to heat and corrosion give it wide usefulness as an alloy for both industrial and military application. One of the significant uses for nickel is the coating of metal objects by the electroplating process. In this process the object to be coated is immersed in a solution containing a salt of the metal to be plated onto such object. Nickel in various forms is also placed in the solution and a high amperage current is passed through the solution which removes metal ions from the nickel and carries them to the object to be plated and deposits them in the form of a coating. There is no practical substitute for nickel in the electroplating process. By the addition of so-called "brighteners" to the solution, the coated object is given a high polish without the necessity of buffing. Nickel used in the electroplating process is estimated to be valued in excess of \$50,000,000 in 1970.

Except for Canada and Russia, all of the world's industrial nations must import the vast bulk of their nickel requirements. In the past 30 years the United States has imported in excess of 90 percent of its total requirements of nickel from Canada. One of the aspects of this industry is that one company, The International Nickel Co. of Canada Ltd. (Inco, Ltd.) controls the produc-

tion and distribution of nickel in the United States. Inco, Ltd. is a producing company with its principal place of business at Copper Cliff, Ontario, Canada. It mines nickel in Canada and arranges through its subsidiary International Nickel Co. Inc. ("Inco"), to have its nickel distributed and sold throughout the United States. Inco has no sales and distribution organization in the United States, but distributes and sells nickel through 10 American distributors. Five of these distributors are engaged in the distribution and sale of nickel to the electroplating industry.

While 15 percent of the nickel used in the United States for electroplating is furnished by two Canadian companies and one American supplier, these companies do not have sufficient capacity to serve the entire industry during times of shortage. For all intents and purposes the hundreds of electroplating companies scattered throughout the United States must rely upon nickel produced by Inco's parents and distributed by Inco through its five distributors.

Because of periodic strikes at the mines owned by Inco, Ltd., there have been several severe shortages of nickel in this country. One of these strikes took place in 1965, and as a result of the shortage it created, Inco and its five distributors allocated nickel to their customers, supposedly on the basis of the customers' previous purchases. This allocation lasted until the latter part of 1970. Because of this allocation program, which was based upon prior purchases, a company engaged in electroplating could only look to its previous supplier of nickel in order to satisfy its demands.

**Restrictive practices alleged.** It is alleged that the defendant has used the shortage of nickel as leverage to tie-in sales of their other products, with special emphasis on the sale of so-called brighteners. The ability to tie the other products to the sale of nickel carries over to periods of ample supply as the threat of future shortages forces customers to purchase brighteners and other electroplating materials only from their nickel distributor in order to obtain nickel from their distributor when the next period of short supply occurs. This restrains independent suppliers of these tied products from freely selling their product.

The development of brighteners (which are organic chemical compounds) has greatly simplified the electroplating process. Nickel plated materials are now removed from the plating bath in finished condition, whereas prior to the development of brighteners such products required polishing and buffing in order to be put into a final form. All of the Inco distributors (including M&T) who sell nickel to the electroplating industry have their own brighteners. Total industry sales of brighteners to the nickel electroplating industry are substantial and run into the millions of dollars. There are a number of manufacturers and sellers of brighteners to the nickel electroplating industry other than the distributors of nickel.

A tying arrangement is defined as an agreement by a party to sell one product but only on the condition that the buyer also purchase a different (or tied) product, or at least agrees that he will not purchase that product from any other supplier. The distributors of nickel taken together, or separately, possess the requisite economic power over the tying product nickel which is both a unique and desirable product. The leverage possessed by the distributors is quite pronounced in that, as a group, they distribute 85 percent of all of the nickel used by the electroplating industry in the United States. Individually, each distributor is in a dominant position both during normal pe-

riods of supply and during times of shortage. During times of shortage, an individual distributor will normally supply only a customer that has a history of purchases from him. As the nickel industry has a history of shortages the customer will usually only deal with one supplier during normal periods for fear of losing his allocation during periods of short supply. Thus the customer's free choice of a source of supply for the tied products is restrained.

It is apparent that each distributor possesses sufficient economic power over nickel sold to its customers and that the amount of commerce involved in the tied products (viz., nickel brighteners and other electroplating materials) is substantial.

**Proposed judgment.** The proposed consent decree provides a combination of measures to dispel the anticompetitive effects alleged by the Complaint. Defendant is enjoined from: selling or offering to sell nickel on the condition that a purchaser buy electroplating materials from defendant; allotting the amount of nickel to any person conditioned on such person's purchasing of electroplating materials from defendant; or refusing to sell, or discriminating in prices of nickel, conditioned on the fact the purchaser has or has not bought, is or is not buying, or will or will not agree to buy electroplating materials from defendant. In addition, the defendant is ordered, within thirty (30) days after the date of the decree, to advise in writing each of its nickel electroplating customers the terms of the decree and for a period of six (6) years the defendant is ordered to file with the plaintiff, on each anniversary date of the decree, a report setting forth the steps which it has taken during the prior year to advise defendant's appropriate officers, directors and employees of its and their obligations under the decree. The decree also contains provisions for access by the Antitrust Division to records and documents of defendant and to officers and employees of defendant relating to any matters covered by the decree. Jurisdiction is retained by the Court to enable any party to apply to the Court for such further orders and directions as may be necessary for the construction or carrying out of the decree or for the modification of any provisions thereof. In addition, the defendant upon sixty (60) days written notice to the Attorney General, may file a petition with the Court, at any time after ten years following the entry of the decree, for abatement of the provisions of the decree.

**Alternative relief.** The prayer for relief in this case asks for injunctive relief against the defendant to prevent the defendant from engaging in "tie-in" practices as alleged in the Complaint. It is our belief that the provisions of the proposed consent decree encompass all of the relief requested in the Complaint except in one regard. The Complaint requested, and the plaintiff sought relief to the effect that the defendant be perpetually enjoined from engaging in the practices complained of. The defendant argued strongly during negotiations that the judgment should be limited to 10 years. The matter was compromised by Section VIII which permits the defendant, after ten years, to make a showing to the satisfaction of the Court that the need for the judgment no longer exists.

**Private remedies.** Any potential private plaintiff who might have been damaged by the alleged violations will retain the same right to sue for monetary damages and any other legal and equitable remedies which they would have had, were the proposed consent decree not entered. However, this judgment may not be used as prima facie evidence in private litigation pursuant to section 5(a) of the Clayton Act, as amended, 15 U.S.C. 16(a).

**Modification of judgment.** The proposed Final Judgment is subject to a stipulation by and between the United States and the Defendant, which provides that the United States may withdraw its consent to the proposed Final Judgment at any time until the Court has found that entry of the proposed judgment is in the public interest. By its terms, the proposed judgment also provides for retention of jurisdiction of this action in order, among other things, to permit either of the parties thereto to apply to the Court for such orders as may be necessary or appropriate for its modification.

This case is a companion case with U.S. v. Kewanee Oil Company (Civil Action No. 72 Civ. 369) and U.S. v. Udyllite Corporation (Civil Action No. 72 Civ. 370). The relief to be obtained in settlement of the Kewanee Oil case is identical with the relief set forth in the M&T Judgment. Soon after the filing of these three cases the Department of Justice learned that the Federal Trade Commission on June 3, 1970, had entered a Consent Order against Udyllite's parent corporations, Occidental Petroleum Corporation and Hooker Chemical Corporation, requiring relief that was substantially identical to the relief requested by the Department of Justice in the case against Udyllite. Seeing no compelling need to have Udyllite under an Order by both the Federal Trade Commission and the Department of Justice covering the same matter, it is the intention of the Department of Justice to dismiss its pending suit against Udyllite. The attached letter of Counsel reflects the Department's intention to insure equal enforcement of the three Orders.

**Comments.** As provided by the Antitrust Procedures and Penalties Act, any persons wishing to comment on the proposed judgment may, for a 60-day period, submit written comments to Hugh P. Morrison, Esquire, United States Department of Justice, Antitrust Division, Washington, D.C. 20530. The Division will file with the Court and publish in the Federal Register such comments and its response thereto. The Department of Justice will evaluate any and all such comments and determine whether there is any reason for withdrawal of its consent to the proposed Final Judgment.

No materials and documents of the type described in section (b) of the Antitrust Procedures and Penalties Act, (15 U.S.C. 16(b)), were considered in formulating this proposed judgment.

Dated: May 15, 1975.

WILLIAM H. McMANUS,  
Attorney, Department of Justice.

APRIL 29, 1975.

Re: U.S. v. M&T Chemicals, Inc. (S.D.N.Y. Civil Action No. 72 Civ. 368): Letter of Understanding on Uniform Enforcement Policy of Final Judgments and Consent Order

THOMAS E. KAUPER, Esq.,  
Assistant Attorney General,  
Antitrust Division,  
United States Department of Justice,  
Washington, D.C. 20530.

DEAR MR. KAUPER: This letter shall constitute a letter of understanding between M&T Chemicals, Inc. and the United States Department of Justice respecting future enforcement of the Negotiated Final Judgments to be entered against M&T Chemicals, Inc. and Kewanee Oil Company, and the Federal Trade Commission's outstanding Consent Order entered June 3, 1970, against Occidental Petroleum Corporation and Hooker Chemical Corporation.

On January 26, 1972, the United States of America filed complaints in the Southern District of New York against M&T Chemicals,

Inc. (Civil Action No. 72 Civ. 368), Kewanee Oil Company (Civil Action No. 72 Civ. 369), and the Udyllite Corporation, a subsidiary of Occidental Petroleum (Civil Action No. 72 Civ. 370), alleging illegal tying of nickel and electroplating materials. In order to avoid the expense of litigation regarding the various allegations made against it, M&T has consented this date to the entry of a Final Judgment in substantially identical terms to the Final Judgment to be entered against Kewanee Oil Company. The Department of Justice has stated, however, that it intends to dismiss its suit against the Udyllite Corporation in light of an existing Federal Trade Commission Consent Order entered June 3, 1970, against Udyllite's parent corporation, Occidental Petroleum Corporation and Hooker Chemical Corporation.

It is our understanding, as part of its evenhanded enforcement policy, that should the Department of Justice determine to proceed against M&T Chemicals, Inc. with respect to any matter related to the aforesaid Final Judgment, and if the Department has reason to believe that either Kewanee or Udyllite or both are engaged in the same or similar acts and practices, then the Department shall not proceed against M&T until it proceeds simultaneously against Kewanee and/or until the Department has called the alleged violations on the part of Occidental and Udyllite to the attention of the Federal Trade Commission and has given the Commission a reasonable opportunity to proceed against Occidental and Udyllite.

It is our further understanding that the Department agrees that a copy of this letter may be filed in the above-referred to proceeding against M&T Chemicals, Inc. in the Southern District of New York and that the Department will promptly forward a copy of such letter to the Federal Trade Commission with the request that such letter be incorporated into the docket file of the Commission's proceeding against Occidental and Udyllite.

Sincerely yours,

J. RANDOLPH WILSON,  
Attorney for M&T  
Chemicals, Inc.

[FR Doc.75-13412 Filed 5-21-75; 8:45 am]

**Federal Bureau of Investigation  
NATIONAL CRIME INFORMATION CENTER  
(NCIC) MISSING PERSON FILE  
Establishing a Computerized Missing  
Person File**

Law enforcement has long recognized the need for a national computerized index on missing persons. Such an index would meet humanitarian and social, as well as law enforcement needs. At a February, 1974, meeting the NCIC Advisory Policy Board approved the establishment of a Missing Person File within the National Crime Information Center (NCIC).

The Missing Person File will provide law enforcement agencies with the capability of entering missing person records into the national NCIC computer and inquire against the resulting file with instantaneous response.

A record format for the Missing Person File, the criteria for entering, and procedures to administer such a computerized file have been developed. The format provides for the entry of descriptive information and unique numeric identifiers and specifically identifies the

individual as a missing person and not as a person for whom an arrest warrant is outstanding. This file will be separate and distinct from the NCIC Wanted Person File.

The criteria for entering a missing person record into the file will be:

1. A person of any age who is missing and who is under proven physical/mental disability or is senile, thereby subjecting himself or others to personal and immediate danger.
2. A person of any age who is missing under circumstances indicating that the disappearance was not voluntary.
3. A person of any age who is in the company of another person under circumstances indicating that his physical safety is in danger.
4. A person who is declared unemancipated as defined by the laws of his state of residence and does not meet any of the entry criteria set forth in 1, 2, or 3 above.

At the time of entering a missing person record into the file, it will be mandatory for the entering agency to have in its possession documentation (from a source other than the investigating police agency) supporting the stated conditions under which the person is declared missing under NCIC criteria. This documentation, which will be noted in the record, will be reassurance that the right to privacy of the individual will not be violated.

This file application is expected to become operational by October 1, 1975.

The establishment of this file has been approved by the Attorney General, U.S. Department of Justice.

Further information may be obtained from Mr. Frank B. Buell, Section Chief, National Crime Information Center, Federal Bureau of Investigation, Washington, D.C.

CLARENCE M. KELLEY,  
Director of the Federal  
Bureau of Investigation.

[FR Doc.75-11851 Filed 5-21-75; 8:45 am]

**DEPARTMENT OF THE INTERIOR  
Bureau of Land Management  
[S 1805]  
CALIFORNIA  
Order Providing for Opening of Public  
Lands**

MAY 13, 1975.

The order of the Acting Director, Geological Survey, of January 11, 1973, entitled "Power Site Cancellation 258 (38 FR 1289) having cancelled Power Site Classification 220 of May 13, 1929, and in accordance with the authority delegated to me by the State Director, California State Office, Bureau of Land Management, effective January 6, 1972 (37 FR 491) it is ordered as follows:

1. The following-described lands are hereby restored to disposition under applicable public land laws subject to valid existing rights.

MOUNT DIABLO MERIDIAN

T. 3 N., R. 14 E.,  
Sec. 86, SW¼ NE¼, SE¼ NW¼.  
T. 3 N., R. 16 E.,  
Sec. 6, NW¼ NE¼ (lot 4), N½ SW¼ NE¼,  
SW¼ SW¼ NE¼.



## NOTICES

Sec. 24, SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
 Sec. 25, lot 1, N $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ ;  
 Sec. 26, NE $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ ;  
 Sec. 27, NE $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
 Sec. 28, SE $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 31, lots 2, 3, and 4, SE $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
 Sec. 32, S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
 Sec. 33, NE $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 34, N $\frac{1}{2}$ N $\frac{1}{2}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 Sec. 35, N $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
 T. 4 N., R. 15 E.,  
 Sec. 15, E $\frac{1}{2}$ ;  
 Sec. 22, N $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 28, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 29, SW $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 32, SE $\frac{1}{4}$ NW $\frac{1}{4}$  (unsurveyed).  
 T. 3 N., R. 16 E.,  
 Sec. 27, S $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 29, lots 9, 10, and 11, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 30, lots 3, 4, 5, 6, and 7, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
 Sec. 31, lot 1, NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 32, lots 1, 2, and 3, NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 33, lots 1, 2, 3, 4, 5, and 6, NE $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 34, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 T. 4 N., R. 16 E.,  
 Sec. 19, lots 2, 3, and 4, S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
 Sec. 20, S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
 Sec. 21, S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
 Sec. 22, S $\frac{1}{2}$ N $\frac{1}{2}$ , N $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 23, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , N $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 24, S $\frac{1}{2}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 T. 4 N., R. 17 E.,  
 Sec. 1, NE $\frac{1}{4}$  (fractional), N $\frac{1}{2}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$  (unsurveyed);  
 Sec. 12, NE $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 Sec. 14, SW $\frac{1}{4}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 19, SE $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$  (unsurveyed);  
 Sec. 20, S $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$  (unsurveyed);  
 Sec. 22, S $\frac{1}{2}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 23, N $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 T. 6 N., R. 17 E.,  
 Sec. 2, S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 8, SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 9, NE $\frac{1}{4}$ NW $\frac{1}{4}$ , W $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
 Sec. 10, N $\frac{1}{2}$ NE $\frac{1}{4}$ ;  
 Sec. 11, N $\frac{1}{2}$ ;  
 Sec. 12, N $\frac{1}{2}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 T. 7 N., R. 17 E. (unsurveyed).  
 All lands within one-fourth mile of Stanislaus River and Bloods Creek. Protraction of public-land surveys indicates that the lands described above, when surveyed, will be wholly within secs. 24, 25, 34, 35, and 36.  
 T. 5 N., R. 18 E.,  
 Sec. 3, lots 2, 3, 4, S $\frac{1}{2}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 4, lot 8, S $\frac{1}{2}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ ;  
 Sec. 6, E $\frac{1}{2}$ E $\frac{1}{2}$ ;  
 Sec. 9, W $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , W $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 16, W $\frac{1}{2}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 17, NE $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
 Sec. 20, E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Sec. 29, N $\frac{1}{2}$ , SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 30, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
 Sec. 31, lot 1, SE $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 T. 8 N., R. 18 E.,  
 Sec. 7, lots 1 and 2, NE $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ .  
 All lands within one-fourth mile of Middle Fork Stanislaus River in unsurveyed portion of township. Protraction of public-land surveys indicates that the lands described above, when surveyed, will be wholly within secs. 25, 26, 34, 35, and 36.  
 All lands within one-fourth mile of Highland Creek in unsurveyed portion of township, not withdrawn in a Federal water-power project. Protraction of

public-land surveys indicates that the lands described above, when surveyed, will be wholly within secs. 5, 7, 8, and 9.  
 T. 7 N., R. 18 E.,  
 All unsurveyed lands adjacent to North Fork Stanislaus River, below the 8,900-foot contour as shown on U.S. Geological Survey topographic map of Big Trees and Dardanelles quadrangles. Protraction of public-land surveys indicates that the lands described above, when surveyed, will be wholly within secs. 15, 19, 20, 21, 22, 27, 28, 29, 30, 31, and 32.

T. 6 N., R. 19 E.,  
 Sec. 12, E $\frac{1}{2}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 13, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ ;  
 Sec. 14, NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 15, S $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
 Sec. 19, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 20, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ ;  
 Sec. 21, NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 22, N $\frac{1}{2}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 23, N $\frac{1}{2}$ , N $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 24, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
 Sec. 25, NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 29, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
 Sec. 30, N $\frac{1}{2}$ N $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 T. 5 N., R. 20 E.,  
 Sec. 11, S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 12, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 13, N $\frac{1}{2}$ NE $\frac{1}{4}$ ;  
 T. 6 N., R. 20 E.,  
 Sec. 26, SW $\frac{1}{4}$ SW $\frac{1}{4}$  (unsurveyed);  
 Sec. 27, SW $\frac{1}{4}$ NW $\frac{1}{4}$  (unsurveyed), SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$  (unsurveyed);  
 Sec. 28, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 29, S $\frac{1}{2}$ N $\frac{1}{2}$  (unsurveyed), N $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 30, lots 1 and 2, S $\frac{1}{2}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 34, N $\frac{1}{2}$ NE $\frac{1}{4}$ ;  
 Sec. 35, W $\frac{1}{2}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$  (unsurveyed), SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$  (unsurveyed);  
 T. 5 N., R. 20 E.,  
 The area described aggregates about 24,650 acres.

The State of California has waived its preference right of application for highway right-of-way or material sites afforded it by section 24 of the Federal Power Act.

At 10 a.m. on May 23, 1975, the unappropriated, unreserved public lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable laws. The lands embraced in the forest shall be open to such disposition as may be made of national forest lands.

All the lands not otherwise withdrawn or reserved have been open to application and offers under the mineral leasing laws and to location under the U.S. mining laws subject to provisions of the Act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621).

Inquiries concerning these lands should be addressed to the Bureau of Land Management, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

WALTER F. HOLMES,  
 Chief, Branch of Lands and Minerals Operations.

[FR Doc.75-13381 Filed 5-21-75; 8:45 am]

[Colorado 22617]

# ROCKY MOUNTAIN NATURAL GAS COMPANY, INC.

## Pipeline Application

MAY 13, 1975.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Rocky Mountain Natural Gas Company, Inc., P.O. Box 700, Glenwood Springs, Colorado 81601, has applied for a right-of-way for a 2 $\frac{3}{4}$  inch and a 4 $\frac{1}{2}$  inch natural gas pipeline totaling approximately two miles in length across the following lands:

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 8 S., R. 104 W.,  
 Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 29, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 31, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 32, NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 T. 8 S., R. 104 W.,  
 Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 29, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 31, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 32, NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 T. 8 S., R. 104 W.,  
 Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 29, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 31, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 32, NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 T. 8 S., R. 104 W.,  
 Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 29, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 31, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 32, NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 T. 8 S., R. 104 W.,  
 Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 29, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 31, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 32, NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 T. 8 S., R. 104 W.,  
 Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 29, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 31, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 32, NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 T. 8 S., R. 104 W.,  
 Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 29, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 31, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 32, NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 T. 8 S., R. 104 W.,  
 Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 29, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 31, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 32, NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 T. 8 S., R. 104 W.,  
 Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 29, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 31, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 32, NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 T. 8 S., R. 104 W.,  
 Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 29, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 31, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 32, NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 T. 8 S., R. 104 W.,  
 Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 29, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 31, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 32, NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 T. 8 S., R. 104 W.,  
 Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 29, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 31, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 32, NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 T. 8 S., R. 104 W.,  
 Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 29, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 31, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 32, NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 T. 8 S., R. 104 W.,  
 Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 29, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 31, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 32, NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 T. 8 S., R. 104 W.,  
 Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 29, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 31, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 32, NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 T. 8 S., R. 104 W.,  
 Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 29, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 31, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 32, NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 T. 8 S., R. 104 W.,  
 Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 29, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 31, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 32, NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 T. 8 S., R. 104 W.,  
 Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 29, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 31, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 32, NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 T. 8 S., R. 104 W.,  
 Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 29, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 31, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 32, NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 T. 8 S., R. 104 W.,  
 Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 29, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 31, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 32, NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 T. 8 S., R. 104 W.,  
 Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 29, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 31, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 32, NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 T. 8 S., R. 104 W.,  
 Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 29, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 31, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 32, NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 T. 8 S., R. 104 W.,  
 Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 29, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 31, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 32, NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 T. 8 S., R. 104 W.,  
 Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 29, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 31, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 32, NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 T. 8 S., R. 104 W.,  
 Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 29, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 31, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 32, NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 T. 8 S., R. 104 W.,  
 Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 29, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 31, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 32, NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 T. 8 S., R. 104 W.,  
 Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 29, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 31, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 32, NW $\frac{1}{4}</$



The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, PO Box 1397, Roswell, NM 88201.

FRED E. PADILLA,  
Chief, Branch of  
Lands and Minerals Operations.  
[FR Doc.75-13461 Filed 5-21-75; 8:45 am]

[NM 25496]

#### NEW MEXICO Application

MAY 16, 1975.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for a 4 inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN,  
NEW MEXICO

T. 21 S., R. 27 E.,  
Sec. 2, lot 13;  
Sec. 3, lot 16, N $\frac{1}{2}$ SE $\frac{1}{4}$ .

This pipeline will convey natural gas across 41 miles of national resource land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201.

RAUL E. MARTINEZ,  
Acting Chief, Branch  
of Lands and Minerals Operations.  
[FR Doc.75-13464 Filed 5-21-75; 8:45 am]

[NM 25498, 25502, 25503, 25504, 25505, and 25509]

#### NEW MEXICO Applications

MAY 15, 1975.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for six 4½ inch natural gas pipelines rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 8 W.  
Sec. 1, S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
Sec. 9, W $\frac{1}{2}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
Sec. 10, NE $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
Sec. 12, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
Sec. 13, SE $\frac{1}{4}$ SW $\frac{1}{4}$ .

Sec. 22, S $\frac{1}{2}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
Sec. 24, NE $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
T. 30 N., R. 10 W.  
Sec. 14, lots 3 and 6.

These pipelines will convey natural gas across 1,416 miles of national resource lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, NE, Albuquerque, NM 87107.

RAUL E. MARTINEZ,  
Acting Chief, Branch  
of Lands and Minerals Operations.  
[FR Doc.75-13466 Filed 5-21-75; 8:45 am]

[NM 25514, 25515, 25516, and 25509]

#### NEW MEXICO Applications

MAY 15, 1975.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for eight 4½ inch natural gas pipelines rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN,  
NEW MEXICO

T. 20 S., R. 28 E.  
Sec. 13, E $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
T. 21 S., R. 26 E.  
Sec. 5, lots 14, 15 and E $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
T. 21 S., R. 27 E.  
Sec. 10, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
Sec. 15, N $\frac{1}{2}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
Sec. 21, NW $\frac{1}{4}$ NE $\frac{1}{4}$  and NE $\frac{1}{4}$ NW $\frac{1}{4}$ .

These pipelines will convey natural gas across 1,999 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201.

RAUL E. MARTINEZ,  
Acting Chief, Branch of Lands  
and Minerals Operations.  
[FR Doc.75-13465 Filed 5-21-75; 8:45 am]

#### SALMON DISTRICT MULTIPLE USE ADVISORY BOARD Meeting Cancellation

Notice is hereby given that the meeting of the Salmon District Multiple Use Advisory Board scheduled to be held on June 3 in the Salmon District Office, Salmon, Idaho, is cancelled. The notice announcing the meeting appeared in the

MAY 15, 1975 issue of the FEDERAL REGISTER.

The meeting will be rescheduled at a later date.

HARRY R. FINLAYSON,  
District Manager.

[FR Doc.75-13460 Filed 5-21-75; 8:45 am]

#### BOISE DISTRICT ADVISORY BOARD Cancellation of Meeting

The Boise District Advisory Board meeting published in the FEDERAL REGISTER of May 8, 1975 (40 FR 20115) scheduled for June 4, 1975 has been postponed until sometime this summer.

ALAN B. TRIPP,  
Acting District Manager.

MAY 16, 1975.

[FR Doc.75-13469 Filed 5-21-75; 8:45 am]

#### DEPARTMENT OF AGRICULTURE

##### Soil Conservation Service

##### DIAMOND BROOK WATERSHED PROJECT, MASSACHUSETTS

##### Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental impact statement for the Diamond Brook Watershed Project, Norfolk County, Massachusetts USDA - SCS - EIS - WS - (ADM) - 75 - 01-(D)-MA.

The environmental impact statement concerns a plan for watershed protection, flood prevention, and improvement of fish and wildlife habitat. The planned works of improvement include conservation land treatment, supplemented by a multiple-purpose reservoir structure and channel work. The multiple-purpose structure will provide storage for floodwater to protect existing property and storage that will create a 17-acre pool for a warm water fishery and wetland wildlife. The channel work will involve installation of about 780 feet of floodwater conduit and enlargement of about 400 feet of existing channel to provide increased flow capacity for floodwater through an urban area. The floodwater conduit will parallel an existing conduit which now carries stream flows. In the channel work area, Diamond Brook is a perennial previously modified stream flowing through an urban area.

A limited supply of copies is available at the following location to fill single copy requests:

Soil Conservation Service, USDA, 29 Cottage Street, Amherst, Massachusetts 01002

Copies of the draft environmental impact statement have been sent for comment to various federal, state, and local

agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action or requests for additional information should be addressed to Dr. Benjamin Isgur, State Conservationist, Soil Conservation Service, 29 Cottage Street, Amherst, Massachusetts 01002.

Comments must be received on or before July 11, 1975, in order to be considered in the preparation of the final environmental impact statement.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: May 13, 1975.

WILLIAM B. DAVEY,  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

[FR Doc.75-13369 Filed 5-21-75; 8:45 am]

#### STUCKER FORK WATERSHED, INDIANA

##### Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; § 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and § 650.8(b) (3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Stucker Fork Watershed Project, Scott, Clark, Jefferson, and Washington Counties, Indiana.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Cletus J. Gillman, State Conservationist, Soil Conservation Service, USDA, 5610 Crawfordsville Road, Building 3, Indianapolis, Indiana 46224, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. The remaining planned works of improvement as described in the negative declaration include conservation land treatment supplemented by two floodwater retarding structures.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA  
5610 Crawfordsville Road  
Indianapolis, Indiana 46224

Requests for single copies of the negative declaration should be sent to the above address.

No administrative action on implementation of the proposal will be taken until June 6, 1975.

#### DEPARTMENT OF COMMERCE

##### Domestic and International Business Administration

##### BROOKHAVEN NATIONAL LABORATORY Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR 701, 1974).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00312-75-42800.  
Applicant: Brookhaven National Laboratory, Associated Universities, Inc., Upton, Long Island, New York 11973. Article: Electron Analyzing Magnet. Manufacturer: Voest, Austria. Intended use of article: The article is intended to be used in a research program of investigating the properties of atomic nuclei. The experiments to be conducted consist of irradiating targets of various elements in a beam of slow neutrons at the Brookhaven High Flux Beam Research Reactor and observing the electrons which are ejected after neutrons are captured by target nuclei.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The National Bureau of Standards (NBS) advised in its memorandum dated May 1, 1975 that the electron analyzing magnet as well as chemical composition within narrow limits for certain parts, as provided by the article, are pertinent to the applicant's research purposes. NBS also advises that it knows of no domestic supplier of materials of equivalent scientific value to the foreign materials for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,  
Director, Special Import  
Programs Division.

[FR Doc.75-13417 Filed 5-21-75; 8:45 am]

#### DEPARTMENT OF AGRICULTURE, ET AL Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Service.)

Dated: May 13, 1975.

WILLIAM B. DAVEY,  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

[FR Doc.75-13367 Filed 5-21-75; 8:45 am]

#### UPPER NANTICOKE RIVER WATERSHED, DELAWARE

##### Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; § 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and § 650.8(b) (3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Upper Nanticoke River Watershed project, Sussex County, Delaware.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Otis D. Fincher, State Conservationist, Soil Conservation Service, USDA, Treadway Towers, Suite 2-4, 9 East Lookerman Street, Dover, Delaware 19901, has determined that the preparation and review of an environmental impact statement is not needed for this work.

The project concerns a plan for watershed protection, flood prevention and agricultural water management. The remaining planned works of improvement as described in the negative declaration include conservation land treatment and multiple purpose channel work. The negative declaration discusses work on 9.2 miles of man-made ephemeral flow channel and 4.2 miles of man-made intermittent flow channel.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA  
Treadway Towers, Suite 2-4  
9 East Lookerman Street  
Dover, Delaware 19901

The negative declaration is available for single copy requests from the above address.

No administrative action on implementation of the proposal will be taken until June 6, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: May 12, 1975.

WILLIAM B. DAVEY,  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

[FR Doc.75-13368 Filed 5-21-75; 8:45 am]



with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before June 11, 1975.

Amended regulations issued under cited Act, as published in the March 18, 1975 issue of the *FEDERAL REGISTER*, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket number: 75-00497-65-61195. Applicant: U.S. Department of Agriculture, Agricultural Research Service, Southern Regional Research Center, P.O. Box 19687, New Orleans, Louisiana 70179. Article: Model SW-2 Wrinklemeter. Manufacturer: Elma Electronics Instrumentation and Control Ltd., Israel. Intended use of article: The article is intended to be used for rating fabric appearance in all ranges of wrinkling which commonly result from laundering or wearing of textiles or after exposure to laboratory types of wrinkling devices. Application received by Commissioner of Customs: April 29, 1975.

Docket number: 75-00498-33-46500. Applicant: University of Pittsburgh, School of Medicine, The Montefiore Hospital, 3459 Fifth Avenue, Pittsburgh, PA 15213. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of the transport of macromolecules (tracers) across biological barriers in which normal and altered mammalian tissues, derived from animal experiments will be investigated. Ultra-histochemistry techniques will be employed. In particular, the identification of sites of enzymatic activity at the ultra-structural level. Another aspect of the research involves the transfer of large molecular weight materials across the cell membrane. Application received by Commissioner of Customs: April 29, 1975.

Docket number: 75-00499-33-46040. Applicant: Kentucky Department of Agriculture, Diagnostic Laboratory, North Drive, Hopkinsville, Kentucky 42240. Article: Electron Microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used to determine the presence of viral particles in tissue fluids and tissue culture fluids and for the examination of fixed tissues in order to confirm or refute a viral diagnosis. Application received by Commissioner of Customs: April 29, 1975.

Docket number: 75-00500-33-77030. Applicant: Stanford University, 820 Quarry Road, Palo Alto, California 94304. Article: NMR Spectrometer, Model HX 360. Manufacturer: Spectrospin AG,

Switzerland. Intended use of article: The article is intended to be used in NMR studies to decipher in detail the structural rearrangement in the repressor protein, which underlies the mechanism of depression of a gene and thereby gain further insight into (a) the molecular mechanism of genetic control and (b) the mechanisms of protein folding. The article will also be used only for highly specialized training at the postdoctoral level as its requires a very high degree of expert knowledge and skill. Application received by Commissioner of Customs: April 29, 1975.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,  
Director, Special Import  
Programs Division.

[FR Doc. 75-13425 Filed 5-21-75; 8:45 am]

#### FLORIDA DEPARTMENT OF NATURAL RESOURCES

##### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR 701, 1974.)

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 75-00343-33-46040. Applicant: Florida Department of Natural Resources, Marine Research Laboratory, 100 Eighth Avenue SE, St. Petersburg, Florida 33701. Article: Electron Microscope, Model HS-9-1. Manufacturer: Hitachi Perkin-Elmer, Japan. Intended use of article: The article is intended to be used to investigate the ultrastructure of Florida's Red Tide organism, *Gymnodinium breve*, and the effects of the Red Tide toxin on tissues and blood of fishes and invertebrates. The fine structure investigation of *G. breve* will include field specimens of VS cultured specimens, light quality studies on cultured material, cells in log growth phase VS stationary growth phase, determine possibility of endosymbionts, and characterize amphiplexa.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (January 2, 1975). Reasons: The applicant requires an electron microscope which is suitable for use by relatively inexperienced operators for study of the "red tide" organism and its toxins. The foreign article is a relatively simple, easy to operate, electron micro-

scope providing only one accelerating voltage. It is designed for confident use by beginners with a minimum of detailed programming. It also provides low distortion micrographs at 500 to 100,000x plus 200x for scanning without a pole piece change, which permits scanning and photography at the lowest magnifications followed by immediate examination at the highest magnifications. The domestic instrument available at the time the article was ordered was the Model EMU-4C electron microscope supplied by the Adam David Company. The Model EMU-4C was a relatively complex instrument designed for the use of an experienced operator. The EMU-4C, with its standard pole piece, had a specified magnification range from 1,400 to 240,000x. For survey and scanning the lower end of this range could be reduced to 250 magnifications or less. But the continued reduction of magnification would induce an increasingly greater distortion. For highest quality, low magnification electron micrographs, from 500 to 70,000x, the EMU-4C's low magnification pole piece would have to be used. The Department of Health, Education, and Welfare advises in its memorandum dated April 4, 1975 that (1) Scanning and photography at lowest magnification followed immediately by examination and photography at the highest magnification as well as simplicity and ease of operation are pertinent to the applicant's intended use, (2) the EMU-4C does not have equivalent magnification range and is too complex for routine screening and teaching work and (3) the Model PA-1 of the Adam David Company was in development when the article was ordered. We, therefore, find that the Model EMU-4 was not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,  
Director, Special Import  
Programs Division.

[FR Doc. 75-13418 Filed 5-21-75; 8:45 am]

#### MEDICAL COLLEGE OF WISCONSIN

##### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR 701, 1974.)

A copy of the record pertaining to this decision is available for public review

during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00368-83-25600. Applicant: Medical College of Wisconsin, Milwaukee County General Hospital, 8700 West Wisconsin Avenue, Milwaukee, Wisconsin 53226. Article: Short Circuit Current System. Manufacturer: Dipl. Ing. U. Gebhardt, West Germany. Intended use of article: The article is intended to be used to study ion and water transport by isolated mucosa of rat colon.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated April 22, 1975 that the foreign article's capability of applying a voltage or a current clamp to the biologic membranes is pertinent to the applicant's studies involving short circuited biologic membranes and electrical determination of ion and water flux through rat mucosa. HEW also advises that it knows of no domestic instrument of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,  
Director, Special Import  
Programs Division.

[FR Doc. 75-13419 Filed 5-21-75; 8:45 am]

#### NASA—MOFFETT FIELD

##### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR 701, 1974.)

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 75-00248-01-07795. Applicant: National Aeronautics and Space Administration, Ames Research Center, Physical Gas-Dynamic and Lasers Branch, Mail Stop 230-3, Moffett Field, Calif. 94035. Article: Imacon Camera. Manufacturer: John Hadland Ltd., United Kingdom. Intended use of

article: The article is intended to be used for studies of the following: (a) The modes of disintegration of water droplets and ice crystals in the region behind a strong shock wave in air. (b) The mechanism of the various aspects of the fragmentation or disintegration process. (c) The time required to fragment water drops and ice crystals.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: This application is a resubmission of Docket Number 74-00337-10-07795 which was denied without prejudice to resubmission on August 20, 1974 for informational deficiencies. The foreign article provides the capability of taking at least six consecutive frames per run. The most closely comparable domestic instrument, the Quantad Model ID3-5-20, provides the capability for either three or five frames per run. The National Bureau of Standards (NBS) advises in its memorandum dated April 22, 1975 that a single camera capable of at least six consecutive frames per run is pertinent to the applicant's intended use. NBS also advises that it knows of no domestically available high-speed image converter camera or equivalent scientific value to the foreign article for the applicant's intended use. The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,  
Director, Special Import  
Programs Division.

[FR Doc. 75-13420 Filed 5-21-75; 8:45 am]

#### SUNY AT ALBANY

##### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR 701, 1974.)

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00261-01-46200. Applicant: State University of New York at Albany, Department of Chemistry, 1400 Washington Avenue, Albany, New York 12222. Article: #2 Pascall Mortar

and Pestle Mill-Porcelain Mortar Only. Manufacturer: Pascall Engineering Co. Ltd., United Kingdom. Intended use of article: The article is intended to be used to grind beef hearts to extract sub-mitochondrial particles from cell fragments.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The application relates to a compatible component for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes.

The Department of Commerce knows of no similar component being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,  
Director, Special Import  
Programs Division.

[FR Doc. 75-13421 Filed 5-21-75; 8:45 am]

#### SYRACUSE UNIVERSITY

##### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR 701, 1974.)

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 75-00298-98-41200. Applicant: Syracuse University, Purchasing Department, Skytop Offices, Syracuse, New York 13210. Article: Reflex Klystron. Manufacturer: Varian of Canada Ltd., Canada. Intended use of article: The article is intended to be used to permit extending the magnetic field and temperature domain in research in which electron spin resonance will be induced in silicon at cryogenic temperatures and at magnetic field of approximately 70 KOe. Other semiconductors such as germanium, III-V and II-VI compound semiconductors, will also be similarly investigated.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for



such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a frequency coverage of 170 to 220 gigahertz at 10 milliwatts. The National Bureau of Standards (NBS) advises in its memorandum dated May 7, 1975 that the specification described above is pertinent to the applicant's intended purposes. NBS also advises that it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended uses.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,  
Director, Special Import  
Programs Division.

[FR Doc.75-13422 Filed 5-21-75; 8:45 am]

#### UNIVERSITY OF ARIZONA COLLEGE OF MEDICINE, ET AL.

##### Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR 701, 1974).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Decision: Applications denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles, for such purposes as the foreign articles are intended to be used, are not being manufactured in the United States.

Reasons: Section 301.8 of the regulations provides in pertinent part:

The applicant shall on or before the 20th day following the date of such notice, inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article for the same intended purposes to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Deputy Assistant Secretary in writing prior to the expiration of the 90 day period. . . . If the applicant fails, within the applicable time periods specified above, to either (a) inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (b) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Deputy Assistant Secretary on the application within the context of Subsection 301.11.

The meaning of the subsection is that should an applicant either fail to notify the Deputy Assistant Secretary of its intent to resubmit another application for the same article to which the denial without prejudice relates within the 20 day period, or fails to resubmit a new application within the 90 day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satisfied the requirements set forth above, therefore, the prior denials without prejudice have the effect of a final decision denying their respective applications.

Section 301.8 further provides:

. . . the Deputy Assistant Secretary shall transmit a summary of the prior denial without prejudice to resubmission to the Federal Register for publication, to the Commissioner of Customs, and to the applicant.

Each of the prior denials without prejudice to resubmission to which this consolidated decision relates was based on the failure of the respective applicants to submit the required documentation, including a completely executed application form, in sufficient detail to allow the issue of "scientific equivalency" to be determined by the Deputy Assistant Secretary.

Docket number: 75-00236-33-46500. Applicant: University of Arizona College of Medicine, Arizona Medical Center, 1501 N. Campbell Avenue, Tucson, Arizona 85724. Article: Ultramicrotome, Model LKB 8800A. Date of denial without prejudice to resubmission: January 15, 1975.

Docket number: 75-00060-33-46500. Applicant: University of Colorado, School of Dentistry, 4200 East 9th Avenue, Denver, Colorado 80220. Article: Ultramicrotome, Model LKB 8800A. Date of denial without prejudice to resubmission: January 17, 1975.

Docket number: 75-00063-33-46500. Applicant: University of Wisconsin-Wausau Center, 2605 Marsh Lane, Madison, Wisconsin 53706. Article: Ultramicrotome, Model LKB 8800A. Date of denial without prejudice to resubmission: January 20, 1975.

Docket number: 75-00100-33-46500. Applicant: Cornell University Medical College, Department of Physiology, 1300 York Avenue, New York, N.Y. 10021. Article: Ultramicrotome, Model OM U2. Date of denial without prejudice to resubmission: January 20, 1975.

Docket number: 75-00115-33-46500. Applicant: University of North Carolina at Chapel Hill, School of Medicine, Chapel Hill, North Carolina 27514. Article: Ultramicrotome, Model OM U3. Date of denial without prejudice to resubmission: January 15, 1975.

Docket number: 75-00123-33-46070. Applicant: University of Nebraska Medical Center, Department of Dermatology, Conkling Hall, Room 4006, 42nd and Dewey Avenue, Omaha Nebraska 68105. Article: Mini Scanning Electron Microscope, Model MSM-5. Date of denial

without prejudice to resubmission: January 6, 1975.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,  
Director, Special Import  
Programs Division.

[FR Doc.75-13426 Filed 5-21-75; 8:45 am]

#### UNIVERSITY OF CINCINNATI, ET AL.

##### Consolidated Decision on Applications for Duty-Free Entry of EMI Scanner Systems

The following is a consolidated decision on applications for duty-free entry of EMI Scanner Systems pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR 701, 1974). (See especially 4301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 75-00325-33-90000.

Applicant: University of Cincinnati, Cincinnati General Hospital, 234 Goodman Street, Cincinnati, Ohio 45267. Article: EMI Scanner System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used as a clinical, education, and research tool. Clinical utilization entails diagnostic evaluation of neurologic, otologic, and ophthalmologic disorders. The article will also be used in the study of cerebral trauma including an in-depth study of the problems of chronic subdural hematomas. In addition, post-traumatic hydrocephalus including its serial development and progression is to be evaluated. The article is to also be included in the curriculum of the teaching of neuro-diagnosis to Radiology, Neurology, and Neurosurgery residents, as well as medical students. Application received by Commissioner of Customs: January 20, 1975. Advice submitted by the Department of Health, Education, and Welfare on: April 22, 1975. Article ordered: November 21, 1974.

Docket number: 75-00326-33-90000. Applicant: Vanderbilt Hospital, 21st and Garland Avenues, Nashville, Tennessee 37232. Article: EMI Scanner System with Tape Storage Unit. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used for the investigation of patients with symptoms suggesting cerebrovascular accidents, brain damage from other causes, intracranial tumors, intracranial abscesses, and other cerebral disorders. The results of these studies will be compared with conventional diagnostic studies, such as skull films, air and radiopaque contrast studies, and isotopic studies. Application received by Commissioner of Customs: January 20, 1975.

Docket number: 75-00347-99-90000. Applicant: St. Vincent's Medical Center, Barrs and St. Johns Avenue, Jacksonville, Florida 32204. Article: EMI Scanner System with Magnetic Tape Storage System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used for the training of residents, student nurses and student radiologic technologists as well as for informing the medical community on the availability of the unit and its applications. Application received by Commissioner of Customs: January 29, 1975. Advice submitted by the Department of Health, Education, and Welfare on: April 22, 1975. Article ordered: December 31, 1974.

Docket number: 75-00372-33-90000. Applicant: Baptist Hospital, 1000 West Moreno Street, Pensacola, Florida 32501. Article: EMI Scanner System with Magnetic Tape Storage. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used to detect abnormalities in the brain

and adjacent structures. In addition, the article will be used to further complement the education program known as the Pensacola Educational Program. Application received by Commissioner of Customs: February 12, 1975. Advice submitted by the Department of Health, Education, and Welfare on: April 22, 1975. Article ordered: July 30, 1974.

Docket number: 75-00373-33-90000. Applicant: University of New Mexico, School of Medicine, Division of Neurosurgery, 915 Stanford Drive NE, Albuquerque, New Mexico 87131. Article: EMI Scanner System with Magnetic Tape Storage. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be an integral part of the investigation of brain pathology in the following research projects: (1) The investigation of a pleomorphic radiation on primary and secondary tumors of the brain. (2) The investigation of congenital abnormalities of the brain in an attempt to predict the prognosis of a case in relationship to the anatomy of the brain as seen on EMI scan and the influence of hydrocephalus on that outcome. (3) The investigation of cases of closed head injury with emphasis on the prognostic value of the EMI-Scan in regard to the long term neurological status of the patients. (4) Investigation of the blood-brain barrier systems in regard to contrast materials and modification of the barrier by various drugs. In addition, the article will be used to train residents in radiology and neurology in advanced techniques of neuroradiology.

Application received by Commissioner of Customs: February 12, 1975. Advice submitted by the Department of Health, Education, and Welfare on: April 22, 1975. Article ordered: October 4, 1974.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes as these articles are intended to be used, was being manufactured in the United States at the time the articles were ordered. Reasons: Each foreign article is a newly developed system which is designed to provide precise transverse axial X-ray tomography. The Department of Health, Education, and Welfare (HEW) advised in its respectively cited memoranda that the sensitivity and the non-invasive methodology of each article are pertinent to the purposes for which each foreign article is intended to be used. HEW also advised that it knows of no domestic instrument of equivalent scientific value to any of the articles to which the foregoing applications relate for such purposes as these articles are intended to be used which was being manufactured in the United States at the time the articles were ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as

these articles are intended to be used, which was being manufactured in the United States at the time the articles were ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,  
Director, Special Import  
Programs Division.

[FR Doc.75-13427 Filed 5-21-75; 8:45 am]

#### UNIVERSITY OF ILLINOIS

##### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR 701, 1974).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 75-00353-00-46040.

Applicant: University of Illinois, Urbana-Champaign Campus, Purchasing Division, 223 Administration Bldg., Urbana, Illinois 61801. Article: Wide Angle Tilt Rotation Goniometer Stage. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used for research on metals and alloys to learn more of the nature of martensitic phase transformations by using the electron microscope for both crystal structure and substructure analysis.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The application relates to a compatible accessory for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes.

The Department of Commerce knows of no similar accessory being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Programs No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,  
Director, Special Import  
Programs Division.

[FR Doc.75-13423 Filed 5-21-75; 8:45 am]



## UNIVERSITY OF ROCHESTER

## Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR 701, 1974.)

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00378-93-16295. Applicant: University of Rochester, Rochester, N.Y. 14627. Article: D-CDA Crystal. Manufacturer: Quantum Technology Ltd., Canada. Intended use of article: The article is intended to be used in the study of Dirac-Kapitza scattering to determine the dependence of the scattering probability on the intensity of electromagnetic field.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The article is capable of tuning to peak conversion efficiency and maintaining the correct temperature within narrow limits. The National Bureau of Standards (NBS) advises in its memorandum dated May 7, 1975 that the capability described above is pertinent to the applicant's intended purposes. NBS also advises that it knows of no domestically available crystal of equivalent scientific value to the foreign article for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.106, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,  
Director, Special Import  
Programs Division.

[FR Doc. 75-13424 Filed 5-21-75; 8:45 am]

Maritime Administration  
[Docket No. 8-451]

LYKES BROS. STEAMSHIP CO., INC.  
Application

Notice is hereby given that Lykes Bros. Steamship Co., Inc., a Louisiana corporation, has filed an application dated December 2, 1974, and amended April 8, 1975 and May 6, 1975, with the Maritime Subsidy Board (Board) pursuant to Title VI (46 U.S.C. 1171-1183) of the Merchant Marine Act, 1936, as amended (the Act), for a twenty-year operating-differential subsidy contract for operation of services on Trade Route No. 21 (U.S. Gulf ports/United Kingdom and Continent), Trade Route No. 13 (U.S. South Atlantic and Gulf ports/Mediterranean and Black Sea), Trade Route No. 22 (U.S. Gulf

ports/Far East), Trade Route No. 15-B (U.S. Gulf ports/South and East Africa) and Trade Route No. 31 (U.S. Gulf ports/West Coast South America).

If this application is approved, the twenty-year agreement would succeed and become effective upon termination of the applicant's present subsidy agreement, Contract No. FMB-59, on December 31, 1977.

Lykes Bros. Steamship Co. is presently authorized to operate a fleet of 41 subsidized vessels, and until replaced as required by the United States, the fleet to be operated under a new contract would consist of the following 41 MA design cargo vessels—eight C3-S-37c, five C3-S-37d, twelve C4-S-66a, nine C5-S-37e, four C5-S-37f and three C8-S-82a.

The applicant has proposed certain substantive changes in the service description contained as of this date in its present operating-differential subsidy agreement, as follows:

(1) The addition to its Line B (Trade Route No. 21) Service of "U.S.S.R. ports east of the border with Finland in the Barents Sea";

(2) An increase in the permanent maximum on its Line D (Trade Route No. 22) Service from 60 to 84 sailings per annum (Lykes is presently authorized to make up to 84 sailings per annum under a temporary authorization);

(3) Elimination of the minimum and maximum requirements for service to Indonesia/Malaysia on Line D, thereby making possible service to that area on any or all Line D sailings;

(4) Addition of Brunei to the Line D service area;

(5) Addition of the Bahama Islands to the Line D and Line E (Trade Route 15-B) service areas; and

(6) Increase the aggregate maximum permissible number of sailings annually on all services from 246 to 276.

If the application is approved, the Lykes Bros. fleet of 41 vessels would operate in the services summarized generally as follows:

(1) Trade Route No. 21—a minimum of 24 and a maximum of 42 sailings per annum with Sea-Barge Carrier vessels, and up to 24 additional sailings per annum with conventional vessels (but up to a maximum of 84 sailings per annum with conventional vessels if Sea Barge Carriers are not employed in the service) between U.S. Gulf ports and ports in the United Kingdom and Continental Europe from the northern border of Portugal to the southern border of Denmark with permissive or privilege calls in Scandinavia and Baltic countries, at U.S.S.R. ports east of the border with Finland in the Barents Sea, and at ports on the East Coast of Mexico.

(2) Trade Route No. 13—a minimum of 42 and a maximum of 48 sailings per annum between U.S. Gulf and South Atlantic ports and ports in Portugal, Spain, Morocco and on the Mediterranean Sea, Aegean Sea, Adriatic Sea and other minor seas which are arms of the Mediterranean, with permissive calls in the Black Sea and privilege calls at the Azores and certain ports in the Caribbean, subject to the stipulation that a minimum of 16 outbound sailings per annum shall include a port or ports in the U.S. South Atlantic area.

(3) Trade Route No. 22—a minimum of 48 and a maximum of 84 sailings per annum between U.S. Gulf ports and ports in the Far East, Indonesia and Malaysia (including Singapore), with permissive calls at U.S.S.R. in Asia, Mainland China, Okinawa and up to 16 calls at U.S. Atlantic ports with certain cargoes from the Philippines, and privilege calls at Hawaii, Guam, Wake and Midway, Panama Canal Zone, East Coast of Mexico and West Indies;

(4) Trade Route No. 15-B—a minimum of 18 and a maximum of 24 sailings per annum between U.S. Gulf ports and ports in South and East Africa, with permissive calls at Malagasy Republic, and Trinidad and privilege calls at the islands of Ascension, St. Helena, Mauritius, Reunion, ports in the West Indies, Central America and the East Coast of Mexico.

(5) Trade Route No. 31—a minimum of 30 and a maximum of 36 sailings per annum between U.S. Gulf ports and ports on the West Coast of South America, with privilege calls at ports in Panama, Canal Zone, North Coast of Colombia and the East Coast of Mexico.

Interested parties may inspect the application in the Office of the Secretary, Maritime Subsidy Board, Room 3099-B, Department of Commerce Building, Fourteenth and E Streets, NW., Washington, D.C. 20230.

Any person, firm or corporation having an interest in such application who desires to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20230, by the close of business on June 9, 1975.

The Maritime Subsidy Board will consider these views and comments, and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504, Operating-Differential Subsidies (ODS))

By Order of the Maritime Subsidy Board.

Dated: May 19, 1975.

JAMES S. DAWSON, Jr.,  
Secretary.

[FR Doc. 75-13480 Filed 5-21-75; 8:45 am]

TUITION FEE FOR COLLISION AVOIDANCE  
RADAR TRAINING COURSE

Change of Procedures

Notice is hereby given that beginning July 1, 1975, the tuition fees that are assessed for the Collision Avoidance Radar courses offered at the Maritime Administration Radar Training Centers in New York, New Orleans, Toledo and San Francisco, will be increased as follows:

8- and 5-day Courses.....	\$90.00
3-day refresher Course.....	50.00
Recertification Exercise.....	20.00

Payment shall be to the registrar at the school attended in the form of a check or money order made payable to "Maritime Administration—Commerce" in the amount of the fee assessed for the course selected. Such receipts will be deposited in an appropriate account as general receipts of the Treasury of the United States.

Dated: May 16, 1975.

By Order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,  
Secretary,  
Maritime Administration.

[FR Doc. 75-13490 Filed 5-21-75; 8:45 am]

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

Office of the Secretary  
PRESIDENT'S ADVISORY COMMITTEE  
ON REFUGEES

Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that the President's Advisory Committee on Refugees will hold a meeting on Friday, May 23, 1975, from 10 a.m. to 2 p.m. The meeting will be held in Room 4203, New Executive Office Building, 17th & Pennsylvania Ave., NW., Washington, D.C. 20503.

The meeting of the committee shall be open to the public. The proposed agenda includes the development of the formative activities for the operation of the committee.

Because of the necessity to commence the humanitarian activities of the committee as soon as possible, the usual requirement for advance notice of the committee's meeting has been waived.

Records shall be kept of all committee proceedings (and shall be available for public inspection at the Library of the Department of Health, Education, and Welfare, located in Room 1436, 30 Independence Ave., SW., Washington, D.C. 20201).

Dated: May 21, 1975.

WILLIAM S. BALLENGER,  
Assistant to the Secretary.

[FR Doc. 75-13679 Filed 5-21-75; 3:54 pm]

SOCIAL SECURITY BENEFIT INCREASES  
Cost-of-Living Increase in Benefits and  
Income Limitations

Pursuant to authority contained in section 215(i) of the Social Security Act (42 U.S.C. 415(i)), as amended by section 3 of Pub. L. 93-233, enacted December 31, 1973, and in section 1617 of the Social Security Act (42 U.S.C. 1382f), I hereby determine and announce a cost-of-living increase of 8.0 percent in benefits under the Social Security Act, title II effective June 1975 and title XVI effective July 1975; that the following revised

table of benefits is deemed to appear in section 215(a) of the Act; that, with respect to benefits for transitional insured persons aged 72 and over entitled under section 227 of the Act (42 U.S.C. 427) and for uninsured persons aged 72 and over entitled under section 228 of the Act (42 U.S.C. 428), the amounts \$69.60 and \$34.80 are established in lieu of the respective amounts of \$64.40 and \$32.20, that appear in sections 227 and 228 of the Act; that, regarding the additional amount of the supplemental security income benefit with respect to essential persons payable under section 211 of Pub. L. 93-66, as amended, the amount of \$946 is established in lieu of the amount of \$876 that appears in section 211(a)(1) (A) of that law; and that, with respect to income limitations under the program of supplemental security income for the aged, blind, and disabled, the amounts of \$1,892.40 and \$2,839.20 are established in lieu of the respective amounts of \$1,752 and \$2,628 that appear in sections 1611(a)(1)(A), 1611(a)(2)(A), 1611(b)(1), and 1611(b)(2) of the Act.

AUTOMATIC BENEFIT INCREASE  
DETERMINATION

Section 215(i) of the Social Security Act requires that, when certain conditions are met in the first calendar quarter of a year, the Secretary shall determine that a cost-of-living increase in benefits and income limitations is due. That section further specifies a formula which automatically determines the amount of any cost-of-living increase in benefits and income limitations, based on the Consumer Price Index reported by the Department of Labor.

Section 215(i)(2)(A) of the Act provides that the Secretary shall determine each year, beginning with 1975, whether there is a cost-of-living computation quarter in such year. If he so determines, such subsection also provides that he shall, effective with June of that year, increase benefits for individuals entitled under sections 227 and 228 of the Act, and that he shall increase the primary insurance amounts of all other individuals entitled to benefits under title II of the Act (excluding primary insurance amounts determined under section 215(a)(3)). The subsection further provides that the percentage of increase in benefits shall be equal to the percentage of increase by which the Consumer Price Index for the cost-of-living computation quarter exceeds the Index for the most recent prior base quarter or cost-of-living computation quarter.

Section 215(i)(1) of the Act defines a base quarter as a calendar quarter ending on March 31 in each year after 1974, or any other calendar quarter in which occurs the effective month of a general benefit increase. This subsection of the Act also defines a cost-of-living computation quarter as a base quarter in which the Consumer Price Index prepared by the Department of Labor exceeds by not less than 3 percent such Index in the last prior cost-of-living computation quarter or, if later, the most recent calendar quarter in which a general benefit increase was effective. This subsection of



the Act further provides that the Consumer Price Index for a base quarter or a cost-of-living computation quarter shall be the arithmetical mean of such Index for the 3 months in such quarter.

Under the provisions of the Act described above, the first possible cost-of-living computation quarter was the calendar quarter ending March 31, 1975. The Consumer Price Index prepared by the Department of Labor for each month in that quarter was: For January 1975, 156.1; for February 1975, 157.2; for March 1975, 157.8. The arithmetical mean for the calendar quarter ending March 31, 1975, is thus 157.0. This result is to be compared to the most recent calendar quarter in which a general benefit increase was effective. The most recent such quarter was the quarter ending June 30, 1974. (Pub. L. 93-233, enacted December 31, 1973, provided for a general benefit increase effective June 1974. See section 3(i) of Pub. L. 93-233 and section 215(i)(3) of the Social Security Act, as amended.) The Consumer Price Index prepared by the Department of Labor for each month in that quarter was: For April 1974, 143.9; for May 1974, 145.5; for June 1974, 146.9. The arithmetical mean for the calendar quarter ending June 30, 1974, is thus 145.4. Comparing this result to the arithmetical mean for the calendar quarter ending March 31, 1975, yields an increase of 8.0 percent. Thus, since the percentage of increase in the Consumer Price Index from the calendar quarter ending June 30, 1974, to the calendar quarter ending March 31, 1975, exceeds 3 percent, the quarter ending March 31, 1975, is a cost-of-living computation quarter. Consequently, a cost-of-living benefit increase of 8.0 percent is effective for benefits under title II of the Act for June 1975.

TITLE II BENEFITS

In accordance with section 215(i)(2)(D)(iv) of the Act, the primary insurance amounts and the maximum family benefits shown in columns IV and V, respectively, of the revised benefit table set forth in this announcement were obtained by increasing by 8.0 percent the corresponding amounts shown in the benefit table heretofore established by Pub. L. 93-233. (So much of the table as applies to average monthly wages of \$1,101 through \$1,175 does not appear in the table as amended by Pub. L. 93-233,

but results from the operation of section 215(i)(2)(D)(v), section 230 of the Social Security Act, as amended, and Pub. L. 93-233, particularly, section 3(i) of Pub. L. 93-233.) With respect to benefits for persons entitled under sections 227 and 228 of the Act, the amounts of \$64.40 and \$32.20 heretofore established, were increased by 8.0 percent to obtain the new amounts of \$69.60 and \$34.80, respectively. The table extensions referred to in section 215(i)(2)(D)(v) will be published concurrent with the publication of a contribution and benefit base determination pursuant to section 230(a).

TITLE XVI BENEFITS

Section 1617 of the Social Security Act provides that, whenever the benefits under title II are increased as a result of a determination made under section 215(i), the amounts in sections 1611(a)(1)(A), 1611(a)(2)(A), 1611(b)(1), and 1611(b)(2) of the Social Security Act and in section 211(a)(1)(A) of Pub. L. 93-66, shall be increased, effective with months after the month in which the title II increase is effective, and that such percentage of increase shall be the same as the percentage of increase by which the title II benefits are increased (and rounded, when not a multiple of \$1.20, to the next higher multiple of \$1.20).

In accordance with section 1617, benefit amounts under the program of supplemental security income for the aged, blind, and disabled and the maximum amounts of income, other than income excluded under section 1612(b), under the program of supplemental security income for the aged, blind, and disabled, of \$1,752 and \$2,628 heretofore established are increased effective July 1975, by 8.0 percent to obtain the new amounts of \$1,892.40 and \$2,839.20, respectively. With respect to the amount of the additional supplemental security income benefit with respect to essential persons payable under section 211(a)(1)(A) of Pub. L. 93-66, as amended, the amount of \$876 heretofore established is increased by 8.0 percent to obtain the new amount of \$946.

(Catalog of Federal Domestic Assistance Programs Nos. 13.802-5, and 13.807 Social Security Programs.)

Dated: May 14, 1975.

CASPAR W. WEINBERGER,  
Secretary.

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS  
BEGINNING JUNE 1975

This Revised Table Was Made Pursuant to Section 215(i)(2)(D) of the Social Security Act, As Amended

I (Primary insurance benefit under 1939 Act, as modified)		II (Primary insurance amount effective for June 1974)		III (Average monthly wage)		IV (Primary insurance amount)	V (Maximum family benefits)
If an individual's primary insurance benefit (as deter- mined under subsec. (d)) is--		Or his primary insurance amount (as determined under subsec. (c)) is--		Or his average monthly wage (as determined under subsec. (b)) is--		The amount referred to in the preceding paragraphs of this subsection shall be--	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self- employment income shall be--
At least--	But not more than--			At least--	But not more than--		
---	\$16.20	\$ 93.80		---	\$ 76	\$101.40	\$152.10
\$16.21	16.84	95.30		\$ 77	78	103.00	154.50
16.85	17.60	97.50		79	80	105.30	158.10
17.61	18.40	99.30		81	81	107.30	161.00
18.41	19.24	101.10		82	83	109.20	163.90
19.25	20.00	103.20		84	85	111.50	167.30
20.01	20.64	105.10		86	87	113.60	170.40
20.65	21.28	106.80		88	89	115.40	173.10
21.29	21.88	108.90		90	90	117.70	176.60
21.89	22.28	110.80		91	92	119.70	179.60
22.29	22.68	112.60		93	94	121.70	182.60
22.69	23.08	114.40		95	96	123.60	185.40
23.09	23.44	116.50		97	97	125.90	188.90
23.45	23.76	118.50		98	99	128.00	192.10
23.77	24.20	120.80		100	101	130.50	195.80
24.21	24.60	122.50		102	102	132.30	198.60
24.61	25.00	124.50		103	104	134.50	201.80
25.01	25.48	126.80		105	106	137.00	205.50
25.49	25.92	128.80		107	107	139.20	208.80
25.93	26.40	130.90		108	109	141.40	212.20
26.41	26.94	132.90		110	113	143.60	215.40
26.95	27.46	134.80		114	118	145.60	218.40
27.47	28.00	136.90		119	122	147.90	221.90
28.01	28.68	138.90		123	127	150.10	225.20
28.69	29.25	141.10		128	132	152.40	228.70

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## NOTICES

I		II	III		IV	V
\$29.26	\$29.68	\$143.00	\$133	\$136	\$154.50	\$231.80
29.69	30.36	144.90	137	141	156.50	234.80
30.37	30.92	147.10	142	146	158.90	238.40
30.93	31.36	149.10	147	150	161.10	241.70
31.37	32.00	151.00	151	155	163.10	244.70
32.01	32.60	153.20	156	160	165.50	248.30
32.61	33.20	155.10	161	164	167.60	251.40
33.21	33.88	157.20	165	169	169.80	254.70
33.89	34.50	159.20	170	174	172.00	258.10
34.51	35.00	161.20	175	178	174.10	261.20
35.01	35.80	163.40	179	183	176.50	264.80
35.81	36.40	165.20	184	188	178.50	267.80
36.41	37.08	167.50	189	193	180.90	271.60
37.09	37.60	169.50	194	197	183.10	274.80
37.61	38.20	171.40	198	202	185.20	277.80
38.21	39.12	173.70	203	207	187.60	281.50
39.13	39.68	175.70	208	211	189.80	284.70
39.69	40.33	177.40	212	216	191.60	287.40
40.34	41.12	179.60	217	221	194.00	291.00
41.13	41.76	181.60	222	225	196.20	294.30
41.77	42.44	183.80	226	230	198.60	297.90
42.45	43.20	185.80	231	235	200.70	301.10
43.21	43.76	188.10	236	239	203.20	304.80
43.77	44.44	189.90	240	244	205.10	309.10
44.45	44.88	191.70	245	249	207.10	315.50
44.89	45.60	194.10	250	253	209.70	320.60
		196.10	254	258	211.80	326.90
		197.70	259	263	213.60	333.10
		200.10	264	267	216.20	338.20
		202.10	268	272	218.30	344.60
		204.20	273	277	220.60	350.80
		206.20	278	281	222.70	355.90
		208.20	282	286	224.90	362.30
		210.40	287	291	227.30	368.70
		212.20	292	295	229.20	373.60
		214.40	296	300	231.60	379.90
		216.40	301	305	233.80	386.30
		218.30	306	309	235.80	391.40
		220.50	310	314	238.20	397.70
		222.40	315	319	240.20	404.10
		224.30	320	323	242.30	409.20
		226.50	324	328	244.70	415.50
		228.50	329	333	246.80	421.80
		230.80	334	337	249.30	426.90

I	II	III	IV	V
\$232.50	\$338	\$342	\$251.10	\$433.10
234.50	343	347	253.30	439.50
236.80	348	351	255.80	444.50
238.70	352	356	257.80	450.80
240.90	357	361	260.20	457.20
242.80	362	365	262.30	462.30
244.70	366	370	264.30	468.60
246.90	371	375	266.70	474.80
248.90	376	379	268.90	480.10
251.10	380	384	271.20	486.40
252.90	385	389	273.20	492.60
254.90	390	393	275.30	497.70
257.10	394	398	277.70	504.10
259.00	399	403	279.80	510.50
261.30	404	407	282.30	515.40
263.00	408	412	284.10	521.80
264.90	413	417	286.10	528.10
266.80	418	421	288.20	533.10
268.90	422	426	290.50	539.40
270.70	427	431	292.40	545.80
272.40	432	436	294.20	552.10
274.70	437	440	296.70	554.60
276.30	441	445	298.50	557.90
278.20	446	450	300.50	561.00
280.30	451	454	302.80	563.50
282.10	455	459	304.70	566.60
284.00	460	464	306.80	569.70
285.80	465	468	308.70	572.40
288.00	469	473	311.10	575.50
289.60	474	478	312.80	578.70
291.50	479	482	314.90	581.30
293.60	483	487	317.10	584.50
295.40	488	492	319.10	587.70
297.30	493	496	321.10	590.20
299.40	497	501	323.40	593.30
301.10	502	506	325.20	596.40
303.00	507	510	327.30	599.00
304.90	511	515	329.30	602.10
306.90	516	520	331.50	605.40
308.70	521	524	333.40	607.80
310.60	525	529	335.50	611.00
312.70	530	534	337.80	614.10
314.40	535	538	339.60	616.70
316.30	539	543	341.70	619.90
318.40	544	548	343.90	623.00
320.20	549	553	345.90	626.20

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## NOTICES

I	II	III	IV	V
	\$322.10	\$554	\$556	\$347.90
	323.60	557	560	349.50
	325.40	561	563	351.50
	327.10	564	567	353.30
	328.80	568	570	355.20
	330.40	571	574	356.90
	332.20	575	577	358.80
	333.70	578	581	360.40
	335.50	582	584	362.40
	337.00	585	588	364.00
	338.90	589	591	366.10
	340.60	592	595	367.90
	342.30	596	598	369.70
	343.90	599	602	371.50
	345.60	603	605	373.30
	347.30	606	609	375.10
	349.00	610	612	377.00
	350.70	613	616	378.80
	352.40	617	620	380.60
	354.00	621	623	382.40
	355.70	624	627	384.20
	357.40	628	630	386.00
	359.00	631	634	387.80
	360.80	635	637	389.70
	362.60	638	641	391.70
	364.10	642	644	393.30
	365.90	645	648	395.20
	367.50	649	652	396.90
	368.60	653	656	398.10
	369.60	657	660	399.20
	370.90	661	665	400.60
	372.20	666	670	402.00
	373.60	671	675	403.50
	374.90	676	680	404.90
	376.20	681	685	406.30
	377.60	686	690	407.90
	378.90	691	695	409.30
	380.20	696	700	410.70
	381.60	701	705	412.20
	382.90	706	710	413.60
	384.20	711	715	415.00
	385.60	716	720	416.50
	386.90	721	725	417.90
	388.20	726	730	419.30

## NOTICES

22295

I	II	III	IV	V
	\$389.50	\$731	\$735	\$420.70
	390.90	736	740	422.20
	392.20	741	745	423.60
	393.50	746	750	425.00
	394.70	751	755	426.30
	395.80	756	760	427.50
	396.90	761	765	428.70
	398.00	766	770	429.90
	399.10	771	775	431.10
	400.20	776	780	432.30
	401.30	781	785	433.50
	402.40	786	790	434.60
	403.50	791	795	435.80
	404.60	796	800	437.00
	405.80	801	805	438.30
	406.90	806	810	439.50
	408.00	811	815	440.70
	409.10	816	820	441.90
	410.20	821	825	443.10
	411.30	826	830	444.30
	412.40	831	835	445.40
	413.50	836	840	446.60
	414.60	841	845	447.80
	415.70	846	850	449.00
	416.90	851	855	450.30
	418.00	856	860	451.50
	419.10	861	865	452.70
	420.20	866	870	453.90
	421.30	871	875	455.10
	422.40	876	880	456.20
	423.50	881	885	457.40
	424.60	886	890	458.60
	425.70	891	895	459.80
	426.80	896	900	461.00
	428.00	901	905	462.30
	429.10	906	910	463.50
	430.20	911	915	464.70
	431.30	916	920	465.90
	432.40	921	925	467.00
	433.50	926	930	468.20
	434.60	931	935	469.40
	435.70	936	940	470.60
	436.80	941	945	471.80
	437.90	946	950	473.00

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I	II	III	IV	V
	\$439.10	\$ 951	\$ 955	\$474.30
	440.20	956	960	475.50
	441.30	961	965	476.70
	442.40	966	970	477.80
	443.50	971	975	479.00
	444.60	976	980	480.20
	445.70	981	985	481.40
	446.80	986	990	482.60
	447.90	991	995	483.80
	449.00	996	1000	485.00
	450.00	1001	1005	486.00
	451.00	1006	1010	487.10
	452.00	1011	1015	488.20
	453.00	1016	1020	489.30
	454.00	1021	1025	490.40
	455.00	1026	1030	491.40
	456.00	1031	1035	492.50
	457.00	1036	1040	493.60
	458.00	1041	1045	494.70
	459.00	1046	1050	495.80
	460.00	1051	1055	496.80
	461.00	1056	1060	497.90
	462.00	1061	1065	499.00
	463.00	1066	1070	500.10
	464.00	1071	1075	501.20
	465.00	1076	1080	502.20
	466.00	1081	1085	503.30
	467.00	1086	1090	504.40
	468.00	1091	1095	505.50
	469.00	1096	1100	506.60
	470.00	1101	1105	507.60
	471.00	1106	1110	508.70
	472.00	1111	1115	509.80
	473.00	1116	1120	510.90
	474.00	1121	1125	512.00
	475.00	1126	1130	513.00
	476.00	1131	1135	514.10
	477.00	1136	1140	515.20
	478.00	1141	1145	516.30
	479.00	1146	1150	517.40
	480.00	1151	1155	518.40
	481.00	1156	1160	519.50
	482.00	1161	1165	520.60
	483.00	1166	1170	521.70
	484.00	1171	1175	522.80

[FR Doc.75-13220 Filed 5-21-75;8:45 am]

DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENTAssistant Secretary for Community  
Planning and Development

[Docket No. D-75-320]

REGIONAL ADMINISTRATOR AND DE-  
PUTY REGIONAL ADMINISTRATOR, RE-  
GION IXRedelegation of Authority With Respect to  
Surplus Real Property

The Regional Administrator and Deputy Regional Administrator, Region IX (San Francisco), each is authorized to exercise the authority of the Secretary of Housing and Urban Development, pursuant to section 414 of the Housing and Urban Development Act of 1969, 40 U.S.C. 484(b), with respect to the herein-after described property, together with any improvements and related personal property located thereon.

U.S. Army Reserve Center, Lompoc, California identified more particularly in the GSA Determination of Surplus (Excess Real Property and Related Personal Property) of November 15, 1972 (GSA Control Number 9-D-Calif-520-A).

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3635(d)))

Effective Date. This delegation shall be effective on May 22, 1975.

DAVID O. MEEKER, JR.,  
Assistant Secretary for Com-  
munity Planning and Devel-  
opment.

[FR Doc.75-13426 Filed 5-21-75;8:45 am]

DEPARTMENT OF  
TRANSPORTATION

Federal Aviation Administration

TERMINAL INSTRUMENT PROCEDURES  
(TERPs) HELICOPTER WORKING GROUP  
Meeting

Notice is hereby given that the TERPs Helicopter Working Group will hold a meeting beginning at 9 a.m., Edt, June 11 and 12, in Room 7A, Federal Aviation Administration, 800 Independence Avenue SW, Washington, D.C. The following agenda item is scheduled for this meeting:

Discussion. Review of the obstacle clearance requirements applicable to helicopter instrument approach procedures presently specified in Chapter 11 of the TERPs Handbook.

All those interested in attending the meeting should contact Juan K. Croft, Chairman, TERPs Helicopter Working Group, Federal Aviation Administration, AFS-824, 800 Independence Avenue SW, Washington, D.C. 20591, telephone 202 426-8194. The meeting will be open to the public.

Issued in Washington, D.C. on May 15, 1975.

JAMES A. FORGAS,  
Chairman, U.S. Terminal Instru-  
ment Procedures (TERPs)  
Advisory Committee.

[FR Doc.75-13309 Filed 5-21-75;8:45 am]

National Highway Traffic Safety  
AdministrationFAILURES OF POWER BRAKE VACUUM  
VALVES ON 1965-1971 GENERAL MO-  
TORS VEHICLES

## Public Proceeding

Pursuant to section 152 of the National Traffic and Motor Vehicle Safety Act of 1966 as amended (Public Law 93-492, 88 Stat. 1470; October 27, 1974; (15 U.S.C. 1412)), the Associate Administrator, Motor Vehicle Programs, has made an initial determination that a defect relating to motor vehicle safety exists with respect to failures of power brake vacuum check valves on certain 1965-1971 General Motors automobiles because such failures can result in loss of power brake assist, property damage or personal injury.

A public meeting will be held at 10 a.m., on June 24, 1975, in Room 5332, Department of Transportation Headquarters, 400 Seventh Street SW., Washington, D.C. 20590, at which General Motors Corporation will be afforded an opportunity to present data, views and arguments to establish that the alleged defect does not exist or does not affect motor vehicle safety.

Interested persons are invited to participate through written or oral presentations. Persons wishing to make oral presentations are requested to notify Mrs. Nancy Martus, Office of Defects Investigation, National Highway Traffic Safety Administration, Washington, D.C. 20590, Telephone (202) 426-2850, before the close of business on June 20, 1975. A transcript will be kept and exhibits may be accepted. There will be no cross examination of witnesses.

The agency's investigative file in this matter is available for public inspection during regular working hours (7:45 a.m.-4:15 p.m.) in the Technical Reference Division, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590.

(Sec. 152, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1412) delegations of authority at 49 CFR 1.51 and 49 CFR 501.8)

Issued on May 19, 1975.

ROBERT L. CARTER,  
Associate Administrator,  
Motor Vehicle Programs.

[FR Doc.75-13458 Filed 5-21-75;8:45 am]

## CIVIL AERONAUTICS BOARD

[Docket 26993; Order 75-5-63]

## ALASKA AIRLINES, INC.

Fuel Surcharge Applicable to the Carriage  
of Intra-Alaska Mail; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 16th day of May 1975.

By Order 74-12780, the Board proposed to amend Alaska Airlines, Inc. (Alaska) service mail rates to provide a fuel surcharge to the rates for its intra-Alaska operations, to be effective on and after December 20, 1974.

By petition filed August 30, 1974, Alaska had sought a surcharge effective September 1, 1974, but indicated that it did not desire to institute proceedings leading to a general examination of its service mail rates. In proposing a surcharge effective December 20, the Board found that Alaska's petition was procedurally defective in that it failed to challenge the carrier's entire mail rate, as required by Rule 303(b) of the Board's rules of practice (14 CFR Part 302), and, therefore, could not serve to open the carrier's service mail rate. The Board determined, however, to treat the petition as a request to institute a mail rate proceeding to establish a fuel surcharge on a prospective basis, and, as indicated, opened the carrier's intra-Alaskan service mail rates effective December 20.

Alaska and the Postal Service have filed timely objections and answers. Both parties object to application of the proposed surcharge on a prospective basis only and contend that the surcharge should apply on and after September 1, 1974, the day following Alaska's petition.

Alaska supports its objections on the basis that for the Board to deny its request for relief from substantially increased fuel costs effective September 1 solely on the grounds that its petition was rejectable pursuant to Rule 303(b) is an overly rigid interpretation of the rule. The carrier submits that the law is not so rigid that agency rules cannot be interpreted broadly, and argues that the present case is appropriate for a broad interpretation of Rule 303 because the only other affected party, the Postal Service, had answered in support of its petition. The carrier further argues, however, that Rule 303(b) does not in any event preclude establishment of the surcharge effective September 1.

The Postal Service's answer contends that the petition filed by Alaska fully meets the requirements of Rule 303, and that the Board has misinterpreted the requirements of Rule 303(b). It is the Postal Service's position that a carrier need only challenge the rate for the entire ratemaking unit, and need not challenge all the cost components underlying the rate.

Upon consideration of the answers filed herein, we come to the same conclusions as in Order 75-4-34, concerned with a similar surcharge to the intra-Alaskan mail rates of Reeve Aleutian Airways, namely, that pursuant to Rule 303, one element of cost cannot be examined without reference to the reasonableness of the entire rate. For that reason, in reopening Alaska's final mail rates in Order 74-12-80, we determined that the overall rate, including a prospective surcharge for increased fuel costs, would be reasonable. We still adhere to that view. However, since both the carrier and the ratepayer (i.e. the Postal Service) urge that any rate increase should be retroactive, and no other person is affected, we have reconsidered our disposition of the case. As we determined for Reeve in Order 75-4-34, Alaska's mail rate will be



considered open as of the date the Postal Service filed its answer in support. We therefore propose that the increased final mail rates for Alaska shall be effective September 6, 1974.

On February 24, 1975, Alaska filed a petition for adjustment of the fuel surcharge applicable to carriage of intra-Alaska mail to be effective January 1, 1975. Since the rates are open, we will treat this petition as a request for adjustment of the fuel surcharge proposed by the Board in Order 74-12-80.

In support of its petition Alaska states that its sole supplier of aviation fuel has imposed an increase in the price of jet fuel of approximately 20 percent, effective January 1, 1975. To measure the impact on intra-Alaska service mail rates for this fuel cost increase, the carrier used the same methodology presented in its original petition, but reflecting the fuel cost increase effective January 1, 1975. Based on these computations, Alaska seeks a fuel surcharge of 9.32 cents per great-circle mail ton-mile.

The U.S. Postal Service filed an answer on March 7, 1975, asserting that it believes the requested rate adjustment to be fair and reasonable and raises no objection.

However, the carrier bases its request for the fuel surcharge amendment on cost and operations during the month of January 1975 compared with the results for the base year (FY 1969) underlying its service mail rates. We do not believe that one month's operations, especially the month of January when the load factors are seasonally low, is representative of the annual revenue ton-mile cost impact for the January 1, 1975 fuel price increase. For this reason in computing the surcharge proposed below, we have used the same methodology as in Order 74-12-80, but substituted January 1, 1975 fuel prices. The computations are set forth in the attached Appendix. The impact of January 1 prices on the carrier's calendar-year 1974 intra-Alaska operations indicates a fuel surcharge requirement of 7.75 cents per ton-mile applicable to the carriage of intra-Alaska mail effective January 1, 1975. In our opinion, the fuel surcharge resulting from this computation is fair and reasonable and will not result in an overpayment to the carrier for the carriage of mail.

Therefore, we tentatively find and conclude that the fair and reasonable final rates of compensation to be paid by the Postmaster General to Alaska Airlines, Inc., for the transportation of mail by aircraft over its intra-Alaska routes, the facilities used and useful therefor, and the services connected therewith, are the rates established in Order 71-2-102, February 23, 1971, plus the following fuel surcharges per great-circle mail ton-mile:

<sup>1</sup> For fiscal year 1969, Alaska's reported results indicate total operating costs of 58.67 cents per revenue ton-mile. For the year ended September 30, 1974 these costs had risen approximately 29 percent to 75.44 cents per revenue ton-mile.

September 6, 1974 through December 31, 1974—4.68 cents  
On and after January 1, 1975—7.75 cents

Accordingly, pursuant to the Federal Aviation Act of 1958, particularly sections 204(a) and 406 thereof, and the regulations promulgated in 14 CFR Part 302; it is ordered, That: 1. All interested persons, and particularly Alaska Airlines, Inc., and the Postmaster General, are directed to show cause why the Board should not amend Order 71-2-102, February 23, 1971, so as to adopt the following service mail rates per great-circle mail ton-mile of: (a) priority mail \$1.3468 and nonpriority \$1.0966 effective from September 6, 1974 through December 31, 1974; (b) priority mail \$1.375 and nonpriority \$1.125 effective on and after January 1, 1975, subject to the terms and conditions as set forth in Order 71-2-102;

2. Further procedures shall be in accordance with the rules of practice, 14 CFR Part 302, and if there is any objection to the rates and charges or to the related findings and conclusions proposed herein, notice thereof shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after the date of service of this order;

3. If notice of objection is not filed within 10 days, or if notice is filed and answer is not filed within 30 days after service of this order, or if an answer timely filed raises no material issue of fact, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of an order fixing final service mail rates and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the rates herein specified;

4. If notice of objection and answer are filed presenting issues for hearing, issues going to the establishment of the fair and reasonable rates herein shall be limited to those specifically raised by such answers except as otherwise provided in 14 CFR 302.307; and

5. This order shall be served upon Alaska Airlines, Inc. and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,  
Secretary.

[FR Doc. 75-13478 Filed 5-21-75; 8:45 am]

[Docket No. 28494; Agreement C.A.B. 24818 R-8, 24832 R-1 through R-19; Order 75-6-65]

#### INTERNATIONAL AIR TRANSPORT ASSOCIATION

##### Order Relating to Passenger Air Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 16th day of May, 1975.

By Orders 75-3-98 (March 26, 1975) and 75-3-100 (March 26, 1975), the

<sup>1</sup> Appendix filed as part of the original.

Board disapproved increases in all South Pacific passenger fares and all North/Central Pacific normal economy fares, proposed by the carrier members of the International Air Transport Association (IATA) for effect from April 1, 1975 through March 31, 1976. The South Pacific agreement had proposed a general increase of 13 percent while the North/Central Pacific agreement had proposed a general increase of eight percent. The Board's disapproval rested on the earnings positions of the U.S.-flag carriers.<sup>1</sup>

By petitions filed April 15, 1975, Pan American World Airways, Inc. (Pan American) urges the Board to reconsider its actions, and approve the fare increases as agreed to within IATA. Pan American asserts that resort to a 12 percent rate-of-return (ROI) standard, particularly as a maximum, is improper, since the Board has never made such a finding with respect to international services; that the particular exigencies and risks of international operations justify a higher return; that Pan American's historic South Pacific rate of return (year ended September 30, 1974) was only 2.47 percent; and that the Board should consider both the carrier's forecast and its most recent experience for an average over a reasonable period of time. Pan American contends that the Board's estimates of its return on both routes are overstated since they do not recognize cost escalations during the forecast year; that it is unreasonable to hold a carrier to a 12 percent return in each limited, geographical area; that Pan American will never achieve a reasonable rate of return on a system basis if the Board does not allow less profitable markets to be subsidized by the more profitable ones; and that the Board's criticisms of Pan American's capacity and load factors are unreasonable.

The Board has decided to deny Pan American's petitions. The South Pacific fare increases were disapproved on the basis that Pan American itself, the only U.S. carrier providing direct service on this route, forecast a 13.26 percent return on investment in scheduled passenger service alone at present fares, and data supplied by the carrier in support of previous fare and rate increases, as adjusted by the Board, reflected a return of over 14 percent in overall South Pacific operations.<sup>2</sup> Accordingly, the Board

<sup>1</sup> The Board approved increases in North/Central Pacific first-class normal fares and economy-class promotional fares. All Alaska-Pac East fares were disapproved on grounds that they were out of line with fares to competing markets.

<sup>2</sup> Under existing fares/rates, the Board found that Pan American would earn 11.8 percent in combination service and 41.2 percent in freighter service for an overall ROI of 14.5 percent. The five percent fare and rate increases proposed at that time were disapproved because approval would have resulted in returns of 13.9 percent (combination service), 47.3 percent (freighter service) and 17.0 percent (overall operations). See Order 74-12-23 dated December 6, 1974.

concluded that the proposed fare increase was not necessary to provide Pan American with overall earnings consistent with the Board's 12 percent return guideline.

In disposing of the North/Central Pacific agreement, the Board concluded that the carriers had apparently incurred cost increases which legitimately warranted some compensation by yield improvement, but that approval of the proposed fare increases in toto, would result in both U.S. carriers (Pan American and Northwest) earning in excess of the 12 percent return guideline. Accordingly, the Board was unable to conclude that approval of the proposed increase in normal economy fares was essential to the carriers' financial stability. Moreover, the proposed fare structure included several promotional fares which offered discounts from the normal economy fare in excess of 50 percent, and disapproval of the economy fares coupled with approval of the various promotional-fare increases substantially resolved this problem by reducing the spread between normal and discount fares. Pan American has presented no specific rebuttal to the Board's rationale.

Pan American rests its argument essentially on the allegation that the 12 percent rate of return standard found reasonable for domestic services after extensive formal investigation does not reflect the allegedly greater risks incurred in international operations, and should therefore not be applied. We recognize that the Board has not held formal proceedings directed specifically to the issue of rate of return from international services. However, this does not lead to the necessary conclusion that the domestic standard is inappropriate as an international guideline. Pan American suggests only that the return element should be higher; it offers no evidence that they incur a higher cost of capital than do the domestic carriers, and we have no independent indication that this is in fact the case. Nor does Pan American suggest other specific factors which would distinguish the two types of operations.

Pan American also contends that the Board should consider both the carrier's forecast and its most recent experience in evaluating its need for additional revenue. The Board relies, whenever possible, on historical results as a basis for carrier forecasts, and it permits inclusion of legitimate cost escalations experienced or contracted for since the end of the historical period.<sup>3</sup> In our opinion, it is inconsistent with the public interest, the establishment of a reasonable fare level and Board precedent to ask future passengers to compensate carriers for past losses. Finally, we are not persuaded that the Board should depart from its traditional approach of evaluating carrier earnings on a divisional basis. IATA has divided the world into seven confer-

<sup>3</sup> In the instant case, because of route realignments on the Pacific which are expected to provide Pan American with substantial benefits, it would be particularly inappropriate to use an averaging technique as Pan American suggests.

ence areas (and numerous sub-areas) for the purpose of setting fares and rates, and rate levels and structure vary from one area to another. We find nothing unreasonable in our treating the major IATA Conference areas as separate ratemaking entities for rate agreement evaluation purposes.

In summary, Pan American has not presented any facts which would convince the Board that it erred in disapproving these fare increases. Our actions were consistent with long-established policy regarding consideration of IATA agreements and supporting economic justification from the U.S. carriers, and nothing in Pan American's petition persuades us that those policies are unreasonable.

Accordingly, it is ordered, That: the petitions of Pan American World Airways, Inc., for reconsideration of Orders 75-3-98 and 75-3-100, be and hereby are denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,  
Secretary.

[FR Doc. 75-13477 Filed 5-21-75; 8:45 am]

#### COMMISSION ON CIVIL RIGHTS CALIFORNIA STATE ADVISORY COMMITTEE

##### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a press conference of the California State Advisory Committee, SAC, to this Commission will convene at 10 a.m. on June 10, 1975, in the State Capitol Press Conference Room, First Floor, Sacramento, California 95814.

Persons wishing to attend this press conference should contact the Committee Chairperson, or the Western Regional Office of the Commission, Room 1015, 312 North Spring Street, Los Angeles, California 90012.

The purpose of this press conference is to release Asian American Report #2 entitled, "A Dream Unfulfilled: Korean and Filipino Health Professionals in California."

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., May 19, 1975.

ISAIAH T. CRESWELL, Jr.,  
Advisory Committee  
Management Officer.

[FR Doc. 75-13514 Filed 5-21-75; 8:45 am]

#### COLORADO STATE ADVISORY COMMITTEE

##### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Colorado State Advisory Committee (SAC) to this Commission will convene at 8 a.m.,

June 14, 1975, and end at 1 p.m., in the Quality Inn Motel, Summit Room, 1840 Sherman Street, Denver, Colorado 80203.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mountain States Regional Office of the Commission, Room 216, 1726 Champa Street, Denver, Colorado 80202.

The purpose of this meeting is to finalize plans for the report on the Committee's project, access to the medical and legal professions by minorities and women.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., May 16, 1975.

ISAIAH T. CRESWELL, Jr.,  
Advisory Committee  
Management Officer.

[FR Doc. 75-13513 Filed 5-21-75; 8:45 am]

#### KANSAS STATE ADVISORY COMMITTEE

##### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a conference meeting of the Kansas State Advisory Committee (SAC) to this Commission will convene at 8 a.m. on June 14, 1975 at the Garden City Community College, Science Building, 801 Campus Drive, Garden City, Kansas 67846.

Persons wishing to attend this conference should contact the Committee Chairperson, or the Central States Regional Office of the Commission, Room 3103, Old Federal Office Building, 911 Walnut Street, Kansas City, Missouri 64106.

The purpose of this conference is to discuss the Mexican-American Education Conference.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., May 19, 1975.

ISAIAH T. CRESWELL, Jr.,  
Advisory Committee  
Management Officer.

[FR Doc. 75-13515 Filed 5-21-75; 8:45 am]

#### UTAH STATE ADVISORY COMMITTEE

##### Cancellation of Meeting

Notice is hereby given, pursuant to the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Utah State Advisory Committee (SAC) to this Commission, originally scheduled for June 17, 1975, has been cancelled.

Dated at Washington, D.C., May 16, 1975.

ISAIAH T. CRESWELL, Jr.,  
Advisory Committee  
Management Officer.

[FR Doc. 75-13511 Filed 5-21-75; 8:45 am]



# UTAH STATE ADVISORY COMMITTEE Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Utah State Advisory Committee (SAC) to this Commission will convene at 7 p.m. on June 16, 1975, and end at 9:30 p.m. Salt Lake City, Utah, 40 East 1st So. Board of Education-Conference Room.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mountain States Regional Office of the Commission, Room 216, Champa Street, Denver, Colorado 80282.

The purpose of this meeting is that the Utah SAC will hear reports from Subcommittees and experts in the State on topics relating to: education, Administration of Justice and Police and Community Relations. The SAC will determine its next project based upon this information.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., May 16, 1975.

ISAIAH T. CRESWELL, Jr.,  
Advisory Committee  
Management Officer.

[FR Doc.75-13512 Filed 5-21-75; 8:45 am]

# ENVIRONMENTAL PROTECTION AGENCY

[FRL 378-3, OPP-33000/257]

## RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

### Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the *Federal Register* (38 FR 31862) its interim policy with respect to the administration of section 3(c) (1) (D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the *Federal Register* a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street SW., Washington, D.C. 20460.

On or before July 21, 1975 any person who (a) is or has been an applicant, (b) believes that data be developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c) (1) (D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the *Federal Register* of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services

## NOTICES

Division (WH-569), Office of Pesticide Programs, 401 M Street SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after July 21, 1975.

Dated May 16, 1975.

JOHN B. RITCH, Jr.,  
Director,  
Registration Division.

APPLICATIONS RECEIVED (OPP-33000/257)

EPA File Symbol 11515-LU. ABC Chemical Corp., 14288 Meyers Rd., Detroit MI 48227. ABC CHEMICAL CORP. SUPER-SECT. Active Ingredients: Chlordane Technical 37%; Malathion 18%; Aromatic Petroleum Derivative Solvent 35%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 15646-E. Able Pest Control Co., Inc., 406 W. McCright Ave., Springfield OH 45504. ABLE 46% CHLORDANE CONCENTRATE. Active Ingredients: Technical Chlordane 46%; Petroleum Hydrocarbons 49%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 15648-R. Able Pest Control Co., Inc., 406 W. McCright Ave., Springfield OH 45504. ABLE RESISTANT ROACH SPRAY. Active Ingredients: Technical chlordane 1.0%; O,O-diethyl O-(2-isopropyl-4-methyl-6-pyrimidinyl phosphorothioate) 0.5%; Aliphatic petroleum solvent 98.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 15887-I. Agricultural Chemicals of Dallas, 3707 E. Keist Blvd., Dallas TX 75203. HI BRAND CHLORDANE DUST 5%. Active Ingredients: Technical chlordane 5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 15887-O. Agricultural Chemicals of Dallas, HI BRAND CHLORDANE 10% GRANULAR. Active Ingredients: Technical Chlordane 10%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 15887-RE. Agricultural Chemicals of Dallas, HI BRAND CHLORDANE W-40. Active Ingredients: Technical Chlordane 40%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 15887-RN. Agricultural Chemicals of Dallas, HI BRAND CHLORDANE 25G. Active Ingredients: Technical Chlordane 25%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 15887-RR. Agricultural Chemicals of Dallas, HI BRAND CHLORDANE E-8. Active Ingredients: Technical Chlordane 73.00%; Petroleum distillate 19.64%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 15887-T. Agricultural Chemicals of Dallas, HI BRAND CHLORDANE DUST 10%. Active Ingredients: Technical Chlordane 10%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34149-E. Beaumont Chemical Co., PO Box 509, Beaumont TX 77704. THE BUG HOUSE GENERAL OUTSIDE INSECTICIDE. Active Ingredients: Diazinon 2.00%; Toxaphene 6.00%; Benzene Hexachloride 2.60%; Heptachlor 4.20%; Petroleum Solvents & Emulsifying Agents 85.20%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34149-G. Beaumont Chemical Co. THE BUG HOUSE 72% CHLORDANE EMULSIFIABLE CONCENTRATE. Active Ingredients: Technical Chlordane 72%; Petroleum Distillates 21%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34149-U. Beaumont Chemical Co. THE BUG HOUSE HEPTACHLOR 2-E EMULSIFIABLE. Active Ingredients: Heptachlor 23.41%; Related Compounds 9.10%; Petroleum Distillate 61.36%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 35133-R. C & C Chemical Sales Co., 215 S. Hwy. 146, Baytown TX 77520. C & C'S PROFESSIONAL ROACH SPRAY. Active Ingredients: Beta-butoxy beta-thiocyanate diethyl ether 1%; Malathion O, O-dimethyl dithiophosphate of diethyl mercaptosuccinate 1%; Technical Chlordane 1%; Petroleum Derivative 97%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7421-O. California Liquid Fertilizer Co., Bin #50, Arroyo Annex, Pasadena CA 91109. LAST-BITE ANT KILLER. Active Ingredients: Chlordane Technical 10%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7421-RN. California Liquid Fertilizer Co., Bin #50, Arroyo Annex, Pasadena CA 91109. LAST-BITE 50% CHLORDANE WETTABLE POWDER. Active Ingredients: Chlordane Technical 50%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7421-RR. California Liquid Fertilizer Co., Bin #50, Arroyo Annex, Pasadena CA 91109. LAST-BITE 50% CHLORDANE WETTABLE POWDER. Active Ingredients: Chlordane Technical 50%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 11716-G. Cain Chemical Co., 612 S. Munger St., Pasadena TX 77506. PRESTO PEST EXTERMINATOR. Active Ingredients: O,O-diethyl O-(2-isopropyl-4-methyl-6-pyrimidinyl phosphorothioate) 0.33%; 1,2,3,4,5,6,7,8-octachloro-2,3,4a,4',7,7a-hexahydro-4,7-methanoindene 1.00%; Beta butoxy beta thiocyanodithiethyl ether 0.52%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 10972-E. A. L. Castle, Inc., PO Box 877, Morgan Hill CA 95037. CASTLE BRAND DUST KIOR-X 10. Active Ingredients: Technical Chlordane 10.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 10972-R. A. L. Castle, Inc., PO Box 877, Morgan Hill CA 95037. CASTLE BRAND KLORMULSION 50. Active Ingredients: Technical Chlordane 50.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 36483-R. Champion Chemical Co., 1114 Uvalde, Houston TX 77015. BUG MAOIC GENERAL HOUSEHOLD SPRAY. Active Ingredients: Beta-butoxy beta-thiocyanate diethyl ether 1.00%; Chlorpyrifos [O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate] 0.5%; Technical Chlordane 1.00%; Petroleum solvent 97.50%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 10975-E. Chemilene Co., 4937 Telegraph Rd., Los Angeles CA 90022. CHEMILENE'S CHLORDANE 8.0 MISCI-BLE. Active Ingredients: Technical Chlordane 72.0%; Petroleum Distillate 23.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7478-EA. Chem-Pak Co., PO Box 757, Miami FL 33143. LASTS PROFESSIONAL TYPE RESIDUAL INSECT KILLER. Active Ingredients: Pyrethrins 0.13%; Piperonyl Butoxide, Technical 1.04%; O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl phosphorothioate) 0.50%; Chlordane-Technical 0.50%; Petroleum Distillate 97.83%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7478-GN. Chem-Pak Co. ARMY WORM SPRAY. Active Ingredients: Toxaphene 59%; Petroleum Distillate 29%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7478-GR. Chem-Pak Co. CHLORDANE 8 EMULSIFIABLE. Active Ingredients: Technical Chlordane 72%; Petroleum Distillate 22%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7478-GU. Chem-Pak Co. WORM SPRAY. Active Ingredients: Toxaphene 10%; Chlordane 10%; Petroleum Distillate 68%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 25242-R. City Health Fumigating Co., 601 E. McNichols, Detroit MI 48203. BUG-NO-MOR. Active Ingredients: Technical chlordane 0.44%; Petroleum distillate 0.48%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 8469-I. Coastal Ag-Chem, 1015 E. Wooley Rd., Oxnard CA 93030. CHLORDANE TERRACLO 10-10 GRANULAR. Active Ingredients: Chlordane Tech. 10.0%; Pentachloronitrobenzene 10.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 8469-O. Coastal Ag-Chem. CHLORDANE 5 GRANULAR. Active Ingredients: Technical Chlordane 5.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 8469-O. Coastal Ag-Chem. CHLORDANE TERRACLO CAPTAN 10-10-10 GRANULAR. Active Ingredients: Chlordane Tech. 10.0%; Pentachloronitrobenzene 10.0%; Captan N-[(trichloromethyl) thio]-4-cyclohexene-1,2-dicarboximide 10.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 8469-RN. Coastal Ag-Chem. CHLORDANE TERRACLO ZINEB 10-10-10 GRANULAR. Active Ingredients: Chlordane Tech. 10.0%; Pentachloronitrobenzene 10.0%; Zinc ethylene bisdithiocarbamate 10.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 8469-RR. Coastal Ag-Chem. COASTOX CHLORDANE 8-E. Active Ingredients: Chlordane Technical 71.1%; Xylene range aromatic solvent 22.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 8469-T. Coastal Ag-Chem. COASTOX CHLORDANE 10 GRANULAR. Active Ingredients: Technical Chlordane 10.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 909-TG. Cooke Laboratory Products, 4759 S. Durfee Ave., Pico Rivera CA 90660. COOKE 74% CHLORDANE SPRAY CONCENTRATE. Active Ingredients: Chlordane, Tech. 74%; Petroleum distillate 21%. Method of Support: Appli-

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cation proceeds under 2(c) of interim policy.

EPA File Symbol 909-TI. Cooke Laboratory Products. COOKE 50% CHLORDANE WETTABLE POWER. Active Ingredients: Chlordane technical 50.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 909-TL. Cooke Laboratory Products. COOKE PUSH-BUTTON ANT BARRIER. Active Ingredients: Chlordane, technical 1.70%; Methoxychlor, technical 0.39%; Isobornyl thiocyanacetate 1.52%; Other related terpenes 0.33%; Polybutenes 0.85%; Petroleum derivative solvent 69.35%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 909-TO. Cooke Laboratory Products. COOKE BUG SHOT 50% CHLORDANE. Active Ingredients: Chlordane, technical 50%; Petroleum hydrocarbon solvent 43%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 909-TT. Cooke Laboratory Products. COOKE ANT BARRIER. Active Ingredients: Chlordane, technical 2.38%; Methoxychlor, technical 0.44%; Isobornyl thiocyanacetate 1.64%; Other related terpenes 0.36%; Polybutenes 1.00%; Petroleum derivative solvent 94.18%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 909-TU. Cooke Laboratory Products. COOKE PRESSURIZED SPIDER-KILL. Active Ingredients: 2,2-Dichlorovinyl dimethyl phosphate 0.46%; Related compounds 0.04%; Chlordane, technical 2.00%; 2-Butoxyethanol, 2.00%; Polybutenes 0.95%; Aromatic petroleum hydrocarbons 5.50%; Aliphatic petroleum hydrocarbons 57.36%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 9319-GI. Custom Chemicals Inc., 476 Hester St., San Leandro CA 94577. CHLORDANE SE EMULSIFIABLE CONCENTRATE. Active Ingredients: Technical Chlordane 72.0%; Petroleum Distillate 21.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 9319-GT. Custom Chemicals Inc., 476 Hester St., San Leandro CA 94577. CHLORDANE SE EMULSIFIABLE CONCENTRATE. Active Ingredients: Technical Chlordane 72.0%; Petroleum Distillate 21.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 437-R. Eradic Exterminators, Inc., 2285 Indianola Ave., Detroit MI 48238. ERADICO ANT PROOFER. Active Ingredients: Technical Chlordane 0.50%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 11012-R. Ezell Sales Inc., 17308 S. Woodruff Ave., Bellflower CA 90706. EZELL'S ANT & INSECT POWDER. Active Ingredients: Chlordane 5.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 10370-RA. Ford's Chemical & Services Inc., 907 S. Main, Pasadena TX 77506. FORD'S 74% CHLORDANE. Active Ingredients: Technical Chlordane 74.0%; Petroleum Distillate 26.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 10370-RI. Ford's Chemical & Services Inc. PASCO HEPTACHLOR 5. Active Ingredients: Heptachlor 5.00%; Xylene 6.07%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 10370-RO. Ford's Chemical & Services Inc. PASCO HEPTACHLOR 10. Active Ingredients: Heptachlor 10.00%; Xylene 13.08%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 10370-RT. Ford's Chemical & Services, Inc. GENERAL HOUSEHOLD SPRAY. Active Ingredients: Beta-butoxy beta-thiocyanate diethyl ether 1.00%; Chlorpyrifos [O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate] 0.5%; Technical Chlordane 1.00%; Petroleum solvent 97.50%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 9198-GG. Free Flow Fertilizer Co., PO Box 119, Maumee OH 43537. INSECT CONTROL PLUS LAWN FOOD. Active Ingredients: Technical Chlordane 1.40%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5905-UEI. Helena Chemical Co., Clark Tower, 5100 Poplar Ave., Suite 2900, Memphis TN 38137. HEPTACHLOR 5-G GRANULAR. Active Ingredients: Heptachlor 5.00%; Related Compounds 1.94%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 12188-A. Holder's Pest Control Co., 5617 Southwest Freeway, Houston TX 77027. HOLDER'S ROACH SPRAY. Active Ingredients: Diazinon (O,O-diethyl O-(2-isopropyl-4-methyl-6-pyrimidinyl phosphorothioate) 0.5%; Chlordane 2.0%; Petroleum Distillates 97.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 12188-I. Holder's Pest Control Co. HOLDER'S SPECIAL ROACH SPRAY. Active Ingredients: Dursban (Chlorpyrifos [O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate]) 0.5%; Vapona (2,2-Dichlorovinyl Dimethyl Phosphate) 0.4%; Chlordane 2.0%; Petroleum Distillates 97.1%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 12188-L. Holder's Pest Control Co. HOLDER'S ROACH & ANT GRANULES. Active Ingredients: Technical Heptachlor 1.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 12188-R. Holder's Pest Control Co. HOLDER'S HEPTACHLOR 2.5. Active Ingredients: Heptachlor 2.50%; Xylene 3.52%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 12188-T. Holder's Pest Control Co. HOLDER'S ROACH & ANT DUST. Active Ingredients: Technical Chlordane 5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2393-ETL. Hopkins Agri. Chem. Co., PO Box 584, Madison WI 53701. HOPKINS CHLORDANE 8 LB./GAL. E.C. Active Ingredients: Chlordane Technical 72%; Xylene 20%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 11046-R. Hornkohl Laboratories, Inc., 714 Truxtun Ave., Bakersfield CA 93302. HORNCO HORN CHLOR 40. Active Ingredients: Technical Chlordane 40%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 6853-A. Insecticides Co., Inc., PO Box 664, San Angelo TX 76901. 10% CHLORDANE MULTI-PURPOSE DUST. Active Ingredients: Chlordane 10%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 6853-EN. Insecticides Co., Inc., PO Box 644, San Angelo TX 76901. BES-TEX 72% CHLORDANE EMULSIFIABLE. Active Ingredients: Technical Chlordane 72%; Petroleum Distillates 21%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2342-OLA. Kerr-McGee Chemical Corp., Kerr-McGee Center, Oklahoma City, OK 73125. KERR-MCGEE FERTILIZER-CHLORDANE MIX #12. Active



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Ingredients: Technical Chlordane 0.24%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 2342-OLI. Kerr-McGee Chemical Corp. KERR-MCGEE FERTILIZER-CHLORDANE MIX #30. Active Ingredients: Technical Chlordane 0.6%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 2342-OLL. Kerr-McGee Chemical Corp. GRO-TONE CHLOROPHENE BAIT. Active Ingredients: Technical chlordane 1.50%; Toxaphene (technical chlorinated camphene) 2.25%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 2342-OLT. Kerr-McGee Chemical Corp. KERR-MCGEE FERTILIZER-CHLORDANE MIX #20. Active Ingredients: Technical Chlordane 0.4%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 2342-OLU. Kerr-McGee Chemical Corp. KERR-MCGEE FERTILIZER-CHLORDANE MIX #40. Active Ingredients: Technical Chlordane 0.8%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 11093-E. Master Nurserymen's Association, Inc. 3483 Golden Gate Way #5, Lafayette CA 94549. 49ER BRAND 10% CHLORDANE POWDER. Active Ingredients: Chlordane technical 10%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 11093-R. Master Nurserymen's Association, Inc. 3483 Golden Gate Way #5, Lafayette CA 94549. 49ER GOLD STRIKE CHLORDANE 50. Active Ingredients: Technical Chlordane 50.0%; Petroleum Distillate 46.0%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 4841-AU. Micro Chemical Co., PO Box 711, Winnsboro LA 71295. 45% CHLORDANE EMULSIFIABLE CONCENTRATE. Active Ingredients: Technical Chlordane 45.00%; Petroleum distillate 45.00%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 11104-R. Mist-O-Dane Mfg. Co., 1830 Hillside Dr., Glendale CA 91208. SHERICK MIST-O-DANE 25. Active Ingredients: Petroleum oil 68%; Technical chlordane 25%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 11134-E. Pest Control Chemicals, Inc., 5852 S. Western Ave., Los Angeles CA 90047. PESTCO BRAND CHLORDANE-5. Active Ingredients: Technical Chlordane 5%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 11134-R. Pest Control Chemicals, Inc., 5852 S. Western Ave., Los Angeles CA 90047. PESTCO BRAND 72% EMULSIFIABLE CHLORDANE. Active Ingredients: Technical chlordane 72%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 655-LEO. Prentiss Drug & Chemical Co., Inc., 363 Seventh Ave., New York NY 10001. PRENTOX AGCLOREC AGRICULTURAL INSECTICIDE. Active Ingredients: Technical Chlordane 72.0%; Petroleum Distillate 21.0%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 655-ELI. Prentiss Drug & Chemical Co., Inc., 363 Seventh Ave., New York NY 10001. PRENTOX AGCLOREC 40% W.P. AGRICULTURAL INSECTICIDE. Active Ingredients: Technical Chlordane 40.0%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 11157-E. Rose Exterminator Co., 626 Potrero Ave., San Francisco CA 94110. ROSE'S 44% CHLORDANE. Active Ingredients: Technical Chlordane 44%; Petroleum Hydrocarbons 12%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 4876-LT. "AG" Supply Co., Div. of Seedkem, Industrial Drive, Hopkinsville KY 42240. CHLORDANE-8. Active Ingredients: Technical Chlordane 72%; Petroleum Distillate 21%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 829-EUN. Southern Agricultural Insecticides, Inc., PO Box 218, Palmetto FL 33561. SA BRAND 50 20% CHLORDANE GRANULES. Active Ingredients: Technical Chlordane 20.0%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 35234-E. Standard Garden Supply Co., PO Box 63, Orlando FL 32802. STANDARD CHLORDANE 10D. Active Ingredients: Chlordane 10%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 35234-G. Standard Garden Supply Co. STANDARD CHLORDANE 45. Active Ingredients: Technical Chlordane 45%; Aromatic Petroleum Derivative Solvents 50%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 35234-R. Standard Garden Supply Co. CHLORDANE 5D. Active Ingredients: Chlordane 5.00%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 35234-U. Standard Garden Supply Co. STANDARD CHLORDANE 72%. Active Ingredients: Technical Chlordane 72.0%; Aromatic Petroleum Derivative Solvents 22.5%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 3238-TI. Standard Spray & Chem. Co., PO Box 63, Lakeland FL 33802. 73% CHLORDANE. Active Ingredients: Technical Chlordane 71.9%; Xylene Range Aromatic Hydrocarbon Solvent 22.5%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 11214-EN. Target Chemical Co., 17710 Studebaker Rd., Cerritos CA 90701. TARGET TERMIGON-D. Active Ingredients: Ethylene Dibromide 9.50%; Technical Chlordane 1.00%; Petroleum Distillate 89.50%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 14775-GG. Asgrow Florida Co., Sub. of Upjohn Co., PO Drawer "D", Plant City FL 33566. ASGROW CHLORDANE-TOXAPHENE-METALDEHYDE BAIT NO. 12. Active Ingredients: Chlordane 2.00%; Toxaphene (Chlorinated camphene) 2.40%; Metaldehyde 2.00%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 14775-GL. Asgrow Kilgore Co., Sub. of Upjohn Co. ASGROW CHLORDANE GRANULES. Active Ingredients: Chlordane 10.00%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 14775-GU. Asgrow Florida Co., Sub. of Upjohn Co. ASGROW CHLORDANE-TOXAPHENE BAIT NO. 11. Active Ingredients: Chlordane 2.00%; Toxaphene (Chlorinated camphene) 2.40%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 876-EUO. Veliscol Chemical Corp., 341 E. Ohio St., Chicago IL 60601. VELISCOL HEPTACHLOR SEC. Active Ingredients: Heptachlor 32.41%; Related Compounds 11.88%; Xylene 49.04%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA Reg. No. 876-40. Veliscol Chemical Corp. VELISCOL CHLORDANE 40 W.P. Active Ingredients: Technical Chlordane 40%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA Reg. No. 876-89. Veliscol Chemical Corp. VELISCOL BELT 72 ECP. Active Ingredients: Technical Chlordane 73.01%; Kerosene 18.99%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA Reg. No. 876-99. Veliscol Chemical Corp. VELISCOL BELT 33.3G. Active Ingredients: Technical Chlordane 33.3%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA Reg. No. 876-102. Veliscol Chemical Corp. VELISCOL BELT 72 EC. Active Ingredients: Technical Chlordane 72.0%; Petroleum distillate 21.0%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA Reg. No. 876-104. Veliscol Chemical Corp. VELISCOL CHLORDANE 8 EC. Active Ingredients: Technical Chlordane 72.0%; Petroleum Distillate 21.0%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 11656-GI. Western Farm Service, Inc., 2401 Crow Canyon Rd., San Ramon CA 94583. CHLORDANE TERRACLO CAPTAN 10-10-10 GRANULAR. Active Ingredients: Chlordane Tech. 10.0%; Pentachloronitrobenzene 10.0%; Captan N-[(trichloromethyl)thio]-4-cyclohexene-1,2-dicarboximide 10.0%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 11656-GT. Western Farm Service, Inc., 2401 Crow Canyon Rd., San Ramon CA 94583. CHLORDANE TERRACLO 10-10 GRANULAR. Active Ingredients: Chlordane Tech. 10.0%; Pentachloronitrobenzene 10.0%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 2935-UNA. Wilbur-Ellis Co., PO Box 1285, Fresno CA 93715. RED-TOP CHLORDANE 10 GRANULES. Active Ingredients: Chlordane 10.0%. Method of Support: Application proceeds under 2(c) of Interim policy.

[FR Doc.75-13483 Filed 5-21-75; 8:45 am]

[FRL 368-7]

#### WATER QUALITY PROGRAMS AND IMPLEMENTATION PLANS Final Agreement

An interagency agreement to coordinate areawide waste treatment management planning and comprehensive planning has been worked out between the Environmental Protection Agency and the Department of Housing and Urban Development. This agreement, presented below, defines the relationship between the Areawide Waste Treatment Management Planning Program authorized under Title II of the Federal Water Pollution Control Act Amendments of 1972 and the Comprehensive Planning Assistance Program of the Housing Act of 1954, as amended. It also sets forth coordination policies to be followed in those areas developing both areawide waste

treatment management plans and land use elements pursuant to the Comprehensive Planning Assistance Program. The agreement is effective on signature of the parties.

MAY 16, 1975.

RUSSELL E. TRAIN,  
Administrator.

#### INTERAGENCY AGREEMENT BETWEEN THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE ENVIRONMENTAL PROTECTION AGENCY

## I. PURPOSE

This Interagency Agreement has been developed in recognition of the need to: (1) rationalize the planning assistance activities of the two signatory agencies in accordance with the Administration's objectives; (2) encourage interagency coordination of planning activities within and among the state, regional, and local levels of government; (3) secure agreement on coordination of implementation programs which affect the planning programs identified below; and (4) ensure that land use planning undertaken for water quality purposes is developed within the broader framework of comprehensive planning.

## II. PROGRAMS INVOLVED

The following programs are involved:

Comprehensive Planning Assistance (701) Program of the Housing Act of 1954, as amended  
Areawide Waste Treatment Management Planning Assistance Program (208) of the Federal Water Pollution Control Act Amendments of 1972

## III. PROVISIONS

1. To the extent that resources are available, the HUD 701 land use element shall provide basic land use planning including: (1) long and short term policies with regard to where growth should and should not take place; (2) the type, intensity and timing of growth; (3) studies, criteria, standards, and implementing procedures necessary for effectively guiding and controlling major decisions as to where growth shall and shall not take place.

To the extent that resources are available, land use evaluation under section 208 shall be directed to: (1) determining the most efficient design of treatment systems consistent with the basic land use plan; and (2) analyzing land use-water quality relationships to determine what modifications should be made to the basic land use plan for the purpose of controlling or managing point and nonpoint sources of pollution.

2. Pursuant to provision (1) above:  
A. Performance criteria will be developed relating and ensuring consistency between the HUD land use element and the land use-related provisions of the 208 plan. The performance criteria will include the land use outputs required for both programs.

B. Directives will be issued to the HUD and EPA regional and HUD area offices which will provide guidance with respect to land use-related planning and evaluation activities that may be supported by each agency and the allowable funding levels for such activities. The specific amount for the land use planning and evaluation activities of each individual grant will be based on the allowable land use costs under each planning program and on work program(s) developed by the planning agency(s).

3. In those geographic areas where both a 701 land use element and a 208 areawide waste treatment management plan will be developed, planning agencies will demon-

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strate in their work programs how activities under both the 701 and 208 programs will be coordinated so as to ensure that: (1) there is no duplication of effort; (2) completed plans will be consistent; and (3) the objectives of both programs will be achieved.

4. Promptly upon submission for approval by a grantee of an areawide or comprehensive plan, each signatory agency will make available to the other a copy of the submitted plan (or of the land use element or provisions thereof) for review and written comment pursuant to this agreement. Written comments, if any, will be submitted within 45 days. No plan will be approved unless such opportunity for review is granted to the other agency.

5. Each signatory agency will take action including issuance of guidelines to assure that coordinated land use planning requirements will also be effected, to the extent possible, for planning which is already underway.

6. In designated 208 areas, EPA will encourage, wherever possible, the designation or substantive involvement of qualified areawide comprehensive planning agencies in the 208 areawide waste treatment management planning program.

7. All HUD and EPA assisted agencies will be actively encouraged to use common data bases, analytic techniques, and consistent criteria in their planning activities wherever appropriate.

8. Wherever the appropriate HUD and EPA field staff agree that, as a result of planning assisted or required by one or more other Federal agencies, an impediment to implementation of the HUD 701 land use element and the land use-related provisions of the 208 plan exists or is likely to exist, the respective offices will invite representatives of interested federal, state, and areawide planning agencies to review the situation and whenever possible to formulate recommendations for removing the impediment.

9. Directives, guidelines, and performance criteria issued pursuant to this agreement will have joint concurrence of both signatory agencies prior to issuance and will be developed in accordance with Executive Orders and regulations governing both programs.

10. Joint reports on the progress of the above provisions will be prepared 6 months and 12 months from the date of signature.

Signed at Washington, D.C., this 24th day of March 1975.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,  
D. O. MEEKER, Jr.,  
Assistant Secretary for Community Planning and Development.

ENVIRONMENTAL PROTECTION AGENCY,  
RUSSELL E. TRAIN,  
Administrator of EPA.

[FR Doc.75-13482 Filed 5-21-75; 8:45 am]

#### FEDERAL COMMUNICATIONS COMMISSION

##### GREAT LAKES AGREEMENT Enforcement Grace Period

MAY 2, 1975.

The Federal Communications Commission announced today a 30 day grace period until June 5, 1975, in enforcement of the terms of the new Great Lakes Agreement for vessel radio installations to allow the public additional

time to come into compliance with its provisions.

The Commission explained that its Order amending the rules to promulgate the new Agreement, which takes effect on May 6, 1975, was released on May 1, 1975, and that this did not allow the public sufficient time to install new radio stations, or other related equipment. The Great Lakes Agreement between Canada and the United States requires that certain specified vessels be equipped with efficient radio installations for the purpose of promoting the safety of life and property on the Great Lakes by means of radio. Generally, the vessels subject to the terms of the Agreement are those that are over 65 feet in length, used for towing, or that carry more than six passengers for hire. The Agreement does not apply to war or troop ships or to government ships not engaged in trade.

The Commission cautioned that the suspension of enforcement actions applies only in instances where new or greater requirements for a vessel operator are imposed by the Agreement on May 6, than previously existed and that it applies only to vessels that are not navigated outside U.S. waters. For vessels in this category that navigate to Canada, the Commission suggested that operators request temporary exemptions, which will be routinely granted if the applicant fully explains the circumstances and establishes that new or greater requirements are imposed which cannot be reasonably met prior to May 6, 1975.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS,

Secretary.

[FR Doc.75-13474 Filed 5-21-75; 8:45 am]

[Docket No. 20231; File No. BR-4621; FCC 75 R-192]

#### OIL SHALE BROADCASTING CO. (KWSR) Memorandum Opinion and Order Enlarging Issues

1. This proceeding involves the application of Oil Shale Broadcasting Company (Oil Shale), Rifle, Colorado, for renewal of its license to operate standard broadcast station KWSR, Rifle, Colorado. By order and notice of apparent liability, FCC 74-1207, 39 FR 40607, published November 19, 1974, the Commission designated the captioned application for hearing on various issues. Now before the Review Board is a motion, filed on March 18, 1975, by Oil Shale, re-

The designated issues seek to determine, inter alia, whether the applicant violated section 509 of the Communications Act, as amended, § 73.961 of the Commission's rules, whether the applicant made false log entries and whether misrepresentations were made to the Commission regarding these issues.

The Board also has before it for consideration the following related pleadings: (a) Opposition, filed March 31, 1975, by the Broadcast Bureau; and (b) reply, filed April 8, 1975, by Oil Shale.

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## NOTICES

questing clarification or enlargement of the issues in this proceeding seeking authorization to adduce evidence relating to the past programming and community service of Station KWSR in mitigation of any possible adverse findings under the presently specified issues.<sup>1</sup>

2. Oil Shale concedes that to the extent that this motion seeks enlargement of the issues it is late-filed. However, petitioner contends that good cause exists for late filing since counsel only recently became aware of the cases of Chronicle Broadcasting Co., 18 FCC 2d 120, 16 RR 2d 494 (1969); Blue Grass Broadcasting Co., Inc., 14 FCC 2d 788, 14 RR 2d 448 (1968); and Wagoner Radio Co., 12 FCC 2d 978, 13 RR 2d 114 (1968), in which specific issues were added to allow the presentation of evidence relating to past meritorious programming.<sup>2</sup> In addition, petitioner asserts that grant of the motion will not delay commencement of the hearing, nor prejudice the Broadcast Bureau since it is not anticipated that the Bureau will offer evidence regarding past programming and community service.<sup>3</sup> In any event, petitioner maintains, citing *Bunker Ramo Corp. v. Western Union Telegraph Co.*, 31 FCC 2d 449, 450, 22 RR 2d 843, 847 (1971), that its untimely motion must be entertained because it pertains to the resolution of serious public interest questions which, inasmuch as they involve the renewal of the only broadcast station in Rifle, Colorado, are "fundamental to a fair and complete resolution of this proceeding." More specifically, Oil Shale cites the Report on Uniform Policy as to Violation by Applicants of Laws of the United States, 1 RR Pt. 3, 91:495 (1951), and argues that consistent with the policy set forth therein, resolution of the presently specified issues should not be conclusive regarding the licensee's future ability to operate a radio in the public interest. In this regard, Oil Shale contends that the public interest would best be served by permitting a full and complete record to be developed concerning the ability of the licensee to serve the public interest and that the addition of the requested issue is essential to that end.

3. In opposition, the Broadcast Bureau first states that Edgefield-Saluda Radio Co., 5 FCC 2d 148, 8 RR 2d 611 (1966), not *Bunker Ramo Corp.*, supra, is the leading case governing the disposition of

late filed petitions to enlarge issues.<sup>4</sup> Thus, the Bureau asserts, since Oil Shale failed to specify or even mention the nature and/or scope of the programming relied upon as the basis for its motion, the Review Board cannot apply the Edgefield-Saluda test.<sup>5</sup> Moreover, the Bureau contends that the effect of Oil Shale's eleventh hour request, if granted, would be to disrupt the fair and orderly administration of the Commission's business, since the Review Board will in all likelihood be unable to act upon Oil Shale's eleventh-hour request prior to the hearing sessions now scheduled to commence on April 21, 1975, and the addition of a meritorious programming issue would necessitate additional hearing sessions, and could increase the evidentiary burdens on the parties. With respect to the merits of petitioner's request for enlargement,<sup>6</sup> the Bureau avers that Oil Shale's reliance on *Blue Grass Broadcasting Co., Inc.*, supra; and *Wagoner Radio Co.*, supra, is misplaced. In particular, the Bureau observes that although meritorious programming issues were added in those cases, both of which involved designated misrepresentation issues, more recent cases,<sup>7</sup> establish that addition of meritorious programming issues under such circumstances is inappropriate. Thus, continues the Bureau, since two issues specified in this proceeding directly involve the question of whether the applicant has made misrepresentations to the Commission, addition of Oil Shale's requested meritorious programming issue is clearly inapt.<sup>8</sup> Finally, the Bureau alleges that in referring to "community service" in phrasing its requested issue, Oil Shale's request seeks to expand the scope of the inquiry customarily contemplated by the Commission under a meritorious program issue.

<sup>1</sup>In any event, continues the Bureau, *Bunker Ramo Corp.*, supra, is distinguishable since it involved questions concerning legal conclusions allegedly not considered in the designation Order, and the Common Carrier Bureau partially supported the applicant's nondisruptive request.

<sup>2</sup>Furthermore, the Bureau maintains that by failing to advance such allegation, Oil Shale also failed to meet the specificity requirements of 1.229(c).

<sup>3</sup>With respect to clarification, the Bureau correctly notes that any motion to clarify must be initially filed with the Presiding Law Judge.

<sup>4</sup>Most notably, *Action Radio, Inc.*, 38 FCC 2d 489, — RR 2d — (1972), aff'd FCC 75-274, 33 RR 2d 51, released March 20, 1975; *Radio Carrolton*, 40 FCC 2d 92, 26 RR 2d 1523 (1973); and *Western Communications, Inc.*, (KORK-TV), 38 FCC 2d 975, 26 RR 2d 304 (1973).

<sup>5</sup>The relevant issues read as follows:  
(d) To determine whether applicant, or any of its officers, directors, shareholders, or supervising personnel, issued instructions to employees of the licensee to make misrepresentations.

(f) To determine whether the applicant, or any of its officers, directors, shareholders, or employees made misrepresentations to, or has been lacking in candor with the Commission.

4. The Board will grant petitioner's request insofar as it contemplates enlargement of the issues. Despite the procedural imperfections of Oil Shale's instant request, the Board is nonetheless persuaded that, in view of the fact that the renewal of the only broadcast station in Rifle, Colorado, is at stake, the public interest in having a full and fair hearing on Oil Shale's application for renewal of license would best be served if the Board considers the merits of the subject motion.<sup>9</sup> Cf. *Western Communications, Inc.*, supra; and *Action Radio, Inc.*, supra. With regard to the merits of the request, the Review Board is satisfied that, consistent with past practice, Oil Shale should be permitted to show meritorious past programming in the public interest.<sup>10</sup> Friendly Broadcasting Company, 35 FCC 2d 611, 24 RR 2d 712 (1972); *KFPW Broadcasting Co.*, (KFPW-TV), 33 FCC 2d 313, 23 RR 2d 515 (1972). We will not, however, expand the scope of the meritorious programming issue to encompass nonprogramming matters, i.e. community service. As noted in *Action Radio, Inc.*, supra, a determination of whether a station has otherwise served the needs of its community would create a virtually boundless issue which could have an extremely dilatory effect on the conduct of the proceeding. As a final matter, we note that any mitigating effect of the evidence adduced pursuant to the issue added herein shall be limited to those issues which do not involve misrepresentation or other acts involving moral turpitude relating directly to the operation of a broadcast station since they involve that degree of culpable conduct which renders consideration of past programming as a mitigating factor inappropriate. See *KFPW Broadcasting Co.*, 40 FCC 2d 126, 26 RR 2d 1633 (1973); and *Western Communications, Inc.*, 41 FCC 2d 581, 27 RR 2d 1286 (1973).

5. Accordingly, it is ordered, That the motion to clarify or enlarge issues, filed on March 18, 1975, by Oil Shale Broadcasting Company (KWSR), is granted to the extent indicated herein, and is denied in all other respects; and

"The Board is not unmindful of the Broadcast Bureau's allegations regarding disruption of the commencement of the subject hearing. Nevertheless, given the fact that this motion was filed prior to the commencement of said hearing, that petitioner has interposed no objection to accepting documents and notification of additional witnesses at a time subsequent to action on this motion, and that the Bureau has not shown that it would be irreparably prejudiced by the delay, we are of the view that the serious public interest questions raised by the instant motion should, on balance, be entertained."

<sup>10</sup>However, as the Board has consistently held, such a showing must be limited to the licensee's performance before it learned that its license was in jeopardy, and the parties are free to argue the weight which should be accorded such evidence. *Cosmopolitan Broadcasting Corp.*, 39 FCC 2d 698, 26 RR 2d 1172 (1973).

6. It is further ordered, That the issues in this proceeding are enlarged by the addition of the following issue:

To determine whether the programming of Station KWSR has been meritorious, particularly with regard to public service programs.

7. It is further ordered, That the burden of proceeding with the introduction of evidence and the burden of proof under the issue added herein shall be on Oil Shale Broadcasting Company (KWSR).

FEDERAL COMMUNICATIONS COMMISSION,  
[SEAL] VINCENT J. MULLINS,  
Secretary  
[FR Doc.75-13471 Filed 5-21-75; 8:45 am]

#### RADIO TECHNICAL COMMISSION FOR AERONAUTICS Meeting

As a matter of public notice, members of the Executive Committee of the Radio Technical Commission for Aeronautics tentatively plan to meet on administrative matters on Friday, June 13, 1975, in Conference Room 261, 1717 H Street NW., Washington, D.C., commencing at 9:30 a.m.

The sole agenda item will be:

Approval for publication of a Report from RTCA Special Committee 128 on proposed amendments to RTCA Document DO-161 titled "Minimum Performance Standards—Airborne Ground Proximity Warning System".

Prior to June 13, 1975, the RTCA Secretariat will poll members of the Executive Committee by telephone to determine their position in this matter. If all the telephone votes support SC-128's recommendations, the June 13, 1975, meeting will not be held.

The meeting is open to the public subject to limitations of space available, and any member of the public may present oral or written statements at the meeting, subject to time available, or to the RTCA Secretariat. Persons planning to attend or who desire additional information concerning this meeting are requested to contact the RTCA Secretariat, Suite 655, 1717 H Street NW., Washington, D.C. 20006, or telephone area code (202) 296-0484.

FEDERAL COMMUNICATIONS COMMISSION,  
[SEAL] VINCENT J. MULLINS,  
Secretary  
[FR Doc.75-13472 Filed 5-21-75; 8:45 am]

#### WORLD ADMINISTRATIVE RADIO CONFERENCE PREPARATORY ADVISORY COMMITTEES

##### Notice of Establishment

The Federal Communications Commission is responsible for identifying and documenting the future non-governmental communication requirements of the United States in preparation for the 1979 World Administrative Radio Conference (WARC) of the International Telecommunication Union. To insure that the interests of the U.S. are adequately represented at the 1979 WARC, preliminary studies covering the current standards, procedures, regulations and frequency allocation will be needed for each type of radio service utilized in this country.

To obtain assistance in these studies, this agency has approved the establishment of the following 23 specialized advisory committees:

WARC Advisory Committee for Amateur Radio  
WARC Advisory Committee for Land Mobile Radio  
WARC Advisory Committee for Aeronautical Mobile Radio  
WARC Advisory Committee for Maritime Mobile Radio  
WARC Advisory Committee for Private Microwave  
WARC Advisory Committee for Fixed Satellite  
WARC Advisory Committee for Radio Relay (Common Carrier)  
WARC Advisory Committee for Domestic Land Mobile Radio  
WARC Advisory Committee for High Frequency Fixed  
WARC Advisory Committee for Television  
WARC Advisory Committee for Aural-AM  
WARC Advisory Committee for Aural-FM  
WARC Advisory Committee for Satellite Broadcast  
WARC Advisory Committee for International Broadcast  
WARC Advisory Committee for Auxiliary Broadcast Services  
WARC Advisory Committee for Field Inspections  
WARC Advisory Committee for International Monitoring  
WARC Advisory Committee for Direction Finding Procedures  
WARC Advisory Committee for Infractions  
WARC Advisory Committee for Operator Licensing  
WARC Advisory Committee for Satellite Distribution (Cable TV)  
WARC Advisory Committee for Radio Relay (Cable TV)  
WARC Advisory Committee for Radio Astronomy

The purpose of each of the 23 specialized committees is to provide advice and recommendations to the FCC WARC preparatory staff concerning anticipated future requirements of the service or

Docket No.	Owner	Powerplant number	Generating station	Location
OFC-050.....	Public Service Company of New Hampshire....	4	Schiller.....	Portsmouth, N.H.
OFC-051.....	do.....	5	do.....	do.....

FEA hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments on these proposed prohibition orders.

The proposed orders would prohibit the powerplants listed above from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a prohibition order to a powerplant, section 2 of ESECA requires that FEA make certain findings. FEA's initial conclusions with respect to, and rationale in support of, these findings are set out, with respect to each of the powerplants, at the conclusion of this notice. These findings and rationales may be amended as a result of written or oral comments received by FEA pursuant to this notice and other information avail-

area with which the committees are concerned, and to propose changes which may be necessary or desirable in the pertinent regulations.

It is anticipated that each of the above committees will hold 3-6 meetings per year. Membership is extended to any member of the public who expresses an interest in participating in the work of a committee.

The Commission has also approved the establishment of a WARC Industry Advisory Committee, whose purpose is to recommend practical solutions to the WARC preparatory staff in areas of conflict between two or more advisory committees. Members of the WARC Industry Advisory Committee will be selected by the Commission's WARC preparatory staff.

The Federal Communications Commission has determined that the establishment of all of the above committees is necessary and in the public interest. Anyone who desires additional information concerning the work of the WARC preparatory committees may contact a member of the Commission's International Conference Staff, Office of Chief Engineer, 2025 "M" Street NW., Room 7002, Washington, D.C. 20554, Telephone (202) 632-7060.

FEDERAL COMMUNICATIONS COMMISSION,  
[SEAL] VINCENT J. MULLINS,  
Secretary  
[FR Doc.75-13473 Filed 5-21-75; 8:45 am]

#### FEDERAL ENERGY ADMINISTRATION PROHIBITION ORDERS

##### Intention To Issue to Certain Powerplants

The Federal Energy Administration ("FEA") hereby gives notice of its intention to issue prohibition orders, pursuant to the authorities granted by section 2 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA) and in accordance with 10 CFR Parts 303 and 305, to the following powerplants:

Docket No.	Owner	Powerplant number	Generating station	Location
OFC-050.....	Public Service Company of New Hampshire....	4	Schiller.....	Portsmouth, N.H.
OFC-051.....	do.....	5	do.....	do.....

able to FEA. The findings will be included, with any amendments, in a prohibition order when it is issued.

Upon conclusion of the proceedings described in this notice, FEA may determine to issue prohibition orders to some or all of the powerplants listed above. These prohibition orders will not become effective, however, (1) until either, (a) the Administrator of the Environmental Protection Agency ("EPA") notifies the FEA, in accordance with section 119(d) (1)(B) of the Clean Air Act, that the powerplant will be able on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a compliance date extension under section 119, or (b) if no notification is given by EPA, the date that



The Administrator of EPA certifies pursuant to section 119(d)(1)(B) of the Clean Air Act is the earliest date that the powerplant will be able to comply with all applicable air pollution requirements of section 119 of that Act; and (2) until FEA has considered the environmental impact of such order pursuant to § 305.9 of the FEA regulations that implement section 2 of ESECA and has served the affected powerplant a Notice of Effectiveness, as provided in §§ 303.10 (b) and 303.37(b) of those regulations. The date the prohibition order will be effective will be stated in the Notice of Effectiveness.

The Notice of Effectiveness will contain a compliance schedule to insure that the powerplant will be able to comply with the prohibition of the burning of natural gas or petroleum products as a primary energy source on the date the order becomes effective.

Public comment on the proposals to issue prohibition orders to the powerplants listed above is invited in the form of written and oral presentation of data, views and arguments. Comments should relate to individual docket numbers and should make clear to which docket number the individual comment is addressed.

Comments should address (1) the adequacy and validity of each of the proposed findings and the rationale in support of the findings; (2) the identification of any site-specific environmental impacts resulting from the proposed prohibition orders that were not identified or described in the Environmental Impact Statement (FES 75-1, dated April 25, 1975) for the FEA program to implement section 2 of ESECA; and (3) any other relevant aspects or impacts of the proposed prohibition order. With respect to comments regarding any impact on air quality that might result from a proposed prohibition order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality, and for determining the applicable air pollution requirements that apply to the powerplant that has been issued an order. It is expected that in almost every case, a powerplant to which a prohibition order is issued will be eligible to apply to EPA for a compliance date extension. In connection with that application, EPA must also provide an opportunity for written comment and oral presentation of data, views and arguments by interested persons. In addition, FEA will make a site-specific environmental analysis after the issuance of each order, but prior to service of the Notice of Effectiveness, and there will be an opportunity for public comment if the analysis indicates that significant site-specific impacts are likely to result from a prohibition order.

If oral presentation is to be made, it is requested that any detailed, technical data, views, and arguments be made in written comments submitted in support of the oral presentation, and that the oral presentation itself be a summary of those more detailed comments.

A public hearing on the proposed prohibition orders will be held beginning at 9 a.m., e.d.t. on June 4, 1975, in the J. W. McCormack Post Office and Courthouse, Auditorium, Room 304, Post Office Square, Boston, Massachusetts 02109, to receive oral presentation of data, views and arguments from interested persons. Any person who has an interest in the subject of the hearing, or who is a representative of a group or class of persons which has an interest in the subject of the hearing, may make a written request, or a verbal request if confirmed in writing, for an opportunity to make oral presentation. That request should be directed to Joseph Pecoraro, Federal Energy Administration, Region I, 150 Causeway Street, Boston, Massachusetts 02114, (617) 223-2674 and must be received before 4:30 p.m. e.d.t., May 30, 1975. The request may be hand-delivered to Joseph Pecoraro, Seventh Floor, FEA Region I, 150 Causeway Street, Boston, Massachusetts 02114 between the hours of 8 a.m. and 4:30 p.m. e.d.t., Monday through Friday. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through June 3, 1975. Each person selected to be heard will be so notified by the FEA by 4:30 p.m. e.d.t., June 2, 1975 and must submit a minimum of 20 copies of the statement to Joseph Pecoraro, Seventh Floor, 150 Causeway Street, Boston, Massachusetts 02114 before 4:30 p.m., June 3, 1975.

The FEA reserves the right to limit the number of representatives of a particular group or class of persons to be heard at the hearing, to schedule their or other persons' presentations, and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. It will not be a judicial or evidentiary-type hearing. During an oral presentation, questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons making oral presentations. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making an oral presentation at the hearing to FEA Region I, Joseph Pecoraro, Seventh Floor, 150 Causeway Street, Boston, Massachusetts, before 9 a.m. e.d.t., June 4, 1975. Any person who makes an oral statement or any

other person who wishes to ask a question at the hearing may submit the questions, in writing, to the presiding officer. The FEA, or the presiding officer if the question is submitted at the hearing, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules necessary for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript will be retained by the FEA and made available for inspection at the FEA Region I Library, Seventh Floor, 150 Causeway Street, Boston, Massachusetts, 02114, and FEA Administrator's Reception Area, Room 3400, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any one may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, or arguments with respect to the proposed prohibition order to Executive Communications, Federal Energy Administration, Box DD, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope in which they are transmitted and on other documents submitted to FEA Executive Communications with the designation "Proposed Prohibition Order for the \_\_\_\_\_ Powerplant." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., e.d.t., June 6, 1975, all oral presentations and all other relevant information submitted to or otherwise available to FEA will be considered by FEA prior to issuance of any prohibition order.

Supplemental Comment Period. To facilitate the submission of data, views and arguments to supplement either the oral presentation or written comments, FEA shall keep the record of the public hearing open for a period of 10 days from the first day of the public hearing. Such supplementary written data, views or argument shall be filed with Executive Communications, Federal Energy Administration, Box DD, Washington, D.C. 20461. In the event that such supplementary data, views or argument can only be submitted by oral presentation, a verbal request for a conference, in accordance with 10 CFR 303.171, shall be submitted to Joseph Pecoraro, FEA Region I, 150 Causeway Street, Seventh Floor, Boston, Massachusetts 02114, (617) 223-2674. To ensure that FEA receives the transcript of such oral presentation before the record closes, any oral presentation must be made within 8 days from the first day of the public hearing.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only.

The FEA reserves the right to determine the confidential status of the information or data and to treat it accordingly to its determination.

The sections of ESECA that are relevant to the proposed prohibition orders are stated below:

#### Sec. 1. Short-Title; Purpose.

(b) The purposes of this Act are (1) to provide for a means to assist in meeting the essential needs of the United States for fuels, in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment . . . .

#### Sec. 2. Coal Conversion and Allocation.

(a) The Federal Energy Administrator— (1) shall by order, prohibit any powerplant, and

(2) may, by order, prohibit any major fuel burning installation, other than a powerplant, from burning natural gas or petroleum products as its primary energy source, if the Federal Energy Administrator determines such powerplant or installation on the date of enactment of this Act (June 22, 1974) has the capability and necessary plant equipment to burn coal, and if the requirements of subsection (b) are met.

(b) The requirements referred to in subsection (a) are as follows:

(1) An order under subsection (a) may not be issued with respect to a powerplant or installation unless the Federal Energy Administrator finds (A) that the burning of coal by such plant or installation, in lieu of petroleum products or natural gas, is practicable and consistent with the purposes of this Act, (B) that coal and coal transportation facilities will be available during the period the order is in effect, and (C) in the case of a powerplant, that the prohibition under subsection (a) will not impair the reliability of service in the area served by such plant. Such an order shall be rescinded or modified to the extent the Federal Energy Administrator determines that any requirement described in subparagraph (A), (B), or (C) of this paragraph is no longer met; and such an order may at any time be modified if the Federal Energy Administrator determines that such order, as modified, complies with the requirements of this section.

(3) (A) Before issuing an order under subsection (a) which is applicable to a powerplant or installation after June 30, 1975 (or modifying an order to which paragraph (2) applies, so as to apply such order to a powerplant or installation after such date), the Federal Energy Administrator shall give notice to the public and afford interested persons an opportunity for oral and written presentations of data, views, and arguments.

(B) An order (or modification thereof) described in subparagraph (A) of this paragraph shall not become effective until (1) the Administrator of the Environmental Protection Agency notifies the Federal Energy Administrator under section 119(d)(1)(B) of the Clean Air Act that such plant or installation will be able on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a compliance date extension under section 119(c) of such Act, or (2) if such notification is not given, the date which the Administrator of the Environmental Protection Agency certifies pursuant to section 119(d)(1)(B) of such Act is the earliest date that such plant or installation will be able to comply with all applicable requirements of such section 119. Such order (or modification) shall not be effective during any period certified by the Administrator of the Environmental Protection Agency under section 119(d)(3)(B) of such Act.

(e) For purposes of this section: (1) The term "powerplant" means a fossil-fuel fired electric generating unit which produces electric power for purposes of sale or exchange.

(2) The term "coal" includes coal derivatives.

(f) (1) Authority to issue orders or rules under subsections (a) through (d) of this section shall expire at midnight, June 30, 1975. Such a rule or order may take effect at any time before January 1, 1976.

(2) Authority to amend, repeal, rescind, modify, or enforce such rules or orders shall expire at midnight, December 31, 1978; but the expiration of such authority shall not affect any administrative or judicial proceeding which relates to any act or omission which occurred prior to January 1, 1979.

Copies of the FEA regulations implementing section 2 of ESECA (10 CFR Parts 303, 305 and 307) are available from the FEA Regional Office, 150 Causeway Street, Seventh Floor, Boston, Massachusetts 02114, (617) 223-2674.

Any questions regarding this notice should be directed to Joseph Pecoraro, FEA Region I, 150 Causeway Street, Boston, Massachusetts 02114 (617) 223-2674.

(Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93-319); Federal Energy Administration Act of 1974 (Pub. L. 93-275); E.O. 11790 (39 FR 23185))

Issued in Washington, D.C., May 17, 1975.

ROBERT E. MONTGOMERY, Jr.,  
General Counsel,  
Federal Energy Administration.

OFU-050, 051, PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE, POWERPLANTS 4 AND 5, GENERATING STATION—SCHILLER, PORTSMOUTH, NEW HAMPSHIRE

(1) Capability and Necessary Plant Equipment Finding.

Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that on June 22, 1974, these powerplants had the capability and necessary plant equipment to burn coal. This proposed finding is based on facts, interpretations and assumptions stated below:

(A) These powerplants had in place on June 22, 1974, a boiler that was capable of burning coal, in that such boiler had been designed and constructed, or had been modified to enable it to burn coal and another energy source, or to burn coal and another fossil fuel interchangeably as its primary energy source, notwithstanding the fact that on June 22, 1974, such powerplant may not have been burning coal as its primary energy source.

(B) Based on information filed with FEA on April 10, 1975, by the Public Service Company of New Hampshire, the following significant equipment or facilities would have to be acquired or substantially refurbished:

- (1) Coal unloading facilities;
- (2) One bulldozer;
- (3) Separator tubes for mechanical dust collector on Unit 4;
- (4) Extensive overhaul of coal and ash handling systems.

FEA assumes that on June 22, 1974, these powerplants had all other significant equipment and facilities associated with the burning of coal.

(C) Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph (b) do not individually or in com-

bination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

(11) Burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.

Based on an analysis of the information submitted or otherwise available to FEA, FEA proposes to find that the burning of coal by the powerplant, in lieu of petroleum products or natural gas, is practicable and consistent with the purposes of ESECA. This proposed finding is based on the facts, interpretations and assumptions stated below.

(A) (1) Revenue Requirements.

(a) The investment costs that result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal by the powerplants are estimated to be approximately \$2,424,000. This estimate is based on existing FEA information and on information filed with the FEA by the company concerning items of equipment and facilities that would have to be acquired or refurbished and the costs of such acquisition or refurbishment.

(1) Costs of acquisition or refurbishing equipment are allocated as follows:

(A) \$2,000,000 to comply with air pollution control requirements of the Clean Air Act.

(B) \$424,000 to make those technical plant and equipment adjustments associated with the burning of coal as well as to comply with environmental requirements other than those imposed by the Clean Air Act.

(b) The increase in operating costs other than fuel costs that result from the burning of coal are estimated to be approximately \$125,000 per year.

(c) (1) The price of petroleum products available to the powerplants is approximately \$1.85 to \$1.95 million Btu's. The price of coal of the type used by the powerplants is approximately \$1.55 to \$1.65 per million Btu's. The burning of coal by the powerplant will result in a reduction of .20 to .40 per million Btu's or \$1 to \$2 million per year.

(2) The New Hampshire Public Utility Commission permits the inclusion of increased fuel costs in the rate base through a fuel adjustment clause and, if there is a decrease in the cost of fuel as a result of burning coal, there will be a decrease in such rate base.

(d) The total annual incremental increase in revenue requirements resulting from costs associated with burning coal as opposed to oil is \$752,000.

(2) Financial Capabilities.

(a) Based on the most recent financial statements and capital expenditure programs of the Public Service Company of New Hampshire, as well as other information available to FEA, it has been determined that the prohibition order for the powerplants is practicable. This financial assessment included an evaluation of generally accepted financial ratios; effects on capitalization as a result of the costs of burning coal; impact on current and future construction programs; and possible impacts on rates. This assessment incorporated, but was not limited to, consideration of: the \$2.4 million investment requirement (or .8 percent) in relation to net property and plant of the company of \$381.2 million and 1975-1977 construction budget of the company of \$240 million (or 1 percent); the total capitalization of the company of \$394.8 million; the change in 1974 to 1975 construction budgets of \$43.2 million to \$50 million and the 15 years remaining useful life of the plant. These assessments, the above findings, and other evaluations of the general financial health of the company were the basis of this finding.

(B) Because this prohibition order will discourage the use of natural gas or petroleum products and encourage the increased



use of coal, FEA proposes to find that its issuance will be consistent with the purpose of ESECA "to provide a means to assist in meeting the essential needs of the United States for fuels." Further, on the basis of the environmental analyses conducted by FEA, the analyses of air quality impacts which EPA is required to conduct prior to effectiveness of a prohibition order, as well as the necessity for the powerplants to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to find that the prohibition order is also consistent with the purpose of ESECA to provide for a means to meet the Nation's essential fuel needs "in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment."

(iii) Coal and coal transportation facilities will be available during the period the prohibition order is in effect.

Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1978. The period until December 31, 1978 is the period during all or part of which the prohibition order to which these findings relate will be in effect. This proposed finding is based upon the following facts, interpretations and assumptions:

(1) It is estimated that it will be practicable to produce coal nationally as follows:

Year:	Production (Million tons)
1975	662
1976	679
1977	707
1978	735

(2) The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2 of ESECA, is as follows:

Year:	Demand (Million tons)
1975	640
1976	664
1977	688
1978	716

(3) The estimated additional national demand for coal resulting from the prohibition order to which this finding relates, and from FEA actions under authority of section 2 of ESECA, will be as follows:

Year:	Demand (Million tons)
1975	7
1976	4.0
1977	13.6
1978	16.2

(4) Coal of the specific type required for use by this powerplant has been identified in the reserves of the Northern and Southern Appalachian Coal supply regions, which consist of Bureau of Mines Districts 1 through 8 and 13.

(5) It is estimated that it will be practicable to produce coal from the Northern and Southern Appalachian coal supply regions as follows:

Year:	Production (Million tons)
1975	406
1976	402
1977	457
1978	412

(6) The regional and national production estimates stated in items (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately 4 percent. A 1976 study by the Bureau of Mines of the Department of the Interior indicates a national surge capacity of approx-

mately 6 percent. In response to an industry survey in late 1974, the coal industry itself indicated that it had a surge capacity of up to 8 percent. By comparison, the increased national demand for coal resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA, is less than one tenth of a percent in 1975, increasing to a maximum of 2.3 percent in 1978 of estimated national demand stated in item (2). A market survey of traditional coal suppliers to FEA Region I consumers indicates that there is ample production capability to support increased demand for coal from this region resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA.

(7) No State or local laws or policies which would limit the extraction of this coal have been found by FEA or brought to FEA's attention.

(8) The estimated demand for coal from these supply regions, excluding any increased demand resulting from FEA actions under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	390
1976	394
1977	395
1978	398

(9) The estimated additional demand for coal from these supply regions resulting from the prohibition order to which this finding relates and from other FEA orders under section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	4
1976	2.5
1977	10.2
1978	12.4

(10) On the basis of the above information, FEA proposes to find that the estimated production of coal of the specific type required for use by this powerplant exceeds the estimated demand for such coal by amounts adequate to support a conclusion that such coal will be available to these powerplants during the period until December 31, 1978.

B(1) Adequate rail and barge facilities exist between these coal supply regions and the powerplant to transport the coal that will be used by such powerplant pursuant to this order.

(2) There is a waterway which will be able to deliver this coal from the main rail line to these powerplants.

(3) Sufficient rolling stock will be available to the Reading Company and sufficient barges available to the Express Maine Transportation Corporation for transporting this

coal during the period until December 31, 1978.

(iv) The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplants.

Based on an analysis of the information submitted to or otherwise available to FEA, and after consultation with the Federal Power Commission, FEA proposes to find that the prohibition of the Schiller Units #4 and #5 powerplants of the Public Service Company of New Hampshire from burning natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by such powerplants. This finding is based on the facts, assumptions and interpretations stated below:

(A) (1) Interconnections and Power Dispatching.

(a) The Schiller Units are within the geographical area of the Northeast Power Coordinating Council (NPCC) regional electric reliability council.

(b) They are interconnected with and their operations and planning are coordinated with the New England Power Exchange (NEPEX) power pool.

(c) Dispatching of electric power is controlled by NEPEX.

(d) "Dispatching system" as used later in this finding means NEPEX.

(2) Forecast Peak Loads.

(a) Forecast of peak loads for the dispatching system during the year in which the Public Service Company of New Hampshire is expected to be implementing the herein prohibition order is as follows:

Year:	Forecast Peak Load (MW)
1975	14146
1976	14146
1977	14146
1978	14146

(b) The peak loads forecast have been compared with peak loads in previous similar periods and the compound load growth rate for these forecasts is 6 percent, which is considered reasonable.

(3) Capacity.

(a) The present net dependable capacity of all powerplants of the dispatching system that now are engaged in the sale or exchange of electric power is 19671 MW.

(b) Additions, retirements, and powerplant reratings during the period in which Public Service Company of New Hampshire will be implementing the herein prohibition order, as listed below, will cause the following changes in net dependable capacity of such dispatching system.

Powerplant designation	Fuel	Type of change	Capacity change	Status and effective date
Millstone No. 2	Nuclear	Addition	+630	Under construction, commercial operation, August 1975.
New Haven Harbor	Oil	do	+445	Do.
Newington	No. 6 oil	Rerating	+47	Authorized July 1975.
Canal No. 2	Oil	Addition	+539	Under construction, commercial operation, October 1975.
Winnamett	Nuclear	Rerating	+464	Authorized November 1975.
Vernon	do	do	+112	Do.
Purchased power	do	Addition	+399	January 1976.
Do	do	Retirement	-259	July 1975.
Pawtucket No. 1	Oil	do	-25	October 1975.
			-25	

1 Winter.  
2 Summer.

#### (4) Scheduled Outages.

(a) A scheduled outage of 6 weeks for Unit #4 and 4 weeks for Unit #5 is estimated to be required to make any modification, installation or other physical adjustment associated with cessation of the burning of natural gas or petroleum products as the powerplant primary energy source. Immediately following modification during on-line testing and adjustment, each powerplant will be less than fully dependable. This period should not exceed 30 days.

Modifications are forecast to commence approximately February 1, 1976, and to be complete and fully tested by June 15, 1976.

(b) Planned maintenance of other powerplants and nuclear plant refueling during the period the powerplants will be implementing the herein prohibition order within the dispatching system will result in the loss of generating capability which is expected to average the listed values during the specified load periods:

Winter Period—500 MWe
Spring Period—2100 MWe
Summer Period—1050 MWe

(5) Net Dependable Capacity.

The forecast net dependable capacity for the dispatching system during the period (shown as quarter years) in which the powerplants are expected to be implementing the herein prohibition order and the next quarter following is:

Winter 1975-1976—21850 MWe
Spring 1976—21812 MWe
Summer 1976—21470 MWe

(6) Gross Reserve Margin-Dispatching System.

(a) The expected minimum gross reserve margin (difference between net system capability and peak load in percent of peak load) of the dispatching system for the load periods specified are as follows:

Winter 1975-76—54.5 percent.
Spring 1976—70.2 percent.
Summer 1976—57.2 percent.

(b) After deducting the net capacity of units scheduled for maintenance or refueling during these same load periods, the expected minimum reserve margins are:

Winter 1975-76—51.0 percent.
Spring 1976—53.8 percent.
Summer 1976—49.5 percent.

(7) Derating.

There will be no derating of the powerplant when using coal as the primary energy source.

(8) System Stability.

Available information regarding system stability for the dispatching system has been evaluated for each of the load periods stated in paragraph (5) and the issuance of a prohibition order to the powerplant will not cause a significant system stability problem.

(B) Reliability of Service.

(1) The estimated gross reserve margin of the dispatching system during the implementation period associated with the commencement of the burning of coal as a primary energy source is forecast to range between 49.5 percent and 53.8 percent, depending upon the date of the period of powerplant outage. By scheduling the implementation period during the Winter, Spring or Summer load period, the estimated gross dispatching system's reserve margin will be above 49.5 percent, and the Federal Power Commission considers this to be an acceptable reserve margin.

(2) If dispatching system conditions at the time of the implementation period are as presently forecast by FEA in this finding, there will be no impairment of reliability of service, within the meaning of ESECA and the regulations promulgated thereunder, in the area served by the Public Service Company of New Hampshire.

(3) Existing transmission system interconnections with other utilities are presently scheduled to transfer approximately 394 megawatts into the dispatching system; with the capacity to transfer approximately 1300 additional megawatts of power into the dispatching system. This capacity will provide emergency resource of electric power during the implementation period and will enhance the reliability of service.

[FR Doc.75-13411 Filed 5-19-75; 10:10 am]

### POWERPLANTS IN THE EARLY PLANNING PROCESS

#### Requirement To File Identification Report

The Federal Energy Administration hereby gives notice of the requirement, pursuant to 10 CFR 307.6(b), that each powerplant (other than a combustion gas turbine or a combined cycle unit) in the early planning process file an Identification Report (FEA form C-603-S-0, GAO approval No. D-181254 (RO 196)) with FEA by June 2, 1975. This reporting requirement applies to all powerplants (other than combustion gas turbines or combined cycle units) that as of April 1, 1975 were in the early planning process.

By May 23, 1975 FEA will have mailed copies of the Identification Report to persons that own, control or operate powerplants that generate electric power in the amount of 25 MW or greater. The Report is to be completed in accordance with the instructions contained therein, for any powerplant in the early planning process that is owned, controlled or operated by such persons. Any powerplant (other than a combustion gas turbine or a combined cycle unit) in the early planning process as of April 1, 1975 that does not receive an Identification Report should contact the Federal Energy Administration, Office of Fuel Utilization, Industry Analysis Branch, Washington, D.C. 20461 ((202) 961-8541) to obtain a copy.

Powerplants (other than a gas turbine or a combined cycle unit) that enter the early planning process at anytime in a month subsequent to April 1, 1975 are required to file an Identification Report, at the address provided in 10 CFR 303.12 (Federal Energy Administration, Code OFU (Identification Report), Washington, D.C. 20461), by the fifteenth day of the subsequent month. Copies of such report can be obtained by writing to that address.

**Definitions.** "Combined cycle unit" means an electric power generation unit that consists of a combination of one or more combustion gas turbine units and one or more steam turbine units with the required energy input of the steam turbine(s) provided by and approximately matched to the energy in the exhaust gas from the combustion turbine unit(s). Use of small amounts of supplemental firing for the steam turbine does not preclude the unit from being a combined cycle unit.

"Combustion gas turbine" means an electric power generation unit that is a combination of a rotary engine driven by a gas under pressure that is created

by the combustion of a fuel, usually natural gas or a petroleum product, with an electric power generator driven by such engine.

"Early planning process" commences 10 years prior to the planned commencement of the sale or exchange of electric power by a powerplant and terminates with commencement of the driving of the foundation piling, or the equivalent foundation structural event, in accordance with approved final drawings for the main boiler of the powerplant.

"Person" means any association, firm, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity however organized including charitable, educational, or other eleemosynary institutions, and the Federal Government including corporations, departments, Federal agencies and other instrumentalities, and State and local governments, and includes any officer, director, owner or duly authorized representative thereof. The FEA may, in regulations and in any forms issued in this part, treat as a person:

(a) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls.

(b) A parent and its consolidated entities.

(c) An unconsolidated entity, or

(d) Any part of a person.

"Powerplant" means a fossil-fuel fired steam electric generating unit that produces electric power for purposes of sale or exchange, and includes any person who owns, leases, operates or controls any such unit.

(Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93-319); Federal Energy Administration Act of 1974 (Pub. L. 93-275); EO 11790 (39 FR 23185))

Issued in Washington, D.C., May 20, 1975.

ROBERT E. MONTGOMERY, Jr.,  
General Counsel,  
Federal Energy Administration.

[FR Doc.75-13601 Filed 5-20-75; 11:52 am]

### FEDERAL MARITIME COMMISSION

[Docket No. 75-17]

CLETO HERNANDEZ R. D/B/A PAN INTER Independent Ocean Freight Forwarder License; Order of Investigation and Hearing

On January 27, 1966, Cleto Hernandez R. d/b/a Pan Inter, 267 West 89th St., Suite 6-c, New York, New York 10024, was issued independent ocean freight forwarder license FMC No. 1108.

Information has been developed that Cleto Hernandez R. d/b/a Pan Inter (Hernandez) is now employed by Continental Can Company, Inc. (Continental), an export shipper in the foreign ocean commerce of the United States.

Section 1 of the Shipping Act, 1916, defines an independent ocean freight forwarder as a "person carrying on the business of forwarding for a consideration who is not a shipper or consignee or a seller or purchaser of shipments to



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foreign countries, nor has any beneficial interest therein, nor directly or indirectly controls or is controlled by such shipper or consignee or by any person having such a beneficial interest."

The Commission has in the past held that a forwarder may not be employed by a shipper regardless of whether or not the forwarder forwards shipments for their shipper-employers or whether or not control over the forwarder is exercised by the shipper-employer. See Application For Freight Forwarder License—York Shipping Corporation—9 F.M.C. 72 (1965) and Application For Freight Forwarder License—William V. Cady, 8 F.M.C. 352 (1964).

Mr. Hernandez was notified by certified letters of January 29, 1975 and of March 3, 1975 from the Commission's staff that his employment with Continental barred him from continuing to serve as an independent ocean freight forwarder and that if he did not sever his employment or surrender his license that a formal hearing would be instituted to determine whether his license should be suspended or revoked.

In reply, Mr. Hernandez stated that he is not shipper connected as he does not act as Continental's ocean forwarder and that Continental has no relationship with the freight forwarding business. These statements were verified by a letter from the Manager of International Sales and Traffic for Continental.

In the above cases, the Commission found that the forwarders involved had utilized their employees' offices to conduct forwarding activities, received business from clients of their employers, and at one time did forward shipments for their employers. None of these elements appear to be present in regard to Hernandez, but the Commission in Cady stated:

On its face, the master and servant [employee] relation between a shipper and licensed forwarder is inconsistent with the purpose of the Act . . .

Thus, it would appear that Hernandez no longer qualifies as an independent ocean freight forwarder pursuant to sections 1 and 44 of the Shipping Act, 1916, and §§ 510.2(a) and 510.9(d) of the Commission's General Order 4.

In addition, further information has been developed which reveals that Hernandez had apparently violated the following sections of the Commission's General Order 4:

Section 510.23(f) requires prompt accounting by a licensee to its principal for monies due such principal. In 1974 Hernandez failed to timely remit monies due his principal in the amount of \$4,475, a violation of this section.

Section 510.23(k) requires a licensee to maintain all records and books of account in connection with the carrying on the business of forwarding in an orderly, systematic and convenient manner as to permit authorized Commission personnel

to determine readily the licensee's cash position, accounts receivable and accounts payable. Hernandez has failed to maintain records in the prescribed manner.

Therefore, it is ordered, Pursuant to sections 22 and 44 of the Shipping Act, 1916 (46 U.S.C. 821, 841(b)) that a proceeding is hereby instituted to determine whether Cleto Hernandez R. d/b/a Pan Inter has violated §§ 510.23(f) and (k) of General Order 4, and continues to qualify for a license as an independent ocean freight forwarder, and whether its license as an independent ocean freight forwarder should be continued in effect or be suspended or revoked pursuant to sections 1 and 44 of the Shipping Act, 1916 (46 U.S.C. 801, 841(b)), and §§ 510.9(b) and (d), of the Commission's General Order 4.

It is further ordered, That Cleto Hernandez R. d/b/a Pan Inter be made respondent in this proceeding and that the matter be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by the Presiding Administrative Law Judge, but in any event, shall commence on or before November 16, 1975.

It is further ordered, That notice of this order be published in the Federal Register and a copy thereof and notice of hearing be served upon respondent, Cleto Hernandez R. d/b/a Pan Inter.

It is further ordered, That any person other than respondents and Hearing Counsel having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 5(1) (46 CFR 502.72) of the Commission's rules of practice and procedure.

Pursuant to these Rules, absent good cause shown, parties must commence discovery procedures within 30 days after publication of this Notice in the Federal Register; moreover any intervenor desiring to utilize the discovery procedures provided for in Subpart L thereof must commence doing so no later than 15 days after his petition for leave to intervene has been granted. If the petition for leave to intervene is filed later than 30 days after the date of publication of this order in the Federal Register, petitioner will be deemed to have waived his right to utilize such procedures unless good cause is shown for the failure to file the petition within the 30-day period. (46 CFR 502.72(b).)

It is further ordered, That all future notices issued by or on behalf of the Commission, including notice of time and place of hearing, or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HORNBY,  
Secretary.

[FR Doc. 75-13480 Filed 5-21-75; 8:45 am]

## FEDERAL POWER COMMISSION

[Docket No. E-9432]

AMERICAN MUNICIPAL POWER-OHIO, INC.

Filing of Initial Rate Schedule

MAY 15, 1975.

Take notice that on May 6, 1975, American Municipal Power—Ohio, Inc. (AMP—Ohio) tendered for filing an initial rate schedule for service with the City of Orrville, Ohio. AMP—Ohio states that it is uncertain when service will commence under this schedule. Accordingly AMP—Ohio requests waiver of the Commission's 90 day filing requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 30, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13435 Filed 5-21-75; 8:45 am]

[Docket No. E-9712]

CAROLINA POWER & LIGHT CO.

Filing of Motion To Terminate Docket

MAY 15, 1975.

Take notice that on May 12, 1975, Commission Staff Counsel tendered for filing a motion to terminate the proceedings in the above-referenced proceeding. In the motion, Staff Counsel stated that the issues over which the Commission had expressed concern had been resolved in a manner acceptable to the public interest.

Any person desiring to be heard or to protest said filing should file written comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such comments should be filed on or before May 30, 1975.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13436 Filed 5-21-75; 8:45 am]

[Docket No. RP75-99]

COLUMBIA GAS TRANSMISSION CORP.

Request for Advance Commission Approval of Accounting and Rate Treatment of R&D Expenditures

MAY 15, 1975.

Take notice that on May 8, 1975, Columbia Gas Transmission Corporation

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(Columbia), filed a request pursuant to § 154.38(d)(5)(a) of the Commission's regulations, for advance Commission approval of accounting and rate treatment of research and development expenditures associated with an experimental test program on the Appalachian gas shales proposed to be conducted by Columbia.

Columbia proposes to undertake a program of research and development for the purpose of determining reservoir and production characteristics achieved through the application of a variety of existing and new stimulation techniques on low permeability gas shales in the Upper and Middle Devonian Age Formations in four (4) diverse areas in the Appalachian Basin. The program will evaluate the feasibility of recovering approximately 285 trillion cubic feet of reserves estimated to exist in the Devonian shales of the Appalachian Basin.

The experimental stimulation program will require estimated expenditures of approximately \$8,500,000, to be spent by Columbia over a 36-month period, extending from mid-1975 to mid-1978.

Any person desiring to be heard or to protest said notice, should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 29, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Columbia's proposed accounting and rate treatment for Research and Development expenditures is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13437 Filed 5-21-75; 8:45 am]

[Docket Nos. RP74-82; RP74-81]

COLUMBIA GAS TRANSMISSION CORP.  
AND COLUMBIA GULF TRANSMISSION CO.

Settlement Conference

MAY 15, 1975.

Take notice that on Thursday, May 29, 1975, and Friday, May 30, 1975, a conference of all interested parties in the above-referenced dockets will be convened at 10 a.m., in a conference room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. See the bulletin board on the second floor for the room number.

The conference will be held pursuant to § 1.18 (Conferences, Offers of Settlement) of the Commission's rules of practice and procedure (18 CFR 1.18). Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, such attendance at the conference will

not be deemed to authorize such intervention as a party in the proceedings.

In accordance with the provisions of § 1.18 of the rules, all parties will be expected to come fully prepared to discuss the merits of all issues concerning the lawfulness of Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company's proposed tariff changes, any procedural matters preparatory to a full evidentiary hearing, or to make commitments with respect to such issues and any offers of settlement or stipulations discussed at the conference. Failure to attend the conference shall constitute a waiver of all objections to stipulations and agreements reached by the parties in attendance at the conference.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13438 Filed 5-21-75; 8:45 am]

[Docket No. RP75-8; PGA75-36]

COMMERCIAL PIPELINE CO.

Filing of Revised Tariff Sheet

MAY 15, 1975.

Take notice that on May 2, 1975, Commercial Pipeline Company (Commercial) tendered for filing corrected substitute Sixth Revised Sheet 3A superseding Sixth Revised Sheet No. 3A.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 23, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13439 Filed 5-21-75; 8:45 am]

[Docket No. E-9435]

CONSUMERS POWER CO.

Proposed Tariff Change

MAY 15, 1975.

Take notice that Consumers Power Company (Consumers Power) on May 9, 1975, tendered for filing a contract for electric service between Consumers Power and the City of Petoskey, Michigan (Petoskey) that, when effective, will cancel and supersede an existing contract for electric service dated March 23, 1966, as amended, and an agreement dated May 3, 1971, as amended. The new contract will become effective when construction of a 15,000 kVA substation by Petoskey is completed. This date is expected to be on or about July 1, 1975. The

rates to be charged by Consumers Power for power and energy under the new contract are the rates approved by the Commission in its Order of August 30, 1974, in Docket No. E-7903. The new contract increases the capacity reserved for Petoskey from 13,750 kilowatts to 18,750 kilowatts.

Copies of the filing were served on the City of Petoskey and on the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 28, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13440 Filed 5-21-75; 8:45 am]

[Docket No. RP75-70]

EQUITABLE GAS CO.

Extension of Procedural Dates

MAY 15, 1975.

On May 8, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued March 10, 1975 in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's and Intervenor's Testimony, June 4, 1975.  
Hearing (unchanged), June 17, 1975 (10 a.m. EDT).

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13441 Filed 5-21-75; 8:45 am]

[Docket No. RP75-53]

FLORIDA GAS TRANSMISSION CO.

Extension of Procedural Dates

MAY 15, 1975.

On May 6, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued February 7, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, August 8, 1975.  
Service of Intervenor's Testimony, September 10, 1975.  
Service of Company Rebuttal, October 6, 1975.



Hearing, October 14, 1975 (10 a.m. EDT).

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13442 Filed 5-21-75; 8:45am]

[Docket No. C175-34]

## GAS GATHERING CORP.

## Order Setting for Hearing Request for Disclaimer of Jurisdiction, Instituting Show Cause Proceeding, Setting Proceedings for Formal Hearing, Granting Petition to Intervene and Establishing Procedural Dates

On July 17, 1974, Gas Gathering Corporation (GGC) filed a petition for disclaimer of jurisdiction alleging that it performs only a gas gathering function and is not a producer or mainline transporter of natural gas and is not, therefore, subject to Commission jurisdiction. Notice of the petition was issued by the Commission on July 30, 1974, and was published in the Federal Register on August 6, 1974 (39 FR 28321). On August 23, 1974, Transcontinental Gas Pipe Line Corporation (Transco) filed a petition to intervene. No other petitions to intervene have been filed.

In its petition for disclaimer of jurisdiction GGC states that since its origin in 1955 it has gathered, metered and dehydrated gas which it purchases from producers in the Atchafalaya Basin of south central Louisiana and sells exclusively to Transco. The gas sold to Transco is mixed in its general gas stream for resale in interstate commerce. GGC also states that it performs a transportation service for Southern Natural Gas Company (Southern) and Texaco Inc. (Texaco). GGC states that its system extends from a point in Pointe Coupee Parish, Louisiana, to its southwestern extremity in St. Martin Parish, Louisiana, and consists of 21 miles of 8-inch pipeline, 10 miles of 6-inch pipeline, and 5 miles of 4-inch pipeline with no line compression required on its system.

In support of its request for disclaimer of jurisdiction GGC cites Commission Opinion No. 617 issued April 24, 1974 (47 FPC 1088), in which the Commission found that Panhandle Eastern Pipe Line Company's facilities in Docket No. CP70-234 and those of Phillips Petroleum Company in Docket No. C170-917 were gas gathering facilities and not subject to Commission jurisdiction; and the Commission's order denying application for rehearing, etc. to South Texas Natural Gas Gathering Company in Docket Nos. CP67-349 and its order affirming examiner's decision in Docket No. CP71-26 both issued May 8, 1972, in which proceedings the Examiner and the Commission found that Southern Union should not be classified as a Class A pipeline and was thus not subject to Commission jurisdiction. GGC alleges that its operation parallels on a smaller scale the facts and circumstances which contributed and caused the Commission's findings of lack of jurisdiction in the abovementioned proceedings.

The Federal Power Commission has been delegated under the Natural Gas Act<sup>1</sup> with the responsibility of regulating the transportation and sale for resale of natural gas in interstate commerce and the construction and operation of facilities and the rates and charges therefor. For the purpose of carrying out these responsibilities, the Commission has classified all natural gas companies as either pipelines or independent producers of natural gas<sup>2</sup> and has promulgated separate regulations applicable to each class.<sup>3</sup>

We believe that the operations performed by GGC may be similar to those operations classified as gather-type pipelines subject to Commission jurisdiction in Baca Gas Gathering, Inc. (CP65-57), C. B. Gas Gathering, Inc. (CP73-91) and Western Transmission Corporation (CP70-252). For example, Bluebonnet Gas Corporation (Bluebonnet), the predecessor of C. B. Gas Gathering, Inc. was authorized in Docket No. CP65-326 to construct and operate 3 meter stations and approximately 4.5 miles of 4-inch pipeline in Louisiana for the transportation and sale of natural gas to Florida Gas Transmission Company (FGT). In Docket No. CP65-417, Bluebonnet was authorized to construct and operate metering, regulating and interconnecting facilities and sell gas acquired from George J. Despot, Operator to FGT. In Docket No. CP71-229, Bluebonnet was authorized to construct and operate approximately 200 feet of 2 x 2-inch gathering line and a measuring station to transport to FGT gas purchased from the Ballard and Cordell Corporation.

In Barnes Transportation Company, Inc. (18 FPC 369), the Commission stated that the ordinary concept of the word "gathering" as used in the natural gas industry means the collecting of gas from various wells and bringing it by separate and several individual lines to a central point where it is delivered into a single line. Following this concept, "gathering" is considered to have ended when the gas reaches the "central point" for delivery into a single line. The Commission held that the fact that the single line may be in back of a plant would not be controlling but the function of that single line would be determinative. In Opinion No. 617, cited by GGC, the Commission stated that Panhandle's Exhibit F diagram demonstrates that the original

<sup>1</sup> Approved June 21, 1938 (52 Stat. 821-833; Title 15 USC 717-717a), as amended February 7, 1942 (59 Stat. 83-84); Title 15 USC 717f, July 25, 1947 (61 Stat. 459); Title 15 USC 717f(h), August 28, 1958 (72 Stat. 941 at 947; 15 USC 717f) and May 21, 1962 (76 Stat. 72; 15 USC 717f(e)).

<sup>2</sup> E.g., Mississippi River Fuel Corporation, Docket No. G-7376, et al., order issued January 12, 1965 (unreported); National Sulphur Company, Docket No. CP66-282, 36 FPC 173; Nueces Industrial Gas Corporation, Docket No. CP71-287 45 FPC 1224; Southern Union Gathering Company, Docket No. CP71-26, 47 FPC 1177.

<sup>3</sup> Subchapters E and F of Chapter I, Title 18 of the Code of Federal Regulations.

facilities behind the Douglas plant which were certificated in Docket No. CP70-243 were facilities predominantly for the transportation of natural gas with incidental gathering facilities.

In this proceeding, the main function of GGC's facilities may be transportation of natural gas and any gathering services performed by GGC within the boundary of the fields themselves may be incidental to transportation to Transco.

It is also important to note that GGC may not meet the definition of an independent producer contained in section 154.91(a) of the regulations since it may perform a transportation service. Section 154.91(a) defines an independent producer as "any person as defined in the Natural Gas Act who is engaged in the production or gathering of natural gas and who sells natural gas in interstate commerce for resale, but who is not engaged in the transportation of natural gas (other than gathering) by pipeline in interstate commerce."

It appears that GGC may be a natural gas company subject to Commission jurisdiction; however, what classification it may fall under and the extent of our jurisdiction, if any, will be the subject of the instant proceeding. In Ben Bolt Gathering Company (26 FPC 825), the Commission held that if facilities are predominantly used for transporting natural gas in interstate commerce after gathering has ended, such facilities are mere extensions of major pipeline systems and should be certificated. Similarly in Northern Natural Gas Co. v. State Corporation Commission of Kansas, 1965, 372 U.S. 84, 83 S. Ct. 646, 9 L. Ed. 2d 601, the Supreme Court stated: "It has been consistently held that 'production' and 'gathering' are terms narrowly confined to the physical acts of drawing gas from the earth and preparing it for the first stages of distribution". accord, FPC v. Corporation Commission of State of Oklahoma et al., 362 F. Supp. 522 (1973) at 540, aff'd mem., 415 U.S. 961. GGC's existing pipeline facilities system here involved may go beyond these limited acts and may have with regard to GGC's gas, as their primary function, the transportation of natural gas in interstate commerce to Transco.

In view of the foregoing, we hereby direct GGC in this proceeding to show cause why it should not be classified as a pipeline under section 16 of the Natural Gas Act. In its answer, GGC shall provide the following information:

1. A description of system design reflecting:
  - (a) A flow diagram with volumes and pressures;
  - (b) Show the locations and capabilities of your compressors;
  - (c) Diameter and length of the pipe of "gathering" facility segments;
  - (d) Processing plants—Location, owners, handling capacity, by-products extracted, owners of any proceeds and effect on Btu level of the stream;
  - (e) Indicate Btu level from each formation at the well-head;
  - (f) Points of receipt and delivery of the gas.

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If there is more than one system because of pressure and location differences, provide information requested for each system.

2. **Contractual Arrangements.** (a) Contractual arrangements between GGC and its producers.

(b) Contractual arrangements between GGC and Transco, Southern Natural Gas Company (Southern) and Texaco Inc.

3. **Rates.** Describe the existing rate or rates to Transco, Southern and Texaco, how they were developed and how they work.

4. **Provide a copy of the Corporate Charter of GGC.**

5. **Volumes of gas delivered by GGC.** (a) Maximum volumes ever sold to Transco on any given day and maximum volumes transported for Southern and Texaco (include volumes of exchange gas handled on this day).

(b) Annual volumes for current years (1973, 1974, and 1975).

(c) Indicate the full capability that your system has to increase its sales to Transco and transportation for Southern and Texaco (System capability should be shown under various circumstances—peak, summer and average day).

(d) Your interpretation of Transco's, Southern's and Texaco's maximum demands under existing Commission orders and your contracts with those companies. This should include annual and daily demand and should reflect both permanent and limited duration volumes.

6. **Transportation System.** (a) Background and history of the system (when was it built—when were major segments added).

(b) Indicate generally how it operates.

(c) Indicate the age, investment in each of the major segments and the type of account in which it is reflected on your books.

(d) Indicate maximum mile of haul of any given Mcf and the average mile of haul of an Mcf of gas on this system.

7. **Wells connected to the system.** (a) Does GGC own any wells of its own?

(b) Number of wells connected to its system—Indicate:

(1) Number owned by affiliates.

(2) Number where production is dedicated to Transco, or Southern.

(3) Number of affiliate wells connected to Transco, or Southern.

(4) All other wells.

(c) Indicate the different fields in which these wells are located. (Provide name and location).

8. Indicate points on the system where the gas from the different formations and fields come together.

9. Indicate lines and points on your system where the gas production dedicated to Transco, or Southern under contract is commingled with the production that is dedicated to GGC under contract.

10. Show the same for the Transco or Southern systems.

11. Indicate gross revenues received from sales to Transco for 1971-1974. (Show both with and without volumes of exchange gas). Indicate gross revenues received from Southern and Texaco and the nature thereof.

12. Show total volumes of gas exchanged for the years 1971-1974.

**The Commission finds.** (1) It may be that GGC is a pipeline within Section 1(b) of the Natural Gas Act and is therefore subject to Commission jurisdiction under Section 7 of the Natural Gas Act.

(2) It is necessary and appropriate that the proceeding in Docket No. C175-34 be set for formal hearing.

(3) It is not within the public interest to grant GGC's petition for disclaimer of jurisdiction at this time.

(4) The petition to intervene filed by Transco may be in the public interest.

**The Commission orders.** (A) GGC shall show cause, if any there be, at the hearing directed in paragraph (B) below, why it should not be classified as a pipeline under section 1(b) of the Natural Gas Act, subject to Commission jurisdiction under section 7 of the Natural Gas Act.

(B) Pursuant to the provisions of the Natural Gas Act, a formal hearing shall be convened in Docket No. C175-34 in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on July 8, 1975, at 10 a.m. (e.d.t.). The Presiding Administrative Law Judge for the purpose—see Delegation of Authority 18 CFR 3.5(d)—shall preside at the hearing in this proceeding and shall prescribe relevant procedural matters not herein provided.

(C) The direct case of GGC as to all issues raised in its filing in Docket No. C175-34, as well as all issues referred to in this order shall be filed and served on all parties of record including Commission Staff on or before June 16, 1975.

(D) GGC's petition for disclaimer of jurisdiction is denied.

(E) Transco is permitted to intervene in this proceeding as hereinbefore discussed, subject to the Rules and Regulations of the Commission; *Provided, however,* That the participation of such intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in the petition to intervene; *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders issued by the Commission in this proceeding.

By the Commission.

Issued: May 15, 1975.

[SEAL]

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13443 Filed 5-21-75; 8:45 am]

[Docket No. E-9023]

## INTERSTATE POWER CO.

Further Extension of Procedural Dates

MAY 15, 1975.

On May 8, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued October 18, 1974, as most recently modified by notice issued March 6, 1975, in the above-designated matter, pending Commission action in the settlement agreement filed March 19, 1975. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, July 1, 1975.

Service of Intervenor's Testimony, July 15, 1975.

Service of Company Rebuttal, July 29, 1975.

Hearing, August 12, 1975 (10 a.m. EDT).

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13444 Filed 5-21-75; 8:45 am]

[Docket Nos. E-8394; E-8439]

## METROPOLITAN EDISON CO.

Filing of Revised Sheets Pursuant to Settlement Agreement

MAY 7, 1975.

Take notice that on April 7, 1975, Metropolitan Edison Company (Met. Ed.) tendered for filing revised sheets to its FPC Electric Tariff, Original Volume No. 1 incorporating all changes provided by a settlement agreement with Met-Ed's all requirements wholesale customers, Hershey Electric Company and the Borough of Kutztown, Pennsylvania. Met-Ed states that refunds in the amount of \$267,896.48 have been made to those customers. Met-Ed requests an effective date of May 10, 1975.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 19, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13445 Filed 5-21-75; 8:45 am]

[Docket Nos. RP73-14, RP73-102, PGA75-3 and AP75-3]

## MICHIGAN WISCONSIN PIPE LINE CO.

Order Clarifying and Modifying Prior Order

Upon review, we find that our order of April 30, 1975, at these proceedings may have been unclear as to what conditions have been placed upon the acceptance of Michigan-Wisconsin's tendered tariff sheets. Ordering Paragraphs (A) and (F) may not have expressed clearly our intention that Mich-Wis' tendered Alternate Ninth Revised Sheet No. 27F was accepted for filing to be placed into effect as of May 1, 1975 and its Ninth Revised Sheet No. 27F was accepted for filing to be placed into effect as of May 2, 1975, subject to the condition that the company file revised sheets reflecting elimination of that portion of its proposed rate increase relating to certain payments made to Exxon.

We also note that Michigan Wisconsin's filing of March 13, 1975, contained no testimony or exhibits supporting its filing and that our order of April 30, 1975, did not provide the company an opportunity to file such direct evidence. To correct this oversight we shall amend ordering paragraph (C) of our April 30 order so as to provide such an opportunity.



*The Commission finds:* Good cause exists to clarify and modify our order of April 30, 1975, in these proceedings as set forth above.

*The Commission orders:* (A) Ordering Paragraphs (A) and (C) of our order of April 30, 1975, in these proceedings are hereby modified and amended as follows:

(A) Pending a hearing and a decision thereon, the proposed changes in rates and charges tendered on March 13, 1975, in Michigan-Wisconsin's Alternate Ninth Revised Sheet No. 27F, Second Revised Volume No. 1, is accepted for filing to be placed into effect as of May 1, 1975; and Ninth Revised Sheet No. 27F, Second Revised Volume No. 1 is accepted for filing to be placed into effect as of May 2, 1975, subject to the company's filing revised tariff sheets reflecting the elimination of that portion of the rate increase relating to payments made to Exxon for exploration and development in Alaska.

(C) On or before July 1, 1975, Michigan-Wisconsin shall file its direct testimony and exhibits relating to the advance payments set for hearing. On or before August 12, 1975, the Commission Staff shall serve its prepared testimony and exhibits. Any prepared testimony and exhibits of the intervening parties shall be served on or before August 26, 1975. Any rebuttal evidence by Michigan-Wisconsin shall be served on or before September 9, 1975.

By the Commission.

Issued: May 15, 1975.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13446 Filed 5-21-75; 8:45 am]

[Docket No. E-9135]

**MISSISSIPPI POWER CO.,  
Extension of Procedural Dates**

MAY 15, 1975.

On May 9, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued December 31, 1974, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, June 17, 1975.  
Service of Intervenor's Testimony, July 1, 1975.  
Service of Company Rebuttal, July 15, 1975.  
Hearing, August 6, 1975 (10 a.m. EDT).

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13447 Filed 5-21-75; 8:45 am]

[Docket No. E-9362]

**MISSISSIPPI POWER & LIGHT CO.  
Notice of Cancellation**

MAY 15, 1975.

Take notice that on April 8, 1975, Mississippi Power & Light Company tendered for filing a notice of cancellation of Rate Schedule No. 35.19, effective date June 30, 1974, and filed with the Federal Power Commission by Middle South Services, Inc., as agent for Mississippi Power & Light Company. The Company proposes

March 31, 1975 as the effective cancellation date.

Middle South Services states that notice of the proposed cancellation has been served upon the Tennessee Valley Authority.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 30, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13448 Filed 5-21-75; 8:45 am]

[Docket No. E-9058]

**MISSISSIPPI POWER AND LIGHT CO.  
Further Extension of Procedural Dates**

MAY 15, 1975.

On May 8, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued December 20, 1974, as most recently modified by notice issued March 6, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, July 8, 1975.  
Service of Intervenor's Testimony, July 22, 1975.  
Service of Company Rebuttal, August 5, 1975.  
Hearing, August 19, 1975 (10 a.m. EDT).

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13449 Filed 5-21-75; 8:45 am]

[Docket No. RI75-40]

**MOBIL OIL CORP.  
Settlement Proposal**

MAY 15, 1975.

Take notice that on May 9, 1975, Mobil Oil Corporation (Petitioner), Three Greenway Plaza East, Suite 800, Houston, Texas 77046, filed a Settlement Proposal in Docket No. RI75-40, pursuant to § 1.18 of the Commission's rules of practice and procedure (18 CFR Chapter I, Subchapter A, Part 1).

Petitioner states that on April 28, 1975, a Settlement Conference was convened to discuss a settlement of the price which would be acceptable to Petitioner with respect to the sale of gas from the LVO Livingston Gas Unit and the

Texaco-operated Kincheloe Unit, Bradshaw Unit, Hamilton County, Kansas to the purchaser, Kansas-Nebraska Gas Company, Inc. Based on these discussions, the Commission Staff's review of Petitioner's workpapers and records in its offices at Oklahoma City, Oklahoma, and the filing of certain additional data and information, Petitioner proposes and would agree to accept as settlement of the special relief sought for the sale of Petitioner's share of gas from the aforesaid units, a price of 25.6 cents per Mcf, which would become effective upon a proper order issued by the Commission accepting this offer of settlement.

Any person desiring to comment on the proposed settlement should submit the comment to the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before May 28, 1975. Comments will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the person commenting a party to this proceeding.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13450 Filed 5-21-75; 8:45 am]

[Docket No. RM74-16]

**NATURAL GAS COMPANIES**

**Order Granting Petitions for Rehearing for Purposes of Further Consideration**

Petitions for rehearing granted: Natural Gas Companies annual report of proved domestic gas reserves: FPC Form No. 40.

On February 25, 1975, the Commission issued Order No. 526,<sup>1</sup> which promulgated a new FPC Form No. 40. The effective date of this order was to be April 28, 1975. On April 15, 1975, we issued an order postponing the effective date of Order No. 526 to a date yet to be determined and granting petitions for rehearing for purposes of further consideration.

Since the April 15, 1975 order was issued, additional petitions for rehearing have been filed by Devon Corporation and Basin Petroleum Corp. (Devon and Basin) on April 21, 1975, Samedan Oil Corporation (Samedan) on the same date, Champlin Petroleum Company, (Champlin) on April 24, 1975, Ashland Oil, Inc. (Ashland) on April 28, 1975, Eason Oil Company (Eason) on May 1, 1975, Michigan Consolidated Gas Company, (Michigan Consolidated) on May 2, 1975, and Tesoro Petroleum Corporation (Tesoro) on May 14, 1975. In accordance with the April 15, 1975 order all these petitions will be granted for the reasons expressed therein.

<sup>1</sup> Order No. 526, Order Prescribing Procedures And Instituting Uniform Annual Filing Of National Proved Domestic Natural Gas Reserves Information, Docket No. RM 74-16, — FPC — (Issued February 25, 1975).

*The Commission orders:* The petitions for rehearing of Order No. 526 filed by Devon and Basin, Samedan, Champlin, Ashland, Eason, Michigan Consolidated, and Tesoro are granted for purposes of further consideration for the reasons expressed in the order issued April 15, 1975 in Docket No. RM74-16.

By the Commission.

Issued: May 15, 1975.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13451 Filed 5-21-75; 8:45 am]

[Docket No. E-8928]

**PACIFIC GAS AND ELECTRIC CO.  
Further Extension of Procedural Dates**

MAY 15, 1975.

On May 8, 1975, Pacific Gas and Electric Company filed a motion to extend the procedural dates fixed by order issued August 22, 1974, as most recently modified by notice issued March 21, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Company Rebuttal, June 13, 1975.  
Hearing, July 8, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13452 Filed 5-21-75; 8:45 am]

[Docket No. RP75-57]

**PACIFIC GAS TRANSMISSION CO.  
Extension of Procedural Dates**

MAY 15, 1975.

On May 12, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued February 26, 1975 in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, July 24, 1975.  
Service of Intervenor's Testimony, August 7, 1975.  
Service of Company Rebuttal, August 21, 1975.  
Hearing, September 3, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13453 Filed 5-21-75; 8:45 am]

[Docket No. E-9433]

**PUBLIC SERVICE INDIANA  
Termination of Interconnection Agreement**

MAY 15, 1975.

Take notice that Public Service Indiana (PSI), tendered for filing on May 1, 1975, by letter, notice of its intention to terminate its interconnection

agreement with the City of Washington, Indiana (City).

PSI states that the interconnection agreement is dated October 13, 1969; is on file with the FPC as Rate Schedule FPC No. 215; and that PSI's action is pursuant to section 10.3 of Article 10 of said agreement.

PSI states that it intends to terminate the agreement at the end of the fixed term of eight consecutive years, provided by the agreement.

PSI states that City's contention before the FPC that the present interconnection agreement is a fixed rate contract and that the rates incorporated therein cannot be changed by PSI even in the light of PSI's escalating costs, makes it necessary for PSI to give this "notice of termination".

PSI states that this "notice" is given more than 30 months prior to the termination of the fixed term of the present interconnection agreement, so that there is ample time for PSI and the City to negotiate a new interconnection agreement.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 27, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13454 Filed 5-21-75; 8:45 am]

[Docket No. CP75-326]

**TRANSCONTINENTAL GAS PIPE LINE  
CORP.**

**Notice of Application**

MAY 15, 1975.

Take notice that on May 1, 1975, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP75-326 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation of two additional points of delivery from Consolidated Gas Supply Corporation (Consolidated) to Applicant under the transportation agreement between the two companies dated September 12, 1972, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

By agreement dated February 21, 1975, Applicant and Consolidated have

provided for additional delivery points on Applicant's existing lines on the Texaco Inc. "A" Production Platform in Block 206, and on the Texaco Inc. "C" Production Platform in Block 196, both of which are in the Block 205 Field, Eugene Island Area, offshore Louisiana. Authorization for operation of such delivery points for transportation of gas to be purchased by Consolidated in the Block 205 Field is requested in this application.

Under the terms of the September 12, 1972, Transportation agreement, Applicant is presently obligated to transport for Consolidated on a firm basis 71,548 Mcf of gas per day. The transportation service was authorized by Commission order issued August 23, 1972, in Docket No. CP72-244.

Applicant states that Consolidated will purchase gas, to be delivered at the proposed delivery points, from Texaco Inc. in the Block 205 Field. Applicant further states that the addition of the proposed delivery points will assist Consolidated by making additional volumes available to utilize the firm capacity committed to it under the September 12, 1972, agreement.

Applicant proposes no increase in the transportation demand volumes and no additional facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 30, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be



unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMS,  
Secretary.

[FR Doc. 75-13455 Filed 5-21-75; 8:45 am]

[Docket No. CP75-330]  
TRUNKLINE GAS CO.  
Notice of Application

MAY 15, 1975.

Take notice that on May 7, 1975, Trunkline Gas Company (Applicant), P.O. Box 1842, Houston, Texas 77001, filed in Docket No. CP75-330 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to transport for various producers natural gas on a firm basis from points of receipt in the South Marsh Island Area, offshore Louisiana, to a point of delivery in St. Mary Parish, Louisiana, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant requests authorization to transport up to 55,177 Mcf of gas per day pursuant to agreements dated March 31, 1975, and April 29, 1975. The March 31, 1975, agreement is between Applicant and the Placid Group, which is composed of the following producers: Placid Oil Company, Hunt Industries, Hunt Petroleum Corporation, Hamilton Brothers Oil Company, Hamilton Brothers Exploration Company and Hamilton Brothers Petroleum Corporation. The April 29, 1975, agreement is between Applicant and the Ashland Group, which is composed of the following producers: Ashland Oil, Inc., Kewanee Oil Company, and Highland Resources, Inc.

The subject gas will be transported from South Marsh Island Blocks 268, 269 and 281 into the offshore line for which Applicant is seeking authorization in Docket No. CP75-19 to an onshore connection with Applicant's existing Terrebonne system. From such point the gas will be transported to the existing Calumet Processing Plant, operated by Shell Oil Company and the proposed Patterson II Processing Plant to be operated by Placid Oil Company. Following processing, the gas is to be redelivered for the account of the producers to Southern Natural Gas Company (Southern) at a new point of delivery 4.9 miles downstream of the Calumet Processing Plant on an existing right-of-way of Southern. Applicant states that authorization for such new point of delivery has been requested in Docket No. CP75-149, wherein Applicant proposes to transport gas from South Marsh Island Blocks 268, 269 and 281 on a nearly identical basis for Southern.

Applicant proposes to charge for the service to be performed a price derived from the full cost of service for the facilities involved in rendering the service. The total charge is \$107,043.38 per month: \$58,200.00 for the transportation of 30,000 Mcf of gas for the Placid Group

and \$48,843.38 for the transportation of 25,177 Mcf of gas for the Ashland Group.

The facilities Applicant proposes to use for the transportation service proposed herein are the subject of applications in Docket Nos. CP75-19 and CP75-149. The transportation service is further dependent upon the Commission's granting of producers' applications to sell gas to Applicant in Docket Nos. CP75-59, CP75-66, CP75-67, CP75-69 and CP75-122, according to the application in the instant docket. Southern has filed related applications in Docket No. CP75-163 for authorization to construct the necessary receiving station at the point of interconnection between Southern's and Applicant's facilities, together with the pipeline and compressor facilities relating to Southern's receipt and transportation of the gas delivered by Applicant, and in Docket No. CP75-316 for authorization to transport gas to two fertilizer plants near Donaldsonville, Louisiana, for the Placid Group. Applicant states that Southern is negotiating a separate agreement with the Ashland Group for a similar service.

Applicant states that it acquired from the producers the commitment of reserves in the South Marsh Island blocks aforementioned by entering into separate gas purchase agreements, advance payment agreements and related agreements and instruments with each producer. Applicant states that these agreements generally provide for Applicant to purchase approximately 60 percent of the reserves from said blocks with the producers' having the right to elect to reserve up to one half of their reserves for their own use. Southern has acquired commitment of the remaining 40 percent of said reserves. Applicant further states that it has completed negotiations with the producers concerning transportation of the reserved gas and that the subject transportation agreements are the result of such negotiations.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 29, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rule of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this ap-

plication if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMS,  
Secretary.

[FR Doc. 75-13456 Filed 5-21-75; 8:45 am]

#### FEDERAL RESERVE SYSTEM

##### KLEIN BANCORPORATION, INC.

##### Formation of Bank Holding Company

Klein Bancorporation, Inc., Chaska, Minnesota, has applied for the Board's approval under section 3(a) (1) of the Bank Holding Company Act (12 U.S.C. 1842(a) (1)) to become a bank holding company through acquisition of 95.2 percent of the voting shares of The First National Bank of Chaska, Chaska; 91.9 percent of the voting shares of The First National Bank of Waconia, Waconia; 94.2 percent of the voting shares of The Klein National Bank of Madison, Madison; 96.7 percent of the voting shares of First National Bank in Montevideo, Montevideo; 91.4 percent of the voting shares of State Bank of Young America, Young America; 93 percent of the voting shares of State Bank of Cologne, Cologne; and 87.1 percent of the voting shares of Victoria State Bank, Victoria, all located in Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than June 9, 1975.

Board of Governors of the Federal Reserve System, May 13, 1975.

[SEAL] ROBERT SMITH, III,  
Assistant Secretary of the Board.

[FR Doc. 75-13370 Filed 5-21-75; 8:45 am]

#### NATIONAL CITY CORP.

##### Acquisition of Bank

National City Corporation, Cleveland, Ohio, has applied for the Board's approval under section 3(a) (3) of the Bank Holding Company Act (12 U.S.C. 1842(a) (3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of National City Bank, Mentor, Ohio, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

National City Corporation is also engaged in the following nonbank activities: loans and other extensions of credit; providing insurance that is directly related to an extension of credit; full pay-out leasing of motor vehicles; originating and servicing of mortgage loans; leasing of real property; and providing financial advice and assistance to corporations and other business firms. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the Office of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 16, 1975.

Board of Governors of the Federal Reserve System, May 15, 1975.

[SEAL] ROBERT SMITH, III,  
Assistant Secretary of the Board.

[FR Doc. 75-13371 Filed 5-21-75; 8:45 am]

#### PAN AMERICAN BANCSHARES, INC.

##### Order Approving Merger of Bank Holding Companies

Pan American Bancshares, Inc., Miami, Florida ("Pan American"), a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a) (5) of the Act (12 U.S.C. 1842(a) (5)) to merge with General Financial Systems, Inc., Riviera Beach, Florida ("GFS"), under the title and charter of Pan American.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Pan American, the tenth largest banking organization in Florida, controls 15 banks with aggregate deposits of approximately \$558 million, representing 2.4 percent of the total deposits in commercial banks in the State.<sup>1</sup> GFS is the 22nd largest banking organization in the State and controls four banks (one of which has not yet opened for business) with aggregate deposits of approximately \$201 million or 0.9 percent of the total deposits in commercial banks in the State. In addition, GFS owns from 15.1 to 24.9 percent of the voting shares of six other banks (hereafter referred to

<sup>1</sup> All banking data are as of June 30, 1974, and reflect holding company formations and acquisitions approved through February 28, 1975.

as non-subsidiary banks).<sup>2</sup> Upon consummation of the proposed merger, Pan American would control 3.3 percent of the total State deposits and would become the eighth largest banking organization in Florida.

Pan American's subsidiary banks are located in seven different banking markets as follows: seven in the greater Miami market, two in each of the North Broward and Orlando markets; and one in each of the Daytona Beach, Sarasota, Tampa and West Volusia markets.<sup>3</sup> GFS's three operating subsidiary banks (First National Bank and Trust Company of Lake Worth, Lake Worth with deposits of approximately \$91.5 million, First Marine Bank & Trust Company of the Palm Beaches, Riviera Beach with deposits of approximately \$71 million, and First National Bank & Trust Company of Jupiter/Tequesta, Tequesta with deposits of approximately \$39.2 million) are all located in the West Palm Beach market, and its subsidiary bank which has not yet opened for business is located in the Jacksonville market.<sup>4</sup> Neither Pan American nor GFS has any subsidiary banks located within the same market; and neither has any subsidiary banks located in adjacent markets. Moreover, none of GFS's non-subsidiary banks are located within the same markets where Pan American's subsidiary banks are located. Thus, it appears that no meaningful competition presently exists between any of the banking subsidiaries of Pan American and those of GFS, nor is any such competition likely to develop in view of the market separation and Florida's branching laws.

Although consummation of the proposed merger would foreclose the possibility that either Pan American or GFS

<sup>2</sup> This Order does not constitute a determination that any of the six nonsubsidiary banks is or may become a subsidiary of Pan American; nor is this Order any indication that Pan American would be permitted to acquire direct or indirect control of any additional shares of any of said banks. Furthermore, the determination herein does not preclude the Board from determining that Pan American exercises a controlling influence over the management or policies of any of the six nonsubsidiary banks within the meaning of section 2(a) (2) (C) of the Act.

<sup>3</sup> The greater Miami market is approximated by all of Dade County and the Hollywood area of Broward County; the North Broward market is approximated by the northern two-thirds of Broward County; the Orlando market is approximated by all of Orange County and the southern half of Seminole County; the Daytona Beach market is approximated by the coastal half of Volusia County north of Ponce de Leon Inlet; the Sarasota market is approximated by the northern half of Sarasota County; the Tampa market is approximated by all of Hillsborough County and the town of Land O'Lakes in Pasco County; and the West Volusia market is approximated by the inland half of Volusia County, all in Florida.

<sup>4</sup> The West Palm Beach banking market is approximated by the northern three-quarters of Palm Beach County; and the Jacksonville market is approximated by all of Duval County and the town of Orange Park in Clay County, all in Florida.

would enter the banking markets of the other, the Board believes that there is little likelihood of significant potential competition developing between the two banking organizations in the absence of the subject proposal. It does not appear from the facts of record that GFS has the necessary financial resources to expand geographically in the foreseeable future. Although Pan American does appear to possess the financial capability to enter the West Palm Beach market de novo, that market appears only moderately attractive for such entry due in part to the market's population per banking office ratio being below the State average.

In the West Palm Beach market, Pan American operates an office of a mortgage banking subsidiary which makes loans secured by one-to-four unit residential properties. In addition to GFS's three subsidiary banks, 27 other commercial banks, 7 savings and loan associations and 20 mortgage banking companies also make such loans in this market. After consummation of the proposal, Pan American would control less than 4.3 percent of the total loans originated in the market which are secured by one-to-four unit residential properties. Thus, it appears that any adverse competitive effect with respect to such loans would not be significant.

In light of the foregoing and facts of record, the Board concludes that consummation of the proposal would not have any significant adverse effects on existing or potential competition in any relevant area and that the competitive considerations are consistent with approval of the application.

The financial condition and managerial resources of Pan American, GFS and their respective subsidiaries are considered generally satisfactory, and the future prospects for each appear favorable. Furthermore, Pan American has committed itself to maintain an adequate capital position for the subsidiary banks which it will acquire as a result of this proposal. Thus, the banking factors lend weight toward approval of the application. Although there is no evidence to indicate that the banking needs of the residents of the relevant markets are not presently being met, Pan American proposes to provide GFS's present subsidiary banks with international services and increase the lending limits of these banks. Accordingly, considerations relating to the convenience and needs of the communities to be served lend some weight toward approval of the application. Therefore, it is the Board's judgment that consummation of this transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal



Reserve Bank of Atlanta pursuant to delegated authority.  
By order of the Board of Governors,  
effective May 14, 1975.

[SEAL] GRIFFITH L. GARWOOD,  
[FR Doc. 75-13373 Filed 5-21-75; 8:45 am]

#### TEXAS COMMERCE BANCSHARES, INC. Acquisition of Bank

Texas Commerce Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a) (3) of the Bank Holding Company Act (12 U.S.C. 1842(a) (3)) to acquire 100 percent of the voting shares of the following banks in Dallas, Texas: Northwest National Bank of Dallas, Casa Linda National Bank, Royal National Bank, Fidelity Bank, and The Village Bank (National Association). The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 13, 1975.

Board of Governors of the Federal Reserve System, May 14, 1975.

[SEAL] ROBERT SMITH, III,  
Assistant Secretary of the Board,  
[FR Doc. 75-13373 Filed 5-21-75; 8:45 am]

#### WEST POINT FIRST NATIONAL CO. Order Approving Formation of Bank Holding Company

West Point First National Co., Lincoln, Nebraska ("Applicant"), has applied for the Board's approval under section 3(a) (1) of formation of a bank holding company through the acquisition of 84 percent of the voting shares of The First National Bank of West Point, West Point, Nebraska ("Bank").

Notice of the application, affording an opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments has expired, and the application and all comments received have been considered in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, a nonoperating corporation with no subsidiaries, was organized for the purpose of becoming a bank holding company through the acquisition of Bank Bank (deposits of \$16.7 million) is the larger of two banks in West Point, Nebraska. Upon acquisition of Bank,

\* Voting for this action: Vice-Chairman Mitchell and Governors Holland, Wallach and Coldwell. Absent and not voting: Chairman Burns and Governors Sheahan and Bucher.  
† All banking data are as of June 30, 1974.

Applicant would control the 55th largest bank in Nebraska, holding .31 percent of total deposits in commercial banks in the State. Bank is the largest bank in the relevant banking market and controls 27.9 percent of the total commercial bank deposits therein.

The principals involved in this case are also officers and/or directors of NBC Co., Lincoln, Nebraska, a one-bank holding company which owns 99.5 percent of National Bank of Commerce Trust and Savings Association, Lincoln, Nebraska. NBC Co. presently is one of eight affiliated one-bank holding companies that individually own banks across the State, collectively holding 3.8 percent of the State's deposits. The purpose of the transaction is to effect an eventual transfer of the ownership of Bank to the shareholders of NBC Co. The nearest affiliates of NBC Co. are located in Fremont approximately 33 miles from Bank and operate in a separate market. There is no existing competition between Bank and its potential affiliates. Accordingly, it is concluded that consummation of the proposal would not have any adverse effect on other banks in the relevant market. Thus, competitive considerations are consistent with approval.

The financial and managerial resources and future prospects of both Applicant and Bank are considered satisfactory. In light of Bank's past earnings and its anticipated growth, the projected earnings of Bank appear to provide Applicant with the necessary flexibility to meet its annual debt servicing requirement and to maintain an adequate capital position for Bank. Therefore, considerations relating to banking factors are consistent with approval of the application.

Although consummation of the proposal would effect no changes in the banking services offered by Bank, the considerations relating to the convenience and needs of the community to be served are consistent with approval. It has been determined that consummation of the proposal would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above.

The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City, pursuant to delegated authority.

By order of the Acting Secretary of the Board, acting pursuant to delegated authority from the Board of Governors effective May 12, 1975.

[SEAL] GRIFFITH L. GARWOOD,  
Assistant Secretary of the Board,  
[FR Doc. 75-13374 Filed 5-21-75; 8:45 am]

\* The relevant banking market is approximated by Cumming County.

#### FEDERAL TRADE COMMISSION LINE OF BUSINESS REPORTING PROGRAM

Confidentiality Rules and Procedures for the 1974 Reporting Year  
Correction

In FR Doc. 75-13068 appearing at page 21542 in the issue for Friday, May 16, 1975, remove the following words from the seventh and eighth lines of the seventh paragraph: "substantially similar provisions in".

#### GENERAL ACCOUNTING OFFICE REGULATORY REPORTS REVIEW Receipt and Approval of a Proposed Document

The following request for clearance of a proposed document intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on May 14, 1975. (See 44 U.S.C. 3512 (c) & (d)). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt and the action taken by GAO.

##### FEDERAL ENERGY ADMINISTRATION

Request was made to GAO for approval of a "Fuel Company Authorization Document." This Document is going to be used in conjunction with FEA's Project Conserve Questionnaire and requests only the respondents name, address, signature, and the name of the fuel company used by the respondent. In view of the minimal amount of information requested, GAO does not feel that it is necessary to allow time for public comment on the document.

GAO has provided clearance of this collection of information under number B-181254 (S75027). This clearance expires October 31, 1975.

NORMAN F. HEYL,  
Regulatory Reports  
Review Officer.

[FR Doc. 75-13475 Filed 5-21-75; 8:45 am]

#### GENERAL SERVICES ADMINISTRATION COMMISSION ON GOVERNMENT PROCUREMENT

##### Contractor Debarment Policies; Opportunity for Comment

The purpose of this notice is to make known an interagency task group proposal on recommendation A-46 of the Commission on Government Procurement, and to offer an opportunity for comment on this recommendation from interested parties in the private sector. Interested persons may submit their comments to the General Services Administration (AMC), Washington, D.C. 20405. To be given consideration, comments must be received on or before July 14, 1975.

Background. The Office of Management and Budget (OMB), in memoranda to Heads of Executive Departments and

Agencies, dated December 7, 1972, and March 14, 1973, established and outlined plans for the coordination of executive branch efforts in response to the Commission on Government Procurement (COGP) Report. Interagency task groups made up of assigned lead and participating agencies were formed to examine and recommend executive branch positions on each of the 149 COGP recommendations. Direction of executive branch efforts on COGP matters is a function delegated to the General Services Administration by Executive Order 11717 on May 9, 1973.

The subject COGP Recommendation reads as follows:

A-46: Revise current debarment policies to provide for uniform treatment for comparable violations of the various social and economic requirements and to establish a broader range of sanctions for such violations.

Task Group Proposal for an Executive Branch Position/Implementation. The interagency task group favored adoption of this recommendation with a modification. The change would delete "and to establish a broader range of sanctions for such violations" and replace it with "and provide for reinstatement of a contractor's eligibility after he has demonstrated compliance." The Task Group believes that current debarment policies have already been revised since the COGP report. Both the FPR (Amendment 127, April 17, 1974) and ASPR (July 1974) have added language concerning due process in a contractor suspension situation.

The Task Group proposes that the Office of Federal Procurement Policy (OFPP) should initiate action to insert into existing statutes or administrative regulations a provision limiting debarment for a violation to a period of not more than three (3) years. Further, the Task Group proposes that the OFPP initiate a consolidation of all contractor suspended, debarment, and ineligibility lists. These tasks, the group believes, fall into the scope of sections 6(d) (1) and 6(d) (5), respectively, of the OFPP Act. Lastly, the Task Group considered two other "sanctions": fines and reinstatements. The group concurs in reinstatement of contract eligibility upon demonstrated compliance, but rejects the use of fines as proposed by the Commission for several reasons given below.

Areas of Consideration. The Task Group considered two areas of debarment—i.e., the Labor Department statutes and Administrative debarment. The Labor statutes already provide for debarment action for failure to comply in appropriate cases. The Department of Labor (DOL) has spent much time and money in preparing a consolidated labor statute which will include provisions for uniform labor debarment procedures. A bill calling for such consolidation will be part of the DOL legislative program for the 94th Congress.

In its discussion of A-46, the Task Group considers only administrative debarment procedures. Their report deals with A-46 from three standpoints: due

process in debarment/suspension cases, uniformity of procedure, and other sanctions.

a. Due Process: Events have overtaken the COGP report in this area. The Task Group believes that the FPR revision of 1974 adequately handles this issue, including a guarantee for a hearing. ASPR coverage allows for information in opposition to a proposed debarment without specifically citing the opportunity for a "hearing." ASPR should be amended by providing for a hearing in the interest of due process.

b. Uniform Procedures: The Task Group recommends that a set of mandatory standards be developed for use by all Government agencies. These standards should outline the grounds for Administrative debarment/suspension and define procedures for carrying out the standards. The Group strongly advocates consolidation of all debarred/suspended lists to insure that a contractor debarred by one agency shall be considered debarred/suspended by all Government agencies, especially if the circumstances for such action are based on uniform standards. Currently, GSA, Army (for DOD and NASA), and the Comptroller General maintain "centralized" debarred/suspended lists.

c. Other Sanctions: The use of fines was considered and ruled out for the following reasons: (1) Some executive agencies do not have statutory authority to assess fines; (2) To determine the amount of a fine, even within a range defined by statute, is a highly subjective action which would be difficult to defend; (3) Fines appear to be more in the nature of a punitive action rather than an action to protect the Government; (4) Assessment of fines could lead to a contractor psychology causing repetition of violations in the thought that, if discovered, only monetary payment would be imposed; and (5) Some debarments are effected as a consequence of court convictions, in which cases, fines in addition to court-imposed penalties would be inappropriate. Reinstatement of contractors after demonstrated compliance should be made part of the uniform debarment/suspension criteria.

Dissenting Opinion: The Department of Transportation member dissented on the implementation of administrative debarment proceedings. He believes that administrative procedures for debarment should be conducted in the same manner as Labor Department statutes. In the latter, Labor Department procedures usually involve full due process consideration before Administrative Law Judges. Administrative debarments are heard before agency personnel. The DOT member's minority report states in summary:

It is my view that due process should be provided from the beginning of debarment considerations, and that it is both practicable and necessary to consider statutory and regulatory debarment together rather than separately to arrive at optimum Government-wide uniformity. As the Commission [on Government Procurement] recog-

nized, minor statutory changes will be necessary.

Publication of this notice is to invite comments from the private sector and does not imply executive branch acceptance of the proposed position. Responses received from interested parties regarding this notice of opportunity for comment will be given careful consideration in the formulation of an executive branch position.

Dated at Washington, D.C. on May 14, 1975.

R. E. ZECHMAN,  
Associate Administrator for  
Federal Management Policy.

[FR Doc. 75-13377 Filed 5-21-75; 8:45 am]

#### COMMISSION ON GOVERNMENT PROCUREMENT

##### Executive Branch Position on Recommendation D-4

Recommendation D-4 of the report of the Commission on Government Procurement concerns the centralization of policy responsibility for specifications used by the Government in the procurement of commercial products. The Commission recommended that the Office of Federal Procurement Policy be responsible for policy regarding the development and coordination of such specifications.

The enactment of the Office of Federal Procurement Policy Act (Pub. L. 93-400) resulted in the acceptance by the executive branch of Recommendation D-4. The Act has the effect of vesting in the Administrator for Federal Procurement Policy the policy responsibility regarding the development and coordination of purchase specifications. Consequently, recommendation D-4 was implemented when the Office of Federal Procurement Policy was activated on December 31, 1974.

Dated at Washington, D.C., on May 15, 1975.

R. E. ZECHMAN,  
Associate Administrator.

[FR Doc. 75-13378 Filed 5-21-75; 8:45 am]

#### REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

##### Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 3, June 5, 1975, from 10:30 a.m. to 12 noon, Room 202, General Services Administration, Winder Building, 17th and F Streets NW., Washington, D.C. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services to prepare a comprehensive study to determine the feasibility of installing at the GSA Central Heating Plant a system to permit the burning of high sulphur coal as fuel, within the emission limits of the 1970 Federal Clean Air Act. Frank and open



discussion of the professional qualifications of the firms being considered is essential to insure selection of the best qualified firms. Accordingly, pursuant to a determination that it will be concerned with a matter listed in 5 U.S.C. 522(b) (5) the meeting will not be open to the public."

BEN SCHIFFMAN,  
Acting Regional Administrator.

MAY 15, 1975.

[FR Doc. 75-13375 Filed 5-21-75; 8:45 am]

#### REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

##### Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 3, June 12, 1975, from 10:30 to 3:00, Room 404, General Services Administration, Winder Building, 17th and F Streets NW., Washington, D.C. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed Upgrading of Heating, Ventilating and Airconditioning System, GSA, Regional Office Building, Washington, D.C. (GS-00B-03406) and for the proposed Miscellaneous Mechanical Work, Agriculture (South) Building, Washington, D.C. (GS-00B-02547). Frank and open discussion of the professional qualifications of the firms being considered is essential to insure selection of the best qualified firms. Accordingly, pursuant to a determination that it will be concerned with a matter listed in 5 U.S.C. 522(b) (5) the meeting will not be open to the public.

BEN SCHIFFMAN,  
Acting Regional Administrator.

MAY 15, 1975.

[FR Doc. 75-13376 Filed 5-21-75; 8:45 am]

#### NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-295 and 50-304]

#### COMMONWEALTH EDISON CO.

##### Proposed Issuance of Amendments to Facility Operating Licenses

The Nuclear Regulatory Commission (the Commission) is considering the issuance of amendments to Facility Operating Licenses No. DPR-39 and DPR-48 issued to Commonwealth Edison Company (the licensee) for operation of the Zion Station Units 1 and 2 (the facility) located in Zion, Illinois.

In accordance with the licensee's application for license amendments dated April 21, 1975, the amendments would modify operating limits in the Technical Specifications based upon an evaluation of ECCS performance calculated in accordance with an acceptable evaluation model that conforms to the requirements of the Commission's regulations in 10

CFR 50.46. The amendments would modify various limits established in accordance with the Commission's Interim Acceptance Criteria, and would, with respect to the Zion Station Units 1 and 2, terminate the further restrictions imposed by the Commission's December 27, 1974 Order for Modification of License, and would impose instead, limitations established in accordance with the Commission's Acceptance Criteria for Emergency Core Cooling Systems for Light Water Nuclear Power Reactors, 10 CFR 50.46.

Prior to issuance of the proposed license amendments, the Commission will have made the findings required by the Act and the Commission's regulations.

By June 23, 1975 the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendments to the subject facility operating licenses. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 and to Mr. John W. Rowe, Isham, Lincoln & Beale, One First National Plaza, Chicago, Illinois 60690, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may

present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see (1) the application for amendments dated April 21, 1975, and (2) the Commission's Order for Modification to License and the documents referred to in the Order dated December 27, 1974, published in the FEDERAL REGISTER on January 9, 1975 (40 FR 1784), which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Waukegan Public Library, 128 North County Street, Waukegan, Illinois 60085. As they become available, the Commission's related Safety Evaluation and license amendments and any attachments may be inspected at the above locations. A copy of the license amendments and attachments and the Safety Evaluation, when available, may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 14th day of May 1975.

For the Nuclear Regulatory Commission.

ROBERT A. PURPLE,  
Chief, Operating Reactors  
Branch No. 1, Division of Reactor Licensing.

[FR Doc. 75-13393 Filed 5-21-75; 8:45 am]

[Docket Nos. 50-275 O.L., 50-323 O.L.]

#### PACIFIC GAS AND ELECTRIC CO. (DIABLO CANYON UNITS NOS. 1 AND 2)

##### Order Relative to Prehearing Conference Concerning Special Nuclear Materials and Marine Environment

Before the Atomic Safety and Licensing Board.

The Board will hold a prehearing conference at the Cavalier Room, San Luis Bay Inn, near Avila Bay (San Luis Obispo Drive Exit off Highway 101) on May 28, 1975, commencing at 10 a.m. (local time). The Board requests that briefs relating to its jurisdiction to consider the application for special nuclear materials be submitted. The Mothers for Peace, if they so desire, may submit additional information concerning their motion with service on the Board, Applicant and Staff, prior to the prehearing conference. The Board expects the parties to be in contact to make the necessary arrangements for this in person service in San Luis Obispo. The Board will be in session the afternoon of Tuesday the 27th at Sands Motel, 1930 Monterey Street, San Luis Obispo, and will expect the documents to be there by noon.

The Board feels it is still hampered by a lack of information concerning the marine environment, and will further pursue this matter at the conference.

It is so ordered.

Issued at Bethesda, Maryland this 16th day of May, 1975.

For the Atomic Safety and Licensing Board.

ELIZABETH S. BOWERS,  
Chairman.

[FR Doc. 75-13394 Filed 5-21-75; 8:45 am]

[Docket No. 50-244]

#### ROCHESTER GAS AND ELECTRIC CO.

##### GINNA Nuclear Power Plant; Negative Declaration Regarding Proposed Changes to the Technical Specifications of License DPR-18

The Nuclear Regulatory Commission (the Commission) has considered the issuance of changes to the Technical Specifications of Facility Operating License No. DPR-18. These changes would authorize the Rochester Gas and Electric Company (the licensee) to operate the Ginna Nuclear Power Plant (located in Wayne County, New York) with changes to the limiting conditions for operation resulting from application of the Acceptance Criteria for Emergency Core Cooling System (ECCS). This change is being made in conjunction with a reactor refueling for core cycle 5.

The U.S. Nuclear Regulatory Commission, Division of Reactor Licensing, has prepared an environmental impact appraisal for the proposed changes to the Technical Specifications of License No. DPR-18, Ginna Nuclear Power Plant, described above. On the basis of this appraisal, the Commission has concluded that an environmental impact statement for the particular action is not warranted because there will be no environmental impact attributable to the proposed action other than that which has already been predicted and described in the Commission's Final Environmental Statement for Ginna Nuclear Power Plant issued in December 1973. The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Lyons Public Library, 67 Canal Street, Lyons, New York and at the Rochester Public Library, 115 South Avenue, Rochester, New York.

Dated at Rockville, Maryland this 30th day of April 1975.

For the Nuclear Regulatory Commission.

WM. H. RECAN, JR.,  
Chief, Environmental Projects  
Branch 4, Division of Reactor Licensing.

[FR Doc. 75-13396 Filed 5-21-75; 8:45 am]

[Docket No. 50-244]

#### ROCHESTER GAS AND ELECTRIC CORP.

##### Issuance of Amendment to Provisional Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 7 to Provisional Operating License No. DPR-18 issued to Rochester Gas and Electric Corporation which revised Tech-

nical Specifications for operation of the R. E. Ginna Nuclear Power Plant located in Wayne County, New York. The amendment is effective as of its date of issuance.

The amendment (1) changes operating limits in the Technical Specifications based upon an acceptable evaluation model that conforms to the requirements of 10 CFR 50.46; (2) terminates restrictions imposed on the facility by the Commission's December 27, 1974 Order for Modification of License, and imposes instead, limitations established in accordance with 10 CFR 50.46; (3) incorporates an updated inservice inspection program for safety related components to (a) meet section XI of the ASME Boiler and Pressure Vessel Code, (b) provide an augmented inservice inspection program for high energy piping outside of containment, and (c) provide requirements for steam generator inspection consistent with Regulatory Guide 1.83; and (4) decrease the maximum permissible steam generator leakage from 1 gpm to 0.1 gpm to avoid operation with significant steam generator tube cracks.

Notice of Proposed Issuance of Amendment to Provisional Operating License in connection with items (1) and (2) was published in the FEDERAL REGISTER on March 24, 1975 (40 FR 13051) and in connection with item (3) was published in the FEDERAL REGISTER on March 28, 1975 (40 FR 14125). No request for a hearing or petition for leave to intervene was filed following notice of the proposed actions.

For further details with respect to this action see (1) the applications for amendment dated October 31, 1974, March 11 and April 28, 1975, and supplements dated April 1 (2 letters), 8, and 30, 1975, and May 13, 1975; (2) Amendment No. 7 to License No. DPR-18, with Change No. 16; (3) the Commission's related Safety Evaluation; and (4) the Commission's Negative Declaration dated April 30, 1975, which is being published concurrently with this notice, and associated Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C. and at the Lyons Public Library, 67 Canal Street, Lyons, New York 14489 and at the Rochester Public Library, 115 South Avenue, Rochester, New York 14627.

A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 14th day of May 1975.

For the Nuclear Regulatory Commission.

ROBERT A. PURPLE,  
Chief, Operating Reactors  
Branch No. 1, Division of Reactor Licensing.

[FR Doc. 75-13398 Filed 5-21-75; 8:45 am]

[Docket No. 50-206]

#### SOUTHERN CALIFORNIA EDISON CO. AND SAN DIEGO GAS AND ELECTRIC CO. Issuance of Amendment to Provisional Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 11 to Provisional Operating License No. DPR-13 issued to Southern California Edison Company and San Diego Gas and Electric Company (the licensee) which revised Technical Specifications for operation of the San Onofre Nuclear Generating Station, Unit 1, located in San Diego County, California. The amendment is effective as of its date of issuance.

The amendment modifies those provisions in the Technical Specifications relating to control group insertion limits and continuous power distribution monitoring for operation with the Cycle 5 core.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since this amendment is substantially the same as that identified in the Notice of Proposed Issuance of Amendment to Provisional Operating License, published in the FEDERAL REGISTER on February 13, 1975 (40 FR 6724), which was not implemented because it was superseded by the application for this amendment, and such differences as do exist, do not involve a significant hazards consideration. No request for a hearing or petition for leave to intervene was filed following notice of the earlier proposed action.

For further details with respect to this action, see (1) the application for amendment dated March 7, 1975, and supplements dated April 23 and May 2, 1975, (2) Amendment No. 11 to License No. DPR-13, with Change No. 21, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the San Clemente Public Library, 233 Granada Street, San Clemente, California 92672.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 13th day of May 1975.

For the Nuclear Regulatory Commission.

ROBERT A. PURPLE,  
Chief, Operating Reactors  
Branch No. 1, Division of Reactor Licensing.

[FR Doc. 75-13397 Filed 5-21-75; 8:45 am]



[Docket No. 50-407]

**UNIVERSITY OF UTAH****Order Extending Construction Completion Date**

The University of Utah is the holder of Construction Permit No. CPRR-119, issued by the Commission on April 24, 1973, for construction of a TRIGA Mark I nuclear reactor for research purposes on the University's campus at Salt Lake City, Utah.

On April 15, 1975, The University of Utah filed a request for an extension of the completion date due to extensive testing requirements before final inspection required for completion of the facility. This action involves no significant hazards consideration; good cause has been shown for the delay; and the requested extension is for a reasonable period, the bases for which are set forth in the staff evaluation dated May 15, 1975.

It is hereby ordered, That the latest completion date for Construction Permit No. CPRR-119 is extended from June 1, 1975, to September 1, 1975.

Date of Issuance: MAY 15, 1975.

For the Nuclear Regulatory Commission.

KARL R. GOLLER,  
Assistant Director for Operating Reactors, Division of Reactor Licensing.

[FR Doc. 75-13398 Filed 5-21-75; 8:45 am]

[Docket No. 50-261]

**CAROLINA POWER & LIGHT CO.****Issuance of Amendment to Facility Operating License**

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 11 to Facility Operating License No. DPR-23 issued to Carolina Power & Light Company which revised Technical Specifications for operation of the H. B. Robinson Unit No. 2, located in Darlington County, South Carolina. The amendment is effective as of its date of issuance.

The amendment revises the provisions in the Technical Specifications relating to the minimum boron concentration permissible in the Boron Injection Tank while operating in accordance with the licensee's application for amendment dated August 30, 1974. Present Technical Specifications limit the minimum boron concentration to 20,000 ppm. The amendment allows operation for a period not to exceed 24 hours if the boron concentration in the Boron Injection Tank falls below 20,000 ppm and is greater than 15,000 ppm. If the concentration falls below 15,000 ppm, the reactor would be placed in the hot shutdown condition utilizing normal operating procedures.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings

as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated August 30, 1974, (2) Amendment No. 11 to License No. DPR-23, with Change No. 36 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Hartsville Memorial Library, Home and Fifth Avenue, Hartsville, South Carolina 29550.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 15th day of May, 1975.

For the Nuclear Regulatory Commission.

GEORGE LEAR,  
Chief, Operating Reactors Branch  
#3, Division of Reactor Licensing.

[FR Doc. 75-13495 Filed 5-21-75; 8:45 am]

[Docket No. 50-247]

**CONSOLIDATED EDISON CO. OF NEW YORK, INC.****Issuance of Amendment to Facility Operating License**

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 13 to Facility Operating License No. DPR-26 issued to Consolidated Edison Company of New York, Inc. which revised Technical Specifications for operation of the Indian Point Nuclear Generating Unit No. 2, located in Buchanan, Westchester County, New York. The amendment is effective as of its date of issuance.

This amendment incorporates in the Indian Point Nuclear Generating Unit No. 2 Technical Specifications a revised section on Administrative Controls and a revised definition of Abnormal Occurrence.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated December 2, 1974, (2) Amendment No. 13 to License No. DPR-26, with Change No. 10 and (3) the Commission's related Safety Evaluation. All

of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW, Washington, D.C. and at the Hendrick Hudson Free Library, 31 Albany Post Road, Montrose, New York 10548.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland, this 9th day of May, 1975.

GEORGE LEAR,  
Chief, Operating Reactors Branch  
#3 Division of Reactor Licensing.

[FR Doc. 75-13496 Filed 5-21-75; 8:45 am]

[Docket No. 50-331]

**IOWA ELECTRIC LIGHT AND POWER CO.****Issuance of Amendment to Facility Operating License**

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 7 to Facility Operating License No. DPR-49 issued to Iowa Electric Light and Power Company which revised Technical Specifications for operation of the Duane Arnold Energy Center located in Linn County, Iowa. The amendment is effective as of its date of issuance.

The amendment changes references from the U.S. Atomic Energy Commission to the U.S. Nuclear Regulatory Commission. Also certain soil and vegetation environmental sampling locations are changed and sampling frequencies adjusted to availability of crops. Administrative controls in the technical specifications were amended regarding operating procedure preparation, review and approval.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated February 21, 1975, and (2) Amendment No. 7 to License No. DPR-49 with Change No. 8. Both of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue, SE, Cedar Rapids, Iowa 52041.

A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 16th day of May 1975.

For the Nuclear Regulatory Commission.

GEORGE E. LEAR,  
Chief, Operating Reactors Branch  
#4, Division of Reactor Licensing.

[FR Doc. 75-13498 Filed 5-21-75; 8:45 am]

[Dockets Nos. 50-277 and 50-278]

**PHILADELPHIA ELECTRIC CO., ET AL.****Issuance of Amendments to Facility Operating Licenses**

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 8 and 6 to Facility Operating Licenses Nos. DPR-44 and DPR-56 issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company which revised Technical Specifications for operation of the Peach Bottom Atomic Power Station Units 2 and 3, located in Peach Bottom, York County, Pennsylvania. The amendment is effective as of its date of issuance.

The amendment permits correction of a typographical error. The Confirmatory Low Level Trip setting had been incorrectly specified as less than, or equal to, 6 inches. This correction will change the setting to greater than, or equal to, 6 inches.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated April 11, 1975, (2) Amendments Nos. 8 and 6 to Licenses Nos. DPR-44 and DPR-56, with Changes Nos. 9 and 6, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Martin Memorial Library, 159 E. Market Street, York, Pennsylvania 17401.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 8th day of May, 1975.

For the Nuclear Regulatory Commission.

GEORGE LEAR,  
Chief, Operating Reactors Branch  
No. 3, Division of Reactor Licensing.

[FR Doc. 75-13497 Filed 5-21-75; 8:45 am]

**REGULATORY GUIDES****Issuance and Availability**

The Nuclear Regulatory Commission has issued two new guides in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations, and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.70.31, "Information for Safety Analysis Reports—Plant Procedures," and Regulatory Guide 1.70.32, "Information for Safety Analysis Reports—Reactor Water Cleanup System," identify information that is needed in safety analysis reports at the construction permit and operating license stages of review.

These guides are two of a number being issued in the 1.70.X series to identify information that has often been missing from applicants' safety analysis reports or to present revisions necessary to make a portion of the "Standard Format and Content of Safety Analysis Reports for Nuclear Power Plants," Revision 1, October 1972 (Regulatory Guide 1.70), consistent with the appropriate Standard Review Plan. Standard Review Plans (SRPs) are being prepared by the NRC staff for the guidance of staff reviewers who perform the detailed safety review of applications to construct or operate nuclear power plants. A primary purpose of SRPs is to improve the quality and uniformity of staff reviews and to provide a well-defined base from which to evaluate proposed changes in the scope and requirements of reviews. A complete Revision 2 of the Standard Format incorporating the changes presented in this 1.70.X series will be issued following completion of publication of the SRPs.

Comments and suggestions in connection with improvements in all published guides are encouraged at any time. Public comments on Regulatory Guides 1.70.31 and 1.70.32 will, however, be particularly useful in developing the forthcoming revision of the Standard Format if received by July 21, 1975.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

Regulatory Guides are available for inspection at the Commission's Public

Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted and Commission approval is not required to reproduce them. (5 U.S.C. 522(a))

Dated at Rockville, Maryland this 15th day of May 1975.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,  
Acting Director,  
Office of Standards Development.  
[FR Doc. 75-13499 Filed 5-21-75; 8:45 am]

**NATIONAL TRANSPORTATION SAFETY BOARD**

[1448B; 1536, 1537; 1434A, 1425]

**ACCIDENT REPORT; SAFETY RECOMMENDATIONS AND RESPONSES****Availability and Receipt**

The National Transportation Safety Board announces the issuance last week of a highway accident report and two safety recommendation letters. Also, two letters responsive to earlier Safety Board recommendations were received.

The report and the recommendation letters are available to the general public; single copies may be obtained without charge. A \$4.00 user-service charge will be made for each letter responsive to Board recommendations, and a charge of 10¢ per page will be made for reproduction. All requests must be in writing, addressed to: Publications Unit, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of the accident report may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

**HIGHWAY ACCIDENT REPORT**

Report No. NTSB-HAR-75-2, released May 15, 1975, concerns a series of multiple collisions on the New Jersey Turnpike, killing nine persons and injuring 39 others during the night of October 23-24, 1973. The Safety Board determined that the probable cause was the "penetration of vehicles into areas of severely reduced visibility due to fog and smoke" from nearby dump fires which had not been promptly put out. The Board also found that "the delay in closing the affected roadways by the New Jersey State Police contributed to the number of accidents."

The report contains six recommendations, Nos. H-75-3 through 8, which are intended to prevent recurrence of such accidents. The Board recommends that: (1) New Jersey State Police insure that all the weather reports it receives from its private weather service are distributed as they are received



## NOTICES

to all its troop stations on the turnpike "and are thoroughly understood by all patrol personnel";

(2) The New Jersey Turnpike Authority, in implementing its automatic traffic control system, consider methods for immediately and safely closing the turnpike manually; (3) the U.S. Environmental Protection Agency (EPA) include in its proposed guidelines "measures to prevent abandoned dumps and landfills from becoming hazards to public health and safety"; (4) the New Jersey Department of Environmental Protection revise its sanitary code for solid waste disposal to require property owners to close old dump sites properly; (5) EPA, the New Jersey Department of Environmental Protection, the Hackensack Meadows Development Commission, and the U.S. Corps of Engineers cooperatively "eliminate the possibility of fire and smoke" from old dumps in the meadows; and (6) the National Highway Traffic Safety Administration modify Federal Highway Traffic Safety Standard No. 4, "Driver Education," to include more definitive information relative to reduced-visibility driving.

## SAFETY RECOMMENDATIONS

A-75 43 and 44, issued May 12, 1975, to the Federal Aviation Administration, concern main landing gear aft trunnion failures. Recommendations are that the FAA (1) require by Airworthiness Directive, a one-time visual inspection of all Boeing 727 spare and in-service main landing gear outer cylinders at the upper radius area of the aft trunnion for machining grooves visible under the paint finish, and, if any visible grooves or cracks are found, repair or replace as required; and (2) reassess the landing gear manufacturer's quality control procedures and eliminate the deficiencies which enabled an improperly machined part to enter service.

R-75-7, issued May 15, 1975, to the Federal Railroad Administration, resulted from the Safety Board's investigation of the derailment, February 21, 1975, of a new electric locomotive, class E60CP, built by the General Electric Company for Amtrak. The locomotive derailed during a test run on the Penn Central, sustaining vibratory yawing on a track which caused no reported problems to other trains. The Board recommends that FRA monitor the testing of the E60CP locomotive and determine that the conditions which caused the derailment are corrected before the locomotive is placed in service.

## RESPONSES TO SAFETY RECOMMENDATIONS

The Federal Aviation Administration responded May 2, 1975, to Safety Board recommendations A-75-22 through 24, stating that they will (1) survey available icing test facilities to determine the capabilities and limitations of each facility, (2) prepare an air carrier operations alert bulletin regarding the possibility of in-flight engine icing while operating at reduced power, and (3) analyze reports of incidents of shutdown of large turbofan engines after bird ingestion. FAA will advise of intended courses of action on these recommendations by June 30.

National Aeronautics and Space Administration's response of May 6, 1975, to Safety Board recommendation A-75-16 (40 FR 19043) reports on progress of NASA's research programs concerning uncontained failed jet engine rotor fragments and improved turbine disk design concepts. NASA will continue regularly to inform the Safety Board of progress in rotor burst protection research.

(Sections 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L.

93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906))

MARGARET L. FISHER,  
Federal Register Liaison Officer.

MAY 19, 1975.

[FR Doc.75-13476 Filed 5-21-75; 8:45 am]

NATIONAL ADVISORY COUNCIL ON  
SUPPLEMENTARY CENTERS AND  
SERVICES

## Meeting

Notice of Public Meeting of the National Advisory Council on Supplementary Centers and Services.

Notice is hereby given, pursuant to Pub. L. 92-436, that the next meeting of the National Advisory Council on Supplementary Centers and Services will be held on June 12 and 13, 1975, from 9 a.m. to 5 p.m. at the Westbury Hotel, 480 Sutter Street, San Francisco, California.

The National Advisory Council on Supplementary Centers and Services is established under section 309 of Pub. L. 90-247. The Council is directed to advise the President and the Congress concerning the operation of Title III of the Elementary and Secondary Education Act.

Agenda items for the meeting will include: (1) Executive Director's summary of Fiscal Year 1975 activities; (2) reports from U.S. Office of Education officials; (3) discussion of special reports on dropout prevention, nutrition and health and the nonpublic schools; (4) report on the presentation of the Seventh Annual Report; (5) review and discussion of the Eighth Annual Report; (6) report from ESEA Title III State Coordinator, Jack Baillie of Nebraska; (7) report of the Committee on Special Concerns.

The meeting of the Council shall be open to the public. Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the Council's Executive Director, located in Suite 529, 425 13th Street, NW., Washington, D.C.

Signed at Washington, D.C. on May 19, 1975.

GERALD J. KLUEMPKE,  
Executive Director.

[FR Doc.75-13488 Filed 5-21-75; 8:45 am]

NATIONAL SCIENCE FOUNDATION  
ADVISORY COMMITTEE REPORTS

## Notice of Availability

The National Science Foundation has filed with the Library of Congress reports of those advisory committees which held any closed or partially closed meetings in 1974. The reports were filed in accordance with the Federal Advisory Committee Act, Pub. L. 92-463, and are available for public inspection and use at the Library of Congress, Rare Book Division, Rm. 256, Washington, D.C. In addition, copies of the reports may be obtained by writing the Committee Management Coordination Staff, Management Analysis Office, National Science Foundation,

Washington, D.C. 20550. The names of the committees submitting reports are:

Advisory Panel for Anthropology  
Advisory Panels for Biochemistry and Biophysics<sup>1</sup>  
Advisory Panel for Chemistry  
Advisory Panel for Developmental Biology  
Advisory Panel for Earth Sciences  
Advisory Panel for Economics  
Advisory Panel for Environmental Biology  
Advisory Panel for Genetic Biology  
Advisory Panel for History and Philosophy of Science  
Advisory Panel for Human Cell Biology  
Advisory Panel for Mathematical Sciences  
Advisory Panel for Metabolic Biology  
Advisory Panel for Neurobiology  
Advisory Panel for Oceanography  
Advisory Panel for Physics  
Advisory Panel for Political Science  
Advisory Panel for Psychobiology  
Advisory Panel for Regulatory Biology  
Advisory Panel for Research Management Improvement  
Advisory Panel for Science Education Projects  
Advisory Panel for Social Psychology  
Advisory Panel for Sociology  
Advisory Panel for Systematic Biology  
Advisory Panel on the Materials Research Laboratories  
IDOE Proposal Review Panel  
National Magnet Laboratory Visiting Committee

FRED K. MURAKAMI,  
Committee Management Officer.

MAY 16, 1975.

[FR Doc.75-13416 Filed 5-21-75; 8:45 am]

ADVISORY PANEL FOR ECONOMICS  
Meeting

The Advisory Panel for Economics will meet on June 9 & 10, 1975, at 9 a.m. in room 511 at 1800 G Street, NW., Washington, D.C.

The purpose of this Panel is to provide advice and recommendations as part of the review and evaluation process for specific research proposals that have been assigned to the Economics Program. This Panel functions in accordance with the Federal Advisory Committee Act, Pub. L. 92-463.

This meeting will not be open to the public because the Panel will be reviewing, discussing, and evaluating individual research proposals. Also, these proposals contain information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within the exemptions of 5 U.S.C. 552(b)(4), (5), and (6). The closing of this meeting is in accordance with the determination by the Director of the National Science Foundation dated February 21, 1975, pursuant to the provisions of section 10(d) of Pub. L. 92-463.

For further information about this Panel, please contact Dr. James H.

<sup>1</sup> These panels were merged to form the Advisory Panel for Molecular Biology on February 25, 1975.

## NOTICES

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Blackman, Program Director for Economics, Room 205, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-5968.

FRED K. MURAKAMI,  
Committee Management Officer.

MAY 15, 1975.

[FR Doc.75-13168 Filed 5-21-75; 8:45 am]

OFFICE OF MANAGEMENT AND  
BUDGETBUSINESS ADVISORY COUNCIL ON  
FEDERAL REPORTS

## Public Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Business Advisory Council on Federal Reports to be held in Room 10103, New Executive Office Building, 726 Jackson Place NW., Washington, D.C., on June 17, 1975, at 9:30 a.m.

The purpose of the meeting is to conduct Council business such as the Treasurer's Report, Council budget, and reports of various Committees; to hear remarks from the Deputy Associate Director for Statistical Policy; and to receive reports of recent actions by the Office of Management and Budget which affect the burden on business firms of reporting to Federal agencies. The meeting will be open to public observation and participation.

Anyone wishing to participate should contact the Deputy Associate Director for Statistical Policy, Room 10201, New Executive Office Building, Washington, D.C. 20503, Telephone (202) 395-3730.

VELMA N. BALDWIN,  
Assistant to the Director  
for Administration.

[FR Doc.75-13415 Filed 5-21-75; 8:45 am]

## CLEARANCE OF REPORTS

## List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 19, 1975 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C.

20503, (202-395-4529), or from the reviewer listed.

## NEW FORMS

## DEPARTMENT OF DEFENSE

Defense Civil Preparedness Agency, Radiological Instrument Readiness and Reliability Assurance, DCPA 163, single-time, State contractors, Lowry, R. L., 395-3772.

DEPARTMENT OF HEALTH, EDUCATION, AND  
WELFARE

Food and Drug Administration, Use of Influenza Virus Vaccine in Clinical Practice, FDAOC 0404, single-time, practicing physicians in U.S., Dick Eisinger, 395-4716.

A Critical Evaluation of FDA Initiated Remedial Devices, FDABD 0404, on occasion, physicians, Human Resources Division, Dick Eisinger, 395-3532.

Office of the Secretary, Questionnaires on Research and Programs in Child Abuse and Neglect, OS-33-75, annually, reach projects programs on child abuse and neglect, Reese, B.F., 395-5630.

Alcohol, Drug Abuse and Mental Health Administration, Fiscal Management Controls Diagnostic Questionnaire for CMHCS, ADAMMH 0401, single-time, federally funded CMHCS, Human Resources Division, Lowry, R.L., 395-3532.

National Institute of Education, Improving Learning Opportunities: Rural School and Community Questionnaires, NIE 113, single-time, community members, school staff and students, Planchon, P., 395-3898.

Health Resources Administration, Comparative Study of the Organizational Structure of Medical Schools, BHRD 0409, single-time, faculty and administrators of 4 medical centers, Human Resources Division, Dick Eisinger, 395-3532.

## DEPARTMENT OF LABOR

Bureau of Labor Statistics, Sample Refinement Private Office Building Construction, BLS 3062, single-time, owners or general contractors of private office bldgs., Sunderhauf, M.B., 395-4911.

## REVISIONS

## U.S. CIVIL SERVICE COMMISSION

Medical Report—Epilepsy, SF-558, on occasion, medical doctor for applicant, Caywood, D. P., 395-3443.

## FEDERAL RESERVE SYSTEM

Interest Rates Charged on Selected Types of Loans Made During the Calendar Week Ended, FR 835, weekly, business firms, Hullett, D. T., 395-4730.

DEPARTMENT OF HEALTH, EDUCATION, AND  
WELFARE

Health Resources Administration, Evaluation of Demonstration Projects in Child Abuse and Neglect, HRABHSRE01, single-time, grantee project staff, Collins, L., 395-3756.

## EXTENSIONS

## DEPARTMENT OF LABOR

Bureau of Labor Statistics, Employment, Wages and Contribution Report, BLS 3031, quarterly, Government agencies, Strasser, A., 395-3880.

PHILLIP D. LARSEN,  
Budget and Management  
Officer.

[FR Doc.75-13542 Filed 5-21-75; 8:45 am]

## CLEARANCE OF REPORTS

## List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 19, 1975 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

## NEW FORMS

## VETERANS ADMINISTRATION

Environmental Congruence Questionnaire, 10-14LL, single-time, Veterans, Reese, B. F., 395-5630.

## DEPARTMENT OF COMMERCE

Economic Development Administration, Weekly Payroll Reporting Form—Title X, ED-110X, weekly, contractors receiving Title X grant funds, Lowry, R. L., 395-3772.

DEPARTMENT OF HEALTH, EDUCATION, AND  
WELFARE

Health Resources Administration, Feasibility Study for National Divorce Survey, NCHS 0505, single-time, 100 local government officials, Hall, George, 395-4697.

Center for Disease Control, Survey of Dermatologists to Determine the Incidence of Scabies Scabell Infestations, TF 4.220, single-time, dermatologists, Dick Eisinger, 395-4716.

Office of Education, General Application P.L. 93-380, OE-417, single-time, State education agencies, Lowry, R. L., 395-3772.

## DEPARTMENT OF TRANSPORTATION

Coast Guard, Jon Boat Stability Evaluation, single-time, owners of Jon boats, Strasser, A., 395-3880.

National Highway Traffic Safety Administration, Investigation of Motor Vehicle/Bicycle Collision Parameters, on occasion, individuals involved in bicycle accidents, Strasser, A., 395-3880.

## REVISIONS

## DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service, Application for Clearance of Labels on Export Food Products, FAS-633, on occasion, exporters, Lowry, R. L., 395-3772.

## DEPARTMENT OF DEFENSE

Defense Civil Preparedness Agency, CRP Critical Resources Survey Form, DCPA 914, single-time local CD directors and other government officials, National Security Division, Lowry, R. L., 395-4734.



## NOTICES

## EXTENSIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health, Medical Library Resource Improvement Grant Application, on occasion, Marsha Traynham, 395-4529.

National Institutes of Health, Report of Expenditures—Medical Library Resource Grants, annually, Marsha Traynham, 395-4529.

National Institutes of Health, Mortality Survey—Hypertension Detection and follow-up Program, NIH-HL-14, annually, Marsha Traynham, 395-4529.

PHILLIP D. LARSEN,  
Budget and Management  
Officer.

[FR Doc.75-13543 Filed 5-21-75; 8:45 am]

## SMALL BUSINESS ADMINISTRATION

[License No. 10/13-0024]

## INDUSTRIAL INVESTMENT CORP.

License; Surrender

Notice is hereby given that Industrial Investment Corporation (Industrial), 413 West Idaho Street, Boise, Idaho 83702, has surrendered its license No. 10/13-0024, issued March 26, 1964. Industrial was acquired by Capital Investors Corporation, 1101 Dexter-Horton Building, Seattle, Washington 98104.

Industrial has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the regulations promulgated thereunder, the surrender of the license of Industrial is hereby accepted, and it is no longer licensed to operate as a small business investment company.

Dated: May 14, 1975.

JAMES THOMAS PHELAN,  
Deputy Associate Administrator  
for Investment.

[FR Doc.75-13387 Filed 5-21-75; 8:45 am]

MADISON DISTRICT ADVISORY COUNCIL  
Meeting

The Small Business Administration Madison District Advisory Council will meet at 10:30 a.m., (Cdt), Monday, June 16, 1975, at the National Motor Inn, 350 West Washington Avenue, Madison, Wisconsin, to discuss such business as may be presented by members, the staff of the Small Business Administration, and others attending. For further information, call or write Lucian G. Schlimgen, Jr., Small Business Administration, 122 West Washington Avenue, Madison, Wisconsin 53703, (608) 252-5267.

Dated: May 13, 1975.

ANTHONY S. STASIO,  
Chief Counsel for Advocacy,  
Small Business Administration.  
[FR Doc.75-13388 Filed 5-21-75; 8:45 am]

[Notice of Disaster Loan Area 1139]

## NEBRASKA

## Disaster Relief Loan Availability

As a result of the President's declaration of the State of Nebraska as a major disaster area following severe storms and tornadoes occurring on May 6, 1975, applications for disaster relief loans will be accepted by the Small Business Administration from disaster victims in the following cities: Magnet, Omaha and Ralston.

Applications may be filed at the: Small Business Administration, District Office, 215 North 17th Street, Omaha, Nebraska 68102.

and at such temporary offices as are established. Such addresses will be announced locally.

Applications for disaster loans under this announcement must be filed not later than July 7, 1975. EIDL applications will not be accepted subsequent to February 9, 1976.

Date: May 13, 1975.

THOMAS S. KLEPPE,  
Administrator.

[FR Doc.75-13385 Filed 5-21-75; 8:45 am]

[Declaration of Disaster Loan Area 1140]

## TEXAS

## Declaration of Disaster Loan Area

Whereas, It has been reported that during the months of April and May, because of the effects of a certain disaster, damage resulted to property located in the State of Texas;

Whereas, The Small Business Administration has investigated and received reports of other investigations of conditions in the area affected;

Whereas, After reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended;

Now, Therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Robertson County and adjacent affected areas, suffered damage or destruction resulting from tornadoes accompanied by hail and heavy rainfall which occurred April 29 through May 7, 1975. Adjacent areas include only counties within the state for which the declaration is made and do not extend beyond state lines.

Office: Small Business Administration, District Office, Niels Esperson Building—Room 1210, 808 Travis Street, Houston, Texas 77002.

2. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to July

14, 1975. EIDL applications will not be accepted subsequent to February 13, 1976.

Date: May 13, 1975.

THOMAS S. KLEPPE,  
Administrator.

[FR Doc.75-13386 Filed 5-21-75; 8:45 am]

INTERSTATE COMMERCE  
COMMISSION

[Notice 772]

## ASSIGNMENT OF HEARINGS

MAY 19, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 138806, James B. Chisolm Common Carrier Application, now being assigned June 24, 1975 (4 days), at Savannah, Georgia, in a hearing room to be designated later.

MC 102816, Sub 910, Coastal Tank Lines, Inc., now being assigned September 16, 1975 (1 day), at Columbus, Ohio, in a hearing room to be designated later.

MC 119656, Sub 32, North Express, Inc., now being assigned July 8, 1975 (1 day), at Chicago, Ill., in a hearing room to be designated later.

MC 118989, Sub 116, Container Transit, Inc., and MC 126276, Sub 104, Fast Motor Service, Inc., now being assigned July 9, 1975 (3 days), at Chicago, Ill., in a hearing room to be designated later.

MC 13893, J. W. Ward Transfer, Inc., now being assigned July 14, 1975, at Evansville, Indiana at the Executive Inn, 6th and Walnut Street.

MC 128030, Sub 79, The Stout Trucking Co., Inc., now being assigned July 14, 1975 (1 week), at Chicago, Ill., in a hearing room to be designated later.

MC 113434, Sub 62, Gra-Bell Truck Line, Inc., now assigned June 11, 1975, at Chicago, Illinois, is canceled and application is dismissed.

MC 140241, Sub 2, Dalke Transport, Inc., now being assigned September 9, 1975 (2 days), at Kansas City, Missouri, in a hearing room to be designated later.

MC 124798, Sub 117, Continental Contract Carrier Corp., now being assigned September 11, 1975 (2 days), at Kansas City, Missouri, in a hearing room to be designated later.

MC 139193 Sub 21, Roberts & Onke, Inc., now being assigned September 15, 1975 (1 day), at Kansas City, Missouri, in a hearing room to be designated later.

MC 115609 Sub 148, Dahlsten Truck Line, Inc., now being assigned September 16, 1975 (2 days), at Kansas City, Missouri, in a hearing room to be designated later.

MC-C-8338, Hunt Truck Lines, Inc.—Investigation and Renovation of Certificate and MC 52970, Sub 2, Hunt Truck Lines, Inc., now being assigned September 18, 1975 (2 days), at Kansas City, Missouri, in a hearing room to be designated later.

MC 135444, Sub 2, Kasper Truck Line, Inc., now assigned July 11, 1975, at Jefferson City, Missouri, is postponed indefinitely.

MC 11592, Sub 382, Jenkins Truck Line, Inc., now assigned for pre-hearing conference on May 28, 1975, at Washington, D.C., is postponed to June 23, 1975, at the Office of the Interstate Commerce Commission, Washington, D.C.

I. & S.M. 28006, Increased Small Shipments Rates Minimum Charges, SSCRC now assigned June 24, 1975, at Washington, D.C., is canceled.

I. & S.M. 26448, Increased Rates on Small Shipments, May 1975, Rocky Mountain Territory, now assigned July 8, 1975, at Washington, D.C., is canceled.

MC 120375, Sub 106, Fast Motor Service, Inc., N.Y., is postponed to July 23, 1975, at the Office of the Interstate Commerce Commission, Washington, D.C.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-13505 Filed 5-21-75; 8:45 am]

[Notice 773]

## ASSIGNMENT OF HEARINGS

MAY 19, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

Connection: MC 53965 Sub 98, Graves Truck Line, now being assigned July 23, 1975 (1 week), at Amarillo, Texas, in a hearing room to be designated later, instead of MC 53965 Sub 98.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-13506 Filed 5-21-75; 8:45 am]

[Rev. S.O. No. 294; I.C.C. Order No. 140-A]

## BURLINGTON NORTHERN INC.

## Rerouting Traffic

Upon further consideration of I.C.C. Order No. 140 (Burlington Northern Inc.), and good cause appearing therefor:

It is ordered, That:

I.C.C. Order No. 140 be, and it is hereby, vacated and set aside.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line

## NOTICES

Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 7, 1975.

INTERSTATE COMMERCE  
COMMISSION,  
R. D. PFAHLER,  
Agent.

[FR Doc.75-13504 Filed 5-21-75; 8:45 am]

[Ex Parte No. MC-43]

EVANS DELIVERY CO., INC. AND  
CENTURY EXPRESS, LTD.

## Lease and Interchange of Vehicles by Motor Carriers

MAY 19, 1975.

At a session of the Interstate Commerce Commission, Motor Carrier Leasing Board, held at its office in Washington, D.C. on the 12th day of May, 1975.

It appearing, that a petition has been filed by Evans Delivery Company, Inc. (MC-5591 and various subs) and Century Express, Ltd. (MC-5592 and Sub 1), under temporary common control for waiver of paragraphs (a) (3) and (c) of § 1057.4 of the Lease and Interchange of Vehicles Regulations (49 CFR Part 1057), concerning equipment leased between petitioners;

It further appearing, that petitioners have a jointly administered program applying the same standards of inspection and maintenance to equipment in accordance with the motor carrier safety regulations of the U.S. Department of Transportation;

It further appearing, that the U.S. Department of Transportation recommends that the petition be granted based on an examination of petitioners' records;

It is ordered, That waiver of paragraph (a) (3) and (c) of § 1057.4, be, and it is hereby granted provided that the equipment is inspected on the day it is to be leased and found to meet the requirements of the motor carrier safety regulations of the U.S. Department of Transportation and that petitioners remain in satisfactory compliance with these regulations and under common control.

By the Commission, Motor Carrier Leasing Board.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-13508 Filed 5-21-75; 8:45 am]

[Ex Parte No. 270 (Sub-No. 9)]

## GRAIN AND GRAIN PRODUCTS

## Investigation of Rate Structure of Railroad Freight Rates

MAY 19, 1975.

Upon consideration of the record in Ex Parte No. 270, Investigation of Railroad Freight Rate Structure, the report of the Coordinator, Investigation of Railroad Freight Rate Structure, 345 I.C.C. 4, and of the following documents which will be placed in the public docket in the

above-captioned subnumbered proceeding:

1. Amended Statement of Interest filed on behalf of the North Dakota Public Service Commission and the North Dakota State Wheat Commission on May 2, 1975.

2. Letter dated November 1, 1973, received November 5, 1974, together with attachments, addressed to the Coordinator by the Minneapolis Grain Exchange; and

It appearing, that the Commission has previously indicated an intention to study in depth in Ex Parte No. 270 the rate structure on grain and grain products, increased freight rates, 1970 and 1971, 339 I.C.C. 125, 221, 228, and that a need exists for a detailed study thereof;

And it further appearing, that the matters under consideration in this subnumbered proceeding do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321-47 (1970); that the bases for this negative environmental determination is attached hereto as Appendix A; that any person desiring to express any views, arguments, or comments regarding the environmental amenities involved in this proceeding is invited to participate by filing an appropriate statement in accordance with the schedule set forth below; and that such statements should comply with this Commission's regulations (49 CFR 1100.250) regarding the filing of environmental pleadings; and good cause appearing therefor:

It is ordered, That under the authority of the national transportation policy (49 U.S.C. preceding section 1) and the specific provisions of Part I of the Interstate Commerce Act, in particular sections 1, 2, 3, 6, 12, 13, 15, 15a, and 20, an investigation be, and it is hereby, instituted into the lawfulness of all rates on grain and grain products maintained by railroads subject to the Interstate Commerce Act, and that said railroads to the extent they participate in the transportation of grain and grain products be, and they are hereby, made respondents;

It is further ordered, That any person interested in actively participating in this proceeding by assuming all duties and obligations of a party shall file with the Interstate Commerce Commission, Office of Proceedings, Room 5942, Washington, D.C. 20423, on or before June 18, 1975, the original and two copies of a statement of intention to participate, and shall comply with the procedural dates and other provisions set forth in Appendix B hereto. The statement of intention to participate should include (1) information as to whether the parties are capable of consolidating, and will consolidate, their interests with those of other interested parties by filing joint statements in order to limit the number of copies of pleadings that need be served, and (2) any comments with respect to the environmental amenities

\* Filed as part of the original document.

\* Filed as part of the original document.



that may possibly be involved in this investigation;

It is further ordered, That persons not intending to participate as parties but merely wishing to receive future Commission releases in this proceeding may so advise the Secretary of the Commission by letter at any time during the course of this proceeding;

It is further ordered, That as soon after June 18, 1975, as possible a service list will be made available.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy in the office of the Commission's Secretary and by filing a copy with the Director, Office of the Federal Register. Copies may be obtained from the Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20423.

Dated at Washington, D.C., this 9th day of May, 1975.

By the Commission, Commissioner Hardin, Coordinator.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc. 75-13508 Filed 5-21-75; 8:45 am]

#### IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

##### Elimination of Gateway Letter Notices

MAY 16, 1975.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before June 2, 1975. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 1783 (Sub-No. E1), filed May 12, 1974. Applicant: BLUE LINE EXPRESS, INC., 260 D. W. HIGHWAY, NASHUA, N.H. 03060. Applicant's representative: Earl McCutcheon (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, automobiles, livestock, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between

points in Massachusetts on and east of a line beginning at the New Hampshire-Massachusetts State line and extending along U.S. Highway 202 to junction U.S. Highway 5 and thence over U.S. Highway 5 to the Massachusetts-Connecticut State line on the one hand, and, on the other, Albany, N.Y., and points within 10 miles thereof and points in Massachusetts within 15 miles of Springfield, Mass.

The purpose of this filing is to eliminate the gateway of Springfield, Mass. and points within 15 miles thereof.

No. MC 30844 (Sub-No. E1), filed May 15, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: John P. Rhodes (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Prepared frozen foods, (1) from points in Arkansas, Missouri, Kansas, Oklahoma, Texas, and Illinois on and south of U.S. Highway 36, to points in Minnesota; (2) from points in Ohio, to points in that part of Minnesota on and west of a line beginning at the Minnesota-Iowa State line, thence along U.S. Highway 218 to junction U.S. Highway 65, thence along U.S. Highway 169, thence along U.S. Highway 38, thence along Minnesota Highway 38 to Minnesota Highway 6, thence along Minnesota Highway 6 to Grand Falls, Minn., thence over unnumbered Minnesota Highway to the Canadian Boundary; (3) from points in Nebraska on and south of U.S. Highway 30, to points in that part of Minnesota on and east of a line beginning at the Minnesota-Iowa State line, thence along Minnesota Highway 15 to junction of U.S. Highway 10, thence along U.S. Highway 10 to junction Minnesota Highway 371, thence along Minnesota Highway 371 to junction U.S. Highway 71, thence along U.S. Highway 71 to International Falls, Minn.; (4) from points in Indiana north of Indiana Highway 26, to points in that part of Minnesota in and west of Freeborn, Blue Earth, Nicollet, Sibley, McLeod, Meeker, Stearns, Todd, Wadena, Hubbard, Beltrami, and Lake of the Woods Counties, and from points in Indiana on and south of Indiana Highway 26 (except Indianapolis), to points in that part of Minnesota on and west of a line beginning at the Minnesota-Iowa State line, thence along U.S. Highway 218 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction Minnesota Highway 65, thence along Minnesota Highway 65 to the Canadian Boundary; (5) from points in Colorado to points in Minnesota on and east of U.S. Highway 71. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa.

No. MC 30844 (Sub-No. E5), filed May 15, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: John P. Rhodes (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meat, meat products, and meat by-products, and articles distributed by meat packinghouses, from Detroit, Flint, and Saginaw, Mich., and Toledo, Ohio, to points in Nebraska and Kansas, and from Cincinnati, Columbus, Dayton, and Toledo, Ohio, to points in Nebraska. The purpose of this filing is to eliminate the gateway of Waterloo, Iowa.

No. MC 30844 (Sub-No. E6), filed May 15, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: John P. Rhodes (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meat, meat products, and meat by-products, and articles distributed by meat packinghouses, from Detroit, Flint, and Saginaw, Mich., and Toledo, Ohio, to points in Nebraska and Kansas, and from Cincinnati, Columbus, Dayton, and Toledo, Ohio, to points in Nebraska. The purpose of this filing is to eliminate the gateway of Waterloo, Iowa.

No. MC 30844 (Sub-No. E28), filed May 15, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: John P. Rhodes (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Prepared frozen foods, from points in New York to points in Missouri on and west of U.S. Highway 65 and those in Arkansas on and west of Arkansas Highway 7. The purpose of this filing is to eliminate the gateways of Pittsburgh, Pa., and Keokuk, Iowa.

No. MC 30844 (Sub-No. E28), filed May 26, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: Paul Rhodes (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Candy, confectionery, and confectionery products (except commodities in bulk, in tank vehicles), from Duryea, Pa., to points in Texas, Oklahoma, Kansas, Nebraska, Colorado, and those in Missouri on and west of U.S. Highway 65, and Fayetteville, Ark. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa.

No. MC 30844 (Sub-No. E27), filed May 26, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: Paul Rhodes (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Nuts, candy and peanut products, cream-filled cookies, coffee, tea, and prepared foods (except frozen meats, meats, meat products, meat by-products, and commodities in bulk), from the plant sites of Standard Brands, Inc., at Suffolk, Va., to Denver, Colo., Manhattan, Pittsburgh, Topeka, and Wichita, Kans., Joplin, and Kansas City, Mo., Lincoln, Norfolk, and Omaha, Nebr., Bristow, Oklahoma City, and Tulsa, Okla., and Amarillo, Lubbock, and San Angelo, Tex. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 30844 (Sub-No. E28), filed May 26, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: Paul Rhodes (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Frozen fruits, from Winchester, Va., to points in Colorado, Kansas, Nebraska, Oklahoma, Minnesota, and those in Missouri on and west of U.S. Highway 65 and those in Texas on and west of Interstate Highway 35. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa.

No. MC 30844 (Sub-No. E31), filed May 26, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: Paul Rhodes (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Frozen fruits, from Winchester, Va., to points in Colorado, Kansas, Nebraska, Oklahoma, Minnesota, and those in Missouri on and west of U.S. Highway 65 and those in Texas on and west of Interstate Highway 35. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa.

Oklahoma, Minnesota, and those in Missouri on and west of U.S. Highway 65 and those in Texas on and west of Interstate Highway 35. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa.

No. MC 30844 (Sub-No. E29), filed May 26, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: Paul Rhodes (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Tea, from Hoboken, Jersey City, Port Newark, N.J., and New York, N.Y., to Denver, Colo., Manhattan, Pittsburgh, Topeka, and Wichita, Kans., Joplin, and Kansas City, Mo., Lincoln, Norfolk, and Omaha, Nebr., Bristow, Oklahoma City, and Tulsa, Okla., and Amarillo, Lubbock, San Angelo, and San Antonio, Tex. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 30844 (Sub-No. E30), filed May 26, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: Paul Rhodes (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Frozen fruits, from New York, N.Y., to points in Texas, Oklahoma, Kansas, Nebraska, Colorado, and those points in Missouri on and west of U.S. Highway 65. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa.

No. MC 30844 (Sub-No. E31), filed May 26, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: Paul Rhodes (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Tea, from New York, N.Y., to points in Texas, Oklahoma, Kansas, Nebraska, Colorado, and those points in Missouri on and west of U.S. Highway 65. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa.

No. MC 30844 (Sub-No. E32), filed May 28, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: Paul Rhodes (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Frozen vegetables, from Plant City, Fla., to Denver, Colo., Lincoln, Norfolk, and Omaha, Nebr., and Dubuque, Iowa. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 30844 (Sub-No. E33), filed May 28, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: Paul Rhodes (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Frozen vegetables, from Clayton, Del., Ridgely, Md., Camden, N.J., and Lansdowne, Pa.,

to points in Iowa and Minnesota. The purpose of this filing is to eliminate the gateways of Napoleon, Ohio, and Des Moines, Iowa.

No. MC 35831 (Sub-No. E1), filed June 3, 1974. Applicant: E. A. HOLLIER, INC., P.O. Box 8625, Fort Worth, Texas 76115. Applicant's representative: Billy R. Reid, 8108 Sharon Road, Fort Worth, Tex. 76115. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: earth drilling machinery and equipment, and machinery equipment, materials and supplies incidental to, used in, or in connection with the transportation, installation, removal, operation, repair, servicing, maintenance and dismantling of facilities for the discovery, development and production of natural gas and petroleum, between points in Oklahoma (except points in Cimarron, Texas, Beaver, Harper, Ellis, and Woodward Counties) and Texas, on the one hand, and, on the other, points in Lea and Eddy Counties, N.M. The purpose of this filing is to eliminate the gateway of points in Loving, Ward, Reeves or Winkler Counties, Tex.

No. MC 54932 (Sub-No. E118), filed June 3, 1974. Applicant: ROGERS CARTAGE CO., 10735 So. Cicero Avenue, Oak Lawn, Ill. 60453. Applicant's representative: W. P. Farrell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Acids and chemicals, restricted to frozen and cleaning compounds (except chemicals derived or produced from petroleum), from the plantsite of E. I. DuPont de Nemours & Company, Inc., at Montague, Mich., to points in Kansas, Nebraska, Oklahoma, and Texas (Chicago Heights, Ill.); and frozen and cleaning compounds from the plantsite of E. I. DuPont de Nemours & Company, Inc., at Montague, Mich., to points in Kentucky (Jeffersonville, Ind.). The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

No. MC 78177 (Sub-No. E34), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd Street, Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Classes A and B explosives, and blasting supplies; (a) from points in New York on and east of a line beginning at the New York-Pennsylvania State line and extending along U.S. Highway 210 to junction New York Highway 98, thence along New York Highway 98 to Lake Ontario, to points in Arkansas (the facilities of Trojan-U.S. Powder Division of Commercial Solvents Corp., located at or near Paint Pleasant, W. Va., Grafton, Ill., and Wolf Lake, Ill.); (b) from points in New York east of New York Highway 14 to points in Oklahoma south of Adair, Cherokee, Wagoner, Tulsa, Creek, Payne, Noble, Garfield, and Alfalfa Counties (same as paragraph (a)); (c) from points in New York to

points in New Mexico and Arizona (same as paragraph (a)); and (d) from points in Pennsylvania to points in Arizona, Arkansas, New Mexico, and Oklahoma (Jacksonville, Ind., and points within 15 miles thereof, Grafton, Ill., and Wolf Lake, Ill.). The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 100866 (Sub-No. E44), filed March 21, 1975. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Richard W. May (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Compositions board, from points in Texas (except Pinedale or Silsbee and particleboard from Diboll) except from points east and north of a line beginning with the junction of U.S. Highway 267 and the New Mexico-Texas border, thence south on U.S. Highway 267 to the junction with Interstate Highway 40, thence east on Interstate Highway 40 to the Texas-Oklahoma border to points in Missouri in, south and east of Bollinger, Cape Girardeau, Carter, Crawford, Dent, Dunklin, Franklin, Gasconade, Howell, Iron, Jefferson, Madison, Marion, Mississippi, New Madrid, Oregon, Osage, Pemiscot, Perry Phelps, Pulaski, Reynolds, Riley, Saint Charles, Saint Francois, Saint Louis, Sainte Genevieve, Scott, Shannon, Stoddard, Texas, Warren, Washington, Wayne, Webster, and Wright Counties and the City of Saint Louis. The purpose of this filing is to eliminate the gateways of Irving, Pinedale, and Acme, Tex., and Miami, Okla.

No. MC 100866 (Sub-No. E47), filed April 21, 1974. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, Louisiana 71107. Applicant's representative: Richard W. May (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Compositions board, to points in Texas, (except Pinedale or Silsbee and particleboard from Diboll) south of a line formed by the Canadian River beginning at the junction of the Canadian River and the New Mexico-Texas State line, thence east through, and including Lake Meredith and the Sanford Dam, then continuing east on the Canadian River to its junction with the Texas-Oklahoma State line, except Pinedale or Silsbee and particleboard from Diboll to points in Kansas. The purpose of this filing is to eliminate the gateways of Acme, Irving, and Pinedale, Texas and Duke, Oklahoma.

No. MC 102567 (Sub-No. E1), filed May 9, 1974. Applicant: MC FAIR TRANSPORT, INC., 2000 North Loop West, Suite 300, Houston, Texas 77016. Applicant's representative: Jo E. Shaw (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such petroleum products as are required in bulk, in tank vehicles, (except liquefied petroleum gases), from



those points in Texas which are within 150 miles of Henderson, Tex., including Henderson, Tex., and which are south of a line beginning at Ft. Worth, Tex., and extending along U.S. Highway 175 to junction U.S. Highway 69, to junction Texas Highway 63, to the Texas-Louisiana State line, to those points in Alabama on and south of U.S. Highway 80. The purpose of this filing is to eliminate the gateway of plant site of American Cyanamid Company at Avondale, La.

No. MC 102567 (Sub-No. E2), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., 2040 North Loop-west, Houston, Tex. 77018. Applicant's representative: Tom Wright (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such petroleum products as are *liquid chemicals* (except in bulk in tank vehicles, liquefied petroleum gases), from those points in Texas which are within 150 miles of Henderson, Tex., including Henderson, Tex., and which are south of a line beginning at Chilton, Tex., and extending along Texas Highway 7 to junction U.S. Highway 287, to the Texas-Louisiana State line, to points in Alabama. The purpose of this filing is to eliminate the gateway of plant site American Cyanamid Company at Avondale, La.

No. MC 102567 (Sub-No. E3), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. DRAWER 5357, BOSSIER CITY, La. 71010. Applicant's representative: Jo. E. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such petroleum products as are *liquid chemicals* (except in bulk in tank vehicles, liquefied petroleum products), from Henderson, Tex., and points in Texas within 150 miles of Henderson, to those points in Alabama south of a line beginning at the Alabama-Mississippi State line and extending along Alabama Highway 56 to junction Interstate Highway 65, to junction Alabama Highway 10, to the Alabama-Georgia State line. The purpose of this filing is to eliminate the gateway of plant site of American Cyanamid Company at Avondale, La.

No. MC 102567 (Sub-No. E4), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. DRAWER 5357, BOSSIER CITY, La. 71010. Applicant's representative: Jo. E. Shaw, Houston First Saving Bldg., Houston, Texas 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such petroleum products as are *liquid chemicals* (except in bulk in tank vehicles, liquefied petroleum gases), from Henderson, Tex., and points in Texas within 150 miles of Henderson, to points in Florida. The purpose of this filing is to eliminate the gateway of plant site of American Cyanamid Company at Avondale, La.

No. MC 102567 (Sub-No. E5), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. DRAWER

5357, BOSSIER CITY, La. 71010. Applicant's representative: Jo E. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such petroleum products as are *liquid chemicals* (petrochemicals), in bulk, in tank vehicles, from those points in Louisiana within 150 miles of Henderson, Tex., which are east of a line beginning at Strong, Ark., and extending along U.S. Highway 82, to junction U.S. Highway 79, to junction Arkansas Highway 9, to junction Arkansas Highway 147, to junction U.S. Highway 167, to Alexandria, La., to points in Oklahoma. The purpose of this filing is to eliminate the gateway of plant site of Dow Chemicals U.S.A. in Columbia County, Ark.

No. MC 102567 (Sub-No. E6), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. DRAWER 5357, BOSSIER CITY, LOUISIANA 71010. Applicant's representative: Jo. E. Shaw, Houston First Saving Bldg., Houston, Texas 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such petroleum products as are *liquid chemicals* (except in bulk in tank vehicles, liquefied petroleum gases), from those points in Texas which are within 150 miles of Henderson, Tex., including Henderson, and which are south of a line beginning at Denton, Tex., and extending along Interstate Highway 35E to junction U.S. Highway 175/69, to junction Texas Highway 63, to the Texas-Louisiana State line, to points in Georgia. The purpose of this filing is to eliminate the gateway of plant site of American Cyanamid Company at Avondale, La.

No. MC 102567 (Sub-No. E10), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. DRAWER 5357, Bossier City, La. 71010. Applicant's representative: Jo E. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such petroleum products as are *liquid chemicals* (petrochemicals), in bulk, in tank vehicles, from those points within 150 miles of Henderson, Tex., which are east of a line beginning at Strong, La., and extending along U.S. Highway 82 to junction U.S. Highway 71, to Alexandria, La., to those points in Oklahoma north of a line beginning at the Texas-Oklahoma State line and extending along Interstate Highway 35 to junction Oklahoma Highway 77 to junction Oklahoma Highway 12 to junction Oklahoma Highway 3, to junction U.S. Highway 69, to junction Interstate Highway 40 to Oklahoma-Arkansas State line. The purpose of this filing is to eliminate the gateway of plant site of Dow Chemicals U.S.A., in Columbia County, Ark.

No. MC 102567 (Sub-No. E11), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. DRAWER 5357, Bossier City, La. 71010. Applicant's representative: Jo E. Shaw, Houston First

Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such petroleum products as are *liquid chemicals* (petrochemicals), in bulk, in tank vehicles, from those points within 150 miles of Henderson, Tex., which are south and east of a line beginning at El Dorado, Ark., and extending along U.S. Highway 82 to junction U.S. Highway 79, to junction U.S. Highway 20, to junction U.S. Highway 171, to junction Louisiana Highway 5, to junction Texas Highway 7, to junction U.S. Highway 96, to the Gulf of Mexico, to those points in Oklahoma on and north of a line beginning at the Oklahoma-New Mexico State line and extending along Oklahoma Highway 325 to junction U.S. Highway 64, to junction Oklahoma Highway 11, to junction U.S. Highway 60, to the Oklahoma-Missouri State line. The purpose of this filing is to eliminate the gateway of plant site of Dow Chemicals, U.S.A., in Columbia County, Ark.

No. MC 102567 (Sub-No. E16), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. DRAWER 5357, Bossier City, La. 71010. Applicant's representative: Jo E. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such petroleum products as are *liquid chemicals* (except in bulk in tank vehicles, liquefied petroleum gases), from those points in Texas within 150 miles of Henderson, Tex., including Henderson, and which are south of a line beginning at Chilton, Tex., and extending along Texas Highway 7 to junction U.S. Highway 287, to junction U.S. Highway 190, to the Texas-Louisiana State line, to those points in Tennessee east of a line beginning at the Tennessee-Kentucky State line and extending along Tennessee Highway 48 to junction Tennessee Highway 100, to junction Tennessee Highway 20, to junction U.S. Highway 43 to the Alabama-Tennessee State line. The purpose of this filing is to eliminate the gateway of plant site of American Cyanamid Company at Avondale, La.

No. MC 102567 (Sub-No. E17), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. DRAWER 5357, Bossier City, La. 71010. Applicant's representative: Jo E. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such petroleum products as are *liquid chemicals* (except in bulk in tank vehicles, liquefied petroleum gases), from those points in Texas within 150 miles of Henderson, Tex., including Henderson, and which are south of a line beginning at Chilton, Tex., and extending along Texas Highway 7 to junction U.S. Highway 287, to junction U.S. Highway 190, to the Texas-Louisiana State line, to those points in Illinois north of a line beginning at the Illinois-Iowa State line

and extending along U.S. Highway 30 to junction Illinois Highway 38, to Lake Michigan. The purpose of this filing is to eliminate the gateway of plant site of American Cyanamid Company at Avondale, La.

No. MC 102567 (Sub-No. E18), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. DRAWER 5357, Bossier City, La. 71010. Applicant's representative: Jo E. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such petroleum products as are *liquid chemicals* (except liquefied petroleum products), in bulk in tank vehicles, from those points in Texas within 150 miles of Henderson, Tex., including Henderson, and which are south of a line beginning at Chilton, Tex., and extending along Texas Highway 7 to junction U.S. Highway 278, to junction U.S. Highway 190, to the Texas-Louisiana State line, to those points in Indiana west of a line beginning at the Indiana-Illinois State line and extending along U.S. Highway 50 to junction U.S. Highway 41, to junction Indiana Highway 66, to junction U.S. Highway 23, to the Indiana-Kentucky State line. The purpose of this filing is to eliminate the gateway of plant site of American Cyanamid Company at Avondale, La.

No. MC 102567 (Sub-No. E30), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. DRAWER 5357, Bossier City, La. 71010. Applicant's representative: Jo E. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except liquefied petroleum gas), as defined in Appendix XIII and the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from those points in Texas, Arkansas, and Louisiana within 150 miles of Henderson, Tex., and which are east of a line beginning at Mena, Ark., and extending along U.S. Highway 71 to Alexandria, Ark., to those points in Texas south of a line beginning at the Gulf of Mexico and extending along Texas Highway 44 to junction U.S. Highway 81, thence along U.S. Highway 81 to the United States-Mexico International Boundary line. The purpose of this filing is to eliminate the gateway of Shreveport, Bossier City, and Cotton Valley, La., and points within 5 miles of Cotton Valley.

No. MC 102567 (Sub-No. E31), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. DRAWER 5357, Bossier City, La. 71010. Applicant's representative: Jo A. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum products*, (except liquefied petroleum gas), as defined in Appendix XIII and the report in *Descriptions in Motor Carrier Certifi-*

cates, 61 M.C.C. 209, in bulk, in tank vehicles, from those points in Texas, Arkansas, and Louisiana within 150 miles of Henderson, Tex., which are east of a line beginning at Mena, Ark., and extending along U.S. Highway 71 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction U.S. Highway 79, thence U.S. Highway 79 to junction Arkansas Alternate Highway 2, thence along Arkansas Alternate Highway 2 to junction Arkansas Highway 15, thence along Arkansas Highway 15 to Calion, Ark., to those points in Texas south of and more than 150 miles from Henderson, Tex., which are east of U.S. Highway 77. The purpose of this filing is to eliminate the gateways of Shreveport, Bossier City, and Cotton Valley, La., and points within 5 miles of Cotton Valley.

No. MC 102567 (Sub-No. E32), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. DRAWER 5357, Bossier City, La. 71010. Applicant's representative: Jo E. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except liquefied petroleum gas) as defined in Appendix XIII and the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from those points in Texas, Arkansas, and Louisiana within 150 miles of Henderson, Tex., which are east of a line beginning at Mena, Ark., and extending along U.S. Highway 71 to junction U.S. Highway 82, to junction U.S. Highway 79, to junction Louisiana Highway 146, to junction Interstate Highway 20, to Monroe, La., to those points in Texas which are south of and more than 150 miles from Henderson, Tex., and which are located on and east of a line beginning at the United States-New Mexico International Boundary line and extending along U.S. Highway 77 to junction U.S. Highway 87 (formerly portion U.S. Highway 77), to junction U.S. Highway 77-A (formerly portion U.S. Highway 77), to junction U.S. Highway 77, to a point on U.S. Highway 77 near Hicks, Tex. The purpose of this filing is to eliminate the gateway of Shreveport, Bossier City, and Cotton Valley, La., and points within 5 miles of Cotton Valley.

No. MC 102567 (Sub-No. E33), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. DRAWER 5357, Bossier City, La. 71010. Applicant's representative: Jo E. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except liquefied petroleum gas) as defined in Appendix XIII and the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from those points in Texas, Arkansas, and Louisiana within 150 miles of Henderson, Tex., which are east of a line beginning at Mena, Ark., and extending along U.S. Highway 71 to junction U.S. Highway 82, to junction U.S. Highway 79, to junction Louisiana Highway

9, to junction Louisiana Highway 147, to junction U.S. Highway 167, to Alexandria, La., to Brownsville, Tex. The purpose of this filing is to eliminate the gateway of Shreveport, Bossier City, and Cotton Valley, La., and points within 5 miles of Cotton Valley.

No. MC 102567 (Sub-No. E35), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. DRAWER 5357, Bossier City, La. 71010. Applicant's representative: Jo E. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except liquefied petroleum gas), as defined in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from those points in Texas, Arkansas, and Louisiana within 150 miles of Henderson, Tex., and which are east of a line beginning at Page, Okla., and extending along U.S. Highway 259 to junction Interstate Highway 30, thence along Interstate Highway 30 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Interstate Highway 20 to Monroe, La., to those points in Texas which are south of and more than 150 miles from Henderson, Tex., and which are east of U.S. Highway 77. The purpose of this filing is to eliminate the gateways of Shreveport, Bossier City, and Cotton Valley, La., and points within 5 miles of Cotton Valley.

No. MC 105886 (Sub-No. E1), filed June 4, 1974. Applicant: MARTIN TRUCKING, INC., P.O. Box 67, Bessemer, Pa. 16112. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Brick*, (1) from points in Ashtabula, Trumbull, Mahoning, and Columbiana Counties, Ohio to points in Kentucky; (2) from points in Mahoning County, Ohio to points in that part of New York on, north and east of a line beginning at Silver Creek, N.Y. and extending along New York Highway 428 to junction New York Highway 39, thence along New York 39 to junction U.S. Highway 219, and thence along U.S. Highway 219 to the New York-Pennsylvania State line; (3) from points in Mahoning and Columbiana Counties, Ohio to points in Indiana and Michigan; and (4) from points in Columbiana County, Ohio to points in New York. The purpose of this filing is to eliminate the gateway of Darlington Township, Pa.

No. MC 109064 (Sub-No. E17), filed June 4, 1974. Applicant: TEK-O-KA-N TRANSPORTATION COMPANY, INC., P.O. Box 8367, Fort Worth, Tex. 76112. Applicant's representative: Clayte Binion, 1106 Continental Life Bldg., Fort Worth, Tex. 76102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *plastic pipe, plastic tubing, plastic conduit, valves, fittings, compounds, joint sealer, bonding cement, primer, coating, thinner, and accessories* used in the in-



stallation of such products, from Oklahoma City, Okla. to points in Washington, Oregon, Idaho, Montana, Wyoming, Utah, Minnesota, Iowa, Wisconsin, Michigan and points in Illinois on and north of a line from Quincy, Illinois over U.S. Highway 24 to its intersection with U.S. Highway 136, thence over U.S. Highway 136 to the Illinois-Indiana State line. The purpose of this filing is to eliminate the gateway of McPherson, Kans.

No. MC 111401 (Sub-No. E82), filed May 4, 1975. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Mr. Victor R. Comstock (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Nitrogen fertilizer solutions which are derived from petroleum or petroleum products, in bulk, in tank vehicles, from points in Oklahoma on and east of U.S. Highway 83 and on and north of Interstate Highway 40 to points in New Mexico south of U.S. Highway 66. The purpose of this filing is to eliminate the gateway of Elter, Tex.

No. MC 111401 (Sub-No. E-83), filed May 4, 1975. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Mr. Victor R. Comstock (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquid petrochemicals, in bulk, in tank vehicles, from points in Oklahoma on and west of U.S. Highway 83 to points in Alabama on and south of U.S. Highway 84 and points in Louisiana on and south of U.S. Highway 190. The purpose of this filing is to eliminate the gateway of Texas City, Tex.

No. MC 111401 (Sub-No. E-84), filed May 4, 1975. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Mr. Victor R. Comstock (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Petroleum products (except lubricating oils) in bulk, in tank vehicles, from points in Kansas on and west of a line beginning at the Nebraska-Kansas State line and extending along U.S. Highway 83 to its junction with Interstate Highway 70, to its junction with U.S. Highway 81 to the Kansas-Oklahoma State line to points in Alabama, Kentucky, Louisiana, Mississippi, and Tennessee. The purpose of this filing is to eliminate the gateways of Ardmore, Cleveland, Cushing, Duncan, Tulsa, and Wynnewood, Okla.

No. MC 113158 (Sub-No. E1), filed May 15, 1974. Applicant: TODD TRANSPORT CO., INC., Secretary, Md. 21664. Applicant's representative: Harry Harrington Todd (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Canned goods, from points in Cecil, Kent, Queen Annes, Talbot, Caroline, Dorchester, Wilcomico, Worcester, and Somerset Counties, points in Kent and Sussex Counties, Del., and

points in Accomack and Northampton Counties, to points in New York north of New York Highway 7. The purpose of this filing is to eliminate the gateways of Newark, Del., and points in Dorchester, Caroline, and Talbot Counties, Md.

No. MC 113908 (Sub-No. E254), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Vinegar, in bulk, in tank vehicles, from points in California to Fremont, Bailey, and Belding, Mich., and Lyndonville, N.Y., with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 113908 (Sub-No. E256), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Vinegar, in bulk, in tank vehicles, from Marionville, Mo., to Wenatchee and Yakima, Wash., Delta and Denver, Colo., and Dallas and Houston, Tex. The purpose of this filing is to eliminate the gateway of Oklahoma City, Okla.

No. MC 113908 (Sub-No. E263), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Vinegar, in bulk in tank vehicles, from Bailey, Belding, and Fremont, Mich., to points in California (except those points on and east and north of a line beginning at the California-Oregon State line and extending along Interstate Highway 5 to junction California Highway 36, thence along California Highway 36 to junction U.S. Highway 395, thence along U.S. Highway 395 to the Nevada-California State line, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Memphis, Tenn.

No. MC 113908 (Sub-No. E265), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Vinegar, in bulk, in tank vehicles, from Delta, Colo., to points in Missouri on and north of a line beginning at the Oklahoma-Missouri State line and extending along Interstate Highway 44 to junction U.S. Highway 60, thence along U.S. High-

way 60 to the Kentucky-Missouri State line, and points in Texas on and east of a line beginning at the Texas-Oklahoma State line and extending along U.S. Highway 271 to junction U.S. Highway 69, thence along U.S. Highway 69 to Port Arthur, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Rogers, Ark.

No. MC 113908 (Sub-No. E267), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Vinegar and vinegar stock, in bulk, in tank vehicles, from St. Paul, Minn., to points in New York, Pennsylvania, Delaware, Maryland, and those in Ohio east of a line beginning near Huron, Ohio, and extending along Ohio Highway 13 to junction Ohio Highway 256, thence along Ohio Highway 256 to junction Ohio Highway 664, thence along Ohio Highway 664 to junction U.S. Highway 33, thence along U.S. Highway 33 to junction Ohio Highway 93, thence along Ohio Highway 93 to the Ohio-Kentucky State line, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Belding, Mich.

No. MC 113908 (Sub-No. E353), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Vinegar and vinegar stock, in bulk, in tank vehicles, from Dallas, Houston, and Paris, Tex., to points in Ohio north and east of U.S. Highway 250, and points in Pennsylvania, New York, Maryland, and Delaware. The purpose of this filing is to eliminate the gateway of Fremont, Mich.

No. MC 113908 (Sub-No. E354), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Vinegar, in bulk, in tank vehicles, from Rogers, Ark., to Wenatchee and Yakima, Wash., with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Paris, Tex.

No. MC 113908 (Sub-No. E375), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Vinegar, in bulk, in tank vehicles, from Rog-

ers, Arkansas to Wenatchee, Yakima, Washington; St. Paul, Minnesota; Delta, Denver, Colorado; Fremont, Bailey, and Belding, Michigan; Lyndonville and North Rose, New York; Charlotte, North Carolina; Memphis, Tennessee. The purpose of this filing is to eliminate the gateway of Nixa and Marionville, Mo.

No. MC 113908 (Sub-No. E378), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Vinegar and vinegar stock, in bulk, in tank vehicles, from Denver, Colo., to points in New York, Pennsylvania, Maryland, Delaware, and Ohio (except those points in Ohio south and west of a line beginning at the Indiana-Ohio State line and extending along Ohio Highway 725 to junction Ohio Highway 123, thence along Ohio Highway 123 to junction Ohio Highway 73, thence along Ohio Highway 73 to junction Ohio Highway 28, thence along Ohio Highway 28 to junction U.S. Highway 23, thence along U.S. Highway 23 to the Ohio-Kentucky State line. The purpose of this filing is to eliminate the gateway of Belding, Mich.

No. MC 114457 (Sub-No. E28), filed June 3, 1974. Applicant: DART TRANSIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Metal canned goods containers and container ends, accessories, and materials and supplies used in connection with the manufacture and distribution of metal containers (except commodities in bulk and those which because of size or weight require the use of special equipment), when moving in mixed loads with metal containers, from points in Missouri (except points in Atchison County), to points in North Dakota. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114457 (Sub-No. E27), filed June 3, 1974. Applicant: DART TRANSIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Metal canned goods containers and container ends, accessories and materials and supplies used in connection with the manufacture and distribution of metal containers (except commodities in bulk and those which because of size or weight, require the use of special equipment), when moving in mixed loads with metal containers, from points in Montana, to points in Iowa in and east of Winnebago, Hancock, Wright, Hamilton, Boone, Polk, Warren, Clarke, and Decatur Counties. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114457 (Sub-No. E31), filed June 3, 1974. Applicant: DART TRANSIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Metal canned goods containers and container ends, accessories, and materials, and supplies used in connection with the manufacture and distribution of metal containers (except commodities in bulk and those which because of size or weight, require the use of special equipment), when moving in mixed loads with metal containers, from points in Montana (except Powder River and Big Horn Counties), to points in Missouri (except Atchison, Nodaway, Worth, Gentry, DeKalb, Buchanan, Andrew, and Holt Counties). The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114457 (Sub-No. E32), filed June 3, 1974. Applicant: DART TRANSIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Metal canned goods containers and container ends, accessories, and materials, and supplies used in connection with the manufacture and distribution of metal containers (except commodities in bulk and those which because of size or weight require the use of special equipment), when moving in mixed loads with metal containers, from points in Wisconsin in and north of Trempealeau, Jackson, Wood, Portage, Waupaca, Outagamie, Brown, and Kewaunee Counties, to points in Kansas in and west of Nemaha, Jackson, Shawnee, Wabaunsee, Lyon, Greenwood, Elk, and Chautauqua Counties. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114457 (Sub-No. E33), filed June 3, 1974. Applicant: DART TRANSIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Metal canned goods containers and container ends, accessories, and materials, and supplies used in connection with the manufacture and distribution of metal containers (except commodities in bulk and those which because of size or weight require the use of special equipment), when moving in mixed loads with metal containers, from points in Missouri in and west of Schuyler, Adair, Macon, Randolph, Howard, Cooper, Morgan, Campden, LaCade, Webster, Christian, Taney Counties, to points in Wisconsin in and north of Buffalo, Eau Claire, Clark, Marathon, Langlade, Forest, and Florence Counties. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114457 (Sub-No. E34), filed June 3, 1974. Applicant: DART TRANSIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's rep-

resentative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Metal canned goods containers and container ends, accessories, and materials and supplies used in connection with the manufacture and distribution of metal containers (except commodities in bulk and those which because of size or weight require the use of special equipment), when moving in mixed loads with metal containers, from points in Montana (except Powder River and Big Horn Counties), to points in Missouri (except Atchison, Nodaway, Worth, Gentry, DeKalb, Buchanan, Andrew, and Holt Counties). The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114457 (Sub-No. E36), filed June 3, 1974. Applicant: DART TRANSIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Metal canned goods containers and container ends, accessories, and materials and supplies used in connection with the manufacture and distribution of metal containers (except commodities in bulk and those which because of size or weight, require the use of special equipment), when moving in mixed loads with metal containers, from points in Wisconsin in and west of Iron, Price, Rusk, Chippewa, Dunn, and Pepin Counties, to points in Missouri. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114457 (Sub-No. E38), filed June 3, 1974. Applicant: DART TRANSIT COMPANY, 780 North Prior Ave., St. Paul, Minn. 55014. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Metal canned goods containers, container ends, accessories, and materials and supplies used in connection with the manufacture and distribution of metal containers (except commodities in bulk and those which because of size or weight require the use of special equipment), when moving in mixed loads with metal containers, from points in Iowa in and east of Kossuth, Humboldt, Webster, Carroll, Audubon, Cass, Adams, and Taylor Counties, to points in North Dakota. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114457 (Sub-No. E39), filed June 3, 1974. Applicant: DART TRANSIT CO., 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Metal canned goods containers and container ends, accessories, and materials and supplies used in connection with the manufacture and distribution of metal containers (except commodities in bulk and those which because of size or weight require the use



of special equipment), when moving in mixed loads with metal containers, from points in North Dakota, to points in Missouri (except points in Atchison County). The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 119777 (Sub-No. E51), filed April 23, 1975. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer "L", Madisonville, Ky. 42431. Applicant's representative: Ronald E. Butler (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Pallets, skids, bases, boxes, crating, oak heads, oak risers, oak sills, oak molding, cardboard cartons, nails, and lumber.

(1) (a) between points in Indiana on, east, and south of a line beginning at the Indiana-Michigan State line, thence along Interstate Highway 69 to the junction of Indiana Highway 18, thence along Indiana Highway 18 to junction Indiana Highway 37, thence along Indiana Highway 37 to junction Indiana Highway 67, thence along Indiana Highway 67 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction Indiana Highway 441, thence along Indiana Highway 441 to Vincennes, Ind., on the Illinois-Indiana State line, on the one hand, and, on the other, Liberal and Elkhart, Kans.; (b) between points in Indiana on, south, and west of a line beginning at the Indiana-Illinois State line, thence along U.S. Highway 150 to junction Indiana Highway 37, thence along Indiana Highway 37 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction Indiana Highway 135, thence along Indiana Highway 135 to the Indiana-Kentucky State line, on the one hand, and, on the other, points in Maine; (c) between points in Indiana on and south of a line beginning at the Indiana-Illinois State line, thence along U.S. Highway 460 to junction Indiana Highway 68, thence along Indiana Highway 68 to junction Indiana Highway 245, thence along Indiana Highway 245 to junction Indiana Highway 70, thence along Indiana Highway 70 to junction Indiana Highway 66, thence along Indiana Highway 66 to Cannelton, Ind., at the Indiana-Kentucky State line, on the one hand, and, on the other, points in Maryland;

(d) Between points in Indiana on, south, and west of a line beginning at the Indiana-Illinois State line, thence along U.S. Highway 150 to junction Indiana Highway 56, thence along Indiana Highway 56 to junction Indiana Highway 145, thence along Indiana Highway 145 to junction Indiana Highway 37, thence along Indiana Highway 37 to junction Indiana Highway 237, thence along Indiana Highway 237 to the Indiana-Kentucky State line, on the one hand, and, on the other, points in Massachusetts on and east of a line beginning at the Massachusetts-Connecticut State line, thence along Massachusetts Highway 12 to junction Massachusetts Highway 31, thence along Massachusetts Highway 31 to the Massachusetts-New Hampshire State line; (e) between

points in Indiana on and south of a line beginning at the Indiana-Kentucky State line, thence along U.S. Highway 41 to junction Indiana Highway 57, thence along Indiana Highway 57 to junction Indiana Highway 64, thence along Indiana Highway 64 to junction Indiana Highway 61, thence along Indiana Highway 61 to junction Indiana Highway 56, thence along Indiana Highway 56 to junction Indiana Highway 164, thence along Indiana Highway 164 to junction Indiana Highway 145, thence along Indiana Highway 145 to junction Indiana Highway 64, thence along Indiana Highway 64 to junction Indiana Highway 37, thence along Indiana Highway 37 to junction U.S. Highway 460, thence along U.S. Highway 460 to the Indiana-Kentucky State line, on the one hand, and, on the other, points in Minnesota on and north of a line beginning at the Minnesota-North Dakota State line, thence along U.S. Highway 10 to junction U.S. Highway 71, thence along U.S. Highway 71 to International Falls, Minn., on the United States-Canadian border.

(f) Between points in Indiana on and east of a line beginning at the Indiana-Michigan State line, thence along Indiana Highway 19 to junction U.S. Highway 33, thence along U.S. Highway 33 to junction Indiana Highway 15, thence along Indiana Highway 15 to junction Indiana Highway 18, thence along Indiana Highway 18 to junction Indiana Highway 3, thence along Indiana Highway 3 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction Indiana Highway 1, thence along Indiana Highway 1 to junction Indiana 121, thence along Indiana Highway 121 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction Indiana Highway 229, thence along Indiana Highway 229 to junction Indiana Highway 46, thence along Indiana Highway 46 to junction U.S. Alternate Highway 31, thence along U.S. Alternate Highway 31 to junction Interstate Highway 65, thence along Interstate Highway 65 to the Kentucky-Indiana State line, on the one hand, and, on the other, points in Missouri on and south of a line beginning at the Arkansas-Missouri State line, thence along Missouri Highway 101 to junction U.S. Highway 160, thence along U.S. Highway 160 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Kentucky-Missouri State line; (g) between points in Indiana on, east, and south of a line beginning at the Kentucky-Indiana State line, thence along U.S. Highway 41 through Evansville, Ind., to junction Indiana Highway 57, thence along Indiana Highway 57 to junction Indiana Highway 56, thence along Indiana Highway 56 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction U.S. Highway 150, thence along U.S. Highway 150 to junction Indiana Highway 56, thence along Indiana Highway 56 to junction U.S. Highway 421, thence along U.S. Highway 421 to the Kentucky-Indiana State

line, on the one hand, and, on the other, points in Nebraska on and west of a line beginning at the South Dakota-Nebraska State line, thence along U.S. Highway 83 to the Kansas-Nebraska State line.

(h) Between points in Indiana on, south, and west of a line beginning at Cannelton, Ind., on the Kentucky-Indiana State line, thence along Indiana Highway 66 to junction Indiana Highway 37, thence along Indiana Highway 37 to junction Indiana Highway 64, thence along Indiana Highway 64 to junction Indiana Highway 145, thence along Indiana Highway 145 to junction U.S. Highway 150, thence along U.S. Highway 150 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Illinois-Indiana State line, on the one hand, and, on the other, points in New Hampshire; (i) between points in Indiana on, south, and west of a line beginning at the Illinois-Indiana State line, thence along Indiana Highway 64 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction Indiana Highway 56, thence along Indiana Highway 56 to junction Indiana Highway 162, thence along Indiana Highway 162 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction Indiana Highway 545, thence along Indiana Highway 545 to junction Indiana Highway 66, thence along Indiana Highway 66 to junction Indiana Highway 69, thence along Indiana Highway 69 to the Kentucky-Indiana State line, on the one hand, and, on the other, points in New Jersey; (j) between points in Indiana on and west of a line beginning at the Indiana-Illinois State line, thence along Indiana Highway 441 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction Indiana Highway 56, thence along Indiana Highway 56 to junction Indiana Highway 162, thence along Indiana Highway 162 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction Indiana Highway 545, thence along Indiana Highway 545 to junction Indiana Highway 66, thence along Indiana Highway 66 to junction Indiana Highway 237, thence along Indiana Highway 237 to the Indiana-Kentucky State line, on the one hand, and, on the other, points in New York on and east of a line beginning at the United States-Canadian border, thence along New York Highway 30 to junction New York Highway 28, thence along New York Highway 28 to junction U.S. Highway 9, thence along U.S. Highway 9 to junction Interstate Highway 87, thence along Interstate Highway 87 to junction U.S. Highway 209, thence along U.S. Highway 209 to the New York-Pennsylvania State line.

(k) Between points in Indiana on and west of a line beginning at the Indiana-Illinois State line, thence along Indiana Highway 28 to junction U.S. Highway 41, thence along U.S. Highway 41 to the junction of Interstate Highway 70, thence along Interstate Highway 70 to junction Indiana Highway 46, thence along Indiana Highway 46 to junction Indiana Highway 159, thence along Indiana Highway 159 to junction

Indiana Highway 48, thence along Indiana Highway 48 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Indiana Highway 45, thence along Indiana Highway 45 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Kentucky-Indiana State line, thence along U.S. Highway Hammond, and Gary, Ind., on the one hand, and, on the other, points in North Carolina on and south of a line beginning at the North Carolina-Tennessee State line, thence along U.S. Highway 421 to junction U.S. Highway 21, thence along U.S. Highway 21 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction North Carolina Highway 73, thence along North Carolina Highway 73 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction North Carolina Highway 98, thence along North Carolina Highway 98 to junction U.S. Highway 64, thence along U.S. Highway 64 to its terminus at the Atlantic Ocean; (l) between points in Indiana on and south of a line beginning at the Indiana-Illinois State line, thence along Indiana Highway 64 to junction Indiana Highway 57, thence along Indiana Highway 57 to junction U.S. Highway 150, thence along U.S. Highway 150 to junction Indiana Highway 56, thence along Indiana Highway 56 to junction U.S. Highway 421, thence along U.S. Highway 421 to the Indiana-Kentucky State line, on the one hand, and, on the other, points in North Dakota on and west of a line beginning at the Canadian-United States border, thence along North Dakota Highway 256 to junction U.S. Highway 83, thence along U.S. Highway 83 to junction Interstate Highway 94, thence along Interstate Highway 94 to junction North Dakota Highway 49, thence along North Dakota Highway 49 to junction North Dakota Highway 21, thence along North Dakota Highway 21 to junction North Dakota Highway 8, thence along North Dakota Highway 8 to junction U.S. Highway 12, thence along U.S. Highway 12 to the North Dakota-South Dakota State line.

(m) Between points in Indiana on and east of a line beginning at the Indiana-Michigan State line, thence along Indiana Highway 19 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction Indiana Highway 22, thence along Indiana Highway 22 to junction Indiana Highway 19, thence along Indiana Highway 19 to junction Indiana Highway 38, thence along Indiana Highway 38 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction Indiana Highway 44, thence along Indiana Highway 44 to junction Indiana Highway 3, thence along Indiana Highway 3 to junction Indiana Highway 46, thence along Indiana Highway 46 to junction Indiana Highway 37, thence along Indiana Highway 37 to junction U.S. Highway 50, thence along U.S. Highway 50, to junction Indiana Highway 57,

thence along Indiana Highway 57 to junction Indiana Highway 64, thence along Indiana Highway 64 to junction U.S. Highway 41, thence along U.S. Highway 41 to the Indiana-Kentucky State line, on the one hand, and, on the other, points in Oklahoma on, south, and west of a line beginning at the Oklahoma-Arkansas State line, thence along U.S. Highway 62 to junction Oklahoma Highway 10, thence along Oklahoma Highway 10 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction Oklahoma Highway 33, thence along Oklahoma Highway 33 to junction Oklahoma Highway 34, thence along Oklahoma Highway 34 to junction U.S. Highway 183, thence along U.S. Highway 183 to the Oklahoma-Kansas State line; (n) between points in Indiana on and south of a line beginning at the Illinois-Indiana State line, thence along U.S. Highway 460 to junction Indiana Highway 61, thence along Indiana Highway 61 to junction Indiana Highway 66, thence along Indiana Highway 66 to junction Indiana Highway 45, thence along Indiana Highway 45 to Rockport, Ind., on the Indiana-Kentucky State line, on the one hand, and, on the other, points in Pennsylvania.

(o) Between points in Indiana on, south, and west of a line beginning at the Indiana-Illinois State line, thence along U.S. Highway 150 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Indiana Highway 56, thence along Indiana Highway 56 to junction Indiana Highway 145, thence along Indiana Highway 145 to junction Indiana Highway 37, thence along Indiana Highway 37 to junction Indiana Highway 237, thence along Indiana Highway 237 to the Indiana-Kentucky State line, on the one hand, and, on the other, points in Rhode Island; (p) between points in Indiana on and west of a line beginning at the Indiana-Michigan State line, thence along U.S. Highway 31 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 421, thence along U.S. Highway 421 to junction Indiana Highway 43, thence along Indiana Highway 43 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Indiana Highway 46, thence along Indiana Highway 46 to junction Indiana Highway 37, thence along Indiana Highway 37 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction Indiana Highway 245, thence along Indiana Highway 245 to junction Indiana Highway 70, thence along Indiana Highway 70 to junction Indiana Highway 66, thence along Indiana Highway 66 to junction Indiana Highway 237, thence along Indiana Highway 237 to the Indiana-Kentucky State line, on the one hand, and, on the other, points in South Carolina.

(q) Between points in Indiana on and south of a line beginning at the Kentucky-Indiana State line at Mount Vernon, Ind., thence along Indiana Highway 69 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction Indiana Highway 68, thence along Indiana Highway 68 to junction Indiana Highway 65, thence along Indiana Highway 65 to junction Indiana Highway 56, thence along Indiana Highway 56 to junction Indiana Highway 57, thence along Indiana Highway 57 to junction U.S. Highway 150, thence along U.S. Highway 150 to junction Indiana Highway 56, thence along Indiana Highway 56 to junction Indiana Highway 60, thence along Indiana Highway 60 to junction Interstate Highway 65, thence along Interstate Highway 65 to junction U.S. Highway 460, thence along U.S. Highway 460 to Jeffersonville, Ind., and the Kentucky-Indiana State line, on the one hand, and, on the other, points in South Dakota on and west of a line beginning at the North Dakota-South Dakota State line, thence along South Dakota Highway 63 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction U.S. Highway 212, thence along U.S. Highway 212 to Gettysburg, S. Dak., thence along U.S. Highway 212 to junction U.S. Highway 83, thence along U.S. Highway 83 to the Nebraska-South Dakota State line.

(r) Between points in Indiana on and north of a line beginning at the Illinois-Indiana State line, thence along Interstate Highway 74 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Indiana-Ohio State line, including Indianapolis, Ind., and its commercial zone, on the one hand, and, on the other, points in Tennessee on and west of a line beginning at the Tennessee-Kentucky State line, thence along U.S. Highway 231 to junction U.S. Highway 70S, thence along U.S. Highway 70S to junction Tennessee Highway 56, thence along Tennessee Highway 56 to junction Tennessee Highway 8, thence along Tennessee Highway 8 to junction U.S. Highway 127, thence along U.S. Highway 127 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Tennessee-Georgia State line; (s) between points in Indiana, on the one hand, and, on the other, points in Texas on and south of a line beginning at the Texas-New Mexico State line, thence along Texas Highway 116 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction U.S. Highway 83, thence along U.S. Highway 83 to junction U.S. Highway 82, thence along U.S. Highway 82 to junction Texas Highway 79, thence along Texas Highway 79 to the Texas-Oklahoma State line; (t) between points in Indiana on, south, and west of a line beginning at the Illinois-Indiana State line, thence along U.S. Highway 50 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction Indiana Highway 66, thence along Indiana Highway 66 to junction



Indiana Highway 166, thence along Indiana Highway 166 to Tobsport, Ind., on the Kentucky-Indiana State line, on the one hand, and, on the other, points in Vermont.

(u) Between points in Indiana on and south of a line beginning at the Illinois-Indiana State line, thence along U.S. Highway 460 to junction Indiana Highway 68, thence along Indiana Highway 61, thence along Indiana Highway 61 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Indiana Highway 70, thence along Indiana Highway 70 to junction Indiana Highway 66, thence along Indiana Highway 66 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Indiana-Kentucky State line, on the one hand, and, on the other, points in Virginia on and east of a line beginning at the Virginia-Tennessee State line at Bristol, Tenn., thence along U.S. Highway 19 to the Virginia-West Virginia State line; (v) between points in Posey and Vanderburg Counties, Ind., on the one hand, and, on the other, points in West Virginia on and east of U.S. Highway 19; (2) (a) between points in Iowa on and east of a line beginning at the Iowa-Minnesota State line, thence along U.S. Highway 52 to junction Iowa Highway 9, thence along Iowa Highway 9 to junction Iowa Highway 51, thence along Iowa Highway 51 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction U.S. Highway 61, thence along U.S. Highway 61 to the Iowa-Illinois State line, on the one hand, and, on the other, points in Louisiana on and east of a line beginning at the Louisiana-Arkansas State line, thence along U.S. Highway 165 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction Louisiana Highway 6, thence along Louisiana Highway 6 to the Louisiana-Texas State line; (b) between points in Iowa on and south of a line beginning at the Iowa-Nebraska State line, thence along U.S. Highway 34 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction Iowa Highway 5, thence along Iowa Highway 5 to the Iowa-Missouri State line, on the one hand, and, on the other, points in Maine; (c) between Payne, Iowa, on the one hand, and, on the other, points in Maryland.

(d) Between Payne, Sidney, and Hamburg, Iowa, on the one hand, and, on the other, points in Massachusetts; (e) between points in Iowa on, east, and north of a line beginning at Davenport, Iowa, thence along U.S. Highway 61 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 218, thence along U.S. Highway 218 to the Iowa-Minnesota State line, on the one hand, and, on the other, points in Mississippi on, south, and east of a line beginning at Vicksburg, Miss., thence along U.S. Highway 61 to junction Mississippi Highway 3, thence along Mississippi Highway 3 to junction U.S. Highway 49E, thence along U.S. Highway 49E

to junction U.S. Highway 82, thence along U.S. Highway 82 to junction Mississippi Highway 15, thence along Mississippi Highway 15 to junction Mississippi Highway 6, thence along Mississippi Highway 6 to junction U.S. Highway 45, thence along U.S. Highway 45 to the Mississippi-Tennessee State line; (f) between points in Iowa on, south, and west of a line beginning at the Nebraska-Iowa State line, thence along Iowa Highway 2 to junction U.S. Highway 59, thence along U.S. Highway 59 to the Iowa-Missouri State line, on the one hand, and, on the other, points in New Hampshire; (g) between points in Iowa on, south, and west of a line beginning at the Nebraska-Iowa State line, thence along Iowa Highway 2 to junction U.S. Highway 59, thence along U.S. Highway 59 to the Iowa-Missouri State line, on the one hand, and, on the other, points in New Jersey; (h) between Payne, Iowa, on the one hand, and, on the other, points in New York on, south, and east of a line beginning at the Pennsylvania-New York State line, thence along New York Highway 370 to junction New York Highway 17, thence along New York Highway 17 to junction New York Highway 8, thence along New York Highway 8 to junction New York Highway 7, thence along New York Highway 7 to junction New York Highway 23, thence along New York Highway 23 to junction Interstate Highway 87, thence along Interstate Highway 87 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 4, thence along U.S. Highway 4 to the New York-Vermont State line.

(i) Between points in Iowa on, south, and west of a line beginning at the South Dakota-Iowa State line, thence along Iowa Highway 3 to junction U.S. Highway 59, thence along U.S. Highway 59 to the Iowa-Missouri State line, on the one hand, and, on the other, points in Ohio on and south of a line beginning at the Kentucky-Ohio State line at the junction of Ohio Highway 93 and U.S. Highway 52, thence along U.S. Highway 52 to junction Ohio Highway 243, thence along Ohio Highway 243 to junction Ohio Highway 7 at Bradrick, Ohio, on the Ohio West Virginia State line; (j) between Payne, Iowa, on the one hand, and, on the other, points in Pennsylvania on and east of a line beginning at the New York-Pennsylvania State line, thence along Interstate Highway 81 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction Pennsylvania Highway 54, thence along Pennsylvania Highway 54 to junction Pennsylvania Highway 45, thence along Pennsylvania Highway 45 to junction Pennsylvania Highway 104, thence along Pennsylvania Highway 104 to junction U.S. Highway 522, thence along U.S. Highway 522 to junction U.S. Highway 322, thence along U.S. Highway 322 to junction Pennsylvania Highway 75, thence along Pennsylvania Highway 75 to junction Interstate Highway 76, thence along Interstate Highway 76 to junction U.S. Highway 522, thence along U.S. Highway 522 to junction Pennsylvania Highway 928, thence along Penn-

sylvia Highway 928 to the Pennsylvania-Maryland State line; (k) between points in Iowa on and south of a line beginning at the Nebraska-Iowa State line, thence along U.S. Highway 34 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction Iowa Highway 5, thence along Iowa Highway 5 to the Iowa-Missouri State line, on the one hand, and, on the other, points in Rhode Island; (l) between points in Iowa, on the one hand, and, on the other, points in Tennessee on and east of a line beginning at the Kentucky-Tennessee State line, thence along U.S. Highway 41 to junction Tennessee Highway 13, thence along Tennessee Highway 13 to the Tennessee-Alabama State line.

(m) Between points in Iowa on and east of a line beginning at the Iowa-Illinois State line, thence along U.S. Highway 61 to junction U.S. Highway 67, thence along U.S. Highway 67 to the Iowa-Illinois State line, on the one hand, and, on the other, points in Texas on and south of a line beginning at the United States-Mexico border at Eaglepass, Tex., thence along U.S. Highway 277 to junction Texas Highway 85, thence along Texas Highway 85 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction Texas Highway 97, thence along Texas Highway 97 to junction Texas Highway 72, thence along Texas Highway 72 to junction U.S. Highway 281, thence along U.S. Highway 281 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction U.S. Highway 77, thence along U.S. Highway 77 to junction Texas Highway 21, thence along Texas Highway 21 to junction Texas Highway 30, thence along Texas Highway 30 to junction U.S. Highway 190, thence along U.S. Highway 190 to the Texas-Louisiana State line; (n) between points in Iowa on and west of a line beginning at the Iowa-Nebraska State line, thence along Iowa Highway 2 to junction U.S. Highway 275, thence along U.S. Highway 275 to the Iowa-Missouri State line, on the one hand, and, on the other, points in Vermont; (o) between points in Iowa on, south, and west of a line beginning at the Nebraska-Iowa State line at Council Bluffs, Iowa, thence along U.S. Highway 275 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction Iowa Highway 48, thence along Iowa Highway 48 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction Iowa Highway 5, thence along Iowa Highway 5 to the Iowa-Missouri State line, on the one hand, and, on the other, points in Virginia on and south of a line beginning at the Virginia-West Virginia State line, thence along Virginia Highway 55 to junction U.S. Highway 340, thence along U.S. Highway 340 to the Virginia-Maryland State line.

(p) Between points in Iowa on and west of a line beginning at the Iowa-Minnesota State line, thence along Iowa Highway 4 to junction Iowa Highway 9, thence along Iowa Highway 9 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction U.S.

Highway 69, thence along U.S. Highway 69 to junction Interstate Highway 35, thence along Interstate Highway 35 to the Iowa-Missouri State line, on the one hand, and, on the other, points in West Virginia on and south of a line beginning at the Virginia-West Virginia State line, thence along Virginia Highway 39 to junction U.S. Highway 21, thence along U.S. Highway 21 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction West Virginia-Ohio State line at Huntington, W. Va.; (3) (a) between points in Kansas, on and south of a line beginning at the Oklahoma-Kansas State line, thence along U.S. Highway 56 to junction U.S. Highway 270, thence along U.S. Highway 270 to junction U.S. Highway 160, thence along U.S. Highway 160 to junction Kansas Highway 14, thence along Kansas Highway 14 to junction Kansas Highway 44, thence along Kansas Highway 44 to junction Kansas Highway 49, thence along Kansas Highway 49 to junction U.S. Highway 166, thence along U.S. Highway 166 to junction U.S. Highway 166 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction U.S. Highway 160, thence along U.S. Highway 160 to junction U.S. Highway 169, thence along U.S. Highway 169 to the Oklahoma-Kansas State line, on the one hand, and, on the other, points in Michigan on and east of a line beginning at the Mackinaw City-St. Ignace Bridge, thence along Interstate Highway 75 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction Michigan Highway 33, thence along Michigan Highway 33 to junction Michigan Highway 76, thence along Michigan Highway 76 to junction U.S. Highway 23, thence along U.S. Highway 23 to the Ohio-Michigan State line.

(b) Between points in Kansas on, north, and west of a line beginning at the Kansas-Nebraska State line, thence along U.S. Highway 183 to junction U.S. Highway 24, thence along U.S. Highway 24 to the Kansas-Colorado State line, on the one hand, and, on the other, points in Mississippi on and east of a line beginning at the Mississippi-Tennessee State line, thence along U.S. Highway 45 to junction U.S. Highway 45A, thence along U.S. Highway 45A to junction U.S. Highway 45, thence along U.S. Highway 45 to the Mississippi-Alabama State line; (c) between points in Kansas on, south, and west of a line beginning at the Kansas-Oklahoma State line, thence along U.S. Highway 77 to the junction of Kansas Highway 15, thence along Kansas Highway 15 to junction U.S. Highway 54, thence along U.S. Highway 54 to junction U.S. Highway 154, thence along U.S. Highway 154 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Kansas-Colorado State line, on the one hand, and, on the other, points in Ohio on and east of a line beginning at Toledo, Ohio, thence along Interstate Highway 75 to the Ohio-Kentucky State line at Cincinnati, Ohio; (d) between points in Kansas on, south, and west of a line beginning at the Kansas-Nebraska State line, thence along U.S. Highway 183 to junction

Kansas Highway 9, thence along Kansas Highway 9 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction U.S. Highway 24, thence along U.S. Highway 24 to the Kansas-Missouri State line, on the one hand, and, on the other, points in Pennsylvania; (e) between points in Kansas, on the one hand, and, on the other, points in Tennessee on and east of a line beginning at the Kentucky-Tennessee State line, thence along Tennessee Highway 120 to junction U.S. Highway 79, thence along U.S. Highway 79 to junction Tennessee Highway 49, thence along Tennessee Highway 49 to junction Tennessee Highway 48, thence along Tennessee Highway 48 to junction Tennessee Highway 46, thence along Tennessee Highway 46 to junction Tennessee Highway 100, thence along Tennessee Highway 100 to junction Tennessee Highway 50, thence along Tennessee Highway 50 to junction U.S. Highway 43, thence along U.S. Highway 43 to the Tennessee-Alabama State line.

(f) Between points in Kansas on, west, and south of a line beginning at the Nebraska-Kansas State line, thence along Kansas Highway 15W to junction Kansas Highway 9, thence along Kansas Highway 9 to junction U.S. Highway 77, thence along U.S. Highway 77 to junction Kansas Highway 16, thence along Kansas Highway 16 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Kansas-Missouri State line, on the one hand, and, on the other, points in West Virginia; (4) (a) between points in Louisiana on and east of a line beginning at the Louisiana-Arkansas State line, thence along U.S. Highway 165 to junction U.S. Highway 90, thence along U.S. Highway 90 to the Louisiana-Texas State line, on the one hand, and, on the other, points in Minnesota on and north of a line beginning at the Minnesota-North Dakota State line, thence along Minnesota Highway 171 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction Minnesota Highway 175, thence along Minnesota Highway 175 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction U.S. Highway 2, thence along U.S. Highway 2 to the Minnesota-Wisconsin State line and points in Minnesota on and east of a line beginning at the Minnesota-Iowa State line, thence along U.S. Highway 52 to junction Minnesota Highway 44, thence along Minnesota Highway 44 to junction Minnesota Highway 43, thence along Minnesota Highway 43 to junction U.S. Highway 61, thence along U.S. Highway 61 to junction Minnesota Highway 60, thence along Minnesota Highway 60 to the Minnesota-Wisconsin State line.

(b) Between points in Louisiana on and east of a line beginning at the Louisiana-Mississippi State line, thence along Louisiana Highway 10 to junction Louisiana Highway 21, thence along Louisiana Highway 21 to junction of the Lake Pontchartrain Causeway at Covington, La., thence along Lake Pontchartrain Causeway to junction U.S. Highway 90 below Metairie, La., thence along U.S. Highway 90 to junction Louisiana Highway 315 at

Houma, La., thence along Louisiana Highway 315 to its terminus on the Gulf of Mexico, on the one hand, and, on the other, points in Missouri on, east, and north of a line beginning at the Iowa-Missouri State line, thence along U.S. Highway 63 to junction Missouri Highway 6, thence along Missouri Highway 6 to junction U.S. Highway 61, thence along U.S. Highway 61 to junction U.S. Highway 36, thence along U.S. Highway 36 to the Illinois-Missouri State line; (c) between points in Louisiana on and east of a line beginning at the Mississippi-Louisiana State line, thence along Louisiana Highway 21 to junction U.S. Highway 190, thence along U.S. Highway 190 to junction of the Lake Pontchartrain Causeway, thence along the Lake Pontchartrain Causeway to junction Interstate Highway 10, thence along Interstate Highway 10 to junction U.S. Highway BR-90, thence along U.S. Highway BR-90 to junction Louisiana Highway 23, thence along Louisiana Highway 23 to Venice, La., its terminus on the Gulf of Mexico, on the one hand, and, on the other, points in Nebraska on and north of a line beginning at the Wyoming-Nebraska State line, thence along U.S. Highway 26 to junction Nebraska Highway 71, thence along Nebraska Highway 71 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to junction U.S. Highway 83, thence along U.S. Highway 83 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 275, thence along U.S. Highway 275 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction U.S. Highway 20, thence along U.S. Highway 20 to the Nebraska-Iowa State line.

(d) Between points in Louisiana on, north, and west of a line beginning at the Louisiana-Arkansas State line, thence along U.S. Highway 65 to junction Louisiana Highway 2, thence along Louisiana Highway 2 to junction U.S. Highway 165, thence along U.S. Highway 165 to junction Louisiana Highway 8, thence along Louisiana Highway 8 to the Texas-Louisiana State line, on the one hand, and, on the other, points in North Carolina on and north of a line beginning at the North Carolina-Tennessee State line, thence along U.S. Highway 421 to junction Interstate Highway 85, thence along Interstate Highway 85 to junction U.S. Highway 70, thence along U.S. Highway 70 to the terminus of U.S. Highway 70 at Atlantic, N.C., on the Atlantic Ocean; (e) between points in Louisiana on and east of a line beginning at the Arkansas-Louisiana State line, thence along U.S. Highway 165 to junction U.S. Highway 167, thence along U.S. Highway 167 to junction Louisiana Highway 82, thence along Louisiana Highway 82 to junction Louisiana Highway 333 to Intracoastal, La., on the Gulf of Mexico, on the one hand, and, on the other, points in North Dakota on and north of a line beginning at the Montana-North Dakota State line, thence along U.S. Highway 2 to the North Dakota-Minnesota State line; (f) between Ida, La., on the one hand, and, on the other,



points in South Carolina on, east, and north of a line beginning at Charleston, S.C., thence along Interstate Highway 26 to the junction of South Carolina Highway 34, thence along South Carolina Highway 34 to junction U.S. Highway 178, thence along U.S. Highway 178 to the South Carolina-North Carolina State line; (g) between points in Louisiana on and east of a line beginning at the Louisiana-Mississippi State line, thence along Louisiana Highway 21 to junction Louisiana Highway 25, thence along Louisiana Highway 25 to junction of the Lake Pontchartrain Causeway, thence along Lake Pontchartrain Causeway to junction U.S. Highway 90, thence along U.S. Highway 90 to junction Louisiana Highway 1, thence along Louisiana Highway 1 to the terminus at Grand Isle, La., on the Gulf of Mexico, on the one hand, and, on the other, points in South Dakota.

(h) Between points in Louisiana on and west of a line beginning at the Mississippi-Louisiana State line, thence along Louisiana Highway 131 to junction Louisiana Highway 15, thence along Louisiana Highway 15 to junction Louisiana Highway 1, thence along Louisiana Highway 1 to junction Louisiana Highway 105, thence along Louisiana Highway 105 to junction Louisiana Highway 360, thence along Louisiana Highway 360 to junction Louisiana Highway 10, thence along Louisiana Highway 10 to junction U.S. Highway 167, thence along U.S. Highway 167 to junction Louisiana Highway 82, thence along Louisiana Highway 82 to junction Louisiana Highway 333, thence along Louisiana Highway 333 to the terminus on the Gulf of Mexico, on the one hand, and, on the other, points in Tennessee on and north of a line beginning at the Kentucky-Tennessee State line, thence along U.S. Highway 231 to junction U.S. Highway 70N, thence along U.S. Highway 70N to junction Interstate Highway 40, thence along Interstate Highway 40 to junction Tennessee Highway 62, thence along Tennessee Highway 62 to junction U.S. Highway 127, thence along U.S. Highway 127 to junction Tennessee Highway 52, thence along Tennessee Highway 52 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Tennessee-Kentucky State line; (i) between points in Louisiana on and west of a line beginning at the Louisiana-Mississippi State line, thence along U.S. Highway 61 to junction Louisiana Highway 10, thence along Louisiana Highway 10 to junction Louisiana Highway 78, thence along Louisiana Highway 78 to junction U.S. Highway 190, thence along U.S. Highway 190 to junction U.S. Highway 167, thence along U.S. Highway 167 to junction Louisiana Highway 82, thence along Louisiana Highway 82 to junction Louisiana Highway 333, thence along Louisiana Highway 333 to its terminus at Intracoastal, La., on the Gulf of Mexico, on the one hand, and, on the other, points in Virginia; (j) between points in Louisiana, on the one hand, and, on the other, points in West Virginia on and north of a line beginning at the Vir-

ginia-West Virginia State line, thence along West Virginia Highway 83 to junction West Virginia Highway 16, thence along West Virginia Highway 16 to junction West Virginia Highway 3, thence along West Virginia Highway 3 to junction West Virginia Highway 63, thence along West Virginia Highway 63 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction U.S. Highway 60, thence along U.S. Highway 60 to the West Virginia-Virginia State line.

(k) Between points in Louisiana on, east, and south of a line beginning at the Louisiana-Arkansas State line, thence along U.S. Highway 165 to junction Louisiana Highway 1, thence along Louisiana Highway 1 to junction Louisiana Highway 8, thence along Louisiana Highway 8 to the Louisiana-Texas State line, on the one hand, and, on the other, points in Wisconsin; (5) (a) between points in Maine, on the one hand, and, on the other, points in Missouri on, west, and south of a line beginning at the Iowa-Missouri State line, thence along U.S. Highway 63 to junction Missouri Highway 6, thence along Missouri Highway 6 to the Illinois-Missouri State line at Hannibal, Mo.; (b) between points in Maine, on the one hand, and, on the other, points in Nebraska on, south, and west of a line beginning at the South Dakota-Nebraska State line, thence along U.S. Highway 385 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to junction Nebraska Highway 61, thence along Nebraska Highway 61 to junction Nebraska Highway 92, thence along Nebraska Highway 92 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to the Nebraska-Iowa State line; (c) between points in Maine on, north, and east of a line beginning at the United States-Canadian border, thence along U.S. Highway 201 to junction Maine Highway 16, thence along Maine Highway 16 to junction Maine Highway 15, thence along Maine Highway 15 to junction U.S. Highway 1A, thence along U.S. Highway 1A to Ellsworth, Me., thence along Maine Highway 3 to its terminus at Seal Harbor, Me., on the one hand, and, on the other, points in North Dakota on and west of a line beginning at the United States-Canadian border, thence along North Dakota Highway 256 to junction U.S. Highway 83, thence along U.S. Highway 83 to junction North Dakota Highway 48, thence along North Dakota Highway 48 to junction North Dakota Highway 200, thence along North Dakota Highway 200 to junction North Dakota Highway 49, thence along North Dakota Highway 49 to junction North Dakota Highway 21, thence along North Dakota Highway 21 to junction North Dakota Highway 31, thence along North Dakota Highway 31 to the North Dakota-South Dakota State line.

(d) Between points in Maine, on the one hand, and, on the other, points in South Dakota on and west of a line beginning at the South Dakota-Nebraska State line, thence along U.S. Highway 385 to junction South Dakota Highway

79, thence along South Dakota Highway 79 to junction U.S. Highway 85, thence along U.S. Highway 85 to the South Dakota-North Dakota State line; (e) between points in Maine, on the one hand, and, on the other, points in Tennessee on and west of a line beginning at the Tennessee-Kentucky State line, thence along U.S. Highway 127 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Tennessee-Georgia State line; (6) (a) between points in Maryland on and north of a line beginning at the Maryland-Washington, D.C. State line, thence along U.S. Highway 50 to junction Maryland Highway 450, thence along Maryland Highway 450 to junction Maryland Highway 2, thence along Maryland Highway 2 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Maryland Highway 16, thence along Maryland Highway 16 to junction Maryland Highway 318, thence along Maryland Highway 318 to the Maryland-Delaware State line, on the one hand, and, on the other, points in Mississippi on, north, and west of a line beginning at the Alabama-Mississippi State line, thence along U.S. Highway 98 to junction Mississippi Highway 26, thence along Mississippi Highway 26 to junction U.S. Highway 49, thence along U.S. Highway 49 to its terminus at Gulf Port, Miss., on the Gulf of Mexico.

(b) Between points in Maryland, on the one hand, and, on the other, points in Missouri on and south of a line beginning at the Missouri-Kansas State line, thence along U.S. Highway 36 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction Missouri Highway 116, thence along Missouri Highway 116 to junction Missouri Highway 13, thence along Missouri Highway 13 to junction Missouri Highway 10, thence along Missouri Highway 10 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Missouri Highway 22, thence along Missouri Highway 22 to junction Missouri Highway 19, thence along Missouri Highway 19 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Interstate Highway 244, thence along Interstate Highway 244 to junction U.S. Highway Bypass 50, thence along U.S. Highway Bypass 50 to the Missouri-Illinois State line; (c) between points in Maryland, on the one hand, and, on the other, points in Nebraska on, west, and south of a line beginning at the Nebraska-South Dakota State line, thence along U.S. Highway 83 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to the Nebraska-Iowa State line; (d) between points in Maryland, on the one hand, and, on the other, points in Nebraska on, west, and south of a line beginning at the Nebraska-South Dakota State line, thence along U.S. Highway 83 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to the Nebraska-Iowa State line; (e) between points in Maryland, on the one hand, and, on the other, points in South Dakota on and west of a line beginning at the South Dakota-North Dakota State line, thence along U.S. Highway 85 to junction South Dakota Highway 79, thence along South Dakota Highway 79 to junction U.S. Highway 385, thence along U.S. Highway 385 to the South Dakota-Nebraska State

line; (f) between points in Maryland, on the one hand, and, on the other, points in Tennessee on and west of a line beginning at the Tennessee-Kentucky State line, thence along U.S. Highway 31E to junction Interstate Highway 24, thence along Interstate Highway 24 to junction Tennessee Highway 96, thence along Tennessee Highway 96 to junction U.S. Highway 31A, thence along U.S. Highway 31A to junction Interstate Highway 65, thence along Interstate Highway 65 to the Tennessee-Alabama State line.

(7) (a) Between points in Massachusetts, on the one hand, and, on the other, points in Missouri on and south of a line beginning at the Kansas-Missouri State line, thence along U.S. Highway 36 to junction Interstate Highway 35, thence along Interstate Highway 35 to junction Missouri Highway 6, thence along Missouri Highway 6 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction U.S. Highway 36, thence along U.S. Highway 36 to the Missouri-Illinois State line; (b) between points in Massachusetts, on the one hand, and, on the other, points in Nebraska on, west, and south of a line beginning at the Nebraska-Missouri State line, thence along U.S. Highway 138 to junction U.S. Highway 281, thence along U.S. Highway 281 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 26, thence along U.S. Highway 26 to junction U.S. Highway 385, thence along U.S. Highway 385 to the Nebraska-South Dakota State line; (c) between points in Massachusetts on and east of a line beginning at the Massachusetts-Connecticut State line, thence along Massachusetts Highway 12 to the junction of Interstate Highway 290, thence along Interstate Highway 290 to junction Interstate Highway 495, thence along Interstate Highway 495 to junction Massachusetts Highway 38, thence along Massachusetts Highway 38 to the Massachusetts-New Hampshire State line, on the one hand, and, on the other, points in North Dakota on, north, and west of a line beginning at the North Dakota-Montana State line, thence along U.S. Highway 2 to junction U.S. Highway 85, thence along U.S. Highway 85 to the United States-Canadian border; (d) between points in Massachusetts, on the one hand, and, on the other, points in South Dakota on and west of a line beginning at the South Dakota-North Dakota State line, thence along U.S. Highway 85 to junction South Dakota Highway 54, thence along South Dakota Highway 54 to junction South Dakota Highway 79, thence along South Dakota Highway 79 to junction U.S. Highway 18, thence along U.S. Highway 18 to the Wyoming-South Dakota State line.

(e) Between points in Massachusetts, on the one hand, and, on the other, points in Tennessee on and west of a line beginning at the Alabama-Tennessee State line, thence along U.S. Highway 72 to junction Tennessee Highway

27, thence along Tennessee Highway 27 to junction Tennessee Highway 28, thence along Tennessee Highway 28 to junction U.S. Highway 127, thence along U.S. Highway 127 to junction Tennessee Highway 8, thence along Tennessee Highway 8 to junction Tennessee Highway 111, thence along Tennessee Highway 111 to junction Tennessee Highway 42, thence along Tennessee 42 to the Tennessee-Kentucky State line; (8) (a) between points in Michigan on, west, and south of a line beginning at the Michigan-Indiana State line, thence along U.S. Highway 131 to junction Michigan Highway 37, thence along Michigan Highway 37 to junction Michigan Highway 46, thence along Michigan Highway 46 to its terminus at Muskegon, Mich., and all points on and east of Interstate Highway 75 in the Upper Peninsula of Michigan, or the one hand, and, on the other, points in Missouri on, south, and east of a line beginning at the Missouri-Illinois State line, thence along U.S. Highway 60 and U.S. Highway 62 to junction U.S. Highway 62, thence along U.S. Highway 62 through Sikeston, Mo., to junction U.S. Highway 60, thence along U.S. Highway 60 to junction U.S. Highway 160, thence along U.S. Highway 160 to junction Missouri Highway 17, thence along Missouri Highway 17 to the Missouri-Arkansas State line.

(b) Between points in the Upper Peninsula of Michigan on and west of a line beginning at Marquette, Mich., thence along U.S. Highway 41 to the junction of Michigan Highway 35, thence along Michigan Highway 35 to junction U.S. Highway 41, thence along U.S. Highway 41 to the Wisconsin-Michigan State line, on the one hand, and, on the other, points in North Carolina on, south, and west of a line beginning at the Virginia-North Carolina State line, thence along North Carolina Highway 86 to junction U.S. Highway 158, thence along U.S. Highway 158 to junction North Carolina Highway 39, thence along North Carolina Highway 39 to junction North Carolina Highway 98, thence along North Carolina Highway 98 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction U.S. Highway 17, thence along U.S. Highway 17 to the Pamlico River at Washington, N.C., near the Atlantic Ocean; (c) between points in the Lower Peninsula of Michigan on, north, and east of a line beginning at Ludington, Mich., thence along U.S. Highway 10 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction Michigan Highway 78, thence along Michigan Highway 78 to junction Michigan Highway 66, thence along Michigan Highway 66 to junction Interstate Highway 94, thence along Interstate Highway 94 to junction U.S. Highway 131, thence along U.S. Highway 131 to the Michigan-Indiana State line; and points in the Upper Peninsula of Michigan, on and east of a line beginning at the Mackinaw City-St. Ignace Bridge, thence along Interstate Highway 75 to junction Michigan Highway 123, thence along Michigan Highway 123 to its terminus approximately one mile past Whitefish Point, Mich., on the one hand,

and, on the other, points in Oklahoma on and south of a line beginning at the Arkansas-Oklahoma State line, thence along Oklahoma Highway 9A to junction U.S. Highway 271, thence along U.S. Highway 271 to junction Oklahoma Highway 9, thence along Oklahoma Highway 9 to junction U.S. Highway 270, thence along U.S. Highway 270 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction Oklahoma Highway 6, thence along Oklahoma Highway 6 to its terminus at the Oklahoma-Texas State line.

(d) Between points in Michigan on and west of a line beginning at Grand Marais, Mich., thence along Michigan Highway 77 to junction Michigan Highway 28, thence along Michigan Highway 28 to junction Michigan Highway 94, thence along Michigan Highway 94 to Manistique, Mich., on the one hand, and, on the other, points in South Carolina; (e) between points in Michigan, on the one hand, and, on the other, points in Tennessee on and west of a line beginning at the Tennessee-Georgia State line at Chattanooga, Tenn., thence along Tennessee Highway 27 to junction Tennessee Highway 108, thence along Tennessee Highway 108 to junction Tennessee Highway 56, thence along Tennessee Highway 56 to junction U.S. Highway 70S, thence along U.S. Highway 70S to junction U.S. Highway 31W, thence along U.S. Highway 31W to the Tennessee-Kentucky State line; (f) between points in Michigan in the Lower Peninsula and points in the Upper Peninsula on and east of a line beginning at the United States-Canadian border, thence along Interstate Highway 75 to Mackinaw, Mich., on the one hand, and, on the other, points in Texas, on and south of a line beginning at the Texas-New Mexico State line, thence along Interstate Highway 40 to the Texas-Oklahoma State line; (g) between points in Michigan on and west of a line beginning at Marquette, Mich., thence along Michigan Highway 35 to junction U.S. Highway 41, thence along U.S. Highway 41 to the Michigan-Wisconsin State line, on the one hand, and, on the other, points in Virginia on, south, and west of a line beginning at the Virginia-Kentucky State line, thence along U.S. Highway 23 to junction Virginia Highway 83, thence along Virginia Highway 83 to junction Virginia Highway 72, thence along Virginia Highway 72 to junction U.S. Highway 58A, thence along U.S. Highway 58A to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 52, thence along U.S. Highway 52 to the Virginia-North Carolina State line; (h) between points in Keweenaw County, Mich., on the one hand, and, on the other, points in Bluefield, W. Va.

(9) (a) Between points in Minnesota on and east of a line beginning at the Minnesota-Iowa State line, thence along U.S. Highway 52 to the Minnesota-North Dakota State line, on the one hand, and, on the other, points in Mississippi; (b) between points in Minnesota on and west of a line beginning at the United States-Canadian border, thence along Minnesota Highway 313 to junction Minnesota



Highway 11, thence along Minnesota Highway 11 to junction Minnesota Highway 72, thence along Minnesota Highway 72 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Minnesota Highway 34, thence along Minnesota Highway 34 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Minnesota Highway 40, thence along Minnesota Highway 40 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction Minnesota Highway 68, thence along Minnesota Highway 68 to junction U.S. Highway 59, thence along U.S. Highway 59 to the Minnesota-Iowa State line, on the one hand, and, on the other, Chesapeake, Ohio; (c) between points in Minnesota, on the one hand, and, on the other, points in Tennessee on and east of a line beginning at the Mississippi-Tennessee State line, thence along Tennessee Highway 18 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction U.S. Highway 45E, thence along U.S. Highway 45E to junction Tennessee Highway 54, thence along Tennessee Highway 54 to junction Tennessee Highway 89, thence along Tennessee Highway 89 to the Tennessee-Kentucky State line.

(d) Between points in Minnesota on and east of a line beginning at the United States-Canadian border, thence along U.S. Highway 53 to junction Minnesota Highway 73, thence along Minnesota Highway 73 to junction Minnesota Highway 37, thence along Minnesota Highway 37 to junction U.S. Highway 53, thence along U.S. Highway 53 to the Minnesota-Wisconsin State line, on the one hand, and, on the other, points in Texas on and east of a line beginning at the Texas-Louisiana State line, thence along Texas Highway 63 to junction U.S. Highway 96, thence along U.S. Highway 96 to junction Interstate Highway 10, thence along Interstate Highway 10 to junction Texas Highway 124, thence along Texas Highway 124 to junction Texas Highway 87, thence along Texas Highway 87 to junction of the Galveston-Port Bolivar Ferry, thence along the Galveston-Port Bolivar Ferry to Galveston, Tex., on the Gulf of Mexico and its commercial zone; (e) between points in Minnesota on and west of a line beginning at the United States-Canadian border, thence along U.S. Highway 71 to junction U.S. Highway 14, thence along U.S. Highway 14 to junction Minnesota Highway 22, thence along Minnesota Highway 22 to junction U.S. Highway 65, thence along U.S. Highway 65 to the Minnesota-Iowa State line, on the one hand, and, on the other, points in Virginia on, south and west of a line beginning at the Virginia-West Virginia State line, thence along Virginia Highway 39 to junction Virginia Highway 42, thence along Virginia Highway 42 to junction Virginia Highway 254, thence along Virginia Highway 254 to junction Interstate Highway 64, thence along Interstate Highway 64 to junction U.S. Highway 340, thence along U.S. Highway 340 to its terminus at Reedville, Va., on Chesapeake Bay.

(f) Between points in Minnesota on, south and west of a line beginning at the South Dakota-Minnesota State line, thence along Interstate Highway 94 to junction U.S. Highway 75, thence along U.S. Highway 75 to the Minnesota-Iowa State line, and St. Vincent, Minn., and its commercial zone, on the one hand, and, on the other, points in West Virginia on and south of a line beginning at the Kentucky-West Virginia State line, thence along Interstate Highway 64 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction West Virginia Highway 16, thence along West Virginia Highway 16 to junction West Virginia Highway 39, thence along West Virginia Highway 39 to the Virginia-West Virginia State line; (10) (a) between points in Mississippi on, south and east of a line beginning at the Mississippi-Alabama State line, thence along U.S. Highway 98 to junction Mississippi Highway 26, thence along Mississippi Highway 26 to junction U.S. Highway 49, thence along U.S. Highway 49 to its terminus at Gulfport, Miss., on the Gulf of Mexico, on the one hand, and, on the other, points in Missouri on and east of a line beginning at the Missouri-Illinois State line, thence along Interstate Highway 70 to junction Missouri Highway 19, thence along Missouri Highway 19 to junction Missouri Highway 22, thence along Missouri Highway 22 to junction Missouri Highway 15, thence along Missouri Highway 15 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction U.S. Highway 38, thence along U.S. Highway 38 to junction Missouri Highway 5, thence along Missouri Highway 5 to junction Missouri Highway 6, thence along Missouri Highway 6 to junction U.S. Highway 65, thence along U.S. Highway 65 to the Missouri-Iowa State line.

(b) Between points in Mississippi on and east of a line beginning at the Mississippi-Tennessee State line, thence along Mississippi Highway 7 to junction Mississippi Highway 9W, thence along Mississippi Highway 9W to junction Mississippi Highway 9, thence along Mississippi Highway 9 to junction U.S. Highway 82, thence along U.S. Highway 82 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction U.S. Highway 90, thence along U.S. Highway 90 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Mississippi Highway 13, thence along Mississippi Highway 13 to junction U.S. Highway 98, thence along U.S. Highway 98 to junction Mississippi Highway 35, thence along Mississippi Highway 35 to the Louisiana-Mississippi State line, on the one hand, and, on the other, points in Nebraska on and north of a line beginning at the Nebraska-Wyoming State line, thence along U.S. Highway 26 to junction U.S. Highway 345, thence along U.S. Highway 345 to junction Nebraska Highway 87, thence along Nebraska Highway 87 to junction U.S. Highway 26, thence along U.S. Highway 26 to junction U.S. Highway 83, thence along U.S. Highway 83 to the Nebraska-South Dakota State line; (c) between points in

Mississippi on and west of a line beginning at the Tennessee-Mississippi State line, thence along U.S. Highway 45 to junction Mississippi Highway 30, thence along Mississippi Highway 30 to junction Mississippi Highway 7, thence along Mississippi Highway 7 to junction U.S. Highway 49E, thence along U.S. Highway 49E to junction Mississippi Highway 3, thence along Mississippi Highway 3 to junction U.S. Highway 61, thence along U.S. Highway 61 to junction U.S. Highway 84, thence along U.S. Highway 84 to the Mississippi-Louisiana State line, on the one hand, and, on the other, Mount Airy, N.C., and its commercial zone;

(d) Between points in Mississippi on the one hand, and, on the other, points in North Dakota on and north of a line beginning at the Montana-North Dakota State line, thence along U.S. Highway 12 to junction North Dakota Highway 8, thence along North Dakota Highway 8 to junction North Dakota Highway 21, thence along North Dakota Highway 21 to junction North Dakota Highway 6, thence along North Dakota Highway 6 to junction Interstate Highway 94, thence along Interstate Highway 94 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction North Dakota Highway 34, thence along North Dakota Highway 34 to junction North Dakota Highway 30, thence along North Dakota Highway 30 to junction North Dakota Highway 46, thence along North Dakota Highway 46 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction Interstate Highway 94, thence along Interstate Highway 94 to the North Dakota-Minnesota State line; (e) between points in Mississippi, on the one hand, and, on the other, Lemmon, S. Dak., and its commercial zone.

(f) Between points in Mississippi on and west of a line beginning at the Mississippi-Tennessee State line, thence along U.S. Highway 61 to junction U.S. Highway 49E, thence along U.S. Highway 49E to junction U.S. Highway 40, thence along U.S. Highway 40 to junction U.S. Highway 51, thence along U.S. Highway 51 to the Mississippi-Louisiana State line, on the one hand, and, on the other, points in Pickett County, Tenn.; (g) between points in Mississippi on and east of a line beginning at the Mississippi-Tennessee State line, thence along U.S. Highway 45 to junction U.S. Highway 72, thence along U.S. Highway 72 to junction Mississippi Highway 7, thence along Mississippi Highway 7 to junction U.S. Highway 49E, thence along U.S. Highway 49E to junction U.S. Highway 49W, thence along U.S. Highway 49W to junction Mississippi Highway 3, thence along Mississippi Highway 3 to junction U.S. Highway 61, thence along U.S. Highway 61 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Mississippi-Louisiana State line, on the one hand, and, on the other, points in Virginia; (h) between points in Mississippi on and west of a line beginning at the Mississippi-Alabama State line, thence along U.S. Highway 78 to junction

Mississippi Highway 6, thence along Mississippi Highway 6 to junction Mississippi Highway 15, thence along Mississippi Highway 15 to junction Mississippi Highway 12, thence along Mississippi Highway 12 to junction U.S. Highway 51, thence along U.S. Highway 51 to the Mississippi-Louisiana State line, on the one hand, and, on the other, points in West Virginia; (i) between points in Mississippi, on the one hand, and, on the other, points in Wisconsin on and northeast of a line beginning at the Illinois-Wisconsin State line, thence along Wisconsin Highway 78 to junction Wisconsin Highway 11, thence along Wisconsin Highway 11 to junction Wisconsin Highway 23, thence along Wisconsin Highway 23 to junction Wisconsin Highway 130, thence along Wisconsin Highway 130 to junction U.S. Highway 14, thence along U.S. Highway 14 to the Wisconsin-Minnesota State line.

(11) (a) Between points in Missouri on, west and south of a line beginning at Hannibal, Mo., thence along U.S. Highway 24 to junction Missouri Highway 6, thence along Missouri Highway 6 to junction Missouri Highway 31, thence along Missouri Highway 31 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction U.S. Highway 136, thence along U.S. Highway 136 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Missouri-Iowa State line, on the one hand, and, on the other, points in New Hampshire; (b) between points in Missouri on and south of a line beginning at the Kansas-Missouri State line, thence along Interstate Highway 70 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Missouri Highway 7, thence along Missouri Highway 7 to junction Missouri Highway 13, thence along Missouri Highway 13 to junction U.S. Highway 54, thence along U.S. Highway 54 to junction Missouri Highway 7, thence along Missouri Highway 7 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction Missouri Highway 72, thence along Missouri Highway 72 to junction Missouri Highway 32, thence along Missouri Highway 32 to Ste. Genevieve, Mo., on the Missouri-Illinois State line, on the one hand, and, on the other, points in New York; (c) between points in Missouri on, south and east of a line beginning at the Missouri-Arkansas State line, thence along U.S. Highway 67 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction U.S. Highway 61, thence along U.S. Highway 61 to junction Missouri Highway 74, thence along Missouri Highway 74 to its terminus at Cape Girardeau, Mo., on the one hand, and, on the other, points in North Dakota on, north and west of a line beginning at the North Dakota-Montana State line, thence along U.S. Highway 2 to junction U.S. Highway 85, thence along U.S. Highway 85 to the United States-Canadian border;

(d) Between points in Missouri on and south of a line beginning at Ste. Genevieve, Mo., thence along Missouri Highway 32 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction Missouri Highway 64, thence along Missouri Highway 64 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction Missouri Highway 64, thence along Missouri Highway 64 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction Missouri Highway 6, thence along Missouri Highway 6 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 136, thence along U.S. Highway 136 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Iowa-Missouri State line, on the one hand, and, on the other, points in Vermont; (i) between points in Missouri on, south and west of a line beginning at the Missouri-Iowa State line, thence along U.S. Highway 63 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 136, thence along U.S. Highway 136 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Iowa-Missouri State line, on the one hand, and, on the other, points in Virginia; (j) between points in Missouri on and south of a line beginning at the Missouri-Kansas State line, thence along Interstate Highway 70 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Missouri Highway 7, thence along Missouri Highway 7 to junction Missouri Highway 13, thence along Missouri Highway 13 to junction U.S. Highway 54, thence along U.S. Highway 54 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction

Missouri Highway 34, thence along Missouri Highway 34 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction U.S. Highway 66, thence along U.S. Highway 66 to the Missouri-Kansas State line, on the one hand, and, on the other, points in Ohio on, east and south of a line beginning at Lake Erie, at, and including Cleveland, Ohio and its commercial zone, thence along Interstate Highway 71 to junction Ohio Highway 3, thence along Ohio Highway 3 to junction Interstate Highway 71, thence along Interstate Highway 71 to Cincinnati, Ohio; (e) between points in Missouri on and south of a line beginning at the Kansas-Missouri State line, thence along Interstate Highway 70 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 54, thence along U.S. Highway 54 to junction Missouri Highway 32, thence along Missouri Highway 32 to Ste. Genevieve, Mo., on the one hand, and, on the other, points in Pennsylvania; (f) between points in Missouri on, north and west of a line beginning at the Arkansas-Missouri State line, thence along Missouri Highway 101 to junction U.S. Highway 160, thence along U.S. Highway 160 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction U.S. Highway 66, thence along U.S. Highway 66 to the Illinois-Missouri State line, on the one hand, and, on the other, points in Tennessee on and east of a line beginning at the Kentucky-Tennessee State line, thence along U.S. Highway 79 to junction U.S. Alternate Highway 41, thence along U.S. Alternate Highway 41 to junction Interstate Highway 65, thence along Interstate Highway 65 to the Alabama-Tennessee State line.

(g) Between Cape Girardeau, Mo., on the one hand, and, on the other, El Paso, Tex.; (h) between points in Missouri on, south and west of a line beginning at the Missouri-Iowa State line, thence along U.S. Highway 36 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Missouri Highway 6, thence along Missouri Highway 6 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 136, thence along U.S. Highway 136 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Iowa-Missouri State line, on the one hand, and, on the other, points in Vermont; (i) between points in Missouri on, south and west of a line beginning at the Missouri-Iowa State line, thence along U.S. Highway 63 to junction U.S. Highway 36, thence along U.S. Highway 36 to the Missouri-Illinois State line, on the one hand, and, on the other, points in Virginia; (j) between points in Missouri on and south of a line beginning at the Missouri-Kansas State line, thence along Interstate Highway 70 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Missouri Highway 7, thence along Missouri Highway 7 to junction Missouri Highway 13, thence along Missouri Highway 13 to junction U.S. Highway 54, thence along U.S. Highway 54 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction

Missouri Highway 64, thence along Missouri Highway 64 to junction Missouri Highway 32, thence along Missouri Highway 32 to the Missouri-Illinois State line, on the one hand, and, on the other, points in West Virginia; (12) (a) between points in Nebraska on, south and west of a line beginning at the Nebraska-Iowa State line, thence along Nebraska Highway 2 to junction U.S. Highway 77, thence along U.S. Highway 77 to junction Nebraska Highway 33, thence along Nebraska Highway 33 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 83, thence along U.S. Highway 83 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to junction U.S. Highway 20, thence along U.S. Highway 20 to the Nebraska-Wyoming State line, on the one hand, and, on the other, points in New Hampshire.

(b) Between points in Nebraska on, west and south of a line beginning at the South Dakota-Nebraska State line, thence along U.S. Highway 385 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to the Iowa-Nebraska State line, on the one hand, and, on the other, points in New Jersey; (c) between points in Nebraska on and west of a line beginning at the Nebraska-Colorado State line, thence along Nebraska Highway 19 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Nebraska Highway 71, thence along Nebraska Highway 71 to junction U.S. Highway 26, thence along U.S. Highway 26 to the Nebraska-Wyoming State line, and points on and south of a line beginning at the Nebraska-Colorado State line, thence along U.S. Highway 6 to junction U.S. Highway 136, thence along U.S. Highway 136 to junction U.S. Highway 77, thence along U.S. Highway 77 to the Nebraska-Kansas State line, on the one hand, and, on the other, points in New York on and east of a line beginning at and including Rochester, N.Y., and its commercial zone, thence along New York Highway 31 to junction New York Highway 14, thence along New York Highway 14 to the New York-Pennsylvania State line; (d) between points in Nebraska on and west of a line beginning at the Nebraska-Kansas State line, thence along U.S. Highway 83 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Nebraska Highway 61, thence along Nebraska Highway 61 to junction U.S. Highway 26, thence along U.S. Highway 26 to the Nebraska-Wyoming State line, on the one hand, and, on the other, points in Ohio on, south and east of a line beginning at the Ohio-Kentucky State line, thence along Interstate Highway 71 and 75 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction Ohio Highway 16, thence along Ohio Highway



16 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction U.S. Highway 22, thence along U.S. Highway 22 to the Ohio-Pennsylvania State line.

(e) Between points in Nebraska on, south and west of a line beginning at the Wyoming-Nebraska State line, thence along U.S. Highway 26 to junction U.S. Highway 386, thence along U.S. Highway 386 to junction Nebraska Highway 19, thence along Nebraska Highway 19 to the Nebraska-Colorado State line, and points on and south of a line beginning at the Colorado-Nebraska State line, thence along U.S. Highway 6 to junction U.S. Highway 83, thence along U.S. Highway 83 to the Nebraska-Kansas State line, on the one hand, and, on the other, points in Pennsylvania on, south and east of a line beginning at the Ohio-Pennsylvania State line, thence along Pennsylvania Highway 68 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction Pennsylvania Highway 85, thence along Pennsylvania Highway 85 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction Pennsylvania Highway 255, thence along Pennsylvania Highway 255 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction Pennsylvania Highway 287, thence along Pennsylvania Highway 287 to the Pennsylvania-New York State line; (f) between points in Nebraska on, west and south of a line beginning at and including Omaha, Nebr., and its commercial zone, thence along Nebraska Highway 92 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction Nebraska Highway 22, thence along Nebraska Highway 22 to junction Nebraska Highway 39, thence along Nebraska Highway 39 to junction Nebraska Highway 91, thence along Nebraska Highway 91 to junction U.S. Highway 281, thence along U.S. Highway 281 to the Nebraska-South Dakota State line, on the one hand, and, on the other, points in Rhode Island.

(g) Between points in Nebraska, on the one hand, and, on the other, points in Tennessee on and east of a line beginning at the Kentucky-Tennessee State line, thence along Tennessee Highway 119 to junction U.S. Highway 79, thence along U.S. Highway 79 to junction Tennessee Highway 69, thence along Tennessee Highway 69 to junction Tennessee Highway 20, thence along Tennessee Highway 20 to junction Tennessee Highway 13, thence along Tennessee Highway 13 to the Tennessee-Alabama State line; (h) between points in Nebraska on, south, and west of a line beginning at the Wyoming-Nebraska State line, thence along U.S. Highway 20 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to junction U.S. Highway 385, thence along U.S. Highway 385 to junction U.S. Highway 26, thence along U.S. Highway 26 to junction Nebraska Highway 61, thence along Nebraska Highway 61 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction U.S. Highway

way 6, thence along U.S. Highway 6 to junction Nebraska Highway 14, thence along Nebraska Highway 14 to junction U.S. Highway 136, thence along U.S. Highway 136 to the Missouri-Nebraska State line, on the one hand, and, on the other, points in Vermont; (i) between points in Nebraska on, west, and south of a line beginning at the Nebraska-South Dakota State line, thence along U.S. Highway 281 to junction U.S. Highway 275, thence along U.S. Highway 275 to junction Nebraska Highway 14, thence along Nebraska Highway 14 to junction Nebraska Highway 39, thence along Nebraska Highway 39 to junction Nebraska Highway 27, thence along Nebraska Highway 27 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 275, thence along U.S. Highway 275 to the Nebraska-Iowa State line, on the one hand, and, on the other, points in Virginia.

(j) Between points in Nebraska on, west, and south of a line beginning at the Nebraska-South Dakota State line, thence along Nebraska Highway 61 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to junction Nebraska Highway 92, thence along Nebraska Highway 92 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 275, thence along U.S. Highway 275 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Nebraska-Iowa State line, on the one hand, and, on the other, points in West Virginia on and south of a line beginning at the West Virginia-Ohio State line, thence along U.S. Highway 35 to junction West Virginia Highway 2, thence along West Virginia Highway 2 to junction U.S. Highway 33, thence along U.S. Highway 33 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction West Virginia 45, thence along West Virginia 45 to junction West Virginia Highway 29, thence along West Virginia Highway 29 to junction West Virginia Highway 9, thence along West Virginia Highway 9 to the West Virginia-Virginia State line; (13) (a) between points in New Hampshire, on the one hand, and, on the other, points in South Dakota on and west of a line beginning at the Wyoming-South Dakota State line, thence along South Dakota Highway 34 to junction U.S. Highway 85, thence along U.S. Highway 85 to junction U.S. Highway 385, thence along U.S. Highway 385 to the Nebraska-South Dakota State line; (b) between points in New Hampshire, on the one hand, and, on the other, points in Tennessee on and west of a line beginning at the Georgia-Tennessee State line, thence along U.S. Highway 27 to junction Tennessee Highway 27, thence along Tennessee Highway 27 to junction U.S. Highway 127, thence along U.S. Highway 127 to junction Tennessee Highway 30, thence along Tennessee Highway 30 to junction Tennessee Highway 111, thence along Tennessee Highway 111 to junction Tennessee Highway 42, thence along

Tennessee Highway 42 to junction Tennessee Highway 62, thence along Tennessee Highway 62 to junction U.S. Highway 127, thence along U.S. Highway 127 to the Tennessee-Kentucky State line.

(14) (a) Between points in New Jersey on and south of a line beginning at Asbury Park, N.J., thence along New Jersey Highway 71 to junction New Jersey Highway 33, thence along New Jersey Highway 33 to junction U.S. Highway 130, thence along U.S. Highway 130 to junction New Jersey Highway 33, thence along New Jersey Highway 33 to Trenton, N.J., including its commercial zone, on the one hand, and, on the other, points in North Dakota on, west, and north of a line beginning at the United States-Canadian border, thence along U.S. Highway 85 to junction U.S. Highway 3, thence along U.S. Highway 3 to the North Dakota-Montana State line, and Mar-marth, N. Dak., and its commercial zone; (b) between points in New Jersey, on the one hand, and, on the other, points in South Dakota on, south, and west of a line beginning at the Wyoming-South Dakota State line, thence along South Dakota Highway 34 to junction South Dakota Highway 79, thence along South Dakota Highway 79 to junction U.S. Highway 385, thence along U.S. Highway 385 to the Nebraska-South Dakota State line; (c) between points in New Jersey, on the one hand, and, on the other, points in Tennessee on and west of a line beginning at the Tennessee-Kentucky State line, thence along U.S. Highway 231 to junction U.S. Highway 41A, thence along U.S. Highway 41A to junction Tennessee Highway 55, thence along Tennessee Highway 55 to junction Tennessee Highway 50, thence along Tennessee Highway 50 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Tennessee-Alabama State line; (15) (a) between points in New York on and north of a line beginning at the Pennsylvania-New York State line, thence along New York Highway 19 to junction New York Highway 17, thence along New York Highway 17 to junction New York Highway 21, thence along New York Highway 21 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction New York Highway 5, thence along New York Highway 5 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction New York Highway 3, thence along New York Highway 3 to its terminus at Plattsburgh, N.Y., on the one hand, and, on the other, Postell, N.C., and its commercial zone.

(b) Between New York City and Long Island, N.Y., on the one hand, and, on the other, points in North Dakota on and west of a line beginning at the North Dakota-Montana State line, thence along U.S. Highway 2 to junction U.S. Highway 85, thence along U.S. Highway 85 to the United States-Canadian border; (c) between points in New York on and south of a line beginning at the New York-Connecticut State line, thence along New York Highway 343 to junction U.S. Highway 44, thence along U.S. Highway 44 to

junction U.S. Highway 9W, thence along U.S. Highway 9W to junction U.S. Highway 209, thence along U.S. Highway 209 to the New York-Pennsylvania State line, on the one hand, and, on the other, points in South Dakota on and west of a line beginning at the South Dakota-Wyoming State line, thence along South Dakota Highway 34 to junction U.S. Highway 85, thence along U.S. Highway 85 to the Township of Belle Fourche, thence along U.S. Highway 85 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction South Dakota Highway 79, thence along South Dakota Highway 79 to junction U.S. Highway 385, thence along U.S. Highway 385 to the South Dakota-Nebraska State line; (d) between points in New York, on the one hand, and, on the other, points in Tennessee on and west of a line beginning at the Kentucky-Tennessee State line, thence along Tennessee Highway 56 to junction U.S. Highway 70N, thence along U.S. Highway 70N to junction Tennessee Highway 42, thence along Tennessee Highway 42 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction Tennessee Highway 56, thence along Tennessee Highway 56 to junction Tennessee Highway 55, thence along Tennessee Highway 55 to junction U.S. Alternate Highway 41, thence along U.S. Alternate Highway 41 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction Tennessee Highway 97, thence along Tennessee Highway 97 to the Alabama-Tennessee State line.

(16) (a) Between points in North Carolina on and east of a line beginning at the Virginia-North Carolina State line, thence along U.S. Highway 21 to junction North Carolina Highway 18, thence along North Carolina Highway 18 to junction U.S. Highway 421, thence along U.S. Highway 421 to junction North Carolina Highway 115, thence along North Carolina Highway 115 to junction U.S. Highway 21, thence along U.S. Highway 21 to junction U.S. Highway 74, thence along U.S. Highway 74 to junction U.S. Highway 601, thence along U.S. Highway 601 to the North Carolina-South Carolina State line, on the one hand, and, on the other, points in Tennessee on, north, and west of a line beginning at the Tennessee-Kentucky State line, thence along U.S. Alternate Highway 41 to junction Tennessee Highway 13, thence along Tennessee Highway 13 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction Interstate Highway 240, thence along Interstate Highway 240 to junction Interstate Highway 55, thence along Interstate Highway 55 to the Tennessee-Mississippi State line; (b) between points in North Carolina on and east of a line beginning at the Tennessee-North Carolina State line, thence along U.S. Highway 25 to the North Carolina-South Carolina State line, on the one hand, and, on the other, points in Texas on and west of a line beginning at the Texas-Louisiana State line, thence along U.S. Highway 84 to junction U.S. Highway 59, thence along

U.S. Highway 59 to junction Texas Highway 84, thence along Texas Highway 84 to junction Texas Highway 19, thence along Texas Highway 19 to junction Texas Highway 30, thence along Texas Highway 30 to junction Texas Highway 90, thence along Texas Highway 90 to junction U.S. Highway 290, thence along U.S. Highway 290 to junction Texas Highway 237, thence along Texas Highway 237 to junction U.S. Highway 77, thence along U.S. Highway 77 to junction Texas Highway 111, thence along Texas Highway 111 to junction Texas Highway 172, thence along Texas Highway 172 to its terminus at Olviva, Tex., on the Gulf of Mexico; (c) Between Postell, N.C., and its commercial zone, on the one hand, and, on the other, points in Vermont, on and north of a line beginning at the Vermont-New York State line, thence along U.S. Highway 2 to junction Vermont Highway 78, thence along Vermont Highway 78 to junction Vermont Highway 105, thence along Vermont Highway 105 to junction Vermont Highway 105A, thence along Vermont Highway 105A to the United States-Canadian border; (d) between points in North Carolina on and west of a line beginning at and including Washington, N.C., thence along U.S. Highway 17 to junction North Carolina Highway 125, thence along North Carolina Highway 125 to junction U.S. Highway 301, thence along U.S. Highway 301 to the North Carolina-Virginia State line, on the one hand, and, on the other, points in Wisconsin on, north, and west of a line beginning at and including Sheboygan, Wisc., thence along Wisconsin Highway 23 to junction U.S. Highway 151, thence along U.S. Highway 151 to the junction of U.S. Highway 51 to the Wisconsin-Illinois State line; (17) (a) between points in North Dakota on, west, and north of a line beginning at the South Dakota-North Dakota State line, thence along North Dakota Highway 8 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction North Dakota Highway 27, thence along North Dakota Highway 27 to junction North Dakota Highway 23, thence along North Dakota Highway 23 to junction U.S. Highway 83, thence along U.S. Highway 83 to junction North Dakota Highway 256, thence along North Dakota Highway 256 to the United States-Canadian border, on the one hand, and, on the other, points in West Virginia on and south of a line beginning at the Kentucky-West Virginia State line, thence along U.S. Highway 60 to junction Interstate Highway 64, thence along Interstate Highway 64 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction West Virginia Highway 16, thence along West Virginia Highway 16 to junction West Virginia Highway 39, thence along West Virginia Highway 39 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction West Virginia Highway 41, thence along West Virginia Highway 41 to junction West Virginia Highway 20, thence along West Virginia Highway 20 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction U.S. Highway 33, thence along U.S. Highway 33 to the West Virginia-Virginia State line; (18) (a)

(b) Between Fortuna, N. Dak., and its commercial zone, on the one hand, and, on the other, points in Pennsylvania on, south, and east of a line beginning at the Delaware-Pennsylvania State line, thence along Pennsylvania Highway 82 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 202, thence along U.S. Highway 202 to junction Interstate Highway 276, thence along Interstate Highway 276 to junction U.S. Highway 1, thence along U.S. Highway 1 to the Pennsylvania-New Jersey State line; (c) between points in North Dakota on and west of a line beginning at the North Dakota-South Dakota State line, thence along North Dakota Highway 8 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction U.S. Highway 85, thence along U.S. Highway 85 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction North Dakota Highway 8, thence along North Dakota Highway 8 to junction North Dakota Highway 5, thence along North Dakota Highway 5 to junction North Dakota Highway 256, thence along North Dakota Highway 256 to the United States-Canadian border, on the one hand, and, on the other, points in Rhode Island; (d) between points in North Dakota on, north, and west of a line beginning at the United States-Canadian border, thence along North Dakota Highway 256 to junction U.S. Highway 83, thence along U.S. Highway 83 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction North Dakota Highway 8, thence along North Dakota Highway 8 to junction North Dakota Highway 23, thence along North Dakota Highway 23 to junction U.S. Highway 85, thence along U.S. Highway 85 to the North Dakota-South Dakota State line, on the one hand, and, on the other, points in Virginia.

(e) Between points in North Dakota on and west of a line beginning at the North Dakota-South Dakota State line, thence along North Dakota Highway 6 to Bismarck, N. Dak., thence along U.S. Highway 83 to junction North Dakota Highway 256, thence along North Dakota Highway 256 to the United States-Canadian border, on the one hand, and, on the other, points in West Virginia on and south of a line beginning at the Kentucky-West Virginia State line, thence along U.S. Highway 60 to junction Interstate Highway 64, thence along Interstate Highway 64 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction West Virginia Highway 16, thence along West Virginia Highway 16 to junction West Virginia Highway 39, thence along West Virginia Highway 39 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction West Virginia Highway 41, thence along West Virginia Highway 41 to junction West Virginia Highway 20, thence along West Virginia Highway 20 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction U.S. Highway 33, thence along U.S. Highway 33 to the West Virginia-Virginia State line; (18) (a)







east of a line beginning at the Indiana-Kentucky State line, thence along U.S. Highway 41 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction U.S. Highway 641, thence along U.S. Highway 641 to the Kentucky-Tennessee State line, on the one hand, and, on the other, points in Colorado; (c) between points in Kentucky on and east of a line beginning at the Kentucky-Tennessee State line, thence along U.S. Highway 41A to the junction of Kentucky Highway 85, thence along Kentucky Highway 85 to junction Kentucky Highway 81, thence along Kentucky Highway 81 to junction U.S. Highway 431, thence along U.S. Highway 431 to the Indiana-Kentucky State line, on the one hand, and, on the other, points in Kansas; (d) between points in Kentucky on, north, and east of a line beginning at the Kentucky-Indiana State line, thence along U.S. Highway 41 to junction U.S. Highway 62, thence along Kentucky Highway 176, thence along Kentucky Highway 176 to junction U.S. Highway 431, thence along U.S. Highway 431 to junction Kentucky Highway 80, thence along Kentucky Highway 80 to the Virginia-Kentucky State line, on the one hand, and, on the other, points in Mississippi; (e) between points in Kentucky on and south of a line beginning at the Kentucky-Tennessee State line, thence along U.S. Highway 31W to the junction of Kentucky Highway 80, thence along Kentucky Highway 80 to junction Kentucky Highway 30, thence along Kentucky Highway 30 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction U.S. Highway 119, thence along U.S. Highway 119 to the Kentucky-West Virginia State line, on the one hand, and, on the other, points in Missouri; (f) between points in Kentucky on and east of a line beginning at the Kentucky-Tennessee State line, thence along U.S. Highway 41A to junction Kentucky Highway 85, thence along Kentucky Highway 85 to junction Kentucky Highway 81, thence along Kentucky Highway 81 to junction U.S. Highway 431, thence along U.S. Highway 431 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Kentucky-Indiana State line; and all points on, west, and north of a line beginning at the Kentucky-Tennessee State line, thence along U.S. Highway 127 to junction Kentucky Highway 90, thence along Kentucky Highway 90 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction Kentucky Highway 80, thence along Kentucky Highway 80 to junction Kentucky Highway 15, thence along Kentucky Highway 15 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction U.S. Highway 23, thence along U.S. Highway 23 to the Kentucky-Virginia State line, on the one hand, and, on the other, points in Louisiana; (g) between points in Kentucky on and east of a line beginning at the Kentucky-Indiana State line, thence along U.S. Highway 41 to junction U.S. Highway 41A, thence along U.S. Highway 41A to the Kentucky-Tennessee State line, on the one hand, and, on the other,

points in Oklahoma; and (h) between points in Kentucky on and east of a line beginning at the Kentucky-Tennessee State line, thence along U.S. Highway 41A to junction U.S. Highway 41, thence along U.S. Highway 41 to the Kentucky-Tennessee State line, on the one hand, and, on the other, points in Texas. The purpose of this filing is to eliminate the gateways of Logan County, Ky., and Muhlenberg County, Ky.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-13507 Filed 5-21-75; 8:45 am]

[Notice 293]

#### MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

MAY 22, 1975.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before June 11, 1975. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-35466. By order entered May 16, 1975 the Motor Carrier Board approved the lease to Wilton E. Taylor, doing business as Gene Taylor Heavy Hauling, Mesquite, Tex., for a period of five years of the operating rights set forth in Certificate of Registration No. MC-99850 (Sub-No. 2), issued September 8, 1965, in the name of Dallas Thompson, and acquired by Texas Steel Culver Company, Inc., Arlington, Tex., pursuant to No. MC-FC-73359, approved April 24, 1972, and consummated March 31, 1972, evidencing a right to engage in transportation, in interstate or foreign commerce, of various specified commodities, between points in Texas. M. Ward Bailey, Continental Life Bldg., Fort Worth, Tex. 76102, attorney for applicants.

No. MC-FC-75493. By order of May 15, 1975 the Motor Carrier Board approved the transfer to Collins Moving Systems, Inc., Kokomo, Ind., of the operating rights in Certificate No. MC-102679 (Sub-No. 2) issued May 8, 1972 to Lambert's Moving & Storage, Inc., Connersville, Ind., authorizing the transportation of household goods between

points in Indiana, on the one hand, and, on the other, points in Illinois, Kentucky, Michigan and Ohio. Walter F. Jones, Jr., 601 Chamber of Commerce Bldg., Indianapolis, Ind. 46204, attorney for applicants.

No. MC-FC-75756. By order of May 16, 1975, the Motor Carrier Board approved the transfer to Regional Transportation District, a political subdivision of the State of Colorado, Denver, Colo., of the operating rights in Certificates Nos. MC-57250 (Sub-No. 1) and MC-57250 (Sub-No. 3) issued January 7, 1949, and September 4, 1952, respectively, to Denver-Boulder Bus Company, a corporation, Denver, Colo., authorizing the transportation of passengers and their baggage, and express, mail and newspapers in the same vehicle with passengers, over described regular routes between Boulder, Colo., and Denver, Colo., serving all intermediate points. Leonard M. Campbell, 1900 Security Life Building, Denver, Colo. 80202 Attorney for applicants.

No. MC-FC-75813. By order of May 16, 1975 the Motor Carrier Board approved the transfer to O'Brien's Brokerage Company, Inc., Las Vegas, Nev., of License No. MC-12555 issued December 15, 1952 to Harry Armstrong O'Brien, doing business as O'Brien's Transfer & Storage Co., Las Vegas, Nev., authorizing it to engage in operations as a broker of household goods between Reno, Nev. and points within 100 miles thereof, on the one hand, and, on the other, points in the United States, including the District of Columbia. Maxwell A. Howell, 1511 K St., N.W., Washington, D.C. 20005 Attorney for applicants.

No. MC-FC-75817. By order of May 16, 1975, the Motor Carrier Board approved the transfer to Coppes Transfer, Inc., Yarmouth, Iowa, of the operating rights in Certificates Nos. MC-78644 and MC-78644 (Sub-No. 2) issued February 18, 1958, and April 30, 1962, respectively, to Milo F. Coppes, doing business as Coppes Transfer, Yarmouth, Iowa, authorizing the transportation of livestock and agricultural commodities, from Yarmouth, Iowa, to Chicago, Ill., serving intermediate and off-route points within 15 miles of Yarmouth and the off-route point of Forest Park, Ill.; mill feed, building materials, farm hardware, farm machinery, and farm supplies, from Chicago, Ill., to Yarmouth, Iowa, serving the same intermediate and off-route points as described above; livestock, from Yarmouth, Iowa, to Galesburg, Ill., and from Yarmouth, Iowa, to Peoria, Ill.; livestock and feed, between New London, Iowa, and Galesburg, Ill., and between New London, Iowa, and Peoria, Ill.; coal, from points in Tazewell, Peoria, and Knox Counties, Ill., to Yarmouth, Iowa, and points within 15 miles of Yarmouth, and fertilizer, in bags, from Streator, Ill., to points in a described area of Iowa. Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, Iowa 52501, Registered Practitioner for applicants.

No. MC-FC-75822. By order of May 16, 1975 the Motor Carrier Board approved

the transfer to John L. Caldwell, San Diego, Calif., of Certificate of Registration No. MC-121227 (Sub-No. 1) issued July 27, 1965 to California Rapid Transfer, Inc., Lemon Grove, California, evidencing a right to engage in transportation in interstate commerce as in Decision No. 67209 by the Public Utilities Commission of the State of California. David P. Christianson, 606 Olive St., #825, Los Angeles, Calif. 90014, attorney for applicants.

No. MC-FC-75823. By order entered May 16, 1975 the Motor Carrier Board approved the transfer to John D. Whitmore, doing business as Moapa Valley Freight & Passenger Service, Overton, Nev., of the operating rights set forth in Certificate of Registration No. MC-97515 (Sub-No. 1), issued June 5, 1964, to Dennis B. Whitmore, doing business as Moapa Valley Freight and Passenger Service, Overton, Nev., evidencing a right to engage in transportation in interstate or foreign commerce of commodities generally, between Las Vegas, Nev., and Overton Beach, Nev., over specified routes, and between Overton, Nev., and a 45-mile radius of Overton, Nev., with exceptions. Lee E. Walker, 319 S. Third St., Las Vegas, Nev. 89101, attorney for applicants.

No. MC-FC-75825. By order of May 16, 1975 the Motor Carrier Board approved the transfer to Thrifty Tours, Inc., Washington, D.C., of License No. MC-12660 issued January 31, 1958 to Marie Emelia Reeves, doing business as Thrifty Tours, Washington, D.C., authorizing it to engage in operations as a broker of passengers and their baggage, in charter operations, from points in Kentucky, Ohio, New York and Pennsylvania, with certain exceptions and Buckingham, Herndon, and Vinton, Va., and Atlanta, Ga. to points in the District of Columbia, and return. Daniel B. Johnson, 1329 E St., N.W., Washington, D.C., 20004 Attorney for applicants.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc.75-13501 Filed 5-21-75; 8:45 am]

[Notice No. 40]

#### MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

MAY 16, 1975.

The following applications are governed by Special Rule 1100 247 of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure season-

<sup>1</sup> Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

ably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d) (3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d) (4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and on or before July 21, 1975, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the "Federal Register" of a notice that the proceeding has been assigned for oral hearing.*

Evidence respecting how equipment is expected to be returned to an origin point, as well as other data relating to operational feasibility (including the need for dead-head operations), must be presented as part of an applicant's initial evidentiary presentation (either at oral hearing or in its opening verified statement under the modified procedure) with respect to all applications filed on or after December 1, 1973.

If an applicant states in its initial evidentiary presentation that empty or partially empty vehicle movements will result upon a grant of its application, applicant will be expected (1) to specify the extent of such empty operations, by mileages and the number of vehicles,

that would be incurred, and (2) to designate where such empty vehicle operations will be conducted.

Each applicant (except as otherwise specifically noted) states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 1936 (Sub-No. 43), filed April 18, 1975. Applicant: B & P MOTOR EXPRESS, INC., 720 Gross Street, Pittsburgh, Pa. 15224. Applicant's representative: John A. Vuono, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Plymouth, Mich. as an off-route point in connection with carrier's regular route operations to and from Detroit, Mich.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Detroit, Mich.

No. MC 2202 (Sub-No. 483), filed April 18, 1975. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, P.O. Box 471, Akron, Ohio. 44309. Applicant's representative: William O. Turney, 2001 Massachusetts Ave. N.W., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Stafford, Mo., and Davenport, Iowa; from Stafford, Mo., over Missouri Highway 125 to junction U.S. Highway 65, thence over U.S. Highway 65 to junction Missouri Highway 32, thence over Missouri Highway 32 to junction Missouri Highway 73, thence over Missouri Highway 73 to junction U.S. Highway 54, thence over U.S. Highway 54 to junction Missouri Highway 19, thence over Missouri Highway 19 to junction U.S. Highway 61, thence over U.S. Highway 61 to Davenport, Iowa, and return over the same route, as an alternate route for operating convenience only, serving no intermediate points, restricted against the transportation of traffic originating at or destined to points in Missouri and points in the St. Louis and Kansas City, Missouri commercial zones as defined by the Commission.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 2765 (Sub-No. 32), filed April 16, 1975. Applicant: SQUARE DEAL CARTAGE CO., a Corporation, 13401 Eldon Avenue, Detroit, Mich. 48234. Applicant's representative: Eugene C. Ewald, 100 West Long Lake Road, Suite 102, Bloomfield Hills, Mich. 48013. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Motor vehicles, in



secondary movements, in truckway service, from Albany, N.Y., to points in Indiana and Michigan.

**NOTE.**—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 4405 (Sub-No. 521), filed April 16, 1975. Applicant: DEALERS TRANSPORT, INC., 2209 E. 170th Street, P.O. Box 361, Lansing, Ill. 60438. Applicant's representative: Robert E. Joyner, 3008 Clark Tower, 5100 Poplar Avenue, Memphis, Tenn. 38137. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Anti-pollution equipment and supplies and refuse handling and treatment equipment and supplies, from Washington County, Okla., to points in the United States (except Oklahoma, Alaska, and Hawaii).

**NOTE.**—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Oklahoma City, Okla., or Washington, D.C.

No. MC 5227 (Sub-No. 17), filed April 15, 1975. Applicant: ECONOMY MOVERS, INC., P.O. Box 201, Mead, Nebr. 68041. Applicant's representative: Galfyn L. Larsen, P.O. Box 81849, Lincoln, Nebr. 68601. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Solar heating and cooling systems and related parts and accessories, roofing tile, and insulation, from the plant site and facilities of Mid-America Industries, Inc., located at or near Mead, Nebr., to points in North Dakota, South Dakota, Wyoming, Montana, Colorado, New Mexico, Texas, Oklahoma, Kansas, Missouri, Arkansas, Illinois, Indiana, Iowa, Wisconsin, and Minnesota; (2) equipment, materials and supplies used in the manufacture of the commodities named in part (1) hereof, from points in North Dakota, South Dakota, Montana, Wyoming, Colorado, New Mexico, Texas, Oklahoma, Kansas, Missouri, Arkansas, Illinois, Indiana, Iowa, Wisconsin, and Minnesota, to the plant site and facilities of Mid-America Industries, Inc., located at or near Mead, Nebr.; and (3) polystyrene (except in bulk) from Parsippany, N.J. and Pittsburgh, Pa., to the plant site and facilities of Mid-America Industries, Inc., located at or near Mead, Nebr.

**NOTE.**—If a hearing is deemed necessary, the applicant requests it be held at Lincoln or Omaha, Nebr.

No. MC 6461 (Sub-No. 16), filed April 21, 1975. Applicant: B LINE TRANSPORT CO. INC., 7100 E. Broadway, Spokane, Wash. 99206. Applicant's representative: Max Gray (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Ore and ore concentrate residuals, in bulk, from Kellogg and Snelterville, Idaho to points in Spokane, Stevens, and Pend Oreille Counties, Wash.

**NOTE.**—If a hearing is deemed necessary, the applicant requests it be held at Spokane, Wash.

No. MC 10173 (Sub-No. 17), filed April 7, 1975. Applicant: MARVIN HAYES LINES, INC., P.O. Box 468, Clarksville, Tenn. 37040. Applicant's representative: J. Marvin Hayes, Jr. (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment). (1) Between Guthrie, Ky., and Russellville, Ky.: From Guthrie, Ky., over U.S. Highway 79 to Russellville, and return over the same route; (2) Between the junction of U.S. Highway 41 and Kentucky Highway 181, near Guthrie, Ky., and the junction of Kentucky Highway 181 and U.S. Highway 68, at or near Elkton, Ky.: From junction U.S. Highway 41 and Kentucky Highway 181, near Guthrie, Ky., thence over Kentucky Highway 181 and U.S. Highway 68 near Elkton, and return over the same route; (3) Between Springfield, Tenn., and Russellville, Ky.: From Springfield, over U.S. Highway 431 to Russellville, and return over the same route; (4) Between Springfield, Tenn., and the junction of Tennessee Highway 25 and U.S. Highway 31-W, over Tennessee Highway 49 to junction Tennessee Highway 25, thence over Tennessee Highway 25 to junction U.S. Highway 31-W, thence over U.S. Highway 31-W to junction Tennessee Highway 25, thence over Tennessee Highway 25 to junction U.S. Highway 31-W, and return over the same route; and (5) Between the junction of U.S. Highways 41 and 31-W, near Goodlettsville, Tenn., and Louisville, Ky., over U.S. Highway 31-W, from the junction of U.S. Highways 41 and 31-W near Goodlettsville, Tenn., and Louisville, Ky., over U.S. Highway 31-W, and return over the same route, serving the junction of Tennessee Highway 25 and U.S. Highway 31-W for jointer purposes only with alternate route (4) above. (1) through (5) above as alternate routes for operating convenience only, serving no intermediate points, in connection with carrier's presently authorized regular route operations in MC 10173 and Sub-Nos. 10 and 12.

**NOTE.**—If a hearing is deemed necessary, the applicant requests it be held at Nashville, Tenn.

No. MC 22195 (Sub-No. 162), filed April 10, 1975. Applicant: DAN DUGAN TRANSPORT COMPANY, a Corporation, 41st & Grange Avenue, Sioux Falls, S. Dak. 57106. Applicant's representative: Fred Fischer (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Anhydrous ammonia, in bulk, in tank vehicles, from Polk, Red Lake, Pennington, and Marshall Counties, Minn., to points in North Dakota and South

Dakota; and (2) residual fuel oil, in bulk, those in tank vehicles, from Dickinson, N. Dak., to points in Minnesota and to points in South Dakota south and east of a line extending from the Wyoming-South Dakota State line along U.S. Highway 14 through Rapid City, Pierre, and Westminster to junction U.S. Highway 281, thence along U.S. Highway 281 through Redfield and Aberdeen to the South Dakota-North Dakota State line.

**NOTE.**—If a hearing is deemed necessary, the applicant requests it be held at either Fargo, or Bismarck, N. Dak.

No. MC 22229 (Sub-No. 160), filed April 14, 1975. Applicant: TERMINAL TRANSPORT COMPANY, INC., 248 Chester Avenue, SE, Atlanta, Ga. 30316. Applicant's representative: Harold H. Clokey, 1740 The Equitable Building, Atlanta, Ga. 30303. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plant site and facilities of Owens Illinois, Inc., at or near Streator, (La Salle County), Ill., as an off-route point in connection with carrier's otherwise authorized regular route operations between Chicago, Ill. and St. Louis, Mo., and between Rock Island and Chicago, Ill.

**NOTE.**—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or Washington, D.C.

No. MC 26307 (Sub-No. 20), filed April 17, 1975. Applicant: FREDRICKSON MOTOR EXPRESS CORPORATION, 3406 N. Graham St., P.O. Box 21099, Charlotte, N.C. 28206. Applicant's representative: Thomas D. Bunn, P.O. Box 527, Raleigh, N.C. 27602. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) Between Elkin, N.C. and the junction of U.S. Highway 21 and the Virginia-North Carolina State Boundary line: From Elkin over U.S. Highway 21 to the Virginia-North Carolina State line, and return over the same route, serving all intermediate points; (2) Between Mt. Airy, N.C. and the junction of North Carolina Highway 89 and the Virginia-North Carolina State Boundary line: From Mt. Airy over North Carolina Highway 89 to the Virginia-North Carolina State Boundary line, and return over the same route, serving all intermediate points; (3) Between the junction of U.S. Highway 601 and North Carolina Highway 268 and North Carolina Highway 268 to North Wilkesboro, and return over the same route, serving all intermediate points;

(4) Between North Wilkesboro, N.C. and North Wilkesboro, N.C.: From North Wilkesboro over U.S. Highway 421 to Boone, N.C., thence over North Carolina Highway 194 to junction U.S. Highway 221, thence over U.S. Highway 221 to Jefferson, N.C., thence over North Carolina Highway 18 to North Wilkesboro, and return over the same route, serving all intermediate points.

(5) Between Lenoir, N.C. and Boone, N.C.: From Lenoir over U.S. Highway 321 to Boone, and return over the same route, serving all intermediate points; (6) Between North Wilkesboro, N.C. and the junction of North Carolina Highway 18 and North Carolina Highway 89: From North Wilkesboro over North Carolina Highway 18 to junction North Carolina Highway 89, and return over the same route, serving all intermediate points; (7) Between North Wilkesboro, N.C. and the junction of North Carolina Highway 268 and U.S. Highway 321: From North Wilkesboro over North Carolina Highway 268 to junction U.S. Highway 321, and return over the same route, serving all intermediate points; (8) Between Jefferson, N.C. and Twin Oaks, N.C.: From Jefferson over U.S. Highway 221 to Twin Oaks, and return over the same route, serving all intermediate points; (9) Between Index, N.C. and Laurel Springs, N.C.: From Index over North Carolina Highway 88 to Laurel Springs, and return over the same route, serving all intermediate points; and (10) Between Winston-Salem, N.C. and North Wilkesboro, N.C.: From Winston-Salem over U.S. Highway 421 to North Wilkesboro, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only.

**NOTE.**—If a hearing is deemed necessary, the applicant requests it be held at Raleigh or Charlotte, N.C.

No. MC 42537 (Sub-No. 53), filed April 21, 1975. Applicant: CASSENS TRANSPORT COMPANY, P.O. Box 468, Edwardsville, Ill. 62025. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Imported automobiles in secondary movements, in truckway service, from Chicago and Naperville, Ill., to points in Wisconsin and Minnesota, restricted to traffic having a prior movement by rail.

**NOTE.**—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Detroit, Mich., or St. Louis, Mo.

No. MC 51146 (Sub-No. 425), filed April 23, 1975. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54304. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Paper and paper products, and materials and supplies used in the manufacture and distribution of paper and paper products, between Crossett, Ark., on the one hand,

and, on the other, points in California, Oregon, Washington, Nevada, Idaho, Utah, Montana, Wyoming, and Colorado.

**NOTE.**—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 60580 (Sub-No. 31), filed April 21, 1975. Applicant: MAISLIN TRANSPORT OF DELAWARE, INC., 7401 Newman Boulevard, LaSalle, Quebec, Canada. Applicant's representative: Edward L. Nehez, 744 Broad Street, Newark, N.J. 07102. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plant site of Western Electric Company at the junction of New York Highway 422 and Maple Street (Elma Township), Erie County, N.Y., as an off-route point in connection with applicant's regular route operations to or from Buffalo, N.Y.

**NOTE.**—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y., Newark, N.J., or Washington, D.C.

No. MC 61396 (Sub-No. 287), filed April 21, 1975. Applicant: HERMAN BROS. INC., P.O. Box 189, Omaha, Nebr. 68101. Applicant's representative: John E. Smith, II (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Inedible tallow, in bulk, in tank vehicles, from the facilities of National By Products, Inc., located at or near LaPlatte, Nebr., to points in Iowa, Kansas, Arkansas, Missouri and Minnesota.

**NOTE.**—If a hearing is deemed necessary, the applicant requests it be held at Omaha, or Lincoln, Nebr.

No. MC 61592 (Sub-No. 350), filed April 10, 1975. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, R.R. 3, Jeffersonville, Ind. 47130. Applicant's representative: E. A. DeVine, P.O. Box 737, 101 First Ave., Moline, Ill. 61265. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Lumber and lumber products, from points in Flathead County, Mont., to points in North Dakota, South Dakota, Minnesota, Wisconsin, Illinois, Indiana, Michigan, Nebraska, Kansas, Missouri, Iowa, Colorado, Texas, Ohio, Utah, and Kentucky.

**NOTE.**—Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority with its lead at points in Cass County, Ind., to serve points in the United States east of the Mississippi River. If a hearing is deemed necessary, the applicant requests it be held at Billings, Mont. or Washington, D.C.

No. MC 64932 (Sub-No. 549), filed April 23, 1975. Applicant: ROGERS CARTAGE CO., 10735 South Cicero Avenue, Oak Lawn, Ill. 60453. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Au-

thority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquid chemicals, in bulk, in tank vehicles, (1) from Swanton, Ohio, to points in Louisiana, New Jersey, Texas, and West Virginia; (2) from points in Illinois, Kentucky, Louisiana, Michigan, New Jersey, Pennsylvania, Texas, and West Virginia to Swanton, Ohio; (3) from Linden, N.J., to points in Illinois, Kentucky, Louisiana, Pennsylvania, Texas, and West Virginia; and (4) from points in Illinois, Kentucky, Louisiana, Michigan, Pennsylvania, Texas, and West Virginia to Linden, N.J.

**NOTE.**—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 72243 (Sub-No. 50), filed April 24, 1975. Applicant: THE AETNA FREIGHT LINES, INC., P.O. Box 350, Warren, Ohio 44482. Applicant's representative: John P. Carlton, 903 Frank Nelson Bldg., Birmingham, Ala. 35203. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Iron and steel articles, aluminum articles, iron and steel tanks (assembled or knocked down), aluminum tanks (assembled or knocked down), and parts, attachments and accessories for iron and steel and aluminum tanks, from points in Liberty County, Tex., to points in Texas, Louisiana, Arkansas, Missouri, Kansas, Mississippi, Alabama, and Oklahoma.

**NOTE.**—If a hearing is deemed necessary, the applicant requests it be held at either Birmingham, Ala., or Washington, D.C.

No. MC 73165 (Sub-No. 363), filed April 18, 1975. Applicant: EAGLE MOTOR LINES, INC., P.O. Box 11086, Birmingham, Ala. 35202. Applicant's representative: Carl U. Hurst (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Lumber, pallets, poles; and (2) parts, attachments, and accessories, for commodities described in (1) above, from Brenham, Tex., to points in the United States (except Alaska and Hawaii).

**NOTE.**—If a hearing is deemed necessary, the applicant requests it be held at Houston, Tex.

No. MC 73165 (Sub-No. 364), filed April 21, 1975. Applicant: EAGLE MOTOR LINES, INC., P.O. Box 11086, Birmingham, Ala. 35202. Applicant's representative: Carl U. Hurst (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities (except commodities in bulk, household goods as defined by the Commission, articles of unusual value, and Classes A and B explosives), between the Yellow Creek Port Terminal and Industrial area located in Tishomingo County, Miss., on the one hand, and, on the other, points in Mississippi, Tennessee, and Alabama.

**NOTE.**—If a hearing is deemed necessary, the applicant requests it be held at either Birmingham, Ala., or Memphis, Tenn.



No. MC 82492 (Sub-No. 123), filed April 17, 1975. Applicant: MICHEGAN & NEBRASKA TRAMWAY CO., INC., P.O. Box 7653, 2109 Olmstead Road, Kalamazoo, Mich. 49003. Applicant's representative: William C. Harris, P.O. Box 2853, Kalamazoo, Mich. 49003. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such commodities as are manufactured, sold, or distributed by persons engaged in the manufacturing, processing, and milling of grain or grain products, and materials, equipment, and supplies, used in the conduct of such business (except commodities in bulk, and those which because of size or weight require special equipment). (1) between points in Michigan, on the one hand, and, on the other, points in Kentucky, Pennsylvania, Tennessee, and West Virginia; and (2) from points in Indiana, Kentucky, Tennessee, and Ohio, to points in Missouri, Kansas, and Nebraska.

Note.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 88380 (Sub-No. 19), filed April 23, 1975. Applicant: REB TRANSPORTATION, INC., 2400 Cold Springs Road, Fort Worth, Tex. 76106. Applicant's representative: John L. Payne (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Iron and steel articles, aluminum tanks and parts, attachments and accessories for iron and steel tanks and aluminum tanks, between points in Liberty County, Tex., on the one hand, and, on the other, points in Louisiana, Arkansas, Oklahoma, New Mexico, Kansas, Missouri, and Mississippi.

Note.—If a hearing is deemed necessary, the applicant requests it be held at either Birmingham, Ala., or Washington, D.C.

No. MC 93640 (Sub-No. 18), filed April 14, 1975. Applicant: W. W. GLESS, doing business as GLESS BROS., Blue Grass, Iowa 52726. Applicant's representative: James M. Hodge, 1960 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquid animal feed and liquid animal feed supplements, in bulk, from the plant site of Land O'Lakes, Inc., at or near Clarence, Iowa, to points in Illinois, Minnesota, Nebraska, North Dakota, South Dakota, Wisconsin, and Iowa.

Note.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 96855 (Sub-No. 7), filed April 21, 1975. Applicant: REFRIGERATED DELIVERY SERVICE, INC., P.O. Box 50247, Tulsa, Okla. 74150. Applicant's representative: V. Langenberg (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (a) Meats, meat products, dairy products and articles distributed

by meat packinghouses as described in Sections A, B, and C of Appendix I to the report to Descriptions in Motor Carrier Certificates, 61 M.C.C. 200 and 706 (except hides and commodities in bulk); and (b) foodstuffs when moving with commodities described in (a) above, from the plant site and storage facilities of Oscar Mayer & Co., located at or near Sherman, Tex., to points in Oklahoma, and Benton, Crawford, Sebastian, and Washington Counties, Ark., restricted to traffic originating at named origins and destined to the above named destinations.

Note.—If a hearing is deemed necessary, the applicant does not specify a location.

No. MC 99464 (Sub-No. 3), filed April 23, 1975. Applicant: IVAN W. WERNER AND WILLIAM R. DOUGLAS, a partnership doing business as PAWNEE CITY TRANSFER, P.O. Box 327, Pawnee City, Nebr. 68420. Applicant's representative: J. Max Harding, P.O. Box 87028, Lincoln, Nebr. 68501. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), serving the off-route points of Verdon, Dawson, and Falls City, Nebr., in connection with applicant's existing regular-route operations between Pawnee City and Omaha, Nebr.

Note.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 99610 (Sub-No. 19), filed April 21, 1975. Applicant: ROSS NEELY EXPRESS, INC., 1500 Second Street, Pratt City, Birmingham, Ala. 36214. Applicant's representative: Edward G. Villalon, Suite 1032, Pennsylvania Building, Pennsylvania Ave. & 13th Street NW, Washington, D.C. 20004. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities requiring special equipment, and commodities in bulk in tank vehicles). (1) Between Centre, Ala., and Rome, Ga.: From Centre over Alabama Highway 9 to the Alabama-Georgia state line, thence over Georgia Highway 20 to Rome, Ga., and return over the same route, serving all intermediate points; (2) Between Centre, Ala., and Atlanta, Ga., serving all points within 15 miles of Atlanta, Ga., as off-route points; From Centre over U.S. Highway 411 to the junction of U.S. Highway 411 and U.S. Highway 41, thence over U.S. Highway 41 to Marietta, Ga., thence over Interstate Highway 75 to Atlanta, Ga., and return over the same route, serving all intermediate points between Centre, Ala., and Rome, Ga., and serving all points within 15 miles of Atlanta, Ga., as off-route points; (3) Between Gadsden, Ala., and Atlanta, Ga., serving all points within 15 miles of Atlanta, Ga., as off-route points; From

Gadsden over U.S. Highway 411 to the junction of U.S. Highway 411 and U.S. Highway 41, thence over U.S. Highway 41 to Marietta, Ga., thence over Interstate Highway 75 to Atlanta, Ga., and return over the same route, serving all intermediate points between Gadsden, Ala., and Atlanta, Ga., and serving all points within 15 miles of Atlanta, Ga., as off-route points; (4) Between Gadsden, Ala., and Atlanta, Ga.: From Gadsden over U.S. Highway 278 to Atlanta, and return over the same route, serving all intermediate points in Alabama.

(5) Between the junction of U.S. Highway 78 and U.S. Highway 431, in Alabama, and Atlanta, Ga.: From the junction of U.S. Highway 78 and U.S. Highway 431, in Alabama, over U.S. Highway 78 to Atlanta, Ga., and return over the same route, serving all intermediate points in Alabama; (6) Between the junction of Interstate Highway 20 and U.S. Highway 431 in Alabama, and Atlanta, Ga.: From the junction of Interstate Highway 20 and U.S. Highway 431, in Alabama, over Interstate Highway 20 to Atlanta, Ga., and return over the same route, serving all intermediate points in Alabama; and (7) Between the junction of U.S. Highway 29, and Interstate Highway 85, in Alabama, and Atlanta, Ga.: From the junction of U.S. Highway 29 and Interstate Highway 85, in Alabama, over Interstate Highway 85 to Atlanta, Ga., and return over the same route, serving all intermediate points in Alabama; and serving as off-route points in connection with (3) thru (7) above those points in Alabama not on applicant's existing regular routes north of the southern boundaries of Russell, Bullock, Pike, Crenshaw, Butler, Wilcox, Clarke, and Choctaw Counties, Ala.; and also serving points in Mobile County, Ala., and Dothan and Andalusia, Ala.; and serving points in that part of Baldwin County, Ala., in a territory beginning at Stockton, Ala., thence south along Alabama Highway 59 to junction Baldwin County Highway 64; thence in a westerly direction along Baldwin County Highway 64 to junction Baldwin County Highway 27; thence in a southerly direction along Baldwin County Highway 27 to junction U.S. Highway 98, thence west and north along U.S. Highway 98 to junction Baldwin-Mobile County line to the closest point in Chastang, Ala.; thence over an imaginary line from Chastang to Stockton, Ala., on the one hand, and, on the other, all points in Alabama north of the southern boundaries of Russell, Bullock, Pike, Crenshaw, Butler, Wilcox, Clarke, and Choctaw Counties, Ala.

Note.—If a hearing is deemed necessary, the applicant requests it be held at both Birmingham, Ala., and Atlanta, Ga.

No. MC 102567 (Sub-No. 185) (Correction), filed March 27, 1975, published in the *Federal Register* issue of May 1, 1975, and republished, as corrected this issue. Applicant: McNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Box 5357, Bozler City, La. 71010. Applicant's representative: Joe C. Day, 2040 N. Loop West,

Suite 200, Houston, Tex. 77011. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Water based paint, paints, stains, or varnishes, from Celotex Corporation located at Macon, La., to the Celotex Corporation located at Paris, Texas; (2) Blackstrap molasses mixed with not to exceed 10% urea, and with or without not to exceed 6% of other ingredients, from Greina, La., to points in Alabama, Florida, Georgia, Arkansas, and Mississippi; and (3) Petroleum products, from Norphlet, Ark., to Bowmanville, N.Y., all in bulk, in tank vehicles.

Note.—The purpose of this republication is to correct the spelling of Bowmanville, N.Y. If a hearing is deemed necessary, the applicant requests it be held at either New Orleans, La., or Dallas, Tex.

No. MC 102567 (Sub-No. 187), filed April 17, 1975. Applicant: McNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bozler City, La. 71010. Applicant's representative: Joe E. Shaw, 815 Houston First Savings Bldg., 711 Fannin St., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Petroleum products (except liquefied petroleum gas), in bulk, in tank vehicles, from Cotton Valley, La., to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Pennsylvania.

Note.—If a hearing is deemed necessary, the applicant requests it be held at either Houston or Dallas, Tex., or New Orleans, La.

No. MC 103051 (Sub-No. 343), filed April 17, 1975. Applicant: FLEET TRANSPORT COMPANY, INC., 834 44th Ave. North, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Paint, in bulk, in tank vehicles, from Tucker, Ga., to Cleveland, Tenn.

Note.—Dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Atlanta, Ga.

No. MC 103496 (Sub-No. 44), filed April 14, 1975. Applicant: W. D. SMITH TRUCK LINE, INC., P.O. Drawer C, DeQueen, Ark. 71832. Applicant's representative: Bruce J. Kianee (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities, in containers, between Laredo, Tex., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to traffic having a prior or subsequent movement in foreign commerce.

Note.—If a hearing is deemed necessary, the applicant requests it be held at San Antonio, Tex.

No. MC 104580 (Sub-No. 31) (Amendment), filed April 2, 1975, published in the *Federal Register* issue of May 8, 1975, and republished as amended this issue. Applicant: SOUTHERN

FREIGHTWAYS, INC., P.O. Box 371, Ruston, La. 71272. Applicant's representative: David C. Venable, Suite 605, 606 Seventh Street NW, Washington, D.C. 20004. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Such commodities as are used in or used by wholesale floor-covering and appliance distributors (except commodities in bulk), from points in the United States in and east of Minnesota, Iowa, Missouri, Kansas, Oklahoma, and Texas, to points in Florida, under a continuing contract, or contracts, with Cain & Bultman, Inc.

Note.—This amendment substantially broadens applicant's origin territory. No duplicating authority is sought and applicant indicates that it will surrender its authority in Sub-No. 36 simultaneously with the issuance of the permit sought in this proceeding. If a hearing is deemed necessary, applicant requests it be held at either Jacksonville, or Orlando, Fla.

No. MC 105733 (Sub-No. 52), filed April 21, 1975. Applicant: H. R. RITTER TRUCKING CO., INC., 928 East Hazlewood Ave., Rahway, N.J. 07065. Applicant's representative: Chester A. Zylhet, 1523 K Street, NW, Washington, D.C. 20005. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquefied petroleum gas, in bulk, in tank vehicles, from Portsmouth and Newington, N.H., to points in Maine, New Jersey, Pennsylvania, and Vermont.

Note.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y., or Washington, D.C.

No. MC 106644 (Sub-No. 206), filed April 21, 1975. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. Box 918, Atlanta, Ga. 30301. Applicant's representative: W. Randall Tye, 1500 Candler Bldg., Atlanta, Ga. 30303. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies, moving in connection therewith, from the plant site of Grove Mfg. Co., at or near Shady Grove, Pa., to points in the United States (including Alaska, but excluding Hawaii).

Note.—If a hearing is deemed necessary, the applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 107403 (Sub-No. 940), filed April 22, 1975. Applicant: MTLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquefied petroleum gas, in bulk, in tank vehicles, (1) from points in Escambia County, Ala., to points in Florida, Georgia, Louisiana, and Mississippi; and (2) from points in Santa Rosa County, Fla., to points in Alabama, Georgia, Louisiana and Mississippi.

Note.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107403 (Sub-No. 939), filed April 21, 1975. Applicant: MTLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquid chemicals, in bulk, in tank vehicles, from the plant site of Dow Corning Corporation located at Carrolton, Ky., to points in Alabama, Arizona, Arkansas, California, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Mississippi, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, West Virginia, and Wisconsin, restricted to traffic originating at the named plantsites and destined to the named destinations.

Note.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Houston, Tex., or Denver, Colo.

No. MC 108044 (Sub-No. 207), filed April 21, 1975. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. Box 916, Atlanta, Ga. 30318. Applicant's representative: W. Randall Tye, 1500 Candler Building, Atlanta, Ga. 30303. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Tapers, water cooling, air conditioner, with or without blowers or fans; and (2) sheet steel thicker than 20 gauge or steel and wood combined, from the plant site of Baltimore Aircraft Company, Inc., located at or near Millford, Del., to points in Florida, Georgia, South Carolina, North Carolina, Alabama, Tennessee, Mississippi, Louisiana, Arkansas, Texas, New Mexico, Oklahoma, Kansas, and Nebraska.

Note.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Atlanta, Ga.

No. MC 107403 (Sub-No. 939), filed April 21, 1975. Applicant: MTLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquid chemicals, in bulk, in tank vehicles, from the plant site of Dow Corning Corporation located at Carrolton, Ky., to points in Alabama, Arizona, Arkansas, California, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Mississippi, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, West Virginia, and Wisconsin, restricted to traffic originating at the named plantsites and destined to the named destinations.

Note.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 108415 (Sub-No. 2), filed April 10, 1975. Applicant: NEW ENGLAND EXPOSIVES CORPORATION, 340 Washington Street, Keene, N.H. 03821. Applicant's representative: Bentley H. Kay, P.O. Box 217, Keene, N.H. 03821. Authority sought to operate as a contract carrier, by motor vehicle, over



irregular routes, transporting: Explosives, between Keene, N.H., on the one hand, and, on the other, points in New York, under contract with Trojan-U.S. Powder, Div. Commercial Solvents Corp.

Note.—If a hearing is deemed necessary, applicant requests it be held at Concord, N.H.

No. MC 110420 (Sub-No. 733) (CORRECTION), filed March 24, 1975, published in the FEDERAL REGISTER issue of April 17, 1975, and republished as corrected in part this issue. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: John Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW., Washington, D.C. 20004. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Fusul oil*, in bulk, in tank vehicles, from Lawrenceburg, Ind., to the plantsite and warehouse facilities of Northern Chemical Co., located at West Chicago, Ill.

Note.—The purpose of this republication is to indicate that applicant seeks to transport fusul oil in lieu of fuel oil which was previously published in error. Parts (2) and (3) of the previous publication remain as previously noticed. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 111401 (Sub-No. 447), filed April 24, 1975. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Alvin J. Meiklejohn, Jr., Suite 1600 Lincoln Center, 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, from Carlsbad, N. Mex., to points in Arizona, Oklahoma, Colorado, California, Texas, and Louisiana.

Note.—If a hearing is deemed necessary, applicant requests it be held at either Santa Fe or Albuquerque, N. Mex.

No. MC 112304 (Sub-No. 99), filed April 23, 1975. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, Ohio 45223. Applicant's representative: John D. Herbert (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Pipe, conduit aluminum products, and extrusions* (except commodities in bulk), from Phoenix, Ariz., Winton and Burlington, N.C., to points in the United States (except Alaska and Hawaii).

Note.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 112304 (Sub-No. 98), filed April 18, 1975. Applicant: ACE DORAN HAULING & RIGGING CO., a Corporation, 1601 Blue Rock Street, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor

vehicle, over irregular routes, transporting: (1) *Commodities*, the transportation of which, because of size or weight, requires special handling and the use of special equipment; and (2) *self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted to commodities which are transported on trailers, between points in Pennsylvania on and west of U.S. Highway 15 on the one hand, and, on the other, points in Illinois and Wisconsin.

Note.—Common control may be involved. The purpose of this filing is to eliminate the gateway of Ohio at any point. Applicant presently holds authority in MC 112304 Subs 1 and 5 to perform the service proposed by tacking at any point in the state of Ohio. Such tacking does not involve any circuitry whatsoever. Through inadvertence, this service was not included in the letter-notice filed with the Commission pursuant to *Ex Parte MC 55, Sub 3, Gateway Eliminations*, 119 M.C.C. 530. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 112822 (Sub-No. 372), filed April 14, 1975. Applicant: BRAY LINES INCORPORATED, a Corporation, 1401 North Little Street, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Charles D. Midkiff (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Machine parts, packaging supplies, pallets, ingredients* utilized in the manufacturing and processing of dairy products, between Green Bay, Wisc., Logan, Utah, Carthage and Monett, Mo., restricted to traffic originating at the plant site and storage facilities of L. D. Schreiber Cheese Co., Inc. and destined to the above named points.

Note.—If a hearing is deemed necessary, applicant requests it be held at either Chicago, Ill., or Minneapolis, Minn.

No. MC 113362 (Sub-No. 287), filed April 21, 1975. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, Iowa 50533. Applicant's representative: Raymond W. Ellsworth, P.O. Box 227, Seneca, Pa. 16346. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Canned puddings, powdered milk, butter, and sauces*, from Eau Claire and Reedsburg, Wis., to points in Northumberland County, Pa.

Note.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 113495 (Sub-No. 69), filed April 15, 1975. Applicant: GREGORY HEAVY HAULERS, INC., 51 Oldham Street, Nashville, Tenn. 37206. Applicant's representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Self-propelled draglines, shovels and drills, and accessories, attachments, and parts*, for self-propelled draglines, shovels and

drills; (2) *materials, equipment, and supplies*, used or useful in the manufacture, sale, and distribution of the commodities in (1) above, between points in the United States, including Alaska, but excluding Hawaii, restricted to shipments originating at or destined to the plants, warehouses, storage and other facilities owned, operated or used by Marion Power Shovel Company, Inc.

Note.—If a hearing is deemed necessary, the applicant requests it be held at either Columbus, Ohio or Washington, D.C.

No. MC 114045 (Sub-No. 420), filed April 14, 1975. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 5842, Dallas, Tex. 75222. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Drugs, and toilet preparations*, from Cranbury, N.J., to points in Texas, California and Oklahoma.

Note.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C. or New York, N.Y.

No. MC 114045 (Sub-No. 421), filed April 18, 1975. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 5842, Dallas, Tex. 75222. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Acids, chemicals, and drugs or medicines*, from Phillipsburg, N.J., to points in California, Oklahoma, Louisiana, and Texas.

Note.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Philadelphia, Pa. or Washington, D.C.

No. MC 114194 (Sub-No. 181), filed April 23, 1975. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, Ill. 62201. Applicant's representative: Ernest A. Brooks, II, 1301-02 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Liquid yeast*, in bulk, in tank vehicles, from Ft. Wayne, Ind. and St. Louis, Mo., to Columbus, Ohio; (2) *foundry molding sand treating compound and foundry sand*, in bulk, from the plantsite of American Colloid Company located near Granite City, Ill., to points in Alabama, Arkansas, Michigan, Minnesota, Mississippi, Nebraska, Tennessee, and Texas; (3) *flour*, in bulk, from the plantsite of Peavey Company at Alton, Ill., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, and Wisconsin; (4) *oleo-margarine, shortening, salad oils, animal fats and oils and refined vegetable oils*, in bulk, in tank vehicles, from St. Louis, Mo., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas; and (5) *animal fats and oils and vegetable oils*, in bulk, in tank vehicles, from points in the United States in and east

of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, to St. Louis, Mo.

Note.—If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo. or Chicago, Ill.

No. MC 114789 (Sub-No. 467), filed April 24, 1975. Applicant: MATRONWELL CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Donald L. Stern, 330 Univac Bldg., 7100 West Center Road, Omaha, Neb. 68108. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by discount and variety stores* (except foodstuffs and commodities in bulk), from Savannah, Ga., to points in Illinois, Iowa, Minnesota, Missouri, and Wisconsin, under contract with S. S. Kresge Company, restricted to traffic originating at named origin, and to the facilities of S. S. Kresge Company, at points in the named destination states.

Note.—Applicant holds common carrier authority in MC 117000 and asks thereunder, therefore that operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Chicago, Ill.

No. MC 114979 (Sub-No. 46), filed April 18, 1975. Applicant: BULK CARRIERS LIMITED, a Corporation, Box 10, Cooksville Post Office, Mississauga, Ontario, Canada L5A 2W7. Applicant's representative: Robert D. Schuler, 100 West Long Lake Road, Suite 102, Bloomfield Hills, Mich. 48301. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Tri-sodium phosphate, dry*, in bulk, in dump vehicles, between Joliet and Chicago Heights, Ill., on the one hand, and, on the other, the ports of entry on the International Boundary line between the United States and Canada located on the St. Clair and Detroit Rivers, restricted to traffic having a prior or subsequent movement in foreign commerce.

Note.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 115331 (Sub-No. 391), filed April 14, 1975. Applicant: TRUCK TRANSPORT INCORPORATED, a Corporation, 29 Clayton Hills Lane, St. Louis, Mo. 63131. Applicant's representative: J. R. Ferris, 239 St. Clair Avenue, East St. Louis, Ill. 62201. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Adhesives, beverages, flour, foodstuffs* (except frozen foodstuffs, meats, and packinghouse products), *gluten, grain products, starch, and spirits*, (except commodities in bulk); and (2) *ingredients of the commodities named in (1) above*, (except commodities in bulk), between points in Atchison County, Kans., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

Note.—If a hearing is deemed necessary, applicant requests it be held at either St. Louis or Kansas City, Mo.

No. MC 115331 (Sub-No. 392), filed April 21, 1975. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, Mo. 63131. Applicant's representative: J. R. Ferris, 239 St. Clair Avenue, East St. Louis, Ill. 62201. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Foundry molding sand treating compound, and foundry sand*, in bulk, from the plantsite of American Colloid Company, located near Granite City, Ill., to points in Alabama, Mississippi, Nebraska, Minnesota, Michigan, Tennessee, Texas, and Arkansas; and (2) *trace minerals, and pigments*, in containers, from points in Sangamon County, Ill., to points in Alabama, Arkansas, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, New Mexico, Oklahoma, South Dakota, Tennessee, Texas, Wisconsin, Indiana, Michigan, Pennsylvania, West Virginia, and Ohio.

Note.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or St. Louis, Mo.

No. MC 115841 (Sub-No. 501) (correction), filed March 18, 1975, and republished this issue. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., Suite 200, 805 Vulcan Road, P.O. Box 16527, Birmingham, Ala. 35202. Applicant's representative: Roger M. Shaner (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Swiss cheese* (except commodities in bulk), from Owensboro, Ky., to points in the United States (except Alaska, Hawaii, and Kentucky), restricted to traffic originating at the plantsite and storage facilities of Ragan Foods, and destined to the named destination points.

Note.—The purpose of this republication is to indicate that applicant seeks to transport *unseasoned foodstuffs* in lieu of frozen foodstuffs which was previously published in error. Common control was asserted in MC-F-7804. If a hearing is deemed necessary, applicant requests it be held at either New York, N.Y. or Washington, D.C.

No. MC 115994 (Sub-No. 11), filed April 23, 1975. Applicant: FEDERAK TRUCKING, INC., Lafayette Street, R.D. 2, Tamaqua, Pa. 18252. Applicant's representative: Paul E. Hammerer, 2628 North 19th Street, Allentown, Pa. 18104. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Spent or junk electric storage batteries*, from points in Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, District of Columbia, Ohio, and West Virginia, to Nequehoning, Pa.

Note.—If a hearing is deemed necessary, the applicant requests it be held at either Scranton, Pa. or Philadelphia, Pa.

No. MC 116040 (Sub-No. 22), filed April 21, 1975. Applicant: JAMES ELWOOD QUINN, INC., P.O. Box 136, Bouthville, N.C. 28618. Applicant's representative: Paul M. Dantoff, P.O. Box 972, Atlanta, Ga. 30301. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Window Glass*, from Clarkburg, W. Va., and Kingsport, Tenn., to points in Dade County, Fla.

Note.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Miami, Fla.

No. MC 116300 (Sub-No. 18), filed April 21, 1975. Applicant: NANCE AND COLLINGS, INC., P.O. Drawer J, Fernwood, Miss. 39625. Applicant's representative: Harold D. Miller, Jr., P.O. Box 22567, 700 Petroleum Building, Jackson, Miss. 39205. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Sugar*, in sacks and packages, and commodities, packaged in individual servings, in mixed loads with sugar, from the facilities of Amstar Corporation located at or near Chalmette, La., to points in Florida and Georgia.

Note.—If a hearing is deemed necessary, the applicant requests it be held at either New Orleans, La., or Jackson, Miss.

No. MC 116459 (Sub-No. 55), filed April 24, 1975. Applicant: BUSS TRANSPORT, INC., P.O. Box 4022, Chattanooga, Tenn. 37405. Applicant's representative: Leonard A. Jaskiewicz, Suite 501, 1720 M Street NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Asphalt and asphalt products*, in bulk, in tank vehicles, from Vulcan Materials Company located at Knoxville, Tenn., to points in Kentucky.

Note.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held either at Nashville, Tenn., or Atlanta, Ga.

No. MC 116710 (Sub-No. 19), filed April 7, 1975. Applicant: MISSISSIPPI CHEMICAL EXPRESS, INC., 2001 E. Texas Street, P.O. Box 6176, Bossier City, La. 71010. Applicant's representative: C. L. Laird (same address as applicant). Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Liquid sulfur dioxide*, in bulk, in tank vehicles, from Baton Rouge, La., to points in Colorado, Iowa, Kansas, Kentucky, Missouri, Nebraska, New Jersey, North Carolina, Pennsylvania, and South Carolina, under a continuing contract or contracts with Stauffer Chemical Company, located at Baton Rouge, La.

Note.—If a hearing is deemed necessary, the applicant requests it be held at Shreveport, La., or New Orleans, La.

No. MC 116763 (Sub-No. 313), filed April 18, 1975. Applicant: CARL SUHLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to



operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in or distributed by health and beauty aid distributors and wholesalers*, (1) from the facilities of Supreme Distributors Company, at or near Detroit, Mich., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Minnesota, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia; and (2) from the destination in (1) above, to the facilities of Supreme Distributors, at or near Detroit, Mich., restricted to traffic originating at or destined to the points specified.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Detroit, Mich.

No. MC 117119 (Sub-No. 533), filed April 18, 1975. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Prepared edible flour* (except in bulk), from the plant site of Modern Mald Food Products, Inc. located at or near Evansville, Ind., to points in Colorado, Illinois and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held either at New York, N.Y. or Philadelphia, Pa.

No. MC 117557 (Sub-No. 21), filed April 21, 1975. Applicant: MATSON, INC., P.O. Box 43, Cedar Rapids, Iowa 52408. Applicant's representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Rotor assemblies, parts, attachments, and accessories*, between Bettendorf, Iowa, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or Kansas City, Mo.

No. MC 117940 (Sub-No. 162), filed April 17, 1975. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Salt in packages, pepper in packages, and materials and supplies* used in the agricultural, water treatment, food processing, wholesale grocery, and institutional supply industries in mixed shipments with salt in packages, from the facilities of Morton Salt Company, Division of Morton-Norwich Products, Inc., located

at or near Rittman, Ohio, to points in Connecticut, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont, restricted to traffic originating at the above-named origin point and destined to points in the above named destinations territory.

NOTE.—Applicant holds contract carrier authority in MC 114789 Sub 1 and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Philadelphia, Pa.

No. MC 117940 (Sub-No. 163), filed April 16, 1975. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Salt in packages, pepper in packages, in mixed shipments with salt in packages, and materials and supplies* used in the agricultural, water, treatment food processing, wholesale grocery, and institutional supply industries in mixed shipments with salt in packages, from the facilities of Morton Salt Company, Division of Morton-Norwich Products, Inc., located at or near Silver Springs, N.Y. (Wyoming County, N.Y.), to points in the New York, N.Y., Commercial Zone as defined by the Commission, restricted to traffic originating at the above named origin point and destined to points in the above named destination.

NOTE.—Applicant holds contract carrier authority in MC 114789 Sub 1 and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or Philadelphia, Pa.

No. MC 118989 (Sub-No. 122), filed April 17, 1975. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th Street, Milwaukee, Wis. 53221. Applicant's representative: Albert A. Andrin, 127 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Containers, container ends and closures and materials and supplies* used in the manufacture and distribution of containers and container closures (except commodities in bulk), and scrap metal, between the plant site and facilities of American Can Company at or near Whitehouse, Ohio, on the one hand, and, on the other, points in the United States (except Indiana, Illinois, Missouri, Wisconsin, Kentucky, and West Virginia).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 118989 (Sub-No. 123), filed April 23, 1975. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th Street, Milwaukee, Wis. 53221. Applicant's representative: Robert H. Levy, 29 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Cans and can ends*, from

the plant site and storage facilities of Green Giant Co., at Ripon, Wisc., to Fremont, Mich.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 118989 (Sub-No. 125), filed April 18, 1975. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th Street, Milwaukee, Wis. 53221. Applicant's representative: Robert H. Levy, 29 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Metal containers and metal container ends* (except refuse containers), from Perrysburg, Ohio, to points in Maryland.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 119349 (Sub-No. 5), filed April 14, 1975. Applicant: STARLING TRANSPORT LINES, INC., P.O. Box 1733, Fort Pierce, Fla. 33450. Applicant's representative: Harry C. Ames, Jr., Suite 805, 666 Eleventh Street NW, Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in containers, (1) from Congo, W. Va. and Emlenton, Pa. to points in Florida and Georgia; and (2) from St. Marys, W. Va., and Farmers Valley, Pa. to points in Georgia and points in Florida, north of Levy, Marion, Lake and Volusia Counties, Fla.

NOTE.—Applicant holds contract carrier in MC 133867, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 119531 (Sub-No. 159) (Correction), filed March 28, 1975, published in the FR issue of April 24, 1975 as No. MC 119531 (Sub-No. 155), and republished as reassigned this issue. Applicant: SUN EXPRESS, INC., 1835 West Main Street, Zanesville, Ohio 43701. Applicant's representative: Paul F. Beery, 8 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Metal containers and container ends*, from Whitehouse, Ohio to points in the United States (except Alaska and Hawaii); and (2) *equipment, materials and supplies* used in the manufacture of metal containers and container ends, from points in the United States (except Alaska and Hawaii), to Whitehouse, Ohio.

NOTE.—The purpose of this republication is to indicate the correct docket number assigned to this proceeding in Sub-No. 159. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 119789 (Sub-No. 247), filed April 10, 1975. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, and*

chemicals, from Elkhart, Ind., to points in Arizona, California, Nevada, New Mexico, Oregon, Utah, and Washington.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Elkhart, Ind., or Chicago, Ill.

No. MC 119789 (Sub-No. 249), filed April 21, 1975. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Plastic materials*, from Marksville and Baton Rouge, La., to points in Illinois, Kentucky, North Carolina, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Baton Rouge or New Orleans, La.

No. MC 119798 (Sub-No. 4), filed April 22, 1975. Applicant: SOUTHWEST SUPPLY, INC., 350 Roanoke Street, Bluefield, W. Va. 24701. Applicant's representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, W. Va. 25526. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, including fresh meats and packinghouse products as described in Appendix I to 61 M.C.C. 209, between the warehouse facilities of Southwest Supply, Inc. at Bluefield, W. Va., on the one hand, and, on the other, points in Dickenson, Grayson, Lee, Roanoke, Russell, Scott, Smyth, Washington, and Wise Counties, Va.; points in Monroe, Nicholas, Pocahontas, and Webster Counties, W. Va.; and points in Floyd, Martin, and Pike Counties, Ky.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Charleston, W. Va., or Roanoke, Va.

No. MC 119815 (Sub-No. 17), filed April 23, 1975. Applicant: INTERSTATE HIGHWAY EXPRESS, INC., 814 Norton Avenue, Bedford, Ind. 47421. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* which because of weight or size require the use of special equipment or special handling, from Heltonville and Bedford, Ind., to points in Kentucky, Ohio, West Virginia, Michigan, Illinois, Missouri, and Wisconsin, under a continuing contract or contracts with Bedford Machine Co., Inc. and Indiana Steel & Engineering Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C. or Indianapolis, Ind.

No. MC 119837 (Sub-No. 11), filed April 14, 1975. Applicant: OZARK MOTOR LINES, INC., 27 W. Illinois Street, Memphis, Tenn. 38106. Applicant's representative: A. Doyle Cloud, Jr., 2008 Clark Tower, Memphis, Tenn. 38137. Authority sought to operate as a common carrier, by motor vehicle, over regular

routes, transporting: *General commodities* (except in bulk, household goods as defined by the Commission, livestock, Classes A and B explosives, and articles which because of size or weight require special equipment), serving Batesville, Ark. and points in its Commercial Zone as off-route points in connection with applicant's authorized regular route operations between Memphis, Tenn. and West Plains, Mo.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn. or Batesville, Ark.

No. MC 119908 (Sub-No. 28), filed April 23, 1975. Applicant: WESTERN LINES, INC., P.O. Box 1145, Houston, Tex. 77001. Applicant's representative: Thomas F. Sedberry, 1102 Perry-Brooks Bldg., Austin, Tex. 78701. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles and tanks*; (2) *aluminum articles and tanks*; and (3) *attachments and accessories* related to (1) and (2) above, between points in Liberty County, Tex., on the one hand, and, on the other, points in New Mexico, Louisiana, Oklahoma, Kansas, Missouri, Arkansas, Mississippi, Alabama, Georgia, and Tennessee.

NOTE.—Applicant holds contract carrier authority in MC 110814 and subs thereunder, therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Houston or Dallas, Tex.

No. MC 120430 (Sub-No. 10), filed April 14, 1975. Applicant: COASTAL TRANSPORT CO., INC., 6300 Richmond Ave., P.O. Box 22592, Houston, Tex. 77027. Applicant's representative: A. T. Beletsky (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Wooden building materials, including plywood, particleboard, and lumber, and the accessories* used in the installation and application thereof, (1) from the plantsites of Louisiana Pacific Corp., located at points in Texas to points in Alabama, Arkansas, Georgia, Illinois, Kansas, Mississippi, Missouri, New Mexico, Oklahoma, and Tennessee; and (2) from the plantsites of Louisiana Pacific Corp. located at Winnfield and Urania, La., to points in Alabama, Arkansas, Georgia, Illinois, Kansas, Mississippi, Missouri, Oklahoma, Tennessee, and Texas, restricted against the transportation of commodities for or to the facilities of United States Gypsum Corp.

NOTE.—Applicant holds contract carrier authority in MC 134957 Sub 1, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at (1) Houston, Tex.; (2) Dallas, Tex.; and (3) New Orleans, La.

No. MC 123391 (Sub-No. 12), filed April 18, 1975. Applicant: MACHISE INTERSTATE TRANSPORTATION CO., 500 North Egg Harbor Road, Hammon, N.J. 08037. Applicant's representative: Mortan E. Kiel, Suite 6193, 5

World Trade Center, New York, N.Y. 10048. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Waste oil and reclaimed oil*, in bulk, between Corapolis, Pa., on the one hand, and, on the other, points in New Jersey, New York, Delaware, Maryland, Virginia and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 123544 (Sub-No. 8), filed April 11, 1975. Applicant: BERTSCH TRUCKING, INC., P.O. Box 15, Hillsboro, N. Dak. 58045. Applicant's representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, Minn. 55102. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Farm machinery and implements and parts thereof* from ports of entry on the International Boundary line between the United States and Canada located at or near Neche and Pembina, N. Dak., and Noyes, Minn., to points in Mississippi, Alabama, Georgia, and Florida; (2) *damaged, broken, defective or rejected farm machinery, and implements or parts thereof*, from points in Mississippi, Alabama, Georgia, and Florida, to ports of entry on the International Boundary line between the United States and Canada located at or near Neche and Pembina, N. Dak., and Noyes, Minn.; (3) *Farm machinery and implements and parts thereof* from points in Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Nevada, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming, to ports of entry on the International Boundary line between the United States and Canada located at or near Neche and Pembina, N. Dak., and Noyes, Minn.; (4) *damaged, broken, defective or rejected farm machinery, and implements or parts thereof*, from ports of entry on the International Boundary line between the United States and Canada located at or near Neche and Pembina, N. Dak., and Noyes, Minn., to points in Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming; and (5) *materials, equipment and supplies* used in the manufacture of farm machinery and implements and parts thereof (except scrap metal), between Fargo, N. Dak., and ports of entry on the International Boundary line between the United States and Canada located at or near Neche and Pembina, N. Dak., and Noyes, Minn., under a continuing contract or contracts with Versatile Manufacturing Ltd.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Duluth, or St. Paul, Minn.



No. MC 124078 (Sub-No. 645), filed April 21, 1975. Applicant: SCHWERTMAN TRUCKING CO., a Corporation, 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Corn products, liquid, and soybean products, liquid, in bulk, in tank vehicles, from Danville, Ill., to points in the United States (except Alaska and Hawaii); (2) hydrated alumina, in bulk, from Alpine, Ala., to Columbia, Tenn.; and (3) dry urea, in bulk, from Woodstock, Tenn., to West Memphis, Ark.*

NOTE.—Common control may be involved. Applicant holds contract carrier authority in MC 113832 Sub-No. 68, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 124306 (Sub-No. 18), filed April 18, 1975. Applicant: KENAN TRANSPORT COMPANY, INCORPORATED, P.O. Box 2729, Chapel Hill, N.C. 27514. Applicant's representative: Richard A. Mehley, 1000-16th St. NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas, (1) from points in Escambia County, Ala., to points in Georgia, Florida, Louisiana, and Mississippi; and (2) from points in Santa Rosa County, Fla., to points in Alabama, Georgia, Louisiana and Mississippi.*

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., or Atlanta, Ga.

No. MC 124383 (Sub-No. 19), filed April 21, 1975. Applicant: STAR LINE TRUCKING CORPORATION, 161 West Wisconsin Avenue, Milwaukee, Wis. 53201. Applicant's representative: S. F. Schreier (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Lime, in bulk, in dump vehicles, from points in Wisconsin to points in Indiana.*

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Milwaukee, Wis.

No. MC 125763 (Sub-No. 1), filed April 14, 1975. Applicant: GRITZ TRANSPORT, INC., P.O. Box 1088, Wisconsin Rapids, Wis. 54494. Applicant's representative: Jack Kosloske (same address as applicant). Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel silos, glass lined, iron and steel grain storage bins, glass lined, and materials and accessories used in the construction and erection of iron and steel silos and iron and steel grain storage bins, animal waste storage tanks, knocked down, glass lined steel, livestock scales, steel, knocked down, with weighing attachments, livestock feed bunker, glass lined steel, knocked down, forage meter device, animal waste spreader tanks, steel, spreader tanks, glass lined,*

*and soil saver, steel glass lined, knocked down, between Kankakee, De Kalb, and Eureka, Ill., on the one hand, and, on the other, points in the Upper Peninsula of Mich., and points in that part of Wisconsin north of the northern boundaries of Crawford, Richland, Sauk, Columbia, Dodge, Washington, and Ozaukee Counties, Wis., under a continuing contract or contracts with Fox Valley Harvestore, Inc., Gritz Harvestore, Inc., and Brave Harvestore, Inc.*

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Madison or Milwaukee, Wis.

No. MC 126625 (Sub-No. 15), filed April 14, 1975. Applicant: MURPHY SURF-AIR TRUCKING COMPANY, INC., Bluegrass Airport, Lexington, Ky. 40504. Applicant's representative: Robert H. Kinker, 711 McClair Building, Frankfort, Ky. 40601. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) between points in Bell, Clay, Harlan, Knox, Laurel, Leslie, McCreary, Perry, Pulaski, Wayne, and Whitley Counties, Ky., on the one hand, and, on the other, London-Corbin McGee Field, near London, Ky.; (2) between points in Boone, Clay, Carroll, Payette, Harlan, Kenton, Leslie, McCreary, Perry, Powell, Wayne, and Wolfe Counties, Ky., on the one hand, and, on the other, Blue Grass Field, near Lexington, Ky., Boone County, Ky., Marion County, Ind., James Cox Municipal Airport near Vandalia, Ohio, Vandalia, Ohio, and Chicago, Ill.; and (3) between points in Clay, Carroll, Harlan, Kenton, Leslie, McCreary, Perry, Powell, and Wolfe Counties, Ky., on the one hand, and, on the other, Louisville, Ky., restricted to tariff having a prior or subsequent movement by air or traffic moving between direct and/or indirect air carriers.*

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Lexington, Ky.

No. MC 127834 (Sub-No. 107), filed April 21, 1975. Applicant: CHEROKEE HAULING & RIGGING, INC., P.O. Box 1155, Nashville, Tenn. 37202. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment, parts and accessories, from the plants or warehouses of Jakes Manufacturing Company, Inc., located at Nashville, Tenn., to points in the United States (except Alaska and Hawaii); and (2) materials and supplies (except in bulk), used in the manufacture of those items in (1) above from points in the United States (except Alaska and Hawaii), to the plants or warehouses of Jakes Manufacturing Company, Inc., located at Nashville, Tenn.*

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Nashville, Tenn.

No. MC 128007 (Sub-No. 76), filed April 18, 1975. Applicant: HOFER, INC., P.O. Box 583, Pittsburg, Kans. 66762. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Potash, potash products and potash by-products, from Lea and Eddy Counties, N. Mex., to points in Indiana, Kentucky, Michigan, Mississippi, North Carolina, Ohio, and Tennessee.*

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 128273 (Sub-No. 182), filed April 18, 1975. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross, Jr., 1403 South Horton Street, Fort Scott, Kans. 66701. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Rubber, rubber products, and such other commodities as are manufactured and/or dealt in by rubber manufacturers, from Miami, Okla., to points in the United States (except Alaska, Hawaii and Oklahoma); and (2) equipment, materials and supplies used in the manufacture and distribution of rubber, rubber products, and such other commodities as are manufactured, processed and/or dealt in by rubber manufacturers and tires from points in the United States (except Alaska, Hawaii, and Oklahoma), to Miami, Okla.*

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Tulsa, Okla., or Washington, D.C.

No. MC 128273 (Sub-No. 183), filed April 18, 1975. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross, 1403 South Horton Street, Fort Scott, Kans. 66701. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Electrical and mechanical apparatus, parts and accessories for electrical and mechanical apparatus and such other merchandise as is dealt in by hardware and/or industrial supply houses, from the plant sites and storage facilities of W. W. Grainger, Inc., located at Bensonville, Chicago, and Elk Grove Village, Ill., to points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary line between the United States and Canada (except points in Illinois, Indiana, and Wisconsin).*

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 128555 (Sub-No. 9), filed April 17, 1975. Applicant: MEAT DISPATCH, INC., 2103 17th Street East, Palmetto, Fla. 33561. Applicant's repre-

sentative: S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs (except frozen), from Rochester, N.Y., to points in Virginia, North Carolina, South Carolina, Georgia, and Florida; (2) malt beverages, from Natick, Mass., and Baltimore, Md., to Rochester, N.Y.; and (3) (a) return empty containers and pallets, from Rochester, N.Y., to Natick, Mass., and Baltimore, Md.; and (b) from points in Virginia, North Carolina, South Carolina, Georgia, and Florida, to Rochester, N.Y., under contract with Ragu Foods, Inc., and Rochester Beer & Beverage, Inc.*

NOTE.—Applicant holds common carrier authority in MC 136123, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Rochester or Buffalo, N.Y.

No. MC 129263 (Sub-No. 2), filed April 15, 1975. Applicant: AIRPORT DRAYAGE CO., INC., Air Cargo Building, Seattle International Airport, Seattle, Wash. 98158. Applicant's representative: John M. Stern, Jr., P.O. Box 1672, Anchorage, Alaska 99510. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities (except Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), having a prior or subsequent movement by aircraft, in vehicles equipped with mechanical refrigeration, between Anchorage and Palmer, Alaska; from Anchorage over Alaska Highway 1, serving all intermediate points, and serving points located within 10 miles of Anchorage, Alaska, and points located within 5 miles of Alaska Highway 1, as off-route points.*

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Anchorage, Alaska.

No. MC 129742 (Sub-No. 10), filed April 10, 1975. Applicant: PUROLATOR COURIER LTD., 259 Lake Shore Boulevard East, Toronto, Ontario. Applicant's representative: John M. Delany, 2 Nevada Drive, Lake Success, N.Y. 11040. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Radio-pharmaceuticals, radioactive drugs, and medical isotopes, from Buffalo, N.Y., to the ports of entry on the International Boundary line between the United States and Canada, located at or near Buffalo, N.Y.*

NOTE.—Applicant holds contract carrier authority in MC 129456 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 133233 (Sub-No. 37), filed April 23, 1975. Applicant: CLARENCE L. WERNER, doing business as WERNER ENTERPRISES, P.O. Box 831, Council Bluffs, Iowa. 51501. Applicant's representative: Clarence L. Werner (same address as applicant). Authority sought to

operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, and building materials, (except commodities in bulk), from the facilities of Edward Hines Lumber Company located at Council Bluffs and Fort Dodge, Iowa, to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, under contract with Edward Hines Lumber Company.*

NOTE.—Applicant holds common carrier authority in MC 138328 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 133646 (Sub-No. 18), filed April 10, 1975. Applicant: YELLOWSTONE MOLASSES SERVICE, INC., P.O. Box 404, Billings, Mont. 59103. Applicant's representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Sugar, from the Minn-Dak Farmers Cooperative, at or near Wahpeton, N. Dak., and the Red River Valley Cooperative Inc., at or near Hillsboro, N. Dak., to points in Minnesota, South Dakota, Wisconsin, Iowa, Nebraska, and Montana; and (2) sugar beet pulp, pellets and residue, from the Minn-Dak Farmers Cooperative, at or near Wahpeton, N. Dak., and the Red River Valley Cooperative, Inc., at or near Hillsboro, N. Dak., to points in Montana.*

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Minneapolis, or St. Paul, Minn., or Fargo, N. Dak.

No. MC 133689 (Sub-No. 59), filed April 21, 1975. Applicant: OVERLAND EXPRESS, INC., 719 First St. SW., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs (except commodities in bulk), from Hudson, Iowa, to points in Pennsylvania, West Virginia, Virginia, Maryland, Delaware, New Jersey, New York, Rhode Island, Connecticut, Massachusetts, Vermont, New Hampshire, Maine, and the District of Columbia, North Carolina, South Carolina, and restricted to the transportation of traffic for the account of Land O'Lakes, Inc., originating at the plant sites and facilities of and used by Land O'Lakes, Inc., and destined to the above-named destinations.*

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 134300 (Sub-No. 14), filed April 21, 1975. Applicant: PELHAM PRODUCE CARRIERS, INC., 2307 NW. 4th Street, Austin, Minn. 55912. Applicant's representative: Harold Doerr (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen fruits and vegetables, from the plant site and warehouse*

facilities of Stokely-Van Camp, Inc., located at Albert Lea, Fairmont, Winnebago, and Worthington, Minn., to points in Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, New Jersey, Ohio, Pennsylvania, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Indianapolis, Ind., or St. Paul, Minn.

No. MC 134531 (Sub-No. 6), filed March 17, 1975. Applicant: AGGREGATE HAULERS, INC., (a corporation), Route 2, Box 559-A, West Columbia, S.C. 29169. Applicant's representative: E. J. Morrison, P.O. Box 67, Lexington, S.C. 29072. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (A) *Agricultural limestone, in bulk, in dump trucks, (1) from Austinville, Va. to points in North Carolina and South Carolina; and (2) from points in Blount, Jefferson and Knox Counties, Tenn. to points in North Carolina, South Carolina and points in Bulloch and Candler Counties, Ga.; and (B) dry fertilizer and fertilizer materials, in bags and in bulk, in dump trucks, (1) from Acme, Columbus County, N.C., and its commercial zone, to points in South Carolina, and (2) from points in Chatham and Richmond Counties, Ga. to points in South Carolina; and agricultural lime, in bulk, in dump trucks, from Berkeley County, S.C. to points in Georgia.*

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Columbia, S.C.

No. MC 134681 (Sub-No. 3), filed April 21, 1975. Applicant: VULCRAFT CARRIER CORPORATION, 4425 Randolph Road, Charlotte, N.C. 28211. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles, as described in Appendix V to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 767, from the steel mill facilities of Nucor Corporation, at or near Jewett, Tex., to points in Alabama, Arizona, Arkansas, California, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Mexico, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Wisconsin and Wyoming; and (2) such materials, supplies and equipment, as are dealt in or utilized in the manufacture of commodities described in (1) above (except commodities in bulk), from the destination states named in (1) above, to the steel mill facilities of Nucor Corporation, at or near Jewett, Tex., restricted to a transportation service to be performed under a continuing contract or contract with Nucor Corporation, at Charlotte, N.C.*

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Washington, D.C.



No. MC 134724 (Sub-No. 5), filed April 23, 1975. Applicant: BIG RIG REFRIGERATION, INC., 1618 North 75th Street, Omaha, Nebr. 68114. Applicant's representative: Jack H. Blanshan, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, and commodities in bulk, in tank vehicles), from the plant-site and storage facilities utilized by American Beef Packers, Inc., located at or near Cactus, Tex. (Moore County), to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, Wisconsin, and the District of Columbia, restricted to traffic originating at, and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Omaha, Nebr., or Kansas City, Mo.

No. MC 134922 (Sub-No. 123), filed April 21, 1975. Applicant: B. J. MCADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Don Garrison (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Curtain rods, curtain pole or rod fixtures, hooks, fabrics, cotton rope, shelving, coil steel, store displays, racks, and steel rods, copper brass or, bronze from Sturgis, Mich., and Scottsville, Ky.*, to points in Florida, Texas, New Mexico, Arizona, Colorado, Utah, Nevada, California, Idaho, Oregon, and Washington.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Little Rock, Ark.

No. MC 135082 (Sub-No. 17), filed April 7, 1975. Applicant: BURSCH TRUCKING, INC., doing business as ROADRUNNER TRUCKING, INC., 415 Rankin Road, NE., P.O. Box 26748, Albuquerque, N. Mex. 87107. Applicant's representative: Don F. Jones (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Furnace or kiln lining products*, requiring special equipment for loading or unloading, and commodities incidental to the installation thereof, from Denver, Colo., to points in Arizona, New Mexico and Texas; (2) *brick and tile*, requiring special equipment for loading or unloading, and commodities incidental to the installation thereof, from Pueblo, Colo., to points in California, Oregon, Nevada and Texas; (3) *clay sewer pipe, furnace or kiln lining products, and fire clay* requiring special equipment for loading or unloading, and commodities incidental to the installation thereof, from Pueblo, Colo., to points in Arizona, New Mexico and

Texas; and (4) *brick, furnace or kiln lining products, ingot mould hop tops, fire clay*, requiring special equipment for loading or unloading, and commodities incidental to the installation thereof, from Canon City, Colo., to points in Arizona, California, Nevada, New Mexico, Oregon and Texas.

NOTE.—Applicant holds contract carrier authority in MC 115524 Subs 2, 14, and 21, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Albuquerque, N. Mex., or Denver, Colo.

No. MC 135732 (Sub-No. 12), filed February 25, 1975. Applicant: AUBREY FREIGHT LINES, INC., 651 Grove Street, Elizabeth, N.J. 07208. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such commodities as are manufactured, sold, distributed or used in the manufacture and the sale of household appliances, household products, lighters, lighter accessories, petroleum products and raw materials for the account of Ronson Corporation, its subsidiaries or its divisions (except commodities in bulk) at or near Newark, Woodbridge, N.J., Oglethorpe, Del., East Stroudsburg, Pa., and Durant, Calif., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).*

NOTE.—Applicant holds contract carrier authority in MC 110884 and Sub-No. 13, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either New York, N.Y., or Washington, D.C.

No. MC 136166 (Sub-No. 17), filed April 16, 1975. Applicant: CP TANK LINES, INC., 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: Robert M. Bowden, Western Traffic Service, P.O. Box 3062, Portland, Ore. 97208. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Vegetable oil, in bulk, in tank vehicles, from Grimes, Calif., to points in Georgia, Maine, New York, Tennessee, Illinois, Ohio, Texas, Michigan, Florida, New Jersey, Missouri, Minnesota, Louisiana, and Pennsylvania.*

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at San Francisco or Sacramento, Calif.

No. MC 136408 (Sub-No. 24), filed April 7, 1975. Applicant: CARGO CONTRACT CARRIER CORP., a corporation, P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 60 Park Place, Newark, N.J. 07102. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Cleaning, washing and polishing soaps and compounds, varnishes, rust preventatives, oils, and greases (except commodities in bulk, in tank vehicles)*, from Avenel, N.J., to points in Alabama, Arkansas, California, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia; and (2) *materials, supplies, and equip-*

ment used in the conduct of business by cleaning compound manufacturers (except commodities in bulk, in tank vehicles), from points in Alabama, Arkansas, California, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia, to Avenel, N.J., under a continuing contract or contracts with Economics Laboratory, Inc., of Avenel, N.J.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either New York, N.Y., or Newark, N.J.

No. MC 136408 (Sub-No. 25), filed April 21, 1975. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 60 Park Place, Newark, N.J. 07102. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Deodorants, disinfectants, breath fresheners, cleaning compounds, swimming pool treatment compounds, insecticides, and materials, supplies and equipment used by deodorant and cleaning compound manufacturers (except commodities in bulk, in tank vehicles)*, between points in California, Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, New Jersey, Ohio, Oklahoma, Pennsylvania, Texas, West Virginia, and Wisconsin, the operations authorized herein are limited to a transportation service to be performed under a continuing contract or contracts with Airwick Industries, Inc., of Carlstadt, N.J.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y., or Newark, N.J.

No. MC 136163 (Sub-No. 1), filed April 21, 1975. Applicant: CONTAINER TRANSPORT, INC., Canterbury Road, Brooklyn, Conn. 06234. Applicant's representative: A. David Millner, 744 Broad Street, Room 2005, Newark, N.J. 07102. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Wearing apparel, cloth, piece goods and parts and accessories used in the manufacture and distribution of wearing apparel, between Ringtown, Pa., New Ipswich, Franklin, and Pelham, N.H., and Heflin, Ala., on the one hand, and, on the other, points in Warrenton, Ga., and Brockton, Mass. under a continuing contract or contracts with Garland Corporation.*

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Boston, Mass., or New York, N.Y.

No. MC 138946 (Sub-No. 6), filed April 21, 1975. Applicant: MARKET TRANSPORT, LTD., 33 NE. Middlefield Rd., Portland, Ore. 97211. Applicant's representative: Philip G. Skofstad, 3076 E. Burnside, Portland, Ore. 97214. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Canned fruit, canned fruit juices, and canned fruit concentrates, and commodities, otherwise exempt from economic regulations under Section 203(B) (6) of the Interstate Commerce Act, when moving in mixed shipments with canned fruit, canned fruit*

juices, and canned fruit concentrates, from points in Hood River County, Ore., to points in Arizona and California, under contract with Diamond Fruit Growers, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Portland, Ore.

No. MC 138946 (Sub-No. 7), filed April 21, 1975. Applicant: MARKET TRANSPORT, LTD., 33 NE. Middlefield Road, Portland, Ore. 97211. Applicant's representative: Philip G. Skofstad, 3076 E. Burnside, Portland, Ore. 97214. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Cucumbers, pickled, in drums or tote bins, from Stockton and Modesto, Calif., to Portland and Sacramento, Calif., to Portland from Gilroy, San Francisco, and Vacaville, Calif., to Portland and Scappoose, Ore.; (2) sugar, in sacks, from Woodland and Sacramento, Calif., to Portland and Scappoose, Ore.; (3) salt, in sacks, from Oakland and San Leandro, Calif., to Portland and Scappoose, Ore.; (4) labels, printed, from San Francisco, Calif., to Portland and Scappoose, Ore.; (5) fiber, metal, plastic, or steel drums; fibre or plastic pails; glass or plastic bottles and cans or lids, for glass of plastic bottles; cans, iron or steel, and can ends; cardboard boxes or cartons, from Los Angeles, Pacoima, and Hayward, Calif., to Portland and Scappoose, Ore.; and (7) commodities, otherwise exempt from economic regulations under Section 203 (B) (6) of the Interstate Commerce Act, when moving in mixed shipments with commodities described in paragraphs (1) through (6) above, under contract with Steinfeld's Products Company.*

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Portland, Ore.

No. MC 139015 (Sub-No. 2), filed April 17, 1975. Applicant: YELLOW VAN MOVERS, INC., 245 South Rock Island, Wichita, Kans. 67202. Applicant's representative: Milton B. Chase (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Used household goods, as defined by the Commission, between points in Allen, Barber, Barton, Bourbon, Butler, Chase, Chautauque, Cherokee, Clark, Comanche, Cowley, Crawford, Edwards, Elk, Ford, Greenwood, Harper, Harvey, Hodgeman, Kingman, Kiowa, Labette, Marion, McPherson, Montgomery, Neosho, Ness, Pawnee, Pratt, Reno, Rice, Rush, Sedgewick, Stafford, Sumner, Wilson, and Woodson Counties, Kans., restricted to the transportation of traffic having a prior or subsequent movement beyond said authorized points in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating and decontainerization of such traffic.*

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Wichita, Kans., or San Francisco, Calif.

No. MC 139001 (Sub-No. 10), filed April 22, 1975. Applicant: LOGAN MOTOR LINES, INC. Rt. 2, Box 174-A, Canyon, Tex. 79015. Applicant's representative: Gaylon Larson, P.O. Box 81840, Lincoln, Nebr. 68501. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Vacuum bottles and fillers, lunch and picnic boxes and kits, containers, travel bags, camping equipment, stoppers, plastic articles, jugs, cooling chests, boxes and chests, tents, display racks and insulating material.* (1) from the plant sites and storage facilities of King-Seely Thermos Co., located at or near Norwich, Conn., and Macomb, Ill., to points in Arizona, California, Colorado, New Mexico, Nevada, Utah and Wyoming; and (2) from the storage facilities of King-Seely Thermos Co., located at or near Anaheim, Calif., to the plant sites and storage facilities of King-Seely Thermos Co., located at or near Macomb, Ill., and Norwich, Conn., under a continuing contract, or contracts with King-Seely Thermos Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Washington, D.C., or Omaha, Nebr.

No. MC 139391 (Sub-No. 3), filed April 18, 1975. Applicant: G & H TRANSPORTATION CO., INC., P.O. Box 157, Widener, Ark. 72394. Applicant's representative: Frank B. Hand, Jr., P.O. Box 187, Berryville, Va. 22611. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Magazines and periodicals, from the plant site of Holiday Press at Olive Branch, Miss., to points in Arizona, California, Colorado, New Mexico, Oklahoma, Oregon, Texas, and Washington, under a continuing contract or contracts with Select Magazines, Inc.*

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 139495 (Sub-No. 56), filed April 18, 1975. Applicant: NATIONAL CARRIERS, INC., 1591 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H St. NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Aquariums, household pet cages, and aquariums and pet accessories, supplies and equipment (except in bulk), from the plant-site and storage facilities of Metaframe Corporation located at or near Maywood and Elmwood Park, N.J., to points in North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee, Mississippi, Arkansas, Louisiana, Oklahoma, and Texas.*

NOTE.—Applicant holds contract authority in MC 133106 and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139495 (Sub-No. 61), filed April 24, 1975. Applicant: NATIONAL CARRIERS, INC., 1591 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Ap-

plicant's representative: Herbert Alan Dubin, 1819 H St. NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Paper labels, from New Orleans, La., to points in California, Illinois, Texas, North Carolina, and Connecticut.*

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 139600 (Sub-No. 5), filed April 8, 1975. Applicant: LA CRESTA, INC., doing business as CALIFORNIA BULK EXPRESS, 12912 Camino Del Valle, Poway, Calif. 92064. Applicant's representative: Fred E. Caldwell (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Sand, from Oceanside, Calif., to points in Arizona and Nevada.*

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either San Diego, Los Angeles, or San Francisco, Calif.

No. MC 139973 (Sub-No. 1), filed April 21, 1975. Applicant: J. H. WARE TRUCKING, INC., 909 Brown Street, P.O. Box 398, Fulton, Mo. 65251. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Ground clay, in containers, from Oran, Mo., to points in Nebraska, Missouri, Kansas, Texas, Oklahoma, Colorado, and Illinois.*

NOTE.—Applicant holds contract carrier authority in MC 138375 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either St. Louis or Kansas City, Mo.

No. MC 140014 (Sub-No. 1), filed April 14, 1975. Applicant: RICHARD A. TAZER TRUCKING, 10814-154th Place SE., Renton, Wash. 98055. Applicant's representative: Richard A. Tazer (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Bananas, from Long Beach and Wilmington, Calif., to points on the International Boundary line between the United States and Canada located in Montana, restricted to traffic moving in foreign commerce;* (2) *frozen fruit, berries, vegetables including processed potatoes and concentrates, between points in Washington, Oregon, Idaho, California, Arizona and Montana;* and (3) *red cedar shakes and shingles, from Sekiu, Wash., to points in California, Nevada and Arizona.*

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Seattle, Wash.

No. MC 140068 (Sub-No. 2), filed April 14, 1975. Applicant: KARL EMDE, 3835 East 2nd Ave., Burnaby, British Columbia, Canada. Applicant's representative: Dan E. Olson, 518 BNB Building, Bellingham, Wash. 98225. Authority sought to operate as a contract carrier,



by motor vehicle, over irregular routes, transporting: *Commercial fishing gear and fishing nets*, between the ports of entry on the International Boundary line between the United States and Canada at or near Blaine and Bellingham, Wash., restricted to the transportation of shipments having an immediate prior or subsequent movement in foreign commerce, under a continuing contract or contracts with John Redden Net Co. Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Seattle or Bellingham, Wash.

No. MC 140460 (Sub-No. 1), filed April 23, 1975. Applicant: COAST REFRIGERATED TRUCKING CO., INC., P.O. Box 188, Holly Ridge, N.C. 28445. Applicant's representative: Herbert Alan Dublin, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods and freezers*, from the facilities utilized by the Rich Plan Corporation located at or near Ottumwa, Iowa to points in Illinois, Indiana, Michigan, Ohio, Wisconsin, Alabama, Florida, Georgia, Mississippi, Louisiana, North Carolina, South Carolina, Tennessee, Texas, Virginia, New York, New Hampshire, and New Jersey.

NOTE.—Applicant holds contract carrier authority in MC 135760 Subs 1, 5, and 13, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 140460 (Sub-No. 2), filed April 21, 1975. Applicant: ROGER W. ANDERSON, 114 Sunset Avenue, Lodi, Wis. 53555. Applicant's representative: Rolfe E. Hanson, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Fresh meat*, for the account of Clarence Busse Livestock, from Martinsville (Springfield Township), Dane County, Wis., to New York, N.Y., Calumet City and Calumet Park, Ill., Boston, Mass., and points in New Jersey, under a continuing contract or contracts with Clarence Busse, doing business as Busse Livestock.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Madison or Milwaukee, Wis.

No. MC 140662 (Sub-No. 2) (Correction), filed March 6, 1975, published in the FEDERAL REGISTER issue of April 3, 1975 as No. MC 140662 (Sub-No. 1), and republished as reassigned this issue. Applicant: RALPH KLINGE, an individual, doing business as KLINGE TRUCKING, Box 31, Wright, Kans. 67882. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Hides*, from the plantsite and/or storage facilities of Holl-Tex, Inc., located at or near Garden City, Kans., and the plantsite and/or storage facilities of HyPlains Dressed Beef, Inc., located at or near Dodge City, Kans., to the plantsite and/or storage

facilities of A. J. Hollander and Co., Inc. located at or near Amarillo, Tex., under a continuing contract or contracts with A. J. Hollander and Co., Inc.

NOTE.—The purpose of this republication is to indicate the correct docket number assigned to this proceeding in No. MC 140662 (Sub-No. 2). If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 140772 (Sub-No. 2), filed April 21, 1975. Applicant: JOHN H. THOMASON, doing business as DIXIE AIR FREIGHT, P.O. Box 823, Augusta, Ga. 30903. Applicant's representative: Virgil H. Smith, 1587 Phoenix Boulevard, Suite 12, Atlanta, Ga. 30349. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, Classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment), between Bush Field located at Richmond County, Ga., on the one hand, and, on the other, Richmond, Columbia, McDuffie, Lincoln, Wilkes, Oglethorpe, Elbert, Greene, Taliaferro, Hancock, Warren, Glascock, Washington, Jefferson and Burke Counties, Ga., and points in Aiken, Barnwell, Allendale, Bamberg, Hampton, Orangeburg, Edgefield, Saluda, McCormick, Greenwood, Newberry, and Abbeville Counties, S.C., restricted to traffic having an immediate prior or subsequent movement by air.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, or Augusta, Ga.

No. MC 140795 (Sub-No. 1), filed April 22, 1975. Applicant: MID ATLANTIC LEASING CORP., 4209 South Military Highway, Chesapeake, Va. 23321. Applicant's representative: Elliott Buncie, 618 Perpetual Building, 1111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk), in containers, and empty containers, between points in the Commercial Zone of Norfolk, Va.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 140800 (correction), filed March 20, 1975, published in the FEDERAL REGISTER issue of April 24, 1975, and republished as corrected this issue. Applicant: COLONIAL TRANSPORTATION, INC., East Arrowhead Drive, McMinnville, Tenn. 37110. Applicant's representative: Robert L. Baker, 618 Hamilton Bank Bldg., Nashville, Tenn. 37219. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Electric motors, brake drums, disk brakes and parts thereto, and parts, materials, equipment and supplies*, used in the manufacture of the above commodities, (a) between Lexington, McMinnville, Memphis, and Humboldt, Tenn., on the one hand, and, on the other, Corinth, Miss., and St. Louis, Mo.; and (b) between Corinth,

Miss., and St. Louis, Mo., under a continuing contract or contracts with Gould, Inc., Century Electric Division.

NOTE.—The purpose of this republication is to redescribe the territorial scope of the application. If a hearing is deemed necessary, the applicant requests it be held at St. Louis, Mo., or Washington, D.C.

No. MC 140807 (Sub-No. 2), filed April 16, 1975. Applicant: MELROSE TRUCKING CO., INC., 6360 Raderville Route, Casper, Wyo. 82601. Applicant's representative: Charles S. Aspinwall, 430 East First Street, Casper, Wyo. 82601. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Barite*, in bulk and in sacks, from Salt Lake City, Utah, to bulk station terminals of Milchem, Inc., located in Wyoming, under a continuing contract or contracts with Milchem, Inc.

NOTE.—Applicant holds pending motor common carrier authority in MC-135705 (Sub-No. 5), therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Casper, Wyo.; Denver, Colo.; Billings, Mont.; or Salt Lake City, Utah.

No. MC 140833, filed April 9, 1975. Applicant: OLENGARRY TRANSPORT LIMITED, Highway 34 South, Alexandria, Ontario K0C 1A0, Canada. Applicant's representative: James E. Wilson, 1032 Pennsylvania Bldg., Pennsylvania Ave and 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): Between ports of entry on the International Boundary line between the United States and Canada, at Roosevelttown, N.Y., on the one hand, and, on the other, to the United States Customs Compound, via New York Highway 128.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Massena, or Syracuse, N.Y.

No. MC 140864, filed April 16, 1975. Applicant: CHARLES WRONSKI and CECELIA WRONSKI, doing business as J & J TRANSFER COMPANY, 106 Fifth Avenue South, Minneapolis, Minn. 55401. Applicant's representative: Leonard T. Juster, 1250 Builders Exchange Building, 609 Second Avenue South, Minneapolis, Minn. 55402. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Component parts* used in the fabrication and construction of industrial furnaces, industrial ovens and finishing systems for heating and drying paint, from Minneapolis and Lakeville, Minn., to points in North Dakota, South Dakota, Iowa, Missouri, Oklahoma, Mississippi, Illinois, Wisconsin, Arkansas, Kansas, Nebraska, Texas, and Louisiana, under a continuing contract or contracts with Despatch Oven Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 140885, filed April 14, 1975. Applicant: JAMES T. GARRETT, doing business as AMERICAN CONTRACT CARRIER, 2332 S. Peck Road, Suite 184, Whittier, Calif. 90601. Applicant's representative: Jerry Solomon Berger, 9454 Wilshire Blvd., Beverly Hills, Calif. 90212. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Scrap or waste plastic articles or materials* for recycling, from points in California, Louisiana, and Kenova, W. Va., to points in Houston, Tex.; (2) plastic pellets, from points in California, Wilmington, Del.; points in Illinois; Baton Rouge, and Lake Charles, La.; Leominster, Mass.; Manchester, N.H., points in New Jersey, Cleveland, Ohio, points in Texas, and Kenova, W. Va., to points in California, Oregon, Texas, and Washington, under a continuing contract with Cal Thermoplastics, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif.

No. MC 140866, filed April 16, 1975. Applicant: HOLT COUNTY TRANSPORTATION CO., a corporation, Atkinson, Nebr. 68713. Applicant's representative: J. Max Harding, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Irrigation systems*, from the plantsite and warehouse facilities of Olson Bros. Manufacturing Company, Inc. in Holt County, Nebr., to points in the United States (except Alaska and Hawaii); and (2) *returned shipments and materials, supplies and equipment* utilized in the manufacture, sale and distribution of irrigation systems, from points in the United States (except Alaska and Hawaii), to the plantsite and warehouse facilities of Olson Bros. Manufacturing Company, Inc. in Holt County, Nebr., under a continuing contract or contracts with Olson Bros. Manufacturing Company, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa, or Omaha, Nebr.

No. MC 140869 (Sub-No. 1), filed April 25, 1975. Applicant: KERRI TRUCKING INC., 162 Clester Rock Road, Closter, N.J. 07624. Applicant's representative: Bert Collins, Suite 6193, #5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Balsa plywood prefabricated insulation panels*, from Central Valley, N.Y., to Avondale, La., and Newport News, Va., under contract with Cryogenic Structures Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 140885, filed April 18, 1975. Applicant: FIVE M TRUCKING CO., INC., 1805 Park Boulevard, Camden, N.J.

00193. Applicant's representative: J. G. Dall, Jr., 1111 E St. NW., Washington, D.C. 20004. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Canned foodstuffs*, from Camden, N.J., to Baltimore, Md.; and (2) *materials and supplies* used in the manufacture of canned foodstuffs, from points in Delaware and Maryland, to Camden, N.J., under a continuing contract or contracts with Campbell Soup Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 140886 filed April 21, 1975. Applicant: MAYFIELD MOTOR LINE, INC., Suite 618 Hamilton Bank Building, Nashville, Tenn. 37219. Applicant's representative: Robert L. Baker (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods as defined by the Commission, Classes A and B explosives, commodities in bulk, articles of unusual value, and commodities requiring special equipment): (1) Between Nashville, Tenn. and Mayfield, Ky.: From Nashville over U.S. Highway 41-A (also over Interstate Highway 24) to junction Kentucky Highway 80, thence over Kentucky Highway 80 to Mayfield, and return over the same route, serving all intermediate points in Kentucky west of the Tennessee River; (2) Between Hopkinsville, Ky. and Mayfield, Ky.: From Hopkinsville over Kentucky Highway 91 to junction U.S. Highway 62, thence over U.S. Highway 62 to junction U.S. Highway 45, thence over U.S. Highway 45 to Mayfield, and return over the same route, serving all intermediate points in Kentucky on and west of the Tennessee River, and serving Hopkinsville, Ky. for the purpose of joinder only, restricted against service at any point in Illinois; (3) Between Clarksville, Tenn. and Mayfield, Ky.: From Clarksville over U.S. Highway 79 to junction U.S. Highway 641, thence over U.S. Highway 641 to junction Kentucky Highway 121, thence over Kentucky Highway 121 to Mayfield, and return over the same route, serving all intermediate points in Kentucky, and serving Clarksville, Tenn. for the purpose of joinder only; and (4) Between Murray, Ky. and Calvert City, Ky.: From Murray over U.S. Highway 641 to junction U.S. Highway 68, thence over U.S. Highway 68 to junction Kentucky Highway 95, thence over Kentucky Highway 95 to Calvert City, and return over the same route, serving all intermediate points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 140879 (Sub-No. 1), filed April 22, 1975. Applicant: RALPH OWENS, P.O. Box 711, Hereford, Tex. 79045. Applicant's representative: John C. Sima, P.O. Box 2976, Lubbock, Tex. 79406. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Sand and gravel*, from Finney County, Kans., to points in Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Garden City, Kans., or Amarillo, or Hereford, Tex.

No. MC 140887, filed April 15, 1975. Applicant: SELECTED SHIPPER SERVICE, a corporation, 90 Court House Place, Jersey City, N.J. 07306. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, between the facilities of Holly Stores, Inc., and their subsidiaries, located at North Bergen, N.J., on the one hand, and, on the other, Carson, Calif., under a continuing contract or contracts with Holly Stores, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y., or Washington, D.C.

No. MC 140889, filed April 24, 1975. Applicant: FIVE STAR TRUCKING, INC., P.O. Box 20148, El Cajon, Calif. 92021. Applicant's representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, Iowa. 52501. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Electric motor, electric welders, electric motor and welder parts, welding kits, welding supplies and accessories*, from the plant sites and facilities of the Lincoln Electric Co., located in Cuyahoga and Lake Counties, Ohio, to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, under a continuing contract with The Lincoln Electric Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Cleveland, or Columbus, Ohio, or Chicago, Ill.

No. MC 140891, filed April 21, 1975. Applicant: PALMETTO MOVING & STORAGE, INC., Selberling Road at Fargo St., P.O. Box 4055, Charleston Heights, S.C. 29405. Applicant's representative: M. Carl Chavis (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Used household goods*, as defined by the Commission, between points in Bamberg, Berkeley, Charleston, Colleton, Dorchester, Georgetown, and Orangeburg Counties, S.C., restricted to the transportation of shipments having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with the packing, crating, and containerization or unpacking, uncrating, and decontainerization of such shipments.

NOTE.—If a hearing is deemed necessary, the applicant does not specify a location.

## PASSENGER APPLICATION

No. MC 2290 (Sub-No. 50), filed April 23, 1975. Applicant: AMERICAN BUSLINES, INC., 1501 South Central



Avenue, Los Angeles, Calif. 90021. Applicant's representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Passengers and their baggage*, in special operations, in round-trip sightseeing and pleasure tours, beginning and ending at points in Alameda, Contra Costa, Imperial, Los Angeles, Napa, Nevada, Orange, Placer, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, and Solano Counties, Calif., and extending to points in the United States, including Alaska but excluding Hawaii; and (2) *passengers and their baggage*, in special operations, in one-way sightseeing and pleasure tours, beginning at points in Alameda, Contra Costa, Imperial, Los Angeles, Napa, Nevada, Orange, Placer, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, and Solano Counties, Calif., and extending to points in the United States, including Alaska but excluding Hawaii.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles and San Francisco, Calif.

## BROKER APPLICATIONS

No. MC 130301, filed February 20, 1975. Applicant: MILDRED RUTH SMITH, doing business as MILLIE SMITH TOURS, 305 North E Street, Madera, Calif. 93637. Applicant's representative: Mildred Ruth Smith (same address as applicant). Authority sought to engage in operation, in interstate or foreign commerce, as a broker at Madera, Calif. to sell or offer to sell the transportation of *passengers* as individuals and in groups, and *their baggage*, in round trip charter operations, by motor, rail, water, and air carriers, beginning and ending at Madera, Calif. and extending to points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either San Francisco or Los Angeles, Calif.

No. MC 130313, filed April 7, 1975. Applicant: GRAY LINE OF SEATTLE, INC., 415 Seneca Street, Seattle, Wash. 98101. Applicant's representative: Edwin O. Cedergren (same address as applicant). Authority sought to engage in operation, in interstate or foreign commerce, as a broker at Seattle, Wash., to sell or offer to sell the transportation of *passengers* as individuals and in groups, and *their baggage* in the same vehicle with passengers, in charter and special operations in round-trip and one way tours, by air, water, motor, and rail carriers, between points in the United States, including Alaska and Hawaii, on the one hand, and, on the other, Seattle, Wash.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 130315, filed April 14, 1975. Applicant: WILLIAM C. BROWN, doing business as BILL BROWN TRAVEL

AGENCY, Second Avenue, Sutersville, Pa. 15083. Applicant's representative: Frank P. Antio, 116 Main Street, West Newton, Pa. 15089. Authority sought to engage in operation in interstate or foreign commerce, as a broker at Sutersville, Pa., to sell or offer to sell the transportation of *Groups of passengers and their baggage*, in special and charter operations, in sightseeing and pleasure tours, by motor, air, water and rail carriers, from various points in Western Pennsylvania, to points in Pennsylvania, Delaware, Maryland, Ohio, North Carolina, New Jersey, New York and Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Pittsburgh, Pa.

No. MC 130316, filed April 21, 1975. Applicant: EUNICE D. HODGENS, doing business as HODGENS TOURS, Route 1, Box 87 AA, Travelers Rest, S.C. 29690. Applicant's representative: George W. Clapp, P.O. Box 836, Taylors, S.C. 29687. Authority sought to engage in operation, in interstate or foreign commerce, as a broker at Travelers Rest, S.C., to sell or offer to sell the transportation of individual passengers and groups of *passengers and their baggage*, in special and charter operations, in sightseeing and pleasure tours, by motor, air, water and rail carriers, beginning and ending at points in Anderson, Greenville, Oconee, Pickens and Spartanburg Counties, S.C., and extending to points in the United States.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Greenville or Columbia, S.C.

No. FF 434 (Sub-No. 1), filed April 30, 1975. Applicant: TRANSCONEX, INC., 3000 NW 74th Avenue, Miami, Fla. 33148. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW, Washington, D.C. 20006. Authority sought to engage in operation, in interstate commerce, as a freight forwarder, through use of the facilities of common carriers by rail, motor, water and express, in the transportation of *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, motor vehicles, commodities in bulk, commodities requiring special equipment, and commodities in vehicles equipped with mechanical refrigeration), from points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota and Wisconsin, to Jacksonville and Miami, Fla., restricted to export traffic only.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. FF 468, filed April 14, 1975. Applicant: 5 STAR AIR FREIGHT CORPORATION, a corporation, 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Thomas E. Kiley (same address as applicant). Authority sought to engage in operation, in interstate commerce, as a freight forwarder, through use of the facilities of common carriers by motor vehicle, in the transportation of *General commodities*,

restricted to shipments having a subsequent or prior movement by air, between points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-13343 Filed 5-21-75; 8:45 am]

[Ex Parte No. 270 (Sub-No. 8)]

**PAPER AND PAPER PRODUCTS**  
**Investigation of Railroad Freight Rate Structure**

It appearing, that in the order instituting this proceeding, dated January 29, 1974, it was stated that it appeared that:

1. . . . the term 'paper and paper products' has by custom of the trade . . . come to relate to the outbound movement of finished products which consist of paper in its various forms and products generally produced from paper but does not include articles in which the inherent characteristics of paper have been substantially modified;

2. . . . the term 'paper and paper products' . . . shall generally encompass the articles listed in Category 26 of the Standard Transportation Commodity Code (STCC), as published in the Standard Transportation Commodity Code Tariff No. 1-B, ICC C-998, filed by Traffic Executive Assn.—Eastern Railroads and others, but shall not include STCC 26 111, pulp, STCC 26 112, pulp mill products, STCC 26 461, bituminous fiber pipe, and STCC 26 6, building paper or building board;

3. . . . the term 'paper and paper products' . . . in addition to including most of the articles listed in Category 26 of the STCC may also include in various rate tariff applications other paper products, such as: STCC 27 417 62, calendar desk pads, STCC 39 551 15, paper, carbon, one time, and STCC 27 417 41, labels, not elsewhere classified; as well as other similarly related products;

4. . . . as shown by the 1966 and 1969 rail carload waybill samples and freight commodity statistics, paper and paper products as heretofore defined are consistently among the railroads' major revenue producers;

5. . . . comparison of the 1966 and 1969 burden studies discloses that the cost for transporting paper and paper products has increased at a faster rate than revenues derived from its transportation;

It further appearing, that following the entry of the order instituting this proceeding a Commission staff study designed to assist the Coordinator by illustrating, in graphic form, the railroad freight rate structure on paper and paper products was conducted, and that study, including "broader questions" which should be further explored in this proceeding, is set forth in its entirety in Appendix A<sup>1</sup> hereto;

It further appearing, that in view of the need to investigate all rates on paper and paper products maintained by the railroads subject to the Interstate Com-

<sup>1</sup> All appendices filed as part of the original document.

merce Act, a further order as to the conduct of the investigation is necessary:

It further appearing, that by notice dated April 9, 1974, served April 15, 1974, the parties to this proceeding were solicited "(1) to define the environmental issues that may be present in this proceeding, and (2) to suggest to the Coordinator the approach and methodology that should be considered in a study of environmental implication of this proceeding by May 16, 1974," in order to assist the Coordinator in making an environmental assessment as required by the National Environmental Policy Act of 1969 (NEPA), (42 U.S.C. 4321-47 (1970)).

It further appearing, that in response to the above solicitation the following parties on the dates indicated filed statements, which statements are discussed in appendix B hereto:

Parties	Filed
American Paper Institute	May 16, 1974
Southern, Eastern, and Western Railroads	May 16, 1974
Special Projects Counsel	June 4, 1974

And it further appearing, that the instant proceeding addresses solely the outbound movement of paper and paper products, and does not look back in the productive process to consider the constituent resources needed to manufacture said products; that, while a potential incentive to the movement and utilization of recyclable (or waste) paper may have definitive environmental advantages over virgin woodpulp, these concerns are not at issue in this sub-numbered investigation; that in the absence of substantive or significant issues, this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969; but that should environmental issues be raised during the course of this proceeding, such issues will most certainly be considered by the Coordinator;

It is ordered, That the three statements previously identified be, and they are hereby, accepted into the record herein;

It is further ordered, That this proceeding be handled under modified pro-

cedure as provided by the Commission's general rules of practice, except that 20 copies of all statements submitted shall be filed with the Commission, and that the filing and service of pleadings be as follows:

(a) An opening statement of facts and argument may be submitted by any party to the proceeding on or before August 18, 1975;

(b) A statement or statements limited to rebuttal to any opening statement filed in (a) above may be submitted by any party to the proceeding on or before September 17, 1975. The opening statement to which the rebuttal statement is directed must be specifically identified;

(c) A reply (surrebuttal) limited to replying to a rebuttal statement or statements in (b) above may be submitted by any party on or before October 17, 1975. The rebuttal statement to which the reply statement is directed must be specifically identified;

Notice is given that the Coordinator may hold petitions and motions filed in this proceeding for disposition in a Coordinator's report, and that all parties should proceed upon the assumption that any petitions and motions which may be filed in this proceeding will not justify any party's failure to comply with the scheduled due date for filing of statements.

It is further ordered, That all parties are requested to meet the filing dates as specified herein as no exceptions or postponements are contemplated;

It is further ordered, That respondents and all other parties shall submit the information specified in Appendix B in their opening statements;

It is further ordered, That the evidence submitted in the statements filed must be served on all parties on the service list and, with the exception of the environmental representations, must be divided in the manner provided in Appendix B, and that failure to do so may be cause for rejection of the pleading in its entirety;

It is further ordered, That in furtherance of the objectives of this proceeding, as stated in 345 I.C.C. 1, 3, official notice may be taken of relevant publications in Appendix C. Parties objecting to any of the listed publications or portions thereof, should file motions to strike, on or before June 18, 1975;

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy in the Office of the Commission's Secretary and by filing a copy with the Director, Office of the Federal Register.

Copies may be obtained from the Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20423.

Dated at Washington, D.C. this 9th day of May, 1975.

By the Commission, Commissioner Hardin, Coordinator.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc.75-13509 Filed 5-21-75; 8:45 am]

[Rule 19, Ex Parte 241, Exemption 97]

**RAILROADS SERVING KEOKUK, IOWA**  
**Exemption Under Mandatory Car Service Rules**

It appearing, That because of flood conditions the railroads serving Keokuk, Iowa, are unable to move empty cars to and from that station; that sufficient cars of suitable ownership are not available for loading by shippers served by these lines; that numerous other empty cars located on these lines cannot be returned to owners until normal operations can be resumed; that compliance with Car Service Rule 2 would result in these cars standing idle and would prevent their use by shippers unable to receive other cars for loading.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, the railroads serving Keokuk, Iowa, are authorized to move, place, and accept from shippers located in Keokuk, general service cars owned by other railroads regardless of the provisions of Car Service Rule 2.

Effective: May 6, 1975.

Expires: May 31, 1975.

Issued at Washington, D.C., May 6, 1975.

INTERSTATE COMMERCE  
COMMISSION,  
[SEAL] R. D. PFAHLER,  
Agent.

[FR Doc.75-13502 Filed 5-21-75; 8:45 am]



# **federal register**

THURSDAY, MAY 22, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 100

PART II



## **ENVIRONMENTAL PROTECTION AGENCY**

### **INORGANIC CHEMICALS MANUFACTURING POINT SOURCE CATEGORY**

Interim Effluent Limitations and  
Guidelines, and Proposed Performance  
and Pretreatment Standards

V 40-100 MAY 22 75

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Title 40—Protection of the Environment  
CHAPTER I—ENVIRONMENTAL  
PROTECTION AGENCY  
SUBCHAPTER N—EFFLUENT GUIDELINES AND  
STANDARDS  
[FEL 375-6]  
PART 415—INORGANIC CHEMICALS  
MANUFACTURING POINT SOURCE  
CATEGORY

Interim Final Rule Making

Notice is hereby given that effluent limitations and guidelines for existing sources set forth in interim final form below are promulgated by the Environmental Protection Agency (EPA). On March 12, 1974, EPA promulgated a regulation adding Part 415 to Title 40 of the Code of Federal Regulations (39 FR 9612). That regulation with subsequent amendments established effluent limitations and guidelines for existing sources and standards of performance and pretreatment standards for new sources for the inorganic chemicals manufacturing point source category. The regulation set forth below will amend 40 CFR Part 415—inorganic chemicals manufacturing point source category by adding effluent limitations and guidelines for point sources other than publicly owned treatment works, which require the application of the best practicable control technology currently available for existing sources for the aluminum fluoride production subcategory (Subpart AG), ammonium chloride production subcategory (Subpart X), the borax production subcategory (Subpart AA), the boric acid production subcategory (Subpart AB), the bromine production subcategory (Subpart AC), the calcium carbonate production subcategory (Subpart AD), the calcium hydroxide production subcategory (Subpart AE), the carbon monoxide and byproduct hydrogen production subcategory (Subpart AG), the chrome pigments production subcategory (Subpart AH), the chromic acid production subcategory (Subpart AI), the copper sulfate production subcategory (Subpart AJ), the ferric chloride production subcategory (Subpart AL), the fluorine production subcategory (Subpart AN), the hydrogen production subcategory (Subpart AO), the hydrogen cyanide production subcategory (Subpart AP), the iodine production subcategory (Subpart AQ), the lead monoxide production subcategory (Subpart AR), the lithium carbonate production subcategory (Subpart AS), the nickel sulfate production subcategory (Subpart AU), the oxygen and nitrogen production subcategory (Subpart AW), the potassium chloride production subcategory (Subpart AX), the potassium iodide production subcategory (Subpart AY), the silver nitrate production subcategory (Subpart BA), the sodium fluoride production subcategory (Subpart BC), the sodium silicofluoride production subcategory (Subpart BF), the stannic oxide production subcategory (Subpart BH), the zinc sulfate production subcategory (Subpart BK) pursuant to sections 301 and 304 (b) and (c), of the Federal Water Pollution

Control Act, as amended (33 U.S.C. 1251, 1311 and 1314 (b) and (c), 86 Stat. 816 et seq.; Pub. L. 92-500) (the Act). Simultaneously, the Agency is publishing in proposed form limitations for existing sources and standards of performance for new point sources and pretreatment standards for existing sources and new sources.

In reviewing the data underlying the regulations for a number of subcategories, the Agency noted certain subcategories for which the data are incomplete, or where the data require further analysis before fully supportable effluent limitations can be derived. Accordingly, in order to promulgate these regulations in a timely fashion, consistent with the applicable court decree, the effluent limitations for the ammonium hydroxide production subcategory (Subpart Y), the barium carbonate production subcategory (Subpart Z), the carbon dioxide production subcategory (Subpart AF), the cuprous oxide production subcategory (Subpart AK), the ferrous sulfate production subcategory (Subpart AM), the manganese sulfate production subcategory (Subpart AT), the strong nitric acid production subcategory (Subpart AV), the potassium permanganate production subcategory (Subpart AZ), the sodium bisulfite production subcategory (Subpart BB), the sodium hydrosulfide production subcategory (Subpart BD), the sodium hydrosulfite production subcategory (Subpart BE), the sodium thiosulfate production subcategory (Subpart BG), the sulfur dioxide production subcategory (Subpart BI), and the zinc oxide production subcategory (Subpart BJ), are reserved. It is the Agency's intention to review these subcategories promptly and to revise this Part to include regulations covering such subcategories at the earliest possible date.

(a) *Legal authority.* Section 301(b) of the Act requires the achievement by not later than July 1, 1977, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of the best practicable control technology currently available as defined by the Administrator pursuant to section 304(b) of the Act. Section 301(b) also requires the achievement by not later than July 1, 1983, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of best available technology economically achievable which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants, as determined in accordance with regulations issued by the Administrator pursuant to section 304(b) of the Act.

Section 304(b) of the Act requires the Administrator to publish regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of the best practicable control technology currently available and the degree of effluent reduction attainable through the application of the best control measures and practices achievable

including treatment techniques, process and procedural innovations, operating methods and other alternatives. The regulation herein sets forth effluent limitations and guidelines, pursuant to sections 301 and 304(b) of the Act, for the aluminum fluoride production subcategory (Subpart W), the ammonium chloride production subcategory (Subpart X), the borax production subcategory (Subpart AA), the boric acid production subcategory (Subpart AB), the bromine production subcategory (Subpart AC), the calcium carbonate production subcategory (Subpart AD), the calcium hydroxide production subcategory (Subpart AE), the carbon monoxide and byproduct hydrogen production subcategory (Subpart AG), the chrome pigments production subcategory (Subpart AH), the chromic acid production subcategory (Subpart AI), the copper sulfate production subcategory (Subpart AJ), the ferric chloride production subcategory (Subpart AL), the fluorine production subcategory (Subpart AN), the hydrogen production subcategory (Subpart AO), the hydrogen cyanide production subcategory (Subpart AP), the iodine production subcategory (Subpart AQ), the lead monoxide production subcategory (Subpart AR), the lithium carbonate production subcategory (Subpart AS), the nickel sulfate production subcategory (Subpart AU), the oxygen and nitrogen production subcategory (Subpart AW), the potassium chloride production subcategory (Subpart AX), the potassium iodide production subcategory (Subpart AY), the silver nitrate production subcategory (Subpart BA), the sodium fluoride production subcategory (Subpart BC), the sodium silicofluoride production subcategory (Subpart BF), the stannic oxide production subcategory (Subpart BH), the zinc sulfate production subcategory (Subpart BK) of the inorganic chemicals manufacturing point source category.

Section 304(c) of the Act requires the Administrator to issue to the States and appropriate water pollution control agencies information on the processes, procedures or operating methods which result in the elimination or reduction of the discharge of pollutants to implement standards of performance under section 306 of the Act. The report or "Development Document" referred to below provides, pursuant to section 304(c) of the Act, information on such processes, procedures or operating methods.

Section 306 of the Act requires the achievement by new sources of a Federal standard of performance providing for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants. Section 307(c) of the Act requires the Administrator to promulgate pretreatment standards for new sources at the same time that standards of performance

for new sources are promulgated pursuant to section 306. Section 307(b) of the Act requires the establishment of pretreatment standards for pollutants introduced into publicly owned treatment works and 40 CFR Part 128 establishes that the Agency will propose specific pretreatment standards at the time effluent limitations are established for point source discharges. In another section of the Federal Register a regulation is proposed in fulfillment of these requirements.

(b) *Summary and basis of interim final effluent limitations and guidelines for existing sources.* (1) *General methodology.* The effluent limitations and guidelines set forth herein were developed in the following manner. The point source category was first studied for the purpose of determining whether separate limitations are appropriate for different segments within the category. This analysis included a determination of whether differences in raw material used, product produced, manufacturing process employed, age, size, waste water constituents and other factors require development of separate limitations for different segments of the point source category. The raw waste characteristics for each such segment were then identified. This included an analysis of the source, flow and volume of water used in the process employed, the sources of waste and waste waters in the operation and the constituents of all waste water. The constituents of the waste waters which should be subject to effluent limitations were identified.

The control and treatment technologies existing within each segment were identified. This included an identification of each distinct control and treatment technology, including both in-plant and end-of-process technologies, which is existent or capable of being designed for each segment. It also included an identification of, in terms of the amount of constituents and the chemical, physical, and biological characteristics of pollutants, the effluent level resulting from the application of each of the technologies. The problems, limitations and reliability of each treatment and control technology were also identified. In addition, the non-water quality environmental impact, such as the effects of the application of such technologies upon other pollution problems, including air, solid waste, noise and radiation were identified. The energy requirements of each control and treatment technology were determined as well as the cost of the application of such technologies.

The information, as outlined above, was then evaluated in order to determine what levels of technology constitute the "best practicable control technology currently available," "best available technology economically achievable" and the "best available demonstrated control technology, processes, operating methods, or other alternatives." In identifying such technologies, various factors were considered. These included the total cost of application of technology in relation to the effluent reduction benefits to be

achieved from such application, the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, nonwater quality environmental impact (including energy requirements) and other factors.

The data upon which the above analysis was performed included EPA permit applications, EPA sampling and inspections, consultant reports, and industry submissions.

(2) *Summary of conclusions with respect to the aluminum fluoride production subcategory (Subpart W), the ammonium chloride production subcategory (Subpart X), the borax production subcategory (Subpart AA), the boric acid production subcategory (Subpart AB), the bromine production subcategory (Subpart AC), the calcium carbonate production subcategory (Subpart AD), the calcium hydroxide production subcategory (Subpart AE), the carbon monoxide and byproduct hydrogen production subcategory (Subpart AG), the chrome pigments production subcategory (Subpart AH), the chromic acid production subcategory (Subpart AI), the copper sulfate production subcategory (Subpart AJ), the ferric chloride production subcategory (Subpart AL), the fluorine production subcategory (Subpart AN), the hydrogen production subcategory (Subpart AO), the hydrogen cyanide production subcategory (Subpart AP), the iodine production subcategory (Subpart AQ), the lead monoxide production subcategory (Subpart AR), the lithium carbonate production subcategory (Subpart AS), the nickel sulfate production subcategory (Subpart AU), the oxygen and nitrogen production subcategory (Subpart AW), the potassium chloride production subcategory (Subpart AX), the potassium iodide production subcategory (Subpart AY), the silver nitrate production subcategory (Subpart BA), the sodium fluoride production subcategory (Subpart BC), the sodium silicofluoride production subcategory (Subpart BF), the stannic oxide production subcategory (Subpart BH), the zinc sulfate production subcategory (Subpart BK) of the inorganic chemicals manufacturing point source category.*

(1) *Categorization.* For the purpose of establishing effluent limitations guidelines and standards, the significant inorganic products segment of the inorganic chemicals manufacturing category was divided into forty-one discrete subcategories consistent with the specific chemicals produced. Various other means to group the forty-one chemicals into subcategories were investigated. Factors such as raw waste loads, water requirements, and manufacturing processes do not establish a sound basis for subcategory because the raw materials used and production processes employed are specific for each chemical. Although certain waste water constituents may be reduced to similar concentrations for selected chemical groupings, the quantities of pollutants discharged based on production volume are different for each

chemical because of specific water requirements.

Thus, for the purpose of these regulations, a subcategory was established for each chemical product. This subcategory scheme simplifies the application of effluent limitations guidelines because inorganic chemical plants vary significantly in terms of product mix. This scheme also reflects differences in the character and treatability of waste streams due to the manufacturing process variables unique to each chemical.

(ii) *Origin and characteristics of process waste water pollutants generated by the manufacture of significant inorganic products.*

(1) *Aluminum fluoride.* Aluminum fluoride is manufactured by the reaction of hydrated alumina with hydrogen fluoride. The product aluminum fluoride is cooled and conveyed to a storage area for packaging and shipment. Process waste waters result from the use of water scrubbers to entrain air-borne wastes from the chemical reactor and from the loading and packaging area. Also, water is sometimes used for vacuum pump seals. The primary waste water constituents present in the untreated process waste water include fluoride and aluminum compounds.

(2) *Ammonium chloride.* Ammonium chloride may be produced from the reaction of anhydrous ammonia with hydrogen chloride gas, from the recovery of ammonium chloride from waste mother liquors generated by the production of sodium carbonate using the Solvay process, or as a byproduct from other chemical manufacturing processes. The regulations presented herein apply only to the first two manufacturing processes. No water is used in the ammonia-hydrogen chloride gas process, resulting in the generation of no process waste water pollutants.

In the recovery process from sodium carbonate production wastes, ammonium chloride-containing liquor is first filtered to remove insoluble impurities, then partially evaporated to extract residual ammonia and carbon dioxide. The liquor is then passed through a series of vacuum flash coolers wherein ammonium chloride crystallizes and is recovered by centrifugation. The waste mother liquor is returned to the sodium carbonate plant for recovery of residual ammonia values. All other waste streams from the various purification steps are also returned to the sodium carbonate production process. The only process wastes as a direct result of ammonium chloride recovery include filter aids and ammonia containing barometric condenser water.

(3) *Ammonium hydroxide.* The effluent limitations for this subcategory are being reserved for further consideration.

(4) *Barium carbonate.* The effluent limitations for this subcategory are being reserved for further consideration.

(5) *Borax.* Borax is manufactured by the mining and extraction from borax ore and also by the Trona process.

In the mining and extraction process, impure sodium tetraborate decahydrate is crushed and dissolved in water with

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recycled mother liquor. The solution is fed to a thickener wherein insolubles are removed. The borax solution is then passed through crystallizers, and centrifuged to recover solid borax. Contact cooling water, thickener overflow, and washwaters are the process waste streams generated by this process. The wastes primarily consist of insolubles contained in the impure raw material.

In the Trona process, borax-containing brine is passed through a cyclic evaporation crystallization system. The brine is concentrated in triple-effect evaporators. The hot liquor is then cooled, allowing for the crystallization of borax, which is then filtered, purified, dried and packaged. The process waste streams consist of residual brine and depleted liquor which are returned to the brine source.

(6) *Boric acid.* Boric acid is made by reacting borax and sulfuric acid. The manufacturing process and associated raw waste load vary depending on the source of borax.

When mined borax is used as the raw material, the resulting slurry from the borax-sulfuric acid reaction is vacuum filtered to recover solid boric acid which is dissolved in water, filtered, reprecipitated, centrifuged, washed, dried and packaged. Wastes consist of excess boric acid liquor, unrecovered sodium sulfate, filter aids and undissolved impurities from the filtration steps.

Boric acid may also be produced by the Trona process from a liquid-liquid solvent extraction—evaporative crystallization process. The brine is purified and evaporated to dryness. The crystallized boric acid is then centrifuged, dried and packaged. The only wastes from this process are brine impurities which are recycled to the salt water body from which the brine was initially withdrawn.

(7) *Bromine.* Bromine may be produced by the Trona process or by extraction from well brines.

In the Trona process bromine is stripped from a hot liquor stream using chlorine and steam. The product bromine is condensed, distilled and collected as a liquid. The only wastes generated by this production process are residual brine and depleted liquor which are recycled to other manufacturing processes.

When well brines are used as the raw material the production process is similar to the Trona process. The brine stream is extracted by debromination with chlorine and steam. The wastes consist of spent brines which are returned to the salt cavity.

(8) *Calcium carbonate.* Calcium carbonate is produced by similar processes using various raw materials. In one process slaked lime is reacted with carbon dioxide. The slurry is screened and filtered to recover calcium carbonate. Other processes involve reacting various waste streams from the Solvay process used to manufacture sodium carbonate. Many of the wastes present from these processes are attributable to sodium carbonate production and not a direct result of calcium carbonate manufacture. The raw wastes from the various processes

essentially consist of waste sodium, ammonia, and calcium salts resulting from the numerous filtration and thickening operations.

(9) *Calcium hydroxide.* Calcium hydroxide is produced by the reaction of calcium oxide with water. It is essentially a dry process generating no waterborne wastes.

(10) *Carbon dioxide.* The effluent limitations for this subcategory are being reserved for further consideration.

(11) *Carbon monoxide and byproduct hydrogen.* Methane, air and water vapor are catalytically reacted to form a mixture of carbon monoxide, carbon dioxide and hydrogen. The carbon dioxide is removed by scrubbing with ammonia and the products, carbon monoxide and hydrogen, are separated, purified and compressed. Process waste waters include compression condensates, scrubber wastes and monoethanolamine waste. These wastes generally contain carbon dioxide, oil from compressors and monoethanolamine.

(12) *Chrome pigments and iron blues.* The following pigments are considered in this subcategory: Chrome yellow, chrome orange, zinc yellow, molybdate chrome orange, chrome green, chromic oxide and iron blues. Chrome yellow and chrome orange are impure forms of lead chromate. Molybdate chrome orange is a mixture of lead chromate, lead molybdate and lead sulfate. Chrome green is a mixture of chrome yellow and iron blue. Chromic oxide green and "gulfnet's" green are anhydrous and hydrated forms of chromic oxide. Zinc yellow contains compounds of zinc, potassium and chrome. Iron blues are produced by the reaction of ferrous sulfate with sodium ferrocyanide in the presence of ammonium sulfate. The process waste waters generated by the manufacture of chrome pigments result from various filtering, washing and drying operations. Process waste waters from a chrome pigment complex will generally contain chromium, lead, zinc, iron, cyanide, dissolved sodium salts and acetates. Other constituents are often present in lesser quantities.

(13) *Chromic acid.* Chromic acid is produced from waste liquors resulting from sodium dichromate manufacture. This waste liquor is reacted with sulfuric acid and the solution is filtered to recover chromic acid. The only waste streams not returned to the sodium dichromate manufacturing process are leaks, spills and wash down waters which contain chromium.

(14) *Copper sulfate.* Copper sulfate may be produced from a pure copper raw material or from an impure copper source.

When a pure raw material is used, copper, sulfuric acid, water and air are introduced into a steam-heated oxidizing tower. The resulting copper sulfate solution is sent to a sedimentation basin and then to a crystallizing tank. The concentrated crystals are centrifuged, separated and dried. All waste streams are recycled to the process.

In the byproduct recovery process, a waste stream from a copper refinery is

fed to an oxidizer tank wherein it is reacted with copper shot, steam and air. The resulting solution is concentrated and filtered. The filtrate is crystallized, centrifuged and screened. Product copper sulfate is dried and packaged. Process waste waters consist of spent mother liquors and wash down waters. Copper, nickel and selenium are process waste water pollutants generated by this process.

(15) *Cuprous oxide.* The effluent limitations for this subcategory are being reserved for further consideration.

(16) *Ferric chloride.* Ferric chloride is produced from waste pickle liquor. The pickle liquor is preheated and reacted with iron, chlorine and sometimes hydrochloric acid. The solution is filtered and sold in solution or evaporated to dryness to recover a solid product. Wastes consist of filter sludges and washdown and pump seal waters containing grease and various iron compounds.

(17) *Ferrous sulfate.* The effluent limitations for this subcategory are being reserved for further consideration.

(18) *Fluorine.* Fluorine production is based on the electrolysis of hydrogen fluoride. This electrolysis is either a direct electrolysis of liquid hydrofluoric acid or an electrolysis of fused salts containing potassium acid fluoride.

In the liquid hydrogen fluoride process, fluorine is formed at one electrode and hydrogen gas at the other. The fluorine is compressed and packaged in cylinders. No raw wastes are generated by this process.

In the fused salt process, lithium fluoride, potassium acid fluoride and gaseous hydrogen fluoride are added to a molten salt electrolytic cell. Liberated fluorine gas is filtered and cooled to remove impurities. Process waste water consists of periodic electrolyte discharge from the cell. The primary constituent contained in this waste stream is fluoride.

(19) *Hydrogen.* The production process applicable to this subcategory involves purifying refinery byproduct gas. Crude hydrogen is passed through a catalytic bed and drier to remove oxygen and water. The gas is then passed through gas exchangers to remove nitrogen and other impurities. The hydrogen is cooled, liquefied and packaged. There is no process waste water generated by this process.

(20) *Hydrogen cyanide.* Hydrogen cyanide is manufactured by the Andrussov process and also as a byproduct of acrylonitrile production.

In the Andrussov process natural gas, ammonia and air are catalytically reacted to yield an impure hydrogen cyanide gas stream which is purified to remove nitrites and ammonia. The product hydrogen cyanide is liquefied and stored. The wastes from this process consist of sulfates, ammonia, cyanide and nitrites discharged from the ammonia recovery unit and in various wash waters.

Production as a byproduct of acrylonitrile manufacture involves the catalytic reaction of propylene, ammonia and air. The products are separated and the hydrogen cyanide is purified, compressed and liquefied for the sale. No process

waste waters are generated by this recovery process.

(21) *Iodine.* Iodine is produced from iodide containing brine solutions. The brine is acidified and fed into an extraction unit wherein chlorine is passed through the brine liberating free iodine. The free iodine is stripped from the brine and treated again with chlorine yielding solid iodine. The solution is filtered, treated with sulfuric acid and refiltered. The product is then crushed and packaged for sale. The wastes from this process include spent brine solutions which are returned to the salt cavity from which the brine was initially obtained.

(22) *Lead monoxide.* Lead monoxide is produced by the thermal oxidation of lead. There are no process waste water streams generated by lead monoxide production.

(23) *Lithium carbonate.* Lithium carbonate is produced by the Trona process and from spodumene ore.

Production from spodumene ore involves the reaction of sulfuric acid with the ore. The solution is heated, leached with water and filtered. The solids are redissolved in sulfuric acid, precipitated by pH adjustment and centrifuged. The product lithium carbonate is then washed and dried. Raw wastes consist of the sulfates of calcium, lithium and sodium and ore residues.

In the Trona process, lithium carbonate is recovered from the solid residue resulting from potassium chloride and bromine production. The residue is dissolved in water and sent to a flotation system from which a dilithium sodium phosphate froth is withdrawn, filtered and dried. Sulfuric acid is reacted with this solid, yielding lithium sulfate which is reacted with sodium carbonate. Lithium carbonate is crystallized, centrifuged, dried and packaged. All waste materials are used in other manufacturing processes, such that there is no process waste water discharge.

(24) *Manganese sulfate.* The effluent limitations for this subcategory are being reserved for further consideration.

(25) *Nickel sulfate.* Nickel sulfate is produced from pure nickel or nickel oxide and from impure nickel containing materials.

When pure nickel is used as the raw material, the metal or oxide is digested in sulfuric acid. The solution is then filtered and sold or further processed to yield a solid product. Virtually no process wastes are generated by this process.

If impure raw materials are used, the sulfuric acid reaction solution must be treated with oxidizers to remove impurities. After filtration the product is marketed or converted into a solid product. Raw wastes consist of metal salts, suspended solids and dissolved solids present in the impure nickel raw material. Waste streams result from the use of wet scrubbers, from barometric condensers and from treatment of the raw materials to remove impurities.

(26) *Strong nitric acid.* The effluent limitations for this subcategory are being reserved for further consideration.

(27) *Nitrogen and oxygen.* Nitrogen and oxygen are manufactured by the distillation of liquefied air. Air is compressed, cooled and then separated into nitrogen and oxygen by distillation. The primary process wastes are oil and grease contained in compressor condensates.

(28) *Potassium chloride.* Potassium chloride is produced by the Trona process and by extraction from sylvite ore, which is a potassium chloride-sodium chloride mineral.

In the Trona process a brine solution is partially evaporated to produce a hot, concentrated liquor which is cooled in vacuum crystallizers. Potassium chloride is filtered from the resulting slurry, dried and packaged. The only wastes from this process are depleted brine solutions which are returned to the salt body from which the brine was initially withdrawn.

When sylvite ore is used as the raw material, it is crushed, screened and wet ground in brine solutions. Potassium chloride is separated from the slurry, centrifuged, dried, screened and packaged. The raw wastes consist primarily of sodium chloride and insoluble impurities present in the ore. Process waste waters result from the various separation processes and dewatering operations.

(29) *Potassium iodide.* Potassium iodide is produced by the reaction of potassium hydroxide and iodine. The waterborne wastes include potassium iodide and iodate which are present in washdown waste waters.

(30) *Potassium permanganate.* The effluent limitations for this subcategory are being reserved for further consideration.

(31) *Silver nitrate.* Silver nitrate is produced by dissolving silver in nitric acid. The solution is evaporated yielding a concentrated mother liquor which is sent to a crystallizer. The crystals are centrifuged, washed, dried and packaged. Waste water streams result from the use of wet scrubbers, from product washing and purification operations, and from the evaporators. The major waste water constituents include silver compounds, nitrates and trace metals.

(32) *Sodium bisulfite.* The effluent limitations for this subcategory are being reserved for further consideration.

(33) *Sodium fluoride.* Sodium fluoride may be made by two similar processes. Anhydrous hydrofluoric acid may be reacted with sodium carbonate. The solution is then sent to a vacuum filter to recover product sodium fluoride. Process wastes from this process consist of filtrate, mother liquors, wash down waters and scrubber solutions which are recycled. The mother liquor and wash down waters generally contain sodium carbonate and waste sodium fluoride.

Sodium fluoride may also be produced by the reaction of sodium silicofluoride with sodium hydroxide. The solution is fed to a multi-stage separator, wherein sodium fluoride separates from the soluble sodium silicate. The product sodium fluoride is washed, dried, and packaged. Process waste waters from this process

consist of waste liquor containing sodium silicate and sodium fluoride, wet scrubber blowdown and wash waters.

(34) *Sodium hydrosulfide.* The effluent limitations for this subcategory are being reserved for further consideration.

(35) *Sodium hydrosulfite.* The effluent limitations for this subcategory are being reserved for further consideration.

(36) *Sodium silicofluoride.* Sodium silicofluoride is produced by the reaction of fluosilicic acid with sodium chloride from which sodium silicofluoride precipitates. The reaction mixture is settled and the product is separated, washed, dried, classified and packaged. A variation of this process is also used to manufacture sodium silicofluoride. Impure phosphoric acid containing fluorides may be treated with sodium carbonate to precipitate sodium silicofluoride. The remaining steps to recover and prepare the product for sale are the same as those discussed above. Raw wastes from the two processes include the coproducts from the process reaction (hydrochloric acid in the first case and carbon dioxide in the second), excess reactants, impurities in the acids and minor process additives.

(37) *Sodium thiosulfate.* The effluent limitations for this subcategory are being reserved for further consideration.

(38) *Stannic oxide.* Two processes may be used to manufacture stannic oxide. In the "dry process" the metal is thermally reacted with air or oxygen. No process waste waters result from this process.

The second process involves the recovery of tin from scrap materials. The wastes contained in the process waters from this process include suspended solids, oil and grease.

(39) *Sulfur dioxide.* The effluent limitations for this subcategory are being reserved for further consideration.

(40) *Zinc oxide.* The effluent limitations for this subcategory are being reserved for further consideration.

(41) *Zinc sulfate.* Zinc sulfate is produced by reaction of sulfuric acid with crude zinc starting materials such as crude zinc oxide from brass mill fumes, zinc metal residues and zinc carbonate byproduct from sodium hydrosulfite manufacture. The reaction product is filtered, treated to precipitate metals, re-filtered, and evaporated to dryness or sold as a solution. Waste materials from this process are all solids except for a small amount of wash water which is recycled.

(iii) *Treatment and control technology.* Waste water treatment and control technologies have been studied for each subcategory of the industry to determine what is (a) the best practicable control technology currently available, (b) the best available technology economically achievable, and (c) the best available demonstrated control technology, processes, operating methods or other alternatives.

The application and performance of various control and treatment technologies to reduce the quantities of pollutants discharged to navigable waters as a result of the production of inorganic chemicals are specific to the inorganic



product manufactured. However, many in-process control measures, as well as end-of-pipe treatment systems, may be generally applied to several product subcategories.

Good in-process control is a significant pollution abatement technique for all products produced in the inorganic chemicals manufacturing industry. Practices such as minimization and containment of spills and leaks, segregation of waste streams, monitoring process waste water, water conservation and reuse, waste water equalization and good housekeeping, process operation and equipment maintenance are necessary to eliminate or reduce the volume of process waste water requiring treatment.

Five chemicals, borax, boric acid, bromine, potassium chloride and lithium carbonate, are produced by the Trona process in which salt brines are withdrawn from a dry lake basin. Saleable chemicals are extracted from the brine solution which is then returned to the brine field. No additional treatment is required for this process.

Several chemicals are manufactured as byproducts from other production processes or recovered from waste streams generated by other operations. No additional waste allowance is provided for these processes if no pollutants are added in the recovery or production processes. Hence, any treatment technologies are applicable to the primary manufacturing operation and no additional abatement systems are required. Such chemical manufacturing processes include ammonium chloride production from sodium carbonate wastes, chromic acid production in dichromate facilities, ferric chloride production from waste pickle liquor and ferrous sulfate recovery from titanium dioxide production.

Some chemical manufacturing processes are essentially dry, requiring no additional effluent treatment, because the existing technology averts the discharge of process waste water pollutants under normal operating conditions. These include calcium hydroxide production, lead monoxide production, stannic oxide production from tin metal and zinc sulfate production.

Nickel sulfate production from pure raw materials and sodium fluoride production generate no effluent requiring treatment by virtue of the recycle systems employed in the manufacturing processes.

All other chemical subcategories generate process waste water streams which must be controlled and treated. The constituents contained in the process waste water vary with the chemical produced. Suspended solids are present as a result of most production processes. These may generally be removed by sedimentation basins, clarifiers, filters, centrifuges and evaporation. These treatment technologies can be used when combined with disposal of residue.

Numerous metal ions and metal compounds are generated by the processes used to manufacture many chemicals. Treatment of these wastes generally consists of various precipitation processes

and subsequent solids removal. Fluorides are usually removed by lime precipitation.

Sulfides and sulfites are present as the result of manufacturing various sulfur compounds. Treatment systems to remove these pollutants include aeration processes, oxidation by various chemicals and biological systems.

The proper management of solid wastes resulting from pollution control systems must be practiced. Pollution control technologies generate many different amounts and types of solid wastes and liquid concentrates through the removal of pollutants. These substances vary greatly in their chemical and physical composition and may be either hazardous or non-hazardous. A variety of techniques may be employed to dispose of these substances depending on the degree of hazard.

If thermal processing (incineration) is the choice for disposal, provisions must be made to ensure against entry of hazardous pollutants into the atmosphere. Consideration should also be given to recovery of materials of value in the wastes.

For those waste materials considered to be non-hazardous where land disposal is the choice for disposal, practices similar to proper sanitary landfill technology may be followed. The principles set forth in the EPA's Land Disposal of Solid Wastes Guidelines 40 CFR Part 241 may be used as guidance for acceptable land disposal techniques.

For those waste materials considered to be hazardous, disposal will require special precautions. In order to ensure long-term protection of public health and the environment, special preparation and pretreatment may be required prior to disposal. If land disposal is to be practiced, these sites must not allow movement of pollutants to either ground or surface waters. Sites should be selected that have natural soil and geological conditions to prevent such contamination or, if such conditions do not exist, artificial means (e.g. liners) must be provided to ensure long-term protection of the environment from hazardous materials. Where appropriate, the location of solid hazardous materials disposal sites should be permanently recorded in the appropriate office of the legal jurisdiction in which the site is located.

(iv) *Cost estimates for control of waste water pollutants.* Costs for the treatment and control of water-borne pollutants for inorganic chemicals included in this study have been developed, for the most part, on a compilation and summation of costs for individual plants rather than a statistical projection based on a small fraction of existing plants. This approach was necessary because many of the forty-seven chemicals are made in only a very few plants in the U.S., most or all of which were studied. The percentage of production covered by actual plant visits or plant submitted data is more than 75 percent for 25 of the chemical products studied; 50 to 75 percent for an additional 10 products; and up to 50 percent for the remainder.

A summary of cost and energy information for attainment of no discharge of pollutants in process waste waters as developed from the specific chemical overall cost analyses is presented in the development document.

For the forty-seven inorganic chemicals of this study, treatment and disposal investment capital already spent is estimated as \$19,000,000. Much of this money has been spent to reach the minimum treatment level. A fair portion has been spent for best practicable or best available technology levels. It is estimated that approximately twice the amount of total additional capital expenditure is needed to achieve no discharge of pollutants in process waste water at all facilities in these industries.

Removal of dissolved solids is expensive at this time. The disposal of soluble solids once they have been removed from the waste water is another difficult problem. New plants have more options in solving these problems economically than do existing plants. New source facilities with heavy dissolved solids effluents and/or heavy solid waste loads may avoid costly waste water treatments by geographical location. A favorable balance of climatic evaporation to rainfall eases these problems. Land storage or landfill space should be available for solids disposal.

New plants being built can avoid major future waste abatement costs by inclusion of: (1) dikes, emergency holding ponds, catch basins and other containment facilities for leaks, spills and wash downs, (2) piping, trenches, sewers, sumps, and other isolation facilities to keep leaks, spills and process water separate from cooling and sanitary water, (3) noncontact condensers for cooling water, (4) efficient reuse, recycling and recovery of all possible raw materials and byproducts and (5) closed cycle water utilization whenever possible. Closed cycle operation eliminates all waterborne wastes to surface water.

Cost information was obtained directly from industry, from engineering firms, equipment suppliers, government sources, and available literature whenever possible. Costs are based on actual industrial installations or engineering estimates for projected facilities as supplied by contributing companies. In the absence of such information, costs estimates have been developed from either plant-supplied costs for similar waste treatment installation at plants making other inorganic chemicals or general cost estimates for treatment technology.

In the Cost Analysis Tables, the values of invested capital and annual costs given are the cost to plants that do not have the specified technology in place now.

Costs have been uniformly calculated based on 10 percent straight line depreciation. There is an additional amount of interest at 6 percent of the depreciated value per year (pollution-abatement tax-free money). These plus the costs of insurance and taxes yield a total overall annualized fixed cost of 15 percent per year. All costs have been

adjusted to 1971 values and are quoted as such unless otherwise noted.

Costs are developed for various levels of technology as described in Level Descriptions. The A level is the least stringent of the levels. B, C, D and E levels are other levels of treatment that were evaluated.

Treatment rationales employed in the cost development are: (1) All noncontact cooling water is exempted from treatment (and treatment costs) provided no process waste water pollutants are introduced, (2) water treatment, cooling tower and boiler blowdown discharged are not treated, (3) treatment of dissolved solids, other than harmful pollutants, is not included in cost development unless such removal is judged to be economically achievable, and (4) disposal considerations are covered in cost development including evaporation ponds, land spoilage and solid wastes handling.

(v) *Energy requirements and non-water quality environmental impacts.* The inorganic chemicals manufacturing industry has an estimated annual energy consumption of 3,020,000 billion kg/cal (12,000,000 billion BTU). Additional energy requirements to implement best practicable technology currently available are insignificant. An additional 60 billion kg/cal (240 billion BTU) will be required annually to implement best available technology economically achievable. This represents an increase in energy consumption of less than 0.01 percent above that currently used.

No significant increase in noise pollution, radiation, air pollution or thermal pollution will result from the implementation of water pollution control technology.

(vi) *Economic impact.* Generally, the costs of compliance are low and are not expected to significantly affect prices, profitability, industry production or growth in the product segments covered by these guidelines. In most cases, it is expected that these costs can be passed on to the consumer through price increases ranging from zero to 6.1 percent for 1977 and from zero to 6.5 percent by 1983. However, in two segments—nickel sulfate and ferric chloride—some producers will have to absorb these costs in their profit margins. As a result, it is estimated that one plant in the nickel sulfate segment, representing about 8 to 10 percent of current productive capacity, may close due to the 1977 effluent limitations. Although capacity utilization is high in this segment, it is expected that the larger-volume producers can make up this lost production. Approximately fifteen to twenty employees would be affected by these closures; however, there should be no significant impact on the local communities, balance of trade, or industry growth for these segments.

In addition, it is estimated that approximately two ferric chloride plants may close as a result of increased competition from new lower cost by-product recovery processes. These plants currently represent fifty-six percent of the

industry's productive capacity; however, they are expected to represent a smaller portion of future capacity after new plants are completed. Approximately sixty-five to seventy employees would be affected by these closures. The impact on the communities is expected to be minimal and no balance of trade or industry growth effects are anticipated.

The report entitled "Development Document for Interim Final Effluent Limitations and Guidelines and Proposed New Source Performance Standards for the Inorganic Chemicals Manufacturing Point Source Category" details the analysis undertaken in support of the interim final regulations set forth herein and is available for inspection in the EPA Freedom of Information Center, Room 204, West Tower, Waterside Mall, Washington, D.C., at all EPA regional offices, and at State water pollution control offices. A supplementary analysis prepared for EPA of the possible economic effects of the regulation is also available for inspection at these locations. Copies of both of these documents are being sent to persons or institutions affected by the proposed regulation or who have placed themselves on a mailing list for this purpose (see EPA's Advance Notice of Public Review Procedures, 38 FR 21202, August 6, 1973). An additional limited number of copies of both reports are available. Persons wishing to obtain a copy may write the EPA Office of Public Affairs, Environmental Protection Agency, Washington, D.C. 20460, Attention: Ms. Ruth Brown, A-107.

When this regulation is promulgated in final rather than interim form, revised copies of the Development Document will be available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies of the economic analysis document will be available through the National Technical Information Service, Springfield, VA 22151.

(c) *Summary of public participation.* Prior to this publication, the agencies and groups listed below were consulted and given an opportunity to participate in the development of effluent limitations, guidelines and standards proposed for the inorganic chemicals manufacturing category. All participating agencies have been informed of project developments. An initial draft of the Development Document was sent to all participants and comments were solicited on that report. The following are the principal agencies and groups consulted: (1) Effluent Standards and Water Quality Information Advisory Committee (established under section 515 of the Act); (2) all State and U.S. Territory Pollution Control Agencies; (3) the Manufacturing Chemists' Association; (4) the Chlorine Institute; (5) Puerto Rico Land Administration; (6) American Society of Mechanical Engineers; (7) American Society of Civil Engineers; (8) Hudson River Sloop Restoration, Inc.; (9) National Resource Defense Council; (10) Water Pollution Control Federation; (11) the National Wildlife Federation; and (12) the Salt Institute.

The following responded with comments: (1) Colorado Department of Public Health; (2) Kentucky Department for Natural Resources and Environmental Protection; (3) New York Department of Environmental Conservation; (4) Illinois Environmental Protection Agency; (5) Virginia State Water Control Board; (6) Arizona State Department of Health; (7) Florida Department of Pollution Control; (8) U.S. Water Resources Council; (9) BASF Wyandotte Corporation; (10) E. I. du Pont de Nemours and Company; (11) Allied Chemical Corporation; and (12) Manufacturing Chemists Association.

The primary issues raised in the development of the interim final effluent limitations and guidelines and the treatment of these issues herein are as follows:

(1) A common criticism was that disposal of storm water runoff makes the requirement of "no discharge of process water pollutants" unrealistic for many chemical subcategories. Land is often unavailable to provide total impoundment of storm water runoff and some provision must be established for periodic discharges.

Storm water runoff water is not considered process waste water for the purposes of the effluent limitations guidelines presented herein.

(2) Several commenters stated that the cost estimates for implementation of best practicable control technology currently available appear low and do not reflect total cost. Also, in cases where cost estimates appear realistic, some commenters state that the data has been misrepresented by averaging individual plant costs to reach an industry-wide cost figure.

Cost information was obtained directly from industry during plant visits, from engineering firms and equipment suppliers, and from available literature. This data has been obtained from the best sources available to the Agency and is believed to be representative of actual capital and operating costs.

In the draft development document, costs were presented that were applicable to the subcategory as a whole and not to any individual facility. The presentation of costs in the interim final development document has been changed to apply to costs for a typical plant that is not using the indicated treatment system.

(3) Some commenters questioned the establishment of daily maximum limitations as twice the thirty-day average. They state that consideration should be given to the variability of the raw waste load, shutdown and startup, and to different types of processes as well as the method of operation, i.e., continuous or batch.

Extensive, long-term data are not available for each of the chemical subcategories. It was necessary, therefore, to rely on data from other segments of the inorganic chemicals industry, as well as data from other industrial categories. Based on this information and using engineering judgment on the performance reliability of recommended treatment systems, a factor of two appears generous



for most subcategories. This factor considers raw waste load variability. In the case of shock loads which may upset a treatment system, equalization basins or surge tanks may be employed.

The issue most often raised is that a biological treatment system is susceptible to variations in influent loadings. However, the general treatment of choice for the inorganic chemicals industry is physical-chemical, not biological, and thus not as dependent on variations in influent loads. The reevaluation of the available information suggests that the daily maximum limitations based on best practicable control technology currently available should be three times the thirty-day average for the following batch processes: (a) Chrome pigments, (b) copper sulfate, (c) lithium carbonate (spodumene ore process), (d) nickel sulfate, (e) potassium iodide, and (f) silver nitrate.

(4) Many commenters recommend specifying a range of effluent reductions attainable by application of various control and treatment technologies instead of establishing rigid effluent limitations based on production volume.

The approach taken in developing effluent limitations guidelines and standards of performance for the inorganic chemicals manufacturing industry was to examine all variables and segment the industry into workable subcategories consistent with these variations. Subcategories have been established based on the chemical product manufactured. In cases where two dissimilar processes are used to manufacture the same product, separate limitations have been established within the subcategory. Thus, ranges are provided for, as are other factors, by segmenting the inorganic chemicals manufacturing point source category into discrete subcategories, each with its own limitation. Production-based limitations have been established to ensure adequate treatment. Concentration-based standards may be achieved by dilution of process waste waters which is contrary to the intent of the Act.

(5) Some commenters questioned the establishment of a limitation based on best practicable control technology currently available which requires zero discharge of process waste water pollutants for twenty-four of the forty-nine process subgroups. They state that this limitation is often not achievable using the recommended treatment systems.

The initial recommendations have been revised for many chemical subcategories. As shown in the regulation, based on BPCTCA, no discharge of process waste water pollutants is required for all or part of 18 of the 27 interim final process subcategories. Many of these processes are dry or discharge no waste water to navigable waters. The treatment and control technologies to achieve this level of pollutant reduction are summarized in the preamble paragraph (b) (2) (III) and sections VII, IX and X of the Development Document.

(6) Some commenters stated that the term "harmful materials" often appears in the contractor's report and is ambiguous. They recommend precise definition of the phrase or substitution of a more definitive term.

This ambiguity has been clarified in the Draft Development Document for Interim Final and Proposed Effluent Limitations Guidelines and Proposed New Source Performance Standards for the Significant Inorganic Chemicals Manufacturing Point Source Category.

(7) Many commenters noted that the recommendation of "no" hydrogen sulfide as the limitation for several chemical subcategories is technically unachievable because of the presence of sulfide ions in the waste water. Because the concentration of hydrogen sulfide in the waste water depends on pH and on the sulfide ion concentration, the limitation on hydrogen sulfide has been deleted, while the sulfide limitation is maintained.

(8) Several State pollution control agencies expressed concern because some limitations would allow industrial point sources to discharge waste water constituents to receiving waters in concentrations greater than those allowable by water quality standards.

The effluent limitations guidelines and new source performance standards presented herein are based on the practicability and availability of control and treatment technologies. They are not water quality related. However, more stringent standards may be applied to a point source, pursuant to section 303 of the Act, when necessary to preserve water quality.

(9) Some reviewers commented that leaks and spills may be contained and treated before discharge, but that reuse or recycle may not be practical in all cases. Containment and/or reuse of all contaminated noncontact cooling water is not generally feasible.

Contaminated non-process wastewater has been defined in certain subcategories which otherwise require no discharge of pollutants. In such subcategories, contaminated non-process wastewaters are not covered by these guidelines and limitations on such discharges may be established by the permit issuing authority.

(10) One commenter noted that the basis of cyanide limits is 0.01 mg/l. The detectable limit is also 0.01 mg/l, such that at 0.02 mg/l the analysis is only fifty percent accurate. The waste water analysis at the recommended level would be unusable for enforcement purposes.

The cyanide limitations have been revised. A concentration basis of 0.05 mg/l for oxidizable cyanide and 0.5 mg/l for total cyanide has been established as achievable by a well operated treatment system in this industry as well as in other industries.

(11) One manufacturer stated that the guidelines for ammonium chloride production considered only the manufacture from Solvay process wastes and the manufacture by reacting anhydrous ammonia with hydrogen chloride gas. It was questioned whether or not the guidelines

would be applied to other production processes.

The effluent limitations presented in Subpart X apply only to the manufacture of ammonium chloride by the processes studied, as stated in § 415.240.

(12) Several commenters concurred with the definition of best practicable technology currently available for ammonium chloride production as neutralization prior to discharge. However, they note that the recommended limitation is not consistent with the technology.

The limitation for best practicable technology currently available has been revised to allow for the discharge of small quantities of ammonia present in the barometric condenser cooling water. The limitation based on best available technology economically achievable and the new source performance standard require no discharge of process waste water pollutants. This may be accomplished by replacing barometric condensers with noncontact heat exchangers.

(13) One commenter stated that chemical precipitation and filtration should be required as best practicable control technology currently available for chrome pigments. It was also stated that limitations should be established on other metals, including cadmium, mercury, copper, etc., as well as BOD<sub>5</sub>.

Because of the high water usage in the chrome pigment industry, filtration is not considered to be best practicable control technology currently available. It is, however, required for new sources and for best available technology economically achievable. While integrated pigment complexes may discharge some metals other than those limited, it was concluded that they are generally not present in sufficient quantities to be the subject of effluent limitation guidelines. All discharges must conform to water quality standards, as well as standards for toxic pollutants. Because of the use of acetates, a complex discharge may contain some BOD<sub>5</sub>, however, sufficient data was not available to establish effluent limitations.

(14) For chrome pigments one commenter criticized the hexavalent chromium limitation based on best available technology economically achievable as being unachievable.

The hexavalent chromium limitation for best available technology has been reviewed and revised to 0.0017 kg/kg, which is readily achievable by the indicated technology as practiced in well operated treatment systems.

(15) For calcium carbonate production, a commenter questioned the validity of determining a process waste water discharge flow basis by averaging the data from two of three plants. It was recommended that a variable limit be established for this subcategory.

Two plants have similar waste water flow rates. This was used as the basis of the guidelines. There are no process differences which would preclude the other plants from attaining the same water use as the two plants used as a basis for the guidelines.

(16) For calcium hydroxide production, one commenter questioned whether

the effluent guidelines are applicable to the production of calcium hydroxide by the reaction of calcium chloride and caustic soda.

The present guidelines for calcium hydroxide production are applicable only to the manufacturing process wherein water is reacted with calcium oxide.

(17) For carbon monoxide and by-product hydrogen it was recommended that the carbon monoxide and by-product hydrogen production subcategory be deleted from the inorganic chemicals manufacturing category because they are reforming processes in petroleum refineries.

This subcategory is retained because the process is associated with ammonia plants which are sometimes, but not usually, part of a petroleum refinery.

(18) It was pointed out that only chromic acid production in facilities which manufacture dichromates was investigated.

Seventy-five percent of the industry capacity for chromic acid is associated with dichromate facilities. Hence, as shown in § 415.350, the guidelines apply only to chromic acid production in dichromate facilities.

(19) The fluoride limitation was criticized for being low and not achievable using the recommended technologies.

The fluoride limitation has been revised. A concentration basis of 20 mg/l fluoride was used to compute the revised limitation. This is consistent with the actual performance of lime precipitation systems.

(20) Several commenters are concerned that the Agency may be extending the definition of "navigable waters" to include underground waters.

The issues whether or not the term "navigable waters" as defined in the FWPCA includes underground waters, and if so, to what extent such waters are included, have not yet been finally resolved by the courts. It is not the Agency's intention in these guidelines to take a position on these issues. These regulations do not establish effluent limitations, guidelines or new source performance standards applicable to brines returned to the underground process water source from which they were pumped. Moreover, these regulations do not designate any body of water, or class of water bodies, as navigable.

(21) One commenter feels that specific provisions should be included for analytical laboratory wastes.

It has not been demonstrated that laboratory wastes present a problem for the inorganic chemicals industry. There is no evidence that suggests that a significant amount of wastes need arise from analytical laboratory procedures because they result from a planned, routine activity which lends itself to proper disposal of pollutants.

The Agency is subject to an order of the United States District Court for the District of Columbia entered in "Natural Resources Defense Council v Train" et al. (Cv. No. 1609-73) which requires the promulgation of regulations for this industry category no later than December 10, 1974. This order also requires that such regulations become effective immediately upon publication. In addition, it is necessary to promulgate regulations establishing limitations on the discharge of pollutants from point sources in this category so that the process of issuing permits to individual dischargers under section 402 of the Act is not delayed.

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In consideration of the foregoing, 40 CFR Part 415 is hereby amended as set forth below.

Dated: May 2, 1975.

JOHN QUARLES,  
Acting Administrator.

## Subpart W—Aluminum Fluoride Production Subcategory

- Sec. 415.230 Applicability; description of the aluminum fluoride production subcategory.
- 415.231 Specialized definitions.
- 415.232 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

## Subpart X—Ammonium Chloride Production Subcategory

- 415.240 Applicability; description of the ammonium chloride production subcategory.
- 415.241 Specialized definitions.
- 415.242 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

## Subpart Y—Ammonium Hydroxide Production Subcategory

- 415.250-415.252 [Reserved].

## Subpart Z—Barium Carbonate Production Subcategory

- 415.260-415.262 [Reserved].

## Subpart AA—Borax Production Subcategory

- 415.270 Applicability; description of the borax production subcategory.
- 415.271 Specialized definitions.
- 415.272 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

## Subpart AB—Boric Acid Production Subcategory

- 415.280 Applicability; description of the boric acid production subcategory.
- 415.281 Specialized definitions.
- 415.282 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

## Subpart AC—Bromine Production Subcategory

- 415.290 Applicability; description of the bromine production subcategory.
- 415.291 Specialized definitions.
- 415.292 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

## Subpart AD—Calcium Carbonate Production Subcategory

- 415.300 Applicability; description of the calcium carbonate production subcategory.
- 415.301 Specialized definitions.
- 415.302 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.



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- Subpart AE—Calcium Hydroxide Production Subcategory**
- Sec. 415.310 Applicability; description of the calcium hydroxide production subcategory.
- 415.311 Specialized definitions.
- 415.312 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
- Subpart AF—Carbon Dioxide Production Subcategory**
- 415.320-415.322 [Reserved]
- Hydrogen Production Subcategory**
- 415.330 Applicability; description of the carbon monoxide & by-product hydrogen production subcategory.
- 415.331 Specialized definitions.
- 415.332 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
- Subpart AH—Chromium Pigments Production Subcategory**
- 415.340 Applicability; description of the chromium pigments production subcategory.
- 415.341 Specialized definitions.
- 415.352 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
- Subpart AI—Chromic Acid Production Subcategory**
- 415.350 Applicability; description of the chromic acid production subcategory.
- 415.351 Specialized definitions.
- 415.352 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
- Subpart AJ—Copper Sulfate Production Subcategory**
- 415.360 Applicability; description of the copper sulfate production subcategory.
- 415.361 Specialized definitions.
- 415.362 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
- Subpart AK—Cuprous Oxide Production Subcategory**
- 415.370-415.372 [Reserved].
- Subpart AL—Ferric Chloride Production Subcategory**
- 415.380 Applicability; description of the ferric chloride production subcategory.
- 415.381 Specialized definitions.
- 415.382 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
- Subpart AM—Ferrous Sulfate Production Subcategory**
- 415.390-415.392 [Reserved]
- Subpart AN—Fluorine Production Subcategory**
- 415.400 Applicability; description of the fluorine production subcategory.
- Sec. 415.401 Specialized definitions.
- 415.402 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
- Subpart AO—Hydrogen Production Subcategory**
- 415.410 Applicability; description of the hydrogen production subcategory.
- 415.411 Specialized definitions.
- 415.412 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
- Subpart AP—Hydrogen Cyanide Production Subcategory**
- 415.420 Applicability; description of the hydrogen cyanide production subcategory.
- 415.421 Specialized definitions.
- 415.422 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
- Subpart AQ—Iodine Production Subcategory**
- 415.430 Applicability; description of the iodine production subcategory.
- 415.431 Specialized definitions.
- 415.432 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
- Subpart AR—Lead Monoxide Production Subcategory**
- 415.440 Applicability; description of the lead monoxide production subcategory.
- 415.441 Specialized definitions.
- 415.442 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
- Subpart AS—Lithium Carbonate Production Subcategory**
- 415.450 Applicability; description of the lithium carbonate production subcategory.
- 415.451 Specialized definitions.
- 415.452 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
- Subpart AT—Manganese Sulfate Production Subcategory**
- 415.460-415.462 [Reserved]
- Subpart AU—Nickel Sulfate Production Subcategory**
- 415.470 Applicability; description of the nickel sulfate production subcategory.
- 415.471 Specialized definitions.
- 415.472 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
- Subpart AV—Strong Nitric Acid Production Subcategory**
- 415.480-415.482 [Reserved].

- Subpart AW—Oxygen and Nitrogen Production Subcategory**
- Sec. 415.490 Applicability; description of the oxygen and nitrogen production subcategory.
- 415.491 Specialized definitions.
- 415.492 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
- Subpart AX—Potassium Chloride Production Subcategory**
- 415.500 Applicability; description of the potassium chloride production subcategory.
- 415.501 Specialized definitions.
- 415.502 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
- Subpart AY—Potassium Iodide Production Subcategory**
- 415.510 Applicability; description of the potassium iodide production subcategory.
- 415.511 Specialized definitions.
- 415.512 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
- Subpart AZ—Potassium Permanganate Production Subcategory**
- 415.520-415.522 [Reserved].
- Subpart BA—Silver Nitrate Production Subcategory**
- 415.530 Applicability; description of the silver nitrate production subcategory.
- 415.531 Specialized definitions.
- 415.532 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
- Subpart BB—Sodium Bisulfite Production Subcategory**
- 415.540-415.542 [Reserved]
- Subpart BC—Sodium Fluoride Production Subcategory**
- 415.550 Applicability; description of the sodium fluoride production subcategory.
- 415.551 Specialized definitions.
- 415.552 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
- Subpart BD—Sodium Hydrosulfide Production Subcategory**
- 415.560-415.562 [Reserved]
- Subpart BE—Sodium Hydrosulfite Production Subcategory**
- 415.570-415.572 [Reserved]
- Subpart BF—Sodium Silicofluoride Production Subcategory**
- 415.580 Applicability; description of the sodium silicofluoride production subcategory.
- 415.581 Specialized definitions.
- 415.582 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

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- Subpart BG—Sodium Thiosulfate Production Subcategory**
- Sec. 415.590-415.592 [Reserved]
- Subpart BH—Stannic Oxide Production Subcategory**
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- 415.601 Specialized definitions.
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- 415.632 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
- AUTHORITY: Secs. 301, 304 (b) and (c), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1311, 1314 (b) and (c), 86 Stat. 816 et seq., Pub. L. 92-500) (the Act).

- Subpart W—Aluminum Fluoride Production Subcategory**
- § 415.230 Applicability; description of the aluminum fluoride production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of aluminum fluoride.

## § 415.231 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean aluminum fluoride.

(c) The term "contaminated non-process wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, by-product or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment: *Provided*, That all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

## § 415.232 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategory and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
Fluoride.....	0.08.....	0.34
TSS.....	0.30.....	0.43
Aluminum.....	0.34.....	0.17
pH.....	Within the range 6.0 to 9.0.....	
(English units) lb/1,000 lb of product		
Fluoride.....	0.08.....	0.34
TSS.....	0.30.....	0.43
Aluminum.....	0.34.....	0.17
pH.....	Within the range 6.0 to 9.0.....	

## Subpart X—Ammonium Chloride Production Subcategory

§ 415.240 Applicability; description of the ammonium chloride production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of ammonium chloride by the reaction of anhydrous ammonia with hydrogen chloride gas and by the recovery process from Solvay process wastes.

## § 415.241 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean ammonium chloride.

(c) The term "contaminated non-process wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, byproduct or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment: *Provided*, That all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

## § 415.242 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategory and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamen-



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tally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from ammonium chloride production by the reaction of anhydrous ammonia with hydrogen chloride gas: There shall be no discharge of process waste water pollutants to navigable waters.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from ammonium chloride production by the recovery process from Solvay process wastes:

Effluent limitations		
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
Ammonia (as N).....	8.9.....	4.4
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
Ammonia (as N).....	8.9.....	4.4
pH.....	Within the range 6.0 to 9.0.	

#### Subpart Y—Ammonium Hydroxide Production Subcategory

§§ 415.250–415.252 [Reserved]

#### Subpart Z—Barium Carbonate Production Subcategory

§§ 415.260–415.262 [Reserved]

#### Subpart AA—Borax Production Subcategory

§ 415.270 Applicability; description of the borax production subcategory.

The provisions of this subpart are applicable to discharges resulting from the

production of borax by the ore-mining process and by the Trona process.

#### § 415.271 Specialized definitions.

For the purpose of this subpart: Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 415.272 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategory and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters, except that residual brine and depleted liquor may be returned to the body of water from which the process brine solution was originally withdrawn.

#### Subpart AB—Boric Acid Production Subcategory

§ 415.280 Applicability; description of the boric acid production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of boric acid from ore-mined borax and from borax produced by the Trona process.

#### § 415.281 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean boric acid.

§ 415.282 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategory and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

subpart after application of the best practicable control technology currently available:

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from boric acid production from borax produced by the Trona process: There shall be no discharge of process waste water pollutants to navigable waters, except that residual brine and depleted liquor may be returned to the body of water from which the process brine solution was originally withdrawn.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from boric acid production from ore-mined borax:

Effluent limitations		
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
Arsenic.....	0.0028.....	0.0014
TSS.....	0.14.....	0.07
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
Arsenic.....	0.0028.....	0.0014
TSS.....	0.14.....	0.07
pH.....	Within the range 6.0 to 9.0.	

#### Subpart AC—Bromine Production Subcategory

§ 415.290 Applicability; description of the bromine production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of bromine by the bromine-mining process and by the Trona process.

#### § 415.291 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 415.292 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategory and effluent levels established. It is, however, possible that data which would affect these limitations

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have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters, except that residual brine and depleted liquor may be returned to the body of water from which the process brine solution was originally withdrawn.

#### Subpart AD—Calcium Carbonate Production Subcategory

§ 415.300 Applicability; description of the calcium carbonate production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of calcium carbonate by the milk of lime process and by the recovery process from Solvay process wastes.

#### § 415.301 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean calcium carbonate.

§ 415.302 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to col-

lect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategory and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from calcium carbonate production by the milk of lime process:

Effluent limitations		
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS.....	0.56.....	0.28
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
TSS.....	0.56.....	0.28
pH.....	Within the range 6.0 to 9.0.	



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(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from calcium carbonate production by the recovery process from Solvay process wastes:

Effluent limitations		
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS.....	1.16.....	0.58
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
TSS.....	1.16.....	0.58
pH.....	Within the range 6.0 to 9.0.	

#### Subpart AE—Calcium Hydroxide Production Subcategory

##### § 415.310 Applicability; description of the calcium hydroxide production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of calcium hydroxide by the lime slaking process.

##### § 415.311 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "contaminated non-process wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, by-product or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment. *Provided*, That all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

##### § 415.312 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology

available, energy requirements and costs) which can affect the industry subcategory and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different from that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters.

#### Subpart AF—Carbon Dioxide Production Subcategory

##### §§ 415.320–415.322 [Reserved]

#### Subpart AG—Carbon Monoxide and By-Product Hydrogen Production Subcategory

##### § 415.330 Applicability; description of the carbon monoxide & by-product hydrogen production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of carbon monoxide and by-product hydrogen by reforming process.

##### § 415.331 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean carbon monoxide plus hydrogen.

(c) The term "contaminated non-process wastewater" shall mean any water which, during manufacturing or processing, comes into incidental con-

tact with any raw material, intermediate product, finished product, by-product or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment. *Provided*, That all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

##### § 415.332 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategory and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different from that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent limitations		
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
COD.....	0.5.....	0.25
TSS.....	0.12.....	0.06
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
COD.....	0.5.....	0.25
TSS.....	0.12.....	0.06
pH.....	Within the range 6.0 to 9.0.	

#### Subpart AH—Chrome Pigments Production Subcategory

##### § 415.340 Applicability; description of the chrome pigments production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of chrome pigments.

##### § 415.341 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "chrome pigments" shall mean chrome yellow, chrome orange, chrome green, zinc yellow and iron blue.

(c) The term "product" shall mean chrome pigments.

(d) The term "zinc A" means that the zinc limitation is based solely on the production of zinc yellow.

(e) The term "cyanide A" shall mean those cyanides amenable to chlorination as described in "1972 Annual Book of ASTM Standards," 1972, Standard D2036-72, Method B, page 553.

(f) The term "chromium (T)" shall mean total chromium.

##### § 415.342 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategory and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the

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process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent limitations		
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS.....	5.1.....	1.7
Chromium(T).....	0.10.....	0.034
Chromium(6+).....	0.010.....	0.004
Lead.....	0.42.....	0.14
Zinc A.....	0.72.....	0.27
Cyanide A.....	0.010.....	0.004
Cyanide.....	0.10.....	0.034
Iron.....	0.72.....	0.27
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
TSS.....	5.1.....	1.7
Chromium(T).....	0.10.....	0.034
Chromium(6+).....	0.010.....	0.004
Lead.....	0.42.....	0.14
Zinc A.....	0.72.....	0.27
Cyanide A.....	0.010.....	0.004
Cyanide.....	0.10.....	0.034
Iron.....	0.72.....	0.27
pH.....	Within the range 6.0 to 9.0.	

#### Subpart AI—Chromic Acid Production Subcategory

##### § 415.350 Applicability; description of the chromic acid production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of chromic acid in facilities which also manufacture sodium dichromate.

##### § 415.351 Specialized definitions.

For the purpose of this subpart: Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

##### § 415.352 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategory and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters, except as provided for in § 415.172 (39 FR 9630).

#### Subpart AJ—Copper Sulfate Production Subcategory

##### § 415.360 Applicability; description of the copper sulfate production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of copper sulfate from pure raw materials and by recovery from impure raw materials.

##### § 415.361 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and meth-



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ods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean copper sulfate.

(c) The term "contaminated non-process wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, by-product or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment: *Provided*, That all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

§ 415.362 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategory and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant proper-

ties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from copper sulfate production using pure raw materials:

Effluent characteristic	Effluent limitations	
	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
Copper	0.0006	0.0002
pH	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
Copper	0.0006	0.0002
pH	Within the range 6.0 to 9.0.	

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from copper sulfate production by the recovery process:

Effluent characteristic	Effluent limitations	
	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS	0.001	0.023
Copper	0.0006	0.001
Nickel	0.0006	0.002
Selenium	0.0015	0.0006
pH	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
TSS	0.001	0.023
Copper	0.0006	0.001
Nickel	0.0006	0.002
Selenium	0.0015	0.0006
pH	Within the range 6.0 to 9.0.	

#### Subpart AK—Cuprous Oxide Production Subcategory

§§ 415.370–415.372 [Reserved]

#### Subpart AL—Ferric Chloride Production Subcategory

§ 415.380 Applicability; description of the ferric chloride production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of ferric chloride from pickle liquor.

§ 415.381 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and meth-

ods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "contaminated non-process wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, byproduct or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment: *Provided*, That all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

§ 415.382 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategory and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a

point source subject to the provisions of this subpart after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters.

#### Subpart AM—Ferrous Sulfate Production Subcategory

§§ 415.390–415.392 [Reserved]

#### Subpart AN—Fluorine Production Subcategory

§ 415.400 Applicability; description of the fluorine production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of fluorine by the liquid hydrofluoric acid electrolysis process.

§ 415.401 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "contaminated non-process wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, by-product or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment: *Provided*, That all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

§ 415.402 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategory and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of

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the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters.

#### Subpart AO—Hydrogen Production Subcategory

§ 415.410 Applicability; description of the hydrogen production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of hydrogen as a refinery by-product.

§ 415.411 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "contaminated non-process wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, by-product or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment: *Provided*, That all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

§ 415.412 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to

factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategory and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: There shall be no discharge of process wastewater pollutants to navigable waters, except as provided for in Part 419 of this chapter (39 FR 16560).

#### Subpart AP—Hydrogen Cyanide Production Subcategory

§ 415.420 Applicability; description of the hydrogen cyanide production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of hydrogen cyanide as a by-product of acrylonitrile manufacture and by the Andrussow process.

§ 415.421 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean hydrogen cyanide.

(c) The term "Cyanide A" shall mean those cyanides amenable to chlorination by chlorination as described in "1972 Annual Book of ASTM Standards," 1972, Standard D2036-72, Method B, page 553.



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### § 415.422 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategory and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available.

(a) The following limitations established the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from hydrogen cyanide production as a by-product of acrylonitrile production: There shall be no discharge of process waste water pollutants to navigable waters, except as provided for in Part 414, Subcategory F, § 414.62 of this chapter for acrylonitrile.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from hydrogen cyanide production by the andrussov process:

Effluent limitations		
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS.....	2.4	1.2
Cyanide.....	0.05	0.025
Cyanide A.....	0.005	0.0025
BOD <sub>5</sub> .....	3.6	1.8
Ammonia (as N).....	0.36	0.18
pH.....	Within the range 6.0 to 9.0	
(English units) lb/1,000 lb of product		
TSS.....	2.4	1.2
Cyanide.....	0.05	0.025
Cyanide A.....	0.005	0.0025
BOD <sub>5</sub> .....	3.6	1.8
Ammonia (as N).....	0.36	0.18
pH.....	Within the range 6.0 to 9.0	

#### Subpart AQ—Iodine Production Subcategory

##### § 415.430 Applicability; description of the iodine production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of iodine.

##### § 415.431 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "contaminated non-process wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, by-product or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment: *Provided*, That all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

##### § 415.432 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategory and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these

limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters.

#### Subpart AR—Lead Monoxide Production Subcategory

##### § 415.440 Applicability; description of the lead monoxide production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of lead monoxide.

##### § 415.441 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "contaminated non-process wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, byproduct or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment: *Provided*, That all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

### § 415.442 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategory and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters.

#### Subpart AS—Lithium Carbonate Production Subcategory

##### § 415.450 Applicability; description of the lithium carbonate production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of lithium carbonate by the Trona process and from spodumene ore.

##### § 415.451 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean lithium carbonate.

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### § 415.452 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategory and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from lithium carbonate production by the Trona process: There shall be no discharge of process waste water pollutants to navigable waters, except that residual brine and depleted liquor may be returned to the body of water from which the process brine solution was originally withdrawn.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from lithium carbonate production from spodumene ore:

Effluent limitations		
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS.....	2.7	0.9
pH.....	Within the range 6.0 to 9.0	
(English units) lb/1,000 lb of product		
TSS.....	2.7	0.9
pH.....	Within the range 6.0 to 9.0	

#### Subpart AT—Manganese Sulfate Production Subcategory

##### §§ 415.460–415.462 [Reserved]

#### Subpart AU—Nickel Sulfate Production Subcategory

##### § 415.470 Applicability; description of the nickel sulfate subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of nickel sulfate from pure and impure raw materials.

##### § 415.471 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean nickel sulfate.

(c) The term "contaminated non-process wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, byproduct or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment: *Provided*, That all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

##### § 415.472 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategory and effluent levels established. It is, however, possible that data



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which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from nickel sulfate production from pure raw materials: There shall be no discharge of process waste water pollutants to navigable waters.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from nickel sulfate production from impure raw materials:

Effluent characteristic	Effluent limitations	
	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
Nickel.....	0.006.....	0.002
TSS.....	0.046.....	0.032
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
Nickel.....	0.006.....	0.002
TSS.....	0.046.....	0.032
pH.....	Within the range 6.0 to 9.0.	

## Subpart AV—Strong Nitric Acid Production Subcategory

§§ 415.480–415.482 [Reserved]

## Subpart AW—Oxygen &amp; Nitrogen Production Subcategory

§ 415.490 Applicability; description of the oxygen and nitrogen production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of oxygen and nitrogen by air liquefaction.

§ 415.491 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 415.492 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategory and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best

practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
Oil and grease.....	0.002.....	0.001
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
Oil and grease.....	0.002.....	0.001
pH.....	Within the range 6.0 to 9.0.	

## Subpart AX—Potassium Chloride Production Subcategory

§ 415.500 Applicability; description of the potassium chloride production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of potassium chloride by the Trona process and by the mining process.

§ 415.501 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 415.502 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategory and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the

discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters, except that residual brine and depleted liquor may be returned to the body of water from which the process brine solution was originally withdrawn.

## Subpart AY—Potassium Iodide Production Subcategory

§ 415.510 Applicability; description of the potassium iodide production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of potassium iodide.

§ 415.511 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean potassium iodide.

§ 415.512 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategory and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fun-

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damentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS.....	0.09.....	0.03
Sulfide.....	0.015.....	0.005
Iron.....	0.015.....	0.005
Barium.....	0.009.....	0.003
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
TSS.....	0.09.....	0.03
Sulfide.....	0.015.....	0.005
Iron.....	0.015.....	0.005
Barium.....	0.009.....	0.003
pH.....	Within the range 6.0 to 9.0.	

## Subpart AZ—Potassium Permanganate Production Subcategory

§ 415.520–415.522 [Reserved]

## Subpart BA—Silver Nitrate Production Subcategory

§ 415.530 Applicability; description of the silver nitrate production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of silver nitrate.

§ 415.531 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean silver nitrate.

(c) The term "contaminated non-process wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, byproduct or

waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment; *Provided*, That all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

§ 415.532 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategory and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:



Effluent characteristic	Effluent limitations	
	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
Silver.....	0.009.....	0.003
TSS.....	0.009.....	0.023
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
Silver.....	0.009.....	0.003
TSS.....	0.009.....	0.02
pH.....	Within the range 6.0 to 9.0.	

#### Subpart BB—Sodium Bisulfite Production Subcategory

§ 415.540–415.542 [Reserved]

#### Subpart BC—Sodium Fluoride Production Subcategory

§ 415.550 Applicability; description of the sodium fluoride production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of sodium fluoride by the anhydrous neutralization process and by the silico fluoride process.

#### § 415.551 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "contaminated non-process wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, by-product or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment: *Provided*, That all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

§ 415.562 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry

subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters.

#### Subpart BD—Sodium Hydrosulfide Production Subcategory

§§ 415.560–415.562 [Reserved]

#### Subpart BE—Sodium Hydrosulfite Production Subcategory

§§ 415.570, 415.571 and 415.572 [Reserved]

#### Subpart BF—Sodium Silicofluoride Production Subcategory

§ 415.580 Applicability; description of the sodium silicofluoride production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of sodium silicofluoride.

#### § 415.581 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean sodium silicofluoride.

(c) The term "contaminated non-process wastewater" shall mean any

water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, by-product or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment: *Provided*, That all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

§ 415.582 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
Fluoride.....	0.5.....	0.25
TSS.....	0.6.....	0.3
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
Fluoride.....	0.5.....	0.25
TSS.....	0.6.....	0.3
pH.....	Within the range 6.0 to 9.0.	

#### Subpart BG—Sodium Thiosulfate Production Subcategory

§ 415.590–415.592 [Reserved]

#### Subpart BH—Stannic Oxide Production Subcategory

§ 415.600 Applicability; description of the stannic oxide production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of stannic oxide by the reaction of tin metal with air or oxygen.

#### § 415.601 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "contaminated non-process wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, by-product or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment: *Provided*, That all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

§ 415.602 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels

(b) The following limitations establish the quantity or quality of pollutants or pollutant or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (of the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters.

#### Subpart BI—Sulfur Dioxide Production Subcategory

§§ 415.610–415.612 [Reserved]

#### Subpart BJ—Zinc Oxide Production Subcategory

§§ 415.620–415.622 [Reserved]

#### Subpart BK—Zinc Sulfate Production Subcategory

§ 415.630 Applicability; description of the zinc sulfate production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of zinc sulfate.

#### § 415.631 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "contaminated non-process wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, byproduct or

waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment: *Provided*, That all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

§ 415.632 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters.

[FR Doc. 75-13099 Filed 5-21-75; 8:45 am]



# ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 415]

[FRL 375-7]

## INORGANIC CHEMICALS MANUFACTURING POINT SOURCE CATEGORY

Effluent Limitations and Guidelines for Existing Sources and Standards of Performance for New Sources and Pretreatment Standards for Existing and for New Sources

Notice is hereby given that effluent limitations for existing sources and standards of performance and pretreatment standards for new sources and pretreatment standards for existing sources set forth in tentative form below are proposed by the Environmental Protection Agency (EPA). On March 12, 1974, EPA promulgated a regulation adding Part 415 to Title 40 of the Code of Federal Regulations (39 FR 9612). That regulation with subsequent amendments established effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources for the inorganic chemicals manufacturing point source category. The regulation proposed below will amend 40 CFR Part 415 inorganic chemicals manufacturing point source category by adding §§ 415.233, 415.234, 415.235 and 415.236 to the aluminum fluoride subcategory (Subpart W), §§ 415.243, 415.244, 415.245 and 415.246 to the ammonium chloride subcategory (Subpart X), §§ 415.273, 415.274, 415.275 and 415.276 to the borax subcategory (Subpart AA), §§ 415.283, 415.284, 415.285 and 415.286 to the boric acid subcategory (Subpart AB), §§ 415.293, 415.294, 415.295 and 415.296 to the bromine subcategory (Subpart AC), §§ 415.303, 415.304, 415.305 and 415.306 to the calcium carbonate subcategory (Subpart AO), §§ 415.423, 415.424, 415.425 and 415.426 to the calcium hydroxide subcategory (Subpart AE), §§ 415.333, 415.334, 415.335 and 415.336 to the carbon monoxide and by-product hydrogen subcategory (Subpart AG), §§ 415.343, 415.444, 415.445 and 415.446 to the lead chrome pigments subcategory (Subpart AH), §§ 415.353, 415.354, 415.355 and 415.356 to the chromic acid subcategory (Subpart AI), §§ 415.363, 415.364, 415.365 and 415.366 to the copper sulfate subcategory (Subpart AJ), §§ 415.383, 415.384, 415.385 and 415.386 to the ferric chloride subcategory (Subpart AL), §§ 415.403, 415.404, 415.405 and 415.406 to the fluorine subcategory (Subpart AN), §§ 415.413, 415.414, 415.415 and 415.416 to the hydrogen subcategory (Subpart AO), §§ 415.423, 415.424, 415.425 and 415.426 to the hydrogen cyanide subcategory (Subpart AP), §§ 415.553, 415.434, 415.435 and 415.436 to the iodine subcategory (Subpart AQ), §§ 415.443, 415.444, 415.445 and 415.446 to the lead monoxide subcategory (Subpart AR), §§ 415.453, 415.454, 415.455 and 415.456 to the lithium carbonate subcategory (Subpart AS), §§ 415.473, 415.474, 415.475 and 415.476 to the nickel sulfate subcategory (Subpart AU), §§ 415.493, 415.494, 415.495 and 415.496 to the oxygen and nitro-

gen subcategory (Subpart AW), §§ 415.503, 415.504, 415.505 and 415.506 to the potassium chloride subcategory (Subpart AX), §§ 415.513, 415.514, 415.515 and 415.516 to the potassium iodide subcategory (Subpart AY), §§ 415.533, 415.534, 415.535 and 415.536 to the silver nitrate subcategory (Subpart BA), §§ 415.553, 415.554, 415.555 and 415.556 to the sodium fluoride subcategory (Subpart BC), §§ 415.583, 415.584, 415.585 and 415.586 to the sodium silicofluoride subcategory (Subpart BF), §§ 415.603, 415.604, 415.605 and 415.606 to the stannic oxide subcategory (Subpart BH), and §§ 415.633, 415.634, 415.635 and 415.636 to the zinc sulfate subcategory (Subpart BK) pursuant to sections 301, 304 (b) and (c), 306(b) and 307 (b) and (c) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316(b) and 1317 (b) and (c), 86 Stat. 816 et seq.; Pub. L. 92-500) (the Act). Simultaneously with this proposed rule making EPA is promulgating interim final regulations which establish the above listed subparts.

In reviewing the data underlying the regulations for a number of subcategories, the Agency noted certain subcategories for which the data are incomplete, or where the data require further analysis before fully supportable effluent limitations can be derived. Accordingly, in order to promulgate these regulations in a timely fashion, consistent with the applicable court decree, the effluent limitations for the ammonium hydroxide production subcategory (Subpart Y), the barium carbonate production subcategory (Subpart Z), the carbon dioxide production subcategory (Subpart AF), the cuprous oxide production subcategory (Subpart AK), the ferrous sulfate production subcategory (Subpart AM), the manganese sulfate production subcategory (Subpart AT), the strong nitric acid production subcategory (Subpart AV), the potassium permanganate production subcategory (Subpart AZ), the sodium bisulfite production subcategory (Subpart BB), the sodium hydrosulfide production subcategory (Subpart BD), the sodium hydrosulfite production subcategory (Subpart BE), the sodium thio-sulfate production subcategory (Subpart BG), the sulfur dioxide production subcategory (Subpart BI), and the zinc oxide production subcategory (Subpart BJ), are reserved. It is the Agency's intention to review these subcategories promptly and to revise this Part to include regulations covering such subcategories at the earliest possible date.

(a) *Legal authority.* Section 301(b) of the Act requires the achievement by not later than July 1, 1977, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of the best practicable control technology currently available as defined by the Administrator pursuant to section 304(b) of the Act. Section 301 (b) also requires the achievement by not later than July 1, 1983, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of best available

technology economically achievable which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants, as determined in accordance with regulations issued by the Administrator pursuant to section 304(b) of the Act.

Section 304(b) of the Act requires the Administrator to publish regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of the best practicable control technology currently available and the degree of effluent reduction attainable through the application of the best control measures and practices achievable including treatment techniques, process and procedural innovations, operating methods and other alternatives. The regulation herein sets forth effluent limitations and guidelines, pursuant to sections 301 and 304 (b) of the Act, for the aluminum fluoride production subcategory (Subpart W), the ammonium chloride production subcategory (Subpart X), the borax production subcategory (Subpart AA), the boric acid production subcategory (Subpart AB), the bromine production subcategory (Subpart AC), the calcium carbonate production subcategory (Subpart AD), the calcium hydroxide production subcategory (Subpart AE), the carbon monoxide and byproduct hydrogen production subcategory (Subpart AG), the chrome pigments production subcategory (Subpart AH), the chromic acid production subcategory (Subpart AI), the copper sulfate production subcategory (Subpart AJ), the ferric chloride production subcategory (Subpart AL), the fluorine production subcategory (Subpart AN), the hydrogen cyanide production subcategory (Subpart AP), the iodine production subcategory (Subpart AQ), the lead monoxide production subcategory (Subpart AR), the lithium carbonate production subcategory (Subpart AS), the nickel sulfate production subcategory (Subpart AU), the oxygen and nitrogen production subcategory (Subpart AV), the potassium chloride production subcategory (Subpart AX), the potassium iodide production subcategory (Subpart AY), the silver nitrate production subcategory (Subpart BA), the sodium fluoride production subcategory (Subpart BC), the sodium silicofluoride production subcategory (Subpart BF), the stannic oxide production subcategory (Subpart BH), the zinc sulfate production subcategory (Subpart BK) of the inorganic chemicals manufacturing point source category.

Section 304(c) of the Act requires the Administrator to issue to the States and appropriate water pollution control agencies information on the processes, procedures or operating methods which result in the elimination or reduction of the discharge of pollutants to implement standards of performance under section 306 of the Act. The report or "Development Document" referred to below pro-

vides, pursuant to section 304(c) of the Act, information on such processes, procedures or operating methods.

Section 306 of the Act requires the achievement by new sources of a Federal standard of performance providing for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

Section 306(b) (1) (B) of the Act requires the Administrator to propose regulations establishing Federal standards of performance for categories of new sources included in a list published pursuant to section 306(b) (1) (A) of the Act. The Administrator published in the FEDERAL REGISTER of January 16, 1973, (38 FR 1624) a list of 27 source categories, including the inorganic chemicals manufacturing category. The regulation proposed herein sets forth the standards of performance applicable to new sources for the aluminum fluoride production subcategory (Subpart W), the ammonium chloride production subcategory (Subpart X), the borax production subcategory (Subpart AA), the boric acid production subcategory (Subpart AB), the bromine production subcategory (Subpart AC), the calcium carbonate production subcategory (Subpart AD), the calcium hydroxide production subcategory (Subpart AE), the carbon monoxide and byproduct hydrogen production subcategory (Subpart AG), the chrome pigments production subcategory (Subpart AH), the chromic acid production subcategory (Subpart AI), the copper sulfate production subcategory (Subpart AJ), the ferric chloride production subcategory (Subpart AL), the fluorine production subcategory (Subpart AN), the hydrogen cyanide production subcategory (Subpart AP), the iodine production subcategory (Subpart AQ), the lead monoxide production subcategory (Subpart AR), the lithium carbonate production subcategory (Subpart AS), the nickel sulfate production subcategory (Subpart AU), the oxygen and nitrogen production subcategory (Subpart AV), the potassium chloride production subcategory (Subpart AX), the potassium iodide production subcategory (Subpart AY), the silver nitrate production subcategory (Subpart BA), the sodium fluoride production subcategory (Subpart BC), the sodium silicofluoride production subcategory (Subpart BF), the stannic oxide production subcategory (Subpart BH), the zinc sulfate production subcategory (Subpart BK) of the inorganic chemicals manufacturing point source category.

Section 307(c) of the Act requires the Administrator to promulgate pretreatment standards for new sources at the same time that standards of performance for new sources are promulgated pursuant to section 306. §§ 415.236, 415.246, 415.276, 415.286, 415.296, 415.306, 415.316,

## PROPOSED RULES

415.336, 415.346, 415.356, 415.366, 415.386, 415.406, 415.416, 415.426, 415.436, 415.446, 415.456, 415.476, 415.496, 415.506, 415.516, 415.536, 415.556, 415.586, 415.606, and 415.636, proposed below, provide pretreatment standards for new sources within the aluminum fluoride production subcategory (Subpart W), the ammonium chloride production subcategory (Subpart X), the borax production subcategory (Subpart AA), the boric acid production subcategory (Subpart AB), the bromine production subcategory (Subpart AC), the calcium carbonate production subcategory (Subpart AD), the calcium hydroxide production subcategory (Subpart AE), the carbon monoxide and byproduct hydrogen production subcategory (Subpart AG), the chrome pigments production subcategory (Subpart AH), the chromic acid production subcategory (Subpart AI), the copper sulfate production subcategory (Subpart AJ), the ferric chloride production subcategory (Subpart AL), the fluorine production subcategory (Subpart AN), the hydrogen cyanide production subcategory (Subpart AP), the iodine production subcategory (Subpart AQ), the lead monoxide production subcategory (Subpart AR), the lithium carbonate production subcategory (Subpart AS), the nickel sulfate production subcategory (Subpart AU), the oxygen and nitrogen production subcategory (Subpart AV), the potassium chloride production subcategory (Subpart AX), the potassium iodide production subcategory (Subpart AY), the silver nitrate production subcategory (Subpart BA), the sodium fluoride production subcategory (Subpart BC), the sodium silicofluoride production subcategory (Subpart BF), the stannic oxide production subcategory (Subpart BH), the zinc sulfate production subcategory (Subpart BK) of the inorganic chemicals manufacturing point source category. Section 307(b) of the Act requires the establishment of pretreatment standards for pollutants introduced into publicly owned treatment works and 40 CFR Part 128 establishes that the Agency will propose specific pretreatment standards at the time effluent limitations are established for point source discharges. §§ 415.234, 415.244, 415.274, 415.284, 415.294, 415.304, 415.314, 415.334, 415.344, 415.354, 415.364, 415.384, 415.404, 415.414, 415.424, 415.434, 415.444, 415.454, 415.474, 415.494, 415.504, 415.514, 415.534, 415.554, 415.584, 415.604, and 415.634, proposed below provide pretreatment standards for existing sources within the aluminum fluoride production subcategory (Subpart W), the ammonium chloride production subcategory (Subpart X), the borax production subcategory (Subpart AA), the boric acid production subcategory (Subpart AB), the bromine production subcategory (Subpart AC), the calcium carbonate production subcategory (Subpart AD), the calcium hydroxide production subcategory (Subpart AE), the carbon monoxide and byproduct hydrogen production subcategory (Subpart AG), the chrome pigments production subcategory (Subpart AH), the chromic acid production subcategory (Subpart AI), the copper sulfate production subcategory (Subpart AJ), the ferric chloride production subcategory (Subpart AL), the fluorine production subcategory (Subpart AN), the hydrogen cyanide production subcategory (Subpart AP), the iodine production subcategory (Subpart AQ), the lead monoxide production subcategory (Subpart AR), the lithium carbonate production subcategory (Subpart AS), the nickel sulfate production subcategory (Subpart AU), the oxygen and nitrogen production subcategory (Subpart AV), the potassium chloride production subcategory (Subpart AX), the potassium iodide production subcategory (Subpart AY), the silver nitrate production subcategory (Subpart BA), the sodium fluoride production subcategory (Subpart BC), the sodium silicofluoride production subcategory (Subpart BF), the stannic oxide production subcategory (Subpart BH), the zinc sulfate production subcategory (Subpart BK) of the inorganic chemicals manufacturing point source category.

gory (Subpart AH), the chromic acid production subcategory (Subpart AI), the copper sulfate production subcategory (Subpart AJ), the ferric chloride production subcategory (Subpart AL), the fluorine production subcategory (Subpart AN), the hydrogen cyanide production subcategory (Subpart AP), the iodine production subcategory (Subpart AQ), the lead monoxide production subcategory (Subpart AR), the lithium carbonate production subcategory (Subpart AS), the nickel sulfate production subcategory (Subpart AU), the oxygen and nitrogen production subcategory (Subpart AV), the potassium chloride production subcategory (Subpart AX), the potassium iodide production subcategory (Subpart AY), the silver nitrate production subcategory (Subpart BA), the sodium fluoride production subcategory (Subpart BC), the sodium silicofluoride production subcategory (Subpart BF), the stannic oxide production subcategory (Subpart BH), the zinc sulfate production subcategory (Subpart BK) of the inorganic chemicals manufacturing point source category.

(b) *Summary and Basis of Proposed Effluent Limitations for Existing Sources and Standards of Performance and Pretreatment Standards for New Sources and Pretreatment Standards for existing Sources.*

The general methodology and summary of conclusions are discussed in considerable detail in the preamble of the interim final regulation for the aluminum fluoride production subcategory (Subpart W), the ammonium chloride production subcategory (Subpart X), the borax production subcategory (Subpart AA), the boric acid production subcategory (Subpart AB), the bromine production subcategory (Subpart AC), the calcium carbonate production subcategory (Subpart AD), the calcium hydroxide production subcategory (Subpart AE), the carbon monoxide and byproduct hydrogen production subcategory (Subpart AG), the chrome pigments production subcategory (Subpart AH), the chromic acid production subcategory (Subpart AI), the copper sulfate production subcategory (Subpart AJ), the ferric chloride production subcategory (Subpart AL), the fluorine production subcategory (Subpart AN), the hydrogen production subcategory (Subpart AO), the hydrogen cyanide production subcategory (Subpart AP), the iodine production subcategory (Subpart AQ), the lead monoxide production subcategory (Subpart AR), the lithium carbonate production subcategory (Subpart AS), the nickel sulfate production subcategory (Subpart AU), the oxygen and nitrogen production subcategory (Subpart AV), the potassium chloride production subcategory (Subpart AX), the potassium iodide production subcategory (Subpart AY), the silver nitrate production subcategory (Subpart BA), the sodium fluoride production subcategory (Subpart BC), the sodium silicofluoride production subcategory (Subpart BF), the stannic oxide production subcategory (Subpart BH), the zinc sulfate production subcategory (Subpart BK) of the inorganic chemicals manufacturing point source category.



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(Subpart BH), the zinc sulfate production subcategory (Subpart BK) of the inorganic chemicals manufacturing point source category which are being promulgated by EPA simultaneously with publication of this proposed regulation. The information contained in the preamble to the interim final regulation is incorporated herein by reference. The proposed regulation set forth below proposes pretreatment standards for pollutants introduced into publicly owned treatment works. The proposal will establish for each subpart the extent of application of effluent limitations to existing sources and to new sources which discharge to publicly owned treatment works. The regulation is intended to be complementary to the general regulation for pretreatment standards for existing sources set forth at 40 CFR Part 128. The general regulation was proposed July 19, 1973 (38 FR 19236), and published in final form on November 8, 1973 (38 FR 30982). The regulation proposed below applies to users of publicly owned treatment works which fall within the description of the point source category to which the limitations and standards apply. However, the proposed pretreatment regulation applies to the introduction of pollutants which are directed into a publicly owned treatment works, rather than to discharges of pollutants to navigable waters.

The general pretreatment standard divides pollutants discharged by users of publicly owned treatment works into two broad categories: "compatible" and "incompatible." Compatible pollutants are generally not subject to pretreatment standards. However, 40 CFR 128.131 (prohibited wastes) may be applicable to compatible pollutants. Additionally, local pretreatment requirements may apply (see 40 CFR 128.110). Incompatible pollutants are subject generally to pretreatment standards as provided in 40 CFR 128.133. §§ 415.234, 415.244, 415.274, 415.284, 415.294, 415.304, 415.314, 415.334, 415.344, 415.354, 415.364, 415.384, 415.404, 415.414, 415.424, 415.434, 415.444, 415.454, 415.474, 415.494, 415.504, 415.514, 415.534, 415.554, 415.584, 415.604, and 415.634 of the regulation proposed below are intended to implement that portion of § 128.133, above, requiring that a separate provision be made stating the application to pretreatment standards of effluent limitations based upon best practicable control technology currently available.

Questions were raised during the public comment period on the proposed general pretreatment standard (40 CFR Part 128) about the propriety of applying a standard based upon best practicable control technology currently available to all plants subject to pretreatment standards. In general, EPA believes the analysis supporting the effluent limitations and guidelines is adequate to make a determination regarding the application of those standards to users of publicly owned treatment works. However, to ensure that those standards are appropriate

in all cases, EPA now seeks additional comments focusing upon the application of effluent limitations guidelines to users of publicly owned treatment works.

The report entitled "Development Document for Interim Final Effluent Limitations and Guidelines and Proposed New Source Performance Standards for the Inorganic Products Segment of the Inorganic Chemicals Manufacturing Point Source Category" details the analysis undertaken in support of the regulation being proposed herein and is available for inspection in the EPA Freedom of Information Center, Room 204, West Tower, Waterside Mall, Washington, D.C., at all EPA regional offices, and at State water pollution control offices. A supplementary analysis prepared for EPA of the possible economic effects of the proposed regulation is also available for inspection at these locations. Copies of both of these documents are being sent to persons or institutions affected by the proposed regulation or who have placed themselves on a mailing list for this purpose (see EPA's Advance Notice of Public Review Procedures, 38 FR 21202, August 6, 1973). An additional limited number of copies of both reports are available. Persons wishing to obtain a copy may write the EPA Freedom of Information Center, Environmental Protection Agency, Washington, D.C. 20460, Attention: Ms. Ruth Brown, A-107.

When this regulation is promulgated, revised copies of the Development Document will be available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies of the Economic Analysis will be available through the National Technical Information Service, Springfield, Virginia 22151.

(c) *Summary of public participation.* A full listing of participants and discussion of comments and responses is included in the preamble of the interim final regulation for subparts W through BK being simultaneously promulgated by EPA and are incorporated herein by reference.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the EPA office of Public Affairs, Environmental Protection Agency, Washington, D.C. 20460, Attention: Ms. Ruth Brown, A-107. Comments on all aspects of the proposed regulation are solicited. In the event comments are in the nature of criticisms as to the adequacy of data which are available, or which may be relied upon by the Agency, comments should identify and, if possible, provide any additional data which may be available and should indicate why such data are essential to the development of the regulations. In the event comments address the approach taken by the Agency in establishing a standard of performance or pretreatment standard, EPA solicits suggestions as to what alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of sections 306 and 307(b) and (c) of the Act.

A copy of all public comments will be available for inspection and copying at the EPA Freedom of Information Center, Room 204, West Tower, Waterside Mall, 401 M Street, S.W., Washington, D.C. A copy of preliminary draft contractor reports, the Development Document and economic study referred to above, and certain supplementary materials supporting the study of the industry concerned will also be maintained at this location for public review and copying. The EPA Information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying.

All comments received on or before June 23, 1975, will be considered. Steps previously taken by the Environmental Protection Agency to facilitate public response within this time period are outlined in the advance notice concerning public review procedures published on August 6, 1973 (38 FR 21202).

Date: May 2, 1975.

JOHN QUARLES,  
Acting Administrator.

# **PART 415—INORGANIC CHEMICALS MANUFACTURING POINT SOURCE CATEGORY**

## **Subpart W—Aluminum Fluoride Production Subcategory**

- Sec. 415.233 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
- 415.234 Pretreatment standards for existing sources.
- 415.235 Standards of performance for new sources.
- 415.236 Pretreatment standards for new sources.

## **Subpart X—Ammonium Chloride Production Subcategory**

- 415.243 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
- 415.244 Pretreatment standards for existing sources.
- 415.245 Standards of performance for new sources.
- 415.246 Pretreatment standards for new sources.

## **Subpart Y—Ammonium Hydroxide Production Subcategory**

415.253-415.256 [Reserved]

## **Subpart Z—Barium Carbonate Production Subcategory**

415.263-415.266 [Reserved]

## **Subpart AA—Borax Production Subcategory**

- 415.273 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
- 415.274 Pretreatment standards for existing sources.
- 415.275 Standards of performance for new sources.
- 415.276 Pretreatment standards for new sources.

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## **Subpart AB—Boric Acid Production Subcategory**

- Sec. 415.283 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
- 415.284 Pretreatment standards for existing sources.
- 415.285 Standards of performance for new sources.
- 415.286 Pretreatment standards for new sources.

## **Subpart AC—Bromine Production Subcategory**

- 415.293 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
- 415.294 Pretreatment standards for existing sources.
- 415.295 Standards of performance for new sources.
- 415.296 Pretreatment standards for new sources.

## **Subpart AD—Calcium Carbonate Production Subcategory**

- 415.303 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
- 415.304 Pretreatment standards for existing sources.
- 415.305 Standards of performance for new sources.
- 415.306 Pretreatment standards for new sources.

## **Subpart AE—Calcium Hydroxide Production Subcategory**

- 415.313 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
- 415.314 Pretreatment standards for existing sources.
- 415.315 Standards of performance for new sources.
- 415.316 Pretreatment standards for new sources.

## **Subpart AF—Carbon Dioxide Production Subcategory**

415.323-415.326 [Reserved]

## **Subpart AG—Carbon Monoxide & By-Product Hydrogen Production Subcategory**

- 415.333 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
- 415.334 Pretreatment standards for existing sources.
- 415.335 Standards of performance for new sources.
- 415.336 Pretreatment standards for new sources.

## **Subpart AH—Chrome Pigments Production Subcategory**

- 415.343 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
- 415.344 Pretreatment standards for existing sources.
- 415.345 Standards of performance for new sources.
- 415.346 Pretreatment standards for new sources.

## **Subpart AI—Chromic Acid Production Subcategory**

- Sec. 415.353 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
- 415.354 Pretreatment standards for existing sources.
- 415.355 Standards of performance for new sources.
- 415.356 Pretreatment standards for new sources.

## **Subpart AJ—Copper Sulfate Production Subcategory**

- 415.363 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
- 415.364 Pretreatment standards for existing sources.
- 415.365 Standards of performance for new sources.
- 415.366 Pretreatment standards for new sources.

## **Subpart AK—Cuprous Oxide Production Subcategory**

415.373-415.376 [Reserved]

## **Subpart AL—Ferric Chloride Production Subcategory**

- 415.383 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
- 415.384 Pretreatment standards for existing sources.
- 415.385 Standards of performance for new sources.
- 415.386 Pretreatment standards for new sources.

## **Subpart AM—Ferrous Sulfate Production Subcategory**

415.393-415.396 [Reserved]

## **Subpart AN—Fluorine Production Subcategory**

- 415.403 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
- 415.404 Pretreatment standards for existing sources.
- 415.405 Standards of performance for new sources.
- 415.406 Pretreatment standards for new sources.

## **Subpart AO—Hydrogen Production Subcategory**

- 415.413 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
- 415.414 Pretreatment standards for existing sources.
- 415.415 Standards of performance for new sources.
- 415.416 Pretreatment standards for new sources.

## **Subpart AP—Hydrogen Cyanide Production Subcategory**

- 415.423 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
- 415.424 Pretreatment standards for existing sources.
- 415.425 Standards of performance for new sources.
- 415.426 Pretreatment standards for new sources.

## **Subpart AQ—Iodine Production Subcategory**

- Sec. 415.433 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
- 415.434 Pretreatment standards for existing sources.
- 415.435 Standards of performance for new sources.
- 415.436 Pretreatment standards for new sources.

## **Subpart AR—Lead Monoxide Production Subcategory**

- 415.443 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
- 415.444 Pretreatment standards for existing sources.
- 415.445 Standards of performance for new sources.
- 415.446 Pretreatment standards for new sources.

## **Subpart AS—Lithium Carbonate Production Subcategory**

- 415.453 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
- 415.454 Pretreatment standards for existing sources.
- 415.455 Standards of performance for new sources.
- 415.456 Pretreatment standards for new sources.

## **Subpart AT—Manganese Sulfate Production Subcategory**

415.463-415.466 [Reserved]

## **Subpart AU—Nickel Sulfate Production Subcategory**

- 415.473 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
- 415.474 Pretreatment standards for existing sources.
- 415.475 Standards of performance for new sources.
- 415.476 Pretreatment standards for new sources.

## **Subpart AV—Strong Nitric Acid Production Subcategory**

415.483-415.486 [Reserved]

## **Subpart AW—Oxygen and Nitrogen Production Subcategory**

- 415.493 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
- 415.494 Pretreatment standards for existing sources.
- 415.495 Standards of performance for new sources.
- 415.496 Pretreatment standards for new sources.

## **Subpart AX—Potassium Chloride Production Subcategory**

- 415.503 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.



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Sec. 415.504	Pretreatment standards for existing sources.	Sec. 415.604	Pretreatment standards for existing sources.
415.505	Standards of performance for new sources.	415.605	Standards of performance for new sources.
415.506	Pretreatment standards for new sources.	415.606	Pretreatment standards for new sources.
<b>Subpart AY—Potassium Iodide Production Subcategory</b>		<b>Subpart BI—Sulfur Dioxide Production Subcategory</b>	
415.513	Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.	415.613-415.616	[Reserved]
415.514	Pretreatment standards for existing sources.	<b>Subpart BJ—Zinc Oxide Production Subcategory</b>	
415.515	Standards of performance for new sources.	415.623-415.626	[Reserved]
415.516	Pretreatment standards for new sources.	<b>Subpart BK—Zinc Sulfate Production Subcategory</b>	
<b>Subpart AZ—Potassium Permanganate Production Subcategory</b>		415.633	Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
415.523-415.526	[Reserved]	415.634	Pretreatment standards for existing sources.
<b>Subpart BA—Silver Nitrate Production Subcategory</b>		415.635	Standards of performance for new sources.
415.533	Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.	415.636	Pretreatment standards for new sources.
415.534	Pretreatment standards for existing sources.	<b>Subpart W—Aluminum Fluoride Production Subcategory</b>	
415.535	Standards of performance for new sources.	§ 415.233 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.	
415.536	Pretreatment standards for new sources.	The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:	
<b>Subpart BB—Sodium Bisulfite Production Subcategory</b>		Effluent limitations	
415.543-415.546	[Reserved]	Effluent characteristic	Maximum for any one day
<b>Subpart BC—Sodium Fluoride Production Subcategory</b>		Average of daily values for thirty consecutive days shall not exceed—	
415.553	Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.	(Metric units) kg/kg of product	
415.554	Pretreatment standards for existing sources.	Fluoride.....	0.034
415.555	Standards of performance for new sources.	TSS.....	0.052
415.556	Pretreatment standards for new sources.	Aluminum.....	0.034
<b>Subpart BD—Sodium Hydrosulfide Production Subcategory</b>		pH.....	Within the range 6.0 to 9.0.
415.563-415.566	[Reserved]	(English units) lb/1,000 lb of product	
<b>Subpart BE—Sodium Hydrosulfite Production Subcategory</b>		Fluoride.....	0.034
415.573-415.576	[Reserved]	TSS.....	0.052
<b>Subpart BF—Sodium Silicofluoride Production Subcategory</b>		Aluminum.....	0.034
415.583	Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.	pH.....	Within the range 6.0 to 9.0.
415.584	Pretreatment standards for existing sources.	(Metric units) kg/kg of product	
415.585	Standards of performance for new sources.	Fluoride.....	0.034
415.586	Pretreatment standards for new sources.	TSS.....	0.052
<b>Subpart BG—Sodium Thiosulfate Production Subcategory</b>		Aluminum.....	0.034
415.593-415.596	[Reserved]	pH.....	Within the range 6.0 to 9.0.
<b>Subpart BH—Stannic Oxide Production Subcategory</b>		(English units) lb/1,000 lb of product	
415.603	Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.	Fluoride.....	0.034

charge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart:

Pretreatment standard		
Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
Aluminum.....	0.034	0.017
Fluoride.....	0.068	0.034
TSS.....	No limitation	0.034
pH.....	do.	do.
(English units) lb/1,000 lb of product		
Aluminum.....	0.34	0.17
Fluoride.....	0.68	0.34
TSS.....	No limitation	0.34
pH.....	do.	do.

Aluminum.....	0.34	0.17
Fluoride.....	0.68	0.34
TSS.....	No limitation	0.34
pH.....	do.	do.

## § 415.235 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent limitations		
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
Fluoride.....	0.068	0.034
TSS.....	0.052	0.034
Aluminum.....	0.034	0.017
pH.....	Within the range 6.0 to 9.0.	do.
(English units) lb/1,000 lb of product		
Fluoride.....	0.068	0.034
TSS.....	0.052	0.034
Aluminum.....	0.034	0.017
pH.....	Within the range 6.0 to 9.0.	do.

Fluoride.....	0.068	0.034
TSS.....	0.052	0.034
Aluminum.....	0.034	0.017
pH.....	Within the range 6.0 to 9.0.	do.

## § 415.236 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the aluminum fluoride production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, for existing sources, except that,

for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pretreatment standard		
Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
Aluminum.....	0.034	0.017
Fluoride.....	0.068	0.034
TSS.....	No limitation	0.034
pH.....	do.	do.
(English units) lb/1,000 lb of product		
Aluminum.....	0.34	0.17
Fluoride.....	0.68	0.34
TSS.....	No limitation	0.34
pH.....	do.	do.

## Subpart X—Ammonium Chloride Production Subcategory

## § 415.243 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged in process waste water from ammonium chloride production by the reaction of anhydrous ammonia with hydrogen chloride gas and by the recovery process from Solvay process wastes, by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

## § 415.244 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the ammonium chloride production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this Chapter (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this

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paragraph, which may be discharged in process waste water from ammonium chloride production by the reaction of anhydrous ammonia with hydrogen chloride gas:

Pretreatment standard		
Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS.....	No limitation	0.5
Ammonia (as N).....	1.0	0.5
pH.....	No limitation	do.
(English units) lb/1,000 lb of product		
TSS.....	No limitation	0.5
Ammonia (as N).....	1.0	0.5
pH.....	No limitation	do.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from ammonium chloride production by the recovery process from Solvay process wastes:

Pretreatment standard		
Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS.....	No limitation	4.4
Ammonia (as N).....	8.8	4.4
pH.....	No limitation	do.
(English units) lb/1,000 lb of product		
TSS.....	No limitation	4.4
Ammonia (as N).....	8.8	4.4
pH.....	No limitation	do.

## § 415.245 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

## § 415.246 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the ammonium chloride production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, for existing sources, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment

standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pretreatment standard		
Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS.....	No limitation	0.5
Ammonia (as N).....	1.0	0.5
pH.....	No limitation	do.
(English units) lb/1,000 lb of product		
TSS.....	No limitation	0.5
Ammonia (as N).....	1.0	0.5
pH.....	No limitation	do.

## Subpart Y—Ammonium Hydroxide Production Subcategory

## §§ 415.253-415.256 [Reserved]

## Subpart Z—Barium Carbonate Production Subcategory

## §§ 415.263-415.266 [Reserved]

## Subpart AA—Borax Production Subcategory

## § 415.273 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters, except that residual brine and depleted liquor may be returned to the body of water from which the process brine solution was originally withdrawn.

## § 415.274 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the borax production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart, except that residual brine



and depleted liquor may be returned to the body of water from which the process brine was originally withdrawn:

Pollutant or pollutant property:	Pretreatment standard
TSS.....	No limitation.
pH.....	Do.
Boron (as B).....	1 mg/l.
Arsenic (as As).....	Do.

#### § 415.275 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters, except that residual brine and depleted liquor may be returned to the body of water from which the process brine was originally withdrawn.

#### § 415.276 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the borax production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, for existing sources, except that, for the purpose of this section §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart, except that residual brine and depleted liquor may be returned to the body of water from which the process brine was originally withdrawn:

Pollutant or pollutant property:	Pretreatment standard
TSS.....	No limitation.
pH.....	Do.
Boron (as B).....	1 mg/l.
Arsenic (as As).....	Do.

#### Subpart AB—Boric Acid Production Subcategory

#### § 415.283 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this

paragraph, which may be discharged in process waste water from boric acid production from borax produced by the Trona process: There shall be no discharge of process waste water pollutants to navigable waters, except that residual brine and depleted liquor may be returned to the body of water from which the process brine solution was originally withdrawn.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from boric acid production from ore-mined borax:

Effluent limitations		
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
Arsenic.....	0.0028	0.0014
TSS.....	0.056	0.028
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
Arsenic.....	0.0028	0.0014
TSS.....	0.056	0.028
pH.....	Within the range 6.0 to 9.0.	

#### § 415.284 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the boric acid production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from boric acid production from borax produced by the Trona process, except that residual brine and depleted liquor may be returned to the body of water from which the process brine was originally withdrawn:

Pollutant or pollutant property:	Pretreatment standard
TSS.....	No limitation.
Arsenic (as As).....	0.5 mg/L.
Boron (as B).....	1 mg/l.
pH.....	No limitation.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from boric acid production from ore-mined borax:

Pretreatment standard		
Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
Arsenic (as As).....	0.0028	0.0014
TSS.....	No limitation	
pH.....	Do.	
(English units) lb/1,000 lb of product		
Arsenic (as As).....	0.0028	0.0014
TSS.....	No limitation	
pH.....	Do.	

#### § 415.285 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged in process waste water from boric acid production from borax produced by the Trona process: There shall be no discharge of process waste water pollutants to navigable waters, except that residual brine and depleted liquor may be returned to the body of water from which the process brine was originally withdrawn.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from boric acid production from ore-mined borax:

Effluent limitations		
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
Arsenic (as As).....	0.0028	0.0014
TSS.....	0.056	0.028
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
Arsenic (as As).....	0.0028	0.0014
TSS.....	0.056	0.028
pH.....	Within the range 6.0 to 9.0.	

#### § 415.286 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the boric acid production sub-

category which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, for existing sources, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from boric acid production from borax produced by the Trona process, except that residual brine and depleted liquor may be returned to the body of water from which the process brine was originally withdrawn:

Pollutant or pollutant property:	Pretreatment standard
TSS.....	No limitation.
Arsenic (as As).....	0.5 mg/L.
Boron (as B).....	1 mg/l.
pH.....	No limitation.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from boric acid production from ore-mined borax:

Pretreatment standard		
Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
Arsenic (as As).....	0.0028	0.0014
TSS.....	No limitation	
pH.....	Do.	
(English units) lb/1,000 lb of product		
Arsenic (as As).....	0.0028	0.0014
TSS.....	No limitation	
pH.....	Do.	

#### Subpart AC—Bromine Production Subcategory

#### § 415.293 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to nav-

igable waters, except that residual brine and depleted liquor may be returned to the body of water from which the process brine solution was originally withdrawn.

#### § 415.294 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the bromine production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart, except that residual brine and depleted liquor may be returned to the body of water from which the process brine was originally withdrawn:

Pollutant or pollutant property:	Pretreatment standard
TSS.....	No limitation.
pH.....	Do.
Free Bromine (molecular).....	0.1 mg/l.

#### § 415.295 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters, except that residual brine and depleted liquor may be returned to the body of water from which the process brine was originally withdrawn.

#### § 415.296 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the bromine production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, for existing sources, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this

subpart, except that residual brine and depleted liquor may be returned to the body of water from which the process brine was originally withdrawn:

Pollutant or pollutant property:	Pretreatment standard
TSS.....	No limitation.
pH.....	Do.
Free Bromine (molecular).....	0.1 mg/l.

#### Subpart AD—Calcium Carbonate Production Subcategory

#### § 415.303 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from calcium carbonate production by the milk of lime process:

Effluent limitations		
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS.....	0.22	0.11
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
TSS.....	0.22	0.11
pH.....	Within the range 6.0 to 9.0.	

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from calcium carbonate production by the recovery process from Solvay process wastes:

Effluent limitations		
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS.....	0.46	0.23
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
TSS.....	0.46	0.23
pH.....	Within the range 6.0 to 9.0.	



## PROPOSED RULES

## § 415.304 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the calcium carbonate production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property:	Pretreatment standard
TSS.....	No limitation.
pH.....	Do.

## § 415.305 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from calcium carbonate production by the milk of lime process:

Effluent limitations		
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS.....	0.22	0.11
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
TSS.....	0.22	0.11
pH.....	Within the range 6.0 to 9.0.	

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from calcium carbonate production by the recovery process from Solvay process wastes:

Effluent limitations		
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS.....	0.46	0.23
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
TSS.....	0.46	0.23
pH.....	Within the range 6.0 to 9.0.	

## § 415.306 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the calcium carbonate production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, for existing sources, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pollutant or pollutant property:	Pretreatment standard
TSS.....	No limitation.
pH.....	Do.

## Subpart AE—Calcium Hydroxide Production Subcategory

§ 415.313 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

## § 415.314 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the calcium hydroxide production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter (and which would be an existing point source subject to

section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property:	Pretreatment standard
TSS.....	No limitation.
pH.....	Do.

## § 415.315 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

## § 415.316 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the calcium hydroxide production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, for existing sources, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pollutant or pollutant property:	Pretreatment standard
TSS.....	No limitation.
pH.....	Do.

## Subpart AF—Carbon Dioxide Production Subcategory

## §§ 415.323–415.326 [Reserved]

## Subpart AG—Carbon Monoxide and By-Product Hydrogen Production Subcategory

§ 415.333 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section,

tion, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent limitations		
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
COD.....	0.13	0.065
TSS.....	0.034	0.017
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
COD.....	0.13	0.065
TSS.....	0.034	0.017
pH.....	Within the range 6.0 to 9.0.	

## § 415.334 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the carbon monoxide and by-product hydrogen production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart:

Pretreatment standard		
Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
BOD <sub>5</sub> .....	No limitation	
COD.....	0.5	0.25
TSS.....	No limitation	
pH.....	do.	
(English units) lb/1,000 lb of product		
BOD <sub>5</sub> .....	No limitation	
COD.....	0.5	0.25
TSS.....	No limitation	
pH.....	do.	

## § 415.335 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

## PROPOSED RULES

Effluent limitations		
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
COD.....	0.13	0.065
TSS.....	0.034	0.017
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
COD.....	0.13	0.065
TSS.....	0.034	0.017
pH.....	Within the range 6.0 to 9.0.	

## § 415.336 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the carbon monoxide and by-product hydrogen production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, for existing sources, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pretreatment standard		
Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
BOD <sub>5</sub> .....	No limitation	
COD.....	0.25	0.125
TSS.....	No limitation	
pH.....	do.	
(English units) lb/1,000 lb of product		
BOD <sub>5</sub> .....	No limitation	
COD.....	0.25	0.125
TSS.....	No limitation	
pH.....	do.	

## Subpart AH—Chrome Pigments Production Subcategory

§ 415.343 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent limitations		
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS.....	0.99	0.33
Chromium (T).....	0.051	0.017
Chromium (6+).....	0.051	0.017
Lead.....	0.099	0.033
Zinc A.....	0.29	0.067
Cyanide A.....	0.0051	0.0017
Cyanide.....	0.051	0.017
Iron.....	0.29	0.067
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
TSS.....	0.99	0.33
Chromium (T).....	0.051	0.017
Chromium (6+).....	0.051	0.017
Lead.....	0.099	0.033
Zinc A.....	0.29	0.067
Cyanide A.....	0.0051	0.0017
Cyanide.....	0.051	0.017
Iron.....	0.29	0.067
pH.....	Within the range 6.0 to 9.0.	

## § 415.344 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the chrome pigments production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart:

Pretreatment standard		
Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS.....	No limitation	
Chromium (T).....	0.10	0.034
Chromium (6+).....	0.010	0.0034
Lead.....	0.42	0.14
Zinc A.....	0.72	0.27
Cyanide A.....	0.010	0.0034
Cyanide.....	0.10	0.034
Iron.....	0.72	0.27
pH.....	No limitation	
(English units) lb/1,000 lb of product		
TSS.....	No limitation	
Chromium (T).....	0.10	0.034
Chromium (6+).....	0.010	0.0034
Lead.....	0.42	0.14
Zinc A.....	0.72	0.27
Cyanide A.....	0.010	0.0034
Cyanide.....	0.10	0.034
Iron.....	0.72	0.27
pH.....	No limitation	



## PROPOSED RULES

## § 415.345 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent limitations		
Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—

(Metric units) kg/kg of product		
TSS	0.99	0.33
Chromium (T)	0.051	0.017
Chromium (6+)	0.0051	0.0017
Lead	0.099	0.033
Zinc A	0.20	0.067
Cyanide A	0.0051	0.0017
Cyanide	0.051	0.017
Iron	0.20	0.067
pH	Within the range 6.0 to 9.0	

(English units) lb/1,000 lb of product		
TSS	0.99	0.33
Chromium (T)	0.051	0.017
Chromium (6+)	0.0051	0.0017
Lead	0.099	0.033
Zinc A	0.20	0.067
Cyanide A	0.0051	0.0017
Cyanide	0.051	0.017
Iron	0.20	0.067
pH	Within the range 6.0 to 9.0	

## § 415.346 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the chrome pigments production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, for existing sources, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pretreatment standard		
Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—

(Metric units) kg/kg of product		
TSS	No limitation	
Chromium (T)	0.051	0.017
Chromium (6+)	0.0051	0.0017
Lead	0.099	0.033
Zinc A	0.20	0.067
Cyanide A	0.0051	0.0017
Cyanide	0.051	0.017
Iron	0.20	0.067
pH	No limitation	

## Subpart AI—Chromic Acid Production Subcategory

§ 415.353 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters, except as provided for in 40 CFR § 415.172 (39 FR 9631).

## § 415.354 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the chromic acid production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property:	Pretreatment standard
TSS	No limitation
pH	Do.
Total Chromium	0.5 mg/l.

## § 415.355 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters, except as provided for in this Part 415

(39 FR 9631), § 415.175 for sodium dichromate.

## § 415.356 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the chromic acid production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, for existing sources, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pollutant or pollutant property:	Pretreatment standard
TSS	No limitation
pH	Do.
Total Chromium	0.5 mg/l.

## Subpart AJ—Copper Sulfate Production Subcategory

§ 415.363 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart which may be discharged in process waste water from copper sulfate production from pure raw materials and by the recovery process after application of the best available technology economically achievable:

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from copper sulfate production using pure raw materials:

Effluent limitations		
Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—

(Metric units) kg/kg of product		
Copper	0.0006	0.0002
pH	Within the range 6.0 to 9.0	

(English units) lb/1,000 lb of product		
Copper	0.0006	0.0002
pH	Within the range 6.0 to 9.0	

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from copper sulfate production by the recovery process:

Effluent limitations		
Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—

(Metric units) kg/kg of product		
TSS	0.014	0.0046
Copper	0.0014	0.00046
Nickel	0.0014	0.00046
Selenium	0.00069	0.00023
pH	Within the range 6.0 to 9.0	

(English units) lb/1,000 lb of product		
TSS	0.014	0.0046
Copper	0.0014	0.00046
Nickel	0.0014	0.00046
Selenium	0.00069	0.00023
pH	Within the range 6.0 to 9.0	

## § 415.364 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the copper sulfate production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from copper sulfate production using pure raw materials:

Pretreatment standard		
Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—

(Metric units) kg/kg of product		
TSS	No limitation	
Copper	0.0006	0.0002
pH	No limitation	

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(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from copper sulfate production by the recovery process:

Effluent limitations		
Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—

(Metric units) kg/kg of product		
TSS	No limitation	0.0002
Copper	0.0006	
pH	No limitation	

(English units) lb/1,000 lb of product		
TSS	No limitation	0.0002
Copper	0.0006	
pH	No limitation	

(Metric units) kg/kg of product		
TSS	No limitation	0.001
Copper	0.0006	0.002
Nickel	0.0006	0.002
Selenium	0.0015	0.0006
pH	No limitation	

## § 415.365 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from copper sulfate production using pure raw materials:

Effluent limitations		
Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—

(Metric units) kg/kg of product		
Copper	0.0006	0.0002
pH	Within the range 6.0 to 9.0	

(English units) lb/1,000 lb of product		
Copper	0.0006	0.0002
pH	Within the range 6.0 to 9.0	

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from copper sulfate production by the recovery process:

Effluent limitations		
Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—

(Metric units) kg/kg of product		
TSS	0.014	0.0046
Copper	0.0014	0.00046
Nickel	0.0014	0.00046
Selenium	0.00069	0.00023
pH	Within the range 6.0 to 9.0	

(English units) lb/1,000 lb of product		
TSS	0.014	0.0046
Copper	0.0014	0.00046
Nickel	0.0014	0.00046
Selenium	0.00069	0.00023
pH	Within the range 6.0 to 9.0	

## § 415.366 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the copper sulfate production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, for existing sources, except that, for the purposes of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from copper sulfate production using pure raw materials:

Pretreatment standard		
Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—

(Metric units) kg/kg of product		
TSS	No limitation	
Copper	0.0006	0.0002
pH	No limitation	



Pollutant or pollutant property	Pretreatment standard	
	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(English units) lb/1,000 lb of product		
TSS	No limitation	0.0002
Copper	0.0006	0.0006
pH	No limitation	

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from copper sulfate production by the recovery process:

Pollutant or pollutant property	Pretreatment standard	
	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS	No limitation	0.0006
Copper	0.0014	0.0006
Nickel	0.0014	0.0006
Selenium	0.0009	0.00023
pH	No limitation	

Pollutant or pollutant property	Pretreatment standard	
	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(English units) lb/1,000 lb of product		
TSS	No limitation	0.0006
Copper	0.0014	0.0006
Nickel	0.0014	0.0006
Selenium	0.0009	0.00023
pH	No limitation	

#### Subpart AK—Cuprous Oxide Production Subcategory

§§ 415.373–415.376 [Reserved]

#### Subpart AL—Ferric Chloride Production Subcategory

§ 415.383 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 415.384 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the ferric chloride production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except that, for the purpose of

this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property:	Pretreatment standard
TSS	No limitation
pH	Do.
Iron	4 mg/l.

§ 415.385 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 415.386 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the ferric chloride production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, for existing sources, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pollutant or pollutant property:	Pretreatment standard
TSS	No limitation
pH	Do.
Iron	4 mg/l.

#### Subpart AM—Ferrous Sulfate Production Subcategory

§§ 415.393–415.396 [Reserved]

#### Subpart AN—Fluorine Production Subcategory

§ 415.403 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged in the process waste water from fluorine production by the liquid hydrofluoric acid electrolysis process by a point source subject to the provisions of this subpart after

application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 415.404 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the fluorine production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart:

Pollutant or pollutant property:	Pretreatment standard
TSS	No limitation
pH	Do.
Fluoride	20 mg/l.

§ 415.405 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 415.406 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the fluorine production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this chapter (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in Part 128 of this chapter, for existing sources, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pollutant or pollutant property:	Pretreatment standard
TSS	No limitation
pH	Do.
Fluoride	20 mg/l.

#### Subpart AO—Hydrogen Production Subcategory

§ 415.413 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters, except as provided for in Part 419 of this chapter (39 FR 16560).

§ 415.414 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the hydrogen production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in Part 128 of this Chapter (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this Chapter, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this Chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart:

Pollutant or pollutant property:	Pretreatment standard
BOD <sub>5</sub>	No limitation
TSS	Do.
pH	Do.
Oil and grease	100 mg/l.

§ 415.415 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters, except as provided for in this Chapter (39 FR 16560), Part 419 for petroleum refining.

§ 415.416 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the hydrogen production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this Chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

122, 128.132 and 128.133 in this Chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pollutant or pollutant property:	Pretreatment standard
BOD <sub>5</sub>	No limitation
TSS	Do.
pH	Do.
Oil and grease	100 mg/l.

#### Subpart AP—Hydrogen Cyanide Production Subcategory

§ 415.423 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from hydrogen cyanide production as a by-product of acrylonitrile manufacture: There shall be no discharge of process waste water pollutants to navigable waters, except as provided for in this chapter, Part 414, Subcategory F, paragraph § 414.63 for acrylonitrile.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from hydrogen cyanide production by the Andrusow process:

Effluent characteristic	Effluent limitations	
	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS	0.000	0.045
Cyanide	0.0046	0.023
Cyanide A	0.00046	0.0023
BOD <sub>5</sub>	0.19	0.096
Ammonia (as N)	0.032	0.016
pH	Within the range 6.0 to 9.0	

Effluent characteristic	Effluent limitations	
	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(English units) lb/1,000 lb of product		
TSS	0.000	0.045
Cyanide	0.0046	0.023
Cyanide A	0.00046	0.0023
BOD <sub>5</sub>	0.19	0.096
Ammonia (as N)	0.032	0.016
pH	Within the range 6.0 to 9.0	

§ 415.424 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within

the hydrogen cyanide production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart:

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from hydrogen cyanide production as a by-product of acrylonitrile production:

Pollutant or pollutant property:	Pretreatment standard
BOD <sub>5</sub>	No limitation
TSS	Do.
pH	Do.
Cyanide	0.5 mg/l.
Cyanide A	0.05 mg/l.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from hydrogen cyanide production by the Andrusow process:

Pollutant or pollutant property	Pretreatment standard	
	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS	No limitation	0.025
Cyanide	0.05	0.025
Cyanide A	0.005	0.0025
BOD <sub>5</sub>	No limitation	0.18
Ammonia (as N)	0.36	0.18
pH	No limitation	

Pollutant or pollutant property	Pretreatment standard	
	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(English units) lb/1,000 lb of product		
TSS	No limitation	0.025
Cyanide	0.05	0.025
Cyanide A	0.005	0.0025
BOD <sub>5</sub>	No limitation	0.18
Ammonia (as N)	0.36	0.18
pH	No limitation	

Pollutant or pollutant property	Pretreatment standard	
	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(English units) lb/1,000 lb of product		
TSS	No limitation	0.025
Cyanide	0.05	0.025
Cyanide A	0.005	0.0025
BOD <sub>5</sub>	No limitation	0.18
Ammonia (as N)	0.36	0.18
pH	No limitation	

§ 415.425 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from hydrogen cyanide production as a by-product of acrylonitrile manufacture:



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There shall be no discharge of process waste water pollutants to navigable waters, except as provided for in 40 CFR Part 414, Subcategory F, § 414.65 of this chapter for acrylonitrile.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from hydrogen cyanide production by the Andrusow process:

Effluent limitations		
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS.....	0.040	0.045
Cyanide.....	0.0046	0.0023
Cyanide A.....	0.0046	0.0023
BOD <sub>5</sub> .....	0.19	0.095
Ammonia (as N).....	0.032	0.016
pH.....	Within the range 6.0 to 9.0	
(English units) lb/1,000 lb of product		
TSS.....	0.040	0.045
Cyanide.....	0.0046	0.0023
Cyanide A.....	0.0046	0.0023
BOD <sub>5</sub> .....	0.19	0.095
Ammonia (as N).....	0.032	0.016
pH.....	Within the range 6.0 to 9.0	

#### § 415.426 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the hydrogen cyanide production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from hydrogen cyanide production as a by-product of acrylonitrile manufacture:

Pollutant or pollutant property:	Pretreatment standard
TSS.....	No limitation.
pH.....	Do.
Cyanide.....	0.5 mg/l.
Cyanide A.....	0.05 mg/l.
Ammonia (as N).....	30 mg/l.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from hydrogen cyanide production by the Andrusow process:

Effluent limitations		
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS.....	No limitation.	
Cyanide.....	0.0046	0.0023
Cyanide A.....	0.0046	0.0023
BOD <sub>5</sub> .....	No limitation.	
Ammonia (as N).....	0.032	0.016
pH.....	No limitation.	
(English units) lb/1,000 lb of product		
TSS.....	No limitation.	
Cyanide.....	0.0046	0.0023
Cyanide A.....	0.0046	0.0023
BOD <sub>5</sub> .....	No limitation.	
Ammonia (as N).....	0.032	0.016
pH.....	No limitation.	

#### Subpart AQ—Iodine Production Subcategory

§ 415.433 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

#### § 415.434 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the iodine production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property:	Pretreatment standard
TSS.....	No limitation.
pH.....	Do.

#### § 415.435 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

#### § 415.436 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the iodine production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this Chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property:	Pretreatment standard
TSS.....	No limitation.
pH.....	Do.

#### Subpart AR—Lead Monoxide Production Subcategory

§ 415.443 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

#### § 415.444 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the lead monoxide production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart:

trolled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pretreatment standard		
Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS.....	No limitation.	
Lead.....	0.030	0.015
pH.....	No limitation.	
(English units) lb/1,000 lb of product		
TSS.....	No limitation.	
Lead.....	0.030	0.015
pH.....	No limitation.	

#### § 415.445 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

#### § 415.446 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the lead monoxide production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart.

Pretreatment standard		
Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS.....	No limitation.	
Lead.....	0.030	0.015
pH.....	No limitation.	
(English units) lb/1,000 lb of product		
TSS.....	No limitation.	
Lead.....	0.030	0.015
pH.....	No limitation.	

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#### Subpart AS—Lithium Carbonate Production Subcategory

§ 415.453 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from lithium carbonate production by the Trona process: There shall be no discharge of process waste water pollutants to navigable waters, except that residual brine and depleted liquor may be returned to the body of water from which the process brine solution was originally withdrawn.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from lithium carbonate production from spodumene ore:

Effluent limitations		
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS.....	1.1	0.36
pH.....	Within the range 6.0 to 9.0	
(English units) lb/1,000 lb of product		
TSS.....	1.1	0.36
pH.....	Within the range 6.0 to 9.0	

#### § 415.454 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the lithium carbonate production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart:

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from lithium carbonate production by the Trona process, except that residual brine and depleted liquor may be returned to the body of water from which the process brine solution was originally withdrawn:

Pollutant or pollutant property:	Pretreatment standard
TSS.....	No limitation.
pH.....	Do.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from lithium carbonate production from spodumene ore:

Pollutant or pollutant property:	Pretreatment standard
TSS.....	No limitation.
pH.....	Do.

#### § 415.455 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from lithium carbonate production by the Trona process: There shall be no discharge of process waste water pollutants to navigable waters, except that residual brine and depleted liquor may be returned to the body of water from which the process brine was originally withdrawn.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from lithium carbonate production from spodumene ore:

Effluent limitations		
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS.....	1.1	0.36
pH.....	Within the range 6.0 to 9.0	
(English units) lb/1,000 lb of product		
TSS.....	1.1	0.36
pH.....	Within the range 6.0 to 9.0	

#### § 415.456 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the lithium carbonate production subcategory which is a user of a publicly



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owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from lithium carbonate production by the Trona process, except that residual brine and depleted liquor may be returned to the body of water from which the process brine solution was originally withdrawn:

Pollutant or pollutant property:	Pretreatment standard
TSS.....	No limitation.
pH.....	Do.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from lithium carbonate production from spodumene ore:

Pollutant or pollutant property:	Pretreatment standard
TSS.....	No limitation.
pH.....	Do.

#### Subpart AT—Manganese Sulfate Production Subcategory

§§ 415.463–415.466 [Reserved]

#### Subpart AU—Nickel Sulfate Production Subcategory

§ 415.473 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged in process waste water from nickel sulfate production from pure and impure raw materials by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from nickel sulfate production from pure raw materials: There shall be no discharge of process waste water pollutants to navigable waters.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties controlled by this paragraph, which may be discharged in process waste water from nickel sulfate production from impure raw materials:

Effluent limitations		
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
Nickel.....	0.006.....	0.002
TSS.....	0.006.....	0.012
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
Nickel.....	0.006.....	0.002
TSS.....	0.006.....	0.012
pH.....	Within the range 6.0 to 9.0.	

#### § 415.474 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the nickel sulfate production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standards establish the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from nickel sulfate production from pure raw materials:

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from nickel sulfate production from impure raw materials:

Pretreatment standard		
Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
Nickel.....	0.006.....	0.002
TSS.....	No limitation.	
pH.....	Do.	
(English units) lb/1,000 lb of product		
Nickel.....	0.006.....	0.002
TSS.....	No limitation.	
pH.....	Do.	

#### § 415.475 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from nickel sulfate production from pure raw materials: There shall be no discharge of process waste water pollutants to navigable waters.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from nickel sulfate production from impure raw materials:

Effluent limitations		
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
Nickel.....	0.006.....	0.002
TSS.....	0.006.....	0.012
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
Nickel.....	0.006.....	0.002
TSS.....	0.006.....	0.012
pH.....	Within the range 6.0 to 9.0.	

#### § 415.476 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the nickel sulfate production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from nickel sulfate production from pure raw materials:

Pollutant or pollutant property:	Pretreatment standard
Nickel.....	2 mg/l.
TSS.....	No limitation.
pH.....	Do.

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(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph which may be discharged in process waste water from nickel sulfate production from impure raw materials:

Pretreatment standard		
Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
Nickel.....	0.006.....	0.002
TSS.....	No limitation.	
pH.....	Do.	
(English units) lb/1,000 lb of product		
Nickel.....	0.006.....	0.002
TSS.....	No limitation.	
pH.....	Do.	

#### Subpart AV—Strong Nitric Acid Production Subcategory

§§ 415.483–415.486 [Reserved]

#### Subpart AW—Oxygen and Nitrogen Production Subcategory

§ 415.493 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent limitations		
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
Oil and grease.....	0.002.....	0.001
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
Oil and grease.....	0.002.....	0.001
pH.....	Within the range 6.0 to 9.0.	

#### § 415.494 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the oxygen and nitrogen production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall

be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property:	Pretreatment standard
BOD5.....	No limitation.
TSS.....	Do.
pH.....	Do.
Oil and grease.....	100 mg/l.

#### § 415.495 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent limitations		
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
Oil and grease.....	0.002.....	0.001
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
Oil and grease.....	0.002.....	0.001
pH.....	Within the range 6.0 to 9.0.	

#### § 415.496 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the oxygen and nitrogen production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pollutant or pollutant property:	Pretreatment standard
BOD5.....	No limitation.
TSS.....	Do.
pH.....	Do.
Oil and grease.....	100 mg/l.

#### Subpart AX—Potassium Chloride Production Subcategory

§ 415.503 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters, except that residual brine and depleted liquor may be returned to the body of water from which the process brine solution was originally withdrawn.

#### § 415.504 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the potassium chloride production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart, except that residual brine and depleted liquor may be returned to the body of water from which the process brine was originally withdrawn:

Pollutant or pollutant property:	Pretreatment standard
TSS.....	No limitation.
pH.....	Do.

#### § 415.505 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters, except that residual brine and depleted liquor may be returned to the body of water from which the process brine was originally withdrawn.

#### § 415.506 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the potassium chloride production subcategory which is a user of a publicly owned treatment works and a major con-



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tributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart, except that residual brine and depleted liquor may be returned to the body of water from which the process brine was originally withdrawn:

Pollutant or pollutant property:	Pretreatment standard
TSS.....	No limitation
pH.....	Do.

## Subpart AY—Potassium Iodide Production Subcategory

§ 415.513 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS.....	0.042.....	0.014
Barium.....	0.009.....	0.023
Iron.....	0.011.....	0.036
Sulfide.....	0.011.....	0.036
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
TSS.....	0.042.....	0.014
Barium.....	0.009.....	0.023
Iron.....	0.011.....	0.036
Sulfide.....	0.011.....	0.036
pH.....	Within the range 6.0 to 9.0.	

## § 415.514 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the potassium iodide production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section,

§§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	Pretreatment standard	
	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS.....	No limitation.....	
Sulfide.....	0.015.....	0.036
Iron.....	0.015.....	0.036
Barium.....	0.009.....	0.023
pH.....	No limitation.....	
(English units) lb/1,000 lb of product		
TSS.....	No limitation.....	
Sulfide.....	0.015.....	0.036
Iron.....	0.015.....	0.036
Barium.....	0.009.....	0.023
pH.....	No limitation.....	

## § 415.515 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS.....	0.042.....	0.014
Sulfide.....	0.009.....	0.036
Iron.....	0.011.....	0.036
Barium.....	0.011.....	0.023
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
TSS.....	0.042.....	0.014
Sulfide.....	0.009.....	0.036
Iron.....	0.011.....	0.036
Barium.....	0.011.....	0.023
pH.....	Within the range 6.0 to 9.0.	

## § 415.516 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the potassium iodide production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment stand-

ard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pollutant or pollutant property	Pretreatment standard	
	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
TSS.....	No limitation.....	
Sulfide.....	0.009.....	0.036
Iron.....	0.009.....	0.036
Barium.....	0.011.....	0.023
pH.....	No limitation.....	
(English units) lb/1,000 lb of product		
TSS.....	No limitation.....	
Sulfide.....	0.009.....	0.036
Iron.....	0.009.....	0.036
Barium.....	0.011.....	0.023
pH.....	No limitation.....	

## Subpart AZ—Potassium Permanganate Production Subcategory

§§ 415.523–415.526 [Reserved]

## Subpart BA—Silver Nitrate Production Subcategory

§ 415.533 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
Silver.....	0.0045.....	0.0015
TSS.....	0.009.....	0.023
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
Silver.....	0.0045.....	0.0015
TSS.....	0.009.....	0.023
pH.....	Within the range 6.0 to 9.0.	

## § 415.534 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the silver nitrate production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to

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the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	Pretreatment standard	
	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
Silver.....	0.009.....	0.003
TSS.....	No limitation.....	
pH.....	do.....	
(English units) lb/1,000 lb of product		
Silver.....	0.009.....	0.003
TSS.....	No limitation.....	
pH.....	do.....	

## § 415.535 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
Silver.....	0.0045.....	0.0015
TSS.....	0.009.....	0.023
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product		
Silver.....	0.0045.....	0.0015
TSS.....	0.009.....	0.023
pH.....	Within the range 6.0 to 9.0.	

## § 415.536 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the silver nitrate production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the

navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pollutant or pollutant property	Pretreatment standard	
	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product		
Silver.....	0.0045.....	0.0015
TSS.....	No limitation.....	
pH.....	do.....	
(English units) lb/1,000 lb of product		
Silver.....	0.0045.....	0.0015
TSS.....	No limitation.....	
pH.....	do.....	

## Subpart BB—Sodium Bisulfite Production Subcategory

§§ 415.543–415.546 [Reserved]

## Subpart BC—Sodium Fluoride Production Subcategory

§ 415.553 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

## § 415.554 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the sodium fluoride production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged

to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property:	Pretreatment standard
TSS.....	No limitation.
pH.....	Do.
Fluoride.....	20 mg/l.

## § 415.555 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

## § 415.556 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the sodium fluoride production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pollutant or pollutant property:	Pretreatment standard
TSS.....	No limitation.
pH.....	Do.
Fluoride.....	20 mg/l.

## Subpart BD—Sodium Hydrosulfide Production Subcategory

§§ 415.563–415.566 [Reserved]

## Subpart BE—Sodium Hydrosulfite Production Subcategory

§§ 415.573–415.576 [Reserved]

## Subpart BF—Sodium Silicofluoride Production Subcategory

§ 415.583 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:



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Effluent limitations			Effluent limitations		
Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—	Effluent characteristic	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product					
Fluoride.....	0.50.....	0.25	Fluoride.....	0.50.....	0.25
TSS.....	0.38.....	0.19	TSS.....	0.38.....	0.19
pH.....	Within the range 6.0 to 9.0.		pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of product					
Fluoride.....	0.50.....	0.25	Fluoride.....	0.50.....	0.25
TSS.....	0.38.....	0.19	TSS.....	0.38.....	0.19
pH.....	Within the range 6.0 to 9.0.		pH.....	Within the range 6.0 to 9.0.	

#### § 415.584 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the sodium silicofluoride production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pretreatment standard			Pretreatment standard		
Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—	Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product					
Fluoride.....	0.5.....	0.25	Fluoride.....	0.5.....	0.25
TSS.....	No limitation.....		TSS.....	No limitation.....	
pH.....	do.....		pH.....	do.....	
(English units) lb/1,000 lb of product					
Fluoride.....	0.5.....	0.25	Fluoride.....	0.5.....	0.25
TSS.....	No limitation.....		TSS.....	No limitation.....	
pH.....	do.....		pH.....	do.....	

#### § 415.585 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

#### § 415.586 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the sodium silicofluoride production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pretreatment standard			Pretreatment standard		
Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—	Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days shall not exceed—
(Metric units) kg/kg of product					
Fluoride.....	0.5.....	0.25	Fluoride.....	0.5.....	0.25
TSS.....	No limitation.....		TSS.....	No limitation.....	
pH.....	do.....		pH.....	do.....	
(English units) lb/1,000 lb of product					
Fluoride.....	0.5.....	0.25	Fluoride.....	0.5.....	0.25
TSS.....	No limitation.....		TSS.....	No limitation.....	
pH.....	do.....		pH.....	do.....	

#### Subpart BG—Sodium Thiosulfate Production Subcategory

#### §§ 415.593–415.596 [Reserved]

#### Subpart BH—Stannic Oxide Production Subcategory

#### § 415.603 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

lutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

#### § 415.604 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the stannic oxide production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart:

Pretreatment standard			Pretreatment standard		
Pollutant or pollutant property, maximum for any one day:			Pollutant or pollutant property, maximum for any one day:		
(Metric units) kg/kg of product:			(Metric units) kg/kg of product:		
TSS.....	No limitation.		TSS.....	No limitation.	
pH.....	Do.		pH.....	Do.	
(English units) lb/1000 lb of product:			(English units) lb/1000 lb of product:		
TSS.....	No limitation.		TSS.....	No limitation.	
pH.....	Do.		pH.....	Do.	

#### § 415.605 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

#### § 415.606 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the stannic oxide production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following

pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pretreatment standard, average of daily values for thirty consecutive days shall not exceed—			Pretreatment standard, average of daily values for thirty consecutive days shall not exceed—		
Pollutant or pollutant property, maximum for any one day:			Pollutant or pollutant property, maximum for any one day:		
(Metric units) kg/kg of product:			(Metric units) kg/kg of product:		
TSS.....	No limitation.		TSS.....	No limitation.	
pH.....	Do.		pH.....	Do.	
(English units) lb/1000 lb of product:			(English units) lb/1000 lb of product:		
TSS.....	No limitation.		TSS.....	No limitation.	
pH.....	Do.		pH.....	Do.	

#### Subpart BI—Sulfur Dioxide Production Subcategory

#### §§ 415.613–415.616 [Reserved]

#### Subpart BJ—Zinc Oxide Production Subcategory

#### §§ 415.623–415.626 [Reserved]

#### Subpart BK—Zinc Sulfate Production Subcategory

#### § 415.633 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of

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this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

#### § 415.634 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the zinc sulfate production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133 of this chapter shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart:

Pretreatment standard			Pretreatment standard		
Pollutant or pollutant property:			Pollutant or pollutant property:		
TSS.....	No limitation.		TSS.....	No limitation.	
pH.....	Do.		pH.....	Do.	
Cadmium.....	1 mg/L.		Cadmium.....	1 mg/L.	
Lead.....	Do.		Lead.....	Do.	
Zinc.....	Do.		Zinc.....	Do.	

#### § 415.635 Standards of performance for new sources.

The following standards of performance establish the quantity or quality

of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

#### § 415.636 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the zinc sulfate production subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pretreatment standard			Pretreatment standard		
Pollutant or pollutant property:			Pollutant or pollutant property:		
TSS.....	No limitation.		TSS.....	No limitation.	
pH.....	Do.		pH.....	Do.	
Cadmium.....	1 mg/L.		Cadmium.....	1 mg/L.	
Lead.....	Do.		Lead.....	Do.	
Zinc.....	Do.		Zinc.....	Do.	

[FR Doc. 75-13100 Filed 5-21-75; 8:45 am]



# **federal register**

THURSDAY, MAY 22, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 100

PART III



## **DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Office of Assistant Secretary  
for Housing Production and  
Mortgage Credit—Federal  
Housing Commissioner

■

Real Estate Settlement Procedures  
and Costs

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Title 24—Department of Housing and Urban Development

SUBTITLE A—OFFICE OF THE SECRETARY

[Docket No. B75-318]

PART 82—REAL ESTATE SETTLEMENT PROCEDURES

On February 18, 1975, 40 FR 7072, the Department published a notice of proposed rulemaking which would amend Subtitle A by adding a new Part 82. This part implements sections 4, 5 and 6 of the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. 2601, which provide for a settlement cost statement form, a special information booklet to be distributed at time of loan application, and an itemized disclosure of each charge arising in connection with each settlement that involves a federally related mortgage loan transaction. A general notice prescribing the text of the special information booklet is being published concurrently with the regulations. The final versions of the uniform disclosure settlement statement, and the Truth in Lending statement which is a part of it, are included as Appendices A and B of the regulations. The uniform disclosure settlement statement is required by section 4 of the Act to include the information and data required for relevant transactions under the Federal Truth in Lending Act and the regulations issued thereunder by the Federal Reserve Board. On March 24, 1975, (40 FR 13008) the Board published a proposed standard Truth in Lending Statement to satisfy the requirements of the Act. The Board's final revision of the form and instructions are included in these regulations as Appendix B. As a result of the invitation for public comment contained in the notice for rulemaking, more than 500 responses have been received. The Department has considered each comment carefully and as a result has adopted certain changes in both the regulations and the accompanying form, as they were proposed. The principal changes are as follows:

GENERAL COMMENTS

A number of comments objected to the overall concept of the Act, arguing that the conduct of real estate transactions was essentially a local matter, that uniformity in forms was impractical, that advance disclosure would not be of assistance to consumers, and that the procedures required by the Act would add to paperwork and costs of lenders and providers of settlement services.

COVERAGE

Numerous comments requested that the scope of coverage be defined. The final regulations provide that they apply to cases involving a purchase or transfer of property. Refinancings, junior mortgages, consumer borrowings, and other cases in which there is no transfer of title to the real estate are not covered. Transfers in which an existing loan is assumed or taken subject to are covered only if the loan terms are modified or

the lender imposes charges exceeding \$50.

The geographical coverage of the proposed regulation was unclear, as several comments pointed out. The final regulations apply to all territories and possessions of the United States in addition to the continental United States and Puerto Rico.

Several comments requested that exclusions be made for agriculture property and for builders or developers. In response to these comments, the final regulations do not apply to real estate purchased for the purpose of resale to a customer in the ordinary course of business. The final regulations apply to mortgages covering agricultural properties. Although numerous comments requested that the regulations not apply to corporations, partnerships, and other business entities, such an exclusion was not made and does not appear to be permissible.

Several comments asked that sales of vacant land be exempted from the regulations. The final regulations exempt such land unless the proceeds of the loan involved in the transaction are to be used, in whole or in part, to finance the construction of a dwelling. Several comments requested clarification of the coverage of mobile homes. The final regulations cover mobile homes and mobile home lots only if both the mobile home and the lot on which it is to be located are being purchased with the proceeds of the loan in question.

It was suggested that the effective date of the regulations be extended beyond June 20, 1975, in order to permit more time for the persons who must implement the Act to study it, prepare forms, and train their personnel. Section 19 of the Act does not give the Department discretion in this regard.

In response to numerous requests, the final regulations provide that lenders may, without special approval, place their own covers on the special information booklets which must be given to loan applicants. Other limited changes are permitted, as set forth in the final regulations or as approved by the Secretary.

Lenders may translate the booklet into other languages for the benefit of their customers, with the approval of the Secretary.

ADVANCE DISCLOSURE

The advance disclosure required by the Act must be made at least 12 days prior to settlement unless the 12-day period is waived. Many comments requested that a period shorter than 12 days be made standard, but section 6(a) of the Act does not leave this matter to the Department's discretion.

In general, advance disclosure must be given not later than 7 days after the date of the loan commitment. In cases in which a loan commitment is made more than 60 days before the anticipated date of settlement, the disclosure may be given later than the loan commitment, but not less than 60 days prior to settlement.

Many comments asked for a clarification of the term "loan commitment". The

final regulations clarify the term, so that general advertising would not be regarded as a loan commitment. On the other hand, suggestions that the term be confined to written commitments were not adopted, since under such a rule, lenders might in some cases forego giving written commitments.

Numerous commentators believed that the lender or its employees were required to prepare and transmit the advance disclosure. The final regulations have been clarified to permit the lender either to do such work itself or to cause it to be done by some other party, such as a title, settlement, or escrow company or a lawyer. However, under the Act (section 6(b)) the lender remains responsible.

Some comments raised questions concerning the degree of efforts which the lender or other person preparing the advance disclosure must exert to determine the charges to be made for various services. If no provider of a particular service has been selected for the transaction at the time of disclosure, the lender may make an estimate based on its knowledge of general practices in the area. If a provider has been selected, that provider should be contacted and asked what his fee will be, unless the lender already knows the provider's schedule of fees and reasonably expects that schedule to be followed in the present case.

Advance disclosure of prorations of taxes and assessments may be based on estimates if exact figures are not available. Such advance disclosure may be based on the assumption that no taxes or assessments are delinquent.

A number of comments asked if the advance disclosure must be reissued if more information about settlement charges become available to the lender after the initial disclosure but prior to settlement. Under the final regulations, reissuance of the advance disclosure is not required.

Some comments pointed out that the retention-of-records requirements in the proposed regulations were not clear and were not identical to the requirements for Truth in Lending statements. Under the final regulations, copies of the advance disclosure and the settlement statement must be retained by the lender for two years, except where the loan file is transferred, and copies must be submitted to the Department upon request. This requirement will enable the Department to fulfill its statutory duty under section 14 of the Act to study and investigate settlement costs and to report to Congress thereon.

The proposed regulations required the signatures of the borrower and the seller on the advance disclosure statement, and several comments objected to this procedure or requested clarification. In the final regulations all requirements for signature on either the advance disclosure or the settlement statement have been dropped.

Mailing of the advance disclosure is permitted by the final regulations, but in certain cases the applicable time limits are 3 days earlier where advance disclosure is mailed.

WAIVER OF ADVANCE DISCLOSURE

Several comments requested clarification whether a seller or borrower can bind the other by a waiver. The final regulations specify that each party who has not received timely advance disclosure waives this right, so that one party cannot waive for the other.

Numerous comments objected to the shortness of the 18-day period processing rule. The final regulations extend this period to 21 days. The final regulations provide that advance disclosure may be made prior to commitment. This will enable lenders, by making advance disclosure before commitment as to loans requiring speedy settlements, to be able to hold settlement on such loans as soon as the commitment is issued.

Some comments objected to the 3-day advance disclosure requirement in the proposed regulations. The provisions in the final regulations as to waiver take into account the express directions in the Act that, in its prescribing of the waiver regulations and form, the Secretary should take into account the need to protect the borrower's and seller's right to timely disclosure.

In keeping with the Act, the final regulations require that the advance disclosure be received by the parties on or before the time of the loan commitment but not less than 3 days prior to settlement in any waiver situation.

A number of comments pointed out that the execution of the waiver by the lender served no purpose and this requirement was omitted in the final regulations. Similarly, the witness lines are omitted from the waiver form.

SETTLEMENT STATEMENT

Many of the comments indicated a lack of understanding of the relationship between the advance disclosure form and the settlement statement. Although the same basic format is used for both, it is permissible for lenders to print such forms separately and to place titles on them accordingly. The official version published in these final regulations can be used for both purposes by checking the appropriate square near the top of the form. Ordinarily some of the entries on the settlement statement will differ from those on the advance disclosure (because some charges are different than estimated, or because the date of actual settlement is different from the date estimated). The final regulations specify that copies of the settlement statement must be provided to the buyer and seller as soon after settlement as practicable, and in no case later than three days after settlement.

When charges are paid directly by the borrower or seller, rather than paid through the settlement agent, some comments asked whether it would be necessary to show them on the forms. The final regulations provide special rules for hazard insurance charges, attorney's fees and charges for certain other services independently procured by the borrower or seller.

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FORM DESIGN

Many comments requested flexibility in the design of the form. The final regulations allow some degree of flexibility. Additional items describing common local charges may be inserted in blank spaces on the form. The spacing between lines may be increased for computer printing, and the lender or settlement agent may add a firm name or logotype to the title block. Signature lines may be added.

Numerous comments objected to the number of subtotals which the proposed form required. These have been largely eliminated in the final version. The "disbursements" column has also been eliminated, since nearly all comments which discussed it thought that it would confuse consumers.

A large number of comments requested that separate forms be provided for borrower and seller. The form was redesigned so that separate summaries of the borrower's and seller's transactions appear on page 1, but the information on page 2 must be provided to both borrower and seller, as required by the Act. The instructions permit the lender or settlement agent to send a copy of the form to the borrower with the seller's summary left blank, and similarly to send a copy to the seller with the borrower's summary left blank.

A large number of comments objected to inclusion in the advance disclosure of the liens and charges against the seller's land; these comments asserted that such information would not be available until a title search was completed and payoff letters from existing lenders were obtained, and that the amounts could not theretofore be estimated in any meaningful way. The Department believes that this view is correct, and the final instructions to the form permit the portions dealing with these matters to be left blank when the form is used for advance disclosure. This means that in most cases the advance disclosure will not indicate to the seller the amount of cash he can expect to realize from the transaction. However, the portions of the form summarizing the buyer's transaction must be completed when the form is used for advance disclosure, thus indicating to the buyer the amount of cash he will need to complete settlement.

The Department has determined this rule does not have significant impact on the environment and a finding of inapplicability has been prepared pursuant to HUD Handbook 1390.1. A copy of this finding is available during regular business hours for public inspection in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10245, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

Accordingly, Subtitle A of Title 24 is amended by adopting a new Part 82—Real Estate Settlement Procedures to read as follows:

PART 82—REAL ESTATE SETTLEMENT PROCEDURES

- |       |   |
|-------|---|
| Sec.  | Authority, scope and purpose.   |
| 82.1  | Definitions.  |
| 82.2  | Reliance upon rule, regulations or interpretation by HUD of RESPA.                        |
| 82.3  | Applicability.  |
| 82.4  | Information booklet for persons applying for loans to purchase residential real property. |
| 82.5  | Uniform Disclosure/Settlement Statement Form.   |
| 82.6  | Advance disclosure of settlement costs by lender.   |
| 82.7  | Uniform Settlement Statement.   |
| 82.8  | Mailing.  |
| 82.9  | No fee.   |
| 82.10 | Relation to State laws.   |
| 82.11 |   |

AUTHORITY: Real Estate Settlement Procedures Act of 1974, Pub. L. 93-533 (12 U.S.C. 2601).

REGULATION X

§ 82.1 Authority, scope and purpose.

This part, which may be referred to as Regulation X, comprises the regulations issued by the Secretary of Housing and Urban Development pursuant to the Real Estate Settlement Procedures Act of 1974 (Pub. L. 93-533), 12 U.S.C. 2601, herein "RESPA". This part applies to certain 1 to 4 family mortgages, defined as "Home Mortgages" in this part. RESPA Section 4 (Uniform Settlement Statement) authorizes and directs the Secretary to prescribe a uniform settlement statement to be used in the settlement of Home Mortgages. RESPA Section 5 authorizes and directs the Secretary to prescribe special information booklets to be provided by the Lender to each person borrowing money to finance the purchase of certain residential real estate transactions so that he or she may better understand the nature and costs of real estate settlement services. RESPA Section 6 authorizes and directs the Secretary to prescribe the form and implementing regulations by which every Lender, with respect to a Home Mortgage subject to Section 6, shall disclose in advance of settlement every charge arising in connection with the settlement. RESPA Section 12 prohibits imposition by a lender of a fee for or on account of preparing and submitting the statements required by Sections 4 and 6 or by the Truth in Lending Act, 15 U.S.C. 1601 et seq. RESPA section 18(a) authorizes the Secretary to determine whether state laws with respect to settlement practices are inconsistent with any provision of RESPA. Section 18(b) provides that no provision of RESPA or of the laws of a state shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Secretary.

§ 82.2 Definitions.

For purposes of this part, the following definitions apply, unless the context indicates otherwise.

(a) "Assumption Approval" means the approval by the Lender or his duly authorized agent or representative of an assumption of, or a sale subject to, a Home Mortgage where such approval is

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conditioned or based upon a change in the interest rate or other terms and conditions of the promissory note or document creating the mortgage lien, or is made in consideration of the payment of a fee in excess of fifty dollars (\$50) paid to the Lender or his agent, representative or servicer.

(b) "Date of Settlement" means, in the case of a sale or transfer financed by a new mortgage, the date on which the documents creating the mortgage become effective as between the borrower and the Lender, and in the case of a purchase of a property subject to an existing mortgage, whether or not the buyer assumes personal liability, the date on which title is transferred as between seller and buyer not subject to revocation by seller or buyer.

(c) "Days" are computed as follows: All time periods in this part are expressed in days. Periods do not include the day from which they are measured. Where the last day on which an act or event is permitted to occur is a Saturday, Sunday or Federal or State holiday, such act or event may occur on the next succeeding day which is not a Saturday, Sunday or Federal or State holiday. Where a period is 7 days or more, it is measured in calendar days. Where a period is less than 7 days and not specified as calendar days, it is measured in business days, excluding Saturdays, Sundays and Federal or State holidays.

(d) "Federal Lender" means: (1) A lending institution, the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation (FSLIC), the Federal Deposit Insurance Corporation (FDIC) or any other agency of the Federal Government, or (2) a lending institution which is regulated by the Federal Home Loan Bank Board or any other agency of the Federal Government, or (3) a "creditor," as defined in section 103(f) of the Consumer Credit Protection Act (15 U.S.C. 1602 (f)), who makes or made new investments in residential real estate loans aggregating more than \$1,000,000 in either the calendar year in which the Date of Settlement of the Home Mortgage in question occurs or the calendar year prior thereto. Section 103(f) defines "creditor" as follows:

(f) The term "creditor" refers only to creditors who regularly extend, or arrange for the extension of, credit for which the payment of a finance charge is required, whether in connection with loans, sales of property or services, or otherwise. The provisions of this title apply to any such creditor, irrespective of his or its status as a natural person or any type of organization.

(e) "Home Mortgage" means a loan which is not made to finance an exempt transaction under section 82.4(b) and which meets all of the following four requirements:

(1) The proceeds of the loan are used in whole or in part to finance the purchase by the borrower, or other transfer of title, of the mortgaged property or the loan was previously made and the lender makes an assumption approval in con-

nection with the purchase of or transfer of title to the mortgaged property;

(2) The loan is secured by a lien on or other security interest in real estate, including a fee simple, life estate, remainder interest, or leasehold estate, upon which there is located a structure, including a mobile home owned or to be owned by the borrower and covered or to be covered by the mortgage, designed principally for the occupancy of from 1 to 4 families or upon which such a structure is to be constructed, or purchased in the case of a mobile home, using part or all of the proceeds of the loan, or the loan is secured by a lien or other security interest covering a 1 to 4 family residential condominium unit, or the loan is secured by a pledge of cooperative stock or interest corresponding to a 1 to 4 family residential cooperative unit;

(3) The Mortgaged Property is located in a State; and

(4) The loan is made by a Federal Lender, or is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by the Secretary or any other officer or agency of the Federal Government, or is made in connection with a housing or urban development program administered by the Secretary or other agency of the Federal Government, or is eligible for purchase by the Federal National Mortgage Association (FNMA), the Government National Mortgage Association (GNMA), or the Federal Home Loan Mortgage Corporation (FHLMC). Note that GNMA's authority to purchase mortgages includes broad authority under 12 U.S.C. 1720(a) "to purchase such types, classes, or categories of home mortgages" as the President shall determine to carry out the purposes of 12 U.S.C. 301(b).

(f) "Lender" means, in the case of a new loan, the secured creditor or creditors named as such in the debt obligation and document creating the lien or other security interest, and in the case of an Assumption Approval with respect to a preexisting loan, the current owner or owners of the Home Mortgage at the time of the Assumption Approval.

(g) "Loan Application" means an oral or written application for a Home Mortgage or Assumption Approval received by the Lender or his agent or representative or independent contractor originating the Home Mortgage in the name of the Lender or servicing the Home Mortgage for the Lender. The date of Loan Application is the date of actual receipt.

(h) "Loan Commitment" means a promise by a Lender to a borrower, oral or written, to make a Home Mortgage or Assumption Approval, with respect to a specified property, whether or not such promise is subject to any conditions and whether or not the borrower is obligated to accept such Home Mortgage or Assumption Approval.

(i) "Mortgaged Property" means the real property covered by the Home Mortgage, or the cooperative unit with respect to which stock is pledged to secure the Home Mortgage loan.

(j) "Person" means any individual, corporation, partnership, trust, association or other entity.

(k) "RESPA". The Real Estate Settlement Procedures Act of 1974 (Pub. L. 93-533), 12 U.S.C. 2601, as amended.

(l) "Secretary." The Secretary of Housing and Urban Development or any official delegated the authority of the Secretary with respect to RESPA.

(m) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

### § 82.3 Reliance upon rule, regulation or interpretation by HUD of RESPA.

(a) Section 18(b) of RESPA provides:

No provision of this Act or of the laws of any State imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Secretary, notwithstanding that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(b) For purposes of section 18(b), only the following constitute a "rule, regulation, or interpretation thereof by the Secretary":

(1) The Uniform Disclosure/Settlement Statement, HUD Form 1, and HUD instructions set forth in Appendix A, but not including page 3 of the form and the Federal Reserve Board instructions thereto, set forth in Appendix B;

(2) All other provisions and Appendices contained in this part, but not including any document referred to in this part except to the extent such document is set forth in this part; and

(3) Each formal legal opinion regarding RESPA, designated as a "RESPA Legal Opinion," numbered and dated, by the General Counsel of the Department.

(c) A "rule, regulation, or interpretation thereof by the Secretary" for purposes of RESPA section 18(b) shall not include the Special Information Booklet prescribed by the Secretary or any other statement or issuance, whether oral or written, by an officer or representative of HUD, letter or memorandum by the Secretary, General Counsel, any Assistant Secretary or other officer or employee of HUD, preamble to a regulation or other issuance of HUD, report to Congress, pleading, affidavit or other document in litigation, pamphlet, handbook, guide, telegraphic communication, explanation, instructions to forms, speech or other material of any nature which is not specifically included in paragraph (b) of this section.

### § 82.4 Applicability.

(a) *Transactions covered.* This part applies to loans which constitute Home Mortgages as defined in § 82.2(e). As defined therein, Home Mortgage does not include a home improvement loan or other loan secured by a lien on a 1 to 4 family residential property where the proceeds of the loan are not used to finance the purchase or transfer of the property. Nor does Home Mortgage in-

clude refinancing of a mortgage loan secured by a lien on a 1 to 4 family residential property where there is no transfer of title.

(b) *Exempt transactions.* This part shall not apply to purchases of property for resale in the ordinary course of business.

(c) *Commencement of applicability.*—(1) *Information booklet.* The Special Information Booklet must be distributed with respect to every Loan Application received on or after June 20, 1975.

(2) *Advance disclosure.* After June 20, 1975, advance disclosure, as required by § 82.7 of this Part, must be provided with respect to every Home Mortgage except a Home Mortgage (1) which is made pursuant to a Loan Commitment evidenced by a letter or written agreement signed by the Lender prior to June 20, 1975, and (ii) as to which the Date of Settlement occurs on or before October 20, 1975. Where advance disclosure is required, it may be made prior to June 20, 1975.

(3) *Settlement statement.* The Uniform Disclosure/Settlement Statement shall be used as the settlement statement with respect to every Home Mortgage subject to the advance disclosure requirements pursuant to paragraph (c) (2) of this section.

### § 82.5 Information booklet for persons applying for loans to purchase residential real property.

(a) *Lender to provide information booklet.* Every lender shall provide a copy of the Special Information Booklet currently prescribed by the Secretary to every person who makes a loan application. Where more than one individual makes a loan application, the lender is required to supply a copy of the Special Information Booklet to at least one of the individuals applying. The lender shall supply the Special Information Booklet by delivering it to or placing it in the mail to the applicant not later than the third business day of the lender following the day on which the application is received.

(b) *Printing and duplication.* The Special Information Booklet may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The Secretary may from time to time revise the Special Information Booklet. The Special Information Booklet may be printed or reproduced in any form, provided that no change is made, other than as permitted under paragraph (c) of this section. The Special Information Booklet may not be made a part of a larger document for purposes of distribution under RESPA and this section. Any color, size and quality of paper, type of print, and method of reproduction may be used so long as the booklet is clearly legible and easily readable.

(c) *Permissible changes.* No change to, deletion from or addition to the Foreword and text of the Special Information Booklet currently prescribed by the Secretary shall be made other than those specified below or any others approved in writing by the Secretary:

## RULES AND REGULATIONS

(1) The cover of the booklet may be in any form and may contain any drawings, pictures, or artwork, provided that the words "settlement costs" are used in the title. Names, addresses and telephone numbers of the lender or others and similar information may appear on the cover, but no discussion of the matters covered in the booklet shall appear.

(2) The Special Information Booklet may be translated into other languages.

(3) The wording may be deleted which precedes the foreword, authorizing the reprinting of the booklet and referring to sale by the Superintendent of Documents, but not the first paragraph, referring to preparation of the booklet by the Secretary.

(4) In the last sentence of the foreword, "a lending institution" may be added after "local consumer affairs agency."

(5) In the "Advance disclosure" section, the third sentence of the second paragraph may be deleted.

(6) In the section, "2. Settlement attorneys, escrow and closing agents," the second paragraph and first sentence of the third paragraph may be deleted.

(7) In section B6, in the paragraph entitled "c. Settlement Agent," the words "and location" may be deleted from the last sentence.

### § 82.6 Uniform Disclosure/Settlement Statement Form.

(a) *Use of Form.* HUD Form 1, "Disclosure/Settlement Statement," pages 1 and 2 of which, with instructions, are set forth in Appendix A to this part, and the third page of which, with instructions, is set forth in Appendix B to this part, shall be used as the advance disclosure statement under RESPA section 6 and § 82.7 of this Part, and as the settlement statement under RESPA section 4 and § 82.8 of this Part.

(b) *Printing and duplication of Form.* The Uniform Disclosure/Settlement Statement Form may be reproduced by lenders or others. Lenders are required to use the form, with the first two pages as prescribed by the Secretary and the third page as prescribed by the Federal Reserve Board. Only the following permissible changes and insertions may be made:

(1) In Block A, the lender or other company reproducing the form may insert its business name and/or logotype and may rearrange, but not delete, the other information which appears in Block A.

(2) In Block F, the name, address and other information regarding the lender may be printed, and a space or spaces may be printed for lender's loan number or similar information.

(3) The form may be printed separately to be used only as an advance disclosure form or to be used only as a form for settlement, in which cases the paragraph entitled "STATEMENT OF ACTUAL COSTS" and items 500 through 603 may be deleted from the form used for advance disclosure, and the paragraph entitled "ADVANCE DISCLO-

SURE OF COSTS" may be deleted from the form used for settlement.

(4) A statement may be printed at the end of the paragraph "ADVANCE DISCLOSURE OF COSTS", in any style or type of print, that advance disclosure of prorations of taxes and assessments is based upon the assumption that taxes and assessments are not delinquent. Such statement if printed on the form will then be stricken where advance disclosure is not based upon such assumption. See § 82.7(k).

(5) No changes in the size or type style of print or the layout of the first two pages of the form shall be made, except as follows: (A) The layout of the form may only be reset in type if such type style is approximately the same size and appearance, is easily readable, and the entire form layout is identical to the form as prescribed by HUD; and (B) where necessary to accommodate computer equipment, the first two pages of the form may be printed in a larger size of print and different type style and the distance between lines may be increased, but not decreased, but there shall be no other change in the layout and placement of information on the form. As to the third page, see Regulation Z, 12 CFR Part 226, and the Federal Reserve Board instructions in Appendix B.

(6) In the first two pages, items listed in the form not used locally or not used in connection with mortgages by the lender may be lined out in a manner so that they may still be read.

(7) In the first two pages, charges not listed which are made locally may be inserted in blank spaces in any style or type of print of similar size; but which is different from the style and type of print used in the balance of the form (to indicate items not listed nationwide).

(8) Signature lines and customary local recitals prior to signature lines may be added at the end of the second page or at the end of the third page.

(9) Additional blank space may be added above and/or below each page and the form may be printed on rolls, which may have sprocket holes e.g. for computer purposes. The pages may be printed on separate sheets or placed on the front and back of a single sheet, or one above the other on a single, continuous sheet.

(10) The form may be printed on light shades of tinted paper, and may be printed in one or more colors of clearly legible inks.

(11) The form may be printed in multi-copy tear-out sets. Such sets or any other method for making copies may delete Block J, lines 100 through 303, from the seller's copy and Block K, lines 400 through 603, from the Borrower's copy.

(12) The form may be translated into any other language with the approval of the Secretary, but items of the Truth in Lending Statement required by law to be stated in English must be so stated.

(13) Any other deviation in pages 1 and 2 of the form is only permissible upon receipt of written approval of the Secretary. Any other deviation in the



## RULES AND REGULATIONS

page 3 Truth in Lending disclosure must be in accordance with requirements of the Board of Governors of the Federal Reserve System. See Regulation Z, 12 CFR 226.102 and form instructions in Appendix B to this Part. A request to the Secretary for approval must be submitted in writing to the Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner, Room 6100, 451 7th Street, SW., Washington, D.C. 20410, stating the reasons why the applicant believes such deviation is needed. Prior to receiving such approval, the prescribed form must be used.

(c) *HUD-prescribed additions of items to form.* HUD reserves the right to direct the order and the manner in which additional items are added to the first two pages of the form or in which any other changes are made in the first two pages of the form for any locality, jurisdiction or area.

(d) *Additional sheet.* Where there is an unusually large number of insertions for which blank spaces in the first two pages of the form are not sufficient, an additional sheet for such items may be added to the form and referenced at the appropriate place or places in the form. Such additional sheets may be printed. The reverse side of the form may be used instead of an additional sheet.

#### § 82.7 Advance disclosure of settlement costs by lender.

(a) *Lender to provide.* As required by RESPA section 6, each lender making a home mortgage or assumption approval of a home mortgage shall make or cause to be made advance disclosure of settlement costs on HUD Form 1 in accordance with this section.

(b) *Timing of advance disclosure.* Except as provided in paragraphs (c) and (d) of this section, the lender shall place in the mail to or deliver to the borrower and the seller the advance disclosure statement (on HUD Form 1) at any time not later than 7 calendar days after the date of loan commitment. Advance disclosure may be made prior to loan commitment. Settlement shall not occur less than 15 calendar days after such mailing or 12 calendar days after such delivery. Where advance disclosure statements to different parties are mailed or delivered on different dates, the minimum period to settlement provided above shall be the latest date required with respect to any one disclosure statement. See paragraph (p) of this section regarding Truth in Lending disclosure.

Example 1. Loan Commitment is made July 2. Settlement is anticipated to occur within 60 days. Advance disclosure statement is delivered to one seller on July 5, mailed to a second seller on July 7 and mailed to borrower on July 9. Settlement may not be held prior to July 24 (15 days from, and not including, July 9). Advance disclosure is timely because it is made not later than July 9 (7 days from, and not including, July 2).

(c) *Timing where settlement is anticipated more than 60 days after loan*

*commitment.* Where as of the date of loan commitment, the date of settlement is anticipated by the lender, based upon information given to the lender, to occur more than 60 calendar days after the date of loan commitment, the lender may in its discretion mail or deliver the advance disclosure statement subsequent to the time prescribed in paragraph (b), but not later than 60 days prior to the anticipated date of settlement. Thereafter, if the lender is advised that the date of settlement is expected to occur still later, the lender may in its discretion mail or deliver the advance disclosure statement at any time not later than 60 calendar days prior to such revised anticipated date of settlement. If at any time subsequent to the date of loan commitment the lender is advised that the date of settlement is anticipated earlier than previously anticipated, lender shall mail or deliver the advance disclosure statement on or before 60 days prior to such revised anticipated date of settlement or, if such revised date is within 67 days of the date lender is advised of the revised anticipated date of settlement, lender shall mail or deliver the advance disclosure statement not later than 7 calendar days after being advised of such revised date of settlement. Nothing in this subsection (c) shall alter or affect the minimum periods between disclosure and settlement set forth in the third sentence of paragraph (b) of this section. See paragraph (p) of this section regarding Truth in Lending disclosure.

Example 2. Loan Commitment is made July 1 and settlement is anticipated to occur October 15. Lender may mail or deliver advance disclosure at any time on or before August 14 (60 days before, and not including, October 15). As of August 1, Lender has not yet made advance disclosure and is advised that settlement is anticipated November 15. Lender may mail or deliver advance disclosure statement any time on or before September 14. On September 1, Lender is advised that settlement is anticipated to occur November 1. Lender must mail or deliver advance disclosure statement on or before September 8.

(d) *Waiver of minimum period between advance disclosure and settlement.* The minimum period between advance disclosure and settlement provided in paragraph (b) may be reduced to 3 days from actual receipt of the advance disclosure statement by the borrower and the seller where settlement is held not later than 21 days after the date the loan application was made. Such reduction shall only be made where a copy of the following waiver form is voluntarily executed by each borrower and seller who has not been mailed or delivered the advance disclosure statement on or before the time limit specified in paragraph (b) of this section and is attached to the settlement statement. Such waiver does not waive any applicable right of rescission under the Truth in Lending Act; see Regulation Z, 12 CFR Part 226, for requirements applicable to waiver of right of rescission.

#### WAIVER TO REDUCE PERIOD BETWEEN ADVANCE DISCLOSURE AND SETTLEMENT

##### Identification of Transaction:

Borrower(s): \_\_\_\_\_  
Seller(s): \_\_\_\_\_  
Property: \_\_\_\_\_  
Loan amount: \_\_\_\_\_  
Lender: \_\_\_\_\_  
Date of settlement: \_\_\_\_\_

I hereby acknowledge and affirm that I know that the Real Estate Settlement Procedures Act of 1974 requires the Lender to mail to me an advance itemized disclosure in writing of each charge arising in connection with this settlement not later than 15 calendar days prior to the date of settlement, or deliver such disclosure to me not later than 12 days prior to the date of settlement. I further understand that if the lender fails to provide the required disclosure I may recover from it \$500 or actual damages, whichever is greater, plus court costs and a reasonable attorney's fee as determined by the court.

Notwithstanding the above, I hereby waive the right to receive such disclosure 12 days or have it mailed 15 days prior to settlement and I further certify that:

(1) Application for this loan was made not more than 21 calendar days prior to settlement date and I have consented to settlement on that date; and

(2) I received the advance disclosure of settlement costs at least 3 days (excluding Saturdays, Sundays and holidays) prior to the date of settlement.

(3) I understand that I am not required to execute this waiver and may, instead, determine not to waive and to require the advance disclosure of settlement costs to be delivered to me 12 days before settlement or mailed to me 15 days before settlement; and

(4) I understand that if I sign this waiver in advance of the date of settlement, I may revoke this waiver at any time prior to the date of settlement.

Signature(s) Date

(e) *More than one lender.* Where two or more home mortgages are made with respect to the same sale or transfer of the mortgaged property, each lender may independently satisfy the advance disclosure requirements, or they may jointly satisfy the advance disclosure requirements. In either case, each lender shall be fully responsible to the borrower and seller to make the required disclosure.

(f) *Good faith estimates.* Where the exact amount of a charge required to be stated in the advance disclosure statement is not known, the lender may state a good faith estimate made by the lender, or an estimate obtained by the lender from a provider of settlement services which the lender reasonably believes is a good faith estimate. Each estimate must be stated as a specific figure, and not as a range of possible figures. The advance disclosure statement shall state an "(e)" after each figure which is an estimate.

(g) *Charges to be disclosed.* The advance disclosure statement shall state the amount or estimated amount of the charges to be imposed upon the borrower and the seller shall set forth in the Uniform Disclosure/Settlement Statement (HUD Form 1) lines 700 through 1400 and all similar charges to be paid by borrower and seller which are not listed in

said lines 700 through 1400, except as provided in paragraph (h) of this section regarding hazard insurance, paragraph (i) of this section regarding attorney's fees, and paragraph (j) of this section regarding inspection charges and other charges. Blocks J and K shall be completed; adjustments may be made in accordance with paragraph (k) of this section. At the lender's option, lender may delete Block J from the disclosure to the seller. At the lender's option, lender may omit Block K from the disclosure statement to the borrower.

(h) *Exception to advance disclosure of hazard insurance charges.* The charges for hazard insurance binder or policy covering the mortgaged property are not required to be stated in the advance disclosure statement where the borrower independently obtains his own hazard insurance binder or policy, whether or not the lender requires such binder or policy to be obtained for settlement, provided that the binder or policy has not been obtained by, and the carrier or insurance broker or agent has not been selected for the borrower by, any of the following persons: The lender; an agent or representative of the lender or independent contractor originating the home mortgage in the name of the lender; the real estate agent or broker; or the person selected to conduct the settlement.

(i) *Exception to advance disclosure of attorney's fees.* Fees or estimated fees to be paid by borrower to borrower's attorney or by seller to seller's attorney are not required to be stated in the advance disclosure statement where such attorney is not retained to perform the title search or other services required by the lender and the borrower or seller, as the case may be, independently elects to be represented by an attorney and independently selects the particular attorney. Attorney's fees or estimates thereof are, however, required to be stated in the following cases:

(1) *Fees to be paid by the borrower for an attorney representing the lender, the seller or any other person;*

(2) *Fees to be paid by the seller for an attorney representing the lender, the borrower or any other person;*

(3) *Fees to be paid by the borrower or the seller for an attorney representing the borrower or seller, respectively, if the borrower or seller is required by the lender or his agent or representative or independent contractor originating the home mortgage in the name of the lender to be represented by counsel;*

(4) *Fees to be paid by the borrower or the seller for an attorney representing the borrower or seller, respectively, if the lender or his agent or representative or independent contractor originating the home mortgage in the name of the lender selects the attorney. For purposes of this paragraph (i) (4), the lender or such other person is not considered to select the attorney if he merely recommends a list of at least three attorneys and does not require the borrower to select an attorney from such list.*

## RULES AND REGULATIONS

(j) *Exception to advance disclosure for charges for certain other services independently procured by borrower or seller.* Charges or estimates thereof for services not required by the lender or his agent or representative or independent contractor originating the home mortgage for the lender are not required to be stated in the advance disclosure statement where the borrower or seller independently elects to obtain such services and independently selects the provider of such services.

(k) *Disclosure of adjustments for taxes and assessments.* Lender may make the disclosure of adjustments for taxes and assessments based upon the assumption that no taxes and assessments are delinquent, in lieu of determining from the appropriate records whether delinquencies exist. Where lender makes disclosure based upon such assumption, lender shall place in Block C a statement that advance disclosure of prorations of taxes and assessments is based upon the assumption that taxes and assessments are not delinquent. See § 82.6(b) (4) regarding the printing of such a statement.

(l) *Single disclosure.* Where subsequent to mailing or delivering the advance disclosure statement, changes in anticipated charges come to the attention of the lender no additional or revised advance disclosure statement is required to be provided. The lender may in its discretion, but is not required to, provide updated or corrected amounts to a party the lender understands will pay the charges in question or all parties by letter or otherwise.

(m) *Record-keeping.* Lender shall retain a copy of the advance disclosure statement required to be prepared pursuant to RESPA section 6 for 2 years, except that in the event lender disposes of its interest in the Home Mortgage and does not service the home mortgage, lender may permit its copy of the advance disclosure statement to be delivered to the owner or servicer of the home mortgage as part of the transfer of the loan file. A copy of the advance disclosure statement may be required to be submitted to the Secretary and/or to other Federal agencies. Nothing in this Part alters, amends or in any way reduces the separate record keeping requirements of Regulation Z of the Federal Reserve Board. See 12 CFR 226.6(i).

(n) *Damages.* As provided in RESPA section 6(b), a lender which fails to provide the prospective borrower(s) or seller(s) with the required advance disclosure shall be liable to such borrower(s) or to such seller(s), as the case may be, in an amount equal to actual damages or \$500 to all borrowers and \$500 to all sellers, whichever is greater, and in the event a court action is filed and judgment is obtained against the lender, court costs and a reasonable attorney's fee as determined by the court, provided that: (1) A lender shall not be liable under RESPA for mailing or delivering the disclosure statement later than the time limits established in this section, if within the time limits estab-

lished by the third sentence of paragraph (b).

(2) A lender shall not be liable under RESPA for a violation which was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures adopted to avoid such an error.

(3) In order to show actual damages under RESPA, the borrower(s) or the seller(s) seeking damages above \$500 must establish on the particular facts of the case that had the required disclosure been made, the borrower(s) or the seller(s) would have obtained settlement services costing at least \$500 less than those he or she actually paid.

(4) Loss based upon seller's claimed loss of a sale, borrower's claim that he was unable to purchase due to lender's failure to make proper disclosure, borrower's claim that he would have purchased a different property, or damages other than described in paragraph (M) (3) of this section may not be the basis for a claim under RESPA for actual damages in excess of \$500.

(o) *No Fee for Preparation of Advance Disclosure Statement.* See § 82.10.

(p) *Truth in Lending disclosure.* The third page of the Uniform Disclosure/Settlement Statement, Appendix B to this part, setting forth the Truth in Lending disclosure, shall be completed and provided in accordance with the Truth in Lending Act, Regulation Z of the Federal Reserve Board, 12 CFR Part 226, and any other Federal Reserve Board requirements. Where Regulation Z establishes a time limit for the making of such Truth in Lending disclosure which is earlier than the applicable time limit under paragraphs (b), (c) and (d) of this section for the making of advance disclosure, the Truth in Lending disclosure must be made at the time required by Regulation Z. In such cases, the first two pages of the Uniform Disclosure/Settlement Statement, HUD Form 1, may be mailed or delivered subsequently, but within the applicable time limits established in this part, and the third page Truth in Lending disclosure is not required to be given a second time when pages 1 and 2 are mailed or delivered.

#### § 82.8 Uniform Settlement Statement.

(a) *Use of HUD Form 1.* As required by RESPA section 4, the Uniform Settlement/Disclosure Statement, HUD Form 1, shall be used as the settlement statement for every Home Mortgage settlement transaction involving a purchase or transfer of a mortgaged property for every home mortgage settlement pursuant to an assumption approval.

(b) *Charges to be stated.* The Uniform Disclosure/Settlement Statement, HUD Form 1, shall be completed to itemize all charges imposed upon the borrower and the seller in connection with the settlement, other than charges exempted from advance disclosure under § 82.7 (h), (i) and (j) and which borrower or seller contract to pay for separately outside of the settlement. The person pre-

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## RULES AND REGULATIONS

paring the settlement statement is not required to supply the information in Block J in the copy supplied to the seller, nor to supply the information in Block K to the borrower.

(c) **Delivery.** The settlement statement shall be delivered or mailed to the borrower and the seller on the date of settlement or as soon thereafter as practicable, and in any case not later than 3 days after the date of settlement.

(d) **Recordkeeping.** Lender shall retain a copy of each settlement statement required to be prepared pursuant to RESPA section 4 for 2 years, except that in the event lender disposes of its interest in the home mortgage and does not service the home mortgage, lender may permit its copy of the settlement statement to be delivered to the owner or servicer of the home mortgage as part of the transfer of the loan file. Nothing in this part alters, amends or in any way reduces the separate recordkeeping requirements of Regulation Z of the Federal Reserve Board. See 12 CFR 226.6(i). A copy of the settlement statement may be required to be submitted to the Secretary and/or other Federal agencies.

## § 82.9 Mailing.

The provisions of this part requiring or permitting mailing of advance disclosure statements, Special Information Booklets or settlement statements shall be deemed to be satisfied by placing the document in the mail (whether or not received by the addressee) addressed to the address stated in the loan application or in other information submitted to or obtained by lender at the time of loan application, or submitted to or obtained by the person conducting the settlement, except that a revised address shall be used where the lender or such other person has been expressly informed in writing of a change of address.

## § 82.10 No fee.

As provided in RESPA section 12, no fee shall be imposed or charge made upon any other person, as a part of settlement costs or otherwise, by a lender in connection with or on account of the preparation and distribution required by RESPA of the statement or statements required by RESPA section 4 (Settlement Statement), RESPA section 6 (Advance Disclosure) or by the Truth in Lending Act.

## § 82.11 Relation to State laws.

RESPA section 18(a) provides:

This Act does not annul, alter, or affect, or exempt any person subject to the provisions of this Act from complying with, the laws of any State with respect to settlement practices, except to the extent that those laws are inconsistent with any provision of this Act, and then only to the extent of the inconsistency. The Secretary is authorized to determine whether such inconsistencies exist. The Secretary may not determine that any State law is inconsistent with any provision

of this Act if the Secretary determines that such law gives greater protection to the consumer. In making these determinations the Secretary shall consult with the appropriate Federal agencies.

A determination by the Secretary that such an inconsistency exists shall be made, after consultation with appropriate

ate Federal agencies, by publication of a notice in the FEDERAL REGISTER.

**Effective date.** These regulations are effective as of June 20, 1975.

CARLA H. HILLS,  
Secretary of Housing and Urban  
Development.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		B. TYPE OF LOAN	
DISCLOSURE SETTLEMENT STATEMENT		1. PHA 2. PHA 3. CONV. UNINS.	4. CONV. INS.
		5. FILE NUMBER	6. LOAN NUMBER
If the Truth-in-Lending Act applies to this transaction, a Truth-in-Lending statement is also to be made.		7. MORTGAGE CASE NO.	
NOTE: This form is to be filled out by the lender prior to settlement to give you information about your settlement costs, and again after settlement to show the actual costs you have paid. The present copy of the form is:			
- ADVANCE DISCLOSURE OF COSTS. Some items are estimated, and are marked "(e)". Some amounts may change if the settlement is held on a date other than the date estimated below. The preparer of this form is not responsible for errors or changes in amounts furnished by others.			
- STATEMENT OF ACTUAL COSTS. Amounts paid to and by the settlement agent are shown. Items marked "(p.w.c.)" were paid outside the closing; they are shown here for informational purposes and are not included in totals.			
D. NAME OF BORROWER		E. SELLER	
F. SETTLEMENT AGENT		G. LENDER	
H. SETTLEMENT LOCATION		I. DATES	
PLACE OF SETTLEMENT		LOAN COMMITMENT	ADVANCE DISCLOSURE
		SETTLEMENT	DATE OF PROVISIONS IF DIFFERENT FROM SETTLEMENT
J. SUMMARY OF BORROWER'S TRANSACTION		K. SUMMARY OF SELLER'S TRANSACTION	
100. GROSS AMOUNT DUE FROM BORROWER		400. GROSS AMOUNT DUE TO SELLER	
101. Contract sales price		401. Contract sales price	
102. Personal property		402. Personal property	
103. Settlement charges to borrower		403. Settlement charges to seller	
104. (From line 100, Section J)		404. (From line 400, Section K)	
Adjustments for items paid by seller in advance:		Adjustments for items paid by seller in advance:	
106. City/town taxes		406. City/town taxes	
107. County taxes		407. County taxes	
108. Assessments		408. Assessments	
109. Other		409. Other	
110. Total		410. Total	
111. Total		411. Total	
112. Total		412. Total	
20. GROSS AMOUNT DUE FROM BORROWER		500. REDUCTIONS IN AMOUNT DUE TO SELLER	
200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER		501. Payoff of first mortgage loan	
201. Deposit or earnest money		502. Payoff of second mortgage loan	
202. Principal amount of new loan(s)		503. Settlement charges to seller	
203. Existing loan(s) taken subject to		504. Existing loan(s) taken subject to	
204. Other		505. Other	
Credits to borrower for items unpaid by seller		Credits to borrower for items unpaid by seller	
206. City/town taxes		506. City/town taxes	
207. County taxes		507. County taxes	
208. Assessments		508. Assessments	
209. Other		509. Other	
210. Total		510. Total	
211. Total		511. Total	
212. Total		512. Total	
213. Total		513. Total	
214. Total		514. Total	
215. Total		515. Total	
TOTAL AMOUNTS PAID BY OR IN BEHALF OF BORROWER		TOTAL REDUCTIONS IN AMOUNT DUE TO SELLER	
30. CASH AT SETTLEMENT REQUIRED FROM OR PAYABLE TO BORROWER		600. CASH TO SELLER FROM SETTLEMENT	
301. Gross amount due from borrower		601. Gross amount due to seller	
302. Less amounts paid by or in behalf of borrower		602. Less total reductions in amount due to seller	
303. CASH REQUIRED FROM OR PAYABLE TO BORROWER		603. CASH TO SELLER FROM SETTLEMENT	

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L. SETTLEMENT CHARGES		PAID FROM BORROWER'S FUNDS	PAID FROM SELLER'S FUNDS
700. SALES/BROKER'S COMMISSION based on price \$			
701. Total commission paid by seller			
Division of commission as follows:			
702. \$	to		
703. \$	to		
704.			
800. ITEMS PAYABLE IN CONNECTION WITH LOAN			
801. Loan Origination fee	\$		
802. Loan Discount	\$		
803. Appraisal Fee to	\$		
804. Credit Report to	\$		
805. Lender's inspection fee	\$		
806. Mortgage insurance application fee to	\$		
807. Assumption/refinancing fee	\$		
808.			
809.			
810.			
811.			
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE			
901. Interest from	to \$		
902. Mortgage insurance premium for	mo. to		
903. Hazard insurance premium for	yrs. to		
904.			
905.			
1000. RESERVES DEPOSITED WITH LENDER FOR:			
1001. Hazard insurance	mo. \$		
1002. Mortgage insurance	mo. \$		
1003. City property taxes	mo. \$		
1004. County property taxes	mo. \$		
1005. Annual assessments	mo. \$		
1006.			
1007.			
1008.			
1100. TITLE CHARGES:			
1101. Settlement or closing fee to			
1102. Abstract or title search to			
1103. Title examination to			
1104. Title insurance binder to			
1105. Document preparation to			
1106. Notary fees to			
1107. Attorney's fees to			
1108. Title insurance to			
1109. Lender's coverage \$			
1110. Owner's coverage \$			
1111.			
1112.			
1113.			
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES			
1201. Recording fees: Deed \$	Mortgage \$	Releases \$	
1202. City/County tax/stamps: Deed \$	Mortgage \$		
1203. State tax/stamps: Deed \$	Mortgage \$		
1204.			
1300. ADDITIONAL SETTLEMENT CHARGES			
1301. Survey to			
1302. Pest inspection to			
1303.			
1304.			
1305.			
1400. TOTAL SETTLEMENT CHARGES (entered on lines 103 and 503, Sections J and K)			

NOTE: Under certain circumstances the borrower and seller may be permitted to waive the 12-day period which must normally occur between advance disclosure and settlement. In the event such a waiver is made, copies of the statements of waiver, executed as provided in the regulations of the Department of Housing and Urban Development, shall be attached to and made a part of this form when the form is used as a settlement statement.

HUD-1 (5-75)

## INSTRUCTIONS FOR COMPLETING UNIFORM DISCLOSURE/SETTLEMENT STATEMENT (HUD FORM 1)

The following are instructions for completing the first 2 pages of the Uniform Disclosure/Settlement Statement, HUD Form 1, required under Sections 4 and 6 of the Real Estate Settlement Procedures Act of 1974 (Public Law 93-533) and the Regulations thereto issued by the U.S. Department of Housing and Urban Development called Regulation X (24 CFR Part 82). This form is to be used to provide an advance disclosure of costs prior to settlement, and as a uniform statement of actual costs and adjustments

to be given to the parties in connection with the settlement. The instructions for completion are primarily for the benefit of the persons who prepare the statements and need not be transmitted to the parties as an integral part of the form. To determine if the Uniform Disclosure/Settlement Statement is legally required to be used in a particular mortgage loan transaction, refer to Regulation X of the Department of Housing and Urban Development (24 CFR Part 82). There is no objection to the use of the form in transactions in which its use is not legally required.

The Truth-in-Lending Statement prepared by the Federal Reserve Board for real

estate transactions is a part of the Uniform Disclosure/Settlement Statement. It is the third page of the Uniform Disclosure/Settlement Form and must be completed in all cases in which the Truth in Lending Act applies to the transaction. For specific instructions on Truth-in-Lending disclosure requirements under the Real Estate Settlement Procedures Act, refer to the Instructions of the Federal Reserve Board, which appear in Appendix B to HUD's Regulation X (24 CFR Part 82).

The disclosure in advance of settlement is the responsibility of the lender. The Act recognizes that the precise amount of every individual charge to be assessed at settlement will not always be known at the time of advance disclosure. The Act provides: "In the event the exact amount of any such charge is not available, a good faith estimate of such charge may be provided." As provided in Regulation X, the advance disclosure statement shall state an "(e)" after each figure which is an estimate. Each estimate must be stated as a specific figure, and not as a range of possible figures.

## GENERAL INSTRUCTIONS

Information and amounts may be filled in by typewriter, hand printing, computer printing, or any other method producing clear and legible results. Copies of the form sent to the borrower and the seller may be carbon copies, electrostatic copier copies, or other clearly legible copies. Refer to Regulation X regarding rules applicable to printing of the form.

Where there is an unusually large number of insertions for which blank spaces in the first two pages of the form are not sufficient, an additional sheet for such items may be added to the form and referenced at the appropriate place or places in the form. Such additional sheets may be printed. The reverse side of the form may be used instead of an additional sheet.

## LINE ITEM INSTRUCTIONS

Instructions for completing the individual items on the form follow. Where no instructions are given, the item is thought to be self-explanatory.

**Section A.** The lender, title company, or other firm preparing the form may insert its name and/or logotype in Section A.

**Section B.** Check appropriate loan type and complete the remaining items as applicable.

**Section C.** Check the appropriate box indicating whether the particular copy of the form being completed is for advance disclosure purposes or is a statement of actual costs and disbursements at or after settlement. As provided in Regulation X, in preparing the advance disclosure statement, the Lender may make the disclosure of adjustments for taxes and assessments based upon the assumption that no taxes and assessments are delinquent, in lieu of determining from the appropriate records whether delinquencies exist. Where Lender makes disclosure based upon such assumption, Lender shall place in Block C a statement that advance disclosure of prorations of taxes and assessments is based upon the assumption that taxes and assessments are not delinquent. Under Regulation X, Lender is permitted to print such a statement in Block C; where the statement is printed in the form, it is to be stricken where not applicable.

**Sections D and E.** Fill in the names and current mailing addresses of the borrower and the seller. Where there is more than one buyer or seller, the name and address of one is sufficient.

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XUM



## RULES AND REGULATIONS

**Section F and H.** Fill in the name and address of the lender and the settlement agent. If, at the time of advance disclosure, the settlement agent has not yet been selected, the advance disclosure form should have "not known" entered in Section H.

**Section G.** The street address of the security property, if any, should be given. If there is no street address, a brief legal description or other location of the property should be inserted. In all cases give the zip code of the property.

**Section I.** Fill in these dates to the extent they are known. If advance disclosure is made before commitment, an estimated commitment date should be inserted and marked "(e)". If the settlement date is not firm at the time of advance disclosure, an estimated settlement date should be inserted and marked "(e)". If the prorations of taxes, insurance, etc., are to be made as of a date different than the settlement date, indicate the date of prorations on the last line in this section.

**Section J. Summary of Borrower's Transaction.** The Borrower may be given a copy of the form (in case of both advance disclosure and settlement) which does not contain the information filled in under "Summary of Lender's Transaction" (Block K, Series 400, 500, and 600 items).

**Lines 104 and 105** are for additional amounts owed by the buyer. For example, the balance in the seller's reserve account held by the lender, if assigned to the buyer in a loan assumption case, would be entered here.

**Lines 106 through 112** are for items which the seller had paid in advance, and for which the buyer must therefore reimburse the seller. On the advance disclosure statement the exact date for prorations will not usually be known, and these amounts will therefore be estimates. Examples of items for which adjustments are made may include taxes and assessments paid in advance for an entire year or other period, when settlement occurs prior to the expiration of the year or other period for which they were paid. See Instruction for Block C above regarding advance disclosure of taxes and assessments on the assumption that no taxes and assessments are delinquent. Additional examples include flood and hazard insurance premiums if the buyer is being substituted as an insured under the same policy; mortgage insurance in loan assumption cases; PUD or condominium association assessments paid in advance; fuel or other supplies on hand, purchased by the seller, which the buyer will use when buyer takes possession of the property; and ground rent paid in advance.

**Line 103** is used for cases in which the buyer is assuming or taking title subject to an existing loan or other lien.

**Lines 204 and 205** may be used in cases in which the seller has taken a trade-in or other property from the buyer in part payment for the property being sold, or when a tenant in the property has not yet paid his rent for a period of time prior to the settlement, and which the buyer will collect. They may also be used in cases in which a seller (typically a builder) is making an "allowance" to the buyer for carpets or drapes which the buyer is to purchase on his own. Such an allowance should also be entered on lines 505-509.

**Lines 206 through 212** are for items which have not yet been paid, and which the buyer is expected to pay, but which are attributable in part to a period of time prior to the settlement. In jurisdictions in which taxes are paid late in the tax year, most cases will show the proration of taxes in these lines. See Instruction to Block C above regarding advance disclosure of taxes and assessments on the assumption that no taxes and assessments are delinquent. Other examples in-

clude utilities used but not paid for by the seller, rent collected in advance by the seller from a tenant for a period extending beyond the settlement date, and interest on loan assumptions. As with lines 106 to 112, these amounts will normally be only estimates on the advance disclosure statement.

**Line 303** may indicate either the cash required from the borrower at settlement (the usual case in a purchase transaction) or cash payable to the borrower at settlement (if, for example, the buyer's earnest money deposit exceeded his cash obligations in the transaction). The appropriate box should be checked.

**Section K. Summary of Seller's Transaction.** The Seller may be given a copy of the form (in case of both advance disclosure and settlement) which does not contain the information filled in under "Summary of Borrower's Transaction" (Block J, Series 100, 200, and 300 items).

Instructions for the use of lines 106-112, above, apply also to lines 405 to 411.

As the note on the form indicates, it is not necessary to complete lines 500 through 603 when the form is used for advance disclosure. The reason is that information about payoff figures on existing liens must normally come from a title search and payoff letters from other lenders, and is therefore often not available at the time of advance disclosure. There is, however, no objection to the completion of these sections at the time of advance disclosure if the lender so desires.

**Line 504** is used if the purchaser is assuming or taking title subject to existing liens which are to be deducted from sales price.

**Lines 505 through 509** may be used to list additional liens which must be paid off through settlement to clear title to the property. They may also be used to indicate funds to be held by the settlement agent for the payment of repairs the seller is obligated to make or payment of water, fuel, or other utility bills which cannot be prorated between the parties at settlement because the amounts used by the seller prior to settlement are not yet known.

If the seller's real estate broker has received and held an earnest money deposit which exceeds the commission owed to him, and if he will tender the excess deposit directly to the seller rather than through the settlement agent, the amount of excess deposit should be entered on one of lines 505-509, thus reducing the amount to be paid to the seller by the settlement agent by that amount.

Instructions for the use of lines 510 through 515 are the same as those for lines 206 to 212, above.

**Section L. Settlement Charges. General:** For all items except those paid to and retained by the lender, the name of the person or firm receiving the payment should be shown.

**Line 700.** If the sales commission paid by the seller is based on a percentage of the purchase price, enter the purchase price and the percentage here.

**Line 701.** The dollar amount of the total commission paid by the seller is entered here. A single entry is made, regardless of whether compensation will be paid to one agent or split among several agents.

**Lines 702-703** are to be used to state the split of the commission where the person conducting the settlement disburses portions of the commission to two or more agents. Only the total commission is to be shown in the borrower's or seller's columns.

**Line 704** may be used for additional charges made by the sales agent, or for a sales commission charged to the buyer, which will be disbursed by the settlement agent.

**Line 801.** Enter the fee charged by the lender for processing or originating the loan. If this fee is computed as a percentage of the loan amount, enter the percentage in the blank indicated.

**Line 802.** Enter the loan discount charged by the lender, and if it is computed as a percentage of the loan amount, enter the percentage in the blank indicated.

**Line 803.** Enter appraisal fees, if there is a charge separate from the origination fee.

**Line 805** is used only for inspections by the Lender or his personnel. Charges for other pest or structural inspections required by Regulation X to be stated should be entered in lines 1302-1305.

**Line 806** should be used for a VA appraisal fee, FHA application fee (which covers the cost of appraisal by the agency as well), or a fee required by a private mortgage insurance company.

**Line 807** is provided for convenience in using the form for loan assumption transactions if a fee is charged by the Lender for agreeing to an assumption or transfer subject to an existing indebtedness.

**Line 901.** If interest is collected at settlement for a part of a month or other period between settlement and the date from which interest will be collected with the first regular monthly payment, enter that amount here. If such interest is not collected until the first regular monthly payment, no entry should be made on line 901.

**Line 1000.** This section is used for amounts collected by the Lender and held in an account for the future payment of the obligations listed as they fall due. In many jurisdictions this is referred to as an "escrow", "impound" or "trust" account. In addition to the items listed, some Lenders may require reserves for flood insurance, condominium owners association assessments, etc.

**Line 1100.** In many jurisdictions the same person (e.g., an attorney or a title insurance company) performs several of the services listed in this section, and makes a single undifferentiated charge for so doing. In such cases, enter the overall fee on line 1107, (for attorneys) or line 1108 (for title companies), and enter on the line provided the item numbers of the services listed which are covered in the overall fee. In such cases no amounts should be entered for the individual items which are covered by overall fees.

**Line 1101.** Enter here the fee of the person or firm conducting the settlement. In some jurisdictions this is termed a closing or escrow fee. If two or more persons or firms make charges in connection with the same transaction, enter total charges in the appropriate columns, and indicate the breakdown of charges on the line after the word "to".

**Lines 1102 and 1103.** In some jurisdictions the same person (e.g., an attorney) both searches the title (that is, performs the necessary research in the records) and examines title (that is, makes a determination as to what matters affect title, and provides a title report or opinion.) If such a person charges only one fee for both services, it should be entered on line 1103. If separate persons perform these tasks, or if separate charges are made for searching and examination, they should be listed separately.

**Line 1105.** Enter charges for preparation of deeds, mortgages, notes, etc. If more than one person receives a fee for such work in the same transaction, show the total paid in the appropriate column and the individual charges on the line following the word "to".

**Lines 1108-1110.** Enter the total charge for title insurance (except the cost of the title binder) on line 1108. Enter on lines 1109 and 1110 the individual charges for the Lender's and owner's policies. Note that these charges are not carried over into the borrower's and

seller's columns, since to do so would result in a duplication of the amount in line 1108.

**Lines 1111-1113.** These lines are for entry of other title charges not already itemized. Examples in some jurisdictions would include a fee to a private tax service, a fee to a county tax collector for a tax certificate, and a fee to a public title registrar for a certificate of title under a Torrens Act. Show the lender's attorney's fee, if any, on line 1107 and other attorneys' fees, if required to be stated under Regulation X, on lines 1111-1113.

**Lines 1303-1305.** Enter on these lines any other settlement charges not referable to the categories listed above on the form which are required by Regulation X to be stated. Examples may include structural inspections

or pre-sale inspection of heating, plumbing, or electrical equipment. These inspection charges may include a fee for insurance or warranty coverage.

**Line 1400.** Enter the total settlement charges paid from borrower's funds and seller's funds. These totals are also entered on lines 103 and 503, respectively, in Sections J and K.

## ATTACHMENT OF WAIVER FORM

The waiver or waivers reducing the period between disclosure and settlement (if any are executed by the parties) are a part of the form when it is used as a settlement statement, and should be attached to the form.

## EXHIBIT B

Federal Truth-in-Lending Statement  
(As part of Disclosure/Settlement Statement)

<b>I. A.</b>	Cash price (contract sales price)	\$ _____
1.	Less any cash downpayment	\$ _____
2.	Less any trade-in	\$ _____
3.	Total downpayment	\$ _____
<b>B.</b>	Equals unpaid balance of cash price	\$ _____
<b>C.</b>	Plus any other amounts financed:	
1.	Property insurance premiums	\$ _____
2.	_____	\$ _____
3.	Total other amounts financed	\$ _____
<b>D.</b>	Equals unpaid balance	\$ _____
<b>E.</b>	Less any prepaid finance charges:	
1.	Origination fee or points paid by borrower	\$ _____
2.	Loan discount or points paid by seller	\$ _____
3.	Interest from (specify date) to (specify date)	\$ _____
4.	Mortgage guaranty insurance	\$ _____
5.	_____	\$ _____
6.	Total prepaid finance charge	\$ _____
<b>F.</b>	Equals amount financed	\$ _____
<b>II.</b>	The FINANCE CHARGE consists of	
<b>A.</b>	Interest (simple annual rate of _____%)	\$ _____
<b>B.</b>	Total prepaid finance charge (I. E. 6.)	\$ _____
<b>C.</b>	_____	\$ _____
<b>D.</b>	Total FINANCE CHARGE	\$ _____
<b>III. A.</b>	The ANNUAL PERCENTAGE RATE on the amount financed is _____%	
<b>B.</b>	If the contract includes a provision for variation in the interest rate, describe _____	
<b>IV.</b>	The repayment terms are: _____	
<b>V.</b>	The finance charge begins to accrue on _____ (specify date)	
<b>VI.</b>	In the event of late payments, charges may be assessed as follows: _____	
<b>VII.</b>	(Use either A or B as appropriate)	
<b>A.</b>	Conditions and penalties for prepaying this obligation are _____	
<b>B.</b>	Identification of method of rebate of unearned finance charge is _____	
<b>VIII.</b>	Insurance taken in connection with this obligation: _____	
<b>IX.</b>	The security for this obligation is _____	

• Indicates a date, rate or amount that is estimated and may be subject to change.

INSTRUCTIONS FOR FEDERAL TRUTH IN LENDING STATEMENT<sup>1</sup>

This form is the Federal Truth in Lending disclosure portion of the Disclosure/Settlement Statement to be provided by the Department of Housing and Urban Development in connection with the Real Estate Settlement Procedures Act (Pub. L. 93-533).

This form is intended to provide a flexible, minimum disclosure standard in satisfaction of the Truth in Lending (Regulation Z) requirements of the Real Estate Settlement Procedures Act. This form is designed to accommodate those Truth in Lending disclosures which are most common to real estate purchase transactions. However, the form is not comprehensive of all credit charges or terms that may be incident to any particular federally related mortgage loan. When a given transaction includes less common terms, such as balloon payments, for which no specific provision is made on the form, these terms will also need to be disclosed and identified on the form.

To maintain the form as a standardized disclosure mechanism while still providing creditors with flexibility, certain changes to the form may be necessary. As long as the applicable Truth in Lending disclosure requirements are met:

(a) Disclosures provided on the form which are not applicable to a given transaction may be deleted. For example, the finance charge disclosures (Item II) need not be made in the case of a purchase money first mortgage on a dwelling.

(b) Disclosures and language more pertinent to a specific charge or term may be substituted for those presently included. For example, in Item VIIA, if no charge will be assessed in the event of prepayment of a loan on which interest is computed on the unpaid principal balance, a statement to that effect may be substituted.

(c) Additional space and/or disclosures may be provided where necessary to satisfy the requirements of Regulation Z. For example, additional space may be provided for disclosures in Item IV; other charges, such as continuing premiums for mortgage guaranty insurance, may be added under Item II.

This form is designed as a disclosure for both loan and credit sale transactions and should be used regardless of whether a given transaction may be characterized as a loan or credit sale (§ 226.6(d), 226.8(c) and 226.8(d)). The form contains certain disclosure provisions which are required in credit sales disclosures under Truth in Lending but not required in loan disclosures. Lenders who choose to make only those disclosures required in connection with loans under Regulation Z may delete the additional disclosures related to the credit sales. Also a certain amount of deviation may be necessary in more complicated transactions, such as in the case of permanent financing following the maturity of a home construction loan.

This form is intended to be used solely for the disclosures required under the Federal Truth in Lending Act. Except with respect to rescindable transactions, as noted below, all Truth in Lending disclosures made in compliance with the Real Estate Settlement Procedures Act shall be made on one

<sup>1</sup>NOTE: These instructions are intended to assist in the completion of the Truth in Lending Statement, and except to the extent to which Regulation Z is interpreted to accommodate the Real Estate Settlement Procedures Act, the instructions are in no way intended to supersede or supplement the provisions of Regulation Z. All sectional references in the instructions are to Regulation Z (12 CFR 226).



side of a single sheet regardless of any differing Regulation Z requirements. For example, in spite of the provisions of § 226.8 (a) (1), for the purposes of satisfying the requirements of the Real Estate Settlement Procedures Act, promissory notes or other contractual obligations shall not be included on the Truth in Lending disclosure form. Similarly, in spite of § 226.8(c) (2), the Truth in Lending form to be used in connection with the Real Estate Settlement Procedures Act may not include inconsistent State disclosure requirements.

Charges under § 226.4(b) need not be itemized on this form, provided they are itemized and disclosed on the settlement cost portion of the combined form.

In the event that a given transaction subject to the Real Estate Settlement Procedures Act is rescindable under provisions of § 226.9 of Regulation Z, two copies of a notice of the right of rescission (§ 226.9(b)) shall be given separately from the prescribed form to each borrower who has the right to rescind.

Bona fide estimates may be made in connection with dates or charges for which exact dollar amounts or rates are unknown at the time of advance disclosure (§ 226.6(f)). When estimates are used, they should be suitably designated as such, for example, by asterisks placed next to the estimated information.

The Real Estate Settlement Procedures Act requires that Truth in Lending disclosures be made at least 12 days before settlement and again on the day of settlement. While two separate disclosures are required, in those instances where no material change occurs in the information required to be disclosed, a copy of the initial disclosure form may be used in satisfaction of the disclosure requirement on the day of settlement.

Creditors in using the prescribed form may delete the numbering system provided; the numbers used on the form are included solely to aid in relating pertinent instructions. However, in deleting the numbers or in making any other adjustments to the form, creditors should be guided by the requirements of § 226.6(a) to the effect that Truth in Lending disclosures be made clearly, conspicuously, and in meaningful sequence. Creditors may also add signatures, dates, and acknowledgements to the form.

#### Item I

Item I.A. is provided to show the cash price (contract sales price) which should equate to the amount shown on line 101 of the settlement cost disclosure portion of the combined form (§ 226.8(c) (1)).

Items I.A.1. and I.A.2. are provided to show any cash downpayment or trade-in. Item I.A.3. is provided to show the total amount of any downpayments (§ 226.8(c) (2)).

Item I.B. is provided to show the unpaid balance of the cash price which should equal I.A. minus I.A.3. (§ 226.8(c) (3)).

Item I.C. is provided to show other items which are financed as part of the credit transaction. For example, property damage insurance premiums under I.C.1. are included in the amount financed, if they are financed as part of the credit transaction and the other conditions of § 226.4(a) (6) are met. The blank line I.C.2. is intended to include similar items, which are financed, such as those listed in § 226.4 (b) or (e). Item I.C.3. is provided to show a total of other amounts financed (§ 226.8(c) (4)).

Item I.D. is provided to show the unpaid balance (the sum of Item I.B. and I.C.) (§ 226.8(c) (5)).

Item I.E. is intended to show prepaid finance charges and the total prepaid finance charges (§ 226.4(a)/226.8(d) (2)/226.8(e) (1)).

Item I.E.1. is provided to show the origination fee or points paid directly by the borrower, such as the one point permitted in VA transactions.

Item I.E.2. is provided to show those loan discounts or points paid by the seller when they are part of the finance charge (§ 226.406).

Item I.E.3. is provided to show the prepayment of any accruing interest charge on the contract until the first payment is due. The blank space are provided to show the dates for which such interest accrues. (The dates and amounts disclosed may frequently need to be estimated.)

Item I.E.4. is provided to show the payment of mortgage guaranty insurance premiums, such as for FHA or private mortgage guaranty insurers, accruing prior to the first regular payment.

Item I.F. is provided to show the amount financed: the difference between item I.D. and I.E. (§ 226.8(c) (7)/226.8(d) (1)).

#### Item II

This item is provided to show the components of the finance charge, such as prepaid finance charges, and continuing premiums for mortgage guaranty insurance, as well as to show the total amount of the finance charge (§ 226.4(a)/226.8(d) (3)).

Item II.A. provides the optional disclosure of the contract rate of interest as an additional item where such interest is computed by the application of a simple annual rate.

#### Item III

Item III.A. is provided to show the annual percentage rate as determined in accordance with § 226.5(b). Item III.B. is provided to show any variable interest rate provisions (§ 226.810).

#### Item IV

This item is provided to show the repayment terms (§ 226.8(b) (3)).

#### Item V

This item is provided to show the date on which the finance charge begins to accrue only if that date differs from the date of the transaction (§ 226.8(b) (1)).

#### Item VI

This item is provided for the disclosure of any amount or method of computing the amount of any default, delinquency, or similar charges payable in the event of late payments (§ 226.4(c)/226.8(b) (4)).

#### Item VII

This item is provided for the disclosure of the consequences of prepayment of the mortgage obligation; either (A) or (B) should be used, as applicable.

Item VII.A. is provided for the disclosure of conditions or penalties charged in the event of prepayment of a loan on which interest is computed on the unpaid principal balance (§ 226.8(b) (6)). Should there be no penalty for prepayment, a statement to that effect may be substituted.

Item VII.B. is provided to identify the method of rebate of unearned finance charges in the event of prepayment in full of installment obligations which include pre-computed finance charges. If no rebate will be made, a statement to that effect must be included (§ 226.8(b) (7)).

#### Item VIII

This item is provided for the disclosure of insurance written in connection with the obligation, such as property damage insurance (to be disclosed in accordance with § 226.4 (a) (6)), credit life, accident, or disability insurance (to be disclosed in accordance with § 226.4(a) (5)), and vendor's single interest insurance (to be disclosed in accordance with § 226.404).

#### Item IX

This item is provided to show any security interests taken in connection with the transaction (§ 226.2(z) and § 226.8(b) (8)).

[FR Dec.75-13260 Filed 5-19-75;8:45 am]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner

[Docket No. N-75-311]

### REAL ESTATE SETTLEMENT COSTS

#### Special Information Booklet

Notice is hereby given that HUD has prepared the booklet, "Settlement Costs" pursuant to Section 5(a) of the Real Estate Settlement Procedures Act of 1974. Section 5(a) requires HUD to prepare and distribute to lenders who make federally related mortgage loans a special information booklet to better inform persons borrowing money to finance the purchase of residential real estate concerning the settlement process.

The booklet explains the purpose of each cost involved in a settlement, reproduces and explains the standard disclosure/settlement form required by sections 4 and 6 of the Act, discusses such abuses as unfair practices and unreasonable charges, and explains choices available to homebuyers in shopping for settlement services.

Section 5(c) of the Act requires each lender which makes federally related mortgage loans to provide the booklet to each person submitting an application to borrow money to finance the purchase of residential real estate. The lender is required to provide the booklet at the time it receives the application.

To insure that each federally related mortgage lender has a sufficient supply of booklets on hand on the effective date of the Act, June 20, 1975, the Department will provide an initial supply of booklets for lender use at each HUD Area and Insuring Office and expects that the booklets will be available in early June. Lenders may pick up a limited supply from these offices but no mail or telephone orders can be accommodated. After this initial distribution, additional supplies of the booklet will be on sale through the Government Printing Office and must be paid for by the lender.

This booklet (1) may be reproduced and distributed by lenders, using a cover of their own design (which may bear the name of the lender), without further approval by HUD; or (2) lenders may print and distribute booklets approved by the Secretary as to form and content. In the former case, it is not permissible to make any change, deletion, or addition in the content of the booklet as prepared by HUD. Lenders desiring to take advantage of the latter option should so request in writing and submit proposed booklets for review to the Office of General Counsel, Department of Housing and Urban Development, Room 2253, 451 7th Street, SW., Washington, D.C. 20410.

A copy of the contents of the booklet which may be reproduced by lenders is set forth as an appendix to this notice.

DAVID M. DE WILDE,  
Acting Assistant Secretary for  
Housing Production and  
Mortgage Credit, FHA Commissioner.

#### SETTLEMENT COSTS

##### A HUD GUIDE

The content of this booklet has been prepared, prescribed and approved by the U.S. Department of Housing and Urban Development, as required by section 5 of the Real Estate Settlement Procedures Act of 1974 (Pub. L. 93-533), effective on June 20, 1975.

This publication may be reprinted. However, in no case may any change, deletion, or addition be made in its content.

For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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#### FOREWORD

You are planning to buy a home. When you do, you will probably make a downpayment and finance the balance of the purchase price with a loan secured by a mortgage on your home.

Before you take possession of your home, a closing or settlement will occur at which ownership of the property will be transferred to you, and your obligation to repay the mortgage loan will become effective. The terms and conditions of the loan—interest rate, monthly payment, and the repayment period—are specified in the documents signed by you. These include a note evidencing the loan for the unpaid purchase price, a mortgage placing a lien on your home, and other documents.

In some States, it is the custom for the buyer and seller to attend the settlement in person; in others it is handled automatically by an escrow agent when all papers and funds have been deposited with him.

At the closing or settlement, both you and the seller will have to pay certain charges incident to transferring title to real estate and obtaining the mortgage loan. These charges are called "settlement costs" or "closing costs".

This booklet has been prepared to inform you, the buyer, about the nature and costs of the settlement process. As required by law, this booklet is given to you by a lending institution at the time you apply for a mortgage loan to finance the purchase of a one- to four-family residential dwelling. At this stage, you have selected the home you want to buy. You may have already reached informal agreement with a seller or even signed a sales contract and made a deposit ("earnest money deposit") indicating your serious intention to buy—a deposit which could be forfeited should you fail to complete your purchase.

This booklet is intended to acquaint you with the appropriate procedures and charges for settlement services which you will encounter in closing your home purchase transaction.

For answers to specific questions or for information on mortgage lending and settlement practices in your locality, you may want to consult a State or local consumer affairs agency, an attorney, a legal aid society, or the local real estate board.

#### HOME LOAN FINANCING

The home purchase loan is evidenced by your signature on a note or bond, and the loan (your debt) is secured by a mortgage (or

deed of trust) which you must sign, which pledges the home as security for repayment of the loan. If you fail to repay the loan or comply with the terms and conditions of the mortgage, the lender can initiate foreclosure of the loan which would lead to sale of your home at a public auction to satisfy the debt.

In a home mortgage transaction, you promise to repay the loan and interest in monthly installments at the interest rate and over the period of time specified in the mortgage contract. In the early years when your debt is largest, most of the monthly payment goes for interest. The amount applied to the outstanding debt gradually increases so that in the final years of the mortgage most of the payment goes to principal and less to interest. This is known as an amortized mortgage, and most mortgages are written this way.

In some States, the security instrument instead of being a mortgage is a deed of trust under which the borrower deeds the property to a trustee. Normally, the terms of a deed of trust are substantially the same as those of a mortgage.

Husband and wife often taken title to their home as joint tenants with right of survivorship. You may wish to seek legal advice on this and other matters. The manner in which you take title to the home you buy can have important income tax, estate planning, and other consequences.

#### DISCLOSURE/SETTLEMENT STATEMENT

The Real Estate Settlement Procedures Act of 1974 (Pub. L. 93-533) requires use of a standard form for advance disclosure of settlement costs and to record actual charges incurred at settlement in all mortgage transactions involving federally related loans.

The same form is used for both advance disclosure and settlement and is reproduced on the following pages to acquaint you with it. Settlement cost items are numbered to correspond with the accompanying explanation of each item. The listing of these items on the form does not imply that any particular charge listed is or should be made in a given geographic area. Even in a given geographic area, you may find that different lenders and providers of settlement services vary as to whether they make certain charges and as to the amount of the charge. You may wish to "shop around".

Some settlement costs typically are charged to the buyer. Others usually are the responsibility of the seller. Although local custom and practices often dictate which are the buyer's and which the seller's costs, there are no hard and fast rules that apply, and in most cases the buyer and seller can negotiate as to who will pay specific settlement charges. You can also negotiate with providers of settlement services as to whether each charge will be made and the amount. You should be charged only for services actually performed, as required by settlement practices in a particular locality.

1. *Contract Sales Price.* This is the price of the home agreed to in the sales contract between buyer and seller.

2. *Personal Property.* Those items, such as carpets, drapes, or appliances, which the seller transfers with the home, may be paid for by the buyer at settlement. When the sales contract is made, you should make sure that items to be transferred are described. The sales contract should state whether such items are included in the sales price.

3. *Settlement Charges.* This is the total amount of the settlement charges to be paid by the buyer. These charges are itemized on page 2 of the form.

4.9. *Adjustments or Pro-rations.* These amounts represent pro-rated adjustments of certain costs, such as real estate taxes, utilities, and fuel. Such adjustments are often



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made in order to pro-rate such costs in order to charge the seller for the period he owned the property (up to settlement) and to charge the buyer for the period after settlement. Item 4 states amounts for which the buyer compensates the seller. Item 9 states amounts for which the seller compensates the buyer. As an example, where settlement occurs October 1, 1975, and the seller has paid the real estate taxes in advance for the entire year, a typical adjustment would be for the buyer to compensate the seller for one-fourth of the real estate taxes for 1975, that is, the period from October 1 through December 31. That amount would be shown at Item 4.

5. **Gross Amount Due from Borrower.** This is the total amount of all charges to the buyer included in items 1, 2, 3, and 4.

6. **Deposit or Earnest Money.** This is the amount of money deposited by the buyer under the contract of sale, usually at the time it was signed.

7. **Principal Amount of Loan(s).** This is the amount of mortgage money loaned to the buyer to purchase his home.

8. **Existing Loan(s) Taken Subject To.** This space is used for cases in which the buyer is assuming or taking title subject to an existing loan or other lien on which he is expected to make the payments.

10. **Total Amounts Paid By or In Behalf of Borrower.** This amount is the sum of items 6, 7, 8, and 9 above which will be applied to reduce the amount of charges to the buyer in item 5 above.

11. **Cash Required From (Payable To) Borrower.** This is the total amount of cash which the buyer will need at settlement (subtract item 10 from item 5). At time of advance disclosure this is the estimated amount.

12. **Real Estate Broker's Sales Compensation.** This charge compensates the real estate broker or brokers for services involved in listing and selling the property, and is normally the seller's obligation to pay. This commission or fee may be split among more than one broker if each performed services in connection with the transaction, but no person may accept any portion, split or percentage of such commission or fee other than for services actually performed.

13. **Loan Origination Fee.** This compensates the lender for expenses incurred in originating the loan, preparing documents, and related work. When such a fee is charged, it is usually a percentage of the face amount of the mortgage. In FHA-insured or VA-guaranteed mortgage transactions involving existing structures, the fee charged the borrower can be no more than one percent of the mortgage amount. For example, if you are approved for a VA-guaranteed loan of \$30,000, the origination fee charged to you may not exceed \$300. However, when the lender makes inspections and partial disbursements during construction of a new home, both FHA and VA permit a higher origination fee, but not more than 2½% for FHA-insured loans or 2% for VA-guaranteed loans. The Farmers Home Administration does not permit a loan origination fee.

14. **Loan Discount Points.** Discounts or "points" are a one-time charge made by the lender to increase its yield (the effective interest return or income) on the mortgage loan. Each "point" is one percent of the mortgage amount.

In FHA and VA transactions, the buyer may not be charged a discount by the lender, but the seller may volunteer to pay points in order to help the buyer obtain financing. For example, if a lender charges 4 points on an FHA-insured loan of \$30,000, this amounts to a discount of \$1,200. You, the buyer, may pay only the loan origination fee described in note 13 if it is a VA or FHA

transaction. Discounts are not permitted on Farmers Home Administration loans.

15. **Appraisal Fee.** This charge compensates the lender for a property appraisal made by an independent appraiser or by a member of the lender's staff.

16. **Credit Report.** The buyer's credit history is often obtained by the lender and a charge paid to a credit bureau for ascertaining the status of the buyer's credit may be collected, usually from the buyer.

17. **Lender's Inspection Fee.** This charge covers only inspections made by personnel of the lending institution at its discretion. Pest or other inspections made by companies other than the lender are described in note 31.

18. **Mortgage Insurance Application Fee.** This covers the cost of an FHA or VA appraisal, which in an FHA loan is included in a mortgage insurance application fee. For conventional loans it may cover application fees when charged by private mortgage insurers. In the case of an FHA-insured mortgage, the amount of this charge is set by HUD Regulations and may be charged to the buyer. The buyer in a VA-guaranteed loan may not be charged an appraisal fee unless identified by name in the request for VA's appraisal.

19. **Assumption Fee.** In a case where the buyer assumes the seller's existing mortgage on the property, the lender's charges for processing the assumption are entered here.

20. **Prepaid Interest.** This charge covers interest which will accrue from the date of settlement to the beginning of the period covered by your first monthly payment. For example, if your mortgage payment is due on the 1st of each month, but settlement occurs on April 20, the prepaid interest at settlement will cover the period from April 20 to April 30 if your first monthly mortgage payment is due on June 1st. Thus your June 1 payment will not have to include an extra amount of interest for the period before May 1.

21. **Prepaid Mortgage Insurance Premium.** This is the portion of the premium prepaid by the buyer at settlement for mortgage insurance. This type of insurance is required when FHA or a private mortgage insurance company covers the lender against loss if the buyer fails to meet the mortgage obligation. Mortgage insurance premiums are required for all FHA-insured loans (but not for VA loan guarantees), and may be required on a conventional loan.

This type of insurance should not be confused with mortgage life, credit life, or disability insurance designed to pay off a mortgage in the event of physical disability or death of the borrower. Such insurance is available but usually not required by lenders.

22. **Prepaid Hazard Insurance Premium.** This is the portion of the premium prepaid by the buyer at settlement for purchase from a private company of insurance against loss due to fire, windstorm, and natural hazards. This coverage may be included in a Homeowners Policy which insures against possible additional risks, such as personal liability and theft.

A hazard insurance or homeowner's policy does not protect you against loss caused by flooding. In special flood-prone areas identified by HUD, you must carry flood insurance on your home. Such insurance may be purchased at low federally subsidized rates in communities eligible under the National Flood Insurance Act. Contact a local hazard insurance agent concerning eligibility in your case.

23. **Reserves Deposited with Lender.** These funds are placed by the buyer in an "escrow" or "impound" account maintained by the lender to assure an adequate accumulation of funds to meet charges for real estate taxes and hazard insurance when they become due; and also, if applicable, for mortgage insurance, annual assessments, homeowners' association fees, or flood insurance.

(These reserves are explained in more detail later.)

These reserves may be held in non-interest bearing accounts. However, certain States now require lenders to pay interest on this money, and lenders in other States may be willing to do this voluntarily.

24. **Settlement, Closing, or Escrow Fee.** This charge may be made for handling and supervising the settlement transaction. The settlement may be conducted by the lender, a real estate broker, a title company in some States, an escrow agent in some States, or an attorney. The seller and buyer may negotiate regarding who pays or whether the charge is shared between them. The amount of the charge may be negotiated with the provider of the service. In a VA-guaranteed loan, this fee cannot be charged to the buyer when the buyer is assessed the 1% origination fee.

25. **Title Charges.** These charges cover the costs of title search and examination of public records of previous ownership and sales to establish the right of the seller to convey the property to the buyer. A search and examination are performed to determine whether the seller has good title to the property that he can transfer to the buyer, and to disclose any matters on record that could adversely affect the buyer, the lender, or others with an interest in the property. Examples of these problems are unpaid mortgages, judgment of tax liens, a power line easement or a road right-of-way that could limit use and enjoyment of the real estate by the buyer.

In some parts of the nation, a title search customarily takes the form of an "abstract", which is a compilation including copies of pertinent documents that provides a condensed history of property ownership and related matters. In other places, title searches are performed by extracting related information from the public record without assembling abstracts. Either way, it then is necessary for an expert examination to be made of the evidence accumulated in the search in order to determine status of title as shown by the public record.

Depending on local custom, title examinations normally are made by attorneys or title company employees. Through a title search and examination, land title problems of record are disclosed in advance so they can be cleared up, when possible, before a transaction is completed.

26. **Notary Fees.** This charge may be made for the services of a notary in authenticating signatures to the various documents in the transaction. In a VA-guaranteed loan, this fee cannot be charged to a buyer in the event the buyer is charged a 1% origination fee.

27. **Attorney's Fees.** These include charges which the lender may require the buyer to pay for legal services to the lender in connection with the transaction. The buyer should not assume that he is represented by an attorney hired by the lender who prepares the documents and handles the settlement. In a VA-guaranteed loan, this lender's attorney fee cannot be charged if the buyer is charged the 1% origination fee.

The buyer and seller may each retain attorneys to represent them and may pay the fees at the settlement, in which case these fees also appear on this part of the form.

In some States, attorneys provide bar-related title insurance as part of their services to the buyer for transfer of title. The attorney's fee in this case may include the title insurance premium.

28. **Title Insurance.** A one-time premium may be charged at settlement for a policy which protects the lender's interest in the property against land title problems including those that might not be disclosed by a title search and examination. Whether the buyer or seller pays for this varies with local custom.

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The buyer must request and pay for an additional owner's policy if he wants this protection for his interest in the property. There are many areas where an owner's policy can be obtained at a modest additional charge if issued simultaneously with a lender's policy. In some areas, the seller pays for the owner's title insurance policy.

29. **Government Transfer Taxes and Charges.** The fees and taxes in this section are generally levied by State and/or local governments when property changes hands or when a mortgage loan is made. Depending on local custom, these charges may be paid by the buyer, seller, or otherwise split between them.

30. **Survey.** The lender or a party to the

transaction may require a survey showing the precise location of the house and lot lines.

31. **Inspections.** This part of the form records charges for various inspections required by the lender or a party to the transaction, such as those for termite and other pest infestation. In a VA-guaranteed loan, the buyer may not be charged for the pest inspection.

There may also be pre-sale inspections for the buyer's benefit to evaluate heating, plumbing, and electrical equipment and overall structural soundness. The charge for such an inspection may include a fee for insurance or warranty services to back-up the inspection.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		B. TYPE OF LOAN:	
DISCLOSURE/SETTLEMENT STATEMENT		1. <input type="checkbox"/> FHA 2. <input type="checkbox"/> FIMA 3. <input type="checkbox"/> CONV. UNINS.	
		4. <input type="checkbox"/> VA 5. <input type="checkbox"/> CONV. INS.	
6. FILE NUMBER		7. LOAN NUMBER	
8. MORTG. INS. CASE NO.			
<p>If the Truth-in-Lending Act applies to this transaction, a Truth-in-Lending statement is attached as page 3 of this form.</p> <p>C. NOTE: This form is furnished to you prior to settlement to give you information about your settlement costs, and again after settlement to show the actual costs you have paid. The present copy of the form is:</p> <p><input type="checkbox"/> ADVANCE DISCLOSURE OF COSTS. Some items are estimated, and are marked "(e)". Some amounts may change if the settlement is held on a date other than the date estimated below. The preparer of this form is not responsible for errors or changes in amounts furnished by others.</p> <p><input type="checkbox"/> STATEMENT OF ACTUAL COSTS. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.)" were paid outside the closing; they are shown here for informational purposes and are not included in totals.</p>			
D. NAME OF BORROWER		E. SELLER	
F. LENDER		G. DATE	
H. PROPERTY LOCATION		I. SETTLEMENT AGENT	
J. PLACE OF SETTLEMENT		K. DATE OF PROVISIONS IF DIFFERENT FROM SETTLEMENT	
L. SUMMARY OF BORROWER'S TRANSACTION		M. SUMMARY OF SELLER'S TRANSACTION	
100. GROSS AMOUNT DUE FROM BORROWER		400. GROSS AMOUNT DUE TO SELLER	
101. Contract sales price		401. Contract sales price	
102. Personal property		402. Personal property	
103. Settlement charges to borrower (from line 100, Section L)		403. Settlement charges to seller (from line 400, Section M)	
104. Adjustments for items paid by seller in advance:		404. Adjustments for items paid by seller in advance:	
105. 106. City/town taxes to		405. City/town taxes to	
107. County taxes to		406. County taxes to	
108. Assessments to		407. Assessments to	
109. to		408. to	
110. to		409. to	
111. to		410. to	
112. to		411. to	
120. GROSS AMOUNT DUE FROM BORROWER		420. GROSS AMOUNT DUE TO SELLER	
200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER		500. REDUCTIONS IN AMOUNT DUE TO SELLER	
201. Deposit or earnest money		501. Payoff of first mortgage loan	
202. Principal amount of new loan(s)		502. Payoff of second mortgage loan	
203. Existing loan(s) taken subject to		503. Settlement charges to seller (from line 400, Section M)	
204. Credits to borrower for items unpaid by seller:		504. Existing loan(s) taken subject to	
205. 206. City/town taxes to		505. to	
207. County taxes to		506. to	
208. Assessments to		507. to	
209. to		508. to	
210. to		509. to	
211. to		510. City/town taxes to	
212. to		511. County taxes to	
220. TOTAL AMOUNTS PAID BY OR IN BEHALF OF BORROWER		512. Assessments to	
300. CASH AT SETTLEMENT REQUIRED FROM OR PAYABLE TO BORROWER		513. to	
301. Gross amount due from borrower (from line 100)		514. to	
302. Less amounts paid by or in behalf of borrower (from line 200)		515. to	
303. CASH <input type="checkbox"/> REQUIRED FROM OR <input type="checkbox"/> PAYABLE TO BORROWER		520. TOTAL REDUCTIONS IN AMOUNT DUE TO SELLER	
		600. CASH TO SELLER FROM SETTLEMENT	
		601. Gross amount due to seller (from line 400)	
		602. Less total reductions in amount due to seller (from line 520)	
		603. CASH TO SELLER FROM SETTLEMENT	

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I. SETTLEMENT CHARGES		PAID FROM BORROWER'S FUNDS	PAID FROM SELLER'S FUNDS
700. SALES/BROKER'S COMMISSION based on price \$	1 0 0		
701. Total commission paid by seller	7		
Division of commission as follows:			
702. \$	to		
703. \$	to		
704.			
800. ITEMS PAYABLE IN CONNECTION WITH LOAN			
801. Loan Origination fee	\$		
802. Loan Discount	\$		
803. Appraisal fee to			
804. Credit Report to			
805. Lender's inspection fee			
806. Mortgage insurance application fee to			
807. Assumption/refinancing fee			
808.			
809.			
810.			
811.			
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE			
901. Interest from	to \$		
902. Mortgage insurance premium for	mo. to		
903. Hazard insurance premium for	mo. to		
904.	to		
905.			
1000. RESERVES DEPOSITED WITH LENDER FOR:			
1001. Hazard insurance	mo. \$	/mo.	
1002. Mortgage insurance	mo. \$	/mo.	
1003. City property taxes	mo. \$	/mo.	
1004. County property taxes	mo. \$	/mo.	
1005. Annual assessments	mo. \$	/mo.	
1006.	mo. \$	/mo.	
1007.	mo. \$	/mo.	
1008.	mo. \$	/mo.	
1100. TITLE CHARGES			
1101. Settlement or closing fee to			
1102. Abstract or title search to			
1103. Title examination to			
1104. Title insurance lender to			
1105. Document preparation to			
1106. Notary fee to			
1107. Attorney's fees to			
Includes above items (Note)			
1108. Title insurance to			
Includes above items (Note)			
1109. Lender's coverage \$			
1110. Owner's coverage \$			
1111.			
1112.			
1113.			
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES			
1201. Recording fees: Deed \$	Mortgage \$	Release \$	
1202. City/county tax/stamp: Deed \$	Mortgage \$		
1203. State tax/stamp: Deed \$	Mortgage \$		
1204.			
1300. ADDITIONAL SETTLEMENT CHARGES			
1301. Survey to			
1302. Pest inspection to			
1303.			
1304.			
1305.			
1400. TOTAL SETTLEMENT CHARGES (based on lines 703 and 803, Section I and K)			

NOTE: Under certain circumstances the borrower and seller may be permitted to waive the 12-day period which must normally occur between advance disclosure and settlement. In the event such a waiver is made, copies of the statements of waiver, executed as provided in the regulations of the Department of Housing and Urban Development, shall be attached to and made a part of this form when the form is used as a settlement statement.

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#### ADVANCE DISCLOSURE

The Settlement/Disclosure Statement itemizes each settlement cost charged to the buyer and each charged to the seller. Advance disclosure serves a two-fold purpose: (1) To provide notice of the cash you will need at settlement and (2) to make possible "comparison shopping" of settlement charges so that you can arrange terms most favorable to you. If you don't "shop around" you will not save money if the same services are offered elsewhere for less.

It is important to realize that advance disclosure provides for earlier and more systematic information about the costs of the set-

tlement transactions but does not affect any contractual agreement which may already have been made between buyer and seller. Try to obtain as much of this information as possible prior to signing a sales contract for the house you intend to buy. Or, if the seller is agreeable, you may want to make the sales contract contingent upon your approval of the advance disclosure statement. Once you have signed, you may not be able to rescind the contract in the event that you are dissatisfied with some aspect of the transaction revealed by disclosure. It is in your interest to condition your purchase contract on your ability to obtain a mortgage loan on specified terms.

The law requires the lender to give you a copy of the completed advance disclosure statement at the time of loan commitment. In most circumstances this should be not later than 12 calendar days before the settlement date. Normally, the loan commitment and advance disclosure occur several weeks prior to settlement. In the case of a long-term commitment, such as that obtained by a buyer of a new home under construction, disclosure should be made shortly after signing the contract to buy the house. Typically, this might be in the range of 60 to 90 days before settlement.

If the exact cost of any settlement service is not known in time to meet the deadline, the lender must provide a good faith estimate of the charge.

Lenders are prohibited from charging a specific fee for the preparation and submission of disclosure and settlement costs statements or for the information they must provide under the Truth in Lending Act.

If your circumstances are such that you want to settle and take title to your new home before the lender can meet his 12-day advance disclosure deadline, you may sign a waiver of that requirement. Advance disclosure is intended to protect your interests, not hamper or delay your plans, so you should carefully consider before signing a waiver. Even if you agree to waive, HUD Regulations require the lender to provide the disclosure statement to you at least three days prior to the date of settlement.

Except in the case of a waiver, the lender must meet the advance disclosure requirement or be liable to you for actual damages or \$500, whichever is greater. If court action is necessary to enforce this liability, the lender may be ordered to pay court costs and your attorney's fees as set by the court if the lender loses the case. You would pay attorney's fees in the event that you lose the case. A lender will not be held liable for a violation if he can show that it was not intentional and resulted from a bona fide error in spite of maintenance by the lender of procedures adopted to avoid such error.

#### UNFAIR PRACTICES AND UNREASONABLE OR UNNECESSARY CHARGES TO AVOID

A principal finding of Congress in the Real Estate Settlement Procedures Act of 1974 is that consumers need protection from "unnecessarily high settlement charges caused by certain abusive practices that have developed in some areas of the country." The potential problems discussed below may not be applicable to most loan settlements, and the discussion is not intended to deter you from buying a home. Most professionals in the settlement service businesses will give you good service. Nevertheless, you may save yourself money or worry by keeping the following considerations in mind.

A. *Illegal Practices.* Practices specifically prohibited by this Act fall into two categories:

1. *Kickbacks.* Kickbacks and referral of business for gain most often are tied together, so the law prohibits anyone from giving or taking a fee, kickback, or anything of value under an agreement that business related to real estate settlements will be referred to a specific person or organization.

This requirement does not, of course, prevent agents for lenders and title companies, attorneys, or others actually performing a service in connection with the mortgage loan or settlement transactions, from receiving compensation for their work.

The prohibition is aimed primarily at eliminating the kind of arrangement in which one party agrees to return part of his fee in order to obtain a volume of business from the referring party. The danger is that some settlement fees can be inflated to cover this additional party, resulting in a higher

total cost to you. For example, a title company might pay a fee to another party for bringing it title insurance business even though the other party performs no work and provides no service in connection with issuance of the title insurance policy. As another example, a lawyer might give a part of his fee to another party to the transaction in exchange for the referral of business.

It is also illegal to charge or accept a fee or portion thereof other than for services actually performed.

There are criminal penalties of both fine and imprisonment for any violation of these provisions of law. There are also provisions for you to recover three times the amount of the fee involved or a portion thereof. In any successful action to enforce your right, the court may award you court costs together with a fee for your attorney.

2. *Title Companies.* Another abuse prohibited by law is any requirement by the home seller that title insurance be purchased from a particular company. Under the law, sellers may not require, as a condition of sale, that title insurance be purchased by the buyer from any particular title company. A violation would make the seller liable to you in an amount equal to three times all charges made for the title insurance.

B. *Choices Open to the Buyer and Other Points to Remember.* Because the various parties to the settlement transaction have different interests, there will be many steps in the process of buying a home which call for caution on your part. As a home buyer, you have a number of choices open to you concerning settlement costs and services. Some points to keep in mind are:

1. *Understand The Role of the Real Estate Broker.* Although the real estate agent or broker usually provides helpful advice to you on many aspects of home buying and may in some areas supervise the settlement, he normally serves as agent of the seller. While the real estate licensing laws of most States require that the broker treat both buyer and seller fairly, you should not expect the broker to represent your interests to the exclusion of those of the seller.

The broker's basic objectives are to obtain a signed contract of sale which properly expresses the agreement of the parties and to complete the sale and earn a commission or fee. Before you sign, make sure that the sales contract correctly expresses your agreement with the seller on such important details as method of paying the sales price of the home, the time set for your move-in, and the status of fixtures and other personal property in the home.

A broker may recommend that you deal with a particular lender, title company, attorney, or provider of settlement services. Although this recommendation may be based on the broker's up-to-date knowledge of rates and quality of service, you should feel completely free to consider alternatives, compare rates and fees, and make your own decision on these matters.

It is up to you to review the documents carefully. Although the broker may offer helpful advice, keep in mind that you are the one who is spending the money to buy a home and are entitled to a full understanding of the costs. The broker's principal interest at settlement is to get the transaction closed and his fee or commission disbursed.

2. *Settlement attorneys, escrow and closing agents.* In some parts of the country, settlements are often conducted by attorneys who specialize in real estate transactions. In other parts of the country, the settlement may be conducted by an escrow or closing agent or by the lender or broker. Their primary concern is orderly completion of all the details called for in the sales contract and in the mortgage commitment.

Because mortgage lenders, unlike borrowers, go through settlement often, they often will not be present at the settlement, preferring to spell out in detail in a letter of instruction to the person conducting the closing that which they expect to be done before loan funds can be released.

You, the buyer, will not have a letter of instructions. You will be asked at settlement to make a number of decisions in areas with which you may have had little previous experience.

Before settlement, you should ask the broker, the settlement attorney, or an attorney retained by you what questions will probably come up. Write them down so that you may have time to think about decisions that are important to you.

Settlement attorneys do not mind answering your questions—that is a part of their job—but at the same time they may not invite questions. If you have doubts, ask questions. Don't let anyone rush you. There are likely to be lengthy documents to sign at settlement. If you or your attorney asks, you can usually get copies of the forms in advance.

3. *Legal representation.* If you feel unfamiliar or unsure with real estate settlements, and many people do, consider hiring your own attorney to represent you. If you hire an attorney, be certain that there is a clear understanding in advance about what services he is to perform and what his fee will be for those services. Some will quote a flat fee, others an hourly rate or one based on a percentage of the sales price. The important point is that you should know in advance how much you should expect to pay for his services. If you do not know an attorney who is well versed in real estate transactions, many local bar associations may be able to refer you to one who is.

4. *Discuss with lenders their requirements for settlement services.* The lender's legitimate business interest is in making a loan on terms which will provide a good yield with little risk. In selecting a lending institution, ask about requirements for property surveys, appraisals, escrows for taxes and insurance, and other settlement services. You may compare these requirements with those of other lenders.

Some lenders will give you the discretion to shop among different providers of settlement services. But, most lenders deal regularly with certain title companies, attorneys, appraisers, surveyors or others in whom they have confidence, and usually want to arrange for provision of all settlement services through these parties as a convenience to the buyer and lender. If you wish to bargain directly to reduce rates for settlement services, discuss this with various lenders.

Remember to compare also the mortgage interest rates and other mortgage terms quoted by different lenders. A lender may gain through higher mortgage interest over the repayment term what it gives up at the "front end" in reducing requirements for loan origination fees, discount points and other one-time charges which must be paid in cash at settlement. Other features of available loans should also be compared as you shop.

Feel free to select a lender other than the one recommended by the broker or seller. It is entirely possible that you may find financing which is more advantageous to you.

5. *Title insurance required by the lender protects the lenders.* You may buy a separate owner's title insurance policy for your own protection. Title insurance is often required to protect the lender against loss if a flaw in title is not found by the title search made when a home is purchased. The lender's title insurance policy will be paid for by you or by the seller according to local custom or the sales contract.

You and the lender have different interests in the property you are buying, and there are many kinds of title defects that can trouble you without creating problems for the lender. You may buy a separate owner's title insurance policy for your own protection in areas where this policy is not furnished by the seller as a matter of custom.

6. *Try to minimize the performance and cost of repetitive or excessive settlement requirements.* Some settlement costs are beyond your control, such as government transfer charges. Other items may be negotiable, however, such as certain services which the lender requires but which you pay for.

a. *Title search.* There may be no need for a full historical title search "back to the year one" each time title to a home is transferred. If you are buying a home which had recently changed hands, inquire at title companies about a "reissue rate." If the policy of the previous owner is available, take it to a title insurer before settlement. It may help you obtain a "reissue rate." Generally this rate, when permitted by State law or regulations, allows a reduction of the usual charge for a new policy if the previous policy was issued by the same title insurer or by another reputable company within a recent period.

Title search requirements are sometimes set by agencies which insure or guarantee the loan, or by investors who purchase mortgages originated by other lending institutions. The lender you deal with may not have discretion on eliminating or reducing these requirements.

b. *Survey.* The survey of the property may be simplified and the cost reduced if a full professional survey was performed recently. A new survey may not be needed to show that no recent changes have occurred which affect the validity of the last survey. A surveyor may be able to avoid the cost of a repetitive complete survey of the property if he has access to a recent survey which he can "update." Here again, the requirements of investors who buy loans originated by your lender may limit the lender's discretion to negotiate this point.

c. *Settlement agent.* Settlement practices vary from locality to locality, and even within the same county or city. In various areas settlements are conducted by the lending institutions, title insurance companies, escrow companies, real estate brokers, and attorneys for the buyer or seller. By investigating and comparing practices and rates, you may find that the first suggested settlement agent may not be the least expensive. You might save money by taking the initiative in arranging for settlement and selecting the firm and location which best meets your needs.

d. *Escrows.* The Real Estate Settlement Procedures Act of 1974 has placed limits on the amount of money which the lender can require you to place in escrow at settlement for later payment of property taxes and insurance.

Know your rights under this new Section 10 provision of the Act, as explained in the next Chapter.

#### ESCROW ACCOUNTS

Item 23 on the enclosed sample settlement statement form covers payments your lender may require you to make to an "escrow," "reserve," or "impound" account for insurance premiums, real estate taxes, and unpaid assessments.

Many lenders require that each monthly payment on the mortgage include amounts for taxes, and hazard insurance. When applicable, lenders will also collect mortgage insurance premiums and assessments payable to homeowner and other associations as well as to special assessment districts. These



## NOTICES

funds are set aside each month in escrow accounts and are accumulated to pay the taxes and other bills when they are due.

By law, the amount you pay into an escrow at settlement may not exceed your share of taxes and insurance accrued prior to settlement, plus 1/4th of the estimated amount which will come due for taxes and insurance in the 12-month period beginning at settlement. If taxes or insurance costs go up periodically over the life of your mortgage, the lender will need to collect more money for the escrow accounts to cover these increased costs, resulting in a larger monthly housing payment for you. Should these costs decline periodically, the lender should reduce the monthly escrow collection accordingly.

The escrow service provided by your lender is designed to meet ongoing expenses of homeownership. By spreading payments over the year it eliminates the prospect of being faced with large annual bills, perhaps at an inopportune time. On the other hand, you may want to manage your own payment of taxes and/or insurance, instead of paying into an escrow held by the lender. Discuss this point when shopping among lenders. Be aware, however, that certain escrow accounts are required by Federal regulation, and in some States by laws affecting State-chartered savings and loan associations.

## PREVIOUS SELLING PRICE DISCLOSURE

The lender is required by law before making a commitment to finance a mortgage on a house, which was completed more than 12 months prior to settlement, to confirm that the seller or his agent has disclosed in writing to the buyer the following information:

(1) The name and address of the present owner;

(2) The date the property was acquired by the present owner (the year only of acquisition need be given if the property was acquired more than two years previously); and

(3) If the seller has not owned the property for at least two years prior to the date of your loan application and has not used the property as a place of residence, the date and purchase price of the last "arm's length transfer" of the property, a list of subsequent improvements other than maintenance, and the cost of the improvements.

The purpose of this requirement is to inform you whether the house is being sold by an owner-occupant or by someone who has acquired the house and prepared it for resale. Many investors make a livelihood by investing in existing housing, making repairs and improvements, and reselling at a fair profit. However, abuses have occurred in which only superficial repairs have been made and homes have been sold at prices greatly in excess of their values. As a buyer, your knowledge of the previous selling price may help you determine the present value of the property.

The lender's obligation is considered met if he receives a copy of the written statement from the seller to you giving the information described above. At that time, the lender may make the mortgage loan commitment.

To back up your right to full disclosure concerning existing property, any person (or persons) who knowingly and willingly pro-

vide false information or fails to comply with disclosure requirements may be subject to criminal penalties of fine and imprisonment, and civil damages.

## JURISDICTION OF COURTS

If you have suffered damages through violations of the Real Estate Settlement Procedures Act of 1974 as described in the preceding pages, action may be brought in the United States District Court for the district in which the property involved is located, or in any other court of competent jurisdiction, within one year from the date of the occurrence of the violation. You may also have rights under other Federal or State laws.

## TRUTH IN LENDING DISCLOSURE

At the time of advance disclosure, you will receive a Truth in Lending statement as part of the standard settlement cost disclosure form. This Truth in Lending information will also appear on the standard settlement statement given to you upon completion of the settlement. The Truth in Lending statement discloses the Annual Percentage Rate ("APR") which you will pay on your mortgage loan. This rate may be higher than the contract interest rate quoted on your mortgage. This is because the contract rate includes only interest, but the APR expresses the total finance charge including certain credit costs besides interest on the loan.

The Truth in Lending statement will also disclose any additional charges for "prepayment" should you pay off the balance of the mortgage in full before it is due.

[FR Doc.75-13261 Filed 5-19-75; 8:45 am]

# federal register

THURSDAY, MAY 22, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 100



## PART IV

## INTERSTATE COMMERCE COMMISSION

### CONFIDENTIAL ANNUAL REPORT SUPPLEMENT FOR CLASS I CARRIERS AND RAILROAD ANNUAL REPORT

Proposed Revisions

FEDERAL REGISTER, VOL. 40, NO. 100—THURSDAY, MAY 22, 1975

#### INTERSTATE COMMERCE COMMISSION

(49 CFR 1241, 1249, 1250, 1251)

Rev. 3-41-75

#### CONFIDENTIAL ANNUAL REPORT SUPPLEMENT FOR CLASS I CARRIERS AND RAILROADS

## PROPOSED RULES

Impact of the affiliation on the tax situation of the carrier can be determined.

We believe the proposed revisions will aid the Commission in the effective interpretation of financial data. The revisions will also implement the Commission's accounting, responsibilities by

to the general public by mailing a copy of this order to the Governor of every State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by posting a copy of this order in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. for pub-

lication in the area of income taxes.

The first filing of the annual report

shall be effective for the year

1975.

thereof to the Director, Division of the

Federal Register, for publication in the

Federal Register, as notice to all inter-

ested parties.

This document is not a major rule

## PROPOSED RULES

22467

§ 1241.31 Annual reports of express companies.

(a) Commencing with the year . . .  
(b) Commencing with reports for the year ended December 31, 1974, and thereafter, until further ordered, all express companies, with annual operating

## PART 1249—REPORTS OF MOTOR CARRIERS

6. Section 1249.1 is amended by codifying the first paragraph and adding paragraph (b). As amended the instruction reads:

§ 1249.1 Annual reports of Class I car-

riers and inland and coastal waterway carriers, as described in § 1240.2 of this chapter, subject to the provisions of the Interstate Commerce Act, shall be required to file Annual Report Supplement W-1(a) with annual reports submitted for the year of a confidential nature and not available for public inspection. Annual report

merce Act, shall be required to file Annual Report Supplement H(a). Such annual report supplement shall be of a confidential nature and not available for public inspection. Annual report supplement shall be filed with the Interstate Commerce Commission, Washington, D.C., for publication in the Federal Register, as notice to all interested parties.

(b) Commencing with reports for the year ending December 31, 1974, and thereafter, until further ordered, all Class I carriers, property, as described in § 1240.2 of this chapter, shall be required to file Annual Report Supplement M-1

Interstate Commerce Commission, Washington, D.C., 20423, on or before October 31 of the year following the year to which it relates.

9. Section 1250.20 is amended by codifying the first paragraph and adding



# Federal register

THURSDAY, MAY 22, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 100



PART IV

## INTERSTATE COMMERCE COMMISSION

### CONFIDENTIAL ANNUAL REPORT SUPPLEMENT FOR CLASS I CARRIERS AND RAILROAD ANNUAL REPORT

Proposed Revisions

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#### PROPOSED RULES

impact of the affiliation on the tax situa-  
tion of the carrier can be determined.  
We believe the proposed revisions will

to the general public by mailing a copy  
of this order to the Governor of every  
State and to the Public Utilities Commis-  
sions of each State having

#### PROPOSED RULES

§ 1241.31 Annual reports of express  
companies.

(a) Commencing with the year . . .  
(b) Commencing with reports for the

#### PART 1249—REPORTS OF MOTOR CARRIERS

6. Section 1249.1 is amended by cod-  
ifying the first paragraph and adding

A inland and coastal waterway carriers,  
as described in § 1240.2 of this chapter,  
subject to the provisions of the Interstate  
Commerce Act, shall be required to file

V  
4



INTERSTATE COMMERCE COMMISSION

[49 CFR 1241, 1249, 1250, 1251]

[No 38126]

CONFIDENTIAL ANNUAL REPORT SUPPLEMENT FOR CLASS I CARRIERS AND RAILROAD ANNUAL REPORT

Revision

MAY 9, 1975

At a general session of the Interstate Commerce Commission held at its office in Washington, D.C., on the 4th day of April, 1974.

This proceeding is being instituted on our own motion to consider revisions to the annual, special and periodic reports of the following Class I carriers or Class A carriers, if applicable, under the jurisdiction of the Commission.

Railroads  
Electric railways  
Common and contract motor carriers of passengers  
Common and contract motor carriers of property  
Inland and coastal waterways carriers  
Freight forwarders

Carriers in the following modes with annual operating revenues of \$1 million or more are also subject to the proposed revisions:

Express companies  
Pipeline carriers  
Refrigerator car lines  
Maritime carriers

The provisions relate to the establishment of a confidential annual report supplement for disclosure of Federal income tax information and the reinstatement of information on a schedule in the railroad annual report.

The confidential reporting technique is an outgrowth of legal proceedings concerning certain provisions of the Commission's report and order in Annual Reports of Class I Railroad Companies 341 I.C.C. 205 (1972). These provisions called for disclosure of Federal income tax information in the railroad annual report. The Commission's Order was set aside by a United States District Court order which ruled that such information should not be available to public inspection due to its confidential nature.

The proposed annual report supplement is essential for the effective administration of the responsibilities of the Commission. Federal income tax information presently provided in annual reports has proven to be insufficient to enable the Commission to evaluate the tax transactions which effect the financial stability of carriers. The proposed reinstatement of information in the railroad annual report will also aid this evaluation.

The proposed annual report supplement will provide complete information as to the relationship between the reporting carrier and its affiliates as it may affect the tax liability of the carrier. In addition, the report will provide complete information on the calculation of the tax liability. As a result, the true

impact of the affiliation on the tax situation of the carrier can be determined.

We believe the proposed revisions will aid the Commission in the effective interpretation of financial data. The revisions will also implement the Commission's accounting, responsibilities by facilitating early detection and resolution of questionable accounting procedures in the area of income taxes.

The first filing of the annual report supplement will be effective for the year ending December 31, 1974. However, railroads will file retroactive reports for the years ended December 31, 1972 and 1973 and a report for the year ending December 31, 1974 in order to coincide with the effective date of the Commission's order of July 17, 1972.

Upon consideration of the above described matters and good cause appearing therefore:

It is ordered, That a proceeding be, and it is hereby instituted under the authority of sections 12, 20, 220, 313 and 412 of the Interstate Commerce Act and pursuant to sections 553 and 559 of the Administrative Procedure Act with a view to adopting the proposed regulations set forth in Appendices A through P of this notice, and for the purpose of making such other and further action as the facts and circumstances may justify and require.

It is further ordered, That all Class I or Class A Railroads, Electric railways, Common and contract motor carriers of passengers, Common and contract motor carriers of property, Inland and coastal waterways carriers and Freight forwarders along with Express companies, Pipeline carriers, Refrigerator car lines and Maritime carriers with annual operating revenues of \$1 million or more subject to the Interstate Commerce Act are hereby, made respondents in this proceeding.

It is further ordered, That no oral hearing be scheduled for the receiving of testimony in this proceeding unless a need therefor should later appear, but that respondents or any other interested parties may participate in this proceeding by submitting for consideration written statements of fact, views, and arguments on the subjects mentioned above, or any other subjects pertaining to this proceeding.

It is further ordered, That any interested persons wishing to submit written statements of fact, views, or arguments shall file an original (and, if possible, 15 copies) of such representations with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, by June 13, 1975 and that all such statements will be considered as evidence and as a part of the record in this proceeding.

It is further ordered, That written material or suggestions submitted shall be made available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue, NW, Washington, D.C., during regular business hours.

And it is further ordered, That statutory notice of the institution of this proceeding be given to all respondents and

to the general public by mailing a copy of this order to the Governor of every State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by posting a copy of this order in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy thereof to the Director, Division of the Federal Register, for publication in the FEDERAL REGISTER as notice to all interested persons.

This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.

PART 1241—ANNUAL, SPECIAL OR PERIODIC REPORTS; CARRIERS SUBJECT TO PART I OF THE INTERSTATE COMMERCE ACT

1. Section 1241.21 is amended by codifying the first paragraph and adding paragraph (b). As amended the instruction reads:

§ 1241.11 Forms prescribed for Class I railroads.

(a) Commencing with the year . . .

(b) Commencing with reports for the year ended December 31, 1972, and thereafter, until further order, all Class I railroads as described in § 1240.1 of this chapter, subject to the provisions of the Interstate Commerce Act, shall be required to file Annual Report Supplement R-1(a). Such annual report supplement shall be of a confidential nature and not available for public inspection. Annual report supplement R-1(a) shall be filed in duplicate with the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C., 20423, on or before October 31 of the year following the year to which it relates.

2. Section 1241.21 is amended by codifying the first paragraph and adding paragraph (b). As amended the instruction reads:

§ 1241.21 Annual reports of electric railways.

(a) Commencing with reports . . .

(b) Commencing with reports for the year ending December 31, 1974, and thereafter, until further order, all Class I electric railways as described in § 1240.3 of this chapter, subject to the provisions of the Interstate Commerce Act, shall be required to file Annual Report Supplement R-5(a). Such annual report supplement shall be of a confidential nature and not available to public inspection. Annual report supplement R-5(a) shall be filed in duplicate with the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C., 20423, on or before October 31 of the year following the year to which it relates.

3. Section 1241.31 is amended by codifying the first paragraph and adding paragraph (b). As amended the instruction reads:

§ 1241.31 Annual reports of express companies.

(a) Commencing with the year . . .

(b) Commencing with reports for the year ended December 31, 1974, and thereafter, until further order, all express companies, with annual operating revenues of \$1 million or more, subject to the provisions of the Interstate Commerce Act, shall be required to file Annual Report Supplement H(a). Such annual report supplement shall be of a confidential nature and not available for public inspection. Annual report supplement H(a) shall be filed in duplicate with the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C., 20423, on or before October 31 of the year following the year to which it relates.

4. Section 1241.61 is amended by codifying the first paragraph and adding paragraph (b). As amended the instruction reads:

§ 1241.61 Annual reports of carriers by pipeline.

(a) Commencing with the year . . .

(b) Commencing with reports for the year ended December 31, 1974, and thereafter, until further order, all pipeline carriers, with annual operating revenues of \$1 million or more, subject to the provisions of the Interstate Commerce Act, shall be required to file Annual Report Supplement P(a). Such annual report supplement shall be of a confidential nature and not available for public inspection. Annual report supplement P(a) shall be filed in duplicate with the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C., 20423, on or before October 31 of the year following the year to which it relates.

5. Section 1241.70 is amended by codifying the first paragraph and adding paragraph (b). As amended the instruction reads:

§ 1241.70 Annual reports of refrigerator car lines owned or controlled by railroad companies.

(a) Commencing with reports . . .

(b) Commencing with reports for the year ended December 31, 1974, and thereafter, until further order, all refrigerator car lines, with annual operating revenues of \$1 million or more, subject to the provisions of the Interstate Commerce Act, shall be required to file Annual Report Supplement B-1(a). Such annual report supplement shall be of a confidential nature and not available for public inspection. Annual report supplement B-1(a) shall be filed in duplicate with the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C., 20423, on or before October 31 of the year following the year to which it relates.

PART 1249—REPORTS OF MOTOR CARRIERS

6. Section 1249.1 is amended by codifying the first paragraph and adding paragraph (b). As amended the instruction reads:

§ 1249.1 Annual reports of Class I carriers of property.

(a) Commencing with reports . . .

(b) Commencing with reports for the year ending December 31, 1974, and thereafter, until further order, all Class I carriers of property, as described in § 1240.5 of this chapter, shall be required to file Annual Report Supplement M-1(a). Such annual report supplement shall be of a confidential nature and not available to public inspection. Annual report supplement M-1(a) shall be filed in duplicate with the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C., 20423, on or before October 31 of the year following the year to which it relates.

7. Section 1249.5 is amended by codifying the first paragraph and adding paragraph (b). As amended the instruction reads:

§ 1249.5 Annual reports of Class I carriers of passengers.

(a) Commencing with reports . . .

(b) Commencing with reports for the year ending December 31, 1974, and thereafter, until further order, all Class I carriers of passengers, as described in § 1240.4 subject to the provisions of the Interstate Commerce Act, shall be required to file Annual Report Supplement MP-1(a). Such annual report supplement shall be of a confidential nature and not available to public inspection. Annual report supplement MP-1(a) shall be filed in duplicate with the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C., 20423, on or before October 31 of the year following the year to which it relates.

PART 1250—REPORTS OF WATER CARRIERS

8. Section 1250.10 is amended by codifying the first paragraph and adding paragraph (b). As amended the instruction reads:

§ 1250.10 Annual reports of Class A and B water carriers on inland and coastal waterways.

(a) Commencing with the year . . .

(b) Commencing with reports for the year ending December 31, 1974, and thereafter, until further order, all Class

A inland and coastal waterway carriers, as described in § 1240.2 of this chapter, subject to the provisions of the Interstate Commerce Act, shall be required to file Annual Report Supplement W-1(a). Such annual report supplement shall be of a confidential nature and not available for public inspection. Annual report supplement W-1(a) shall be filed in duplicate with the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C., 20423, on or before October 31 of the year following the year to which it relates.

9. Section 1250.20 is amended by codifying the first paragraph and adding paragraph (b). As amended the instruction reads:

§ 1250.20 Form prescribed for maritime carriers.

(a) Commencing with the year . . .

(b) Commencing with reports for the year ended December 31, 1974, and thereafter, until further order, all maritime carriers, with annual operating revenues of \$1 million or more, subject to the provisions of section 313, Part III, of the Interstate Commerce Act, shall be required to file Annual Report Supplement M(a). Such annual report supplement shall be of a confidential nature and not available for public inspection. Annual report supplement M(a) shall be filed in duplicate with the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C., 20423, on or before October 31 of the year following the year to which it relates.

PART 1251—REPORTS OF FREIGHT FORWARDERS

10. Section 1251.1 is amended by codifying the first paragraph and adding paragraph (b). As amended the instruction reads:

§ 1251.1 Annual reports of Class A freight forwarders.

(a) Commencing with reports . . .

(b) Commencing with reports for the year ending December 31, 1974, and thereafter, until further order, all Class A freight forwarders, as described in § 1240.6 of this chapter, subject to the provisions of the Interstate Commerce Act, shall be required to file Annual Report Supplement F-1(a). Such annual report supplement shall be of a confidential nature and not available to public inspection. Annual report supplement F-1(a) shall be filed in duplicate with the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C., 20423, on or before October 31 of the year following the year to which it relates.



22468

PROPOSED RULES

R-1(A)

APPENDIX F

RAILROADS  
ANNUAL REPORT SUPPLEMENT  
FEDERAL INCOME TAXES  
(CONFIDENTIAL)

Correct name and address if different than shown	Full name and address of reporting carrier (Use mailing label on original, copy in full on duplicate)

TO THE  
INTERSTATE COMMERCE COMMISSION

FOR THE YEAR ENDED DECEMBER 31, 197

PROPOSED RULES

22469

APPENDIX

Commencing with the annual report supplement to be filed for the year ending December 31, 1974, all Class I carriers subject to the provisions of Part I and Part III of the Interstate Commerce Act shall compute and report the Federal income tax information requested in Schedules A through C of this report. The report should be filled out in triplicate and two copies returned to the Interstate Commerce Commission, Washington, D.C., 20423, by October 31, of the year following that for which the report relates. One copy should be retained for the respondent's files.

Information reported on Annual Report Supplement R-1(a) is confidential and will not be available for public inspection. To insure proper handling, please return this report sealed in the envelope provided.

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## PROPOSED RULES

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INTERSTATE COMMERCE COMMISSION  
BUREAU OF ACCOUNTS

## RECONCILIATION OF REPORTED NET INCOME WITH TAXABLE INCOME FOR FEDERAL INCOME TAXES

1. Report hereunder a reconciliation of reported net income for the year with taxable income used in computing Federal income tax accruals. The reconciliation shall be submitted even though there is no taxable income for the year. Descriptions should clearly indicate the nature of each reconciling amount.

2. If the respondent is a member of a group which files a consolidated Federal tax return, reconcile reported net income with taxable net income as if a separate return were to be filed, indicating, however, intercompany amounts to be eliminated in such consolidated return.

Item (Dollars in thousands)	Amount \$
Net income for year per R-1	
Reconciling amounts (list additional income and unallowable deductions followed by additional deductions and nontaxable income):	
Federal tax net income	
Amount taxed as ordinary income	XXXXXXXXXXXXXXXXXX
Amount taxed as capital gains	XXXXXXXXXXXXXXXXXX
Total	XXXXXXXXXXXXXXXXXX

CONFIDENTIAL

## PROPOSED RULES

22471

SCHEDULE B

197

INTERSTATE COMMERCE COMMISSION  
BUREAU OF ACCOUNTS

## COMPUTATION OF FEDERAL INCOME TAXES

All carriers who are not members of a group dated Federal tax return shall complete which files a consolidated Federal tax return parts 2 and 3. Carriers who shall complete parts 1 and 3. Carriers who are members of a group which files a consolidated Federal tax return shall complete parts 2 and 3. (Dollars in thousands)

Item (a)	Amount (b) \$
1. Computation of tax accrual on a separate return:	
Tax on ordinary income	
Tax on capital gains	
Total tax	
Less tax credits	
Tax accrual for year*	
2. If respondent is a member of an affiliated group which files a consolidated tax return, compute tax accrual in (a) as if filing on a separate return basis. Also compute tax accrual in (b) to reflect tax liability as allocated to respondent on consolidated tax return:	
(a) Computation of tax on separate return basis:	
Tax on ordinary income	
Tax on capital gains	
Total tax	
Less tax credits	
Tax accrual for year*	
(b) Allocation of tax on consolidated return:	
Allocated tax on ordinary income	
Allocated tax on capital gains	
Total tax	
Less tax credits allocated to respondent	
Tax accrual for year*	
3. Distribution of tax accrual:	
Account #532	
Account #544	
Account #590	
Other:	
Tax accrual for year*	

\* Excluding deferred taxes

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## APPENDIX G

B-1(A)

## REFRIGERATOR CAR LINES

ANNUAL REPORT SUPPLEMENT  
FEDERAL INCOME TAXES  
(CONFIDENTIAL)

Correct name and address if different than shown	Full name and address of reporting carrier (Use mailing label on original, copy in full on duplicate)

TO THE  
INTERSTATE COMMERCE COMMISSION

FOR THE YEAR ENDED DECEMBER 31, 197

## NOTICE

Commencing with the annual report supplement to be filed for the year ending December 31, 1974, all Class I carriers subject to the provisions of Part I and Part III of the Interstate Commerce Act shall compute and report the Federal income tax information requested in Schedules A through C of this report. The report should be filled out in triplicate and two copies returned to the Interstate Commerce Commission, Washington, D.C., 20423, by October 31, of the year following that for which the report relates. One copy should be retained for the respondent's files.

Information reported on Annual Report Supplement B-1(a) is confidential and will not be available for public inspection. To insure proper handling, please return this report sealed in the envelope provided.

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CONFIDENTIAL

## SCHEDULE A

197

INTERSTATE COMMERCE COMMISSION  
BUREAU OF ACCOUNTS

## RECONCILIATION OF REPORTED NET INCOME WITH TAXABLE INCOME FOR FEDERAL INCOME TAXES

1. Report hereunder a reconciliation of reported net income for the year with taxable income used in computing Federal income tax accruals. The reconciliation shall be submitted even though there is no taxable income for the year. Descriptions should clearly indicate the nature of each reconciling amount.

2. If the respondent is a member of a group which files a consolidated Federal tax return, reconcile reported net income with taxable net income as if a separate return were to be filed, indicating, however, intercompany amounts to be eliminated in such consolidated return.

Item (Dollars in thousands)	Amount
Net income for year per B-1	
Reconciling amounts (list additional income and unallowable deductions followed by additional deductions and nontaxable income):	
Federal tax net income	
Amount taxed as ordinary income	\$ XXXXXXXXXXXXXXXX
Amount taxed as capital gains	XXXXXXXXXXXXXXXXXX
Total	XXXXXXXXXXXXXXXXXX

CONFIDENTIAL

## SCHEDULE B

1975

INTERSTATE COMMERCE COMMISSION  
BUREAU OF ACCOUNTS

## COMPUTATION OF FEDERAL INCOME TAXES

All carriers who are not members of a group which files a consolidated Federal tax return shall complete parts 2 and 3. Carriers who are members of a group which files a consolidated Federal tax return shall complete parts 1 and 3. Carriers who are members of a group which files a consolidated Federal tax return shall complete parts 2 and 3. (Dollars in thousands)

Item (a)	Amount (b)
1. Computation of tax expense on a separate return:	
Tax on ordinary income	
Tax on capital gains	
Total tax	
Less tax credits	
Tax expense for year*	
2. If respondent is a member of an affiliated group which files a consolidated tax return, compute tax expense in (a) as if filing on a separate return basis. Also compute tax expense in (b) to reflect tax liability as allocated to respondent on consolidated tax return:	
(a) Computation of tax on separate return basis:	
Tax on ordinary income	
Tax on capital gains	
Total tax	
Less tax credits	
Tax expense for year*	
(b) Allocation of tax on consolidated return:	
Allocated tax on ordinary income	
Allocated tax on capital gains	
Total tax	
Less tax credits allocated to respondent	
Tax expense for year*	
3. Distribution of tax accrual:	
Account # 532	
Account # 544	
Account # 590	
Other:	
Tax expense for year*	

\* Excluding deferred taxes

V40-100

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CONFIDENTIAL

## SCHEDULE C

1975

INTERSTATE COMMERCE COMMISSION  
BUREAU OF ACCOUNTS

## CONSOLIDATED FEDERAL INCOME TAX INFORMATION

To be completed by carriers who are members of a group which files a consolidated Federal tax return. Give particulars for latest consolidated return filed.  
(Dollars in thousands)

Name of Company:

1. Schedule of affiliated companies included in consolidated return and allocation of tax liability for tax year ended \_\_\_\_\_, 19\_\_\_\_

Item (a)	Book Income (b)		Taxable Income (c)		Tax liability on separate return basis (d)		Tax allocated on consoli- dated return (e)	
Carriers regulated by ICC: Respondent	\$		\$		\$		\$	
Other carriers:								
Total-ICC regulated carriers								
Other affiliates:	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
Totals-Other affiliates								
Grand totals								

-2-

2. Indicate method of allocating the consolidated tax liability to the affiliated companies as elected under the provisions of Internal Revenue Code Section 1552 by specifying subsection 1, 2, 3 or 4. If subsection 4 is designated, describe method of allocation.

Consolidated tax liability is allocated under Section 1552(a) ( )

3. (a) Are tax loss companies paid by the group for the tax benefits arising from the inclusion of their losses in the consolidated return? Specify. Yes \_\_\_\_\_  
No \_\_\_\_\_

(b) If loss companies are paid for tax benefits, describe method of allocating the tax savings and the method of payment.

4. Indicate the effective date of the consolidated tax agreement between the affiliated companies. Enclose a copy of the consolidated tax agreement and subsequent amendments if not previously filed.

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## PROPOSED RULES

## APPENDIX H

M-(A)

MARITIME CARRIERS  
ANNUAL REPORT SUPPLEMENT  
FEDERAL INCOME TAXES  
(CONFIDENTIAL)

Correct name and address if different than shown	Full name and address of reporting carrier (Use mailing label on original, copy in full on duplicate)

TO THE  
INTERSTATE COMMERCE COMMISSION

FOR THE YEAR ENDED DECEMBER 31, 197

## PROPOSED RULES

22481

## NOTICE

Commencing with the annual report supplement to be filed for the year ending December 31, 1974, all Class I carriers subject to the provisions of Part I and Part III of the Interstate Commerce Act shall compute and report the Federal income tax information requested in Schedules A through C of this report. The report should be filled out in triplicate and two copies returned to the Interstate Commerce Commission, Washington, D.C., 20423, by October 31, of the year following that for which the report relates. One copy should be retained for the respondent's files.

Information reported on Annual Report Supplement M (a) is confidential and will not be available for public inspection. To insure proper handling, please return this report sealed in the envelope provided.

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## PROPOSED RULES

CONFIDENTIAL

**SCHEDULE A**

197

INTERSTATE COMMERCE COMMISSION  
BUREAU OF ACCOUNTS

## RECONCILIATION OF REPORTED NET INCOME WITH TAXABLE INCOME FOR FEDERAL INCOME TAXES

1. Report hereunder a reconciliation of reported net income for the year with taxable income used in computing Federal income tax accruals. The reconciliation shall be submitted even though there is no taxable income for the year. Descriptions should clearly indicate the nature of each reconciling amount.

2. If the respondent is a member of a group which files a consolidated Federal tax return, reconcile reported net income with taxable net income as if a separate return were to be filed, indicating, however, intercompany amounts to be eliminated in such consolidated return.

[illegible]

22483

CONFIDENTIAL

• 197

INTERSTATE COMMERCE COMMISSION  
BUREAU OF ACCOUNTS

## COMPUTATION OF FEDERAL INCOME TAXES

<p>All carriers who are not members of a group which files a consolidated Federal tax return shall complete parts 1 and 3. Carriers who are members of a group which files a consoli-</p>	<p>dated Federal tax return shall complete parts 2 and 3.</p> <p>(Dollars in thousands)</p>
---	---

Item (a)	Amount (b)
1. Computation of tax <del>expense</del> on a separate return:	\$
Tax on ordinary income	
Tax on capital gains	
Total tax	
Less tax credits	
Tax <del>expense</del> for year*	
2. If respondent is a member of an affiliated group which files a consolidated tax return, compute tax <del>expense</del> in (a) as if filing on a separate return basis. Also compute tax <del>expense</del> in (b) to reflect tax liability as allocated to respondent on consolidated tax return:	
(a) Computation of tax on separate return basis:	
Tax on ordinary income	
Tax on capital gains	
Total tax	
Less tax credits	
Tax <del>expense</del> for year*	
(b) Allocation of tax on consolidated return:	
Allocated tax on ordinary income	
Allocated tax on capital gains	
Total tax	
Less tax credits allocated to respondent	
Tax <del>expense</del> for year*	
3. Distribution of tax accrual:	
Account # 989	
Account # 998	
Other:	
Tax <del>expense</del> for year*	

\* Excluding deferred taxes

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**V40-100**  
**MAY 22**  
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CONFIDENTIAL

## SCHEDULE C

1975

INTERSTATE COMMERCE COMMISSION  
BUREAU OF ACCOUNTS

## CONSOLIDATED FEDERAL INCOME TAX INFORMATION

To be completed by carriers who are members of a group which files a consolidated Federal tax return. Give particulars for latest consolidated return filed.  
(Dollars in thousands)

Name of Company:

1. Schedule of affiliated companies included in consolidated return and allocation of tax liability for tax year ended \_\_\_\_\_, 19\_\_\_\_

Item (a)	Book Income (b)		Taxable Income (c)		Tax liability on separate return basis (d)		Tax allocated on consoli- dated return (e)	
Carriers regulated by ICC: Respondent	\$		\$		\$		\$	
Other carriers:								
Total-ICC regulated carriers								
Other affiliates:								
	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
Totals-Other affiliates								
Grand totals								

-2-

2. Indicate method of allocating the consolidated tax liability to the affiliated companies as elected under the provisions of Internal Revenue Code Section 1552 by specifying subsection 1, 2, 3 or 4. If subsection 4 is designated, describe method of allocation.

Consolidated tax liability is allocated under Section 1552(a) ( )

3. (a) Are tax loss companies paid by the group for the tax benefits arising from the inclusion of their losses in the consolidated return? Specify. Yes \_\_\_\_\_  
No \_\_\_\_\_

(b) If loss companies are paid for tax benefits, describe method of allocating the tax savings and the method of payment.

4. Indicate the effective date of the consolidated tax agreement between the affiliated companies. Enclose a copy of the consolidated tax agreement and subsequent amendments if not previously filed.

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## APPENDIX I

P-(A)

## PIPELINE CARRIERS

ANNUAL REPORT SUPPLEMENT  
FEDERAL INCOME TAXES  
(CONFIDENTIAL)

Correct name and address if different than shown	Full name and address of reporting carrier (Use mailing label on original, copy in full on duplicate)

TO THE  
INTERSTATE COMMERCE COMMISSION

FOR THE YEAR ENDED DECEMBER 31, 197

## NOTICE

Commencing with the annual report supplement to be filed for the year ending December 31, 1974, all Class I carriers subject to the provisions of Part I and Part III of the Interstate Commerce Act shall compute and report the Federal income tax information requested in Schedules A through C of this report. The report should be filled out in triplicate and two copies returned to the Interstate Commerce Commission, Washington, D.C., 20423, by October 31, of the year following that for which the report relates. One copy should be retained for the respondent's files.

Information reported on Annual Report Supplement P(a) is confidential and will not be available for public inspection. To insure proper handling, please return this report sealed in the envelope provided.



CONFIDENTIAL

## SCHEDULE A

197

INTERSTATE COMMERCE COMMISSION  
BUREAU OF ACCOUNTS

## RECONCILIATION OF REPORTED NET INCOME WITH TAXABLE INCOME FOR FEDERAL INCOME TAXES

1. Report hereunder a reconciliation of reported net income for the year with taxable income used in computing Federal income tax accruals. The reconciliation shall be submitted even though there is no taxable income for the year. Descriptions should clearly indicate the nature of each reconciling amount.

2. If the respondent is a member of a group which files a consolidated Federal tax return, reconcile reported net income with taxable net income as if a separate return were to be filed, indicating, however, intercompany amounts to be eliminated in such consolidated return.

Item (Dollars in thousands)	Amount \$
Net income for year per P	
Reconciling amounts (list additional income and unallowable deductions followed by additional deductions and nontaxable income):	
Federal tax net income	
Amount taxed as ordinary income	XXXXXXXXXXXXXXXXXX
Amount taxed as capital gains	XXXXXXXXXXXXXXXXXX
Total	XXXXXXXXXXXXXXXXXX

## SCHEDULE B

197

INTERSTATE COMMERCE COMMISSION  
BUREAU OF ACCOUNTS

## COMPUTATION OF FEDERAL INCOME TAXES

All carriers who are not members of a group which files a consolidated Federal tax return shall complete parts 2 and 3. Carriers who are members of a group which files a consolidated Federal tax return shall complete parts 1 and 3. Carriers who are members of a group which files a consolidated Federal tax return shall complete parts 2 and 3. (Dollars in thousands)

Item (a)	Amount (b)
1. Computation of tax expense on a separate return:	
Tax on ordinary income	
Tax on capital gains	
Total tax	
Less tax credits	
Tax expense for year*	
2. If respondent is a member of an affiliated group which files a consolidated tax return, compute tax expense in (a) as if filing on a separate return basis. Also compute tax expense in (b) to reflect tax liability as allocated to respondent on consolidated tax return:	
(a) Computation of tax on separate return basis:	
Tax on ordinary income	
Tax on capital gains	
Total tax	
Less tax credits	
Tax expense for year*	
(b) Allocation of tax on consolidated return:	
Allocated tax on ordinary income	
Allocated tax on capital gains	
Total tax	
Less tax credits allocated to respondent	
Tax expense for year*	
3. Distribution of tax expense:	
Account # 670	
Account # 695	
Other:	
Tax expense for year*	

\* Excluding deferred taxes

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CONFIDENTIAL

## SCHEDULE C

1975

INTERSTATE COMMERCE COMMISSION  
BUREAU OF ACCOUNTS

## CONSOLIDATED FEDERAL INCOME TAX INFORMATION

To be completed by carriers who are members of a group which files a consolidated Federal tax return. Give particulars for latest consolidated return filed.  
(Dollars in thousands)

Name of Company:

1. Schedule of affiliated companies included in consolidated return and allocation of tax liability for tax year ended \_\_\_\_\_, 19\_\_\_\_

Item (a)	Book Income (b)		Taxable Income (c)		Tax liability on separate return basis (d)		Tax allocated on consoli- dated return (e)	
Carriers regulated by ICC: Respondent	\$		\$		\$		\$	
Other carriers:								
Total-ICC regulated carriers								
Other affiliates:								
	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
Totals-Other affiliates								
Grand totals								

-2-

2. Indicate method of allocating the consolidated tax liability to the affiliated companies as elected under the provisions of Internal Revenue Code Section 1552 by specifying subsection 1, 2, 3 or 4. If subsection 4 is designated, describe method of allocation.

Consolidated tax liability is allocated under Section 1552(a) ( )

3. (a) Are tax loss companies paid by the group for the tax benefits arising from the inclusion of their losses in the consolidated return? Specify. Yes \_\_\_\_\_  
No \_\_\_\_\_

- (b) If loss companies are paid for tax benefits, describe method of allocating the tax savings and the method of payment.

4. Indicate the effective date of the consolidated tax agreement between the affiliated companies. Enclose a copy of the consolidated tax agreement and subsequent amendments if not previously filed.

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## PROPOSED RULES

## APPENDIX J

H-(A)

EXPRESS COMPANIES  
ANNUAL REPORT SUPPLEMENT  
FEDERAL INCOME TAXES  
(CONFIDENTIAL)

Correct name and address if different than shown	Full name and address of reporting carrier (Use mailing label on original, copy in full on duplicate)

TO THE  
INTERSTATE COMMERCE COMMISSION

FOR THE YEAR ENDED DECEMBER 31, 197

## PROPOSED RULES

22493

## NOTICE

Commencing with the annual report supplement to be filed for the year ending December 31, 1974, all Class I carriers subject to the provisions of Part I and Part III of the Interstate Commerce Act shall compute and report the Federal income tax information requested in Schedules A through C of this report. The report should be filled out in triplicate and two copies returned to the Interstate Commerce Commission, Washington, D.C., 20423, by October 31, of the year following that for which the report relates. One copy should be retained for the respondent's files.

Information reported on Annual Report Supplement H (a) is confidential and will not be available for public inspection. To insure proper handling, please return this report sealed in the envelope provided.

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## PROPOSED RULES

F-1(A)

APPENDIX K

FREIGHT FORWARDERS  
ANNUAL REPORT SUPPLEMENT  
FEDERAL INCOME TAXES  
(CONFIDENTIAL)

Correct name and address if different than shown	Full name and address of reporting carrier (Use mailing label on original, copy in full on duplicate)

TO THE  
INTERSTATE COMMERCE COMMISSION

FOR THE YEAR ENDED DECEMBER 31, 197

## PROPOSED RULES

## NOTICE

Commencing with the annual report supplement to be filed for the year ending December 31, 1974, all Class I carriers subject to the provisions of Part I and Part III of the Interstate Commerce Act shall compute and report the Federal income tax information requested in Schedules A through C of this report. The report should be filled out in triplicate and two copies returned to the Interstate Commerce Commission, Washington, D. C., 20423, by October 31, of the year following that for which the report relates. One copy should be retained for the respondent's files.

Information reported on Annual Report Supplement F-1(A) is confidential and will not be available for public inspection. To insure proper handling, please return this report in the sealed envelope provided.

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INTERSTATE COMMERCE COMMISSION  
BUREAU OF ACCOUNTS

RECONCILIATION OF REPORTED NET INCOME WITH TAXABLE INCOME FOR FEDERAL INCOME TAXES

1. Report hereunder a reconciliation of reported net income for the year with taxable income used in computing Federal income tax accruals. The reconciliation shall be submitted even though there is no taxable income for the year. Descriptions should clearly indicate the nature of each reconciling amount.
2. If the respondent is a member of a group which files a consolidated Federal tax return, reconcile reported net income with taxable net income as if a separate return were to be filed, indicating, however, intercompany amounts to be eliminated in such consolidated return.

Item (Dollars in thousands)	Amount \$
Net income for year per F-1	
Reconciling amounts (list additional income and unallowable deductions followed by additional deductions and nontaxable income):	
Federal tax net income	XXXXXXXXXXXXXXXX
Amount taxed as ordinary income	XXXXXXXXXXXXXXXX
Amount taxed as capital gains	XXXXXXXXXXXXXXXX
Total	XXXXXXXXXXXXXXXX

INTERSTATE COMMERCE COMMISSION  
BUREAU OF ACCOUNTS

COMPUTATION OF FEDERAL INCOME TAXES

All carriers who are not members of a group dated Federal tax return shall complete which files a consolidated Federal tax return parts 2 and 3. Carriers who shall complete parts 1 and 3. Carriers who are members of a group which files a consolidated Federal tax return shall complete parts 1 and 3. (Dollars in thousands)

Item (a)	Amount (b) \$
1. Computation of tax expense on a separate return:	
Tax on ordinary income	
Tax on capital gains	
Total tax	
Less tax credits	
Tax expense for year*	
2. If respondent is a member of an affiliated group which files a consolidated tax return, compute tax accrual in (a) as if filing on a separate return basis. Also compute tax accrual in (b) to reflect tax liability as allocated to respondent on consolidated tax return:	
(a) Computation of tax on separate return basis:	
Tax on ordinary income	
Tax on capital gains	
Total tax	
Less tax credits	
Tax expense for year*	
(b) Allocation of tax on consolidated return:	
Allocated tax on ordinary income	
Allocated tax on capital gains	
Total tax	
Less tax credits allocated to respondent	
Tax expense for year*	
3. Distribution of tax expense:	
Account #431	
Account #450	
Other:	
Tax expense for year*	

\* Excluding deferred taxes



INTERSTATE COMMERCE COMMISSION  
BUREAU OF ACCOUNTS

CONSOLIDATED FEDERAL INCOME TAX INFORMATION

To be completed by carriers who are members of a group which files a consolidated Federal tax return. Give particulars for latest consolidated return filed.  
(Dollars in thousands)

Name of Company:

1. Schedule of affiliated companies included in consolidated return and allocation of tax liability for tax year ended \_\_\_\_\_, 19\_\_\_\_

Item (a)	Book Income (b)	Taxable Income (c)	Tax liability on separate return basis (d)	Tax allocated on consoli- dated return (e)
Carriers regulated by ICC: Respondent	\$	\$	\$	\$
Other carriers:				
Total-ICC regulated carriers				
Other affiliates:	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX
Total-Other affiliates				
Grand totals				

2. Indicate method of allocating the consolidated tax liability to the affiliated companies as elected under the provisions of Internal Revenue Code Section 1552 by specifying subsection 1, 2, 3 or 4. If subsection 4 is designated, describe method of allocation.

Consolidated tax liability is allocated under Section 1552(a) ( )

3. (a) Are tax loss companies paid by the group for the tax benefits arising from the inclusion of their losses in the consolidated return? Specify. Yes \_\_\_\_\_  
No \_\_\_\_\_

(b) If loss companies are paid for tax benefits, describe method of allocating the tax savings and the method of payment.

4. Indicate the effective date of the consolidated tax agreement between the affiliated companies. Enclose a copy of the consolidated tax agreement and subsequent amendments if not previously filed.



## PROPOSED RULES

R-5(A)

## APPENDIX L

ELECTRIC RAILWAYS  
ANNUAL REPORT SUPPLEMENT  
FEDERAL INCOME TAXES  
(CONFIDENTIAL)

Correct name and address if different than shown	Full name and address of reporting carrier (use mailing label on original, copy in full on duplicate)

TO THE  
INTERSTATE COMMERCE COMMISSION

FOR THE YEAR ENDED DECEMBER 31, 197

## PROPOSED RULES

## NOTICE

Commencing with the annual report supplement to be filed for the year ending December 31, 1974, all Class I carriers subject to the provisions of Part I and Part III of the Interstate Commerce Act shall compute and report the Federal Income tax information requested in Schedules A through C of this report. The report should be filled out in triplicate and two copies returned to the Interstate Commerce Commission, Washington, D. C., 20423, by October 31, of the year following that for which the report relates. One copy should be retained for the respondent's files.

Information reported on Annual Report Supplement R-5(A) is confidential and will not be available for public inspection. To insure proper handling, please return this report sealed in the envelope provided.







CONFIDENTIAL

## SCHEDULE C

197

INTERSTATE COMMERCE COMMISSION  
BUREAU OF ACCOUNTS

## CONSOLIDATED FEDERAL INCOME TAX INFORMATION

To be completed by carriers who are members of a group which files a consolidated Federal tax return. Give particulars for latest consolidated return filed.  
(Dollars in thousands)

Name of Company:

1. Schedule of affiliated companies included in consolidated return and allocation of tax liability for tax year ended \_\_\_\_\_, 19\_\_\_\_

Item (a)	Book Income (b)	Taxable Income (c)	Tax liability on separate return basis (d)	Tax allocated on consoli- dated return (e)
Carriers regulated by ICC: Respondent	\$	\$	\$	\$
Other carriers:				
Total-ICC regulated carriers				
Other affiliates:	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX
Total-Other affiliates				
Grand totals				

-2-

2. Indicate method of allocating the consolidated tax liability to the affiliated companies as elected under the provisions of Internal Revenue Code Section 1552 by specifying subsection 1, 2, 3 or 4. If subsection 4 is designated, describe method of allocation.

Consolidated tax liability is allocated under Section 1552(a) ( )

3. (a) Are tax loss companies paid by the group for the tax benefits arising from the inclusion of their losses in the consolidated return? Specify. Yes \_\_\_\_\_  
No \_\_\_\_\_

(b) If loss companies are paid for tax benefits, describe method of allocating the tax savings and the method of payment.

4. Indicate the effective date of the consolidated tax agreement between the affiliated companies. Enclose a copy of the consolidated tax agreement and subsequent amendments if not previously filed.

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M-1(A)

## APPENDIX M

MOTOR CARRIERS OF PROPERTY  
ANNUAL REPORT SUPPLEMENT  
FEDERAL INCOME TAXES  
(CONFIDENTIAL)

Correct name and address if different than shown	Full name and address of reporting carrier (Use mailing label on original, copy in full on duplicate)

TO THE  
INTERSTATE COMMERCE COMMISSION

FOR THE YEAR ENDED DECEMBER 31, 197

## NOTICE

Commencing with the annual report supplement to be filed for the year ending December 31, 1974, all Class I carriers, subject to the provisions of Part I and Part III of the Interstate Commerce Act shall compute and report the Federal income tax information requested in Schedules A through C of this report. The report should be filled out in triplicate and two copies returned to the Interstate Commerce Commission, Washington, D.C., 20423, by October 31, of the year following that for which the report relates. One copy should be retained for the respondent's files.

Information reported on Annual Report Supplement M-1(A) is confidential and will not be available for public inspection. To insure proper handling, please return this report in the sealed envelope provided.

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INLAND EMERALD COMMISSION  
BUREAU OF ACCOUNTS

## CONSOLIDATED FEDERAL INCOME TAX INFORMATION

To be completed by carriers who are members of a group which files a consolidated Federal tax return. Give particulars for latest consolidated return filed.  
(Dollars in thousands)

Name of Company:

1. Schedule of affiliated companies included in consolidated return and allocation of tax liability for tax year ended \_\_\_\_\_, 19\_\_\_\_

Item (a)	Book Income (b)	Taxable Income (c)	Tax liability on separate return basis (d)	Tax allocated on consoli- dated return (e)
Carriers regulated by ICC: Dependent	\$	\$	\$	\$
Other carriers:				
Other regulated carriers				
Other affiliates:	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX
Other affiliates				
Grand totals				

2. Indicate method of allocating the consolidated tax liability to the affiliated companies as elected under the provisions of Internal Revenue Code Section 1552 by specifying subsection 1, 2, 3 or 4. If subsection 4 is designated, describe method of allocation.

Consolidated tax liability is allocated under Section 1552(a) ( )

3. (a) Are tax loss companies paid by the group for the tax benefits arising from the inclusion of their losses in the consolidated return? Specify. Yes \_\_\_\_\_  
No \_\_\_\_\_

- (b) If loss companies are paid for tax benefits, describe method of allocating the tax savings and the method of payment.

4. Indicate the effective date of the consolidated tax agreement between the affiliated companies. Enclose a copy of the consolidated tax agreement and subsequent amendments if not previously filed.



22516

PROPOSED RULES

MP-1(A)

APPENDIX N

MOTOR CARRIERS OF PASSENGERS  
ANNUAL REPORT SUPPLEMENT  
FEDERAL INCOME TAXES  
(CONFIDENTIAL)

Correct name and address if different than shown	Full name and address of reporting carrier (use mailing label on original, copy in full on duplicate)

TO THE  
INTERSTATE COMMERCE COMMISSION

FOR THE YEAR ENDED DECEMBER 31, 197

PROPOSED RULES

22517

NOTICE

Commencing with the annual report supplement to be filed for the year ending December 31, 1974, all Class I carriers subject to the provisions of Part I and Part III of the Interstate Commerce Act shall compute and report the Federal income tax information requested in Schedules A through C of this report. The report should be filled out in triplicate and two copies returned to the Interstate Commerce Commission, Washington, D. C., 20423 by October 31, of the year following that for which the report relates. One copy should be retained for the respondent's files.

Information reported on Annual Report Supplement MP-1(A) is confidential and will not be available for public inspection. To insure proper handling, please return this report in the sealed envelope provided.

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## PROPOSED RULES

CONFIDENTIAL

SCHEDULE A

197

INTERSTATE COMMERCE COMMISSION  
BUREAU OF ACCOUNTS

## RECONCILIATION OF REPORTED NET INCOME WITH TAXABLE INCOME FOR FEDERAL INCOME TAXES

1. Report hereunder a reconciliation of reported net income for the year with taxable income used in computing Federal income tax accruals. The reconciliation shall be submitted even though there is no taxable income for the year. Descriptions should clearly indicate the nature of each reconciling amount.

2. If the respondent is a member of a group which files a consolidated Federal tax return, reconcile reported net income with taxable net income as if a separate return were to be filed, indicating, however, intercompany amounts to be eliminated in such consolidated return.

Item (Dollars in thousands)	\$ Amount
Net income for year per MP-1 _____	
Reconciling amounts (list additional income and unallowable deductions followed by additional deductions and nontaxable income): _____ _____ _____ _____ _____ _____ _____ _____	       
Total tax net income _____	XXXXXXXXXXXXXXXXXXXX
Amount taxed as ordinary income _____	XXXXXXXXXXXXXXXXXXXX
Amount taxed as capital gains _____	XXXXXXXXXXXXXXXXXXXX
Total _____	XXXXXXXXXXXXXXXXXXXX

22519

127.

INTERSTATE COMMERCE COMMISSION  
BUREAU OF ACCOUNTS

## COMPUTATION OF FEDERAL INCOME TAXES

All carriers who are not members of a group dated Federal tax return shall complete which files a consolidated Federal tax return, parts 2 and 3. Carriers who shall complete parts 1 and 3. Carriers who are members of a group which files a consoli- (Dollars in thousands)

Item (a)	Amount (b)
1. Computation of tax expense on a separate return:	\$
Tax on ordinary income	
Tax on capital gains	
Total tax	
Less tax credits	
Tax expense for year*	
2. If respondent is a member of an affiliated group which files a consolidated tax return, compute tax accrual in (a) as if filing on a separate return basis. Also compute tax accrual in (b) to reflect tax liability as allocated to respondent on consolidated tax return:	
(a) Computation of tax on separate return basis:	
Tax on ordinary income	
Tax on capital gains	
Total tax	
Less tax credits	
Tax expense for year*	
(b) Allocation of tax on consolidated return:	
Allocated tax on ordinary income	
Allocated tax on capital gains	
Total tax	
Less tax credits allocated to respondent	
Tax expense for year*	
3. Distribution of tax expense:	
Account #8000	
Account #9050	
Other:	
Tax expense for year*	

Excluding deferred taxes

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INTERSTATE COMMERCE COMMISSION  
BUREAU OF ACCOUNTS

CONSOLIDATED FEDERAL INCOME TAX INFORMATION

To be completed by carriers who are members of a group which files a consolidated Federal tax return. Give particulars for latest consolidated return filed.  
(Dollars in thousands)

Name of Company:

1. Schedule of affiliated companies included in consolidated return and allocation of tax liability for tax year ended \_\_\_\_\_, 19\_\_\_\_

Item (a)	Book Income (b)	Taxable Income (c)	Tax liability on separate return basis (d)	Tax allocated on consoli- dated return (e)
Carriers regulated by ICC: Respondent	\$	\$	\$	\$
Other carriers:				
Total-ICC regulated carriers				
Other affiliates:				
	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX
Total-Other affiliates				
Grand totals				

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2. Indicate method of allocating the consolidated tax liability to the affiliated companies as elected under the provisions of Internal Revenue Code Section 1552 by specifying subsection 1, 2, 3 or 4. If subsection 4 is designated, describe method of allocation.  
Consolidated tax liability is allocated under Section 1552(a) ( )

3. (a) Are tax loss companies paid by the group for the tax benefits arising from the inclusion of their losses in the consolidated return? Specify. Yes \_\_\_\_\_  
No \_\_\_\_\_  
(b) If loss companies are paid for tax benefits, describe method of allocating the tax savings and the method of payment.

4. Indicate the effective date of the consolidated tax agreement between the affiliated companies. Enclose a copy of the consolidated tax agreement and subsequent amendments if not previously filed.

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## PROPOSED RULES

W-1A

APPENDIX O

WATER CARRIERS  
ANNUAL REPORT SUPPLEMENT  
FEDERAL INCOME TAXES  
(CONFIDENTIAL)

Correct name and address if different than shown	Full name and address of reporting carrier (Use mailing label on original, copy in full on duplicate)

TO THE  
INTERSTATE COMMERCE COMMISSION

FOR THE YEAR ENDED DECEMBER 31, 197

## PROPOSED RULES

## NOTICE

Commencing with the annual report supplement to be filed for the year ending December 31, 1974, all Class I carriers subject to the provisions of Part I and Part III of the Interstate Commerce Act shall compute and report the Federal income tax information requested in Schedules A through C of this report. The report should be filled out in triplicate and two copies returned to the Interstate Commerce Commission, Washington, D. C., 20423, by October 31, of the year following that for which the report relates. One copy should be retained for the respondents files.

Information reported on Annual Report Supplement W-1(A) is confidential and will not be available for public inspection. To insure proper handling, please return this report in the sealed envelope provided.

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## PROPOSED RULES

CONFIDENTIAL

SCHEDULE C

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INTERSTATE COMMERCE COMMISSION  
BUREAU OF ACCOUNTS

## CONSOLIDATED FEDERAL INCOME TAX INFORMATION

To be completed by carriers who are members of a group which files a consolidated Federal tax return. Give particulars for latest consolidated return filed.  
(Collars in thousands)

Name of Company:

1. Schedule of affiliated companies included in consolidated return and allocation of tax liability for tax year ended \_\_\_\_\_, 19\_\_\_\_\_

Item (a)	Book Income (b)	Taxable Income (c)	Tax liability on separate return basis (d)	Tax allocated on consoli- dated return (e)
Carriers regulated by ICC:				
Respondent				
Other carriers:				
TOTAL-ICC regulated carriers				
Other affiliates:	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX
TOTALS-Other affiliates				
Grand totals				

## PROPOSED RULES

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2. Indicate method of allocating the consolidated tax liability to the affiliated companies as elected under the provisions of Internal Revenue Code Section 1552 by specifying subsection 1, 2, 3 or 4. If subsection 4 is designated, describe method of allocation.  
Consolidated tax liability is allocated under Section 1552(a) ( )

Consolidated tax liability is allocated under Section 1552(a) ( )

3. (a) Are tax loss companies paid by the group for the tax benefits arising from the inclusion of their losses in the consolidated return? Specify. Yes \_\_\_\_\_  
No \_\_\_\_\_

(b) If loss companies are paid for tax benefits, describe method of allocating the tax savings and the method of payment.

4. Indicate the effective date of the consolidated tax agreement between the affiliated companies. Enclose a copy of the consolidated tax agreement and subsequent amendments if not previously filed.



## PROPOSED RULES

350. RAILWAY TAX ACCRUALS—Continued					
PART I		C. Analysis of Federal Income Taxes		APPENDIX P	
<p>1. In column (a) are listed the particulars which most often cause a differential between taxable income and pretax accounting income. Other particulars which cause such a differential should be listed under the caption "Other", including State and other taxes deferred if computed separately. Minor items each less than \$100,000 may be combined in a single entry under "Other".</p> <p>2. Indicate in column (b) the beginning of the year total of accounts 714, 744, 762 and 786 applicable to each particular item in column (a).</p> <p>3. Indicate in column (c) the net change in accounts 714, 744, 762 and 786 for the net tax effect of timing differences originating and reversing in the current accounting period.</p> <p>4. Indicate in column (d) any adjustments, as appropriate, including adjustments to eliminate or reinstate deferred tax effects (credits or debits) due to applying or recognizing a loss carry-forward or a loss carry-back.</p> <p>5. The total of line 10 in columns (c) and (d) should agree with the total of the contra charges (credits) to account 533, provision for deferred taxes, and account 591, provision for deferred taxes - extraordinary and prior period items, for the current year.</p> <p>6. Indicate in column (e) the cumulative total of columns (b), (c), and (d). The total of column (e) must agree with the total of accounts 714, 744, 762 and 786.</p>					
Line No.	Particulars (a)	Beginning of Year Balance (b)	Net Credits (Charges) for Current Year (c)	Adjustments (d)	End of Year Balance (e)
1	Accelerated depreciation, Sec. 167 I.R.C.: Guideline lives pursuant to Rev. Proc. 62-21				
2	Accelerated amortization of facilities Sec. 168 I.R.C.				
3	Accelerated amortization of rolling stock, Sec. 184 I.R.C.				
4	Amortization of rights of way, Sec. 185 I.R.C.				
5	Other (Specify)				
6					
7					
8					
9	Investment tax credit See Part III				
10	TOTALS				

Part II

Distribution of Tax Expense:

11 Account #532

12 Account #544

13 Account #590

14 Other:

15 \_\_\_\_\_

16 \_\_\_\_\_

17 Tax Expense for year \_\_\_\_\_

Note: The amount shown on line 77 should equal line 64 of Schedule 350(a).

Part III

18 Indicate method elected by carrier, as provided in the Revenue Act of 1971, to account for the investment tax credit.

19 Flow-through. . . . . Deferral. . . . .

20 If flow-through method was elected, indicate net decrease (or increase) in tax accrual because of investment tax credit \$ \_\_\_\_\_

21 If deferral method was elected, indicate amount of investment tax credit utilized as a reduction of tax liability for current year. \$ \_\_\_\_\_

22 Deduct amount of current year's investment tax credit applied to reduction of tax liability but deferred for accounting purposes ( ) \$ \_\_\_\_\_

23 Balance of current year's investment tax credit used to reduce current year's tax accrual \$ \_\_\_\_\_

24 Add amount of prior years' deferred investment tax credits being amortized and used to reduce current year's tax accrual \$ \_\_\_\_\_

25 Total decrease in current year's tax accrual resulting from use of investment tax credits \$ \_\_\_\_\_

[PR Doc.75-13255 Filed 5-21-75; 8:45 am]

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Other affiliates:

	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
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	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX

Other affiliates

and totals

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## PROPOSED RULES

350. RAILWAY TAX ACCRUALS—Continued

### PART I

C. Analysis of Federal Income Taxes

APPENDIX P

1. In column (a) are listed the particulars which most often cause a differential between taxable income and pretax accounting income. Other particulars which cause such a differential should be listed under the caption "Other", including State and other taxes deferred if computed separately. Amounts each less than \$100,000 may be combined in a single

4. Indicate in column (d) any adjustments, as appropriate, including adjustments to eliminate or reinstate deferred tax effects (credits or debits) due to applying or recognizing a loss carry-forward or a loss carry-back.

5. The total of line 10 in columns (c) and (d) should agree with the total

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350. RAILWAY TAX ACCRUALS—Continued					
PART I		C. Analysis of Federal Income Taxes		APPENDIX P	
<p>1. In column (a) are listed the particulars which most often cause a differential between taxable income and pretax accounting income. Other particulars which cause such a differential should be listed under the caption "Other", including State and other taxes deferred if computed separately. Minor items each less than \$100,000 may be combined in a single entry under "Other".</p> <p>2. Indicate in column (b) the beginning of the year total of accounts 714, 744, 762 and 786 applicable to each particular item in column (a).</p> <p>3. Indicate in column (c) the net change in accounts 714, 744, 762 and 786 for the net tax effect of timing differences originating and reversing in the current accounting period.</p> <p>4. Indicate in column (d) any adjustments, as appropriate, including adjustments to eliminate or reinstate deferred tax effects (credits or debits) due to applying or recognizing a loss carry-forward or a loss carry-back.</p> <p>5. The total of line 10 in columns (c) and (d) should agree with the total of the contra charges (credits) to account 533, provision for deferred taxes, and account 591, provision for deferred taxes - extraordinary and prior period items, for the current year.</p> <p>6. Indicate in column (e) the cumulative total of columns (b), (c), and (d). The total of column (e) must agree with the total of accounts 714, 744, 762 and 786.</p>					
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2	Accelerated amortization of facilities Sec. 168 I.R.C.				
3	Accelerated amortization of rolling stock, Sec. 184 I.R.C.				
4	Amortization of rights of way, Sec. 185 I.R.C.				
5	Other (Specify)				
6					
7					
8					
9	Investment tax credit See Part III				
10	TOTALS				
<p>Part II</p> <p>Distribution of Tax Expense:</p> <p>11 Account #532</p> <p>12 Account #544</p> <p>13 Account #590</p> <p>14 Other:</p> <p>15</p> <p>16</p> <p>17 Tax Expense for year</p> <p>Note: The amount shown on line 77 should equal line 64 of Schedule 350(a).</p> <p>Part III</p> <p>18 Indicate method elected by carrier, as provided in the Revenue Act of 1971, to account for the investment tax credit:</p> <p>19 Flow-through . . . . . Deferral . . . . .</p> <p>20 If flow-through method was elected, indicate net decrease (or increase) in tax accrual because of investment tax credit \$</p> <p>21 If deferral method was elected, indicate amount of investment tax credit utilized as a reduction of tax liability for current year \$</p> <p>22 Deduct amount of current year's investment tax credit applied to reduction of tax liability but deferred for accounting purposes (\$ )</p> <p>23 Balance of current year's investment tax credit used to reduce current year's tax accrual \$</p> <p>24 Add amount of prior years' deferred investment tax credits being amortized and used to reduce current year's tax accrual \$</p> <p>25 Total decrease in current year's tax accrual resulting from use of investment tax credits \$</p>					

[PR Doc. 75-13255 Filed 5-21-75; 8:45 am]

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# register federal

FRIDAY, MAY 23, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 101

Pages 22529-22821



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## reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

### Rules Going Into Effect Today

NOTE: There are no items eligible for inclusion in the list of RULES GOING INTO EFFECT.

### List of Public Laws

NOTE: No acts approved by the President were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

**ATTENTION:** Questions, corrections, or requests for information regarding the contents of this issue only may be made by dialing 202-523-5286. For information on obtaining extra copies, please call 202-523-5240. To obtain advance information from recorded highlights of selected documents to appear in the next issue, dial 202-523-5022.

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## presidential documents

### Title 3—The President

PROCLAMATION 4375

### Prayer for Peace

Memorial Day, May 26, 1975

*By the President of the United States of America*

#### A Proclamation

At the height of the Civil War, President Lincoln proclaimed at a battlefield cemetery "that we here highly resolve that these dead shall not have died in vain." Shortly after that tragic war, a day was set aside each year to honor those who gave their lives.

Over 100 years have passed since that simple but moving ceremony at Gettysburg. There have been many Memorial Days, and many more Americans have died in defense of what we believe in. As Thomas Paine said, "Those who would reap the blessings of freedom must . . . undergo the fatigue of supporting it." Today, because of the sacrifice and courage of American men and women, we are a free Nation at peace.

Let us dedicate ourselves today, and every day, to honoring those valiant Americans who died in service to their country. Let us gain strength from their sacrifice and devote ourselves to the peaceful pursuits which freedom allows and progress demands.

With faith in ourselves, future Memorial Days will find us still united in our purpose. Let us join together in working toward the greatest memorial we can construct for those who lay down their lives for us—a peace so durable that there will be no need for further sacrifices.

In recognition of those Americans to whom we pay tribute today, the Congress, by joint resolution of May 11, 1950 (64 Stat. 158), has requested that the President issue a Proclamation calling upon the people of the United States to observe each Memorial Day as a day of prayer for permanent peace and to designate a period during that day when the people of the United States might unite in prayer.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, do hereby designate Memorial Day, Monday, May 26, 1975, as a day of prayer for permanent peace, and I designate the hour beginning in each locality at 11 o'clock in the morning of that day as a time to unite in prayer.

I urge all of America's news media to assist in this observance.

I direct that the flag of the United States be flown at half-staff until noon on Memorial Day on all buildings, grounds, and naval vessels of

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## THE PRESIDENT

the Federal Government throughout the United States and all areas under its jurisdiction and control.

I also call upon the Governors of the fifty States, the Governor of the Commonwealth of Puerto Rico, and appropriate officials of all local units of government to direct that the flag be flown at half-staff on all public buildings during the customary forenoon period; and I request the people of the United States to display the flag at half-staff from their homes for the same period.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of May, in the year of our Lord nineteen hundred seventy-five, and of the Independence of the United States of America the one hundred ninety-ninth.

*Gerald R. Ford*

[FR Doc. 75-13804 Filed 5-22-75; 11:27 am]

## THE PRESIDENT

22531

Executive Order 11861

May 21, 1975

## Placing Certain Positions in Levels IV and V of the Executive Schedule

By virtue of the authority vested in me by section 5317 of title 5 of the United States Code, it is ordered as follows:

SECTION 1. The following offices and positions are placed in level IV of the Executive Schedule:

- (1) Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare.
- (2) Director, National Institutes of Health, Department of Health, Education, and Welfare.
- (3) Administrator, Health Services Administration, Department of Health, Education, and Welfare.
- (4) Director, United States Secret Service, Department of the Treasury.
- (5) Associate Directors, (4) Office of Management and Budget, Executive Office of the President.
- (6) Director of Telecommunications and Command Control Systems, Department of Defense.
- (7) Principal Deputy Director of Defense Research and Engineering, Department of Defense.
- (8) Deputy Under Secretary for International Labor Affairs, Department of Labor.
- (9) Deputy Under Secretary, Department of Transportation.
- (10) Assistant to the Secretary for Congressional Affairs, Department of Commerce.
- (11) Special Prosecutor, Department of Justice.
- (12) Associate Attorney General, Department of Justice.
- (13) Adviser to the Secretary (Counselor, Economic Policy Board), Department of the Treasury, to terminate effective June 1, 1975.

SEC. 2. The following offices and positions are placed in level V of the Executive Schedule:

- (1) Principal Deputy Assistant Secretary of Defense (Comptroller), Department of Defense.
- (2) Deputy Assistant Secretary of Defense for Reserve Affairs, Department of Defense.
- (3) Assistant Secretary, Comptroller, Department of Health, Education, and Welfare.

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(4) Deputy Commissioner of Social Security, Department of Health, Education, and Welfare.

(5) Commissioner on Aging, Department of Health, Education, and Welfare.

(6) Deputy Director, United States Secret Service, Department of the Treasury.

(7) Assistant to the Secretary and Director, Office of Revenue Sharing, Department of the Treasury.

(8) Commissioner, Automated Data and Telecommunications Service, General Services Administration.

(9) Associate Administrator for Federal Management Policy, General Services Administration.

(10) Principal Deputy Assistant Secretary (International Security Affairs), Department of Defense.

(11) Executive Director, Pension Benefit Guaranty Corporation, Department of Labor.

(12) Administrator for Pension and Welfare Benefits, Department of Labor.

SEC. 3. Nothing in this order shall be deemed to terminate or otherwise affect the appointment, or to require the reappointment, of any occupant of any position listed in section 1 or section 2 of this order who was the occupant of that position immediately before the issuance of this order.

SEC. 4. Executive Order No. 11768 of February 20, 1974, as amended, is hereby superseded.

*Gerard R. Ford*

THE WHITE HOUSE,  
May 21, 1975.

[FR Doc.75-13708 Filed 5-21-75;1:51 pm]

## rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

### Title 5—Administrative Personnel CHAPTER I—CIVIL SERVICE COMMISSION PART 213—EXCEPTED SERVICE Department of Agriculture

Section 213.3313 is amended to show that one additional position of Assistant to the Administrator, Rural Electrification Administration, is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER, § 213.3313(b) (4) is revised as set out below:

#### § 213.3313 Department of Agriculture.

- (b) Rural Electrification Administration.
- (4) Two Assistants to the Administrator.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-58, Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc.75-13537 Filed 5-22-75;8:45 am]

### PART 213—EXCEPTED SERVICE Department of Commerce

Section 213.3114 is amended to show that one additional position of Company Officer at the U.S. Merchant Marine Academy is excepted under Schedule A and to reflect titles of positions reflecting the present organization of the Academy.

Effective on publication in the FEDERAL REGISTER, § 213.3114 (h) (10) and (h) (11) are revised as set out below:

#### § 213.3114 Department of Commerce.

- (h) Maritime Administration. . . .
- (10) U.S. Merchant Marine Academy positions of: Professors, Instructors, and Teachers; including heads of Departments of Physical Education and Athletics Shipboard Training, Humanities, Computer Science, Mathematics and Science, Maritime Law and Economics and Engineering; the Commandant of Midshipmen; the Assistant Commandant of the Midshipmen, Director of Music and the Drill Activities Officers.
- (11) U.S. Merchant Marine Academy positions of: the Superintendent, the As-

stant Superintendent for Planning; Dean; Registrar; one Educational Specialist (Director of Admissions) and one Assistant Director of Admissions; Assistant Dean.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc.75-13539 Filed 5-22-75;8:46 am]

### PART 213—EXCEPTED SERVICE Department of Commerce

Section 213.3314 is amended to show that one additional position of Confidential Assistant to the Deputy Assistant Secretary for International Commerce, Office of the Assistant Secretary for Domestic and International Business, is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER, § 213.3314(m) (18) is revised as set out below:

#### § 213.3314 Department of Commerce.

- (m) Office of the Assistant Secretary for Domestic and International Business. . . .
- (18) Two Confidential Assistants to the Deputy Assistant Secretary for International Commerce.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc.75-13538 Filed 5-22-75;8:45 am]

### PART 213—EXCEPTED SERVICE Federal Maritime Commission

Section 213.3367 is amended to show that the title of one Position of Private Secretary to the Chairman has been changed to Administrative Assistant to the Chairman.

Effective on publication in the FEDERAL REGISTER, § 213.3367(b) is revised as set out below:

### § 213.3367 Federal Maritime Commission.

- (b) One Administrative Assistant to the Chairman, one Private Secretary to each Commissioner, one Private Secretary to the General Counsel, and one Private Secretary to the Managing Director. (5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc.75-13540 Filed 5-22-75;8:45 am]

### Title 7—Agriculture

### CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

### SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 4]

### PART 731—CLOSING DATES FOR TRANSFER, AND FOR RELEASE AND REAPPORTIONMENT

#### Cotton and Peanuts

This amendment is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.). The purpose of this amendment is to change the closing dates for transfer and for release and reapportionment of cotton and peanuts.

Since farmers need to know the dates for effecting transfers, release and reapportionment of 1975 marketing quotas and farm acreage allotments as soon as possible, it is hereby determined that compliance with the notice, procedure, and effective date provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest, and this document shall become effective May 23, 1975.

The regulations for establishing closing dates for transfer and for release and reapportionment under Part 731 (37 FR 28124, 39 FR 7416, 39 FR 15759 and 40 FR 14602) are amended by changing the closing dates in § 731.2 for Georgia, Mississippi, North Carolina, Tennessee, and Texas as follows:



## § 731.2 Closing dates.

State	Closing dates for transfer by lease, sale, or owner (except rice and tobacco); release and reapportionment requests	Final date for reapportionment
(1)	(2)	(3)
Georgia (peanuts).	February 28.	1 month following applicable closing dates for transfer, release, and reapportionment.
Georgia (cotton).	March 31.	
Mississippi.	March 31.	Do.
North Carolina (zone 1).	March 10.	Do.
North Carolina (zone 2).	April 1.	Do.
North Carolina (cotton).	April 11.	Do.
Tennessee (cotton, peanuts, and rice).	April 30.	Do.
Tennessee (tobacco).	June 25.	Do.
Texas (zone 1).	April 1.	Do.
Texas (zone 2).	May 1.	Do.

<sup>1</sup> For commodities other than cotton. For listing of counties see 37 FR 28124.  
<sup>2</sup> For cotton in both zone 1 and zone 2.  
<sup>3</sup> For counties see 10 FR 11002.

(Secs. 313, 316, 318, 319, 344, 344a, 347, 353, 358, 358a, 375, 378, 52 Stat. 47, as amended, 75 Stat. 469, as amended, 81 Stat. 120, as amended, 85 Stat. 23, 52 Stat. 57, as amended, 79 Stat. 1197, as amended, 52 Stat. 59, as amended, 52 Stat. 81, as amended, 55 Stat. 88, as amended, 81 Stat. 856, as amended, 52 Stat. 66, as amended, 72 Stat. 995, as amended; 7 U.S.C. 1313, 1314b, 1314d, 1314e, 1344, 1344b, 1347, 1353, 1358, 1358a, 1375, 1378)

Effective date: May 23, 1975.

Signed at Washington, D.C., on May 12, 1975.

GLENN A. WEIR,  
 Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.75-13594 Filed 5-22-75; 8:45 am]

# CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 693]

## PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

### Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period May 25-31, 1975. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was ar-

vised at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

### § 910.993 Lemon Regulation 693.

(a) Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

(i) The Committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons will be strong this week due to warm weather over a large portion of the country. Average f.o.b. price was \$6.23 per carton the week ended May 17, 1975, compared to \$6.20 per carton the previous week. Track and rolling supplies at 130 cars were down 20 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to

submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on May 20, 1975.

(b) Order. (1) The quantity of lemons grown in California and Arizona which may be handled during the period May 25, 1975 through May 31, 1975, is hereby fixed at 300,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: May 21, 1975.

CHARLES R. BRADER,  
 Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.75-13805 Filed 5-22-75; 11:32 am]

### [Plum Reg. 11]

## PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

### Regulation by Grades and Sizes

This regulation requires that all California plums grade U.S. No. 1 grade except that additional tolerances for defects not considered serious, including healed cracks, and gum spots, are permitted for specified varieties. It also establishes minimum size requirements for certain specified varieties in terms of the maximum permissible number of plums in an eight-pound sample. This action is necessary to assure that the plums shipped will be of suitable quality and size in the interest of consumers and producers.

Findings. (1) Pursuant to the amended marketing agreement and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in the State of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the Plum Commodity Committee, established under the

aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of plums, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) This regulation is based upon the appraisal of the current and prospective market conditions for California plums. The committee estimates that 8,061,000 packages of plums will be available for shipment in the 1975 season compared with actual shipment of 9,998,000 packages last season. Peach production in the nine southern states is forecast at 23 percent more than last year. Industry reports indicate that 1975 shipments of fresh California peaches will be about three percent larger than last year. California nectarine shipments are estimated at nearly 10 percent less than last year. Such peaches and nectarines provide strong competition to California fresh plums. The grade and size requirements hereinafter set forth are necessary to prevent the handling of California plums of a lower grade or smaller size than specified herein for such plums so as to provide good quality fruit in the interest of producers and consumers pursuant to the declared policy of the act.

(3) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that, as hereinafter set forth, the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than May 24, 1975. A reasonable determination as to the supply of, and the demand for, such plums, which are currently regulated pursuant to Plum Regulation 10 (39 FR 18090, 23987) must await the development of the crop thereof, and adequate information thereof was not available to the Plum Commodity Committee until May 7, 1975, on which date an open meeting was held, after giving due notice thereof, to consider the need for, and the extent of, regulation of shipments of such plums. Interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified was promptly submitted to the Department on May 9, 1975; shipments of the current crop of such plums are expected to begin on or about the effective date hereof; this regulation should be applicable to all such shipments during the period hereinafter specified in order to effectuate the declared policy of the act; the provisions of this regulation are identical with the aforesaid recommendation

of the committee, information concerning such provisions and effective time has been disseminated among handlers of such plums; and compliance with the provisions of this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

### § 917.438 Plum Regulation 11.

(a) Order. During the period May 24 through July 7, 1975, no handler shall ship any lot of packages or containers of any plums, other than the varieties named in paragraph (b) hereof, unless such plums grade at least U.S. No. 1.

(b) During the period May 24 through July 7, 1975, no handler shall ship:

(1) Any lot of packages or containers of Tragedy or Kelsey plums unless such plums grade at least U.S. No. 1, with a total tolerance of 10 percent for defects not considered serious damage in addition to the tolerances permitted by such grade; or

(2) Any lot of packages or containers of Angelino, Andy's Pride, Bee Gee, Casselman, Empress, Fresno Rosa, Grand Rosa, Improved Late Santa Rosa, Late Santa Rosa, Linda Rosa, Red Rosa, Rosa Grande, Roysum, and Swall Rosa plums unless such plums grade at least U.S. No. 1, except that healed cracks emanating from the stem end which do not cause serious damage shall not be considered as a grade defect with respect to such grade; or

(3) Any lot of packages or other containers of Late Tragedy plums unless such plums grade at least U.S. No. 1, except that gum spots which do not cause serious damage shall not be considered as a grade defect with respect to such grade.

(c) During the period May 24 through July 7, 1975, no handler shall ship any package or other container of any variety of plums listed in Column A of the following Table I unless such plums are of a size that an eight-pound sample, representative of the sizes of the plums in the package or container, contains not more than the number of plums listed for the variety in Column B of said table.

TABLE I

Column A Variety	Column B Plums-per-sample
Ace	55
Amazon	64
Andy's Pride	69
Angelino	67
Autumn Rosa	72
Beauty	91
Bee Gee	65
Burmosa	60
Casselman	63
Duarte	62
El Dorado	68
Elephant Heart	53
Emily	59
Empress	57
Friar	56
Frontier	61
Grand Rosa	54
July Santa Rosa	69
Kelsey	47
Laroda	58
Late Duarte	60

Column A Variety	Column B Plums-per-sample
Late Santa Rosa (including Improved Late Santa Rosa and Swall Rosa)	64
Late Tragedy	93
Linda Rosa	63
Mariposa	61
Nubiana	56
President	57
Queen Ann	50
Queen Rosa	53
Red Beaut	91
Red Rosa	64
Red Roy	58
Rosa Grande	63
Roysum	80
Santa Rosa	69
Sim-ka, Arrosa, New Yorker	48
Standard	83
Tragedy	114
Wickson	51

(d) Plum Regulation 10 (39 FR 18090, 23987) is hereby terminated as of the effective date hereof.

(e) When used herein, "U.S. No. 1" and "serious damage" shall have the same meaning as set forth in the United States Standards for Fresh Plums and Prunes (7 CFR 51.1520-1538); and all other terms shall have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: May 20, 1975.

CHARLES R. BRADER,  
 Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.75-13593 Filed 5-22-75; 8:45 am]

## CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

### SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1970 and Subsequent Crops Rice Supplement, Amdt. 8]

## PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

### Subpart—1970 and Subsequent Crops, Rice Loan and Purchase Program

#### COMPLIANCE REQUIREMENTS

The regulations issued by the Commodity Credit Corporation (CCC), which appear at 35 FR 8443 and 8873, as amended by 37 FR 8060, and which contain the Regulations Governing 1970 and Subsequent Crops Rice Loan and Purchase Program, are hereby amended as follows:

Section 1421.303 is amended to define a rice producer and to provide that a rice producer, in order to be eligible for loans and purchases, must be in compliance with the rice acreage allotment for any farm on which he has a producer interest. As the 1975 crop of rice is now being planted in certain parts of the country, and producers need to know the compliance requirements for loan eligibility, it is impracticable and contrary to the public interest to follow the notice of proposed rulemaking procedure with respect



to this amendment. The amended section reads as follows:

**§ 1421.303 Compliance requirements.**

(a) *Definition of rice producer.* A producer, for loan and purchase eligibility, shall be considered as a rice producer when he actively participates in the farming operations necessary to produce and harvest a crop of rice on the farm and shares in a predetermined and fixed portion of the rice crop or the proceeds therefrom by virtue of furnishing all or part of the land on which the rice is being produced or the labor, water, or equipment necessary to produce and harvest the crop.

(b) *Eligibility for loans and purchases.* An eligible producer, for loan and purchase purposes, shall be a rice producer on whose farm the rice acreage allotment, which was established for the farm under the provisions of the Rice Acreage Allotment Regulations of Part 730 of this title, has not been knowingly exceeded. If a producer has an interest in a rice crop produced on more than one farm, he must also be in compliance with the acreage allotment on each other farm in which he has an interest.

(Secs. 4, 5, 62 Stat. 1070, as amended; secs. 101, 401, 408, 63 Stat. 1051, as amended; 15 U.S.C. 714 b and c; 7 U.S.C. 1421, 1441, 1428)

Effective date: May 23, 1975.

Signed at Washington, D.C. on May 12, 1975.

GLENN A. WEIR,  
Acting Executive Vice President,  
Commodity Credit Corporation.

[FR Doc.75-13595 Filed 5-22-75; 8:45 am]

**CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE**

**SUBCHAPTER D—GUARANTEED LOANS**  
[FmHA Instructions 449.1 and 449.2]

**PART 1842—BUSINESS AND INDUSTRIAL LOANS**  
**Interest Rates**

Section 1842.23, Part 1842, Title 7, Code of Federal Regulations (39 FR 34263; 39 FR 36852), is amended to add paragraph (e) to this section to provide that the interest rate for insured loans will be the interest rate in effect at the time the loan is approved or closed whichever is lower. This amendment is not issued for proposed rulemaking because pending loan applications would be delayed and such delay would be contrary to the public interest. Interested persons are invited, however, to submit written comments, suggestions, or objections regarding this amendment to the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6315, South Building, Washington, D.C. 20250, on or before June 15, 1975. Comments thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal. All written submissions made pursuant to this notice will be made available for public

inspection at the Office of the Chief, Directives Management Branch during regular business hours (8:15 a.m. to 4:45 p.m.).

As added, § 1842.23(e) reads as follows:

**§ 1842.23 Interest rate to the borrower.**

(e) The interest rate for insured loans will be the rate in effect at the time the loan is approved or at the time the loan is closed, whichever is lower.

(7 U.S.C. 1866; delegation of authority by the Sec. of Agr., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

*Effective date.* This amendment is effective May 23, 1975.

Dated: May 16, 1975.

FRANK B. ELLIOTT,  
Administrator,  
Farmers Home Administration.

[FR Doc.75-13596 Filed 5-22-75; 8:45 am]

**Title 13—Business Credit and Assistance**  
**CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE**

**PART 311—NONDISCRIMINATION**  
**Grant and Loan Program**

Part 311 of Chapter III of Title 13 of the Code of Federal Regulations is hereby amended.

In that the material contained herein is a matter relating to the grant and loan program of the Economic Development Administration and because a delay in implementing these regulations would be contrary to the public interest, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking and opportunity for public participation and delay in effective date are inapplicable.

The purpose of this amendment is to make a technical change concerning minority representation on county or multicounty planning organizations.

1. Section 311.60 is revised to read as follows:

**§ 311.60 Purpose.**

This subpart sets forth EDA requirements for the participation of minority persons on district organizations, on county and multicounty planning organizations, and on OEDP committees; except, the provisions of this subpart shall not apply to Title IX grants made to county or multicounty planning organizations during Fiscal Year 1975. This subpart establishes minimum minority representation requirements and implementation procedures for the selection and approval of minority representatives on such organizations and committees and also establishes affirmative action program requirements for the employment of minority persons on the staff of such organizations. Where State laws or regulations preclude the degree of minority representation required by this subpart, EDA will consult with the in-

dividual planning and development organizations and OEDP committees and determine the means to effect meaningful involvement of minorities.

*AUTHORITY:* Sec. 701, Pub. L. 89-136 (August 28, 1965); 42 U.S.C. 3211; 79 Stat. 570 and Department of Commerce Organization Order 10-4 (April 1, 1970) as amended (35 FR 5970 as amended at 40 FR 12532).

*Effective date:* This amendment becomes effective on May 20, 1975.

*Date:* May 5, 1975.

WILMER D. MIZELL,  
Assistant Secretary  
for Economic Development.

[FR Doc.75-13530 Filed 5-22-75; 8:45 am]

**PART 313—JOB OPPORTUNITIES PROGRAM**

**Interim Regulations**

The Economic Development Administration hereby publishes interim regulations to amend Title 13 of the Code of Federal Regulations by adding a new Part 313.

These regulations describe procedures by which allocations and funds are made available under the Job Opportunities Program as established by Title X of the Public Works and Economic Development Act of 1965, as amended by Pub. L. 93-567.

Part 313 consists of two subparts. Subpart A deals with general program requirements and allocation procedures for the Department of Commerce for Title X. Subpart B which will be published at a later date will cover the requirements for programs or projects which are eligible for Title X assistance under allocations made by the Department of Commerce to the Economic Development Administration.

Although Title X was enacted on December 31, 1974, there have not, as yet, been any allocations under its provisions. Funds to implement it were not made available until April 11, 1975, because of pending recommendations by the Executive branch for alternative use. In addition, the original recommendations submitted by agencies under § 1004 were considered too numerous for the available funds, and in some instances lacked adequate description. These recommendations were returned to the submitting agencies for further clarification and refinement. It is expected that all recommendations will have been resubmitted by the date of publication of these Interim Regulations.

In that the material contained herein is a matter relating to the grant and loan program of the Economic Development Administration and because a delay in implementing these regulations would be contrary to the public interest, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date are inapplicable.

However, in accordance with the spirit of the public policy set forth in 5 U.S.C. 553 interested persons may submit writ-

ten comments or suggestions to the Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230 by June 2, 1975. All suggestions will be considered in revising or amending the interim regulations.

Consideration has been given as to whether matters set forth in these regulations constitute a major proposal with an inflationary impact within the meaning of OMB Circular A-107 and interpretative guidelines as issued by the Department of Commerce. It has been determined that these regulations do not constitute action requiring an inflationary impact statement.

Accordingly, the Interim Regulations shall read as follows:

**Subpart A—Program Description and Allocation of Funds**

**Sec.**

**313.1 Purpose.**

**313.2 Definitions.**

**313.3 Recommendations for the allocation of funds for job producing programs and projects.**

**313.4 Final approval of allocations.**

**313.5 Program review and request for funds.**

**313.6 Eligibility of programs and projects.**

**313.7 Criteria for allocation of funds.**

**313.8 Limitations.**

*AUTHORITY:* Sec. 701 and 1006, Pub. L. 89-136 (August 28, 1965); 42 U.S.C. 3211; 79 Stat. 570; as amended by Pub. L. 93-567 (December 31, 1974); and Department of Commerce Organization Order 10-4 (April 1, 1970) as amended (35 FR 5970 as amended at 40 FR 12532).

**Subpart A—Program Description and Allocation of Funds**

**§ 313.1 Purpose.**

The purpose of this subpart is to set forth the general requirements and procedures pursuant to which the several eligible Federal programs and projects may receive financial assistance under the Job Opportunities Program established by Title X of the Public Works and Economic Development Act of 1965, as amended by Pub. L. 93-567. Requirements that apply only to EDA programs or projects which are eligible for financial assistance under this part are contained in Subpart B.

**§ 313.2 Definitions.**

(a) "Eligible Area" as used in this part means:

(1) any area which the Secretary of Labor designates as an area which has a rate of unemployment equal to or in excess of 6.5 percent for three consecutive months; or

(2) any area designated pursuant to § 204(c) of the Comprehensive Employment and Training Act of 1973; or

(3) any area designated by the Assistant Secretary pursuant to section 401 of the Public Works and Economic Development Act of 1965, as amended, as a redevelopment area.

**§ 313.3 Recommendation for the allocation of funds for job producing programs and projects.**

(a) The Assistant Secretary may recommend that funds be allocated to de-

partments, agencies, and instrumentalities of the Federal Government and to regional commissions established by section 101 of the Appalachian Regional Development Act of 1965 or pursuant to section 502 of the Public Works and Economic Development Act of 1965, as amended, for use in funding programs and projects eligible under existing program authorities and qualifying under § 313.6 in order to expand or accelerate the job creating impact of such programs or projects for unemployed persons in eligible areas.

(b) No program or project eligible for assistance may be approved until the officials of the appropriate units of general government in the affected area have an adequate opportunity to comment on the specific proposal.

**§ 313.4 Final approval of allocations.**

Final approval of allocations of funds to the several Federal programs implementing Title X of the Act shall be reserved to the Secretary pursuant to paragraph 3 of Amendment 1 of Department of Commerce Organization Order 10-4.

**§ 313.5 Program review and request for funds.**

(a) Each department, agency or instrumentality of the Federal Government and each regional commission established by § 101 of the Appalachian Regional Development Act of 1965 or by § 502 of the Public Works and Economic Development Act of 1965, as amended, shall:

(1) complete a review of its budget, plans and programs including State, sub-state and local development plans filed with such department, agency or commission;

(2) evaluate the job creation effectiveness of programs and projects for which funds are proposed to be obligated in calendar year 1975 and additional programs and projects for which funds could be obligated in such year with Federal financial assistance under this part;

(3) submit to the Assistant Secretary recommendations for programs and projects which have the potential to stimulate the creation of jobs for unemployed persons in eligible areas, together with appropriate requests for the funds needed for each program or project.

(b) Within 30 days of receipt the Assistant Secretary and the Secretary of Labor shall jointly review such recommendations and fund requests to determine eligibility under § 313.6.

(c) Subject to the final approval of the Secretary, the Assistant Secretary then shall, after consultation with appropriate departments, agencies and instrumentalities of the Federal Government or regional commissions, make allocations of funds to eligible programs and projects in accordance with the priority criteria set forth in § 313.7.

**§ 313.6 Eligibility of programs and projects.**

Funds allocated or utilized by the Assistant Secretary shall be available only for programs or projects which the Assistant Secretary and the Secretary of

Labor shall jointly determine are programs or projects:

(a) which will contribute significantly to the reduction of unemployment in the area;

(b) which can be initiated or strengthened promptly;

(c) with respect to which a substantial portion can be completed within 12 months after such allocation is made;

(d) which are not inconsistent with locally approved comprehensive plans for the jurisdiction affected, whenever such plans exist; and

(e) which will be approved giving first priority to programs and projects which are most labor intensive.

**§ 313.7 Criteria for allocation of funds.**

(a) In addition to the eligibility criteria outlined in § 313.6, the Assistant Secretary, in allocating or utilizing funds under this part, shall assure that priority consideration is given to:

(1) The severity of unemployment in the area; and

(2) The appropriateness of the proposed activity in relating to the number and needs of unemployed persons in eligible areas.

(b) Funds will be allocated on a competitive basis to those applicants which best satisfy the eligibility factors in § 313.6 and the criteria in paragraph (a) of this section.

(c) In making allocations of funds the Assistant Secretary may require such terms and conditions for utilization of these funds as he determines are necessary to carry out the purpose of Title X of the Public Works and Economic Development Act of 1965, as amended.

**§ 313.8 Limitations.**

A minimum of 50% of Part 313 funds shall be used for programs and projects in which no more than 25% of the funds will be used for non-labor costs.

(a) Programs and projects receiving funds which are made available by the Assistant Secretary under this subpart shall be administered by the head of the department, agency or instrumentality of the Federal Government authorized to administer such project or program. All provisions of law authorizing and regulating such programs and projects shall be applicable except provisions:

(1) Requiring allocation of funds among the States;

(2) Limiting the total amount of such grants for any period; or

(3) Relating to the Federal contribution to any State or local government, whenever the President or head of such department, agency, or instrumentality of the Federal Government determines that any non-Federal contribution cannot reasonably be obtained by the State or local government concerned.

(b) Subject to available projects submitted by departments, agencies and instrumentalities of the Federal Government and regional commissions, the Assistant Secretary shall, in making allocations, ensure that Title X funds are equitably distributed to urban and rural areas. Approximately 60 percent, but not less



than 45 percent, of the available funds shall be allocated to projects in urban areas. Approximately 40 percent, but not less than 30 percent of such funds shall be allocated to projects in rural areas.

(c) Programs and projects receiving funds which are made available by the Assistant Secretary under this part shall be initiated within a reasonable time period which shall be specified by the Assistant Secretary. If a program or project has not been initiated within the time period specified, the funds for such program or project shall be returned to the Assistant Secretary for reallocation.

**Effective date.** This interim regulation becomes effective on April 11, 1975.

Dated: May 16, 1975.

WILMER D. MIZEL,  
Assistant Secretary  
for Economic Development.

[FR Doc. 75-13623 Filed 5-22-75; 8:45 am]

#### Title 14—Aeronautics and Space

#### CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75-GL-6; Amdt. 39-2216]

#### PART 39—AIRWORTHINESS DIRECTIVES

##### Hartzell Propellers

Amendment 39-2136 (40 FR 12772), AD 75-07-05 requires inspection, and repair or replacement of certain propeller blades on the Hartzell HC-C2YK-1( ) series propellers. After issuing Amendment 39-2136, the agency determined that further clarification of the applicable type blades, propeller models and serial number designations was necessary. Therefore, the Airworthiness Directive is being amended to preclude any misunderstanding about the identification of these items.

Since this amendment provides a clarification only and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697 and 14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-2136 (40 FR 12772), AD 75-07-05, is amended by inserting the following applicability statement in lieu of the present statement:

Applies to all Hartzell ( ) 7666( ) type blades (with or without an "A" suffix letter) with any serial number preceding C38994 (i.e., all blades with serial numbers without a prefix letter and those with "A", "B" and "C" prefix letters thru serial number C38993). These blades are used on, but not limited to the Model ( ) HC-C2YK-1( ) ( ), HC-C2YK-2( ) ( ), and HC-C2YK-4( ) ( ) series propellers. These propellers are installed on, but not limited to Pitts S-2A, Piper PA-28-180 (STC SA2213 WE), PA-28R-180, Piper PA-28R-200, Piper PA-34-200 and Mooney M20( ) series aircraft models. Those blades only used with Hartzell HC-C2YK-2(-G)( ) damper type propellers (hub model designation with "G" suffix letter) are excluded.

This amendment becomes effective May 30, 1975.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Des Plaines, Illinois on May 16, 1975.

R. O. ZIEGLER,  
Acting Director,  
Great Lakes Region.

[FR Doc. 75-13521 Filed 5-22-75; 8:45 am]

[Airworthiness Docket No. 75-WE-35-AD; Amdt. 39-2215]

#### PART 39—AIRWORTHINESS DIRECTIVES

##### McDonnell Douglas Model DC-9 Series Airplanes, Certificated in All Categories, Including Military C-9A, C-9B Airplanes

There has been a report of an incident wherein the nose landing gear could not be extended by means of the manual release system—the airplane made an emergency landing with the nose gear retracted. It was determined that accumulated liquids in the nose landing gear emergency uplock release mechanism pressure can, P/N 9910073-87, had frozen and prevented operation of the release mechanism and subsequent extension of the nose gear. The manufacturer issued Service Bulletin S/B 53-91 to operators of Model DC-9 and Military C-9A and C-9B airplanes, which provides instructions for retrofit of a pressure can cover, P/N 9910073-281, permanent removal of the can drain plug, P/N NAS 1103-1, and, at the operator's option, removal of the nutplate, to preclude accumulation of liquids and/or the formation of ice. The agency has determined that the modification, described in Douglas Service Bulletin S/B 53-91, dated March 28, 1969, or later FAA-approved revision is an approved modification and must be accomplished. Production airplanes, P/N 460 and subsequent, incorporate the cover, P/N 9910073-281, and retain the 190/194 DIA. drain hole; the nutplate has been eliminated.

Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require modification of the pressure can (including removal of the nutplate) per the manufacturer's instructions specified in Service Bulletin 53-91, a one-time-only initial visual inspection, interim repetitive visual checks pending accomplishment of the modification, and terminating action.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedures hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

McDONNELL DOUGLAS, Applies to Model DC-9 series airplanes, certificated in all categories, including Military C-9A and C-9B airplanes, listed in Douglas Service Bulletin No. 53-91, Revision 1, dated October 9, 1969, or later FAA-approved revisions.

Compliance required as indicated. To prevent possible restriction of operation of the nose landing gear manual release system, as the result of the accumulation of liquids and formation of ice in the nose landing gear emergency uplock release mechanism pressure can, P/N 9910073-87, accomplish the following:

- (a) Within 12 flight hours time in service after the effective date of this AD, unless already accomplished:
- (1) Permanently remove the pressure can drain plug, P/N NAS 1103-1; and,
- (2) Inspect for and drain any liquid.
- (b) Thereafter, check once daily while in service, until (c), below, is accomplished, to ascertain that the drainhole is clear.
- (c) Within the next 1600 hours time in service after the effective date of this AD, unless already accomplished:

Modify the nose landing gear emergency uplock release mechanism pressure can, P/N 9910073-87, in accordance with the instructions in Douglas Service Bulletin 53-91, dated March 28, 1969, or later FAA-approved revisions, or an equivalent means approved by the Chief, Aircraft Engineering Division, FAA Western Region.

Note: The drain plug nutplate, listed in S/B 53-91, as an optional removal item, must be permanently removed per the requirements of this AD.

(d) The requirements of this AD may be terminated when (c), above has been accomplished.

This amendment becomes effective May 29, 1975.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Los Angeles, California on May 15, 1975.

ROBERT H. STANTON,  
Director,  
FAA Western Region.

[FR Doc. 75-13520 Filed 5-22-75; 8:45 am]

[Docket No. 75-NE-23; Amdt. 39-2217]

#### PART 39—AIRWORTHINESS DIRECTIVES

##### Sikorsky S-64E and S-64F Helicopters

Pursuant to the authority delegated to me by the Administrator (31 FR 13697), an airworthiness directive was adopted on May 12, 1975, and made effective immediately, before further flight, as to all known United States operators of Sikorsky S-64E and S-64F model helicopters. The directive requires removal of the torque-meter engine to gearbox shaft and gear assemblies prior to the accumulation of 3000 hours total time in service due to failure of an index wheel of the torque-meter engine to gearbox shaft and gear assembly which resulted in serious damage to components of the main rotor control system.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the

airworthiness directive effective immediately as to all known United States operators of S-64E and S-64F helicopters by individual telegrams, dated May 12, 1975. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

SIKORSKY AIRCRAFT, Applies to all Sikorsky Aircraft Model S-64E and Model S-64F helicopters. To prevent failure of the torque-meter engine to gearbox shaft and gear assembly and consequent secondary damage to the main rotor control system components, remove prior to further flight, torque-meter engine to gearbox shaft and gear assemblies, P/N 6435-20664-042, with 3000 or more hours total time in service. Replace those assemblies removed with P/N 6435-20664-042 assemblies which have less than 3000 hours total time in service.

This amendment becomes effective on May 23, 1975, for all persons except those to whom it was made effective immediately by telegram.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Burlington, Massachusetts, on May 16, 1975.

QUENTIN S. TAYLOR,  
Director,  
New England Region.

[FR Doc. 75-13519 Filed 5-22-75; 8:45 am]

[Airspace Docket No. 75-SO-52]

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

##### Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Laurinburg, N.C., transition area.

The Laurinburg transition area is described in § 71.181 (40 F.R. 441). In the description, an extension, predicated on the 225° bearing from Rocky Ford RBN, was designated to provide controlled airspace protection for IFR aircraft executing the NDB RWY 5 Instrument Approach Procedure. Effective June 12, 1975, the final approach bearing will be changed to 226°. It is necessary to alter the description to reflect this change. Since this amendment is minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., June 12, 1975, as hereinafter set forth.

In § 71.181 (40 F.R. 441), the Laurinburg, N.C., transition area is amended as follows: "... 225° ... " is deleted and "... 226° ... " is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in East Point, Ga., on May 15, 1975.

PHILLIP M. SWATEK,  
Director,  
Southern Region.

[FR Doc. 75-13522 Filed 5-22-75; 8:45 am]

#### Title 20—Employees' Benefits

#### CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 5, further amended]

#### PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

##### Termination of Inpatient Routine Nursing Salary Cost Differential

On April 3, 1975, there was published in the FEDERAL REGISTER (40 FR 14934), a Notice of proposed rule making with a proposed amendment to Subpart D of Regulations No. 5 (20 CFR Part 405), regarding the termination of the inpatient routine nursing salary cost differential. Interested parties were given 30 days in which to submit written comments or suggestions thereon. Comments and suggestions received with regard to this notice of proposed rule making, responses thereto, and changes in the proposed regulation are summarized below.

The notice of proposed rule making pointed out that an inpatient routine nursing salary cost differential to recognize the above-average costs of inpatient routine nursing care furnished to Medicare beneficiaries became effective July 1969. However, since that time, there have been changes in the Medicare law, changes in the way services are furnished, and changes in the way in which Medicare reimburses for routine services, and these changes gave rise to a decision to terminate recognition of this cost differential. One effect of the termination of the inpatient routine nursing salary cost differential will be that Medicaid payments will increase since the Medicare routine nursing cost differential is subtracted from the total allowable route nursing service costs in determining reimbursement for Medicaid patients.

Many who commented requested that additional data be furnished to further explain the changes in the Medicare law and the changes in the way services are furnished which gave rise to the decision to terminate recognition of the inpatient routine nursing salary cost differential.

Pub. L. 92-603, the Social Security Amendments of 1972, 86 Stat. 1329, expanded the scope of Medicare coverage to include certain beneficiaries in the below-age-65 population. As a result, as of January 1975, approximately 8.5 percent of the total number of Medicare beneficiaries were below age 65. Also, it has been estimated that approximately 28 percent of all individuals currently entering on the Medicare rolls are under age 65. Therefore, it can be expected that the ratio of below-age-65 beneficiaries to the total Medicare population will continue to increase. The larger the segment of below-age-65 population that is en-

compassed by the Medicare program, the more appropriate an average inpatient routine nursing cost per day amount for all beneficiaries (excluding recognition of any differential) becomes.

An important change in methods of caring for the intensely ill is illustrated by the increasing numbers of special care beds. Based on available statistics, between 1969, the year that the original differential factor became effective, and 1973, the number of special care beds increased by about 40 percent. Further, the differential was based on statistics obtained in a study done in 1966. As special care units have increased, it has been noted that there is greater utilization of these special care units than of routine care areas by Medicare beneficiaries. For example, recent data indicate that for providers with special care units, the percentage of utilization of these units by Medicare beneficiaries is as much as 18 percent greater than their rate of utilization of routine nursing care units. Some of these findings, among others, led to changes in Medicare cost-apportionment requirements, effective January 1, 1972 (20 CFR 405.452(b)), which authorized, for the first time, separate cost finding and apportionment for care furnished in special care units. Costs in special care units, such as cardiac care units, which are the most common type of such units, are substantially higher than costs in general care areas. Consequently, the separate apportionment for special care units increased Medicare reimbursement to providers for services furnished to the elderly in these units by reflecting directly their above-average use of such units.

Comments were received, objecting to the fact that additional studies to determine the appropriateness of the amount of an inpatient routine nursing salary cost differential had not been completed, as prescribed by regulations. The intent of the regulation section 405.430(c)(1), in prescribing such studies, was to give recognition to the need to review the amount of the cost differential, assuming the appropriateness of its continued applicability. However, the changes described above have so significantly altered the circumstances underlying the initial recognition of the nursing differential that the concept of a cost differential for routine nursing care is considered no longer appropriate.

Many who commented objected to the termination of the cost differential on the grounds that it would result in non-Medicare patients absorbing the costs of providing routine nursing care to Medicare beneficiaries. Medicare cost reimbursement policies and procedures are designed to implement the statutory provision that the program pay its full share of the total reasonable cost (or customary charges, if less) of the provider that is related to the care furnished Medicare beneficiaries. This statutory requirement will not be changed by the termination of the nursing cost differential. Under the authority granted



to the Secretary by statute, to determine which costs are reasonable and related to the efficient delivery of health care to Medicare beneficiaries, the determination has been made that a nursing cost differential is no longer appropriate as an allowable cost and reimbursable cost under the Medicare program.

A number of editorial changes have been made in the interest of clarity. With these changes, the proposed amendment is adopted and set forth below.

(Secs. 1102, 1814(b), 1861(v)(1)(A), 1871, Social Security Act, 49 Stat. 647, as amended, 79 Stat. 266, as amended, 79 Stat. 322, as amended, and 79 Stat. 331; 42 U.S.C. 1302, 1395f(b), 1395x(v)(1)(A), and 1395hh.)

**Effective date:** This regulation will be effective June 23, 1975, and will be effective for cost-reporting periods beginning after June, 1975.

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged—Hospital Insurance.)

Dated: May 13, 1975.

J. B. CARDWELL,  
Commissioner of Social Security.

Approved: May 19, 1975.

CASPAR W. WEINBERGER,  
Secretary of Health,  
Education, and Welfare.

Regulations No. 5 of the Social Security Administration (20 CFR Part 405) is further amended as set forth below:

Section 405.430 is amended by revising paragraphs (a), (c)(1), and (d)(1) and (2), and the title of paragraph (e)(1) to read as follows:

§ 405.430 Inpatient routine nursing salary cost differential.

(a) **Principle.** In recognition of the above-average cost of inpatient routine nursing care furnished to aged patients, an inpatient routine nursing salary cost differential is allowable as a reimbursable cost of a provider after June 30, 1969, and before that provider's first cost-reporting period which begins after June 1975 (the month after publication in the FEDERAL REGISTER). The allowable differential applicable to such inpatient routine nursing salary costs of aged patients for the specified period is reimbursable at the rate of 8½ percent. Recognition of the differential by the health insurance program is accomplished through an inpatient routine nursing salary cost differential adjustment factor as defined in paragraph (b)(8) of this section.

(c) **Application.** (1) In the determination of health insurance inpatient routine service costs, the rate of 8½ percent has been established as the inpatient routine nursing salary cost differential for aged, pediatric, and maternity patients. This inpatient routine nursing salary cost differential is applicable to inpatient routine nursing salary costs incurred by a provider after June 30, 1969, and before that provider's

first cost-reporting period which begins after June 1975 (the month after publication in the FEDERAL REGISTER).

(d) **Effective dates.** (1) **Cost-reporting periods beginning after June 30, 1969, and before July 1975** (the second month after publication in the FEDERAL REGISTER). For cost-reporting periods beginning after June 30, 1969, and before July 1975 (the second month after publication in the FEDERAL REGISTER). The inpatient routine nursing salary cost differential adjustment factor is applicable for the entire reporting period as an element in the computation of the provider's reimbursable cost.

(2) **Cost-reporting periods ending before July 1, 1969, or cost-reporting periods beginning after June 1975** (the month after publication in the FEDERAL REGISTER). For cost-reporting periods ending before July 1, 1969, or cost-reporting periods beginning after June 1975 (the month after publication in the FEDERAL REGISTER). There shall not be included as an element in the computation of the provider's reimbursable costs any inpatient routine nursing salary cost differential adjustment factor.

(e) **Examples.** (1) **Illustration of calculation of differential adjustment factor for a cost-reporting period beginning after June 30, 1969, and before July 1975** (the second month after publication in the FEDERAL REGISTER).

[FR Doc. 75-13621 Filed 5-22-75; 8:45 am]

#### Title 21—Food and Drugs

### CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

#### SUBCHAPTER B—FOOD AND FOOD PRODUCTS

#### PART 37—FISH

#### Canned Pacific Salmon; Order Amending Standards of Identity and Fill of Container

The Commissioner of Food and Drugs is amending the standards of identity (21 CFR 37.10) and fill of container (21 CFR 37.12) requirements for canned Pacific salmon, effective July 22, 1975, except as to any provisions that may be stayed by the filing of proper objections. Objections to this order may be filed on or before June 23, 1975. The Commissioner originally proposed the amendments in a notice of proposed rule making published in the FEDERAL REGISTER of May 29, 1974 (39 FR 18660), to adopt, as far as is practicable, the provisions of the Recommended International Standard for Canned Pacific Salmon (Codex).

Three additional forms of canned salmon are being added to the identity standard—"Minced Salmon," "Salmon Tips or Tidbits," and a "No Salt Added" form. Based on the Codex standard, a sampling plan and related definitions have been added to the present fill of container standard.

One letter from a trade association and one from a consumer organization, each

letter containing five comments, were received in response to the proposal. These comments and the Commissioner's conclusions based on his evaluation of them are as follows:

1. One comment opposed including the optional forms "Minced Salmon" and "Salmon Tips or Tidbits" (§ 37.10 (c)(3) and (c)(4)) until the proper technology for handling the edible parts of the trimmings can be developed. The comment also stated that § 37.10(c) would have to be revised to provide for the use of edible parts of the trimmings.

The Commissioner notes that "Minced Salmon" and "Salmon Tips or Tidbits" are recognized articles of commerce in the world market. The present standard as amended herein is sufficiently broad to embrace present technology, to permit development of improved product technologies, and to provide for use of any edible portions of salmon flesh in the products with appropriate labeling. The Commissioner concludes that it will benefit the consumer and facilitate world trade to provide for these forms of canned salmon at this time.

2. One comment opposed the term "minced" in § 37.10(c)(3), stating that it is not as familiar to the consumer as the term "flaked."

The Commissioner concludes that the term "minced" more accurately describes the form of the salmon product than the term "flaked" and considers the term "minced" appropriate for the product. Consumers are probably most familiar with the term "flaked" as one of the standardized forms of canned tuna. On tuna cans it refers to a mixture of tuna pieces of such size that more than 50 percent of the pieces will pass through a ½-inch mesh screen and also retain the muscular structure of the flesh. The term "minced" refers to finely ground particles.

3. One comment requested that the Codex canned salmon style "No Salt Added" be provided for in the U.S. identity standard. The comment stated in support of this request that about 10,000 to 20,000 cases of unsalted canned salmon are produced each year. The comment explained that the product is provided for in the Interim Federal Specification for Canned Salmon, PP-S-31c, and that the principal recipients of this product are government agencies. Another comment stated that it is misleading to label canned salmon with the words "No Salt Added" because of the implication that the product is a low sodium food. In addition, the comment stated that a regulation should be promulgated stating that it is misleading to emphasize the absence of added salt in a product not naturally low in sodium.

In view of the apparent market for unsalted canned salmon, the Commissioner concludes that it would be in the consumers' interest to permit the label of canned salmon packed without the addition of salt to bear a statement to that effect. Such labeling will not be misleading, provided the label statements required by § 125.9 *Label statements relating to food for use as a means of regu-*

lating the intake of sodium (21 CFR 125.9) appear on the label regarding any statement describing the absence of added salt. The regulation below has been changed accordingly.

The Commissioner also concludes that a regulation for misleading labeling of food products not naturally low in sodium is a separate issue that should be a separate proposal dealing with all food.

4. One comment urged that provision be made for various packing media, such as water, vegetable broth, and a combination of oil and broth.

The Commissioner notes that the natural characteristics of the six species of Pacific salmon are such that the food may be processed without precooking or without the addition of various packing media. The Commissioner concludes that to permit the addition of unnecessary packing media to canned salmon is not in the consumers' interest, and the order does not provide for the use of packing media. Salmon oil added to canned salmon is not considered to be a packing medium because of the very small amounts used (about 3 to 6 ml of oil per can).

5. One comment stated that the last sentence in § 37.10(e)(2) (21 CFR 37.10 (e)(2)) in the present identity standard should be retained. The comment maintained that deletion of the sentence would necessitate making the type size for the form of pack the same size as that for the name of the food.

The Commissioner agrees that the wording in the proposal may be unclear and has reworded the paragraph. He did not intend that the statement of form must be the same size as the words in the name of the food. Accordingly, the regulation has been revised to incorporate by reference the requirements of 21 CFR 1.8(c).

6. One comment asserted that the number of samples required by proposed § 37.12(b) to calculate the average net weight is too large; it would result in economic loss due to the high cost of salmon.

The Commissioner concludes that the basis of the sample size requirement is statistically sound and is necessary to assure the proper average net weight of the product.

7. One comment stated that the incorporation of a sampling plan into the standard should be considered in a separate publication. It also stated that "It is particularly egregious to incorporate a sampling plan into the canned salmon regulation without modifying the acceptable minimum net weights for the various can sizes. Under the existing standard each can must meet the minimum net weight, and so packers must pack above the minimum amounts on the average to assure compliance. By adding the sampling plan without raising the requirements the FDA is allowing a lower average to be packed into each can, a distinct disservice to the consumer."

The Commissioner agrees that the problem of sampling plans is complex; it should not be resolved solely upon the comments of a few persons interested

only in a particular commodity. The sampling plans in the proposed amendment are the result of years of study by many individuals and groups. The applicability of the plans is well established and accepted. Sampling plans are essential to proper determination of compliance with the requirements of a fill of container standard.

The statement in the comment that the applicable provision of the present fill standard requires that each can must meet the minimum fill requirement is in error. The present § 37.12(a) (21 CFR 37.12(a)) states that the standard of fill for canned salmon is based on a 24-can average weight of the contents of the cans making up the sample.

The Commissioner concludes that the proposed amendment of § 37.12(a) is in the consumers' interest, and there is no reason to publish the sampling plan as a separate proposal.

8. One comment opposed the listing of packing oil in the net weight statement of the product and stated that the quantity of contents in the can should be declared on the label as drained weight.

The Commissioner advises that the practice of adding salmon oil to canned salmon is limited to a small percentage of the pack of three species of salmon, usually to ¼- and ½-pound can sizes, and to very small amounts (about 3 to 6 ml of oil per can). The practice is self-limiting for a number of reasons, not the least of which is that the cost of salmon oil is greater than the cost of salmon.

The Commissioner concludes that it is reasonable to include the weight of the added salmon oil in the quantity of contents statement because added salmon oil is an edible part of the food and, since no packing media are permitted, to declare the quantity of contents of canned salmon as net weight.

9. One comment stated that it was assumed that the minimum weight column in the proposed regulation (§ 37.12(a)) giving metric equivalents of the U.S. customary system units is for informational purposes and not required for labeling.

The Commissioner affirms this assumption. At the present time, labeling information in metric units is not required. However, the Commissioner encourages the use of contents declarations in terms of the International (metric) System along with the U.S. customary system.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055-1056, as amended, 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 341, 371)) and under authority delegated to the Commissioner (21 CFR 2.120): *It is ordered*, That 21 CFR Part 37 be amended as follows:

1. In § 37.10 by adding new paragraph (c)(3), (4), and (5) and revising paragraph (e)(2) and (3) to read as follows:

§ 37.10 Canned Pacific salmon; identity.

(c) . . . . .

(3) "Minced Salmon" consists of salmon which has been minced or ground.

(4) "Salmon Tips or Tidbits" consists of small pieces of salmon.

(5) "No Salt Added" consists of canned salmon to which no salt has been added.

(e) . . . . .

(2) (i) Whenever the form of pack is that described in paragraph (c)(2), (3), or (4) of this section, the word or words describing the form of pack shall immediately precede or follow the name of the food without intervening written, printed, or graphic matter in the manner prescribed in § 1.8(c) of this chapter; for example, "red salmon" as the name of the food followed by "skinless and backbone removed."

(ii) Whenever the form of pack is that described in paragraph (c)(5) of this section and words describing the form of pack are declared on the label, the label shall also bear the statements required by § 125.9 of this chapter.

(3) The name of each of the ingredients used shall be declared on the label as required by the applicable sections of Part 1 of this chapter.

2. By revising § 37.12 to read as follows:

§ 37.12 Canned Pacific salmon, fill of container; label statement of standard fill.

(a) The standard of fill of container for canned salmon is a fill including all the contents of the container and is not less than the minimum net weight specified for the corresponding can size in the following table:

I. Can size	II. Minimum net weight
603x405	1,814 kg (64 oz.)
301x411	454 g (16 oz.)
301x408	439 g (15½ oz.)
401x211	439 g (15½ oz.)
607x406x108	439 g (15½ oz.)
301x308	340 g (12 oz.)
307x200.25	220 g (7¾ oz.)
513x307x103	220 g (7¾ oz.)
307x113	181 g (6¾ oz.)
301x108	106 g (3¾ oz.)
407x213x015	106 g (3¾ oz.)

If the can size in question is not listed, calculate the value for Column II as follows: From the list, select as the comparable can size, that one having the nearest water capacity of the can size in question, multiply the net weight listed in Column II by the water capacity of the can size in question, and divide by the water capacity of the comparable can size. Water capacities are determined by the general method provided in § 10.6 (a) of this chapter.

(b) Sampling and acceptance procedure: The sample size of the sample representing the lot will be selected in accordance with the sampling plan shown in paragraph (b)(2) of this section. A lot is to be considered acceptable when the average net weight of all the sample units is not less than the minimum net weight stated in paragraph (a) of this section for the corresponding can size.

(1) Definitions of terms to be used in the sampling plans in paragraph (b)(2) of this section are as follows:



(i) **Lot.** A collection of primary containers or units of the same size, type, and style manufactured or packed under similar conditions and handled as a single unit of trade.

(ii) **Lot size.** The number of primary containers or units in the lot.

(iii) **Sample size (n).** The total number of sample units drawn for examination from a lot.

(iv) **Sample unit.** A container, the entire contents of a container, a portion of the contents of a container, or a composite mixture of product from small containers that is sufficient for examination or testing as a single unit.

(2) Sampling plans:

Lot size (primary containers):	Size of container (n)
4,800 or less	13
4,801 to 24,000	21
24,001 to 48,000	29
48,001 to 84,000	48
84,001 to 144,000	84
144,001 to 240,000	126
Over 240,000	200

<sup>1</sup> Net weight equal to or less than 1 kg. (2.2 lb.).

Lot size (primary containers):	Size of container (n)
2,400 or less	13
2,401 to 15,000	21
15,001 to 24,000	29
24,001 to 42,000	48
42,001 to 72,000	84
72,001 to 120,000	126
Over 120,000	200

<sup>1</sup> Net weight greater than 1 kg. (2.2 lb.) but not more than 4.5 kgs (10 lb.).

(c) If canned salmon falls below the standard of fill of container prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form therein specified.

Any person who will be adversely affected by the foregoing order may at any time on or before June 23, 1975, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

**Effective date.** This order shall become effective on July 22, 1975, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be given by publication in the FEDERAL REGISTER.

(Secs. 401, 701, 52 Stat. 1046, 1055-1056, as amended, 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 341, 371))

Dated: May 15, 1975.

SAM D. FINE,  
Associate Commissioner for  
Compliance.

[FR Doc. 75-13546 Filed 5-22-75; 8:45 am]

**SUBCHAPTER D—DRUGS FOR HUMAN USE**  
**PART 331—ANTACID DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE**  
**PART 332—ANTIFLATULENT PRODUCTS FOR OVER-THE-COUNTER HUMAN USE**  
**Revised Effective Dates**

The Commissioner of Food and Drugs is extending the effective date to September 2, 1975 for labeling of antacid and antiflatulent products not receiving an extension of the effective date for reformulation.

In the FEDERAL REGISTER of June 4, 1974 (39 FR 19862), the Commissioner promulgated a final order for antacid and antiflatulent Over-the-Counter (OTC) products generally recognized as safe and effective and not misbranded. Paragraph 82 of the preamble of that order states that the Commissioner concluded that it was reasonable to establish the following conditions for the effective date of the final monograph: "The effective date of the monograph will be July 5, 1974, with the following exceptions. The effective date for all labeling for products not receiving an extension of the effective date for reformulation shall be June 5, 1975. Where reformulation is necessary, and if sufficient data and reasons are supplied, the Commissioner will grant an extension of the effective date for reformulation and relabeling for up to 2 years after the date of publication in the FEDERAL REGISTER."

The Commissioner has received requests and petitions from major manufacturers of OTC antacid products and from a trade association requesting that the effective date for all labeling for products not receiving an extension for reformulation be extended beyond June 5, 1975.

One trade association has petitioned to allow an orderly inclusion of the general warning statement required by § 330.1(g) (21 CFR 330.1(g)) of the regulations and has commented on the recent change in that warning published in the FEDERAL REGISTER of March 13, 1975 (40 FR 11717). It was noted that in order to comply with the June 5, 1975 effective date for the antacid and antiflatulent monographs, many OTC antacid and antiflatulent manufacturers have ordered, received, and in some instances, affixed to the container the labeling for their antacid and antiflatulent products, but because of the changes in the general warning published recently, these same manufacturers do not have either the exact language on their current stocks of labeling, or due to the uncertainty of the adoption and specific lan-

guage of the regulation prior to publication, do not have any similar language on their labeling. Therefore, it was petitioned that manufacturers and distributors who have already ordered and received such labeling be allowed to use labeling stock that otherwise complied with the monographs and to include the general warning required by § 330.1(g) in their next labeling order.

There was comment from manufacturers that, due to severe shortages besetting the paper industry and uncertainties arising from the energy crisis, stocks and labeling had to be ordered in greater quantities and that an unanticipated sharp downswing in the economy has aggravated the over-supply situation of such stocks and labeling. It was noted that destruction of this substantial amount of stock would create a severe financial hardship for the companies and would not be in the public interest. Therefore, it was petitioned that the effective date of the final order be stayed for a period of 4 to 6 months.

The Commissioner concludes that there are valid reasons to allow an extension beyond June 4, 1975 of the effective date of the OTC antacid and antiflatulent monographs. First the Commissioner concludes that the March 13, 1975 publication in the FEDERAL REGISTER of the final order for the general warning (40 FR 11717) did not provide sufficient time for including the general warning statement required by § 330.1(g) and that labeling which otherwise complies with the monograph should be used until new labeling is ordered.

The Commissioner is also aware that in some instances a downward trend in the economic picture may have resulted in an overstock situation. The Commissioner agrees that for the companies this condition would create an economic waste, the cost of which would ultimately be passed on to the consumer which would not be in the public interest.

However, taking into consideration all of the reasons given for an extension of time of the effective date of the OTC antacid and antiflatulent monographs, the Commissioner concludes that it is not in the best interest of the consumer to allow an indefinite period of time to elapse before requiring all manufacturers and distributors to be in compliance with the monographs. Accordingly, he has determined that a 90-day extension for compliance shall be provided for those products for which there is no extension of the effective date for reformulation. The revised effective date for all labeling for these products shall be September 2, 1975.

Recognizing that there has been only a short period of time since the general warning final order of March 13, 1975 was published, the Commissioner additionally concludes that, if there is compliance with the labeling requirements of the antacid and antiflatulent monographs in all other respects at the end of the 90-day extension period, manufacturers and distributors should be permitted to use labeling stock and include

the general warning revision in their next labeling order.

The Commissioner concludes that the extension does not affect the effective date, where an extension has been granted for reformulation and relabeling.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetics Act (secs. 201, 502, 505, 701, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371)), (5 U.S.C. 553, 554, 702, 703, 704) and under authority delegated to the Commissioner (21 CFR 2.120), the effective dates for 21 CFR Parts 331 and 332 are revised as follows:

**Effective date.** All labeling for products not receiving an extension of the effective date for reformulation shall become effective on September 2, 1975, and where reformulation is necessary and an extension is granted the labeling requirements shall become effective on June 4, 1976.

Since the amendment established by this order grants relief of a restriction, namely the June 4, 1975 effective date previously published, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

**Effective date:** This order shall be effective on May 23, 1975.

(Secs. 201, 502, 505, 701, Pub. L. 717, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371)); (5 U.S.C. 553, 554, 702, 703, 704))

Dated: May 19, 1975.

SAM D. FINE,  
Associate Commissioner for  
Compliance.

[FR Doc. 75-13578 Filed 5-22-75; 8:45 am]

**SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS**

**PART 510—NEW ANIMAL DRUGS**

**Change in Sponsor**

**Correction**

In FR Doc. 75-11385 appearing on page 18993 in the issue for Thursday, May 1, 1975, in § 510.600(c) (2) the second and third lines of Drug Listing No. 000381 should be reversed.

**SUBCHAPTER L—REGULATIONS UNDER CERTAIN OTHER ACTS ADMINISTERED BY THE FOOD AND DRUG ADMINISTRATION**

**PART 1240—CONTROL OF COMMUNICABLE DISEASES**

**Ban on Sale and Distribution of Small Turtles**

An order published in the FEDERAL REGISTER of November 18, 1972 (37 FR 24670) amended Parts 71 and 72 of Title 42, Code of Federal Regulations, by establishing §§ 71.171 through 71.176 (42 CFR 71.171 through 71.176) which provide for a general prohibition on the

importation of certain small pet turtles and viable turtle eggs, and § 72.26 (42 CFR 72.26) (now § 1240.62 (21 CFR 1240.62) pursuant to transfer and recodification of the sections of 42 CFR Part 72 appropriate to Food and Drug function, published in the FEDERAL REGISTER of February 6, 1975 (40 FR 5620)) which required that pet turtles shipped in interstate commerce be tested for and certified free of *Salmonella* and *Arizona* organisms by the appropriate public health officials in the State of origin. The order was based upon epidemiological investigations that have shown that small pet turtles are a particularly significant source and reservoir of bacteria of the genera *Salmonella* and *Arizona*, both of which can cause, among other things, acute gastrointestinal illness in humans. Data and other information on the hazards of such bacteria and on the extent of turtle-associated disease are on display in the office of the Hearing Clerk.

There is continuing evidence, however, that the certification requirements have had limited effectiveness in preventing contaminated turtles from reaching pet owners. Although the certification program appears to have curtailed the number of turtles being shipped in interstate commerce, a recent survey of turtles certified between December 1972 and December 1973 completed by the Public Health Service Center for Disease Control shows that 54 percent of the turtles were contaminated by *Salmonella* and *Arizona* when retested some time subsequent to certification. The State of New Jersey has sampled six lots of turtles shipped to that State and detected *Salmonella* in five of the lots. Furthermore, the Food and Drug Administration has taken five selective samples of turtles certified by State health authorities and found *Salmonella* and *Arizona* organisms in three of the five samples. Four out of the five selected water samples in which turtles have been held were positive for *Salmonella*. Moreover, the Center for Disease Control has reported cases of salmonellosis in California, Oregon, and Tennessee associated with turtles from certified lots.

As recently as August 19, 1974, a batch of approximately 16,000 turtles was certified by the Louisiana State Department of Health as *Salmonella*- and *Arizona*-free. A sample collected from this same lot of 16,000 turtles on inspection August 21 and 22, 1974, in Pierre Part, Louisiana, was later found by the Dallas Laboratory of the Food and Drug Administration to be positive for *Arizona*. Three official samples were collected and analyzed from interstate shipments of this lot of turtles. All samples were subsequently found to be positive for *Arizona*. On October 18, 1974, the Food and Drug Administration undertook to issue Letters of Demand for Destruction by its district offices to all dealers handling turtles from this lot.

Prior to this most recent action against certified but contaminated turtles, the Commissioner of Food and Drugs, realizing that the present certification pro-

gram was not preventing contaminated turtles from reaching the market, issued two proposals published in the FEDERAL REGISTER of May 28, 1974 (39 FR 18463) for consideration as possible solutions to the contaminated turtle problem: first, a complete ban on the sale and shipment of small turtles and, second, improvement of the certification scheme with imposition of additional requirements on the sale and shipment of turtles.

The preamble to those proposals pointed out that studies of salmonellosis have resulted in estimates that 14 percent of all human cases of salmonellosis are turtle-associated. It is thus possible that as many as 280,000 of the estimated 2,000,000 cases of salmonellosis in the United States each year are turtle-related.

Children are particularly susceptible to salmonellosis, tend to have more severe cases than adults, and are subject to infection transmitted when playing with pet turtles.

Finally, it was pointed out by the Animal Welfare Institute that small turtles sold in pet shops are not miniature, but baby turtles, mostly red-eared sliders, which under proper care can attain a shell length ranging from 6 to 11 inches and can live more than 40 years in captivity; yet 90 percent of the pets survive only 4 to 6 months.

Two hundred and forty-eight comments were received in response to the proposals from individual citizens, members of Congress, Federal, State and local officials, consumer groups, educational institutions, industry and professional groups, and turtle fanciers and their associations. Thirty-four comments opposed both proposals. Thirty-seven comments endorsed the improvement of the certification scheme and the imposition of additional requirements on the sale and shipment of turtles and turtle eggs. An additional comment opposing the ban addressed the statistical relationship between turtle ownership and its impact on human salmonellosis. One hundred and twenty-eight comments endorsed the proposal banning sale of small turtles. An additional comment endorsing the ban suggested that the ban include all turtles regardless of size or species and that a permit from the Commissioner be required by the purchaser before an exemption will be granted for bona fide scientific, educational, or exhibitional purposes. Two comments did not believe that the improvement of the certification scheme and the imposition of additional requirements on the sale and shipment of small turtles would be effective in dealing with the existing public health hazard. Ten comments requested that the sale of pet turtles be prohibited until the turtle industry demonstrates its ability to produce *Salmonella*- and *Arizona*-free turtles. Two comments requested a moratorium of 1 year on the banning of turtles from the market so that a study could be made to determine whether *Salmonella*- and *Arizona*-free turtles can be produced. Twenty-two



comments requested modification of the total ban proposal. The remaining eleven comments did not address themselves to the published proposals.

The Commissioner has evaluated all the comments. The issues raised and the Commissioner's responses are as follows:

1. Thirty-four comments expressed the opinion that any restrictions on the shipment, sale, or distribution of turtles would be an infringement on a person's constitutional right to possess the pet of his choice.

The Commissioner does not agree that individuals have an absolute right to possess any pet they wish to own. The individual's right to possess that pet must be weighed against the public hazard which may be created by allowing the sale of pets which may be contaminated with organisms dangerous to human health. *Salmonella* and *Arizona* organisms create human health hazards and are directly associated with small pet turtles. Documented evidence exists that such organisms accompany turtles even after they have been certified "Salmonella- and Arizona-free" using methods prescribed by § 1240.62. Therefore, the individual's right to purchase turtles must be measured against the known hazard to the health and welfare of the public as a result of their being offered for sale. *Salmonellosis* can be a serious disease, particularly in childhood, and can lead to death. Further, small children, for whom most pet turtles are purchased, cannot be expected to understand the reasons for, or abide by, sanitary measures that might protect them from illness.

Finally, in view of the nature of this particular comment, and also because of his wish to seek their advice on the entire matter, the Commissioner presented the issue to FDA's National Advisory Food and Drug Committee during their meeting of March 28, 1975. After consideration of this and other comments and after arguing the risk/benefit considerations of a ban on turtle sales vs. a more elaborate certification program, the Committee voted 19 to 3 to support a ban on sales. The Committee further agreed with the comment that the entire matter should be reconsidered if research demonstrates means whereby turtles could be kept *Salmonella*- and *Arizona*-free.

2. Thirty-seven comments endorsed the improvement of the certification scheme and the imposition of additional requirements on the sale and shipment of turtles and turtle eggs. Some of the comments opposed a direct ban on the sale and distribution of small turtles and supported the improved certification scheme as a preferable approach to control the public health problems associated with turtles. No evidence was presented by the comments, however, nor is the Commissioner presently aware of any evidence, that demonstrates that an improved certification scheme would result in a *Salmonella*- and *Arizona*-free turtle that will remain free of these organisms in commerce.

Therefore, the Commissioner, basing his decision on previous investigations and the failure of comments to present any evidence to the contrary, concludes that the improved certification scheme would be ineffective.

3. Several of the above comments, although supporting the improved certification scheme, opposed the proposed written warnings to be given with each pet turtle at sale until other *Salmonella*-susceptible animals or products are subject to similar requirements.

The Commissioner concludes that assessment of the written warning requirements will not be necessary since the ban proposal, not the improved certification proposal, will be implemented.

4. One comment opposing the ban addressed the statistical relationship between turtle ownership and its impact on human salmonellosis. It questioned the reliability of the article by Steven H. Lamm et al., "Turtle-Associated Salmonellosis," *American Journal of Epidemiology*, 95:511 (1972). It was pointed out that even though there has been a drastic decrease in the number of turtles sold and shipped in the United States since 1972, reports of the isolation of *Salmonella* organisms in humans have continued to rise. Statistics were also quoted from the New Jersey Department of Health which indicated that the cases of salmonellosis reported in the year following the ban on the sale of turtles in that State were almost 50 percent higher than the 2 preceding years combined.

The Commissioner advises that salmonellosis infection derives from many different sources, one of which is turtles. Moreover, the reporting of cases of salmonellosis may vary significantly, at different times, even in the same State. The data quoted above simply reflect those facts. There is no assurance that a reduction of the number of turtles sold in a given year will, in all circumstances, result in a reduction in the number of reported cases of salmonellosis infection.

Since it has previously been established that turtles are a significant source of *Salmonella* contamination and evidence has not been presented that demonstrates otherwise, the Commissioner concludes that turtles should be prohibited from general sale.

5. One hundred and twenty-eight comments endorsed the ban proposal.

The Commissioner agrees that a total ban with the exceptions provided by § 1240.62(d) is the only effective method at the present time that will eliminate the possibility of human illness due to contaminated turtles since there was no evidence presented which demonstrated that an improved certification scheme and written warnings at the time of sale would effectively control the *Salmonella* and *Arizona* problem.

The Commissioner also notes that thirty-one State agencies responded to the two proposals and only one State was opposed to the banning of small turtles for sale and distribution. The remaining thirty States, as well as seventeen

individual comments, favored the ban since they concluded that the present certification program is inadequate and that it is unlikely that an improved certification scheme, which could well be cumbersome and expensive, would be completely effective.

However, the Commissioner will at any time in the future consider evidence presented to him which demonstrates that *Salmonella*- and *Arizona*-free turtles can be produced and that sufficient safeguards exist to prevent a public health hazard through recontamination of turtles after shipment.

8. An additional comment favoring the ban proposed that the ban should include all turtles regardless of size or species.

The Commissioner concludes that since the turtles with a carapace, i.e., upper shell, length of less than 4 inches are the more common pet varieties purchased for or by children, the ban should not be extended to include turtles whose carapace is larger than 4 inches. The sole objective of this regulation is to protect the public, primarily children, from contaminated pet turtles. The Commissioner believes that the present size limitation adequately provides this protection. The Commissioner wishes to emphasize, however, that if sufficient evidence is presented that demonstrates that turtles with a carapace of more than 4 inches are a public health hazard, the ban will be extended to include the larger turtles.

7. The preceding comment also suggested that a permit from the Commissioner be required before an exemption will be granted for purchasing live turtles and viable turtle eggs used for bona fide scientific, educational, or exhibitional purposes, other than use as pets.

The Commissioner concludes that the interstate shipment of live turtles and viable turtle eggs used for bona fide scientific, educational, or exhibitional purposes will be allowed without the obtaining of a permit.

The Commissioner concludes that these exceptions would not constitute a significant hazard to public health due to the limited accessibility of the general public to turtles used for these particular purposes. Furthermore, the Commissioner does not believe that these exceptions justify the establishment of an elaborate permit program requiring the deployment of scarce manpower and funds.

8. Two comments were received which expressed the opinion that the improvement of the certification scheme and the imposition of additional requirements on the sale and shipment of pet turtles would be ineffective to deal with the public health hazard since subsequent handling could easily result in reinfection and the concomitant risks of human disease.

The Commissioner is in agreement with these comments. As previously stated, the Commissioner is unaware of any evidence, nor has any been presented, that demonstrates that the improvement of the certification scheme and the im-

position of additional requirements on the sale and shipment of pet turtles would effectively solve the *Salmonella* and *Arizona* problem.

9. Ten comments suggested that the sale of pet turtles should be prohibited until the turtle industry has demonstrated its ability to produce *Salmonella*- and *Arizona*-free turtles.

The Commissioner agrees with these comments, and feels that the turtle industry, as well as all industry, has the responsibility for producing a hazard-free product. Therefore, the Commissioner concludes, for the reasons stated above, that a ban is the only effective means of controlling the problem.

10. Two comments, one of which was from a member of Congress, suggested a 1-year moratorium on the banning of turtles in order to give the turtle industry a further opportunity to produce uncontaminated turtles and an improved certification scheme.

The Commissioner concludes that the request for a 1-year moratorium must be denied because there is no factual basis for believing that *Salmonella*- and *Arizona*-free turtles can be produced or that an improved certification scheme could be developed within the 1-year period. Furthermore, a moratorium does not protect the public against the demonstrated hazards during that period.

The Commissioner wishes to make it clear, however, that this denial of a 1-year moratorium on the banning of turtles does not preclude the turtle industry from undertaking the development of an improved certification scheme or a *Salmonella*- and *Arizona*-free turtle. If in fact a significantly improved certification scheme is developed or a *Salmonella*- and *Arizona*-free turtle is produced by the turtle industry, the Commissioner, based on the data presented by interested persons, will consider changing the restrictions on the sale and distribution of turtles.

11. Thirteen comments expressed the opinion that an exception should be made for the turtle "fancier" and for any bona fide scientific, educational, or exhibitional purposes.

The regulation provides an exception for bona fide scientific, educational, and exhibitional purposes. The Commissioner concludes that this exception is reasonable and will not present a public health hazard since the scope of the exception is limited to a specific segment of society consisting of experts in the field who are fully aware of the contamination problems associated with turtles and the necessary precautions required to prevent such contamination. While turtle fanciers may be similarly competent to handle turtles safely, no comment has suggested, and the Commissioner has been unable to ascertain an enforceable exemption that would require a business to restrict its sales only to such qualified persons.

The proposed regulation has been revised to exempt sales not in connection with a business. This exemption will permit a hobbyist to make an occasional sale to another hobbyist, as long as such sales

are not so frequent as to make the seller a dealer. In addition, the Commissioner will consider petitions to amend the prohibition to permit the sale of identified species, if it can be demonstrated that the species are so rare and expensive as to be of interest only to turtle hobbyists.

12. Six comments suggested an exception for adults so that anyone over the age of 18 could purchase pet turtles.

The Commissioner has previously addressed this issue in the order published in the FEDERAL REGISTER of November 18, 1972 (37 FR 24670). At that time, the Commissioner concluded that the greatest protection can be achieved by controlling the source of possible human infections. Many turtles are bought by adults and then taken home and given directly to children. Therefore, the Commissioner concludes that there can be no general exception for adults.

13. Three comments felt that interstate shipment of small turtles and viable turtle eggs should be banned but that intrastate shipment should be allowed.

The Commissioner concludes that the interstate spread of disease through *Salmonella*- and *Arizona*-contaminated turtles cannot be fully controlled without extending the ban to intrastate sales. All turtles present the same illness potential from *Salmonella* and *Arizona* organisms. Contaminated turtles may be purchased in one State for use as a pet in another. In addition, the existence of lawful business operations selling turtles within a State creates the possibility of unlawful interstate sales that are difficult or impossible to detect and stop. Therefore, the Commissioner finds that a prohibition on the sale of all turtles, regardless of origin or destination, is in his judgment necessary to prevent the spread of communicable diseases from one State to another.

The general prohibition on the sale of turtles does not apply to live turtles and viable turtle eggs intended for sale to foreign countries. The Commissioner believes that such shipments can be adequately controlled to prevent their diversion into domestic trade channels. The proposed regulation is revised to provide for this exception with the requirement that the outside of the shipping package be conspicuously labeled, "For Export Only." Export of items banned domestically under the condition that they are so marked is sanctioned by the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(d)) and the Consumer Product Safety Act (15 U.S.C. 2067). These statutory provisions represent congressional judgments that the diversion of export products into interstate commerce is unlikely when the products are properly labeled. The Commissioner concurs with this judgment for the present but will prohibit export sales as well if experience demonstrates that export turtles appear in interstate commerce.

Therefore, pursuant to provisions of the Public Health Service Act (sec. 361, 58 Stat. 703, as amended; 42 U.S.C. 264)

and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), Part 1240 of Title 21 of the Code of Federal Regulations is amended by revising § 1240.62 to read as follows:

#### § 1240.62 Turtles.

(a) *Definition.* As used in this section the term "turtles" includes all animals commonly known as turtles, tortoises, terrapins, and all other animals of the order Testudinata, class Reptilia, except marine species (families Dermachelidae and Cheloniidae).

(b) *Sales; general prohibition.* Except as otherwise provided in this section, viable turtle eggs and live turtles with a carapace length of less than 4 inches shall not be sold, held for sale, or offered for any other type of commercial or public distribution.

(c) *Destruction of turtles or turtle eggs; criminal penalties.* (1) Any viable turtle eggs or live turtles with a carapace length of less than 4 inches which are held for sale or offered for any other type of commercial or public distribution shall be subject to destruction in a humane manner by or under the supervision of an officer or employee of the Food and Drug Administration in accordance with the following procedures:

(i) Any District Office of the Food and Drug Administration, upon detecting viable turtle eggs or live turtles with a carapace length of less than 4 inches which are held for sale or offered for any other type of commercial or public distribution, shall serve upon the person in whose possession such turtles or turtle eggs are found a written demand that such turtles or turtle eggs be destroyed in a humane manner under the supervision of said District Office, within 10 working days from the date of promulgation of the demand. The demand shall recite with particularity the facts which justify the demand. After service of the demand, the person in possession of the turtles or turtle eggs shall not sell, distribute, or otherwise dispose of any of the turtles or turtle eggs except to destroy them under the supervision of the District Office, unless and until the Director of the Bureau of Foods withdraws the demand for destruction after an appeal pursuant to paragraph (c) (1) (ii) of this section.

(ii) The person on whom the demand for destruction is served may either comply with the demand or, within 10 working days from the date of its promulgation, appeal the demand for destruction to the Director of the Bureau of Foods, Food and Drug Administration. The demand for destruction may also be appealed within the same period of 10 working days by any other person having a pecuniary interest in such turtles or turtle eggs. In the event of such an appeal, the Bureau Director shall provide an opportunity for hearing by written notice to the appellant(s) specifying a time and place for the hearing, to be held within 14 days from the date of the notice but not within less than 7 days unless by agreement with the appellant(s).



## RULES AND REGULATIONS

(iii) Appearance by any appellant at the hearing may be by mail or in person, with or without counsel. The hearing shall be conducted by the Bureau Director or his designee, and a written summary of the proceedings shall be prepared by the person presiding. Any appellant shall have the right to hear and to question the evidence on which the demand for destruction is based, including the right to cross-examine witnesses, and he may present oral or written evidence in response to the demand.

(iv) If, based on the evidence presented at the hearing, the Bureau Director finds that the turtles or turtle eggs were held for sale or offered for any other type of commercial or public distribution in violation of this section, he shall affirm the demand that they be destroyed under the supervision of an officer or employee of the Food and Drug Administration; otherwise, the Bureau Director shall issue a written notice that the prior demand by the District Office is withdrawn. If the Bureau Director affirms the demand for destruction he shall order that the destruction be accomplished in a humane manner within 10 working days from the date of the promulgation of his decision. The Bureau Director's decision shall be accompanied by a statement of the reasons for the decision. The decision of the Bureau Director shall constitute final agency action, reviewable in the courts.

(v) If there is no appeal to the Director of the Bureau of Foods from the demand by the Food and Drug Administration District Office and the person in possession of the turtles or turtle eggs fails to destroy them within 10 working days, or if the demand is affirmed by the Director of the Bureau of Foods after an appeal and the person in possession of the turtles or turtle eggs fails to destroy them within 10 working days, the District Office shall designate an officer or employee to destroy the turtles or turtle eggs. It shall be unlawful to prevent or to attempt to prevent such destruction of turtles or turtle eggs by the officer or employee designated by the District Office. Such destruction will be stayed if so ordered by a court pursuant to an action for review in the courts as provided in paragraph (c) (1) (iv) of this section.

(2) Any person who violates any provision of this section, including but not limited to any person who sells, offers for sale, or offers for any other type of commercial or public distribution viable turtle eggs or live turtles with a carapace length of less than 4 inches, or who refuses to comply with a valid final demand for destruction of turtles or turtle eggs (either an unappealed demand by an FDA District Office or a demand which has been affirmed by the Director of the Bureau of Foods pursuant to appeal), or who fails to comply with the requirement in such a demand that the manner of destruction be humane, shall be subject to a fine of not more than \$1,000 or imprisonment for not more than 1 year, or both, for each violation, in accord-

ance with section 368 of the Public Health Service Act (42 U.S.C. 271).

(d) *Exceptions.* The provisions of this section are not applicable to:

(1) The sale, holding for sale, and distribution of live turtles and viable turtle eggs for bona fide scientific, educational, or exhibitional purposes, other than use as pets.

(2) The sale, holding for sale, and distribution of live turtles and viable turtle eggs not in connection with a business.

(3) The sale, holding for sale, and distribution of live turtles and viable turtle eggs intended for export only, provided that the outside of the shipping package is conspicuously labeled "For Export Only."

(4) Marine turtles excluded from this regulation under the provisions of paragraph (a) of this section and eggs of such turtles.

(e) *Petitions.* The Commissioner of Food and Drugs, either on his own initiative or on behalf of any interested person who has submitted a petition, may publish a proposal to amend this regulation. Any such petition shall include an adequate factual basis to support the petition, and will be published for comment if it contains reasonable grounds for the proposed regulation. A petition requesting such a regulation, which would amend this regulation, shall be submitted to the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852.

*Effective date.* This order shall become effective June 23, 1975.

(Sec. 361, 58 Stat. 703 as amended; 42 U.S.C. 264.)

Dated: May 19, 1975.

A. M. SCHMIDT,  
Commissioner of Food and Drugs.  
[FR Doc. 75-13579 Filed 5-22-75; 8:45 am]

## Title 29—Labor

CHAPTER V—WAGE AND HOUR DIVISION,  
DEPARTMENT OF LABORPART 519—EMPLOYMENT OF FULL-TIME  
STUDENTS AT SUBMINIMUM WAGES

## Fair Labor Standards; Correction

In FR Doc. 75-3798, beginning at 40 FR 6328 in the issue dated Tuesday, February 11, 1975, there were a number of typographical errors. Accordingly, FR Doc. 75-3798 is corrected as follows:

1. On page 6329, § 519.1(a) by changing "(36 FR 8755 and 39 FR 33841)" to "(36 FR 8755)" and by the Assistant Secretary for Employment Standards (39 FR 33841)".

2. On page 6330, § 519.5(b) by changing "employment opportunities" to "full-time employment opportunities".

3. On page 6331, § 519.6 (f), (g) and (h) by changing the colon following the first sentence in the paragraph to a period.

4. On page 6331, § 519.6 (f) and (j) and page 6333, § 519.16(e) by changing the format of these paragraphs to in-

corporate the parenthetical note as integral part of the paragraphs rather than a separate paragraph and by changing "Note.-" to "Note:".

5. On page 6332, § 519.7(b) (3) by deleting the second sentence and changing the first sentence to read as follows. "The employer operating any farm or retail or service establishment shall maintain records of the monthly hours of employment of full-time students at subminimum wages and of the total hours of employment during the month of all employees in the establishment except for those employed in agriculture who come within one of the other exemptions from the minimum wage provisions of the Act." This correction clarifies a procedure and imposes no changes in obligations on the public.

6. On page 6332, § 519.9(a) and page 6334, § 519.19(a) by changing "granted," on the sixth line to "granted" (i.e. the comma after the word "granted" is deleted.)

7. On page 6332, § 519.11(a) by changing "(36 FR 8755-6)" to "(36 FR 8755)" and by the Assistant Secretary for Employment Standards (39 FR 33841)".

8. On page 6332, § 519.11(a) by changing "to" in line 8 to "to".

9. On page 6332, § 519.12(a) by changing "fulltime" in lines 6 and 16 to "full-time".

10. On page 6332, § 519.13(a) by changing "Utah Area office" to "Utah Area Office".

11. On page 6333, § 519.16(e) on the eighth line, following "tion" at the start of the line, by inserting a comma after "tion").

12. On page 6334, § 519.17(b) (1) by changing "(b) (2), (3) and (4)" to "(b) (2) and (3)".

13. On page 6334, § 519.17(c) by changing the "(o)" to "(c)".

14. On page 6334, § 519.19(a) by changing the semi-colon ending line 10 to a colon.

Signed at Washington, D.C. this 16th day of May 1975.

WARREN D. LANDIS,  
Acting Administrator,  
Wage and Hour Division.

[FR Doc. 75-13598 Filed 5-22-75; 8:45 am]

## Title 46—Shipping

CHAPTER II—MARITIME ADMINISTRATION,  
DEPARTMENT OF COMMERCESUBCHAPTER C—REGULATIONS AFFECTING  
SUBSIDIZED VESSELS AND OPERATORSPART 294—OPERATING-DIFFERENTIAL  
SUBSIDY FOR BULK CARGO VESSELS  
ENGAGED IN CARRYING BULK RAW  
AND PROCESSED AGRICULTURAL COM-  
MODITIES FROM THE UNITED STATES  
TO THE UNION OF SOVIET SOCIALIST  
REPUBLICS

## Fixtures Made on and After April 1, 1975

Part 294 of Title 46, Code of Federal Regulations, which prescribes regulations governing the payment of operating-differential subsidy to operators of bulk cargo vessels engaged in carrying bulk raw and processed agricultural commod-

ities from the United States to the Union of Soviet Socialist Republics, is hereby amended.

The amendments provide that on and after April 1, 1975, (1) charter rates are to be established through mutual agreement of the two countries' Designated Representatives and (2) the subsidy abatement level is to be adjusted.

These amendments affect operators of subsidized vessels, and are adopted without notice of proposed rulemaking under the exemption stated in 5 U.S.C. 553(a) (2), relating to public grants.

Part 294 of Title 46, Code of Federal Regulations, is hereby amended as follows:

By adding a new paragraph (c) to § 294.9 to read as follows:

§ 294.9 Charter rate determination and abatement of subsidy.

(c) *Fixtures made on or after April 1, 1975.* (1) *Charter rate determination.* With respect to carriage of bulk raw and processed agricultural commodities, fixtures made on or after April 1, 1975, shall be made at mutually acceptable rates as provided in Paragraph 3(a) of Annex III to the Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding Certain Maritime Matters, October 14, 1972.

(2) *Abatement determination.* (i) *In general.* The operating-differential subsidy otherwise payable on fixtures made on or after April 1, 1975, under this Part shall be subject to abatement on a voyage basis.

(ii) *Abatement level.* (A) *In general.* When the charter rate is the same as or less than the amounts shown in the table below, no abatement will occur.

## RULES AND REGULATIONS

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Trade	Abatement Level (per long ton)	Charter rate.....
U.S. Gulf/ Black Sea	\$13.00	Abatement Level (U.S. Gulf/Black Sea) ..... 13.00
U.S. Gulf/ Baltic	\$12.70	Excess subject to abatement.....
	Plus \$1.00 if ar- rival is be- tween Nov. 1 and Apr. 30	\$10.28
U.S. Gulf/ Soviet Pacific	\$15.00	Excess of \$1.00 or less..... \$1.00
U.S.N.H./ Black Sea	\$12.50	Less commission (at 3 3/4 %)..... (.0375)
	Plus \$1.00 if ar- rival is be- tween Nov. 1 and Apr. 30	Net revenue..... .9625
		Abatement percentage..... 50%
U.S.N.H./ Baltic	\$12.50	Abatement amount..... \$48125
U.S. Pacific/ Soviet Pacific	\$13.50	Excess between \$1.00 and \$7.00..... \$6.00
		Less commission (at 3 3/4 %)..... (.225)
		Net revenue..... 5.775
		Abatement percentage..... 75%
		Abatement amount..... \$433125
		Excess over \$7.00..... \$3.28
		Less commission (at 3 3/4 %)..... (.123)
		Net revenue..... 3.157
		Abatement percentage..... 90%
		Abatement amount..... \$28413
		Total Abatement of subsidy per ton of cargo carried..... \$7.6539

(B) *Barley.*—The Abatement Level for carriage of barley shall be at the amounts indicated above plus \$.40 per long ton.

(iii) *Abatement.* To the extent that the charter rate exceeds the Abatement Level, the payment of subsidy will be abated as indicated below. The Commission payable under the charter party attributable to the amount subject to abatement will be deducted from the abatement.

Excess of charter rate above abatement level	Percent of abatement per long ton
\$1 or less.....	50
\$1 to \$7.....	75
Over \$7.....	90

(iv) *Example.* The provisions of this paragraph are illustrated by the following example:

A vessel is fixed for the carriage of U.S. export grain (non-barley) from U.S. Gulf port to Black Sea port at a charter rate of \$23.28 per ton, F.I.O.T. The Commission rate is 3 3/4 percent of the freight revenue.

*Effective date.* These amendments shall become effective on April 1, 1975.

(Sec. 204(b), Merchant Marine Act, 1936, as amended (40 Stat. 1987, 46 U.S.C. 1114), Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 842), as amended by P.L. 91-469 (84 Stat. 1036), Department of Commerce Organization Order 10-8 (38 FR 19707, July 23, 1973))

Dated: May 20, 1975.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,  
Secretary.

[FR Doc. 75-13635 Filed 5-22-75; 8:45 am]

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## proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

### DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1, 11]

#### LUMP SUM DISTRIBUTIONS

#### Notice of Proposed Rule Making

##### Correction

On Wednesday April 30, 1975, Notice of Proposed Rule Making was published in the *FEDERAL REGISTER* (40 FR 18798). The following corrections are made to the proposed regulations:

1. Lines 4, 5, and 6 of § 1.62-11 (page 18799) the text beginning at "Nothing in . . ." should be flush with the left margin.

2. In line 1 of § 1.101(b)(2) (page 18799) "(1)" should be italicized.

3. In line 13 of § 1.122-1(b)(2)(ii) (page 18800), "this section" should be "this subdivision".

4. In line 22 of § 1.402(a)-1(a)(1)(ii) (page 18801), "see (a)(6)" should be "see paragraph (a)(6)".

5. In line 39 of § 1.402(a)-1(b) (page 18802), there should be added "section" at the end thereof.

6. In line 2 of Example subdivision (i) of § 1.402(e)-2(b)(4) (page 18804), "from the" should be "from the".

7. In line 23 of Example subdivision (i) of § 1.402(e)-2(b)(4) (page 18804), "tax after" should be "tax law after".

8. In line 6 of Example subdivision (ii) of § 1.402(e)-2(b)(4) (page 18804), "\$15,000+\$5,000+\$65,000-\$15,000" should be "\$15,000+\$5,000+\$65,000-\$15,000)".

9. In line 10 of Example subdivision (ii) of § 1.402(e)-2(b)(4) (page 18804), "distributing" should be "distribution".

10. In line 7 of Example subdivision (iii) of § 1.402(e)-2(b)(4) (page 18804)

$$\frac{(\$50,000 - \$4,000)}{10}$$

should be

$$\frac{(\$50,000 - \$4,000)}{10}$$

11. In line 14 of § 1.402(e)-2(c)(1)(ii)(C)(i) (page 18804), "(c)(1)(ii)(C)(i)" should be "(c)(1)(ii)(C)(i)".

12. In line 33 of § 1.402(e)-2(c)(1)(iv) Example (1) subdivision (iii) (page 18805),

$$\frac{(\$6,000 - (\$4,000 \times \$8,000 / \$50,000))}{10}$$

should be

$$\frac{(\$6,000 - (\$4,000 \times (\$6,000 / \$50,000)))}{10}$$

13. In line 37 of § 1.402(e)-2(c)(1)(iv) Example (1) subdivision (iii) (page 18805),

$$\frac{(\$778 \times \$8,000 / \$44,000)}{10}$$

should be

$$\frac{(\$788 \times \$8,000 / \$44,000)}{10}$$

14. In line 28 of § 1.402(e)-2(c)(1)(iv) Example (2) subdivision (iii) (page 18805), "\$3,448" should be "\$8,448".

15. In line 33 of § 1.402(e)-2(c)(1)(iv) Example (3) subdivision (iii) (page 18805),

$$\frac{(\$5,760 - (\$4,400 \times \$5,760 / \$48,000))}{10}$$

should be

$$\frac{(\$5,760 - (\$4,400 \times (\$6,760 / \$48,000)))}{10}$$

16. In line 9 of § 1.402(e)-2(c)(2)(iii)(B) (page 18806) "(1)" should be "(1)".

17. In line 44 of § 1.402(e)-2(c)(2)(iv) Example (1) subdivision (iii) (page 18807), "\$70" should be "\$170".

18. After line 16 of § 1.402(e)-2(c)(iv) Example (2) subdivision (ii) (page 18807), there is added the following: "Income for 1976 is \$25,520 (their itemized)".

19. Lines 22 and 23 of § 1.402(e)-2(c)(2)(iv) Example (2) subdivision (iii) should read as follows:

"described were \$5,560

$$\frac{(\$58,000 - \$2,400)}{10}$$

20. In line 30 of § 1.402(e)-2(c)(2)(iv) Example (2) subdivision (iii) (page 18807), the period at the end thereof should be deleted.

21. Lines 39 and 40 of § 1.402(e)-2(c)(2)(iv) Example (2) subdivision (iii) (page 18807), should read as follows:

"therein described were

$$\$460 \left[ \frac{\$4,800 - (\$2,400 \times (\$4,800 / \$58,000))}{10} \right]$$

22. In line 23 of § 1.402(e)-2(c)(2)(iv) Example (3) subdivision (iii) (page 18807), the text beginning at "described were \$5,320 \* \* \*" should be flush with the left margin.

23. In line 34 of § 1.402(e)-2(c)(2)(iv) Example (3) subdivision (iii) (page 18807), "(\$10,000+\$0)/(\$50,000+\$0)" should be "(10,000+\$0)/(\$50,000+\$0)".

24. In line 2 of § 1.402(e)-2(c)(2)(iv) Example (4) subdivision (ii) (page 18807), there is added "taxable" at the end of the line.

25. Lines 11 and 12 of § 1.402(e)-2(c)(2)(iv) Example (4) subdivision (iii) (page 18807) should read as follows:

"total taxable amount is \$54,000 [\$50,000+\$4,000]. The modified minimum distribution".

26. In line 14 of § 1.402(e)-2(c)(2)(iv) Example (4) subdivision (iii) (page 18807), "tions" should be "tion".

27. In line 1 of § 1.402(e)-2(d) (page 18808), "(1)" should be deleted.

28. In line 5 of § 1.402(e)-2(d)(1)(C) (page 18808), "services" should be "service".

29. In line 1 of § 1.402(e)-2(d)(2)(iii) Example (2) (page 18809), "afe" should be "age".

JAMES F. DRING,  
Director, Legislation and  
Regulations Division.

[FR Doc. 75-13533 Filed 5-22-75; 8:45 am]

### DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1098]

[Docket No. AO-184-A37]

#### MILK IN THE NASHVILLE, TENNESSEE, MARKETING AREA

#### Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments To Tentative Marketing Agreement and To Order

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Nashville, Tennessee, marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, on or before June 9, 1975. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

#### PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Nashville, Tennessee, on December 16-17, 1974, pursuant to notice thereof which was issued November 29, 1974 (39 FR 41987).

The material issues on the record of the hearing relate to:

1. Pool plant qualifications.
2. Diversion of producer milk.
3. Partial payments to producers and cooperatives.

#### FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Pool plant qualifications*—(a) *Automatic pool status in March-July for a supply plant that qualified as a pool plant each month in the preceding August-February*. Automatic pool plant status in March-July should continue to be accorded a supply plant that was a pool plant throughout the preceding August-February.

As now provided in the order and unchanged by this decision, a supply plant may qualify as a pool plant for each individual month in which it ships at least 50 percent of its dairy farmer receipts to pool distributing plants. Under the automatic pooling provision, a plant that so qualified in the preceding August-February need ship no milk in March-July to be pooled in these months.

A cooperative's proposal, which was supported by a second cooperative, would eliminate automatic pooling and condition the pooling of a supply plant on performance each month. Spokesman for proponent contended that the automatic pooling provision serves no purpose in the Nashville market since no plant has ever qualified for automatic pool status. (No pool supply plants now serve the market.) He further alleged that in the Nashville market distributing plants can be adequately supplied with milk shipped directly from dairy farms.

A proprietary handler opposed the cooperative's proposal on the basis that no changes have occurred in market conditions to warrant its adoption. The handler representative contended that eliminating the automatic pooling provision would force a supply plant operator to make uneconomic movements of milk to qualify it for pooling in the months of heavy production.

Provisions for pooling supply plants and for automatic pooling of such plants in certain months are customarily included in Federal milk orders. Such provisions allow a pool distributing plant operator to elect whether to receive his milk supply directly from producers' farms and/or from supply plants. A pool distributing plant operator may utilize supply plant milk as his sole source of supply or to meet his plant's supplemental needs.

Even though a supply plant may not be needed to accommodate the movement of milk to the market from farms in the immediate production area, such a plant may be needed for the assembly and movement of milk from alternative supply sources. To this end, it is essential that the order recognize the role of supply plants in a marketing system and present the conditions for pooling such plants.

### PROPOSED RULES

It is probable that the demand for milk from supply plants would vary seasonally and would be greatest during the season of lowest production. This would be particularly true in situations where handlers using supply plant milk were receiving part of their supply direct from producers' farms. During the months of flush production, supplies of milk received directly at fluid processing plants in the market might be sufficient to supply the Class I requirements, in which case it would be more economical to leave the more distant milk in the country for manufacturing and utilize the nearby milk for Class I use. Performance standards under the order should not force milk to be transported to distributing plants during the flush production months merely for the purpose of maintaining eligibility for pooling.

To avoid uneconomic movements of milk, it is appropriate that the order provide continuing pooling status during the flush production months of any supply plant which was continuously pooled in the months of short production on the basis of having shipped at least 50 percent of its producer milk to the market during each of the short production months.

(b) *Balancing plant*. A plant associated with the Nashville market and operated by a cooperative should be provided pool plant status in any month that at least 60 percent (rather than two-thirds as presently required) of the cooperative's producer milk is received at pool distributing plants either by transfer from such cooperative's plant or directly from producers' farms.

A cooperative that operates the only "balancing" plant in the market proposed the change in the shipping requirement as a means of maintaining the pooling eligibility of the plant. A spokesman for the cooperative stated that unless the receipt requirement for its member milk is reduced to 60 percent, pool status for such plant would be jeopardized, particularly during the flush production months. There was no opposition to the proposal.

The cooperative's plant which is located in the city of Nashville provides the means whereby handlers may adjust their receipts each day to fit their bottling needs and at the same time have assurance that milk will be available for fluid use as needed. A bottling plant that receives milk by direct delivery from the farms of designated producer members of the cooperative may accept part or none of such deliveries on any day. The total deliveries of such producers on the days the bottling plant is not operated, and the amount in excess of its Class I needs on other days, generally are received at the cooperative's plant. Thus, its basic function is as an assembly point for producer milk not needed by handlers which must be disposed of to non-pool plants. However, milk in storage at the plant is available to handlers to meet unanticipated requirements on short notice. Providing pool status for the cooperative's plant enhances operating efficiency and implements the pooling of the cooperative's member milk that is

regularly and substantially associated with the market.

The pooling standards which have been established under the order were intended to implement the pooling of all of the milk regularly and substantially associated with the regulated market.

All of the milk which the cooperative in the past has pooled under the order could have been accommodated by association with pool distributing plants and through transfer or diversion to nonpool plants of the quantities not needed by pool handlers. In fact, the cooperative's balancing plant was not pooled during the period September 1, 1971, through April 1, 1974. The present provisions according pool status to the plant were effected April 1, 1974. For all of the reasons set forth in the Assistant Secretary's decision of March 18, 1974 (39 FR 10593), official notice of which is taken, it is appropriate that the plant continue to be accorded pooling status. A reduction in the delivery requirements for member producer milk to pool distributing plants from the present 66 2/3 percent to 60 percent will provide such assurance and will not, in any substantive way, implement the pooling of any milk not already associated with the market.

2. *Diversion of producer milk*. A producer should be required to deliver at least 2 days' production (one delivery for a producer on every-other-day pickup) to a pool plant during the month to qualify any remainder of his monthly production for pooling as diverted milk.

The order now provides that milk may be diverted to nonpool plants without limit in any month.

A cooperative proposed that a producer be required to deliver to pool plants during the month 20 days' production in September-February and 10 days' production in March-August to qualify his remaining production for diversion. It also proposed that a cooperative be allowed to divert the total monthly production of individual members without limit in March-August if the cooperative's total diversions are not more than 40 percent of its total producer milk for the month. This option would likewise apply to a proprietary handler for his nonmember milk.

Another cooperative proposed that at least 4 days in September-February and 2 days in March-August of a producer's monthly production should be delivered to a pool plant to qualify his remaining production for diversion.

The cooperatives contended that the present order provisions providing unlimited diversion throughout the year is an open invitation for handlers to associate with the market milk intended solely for manufacturing purposes to the detriment of producers who regularly supply the market and on whom the market depends for its Class I needs. They urged the adoption of substantial delivery requirements to deter this result.

A proprietary pool plant operator opposed the proposals to limit diversions contending that the present diversion



provisions contribute to efficient and orderly marketing of milk in the Nashville market and should not be changed.

The diversion provisions are provided to implement the efficient handling of the market's milk supply in excess of handlers' immediate requirements. Because of variations in market needs and in production, the milk of each producer may not be needed every day for processing as fluid milk at the plant to which it is customarily delivered. It is necessary, however, that there be a reserve of qualified milk available for the fluctuating needs of handlers serving the market. When milk of any dairy farmer regularly supplying the market is not needed at the plant to which it is usually shipped, it can be handled most economically by diversion directly from the farm to nonpool manufacturing plants.

A requirement of substantial deliveries of milk of individual producers for establishing diversion eligibility rights would be a deterrent to efficient handling of that milk in excess of handlers' immediate fluid needs. Appropriately, however, a means should be provided for establishing that milk of individual dairy farmers reported as diverted producer milk is bona fide associated with the market and is, in fact, milk which is qualified for fluid use. A requirement of physical receipt at a pool plant is an appropriate means for making this determination. To this end, it is reasonable to require that two days' production of each producer be physically received at a pool plant during each month to qualify his remaining production for diversion as producer milk.

A distributing plant must dispose of at least 50 percent of its fluid milk receipts as route disposition to qualify for pooling. Diversion is included as a receipt at the diverting plant for purposes of determining whether such plant has met the 50 percent route disposition requirement. Under such circumstances, even though the order provides unlimited diversions, there is a practical limitation of no more than 50 percent.

The cooperatives' concerns are directed to the possibility that proprietary handlers might use the diversion provisions as a means of associating with the pool additional milk intended solely for manufacturing use. While this could possibly result, it is not practical to deal with such a matter without more specific facts.

Certainly milk which is not available for fluid use should not be accorded pooling eligibility. However, it is not apparent from this record that this has happened. Proponents apparently foresee possible market developments which they believe could be detrimental to their interest. Through a cooperative's balancing plant, it has flexibility for marketing its members' milk which is not available to proprietary handlers. It would not be appropriate to adopt stringent requirements which could deter the efficient handling of the market's total supply.

If at any time it should develop that a handler was accumulating in the pool

milk that was not available as needed for Class I, a further hearing could be called to consider the appropriate action which should be taken to either exclude such milk from the pool or insure its availability for Class I uses.

Milk diverted by a cooperative is considered a receipt at the distributing plant from which diverted in determining the distributing plant's pool status. To the extent it would result in a distributing plant not qualifying as a pool plant, milk reported as diverted by a cooperative handler would not be producer milk. As provided in this decision, the cooperative would be responsible for indentifying the dairy farmer milk to which this would be applicable. If the cooperative fails to do so, no milk diverted by the cooperative to nonpool plants would be producer milk. This action was proposed by a cooperative and was not opposed.

3. *Partial payments to producers and cooperatives.* The rate at which partial payments for producer milk are made should be changed from the Class III price for the preceding month to 90 percent of the weighted average price for the preceding month. During March-July, when base and excess prices are applicable, the partial payment rate to producers without a base should be the Class III price for the preceding month.

The present order requires handlers to pay the market administrator by the 25th of the month for producer milk received during the first 15 days of the month. The rate of payment is the Class III price for the preceding month and applies to all milk received from producers except those who delivered milk for less than 20 days during the month. In turn, the market administrator pays individual producers by the last day of the month and cooperatives authorized to collect payment for the milk of its member producers at least 2 days before the last day of the month.

A cooperative proposed that handlers be required to make separate partial payments for producer milk received during each of the first two 10-day delivery periods of the month. Under their proposal these payments to the market administrator would be due on the 15th and 25th of the month, respectively, at 90 percent of the previous month's uniform price. The market administrator in turn would pay individual producers by the 17th and 27th of the month, respectively, and cooperatives collecting for their member milk at least two days earlier.

Proponent cooperative's spokesman recognized that the proposed changes would increase handlers' costs for milk, but held they are needed to improve the cash flow to dairy farmers. He contended that dairy farmers, faced with increasing production costs and greater demands for cash for purchasing items needed to continue producing milk, urgently need payment for their milk at a higher rate and at more frequent intervals. Higher interest rates for borrowed money in the last two years were cited

in particular as justifying more frequent payments to producers.

The proposed partial payment rate (90 percent of the previous month's uniform price) is desirable, the cooperative claimed, because it varies less than the Class III price for the previous month. Also, it would increase the amount of money dairy farmers would receive as partial payments. Further, it would reduce the risk carried by producers in situations where a handler suddenly is unable to pay for milk.

Another cooperative proposed to modify the present partial payment provision by advancing the payment date three days and changing the rate to 90 percent of the previous month's uniform price. Proponent's spokesman claimed the higher rate is necessary to more nearly represent the actual value of the milk. He contended that the present partial payment rate is disproportionate to the actual value of the milk and that producers should receive the partial payment at the earliest practicable date. However, this cooperative opposed more frequent partial payments on the basis that it would impose considerable additional costs on all parties and therefore would not be advantageous to producers.

Increasing the partial payment rate to 90 percent of the previous month's uniform price, as adopted herein, will provide producers a larger portion of the value of their milk through partial payments. For the two years ending November 1974, the proposed 90 percent rate averaged 18.1 cents per hundred-weight more than the actual partial payment rate.

Since the partial payment applies only to the first 15 days' deliveries by producers who shipped at least 20 days' production during the month, the likelihood of overpayment will not be significantly increased.

In March-July under the seasonal base-excess plan in the Nashville order, there may be producers for whom no base can be computed. Accordingly, the rate for making partial payments to such producers should be the Class III price for the preceding month. Otherwise, the actual value of milk to which the partial payment applies could be less than the amount paid.

There was no specific opposition to the proposed 90 percent of the previous month's uniform price as the partial payment rate. Although handlers opposed changing the partial payment procedure, their testimony was directed to the proposal for requiring two partial payments.

The basis of handler opposition was that the reasons cited by proponent for needing more frequent partial payments reflect general business conditions facing handlers and producers alike. Handlers' representatives contended the order should not be changed to recognize producers' problems at the expense of handlers.

Handlers claimed that two partial payments for a large volume of producer milk at a higher rate, as proposed, would increase their costs for milk. In addition

to requiring more frequent cash outlays, administrative costs related to making more frequent payments would increase as well, according to their spokesman. They also contended that adoption of the proposal would impose a burdensome time schedule on handlers during the first 15 days of the month, and would increase the likelihood of overpayments to producers who did not ship milk the entire month.

Providing an additional advance payment date as opponents have indicated would significantly increase handler and administrative costs and would not in any way change the total monies producers would receive in a 30-day period. It would be unreasonable to adopt procedures which would result in increased handler and administrative costs to resolve a cash flow to individual producers which seemingly could be resolved through the exercise of prudence on the part of the producer in handling his accounts.

The increasing risk of loss of money among producers through handler failures is a matter of concern. However, if a second advance payment is desirable for this purpose, it is clear that such procedure would be helpful in other orders also. The added cost and time demands involved in an additional payment are a significant impediment to adoption. This is not a matter that can be resolved easily. It should be explored carefully in depth and in conjunction with other alternative actions with a broader segment of the industry.

#### RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

#### GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act

are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

#### RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Nashville, Tennessee, marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

#### § 1098.7 [Amended]

1. In § 1098.7, amend paragraph (c) by replacing the words "two-thirds" with the words "60 percent," and amend paragraph (d) (4) by replacing the word "January" with the word "February."

2. In § 1098.13, paragraph (b) is revised as follows:

#### § 1098.13 Producer milk.

(b) Diverted by the operator of a pool plant or a cooperative association from a pool plant to a nonpool plant that is not a producer handler plant, subject to the following conditions:

(1) Such milk shall be accounted for as received by the diverting handler at the location of the nonpool plant to which diverted;

(2) Not less than two days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(3) To the extent that it would result in nonpool status for the pool plant from which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall not be producer milk; and

(4) The cooperative association shall designate the dairy farmer deliveries that are not producer milk pursuant to paragraph (b) (3) of this section. If the cooperative association fails to make such designation, no milk diverted by it to a nonpool plant(s) shall be producer milk.

3. In § 1098.71, paragraph (a) is revised as follows:

§ 1098.71 Payments to the producer-settlement fund.

(a) On or before the 25th day of each month each handler receiving milk from producers or from a handler described in § 1098.9(c) (except for producers having made deliveries for less than 20 days during the month) shall pay to the market administrator for deposit into the producer-settlement fund an amount of money calculated by multiplying the hundredweight of producer milk received by him during the first 15 days of such month by 90 percent of the weighted average price for the preceding month, except that for milk received in March, April, May, June, and July from a producer for whom no daily average base can be computed pursuant to § 1098.92, the applicable rate for making payment pursuant to this paragraph shall be the Class III price for the preceding month.

4. In § 1098.73, paragraph (a) is revised as follows:

§ 1098.73 Payments to producers and to cooperative associations.

(a) On or before the last day of each month, the market administrator shall make payment to each producer for milk received from such producer during the first 15 days of such month by handlers from whom the appropriate payments have been received pursuant to § 1098.71 (a) at not less than 90 percent of the weighted average price per hundred-weight for the preceding month, except that for milk received in March, April, May, June, and July from a producer for whom no daily average base can be computed pursuant to § 1098.92, the applicable rate for making payment pursuant to this paragraph shall be the Class III price for the preceding month.

Signed at Washington, D.C., on May 20, 1975.

JOHN C. BLUM,  
Associate Administrator.

[FR Doc. 75-13630 Filed 5-22-75; 8:45 am]

#### [7 CFR Part 29]

#### TOBACCO INSPECTION

#### Reporting Requirements

Notice is hereby given that the Department is considering further amending its regulations (published at 39 FR 17753, 39 FR 30475 and 39 FR 32975) relating to tobacco inspection and price support services with regard to flue-cured tobacco by amending Subpart G—Policy Statement and Regulations Governing Availability of Tobacco Inspection and Price Support Services to Flue-Cured Tobacco on Designated Markets (7 CFR Part 29).

The aforesaid policy statement and regulations are statements of agency policy and rules and regulations issued pursuant to the authority of the Tobacco Inspection Act (49 Stat. 731, 7 U.S.C. 511 *et seq.*); the Agricultural Act of 1949, as amended (63 Stat. 1051, 7 U.S.C. 1421, *et seq.*); and the Commod-



ity Credit Corporation Charter Act (62 Stat. 1070, as amended (15 U.S.C. 714 et seq.)).

**Statement of consideration.** Pursuant to the Department's regulations (see 7 CFR Part 725) warehouses selling flue-cured tobacco are already required to make certain reports to the Agricultural Stabilization and Conservation Service with regard to the flue-cured tobacco purchased or sold at these warehouses. However, experience in the prior year's tobacco marketing program indicates a need for additional identification of the tobacco and information relating to the sale of tobacco at auction on designated markets.

Section 29.9401 of the regulations is, therefore, amended to define "resale tobacco" as any tobacco offered for sale or sold by someone other than its producer; "nonauction-purchased tobacco" is that tobacco purchased at other than a bona fide auction sale, as defined in 7 CFR 29.1(d) on a designated market, as defined in 7 CFR 29.1(e); and "nonauction-purchased resale tobacco" is defined as that tobacco offered for sale, or sold at auction by a person who purchased it at other than a bona fide auction sale, as defined in 7 CFR 29.1(d), on a designated market, as defined in 7 CFR 29.1(e).

The regulations are further amended, by adding a new section, 7 CFR 29.9407, which will require warehouses to provide the Secretary information, as requested, on forms provided these warehouses by the Secretary. Moreover, warehouses will be required to keep records to support the information, which they provide the Inspection Service, as stated on these forms. Failure to provide said information or keep said records will result in suspension of inspection service until the warehouse comes into compliance.

1. Section 29.9401 is amended by adding paragraphs (c), (d), and (e) as follows:

**§ 29.9401 Definitions.**

As used in this Subpart, the following terms shall have the following meanings:

(c) "Resale tobacco" means any tobacco offered for sale, or sold, by someone other than its producer.

(d) "Nonauction-purchased tobacco" means tobacco purchased at other than a bona fide auction sale, as defined in 7 CFR 29.1(d), on a designated market, as defined in 7 CFR 29.1(e).

(e) "Nonauction-purchased resale tobacco" means tobacco being offered for sale, or sold, at auction by a person who purchased it at other than a bona fide auction sale, as defined in 7 CFR 29.1(d), on a designated market, as defined in 7 CFR 29.1(e).

2. Subpart G is amended by adding a new § 29.9407, as follows:

**§ 29.9407 Records and reports.**

(a) Each warehouse, on a designated market, shall provide the Secretary with any information that is requested on

forms provided said warehouse by the Secretary.

(b) Each warehouse shall keep and make available to the Secretary such records as are necessary for the Secretary to verify the information required by paragraph (a) of this section.

(c) Failure to comply with the requirements of this section shall result in suspension of tobacco inspection service at the warehouse until such time as the warehouse comes into compliance.

No significant change in the current record keeping procedure by warehouses will be necessary. These amendments are necessary to continue orderly marketing conditions in the flue-cured marketing area under the grower designation plan which was made effective in the 1974 marketing season.

All persons who desire to submit written data, views, or comments for consideration in connection with these proposals may file the same in four copies with the Hearing Clerk, U.S. Department of Agriculture, Room 112 Administration Building, Washington, D.C. 20250, not later than June 6, 1975.

All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 127(b)).

Done at Washington, D.C. the 19th day of May 1975.

RICHARD L. FELTNER,  
Assistant Secretary.

[FR Doc 75-13631 Filed 5-22-75; 8:45 am]

**DEPARTMENT OF COMMERCE**

**Maritime Administration**

**[ 46 CFR Part 298 ]**

**FEDERAL SHIP MORTGAGE AND LOAN INSURANCE**

**Application Fees**

Notice is hereby given that Part 298 of Title 46 of the Code of Federal Regulations governing the Federal Ship Financing Program under Title XI of the Merchant Marine Act, 1936, as amended, is proposed to be amended. One proposed amendment to Part 298 would increase the filing fee from \$100 to \$1,000, and would condition any commitment to guarantee obligations to finance vessel construction, reconstruction or reconditioning upon the receipt by the Secretary of Commerce of the investigation fee, which would be due at the time the letter commitment to guarantee is issued. Other proposed amendments to Part 298 would require (1) the payment of a fee of \$3,000 (in addition to the original investigation fee) to process any change, which in the opinion of the Secretary is substantial, after a commitment to guarantee has been issued but does not require substantial changes in documentation, and (2) the payment of an additional fee in the amount of 50 percent of the original investigation fee, but not to exceed \$50,000, where sub-

stantial changes in documentation are required.

Interested persons who desire to submit written data, views, or arguments in connection with the proposed amendments to the regulations should file the same, in triplicate, with the Secretary, Maritime Administration, Washington, D.C. 20230, on or before June 23, 1975.

Part 298 of 46 CFR is proposed to be amended to read as follows:

(1) Paragraph (d) and (f) of § 298.3 are revised to read as follows, and (2) Paragraph (g) of § 298.3 is deleted.

**§ 298.3 Applications.**

(d) *Investigation fee.* Each application must be accompanied by payment pursuant to section 1104(e) of the act in the amount of \$1,000, which payment shall be retained by the Secretary irrespective of the final disposition of the application. At the time the letter commitment to Guarantee Obligations is issued, the applicant shall pay to the Secretary such additional amount or amounts as the Secretary may deem reasonable for the investigation of the application, for the appraisal of properties offered as security, for the issuance of commitments, and for the inspection of such properties during construction, reconstruction or reconditioning: Provided, That such charges shall not aggregate more than one half of one per centum of the maximum principal amount of the guarantee. No commitment to guarantee obligations shall be considered to have been issued without the receipt by the Secretary of the amounts due under this section.

(f) *Amendment of application.* (1) An amendment to an application for the guarantee of obligations under Title XI of the act may be made to the Secretary, Maritime Administration.

(2) An amendment which represents, in the opinion of the Secretary, a substantial change to an application which has received a Commitment to Guarantee Obligations shall be subject to a charge in the amount of \$3,000, which will be applied to cover the cost of processing the amendment to the application.

(3) An amendment which involves, in the opinion of the Secretary, substantial changes in the documentation of a transaction subsequent to the review of such documentation by the Maritime Administration shall be subject to a charge equal to one half of the investigation fee charged pursuant to § 298.3(d), but not to exceed \$50,000.

(g) [Removed]

(Secs. 204(b), 1109, Merchant Marine Act, 1936, as amended (46 USC 1114), Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 842) as amended by P.L. 91-469 (84 Stat. 1036), and Department of Commerce Organization Order 10-8 (38 FR 19707, July 23, 1973))

(Catalog of Federal Domestic Assistant Program No. 11.502 Federal Ship Financing Guarantees (Title XI MMA-1936))

Dated: May 20, 1975.

By order of the Assistant Secretary for Maritime Affairs.

JAMES S. DAWSON, Jr.,  
Secretary.

[FR Doc.75-13634 Filed 5-22-75; 8:45 am]

**DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE**

**Food and Drug Administration**

**[ 21 CFR Part 331 ]**

**ANTACID PRODUCTS FOR OVER-THE-COUNTER (OTC) HUMAN USE**

**Testing Procedures for Antacid Products Generally Recognized as Safe and Effective and Not Misbranded**

In the FEDERAL REGISTER of June 4, 1974 (39 FR 19862), the Commissioner of Food and Drugs promulgated a final regulation for antacid products generally recognized as safe and effective and not misbranded (21 CFR Part 331).

The Commissioner determined that an over-the-counter (OTC) antacid product in a form suitable for oral administration is generally recognized as safe and effective and is not misbranded if it meets each of the conditions identified in Part 331 and each of the general conditions established in § 330.1 (21 CFR 330.1).

In the FEDERAL REGISTER of May 11, 1972 (37 FR 9464), the Commissioner of Foods and Drugs promulgated procedures governing the review and classification of OTC drug products, under § 330.10 (21 CFR 330.10). The Commissioner may propose on his own initiative to amend or repeal any monograph, or any interested person may petition the Commissioner for such proposal, pursuant to § 330.10(a)(12). A number of drug manufacturers have petitioned that the antacid in vitro testing procedures identified in Subpart C of Part 331 be amended.

One drug manufacturer has commented that the requirement that distilled water identified in § 331.20(p) be used in the antacid in vitro testing procedure is unnecessarily restrictive. Many laboratories use deionized water for analytical purposes. The manufacturer stated that it would be more realistic to specify the use of United States Pharmacopoeia (U.S.P.) Purified Water since it may be prepared by either distillation or ion exchange. The manufacturer further indicated that U.S.P. Purified Water has recognized, defined properties that should assist in obtaining uniform results and would avoid problems that could arise if distilled water were used.

It is the Commissioner's intent to require the simplest test that will yield uniform results and not to place unnecessary restrictions on testing procedures unless there is a reasonable basis for such limitations. The Commissioner concurs that use of U.S.P. Purified Water rather than distilled water is a more appropriate requirement, and therefore proposes to amend § 331.20(p)

to provide for use of U.S.P. Purified Water.

Other drug manufacturers have petitioned that the temperature requirements in the antacid in vitro test of 25° C±3° be revised to 37° C±3°. The designation of 37° C has been proposed because that is the temperature of the human body and is also used in numerous U.S.P. tests, including disintegration and dissolution rates and the acid consuming capacity for a number of the antacids listed in the U.S.P. The petitioners have submitted data for the ingredient aluminum hydroxide gel showing that the higher temperature produces higher acid neutralizing capacities. However, the data show that the difference in the acid neutralizing capacity of the final product when tested at 25° C and 37° C is not significant.

All the data submitted relate to products containing aluminum hydroxide gel, which has been used for years as an antacid. The OTC Antacid Panel had recognized aluminum hydroxide gel as a slow reacting antacid. Data have now been submitted to show that the percent of aluminum hydroxide gel neutralized when tested at 25° C and 37° C is sufficiently different that a final product which clearly passes the acid neutralizing test does not contain a sufficient amount of aluminum hydroxide gel at 25° C to meet the requirement that each active ingredient must contribute at least 25 percent of the acid neutralizing capacity. At 37° C this requirement of contribution is met.

One manufacturer of aluminum hydroxide gel stated that the pharmaceutical industry is attempting to respond to the monograph requirement by increasing the dosage levels of the active aluminum ingredient and/or to increase the ratio by weight of the nonaluminum alkali moiety to the aluminum hydroxide in a given formula. The manufacturer suggested that this could possibly lead to the inclusion of unnecessary amounts of certain ions such as sodium, magnesium and/or calcium compounds in an effort to "bolster" the initial reaction velocity of a given antacid combination in order to overcome the inhibition of the neutralizing reaction caused by the lower temperature restriction. The manufacturer further stated that consideration should be given to such formulation changes because some consumers of antacid products are restricted in terms of their intake of such ions as calcium, sodium, magnesium and bicarbonates.

The Commissioner recognizes that there may be a benefit from using an effective amount of a slow reacting aluminum hydroxide gel in an antacid, and does not believe that the proposed test should contain a technical restriction which inadvertently precludes such use. The Commissioner, in paragraph 32 of the preamble to the final order establishing an OTC antacid monograph, published in the FEDERAL REGISTER of June 4, 1974 (39 FR 19866), stated:

The Commissioner agrees that this [temperature] is a variable that can be eliminated

and yet not complicate the test. However, during testing, the Food and Drug Administration has shown that there is no difference between 25° C and 37° C. It is more appropriate to use room temperatures since it requires less equipment. The Commissioner has, therefore, concluded that the temperature will be designated at 25° C±3° in the final order.

On further consideration, the Commissioner believes that designating 25° C as the sole test temperature would result in reformulations and product changes which would not benefit the consumer or result in safer or more effective products. Testing by the Food and Drug Administration and that provided by the industry have shown that the difference between 25° C and 37° C of the final products is not significant.

The Commissioner has evaluated the new data submitted and proposes to amend the monograph to provide for the use of 25 or 37° C±3°, as the test temperature. Data have been provided and reasons shown why it is reasonable to amend the monograph to provide for testing at 37° C as well as 25° C.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948; (21 U.S.C. 321, 352, 355, 371) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes to amend 21 CFR Part 331 by revising §§ 331.20(p) and 331.23 to read as follows:

**§ 331.20 Apparatus and reagents.**

(p) Purified Water U.S.P.

**§ 331.23 Temperature standardization.**

All tests shall be conducted at 25° C±3°, or 37° C±3°.

Interested persons may, on or before June 23, 1975, file with the Hearing Clerk Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: May 19, 1975.

SAM D. FINE,  
Associate Commissioner,  
for Compliance.

[FR Doc.75-13577 Filed 5-22-75; 8:45 am]

**DEPARTMENT OF  
TRANSPORTATION**

**Federal Aviation Administration**

**[ 14 CFR Part 75 ]**

[Airspace Docket No. 75-SO-37]

**JET ROUTES**

**Proposed Alteration and Designation  
Correction**

In FR Doc. 75-11891 appearing on page 19834 of the issue for Wednesday, May 7, 1975, the second line of numbered paragraph 4, pertaining to J-145, reading "Jet



Route No. 91 From Atlanta, Ga., via", should read "Jet Route No. 145 From Toccoa, Ga., via".

#### [ 14 CFR Part 39 ]

[Docket No. 75-NW-15-AD]

#### AIRWORTHINESS DIRECTIVES Boeing Model 727 Series Airplanes

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Boeing Model 727 series airplanes. There have been corrosion and cracks in the lower fuselage body skin at the BBL 0 doubler locations between Body Stations 360 and 740 on Boeing Model 727 series airplanes. Corrosion and subsequent cracking is caused by deterioration of the bonding material between the doubler and body skin. One crack was detected following reports of inability to maintain pressurization inflight. If corrosion and cracking are allowed to progress, decompression could occur.

Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require inspections and repair, as necessary, of the BBL 0 area for corrosion and cracks.

The Boeing Commercial Airplane Company had previously issued Service Bulletin 727-53-73, "Lower Body Skin Doubler Corrosion Inspection and Modification—BBL 0." This service bulletin described external/internal visual and ultrasonic inspections and preventive modification procedures consisting of sealing the doubler area. Recently, service experience has shown the ultrasonic inspection and sealing to be ineffective in detecting and preventing deterioration at BBL 0. Therefore, Boeing has issued Service Bulletin 727-53-128 describing both the external/internal visual inspection and a new low-frequency eddy current inspection and updated repair information. As an option to the local-area type repair, this new service bulletin also describes the installation of an external doubler which would constitute terminating action under the proposed AD.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Department of Transportation, Federal Aviation Administration, Northwest Region, Attention: The Regional Counsel, Airworthiness Rules Docket, 9010 East Marginal Way South, Seattle, Washington 98108. All communications received on or before July 11, 1975, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the

rules docket for examination by interested persons.

In consideration of the foregoing, it is proposed to amend § 39.13 of the Federal Aviation Regulations by adding the following new airworthiness directive:

**BOEING:** Applies to Boeing Model 727 series airplanes, listed in Boeing Service Bulletin 727-53-128, or later FAA approved revisions, certificated in all categories. Compliance required as indicated.

To detect corrosion and/or cracking in the lower body skin at the BBL 0 doubler locations between Body Stations 360 and 740, accomplish the following:

A. Inspect the lower body skin in accordance with either Paragraph B within the next three (3) months from the effective date of this AD, unless accomplished within the last three (3) months, or in accordance with Paragraph C within the next year from the effective date of this AD, unless accomplished within the last year.

1. If corrosion and/or cracking is found, repair in accordance with Figure 3 of Boeing Service Bulletin 727-53-128, or later FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. Repairs made per Boeing Service Bulletin 727-53-73, or later FAA approved revisions, prior to issuance of Boeing Service Bulletin 727-53-128, are an acceptable means of compliance with this AD.

2. If corrosion and/or cracking is not found, repeat the inspections at intervals not to exceed two (2) years if the external/internal visual inspection of Paragraph C is used, or at intervals not to exceed six (6) months if the low-frequency eddy current inspection of Paragraph B is used.

B. Inspect using the low-frequency eddy current methods described in Figure 2 of Boeing Service Bulletin 727-53-128, or later FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

C. Visually inspect, externally and internally, in accordance with Figure 1 of Boeing Service Bulletin 727-53-128, or later FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. Visual inspections made per Paragraphs II.A and II.B of Boeing Service Bulletin 727-53-73, or later FAA approved revisions, prior to issuance of Boeing Service Bulletin 727-53-128, are an acceptable means of compliance with this AD.

D. Areas repaired in accordance with Paragraph A.1 need not comply with the repetitive inspection requirements of this AD. Areas in which corrosion/cracking is not found must be reinspected per Paragraph A.2 until terminating action per Paragraph E is accomplished.

E. Installation of either the complete repair doubler or skin panel replacement in accordance with Boeing Service Bulletin 727-53-128, or later FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, constitutes terminating action for this AD.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Seattle, Washington, May 16, 1975.

C. B. WALK, Jr.,  
Director, Northwest Region.

[FR Doc 75-13523 Filed 5-22-75; 8:45 am]

#### [ 14 CFR Parts 23, 25, 27, 29, and 91 ]

[Docket No. 14623; Notice No. 75-22]

#### AIRCRAFT FUELING

##### Notice of Proposed Rulemaking

The Federal Aviation Administration is considering amending Parts 23, 25, 27, 29, and 91 of the Federal Aviation Regulations to require a color-coding system for aircraft fuel filler openings, and to prohibit any person from operating an aircraft unless he has determined that the aircraft has been fueled through a fuel nozzle that is color-coded in accordance with the coding system used on the exterior surface of the aircraft around each fuel filler opening and that matches the color around the opening; or it has been determined in some other manner that the aircraft has been fueled with the proper type of fuel.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591. All communications received on or before August 21, 1975, will be considered by the Administrator before taking action on the proposed rules. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

There have been a number of instances in which aircraft have been fueled with the wrong kind of fuel. For example, aircraft which should have been fueled with jet fuel. The use of jet fuel in the fuel tank of an airplane that requires aviation gasoline can result in, among other conditions, high operating temperatures, severe detonation, and extensive and sustained power loss.

The Federal Aviation Regulations currently contain provisions relating to aircraft fueling. Part 121 includes the requirement that each air carrier and commercial operator must show that it has competent personnel and adequate facilities and equipment for proper servicing and maintenance. Similar requirements are included in the rules affecting air carriers operating helicopters under Part 127. Part 135 contains a requirement that air taxi operators prepare and use a manual which includes procedures for refueling aircraft and eliminating fuel contamination. Parts 23, 25, 27, and 29 all require that fuel tank filler openings be marked with the minimum useable fuel grade. However, there are no specific fueling requirements that apply to other aircraft operators, nor are there any other requirements regarding markings around the fuel tank filler opening and the fuel dispensing nozzle to alert a person performing the fueling of the aircraft

that the fuel being used is not appropriate for the aircraft.

The National Transportation Safety Board (NTSB) has recommended to the FAA that in addition to the current regulations, Parts 23, 25, 27, and 29 should be amended to require an appropriately colored circle around each aircraft fuel filler opening in addition to the presently required minimum fuel grade markings on each aircraft, and that the colored circle correspond to the fuel color and be placed on a slightly larger white circle to assure ease of differentiation between the color of the aircraft and the color of the fuel circle. In addition, the Board recommended that Advisory Circular 20-43A be revised to include the suggestion that refueling nozzles on fuel servicing units be marked with the prescribed color code. The latter recommendation was adopted in Advisory Circular 20-43B dated June 8, 1971.

Advisory Circular 20-43B points out the importance of conspicuous marking of tank vehicles to show the type of fuel carried, making specific suggestions as to the color, size, and location of vehicle and hose line markings. The circular makes the further suggestion that the fueling nozzles be conspicuously marked with the appropriate color code, noting that this is especially important in that the person doing the refueling will have the color coded nozzle in his hands during the process as an additional reminder of the type of fuel being dispensed.

In the light of information obtained during the investigation of accidents involving the improper fueling of aircraft and the continuing occurrence of instances of improper fueling, the FAA believes that additional regulatory safeguards should be adopted to preclude improper fueling. The FAA believes that the recommendation of the NTSB has merit. Accordingly, it is proposed to amend those sections of Parts 23, 25, 27, and 29 dealing with miscellaneous markings and placards to add a new provision to each requiring that the exterior surface of the aircraft around all fuel filler openings be color-coded to identify the type of fuel required for the engines. For aircraft powered by engines that use aviation gasoline, the color-code would have to be a solid red circle that is 12-inches in diameter, bordered with a 2-inch white band. For aircraft powered by engines that use jet fuel, the color code would have to be a 12-inch solid black square bordered with a 2-inch white band.

In addition, it is proposed to add a new § 91.30 to Part 91 that would prohibit the operation of a civil aircraft of U.S. registry unless the operator determines that the aircraft has been fueled through a fuel nozzle that is color-coded in accordance with the color-coding system used on the exterior surface of the aircraft around each fuel filler opening and that matches the color around the opening; or that it has been determined in some other manner that the aircraft has been fueled with the proper type of fuel.

#### PROPOSED RULES

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In those instances in which a color-coded fuel nozzle may not be available for the fueling of an aircraft, it is anticipated that the person performing the fueling of the aircraft will be able to make use of a difference in color between aviation gasoline and jet fuel in determining that the aircraft has been properly fueled. Moreover, in addition to the minimum fuel grade or designation being already marked on or near the fuel filler opening on most aircraft, fuel servicing vehicles, units, and facilities are usually marked with the fuel grade or designation.

It is also proposed to amend § 91.31, Civil aircraft operating limitations and marking requirements, to add a new paragraph (e) prohibiting the operation of a civil aircraft of U.S. registry after (six months after the effective date) unless the exterior surface of the aircraft, around each fuel filler opening, has been color-coded to identify the fuel required for the engines in the same manner as proposed for Parts 23, 25, 27, and 29. This is necessary to assure that the fuel filler openings on existing aircraft are properly color-coded. The FAA believes that six months will provide owners ample time to have the fuel filler openings on their aircraft color-coded.

These amendments are proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend Parts 23, 25, 27, 29, and 91 of the Federal Aviation Regulations as follows:

1. By designating the present provisions of paragraph (c) as paragraph (c) (1) (i) and (ii) and by adding a new paragraph (c) (2) to § 23.1557 to read as follows:

§ 23.1557 Miscellaneous markings and placards.

(c) *Fuel and oil filler openings.* . . . .  
(2) The exterior surface of the airplane around all fuel filler openings must be color-coded to identify the type of fuel required for the engines as follows:  
(i) For airplanes powered by engines that use aviation gasoline, the color-code must be a solid red circle, 12 inches in diameter, and bordered with a 2-inch white band.

(ii) For airplanes powered by engines that use jet fuel, the color-code must be a 12-inch solid black square bordered with a 2-inch white band.

2. By designating the present provisions of paragraph (b) as paragraph (b) (1) (i) and (ii) and by adding a new paragraph (b) (2) to § 25.1557 to read as follows:

§ 25.1557 Miscellaneous markings and placards.

(b) *Fuel and oil filler openings.* . . . .  
(2) The exterior surface of the air-

plane around all fuel filler openings must be color-coded to identify the type of fuel required for the engines as follows:

(i) For airplanes powered by engines that use aviation gasoline, the color-code must be a solid red circle, 12 inches in diameter, and bordered with a 2-inch white band.

(ii) For airplanes powered by engines that use jet fuel, the color-code must be a 12-inch solid black square bordered with a 2-inch white band.

3. By designating the present provisions of paragraph (c) as paragraph (c) (1) (i) and (ii) and by adding a new paragraph (c) (2) to § 27.1557 to read as follows:

§ 27.1557 Miscellaneous markings and placards.

(c) *Fuel and oil filler openings.* . . . .

(2) The exterior surface of the rotorcraft around all fuel filler openings must be color-coded to identify the type of fuel required for the engines as follows:

(i) For rotorcraft powered by engines that use aviation gasoline, the color-code must be a solid red circle, 12 inches in diameter, and bordered with a 2-inch white band.

(ii) For rotorcraft powered by engines that use jet fuel, the color-code must be a 12-inch solid black square bordered with a 2-inch white band.

4. By designating the present provisions of paragraph (c) as paragraph (c) (1) (i) and (ii) and by adding a new paragraph (c) (2) to § 29.1557 to read as follows:

§ 29.1557 Miscellaneous markings and placards.

(c) *Fuel and oil filler openings.* . . . .

(2) The exterior surface of the rotorcraft around all fuel filler openings must be color-coded to identify the type of fuel required for the engines as follows:

(i) For rotorcraft powered by engines that use aviation gasoline, the color-code must be a solid red circle, 12 inches in diameter, and bordered with a 2-inch white band.

(ii) For rotorcraft powered by engines that use jet fuel, the color-code must be a 12-inch solid black square bordered with a 2-inch white band.

5. By adding a new § 91.30 to Part 91 to read as follows:

§ 91.30 Aircraft fueling.

No person may operate a civil aircraft of U.S. registry unless—

(a) The aircraft has been fueled through a fuel nozzle that is color-coded in accordance with the coding system used on the exterior surface of the aircraft around each fuel filler opening and that matches the color around the opening; or

(b) It has been determined in some other manner that the aircraft has been fueled with the proper type of fuel.

6. By amending § 91.31 by adding a new paragraph (e) to read as follows:

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## PROPOSED RULES

## § 91.31 Civil aircraft operating limitations and marking requirements.

(e) After (six months after the effective date), no person may operate a civil aircraft of U.S. registry unless the exterior surface of the aircraft, around each fuel filler opening, has been color-coded to identify the type of fuel required for the engines as follows:

(1) For aircraft powered by engines that use jet fuel, a 12-inch solid black circle, 12 inches in diameter, and bordered with a 2-inch white band.

(2) For aircraft powered by engines that use jet fuel, a 12-inch solid black square bordered with a 2-inch white band.

Issued in Washington, D.C., on May 16, 1975.

R. P. SKULLY,  
Director,  
Flight Standards Service.

[FR Doc. 75-13524 Filed 5-22-75; 8:45 am]

## [14 CFR Part 71]

[Airspace Docket No. 75-WE-5]

## CONTROL ZONE

## Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Chico, California control zone.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before June 23, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261.

The airspace requirements for Chico Municipal Airport, Chico, California, have been reviewed in accordance with criteria contained in the United States Standards for Terminal Instrument Procedures. The review revealed that the description of the control zone requires amending to provide sufficient controlled airspace protection for aircraft executing the VOR Runway 13 Instrument procedure.

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.171 (40 FR 354) the description of the Chico, California, control zone is amended in part as follows: Wherein it states "... within 2 miles each side of the Chico VOR 316° radial, ..." substitute "... within 3 miles each side of the Chico VOR 316° radial ..."

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Los Angeles, California, on May 16, 1975.

LYNN L. HINK,  
Acting Director,  
Western Region.

[FR Doc. 75-13525 Filed 5-22-75; 8:45 am]

## [14 CFR Part 71]

[Airspace Docket No. 75-GL-34]

## TRANSITION AREA

## Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Dwight, Illinois.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before June 23, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A new instrument approach procedure has been developed for the Dwight Airport, Dwight, Illinois. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Dwight, Illinois.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal

Aviation Regulations as hereinafter set forth:

In § 71.181 (40 FR 441), the following transition area is added:

## Dwight, Illinois

That airspace extending upward from 700 feet above the surface within a five mile radius of Dwight Airport (Latitude 41°08'05" N., Longitude 88°26'30" W.); and within three miles either side of the 097° bearing from the airport extending from the five mile radius area to 8 miles from the airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Illinois on May 5, 1975.

R. O. ZIEGLER,  
Acting Director,  
Great Lakes Region.

[FR Doc. 75-13526 Filed 5-22-75; 8:45 am]

## [14 CFR Part 71]

[Airspace Docket No. 75-GL-22]

## TRANSITION AREA

## Proposed Designation and Revocation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to revoke the transition area at Appleton, Wisconsin and to designate a transition area at Oshkosh, Wisconsin.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before July 23, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A new instrument approach procedure has been developed for the Fond Du Lac County Airport, Fond Du Lac, Wisconsin. This procedure will require additional controlled airspace south of Fond Du Lac. A review of the controlled airspace designated for Appleton, Oshkosh, and Fond Du Lac indicates a very broken boundary difficult for pilots and controllers to define. We propose to combine

these areas into one citation and make the boundary more regular.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In Section 71.181 (40 FR 441), the following transition area is deleted: "Appleton, Wisconsin".

In § 71.181 (40 FR 441), the following transition area is amended to read:

## Oshkosh, Wisconsin

That airspace extending upward from 700 feet above the surface within an area bounded by a line beginning at Latitude 44°24'00" N., Longitude 88°45'00" W. to Latitude 44°19'00" N., Longitude 88°19'00" W. to Latitude 43°33'00" N., Longitude 88°19'00" W. to Latitude 43°33'00" N., Longitude 88°53'00" W. to Latitude 43°52'00" N., Longitude 88°53'00" W. to point of beginning.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Illinois on May 7, 1975.

R. O. ZIEGLER,  
Acting Director,  
Great Lakes Region.

[FR Doc. 75-13527 Filed 5-22-75; 8:45 am]

## [14 CFR Part 71]

[Airspace Docket No. 75-GL-31]

## TRANSITION AREA

## Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at LaPorte, Indiana.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before June 23, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in

## PROPOSED RULES

the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A new standard instrument approach procedure has been developed for the LaPorte Municipal Airport, LaPorte, Indiana. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at LaPorte, Indiana.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (40 FR 441), the following transition area is added:

## LaPorte, Indiana

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the LaPorte Municipal Airport (Latitude 41°34'21" N., Longitude 86°44'02" W.); within 2 miles either side of the 165° bearing from the LaPorte Airport extending from the 5-mile radius area to 9 miles south of the airport, excluding that portion which overlies the Michigan City, Indiana transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Illinois on May 5, 1975.

R. O. ZIEGLER,  
Director,  
Great Lakes Region.

[FR Doc. 75-13528 Filed 5-22-75; 8:45 am]

## [14 CFR Part 71]

[Airspace Docket No. 75-RM-14]

## TRANSITION AREA

## Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would alter the transition area at Fort Bridger, Wyoming.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station, P.O. Box 7213, Denver, Colorado 80207. All communications received on or before June 23, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 E. 25th Avenue, Aurora, Colorado 80010.

The instrument approach procedure for Fort Bridger, Wyoming has been revised. It is necessary to provide controlled airspace for protection of aircraft conducting this procedure.

In consideration of the foregoing, the FAA proposes the following airspace action:

In Federal Aviation Regulation Part 71.181 (40 FR 441), the description of the Fort Bridger, Wyoming transition area is amended to read:

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Fort Bridger Municipal Airport (Latitude 41°24'00" N., Longitude 110°25'00" W.), and within 3.5 miles each side of the Fort Bridger VORTAC 047° radial extending from the 9-mile radius area to 11.5 miles northeast of the VORTAC; and that airspace extending upward from 1200 above the surface within 8.5 miles southeast and 12.5 miles northwest of the Fort Bridger VORTAC 047° and 227° radials extending from 23 miles northeast to 10.5 miles southwest of the VORTAC.

This amendment is proposed under authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Aurora, Colorado, May 27, 1975.

M. M. MARTIN,  
Director, Rocky Mountain Region.  
[FR Doc. 75-13529 Filed 5-22-75; 8:45 am]

## FEDERAL POWER COMMISSION

## [18 CFR Part 2]

[Docket No. RM75-15]

## CERTIFICATION OF PIPELINE TRANSPORTATION AGREEMENT

## Extension of Time

May 16, 1975.

On April 25, 1975, Michigan Public Service Commission filed a motion to extend the time for comments fixed by notice issued April 4, 1975 (40 FR 16220) in the above-designated rulemaking.

Upon consideration, notice is hereby given that the time for filing comments in the above matter is extended to and including May 30, 1975.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13569 Filed 5-22-75; 8:45 am]

## INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 1201, 1202, 1206, 1207, 1209, 1210, 1240, 1249]

[No. 36137]

## CLASSIFICATION OF CARRIERS

## Notice of Proposed Rulemaking

At a general session of the Interstate Commerce Commission held at its office



in Washington, D.C. on the 22nd day of April, 1975.

This proceeding is being instituted on our own motion to revise the rules on carrier classification in the uniform system of accounts and reports for the following modes:

Railroad Companies  
Electric Railways  
Motor Carriers of Passengers  
Motor Carriers of Property  
Inland and Coastal Waterway Carriers  
Freight Forwarders

Under current rules and practices, an extended lag effects the classification of carriers. In some instances the lag extends as long as three years after the carriers' operating revenues have qualified the carrier for reclassification. In order to avoid undue delay in carrier reclassification, the following revisions will be implemented in the uniform system of accounts and reports.

(1) Classification will be based on "immediately preceding" year's revenue in lieu of the three-year average.

(2) Upward reclassification from a class already subject to the accounting rules will be effected in the year immediately following qualification.

(3) Upward reclassification from a class not subject to the accounting rules to one that will be subject thereto, such as Class B to Class A Freight Forwarder, will be effected in the second succeeding year following qualification.

(4) Downward reclassification will be effected in the year immediately following the third consecutive year in which a carrier fails to meet the minimum revenue qualification.

(5) New carriers will be classified on the basis of reasonable estimates of annual operating revenues where no actual data are available.

(6) All carriers will be reviewed annually for classification.

(7) A carrier's classification will be reviewed immediately in the event of a business combination.

In addition, the minimum dollar classification for Class I railroads will be increased from \$5 million to \$10 million as a result of inflationary trends.

The Carrier Classification Form, Appendix I, will aid the implementation of the provisions and provide a means for active carrier participation in the classification process. The form will be distributed to carriers by October 1 and should be completed and returned to the Bureau of Accounts, Section of Reports, by October 31. Carriers will include a reasonable estimate of fourth quarter revenues in the "current year revenues" reported. Based upon the reported revenues and the classification rules of 49 CFR Part 1340, carriers will determine if a new classification is warranted and indicate the effective date of adoption.

We believe the adoption of the aforementioned revision will provide stability in carrier classification, minimize the problems associated with the implementation of the uniform system of accounts and reports, provide a means for active carrier participation in the classifica-

tion process and eliminate the undesirable delay in carrier reclassification.

It is intended that the proposed revision to the uniform system of accounts and reports become effective for the classification year beginning January 1, 1976, which will be based on calendar year 1975 operating revenues.

Upon consideration of the above described matters and good cause appearing therefor:

*It is ordered*, That a proceeding be, and it is hereby, instituted under the authority of sections 12, 20, 204, 220, 313 and 402 of the Interstate Commerce Act and pursuant to sections 553 and 559 of the Administrative Procedure Act with a view to adopting the proposed revisions set forth in Appendices A through I of this Notice, and for the purpose of making such other and further changes as the facts and circumstances may justify and require.

*It is further ordered*, That all Railroads, Electric Railways, Motor Carriers of Passengers, Motor Carriers of Property, Inland and Coastal Waterways Carriers, and Freight Forwarders subject to the Interstate Commerce Act be, and they are hereby, made respondents in this proceeding.

*It is further ordered*, That no oral hearing be scheduled for the receiving of testimony in this proceeding unless a need therefor should later appear, but that respondents or any other interested parties may participate in this proceeding by submitting for consideration written statements of fact, views, and arguments on the subjects mentioned above, or any other subjects pertaining to this proceeding.

*It is further ordered*, That any interested persons wishing to submit written statements of fact, views, or arguments shall file an original (and, if possible, 15 copies) of such representations with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, by June 23, 1975 and that all such statements will be considered as evidence and as a part of the record in this proceeding.

*It is further ordered*, That written material or suggestions submitted shall be made available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, D.C. during regular business hours.

*And it is further ordered*, That statutory notice of the institution of this proceeding be given to all respondents and to the general public by mailing a copy of this order to the Governor of every State and to the Public Utilities Commissions or Board of each State having jurisdiction over transportation, by posting a copy of this order in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy thereof to the Director, Division of the Federal Register, for publication in the Federal Register as notice to all interested persons.

This decision is not a major Federal action significantly affecting the quality

of the human environment within the meaning of the National Environmental Policy Act of 1969.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.

#### PART 1201—RAILROAD COMPANIES

Amend Part 1201, Uniform System of Accounts for Railroad Companies, as follows:

##### GENERAL INSTRUCTIONS

The text of instruction 1-1 "Classification of Carriers" is revised to read:

1-1 *Classification of carriers.* (a) For purposes of the accounting and reporting regulations, carriers are grouped into the following two classes:

*Class I.* Carriers having annual carrier operating revenues of \$10 million or more.

*Class II.* Carriers having annual carrier operating revenues of less than \$10 million.

(b) (1) The class to which any carrier belongs shall be determined by annual carrier operating revenue. If at the end of any calendar year such annual carrier operating revenue is greater than the maximum for the class in which the carrier is classified, the carrier shall adopt the accounting and reporting requirements of the higher class in which it falls. Class II carriers shall adopt Class I classification effective as of January 1 of the following year.

(2) If at the end of any calendar year a Class I carrier's annual operating revenue is less than \$10 million, and has been for three consecutive years, the carrier shall adopt the accounting and reporting requirements for Class II carriers. Such adoption shall be effective as of January 1 of the following year.

(3) The carrier shall notify the Commission of any change in classification by completing the Carrier Classification Form and sending same to the Commission by October 31 of each year.

(4) Newly organized carriers shall be classified on the basis of their annual carrier operating revenues for the latest period of such operation. If actual data are not available, new carriers shall be classified on the basis of their carrier operating revenue known and estimated for a year.

(5) When a business combination occurs, such as a merger, reorganization, or consolidation, the surviving carrier shall be reclassified effective January 1 of the next calendar year on the basis of the combined revenue for the year when the combination occurred.

(6) In unusual circumstances, such as partial liquidation, and curtailment or elimination of contracted services, where the classification regulations will unduly burden the carrier, the carrier may request the Commission for an exception to the regulations. This request shall be in writing specifying the conditions justifying an exception.

(7) When a business combination occurs, such as a merger, reorganization, or consolidation, the surviving carrier shall be reclassified effective January 1 of the next calendar year on the basis of the combined revenue for the year when the combination occurred.

(c) Class I carriers shall keep all of the accounts of this system of accounts which are applicable to their operations. Class II carriers shall keep all of the accounts of this system of accounts which are applicable to their operations, except that their accounts for operating expenses may be kept under the accounts of the respective condensed groupings provided for herein.

(d) In applying the classification grouping to any switching or terminal company which is operated as a joint facility of owning or tenant railways the sum of the annual carrier operating revenues, the joint facility rent income, and the totals of the joint facility credit accounts in operating expenses, shall be used in determining its class.

#### PART 1202—ELECTRIC RAILWAYS

Amend Part 1202, Uniform System of Accounts for Electric Railways, as follows:

##### CLASSIFICATION OF CARRIERS

The text of instruction 00-1 "Classification of Carriers" is revised to read:

00-1 *Classification of carriers.*

(a) For purposes of the accounting and reporting regulations, carriers are grouped into the following three classes:

*Class I.* Carriers having annual carrier operating revenues of \$1 million or more.

*Class II.* Carriers having annual carrier operating revenues of \$250,000 but less than \$1 million.

*Class III.* Carriers having annual carrier operating revenues of less than \$250,000.

(b) (1) The class to which any carrier belongs shall be determined by annual carrier operating revenue. If at the end of any calendar year such annual carrier operating revenue is greater than the maximum for the class in which the carrier is classified, the carrier shall adopt the accounting and reporting requirements of the higher class in which it falls. Adoption of the higher classification shall be effective as of January 1 of the following year.

(2) If at the end of any calendar year a carrier's annual operating revenue is less than the minimum of the class in which the carrier is classified, and has been for three consecutive years, the carrier shall adopt the accounting and reporting requirements of the lower class in which it falls. Such adoption shall be effective as of January 1 of the following year.

(3) The carrier shall notify the Commission of any change in classification by completing the Carrier Classification Form and sending same to the Commission by October 31 of each year.

(4) Newly organized carriers shall be classified on the basis of their annual carrier operating revenues for the latest period of operation. If actual data are not available, new carriers shall be classified on the basis of their carrier operating revenue known and estimated for a year.

(5) When a business combination occurs, such as a merger, reorganization,

or consolidation, the surviving carrier shall be reclassified effective January 1 of the next calendar year on the basis of the combined revenue for the year when the combination occurred.

(6) In unusual circumstances, such as partial liquidation, and curtailment or elimination of contracted services, where the classification regulations will unduly burden the carrier, the carrier may request the Commission for an exception to the regulations. This request shall be in writing specifying the conditions justifying an exception.

(c) Both Class I and Class II carriers shall keep the accounts prescribed herein, except that a condensed grouping of primary operating expense accounts is provided for the use of Class II carriers. Class II carriers desiring to do so may maintain the primary accounts prescribed for Class I carriers but must be prepared to combine the accounts for the purpose of making entries in reports filed with the Commission.

#### PART 1206—COMMON AND CONTRACT MOTOR CARRIERS OF PASSENGERS

Amend Part 1206, Common and Contract Motor Carriers of Passengers, as follows:

##### INSTRUCTIONS

The text of instruction 2-1 "Classification of Carriers" is revised to read:

2-1 *Classification of carriers.*

(a) For purposes of the accounting and reporting regulations, carriers are grouped into the following three classes:

*Class I.* Carriers having annual carrier operating revenues (including interstate and intrastate) of \$1 million or more.

*Class II.* Carriers having annual carrier operating revenues (including interstate and intrastate) of \$200,000 but less than \$1 million.

*Class III.* Carriers having annual carrier operating revenues (including interstate and intrastate) of less than \$200,000.

(b) (1) The class to which any carrier belongs shall be determined by annual gross carrier operating revenue. If at the end of any calendar year such annual gross carrier operating revenue is greater than the maximum for the class in which the carrier is classified, the carrier shall adopt the accounting and reporting requirements of the higher class in which it falls. For Class III carriers adoption of Class II classification shall be effective as of January 1 of the following year. For Class II carriers adoption of a higher classification shall be effective as of January 1 of the second succeeding year after the carrier meets the minimum revenue limit for Class I.

(2) If at the end of any calendar year a carrier's operating revenue is less than the minimum of the class in which the carrier is classified, and has been for three consecutive years, the carrier shall adopt the accounting and reporting requirements of the lower class in which the current year revenue falls. Adoption of the lower class shall be effective as of January 1 of the following year.

(3) The carrier shall notify the Commission of any change in classification by completing the Carrier Classification Form and sending same to the Commission by October 31 of each year.

(4) Any carrier which begins new operations (obtains operating authority not previously held) or extends its existing authority (obtains additional operating rights) shall be classified in accordance with a reasonable estimate of its annual carrier operating revenues.

(5) When a business combination occurs, such as a merger, reorganization, or consolidation, the surviving carrier shall be reclassified effective January 1 of the next calendar year on the basis of the combined revenue for the year when the combination occurred.

(6) In unusual circumstances, such as partial liquidation, and curtailment or elimination of contracted services, where the classification regulations will unduly burden the carrier, the carrier may request the Commission for an exception to the regulations. This request shall be in writing specifying conditions justifying an exception.

(d) Only Class I carriers shall keep all the accounts prescribed in this part, where applicable. Class II and Class III are not required to keep the accounts prescribed in this part.

#### PART 1207—CLASS I AND CLASS II COMMON AND CONTRACT MOTOR CARRIERS OF PROPERTY

Amend Part 1207, Class I and Class II Common and Contract Motor Carriers of Property, as follows:

##### CLASS I AND CLASS II MOTOR CARRIERS INSTRUCTIONS

The text of instruction 1 "Classification of Carriers" is revised to read:

1. *Classification of carriers.*

(a) For purposes of accounting and reporting regulations, except those regulations pertaining to accounting and reporting for revenue and expense items, common and contract carriers of property subject to the Interstate Commerce Act are grouped into the following three classes:

*Class I.* Carriers having annual carrier operating revenues (including interstate and intrastate) of \$3 million or more.

*Class II.* Carriers having annual carrier operating revenues (including interstate and intrastate) of \$500,000 but less than \$3 million.

*Class III.* Carriers having annual carrier operating revenues (including interstate and intrastate) of less than \$500,000.

(b) (1) The class to which any carrier belongs shall be determined by annual carrier operating revenue. If at the end of any calendar year such annual carrier operating revenue is greater than the maximum for the class in which the carrier is classified, the carrier shall adopt the accounting and reporting requirements of the higher class in which it falls. For Class II carriers adoption of



Class I classification shall be effective as of January 1 of the following year. For Class III carriers adoption of a higher classification shall be effective as of January 1 of the second succeeding year.

(2) If at the end of any calendar year a carrier's annual carrier operating revenue is less than the minimum of the class in which the carrier is classified, and has been for three consecutive years, the carrier shall adopt the accounting and reporting requirements of the lower class in which the current year revenue falls. Adoption of the lower class shall be effective as of January 1 of the following year.

(3) The carrier shall notify the Commission of any change in classification by completing the Carrier Classification Form and sending same to the Commission by October 31 of each year.

(4) Any carrier which begins new operations (obtains operating authority not previously held) or extends its existing authority (obtains additional operating rights) shall be classified in accordance with a reasonable estimate of its annual carrier operating revenues.

(5) When a business combination occurs, such as a merger, reorganization, or consolidation, the surviving carrier shall be reclassified effective January 1 of the next calendar year on the basis of the combined revenue for the year when the combination occurred.

(6) In unusual circumstances, such as partial liquidation, and curtailment or elimination of contracted services, where the classification regulations will unduly burden the carrier, the carrier may request the Commission for an exception to the regulations. This request shall be in writing specifying the conditions justifying an exception.

(c) Special provisions for carriers with revenues from general and special commodities and from household goods operations.

(1) Separate matrices of revenue and expenses are provided for carriers subject to Instructions 27 and 28A and for carriers subject to Instructions 28B for accounting and reporting purposes. For purposes of accounting and reporting, the revenues of common and contract motor carriers of property, shall be categorized as follows: Instructions 27 and 28A (general and other special commodity), Instruction 28B (household goods). Each category of revenue is then classified in accordance with the dollar revenue limits prescribed in paragraph (a). When a carrier has both household goods and general and other special commodity revenue, each category shall be classified (I, II or III) to determine the accounting and reporting regulations which pertain to that category.

(2) If a carrier grouped as Class I or Class II carrier in accordance with paragraph (a) has operations in both categories in paragraph (c) (1) above, and one of the categories is classified as Class III, such revenues and expenses shall be accounted and reported in accordance with the regulations pertaining to the Class I or Class II category.

(3) If a carrier grouped as Class II in accordance with paragraph (a) has operations in both categories and both categories are grouped as Class III in accordance with paragraph (c) (1), such revenues and expenses shall be accounted and reported in accordance with the regulations pertaining to the category with the larger annual carrier operating revenues.

(d) Any carrier, at its option, may adopt the accounting requirements of a higher class than the one in which it falls. Notice of such action shall be promptly filed with the Commission. However, for reporting purposes the carrier shall comply with the reporting requirements of the class applicable to its annual carrier operating revenue.

The introductory text of paragraph (a) of instruction 27 "Distribution of expenses to activities: general commodity carriers" is revised to read:

27. Distribution of expenses to activities: general commodity carriers.

All Class I and Class II common carriers which derive 75 percent or more of their revenues from the intercity transportation of general commodities will be classified as Instruction 27 carriers in the year immediately following the year in which the carriers meet this minimum revenue qualification. They shall distribute expenses to the following activities (see definition 2):

#### PART 1209—INLAND AND COASTAL WATERWAYS CARRIERS

Amend Part 1209, Inland and Coastal Waterways Carriers, as follows:

##### Introduction

The text of instruction (ii) "Classification of Carriers" is revised to read:

(ii) Classification of carriers.

(a) For purposes of the accounting and reporting regulations, carriers are grouped into the following three classes:

Class A. Carriers having annual carrier operating revenues of \$500,000 or more.

Class B. Carriers having annual carrier operating revenues of \$100,000 but less than \$500,000.

Class C. Carriers having annual carrier operating revenues of less than \$100,000.

(b) (1) The class to which any carrier belongs shall be determined by annual carrier operating revenue. If at the end of any calendar year such annual carrier operating revenue is greater than the maximum for the class in which the carrier is classified, the carrier shall adopt the accounting and reporting requirements of the higher class in which it falls. For Class B carriers adoption of Class A classification shall be effective as of January 1 of the following year. For Class C carriers adoption of a higher classification shall be effective as of January 1 of the second succeeding year.

(2) If at the end of any calendar year a carrier's annual carrier operating revenue is less than the minimum of the class in which the carrier is classified,

and has been for three consecutive years, the carrier shall adopt the accounting requirements of the lower class in which the current year revenue falls. Such adoption shall be effective as of January 1 of the following year.

(3) The carrier shall notify the Commission of any change in classification by completing the Carrier Classification Form and sending same to the Commission by October 31 of each year.

(4) Any carrier which begins new operations (obtains operating authority not previously held) or extends its existing authority (obtains additional operating rights) shall be classified in accordance with a reasonable estimate of its annual carrier operating revenues.

(5) When a business combination occurs, such as a merger, reorganization, or consolidation, the surviving carrier shall be reclassified effective January 1 of the next calendar year on the basis of the combined revenue for the year when the combination occurred.

(6) In unusual circumstances, such as partial liquidation, and curtailment or elimination of contracted services, where the classification regulations will unduly burden the carrier, the carrier may request the Commission for an exception to the regulations. Such request shall be in writing specifying the conditions justifying an exception.

(c) Class A companies shall keep all of the accounts of this system of accounts which are applicable to their operations. Class B companies shall keep all of the accounts of this system of accounts which are applicable to their operations, except that their accounts for operating revenues and operating expenses may be kept under the accounts of the condensed classification provided herein.

#### PART 1210—FREIGHT FORWARDERS

Amend Part 1210, Uniform System of Accounts for Freight Forwarders, as follows:

In the list of instructions and accounts, Line Item "0-1 Introduction" is amended to read:

0-1 Classification of Carriers

Line Item "0-2 Applicability of the Regulations" is deleted.

##### INSTRUCTIONS

The title and text of instruction "0-1 Introduction" is revised to read:

0-1 Classification of carriers.

(a) For purposes of the accounting and reporting regulations, freight forwarders are grouped into the following two classes:

Class A. Freight forwarders having annual operating revenues of \$100,000 or more.

Class B. Freight forwarders having annual operating revenues of less than \$100,000.

The term "operating revenues" refers to the amounts includible in accounts 501, 521, 522, and 523.

(b) (1) The class to which any freight forwarder belongs shall be determined

by annual operating revenue. If at the end of any calendar year such annual operating revenue is greater than the maximum for the class in which the freight forwarder is classified, the freight forwarder shall adopt the accounting and reporting requirements of the higher class in which it falls. For Class B freight forwarders adoption of Class A classification shall be effective as of January 1 of the second succeeding year.

(2) If at the end of any calendar year a Class A freight forwarder's annual operating revenues is less than \$100,000, and has been for three consecutive years, the freight forwarder shall adopt the accounting and reporting requirements applicable to a Class B. Such adoption shall be effective as of January 1 of the following year.

(3) Freight forwarders shall notify the Commission of any change in classification by completing the Carrier Classification Form and sending same to the Commission by October 31 of each year.

(4) Any freight forwarder which begins new operations (obtains operating authority not previously held) or extends its existing authority (obtains additional operating rights) shall be classified in accordance with a reasonable estimate of its annual operating revenues.

(5) When a business combination occurs, such as a merger, reorganization, or consolidation, the surviving freight forwarder shall be reclassified effective January 1 of the next calendar year on the basis of the combined revenue for the year when the combination occurred.

(6) In unusual circumstances, such as partial liquidation, and curtailment or elimination of contracted services, where the classification regulations will unduly burden the freight forwarder, the freight forwarder may request the Commission for an exception to the regulations. Such request shall be in writing specifying the conditions justifying an exception.

(c) Under part IV of the Interstate Commerce Act the observance of the rules and regulations stated in this system of accounts becomes obligatory upon persons having direct charge of the accounts of the freight forwarders concerned, and such persons will be held responsible for their proper application.

Subsection (d) of section 421 of part IV of the Interstate Commerce Act provides that:

(d) Any freight forwarder, or any officer, agent, employee, or representative thereof, who shall willfully fail or refuse to make a report to the Commission as required under this part, or to make specific and full, true, and correct answer to any question within thirty days from the time it is lawfully required by the Commission so to do, or to keep accounts, records, and memoranda in the form and manner prescribed by the Commission, or shall knowingly and willfully falsify, destroy, mutilate, or alter any such report, account, record, or memorandum, or shall knowingly and willfully file with the Commission any false report, account, record, or memorandum, or shall knowingly and willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of the freight

forwarder, or shall knowingly and willfully keep any accounts, records, or memoranda contrary to the rules, regulations, or orders of the Commission with respect thereto, shall be guilty of a misdemeanor and upon conviction thereof shall be subject for each offense to a fine of not more than \$5,000. As used in this subsection the word "keep" shall be construed to mean make, prepare, or compile, as well as retain.

(d) Class A companies shall keep all of the accounts of this system of accounts which are applicable to their operations. No uniform system of accounts is prescribed for Class B companies.

#### PART 1240—CLASSES OF CARRIERS

Amend part 1240, Classes of Carriers, as follows:

The texts of §§ 1240.1, 1240.2, 1240.3, 1240.4, 1240.5 and 1240.6 are revised to read as follows:

##### Subpart A—Railroads

§ 1240.1 Classification of rail carriers.

(a) For the purpose of annual, other periodical and special reports, commencing with reports for the year, quarter or month beginning January 1, 1975, and thereafter until further ordered, operating carriers by railroad subject to the provisions of Part I of the Interstate Commerce Act shall be, and they are hereby, grouped into the following classes:

Class I. Carriers having annual carrier operating revenues of \$10 million or more.

Class II. Carriers having annual carrier operating revenues of less than \$10 million.

(b) (1) The class to which any carrier belongs shall be determined by annual carrier operating revenue. If at the end of any calendar year such annual carrier operating revenue is greater than the maximum for the class in which the carrier is classified, the carrier shall adopt the accounting and reporting requirements of the higher class in which it falls. Class II carriers shall adopt Class I classification effective as of January 1 of the following year.

(2) If at the end of any calendar year a Class I carrier's annual operating revenue is less than \$10 million, and has been for three consecutive years, the carrier shall adopt the accounting and reporting requirements for Class II carriers. Such adoption shall be effective as of January 1 of the following year.

(3) The carrier shall notify the Commission of any change in classification by completing the Carrier Classification Form and sending same to the Commission by October 31 of each year.

(4) Newly organized carriers shall be classified on the basis of their annual carrier operating revenues for the latest period of operation. If actual data are not available, new carriers shall be classified on the basis of their carrier operating revenue known and estimated for a year.

(5) When a business combination occurs, such as a merger, reorganization, or consolidation, the surviving carrier shall be reclassified effective January 1

of the next calendar year on the basis of the combined revenue for the year when the combination occurred.

(c) In unusual circumstances, such as partial liquidation, and curtailment or elimination of contracted services, where the classification regulations will unduly burden the carrier, the carrier may request the Commission for an exception to the regulations. This request shall be in writing specifying the conditions justifying an exception.

(d) In applying the classification grouping to any switching or terminal company which is operated as a joint facility of owning or tenant railways the sum of the annual carrier operating revenues, the joint facility rent income, and the totals of the joint facility credit accounts in operating expenses, shall be used in determining its class.

(Sec. 12, 24 Stat. 383, as amended; 49 U.S.C. 12. Interprets or Applies Sec. 20, 24 Stat. 386, as amended; 49 U.S.C. 20)

##### Subpart B—Carriers by Water

§ 1240.2 Classification of carriers by water.

(a) For the purpose of annual, other periodical and special reports, commencing with reports for the year, quarter or month beginning January 1, 1975, carriers by water subject to the provisions of the Interstate Commerce Act shall be, and they are hereby, grouped into the following classes:

Class A. Carriers having annual carrier operating revenues of \$500,000 or more.

Class B. Carriers having annual carrier operating revenues of \$100,000 but less than \$500,000.

Class C. Carriers having annual carrier operating revenues of less than \$100,000.

(b) (1) The class to which any carrier belongs shall be determined by annual carrier operating revenue. If at the end of any calendar year such annual carrier operating revenue is greater than the maximum for the class in which the carrier is classified, the carrier shall adopt the accounting and reporting requirements of the higher class in which it falls. For Class B carriers adoption of Class A classification shall be effective as of January 1 of the following year. For Class C carriers adoption of a higher classification shall be effective as of January 1 of the second succeeding year.

(2) If at the end of any calendar year a carrier's annual carrier operating revenue is less than the minimum of the class in which the carrier is classified, and has been for three consecutive years, the carrier shall adopt the accounting requirements of the lower class in which the current year revenue falls. Such adoption shall be effective as of January 1 of the following year.

(3) The carrier shall notify the Commission of any change in classification by completing the Carrier Classification Form and sending same to the Commission by October 31 of each year.

(4) Any carrier which begins new operations (obtains operating authority not previously held) or extends its existing authority (obtains additional operating



rights) shall be classified in accordance with a reasonable estimate of its annual gross carrier operating revenues.

(5) When a business combination occurs, such as a merger, reorganization, or consolidation, the surviving carrier shall be reclassified effective January 1 of the next calendar year on the basis of the combined revenue for the year when the combination occurred.

(c) In unusual circumstances, such as partial liquidation, and curtailment or elimination of contracted services, where the classification regulations will unduly burden the carrier, the carrier may request the Commission for an exception to the regulations. Such request shall be in writing specifying the conditions justifying an exception.

(Sec. 12, 24 Stat. 383, as amended, 54 Stat. 933; 49 U.S.C. 12, 904. Interprets or Applies Sec. 20, 24 Stat. 386, as amended, 54 Stat. 944; 49 U.S.C. 20, 913)

#### Subpart C—Carriers by Electric Railway

##### § 1240.3 Classification of carriers by electric railway.

(a) For the purpose of annual, other periodical and special reports commencing with the year, quarter or month beginning January 1, 1975, carriers by electric railway subject to the provisions of the Interstate Commerce Act shall be, and they hereby are, grouped into the following classes:

*Class I.* Carriers having annual carrier operating revenues of \$1 million or more.

*Class II.* Carriers having annual carrier operating revenues of \$250,000 but less than \$1 million.

*Class III.* Carriers having annual carrier operating revenues of less than \$250,000.

(b) (1) The class to which any carrier belongs shall be determined by annual carrier operating revenue. If at the end of any calendar year such annual carrier operating revenue is greater than the maximum for the class in which the carrier is classified, the carrier shall adopt the accounting and reporting requirements of the higher class in which it falls. Adoption of the higher classification shall be effective as of January 1 of the following year.

(2) If at the end of any calendar year a carrier's annual carrier operating revenue is less than the minimum of the class in which the carrier is classified, and has been for three consecutive years, the carrier shall adopt the accounting and reporting requirements of the lower class in which it falls. Such adoption shall be effective as of January 1 of the following year.

(3) The carrier shall notify the Commission of any change in classification by completing the Carrier Classification Form and sending same to the Commission by October 31 of each year.

(4) Newly organized carriers shall be classified on the basis of their annual carrier operating revenues for the latest period of such operation. If actual data are not available, new carriers shall be classified on the basis of their carrier operating revenue known and estimated for a year.

(5) When a business combination occurs, such as a merger, reorganization, or consolidation, the surviving carrier shall be reclassified effective January 1 of the next calendar year on the basis of the combined revenue for the year when the combination occurred.

(c) In unusual circumstances, such as partial liquidation, and curtailment or elimination of contracted services, where the classification regulations will unduly burden the carrier, the carrier may request the Commission for an exception to the regulations. This request shall be in writing specifying the conditions justifying an exception.

(Sec. 12, 24 Stat. 383, as amended; 49 U.S.C. 12. Interprets or Applies Sec. 20, 24 Stat. 386, as amended; 49 U.S.C. 20)

#### Subpart D—Motor Carriers

##### § 1240.4 Classification of motor carriers of passengers.

(a) For purposes of the accounting and reporting regulations, commencing with the year beginning January 1, 1975, common and contract carriers of passengers subject to the Interstate Commerce Act are grouped into the following classes:

*Class I.* Carriers having annual carrier operating revenues (including interstate and intrastate) of \$1 million or more.

*Class II.* Carriers having annual carrier operating revenues (including interstate and intrastate) of \$200,000 but less than \$1 million.

*Class III.* Carriers having annual carrier operating revenues (including interstate and intrastate) of less than \$200,000.

(b) (1) The class to which any carrier belongs shall be determined by annual carrier operating revenue. If at the end of any calendar year or accounting year of 13 4-week periods, such annual carrier operating revenue is greater than the maximum for the class in which the carrier is classified, the carrier shall adopt the accounting and reporting requirements of the higher class in which it falls. For Class III carriers adoption of Class II classification shall be effective as of January 1 of the following year. For Class II carriers adoption of a higher classification shall be effective as of January 1 of the second succeeding year after the carrier meets the minimum revenue limit for Class I.

(2) If at the end of any calendar year, or accounting year of 13 4-week periods, a carrier's annual operating revenue is less than the minimum of the class in which the carrier is classified, and has been for three consecutive years, the carrier shall adopt the accounting and reporting requirements of the lower class in which the current year revenue falls. Adoption of the lower class shall be effective as of January 1 of the following year.

(3) The carrier shall notify the Commission of any change in classification by completing the Carrier Classification Form and sending same to the Commission by October 31 of each year.

(4) Any carrier which begins new operations (obtains operating authority

not previously held) or extends its existing authority (obtains additional operating rights) shall be classified in accordance with a reasonable estimate of its annual gross carrier operating revenues.

Any carrier which begins new operations is required to furnish the above estimate, including intrastate, anticipated interstate and local cartage revenues, to the Bureau of Accounts, Section of Reports, prior to the issuance of a certificate or permit.

(5) When a business combination occurs, such as a merger, reorganization, or consolidation, the surviving carrier shall be reclassified effective January 1 of the next calendar year on the basis of the combined revenue for the year when the combination occurred.

(c) In unusual circumstances, such as partial liquidation, and curtailment or elimination of contracted services, where the classification regulations will unduly burden the carrier, the carrier may request the Commission for an exception to the regulations. This request shall be in writing specifying conditions justifying an exception.

(Secs. 204, 220, 49 Stat. 546, as amended, 563, as amended 49 U.S.C. 304, 320)

##### § 1240.5 Classification of motor carriers of property.

(a) For purposes of accounting and reporting regulations, commencing with the year beginning January 1, 1975, common and contract carriers of property subject to the Interstate Commerce Act are grouped into the following three classes:

*Class I.* Carriers having annual carrier operating revenues of \$3 million or more.

*Class II.* Carriers having annual carrier operating revenues of \$500,000 but less than \$3 million.

*Class III.* Carriers having annual carrier operating revenues of less than \$500,000.

(b) (1) The class to which any carrier belongs shall be determined by annual carrier operating revenue. If at the end of any calendar year, or accounting year of 13 4-week periods, such annual carrier operating revenue is greater than the maximum for the class in which the carrier is classified, the carrier shall adopt the accounting and reporting requirements of the higher class in which it falls. For Class II carriers adoption of Class I classification shall be effective as of January 1 of the following year. For Class III carriers adoption of a higher classification shall be effective as of January 1 of the second succeeding year.

(2) If at the end of any calendar year, or accounting year of 13 4-week periods a carrier's annual carrier operating revenue is less than the minimum of the class in which the carrier is classified, and has been for three consecutive years, the carrier shall adopt the accounting and reporting requirements of the lower class in which the current year revenue falls. Adoption of the lower class shall be effective as of January 1 of the following year.

(3) The carrier shall notify the Commission of any change in classification

by completing the Carrier Classification Form and sending same to the Commission by October 31 of each year.

(4) Any carrier which begins new operations (obtains operating authority not previously held) or extends its existing authority (obtains additional operating rights) shall be classified in accordance with a reasonable estimate of its annual gross carrier operating revenues.

Any carrier which begins new operations is required to furnish the above estimate, including intrastate, anticipated interstate and local cartage revenues, to the Bureau of Accounts, Section of Reports, prior to the issuance of a certificate or permit.

(5) When a business combination occurs, such as a merger, reorganization, or consolidation, the surviving carrier shall be reclassified effective January 1 of the next calendar year on the basis of the combined revenue for the year when the combination occurred.

(c) In unusual circumstances, such as partial liquidation, and curtailment or elimination of contracted services, where the classification regulations will unduly burden the carrier, the carrier may request the Commission for an exception to the regulations. This request shall be in writing specifying the conditions justifying an exception.

(d) Special Provisions for Carriers with Household Goods Operations.

(1) For purposes of accounting and reporting revenues and expenses, the revenues of common and contract motor carriers of property, that have household goods operations, are categorized as follows:

Instruction 28B (household goods) Instruction 27 and 28A (general commodity and other)

Each category of revenue is then classified in accordance with the dollar revenue limits prescribed in paragraph (a) and shall be classified in accordance with paragraph (b). When a carrier has both household goods and general commodity and other revenue, each category shall be classified (I, II, or III) to determine the accounting and reporting regulations which pertain to that category.

(2) If a carrier grouped as Class I or Class II carrier in accordance with paragraph (a) has operations in both categories in paragraph (c) (1) above, and one of the categories is classified as Class III, such revenues and expenses shall be accounted and reported in accordance with the regulations pertaining to the Class I or Class II category.

(3) If a carrier grouped as Class II in accordance with paragraph (a) has operations in both categories and both categories are grouped as Class III in accordance with paragraph (c) (1), such revenues and expenses shall be accounted and reported in accordance with the regulations pertaining to the category with the larger annual gross carrier operating revenues.

(Secs. 204, 220, 49 Stat. 546, as amended 563, as amended; 49 U.S.C. 304, 320)

#### Subpart E—Freight Forwarders

##### § 1240.6 Classification for freight forwarders.

(a) For the purpose of annual, other periodical and special reports, commencing with the year, quarter or month beginning January 1, 1975, freight forwarders subject to the provision of Part IV of the Interstate Commerce Act, shall be, and they hereby are, grouped into the following classes:

*Class A.* Freight forwarders having annual operating revenues of \$100,000 or more.

*Class B.* Freight forwarders having annual operating revenues of less than \$100,000.

(b) (1) The class to which any freight forwarder belongs shall be determined by annual operating revenue. If at the end of any calendar year such annual operating revenue is greater than the maximum for the class in which the freight forwarder is classified, the freight forwarder shall adopt the accounting and reporting requirements of the higher class in which it falls. For Class B freight forwarders adoption of Class A classification shall be effective as of January 1 of the second succeeding year.

(2) If at the end of any calendar year a Class A freight forwarder's gross operating revenue is less than \$100,000, and has been for three consecutive years, the freight forwarder shall adopt the accounting and reporting requirements applicable to a Class B. Such adoption shall be effective as of January 1 of the following year.

(3) Freight forwarders shall notify the Commission of any change in classification by completing the Carrier Classification Form and sending same to the Commission by October 31 of each year.

(4) Any freight forwarder which begins new operations (obtains operating authority not previously held) or extends its existing authority (obtains additional operating rights) shall be classified in accordance with a reasonable estimate of its annual gross operating revenues.

(5) When a business combination occurs, such as a merger, reorganization, or consolidation, the surviving freight forwarder shall be reclassified effective January 1 of the next calendar year on the basis of the combined revenue for the year when the combination occurred.

(c) In unusual circumstances, such as partial liquidation, and curtailment or elimination of contracted services, where the classification regulations will unduly burden the freight forwarder, the freight forwarder may request the Commission for an exception to the regulations. Such request shall be in writing specifying the conditions justifying an exception.

(d) Any freight forwarder, at its option, may adopt the accounting requirements of a higher class than the one in which it falls. Notice of such action shall be promptly filed with the Commission. However, for reporting purposes the freight forwarder shall comply with the

reporting requirements of the class applicable to its annual gross operating revenue.

(e) Under part IV of the Interstate Commerce Act the observance of the rules and regulations stated in this system of accounts becomes obligatory upon persons having direct charge of the accounts of the freight forwarders concerned, and such persons will be held responsible for their proper application.

(Secs. 403, 412, 56 Stat. 285, 294, 49 U.S.C. 1003, 1012)

#### PART 1249—REPORTS OF MOTOR CARRIERS

Amend Part 1249, Reports of Motor Carriers, as follows:

The text of § 1249.15 is revised to read as follows:

##### § 1249.15 Quarterly report of freight loss and damage claims.

Commencing with reports for the quarter beginning January 1, 1975, and for subsequent quarters thereafter, until further ordered, all common and contract carriers of property having annual operating revenues (including interstate and intrastate) of \$1 million, or more, from property motor carrier operations, shall compile and file quarterly reports in accordance with Motor Carrier Quarterly Report of Freight Loss and Damage Claims, Form QL&D. Carriers shall be exempt from filing such quarterly reports commencing with the year immediately following the third consecutive year in which a carrier fails to meet the minimum revenue qualification. Such quarterly reports (which need not include data relating to claims filed for loss or damage to shipments transported in armored-truck service, as described in Classification of Motor Carriers of Property, 2 M.C.C. 703, at page 712) shall be filed in duplicate in the office of the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within 40 days after the close of each quarter.

#### CARRIER CLASSIFICATION FORM TO THE INTERSTATE COMMERCE COMMISSION

FOR THE YEAR ENDED DECEMBER 31, 197—

##### APPENDIX I

##### CARRIER CLASSIFICATION FORM

This form is to be completed by carriers to determine the need for new classification and to serve as notification to the Commission of the effective date of the new classification. This form should be returned to the Commission by October 31 of each year.

A. Provide data on respondent carrier in blanks below:

Name of Company \_\_\_\_\_

	Date	Gross carrier operating revenue	Classification adopted by carrier
1. Current year.....	19.....	\$.....	Class.....
2. Previous year.....	19.....	\$.....	Class.....
3. Next previous year.....	19.....	\$.....	Class.....

V  
4  
0  
-  
1  
0  
1  
M  
A  
Y  
2  
3  
7  
5

XUM



## PROPOSED RULES

B. On the basis of the information in Part A above and the applicable carrier classification rules in 49 CFR 1240, answer the questions by checking the appropriate box:

- |  |                          |                          |
|--|--------------------------|--------------------------|
| 1. Does the respondent carrier qualify for reclassification to a higher class? | Yes                      | No                       |
| 2. Does the respondent carrier qualify for reclassification to a lower class?  | <input type="checkbox"/> | <input type="checkbox"/> |

If your answer to either question is "Yes" complete the remainder of this form and send to the commission.

C. Based on the information in Parts A and B above and the applicable carrier classification rules in 49 CFR 1240, check the appropriate box relevant to your new classification:

- |                                  |                          |
|----------------------------------|--------------------------|
| 1. Carrier's new classification: | Check one                |
| Class I or Class A.....          | box only                 |
| Class II or Class B.....         | <input type="checkbox"/> |
| Class III or Class C.....        | <input type="checkbox"/> |

## CERTIFICATION

Based on the information provided in this form I will adopt the accounting and reporting requirements for Class -- carriers effective January 1, 19--, in accordance with the provisions of 49 CFR 12--.

Signature of Affiant \_\_\_\_\_

[N. B. Motor carriers of property subject to two classifications of operating accounts (such as household goods carriers having general commodity and other operations) shall complete one form for each operation subject to change in class, in addition to the one applicable to the total operation.]

[FR Doc.75-13660 Filed 5-22-75;8:45 am]

## notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

[Order No. 127; Rev. 1, Revocation]

## REGIONAL COMMISSIONERS, ET AL.

## Extension of Time for Making Certain Elections

MAY 20, 1975.

1. Delegation Order No. 127 (Rev. 1) delegated authority under 26 CFR 1.9100, extension of time for making certain elections, to Regional Commissioners, District Directors, and Service Center Directors to grant reasonable extensions of time (not to exceed a total of 240 days) for changing an election made under section 165(h) of the Internal Revenue Code of 1954 beyond the date that such election becomes or became irrevocable which is the later of (1) 90 days after the date on which the election was made, or (2) March 6, 1973.

2. Since the last day of any extension of time granted in accordance with the provisions of Delegation Order No. 127 (Rev. 1) has passed, that Order is no longer necessary.

3. Accordingly, Delegation Order No. 127 (Rev. 1), issued September 4, 1973, is hereby revoked.

Effective Date: May 20, 1975.

DONALD C. ALEXANDER,  
Commissioner.

[FR Doc.75-13534 Filed 5-22-75;8:45 am]

[Order No. 133; Rev. 1]

DEPUTY COMMISSIONER AND  
DIRECTOR OF PERSONNEL

## Authority To Grant Security Clearances

MAY 20, 1975.

(1) The authority granted to the Commissioner of Internal Revenue by Treasury Department Order No. 82 (Revised 1-17-73), for performing the operating functions relating to Internal Revenue Service personnel security, including the granting of security clearances and the denial or termination of clearances based upon a determination that they are not required, is hereby delegated to:

(a) the Deputy Commissioner, as Personnel Security Officer, to grant, deny and terminate, Top Secret, Secret, and Confidential security clearances for officials and employees occupying critical-sensitive positions as defined in IRM 1312.32 (to be reissued as IRM 0736), or given critical-sensitive assignments, except Top Secret security clearances for:

1. Presidential appointees requiring confirmation by the Senate;

2. Occupants of Executive level positions (Commissioner, Deputy Commissioner and Chief Counsel);

(b) The Director, Personnel Division, to grant, deny and terminate Secret or Confidential security clearances for officials and employees occupying other than critical-sensitive positions or on other than critical-sensitive assignments.

(2) The authority granted in 1(a) may be redelegated to the Assistant to the Deputy Commissioner; the authority granted in 1(b) may not be redelegated.

(3) The authority to deny or terminate clearances granted in both 1(a) and 1(b) includes only the denial or termination of a clearance based upon the determination that the clearance is not required. The authority to terminate (deny or withdraw) clearances based upon security implications is not granted by this Delegation Order. Such authority is held by the Director of Personnel, Department of the Treasury, as delegated by the Secretary of the Treasury and the Assistant Secretary for Administration.

(4) Delegation Order No. 133, issued April 20, 1973, is superseded.

Effective Date: May 20, 1975.

DONALD C. ALEXANDER,  
Commissioner.

[FR Doc.75-13535 Filed 5-22-75;8:45 am]

## Office of the Secretary

[Legal Division Order No. 6 (Rev. 1)]

CHIEF COUNSELS, BUREAU OF ALCOHOL,  
TOBACCO, AND FIREARMS AND  
UNITED STATES CUSTOMS SERVICE

## Delegation of Authority

APRIL 28, 1975.

To include a provision which was inadvertently omitted from section 4, Personnel, of Legal Division Order No. 6, dated December 19, 1974, and to remove an ambiguity from subsection (a) of section 4, I have determined that an appropriate amendment should be adopted.

Accordingly, under the authority vested in me as General Counsel for the Department of the Treasury, including the authority derived from Treasury Department Order No. 190 (Rev.), section 4, Personnel, of Legal Division Order No. 6 is hereby amended:

By striking from subsection (a) "and (3) demotion or separation of attorneys" and inserting in lieu thereof "(3) the reassignment or transfer of attorneys above GS-14, and (4) the classification, demotion or separation of attorneys"; and

By adding a new subsection (d) reading as follows: "(d) To act under the appropriate personnel directives in conducting personnel actions with respect to employees other than attorneys."

[SEAL] RICHARD R. ALBRECHT,  
General Counsel.

[FR Doc.75-13545 Filed 5-22-75;8:45 am]

[Legal Division Order No. 7 (Rev. 1)]

CHIEF COUNSELS, OFFICE OF FOREIGN  
ASSETS CONTROL, BUREAU OF THE  
PUBLIC DEBT, AND OFFICE OF REVE-  
NUE SHARING

## Delegation of Authority

APRIL 28, 1975.

To remove an ambiguity from section 4(a), Personnel, of Legal Division Order No. 7, dated December 19, 1974, I have determined that an appropriate amendment should be adopted.

Accordingly, under the authority vested in me as General Counsel for the Department of the Treasury, including the authority derived from Treasury Department Order No. 190 (Rev.), subsection (a) of section 4, Personnel, of Legal Division Order No. 7 is hereby amended by striking "and (3) demotion or separation of attorneys" and inserting in lieu thereof "(3) the reassignment or transfer of attorneys above GS-14, and (4) the classification, demotion or separation of attorneys".

[SEAL] RICHARD R. ALBRECHT,  
General Counsel.

[FR Doc.75-13544 Filed 5-22-75;8:45 am]

## DEPARTMENT OF THE INTERIOR

## National Park Service

MIDWEST REGIONAL ADVISORY  
COMMITTEE

## Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that the Midwest Regional Advisory Committee of the National Park Service will meet June 9, 10 and 11 at International Falls, Minnesota.

The Committee was established pursuant to Pub. L. 91-383 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on programs and problems pertinent to the Midwest Region of the National Park Service.

The members of the Committee are:

Honorable Robert W. Berrey III (Chairman)  
Mrs. Mildred Curtis  
Mr. Norman G. Duke  
Mr. John J. Franke, Jr.



Mr. Glenn C. Gregg  
Mr. Fred D. Hartley  
Mr. Lewis W. Jones  
Mr. William L. Lieber  
Mr. Erwin D. Sias

On Monday afternoon, June 9, the Committee will meet for briefings. On Tuesday it will tour a portion of Voyageurs National Park and in the evening will conduct a public meeting on the draft master plan for the park. On Wednesday it will hold a business meeting. The Wednesday session would be appropriate for the appearance of anyone with business with the Committee other than presentation of comments on the master plan.

The Monday meeting will be at 3 p.m. in the dining room of Island View Lodge 10 miles east of International Falls on State Highway 11. Space will be limited and only about 15 members of the public can be accommodated. The Committee will be briefed on jurisdiction in the National Parks, regional influence on natural resource management in the Great Lakes Parks, the Michigan Department of Natural Resources proposal for a lamprey weir on Miners River in Pictured Rocks National Lakeshore, and the Voyageurs National Park Master Plan.

At 7:30 p.m. on June 10 the Committee will conduct a public meeting to record comments on the draft master plan for Voyageurs National Park. The meeting will be in the theater of Rainy River Community College at the west edge of International Falls on U.S. Highway 71. The theater will seat approximately 200.

At 8:30 a.m. on June 11 the Committee will meet at the Holiday Inn on U.S. Highway 71 at the west edge of International Falls. The meeting will be open to the public. The meeting room will accommodate approximately 75 persons.

Those interested in making a presentation at the master plan meeting the evening of June 10 may register at the door. Those who wish to appear before the Committee on June 11 should make their requests to the official listed below by 8:30 a.m. on that date. Those who wish to file written statements in connection with any of the business of the Committee may do so.

Further information concerning this meeting may be obtained from Bill W. Dean, Associate Regional Director, Cooperative Activities, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102, telephone area code 402, 221-3481. Minutes of the meeting will be available for public inspection and copying four weeks after the meeting at the Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, Nebraska.

Dated: May 13, 1975.

MERRILL D. BEAL,  
Regional Director, Midwest  
Region, National Park Service.

[FR Doc.75-13619 Filed 5-22-75; 8:45 am]

## NOTICES

## DEPARTMENT OF AGRICULTURE

## Forest Service

FOREST RESEARCH ADVISORY  
COMMITTEE, ORONO, MAINE  
Meeting

The Forest Research Advisory Committee, Orono, Maine will meet from 10 a.m. to 4 p.m. on June 12, 1975 at the Federal Building on the University of Maine Campus, Orono, Maine.

The purpose of this meeting is to describe and discuss the current research program of the NEFES Orono Work Unit.

The meeting will be open to the public. Persons who wish to attend should notify Barton M. Blum, U.S. Forest Service, Northeastern Forest Experiment Station, Federal Building, University of Maine, Orono, Maine 04473, telephone 866-4140.

BRYAN CLARK,  
Station Director.

MAY 19, 1975.

[FR Doc.75-13614 Filed 5-22-75; 8:45 am]

NORTHEASTERN FORESTRY RESEARCH  
ADVISORY COMMITTEE

## Meeting

The Northeastern Forestry Research Advisory Committee will meet 8:30 a.m.-6 p.m., June 19; 8:30 a.m.-12 noon, June 20, 1975 at the Preston Hill Inn, Middlebury, Connecticut.

The purpose of this meeting is to enable Advisory Committee members to be briefed on the USDA Gypsy Moth Research Development and Application Program with special emphasis on the research phase. Forest Service scientists located at the Hamden Laboratory, Hamden, Conn., have been assigned major responsibility for this research activity and will participate in this meeting.

The meeting will be open to the public. Persons who wish to attend should notify Dr. F. B. Clark, Northeastern Forest Experiment Station, U.S. Forest Service, 6816 Market St., Upper Darby, Pa. 19082; Telephone No. 215/597-3715. Written statements may be filed with the committee after the meeting.

F. B. CLARK,  
Director.

MAY 19, 1975.

[FR Doc.75-13615 Filed 5-22-75; 8:45 am]

Soil Conservation Service  
BIG CREEK WATERSHED, MISSISSIPPI

## Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, and § 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and § 650.8(b) (3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. De-

partment of Agriculture, gives notice that an environmental impact statement is not being prepared for the Big Creek Watershed, Jasper, Jones, and Smith Counties, Mississippi.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. W. L. Heard, State Conservationist, Soil Conservation Service, Room 590, Milner Building, P.O. Box 610, Jackson, Mississippi 39205, has determined that the preparation and review of an environmental impact statement is not needed at this time for this project.

The project concerns a plan for watershed protection and flood prevention. The remaining planned works of improvement as described in the Negative Declaration include conservation land treatment supplemented by floodwater retarding structures and 1.5 miles of channel work. This channel work consists of snagging only and is on an intermittent natural stream.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA, Room 590, Milner Building, P.O. Box 610, Jackson, Mississippi 39205.

The negative declaration is available for single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until June 9, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

MAY 19, 1975.

[FR Doc.75-13626 Filed 5-22-75; 8:45 am]

SPRING CREEK WATERSHED PROJECT,  
NEBRASKA

## Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; § 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and § 650.8(b) (3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Spring Creek Watershed Project, Johnson, Otoe, and Nemaha Counties, Nebraska.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project.

As a result of these findings, Mr. Wilson J. Parker, State Conservationist, Soil Conservation Service, USDA, 134 South 12th Street, Room 604, Lincoln, Nebraska 68508, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. The remaining planned works of improvement as described in the negative declaration include conservation land treatment supplemented by three single purpose floodwater retarding structures and nine grade stabilization structures.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA, 134 South 12th Street, Room 604, Lincoln, Nebraska 68508.

Single copy requests for the negative declaration should be sent to the above address.

No administrative action on implementation of the proposal will be taken until June 9, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

MAY 16, 1975.

[FR Doc.75-13616 Filed 5-22-75; 8:45 am]

STONE CREEK WATERSHED PROJECT,  
NORTH CAROLINAAvailability of Final Environmental Impact  
Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental impact statement (EIS) for the Stoney Creek Watershed Project, Wayne County, North Carolina, USDA-SCS-EIS-WS-(ADM)-75-01(F)-NC.

The EIS concerns a plan for watershed protection, flood prevention, and recreation. The planned works of improvement provide for conservation land treatment, 2.1 miles of channel modification on a previously modified perennial stream, 3 multipurpose reservoirs with capacity for floodwater retarding and recreation.

The final EIS has been filed with the Council on Environmental Quality.

A limited supply is available at the following location to fill single copy requests: Soil Conservation Service, USDA, P.O. Box 27307, Raleigh, North Carolina 27611.

## NOTICES

(Catalog of Federal Domestic Assistance Program No. 10.904 National Archives Reference Services.)

WILLIAM B. DAVEY,  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

MAY 16, 1975.

[FR Doc.75-13617 Filed 5-22-75; 8:45 am]

WEST UPPER MAPLE RIVER WATERSHED  
PROJECT, MICHIGANAvailability of Final Environmental Impact  
Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental impact statement (EIS) for the West Upper Maple River Watershed Project, Clinton and Gratiot Counties, Michigan, USDA-SCS-EIS-WS-(ADM)-75-1(F)-MI.

The EIS concerns a plan for watershed protection, flood prevention, improved drainage on agricultural land, and public fish and wildlife development. The planned works of improvement provide for conservation land treatment, 9.5 miles of levees, 9.2 miles of collection channels, 2 pumping stations, 1.3 miles of channel dredging, 1.1 miles of channel snagging, and public fish and wildlife development with recreational facilities.

The 1.8 miles of suction-type channel dredging and 1.1 miles of channel snagging will be done on the Maple River, a perennial stream, previously modified prior to 1903. Collection channels are new channels with intermittent flows.

The final EIS has been filed with the Council on Environmental Quality.

A limited supply is available at the following location to fill single copy requests:

Soil Conservation Service, USDA  
1405 South Harrison Road  
East Lansing, Michigan 48823

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

MAY 20, 1975.

[FR Doc.75-13624 Filed 5-22-75; 8:45 am]

## WILL NEILL WATERSHED, MISSISSIPPI

## Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, and § 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and § 650.8(b) (3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974;

the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for an independent part of the Will Neill Watershed Project, Holmes, Leflore, Carroll, and Grenada Counties, Mississippi.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. W. L. Heard, State Conservationist, Soil Conservation Service, Room 590, Milner Building, P.O. Box 610, Jackson, Mississippi 39205, has determined that the preparation and review of an environmental impact statement is not needed at this time for this project.

The project concerns a plan for watershed protection, flood prevention and agricultural water management. The remaining planned works of improvement as described in the Negative Declaration include conservation land treatment supplemented by 21 multiple purpose channels with a total length of about 54 miles. Approximately 36 miles of this channel work are on ephemeral altered streams. Seven miles is on ephemeral natural streams, 10 miles are on intermittent altered streams and one mile is on an intermittent natural stream.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA  
Room 590, Milner Building  
P.O. Box 610  
Jackson, Mississippi 39205

The Negative Declaration is available for single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until June 9, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

MAY 19, 1975.

[FR Doc.75-13625 Filed 5-22-75; 8:45 am]

## DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric  
Administration

[Docket No. B-522]

## ALFRED J. SCHEIBENPFLUG

## Application for Transfer of Fishery

MAY 19, 1975.

Alfred J. Scheibenpflug, 75 Fairgrounds Road, West Kingston, Rhode Island 02892, owner of the MYSTIC SEA purchased with the aid of a Fisheries Loan to engage in the fishery for fish for industrial uses, whiting, cod, butterfish, hake, flounders, scup, squid, lobsters, and



mackerel has requested permission to extend his fishing operations to engage in the fishery for fish for industrial uses, whiting, cod, butterfish, hake, flounders, scup, squid, lobsters, mackerel, and swordfish.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, "Fisheries Loan Fund Procedures" (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. Any person desiring to submit evidence that the con-

templated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, on or before June 23, 1975. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

ROGER W. SLAVIN,  
Acting Director.

[FR Doc.75-13618 Filed 5-22-75; 8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

#### ADVISORY COMMITTEES

##### Notice of Meetings

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the following public advisory committee meetings and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act:

Committee name	Date, time, place	Type of meeting and contact person
1. Panel on Review of General Hospital and Personal Use Devices.	June 23 and 24, 9 a.m., Room 3173, HEW North, 330 Independence Ave. SW., Washington, D.C.	Open June 23, 9 a.m. to 10 a.m., closed June 23 after 10 a.m., closed June 24, William C. Dierksheide, Ph.D., (HFK-400), 5600 Fishers Lane, Rockville, Md. 20852, 301-413-2375.

**Purpose.** Reviews and evaluates available data concerning safety, effectiveness, and reliability of general hospital and personal use devices currently in use.

**Agenda.** Open session: Interested parties are encouraged to present information pertinent to the classification of general hospital and personal use devices listed in this announcement. Submission of data is also invited on the tentative classification findings which may be obtained from William C. Dierksheide, Ph.D., Executive Secretary (address noted above). Those desiring to make formal presentations should notify Dr. Dierksheide in writing by June 20, 1975. They should submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also indicate the approximate time required to make their comments. The devices to be classified at this meeting are as follows: heating pads, electric; hot water bottles; buretrol; catheters and feeding tubes; chemotherapy perfusion units; i.v. filters micron .22 and .45; i.v. fluid infusion sets; infusion pumps—noninvasive; infusion pumps with pumping chamber; intravascular catheters; intravenous ceiling mounts; intravenous poles; microdrip sets; pump holders; stylet; umbilical artery catheters; alcohol pad swabs; applicators, antiseptic; applicators, forceps; bandages; cabinet,

formaldehyde; cotton ball; cotton swab; cotton, absorbent; drainage bags; dressing materials; examination and treatment chair, manipulative; eye pads, neonatal; gauze, stockinette; heat lamps; heating water mattress, neonatal; infant airways, newborn; infant airways, premature; oxygen hoods, infant; plastic heat shields; poison kits, snake bite; tape measures; umbilical cord ties, tapes, and clips; urine collector bags, U-bag, newborn, nonsterile; bed pans; CPR board; CPR pulsar; emesis basin; ice cap; Kelly pad; medicine glass; ring cutter; single and double ring stands; transfer forceps; urinals; vacuum bottles; diapers; highchair; nipples, special, lamb; bed frames; bed lights; bed, air flotation; bed, electrical; bed, hydraulic; bed, manual with crank; bed, silicone; bed, tiltable, nursery; bed, water flotation; blocks, elevation; boom, overhead; cabinets, warming; chair, geriatric; chair, geriatric, rocking; cradle, bed; crib top covers; croupette; foot board; foot rest with bed attachment; furniture, invalid assist; isolettes; isolettes, servo care; lift, patient; mattress covers; open beds for sick infant; open cribs; patient rollers; protective restraint devices; radiant heater beds; skin pressure protectors; table over bed; tent, pediatric, aerosol; inhalator; inhalator, infant; intermittent-positive-pressure breathing bags; isolation chambers; nasal prongs; resuscitator, infant. Closed session: The panel will classify the devices listed above.

Committee name	Date, time, place	Type of meeting and contact person
2. Panel on Review of Vitamin, Minerals and Hematinic Drug Products.	June 24 and 25, 9 a.m., Conference Room L, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Closed June 24, open June 25, 9 a.m. to 10 a.m., closed June 25 after 10 a.m., Gary P. Troscial, (HFD-510), 5600 Fishers Lane, Rockville, Md. 20852, 301-413-4960.

**Purpose.** Reviews and evaluates all available data concerning the safety and effectiveness of active ingredients, and combinations thereof, of currently marketed non-prescription drug products and the adequacy of their labeling.

**Agenda.** Open session: Comments and presentations by interested persons. Closed session: Continuing review of over-the-counter drug products containing vitamin, mineral, and hematinic drug products.

Committee name	Date, time, place	Type of meeting and contact person
2. Panel on Review of Ear, Nose, and Throat Devices.	June 30 and July 1, 9:30 a.m., Rm. 1400, FB-8, 300 C St. SW., Washington, D.C.	Open June 30, 9:30 a.m. to 11 a.m., closed June 30 after 11 a.m., closed July 1, Harry R. Sauberman, (HFK-400), 5600 Fishers Lane, Rockville, Md. 20852, 301-413-3570.

**Purpose.** Reviews and evaluates available data concerning safety, effectiveness, and reliability of ear, nose, and throat devices currently in use.

**Agenda.** Open session: Interested parties are encouraged to present information and data on the tentative classification findings of the panel which may be obtained from Harry R. Sauberman, Executive Secretary (address noted above). Those desiring to make formal presentations should notify Mr. Sauberman in writing by June 15, 1975. They should submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also indicate the approximate time re-

quired to make their comments. The devices to be classified at this meeting are as follows: Olfactometers with electrodes (diagnostic), directoscopes (surgical), and pneumatic saws (surgical). Dr. H. McCurdy, panel chairman, will present a report of the May 7 public hearing of the HEW Intradepartmental Task Force on Hearing Aids. Dr. McCurdy will also report on Senate hearings held on May 20 and 21 on hearing aids. Closed session: The panel will discuss and review possibly needed research in areas relating to device classification. The panel will review proposed labeling provisions for hearing aids, continue classification of ear, nose, and throat devices, and will review all tentative classification results.

Committee name	Date, time, place	Type of meeting and contact person
4. Panel on Review of Hemorrhoidal Drugs.	June 30 and July 1, 9 a.m., Conference Room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open June 30, 9 a.m. to 10 a.m., closed June 30 after 10 a.m., closed July 1, Gary P. Troscial, (HFD-510), 5600 Fishers Lane, Rockville, Md. 301-413-4960.

**Purpose.** Reviews and evaluates all available data concerning the safety and effectiveness of active ingredients, and combinations thereof, of currently marketed nonprescription drug products, and the adequacy of their labeling.

**Agenda.** Open session: Comments and presentations by interested persons. Closed session: Continuing review of over-the-counter drug products containing hemorrhoidal drug products under investigation.

**Agenda items** are subject to change as priorities dictate.

During the open sessions shown above, interested persons may present relevant information or views orally to any committee for its consideration. Information or views submitted to any committee in writing before or during a meeting shall also be considered by the committee.

A list of committee members and summary minutes of meetings may be obtained from the contact person for the committee both for meetings open to the public and those meetings closed to the public in accordance with section 10(d) of the Federal Advisory Committee Act.

Most Food and Drug Administration advisory committees are created to advise the Commissioner of Food and Drugs on pending regulatory matters. Recommendations made by the committees on these matters are intended to result in action under the Federal Food, Drug, and Cosmetic Act, and these committees thus necessarily participate with the Com-

missioner in exercising his law enforcement responsibilities.

The Freedom of Information Act recognized that the premature disclosure of regulatory plans, or indeed internal discussions of alternative regulatory approaches to a specific problem, could have adverse effects upon both public and private interests. Congress recognized that such plans, even when finalized, may not be made fully available in advance of the effective date without damage to such interests, and therefore provided for this type of discussion to remain confidential. Thus, law enforcement activities have long been recognized as a legitimate subject for confidential consideration.

These committees often must consider trade secrets and other confidential information submitted by particular manufacturers which the Food and Drug Administration by law may not disclose, and which Congress has included within the exemptions from the Freedom of Information Act. Such information includes safety and effectiveness information, product formulation, and manufacturing methods and procedures, all of which are of substantial competitive importance.

In addition, to operate most effectively, the evaluation of specific drug or device products requires that members of committees considering such regulatory matters be free to engage in full and frank

discussion. Members of committees have frequently agreed to serve and to provide their most candid advice on the understanding that the discussion would be private in nature. Many experts would be unwilling to engage in candid public discussion advocating regulatory action against a specific product. If the committees were not to engage in the deliberative portions of their work on a confidential basis, the consequent loss of frank and full discussion among committee members would severely hamper the value of these committees.

The Food and Drug Administration is relying heavily on the use of outside experts to assist in regulatory decisions. The Agency's regulatory actions uniquely affect the health and safety of every citizen, and it is imperative that the best advice be made available to it on a continuing basis in order that it may most effectively carry out its mission.

A determination to close part of an advisory committee meeting does not mean that the public should not have ready access to these advisory committees considering regulatory issues. A determination to close the meeting is subject to the following conditions: First, any interested person may submit written data or information to any committee, for its consideration. This information will be accepted and will be considered by the committee. Second, a portion of every committee meeting will be open to the public, so that interested persons may present any relevant information or views orally to the committee. The period for open discussion will be designated in any announcement of a committee meeting. Third, only the deliberative portion of a committee meeting, and the portion dealing with trade secret and confidential information, will be closed to the public. The portion of any meeting during which nonconfidential information is made available to the committee will be open for public participation. Fourth, after the committee makes its recommendations and the Commissioner either accepts or rejects them, the public and the individuals affected by the regulatory decision involved will have an opportunity to express their views on the decision. If the decision results in promulgation of a regulation, for example, the proposed regulation will be published for public comment. Closing a committee meeting for deliberations on regulatory matters will therefore in no way preclude public access to the committee itself or full public comment with respect to the decisions made based upon the committee's recommendation.

The Commissioner has been delegated the authority under section 10(d) of the Federal Advisory Committee Act to issue a determination in writing, containing the reasons therefor, that any advisory committee meeting is concerned with matters listed in 5 U.S.C. 552(b), which contains the exemptions from the public disclosure requirements of the Freedom of Information Act. Pursuant to this



authority, the Commissioner hereby determines, for the reasons set out above, that the portions of the advisory committee meetings designated in this notice as closed to the public involve discussion of existing documents falling within one of the exemptions set forth in 5 U.S.C. 552(b), or matters that, if in writing, would fall within 5 U.S.C. 552(b), and that it is essential to close such portions of such meetings to protect the free exchange of internal views and to avoid undue interference with Agency and committee operations. This determination shall apply only to the designated portions of such meetings which relate to trade secrets and confidential information or to committee deliberations.

Dated: May 19, 1975.

A. M. SCHMIDT,  
Commissioner of Food and Drugs.  
[FR Doc. 75-13547 Filed 5-22-75; 8:45 am]

[DESI 5378; Docket No. FDC-D-582;  
NDA 12-570]

#### BAMADEX SEQUELS

##### Denial of Hearing and Withdrawal of Approval of New Drug Application

The Commissioner of Food and Drugs denies hearing and withdraws approval of new drug application for Bamadex Sequels, effective June 2, 1975.

In a notice published in the FEDERAL REGISTER of August 8, 1970 (35 FR 12678), the Food and Drug Administration (FDA) announced its evaluation of 23 anorectic drugs, including Bamadex Sequels and Bamadex Tablets, NDAs 12-570 and 11-280, held by Lederle Laboratories, Division of American Cyanamid Co., Pearl River, NY 10965, hereafter Lederle.

The announcement stated that the FDA had considered the reports of the National Academy of Sciences-National Research Council (NAS/NRC), Drug Efficacy Study Group, together with other evidence and concluded that there was a lack of substantial evidence for several claims but that the listed drugs were regarded as possibly effective for their anorectic (appetite-suppressant) claims and for their prolonged, continuous or sustained release claims. Manufacturers were given 60 days to revise their labeling to delete those indications for which no substantial evidence of effectiveness had been found and 3 months to provide substantial evidence of effectiveness for the anorectic and sustained release claims. Finally, the notice advised that at the end of the 3-month period, the data would be evaluated to determine whether or not the existence of substantial evidence of effectiveness had been demonstrated, and if it had not, procedures would be initiated to withdraw approval of the new drug applications pursuant to section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)).

In the same issue of the FEDERAL REGISTER of August 8, 1970 (35 FR 12652), the Commissioner of Food and Drugs issued a Statement of Policy (21 CFR

310.504, formerly 21 CFR 130.46) regarding amphetamine containing drugs, including dextroamphetamine. The order stated that the NAS/NRC had found, inter alia, that this class of drugs had a generally short term (a few weeks) anorectic effect, that there was no evidence that they altered the natural history of obesity, and that they had a significant potential for abuse. The FDA concurred with the NAS/NRC report and, in addition, noted that production data indicated that amphetamines were manufactured and used in quantities greatly in excess of demonstrated medical needs. Accordingly, the order required that such drugs be relabeled to reflect the present state of knowledge concerning amphetamines, their potential for misuse and abuse, and their limited medical usefulness. The order was made specifically applicable to combination drugs which contained dextroamphetamine.

In response to the notice (DESI 5378) of August 8, 1970, Lederle submitted three clinical studies for Bamadex Sequels (Noble, Miller, and Schein) and three clinical studies for Bamadex Tablets (Trodelia, Parsons, and Bowlan), together with a list of side effects and combined statistical analysis for all six studies and a combined statistical analysis for the three clinical studies of Bamadex Sequels.

Subsequently, the Commissioner issued a notice of opportunity for hearing, published in the FEDERAL REGISTER of February 12, 1973 (38 FR 4279), covering 13 anorectic combinations including Bamadex Tablets and Bamadex Sequels. The notice stated that the submitted data had been reviewed and found not to provide substantial evidence that the drugs were effective as fixed combinations for their claimed uses. Neither, the notice continued, did the submitted data support the contention that the combination products decrease the incidence or severity of side effects or lessen the abuse potential associated with the single anorectic ingredient. Accordingly, the Commissioner proposed to withdraw approval of the named new drug applications and invited holder(s) of new drug applications and other interested persons, including manufacturers and distributors of identical, related, or similar products, to submit on or before March 14, 1973, a written notice requesting an opportunity for hearing. Those requesting a hearing were instructed to state the reasons why approval of the new drug application should not be withdrawn and to provide a well-organized and full factual analysis of the clinical and other investigational data that they were prepared to prove in support of the requested hearing.

In the same issue of the FEDERAL REGISTER of February 12, 1973 (38 FR 4249), the Statement of Policy regarding amphetamines for human use (21 CFR 310.504, formerly 21 CFR 130.46) was revised to reflect that while sufficient data had been submitted (in response to the previous Statement of Policy) to generally

support the anorectic efficacy of single entity amphetamine drugs, the degree of extra weight loss was small (a few tenths of a pound a week in many cases), variations were great, and the rate of weight loss decreased after the first weeks of therapy. Accordingly, the Commissioner concluded that single entity oral dosage forms of amphetamine or dextroamphetamine were effective in the management of exogenous obesity as a short term (a few weeks) adjunct in a regimen of weight reduction based on caloric restriction for patients in whom obesity is refractory to other measures. The notice advised that anorectic combinations containing sedatives or tranquilizers were regarded as new drugs requiring approved new drug applications and that the data in such applications must meet the requirements of 21 CFR 3.86, fixed combination prescription drugs for human use.

On March 9, 1973, Lederle requested a hearing for NDA 12-570 covering Bamadex Sequels. Lederle did not request a hearing for Bamadex Tablets, and the Commissioner withdrew the approval of the NDA for Bamadex Tablets (NDA 11-280), notice of which was published in the FEDERAL REGISTER of March 30, 1973 (38 FR 8290).

In its hearing request, Lederle contends that its submissions demonstrate (a) that, with respect to weight loss, Bamadex Sequels are significantly better than placebo and not significantly inferior to dextroamphetamine alone, and (b) that the meprobamate component significantly reduces the central nervous system side effects attributable to the dextroamphetamine component. Lederle also argues that Bamadex Sequels must be found effective because meprobamate and dextroamphetamine have each been found by the FDA to be effective as single entities, and that its product must be found safe because Bamadex Sequels were approved on the basis of safety in August 1960 and there has been no clinical experience to the contrary since that time. Lederle contends that the addition of meprobamate, a schedule IV controlled substance under the Controlled Substances Act (21 U.S.C. 801 et seq.) to dextroamphetamine, a schedule II substance under the same act, results in a combination with significantly lower potential for abuse than dextroamphetamine alone, within the meaning of 21 CFR 3.86(a)(2).

Finally, Lederle claims that the FDA interpreted certain data in its investigations in a manner contrary to the observations and reports of the investigators who conducted the studies.

The Commissioner has considered all of the material submitted by Lederle and has concluded that there is no genuine issue of material fact requiring a hearing and that the legal objections offered are insubstantial. A full discussion follows:

#### I. THE DRUG

Bamadex Sequels contains (each capsule) a fixed combination of 15 milligrams dextroamphetamine sulfate and 300 milligrams meprobamate.

#### II. RECOMMENDED USES AND DOSAGE; RATIONALE FOR THE COMBINATION

The labeling reviewed by the NAS/NRC, Drug Efficacy Study Group, claimed that Bamadex Sequels was useful in the management of obesity, curbed appetite with minimal overstimulation of the central nervous system, and provided a sustained release of active ingredients. Lederle's present labeling retains the claims with respect to sustained release and minimal overstimulation of the central nervous system, but incorporates the changes required by 21 CFR 310.504 and recommends Bamadex only for use in exogenous obesity as a short term (a few weeks) adjunct in a regimen of weight reduction based on caloric restriction. The usual adult dosage of Bamadex Sequels is one capsule daily in the morning.

Lederle's rationale for the combination is twofold: (1) The dextroamphetamine sulfate component provides an anorectic effect while the meprobamate counteracts the overstimulation which frequently accompanies the use of dextroamphetamine sulfate, and (2) the addition of meprobamate to dextroamphetamine results in a drug with a lower abuse potential than dextroamphetamine alone.

#### III. DATA SUBMITTED TO SUPPORT CLAIMS OF EFFECTIVENESS

A. *Bamadex Sequels studies.* Lederle submitted three clinical studies in support of the claimed effectiveness of Bamadex Sequels. These studies, with the exceptions noted below, followed substantially identical protocols; they are evaluated as follows:

1. Noble, Rudolph E., "A Comparison of Bamadex Sequels (15 mg dextroamphetamine and 300 mg meprobamate), Bamadex Sequels Minus Meprobamate (15 mg dextroamphetamine) and Placebo on Weight Loss and Side Effects in 90 Overweight Patients," unpublished study, 1971. In an attempt to establish, inter alia, that patients on Bamadex Sequels experience fewer adverse reactions than those who receive dextroamphetamine alone (i.e., that meprobamate reduces the side effects attributable to dextroamphetamine), the investigator selected 90 patients who were 20 percent overweight according to Metropolitan Life Insurance Company standards. These were divided into three equal groups and randomly assigned to one of three treatment regimens of Bamadex Sequels, dextroamphetamine, or placebo. The first group received Bamadex Sequels for 21 days, placebo for 21 days, and then Bamadex Sequels for the final 21 days; the second received dextroamphetamine for 21 days, placebo for 21 days, and dextroamphetamine for 21 days; the third received a placebo for the entire 9-week period. Each patient was instructed to take one capsule each day at least 1 hour before breakfast. Male patients were placed on a 1,500 calorie daily diet; females on a 1,200 calorie daily diet. Prior to entrance in the study and at 3, 6, and 9 weeks after entry into the study, patients' height, weight, pulse, and blood pressure were recorded and compared.

This study is not adequate and well-controlled within the meaning of 21 CFR 314.111(a)(5)(ii)(a)(2)(iii) in that it fails to assure that test and control groups were comparable with respect to the use of drugs other than the test drug. Thus, although the investigator undertook statistical analysis to assure that the groups were comparable with respect to age, sex, percent overweight distribution, and the mean dosage duration, no such analysis was performed with respect to the use of concomitant medication. This is always a pertinent variable and particularly so in this study where patients were taking diuretics (which could interfere with the effect of test medication on weight loss) and major tranquilizers, analgesics, and antihistamines with sedative effects (which could interfere with adverse reactions related to the central nervous system).

The study fails to explain the methods of observation and recording of results with respect to side effects (21 CFR 314.111(a)(5)(ii)(a)(3)). Thus, no details are given as to whether subjects were questioned as to whether they experienced side effects or whether only the investigator's observations were counted. If the subjects were questioned regarding side effects, no details are given as to the nature of the questions asked. Were the questions only designed to elicit dextroamphetamine-like side effects or were they also directed at uncovering meprobamate-type side effects? Obviously, it makes no sense to claim that the side effects of dextroamphetamine are reduced if the other component, meprobamate, is responsible for equally serious side effects of its own. Without details as to how adverse reaction data were elicited, it is impossible to determine if the investigators took such a possibility into account. Indeed, without any knowledge as to how data were observed and/or recorded, it is impossible to make any meaningful evaluation as to the reliability of the study's findings.

Even if it could be shown that the groups were comparable and that the data had been assembled and recorded in a proper manner, the results do not support Lederle's contention that the addition of meprobamate to the combination decreases the incidence or severity of side effects associated with the primary ingredient, dextroamphetamine sulfate. Thus, although the raw data showed that there were numerically slightly fewer side effects associated with patients on Bamadex Sequels (10) than there were with patients who used dextroamphetamine alone (13), Lederle's own statistical analysis demonstrated that this difference was not statistically significant since Lederle stated that the proportion of subjects reporting side effects was not significantly different for the three groups. In other words, there was no assurance that the observed difference was not due to chance. Lederle has failed to show that meprobamate significantly reduces the number of side effects attributable to dextroamphetamine and consequently has failed to demonstrate that meprobamate

enhances the safety of the principal ingredient, dextroamphetamine, within the meaning of, and as required by, 21 CFR 3.86(a)(1), and as claimed in its labeling.

The study is incapable of scientifically demonstrating the anorectic effectiveness, or lack thereof, of Bamadex Sequels because, as shown above, the investigator failed to assure group comparability with respect to the use of concurrent medications (21 CFR 314.111(a)(5)(ii)(a)(2)(iii)).

The study also fails to explain the methods of observation and recording of weight loss data (21 CFR 314.111(a)(5)(ii)(a)(3)). Thus the author does not explain whether patients were always weighed at the same time of day, whether the menstrual cycles of female subjects was taken into account and, more importantly, whether any analysis was done to determine which patients, if any, followed their diets. These factors cannot be overlooked in a study designed to measure weight loss.

Using Lederle's criterion for satisfactory weight loss (5 or more pounds in both active drug phases), Lederle's statistical analysis showed that Bamadex Sequels patients did not lose significantly more weight than patients who took the placebo. Lederle also conducted a statistical analysis of the difference in mean weight losses. The difference between the Bamadex and placebo groups were statistically significant only at the end of 3 weeks; there was no statistically significant difference either for the second on-drug period (7 to 9 weeks) or overall (1 to 9 weeks). Thus, Lederle's own findings are inconclusive, and even if they weren't, they would be scientifically meaningless because of the defects pointed out.

2. Schein, M., "A Comparison of Bamadex Sequels, Dextroamphetamine and Placebo on Weight Loss and Number and Types of Side Effects in 90 Overweight Patients," unpublished study, 1971. To exclude climatic conditions as a factor, this investigator had all 90 patients begin the study during the same week. Otherwise, this study followed the same protocol as the just-reviewed Noble study. Accordingly, it too failed to assure comparability with respect to the use of other drugs (21 CFR 314.111(a)(5)(ii)(a)(2)(iii)). Thus, 13 of the 30 patients in the Bamadex group were receiving concomitant medication, while 6 in the amphetamine and 8 in the placebo groups were concurrently using other drugs. As in the Noble study, there were patients receiving anti-inflammatory agents with analgesic properties, antihistamines with sedative properties, and major tranquilizers, any of which could interfere with central nervous system side effects. Similarly, patients in the Bamadex group also used thyroid and diuretic drugs which could also influence weight reduction.

This study also fails to explain the methods of observation and/or recording of results as required by 21 CFR 314.111(a)(5)(ii)(a)(3). No details are given as to whether subjects were questioned as to whether they experienced



side effects or whether only the investigator's observations were counted. Thus, as before, there is no way to determine the accuracy or quality of the data relating to adverse reactions, and hence there is no way to scientifically assess the results. Although the investigator reported only one side effect for the Bamadex group, a check of the patient reports showed that an additional patient, No. 222, experienced depression and had to be switched to other medications. This indicates that the investigator had not accurately observed and/or recorded the results (21 CFR 314.111(a)(5)(ii)(a)(3)). There were 6 patients in the dextroamphetamine group who experienced side effects.

Even if these deficiencies are ignored, Lederle's own statistical analysis admits that there was no statistically significant difference found in the side effects reported for the three groups. This study, therefore, fails to provide evidence that meprobamate contributes to the claimed effects within the meaning of and as required by 21 CFR 3.86(a)(1).

With respect to the claimed anorectic effect, this study shares the identical defects as the just-reviewed Noble study, i.e., the author failed to assure group comparability with respect to the use of concomitant medication (21 CFR 314.111(a)(5)(ii)(a)(2)(iii)) and failed to explain the methods of observation and recording of results (21 CFR 314.111(a)(5)(ii)(a)(3)).

The investigator initially defined a "satisfactory" response as a loss of at least 9 pounds for the 9-week period. Under this definition, he found no statistically significant difference between the three groups, i.e., the placebo group did as well as the Bamadex group. Accordingly, a second, less stringent, standard was adopted which defined "satisfactory" response to be a loss of at least 6 pounds for the first and last 3-week periods. Using this criterion, the results of the Bamadex and dextroamphetamine groups were found to be statistically significant when compared to the placebo group, and the differences between the Bamadex and dextroamphetamine groups were not statistically significant. Lederle's statistical analysis of the mean weight losses claimed statistically significant differences for the Bamadex and dextroamphetamine groups over the placebo group for the end of both active treatment periods (1 to 3 and 7 to 9 weeks) and overall (weeks 1 to 9). However, since the study was not adequate and well-controlled, as discussed above, these reported results are not reliable or scientifically evaluable.

3. Miller, Jerome, "A Comparison of Bamadex Sequels, Dextroamphetamine, and Placebo on Weight Loss and Side Effects in 90 Patients", unpublished study, 1971. This study also followed the basic protocol used in the Noble and Schein studies with only one exception: To assure more reliable weight-loss data, followup weighings were done in circumstances similar to the original weighings with respect to time of day, scales, and clothing.

As with the previous studies, this study failed to assure group comparability with respect to the concurrent use of other drugs which could have interfered with the central nervous system side effects and the claimed anorectic effects (21 CFR 314.111(a)(5)(ii)(a)(2)(iii)). Although the author did explain that he conducted the weighings at the same time of day and under similar conditions with regard to scales and clothing, he failed to explain whether or not, and if so how, he took into account such variables as caloric intake and menstrual cycles (21 CFR 314.111(a)(5)(ii)(a)(3)).

For the third consecutive time, Lederle's statistical analysis showed that there was no statistically significant difference between the three groups with respect to the incidence of side effects. Therefore, this study, too, fails to provide evidence that meprobamate contributes to the claimed effects within the meaning of and as required by 21 CFR 3.86(a)(1).

With respect to anorectic effects, the investigator's own clinical evaluation showed that the number of Bamadex-treated patients with an overall satisfactory clinical (weight loss) response was strikingly similar to the number for the placebo group and smaller than the dextroamphetamine group (Bamadex Sequels, 12; dextroamphetamine, 20; placebo, 10). Since the placebo and Bamadex groups were nearly identical with respect to this variable, if anything, the evidence suggests that Bamadex is no better than a placebo with respect to the claimed anorectic effect. While the statistical analysis of mean weight losses based on averaging total weight loss over all subjects shows that the difference between Bamadex and placebo was statistically significant, this result is at odds with the investigator's evaluation of the overall clinical response based on number of subjects who lost weight and, in any event, is rendered scientifically unreliable by the study's failure to meet the regulatory criteria for an adequate and well-controlled clinical investigation (21 CFR 314.111(a)(5)(ii)).

Lederle's own investigations and analyses of the Bamadex Sequels studies not only fail to substantiate its rationale for the combination, but affirmatively demonstrate that meprobamate does not reduce the incidence of side effects attributable to the principal ingredient, dextroamphetamine. Moreover, using the clinical response data, only one study (Schein) shows that the difference in anorectic effect between Bamadex and placebo was statistically significant, and in that case the investigator was forced to lower his initial criterion of "satisfactory" to find a statistically significant difference.

B. Bamadex Tablets studies. Lederle also conducted three clinical studies with Bamadex Tablets (5 mg dextroamphetamine and 400 mg meprobamate). Since both Bamadex Tablets and Bamadex Sequels contain the same active ingredients and are recommended by their respective labels for the same indication,

i.e., as a short term adjunct in the treatment of exogenous obesity, and since Lederle in its request for hearing dated March 9, 1973, relied upon a listing of side effects and a combined statistical analysis of data from the three Bamadex Sequels studies and three studies of Bamadex Tablets, the three Bamadex Tablets studies are relevant to Lederle's request for a hearing. With the exception of the dosage schedule (one tablet three times daily), these studies followed the protocol used in the Bamadex Sequels studies. The results are summarized as follows:

1. Parsons, W. B., "Comparative Efficacy of Bamadex Tablets (400 mg meprobamate and 5 mg dextroamphetamine), Bamadex Minus Meprobamate, and Placebo in the Control of Obesity and Measurement of Side Effects," unpublished study, 1971. This study is not adequate and well-controlled within the meaning of 21 CFR 314.111(a)(5)(ii)(a)(2)(iii) in that it failed to assure that the test and control groups were comparable with respect to the use of drugs other than the test drug. Seventeen of 28 patients in the Bamadex group, 18 of 27 patients in the dextroamphetamine group, and 15 of 29 patients in the placebo group were concurrently using drugs other than the test drug. Concurrent medication included diuretics and tranquilizers which could affect the results of a study designed to measure the anorectic effect and the incidence of adverse reactions related to the central nervous system.

The investigators failed to explain the methods of observation and recording of results with respect to side effects (21 CFR 314.111(a)(5)(ii)(a)(3)). No details are given as to whether subjects were questioned, as to whether they experienced side effects, or whether only the investigators' observations were counted.

This study also fails to provide any statistical analysis of the anorectic data and thus does not comply with 21 CFR 314.111(a)(5)(ii)(a)(5).

Even if the defects above, which render the study not adequate and well-controlled within the meaning of 21 CFR 314.111(a)(5)(ii), are ignored, the results do not support Lederle's contention that the addition of meprobamate to the combination decreases the incidence or severity of side effects associated with the primary ingredient, dextroamphetamine sulfate.

The results of this study showed a markedly higher occurrence of side effects with Bamadex than with either dextroamphetamine alone or placebo. Of the patients who took Bamadex Tablets, 10 reported side effects while only one in the dextroamphetamine and 4 in the placebo group showed adverse reactions. Since the Bamadex Tablets contain more meprobamate and less dextroamphetamine than the Bamadex Sequels (300 mg meprobamate and 15 mg dextroamphetamine), these results directly contradict Lederle's rationale for the inclusion of meprobamate with dextroamphetamine. If, as the sponsor claims, meprobamate

decreases the incidence of adverse effects associated with dextroamphetamine, this decrease should be more evident in the tablet formulation which utilizes a higher ratio of meprobamate to dextroamphetamine. As shown above, however, this was not the case. Since there were 10 times as many side effects associated with the use of Bamadex, there is no support whatever for the contention that meprobamate enhances the safety of the primary ingredient, dextroamphetamine (21 CFR 3.86(a)(1)).

2. Trodella, G. P., "Comparative Efficacy of Bamadex Tablets, Bamadex Minus Meprobamate, and Placebo in the Control of Obesity and Measurement of Side Effects," unpublished study, 1971. The results of this study with respect to side effects were very similar to those in the Parsons' study. The investigator reported three side effects in the Bamadex group, one in the dextroamphetamine group, and two in the placebo group. Since Lederle's own statistical analysis concluded that the differences in the incidence of side effects for the three groups were not statistically significant, the results of this study do not support Lederle's contention that meprobamate significantly decreases the adverse reactions associated with dextroamphetamine, as required by 21 CFR 3.86(a)(1).

This study shares the same defect as the Parsons' study previously described in that the investigator failed to explain the methods of observation and recording of results with respect to side effects, 21 CFR 314.111(a)(5)(ii)(a)(3). No details are given as to whether subjects were questioned as to whether they experienced side effects, or whether only the investigator's observations were counted.

With respect to weight loss (both overall clinical response and average weight loss), Lederle admitted that at the end of the second 21-day period, Bamadex was inferior (both overall clinically and in average weight loss) to the placebo, and at the end of the first 21-day period Bamadex was only equal to a placebo in average weight loss.

3. Bowlan, W. L., "Comparative Efficacy of Bamadex Tablets, Bamadex Minus Meprobamate and Placebo in the Control of Obesity and Measurement of Side Effects," unpublished study, 1971. In this study the incidence of side effects was low for all three groups (one on Bamadex, two on dextroamphetamine, and four on placebo). Statistical analysis failed to demonstrate any statistically significant differences between the active medications with respect to side effects. Consequently, this study fails to support Lederle's contention that meprobamate decreases the side effects associated with dextroamphetamine and therefore, fails to provide evidence that meprobamate enhances the safety of the principal active component of Bamadex as required by 21 CFR 3.86(a)(1).

Lederle did not attempt to perform any statistical analysis on the anorectic data (21 CFR 314.111(a)(5)(ii)(a)(5)).

No details are given as to whether the subjects were questioned as to whether

they experienced side effects or whether only the investigator's observations were counted. Therefore, this study fails to explain the methods of observations and recording of results as is required by 21 CFR 314.111(a)(5)(ii)(a)(3).

The three tablet studies, whether taken individually or together, failed to show a significant decrease in side effects for Bamadex patients when compared to patients who used dextroamphetamine alone. In fact, the combined results for the tablet studies show more side effects for Bamadex patients (14) than for the dextroamphetamine patients (4).

C. Combined statistical analyses. Lederle submitted a combined statistical analysis of the side effects and mean weight loss for the Bamadex, dextroamphetamine, and placebo groups in the six studies reviewed above and a combined statistical analysis of the three sequel studies alone. Since these analyses are dependent upon the data obtained from the individual studies, and since the individual studies have been shown to be not adequate and well-controlled within the meaning of 21 CFR 314.111(a)(5)(ii), any analysis of such data can only yield results that have no scientific validity.

The tabulation for the sequel studies shows discrepancies between the number of side effects recorded by Lederle and the number disclosed by examination of the individual case reports. In the Schein study, Lederle noted only one side effect for the Bamadex group while the case reports reveal that patient No. 222 experienced depression. In the Miller study, Lederle noted only three side effects for the Bamadex group, whereas both Lederle's initial analysis and the case reports show four side effects. Any statistical analysis which is based upon inaccurate reporting of data cannot provide substantial evidence to support drug effectiveness (21 CFR 314.111(a)(5)(ii)(a)(2)(iii)).

Lederle has failed to show that it was justified in pooling the results of the three sequel studies. Thus no details were provided as to whether or not the groups in each study were comparable with respect to concurrent drug use and whether each investigator observed and recorded his data in the same manner. The scanty information that was provided shows that there were differences in study methodology; thus, while Dr. Miller was careful to conduct followup weighings at the same time as the initial weighings, neither Dr. Schein nor Dr. Noble did so. Dr. Schein had all his subjects begin the study during the same week; it does not appear that either Dr. Noble or Dr. Miller followed this procedure. It is, therefore, not at all clear that the data from the three studies are sufficiently homogeneous to warrant pooling.

With respect to the combined statistical analysis for all studies, the discrepancies in the tablet studies are even more striking. In the Bowlan study, Lederle reported only one side effect for the Bamadex group whereas the case reports showed seven patients had side effects (No. 401—"nervous," No. 419—"no en-

ergy," No. 427—"dry mouth," No. 436—"irritable," No. 442—"increased voiding," No. 449—"emotionally upset," and No. 468—"constipated"). Similarly, while Lederle included only 21 patients in the dextroamphetamine group and 20 patients in each of the Bamadex and placebo groups, FDA's check of the case reports showed that the following patients returned for at least one visit after the initial interview and should have been included in the calculation: the Bamadex group, 30 patients; the dextroamphetamine group, 28 patients; and the placebo group, 28 patients. In studying side effects, it is essential to use all data available. To exclude patients who had only one followup and/or who were dropped from the study is to eliminate from consideration the very patients who may have discontinued because of side effects.

In the Trodella study, Lederle reported three, one and two side effects respectively for the Bamadex, dextroamphetamine and placebo groups while the report forms submitted by the investigator showed the Bamadex group had seven side effects (Nos. 508, 510, 522, and 589—"fatigue," No. 545—"irritable," No. 568—"rash and swelling," and No. 576—"marked increase in blood pressure and headaches"); the dextroamphetamine group, four (No. 507—"constipation," No. 521—"swelling of feet," No. 529—"falls asleep," No. 594—"trouble sleeping if took all three pills"; and the placebo, four (No. 525—"headaches," No. 538—"nauseated and upset," No. 540—"very tired," and No. 590—"sleepy").

Finally, in the Parsons study Lederle based its calculations on 26 patients in the Bamadex and dextroamphetamine groups and 25 patients in the placebo group. A check of the patient report forms, however, shows that 27 patients should have been evaluated in the Bamadex group (only No. 610 failed to show up after initial visit), 28 in the dextroamphetamine group (all patients evaluated through at least first phase), and 28 in the placebo group (only No. 648 failed to show up after initial visit).

Using Lederle's interpretation in the patient report forms, the results for all six studies show that the identical number of side effects (28) occurred for both the Bamadex and dextroamphetamine groups. There is no basis for the contention that meprobamate significantly reduces the number of side effects associated with dextroamphetamine. In addition, Lederle's statistical analysis of the reduction in the total number of side effects of Bamadex when compared to the total number of side effects for dextroamphetamine only "approached significance."

These data provide no evidence that meprobamate contributes to the combination's claimed effect. Lederle has clearly failed to come forward with any evidence derived from adequate and well-controlled studies showing that meprobamate reduces the number of side effects attributable to dextroamphetamine within the meaning of, and as required by, 21 CFR 3.86(a)(1).







closing date for receipt of applications from State educational agencies, institutions of higher education, and school boards under sections 403 (technical assistance), 404 (training institutes), and 405 (grants to school boards), respectively, of the Act.

Applications must be submitted to the appropriate U.S. Office of Education Regional Office by the normal close of business time on the closing date, as set out below. Applicants for the assistance described above which have previously submitted applications will be permitted, if they desire, to modify and resubmit their applications by the new closing date.

B. *Applications sent by mail.* An application sent by mail should be addressed to the appropriate U.S. Office of Education Regional Office as follows:

Address	Deadline for Submission (local time)
Region I—(Boston)—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont. U.S. Office of Education, Equal Educational Opportunity, John Fitzgerald Kennedy Federal Bldg., Government Center, Boston, Massachusetts 02203.	5 p.m.
Region II—(New York City)—New York, New Jersey, Puerto Rico and Virgin Islands. U.S. Office of Education, Equal Educational Opportunity, Federal Bldg., 26 Federal Plaza, New York, New York 10007.	5 p.m.
Region III—(Philadelphia)—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia. U.S. Office of Education, Equal Educational Opportunity, P.O. Box 13716, 3535 Market Street, Philadelphia, Pennsylvania 19101.	5 p.m.
Region IV—(Atlanta)—Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, and Tennessee. U.S. Office of Education, Equal Educational Opportunity, 50 -7th Street, N.E., Atlanta, Georgia 30323.	4:30 p.m.
Region V—(Chicago)—Illinois, Indiana, Minnesota, Michigan, Ohio, and Wisconsin. U.S. Office of Education, Equal Educational Opportunity, 300 South Wacker Drive, Chicago, Illinois 60606.	4:45 p.m.
Region VI—(Dallas)—Arkansas, Louisiana, New Mexico, Oklahoma, and Texas. U.S. Office of Education, Equal Educational Opportunity, 1114 Commerce Street, Dallas, Texas 75202.	4:30 p.m.
Region VII—(Kansas City)—Iowa, Kansas, Missouri, and Nebraska. U.S. Office of Education, Equal Educational Opportunity, New Federal Office Bldg., 601 East 12th Street, Kansas City, Missouri 64106.	4:45 p.m.
Region VIII—(Denver)—Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. U.S. Office of Education, Equal Educational Opportunity, 1961 Stout Street, Denver, Colorado 80202.	4:30 p.m.

Address	Deadline for Submission (local time)
Region IX—(San Francisco)—Arizona, California, Hawaii, Nevada, American Samoa, Guam, and the Trust Territory of the Pacific Islands. U.S. Office of Education, Equal Educational Opportunity, 50 Fulton Street, Room 359, San Francisco, California 94102.	4:30 p.m.
Region X—(Seattle)—Alaska, Idaho, Oregon and Washington. U.S. Office of Education, Equal Educational Opportunity, Arcade Plaza Bldg.—M/S 628, 1321 Second Avenue, Seattle, Washington 98101.	4:30 p.m.

An application sent by mail will be considered to have been received on time by the Regional Office if:

(1) The application was sent by registered or certified mail not later than May 28, 1975, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by the appropriate Regional Office mail room. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, the U.S. Office of Education, or the Regional Offices.)

C. *Hand delivered applications.* An application to be hand delivered must be taken to the appropriate U.S. Office of Education Regional Office at the address listed above. No application will be accepted by a U.S. Office of Education Regional Office after the time referred to above on the closing date.

D. *Applicable regulations.* Awards made pursuant to this notice will be subject to the Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a) and to 45 CFR Part 180, Subparts A, B, D, and E upon publication of those regulations in final form. In developing their applications applicants should consult those regulations as published in the FEDERAL REGISTER as a notice of proposed rulemaking on March 17, 1975 (40 FR 12243).

(Catalog of Federal Domestic Assistance Program number 13.405, Civil Rights Technical Assistance and Training Program.)

Dated: May 21, 1975.

T. H. BELL,

U.S. Commissioner of Education.

[FR Doc.75-13738 Filed 5-22-75; 8:45 am]

#### EMERGENCY SCHOOL AID

##### Notice of Extension of Closing Date for Receipt of Applications

A. *Extended closing date for receipt of applications.* Inquiries directed to the United States Office of Education indicate that many applicants were unable to complete their applications for assistance under the Emergency School

Aid Act (20 U.S.C. 1601-1619) in time for submission by the deadline which appeared in the FEDERAL REGISTER on April 11, 1975 (40 FR 16354). Therefore, the Commissioner of Education hereby extends the date for submission of applications for Basic Grants, Pilot Projects, Grants to Public or Nonprofit Private Organizations, and Bilingual Projects under sections 706(a), 706(b), 708(b) and 708(c) of the Act, respectively, until June 2, 1975, at the normal close of business time for the appropriate U.S. Office of Education Regional Office, listed below. Applicants for awards under the above sections of the Act which have already submitted applications will be permitted to review, revise and file their applications by the above date.

B. *Applications sent by mail.* An application for a grant under section 706(a), 706(b), 708(b) or 708(c) of the Act sent by mail should be addressed to the appropriate U.S. Office of Education Regional Office as follows:

Address	Deadline for Submission (local time)
Region I—(Boston)—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. U.S. Office of Education, Equal Educational Opportunity, John Fitzgerald Kennedy Federal Bldg., Government Center, Boston, Massachusetts 02203.	5 p.m.
Region II—(New York City)—New York and New Jersey. U.S. Office of Education, Equal Educational Opportunity, Federal Bldg., 26 Federal Plaza, New York, New York 10007.	5 p.m.
Region III—(Philadelphia)—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia. U.S. Office of Education, Equal Educational Opportunity, P.O. Box 13716/3535 Market Street, Philadelphia, Pennsylvania 19101.	5 p.m.
Region IV—(Atlanta)—Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, and Tennessee. U.S. Office of Education, Equal Educational Opportunity, 50 -7th Street, N.E., Atlanta, Georgia 30323.	4:30 p.m.
Region V—(Chicago)—Illinois, Indiana, Minnesota, Michigan, Ohio, and Wisconsin. U.S. Office of Education, Equal Educational Opportunity, 300 South Wacker Drive, Chicago, Illinois 60606.	4:45 p.m.
Region VI—(Dallas)—Arkansas, Louisiana, New Mexico, Oklahoma, and Texas. U.S. Office of Education, Equal Educational Opportunity, 1114 Commerce Street, Dallas, Texas 75202.	4:30 p.m.

Address	Deadline for Submission (local time)
Region VII—(Kansas City)—Iowa, Kansas, Missouri, and Nebraska. U.S. Office of Education, Equal Educational Opportunity, New Federal Office Bldg., 601 East 12th Street, Kansas City, Missouri 64106.	4:45 p.m.
Region VIII—(Denver)—Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. U.S. Office of Education, Equal Educational Opportunity, 1961 Stout Street, Denver, Colorado 80202.	4:30 p.m.
Region IX—(San Francisco)—Arizona, California, Hawaii, and Nevada. U.S. Office of Education, Equal Educational Opportunity, 50 Fulton Street, Room 359, San Francisco, California 94102.	4:30 p.m.
Region X—(Seattle)—Alaska, Idaho, Oregon, and Washington. U.S. Office of Education, Equal Educational Opportunity, Arcade Plaza Bldg.—M/S 628, 1321 Second Avenue, Seattle, Washington 98101.	4:30 p.m.

An application sent by mail will be considered to have been received on time if:

(1) The application was sent to the appropriate office by registered mail not later than May 28, 1975, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by the appropriate U.S.O.E. mail room. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, the U.S. Office of Education, or the Regional Offices.)

C. *Hand delivered applications.* A hand delivered application for a grant under sections 706(a), 706(b), 708(b), or 708(c) of the Act must be taken to the appropriate U.S. Office of Education Regional Office at the address listed under Part B of this notice. No application will be accepted by a U.S. Office of Education Regional Office after the time referred to above on the closing date.

D. *Project periods.* Grant awards will be made pursuant to this notice for projects commencing no earlier than July 1, 1975, and terminating no later than June 30, 1976.

E. *Applicable regulations.* Grant awards made pursuant to this notice will be subject to the regulations in 45 CFR Part 185, relating to the Emergency School Aid Act, and except where inconsistent with Part 185, to the Office of Education general provisions regulations in 45 CFR Parts 100 and 100a, relating to direct project assistance programs. In addition, such grant awards

will be subject to amendments to Part 185, published in the FEDERAL REGISTER as a notice of proposed rulemaking on March 28, 1975 (40 FR 14166), after review of such amendments in light of public comment and their republication in final form. Therefore, applicants should consult the proposed regulations in developing their applications.

(Catalog of Federal Domestic Assistance numbers 13.525 (Basic Grants), 13.526 (Pilot Projects), 13.528 (Bilingual Projects), and 13.529 (Projects to be carried out by Public or Nonprofit Private Organizations))

Dated: May 21, 1975.

T. H. BELL,

U.S. Commissioner of Education.

[FR Doc.75-13737 Filed 5-22-75; 8:45 am]

#### Office of the Secretary

##### SECRETARY'S ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN

#### Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which was established to review the policies, programs, and activities of the Department of Health, Education, and Welfare relative to women and to make recommendations to the Secretary on how to better the services of HEW's programs to meet these special needs of women, will sponsor on Thursday and Friday, June 12-13, 1975 a conference on Child Care and the Working Woman from 9 a.m. to 5 p.m. in the auditorium of the Department of HEW—North Building, 330 Independence Ave., SW, Washington, D.C.

The agenda for the Conference includes a discussion by invited speakers and participants of the cost and availability of child care services for the working woman. The keynote speaker will be Congresswoman Margaret Heckler (Mass.). Osta Underwood, Chairperson, of the Secretary's Advisory Committee on the Rights and Responsibilities of Women will chair the conference.

Because of the timeliness of the subject and its far-reaching significance at a time when mothers of young children are entering the workforce in ever increasing numbers, broad interest in the conference is anticipated.

Interested persons wishing to address the conference panelists, should contact the Acting Executive Secretary by COB Monday, June 9th. Phone: 202-245-8454. Written statements received by June 9th will be distributed at the conference. Members of the public are invited to attend.

Dated: May 13, 1975.

SANDRA S. KRAMER,  
Acting Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc.75-13622 Filed 5-22-75; 8:45 am]

#### PROJECT NEWGATE AND OTHER PRISON COLLEGE PROGRAMS

##### Study Results

Pursuant to section 606 of the Economic Opportunity Act of 1964, as amended, 42 USC 2946, this agency announces the results, findings, data, or recommendations reported as a result of activities associated with HEW project entitled, "Additional Data Analysis and Evaluation of 'Project NewGate' and Other Prison College Programs."

This report presents additional data analysis from an evaluation study of the Office of Economic Opportunity (OEO) funded Project NewGate which operated a prison college education program at five prisons across the country and four other (non-NewGate models) prison college programs. The original evaluation study and analysis was carried out under OEO Contract #B2C-5322. The additional data analysis confirmed the findings of the original study vis-a-vis recidivism, achieving post-release stability, and in realizing life goals. In addition it was found that:

Participation in a prison college program reduced drinking and drug abuse problems.

Program participation raised occupational level.

A post-release program providing structure, guidance, and financial support to exconvicts enrolled in college is essential to maximize the post-release education experience.

Post-release programs of high quality are characterized by close supervision of exconvict students. This close supervision also results in decreased recidivism.

NewGate programs were more successful than other program types in enrolling and maintaining educationally and economically disadvantaged students in college.

Background SES was almost eliminated as a determinant of post-release college enrollment in the NewGate projects but not in the non-NewGate programs.

A copy of this report will be filed and available as soon as possible, from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

Dated: May 20, 1975.

WILLIAM A. MORRILL,  
Assistant Secretary for Planning and Evaluation.

[FR Doc.75-13623 Filed 5-22-75; 8:45 am]

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

##### Office of the Secretary

[Docket No. D-75-330]

#### ASSISTANT SECRETARY AND DEPUTY ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT

##### Delegation of Authority

The Assistant Secretary for Housing Production and Mortgage Credit and



Federal Housing Commissioner, and Deputy Assistant Secretary for Housing Production and Mortgage Credit and Deputy Federal Housing Commissioner are each authorized to exercise the authority of the Secretary of Housing and Urban Development pursuant to section 236 of the National Housing Act with respect to those Agreements for Interest Reduction Payments between the New York State Urban Development Corporation (UDC), HUD, and the mortgagors covering certain mortgages originally held by UDC and referred to in a letter agreement dated on or about May 20, 1975 addressed to banks who were parties to a Credit Agreement dated May 12, 1975 and UDC.

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d))).

**Effective Date:** This delegation shall be effective as of May 16, 1975.

CARLA A. HILLS,  
Secretary of Housing  
and Urban Development.

[FR Doc. 75-13610 Filed 5-22-75; 8:45 am]

#### DEPARTMENT OF TRANSPORTATION

##### Coast Guard

[CGD 75-091]

#### MARINE SANITATION DEVICES

##### Certifications Granted

##### Correction

In FR Doc. 75-11814 appearing on page 19873 in the issue for Wednesday, May 7, 1975, in the first column of the table on page 19874, the following changes should be made:

1. "Bridge Warren (O), . . . Mont," should read "Bridge Warren (O), . . . Minn."
2. "Firestone Corp. (M), . . . Ariz.," should read "Firestone Corp. (M), . . . Ark."

#### National Highway Traffic Safety Administration

[Docket No. EX75-14; Notice 3]

#### HARNISCHFEGER CORP.

#### Petition for Temporary Exemption From Federal Motor Vehicle Safety Standard

Harnischfeger Corporation of Cedar Rapids, Iowa, has asked the Administrator to reconsider his denial of its petition for temporary exemption from 49 CFR § 571.121, Motor Vehicle Safety Standard No. 121, *Air Brake Systems*, on grounds of substantial economic hardship.

Notice of the petition was published on March 10, 1975, (40 FR 11019) and an opportunity afforded for comment. Oshkosh Truck Corporation opposed the petition. No other comments were filed. Notice of the denial of its petition was published on April 25, 1975, (40 FR 18209).

Specifically, Harnischfeger has asked the Administrator to reconsider that portion of his decision covering its crane

carrier models T 150/200. The Administrator in his denial commented:

The T 150/200 models accounted for approximately 11½ percent of Harnischfeger's production in fiscal 1974 (107 units out of 922). According to the petitioner "The 1975 fiscal year production rate has been 10 units/month. Perhaps one-half will be shipped to the export market." Since vehicles manufactured for export do not have to meet Standard No. 121, the question is whether a cessation of production of five units a month, representing perhaps 6 percent of Harnischfeger's overall vehicle production, would cause substantial economic hardship. In light of Harnischfeger's net income of \$11,645,839 in fiscal 1974, it is concluded that hardship has not been proven. The effect upon employment should be minimal as petitioner will be able to continue producing vehicles for the export market.

In addressing itself to the Administrator, Harnischfeger stated that "The loss of five T-150 machines per month at \$78,000 per machine is \$390,000 per month." The corresponding loss in manpower is 50 jobs at the Cedar Rapids facility. The company states that none of its major competitors in the truck crane carrier industry "has of this date [May 6, 1975] assembled a prototype, tested and approved the combination of the new axle and the electronic skid control device." These competitors are: Grove Corporation, Bucyrus Erie, Koehring Company, Crane Carrier Corporation, and Hendrickson Manufacturing Company. Harnischfeger argues that it has in good faith attempted to comply in a timely manner with Standard No. 121, ordering "our material as early as our vendors would accept orders." It blames its compliance problems on vendor delay and is of the view that axle suppliers have given low priority to filling the orders of the truck crane industry. By May 15, 1975, Harnischfeger expects to have all parts necessary for construction of 121 prototypes, and it requests an exemption until March 1, 1976, for testing and production changes.

This notice of receipt of a petition for reconsideration of a denial of a temporary exemption is published in accordance with the NHTSA regulations on temporary exemptions (49 CFR 555.7), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Interested persons are invited to submit comments on the petition of Harnischfeger Corporation described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received, are available for examination in the docket both before and after the closing date. Comments received after the closing date will also be filed and will be considered to the

extent possible. When the petition is granted or denied, notice will be published in the *FEDERAL REGISTER* pursuant to the authority indicated below.

**Comment closing date:** June 2, 1975.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.)

Issued on May 20, 1975.

ROBERT L. CARTER,  
Associate Administrator,  
Motor Vehicle Programs.

[FR Doc. 75-13674 Filed 5-21-75; 11:39 am]

#### NATIONAL MOTOR VEHICLE SAFETY ADVISORY COUNCIL

##### Public Meeting

On June 11 and 12, 1975, the National Motor Vehicle Safety Advisory Council will hold open meetings in the DOT Headquarters Building, 400 Seventh Street, SW, Washington, D.C. The Advisory Council is composed of 25 members, a majority of whom are representatives of the general public, including representatives of State and local governments, with the remainder including representatives of motor vehicle manufacturers, motor vehicle equipment manufacturers, and motor vehicle dealers. The Advisory Council makes recommendations to the Secretary of Transportation on motor vehicle safety and property loss reduction programs carried out by the National Highway Traffic Safety Administration.

The following meetings are subject to the approval of the National Highway Traffic Safety Administrator.

On June 11 at 8:30 a.m. in room 4234 of the DOT Headquarters Building the Motorcycle Subcommittee will meet with the following agenda:

Daytime Use of Motorcycle Headlights  
Advanced Training/Licensing Requirements for Motorcyclists  
In-depth Accident Investigation of Motorcycle Accidents—Project Status

At 9 a.m. on June 11 in room 3202 of the DOT Headquarters Building the Crashworthiness Committee will meet with the following agenda:

Council Member Reports on May 19-23 Public Meeting on Occupant Crash Protection (FMVSS 208)  
Update on Crash and Post Crash Safety Standards (FMVSS 200 and 300 series)

On June 11 at 1 p.m. in room 4234 of the DOT Headquarters Building the Consumer and Public Information Committee will meet with the following agenda:

Review of "Hot Line" Systems for Handling Auto-Related Defects and Consumer Problems

On June 12 at 9 a.m. the full Council will meet with the following agenda in room 3202 of the DOT Headquarters Building:

Approval of May 1 Meeting Minutes  
Council Bylaws  
Selection of Excalibur Award Recipient  
Discussion of GAO Report "Contributions of Advisory Groups to Federal Motor Vehicle and Traffic Safety Programs" and New Directions for the Council  
Report of Crashworthiness Committee  
Report of Motorcycle Subcommittee  
Report of Consumer and Public Information Committee  
Status Report—Fourth International Congress on Automotive Safety  
New Business  
Future Meetings

For further information contact the NHTSA Executive Secretary, Room 5215, 400 Seventh Street, SW, Washington, D.C., telephone 202-426-2872.

This notice is given pursuant to section 10(a)(2) of Pub. L. 92-463, Federal Advisory Committee Act (FACA), effective January 5, 1973.

Issued: May 19, 1975.

WM. H. MARSH,  
Executive Secretary.

[FR Doc. 75-13605 Filed 5-22-75; 8:45 am]

[Docket No. EX 75-18; Notice 1]

#### ORCON INDUSTRIES, INC.

#### Petition for Temporary Exemption From Federal Motor Vehicle Safety Standard

Orcon Industries, Inc., of Ortonville, Minnesota, has petitioned for a 1-year exemption from Motor Vehicle Safety Standard No. 121, *Air Brake Systems*, on the basis that compliance would cause it substantial economic hardship.

Petitioner manufactures semi-trailers for hauling asphalt and produced 56 such vehicles "in the past year." It estimates "change over costs" to Standard No. 121 as totaling \$60,000, attributing \$5,000 to engineering, \$20,000 to testing, and \$35,000 to "stock change over." Orcon had a net loss of \$154,352.57 in the first 9 months of its current fiscal year, a net loss of \$76,905.29 in its fiscal year ending April 30, 1974, and a net profit of \$3,720.92 in the preceding fiscal year. How much of the loss is attributable to trailer manufacturing is unclear, as the company was incorporated to conduct "a general steel fabrication business." The source of its income since January 1, 1975, the effective date of Standard No. 121 for trailers, is also unclear.

The company appears to argue that its limited financial resources have been directed towards "developing the trailer and getting into the trailer industry" by setting up "dealerships all over the United States at great expense" rather than towards compliance. It stated, "Because we are a small manufacturing operation and lack the necessary finances, and a more complete engineering section, we were forced to delay or put aside the necessary engineering, research, development, and testing time required for adequate implementation of S-121." Orcon does not allege any specific difficulty in complying with Standard No. 121, but

notes that the retail price increase of \$2,000 required for a conforming vehicle will make it "less attractive for a prospective purchaser," and it offers to present conforming vehicles as a consumer option while the exemption is in effect.

This notice of receipt of a petition for a temporary exemption is published in accordance with the NHTSA regulations on this subject (49 CFR 555.7), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Interested persons are invited to submit comments on the petition of Orcon Industries described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received, are available for examination in the docket both before and after the closing date. Comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the *FEDERAL REGISTER* pursuant to the authority indicated below.

**Comment closing date:** June 2, 1975.

(Sec. 3 Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.)

Issued on May 20, 1975.

ROBERT L. CARTER,  
Associate Administrator,  
Motor Vehicle Programs.

[FR Doc. 75-13663 Filed 5-21-75; 4:18 pm]

#### Office of Pipeline Safety

[Docket No. Pet. 75-4]

#### TRANS-ALASKA CRUDE OIL PIPELINE Grant of Waiver

By letters dated March 19, and May 3, 1975, the Alyeska Pipeline Service Company requested a waiver from compliance with the coating and cathodic protection requirements of §§ 195.238(a)(5) and 195.242(a) of Title 49 of the Code of Federal Regulations with respect to the following sections of the Trans-Alaska crude oil pipeline: (1) three special buried, refrigerated sections totaling 4.3 miles; (2) approximately 240 short buried transition sections, each approximately 60-80 feet long; and (3) approximately 20 buried "sag bend" sections, each approximately 120 feet long.

Section 195.238(a)(5) provides:

(a) No pipeline system component may be buried unless that component has an external protective coating that—

(5) Supports any supplemental cathodic protection.

Section 195.242(a) provides:

(a) A cathodic protection system must be installed for all buried facilities to mitigate corrosion deterioration that might result in structural failure. A test procedure must be developed to determine whether adequate cathodic protection has been achieved.

All sections of the pipeline for which the waiver is requested are to be covered with thermal insulation-type coating consisting of 3 inches of a closed-cell polyurethane insulation material and a 0.19-inch fiberglass reinforced polyester outer jacket. This coating presents a highly resistant path for electrical current from a cathodic protection source to locations on the surface of an underlying pipeline. As a result, the coating precludes the effective operation of an external cathodic protection system.

The 4.30 miles of buried, refrigerated sections of the pipeline will be located in permafrost at migratory animal crossings. Both the thermal insulation-type coating and refrigeration of the surrounding soil are necessary to safeguard those crossings against thawing of the permafrost by the high temperature of the buried pipe. Thawing of the permafrost would not only reduce the support for the pipe, but would increase the likelihood of corrosion due to the presence of liquid water.

About half the length of the 800-mile pipeline will be elevated to avoid burying it in ice-rich permafrost. The 240 short buried transition sections lie between the elevated and buried portions of the pipeline. If the pipeline is shut down for a long period, the insulation-type coating on the transition sections is necessary to retard congelation of the oil in those sections due to very low surrounding soil temperatures near the ground surface. Oil in the elevated portions of the pipeline will be similarly protected by an insulation-type coating.

The "sag bend" sections are located where elevated portions of the pipeline dip below the surface of permafrost to provide animal crossings. The thermal insulation-type coating is necessary on these sections to protect against thawing of the permafrost. Additional protection against thawing will be provided by lining the pipe trench with 12 inches of polystyrene closed-cell insulation. Refrigeration of the surrounding soil is not warranted for these relatively short belowground sections as it is for the longer migratory animal crossings because support for the pipe is provided by vertical members placed in the permafrost.

In support of its petition, Alyeska states:

(1) In the absence of moisture penetration, the thermal insulation-type coating provides a very high electrical resistance, thus minimizing the possibility of corrosion.

(2) Before the application of the thermal insulation-type coating, the pipe will be coated with Scotchkote 202 thermoset epoxy. Except for approximately 220 lengths of pipe, the Scotchkote coating will be visually and electrically inspected and any defective coating, foreign material, and pipe surface imperfection removed and repaired. Approximately 220 lengths of pipe (totaling 1.7



miles) have had thermal insulation-type coating applied without inspection of the Scotchkote coating. These 200 lengths of pipe would be installed in refrigerated soil to eliminate exposure to liquid water.

(3) If a crack occurs in the outer jacket of the thermal insulation-type coating, the low permeability of polyurethane to water and the high operating temperature of the pipe tend to keep water away from the pipe.

(4) The shear strength of the bond of the polyurethane to the outer jacket and to the Scotchkote coating is equal to or greater than the shear strength of the polyurethane itself.

(5) The closed-cell thermal insulation-type system slows the replenishment of oxygen necessary for corrosion.

(6) In those sections where the soil surrounding the pipe is refrigerated, liquid water will not be present and thus the likelihood for corrosive action is virtually eliminated.

(7) Artificial zinc anodes installed along the pipeline provide "spill-over" cathodic protection in the short buried transition sections where the thermal insulation-type coating may be damaged.

The Office of Pipeline Safety (OPS) has reviewed the information submitted in connection with the petition. Based on that review and other relevant information, OPS finds that under the condition stated hereinafter, a waiver is appropriate and consistent with pipeline safety for the following reasons: (1) the fiberglass reinforced polyester outer jacket is a relatively impermeable barrier to moisture which is necessary for corrosion to occur; (2) in the event of a break in the outer jacket allowing the introduction of moisture, the possibility of corrosion is minimized by the combination of low permeability of the polyurethane to water, the high temperature of the pipe tending to drive any water away, and the existence of an underlying coating of Scotchkote 202 epoxy except at field joints where a coating of Royston Greenline tape is to be applied (as a condition of this waiver); (3) in the case of the refrigerated sections, additional protection is afforded by the virtual elimination of corrosive action due to the very high resistivity of frozen soil; (4) except for approximately 220 lengths of pipe, before the thermal insulation-type coating is applied to the pipe, the existing Scotchkote 202 coating is to be visually and electrically inspected and any defective coating, foreign materials, and pipe surface imperfections are to be removed and repaired; and (5) in the case of the approximately 220 lengths of pipe on which thermal insulation-type coating has been applied without inspection of the underlying Scotchkote 202 coating, that pipe is to be installed in refrigerated soil where corrosive action is virtually eliminated.

Accordingly, effective immediately, the Alyeska Pipeline Service Company is hereby granted a waiver from compliance with the coating and cathodic protection requirements of 49 CFR 195.238(a) (5) and 195.242(a) with respect to those portions of the pipeline described here-

before, subject to the following condition:

That section of pipe extending from each field girth weld joint which is not covered with mill applied thermal insulation-type coating before the pipe is joined must be primed with Roybond 747 primer, wrapped with Royston Greenline tape, and covered with prefabricated C-type thermal insulation-type coating.

This Notice is issued under the authority of sections 831-835 of Title 18, United States Code, Section 6(e) (4) of the Department of Transportation Act (49 USC 1655(e) (4)), § 1.58(d) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.58(d)), and the re-delegation of authority to the Director, Office of Pipeline Safety, set forth in Appendix A to Part 1 of the regulations of the Office of the Secretary of Transportation (49 CFR Part 1).

Issued in Washington, D.C. on May 19, 1975.

JOSEPH C. CALDWELL,  
Director,  
Office of Pipeline Safety.

[FR Doc. 75-13536 Filed 5-22-75; 8:45 am]

#### ADMINISTRATIVE CONFERENCE OF THE UNITED STATES COMMITTEE ON INFORMAL ACTION Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Informal Action of the Administrative Conference of the United States, to be held at 10 a.m., June 5, 1975, in the offices of Shea & Gardner, 734 15th Street, N.W., Washington, D.C. 20005.

The Committee will meet to consider its project on the exercise of prosecutorial discretion in antitrust cases. Professor Maroney, the Conference's consultant on this matter, will be present to discuss the scope and direction of his study.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least one day in advance. The Committee Chairman may, if he deems it appropriate, permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee, before, during or after the meeting.

For further information concerning this Committee meeting contact Mr. Jorge A. Duarte (phone: 202-254-7065). Minutes of the meeting will be available on request.

Dated: May 21, 1975.

RICHARD K. BERG,  
Executive Secretary.

[FR Doc. 75-13743 Filed 5-21-75; 4:36 pm]

#### CIVIL AERONAUTICS BOARD

[Docket No. 25280; Agreement C.A.B. 25081; Order 75-5-20]

#### INTERNATIONAL AIR TRANSPORT ASSOCIATION

##### North Atlantic Cargo Rates

##### Correction

The date "May 5, 1975", which appears at the beginning of FR Doc. 75-12429 on page 20848 of the issue for Tuesday, May 13, 1975, should be part of an introductory sentence reading "Issued under delegated authority on May 5, 1975."

[Docket No. 27664]

#### PAN AMERICAN WORLD AIRWAYS, INC.

##### Proposed Approval

##### Correction

In FR Doc. 75-11973 appearing at page 19876 of the issue for Wednesday, May 7, 1975, at the bottom of the first column on page 19877, following the line "This order shall be effective and become", insert this omitted line: "the action of the Civil Aeronautics Board".

[Docket 26494, 25280; Agreement C.A.B. 25054 R-1 through R-33; 25080; Order 75-5-72]

#### INTERNATIONAL AIR TRANSPORT ASSOCIATION

##### Passenger Fares

May 16, 1975.

Agreements have been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Traffic Conference of the International Air Transport Association (IATA).

Agreement C.A.B. 25054, adopted at a meeting held December 2-6, 1974, in Geneva, would establish the IATA passenger fare structure for travel within Europe through March 31, 1976. The Board will approve the proposed normal first class and economy fares, as well as certain promotional fares, which are combinable with fares to/from U.S. points and thus have indirect application in air transportation as defined by the Act. Jurisdiction will be disclaimed on other, non-combinable fares. We will also disclaim jurisdiction on Agreement C.A.B. 25080, which involves amendments to non-combinable specific commodity rates.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14: 1. It is not found that the following resolutions, incorporated in Agreement C.A.B. 25054 as indicated, and which have indirect application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act:

#### NOTICES

Agreement CAB	IATA No.	Title	Application
25054:			
R-1	001L	Special Escape for TC2 Agreements	2
R-2	001Q	TC2 Special European Escape Resolution	2
R-3	002	Special Readoption Resolution	2
R-4	002a	Special Readoption Resolution	2
R-5	005	Procedures for changes to Fares and Conditions within Scandinavia	2
R-6	014a	Construction Rule for Passenger Fares	2
R-7	014ss	Special UK Add-On Fares (Europe)	2
R-8	0224d	TC2 Special Rules for Sales of Passenger Air Transportation	2
R-9	062	TC2 First Class Fares	2
R-10	060	Economy Class Conditions of Service	2
R-11	062	TC2 Economy Class Fares	2
R-12	070c	TC2 14 Day Holiday Fares Switzerland to England	2
R-13	070q	TC2 12 Day Round Trip Fares, Ireland to UK	2
R-14	072z	TC2 Creative Fares Board—Europe	2
R-20	091	TC2 Family Fares—Europe	2

2. It is not found that the following resolutions, incorporated in the agreements indicated, affect air transportation within the meaning of the Act:

Agreement CAB	IATA No.	Title	Application
R-15	075h	TC2 Group Fares—Benelux/Europe	2
R-16	072k	90 Day Excursion Fare from Poland to Europe	2
R-17	075n	TC2 Common Interest Group Fares, Iceland—Scandinavia, Finland	2
R-18	075q	TC2 Common Interest Group Fares—Europe	2
R-19	075o	TC2 School Party Group Fares—Europe	2
R-20	075qq	TC2 Common Interest Group Fares (UK/Spain/Portugal and UK/Peripann)	2
R-21	076w	TC2 Group Fares, Between France and Eastern Europe	2
R-22	081g	TC2 Group Inclusive Tour Fares Europe—Greece	2
R-23	081gg	TC2 Group Inclusive Tour Fares, Europe—Turkey	2
R-24	086	Tour Operators' Package (TOP) Fares United Kingdom—Europe	2
R-25	086b	TC2 Inclusive Tour Arrangements UK/Ireland—Spain/Portugal	2
R-26	086bb	TC2 Inclusive Tour Arrangements from the United Kingdom and Ireland	2
R-27	086c	Tour Operators' Package (TOP) Fares from Europe to United Kingdom	2
R-28	086d	TC2 Inclusive Tour Arrangements—Finland	2
R-30	091k	TC2 Spouse Fares—Europe	2
R-31	091b	Emigrant Fares—Malta/London	2
R-32	095j	Individual Military Fares Between the United Kingdom and Germany	2
R-33	315	Air Ferry Rates for Vehicles	2
25080	590	Specific Commodity Rates Board (Amending)	2

Accordingly, it is ordered That: 1. Those portions of Agreement C.A.B. 25054 set forth in finding paragraph 1 above be and hereby are approved; and 2. Jurisdiction be and hereby is disclaimed with respect to those portions of Agreements C.A.B. 25054 and C.A.B. 25080 set forth in finding paragraph 2 above.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,  
Secretary.

[FR Doc. 75-13479 Filed 5-22-75; 8:45 am]

[Docket No. 27456; Order 75-5-77]

#### NORTHWEST AIRLINES, INC.

##### Application for Amendment of Certificate of Public Convenience and Necessity

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 20th day of May, 1975.

On January 29, 1975, Northwest Airlines, Inc., filed an application, pursuant

to Subpart N of Part 302 of the Board's Procedural Regulations, for amendment of its certificate of public convenience and necessity for route 3 so as to remove that part of condition 7 which prohibits turnaround service between Minneapolis, on the one hand, and Cleveland and Pittsburgh, on the other hand.

Allegheny Airlines, Inc. has filed a statement requesting that the Board disclaim that portion of Northwest's application which relates to turnaround service in the Minneapolis-Pittsburgh market.

Upon consideration of the foregoing, we do not find that Northwest's application is not in compliance with, or is inappropriate for processing under, the provisions of Subpart N. Accordingly, we order further proceedings pursuant to the provisions of Subpart N, Sections 1406-1410, with respect to Northwest's application.

Accordingly, it is ordered That: 1. The application of Northwest Airlines, Inc., Docket 27456, be and it hereby is set for further proceedings pursuant to Rules 1406-1410 of the Board's Procedural Regulations; and

2. This order shall be served upon all parties served by Northwest Airlines in its application.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,  
Secretary.

[FR Doc. 75-13628 Filed 5-22-75; 8:45 am]

#### CIVIL SERVICE COMMISSION FEDERAL EMPLOYEES PAY COUNCIL Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that the Federal Employees Pay Council will meet at 2 p.m. on Wednesday, June 18, 1975. This meeting will be held in room 5323 of the U.S. Civil Service Commission building, 1900 E Street, N.W., and will consist of continued discussions on the fiscal year 1976 comparability adjustment for the statutory pay systems of the Federal Government.

The Chairman of the U.S. Civil Service Commission is responsible for the making of determinations under section 10(d) of the Federal Advisory Committee Act as to whether or not meetings of the Federal Employees Pay Council shall be open to the public. He has determined that this meeting will consist of exchanges of opinions and information which, if written, would fall within exemptions (2) or (5) of 5 U.S.C. 552(b). Therefore, this meeting will not be open to the public.

For the President's Agent:

RICHARD H. HALL,  
Advisory Committee Manage-  
ment Officer for the Presi-  
dent's Agent.

[FR Doc. 75-13541 Filed 5-22-75; 8:45 am]

#### COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SE- VERELY HANDICAPPED

##### PROCUREMENT LIST 1975

##### Proposed Addition

Notice is hereby given pursuant to section 2(a) (2) of Pub. L. 92-28; 85 Stat. 79, of the proposal to increase the quantity provided from one-third to one-half of the total Government requirements for the following commodity included on Procurement List 1975, November 12, 1974 (39 FR 39964).

CLASS 8465

Bag, Sleeping, Firefighter's (IB) 8465-00-081-0798 (GSA Regions 9 and 10)

Comments and views regarding this proposal may be filed with the Committee not later than June 23, 1975. Communications should be addressed to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

This notice is automatically cancelled six months from the date of this FEDERAL REGISTER.

By the Committee.

C. W. FLETCHER,  
Executive Director.

[FR Doc. 75-13611 Filed 5-22-75; 8:45 am]



# PROCUREMENT LIST 1975 Proposed Additions

Notice is hereby given pursuant to section 2(a) (2) of Pub. L. 92-28; 85 Stat. 79, of the proposed addition of the following commodities to Procurement List 1975, November 12, 1974 (39 FR 39964).

## CLASS 5510

Stakes (For GSA Region 7):  
5510-00-171-7700  
5510-00-171-7701  
5510-00-171-7734  
5510-00-171-7732  
5510-00-171-7733

## CLASS 7340

Flatware, Plastic, Heavy Duty:  
7340-00-022-1315  
7340-00-022-1316  
7340-00-022-1317

Comments and views regarding these proposed additions may be filed with the Committee not later than June 23, 1975. Communications should be addressed to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

This notice is automatically cancelled six months from the date of this FEDERAL REGISTER.

By the Committee.

C. W. FLETCHER,  
Executive Director.

[FR Doc.75-13612 Filed 5-22-75; 8:45 am]

# PROCUREMENT LIST 1975 Proposed Addition

Notice is hereby given pursuant to section 2(a) (2) of Pub. L. 92-28; 85 Stat. 70, of the proposed addition of the following service to Procurement List 1975, November 12, 1974 (39 FR 39964).

## Industrial class 7349

Janitorial/Maid  
Naval Air Station  
Whidbey Island  
Oak Harbor, Washington, for following buildings:  
Building 308  
Building 381

Comments and views regarding this proposed addition may be filed with the Committee not later than June 23, 1975. Communications should be addressed to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

This notice is automatically canceled November 24, 1975.

By the Committee.

C. W. FLETCHER,  
Executive Director.

[FR Doc.75-13767 Filed 5-22-75; 10:01 am]

# COUNCIL ON ENVIRONMENTAL QUALITY

## ENVIRONMENTAL IMPACT STATEMENTS List of Statements Received

Environmental impact statements received by the Council on Environmental Quality from May 12, through May 16, 1975. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (July 8, 1975). The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies will also be available at cost from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

## DEPARTMENT OF AGRICULTURE

Contact: David Ward, Acting Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 331-E, Administration Building, Washington, D.C. 20250 (202) 447-3853.

## FOREST SERVICE

### Draft

Stillman Point Unit, Nezperce N.F., Idaho County, Idaho, May 5: The statement concerns a land use plan for the Stillman Point Planning Unit of Nezperce National Forest. The plan provides for timber management, recreation, watershed protection, and roadless areas. Principle adverse effects are those associated with timber harvest and culture, treatment of big game winter ranges, and recreation developments and use (288 pages). (ELR Order No. 50715.)

### Final

Timber Management, White Mountain N.F., May 12: The statement refers to the proposed Timber Management Plan which will cover the White Mountain National Forest from July 1, 1974 through June 30, 1982. The plan includes a potential yield of 19,210,000 of sawlogs and 68,900 cords of products annually. There will be impacts to aesthetics, air, water and soil qualities, and fish and wildlife. Comments made by: EPA, USDA, and state and local agencies. (ELR Order No. 50701.)

Sluslaw, Siskiyou, Umpqua N.F.'s, Supplement, Oregon and California, May 14: The statement supplements a final eis which was filed with CEQ on February 25, 1974, and refers to the use of herbicides on the three forests in forest management activities. The chemical agents to be used include 2,4-D, 2,4,5-T, 2,4,5-TP, Amitrole-T, atrazine, picloram, and dicamba. There will be impacts to non-target species and to wildlife. Comments made by: USDA, COE, HUD, DOI, DOT, state and local agencies, groups, businesses, and individuals. (ELR Order No. 50709.)

## RURAL ELECTRIFICATION ADMINISTRATION

### Draft

115 kV Transmission Line, Teton to Jackson, Teton County, Wyoming, May 14: The statement concerns a loan application from

Lower Valley Power and Light, Inc., to finance approximately 11 miles of 115 kV transmission line from Teton to Jackson, Wyoming. The proposed project will cross Grand Teton National Park and the National Elk Refuge. It will also cross the Snake River in an area that has been designated under Section 5(a) for potential addition to the National Wild and Scenic Rivers System and Gros Ventre River which is being considered for study. Adverse impacts include introducing negative visual impacts into scenic areas, the removal of a small number of trees, and some soil erosion which may affect nearby waterways (23 pages). (ELR Order No. 50713.)

A notice of availability for this draft EIS appeared on April 2, 1975, in the FEDERAL REGISTER (40 FR 14787) with a 60 day comment period ending June 2. However, due to an error, the statement was not filed with the Council until May 15, 1975. Because public notice was made and the draft EIS was distributed to all interested parties, unless objections are received by the Council the comment period is hereby shortened and will end June 2, 1975.

## SOIL CONSERVATION SERVICE

### Final

West Fork of Bayou Lacassine Watershed, Jefferson, Davis, and Calcasieu Counties, Louisiana, May 12: The statement refers to a watershed protection, flood prevention, and agricultural water management project. Project measures include 83 miles of channel works, land treatment measures, weirs, and pipe drops. There will be adverse impact to air and water quality, and to mature hardwood stands. Comments made by: COE, HEW, DOI, DOT, EPA, AHP, and state agencies. (ELR Order No. 50697.)

## DEPARTMENT OF DEFENSE

## ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attn: DAEN-PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, SW., Washington, D.C. 20314 (202) 693-6861.

### Draft

Permit Actions in Hawaii Wai Marina, Hawaii, May 12: The statement concerns the issuance of dredging permits to Kaiser-Aetna to perform maintenance dredging in Hawaii Kai Marina over a 10-year period and by individual marina residents to construct private boat docks in the marina. The dredged spoil will be allowed to dry in ponds, and later used as embankment material. The action will result in increased turbidity, loss of some marine life and nursery areas, reduction of vegetation cover on undeveloped urban land, and continued reduction in bird habitat, and it could influence water quality (Honolulu District). (ELR Order No. 50704.)

### Final

Kings River Channel Improvement Project, Kings and Fresno Counties, California, May 16: The statement refers to the Kings River Channel Improvement Project, Cole Slough-Laton Area, California. About 14,000 lineal feet of new levee and patrol road will be constructed in the vicinity of Laton, 5,000 lineal feet of bank protection work will be placed at 16 different sites. Levee construction and bank protection work may cause limited short-term turbidity. Also 5 acres of riparian habitat will be cleared (Sacramento District). Comments made by: EPA, DOI, USDA, HEW, DOT, and state and local agencies. (ELR Order No. 50718.)

San Diego Harbor, San Diego County, California, May 16: The project involves deepening and widening of navigation channels and turning basins in San Diego Harbor. Dredged materials will be used to create new land in San Diego Bay and placed on the ocean beach at the city of Imperial Beach and opposite the U.S. Naval Amphibious Base. Adverse effects consist of the destruction of organisms and alteration of habitats in dredged areas, destruction of 55 acres of intertidal and shallow subtidal habitats of high ecological value, and turbidity in nearshore ocean waters while spoil is discharged on the ocean beach (Los Angeles District). Comments made by: AHP, EPA, USDA, DOC, HEW, DOI, DOT, USCG, and state and local agencies. (ELR Order No. 50719.)

## FEDERAL POWER COMMISSION

Contact: Dr. Richard F. Hill, Acting Advisor on Environmental Quality, 441 G Street NW., Washington, D.C. 20426 (202) 386-6084.

### Final

Crawford Storage Field, Fairfield and Hocking Counties, Ohio, May 12: Proposed is the granting of a certificate of public convenience and necessity to Columbia Gas Transmission Corp. for the construction and operation of an underground natural gas storage field. Included would be: 230 injection/withdrawal wells; 137 miles of 4 to 30 inch well and field pipelines; and miscellaneous facilities at the Crawford Compressor Station. The field would cover an area of 36,800 acres. Environmental impact would occur with respect to effects on "man, soil, vegetation, wildlife, water quality, air quality and noise levels." Comments made by: EPA, USDA, DOI, USCG, HEW, COE, and AHP. (ELR Order No. 50699.)

## DEPARTMENT OF HUD

Contact: Mr. Richard H. Brown, Director, Office of Environmental Quality, Room 7258, 451 7th Street SW., Washington, D.C. 20410 (202) 755-6308.

## Section 104(h)

### Draft

Nautausaun Brook Improvement Project, Rockland County, New York, May 12: The statement describes a proposed flood alleviation project including channelization of portions of the brook, replacement of structures incapable of withstanding a 100-year retention period flood, the acquisition of land for flood-water retention and right-of-way and easements for purposes of construction. Land use management alternatives are discussed in contrast to engineering solutions. Defolting of the area and construction disruption will result. (ELR Order No. 50706.)

Pascack Brook Improvement Project, Rockland County, New York, May 12: Proposed is a project for flood alleviation including channelization of portions of the Brook, replacement of structures incapable of withstanding a 100-year return period flood, and the acquisition of flood easements along sparsely settled reaches of the Brook. Adverse impacts include the alteration and containment of the natural meandering of a stream and general construction disruption. (ELR Order No. 50707.)

Washington Square West Urban Renewal, Philadelphia, Philadelphia County, Pennsylvania, May 12: The statement concerns an urban renewal project for a 107-acre area in southeast Philadelphia. The major adverse environmental effects are those associated with the disruption of an existing area/community by project activities and busi-

nesses. Parking problems and noise and air pollution are also discerned. (ELR Order No. 50696.)

Grays Ferry Urban Renewal, Philadelphia, Philadelphia County, Pennsylvania, May 12: The statement concerns a 160.9-acre urban renewal project in southwest Philadelphia. The plan includes residential, commercial, and semi-public rehabilitation, active and passive recreation facilities, and street improvements. The project has displaced 272 families, 95 individuals, and 43 businesses. Construction disruption will result (43 pages). (ELR Order No. 50705.)

## DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240 (202) 343-3891.

## BUREAU OF RECLAMATION

### Final

Central Valley Project Water Use, several counties in California, May 12: The proposed action is a water service contract which will involve the delivery of about 128,000 acre-feet of water to ten water user organizations in Kings, Kern, Tulare, and Fresno Counties. Three thousands acre-feet of the water will be used for municipal supply; the remainder will be used for supplemental irrigation. Existing California Water Project and Central Valley Project facilities will be used for delivery. The principal impact of the action will be the continued use of lands for agriculture. Comments made by: DOI, USDA, DOC, EPA, AHP, and COE. (ELR Order No. 50700.)

## BUREAU OF SPORTS FISHERIES AND WILDLIFE

### Draft

Mattamuskeet Wildlife Enhancement Project, Hyde County, North Carolina, May 15: The proposal recommends construction of eight low-dike marsh impoundments totaling 2,420 acres within the Mattamuskeet National Wildlife Refuge and renovation of 12 miles of existing canals originating within the refuge and extending to Pamlico Sound in order to enhance wildlife management capabilities of the refuge. Dike and borrow ditches will replace 162 acres of natural marsh. Canal renovation will result in 519,000 cubic yards of spoil which will be deposited on existing spoil areas. Vegetation on existing spoil deposit areas will be destroyed and wildlife temporarily displaced. Revegetation will occur in a few years. (ELR Order No. 50717.)

## NATIONAL PARK SERVICE

### Draft

Rehabilitation of the National Mall, District of Columbia, May 15: The proposed rehabilitation program for the National Mall in Washington, D.C. would include replacement of streets for automobiles with pedestrian walks, replacement of park furniture, and construction of various other pedestrian-centered facilities. Fringe parking and shuttle busses would be provided at RFK Stadium. The project would result in fewer facilities for automobiles on the Mall and temporary construction disruption. (ELR Order No. 50716.)

## DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, 400 7th Street SW., Washington, D.C. 20590, (202) 426-4357.

## FEDERAL AVIATION ADMINISTRATION

### Draft

Bismarck Municipal Airport, Burleigh County, North Dakota, May 12: The state-

ment concerns the Master Plan for the Bismarck Municipal Airport. The Plan provides for acquisition of an additional 700 acres of land, extension of existing runways, and construction of a noise-abatement runway. The project will displace approximately 58 persons. (ELR Order No. 50702.)

## FEDERAL HIGHWAY ADMINISTRATION

### Draft

S.R. 842 (Broward Blvd.), Ft. Lauderdale, Broward County, Florida, May 12: The proposed project will widen a 1.6 mile section of S.R. 842 (Broward Blvd.) from S.R. 9 (I-95) to N.E. 3rd Avenue in Ft. Lauderdale. The present undivided, 4-lane arterial will be upgraded to 6 lanes with a median. The project will displace 8 families, 39 businesses, and 1 non-profit organization. Noise levels will exceed FHWA Interim Noise Standards for the improved roadway but will be less than those resulting if the facility is not improved. A 4(f) statement is included concerning Stranahan Park. (ELR Order No. 50708.)

P.A.S. Route 28, Scottsbluff County, Nebraska, May 15: The proposed improvement consists of a 2.6 mile segment of two projects. The first is the reconstruction of 0.3 mile of presently gravelled roadway which will be upgraded to conform to current design standards and resurfaced with high type surfacing. The second project consists of 1.1 miles of reconstruction of presently gravelled roadway which will be upgraded to conform to current design standards and 1.2 miles of new construction. The project will require an additional 12 acres for right-of-way. (ELR Order No. 50714.)

I-70, Sevier Valley, Sevier County, Utah, May 14: Proposed is the construction of 32 miles of 4-lane, divided I-70 between Clear Creek Canyon and Salina Canyon, Utah. Principal environmental impacts would be in the spheres of agriculture, wildlife, economic stimulation, and land use changes (231 pages). (ELR Order No. 50710.)

### Final

PR-23, F. D. Roosevelt Avenue, Puerto Rico, May 14: Proposed is the improvement of a 1.02 mile segment of PR-23, F. D. Roosevelt Avenue from Fernando I Street to Barbosa Avenue in San Juan. The project will displace 21 families and 2 businesses and will require a strip of Gandara Park (183 pages). Comments made by: USDA, EPA, DOI, and State agencies. (ELR Order No. 50712.)

F.M. 1765, Galveston County, Texas, May 12: The statement refers to the construction of 2.19 miles of F.M. 1765 from I-45 east to SR-3 adjacent to and representing the common city limits of Texas City and La Marque. The facility will provide a 6-lane roadway with curbs and gutters and a 14 ft. flush median for continuous left-turn lanes. There will be construction inconveniences caused by the project. Comments made by: HEW, DOT, COE, USDA, HUD, EPA, and DOI. (ELR Order No. 50698.)

US 54, El Paso County, Texas, May 12: Proposed is the construction of 10.32 miles of US 54 between Loop 375 and the Texas-New Mexico State line at Newman. The statement indicates no significant impacts. Comments made by: COE, USDA, HEW, DOI, and State and local agencies. (ELR Order No. 50703.)

In the FEDERAL REGISTER of May 16, 1975, I-82, Union Gap to Prosser, Prosser Vicinity, was noticed as a draft eis. The statement is a final, and the review pe-



riod will begin from 05/05/75, the date of receipt.

GARY L. WIDMAN,  
General Counsel.

[FR Doc.75-13603 Filed 5-22-75; 8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 377-7; OPP-32000/253]

### RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

#### Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c) (1) (D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street, SW, Washington DC 20460.

On or before July 22, 1975, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c) (1) (D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street, SW, Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until after July 22, 1975. If no claims are received by July 22, 1975, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after July 22, 1975.

Dated: May 16, 1975.

JOHN B. RITCH, Jr.,  
Director, Registration Division.

## NOTICES

### APPLICATIONS RECEIVED (OPP-32000/253)

EPA File Symbol 12483-G. Aetna Chem. Co., Wallace St., Extension, E., Paterson NJ 07407. ACTONA ALGECIDE II. Active Ingredients: Disodium cyanodithiolimidocarbonate 3.68%; Potassium N-methylthiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA Reg. No. 8590-379. Agway Inc., Chem. Div., Box 1333, Syracuse NY 13201. AGWAY GLYODIN SOLUTION. Active Ingredients: Glyodin (2-heptadecylimidazole acetate) 30%. Method of Support: Application proceeds under 2(a) of interim policy. PM21

EPA Reg. No. 8590-277. Agway Inc., Fertilizer Chem. Div., Box 1333, Syracuse NY 13201. AGWAY GLYODEX 37-22W. Active Ingredients: Glyodin (2-heptadecylimidazole acetate) 37.5%; Dodine (n-dodecylguanidine acetate) 22.5%. Method of Support: Application proceeds under 2(a) of interim policy. PM21

EPA Reg. No. 5481-92. Amvac Chem. Corp., 4100 E. Washington Blvd., Los Angeles CA 90023. DURHAM NEMATOCIDE EM 12.1. Active Ingredients: 1,2-dibromo-3-chloropropane 82.4%; Other halogenated C3 Compounds 2.6%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Additional uses. PM21

EPA File Symbol 35896-R. C.P. Chem., Inc., Arbor St., Seward NJ 07077. BASIC COPPER CS-56. Active Ingredients: Copper 56%. Method of Support: Application proceeds under 2(c) of interim policy. PM22

EPA File Symbol 35572-U. Chem-Tab Chem. Corp., 1729 Seabright Ave., Long Beach CA 90813. SPP CONCENTRATED CHLORINE GRANULAR II. Active Ingredients: Sodium Dichloro-s-triazinetriene 100%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA File Symbol 35572-L. Chem-Tab Chem. Corp. SPP CONCENTRATED CHLORINE TABLETS. Active Ingredients: Trichloro-s-triazinetriene 100%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA File Symbol 35572-G. Chem-Tab Chem. Corp. SPP CONCENTRATED CHLORINE 2 1/2" JUMBO TABLETS. Active Ingredients: Trichloro-s-triazinetriene 100%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA File Symbol 35572-E. Chem-Tab Chem. Corp. SPP ALGAE-Out. Active Ingredients: Trichloro-s-triazinetriene 100%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA File Symbol 14943-L. Corporate Brands Inc., 9840 Dorchester Ave., Chicago IL 60628. SPECTRUM-B CLEANER-DISINFECTANT - DEODORIZER - FUNGICIDE-VIRUCIDE. Active Ingredients: Didecyl dimethyl ammonium chloride 4.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium carbonate 1.0%; Sodium metasilicate 0.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM33

EPA File Symbol 270-RRE. Farnam Co., Inc., PO Box 21447, Phoenix AZ 85036. FARNAM MUSCALURE (TECHNICAL TRICOSENE). Active Ingredients: Z-9-Tricosene 98.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 10583-0. General Control Co., Inc., 3334 Post Pennsylvania St., Tucson AZ 85714. CONTROL QUALITY WEED KILLERS RAPID KILL #1. Active Ingredients: Diquat dibromide [6,7-dihydrodipyrido (1,2-a:2',1'-c) pyrazinedium dibromide] 2.7%; Trifluralin (a, a, a-trifluoro-2, 6-dinitro-N, N-dipropyl-p-toluidine 0.6%. Method of Support: Application proceeds under 2(c) of interim policy. PM24

EPA File Symbol 10583-RN. General Control Co., Inc., 3334 E. Pennsylvania St., Tucson AZ 85714. CONTROL QUALITY WEED KILLERS RAPID KILL #1. Active Ingredients: Diquat dibromide [6,7-dihydrodipyrido (1,2-a:2',1'-c) pyrazinedium dibromide] 0.23%. Method of Support: Application proceeds under 2(c) of interim policy. PM24

EPA File Symbol 24411-R. Hatchik Supply Co., 1548 Davidson Rd., McLean VA 22101. SHS SODIUM HYPOCHLORITE. Active Ingredients: Sodium Hypochlorite 10%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA File Symbol 2393-EO. Hopkins Agricultural Chem. Co., PO Box 584, Madison WI 53701. HOPKINS ATRAZINE 4 LB. FLOWABLE. Active Ingredients: Atrazine; 2-chloro-4-(ethylamino)-6-(isopropylamino)-s-triazine 40.80%; Related Compounds 2.20%. Method of Support: Application proceeds under 2(c) of interim policy. PM25

EPA File Symbol 21164-G. Rio Linda Chem. Co., 1311 I St., Rio Linda CA 95873. DURA KIOR MICROBIOCIDES. Active Ingredients: Chlorine Dioxide 6%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA File Symbol 12047-G. Lone Star Brush & Chem. Co., 4406 Irving Blvd., Dallas TX 75207. BIG GUN II. Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 0.950%; Didecyl Dimethyl Ammonium Chloride 0.475%; Didecyl Dimethyl Ammonium Chloride 0.475%; Tetrasodium Ethylenediamine Tetraacetate 1.000%; Trisodium Phosphate 2.000%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 8249-0. Maintenance Engineering Corp., 3711 Clinton Drive, PO Box 1729, Houston TX 77001. MECO MICROBIOCIDES C-11. Active Ingredients: Disodium Cyanodithiolimidocarbonate 7.35%; Potassium N-methylthiocarbamate 10.15%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA File Symbol 1021-ROUO. McLaughlin Gormley King Co., 8810 10th Ave., N. Minneapolis MN 55427. D-TRANS INTERMEDIATE 2038. Active Ingredients: d-trans Allethrin (allyl homolog of Cinerin I) 16.25%; Piperonyl butoxide, technical 25.00%; N-octyl bicycloheptene dicarboximide 25.00%; Petroleum distillate 2.50%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 11602-U. Molar Enterprises, Inc., 1621 Hennepin Ave., S. Minneapolis MN 55403. MOLAR SANITIZER/CLEANER Q-2000S. Active Ingredients: Alkyl (60% C14, 30% C16, 5% C12, 5% C18) Dimethyl Benzyl Ammonium Chlorides 1.28%; Alkyl (68% C12, 32% C14) Dimethyl Ethylbenzyl Ammonium Chlorides 1.28%; Sodium carbonate 2.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 5891-EE. Mt. Hood Chem. Corp., 4444 NW. Yeon Ave., Portland OR 97210. IOP SANITIZER. Active Ingredients: Butoxy polypropoxy polyethoxy ethanol-iodine complex 12.47%; Polyethoxy polypropoxy polyethoxy ethanol-iodine complex 0.37%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA File Symbol 36371-U. National Chem. Inc., 940 W. Oakwood Rd., Oak Creek WI 53154. NC-20 FORMULA GERMICIDE. Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 3.750%; Didecyl Dimethyl Ammonium Chloride 1.875%; Didecyl Dimethyl Ammonium Chloride 1.875%; Alkyl (C14 50%, C12 40%, C16 10%) Benzyl Dimethyl Ammonium Chloride 5.000%; Tetrasodium Ethylenediamine Tetraacetate 3.420%; Isopropyl Alcohol 3.000%; Ethyl Alcohol 1.000%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 36371-G. National Chem. Inc. NC-25 FORMULATION HEAVY-DUTY GERMICIDE. Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 4.50%; Didecyl Dimethyl Ammonium Chloride 2.25%; Didecyl Dimethyl Ammonium Chloride 2.25%; Tetrasodium Ethylenediamine Tetraacetate 2.40%; Isopropyl Alcohol 3.60%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 36371-E. National Chem. Inc. NIFTY FORMULATION DISINFECTANT TOILET BOWL CLEANER. Active Ingredients: Octyl decyl dimethyl ammonium chloride 1.250%; Didecyl dimethyl ammonium chloride 0.625%; Didecyl dimethyl ammonium chloride 0.625%; Alkyl (C8 7%, C10 6%, C12 46%, C14 24%, C16 10%, C18 5%) amine betaine 1.000%; Hydrogen chloride 8.000%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 2296-TU. National Chem. Lab. of Pennsylvania, 10th and Callowhill Sts., Philadelphia PA 19123. IODOFORM DISINFECTANT. Active Ingredients: alpha-(p-Nonylphenyl)-omega-hydroxypoly (oxyethylene)-iodine complex 18.06%; (Providing 1.75% titratable iodine) Phosphoric Acid 16.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 2296-TG. National Chem. Lab. of Pennsylvania, 10th and Callowhill Sts., Philadelphia PA 19123. IODOBOT SANITIZER. Active Ingredients: Butoxy polypropoxy polyethoxy ethanol-iodine complex 12.47%; Polyethoxy polypropoxy polyethoxy ethanol-iodine complex (providing 1.6% titratable iodine) 0.37%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA Reg. No. 675-24. National Labs., Lehn & Fink Industrial Prod. Div. of Sterling Drug Inc., 225 Summit Ave., Montvale NJ 07645. "NEW O-SYL DISINFECTANT DE-TERGENT." Active Ingredients: o-Phenylphenol 5.00%; O-Benzyl-p-chlorophenol 4.50%; Tetrasodium Ethylene Diamine Tetraacetate 3.04%; Isopropyl Alcohol 1.50%; p-tert-Amylphenol 1.00%. Method of Support: Application proceeds under 2(a) of interim policy. PM32

EPA File Symbol 3468-LE. Schall Chem., Inc., PO Box 862, Monte Vista CO 81144. POTATO SEED TREATER W/BARK. Active Ingredients: Zinc-bis(2-ethyl-2-thiocarbamate) 7.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 11511-RU. Shalco Chem. Corp., 2421 Lexington Ave., Toledo OH 43608. SHALCO AMINE SELECTIVE WEED CONTROL. Active Ingredients: Dimethylamine salt of 2,4-Dichlorophenoxy acetic acid 13.2%. Method of Support: Application proceeds under 2(c) of interim policy. PM23

EPA File Symbol 11511-RO. Shalco Chem. Corp. SHALCO GROWTH RETARDANT. Active Ingredients: 1,2-Dihydro-3,6-pyridazinone, diethanolamine salt 11.6%.

## NOTICES

Method of Support: Application proceeds under 2(c) of interim policy. PM25

EPA File Symbol 11511-RT. Shalco Chem. Corp. SHALCO BRUSH AND WEED KILLER. Active Ingredients: Isooctyl Ester of 2,4-Dichlorophenoxyacetic Acid 24.5%; Isooctyl Ester of 2,4,5-Trichlorophenoxyacetic Acid 11.7%. Method of Support: Application proceeds under 2(c) of interim policy. PM23

EPA File Symbol 11511-RL. Shalco Chem. Corp. SHALCO VEGETATION CONTROLER. Active Ingredients: Diquat dibromide (6,7-dihydrodipyrido (1,2-a:2',1'-c) pyrazinedium dibromide) 0.464%. Method of Support: Application proceeds under 2(c) of interim policy. PM24

EPA File Symbol 11511-RI. Shalco Chem. Corp. SHALCO SELECTIVE LAWN WEED KILLER. Active Ingredients: Isooctyl Ester of 2,4-Dichlorophenoxyacetic Acid 12.0%; Isooctyl Ester of Silxex 2,4,5-Trichlorophenoxyacetic Acid 5.7%. Method of Support: Application proceeds under 2(c) of interim policy. PM23

EPA File Symbol 11511-RO. Shalco Chem. Corp. SHALCO WEED AND VEGETATION KILLER. Active Ingredients: Bromacil (5-bromo-3-sec-butyl-6-methyluracil) 1.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM25

EPA File Symbol 11511-RA. Shalco Chem. Corp. SHALCO LIQUID VEGETATION CONTROL. Active Ingredients: Diquat dibromide [6,7-dihydrodipyrido (1,2-a:2',1'-c) pyrazinedium dibromide] 1.85%. Method of Support: Application proceeds under 2(c) of interim policy. PM24

EPA File Symbol 557-RORO. Swift Chem. Co., 111 W. Jackson Blvd., Chicago IL 60604. PAR EX PROFESSIONAL PRODUCTS CUSTOM FORMULATED FERTILIZER PLUS BENEFIN 75. Active Ingredients: N-butyl-N-ethyl-a,a,a-trifluoro-2,6-dinitro-p-toluidine 0.75%. Method of Support: Application proceeds under 2(c) of interim policy. PM25

EPA File Symbol 9768-GI. Thatcher Chem. Co., 1900 Fortune Rd., Salt Lake City UT 84108. T CHEM AQUATIC SOLVENT. Active Ingredients: Xylene Range Aromatic Solvent 100.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM24

EPA Reg. No. 11687-56. Transvaal, Inc., PO Box 69, Marshall Rd., Jacksonville AR 72078. TRANSVAAL BRUSH-REAP LV OXY-2D-2T HERBICIDE. Active Ingredients: Butoxyethyl Ester of 2,4,5-Trichlorophenoxyacetic Acid 31.2%; Butoxyethyl Ester of 2,4-Dichlorophenoxyacetic Acid 32.8%. Method of Support: Application proceeds under 2(c) of interim policy. PM23

EPA Reg. No. 11687-10. Transvaal, Inc., PO Box 69, Marshall Rd., Jacksonville AR 72078. TRANSVAAL BRUSH-REAP LV 2D-2T HERBICIDE. Active Ingredients: Isooctyl Ester of 2,4-Dichlorophenoxyacetic Acid 34.8%; Isooctyl Ester of 2,4,5-Trichlorophenoxyacetic Acid 33.2%. Method of Support: Application proceeds under 2(c) of interim policy. PM23

EPA Reg. No. 400-112. Uniroyal Chem., Div. of Uniroyal, Inc., 74 Amity Rd., Bethany CT 06525. VITAVAX-200 FLOWABLE FUNGICIDE. Active Ingredients: Carboxin (6,6-dihydro-2-methyl-1,4-oxathiazin-3-carboxanilide) 17.0%; Thiram (tetramethylthiuram disulfide) 17.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM21

EPA Reg. No. 1624-104. United States Borax & Chem. Corp., 3075 Wilshire Blvd., Los Angeles CA 90010. COBEK APPLIED WITH LIQUID FERTILIZERS. Active Ingredients: N8,N3-Diethyl-2,4-dinitro-6-trifluorome-

thyl-m-phenylenediamine 25.0%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: New uses. PM24

EPA Reg. No. 2829-96. Ventrol Corp., Chem. Div., Congress St., Beverly MA 01915. VINYLENE BP-5-2. Active Ingredients: 10, 10'-oxybisphenoxarsine 2.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM23

EPA Reg. No. 2829-104. Ventron Corp., Chem. Div., Congress St., Beverly MA 01915. VINYLENE BP-5DOP. Active Ingredients: 10,10'-oxybisphenoxarsine 1.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM23

[FR Doc.75-13484 Filed 5-22-75; 8:45 am]

[FRL 377-8; OPP-33000/254]

### RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

#### Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c) (1) (d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street, SW, Washington, DC 20460.

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the Act. No claims will be accepted for possible EPA adjudication which are received after July 22, 1975.

Dated: May 18, 1975.

JOHN B. RITCH, Jr.,  
Director, Registration Division.

#### APPLICATIONS RECEIVED (OPP-33000/254)

EPA File Symbol 3862-LO. ABC Compounding Co., Inc., PO Box 932, Atlanta GA 30301. BROMA-KIL 2.5 WEED KILLER. Active Ingredients: Bromacil (5-bromo-3-sec-butyl-6-methyluracil) 2.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM25

EPA File Symbol 3862-LT. ABC Compounding Co., Inc., PO Box 932, Atlanta GA 30301. BROMA-KIL 5.2 WEED KILLER. Active Ingredients: Bromacil (5-bromo-3-sec-butyl-6-methyluracil) 5.2%. Method of Support: Application proceeds under 2(c) of interim policy. PM25

EPA File Symbol 5887-RNL. Black Leaf Prod., Co., 667 N. State St., Elgin IL 60120. BLACK LEAF LAWN & GARDEN LIQUID EDGER. Active Ingredients: Erbon 2-(2,4,5-Trichlorophenoxy) ethyl 2, 2-Dichloropropionate 4.42%. Related Compounds 1.58%. Method of Support: Application proceeds under 2(c) of interim policy. PM23

EPA File Symbol 4450-GI. Chemex Chem. & Coatings Co., Inc., PO Box 5072, TAMPA FL 33605. CHEMEX PROFESSIONAL STRENGTH RESIDUAL SPRAY. Active Ingredients: Pyrethrins 0.050%; Piperonyl butoxide, technical 0.100%; N-octyl bicycloheptene dicarboximide 0.166%; 2-(1-methylethoxy) phenol methylcarbamate 1.000%; Petroleum distillate 83.684%. Method of Support: Application proceeds under 2(c) of interim policy. PM12

EPA File Symbol 4450-GO. Chemex Chem. & Coatings Co., Inc., PO Box 5072, TAMPA FL 33605. CHEMEX RESIDUAL ANT AND ROACH SPRAY INSECTICIDE. Active Ingredients: Pyrethrins 0.050%; Piperonyl butoxide, technical 0.100%; N-octyl bicycloheptene dicarboximide 0.166%; Chlorpyrifos 0.0-diethyl 0-(3,4,5-trichloro-2-pyridyl) phosphorothioate 0.500%; Petroleum distillate 5.899%; Aromatic petroleum distillate 0.285%. Method of Support: Application proceeds under 2(c) of interim policy. PM12

EPA File Symbol 12474-G. Chem-Masters Corp., 477 Industrial Pkwy., Chagrin Falls OH 44022. ALGITOX COMPOSITION. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethyliminio-ethylene dichloride)] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 35572-A. Chem-Tab Chem., Corp., 1729 Seabright Ave., Long Beach CA 90813. SPP SUPER CONCENTRATED ALGAECIDE. Active Ingredients: n-Aikyl (50% C14, 40% C12, 10% C18) dimethyl benzyl ammonium chloride 10%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 2869-RE. Crystal Chem., Corp., 101-02 37th Ave., Corona NY 11368. BACT-O-CIDE DISINFECTANT. Active Ingredients: Polyvinyl Pyrrolidone 5.0%; Ortho-BenzylPara Chlorophenol 5.0%; Sodium Salt of Linear Sodium Dodecylbenzenesulfonate 12.0%; Isopropyl Alcohol 15.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM32

EPA File Symbol 2869-RG. Crystal Chem., Corp., MINT DISINFECTANT. Active Ingredients: Methyl Sallicylate 5.0%; 40% Coconut Oil Soap 6.5%; Ortho-BenzylPara-Chlorophenol 4.0%; Isopropyl Alcohol

6.7%; Potassium Hydroxide 2.8%. Method of Support: Application proceeds under 2(c) of interim policy. PM32

EPA File Symbol 2869-RL. Crystal Chem., Corp., CRYSTAL NON-SEL WEED KILLER. Active Ingredients: Sodium Chlorate (NaClO) 3 3.126%; Sodium Metaborate Tetrahydrate (Na2B2O4·4H2O) 7.0856%; Boron Trioxide (Ba O3) equivalent 2.42%. Method of Support: Application proceeds under 2(c) of interim policy. PM25

EPA File Symbol 2869-RU. Crystal Chem., Corp., PINE ODOR DISINFECTANT. Active Ingredients: Pine Oil 12%; Oleic Acid (±198) 8.3%; Caustic Potash—45% 2%; Ortho-Benzyl-para-chlorophenol 3.5%; Isopropyl Alcohol 10%. Method of Support: Application proceeds under 2(c) of interim policy. PM32

EPA File Symbol 464-LEE. The Dow Chem., Co., Ag-Organics Dept., PO Box 1706, Midland MI 48640. TELONE C-17. Active Ingredients: 1,3 Dichloropropene 76.3%; Chloropierin 17.1%. Method of Support: Application proceeds under 2(c) of interim policy. PM11

EPA File Symbol 12179-E. Foster Chem., Inc., 15477 Woodrow Wilson, Detroit MI 48238. FOSTER METAL WORKING FLUID MICROBIOCIDIC 10. Active Ingredients: 2,2-dibromo-3-nitropropionamide 10.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA File Symbol 12179-F. Foster Chem., Inc., 15477 Woodrow Wilson, Detroit MI 48238. FOSTER METAL WORKING FLUID MICROBIOCIDIC 25. Active Ingredients: 1-(3-chloroallyl)-3,5,7-triaza-1-azoniaadamantane chloride 67.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA File Symbol 8629-RG. Gift Sales Co., PO Box 17082, Wichita KS 67202. CHEM-O-FINAL BAIT TABLETS. Active Ingredients: Boric Acid 60%. Method of Support: Application proceeds under 2(c) of interim policy. PM15

EPA File Symbol 5905-UUA. Helena Chem., Co., Suite 3200 Clark Tower, 5100 Poplar Ave., Memphis TN 38137. HOG AND POULTRY LICE GRANULES. Active Ingredients: Ronnel 5%. Method of Support: Application proceeds under 2(c) of interim policy. PM15

EPA File Symbol 5905-UUL. Helena Chem., Co., Suite 3200 Clark Tower, 5100 Poplar Ave., Memphis TN 38137. BACKRUBBER OIL. Active Ingredients: Ronnel 1.0%; Mineral Oil 98.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM15

EPA File Symbol 34688-RL. Interstab Chem., Inc., 500 Jersey Ave., New Brunswick NJ 08903. INTERCIDE WS. Active Ingredients: Bis (Tri-n-butyltin Oxide) 15%. Method of Support: Application proceeds under 2(c) of interim policy. PM24

EPA File Symbol 35929-R. MRM Chem., Co., 505 Merwins Ln., Fairfield CT 06430. ODOR-GARD LTC-4. Active Ingredients: 5'-Chloro-2-(2,4-Dichlorophenoxy) phenol 20.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM32

EPA File Symbol 35929-G. MRM Chem., Co., 505 Merwins Ln., Fairfield CT 06430. ODOR-GARD PAD-10. Active Ingredients: 2,2'-methylenebis (3,4,6-trichlorophenol) 10.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM32

EPA File Symbol 1021-ROAR. McLaughlin Gormley King Co., 8810 10th Ave., N., Minneapolis MN 55427. PYROCIDIC AEROSOL MIX 7252. Active Ingredients: Pyrethrins 2.50%; Piperonyl butoxide, technical 7.50%; N-octyl bicycloheptene dicarboximide 7.50%; 2,2-Dichlorovinyl dimethyl phosphate 23.48%; Related compounds 2.02%; Petroleum distillate 54.45%. Method of Support: Application proceeds under 2(c) of interim policy. PM13

EPA File Symbol 2272-RA. Moreland Chem., Co., Inc., PO Box 2169, Spartanburg SC 29302. YARMOR 302W FINE OIL. Active Ingredients: Pine Oil 99.4%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 2272-RL. Moreland Chem., Co., Inc., YARMOR 302 PINE OIL. Active Ingredients: Pine Oil 99.4%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 2272-RT. Moreland Chem., Co., Inc., HERCO PINE OIL. Active Ingredients: Pine Oil 99.4%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 5891-ER. Mt. Hood Chem., Corp., 4444 NW Yeon Ave., Portland OR 97210. SANI CLEANER/SANITIZER. Active Ingredients: Butoxy polypropoxy polyethoxy ethanol-iodine complex 12.47%; Polyethoxy polypropoxy polyethoxy ethanol-iodine complex (providing 1.6% titratable iodine) 0.37%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA File Symbol 5891-EN. Mt. Hood Chem., Corp., 4444 NW Yeon Ave., Portland OR 97210. IDO-SEPT DISINFECTANT. Active Ingredients: alpha-(p-Nonylphenyl)-omega-hydroxypoly (oxyethylene)-iodine complex (providing 1.75% titratable iodine) 18.05%; Phosphoric Acid 16.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 675-15. Nat'l Laboratories, 225 Summit Ave., Montvale NJ 07645. LEHN & FINK INSTRUMENT GERMICIDE. Active Ingredients: Alcohol 6.5%; Potassium Ricinoleate 1.18%; o-Phenylphenol 0.54%; p-tert-Amylphenol 0.17%; p-Phenyl-o-chlorophenol 0.09%; o-Benzyl-p-chlorophenol 0.09%; and Tetrasodium Ethylenediamine Tetraacetate 0.08%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 35938-A. Pittsburgh Water & Waste Co., PO Box 72, Sarver PA 16055. ECO-CIDE 20. Active Ingredients: Poly[oxyethylene(dimethyliminio)ethylene(dimethyliminio) ethylene dichloride] 20.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 35938-G. Pittsburgh Water & Waste Co., ECO-CIDE 15. Active Ingredients: Poly[oxyethylene(dimethyliminio)ethylene(dimethyliminio) ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 35938-E. Pittsburgh Water & Waste Co., ECO-CIDE 10. Active Ingredients: Poly[oxyethylene(dimethyliminio)ethylene(dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 35938-R. Pittsburgh Water & Waste Co., ECO-CIDE 30. Active Ingredients: Poly[oxyethylene(dimethyliminio)ethylene(dimethyliminio) ethylene dichloride] 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

File Symbol 8047-EO. Poly Chem. Inc., PO Box 10026, New Orleans LA 70181. WEED KILLER NO. 46-4. Active Ingredients: Keroseene 14.40%; Heavy Aromatic Naphtha 4.32%; Pentachlorophenol 3.88%; 2,4-Dichlorophenoxyacetic acid, isooctyl ester 1.72%; Other Chlorophenols & related

products 0.42%. Method of Support: Application proceeds under 2(c) of interim policy. PM24

EPA Reg. No. 655-501. Prentiss Drug & Chem. Co., Inc., 363 7th Ave., New York NY 10001. PRENTOX PYRONYL OIL CONCENTRATE OR-3610-A. Active Ingredients: Pyrethrins 3.00%; Piperonyl Butoxide, Technical 6.00%; N-octyl bicycloheptene dicarboximide 10.00%; Petroleum Distillates 81.00%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Amended use. PM17

EPA File Symbol 655-LGA. Prentiss Drug & Chem. Co., Inc. PRENTOX D.D.V.P. FIVE. Active Ingredients: 2,2-dichlorovinyl dimethyl phosphate 4.65%; Related compounds 0.35%; Petroleum Distillates 15.00%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Amended use. PM17

EPA File Symbol 655-LGL. Prentiss Drug & Chem. Co., Inc. PRENTOX D.D.V.P. FIVE. Active Ingredients: 2,2-dichlorovinyl dimethyl phosphate 4.65%; Related compounds 0.35%; Petroleum Distillates 15.00%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Amended use. PM17

EPA File Symbol 655-LGT. Prentiss Drug & Chem. Co., Inc. PRENTOX D.D.V.P. FIVE. Active Ingredients: 2,2-dichlorovinyl dimethyl phosphate (DDVP) 11.11%; Related Compounds 0.84%; Ronnel 0.0-Dimethyl 0-(2,4,5-trichlorophenyl) phosphorothioate 12.00%; Tetrachloroethylene 5.00%; Xylene 60.13%. Method of Support: Application proceeds under 2(c) of interim policy. PM15

EPA File Symbol 655-LGT. Prentiss Drug & Chem. Co., Inc. PRENTOX D.D.V.P. FIVE. Active Ingredients: Ronnel 0.0-Dimethyl 0-(2,4,5-trichlorophenyl) phosphorothioate 20.00%; Pyrethrins 2.00%; Piperonyl Butoxide, Technical 10.00%; Petroleum Distillates 53.14%. Method of Support: Application proceeds under 2(c) of interim policy. PM15

EPA File Symbol 35939-R. R-square Chem. & CTGS, Inc., PO Box 1919 WSB, Gainesville GA 30601. R-QUAT-5. Active Ingredients: Alkyl (60% C14, 30% C16, 5% C12, 5% C18) Dimethyl Benzyl Ammonium Chlorides 1.28%; Alkyl (68% C12, 32% C14) Dimethyl Ethylbenzyl Ammonium Chlorides 1.25%; Sodium carbonate 2.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 11511-RE. Shalco Chem., Corp., PO Box 2508, 2421 Lexington Ave., Toledo OH 43606. SHALCO SUPER FOGICIDE CONCENTRATE. Active Ingredients: PETROLEUM DISTILLATE (Initial Boiling Range 375°) 94.35%; Piperonyl Butoxide, Technical 5.03%; Pyrethrins 0.62%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 11511-EN. Shalco Chem., Corp., PO Box 2508, 2421 Lexington Ave., Toledo OH 43606. SHALCO OUTDOOR INSECTICIDE. Active Ingredients: Heavy Aromatic Naphtha 81.10%; Methoxychlor, Technical 17.50%; Malathion 1.70%; 2,2-dichlorovinyl dimethyl phosphate 4.37%; Related compounds 0.33%. Method of Support: Application proceeds under 2(c) of interim policy. PM13

EPA File Symbol 11511-EU. Slim-Chem, Minerals and Chem. Div., J.R. Simplot Co., PO Box 810, Mountain Home ID 83647. SIM-CHEM DURSSEAN 1G GRANULAR INSECTICIDE. Active Ingredients: Chlorpyrifos [0,0-diethyl 0-(3,5,6-trichloro-2-pyridyl) phosphorothioate] 1%. Method of Support: Application proceeds under 2(c) of interim policy. PM12

EPA File Symbol 4887-RTI. Stephenson Chem. Co., Inc., PO Box 87188, College Park GA 30337. STEPHENSON CHEMICALS 1% PYRETHRUM TOBACCO INSECTICIDE. Active Ingredients: Pyrethrins 1.0%; Petroleum Distillate 99.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA Reg. No. 148-1138. Thompson Hayward Chem. Co., 5200 Speaker Rd., Kansas City KS 66106. KLEAN-UP 2,4-DB AMINE. Active Ingredients: Dimethylamine salt of 4-(2,4-dichlorophenoxy) butyric acid 23.0%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Added use. PM23

EPA File Symbol 2829-RNE. Ventron Corp., Chem. Div., Congress St., Beverly MA 01915. VINZYNE BP-5DIDP. Active Ingredients: 10,10'-oxybisphenoarsine 1.0%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Added use. PM23

EPA File Symbol 34810-0. Wexford Labs, Inc., 1035 S. Vandewater Ave., St. Louis MO 63110. WEX-SANT-CLEAN. Active Ingredients: Hydroxyacetic Acid 3.50%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added use. PM32

[FR Doc.75-13485 Filed 5-22-75; 8:45 am]

[FRL 378-4]

#### POST-ATTAINMENT DATE VARIANCES UNDER STATE IMPLEMENTATION PLANS

Interim Variance Policy in View of the Recent Supreme Court Decision in Train v. NRDC, et al.

On April 16, 1975, the Supreme Court of the United States issued a decision that has a direct effect on EPA's policy and regulations concerning deferral beyond the attainment dates for national ambient air quality standards of State implementation plan requirements for individual air pollution sources. Under existing regulations, no source may obtain a variance if the variance permits the source to comply with a control strategy requirement approved under 40 CFR Part 52 after the applicable attainment date established under that part. (See 39 FR 34533, September 26, 1974.) In *Train v. Natural Resources Defense Council, Inc.*, et al. (7 ERC 1735) the Supreme Court held that EPA may approve such a variance as a revision to the State plan, if the variance will not adversely affect attainment of the national ambient air quality standards by the applicable attainment date, and maintenance thereafter.

In the near future EPA intends to conform existing regulations to the Supreme Court decision. The modified regulations will specify what a State must submit to demonstrate that a variance will not adversely impact on timely attainment and maintenance of the ambient standards. During the interim, if a variance is approved by the State and submitted to EPA as a plan revision, EPA will review it for purposes of determining whether it is consistent with existing control strategy requirements established under 40 CFR Part 51, pursuant to section 110 (a) (2) of the Act. If, after reviewing the variance, the Agency determines that it is consistent with the control strategy provisions of Part 51, the Agency will notify the originating State of that determination and will advise the State that no Federal enforcement action will be taken against the source while it is in compliance with the variance. Upon publication of modified regulations that conform to the Supreme Court's opinion, the

interim action taken by the Agency would be proposed as a plan revision.

It should be noted that existing procedural requirements relating to plan revisions (See 40 CFR 51.6) are not affected by the Court's opinion and must be observed; this interim policy should not be interpreted as a departure from those requirements. It should also be noted that a variance may not become effective as a part of the State implementation plan until it has been approved by EPA (See *Train v. NRDC*, et al., at 1746).

The air quality demonstration requirements that will be included in EPA's modified regulations, may differ according to different circumstances, but it can be expected that it will usually necessitate, along with other appropriate information, a submittal of current ambient data and a modeling calculation designed to show that the individual source involved will not interfere with attainment of the pertinent national ambient air quality standard by its attainment date in the appropriate air quality control region. It will also require a showing that during the period of the variance the source will not interfere with maintenance of any such standard. The demonstration requirement will, in all likelihood, be more stringent in areas that presently have high ambient pollution concentrations than in areas with low concentrations. But we expect the demonstration to be difficult whenever attainment or maintenance of the primary standard is at issue. Only in a clear case will such a variance be approved. (State agencies are invited to discuss with EPA's regional office any troublesome air quality questions or issues that may arise.)

A source for which an adequate demonstration cannot be made will not, of course, be eligible for a variance. Any such source which also is unable to comply by the date specified in the State plan will at that time be in violation and subject to both State and Federal enforcement. In this regard, it should be noted that EPA has, in recently proposed regulations (40 FR 14876, April 2, 1975), expressed its policy on post attainment date enforcement actions. Comments on these regulations are still being considered. (See EPA notice at 40 FR 21046, May 15, 1975.) The Agency believes that the recent Supreme Court decision will have minimal effect, if any, on these regulations. It is expected that finalization will take place shortly after termination of the extended comment period.

Dated: May 19, 1975.

ROGER STRELOW,  
Assistant Administrator  
for Air and Waste Management.

[FR Doc.75-13620 Filed 5-22-75; 8:45 am]

[FRL 379-3; OPP-36011]

#### PESTICIDE PRODUCTS CONTAINING HEPTACHLOR/CHLORDANE

Denial of Applications To Register

On November 26, 1974, the Environmental Protection Agency (EPA) gave



notice (39 FR 41298) of its intent to cancel all registered uses of heptachlor and chlordane pursuant to section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 7 U.S.C. 136d), with the exception of the uses of heptachlor or chlordane through subsurface ground insertion for termite control and the dipping of roots or tops of nonfood plants. Affected parties have been afforded the opportunity to contest this action by requesting a hearing on specific registered uses.

On this same day, the EPA also issued a regulation (39 FR 41256) pertaining to the registration of pesticide products containing heptachlor or chlordane shipped in intrastate commerce. The Agency invoked its authority to bring intrastate products containing heptachlor and chlordane under Federal control, pursuant to the provisions of sections 3 and 25(a) of FIFRA (86 Stat. 979, 997), because (1) a public hearing process for Federally registered products is available through established administrative procedures for those persons affected by the notice of intent to cancel and (2) the Agency believes it is important to provide registrants and users of similar products containing heptachlor or chlordane, that are manufactured, sold and used intrastate and not presently registered at the Federal level, the same hearing rights as those afforded users and registrants of such Federally registered products. This regulation became effective on November 26, and at that time, all affected persons were instructed to apply for Federal registration. Applications were made not only by those who currently ship such products in intrastate commerce, but by affected persons who sought Federal registration as well. All persons affected by this regulation who made application to the Agency to register products containing heptachlor or chlordane received notices of intent to deny such registration by certified mail. These applicants have been afforded 30 days from the date of receipt of such letters of intent to deny to request a hearing pursuant to section 6 of FIFRA.

#### PESTICIDE PRODUCTS INTENDED FOR SHIPMENT IN INTRASTATE COMMERCE

Applications for registration were made to the Agency as a result of the November 26 Federal Register notice implementing § 162.20 of 40 CFR. Notices of intent to deny registration have been mailed applicants based on the notice regarding intrastate products. Applicants were instructed that they could request a hearing within 30 days of receipt of such notice pursuant to section 6 of FIFRA as set forth in the Federal Register notice. Applicants were also advised that if they did request a hearing in accordance with the procedures established, their products could continue to be sold in the state where it has been registered pending completion of the scheduled cancellation proceedings. Applications made to the Agency were published in the Federal Register in accordance with the provisions of the Agency's interim policy with respect to the administration of section 3(c)(1)(D), which provides that upon receipt of every application for registration the EPA will publish such notice.

Notices of intent to deny registration have been sent to the following applicants for the listed products:

EPA File Symbol 11515-LU. ABC Chemical Corp., 14288 Meyers Rd., Detroit MI 48227. ABC CHEMICAL CORP. SUPER-SECT.  
EPA File Symbol 15646-E. Able Pest Control Co., Inc., 406 W. McCright Ave., Springfield OH 45504. ABLE 46% CHLORDANE CONCENTRATE.  
EPA File Symbol 15646-R. Able Pest Control Co., Inc., 406 W. McCright Ave., Springfield OH 45504. ABLE 46% CHLORDANE CONCENTRATE.  
EPA File Symbol 15887-I. Agricultural Chemicals of Dallas, 3707 E. Keist Blvd., Dallas TX 75203. HI BRAND CHLORDANE DUST 5%.  
EPA File Symbol 15887-O. Agricultural Chemicals of Dallas, HI BRAND CHLORDANE 10% GRANULAR.  
EPA File Symbol 15887-RE. Agricultural Chemicals of Dallas, HI BRAND CHLORDANE W-40.  
EPA File Symbol 15887-RN. Agricultural Chemicals of Dallas, HI BRAND CHLORDANE 25G.  
EPA File Symbol 15887-RR. Agricultural Chemicals of Dallas, HI BRAND CHLORDANE 5-8.  
EPA File Symbol 15887-T. Agricultural Chemicals of Dallas, HI BRAND CHLORDANE DUST 10%.  
EPA File Symbol 8419-RG. The Andersons, PO Box 119, Maumee OH 43537. TRIFLE-THREAT PRE-EMERGENCE CHARGRASS KILLER PLUS 10-6-4 FERTILIZER AND LAWN INSECTICIDE.  
EPA File Symbol 34149-E. Beaumont Chemical Co., PO Box 509, Beaumont TX 77704. THE BUG HOUSE GENERAL OUTSIDE INSECTICIDE.  
EPA File Symbol 34149-G. Beaumont Chemical Co. THE BUG HOUSE 72% CHLORDANE EMULSIFIABLE CONCENTRATE.  
EPA File Symbol 34149-U. Beaumont Chemical Co. THE BUG HOUSE HEPTACHLOR 2-E EMULSIFIABLE.  
EPA File Symbol 6853-RN. Bes-Tex Insecticides Co., Inc., Box 664, San Angelo TX 76901. TUP BRAND CHLORDANE 40% WETTABLE POWDER.  
EPA File Symbol 4-EGG. Bonide Chemical Co., Inc., 2 Wurz Ave., Yorkville NY 13495. BONIDE 10% CHLORDANE GRANULES.  
EPA File Symbol 35133-R. C & C Chemical Sales Co., 215 S. Hwy. 146, Baytown TX 77520. C & C'S PROFESSIONAL ROACH SPRAY.  
EPA File Symbol 11716-G. Cain Chemical Co., 612 S. Munger St., Pasadena TX 77506. PRESTO PEST EXTERMINATOR.  
EPA File Symbol 11716-R. Cain Chemical Co., 612 S. Munger St., Pasadena TX 77506. PESTEX PEST EXTERMINATOR.  
EPA File Symbol 7421-O. California Liquid Fertilizer Co., Bin # 50, Arroyo Annex, Pasadena CA 91109. LAST-BITE 50% CHLORDANE WETTABLE POWDER.  
EPA File Symbol 10972-E. A. L. Castle, Inc., PO Box 877, Morgan Hill CA 95037. CASTLE BRAND DUST KLOX-10.  
EPA File Symbol 10972-R. A. L. Castle, Inc., PO Box 877, Morgan Hill CA 95037. CASTLE BRAND KLOMULSION 50.

EPA File Symbol 9404-UR. Chase & Co., PO Box 1697, Sanford FL 32771. SUNNILAND 10% CHLORDANE.  
EPA File Symbol 10975-E. Chemilene Co., 4937 Telegraph Rd., Los Angeles CA 90022. CHEMILENE'S CHLORDANE 8.0 MISCIBLE.  
EPA File Symbol 7478-EA. Chem-Pak Co., PO Box 757, Miami FL 33143. LASTS PROFESSIONAL TYPE RESIDUAL INSECT KILLER.  
EPA File Symbol 7478-GN. Chem-Pak Co. ARMY WORM SPRAY.  
EPA File Symbol 7478-GR. Chem-Pak Co. CHLORDANE 8 EMULSIFIABLE.  
EPA File Symbol 7478-GU. Chem-Pak Co. WORM SPRAY.  
EPA File Symbol 7478-RI. Chem-Pak Co. ROACH-X PROFESSIONAL TYPE RESIDUAL INSECT KILLER.  
EPA File Symbol 25242-R. City Health Fumigating Co., 601 E. McNichols, Detroit MI 48203. BUG-NO-MOR.  
EPA File Symbol 8469-I. Coastal Ag-Chem, 1015 E. Wooley Rd., Oxnard CA 93030. CHLORDANE TERRACLOL 10-10 GRANULAR.  
EPA File Symbol 8469-O. Coastal Ag-Chem, CHLORDANE 5 GRANULAR.  
EPA File Symbol 8469-RE. Coastal Ag-Chem, CHLORDANE TERRACLOL CAPTAN 10-10-10 GRANULAR.  
EPA File Symbol 8469-RN. Coastal Ag-Chem, CHLORDANE TERRACLOL ZINEB 10-10-10 GRANULAR.  
EPA File Symbol 8469-RR. Coastal Ag-Chem, COASTOX CHLORDANE 8-E.  
EPA File Symbol 8469-T. Coastal Ag-Chem, COASTOX CHLORDANE 10 GRANULAR.  
EPA File Symbol 909-TG. Cooke Laboratory Products, 4759 S. Durfee Ave., Pico Rivera CA 90860. COOKE 74% CHLORDANE SPRAY CONCENTRATE.  
EPA File Symbol 909-TI. Cooke Laboratory Products, COOKE 50% CHLORDANE WETTABLE POWDER.  
EPA File Symbol 909-TL. Cooke Laboratory Products, COOKE PUSH-BUTTON ANT BARRIER.  
EPA File Symbol 909-TO. Cooke Laboratory Products, COOKE BUG SHOT 50% CHLORDANE.  
EPA File Symbol 909-TT. Cooke Laboratory Products, COOKE ANT BARRIER.  
EPA File Symbol 909-TU. Cooke Laboratory Products, COOKE PRESSURIZED SPIDER-KILL.  
EPA File Symbol 9319-GI. Custom Chemicals Inc., 476 Hester St., San Leandro CA 94577. CHLORDANE-10% DUST.  
EPA File Symbol 9319-GT. Custom Chemicals Inc., 476 Hester St., San Leandro CA 94577. CHLORDANE 8E EMULSIFIABLE CONCENTRATE.  
EPA File Symbol 192-RRE. Dexol Industries, 1450 W. 228th St., Torrance CA 90501. DUBL-DETH TREE & SHRUB INSECT SPRAY.  
EPA File Symbol 8780-L. Dixie Chemical Co., PO Box 5188, Jacksonville FL 32207. KONTROL-A-BUG PAINT INSECTICIDE.  
EPA File Symbol 13437-A. Du Cor Chemical Corp., PO Box 6086, Orlando FL 32803. DU COR CHLORDANE EMULSIFIABLE LIQUID INSECTICIDE.  
EPA File Symbol 13437-I. Du Cor Chemical Corp., PO Box 6086, Orlando FL 32803. DU COR TURF INSECTICIDE EMULSIFIABLE LIQUID CONCENTRATE.  
EPA File Symbol 437-R. Eradicol Exterminators, Inc., 2285 Indianapolis Ave., Detroit MI 48238. ERADICOL ANT PROOFER.  
EPA File Symbol 11012-R. Ezell Sales Inc., 17306 S. Woodruff Ave., Bellflower CA 90706. EZELL'S ANT & INSECT POWDER.

EPA File Symbol 10638-L. Farm and Ranch Supply Co., 7890 E. 11th St., Tulsa OK 74113. CHLORDANE 40-W WETTABLE POWDER.  
EPA File Symbol 279-EOTG. FMC Corp., Agri. Chem. Div., 100 Niagara St., Middleport NY 14105. CHLORDANE 5 DUST.  
EPA File Symbol 10370-RT. Ford's Chemical & Services, Inc. GENERAL HOUSEHOLD SPRAY.  
EPA File Symbol 9198-GG. Free Flow Fertilizer Co., PO Box 119, Maumee OH 43537. INSECT CONTROL PLUS LAWN FOOD.  
EPA File Symbol 12188-A. Holder's Pest Control Co., 5617 Southwest Freeway, Houston TX 77027. HOLDER'S ROACH SPRAY.  
EPA File Symbol 12188-I. Holder's Pest Control Co. HOLDER'S SPECIAL ROACH SPRAY.  
EPA File Symbol 12188-L. Holder's Pest Control Co. HOLDER'S ROACH & ANT GRANULES.  
EPA File Symbol 12188-T. Holder's Pest Control Co. HOLDER'S ROACH & ANT DUST.  
EPA File Symbol 2393-ETL. Hopkins Agri. Chem. Co., PO Box 564, Madison WI 53701. HOPKINS CHLORDANE 8 LB./GAL. E.C.  
EPA File Symbol 11046-R. Hornkohl Laboratories, Inc., 714 Truxtun Ave., Bakersfield CA 93302. HORNCOR HORNCLOL 40.  
EPA File Symbol 6853-A. Insecticide Co., Inc., PO Box 664, San Angelo TX 76901. 10% CHLORDANE MULTI-PURPOSE DUST.  
EPA File Symbol 6853-EN. Insecticides Co., Inc., PO Box 644, San Angelo TX 76901. BES-TEX 72% CHLORDANE EMULSIFIABLE.  
EPA File Symbol 2342-OLA. Kerr-McGee Chemical Corp., Kerr-McGee Center, Oklahoma City OK 73125. KERR-MCGEE FERTILIZER-CHLORDANE MIX #12.  
EPA File Symbol 2342-OLI. Kerr-McGee Chemical Corp. KERR-MCGEE FERTILIZER-CHLORDANE MIX #30.  
EPA File Symbol 2342-OLX. Kerr-McGee Chemical Corp. GRO-TONE CHLOROPHENE BAIT.  
EPA File Symbol 2342-OLT. Kerr-McGee Chemical Corp. KERR-MCGEE FERTILIZER-CHLORDANE MIX #20.  
EPA File Symbol 2342-OLU. Kerr-McGee Chemical Corp. KERR-MCGEE FERTILIZER-CHLORDANE MIX #40.  
EPA File Symbol 7658-A. Leon Supply Co., PO Box 562, 17 W. Jefferson St., Montgomery AL 36104. ROYAL '303' FOG OIL CONCENTRATE.  
EPA File Symbol 11081-R. Lloyd Pest Control, 935 Sherman St., San Diego CA 98210. LLOYD'S CHLORDANE-72% EMULSIFIABLE.  
EPA File Symbol 11093-E. Master Nurserymen's Association, Inc., 3483 Golden Gate Way #5, Lafayette CA 94549. 49%ER BRAND 10% CHLORDANE POWDER.  
EPA File Symbol 11093-R. Master Nurserymen's Association, Inc., 3483 Golden Gate Way #5, Lafayette CA 94549. 49%ER GOLD STRIKE CHLORDANE 50.  
EPA File Symbol 4841-AU. Micro Chemical Co., PO Box 711, Willsboro LA 71295. 45% CHLORDANE EMULSIFIABLE CONCENTRATE.  
EPA File Symbol 11104-R. Mist-O-Dane Mfg. Co., 1830 Hillside Dr., Glendale CA 91208. SHERRICK MIST-O-DANE 25.  
EPA File Symbol 5987-OT. Moyer Chemical Co., 1310 Bayshore Hwy., PO Box 945, San Jose CA 95112. CHLORDANE DUST NO. 10.  
EPA File Symbol 5987-REA. Moyer Chemical Co., 1310 Bayshore Hwy., PO Box 945, San Jose CA 95112. CHLORDANE SPRAY 8E.  
EPA File Symbol 9123-RA. Magnolia Fertilizer Co., Div. Pace National Corp., 500 7th Ave. S., Kirkland WA 98038. MAGNOLIA GREEN-O-GANIC PLUS INSECT CONTROL ORGANIC FERTILIZER 12-4-8.

EPA File Symbol 9123-RU. Magnolia Fertilizer Co., Div. Pace National Corp., 500 7th Ave. S., Kirkland WA 98038. MAGNOLIA WEEDS PLUS FEEDS FERTILIZER PLUS CATALYSTS 12-4-8.  
EPA File Symbol 1989-RRO. Parsons Chemical Works, Inc., Box 146, Grand Ledge MI 48837. PARSONS 10% CHLORDANE INSECTICIDE DUST.  
EPA File Symbol 11134-E. Pest Control Chemicals, Inc., 5852 S. Western Ave., Los Angeles CA 90047. PESTCO BRAND CHLORDANE-5.  
EPA File Symbol 11134-R. Pest Control Chemicals, Inc., 5852 S. Western Ave., Los Angeles CA 90047. PESTCO BRAND 72% EMULSIFIABLE CHLORDANE.  
EPA File Symbol 10290-EE. Professional Chemical Co., Inc., 4517 Yale, Houston TX 77018. CHLORDANE 10% DUST.  
EPA File Symbol 10290-RO. Professional Chemical Co., Inc., 4517 Yale, Houston TX 77018. HEPTACHLOR 2.5% G GRANULAR INSECTICIDE.  
EPA File Symbol 11611-U. Puma Chemical Co., 3012 S. Main St., Fort Worth TX 76110. TERMIXIL DO IT YOURSELF TERMITE SPRAY.  
EPA File Symbol 1202-EAT. PureGro Co., 1052 W. 81st St., Los Angeles CA 90017. PUREGRO CHLORDANE DUST 10.  
EPA File Symbol 11157-E. Rose Exterminator Co., 626 Potrero Ave., San Francisco CA 94110. ROSE'S 44% CHLORDANE.  
EPA File Symbol 34901-R. Smith Distributors, 2742 Shadowdale, Houston TX 77043. SPRAY KILL DO IT YOURSELF EXTERMINATOR PROFESSIONAL TYPE CONCENTRATE INSECTICIDE.  
EPA File Symbol 829-EUN. Southern Agricultural Insecticides, Inc., PO Box 218, Palmetto FL 33561. SA BRAND 50 20% CHLORDANE GRANULES.  
EPA File Symbol 6720-EEG. Southern Mill Creek Products Co., Inc., PO Box 1098, Tampa FL 33601. CHLORDANE 40% WETTABLE POWDER.  
EPA File Symbol 6720-EUN. Southern Mill Creek Products Co., Inc., PO Box 1098, Tampa FL 33601. SMCP CHLORDANE/MALATHION TURF INSECTICIDE.  
EPA File Symbol 3286-UE. The Ferd Staffel Co., 331 Burnet St., San Antonio TX 78298. FIRE ANT GRANULES.  
EPA File Symbol 35224-E. Standard Garden Supply Co., PO Box 63, Orlando FL 32802. STANDARD CHLORDANE 10D.  
EPA File Symbol 35224-G. Standard Garden Supply Co. STANDARD CHLORDANE 45.  
EPA File Symbol 35224-R. Standard Garden Supply Co. CHLORDANE 5D.  
EPA File Symbol 35224-U. Standard Garden Supply Co. STANDARD CHLORDANE 72%.  
EPA File Symbol 3238-TI. Standard Spray & Chem. Co., PO Box 63, Lakeland FL 33802. STANDARD BRAND 5% CHLORDANE DUST.  
EPA File Symbol 3238-TO. Standard Spray & Chem. Co., PO Box 63, Lakeland FL 33802. 72% CHLORDANE.  
EPA File Symbol 557-RRIA. Swift Chemical Co. (An Estech Co.), 111 W. Jackson Blvd., Chicago IL 60604. SWIFT 10% CHLORDANE DUST.  
EPA File Symbol 557-RIOE. Swift Chemical Co. (An Estech Co.). SWIFT MBE CHLORDANE.  
EPA File Symbol 557-RIOG. Swift Chemical Co. (An Estech Co.). VIGORO 45% CHLORDANE SPRAY.  
EPA File Symbol 557-RONO. Swift Chemical Co. (An Estech Co.). PAR EX OUSTOM FORMULATED FERTILIZER PLUS CHLORDANE.  
EPA File Symbol 557-RIII. Swift Chemical Co. (An Estech Co.). SWIFT 5% CHLORDANE DUST.

EPA File Symbol 11214-EN. Target Chemical Co., 17710 Studebaker Rd., Cerritos CA 90701. TARGET TERMIGON-D.  
EPA File Symbol 9078-G. Tennessee Farmers Cooperative, LaVergne TN 37086. CO-OP PLANT FOOD 0.25% HEPTACHLOR.  
EPA File Symbol 9078-U. Tennessee Farmers Cooperative, LaVergne TN 37086. CO-OP PLANT FOOD WITH 0.25% HEPTACHLOR.  
EPA File Symbol 38722-E. Tex-Ag Co., PO Box 833, Mission TX 78572. FIRE CRAKER SOIL INSECT KILLER.  
EPA File Symbol 6735-ERA. Tide Products Inc., PO Box 1020, Edinburg TX 78539. TIDE CHLORDANE 8E AGRICULTURAL INSECTICIDE.  
EPA File Symbol 14775-EI. Asgrow Florida Co., Sub. of Upjohn Co., PO Drawer 'D', Plant City FL 33566. ASGROW CHLORDANE EMULSIVE.  
EPA File Symbol 14775-GG. Asgrow Florida Co., Sub. of Upjohn Co. ASGROW CHLORDANE - TOXAPHENE - METALDEHYDE BAIT NO. 12.  
EPA File Symbol 14775-GL. Asgrow Kilgore Co., Sub. of Upjohn Co. ASGROW CHLORDANE GRANULES.  
EPA File Symbol 14775-GU. Asgrow Florida Co., Sub. of Upjohn Co. ASGROW CHLORDANE-TOXAPHENE BAIT NO. 11.  
EPA File Symbol 876-EUO. Veliscol Chemical Corp., 341 E. Ohio St., Chicago IL 60601. VELISCOL HEPTACHLOR 3EC.  
EPA Reg. No. 876-40. Veliscol Chemical Corp. VELISCOL CHLORDANE 40 W.P. Pertains to application of January 10, 1975 only.  
EPA Reg. No. 876-89. Veliscol Chemical Corp. VELISCOL BELT 72 ECF. Pertains to application of January 10, 1975 only.  
EPA Reg. No. 876-99. Veliscol Chemical Corp. VELISCOL BELT 33.3G. Pertains to application of January 10, 1975 only.  
EPA Reg. No. 876-102. Veliscol Chemical Corp. VELISCOL BELT 72 EC. Pertains to application of January 10, 1975 only.  
EPA Reg. No. 876-104. Veliscol Chemical Corp. VELISCOL CHLORDANE 8 EC. Pertains to application of January 10, 1975 only.  
EPA File Symbol 2935-UNA. Wilbur-Ellis Co., PO Box 1286, Fresno CA 93715. RED-TOP CHLORDANE 10 GRANULES.  
EPA File Symbol 9782-RG. Woodbury Chemical Co. of Homestead, PO Box 4319, Princeton FL 33030. HEPTACHLOR 2.5%-S GRANULAR INSECTICIDE.  
EPA File Symbol 9782-RT. Woodbury Chemical Co. of Homestead, PO Box 4319, PRINCETON FL 33030. COMBINATION BAIT.  
EPA File Symbol 11251-E. World Spray Co., Inc., 2211 Chico Ave., S. El Monte CA 91733. LIGHTNING 5% CHLORDANE DUST.  
EPA File Symbol 11251-R. World Spray Co., Inc., 2211 Chico Ave., S. El Monte CA 91733. LIGHTNING 2% CHLORDANE.

#### PESTICIDE PRODUCTS INTENDED FOR SHIPMENT IN INTERSTATE COMMERCE

Notices of intent to deny registration have also been mailed in response to applications for registration made to the Agency for products containing heptachlor or chlordane intended for sale in interstate commerce. Such notices were based on the November 26 Federal Register notice of intent to cancel. Applicants were advised that pursuant to Section 3(c)(6) they had 30 days from receipt of the notice of intent to deny to make any changes necessary to meet the Agency's requirements for registration. The only change possible to comply with current requirements is to restrict such products to use as subsurface ground applications for termite control or for dip-



ping of roots or tops of nonfood plants as set forth in the Federal Register notice of intent to cancel. Applicants have also been advised that if this change is possible and desired they may submit a revised application. Otherwise, such applications to register are denied. Products not registered with the Agency cannot be legally sold. Applicants were also told that remedies for denial are available through the administrative procedures set forth in section 6(b) of FIFRA.

Applications made to the Agency were published in the Federal Register in accordance with the provisions of the Agency's interim policy with respect to the administration of section 3(c)(1) (D).

Notices of intent to deny registration have been sent to the following applicants for the listed products.

EPA File Symbol 1029-RER. Aldex Corp., 1024 N. 17th St., Omaha NE 68102. AIDEX CHLORDANE 25 GRANULAR.

EPA File Symbol 8419-RL. The Andersons, PO Box 119, Maumee OH 43537. TRIPLE THREAT PRE-EMERGENCE CRABGRASS KILLER PLUS 10-6-4 FERTILIZER WITH G-E-N-T-L-E "N" AND LAWN INSECTICIDE.

EPA File Symbol 8414-T. Bain Pest Control Service Inc., 347 Central St., Lowell MA 01852. CHECKER BRAND 72% CHLORDANE SPRAY.

EPA File Symbol 960-ROT. Balcom Chemicals, Inc., PO Box 667, Greeley CO 80631. CLEAN CROP HEPTACHLOR 3 EC.

EPA File Symbol 537-RK. BIOCERTA CORP., 303 5TH Ave., New York 10018. CHLORPAX EMULSION CONCENTRATE.

EPA File Symbol 4-EGA. Bonide Chemical Co., Inc., 2 Wurze Ave., Yorkville NY 13495. CROTOX POWDER SEED PROTECTOR.

EPA File Symbol 36483-R. Champion Chemical Co., 1114 Uvalde, Houston TX 77015. BUG MAGIC GENERAL HOUSEHOLD SPRAY.

EPA File Symbol 4715-GNI. Colorado International Corp., 5321 Dahlia St., Commerce City CO 80022. BEST 4 SERVIS BRAND CHLORDANE 40% WETTABLE POWDER.

EPA File Symbol 23304-L. Crummett Chemical, Inc., 3987-C Forsyth Rd., Orlando FL 32807. HEPTACHLOR 2.5%.

EPA File Symbol 3770-ONL. Economy Products Co., Inc., PO Box 427, Shenandoah IA 51601. SEED-QUIK CHLORDANE + CAPTAIN SEED DRESSING.

EPA File Symbol 10370-RA. Ford's Chemical & Services Inc., 907 S. Main, Pasadena TX 77506. FORD'S 74% CHLORDANE.

EPA File Symbol 10370-RE. Ford's Chemical & Services Inc. PASCO ROACH SPRAY A PROFESSIONAL TYPE KILL.

EPA File Symbol 10370-RI. Ford's Chemical & Services Inc. PASCO HEPTACHLOR 5.

EPA File Symbol 10370-RO. Ford's Chemical & Services Inc. PASCO HEPTACHLOR 10.

EPA File Symbol 10370-G. Ford's Chemical & Services Inc. CHLORDANE 8-E EMULSIFIABLE CONCENTRATE.

EPA File Symbol 10370-T. Ford's Chemical & Services Inc. PASCO HEPTACHLOR 10.

EPA File Symbol 869-RLN. Green Light Co., PO Box 16192, San Antonio TX 78246. GREEN LIGHT 45% CHLORDANE SPRAY.

EPA File Symbol 10107-RI. Harris Serum & Supply Co., Inc., PO Box 410, McCook NE 68001. CHLORDANE 20G.

EPA File Symbol 5905-UT. Helena Chemical Co., Clark Tower—5100 Popular Ave., Suite 2000, Memphis TN 38137. HEPTACHLOR 10-G GRANULAR.

EPA File Symbol 24911-U. Hi-Yield Chem. Co., Box 490, Bonham TX 75418. HI-YIELD CHLORDANE SPRAY.

EPA File Symbol 10370-RO. Hoff-Mor Inc., 1120 S. Center, Pasadena TX 77506. PASCO HEPTACHLOR 5.

EPA File Symbol 12188-R. Holder's Pest Control Co., 5817 Southwest Freeway, Houston TX 77027. HOLDER'S HEPTACHLOR 2.5.

EPA File Symbol 34290-R. James Exterminating & Supply Co., 2766 N. 22nd St., Philadelphia PA 19132. CALL-EM-OUT AND KILL EM.

EPA File Symbol 8445-EU. Kenco Chemical Div., PO Box 6246, Jacksonville FL 32205. RID-A-BUG DO-IT-YOURSELF TERMITE CONTROL CONCENTRATE.

EPA File Symbol 9554-EO. Levenson Chemical Co., 1407 Harney, Omaha NE 68102. CHLORDANE 45 EMULSIFIABLE CONCENTRATE.

EPA File Symbol 9123-RL. Magnolia Fertilizer Co., Div. Pace National Corp., 500 7th Ave. S., Kirkland WA 98033. WEED AND FEED FERTILIZER 10-9-6.

EPA File Symbol 299-RIA. C. J. Martin Co., PO Box 1089, Nacogdoches TX 75061. ANT 'BAIT C.

EPA File Symbol 11890-I. Midwest Agri. Warehouse Co., 200 S. Main, Fremont NE 68025. CLEAN CROP HEPTACHLOR SEED PROTECTANT AND LUBRICANT.

EPA File Symbol 3624-RLI. Nova Products, Inc., PO Box 5086, Kansas City KS 66119. NOVA CMW-49 CONCENTRATE.

EPA File Symbol 3624-RLO. Nova Products, Inc., PO Box 5086, Kansas City KS 66119. NOVA CHLOR-MAL.

EPA File Symbol 1258-OTL. Olin Corp., Agri. Div., PO Box 991, Little Rock AK 72203. TERRA-COAT LT-2 WITH HEPTACHLOR.

EPA File Symbol 2169-ELN. Patterson Chemical Co., Div. Curry-Cartwright, Inc., 1400 Union Ave., Kansas City MO 64101. PATTERSON'S 25% CHLORDANE GRANULES.

EPA File Symbol 3234-GL. Pax Co., 580 W. 13th St., Salt Lake City UT 84115. PAX SUPER TOTAL FOR LAWNS.

EPA File Symbol 3234-GU. Pax Co., 580 W. 13th St., Salt Lake City UT 84115. PAX FUNGICIDE INSECTICIDE FERTILIZER.

EPA File Symbol 8773-RA. American Fertilizer & Chem. Co., Sub. of Phillips Petroleum Co., PO Box 98, Henderson CO 80640. PHILLIPS 66 CHLORDANE 4-E.

EPA File Symbol 655-LFO. Prentiss Drug & Chemical Co., Inc., 363 Seventh Ave., New York NY 10001. PRENTOX AGCLOR—BC AGRICULTURAL INSECTICIDE.

EPA File Symbol 655-ELI. Prentiss Drug & Chemical Co. PRENTOX AGCLOR 40% W. P. AGRICULTURAL INSECTICIDE.

EPA File Symbol 665-LKA. Prentiss Drug & Chemical Co. PRENCHLOR 5% GRANULES.

EPA File Symbol 655-LEE. Prentiss Drug & Chemical Co. PRENCHLOR 10% DUST.

EPA File Symbol 655-LEO. Prentiss Drug & Chemical Co. PRENCHLOR 10% GRANULES.

EPA File Symbol 655-LLE. Prentiss Drug & Chemical Co. PRENCHLOR 5% DUST.

EPA File Symbol 655-LEU. Prentiss Drug & Chemical Co. PRENCHLOR 40% WETTABLE POWDER.

EPA File Symbol 655-LRT. Prentiss Drug & Chemical Co. PRENTOX 3 LB. HEPTACHLOR EMULSIFIABLE CONCENTRATE.

EPA File Symbol 33280-T. S & G Chemical Co., 10036 Connell, Overland Park KS 66212. SUPER 45% CHLORDANE.

EPA File Symbol 538-RRO. O. M. Scott & Sons, Proturf Div., Marysville OH 43040. SCOTT'S PROTURF BROAD SPECTRUM INSECTICIDE.

EPA File Symbol 4876-LT. "AG" Supply Co., Div. of Seedkem, Industrial Drive, Hopkinsville KY 42240. CHLORDANE-8.

EPA File Symbol 4887-RTU. Stephenson Chemical Co., Inc., PO Box 87188, College Park GA 30337. STEPHENSON 75% CHLORDANE EMULSIFIABLE CONCENTRATE.

EPA File Symbol 998-RRO. Superior Chemical Products, Inc., 3942 Frankford Ave., Philadelphia PA 19124. SUPERIOR C-5% DUST.

EPA File Symbol 6735-ERE. Tide Products Inc., PO Box 1020, Edinburg TX 78539. TIDE CHLORDANE-33G.

EPA File Symbol 11656-GL. Western Farm Service, Inc., 2401 Crow Canyon Rd., San Ramon CA 94583. CHLORDANE TERRACLO CAPTAN 10-10-10 GRANULAR.

EPA File Symbol 11656-GT. Western Farm Service, Inc. CHLORDANE TERRACLO 10-10 GRANULAR.

EPA File Symbol 11656-GG. Western Farm Service, Inc. CHLORDANE 10 GRANULAR.

EPA File Symbol 11656-GU. Western Farm Service, Inc. CHLORDANE 8E.

EPA File Symbol 11656-GL. Western Farm Service, Inc. CHLORDANE 5 GRANULAR.

EPA File Symbol 11656-GA. Western Farm Service, Inc. CHLORDANE TERRACLO ZINEB 10-10-10 GRANULAR.

EPA File Symbol 9782-GG. Woodbury Chemical Co., PO Box 4319, Princeton FL 33030. HEPTACHLOR 2.5E.

EPA File Symbol 9782-RU. Woodbury Chemical Co., PO Box 4319, Princeton FL 33030. CHLORDANE 8-E INSECTICIDE EMULSIFIABLE CONCENTRATE.

## CONCLUSION

Any person adversely affected by this notice may, on or before June 23, 1975, request a hearing with the Hearing Clerk, Environmental Protection Agency, 401 M Street, SW, East Tower, Room 1019, Washington, D.C. 20460. Any questions concerning this notice should be directed to Product Manager 15, Registration Division, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Notice of the Agency's denial of these applications for registration is given pursuant to the provisions of section 3 (c) (6) of FIFRA.

Dated: May 21, 1975.

JAMES L. AGEE,  
Assistant Administrator for  
Water and Hazardous Materials.

[FR Doc.75-13709 Filed 5-22-75; 8:45 am]

# FEDERAL ENERGY ADMINISTRATION ENVIRONMENTAL ADVISORY COMMITTEE Charter Amendment

This notice is given to advise of a revision in the charter of the Environmental Advisory Committee. The charter was published in the August 21, 1974, issue of the Federal Register (39 FR 30196).

The amendment will revise the charter to provide for inclusion of subcommittees. No other changes are being made in the charter.

The Office of Management and Budget has concurred in this revision.

The revised charter is published below and is effective immediately.

Issued at Washington, D.C. on May 20, 1975.

ROBERT E. MONTGOMERY, JR.,  
General Counsel.

## FEDERAL ENERGY ADMINISTRATION ENVIRONMENTAL ADVISORY COMMITTEE NOTICE OF CHARTER AMENDMENT

A. *Establishment.* The Administrator, Federal Energy Administration (FEA), having determined after consultation with the Director, Office of Management and Budget, that the establishment of an advisory committee to deal with environmental matters, is in the public interest in connection with duties imposed on the Federal Energy Administration by law, hereby establishes the Environmental Advisory Committee pursuant to the Federal Advisory Committee Act (Pub. L. 92-463).

B. *Duties, Functions, and Administrative Provisions.* 1. *Objectives and Scope.*—The objectives of the Environmental Advisory Committee are to provide advice and information to FEA concerning environmental aspects of FEA policies and programs.

2. *Committee Tenure.*—In view of the goals and purposes of the Committee, it will be expected to continue for the duration of FEA.

3. *Official to Whom Committee Reports.*—The Committee shall report to the Administrator, Federal Energy Administration.

4. *Support Services.*—Necessary support shall be furnished by the Federal Energy Administration.

5. *Committee Duties.*—The duties of the Committee are solely advisory and are stated in Paragraph 1 above.

6. *Estimated Annual Operating Costs.*—The estimated annual operating costs for the Committee are \$30,000 and involve approximately one-man-year of staff support.

7. *Meetings.*—The Committee will meet approximately bimonthly.

8. *Termination Date.*—The Committee will terminate on June 30, 1978, or if the Federal Energy Administration Act of 1974 is amended to extend the duration of FEA beyond that date, the Committee will terminate on such later date or two years from the date of this Charter, whichever occurs earlier.

9. *Subcommittees.*—The Environmental Advisory Committee shall have five Subcommittees as follows:

- OCS Development Subcommittee
- Coal Leasing and Mining Subcommittee
- Transportation Subcommittee
- Coal Utilization Subcommittee
- Energy Conservation Subcommittee

The objectives of the Subcommittees are to make recommendations to the parent Committee with regard to advice and information which shall be provided to the Administrator, FEA, concerning environmental aspects of FEA policies and programs. The Subcommittees shall be comprised of the 26 members of the parent Committee. The provisions of B 1 through 8 shall apply to these Subcommittees.

Dated: May 20, 1975.

ROBERT E. MONTGOMERY, JR.,  
General Counsel.

[FR Doc.75-13613 Filed 5-22-75; 8:45 am]

## FEDERAL HOME LOAN BANK BOARD [H.C. #184]

### STANDARD LAW BOOK COMPANY AND ALBANY SAVINGS AND LOAN ASSOCIATION

#### Receipt of Application For Permission To Purchase Assets

MAY 20, 1975.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from

## FEDERAL POWER COMMISSION

[Docket Nos. R-411; RM74-4]

### ADVANCES FOR GAS EXPLORATION, DEVELOPMENT, AND PRODUCTION

Order Amending Prior Order

MAY 16, 1975.

On April 28, 1975, the Commission issued an order in this proceeding which, *inter alia*, instituted an investigation of the Commission's advance payment program under Order Nos. 465 and 499 (40 FR 19532; May 5, 1975). That order also designated all of the pipelines which had made advance payments to producers under the Commission's advance payment program respondents to the investigation and listed the respondents in Appendix A of the order. However, through an oversight, Louisiana-Nevada Transit Company (Louisiana-Nevada) was not included on the list. Accordingly, we shall amend the April 28, 1975, to add as Louisiana-Nevada a respondent in this proceeding.

The Commission finds: It is necessary and appropriate in the public interest and to aid in the enforcement of the Natural Gas Act that the Commission's April 28, 1975, order in this proceeding be amended as hereinafter ordered.

The Commission orders: The Commission's April 28, 1975, order in this proceeding is hereby amended to add as a respondent on Appendix A to the order, Louisiana-Nevada Transit Company, 821 17th Street, Denver, Colorado 80202.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13568 Filed 5-22-75; 8:45 am]

[Docket No. RP75-88]

### ALGONQUIN GAS TRANSMISSION CO. Order

MAY 19, 1975.

On April 8, 1975, Algonquin Gas Transmission Company (Algonquin), tendered for filing a revised tariff sheet<sup>1</sup> reflecting a jurisdictional revenue increase of approximately \$25.4 million based on the twelve month period ending December 31, 1974, as adjusted. Algonquin requests an effective date of May 23, 1975, for its proposed changes. Of the entire increase, about \$21.3 million is applicable to service under Algonquin's Rate Schedule SNG-1 and the remainder is applicable, in varying degrees, to all other rate schedules. The company sets forth as reasons for its rate increase application, increased costs of operation, reduced sales volumes, increased costs of feedstock for its SNG operations and an overall rate of return of 10.75 percent. Our analysis of Algonquin's filing indicates that each of these items should be the subject of examination within the hearing ordered herein.

<sup>1</sup>Seventh Revised Sheet No. 10 to Algonquin's FPC Gas Tariff, First Revised Volume No. 1.



We are particularly concerned with the magnitude of the increase as it relates to Rate Schedule SNG-1. The determination of the reasonableness of costs incurred by Algonquin from its subsidiary, Algonquin SNG, Incorporated is required so that we can properly analyze what portion of the SNG costs should properly be passed on to Algonquin's customers. We have been concerned from the very outset that such SNG related costs might escalate beyond the zone of reasonableness.<sup>2</sup>

Further, Algonquin has proposed, as it did at Docket No. RP74-92, a two-part rate for its SNG service which establishes the commodity rate on the basis of feedstock costs and the demand charge on the basis of all other costs. This rate design is the subject of an investigation into its reasonableness in the proceedings at the underlying docket.

In the instant filing, Algonquin also departs from the practice of utilizing plant capacity for rate design billing determinants and, instead, designs its demand-commodity levels on the basis of actual sales achieved during the last winter period. As a result, an overstatement of rate levels could occur if it should be determined that use of capacity volumes is proper for rate design purposes. Under these circumstances, it should be made clear that the company may be exposed to refunds for overcollections if it should be determined that a one-part rate is appropriate for service rendered under Rate Schedule SNG-1 or that capacity billing determinants are proper for rate design purposes.

Our review of the subject rate filing indicates that the proposed rates have not been shown to be just and reasonable, and that they may be excessive, unduly discriminatory or otherwise unjust and unreasonable. Accordingly, the proposed tariff sheet shall be accepted for filing, suspended for the full five month statutory period, subject to refund, and set for hearing.

Public notice of Algonquin's filing was issued with protests or petitions to intervene due on or before April 28, 1975. To date, one petition to intervene has been filed on behalf of the twenty parties listed at Appendix A.

The Commission finds: (1) The rates proposed by Algonquin have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful.

(2) It is necessary and proper in the public interest in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Algonquin's FPC Gas Tariff as proposed to be amended in Docket No. RP75-88, and that the re-

<sup>2</sup> See, Commission Opinion No. 837 at Algonquin SNG, Inc., et al., Docket Nos. CP72-35 et al., issued December 7, 1972; and Commission Opinion No. 837-A, at Algonquin SNG, Inc., et al., Docket Nos. CP72-35 et al., issued February 6, 1973.

vised tariff sheet filed therein be suspended, and the use thereof deferred as hereinafter ordered.

(3) The participation of the above-named petitioners may be in the public interest, provided that such participation shall be limited as set forth below.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, and the Commission's rules and regulations, a public hearing shall be held on November 21, 1975, in a hearing room of the Federal Power Commission, Washington, D.C. 20426, concerning the lawfulness of the rates, charges, classification, and services contained in Algonquin's FPC Gas Tariff, as proposed to be amended herein.

(B) On or before October 10, 1975, the Commission Staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of any and all intervenors shall be served on or before October 24, 1975. Any rebuttal evidence by Algonquin shall be served on or before November 7, 1975.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)) shall preside at the hearing initiated by this order, and shall conduct such hearing in accordance with the Natural Gas Act, the Commission's rules and regulations, and the terms of this order.

(D) Pending hearing and a decision thereon, Algonquin's proposed revised sheets tendered for filing on April 8, 1975 are hereby suspended for five months and the use thereof deferred until October 23, 1975, or until such time as they are made effective in the manner provided by the Natural Gas Act.

(E) The above-named petitioners are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however*, That the participation of such intervenors shall be limited to matters affecting rights and interests specifically set forth in the respective petitions to intervene, and *Provided, further*, That the admission of such intervenors shall not be construed as recognition by the Commission that they, or any of them, might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMS,  
Secretary.

#### APPENDIX A

#### PETITION TO INTERVENE

Bay State Gas Company  
Boston Gas Company  
Bristol and Warren Gas Company  
Cape Code Gas Company  
Commonwealth Gas Company  
The Connecticut Gas Company  
Connecticut Natural Gas Corporation  
Fall River Gas Company

The Hartford Electric Light Company  
Town of Middleborough, Municipal Gas and Electric Department  
New Bedford Gas and Edison Light Company  
New Jersey Natural Gas Company  
North Attleboro Gas Company  
City of Norwich, Department of Public Utilities  
Orange and Rockland Utilities, Inc.  
Pequot Gas Company  
Providence Gas Company  
South County Gas Company  
The Southern Connecticut Gas Company  
Tiverton Gas Company

[FR Doc.75-13570 Filed 5-22-75;8:45 am]

[Docket No. E-9092]

#### ARKANSAS-MISSOURI POWER CO.

#### Further Extension of Procedural Dates

MAY 16, 1975.

On May 14, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued November 29, 1974, as most recently modified by notice issued April 17, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, June 17, 1975.  
Service of Intervenor's Testimony, July 1, 1975.  
Service of Company Rebuttal, July 15, 1975.  
Hearing, August 26, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMS,  
Secretary.

[FR Doc.75-13549 Filed 5-22-75;8:45 am]

[Docket Nos. E-8250, etc.]

#### ARKANSAS POWER & LIGHT CO.

#### Order

MAY 16, 1975.

By Order issued July 31, 1973, the Commission, *inter alia*, accepted for filing Arkansas Power & Light Company's (AP&L) proposed rate increase filed in Docket No. E-8250 on June 1, 1973, suspended the proposed rates for five months to become effective January 1, 1974, subject to refund, permitted nine of AP&L's affected customers (Intervenors) to intervene in the proceeding, and consolidated the proceedings with those in Docket Nos. E-8071 and E-8142.

On February 14, 1975, the Commission Staff filed a motion in this proceeding requesting that the Commission limit its findings at the present time to a determination of just and reasonable rates for the locked-in period from January 1, 1974 to December 19, 1974. The Commission Staff also requested that the Commission require AP&L to submit, within thirty days, cost of service data for the year 1975 consisting of available actual data and estimates for the remainder of the year and to set procedural dates for the purpose of determining a just and reasonable rate commencing December 19, 1974.

In support of its motion, Staff states that on December 19, 1974 AP&L placed the Arkansas Nuclear One Unit #1 (ANO#1) generating station in service, representing what AP&L claims to be a \$216,000,000 addition to its end-of-test-period electric plant in service. Staff alleges that since the impact of this additional capacity would have a substantial impact on AP&L's operations, the rates for the pre-December 19, 1974 period must be considerably different from those for the period after the nuclear unit was placed in service. Staff concludes that no single rate for both periods could be just and reasonable and therefore requests that the rate proceeding be phased. Staff notes that AP&L had included the impact of ANO#1 as a pro forma adjustment to its test year ended June 30, 1973. Finally, Staff states, in support of its motion to require AP&L to file updated cost support for the period commencing December 19, 1974, that the impact of ANO#1 upon the operations of AP&L cannot be accurately measured against a test year beginning in July, 1972 and ending in June, 1973.

On February 27, 1975, Intervenor's filed their concurrence in Staff's February 14, 1975, motion, stating that Staff's motion would offer a resolution which would avoid considerable difficulty which would otherwise face the Commission in this proceeding.

AP&L filed its response to Staff's motion on March 3, 1975. AP&L states that while it does not agree with certain of the statements made in Staff's motion, it concurs in the motion and requests the Commission to expeditiously grant Staff's February 14, 1975 motion, as modified to require AP&L to supply the requested cost of service data on or before May 20, 1975.

On May 2, 1975, the Staff filed a request on behalf of all parties, that its motion be revised to reflect June 24, 1975, as the date for filing the requested data.

For the reasons set forth in Staff's motion, we believe that AP&L should be required to provide, on or before June 24, 1975, updated cost of service data applicable to the period commencing December 19, 1974, the date that ANO#1 was placed in service.

The Commission finds: Good cause exists to grant the Commission Staff's February 14, 1975 Motion as hereinafter ordered.

The Commission orders: (A) Staff's February 14, 1975 motion is hereby granted for purposes of allowing two rates to be determined in this proceeding; the first for the period January 1, 1974 to December 19, 1974, and the second commencing December 19, 1974.

(B) AP&L shall file, on or before June 24, 1975, cost of service data for the year 1975.

(C) The following procedural dates are hereby established for the purpose of providing the parties an opportunity to present evidence related to AP&L's

updated cost of service data for the year 1975; the Commission Staff shall serve its prepared testimony and exhibits on or before July 22, 1975. Any intervenor evidence shall be filed on or before August 5, 1975. Any rebuttal evidence by AP&L shall be served on or before August 19, 1975.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMS,  
Secretary.

[FR Doc.75-13550 Filed 5-22-75;8:45 am]

[Docket Nos. C174-489; C174-490]

#### BELCO PETROLEUM CORP.

#### Order Denying Petition

MAY 16, 1975.

On April 28, 1975, Belco Petroleum Corporation, Agent for Belco 1972 Oil and Gas Fund, Ltd. (Petitioner) filed in Docket Nos. C174-489 and C174-490 a petition to effect relief from the conditions imposed by ordering paragraph (G) of the order issued in the subject dockets on May 9, 1974, so as to permit Petitioner to increase the rate charged for natural gas sold pursuant to authorization issued by said order to the nationwide rate promulgated by § 2.56a of the Commission's General Policy and Interpretations (18 CFR 2.56a), all as more fully set forth in the petition in this proceeding.

The Commission, in the May 9, 1974, order, issued 18-month limited-term certificates to Petitioner to sell gas for resale in interstate commerce to El Paso Natural Gas Company (El Paso) from Eddy and Lea Counties, New Mexico. The certificates are conditioned upon a rate of 45 cents per Mcf to remain in effect for the term of the authorization. Petitioner states it commenced deliveries on May 10, 1974.

Petitioner now requests the Commission to permit the charging of the nationwide rate prescribed in § 2.56a as of January 30, 1975, when Petitioner submitted notices of change in rate for the subject sales.

Petitioner asserts that the contractual rate for the subject sales was originally 55 cents per Mcf, but that it advised the Commission of its willingness to accept a rate of 45 cents per Mcf, the price level at which the Commission was issuing limited-term certificates without formal hearings at the time the applications were filed. Petitioner maintains that, when the contracts were amended to provide for the 45-cent rate, it agreed with El Paso that such a price would be subject to escalation in the event the Commission established a higher just and reasonable nationwide rate that would be applicable to sales of the subject gas. Petitioner submitted notices of change in rate on January 30, 1975. The notices were rejected by letter dated March 4, 1975.

Petitioner states that the subject gas qualifies as "new gas" within the meaning of § 2.56a because it is being produced from wells commenced after January 1, 1973, and the gas was not sold in interstate commerce previous to that date. Petitioner asserts that it has a contractual right to the nationwide just and reasonable rate of 51 cents per Mcf plus adjustments. Petitioner further asserts that it could not have been known at the time it agreed to accept certificates at the 45-cent rate that the Commission would have ultimately found the just and reasonable nationwide rate to be in excess of 45 cents. Petitioner urges that it is neither just nor reasonable to invoke the condition inserted by the Commission in ordering paragraph (G) of the May 9, 1974, order so as to deny Petitioner its contractual right to sell gas at the just and reasonable nationwide rate for new gas. Petitioner further states that this is all the more true in light of the fact that Petitioner specifically bargained for the contractual provision providing for such increase in price in return for agreeing to commence sales at a price 10 cents below the original contract price.

To grant petitioner's motion would be inconsistent with the concept of the limited-term certificate program. Producers granted such certificates have been permitted to sell gas for specific periods with pre-granted abandonment authorization at above-ceiling prices to help alleviate purchasers' need for gas. Such producers were not required to demonstrate cost support for such above-ceiling rates or to obtain abandonment authorization upon the expiration of the agreed-upon term.

The May 9, 1974, order is quite explicit in its conditions and the Commission fails to see how ordering paragraph (G) can be interpreted other than by its plain language, nor does the Commission perceive any reason for altering the conditions imposed by the May 9, 1974, order. Petitioner, furthermore, has had the benefit of the above-ceiling price for several months, which has served to obviate any alleged unfair treatment of Petitioner by its loss of the right to charge the nationwide rate. By commencing deliveries under the certificate authorization, Petitioner accepted all conditions of the certificate notwithstanding contract provisions that may have been inconsistent with said conditions. Petitioner may not complain after such acceptance that it desired other terms than were provided for in the certificate.

The Commission finds: No good cause exists to modify the order issued May 9, 1974, in Docket Nos. C174-489 and C174-490.

The Commission orders: Petitioner's petition in the instant docket is denied.

By the Commission.

[SEAL] KENNETH F. PLUMS,  
Secretary.

[FR Doc.75-13551 Filed 5-22-75;8:45 am]



[Docket No. CP74-324]

**CITIES SERVICE GAS CO.  
Amendment to Application**

MAY 16, 1975.

Take notice that on April 30, 1975, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP74-324 an amendment to its application filed in the subject docket pursuant to section 7 (b) and (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the relocation and operation of certain facilities and for an order permitting and approving the abandonment of certain facilities and service on its transmission system, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

In its application in this proceeding Applicant sought authorization to abandon certain facilities and to construct and operate replacement facilities with regard to 8 separate projects. By order issued April 1, 1975, in the subject docket projects 1 through 7 were authorized. By notice issued March 3, 1975, proceedings relative to project 8 were deferred pending the filing of the instant amendment and Commission action thereon.

As project 8, Applicant proposes to abandon by reclaim approximately 7.2 miles of 20-inch gas pipeline and to relocate measuring facilities for Garvey International, Inc., in Applicant's Pampa 20-inch pipeline located in Sedgwick County, Kansas.

Applicant states that the facilities which it proposes to abandon by reclaim are no longer required for the operation of Applicant's pipeline system, are obsolete in view of the operational requirements and can no longer be economically operated and maintained.

Applicant seeks authority to discontinue gas deliveries to The Gas Service Company for resale to three domestic consumers served from the section of its Pampa 20-inch pipeline which it proposes to abandon. Service would be terminated 60 days after the date of the Commission order approving the requested abandonment. Applicant states that three rural customers affected by the proposed abandonment have been advised of the proposed termination of service and notified that they will be reimbursed for the actual costs of conversion to propane up to the amount of \$630.

The estimated cost of constructing the proposed measuring facilities is \$750. The estimated salvage value of the measuring facilities is \$383 and the cost of removal is \$140. The estimated reclaim cost for the proposed abandonment is \$92,460, and the estimated salvage value is \$122,020.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 10, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and pro-

cedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons who have heretofore filed petitions to intervene, notices of intervention or protests to the granting of the application in this proceeding need not file again.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13552 Filed 5-22-75;8:45 am]

[Docket Nos. CI75-438; CI75-540]

**FOREST OIL CORP.****Postponement of Hearing**

MAY 15, 1975.

In the matter of Coleve Forest Drilling Venture, Forest Oil Corporation.

On May 14, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued April 11, 1975, in the above-designated matter.

Upon consideration, notice is hereby given that the hearing date in the above matter is postponed until July 1, 1975, at 10:00 a.m. (e.d.t.).

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13553 Filed 5-22-75;8:45 am]

[Docket No. RP75-91]

**CONSOLIDATED GAS SUPPLY CORP.****Order**

MAY 19, 1975.

On April 16, 1975, Consolidated Gas Supply Corporation (Consolidated) filed in the above captioned docket proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1 and Original Volume No. 2, with a proposed effective date of June 1, 1975. The proposed rate changes would increase Consolidated's revenues from jurisdictional sales and services by \$20.5 million annually (3.6%) over rates effective April 1, 1975, based upon the twelve months ended December 31, 1974, adjusted for known changes for a nine month period through September 30, 1975. Of the total increase, \$8.8 million reflects supplier rate increases.

Consolidated states that the higher rates are required to recoup, *inter alia*, increased transportation costs paid to other pipelines, increased cost of capital, and an increase in capital expenditures, depreciation expense and operating costs.

<sup>1</sup> Second Revised Volume No. 1: Third Revised Sheet No. 8, Third Revised Sheet No. 9; Original Volume No. 2: Seventh Revised Sheet No. 272, Fourth Revised Sheet No. 272-A.

The increased transportation costs result from increases in transportation rates proposed by Transcontinental Gas Pipe Line Corporation and Texas Eastern Transmission Corporation in Docket Nos. RP75-75 and RP75-73, respectively. Both of these increases are proposed to be effective on May 1, 1975, but their effectiveness has been suspended until October 1, 1975.

The proposed rates include an overall rate of return of 10.50% reflecting a 13.65% return on common equity which represented 51.9% of capitalization as of December 31, 1974.

Depreciation of transmission facilities located in the "Southern States" area of the United States is proposed to be changed from the present rate of 4% to a unit of production method.

Consolidated estimates capital expenditures of about \$34 million dollars, of which \$22.4 million would be for production, \$4.0 million for storage, and \$7.5 million for transmission facilities.

Increased operating costs include increased labor and material costs, increases in taxes other than income, and a higher unit cost of operation of Consolidated's pipeline system due to the continuing decline in Consolidated's gas supply and the consequent reduction in annual sales volumes.

The claimed deficiency of \$20.5 million includes \$8.8 million of increases in purchased gas costs estimated to become effective during the nine month adjustment period although they are recoverable under Consolidated's existing PGA clause.

Consolidated states that the proposed rates do not include the appropriate surcharge or surcharge credit as provided by its PGA clause. Consolidated states that at such time as the increased rates are to become effective, Consolidated will make the appropriate filing to reflect the applicable surcharge adjustment in effect at that time.

Consolidated states that it will submit studies with its Statement P to demonstrate that special circumstances exist in accordance with § 2.16(a)(4) of the Commission's rules and regulations which justify cost of service treatment for Consolidated's production from new leases in the Appalachian area.

Consolidated has eliminated full cost accounting for unsuccessful wells on leases acquired after October 7, 1969, in the Appalachian area; and it has provided for the normalization of deferred taxes relating to intangible drilling costs on leases acquired prior to October 8, 1969.

Consolidated states that the total cost of service was allocated between intra-state and interstate sales and services and jurisdictional costs were allocated to the GSS rate schedule by application of the method of Opinion No. 703, issued August 28, 1974, in Docket No. RP71-77.

Consolidated states that costs allocated to the sales for resale were further allocated among rate zones employing the historical revenue method of allocation of Opinion No. 703. Consolidated states

that allocated zone costs were functionalized and classified in accordance with unmodified *Atlantic Seaboard*, and sales rates designed using the procedures followed in Consolidated's last general rate increase filing in Docket No. RP74-90.

Consolidated submitted *pro forma* tariff sheets containing provisions that would authorize it to include in its current rates, changes in rate base reflecting construction work in progress on new supply projects. Consolidated does not propose to make such tariff sheets effective prior to a Commission order approving them.

Consolidated's April 16, 1975, filing was noticed on April 23, 1975, with protests and petitions to intervene due on or before May 16, 1975. Southern Tier Gas Corporation, New York State Electric & Gas Corporation, The Rochester Gas and Electric Corporation and Peoples Natural Gas Company filed timely petitions to intervene. The Public Service Commission of West Virginia filed a timely notice of intervention.

We note that the rate design included in the instant filing reflects the unmodified *Seaboard* method of cost classification and cost allocation.

In Opinion No. 671, we expressed our concern over the worsening gas supply situation and particularly as it existed on United's system. Based upon the record in that case we concluded that more weight should be given to annual use of United's pipeline system than is characteristic of the unmodified *Seaboard* methodology. Therefore, we assigned 75 percent of fixed costs to the commodity component of two-part rates and to the straight-line rates. Part of our rationale was that in view of the gas supply shortage, low priority usage should be discouraged and the price gap between natural gas and alternative fuels in the interruptible industrial market should, at the minimum, be narrowed.

In light of our policy of considering competitive fuel prices in setting commodity rate levels and of the present supply and market conditions on the Consolidated system, all parties to this proceeding should direct their attention, and file any evidence they wish to submit, as to the propriety of the continued use of the *Seaboard* method of cost classification and allocation, as well as to the propriety of Consolidated's rate design proposed herein. Further, we urge all parties to suggest alternative methods of cost classification, allocation and rate design which they believe may more closely reflect or implement the Commission's objectives in this area. In this connection we refer the parties to our recent rulemaking Docket No. RM75-19 issued February 20, 1975.

Our review of Consolidated's filing indicates that the proposed rates have not been shown to be just and reasonable and

<sup>2</sup> See: Footnote 3 in our order of May 31, 1974, in *Columbia Gas Transmission, et al.*, Docket Nos. RP74-82 and RP74-81.

may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. We shall, therefore, accept the proposed rates for filing, suspend their effect for the full statutory period, and set the matter for hearing.

*The Commission finds:* (1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Consolidated's FPC Gas Tariff, as proposed to be amended by Docket No. RP75-91, and that the tariff sheets tendered in the aforementioned docket be accepted for filing and suspended for five months.

(2) It is desirable and in the public interest to allow the above-named petitioners to intervene.

*The Commission orders:* (A) Pending a hearing and a decision thereon, Consolidated's proposed tariff sheets as listed in Footnote 1 of this order, tendered for filing on April 16, 1975, are hereby accepted for filing and suspended for the full statutory period and the use thereof deferred until November 1, 1975, or until such time as they are made effective in the manner provided in the Natural Gas Act, subject to refund.

(B) Pursuant to the authority of the Natural Gas Act, the Commission's Rules of Practice and Procedure, and the Regulations under the Natural Gas Act, a public hearing for purposes of cross-examination concerning the lawfulness and reasonableness of the rates and charges in Consolidated's FPC Gas Tariff, as proposed to be amended herein, shall be held commencing on October 28, 1975, at 10:00 a.m., e.s.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

(C) On or before September 3, 1975, the Commission Staff shall serve its prepared testimony and exhibits. Any intervenor evidence shall be filed on or before September 24, 1975. Any rebuttal evidence by the company shall be served on or before October 15, 1975.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in § 2.59 of the Commission's Rules of Practice and Procedure.

(E) The above-named petitioners are hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission: *Provided, however*, that participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in their petitions to intervene and *Provided, further*, that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved

because of any order or orders of the Commission entered in this proceeding.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13554 Filed 5-22-75;8:45 am]

[Docket Nos. CP65-393; CI65-584]

**FLORIDA GAS TRANSMISSION CO.****Order To Show Cause**

MAY 16, 1975.

From the presentation in *Sea Robin Pipeline Company*, Docket No. CP72-119, it appears that a question arises as to whether the transportation of gas by Florida Gas Transmission Company (Florida Gas) for Florida Power and Light Company (Florida Power) authorized in Docket No. CP65-393 should be continued, limited or amended. A similar question arises as to the sale of gas by Amoco Production Company (Amoco) to Florida Gas authorized in Docket No. CI65-584. Florida Gas and Amoco will be required to show cause why their aforesaid authorizations to sell or transport gas should not be amended, limited or otherwise modified, and Florida Power will be accorded the opportunity to be heard thereon.

*The Commission orders:* (A) Amoco and Florida Gas shall show cause within 20 days of this order why the authorization of Amoco in Docket No. CI65-584 to sell gas to Florida Gas, and the authorization of Florida Gas in Docket No. CP65-393 to transport gas to Florida Power, should not be amended, limited, or otherwise modified.

(B) Florida Power shall be served with a copy of this order.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13555 Filed 5-22-75;8:45 am]

[Docket No. CI76-559]

**MCCULLOCH OIL CORP.****Order**

MAY 19, 1975.

On March 21, 1975, McCulloch Oil Corporation (McCulloch) filed an application pursuant to section 7 of the Natural Gas Act and Opinion No. 699-H for a sale to Northern Natural Gas Company (Northern) from the Olson Field, Ellis County, Oklahoma, at an initial rate of 70 cents per Mcf with one cent per Mcf escalation every five years and upward and downward Btu adjustment. The proposed initial rate exceeds the just and reasonable nationwide rate set in Opinion No. 699-H. This sale is intended to be made under a March 19, 1975 amendment to the base November 5, 1974 contract with Northern.



In addition to its application for a permanent certificate for the proposed rate, McCulloch also requests authorization to begin the sale immediately at the contract rate with the provision that should the Commission later determine the just and reasonable rate for this sale to be below the contract rate, the difference will be refunded to Northern out of future production.

The McCulloch application, because the contract price is above the nationwide ceiling, must be viewed as a petition for special relief pursuant to § 2.56a(g) of the Commission's regulations, which provides that a seller cannot file for a rate in excess of the national rate without the permission of the Commission, said permission to be based on a full justification of the need for the excess amount. The Commission does not have before it at this time information sufficient to make the determination required under § 2.56a(g). It is necessary, therefore, to set this matter for hearing, and for this reason, the request for temporary authorization to begin sales at the contract rate pending the outcome of the petition for special relief should be denied.

In Opinion No. 713<sup>1</sup> we granted an application under § 2.75 filed by McCulloch on behalf of itself as general partner and for certain limited partnerships. The sellers were authorized to collect an initial rate of 45.5 cents per Mcf from Northern pursuant to a December 27, 1972 contract for production from two wells located in the Olson Field. As support for this application McCulloch submitted project cost evidence that included certain elements of cost pertaining to the entire Olson Prospect, rather than just the costs incurred with respect to the two successful wells. The Commission relied upon this presentation in approving the certificate granted in Opinion No. 713. In its instant petition, however, McCulloch states that the wells that are the subject of its petition are an extension of the development of the Olson Field that was begun pursuant to the 1972 contract with Northern that was approved in Opinion No. 713. Necessarily, therefore, there is some overlap in the cost presentation that was made to justify the result in Opinion No. 713 and that must be made to justify the 70 cents per Mcf initial rate proposed by the McCulloch petition. McCulloch will be required to explore this issue, whether the new wells are a part of the project considered in Opinion No. 713, fully at the hearing, with specific reference to (a) what costs that would ordinarily be attributable to the petition for special relief but have already been written off under the authorization granted in Opinion No. 713, and (b) the public policy questions involved in McCulloch's piecemeal development and dedication of the Olson Prospect, noting especially the difficulties inherent

<sup>1</sup> Opinion No. 713, McCulloch Oil Corporation, Docket No. C173-521, Opinion And Order Granting Certificate Under Optional Procedure, 52 FPC — (Issued November 26, 1974).

in overlapping cost presentations in different and succeeding proceedings.

It was our understanding as expressed in Opinion No. 713, that the Olson Prospect was owned jointly by McCulloch as general partner and the certain limited partnerships. It is not clear from the petition whether McCulloch is seeking to sell only its individual interest in the production or its interest plus that of the other interest owners. McCulloch is directed to clarify this matter in its evidence to be submitted at the hearing.

Notice of the petition was April 16, 1975, and appeared in the FEDERAL REGISTER on April 23, 1975, at 40 FR 17881. A petition to intervene in support of the application was filed by Northern on April 28, 1975.

The Commission finds: (1) It is necessary and in the public interest that the above-docketed proceeding be set for hearing.

(2) Good cause exists to permit the intervention of Northern.

The Commission orders: (A) The request of McCulloch for temporary authorization to immediately commence the proposed sale at the contract rate pending the final determination of the applicable just and reasonable rate is denied.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 14, and 16 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), Docket No. C175-559 is set for the purpose of hearing and disposition.

(C) A public hearing on the issues presented by the application herein shall be held commencing on June 17, 1975, at 10 a.m. (e.d.t.) in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5 (d)), shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

(E) McCulloch and any intervenor in support of the petition shall file their direct testimony and evidence on or before May 30, 1975. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, the Commission Staff, and all parties to this proceeding.

(F) The Commission Staff and all intervenors opposing the application shall file their direct testimony and evidence on a date to be fixed by the Administrative Law Judge. All such testimony and evidence shall be served upon the Administrative Law Judge, and all other parties to this proceeding.

(G) All rebuttal testimony and evidence shall be served on a date to be fixed by the Administrative Law Judge. All parties submitting rebuttal testimony and evidence shall serve such testimony and evidence upon the Administrative

Law Judge, the Commission Staff, and all other parties to this proceeding.

(H) The above-named petitioner is permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however*, That the participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in said petition for leave to intervene; and *Provided, further*, That the admission of such interest shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding; and, *Provided, further*, That such intervenor shall accept the record as it has been established in this proceeding to date.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13556 Filed 5-22-75; 8:45 am]

[Docket No. RP75-96]

# MICHIGAN WISCONSIN PIPE LINE CO. Order

MAY 19, 1975.

On April 30, 1975, Michigan-Wisconsin Pipe Line Company (Mich-Wis) tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1 and First Revised Volume No. 2.<sup>1</sup> The proposed changes, Mich-Wis states, will result in increased charges to jurisdictional customers in the amount of \$65,992,505 per year, based on a test period of 12 months ended January 31, 1975, as adjusted for known and measurable changes through October 31, 1975. Mich-Wis requests that the subject increase be permitted to become effective on June 1, 1975.

Public notice of Mich-Wis' filing was issued on May 8, 1975, with comments, protests and petitions to intervene due on or before May 21, 1975.

Mich-Wis contends that the increased charges contained in the instant filing are necessitated by an increased cost of capital, an increased depreciation rate, increased costs associated with the acquisition of gas supplies, a reduction in sales, and increased costs of labor, supplies and other operation expenses. The proposed increase represents an overall rate of return of 10.75 per cent, including return on common equity of 13.7 per cent, according to the company.

Mich-Wis' filing reflects, *inter alia*, the sum of \$11,265,490 representing interest reimbursement to producers under the category of "Adjustments to Actual Operating Expenses." The Commission has

<sup>1</sup> The proposed revision to Second Revised Volume No. 1 is designated Tenth Revised Sheet No. 27F. The proposed revisions to First Revised Volume No. 2 are designated Sixth Revised Sheet Nos. 92, 110, 129, and 130; Fifth Revised Sheet Nos. 141, 142, and 171; Third Revised Sheet Nos. 214 and 215; Second Revised Sheet Nos. 231, 232, 297, 315, and 399; and First Revised Sheet Nos. 420 and 421.

allowed payments to producers before delivery of gas, but only under certain, prescribed conditions.<sup>2</sup> The payments which Mich-Wis has included in the instant filing do not meet the requirements of our advance payment regulations and accordingly must be rejected.<sup>3</sup> The purpose of our advance payment programs has been to assist the producers in capital formation in order to stimulate exploration, development, and production for the interstate market. (Order No. 441, 46 FPC 1178 at 1180). These programs are not intended to provide that jurisdictional rate payers pay interest through pipeline rates on capital which the producer is demonstrably able to acquire. It is apparent by the nature of these agreements that the producers do have the ability to acquire the capital associated with the projects. Therefore, Mich-Wis' proposed rate treatment of these interest reimbursement payments to producers must be rejected as inconsistent with the requirements and intent of our outstanding advance payment rulemaking orders. Further, we believe it more appropriate to consider the viability of such proposals in the context of any future rulemaking extending the present advance payment program.

Based on our review of Mich-Wis' proposed rate increases, including the documents, information and studies submitted therewith as required by the Commission's regulations, we find that the requested increase may be excessive or otherwise unlawful under the Natural Gas Act. Accordingly, we shall suspend the use of the proposed rates for five months until November 1, 1975, subject to the terms and conditions of this order.

We note that the rate design included in the instant filing reflects the unmodified Seaboard method of cost classification and cost allocation.

In Opinion No. 871 we expressed our concern over the worsening gas supply situation and particularly as it existed on United's system. Based upon the record in that case we concluded that more weight should be given to annual use of United's pipeline system than is characteristic of the unmodified Seaboard methodology. Therefore, we assigned 75 percent of fixed costs to the commodity component of two-part rates and to the straight-line rates. Part of our rationale was that in view of the gas supply shortage, low priority usage should be discouraged and the price gap between natural gas and alternative fuels in the interruptible industrial market should, at the minimum, be narrowed.

In light of our policy of considering competitive fuel prices in setting commodity rate levels and of the present supply and market conditions on the Mich-Wis system, all parties to this proceeding should direct their attention, and file any evidence they wish to submit, as to the propriety of the continued use of the Seaboard method of cost classification and cost allocation.

Order Nos. 410, 410-A, 441, 465, 499.

<sup>2</sup> See Accounts 165 and 166 in Part 201 of the Commission's Regulations Under the Natural Gas Act.

tion and allocation, as well as to the propriety of Mich-Wis' rate design proposed herein. Further, we urge all parties to suggest alternative methods of cost classification, allocation and rate design which they believe may more closely reflect or implement the Commission's objectives in this area.<sup>4</sup> In this connection we refer the parties to our recent rulemaking Docket No. RM75-19 issued February 20, 1975.

We note that Mich-Wis has included in the tariff sheets proposed herein costs associated with \$35.7 million of non-certificated storage and gathering facilities. Should these facilities not be constructed and in service by the end of the suspension period ordered herein, we shall require Mich-Wis to amend its filing to reflect exclusion of these costs.

We note further that Mich-Wis has included in the tariff sheets proposed herein approximately \$46.4 million of Construction Work in Progress (CWIP) as a rate base item. While there is currently pending a proposed rulemaking which, if adopted, would permit inclusion in rate base of certain amounts expended for CWIP,<sup>5</sup> our presently-existing regulations specifically exclude from rate base plant in process of construction.<sup>6</sup> Therefore, we shall provide that if the facilities presently represented by such CWIP amounts are not certificated and in service on the date the proposed rates take effect, subject to refund, Mich-Wis shall file substitute tariff sheets including rates which reflect only those facilities which are certificated and in service as of that date.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act, that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Mich-Wis' FPC Gas Tariff, as proposed to be amended in Docket No. RP75-96, and that the tendered tariff sheets be accepted for filing as hereinafter conditioned and suspended as hereinafter provided.

(2) Certain portions of Mich-Wis' proposed filing must be rejected for failure to comply with Commission regulations and orders, specifically, those portions which reflect the \$11,265,490 of interest reimbursement payments to producers and that portion representing plant that will not be certificated and in service before November 1, 1975.

The Commission orders: (A) Mich-Wis' tariff sheets proffered in Docket No. RP75-96 are accepted for filing and suspended for the full statutory period of five months until November 1, 1975, subject to the terms and conditions of this order.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4

<sup>4</sup> See Footnote 3 in our order of May 31, 1974, in *Columbia Gas Transmission, et al.*, Docket Nos. RP74-82 and RP74-81.

<sup>5</sup> See "Notice of Proposed Rulemaking", issued November 18, 1974, in Docket No. RM75-18.

<sup>6</sup> See Section 154.63(f) (Schedule C-1).

and 5 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing shall be held on October 28, 1975, at 10 a.m., prevailing time, in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning the lawfulness of the rates, charges, classification, and services contained in Mich-Wis' FPC Gas Tariff, as proposed to be amended herein.

(C) On or before September 16, 1975, the Commission Staff shall serve its prepared testimony and exhibits. Prepared testimony and exhibits of intervenors shall be served on or before September 30, 1975. Company rebuttal shall be served October 14, 1975.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe necessary procedures not provided for by this order, and shall otherwise conduct the hearing in accordance with the terms of this order and the Commission's rules and regulations.

(E) Pending hearing and a decision thereon, the subject tariff sheets tendered by Mich-Wis are suspended for five months, the use thereof deferred until November 1, 1975, or until such further time as they are made effective in the manner prescribed by the Natural Gas Act, subject to the condition that before November 1, 1975, Mich-Wis shall file substitute rates to be effective November 1, 1975, reflecting the elimination from its proposed rates of costs associated with the \$11,265,490 interest reimbursement payments to producers reflected in the instant filing; and subject to the further condition that before November 1, 1975, Mich-Wis shall file substitute tariff sheets reflecting exclusion of costs included in Mich-Wis' proposed rates which are associated with facilities which have not been certificated and placed in service as of November 1, 1975.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13557 Filed 5-22-75; 8:45 am]

[Docket No. RP75-90]

# NATURAL GAS PIPELINE COMPANY OF AMERICA

## Order Denying Petition and Granting Intervention

MAY 16, 1975.

On April 15, 1975, Natural Gas Pipeline Company of America (Natural) filed a Petition for Order Permitting Periodic Adjustment of Rates (Petition) in order that Natural be able to recover costs associated with payments made or to be made to Exxon Company, U.S.A. (Exxon). These payments are pursuant to agreements with Exxon and relate to Ex-



## NOTICES

xon's interest in gas in the Prudhoe Bay Area and Offshore Gulf of Mexico.

Notice of this petition was issued April 21, 1975. To date, various petitions to intervene and notices of intervention have been filed, either supporting the petition, or requesting formal hearing.<sup>1</sup>

Natural's Agreements provide that Natural shall have the exclusive right to negotiate for purchase of 20% of Exxon's interest in gas reserves in the Prudhoe Bay Area and a continuing option to purchase 20% to 40% of Exxon's interest in gas reserves in the Gulf of Mexico. As consideration for this right, Natural has agreed to make semi-annual payments of the interest expense Exxon would incur if it borrowed funds to finance the exploration, development and production costs in the Prudhoe Bay and Gulf of Mexico areas.

With regard to the Gulf of Mexico area, Natural has also agreed to modify its existing gas purchase contracts to include excess royalty, deregulation, national and area rate, and Btu adjustment provisions. Exxon has further agreed to undertake a \$4 million work program in fields currently attached to Natural's system.

Natural seeks to reflect the payments to Exxon by a semi-annual adjustment to its rates pursuant to tracking provisions in tariff sheets filed together with the Petition.<sup>2</sup>

Natural asserts that this proposal is consistent with the objectives of Order No. 499.

However, the purpose of our advance payment programs has been to provide additional capital for producers in order to stimulate exploration, development, and production for the interstate market.<sup>3</sup> These programs are not intended to provide that jurisdictional ratepayers pay interest through pipeline rates on capital which the producer is demonstrably able to acquire. It is apparent from the nature of these agreements that Exxon does have the ability to acquire the capital associated with these projects. Therefore, the agreements and Northern's petition are not consistent with the objectives of Order No. 499. Further, we believe it more appropriate to consider the viability of proposals such as that raised by the instant pleading in the context of any future rulemaking extending the present advance payment program. We shall, accordingly, deny the petition and reject the tendered tariff sheets.

*The Commission finds:* (1) It is necessary and proper in the public interest and in the administration of the Natural Gas Act that Natural's petition be denied.

(2) Good cause exists to grant the intervention of the above named petitioners.

*The Commission orders:* (A) Natural's petition in the instant docket is hereby denied.

<sup>1</sup> See Appendix A.

<sup>2</sup> Original Sheet Nos. 143, 144 and 145.

<sup>3</sup> Docket No. R-411, Order of Clarification and Denial of Rehearing or Modification, issued February 27, 1973.

(B) The above named petitioners are hereby permitted to intervene.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

## APPENDIX A

Northern Illinois Gas Company  
Illinois Power Company  
Peoples Gas Light and Coke Company and  
North Shore Gas Company  
Iowa State Commerce Commission

[FR Doc.75-13571 Filed 5-22-75;8:45 am]

[Docket No. CP75-16, etc.]

## NATURAL GAS PIPELINE COMPANY OF AMERICA, ET AL.

## Denial of Postponement of Conference

MAY 16, 1975.

In the matter of Natural Gas Pipeline Company of America, Docket No. CP75-16; Texas Offshore Pipeline System, Inc., Docket No. CP75-81; Amtex Offshore Pipe Line Company, Docket No. CP75-104.

On May 8, 1975, the Commission gave Notice of the convening of a public informal conference on May 22, 1975, between Staff, Applicants and persons who have filed petitions to intervene in Docket Nos. CP75-16, CP75-81 and CP75-104, which involve apparent competitive applications, to explore the possibility and feasibility of construction of, *inter alia*, a single project with appropriate transmission arrangements made for the other Applicants.

By letter dated May 14, 1975, Natural Gas Pipeline Company of America (Natural) requested that the Commission delay the conference, ostensibly to permit Natural to complete an unspecified reevaluation of its programs to obtain gas from offshore Texas. In response to Natural's request, Michigan Wisconsin Pipe Line Company filed on May 15, 1975, its opposition to any postponement of the conference based upon its view of the urgent need for offshore Texas gas and the escalation in construction costs which would accompany further delay.

Upon review of the submissions made to the Commission as well as the facts underlying the prompt scheduling of the conference, there does not appear to be sufficient cause shown in Natural's request to warrant reversal of the Commission's efforts to expedite these proceedings. Accordingly no good cause is found upon which to grant Natural's request for delay of the May 22, 1975, public informal conference.

It should be noted with respect to the foregoing that the purpose of the public informal conference is to initiate a meaningful dialogue on, among other issues, the apparent competitive problems in this matter and that such timely first step will not foreclose further input from Natural

on its current offshore Texas program reevaluation.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13568 Filed 5-22-75;8:45 am]

[Docket No. RP75-89]

## NORTHERN NATURAL GAS CO.

## Order

MAY 16, 1975.

On April 11, 1975, Northern Natural Gas Company (Northern) tendered for filing proposed changes in its FPC Gas Tariff.<sup>1</sup> The change provides for an average increase of 12.72¢ per Mcf, for an annual increase in jurisdictional revenues of \$69,172,745 based on the twelve months ended December 31, 1974, as adjusted.

Notice of this filing was issued April 18, 1975, with comments, protests, or petitions to intervene due on or before May 1, 1975. Several of Northern's customers and other interested parties have filed petitions to intervene.<sup>2</sup> Northern requested an effective date of May 27, 1975, for the proposed increase.

Northern's increase relates to sales in Northern's principal market area as well as to field sales in areas south of its principal market area. Northern also proposes a new rate schedule, Rate Schedule E-1, to provide for sale of gas to certain gas utility customers during emergency situations. The rates for this service are based on rates under two other rate schedules, the Pipeline Overrun and the Authorized Overrun Service, plus 50¢ per Mcf.

The proposed increase is based on diverse factors, including increases in the cost of new gas supplies, increases in costs of certain LNG and other storage facilities, loss of revenues from reduced interruptible sales, and an increase in the overall rate of return and in the annual depreciation rate.

Included within the increase in the cost of obtaining new gas supplies are costs associated with certain agreements between Northern and Exxon Company, U.S.A., respecting Exxon's interests in gas in the Prudhoe Bay and Offshore Gulf of Mexico areas. These agreements provide that Northern make interest payments instead of advance payments. These agreements are inconsistent with the purpose of our advance payments programs, which are to provide needed capital for exploration, development, and production for the interstate market and not to relieve producers of interest payments when they can already obtain the capital.<sup>3</sup> Furthermore, we believe it more appropriate to consider the viability of such proposals in the context of any future rulemaking extending the present

<sup>1</sup> Eighth Revised Sheet No. 1, Seventh Revised Sheet No. 4a, Original Sheet No. 4b, and Original Sheets No. 45, 46, 47, and 48 to Third Revised Volume No. 1; Seventh Revised Sheet No. 1c to Original Volume No. 2.

<sup>2</sup> See Appendix A.

<sup>3</sup> Docket No. R-411, Order of Clarification and Denial of Rehearing or Modification, issued February 27, 1973.

advance payment program. Accordingly, we shall accept these tariff sheets on the condition that Northern file revised tariff sheets eliminating the impact of these costs.

Northern has applied the entire increase herein to the commodity component of its jurisdictional rates. As a result of this application, Northern states that 75.2% of its fixed costs will be recovered from the commodity component of its rates, with the remaining 24.8% of fixed costs to be recovered in the demand component of the rates. We believe that the parties should address Northern's proposed rate design, as well as any other methods of rate design, including our proposal related to End Use Rate Schedules<sup>4</sup> to provide a complete record upon which our decision can be made in this regard.

Rate Schedule E-1 provides for sales of volumes of gas not otherwise available under Northern's other rate schedules. This rate schedule is for service which Northern has no certificate authority to provide. Accordingly, we shall reject the tendered tariff sheets containing Rate Schedule E-1.<sup>5</sup>

Northern's filing also includes in rate base certain amounts of construction work in progress. These amounts relate in part to facilities for which a certificate application has been filed.<sup>6</sup> \$154.63 of our regulations require that facilities must be certificated and in service to be included in rate base. We have not yet adopted our proposed rulemaking, notice of which was issued in Docket No. RM75-13<sup>7</sup>, relating to the inclusion of construction work in progress in rate base. We accordingly provide that if the facilities included in rate base are not certificated and in service by October 27, 1975, Northern shall file revised tariff sheets to become effective October 27, 1975, reflecting the elimination of these amounts from its rate base.

Our review of the changes in rates filed herein otherwise indicates that the proposed rates have not been shown to be just and reasonable. We shall therefore accept those sheets for filing and suspend them for the full statutory period, when they will be permitted to become effective, subject to refund. We shall also provide for an evidentiary hearing to test the lawfulness of the proposed rates.

*The Commission finds:* (1) It is necessary and proper in the public interest and to aid in the enforcement of the Natural Gas Act to enter upon a hearing as to the lawfulness of Northern's proposed changes as accepted and conditioned herein.

(2) The proposed changes in Northern's FPC Gas Tariff should be accepted for filing and suspended for five months, until October 27, 1975, or until they are made effective in the manner provided

<sup>4</sup> Notice of Proposed Rulemaking with Request for Comments, Docket No. RM75-19, issued February 20, 1975.

<sup>5</sup> Sheet Nos. 4b, 45, 46, 47, and 48.

<sup>6</sup> Docket Nos. CP75-229 and CP75-280.

<sup>7</sup> Issued November 14, 1974.

## NOTICES

under the Natural Gas Act, subject to refund, all as conditioned and ordered herein.

(3) Good cause exists to permit the intervention of the above mentioned petitioners.

(4) Good cause exists to reject proposed Rate Schedule E-1.

(5) Good cause exists to grant waiver of § 154.63(e)(2)(ii) of the regulations as hereinafter ordered and conditioned.

*The Commission orders:* (A) Pending hearing and decision thereon, Northern's proposed tariff sheets filed in the instant docket are hereby accepted for filing and suspended for five months and the use thereof deferred until October 27, 1975, or until such time as they are made effective in the manner provided in the Natural Gas Act, subject to refund, all as hereinafter ordered and conditioned.

(B) Pursuant to the authority of the Natural Gas Act, particularly Sections 4 and 5 thereof, the Commission's rules and regulations (18 CFR, Chapter I), a hearing for purposes of cross examination concerning the lawfulness and reasonableness of the proposed changes in the rates and charges in Northern's FPC Gas Tariff, shall be held on October 21, 1975, at 10 a.m., e.d.t. in a hearing room of the Federal Power Commission, 225 North Capitol Street, N.E., Washington, D.C. 20426.

(C) On or before September 9, 1975, the Commission Staff shall serve its prepared testimony and exhibits. Any Intervenor testimony and exhibits will be served on or before September 23, 1975. Company rebuttal evidence, if any, will be served on or before October 7, 1975.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding in accordance with the policies expressed in § 2.59 of the Commission's rules of practice and procedure.

(E) Within thirty days of the issuance of this order, Northern shall file revised tariff sheets reflecting elimination of the rate effect of its agreements with Exxon, U.S.A.

(F) Those tariff sheets containing Rate Schedule E-1 are hereby rejected.

(G) The subject tariff sheets are accepted for filing and suspended provided, however, that in the event that the facilities included in rate base are not certificated and in service by October 27, 1975, Northern shall file revised tariff sheets to become effective October 27, 1975, reflecting elimination of these amounts from its rate base.

(H) Waiver of § 154.63(e)(2)(ii) is hereby granted subject to the foregoing condition.

(I) The above mentioned petitioners are hereby permitted to intervene in this proceeding, subject to the Rules and Regulations of the Commission; Provided, however, that the participation of such intervenors shall be limited to matters affecting the rights and interests specifically set forth in their petitions to intervene; and Provided, further, that the admission of such intervenors shall not be construed as recognition that they, or any of them, might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(J) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

## APPENDIX A

Iowa Southern Utilities Company  
Northwestern Public Service Company  
Lake Superior District Power Company  
Metropolitan Utilities District of Omaha  
Michigan Wisconsin Pipe Line Company  
Northern Illinois Gas Company  
Exxon Corporation  
Central Telephone and Utilities Corporation  
Iowa-Illinois Gas and Electric Company  
Minnesota Gas Company  
Suburban Rate Authority  
City of Duluth, Minnesota  
Superior Water, Light and Power Company  
Terra Chemicals, International, Inc.  
Farmland Industries, Inc.  
Northern Municipal Defense Group and  
Minnesota Municipal Utilities Association  
North Central Public Service Company

[FR Doc.75-13572 Filed 5-22-75;8:45 am]

[Docket No. RI75-116]

## NORTHEAST BLANCO DEVELOPMENT CORP.

## Order Permitting Movant To Become Co-Petitioner

MAY 19, 1975.

On April 14, 1975, Blackwood & Nichols Co., Ltd. (Blackwood & Nichols) filed a motion to be substituted, insofar as its interest is concerned, for Northeast Blanco Development Corp. (Blanco) in the captioned proceedings. By assignment, dated March 24, 1975, effective March 1, 1975, Blanco assigned its interest in certain leases covered by Blanco's FPC Gas Rate Schedule No. 1, which are involved in this proceeding, to Blackwood & Nichols.

Consequently, we find that good cause exists to allow Blackwood & Nichols to become a co-petitioner in this proceeding.

*The Commission orders:* Blackwood & Nichols is hereby deemed to be a co-petitioner in Docket No. RI75-166; Provided, that Blackwood and Nichols shall take the record in this proceeding as it now stands.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13559 Filed 5-22-75;8:45 am]

[Docket No. E-8888]

## OHIO ELECTRIC CO.

## Further Extension of Procedural Dates

MAY 16, 1975.

On May 14, 1975, Ohio Electric Company filed a motion to extend the proce-



dural dates fixed by order issued September 16, 1974, as most recently modified by notice issued May 2, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, May 27, 1975.  
Service of Company Rebuttal, June 17, 1975.  
Hearing, July 9, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13560 Filed 5-22-75; 8:45 am]

[Docket Nos. E-8999; E-9000; E-9001]

**ORANGE AND ROCKLAND UTILITIES, INC.  
AND ROCKLAND ELECTRIC CO.**

**Further Postponement of Hearing**

MAY 16, 1975.

On May 1, 1975, the Board of Public Works in the Borough of Park Ridge filed a motion to defer the hearing date fixed by order issued September 27, 1974, as most recently modified by notice issued March 28, 1975, in the above-designated matter. On May 15, 1975, Staff Counsel filed a motion to defer all procedural dates. The motions state that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, June 3, 1975.  
Service of Intervenor's Testimony, June 24, 1975.  
Service of Company Rebuttal, July 8, 1975.  
Hearing, July 22, 1975, (10:00 a.m. e.d.t.).

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13561 Filed 5-22-75; 8:45 am]

[Docket No. C175-656]

**PERMIAN CORP.**

**Application**

MAY 16, 1975.

Take notice that on May 8, 1975, The Permian Corporation (Applicant), P.O. Box 1183, Houston, Texas 77001, filed in Docket No. C175-656 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a sale of natural gas in interstate commerce to El Paso Natural Gas Company (El Paso) from production by Bill J. Graham in the Susita Field, Crockett County, Texas, all as more fully set forth in the application on which is on file with the Commission and open to public inspection.

Applicant proposes to abandon the sale of gas to El Paso at 25 cents per Mcf (14.65 psia) from the Susita Field which has been made pursuant to Applicant's FPC Gas Rate Schedule No. 3.<sup>1</sup> Applicant

<sup>1</sup> As other sales of gas are made by Applicant pursuant to its FPC Gas Rate Schedule No. 8, the proposed abandonment is a partial abandonment.

shows as its reason for the proposed abandonment that its gas supplier for the subject sale to El Paso, Bill J. Graham, is terminating his sale to Applicant.<sup>2</sup> The application indicates that Bill J. Graham is abandoning his percentage-type sale to Applicant because such sale is no longer economical.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 11, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13562 Filed 5-22-75; 8:45 am]

[Docket No. C175-406]

**PHILLIPS PETROLEUM CO.**

**Notice Denying Deferral of Procedural Dates**

MAY 15, 1975.

On April 23, 1975, Associated Gas Distributors (AGD) filed a petition for leave to intervene out of time and a request for immediate certification. On May 5, 1975, Phillips Petroleum Company filed a response in support of the above motion and further requested the procedural dates fixed by order issued April 1, 1975, as most recently modified by notice

<sup>2</sup> Notice of Bill J. Graham's application in Docket No. C175-656 for permission and approval to abandon his sale of gas to Applicant was issued on May 2, 1975.

issued April 21, 1975, in the above-designated matter, be deferred pending Commission action on the above motion.

Upon consideration, the request that the procedural dates be deferred is denied. Service of supporting testimony remains due on May 19, 1975, and the hearing remains scheduled for June 5, 1975, at 10 a.m. (e.d.t.). Other pending motions in this docket remain for further Commission action.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13563 Filed 5-22-75; 8:45 am]

[Docket Nos. E-8586; E-8587]

**PUBLIC SERVICE COMPANY OF INDIANA**

**Order Denying Reconsideration**

MAY 16, 1975.

On April 16, 1975, the Indiana Municipal Electric Association and 24 Cities and towns in the State of Indiana (collectively the IMEA Cities), pursuant to section 313(a) of the Federal Power Act and § 1.34 of our regulations thereunder, applied for rehearing of an order issued March 17, 1975, in the above-captioned proceedings. In that order we affirmed the ruling of the Presiding Administrative Law Judge to strike from evidence the testimony and exhibits of IMEA Cities' witness Professor John M. Kuhlman. IMEA Cities request us, upon rehearing, to order the record in these proceedings re-opened for the purpose of receiving into evidence the subject items for consideration by the Presiding Judge in reaching his initial decision.

Section 1.34 specifies that applications for rehearing must relate to final decisions or orders of the Commission. The order here complained of its interlocutory and purely procedural in nature. Accordingly, we must dismiss IMEA Cities' application for rehearing as improvidently taken. Consistent with our established practice in such circumstances, however, we shall treat said filing as a motion for reconsideration of our March 17, 1975 order. Pursuant to § 1.12(c) of our regulations, we therefore accept for consideration the responsive pleadings filed on April 30, 1975 and May 1, 1975 by the Public Service Company of Indiana (PSCI) and the Hoosier Energy Division of the Indiana Statewide Rural Electric Cooperative, Inc. (Hoosier), respectively.

PSCI tendered proposed revisions to its municipal tariff on January 8, 1974. IMEA Cities petitioned to intervene in the proceedings on January 28, 1974, and requested the Commission to reject the proposed increase as violative of the antitrust laws and the Federal Power Act. In an order issued March 7, 1974, we accepted the tendered rate increase, suspended it for five months, granted intervention to IMEA Cities, and set the matter for hearing. With respect to IMEA Cities, we noted that the anticompetitive allegations which they raised in their petition had arisen from the same factual background and involved the

same parties then the subject of proceedings before the Commission in Docket Nos. E-7638 and E-7647.<sup>1</sup> We deemed it advisable to avoid duplicate litigation of the antitrust issues and, accordingly, ordered them removed from consideration in the instant proceedings.

In the course of hearing, IMEA Cities produced witness Kuhlman, whose prepared testimony was originally transcribed into the record at Tr. 1320-1344. In his presentation he made reference to two interconnection agreements marked for identification as Exhibits 34 and 35. These are described in detail in the first footnote in our order of March 17, 1975. The testimony and exhibits were challenged by the Commission Staff, PSCI, and Hoosier. After considering oral comments and subsequently filed briefs supporting and opposing the admissibility of the subject evidence, the Presiding Judge determined to strike said evidence in accordance with our March 7, 1974, severance of antitrust issues from these proceedings. Upon review of his certified ruling in this regard, we upheld the result, although we based our decision upon what we found to be a lack of relevancy in the subject evidence.

Upon a thorough review of Professor Kuhlman's testimony, and after having given thorough consideration to IMEA Cities' application, we conclude that we must deny the application for rehearing. Professor Kuhlman's testimony clearly presents as the principal issue the authority of the Commission to establish hypothetical rates not based on actual service. Professor Kuhlman's testimony puts forth the issue of the authority of the Commission to establish

... those rates which would have prevailed in the absence of such anti-competitive practices and which would have been established through competitive bargaining between the seller of bulk power and the buyers of bulk power with the latter having an unimpeded and unrestricted power to exercise their alternatives. (Professor Kuhlman's testimony at page 25.)

We stated in our March 17, 1975 order, and we now reaffirm our view, that the Federal Power Act does not authorize the Commission to establish rates for service which is not provided, that is rates for service which is only hypothetical or speculative.<sup>2</sup> Similarly we do not have the authority to order rate reparations for antitrust violations, if found. Claims for any damages which may have been incurred by IMEA Cities due to antitrust violations must be pursued in the appropriate court under the antitrust laws.

With respect to future relief from any anticompetitive violations, we note, as we did in our March 17, 1975 order, that anticompetitive issues are presently the

<sup>1</sup> Currently on remand to the Commission in City of Huntington, Indiana v. F.P.C., 498 F.2d 778 (D.C. Cir. 1974).

<sup>2</sup> We would therefore be precluded from fixing as the rates to IMEA Cities those rates which Hoosier would have charged had Hoosier been able and willing to offer service to IMEA Cities during the period in question.

subject of our consideration in Docket Nos. E-7638 and E-7647 involving PSCI. We intend to pursue those issues in that consolidated proceeding.

In their application for rehearing, however, IMEA Cities present a new approach. The Cities, in arguing that the testimony should be admitted, state

Just as the rates should be appropriately adjusted under Section 206 of the Act when they are found to have been adversely affected by anti-competitive factors, a filing under section 205 of unduly discriminatory rates caused by anti-competitive factors must likewise be remedied as of the date the increased rates were first placed into effect. (Cities' application, at 3.)

Cities further state that the Commission has both the authority and the obligation to consider antitrust allegations and "to make its remedy effective as of the date the rates were put into effect subject to refund". (Cities' application, at 3.)

We have not, and do not here, dispute this argument. We have not, by our action in this proceeding, denied our authority or obligation to consider antitrust allegations. We have merely found the proper forum for the allegations to be another pending proceeding. With respect to our rate relief authority, by refusing Cities' allegations of any reparation authority, we have consistently and implicitly held that we do have the authority to remedy undue discrimination from the date the rates were placed into effect subject to refund.

If such relief is the relief requested by Cities, and if the authority of the Commission to grant such relief is the actual issue presented, as Cities' most recent pleading clearly indicates, we must reaffirm our previous order and deny the admission into evidence of Professor Kuhlman's testimony on the grounds of lack of relevancy. As earlier indicated, both in this order and in our March 17, 1975 order, Professor Kuhlman's testimony is directed to the issue of the Commission's authority to set as proper rates the rates which would have existed if Cities had been afforded alternatives. This testimony is not directed to, and presents no relevant evidence on the principal issue now expounded by Cities—that it is entitled to the same rates as presently offered Hoosier. Because Professor Kuhlman's proffered testimony is clearly irrelevant to the testimony necessary to support Cities' newly advanced issue of relief we must reaffirm our prior affirmation of exclusion and deny Cities' application for rehearing. This action is required both by the provisions of our own Rules of Practice and Procedure<sup>3</sup> and by the provisions of the Administrative Procedure Act.<sup>4</sup>

<sup>3</sup> Section 1.26(a) of the Commission's rules of practice and procedure provides in part: In any proceeding before the Commission or a presiding officer relevant and material evidence shall be admissible . . . (emphasis supplied).

<sup>4</sup> Section 7(c) of the Administrative Procedure Act provides in part: Any oral or documentary evidence may be received, but

Because we find that the proffered testimony should be excluded on the basis of lack of relevancy we conclude that Cities' citation of the Conway decision<sup>5</sup> to be unpersuasive. We note moreover that the Conway case did not involve the issue of rate discrimination due to a foreclosure of alternate supply sources but involved the issue of "price squeeze", an issue not raised in the instant proceeding. Furthermore, the U.S. Court of Appeals for the D.C. Circuit has stayed the mandate in that decision until June 25, 1975 upon motion of this Commission to allow time to seek certiorari. Consequently, that decision is not yet final.

The Commission finds: IMEA Cities' April 16, 1975 request for reconsideration of our March 17, 1975 order affirming the Presiding Judge's exclusion from evidence of the proffered testimony and exhibits of Professor Kuhlman presents no new grounds or issues which would warrant grant of reconsideration.

The Commission orders: (1) IMEA Cities' request for reconsideration is hereby denied.

(2) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13564 Filed 5-22-75; 8:45 am]

[Project No. 1894]

**SOUTH CAROLINA ELECTRIC & GAS CO.  
Application for Divergence From Approved  
Exhibit To Use Borrow Area**

MAY 16, 1975.

Public notice is hereby given that an application for divergence from an approved exhibit to use a borrow area above the high water mark of the Monticello Reservoir was filed on April 4, 1975, under the Federal Power Act (16 U.S.C. 791a-824r) by South Carolina Electric and Gas Company (Applicant) (Correspondence to: Mr. V. C. Summer, Senior Vice President, South Carolina Electric & Gas Company, P.O. Box 764, Columbia, South Carolina 29202) for the Farr Project No. 1894, located on the Broad River in Fairfield and Newberry Counties, South Carolina, and affecting lands of the United States within the Sumter National Forest. Applicant requests Commission approval to use a 34-acre area above the high water mark of the Monticello Reservoir to obtain 950,000 cubic yards of borrow material for the construction of dams to create the Monticello Reservoir.

Applicant had previously in its Exhibit V stated that it intended to take borrow material from the cleared Mon-

every agency shall as a matter of policy provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence. . . . (emphasis supplied).

<sup>5</sup> Conway Corp. v. F.P.C., — F.2d — (D.C. Cir. No. 73-2207, decided April 4, 1975).



ticello Reservoir. This statement was approved and made a part of the license for this project. Applicant now states that, while there is sufficient borrow material within the reservoir area, a savings of \$250,000 can be achieved by obtaining a portion of the borrow material needed from the 34-acre area.

The proposed borrow area is located adjacent to Dam "A" in Fairfield County and, more specifically, is located within the N. 483,000, N. 487,000, E. 1,898,000, and E. 1,900,000 State Grid System Coordinates. Applicant states that no United States lands or lands owned by the State of South Carolina would be affected. Applicant further states that no residences, cemeteries, historical, or archaeological sites would be affected. Finally, Applicant states that the borrow area will be terraced and graded to the satisfaction of the U.S. Department of Agriculture, Soil Conservation Service. Applicant would then cover the area with the original topsoil and plant the area with a ground cover recommended by the South Carolina Department of Wildlife and Marine Resources. Because of the fact that matters related to the construction of new capacity are being considered, a shortened notice period is appropriate.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 2, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act (16 U.S.C. 825g, 825h) and the Commission's rules of practice and procedure, specifically § 1.32(b) (18 CFR 1.32(b)), as amended by Order No. 518, a hearing may be held without further notice before the Commission on this application if no issue of substance is raised by any request to be heard, protest or petition filed subsequent to this notice within the time required herein and if the applicant or initial pleader requests that the shortened procedure of § 1.32(b) be used. If an issue of substance is so raised or applicant or initial pleader fails to request the shortened procedure, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant or ini-

tial pleader to appear or be represented at the hearing before the Commission.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13565 Filed 5-22-75; 8:45 am]

[Docket No. RP75-84]

#### SOUTHERN NATURAL GAS CO.

##### Order

MAY 15, 1975.

On March 31, 1975, Southern Natural Gas Company (Southern) tendered for filing proposed changes in its FPC Gas Tariff, Sixth Revised Volume No. 1. The proposed changes are based on the 12-month period ending December 31, 1974, as adjusted, and would increase jurisdictional revenues by \$91,080,244. Notice of Southern's filing was issued on April 7, 1975 with protests and petitions to intervene due on or before April 25, 1975. The proposed effective date is May 16, 1975.

Southern states that the principal reasons for the proposed rate increase are to reflect (1) an increase in the overall rate of return to 10.69%; (2) an increase in the book depreciation rates to 8.5% for Southern's supply system and 5.25% for Southern's transmission and storage system; (3) to adjust Southern's plant for Construction Work in Progress (CWIP); (4) to reflect increased operation and maintenance expenses, including \$12.0 million of interest reimbursement advances to producers and increases in purchased gas costs and expenses for gas from Company-owned production and from independent producers; and (5) to reflect increased levels of advance payments to producers.

Southern states that CWIP is included in rate base in light of proposed rulemaking in Docket No. RM75-13. We have not yet ruled on the merits of the proposed rulemaking at Docket No. RM75-13, therefore, it is premature to assume its adoption. The Commission's present Regulations, Section 154.63, requires that plant included in the rate base at the time of filing must be certified. In addition, such plant must be in service by the end of the test period. Southern has not conformed with these requirements and therefore, we will reject the filing insofar as it reflects inclusion in rate base of any facilities not certified and in service at the end of test period.

As noted above Southern's filing also reflects \$12.0 million of interest reimbursement to producers under the category of operating and maintenance expenses. The Commission has allowed payments to producers before delivery of gas, but only under certain, prescribed conditions. The payments which Southern has included in the instant filing do not meet the requirements of our advance payment regulations and accordingly must be rejected. The purpose of

\* Thirteenth Revised Sheet No. 4A.

\* Order Nos. 410, 410-A, 441, 465, 499.

our advance payment programs has been to assist the producers in capital formation in order to stimulate exploration, development, and production for the interstate market. (Order No. 441, 48 FPC 1178 at 1180.) These programs are not intended to provide that jurisdictional rate payers pay interest through pipeline rates on capital which the producer is demonstrably able to acquire. It is apparent by the nature of these agreements that the producers do have the ability to acquire the capital associated with the projects. Therefore, Southern's proposed rate treatment of these interest reimbursement payments to producers must be rejected as inconsistent with the requirements and intent of our outstanding advance payment rulemaking orders. Further, we believe it more appropriate to consider the viability of such proposals in the context of any future rulemaking extending the advance payment program.

We note that the rate design included in Southern's filing reflects the unmodified *Seaboard* method of cost classification and cost allocation.

In Opinion No. 671 we expressed our concern over the worsening gas supply situation and particularly as it existed on United's system. Based upon the record in that case we concluded that more weight should be given to annual use of United's pipeline system than is characteristic of the unmodified *Seaboard* methodology. Therefore, we assigned 75 percent of fixed costs to the commodity component of two-part rates and to the straight-line rates. Part of our rationale was that in view of the gas supply shortage, low priority usage should be discouraged and the price gap between natural gas and alternative fuels in the interruptible industrial market should, at the minimum, be narrowed.

In light of our policy of considering competitive fuel prices in setting commodity rate levels and of the present supply and market conditions on the Southern system, all parties to this proceeding should direct their attention, and file any evidence they wish to submit, as to the propriety of the continued use of the *Seaboard* method of cost classification and allocation, as well as to the propriety of Southern's rate design proposed herein. Further, we urge all parties to suggest alternative methods of cost classification, allocation and rate design which they believe may more closely reflect or implement the Commission's objectives in this area. In this connection we refer the parties to our recent rulemaking Docket No. RM75-19 issued February 20, 1975.

Numerous petitions to intervene have been received. (See Appendix A). Good cause exists to grant all these petitions.

\* See Accounts 165 and 166 in Part 201 of the Commission's Regulations Under the Natural Gas Act.

\* See: Footnote 3 in our order of May 31, 1974, in *Columbia Gas Transmission, et al.*, Docket Nos. RP74-82 and RP74-81.

[Docket Nos. CI75-45, et al.]

#### TENNECO OIL COMPANY, ET AL. Order Consolidating Proceedings and Prescribing Service of Evidence

MAY 16, 1975.

By order issued April 14, 1975, the Commission, *inter alia*, consolidated a number of proceedings in Docket No. CI75-45, et al., granted petitions to intervene, ordered a formal hearing to convene on May 19, 1975, and prescribed procedures to be followed therein.

Subsequent to the issuance of the Commission's April 14, 1975, order, Trunkline Gas Company (Trunkline) filed an application in Docket No. CP75-330, seeking a certificate of public convenience and necessity authorizing the transportation of certain volumes of gas for two groups of producers. These groups include Placid Oil Company, Hunt Industries, Hunt Petroleum Corporation, Hamilton Brothers Oil Company, Hamilton Brothers Exploration Company, Hamilton Brothers Petroleum Corporation (Placid Group) and Ashland Oil, Inc., Highland Resources, Inc. and Kewanee Oil Company (Ashland Group). This application also involves the transportation of offshore reserves from South Marsh Island Blocks 268, 269 and 281. The gas to be transported will be received in a common stream with other gas purchased by Trunkline from other producers and will be transported through facilities requested by Trunkline in Docket No. CP75-19. On May 7, 1975, Trunkline filed a motion requesting the Commission to consolidate the above referenced docket with Docket No. CP75-19.

The Commission in considering Trunkline's motion has taken note of the relationship of the issues contained in the instant proceeding to those set forth in Docket No. CP75-19, which has been consolidated, with other dockets, into Docket No. CI75-45, et al., and has determined that a sufficiently direct relationship exists to warrant the consolidation of this docket with Docket No. CI75-45, et al.

*The Commission finds:* The proceeding involved in Docket No. CP75-330 contains common questions of law and fact with the proceedings in Docket No. CP75-45, et al., consequently, good cause exists to consolidate this proceeding with Docket No. CP75-45, et al.

*The Commission orders:* (A) The proceeding involved in Docket No. CP75-330 is hereby consolidated with the proceedings in Docket No. CP75-45, et al., for purposes of hearing and decision.

(B) Applicants and persons in support of the application in Docket No. CP75-330 shall serve prepared testimony in support thereof, including prepared testimony of witnesses and exhibits, on the Office of the Administrative Law Judge, the Commission's Staff, and every party to this proceeding within ten days after issuance of this order.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13567 Filed 5-22-75; 8:45 am]

dence by CIG shall be served on or before October 10, 1975.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in § 2.59 of the Commission's rules of practice and procedure.

(F) Pending hearing and a decision thereon Southern's tariff sheets are suspended for five months and the use thereof deferred until October 16, 1975, or until such further time as they are made effective in the manner provided in the Natural Gas Act subject to the condition that before October 16, 1975, Southern Natural shall file substitute rates to be effective October 16, 1975, reflecting the elimination from its proposed rates of costs associated with facilities not certificated and in service by that date and the \$12.0 million interest reimbursement payments to producers reflected in the instant filing.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

##### APPENDIX A

##### PETITION TO INTERVENE

South Carolina Public Service Commission  
Alabama Public Service Commission  
Georgia Municipal Association  
Tennessee Public Service Commission  
Alabama Gas Corporation  
Atlanta Gas Light Company  
Carolina Pipeline Company  
Florida Gas Transmission Company  
Gas Light Company of Columbus  
Georgia Industrial Group  
Mississippi Valley Gas Company  
South Carolina Electric & Gas Company  
Southern Tier Gas Corporation

[FR Doc. 75-13573 Filed 5-22-75; 8:45 am]

[Docket No. RI75-6]

#### SUN OIL CO.

##### Further Extension of Procedural Dates

MAY 15, 1975.

On April 30, 1975, Sun Oil Company filed a motion to extend the procedural dates fixed by order issued February 28, 1975, as most recently modified by notice issued March 25, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Company Direct Testimony, June 2, 1975.

Service of Staff's Testimony, June 16, 1975.

Service of Company Rebuttal, June 23, 1975.

Hearing, June 30, 1975 (10 a.m. e.d.t.)

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13566 Filed 5-22-75; 8:45 am]



(Docket No. RP74-39-8, etc.)

TEXAS EASTERN TRANSMISSION CORP.  
ET AL

## Order

May 16, 1975.

In the matter of Texas Eastern Transmission Corporation (North Alabama Gas District), Docket No. RP74-39-8; Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (North Alabama Gas District), Docket No. RP74-91-20; Alabama-Tennessee Natural Gas Company (United States Steel Corporation), Docket No. RP75-44-3.

United States Steel Corporation (USS) owns an anhydrous ammonia manufacturing facility in Cherokee, Alabama. It uses natural gas for feedstock and to heat a catalyst in the manufacturing process.

USS purchases all of its natural gas from two sources—North Alabama Gas District (North Alabama) and Alabama-Tennessee Natural Gas Company (A-T), the latter being a jurisdictional pipeline company. North Alabama, in turn, purchases all of the volumes it sells to USS from two jurisdictional pipelines, Texas Eastern Transmission Corporation (TETCO) and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (TGP).

On March 19, 1974, North Alabama filed, in Docket No. RP74-39-8, a petition for extraordinary relief pursuant to § 1.7(b) of the Commission's rules of practice and procedure. At the time of the filing, TETCO was the only one of USS's pipeline suppliers in curtailment. Now all three are curtailing USS at least at some times during the year.

Eight days of hearing resulted in a full record, on the basis of which we granted North Alabama's petition for relief.<sup>1</sup> On February 26, 1975, we issued an order, subsequently modified by our order of May 1, 1975, which provided that TETCO deliver to North Alabama up to the following volumes:

Prior to May 1, 1975, 14,800 Mcf per day.  
May 1, 1975 through August 31, 1976, 12,017 Mcf per day.  
On and After September 1, 1976, 7,211 Mcf per day.

In our February 26 order, we reduced the relief volumes to be provided by TETCO after May 1, 1975 in order to reflect curtailments by TGP and A-T. We stated:

Imposition of this limitation should insure that relief gas diverted from other TETCO customers will not be used to remedy curtailments imposed by other suppliers and also should encourage Ag-Chem to seek any necessary additional gas by petitioning separately for relief from Alabama-Tennessee and Tennessee, which are not parties to this proceeding. However, we will delay the imposition of this volumetric limitation until May 1, 1975, in order to give Ag-Chem sufficient time to file those petitions and to prevent a severe loss in production during March when

<sup>1</sup> Among other things, it was determined that USS requires up to 17,623 Mcf per day (at 15.025 psia) to achieve maximum output of ammonia. The plant's capacity is reduced in warmer weather.

Ag-Chem will not receive any gas from Tennessee.

On March 25, 1975, North Alabama filed, in Docket No. RP74-91-20, a petition for extraordinary relief from curtailment by TGP. The petition was supplemented by a filing of April 21, 1975. North Alabama requests that we issue an order directing TGP to deliver 1,667 Mcf per day for the use of USS. North Alabama requests that we grant its petition without a hearing.

On March 24, 1975, USS filed, in Docket No. RP75-44-3, a petition for extraordinary relief from curtailment by A-T. The petition was supplemented by filings of April 18, 1975 and May 2, 1975. USS requests that we issue an order directing A-T to deliver to it its full contract volumes, or, in the alternative, sufficient volumes to bring the total deliveries at USS to 17,623 Mcf per day. USS requested that we grant its petition without a hearing.

USS has contracts with its suppliers for the following volumes (all at 15.025 psia):

	Thousand cubic feet per day
TETCO	14,800
TGP	2,000
A-T	1,471
Interruptible	3,431
Total	21,702

Current projections of supply to USS for May 1975 through October 1975 are shown below (all volumes at 15.025 psia):

Month	Texas Eastern <sup>1</sup>	A-T <sup>2</sup>	Tennessee <sup>3</sup>	Total	Percent of 17,623	Shortfall
May	12,017	2,074	2,000	16,091	91.3	1,532
June	12,017	2,074	2,000	16,113	91.4	1,510
July	12,017	2,074	2,000	16,091	91.3	1,532
August	12,017	2,074	2,000	16,091	91.3	1,532
September	12,017	2,074	2,000	16,091	91.3	1,532
October	12,017	2,074	2,000	16,091	91.3	1,532

<sup>1</sup> Pursuant to our order of May 1, 1975, in Docket No. RP74-39-8.

<sup>2</sup> Figures taken from answer of A-T filed in Docket No. RP 75-44-3 on Apr. 18, 1975.

<sup>3</sup> Figures verified by TGP letters attached to North Alabama's supplemental petition filed Apr. 21, 1975.

USS and North Alabama request that relief from curtailments by A-T and TGP be granted without a hearing. We shall deny those requests. In our May 1 order, in Docket No. RP74-39-8, we stated "This order should not be interpreted as a pre-judgment of those petitions filed by USS and North Alabama in Docket Nos. RP75-44-3 and RP74-91-20, or as a preliminary statement that further relief is actually necessary or justified on those systems."<sup>2</sup> We believe that we must ascertain the impact upon TGP, A-T and their customers of granting relief on those systems, prior to granting the two petitions. A hearing is necessary in order to accomplish that end.

Additionally, inasmuch as the relief sought by the two petitioners is for an indefinite period of time, and inasmuch as the claim for relief rests upon petitioners' assertions of a nationwide shortage of fertilizer, we believe it necessary to place on the record a current picture of the fertilizer situation. In order to protect the interests of TETCO's customers, we shall reopen the proceedings in Docket No. RP74-39-8 for the limited purposes of taking evidence on the current status of fertilizer supply, and to update the record with regard to petitioners' success, or lack thereof, in obtaining supplemental supplies of natural gas or SNG.

We shall consolidate Docket Nos. RP74-39-8, RP74-91-20 and RP75-44-3 for the purposes of hearing and decision.

North Alabama and USS shall be required to present evidence on the following issues:

(1) The degree of severity of the ammonia and fertilizer shortages, and

\* Order Modifying Order Granting Extraordinary Relief and Denying Applications for Rehearing, mimeo at 6n.\*

particularly the current supply and demand projections by both industry and government. This evidence should include, but should not be limited to, current projections for the Spring, 1975 planting season.

(2) The current and future ability of North Alabama and USS to obtain alternate supplies of SNG and natural gas of either an interstate or intrastate nature.

Public notice of TGP's petition, and of A-T's petition was issued on April 2 and April 3, 1975, respectively, with protests and petitions to intervene in both proceedings on or before April 18, 1975. Petitions to intervene were received from the following parties:

Docket No. RP75-44-3

Tennessee Valley Authority

Docket No. RP74-91-20

Bay State Gas Company, et al.  
Columbia Gas Transmission Corporation  
General Motors Corporation  
Peoples Gas Light and Coke Company  
Brooklyn Union Gas Company

Columbia Gas Transmission Corporation, Peoples Gas Light and Coke Company and Brooklyn Union Gas Company request that a hearing be held.

The Commission finds: (1) Good cause exists to reopen the record in Docket No. RP74-39-8 for the limited purposes hereinafter ordered.

(2) Good cause exists to consolidate the proceedings in Docket Nos. RP74-39-8, RP74-91-20 and RP75-44-3 for the purposes of hearing and decision.

(3) Good cause exists to set these consolidated proceedings for formal hearing.

(4) The participation of each of the parties who filed petitions to intervene

in Docket Nos. RP74-91-20 and RP75-44-3 may be in the public interest.

The Commission orders: (A) The record in the proceedings in Docket No. RP 74-39-8 shall be reopened for the purposes of taking evidence on the current fertilizer supply situation, and to update the record regarding petitioners' success in obtaining supplemental supplies of natural gas, and for the issuance of any supplemental order in this Docket as the record may require.

(B) The proceedings in Docket Nos. RP74-39-8, RP74-91-20 and RP75-44-3 shall be consolidated for the purposes of hearing and decision.

(C) Pursuant to the authority of the Natural Gas Act, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act, a public hearing shall be held on June 18, 1975 at 10 a.m. in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning the USS and North Alabama petitions.

(D) USS and North Alabama should present, *inter alia*, evidence which is relevant and material to the following issues:

(1) The degree of severity of the ammonia and fertilizer shortages, and particularly the current supply and demand projections by both industry and government. This evidence should include, but should not be limited to, current projections for the Spring, 1975 planting season.

(2) The current and future ability of North Alabama and USS to obtain alternate supplies of SNG and natural gas of either an interstate or intrastate nature.

(E) The above-named petitioners are hereby permitted to intervene in this proceeding subject to the rules and regulations of this Commission: *Provided*, however, that the participation of such intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in said petitions for leave to intervene; and, *Provided*, further, that the admission of such parties as intervenors shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(F) On or before June 4, 1975, USS, North Alabama and any supporting party shall file with the Commission and serve on all parties, including Commission Staff, their testimony and exhibits in support of their positions including the two issues enumerated above.

(G) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge—See Delegation of Authority [18 CFR 3.5(d)]—shall preside at the hearing in this proceeding in accordance with the policies expressed in the Commission's rules

## NOTICES

22605

of practice and procedure and the purposes expressed in this order.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13574 Filed 5-22-75;8:45 am]

[Docket No. E-8878]

## ALLEGHENY POWER SERVICE CORP.

## Filing of Proposed Fuel Clause

MAY 19, 1975.

Take notice that Allegheny Power Service Corporation (Allegheny Power), on May 7, 1975, tendered for filing on behalf of Potomac Edison Company (Potomac Edison) proposed changes in Potomac Edison's FPC Electric Tariff, Volume No. 2. The proposed changes reflect a fuel clause provision in Potomac Edison's tariff which is filed pursuant to Order No. 517.

Potomac Edison's tendered fuel clause is proposed to be effective May 1, 1975. The applicant states that since the filing conforms to the Commission's regulations and is supported by cost-of-service data filed in Docket No. E-8878, it is not including any cost-of-service support.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protests should be filed on or before May 28, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13637 Filed 5-22-75;8:45 am]

[Docket No. E-9343]

COLUMBUS AND SOUTHERN OHIO  
ELECTRIC COMPANY

## Compliance Filing

MAY 19, 1975.

Take notice that on May 8, 1975, Columbus and Southern Ohio Electric Company (C&S) tendered for filing certain information which, the Company contends, will correct the deficiency in its March 27, 1975, filing in the above-referenced docket. C&S states that the following information is tendered in its May 8 filing:

(1) Test year revenue under the proposed rate schedule and FPC Order No. 517 fuel adjustment clause.

(2) Revised Statement N showing a comparison of these revenues with the test period allocated cost of service.

(3) Rationale for the derivation of the fuel adjustment base.

(4) Revised fuel adjustment clause, which indicates the manner in which our cost of fuel will be determined.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 29, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13638 Filed 5-22-75;8:45 am]

[Docket No. E-8947]

## DELMARVA POWER &amp; LIGHT CO.

## Conference

MAY 19, 1975.

Take notice that on May 30, 1975, a conference of all parties to intervene in this proceeding, Delmarva Power & Light, and the Commission Staff will be held in the Commission's Conference Room No. 3200, at 941 North Capitol Street, NE. (the North Building), Washington, D.C. at 10:00 a.m. (e.s.t.).

The conference will be held pursuant to § 1.18 (Conferences, Offers of Settlement) of the Commission's rules of practice and procedure (18 CFR 1.18). Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, such attendance at the conference will not be deemed to authorize such intervention as a party in the proceedings.

Copies of this notice are being mailed this date to all jurisdictional customers and interested State commissions.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13639 Filed 5-22-75;8:45 am]

[Docket No. E-9443]

## DUKE POWER CO.

## Contract Supplement

MAY 19, 1975.

Take notice that on May 14, 1975, Duke Power Company (Duke) tendered for filing a supplement to Duke's Electric

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Power Contract with the City of Kings Mountain.

Duke states that this contract is on file with the Commission as Duke Power Company Rate Schedule FPC No. 260.

One document has been submitted with this filing entitled Exhibit A-1. Delivery Point No. Temp. 1 and dated May 5, 1975. Exhibit A-1, according to Duke, is intended to delete Delivery Point No. Temp. 1 from the contract due to the termination of this point of delivery at the request of the customer. Attachment No. 1, states the Company, is an estimate of sales and revenues for the 12 months immediately preceding the effective date of the termination. Duke also states the service will be billed on Schedule 10, and that the Company has no other rate for similar service.

Duke proposes an effective date for the supplement as April 9, 1975, and requests waiver of the thirty day notice requirement, under paragraph 35.11 of the Commission's regulations, for the reason that the customer was unable to notify the Company thirty days prior to the actual termination of this delivery point.

Duke states that a copy of the tendered filing has been mailed to Mr. John Henry Moss, Mayor, Kings Mountain, North Carolina.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protests should be filed on or before June 2, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMBS,  
Secretary.

[FR Doc. 75-13640 Filed 5-22-75; 8:45 am]

[Docket No. CS70-15]

#### ESTATE OF RALPH LOWE, ET AL Redesignation

MAY 19, 1975.

On September 17, 1974, MARLO, INC., notified the Commission of their name change from the former estate of Ralph Lowe, et al., effective May 1, 1974.

Notice is hereby given that the small producer certificate issued in the above matter is redesignated as that of MARLO, INC.

KENNETH F. PLUMBS,  
Secretary.

[FR Doc. 75-13643 Filed 5-22-75; 8:45 am]

[Docket No. E-3843]

#### HOLYOKE WATER POWER CO. AND HOLYOKE POWER AND ELECTRIC CO. Further Extension of Procedural Dates

MAY 19, 1975.

On May 9, 1975, Chicopee Electric Light Department of Chicopee, Massachusetts filed a motion to extend the procedural dates fixed by order issued August 9, 1975, as most recently modified by notice issued March 26, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Intervenor's Testimony, June 18, 1975.

Service of Company, Rebuttal, June 30, 1975.

Hearing, July 15, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMBS,  
Secretary.

[FR Doc. 75-13641 Filed 5-22-75; 8:45 am]

[Docket No. RP75-100]

#### INTER-CITY MINNESOTA PIPELINES, LTD., INC.

##### Tariff Rate Filing

MAY 19, 1975.

Take notice that on May 1, 1975, as supplemented on May 6, 1975, Inter-City Minnesota Pipelines, Ltd., Inc. (Inter-City) filed herein certain revised tariff sheets, together with cost of service data pursuant to § 154.63 of the Commission's regulations, and copies of its financial statements for the year ended December 31, 1974.

The above filing was submitted by Inter-City apparently as an amendment to its previous filing of December 5, 1974, in Docket No. RP73-66. However for purposes of review and disposition by the Commission, the filing will be treated as a new filing, and has been assigned FPC Docket No. RP75-100.

The filing does not indicate when the subject tariff changes are proposed to become effective, and it is assumed, therefore, for purposes of this notice, that the proposed effective date is June 1, 1975, or 30 days after filing, as prescribed by the Natural Gas Act.

While the transmittal letter does not indicate the precise nature of the filing nor its rate impact, a preliminary review of the submittal indicates that Inter-City is proposing to increase its basic sales and transportation rates.

Any person desiring to be heard and to make any protest with reference to said filing should file a petition to intervene

<sup>1</sup> Fourth Revised Sheet No. 4 and First Revised Sheet Nos. 8, 11, and 12 to Inter-City's FPC Gas Tariff, Original Volume No. 1.

or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 10, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Inter-City's filing is on file with the Commission and available for public inspection.

KENNETH F. PLUMBS,  
Secretary.

[FR Doc. 75-13642 Filed 5-22-75; 8:45 am]

#### NATIONAL POWER SURVEY Meeting

Agenda: For a meeting of the Technical Advisory Committee on the Impact of Inadequate electric power supply to be held at the Federal Power Commission Offices, 825 North Capitol Street, NE., Washington, D.C., 10 a.m., June 10, 1975, Room 5200.

1. Meeting opened by FPC Coordinating Representative.

2. Objectives and purposes of meeting.

a. Correction and additions to minutes of previous meeting.

b. Approval of final draft of committee report.

c. Other business.

3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMBS,  
Secretary.

[FR Doc. 75-13636 Filed 5-22-75; 8:45 am]

[Docket No. CP75-269]

#### NATURAL GAS PIPELINE COMPANY OF AMERICA

##### Amendment to Application

MAY 19, 1975.

Take notice that on May 9, 1975, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP75-269 an amendment to its application filed in the subject docket pursuant to section 7(c) of the Natural Gas Act so as to reduce the extent of the facilities it proposes to construct, all as more fully set forth in the amendment to the application, which is on file with the

Commission and open to public inspection.

In its original application, notice of which was published in the FEDERAL REGISTER on April 4, 1975 (40 FR 15130), Applicant requests authorization to sell and deliver an additional 147,368 Mcf per day of natural gas to certain of its existing customers under Applicant's Rate Schedules WS-1 and WS-2 and to construct related facilities. Applicant states that the application further implements arrangements whereby Applicant made an advance payment to Shell Oil Company of \$40 million in return for the right to purchase natural gas produced from reserves offshore Louisiana.

In the instant filing Applicant proposes to construct 2.6 miles of 30-inch pipeline loop in lieu of the 11.94 miles it proposed in the original application. Applicant states that the proposed reduction in facilities will result in a reduction in the estimated cost of facilities from \$9,953,000 to \$5,936,000, and will avoid the proposed construction of looping pipeline in the Village of South Barrington, the Village of North Barrington and the Village of Barrington Hills, or in residential areas in proximity to these villages, in Cook and Lake Counties, Illinois.

Applicant states it is able to reduce its facilities requirements as a result of its application in Docket No. CP75-274, which was filed subsequent to the application in the instant docket. In connection with the proposal in the application in Docket No. CP75-274, Applicant would receive natural gas from Michigan Wisconsin Pipe Line Company at an existing point of interconnection of the two pipeline systems near Woodstock, Illinois, as part of an exchange agreement. Applicant states that, since Woodstock is on the north end of its system, Applicant would be able to provide the winter service proposed in the application in this docket to customers on the north end of its system from the gas redelivered at Woodstock. Gas freed by such displacement would then be used to provide the storage service proposed by Applicant in its application in Docket No. CP75-274.

Applicant further states that all other proposals in the original application in Docket No. CP75-269 remain as set forth in said original application.

Applicant states that the reduction in facilities proposed in the instant amendment to the application assumes favorable action on its application in Docket No. CP75-274, but that even if approval of the application in Docket No. CP75-274 is not received Applicant could meet the peak winter day design condition and fall short by 2 percent (6,000 Mcf per day) of meeting the peak hour day design condition.

Any person desiring to be heard or to make any protest with reference to said amendment to the application should on or before June 9, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10)

and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons who have already filed petitions to intervene or protests need not file again.

KENNETH F. PLUMBS,  
Secretary.

[FR Doc. 75-13644 Filed 5-22-75; 8:45 am]

[Docket No. CP74-41]

#### NATURAL GAS PIPELINE COMPANY OF AMERICA

##### Petition To Amend

MAY 19, 1975.

Take notice that on May 5, 1975, Natural Gas Pipeline Company of America (Petitioner), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP74-41 a petition to amend the order of the Commission issued pursuant to section 7(c) of the Natural Gas Act on January 11, 1974, 51 FPC 169, as previously amended by an order issued February 20, 1975, in said docket by authorizing an increase in the volumes of natural gas to be exchanged with Mississippi River Transmission Corporation (MRT), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the Commission's order of January 11, 1974, as amended on February 20, 1975, in the subject docket, Petitioner was authorized to transport and exchange up to 150,000 Mcf of gas per day with MRT in Wheeler County, Texas, Randolph County, Arkansas, and Clinton County, Illinois, for a period of two years under the terms of a gas exchange agreement dated July 9, 1973, as amended. Petitioner states that under said exchange agreement Petitioner purchases up to one-third of the gas delivered by MRT and transports the remaining volume for redelivery to MRT.

The petition states that petitioner and MRT have amended the subject exchange agreement to increase the maximum allowable exchange quantity to 200,000 Mcf of gas per day. It is said that in all other respects the gas purchase and exchange agreement authorized in this docket remains unchanged. Petitioner states that it will retain all of the Mills Ranch gas delivered to it from MRT during December and through termination of the authorization. Thus, Petitioner states, approval of the authorization sought herein will enable Petitioner to augment its overall gas supply during the winter heating season.

Petitioner does not propose to revise its existing facilities to accommodate the increased deliveries because the authorization herein will terminate on January 11, 1976.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 5, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMBS,  
Secretary.

[FR Doc. 75-13645 Filed 5-22-75; 8:45 am]

[Docket No. RP74-75]

#### NORTHERN NATURAL GAS CO. Extension of Procedural Dates

MAY 19, 1975.

On May 6, 1975, Northern Natural Gas Company filed a motion to extend the procedural dates fixed by order issued April 1, 1975, in the above-designated matter.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Company's Supplemental Testimony, July 8, 1975.

Service of Staff's and Intervenor's Testimony, August 8, 1975.

Service of Company Rebuttal, August 29, 1975.

Hearing, September 9, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMBS,  
Secretary.

[FR Doc. 75-13646 Filed 5-22-75; 8:45 am]

[Docket No. RP72-154; PGA75-5]

#### NORTHWEST PIPELINE CORP.

##### Change in Rates Pursuant to Purchased Gas Costs Adjustment

MAY 19, 1975.

Take notice that Northwest Pipeline Corporation, on May 15, 1975, tendered for filing and acceptance a notice of change in rates applicable to service rendered under rate schedules affected by and subject to the Purchased Gas Cost Adjustment Provision ("PGAC"), as contained in its FPC Gas Tariff, Original Volume No. 1. The proposed change in rates would increase revenues from jurisdictional sales and service by \$115,886,308 based on the 12-month period ending December 31, 1974.

Such change in rates is occasioned by a substantial increase in the cost of Canadian gas purchased by Northwest from its Canadian pipeline supplier, Westcoast Transmission Company, Limited ("Westcoast"), in compliance with the Canadian Government's decision to increase the border export price



to \$1.40 per Mcf, effective August 1, 1975. Northwest obtains approximately two-thirds of its total gas supply from Westcoast. A border export price of \$1.40 will result in an annualized increase in Northwest's purchased gas cost expense amounting to \$117,413,539, which equates to an increase of 2.630¢ per therm above the currently effective rates. While this tariff filing covers only the effect of the Canadian price increase to \$1.40 per Mcf on August 1, 1975, Northwest will make an appropriate tariff filing later to cover the Canadian price increase to \$1.60 per Mcf, effective November 1, 1975. Northwest estimates that the November 1, 1975 price increase will result in increased gas purchased costs of approximately \$58.6 million so that the total of the August 1 and November 1, 1975 increases is estimated to be \$176,000,000.

Although Northwest's PGA provides for the tracking of changes in the cost of purchased gas each six months, Northwest emphasizes that the magnitude of the increase in Northwest's purchased gas cost expense requires immediate rate relief on a firm basis concurrently with the effective date of the increased export price. Northwest respectfully requests that waiver be granted of Northwest's PGAC and applicable Commission regulations, as necessary, so as to permit acceptance and effectiveness of the tendered change in rates on August 1, 1975.

Copies of this filing have been served upon Northwest's jurisdictional customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 5, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13647 Filed 5-22-75; 8:45 am]

[Docket No. RP75-101]

**PACIFIC GAS TRANSMISSION CO.  
Rate Change**

MAY 19, 1975.

Take notice that on May 13, 1975, Pacific Gas Transmission Company (PGT) tendered for filing a "Notice Of Rate Change To Reflect Increases In The Price Of Canadian Gas In Cost Of Serv-

ice Charges, And Request For Expedited Consideration."

PGT states that its filing is made in compliance with this Commission's orders in Docket No. RP73-111 which require PGT to make filings pursuant to Section 4 of the Natural Gas Act before there is reflected in PGT's cost of service charges any increase in the cost of gas imposed or required by Canadian authorities.

PGT indicates that its filing will effect increases in rates charged under its PL-1 rate schedule which is applicable only to sales of gas made by PGT to its one customer for sale, Pacific Gas and Electric Company. PGT states that no other rate schedule is affected.

The filed changes in rates will reflect in PGT's cost of service charges certain increases mandated by Canadian authorities in the price of gas imported from Canada, commencing August 1, 1975, and November 1, 1975. PGT obtains its entire supply of gas from Canada at a present border price of \$1.00 (Canadian) per MMBtu. PGT recites that on May 5, 1975, the Canadian Government announced that existing export licenses would be amended to establish a border price of \$1.40 (Canadian) per MMBtu of gas commencing August 1, 1975, and increasing to \$1.60 (Canadian) per MMBtu commencing November 1, 1975. On the basis of present volumes and Btu content, and a given U.S.-Canadian monetary exchange rate, PGT estimates that the effect of the August 1, 1975, increase would be approximately \$162,668,000 (U.S.) on an annualized basis, although it should be noted that this increase to \$1.40 (Canadian) will be in effect for only three months. The November 1, 1975, increase to \$1.60 (Canadian) will, according to PGT's estimate, amount to approximately \$244,001,000 (U.S.) in increased annual costs.

PGT advises that copies of its filing have been mailed to its customers and to interested state commissions. PGT requests that expedited consideration be given to the instant filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before June 3, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13648 Filed 5-22-75; 8:45 am]

[Docket No. CP75-249]

**PACIFIC INTERSTATE TRANSMISSION CO.  
Supplement to Application**

MAY 19, 1975.

Take notice that on April 30, 1975, Pacific Interstate Transmission Company (Applicant), 720 West Eighth Street, Los Angeles, California 90017, filed in Docket No. CP75-249 a supplement to its application filed in the subject docket on March 3, 1975, pursuant to section 7(c) of the Natural Gas Act by submitting Exhibit H (gas supply data) and Exhibit P (pro forma tariff) in compliance with §§ 157.14(a) (10) and 157.14(a) (18) of the Commission's regulations (18 CFR 157.14 (a) (10) and (18)), respectively, and by submitting letters from El Paso Natural Gas Company and Northwest Pipeline Corporation evidencing a willingness to assist Applicant in connection with the alternate proposal of Interstate Transmission Associates (Arctic) (ITAA), all as more fully set forth in the supplement which is on file with the Commission and open to public inspection.

In its March 3, 1975, application Applicant seeks certification for a sale for resale of natural gas in interstate commerce to Southern California Gas Company, an affiliate of Applicant. Applicant proposes to transport gas from Alaska's north slope through Canada into the eoterminal states of the United States by means of the facilities of Alaskan Arctic Gas Pipeline Company (Alaskan Arctic) and Canadian Arctic Gas Pipeline Limited. At the U.S.-Canadian border near Kingsgate, British Columbia, ITAA would transport the gas for the account of Applicant to interconnections with other pipelines for delivery to western region markets pursuant to ITAA's application, as supplemented, in Docket No. CP74-292. The application in the instant docket does not include certain required exhibits, including Exhibits H and P, which are included in the instant supplement.

Applicant notes that ITAA has proposed, in its third supplement to its application in Docket No. CP74-292, a 277-mile pipeline system from Kingsgate to Stanfield, Oregon, which system is alternative to the pipeline system originally proposed by ITAA. To implement the alternative ITAA proposal if it were approved, Applicant states that El Paso Natural Gas Company and Northwest Pipeline Company have offered technical advice and assistance relative to the utilization of their facilities.<sup>1</sup>

Taking account of ITAA's dual proposals, Applicant submits herein as Exhibit P two pro forma tariffs under which Applicant could operate. The first is said to cover the original ITAA proposal of a pipeline 877 miles in length extending from Kingsgate to the California-Nevada

<sup>1</sup> El Paso's offer is stated to be without prejudice to El Paso's present preference for the project proposed by El Paso Alaska Company in Docket No. CP75-96.

border; the second is to cover the alternative pipeline to Stanfield, Oregon. The application indicates that both tariffs are based upon cost-of-service and contemplate a return on equity of 16 percent.

In compliance with § 157.14(a) (10) of the Regulations Applicant also submits herein gas supply data. Applicant states that it has obtained through its affiliate, Pacific Lighting Gas Development Company (PLGD), exclusive negotiating rights to 60 percent of Atlantic Richfield Company's (Atlantic Richfield) working interest in the Prudhoe Oil Pool and associated gas caps in exchange for \$420 million to be financed by Applicant through borrowings from banks and institutional lenders. Applicant submits in the instant supplement the funding agreement between PLGD and Atlantic Richfield dated March 25, 1975. Applicant states that it has also acquired through PLGD from Mono Power Company various interests in the exploration program in the Kavik-North Slope area in Alaska which it is contemplated will provide Applicant with a source of dry gas.<sup>2</sup> Applicant states that it adopts the estimates of recoverable reserves and deliverability for the Prudhoe Bay and Mackenzie Delta gas supply areas set forth in Exhibit H of Alaskan Arctic's application in Docket No. CP74-239.

Because Applicant proposes only to transport and sell gas and not to construct facilities, Applicant states that Exhibit G (flow diagrams) is omitted as being inapplicable and that Exhibit L (financing) is omitted as being indeterminable at this time. Furthermore, Applicant states that it is unable at this time to provide an estimate of the full cost of transportation to its customers if the alternative pipeline proposal by ITAA is adopted. Accordingly, Applicant requests waiver of Commission requirements under Section 157.14 to the extent necessary to permit the supplementation of its application proposed herein.

Any person desiring to be heard or to make any protest with reference to said supplement should on or before May 30, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Any person who has heretofore filed a petition to intervene, notice of intervention or protest to the

<sup>2</sup> Applicant states that the funding agreements between various producers and Mono Power Company, Natural Gas Corporation of California and El Paso have been filed in Docket No. RP72-M6.

granting of the application in this proceeding need not file again.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13649 Filed 5-22-75; 8:45 am]

[Docket No. E-9434]

**PUBLIC SERVICE INDIANA**

**Termination of Interconnection Agreement**  
MAY 19, 1975.

Take notice that Public Service Indiana (PSI), tendered for filing on April 7, 1975, by letter, notice of its intention to terminate its interconnection agreement with the City of Crawfordsville, Indiana (City).

PSI states that the interconnection agreement is dated March 6, 1968; is on file with the FPC as Rate Schedule FPC No. 211; and that PSI's action is pursuant to § 10.2 of Article 10 of said agreement. PSI states that it intends to terminate the agreement at the end of the fixed term of ten consecutive years, provided by the agreement.

PSI states that City's contention before the FPC that the present interconnection agreement is a fixed rate contract and that the rates incorporated therein cannot be changed by PSI even in the light of PSI's escalating costs makes it necessary for PSI to give this "notice of termination".

PSI states that this "notice" is given more than 30 months prior to the termination of the fixed term of the present interconnection agreement so that there is ample time for PSI and the City to negotiate a new interconnection agreement.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 3, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13650 Filed 5-22-75; 8:45 am]

[Docket No. RP72-98; AP75-1]

**TEXAS EASTERN TRANSMISSION CORP.  
Proposed Changes in FPC Gas Tariff**

MAY 19, 1975.

Take notice that Texas Eastern Transmission Corporation on May 1, 1975, tendered for filing proposed changes in its FPC Gas Tariff, Fourth Revised Volume No. 1, the following sheets:

Eleventh Revised Sheet No. 14  
Eleventh Revised Sheet No. 14A  
Eleventh Revised Sheet No. 14B  
Eleventh Revised Sheet No. 14C  
Eleventh Revised Sheet No. 14D

Texas Eastern is reducing its rates pursuant to Article VI, Second Revised Stipulation and Agreement dated July 25, 1973, under Docket No. RP72-98. The proposed effective date of the above tariff sheets is June 1, 1975.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 30, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13651 Filed 5-22-75; 8:45 am]

[Docket Nos. RP75-3; RP74-48]

**TRANSCONTINENTAL GAS PIPE LINE CORP.**

**Further Extension of Procedural Dates**  
MAY 19, 1975.

On May 14, 1975, Transcontinental Gas Pipe Line Corporation filed a motion to extend the procedural dates fixed by order issued August 30, 1974, as most recently modified by notice issued April 25, 1975, in the above-designated matter. This schedule would apply to issues not settled and submitted to the Commission on May 13, 1975. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Company Supplemental Testimony on Unsettled Issues, June 2, 1975.  
Service of Staff's Supplemental Testimony on Unsettled Issues, June 16, 1975.  
Service of Intervenor's Supplemental Testimony on Unsettled Issues, July 7, 1975.  
Service of Company Rebuttal on Unsettled Issues, July 17, 1975.  
Hearing, July 29, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13652 Filed 5-22-75; 8:45 am]



[Docket No. E-9147]

**VIRGINIA ELECTRIC AND POWER CO.**  
 Further Extension of Procedural Dates

MAY 19, 1975.

On May 8, 1975, Staff Counsel filed a motion to extend the Phase I procedural dates fixed by order issued January 22, 1975, as most recently modified by notice issued April 2, 1975, in the above-designated matter. On May 13, 1975, Electricities of North Carolina filed a motion to extend the Phase II procedural dates. The latter motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

**PHASE I**

Service of Staff's Testimony, July 15, 1975.  
 Service of Intervenor's Testimony, July 29, 1975.  
 Service of Company Rebuttal, August 12, 1975.  
 Hearing, August 26, 1975 (10 a.m. e.d.t.).  
 Service of Intervenor's Testimony, July 15, 1975.  
 Service of Staff's Testimony, August 5, 1975.  
 Service of Company Direct Testimony, August 26, 1975.  
 Service of Intervenor's Rebuttal, September 9, 1975.  
 Hearing, September 23, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB,  
*Secretary.*

[FR Doc.75-13653 Filed 5-22-75; 8:45 am]

**FEDERAL TRADE COMMISSION**  
**PROPOSED CORPORATE PATTERNS**  
**SURVEY FOR 1972**
**Meeting**

Notice is hereby given that the Federal Trade Commission will meet on Thursday, June 12, 1975, at 10:00 a.m., in Room 432 of the Federal Trade Commission Building, 6th & Penn. Ave., NW., Washington, D.C., with representatives of the Office of Management and Budget, and the Bureau of the Census, to consider the impact of the Commission's Proposed Corporate Patterns Survey for 1972 upon the data-gathering functions of the Bureau of the Census.

The meeting will be open to the public as space is available.

Further information regarding this scheduled meeting may be obtained by telephone from Nathaniel Greenspun, Area Code 202, 254-7686. Written inquiries should be addressed to the Assistant Director for Industry Analysis, Federal Trade Commission, Washington, D.C. 20580.

Issued by direction of the Commission of May 13, 1975.

CHARLES A. TOBIN,  
*Secretary.*

[FR Doc.75-13606 Filed 5-22-75; 8:45 am]

**GENERAL ACCOUNTING OFFICE**
**FEDERAL COMMUNICATIONS**  
**COMMISSION**
**Receipt of Regulatory Reports Review**  
**Proposal**

The following request for clearance of an application intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on May 16, 1975. See 44 U.S.C. 3512 (c) & (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC form are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments (in triplicate) must be received on or before June 10, 1975, and should be addressed to Mr. Monte Canfield, Jr., Director, Office of Special Programs, United States General Accounting Office, 425 I Street, N.W., Washington, D.C. 20548.

Further information may be obtained from the Regulatory Reports Review Officer, 202-376-5425.

**FEDERAL COMMUNICATIONS COMMISSION**

Request for clearance of an extension (no change) of FCC Form 915, Priority Request and Certification to be filed by Industrial/Commercial users of communications common carriers' leased intercity private line services when requesting a priority for the restoration of leased intercity private line service if service is interrupted pursuant to FCC Rules and Regulations (§ 64.401 and Appendix A to Part 64). It is estimated that respondent burden would average one hour per response. There will be no processing of FCC Form 915 until the resolution of FCC's Notice of Proposed Rule Making of August 18, 1971 (Docket No. 19308) in the matter of an amendment to Part 64 of the Commission's Rules to provide for a new priority system for use and restoration of leased intercity private line services. Upon resolution of Docket No. 19308, it is anticipated that approximately 1000 requests will be processed during the first year after such resolution.

NORMAN F. HEYL,  
*Regulatory Reports*  
*Review Officer.*

[FR Doc.75-13654 Filed 5-22-75; 8:45 am]

**FEDERAL POWER COMMISSION**
**Receipt of Regulatory Reports Review**  
**Proposal**

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on May 16, 1975. See 44 U.S.C. 3512 (c) & (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed report form are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments (in triplicate) must be received on or before June 10, 1975, and should be addressed to Mr. Monte Canfield, Jr., Director, Office of Special Programs, United States General Accounting Office, 425 I Street, N.W., Washington, D.C. 20548.

Further information may be obtained from the Regulatory Reports Review Officer, 202-376-5425.

**FEDERAL POWER COMMISSION**

On April 3, 1970, the Federal Power Commission (FPC) issued Order No. 398—acting pursuant to the Federal Power Act, as amended, particularly sections 304, 309, and 311 thereof (49 Stat. 855, 858, and 859; 16 U.S.C. 825c, 825h and 825j)—adding a new Section 141.27 implementing Form No. 82, Report of Changes in Retail Rates, prescribing the reporting within sixty days of the effective date of a new retail rate schedule or change of an existing retail rate schedule the 12-month dollar effect of such change. Initially, Form 82 was approved by the Bureau of the Budget, for a period ending June 30, 1975. FPC is requesting an extension no change of this form. Respondents are electric utilities that serve communities of 2,500 people or more and there will be approximately 350 respondents per year. It is estimated that an average of 8 man-hours will be required per response. The information collected through Form 82 will continue to be made available to the Congress, to other Government agencies and to the general public in a quarterly press release.

NORMAN F. HEYL,  
*Regulatory Reports*  
*Review Officer.*

[FR Doc.75-13655 Filed 5-22-75; 8:45 am]

**NATIONAL ADVISORY COUNCIL ON**  
**THE EDUCATION OF DISADVANTAGED CHILDREN**
**CHILD AND FAMILY SERVICES****Meeting**

Notice is hereby given, pursuant to PL 92-463, that the next meeting of the National Advisory Council on the Education of Disadvantaged Children will be held on June 13, 1975 from 9:00 a.m.-4:30 p.m., in the Snow Room of the HEW North Building located at 330 C Street, SW., Room 5051, Washington, D.C.; and on June 14, 1975 from 9:00 a.m.-3:00 p.m.—the meeting will be held at 425 Thirteenth Street, NW., Suite 1012, Washington, D.C.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The meeting of the 13th will include briefings by specialists in Early Childhood Education. The agenda of the 14th includes a detailed plan of site visits, the summer meeting schedule, and a discussion of the Child and Family Services Act.

Because of limited space, all persons wishing to attend should call for reservations by June 4, 1975, Area Code 202/382-6945.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children, located at 425-13th Street, NW., Suite 1012, Washington, D.C.

Signed at Washington, D.C. on May 19, 1975.

ROBERTA LOVENHEIM,  
*Executive Director.*

[FR Doc.75-13604 Filed 5-22-75; 8:45 am]

**NATIONAL AERONAUTICS AND**  
**SPACE ADMINISTRATION**

[Notice 75-33]

**NASA WAGE COMMITTEE**

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the National Aeronautics and Space Administration Wage Committee is scheduled for June 24, 1975, from 1:30 p.m. to 4:30 p.m. The meeting will be held in Room 226-B, 600 Independence Avenue, Washington, D.C. 20546.

The Committee's primary responsibility is to consider and make recommendations to the Director of Personnel, National Aeronautics and Space Administration, on all matters involved in the development and authorization of a wage schedule for the Cleveland, Ohio wage area pursuant to Pub. L. 92-392.

The approved agenda of the Committee provides that it will consider wage survey data, local reports, recommendations, and statistical analyses, and proposed wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463 and 5 U.S.C. 552(b)(4) it has been determined that this meeting will be closed to the public.

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters felt to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by contacting the Chairman, National Aeronautics and Space Administration Wage Committee, Mail Stop 3-9, Lewis Research Center, National Aeronautics and Space Administration, 21000 Brookpark Road, Cleveland, Ohio 44135.

Dated: May 16, 1975.

DUWARD L. CROW,  
*Assistant Administrator for*  
*DOD and Interagency Affairs,*  
*National Aeronautics and*  
*Space Administration.*

[FR Doc.75-13518 Filed 5-22-75; 8:45 am]

**SECURITIES AND EXCHANGE**  
**COMMISSION**

[File No. 500-1]

**CANADIAN JAVELIN, LTD.****Suspension of Trading**

MAY 16, 1975.

The common stock of Canadian Javelin, Ltd. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Canadian Javelin, Ltd. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from May 19, 1975 through May 28, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
*Secretary.*

[FR Doc.75-13581 Filed 5-22-75; 8:45 am]

**CHICAGO BOARD OPTIONS EXCHANGE,**  
**INC.**
**Proposed Amendments to Options Plan**

Notice is hereby given that the Chicago Board Options Exchange, Inc. ("CBOE") has filed proposed changes in its Option Plan which were previously filed pursuant to Rule 9b-1 under the Securities

Exchange Act of 1934 (17 CFR 240.9b-1). The original amendments were noticed on December 20, 1974 at 39 FR 44100 and on January 24, 1975 at 40 FR 3809 CBOE's decision to delay their effectiveness was noticed.

The revised proposed amendments concern Exchange Rules 2.8 and 18.1(c) and 18.7(b) governing its Arbitration Procedure. The amendment to Rule 2.8 revises the previously proposed amendment to that Rule, insofar as the earlier proposal would have permitted persons engaged in the securities or commodities business to serve as non-member arbitrators. The formerly proposed amendment to Rule 2.8 was designed to make clear that attorneys or other professionals engaging in a practice related to the Federal securities laws and university professors acting in consultation roles or industry studies were not disqualified from serving as nonmember arbitrators. However, as a matter of interpretation, it appears that Rule 2.8 presently would allow those persons to serve as non-member arbitrators. For that reason, the Exchange does not believe the previously proposed amendment is necessary.

The revisions to proposed Rule 18.1(c) and 18.7(b), are minor technical changes.

The proposed corrections will become effective thirty days after the date of this notice or upon such earlier date as the Commission may allow unless the Commission shall disapprove the changes in whole or in part as being inconsistent with the public interest or the protection of investors.

All interested persons are invited to submit their views and comments on the proposed corrections to CBOE's plan either before or after they have become effective. Written statements of views and comments should be addressed to the Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549. Reference should be made to file number 10-54. The proposed corrections are, and all such comments will be, available for public inspection at the Public Reference Room of the Securities and Exchange Commission at 1100 L Street, NW., Washington, D.C.

[SEAL] GEORGE A. FITZSIMMONS,  
*Secretary.*

MAY 15, 1975.

[FR Doc.75-13592 Filed 5-22-75; 8:45 am]

[File No. 500-1]

**CONTINENTAL VENDING MACHINE CORP.****Suspension of Trading**

MAY 19, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Continental Vending Machine Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;



Therefore, pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from May 20, 1975 through May 29, 1975.

By the Commission.

(SEAL) GEORGE A. FITZSIMMONS,  
Secretary.  
[FR Doc.75-13582 Filed 5-22-75; 8:45 am]

[File No. 500-1]

#### EQUITY FUNDING CORPORATION OF AMERICA

##### Suspension of Trading

MAY 16, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, warrants to purchase the stock, 9½% debentures due 1990, 5½% convertible subordinated debentures due 1991, and all other securities of Equity Funding Corporation of America being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from May 17, 1975 through May 26, 1975.

By the Commission.

(SEAL) GEORGE A. FITZSIMMONS,  
Secretary.  
[FR Doc.75-13583 Filed 5-22-75; 8:45 am]

[File Nos. 7-4727, etc.]

#### FIRST MISSISSIPPI CORP. ET AL.

##### Applications for Unlisted Trading Privileges and Opportunity for Hearing

MAY 16, 1975.

In the matter of applications of the Boston Stock Exchange for unlisted trading privileges in certain securities (Securities Exchange Act of 1934).

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f) (1) (B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

File No.	
First Mississippi Corp.	7-4727
Maytag Company (The)	7-4728
Owens Corning Fiberglas Corp.	7-2729
Rosario Resources Corp.	7-2730

Upon receipt of a request, on or before June 2, 1975 from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in

which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C., 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.  
[FR Doc.75-13580 Filed 5-22-75; 8:45 am]

[File Nos. 2-49337 (22-7675); Administrative Proceeding File No. 3-4661]

#### FLEXI-VAN CORP.

##### Filing of Application

MAY 15, 1975.

In the matter of Flexi-Van Corporation, 330 Madison Avenue, New York, New York 10017.

Notice is hereby given that Flexi-Van Corporation (the "Company") has filed an application under Clause (ii) of section 310(b) (1) for the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeship of Bankers Trust Company under an indenture of the Company dated as of December 1, 1974 (the "1974 Indenture") which was not qualified under the Act, and the succession by Bankers Trust Company to the trusteeship under an indenture of the Company dated as of November 15, 1973 (the "1973 Indenture") which was heretofore qualified under the Act is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bankers Trust Company from acting as Trustee under the 1973 Indenture and the 1974 Indenture.

Section 310(b) of the Act, which is included in Section 12.05 of the 1973 Indenture, provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest, it shall within ninety days after ascertaining that it has such conflicting interest or resign. Subsection (1) of such Section provides, in effect, with certain exceptions that a Trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding.

Under Clause (ii) of Subsection (1), however, there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the

issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures. The Company alleges that:

(1) It has outstanding \$25,000,000 principal amount 8.75% Collateral Trusts Debentures, Series A, due December 1, 1993 issued under the 1973 Indenture. The Debentures issued pursuant to the 1973 Indenture were registered under the Securities Act of 1933 (File No. 2-49337) and the 1973 Indenture was qualified under the Trust Indenture Act of 1939 (File No. 22-7675). The First National Bank of Boston is Trustee under the 1973 Indenture. However, The First National Bank of Boston intends to resign such trusteeship and the Company wishes to appoint Bankers Trust Company as successor Trustee under the 1973 Indenture.

(2) It has outstanding \$18,500,000 principal amount of 10¾% Collateral Trust Notes due 1975-1987 issued under the 1974 Indenture. The Notes issued pursuant to the 1974 Indenture were purchased by institutional investors for investment and not with a view to distribution. The issuance of these Notes was therefore exempt from the registration requirements of the Securities Act of 1933 and the 1974 Indenture is exempt from the qualification provisions of the Trust Indenture Act of 1939. Bankers Trust Company is Trustee under the 1974 Indenture.

(3) The 1973 Indenture and the 1974 Indenture are each secured by the assignment and pledge to the respective Trustees of separate demand promissory notes of the Company's principal subsidiary in the respective principal amount of the Company's outstanding Debentures and Notes. These promissory notes are unsecured and rank *pari passu*. These promissory notes may, upon the happening of certain events, in turn become secured by the creation of a security interest in certain vehicles and vehicle leases of the Company's subsidiaries in favor of the Trustee under the 1974 Indenture, but such security interest is expressly required to be held and administered by the Trustee under the 1974 Indenture for the equal and ratable benefit of both promissory notes (as well as certain bank loans). The only material differences between the Indentures and the rights of the holders of the Debentures and Notes respectively issued thereunder relate to aggregate principal amounts, dates of issue, maturity and interest payment dates, interest rates, redemption prices and procedures, and sinking fund provisions. The 1974 Indenture contains stricter covenants; however, both Indentures contain cross-default provisions.

(4) The Debentures and the Notes are general obligations of the Applicant and

rank *pari passu*. At present, the Debentures and the Notes are secured by the 1973 Leasing Note and the 1974 Leasing Note, respectively, which are general obligations of Leasing and which rank *pari passu*. The 1974 Indenture contains stricter negative covenants than the 1973 Indenture; however, both the 1973 Indenture and the 1974 Indenture contain cross-default provisions so that the occurrence of an event of default under either Indenture would constitute an event of default under the other Indenture, and the 1973 Trustee and the 1974 Trustee would have *pari passu* claims against Applicant and against Leasing without priority of one Trustee over the other.

In the event a security interest is created under the 1974 Indenture in Vehicles and Vehicle Leases of Leasing and certain Leasing Subsidiaries, the 1974 Indenture requires the 1974 Trustee to hold such property in trust for the ratable benefit of the 1973 Trustee and itself (as well as the Bank Lender) so that should the 1974 Trustee have occasion to proceed against such property, such action would not create any conflict of interest between the 1973 Trustee and the 1974 Trustee.

Both the 1973 Indenture and the 1974 Indenture contemplate the possible issuance of additional series of Debentures and Notes upon pledge to the respective Trustees of additional Loan Agreements and Leasing Notes. The 1974 Indenture has a specific granting clause covering the possibility of such future pledges. Any such future pledges under the 1973 Indenture would be covered by the general granting clause covering any other property which may be subjected to the lien of the 1973 Indenture. Any such additional Leasing Note pledged under either Indenture would be an unsecured obligation of Leasing and would rank *pari passu* with the 1973 Leasing Note and the 1974 Leasing Note and would create no conflict between the two Indentures.

With regard to additional property other than additional Loan Agreements and Leasing Notes, the 1974 Indenture has a standard additional property granting clause similar to Granting Clause III of the 1973 Indenture. No such additional property of any kind is presently held by either the 1973 Trustee or the 1974 Trustee and it is not presently intended that any such additional property will ever be subjected to the lien of either Indenture. In any event, any such additional property other than Leasing Notes would be incidental to the security represented by the 1973 Leasing Note, the 1974 Leasing Note and the Vehicles and Vehicle Leases.

Thus, the existence of the dual trusteeship should in no way inhibit or discourage the Trustees' action.

(5) It is not in default under the 1973 Indenture or the 1974 Indenture.

(6) Neither the differences indicated above, nor any other provisions of the aforementioned indentures, are likely to involve a material conflict of interest so as to make it necessary in the public interest or for the protection of any of

the Debentureholders to disqualify Bankers Trust Company from acting as Trustee under either of the aforementioned indentures.

(7) Applicant waives (a) notice of hearing, (b) hearing on the issues raised by this application and (c) all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission's Public Reference Section at 1100 L St., N.W., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than June 12, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

(SEAL) GEORGE A. FITZSIMMONS,  
Secretary.  
[FR Doc.75-13584 Filed 5-22-75; 8:45 am]

[File No. 500-1]

#### INDUSTRIES INTERNATIONAL, INC.

##### Suspension of Trading

MAY 16, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Industries International, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from May 17, 1975 through May 26, 1975.

By the Commission.

(SEAL) GEORGE A. FITZSIMMONS,  
Secretary.  
[FR Doc.75-13585 Filed 5-22-75; 8:45 am]

[Rel. No. 8793; 812-3777]

#### INVESTORS SYNDICATE OF AMERICA INC.

##### Filing of Application

MAY 16, 1975.

In the matter of Investors Syndicate of America, Inc., IDS Tower, Minneapolis, Minnesota 55402.

Notice is hereby given that Investors Syndicate of America, Inc. ("Applicant"), a face-amount certificate company registered under the Investment Company Act of 1940 ("Act"), has filed an application for an order pursuant to section 28(c) of the Act approving an amendment to a depository agreement to cover a new series of face-amount certificates, to be designated Series SP 75. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Section 28(c) provides, to the extent relevant, that the Commission shall by order, in the public interest or for the protection of investors, require a registered face-amount certificate company to deposit and maintain, with a bank having specified qualifications, all or any part of its investments required as certificate reserves under the provisions of section 28(b) of the Act.

On November 16, 1940, the Commission issued an order approving the depository agreement between Applicant and The Marquette National Bank, which requires Applicant to deposit and maintain qualified assets at least equal to the certificate reserve requirements of section 28 of the Act (Investment Company Act Release No. 18) for certain outstanding certificates. Subsequently, from time to time, the Commission has issued orders granting applications for amendments to the initial agreement to include coverage of new series of securities proposed to be issued (Investment Company Act Release Nos. 792, 1895, 3105, 3552, 3751, 4390, 6810, and 8551). The amendment to the depository agreement, for which approval is now requested, concerns the deposit of assets to be maintained for the benefit of holders of the new series. Applicant agrees that it remains subject to all the terms and conditions contained in the foregoing orders of the Commission relating to the depository agreement and amendments thereto.

Notice is further given that any interested person may, not later than June 9, 1975, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who re-



## NOTICES

quest a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.75-13586 Filed 5-22-75; 8:45 am]

[Release No. 18991; 70-5682]

**MIDDLE SOUTH UTILITIES INC.**  
**Proposed Issue and Sale of Short-Term Promissory Notes**

In the matter of Middle South Utilities, Inc., 225 Baronne Street, New Orleans, Louisiana 70112.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act as applicable to the following proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Middle South proposes, under a revolving credit agreement with a group of banks headed by Manufacturers Hanover Trust Company of New York ("MHTC"), to issue and sell its unsecured short-term promissory notes in an aggregate amount not to exceed \$221,200,000 outstanding at any one time.

The initial borrowing under the credit agreement will be used for the payment of \$127.7 million of short-term notes issued by Middle South to MHTC and various commercial banks under a prior credit agreement dated July 1, 1973, as amended, which borrowings were approved by this Commission (File No. 70-5366). Such borrowings were utilized by Middle South to purchase, at various times, the common stocks of certain of its subsidiary companies. These subsidiary companies used the amounts thereby obtained to reduce outstanding bank loans and commercial paper indebtedness incurred, pending permanent financing of construction expenditures. Subsequent borrowings under the new credit agreement will be used by Middle South to purchase additional common stock of its subsidiaries. The issuance, sale, and acquisition of such common stock will be the subject of separate filings with this Commission.

Under the terms of the revolving credit agreement, Middle South may borrow and reborrow until June 30, 1976, up to an aggregate of \$221,200,000 outstanding at any one time. The names of the banks joining in the credit agreement and their respective participation are as follows:

Name of bank	Maximum amount to be borrowed and designation
Manufacturers Hanover Trust Co., New York, N.Y.	\$21,300 B
First National City Bank, New York, N.Y.	27,700 B
Bank of America National Trust and Savings Association, Los Angeles, Calif.	20,000 B
Continental Illinois National Bank and Trust Company of Chicago, Ill.	20,000 C
First National Bank of Boston, Mass.	20,000 A
The Northern Trust Company, Chicago, Ill.	11,100 A
Irving Trust Company, New York, N.Y.	11,100 B
Morgan Guaranty Trust Company of New York, N.Y.	10,000 A
First National Bank of Boston, Mass.	10,000 B
North Carolina National Bank, Charlotte, N.C.	10,000 B
First Pennsylvania Bank, N.A., Philadelphia, Pa.	5,000 A
The Fidelity Bank, Philadelphia, Pa.	5,000 A
Crocker National Bank, San Francisco, Calif.	5,000 A
Union Bank, Los Angeles, Calif.	5,000 A
Total	221,300

Each borrowing and each payment by Middle South will be made *pro-rata* among the lending banks according to their original commitment. The notes issued to those banks designated as A banks in the credit agreement will bear interest from the date thereof on their unpaid principal amount at a rate per annum equal to the commercial loan rate of MHTC from time to time in effect on borrowings having a 90-day maturity by its most responsible and substantial domestic corporate borrowers ("MHTC Rate"); the notes issued to those banks designated as B banks in the credit agreement will bear interest from the date thereof on their unpaid principal amount at a rate per annum equal to 122% of the MHTC rate; and the notes issued to that bank designated in the credit agreement as a C bank will bear interest from the date thereof on their unpaid principal amount at a rate per annum equal to 112% of the MHTC rate.

Middle South will pay to each participating bank a commitment fee for the period from and including May 1, 1975, to June 30, 1976 (or any earlier date of termination of the commitments), computed at the rate of  $\frac{1}{2}$  of 1% per annum on the average daily unused portion of the commitments in effect during the period for which payment is made. Middle South will also pay to each of the A and B banks a facility fee on the average daily amount of such bank's commitment (whether used or unused) from May 1, 1975, to and including June 30, 1976, at a rate of  $\frac{1}{4}$  of 1% per annum. Middle South will pay to the C bank a facility fee on the average daily amount of such bank's commitment (whether used or unused) from May 1, 1975, to and including June 30, 1976. The rate of the facility fee applicable to the C bank shall be 10% of the MHTC rate in effect from time to time.

It is stated that, based on a  $7\frac{1}{2}$ % prime rate, the effective interest cost of the A, B, and C banks, including the facility fees and assuming balances of 10% on the line and 10% on the borrowing from the A banks, would be 9.69%, 9.40%, and 9.15%, respectively.

Middle South presently intends to repay the principal of the notes out of the proceeds of the sale of additional shares of its common stock. The notes will be prepayable at any time on two business days' notice in whole or in part without premium. Middle South will have the right at any time on three business days' notice to the participating banks to terminate or, from time to time, to reduce the commitments.

The declaration states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. No special or separate expenses are anticipated in connection with the proposed transactions except for the Commission's filing fee.

Notice is further given that any interested person may, not later than June 10, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.75-13581 Filed 5-22-75; 8:45 am]

## NOTICES

22615

[Release No. 18989; 70-5678]  
**NATIONAL FUEL GAS CO. ET AL**  
**Proposed Issue and Sale of Debentures**  
MAY 15, 1975.

In the matter of National Fuel Gas Company, 30 Rockefeller Plaza, New York, New York 10020; National Fuel Gas Distribution Corporation, 10 Lafayette Square, Buffalo, N.Y. 14203; National Fuel Gas Supply Corporation, 308 Seneca Street, Oil City, Pennsylvania 16301.

Notice is hereby given that National Fuel Gas Company ("National"), a registered holding company, and two of its subsidiary companies, National Fuel Gas Distribution Corporation ("Distribution Corporation") and National Fuel Gas Supply Corporation ("Supply Corporation"), have filed an application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, 9(a), 10, 12(b), and 12(f) of the Act and Rules 42, 43, 45, and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

National proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 promulgated under the Act, \$21,000,000 principal amount of % Debentures, Series due June 1984. The interest rate of the debentures (which shall be a multiple of  $\frac{1}{4}$  of 1%) and the price, exclusive of accrued interest, to be paid to National (which shall be not less than 99% nor more than 102% of the principal amount thereof) will be determined by the competitive bidding. The debentures will be issued under an indenture dated as of August 15, 1968, between National and Manufacturers Hanover Trust Company as Trustee, as heretofore supplemented and as to be further supplemented by a Fifth Supplemental Indenture dated as of June 15, 1975. The debentures may not be redeemed prior to June 15, 1980, if such redemption is for the purpose or in anticipation of their refunding through the use, directly or indirectly, of funds borrowed by the company at an effective interest cost of less than the effective interest cost of the debentures.

On the date the proceeds are available from the sale of the \$21,000,000 principal amount of debentures, National proposes to return to Distribution Corporation and Supply Corporation their notes totaling \$15,116,600 and \$5,883,400 respectively, all of which mature on August 15, 1975, and which were originally issued in 1970 in connection with 8% Debentures due August 15, 1975. Concurrently, Distribution Corporation and Supply Corporation propose to issue new notes to National in the same amounts having a maturity date of June 15, 1984. The interest rate per annum will be equal to the effective cost of money incurred by National in the sale of the

new debentures, rounded to the next highest multiple of  $\frac{1}{4}$  of 1%.

The fees and expenses to be paid by National in connection with the proposed debentures are estimated at \$90,000, including legal fees of \$27,000 and auditor's fees of \$7,000. The fees and expenses in connection with the proposed notes are estimated at \$5,050 and are to be paid by National.

It is stated that the proposed issue and sale of notes by Distribution Corporation are subject to the jurisdiction of the Public Service Commission of New York and the Pennsylvania Public Utility Commission and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than June 6, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.75-13587 Filed 5-22-75; 8:45 am]

[Release No. 8792; 812-3783]

**TAX-EXEMPT MUNICIPAL TRUST**  
**Filing of Application**

In the matter of Tax-Exempt Municipal Trust (First New York Series and Subsequent Series), 767 Fifth Avenue, New York, New York.

Notice is hereby given that Tax-Exempt Municipal Trust (First New York Series and Subsequent Series) ("Appli-

cant"), a unit investment trust registered under the Investment Company Act of 1940 ("Act"), filed an application on March 20, 1975, pursuant to section 6(c) of the Act for an order of the Commission exempting Applicant from the provisions of Rule 19b-1 under the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant is a trust organized under the laws of the State of New York. Shearson Hayden Stone, Inc. ("Sponsor") acts as Applicant's sponsor. Each series of Applicant is or will be governed by a trust agreement ("Trust Agreement") with United States Trust Company ("Trustee") as Trustee, Standard & Poor's Corporation ("Evaluator") serves as Evaluator.

On December 26, 1974, Applicant filed a registration statement on Form S-6 under the Securities Act of 1933 ("Securities Act"). The registration statement was declared effective on February 19, 1975, and covered a maximum of 10,000 Units of Tax-Exempt Municipal Trust, First New York Series which were offered to investors at the public offering price computed in the manner set forth in the Prospectus dated February 19, 1975.

First New York Series is, and each future series issued by Applicant will be, subject to a trust agreement for that series ("Trust Agreement") entered into prior to or on the effective date of a registration statement under the Securities Act for the Units of such series. The Trust Agreement for each series will name the Sponsor as sponsor and the Trustee as trustee and will contain terms and conditions of trust common to all series.

Rule 19b-1(a) under the Act provides, in substance, that no registered investment company which is a "regulated investment company" shall distribute more than one capital gain distribution in any one taxable year. Paragraph (b) of the Rule contains a similar prohibition for a company not a "regulated investment company," provided, however, that a unit investment trust may distribute capital gains distributions received from a "regulated investment company" within a reasonable time after receipt.

Applicant states that the Trust is an unmanaged investment company with portfolios of predeposited and specifically identified bonds. Once the initial deposit is made for a specific series, prior to the public offering of Units for said series, other securities may not be acquired in addition to or in substitution for any of the bonds except in the case of refunding or refinancings. Although bonds may be sold by the Trustee upon the Sponsor's direction under certain circumstances, stated in the Trust Agreement, such circumstances are limited.

Distributions of principal which constitute, in part, capital gains to holders of Units may arise in the following in-



stances: (1) an issuer might call or redeem an issue held in the portfolio and (2) bonds might be liquidated in order to provide the funds necessary to meet redemptions.

Applicant, contemplates making monthly distributions of principal and interest to Unitholders of first New York Series and subsequent series. Applicant states that the dangers against which Rule 19b-1 is intended to guard do not exist in Applicant's situation since the events which may give rise to capital gains are substantially independent of any action by the Sponsor and the Trustee.

Any capital gains or return of capital distributions will be clearly distinguished from interest distributions in the accompanying report by the Trustee to Unitholders. Applicants contend that it would be to the detriment of Unitholders if a series is required to hold any money, which might be capital gains, until the end of its taxable year before distributing such gains to Unitholders.

Applicants further state that the purpose behind paragraph (b) of Rule 19b-1 is to avoid forcing a unit investment trust to accumulate valid distributions received throughout the year until year end and that the Trust's situation is within the intended objectives of such provisions even though each series will not invest in regulated investment companies.

Section 6(c) of the Act provides, in part, that the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provisions of the Act or any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than June 9, 1975, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons

who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[PR Doc 75-13588 Filed 5-22-75; 8:45 am]

[File No. 500-1]

#### WESTGATE CALIFORNIA CORP.

##### Suspension of Trading

MAY 16, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock (class A and B), the cumulative preferred stock (5% and 6%), the 6% subordinated debentures due 1979 and the 6½% convertible subordinated debentures due 1987 being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from May 17, 1975, through May 26, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[PR Doc 75-13589 Filed 5-22-75; 8:45 am]

[File No. 500-1]

#### ZENITH DEVELOPMENT CORP.

##### Suspension of Trading

MAY 16, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Zenith Development Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from May 17, 1975, through May 26, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[PR Doc 75-13590 Filed 5-22-75; 8:45 am]

#### SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 1141]

##### MARYLAND

##### Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of April, because of the

effects of a certain disaster, damage resulted to property located in the State of Maryland;

Whereas, the Small Business Administration has investigated and received reports of other investigations in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended;

Now, Therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Cecil, Kent and Somerset Counties, and adjacent affected areas, suffered damage or destruction resulting from high winds and wave action which occurred April 3-7, 1975. Adjacent areas include only counties within the state for which the declaration is made and do not extend beyond state lines.

Office: Small Business Administration, District Office, 7800 York Road, Towson, Maryland 21204.

2. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to July 14, 1975. EIDL applications will not be accepted subsequent to February 16, 1976.

Dated, May 14, 1975.

THOMAS S. KLEPPE,  
Administrator.

[PR Doc 75-13516 Filed 5-22-75; 8:45 am]

[Notice of Disaster Loan Area 1131; Amdt. 1]

##### VIRGINIA

##### Amendment to Notice of Disaster Relief Loan Availability

As a result of the SBA declaration of the State of Virginia as a disaster area following high wind which occurred on or about April 3-4, 1975, applications for disaster relief loans will be accepted by the Small Business Administration from disaster victims in the following additional counties: Accomack, Gloucester, Mathews, Northampton, Northumberland, Westmoreland and adjacent affected areas. Adjacent areas include only counties within the state for which the declaration is made and do not extend beyond state lines. (See 40 FR 19048)

Applications may be filed at the:

Small Business Administration, District Office, Federal Building—Room 3015, 400 North Eighth Street, Richmond, Virginia 23240.

and at such temporary offices as are established. Such addresses will be announced locally.

Closing date for accepting applications under this amendment in the additionally designated counties not previously included as an adjacent affected area is July 14, 1975. EIDL applications will not

be accepted subsequent to February 16, 1976.

Dated: May 15, 1975.

THOMAS S. KLEPPE,  
Administrator.

[PR Doc 75-13517 Filed 5-22-75; 8:45 am]

#### GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. A-11]

##### INCREASED TRAVEL ALLOWANCES

##### Change in Federal Travel Regulations Correction and Republication

In FR Doc. 75-13532 appearing at page 22182 in the issue of Wednesday, May 21, 1975, the following changes should be made:

1. The headings should read as set forth above.

2. In the first column on page 22183, in the second line of paragraph (4), "Government contract" should read "Government-contract".

3. In the second column on page 22184, before paragraph 10, paragraph 9 was inadvertently omitted. For the convenience of the reader the entire document is republished to read as follows:

1. **Purpose.** This regulation amends Federal Property Management Regulations 101-7, Federal Travel Regulations, (a) to implement the Travel Expense Amendments Act of 1975 (Pub. L. 94-22, approved May 19, 1975) and (b) to provide for increases in the mileage allowances for use of privately owned automobiles when used in lieu of Government-furnished automobiles.

2. **Effective date.** This regulation is effective for travel performed on or after May 19, 1975.

3. **Expiration date.** This regulation expires May 1, 1976. Prior to expiration, the provisions of this regulation will be incorporated, as appropriate, in the Federal Travel Regulations (FTR), FPMR 101-7.

4. **Applicability.** The provisions of this regulation apply to the official travel of employees of Government agencies as defined in 5 U.S.C. 5701, except employees of the judicial branch.

5. **Background.** a. Pub. L. 94-22, Travel Expense Amendments Act of 1975, hereinafter referred to as the act, authorizes increases in the statutory maximum travel allowances and makes certain other technical and clarifying changes by amending Subchapter 1 of Chapter 57 of Title 5 of the United States Code (5 U.S.C. 5701-5709). It also establishes a new concept of high rate geographical areas to accommodate those areas where unusually high travel costs are incurred. In addition, the act authorizes the Administrator of General Services to provide regulations setting per diem and mileage allowances not to exceed the statutory maximum amounts and to prescribe the conditions of travel and reimbursement.

b. Because of increased costs of operating Government motor vehicles,

mileage rates for use of a privately owned vehicle when such use is in lieu of a Government-furnished vehicle are increased.

c. In consonance with the provisions of this regulation, and to achieve maximum uniformity, the General Services Administration (GSA) proposes to publish additional criteria for the computation of per diem rates for official travel including circumstances which require reduced per diem and/or where the lodgings-plus method may not be appropriate. This action will be reflected in a proposed revision to the FTR after a thorough review has been made of the various travel circumstances and agency comments and recommendations.

6. **Explanation of changes.** Provisions stated in attachment A to this regulation amend the FTR for the reasons given below. It should be noted that certain existing FTR paragraphs have been incorporated for clarity and continuity purposes and to facilitate use of this regulation. The following changes are made in the FTR which are incorporated by reference into 41 CFR Part 101-7 and transmitted by GSA Bulletin FPMR A-40:

a. Paragraph 1-1.2 is revised to clarify the applicability of Chapter 1 of the FTR to include certain experts and consultants and individuals serving without pay or at \$1 a year who were covered under 5 U.S.C. 5703 prior to amendment by the act. These individuals are now considered to be employees for purposes of the administration of travel allowances under Chapter 1. It also specifically excludes employees of the judicial branch of the Government.

b. Paragraph 1-1.3c is amended to add new definitions and to incorporate modified definitions previously in FPMR Temporary Regulation A-9.

c. Paragraph 1-2.2 is revised to incorporate modified provisions of FPMR Temporary Regulation A-9 to clarify the methods and priorities of transportation to be used for official travel.

d. Paragraph 1-4.1c is revised to authorize reimbursement for the cost of airplane parking, landing, and tiedown fees in addition to the mileage allowance.

e. Paragraph 1-4.2 is amended to increase mileage allowances for use of privately owned conveyances when such use is advantageous to the Government.

f. Paragraph 1-4.4 is amended to increase the mileage allowances for use of a privately owned automobile when such use is in lieu of a Government-furnished automobile.

g. Paragraph 1-7.1a is revised for clarification because of the new high rate geographical area provisions in Part 8.

h. Paragraph 1-7.2 is amended to increase the maximum per diem allowance for official travel within the conterminous United States to \$33.

i. Paragraph 1-7.3c is revised to establish a uniform set rate of \$14 for meals and miscellaneous subsistence expenses and to clarify the method to be used in computing the average cost of lodgings.

j. Paragraphs 1-8.1, 1-8.2, and 1-8.3 are revised to increase the maximum al-

lowance for actual subsistence expense travel, to provide for the newly authorized high rate geographical area method, and to include more detailed and uniform guidance for the authorization and reimbursement of actual subsistence expense travel.

k. Paragraph 1-8.6 is added to designate those cities or areas that have been determined to be high rate geographical areas and to prescribe the maximum allowable rate of reimbursement.

l. Paragraph 2-2.3 is amended to increase the maximum allowable mileage rates for use of a privately owned automobile during permanent change of station travel.

m. The table of contents is amended to add the captions of the new paragraphs provided herein through appropriate annotations.

7. **Assistance.** Agencies may obtain additional information and assistance concerning the provisions of this regulation by contacting the General Services Administration (FTR), Washington, D.C. 20406, telephone: (703) 557-9030.

8. **Effect on other issuances.** FPMR Temporary Regulation A-9 dated February 6, 1974, and Supplement 2 thereto dated January 24, 1975, are canceled. The applicable provisions of the canceled regulation are modified and incorporated herein.

9. **Agency comments.** Comments and recommendations concerning the provisions of this regulation are requested and should be submitted to the General Services Administration (FTR), Washington, D.C. 20406, within 60 calendar days of the effective date of this regulation for possible incorporation into the permanent regulation. Comments are also desired concerning the proposal to prescribe guidance and rates applicable to all agencies for computation of per diem and for travel circumstances that require reduced per diem rates as described in subparagraph 5c. Comments should include descriptions of travel circumstances requiring reduced per diem (especially those situations unique to the agency commenting) and recommendations for specific rates, if appropriate.

ARTHUR F. SAMPSON,  
Administrator of  
General Services.

MAY 19, 1975.

#### CHANGES TO FEDERAL TRAVEL REGULATIONS, FPMR 101-7

1. Paragraph 1-1.2 is revised to read as follows:

1-1.2. **Applicability.**

(a) The provisions of this chapter apply to official travel of civilian employees of Government agencies, including civilian employees of the Department of Defense, as authorized under 5 U.S.C. 5701-5709, but excluding employees of the judicial branch of the Government.

(b) The provisions of this chapter also apply to official travel of individuals employed intermittently in the Government service as consultants or experts and paid on a daily when-actually-employed (WAE) basis and of individuals serving



without pay or at \$1 a year. These individuals are not considered to have a "permanent duty station" within the general meaning of that term; however, they may be allowed travel or transportation expenses under this chapter while traveling on official business for the Government away from their homes or regular places of business and while at places of Government employment or service. Maximum rates prescribed herein are applicable unless a higher rate is specifically authorized in an appropriation or other statute.

2. Paragraph 1-1.3c is amended by adding new subparagraphs as follows:

1-1.3. *General rules.*

c. *Definitions.*

(3) *Government-furnished automobile.* The term Government-furnished automobile includes an automobile which is (a) owned by an agency, (b) assigned or dispatched to an agency on a rental basis from a GSA interagency motor pool, or (c) leased by the Government for a period of 30 days or longer from a commercial firm.

(4) *Government-contract rental automobile.* A Government-contract rental automobile is an automobile obtained from a commercial firm under the provisions of an appropriate General Services Administration (GSA) Federal Supply Schedule contract.

(5) *Special conveyance.* Special conveyance is any method of transportation other than common carrier, Government-furnished or privately owned, which requires specific authorization or approval for the use thereof. Such transportation generally includes conveyances obtained through commercial rental means for less than 30 days.

(6) *Employee.* As used in this chapter, employee means an individual employed in or under an agency, including an individual employed intermittently in the Government service as an expert or consultant and paid on a daily when-actually-employed (WAE) basis and an individual serving without pay or at \$1 a year.

(7) *Government.* Government means the Government of the United States and the government of the District of Columbia.

(8) *Agency.* Agency means an executive agency; a military department; an office, agency, or other establishment in the legislative branch; and the government of the District of Columbia but does not include a Government-controlled corporation; a member of Congress; or an office or committee of either House of Congress or of the two Houses.

3. Paragraph 1-2.2 is revised as follows:

1-2.2. *Methods of transportation.*

a. *Authorized methods.* Methods of transportation authorized for official travel include railroads, airlines, helicopter service, ships, buses, streetcars, subways, taxicabs; Government-furnished and contract rental automobiles and airplanes; privately owned and rented automobiles and airplanes; and

any other necessary means of conveyance.

b. *Selecting method of transportation to be used.* Travel on official business shall be by the method of transportation which will result in the greatest advantage to the Government, cost and other factors considered. In selecting a particular method of transportation to be used, consideration shall be given to energy conservation and to the total cost to the Government, including costs of per diem, overtime, lost work time, and actual transportation costs. Additional factors to be considered are the total distance of travel, the number of points visited, and the number of travelers. 5 U.S.C. 5733 requires that, "The travel of an employee shall be by the most expeditious means of transportation practicable and shall be commensurate with the nature and purpose of the duties of the employee requiring such travel."

c. *Presumptions as to most advantageous method of transportation.* (1) *Common carrier.* Since travel by common carrier (air, rail, or bus) will generally result in the most efficient use of energy resources and in the last costly and most expeditious performance of travel, this method shall be used whenever it is reasonably available. Other methods of transportation may be authorized as advantageous only when the use of common carrier transportation would seriously interfere with the performance of official business or impose an undue hardship upon the traveler, or when the total cost by common carrier would exceed the cost by some other method of transportation. The determination that another method of transportation would be more advantageous to the Government than common carrier transportation shall not be made on the basis of personal preference or minor inconvenience to the traveler resulting from common carrier scheduling.

(2) *Government-furnished automobiles.* When it is determined that common carrier transportation is not advantageous to the Government and that an automobile is required for official travel, a Government-furnished automobile shall be used whenever it is reasonably available.

(3) *Privately owned conveyance.* Except as provided in 1-2.2d, the use of a privately owned conveyance shall be authorized only when such use is advantageous to the Government. A determination that the use of a privately owned conveyance would be advantageous to the Government shall be preceded by a determination that common carrier transportation or Government-furnished vehicle transportation is not available or would not be advantageous to the Government. To the maximum extent possible, these determinations and the authorization to use a privately owned conveyance shall be made before the performance of travel.

(4) *Special conveyance.* Commercially rented vehicles and other special conveyances shall be used only when it is determined that use of other methods of transportation discussed in 1-2.2c would

not be more advantageous to the Government. In the selection of commercially rented vehicles, first consideration shall be given to Government-contract rental vehicles available under an appropriate GSA Federal Supply Schedule contract.

d. *Permissive use of a privately owned conveyance.* When an employee uses a privately owned conveyance as a matter of personal preference and such use is compatible with the performance of official business, although not determined to be advantageous to the Government under 1-2.2c(3), such use may be authorized or approved: *Provided*, That reimbursement is limited in accordance with the provisions of 1-4.

4. Paragraph 1-4.1c is revised as follows:

1-4.1 *Basic rules.*

c. *Other allowable costs.* Reimbursement for parking fees; ferry fees; bridge, road, and tunnel costs; and airplane parking, landing, and tiedown fees shall be allowed in addition to the mileage allowance unless the travel orders or other administrative determinations restrict such allowance.

5. Paragraph 1-4.2 is amended as follows:

1-4.2. *When use of a privately owned conveyance is advantageous to the Government.*

a. *Mileage rate determinations.* When it is determined that use of a privately owned conveyance by the traveler is advantageous to the Government as provided in 1-2.2c(3), the reimbursement mileage rates shall be as follows:

- (1) 8 cents per mile for use of a privately owned motorcycle.
- (2) 15 cents per mile for use of a privately owned automobile.
- (3) 22 cents per mile for use of a privately owned airplane.

c. *To and from common carrier terminals and office.* (1) *Round trip when in lieu of taxicab to carrier terminals.* In lieu of the use of a taxicab under 1-2.3c, payment on a mileage basis at the rate of 15 cents per mile and other allowable costs as set forth in 1-4.1c shall be allowed for the round-trip mileage of a privately owned automobile used by an employee going from either his home or place of business to a terminal or from a terminal to either his home or place of business. However, the amount of reimbursement for the round trip shall not in either instance exceed the taxicab fare, including tip, allowable under 1-2.3c for a one-way trip between the applicable points.

(2) *Round trip when in lieu of taxicab between residence and office on day of travel.* In lieu of the use of taxicab under 1-2.3d, payment on a mileage basis at the rate of 15 cents per mile and other allowable costs as set forth in 1-4.1c shall be allowed for round-trip mileage of a privately owned automobile used by an employee going from his residence to his place of business or returning from place of business to residence on a day travel is performed. However, the

amount of reimbursement for the round trip shall not exceed the taxicab fare, including tip, allowable under 1-2.3d for a one-way trip between the points involved.

6. Paragraph 1-4.4 is amended as follows:

1-4.4. *When use of a privately owned conveyance is in lieu of a Government-furnished automobile.*

b. *Reimbursement based on Government costs.* Based upon average rental rates which agencies pay for GSA motor pool automobiles and the administrative cost to the user agency, it has been determined that the average mileage cost for use of a Government-furnished automobile for travel in the conterminous United States is 11 cents. Therefore, the mileage rate for authorized use of a privately owned conveyance when use of a Government-furnished automobile would be most advantageous to the Government shall be 11 cents. Exceptions to the above limitation may be authorized if an agency determines that, because of unusual circumstances, the cost of providing a Government-furnished automobile would be higher than 11 cents. In such instances the agency may allow reimbursement at such higher rate within the statutory maximum that will most nearly equal the cost of providing a Government-furnished automobile in those circumstances. In addition to mileage for the distance allowed under 1-4.1b, the employee may be reimbursed for expenses authorized under 1-4.1c which would have been incurred if a Government-furnished vehicle had been used.

c. *Partial reimbursement when Government automobile is available.* When an employee who is committed to using a Government-furnished automobile, or who because of the availability of Government-furnished automobiles, would not ordinarily be authorized to use a privately owned conveyance in lieu of a Government-furnished automobile nevertheless requests use of a privately owned conveyance, reimbursement may be authorized or approved. The rate of reimbursement shall be 6 cents per mile, which is the approximate cost of operating a Government-furnished automobile, fixed costs excluded.

d. *Reimbursement claims.* When claiming mileage at the 11 cent rate, the employee shall state on his voucher that he had not made a commitment to use a Government-furnished automobile and that reimbursement for use of a privately owned automobile was not limited under 1-4.4c.

7. Paragraph 1-7.1a is revised as follows:

1-7.1. *Coverage.*

a. *Travel for which per diem shall be paid.* Per diem allowances under 1-7 shall be paid for official travel except when it is determined that reimbursement should be on the basis of actual subsistence expenses as provided in 1-8.

8. Paragraph 1-7.2 is amended as follows:

1-7.2. *Maximum locality rates.* A per diem allowance in lieu of actual subsistence expenses for travel on official business shall be authorized or approved with the following maximum rates:

a. *Conterminous United States.* Reimbursement for official travel within the limits of the conterminous United States shall be a daily rate not in excess of \$33 except when actual subsistence expenses travel is authorized or approved due to the unusual circumstances of the travel assignment or for travel to a designated high rate geographical area as provided in 1-8.1.

9. The caption of paragraph 1-7.3 is changed and paragraph 1-7.3c is revised as follows:

1-7.3. *Agency responsibility for authorizing individual rates.*

c. *When lodgings are required.* (1) For travel in the conterminous United States when lodging away from the official duty station is required, the per diem rate shall be established on the basis of the average amount the traveler pays for lodging, plus an allowance of \$14 for meals and miscellaneous subsistence expenses. Calculation shall be as follows:

(a) To determine the average cost of lodging, divide the total amount paid for lodgings during the period covered by the voucher by the number of nights for which lodgings were or would have been required while away from the official station. Exclude from this computation the night of the employee's return to his residence or official station.

(b) To the average cost of lodging add the allowance for meals and miscellaneous expenses. The resulting amount rounded to the next whole dollar, subject to the maximum prescribed in 1-7.2a, is the rate to be applied to the traveler's reimbursement voucher.

(2) No minimum allowance is authorized for lodging since those allowances are based on actual lodging costs. Receipts for lodging costs may be required at the discretion of each agency; however, employees are required to certify on their vouchers that per diem claimed is based on the average cost for lodging while on official travel within the conterminous United States during the period covered by the voucher.

(3) An agency may determine that the lodging-plus method as prescribed herein is not appropriate in circumstances such as when quarters or meals, or both, are provided at no cost or at a nominal cost by the Government or when for some other reason the subsistence costs to be incurred by the employee can be determined in advance. In such instances a specific per diem rate may be established and reductions made in accordance with this part, provided the exception from the lodging-plus method is authorized in writing by an appropriate official of the agency involved.

10. Paragraphs 1-8.1 thru 1-8.3 are revised as follows:

1-8.1. *Authorization or approval.*

a. *General.* Authority for reimbursement of actual and necessary subsistence expenses incurred during official travel is normally contingent upon the entitlement to per diem (see 1-7) and the determination that the authorized maximum per diem allowance would be inadequate to cover the actual and necessary expenses of the traveler. A traveler may be reimbursed for the actual and necessary expenses of the official travel when the maximum per diem allowance otherwise allowable is determined to be inadequate due to the unusual circumstances of the travel assignment or for travel to high rate geographical areas. Heads of those agencies defined in 5 U.S.C. 5701, or their designees (see 1-8.3), shall authorize or approve reimbursement for the actual and necessary subsistence expenses of a traveler incurred during official travel in accordance with the provisions of this part.

b. *Travel to high rate geographical areas.* Actual subsistence expense reimbursement shall be authorized or approved whenever temporary duty travel is performed to or in a location designated as a high rate geographical area in 1-8.6, except when the high rate geographical area is only an intermediate stopover point at which no official duty is performed.

c. *Unusual circumstances of the travel assignment.* Actual subsistence expense reimbursement may be authorized or approved for specific travel assignments within and outside the conterminous United States when it is determined that maximum per diem allowance (see 1-7.2) would be inadequate due to the unusual circumstances of the travel assignment.

(1) The actual subsistence expense basis of reimbursement shall not be authorized or approved in instances in which the actual and necessary subsistence expenses exceed the maximum per diem allowable only by a small amount. The actual subsistence expense basis may appropriately be authorized or approved for travel assignments which otherwise meet conditions prescribed herein and by the head of the agency if, due to unusual circumstances:

(a) The actual and necessary subsistence expenses exceed the maximum per diem allowance (see 1-7.2) by 10 percent or more, or

(b) The traveler has no alternative but to incur hotel costs which absorb all or nearly all of the maximum per diem allowance (see 1-7.2), since hotel accommodations constitute the major portion of necessary subsistence expenses.

(2) Notwithstanding the criteria outlined above, actual subsistence expense reimbursement shall not be authorized or approved solely on the basis of inflated lodging and/or meal costs since inflated costs are common to all travelers; some unusual circumstances of the travel assignment must be involved to cause the lodging and/or meal costs to



be higher than those which normally would be incurred at a particular location (42 Comp. Gen. 440).

(3) Travel which involves unusual circumstances may include, but is not limited to, the following situations:

(a) The traveler attends a meeting, conference, or training session away from his official duty station where lodging and/or meals must be procured at a prearranged place (such as the hotel where the meeting, conference, or training session is being held) and the lodging costs, incurred because of such prearranged accommodations, absorb all or practically all of the maximum per diem allowance.

(b) The traveler, by reason of the assignment, necessarily incurs unusually high expenses in the conduct of official business such as for superior or extraordinary accommodations including a suite or other quarters for which the charge is well above that which he would normally have to pay for accommodations.

(c) The traveler necessarily incurs unusually high expenses incident to his assignment to accompany another traveler in a situation as described above.

d. *Maximum to be stated in travel authorization.* The amount per calendar day authorized by the agency or as prescribed herein for high rate geographical areas shall be stated in the travel authorization for a specific travel assignment.

e. *Conditions warranting approval.* If travel is performed without prior authorization or is authorized on a per diem basis and otherwise conforms to the provisions of this part, the actual and necessary subsistence expenses incurred may be approved within the authorized maximum rates as stated herein.

#### 1-8.2. Authorized reimbursement.

a. *Maximum daily reimbursement.* When the actual subsistence expenses incurred during any one day are less than the daily rate authorized, the traveler will be reimbursed only for the lesser amount. The daily rate shall not be prorated for fractions of a day; however, expenses incurred and claimed for a fraction of a day shall be reviewed and allowed only to the extent determined to be reasonable by the agency concerned. The maximum amount of reimbursement for actual subsistence expense travel which may be authorized or approved for each calendar day or fraction thereof, is limited as follows:

(1) For travel within the conterminous United States to designated high rate geographical areas, under the provisions of 1-8.1b, the maximum authorized rates have been set administratively as provided in 1-8.6. These are uniform maximum actual subsistence expense rates and are not subject to change by the agencies concerned. However, this does not preclude agency determination of other appropriate and necessary rates under 1-8.2a(2) if the travel to a high rate geographical area also involves un-

usual circumstances of the travel assignment.

(2) For travel within the conterminous United States involving unusual circumstances, the statutory maximum daily rate is \$50. Agencies shall determine appropriate and necessary daily maximum rates not to exceed this amount.

(3) For travel outside the conterminous United States involving unusual circumstances, the statutory maximum daily rate is \$21 per day plus the maximum per diem allowance officially established for the overseas locality in which the travel is performed (see 1-7.2). Agencies shall determine appropriate and necessary daily maximum rates not to exceed this limitation.

b. *Allowable expenses.* Actual subsistence expense reimbursement shall be allowed for the same type of expenses normally covered by the per diem allowance under the provisions of 1-7.1b.

c. *Special rules for mixed travel (per diem and actual subsistence expense).* Travel may be authorized or approved on both a per diem basis and an actual subsistence expense basis during a single trip when travel is performed in several locations including high rate geographical areas; however, only one method of reimbursement (per diem or actual subsistence expense) shall be authorized within the same day.

(1) *Rate and method of reimbursement determined by location.* In instances of mixed travel involving both per diem and actual subsistence expense, or several high rate geographical areas, the method of reimbursement and authorized rate for a calendar day (beginning at 12:01 a.m.) shall be determined by the location where the lodgings are obtained for that day. For example, when a traveler performs travel in a per diem area for part of a day and completes that day's travel in a high rate geographical area where he performs official duty and obtains lodging, the traveler should be reimbursed under the actual subsistence expense method for the entire day not to exceed the maximum rate prescribed for the high rate geographical area where the lodgings were obtained.

(2) *Reimbursement for day of return.* The method of reimbursement for the day of return to home or official station (where lodgings are not involved) shall be the same method of reimbursement authorized for the first day of travel. For example, if a traveler is authorized actual subsistence expense reimbursement for the first day of travel, reimbursement for the day of return to home or official station shall also be on an actual subsistence expense basis; if per diem is authorized for the first day of travel, per diem shall also be authorized for the day of return to home or official station.

(3) *Reimbursement computation.* A traveler's claim for reimbursement may include several different rates depending upon the location(s) in which travel is

performed. See figure 1-8.2c for examples showing computation of mixed travel reimbursement.

#### 1-8.3 Agency responsibilities, review, and administrative controls.

a. *Delegation of authority.* Heads of agencies may delegate, with provisions for limited redelegation, authority to authorize or approve travel on an actual subsistence expense basis.

(1) The delegation or redelegation of authority to authorize or approve travel on an actual subsistence expense basis due to unusual circumstances of the travel assignment shall be held to as high an administrative level as practicable to ensure adequate consideration and review of the circumstances surrounding the need for travel on the actual subsistence expense basis.

(2) Since travel to designated high rate geographical areas is automatically on an actual subsistence expense basis, the delegation or redelegation of authority to authorize or approve this type of travel should be at a lower administrative level than that stated in (1), above.

b. *Review and administrative controls.* Heads of agencies shall establish necessary administrative arrangements for an appropriate review of the justification for travel on the actual subsistence expense basis and of the expenses claimed by a traveler to determine whether they are allowable subsistence expenses and were necessarily incurred in connection with the specific travel assignment. Agencies shall ensure that travel on an actual subsistence expense basis is properly administered and shall take necessary action to prevent abuses.

11. Paragraph 1-8.6 is added as follows:

1-8.6. *Designated high rate geographical areas.* Pursuant to the provisions of 1-8.1b and 1-8.2a(1), for temporary duty travel to or within the cities designated as high rate geographical areas below, a traveler automatically shall be placed in an actual subsistence expense status and shall be reimbursed for the actual and necessary subsistence expenses incurred not to exceed the maximum rate prescribed for the particular geographical area involved.

Designated High Rate Geographical Areas	Prescribed maximum daily rates
Boston, Mass. (all locations within the corporate limits of Boston and Cambridge, Massachusetts).....	\$38
Chicago, Ill. (all locations within the corporate limits thereof).....	39
Los Angeles, Calif. (all locations within the corporate limits of the city of Los Angeles).....	37
New York, N.Y.—all locations within the:	
Boroughs of Brooklyn and Queens...	39
Boroughs of Manhattan, Bronx, Staten Island.....	50
San Francisco, Calif. (all locations within the corporate limits of San Francisco and Oakland, Calif.).....	39
Washington, D.C. (all locations within the corporate limits of Washington, D.C.; and the county of Arlington and the city of Alexandria, Va.)....	42

#### FPMR Temp. Reg. A- Attachment A

#### REIMBURSEMENT COMPUTATION FOR MIXED TRAVEL (PER DIEM AND ACTUAL SUBSISTENCE EXPENSE)

##### Itinerary

8/5 Depart residence 7 a.m., enroute to Atlanta  
8/6 Depart Atlanta 4 p.m., enroute to Washington, DC (high rate geographical area)  
8/7 TDY - Washington, DC  
8/8 Depart Washington, DC, 11 a.m., enroute to Chicago (high rate geographical area)  
8/9 Depart Chicago 3 p.m., arrive residence 6 p.m.

##### Reimbursement

8/5	3/4 day per diem = \$22.50 (Atlanta)*		
8/6	Actual expenses (based on where lodgings are obtained)		
	Atlanta .....	Breakfast	\$ 2.15
		Lunch	3.75
	Washington, DC .....	Dinner	6.40
		Lodging	28.50
			\$40.80
8/7	Actual expenses		
	Washington, DC .....	Breakfast	\$ 1.95
		Lunch	3.95
		Dinner	7.00
		Lodging	28.50
			\$41.40
8/8	Actual expenses		
	Washington, DC .....	Breakfast	\$ 1.85
	Chicago .....	Lunch	2.75
		Dinner	5.95
		Lodging	26.00
			\$36.55
8/9	3/4 day per diem = \$22.50 (day of return to official station based on 1st day travel status)*		

##### \* Lodgings-plus method

Atlanta	\$16 Lodging
	\$14 Meals and miscellaneous rate
	\$30 Per diem rate

##### Summary

1 1/2 days at \$30.00	\$ 45.00
1 day actual expense	40.80
1 day actual expense	41.40
1 day actual expense	36.55
Total claimed	\$163.75

Figure 1-8.2c. Illustration of computation of reimbursement for mixed travel (per diem and actual subsistence expense)  
(Part 1 of 3)



## NOTICES

FPMR Temp. Reg. A-  
Attachment AREIMBURSEMENT COMPUTATION FOR MIXED TRAVEL  
(PER DIEM AND ACTUAL SUBSISTENCE EXPENSE)Itinerary

9/7 Depart residence 2:00 p.m., enroute to San Francisco (high rate geographical area)  
 9/8 TDY - San Francisco  
 9/9 Depart San Francisco 4:15 p.m., enroute to Las Vegas  
 9/10 TDY - Las Vegas  
 9/11 Depart Las Vegas 11:00 a.m., enroute to Denver  
 9/12 Depart Denver 9:05 a.m. via Chicago, arrive residence 3:45 p.m.

Reimbursement

9/7	Actual expense		
	San Francisco .....	Dinner	\$ 4.75
		Tips to porter	1.00
		Lodging	25.00
			<u>\$30.75</u>
9/8	Actual expense		
	San Francisco .....	Breakfast	\$ 2.10
		Lunch	3.25
		Dinner	6.00
		Lodging	25.00
		Tips to porter	1.00
			<u>\$37.35</u>
9/9	1 day per diem = \$31.00 (Las Vegas)* (based on where lodgings are obtained)		
9/10	1 day per diem = \$31.00 (Las Vegas)*		
9/11	1 day per diem = \$31.00 (Denver)*		
9/12	Actual expense (day of return to official station based on 1st day of travel status)		
	Denver .....	Breakfast	\$ 2.25
	Chicago .....	Lunch	3.10
			<u>\$ 5.35</u>

\* Lodgings-plus method

Las Vegas	\$16 Lodging
Las Vegas	\$16 Lodging
Denver	\$17 Lodging
	\$49 ÷ 3 nights = \$16.33 Average cost of lodging
	+ \$14.00 Meals and miscellaneous rate
	<u>\$30.33 (rounded to \$31 per diem rate)</u>

Summary

3 days at \$31.00	\$ 93.00
1 day actual expense	30.75
1 day actual expense	37.35
1 day actual expense	5.35
Total claimed	<u>\$166.45</u>

Figure 1-8.2c. Illustration of computation of reimbursement for mixed travel (per diem and actual subsistence expense)  
(Part 2 of 3)

## NOTICES

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FPMR Temp. Reg. A-  
Attachment AREIMBURSEMENT COMPUTATION FOR MIXED TRAVEL  
(PER DIEM AND ACTUAL SUBSISTENCE EXPENSE)Itinerary

10/1 Depart residence 8:00 a.m., enroute to Harrisburg, PA  
 10/2 TDY - Harrisburg  
 10/3 Depart Harrisburg 9:00 a.m., enroute to Philadelphia, PA (unusual circumstances)  
 10/4 Depart Philadelphia 3:15 p.m., arrive residence 5:35 p.m.

Reimbursement

10/1	3/4 day per diem = \$24.00 (Harrisburg)*		
10/2	1 day per diem \$32.00 (Harrisburg)*		
10/3	Actual expense (Philadelphia) (based on where lodgings are obtained)		
	Harrisburg .....	Breakfast	
	Philadelphia .....	Lunch	
		Dinner	
		Lodging	
			\$ 1.55
			3.15
			4.95
			25.00
			<u>\$34.65</u>

10/4 3/4 day per diem = \$24.00 (day of return to official station based on 1st day travel status)\*

\* Lodgings-plus method

Harrisburg	\$18 Lodging
Harrisburg	\$18 Lodging
	\$36 ÷ 2 nights = \$18.00 Average cost of lodging
	\$14.00 Meals and miscellaneous rate
	<u>\$32.00 Per diem</u>

Summary

2 1/2 days at \$32.00	\$ 80.00
1 day actual expense	34.65
Total claimed	<u>\$114.65</u>

Figure 1-8.2c. Illustration of computation of reimbursement for mixed travel (per diem and actual subsistence expense)  
(Part 3 of 3)

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12. Paragraph 2-2.3 is amended as follows:

2-2.3. For use of a privately owned automobile in connection with permanent change of station.

b. Mileage rates prescribed. Payment of mileage allowances when authorized or approved in connection with the transfer shall be allowed as follows:

Occupants of automobile	Mileage rate (cents)
Employee only; or 1 member of immediate family	8
Employee and 1 member; or 2 members of immediate family	10
Employee and 2 members; or 3 members of immediate family	12
Employee and 3 or more members; or 4 or more members of immediate family	15

c. Mileage rates in special circumstances. Heads of agencies may prescribe that travel orders or other administrative determinations specify higher mileage rates not in excess of 15 cents for individual transfers of employees or transfers of groups of employees when:

[FR Doc.75-13532 Filed 5-20-75;10:50 am]

## DEPARTMENT OF LABOR

### Bureau of Labor Statistics

#### BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEES ON PRODUCTIVITY AND TECHNOLOGICAL DEVELOPMENTS AND FOREIGN LABOR AND TRADE

##### Meeting

There will be a joint meeting of the BRAC Committees on Productivity and Technological Developments and Foreign Labor and Trade on June 19, 1975, at 1:30 p.m., in Room 2106 of the General Accounting Office Building, 441 G Street, N.W., Washington, D.C. The agenda for the meeting is as follows:

1. The impact of the Trade Act of 1974 on BLS programs.
2. Description of developments, current status, and organizational arrangement of the following BLS programs:
  - (a) International comparisons, productivity, labor cost, and employment.
  - (b) Import-export price indexes.
  - (c) Training of foreign statisticians.
3. Brief report on the status of selected productivity programs.

This meeting is open to the public. It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auker, Executive Secretary, Business Research Advisory Council on (Area Code 202) 961-2559.

Signed at Washington, D.C. this 16th day of May 1975.

JULIUS SHISKIN,  
Commissioner of Labor Statistics.

[FR Doc.75-13597 Filed 5-22-75;8:45 am]

#### Manpower Administration EMPLOYMENT TRANSFER AND BUSINESS COMPETITION

##### Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75, published January 29, 1975 (40 FR 4393). In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Manpower, 601 D Street, NW, Washington, D.C. 20213.

Signed at Washington, D.C. this 16th day of May, 1975.

BEN BURDETSKY,  
Deputy Assistant Secretary  
for Manpower.

Applications received during the week ending May 16, 1975

Name of applicant	Location of enterprise	Principal product or activity
Flake Realty Corp.	Fairfield, Maine	Health care facility.
Management Systems & Techniques, Inc.	Burlington, Vt.	Data processing and facilities management.
N&W Realty Corp.	Walpole, N.H.	Shopping plaza.
Northern Utilities, Inc.	Rockingham and Strafford Counties, N.H., and Androscoggin, Cumberland, and York Counties, Maine.	Distribution of natural gas.
Joseph M. Reis	Pedricktown, N.J.	Landscaping, excavating, hauling, and demolition.
Summer Bornstein	Hagerstown, Md.	Manufacture upholstery furniture.
Manheim Stone, Inc.	Manheim, W. Va.	Limestone aggregate and blacktop.
Fulton Industries, Inc.	McConnellsburg, Pa. (Tenant of McConnellsburg)	Aerial work platforms.
Farrow's Red & White Supermarket	Engelhard, N.C.	Supermarket.
Slade-Harold Foods, Inc.	West New Bern, N.C.	Manufacture and distribute feed to poultry and livestock farms.
RSC Industries, Inc.	Allendale, S.C. (Tenant of Allendale County)	Manufacture insulated copper wire.
Recycle Corp. of America	Seaside, Fla. (Tenant of Jackson County Port Authority)	Recycles used cars.

Name of applicant	Location of enterprise	Principal product or activity
Housing by Vogue, Inc.	Pembroke, N.C. (Tenant to Town of Pembroke)	Manufacture of mobile homes.
J. M. McMillan Sawmill, Inc.	Stockton, Ala.	Manufacture of hardwood lumber and chips.
The Industrial Development Board of the County of Hickman Leasing to Hickman Metal Corp.	Wright, Tenn.	Foundry (metal casting), and machined castings.
Benjamin Mill & Lumber Co., Inc.	Rose City, Mich.	Retail building materials.
Monogram Industries, Inc.	Quincy, Ill., and Hannibal, Mo.	Manufacture of heating and air-conditioning equipment.
Delta Haven, Inc.	Tallulah, La.	Nursing home.
Citation Manufacturing Co., Inc.	Siloam Springs, Ark.	Industrial cleaning machines.
Central Creosoting Corp.	Mountain Grove, Mo.	Creosote railroad ties and other lumber products.
Restwell Retirement Lodge, Inc.	Columbia, Mo.	Nursing home.
Pack and Co., Inc., and Pack Concrete, Inc.	Kalspell, Mont.	Asphalt paving and ready mix concrete.
Monroe, Inc.	Leamington, Utah	Manufacture of portland cement.
Richard W. Nayatewa	Chino, Ariz.	Automobile dealership.
Lassenite Industries, Inc.	Hallelujah Junction, Calif.	Extract, process and sell cementaceous material.

[FR Doc.75-13576 Filed 5-22-75;8:45 am]

#### INTERSTATE COMMERCE COMMISSION

##### IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

##### Elimination of Gateway Letter-Notices

MAY 20, 1975.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before June 2, 1975. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 9325 (Sub-No. E5), filed May 13, 1974. Applicant: K LINES, INC., P.O. Box 1348, Lake Oswego, Ore. 97034. Applicant's representative: Michael P. Crew, 620 Blue Cross Bldg., Portland, Ore. 97201. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Cement, in bulk, between points in Washington west of the Cascade Mountains, on the one hand, and, on the other, points in Oregon, restricted against traffic moving between points in Whatcom, Skagit, Snohomish, Island, Kitsap, Clallam, Jefferson, Mason, and King Counties, Wash., on the one hand, and, on the other, points in Wallowa, Union, and Umatilla Counties, Ore. The purpose of this filing is to eliminate the gateway of points in Oregon west of the Cascade Mountains.

No. MC 9325 (Sub-No. E8), filed May 13, 1974. Applicant: K LINES, INC.,

P.O. Box 1348, Lake Oswego, Ore. 97034. Applicant's representative: Michael P. Crew, 620 Blue Cross Bldg., Portland, Ore. 97201. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Cement, in bulk, from points in Washington and Oregon (except points in Klamath, Lake, Harney, and Malheur Counties), to points in Siskiyou, Del Norte, Shasta, and Humboldt Counties, Calif. The purpose of this filing is to eliminate the gateways of points in Benton and Franklin Counties, Wash., and points in Umatilla County, Ore., and Gold Hill, Ore., or points in Oregon west of the Cascade Mountains and Gold Hill, Ore.

No. MC 21170 (Sub-No. E127), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on and west of a line beginning at the Iowa-Minnesota State line and extending along Iowa Highway 4, thence along Iowa Highway 4 to junction Iowa Highway 7, thence along Iowa Highway 7 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction Iowa Highway 141, thence along Iowa Highway 141 to junction Iowa Highway 89, thence along Iowa Highway 89 to junction Iowa Highway 210, thence along Iowa Highway 210 to junction U.S. Highway 89, thence along U.S. Highway 89 to junction Iowa Highway 92, thence along Iowa Highway 92 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction unnumbered highway near Milton, thence along unnumbered highway through Cantril, to the Iowa-Missouri State line, to points in New York, on, west, and south of a line beginning at the New York-New Jersey State line and extending along U.S. Highway 209 to junction U.S. Highway 9W, thence along U.S. Highway 9W to junction New York Highway 23A, thence along New York Highway 23A to junction New York Highway 66, thence along New York Highway 66 to junction New York Highway 295, thence along New York Highway 295 to junction unnumbered highway, thence along unnumbered highway to junction U.S. Highway 20, thence along U.S. Highway 20 to the New York-Massachusetts State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

York Highway 22, thence along New York Highway 22 to the New York-Connecticut State line. The purpose of this filing is to eliminate the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E128), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on and west of a line beginning at the Iowa-Minnesota State line and extending along Iowa Highway 9 to junction Iowa Highway 182, thence along Iowa Highway 182 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction Iowa Highway 3, thence along Iowa Highway 3 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Iowa Highway 44, thence along Iowa Highway 44 to junction Iowa Highway 25, thence along Iowa Highway 25 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction Iowa Highway 5, thence along Iowa Highway 5 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction unnumbered highway near Milton, thence along unnumbered highway through Cantril, to the Iowa-Missouri State line, to points in New York, on, west, and south of a line beginning at the New York-New Jersey State line and extending along U.S. Highway 209 to junction U.S. Highway 9W, thence along U.S. Highway 9W to junction New York Highway 23A, thence along New York Highway 23A to junction New York Highway 66, thence along New York Highway 66 to junction New York Highway 295, thence along New York Highway 295 to junction unnumbered highway, thence along unnumbered highway to junction U.S. Highway 20, thence along U.S. Highway 20 to the New York-Massachusetts State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E129), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohuski (same as above). Authority



sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on and west of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 169 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction Iowa Highway 117, thence along Iowa Highway 117 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Iowa Highway 14, thence along Iowa Highway 14 to junction Iowa Highway 163, thence along Iowa Highway 163 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction unnumbered highway near Milton, thence along unnumbered highway through Cantril, to the Iowa-Missouri State line, to points in Massachusetts on and east of a line beginning at Massachusetts Bay and extending along Massachusetts Highway 18 to junction Massachusetts Highway 123, thence along Massachusetts Highway 123 to junction Massachusetts Highway 138, thence along Massachusetts Highway 138 to the Massachusetts-Rhode Island State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E130), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohurski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on and west of a line beginning at the Iowa-Minnesota State line and extending along Iowa Highway 9 to junction Iowa Highway 182, thence along Iowa Highway 182 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction Iowa Highway 3, thence along Iowa Highway 3 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Iowa Highway 44, thence along Iowa Highway 44 to junction Iowa Highway 25, thence along Iowa Highway 25 to junction U.S. Highway 80, thence along U.S. Highway

80 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction Iowa Highway 5, thence along Iowa Highway 5 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction U.S. Highway 34 and U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction unnumbered highway near Milton, thence along unnumbered highway through Cantril, to the Iowa-Missouri State line, to points in Massachusetts. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E131), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohurski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on and west of a line beginning at the Iowa-Minnesota State line and extending along Iowa Highway 4 to junction Iowa Highway 7, thence along Iowa Highway 7 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction Iowa Highway 141, thence along Iowa Highway 141 to junction Iowa Highway 89, thence along Iowa Highway 89 to junction Iowa Highway 210, thence along Iowa Highway 210 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction Iowa Highway 92, thence along Iowa Highway 92 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction unnumbered highway near Milton, thence along unnumbered highway through Cantril to the Iowa-Missouri State line, to points in Massachusetts on, west, and south of a line beginning at the Massachusetts-Connecticut State line and extending along unnumbered highway through Clayton and Southfield, to junction Massachusetts Highway 57 at New Marlboro, thence along Massachusetts Highway 57 to junction U.S. Highway 202, thence along U.S. Highway 202 to junction Massachusetts Highway 9, thence along Massachusetts Highway 9 to junction Massachusetts Highway 109, thence along Massachusetts Highway 109 to the Massachusetts Bay. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E132), filed June 4, 1974. Applicant: BOS LINES,

INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohurski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and commodities exempt from economic regulation pursuant to the provisions of section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on and east of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 218 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction unnumbered highway at Bloomfield, thence along unnumbered highway through Savannah, to the Iowa-Missouri State line, to points in Colorado on and south of a line beginning at the Colorado-Utah State line and extending along Colorado Highway 90 to junction Colorado Highway 145, thence along Colorado Highway 145 to junction Colorado Highway 62, thence along Colorado Highway 62 to junction U.S. Highway 550, thence along U.S. Highway 550 to junction U.S. Highway 160, thence along U.S. Highway 160 to the Colorado-Kansas State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E170), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohurski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and commodities exempt from economic regulation pursuant to the provisions of section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Minnesota on and west of a line beginning at the United States-Canada International Boundary line and extending along Minnesota Highway 72 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction Minnesota Highway 9, thence along Minnesota Highway 9 to junction U.S. Highway 94, thence along U.S. Highway 94 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction U.S. Highway 14, thence along U.S. Highway 14 to junction Minnesota Highway 15, thence along Minnesota Highway 15 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction U.S. Highway 65, thence along U.S. Highway 65 to the Minnesota-Iowa State line, to points in Kentucky on and south of a line beginning at the Indiana-Kentucky State line and extending along U.S. Highway 64 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction U.S. Highway

23, thence along U.S. Highway 23 to the Kentucky-West Virginia State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E171), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohurski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, from points in Minnesota on and west of a line beginning at the United States-Canada International Boundary line and extending along Minnesota Highway 18 to junction Minnesota Highway 1-169, thence along Minnesota Highway 1-169 to junction Minnesota Highway 21, thence along Minnesota Highway 21 to junction Minnesota Highway 135, thence along Minnesota Highway 135 to junction Minnesota Highway 4, thence along Minnesota Highway 4 to junction Minnesota Highway 23, thence along Minnesota Highway 23 to the Minnesota-Wisconsin State line, thence along the Minnesota-Wisconsin State line to junction Minnesota Highway 58, thence along Minnesota Highway 58 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction U.S. Highway 63, thence along U.S. Highway 63 to the Minnesota-Iowa State line, to points in Kentucky on and south of a line beginning at the Illinois-Kentucky State line and extending along U.S. Highway 62 to junction U.S. Highway 431, thence along U.S. Highway 431 to junction Kentucky Highway 100, thence along Kentucky Highway 100 to junction U.S. Highway 31W, thence along U.S. Highway 31W to the Kentucky-Tennessee State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 30844 (Sub-No. E14), filed May 28, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: Paul Rhodes (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coffee beans*, from Philadelphia to Denver, Colo., Manhattan, Pittsburg, Topeka, and Wichita, Kans., Joplin and Kansas City, Mo., Lincoln, Norfolk, and Omaha, Nebr., Bristow, Oklahoma City, and Tulsa, Okla., and Amarillo, Arlington, Bernham, Corpus Christi, Dallas, Lubbock, San Angelo, and San Antonio, Tex. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 30844 (Sub-No. E16), filed May 28, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: Paul Rhodes (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen vegetables*, from Camden, N.J., to Denver, Colo., Manhattan, Pittsburg, Topeka, and Wichita, Kans., Joplin and Kansas City, Mo., Lincoln, Norfolk, and Omaha, Nebr., Bristow, Oklahoma City, and Tulsa, Okla., and Amarillo, Arlington, Bernham, Corpus Christi, Dallas, Lubbock, San Angelo, and San Antonio, Tex. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 30844 (Sub-No. E16), filed May 26, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: Paul Rhodes (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from points in Indiana on and north of Indiana Highway 18 to Kansas City, Mo. The purpose of this filing is to eliminate the gateway of Marshalltown, Iowa.

No. MC 30844 (Sub-No. E17), filed May 26, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: Paul Rhodes (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coffee beans*, from New York, N.Y., to points in Texas, Oklahoma, Kansas, Nebraska, Colorado, and those points in Missouri on and west of U.S. Highway 65. The purpose of this filing is to eliminate the gateway of Cedar Rapids, Iowa.

No. MC 30844 (Sub-No. E18), filed May 26, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: Paul Rhodes (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes and potato products*, from Easton, Portland, and Presque Isle, Maine, to points in Texas, Oklahoma, Kansas, Nebraska, and Colorado, and Arkansas. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa.

No. MC 30844 (Sub-No. E19), filed May 26, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: Paul Rhodes (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 788 (except

hides and commodities in bulk), from Lawrence and Topeka, Kans., Joplin and Kansas City, Mo., Henryetta, Muskogee, Oklahoma City, Okmulgee, and Tulsa, Okla., to points in Maine, Massachusetts, Vermont, New Hampshire, Rhode Island, Connecticut, Pennsylvania (except Pittsburgh), New York, New Jersey, Delaware, Maryland, District of Columbia, Ohio on and north of a line extending from the Indiana-Ohio State line along U.S. Highway 40 through Springfield and Columbus, Ohio, to junction Ohio Highway 440 (formerly portion U.S. Highway 40), near Kirkersville, Ohio, thence along Ohio Highway 440 to junction U.S. Highway 40 near Brownsville, Ohio, thence along U.S. Highway 40 through Cambridge and Bridgeport, Ohio, to the Ohio-West Virginia State line (except Columbus and Toledo, Ohio), Altoona, and points in Pennsylvania on and west of a line extending from the Maryland-Pennsylvania State line along U.S. Highway 219 through Salisbury, Johnston, Du Bois, and Bradford, Pa., to the New York-Pennsylvania State line, and Buffalo, Niagara Falls, Rochester, Syracuse, and Utica, N.Y., and Michigan (except Detroit, Flint, and Saginaw). The purpose of this filing is to eliminate the gateway of Waterloo, Iowa.

No. MC 30844 (Sub-No. E20), filed May 26, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: Paul Rhodes (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Alton, Leroy, Mt. Morris, Oakfield, and South Dayton, N.Y., to Denver, Colo., Lincoln, Norfolk, and Omaha, Nebr. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 30844 (Sub-No. E21), filed May 26, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: Paul Rhodes (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cocoa beans*, from New York City to Denver, Colo., Manhattan, Pittsburg, Topeka, and Wichita, Kans., Joplin and Kansas City, Mo., Lincoln, Norfolk, and Omaha, Nebr., Bristow, Oklahoma City, and Tulsa, Okla., and Amarillo, Arlington, Bernham, Corpus Christi, Dallas, Lubbock, San Angelo, and San Antonio, Tex. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 30844 (Sub-No. E22), filed May 26, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: Paul Rhodes (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products* (other than frozen), as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier*



Certificates, 61 M.C.C. 209 and 766, from Quakertown, Pa., to points in Kansas, Nebraska, Henryetta, Muskogee, Oklahoma City, Okmulgee, and Tulsa, Okla., and Denver, Colorado Springs, and Pueblo, Colo. The purpose of this filing is to eliminate the gateway of Waterloo, Iowa.

No. MC 30844 (Sub-No. E23), filed May 26, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: Paul Rhodes (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Flour, prepared edible flour mixes, cornmeal, bran, wheat germ, and bird feed* (except commodities in bulk), from New Prague, New Ulm, and Wabasha, Minn., to points in Texas, Arkansas, Oklahoma, Kansas, Missouri, Colorado, Nebraska, Indiana, and Ohio. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa.

No. MC 30844 (Sub-No. E24), filed May 26, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: Paul Rhodes (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Canned goods*, from the Lower Peninsula of Michigan to points in Missouri on and west of U.S. Highway 65 and those in Arkansas on and west of Arkansas Highway 7. The purpose of this filing is to eliminate the gateway of Ottumwa, Iowa.

No. MC 30844 (Sub-No. E25), filed May 26, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: Paul Rhodes (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Whiteford, Md., to points in Texas, Oklahoma, Kansas, Colorado, and those in Missouri on and west of U.S. Highway 65. The purpose of this filing is to eliminate the gateways of Pittsburgh, Pa., and Keokuk, Iowa.

No. MC 73165 (Sub-No. E99), filed October 8, 1974. Applicant: EAGLE MOTOR LINES, INC., P.O. Box 11086, Birmingham, Ala. 35202. Applicant's representative: Carl U. Hurst (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Cement asbestos pipe and plastic pipe*, which are embraced in the description in (1) below: (1) *Machinery, equipment, material, and supplies* used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, supplies, and equipment* incidental to or used in the construction, development, operation, and maintenance of facilities for the discovery, mining, and

mining of lead, zinc, iron, coal, and other minerals, and *commodities* the transportation of which by reason of their size or weight, require the use of special equipment or special handling, when any of the commodities described in this paragraph consist of the following:

(a) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; (b) *Machinery, equipment, materials, and supplies* used in, or in connection with, the drilling of water wells, or (c) *Machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products, and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline right-of-way, from points in that part of Montana on and east of a line beginning at the Montana-Wyoming State line near Alzada, Mont., and extending along U.S. Highway 212 to junction U.S. Highway 312, thence along U.S. Highway 312 to Miles City, Mont., thence along Montana Highway 22 to Jordan, Mont., thence northwesterly in a straight line to Malta, Mont., and thence along Montana Highway 242 to the United States-Canada International Boundary line, points in that part of North Dakota on and west of a line beginning at the United States-Canada International Boundary line and extending along North Dakota Highway 30 to junction unnumbered highway at Lehr, N. Dak., and thence along unnumbered highway to Ashley, thence along North Dakota Highway 3 to the South Dakota-North Dakota State line, and points in South Dakota west of the Missouri River and on and north of U.S. Highway 14, to points in Mississippi, Alabama, Georgia, South Carolina, and Florida. The purpose of this filing is to eliminate the gateways of Ottawa County, Okla., and Van Buren, Ark.

No. MC 73165 (Sub-No. E113), filed October 8, 1974. Applicant: EAGLE MOTOR LINES, INC., P.O. Box 11086, Birmingham, Ala. 35202. Applicant's representative: Carl U. Hurst (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Contractors' outfits and equipment* consisting of commodities described in (1) below (except those of unusual value, dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, and those requiring special equipment (except pipe, pipeline material, machinery, equipment, and supplies incidental to and used in con-

nection with the construction, dismantling, and repair of pipelines), (1) *Machinery, equipment, materials, and supplies* used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products and *machinery, materials, supplies, and equipment* incidental to or used in the construction, development, operation, and maintenance of facilities for the discovery, mining, and milling of lead, zinc, iron, coal, and other minerals, when any of the commodities described in this paragraph consist of the following: (a) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines including the stringing and picking up thereof; (b) *Machinery, equipment, materials, and supplies* used in, or in connection with, the drilling of water wells; or (c) *Machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products, and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline right-of-way; (aa) between points in that part of Montana on and east of a line beginning at the Montana-Wyoming State line near Alzada, Mont., and extending along U.S. Highway 212 to junction U.S. Highway 312, thence along U.S. Highway 312 to Miles City, Mont., thence along Montana Highway 22 to Jordan, Mont., thence northwesterly in a straight line to Malta, Mont., and thence along Montana Highway 242 to the United States-Canada International Boundary line, points in that part of North Dakota on and west of a line beginning at the United States-Canada International Boundary line and extending along North Dakota Highway 30 to junction unnumbered highway at Lehr, N. Dak., and thence along unnumbered highway to Ashley, thence along North Dakota Highway 3 to the South Dakota-North Dakota State line, and points in South Dakota west of the Missouri River and on and north of U.S. Highway 14, on the one hand, and, on the other, points in Georgia on and south of U.S. Highway 80; (bb) from points in that part of Montana on and east of a line beginning at the Montana-Wyoming State line near Alzada, Mont., and extending along U.S. Highway 212 to junction U.S. Highway 312, thence along U.S. Highway 312 to Miles City, Mont., thence along Montana Highway 22 to Jordan, Mont., thence northwesterly in a straight line to Malta, Mont., and thence along Montana Highway 242 to the United States-

Canada International Boundary line, points in that part of North Dakota on and west of a line beginning at the United States-Canada International Boundary line and extending along North Dakota Highway 30 to junction unnumbered highway at Lehr, N. Dak., and thence along unnumbered highway to Ashley, thence along North Dakota Highway 3 to the South Dakota-North Dakota State line, and points in South Dakota west of the Missouri River and on and north of U.S. Highway 14, to points in Florida on and north of a line beginning at St. Petersburg, thence across Gandy Bridge to Tampa, thence along U.S. Highway 92 to Kissimmee, Fla., thence along U.S. Highway 192 to Melbourne, Fla., and thence along unnumbered highway to the Atlantic Seaboard. The purpose of this filing is to eliminate the gateways of Birmingham, Ala., Ottawa County, Okla., Arkansas, and Tennessee.

No. MC 83539 (Sub-No. E6), filed May 5, 1974. Applicant: C & H TRANSPORTATION CO., INC., P.O. Box 5976, Dallas, Tex. 75223. Applicant's representative: Wiley C. Willingham (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Machinery, materials, and supplies* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, (2) *Machinery, equipment, materials, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines including the stringing and picking up thereof, and (3) *Earth drilling machinery* and equipment, and *machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, the completion of holes or wells drilled, the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and the injection or removal of commodities into or from holes or wells; (1) between points in Alabama, on the one hand, and, on the other, points in Arizona (points in Texas and New Mexico), Colorado (points in Texas or Kansas), Illinois, Indiana, Kentucky (points in Tennessee), Montana (points in Texas or Kansas and Colorado), New Mexico (points in Texas), North Dakota (points in Oklahoma), Oregon (points in Kansas), South Dakota (points in Oklahoma), Utah (points in Texas or Oklahoma), Washington (points in Kansas), Wisconsin (points in Mississippi), Wyoming (points in Oklahoma or Texas or Kansas and Colorado); (2) Between points in Arizona, on the one hand, and, on the other, points in Arkansas, Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Texas, Wisconsin (points in New Mexico), Florida, Georgia, Michigan, New York,

North Carolina, Ohio, South Carolina, Tennessee, Virginia, West Virginia, (points in New Mexico and Texas), Nebraska (Oklahoma and Colorado), North Dakota, South Dakota (Oklahoma), and Pennsylvania (New Mexico and Wichita Falls, Tex.); (3) between points in Arkansas, on the one hand, and, on the other, points in Colorado, North Dakota, South Dakota, Utah, Washington, Wyoming (points in Oklahoma), Montana (points in Kansas and Colorado or Texas), Nevada (points in Kansas or Kansas), Oregon (points in Oklahoma or Kansas), Illinois, Indiana, Kentucky (points in Tennessee), New York, Ohio, Pennsylvania, South Carolina, Virginia, West Virginia (points in Georgia), North Dakota, South Dakota (points in Oklahoma), Oregon, Washington (points in Kansas), Utah, Wyoming (points in Texas or Kansas and Colorado), Wisconsin (points in Mississippi), Ohio (points in Texas or Tulsa, Okla.), and Wisconsin (Wichita Falls, Tex.); (14) points in New Mexico, on the one hand, and, on the other, points in New York, West Virginia (Tulsa, Okla.), North Carolina, Tennessee, Virginia (points in Arkansas), Ohio (points in Texas or Tulsa, Okla.), Pennsylvania (Wichita Falls, Tex.), South Carolina (Arkansas or Louisiana), South Dakota (points in Colorado), (15) between points in New York, on the one hand, and, on the other, points in North Dakota (Braddock, Pa.), Oklahoma (points in Ohio), Oregon, Washington, Wyoming (points in Kansas and Braddock, Pa.), Utah (points in Colorado and Braddock, Pa.); (16) Between points in North Carolina, on the one hand, and, on the other, points in Oregon, Washington (points in Kansas), Utah, Wyoming (points in Kansas and Colorado), South Dakota (points in Oklahoma), Oregon (points in Tennessee), South Carolina (points in Oklahoma), Kentucky), (7) between points in Kansas, on the one hand, and, on the other, Montana, Utah, Wyoming (points in Colorado), New York, Pennsylvania (Braddock, Pa.), South Carolina (points in Tennessee), Virginia (points in Tennessee and Braddock, Pa.); (8) Between points in Kentucky, on the one hand, and, on the other, points in Utah, Washington, Wyoming (points in Oklahoma), Louisiana (points in Mississippi), Nevada (points in Oklahoma), North Carolina (points in Tennessee), Oregon (points in Tennessee and Kansas), (9) between points in Louisiana, on the one hand, and, on the other, points in Michigan, Nevada (points in Texas), Montana (points in Kansas and Colorado), North Dakota, South Dakota (points in Oklahoma), Utah (points in Oklahoma or Kansas and Colorado), Oregon (points in Oklahoma, Kansas, or Texas), Washington (points in Kansas, Oklahoma, or Texas), Wyoming (points in Kansas and Colorado), (10) between points in Mississippi on the one hand, and, on the other, points in Montana (points in Kansas and Colorado), Nevada (points in Texas), Oregon, Utah, Washington, and Wyoming (points in Oklahoma), (11) between points in Montana, on the one hand, and, on the other, points in North Carolina,

Tennessee (points in Colorado and Kansas), New Mexico (points in Colorado), Pennsylvania (points in Colorado, Kansas and Arkansas or Tennessee), Tennessee (points in Colorado and Kansas), Wisconsin (points in Wyoming); (12) between points in Nebraska, on the one hand, and, on the other, Nevada and New Mexico (points in Colorado); (13) between points in Nevada, on the one hand, and, on the other, points in New York (points in Ohio and Tulsa, Okla.), North Carolina (points in Colorado), Ohio (points in Texas or Tulsa, Okla.), Pennsylvania (Wichita Falls, Tex.), South Carolina (points in Kansas and Tennessee), South Dakota (points in Colorado), Tennessee (points in Texas), West Virginia (Tulsa, Okla.), and Wisconsin (points in Kansas); (14) points in New Mexico, on the one hand, and, on the other, points in New York, West Virginia (Tulsa, Okla.), North Carolina, Tennessee, Virginia (points in Arkansas), Ohio (points in Texas or Tulsa, Okla.), Pennsylvania (Wichita Falls, Tex.), South Carolina (Arkansas or Louisiana), South Dakota (points in Colorado), (15) between points in New York, on the one hand, and, on the other, points in North Dakota (Braddock, Pa.), Oklahoma (points in Ohio), Oregon, Washington, Wyoming (points in Kansas and Braddock, Pa.), Utah (points in Colorado and Braddock, Pa.); (16) Between points in North Carolina, on the one hand, and, on the other, points in Oregon, Washington (points in Kansas), Utah, Wyoming (points in Kansas and Colorado), South Dakota (points in Oklahoma), Oregon (points in Tennessee), South Carolina (points in Oklahoma), Kentucky), (7) between points in Kansas, on the one hand, and, on the other, Montana, Utah, Wyoming (points in Colorado), New York, Pennsylvania (Braddock, Pa.), South Carolina (points in Tennessee), Virginia (points in Tennessee and Braddock, Pa.); (8) Between points in Kentucky, on the one hand, and, on the other, points in Utah, Washington, Wyoming (points in Oklahoma), Louisiana (points in Mississippi), Nevada (points in Oklahoma), North Carolina (points in Tennessee), Oregon (points in Tennessee and Kansas), (9) between points in Louisiana, on the one hand, and, on the other, points in Michigan, Nevada (points in Texas), Montana (points in Kansas and Colorado), North Dakota, South Dakota (points in Oklahoma), Utah (points in Oklahoma or Kansas and Colorado), Oregon (points in Oklahoma, Kansas, or Texas), Washington (points in Kansas, Oklahoma, or Texas), Wyoming (points in Kansas and Colorado), (10) between points in Mississippi on the one hand, and, on the other, points in Montana (points in Kansas and Colorado), Nevada (points in Texas), Oregon, Utah, Washington, and Wyoming (points in Oklahoma), (11) between points in Montana, on the one hand, and, on the other, points in North Carolina,

Tennessee (points in Colorado and Kansas), New Mexico (points in Colorado), Pennsylvania (points in Colorado, Kansas and Arkansas or Tennessee), Tennessee (points in Colorado and Kansas), Wisconsin (points in Wyoming); (12) between points in Nebraska, on the one hand, and, on the other, Nevada and New Mexico (points in Colorado); (13) between points in Nevada, on the one hand, and, on the other, points in New York (points in Ohio and Tulsa, Okla.), North Carolina (points in Colorado), Ohio (points in Texas or Tulsa, Okla.), Pennsylvania (Wichita Falls, Tex.), South Carolina (points in Kansas and Tennessee), South Dakota (points in Colorado), Tennessee (points in Texas), West Virginia (Tulsa, Okla.), and Wisconsin (points in Kansas); (14) points in New Mexico, on the one hand, and, on the other, points in New York, West Virginia (Tulsa, Okla.), North Carolina, Tennessee, Virginia (points in Arkansas), Ohio (points in Texas or Tulsa, Okla.), Pennsylvania (Wichita Falls, Tex.), South Carolina (Arkansas or Louisiana), South Dakota (points in Colorado), (15) between points in New York, on the one hand, and, on the other, points in North Dakota (Braddock, Pa.), Oklahoma (points in Ohio), Oregon, Washington, Wyoming (points in Kansas and Braddock, Pa.), Utah (points in Colorado and Braddock, Pa.); (16) Between points in North Carolina, on the one hand, and, on the other, points in Oregon, Washington (points in Kansas), Utah, Wyoming (points in Kansas and Colorado), South Dakota (points in Oklahoma), Oregon (points in Tennessee), South Carolina (points in Oklahoma), Kentucky), (7) between points in Kansas, on the one hand, and, on the other, Montana, Utah, Wyoming (points in Colorado), New York, Pennsylvania (Braddock, Pa.), South Carolina (points in Tennessee), Virginia (points in Tennessee and Braddock, Pa.); (8) Between points in Kentucky, on the one hand, and, on the other, points in Utah, Washington, Wyoming (points in Oklahoma), Louisiana (points in Mississippi), Nevada (points in Oklahoma), North Carolina (points in Tennessee), Oregon (points in Tennessee and Kansas), (9) between points in Louisiana, on the one hand, and, on the other, points in Michigan, Nevada (points in Texas), Montana (points in Kansas and Colorado), North Dakota, South Dakota (points in Oklahoma), Utah (points in Oklahoma or Kansas and Colorado), Oregon (points in Oklahoma, Kansas, or Texas), Washington (points in Kansas, Oklahoma, or Texas), Wyoming (points in Kansas and Colorado), (10) between points in Mississippi on the one hand, and, on the other, points in Montana (points in Kansas and Colorado), Nevada (points in Texas), Oregon, Utah, Washington, and Wyoming (points in Oklahoma), (11) between points in Montana, on the one hand, and, on the other, points in North Carolina,

on the one hand, and, on the other, points in Oregon, Washington (points in Kansas), Utah, Wyoming (points in Kansas and Colorado), South Dakota (points in Oklahoma), Oregon (points in Tennessee), South Carolina (points in Oklahoma), Kentucky), (7) between points in Kansas, on the one hand, and, on the other, Montana, Utah, Wyoming (points in Colorado), New York, Pennsylvania (Braddock, Pa.), South Carolina (points in Tennessee), Virginia (points in Tennessee and Braddock, Pa.); (8) Between points in Kentucky, on the one hand, and, on the other, points in Utah, Washington, Wyoming (points in Oklahoma), Louisiana (points in Mississippi), Nevada (points in Oklahoma), North Carolina (points in Tennessee), Oregon (points in Tennessee and Kansas), (9) between points in Louisiana, on the one hand, and, on the other, points in Michigan, Nevada (points in Texas), Montana (points in Kansas and Colorado), North Dakota, South Dakota (points in Oklahoma), Utah (points in Oklahoma or Kansas and Colorado), Oregon (points in Oklahoma, Kansas, or Texas), Washington (points in Kansas, Oklahoma, or Texas), Wyoming (points in Kansas and Colorado), (10) between points in Mississippi on the one hand, and, on the other, points in Montana (points in Kansas and Colorado), Nevada (points in Texas), Oregon, Utah, Washington, and Wyoming (points in Oklahoma), (11) between points in Montana, on the one hand, and, on the other, points in North Carolina,



other, points in Utah, Wyoming (points in Kansas and Colorado)\*, Washington (points in Kansas)\*; (24) between points in Texas, on the one hand, and, on the other, points in Virginia (points in Tennessee)\*; and West Virginia (Tulsa, Okla.)\*; (25) between points in Utah, on the one hand, and, on the other, points in West Virginia (points in Colorado and Coffeyville, Kans.)\*, and Wisconsin (points in Colorado)\*; (26) between points in Virginia, on the one hand, and, on the other, points in Washington (points in Tennessee and Kansas or Ohio and Kansas)\*; and (27) between points in Washington, on the one hand, and, on the other, points in West Virginia (Coffeyville, Kans.)\*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 83539 (Sub-No. E32), filed June 4, 1974. Applicant: C & H TRANSPORTATION CO., INC., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Willey C. Willingham (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, the transportation of which because of size or weight require the use of special equipment; (2) *Self-propelled articles*, each weighing 15,000 pounds or more (except in driveway service); and (3) *Related machinery, parts, materials, and supplies* moving in mixed loads, respectively, with the commodities described in (1) and (2) above; between points in California, on the one hand, and, on the other, points in Arkansas, Louisiana, Mississippi, and Oklahoma.

No. MC 83539 (Sub-No. E48), filed June 4, 1974. Applicant: C & H TRANSPORTATION CO., INC., 2010 W. Commerce St., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Kenneth Weeks (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, the transportation of which, because of size or weight, require the use of special equipment and related machinery parts and supplies when their transportation is incidental to the transportation by the carrier of commodities which, because of size or weight, require the use of special equipment; and (2) *Self-propelled articles*, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith, restricted to commodities which are transported on trailers, between points in Wyoming (except those in Laramie, Goshen, Platte, Albany, and Carbon Counties), on the one hand, and, on the other, points in Iowa (except those in and south of Harrison, Shelby, Audubon, Adair, Madison, Warren, Lucas, Monroe, and Davis Counties). The purpose of this filing is to eliminate the gateway of points in South Dakota.

No. MC 83539 (Sub-No. E72), filed June 2, 1974. Applicant: C & H TRANSPORTATION CO., INC., P.O. Box 5976,

Dallas, Tex. 75222. Applicant's representative: Willey C. Willingham (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and Steel Articles*, as described in Appendix V to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 from the facilities of CF&I Steel Corporation, at or near Pueblo, Colo., to points in Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, West Virginia and the District of Columbia. The purpose of this filing is to eliminate the gateway of Nashville, Tenn.

No. MC 95540 (Sub-No. E366) (Correction), filed May 16, 1974, published in the FEDERAL REGISTER May 5, 1975. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30301. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Bananas, coconuts, and pineapples, when moving in the same vehicle and at the same time with bananas, and from those points in New Jersey on and south of a line beginning at the Atlantic Ocean and extending along U.S. Highway 40/322 to junction New Jersey Highway 522, thence along New Jersey Highway 522 to junction New Jersey Highway 47, thence along New Jersey Highway 47 to junction U.S. Highway 40, thence along U.S. Highway 40 to the New Jersey-Pennsylvania State line, to those points in Alabama on and south of a line beginning at the Georgia-Alabama State line extending along Alabama Highway 10 to junction U.S. Highway 431, thence along U.S. Highway 431 to junction U.S. Highway 84, thence along U.S. Highway 84 to the Alabama-Mississippi State line. The purpose of this filing is to eliminate the gateway of Jacksonville, Fla. The purpose of this correction is to include the destination points.

No. MC 95540 (Sub-No. E466) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER April 21, 1975. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, in vehicles equipped with mechanical refrigeration (except in bulk and except meat, meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 768), from those points in Texas on and south of a line beginning at the Texas-Oklahoma State line and extending along Texas Highway 79, thence along Texas Highway 79 to junction U.S. Highway 82/277, thence along U.S. Highway 82/277 to junction Texas Highway 116, thence along Texas Highway 116 to

the Texas-New Mexico State line to all points in Michigan on and east of a line beginning at the Lake-Michigan-Midigan State line, extending southeast on Michigan Highway 40 to junction Michigan Highway 43, thence along Michigan Highway 43 to junction Interstate Highway 94, thence along Interstate Highway 94 to junction Interstate Highway 69, thence along Interstate Highway 69 to the Michigan-Indiana State line, thence referring to the northern peninsula of Michigan, all points on and east of a line beginning at Grand Marais on the West Bay, Lake Superior, extending along Michigan Highway 77 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction unnumbered highway, thence along unnumbered highway to the shores of Lake Michigan. The purpose of this filing is to eliminate the gateway of Florence, Ala. The purpose of this correction is to include the destination areas.

No. MC 100666 (Sub-No. E247), filed March 20, 1975. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Richard W. May (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Plastic pipe* (except oil field commodities as described by the Commission in *Mercer Extension-Oil Field Commodities*, 74 M.C.C. 459), from the facilities of Celanese Piping Systems, Inc., Louisville, Ky., to points in Alabama on, south, and west of a line beginning at the Alabama-Mississippi State line and extending along U.S. Highway 98 to junction Alabama Highway 225, thence along Alabama Highway 225 to junction Interstate Highway 65, thence along Interstate Highway 65 to junction Alabama Highway 41, thence along Alabama Highway 41 to the Alabama-Florida State line. The purpose of this filing is to eliminate the gateway of Columbia, Miss.

No. MC 100666 (Sub-No. E251), filed April 11, 1975. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Paul L. Caplinger (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Lumber and pallets*, from Union City, Ga., to points in (a) Illinois on and west of a line beginning at the Kentucky-Illinois State line and extending along U.S. Highway 51 to junction Illinois Highway 29, thence along Illinois Highway 29 to junction U.S. Highway 51, thence along U.S. Highway 51 to the Wisconsin-Iowa State line, Iowa, Minnesota, Mississippi, on, north, and west of a line beginning at the Arkansas-Mississippi State line and extending along U.S. Highway 82 to junction U.S. Highway 49W, thence along U.S. Highway 49W to junction Mississippi Highway 3 to the Mississippi-Tennessee State line, North Dakota, South Dakota, and Wisconsin on and west of a line beginning at the Wisconsin-Illinois State line and extending along Interstate Highway 90

to junction Wisconsin Highway 26, thence along Wisconsin Highway 26 to junction U.S. Highway 41, thence along U.S. Highway 41 to Green Bay, Wis.; (b) Mississippi on, west, and south of a line beginning at the Louisiana-Mississippi State line and extending along Interstate Highway 55 to junction U.S. Highway 49, thence along U.S. Highway 49 to junction U.S. Highway 82, thence along U.S. Highway 82 to the Arkansas-Mississippi State line; (c) Shelby, Tipton, Lauderdale, Dyer, Lake, and Obion Counties, Tenn. (except Memphis, Tenn.), and (d) Missouri and Memphis, Tenn. (except pallets to Memphis); (2) *Lumber*, from Union City, Ga., to points in (a) New Mexico, (b) Colorado, and (c) Arizona; (3) *Plywood*, from Union City, Ga., to points in (a) California, Idaho, Montana, Nevada, Oregon, Utah, and Washington, and (b) Wyoming; (4) *Wallboard, fiberboard, particleboard, composition roofing, insulating board, sheathing board, gypsum board and plywood*, from Cuthbert, Ga., to points in (a) Illinois, Iowa, Kansas, Missouri, Oklahoma, Tennessee on and west of a line beginning at the Mississippi-Tennessee State line and extending along U.S. Highway 45 to junction U.S. Highway 45E, thence along U.S. Highway 45E to the Kentucky-Tennessee State line, Texas on, west, and north of a line beginning at the Arkansas-Texas State line and extending along U.S. Highway 59 to junction Texas Highway 155, thence along Texas Highway 155 to junction U.S. Highway 79, thence along U.S. Highway 79 to junction U.S. Highway 81, thence along U.S. Highway 81 to Laredo, Tex.; (b) California, Idaho, Montana, Nevada, Oregon, Utah, and Washington, and (c) Colorado and New Mexico; (5) *Plywood*, from Cuthbert, Ga., to points in (a) Arkansas, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin; (b) Arizona, and (c) Wyoming; and (6) *Wallboard, fiberboard, particleboard, composition roofing board, insulating board, sheathing board, and gypsum board*, from Cuthbert, Ga., to points in (a) Arizona, Minnesota, Nebraska, North Dakota, and South Dakota, and (b) Wyoming. The purpose of this filing is to eliminate the gateways of: in (1) (a), (c), and (d) above, Arkansas; in (1) (b) above, Louisiana; in (2) (a) above, Oklahoma; in (2) (b), and (c) above, Duke, Okla.; in (2) (c) and (5) (b) above, Texarkana, Tex.; in (3) (a) and (4) (b) and (6) (a) above, Pittsburg, Kans.; in (3) (b) and (5) (c) above, the plant site of Permaneer Corp., in Calhoun County, Ark.; in (4) (a), (b), and (c), (5) (a), (b), and (c), and (6) (a) and (b) above, West Memphis, Ark.; and in (6) (b) above, Henry County, Tenn.

No. MC 102657 (Sub-No. E7), filed June 3, 1974. Applicant: MCNAIR TRANSPORT, INC., 2040 North Loop West, Houston, Tex. 77018. Applicant's representative: Tom Wright (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such petroleum products as are liquid chemicals* (except liquefied petroleum gases), in bulk, in tank vehicles, from Henderson, Tex., and points in Texas within 150 miles of Henderson, to those points in Georgia south of a line beginning at the Georgia-Alabama State line and extending along Georgia Highway 26 to junction Interstate Highway 95, thence along Interstate Highway 95 to the Georgia-South Carolina State line. The purpose of this filing is to eliminate the gateway of the plant site of American Cyanamid Co., at Avondale, La.

No. MC 102657 (Sub-No. E15), filed June 3, 1974. Applicant: MCNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: J. E. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such petroleum products as are liquid chemicals* (except liquefied petroleum gases), in bulk, in tank vehicles, from Henderson, Tex., and points in Texas within 150 miles of Henderson, to those points in Georgia south of a line beginning at the Georgia-Alabama State line and extending along Georgia Highway 26 to junction Interstate Highway 95, thence along Interstate Highway 95 to the Georgia-South Carolina State line. The purpose of this filing is to eliminate the gateway of the plant site of American Cyanamid Co., at Avondale, La.

No. MC 102567 (Sub-No. E12), filed June 3, 1974. Applicant: MCNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Jo E. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such petroleum products as are liquid chemicals* (except liquefied petroleum gases), in bulk, in tank vehicles, from those points in Texas, Louisiana, and Arkansas within 150 miles of Henderson, Tex., including Henderson, and which are west of a line beginning at the junction of Arkansas Highway 9, thence along Arkansas Highway 9 and U.S. Highway 79 at or near Eagle Mills, and extending along U.S. Highway 79 to junction Arkansas Highway 7, thence along Arkansas Highway 7 to junction U.S. Highway 167, thence along U.S. Highway 167 to Alexandria, La., to those points in Florida south of Florida Highway 528. The purpose of this filing is to eliminate the gateway of the plant site of American Cyanamid Co., at Avondale, La.

No. MC 102567 (Sub-No. E13), filed June 3, 1974. Applicant: MCNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Jo E. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such petroleum products as are liquid chemicals* (except liquefied petroleum gases), in bulk, in tank vehicles, from those points in Texas and Louisiana within 150 miles of Henderson, Tex., including Henderson, and which are west of a line beginning at the Pittsburg-Atoka County line in Oklahoma, and extending along U.S. Highway 217, to junction U.S. Highway 80, thence along U.S. Highway 80 to junction Louisiana Highway 1, thence along Louisiana Highway 1 to Alexandria, La., to those points in Florida south of a line beginning at the Gulf of Mexico and extending along Florida Highway 60 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of a point in Texas within 150 miles of Henderson and the plant site of American Cyanamid Company, at Avondale, La.

No. MC 102567 (Sub-No. E15), filed June 3, 1974. Applicant: MCNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: J. E. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such petroleum products as are liquid chemicals* (except liquefied petroleum gases), in bulk, in tank vehicles, from those points in Texas and Louisiana within 150 miles of Henderson, Tex., including Henderson, and which are west of a line beginning at the Pittsburg-Atoka County line in Oklahoma, and extending along U.S. Highway 217, to junction U.S. Highway 80, thence along U.S. Highway 80 to junction Louisiana Highway 1, thence along Louisiana Highway 1 to Alexandria, La., to those points in Florida south of a line beginning at the Gulf of Mexico and extending along Florida Highway 60 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of a point in Texas within 150 miles of Henderson and the plant site of American Cyanamid Company, at Avondale, La.

No. MC 102567 (Sub-No. E27), filed June 2, 1974. Applicant: MCNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: J. E. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a common

carrier, by motor vehicle, over irregular routes, transporting: *Such petroleum products as are liquid chemicals* (except liquefied petroleum gases), in bulk, in tank vehicles, from Henderson, Tex., and points within 150 miles of Henderson, to those points in North Carolina south and east of a line beginning at the North Carolina-Virginia State line, and extending along North Carolina Highway 49 to junction North Carolina Highway 200, thence along North Carolina Highway 200 to the North Carolina-South Carolina State line. The purpose of this filing is to eliminate the gateway of the plant site of American Cyanamid Co., at Avondale, La.

No. MC 102567 (Sub-No. E20), filed June 3, 1974. Applicant: MCNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: J. E. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such petroleum products as are liquid chemicals* (except liquefied petroleum gases), in bulk, in tank vehicles, from those points in Texas within 150 miles of Henderson, Tex., including Henderson, and which are south of a line beginning at Denton, Tex., and extending along Interstate Highway 35E, to junction U.S. Highway 175, to junction U.S. Highway 69, to junction Texas Highway 63, to the Texas-Louisiana State line, to points in North Carolina. The purpose of this filing is to eliminate the gateway of plant site of American Cyanamid Company at Avondale, La.

No. MC 102567 (Sub-No. E26), filed June 3, 1974. Applicant: MCNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Jo E. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such petroleum products as are liquid chemicals* (except liquefied petroleum gases), in bulk, in tank vehicles, from those points in Louisiana, Arkansas, and Texas within 150 miles of Henderson, Tex., including Henderson, and which are west of a line beginning at Big Cedar, Okla., and extending along U.S. Highway 259 to junction Texas Highway 4, to junction Texas Highway 41, to junction Texas Highway 32, to junction U.S. Highway 59, to junction U.S. Highway 80, to junction U.S. Highway 171, to junction Louisiana Highway 10, to Oakdale, La., to points in Florida. The purpose of this filing is to eliminate the gateway of points in Texas within 150 miles of Henderson, Tex., and the plant site of American Cyanamid Company at Avondale, La.

No. MC 102567 (Sub-No. E27), filed June 2, 1974. Applicant: MCNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: J. E. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a common



carrier, by motor vehicle, over irregular routes, transporting: Such petroleum products as are liquid chemicals (except liquefied petroleum gases), in bulk, in tank vehicles, from those points in Texas and Louisiana within 150 miles of Henderson, Tex., including Henderson, and which are west of a line beginning at the Pittsburg-Atoka County line in Oklahoma, and extending along U.S. Highway 271 to junction U.S. Highway 80, to junction Louisiana Highway 1, to Alexandria, La., to those points in Florida south of a line beginning at the Gulf of Mexico and extending along U.S. Highway 19 to Florida Highway 528, to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of points in Texas within 150 miles of Henderson, Tex., and the plantsite of American Cyanamid Company at Avondale, La.

No. MC 102567 (Sub-No. E42), filed June 3, 1974. Applicant: MCNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Jo E. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such petroleum products as are liquid chemicals (except liquefied petroleum gases), in bulk, in tank vehicles, from those points in Texas, Arkansas, Louisiana, within 150 miles of Henderson, Tex., which are west of a line beginning at Mena, Ark., and extending along U.S. Highway 167 to junction Louisiana Highway 82, thence along U.S. Highway 82 to junction U.S. Highway 79, thence along U.S. Highway 79 to junction Louisiana Highway 9, thence along Louisiana Highway 9 to junction Louisiana Highway 147, thence along Louisiana Highway 147 to junction U.S. Highway 167, thence along U.S. Highway 167 to junction Louisiana Highway 28, thence along Louisiana Highway 28 to junction Louisiana Highway 171, thence along Louisiana Highway 171 to junction Louisiana Highway 8, thence along Louisiana Highway 8 to junction Texas Highway 63, thence along Texas Highway 63 to junction U.S. Highway 96, thence along U.S. Highway 96 to the Gulf of Mexico, to those points in Tennessee east of a line beginning at the Kentucky-Tennessee State line and extending along U.S. Highway 25E to junction Interstate Highway 40, thence along Interstate Highway 40 to the Tennessee-North Carolina State line. The purpose of this filing is to eliminate the gateway of the plant site of Dow Chemicals, U.S.A., in Columbia County, Ark.

No. MC 102567 (Sub-No. E43), filed June 3, 1974. Applicant: MCNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Jo E. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such petroleum products as are liquid chemicals (except liquefied petroleum gases), in bulk, in tank vehicles, from those points in Texas, Arkansas, and Louisiana within 150 miles of Henderson, Tex., which are west of a

line beginning at Mena, Ark., and extending along U.S. Highway 71 to junction U.S. Highway 82, thence along U.S. Highway 82 to junction U.S. Highway 79, thence along U.S. Highway 79 to junction Louisiana Highway 146, thence along Louisiana Highway 146 to junction Interstate Highway 20, thence along Interstate Highway 20 to junction Louisiana Highway 34, thence along Louisiana Highway 34 to junction Louisiana Highway 4, thence along Louisiana Highway 4 to junction U.S. Highway 167, thence along U.S. Highway 167 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction Louisiana Highway 6, thence along Louisiana Highway 6 to junction Texas Highway 87, thence along Texas Highway 87 to junction Texas Highway 63, thence along Texas Highway 63 to junction U.S. Highway 96, thence along U.S. Highway 96 to junction Texas Highway 86, thence along Texas Highway 86 to Port Arthur, Tex., to those points in Tennessee east of a line beginning at the Kentucky-Tennessee State line and extending along Interstate Highway 65, thence along Interstate Highway 65 to junction Tennessee Highway 25, thence along Tennessee Highway 25 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Tennessee-Alabama State line. The purpose of this filing is to eliminate the gateway of the plant site of Dow Chemicals, U.S.A., in Columbia County, Ark.

No. MC 102567 (Sub-No. E44), filed June 3, 1974. Applicant: MCNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Jo E. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Petroleum products, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles (except liquefied petroleum gases, anhydrous ammonia, and asphalt), from those points in Texas, Arkansas, and Louisiana within 150 miles of Henderson, Tex., which are north of a line beginning at Arkadelphia, Ark., and extending along Interstate Highway 30 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction Interstate Highway 30, thence along Interstate Highway 30 to junction Interstate Highway 20, thence along Interstate Highway 20 to junction U.S. Highway 80 and U.S. Highway 180 near Weatherford, Tex., to points in Florida. The purpose of this filing is to eliminate the gateway of El Dorado, Ark., Cotton Valley, La., and Waskom and Mt. Pleasant, Tex.

No. MC 102567 (Sub-No. E45), filed June 3, 1974. Applicant: MCNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Jo E. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Petroleum products, as described in Appendix XIII to

the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles (except liquefied petroleum gas, anhydrous ammonia, and asphalt), from those points in Arkansas, Louisiana, and Texas within 150 miles of Henderson, Tex., which are west of a line beginning at Callon, Ark., and extending along U.S. Highway 167 to Alexandria, La., to those points in Florida south of U.S. Highway 50. The purpose of this filing is to eliminate the gateway of El Dorado, Ark., Cotton Valley, La., and Waskom and Mt. Pleasant, Tex.

No. MC 102657 (Sub-No. E47), filed June 3, 1974. Applicant: MCNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Jo E. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Petroleum products, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles (except liquefied petroleum gas, anhydrous ammonia, and asphalt), from those points in Texas, Arkansas, and Louisiana within 150 miles of Henderson, Tex., which are west of a line beginning at Mena, Ark., and extending along U.S. Highway 71 to junction U.S. Highway 79, thence along U.S. Highway 79 to Rockdale, Tex., to those points in Florida south of a line beginning at the Gulf of Mexico and extending along Florida Highway 24 to junction U.S. Highway 301, thence along U.S. Highway 301 to junction Florida Highway A1A, thence along Florida Highway A1A to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of El Dorado, Ark., Cotton Valley, La., and Waskom and Mt. Pleasant, Tex.

No. MC 107295 (Sub-No. E173) (Correction), filed May 14, 1974, published in the *Federal Register* March 10, 1975. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Wallboard, from the plant site and warehouse facilities of Upson Company at Bristol, Ind.; (1) to points in Alabama, California, Idaho, Minnesota, Montana, Nevada, Oklahoma, Oregon, Utah, Washington, and Wyoming; (2) to points in Arizona, Mississippi, New Mexico, and Texas; (3) to points in Connecticut, Delaware, the District of Columbia, Florida, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, West Virginia, and to points in that part of Virginia located north of U.S. Highway 460 and west of U.S. Highway 301; and (4) to points in Louisiana. The purpose of this filing is to eliminate the gateways of (1) the plant site and warehouse facilities of the Keene Corporation in Kalamazoo, Mich.; (2) Trumann, Ark.; (3) points in Lucas County, Ohio; and (4) points in Henry County, Tenn. The pur-

pose of this correction is to correct the gateway.

No. MC 111170 (Sub-No. E1) (correction), filed May 13, 1974, published in the *Federal Register* April 10, 1975. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, El Dorado, Ark. 71730. Applicant's representative: Tom E. Moore (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (5) Petrochemicals, in bulk, in tank vehicles, from points in that part of Texas beginning at the Texas-Louisiana State line and extending along U.S. Highway 84 to Rush, Tex., thence along U.S. Highway 79 to Tyler, Tex., thence along U.S. Highway 271 to Mount Pleasant, Tex., thence along U.S. Highway 67 to the Texas-Arkansas State line and thence along the Texas-Arkansas State line and the Texas-Louisiana State line to point of beginning to points in Tennessee, restricted against the transportation of fertilizer and fertilizer ingredients. The purpose of this filing is to eliminate the gateway of Malvern, Ark. The purpose of this correction is to correct the gateway.

No. MC 111401 (Sub-No. E55), filed May 4, 1975. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Petroleum products (except lubricating oils), in bulk, in tank vehicles, from points in Oklahoma on and north of Interstate Highway 40 and on and west of U.S. Highway 75 to points in Alabama, Kentucky, Louisiana, Mississippi, and Tennessee. The purpose of this filing is to eliminate the gateways of Ardmore, Cleveland, Cushing, Duncan, Tulsa, and Wynnewood, Oklahoma.

No. MC 111401 (Sub-No. E56), filed May 4, 1975. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquid petrochemicals, in bulk, in tank vehicles, from points in Texas located on, south, and east of a line beginning at Galveston and extending along Interstate Highway 45 to its junction with U.S. Highway 90 to its junction with U.S. Highway 77 to the United States-Mexico International boundary line. The purpose of this filing is to eliminate the gateway of Texas City, Tex.

No. MC 111401 (Sub-No. E-87), filed May 4, 1975. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Nitrogen fertilizer solutions which are derived from petroleum and petroleum products, in bulk, in

tank vehicles, (1) from points in Kansas to points in Arizona on and south of U.S. Highway 66 and New Mexico on and south of U.S. Highway 66, (2) from points in Kansas on and south of U.S. Highway 54 to points in Utah. The purpose of this filing is to eliminate the gateway of Etter, Tex.

No. MC 111401 (Sub-No. E88), filed May 4, 1975. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Mr. Victor R. Comstock (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Chemicals, in bulk, in tank or hopper type vehicles, from points in Arkansas on and south of a line beginning at the Texas-Arkansas State line and extending along Interstate Highway 30 to junction Arkansas Highway 4, thence along Arkansas Highway 4 to junction Arkansas Highway 81, on and west of a line beginning at the junction of Arkansas Highway 4 and Arkansas Highway 81 and extending along Arkansas Highway 81 to the Arkansas-Louisiana State line to points in Arizona, Connecticut, Idaho, Maine, Massachusetts, Montana, Nevada, New Hampshire, New Jersey, New Mexico, North Dakota, Rhode Island, South Dakota, Utah, Vermont, and Wyoming. The purpose of this filing is to eliminate the gateway of Longview, Tex.

No. MC 111401 (Sub-No. E89), filed May 4, 1975. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Mr. Victor R. Comstock (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquid petrochemicals, in bulk, in tank vehicles, from points in Texas south of a line beginning at the Texas-Louisiana State line and extending along Interstate Highway 10 to junction U.S. Highway 77, and east of a line beginning at U.S. Highway 10 and Interstate Highway 77 and extending along Interstate Highway 77 to junction U.S. Highway 87 to Lavaca Bay to points in Arizona, Nebraska, Utah, and Wyoming. The purpose of this filing is to eliminate the gateway of Freeport, Tex.

No. MC 111401 (Sub-No. E90), filed May 4, 1975. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Petrochemicals, in bulk, in tank vehicles; (1) from points in Texas on and east of a line beginning at the Texas-Oklahoma State line and extending along U.S. Highway 277 to junction U.S. Highway 83, thence along U.S. Highway 83 to the United States-Mexico International Boundary line and west of a line beginning at the Texas-Oklahoma State line and extending along U.S. Highway 271 to junction U.S. Highway 259, thence along U.S. Highway 259 to junction U.S. Highway

69, thence along U.S. Highway 69 to the Gulf of Mexico, to points in Iowa and Nebraska; and (2) from points in Texas on and west of Texas Highway 70 and on and north of U.S. Highway 66 to points in Iowa, Missouri, and Nebraska on and east of U.S. Highway 77. The purpose of this filing is to eliminate the gateway of Wichita, Kans.

No. MC 113678 (Sub-No. E8), filed May 5, 1974. Applicant: CURTIS, INC., P.O. Box 16004 Stockyards Station, Denver, Colo. 80216. Applicant's representative: David L. Metzler (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Fresh, frozen, and cured meats, (a) from Denver, Colo., to points in Oregon on and west of Interstate Highway 5, and points in Washington on and west of Interstate Highway 5, and points in Washington on and west of Interstate Highway 5 (Alturas, Calif.); and (b) from Greeley, Colo., to points in Oregon on and west of Interstate Highway 5, and points in Washington on and west of Interstate Highway 5 (Alturas, Calif.); (2) Meats, meat products, and meat by-products as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (a) from Los Angeles, Calif., to points in Florida, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming; (b) from San Diego, Calif., to points in Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin (Greeley, Colo.); (c) from San Francisco, Calif., to points in Alabama, Louisiana, Mississippi, Nebraska, Oklahoma, points in Texas on and north-east of a line extending along U.S. Highway 83 to junction U.S. Highway 385, thence along U.S. Highway 385 to junction U.S. Highway 380, thence along U.S. Highway 380 to junction Texas Highway 6, thence along Texas Highway 6 to Galveston, Tex.; Florida, Kansas, Missouri, Minnesota, points in North Dakota on and east of U.S. Highway 83, South Dakota, Wisconsin, and points in Iowa on and west of U.S. Highway 169 (except Sioux City, Iowa) (Greeley, Colo.); (d) from Los Angeles, Calif., to points in Alabama, Iowa, Kansas, Louisiana, (except points located south-west of U.S. Highway 90), Minnesota, Mississippi, Missouri, Nebraska, North Dakota, South Dakota, Wisconsin, Arkansas, Georgia, Kentucky, North Carolina, South Carolina, Tennessee, Virginia, West Virginia, Florida, Illinois (except Chicago, Ill.) (Denver, Colo.); (e) from San Diego, Calif., to points in Alabama, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Wisconsin, points in Arkansas on and northeast of U.S. Highway 65, Georgia, Kentucky, North Carolina, South Carolina, Tennessee, Virginia, West Virginia, Florida, Illinois (except Chicago, Ill.) (Denver, Colo.); (f) from San Francisco, Calif., to points in Alabama, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Ne-



braska, points in North Dakota on and east of U.S. Highway 83, South Dakota, Wisconsin, Arkansas, Georgia, Kentucky, North Carolina, South Carolina, Tennessee, Virginia, West Virginia, Florida, Illinois (except Chicago, Ill.) (Denver, Colo.), (g) from Los Angeles, San Diego, and San Francisco, Calif., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, and the District of Columbia (Greeley, Colo., and York, Nebr.), (h) from Los Angeles, San Diego, and San Francisco, Calif., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, and the District of Columbia (Greeley, Colo., and Lexington, Nebr.), (i) from Los Angeles, San Diego, and San Francisco, Calif., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, and the District of Columbia (Denver, Colo., and York, Nebr.), (j) from Los Angeles, San Diego, and San Francisco, Calif., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, and the District of Columbia (Denver, Colo., and Lexington, Nebr.), (k) from Los Angeles, San Diego, and San Francisco, Calif., to points in North Carolina, South Carolina, and South Dakota (Sterling, Colo.), and (l) from Colorado Springs, Colo., to points in California, points in Oregon on and west of U.S. Highway 395, and points in Washington on and southwest of a line extending along U.S. Highway 97 to junction Washington Highway 17, thence along Washington Highway 17 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction U.S. Highway 10, thence along U.S. Highway 10 to the Washington-Idaho State line (Teec Nos Pos, Ariz.). The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 113678 (Sub-No. E12), filed May 5, 1974. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, Colo. 80022. Applicant's representative: David L. Metzler (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Frozen meats, frozen meat products, and frozen meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the facilities of Iowa Beef Processors, Inc., at or near LeMars, Iowa, to points in Washington, Oregon, and Idaho (Hall County (Grand Island), Nebr.); (2) *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (a) from the facilities of Iowa Beef Processors, Inc., at or near LeMars, Iowa, to points in Colorado (except Denver, Colo.) (Lexington,

Nebr.), and (b) from the facilities of Iowa Beef Processors, Inc., at or near LeMars, Iowa, to points in Arizona, California, Nevada, and points in that part of New Mexico on and west of a line extending along Interstate Highway 25 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction U.S. Highway 54, thence along U.S. Highway 54 to the New Mexico-Texas State line (Lexington, Nebr., and Greeley, Colo.). Restriction: The operations authorized in (1) and (2) above, are restricted to the transportation of shipments originating at the described plant site of and storage facilities. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 113678 (Sub-No. E18), filed May 5, 1974. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, Colo. 80022. Applicant's representative: David L. Metzler (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Frozen meats, frozen meat products, and frozen meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Ames, Iowa, to points in Arizona, California, Nevada, and points in New Mexico on and west of U.S. Highway extending along Interstate Highway 25 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction U.S. Highway 54, thence along U.S. Highway 54 to the New Mexico-Texas State line (Denver, Colo.); (2) *Frozen dairy products, frozen bakery products, frozen fruits, frozen vegetables, frozen berries, frozen french fries, frozen pizza, and pizza pie ingredients*, from Ames, Iowa, to points in New Mexico on and west of a line extending along Interstate Highway 25 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction U.S. Highway 54, thence along U.S. Highway 54 to the New Mexico-Texas State line (Denver, Colo.); and (3) *Frozen dairy products, frozen bakery products, frozen fruits, frozen vegetables, frozen berries, frozen french fries, frozen pizza, and pizza pie ingredients*, from Ames, Iowa, to points in New Mexico on and west of a line extending along Interstate Highway 25 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction U.S. Highway 54, thence along U.S. Highway 54 to the New Mexico-Texas State line (Denver, Colo.). The purpose of this filing is to eliminate the gateways indicated with asterisks above.

No. MC 113678 (Sub-No. E64), filed May 17, 1974. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, Colo. 80022. Applicant's representative: David L. Metzler (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, and meat by-products*, and *articles* distributed by meat packinghouses, as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from the plant sites

of Cornland Dressed Beef Company, at or near Lexington, Nebr., and Minden Beef Company, at or near Minden, Nebr., (a) to points in Montana on and west of a line extending from the United States-Canada International Boundary line along County Highway 247 to junction Montana Highway 24, thence along Montana Highway 24 to junction Montana Highway 200, thence along Montana Highway 200 to junction Montana Highway 22, thence along Montana Highway 22 to junction Interstate Highway 94, thence along Interstate Highway 94 to junction County Highway 315, thence along County Highway 315 to junction U.S. Highway 212, thence along U.S. Highway 212 to junction U.S. Highway 87, thence along U.S. Highway 87 to the Montana-Wyoming State line (Greeley, Colo.), and (b) to points in North Carolina and South Carolina (Sterling, Colo.); (2) *Meats, meat products, and meat by-products*, as defined in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from the plant sites of Cornland Dressed Beef Company, at or near Lexington, Nebr., and Minden Beef Company, at or near Minden, Nebr., to points in California, Arizona, Nevada, and points in New Mexico on and west of Interstate Highway 25 (Greeley, Colo.); and (3) *Fresh, frozen, and cured meats*, from the plant sites of Cornland Dressed Beef Company, at or near Lexington, Nebr., and Minden Beef Company, at or near Minden, Nebr., to points in Oregon on and west of Interstate Highway 5 (Greeley, Colo., and Alturas, Calif.). The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 113678 (Sub-No. E66), filed May 17, 1974. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, Colo. 80022. Applicant's representative: David L. Metzler (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (A) *Frozen meats, frozen meat products, and frozen meat by-products*, and *frozen articles* distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, and hides), (1) from points in Idaho, Oregon, and Washington (except Kennewick), (a) to points in Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and the District of Columbia (Lexington, Nebr.), (b) to Chicago, Ill. (Omaha, Nebr.), (c) to points in Alabama, Louisiana, Mississippi, Arkansas, Georgia, Kentucky, North Carolina, South Carolina, Tennessee, West Virginia, and Illinois (except Chicago) (Denver, Colo.), (d) to points in Kansas, Missouri, Oklahoma, and Texas (Greeley, Colo.); (2) from points in Idaho on and south of a line extending along Interstate Highway 80N to junction Idaho Highway 68,

thence along Idaho Highway 68 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 26, thence along U.S. Highway 26 to the Idaho-Wyoming State line, (a) to points in Iowa east of U.S. Highway 169, and to Sioux City, Iowa (Denver, Colo.); (b) to points in Wisconsin on and south of U.S. Highway 8, points in Minnesota on and south of a line extending along U.S. Highway 14 to junction Minnesota Highway 15, thence along Minnesota Highway 15 to junction U.S. Highway 212, thence along U.S. Highway 212 to junction U.S. Highway 12, thence along U.S. Highway 12 to the Minnesota-Wisconsin State line, and points in Iowa on and west of U.S. Highway 169 (except Sioux City) (Greeley, Colo.).

(3) From points in Washington (except Kennewick and points east of U.S. Highway 97), (a) to points in Iowa east of U.S. Highway 169, and to Sioux City, Iowa (Denver, Colo.), and (b) to points in Iowa on and west of U.S. Highway 169 (except Sioux City), points in Minnesota on and south of a line extending along U.S. Highway 14 to junction Minnesota Highway 15, thence along Minnesota Highway 15 to junction U.S. Highway 212, thence along U.S. Highway 212 to junction U.S. Highway 12, thence along U.S. Highway 12 to the Minnesota-Wisconsin State line, and points in Wisconsin on and south of a line extending along U.S. Highway 12 to junction Wisconsin Highway 29, thence along Wisconsin Highway 29 to junction Wisconsin Highway 22, thence along Wisconsin Highway 22 to junction U.S. Highway 41, thence along U.S. Highway 41 to the Wisconsin-Michigan State line (Greeley, Colo.); (B) *Frozen meats, frozen meat products, and frozen meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (1) from points in Idaho, Oregon, and Washington (except Kennewick), (a) to points in Maine, New Hampshire, Vermont, Ohio, and Michigan (the plant site of Black Hills Packing Company at Rapid City, S. Dak.), and (b) to points in Florida (Denver, Colo.); (2) from points in Idaho on and south of a line extending along Interstate Highway 80N to junction Idaho Highway 68, thence along Idaho Highway 68 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 26, thence along U.S. Highway 26 to the Idaho-Wyoming State line, from points in Washington (except Kennewick and points east of U.S. Highway 97), and from points in Oregon, to points in that part of Iowa east of U.S. Highway 169, and to Sioux City, Iowa (Denver, Colo.). The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 113908 (Sub-No. E16), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kansas 66603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Condensed milk and cream*, in bulk, in tank vehicles, from Kansas City, Missouri to points in Tennessee (except points in the Lake, Obion, Carroll, Benton, Henry and Dyer Counties). The purpose of this filing is to eliminate the gateway of Little Rock, Ark.

No. MC 113908 (Sub-No. E144), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Missouri 65804. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kansas 66603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Vinegar and vinegar stock*, in bulk, in tank vehicles, from points in California (except Riverside, San Bernardino, and Imperial Counties) to Oklahoma City, Okla. The purpose of this filing is to eliminate the gateway of Paris, Tex.

No. MC 114457 (Sub-No. E1), filed June 3, 1974. Applicant: DART TRANSIT COMPANY, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Edible animal fats, animal oils, vegetables oils, including products and blends thereof, in packages, and oleomargarine in packages*, from the site of the refinery plant of Swift & Company, at or near Bradley, Ill., to points in Nebraska in and north of Keith, McPherson, Logan, Blaine, Loup, Holt, and Knox Counties. The purpose of this filing is to eliminate the gateway of the plant site of the Green Grant Company at or near Blue Earth, Minn.

No. MC 114457 (Sub-No. E11), filed June 3, 1974. Applicant: DART TRANSIT COMPANY, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Metal containers*, and when moving therewith, *container ends and containers accessories*, from the plantsite and warehouse facilities of Continental Can Company, Inc., at St. Joseph, Mich., to points in West Virginia in and east of Pleasants, Ritchie, Calhoun, Braxton, Nicholas, and Greenbrier Counties. The purpose of this filing is to eliminate the gateway of Detroit, Mich.

No. MC 114457 (Sub-No. E12), filed June 3, 1974. Applicant: DART TRANSIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Metal containers and container ends accessories, and materials and supplies* used in connection with the manufacture and distribution of metal containers (except commodities in bulk and those which because of size or weight require the use

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of special equipment), when moving in mixed loads with metal containers, used as a canning factory supply, from points in Minnesota in and east of Faribault, Blue Earth, Nicollet, Sibley, McLeod, Meeker, Stearns, Todd, Wadena, Hubbard, Beltrami, and Lake and Lake of the Woods Counties, to points in Texas in east and south of Bowie, Cass, Upshur, Smith, Anderson, Freestone, Morris, Leon, Madison, Brazos, Burleson, Lee, Bastrop, Caldwell, Guadalupe, Bexar, Medina, Uvalde, and Kinney Counties. The purpose of this filing is to eliminate the gateway of St. Louis, Mo.

No. MC 114457 (Sub-No. E13), filed June 3, 1974. Applicant: DART TRAN-SIT COMPANY, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Metal containers, container ends, and accessories, and materials and supplies* used in connection with the manufacture and distribution of metal containers (except commodities in bulk or those which because of size or weight require special equipment), from the plant site or warehouse facilities of Continental Can Company, Inc., at Peoria, Ill., to points in Tennessee in and east of Robertson, Davidson, Williamson, Maury and Giles Counties. The purpose of this filing is to eliminate the gateway of Kankakee, Ill.

No. MC 114457 (Sub-No. E19), filed June 3, 1974. Applicant: DART TRAN-SIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Metal canned goods containers and container ends, accessories, and materials and supplies* used in connection with the manufacture and distribution of metal containers (except commodities in bulk and those which because of size or weight require the use of special equipment), when moving in mixed loads with metal containers, from points in North Dakota, to points in Iowa in and east of Kossuth, Humboldt, Webster, Carroll, Audubon, Cass, Adams, and Taylor Counties. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114457 (Sub-No. E20), filed June 3, 1974. Applicant: DART TRAN-SIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Metal canned goods containers and container ends, accessories, and materials and supplies* used in connection with the manufacture and distribution of metal containers (except commodities in bulk and those which because of size or weight require the use of special equipment), when moving in mixed loads with metal containers, from points in North Dakota to points in Illinois. The purpose of this fil-

ing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114457 (Sub-No. E21), filed June 3, 1974. Applicant: DART TRAN-SIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Metal canned goods containers and container ends, accessories, and materials and supplies* used in connection with the manufacture and distribution of metal containers (except commodities in bulk and those which because of size or weight require the use of special equipment), when moving in mixed loads with metal containers from points in Missouri to points in Wisconsin in and west of Pierce, St. Croix, Barron, Sawyer, and Ashland Counties. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114457 (Sub-No. E22), filed June 3, 1974. Applicant: DART TRAN-SIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Metal canned goods containers and container ends, accessories, and materials and supplies* used in connection with the manufacture and distribution of metal containers (except commodities in bulk and those which because of size or weight require the use of special equipment), when moving in mixed loads with metal containers, from points in Iowa in and east of Winnebago, Hancock, Wright, Hamilton, Boone, Polk, Warren, Clarke, and Decatur Counties), to points in Montana. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114457 (Sub-No. E25), filed June 3, 1974. Applicant: DART TRAN-SIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Metal canned goods containers and container ends, accessories, and materials and supplies* used in connection with the manufacture and distribution of metal containers (except commodities in bulk and those which because of size or weight require the use of special equipment), when moving in mixed loads with metal containers, from points in Missouri in and east of Scotland, Knox, Shelby, Monroe, Audrain, Boone, Cole, Maries, Phelps, Texas, and Howell Counties, to points in South Dakota, in and north of Lawrence, Meade, Haakon, Stanley, Hughes, Hyde, Buffalo, Jerauld, Sanborn, Miner, Lake, and Moody Counties. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114457 (Sub-No. E28), filed June 3, 1974. Applicant: DART TRAN-SIT COMPANY, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Metal containers and (2) of container ends, accessories, and materials and supplies* used in connection with the manufacture and distribution of metal containers (except commodities in bulk and those which because of size or weight require the use of special equipment) when moving in mixed loads with metal containers, from Kankakee, Ill., to points in Michigan. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 114457 (Sub-No. E37), filed June 3, 1974. Applicant: DART TRAN-SIT COMPANY, 780 N. Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Metal canned goods containers and container ends, accessories, and materials and supplies* used in connection with the manufacture and distribution of metal containers (except commodities in bulk and those which because of size or weight require the use of special equipment), when moving in mixed loads with metal containers, from points in South Dakota in and north of Grant, Codington, Clark, Beadle, Hand, Hyde, Hughes, Stanley, Haakon, and Pennington Counties, to points in Iowa in and east of Howard, Chickasaw, Bremer, Black Hawk, Benton, Iowa, Washington, Jefferson, and Van Buren Counties. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114457 (Sub-No. E40), filed June 3, 1974. Applicant: DART TRAN-SIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Metal canned goods containers and container ends, accessories, and materials, and supplies* used in connection with the manufacture and distribution of metal containers (except commodities in bulk and those which because of size or weight require the use of special equipment), when moving in mixed loads with metal containers, from points in South Dakota in and north of Lawrence, Meade, Haakon, Stanley, Hughes, Hyde, Buffalo, Jerauld, Sanborn, Miner, Lake, and Moody Counties, to points in Missouri in and east of Scotland, Knox, Shelby, Monroe, Audrain, Boone, Cole, Maries, Phelps, Texas, and Howell Counties. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114457 (Sub-No. E42), filed June 3, 1974. Applicant: DART TRAN-SIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Tin plate* utilized in the manufacture of canned goods containers, from Milwaukee, Wis., to points in Montana, North Dakota, South Dakota, and points in Lyon, Osceola, Dickinson, Emmet, Sioux, O'Brien, Clay, Plymouth, and Woodbury Counties, Iowa. The purpose of this filing is to eliminate the gateway of Mankato, Minn.

No. MC 114457 (Sub-No. E43), filed June 3, 1974. Applicant: DART TRAN-SIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Canned goods metal container caps and enclosures*, from the plant and warehouse sites of Crown Cork & Seal Co., Inc., at Chicago, Ill., to points in Montana. The purpose of this filing is to eliminate the gateway of points in Minnesota.

No. MC 114457 (Sub-No. E46), filed June 3, 1974. Applicant: DART TRAN-SIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Canned meats and canned meat products*, from the plant site of Wilson & Co., Inc., at Monmouth, Ill., to points in Montana. The purpose of this filing is to eliminate the gateway of points in Minnesota.

No. MC 114457 (Sub-No. E47), filed June 3, 1974. Applicant: DART TRAN-SIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Canned meats and canned meat products*, from the plant site of Wilson & Co., Inc., at Monmouth, Ill., to points in Montana. The purpose of this filing is to eliminate the gateway of points in Minnesota.

No. MC 114457 (Sub-No. E48), filed June 3, 1974. Applicant: DART TRAN-SIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Canned meats and canned meat products*, from the plant site of Wilson & Co., Inc., at Monmouth, Ill., to points in Montana. The purpose of this filing is to eliminate the gateway of points in Minnesota.

No. MC 114457 (Sub-No. E49), filed June 3, 1974. Applicant: DART TRAN-SIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Canned meats and canned meat products*, from the plant site of Wilson & Co., Inc., at Monmouth, Ill., to points in Montana. The purpose of this filing is to eliminate the gateway of points in Minnesota.

No. MC 114457 (Sub-No. E50), filed June 3, 1974. Applicant: DART TRAN-SIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Canned meats and canned meat products*, from the plant site of Wilson & Co., Inc., at Monmouth, Ill., to points in Montana. The purpose of this filing is to eliminate the gateway of points in Minnesota.

No. MC 114457 (Sub-No. E51), filed June 3, 1974. Applicant: DART TRAN-SIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Canned meats and canned meat products*, from the plant site of Wilson & Co., Inc., at Monmouth, Ill., to points in Montana. The purpose of this filing is to eliminate the gateway of points in Minnesota.

## NOTICES

utilized in the manufacture of canned goods containers, from Milwaukee, Wis., to points in Montana, North Dakota, South Dakota, and points in Lyon, Osceola, Dickinson, Emmet, Sioux, O'Brien, Clay, Plymouth, and Woodbury Counties, Iowa. The purpose of this filing is to eliminate the gateway of Mankato, Minn.

No. MC 114457 (Sub-No. E114), filed June 4, 1974. Applicant: DART TRAN-SIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Tin plate* used as a canning factory supply from the plant site of the Bethlehem Steel Corporation, located at Burns Harbor, Ind., to points in Montana and South Dakota. The purpose of this filing is to eliminate the gateway of points in Minnesota.

No. MC 114457 (Sub-No. E117), filed June 4, 1974. Applicant: DART TRAN-SIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Canned meats and canned meat products*, from the plant site of Armour and Company, near Worthington, Minn., to points in Montana. The purpose of this filing is to eliminate the gateway of points in Minnesota.

No. MC 114457 (Sub-No. E122), filed June 4, 1974. Applicant: DART TRAN-SIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Canned meats and canned meat products*, from the plant site and storage facilities utilized by Wilson & Co., Inc., at or near Cherokee, Iowa, to points in North Dakota, Montana, and South Dakota (except points in Charles Mix, Douglas, Hutchinson, Bon Homme, Turner, Yankton, Lincoln, Clay, and Union Counties). The purpose of this filing is to eliminate the gateway of points in Minnesota.

No. MC 114457 (Sub-No. E134), filed May 25, 1974. Applicant: DART TRAN-SIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Canned goods*, from points in Wisconsin in and north of Pepin, Eau Claire, Clark, Marathon, Shawano, Oconto, and Door Counties, to points in Iowa in and west of Worth, Cerro Gordo, Franklin, Hamilton, Boone, Guthrie, Cass, Montgomery, and Page Counties. The purpose of this fil-

ing is to eliminate the gateway of Chanhassen, Minn.

No. MC 114457 (Sub-No. E137), filed May 25, 1974. Applicant: DART TRAN-SIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Canned goods*, from points in North Dakota, to points in Iowa in and east of Kossuth, Humboldt, Webster, Carroll, Audubon, Cass, Adams, and Taylor Counties. The purpose of this filing is to eliminate the gateway of Chanhassen, Minn.

No. MC 114457 (Sub-No. E138), filed May 25, 1974. Applicant: DART TRAN-SIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Canned goods*, from points in Montana to points in Wisconsin. The purpose of this filing is to eliminate the gateway of Chanhassen, Minn.

No. MC 114457 (Sub-No. E139), filed June 3, 1974. Applicant: DART TRAN-SIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Canned goods*, from points in Missouri, to points in Wisconsin in, north, and west of Iron, Price, Rusk, Chippewa, Dunn, and Pepin Counties. The purpose of this filing is to eliminate the gateway of Chanhassen, Minn.

No. MC 114457 (Sub-No. E140), filed June 3, 1974. Applicant: DART TRAN-SIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen meats and frozen meat products*, from the plant site of Armour and Company, near Worthington, Minn., to points in Connecticut, Delaware, Indiana, the Lower Peninsula of Michigan, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and the District of Columbia. The purpose of this filing is to eliminate the gateways of St. James Madella, and Butterfield, Minn.

No. MC 114457 (Sub-No. E141), filed May 25, 1974. Applicant: DART TRAN-SIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Canned goods*, from points in Iowa in and east of Kossuth, Humboldt, Webster, Carroll, Audubon, Cass, Adams, and Taylor Counties, to points in North Dakota. The

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purpose of this filing is to eliminate the gateway of Chanhassen, Minn.

No. MC 114457 (Sub-No. E149), filed November 22, 1974. Applicant: DART TRANSIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Paper containers and paper container closures, from Chicago, Ill., to points in Minnesota, Iowa, Missouri, Kansas, Nebraska, North Dakota, and South Dakota. The purpose of this filing is to eliminate the gateway of points in the Chicago, Ill., commercial zone.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc. 75-13656 Filed 5-22-75; 8:45 am]

[Notice No. 774]

#### ASSIGNMENT OF HEARINGS

May 20, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 21436 Sub 3, Thomas F. Welsh, d.b.a. Reliance Van Company, now assigned June 3, 1975 at Washington, D.C., is postponed indefinitely.

MC 61592 (Sub 321), Jenkins Truck Line, Inc. and MC 119493 (Sub 110), Monken Co., Inc., now assigned June 5, 1975, at Chicago, Ill., is postponed indefinitely.

MC 96881 Sub 16, Orville M. Fine, d.b.a. Fine Truck Line, Inc., now assigned July 21, 1975, at Little Rock, Arkansas, is canceled and reassigned for hearing on July 21, 1975, at Fayetteville, Arkansas; in a hearing room to be designated later.

MC 74321 Sub 105, B. F. Walker, Inc., now assigned June 30, 1975 at Washington, D.C., is canceled and application dismissed.

MC 107304 Sub 10, Transway, Inc., now assigned July 8, 1975, at New Orleans, Louisiana will be held at the Sheraton-Chateau LeMoine, 301 Rue Dauphine Street.

MC 123407 Sub 197, Sawyer Transport, Inc., now assigned June 10, 1975, at Denver, Colorado, will be held in Room 269 2nd Floor, Federal Building & U.S. Post Office, 1823 Stout Street.

MC 61592 Sub 329, Jenkins Truck Line, Inc. and MC 124692 Sub 136, Sammons Trucking now assigned June 11, 1975, at Denver, Colorado, will be held in Room 269 2nd Floor, Federal Building & U.S. Post Office, 1823 Stout Street.

MC 133233 Sub 32, Clarence L. Werner, d.b.a. Werner Enterprises, now assigned June 16, 1975, at Denver, Colorado, will be held in Room B-230, New Custom House, 721 19th Street.

MC 111375 Sub 72, Pirkle Refrigerated Freight Lines, Inc., MC 117119 Sub 522, Willis Shaw Frozen Express, Inc. and MC 119619 Sub 77, Distributors Service Co., now assigned June 18, 1975, at Denver, Colorado, will be held in Room B-230 New Custom House, 721 19th Street.

MC 129480 Sub 14, Tri-Line Expressways Ltd. and 133941 Sub 4, Northern Industrial Carriers Ltd., now assigned June 23, 1975, at Denver, Colorado, will be held in Room 587 Tax Court, U.S. Federal Building, 1927 Stout Street.

MC 111729 Sub 497, Puroator Courier Corp., now being assigned for pre-hearing conference on June 23, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-P-11986, Ligon Specialized Hauler, Inc.—Purchase (Portion)—Webb Transfer Line, Inc., John C. Ryan, Trustee, MC-P-11988 O'Nan Transportation Co., Inc.—Purchase (Portion)—Webb Transfer Line, Inc., John C. Ryan, Trustee, and MC 133916 O'Nan Transportation Co., Inc., now assigned June 16, 1975, at Washington, D.C. is cancelled and the application dismissed.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc. 75-13659 Filed 5-22-75; 8:45 am]

[Notice No. 294]

#### MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

May 23, 1975.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's

Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before June 12, 1975. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-75713. By order of May 15, 1975, the Motor Carrier Board approved the transfer to Reyco Motor Express, Inc., Fort Smith, Ark., of Certificates of Registration No. MC-28892 (Sub-No. 3), MC-28892 (Sub-No. 4) and MC-28892 (Sub-No. 6) issued April 1, 1965, August 23, 1968 and December 13, 1972 respectively to Potet Truck Lines, Inc., Little Rock, Ark., evidencing a right to engage in transportation in interstate commerce as described in motor carrier Certificates No. B-219 and M-362 issued by the Arkansas Transportation Commission. David A. Sutherland, 1140 Conn. Ave., NW, Washington, D.C. 20036, Attorney for applicants.

No. MC-FC-75824. By order of May 19, 1975, the Motor Carrier Board approved the transfer to Helen G. Lee, doing business as Refrigerated Express, Huntington, W. Va., of that portion of the operating rights in Certificate No. MC-4197 issued December 18, 1963, to Logan Transfer Company, a corporation, Huntington, W. Va., authorizing the transportation of such commodities as are manufactured, sold, and distributed by packinghouses, between Williamson and Logan, W. Va., on the one hand, and, on the other, points in Wyoming, Logan, and Lincoln Counties, W. Va., and between Logan, W. Va., on the one hand, and, on the other, points in Mingo and Wayne Counties, W. Va., and those in Pike County, Ky.; and meats, meat products and meat by-products, dairy products, and articles distributed by meat packinghouses, between Logan, W. Va., on the one hand, and, on the other, points in Cabell and Putnam Counties, W. Va., Lawrence and Scioto Counties, Ohio, Russell, Ky., and points in Boyd and Lawrence Counties, Ky., and from Huntington, W. Va., to points in West Virginia, Ohio, and Kentucky within 100 miles of Huntington, W. Va. John M. Friedman, 2930 Putnam Avenue, Hurricane, W. Va. 25526, Registered Practitioner for applicants.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc. 75-13657 Filed 5-22-75; 8:45 am]

[Notice 50]

#### TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
Schretlin Tank Line, Inc., MC-409 Sub-50	MC-409 Sub-47	Sept. 9, 1974
Fairchild General Freight, Inc., MC-33419 Sub-5	MC-33419 Sub-7	Sept. 17, 1974
L. & M. Express Co., Inc., MC-44639 Sub-43	MC-44639 Sub-41	Sept. 12, 1974
Schneider Transport, Inc., MC-51146 Sub-291	MC-51146 Sub-316	Sept. 17, 1974
Schneider Transport, Inc., MC-51146 Sub-321	MC-51146 Sub-313	Sept. 11, 1974
Herman Bros., Inc., MC-61396 Sub-244	MC-61396 Sub-246	Sept. 18, 1974
Herman Bros., Inc., MC-61396 Sub-203	MC-61396 Sub-253	Sept. 6, 1974
O.N.C. Freight Systems, MC-71459 Sub-32	MC-71459 Sub-33	Sept. 20, 1974
Michigan & Nebraska Transit Co., Inc., MC-82492 Sub-87	MC-82492 Sub-87	Sept. 9, 1974
Michigan & Nebraska Transit Co., Inc., MC-82492 Sub-29	MC-82492 Sub-92	Do.
Michigan & Nebraska Transit Co., Inc., MC-82492 Sub-87	MC-82492 Sub-98	Sept. 11, 1974
Hove Truck Line, MC-95084 Sub-80	MC-95084 Sub-90	Sept. 3, 1974
Watkins Motor Lines, Inc., MC-95340 Sub-807	MC-95340 Sub-804	Sept. 18, 1974
Kaw Transport Co., MC-106400 Sub-99	MC-106400 Sub-100	Sept. 17, 1974
Higgs Food Express, Inc., MC-106920 Sub-52	MC-106920 Sub-51	Sept. 13, 1974
Miller Transporters, Inc., MC-107002 Sub-417	MC-107002 Sub-448	Sept. 3, 1974
Commercial Truck Co., Ltd., MC-109294 Sub-17	MC-109294 Sub-18	Sept. 19, 1974
Wheeling Pipe Line, Inc., MC-11170 Sub-29	MC-11170 Sub-208	Sept. 20, 1974
American Courier Corp., MC-111729 Sub-359	MC-111729 Sub-365	Sept. 11, 1974
Puroator Courier Corp., MC-111729 Sub-374	MC-111729 Sub-378	Do.
The Manfredi Motor Transit Co., MC-112184 Sub-31, 36	MC-112184 Sub-35	Sept. 9, 1974
Puroator Courier Corp., MC-112750 Sub-300, 301	MC-112750 Sub-305	Sept. 12, 1974
Wells Trucking, Inc., MC-115092 Sub-29	MC-115092 Sub-298	Sept. 19, 1974
C. E. Reynolds Transport, Inc., MC-115890 Sub-98	MC-115890 Sub-25	Sept. 10, 1974
J. & M. Transportation Co., Inc., MC-115311 Sub-161	MC-115311 Sub-67	Sept. 20, 1974
Neuman Transit Co., Inc., MC-116045 Sub-49	MC-116045 Sub-138	Sept. 5, 1974
Tramby Motor Coach Service, Inc., MC-116313 Sub-3	MC-116313 Sub-41	Sept. 20, 1974
Sloman, Inc., MC-119490 Sub-13	MC-119490 Sub-12	Sept. 10, 1974
Paul Adler, d.b.a. Central Transport Co., MC-119490 Sub-31, 32	MC-119490 Sub-31	Do.
D.b.a. Harris Transportation Co., MC-121300 Sub-2	MC-121300 Sub-3	Sept. 6, 1974
Schwerman Trucking Co., MC-124078 Sub-545, 546, 580	MC-124078 Sub-549	Sept. 4, 1974
Howard Baer, MC-124221 Sub-12	MC-124221 Sub-43	Sept. 11, 1974
Eugene Tripp, MC-124711 Sub-22, 24	MC-124711 Sub-21	Sept. 13, 1974
Becker and Sons, Inc., MC-125023 Sub-29	MC-125023 Sub-21	Do.
Sigma-4 Express, Inc., MC-127090 Sub-2	MC-127090 Sub-3	Sept. 12, 1974
Pacific Storage, Inc., MC-127421 Sub-1	MC-127421 Sub-2	Sept. 11, 1974
D.b.a. Himpl-Gopher, MC-128527 Sub-41	MC-128527 Sub-43	Sept. 18, 1974
B & B Trucking, Inc., MC-128896 Sub-18	MC-128896 Sub-49	Sept. 13, 1974
Dubols Trucking, Inc., MC-128876 Sub-6	MC-128876 Sub-7	Sept. 5, 1974
Grieser Trucking Co., MC-133161 Sub-9	MC-133161 Sub-10	Sept. 12, 1974
Overland Co., Inc., MC-133221 Sub-12, 14	MC-133221 Sub-15	Sept. 13, 1974
D.b.a. Harris Bros. Co., MC-133393 Sub-2	MC-133393 Sub-3	Sept. 10, 1974
Arlington J. Williams, Inc., MC-113024 Sub-125	MC-113024 Sub-128	Sept. 11, 1974
Curtis, Inc., MC-113678 Sub-507	MC-113678 Sub-517	Sept. 17, 1974
Dart Transit Co., MC-114457 Sub-169	MC-114457 Sub-178	Sept. 12, 1974
Cecil Claxton, MC-133492 Sub-6	MC-133492 Sub-7	Sept. 13, 1974
Fiske Bros., Inc., MC-133708 Sub-8	MC-133708 Sub-9	Sept. 6, 1974
Height's Service, Inc., MC-134094 Sub-1	MC-134094 Sub-2	Sept. 10, 1974
Sehanno Transportation, Inc., MC-134477 Sub-38	MC-134477 Sub-41	Sept. 18, 1975
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D.b.a. Swanson Delivery Service, MC-131844 Sub-1	MC-131844 Sub-2	Sept. 4, 1974
Liebmann Transportation Co., Inc., MC-135636 Sub-3	MC-135636 Sub-10	Sept. 10, 1974
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Sub-7	MC-136589 Sub-1	Do.
Service Moving & Storage Co., Inc., MC-136589	MC-136610	Sept. 19, 1974
D.b.a. Bestway Moving & Storage, MC-136610 Sub-1	MC-136632 Sub-4	Do.
Copeland Transportation Co., Inc., MC-136632 Sub-3	MC-136894 Sub-1	Sept. 9, 1974
Warren D. Fletcher, MC-136866	MC-136899 Sub-7	Sept. 10, 1974
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D. & C. Transportation, Inc., MC-138385	MC-138612 Sub-1	Sept. 18, 1974
E. B. Hill Excavating Ltd., MC-138612	MC-138704 Sub-1	Do.
Gary L. Dunphy, MC-138704		

[SEAL]

JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc. 75-13658 Filed 5-22-75; 8:45 am]



# federal register

FRIDAY, MAY 23, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 101

PART II



## DEPARTMENT OF LABOR

Office of the Secretary

■

## HIGH UNEMPLOYMENT AREAS

Comprehensive Manpower Programs  
and Grants

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## Title 29—Labor

## SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

## COMPREHENSIVE MANPOWER PROGRAM AND GRANTS TO AREAS OF HIGH UNEMPLOYMENT

On Friday, March 7, 1975, the Department of Labor published in the *FEDERAL REGISTER* (40 FR 10828) proposed revisions to the regulations for Titles I and II of the Comprehensive Employment and Training Act of 1973, as amended (Pub. L. 93-203, 87 Stat. 839 and Pub. L. 93-567 88 Stat. 1845), to take effect with the planning and implementation of programs funded for Fiscal Year 1976. At that time, the Department invited interested persons to submit comments on the regulations, and stated that the comments received by April 7, 1975, would be evaluated to determine whether the regulations should, in any respect, be amended.

On Wednesday, March 26, 1975, the Department of Labor published in the *FEDERAL REGISTER* (40 FR 13452) material inadvertently omitted from the proposal published on March 7, 1975. Comments were received on this additional material until April 17, 1975.

Numerous comments were received by the Department pursuant to these invitations. The Department studied these comments carefully, and established an evaluation procedure to allow consideration of each comment on its own merits and in relation to other comments received on the same or similar subjects.

This evaluation procedure has resulted in a decision to amend the current regulations for Titles I and II in certain respects. These amendments are described below and are incorporated in a set of revised regulations published today. With one exception, these revised regulations are not applicable to programs developed and operated for Fiscal Year 1975. Those programs will continue to be governed by the regulations published June 4, 1974. The one exception relates to the requirement contained in these revised regulations requiring public disclosure of the names of program participants and staff. That requirement will also apply to Fiscal Year 1975 programs.

A short explanatory statement accompanies each amendment description. A description of the amendments follows:

In § 94.1, *Scope and purpose of the Act*, the list of Titles of the Act has been amended to be consistent with the provisions of the Emergency Jobs and Unemployment Assistance Act of 1974 (Pub. L. 93-567, 88 Stat. 1845) which established a new Title VI and renumbered the previous Title VI to Title VII. Appropriate changes have been made throughout the regulations to reflect the change of Title VI to Title VII.

In § 94.3, *Consolidated table of contents for Parts 94-99*, the table of contents for Parts 97 and 99 of Title 29 have been included for completeness.

In § 94.4, *Definitions*, the following additions and changes have been made:

The definition for "area of substantial unemployment" has been limited to

Title II, since "area of substantial unemployment" for Title VI purposes is defined in Part 99;

A definition of the word "audit" has been added to clarify the specific activities that are meant by such a procedure;

A definition of the term "audit standards" has been added to mean specifically the standards found in *The Standards for Audit of Government Organizations, Programs, Activities and Functions* promulgated by the Comptroller General of the United States;

All references to "client" have been changed to "participant";

The definition of "consortium" has been changed to clarify that the consortium is an entity formed by an agreement, not the agreement itself.

The definition of "dependent" has been reworded and simplified for clarification; no substantive change was made.

A definition of "disabled veteran" has been added to mean a person who served in the Armed Forces and who was discharged or released therefrom with other than a dishonorable discharge and who has been given a disability rating of 30 percentum or more, or a person whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty;

The definition of "employing agency" has been clarified to specifically exclude private-for-profit organizations and to clarify that the administrative arm of a consortium eligible applicant can be an employing agency only for the purpose of hiring participants to administer the program;

A definition for "family" has been added to permit uniform application of the criteria for the term "economically disadvantaged";

A definition of "Federal Audits" has been added to mean those audits conducted by the U.S. Department of Labor and its agents;

The definition of "grantee" has been expanded to include Title VI eligible applicants;

A definition of "grant allotment" has been added to mean the total amount of funds under a title of the Act planned at a particular point in time to be granted to the prime sponsor in any fiscal year;

The definition of "low income" has been clarified to be used for allocation purposes only;

A definition of "manpower allotment" has been added to mean sums received by a prime sponsor distributed under sections 103(a)(1), 103(a)(2), 103(a)(4), and 103(f) of the Act;

A definition of "multijurisdictional agreement" has been added to mean an agreement between a State and a unit of local government within the State that has a population of 100,000 or more to operate a comprehensive manpower program under the Act;

A definition of "Non-Federal Audits" has been added to mean those audits conducted by State, county and city governments or their agents;

The definition for "obligation" has been broadened to include legal commitments of funds by any grantor;

The definition of "participant" has been further defined to indicate when an individual becomes a participant;

The definition of "placement" has been changed by deleting the term "self-placement" and counting those individuals who have found a job on their own initiative after receiving a service under the Act as "obtained employment." This categorization is standard for all Department of Labor usage;

The definition of "program agent" has been changed to include standards to be used in determining whether combinations of units of local government qualify as a program agent;

The definition of "program of demonstrated effectiveness" has been clarified to mean a program which demonstrates to the prime sponsor that it either has carried out a program effectively in the prime sponsor's jurisdiction or has carried out similar programs effectively in other jurisdictions, and can carry out such programs effectively in the prime sponsor's jurisdiction;

A definition for "public assistance" has been added to refer to Aid to Families with Dependent Children (AFDC) and Supplemental Security Income for the Aged, Blind, and Disabled;

The definition of "public service" has been expanded to include child care as a type of work which can be performed and to specify that part-time work may be allowed for certain individuals;

The definition of "significant segments" has been changed to specify the general types of groups which may be defined by the prime sponsor to receive services under the Act;

The definition of "States" has been clarified by mentioning the 50 States;

The definition of "underemployed person" has been changed to clarify that the poverty level income guideline criteria is applied to the individual's wages rather than the total family income; and

The definitions of "unemployed person" have been changed to permit the immediate eligibility of veterans just discharged.

Throughout Part 95 the term *Projet Operating Plan* has been changed to *Program Planning Summary and Budget Information Summary* due to the substitution of new forms required by the Office of Management and Budget (OMB).

In § 95.2, *Allocation of funds*, the language in paragraph (b)(2), (c)(2), and (c)(4) has been corrected to reflect the application of the three-part allocation formula, as well as the 50/150 provision, to the one percent State Manpower Services Council (SMSC) funds, four percent State services funds, and five percent Vocational Education funds.

In § 95.11, *Preapplication for Federal Assistance; consortium agreements*, the title of this section has been changed from "Notification of intent to apply" to "Preapplication."

The language in paragraphs (a) and (b) has been combined into one paragraph (a) to specify that the ARDM will notify all potentially eligible applicants and to require that the preapplication process set forth in Federal Management

Circular (FMC) 74-7 issued by the General Services Administration (formerly OMB Circular No. A-102) shall be followed and Preapplication for Federal Assistance, Part I (FMC 74-7) is to be used with an attachment of additional information specifically required for grants under the Act. The language of paragraph (a)(1)(iii) has been corrected to reflect that consortia prime sponsors do not have the "required general governmental authority" that State or local grantees have.

Paragraph (a)(1)(v) simplifies the signature process on the preapplication form for established consortia.

Paragraph (b) has been rewritten to describe the agreement process for consortia. It has been changed to reflect that an established consortium may attest in writing that the agreement is the same as in the prior year. The attestation must be signed by all parties to the consortium.

The role of the consortium administrative arm in employing participants has been clarified in paragraph (e) to be limited to hiring only those who will administer the program.

In § 95.13, *Planning process; advisory councils*, the language of paragraph (c) has been clarified to indicate that the Prime Sponsor Planning Council functions in relation to Title II programs as well as Title I.

A statement has been added to paragraphs (c) and (d) to caution against use of public agency employees as representatives of client groups to be selected for the Prime Sponsor Planning Council and the State Manpower Services Council (SMSC).

Paragraph (d) has been edited to consolidate all functions under (d)(4). The monitoring role of the SMSC has been emphasized, which is distinct from the Federal compliance monitoring role, and is required to be clearly defined by the SMSC and publicized to all affected agencies. The language of (d)(4)(v) has been edited to conform with the provision of the Act on the SMSC's annual report to the Governor.

In § 95.14, *Content and description of grant application*, the language in paragraph (a) has been clarified to specify that the application will be for the total grant allotment even if it is to be obligated by the ARDM in increments. Provision for incorporating Title I and Title II funds into a single grant at the discretion of the ARDM has been added.

The summary of the narrative description of the Title I program has been changed to reflect the integration into this narrative description of the description of public service employment programs funded under Title I. The item in the narrative on explanation of the consideration given to existing facilities has been elaborated and an additional item of narrative has been included which requires description of continuity of services to participants when the geographical area of the prime sponsor changes.

The Program Transition Schedule, which was necessary in the first year of transition from categorical to compre-

hensive program operations, has been deleted. All assurances applicable to Title I have been summarized and every citation of the Act has been included.

The grant signature sheet has been described and included as part of the grant application.

In § 95.15, *Comment and publication procedures relating to submission of grant application*, The phrase "no later than the date of its submission of an application to the ARDM" has been deleted from paragraph (a) since publication of the contents of a grant application must now be done 30 days prior to its submission.

Paragraph (b) has been changed to require that a copy of the newspaper publication be sent to the ARDM. The information to be published has been clarified and a comparison of performance against prior year's plan has been added in response to the requirement in section 705(f) of the Act.

The language of paragraph (c) deletes interim FY 1975 clearinghouse procedures; ongoing procedures have been retained and clarified.

A new paragraph (f) has been added to indicate the ARDM will respond to an A-95 clearinghouse comment which recommends disapproval when, after reviewing the recommendation, the ARDM decides to approve the grant without incorporating the recommendation.

In § 95.17, *Standards for reviewing grant application*, two standards have been added to paragraph (b): training for skill shortage occupations and public service jobs satisfying the requirements of § 96.23. Two of the existing standards have been elaborated as follows: an explanation of the consideration given to utilizing existing facilities has been added to the standard for selection of delivery agents, and a provision for modifying the plan in response to changing economic conditions in the locality has been added to the standard for meeting the goals of the prior year's plan.

In § 95.18, *Application approval; grant agreement*, notification by the ARDM of the clearinghouse within 7 days of any action on the application has been added to paragraph (c); the old paragraph (d) has been deleted since the grant signature sheet has been described as part of the grant application; and a new (d) has been added which provides for funding a new program year through modifying an existing grant.

In § 95.21, *Modification of grant agreement*, the language has been changed to clarify that a grant modification is required when the total grant allotment changes, not when the amount of funds obligated by the ARDM changes. In paragraph (b) the forms to be submitted when a grant modification is initiated have been explained, and in paragraph (c) the publication procedure has been simplified. A provision has been added for concurrent submittal to A-95 clearinghouses when, at the discretion of the Department, the term of the grant is extended to complete the program without a substantive change in activity.

In § 95.22, *Modification of Comprehensive Manpower Plan*, paragraph (b) has been changed to reflect the requirement for submission of changes to the Narrative Description of Program when substantial changes in program design are necessitated by changes in the Program Planning Summary or Budget Information Summary. Only substantial changes in program design will require the submission of rewritten portions of the narrative.

Paragraph (b)(2) has been changed to permit modification for subsequent quarters only, and to provide for a simplified publication procedure.

Paragraph (d) has been moved to (e) and the procedure and conditions under which the ARDM may initiate a modification have been added. The ARDM may require a modification to assure compliance with the regulations. As distinguished from the proposed regulations published March 7, 1975, the ARDM may request a reassessment and appropriate modification to the approved plan when the ARDM believes that the changing economic situation in the jurisdiction makes such a reassessment and modification necessary. The effectiveness of a prime sponsor's response to changing economic conditions will be taken into consideration in reviewing the subsequent year's grant application. If the prime sponsor disagrees with the ARDM's request, it may request a hearing. A new paragraph (d) providing for modification to the narrative has been added.

In § 95.32, *Eligibility for participation in a Title I program*, paragraph (b)(2) has been changed to indicate that economically disadvantaged, unemployed, or underemployed persons may be eligible to participate in a Title I public service employment program. Previously, only unemployed and underemployed persons were eligible.

In paragraph (d) a statement on the ineligibility of illegal aliens has been added.

The provisions on veterans in paragraph (e) have been made consistent with the Title II provisions.

A new paragraph (f) has been added which provides that EEA, Title II, and Title VI participants may be concurrently enrolled in a Title I component and may be transferred into a Title I funded program without an intervening period of unemployment. Title III participants may be enrolled in Title I if they met the Title I eligibility requirements when they first entered the Title III program.

A new paragraph (g) has been added which states that while the selection of students for participation is not prohibited, in providing for any such participation, prime sponsors should give special consideration to those most in need of services under the Act.

In § 95.33, *Types of manpower program activity available*, clarification of the minimum wage requirements under the Act as they apply to the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of



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the Pacific Islands has been made throughout Part 95.

Reference to § 95.24 has been included in the section on participant benefits provided to OJT participants in paragraph (d) (2) (vi).

A statement has been added to paragraph (d) (3) which provides that public service employment includes subsidized employment opportunities with public employers as well as private non-profit employers.

Paragraph (d) (3) (i) states the specific exclusions of requirements in Part 96 when public service employment is conducted under Title I.

In paragraph (d) (4) (i), a statement has been inserted that requires the prime sponsor to describe the design of a work experience program in the approved Comprehensive Manpower Plan. The description includes the basic design, a statement on the characteristics of the work experience participants, the objectives of the activity, the duration and expected outcomes of work experience.

In paragraph (d) (4) (vi), the method of compensation of work experience participants has been limited to wages. Previously, prime sponsors had the option of paying either allowances or wages.

In paragraph (d) (5), two new subparagraphs have been inserted. A new paragraph (iii) indicates that post placement services may be provided to terminated participants for a period of 30 days from termination. Also, a new paragraph (iv) provides that participants enrolled in services to participants, as a component of another activity, may be paid allowances. Participants may also receive allowances for time spent in services to participants if such activities are on a regularly scheduled basis.

In paragraph (d) (6), a new paragraph has been inserted which provides that allowances may be paid to participants enrolled in other manpower activities when they are provided as a component of another activity or as a separate activity on a regularly scheduled basis. These activities must be described in the Comprehensive Manpower Plan. The new paragraph is numbered (iii) *Participants benefits*.

A new subsection has been added as paragraph (e), *Combined activities*, which provides that a prime sponsor may establish a uniform compensation system for participants enrolled simultaneously in training and employment activities. If the prime sponsor sets up such a system it shall only pay wages to participants if their primary activity is an activity for which wages are paid; the prime sponsor shall only pay allowances to participants if their primary activity is an activity for which allowances are paid.

In § 95.34, *Training allowances*, the subsections starting with paragraph (c), *Eligibility for allowances*, through paragraph (k), *Repayments*, have been revised. The highlights of the revisions include:

(a) The basic allowance payment system is a straight minimum wage rate of

compensation for each scheduled hour of participation.

(b) Scheduled participation may include classroom training, services to participants, and other activities, and need not be limited to classroom sessions only.

(c) Dependents allowances are to be provided as an addition to the basic allowances and may not be adjusted or prorated for part-time participation or absences. Dependents allowances may only be waived when the entire basic allowance is waived.

(d) Incentive allowances of \$30 per week are in lieu of basic allowances to participants who receive public assistance; however, the incentive allowance may be reduced pro rata only for absences without good cause.

(e) The waiver provisions for the basic allowance have been clarified by requiring the prime sponsor to describe the circumstances under which allowances will be waived. In addition, specific conditions under which a waiver can be provided have been included.

Sections 95.36, 95.37, 95.38, 95.39, and 95.41 have been deleted and inserted in Part 96 since these sections apply to both Title I and Title II funded programs. This transfer of sections will clarify the operational provisions of Titles I and II programs and provide greater consistency. The remaining § 95.40 and § 95.42 have been renumbered as § 95.36 and § 95.37, respectively.

Throughout Subpart D the words "Vocational Education" have been preceded by the word "State" where applicable, for clarification purposes.

In § 95.52, *Grant application*, a new sentence has been added at the end of paragraph (a), "A copy of all forms and instructions for the Application for Special Grants is contained in the Forms Preparation Handbook."

The summarization of the special grant program narrative has been clarified and additional items on costs have been added to correspond with the narratives being required.

A new paragraph (b) (2) (iv) has been added to include a description of the Special Grant Signature Sheet and to indicate it is part of the grant package.

Paragraph (b) (2) (iii) (C) (4) has clarified the role of the State in fulfilling the Secretary's responsibility under mandatory listing.

In § 95.54, *Modifications; limitations on use of funds*, the language has been clarified to indicate that a grant modification is required when the total grant allotment changes, not when the amount of funds obligated by the ARDM changes.

In § 95.55, *Governor's distribution of Vocational Education funds*, a requirement has been added that the Governor inform prime sponsors of the methodology used to distribute funds within the State.

In § 95.56, *Program operation*, paragraph (a) (2) clarifies the definition of supportive services and specifies the use of Vocational Education funds under the Act to pay allowances and administrative costs.

The role of the State in mandatory listing has been clarified.

In § 95.57, *Funding; grant administration*, a provision for the pass-through to the local non-financial agreement program of at least 50 percent of the funds allocated to administration has been added.

In § 96.1, *Scope and purpose*, a new paragraph (b) has been added stating that all provisions for Title II programs for Indian tribes on Federal and State reservations are found in Subpart D of Part 96.

The original paragraphs (b) and (c) have been relettered as (c) and (d).

In § 96.2, *Allocation of funds*, in paragraph (b) (2), the words "fiscal year" have been inserted before the word "allocation" in the last sentence for clarification.

In paragraph (c) the words "due to the level of unemployment" have been deleted and the words "under the formula specified in paragraph (b) (1) for use" have been substituted for clarification purposes.

In § 96.3, *Eligibility of funds*, paragraph (e) (2) has been subdivided into two sections ((e) (2) (i) and (e) (2) (ii)). Paragraph (e) (2) (i) remains unchanged from the original (e) (2) in the June 4, 1974, regulations. Paragraph (e) (2) (ii) has been added to specify that no eligible applicant may make other arrangements for serving an area of substantial unemployment within the jurisdiction of a program agent except with the review and concurrence of the ARDM.

A new paragraph (f) (3) has been added specifying that an eligible applicant or program agent with less than a 6.5 percent unemployment rate must allocate its funds for those areas of substantial unemployment specified by the Secretary.

In §§ 96.10-96.19, dealing with the procedures for obtaining and modifying a grant, revisions have been made to make these procedures consistent with those contained in §§ 95.10-95.22 of Part 95 of the regulations.

In § 96.14 (b) (2) (iv), a Monthly Schedule, giving a monthly estimate of total individuals on board at the end of the month and total cumulative expenditures, has been added as an additional part of the Comprehensive Title II Plan. Additional assurances required only for Title II are summarized in § 96.14 (b) (3).

In § 96.21 (h), *Basic responsibilities of eligible applicants*, the language has been revised to indicate that eligible applicants must assure that employing agencies provide information regarding their job openings to the employment service for the benefit of those veterans specified in § 96.30 (a).

In § 96.22, *Basic responsibilities of program agents; relationship with eligible applicants*, in paragraph (c), the word "irreconcilable" has been changed to "unreconciled" for editorial purposes. A new paragraph (d) has been added stating that, if a program agent fails to administer its program in accordance with the grant application, the eligible applicant may take corrective action, including the reallocation of funds (subject to the concurrence of the ARDM).

In § 96.23, *Acceptable public employment positions*, paragraph (b) (4) has been revised to add a sentence specifying that the eligible applicant has the ultimate responsibility for determining the equitable distribution of jobs to State and local agencies and for all other aspects of the jobs.

A new paragraph (b) (5) has been added clarifying that, to the extent consistent with the maintenance of effort requirements of § 96.24, private non-profit agencies which provide public service employment may be allocated jobs.

A new paragraph (b) (6) has been added stating that participants may be outstationed in Federal agencies.

A new paragraph (b) (7) has been added specifying that jobs may be located outside an eligible applicant's jurisdiction, if the eligible applicant feels it is necessary for an effective program, provided that they employ residents of the eligible applicant's jurisdiction and are within reasonable commuting distance.

The original paragraphs (b) (5) through (b) (10) have been renumbered as (b) (8) through (b) (13).

In § 96.24, *Maintenance of Effort*, a paragraph (c) has been added clarifying that no eligible applicant may lay-off, terminate or reduce the working hours of employees in anticipation of hiring them under Title II of CETA.

A paragraph (d) has been added including the policy formerly contained in § 96.27 (h) that no person may be hired when any other person is on lay-off from the same or any substantially equivalent job and adding the specification that if lay-offs of regular employees occur during the Title II grant period, Title II participants may not remain working in the same or substantially equivalent job with that employing agency. Under these circumstances, the Title II participants would either be transferred to positions not affected, or laid-off. The addition was made to further clarify the intent of the maintenance of effort provisions.

A paragraph (e) has been added specifying that the ARDM, at his discretion, may request the submission of pertinent documentation relevant to the maintenance of effort requirements of § 96.24.

In § 96.25, *Responsibility for selecting participants*, paragraph (a) has been revised to specify that the ultimate responsibility for the selection of participants rests with the eligible applicant and that it may delegate the administration of this responsibility, subject to its direction.

In the last sentence of this paragraph the words "for a reasonable period of time" have been replaced by "as provided in § 96.18 (b)" in order to clarify the period of time selecting agencies shall retain the applications of persons not selected for participation. Similarly, the words "as provided in § 96.18 (b)" have been inserted in the next to last sentence of the paragraph after the word "folder".

In § 96.26, *Place of residence for participants*, the title has been changed from *Special limitations on programs and participant selection* because several of the

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original paragraphs have been deleted from this section and placed in Part 98 of these regulations. This has resulted in the renumbering of the original paragraphs and subsections which remain.

Paragraph (a) (2) has been expanded to cover the possibility of an eligible applicant receiving additional funds as a subgrantee of another eligible applicant for manpower program activities as well as for public service jobs. A sentence has been added specifying that jobs or programs must be within reasonable commuting distance of residents of the other eligible applicant's jurisdiction.

Paragraph (b) has been expanded to cover the possibility of both manpower activities and public service jobs being funded and to allow such activities or jobs to be located outside, as well as within, the boundaries of the consortium.

The original paragraphs (b), (c), and (d) have been deleted from Part 96 of these regulations and have been incorporated into Part 98.

In § 96.27, *Eligibility for participation in a Title II program*, a sentence has been added stating that an individual who obtains permanent, full-time employment after application may no longer be considered eligible.

A new paragraph (b) has been inserted after paragraph (a) stating that a veteran who has served on active duty in the U.S. Armed Forces for a period of more than 180 days or who was discharged or released from active duty for a service-connected disability shall be immediately eligible, upon discharge, for participation in a Title II program without regard to the 30 day unemployment requirement which would otherwise pertain.

In paragraph (c), the phrase "at the time of the grant award under this Act" has been deleted, and a phrase allowing the transfer of EEA participants into Title II "in order to provide for the orderly phaseout of EEA programs" has been added.

A new paragraph (d) has been added specifying that: (1) Title I, section 302, and section 303 enrollees may be transferred into a Title II program only if they met the Title II eligibility requirements at the time of their original enrollment, (2) Title VI enrollees who met Title II eligibility requirements at the time of their enrollment in Title VI may be transferred into Title II, and (3) WIN public service employment participants are to be treated in the same manner as any other Title II applicants.

In paragraph (g) a sentence has been added specifying that no services shall be provided to illegal aliens.

The original paragraph (h) has been deleted from this section and has been added as the first sentence of § 96.24 (d). A new paragraph (h) has been added indicating that, while the selection of eligible full-time students for Title II programs is not prohibited, eligible applicants should exercise caution in providing for such participation and should provide for it only in accordance with these regulations.

The original paragraphs (d) through (g) have been relettered as paragraphs (e) through (h).

The original paragraphs (d) through (g) have been relettered as paragraphs (e) through (h).

In § 96.28, *Special consideration for most severely disadvantaged persons*, language has been inserted to indicate that special consideration in enrolling applicants into all manpower activities and services funded with Title II monies shall be given to unemployed persons who are the most severely disadvantaged in terms of the length of time they have been unemployed. In the regulations printed on June 4, 1974, the special consideration was directed only to filling public service jobs under Title II.

In § 96.30, *Groups to be provided special consideration*, paragraphs (a), (b), and (c) have been revised to indicate that the groups to be provided special consideration may be enrolled in manpower activities as well as in public service jobs.

Paragraph (a) which refers to special consideration for veterans has been further revised to extend special consideration to disabled veterans and veterans who served in the Armed Forces and were discharged within four years before the date of their application. The 48 hour listing of jobs with the employment service has been clarified to exclude holidays and weekends.

In § 96.31, *Training and supportive services*, revisions have been made to indicate that training and supportive services for Title II participants may be provided with Title II funds or with funds made available under other titles of the Act. A sentence encouraging due consideration to be given to existing services of Federal, State and local agencies has been added. The phrase, "provided that such contracts are not entered into with private-for-profit organizations for the employment of participants," has been deleted for editorial purposes.

In § 96.32, *Linkages with other manpower programs*, a sentence has been added encouraging the maintaining of linkages with agencies that can provide supportive services, such as the elimination of any barriers to employment created by the architectural design of the worksite.

In § 96.33, *Placement goals*, new paragraphs (d), (e), and (f) have been added, similar to those used in the Title VI regulations, clarifying that placement goals established are not to be considered as placement requirements and that an eligible applicant may request a waiver of such goals.

In § 96.34, *Compensation for participants*, a section (4) has been added to paragraph (a), identical to § 95.35 (a) (3) (iv) of these regulations, giving wage guidelines for occupations new to the eligible applicant's establishment. The original paragraph 96.35 (b) from the June 4, 1974, regulations has been added as paragraph (b) (2). The remainder of the original § 96.35 has been deleted from Part 96 and has been incorporated into Part 98.

A new § 96.35, *Administrative Staff*, has been added.

The original § 96.36, *Retirement Benefits for Participants*, has been deleted

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from Part 96 and incorporated into Part 98.

The original § 96.38, *Limitation of Funds*, has been renumbered as § 96.36.

In § 96.37, *Use of Title II funds for programs under Titles I and III A*, language has been added in paragraph (a) to indicate that when Title II funds are used to fund programs other than public service employment under either Title I or Part A of Title III, the following sections are not applicable: §§ 96.20, 96.21 (b), (c), (d), (e), (g), and (h), 96.23, 96.24, 96.27(e); 96.31, 96.32, 96.33, 96.34, and 96.36. In the regulations published on June 4, 1974, only § 96.38(a) was specified as not applicable when Title II monies are used to fund programs under other sections of the Act.

The original paragraph (b), dealing with use of Title II funds for a summer program, has been deleted and the words, "summer employment programs," have been deleted from the § 96.37 title.

In § 96.40, *General*, a paragraph has been added giving the Division of Indian Manpower Programs full responsibility for all matters pertaining to Title II funding of Indian tribes on Federal and State reservations.

For the purposes of those persons working under Subpart D of the Title II regulations, it is noted that all references to the ARDM throughout Part 96 should be interpreted as Director, Division of Indian Manpower Programs.

In § 96.41 *Distribution of funds*, in paragraph (a), a reference has been added to the ratio for distribution of funds prescribed in Subpart A, § 96.2. Changes in the lettering and numbering of paragraphs subsequent to paragraph (a) are due to the addition of a new paragraph (b).

In paragraph (b) (2), the language in the former paragraph (a) (2) has been changed to read "• • • best available estimates of unemployment • • •". The reference to population has been deleted.

In paragraph (c), the language in the former paragraph (b) has been changed to read "Funds shall only be granted for individual reservations which have a governing body and either have a population. . . ." Reference to a governing body has been added. The words "section 302" have been added following the reference to Title III.

Paragraph (d) is the former paragraph (c).

In paragraph (e), the language in the former paragraph (d) has been changed to read "Within a single reservation, or within those small reservations which are members of a consortium, the eligible applicant • • •". This language clarifies the original sentence.

In § 96.42, *Eligibility for funds*, the entire section has been rewritten.

§ 96.43, *Funding of prime sponsors*, has been added and supersedes the previous § 96.43 which was entitled, *Assistance by the Secretary*.

§ 96.44, *Planning process; advisory councils*, has been added. It prescribes that eligible applicants should utilize their planning councils. This section replaces the former § 96.44 which was en-

titled, *Nepotism*. The *Nepotism* section is now § 96.48.

§ 96.45, *Comment and publication procedures relating to submission of Indian grant applications*, has been renumbered. This section was formerly numbered 96.47.

In paragraph (a), the reference to "the ARDM" has been changed to "the Director, Division of Indian Manpower Programs."

In paragraph (b), the words "of this section" and "available" have been deleted; the reference to "the ARDM" has been changed to "the Director, Division of Indian Manpower Programs."

In paragraph (c), the reference to "the ARDM" has been changed to "the Director, Division of Indian Manpower Programs."

§ 96.46, *Assistance by the Director, Division of Indian Manpower Programs*, has been renumbered. It was formerly numbered § 96.43. New language has been added providing for assistance from the Director, Division of Indian Manpower Programs rather than from the Secretary.

§ 96.47, *Participant eligibility* has been added. Section 96.47 was previously entitled *Comment and publication procedures relating to submission of Indian grant procedures*.

§ 96.48, *Nepotism*, has been renumbered. This section was formerly § 96.44. The "administrative capacity" definition has been expanded to include all elected and appointed officials who have any responsibility for obtaining and/or approval of any grant funded under the Act as well as other officials who have any influence or control over the administration of the program. The words "has a population of less than 1,000 persons and" have been deleted from 96.48(b) to allow subgrantees under this Subpart D to request a waiver of the nepotism provisions of paragraph (a) based on adequate justification that no other persons within the subgrantee's jurisdiction are eligible and available for participation.

§ 96.49, *Non-discrimination*, has been renumbered. This section was formerly § 96.45.

§ 96.50, *Subgrants*, was formerly § 96.46. The former language "• • • requirements concerning subgrants, • • •" has been changed to "• • • requirements as set forth in § 98.27 concerning subgrants."

§ 96.51, *Travel requirements*, is new.

In Part 98, *Administrative Provisions*, references have been corrected from Title VI to Title VII of the Act. All references to OMB Circular A-102 have been changed to FMC 74-7, references to OMB Circular A-87 have been changed to 41 CFR Part 1-15 and references to the QPR have been changed to the Program Status Summary and the Financial Status Report.

In § 98.2, *Payment*, the language has been revised to clarify when the advance or reimbursement system of payments will be followed and to provide for working capital advances. Also, the procedure to be followed for direct funding of contracts under the Integrated Grant Administration Program has been added.

In § 98.3, *Letter of credit*, the language has been revised to clarify the conditions for use of a letter of credit.

In § 98.4, *Payment by Treasury check*, the language has been revised to clarify the conditions governing use of Treasury checks, to provide for working capital advances, and to set forth conditions under which the maintenance of separate bank accounts may be required.

In § 98.5, *Financial management systems*, a new paragraph (c) has been added setting forth what financial documentation is required to fulfill the requirement that auditable records be maintained by the grantee.

In § 98.6, *Audit*, paragraph (b) has been revised to provide for coordination of audit schedules with the grantee to the extent practical.

Paragraph (c) has been revised to provide for funding of departmental audits of grantees from other than grant funds.

Paragraph (d) has been revised adding the provision for selected reviews of economy and efficiency and program results.

Paragraph (e) has been added to require grantees to audit subgrant and contractor programs with grant funds, and to provide audit reports of their own operations to the Assistant Regional Director for Manpower and the Associate Regional Director for Audit.

Paragraph (f) has been added to provide for preliminary audit surveys under specified conditions.

Paragraph (g) has been added setting forth the procedures which will be followed in issuing audit reports and resolving audit questions.

In § 98.7, *Reporting requirements in general*, the language has been changed to correspond to the two new reporting forms for FY 1976 which will replace the Quarterly Progress Report. Also, reports that may be required under the authority of other Federal agencies have been recognized here.

In § 98.8, *Program Status Summary, Financial Status Report and Monthly Progress Report*, the title has been changed from *Quarterly progress report*, to correspond to the two new report names and a monthly report on Title II activities. A new paragraph (h) has been added to require a Monthly Progress Report of Title II participants enrolled at the end of the month and accrued expenditures for the month.

In § 98.9, *Quarterly Summary of Participant Characteristics*, the name has been changed from *Quarterly Summary of Client Characteristics*. Item (c) has been revised to require aggregation of wage data only on those participants who enter employment at termination. A new paragraph (f) has been added to require submittal of this report to the Governor.

In § 98.10(a), *Report of Federal cash transactions*, "an annual grant" has been changed to "annual grants" to require grantees receiving grants totalling \$1 million or more to submit the Report of Federal Cash Transactions monthly.

In § 98.11(b), *Reallocation based on nonperformance*, a reference to 103(1) of the Act has been changed to 702(b) of the Act.

In § 98.11(c), *Reallocation based on need*, "Title I" has been inserted to clarify that reallocations based on need apply only to Title I grants.

In § 98.12, *Allowable Federal costs*, paragraph (a) has been revised to provide for appropriate sections of 41 CFR 1-15 to apply to cost determination depending on the type of grantee or contractor organization.

Paragraph (a) (ii) has been added providing procedures for approval of indirect cost rates.

Paragraph (b) (1) has been revised to limit the restriction on purchase of materials, equipment, supplies and real property to provide for purchase of work tools, uniforms or other equipment for the ownership of participants in public service employment activities as fringe benefits.

A new paragraph (b) (1) (ii) has been added to allow for the purchase of training equipment and materials in public service employment programs out of the 10 percent of funds which may be used for administration, training, and supportive services.

A new paragraph (e) has been added setting forth principles to be followed in classifying costs by cost category, including the classification of the cost for workmen's compensation benefits to those in classroom training as administrative costs.

A new paragraph (f) sets forth examples of costs allowable under each of the cost categories.

A new paragraph (g) has been added to cover travel costs.

In § 98.13, *Allocation of allowable costs among program activities*, a comma has been inserted in paragraph (a) between the words "training" and "allowances".

Paragraph (b) has been revised to indicate that wages and fringe benefits are an allowable cost with public and non-profit employers only.

Paragraph (d) has been revised deleting the word "allowances" since this type of cost will no longer be allowable under work experience activities.

In paragraph (e) (2), the words "including post placement services" after the words "supportive services" have been inserted.

In § 98.14, *Basic personnel standards for grantees*, paragraph (c) has been revised to clarify how personnel standards will be applied to consortia. The reference in paragraph (a) has been corrected.

Paragraph (d) has been relettered (e). A new paragraph (d) has been added to require units exempt from basic personnel principles under paragraph (c) to ensure equal employment opportunity based on objective standards.

In § 98.15, *Adjustments in payments*, the content of paragraphs (a) and (b) has been combined in a new paragraph (a) and the provision for the Secretary to withhold funds has been added.

A new paragraph (b) establishes the grantee's responsibility to maintain program levels irrespective of action by the Secretary under paragraph (a).

In § 98.18, *Termination of grant; suspension of grant in emergency situations*, the title has been changed from *Termination of grant*. "Contractor" has been inserted between "subgrantee" and "or." A new paragraph (c) reflects the Secretary's discretion to immediately suspend payments and withdraw granted funds in emergency situations and to call for a hearing.

In § 98.17, *Grant closeout procedures*, a new paragraph (b) has been added to provide cancellation/adjustment of letter of credit by the ARDM upon notification of the termination of the grant.

Paragraph (e) has been added to indicate that procedures for closeout of grants concerning subgrants and contracts which extend beyond the specified termination of the grant will be contained in the *Forms Preparation Handbook*.

In § 98.18, the title has been changed to read "Maintenance and Retention of Records".

Paragraph (b) (5) has been added to specify that the names of all participants and staff are public information and that other information on participants and staff is public information to the same degree it makes such information available regarding its own employees.

In § 98.19, *Program income*, paragraph (c) has revised "Attachment N of OMB Circular A-102" to read "the MA Property Handbook which implements Attachment N of FMC 74-7".

In § 98.20, *Procurement standards*, the waiver of approval requirements for OJT sole source contracts has been added.

In § 98.21, *Non-discrimination and equal employment opportunities*, the EEO requirement previously contained in Part 98 has been incorporated into this section.

Paragraph (a) has been relettered (b) and "age" has been included as a prohibition against age discrimination.

Paragraph (b) (2) has been added to provide for an interpretation that the prohibition against age discrimination shall not be interpreted to prohibit establishment of training and employment programs designed to serve the legitimate needs of specific age groups or the establishment of bona fide qualifications for participation in any program under the Act.

A requirement has been added that the effective mechanism to assure equal employment opportunity be described in the Comprehensive Manpower Plan.

In § 98.22, *Nepotism*, the nepotism requirement previously contained in § 96.26 has been incorporated into this section. The term "administrative position" has been changed to "staff position" and a definition for the term has been added, specifying that it includes all CETA staff positions funded under the Act. The definition for the term "administrative capacity" has been expanded to include all elected and appointed officials who have any responsibility for the obtaining and/

or approval of any grant funded under the Act as well as other officials who have any influence or control over the administration of the program.

In § 98.23, *Special limitations on participant activities*, the title has been changed from *Special limitations on participant selection*.

Paragraph (a) (1) and (2) were revised deleting restrictions on participant activities which are no longer applicable as a result of amendment to Chapter 15 of Title 5, United States Code. A new paragraph (b) covers political patronage. A new paragraph (c) covers lobbying activities. The old paragraph (b) has been relettered (d).

§ 98.24, *General benefits and working conditions for program participants*, has been added to incorporate and clarify general benefit requirements previously contained in Parts 95 and 96 and to define appropriate workmen's compensation protection for participants under the Act. Paragraph (a) indicates (1) that participants in activities where others similarly engaged are not covered by an applicable workmen's compensation statute shall be provided workmen's compensation insurance or medical and accident insurance; and (2) that fringe benefits in addition to workmen's compensation insurance are not required for work experience participants where there is no employee of the employer performing the same or similar work in the employment situation.

In § 98.25, *Retirement programs*, a new section has been added to incorporate the provisions concerning retirement benefits previously contained in Part 96. The section has been reworded for clarity.

In § 98.26, *Procedures for resolving issues between grantees and complainants*, a new section has been added to incorporate eligible applicant and prime sponsor review requirements previously contained in Part 95. The information has been rearranged and lettered for clarity. Paragraph (b) suggests that grantees establish procedures to deal with all issues and complaints.

In § 98.27, *Grantee contracts and subgrants*, a new section has been added to incorporate provisions for grantee contracts and subgrants previously contained in Part 95. A new paragraph (c) has been added to cover PSE contracts and subgrants. The old paragraph (c) is now (d) and additional language has been added to assure that subgrantee and contractor records will be made available to the Department of Labor and the grantee.

In § 98.29, *Non-Federal status of participants*, a new section has been added to incorporate non-Federal status of participants previously contained in Part 95, and to make this section applicable to participants in all programs under the Act.

In § 98.32, *Responsibilities of the Secretary*, a phrase has been added in 98.32 (b) (1) to also require compliance with the regulations under the Act.

In paragraph (b) (2) a phrase has been added to indicate that contractor and subgrantee programs may also be reviewed.

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In § 98.33, *Limitation*, a comma has been added between "individual" and "institution," for editorial purposes.

In § 98.34, *Consultation with the Secretary of Health, Education, and Welfare*, a new sentence indicates that the ARDM will provide copies of Title I and II grant applications to the Regional Director of Health, Education, and Welfare for review and comment on proposed activities of a health, education, and welfare character.

In § 98.41, *Review of plans and applications; violations*, a reference to § 98.46 has been inserted in paragraph (b) (4).

As required by section 702(a) of the Act, these revised regulations take effect and may be enforced June 23, 1975. Prime sponsors are urged, however, to utilize these regulations immediately upon publication in order to expedite planning and execution of Fiscal Year 1976 programs. Unless otherwise noted, these regulations are not applicable to programs instituted for Fiscal Year 1975. The revised Parts 94, 95, 96, and 98 read as follows:

#### PART 94—GENERAL PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

- Sec.  
94.1 Scope and purpose of the Act.  
94.2 Format for the regulations promulgated under the Act.  
94.3 Consolidated table of contents for Parts 94-99.  
94.4 Definitions.

**AUTHORITY:** Comprehensive Employment and Training Act of 1973, as amended (Pub. L. 93-203, 87 Stat. 839, Pub. L. 93-567, 88 Stat. 1845), sec. 702(a) unless otherwise noted.

##### § 94.1 Scope and purpose of the Act.

(a) It is the purpose of the Act to provide job training and employment opportunities for economically disadvantaged, unemployed and underemployed persons, and to assure that training and other services lead to maximum employment opportunities and enhance self-sufficiency. The purpose of the Act is to be accomplished by the establishment of a flexible and decentralized system of Federal, State and local programs.

(b) The Act is comprised of seven titles, as follows:

(1) Title I establishes a program to provide comprehensive manpower services throughout the Nation, including the development, and creation of job opportunities, and the training, education and other services needed to enable individuals to secure and retain employment at their maximum capacity.

(2) Title II authorizes public service employment and manpower training programs for unemployed and underemployed persons in areas of substantial unemployment.

(3) Title III provides for the establishment and administration by the Secretary of Labor of:

(1) Special programs for Indians, seasonal farmworkers both migratory and non-migratory;

(ii) Manpower services for youth, offenders, older workers, persons of limited English-speaking ability and other special target groups; and

(iii) Research, training and evaluation of programs and activities conducted under the Act.

(4) Title IV establishes a Job Corps within the Department of Labor to provide residential and non-residential manpower services for low-income disadvantaged young men and women.

(5) Title V, establishes a National Commission for Manpower Policy. The responsibilities of the Commission include the examination of national manpower issues, the suggestions of ways and means of dealing with such issues and advising the Secretary on national manpower issues.

(6) Title VI, authorizes additional public service jobs and training programs for unemployed and underemployed persons and provides special provisions for programs in areas of excessively high unemployment. Title I of the Emergency Jobs and Unemployment Assistance Act of 1974, Pub. L. 93-567, 88 Stat. 1845 amended the Comprehensive Employment and Training Act of 1973, Pub. L. 93-203, 87 Stat. 839, by inserting the new Title VI described here and redesignating the existing Title VI as Title VII.

(7) Title VII, formerly Title VI, sets forth the general provisions, including applicable definitions, under the Act.

##### § 94.2 Format for the regulations promulgated under the Act.

(a) The regulations promulgated to carry out the Act are set forth in Parts 94 through 99 of Title 29, Code of Federal Regulations.

(b) As each substantive Title of the Act provides for the establishment of a specific type of program, the regulations promulgated in Parts 94 through 99 provide for a separate part for each basic type of activity (e.g., Part 95 deals with comprehensive manpower programs; Part 96 deals with Title II programs). Two parts are also included which deal with general matters relating to the Act: Part 94 deals with basic explanatory and definitional matters, and Part 98 deals with general administrative matters.

(c) Statutory authority for the regulations contained in Parts 94 through 99 may be found in section 702(a) of the Act, as well as in other substantive provisions of the Act. Applicable statutory provisions, other than section 702(a), are noted generally in these regulations.

##### § 94.3 Consolidated table of contents for Parts 94-99.

The table of contents for Parts 94-99 is as follows:

#### PART 94—GENERAL PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

- Sec.  
94.1 Scope and purpose of the Act.  
94.2 Format for the regulations promulgated under the Act.  
94.3 Consolidated table of contents for Parts 94-99.  
94.4 Definitions.

#### PART 95—PROGRAMS UNDER TITLE I OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

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95.1 Scope and purpose of Part 95.  
95.2 Allocation of funds.  
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95.12 Prime sponsor designation.  
95.13 Planning process; advisory councils.  
95.14 Content and description of grant application.  
95.15 Comment and publication procedures relating to submission of grant application.  
95.16 Submission of grant application.  
95.17 Standards for reviewing grant applications.  
95.18 Application approval; grant agreement.  
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##### SUBPART B—GRANT APPLICATION

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96.13 Planning process; advisory councils.  
96.14 Content and description of grant application.  
96.15 Comment and publication procedures relating to submission of grant application.

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96.16 Submission of grant application; standards for reviewing grant application.  
96.17 Application approval; application disapproval; grant agreement.  
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96.19 Modification of grant agreement; modification of Comprehensive Title II Plan.

##### SUBPART C—PROGRAM OPERATION

- 96.20 General.  
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96.33 Placement goals.  
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96.36 Limitation on funds.  
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##### SUBPART D—SPECIAL CONDITIONS FOR GRANTS TO INDIAN TRIBES ON FEDERAL AND STATE RESERVATIONS

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96.46 Assistance by the Director, Division of Indian Manpower Programs.  
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97.11 Basic responsibilities of sponsors.  
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97.13 Types of manpower services available in the summer program for economically disadvantaged youth.  
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<b>§ 94.4 Definitions.</b>	
The following definitions consistent with section 701(a) of the Act apply to Parts 94 through 99, inclusive:	
(a) "Act" shall mean the Comprehensive Employment and Training Act of 1973, as amended (Pub. L. 93-203, 87 Stat. 839; Pub. L. 93-567, 88 Stat. 1845).	
(b) "Allocation" shall mean the distribution of funds among prime sponsors or eligible applicants according to the formulas contained in the Act.	
(c) "ARDM" shall mean the Department of Labor's Assistant Regional Director for Manpower, or his designee, having the responsibility for the area in which a prime sponsor or eligible applicant is located.	
(d) (1) "Area of substantial unemployment" shall mean for Title II any area, other than in relation to an Indian tribe, which:	

(i) Has a population of at least 10,000 persons;

(ii) Qualifies for a minimum allocation of \$25,000 under Title II of the Act; and

(iii) Has a rate of unemployment of at least 6.5 percent for a period of three consecutive months, as determined by the Secretary of Labor at least once each fiscal year.

(2) "Area of substantial unemployment" shall mean for Title II, in relation to an Indian tribe, an Indian reservation, as a whole, with a rate of unemployment of at least 6.5 percent for a period of three consecutive months, as determined by the Secretary of Labor at least once each fiscal year.

(e) "Audit" shall mean a systematic review or appraisal to determine and report whether:

(1) Financial operations are being properly conducted;

(2) Financial reports are presented fairly; and

(3) Applicable laws and regulations are being complied with. A selected number of operational audits will include a review of economy and efficiency and/or program results of programs under the Act.

(f) "Audit Standards" shall mean those standards set forth in *The Standards for Audit of Government Organizations, Programs, Activities and Functions* promulgated by the Comptroller General of the United States.

(g) "Balance of county" shall mean the area within the jurisdiction of a county, as a prime sponsor or eligible applicant, that is not included in the comprehensive manpower plan of another prime sponsor or eligible applicant.

(h) "Balance of State" shall mean the area within the jurisdiction of a State, as a prime sponsor or eligible applicant, which is not included in the comprehensive manpower plan of another prime sponsor or eligible applicant.

(i) "Capital improvement" shall mean any modification, addition, or restoration which increases the value, usefulness, productivity, or serviceable life of an existing building, structure, or major item of equipment which is classified for accounting purposes as "fixed asset" and the recorded value of which is increased by the cost of the improvement and subject to depreciation.

(j) "Certification" shall mean a legally binding statement that certain requirements have been fulfilled.

(k) "Chief elected official" and "chief executive officer" shall include their designees.

(l) "Community-based organizations" shall mean organizations which are representative of communities or significant segments of communities and which provide manpower services (for example Opportunities Industrialization Centers, Urban League, Jobs for Progress, Mainstream, Community Action Agencies and other community organizations).

(m) "Compensation" as applied to a participant in a Title II program shall mean the wages and salary payable, but

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does not include fringe benefits or supportive services.

(n) "Consortium" shall mean an entity formed by an agreement among local units of government, consistent with the requirements of § 95.3, to plan and operate a comprehensive manpower program under the Act.

(o) "Contractor" shall mean any person, corporation, partnership, or similar entity or a public agency, which enters into a contract with the Department, with a grantee, or with a subgrantee under the Act.

(p) "Construction" shall mean the erection, installation, or assembly of a new facility or a major addition, expansion, or extension of an existing facility, and the related site preparation, excavation, filling and landscaping or other land improvements.

(q) "Department" shall mean the United States Department of Labor and includes each of its operating agencies and other organizational units.

(r) "Dependent" shall mean:

(1) any relative for whom the participant has assumed a responsibility for support, and who is either: (i) a member of the immediate household, or (ii) one of the following relatives:

(A) A parent of the participant;

(B) A child of the participant;

(C) A relative of the participant who is unemployed because of a physical or mental disability; or

(2) Any individual who is currently being supported by the participant, is a member of the participant's immediate household; and during the preceding twelve months, earned less than \$750.

(s) "Disabled veteran" shall mean a person who served in the Armed Forces and who was discharged or released therefrom with other than a dishonorable discharge and who has been given a disability rating of 30 per centum or more, or a person whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty.

(t) "Economically disadvantaged" shall mean a person who is a member of a family:

(1) Which receives cash welfare payments; or

(2) Whose annual income in relation to family size does not exceed the poverty level determined in accordance with criteria established by the Office of Management and Budget (OMB).

(u) "Eligible applicant" for purposes of Title II shall mean a prime sponsor or an Indian tribe on a Federal or State reservation which includes an area or areas of substantial unemployment.

(v) "Employing agency" for purposes of public service employment programs shall mean any employer designated by an eligible applicant, program agent, or other subgrantee, or by the Secretary of Labor, to employ participants pursuant to public service employment programs under the Act. The term shall include an eligible applicant, program agent, or other subgrantee when acting as employer. Private for profit organizations shall not be considered employing agencies under the Act.

(w) "Family" shall mean one person, or more than one person living in a single household who are related to each other by blood, marriage, or adoption. A stepchild or foster child who receives at least 50 percent of his/her support from the stepparent or foster parents shall be counted as a member of the stepparent's or foster parents' family. An unmarried member of a household:

(1) Who is 18 or older, and

(2) Who receives less than 50 percent (50%) of his/her maintenance from the family, shall not be considered to be a member of the family. Such an individual shall be considered as a family residing alone or in group quarters.

(x) "Federal Audits" shall mean those audits conducted by the U.S. Department of Labor and its agents.

(y) "Federal reservation" shall mean lands which have been set aside for Indian tribes and for which the United States is trustee, as identified by the Bureau of Indian Affairs, including non-trust land under the tribal jurisdiction.

(z) "Governor" shall mean the chief executive officer of a State, or his designee.

(aa) "Grantee" shall mean any individual or organization, including a prime sponsor under Title I or Title III of the Act, or an eligible applicant under Title II or Title VI of the Act which receives a grant from the Department to establish or operate any program or activity under the Act.

(bb) "Grant Allotment" shall mean the total amount of funds planned at any given time to be granted to a prime sponsor or eligible applicant for any fiscal year under Title I or Title II of the Act.

(cc) "Health care" includes but is not limited to preventive and clinical medical treatment, voluntary family planning services, nutritional services, and appropriate psychiatric, psychological and prosthetic services, to the extent any such treatment or services are necessary to enable a participant to obtain or retain employment under the Act.

(dd) "Indian tribe" shall mean a tribe, group or band of American Indians or Alaskan natives identified on the basis of historical, geographical or cultural characteristics, or subpart of such a tribe, group or band.

(ee) "Low-income level," which is a definition used only in the allocation of funds under Title I, shall mean an annual income of \$7,000 with respect to income in 1969; for any later year it shall mean that amount which bears the same relationship to \$7,000 as the Consumer Price Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest \$1,000.

(ff) "Manpower Allotment" means sums received by a prime sponsor distributed under sections 103(a)(1); 103(a)(2); 103(a)(4); and 103(f) of the Act.

(gg) "Multijurisdictional Agreement" shall mean an agreement, consistent with the requirements of § 95.3, between a

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State and any unit of general local government within the State that has a population of at least 100,000 persons, to plan and operate a comprehensive manpower program under the Act.

(hh) "Non-Federal Audits" shall mean those audits conducted by State, county, and city governments or their agents.

(ii) "Obligation" shall mean the amount of funds which a grantor has legally committed and authorized a grantee, subgrantee, or contractor to expend.

(jj) "Offender" shall mean any person who is confined in any type of correctional institution, including a community-based facility, or who is subject to any stage of the judicial, correctional, or probationary process where manpower training and services may be beneficial, as determined by the Secretary of Labor, after consultation with judicial correctional, probationary or other appropriate authorities.

(kk) "OMB" shall mean the Office of Management and Budget.

(l) "Participant" shall mean an individual who qualifies and receives services or takes part in activities under provisions of the Act. An individual applicant becomes a participant when the following three conditions are met:

(1) The individual is declared eligible upon intake;

(2) The individual receives employment, training or services funded under the Act following intake; and

(3) Part D or E, recording activity or service received, of the participant record as described in the *Forms Preparation Handbook* is completed on the individual.

(mm) "Participant community" shall mean the group or groups of people to be served by a program or program activity; for example, the unemployed, persons of limited English speaking ability, seasonal farmworkers either migratory or non-migratory and economically disadvantaged.

(nn) "Placement" shall mean the hiring into unsubsidized employment by an employer of an individual referred by the prime sponsor or its subgrantee or contractor for a job or an interview, providing that the prime sponsor, subgrantee or contractor completed all of the following steps:

(1) Made prior arrangements with the employer for referral of an individual or individuals;

(2) Referred an individual who has not been specifically designated by the employer;

(3) Verified from a reliable source, preferably the employer, that the individual had entered on a job; and

(4) Recorded the transaction on an employer form or other appropriate form.

(nn-1) There are three levels of placement based on the expected duration of the job:

(1) Short-term placements in jobs which are expected to have a duration of three days or less;

(2) Mid-term placements in jobs which are expected to have a duration

from four days to one-hundred-fifty days; and

(3) Long-term placements in jobs which are expected to have a duration of more than one-hundred-fifty days.

Placement does not include referral to another program activity, enrollment in education or training courses not supported under the Act, or entrance into the Armed Forces.

(oo) "Poverty level" shall mean the annual income threshold below which families are considered to live in poverty, as determined in accordance with criteria established by the Director of the Office of Management and Budget.

(pp) "Prime sponsor" shall mean a unit of government, combinations of units of government, or a rural Concentrated Employment Program grantee, as set forth in § 95.3, which has entered into a grant with the Department to provide comprehensive manpower services under Title I of the Act.

(qq) "Professional work" shall mean work performed by an individual acting in a bona fide professional capacity, as such term is used in section 13(a)(1) of the Fair Labor Standards Act.

(rr) "Program agent" for purposes of Title II shall mean a subgrantee within the jurisdiction of an eligible applicant which is a unit of general local government or a combination of such units having a population of 50,000 or more which contains an area of substantial unemployment. In determining whether a combination of units of general local government qualifies as a program agent, the eligible applicant shall use the following standards:

(1) The combination of units as a subgrantee possesses the legal authority to receive Federal funds, and to transact business as a representative of the population within its jurisdiction; and

(2) The combination of units as a subgrantee possesses the administrative capability to plan, administer, and operate a manpower program; in making this determination, the eligible applicant may consider whether a combination of units of general local governments which consists of units which are not contiguous to each other is capable of planning, administering and operating a manpower program.

(ss) "Program of demonstrated effectiveness" shall mean a manpower program, including a program conducted by a community based organization, which has a history of providing manpower services to the economically disadvantaged, which has demonstrated the capacity to meet contractual goals at reasonable costs, and is either (1) a program which has demonstrated to the prime sponsor that it has performed effectively within the prime sponsor's jurisdiction, or (2) a program which can demonstrate to the prime sponsor that it has carried out effectively a similar program under similar circumstances in other jurisdictions and can carry out such a program effectively within the prime sponsor's jurisdiction.

(tt) "Public assistance" shall mean supplemental income or money payments

received pursuant to a State plan approved under the Social Security Act, Title IV (Aid to Families with Dependent Children), or under the Social Security Act, Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled).

(uu) "Public service" shall mean service normally provided by government and includes, but is not limited to, work in such fields as beautification, conservation, crime prevention and control, education, child care, environmental quality, fire protection, health care, housing and neighborhood improvements, manpower services, parks, street and other public safety, recreation, rural development, solid waste removal, transportation, veterans outreach and other fields of human betterment and community improvement. It includes part-time work for individuals who are unable to work full-time because of age, handicap or other factors. It excludes building and highway construction work (except that which is normally performed by the prime sponsor or eligible applicant) and other work which inures primarily to the benefit of a private profit-making organization.

(vv) "Rate of unemployment" shall mean the number of unemployed persons, as a percentage of the total number of persons in the civilian labor force, as determined by the Secretary.

(ww) "Secretary" shall mean the Secretary of the United States Department of Labor, or his designee.

(xx) "SESA" shall mean the State employment security agencies affiliated with the United States Employment Service, established by the Wagner-Peyser Act of 1933, as amended. The term shall include the system of public employment service offices and Unemployment Insurance offices.

(yy) "Significant segments" shall mean those groups of people, to be characterized, if appropriate by racial or ethnic, sex, age, occupational or veteran status, which causes them to generally experience unusual difficulty in obtaining employment and who are most in need of the service provided by the Act. Other descriptive categories may be used to define a "significant segment," if appropriate.

(zz) "Special veteran" shall mean an individual who served in the Armed Forces in Indochina or Korea, including the waters adjacent thereto, on or after August 5, 1964, who received other than a dishonorable discharge.

(aaa) "State" includes the fifty states, District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(bbb) "State reservation" shall mean an Indian reservation recognized by the State in which it is located.

(ccc) "Subgrantee" shall mean any governmental unit or private nonprofit agency which receives a grant from a prime sponsor, grantee, or eligible applicant under the Act.

(ddd) "Sufficient size and scope" shall mean for Title II an area or combination of areas, other than an Indian reservation,

which has a population of 10,000 or more persons and qualifies for a minimum allocation under Title II of \$25,000.

(eee) "Supportive or manpower services" shall mean services which are designed to contribute to the employability of participants, enhance their employment opportunities, assist them to retain employment, and facilitate their movement into permanent employment not subsidized under the Act.

(fff) "Underemployed person" shall mean

(1) A person who is working part-time but seeking full-time work, or

(2) A person who is working full-time but whose salary relative to his or her family size is below the poverty level.

(ggg) "Unemployed person" shall mean for Title I activities except in the case of welfare recipients:

(1) A person who is without a job and who wants and is available for work, defined as follows:

(i) A person who is without a job is a person who did not work during the calendar week preceding the week in which the determination of his eligibility for participation is made. Except in the case of persons described in paragraph (ggg)(2) of this section, the determination of who wants and is available for work will be made by the prime sponsors or his designee. Persons who have been discouraged from seeking work but are currently available for work, shall not be excluded from eligibility.

(ii) If a person is confined in a jail, penitentiary, or other institution and there is a reasonable expectation that release will follow the completion of training within a reasonable time, the individual shall be considered unemployed.

(iii) A person is not to be considered to be available for work if that individual is without a job because of participation in an on-going strike or lock-out at his usual place of employment.

(2) In the case of welfare recipients, and except for purposes of sections 103 and 202 of the Act, the term "unemployed person" shall mean an adult who, or whose family, receives supplemental security income or money payments pursuant to a State plan approved under the Social Security Act, Title IV (Aid to Families with Dependent Children), or under the Social Security Act, Title XVI (Supplemental Security Income for the Aged, Blind and Disabled), or would be eligible for such payments according to the standards set forth at 45 CFR Part 233 and 20 CFR Part 416 if both parents were not present in the home, and

(i) Who is available for work, and

(ii) Who is either without a job or working in a job providing insufficient income to enable such a person and his family to be self-supporting without welfare.

(3) A veteran serving on active duty in the U.S. Armed Forces for a period of more than 180 days or discharged or released from active duty for a service-connected disability, shall be immediately eligible, upon discharge, for participation in a program under Title II of the Act, without regard to the 30 day unemployment requirement which would otherwise pertain. This provision is not applicable if the individual obtains employment subsequent to discharge (Pub. L. 92-540, sec. 2013).

(iii) "Unemployment compensation" shall mean the compensation payable in accordance with the provisions of a State or Federal unemployment compensation law, and payments of unemployment assistance in accordance with the provisions of the Disaster Relief Act, trade readjustment allowances in accordance with the provisions of the Trade Expansion Act, and payments or similar assistance or allowances in accordance with the provisions of any other Federal law.

(jjj) "Unit of general local government" shall mean any city, municipality, county, town, township, parish, village or other general purpose political subdivision which has the power to levy taxes

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calendar week unemployment requirement which would otherwise pertain. This provision is not applicable if the individual obtains employment subsequent to discharge (Pub. L. 92-540, sec. 2013).

(hhh) "Unemployed person" shall mean for Title II activities:

(1) A person who is without a job and who wants and is available for work. Except in the case of persons described in (2) below, the determination of who wants and is available for work will be made by the prime sponsor or his designee. Persons who have been discouraged from seeking work but are currently available for work, shall not be excluded from eligibility.

(2) Except for purpose of sections 103 and 202 of the Act, an adult who, or whose family, receives supplemental security income or money payments pursuant to a State plan approved under the Social Security Act, Title IV (Aid to Families with Dependent Children), or under the Social Security Act, Title XVI (Supplemental Security Income for the Aged, Blind and Disabled) or would be eligible for such payments according to the standards set forth at 45 CFR Part 233 and 20 CFR Part 416 if both parents were not present in the home, and

(i) Is available for work, and

(ii) Who is either without a job or working on a job providing insufficient income to enable such a person and his family to be self-supporting without welfare assistance.

(3) A person is "without a job" if, during the 30 days preceding his application, he has worked no more than 10 hours or has earned no more than \$30 in any calendar week.

(4) A person is not to be considered available for work if he is without a job because of participation in an ongoing strike or lock-out at his usual place of employment.

(5) A veteran serving on active duty in the U.S. Armed Forces for a period of more than 180 days or discharged or released from active duty for a service-connected disability, shall be immediately eligible, upon discharge, for participation in a program under Title II of the Act, without regard to the 30 day unemployment requirement which would otherwise pertain. This provision is not applicable if the individual obtains employment subsequent to discharge (Pub. L. 92-540, sec. 2013).

(iii) "Unemployment compensation" shall mean the compensation payable in accordance with the provisions of a State or Federal unemployment compensation law, and payments of unemployment assistance in accordance with the provisions of the Disaster Relief Act, trade readjustment allowances in accordance with the provisions of the Trade Expansion Act, and payments or similar assistance or allowances in accordance with the provisions of any other Federal law.

(jjj) "Unit of general local government" shall mean any city, municipality, county, town, township, parish, village or other general purpose political subdivision which has the power to levy taxes

and spend funds, as well as general corporate and police powers.

(kkk) "Unsubsidized employment" shall mean employment not financed from funds provided under the Act.

(lll) "Veteran" shall mean a person who:

(i) served on active duty for a period of more than 180 days, and was discharged, separated, or released therefrom with other than a dishonorable discharge, or

(ii) was discharged or released from active duty for a service-connected disability.

(mmm) "Wagner-Peyser Act" shall mean "An act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes," approved June 6, 1933, (48 Stat. 113), as amended (29 U.S.C. 49 et seq.).

## PART 95—PROGRAMS UNDER TITLE I OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

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**AUTHORITY:** Comprehensive Employment and Training Act of 1973, as amended (Pub. L. 93-203, 87 Stat. 839; Pub. L. 93-567, 88 Stat. 1845), sec. 702(a) unless otherwise noted.

#### Subpart A—General

##### § 95.1 Scope and purpose of Part 95.

(a) This Part 95 contains the Department of Labor's regulations for the establishment and provision of comprehensive manpower services, including public service employment, under Title I of the Act.

(b) This Part 95 should be read in conjunction with Parts 94 through 99 of this Title 29, Code of Federal Regulations. These parts, in total, comprise the regulations promulgated by the Secretary pursuant to the authority in the Act.

(c) Definitions for acronyms and major terms may be found in Part 94.

(d) Statutory authority for the regulations contained in this Part 95 may be found in section 702(a) of the Act, as well as other substantive provisions of the Act. Applicable statutory provisions, other than section 702(a), are noted generally in these regulations.

##### § 95.2 Allocation of funds.

(a) **General.** (1) This § 95.2 sets out the procedures for allocating funds under Title I of the Act. Of the funds available for Title I in any fiscal year, 80 percent shall be allocated according to the procedures set forth in paragraph (b) of this section. The remaining 20 percent shall be allocated as set out in paragraphs (c) and (d) of this section. (sec. 103)

(2) Allocations made to prime sponsors under this section shall be published in the FEDERAL REGISTER as soon as possible after the enactment of any fiscal year appropriation. The Secretary may publish preliminary allocations to assist prime sponsors in planning for programs under Title I of the Act.

(3) The Secretary may reallocate Title I funds as provided in § 98.11.

(b) **Prime sponsor basic allocations.** (1) Eighty percent of the funds available under Title I of the Act shall be allocated as provided in this paragraph (b). Funds provided pursuant to this paragraph are for prime sponsors, as defined in § 95.3, except for prime sponsors which are rural Concentrated Employment Programs (CEP). This paragraph (b) does not apply to rural CEP's.

(2) One percent of the amount available under this paragraph (b) shall be allocated by the Secretary to State prime sponsors for the costs incurred in staffing and servicing State Manpower Services Councils. If such funds exceed the amount needed for these costs, the excess may be used to carry out State services under Section 106 of the Act. Allocations under this paragraph shall be made according to the paragraph (b) (4) and (5) (i) allocation formula.

(3) Not less than \$2,000,000 of the funds under this paragraph (b) shall be allocated among Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands, consistent with the factors set out in (b) (4).

(4) Subject to the requirements of paragraph (b) (5) of this subsection, funds remaining after application of paragraphs (b) (2) and (3) shall be allocated to prime sponsors according to the following basic formula:

(i) Fifty percent of the funds subject to formula allocation shall be allocated on the basis of each prime sponsor area's proportion of the manpower allotment for all prime sponsor areas in the prior fiscal year;

(ii) Thirty-seven and one-half percent of the funds subject to formula allocation shall be allocated on the basis of a prime sponsor's proportion of the total number of unemployed persons (as defined by the Bureau of Labor Statistics) in all prime sponsor areas;

(iii) Twelve and one-half percent of the funds subject to the allocation formula shall be allocated on the basis of a prime sponsor's proportion of the number of adults in low income families in all prime sponsor areas.

(5) (i) No prime sponsor shall be allocated an amount under the paragraph (b) (4) allocation formula which is more than 150 percent of the amount of the manpower allotment obligated by the ARDM in the prior fiscal year for the area served by the prime sponsor; except that if the amount so allocated is less than 50 percent of the amount of manpower funds to which it is entitled under the (b) (4) allocation formula, such allocation shall be increased to 50 percent of its entitlement under the formula.

(ii) If any prime sponsor, pursuant to the paragraph (b) (4) and (5) allocation formula, is allocated less than 90 percent of the manpower allotment that was obligated by the ARDM to that area in the previous fiscal year, that prime sponsor shall, to the extent feasible, be provided an amount from the Secretary's discretionary fund, set out in paragraph (d) of this section, that will bring its funding during the current fiscal year to the 90 percent level.

(c) **Additional prime sponsor allocations.** This paragraph describes those prime sponsor allocations that are not subject to the basic allocation procedures of paragraph (b).

(1) **Consortia incentive funds.** In order to encourage consortia, as defined in § 95.3, that also comprise substantial portions (e.g., 75 percent) of labor market areas, the Secretary may use up to 5 percent of the funds available for Title I of the Act to provide additional funding for such consortia. Consortia which do not serve such areas shall not be eligible for additional funds. Prior to making decisions concerning these funds, the Assistant Regional Director for Manpower (ARDM) shall consult with the Governors of the appropriate States and afford them an opportunity to make recommendations.

(2) **State manpower services allocations.** The Secretary shall allocate to the States, according to the paragraph (b) (4) and (5) (i) allocation formula, 4 percent of the funds available under Title I of the Act, to enable the States to provide services, as set out in Subpart D of this Part 95.

(3) **Allocations for prime sponsors which were rural CEP's.** The Secretary shall fund a limited number of prime sponsors which were rural CEP's from any funds available to carry out Title I, except funds allocated under paragraph (b).

(4) **Vocational education allocation.** The Secretary shall allocate to the Governors, according to the paragraph (b) (4) and (5) (i) allocation formula, 5 percent of the funds available under Title I to provide financial assistance for vocational education. Each Governor shall allocate these funds as required in Subpart D of this Part 95.

(d) **Secretary's discretionary fund.** Any funds available under Title I that are not allocated under paragraphs (b) and (c) shall be first utilized by the Secretary to assure each prime sponsor, including rural CEP prime sponsors, of funding at the 90 percent level, as set out in paragraph (b) (5) (i) of this § 95.2. The Secretary shall utilize the remainder of the funds available under this paragraph at his discretion, taking into consideration (1) the provision of incentive funds for multijurisdictional agreements entered into by States, as set out in § 95.3 (b) and (d); (2) continued funding through prime sponsors of programs of demonstrated effectiveness; and (3) other factors the Secretary deems necessary to the carrying out of his responsibilities under the Act.

##### § 95.3 Eligibility for funds.

(a) Funds may be allocated by the Secretary to prime sponsors (sec. 102). Prime sponsors are:

(1) States;

(2) Units of general local government which have a population of 100,000 or more persons;

(3) (i) Consortia consisting of general local governments which are (A) located in reasonable proximity to each other; (B) each of which retains responsibility for operation of the program; (C) at least one of which has a population of 100,000 or more persons; and (D) which, as a consortium, can plan and operate a comprehensive manpower program that provides administrative and programmatic advantage over the other methods of delivering services under the Act;

(ii) A consortium, under this paragraph (3), which consists of units of local government in more than one State, may be approved by the ARDM after the approval of the Governors of the States involved has been obtained.

(iii) No consortium agreement will be approved if one of the parties to the agreement is a unit of local government, which is not eligible to be a prime sponsor under the Act and if, in addition, the effect of the agreement is to render ineligible the prime sponsor otherwise re-

sponsible for serving the area of the ineligible local government; provided, however, that nothing in this paragraph shall prohibit the otherwise responsible prime sponsor from granting its consent to such a consortium agreement;

(4) Any unit of general local government, or any combination of such units, without regard to population, which, in exceptional circumstances, is determined by the Secretary, after giving serious consideration to comments from the prime sponsor otherwise responsible for the area and the Governor, (i) to serve a substantial portion (e.g., 75 percent) of a functioning labor market area or to be a rural area with a high level of unemployment, and (ii) to have demonstrated that (A) it has the capability for effectively carrying out a comprehensive manpower program under the Act, evidenced by its effective operation of programs such as CEP or other multicomponent programs, (B) there is a special need for services provided by the Act (e.g., the area has a high proportion of such groups within the population as older workers, high school dropouts, or has a high unemployment rate, substantial outmigration or unique commuting problems), and (C) it will afford administrative and programmatic advantages over other methods of delivering services under the Act; and,

(5) A limited number of CEP grantees existing at the time of the enactment of the Act, serving rural areas having a high level of unemployment which the Secretary determines have demonstrated through prior performance a special capability for carrying out programs in such areas and are designated for that purpose.

(b) (1) A State may enter into a multijurisdictional agreement with any unit of local government within the State that has a population of at least 100,000 persons in order to provide services within a designated area. Such an agreement may be approved by the ARDM when, to the extent consistent with State and local law, each party signatory to the consortium agreement accepts responsibility for the operation of the program, and the ARDM believes that the parties will, pursuant to the agreement, plan and operate a comprehensive manpower program which provides administrative and programmatic advantages over other methods of delivering services under the Act. All requirements for consortia in Parts 94 through 99 apply to such State multijurisdiction agreements unless otherwise stated.

(2) Incentive funds may be provided for an agreement under paragraph (1) if the agreement includes every eligible prime sponsor in the State.

(c) A consortium which comprises a substantial portion of a functioning labor market (e.g., 75 percent) shall be eligible for incentive funds, as provided in § 95.2(c) (1). The ARDM shall make such determinations, taking into consideration the definition and listing of labor market areas published by the Department, and the recommendations of the Governors.

(d) Incentive funds for consortia or State multijurisdictional agreements shall be a nationally uniform percentage increase of the amount due them under § 95.2(b) (4), but shall not exceed 10 percent of the amount.

(e) No State, unit of general local government, or consortium may apply or be designated as a prime sponsor for any area within its jurisdiction that is also within the jurisdiction of another prime sponsor unless that other prime sponsor consents or fails to submit an approvable Comprehensive Manpower Plan, or has its plan terminated, in whole or in part, by the Secretary.

(f) Any unit of general local government that does not intend to be served by the prime sponsor which would normally serve it under Title I shall inform that prime sponsor of its determination.

##### § 95.4 Data base for determining eligibility.

In order to determine prime sponsor eligibility, the Secretary shall use the 1970 official Census as published by the U.S. Bureau of the Census or Bureau of the Census certified updates which are satisfactory to the Secretary of Labor.

#### Subpart B—Grant Planning, Application, and Modification Procedures

##### § 95.10 General.

This Subpart B provides the procedures for obtaining and modifying a grant to operate programs under Title I of the Act. Specifically, this subpart describes the procedures in the grant award process—from preapplication through the grant application process, to review by the Department, approval or disapproval of the grant, and modification. This subpart also describes the functions of prime sponsor manpower planning councils and State Manpower Services Councils.

##### § 95.11 Preapplication for Federal assistance; consortium agreements.

(a) (1) The appropriate ARDM shall inform in writing all potential applicants of their eligibility to receive funds under Title I. An applicant interested in receiving financial assistance shall submit a preapplication to the ARDM, the Governor and the appropriate State and areawide A-95 clearinghouses (See OMB Circular A-95). The preapplication will consist of the Preapplication for Federal Assistance form Part I, contained in Federal Management Circular (FMC) 74-7 (formerly OMB Circular A-102), with an attachment giving the following information:

(i) Geographical area(s) to be served;

(ii) Population of area(s) to be served;

(iii) Certification that applicant, except for CEP and consortia prime sponsors, has the required general government authority, as defined in § 94.4;

(iv) Name of any ineligible unit of general local government, located within the prime sponsor applicant's jurisdiction, that has informed the prime sponsor applicant that it will not be participating in the prime sponsor applicant's plan.

(v) Certification that the development of the applicant's plan will be in accordance with the requirements of the Act and regulations (e.g., involvement of local elected officials of the areas to be served); and

(vi) The signature of the chief elected official(s) or chief executive officer(s), as appropriate, of each applicant. For a newly formed consortium, and for a consortium in which one or more members have joined or withdrawn, the signature of the chief elected official or chief executive officer of each consortium member is required. In the case of an established consortium with no membership changes, the preapplication may, with the consent of all consortium members, be signed by the consortium's chief executive officer. In either case, submission shall be by a date set by the Secretary (section 102(c)).

(b) In addition to the preapplication, each consortium of local governments shall, at a date established by the ARDM, submit to the ARDM for his approval an agreement covering programs funded under Title I and Title II. The agreement shall include the items required by this paragraph (b). The agreement shall be signed by the chief elected official or chief executive officer of each consortium member. The agreement shall include the following:

(1) A statement that the agreement has been formed under the Comprehensive Employment and Training Act of 1973, as amended, and the dates through which the consortium takes effect. An agreement shall be written to establish a consortium arrangement for the express purpose of conducting a program under the Act or an existing joint powers or other agreement shall be amended to include reference to the Act as part of the agreement.

(2) A listing of the units of government which are parties signatory to the agreement (i.e., the governmental units that are members of a consortium; not those governmental units that are merely served by a consortium);

(3) A listing of any ineligible governmental unit which would normally be within the jurisdiction of the consortium but has informed the members of the agreement of its desire not to have services provided through the consortium;

(4) A description of the geographical areas which will be served through the agreement;

(5) The population to be served;

(6) A certification that State and local law permits services under the consortium agreement to be provided within the entire geographical area covered by the agreement, including within the jurisdiction of any local government located within the geographical area covered by the agreement (i.e., that the agreement is not prevented by State or local law from taking effect in the entire geographical area which it intends to serve);

(7) An attached letter from each unit's chief legal officer assuring that each party signatory has the legal authority, under State or local law, to enter into the consortium agreement (these letters are made part of the agreement);



(8) A statement that one of the following procedures shall be used for signing grant agreements with the Department:

(i) That grant agreements with the Department shall be signed by the chief elected official or chief executive officer of each party to the consortium agreement; or

(ii) That, pursuant to a specific designation in the consortium agreement, grant agreements with the Department shall be signed by the chief elected official or chief executive officer of one or more of the parties to the consortium agreement, or by the chief executive officer of the administrative unit established under paragraph (d)(1) of this section;

(9) A certification that to the extent consistent with State or local law, each party signatory to the consortium agreement accepts responsibility for the operation of the program (i.e., each member of the consortium, rather than any administrative arm, has ultimate responsibility for the program's operation and success);

(10) A description of the powers, functions and responsibilities reserved by the parties to the consortium agreement, specifying the process by which decisions will be made, the process by which each party to the agreement will review and approve the Comprehensive Manpower Plan, and the procedure by which chief elected officials will participate in the planning and operation of the program, if they so desire. However, no agreement that has been validly entered into prior to the establishment of this requirement by the regulations for this Act published March 19, 1974, need be modified to include this provision.

(11) A statement of the powers, functions and responsibilities which will be delegated to an administrative entity to operate the program and the name and organizational structure of that entity.

(c) An established consortium which submitted an agreement in a prior year shall attest in writing that the agreement remains the same or has been changed in certain specific respects which it shall set forth in the attestation and this attestation shall be signed by the chief elected official or chief executive officer of each consortium member.

(d) In signing grant agreements with the Department, the authorized consortium signatory(s) shall certify that the procedures described in the consortium agreement pursuant to paragraph (b)(10) of this section have been utilized.

(e) (1) The consortium shall be the prime sponsor under the Act. An administrative unit or one member of the consortium must be designated to operate the program.

(2) The division of powers, functions, and responsibilities between the consortium members and the administrative unit shall be workable and clearly delineated. The administrative unit may be delegated the power to enter into contracts and subgrants and other necessary agreements, to receive and expend funds, to employ personnel including participants under the Act for the purposes of

administering the program only, to organize and train staff, to develop procedures for program planning, operation, assessment and fiscal management, to evaluate program performance and determine resulting need to reallocate resources, and to modify the grant agreement with the Department. The administrative arm of the consortium should have responsibility for the entire operation of the program, but the consortium members shall reserve to the consortium the right of evaluation and the decision to reprogram funds.

(f) A consortium established under these regulations shall have a stated duration at least equal to the period of the grant.

(g) All preapplications from applicants which are eligible only in exceptional circumstances, as defined in § 95.3(a)(4) of this Part 95, shall, in addition to the requirements of paragraph (a), include in their preapplications a statement and justification that they meet the requirements of § 95.3(a)(4). Consortia formed in exceptional circumstances shall also submit an agreement as required in paragraph (b).

#### § 95.12 Prime sponsor designation.

Upon receipt of a completed preapplication, the ARDM shall determine whether the applicant is eligible to be designated as a prime sponsor and shall notify the applicant of his determination. Exhibit M-2, Notice of Preapplication Review Action, FMC 74-7 will be used. A grant application package (§ 95.14(b)) shall be sent to each applicant designated as being eligible.

#### § 95.13 Planning process: advisory councils.

(a) General. An applicant for financial assistance shall submit an approvable Comprehensive Manpower Plan, as set out in § 95.14 of this Part 95. In developing and modifying such a plan, an applicant shall utilize the advisory councils set out in this section (sections 104, 105, and 107).

(b) Planning process. The prime sponsor shall have a planning process for the development of its Comprehensive Manpower Plan. That process shall utilize, as appropriate, the advisory councils established in this section and shall also assure the participation in program planning of community-based organizations and the population to be served.

(c) Prime sponsor Manpower Planning Council. (1) Each prime sponsor shall appoint a Manpower Planning Council representative of the geographic area to be served. The Planning Council function is advisory. The Council's advisory authority does not free the prime sponsor from its final decisionmaking responsibilities under the Act.

(2) The Planning Council shall advise the prime sponsor in the setting of basic goals, policies, and procedures for its program under Title I and Title II of the Act. It shall make recommendations regarding program plans, and provide for continuing analyses of needs for employment, training, and related services in such areas. Planning Councils should

monitor all manpower programs funded under Title I and Title II of the Act and provide for objective evaluations of other manpower and related programs operating in the prime sponsor's areas, for the purpose of improving the utilization and coordination of the delivery of such services. The procedures for evaluating programs not funded under Title I and Title II of the Act will be developed in cooperation with the agencies affected. The Planning Council shall make recommendations based upon its analyses to the prime sponsor, which will consider them in the content of its overall decision-making responsibility.

(3) Each prime sponsor shall, to the extent practical, include as appointments to its Planning Council members who are representative of the participant community (e.g., women, persons of limited English-speaking ability and other minority groups), community-based organizations, the Employment Service, education and training agencies and institutions, business, organized labor, and where appropriate, agriculture. Generally, staff of State or local government agencies would not provide appropriate representation of the participant community their agency serves. Persons representative of other interested groups may also be appointed. The prime sponsor shall appoint a chairman of the Planning Council and provide professional, clerical, and technical staff to serve it. Funds for supportive services and related staff costs for the Planning Council may be made available from a prime sponsor's basic allocation.

(d) State Manpower Services Council. (1) A State prime sponsor shall establish, in addition to its Planning Council under paragraph (c), a State Manpower Services Council (SMSC) representative of the geographic area to be served. The SMSC function is advisory and does not relieve the State of its final decisionmaking responsibilities under the Act.

(2) Consistent with the requirements of Section 107 of the Act, the Governor shall appoint Council members, as follows:

(i) At least one-third of the membership of the Council shall be composed of representatives of prime sponsors who have been designated in accordance with procedures agreed upon by the chief executive officers of such prime sponsors. (All prime sponsors within the State need not be represented; whatever the size of the Council, one-third of its membership shall be representatives of prime sponsors within the State.)

(ii) One representative shall be appointed from each of the following: the State Board of Vocational Education, the State employment service, and any State agency the Governor believes has an interest in manpower or manpower-related services within the State.

(iii) Representatives shall be appointed from organized labor, business and industry, the general public, community-based organizations, and from the population to be served under the Act (including representation of women, persons of limited English-speaking ability,

and other minority groups when such persons represent a significant portion of the participant population). Generally, staff of State or local government agencies would not provide appropriate representation under this paragraph.

(3) The Governor shall appoint a chairman for the Council and provide the Council with professional, technical, and clerical staff. The Council shall meet as it deems necessary.

(4) Council responsibilities shall include, but not be limited to;

(i) Reviewing prime sponsor plans, proposed modifications, and comments thereon;

(ii) Reviewing State agency plans for providing services to prime sponsors;

(iii) Making recommendations to prime sponsors, agencies providing manpower services, the Governor, and the general public on improving the coordination and effectiveness of manpower services within the State;

(iv) Monitoring continuously (A) the operation of programs conducted by prime sponsors in the State and (B) the availability, responsiveness, adequacy, and effective coordination of State services provided by all manpower-related agencies. The monitoring conducted by SMSC's shall include an emphasis upon reviewing statewide and inter-prime sponsor issues of utilization and coordination of manpower resources of State agencies, and the coordination of plans and operations in contiguous areas. The extent and procedures for monitoring prime sponsors and State agencies must be defined by the SMSC and publicized to all prime sponsors and State agencies affected prior to their being implemented; and

(v) Submitting an annual report to the Governor which will be a public document, and issuing such other studies, reports or documents to the Governor and prime sponsors as the SMSC believes necessary to effectively carry out the Act.

(e) Combined planning and services councils. In any State where the State is the only prime sponsor, the prime sponsor planning council may also perform the functions of the State Manpower Services Council. In such instances, the membership of the prime sponsor's planning council shall reflect the membership requirements of the State Manpower Services Council, in addition to meeting the membership requirements of a prime sponsor planning council, except that the provision of § 95.13(d)(2)(i) is not required.

#### § 95.14 Content and description of grant application.

(a) General. (1) This section describes the grant application which prime sponsor applicants will use to apply for their grant allotment of funds under Title I of the Act. A single grant document may be provided by the ARDM for obtaining funds under Titles I and II. Such a document shall contain all the requirements set out for such grants in these regulations. Procedures for special State grants under Title I are in Subpart D of this Part 95 (sec. 105).

(2) A copy of all forms and instructions are contained in the *Forms Preparation Handbook*.

(b) Grant application forms—(1) Application for Federal Assistance. The Application for Federal Assistance identifies the applicant and the amount of funds requested; it provides information concerning the area to be served and the number of people expected to benefit from the program. The form for Part I of the Application for Federal Assistance (Nonconstruction Programs) contained in FMC 74-7 is being used.

(2) Title I Comprehensive Manpower Plan. The Title I Comprehensive Manpower Plan is a statement of how the applicant intends to use its Title I funds and to coordinate its activities with other manpower programs and services operating within its jurisdiction. The Title I Comprehensive Manpower Plan consists of the Narrative Description of the Title I Program, the Program Planning Summary, Budget Information Summary and Occupational Summary, all described below. For consortia the approved consortium agreement shall be a part of the plan.

(i) Narrative Description of Title I Program. The Narrative Description of the Title I Program provides for a narrative outline of the proposed program under the Act. It identifies and explains the manpower problems within the applicant's jurisdiction, describes proposed program activities and delivery systems to deal with those problems, and projects the results which may be expected from the program. The Narrative Description of the Title I Program requires a detailed statement on the program including the following items. The *Forms Preparation Handbook* gives detailed instructions for these items required in the Narrative Description of the Title I Program:

(A) Objectives and needs for assistance. (1) Policy statement on purpose of program;

(2) Description of economic conditions;

(3) Description of labor force characteristics;

(4) Explanation of skill shortage occupations;

(5) Definition of manpower needs;

(6) Statement of groups to be served including consideration given to priority groups and occupations;

(7) Statement of goals to be accomplished.

(B) Results and benefits expected. (1) Statement relating planned outputs to needs;

(2) Rationale for selection of program activities in the program design;

(3) Statement of how the program design will provide participants with economic self-sufficiency; and

(4) Explanation of how the program will enhance career development.

(C) Approach. (1) Description of the planning system and participation of community based organizations and the population to be served;

(2) Statement of strategy for accomplishing goals;

(3) Description of each program activity and service and the enrollee flow;

(4) Description of methods to be used to recruit, select and determine eligibility of participants;

(5) Description of how persons of limited English-speaking ability will be served if they represent a significant portion of an applicant's program;

(6) Description of special considerations to veterans;

(7) Description of continuity of services to participants when the geographical area of the prime sponsor has changed;

(8) Description of the applicant's administrative system including accounting for placements;

(9) Description of the mechanism for assuring equal employment opportunity;

(10) Description of allowance payment system;

(11) Description of consideration given to programs of demonstrated effectiveness and explanation of reasons specific delivery agents were selected including reason existing services and facilities, including State employment security agencies, State vocational education agencies, vocational rehabilitation agencies, local education agencies, post secondary training and educational institutions, community action agencies, and area skill centers, were not utilized and justification of any duplication of services.

(12) Description of coordination with deliverers of manpower services not supported by the Act; and

(13) Justification of administrative costs planned;

(D) Geographic location served. Description of the geographical locations to be served.

(E) Additional items relating to State applicants. (1) A description of arrangements for serving all geographic areas under its jurisdiction, (i.e., balance of State) except for areas served by other prime sponsors;

(2) Description of the functions of the State Manpower Services Council;

(3) Description of State Manpower Services to be undertaken.

(F) Additional items relating to Public Service Employment Programs. (1) Description of unmet public service needs and priorities;

(2) Relationship of types of jobs to public service needs described above;

(3) Justification of funding and job allocation to government agencies;

(4) Description of strategy for serving and matching jobs to special veterans' skills;

(5) Description of plan for providing services to significant segments of the population, and disabled veterans, special veterans, and those veterans discharged within four years of the date of application, welfare recipients, and former manpower trainees;

(6) Description of the methods of determining rates of compensation when they differ from what is normally paid by the employer and reasons for the difference;

(7) Description of actions to insure compliance with personnel procedures and collective bargaining agreements for



jobs in other than the entry level in any job category;

(8) Plans to improve and expand employment and advancement opportunities of the target population;

(9) Description of supervisory training, education and other services to participants;

(10) Explanation of linkages with other programs;

(11) Description of efforts to remove artificial barriers; and

(12) Maintenance of effort verification.

(ii) **Program Planning Summary.** The Program Planning Summary requires a prime sponsor to provide a quantitative statement of planned enrollment levels, the participants to be served by each program activity (classroom training, on-the-job training, public service employment, work experience, and other activities) and outcomes for program participants. It also requires an identification of the significant segments of the population and the number of individuals to be served in each.

(iii) **Budget Information Summary.** The Budget Information Summary requires a prime sponsor to provide a quantitative statement of planned expenditures and obligations by the grantee. It requires prime sponsors to indicate yearly planned expenditures by cost category (administration, allowances, wages, fringe benefits, training, and services); the prime sponsor is to reflect planned quarterly obligations, and planned quarterly expenditures by program activity.

(iv) **Public Service Employment Occupational Summary.** The Occupational Summary requires a prime sponsor operating a public service employment program under the Act to provide a description of proposed job opportunities, occupations and wages, including a comparison of such wages with wages for similar nonsubsidized jobs in the employing agency.

(3) **Assurances and Certifications.** The Assurances and Certifications form is a signature sheet on which the prime sponsor assures and certifies that it will comply with the Act, the regulations of the Department, other applicable laws, and applicable Federal Management Circulars and Office of Management and Budget (OMB) circulars. The Assurances and Certifications form appears in and *Forms Preparation Handbook*. Following is a summary of the items which are described in detail on that form:

(i) **General Assurances:**

(A) Compliance with the Act and regulations, including conformance to amendments;

(B) Compliance with FMC 74-4 and 74-7 and OMB Circular A-95;

(C) Legal authority to apply for the grant (secs. 102(a), 701(a)(9)(10));

(D) Compliance with Title VI of the Civil Rights Act of 1964;

(E) Non-discrimination (secs. 703(1) and 712);

(F) Compliance with the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (FMC 74-7);

(G) Compliance with the Hatch Act

as amended and restrictions on political activities (sec. 710);

(H) Prohibition on use of position for private gain (sec. 702(a));

(I) Access of Comptroller General and Secretary to records and documents pertaining to the Act (sec. 713(2));

(J) Non-support of religious facilities (sec. 703(4));

(K) Maintenance of required health and safety standards (sec. 703(5));

(L) Provision of appropriate employment and training conditions in regard to type of work, geographical region and proficiency of the participant (sec. 703(4));

(M) Provision of workmen's compensation protection to participants in on-the-job training, work experience, or public service employment programs under the Act at the same level and to the same extent as other employees of the employer who are covered by a State or industry workmen's compensation statute; and provision of workmen's compensation insurance or medical and accident insurance for injury or disease resulting from their participation to those individuals engaged in any program activity under the Act, i.e., work experience, on-the-job training, public service employment, classroom training, services to participants, and other activities, where others similarly engaged are not covered by an applicable workmen's compensation statute (secs. 703(6) and 208(4));

(N) Use of funds under the Act to supplement, rather than supplant funds otherwise available, prohibition on displacement of employed workers by participants employed under the Act, and prohibition on impairment of existing contracts for services (secs. 703(11) and 703(7));

(O) Training only in occupations which require two or more weeks of pre-employment training, unless there are immediate employment opportunities (secs. 703(8), and 105(a)(6));

(P) Training which has a reasonable expectation to lead to unsubsidized employment and which provides for the development of participants' potential consistent with their capabilities (secs. 703(9), 105(a)(6), and 703(10));

(Q) Use of funds to supplement rather than supplant the level of funds otherwise available for the planning and administration of the program (sec. 703(11));

(R) Compliance with reporting and recordkeeping requirements of the Act and regulations (secs. 703(12) and 311(c));

(S) Contribution to the occupational development or upward mobility of individual participants (sec. 703(13));

(T) Provision of required administrative and accounting controls (sec. 703(14));

(U) Provision for the manpower needs of youth in the area served (sec. 703(15));

(V) Compliance with minimum wage requirements specified under the Act (secs. 111(a) and (b) and 208(a)(2));

(W) Compliance with applicable labor standards pertaining to the worksite or training facility (secs. 111(b) and 706);

(X) Services and activities provided under this Act will be administered by or under the supervision of the applicant (sec. 105(a)(1)(D));

(i) Additional assurances for Title I programs, as required by the Act:

(A) Provision of manpower services to those most in need of them, and consideration of the need for continued funding of programs of demonstrated effectiveness to serve them (sec. 105(a)(1)(D));

(B) Design of programs of institutional skill training for skill shortage occupations (sec. 105(a)(6));

(C) Submission of a comprehensive plan in accordance with section 105(a) and compliance with the provisions of section 105(b);

(D) Arrangements to assist the Secretary in carrying out his responsibilities under sections 105 and 108 of the Act (sec. 105(a)(7));

(E) Special consideration given to the needs to unemployed disabled veterans, special veterans and veterans discharged within four years of the date of application and special outreach and coordination efforts to serve such veterans (secs. 205(c)(5), 205(c)(26) and 104(b) of the Emergency Jobs and Unemployment Assistance Act of 1974 (Pub. L. 93-567));

(ii) Additional assurances relating to public service employment programs as follows:

(A) Special consideration be given to the filling of jobs which provide prospects for advancement or continued employment by providing complementary training and manpower services in accordance with procedures established in section 205(c)(4);

(B) Provision of public service jobs, to the extent feasible, in occupational fields most likely to expand within the public or private sector as the unemployment rate recedes (sec. 205(c)(6));

(C) Special consideration in filling transitional public service jobs be given to persons most severely disadvantaged in terms of length of unemployment and prospects for finding employment unassisted, but not authorize the hiring of any person when another person is on lay-off from the same or equivalent job (sec. 205(c)(7));

(D) Prohibition against the use of funds to hire any person to fill a job opening created by the action of an employer in laying off or terminating the employment of any other regular employee not supported under the Act in anticipation of filling such vacancy by hiring an employee to be supported under the Act (sec. 205(c)(8));

(E) Consideration of persons who have participated in manpower training programs (sec. 205(c)(9));

(F) Compliance with periodic review procedures pursuant to section 207(a) of the Act (sec. 205(c)(12));

(G) Removal of artificial barriers to public employment by agencies and institutions receiving financial assistance and contributing, to the maximum ex-

tent feasible, to the elimination of artificial barriers to employment and occupational advancement (secs. 205(c)(12) and 205(c)(21));

(H) Maintenance or provision of linkages with upgrading and other manpower programs to assist persons employed in public employment programs to fulfill their career goals (sec. 205(c)(19));

(I) Employment of not more than one-third of the participants in a bona fide professional capacity except in the case of classroom teachers; the Secretary may waive this limitation in exceptional circumstances (sec. 205(c)(22));

(J) Allocation of jobs equitably to local governments and agencies (sec. 205(c)(23));

(K) Provisions of jobs in each job category which will not infringe upon the promotional opportunities of unsubsidized current employees and provision of jobs only at the entry level in each job category until applicable personnel procedures and collective bargaining agreements have been met (sec. 205(c)(24));

(L) Provision of jobs in addition to those that would otherwise be funded by the prime sponsor without assistance under the Act (sec. 205(c)(25));

(iv) Special certification for State grantees: Compliance with requirements and provisions of sections 106 and 107 of the Act.

(4) **Grant Signature Sheet.** The Grant Signature Sheet records the acceptance by the grantee and grantor of the terms and conditions of the grant and any changes to the grant. It records the time period for which the grant is effective, the grant allotment, the amount of funds obligated by the ARDM to the grantee, the title of the act under which the funding is authorized and the name, title and signature of the approving official on both sides.

§ 95.15 **Comment and publication procedures relating to submission of grant application.**

(a) As provided in paragraphs (b) and (c) of this section, each prime sponsor shall provide an opportunity for comment on the application (secs. 105(c)(2) and 108).

(b) (1) Each prime sponsor shall publish a summary of the grant application, including the proposed grant allotment of funds, in a newspaper or newspapers (including minority newspaper(s), where feasible) which will provide for a general circulation throughout the area to be served by the prime sponsor's plan. Such publication shall be for three consecutive issues. The publication shall be made 30 days prior to the submission of the application to the ARDM. A copy of the newspaper article shall be transmitted to the ARDM.

(2) The information published shall include the following:

(i) The numbers of individuals to be served and terminated, including the number to be placed in unsubsidized employment;

(ii) The significant segments of the population to be served, and number of planned participants in each segment;

(iii) The program activities and services to be provided by the program in each geographical area and the funds to be planned for each activity and service;

(iv) The total funds in the plan (i.e., grant allotment plus carry in, if any) and the distribution of funds by cost categories;

(v) The location and hours when the complete grant application can be reviewed and the address and phone number where questions and comments may be directed;

(vi) A comparison of performance against prior year's plan through the most recent quarter, including items such as:

(A) Comparison of planned and actual enrollments by program activities;

(B) Comparison of planned and actual placements and terminations;

(C) Comparison of planned and actual numbers of individuals in each significant segment;

(D) Comparison of planned and actual expenditures by program activity and cost categories (sec. 705(f)).

(c) In addition to general newspaper circulation, each prime sponsor applicant shall provide a copy of its application for the purpose of commenting thereon, to the Governor and the appropriate State and sub-State A-95 clearinghouse(s) 30 days prior to its submission to the ARDM. At the same time it shall provide a summary to appropriate units of general local government with a population of at least 10,000 persons, to appropriate Indian prime sponsors, and to labor organizations representing employees engaged in similar work in the same area as that for which enrollees will receive subsidized employment or training.

(d) Comments pursuant to paragraphs (b) and (c) shall be made to the prime sponsor applicant and the ARDM within 30 days of publication. The prime sponsor shall provide copies of all written comments to its Prime Sponsor Planning Council and the Governor. In addition all substantive written comments and responses will be transmitted to the ARDM with the grant application, unless the comments are received after the application's submission, in which case they will be sent separately to the ARDM.

(e) A prime sponsor applicant shall acknowledge any written comment made pursuant to this section. It shall inform any party submitting a substantive written comment of whether any plan revision will be made in response to the comment and the reasons for the prime sponsor's determination.

(f) If any party commenting to the ARDM pursuant to the A-95 clearinghouse review process recommends disapproval of the grant in whole or in part and if the ARDM after review of the recommendation determines that the grant should be approved, the ARDM shall inform the party making the comment of the reasons for the ARDM's determination.

§ 95.16 **Submission of grant application.**

(a) Each prime sponsor applicant shall submit its grant application to the ARDM on or before a date set by the Secretary.

(b) A grant application shall include all items set out in § 95.14 of this Part 95.

§ 95.17 **Standards for reviewing grant applications.**

(a) A grant application will be reviewed to determine if it meets the requirements of the Act, the regulations promulgated under the Act, and other applicable law.

(b) In reviewing a grant application as provided in paragraph (a), of this section, the ARDM shall determine whether:

(1) The application is complete;

(2) The needs and priorities identified in the application are supported and justified by the documentation provided by the prime sponsor;

(3) The planned expenditures for program activities are substantiated by documentation of the needs and priorities identified in the application;

(4) The performance goals identified in the application are reasonable in light of past program experience in the same or similar activities and the documentation provided by the prime sponsor;

(5) Documentation is presented that reasonable arrangements have been made to involve the population to be served and community-based organizations in the planning process, through representation on the Prime Sponsor Manpower Planning Council or through participation in the specific planning of the program;

(6) The prime sponsor applicant's selection of the method of delivery of services is supported by adequate documentation based on availability and capability of delivery agents and appropriateness of services for the population to be served and provides evidence that due consideration has been given to the utilization of those services and facilities available from Federal, State, and local agencies (sec. 105(a)(3)(B));

(7) Maximum efforts have been made to meet the goals of the prior year's plan; such efforts shall include monitoring, evaluation, and remedial activities, such as, but not limited to, modification of the plan to reflect significant economic changes within the jurisdiction (sec. 105(a));

(8) The administrative costs in the application are reasonable and provide, to the maximum extent feasible, for Federal funds to be expended for direct program activities and services, and, if administrative costs exceed 20 percent of non public service employment activities whether the prime sponsor has cited an adequate reason and provided supporting documentation. Costs for public service employment other than wages and fringe benefits may not exceed 10 percent (secs. 108(d)(2) and 203(b));

(9) The prime sponsor has adequate internal administrative controls, accounting requirements, personnel stand-

ards, and number of planned participants in each segment;

(iii) The program activities and services to be provided by the program in each geographical area and the funds to be planned for each activity and service;

(iv) The total funds in the plan (i.e., grant allotment plus carry in, if any) and the distribution of funds by cost categories;

(v) The location and hours when the complete grant application can be reviewed and the address and phone number where questions and comments may be directed;

(vi) A comparison of performance against prior year's plan through the most recent quarter, including items such as:

(A) Comparison of planned and actual enrollments by program activities;

(B) Comparison of planned and actual placements and terminations;

(C) Comparison of planned and actual numbers of individuals in each significant segment;

(D) Comparison of planned and actual expenditures by program activity and cost categories (sec. 705(f)).

(c) In addition to general newspaper circulation, each prime sponsor applicant shall provide a copy of its application for the purpose of commenting thereon, to the Governor and the appropriate State and sub-State A-95 clearinghouse(s) 30 days prior to its submission to the ARDM. At the same time it shall provide a summary to appropriate units of general local government with a population of at least 10,000 persons, to appropriate Indian prime sponsors, and to labor organizations representing employees engaged in similar work in the same area as that for which enrollees will receive subsidized employment or training.

(d) Comments pursuant to paragraphs (b) and (c) shall be made to the prime sponsor applicant and the ARDM within 30 days of publication. The prime sponsor shall provide copies of all written comments to its Prime Sponsor Planning Council and the Governor. In addition all substantive written comments and responses will be transmitted to the ARDM with the grant application, unless the comments are received after the application's submission, in which case they will be sent separately to the ARDM.

(e) A prime sponsor applicant shall acknowledge any written comment made pursuant to this section. It shall inform any party submitting a substantive written comment of whether any plan revision will be made in response to the comment and the reasons for the prime sponsor's determination.

(f) If any party commenting to the ARDM pursuant to the A-95 clearinghouse review process recommends disapproval of the grant in whole or in part and if the ARDM after review of the recommendation determines that the grant should be approved, the ARDM shall inform the party making the comment of the reasons for the ARDM's determination.

(g) The prime sponsor has adequate internal administrative controls, accounting requirements, personnel stand-

ards, and number of planned participants in each segment;

(iii) The program activities and services to be provided by the program in each geographical area and the funds to be planned for each activity and service;

(iv) The total funds in the plan (i.e., grant allotment plus carry in, if any) and the distribution of funds by cost categories;

(v) The location and hours when the complete grant application can be reviewed and the address and phone number where questions and comments may be directed;

(vi) A comparison of performance against prior year's plan through the most recent quarter, including items such as:

(A) Comparison of planned and actual enrollments by program activities;

(B) Comparison of planned and actual placements and terminations;

(C) Comparison of planned and actual numbers of individuals in each significant segment;

(D) Comparison of planned and actual expenditures by program activity and cost categories (sec. 705(f)).

(c) In addition to general newspaper circulation, each prime sponsor applicant shall provide a copy of its application for the purpose of commenting thereon, to the Governor and the appropriate State and sub-State A-95 clearinghouse(s) 30 days prior to its submission to the ARDM. At the same time it shall provide a summary to appropriate units of general local government with a population of at least 10,000 persons, to appropriate Indian prime sponsors, and to labor organizations representing employees engaged in similar work in the same area as that for which enrollees will receive subsidized employment or training.

(d) Comments pursuant to paragraphs (b) and (c) shall be made to the prime sponsor applicant and the ARDM within 30 days of publication. The prime sponsor shall provide copies of all written comments to its Prime Sponsor Planning Council and the Governor. In addition all substantive written comments and responses will be transmitted to the ARDM with the grant application, unless the comments are received after the application's submission, in which case they will be sent separately to the ARDM.

(e) A prime sponsor applicant shall acknowledge any written comment made pursuant to this section. It shall inform any party submitting a substantive written comment of whether any plan revision will be made in response to the comment and the reasons for the prime sponsor's determination.

(f) If any party commenting to the ARDM pursuant to the A-95 clearinghouse review process recommends disapproval of the grant in whole or in part and if the ARDM after review of the recommendation determines that the grant should be approved, the ARDM shall inform the party making the comment of the reasons for the ARDM's determination.

(g) The prime sponsor has adequate internal administrative controls, accounting requirements, personnel stand-

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ards, monitoring and evaluation procedures, availability of in-service training and technical assistance, and such other policies as may be necessary to promote the effective use of funds provided under Title I of the Act;

(10) All parties required to be afforded an opportunity to comment on comprehensive manpower plans have been afforded such an opportunity;

(11) Any comment on a comprehensive manpower plan evidences non-compliance with the Act, the regulations promulgated pursuant to the Act, or any other applicable law;

(12) Documentation is presented that programs of institutional training are designed for occupations in which skill shortages exist (sec. 105(a)(6)); and

(13) The public service employment job opportunities satisfy the requirements set forth in § 96.23 with the exception of § 96.23(b)(13);

#### § 95.18 Application approval; grant agreement.

(a) An application for a grant shall be approved if it meets the requirements of the Act, the regulations promulgated under the Act, other applicable law, and if the ARDM determines that the prime sponsor has demonstrated maximum efforts to meet the goals of the prior year's plan.

(b) An application for a grant from a consortium, or pursuant to a State multi-jurisdictional agreement, shall be approved if, in addition, an agreement among the parties has been submitted to and approved by the ARDM.

(c) A prime sponsor applicant, the Governor, and the A-95 clearinghouse shall be notified by the ARDM within 7 days of action taken on the application. If an application is approved, the ARDM shall provide the prime sponsor with a grant agreement, consisting of the Grant Signature Sheet and the Assurances and Certification Form, and the Comprehensive Manpower Plan which is included by reference. The Comprehensive Manpower Plan shall be attached to the grant agreement.

(d) The grant agreement for the subsequent program year may be effectuated by a modification to the existing grant. In such cases all of the requirements in Subpart B of this Part 95 apply.

#### § 95.19 Application disapproval.

(a) An application for a grant shall be disapproved if it fails to meet any requirement of the Act, the regulations promulgated under the Act, or any other applicable law (secs. 105 and 108).

(b) No application shall be disapproved solely because of the percentage of the total funds devoted to any allowable program activity.

(c) No application for a grant shall be disapproved until:

(1) The prime sponsor applicant has been notified that its application fails to meet a requirement of the Act, regulations promulgated under the Act, or other applicable law; and

(2) The prime sponsor applicant is provided with suggestions as to those cor-

rective steps which may be utilized to remedy any defect found in the application; and

(3) The prime sponsor applicant has been provided a reasonable opportunity, but not less than 30 days, to remedy any defect found in the application, but has failed to do so.

(d) When an application is disapproved, a notice of disapproval shall be transmitted to the prime sponsor and the Governor, accompanied by a statement of the grounds of the disapproval. Such disapproval shall not be effective until notice and opportunity for a hearing has been provided, as required in Subpart C of Part 98.

#### § 95.20 Use of alternative prime sponsors; services by the Secretary.

If an application is not filed, as required, or is denied, or if a grant is terminated in whole or in part during a fiscal year, the Secretary may make provision for the funds so released to be used by the State or another alternative prime sponsor to service the area originally to be served by the primary prime sponsor, or the Secretary may serve such an area directly. In so doing, the Secretary shall make every effort to minimize or prevent any disruption in participant activities (sec. 110(a)).

#### § 95.21 Modification of grant agreement.

(a) A modification to the grant agreement is required when the ARDM requires a change in (1) the term of the grant, (2) the grant allotment, or (3) the assurances and certifications included in the grant agreement. The procedures for modification of the grant agreement shall be undertaken as described in paragraphs (b) through (e) of this § 95.21. This § 95.21 does not apply when a grant is modified as described in § 95.18(d) to implement a new program year.

(b) When the term or grant allotment is changed, the prime sponsor shall also submit a revised form, Application for Federal Assistance, Part I and a revised Program Planning Summary and Budget Information Summary to account for the change in funds and activity. If the change in the term or grant allotment necessitates a substantial change in program design, revised portion(s) of the narrative description of the program which reflect the change will also be submitted. A revision of the PSE Occupational Summary is not required.

(c) When the term or grant allotment is changed, the review and comment procedures provided in § 95.15 (c), (d), (e), and (f) shall be followed; except when the Department, at its convenience, extends the term of the grant in order to provide for the completion of the program without a substantive change in activities, submission as provided in § 95.15(c) shall be concurrent with submission to the ARDM. Substantive change for this purpose means an alteration in the direction, nature, scope, location or scale of the program or changes in the population to be served or significant segments. (See A-95 Ad-

ministrative Note Applications for Continuation and Extension Grants, July 1, 1974). The newspaper publication procedure provided in § 95.22(b)(2)(ii) shall be followed in either case.

(d) When the grant allotment is obligated by the ARDM in increments, each subsequent obligation by the ARDM requires a new grant signature sheet to be signed by representatives of the prime sponsor and the Department of Labor. Such a new signature sheet is not accompanied by a revised Comprehensive Manpower Plan, and does not require publication or comment procedures to be followed.

(e) A denial of a prime sponsor's request for a grant modification shall be subject to the appeal procedures set out in Part 98.

#### § 95.22 Modification of Comprehensive Manpower Plan.

(a) General. Prime sponsors may make three types of modifications to Comprehensive Manpower Plans: major, minor and narrative. An ARDM may initiate a modification as described in paragraph (e) of this section.

(b) Major plan modification. (1) When a prime sponsor intends to change its plan beyond the levels indicated, a major modification is required. A major modification is not required solely because actual performance varies from plan in excess of such levels. When a plan modification falls into one of the following categories, it will be considered to be a major plan modification:

(i) For grants of \$100,000 or less:

(A) When the cumulative transfer of funds among program activities or cost categories exceeds \$5,000; or

(B) When the cumulative number of individuals to be served, planned enrollment levels for program activities, planned placement terminations, or individuals to be served within significant client groups is to be increased or decreased by 15 percent or more.

(ii) For grants of over \$100,000.

(A) When the cumulative transfer of funds among program activities or cost categories exceeds \$10,000 or 5 percent of the total grant budget whichever is greater.

(B) When the cumulative number of individuals to be served, planned enrollment levels for program activities, planned placement terminations, or individuals to be served within significant client groups is to be increased or decreased by 15 percent or more.

(2) (i) A prime sponsor desiring a major modification shall submit a revised Program Planning Summary and Budget Information Summary for subsequent quarters only, and an explanation of the proposed changes to the ARDM; except that such modifications may be received by the ARDM within 20 days after the beginning of the quarter affected. If the proposed changes result in a substantial change in program design, rewritten portions of the narrative shall also be submitted; in all other cases the existing narrative need not be changed. A revision of the PSE Occupational Summary is not required.

(ii) In accordance with the procedures outlined in § 95.15 (d) and (e), and no later than the date of submission to the ARDM, this modification will be forwarded for comment to the Governor, to appropriate units of general local government with a population of at least 10,000 persons, to appropriate Indian sponsors, and to labor organizations representing employees engaged in similar work in the same area as that for which participants will receive subsidized employment or training; and the prime sponsor shall publish for three (3) consecutive issues in a newspaper or newspapers (including minority newspapers), where feasible, of general circulation throughout the area to be served a summary of the proposed changes including:

(i) The proposal of any change from the approved plan in the allowance payment system, including, but not limited to, the conditions for waivers; or

(ii) The proposal of any substantial change in program design.

(e) ARDM initiated modification. (1) After consultation with a prime sponsor, modifications may be required by the ARDM as necessary to assure compliance with the regulations.

(2) A prime sponsor is responsible for assuring that its programs are responsive to the changing economic situation in its jurisdiction and for making appropriate modifications to its plan. The ARDM may request such a reassessment and appropriate modification when the ARDM believes that the changing economic situation in a jurisdiction makes such a reassessment appropriate.

(3) The effectiveness of a prime sponsor's response to changing economic conditions in its jurisdiction will be taken into consideration in reviewing the subsequent year's grant application.

(4) If the prime sponsor disagrees with the ARDM under paragraphs (1) or (2) above, it may initiate a hearing pursuant to § 98.47 of these regulations.

(5) Procedures pertaining to each kind of modification as specified in (b) and (c) of this section shall be followed when that modification is initiated under this paragraph.

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(iii) The ARDM shall notify the prime sponsor of tentative approval or of tentative disapproval within 10 days of receipt of the proposed modification. Final ARDM action on approval or disapproval shall be taken within 30 days of the receipt of the proposed modification. Appeal of any such determination may be obtained through the procedures set out in Part 98 of the regulations.

(c) Minor plan modification. A prime sponsor may make any change in its Program Planning Summary or Budget Information Summary which is not set out in paragraph (b) of this section without prior approval, but must show any such change in the first Program Status Summary or Financial Status Report, as appropriate, submitted to the Department after the change has been made. At the same time this report is submitted, an updated Program Planning Summary or Budget Information Summary, as appropriate, shall also be submitted to the ARDM. Only those lines and columns affected by the modification need be shown.

(d) Modification of the narrative description of Title I program. (1) Except as provided in paragraph (d)(2) of this section when a prime sponsor chooses to replan and change a portion of its narrative description which does not necessitate a commensurate change on the Program Planning Summary or Budget Information Summary, it may submit such a change to the ARDM for incorporation into its plan without prior approval.

(2) A narrative modification requires prior approval of the ARDM under the following circumstances:

(i) The proposal of any change from the approved plan in the allowance payment system, including, but not limited to, the conditions for waivers; or

(ii) The proposal of any substantial change in program design.

(e) ARDM initiated modification. (1) After consultation with a prime sponsor, modifications may be required by the ARDM as necessary to assure compliance with the regulations.

(2) A prime sponsor is responsible for assuring that its programs are responsive to the changing economic situation in its jurisdiction and for making appropriate modifications to its plan. The ARDM may request such a reassessment and appropriate modification when the ARDM believes that the changing economic situation in a jurisdiction makes such a reassessment appropriate.

(3) The effectiveness of a prime sponsor's response to changing economic conditions in its jurisdiction will be taken into consideration in reviewing the subsequent year's grant application.

(4) If the prime sponsor disagrees with the ARDM under paragraphs (1) or (2) above, it may initiate a hearing pursuant to § 98.47 of these regulations.

## Subpart C—Program Operations

### § 95.30 General.

This Subpart sets out the program operation requirements for comprehensive manpower services under Title I of the Act. The utilization of funds under Title I is conditioned upon adherence to the Act, the regulations promulgated under the Act, and other applicable law.

### § 95.31 Basic responsibilities of prime sponsors.

A prime sponsor shall be responsible for:

(a) Compliance with plans and assurances;

(b) Compliance with Part 98 of these regulations;

(c) Establishing priorities for receipt of assistance authorized under the Act taking into account the priorities identified by the Secretary and the significant segments represented among the economically disadvantaged, unemployed, and underemployed residing within its jurisdiction;

(d) Designing program operating activities which are, to the maximum extent feasible, consistent with every participant's fullest capabilities and which will lead to employment opportunities enabling every participant to become economically self-sufficient, and which will contribute to the occupational development or upward mobility of every participant (secs. 101 and 703(9)).

(e) Advising all participants of their rights and responsibilities prior to entering the program and granting the opportunity for an informal hearing as provided in § 98.26; and

(f) Making maximum efforts to achieve the provisions of its plan.

### § 95.32 Eligibility for participation in a Title I program.

(a) A person who is economically disadvantaged, unemployed, or underemployed (as defined in § 94.4) may, subject to paragraph (b) of this section, participate in a program offered by the prime sponsor under Title I of the Act (secs. 105(a) and 108(d)).

(b) For the purpose of participating in a public service employment program under Title I of the Act, participation is permitted for persons who:

(1) Reside, as defined in paragraph (c) of this section, anywhere within the geographical area covered by the prime sponsor's comprehensive manpower plan; and

(2) Are unemployed (as defined for Title I in § 94.4), or underemployed (as defined in § 94.4), or economically disadvantaged (as defined in § 94.4); and are otherwise eligible for participation consistent with the requirements of sections 205(c) and 208 of the Act (sec. 105(a)(5)).

(c) For the purpose of defining residence in paragraph (b) of this section, the term residence shall mean an individual's permanent dwelling place or home, both at the time the individual applies and is selected for participation in a public service employment program under Title I of the Act. In determining whether a particular place is an individual's dwelling place or home, the intention of the individual is the key element. Maintenance of an "address" is not necessarily the same as maintenance of a dwelling place or home.

(d) Citizenship shall not be used as a criterion to prevent permanent residents, including permanent resident aliens, from participating in a program to the extent consistent with applicable State or local law. However, no services shall be provided to illegal aliens (those who do not have a bona fide Alien Registration Receipt form, or cannot present other documentation from the Immigration Service allowing them to seek employment).

(e) (1) Prime sponsors shall give special consideration to the needs of eligible disabled veterans, special veterans, and veterans who served in the Armed Forces and who received other than a dishonorable discharge within 4 years before the date of their application. Each prime sponsor in selecting participants for programs funded under Title I of the Act, shall take into consideration the extent that such veterans are available in the area. Specific effort should be made to develop appropriate full or part-time opportunities for such veterans. The prime sponsor should utilize the assistance of the State and local veterans employment service representative in formulating its program objectives.

(2) Each prime sponsor shall, on a continuing and timely basis, provide information on job vacancies, and training opportunities funded under Title I of the Act to the State and local veterans employment service representative for the purpose of disseminating information to eligible veterans (sec. 104(b) of Emer-

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agency Jobs and Unemployment Assistance Act of 1974).

(f) Since all Title II, Title VI, and Emergency Employment Act (EEA) participants would have also qualified at time of enrollment for Title I, a Title II, Title VI, or EEA participant, for whom maximum efforts have been made to find unsubsidized employment, or for whom supplemental training or services is needed as a prerequisite to a job, may be transferred into or concurrently enrolled in a program offered by the prime sponsor under Title I of the Act without an intervening period of unemployment. Title III participants who met the eligibility criteria for Title I at the time of their enrollment may also be transferred into or enrolled concurrently in the Title I program (secs. 205(c) (14) and (19), and 105(a) (2)).

(g) While the selection of eligible full-time students for participation in programs funded under Title I of the Act is not prohibited, grantees should exercise caution in providing for such participation and should provide for such participation only in accordance with these regulations. In providing for such participation, prime sponsors should give special consideration to those most in need of service, including economically disadvantaged persons.

#### § 95.33 Types of manpower program activities available.

(a) A prime sponsor may provide any type of manpower program activity which is consistent with the purposes of Title I of the Act. Such program activities include but are not limited to the development and creation of job opportunities, and the training, education, and other services needed to enable an individual to secure and retain employment at the individual's maximum capacity. Program activities should be primarily directed toward the placement of individuals in unsubsidized employment, either directly at the outset of program participation as a result of intake and assessment or indirectly through provision of training or services (sec. 101). As provided in the nondiscrimination provisions of these regulations, the prime sponsor shall not include in the design of its program traditional hiring practices which result in discrimination based on race, creed, color, handicap, national origin, sex, age, political affiliation, or beliefs, and shall not permit such hiring practices to limit its responsiveness to the needs of the economically disadvantaged, unemployed, and underemployed population in the locality.

(b) (1) A prime sponsor may, consistent with these regulations, determine the operating levels and program activities in its area. It may select any of the program activities described in paragraph (d) of this section or devise other activities within the framework of the Act. No prime sponsor plan will be disapproved solely because of the percentage of funds devoted to a particular program activity (sec. 108(c)).

(2) A prime sponsor in designing the types of manpower services that will be

funded under the Act and determining the methods for providing these services, shall make an adequate review of the existing services and facilities in the community and give due considerations to the utilization of these facilities. The Comprehensive Manpower Plan shall provide a description of each service including evidence that due consideration has been given to existing facilities which are available from Federal, State, and local agencies, including community-based organizations. The discussion shall provide documentations on the costs, responsiveness, adequacy, and effectiveness of each agencies' services to assure that unnecessary duplication has been avoided.

(c) A prime sponsor shall develop special program provisions for persons of limited English-speaking ability when such persons constitute a significant portion of a prime sponsor's program. The prime sponsor shall establish operating procedures for (sec. 301(b)).

(1) Teaching occupational skills in the primary language of such persons for occupations which do not require a high proficiency in English;

(2) Developing new employment opportunities for persons limited in English-speaking ability;

(3) Developing opportunities for promotion within existing employment situations for such persons;

(4) Disseminating appropriate information and providing job placement and counseling assistance in the primary language of such persons;

(5) Conducting training and employment programs in the primary language of such persons; and

(6) Conducting programs designed to increase the English-speaking ability of such persons.

(d) The basic types of manpower activities available to a prime sponsor include, but are not limited to the following:

(1) *Classroom training.* (i) This program activity is any training conducted in an institutional setting designed to provide individuals with the technical skills and information required to perform a specific job or group of jobs. It may also include training designed to enhance the employability of individuals by upgrading basic skills, through the provision of course in, for instance, remedial education, training in the primary language of persons of limited English-speaking ability, or English-as-a-second-language training.

(ii) Occupational training shall be designed for occupations in which skills shortages exist (sec. 105(a) (6)) and for which there is reasonable expectation of employment (sec. 703(10)). In making these determinations, a prime sponsor shall utilize available community resources such as the local SESO office, the National Alliance of Businessmen, etc.

(iii) Participants' benefits. Allowances and other benefits as provided in § 95.34 may be paid to participants receiving training or education, provided that such allowances are not paid for any course

having a duration in excess of 104 weeks (sec. 111(a)).

(iv) Vocational education services may be supported with funds provided through (A) the prime sponsor's Title I grant or (B) special grants to Governors for vocational education and services in prime sponsor areas. In order to obtain services under (B) of this paragraph the prime sponsor will negotiate nonfinancial agreements with State Vocational Education Boards utilizing the procedures described in Subpart D of this Part 95.

(2) *On-the-job training.* (i) On-the-job training (OJT) is training conducted in a work environment designed to enable individuals to learn a bona fide skill and/or qualify for a particular occupation through demonstration and practice. Such training may be conducted on a "hire first, train later" basis, or with ultimate placement with the training organization or an employer other than the training organization. OJT may involve individuals at the entry level of employment or be used to upgrade present employees into occupations requiring higher skills. Training shall be designed to lead to the maximum development of participants' potentials and to their economic self-sufficiency.

(ii) Inducements to employers. Prime sponsors may provide payments or other inducements to public or private employers for the bona fide training and related costs of enrolling individuals in the program; provided that payments to employers organized for profit are only made for the costs of recruiting, training and supportive services which are over and above those normally provided by the employer. Direct subsidization of wages for participants employed by private employers organized for profit is not an allowable expenditure (sec. 101(5)).

(iii) Labor organization consultation. Appropriate labor organizations should be consulted in the design and conduct of on-the-job training programs where collective bargaining agreements exist with the employer.

(iv) Participants' benefits. Wages and other benefits provided to OJT participants shall be in accordance with conditions specified in § 95.35 of this Subpart and § 98.24.

(3) *Public Service Employment.* (i) Public service employment is subsidized employment with public employers and private non-profit employers who provide public services as defined in § 94.4. This program activity may also include training, manpower services, and other services incident to such subsidized employment. Conditions for participation in public service employment under Title I are contained in § 95.32(b) of this Part 95. Operating conditions and allowable expenditures applicable when Title I funds are used for this activity are the same as those used for this activity when Title II funds are used, as enumerated in Subpart C of Part 96 with the following exceptions: §§ 96.20, 96.22, 96.23(b) (13), 96.26(a) (1), (b), and (c), 96.27, 96.35(a), 96.36(c), and 96.37 (sec. 105(a) (5)).

(ii) Participants' benefits. Wages and benefits for persons in a public service

employment program shall be as provided in Part 96.

(4) *Work experience.* (i) Work experience is a short-term work assignment with a public employer or private non-profit employing agency. It shall be designed to enhance the future employability of youth or to increase the potential of adults in attaining a planned occupational goal. Prime sponsors shall describe in the approved comprehensive employment plan the basic design of their work experience program, including the characteristics of participants who will participate in work experience activity, the objectives of the activity, the duration and expected outcomes of work experience.

(ii) Work experience activities for youth include part-time employment for students attending school, short-term employment for students during summer, short-term employment for out-of-school youth adjusting to a work setting and in transition from school to a job setting; short-term employment for recent graduates; and short-term or part-time employment for those youth who have no definite occupational goal and for whom no training or job opportunity immediately exists.

(iii) Work experience activities for adults include part-time or short-term employment for the chronically unemployed, retired persons, recently discharged military individuals, handicapped individuals, institutional residents and inmates, and others who have not been working in the competitive labor population for extended periods of time. In addition, it may include short-term employment while a definite occupational goal and a training or job opportunity are being developed.

(iv) Program outcomes for work experience participants include (A) return to school; (B) enrollment in post secondary education; (C) enlistment in the military services; (D) enrollment in manpower training and (E) placement in subsidized or unsubsidized employment.

(v) Work experience in the private for profit sector is prohibited.

(vi) Participant benefits. Each participant in a work experience activity shall receive wages. Wages shall be commensurate with such factors as the type of work performed, the geographical region of the program, and the skill proficiency of the participant, provided that a participant's hourly rate of pay shall be at least the highest of (A) the minimum wage prescribed by State or local law for similar employment or (B) the minimum hourly wage set out in sec. 6 (a) (1) of the Fair Labor Standards Act of 1938, as amended, Wages in the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands shall be consistent with the Federal, State, or local law otherwise applicable. Participants in work experience activities shall be provided workmen's compensation and other fringe benefits as specified in § 98.24.

(5) *Services to participants.* This program activity is designed to provide

supportive and manpower services which are needed to enable individuals to obtain employment or retain employment through the post-placement services described in paragraph (iii) of this paragraph (d) (5) or to participate in other manpower program activities funded under this Act or any other Act, leading to their eventual placement in unsubsidized employment. Such services include, but are not limited to the following:

(i) *Manpower Services:* (A) Outreach; (B) Intake and assessment; (C) Orientation; (D) Counseling; (E) Job development; (F) Job placement; and (G) Transportation.

(ii) *Supportive Services:* (A) Health care and medical services; (B) Child care; (C) Residential support; (D) Assistance in securing bonds; (E) Family planning services, provided that such services are made available to a participant only on a voluntary basis, and are not to be a prerequisite for participation in, or receipt of, any services or benefit from the program; and (F) Legal services.

(iii) *Post-placement services.* Manpower and supportive services, as described in paragraphs (i) and (ii) of paragraph (d) (5), may be provided as appropriate to terminated participants who have been placed in unsubsidized employment. These services shall be provided at the discretion of the prime sponsor and shall enable the terminated participant to retain employment. Such services may be provided during the 30 day period following a participant's termination from the program.

(iv) *Participant benefits.* Allowances as described in § 95.34 may be paid to a participant enrolled in services to participants as described in this paragraph (5) when such services are a component of another activity as described in § 95.33 (d) or when such services are regularly scheduled as the only activity in which the participant is enrolled.

(6) *Other manpower activities.* (i) These activities are manpower activities not described in the categories above, or manpower related activities designed to expand job opportunities and enhance the participation of individuals who are eligible to participate in programs funded under the Act. The approved Comprehensive Manpower Plan must describe the basic design of activities undertaken as "other manpower program activities," and the manpower objectives to be accomplished through these activities. These program activities do not fit into any of the above categories, and include, but are not limited to, the following:

(A) Removal of artificial barriers to employment; (B) Job restructuring; (C) Revision or establishment of merit systems; and (D) Development and implementation of affirmative action plans.

(ii) *Participant benefits.* Allowances as described in § 95.34 may be paid to a participant enrolled in other manpower activities as described in this paragraph (6) when such activities are a component of another activity described in § 95.33(d) or when such activities are regularly scheduled as the only activities in which the participant is enrolled and are described in the approved Comprehensive Manpower Plan.

(7) *Combined activities.* (i) A participant enrolled in any activity funded under the Act may be enrolled simultaneously in any other activity as a component of the participant's primary activity. The primary activity constitutes any activity in which the participant is enrolled for more than 50 percent of the scheduled time.

(ii) *Participant benefits.* A participant enrolled in a primary activity for which wages are paid and simultaneously in an activity for which allowances are payable may, at the prime sponsor's option, be paid wages for all hours of participation. A participant enrolled in a primary activity for which allowances are payable may, at the prime sponsor's option, be paid allowances for all hours of participation. However, in this latter case, before placing any individual in such an activity, the prime sponsor shall request a determination from the Internal Revenue Service as to whether income from the non-primary component is taxable.

#### § 95.34 Training allowances.

(a) *The payment system.* To assure accountability and uniformity, and to facilitate the necessary coordination with other programs, the system for payment of allowances under the Act shall be maintained as a standard payment system which will insure prompt and efficient payment to all participants (sec. 111(a)). In addition, the delivery system selected by the prime sponsor shall incorporate a procedure to obtain information concerning receipt of unemployment compensation by participants. The prime sponsor in selecting the delivery system for the payment of participant allowances should give consideration to the use of existing agencies which have experience in operating an allowance payment system. The payment system shall include the following elements:

(1) Determination of entitlement and computation of amount to be paid;

(2) Issuance and distribution of payments;

(3) Maintenance of payment records and preparation of required reports;

(4) Maintenance of a system to detect and collect overpayments; and

(5) Arrangements with other agencies to obtain necessary information to minimize unauthorized allowable payments under this section. This shall include arrangements with:

(i) The State employment security agency for verification of unemployment compensation benefits;

(ii) Local welfare agencies for verification of public assistance payments; and

(iii) Training facilities for submittal of payment requests and certification of attendance.



(b) *Selection of delivery agent.* The prime sponsor is required to provide a standard allowance payment system either directly or through contract with an organization it considers appropriate for its particular circumstances. The prime sponsor may want to give consideration to the Unemployment Insurance Service when selecting the delivery agent for allowance payments.

(c) *Eligibility for allowances.* Subject to paragraphs (j) and § 95.33(d)(7)(ii) allowances shall be paid. Allowances may be paid to participants for time spent in classroom training, other activities as specified in § 95.33(d)(6), or manpower services such as: assessment, orientation, counseling, and transportation. However, allowances for participation in manpower services or other activities may be provided only if such activities are a component of another program activity described in § 95.33(d) or participation is on a regularly scheduled basis as described in the approved Comprehensive Manpower Plan. Furthermore, no allowances will be paid for any course having a duration in excess of 104 weeks (sec. 111a).

(d) *Application for unemployment compensation.* Participants should be encouraged to apply for unemployment compensation benefits, as defined in § 94.4, if they are not already receiving such benefits.

(e) *Basic allowances.* A basic allowance for one week shall, except under the provisions of paragraphs (i) and (j) of this section, equal the highest of:

(1) The minimum hourly wage prescribed by State or local law for employment in the prime sponsor's area, multiplied by the number of hours of participation in which the trainee attends as required, or is absent for good cause; or

(2) The minimum hourly wage set out under Section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, multiplied by the number of hours of participation, which the trainee attends as required, or is absent from for good cause; provided that for the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands the rate provided by the Federal, State, or local law applicable to those areas shall pertain. To compute the number of hours of participation, the prime sponsor may count time spent in classroom training, services to participants, or other activities as specified in § 95.33(d).

(3) *Dependents allowances, incentive allowances, and additional allowances* as described in § 95.34 (f), (g) and (h) are not to be included as a part of the basic allowances.

(f) *Dependents allowances.* Dependents allowances of \$5 per week for each dependent over two, up to a maximum of four additional dependents, for a total maximum of \$20 for six or more dependents shall be provided to participants in activities for which basic allowances are paid. Participants eligible for dependents allowances who also receive dependents allowances from other

sources shall not be precluded from receiving dependents allowances funded under the Act.

(g) *Incentive allowances for persons receiving public assistance or who are in institutions.* (1) Incentive allowances, at the rate of \$30 per week, are in lieu of basic allowances and shall be paid to participants receiving public assistance, as defined in § 94.4, or whose needs or income are taken into account in determining such public assistance payments to others.

(i) Incentive allowances may be reduced pro rata only for absences without good cause.

(ii) Incentive allowances shall be disregarded in determining the amount of public assistance payments individuals are entitled to receive under Federal or federally assisted public assistance programs (sec. 111a).

(2) Incentive allowances, in lieu of basic allowances, but not in excess of such allowances, may be paid institutionalized persons, including prison inmates participating in program activities. The determination as to whether such allowances will be paid, and the amounts thereof, shall be made by the prime sponsor in consultation with officials of the institutions. In the case of prison inmates, all or part of such payments, as determined by the prime sponsor and the head of the institution, may be held in reserve and delivered upon the participants' release from the institution.

(h) *Additional allowances.* Additional reasonable allowances may be paid to participants to cover extraordinary costs associated with participation in an activity. The circumstances in which additional allowances will be paid shall be described in the approved Comprehensive Manpower Plan.

(i) *Adjustments in allowances.* (1) The basic allowance shall be reduced, on a weekly basis, by the amount of unemployment compensation payments, if any, received by participants.

(2) No basic allowance to which an individual may otherwise be entitled shall be diminished in any respect because of receipt of a separation payment provided under any collective bargaining agreement.

(3) The basic allowance may be adjusted upward to the degree that the local cost of living exceeds the national norm, if conditions for such increases are described in the approved plan.

(4) Periodic increases to the basic allowance may be provided as an incentive to participation when such increases are described in the approved plan.

(j) *Waivers of allowance payments.* (1) The payment of all or part of the basic allowance, described in paragraph (e) of this section, may be waived only in accordance with paragraphs (j) (2) or (3) under the conditions described in the approved Comprehensive Manpower Plan or approved modifications to the plan.

(2) Waivers of basic allowance payments, as provided in paragraph (j) (1), shall be allowable only under the following conditions:

(i) That the waiver will be applied to the total enrollment in a course or project and will not be imposed on an individual basis, except as provided in paragraph (j) (3) of this section;

(ii) That the waiver will not have the effect of denying participation to individuals who could not participate without receipt of the allowances;

(iii) That the waiver will increase the number of individuals served;

(iv) That the waiver will otherwise promote the purposes of the Act; and

(v) That all participants for whom allowances are waived will be so notified in writing.

(3) In exceptional circumstances, individual waivers when described in the approved plan or approved modifications to the plan, may be granted under the following conditions:

(i) The waiver is at the written agreement of the participant; and

(ii) Individual waivers may only be granted when all of the funds allocated in the Budget Information Summary for allowances have been obligated and training opportunities are still available and are unfilled.

(4) The dependents allowances described in paragraph (f) of this section may not be waived, except in cases where the entire basic allowance is waived.

(5) Allowance payments may not be waived solely because a participant is a veteran and receives benefits through the Vietnam Era Veteran's Readjustment Assistance Act, as amended.

(k) *Repayments.* Prime sponsors may require participants to repay the amount of any overpayment of allowances under this part. Any overpayment not repaid may be set off against any future allowance or other benefits under the Act to which the participant may become entitled. Where the overpayment was made in the absence of fault on the part of the participant, repayment shall be waived where such recovery would be against equity and good conscience or would otherwise defeat the purposes of the program.

§ 95.35 *Wages; minimum duration of training and reasonable expectation of employment.*

(a) *Wages.* (1) Participants in public service employment programs shall be paid wages as required by Part 96 of these regulations.

(2) Participants in work experience shall be paid wages as required by § 95.33 (d) (4) (vi).

(3) Participants in on-the-job training shall be compensated by the employer at such rates, including periodic increases, as are reasonable considering such factors as industry, geographical region, and trainee proficiency (sec. 111 (b)). In no event shall the rate be less than the highest of the following:

(i) The minimum wage rate specified in Section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended;

(ii) The State or local minimum wage for the most nearly comparable covered employment;

(iii) The prevailing rates of pay for persons employed in similar occupations by the same employer; or

(iv) The minimum entrance rate for inexperienced workers in the same occupation in the establishment or, if the occupation is new to the establishment, the prevailing entrance rate for the occupation among other establishments in the community or area or, any minimum rate required by an applicable collective bargaining agreement.

(4) For hours spent in the production of goods or services, the rate of compensation to be paid to trainees by employers, public or private, shall be specified in a written agreement entered into by the training or employing facility and the prime sponsor.

(5) Wages in the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands shall be consistent with provisions of the Federal, State or local law, otherwise applicable.

(b) *Duration of training.* An individual shall not be referred for training in an occupation which requires less than two weeks of preemployment training unless there are immediate employment opportunities available in that occupation (sec. 703(8)).

(c) *Reasonable expectation of employment.* An individual shall not be referred to training unless the prime sponsor determines, after utilizing available and appropriate community resources, that there is a reasonable expectation of employment for such an individual in the occupation for which the person is being trained (sec. 703(10)).

§ 95.36 *Training for lower wage industries; relocation of industries.*

No participant may be enrolled in any activity or service under this Act in any lower wage industry in jobs where prior skill or training is typically not a prerequisite to hiring and where labor turnover is high, nor may any authority conferred by this Act be used to assist in any relocation of an establishment from one area to another unless the Secretary determines that such relocation will not result in an increase in unemployment in the area of original location or any other area where it conducts business operations (sec. 704(a)).

§ 95.37 *Cooperative relationships between prime sponsor and other manpower agencies.*

(a) Each prime sponsor shall, to the extent feasible, establish cooperative relationships or linkages with other manpower and manpower related agencies in the area within its jurisdiction, in particular, with agencies operating programs funded through the Department (sec. 105(a)(3)(D)).

(b) Prime sponsors shall, to the extent feasible, notify the appropriate apprenticeship agency of training activities in apprenticeship occupations (sec. 105(a)(3)(D)).

(c) Any prime sponsor which intends to provide services under the Act to recipients of Aid to Families with Dependent Children (AFDC) should coordinate

such services with the local sponsor of the Work Incentive Program, if any, to assure that the delivery of services under this Act is consistent with the WIN requirements. The provision of comprehensive manpower services to recipients of AFDC who are required to register for the WIN program may be affected by provisions of Title IV of the Social Security Act. Limitations on length of training, requirements to accept work in lieu of training, and other regulatory requirements may affect the AFDC recipient's participation in programs under the Act.

Subpart D—Special Grants to Governors  
§ 95.50 *General.*

(a) Funds shall be allocated to each State through a special grant for the support of:

(1) Vocational education services for prime sponsors;

(2) The State Manpower Services Council; and

(3) State manpower services.

(b) Funds available under paragraph (a) shall be granted to each Governor in accordance with the formula allocation set out in § 95.2 of these regulations. Each Governor shall distribute these funds as provided in § 95.55. (secs. 103, 106, 107, and 112)

(c) Provisions generally applicable in Parts 94 through 99 of these regulations shall apply to special grants under this subpart unless otherwise provided.

§ 95.51 *Distribution of funds.*

(a) Five percent of the funds available under Title I of the Act shall be allocated to the Governors of the States to provide needed vocational education and services for prime sponsors through State Vocational Education Boards as set out in § 95.2. These services are to be provided to participants under Title I of the Act.

(b) State Manpower Services Councils shall be supported with funds as set forth in § 95.2(b)(2).

(c) State manpower services provided under Section 106 of the Act shall be funded as set forth in § 95.2(c)(2).

§ 95.52 *Grant application.*

(a) Upon notification by the Secretary of the amount of funds available for a special grant to the State, the Governor shall submit a Special Grant Application to the ARDM on a date set by the Secretary. The ARDM shall determine whether the application shall be approved and shall notify the Governor of his determination. A copy of all forms and instructions for the application for Special Grants are contained in the *Forms Preparation Handbook*.

(b) The Special Grant Application shall contain the following:

(1) *Application for Federal Assistance.* The form provided in FMC 74-7 for Part I of a grant application for non-construction projects is being used for the application for the special grant.

(2) *Special Grant Plan.* This plan consists of:

(i) *Special Grant-Program Planning Summary.* The Special Grant-Program

Planning Summary is a multiprogram form providing for statistical entries on numbers of participants served by vocational education projects and State Manpower Services.

(ii) *Special Grant-Budget Information Summary.* The Special Grant-Budget Information Summary is a multiprogram form providing for entries on funds planned to be obligated and expended in vocational education projects, State Manpower Services Council, and State manpower services.

(iii) *Special Grant Program Narrative.* The narrative for the special grant will be composed of three separate sections. The Program Narrative form contained in the *Forms Preparation Handbook* requires a detailed statement on the program including the following items:

(A) *Vocational Education Services Program Narrative.*

(1) an explanation of the method used to allocate funds to prime sponsor areas and the rationale for the method used;

(2) a summary of all agreements required in § 95.56 between individual prime sponsors and the State Vocational Education Board;

(3) a copy of each such agreement. The summary should follow the procedures established for the development of individual program narratives supporting each nonfinancial agreement. If all of the nonfinancial agreements are not available when the application is submitted, the Governor shall describe the training and services which he expects to be supplied by the State Vocational Education Board to each prime sponsor. Nonfinancial agreements received after the grant is made will be forwarded to the ARDM; and

(4) an explanation of administrative costs which exceed 20 percent.

(B) *State Manpower Services Council Program Narrative.* (1) A listing of members of the Council, identifying the group each member represents;

(2) Identification of the chairman;

(3) A statement of the procedures which will be followed in reviewing prime sponsor plans and making recommendations which will provide more effective overall coordination of manpower services in the State;

(4) A description of the system to be used in monitoring other prime sponsors and State manpower services;

(5) A description of the types of data, materials, and information which will be included in the annual report to the Governor;

(6) If the Governor plans to use part of the funds authorized for the Council under section 103(d) of the Act (one percent of the allocation) for Section 106 (State services), the specific use of the funds shall also be described, including the amount of funds and objectives to be accomplished.

(7) A breakdown of staff and other council costs. This breakdown should include administration, wages, and fringe benefits.

(C) *State Manpower Services Program Narrative.*



(1) Explanation of steps taken to assure cooperation of State agencies with prime sponsors in implementing the program;

(2) Description of State plan for sharing of manpower resources and facilities for most efficient and economical operation;

(3) Coordination of programs financed under Wagner-Peyser Act to provide assistance to individuals in accordance with policies of this Act;

(4) An explanation of the arrangements made by the State to assist the Secretary in carrying out the Secretary's mandatory listing responsibilities under section 2012(a) of title 38 U.S. Code. Such arrangements shall be explained in the State Comprehensive Manpower Plan and shall relate only to Federal contractors and subcontractors and should not be interpreted to include the grantee, subgrantees, or contractors under the Act;

(5) Description of any arrangements for planning areas to serve geographical regions within the State;

(6) Description of provisions for coordination of the manpower and related services to be provided by the State in areas to be served by prime sponsors other than the State, including the exchange of information and coordination of manpower plans;

(7) A description of any of the activities allowable under section 106(c) of the Act, that the State chooses to provide, detailing those activities to be undertaken and the costs and goals of such activities, including:

(i) A description of allowable services being delivered under the Act throughout the State, by State agencies responsible for employment, training, and related services (sec. 106(c)(1));

(ii) A description of special programs and services for rural areas outside major labor market areas; (sec. 106(c)(2));

(iii) A description of the extent to which information will be developed and published regarding economic, industrial, and labor market conditions;

(iv) A description of information and technical assistance to be provided to prime sponsors in the State; and

(v) A description of any model training and employment programs.

(iii) *Assurances and certifications.* The assurances and certifications form applicable to Title I and Title II grants will be included in the special grant application and agreement.

(iv) *Special Grant to Governors Signature Sheet.* The Special Grants to Governors Signature Sheet records the acceptance by the grantee and grantor of the terms and conditions of the grant and any changes to the grant. It records the time period for which the grant is effective, the grant allotment, and amount of funds obligated by the ARDM to the grantee, the section of the Act (i.e., 103(c), 103(d), 103(e)) under which the funding is authorized and the name, title, and signature of the approving official on both sides.

§ 95.53 Application approval and disapproval; grant agreement.

(a) The ARDM shall approve any grant application which meets the following standards and requirements:

(1) It contains all the required forms, information, and certifications required by the regulations; and

(2) It meets the conditions for approval of grant applications under Subpart B of this Part 95.

(b) A special grant agreement shall be signed when the grant application is approved by the ARDM. This agreement is composed of a Special Grant to Governors Signature Sheet and an Assurances and Certifications Form and the Special Grant Plan which is included by reference. The Special Grant Plan shall be attached to the grant agreement.

(c) An application for a special grant shall be disapproved if it fails to meet any requirement of the Act, the regulations promulgated under the Act, or any other applicable law. All other conditions set forth in § 95.19 shall apply to the disapproval of special grants.

(d) Upon approval, the Governor shall provide a summary of the Special Grant to each prime sponsor in the State.

§ 95.54 Modifications; limitations on use of funds.

A modification to a Governor's special grant may be accomplished in three different ways depending upon the magnitude of the modification:

(a) *Modification of grant agreement.*

(1) A modification to the grant agreement is required when the ARDM requires a change in (i) the term of the grant, (ii) the grant allotment, or (iii) the assurances and certifications included in the grant agreement (sections 105 and 108).

(2) When the change in term or grant allotment necessitates substantial change in program design, the prime sponsor shall also submit revised portions of its Special Grant Plan to specifically identify the changes.

(3) When the term or grant allotment is changed, the Governor shall provide a summary of the change to each prime sponsor in the State.

(4) The request for modification will consist of the following: a grant signature sheet; a Special Grant Program Planning Summary and Special Grant Budget Information Summary (one each for the total project and one each for each prime sponsor whose vocational education plan is changed); and a program narrative explaining the proposed modification.

(5) A denial of a Governor's request for a grant modification shall be subject to the appeal procedures set out in Part 98.

(b) *Major plan modification.* (1) When a plan modification falls into one of the following categories, it will be considered to be major plan modification:

(i) When the cumulative amount of transfers among cost categories exceeds

\$10,000 or 5 percent of the grant, whichever is greater; or

(ii) When there is a 15 percent cumulative change in the number of program participants.

(iii) A Governor desiring a major modification shall submit a revised Special Grant-Program Planning Summary and a Special Grant Budget Information Summary and a narrative explanation of the proposed changes to the ARDM. When the quantitative changes necessitate a substantial change in program design, revised portions of the special grant narrative shall also be submitted. The ARDM shall notify the prime sponsor of tentative approval or of tentative disapproval within 10 days of receipt of the proposed modification. Final ARDM action on approval or disapproval shall be taken within 30 days of the receipt of the proposed modification. Appeal of any such determination may be obtained through the procedures set out in Part 98 of the regulations.

(c) *Minor Modifications.* Any other modification shall be considered a minor modification and as such can be made without the prior notification and approval of the ARDM. Such a modification shall be included in the Special Grant-Program Status Summary and Special Grant-Financial Status Report and revised Special Grant-Program Planning Summary and Special Grant-Budget Information Summary reflecting only the items to be modified shall be submitted to the ARDM along with the quarterly report.

(d) *Limitation on use of funds.*

(1) Funds for vocational education services may not be used for any other activities included in this special grant.

(2) Funds for State Manpower Services Councils may be used for State manpower services to the extent such funds are not needed for this council.

§ 95.55 Governor's distribution of vocational education funds.

(a) Upon notification of the funds available to his State for vocational education, the Governor shall inform in writing the State Vocational Education Board and each prime sponsor of the amount of funds available to be spent in each prime sponsor's area and the methodology used to determine that amount. If a prime sponsor elects not to use all or part of the funds provided for its area, it shall notify the Governor who will redistribute the funds among other eligible prime sponsors.

(b) The Governor shall determine the amount of funds to be made available in each prime sponsor's area assuring that such funds do not increase by more than 20 percent the amount of funds available to that prime sponsor's area under the basic allocation formula set out in § 95.2(b).

§ 95.56 Program operations.

(a) *Vocational education services and activities.* (1) The Governor shall provide vocational education funds he receives by special grant to the State Vocational

Education Board as described in § 95.55 of this Subpart D. The State Vocational Education Board will then provide the training and services detailed in a non-financial agreement with the prime sponsor as described in § 95.58 of this Subpart D. This agreement will be developed at the local level between prime sponsors and the State Vocational Education Board to provide vocational education and services to prime sponsor participants eligible under this Part 95 which are consistent with provisions of the prime sponsors' comprehensive plan.

The agreement will then be forwarded to the Governor, to become part of his special grant application which shall be submitted to the ARDM.

(2) Vocational education services which may be provided by a State Vocational Education Board include, but are not limited to, basic or general education, educational programs conducted for offenders, institutional training, and supportive services as defined in § 95.33 (d)(5) or as authorized as supportive services in vocational education programs administered by a State Vocational Education Board. The services provided must be consistent with the provisions of the Act and regulations. Vocational education funds allocated under this Subpart D may also be utilized, as appropriate, for the payment of allowances to participants in vocational education training and for administrative costs incurred for the vocational education programs funded under the Act.

(3) If no Vocational Education Board exists within a State, the Governor may provide financial assistance to an alternate agency which serves the same purpose as a State Vocational Education Board.

(b) *State Manpower Services Council.* The Governor shall, from funds available under § 95.2(b)(2), provide staff and other necessary services in support of the Manpower Services Council in performing its functions under § 95.13(d).

(c) *State manpower services.* Funds provided under § 95.2(c)(2) of these regulations are to be used for the following:

(1) Activities required to be performed by State prime sponsors:

(i) Assurance that the State agencies providing manpower and manpower-related services either independently or as subgrantees or contractors will cooperate with prime sponsors and eligible applicants in implementation of the program.

(ii) Development of methods for the sharing of resources and facilities in order to carry out manpower programs throughout the State. The administration of such programs will be designed to meet the needs of the area with minimum duplication and in the most efficient and economical manner.

(iii) Coordination of programs financed under the Wagner-Peyser Act in accordance with such rules, regulations, and guidelines as the Secretary determines necessary for the purpose of providing coordinate and comprehensive assistance to those individuals requiring manpower and manpower-related serv-

ices to achieve their full occupational potential in accordance with the policies of the Act;

(iv) Arrangements made by the State to assist the Secretary in carrying out the Secretary's mandatory listing responsibilities under section 2012(a) of title 38 U.S. Code. Such arrangements shall be explained in the State Comprehensive Manpower Plan and shall relate only to Federal contractors and subcontractors and should not be interpreted to include grantees, subgrantees or contractors under the Act (sec. 106(b)(5)).

(v) Arrangements for any planning areas to service geographical regions within the State, including a description of the roles and responsibilities of the planning area with particular emphasis on the steps taken to assure that plans of all State agencies for delivery of services have been effectively coordinated.

(vi) Coordination of the manpower related services to be provided by the State in areas to be serviced by prime sponsors other than the State, and that provision has been made for the establishment of mechanisms to (A) provide for the exchange of information between States and local governments on State, intrastate, and regional planning in areas such as economic development, human resource development, education, and such other areas that may be relevant to manpower planning; and (B) promote the coordination of all manpower plans in a State so as to eliminate conflict, duplication, and overlapping between manpower services under the Act and manpower services provided under other statutory authority.

(2) Activities which may be provided at the option of the State (sec. 106(c)) are as follows:

(i) Provision of allowable services under the Act which are being delivered throughout the State by State agencies responsible for employment and training and related services;

(ii) The provision of financial assistance for special programs and services designed to meet the needs of rural areas outside major labor market areas;

(iii) Development and publication of information regarding economic, industrial, and labor market conditions, including but not limited to job opportunities and skill requirements, labor supply in various skills, occupations, and economic and business development and location trends;

(iv) Provision of services without reimbursement and upon request to any prime sponsor serving an area within the State, such information and technical assistance to assist any such prime sponsor in developing and implementing its programs under the Act; and

(v) Development of special model training and employment programs and related services, including programs for offenders similar to programs described in Section 301(c) of this Act.

§ 95.57 Funding; grant administration.

(a) *Funding.* Special grants will be funded in the same way as basic grants under this Part 95.

(b) *Grant administration.* The requirements relating to grant administration contained in Part 98 are applicable to special grants to Governors, except as provided in Subpart D of Part 95.

(1) The overall 20 percent limitation on funds used for administration as set out in § 98.12(f)(6) shall not apply to the special grant.

(i) Funds provided for vocational education services through the special grant are subject to the provisions of the 20 percent limitation on use of funds § 98.12(f)(6). Fifty percent (50%) of the vocational education funds allocated to administration shall be made available to local prime sponsors through the non-financial agreement unless adequate justification for not doing so is provided to the ARDM by the Governor.

(ii) There is no administrative cost limitation on funds for State Manpower Services Councils on State manpower services.

(2) When funds for vocational education services are used for the payment of allowances to participants, the method of payment utilized must be that of the prime sponsor whose participants are receiving such allowances.

(i) Where the prime sponsor has an established delivery system for the payment of allowances pursuant to § 95.34, the State Vocational Education Board shall transfer the required funds to the agency administering that system.

(ii) Where the prime sponsor has no allowance payment delivery system, the method of payment shall be developed between the prime sponsor and the State Vocational Education Board, subject to the requirements of § 95.34.

(c) *Reports for special grants.* A Special Grant-Program Status Summary and Special Grant-Financial Status Report containing financial and statistical data is required. The Governor will supply to each prime sponsor to which he is providing services a Special Grant-Program Status Summary and Special Grant-Financial Status Report for funds expended in its area and will submit a summary Special Grant-Program Status Summary and Special Grant-Financial Status Report, with copies of the individual prime sponsor reports attached, to the ARDM. These reports will be submitted for each Federal fiscal year quarter, to be submitted no later than 30 days after the end of the reporting quarter. Instructions for completion of these reports are in the *Forms Preparation Handbook*.

§ 95.58 Nonfinancial agreement between prime sponsor and State Vocational Education Board.

(a) Upon notification of the funds available for its area, the prime sponsor shall develop a financial, statistical, and narrative plan for the expenditure of such funds by the Vocational Education Board in the prime sponsor's area. This plan shall be developed consistent with the prime sponsor's Comprehensive Manpower Plan and shall be submitted to the Vocational Education Board for its approval. When approved, the plan will be signed by both the prime sponsor



and the Board and will constitute a non-financial agreement.

(b) The Vocational Education Board shall provide services to the prime sponsor upon receipt of the necessary funds from the Governor. The non-financial agreement will consist of the following four sections:

(1) Prime sponsor vocational education nonfinancial agreement signature sheet;

(2) Part I of the Special Grant-Program Planning Summary;

(3) Appropriate columns of the Special Grant-Budget Information Summary;

(4) Vocational education program narrative.

(c) After the agreement is signed, a copy will be sent to the Governor for his review and approval.

(d) The Governor shall develop procedures for the prime sponsors and the Vocational Education Board to follow when they desire to modify the nonfinancial agreement.

(e) The Governor shall develop procedures to assure that the Vocational Education Board provides services consistent with the Governor's vocational education plan and the nonfinancial agreements between the Board and the prime sponsors.

#### § 95.59 Coordination with prime sponsor.

(a) The financial and statistical information from the approved Nonfinancial Agreement Program Planning Summary and Budget Information Summary will be entered into the relevant columns of the prime sponsor's basic grant Program Planning Summary and Budget Information Summary as provided in the *Forms Preparation Handbook*. If the Comprehensive Manpower grant has been signed prior to final approval of the Vocational Education Agreement, a modified prime sponsor's grant Program Planning Summary and Budget Information Summary will be submitted when the vocational education information is available.

(b) Information provided by the Vocational Education Program Status Report and Financial Status Report, supplied to the prime sponsor from the Governor, will be entered in the prime sponsor's basic grant Program Status Report and Financial Status Report.

#### PART 96—PROGRAMS UNDER TITLE II OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

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AUTHORITY: Comprehensive Employment and Training Act of 1973, as amended (Pub. L. 93-203, sec. 702(a), 87 Stat. 839; Pub. L. 93-567, 88 Stat. 184), sec. 702(a), unless otherwise noted.

#### Subpart A—General

##### § 96.1 Scope and purpose.

(a) This part contains the Department of Labor's regulations providing for the establishment and operation of public service employment programs, and other manpower programs, under title II of the Act.

(b) Provisions for Title II programs for Indian tribes on Federal and State reservations are found in Subpart D of this Part 96. The provisions of Subparts A, B, and C apply only to non-Indian eligible applicants except as otherwise noted in Subpart D.

(c) Definitions for every abbreviation and major term may be found in Part 94 of these regulations.

(d) Statutory authority for the regulations contained in this Part 96 may be found in section 702(a) of the Act, as well as in other substantive provisions of the Act. Applicable statutory provisions, other than section 702(a) are noted generally in these regulations.

#### § 96.2 Allocation of funds.

(a) Funds appropriated under Title II of the Act are available only for areas of substantial unemployment and may be allocated by the Secretary only to eligible applicants (secs. 204(a) and 204(c)).

(b) (1) At least 80 percent of the funds available under Title II shall be allocated among eligible applicants in accordance with a ratio comparing the number of unemployed persons residing in areas of substantial unemployment within each eligible applicant's jurisdiction to the number of unemployed persons residing in all areas of substantial unemployment (sec. 202(a)).

(2) Funds not allocated as provided in paragraph (b) (1) of this section, may be distributed by the Secretary at his discretion taking into account the severity of unemployment in such areas and may include additional areas of substantial unemployment designated by the Secretary after the fiscal year allocation of Title II funds (sec. 202(b)).

(c) An eligible applicant shall distribute to a program agent those funds that are allotted to the eligible applicant under the formula specified in paragraph (b) (1) for use within the program agent's jurisdiction, unless the program agent declines to operate a program under Title II of the Act, in which case, the eligible applicant will make other arrangements to serve that jurisdiction (sec. 204(d) (1)).

#### § 96.3 Eligibility for funds.

(a) Funds shall be allocated by the Secretary only to eligible applicants. Eligible applicants are those prime sponsors and Indian tribes on Federal or State reservations, as defined in § 94.4, which include areas of substantial unemployment (sec. 204(a)).

(b) For the purpose of allocating funds, the term "eligible applicant" shall include any entity which is eligible to be a prime sponsor under Title I of the Act and Indian tribes on Federal or State reservations as described in § 96.42 (sec. 204(b)).

(c) A State shall not qualify as an eligible applicant for any geographical area within the jurisdiction of any other eligible applicant within the State unless the non-State eligible applicant has not submitted an approvable application for Title II funds (secs. 204(a) (1) and 102(b) (1)).

(d) A unit of general local government shall not qualify as an eligible applicant with respect to any area within the jurisdiction of another eligible unit of general local government unless such

smaller unit has not submitted an approvable application for such areas (sec. 204(b) and 102(a) (b) (2)).

(e) (1) Eligible applicants shall distribute funds to program agents, as provided in § 96.2(c) of this Part 96 (sec. 204(d) (1)).

(2) (i) No program agent shall receive or continue to receive funds for any area of substantial unemployment within the jurisdiction of another program agent unless the ARDM determines that the smaller program agent has not carried out its administrative responsibility for developing, funding, overseeing, and monitoring programs within its area, consistent with the application for financial assistance developed by the eligible applicant in cooperation with the program agent (secs. 204(d) (3) and 102(b) (2)).

(ii) No eligible applicant may make other arrangements, as specified in § 96.2(d), for serving an area of substantial unemployment being served by a program agent, which the eligible applicant determines is not carrying out its administrative responsibility for developing, funding, overseeing, and monitoring programs within its area, consistent with the application for financial assistance developed by the eligible applicant in cooperation with the program agent, except with the review and the concurrence of the ARDM (sec. 204(d) (2)).

(f) (1) An eligible applicant or program agent, other than a State, whose entire jurisdiction qualifies as an area of substantial unemployment shall, to the extent feasible, allocate funds for identifiable subareas which meet the unemployment rate requirement of areas of substantial unemployment in § 94.4. Such allocation to subareas shall be based on the ratio of the number of unemployed persons residing in each subarea to the total number of unemployed persons within the eligible applicant or program agent's jurisdiction.

(2) Where the eligible applicant is a State that has an unemployment rate for its jurisdiction of at least 6.5 percent, the State shall, to the extent feasible, allocate its funds under Title II to individual areas of substantial unemployment within its jurisdiction. Such allocations shall be based on the ratio of the number of unemployed persons residing in each individual area of substantial unemployment to the sum of unemployed persons residing in all such areas of substantial unemployment within the State's jurisdiction.

(3) An eligible applicant or program agent with an overall unemployment rate of less than 6.5 percent shall allocate its funds only for those areas of substantial unemployment specified by the Secretary (secs. 204 and 202(a)).

(g) If an eligible applicant finds that there is an area of substantial unemployment within its jurisdiction that has not been designated by the Secretary to receive assistance, it may recommend that such area be considered for assistance by the Secretary. In making any such recommendation, the eligible appli-

cant must include a precise geographical definition of the area to be served and its population. Such a recommendation shall be submitted to the ARDM. The Secretary shall, within a reasonable time, make a determination on the recommendation and inform the eligible applicant of the determination and the reasons therefor.

#### Subpart B—Grant Application

##### § 96.10 General.

This Subpart B provides the procedures for obtaining grants to operate programs under Title II of the Act.

##### § 96.11 "Preapplication for Federal Assistance"; Consortium Agreements.

Potentially eligible applicants, including consortia formed under § 95.11 of these regulations, shall be notified of their eligibility to apply for grants under Title II. At that time such applicants shall submit a preapplication following the procedures set forth in § 95.11(a) of these regulations.

##### § 96.12 Eligible applicant designation.

Upon receipt of a completed preapplication the ARDM shall determine whether the applicant is eligible to operate a program under Title II of the Act. The ARDM shall notify the applicant of the determination according to the procedures set forth in § 95.12 of these regulations.

##### § 96.13 Planning process; advisory councils.

To receive financial assistance under Title II of the Act, eligible applicants shall submit an approvable comprehensive Title II plan, as set out in § 96.14 of this Part 96. In developing and modifying such a plan, an eligible applicant shall utilize the planning process and the advisory councils as set out in § 95.13 (b), (c), (d), and (e) of these regulations.

##### § 96.14 Content and description of grant application.

(a) General. (1) This section describes the grant application which the applicant will use to apply for its grant allotment of funds under Title II of the Act. A single grant document may be provided by the ARDM for obtaining funds under Titles I and II. Such a document shall contain all the requirements set out for such grants in these regulations.

(2) A copy of all forms and instructions are contained in the *Forms Preparation Handbook*.

(b) Grant application forms—(1) Application for Federal Assistance. The Application for Federal Assistance identifies the eligible applicant and the amount of funds requested; it provides information concerning the area to be served and the number of people expected to benefit from the program. The form for Part I of the Application for Federal Assistance (Nonconstruction) contained in FMC 74-7 is being used.

(2) The Comprehensive Title II Plan. The Comprehensive Title II Plan is a statement of how the eligible applicant

intends to use Title II funds and to coordinate its activities with other manpower programs and services operating within its jurisdiction. The Comprehensive Title II Plan consists of the Narrative Description of the Title II Program, the Program Planning Summary, the Budget Information Summary, the Monthly Schedule, the Public Service Employment Occupational Summary, and the Program Summary all described below. For consortia, the consortia agreement approved pursuant to § 95.11 (b) will be a part of the plan.

(i) Narrative Description of the Title II Program. The Narrative Description of the Title II program provides for a narrative outline of the proposed program under Title II of the Act. It identifies and explains the manpower programs within the eligible applicant's jurisdiction, describes proposed program activities and delivery systems to deal with those problems, and projects the results which may be expected from the program. The Narrative Description of the Title II program requires a detailed statement on the program, including the following items:

(A) Objectives and needs for assistance. (1) Policy statement on purpose of program;

(2) Description of economic conditions;

(3) Description of labor force characteristics;

(4) Explanation of skill shortage occupations;

(5) Definition of manpower needs;

(6) Statement of groups to be served including consideration given to priority groups and occupations; and

(7) Statement of goals to be accomplished;

(B) Results and benefits expected. (1) Statement relating planned outputs to needs;

(2) Rationale for selection of program activities;

(3) Statement of how the program design will provide participants with economic self-sufficiency; and

(4) Explanation of how the program will enhance career development.

(C) Approach. (1) Public Service Employment Programs. (i) Description of unmet public service needs and priorities;

(ii) Relationship of types of jobs to public service needs described above;

(iii) Justification of funding and job allocation to government agencies and by subarea;

(iv) Description of strategy for serving and matching jobs to special veterans skills;

(v) Description of plan for providing services to significant segments, and disabled, special, and recently discharged veterans, welfare recipients, and former manpower trainees;

(vi) Description of orientation procedures for participants in a public service employment program;

(vii) Description of determination of rates of compensation when they differ from what is normally paid by the employer;



(viii) Description of actions to insure compliance with personnel procedures and collective bargaining agreements for jobs in other than the entry level;

(ix) Plans to improve and expand employment and advancement opportunities of the target population;

(x) Description of supervisory training, education and other services to participants;

(xi) Explanation of linkages with other programs;

(xii) Description of efforts to remove artificial barriers;

(xiii) Maintenance of effort verification;

(xiv) Description of special consideration to veterans; and

(xv) Description of continuity of services to participants when the geographical area of the prime sponsor jurisdiction changes.

(2) Other program activities. (i) Rationale for selection of activities;

(ii) Description of each activity;

(iii) Description of enrollee flow and any relationship among activities;

(iv) Description of methods to be used to recruit, select, and determine eligibility of participants;

(v) Description of how persons of limited English-speaking ability will be served if they represent a significant portion of an eligible applicant's program;

(vi) Explanation of reasons specific delivery agents were selected including reasons existing public delivery agents, such as area skill centers and State employment service offices, were not utilized; and

(vii) Description of coordination with deliverers of manpower services not supported by the Act.

(3) Description of administrative system including accounting for placements and allowance payment system.

(4) Description of the mechanism for assuring equal employment opportunity.

(5) Justification of administrative costs planned.

(6) Description of the geographical locations to be served.

(ii) *Program Planning Summary.* The Program Planning Summary requires a prime sponsor to provide a quantitative statement of planned enrollment levels; the participants to be served by each program activity (classroom training, on-the-job-training, public service employment, work experience, and other activities) and outcomes for program participants. It also requires an identification of the significant segments of the population and the number of individuals to be served in each.

(iii) *Budget Information Summary.* The Budget Information Summary requires a prime sponsor to provide a quantitative statement of planned expenditures and obligations. It requires prime sponsors to indicate yearly planned expenditures by cost category (administration, allowances, wages, fringe benefits, training, and services). The prime sponsor is to reflect planned quarterly obligations and planned expenditures by program activity.

(iv) *Monthly Schedule.* A monthly estimate of total individuals enrolled at the end of the month and total cumulative expenditures shall be provided. Such monthly schedule will reflect the activity for each month during the grant period under Title II.

(v) *Public Service Employment Occupational Summary.* The Occupational Summary requires an eligible applicant operating a public service employment program under Title II of the Act to provide a description of proposed job opportunities, occupations and wages, including a comparison of such wages with wages for similar nonsubsidized jobs in the employing agency.

(vi) *Program Summary.* The Program Summary presents a distribution of jobs, training slots, and funds to be provided to eligible applicants and subgrantees. It designates the areas to be served, the population and employing agencies of each area.

(3) *Assurances and Certifications.* The Assurances and Certifications form is a signature sheet on which the eligible applicant assures and certifies that it will comply with the Act, the regulations of the Department, other applicable laws, and applicable Federal Management Circulars and Office of Management and Budget (OMB) circulars. The Assurances and Certifications form appears in the *Forms Preparation Handbook*. Assurances for Titles I and II are submitted on the same form. The assurances are summarized in § 95.14(b)(3) of these regulations. In addition to these assurances, the assurances, summarized below, are also required for Title II:

(i) Hiring of residents of areas of substantial unemployment for all jobs created under Title II and providing services to benefit residents of such areas.

(ii) Selection of other than necessary technical, supervisory and administrative personnel from the unemployed and underemployed population.

(iii) Special consideration for eligible disabled veterans, special veterans, and veterans who served in the Armed Forces and who received other than a dishonorable discharge within four years before the date of their application.

(4) *Grant Signature Sheet.* The Grant Signature Sheet records the acceptance by the grantee and grantor of the terms and conditions of the grant and any changes thereto. It records the time period for which the grant is effective, the grant allotment, the amount of funds obligated by the ARDM to the grantee, the title of the act under which the funding is authorized, and the name, title and signature of the approving official on both sides.

§ 96.15 *Comment and publication procedures relating to submission of grant application.*

Each eligible applicant shall provide an opportunity for comment on the application as set out in § 95.15 of these regulations.

§ 96.16 *Submission of grant application; standards for reviewing grant applications.*

(a) Each eligible applicant shall submit its grant application to the ARDM on or before a date set by the Secretary.

(b) A grant application shall include all items set out in § 96.14 of this Part 96.

(c) A grant application will be reviewed to determine if it meets the requirements of the Act, the regulations promulgated under the Act, and other applicable law. In reviewing a grant application, the ARDM shall use the standards set forth in § 95.17(b) of these regulations.

§ 96.17 *Application approval; application disapproval; grant agreement.*

The procedures set forth in § 95.18 and § 95.19 shall apply for Title II applications and grant agreements.

§ 96.18 *Use of alternative eligible applicant; services by the secretary.*

The provisions detailed in § 95.20 shall apply to applications and grants made pursuant to Title II of the Act.

§ 96.19 *Modification of grant agreement; modification of comprehensive Title II Plan.*

(a) The procedures set forth in § 95.21 of these regulations concerning the modification of grant agreements shall apply to grant agreements funded under Title II of the Act, with the additional requirement that when the grant allotment is changed a revised Program Summary, reflecting only the changes resulting from the change in grant allotment, will be included as a part of the modification submittal.

(b) The procedures set forth in § 95.22 of these regulations shall apply to the modification of the comprehensive Title II plan.

#### Subpart C—Program Operation

§ 96.20 *General.*

This Subpart C sets out the program operation requirements for eligible applicants and subgrantees. The utilization of funds under Title II of the Act is conditioned upon adherence to the requirements of this subpart, as well as adherence to the Act, other applicable law, and other terms and conditions of the regulations promulgated in this part.

§ 96.21 *Basic responsibilities of eligible applicants.*

An eligible applicant is responsible for:

(a) Requesting, receiving and administering funds within its jurisdiction (secs. 203(a) and 205(c)(1));

(b) Allocating funds and jobs equitably among public agencies within its jurisdiction (sec. 205(c)(23));

(c) Developing a plan to effectively implement a program of transitional public employment and related training and manpower services (sec. 203(a));

(d) Developing, to the greatest extent possible, new careers and opportunities for career advancement for participants (sec. 205(c)(4));

(e) Performing reviews at 6-month intervals on the status of each participant to assure that the participant's job has potential for advancement or suitable continued employment (sec. 207(a));

(f) Administering or supervising all activities under its approved plan including the establishment of hearing procedures, as set out in Part 98 of this title, (sec. 205(c)(1));

(g) Assuring that the program will, to the extent feasible, contribute to the elimination of artificial barriers to employment and occupational advancement within its jurisdiction (sec. 205(c)(18)); and

(h) Assuring that employing agencies provide information regarding their employment opportunities funded under the Act to the local State employment service and that such vacancies are filled, as specified in § 96.30(a).

§ 96.22 *Basic responsibilities of program agents; relationship with eligible applicants.*

(a) A program agent, as defined in § 94.4, shall be delegated by the eligible applicant the administrative responsibility for developing, funding, overseeing and monitoring programs with respect to the funds made available to it under Title II of the Act.

(b) A program agent shall carry out its functions consistent with the grant application developed by the eligible applicant in cooperation with the program agent and shall be responsible to the eligible applicant for carrying out its program in a manner consistent with the application (sec. 204(d)(2)).

(c) Unreconciled differences between an eligible applicant and a program agent shall be submitted to the ARDM.

(d) If a program agent fails to comply with paragraph (b), it is the responsibility of the eligible applicant, consistent with the regulations, to initiate whatever action is necessary to assure program agent compliance. Such action may include the eligible applicant reallocating funds to an alternative program agent to serve the original area or deciding to serve the area itself. However, no such action shall be taken by an eligible applicant except with the review and concurrence of the ARDM.

§ 96.23 *Acceptable public employment positions.*

(a) Funds provided under Title II which are used for public service employment shall only be used to fund public service needs which have not been met and to implement new public services (sec. 201).

(b) In developing job opportunities under this Part 96 the following requirements shall apply:

(1) The jobs provided must meet public service needs as defined in the Act and the regulations promulgated in this Part 96 (sec. 205(a));

(2) Program emphasis shall be on transitional employment; jobs which are likely to lead to regular, unsubsidized employment or opportunities for contin-

ued training (secs. 201, 205(b)(4), (b)(6), (b)(11), and 205(c)(26));

(3) Jobs shall be provided, to the extent feasible, in occupational fields which are most likely to expand within the public or private sector as the unemployment rate recedes (sec. 205(c)(6));

(4) Jobs shall be allocated among State and local public agencies and subdivisions thereof, such as educational agencies, within the applicant's jurisdiction, taking into account the number of unemployed persons within each area, their needs and skill levels, the needs of the agencies and the ratio of jobs in the area at each governmental level. The eligible applicant has the ultimate responsibility for determining the equitable distribution and for selections, job structure, participant benefits, and all other aspects of the jobs funded under this title (sec. 205(c)(23));

(5) To the extent consistent with the maintenance of effort requirements of § 96.24, jobs may also be allocated to private non-profit agencies which provide public service employment, such as educational, social service and health agencies, within an eligible applicant's jurisdiction where jobs in such agencies may best serve the unemployed population based on the considerations stated in § 96.23(b)(4);

(6) Title II participants may be stationed at work-stations hosted by Federal agencies provided the employment is geared to the skills and abilities of the participant and is consistent with these regulations;

(7) Jobs may be located only within the eligible applicant's jurisdiction unless the eligible applicant determines that the effective operation of its program under Title II is possible only by creation of some jobs outside of its jurisdiction. In such cases, the jobs created must employ residents of the eligible applicant's jurisdiction and be within reasonable commuting distance of the residents of the eligible applicant's jurisdiction;

(8) Jobs will not be "deadend," but will contribute to career advancement and the development of the employment potential of participants. Opportunities for continued training are to be provided to support the upward mobility of participants (secs. 205(a), 205(c)(4), and 208(a)(6));

(9) No more than one-third of the participants in any program may be employed in a bona fide professional capacity as defined in 29 CFR 541.3 issued pursuant to section 13(a)(1) of the Fair Labor Standards Act of 1938, as amended. The exception to this limitation is the hiring of classroom teachers. (Generally, according to the F.L.S.A., a professional is an individual (i) with a professional education, usually requiring more education than a Bachelor's degree or whose work is original and creative in an artistic field, (ii) at least 80 percent of whose work requires discretion and judgment and is intellectual in nature, and (iii) who earns at least \$170 a week (\$150 in Puerto Rico, Virgin Islands, or American Samoa). A less stringent test applies to individuals earning \$250 or more a week. Lawyers, doctors and teachers working as such are professional without regard to their earnings (for further explanation see 29 CFR 541.3) (sec. 205(c)(22));

(10) The program excludes employment in building and highway construction work (except that which is normally performed by the prime sponsor or eligible applicant) and other work which inures primarily to the benefit of a private profit-making organization;

(11) Jobs in each job category shall in no way infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public service jobs not subsidized under Title II (sec. 205(c)(24));

(12) No job will be filled in other than an entry level position in each job category until applicable personnel procedures and collective bargaining agreements have been complied with (sec. 205(c)(24)); and

(13) To the extent feasible, the public services provided by the jobs should be designed to serve the residents of the areas of substantial unemployment designated for Title II funds (sec. 205(c)(3)).

§ 96.24 *Maintenance of effort.*

(a) Employment funded under Title II of the Act shall only be in addition to employment which would otherwise be financed by the eligible applicant without assistance under this title (sec. 205(c)(25)).

(b) To assure maintenance of effort, a public service employment program under Title II of the Act:

(1) Shall result in an increase in employment opportunities over those which would otherwise be available;

(2) Shall not result in the displacement of currently employed workers, including partial displacement such as a reduction in hours of non-overtime work, wages, or employment benefits;

(3) Shall not impair existing contracts for service or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed; and

(4) Shall not substitute public service jobs for existing federally assisted jobs (sec. 208(a)(1)).

(c) Eligible applicants, program agents and other subgrantees may not terminate, lay-off or reduce the normal working hours of an employee for the purpose of hiring an individual under a Title II program (secs. 205(c)(8) and 208(a)(1)(B)). However, the hiring of former employees who lost their jobs due to a bona fide lay-off is not prohibited if it does not constitute a violation of the maintenance of effort provisions of the Act and these regulations.

(d) These regulations do not authorize the hiring of any person when any other person is on lay-off from the same or any substantially equivalent job (sec. 205(c)(7)(8)). If lay-offs of regular employees occur during the Title II grant period, Title II participants may not remain working in the same or substantially equivalent job within the employing agency that is affected by the

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lay-off. Under these circumstances, the Title II participants would either be transferred to positions not affected or be laid off (sec. 205(c)(8)).

(e) Eligible applicants shall, at the direction of the ARDM, submit budgetary expenditure documentation, revenue statements, and other information relevant to determination under this section, in addition to that required with the grant application.

#### § 96.25 Responsibility for selecting participants.

(a) The ultimate responsibility for the selection of participants rests with the eligible applicant. The eligible applicant, subject to its direction, may delegate the administration of this responsibility to program agents, other subgrantees and employing agencies. The selecting agency must provide adequate documentation of each applicant's eligibility and retain in the participant's folder, as provided in § 98.18(b), the information on which this documentation is based. The selecting agency shall also retain, as provided in § 98.18(b), the applications of persons not selected for participation and the reasons for their nonselection (sec. 205(c)(2)(26)).

(b) Adequate documentation shall consist of a signed, and dated, complete application for employment, including the last date of employment, which attests that the information in the application is true, to the best of the applicant's knowledge.

#### § 96.26 Place of residence for participants.

(a) *General.* (1) At the time of both application and selection, program participants shall reside in an area of substantial unemployment within the jurisdiction of the eligible applicant or program agent (sec. 205(c)(3)).

(2) An eligible applicant may receive additional funds as a subgrantee of another eligible applicant to enroll residents of the other eligible applicant's jurisdiction in any public service job or other manpower program under Title II. The eligible applicant receiving funds must offer jobs or programs which are within reasonable commuting distance of residents of the other eligible applicant's jurisdiction.

(b) *Consortia of eligible applicants.* In the case where two or more eligible applicants have formed a consortium to operate programs under Title I and Title II, residents of any designated area of substantial unemployment within the boundaries of the consortium may be employed in public service jobs or enrolled in any other manpower activity either within the geographical boundaries of the consortium or outside such boundaries in which case the provisions of § 96.23(b)(7) shall apply; provided, that the total amount of funds available for residents of each area of substantial unemployment of each participating eligible applicant equals the amount of funds that the area would have received if the consortium had not been formed.

(c) *Consortia of units of general local*

*government formed in order to qualify as program agents; multijurisdictional eligible applicants.* The provisions of paragraphs (a) and (b) shall apply to consortia of units of general local government formed in order to qualify as program agents and shall apply to multijurisdictional eligible applicants.

#### § 96.27 Eligibility for participation in a Title II program.

(a) A person residing, as defined in paragraph (f) of this section in an area of substantial unemployment who has been unemployed for at least 30 days prior to application or is underemployed is eligible to participate in a program under Title II of the Act (sec. 201 and 205(a)). A person who obtains permanent, full-time unsubsidized employment after application shall no longer be considered eligible for Title II, unless, even with his full-time employment, he still qualifies under § 94.4(hhh)(2) or § 94.4(fff) of these regulations.

(b) A veteran who has served on active duty in the U.S. Armed Forces for a period of more than 180 days or who was discharged or released from active duty for a service connected disability, shall be immediately eligible, upon discharge, for participation in a program under Title II of the Act without regard to the 30-day unemployment requirement which would otherwise pertain (sec. 2013, Vietnam Era Veterans' Readjustment Assistance Act of 1972, Pub. L. 92-540).

(c) A person participating in a public employment program under a section 5 or section 6 grant funded by the Emergency Employment Act (EEA) who is currently, or was at the time of his selection for such participation, geographically eligible may be transferred into the Title II grant program covering that geographical area, in order to provide for the orderly phase out of the EEA grant, provided that maximum efforts have been made to place such an individual in unsubsidized employment or training.

(d) (1) Title I, section 302, and section 303 enrollees under the Act may be transferred into a Title II program only if they met the requirements of paragraphs (a) and (f) of this section prior to their entry into the Title I, section 302, or section 303 program, and if maximum efforts have been made to place such individuals in unsubsidized employment or training (sec. 105(a)(2)).

(2) Title VI participants who met the requirements contained in paragraphs (a) and (f) of this section prior to their entry into a Title VI program may be transferred into Title II.

(3) A person participating in a WIN public service employment program under Part C, Title IV of the Social Security Act, who leaves or is removed from the public service employment position, and wishes to enroll in Title II shall be treated in the same manner as any other Title II applicant.

(4) If such an individual is still receiving cash welfare payments, that individ-

ual meets the definition of unemployed for this title, and is immediately eligible for Title II if the individual also meets the requirements of paragraphs (f) and (g) of this section.

(ii) If the individual is no longer receiving welfare payments, that individual must meet the standard eligibility criteria for Title II, including the appropriate period of unemployment.

(e) A participant in a public service employment program under this Part 96 may change jobs within a particular eligible applicant's jurisdiction without an intervening period of unemployment, but may not be employed in a job for any other eligible applicant without an intervening period of unemployment of at least 30 days.

(f) For the purpose of this section, the term residence shall mean an individual's dwelling place or home, both at the time the individual applies and is selected for participation in a program under Title II of the Act. In determining whether a particular place is an individual's dwelling place or home, the intention of the individual is the key element. Maintenance of an "address" is not necessarily the same as the maintenance of a dwelling place or home.

(g) Citizenship will not be used as a criterion to prevent permanent residents, including permanent resident aliens, from participating in a program under Title II to the extent consistent with applicable State law. However, no services shall be provided to illegal aliens (those who do not have a bona fide Alien Registration Receipt form or cannot present other documentation from the Immigration and Naturalization Service which shows they may seek employment). Any question arising under this provision may be referred to the immigration specialist in the appropriate Manpower Administration regional office of the Department of Labor.

(h) While selection of eligible full-time students for participation in programs funded under Title II of the Act is not prohibited, eligible applicants should exercise caution in providing for such participation and should provide for such participation only in accordance with these regulations. In providing for such participation, eligible applicants should give special consideration to those persons most severely disadvantaged in terms of length of time they have been unemployed and their prospects for finding employment without assistance under Title II.

#### § 96.28 Special consideration for most severely disadvantaged persons.

Special consideration in enrolling applicants in public service employment and other manpower activities provided under Title II shall be given to unemployed persons who are the most severely disadvantaged in terms of the length of time they have been unemployed and their prospects for finding employment without assistance under Title II (secs. 205(c)(7) and 210).

#### § 96.29 Serving significant segments of the population.

(a) The significant segments of an eligible applicant's population shall be served on an equitable basis. For example, individuals from each significant segment could be placed in programs under Title II in a manner consistent with their incidence in the unemployed population of the eligible applicant's jurisdiction or other measures of equity could be utilized (secs. 205(c)(2) and 208(b)).

(b) Each eligible applicant shall monitor its program to assure that the significant segments of its population are being served in accordance with the requirements of this section.

#### § 96.30 Groups to be provided special consideration.

(a) *Veterans.* (1) Special consideration shall be given to eligible disabled veterans, special veterans, and veterans who served in the Armed Forces and who received other than a dishonorable discharge within four years before the date of their application. Each eligible applicant in selecting participants for programs funded under Title II of the Act, shall take into consideration the extent that such veterans are available in the area. Specific effort should be made to develop appropriate full or part-time opportunities for such veterans. In order to insure special consideration for veterans, all public service employment vacancies under Title II, except those to which former employees are being recalled, must be listed with the State employment service at least 48 hours (excluding Saturdays, Sundays, and holidays) before such vacancies are filled. During this period, the employment service will refer those veterans specified above. If sufficient numbers of veterans are not available, the employment service, upon request, may also refer members of other significant segments. All other applicants are to be referred after the 48-hour period (sec. 205(c)(5)). The eligible applicant should utilize the assistance of State and local veterans employment representatives in formulating its program objectives.

(2) Each eligible applicant shall, on a continuing and timely basis, provide information on job vacancies and training opportunities funded under Title II of the Act to State and local veterans employment representatives and to other veterans organizations for the purpose of disseminating information to eligible veterans (sec. 104(b) of Emergency Jobs and Unemployment Assistance Act of 1974).

(b) *Welfare recipients.* In designing an eligible applicant's plan and enrolling individuals in manpower programs funded under Title II of the Act, special consideration shall be given to welfare recipients.

(c) *Former manpower trainees.* Special consideration shall be given, in developing an eligible applicant's plan and enrolling individuals in the manpower programs funded under Title II of the Act, to persons who have participated in manpower training programs and for

whom work opportunities are not otherwise immediately available (sec. 205(c)(9)).

#### § 96.31 Training and supportive services.

Eligible applicants may provide training and supportive services to an individual participating in a public service employment program. Training may be that which is auxiliary to a participant's position or that which is of benefit to the participant in obtaining employment not subsidized under the Act. Such training may be provided with Title II funds or with funds made available under other imbursement of the reasonable cost, from which are available, with or without re-titles of the Act (consistent with these provisions of existing services and facilities should be given to the utilization or private organizations. Due consideration may be purchased from public and 99). Such training may be provided regulations, 29 CFR, Parts 94, 95, 96, 98, Federal, State and local agencies (secs. 105(a)(3)(B), 105(c)(2) and 205(c)(14) and (19)).

#### § 96.32 Linkages with other manpower programs.

An eligible applicant shall, where appropriate, maintain or provide linkages with upgrading and other manpower programs for the purpose of (1) providing public service employment participants who want to pursue work with the employer, in the same or similar work, with opportunities to do so and to find permanent, upwardly mobile careers in that field, and (2) providing those persons so employed, who do not wish to pursue permanent careers in such field, with opportunities to seek, prepare for, and obtain work in other fields. Eligible applicants shall also maintain linkages with agencies, such as State vocational rehabilitation departments, to provide needed supportive services for participants, such as the elimination of any barriers to employment created by the architectural design of the worksite.

#### § 96.33 Placement goals.

(a) Public service employment programs under the Act shall, to the extent feasible, be designed to enable all individuals to move from such employment programs into unsubsidized full-time jobs in the private or public sector, and shall emphasize the development of new careers and career development opportunities (secs. 201 and 205).

(b) Each eligible applicant, program agent, and subgrantee shall be responsible for efforts to place all participants in unsubsidized employment in both the private sector and the public sector, or in training programs.

(c) To carry out the intent of paragraph (b), each eligible applicant, program agent and subgrantee, to the extent consistent with law and applicable collective bargaining agreements, shall have the goal of accomplishing on an annual basis at least one of the following:

(1) Placing half of the cumulative participants in unsubsidized private or public sector employment; and

(2) Placing participants in half the vacancies occurring in suitable occupations in an eligible applicant, program agent, or subgrantee's permanent work force which are not filled by promotion from within the agency.

(d) Placement goals established consistent with paragraph (c) above are to be understood as goals and are not prescribed as placement requirements. (sec. 211(b)).

(e) Any eligible applicant shall have the right to request a waiver of such placement goals. The request for a waiver may be submitted at any time, and may be granted by the ARDM when in the ARDM's judgment local economic conditions and budgetary constraints warrant such a waiver. (sec. 211(b)).

(f) Whenever such a waiver has been granted by the ARDM, failure to meet the placement goals shall not be cited in any official review or evaluation of that eligible applicant's program (sec. 211(b)).

#### § 96.34 Compensation for participants.

(a) *Minimum wage for participants.* Each participant shall be paid at a rate no less than the highest of the following:

(1) The minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of the Act applied to the participant and if he were not exempt under section 13 thereof (wages to participants in the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa and the Trust Territories of the Pacific shall be consistent with the Federal, State or local law otherwise applicable);

(2) The State or local minimum wage for the most nearly comparable covered employment;

(3) The prevailing rate of pay for persons employed in similar public occupations by the same employer (sec. 208(a)); or

(4) The minimum entrance rate for inexperienced workers in the same occupation in the establishment, or, if the occupation is new to the establishment, the prevailing entrance rate for the occupation among other establishments in the community or area, or any minimum rate required by an applicable collective bargaining agreement.

(b) *Limitations on participant's salary.* (1) Compensation to any participant from Title II Federal funds is limited to a maximum full-time rate of \$10,000 per year, plus the cost of fringe benefits to the extent they do not exceed those paid to workers earning \$10,000 a year. This limitation shall also be applicable for participants in public service employment funded under other titles of the Act.

(2) When a participant is eligible for a promotion or general salary increase that would mean a salary in excess of \$10,000, the participant is entitled to it if other employees similarly employed would be promoted. The employer must pay the amount above \$10,000 from his own funds as well as a prorated share of the increased fringe benefits. Funds from



other titles of the Act shall not be used to supplement the maximum salary limitation for participants.

#### § 96.35 Administrative staff.

(a) *General.* To the extent possible, administrative staff shall be drawn from the unemployed and underemployed population. However, if necessary technical, supervisory and administrative personnel are not available in the unemployed and underemployed population, staff may be recruited from other available sources (sec. 205(c)(20)).

(b) *Compensation.* Eligible applicants may compensate administrative staff from:

(1) Funds not provided under the Act. No maximum salary limitation will apply in this case;

(2) Administrative funds allowed under Title II as specified in § 96.36 of this Part 96. This applies only to non-participants on the administrative staff in which case no salary limitation will apply; or

(3) Funds expended under Title II for wages and fringe benefits for participants as specified in § 96.36 of this Part 96. In this case, the administrative staff member must meet the Title II participant eligibility requirements and be hired as a Title II participant. The salary limitation specified in § 96.34(b) shall apply. Any salary paid to a participant in excess of \$10,000 must be paid from funds other than those provided under the Act.

#### § 96.36 Limitation on funds.

(a) Not less than 90 percent (90%) of the funds appropriated pursuant to Title II of the Act which are used by an eligible applicant for public service employment programs shall be expended for wages and fringe benefits to persons employed in public service jobs (sec. 203(b)).

(b) The remaining 10 percent (10%) may be used for administration, training, or supportive services to participants in public service employment.

(c) An eligible applicant which does not itself administer the entire program may not retain the entire 10 percent (10%) mentioned in paragraph (b) for its own use unless this is agreed to by its subgrantees. At least 5 percent (5%) of a subgrantee's grant must be available to it for costs other than wages and fringe benefits.

#### § 96.37 Use of Title II funds for programs under Titles I and III-A.

Funds available to an eligible applicant may, at its option, be utilized for residents of the areas of substantial unemployment designated under this Part 96 for programs authorized under Title I and Part A of Title III of the Act. Where Title II funds are used for activities authorized under other Titles of the Act, all provisions under this Part 96, except § 96.20, § 96.21(b)(c)(d)(e)(g) and (h), § 96.23, § 96.24, § 96.27(e), § 96.31, § 96.32, § 96.33, § 96.34, and § 96.38, shall apply in addition to those provisions applicable for programs under Title I and Part A of Title III (sec. 210);

however, when Title II funds are used to fund public service employment, all of the provisions of this Part 96 shall apply.

#### Subpart D—Special Conditions for Grants to Indian Tribes on Federal and State Reservations

##### § 96.40 General.

This Subpart D contains special conditions for grants to Indian tribes on Federal and State reservations. To the extent that any provision of this Subpart D differs from any other provision of this Part 96, the provisions of this Subpart D shall govern. In all other matters the requirements of Part 96 apply to this Subpart D. The Division of Indian Manpower Programs in the Office of National Programs shall have full responsibility for all matters pertaining to funds allocated to Indian tribes on Federal and State reservations under Title II of the Act. All references to ARDM in Part 96 shall be read as Director, Division of Indian Manpower Programs.

##### § 96.41 Distribution of funds.

(a) This section describes the methodology for the distribution of funds allocated to Indian tribes on Federal and State reservations as determined by the ratio prescribed in Subpart A, § 96.2.

(b) Funds for Indian tribes eligible for application under Title II shall be distributed as follows:

(1) Funds for use under this Subpart D shall be distributed on the basis of a ratio taking into account the total number of unemployed Indians on all Federal and State Indian reservations which have areas of substantial unemployment and comparing this number with the total number of unemployed persons in all eligible applicant jurisdictions under this Part 96;

(2) Funds determined under paragraph (b)(1) shall be distributed for use by the individual Indian reservations which have areas of substantial unemployment according to the best available estimates of unemployment on each such reservation as compared to the total unemployment on all such reservations;

(c) Funds shall only be granted for individual reservations which have a governing body and either have a population of at least 1,000 resident Indians or are entitled to a Title III, Section 302, grant of at least \$50,000. Reservations which do not meet either of these requirements may, however, be combined to qualify for funds as provided in § 96.42 of this part (sec. 204(c));

(d) An eligible applicant which represents more than one reservation shall further allocate funds for use among those reservations in accordance, to the extent feasible, with the amounts indicated by the Secretary for each reservation; and

(e) Within a single reservation, or within those small reservations which are members of a consortium, the eligible applicant shall, to the extent feasible, allo-

cate granted funds among identifiable areas of high unemployment (sec. 204(c)).

##### § 96.42 Eligibility for funds.

(a) An independently eligible applicant shall be an Indian tribe on a Federal or State reservation which includes areas of substantial unemployment.

(b) An eligible applicant shall come under one of the following categories:

(1) *Independently eligible applicant.* An independently eligible applicant shall be an Indian or Alaskan tribe which has:

(i) An identifiable resident population of at least 1,000 individuals or which is entitled to an allocation of at least \$50,000 under CETA Title III section 302 regulations, i.e., Part 97, Subpart B of these regulations; and

(ii) A governing body. A governing body is defined as one having substantive powers, i.e., consists of duly elected representatives who have authority to provide services and to enter into contracts and grants on behalf of the electorate and who are recognized as having such authority by the appropriate Federal or State agencies (sec. 204(c)). In the case of a reservation with more than one tribe, each tribe which is independently eligible according to the criteria of this paragraph shall be entitled to a separate grant. Such tribes, however, will be encouraged to form a consortium for the administration and operation of a comprehensive manpower program.

(2) *Consortium prime sponsor.* Indian or Alaskan entities which do not meet the criteria to be an independently eligible applicant as outlined in paragraph (b)(1) of the section may participate in a consortium as set forth below:

(i) Consortium including an independently eligible applicant. An Indian or Alaskan entity may enter into a consortium with an eligible applicant under paragraph (b)(1) of this section. The consortium thus formed shall be the eligible applicant, and a member of the consortium, or an entity formed by the members, must be designated as the administrative arm and be delegated the responsibility for operating the program. Such a consortium may operate in more than one State. The administrative unit must be capable of performing both the functions required of a governing body and those necessary to carry out a public service employment program as prescribed by this Subpart.

(ii) Consortium where no member meets the criteria to be an independently eligible applicant. A consortium may be formed by Indian or Alaskan entities, none of which is eligible to be an independently eligible applicant under paragraph (b)(1) of this section, provided that:

(A) All of the members are in geographic proximity to one another; and

(B) The combination of entities has a resident population of at least 1,000 persons; or

(C) The combination of entities is entitled to an allocation of at least \$50,000, under CETA Title III section 302 criteria (Part 97, Subpart B of the regulations).

(iii) Consortium involving public or private non-profit agencies. An Indian or Alaskan entity may enter into a consortium with a public or private non-profit agency. The consortium thus formed shall be the eligible applicant and the public or private non-profit agency shall be the administrative arm. This type of consortium may be formed where such entity is not independently eligible to be an eligible applicant, chooses not to be an applicant, or determines that such a consortium will provide for a more effective and efficient program. Whenever an Indian or Alaskan entity joins with a public or private non-profit agency to form a consortium, such agency must be capable of performing both the functions required of a governing body and those necessary to administer a comprehensive manpower program. The minimum combined population requirement of 1,000 persons shall not be applicable to this type of consortium. However, the combined allocations for the members must be of such an amount that, in the opinion of the Secretary, it will be possible and feasible to provide public employment services to those unemployed and underemployed Indians who are in need of such services. Examples of eligible agencies are Intertribal Councils, Title I prime sponsors and Tribal Chairmen's Associations.

(c) Where there are Indian or Alaskan entities which do not meet the eligibility criteria to be an independently eligible applicant, or which do not meet the criteria, but decline to operate a program, the Secretary shall designate an eligible applicant deemed appropriate and capable of providing the required services except that the Indian or Alaskan entities shall have the right of approval of such eligible applicant, provided:

(1) The Indian or Alaskan entity meets the definition for Indian tribe, band, group, or Alaskan native village and can prove that it represents at least 1,000 individuals. In addition, the Indian or Alaskan entity must provide a written explanation of the official procedures utilized to select its spokesman. Such Indian or Alaskan entity shall either have determined it does not wish to sponsor a public service employment program, or have been declared ineligible for independent eligibility because of the lack of a governing body or because of its inability to perform the functions necessary to carry out a public service employment program; or

(2) A combination of entities, as defined in this Subpart, can prove, by providing the Secretary with a list of its members living within the designated areas, that, when combined, such combined, such combination represents at least 1,000 individuals. Such combination shall not be an independently eligible applicant either because it chooses not to become one, or lacks the ability to perform the functions required of a governing body, or lacks the ability to perform the functions necessary to administer a public service employment program, as defined by these regulations, or all of the above.

#### § 96.43 Funding of eligible applicants.

(a) In order to be funded, a potentially eligible applicant must request to operate a program under Title II by complying with the provisions of § 97.111 of the regulations for Indian Manpower Programs funded under Section 302 of the Act. Applications shall be postmarked no later than March 1, in any given year.

(b) Each potentially eligible applicant will receive a tentative allocation against which it will prepare and submit its grant application.

(c) The grant application will consist of the Employment Plan and Grant Signature Sheet. The Employment Plan shall consist of:

- (1) a full narrative description of the program;
- (2) a Program Planning Summary (see § 96.14(b)(2)(ii));
- (3) a Budget Information Summary (see § 96.14(b)(2)(iii));
- (4) a Monthly Schedule (see § 96.14(b)(2)(iv));
- (5) an occupational summary;
- (6) a program summary; and
- (7) assurances and certifications

#### § 96.44 Planning process; advisory councils.

Eligible applicants should utilize the services of their planning councils authorized under § 97.113 of the regulations for Indian Manpower Programs funded under section 302 of the Act.

#### § 96.45 Comment and publication procedures relating to submission of Indian grant applications.

(a) Each eligible Indian applicant which plans to apply for a grant shall, no later than the date of its submission of an application to the Director, Division of Indian Manpower Programs, provide an opportunity to comment on its application to the following officials in accordance with section 206 of the Act:

- (1) The Governor;
- (2) Appropriate officials of units of general local government; and
- (3) Officials of labor organizations representing employees who are engaged in similar work in the same area.

(b) Comments by those individuals and officials listed in paragraph (a) shall be made to the eligible applicant and the Director within 30 days of the receipt of notice of the opportunity to comment.

(c) Eligible Indian applicants shall acknowledge any comments made pursuant to this section by providing the commenting party with appropriate information and notice regarding the actions or revisions the applicant intends to take or adopt, if any, due to the comment. All such comments and responses shall be transmitted to the Director, Division of Indian Manpower Programs.

#### § 96.46 Assistance by the Director, Division of Indian Manpower Programs.

Applicants eligible under this Subpart D may request technical assistance from the Director of Indian Manpower Programs in the preparation, submission, and/or implementation of a Title II pro-

gram. Requests for assistance should be addressed to: Director, Division of Indian Manpower Programs, 601 D Street NW., Washington, D.C. 20213.

#### § 96.47 Participant eligibility.

Unemployed and underemployed Indians are eligible to participate in programs funded with eligible applicants under this Subpart D or in programs funded with all other eligible applicants in whose jurisdictions they reside.

#### § 96.48 Nepotism.

(a) No eligible applicant or subgrantee under this Subpart D shall hire, or permit the hiring of, any person in a position funded under Title II of the Act if a member of the person's immediate family is employed in an administrative capacity by the eligible applicant. For the purposes of this section, the term "immediate family" means wife, husband, son, daughter, mother, father, brother, and sister; the term "administrative capacity" includes those persons who have overall administrative responsibility for a program, including: all elected and appointed officials who have any responsibility for the obtaining of and/or approval of any grant funded under the Act as well as other officials who have any influence or control over the administration of the program, such as the project director, deputy director, and unit chiefs; and persons who have selection, hiring, or supervisory responsibilities for participants in a program under this Part 96, or operational responsibility for the program.

(b) If a subgrantee under this Subpart D cannot hire program participants without an immediate family member being included, the Director, Division of Indian Manpower Programs may waive the requirement of paragraph (a) if adequate justification is received from such subgrantee that no other persons within the subgrantee's jurisdiction are eligible and available for participation.

(c) Where a tribal policy regarding nepotism exists which is more restrictive than this policy, the eligible applicant shall follow the tribal rule in lieu of this policy.

#### § 96.49 Non-discrimination.

Section 98.21 shall be applicable to Indian programs funded pursuant to Title II of the Act, except to the extent that such provisions conflict with 42 U.S.C. 2000e(b).

#### § 96.50 Subgrants.

In addition to the requirements as set forth in § 98.27 concerning subgrants, Indian tribes may require that subgrantees agree, to the maximum extent feasible, to hire qualified Indians to provide services called for pursuant to the subgrant in accordance with 42 U.S.C. 2000e-2(i).

#### § 96.51 Travel requirements.

Travel regulations for grantees under this subpart shall be consistent with the travel regulations that will be provided under Subtitle A, Part 97, Subpart B, Indian Manpower Programs, Section 97.161(7) Travel Regulations.



# **PART 98—ADMINISTRATIVE PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT**

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**AUTHORITY:** Comprehensive Employment and Training Act of 1973, as amended, (Pub. L. 93-203, 87 Stat. 839; Pub. L. 93-567, 88 Stat. 1845), sec. 702(a), unless otherwise noted.

## **Subpart A—Grant Administration**

### **§ 98.1 General.**

(a) This Subpart A describes Federal requirements relating to the administration of grants by grantees (secs. 703(14) and 713). Administrative requirements found in this subpart apply to all programs under the Act unless stated to the contrary for any specific program.

(b) The Secretary will provide each grantee with the specific procedures to be followed to comply with the requirements of this Subpart A (Sections 703(14) and 713).

(c) Statutory authority for the regulations contained in this Part 98 may be found in section 702(a) of the Act, as well as other substantive provisions of the Act. Applicable statutory provisions, other than section 702(a), are noted generally in these regulations.

### **§ 98.2 Payment.**

(a) Advance payments will be made to all grantees able to satisfy the following criteria established consistent with Treasury Department regulations (31 CFR Part 205), and 34 CFR Part 256 (Attachment J of FMC 74-7): (1) demonstrated willingness and ability to establish procedures for minimizing the time elapsing between the transfer of cash and its disbursement by the grantee; (2) establishment of substantially identical procedures for advances to subgrantees and other secondary recipients; (3) a financial management system able to satisfy the requirements of § 98.5; and (4) performance of all other obligations incident to the receipt of funds under the Act to the satisfaction of the ARDM. Advance payments may be made by means of a letter of credit or a request for advance.

(b) When the grantee is unable or unwilling to satisfy the criteria in (a) above, the preferred method for making payments shall be reimbursement of disbursements made using the grantee's own cash.

(c) When the grantee contracts under an Integrated Grant Administration Program (IGA) he may authorize direct advances from the Department of Labor. These advances may be by letter of credit or U.S. Treasury check under that contract.

(d) In the event that a grantee cannot meet the criteria for advance payments described in paragraph (a) of this section and reimbursement as described in paragraph (b) is not feasible, arrangements may be made to provide cash on a working capital advance basis, as described in § 98.4(c).

### **§ 98.3 Letter of credit.**

(a) When a grantee is able to satisfy the criteria described in § 98.2(a), grants will be financed by means of a letter of credit when the following conditions are met:

- (1) the grant is for \$250,000 or more;
  - (2) a continuing relationship exists for at least 12 months;
  - (3) the grantee can assure that the timing and amount of drawdowns will be as close as possible to disbursement needs as provided in the Department of the Treasury Regulations found at 31 CFR 205; and
  - (4) the grantee's accounting system will meet the recordkeeping and reporting requirements of this subpart.
- (b) [Reserved.]

### **§ 98.4 Payment by Treasury check.**

(a) A grantee which does not meet the requirements for the letter of credit must submit a request for advance or reimbursement in order to obtain its cash requirements as provided in Attachment H of FMC 74-7. The ARDM will determine whether such Treasury check payments will be made on an advance, working capital advance, or reimbursement basis. In making such a determination, the ARDM will consider the grantee's ability to satisfy the criteria of § 98.2(a), particularly the accounting and recordkeeping capabilities of its financial management system.

(b) Grantees are authorized to submit the request for advance or reimbursement at least monthly.

(c) Grantees ineligible for advance financing under either the letter of credit or request methods may be provided cash on a working capital advance basis when they lack sufficient working capital to be placed on the reimbursement basis. Under this procedure, a cash advance is made to the grantee to cover its expected disbursements for an initial period generally geared to the grantee's disbursing cycle. The grantee is thereafter reimbursed for its actual cash disbursements reported on the request for advance or reimbursement.

(d) Prime sponsors other than State and local governments which are operating programs under Titles I and II may be required by the ARDM to maintain special bank accounts, as provided in 41 CFR 1-30, 413-414. Where special accounts are required, all receipts of grant funds must be deposited in the special account and all grant disbursements must be made from the account. The ARDM may also require the use of special bank accounts by secondary recipients if the prime sponsor is required to maintain a special account unless the secondary recipient is a State or local government unit.

(e) Advance by Treasury check will provide for advance payments through use of predetermined payment schedules or upon the request of the grantee. When the request method is used, payments will be made to a grantee based upon a schedule contained on the Request for Advance or Reimbursement.

### **§ 98.5 Financial management systems.**

(a) Each grantee and subgrantee shall maintain a financial management system which will: provide accurate, current, and complete disclosure of the financial results of each program activity by title of the Act, including Title II program activities by each area of substantial unemployment; provide the ability to evaluate the effectiveness of program activities; and meet the reporting requirements of this subpart.

(b) Each grantee and subgrantee shall maintain its fiscal accounts in a manner sufficient to permit the reports required by the Secretary to be prepared therefrom.

(c) To be acceptable for audit under the Act a report of Federal Cash Trans-

actions, Program Status Summary and Financial Status Report shall be:

- (1) current as of the cut-off date of the audit;
- (2) taken directly from or linked by worksheet to the sponsor's books of original entry; and
- (3) traceable to source documentation of the unit transaction. In cases where these financial records do not meet these requirements, the auditor shall submit a letter to the contracting officer within ten days of such a determination delineating the reason for such a determination and recommendations as to the action required to place the records in condition for audit.

### **§ 98.6 Audit.**

(a) The Secretary of Labor, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the State and local government and their subgrantees and contractors which are pertinent to a specific grant program under the Act for the purpose of making surveys, audits, examinations, excerpts, and transcripts (sec. 713(2)).

(b) The Secretary shall be responsible for scheduling surveys, audits or examinations of grantees and their subgrantees and contractors. These schedules will be coordinated with the grantee, to the extent practical.

(c) The Secretary shall, with reasonable frequency, survey, audit or examine, or arrange for the survey, audit or examination of grantees and their subgrantees and contractors using city or state auditors; or certified or licensed public accountants. Such surveys, audits, or examinations shall normally be conducted annually but not less than once every two years. The cost of these audits shall be funded by the Department of Labor and shall not be a part of the grantees administrative cost under the grant.

(d) Surveys, audits and examinations will conform to *The Standards for Audit of Governmental Organizations, Programs, Activities, and Functions*, issued by the Comptroller General of the United States and guides issued by the Secretary. Surveys, audits or examinations contracted by the Secretary will conform, at a minimum to the first element of the Comptroller General's Standards: An audit to determine (1) whether financial operations are properly conducted, (2) whether the financial reports are fairly presented, and (3) whether the available information indicates that the entity has complied with applicable laws, regulations, and administrative requirements. (In addition, selected Federal audits will include reviews of the economy and efficiency and/or program results of programs under the Act. As a result of such audits a report including appropriate recommendations will be issued to the Manpower Administration.) Existing audit systems, where acceptable under the Comptroller General's Standards, such as State audits of city and county activities will be used to the maximum possible extent (sec. 713(1)).

(e) Each grantee shall arrange for an independent audit of each of its contractors and subgrantees at least once every two years. Audits may be conducted by the grantee, by State and local government audit staffs, or by certified public accountants and audit firms under contract to the grantee. All audits performed by the grantee shall be conducted in accordance with the provisions of paragraph (d) of this section and shall not be subject to prior approval by the ARDM. Each grantee shall provide non-Federal audit reports of their own operations to the Assistant Regional Director for Manpower and the appropriate Assistant Regional Director for Audit. Subgrant and contract audit reports will be provided upon request. The cost of these audits shall be considered a part of the grantee's administrative cost and funded from its grant.

(f) (1) Upon making a new grant or a significant increase in the funding level of an on-going grant, the Assistant Secretary for Manpower may request the Assistant Secretary for Administration and Management, Department of Labor to conduct a preliminary audit survey to evaluate the adequacy of the grantee's accounting system and internal controls as established by these regulations including but not limited to §§ 95.14, 98.8, 98.18, 98.24, 98.25, 98.26, 98.27, and 98.31.

(2) On the basis of the findings, conclusions and recommendations of the survey, the grantee will be advised in writing what action, if any, is needed to satisfy Department of Labor requirements.

(g) (1) Audit reports shall be written in the format prescribed by the Department of Labor Audit Program. Previous audit reports considered relevant and the full text of any sponsor's comments will be included as an appendix to the report.

(2) Department of Labor audit report will be distributed by the appropriate Department Assistant Regional Director of Audit.

(3) Grantees shall respond in writing to the findings, conclusions and recommendations in the audit reports when requested to do so by the ARDM. Unless an extension of time is expressly granted, the response shall be submitted to the responsible Assistant Regional Director for Manpower with a copy to the responsible Assistant Regional Director of Audit within thirty calendar days from the date of Department of Labor notification of the findings and recommendations.

(4) The grantee may take exception to particular findings and recommendations. The rationale for such exceptions should be included in the response. The response should point out corrections already made and state what action is proposed and the estimated completion date of such action.

(5) The ARDM will consider the grantee's response and any additional information provided by the prime sponsor when determining whether specific expenditures should be disallowed. The appropriate ARDM will notify the prime sponsor in writing of the determination to disallow expenditures.

### **§ 98.7 Reporting requirements in general.**

Each grantee will be required to submit four periodic reports which will be used by the Secretary to assess its performance in carrying out the objectives of the Act. These four reports are: (a) The Program Status Summary, (b) The Financial Status Report (These two reports replace the Quarterly Progress Report), (c) The Quarterly Summary of Participant Characteristics and (d) The Report of Federal Cash Transactions. In addition, grantees may from time to time be required to prepare and submit reports requested by other Federal agencies for the performance of the legislative responsibilities of these agencies. Grantees operating Title II programs will also be required to submit the monthly progress report. Detailed descriptions of these forms are in the *Forms Preparation Handbook*.

### **§ 98.8 Program Status Summary, Financial Status Report and Monthly Report.**

The Program Status Summary (PSS) and the Financial Status Report (FSR) will be used to measure accomplishments in achieving objectives stated in the Program Planning Summary and the Budget Information Summary, respectively.

(a) *Program Status Summary.* Each grantee will include the following items in this report together with a comparison of the same items as they appear in the Program Planning Summary:

- (1) The total number of enrollments with granted funds during the grant period;
- (2) The total number of individuals (participants) placed in unsubsidized employment at termination from the project and the number entering school, other training or military service;
- (3) The level of enrollment associated with each program activity;
- (4) The number of individuals within each significant segment of the population being served by the program; and
- (5) The objectives and accomplishments other than those established by the Secretary. If a prime sponsor or eligible applicant elects to include these other activities in its report, they will be used by the Secretary in his evaluation of the performance of the prime sponsor or eligible applicant's program.

(b) *Financial Status Report.* Each grantee will submit a Financial Status Report (FSR) which includes the following items:

- (1) The distribution of total accrued expenditures among program activities and percent of plan accomplished;
  - (2) Indirect costs for the grant period to date;
  - (3) The distribution of total accrued expenditures to date by cost category; and
  - (4) A certification of the correctness of the costs reported.
- (c) If performance goals are not being achieved, the ARDM may request additional information from grantees including reasons for the failure to achieve the goals.



(d) The reports required by paragraphs (a) and (b) of this section shall be prepared to coincide with the ending dates of Federal fiscal year quarters. These reports should be sent by the grantee to be received by the ARDM no later than 30 days after the end of the reporting period. If a grantee's period ends at a date other than the Federal fiscal year quarter, a fifth set of reports, covering the entire grant period will be required. These reports shall also be submitted by the grantee to the Governor of the State.

(e) Accountability must be maintained by the grantee for each of the activities authorized under the Act. Therefore, separate reports will be required for the Title I Grant, the Title II Grant and the special grant.

(f) The Secretary reserves the right to require the submittal of these reports by grantees more frequently than quarterly in cases of major deviation from the Program Planning Summary and Budget Information Summary.

(g) **Monthly Progress Report.** Grantees operating a Title II funded program will submit the Monthly Progress Report (MPR) on which they will record the cumulative participants served and terminated, the number of participants on board at the end of the month, the number of participants who had previously been employed by the grantee or agent, and the actual versus planned accrued expenditures cumulative for the program year to the end of the month. The monthly report period is the calendar month. This report will be submitted to the appropriate ARDM no later than 10 working days after the end of the report period. The monthly report will be phased out when economic conditions and programmatic considerations no longer warrant its submission.

(h) Specific procedures for meeting these reporting requirements will be furnished to each grantee in the *Forms Preparation Handbook*.

#### § 98.9 Quarterly Summary of Participant Characteristics.

(a) The Quarterly Summary of Participant Characteristics (QSPC) contains aggregate characteristics data on all participants in the program. The Summary is to be submitted to the ARDM with the Program Status Summary and Financial Status Report.

(b) The Summary will include characteristics data aggregated for all participants, as set forth in the report form and will include all participants terminating or placed during the reporting period.

(c) For those participants who entered employment during the report period, the Summary will also aggregate and determine the average wage before enrollment and at termination.

(d) A separate report will be required for Title I and Title II.

(e) Specific reporting procedures and appropriate definitions will be furnished to each grantee in the *Forms Preparation Handbook*.

(f) This report will be submitted by the grantee to the Governor of the State.

#### § 98.10 Report of Federal cash transactions.

(a) Each grantee shall submit periodically a report of Federal cash transactions. The report will be used to monitor cash advances and to obtain disbursement information. This report will be submitted monthly by each grantee receiving annual grants totalling \$1 million or more, and quarterly by other grantees (sec. 713(3)).

(b) Specific reporting procedures will be furnished to each grantee in the *Forms Preparation Handbook*.

#### § 98.11 Reallocation of funds.

(a) **General.** The Secretary may reallocate funds from a grantee under the circumstances and in accordance with the procedures described in this section (secs. 103(l) and 702(b)).

(b) **Reallocation based on nonperformance.** (1) Pursuant to section 702(b) of the Act, when the Secretary considers through review of the grantee's reports, monitoring or auditing of the program that its performance may be inadequate or that it may have failed to comply with the Act or regulations, he shall give due notice and opportunity for a public hearing as provided in § 98.47.

(2) If the Secretary then decides to reallocate funds based on a ground set forth in paragraph (b) (1), he shall:

(i) revoke the grantee's plan for the area, in whole or in part;

(ii) make no further payments under the Act to the grantee, to the extent which he deems necessary; and

(iii) notify the grantee of the amount of funds which shall be returned from unexpended funds paid to the grantee during that fiscal year.

(3) **The Secretary shall make provision for the reallocation of funds to be used by the State or other alternative prime sponsor to service the area which was served by the prime sponsor before the reallocation, or the Secretary may serve such an area directly.** (See § 95.20.)

(c) **Reallocation based on need.** (1) In a limited number of circumstances, the Secretary may determine that the unobligated portion of a grantee's Title I grant should be reallocated to another area because the funds are not needed where they were originally allocated. Such reallocations may be made only after the ninth month of the fiscal year for which the grant was made.

(2) Before reallocating funds as set forth in paragraph (c) (1), the Secretary must determine that:

(i) the grantee's plan will be carried out without expending all the funds previously made available for that plan; and

(ii) the excess funds identified under paragraph (c) (2) (i) cannot reasonably be expected to be needed in the following grant period.

(d) **Reallocation.** When the Secretary determines that funds should be reallocated based on the criteria in paragraph (c), he will take the following actions:

(1) **Notice of intent to reallocate funds.** When the Secretary determines that a reallocation is appropriate, he will

notify the grantee and the appropriate Governor of the proposed action to remove funds from the grant. The notice shall include the basis for the proposed reallocation.

(2) **Comments by prime sponsor or eligible applicant and the Governor.** The grantee and the Governor will be invited to submit comments on a proposed reallocation of funds out of their area. These comments shall be submitted to the appropriate ARDM within 30 days of receipt of the notice. The Secretary shall consider these comments before making a final determination to reallocate.

(3) **Notification of final determination.** After reviewing any comments submitted by the grantee or Governor, the Secretary will notify them of his decision. A final decision to reallocate funds of a grantee will be published in the Federal Register and a modification will be made to the grant.

(4) **Reallocation procedures.** In reallocating such funds to supplement other grantee grants, the Secretary shall first consider the need for additional funds by other grantees within the same State. A decision to increase a grantee's grant with reallocated funds will not be made without prior consultation with the grantee as to how the funds will be expended, and prior notification to the Governor. Such a decision will be published in the Federal Register with an announcement of the grantee(s) receiving additional allocations and the amounts.

#### § 98.12 Allowable Federal costs.

(a) **General.** Except as modified in these regulations, Federal funds granted under the Act may be expended only for purposes permitted under the provisions of part 1-15 of Title 41 of the Code of Federal Regulations, 41 CFR 1-15.2 which applies to commercial and non-profit organizations; 41 CFR 1-15.3 which applies to educational institutions; and 41 CFR 1-15.7 which applies to State and local governments. Allowable costs include both direct and indirect costs. Costs are intended to be directed to increase the employability of participants.

(1) **Direct and indirect costs.** Direct costs are those which can be specifically identified as relating to the project. Indirect costs are those computed by application of an indirect cost rate. In determining the reasonableness of indirect costs, reliance will be placed on procedures established pursuant to 41 CFR Part 1-15, including reliance on determinations 41 CFR Part 1-15.

(2) **Policies and procedures.** Cost allocation plans and indirect cost proposals shall be developed and approved in accordance with applicable cost principles and procedures set forth in 41 CFR 1-3.7 and 41 CFR 1-15. Beginning with FY 1976, the Department must approve in advance all prime sponsors' indirect cost allocations used to determine charges to grants under the Act. Where the Department has the responsibility for establishing the indirect cost rate, the reasonableness of indirect costs claimed

by State and local governments will be determined in accordance with procedures established pursuant to 41 CFR 1-15.7 (FMC 74-4), including reliance on determination made by other Federal agencies.

(b) **Restriction on use of funds.** (1) (i) Federal funds used for public service employment programs under Title I and for any program under Title II of the Act shall not be used for the acquisition of or for the rental or leasing of administrative supplies, equipment, materials or real property, whether these expenses are budgeted as a direct or indirect cost, provided however that training materials, work tools, uniforms or other equipment ordinarily provided by the employer to his regular employees, and which are for the benefit and ownership of the participants may be considered fringe benefit costs for public service employment participants (sec. 208(a)(7)).

(ii) The 10 percent of funds used by a prime sponsor or an eligible applicant for public service employment programs under Title I and Title II, after the 90 percent requirements of § 96.36(a) is met, may be used for administration, training, and supportive services, including equipment and materials used in the training of participants, as defined in § 98.12(f)(4) of this subtitle (secs. 205(a), 205(b)(14), 211).

(2) No funds granted under the Act may be used, directly or indirectly, as a contribution for the purpose of obtaining Federal funds under any other law of the United States which requires a contribution from the grantee in order to receive such funds, except if authorized under that law. However, the use of funds granted under the Act as a matching contribution in order to obtain additional funds under the Act is not prohibited.

(c) **Expenditures for repairs, maintenance and capital improvements and construction.** (1) Title I funds may not be expended for new construction (including additions to existing facilities) but may be expended for building repairs, maintenance and capital improvements to existing facilities. These costs must be related to a facility or building which is used primarily for programs under the Act (sec. 702(b)).

(2) No funds for new construction (including additions to existing facilities) are allowable except as part of a training program in a construction occupation or for the payment of wages for public service employment participants. Training costs may include such items as, instructors' salaries, training tools and books, and allowances or wages to participants (if appropriate) but may not include materials used in construction or land acquisitions. Construction costs for training programs shall be allowable only when such construction would not normally be performed by an outside contractor.

(d) **Allowable cost categories.** Allowable costs shall be reported against the following cost categories: Administration; wages; training; fringe benefits; allowances; and services (sec. 101). (1) Costs are allocable to a particular cost

category to the extent of benefits received by such category.

(2) All grantees are required to plan, control, and report expenditures against the aforementioned cost categories.

(e) **Classification of costs by category.** The following principles shall be followed in classifying costs by cost category: (1) Participants' wages shall be charged to wages;

(2) Participants' fringe benefits shall be charged to fringe benefits; (Insurance with comparable coverage to workmen's compensation for participants enrolled in classroom training and services to clients is considered to be an administrative cost).

(3) Allowances paid to program participants shall be charged to allowances.

(4) Training costs consisting of goods and services which directly and immediately affect program participants shall be charged to training. Goods and services which have direct and immediate impact on participants are limited to those actually involved in the participant training process itself as opposed to those which are supportive of that process. For examples of training-related costs which may and may not be charged to training see paragraph (f)(4), Training.

(5) Supportive and manpower services costs which consist of goods and services which directly and immediately affect program participants shall be charged to Services. Goods and services considered to have direct and immediate impact on participants are limited to those actually involved in the process of providing participants with supportive and manpower services as opposed to those which are ancillary to that process. For examples of services-related costs which may and may not be charged to Services see paragraph (f)(5), Services.

(6) Allowable costs which do not fall into any of the above classifications will be charged to administration.

(7) When contractors bill the grantee with a single unit charge containing costs which are chargeable to more than one cost category the grantee will endeavor to obtain the detail necessary to charge these costs to the proper cost categories. If this cannot be done, an estimate of the breakdown of the single charge among cost categories will be obtained. Any profit (or loss) should be prorated among all the affected cost categories.

(8) **Classification of equipment costs** present special problems since many items of equipment can be used for various purposes. In the case of multiuse equipment there must be a proration of cost or, if there is a predominant usage relating to one cost category, a charge shall be made to that category.

(9) Any single cost such as staff salaries and/or fringe benefits which is properly chargeable to more than one cost category shall be prorated among the affected categories.

(f) **Following are examples of costs properly chargeable to each of the cost categories.**

(1) **Wages.** All wages paid to participants receiving on-the-job training in public or private nonprofit organizations, and all wages paid to participants in transitional subsidized employment and in work experience will be allowed. Wages paid to participants while receiving on-the-job training from a private employer organized for profit cannot be supported by funds under the Act (sec. 101(5)).

(2) **Fringe benefits.** Allowable fringe benefit costs for participants include, but are not limited to the following: annual, sick, court and military leave pursuant to an approved leave system; employer's contribution for social security, employees' life and health insurance plans; unemployment insurance, workmen's compensation insurance; retirement benefits provided such benefits are granted under an approved plan; and such training materials, work tools, uniforms, or other equipment which may be charged to the fringe benefits category under Public Service Employment programs, in accordance with § 98.12(b)(1).

(3) **Allowances.** All allowances paid to program participants pursuant to § 95.34 of these regulations shall be charged to this cost category.

(4) **Training.** Training costs include, but are not limited to the following: Salaries and fringe benefits of personnel engaged in providing training; books and other teaching aids; equipment and materials used in providing training to participants; and that part of entrance and tuition fees which represent instructional costs having a direct and immediate impact on participants. The following are examples of costs not properly chargeable to Training: General and administrative costs of the training facility; supervision, clerical support, and training (skill maintenance and upgrading) of instructors; staff travel; rents, utilities, and other facilities costs; supplies and equipment not used directly in the course of participant training; transportation of participants to training sites; and costs of processing allowance payments. The compensation of individuals who both instruct and supervise other instructors must be prorated among the Training and Administration cost categories on the basis of time records or other equitable means. Similarly, tuition fees and the costs of supplies used in the course of both participants and other activities should be prorated among the benefiting uses.

(5) **Services.** (i) **Services include,** but are not limited to supportive and manpower services, as set forth in § 95.33(d)(5).

(ii) **Supportive services include** child care, health care and medical and dental services, residential support, assistance in securing bonding, and family planning.

(iii) **Manpower services include** outreach, intake and assessment, orientation, counseling, job development, and job placement.

(iv) **Allowable services costs include,** but are not limited to salaries and fringe benefits of personnel engaged in



providing services to participants; and that part of single unit charges for child care, health care, and other services which represent only the costs of services directly beneficial to participants. Transportation of participants is properly chargeable to Services only where it cannot reasonably be considered to be merely incidental to providing employment, training, and services which themselves directly benefit participants. For example, if rural participants have to be transported over long distances in order to reach work or training sites, particularly where no public transportation service is available, the cost of chartering or purchasing a bus may be charged to Services.

(v) The following are examples of costs not properly chargeable to Services: General and administrative costs of the services provided; supervision, clerical support, staff training, staff travel, rent and other facilities costs, and costs of supplies, materials, and equipment not used directly in providing services to participants.

(6) **Administrative costs.** (i) Administrative costs shall be limited to those necessary to effectively operate the program. They should not exceed 20 percent of the total planned costs for all program activities other than public service employment unless the Program Narrative Description under § 95.14(b) (2)(i) sets forth an explanation of how such additional costs have been determined and a detailed documentation to support that amount. The restriction on the use of funds for administration in public service employment programs is set forth in § 96.36 (sec. 108(d)(2)).

(ii) Supportive costs are comprised of general and administrative costs, overhead, and similar cost groupings representing the general management and support functions of an organization as well as secondary management and support functions at the bureau or division level. Included are salaries and fringe benefits of personnel engaged in executive, fiscal, personnel, legal, audit, procurement, data processing, communications, transportation, maintenance, and similar functions, related materials, supplies, equipment, office space costs, and staff training.

(iii) Direct program costs which are not an integral part of training and services provided participants are comprised of goods and services which neither contribute to the management and support functions of an organization nor directly and immediately affect participants. Included are direct program salaries and fringe benefits of supervisory and clerical personnel, program analysts, labor market analysts, and project directors. In addition, all costs of materials, supplies and equipment which are not solely identifiable with the provision of training and services to participants are included here as are all costs of space and staff travel identifiable with direct program effort. Some examples of administrative costs included here are the salary of a clerical assistant to an instructor, that part of

an instructor's salary representing the time he spends supervising other instructors, desk-top supplies used in participant training and in general office administration, a job developer's travel costs, rent, depreciation, or maintenance of classroom training facility, consultants services under contract not involving direct training or services to participants, cost incurred in the establishment and maintenance of State Manpower Services Councils or Prime Sponsor Planning Councils or in publishing a Comprehensive Manpower Plan, and costs of providing technical assistance to contractor and subgrantee staff.

(iv) Services normally chargeable to Administration when performed by staff personnel shall be charged to Wages or Fringe Benefits, as appropriate, when performed by program participants.

(g) **Travel costs.** (1) The cost of participant travel and staff travel necessary for the operation or administration of programs under the Act is allowable as provided herein.

(2) Travel costs of the Governor of a State or the chief executive of a political subdivision (and their immediate staff that do not have continuing programmatic responsibilities), are allowable only if the travel specifically relates to programs under the Act and is approved in advance by the ARDM. These costs shall be charged to administration.

(3) Travel costs of other governmental officials charged with overall governmental responsibilities are allowable if costs specifically relate to programs under the Act. Prior approval by the ARDM is not required. These costs shall be charged to administration.

(4) Travel costs for administrative staff, including participants in administrative positions, are allowable when the travel is specifically related to the operation of programs under the Act. These costs shall be charged to administration.

(5) Travel costs, based on mileage, for participants using their personal automobiles in the performance of their jobs are allowable if the employing agency normally reimburses its other employees in this way. These costs shall be charged to fringe benefits.

(6) Travel costs to enable participants to obtain employment or to participate in programs under the Act are allowable as supportive services but shall be restricted to the grantee's jurisdiction or within daily commuting distance.

#### § 98.13 Allocation of allowable costs among program activities.

The program activities against which program costs shall be planned, controlled, and reported upon are: classroom training; on-the-job training; public service employment; work experience; services to participants and other activities. The cost categories under each of these activities are defined in § 98.12 (d). The extent to which these cost categories are chargeable to specific program activities is set forth below (sec. 101).

(a) **Classroom training.** Cost categories chargeable are: administration, training, allowances, and services.

(b) **On-the-job training.** Cost categories chargeable are: wages and fringe benefits (attributable to public or private nonprofit employers only); administration; training; and services.

(c) **Public service employment.** Cost categories chargeable are: administration, wages, fringe benefits, services and training.

(d) **Work experience.** Cost categories chargeable are: administration, training, services, wages, and fringe benefits.

(e) **Services to participants.** Cost categories chargeable are:

(1) **Allowances.** This includes all allowances paid for short periods of time to participants who are registered for training, but are waiting for startup of a component.

(2) **Services.** This includes all manpower and supportive services including post-placement services which are not part of another program activity and which are provided to participants by a prime sponsor, eligible applicant, contractor or subgrantee.

(3) **Administration.** This includes all allowable administrative costs directly associated with this activity and a pro rata share of each prime sponsor or eligible applicant's administrative costs under the Act not directly associated with any program activity.

(f) **Other activities.** Cost categories chargeable are: administration, training, allowances, and services.

#### § 98.14 Basic personnel standards for grantees.

(a) Each prime sponsor and eligible applicant shall assure that it will maintain personnel policies and practices for its employees in accord with State and local laws and regulations that adequately reflect the merit principles declared in the Intergovernmental Personnel Act of 1970 (Pub. L. 91-648). Prime sponsors may meet this requirement by certifying compliance with uniform Federal Standards for a Merit System of Personnel Administration (45 CFR Part 70) including any amendments thereto (sec. 703(14)).

(b) Except as provided in paragraph (c) of this section, any prime sponsor or eligible applicant's personnel system that has not been certified previously as meeting these standards for other Federal grant programs shall certify that it will take necessary action to provide for merit based personnel system coverage within a reasonable period.

(c) Any nongovernmental prime sponsor, or administrative unit for a consortium which is not a unit of government, is not subject to the requirements of paragraphs (a) and (b) of this section. A consortium administered by one of the member governments or a unit thereof or a unit of government not a member shall be subject to paragraphs (a) and (b) of this section.

(d) Units exempt under paragraph (c) of this section shall ensure equal employment opportunity based on objective standards of recruitment, selection, promotion, classification, compensation, performance evaluation, and employee management relations.

(e) Prime sponsors and eligible applicants are encouraged to include on their staffs individuals who are representative of the population to be served by the program.

#### § 98.15 Adjustments in payments.

(a) If any funds are expended by a grantee, subgrantee, or employing agency in violation of the Act, the regulations or grant conditions, the Secretary may make necessary adjustments in payments on account of such expenditures. He may draw back unexpended funds which have been made available in order to assure that they will be used in accordance with the purposes of the Act, or to prevent further unauthorized expenditures, and he may withhold funds otherwise payable under the Act in order to recover any amount expended for unauthorized purposes in the current or immediately preceding fiscal year (sec. 208(b)(2) and 702(b)).

(b) No action taken by the Secretary of Labor under paragraph (a) of this section shall entitle the grantee to reduce program operations, or allowances for any participant or to expend less during the effective period of the contract or grant than those sums called for in the comprehensive manpower plan. Any such reduction in expenditures may be deemed sufficient cause for termination (sec. 108(b)(2) and 108(d)).

#### § 98.16 Termination of grant; suspension of grant in emergency situations.

(a) If a grantee violates or permits a subgrantee, contractor or an employing agency to violate the regulations, or grant terms or conditions which the Secretary has issued or shall subsequently issue during the period of the grant, the Secretary may terminate the grant in whole or in part; provided, however, that the grantee may request a hearing under § 98.47 of these regulations within a 30 day period and that such request will stay the determination pending the outcome of the hearing.

(b) Termination shall be effected by a notice of termination which shall specify the extent of termination and the date upon which such termination becomes effective. Upon receipt of notice of termination, the grantee shall:

- (1) discontinue further commitments of grant funds to the extent that they relate to the terminated portion of the grant;
- (2) promptly cancel all subgrants, agreements, and contracts utilizing funds under this grant to the extent that they relate to the terminated portion of the grant;
- (3) settle, with the approval of the Secretary, all outstanding claims arising from such termination;
- (4) submit, within a reasonable period of time after the receipt of the notice of termination, a termination settlement proposal which shall include a final statement of all unreimbursed costs related to the terminated portion of the grant, but in case of terminations under paragraph (a) of this section will not include the cost of preparing a settlement proposal (secs. 108(b)(2), 110(b), and 702(b)).

(c) In emergency situations where the Secretary believes that there has been illegal use of program funds under the Act, and that immediate action is necessary to protect the integrity of the grant program, the Secretary may immediately suspend payments and withdraw unexpended funds as he deems appropriate under the grant and make alternative temporary arrangements to carry out the grant program. In such a situation the Secretary shall notify the grantee of the reasons for his action and set a date for a prompt hearing on the matter, after which the Secretary shall make an appropriate determination.

#### § 98.17 Grant closeout procedures.

(a) The closeout of a grant is the process by which a Federal grantor agency determines that all applicable administrative actions and all required work of the grant have been completed by the grantee and the grantor. The following procedures will be complied with during this process of determination.

(b) The ARDM shall notify each grantee that its grant will expire on a specified date. If the grant is funded by letter of credit the ARDM shall notify the grantee that the letter of credit is being cancelled/adjusted and that reimbursement for the balance of allowable costs under the grant will be made by Treasury checks upon submission and approval of invoices.

(c) The ARDM shall notify each grantee of steps to be taken in the closeout process which includes the following:

- (1) An immediate refund to the ARDM of any unencumbered balance of cash drawn from the letter of credit or advanced by Treasury checks. Items to be included in the refund checks are detailed in the *Forms Preparation Handbook*.
- (2) The following financial and inventory reports, as described in the *Forms Preparation Handbook* will be submitted to the ARDM; when applicable:

- (i) A final report of Federal Cash Transactions;
- (ii) Grantee's Assignment of Refunds, Rebates and Credits;
- (iii) Bank Statement-Special Bank/Financial Account;
- (iv) Cancellation/Adjustment Fidelity Bond;
- (v) List of possible claimants for unclaimed checks cancelled or payment stopped;
- (vi) Grant Closeout Tax Certification;
- (vii) Government Property Adjustment; and
- (viii) Inventory Certificate.

(3) The Grantee's Release form, as described in the *Forms Preparation Handbook*, will be submitted to the ARDM.

(4) A final Program Status Summary and Financial Status Report as described in the *Forms Preparation Handbook* will be prepared and sent to the ARDM for each grant and title under which programs were conducted under the Act.

(5) A final Summary of Participant Characteristics Report, as described in the *Forms Preparation Handbook*, shall be prepared and sent to the ARDM.

(d) Upon closeout, the ARDM will insure that: (1) Prompt payment is made to the prime sponsor or eligible applicant for reimbursement of costs under the grant being closed out.

(2) After the final reports are received, a settlement is made for any upward or downward adjustments which are made to the Federal share of the costs.

(3) Final program and fiscal audits are performed as soon as possible after the completion of termination date of the grant.

(e) Procedures for closeout of grants contained in the *Forms Preparation Handbook* will contain instructions concerning subgrants or contracts which extend beyond the specified termination date of the grant under § 98.27.

#### § 98.18 Maintenance and retention of records.

(a) Grantees are required to maintain records on each program participant. The following types of information shall be recorded:

- (1) Personal identifying information;
- (2) Residence;
- (3) Work history of the participant;
- (4) Program activities in which the individual participated;
- (5) Supportive services received by the participant; and
- (6) Status of participant at termination from program.

Specific items, instructions, and definitions are contained in the *Forms Preparation Handbook*.

(b) Pursuant to the provisions set forth in Attachment C of FMC 74-7 the following shall apply with regard to the retention of records pertaining to any grant program under this Act (secs. 703(12) and 713).

(1) Financial records, supporting documents, statistical records and all other pertinent records shall be retained for a period of 3 years. No Federal requirements for records retention which exceed those established by State or local governments shall be otherwise imposed, with the following qualifications:

- (i) Records shall be retained beyond the 3-year period if audit findings have not been resolved;
- (ii) Records for nonexpendable property acquired with Federal grant funds shall be retained for 3 years after its disposition; and
- (iii) When grant program records are transferred to or maintained by the Secretary, the 3-year retention requirement will not be applicable to the grantee which had administered that grant program.

(2) The retention period shall start from the date of submission of the annual or final expenditure report, whichever applies to the particular grant.

(3) The substitution of microfilm copies in lieu of original records may be authorized by the ARDM upon request of the grantee.

(4) The Secretary will request State and local prime sponsors to transfer grant records to the Department's custody when it is determined that such



records have long-term retention value. However, suitable arrangements to avoid duplicate recordkeeping shall be made where the Department and any grantee needs such records for joint use.

(5) (i) The names of all participants supported under the Act are considered public information.

(ii) Other information regarding applicants, project participants, or their immediate families, which may be obtained through application forms, interviews, tests, reports from public agencies or counselors or any other source, shall be made available to the public by the grantee to the same degree it makes such information available about its own employees in the governmental jurisdiction. Without the permission of the applicant or participant, such information which is not normally made available to the public on the grantee's own employees in the governmental jurisdiction shall be divulged only as necessary for purposes related to the performance or evaluation of the grant under the Act to persons having responsibilities under the grant, including those furnishing services to the project under subgrant or contract, and to governmental authorities to the extent necessary for the proper administration of law.

(iii) The names of all individuals employed in staff positions under the Act are considered public information. A grantee shall make other information available to the public pertaining to individuals employed in staff positions under the Act in the same manner and to the same extent as such information is made available on its regular employees. A grantee shall make other information available to the public on individuals employed in staff positions by the administrative unit of a consortium, who are not also employed by a member jurisdiction, in accordance with the policy of the member jurisdiction which has the least restrictive policy.

(iv) Irrespective of any other provision in these regulations, this paragraph (5) is applicable to participants and staff for programs in Fiscal Year 1975, as well as thereafter.

#### § 98.19 Program income.

(a) The State and any agency or instrumentality of a State which is a grantee shall not be held accountable for interest earned on grant-in-aid funds pending their disbursement for program purposes under the Act (FMC 74-7).

(b) Units of local government shall be required to return to the Federal Government interest earned on advances of grant-in-aid funds in accordance with a decision of the Comptroller General of the United States (42 Comp. Gen. 289).

(c) Proceeds from the sale of real and personal property, either provided by the Federal Government or purchased in whole or in part with Federal funds, shall be handled in accordance with the MA Property Handbook which implements Attachments N of FMC 74-7.

(d) Royalties received from copyrights and patents during the grant period shall be retained by the grantee and be added

to the funds already committed to the program. After termination or completion of the grant, the Federal share of royalties in excess of \$200 received annually shall be returned to the Federal grantor agency (FMC 74-7).

(e) All other program income earned during the grant period shall be retained by the grantee and, in accordance with the grant agreement, shall be added to funds committed to the project and be used to further program objectives (FMC 74-7).

(f) The prime sponsor shall record the receipt and expenditure of revenues (such as taxes, special assessments, levies, fines, etc.) as a part of grant project transactions.

#### § 98.20 Procurement standards.

The standards to be used for the procurement of supplies, equipment, and other materials and services with Federal grant funds are those described in Attachment O of FMC 74-7 with the following exceptions. On-the-job training contracts are not subject to the sole source approval requirement under paragraph 6(b) and all subgrants are exempt from the requirements of Attachment O. When on-the-job training contracts are made under this exception a record of the name of the contractor, the amount and the services to be provided must be made available to the ARDM upon request. These standards are furnished to assure that such materials and services are obtained in compliance with the provisions of applicable Federal laws and Executive Orders.

#### § 98.21 Nondiscrimination and equal employment opportunities.

(a) *Nondiscrimination generally.* Every grant made pursuant to this part shall contain an assurance concerning the provision of equal employment opportunity under the grant.

(b) (1) No person shall on the ground of race, creed, color, handicap (as defined in paragraph (h)), national origin, sex, age, as provided in paragraph (2) below, political affiliation, or beliefs be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under the Act (Sections 703(1), 712, and Vocational Rehabilitation Act, Section 504).

(2) The prohibition against age discrimination shall not be interpreted to prohibit establishment of training and employment programs under the Act designed to serve the legitimate needs of specific age groups. The prohibition against age discrimination shall not be interpreted to prohibit establishment of bona fide qualifications for participation in any program under the Act.

(c) When the Secretary determines that a grantee has failed to comply with the requirements of paragraph (a), he shall notify the grantee of the noncompliance and request the grantee to secure compliance. If within a reasonable time, not to exceed 60 days, the grantee fails or refuses to secure compliance, the Secre-

tary may, subject to the hearing requirements of this Part 98, terminate financial assistance under the Act and:

(1) May refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) May exercise the powers and functions provided by Title VI of the Civil Rights Act of 1964 (42 USC 2000 (d)); and

(3) May take other actions as may be provided by law.

(d) when a matter under this section is referred to the Attorney General, or when the Secretary of Labor believes that a pattern or practice of discrimination exists, the Attorney General may bring a civil action in any appropriate United States District Court, including injunctive relief.

(e) The Secretary shall enforce the provisions of paragraph (a) of this section with regard to discrimination on the basis of sex in accordance with Section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce these provisions.

(f) This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program or activity receiving assistance under the Act.

(g) The grantee shall be responsible for assuring that no discrimination prohibited by this section occurs in any program for which it has responsibility, and shall establish an effective mechanism for this purpose which is described in its plan. The grantee may, as one possible means of establishing this mechanism, assign the responsibility for administering the Equal Employment Opportunity (EEO) program to one individual and require subgrantees and contractors to prepare affirmative action plans. In such cases, the grantee may include in its comprehensive manpower plan a description of its EEO program and the related affirmative action plans of its subgrantees and contractors, including the procedures established for monitoring these activities.

(h) The term "handicapped individual" means any individual who (1) has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment, and (2) can reasonably be expected to benefit in terms of employability from an activity under the Act.

#### § 98.22 Nepotism.

The provisions of this section are applicable as stated, except that the requirements found in § 96.48 shall not be superseded.

(a) *Restriction.* No grantee, subgrantee, contractor or employing agency may hire a person in an administrative capacity, staff position or public service employment position funded under the Act if a member of his or her immediate family is employed in an admin-

istrative capacity for the same grantee or its subgrantees, contractors, or employing agencies. Where a State or local statute regarding nepotism exists which is more restrictive than this policy, the eligible applicant should follow the State or local statute in lieu of this policy.

(b) *Definitions.* (1) For purposes of this section, the term "member of the immediate family" includes: wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, and stepchild.

(2) The term "staff position" includes all CETA staff positions funded under the Act, such as instructors, counselors, and other staff involved in administrative, training or services activities.

(3) The term "administrative capacity" includes: those persons who have overall administrative responsibility for a program, including: all elected and appointed officials who have any responsibility for the obtaining of and/or approval of any grant funded under the Act as well as other officials who have any influence or control over the administration of the program, such as the project director, deputy director and unit chiefs; and persons who have selection, hiring, placement or supervisory responsibilities for public service employment participants.

#### § 98.23 Special limitations on participant activities.

(a) (1) *Political activities.* (i) No program under this Act may involve political activities. (ii) Neither the program nor the funds provided therefor, nor the personnel employed in the administration of the program, shall be in any way or to any extent, engaged in the conduct of political activities in contravention of Chapter 15 of Title 5, United States Code (sec. 208(g) and 710).

(2) Participants employed by State and local government in the administration of the program and participants whose principal employment is in connection with an activity financed by other Federal grants or loans are covered by the Hatch Act (sec. 208(g) and 710).

(b) *Political patronage.* No program will be funded if the eligible applicant discriminates with respect to political affiliation. Specifically, no eligible applicant, subgrantee or employing agency may select, reject, or promote a participant based on that individual's political affiliation or beliefs. The selection or advancement of employees as a reward for political services or as a form of political patronage, whether or not the political service or patronage is partisan in nature, is discrimination based on political belief or affiliation, and is prohibited (sec. 208(f)).

(c) *Lobbying activities.* No funds made available under this Act may be used for lobbying activities as prohibited in 18 USCA 1913.

(d) *Sectarian activities.* No participant in any program under this part may be employed in the construction, operation, or maintenance of such part of any facility as is used or will be used for sectarian instruction or as a place of religious worship (sec. 208(h)).

#### § 98.24 General benefits and working conditions for program participants.

(a) Each participant in an on-the-job training, work experience or public service employment program under the Act shall be assured of workmen's compensation benefits at the same level and to the same extent as other employees of the employer who are covered by a State or industry workmen's compensation statute. Participants engaged in any CETA program activity, i.e., work experience, public service employment, on-the-job training, classroom training, services to participants and other activities, where others similarly engaged are not covered by an applicable workmen's compensation statute shall be provided workmen's compensation insurance or medical and accident insurance for injury or diseases resulting from such participation. The costs of such insurance shall be charged to the appropriate cost category as provided in § 98.12. Each participant in an on-the-job training, work experience, or public service employment program shall also be assured of health insurance, unemployment insurance and other benefits at the same levels and to the same extent as other employees in the employment situation, and to working conditions and promotional opportunities neither more nor less favorable than such other employees similarly employed (secs. 208(a) (4), 703(5) and 703(6)). Nothing in this section shall be interpreted to require coverage for health insurance, unemployment insurance and similar benefits for participants, such as work experience participants, where there is no employee of the employer performing the same or similar work in the employment situation. In determining whether the work is the same or similar to that of a person regularly employed, the prime sponsor will take into consideration, but shall not be limited to, employment status, type of work performed, job classification and method of appointment to the position.

(b) Every participant must be advised prior to entering upon employment of the name of his employer, and of his rights and benefits in connection with his employment (sec. 208(a) (8)).

(c) No participant will be required or permitted to work, be trained, or receive services in buildings or surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health or safety. In the case of participants employed or trained for jobs inherently dangerous, e.g., fire or police jobs, participants will be assigned to work in accordance with reasonable safety practices. The provisions of section 2(a) (3) of Pub. L. 89-286 (relating to health and safety conditions) shall apply to such programs or activity (secs. 208(a) (5) and 703(5)).

#### § 98.25 Retirement programs.

(a) As the nature of programs under the Act involve temporary training and employment, participation in a retirement system is not generally encouraged. However, such participation is not prohibited on behalf of participants in on-the-job training in public or private non-profit agencies, work experience and public service employment where such payments are warranted. Such payments are warranted when any of the following conditions are met:

(1) Payments are for retirement benefits that are part of a consolidated package, including such benefits as health insurance and workmen's compensation, if separation of the benefits is not allowed;

(2) Payments are for participants who are immediately hired into positions normally covered by the employing agency's retirement system;

(3) Payments are for participants whom the employing agency or another employer intends to hire into permanent jobs at some future date, provided that:

(i) Payments on behalf of such participants are made into and retained in a reserve account, and not paid into the retirement fund until the participant has acquired regular employee status; and

(ii) If regular employment occurs with other than the employing agency, retirement fund payments may be allowed only if the participant is employed within the State, and the retirement benefits are portable; or

(4) Payments are for retirement benefits required by Federal, State, or local law, or for retirement plans set up by State or local law which will not permit the exclusion of participants from coverage.

(b) Expenditures may be made from program funds for payments under the Social Security Act.

#### § 98.26 Procedures for resolving issues between grantees and complainants.

(a) Each prime sponsor or eligible applicant shall establish a procedure for resolving any issue arising between it (including any subgrantee or subcontractor of the prime sponsor) and a participant under any Title of the Act. Such procedures shall include an opportunity for an informal hearing, and a prompt determination of any issue which has not been resolved. When the prime sponsor or eligible applicant proposes to take an adverse action against a participant, such procedures shall also include a written notice setting forth the grounds for any adverse action proposed to be taken by the prime sponsor or eligible applicant and giving the participant an opportunity to respond.

(b) Each prime sponsor or eligible applicant should establish informal review procedures such as informal hearings or some other process, to deal with issues arising between it and any aggrieved party.

(c) Final determinations made as a result of the review process shall be provided to the complainant in writing. Such



notice shall include the procedures by which the complainant may appeal the final determination, set forth in Subpart C of Part 98. No individual subject to the issue resolution requirements of this section may initiate the hearing procedures of Part 98 until all remedies under this section have been exhausted.

#### § 98.27 Grantee contracts and subgrants.

(a) Contracts may be entered into between a grantee and any party, public or private, for purposes set forth in a grant agreement except as indicated in paragraph (c) of this section. Procurement standards shall be those set forth in § 98.20.

(b) Subgrants may be entered into only between the grantee and units of State and local general government, public agencies and nonprofit organizations.

(c) Contracts or subgrants which propose to expend Federal funds for a public service employment program may be entered into only with other public agencies or with private nonprofit agencies, except for the provision of administrative services (e.g., auditing, payroll, staff training) which may be entered into with private profit-making organizations. These services shall not include direct public service employment program services such as the employment of participants.

(d) Grantee responsibility for development, approval and operation of contracts and subgrants. The grantee is responsible for development, approval and operation of all contracts and subgrants and shall require that its contractors and subgrantees adhere to the requirements of the Act, regulations promulgated under the Act, and other applicable law. It shall require contractors and subgrantees to maintain effective control and accountability over all funds, property and other assets covered by the contract or subgrant. The grantee shall assure that contractors and subgrantees shall maintain and make available for review by the grantee and the Department of Labor all records pertaining to the operations of programs under such contracts and subgrants, consistent with the maintenance and retention of records requirements of § 98.18 of these regulations (sec. 105(a)(1)(B) and 208(d)).

(e) Cancellation. If a contractor or subgrantee does not comply with any requirement of the Act, the regulations promulgated under the Act, and other applicable law the grantee shall, as appropriate, cancel the contract or subgrant in whole or in part. The grantee may cancel for noncompliance with additional conditions established by the grantee for the contract or subgrant.

(f) Continuity of service when contract or subgrant is cancelled. If a contract or subgrant is cancelled, in whole or in part, the grantee shall develop procedures for assuring continuity of service to participants and provide adequate notice to affected staff of the change (secs. 105(a)(1)(B) and 208(d)).

(g) Contracts and subgrants extending beyond the term of the grant. The nature of certain training programs may make it necessary for contracts or subgrants to be entered into by the grantee which will extend beyond the term of the grant under the Act. The grantee is authorized to enter into contracts or subgrants which extend past the termination date of the grant but such extension shall not exceed one year and shall be subject to the provisions of § 98.15 and § 98.16. In such cases, the grantee shall continue to be responsible for the administration of such contracts and subgrants.

#### § 98.28 Non-Federal status of participants.

Except where specifically provided to the contrary, participants in a program under the Act shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employment benefits.

#### Subpart B—Assessment and Evaluation

##### § 98.30 General.

(a) This Subpart B sets forth the assessment and evaluation responsibilities of the grantee (§ 98.31) and the Secretary of Labor (§ 98.32). The grantee shall, as part of its general responsibility to carry out the purposes and provisions of the Act, establish adequate program management for the purposes of examining, in a systematic fashion, the performance of its program in meeting the goals and objectives contained in the plan and measuring the effectiveness and impact of its program in resolving manpower problems identified in that plan (secs. 105(a)(1)(B) and 703(14)).

(b) The Secretary shall assess grantees to determine whether they are carrying out the purposes and provisions of the Act in accordance with their approved plans. The Secretary shall also evaluate the overall programs and activities conducted under the Act to aid in the overall administration of the Act (secs. 311(c)(d) and 313(b)).

##### § 98.31 Responsibilities of the prime sponsor or eligible applicant.

(a) As prescribed under Subpart A of this Part 98, the grantee shall submit periodic reports on the performance of its program in relation to its plan as required by the Secretary (secs. 313(b) and 703(12)). The grantee shall implement and maintain the necessary recordkeeping required to complete these periodic reports. While such recordkeeping will support reports to the Secretary, it is principally for the use of the grantee to provide basic internal management information.

(b) The grantee is required to establish internal program management procedures (sec. 703(14)). Such procedures shall be used by the grantee in the monitoring of day-to-day operations, to periodically review the performance of the program in relation to program goals

and objectives, and to measure the effectiveness and impact of program results in terms of participants, program activities, and the community. The objective of such procedures shall be the improvement of overall program management and effectiveness.

(c) The grantee shall monitor all activities for which it has been provided funds under the Act to determine whether the assurances and certifications made in its plans and the purposes and provisions of the Act are being met, and to identify problems which may require the grantee to take corrective action in order to assure such compliance. The grantee shall fulfill this monitoring function through the use of internal evaluative procedures, the examination of program data, or through such special analysis or checking as it deems necessary and appropriate (secs. 105(a) and (b), 108(d), and 703).

(d) The grantee shall cooperate with the Secretary's evaluation and assessments by providing special reports on program activities and operations as requested; the findings of evaluations of effectiveness and impact; and access to its records and program operations.

(e) When the grantee finds that operations do not equal planned performance, it shall develop and implement appropriate corrective action.

##### § 98.32 Responsibilities of the Secretary.

(a) As used in this section, the term "assessment" refers to the Federal review of plans and performance of individual grantees, and the term "evaluation" refers to the Federal study of the overall effectiveness and impact of programs and activities under the Act.

(b) The Secretary has the responsibility to determine that the grantee is operating in general accordance with its approved plan in carrying out the purposes and provisions of the Act, and has demonstrated maximum efforts to implement the provisions in its prior year's plan.

(1) The Secretary shall assess the grantee's program and activities in order to determine compliance with assurances and certifications of its plan, compliance with the purposes and provisions of the Act, compliance with the regulations promulgated under the Act and performance in the achievement of goals and objectives specified in the approved plan (secs. 105, 108(d), and 703).

(2) Such assessment shall be conducted through the review of required periodic reports and shall be supplemented by special reports from the grantee, the examination of records maintained by the prime sponsor or eligible applicant, selective on-site reviews including in certain instances, reviews of contractors and subgrantees after prior consultation with the grantee, the investigation of allegations or complaints, or other examination as deemed necessary and appropriate by the Secretary (secs. 311(c)(d), 313(a)(b), 703(12), and 108).

(3) Assessment may also be conducted for purposes of the offering of technical

assistance and/or recommendations for corrective actions to grantees as considered necessary. Such assessments will be made in consultation with grantees.

(c) The Secretary has the responsibility to provide for the continuing evaluation of all programs and activities conducted pursuant to the Act. Such studies shall include examination of:

- (1) Cost in relation to effectiveness;
- (2) Impact on communities and participants;
- (3) Implication for related programs;
- (4) Extent to which needs of various age groups are met;
- (5) Adequacy of mechanisms for the delivery of services;
- (6) Comparative effectiveness of grantee programs with similar programs conducted by the Secretary under Section 110 or Title III;
- (7) Opinions of participants about the strengths and weaknesses of the programs;

(8) Relative and comparative effectiveness of programs under this Act and Part C of Title IV of the Social Security Act (Work Incentive Program for Welfare recipients) (sec. 313(a) and (b));

(9) The effectiveness of programs in meeting the employment needs of disadvantaged, unemployed, and underemployed persons; and

(10) The extent to which artificial barriers restricting employment and advancement opportunities in agencies receiving funds under the Act have been removed.

(d) The Secretary shall compile, on a State, regional and national basis, information obtained from periodic reports or special reports, surveys, or samples required from grantees, including information on:

(1) Enrollee characteristics, including age, sex, race, health, education level, and previous work and employment experience;

(2) Duration in training and employment situations, including information on the duration of program participation, for at least a year following the termination of participation in federally-assisted programs and comparable information on other employees or trainees or participating employers; and

(3) Total dollar cost per trainee, including breakdown between salary or allowance, training and supportive services, and administrative costs (sec. 313(b)).

(e) Evaluations carried out in accordance with paragraph (d) of this section may be conducted directly by Department of Labor staff or through contract, grant or other arrangement, as the Secretary deems necessary or appropriate (sec. 311(c)).

##### § 98.33 Limitation.

No prime sponsor or eligible applicant nor the Secretary shall, in arranging for evaluation of any program under the Act, utilize for such evaluation any non-governmental individual, institution, or organization which is associated with that program as a consultant, technical advisor or in any similar capacity (sec. 704(c)).

#### § 98.34 Consultation with the Secretary of Health, Education, and Welfare.

The Secretary shall consult with the Secretary of Health, Education, and Welfare with respect to arrangements for services of a health, education, or welfare character in plans under this Act. This consultation shall focus on the relationship of such services to be delivered under this Act with those being delivered under other applicable laws for which the Secretary of Health, Education, and Welfare is responsible. The ARDM will provide copies of Title I and II grant applications to the Regional Director of Health, Education, and Welfare for review and comment on proposed activities of a health, education, and welfare character as provided for in the Memorandum of Agreement signed June 3, 1974, and July 25, 1974, by the Secretary of Labor and the Secretary of Health, Education, and Welfare, respectively.

#### Subpart C—Hearings and Judicial Review

##### § 98.40 Purpose and policy.

(a) The regulations set forth in this Subpart C contain the procedures established by the Secretary for carrying out his responsibilities under the Act for the review of comprehensive manpower plans and applications for financial assistance, and for the receipt, investigation, hearing and determination of questions of non-compliance with the requirements of the Act and the regulations promulgated under the authority of the Act (sec. 108).

(b) It is the policy of the Secretary to receive information concerning alleged violations of any title of the Act and the regulations promulgated pursuant thereto from any person, or any unit of Federal, State or local government. Assistance in the filing of a formal allegation may be secured from the appropriate Regional Solicitor, by any person who desires and needs such assistance.

(c) A participant in a program under the Act must exhaust the administrative remedies established by the prime sponsor or eligible applicant for resolving matters in dispute prior to utilizing the procedures under this Subpart C. The filing of such a complaint shall not, however, automatically act as a stay of the decision rendered by the prime sponsor or eligible applicant. A participant may initiate an action under this subpart within 30 days of any final decision by a grantee.

##### § 98.41 Review of plans and applications; violations.

(a) The Secretary shall not finally disapprove any Comprehensive Manpower Plan or application for financial assistance submitted under any title of the Act, or any modifications, or amendments thereof, without first affording the grantee submitting the plan or application reasonable notice and opportunity for a hearing as provided in § 98.47 et seq.

(b) When information available to the Secretary indicates that a grantee may be:

(1) maintaining a pattern or practice of discrimination in violation of section 703(1) or section 712(a) of the Act or otherwise failing to serve equitably the economically disadvantaged, unemployed, or underemployed persons in the area it serves;

(2) incurring unreasonable administrative costs in the conduct of activities and program, as determined pursuant to regulation;

(3) failing to give due consideration to continued funding of programs of locally demonstrated effectiveness including those previously conducted under provisions of law repealed by Section 714 of the Act; or

(4) otherwise materially failing to carry out the purposes and provisions of the Act or regulations issued pursuant to the Act; he shall, before taking final action on such grounds, notify the grantee of his proposed action and provide the grantee a reasonable time within which to respond. All further proceedings shall be conducted as provided in §§ 98.46 and 98.47 et seq.

(c) Every other person claiming legal injury because of any action under the Act may be heard only by initiating a complaint under § 98.42.

##### § 98.42 Complaints; filing of formal allegations; dismissal.

(a) Every complaint by any complainant, whether in writing or not, shall be filed as a formal allegation before the commencement of any investigation or corrective action is required under this part.

(b) All formal allegations shall be filed with the appropriate ARDM. A formal allegation so filed may be withdrawn only with the consent of the Secretary.

(c) A formal allegation pending more than 6 months after filing because the complainant has failed to cooperate or make himself available during investigation of the matter may be dismissed by the ARDM upon notice to the last known address of the complainant.

##### § 98.43 Form.

Every formal allegation shall be in writing and signed by the complainant, and shall be sworn to before a Notary Public, or other duly authorized person. A formal allegation need not be in any particular form, but should be neat, legible and suitable for flat filing.

##### § 98.44 Contents of formal allegations; amendment.

(a) The formal allegation should contain the following:

(1) The full name and address of the person making the charge.

(2) The full name and address of the party against whom the formal allegation is made (hereinafter referred to as the respondent(s)).

(3) A clear and concise statement of the facts, including pertinent dates, constituting the alleged unlawful practice.

(4) Where known, the provisions of the Act, regulations, Comprehensive Manpower Plan, and application of the grantee believed to have been violated.



(5) A statement disclosing whether proceedings involving the act complained of have been commenced before a State or local authority, and, if so, the date of such commencement and the name of the authority.

(6) A statement that the administrative procedures established by the grantee have been, if applicable, followed to completion by the complainant.

(b) Notwithstanding the provisions of paragraph (a) of this section, a formal allegation will be considered to have been filed when the ARDM receives from the complainant a written statement sufficiently precise to both identify those against whom the allegations are made, and to fairly afford the respondent an opportunity to prepare a defense. A formal allegation may be amended to cure technical defects or omissions, including failure to swear to the allegation, or to clarify and amplify allegations made therein, and such amendments relate back to the original filing date. An amendment alleging additional acts not directly related to or growing out of the subject matter of the original formal allegation will be permitted only where at the date of the amendment the allegation could not have been timely filed as a separate formal allegation and the rights of any respondent will not be prejudiced.

#### § 98.45 Investigations.

(a) The ARDM will make a prompt investigation of each formal allegation filed as provided in this part. The investigation may include, where appropriate, a review of pertinent practices and policies of any grantee, the circumstances under which the possible non-compliance with the Act or regulations issued thereunder occurred, and other factors relevant to a determination as to whether the respondent has failed to comply with requirements of the Act, the regulations, and the Comprehensive Manpower Plan.

(1) If an investigation pursuant to paragraph (a) of this section indicates to the ARDM a failure to comply with the Act, the regulations, or the Comprehensive Manpower Plan, the ARDM will so inform the respondent and the complainant and the matter, will if possible, be resolved by informal means. If informal resolution does not occur within a reasonable period of time, action will be taken as provided in this part or as otherwise provided by law.

(2) If an investigation does not warrant action pursuant to subparagraph (a) (1) of this section, the ARDM will so inform the respondent and the complainant in writing.

(b) No grantee, participant, respondent or other persons shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the Act, the regulations, the Comprehensive Manpower Plan, or the application of an eligible applicant because he has made a complaint, formal allegation, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of every complainant shall be kept con-

idential except to the extent necessary to carry out the purpose of this part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

#### § 98.46 Opportunity for hearings; when required.

An opportunity for a public hearing shall be extended in each of the following instances:

(a) When the ARDM receives a formal allegation from an affected unit of general local government that a grantee has changed its Comprehensive Manpower Plan so that it no longer complies with Section 105 of the Act, or that in the administration of the plan there is a failure to comply substantially with any provision of the plan or with the requirements of Section 703 and 704 of the Act and the matter has not been resolved informally within a reasonable period of time; or

(b) After the completion of an investigation, pursuant to § 98.45, or any formal allegation which indicates there is substantial evidence of facts supporting a conclusion of probable cause that a violation of the Act, or regulations issued pursuant thereto, has occurred or is occurring, or is about to occur, and the matter has not been resolved by informal means; or

(c) When the Secretary has reasonable cause to believe that a violation set forth in § 98.41(b) has occurred, or when the Secretary determines that fairness and the effective operation of programs under the Act would be furthered by an opportunity for a public hearing, including a finding under § 98.41 that a hearing should be provided.

#### § 98.47 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by the Act, or § 98.46, and the issue has not been resolved informally, the Secretary or ARDM shall give reasonable notice by registered or certified mail, return receipt requested, to the affected respondent and complainant, if any. This notice shall advise the respondent of the allegations to be heard, the proposed remedial actions which may be taken, and the matters of act or law asserted as the basis for the action. The notice shall (1) fix a date not less than 20 days after the date of such notice within which the respondent may request the Secretary or ARDM that the matter be scheduled for hearing, or (2) advise the respondent and the complainant that the matter in question has been set by a Hearings Officer for hearing at a stated place and time. The time and place shall be fixed by a Hearings Officer in accordance with paragraph (b) and shall be subject to change for cause. A respondent may waive a hearing and submit written information and argument for the record. The failure of a respondent to request a hearing under this section or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under the Act and this part, and shall be respondent's consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearings.* Hearings shall be held in Washington, D.C., at a time fixed by a Hearings Officer. At the request of the respondent or Department, and upon a determination by the Hearings Officer that the relative conveniences of the respondent and Department so warrant, and no issue presented involved a determination which has been made at the Department's national office, the Hearings Officer may select a place for hearing in the city of the regional office of the Department.

(c) *Right to counsel.* In all proceedings under this section, the respondent and the Department shall have the right to be represented by counsel.

#### (d) Procedures, evidence, and record.

(1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with Section 5-8 of the Administrative Procedure Act, and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Department and the respondent shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the Hearings Officer conducting the hearings at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available, and to subject testimony to test by cross-examination, shall be applied where reasonably necessary by the Hearings Officer conducting the hearing. The Hearings Officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(3) The general provisions governing discovery as provided in the Rules of Civil Procedure for the United States District Court, Title V, 28 U.S.C., Rules 26 through 37, may be made applicable in any hearing conducted under this part to the extent that the Hearing Officer concludes that their use would promote the efficient advancement of the hearing.

(4) When a public officer is a respondent in a hearing in his official capacity and during its pendency dies, resigns, or otherwise ceases to hold office, the proceeding does not abate and his successor is automatically substituted as a party. Proceedings following the substitution shall be in the name of the substituted party, but any misnomer not affecting

the substantive rights of the parties shall be disregarded. An order of substitution may be entered at any time, but the omission to enter such an order shall not affect the substitution.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this part with respect to two or more programs to which this part applies or noncompliance with this part and the regulations of one or more other Federal departments or agencies, the Secretary may, by agreement with such other departments or agencies, where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedure not inconsistent with this part. Final decisions in such cases, insofar as this part is concerned, shall be made in accordance with § 98.48.

(f) *Hearing Officers.* Hearings shall be held before an Administrative Law Judge of the Department or by such other person as may be designated by the Secretary.

#### § 98.48 Initial certification, decisions, and notices.

(a) *Authority of hearing officer to render decision.* The Administrative Law Judge or other designated hearing officer is authorized to make an initial decision unless the Secretary otherwise limits this authority in a particular case.

(b) *Decisions and certifications by hearing officers.* The Administrative Law Judge, or other persons designated to hear the matter, shall make an initial decision, if so authorized (see § 98.47(f)), or certify the entire record including his recommended findings of fact, conclusions of laws, and proposed decision to the Secretary for a final decision, and a

copy of such initial decision of certification shall be mailed to the respondent and the complainant. When an initial decision is made the respondent may, within 30 days of mailing of such notice of initial decision, file with the Secretary his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the Secretary may on his own motion within 45 days after the initial decision serve on the respondent a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review, the Secretary shall review the initial decision and issue his own decision thereon including the reasons therefor. The decision of the Secretary shall be mailed promptly to the respondent and the complainant, if any. In the absence of either exceptions or a notice of review, the initial decision shall constitute the final decision of the Secretary.

(c) *Decisions on record or review by the Secretary.* Whenever a record is certified to the Secretary for decision or he reviews an initial decision pursuant to paragraph (a) of this section, the respondent shall be given reasonable opportunity to file with him briefs or other written statements of its contentions. A copy of the final decision of the Secretary shall be given in writing to the respondent and to the complainant, if any.

(d) *Decisions on record where a hearing is waived.* Whenever a hearing is waived under this part, a decision shall be made by the Secretary on the record and a copy of such decision shall be given in writing to the respondent, and to the complainant, if any.

(e) *Rulings required.* Each decision of an Administrative Law Judge or the Secretary shall set forth his ruling on each finding, conclusion, or exception

presented, and shall identify the requirement or requirements imposed by or pursuant to the Act or regulations issued thereunder with which it is found that the respondent has failed to comply.

(f) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved in accordance with the Act, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and regulations issued thereunder, including provisions designed to assure that no Federal financial assistance will thereafter be extended under such program to the respondent determined by such decision to be in default in its performance of an assurance given by it pursuant to the Act or regulations issued thereunder, or to have otherwise failed to comply with the Act or regulations issued thereunder, unless and until it corrects its noncompliance, and satisfies the Secretary that it will fully comply with the Act and regulations issued thereunder.

#### § 98.49 Judicial review.

Action taken pursuant to section 108 of the Act is subject to judicial review as provided in section 109 of the Act. All other action initiated under the Act and regulations issued thereunder shall be final upon a determination by the Secretary.

Signed in Washington, D.C. this 19th day of May 1975.

JOHN T. DUNLOP,  
Secretary of Labor.

[FR Doc. 75-13600 Filed 5-22-75; 8:45 am]

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# **federal register**

FRIDAY, MAY 23, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 101

PART III



## **DEPARTMENT OF LABOR**

**Employment Standards  
Administration**

### **MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION**

**General Wage Determination Decisions,  
Modifications and Supersedeas  
Decisions**

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DEPARTMENT OF LABOR  
Employment Standards Administration  
MINIMUM WAGES FOR FEDERAL AND  
FEDERALLY ASSISTED CONSTRUCTION  
General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and Federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR, Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDES DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedes Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedes Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and Federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedes Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR, Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

NEW GENERAL WAGE DETERMINATION DECISIONS

North Carolina..... NC75-1054

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

California:		
CA75-5052; CA75-5053.....	Apr. 18, 1975	
Connecticut:		
CT75-2065; CT75-2066.....	Apr. 25, 1975	
Delaware:		
DE75-3001 .....	Jan. 3, 1975	
Florida:		
FL75-1010 .....	Jan. 24, 1975	
FL75-1016 .....	Jan. 31, 1975	
FL75-1037 .....	Mar. 21, 1975	
Illinois:		
IL75-2001 .....	Jan. 3, 1975	
IL75-2015; IL75-2016.....	Feb. 14, 1975	
Iowa:		
IA75-4041; IA75-4042.....	Jan. 31, 1975	
Kentucky:		
AR-4053; AR-4054; AR-4055.....	Nov. 8, 1974	
Michigan:		
AR-3177; AR-3178.....	Dec. 20, 1974	
Minnesota:		
AR-3166 .....	Nov. 8, 1974	
New Mexico:		
NM75-4079 .....	Apr. 18, 1975	
Oklahoma:		
OK75-4080 .....	Apr. 18, 1975	
Pennsylvania:		
AQ-2043 .....	Aug. 2, 1974	
AQ-2046 .....	Mar. 8, 1974	
AQ-2081; AQ-2084.....	Mar. 29, 1974	
AQ-2083 .....	Apr. 5, 1975	
AQ-3085 .....	Apr. 19, 1974	
AQ-2121 .....	May 24, 1974	
AR-2001 .....	July 5, 1974	
AR-2098; AR-2099.....	Dec. 27, 1974	
PA75-3017 .....	Feb. 21, 1975	
PA75-3021; PA75-3027.....	March 28, 1975	
Virginia:		
MD75-3003; VA75-3004.....	Jan. 3, 1975	
VA75-3005; VA75-300.....	Jan. 3, 1975	
DC75-3002 .....	Jan. 3, 1975	

SUPERSEDES DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State. Supersedes Decision numbers are in parentheses following the numbers of the decisions being superseded.

Colorado:		
AQ-1099 (CO75-5061).....	Apr. 19, 1974	
Louisiana:		
LA75-4033 (LA75-4100) ..	Jan. 24, 1975	
Montana:		
MT75-5029 (MT75-5059) ..	Feb. 21, 1975	
North Dakota:		
ND75-5031 (ND75-5058) ..	Feb. 28, 1975	
Pennsylvania:		
AQ-2080 (PA75-3053).....	Apr. 5, 1974	
South Carolina:		
AR-4045 (SC75-1055).....	Oct. 18, 1975	
Texas:		
AR-82 (TX75-4103).....	Nov. 29, 1974	
TX75-4009 (TX75-4102) ..	Jan. 17, 1975	
TX75-4020 (TX75-4105):	Jan. 24, 1975	
TX75-4023 (TX75-4104):		
TX75-4028 (TX75-4099):		
TX75-4030 (TX75-4098):		
4031 (TX75-4091):		
TX75-4047 (TX75-4106) ..	Feb. 7, 1975	
TX75-4056 (TX75-4108) ..	Feb. 28, 1975	
TX75-4024 (TX75-4107) ..	Apr. 11, 1975	

Signed at Washington, D.C. this 16th day of May 1975.

RAY J. DOLAN,  
Assistant Administrator,  
Wage and Hour Division.

STAT: North Carolina DECISION NUMBER: NC75-1054 DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 3 stories).		COUNTY: New Hanover DATE: Date of Publication		Fringe Benefit Payments	
		Hourly Rate	App. Tr.	Pension	Vacation
Asbestos workers	5.75				
Bricklayers	4.65				
Carpenters	5.00				
Cement masons	4.50				
Electricians	5.25				
Ironworkers:	5.30				
Structural & ornamental laborers:	2.75				
Painters, brush	4.50				
Plumbers & steamfitters	6.50				
Roofers	4.00				
Sheet metal workers	5.00				
Terrazzo workers	4.75				
Tile setters	5.00				
Truck drivers	3.00				
Welders - rate for craft.					
POWER EQUIPMENT OPERATORS:					
Bulldozer	5.00				
Crane	4.75				
Forklift	4.50				

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NOTICES

DECISION #CA75-5052 (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments		
		H & W	Pension	Vacation
Monterey, San Benito, San Mateo, Santa Clara and Santa Cruz Counties (excluding portions of Counties in the Lake Tahoe Area)	\$10.02 10.02 10.57	.74 .74 .74	.80 .80 .80	.80 .80 .80
Sheet Metal Workers: Monterey, San Benito, Santa Clara and Santa Cruz Cos.	9.45	.48	1.555	.945

DECISION #CA75-5052 - Mod. #2 (40 FR 17476 - April 18, 1975)	Basic Hourly Rates	Fringe Benefits Payments		
		H & W	Pension	Vacation
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, Eldorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Plumas, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California	\$10.07 11.08	.60 .60	17+.65 17+.65	.045 .045
Change: Electricians (Tunnel): Amador, Colusa, Sacramento, Sutter, Yolo, Yuba and those portions of Alpine, Eldorado, Nevada, Placer and Sierra Counties West of the Main Sierra Mountain Watershed	10.02 10.27 10.72	.74 .74 .74	.80 .80 .80	.80 .80 .80
Electricians Cable Splicers	9.77 10.02 10.72	.74 .74 .74	.80 .80 .80	.80 .80 .80
Painters: Alameda, Contra Costa, Eldorado, Napa, Nevada, Placer, Sacramento, Sierra, Solano and Yolo Counties (excluding portions of Counties in the Lake Tahoe Area)	10.02 10.27 10.72	.74 .74 .74	.80 .80 .80	.80 .80 .80
Brush Spray Tapers Lake, Marin, Mendocino, San Francisco and Sonoma Counties	9.77 10.02 10.72	.74 .74 .74	.80 .80 .80	.80 .80 .80

NOTICES

DECISION #CA75-5053 (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments		
		H & W	Pension	Vacation
Monterey, San Benito, San Mateo, Santa Clara and Santa Cruz Counties (excluding Lake Tahoe Area)	\$10.02 10.02 10.57	.74 .74 .74	.80 .80 .80	.80 .80 .80
Brush Spray Tapers Sheet Metal Workers Monterey, San Benito, Santa Clara and Santa Cruz Counties	9.45	.48	1.555	.945

DECISION NO. GT75-2065 - Mod. #1 (40 FR 18788 - April 25, 1975)	Basic Hourly Rates	Fringe Benefits Payments		
		H & W	Pension	Vacation
Fairfield, Litchfield, New London, & Windham Counties, Connecticut	\$9.35	.35	.30	.30
Change: Carpenters; Millwrights; Pile-driving; & Soft floor layers (Building construction): Fairfield County: Shelton Painters: Windham County: Willimantic & Windham	8.85 9.35	.50 .50	.30 .30	.30 .30
Brush; Tapers Paperhangers Riding steel, steamcleaning, sandblasting, tanks, towers, & hazardous work Spray	9.43 11.85	.50 .50	.30 .30	.30 .30
Omit: Ironworkers Power equipment operators' schedules	10.05	.55	.74	.06
Add: Electricians: Fairfield County: Darien, Greenwich, New Canaan, & Stamford	9.33	.35	17+.82	.93
Ironworkers: Ornamental; Reinforcing; Structural; & Precast concrete erection Plumbers; Steamfitters: Litchfield County: Bethlem, New Preston, Plymouth, Roxbury, Terryville, Thomas-ton, Washington, Watertown, & Woodbury	10.05	.55	.74	.04
Power equipment operators' schedules Footnote: t. Paid holidays: B, D, and 3 day Friday after Thanksgiving Day, the last working day before Christmas Day, & 3 day Good Friday	9.32	.68	.50	.48+ t .08

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## NOTICES

DECISION NO. CT75-2065 (Cont'd)  
POWER EQUIPMENT OPERATORS  
(Building construction)

Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
	H & W	Pension	Vacation	
\$10.20	.40	.80	.10	.10
10.10	.40	.80	.10	.10
10.00	.40	.80	.10	.10
9.75	.40	.80	.10	.10
9.25	.40	.80	.10	.10
9.60	.40	.80	.10	.10
9.55	.40	.80	.10	.10
9.30	.40	.80	.10	.10
9.05	.40	.80	.10	.10
8.95	.40	.80	.10	.10

POWER EQUIPMENT OPERATORS:  
Derrick; Hoisting engineer 2 drums  
and over; Hoisting structural  
steel; Pile driver; & Setting  
stone; Dragline; Fork lift - over 4' lift  
Front end loader - 7 cy. or over;  
Grapple; Hoisting engineer (all  
types of equipment where a drum  
and cable are used to hoist, pull,  
or drag material regardless of  
 motive power or operation);  
Hoisting scoop loader and/or  
hoe; Master mechanic; Shovel; &  
Tower crane

Maintenance engineer  
General mix operator; Coleman  
loader and screening plant or  
similar equipment; Combination  
hoe and loader over 1/4 yd.;  
Conveyors - regardless of motive  
power; Front end loader - 3 cy.  
up to 7 cy.; High pressure porta-  
ble boiler; Joy drill - limited to  
joy heavy weight champion or  
equivalent; Mucking machine; Post  
hole digger; Pumpcrete machine;  
Rock boring machine; Vibratory  
hammer; Welder; & Well digger  
Compressor battery operator  
Asphalt spreader  
Bulldozer; Carry-all operators;  
Grader; & Scraper pan  
Combination hoe and loader machine  
Concrete mixer - 5 bags or over;  
Front end loader under 3 cy.;  
Powerstone spreader  
Air and steam valve  
Compressor; Generator; Pump and  
Well point; Welding machine

DECISION NO. CT75-2065 (Cont'd)  
POWER EQUIPMENT OPERATORS  
(Building construction)

Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
	H & W	Pension	Vacation	
\$9.40	.40	.80	.10	.10
8.80	.40	.80	.10	.10
9.30	.40	.80	.10	.10
9.15	.40	.80	.10	.10
8.60	.40	.80	.10	.10
8.20	.40	.80	.10	.10

POWER EQUIPMENT OPERATORS (Cont'd):  
Pork lift not over 4'; & Steam  
Jenny  
Mechanical heater  
Roller  
Dinky machine; Power pavement  
breaker  
Firmen (High pressure)  
Oiler  
Grane with boom, excluding jib,  
over 150' - \$.25 extra  
Crane with boom, excluding jib,  
over 200' - \$.50 extra

PAID HOLIDAYS:  
A-New Year's Day; B-Memorial Day;  
C-Independence Day; D-Labor Day;  
E-Thanksgiving Day; & F-Christmas  
Day

FOOTNOTE:  
a. 7 paid holidays: A through F,  
and Good Friday

## NOTICES

DECISION NO. CT75-2065 (Cont'd)  
POWER EQUIPMENT OPERATORS  
(Heavy and Highway construction)

Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
	H & W	Pension	Vacation	
\$10.22	.40	.80	.10	.10
10.09	.40	.80	.10	.10
9.79	.40	.80	.10	.10
9.61	.40	.80	.10	.10
9.48	.40	.80	.10	.10
9.31	.40	.80	.10	.10
9.13	.40	.80	.10	.10
8.53	.40	.80	.10	.10
8.62	.40	.80	.10	.10
8.95	.40	.80	.10	.10
9.26	.40	.80	.10	.10
8.21	.40	.80	.10	.10
8.70	.40	.80	.10	.10

Crane with 150' boom - \$.25 extra  
Crane with 200' boom - \$.50 extra

PAID HOLIDAYS:  
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;  
E-Thanksgiving Day; & F-Christmas Day

FOOTNOTE:  
a. 7 paid holidays: A through F, and Good Friday

CLASSIFICATIONS:  
Class 1: Erecting and handling structural steel; Front end loader (7 cy. or over)  
Class 2: Piledriver; Power shovel and crane; Dragline; Grapple; Trenching machine; Lighter derrick; Paver (concrete); Derrick (stiff leg and guy); Steel pile sheeting; Kochring loader (scoop); Master mechanic  
Class 3: Drill (Joy heavy weight champion or equivalent); Side boom loader (Euclid); Mucking machine; Rumpcrete; Rock and earth boring machine; Post hole digger; Well digger; & Hammer (vibratory); Central mix; Combination hoe & loader (over 1/4 yd)  
Class 4: Asphalt spreader  
Class 5: Front end loader (3 yds. or over); Grader; Power stone spreader; Combination hoe and loader  
Class 6: Asphalt roller; Bulldozer; Carryall; Maintenance engineer; Concrete mixer (5 bags and over); Welder  
Class 7: Front end loader (under 3 yds.); Roller; Power chipper; Fork lift; Finishing machine; Asphalt plant; Power pavement breaker; Dinky machine  
Class 8: Compressor; Pump  
Class 9: Fireman (high pressure)  
Class 10: Well point system  
Class 11: Compressor battery  
Class 12: Oiler  
Class 13: Batch plant; Bulk cement plant











DECISION #1175-2015 - Mod. #1 (Cont'd.)

Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
	H & W	Pensions	Vacation	
<p>DECISION #1175-2015 - Mod. #1 (40 FR 6927 - February 16, 1975) Bond, Calhoun, Clinton, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, St. Clair, Washington Counties, Illinois</p> <p>CHANGE: Carpenters &amp; Piledrivers: Macoupin &amp; Montgomery Cos. Ironworkers: Bond, Calhoun, Clinton, Jersey, Madison, Monroe, St. Clair &amp; Washington Cos.; Sum- merville &amp; S. thereof in Mon- tgomery Co.; Litchfield, Hill- borno &amp; S. thereof in Mont- gomery County</p>	.50	.50		
9.55	.55	.75		
<p>ADD: Electricians: Portion east of Butler Grove, Graham, Hillsboro &amp; Raymond Twp. in Montgomery County Athenaville, Scottville, Girard &amp; Arnsa North thereof in Macoupin Co.; Montgomery Co., NW part incl. Bois D' Arc, Harvel &amp; Pittman Twp. Calhoun, Greene, Jersey &amp; Alton &amp; vicinity in Madison County Bond Co., eastern 1/2 of County; Clinton Co., Huey, Hoffman &amp; Vic. &amp; Remainder of Washington County Monroe &amp; St. Clair Cos.; Bond Co., western 1/2 of Co.; Vandy Twp. in Washington County &amp; Remainder of Clinton, Madison &amp; Montgomery Counties</p>	.30	12+.25		.4%
9.07	.30	12+.30		.2%
10.19	.30	12	6%	1/2 of 1%
9.75	.30	12+.60		1/2 of 1%
9.38	.4%	12+.65	6%	.25%

## NOTICES

Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
	H & W	Pensions	Vacation	
<p>LINE CONSTRUCTION: Eastern 1/2 of Bond Co., &amp; Remainder of Washington County: Linemen &amp; Digging Operator: Groundmen Equipment Operator: Class I Class II Groundmen: Class "A" Class "B" Lat 6 North Calhoun Co., &amp; Remainder of Montgomery County: Linemen Groundmen Equip. Opr. Class I Groundmen Truck Drivers: With Winch Without Winch Groundmen Class "A" Greene &amp; Jersey Counties: Linemen Groundmen Truck Driver W/Winch Groundmen &amp; Groundmen Truck Driver Clinton, Monroe &amp; St. Clair Cos.; Vandy Twp in Washington Co.; Western 1/2 of Bond County &amp; Butler Grove, Graham, Hillsboro, North Litchfield, Raymond, South Litch- field, Walahville &amp; Zanesville Twp. in Montgomery County: Linemen Groundmen Equipment Operator Groundmen Truck Drivers: With Winch Without Winch Pick-Up-Jeeps Groundmen</p>	.35	12		.25%
89.77	.35			.25%
8.34	.35	12		.25%
6.43	.35	12		.25%
6.23	.35	12		.25%
5.95	.35	12		.25%
9.66	.35	12		.25%
9.01	.35	12		.25%
6.74	.35	12		.25%
6.42	.35	12		.25%
6.13	.35	12		.25%
10.19	.30	12	6%	1/2 of 1%
9.29	.30	12	6%	1/2 of 1%
8.99	.30	12		
9.72	.4%	12		.25%
8.44	.4%	12		.25%
6.86	.4%	12		.25%
6.46	.4%	12		.25%
6.40	.4%	12		.25%
6.36	.4%	12		.25%

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Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
	H & W	Pensions	Vacation	
<p>DECISION #1175-2016 - Mod. #1 (40 FR 6931 - February 16, 1975) Madison &amp; St. Clair Counties, Illinois</p> <p>CHANGE: Painters: Residential; Commercial Industrial Bridges; Grain Elevators; Water, Radio &amp; TV Towers, Stacks Stacks; Boatwain Chairs; Picks; Scaffolds supported by ropes; Wool or Felt Applicators - add'tl. \$.25 per hour Rollers; Wool or Felt Appli- cators on Industrial Work - add'tl. \$.50 per hour Spray; Sand &amp; Water Blasting; Steam Cleaning - add'tl. 1.00 per hour</p>	.65	.15		
9.25	.65	.15		
9.50	.65	.15		
9.75	.65	.15		

Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
	H & W	Pensions	Vacation	
<p>DECISION #1175-4041—MOD. #4 (40-FR-4841—January 31, 1975) Polk County, Iowa</p> <p>CHANGE: Building Construction: Carpenters: Millwrights; Piledrivers Soft Floor Layers</p>	.30	.25		.04
\$8.99	.30	.25		.04
9.34	.30	.25		.04
8.715	.30	.25		.04
<p>DECISION #1175-4042—MOD. #6 (40-FR-4842—January 31, 1975) Pottawattamie County (City of Council Bluffs &amp; the area within 3 miles from the city limits), Iowa</p> <p>CHANGE: Building Construction: Sheet Metal Workers Terrazzo, Tile and Marble Setters Helpers</p>	.35			.02
\$9.41	.35			.02
6.50				
<p>DECISION NO. 284053—Mod. #2 (39 FR 39694 - November 8, 1974) Counties: Allen, Ballard, Butler, Caldwell, Calloway, Carlisle, Christian, Crittenden, Davies, Edmonson, Fulton, Graves, Hancock, Henderson, Hickman, Hopkins, Livingston, Logan, Lyon, McCracken, McLean, Marshall, Muhlenberg, Ohio, Simpson, Todd, Trigg, Union, Warren and Webster, Kentucky</p> <p>Change: Heavy Construction: Power Equipment Operators: Class A Class B Class C</p>	.25	.25		
\$8.50	.25	.25		
6.66	.25	.25		
6.12	.25	.25		

## NOTICES

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DECISION NO. AR-3177 - Mod. #3 (39 FR 11764 - November 20, 1974) Alger, Baraga, Chippewa, Gogebic, Marquette and Ontonagon Counties, Michigan	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		M & W	Pension	Vacation	
ADD: Painters: Alger and Marquette Counties Brush Paperhangers Spray or Finisher, hand or machine Steel 0 to 10' over 10' Glazier	\$ 6.54 6.54 6.74 7.04 7.29 7.04 7.54 6.54			.80 .80 .80 .80 .80 .80 .80	

DECISION NO. AR-3178 - Mod. #1  
(39 FR 11766 - November 20, 1974)  
Marquette County, Michigan

DECISION NO. AR-3178 - Mod. #1 (39 FR 11766 - November 20, 1974) Marquette County, Michigan	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		M & W	Pension	Vacation	
ADD: Glazier Painter - Brush Paperhanger Painter - Spray Taper or Finisher hand or machine	6.54 6.54 6.74 7.04 7.29			.80 .80 .80 .80 .80	

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DECISION NO. AR-3166 - Mod. #3 (39 FR 39705 - November 8, 1974) Anoka, Carver, Hennepin, Scott, Dakota, Ramsey & Washington Counties, Minnesota	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		M & W	Pension	Vacation	
ADD: Electricians - Residential: Carver, Hennepin & Scott Counties; & Townships of Anoka, Fridley, Crow & Ramsey in Anoka County: Construction of all new family dwellings up to and including four-plexes; and to all residential remodel- ing, rewiring & repairing except that any single apart- ment project including a change of main service en- trance shall not exceed eight living units or 400 amps. Dakota, Ramsey, Washington Counties & Remainder of Anoka County: Construction of all new family dwelling up to and including four-plexes, townhouses of four or less contiguous units; 6 to all residential remodeling, re- wiring & repairing except that any single apartment project including a change of main service entrance shall not exceed eight liv- ing units or 400 amps.	\$6.00 6.00	.36 .36	1% 1%	.27 .27	1% 1% of 1%

DECISION NO. NM72-4029 - Mod. #2 (40 FR 17517 - April 18, 1975) Statewide, New Mexico	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		M & W	Pension	Vacation	
CHANGE: CARPENTERS: Dwelling houses and apartments not to exceed two stories in height: Zone 1-A Zone 1-B Zone 1-C General Building and Heavy Engineering and Residential Construction (Dwelling Houses and apartments over two stories in height) Zone 2-A Zone 2-B Zone 2-C MILLRIGHTS & PILEDRIVERMENT: Zone 1 Zone 2 Zone 3 GLAZIERS: Zone II ELEVATOR CONSTRUCTORS: Bernalillo, Catron, Colfax, Curry, DeBaca, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Socorro, Taos, Torrance, Union and Valencia Counties: Elevator Constructor Chaves, Hidalgo, Dona Ana, Eddy, Grant, Lea, Luna, Otero, and Sierra Counties: Elevator Constructor	\$7.76 8.51 9.26 8.26 9.01 9.76 8.76 9.51 10.26 7.34 8.84 6.88	.70 .70 .70 .70 .70 .70 .70 .70 .70 .35 .445 .445	.70 .70 .70 .70 .70 .70 .70 .70 .70 .20 .29 .29	.20 .20 .20 .20 .20 .20 .20 .20 .20 .02 37+hrs 37+hrs	

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DECISION #/AQ-2043 - Mod. #6 (39 FR 28008 - August 7, 1974) Venango County, Pennsylvania Change: Tower Equipment Operator Schedule (See Attached)	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & W	Pensions	Vacation	
DECISION #AQ-2046 - Mod. #7 (39 FR 9338 - March 8, 1974) Elk County, Pennsylvania Change: Electricians Bricklayers & Stonemasons Power Equipment Operators (See Below)	\$9.05 9.35	.45 .50	13+.25 .50		12
DECISION #AQ-2081 - Mod. #7 (39 FR 11805 - March 29, 1974) Cambria County, Pennsylvania Change: Power Equipment Operators (See Schedule Below)					
DECISION #AQ-2083 - Mod. #7 (39 FR 12578 - April 5, 1974) Blair County, Pennsylvania Change: Power Equipment Operators Schedule (See Below)					

DECISION NO. AQ-2080 - Mod. #1 (40 FR 17530 - April 18, 1975) Oklahoma, Cleveland, Caddo, Canadian, Grady, Kingfisher, Logan, Lincoln, McClain, Pottawatomie & Seminole Counties Change: LATHERS ELEVATOR CONSTRUCTORS BRICKLAYERS-STONEMASONS Oklahoma, Cleveland, Canadian, and McClain Counties SOFT FLOOR LAYERS Resilient floor layers and carpet layers SPRINKLER FITTERS	Basic Hourly Rate	H & W	Pensions	Vacation	App. Tr.
	\$8.60 8.325	.445	.29	25%+ab	.01 .02
	8.37	.45	.50		.05
	8.15 9.05	.45 .50	.70		.08

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AQ-2043 (Mod. #6, Cont'd), AQ-2046 (Mod. #7, Cont'd), AQ-2081 (Mod. #7, Cont'd),  
AQ-2083 (Mod. #7, Cont'd), AQ-2084 (Mod. #7, Cont'd), AQ-2121 (Mod. #7, Cont'd),  
AQ-3085 (Mod. #6, Cont'd)

DECISION #AQ-2084 - Mod. #7 (39 FR 18398 - May 24, 1974) Bedford County, Pennsylvania Change: Power Equipment Operator Schedule (See Below)	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & W	Pensions	Vacation	
DECISION #AQ-2121 - Mod. #7 (39 FR 18398 - May 24, 1974) Forest & McKean County, Pennsylvania Change: Bricklayers, cement masons, marble setters, terrazzo workers and tile setters McKean County Electricians: McKean County Roofers: McKean County Power Equipment Operators (See Schedule Below) Footnote: c. One to three months service 10 hours, three to six months service 20 hours, six to nine months service 30 hours, nine to twelve months service 40 hours paid vacation.	\$9.35 9.05 8.00	.50 .45 .50	.50 13+.25 .25	.15+e	12
DECISION #AQ-3085 - Mod. #6 (39 FR - 14115 - April 19, 1974) Warren County, Pennsylvania Change: Bricklayers & Stonemasons Roofers Power Equipment Operators (See Below) Footnote: b. One to three months service 10 hours, three to six months service 20 hours, nine to twelve months service 40 hours paid vacation.	\$9.35 8.00	.50 .50	.50 .25	.15+e	

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS PA-AQ-HRO-1-1	Basic Hourly Rate	H & W	Pensions	Vacation	App. Tr.
CLASS 1	\$10.725	.50	.60		.091
CLASS 1-A	10.875	.50	.60		.09
CLASS 1-B	11.125	.50	.60		.09
CLASS 1-C	11.375	.50	.60		.09
CLASS 2	11.475	.50	.60		.09
CLASS 3	9.35	.50	.60		.09
CLASS 4	8.70	.50	.60		.09
CLASS 5	7.65	.50	.60		.09
CLASS 6	7.65	.50	.60		.09
CLASS 6-A	8.05	.50	.60		.09
CLASS 6-B	8.20	.50	.60		.09

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MODIFICATIONS P. 34

DECISION #AR-2099 - Mod. #4  
(39 FR 44931 - December 27, 1974)  
Adams & York Counties,  
Pennsylvania

Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
	H & W	Pensions	Vacation	
\$ 8.78	.30	.35		.03
8.875	.30	.40		.01
9.45	.35	18+.15		.03
9.86	.30	.35		
5.80	.375	.275		
5.95	.375	.275		
5.85	.375	.275		
6.13	.375	.275		
6.20	.375	.275		
\$ 6.05	.375	.275		.03
6.25	.375	.275		
8.23	.30	.35		

DECISION #AR-2098 - Mod. #2  
(39 FR 44928 - December 27, 1974)  
Crawford County, Pennsylvania

Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
	H & W	Pensions	Vacation	
\$ 9.58	.30	.40		
10.625	.50	.60		.09
10.875	.50	.60		.09
11.125	.50	.60		.09
11.375	.50	.60		.09
11.475	.50	.60		.09
9.35	.50	.60		.09
8.70	.50	.60		.09
7.65	.50	.60		.09
7.95	.50	.60		.09
8.05	.50	.60		.09
8.20	.50	.60		.09

Change:  
Bricklayers, stonemasons,  
cement masons, plasterers,  
terrazzo workers  
Power Equipment Operators  
Class 1  
Class 1-A  
Class 1-B  
Class 1-C  
Class 2  
Class 3  
Class 4  
Class 5  
Class 6  
Class 6-A  
Class 6-B

MODIFICATIONS P. 36

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DECISION #PA-75-2017 - Mod. #3  
(40 FR 14268 - March 28, 1975)  
Cumberland, Dauphin, Perry,  
Junata, New Cumberland Depot  
in York County, Pennsylvania

Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
	H & W	Pensions	Vacation	
\$ 8.78	.30	.35		.03
8.60	.35	.85		
7.60	.35	.85		
6.00	.25	.25		
6.10	.25	.25		
9.00	.31	12		1/2 of 12
9.86	.30	.35		.03
9.05	.45	12+.25		12
10.625	.50	.60		.09
10.875	.50	.60		.09
11.125	.50	.60		.09
11.375	.50	.60		.09
11.475	.50	.60		.09
9.35	.50	.60		.09
8.70	.50	.60		.09
7.65	.50	.60		.09
7.95	.50	.60		.09
8.05	.50	.60		.09
8.20	.50	.60		.09

Change:  
Carpenters  
Bricklayers, Cement Masons,  
Stonemasons, Plasterers,  
Marble Setters, Terrazzo  
Workers  
Tile Setters  
Laborers:  
Class I  
Class II  
Electricians:  
Fine Groove Traps.  
Millwrights

DECISION #PA-75-2021 - Mod. #3  
(40 FR 14947 - March 28, 1975)  
Cameron, Clarion, Clearfield,  
Jefferson Counties, Pennsylvania

Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
	H & W	Pensions	Vacation	
\$ 8.78	.30	.35		.03
8.875	.30	.40		
9.05	.60	.43		
6.90	.25	.30		
6.75	.25	.30		
7.22	.25	.30		
7.52	.25	.30		
6.40	.25	.30		.03
9.86	.30	.35		.01
8.35	.25	.25		.03
9.31	.25	.30		.03
8.23	.30	.35		

Change:  
Carpenters  
Cement Masons  
Bricklayers & Stonemasons  
Laborers:  
Atr. fuel and electric tool  
operators and all other  
pneumatic and mechanical  
tools including blow-pipe and  
vacuum cleaners  
Pipelayers, power-buggy,  
precast slab placers and  
signal men  
Unskilled laborer  
Plaster and cement mason  
tenders, machine mixers,  
plaster pump and scaffold  
builders (excluding masonry  
scaffolding) for casing  
workers, blisters, wagon air  
track and diamond point drill  
operators, burning torches,  
green cutting machine and  
steam jenny  
Mason tenders, machine mixers,  
motorized stockers, scaffold  
builders (masonry), mortar  
pump, conveyor, mechanical  
cleaners and sandblasting  
equipment  
Nursery workers, window  
washers, floor scrubbers and  
watchmen  
Millwrights  
Plasterers  
Roofers, Composition  
Soft Floor Layers

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Basic Hourly Rate	Fringe Benefits Payments				App. Tr.
	H & W	Pension	Vacation		
Decision No. MD/5-3003 - Mod. #3 (40 FR 937 - January 3, 1975) Montgomery and Prince Georges Counties, Maryland; Arlington & Fairfax Counties, the city of Alexandria and Dulles International Airport, Virginia					
Change:					
Elevator Constructors	9.775	.445	.29	32%ab	.02
Elevator Constructors Helpers	6.84	.445	.29	32%ab	.02
Elevator Constructors Helpers (Prob)	4.89				
Plumbers Laborers	6.93	.30	.40		.05

Basic Hourly Rates	Fringe Benefits Payments				App. Tr.
	H & W	Pension	Vacation		
DECISION #VAT5-3004 - Mod. #3 (40 FR 941 - January 3, 1975) York County and the Cities of Hampton and Newport News including Langley AFB, Fort Eustis and Fort Monroe, Virginia					
Change:					
Elevator Constructors:					
Elevator Constructors	\$7.32	.395	.26	24%a+b	.02
Elevator Constructors' Helpers	5.12	.395	.26	24%a+b	.02
Elevator Constructors' Helpers (probationary)	3.66				
Plasterers	8.51				
Plumbers & Steamfitters	8.10	.30	.30		.01
Sprinkler Fitters	8.55	.50	.80		.03
DECISION #VAT5-3005 - Mod. #3 (40 FR 941 - January 3, 1975) The Cities of Norfolk, Chesapeake, Portsmouth and Virginia Beach, Virginia					
Change:					
Carpenters & Soft Floor Layers	7.40	.20	.20		.01
Elevator Constructors:					
Elevator Constructors	7.32	.395	.26	24%a+b	.02
Elevator Constructors' Helpers	5.12	.395	.26	24%a+b	.02
Elevator Constructors' Helpers (probationary)	3.66				
Plumbers & Steamfitters	7.95	.40	.35		.06
Sheet Metal Workers	7.50	.35	.35		.05
Sprinkler Fitters	8.55	.50	.80		.06

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Basic Hourly Rate	Fringe Benefits Payments				App. Tr.
	H & W	Pension	Vacation		
DECISION #VAT5-3006 - Mod. #3 (40 FR 946 - January 3, 1975) Henrico County and the City of Richmond, Virginia					
Change:					
Cement Masons:					
Machine Men	\$6.60				
Scaffold 30' & over	6.70				
Elevator Constructors:					
Elevator Constructors' Helpers	7.65	.445	.29	34%ab	.02
Elevator Constructors' Helpers (probationary)	5.355	.445	.29	34%ab	.02
Ironworkers - structural, ornamental & reinforcing:	3.825				
Zone 1 - up to 10 miles from Capital Square	8.45	.30	.40		.05
Decision No. DC-75-3002 - Mod. #4 (40 FR 948 - January 3, 1975) Washington, D. C.					
Change:					
Elevator Constructors	\$9.775	.445	.29	37%ab	.02
Elevator Constructors' Helpers	6.84	.445	.29	37%ab	.02
Elevator Constructors' Helpers (Prob)	4.89				
Plumbers laborers	6.93	.30	.40		.05

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Decision No. DC-75-3002 - Mod. #4 (40 FR 948 - January 3, 1975) Washington, D. C.					
Change:					
Elevator Constructors	\$9.775	.445	.29	32%ab	.02
Elevator Constructors' Helpers	6.84	.445	.29	32%ab	.02
Elevator Constructors' Helpers (Prob)	4.89				
Plumbers laborers	6.93	.30	.40		.05

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COUNTIES: Adams, Arapahoe, Denver and Jefferson  
DATE: Date of Publication  
Supersedes Decision No. AQ-1099 dated April 19, 1974, in 38 FR 14123  
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories

	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & B	Pensions	Vacation	
BRICKLAYERS	\$8.25	.45	.60	.25	.05
CARPENTERS - Drywall applicators	7.465	.45	.45	.30	.04
CEMENT MASONS	6.59				
ELECTRICIANS:					
Electricians (family residence not to exceed 3 full stories)	6.75	.37	12		2/102
Electricians (all other residential work)	8.38	.65	12+.16		
LABORERS	3.87				
MASON TENDER - Hod Carrier	5.35	.37	.40		.05
PAINTERS:					
Painters, brush	7.41	.40	.15		.01
Drywall Finisher (taper)	7.61	.40	.15		.01
PLUMBERS	8.05	.50	.45	.50	.05
ROOFERS:					
Adams, Arapahoe, Denver and northern part of Jefferson Cos.	7.65	.37			.02
Southern tip of Jefferson County	7.58				
SHEET METAL WORKERS	8.47	.30	.65		.07
SOFT FLOOR LAYERS	7.10	.35	.45	.30	.05
TILE SETTERS	7.60	.53	.40	.25	
TRUCK DRIVERS	5.10	.30	.20	.10	
POWER EQUIPMENT OPERATORS:					
Front End Loader	5.90	.27	.25		.03

SUPERSEDES DECISION

STATE: Colorado

DECISION NUMBER: C075-5061

Supersedes Decision No. AQ-1099 dated April 19, 1974, in 38 FR 14123

DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories

SUPERSEDES DECISION

STATE: Louisiana

DECISION NO.: LA75-4100

PARTIAL: Statewide

DATE: Date of Publication

Supersedes Decision No. LA75-4033, dated January 24, 1975, in 40 FR 3898.

DESCRIPTION OF WORK: Building Construction in all Parishes, Residential Construction in Bossier, Caddo & Calcasieu Parishes and Construction of Highways, Roads, Streets and Parking Areas in all Parishes except St. Mary (except those let with a building contract)

ASBESTOS WORKERS

ZONE 1  
ZONE 2  
ZONE 3  
ZONE 4

	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & B	Pensions	Vacation	
ZONE 1	\$8.145	.325	.30		.04
ZONE 2	7.98	.30	.51		.025
ZONE 3	7.25	.40	.90		
ZONE 4	7.78	.30			

AREA COVERED BY ASBESTOS WORKERS ZONES

ZONE 1 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Rapides, Vermilion & Vernon Parishes  
ZONE 2 - Bienville, Bossier, Caddo, Calcasieu, Claiborne, DeSoto, Grant, Jackson, Lincoln, Natchitoches, Ouachita, Red River, Sabine, Union, Webster & Winn Parishes  
ZONE 3 - Ascension, Assumption, Avoyelles, Calcasieu, Concordia, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Lake Charles, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge & West Feliciana Parishes  
ZONE 4 - East Carroll, Franklin, Madison, Morehouse, Richland, Tensas & West Carroll Parishes

ROILERMAKERS

BRICKLAYERS & STONEMASONS  
ZONE 1  
ZONE 2  
ZONE 3  
ZONE 4  
ZONE 5  
ZONE 6  
ZONE 7  
ZONE 8  
ZONE 9  
ZONE 10

	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & B	Pensions	Vacation	
BRICKLAYERS & STONEMASONS	\$8.00	.50	.76		.02
ZONE 1	7.99	.30	.15		.06
ZONE 2	6.68	.43	.20		.02
ZONE 3	7.85	.25	.20		.035
ZONE 4	9.05	.25			
ZONE 5	7.25				
ZONE 6	6.68				
ZONE 7	7.45	.30	.30		
ZONE 8	7.75		.30		
ZONE 9	8.00		.10		
ZONE 10	8.00				

AREA COVERED BY ROILERMAKERS ZONES

ZONE 1 - Acadia, Evangeline, Iberia (west of the Atchafalaya River), Lafayette, St. Landry, St. Martin (west of the Atchafalaya River), St. Mary (west of the Atchafalaya River) & Vermilion Parishes  
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes  
ZONE 3 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Parish) & Washington Parishes

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AREA COVERED BY BRICKLAYERS ZONES

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes  
ZONE 2 - Evangeline, Iberville, Orleans, St. Landry Parishes  
ZONE 3 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Vermilion & Vernon Parishes  
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Landry, St. Martin (extending northward to that part of St. Tammany Parish from the Tangipahoa Parish line on the west along U.S. Highway 190 through the lower limits of Covington, along State Highway 456, through the lower limits of Abita Springs & Talisheek and on a line due east from Talisheek to the Mississippi State Line) & Terrebonne Parishes  
ZONE 5 - St. Tammany (north half including Covington north of Highway 190) & Washington Parishes  
ZONE 6 - Avoyelles, Calcasieu, Concordia, Grant, LaSalle & Rapides Parishes  
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes  
ZONE 8 - Natchitoches & Sabine Parishes  
ZONE 9 - Calcasieu, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes  
ZONE 10 - Iberia, Lafayette, St. Martin & St. Mary Parishes

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## DECISION NO. LA75-4100

## AREA COVERED BY CARPENTERS ZONES (CONT'D)

ZONE 4 - Ascension (north of the Mississippi River), East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Mississippi River), West Baton Rouge & West Feliciana Parishes  
 ZONE 5 - Ascension (south of the Mississippi River), Assumption, Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (south of the Mississippi River) & St. John the Baptist Parishes  
 ZONE 6 - Iberia (northeast of the Atchafalaya River), Lafourche, St. Martin (southern segment), St. Mary (northeast of the Atchafalaya River), St. Tammany (southern portion), Tangipahoa (remainder of Parish not covered by Zone 3) & Terrebonne Parishes  
 ZONE 7 - Avovelles, Grant, LaSalle & Madison Parishes  
 ZONE 8 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes  
 ZONE 9 - Natchitoches & Sabine Parishes  
 ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes

CEMENT MASONS (BUILDING CONSTRUCTION)	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & V	Penalties	Vacation	
ZONE 1	\$6.66				
ZONE 2	6.70				
ZONE 3	6.90	.30	.50		.05
ZONE 4	7.20	.25	.30		.04
ZONE 5	6.35				
ZONE 6	5.25				
ZONE 7	6.95	.30			
ZONE 8	6.82		.10		
ZONE 9	5.75		.30		

## AREA COVERED BY CEMENT MASONS (BUILDING CONSTRUCTION) ZONES

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, West Baton Rouge & West Feliciana Parishes  
 ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vermilion Parishes  
 ZONE 3 - Acadia, Iberia, Lafourche, St. Landry, St. Martin, St. Mary & Vermilion Parishes  
 ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (southern portion) & Terrebonne Parishes  
 ZONE 5 - St. Tammany (northern half including Covington north of Highway (19)) & Washington Parishes  
 ZONE 6 - Avovelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes  
 ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes  
 ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes  
 ZONE 9 - Natchitoches & Sabine Parishes

## DECISION NO. LA75-4100

## CEMENT MASONS (HIGHWAY CONSTRUCTION)

On concrete lined ditches:

ZONE 1	\$8.195
ZONE 2	6.70
ZONE 3	6.45
ZONE 4	6.30
ZONE 5	5.72

## AREA COVERED BY CEMENT MASONS (HIGHWAY CONSTRUCTION) ZONES

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes  
 ZONE 2 - Ascension, East Baton Rouge, St. Helena, St. James, Tangipahoa & West Feliciana Parishes  
 ZONE 3 - Bossier, Caddo, Calcasieu & Cameron Parishes  
 ZONE 4 - Acadia, Allen, Assumption, Avovelles, Beauregard, Bienville, Claiborne, DeSoto, East Feliciana (excluding U.S. Highway 61), Evangeline, Iberia, Iberville, Jefferson Davis, Lafourche, Laplace, Lincoln, Livingston, Madison, Natchitoches, Ouachita, Pointe Coupee, Rapides, Red River, Richland, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Webster & West Baton Rouge Parishes  
 ZONE 5 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, Madison, Morehouse, Sabine, Tensas, Union, Washington, West Carroll & Winn Parishes

ELECTRICIANS	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & V	Penalties	Vacation	
ZONE 1	\$9.00	.30	12+.35		3/107
ZONE 2	8.00		12		
ZONE 3	8.95	.35	12+.20		1/107
ZONE 4	9.05	.25	12		
ZONE 5	8.90	.30	12+.20		.03
ZONE 6	8.45	.30	12		1/72
ZONE 7	8.30	.50	12		12
ZONE 8	8.25		12	.30	1/72

## DECISION NO. LA75-4100

## Cable splicers

Cable splicers	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & V	Penalties	Vacation	
ZONE 1	\$9.25	.30	12+.35		3/107
ZONE 2	8.50		12		
ZONE 3	9.20	.35	12+.20		1/107
ZONE 4	9.30	.25	12		
ZONE 5	8.90	.30	12+.20		.03
ZONE 6	8.95	.30	12		1/72
ZONE 7	8.80	.45	12		12
ZONE 8	8.50		12	.30	1/72

## AREA COVERED BY ELECTRICIANS ZONES

ZONE 1 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Parishes  
 ZONE 2 - St. Tammany, Tangipahoa & Washington Parishes  
 ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes  
 ZONE 4 - Acadia, Iberia, Lafourche, St. Martin (that portion north of Iberia Parish), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes  
 ZONE 5 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Landry (that portion south of Iberia Parish), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Parishes  
 ZONE 6 - Avovelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Parishes  
 ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes  
 ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

ELEVATOR CONSTRUCTORS	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & V	Penalties	Vacation	
ZONE 1	\$8.49	.445	.29	37+.40	.02
Elevator constructors' helpers	70ZJR	.445	.29	37+.40	.02
Elevator constructors' helpers (prob.)	50ZJR				
ZONE 2	7.51	.445	.29	37+.40	.02
Elevator constructors' helpers	70ZJR	.445	.29	37+.40	.02
Elevator constructors' helpers (prob.)	50ZJR				

## DECISION NO. LA75-4100

## POINTS FOR ELEVATOR CONSTRUCTORS

a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate  
 b - Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day

## AREA COVERED BY ELEVATOR CONSTRUCTORS ZONES

ZONE 1 - Acadia, Allen, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafourche, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge & West Feliciana Parishes  
 ZONE 2 - Avovelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

GLAZIERS	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & V	Penalties	Vacation	
ZONE 1	\$6.55				
ZONE 2	6.00				
ZONE 3	7.175	.17	.30		.01
ZONE 4	4.35				
ZONE 5	5.60		.10		
ZONE 6					

## AREA COVERED BY GLAZIERS ZONES

ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes  
 ZONE 2 - Ascension (north & west of Highway #22), Assumption (north of Grand Bayou), East Baton Rouge, East Feliciana, Iberville, Livingston (north & west of Highway #27), Pointe Coupee, St. Helena, Tangipahoa (west of Highway #51), West Baton Rouge & West Feliciana Parishes  
 ZONE 3 - Ascension (east & south of Highway #22), Assumption (south of Grand Bayou), Jefferson, Lafourche, Livingston (east & south of Highway #22), Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Horgan City Area), St. Tammany, Tangipahoa (east of Highway #31), Terrebonne & Washington Parishes  
 ZONE 4 - Acadia, Iberia, Lafourche, St. Landry, St. Martin, St. Mary (except Horgan City Area) & Vermilion Parishes  
 ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to the city of Natchitoches), Red River, Sabine & Webster Parishes  
 ZONE 6 - Caldwell, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn (north half) Parishes







## DECISION NO. LA75-4100

## LABORERS - ZONE 7

GROUP 1 - Building laborers; rotary drill laborers; foundation drill crewmen  
GROUP 2 - Mason mixers; plaster mixers; mechanical tool operators; sandblaster;  
laying concrete pipe, clay pipe, plastic pipe, asbestos cement pipe, casing;  
pipe and corrugated metal pipe, as sewer pipe, drain pipe, and underground  
tile (cauliers, joint wrappers, hot pot and pipe layers); gas and oil pipe-  
line laborers, wrappers and dopers

## LABORERS - ZONE 3

GROUP 1 - Building and general laborers; tenders (carpenter, plaster, cement  
finisher, mason); tank and vessel cleaners  
GROUP 2 - Air tool operators (except jackhammer); interior of closed tanks  
and vessels; power equipment  
GROUP 3 - Mortar mixers and jackhammer operators  
GROUP 4 - Blaster  
GROUP 5 - Blaster helpers; concrete cutters behind paving machine and puddlers;  
form setters and lines asphalt worker  
GROUP 6 - Piping joints, laying pipe and tile from pumpcrete  
GROUP 7 - Interior of closed tanks and vessels manually

## LABORERS - ZONES 4 &amp; 5

GROUP 1 - Building and general laborers; carpenter tenders  
GROUP 2 - Power tool operators (hammer men, tamper, vibrators, power bugles,  
concrete chippers or cutters, chain saw operators, etc.); pipe layers (non-  
metallic)  
GROUP 3 - Mason tenders, plaster tenders, cement mix (wet or dry) tenders, hot  
carrier tender; mortar mixers & cement mixers (wet or dry)

## LABORERS - ZONE 6

GROUP 1 - Building laborers  
GROUP 2 - Laborers handling steel pans, stone masons helpers, mechanical tool  
operators, sawmen (bottom men, cauliers, tenders, joint vipers, hot pot,  
grade carriers, layers and ditchers 4 feet and over), sand blaster (nozzlemen  
and pot tender), laying non-metallic pipe over 4 feet deep, septic diggers  
and installers over 4 feet deep, gas and oil pipeline laborers and wrappers  
GROUP 3 - Gunite tool operators  
GROUP 4 - Bricklayers tenders and mason tenders  
GROUP 5 - Hot carriers using prime mover to serve a bricklayer; mortar mixers

## LABORERS - ZONE 7

GROUP 1 - Common laborers  
GROUP 2 - Jackhammer men, sawmen, mason tenders, plaster tenders, stone  
mason helpers, vibrators  
GROUP 3 - Mortar mixers

## LABORERS - ZONE 8

GROUP 1 - Common laborers; carpenter helpers; mason tenders (other than cement);  
plasterers' tenders; stone mason helpers; concrete workers; scaffold builders  
GROUP 2 - Air tool operators (jackhammer, vibrator, and tamper), sewer pipe  
joiners and setters; concrete cutters; hot carriers; creosote materials handler;  
acid worker; mason tenders (cement); mortar mixer (wet or dry); motorized  
buggy operator; water proofers (mastic); form setters (steel paving forms)  
GROUP 3 - Chain saw operator  
GROUP 4 - Asphalt raker, tamper, smoother and shovelers; sewer pipe layers;  
blaster helpers  
GROUP 5 - Powdermen

## DECISION NO. LA75-4100

## LABORERS - ZONE 9

GROUP 1 - Building laborers  
GROUP 2 - Mason tenders, plasterer tenders; Asphalt rollers, asphalt smoothers  
GROUP 3 - Mortar mixers  
GROUP 4 - Air jack operators, vibrator operators; Sewer pipe layers, sewer  
pipe vipers

## LABORERS - ZONE 10

GROUP 1 - Laborers, tenders (brick-masons, stone-masons, cement masons, carpenter,  
plasterers); Stripping & dismantling; concrete form work; loading, unloading,  
carrying & handling steel & steel mesh; assisting to the setting of cut stone,  
granite or artificial stone; building scaffolds; shoring  
GROUP 2 - Mechanical tool operator (air, electric, motor, engine, etc.); Sewer  
pipe layers; mortar mixers (hand or machine); gunite operator  
GROUP 3 - Pipe dopers & burners

## AREA COVERED BY LABORERS (BUILDING CONSTRUCTION) ZONES

ZONE 1 - St. Tammany (as far south as Bayou LaCambre and east to the Mississippi  
State Line at Pearl River), Tangipahoa (except that portion south of a line  
running due east from the western boundary of Tangipahoa Parish which follows  
the northern city limits of Independence, Louisiana to 20 miles east of U.S.  
Highway 651, then running south paralleling Highway 651 at a 70 mile distance  
to Lake Pontchartrain) & Washington Parish

ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Ver-  
million Parishes

ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes  
ZONE 4 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe  
Coupee, West Baton Rouge & West Feliciana Parishes; Parts of Assumption, St.  
James, St. John the Baptist Parishes (north of a line drawn from the southern  
limits of the town of St. James in St. James Parish to the northern limits of  
the town of Napoleonville, in Assumption Parish & then directly west to the  
Parish line, all of St. James Parish except that part which is east of a line  
drawn from Lusher, Louisiana to U.S. Highway 61 (Airline Highway) then west  
on U.S. 61 to Blind River and on a direct line to Manchac, Louisiana)

ZONE 5 - Livingston, St. Helena & Tangipahoa (south & west of a line running  
from the western parish line to a point directly east which touches the  
northern limits of the town of Independence, then directly south to Lake  
Pontchartrain) Parishes

ZONE 6 - Jefferson (except Grand Isle), Orleans, Plaquemine, St. Bernard, St.  
Charles, St. John the Baptist (on the west bank of the Mississippi River and  
the portion of St. John the Baptist on the east bank of the Mississippi River  
as far as the Steamboat Inn Lusher and north to Blind River and Manchac) &  
St. Tammany (north as far as Bayou LaCambre, east to the Mississippi State  
Line at Pearl River) Parishes

ZONE 7 - Assumption (north of Napoleonville), Jefferson (Grand Isle), Lafourche,  
St. James (on the west bank and including the town of Vacherie) & Terrebonne  
Parishes

ZONE 8 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides & Winn  
Parishes

ZONE 9 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine &  
Tensas Parishes

ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson,  
Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West  
Carroll Parishes

## NOTICES

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## DECISION NO. LA75-4100

## LABORERS (HIGHWAY CONSTRUCTION)

GROUP 1	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & W	Pension	Vacation	
ZONE 1	\$4.85	.15	.10	.05	.05
ZONE 2	4.55	.15	.10	.05	.05
ZONE 3	4.15	.15	.10	.05	.05
ZONE 4	4.85	.15	.10	.05	.05
ZONE 5	4.10	.15	.10	.05	.05
ZONE 6	3.85	.15	.10	.05	.05
ZONE 7	3.75	.15	.10	.05	.05
GROUP 2					
ZONE 1	4.95	.15	.10	.05	.05
ZONE 2	4.65	.15	.10	.05	.05
ZONE 3	4.25	.15	.10	.05	.05
ZONE 4	4.95	.15	.10	.05	.05
ZONE 5	4.20	.15	.10	.05	.05
ZONE 6	3.95	.15	.10	.05	.05
ZONE 7	3.85	.15	.10	.05	.05
GROUP 3					
ZONE 1	5.40	.15	.10	.05	.05
ZONE 2	5.10	.15	.10	.05	.05
ZONE 3	4.70	.15	.10	.05	.05
ZONE 4	5.40	.15	.10	.05	.05
ZONE 5	4.65	.15	.10	.05	.05
ZONE 6	4.40	.15	.10	.05	.05
ZONE 7	4.30	.15	.10	.05	.05
GROUP 4					
ZONE 1	5.65	.15	.10	.05	.05
ZONE 2	5.35	.15	.10	.05	.05
ZONE 3	4.95	.15	.10	.05	.05
ZONE 4	5.65	.15	.10	.05	.05
ZONE 5	4.85	.15	.10	.05	.05
ZONE 6	4.60	.15	.10	.05	.05
ZONE 7	4.50	.15	.10	.05	.05

## DECISION NO. LA75-4100 CLASSIFICATION DEFINITIONS

GROUP 1 - Laborers, including but not limited to signalman, foundation driller, and demolition and dismantling men  
GROUP 2 - Baker, concrete spreader, carpenter helpers, distributor man, finishers helpers, formatters helpers, jackhammer operator, jetting laborer, painters helpers, pit man, pipe-layer or tile layer, power monkey helper, tamper, tree trimmer, stone mason helper, scaler, asphalt raker, concrete shoveler, power tool operator and motorized buggy operator  
GROUP 3 - Foreman, head or master--high type pavement  
GROUP 4 - Powderman

## AREA COVERED BY LABORERS (HIGHWAY CONSTRUCTION) ZONES

ZONE 1 - Jefferson, Orleans, Plaquemine, St. Bernard & St. Charles Parishes;  
ZONE 2 - East Baton Rouge Parish  
ZONE 3 - Bossier & Caddo Parishes  
ZONE 4 - Calcasieu Parish  
ZONE 5 - Lafayette, Ouachita & Rapides Parishes  
ZONE 6 - Acadia, Ascension, Bienville, Cameron, DeSoto, Iberia, Iberville, Jefferson Davis, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (that portion north of Iberia Parish), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes  
ZONE 7 - Allen, Assumption, Avoyelles, Beauregard, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, LaFourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (that portion south of Iberia Parish), Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

LABORERS	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & W	Pension	Vacation	
ZONE 1	\$6.90	.20	.20	.01	.01
ZONE 2	7.93	.20	.20	.05	.05
ZONE 3	8.105	.30	.20	.01	.01
ZONE 4	8.275			.01	.01
ZONE 5	6.40			.01	.01

## AREA COVERED BY LABORERS ZONES

ZONE 1 - All of Acadia, Ascension, East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, Vermilion, West Baton Rouge & West Feliciana Parishes; Parts of Assumption & St. James (to a 40 mile radius of Baton Rouge); Parts of Evangeline & St. Mary (up to a 40 mile radius of Lafayette)

ZONE 2 - All of Jefferson, Lafourche, Orleans, Plaquemine, St. Bernard, St. Charles, St. John the Baptist, St. Landry, St. Martin, Tangipahoa, Terrebonne & Washington Parishes; Parts of Assumption & St. James (beyond a 40 mile radius of Baton Rouge); Part of St. Mary Parish (beyond a 40 mile radius of Lafayette)

ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Evangeline (that portion beyond a 40 mile radius of Lafayette), Jefferson Davis & Vernon Parishes

ZONE 4 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Lincoln, Natchitoches, Red River & Webster Parishes

ZONE 5 - Rapides Parish

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LINE CONSTRUCTION	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & V	Pensions	Vacation	
ZONE 1 Linemen Operator hole digging equipment; operator tractor with winch & derrick; operator line truck with winch & derrick working hot lines Operator using hole truck & trailer, or pole hauling & setting truck (not in energized lines) Operator using truck without winch; Groundmen (starting rate to 15 years service) Groundmen (15 years service or over)	\$8.90	.30	17+.20		.03
ZONE 2 Linemen, line equipment & line truck operators Cable splicers Groundmen	75%JR	.30	17+.20		.03
ZONE 3 Linemen, equipment operators Cable splicers Groundmen	65%JR	.30	17+.20		.03
ZONE 4 Linemen & equipment operators Cable splicers Groundmen	45%JR	.30	17+.20		.03
ZONE 5 Linemen & equipment operators Cable splicers Groundmen	50%JR	.30	17+.20		.03
ZONE 6 Linemen & equipment operators Cable splicers Groundmen	9.00 9.25	.30 .30	17+.35 17+.35		3/10% 3/10%
ZONE 7 Linemen, equipment operators Cable splicers Groundmen	8.95 9.20 6.95	.35 .35 .35	17+.20 17+.20 17+.20		1/10% 1/10% 1/10%
ZONE 8 Linemen & equipment operators Cable splicers Groundmen	9.05 9.30 50%JR	.25 .25 .25	17 17 17		1/2% 1/2% 1/2%
ZONE 9 Linemen & equipment operators Cable splicers Groundmen	8.25 8.50 60%JR	12 12 12	30 30 30		1/2% 1/2% 1/2%
ZONE 10 Linemen & equipment operators Cable splicers Groundmen, lat 6 months Groundmen, lat 6 months Groundmen, after 1 year	8.65 8.95 2.85 3.44 3.73	.30 .30 .30 .30 .30	17 17 17 17 17		1/2% 1/2% 1/2% 1/2% 1/2%

## NOTICES

ZONE 7 Linemen; Operators Cable splicers Groundmen	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & V	Pensions	Vacation	
	\$8.30	.50	17		17
	8.60	.50	17		17
	6.50	.50	17		17

## AREA COVERED BY LINE CONSTRUCTION ZONES

ZONE 1 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (that portion south of Iberia Parish), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Parishes  
 ZONE 2 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Parishes  
 ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes  
 ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (that portion north of Iberia Parish), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes  
 ZONE 5 - Caldwell, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tennessee, Union & West Carroll Parishes  
 ZONE 6 - Avoville, Catahoula, Conception, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Parishes  
 ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes

## MARBLE SETTERS

ZONE 1 ZONE 2 ZONE 3 ZONE 4 ZONE 5 ZONE 6	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & V	Pensions	Vacation	
	\$9.05	.25	.20		.035
	7.85	.43	.20		.07
	8.00				
	7.07		.10		
	6.50				
	7.90				

## AREA COVERED BY MARBLE SETTING ZONES

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Parish from the Tangipahoa Parish line on the west along U.S. Highway #190 through the lower limits of Covington, along State Highway #58 through the lower limits of Abita Springs and Talisheek and on a line due east from Talisheek to the Mississippi State Line) & Terrebonne Parishes  
 ZONE 2 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Vermilion & Vernon Parishes  
 ZONE 3 - Iberia, Lafayette, St. Martin & St. Mary Parishes  
 ZONE 4 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tennessee, Union, West Carroll & Winn Parishes  
 ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine & Webster Parishes  
 ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes

FEDERAL REGISTER, VOL. 40, NO. 101—FRIDAY, MAY 23, 1975

DECISION NO. LA75-4100

MARBLE SETTERS' HELPERS	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & V	Pensions	Vacation	
ZONE 1	\$5.85	.25			.05
ZONE 2	4.52	.15	.10		
ZONE 3	3.00				

## AREA COVERED BY MARBLE SETTERS' HELPERS ZONES

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. Helena, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Parish from the Tangipahoa Parish line on the west along U.S. Highway #190 through the lower limits of Covington, along State Highway #58, through the lower limits of Abita Springs and Talisheek and on a line due east from Talisheek to the Mississippi State Line)  
 ZONE 2 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tennessee, Union & West Carroll Parishes  
 ZONE 3 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine, Webster & Winn Parishes

MILLWRIGHTS	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & V	Pensions	Vacation	
ZONE 1	\$8.145				.05
ZONE 2	9.14	.20	.20		.04
ZONE 3	8.855				.03
ZONE 4	7.635	.30			
ZONE 5	7.45	.20	.25		.03
ZONE 6	7.90				
ZONE 7	7.45	.35	.20		.05
ZONE 8	7.38	.20			
ZONE 9	9.38				

## AREA COVERED BY MILLWRIGHTS ZONES

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes  
 ZONE 2 - Ascension (south of the Mississippi River), Assumption, Iberia (north-east of the Atchafalaya River), Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (south of the Mississippi River), St. John the Baptist, St. Martin (southern segment), St. Mary (northeast of the Atchafalaya River), St. Tammany (southern portion), Tangipahoa (remainder of Parish not covered by Zone 9) & Terrebonne Parishes  
 ZONE 3 - Ascension (north of the Mississippi River), East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Mississippi River), West Baton Rouge & West Feliciana Parishes  
 ZONE 4 - Acadia, Evangeline, Iberia (west of the Atchafalaya River), Lafayette, St. Landry, St. Martin (west of the Atchafalaya River), St. Mary (west of the Atchafalaya River) & Vermilion Parishes

## NOTICES

DECISION NO. LA75-4100

AREA COVERED BY MILLWRIGHTS ZONES (CONT'D)  
 ZONE 5 - Avoville, Grant, LaSalle & Rapides Parishes  
 ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes  
 ZONE 7 - Natchitoches & Sabine Parishes  
 ZONE 8 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tennessee, Union, West Carroll & Winn Parishes  
 ZONE 9 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Parish) & Washington Parishes

PAINTERS	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & V	Pensions	Vacation	
ZONE 1 GROUP 1 - Brush, wood or wall GROUP 2 - Brush on steel, buffer on wood or wall GROUP 3 - Paperhanging, taping & floating GROUP 4 - Spray, wood & wall, rollers GROUP 5 - Steeplejack, sandblast- ing, spider operator, rubberizing & pyroflexing, steam jennier, spray, steel	\$7.36 7.485 7.56 7.705 7.845				
ZONE 2 GROUP 1 - Brush; taping; floating & texture GROUP 2 - Industrial & steel GROUP 3 - All spray painting; roller operator & using of miter All power tools for cleaning & preparing surfaces for painting; All work on stacks, steeples, flag poles and all towers and scaffolding over 50 feet; All work off scaffolding, bosun chair and spiders; All work with creosote material or any similar material as service cement paint	6.45 7.12 6.70		.10 .10 .10		

FEDERAL REGISTER, VOL. 40, NO. 101—FRIDAY, MAY 23, 1975



DECISION NO. LA75-4100	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & W	Pension	Vacation	
GROUP 1 - Painters, tape & float & paperhangers; stage, window jacks & structural steel	\$7.25				
GROUP 2 - Stage, window jacks & structural steel over 30 feet	7.50				
GROUP 3 - Stage, window jacks & structural steel over 75 feet	7.75				
GROUP 4 - Sandblasting, spray	7.85				
GROUP 5 - Painters, paperhangers, tapers, floaters	6.05				
GROUP 6 - Stage window jacks, boon chairs; structural steel, roller, equipment painting; sandblasting, spray; stack, sign tank painting, steeple jack work	7.05				
GROUP 7 - Structural steel, brush	6.55				

AREA COVERED BY PAINTERS ZONES

ZONE 1 - Allen (except northeast corner), Benoit, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes  
ZONE 2 - Ascension (north & west of Highway #22), Assumption (north of Grand Bayou), East Baton Rouge, East Feliciana, Iberville, Livingston (north of Highway #22), Pointe Coupee, St. Helena, Tangipahoa (west of Highway #51), West Baton Rouge & West Feliciana Parishes  
ZONE 3 - Ascension (east & south of Highway #22), Assumption (south of Grand Bayou), Lafayette, Livingston (east & south of Highway #22), Jefferson, Orleans, Plaquemine, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Oregon City Area), St. Tammany (southern portion) & Terrebonne Parishes  
ZONE 4 - Acadia, Iberia, Lafayette, St. Landry (south half), St. Martin, St. Mary (except Oregon City Area) & Vermilion Parishes  
ZONE 5 - St. Tammany (northern portion), Tangipahoa (east of Highway #51) & Washington Parishes  
ZONE 6 - Allen (northeast corner), Avoyelles, Catahoula, Evangeline, Grant, LaSalle, Natchitoches (south half), Rapides, St. Landry (north half) & Winn (south half) Parishes  
ZONE 7 - Iberville, Bossier, Caddo, Claiborne, DeCade, Natchitoches (to city of Natchitoches), Red River, Sabine & Union Parishes  
ZONE 8 - Caldwell, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn (north half) Parishes

DECISION NO. LA75-4100	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & W	Pension	Vacation	
GROUP 1 - Painters, paperhangers and sheetrock tapers & floaters	\$6.955	.275	.30	.05	
GROUP 2 - Structural steel paint- ing of new buildings under con- struction; the following over- all of 30 feet: tanks, air con- ditioning, towers, smoke stacks, sprinkler systems, chimneys and structural steel in oil buildings; spray painters, siding stage	7.33 8.205	.275 .30	.30 .30	.05 .05	
GROUP 3 - Industrial Painters	6.35 6.72				
GROUP 4 - Brush GROUP 1 - Industrial & steel GROUP 2 - Hand tools or automatic tools to finish gypsum board; spray; sandblasting - 25c per hour above rate for brush					
GROUP 5 - All power tools; All stacks, steeples, flag poles; All siding stages & window jacks; All towers, tanks & structural steel over 50 ft. high - 25c per hour above journeyman rate					
GROUP 6 - Commercial brush GROUP 1 - Commercial brush GROUP 2 - Industrial GROUP 3 - Roller, power tools; sheetrock finishers	5.00 5.60 5.25 6.05				
GROUP 4 - Spray, sandblasting					
GROUP 5 - Painters, paperhangers, tapers, floaters; Commercial steel, such as churches or any commercial building with closed roof deck or walls	5.90				
GROUP 6 - Other commercial work, brush spray, stage, window jacks, flagpoles and steeple work	6.25				
GROUP 7 - All industrial work in- cluding sandblasting or power tools of any kind	6.75				

DECISION NO. LA75-4100	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & W	Pension	Vacation	
GROUP 1 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Washington Parishes	\$7.10	.20			
ZONE 1	7.65	.20	.25	.04	
ZONE 2	8.92	.20	.20	.04	
ZONE 3	7.335			.05	
ZONE 4	7.20			.03	
ZONE 5	7.65	.20	.25	.03	
ZONE 6	7.20		.20		
ZONE 7	7.40	.35	.20	.05	
ZONE 8					

AREA COVERED BY PILEDRIVERS ZONES

ZONE 1 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Washington Parishes  
ZONE 2 - Ascension (north of the Mississippi River), East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Mississippi River), West Baton Rouge & West Feliciana Parishes  
ZONE 3 - Ascension (south of the Mississippi River), Assumption, Iberia (north-east of the Atchafalaya River), Jefferson, Lafayette, Orleans, Plaquemine, St. Bernard, St. Charles, St. James (south of the Mississippi River), St. John the Baptist, St. Martin (southern segment), St. Mary (northeast of the Atchafalaya River), St. Tammany (southern portion), Tangipahoa (remainder of Parish not covered by Zone 1) & Terrebonne Parishes  
ZONE 4 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Franklinton, Iberia (west of the Atchafalaya River), Jefferson Davis, Lafayette, St. Landry, St. Martin (west of the Atchafalaya River), St. Mary (west of the Atchafalaya River), Vermilion & Vernon Parishes  
ZONE 5 - Avoyelles, Grant, LaSalle & Rapides Parishes  
ZONE 6 - Iberville, Bossier, Caddo, Claiborne, DeCade, Red River & Webster Parishes  
ZONE 7 - Natchitoches & Sabine Parishes  
ZONE 8 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes

PLASTERERS	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & W	Pension	Vacation	
ZONE 1	\$6.20				.01
ZONE 2	6.35				
ZONE 3	7.17				.01
ZONE 4	6.565				.03
ZONE 5	7.05	.30	.20		.01
ZONE 6	5.50				
ZONE 7	7.95		.10	.50	
ZONE 8	8.00				
ZONE 9	7.75		.30		

AREA COVERED BY PLASTERERS ZONES

ZONE 1 - St. Tammany (northern half including Covington north of Highway #190) & Washington Parishes  
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes  
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes  
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. James, St. John the Baptist, Tangipahoa, West Baton Rouge & West Feliciana Parishes  
ZONE 5 - Jefferson, Lafayette, Orleans, Plaquemine, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (portion line on the west along U.S. Highway #190 through the lower limits of Covington and Avita Springs along State Highway #435 to Tallahassee and on a line due east from Tallahassee to the Mississippi State Line) & Terrebonne Parishes  
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes  
ZONE 7 - Iberville, Bossier, Caddo, Claiborne, DeCade, Red River & Webster Parishes  
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes  
ZONE 9 - Natchitoches & Sabine Parishes

PLASTERERS & PILEDRIVERS

PLASTERERS & PILEDRIVERS	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & W	Pension	Vacation	
ZONE 1	\$9.70	.40	.60	.06	
ZONE 2	7.90	.465	.575	.035	
ZONE 3	7.65	.40	.25	.10	
ZONE 4	7.82	.35	.55	.02	
ZONE 5	7.94		.30	.09	
ZONE 6	8.88	.42	.32	.08	

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DECISION NO. LA75-4100

AREA COVERED BY BUILDING & PERMITTING ZONES

ZONE 1 - Jefferson, Lafourche (except small portion of western part of Parish), Livingston (northeast corner), Orleans, Plaquemine, St. Bernard, St. Charles, St. James (northern 2/3 of Parish), St. John the Baptist, St. Landry, Tangipahoa (southern 1/2 of Parish), Terrebonne (eastern 1/3 of Parish) & Washington Parishes

ZONE 2 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia (eastern 1/2 of Parish), Iberville, Lafourche (small portion of western part of Parish), Livingston (except northeast corner), Pointe Coupee (except northeast corner), St. Helena, St. James (western 1/3 of Parish), St. Landry (eastern 2/3 of Parish), St. Martin (southern part of eastern 1/2 of Parish), St. Mary (except western tip), Tangipahoa (northern 1/2 of Parish), Terrebonne (western 2/3 of Parish), West Baton Rouge & West Feliciana Parishes

ZONE 3 - Allen (northeast corner), Avoville, Evangeline (except southwest corner), Grant, Natchitoches (south of Highway 184 & 186 from Winnfield to Natchitoches & southeast from Natchitoches to Anacoco through Bellwood), Rapides, Vernon (northeast of Highway #10) & Winn Parish (south of a line drawn from Natchitoches through Winnfield to Standard); Parts of Catahoula, Concordia & LSalle Parishes (south of a line drawn from Standard southeast through Harrisonburg to the junctions of U.S. 84 & State Route 15 and west of a line drawn from that junction to the meeting place of the Concordia-West Feliciana Parish line)

ZONE 4 - All of Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Monroe, Ouachita, Richland, Tensas, Union & West Carroll Parishes; Parts of Catahoula, Concordia & LSalle Parishes (north of U.S. 84 & State Route 15 and east of a line drawn south from that junction to the meeting place of the Concordia-West Feliciana Parish line); Part of Winn Parish (east of a line drawn from Winnfield to the junction of the Parish boundaries of Winn, Bienville & Jackson & north of a line drawn east from Winnfield to Standard)

ZONE 5 - All of Bienville, Bossier, Caddo, Calhoun, DeSoto, East River, Sabine & Webster Parishes; Parts of Natchitoches & Vernon Parishes (northwest from a line drawn from Natchitoches to Anacoco through Bellwood & north of Highway #111 between Anacoco & Haddens); Part of Winn Parish (west of a line drawn from Winnfield to the junction of the Parish boundaries of Winn, Bienville & Jackson)

ZONE 6 - Acadia, Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Evangeline (southwest corner), Iberia (western 1/2 of Parish), Jefferson Davis, Lafayette, Pointe Coupee (northeast corner), St. Landry (western 1/3 of Parish), St. Martin (east of Highway #31), St. Mary (western tip), Vermillion & Vernon (south of Highway #111 & southwest of Highway #10) Parishes

NOTICES

DECISION NO.	LAW 73-541 (05)	POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION)	Fringe Benefits Payments			App. Tr.
			Basic Hourly Rates	H & M	Penalties	
ZONE 1 (Excluding Residential Construction in Caddo & Bossier Parishes)						
		GROUP 1	\$5.97	.25	.39	.05
		GROUP 2	6.24	.25	.39	.05
		GROUP 3	.25	.25	.39	.05
		GROUP 4	6.57	.25	.39	.05
		GROUP 5	6.84	.25	.39	.05
		GROUP 6	8.01	.25	.39	.05
ZONE 2 & 3						
		GROUP 1	6.21	.25	.39	.05
		GROUP 2	6.48	.25	.39	.05
		GROUP 3	6.76	.25	.39	.05
		GROUP 4	6.81	.25	.39	.05
		GROUP 5	7.08	.25	.39	.05
		GROUP 6	8.25	.25	.39	.05
ZONE 4						
		GROUP 1	6.06	.25	.39	.05
		GROUP 2	6.33	.25	.39	.05
		GROUP 3	6.61	.25	.39	.05
		GROUP 4	6.66	.25	.39	.05
		GROUP 5	6.93	.25	.39	.05
		GROUP 6	8.10	.25	.39	.05
ZONE 5						
		GROUP 1	6.125	.25	.39	.05
		GROUP 2	5.89	.25	.39	.05
		GROUP 3	5.72	.25	.39	.05
		GROUP 4	6.355	.25	.39	.05
		GROUP 5	6.185	.25	.39	.05
		GROUP 6	6.66	.25	.39	.05
		GROUP 7	7.19	.25	.39	.05

DECISION NO. LA75-4100

DECISION NO. LA75-4100

DECISION NO. 27-2-2000

Basic Hourly Rates	Fringe Benefits Payments		App. Tr.
	H & M	Penalties	
<b>ZONE 6</b>			
GROUP 1	\$6.23	.25	.30
GROUP 2	5.81	.25	.30
GROUP 3	5.64	.25	.30
GROUP 4	6.03	.25	.30
GROUP 5	6.56	.25	.30
GROUP 6	7.44	.25	.30
GROUP 7	8.25	.25	.30
GROUP 8	8.50	.25	.30
GROUP 9	8.75	.25	.30
GROUP 10	9.00	.25	.30
<b>ZONE 7</b>			
GROUP 1	8.92	.25	.39
GROUP 2	9.17	.25	.39
GROUP 3	6.51	.25	.39
GROUP 4	6.87	.25	.39
GROUP 5	7.42	.25	.39
GROUP 6	8.67	.25	.39

CLASSIFICATIONS DEFINITIONS

POWER EQUIPMENT OPERATORS - ZONES 1, 2, 3 & 4

GROUP 1 - Oiler

GROUP 2 - Mechanic helper

GROUP 3 - Oiler-driver

GROUP 4 - Scalman

GROUP 5 - Air compressor; Asphalt Plant Operator; Bulldozers, D-4 and equivalent & under; Bullfloats; Concrete Spreaders; Distributors (Bitum Surface); Concrete Mixer (16-s or less); Concrete Saw; Distributors (Bitum Surface); Hoist, 1 drum, 4 stories or more; Farm-Type Tractor (with all attachments except backhoe); Fireman; Fork Lifts (other than settling steel, machinery or pipe); Hoist, 1 drum or less than 4 stories); Knam Buff Machine; Mill Gats; Pump (3" and over); Pump, concrete (under 6"); Rollers, except on asphalt or brick; Straddle Puppies; Sweepers on streets & roads (motorized); Winch Truck, A-Frame (other than handling steel or pipe)

GROUP 6 - Asphalt Spreader; Backhoe; Bulldozer, over D-4 and equivalent; Cableways; Concrete Mixer, over 16-s; Grapes; Derricks; Ditching or Trenching Machines; Hoisting; Fork Lifts (settling steel, machinery or pipe); Front-End Loaders (except Farm-type tractors); Grapes Servicer; Hoist, 1 drum, 4 stories or more or 40 feet (on structures other than buildings); Hoist, 2 drums and over; Hydraulic; Heavy Duty Mechanic; Motor Patrols; Pile-drivers; Pump, concrete (6" & over); Road Pavers; Rollers on asphalt or brick; Scaffolding; Scrapers; Side-boom Gats; Shovels; Tractor-trailers; Welder, journeyman; Well Point System; Winch Gats (hoisting); Winch Truck, A-frame (handling steel or pipe)

NOTICES

DECISION NO. LA75-4100

POWER EQUIPMENT OPERATORS - ZONE 5

GROUP 1 - Scale operator; Oiler-driver on Motor Crane; Batch Plant Operator

GROUP 2 - Pumps under 3 inch suction; Mechanic Helper

GROUP 3 - Oiler

GROUP 4 - Fireman

GROUP 5 - Combination Oiler-Compressor; Combination Oiler-Fireman; Asphalt Spreader; Backhoe (all types); Bulldozers; Cableways; Cherry Pickers (all types); Concrete Mixers (over 1 sack); Cranes; Jack-Down (2 drums or over); Front End Loaders (except farm type); Grapes Servicer; Hoist (1 drum, 4 stories, or 40 feet) on construction other than buildings; Hoist (2 drums or over); Locomotives (all types); Mechanic; Mixer Plant Operator; Motor Patrols; Pile-drivers; Pull Gats; Pump Crane, 6" and over discharge; Push Gats; Road Pavers; Derricks; Ditching or Trenching Machine (riding type); Draglines; Dredges; Fork Lifts (other than farm type) outside warehouses; Foundation Drill; Rollers (plant mix asphalt); Scrapers; Shovels; Sidebooms; Unit Operator; Welder, journeyman; Well Point System; Winches; Winch Gats (Cat D-4 and over); Winch Trucks with A-frame (5 tons and over); Winch Trucks, requiring licensed operator

GROUP 6 - Push Hog; Compressors; Concrete Pumps, under 6" discharge; Concrete Saw; Kolon Buff Machines; Mixers (1 sack and over); Motorized street sweepers self-propelled; Pumps (3 inch and over); Duck Winch (1 drum); Distributors; Dovel Bar Machines; Farm-type tractors (when used to pull disc, grass cutters, etc.); Test Pump; Internal combustion engine powered; Ditching or Trenching Machines (non-riding type); Water Blast Pumps; Hoist, 1 drum under 4 stories on buildings); Hoist, 1 drum (40 feet or under on structures other than buildings)

GROUP 7 - Asphalt Plant Operator; Boom Trucks; Bullfloats; Concrete Spreaders; Farm Type Front End Loaders; Rollers (other than plant mix asphalt); Straddle Puppies; Winch Truck with A-Frame (under 5 tons); Winch Boat, not requiring licensed operator; Finishing Machine

POWER EQUIPMENT OPERATORS - ZONE 6

GROUP 1 - Snatch Cat; Pump, 3 inch suction or more

GROUP 2 - Pumps, under 3 inch suction; Mechanic Helper

GROUP 3 - Oiler

GROUP 4 - Patch Plant Operator

GROUP 5 - Air Compressor; Asphalt Plant Operator; Blade Grader; Distributor (Bitum Surface); Finishing Machine (Concrete, Paving); Hoist, 1 drum, less than 4 stories; Concrete Mixer under 16s; Oiler Driver; Pump Crane; Street and Road Sweeper; Roller (except on asphalt or brick); Roller, asphalt or brick (under 5 tons); Post-Hole Digger; Tractor operated Bush Hog and similar grass or brush cutting equipment

GROUP 6 - A-Frame Truck; Bulldozer, under 6; Grap Boat Operator; Fork Lift; Straddle Puppies; Tractor-trailers; Sweepers and similar front-end loading equipment with scoopable or bucket under one (1) cubic yard capacity; Locomotive; Well Point System; Unit Operator; Hoist, 1 drum, 4 stories or over

GROUP 7 - Backhoe; Cableway; Concrete Mixer, 16s & up; Crane; Derrick; Dragline; Dredge; Equipment Maintenance Mechanic; Hoist, 2 drums Locomotive Crane; Paving Mixer; Pile-driver; Road Paver; Roller on Asphalt or Brick (5 tons & over); Shovel; Sideboom Gats; Bulldozer, 6 and over; Motor Patrol; Scraper; Hydrolift Crane; Hydrant Lift Truck; Tard Crane; Cherry Picker, etc.; Foundation Boring and Reaming Machine; Cement Stabilizer; Trenching Machine; Asphalt Spreader; Tractor and similar front-end loading equipment with scoop or bucket of one (1) cubic yard or more capacity; Top Boat Operator; Turnapull; Euclid, DU-10 and other similar self-loading earth moving equipment; Concrete Pump (not Pump Crane)

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**TRUCK EQUIPMENT LOCATIONS - ZONE 5 (CONT'D.)**  
 Operator's room - Crane Operator, Room 100 feet & over;  
 Piledriver Operator, Leads 100 feet & over  
 Piledriver Operator, Leads 100 feet & over  
 Crane Operator, Room 150 feet & over;  
 Piledriver Operator, Leads 150 feet & over  
 Crane Operator, Room 250 feet & over; Piledriver Operator, Leads over  
 250 feet

**GROUP 1 - Assistant Master Mechanic**  
**POW EQUIPMENT QUALITY - ZONE 7**

[illegible]

## NOTICES

Basic Hourly Rate	M & W	Prize Monthly Payments		App. Tr.
		Prize	Value	
<b>CONSTRUCTION)</b>				
<b>GROUP 1</b>				
ZONE 1	\$8.15	.25	.30	.05
ZONE 2	8.02	.25	.30	.05
ZONE 3	7.80	.25	.30	.05
ZONE 4	7.96	.25	.30	.05
ZONE 5	6.69	.25	.30	.05
ZONE 6	6.14	.25	.30	.05
ZONE 7	5.53	.25	.30	.05
<b>GROUP 2</b>				
ZONE 1	8.60	.25	.30	.05
ZONE 2	8.27	.25	.30	.05
ZONE 3	8.05	.25	.30	.05
ZONE 4	8.21	.25	.30	.05
ZONE 5	6.94	.25	.30	.05
ZONE 6	6.39	.25	.30	.05
ZONE 7	5.78	.25	.30	.05

AREA COVERED BY POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION) ZONES

ZONE 1 - Newville, Mosler, Caddo, Claiborne, DeSoto, Red River & Webster Parishes

ZONE 2 - All of Acadia, Lafayette & Vermilion Parishes; Parts of Davis, St. Martin & St. Mary Parishes (east of the line drawn from the city of Berwick to the junction of the Iberia-St. Landry Parish border)

ZONE 3 - Calcasieu, Calumet, Acadia, Iberville, Terrebonne, Jefferson, Lincoln, Madison, Borglind, Beauregard, Natchitoches, Bossier, Union & West Carroll Parishes

ZONE 4 - Assumption, Evangeline, Grant, LaSalle, Natchitoches, Rapides, Sabine, St. Landry & Winn Parishes

ZONE 5 - All of Beauregard, Calcasieu, Cadeau, Jefferson Davis & Vernon Parishes

ZONE 6 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, St. Helena, West Baton Rouge & West Feliciana Parishes; Parts of Adams, Assumption & St. James Parishes (northwest of a straight line drawn from the city of Berwick to the city of Lusher); Parts of Iberia & southern & northern City of Berwick (east and west of a line from the city of Berwick north to the eastern boundary of the city of West of Spring); Parts of Livingston, Tangipahoa & Washington Parishes (west of a line drawn north from the city of Tangipahoa to the east side of the city of Hammond to the Louisiana-Mississippi border)

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LA 75-4100

Basic Hourly Rates	Fringe Benefits Payments		
	H & W	Pension	Vacation
APR. 1964			
<b>GROUP 2</b>			
ZONE 1	\$7.90	.25	.30
ZONE 2	7.77	.25	.30
ZONE 3	7.55	.25	.30
ZONE 4	7.71	.25	.30
ZONE 5	6.44	.25	.30
ZONE 6	5.89	.25	.30
ZONE 7	5.28	.25	.30
<b>GROUP 4</b>			
ZONE 1	6.95	.25	.30
ZONE 2	6.88	.25	.30
ZONE 3	6.66	.25	.30
ZONE 4	6.67	.25	.30
ZONE 5	5.98	.25	.30
ZONE 6	5.02	.25	.30
ZONE 7	4.46	.25	.30
<b>GROUP 5</b>			
ZONE 1	6.64	.25	.30
ZONE 2	6.17	.25	.30
ZONE 3	6.17	.25	.30
ZONE 4	6.16	.25	.30
ZONE 5	5.02	.25	.30
ZONE 6	4.48	.25	.30
ZONE 7	3.97	.25	.30
<b>GROUP 6</b>			
ZONE 1	6.06	.25	.30
ZONE 2	5.56	.25	.30
ZONE 3	5.56	.25	.30
ZONE 4	5.56	.25	.30
ZONE 5	4.86	.25	.30
ZONE 6	4.31	.25	.30
ZONE 7	3.81	.25	.30

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DECISION NO.	GROUP	Basic Hourly Rate	Prize Benefits Payments			App. Tr.
			R & W	Percent	Vacation	
0473-4100	GROUP 7					
	ZONE 1	\$5.79	.25	.30		.05
	ZONE 2	5.28	.25	.30		.05
	ZONE 3	5.28	.25	.30		.05
	ZONE 4	5.28	.25	.30		.05
	ZONE 5	4.86	.25	.30		.05
	ZONE 6	4.31	.25	.30		.05
ZONE 7	3.81	.25	.30		.05	
	GROUP 8					
	ZONE 1	6.95	.25	.30		.05
	ZONE 2	6.88	.25	.30		.05
	ZONE 3	6.66	.25	.30		.05
	ZONE 4	6.67	.25	.30		.05
	ZONE 5	5.58	.25	.30		.05
	ZONE 6	5.02	.25	.30		.05
ZONE 7	4.46	.25	.30		.05	
	GROUP 9					
	ZONE 1	7.20	.25	.30		.05
	ZONE 2	7.13	.25	.30		.05
	ZONE 3	6.91	.25	.30		.05
	ZONE 4	6.92	.25	.30		.05
	ZONE 5	5.83	.25	.30		.05
	ZONE 6	5.27	.25	.30		.05
ZONE 7	4.71	.25	.30		.05	
	GROUP 10					
	ZONE 1	6.04	.25	.30		.05
	ZONE 2	5.53	.25	.30		.05
	ZONE 3	5.53	.25	.30		.05
	ZONE 4	5.53	.25	.30		.05
	ZONE 5	5.11	.25	.30		.05
	ZONE 6	4.56	.25	.30		.05
ZONE 7	4.06	.25	.30		.05	

## NOTICES

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## NOTICES

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Basic Hourly Rates	Fringe Benefits Payments		App. Tr.
	H & W	Pension	
Roofers			
ZONE 1			
Roofers	\$6.88	.10	.1
Roofers' helpers	5.38	.10	
ZONE 2			
Roofers	6.96	.50	.45
ZONE 3			
Roofers	6.155	.35	.30
Roofers' helpers	4.535	.30	.04
ZONE 4			
Roofers, steep	6.00		
Roofers, flat	5.75		
Roofers, Kettlemen	5.50		
Roofers' helpers	4.65		
ZONE 5			
Roofers	6.35	.20	.02
Kettlemen	4.47	.20	.02
Roofers' helpers	4.00	.20	.02

## AREA COVERED BY ROOFERS ZONES

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Vermilion & Vernon Parishes  
 ZONE 2 - Assumption, Jefferson, Lafourche, Orleans, Plaquemine, St. Bernard, St. Charles, St. James, St. John the Baptist, South St. Martin, St. Mary, St. Tammany, Terrebonne & Washington Parishes  
 ZONE 3 - Acadia, Assumption, Calcasieu, East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Landry, St. Landry, North St. Martin, Tangipahoa, West Baton Rouge & West Feliciana Parishes  
 ZONE 4 - Avovelles, Caldwell, Calhoun, Concordia, East Carroll, Franklin, Grant, Jackson, Labadie, Lincoln, Madison, Morehouse, Ouachita, Rapides, Richland, Tensas, Union, West Carroll & Winn Parishes  
 ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine & Webster Parishes

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## SHEET METAL WORKERS

Basic Hourly Rates	Fringe Benefits Payments		App. Tr.
	H & W	Pension	
ZONE 1	88.00	.25	.15
ZONE 2	8.56	.37+.35	.50
ZONE 3	7.75	.20	.50
ZONE 4	7.25	.37+.40	.25

## AREA COVERED BY SHEET METAL WORKERS ZONES

ZONE 1 - Calcasieu Parish  
 ZONE 2 - Jefferson, Lafourche, Orleans, Plaquemine, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany, Terrebonne & Washington Parishes  
 ZONE 3 - Acadia, Allen, Assumption, Beauregard, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberville, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Landry, St. Landry, St. Martin, St. Mary, Tangipahoa, Vermilion, West Baton Rouge & West Feliciana Parishes  
 ZONE 4 - Avovelles, Bienville, Bossier, Caddo, Calhoun, Caldwell, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, Labadie, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

## SOFT FLOOR LAYERS

Basic Hourly Rates	Fringe Benefits Payments		App. Tr.
	H & W	Pension	
ZONE 1	\$6.965	.25	.18
ZONE 2	8.82	.20	.20
ZONE 3	8.655	.30	.20
ZONE 4	6.80	.20	.04
ZONE 5	6.70	.20	.03
ZONE 6	7.40	.20	.03
ZONE 7	6.70	.35	.05
ZONE 8	6.90	.20	.05

## NOTICES

DECISION NO. LA754100

## AREA COVERED BY SOFT FLOOR LAYERS ZONES

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes  
 ZONE 2 - Assumption (south of the Mississippi River), Assumption, Jefferson, Orleans, Plaquemine, St. Bernard, St. Charles, St. James (south of the Mississippi River) & St. John the Baptist Parishes  
 ZONE 3 - Iberia (northeast of the Atchafalaya River), Lafourche, St. Martin (southern segment), St. Mary (northeast of the Atchafalaya River), St. Tammany (southern portion) & Terrebonne Parishes  
 ZONE 4 - St. Tammany (to the overseas at Slidell, Louisiana, along State Highway 6664 in St. Tammany Parish to the city limits of the town of Ponchartraine running north and south to Amite, Louisiana in Tangipahoa Parish including the town of Covington, Louisiana in St. Tammany Parish), Tangipahoa & Washington Parishes  
 ZONE 5 - Avovilles, Grant, Labadie, & Rapides Parishes  
 ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes  
 ZONE 7 - Natchitoches & Sabine Parishes  
 ZONE 8 - Calcasieu, Calhoun, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Union, West Carroll & Winn Parishes

Basic Hourly Rates	Fringe Benefits Payments		App. Tr.
	H & W	Pension	
SPRINKLER FITTERS	88.75	.50	.70
TERRAZZO WORKERS			
ZONE 1	8.10	.25	
ZONE 2	7.65	.43	.20
ZONE 3	6.25		
ZONE 4	7.07	.10	
ZONE 5	6.50		
ZONE 6	7.90		

## AREA COVERED BY TERRAZZO WORKERS ZONES

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemine, St. Bernard, St. Charles, St. John the Baptist, West St. Tammany & Terrebonne Parishes  
 ZONE 2 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Vermilion & Vernon Parishes  
 ZONE 3 - Iberia, Lafayette, St. Martin & St. Mary Parishes  
 ZONE 4 - Calcasieu, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Union, West Carroll & Winn Parishes  
 ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine & Webster Parishes  
 ZONE 6 - Assumption, Assumption, East Feliciana, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes

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## TERRAZZO WORKERS' HELPERS

	Fringe Benefits Payments			App. Tr.
	Basic Hourly Rates	H & W	Vacation	
ZONE 1	\$6.05	.25		.05
ZONE 2	4.52	.15		
ZONE 3	3.20		.10	

## AREA COVERED BY TERRAZZO WORKERS' HELPERS ZONES

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. Helena, St. John the Baptist, West St. Tammany, Tangipahoa, Terrebonne, West Baton Rouge & West Feliciana Parishes  
 ZONE 2 - Caldwell, East Carroll, Franklin, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes  
 ZONE 3 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine, Webster & Winn Parishes

## TILE SETTERS

	Fringe Benefits Payments			App. Tr.
	Basic Hourly Rates	H & W	Vacation	
ZONE 1	\$8.10	.25	.20	
ZONE 2	5.87			
ZONE 3	6.75		.10	
ZONE 4	7.07			
ZONE 5	6.50			
ZONE 6	7.90			

## AREA COVERED BY TILE SETTERS' ZONES

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, West St. Tammany & Terrebonne Parishes  
 ZONE 2 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes  
 ZONE 3 - St. Tammany (northern half including Covington north of Highway #199) & Washington Parishes  
 ZONE 4 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes  
 ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine & Webster Parishes  
 ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes

## NOTICES

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## TILE SETTERS' HELPERS

	Fringe Benefits Payments			App. Tr.
	Basic Hourly Rates	H & W	Vacation	
ZONE 1	\$6.05	.25		.05
ZONE 2	4.52	.15		
ZONE 3	3.00		.10	

## AREA COVERED BY TILE SETTERS' HELPERS ZONES

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. Helena, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne, West Baton Rouge & West Feliciana Parishes  
 ZONE 2 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes  
 ZONE 3 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine, Webster & Winn Parishes

## TRUCK DRIVERS (BUILDING CONSTRUCTION)

	Fringe Benefits Payments			App. Tr.
	Basic Hourly Rates	H & W	Vacation	
ZONE 1				
GROUP 1	\$4.91			
GROUP 2	5.14			
GROUP 3	5.55			
GROUP 4	5.35			
GROUP 5	5.55			
GROUP 6	5.45			
GROUP 7	5.55			
GROUP 8	5.37			
GROUP 9	5.76			
ZONE 2				
GROUP 1	4.95			
GROUP 2	5.18			
GROUP 3	5.69			
GROUP 4	5.55			
GROUP 5	5.98			
GROUP 6	6.06			
GROUP 7	6.33			
GROUP 8	6.50			

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## ZONE 3

	Fringe Benefits Payments			App. Tr.
	Basic Hourly Rates	H & W	Vacation	
GROUP 1	\$5.17			.1
GROUP 2	5.25			
GROUP 3	5.60			
GROUP 4	5.65			
GROUP 5	5.80			
GROUP 6	6.00			
GROUP 7	6.35			

## CLASSIFICATION DEFINITIONS

**TRUCK DRIVERS - ZONE 1**  
 GROUP 1 - Teamsters, Pick-up drivers & chauffeurs  
 GROUP 2 - Stake bodies (all sizes)  
 GROUP 3 - Trucks trailer & dumps over 8 yds.  
 GROUP 4 - Mixers on trucks up to and including 3 yds.  
 GROUP 5 - Mixers on trucks over 3 yds.  
 GROUP 6 - Winch trucks  
 GROUP 7 - Mississippi wagons & Koehring dumpsters & similar dirt moving equipment (up to and including 8 yds.)  
 GROUP 8 - Trucks - dump  
 GROUP 9 - Mississippi wagons & Koehring dumpsters & similar moving equipment over 8 yds.

**TRUCK DRIVERS - ZONE 2**  
 GROUP 1 - Teamster, Pick-up drivers  
 GROUP 2 - Stake bodies (all sizes)  
 GROUP 3 - Truck & trailer; Dump  
 GROUP 4 - Mixers on trucks, up to and including 3 yds.  
 GROUP 5 - Mixers over 3 yds.  
 GROUP 6 - Winch trucks  
 GROUP 7 - Mississippi wagons & Koehring dumpsters, tandem and similar dirt moving equipment, up to and including 8 yds.  
 GROUP 8 - Mississippi wagons, Koehring dumpsters, tandem and similar dirt moving equipment, over 8 yds.

**TRUCK DRIVERS - ZONE 3**  
 GROUP 1 - Pick-up drivers, spotters & dumpers of dirt, gravel, asphalt & rock; Truck helpers  
 GROUP 2 - Stake bodies; flat beds (all sizes)  
 GROUP 3 - Simple axle dumps & water trucks; transit mix, up to & including 3 yds.  
 GROUP 4 - Tandem axle dump, batch and water trucks over 3 tons, pickups with trailer  
 GROUP 5 - Mississippi wagons; floats; tractor trailers; rubber tired tractors and wobble wheels  
 GROUP 6 - Euclids, low-boys, Dempsey dumpsters, Koehring-dumps, five axle trucks, transit mix over three (3) yards, fuel truck  
 GROUP 7 - Fork lift

## NOTICES

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## AREA COVERED BY TRUCK DRIVERS (BUILDING CONSTRUCTION) ZONES

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes  
 ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes  
 ZONE 3 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes

## TRUCK DRIVERS (HIGHWAY CONSTRUCTION)

	Fringe Benefits Payments			App. Tr.
	Basic Hourly Rates	H & W	Vacation	
GROUP 1				
ZONE 1	\$5.23			
ZONE 2	5.23			
ZONE 3	5.01			
ZONE 4	5.36			
ZONE 5	4.45			
ZONE 6	4.35			
ZONE 7	4.25			
GROUP 2				
ZONE 1	5.34			
ZONE 2	5.34			
ZONE 3	5.09			
ZONE 4	5.47			
ZONE 5	4.56			
ZONE 6	4.46			
ZONE 7	4.36			
GROUP 3				
ZONE 1	5.39			
ZONE 2	5.39			
ZONE 3	5.28			
ZONE 4	5.52			
ZONE 5	4.61			
ZONE 6	4.51			
ZONE 7	4.41			

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GROUP 4	Fringe Benefits Payments			
	Basic Hourly Rates	H & W	Families	App. Tr.
ZONE 1	\$5.45			
ZONE 2	5.45			
ZONE 3	5.45			
ZONE 4	5.58			
ZONE 5	4.67			
ZONE 6	4.57			
ZONE 7	4.47			
GROUP 5				
ZONE 1	5.61			
ZONE 2	5.61			
ZONE 3	5.80			
ZONE 4	5.74			
ZONE 5	4.83			
ZONE 6	4.73			
ZONE 7	4.63			

CLASSIFICATION DEFINITIONS

- GROUP 1 - One ton and under; Warehouseman, material checker, receiving clerk, spotter and dumper  
GROUP 2 - One and one-half (1½) tons to and including two (2) tons (exclusive of dump trucks), truck mechanic helper  
GROUP 3 - Single axle dump trucks, single axle water trucks  
GROUP 4 - Heavy equipment, tandem axle dump and tandem axle water trucks, winch lift, transit mix, floats, pole trailers, four axle trailer and truck mechanic  
GROUP 5 - Special equipment, euclids and five axle moving equipment

AREA COVERED BY TRUCK DRIVERS (HIGHWAY CONSTRUCTION) ZONES

- ZONE 1 - Jefferson, Orleans, Plaquemine, St. Bernard & St. Charles Parishes  
ZONE 2 - East Baton Rouge Parish  
ZONE 3 - Iberville & Calcasieu Parishes  
ZONE 4 - Calcasieu Parish  
ZONE 5 - Lafayette, Ouachita & Rapides Parishes  
ZONE 6 - Acadia, Ascension, Bienville, Cameron, DeSoto, Iberia, Iberville, Jefferson Davis, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (North of Iberia Parish), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes  
ZONE 7 - Allen, Assumption, Avoyelles, Beauregard, Caldwell, Catahoula, Claiborne, Concomie, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Orleans, Sabine, St. Helena, St. Louis, St. Martin (South of Iberia Parish), St. Pierre, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

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SUPERSEDES DECISION

STATE: Montana  
COUNTIES: Cascade, Flathead, Glacier, Hill, Missoula, Sanders and Valley

DECISION NUMBER: MT75-5059  
Supersedes Decision No. MT75-5029 dated February 21, 1975, in 40 FR 7841  
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Fringe Benefits Payments			
	Basic Hourly Rates	H & W	Families	App. Tr.
ASBESTOS WORKERS	\$ 9.65	.44	.75	.02
BRICKLAYERS	8.90	.70	1.00	.02
Flathead, Missoula and Sanders Counties	7.10	.30	.25	.02
Cascade and Glacier Counties	9.15	.40	.30	.02
Hill and Valley Counties	8.45			
CARPENTERS:				
Hill County	6.36	.30	.45	.02
Carpenters	6.65	.40	.55	.02
Valley County	6.90	.40	.55	.02
Carpenters	7.15	.40	.55	.02
Millwrights	7.17	.40	.55	.02
Cascade and Glacier Counties	7.42	.40	.55	.02
Carpenters	7.67	.40	.55	.02
Flathead and Sanders (Northern area including the City of Thompson Falls) Counties	6.61	.40	.55	.02
Carpenters	6.81	.40	.55	.02
Sawmen; Filers; Piledriver; Carpenters working burned, charred, creosoted or similarly treated material	6.96	.40	.55	.02
Millwrights & machine erectors	7.60	.40	.55	.02
Missoula and Sanders (remaining area) Counties	7.85	.40	.55	.02
Carpenters	7.35	.40	.55	.02
Millwrights; Piledriver; Power saw; Saw filer	6.95	.37	.25	.02
CEMENT MASONS:	7.60	.40	.25	.02
Cascade, Hill and Valley Counties				
Glacier, Flathead and Sanders (Northern area, excluding the City of Plains) Counties				
Sanders (remaining area) County				
Missoula County				

DECISION NO. MT75-5059

	Fringe Benefits Payments			
	Basic Hourly Rates	H & W	Families	App. Tr.
ELECTRICIANS:				
Cascade and Glacier Counties	\$ 9.38	.32	1½	1/22
Electricians	9.63	.32	1½	1/22
Cable Splicers				.02
Flathead, Missoula and Sanders Counties	7.55	.20	1½	1/22
Electricians	7.95	.20	1½	1/22
Cable Splicers				.02
Hill County	8.85		1½	1/22
Electricians	8.25	.20	1½	1/22
Valley County	8.04	.445	1½	1/22
Electricians	702JR	.445	1½	1/22
ELEVATOR CONSTRUCTORS				3½ + a
ELEVATOR CONSTRUCTORS' HELPERS				3½ + a
(PROB.)	502JR			
IRONWORKERS:				
Reinforcing; Ornamental; Structural				
Glacier, Flathead, Missoula and Sanders Counties	9.15	.58	.90	.05
Cascade, Hill and Valley Counties	8.51	.50	.75	.05
MARBLE MASONS:				
Flathead, Missoula and Sanders Counties	7.10	.30	.25	.04
Hill and Valley Counties	7.45	.40	.30	
Cascade and Glacier Counties	9.15	.40	.30	
PAINTERS:				
Sanders County	7.10	.34	.30	
Brush and Spray	7.19	.34	.30	
Cascade, Glacier and Valley Cos.	7.44	.34	.30	
Brush	7.69	.34	.30	
Paperhanger	9.44	.34	.30	
Brush on steel				
Spraying; Sandblasting				
PLASTERERS:				
Glacier, Flathead and Sanders (North of the City of Plains) Cos.	6.45	.20		
Missoula and Sanders (remaining area) Counties	7.85	.40	.25	
Cascade and Hill Counties	7.95	.25		
PLUMBERS:				
Cascade, Glacier, Hill and Valley Counties	9.10	.40	.70	1½
Flathead, Missoula and Sanders Counties	8.73	.35	.50	.05

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NOTICES

DECISION NO. MT75-5059

LABORERS

Flathead and that area of Sanders Counties lying 5 miles north of the 5th Parallel

	Basic Hourly Rates	Pringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Group 1	\$ 6.08	.425	.315		.03
Group 2	6.25	.425	.315		.03
Group 3	6.42	.425	.315		.03

Hill and Valley Counties

Group 1	5.97	.425	.315		.03
Group 2	6.07	.425	.315		.03
Group 3	6.22	.425	.315		.03
Group 4	6.37	.425	.315		.03
Group 5	6.47	.425	.315		.03
Group 6	6.72	.425	.315		.03

Missoula and Sanders (Southern area) Counties

Group 1	6.255	.425	.315		.03
Group 2	6.505	.425	.315		.03
Group 3	6.655	.425	.315		.03

Cascade and Glacier Counties

Group 1	6.94	.47	.37		.03
Group 2	7.09	.47	.37		.03
Group 3	7.29	.47	.37		.03
Group 4	7.34	.47	.37		.03
Group 5	7.44	.47	.37		.03
Group 6	7.69	.47	.37		.03
Group 7	7.54	.47	.37		.03

DECISION NO. MT75-5059

	Basic Hourly Rates	Pringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ROOFERS:					
Flathead, Missoula and Sanders Counties	\$ 6.10				
Cascade, Glacier, Hill and Valley Counties	7.05				
SHEET METAL WORKERS:					
Flathead, Missoula and Sanders Counties	8.01	.32	.20		.04
Cascade, Glacier and Hill Counties	7.76	.32	.25		.04
Valley County	7.95	.37	.20		.04
SPRINKLER FITTERS	8.00	.50	.70		.08
TERRAZZO AND TILE SETTERS:					
Flathead, Missoula and Sanders Counties	7.10	.30	.25		
Cascade and Glacier Counties	7.50	.40	.30		
FOOTNOTE:					
a. Employer contributes 4% basic hourly rate for 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.					
PAID HOLIDAYS:					
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.					

LABORERS (Cont'd)

Flathead and that area of Sanders County lying 5 miles north of the 5th Parallel

Group 1: General laborers; scaleman; form strippers; car and truck loaders

Group 2: Concrete handlers, conveying and handling concrete; Nozzlemen (air or water); Sand blast tail hose man; Powderman helper; Power Driven wheelbarrow; Rodder and Spreader; Form setters (paving); Buckman; Small air tool operators, including blow pipes and small power tool operators; Chuck tenders; Asphalt rakers; Dumpmen; Rip rapping; Pipe wrapper; Pot tender; Concrete pumper hosenan; Jackhammer; Pavement breaker; Vibrator; mechanical tamper and other air tools; Cement handlers (sack or bulk); Burning bar

Group 3: Pipe layers (non-metallic); Metal culvert pipe layers; Mason and Plaster tenders; Cement finisher tender; Small concrete mixer operator; Shoring and lagging open ditches; Powderman; Drills, Air-Trac, wagon drill, cat or truck mounted air operated drills, Sand Blaster (wet or dry); gunite nozzleman; barco tamper

Hill and Valley Counties

Group 1: General and Building Laborers' and Scale Men; Form Stripper and Carpenter Tender; Car and Truck Loaders; Concrete Laborers (wet or dry breaking of concrete requiring sledge hammer); Dumpmen (Spotter and Flagman); Small Power Tools, Chippers, Clay Spaders, Pogo Stick, etc.; Fence Erectors and installers, installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers

Group 2: Dumpmen (Grade)

Group 3: Power Driven Concrete Buggies or Power Driven Wheelbarrows; Pipe Layers (non-metallic); Sandblaster, Concrete Nozzlemen, Place Operator, Jackhammer, Pavement Breaker, Vibrator (2-1/2 inches and over) Barco Tamper, Vibrator Turtle; Small Concrete Mixers, Concrete Saw; Nozzlemen (air and water); Sandblaster, Tailhoeman, Pot Tender, Tar Pot Tender; Gunite Nozzlemen; Caisson Workers (Free Air); Tunnels and Shafts (Free Air); Pull Gang, Pot Tender; Chuck Tender, Muckers and Nippers, Primerhouseman

Group 4: Brick Tenders (handling bricks and blocks only)

Group 5: Hod Carriers and Plaster Tenders (men carrying motor either by hod pole or barrow); High Scaler, Wagon Driller, Cat or Truck mounted Air Operated Drills; Asphalt Rakers and Tampers, Gunite, Form Setter (slab steel forms); Stake Setter, Stake Jumper, Rodder and Spreader, Gradenan; Concrete Nozzlemen; Miners

Group 6: Powdermen; Lazer Tools and Equipment

MISSOULA AND SANDERS (SOUTHERN AREA) COUNTIES

Group 1: Laborers

Group 2: All power tools, creosote workers; Jackhammer; Marble and tile setters' tenders; Pipelayers; Pipetrappers; Pot tenders; Small concrete mixers; Vibrators

Group 3: Cement masons and plasterers' tenders; Mason tenders; Pumpcrete, gunite and plaster pump

Cascade and Glacier Counties

Group 1: General and Building Laborers' and Scale Men; Concrete Laborers (wet or dry breaking of concrete requiring sledge hammer); Dumpmen (spotter) and Flagman; Fence Erectors and installers, including the installation and erection of fences, guardrails, medium rails, reference posts, guide posts and right-of-way markers; Vibrators, under 1-1/2" in diameter; Small Air Tools such as Chippers, Clay Spades, etc.; Stake Setters; Stake Jumper, Rodder and Spreader, Form Stripper; Caisson Work-ers (Free Air); Vibrator 1-1/2" to 2-1/2" in diameter

Group 2: Concrete or Asphalt Saws; Creosote Material Handler; Curb Machine Form Setter (Slab Steel Forms); Diamond Drills up through 3 inches in diameter; Jackhammer, Pavement Breaker, Wagon Driller, Cat or Truck Mounted Air Operated Drills, and other Air Tools; Diesel Tamper, Wacker, Jay, Turtle, Pogo Sticks, etc.; Mechanical Tampers; Nozzlemen, Air and Water, Gunite and Placo, Machine (Grout); Pipe Layer (all types); Power Saw (bucking and falling); Power Driven Wheelbarrow; Chuck Tenders, Muckers and Nippers, Primerman

Group 3: Sand Blaster

Group 4: Vibrators, 2-1/2" to 4" in diameter; Brick Tenders; Dumpmen (Grade); Small Concrete Mixers

Group 5: Diamond Drills up through 6 inches in diameter; Hod Carriers and Plaster Tenders (1 - one mixerman per crew); Asphalt Raker and Tamper; High Scaler; Powderman Helper; Concrete Nozzlemen; Miners; Barco Tamper; Air-Trac

Group 6: Diamond Drill, over 6 inches in diameter; Self-Propelled Drills, with the exception of size differential, such as Mustang Drills or Twin Sack Drills; Core Drill Operator; Lazer Equipment and Tools, excluding Transit; Powderman

Group 7: Concrete Vibrator, 4" and over

NOTICES

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## NOTICES

Basic Hourly Rates	Fringe Benefits Payments				Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	App. Tr.		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS (Cont'd)									
MIXERMOBILE									
BORING MACHINE; Jeep, pickup or farm tractor mounted; Boring machine, large; Power auger large truck or tractor mounted and punch	7.64	.45	.45	.13	7.11	.45	.45	.13	
AIR DOCTOR; Asphalt paving machine; Bit grinder; Bituminous mixer paving travel plant; Concrete batch plant operator; Concrete curing machine; Concrete finish machine; paving; Concrete float and spreader; Concrete power saw, self-propelled; Concrete travel batcher; Crusher; Distributor; Elevating grader; Forklift on construction job site; Grapple; Heavy duty drills, all types; Hot plant; Hot plant fireman, when in operation; Industrial locomotive; Mountain logger or skidder type machine; Mucking machine; Pavement breaker, Emaco and similar; Power mixer, single or double drum; Pumpcrete or grout machine; Refrigerator plant; Roller, steel and self-propelled rubber on blade or hot mix oil paving; Roller, Wagner and similar types, rubber-tired dozer; Rubber-tired front-end loaders, 1 yd. to and incl. 3 yds.; Shovels, incl. all attachments, under 1 yd.; Track-type tractor, with or without attachments; Track-type tractor with front-end loaders up to and incl. 5 cu. yds.; Trench machine; Belt finishing machine; Concrete batch plant, 1 and 2 mixers; DM 10, 15, 20 tractor pulling roller; Power saw self-propelled, multiple cut; Push tractor; Scraper, DM 15, 20, 21 and similar type if power unit is not used; Self-propelled sheepfoot; Turnhead conveyor or head tower, on batch plant; Wagner roller; Water pull operator	7.51	.45	.45	.13	7.05	.45	.45	.13	
QUAD CAT	7.45	.45	.45	.13					
CENTRAL MIXING PLANT, concrete and stationary	7.35	.45	.45	.13					
RUBBER-TIRED FRONT-END LOADERS, over 5 yds. to and incl. 10 yds.; Scraper, twin engine; Track-type front-end loaders, over 5 cu. yds. to and incl. 10 cu. yds.; Scraper single or twin engine, pulling belly dump trailer	7.32	.45	.45	.13					
CRANE, ELECTRIC OVERHEAD, ALL; Shovels, incl. all attachments, 1 yd. to and incl. 3 yds.; Track-type tractor on Euclid loader	7.27	.45	.45	.13					
HOIST, TWO OR MORE DRUMS; Motor patrol; Ross and similar type carriers on construction site	7.25	.45	.45	.13					
AUTOMATIC FINESGRADER, Gullies and other types; Paver; Slip form; Paving and mixing machine; Roller, 25 tons or over; Rubber tired front-end loader, over 3 yds. to and incl. 5 yds.; Scraper, single.	7.21	.45	.45	.13					
	7.18	.45	.45	.13					
	7.15	.45	.45	.13					

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Basic Hourly Rates	Fringe Benefits Payments				Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	App. Tr.		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS (Cont'd)									
FIELD EQUIPMENT SERVICEMAN; Hydraulic and similar type; Oiler, hoist-house, dam; Shovel oiler, over 3 yds.; Winch truck with boom	6.92	.45	.45	.13	6.51	.45	.45	.13	
CONCRETE MIXER, 4 bags and over	6.89	.45	.45	.13					
HOIST, SINGLE DRUM	6.81	.45	.45	.13					
A-FRAME TRUCK CRANE, winch truck and similar	6.80	.45	.45	.13	6.48	.45	.45	.13	
CEMENT SILO; Form grader	6.79	.45	.45	.13	7.22	.45	.45	.13	
HYDRO TAMPER	6.77	.45	.45	.13	7.42	.45	.45	.13	
CHAIN BUCKET; Chip or gravel spreader, self-propelled; Conveyor loader, over 42" belt	6.72	.45	.45	.13	6.83	.45	.45	.13	
AIR COMPRESSOR, two or more; Roller, steel and self-propelled rubber other than blade or hot mix oil paving; Rubber-tired front-end loaders, under 1 yd.	6.71	.45	.45	.13	7.80	.45	.45	.13	
BROOM, self-propelled	6.67	.45	.45	.13	7.50	.45	.45	.13	
CONCRETE MIXER, 3 bags and under; Fireman	6.61	.45	.45	.13	7.55	.45	.45	.13	
CONVEYOR LOADER, up to and incl. 42" belt; Crusher conveyor	6.60	.45	.45	.13	7.60	.45	.45	.13	
RETORT OPERATOR	6.57	.45	.45	.13	7.12	.45	.45	.13	
MECHANIC AND/OR WELDER HELPER; Concrete batch plant oiler; Crane oiler; Farm type tractor, over 50 HP engine; Hot plant oiler, 100 tons per hour & over; Oiler driver, rubber-tired crane	6.56	.45	.45	.13	6.85	.45	.45	.13	
PUMPMAN	6.55	.45	.45	.13					
AIR COMPRESSOR, SINGLE; Concrete batch plant oiler, up to and incl. 2 mixers	6.52	.45	.45	.13					

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NOTICES

DECISION NO. MT75-5059									
POWER EQUIPMENT OPERATORS (Cont'd)									
Basic Hourly Rate	H & W	Fringe Benefits Payments		App. Tr.	Basic Hourly Rate	H & W	Fringe Benefits Payments		App. Tr.
		Pension	Vacation				Pension	Vacation	
\$ 7.78	.45	.45	.10	.03	Concrete Conveyor under 40 feet	.45	.45	.10	.03
7.47	.45	.45	.10	.03	Concrete Pump	.45	.45	.10	.03
7.64	.45	.45	.10	.03	Crane, to and incl. 80' boom	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Crane, 81' to 130' boom	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Crane, 131' to 150' boom	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Crane, 151' boom and over	.45	.45	.10	.03
8.07	.45	.45	.10	.03	Crane Oiler	.45	.45	.10	.03
7.64	.45	.45	.10	.03	Crusher	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Crusher Oiler and Helper	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Crusher Conveyor, when required	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Distributor	.45	.45	.10	.03
7.94	.45	.45	.10	.03	DM 10, 15, or 20 Tractor pulling roller	.45	.45	.10	.03
7.58	.45	.45	.10	.03	Electric Overhead Cranes	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Elevating Grader	.45	.45	.10	.03
7.61	.45	.45	.10	.03	Farm Type Tractor, up to and incl. 50 HP Engine	.45	.45	.10	.03
8.45	.45	.45	.10	.03	Farm Type Tractor, over 50 HP Engine	.45	.45	.10	.03
7.73	.45	.45	.10	.03	Field Equipment Serviceman	.45	.45	.10	.03
8.19	.45	.45	.10	.03	Field Equipment Serviceman Helper	.45	.45	.10	.03
7.66	.45	.45	.10	.03	Forklift, on construction job site	.45	.45	.10	.03
7.66	.45	.45	.10	.03	Form Grader	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Grade Setter	.45	.45	.10	.03
8.14	.45	.45	.10	.03	Heavy Duty Drill, all types	.45	.45	.10	.03
8.34	.45	.45	.10	.03	Heavy Duty Driller Helper	.45	.45	.10	.03
7.46	.45	.45	.10	.03	Herman-Nelson Heaters and similar type	.45	.45	.10	.03
7.77	.45	.45	.10	.03	Holst, single drum	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Holst, two or more drums	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Helicopter Holst	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Hot Plant Fireman, when in Operation	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Hot Plant Oiler, 100 ton per hour or over	.45	.45	.10	.03
7.53	.45	.45	.10	.03	Hydra lift and similar types	.45	.45	.10	.03
7.70	.45	.45	.10	.03	Industrial Locomotive all classes	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Mechanic and/or Welder on job	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Mechanic and/or Welder Helper on job	.45	.45	.10	.03
7.52	.45	.45	.10	.03	Mixer	.45	.45	.10	.03
7.64	.45	.45	.10	.03	Motor Patrol	.45	.45	.10	.03
					Mountain Logger or similar type	.45	.45	.10	.03

DECISION NO. MT75-5059									
POWER EQUIPMENT OPERATORS (Cont'd)									
Basic Hourly Rate	H & W	Fringe Benefits Payments		App. Tr.	Basic Hourly Rate	H & W	Fringe Benefits Payments		App. Tr.
		Pension	Vacation				Pension	Vacation	
\$ 7.78	.45	.45	.10	.03	Concrete Conveyor under 40 feet	.45	.45	.10	.03
7.47	.45	.45	.10	.03	Concrete Pump	.45	.45	.10	.03
7.64	.45	.45	.10	.03	Crane, to and incl. 80' boom	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Crane, 81' to 130' boom	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Crane, 131' to 150' boom	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Crane, 151' boom and over	.45	.45	.10	.03
8.07	.45	.45	.10	.03	Crane Oiler	.45	.45	.10	.03
7.64	.45	.45	.10	.03	Crusher	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Crusher Oiler and Helper	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Crusher Conveyor, when required	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Distributor	.45	.45	.10	.03
7.94	.45	.45	.10	.03	DM 10, 15, or 20 Tractor pulling roller	.45	.45	.10	.03
7.58	.45	.45	.10	.03	Electric Overhead Cranes	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Elevating Grader	.45	.45	.10	.03
7.61	.45	.45	.10	.03	Farm Type Tractor, up to and incl. 50 HP Engine	.45	.45	.10	.03
8.45	.45	.45	.10	.03	Farm Type Tractor, over 50 HP Engine	.45	.45	.10	.03
7.73	.45	.45	.10	.03	Field Equipment Serviceman	.45	.45	.10	.03
8.19	.45	.45	.10	.03	Field Equipment Serviceman Helper	.45	.45	.10	.03
7.66	.45	.45	.10	.03	Forklift, on construction job site	.45	.45	.10	.03
7.66	.45	.45	.10	.03	Form Grader	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Grade Setter	.45	.45	.10	.03
8.14	.45	.45	.10	.03	Heavy Duty Drill, all types	.45	.45	.10	.03
8.34	.45	.45	.10	.03	Heavy Duty Driller Helper	.45	.45	.10	.03
7.46	.45	.45	.10	.03	Herman-Nelson Heaters and similar type	.45	.45	.10	.03
7.77	.45	.45	.10	.03	Holst, single drum	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Holst, two or more drums	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Helicopter Holst	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Hot Plant Fireman, when in Operation	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Hot Plant Oiler, 100 ton per hour or over	.45	.45	.10	.03
7.53	.45	.45	.10	.03	Hydra lift and similar types	.45	.45	.10	.03
7.70	.45	.45	.10	.03	Industrial Locomotive all classes	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Mechanic and/or Welder on job	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Mechanic and/or Welder Helper on job	.45	.45	.10	.03
7.52	.45	.45	.10	.03	Mixer	.45	.45	.10	.03
7.64	.45	.45	.10	.03	Motor Patrol	.45	.45	.10	.03
					Mountain Logger or similar type	.45	.45	.10	.03

NOTICES

DECISION NO. MT75-5059									
POWER EQUIPMENT OPERATORS (Cont'd)									
Basic Hourly Rate	H & W	Fringe Benefits Payments		App. Tr.	Basic Hourly Rate	H & W	Fringe Benefits Payments		App. Tr.
		Pension	Vacation				Pension	Vacation	
\$ 8.32	.45	.45	.10	.03	Concrete Conveyor under 40 feet	.45	.45	.10	.03
8.32	.45	.45	.10	.03	Concrete Pump	.45	.45	.10	.03
8.07	.45	.45	.10	.03	Crane, to and incl. 80' boom	.45	.45	.10	.03
8.43	.45	.45	.10	.03	Crane, 81' to 130' boom	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Crane, 131' to 150' boom	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Crane, 151' boom and over	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Crane Oiler	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Crusher	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Crusher Oiler and Helper	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Crusher Conveyor, when required	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Distributor	.45	.45	.10	.03
7.94	.45	.45	.10	.03	DM 10, 15, or 20 Tractor pulling roller	.45	.45	.10	.03
7.58	.45	.45	.10	.03	Electric Overhead Cranes	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Elevating Grader	.45	.45	.10	.03
7.61	.45	.45	.10	.03	Farm Type Tractor, up to and incl. 50 HP Engine	.45	.45	.10	.03
8.45	.45	.45	.10	.03	Farm Type Tractor, over 50 HP Engine	.45	.45	.10	.03
7.73	.45	.45	.10	.03	Field Equipment Serviceman	.45	.45	.10	.03
8.19	.45	.45	.10	.03	Field Equipment Serviceman Helper	.45	.45	.10	.03
7.66	.45	.45	.10	.03	Forklift, on construction job site	.45	.45	.10	.03
7.66	.45	.45	.10	.03	Form Grader	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Grade Setter	.45	.45	.10	.03
8.14	.45	.45	.10	.03	Heavy Duty Drill, all types	.45	.45	.10	.03
8.34	.45	.45	.10	.03	Heavy Duty Driller Helper	.45	.45	.10	.03
7.46	.45	.45	.10	.03	Herman-Nelson Heaters and similar type	.45	.45	.10	.03
7.77	.45	.45	.10	.03	Holst, single drum	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Holst, two or more drums	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Helicopter Holst	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Hot Plant Fireman, when in Operation	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Hot Plant Oiler, 100 ton per hour or over	.45	.45	.10	.03
7.53	.45	.45	.10	.03	Hydra lift and similar types	.45	.45	.10	.03
7.70	.45	.45	.10	.03	Industrial Locomotive all classes	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Mechanic and/or Welder on job	.45	.45	.10	.03
7.94	.45	.45	.10	.03	Mechanic and/or Welder Helper on job	.45	.45	.10	.03
7.52	.45	.45	.10	.03	Mixer	.45	.45	.10	.03
7.64	.45	.45	.10	.03	Motor Patrol	.45	.45	.10	.03
					Mountain Logger or similar type	.45	.45	.10	.03







TRUCK DRIVERS

Basic Hourly Rate	Fringe Benefits Payments			Apr. Tr.
	H & W	Pensions	Vacation	
COMBINATION Truck; Concrete Mixer and Transit Mixer: To and incl. 4 cu. yds. Over 4 cu. yds. to and incl. 6 cu. yds. Over 6 cu. yds. to and incl. 8 cu. yds. Over 8 cu. yds. to and incl. 10 cu. yds. Over 10 cu. yds. - additional \$ .08 per hour each additional 2 cu. yds. increment	\$7.05 .50 7.13 .50 7.21 .50 7.29 .50	.40 .40 .40 .40 .40		
DISTRIBUTOR DRIVER AND HELPER	6.98	.50	.40	
TRY BATCH TRUCKS: 3 Batch or under Over 3 Batch to and incl. 5 Batch Over 5 Batch to and incl. 10 Batch Over 10 Batch to and incl. 15 Batch Over 15 Batch - additional \$.15 per hour each additional 5 Batch increment	6.80 6.93 7.09 7.25	.50 .50 .50 .50	.40 .40 .40 .40	
PICKUP DRIVER, HAULING MATERIALS	6.90	.50	.40	
DUMPMAN, GRAVEL SPREADER BOX; Pilot Car Driver, Teamsters and Helpers	6.80	.50	.40	
Warehousemen, Partsmen, Cardex Men, Warehouse Expediter	7.00	.50	.40	
DUMP TRUCKS AND SIMILAR EQUIPMENT WATER LEVEL CAPACITY, INCL. SIDE-BOARDS: 7 cu. yds. or less Over 7 cu. yds. to and incl. 10 cu. yds. Over 10 cu. yds. to and incl. 15 cu. yds.	6.80 6.93 7.00	.50 .50 .50	.40 .40 .40	

TRUCK DRIVERS (Cont'd)

Basic Hourly Rate	Fringe Benefits Payments			Apr. Tr.
	H & W	Pensions	Vacation	
Over 15 cu. yds. to and incl. 20 cu. yds. Over 20 cu. yds. to and incl. 25 cu. yds. Over 25 cu. yds. to and incl. 30 cu. yds. Over 30 cu. yds. to and incl. 35 cu. yds. Over 35 cu. yds. to and incl. 40 cu. yds. Over 40 cu. yds. to and incl. 45 cu. yds. Over 45 cu. yds. - additional \$.06 per hour each additional 5 cu. yds. increment	\$7.23 7.29 7.35 7.41 7.47 7.53	.50 .50 .50 .50 .50 .50	.40 .40 .40 .40 .40 .40	
DUMPSTERS	6.93	.50	.40	
DM 20, DM 21, or EUGLIO TRACTORS, PULLING P.R. 21 or SIMILAR DUMP WAGONS: To and incl. 25 cu. yds. Over 25 cu. yds. to and incl. 30 cu. yds. Over 30 cu. yds. - additional \$.06 per hour each additional 5 cu. yds. increment	7.29 7.35	.50 .50	.40 .40	
SERVICEMEN	7.54	.50	.40	
POWDER TRUCK DRIVER (bulk unloader type)	6.98	.50	.40	
PLAT TRUCKS: To and incl. 3 tons Over 3 tons Factory rating	6.05 6.40	.50 .50	.40 .40	
SERVICE TRUCK DRIVERS; FUEL TRUCK DRIVERS; TIREMEN	7.34	.50	.40	
LOBBYS; FOUR-WHEEL TRAILER, FLOAT SEMI-TRAILER	7.15	.50	.40	
LUMBER CARRIERS, LIFT TRUCKS	7.05	.50	.40	
POWER BROOM	6.89	.50	.40	

TRUCK DRIVERS (Cont'd)

Basic Hourly Rate	Fringe Benefits Payments			Apr. Tr.
	H & W	Pensions	Vacation	
WATER TANK DRIVERS, PETROLEUM PRODUCTS DRIVERS: 2,500 gallons and under Over 2,500 gallons to and incl. 4,500 gallons Over 4,500 gallons to and incl. 6,000 gallons Over 6,000 gallons to and incl. 8,000 gallons Over 8,000 gallons to and incl. 10,000 gallons Over 10,000 gallons - additional \$.08 per hour each additional 2,000 gallons increment	\$6.80 7.09 7.29 7.35 7.43	.50 .50 .50 .50 .50	.40 .40 .40 .40 .40	
TRUCKS WITH POWER EQUIPMENT if UNDER TEAMSTERS JURISDICTION, SUCH AS: Winch, A-frame, Swedish Crane, Hydra-lift, Groutcrete, and Combination mulching, seeding and fertilizing	7.05	.50	.40	
TRUCK MECHANIC	7.54	.50	.40	

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STATE: North Dakota  
COUNTIES: Burleigh, Cass, Grand Forks, Morton, Richland, Steele, and Ward  
DATE: Date of Publication  
Supersedes Decision No. ND75-5038 dated February 28, 1975, in 40 FR 8747  
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories)

DECISION NO ND75-5038

Basic Hourly Rates	Fringe Benefits Payments			App Tr.
	M & W	Pensions	Vacation	
ASBESTOS WORKERS (except Walsh County)	.35	.50		.005
BOILERMAKERS (except Walsh County)	.70	1.00		.02
BRICKLAYERS; Stonemasons: Burleigh and Morton Counties		.15		
Grand Forks, Steele & Walsh Counties	.40	.15		
Cass and Richland Counties		.15	.30	.02
Ward County		.15		
CARPENTERS: Burleigh and Morton Counties				.02
Carpenters	6.80			.02
Piledrivermen	6.925			.02
Grand Forks, Steele(Northern area) and Walsh Counties		.20		.02
Carpenters	7.15	.20		.02
Piledrivermen	7.38	.20		.02
Millwrights	7.53	.20		.02
Cass, Richland and Steele (Southern area) Counties		.30		
Carpenters	7.21			
Ward County				
Carpenters	6.78			.02
Piledrivermen	7.01			.02
Millwrights	7.26			.02
CEMENT MASONS: Grand Forks and Steele Counties	6.25			
Cass, and Richland Counties	7.51	.15		
Ward County	5.50			
ELECTRICIANS: Cass, Grand Forks, Richland and Steele Counties				
Zone mileage from main P.O. in the Cities of Grand Forks, Valley City, Fargo and West Fargo.				
Zone (A) Within 0-15 miles of each main P. O.	8.05	12	62	15%
Electricians	8.35	12	62	15%
Cable Splicers				

NOTICES

Basic Hourly Rates	Fringe Benefits Payments			App Tr.
	M & W	Pensions	Vacation	
ELECTRICIANS: (Cont'd)				
Zone (B) 15-30 miles of each main P. O.	.30	12	62	15%
Electricians	8.67			
Cable Splicers	8.97	12	62	15%
Zone (C) Over 30 miles of each main P. O.	.30	12	62	15%
Electricians	9.30			
Cable Splicers	9.60	12	62	15%
Burleigh, Morton and Ward Cos. Zone mileage from main P. O. in the Cities of Minot, Bismarck and Mandan				
Zone (A) Within 0-25 miles of each main P. O.	.30	12	62	15%
Electricians	7.90			
Cable Splicers	8.30	12	62	15%
Zone (B) Over 25 miles from main P. O.	.30	12	62	15%
Electricians	9.15			
Cable Splicers	9.55	12	62	15%
ELEVATOR CONSTRUCTORS (excluding Walsh County)	8.75	.445	.29	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	707JR	.445	.29	.02
IRONWORKERS: Ornamental; Structural; Reinforcing	507JR			
PAINTERS: Cass, Grand Forks, Richland and Steele Counties	9.19	.52		.05
Brush; Roller; Paperhangers Sandblasting; Structural Steel Spray	7.25			.01
Drywall Tapers and Sanders	7.50			.01
Burleigh and Morton Counties	8.04			.01
Brush	5.55			
Spray	5.85			

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DECISION NO ND75-5038

Basic Hourly Rates	Fringe Benefits Payments			App Tr.
	M & W	Pensions	Vacation	
PAINTERS: (Cont'd)				
Ward County				
Brush	\$5.20			
Spray	5.55			
PLASTERERS: Grand Forks and Steele Counties	6.80	.15		
Ward County	6.50			
Cass and Richland Counties	8.30			
PLUMBERS: Cass, Grand Forks, Richland, Steele, and Walsh Counties	8.50	.20		.01
Burleigh and Morton Counties	7.85	.25		.02
Ward County	8.05	.25		.04
ROOFERS: Cass and Richland Counties	5.30			
SHEET METAL WORKERS: Burleigh, Grand Forks, Morton, Steele and Ward Counties	8.55			
Cass and Richland Counties	8.05	.10		.01
SOFT FLOOR LAYERS: Cass and Richland Counties	5.75	.20		
SPRINKLER FITTERS (except Walsh County)	8.00	.50	.70	.08
FOOTNOTE: A. Employer credits 27 basic hourly rate for employee with 6 months to 5 years' service; 42 basic hourly rate with over 5 years' service as Vacation Credit Plan. Six Paid Holidays: A through F.				
PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day				

DECISION NO ND75-5038

Basic Hourly Rates	Fringe Benefits Payments			App Tr.
	M & W	Pensions	Vacation	
BUILDING CONSTRUCTION.				
LABORERS				
Grand Forks and Steele Counties				
Group 1: Laborers; Concrete bucket dumpman	\$5.42	.20		
Group 2: All power tools (air, gas and electric); Operators of tools that come under the laborers' jurisdiction; Brick, plaster and finisher tender; Sandblaster and gunite pot tender; Hose tender where under the laborers' jurisdiction	5.57	.20		
Group 3: Hod carriers; Non-metallic pipe-layer; Gas line wrapping or taping; Sand blaster and gunite nozzle man where under laborers' jurisdiction; Cutting torch for demolition	5.77	.20		
Burleigh and Morton Counties				
Group 1: Laborers; Concrete bucket man; Brick and plasterer tender	4.80	.20		
Groups 2 and 3: operator of tools that come under the laborers' jurisdiction; Mortar mixer; Hod carriers; Non-metallic pipe layer; Gas line wrapping or taping; Cutting torch for demolition	4.90	.20		

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DECISION NO. ND75-5058	LABORERS: (Cont'd) Cass and Richland Counties	Fringe Benefits Payments			
		Basic Hourly Rates	H & W	Pensions	Vacation
Group 1: Laborers; Concrete bucket dumpman; Bricktender		\$4.99	.20		
Group 2: All power tool operators of tools that come under the laborers' jurisdiction; Plasterers tender; and Mortar mixer		5.14	.20		
Group 3: Hod carriers; Non-metallic pipe layer; Gas line wrapping and taping (Distribution only); Cutting torch for demolition		5.14	.20		
Ward County					
Group 1: Laborer; Concrete bucket dumpman		4.99	.20		
Group 2: All power tool operators of all tools that come under the laborers' jurisdiction; Mortar mixer; and Plasterer tender		5.09	.20		
Group 3: Non-metallic pipe layer; Gas line wrapping or taping (Distribution only); Cutting torch for demolition		5.24	.20		
Walsh County		2.75			

DECISION NO. ND75-5058

BUILDING CONSTRUCTION  
POWER EQUIPMENT OPERATORS

- Group 1:  
Cranes, tower and overhead; Cherry picker
- Group 2:  
Brakemen; Any air compressed operations over 300 well points; Frontend loader over 1 1/2 cu. yds.; Power plant engineer; Straddle carrier; Oiler; Mechanic and welder; Batch plant drill rig; Tractor, over 75 HP; Concrete pumps, stationary and boom type; Forklift, over 3,000 lbs. lifting capacity
- Group 3:  
Hoist; Greaser; Concrete mixer operator; Boom truck; Firemen; Tractor, 75 HP and under; Front-end loader, 1 1/2 cu. yds., and under; Air compressor, 300 and under; Forklift, 3,000 lbs. and under; Lifting capacity; Self-propelled scissor jack

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	App. Tr.
\$7.15	.35	.25		
6.55	.25	.25		
5.55	.35	.25		

NOTICES

DECISION NO. ND75-5058

LABORERS

Site Preparation Excavation and Incidental Paving (except Walsh County)

Group 1: General Construction Laborer (Chip Spreader Leveller, Fine Grader, Form Grader, Landscape Worker, Pump Operator (pneumatic), Tunnel Worker, Sign Erector); Reinforced Steel Setter; Sack Shaker (cement and mineral filler); Pipe Handler; Drill Runner Helper; Salamander Heater and Blower Tender

Group 2: Semi-skilled Laborer (Joint Filler Machine Operator, Chip Spreader Operator); Bulk Cement Handler; Conduit Layer, telephone or electrical; Form Setter (pavement); Gas, Electric or Pneumatic Tool Operator (Chipping Hammer, Grinders and Paving Breakers, Tamping Machine, Concrete Vibrator Operator); Chain Saw Operator; Concrete Curing Man (not water); Bituminous Worker (Shovel, Dumper, Raker and Floater); Kettleman (bituminous or lead); Concrete Bucket Signalman; Power Buggy Operator; Brick and Mason Tender; Multiplate Pipe Layer; Culvert Pipe Layer

Group 3: Calson Work; Bottom Man, (sanitary sewer, storm sewer, water, and gas lines); Concrete Mixer Operator (one bag capacity); Mortar Mixer

Group 4: Pipe Layers (sanitary sewer, storm sewer, water, and gas lines); Drill Runner (including Wagon Churn or Air Track); Powderman, Gunite and Sandblast, Nozzleman

POWER EQUIPMENT OPERATORS

Site Preparation Excavation and Incidental Paving (except Walsh County)

Group 1: Cableway Operator; Crane Operator with over 135' boom; Derrick (Guy and Stiff Leg), (power), (skids and stationary); Front End Loader over 10 cu. yds.; Gantry Crane Operator; Mole Operator, including power supply or tunnel mucking machine; Power Shovel and/or other equipment with shovel type controls 3 1/2 cu. yds.

Group 2: Concrete Mixer Stationary Plant Operator over 345; Dredge Operator or Engineer, Dredge Operator (power) and Engineer; Elevator Grader Operator; Locomotive, Crane Operator; Master Mechanic; Mixer (paving) Concrete Paving Operator, road; Power Shovel and/or other equipment with shovels and/or other equipment with shovel type controls up to 3 1/2 cu. yds.; Scraper Tandem; Tandem Pusher Quad 9 or similar; Tractor Operator (pipeline); Side Boom; Truck Crane Operator; Hydrocrane Operator, 15 ton and over

DECISION NO. ND75-5058

Site Preparation Excavation and Incidental Paving (except Walsh County)

LABORERS

Group 1  
Group 2  
Group 3  
Group 4  
Site Preparation Excavation and Incidental Paving (except Walsh County)

POWER EQUIPMENT OPERATORS

Group 1  
Group 2  
Group 3  
Group 4  
Group 5  
Group 6  
Group 7  
Group 8  
Group 9  
Group 10  
Site Preparation Excavation and Incidental Paving (except Walsh County)

TRUCK DRIVERS

Single Axle  
Tandem  
Agitator Dumpcrete  
off road heavy end dumps, 20 yds. and under; Tandem Semi, Lowboy  
Euclid, over 20 yds.

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	App. Tr.
\$3.20	.35	.25		
3.30	.35	.25		
3.40	.35	.25		
3.50	.35	.25		
7.20	.35	.25		
7.05	.35	.25		
6.90	.35	.25		
6.85	.35	.25		
6.60	.35	.25		
6.37	.35	.25		
5.44	.35	.25		
5.29	.35	.25		
5.19	.35	.25		
4.85	.35	.25		
4.77	.35	.15		
4.87	.35	.15		
5.12	.35	.15		
5.12	.35	.15		
5.75	.35	.15		

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DECISION NO. ND75-5058

POWER EQUIPMENT OPERATORS (Cont'd)

Group 8: Crawler type tractor pulling compaction or aereating equipment; Farm type rubber tired tractor with backhoe attachment; Self-propelled vibrating packer operator pad type (35 hp and over); Off road self-propelled watering equipment; Room truck operator; Roller, steel and self-propelled rubber, on other than hot mix

Group 9: Bituminous spreader and bituminous finishing machine operator (helper) (power); Concrete batch operator (cement, rock and sand) (manual); Form trench digger (power); Front end loader operator up to 1 cu. yd.; Hyster carrier or forklift; Leverman; Mechanics' helpers or greaser helper; Oiler (power shovel, crane, dragline); Pugmill operator; Pump operator (well points); Self-propelled broom

Group 10: Conveyor operator; Curb machine operator (manual); Dredge deck hand; Farm tractors, rubber tired for compacting and aereating; Front end loader operator (farm type rubber tired tractor); Stump chipper operator; Tile tamper and ballast machine operator

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DECISION NO. ND75-5058

POWER EQUIPMENT OPERATORS (Cont'd)

Site Preparation Excavation and Incidental Paving (except Walsh County)

Group 3: Dope machine operator (pipeline); Drill rigs, heavy duty rotary or churn or cable drill; Front end loader operator, 6 cu. yds. and over; Locomotive, all types; Pipeline wrapping, cleaning and bending machine operator; Power actuated horizontal boring machine over 6" operator (pipeline); Pumpcrete operator; Refrigeration plant engineer; Slip form operator (power driven) (paving); Tandem scraper - twin engine, 50 cu. yds. struck and over

Group 4: Asphalt paving machine operator; Asphalt plant operator and console board operator; CMI grading operator; Crushing plant operator (gravel and stone or gravel washing crushing and screening plant operator); Front end loader operator, 1 cu. yd. up to 6 cu. yds.; Grader or motor patrol, finishing earth work and bituminous; Mechanic or welder (heavy duty); Rubber tired industrial tractor with backhoe attachment (water main sanitary sewer and storm sewer, truck line construction); Scraper operator; Tractor type dozer D-6 and over; Trenching machine operator, sewer and water, (except ditch witch or similar use oiler rates); Turnapull operator, (or similar type)

Group 5: Bituminous spreader and bituminous finishing operator (power); Concrete distributor and spreader operator, finishing machine longitudinal float operator, ft. machine operator and spray operator; Concrete mixer operator on job site 16S or over; Paving breaker or tamping machine operator, including machine with power shovel attachments (power driven); Power actuated augers and boring machine operator; Power actuated jacks operator; Power plant engineer, 100 K.W.H. and over; Push tractor; Self-propelled traveling soil stabilizer; Soil cement stabilizer; Truck mechanic

Group 6: Concrete saw operator (multiple blade) (power operated); Fine grade operator; Roller, steel and self-propelled rubber, on hot mix; Asphalt paving; Tractor type dozer under D-6 H.P.; Distributor operator

Group 7: Brakeman or switchman; Concrete batch plant operator (cement, rock and sand) electronic; Concrete mixer operator on job site under 16S; Crane truck oiler; Grader operator (motor patrol) (haul road); Gravel screening plant operator (portable not crushing or washing); Greaser (truck or tractor); Gumite operator (small); Hoist engineer (power); Launchman (tankerman or pilot license); Pick-up sweeper, 1 yd. and over hopper capacity; Shouldering machine operator (power apco or similar type) including self-propelled sand chip spreader; Flaherty or similar; Sheepfoot roller or compactor (self-propelled)

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DECISION NO ND75-5058

LINE CONSTRUCTION

Group 1: Cable splicer; Lineman; Tractor dozer operator (D-4 and larger) all rigs erecting steel tower and "H" fixtures, also tension-pulling machines

Group 2: Groundman - operating special equipment hole digging machines; Aerial baskets on energized circuits; Tractors (D-4) and larger; Transmission line pole hauling; All fifth wheel trucks and other setting and assembly equipment excluding steel tower and "H" fixture erection

Group 3: Groundman - truck or tractor driver (with winch); Operators of trucks up to and including 2 1/2 tons; Tractor including D-2 and smaller; Including wheel tractors and crawler tractors

Group 4: Groundman - truck or tractor driver (without winch); Operators of trucks up to and including 2 1/2 tons; D-2 and smaller; Including wheel tractors and crawler tractors; Groundmen

Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
	H & W	Pensions	Vacation	
\$8.30	.35	17		1/27
6.69	.35	17		1/27
5.58	.35	17		1/27
5.13	.35	17		1/27

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FEDERAL REGISTER, VOL. 40, NO. 101—FRIDAY, MAY 23, 1975

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PA75-3053  
BUILDING CONSTRUCTION

STATE: Pennsylvania  
COUNTY: Lebanon  
DATE: Date of Publication  
DECISION NO.: PA-75-3053  
Supersedeas Decision No. AQ-2080, dated April 5, 1974, in 39 FR 12571.  
DESCRIPTION OF WORK: Building construction, including single family homes and garden type apartments up to and including 4 stories.

## BUILDING CONSTRUCTION

Basic Hourly Rates	Fringe Benefits Payments				Others
	M & W	Pension	Vacation	App. Tr.	
Asbestos workers	.42	.30		.01	
Boilermakers	.65	1.00			
Bricklayers	.60	.43			
Carpenters	.30	.35		.03	
Cement masons:					
East of Rte. 501	.30	.40			
East of Rte. 501	.86	.28			
Electricians:					
Lawn, East Hanover & Indiantown Gap					
Military Reservation	9.26	17.21		1/4 of 12	
Remainder of County	.31	.29	31-btc	.02	
Elevator constructors	9.08	.445	31-btc	.02	
Elevator constructors' helpers	6.36	.445			
Elevator constructors' helpers (prob.)	4.54				
Glaziers:					
Types of Bethel, Jackson, Mill Creek,					
Lebanon, E. of Rte. 72, Heidberg &					
Richland	8.14	.35	.10	.01	
Remainder of County	8.09	.25	.30	.05	
Ironworkers	9.26	.64	1.08		
Laborers:					
Laborers, unskilled	6.00	.25	.25		
Air fuel & Electric tool operators,					
pipelayers, power-buggy, pre-cast					
slab placers & signalman, brick,					
stone, plasterers & cement mason					
tenders, machine mixers, stockers,					
scaffold builders, plaster pump &					
conveyors, blasters, caisson workers,					
wagon air track & diamond point drill					
operators, burning torches, green					
cutting machine, steam jenny & blast-					
ing	6.10	.25	.25	.01	
Lathers	8.68	.15		.01	
Lead burners	9.25	.35			
Line Constructors:					
Linenen & Cable splicers	9.60	.25	.15	3/4 of 12	
Groundmen	5.76	.25	.15	3/4 of 12	
Winch truck operator	6.72	.25	.15	3/4 of 12	
Marble setters	9.05	.60	.43		
Millwrights	9.86	.30	.35	.03	
Painters (East of Route 72)					
Brush	7.44	.50	.31		
Structural steel & Spray	8.49	.38	.31		
Highway bridges	8.89				

## Painters (West of Route 72)

Basic Hourly Rates	Fringe Benefits Payments				Others
	M & W	Pension	Vacation	App. Tr.	
Brush	.20	.15			
Structural steel	.20	.15			
Spray	1.28	.90		.07	
Filed/revision					
Plasterers:					
East of Rte. 501	.80	.28		.01	
West of Rte. 501	8.35	.25		.01	
Plumbers:					
East of Rte. 501	10.02	.57		.08	
West of Rte. 501	9.30	.50		.12	
Roofers:					
Annville, Cold Springs, East Hanover,					
North Annville, North Cornwall, North					
Londonderry, South Annville, South					
Londonderry, Union, West Cornwall					
Types:					
Compositions	9.31	.25	.30		
Remainder of County:					
Composition, damp & waterproofing	9.15	.45	.25	.08	
Steamfitters (East of Rte. 501)					
Soft metal workers	10.02	.57		.01	
Soft floor layers	8.23	.30		.03	
Steamfitters (West of Rte. 501)	9.30	.30		.12	
Sprinkler fitters	9.60	.50		.08	
Stoneasons	9.05	.60			
Terrazzo workers	7.875	.50			
Tile setters					
Truck Drivers:					
Pick-ups, dump, flat trucks to &					
including 2 highway license plates					
Transit mix, winch, trucks, tractor	6.71	.c			
trailers, all types Euclid, Ross					
lumber carriers & trucks over 2					
plate	6.95	.c			
Welders - receive prescribed for					
craft feripr.ong operation to which					
welding is incidental					

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## PA75-3053

## PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

## FOOTNOTES:

- 8 paid holidays, A through F and Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the days preceding and following the holiday.
- Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.
- Six paid holidays: A through F.
- \$45.03 per month for employees who have worked sixty hours or more during the month.
- \$29.33 per month for employees who have worked sixty or more hours during the month.
- Paid holidays: Election Day and Labor Day.

## PA75-3053

POWER EQUIPMENT OPERATORS  
BUILDING CONSTRUCTION

Basic Hourly Rates	Fringe Benefits Payments				App. Tr.
	M & W	Pension	Vacation	App. Tr.	
GROUP 1	10.19	4.6%	9.5%	a	1.2%
GROUP 2	9.90	4.6%	9.5%	a	1.2%
GROUP 3	9.02	4.6%	9.5%	a	1.2%
GROUP 4	8.25	4.6%	9.5%	a	1.2%
GROUP 5	7.77	4.6%	9.5%	a	1.2%
GROUP 6	6.85	4.6%	9.5%	a	1.2%
GROUP 7	10.14	4.6%	9.5%	a	1.2%
GROUP 7-A	10.69	4.6%	9.5%	a	1.2%
GROUP 7-B	10.94	4.6%	9.5%	a	1.2%

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GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 215 and over, all type overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-1/2 c.y. and over, tandem scrapers, pipin type backhoes, boat captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and turnapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-1/2 cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tireman (for power equipment), machines similar to above

GROUP 5: Fireman, Grease truck

GROUP 6: Oilers and deck hands (personal boats), core drill helper

GROUP 7: All machines with booms (including jib, mast, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:  
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDES DECISION

STATE: South Carolina  
DECISION NUMBER: SC75-1055  
Supersedeas Decision # AR-1045 dated October 18, 1974 in 39 FR 37327  
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

COUNTY: See below

DATE: Date of Publication  
18, 1974 in 39 FR 37327

	Basic Hourly Rates	10-SC-1-B (1 of 2)			App. Tr.
		H & W	Pensions	Vacation	
*Counties: Berkeley and Charleston					
Bricklayers	6.15	.15			
Carpenters	4.30				
Cement Masons	4.75	.15	1%		1/2 of 1%
Electricians	7.00	.30			
Ironworkers:					
Structural, Ornamental & Reinforcing	5.70	.35	.25		.05
Laborers:					
Unskilled	2.50				
Mason Tenders	2.50				
Mortar Mixers	2.75				
Painters:					
Brush	3.00				
Structural Steel	3.25				
Spray	3.00				
Plasterers	5.75	.15			
Plumbers & Steamfitters	6.05				
Roofers	3.15				
Sheet Metal Workers	5.55	.20	.15	a	.02
Truck Drivers	2.50				
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					
POWER EQUIPMENT OPERATORS:					
Air Compressor (Portable)	3.15				
Backhoe (rubber-tired)	4.20				
Bulldozer, scraper pan	3.00				
Cranes, derricks draglines, crawler, backhoe and piledrivers	4.50				
Fork lift	3.25				
Front end loader	2.76				
Firesmen	3.10				
Light Conveyor	2.80				
Mechanic	3.90				
Motor Grader	3.50				
Oiler:					
Crawler	2.80				
Truck Crane	3.20				

SC75-1055 (Cont'd.)

	Basic Hourly Rates	10-SC-1-B (2 of 2)			App. Tr.
		H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS (CONT'D.)					
Well point	4.20				
FOOTNOTES:					
a. Holiday: C, D, E, and F.					
PAID HOLIDAYS (WHERE APPLICABLE):					
A-New Year's Day; B-Memorial Day;					
C-Independence Day; D-Labor Day;					
E-Thanksgiving Day; F-Christmas Day.					

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## SUPERSEDES DECISION

STATE: Texas  
COUNTY: Taylor  
DECISION NO.: TX75-4098  
DATE: Date of Publication  
Supercedes Decision No. TX75-4030, dated January 24, 1975, in 40 FR 3941.  
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & V	Pension	Vacation	
AIR CONDITIONING MECHANICS	\$4.00	.30	.51		.025
ASBESTOS WORKERS	7.96	.50	.76		.02
BOILERMAKERS	6.00				
BRICKLAYERS	7.20	.25	.30		
CARPENTERS	6.00				
CEMENT MASONS	5.41				
ELECTRICIANS	7.70	.30	12		1/42
GLAZIERS	4.50	.55	.50		.10
IRONWORKERS	6.65				
LABORERS	3.20				
Mason tenders	3.80				
LINE CONSTRUCTION:					
Lineman	7.70	.30	12		1/42
Cable splicers	7.95	.30	12		1/42
Groundman (over 1 yr. of experience)	5.78	.30	12		1/42
Groundman (under 1 yr. of experience)	4.62	.30	12		1/42
Equipment operator	6.31	.30	12		1/42
Flat bed truck driver	4.85	.30	12		1/42
PAINTERS:					
Brush, tape & bedding, paper-hanger	6.00				
Stage work	6.25				
Spray	6.875				
PLASTERERS	6.60				
PUMPS & PUMPFILTERS	7.05	.40			.03
POWER EQUIPMENT OPERATORS:					
Backhoes	4.75				
Cranes, derricks, draglines	5.575				
Drilling	5.575				
Oilers	4.65				
ROOFERS	3.94				
SHEET METAL WORKERS	6.26				
SOFT FLOOR LAYERS	3.75				
TILE SETTERS	4.00				
TRUCK DRIVERS	3.00				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

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## SUPERSEDES DECISION

STATE: Texas  
COUNTIES: Kleberg & Nueces  
DECISION NO.: TX75-4099  
DATE: Date of Publication  
Supercedes Decision No. TX75-4028, dated January 24, 1975, in 40 FR 3938.  
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & V	Pension	Vacation	
ASBESTOS WORKERS	\$7.64	.35	.30		.02
BOILERMAKERS	8.00	.50	.76		.02
BRICKLAYERS	7.28	.18	.15		.03
CARPENTERS	6.34	.27	.30		
Cement masons	7.05				
CEMENT MASONS	6.95				
ELECTRICIANS	7.85	.35	12		1/22
Cable splicers	7.975	.35	12		1/22
GLAZIERS (excluding Kleberg Co.)	5.34		.20		
IRONWORKERS	5.89	.40	.40		.04
Structural; Ornamental	5.84	.40	.40		.04
LABORERS:					
GROUP 1 - General laborer (any work not specifically defined herein)	3.85	.28	.10		
GROUP 2 - Craft tenders: Bricklayers, plasterers, tile setters, concrete & mortar mixers, pipe-layers, lathers, finish carpenters, slip form operators, scaffolding water proofers, cement finishers; Power tool operators - includes paving buster, jack-hammer, chipping gun, air tamper, baric tamper, electric vibrator, air or gasoline driven vibrator or drills, sump pumps and any and all power driven equipment operated by laborers	4.05	.28	.10		
GROUP 3 - Pipe wrappers & dopers	4.20	.28	.10		
GROUP 4 - Gunnite nozzlemen; Powderman or blaster	4.30	.28	.10	1.00	.01
LATERS	6.85	.30	.20		
LINE CONSTRUCTION:					
Lineman	7.92	.28	12		1/22
Cable splicer	8.045	.28	12		1/22
Groundman	5.23	.28	12		1/22

DECISION NO. TX75-4099

MARBLE SETTERS  
MARBLE SETTERS' HELPERS  
PAINTERS:  
  Brush  
  Spray  
  Sign  
PLASTERERS  
PUMPS & STEAMPITERS  
ROOFERS:  
  Roofers  
  Kattlemen  
  Waterproofers  
  Deckmen  
SHEET METAL WORKERS  
SOFT FLOOR LAYERS  
SPRINKLER FITTERS  
TERRAZZO WORKERS  
TERRAZZO WORKERS' HELPERS:  
  Terrazzo helpers  
  Floor machine operators  
  Base machine operators  
TILE SETTERS  
TILE SETTERS' HELPERS  
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

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DECISION NO. TX75-4099

POWER EQUIPMENT OPERATORS:

Group	Basic Hourly Rates	H & M	Fringe Benefits Payments	Vacation	App. Tr.
Group 1	\$6.65	.18	.45		
Group 2	5.825	.18	.45		
Group 3	5.225	.18	.45		
Group 4	5.375	.18	.45		.1

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Asphalt Plant Mixer; Back Filler; Back Hoe; Batch Plant (concrete); Blade Grader; Paving Machine (foundation, horizontal or waterwell); Bull Giam; Bull Doser; Curbway; Glanahall; Crane, power operated, all types; Crusher; Derrick, power operated, all types; Dragline; Elevating Grader; Elevator, outside the building; Euclid and similar type machines; Forklift (on construction except in warehouses); Grade-All; Hi-Lift; Hoist (2 drums or more); Locomotive and Switch Engines; Mixer (paving); Mixer (concrete); Pile Driver; Pump (2) over 3 inches; Pumper (all types); Push Cat or Pull Cat; Roller (pneumatic, flatwheel); Scraper (all types); Shovel (power); Scoopmobile; Trench Machines; Tugboat (on construction); Turn-a-pulls and similar machines; Welding Machines (7 to 13) other than electric; Winch Truck; All other equipment of similar nature coming within Heavy Equipment Class when power operated; Mechanic; Lubrication Engineer (required on grease racks and service trucks)

GROUP 2 - Air Compressor (1 or 2) 125 C/M or less, gasoline or diesel powered; Blade Grader (cowed); Conveyor; Elevator, inside the building, permanent type; Fireman (required on any boiler, steam locomotive, steam crane, etc.); Plumber; Pump (less than 14 cu. ft.); Pulverizer; Pump (1) over 3 inches; Pump (1 or 2) 3 inches or under; Roller (cowed); Tractor (wheel type); Driver-oller (required on tractor or truck cranes on which controls of crane and those of tractor or truck are operated from different seats or stations, mobile type grade all, etc.); Wagon drill; Welding Machines (3 to 6) other than electric; All other equipment of similar nature coming within Light Equipment Class when power operated

GROUP 3 - Other, 1st year

GROUP 4 - Other, 2nd year

NOTICES

FEDERAL REGISTER, VOL. 40, NO. 101—FRIDAY, MAY 23, 1975

SUPERSEDES DECISION

STATE: Texas  
COUNTY: Travis  
DECISION NO.: TX75-4101  
DATE: Date of Publication  
Supersedes Decision No. TX75-4091, dated January 24, 1975, in 40 FR 3942.  
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		H & M	Fringe	Vacation	
ASBESTOS WORKERS	8.43	.30	.30	.08	
BRICKMAKERS	8.00	.30	.76	.02	
BRICKLAYERS & STONEMASONS	8.18	.40	.30	.05	
CARPENTERS:					
Carpenter	7.91	.38	.40	.04	
Millwright	8.16	.38	.40	.04	
CEMENT MASONS	6.74	.30	.10		
ELECTRICIANS & CARP SPLITTERS	8.60	.12	.82		
ELEVATOR CONSTRUCTORS	7.775	.445	.29	37-44	
ELEVATOR CONSTRUCTORS' HELPERS	7.07JR	.445	.29	37-44	
(FROM.)					
GLAZIERS	5.07JR		.20		
IRONWORKERS	6.31	.55	.60	.12	
LABORERS:					
GROUP 1 - General laborer and pier hole men	8.09	.275	.20	.02	
GROUP 2 - Mason tender: Pipelayer (concrete & clay); Cement finisher tender; scaffold builder; gunnite & cement work mixer & power tool operator	4.655				
GROUP 3 - Plaster tender; Rod carrier; Mortar mixer; Lather tender; Water or damp proofers	4.805	.275	.20	.02	
GROUP 4 - Gunnite over 1 1/2" thick; Nozzlemen; Machine operator; Powderman & blaster	4.98	.275	.20	.02	
LATERS	5.055	.275	.20	.02	
LINE CONSTRUCTION:	8.525				
Linemen	8.17	.28	12	1/72	
Groundmen (1st 6 mos.)	5.99	.28	12	1/72	
MARBLE SETTERS	4.90	.28	12	1/72	
MARBLE SETTERS' HELPERS	7.15				
	4.87				

DECISION NO. TX75-4101

PAINTERS:  
Brush; Taping & floating of sheetrock  
Paperhangers; Chipper, burner, torch; Skeleton steelwork erected  
Spray; Steam cleaning, sand blast & other powered equipment  
Swinging stage, board chair, window jack or scaffold (above and floor) - 25¢ per hour above all base rates  
PLASTERERS  
PUMPHS & STEAMFITTERS  
ROOFERS:  
    Roofers  
    Kettlemen  
SHEET METAL WORKERS  
SOFT FLOOR LAYERS  
SPRINKLER FITTERS  
TERRAZZO WORKERS  
TERRAZZO WORKERS' HELPERS:  
    Terrazzo helpers  
    Floor machine operators  
    Base machine operators  
TILE SETTERS  
TILE SETTERS' HELPERS  
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:  
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate  
b - Following Paid Holidays: New Years' Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day.

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DECISION NO. TX75-4101

	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		H & V	Pensions	Vacation	
POWER EQUIPMENT OPERATORS:					
GROUP 1	\$7.38			.40	
GROUP 2	6.46			.40	
GROUP 3	5.43			.40	
GROUP 4	5.33			.40	

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy Duty Mechanics: Blade Grader - Self-propelled; Bull Crane; Back Filler; Derricks, motor operated (all types); Dringlino; Push Cat Operator; Euclid Operator; Haul Dozer and all types of Cat Tractors; Cable-Way; Back Hoe; Crane, Power Operated (all types); Floating Grader, self-propelled; Hoist, Motor Driven, two drums or more; Mix Mobile; High-lifts & loaders, over 1/3 cu. yd. capacity; Winch Truck; Locomotive; Mixer, 16 cu. ft. or over; Paving Mixer (all sizes); Scraper; Trenching Machine (all sizes); Grapple; Foundation Boring Machine; Scoopmobile; Shovel, Power Operated; Pump Crane Machine; Clyn Shell Operator; Rock Crusher Operated on Job; Welding Machine, 6 to 12, Two 125 cu. ft. Compressors; Well points, including installations. GROUP 2 - Blade Grader, Towed; Flex Paver; Form Grader; Mixer, less than 16 cu. ft.; Pulverizer; Truck Crane Driver & Oilier, Combination man; Gasoline or Diesel Driven Welding Machine, 3 to 6; Hoist, Single Drum; Pump, 25 in. or larger; Pneumatic Roller; High-lifts & Loaders, 1/3 cu. yd. or less; Forklift, 1500 lbs. capacity or less; Air Compressor, anytime there are two or more attachments operating on a 125 cu. ft. compressor, a light equipment operator shall be employed. One 125 cu. ft. air compressor and one welding machine requires no operator. One 125 cu. ft. compressor and two welding machine or any 2 air compressors equivalent to a 125 cu. ft. air compressor requires a light equipment operator. GROUP 3 - Fireman GROUP 4 - Oilier

NOTICES

SUPERSEDES DECISION

STATE: Texas

COUNTIES: Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise

DECISION NO.: TX75-4102  
Supersedes Decision No. TX75-4009, dated January 17, 1975, in 40 FR 3168.  
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories) and also excluding Dallas-Fort Worth Regional Airport. (See current heavy & highway general wage determination for Paving & Utilities incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		H & V	Pensions	Vacation	
ASBESTOS WORKERS	37.98	.30	.51		.025
BOILERMAKERS	8.00	.50	.76		.02
BRICKLAYERS & STONEMASONS:	6.80				
ZONE 1 - Grayson County					
ZONE 2 - Collin, Dallas, Denton, Ellis, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties	8.29	.30	.50		.04
CARPENTERS:					
ZONE 1 - Grayson County:					
Carpenters	7.895	.30			.005
Millwrights	8.295	.30			.005
Millwrights	8.395	.30			.005
ZONE 2 - Collin, Dallas, Denton, Ellis, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties:					
Carpenters	7.81	.30	.30		.02
Power saw operators	7.935	.30	.30		.02
Millwrights	8.44	.30			.02
CEMENT MASONS:					
ZONE 1 - Grayson County	6.16				
ZONE 2 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Counties	7.545	.25	.45		.01
ZONE 3 - Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties	7.485	.40	.35		
ELECTRICIANS:					
ZONE 1 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Counties:	8.87	.42	.12		7/10%
Electricians	9.12	.42	.12		7/10%
Cable splicers					

DECISION NO. TX75-4102

ELECTRICIANS (CONT'D):  
ZONE 2 - Collin, Dallas, Ellis, Grayson, Hunt, Kaufman & Rockwall Counties:  
AREA A - All work performed in Dallas County:  
Cable splicers  
Electricians  
AREA B - All work performed outside of Dallas County up to a radius of 40 road miles from the City Hall in the City of Dallas:  
Cable splicers  
Electricians  
AREA C - All work performed outside of Area A and Area B:  
Cable splicers  
Electricians  
ELEVATOR CONSTRUCTORS' HELPERS  
ELEVATOR CONSTRUCTORS' HELPERS (FROM.)

NOTES: a-lst 6 mos. - none; 6 mos. to 5 yrs. - 2% over 5 yrs. - 4% of basic hourly rates; b-Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day

GLAZIERS:  
ZONE 1 - Collin, Dallas, Denton, Ellis, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties  
IRONWORKERS:  
ZONE 1 - Grayson County:  
GROUP 1 - Unskilled laborers  
GROUP 2 - Air tool operator (jackhammer, vibrator), mason tenders & mortar mixers, pipe-layers

NOTICES







## NOTICES

DECISION NO. TX75-4102

Basic Hourly Rates	Fringe Benefits Payments		
	H & W	Pensions	Vacation
\$6.40			
4.25			
4.00			

**TILE SETTERS' HELPERS:**  
 ZONE 1 - Collin, Dallas, Hunt, Kaufman & Rockwall Counties  
**TRICK DRIVERS:**  
 ZONE 1 - Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties  
 ZONE 2 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Counties  
**WELDERS** - receive rate prescribed for craft performing operation to which welding is incidental.

DECISION NO. TX75-4102

Basic Hourly Rates	Fringe Benefits Payments		
	H & W	Pensions	Vacation
\$7.565			
7.415			
7.515			
7.365			
7.835	.35	.50	.03
8.105	.45	.30	.055
7.53	.25	.20	.03
9.05	.50	.70	.08
7.95			
8.30			
8.30		.15	
8.30			

**ROOFERS:**  
 ZONE 1 - Collin, Dallas, Ellis, Grayson, Hunt, Kaufman & Rockwall Counties  
 GROUP 1 - Slate & tile  
 GROUP 2 - Composition and built-up roofing, damp proofing & bituminous waterproofing  
 ZONE 2 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Counties  
 GROUP 1 - Slate, tile asbestos roofing & siding  
 GROUP 2 - Composition, built-up, damp & water proofing, kettle-man  
**SHEET METAL WORKERS:**  
 ZONE 1 - Collin, Dallas, Ellis, Grayson, Hunt, Kaufman & Rockwall Counties  
 ZONE 2 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Counties  
 ZONE 1 - Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties  
 ZONE 2 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Counties  
**TILE SETTERS:**  
 ZONE 1 - Collin, Dallas, Hunt, Kaufman & Rockwall Counties  
 ZONE 2 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Counties

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## SUPERSEDES DECISION

STATE: Texas  
 COUNTY: Harrison  
 DATE: Date of Publication  
 DECISION NO.: TX75-4103  
 Supersedes Decision No. AR-82, dated November 29, 1974, in 39 FR 41654.  
 DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories).

Basic Hourly Rates	Fringe Benefits Payments		
	H & W	Pensions	Vacation
\$7.98	.20	.51	.025
8.00	.50	.76	.02
7.75		.20	
6.00			
6.50		.20	
7.35		.12	1/42
7.70		.12	1/42
5.00			
7.65	.30	.35	.04
3.08			
3.25			
3.20			
5.50			
5.625			
6.00			
7.25			
5.75			
8.00			
7.75		.20	.02
7.20		.30	
3.25			
7.78	.62	.50	.03
9.05	.50	.70	.08
6.00			
6.00			

**ASBESTOS WORKERS**  
**ROOFERS**  
**BRICKLAYERS & STONEMASONS**  
**CARPENTERS**  
**CEMENT MASONS**  
**ELECTRICIANS:**  
 Cable splicers  
**GLAZIERS**  
**IRONWORKERS**  
**LABORERS:**  
 Mason tenders  
**LATERS:**  
 GROUP 1 - Journeyman painters, paperhangers, hand rollers & tools used for cleaning  
 GROUP 2 - Window jack or window sill; Sand tape & floating  
 GROUP 3 - Swing stage; Spray & sand blasting; Sign painting; Steel siding stage, boatwain's chair, brush  
 GROUP 4 - Steam cleaning, buffing, burners and torches  
 GROUP 5 - Steel brush  
 GROUP 6 - Steel edging stage, boatwain's chair, spray & sand-blasting  
**PLASTERERS & PIPEFITTERS**  
**ROOFERS**  
**SHEET METAL WORKERS**  
**SPRINKLER FITTERS**  
**TERRAZZO WORKERS**  
**TILE SETTERS**  
**WELDERS** - receive rate prescribed for craft performing operation to which welding is incidental.

Basic Hourly Rates	Fringe Benefits Payments		
	H & W	Pensions	Vacation
\$6.265	.30	.50	.10
7.05	.30	.50	.10
7.45	.30	.50	.10

DECISION NO. TX75-4103

**POWER EQUIPMENT OPERATORS:**  
 GROUP 1  
 GROUP 2  
 GROUP 3

## POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

**GROUP 1 - Otter-Pfeiffer:** Pump (1); Bulameter; Conveyor; Throttle valves; Wagon drill; Elevators building; Four graders; Hoist, single drum; Mixers, less than 14 cu. ft.; Screening plants; Welding machine gas & diesel (2 or more); Crushing plants; Fork lifts (short, under 25 feet); Concrete pumps (all types); Bobcat type equipment  
**GROUP 2 - Ford tractor or like with any attachments (except backhoe):** Drilling machines (all types); Scoopmobile; Hoist, two drums or more; Forklifts (over 25 feet); Winch trucks; Six wheel truck, when used continuously for 5 days; Mixerobile; Locomotives; Mixer, 14 cu. ft. or over; Blade graders, self-propelled; Cableways; Granes - power operated to 100 feet; Fordson type backhoe; Derrick, power operated (all types); Gradall, Hy-Ho; Hop-To; Paving Mixer (all types); Pile drivers; Mobile concrete mixers over 14 cu. ft.; Bulldozers, loaders, tractors; Scrapers and pullers; Welders; Trenching machines; Roller, ten tons or over; Air compressors, three; Air compressors & 1 pump; Pump, three or more; Air compressor & air tugger; Rollers, two or more fired by one man; Heavy duty mechanic

## NOTICES

FEDERAL REGISTER, VOL. 40, NO. 101—FRIDAY, MAY 23, 1975

V 4 0 1 0 1 M A Y 2 3 7 5



## SUPERSEDES DECISION

STATE: Texas  
 COUNTY: Harris  
 DATE: Date of Publication  
 SUPERSEDES DECISION NO. TX75-4104, dated January 24, 1975, in 40 FR 3930.  
 DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & B	Premiums	Vacation	
ASBESTOS WORKERS	\$7.98	.30	.51		.025
BOILERMAKERS	8.00	.50	.76		.02
BRICKLAYERS & STONEMASONS	7.75		.20		
CARPENTERS:	6.80				.01
Millwrights	8.60				.04
Piledrivers	7.30				.01
CEMENT MASONS	6.91	.15	12		1/42
ELECTRICIANS	7.75	.30	.29	32%ab	.02
ELEVATOR CONSTRUCTORS' HELPERS	6.21	.445	.29	32%ab	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	7.02JR				
IRONWORKERS	5.92JR				.04
LABORERS, UNSKILLED	7.95	.30	.35		
LINE CONSTRUCTION:	2.85				1/22
Lineman	8.05	12	12		1/22
Cable splicer	8.29				
Hole digger operator; Heavy equipment operators (or pole cat equivalent); powderman	7.33	12			1/22
Line truck (winch operator)	6.60	12			1/22
Jackhammer man	6.04	12			1/22
Groundman	5.39	12			1/22
Groundman, 1st year	4.03	12			1/22
Truck driver (flat bed, one & half & under)	5.72	12			1/22
PAINTERS:	5.00				
GROUP 1 - Brush					
GROUP 2 - Spray; Structural steel & iron galvanized pipe over 40 ft.; Brush swinging stage & chair work	6.30				
GROUP 3 - Structural steel & iron galvanized pipe, brush; brush working window jack	6.00				
GROUP 4 - Brush swinging stage & chair work over 40 ft.	6.60				
GROUP 5 - Spray, sandblasters & power tools from swinging stage or chair work	6.65				

DECISION NO. TX75-4104

	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & B	Premiums	Vacation	
PLUMBERS & PIPEFITTERS	\$8.60		.65		.05
ROOFERS	4.50	.35	.50		.03
SHEET METAL WORKERS	7.835				.01
SOFT FLOOR LAYERS	6.80	.50	.70		.08
SPRINKLER FITTERS	9.05				
TRUCK DRIVERS	2.45				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					
FOOTNOTES:					
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate					
b - Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day					

## POWER EQUIPMENT OPERATORS

	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & B	Premiums	Vacation	
GROUP 1	\$6.265	.30	.50		.10
GROUP 2	7.05	.30	.50		.10
GROUP 3	7.45	.30	.50		.10

## POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Other-Wireman  
 GROUP 2 - Air compressor (1); Pump (1); Pulsometer; Conveyor; Throttle valves; Wagon drill; Elevators building; Form graders; Hoist; single drum; Mixers, less than 14 cu. ft.; Screening plants; Welding machine gas & diesel (2 or more); Crushing plants; Fork lifts (short, under 25 feet); Concrete pumps (all types); Bobcat type equipment  
 GROUP 3 - Ford tractor or like with any attachments (except backhoe); Drilling machines (all types); Scoopmobile; Hoist, two drums or more; Forklifts (over 25 feet); Winch trucks; Six wheel truck, when used continuously for 5 days; Micromobile; Locomotives; Mixers, 14 cu. ft. or over; Blade graders, self-propelled; Challeys; Granes - power operated to 100 feet; Fordson type backhoe; Derrick, power operated (all types); Gradall; Hy-Ho; Hop-To; Paving Mixer (all types); Pile drivers; Mobile concrete mixers over 14 cu. ft.; Bulldozers, loaders, tractors; Scrapers and pulls; Walders; Trenching machines; Roller, ten tons or over; Air compressors, three; Air compressors & 1 pump; Pump, three or more; Air compressor & air tugger; Boilers, two or more fired by one man; Heavy duty mechanic

FEDERAL REGISTER, VOL. 40, NO. 101—FRIDAY, MAY 23, 1975

## STATE: Texas

## SUPERSEDES DECISION

CITIES: Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler

DATE: Date of Publication FR 3922.  
 DECISION NO.: TX75-4105  
 SUPERSEDES DECISION NO. TX75-4020, dated January 24, 1975, in 40 FR 3922.  
 DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & B	Premiums	Vacation	
ASBESTOS WORKERS	\$8.45	.35	.30		.02
BOILERMAKERS	8.00	.50	.76		.02
BRICKLAYERS & STONEMASONS	8.65		.20		
CARPENTERS:					
ZONE 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos.: Carpenters	7.75				
Millwrights	8.00				
ZONE 2 - Childress County: Carpenters	7.60	.30	.30		.07
Millwrights	8.09	.30	.30		.07
CEMENT MASONS:					
Cement masons	7.05				
Machine operators	7.30				
ELECTRICIANS:					
ZONE 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos.: Electricians	8.08	.30	12		1/22
Cable splicers	8.88	.30	12		1/22
ZONE 2 - Childress County: Electricians	8.45	.20	12		1/42
Cable splicers	8.70	.20	12		1/42
ELEVATOR CONSTRUCTORS' HELPERS	7.06	.175	.20	22%ab	
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	7.02JR	.175	.20	22%ab	
FOOTNOTES:					
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate					
b - Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day					

DECISION NO. TX75-4105

	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & B	Premiums	Vacation	
GLAZIERS	\$5.75	.55	.50		.10
IRONWORKERS	7.50				
LABORERS:					
GROUP 1 - Construction laborers, including excavation, pouring concrete, carpenter tenders, reinforcing, shoring, digging, loading & unloading materials, erecting buildings & all structures, & all unskilled laborers	3.85	.30	.10		
GROUP 2 - Air tool operator (jack hammer, tamper, brush hammer, chipping hammer, air or electric), sand blaster, power buggy man, pipelayer (concrete & clay & all non-metallic pipe), & pipe wrappers; mortar mixers, mason tenders; plasterer tenders, cement finisher tenders, lather tenders, asphalt takers, tapers, well drillers, bell hole men, dumpers, spotters	4.00	.30	.10		.01
LATHERS	7.75				
LINE CONSTRUCTION:					
ZONE 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos.: Lineman	8.08	.30	12		1/22
Cable splicer	8.88	.30	12		1/22
Groundman, more than 1 year experience	5.42	.30	12		1/22
Groundman, less than 1 year experience	4.73	.30	12		1/22
Operator-hole digger, line truck	6.28	.30	12		1/22
Flat bed truck driver	4.73	.30	12		1/22

FEDERAL REGISTER, VOL. 40, NO. 101—FRIDAY, MAY 23, 1975



DECISION NO. TX75-4105

LINE CONSTRUCTION (CONT'D):  
ZONE 2 - Childress County:

Cable splicer  
Lineman operator  
Groundman, 1st 6 months  
Groundman, 2nd 6 months  
Groundman, 1 year & over  
MARBLE MASONS (EXTERIOR)  
MARBLE MASONS (INTERIOR)  
PAINTERS:  
Brush & roller; paperhangers;  
Perforators  
Structural steel painters; swing-  
ing stage or chair below 50 ft.  
Spray painters & sandblasters  
Perforators machine operator  
PLASTERERS  
PLUMBERS & PIPEFITTERS:  
ZONE 1 - shall extend a distance  
of 25 road miles beyond the  
police station in Amarillo &  
Borger  
ZONE 2 - shall extend a distance  
of 25 road miles beyond the  
outer perimeter of Zone 1  
ZONE 3 - shall apply to all areas  
not within Zone 1 or Zone 2  
POWER EQUIPMENT OPERATORS:  
GROUP 1  
GROUP 2  
GROUP 3  
GROUP 4  
GROUP 5  
GROUP 6  
GROUP 7  
GROUP 8  
GROUP 9  
GROUP 10

Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
	H & B	Penalties	Vacation	
\$9.21		12		1/72
10.13		12		1/72
11.21		12		1/72
12.33		12		1/72
13.45		12		1/72
14.57		20		1/72
16.09				
17.21				
18.33				
19.45				
20.57				
22.09				
23.21				
24.33				
25.45				
26.57				
27.69				
28.81				
29.93				
31.05				
32.17				
33.29				
34.41				
35.53				
36.65				
37.77				
38.89				
40.01				
41.13				
42.25				
43.37				
44.49				
45.61				
46.73				
47.85				
48.97				
50.09				
51.21				
52.33				
53.45				
54.57				
55.69				
56.81				
57.93				
59.05				
60.17				
61.29				
62.41				
63.53				
64.65				
65.77				
66.89				
68.01				
69.13				
70.25				
71.37				
72.49				
73.61				
74.73				
75.85				
76.97				
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79.21				
80.33				
81.45				
82.57				
83.69				
84.81				
85.93				
87.05				
88.17				
89.29				
90.41				
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93.77				
94.89				
96.01				
97.13				
98.25				
99.37				
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101.61				
102.73				
103.85				
104.97				
106.09				
107.21				
108.33				
109.45				
110.57				
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112.81				
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162.09				
163.21				
164.33				
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167.69				
168.81				
169.93				
171.05				
172.17				
173.29				
174.41				
175.53				
176.65				
177.77				
178.89				
180.01				
181.13				
182.25				
183.37				
184.49				
185.61				
186.73				
187.85				
188.97				
190.09				
191.21				
192.33				
193.45				
194.57				
195.69				
196.81				
197.93				
199.05				
200.17				
201.29				
202.41				
203.53				
204.65				
205.77				
206.89				
208.01				
209.13				
210.25				
211.37				
212.49				
213.61				
214.73				
215.85				
216.97				
218.09				
219.21				
220.33				
221.45				
222.57				
223.69				
224.81				
225.93				
227.05				
228.17				
229.29				
230.41				
231.53				
232.65				
233.77				
234.89				
236.01				
237.13				
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240.49				
241.61				
242.73				
243.85				
244.97				
246.09				
247.21				
248.33				
249.45				
250.57				
251.69				
252.81				
253.93				
255.05				
256.17				
257.29				
258.41				
259.53				
260.65				
261.77				
262.89				
264.01				
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267.37				
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271.85				
272.97				
274.09				
275.21				
276.33				
277.45				
278.57				
279.69				
280.81				
281.93				
283.05				
284.17				
285.29				
286.41				
287.53				
288.65				
289.77				
290.89				
292.01				
293.13				
294.25				
295.37				
296.49				
297.61				
298.73				
299.85				
300.97				
302.09				
303.21				
304.33				
305.45				
306.57				
307.69				
308.81				
309.93				
311.05				
312.17				
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315.53				
316.65				
317.77				
318.89				
320.01				
321.13				
322.25				
323.37				
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325.61				
326.73				
327.85				
328.97				
330.09				
331.21				
332.33				
333.45				
334.57				
335.69				
336.81				
337.93				
339.05				
340.17				
341.29				
342.41				
343.53				
344.65				
345.77				
346.89				
348.01				
349.13				
350.25				
351.37				
352.49				
353.61				
354.73				
355.85				
356.97				
358.09				
359.21				
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361.45				
362.57				
363.69				
364.81				
365.93				
367.05				
368.17				
369.29				
370.41				
371.53				
372.65				
373.77				
374.89				
376.01				
377.13				
378.25				
379.37				
380.49				
381.61				
382.73				
383.85				
384.97				
386.09				
387.21				
388.33				
389.45				
390.57				
391.69				
392.81				
393.93				
395.05				
396.17				
397.29				
398.41				
399.53				
400.65				
401.77				
402.89				
404.01				
405.13				
406.25				
407.37				
408.49				
409.61				
410.73				
411.85				
412.97				
414.09				
415.21				
416.33				
417.45				
418.57				
419.69				
420.81				
421.93				
423.05				
424.17				
425.29				
426.41				
427.53				
428.65				
429.77				
430.89				
432.01				
433.13				
434.25				



DECISION NO. TX75-4106

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	App. Tr.
98.585	.225	.475	.20	.025
7.12	.25	.10		.07
7.56			.25	
7.56			.25	

SHEET METAL WORKERS  
SOFT PLANT LAYERS  
TERRAZZO WORKERS  
TILE SETTERS  
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

FEDERAL REGISTER, VOL. 40, NO. 101—FRIDAY, MAY 23, 1975

## SUPERSEDES DECISION

STATE: Texas  
COUNTY: El Paso  
DECISION NO.: TX75-4107  
DATE: Date of Publication  
Supersedes Decision No. TX75-4024, dated April 11, 1975, in 40 FR 16639.  
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	\$7.03	.50	.67(a)		.03
BOILERMAKERS	8.00	.50	.76		.02
BRICKLAYERS: BLOCKLAYERS: ROCK MASONS: STONEMASONS	6.13	.38	.20		.06
CARPENTERS:	6.48	.45			.02
Millwrights	6.85	.45			.02
Stationary radial arm power saw operator	6.615	.45			.02
Floor layers	6.48	.45			.02
CEMENT MASONS	5.495	.38			.03
ELECTRICIANS:	8.00	.25	12		1/22
Cable splicers	8.25	.25	12		1/22
ELEVATOR CONSTRUCTORS: HELPERS	6.88	.445	.29	32%+4b	.02
ELEVATOR CONSTRUCTORS: HELPERS (PROB.)	7.02JR	.445	.29	32%+4b	.02
FOOTNOTES: a-lac 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate; b-paid Holidays: New Years' Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day	50JR				
GLAZIERS	5.57	.24			.10
IRONWORKERS	7.00	.55	.60		
LABORERS:	4.95	.34	.25		
Powderman or blaster	4.70	.34	.25		
Outside wagon drill; wagon drill tenders; miner	4.65	.34	.25		
Cement gun or gunite; mason tender; mortar mixer; machine man; track man; chuck tender	4.325	.34	.25		
Pipelayer, main sewer and drain-age	4.20	.34	.25		
Jackhammer operator, asphalt raker; kettleman; asphalt or pot man	4.05	.34	.25		
Common	7.03				
LATHERS	8.00	.25	12		.01
LINE CONSTRUCTION: Lineman-Technician; Equipment Operator	8.25	.25	12		1/22
Cable splicers	75JR	.25	12		1/22
Groundman (less than 6 months)	50JR	.25	12		1/22

## SUPERSEDES DECISION

STATE: Texas  
COUNTY: El Paso  
DECISION NO.: TX75-4107  
DATE: Date of Publication  
Supersedes Decision No. TX75-4024, dated April 11, 1975, in 40 FR 16639.  
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	\$7.03	.50	.67(a)		.03
BOILERMAKERS	8.00	.50	.76		.02
BRICKLAYERS: BLOCKLAYERS: ROCK MASONS: STONEMASONS	6.13	.38	.20		.06
CARPENTERS:	6.48	.45			.02
Millwrights	6.85	.45			.02
Stationary radial arm power saw operator	6.615	.45			.02
Floor layers	6.48	.45			.02
CEMENT MASONS	5.495	.38			.03
ELECTRICIANS:	8.00	.25	12		1/22
Cable splicers	8.25	.25	12		1/22
ELEVATOR CONSTRUCTORS: HELPERS	6.88	.445	.29	32%+4b	.02
ELEVATOR CONSTRUCTORS: HELPERS (PROB.)	7.02JR	.445	.29	32%+4b	.02
FOOTNOTES: a-lac 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate; b-paid Holidays: New Years' Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day	50JR				
GLAZIERS	5.57	.24			.10
IRONWORKERS	7.00	.55	.60		
LABORERS:	4.95	.34	.25		
Powderman or blaster	4.70	.34	.25		
Outside wagon drill; wagon drill tenders; miner	4.65	.34	.25		
Cement gun or gunite; mason tender; mortar mixer; machine man; track man; chuck tender	4.325	.34	.25		
Pipelayer, main sewer and drain-age	4.20	.34	.25		
Jackhammer operator, asphalt raker; kettleman; asphalt or pot man	4.05	.34	.25		
Common	7.03				
LATHERS	8.00	.25	12		.01
LINE CONSTRUCTION: Lineman-Technician; Equipment Operator	8.25	.25	12		1/22
Cable splicers	75JR	.25	12		1/22
Groundman (less than 6 months)	50JR	.25	12		1/22

DECISION NO. TX75-4107

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
MARBLE MASONS	\$6.17		.20		.06
PAINTERS:					
Brush; paperhangers; chipping & hand tools used for cleaning	5.51	.24			.01
Tapers, badders, rollers, etc.	5.74	.30			.02
Steel spray erection; steam cleaning; buffing with power driven tools and torches	5.925	.24			.01
Spray, sandblasting, waterblasting; swing stage	6.215	.24			.01
Area tools & taping machines	5.96	.30			.02
Stripping machine	6.21	.24			.01
PLASTERERS	6.75	.28			.01
PLASTERERS & STAMPERS	6.75	.31	.30		.02
POWER EQUIPMENT OPERATORS:					
GROUP 1	4.96	.30	.30		.03
GROUP 2	5.34	.30	.30		.03
GROUP 3	5.63	.30	.30		.03
GROUP 4	5.68	.30	.30		.03
GROUP 5	5.76	.30	.30		.03
GROUP 6	6.00	.30	.30		.03
GROUP 7	6.16	.30	.30		.03
GROUP 8	5.63	.30	.30		.03
GROUP 9	5.66	.30	.30		.03
GROUP 10	5.16	.30	.30		.03

## POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Fireman, Oiler; Mechanic, Grease Truck and Welder's Helpers; Screenshot, Pneumatic roller towed by farm-type tractor or truck; Scale Operator and such as bin-batch; Rubber-tired farm-type tractors and tractors under 35 HP without attachments.

GROUP 2 - Air Compressors, Power Plants, pumps and welding machines (an operating engine will not be required for an air compressor under 315 c.f.m., a pump under three inches or a light plant generating fifteen kilowatts or less, or one welding machine if and when there is another operating engine employed on the job who services the unit); Concrete mixers, under 1 yard and concrete batch plants, under 1 yard, gunite and puccrete machines, mechanical bull floats, spreading and finishing machines; Screening Plants; Drilling machines, Diamond, rotary, core and cable drilling; Well under 6 inches. Hoists, scoop-mobles, A frame Air Cugget; building hoist, 1 drum, hydrolift, hydrocranes, winch truck. Loaders; Elevating, belt type loader, front end loader (under 2 yds) and over head loaders; Forklift and lumber staker on construction job site. Grease truck operator, (Lead Oiler). Motor man and Industrial Locomotive. Tractors under 35 HP with attachments; and farm type tractor with back, or shovel type attachments.

FEDERAL REGISTER, VOL. 40, NO. 101—FRIDAY, MAY 23, 1975

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DECISION NO. TX75-4108

Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
	H. & B.	Payroll	Vacation	
\$5.60	.30	.50		.10
6.50	.30	.50		.10
6.90	.50	.50		.10

## POWER EQUIPMENT OPERATORS:

GROUP 1  
GROUP 2  
GROUP 3

## POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Other-Fireman  
GROUP 2 - Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Planes; Conveyor; Harmon Drill; Elevators Building; Form Graders; Hoist, Single Drum; Ford Tractor Including Blade and mow on rear; Mixers less than 14 cubic feet; Screening Plants; Crushing Plants; Fork Lifts (short, under 25 feet); Concrete Pumps (all types); Bobcat type equipment; Ford tractor or like with any attachment (except blade and mow on rear); All other equipment of similar nature coming under the Light Equipment Class, when power operated  
GROUP 3 - Drilling Machines (all types); Scoopmobiles; Hoists, two drums or more; Forklifts (over 25 ft.); Winch Truck; Six Wheel Truck, when used continuously for 5 days; Mixmobile; Locomotives; Mixers, 14 cubic feet or over; Blade graders, self-propelled; Cableways; Cranes - Power operated (to 100 feet of boom); Derricks, power operated (all types); Grapple; Hy-Ho; Hop-To; Paving Mixer (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bull-dozers, Loaders, Tractorvators; Scrapers and Pulls; Welders; Trenching Machines; Roller, ten tons or over; Air compressors, Pumps, Welding Machines and Light Plants; Air Compressor & Air Tugger; Boilers, two or more fired by one man; Heavy Duty Machine; All other equipment of similar nature coming under the Heavy Equipment Class, when power operated

[FR Doc. 75-13318 Filed 5-22-75; 8:45 am]

FEDERAL REGISTER, VOL. 40, NO. 101—FRIDAY, MAY 23, 1975

## federal register

FRIDAY, MAY 23, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 101



PART IV

FEDERAL ENERGY  
ADMINISTRATIONNATIONAL UTILITY  
RESIDUAL FUEL OIL  
ALLOCATION

Supplier Percentages for June 1975

V 40-101 MAY 23 75

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**FEDERAL ENERGY  
ADMINISTRATION  
NATIONAL UTILITY RESIDUAL FUEL OIL  
ALLOCATION**

**Supplier Percentage Notice for June 1975**

Pursuant to the provisions of 10 CFR 211.163(b) (2), 211.165 and 211.166(d) (2), the Federal Energy Administration (FEA) hereby provides notice of the volumes of residual fuel oil allocated to each utility and the percentage of such volumes required to be supplied by each supplier for delivery in June 1975. This information is set forth in the Appendix to this notice. Adjustments of certain supplier base period percentages have been made at the request of affected utilities and suppliers, pursuant to the criteria of 10 CFR 205.25 and are reflected in the Appendix.

The utility allocations were determined after review of the relative availability of supplies of residual fuel oil for allocation to both utility and non-utility uses. In calculating the allocation level for each utility the FEA considered all of the factors enumerated in 10 CFR 211.163(b) (2) and also the following other factors:

1. The data contained in the Federal Power Commission (FPC) Forms 23 and 23A submitted by utilities;

**NOTICES**

2. Natural gas curtailments;  
3. FEA's prediction that the supply level of residual fuel oil is expected to generally equate to the total demand.

The amounts shown in the Appendix are the quantities of residual fuel oil to be delivered to the utilities listed during the month of June 1975. Some utilities will not receive any allocation for this month for various reasons including the fact that these utilities burn other fuels primarily and use residual fuel oil only for standby purposes.

The Appendix provides the names of the suppliers obligated to supply each utility and each supplier's percentage and volume of each month's allocation to a utility. The first column of the Appendix lists each utility with its suppliers. The second column sets forth the recommended FEA burn level. The third and fourth columns provide each supplier's respective percentage and volume share of a utility's allocated volume of residual fuel oil. The fifth column provides the total volume of residual fuel oil for each utility from all suppliers. Following the name of certain suppliers, an additional supplier is shown in parentheses. The supplier in parentheses is presumed, on the basis of the best information available, to be the supplier of the utility's supplier. This information

is provided for the convenience of such suppliers and the FEA requests that any additions or corrections in this regard be forwarded to FEA Electrical Utilities Reports, Code 47, Washington, D.C. 20461.

It is contemplated that corrections or adjustments to delivery levels for certain utilities may be required during the month of June to avoid undue hardship. FEA will consider special circumstances such as unexpected outages which may cause fuel consumption to exceed FEA burn levels in any month. Such corrections or adjustments shall be made pursuant to subparts B and C of 10 CFR Part 205.

FEA expects the utilities to consume supplies at or below FEA burn levels, which are based on the utilities' proposed burn levels.

The utility residual fuel oil allocation program is based in part on the data derived from utilities' filings of FPC Forms 23 and 23A. Thus, the timely submission of these forms will be a necessary prerequisite to receiving future allocations.

Reports should be addressed to FEA Electrical Utilities Reports, Code 47, Washington, D.C. 20461.

Issued in Washington, D.C., May 16, 1975.

ROBERT E. MONTGOMERY, Jr.,  
General Counsel.

**NOTICES**

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**APPENDIX**

**RESIDUAL FUEL ALLOCATIONS TO UTILITIES FOR JUNE 1975**

	RECOMMENDED FEA BURN	BY SUPPLIER PCT	BARRELS	TOTAL (BARRELS)
<b>1. NORTHEAST POWER COORDINATING COUNCIL AREA (NPCC)</b>				
<b>CONNECTICUT</b>				
-----				
UNITED ILLUMINATING CO	649,000			649,000
WYATT INC (EXXON)		13.00	84,370	
TEXACO		87.00	564,630	
NORTHEAST UTILITIES	1,803,000			1,803,000
TAD JONES CO (GULF)		21.00	378,630	
WYATT INC (EXXON)		10.00	180,300	
H N HARTWELL & SON INC		1.00	18,030	
AMERADA HESS CORP		68.00	1,226,040	
<b>MAINE</b>				
-----				
BANGOR HYDRO ELEC. CO.	26,310			26,310
SPRAGUE		100.00	26,310	
CENTRAL MAINE POWER CO.	253,412			253,412
TEXACO		100.00	253,412	
MAINE PUBLIC SERVICE CO.	95			95
DEAD RIV. CO. (SPRAGUE)		100.00	95	
<b>MASSACHUSETTS</b>				
-----				
BOSTON EDISON CO.	1,113,486			1,113,486
SPRAGUE		12.00	133,618	
WHITE FUEL (TEXACO)		46.00	512,203	
EXXON		42.00	467,664	
FITCHBURG GAS & EL.	8,844			8,844
NORTHEAST PETROLEUM		100.00	8,844	
E. UTIL. ASSOC. (MONTAUP & BL)	134,772			134,772
TEXACO		100.00	134,772	
BRAINTREE ELEC. LT. DEPT	14,933			14,933
CK SMITH (GOLD EAGLE)		100.00	14,933	
HOLYOKE GAS AND ELECTRIC	13,542			13,542
WYATT INC (EXXON)		100.00	13,542	

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PEABODY ELECTRIC LT DEPT	0		0
TAUNTON MUN. LT.	105,940		105,940
QUINCY OIL CO (EXXON)	100,00	105,940	
NEW ENG. G & E	654,489		654,489
NEW ENGLAND PETRO	84,80	555,006	
WHITE FUEL (TEXACO)	15,20	99,482	
NEW ENG. FLEC	1,369,000		1,369,000
ASIATIC PETRO CORP	60,00	821,400	
PRULFASE	,10	1,369	
GOLD EAGLE	39,90	546,231	
NEW HAMPSHIRE			
PUB SER OF N.H.	286,000		286,000
SPRAGUE	26,30	75,218	
CONOCO	73,70	210,782	
NEW YORK			
CENTRAL HUDSON GAS & ELE	1,148,210		1,148,210
AMERADA HESS CORP	100,00	1,148,210	
CONSOL EDISON OF NY	3,963,000		3,963,000
NEW ENGLAND PETRO	45,50	1,803,165	
AMERADA HESS CORP	22,30	883,749	
EXXON	20,80	824,304	
TEXACO	11,40	451,782	
LONG ISLAND LIGHT CO.	1,697,011		1,697,011
NEW ENGLAND PETRO	100,00	1,697,011	
ORANGE & ROCKLAND UTILIT	979,984		979,984
NEW ENGLAND PETRO	51,50	504,691	
HOWARD FUEL CORP	11,20	109,758	
AMERADA HESS CORP	29,90	293,015	
ASIATIC PETRO	7,40	72,518	
ROCHESTER GAS & ELECTRIC	64,269		64,269
ALLIED O	29,70	19,087	
MONOCO OIL COMPANY	70,30	45,181	
FREEPORT, VILLAGE OF	21,766		21,766
BURNS BROS O. (NEPCO)	100,00	21,766	

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NIAGARA MOHAWK POWER CO.	665,886		665,886
NEW ENGLAND PETRO	100,00	665,886	
RHODE ISLAND			
NEWPORT ELECTRIC CORP	4,000		4,000
CK SMITH	100,00	4,000	
2. MID-ATLANTIC AREA COORDINATION AGREEMENT (MAAC)			
DELAWARE			
DELMARVA PWR & LT	625,000		625,000
GULF	8,00	50,000	
STEUART PETROLEUM CO	22,00	137,500	
CONOCO	65,00	406,250	
TEXACO	5,00	31,250	
DOVER, CITY OF	45,300		45,300
TEXACO	100,00	45,300	
DISTRICT OF COLUMBIA			
POTOMAC ELEC. PWR.	1,262,000		1,262,000
STEUART PETROLEUM CO	21,00	265,020	
ASIATIC PETRO CORP	79,00	996,980	
MARYLAND			
BALTIMORE GAS & ELECTRIC	771,773		771,773
AMERADA HESS CORP	52,70	406,724	
EXXON	47,30	365,048	
NEW JERSEY			
PUBLIC SERVICE ELECTRIC	1,521,000		1,521,000
AMERADA HESS CORP	78,00	1,186,380	
EXXON	22,00	334,620	
VINELAND, CITY OF ELEC.	62,100		62,100
BRITISH PETROLEUM	100,00	62,100	



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ATLANTIC CITY ELECTRIC C	374,708			374,708
AMERADA HESS CORP		60.00	224,824	
CONOCO		40.00	149,883	
GPU INTEGRATED SYSTEM	428,732			428,732
SHIPLEY-HUMBLE		1.00	4,287	
AMERADA HESS CORP		94.00	403,098	
SWANN OIL INC		5.00	21,436	

## PENNSYLVANIA

PENNSYLVANIA PWR & LT	309,365			309,365
PHILADELPHIA ELECTRIC CO	685,154			685,154
NEW ENGLAND PETRO		2.10	14,388	
AMERADA HESS CORP		21.50	147,308	
APCO		28.50	195,268	
GULF		9.00	61,663	
CONOCO		14.90	102,087	
TEXACO		24.00	164,436	

## 3. SOUTHEASTERN ELECTRIC RELIABILITY COUNCIL (SERC)

## FLORIDA

FLORIDA P & L	3,104,000			3,104,000
EXXON		15.00	465,600	
BELCHER OIL(EXXON)		85.00	2,638,400	
FLORIDA POWER CORPORATION	1,644,500			1,644,500
AMERADA HESS CORP		40.00	657,800	
EXXON		60.00	986,700	
GULF POWER CO.	42,716			42,716
BAKER SERVICE(EXXON)		100.00	42,716	
TAMPA ELECTRIC CO.	190,675			190,675
WESTERN (NEW ENG PET)		100.00	190,675	
FORT PIERCE, CITY OF	58,600			58,600
NEW ENGLAND PETRO		100.00	58,600	
GAINESVILLE, CITY OF	104,809			104,809
EASTERN SEABOARD		100.00	104,809	

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JACKSONVILLE ELEC. AUTH.	821,650			821,650
VEN FUEL INC		82.60	678,682	
NEW ENGLAND PETRO		8.70	71,483	
AMERADA HESS CORP		8.70	71,483	
KEY WEST UTILITIES	69,950			69,950
STD.OIL-KY		100.00	69,950	
LAKE WORTH UTIL AUTHORIT	0			0
LAKELAND LIGHT & WTR DEP	148,000			148,000
BELCHER(STD.OIL-KY)		100.00	148,000	
NEW SMYRNA BEACH	0			0
ORLANDO UTILITIES COMM.	340,000			340,000
NEW ENGLAND PETRO		100.00	340,000	
SEBRING UTILITIES COMM.	5,036			5,036
UNION OIL OF CA		100.00	5,036	
TALLAHASSEE, CITY OF	145,821			145,821
UNION OIL OF CA		100.00	145,821	
VERO BEACH MUNICIPAL POW	38,881			38,881
BELCHER OIL(EXXON)		100.00	38,881	
FLORIDA KEYS ELEC COOP	0			0
GEORGIA				
GEORGIA POWER COMPANY	85,654			85,654
NEW ENGLAND PETRO		100.00	85,654	
SAVANNAH ELECTRIC & POWE	198,200			198,200
COLONIAL OIL(EXXON)		100.00	198,200	
MISSISSIPPI				
MISSISSIPPI POWER CO.	66,160			66,160
BAKER SERVICE(EXXON)		55.00	36,388	
ERGON(INTL TRADING)		45.00	29,772	
SOUTH MISSISSIPPI ELEC	0			0

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## NOTICES

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NORTH CAROLINA			
-----			
CAROLINA POWER & LT,	0		0
SOUTH CAROLINA			
-----			
S. CAROLINA PUB SERV AUTH	5,969		5,969
AMERADA HESS CORP	100,00	5,969	
S. CAROLINA ELEC & GAS CO	459,524		459,524
EXXON	100,00	459,524	
VIRGINIA			
-----			
VIRGINIA ELECTRIC POWER	2,376,332		2,376,332
AMERADA HESS CORP	16,60	394,471	
EXXON	47,30	1,124,005	
AMOCO	20,50	487,148	
NEW ENGLAND PETRO	15,60	370,707	
4. SOUTHWEST POWER POOL COORDINATION COUNCIL (SPP)			
ARKANSAS			
-----			
JONESBORO WATER AND LIGH	4,022		4,022
E L BRIDE (MIDLAND)	17,00	683	
DELTA REFINING CO	83,00	3,338	
ARKANSAS FLEC COOP	156,008		156,008
LOGICON INC (SHELL)	80,00	124,806	
E L BRIDE (TEXACO)	20,00	31,201	
COLORADO			
-----			
CT&U, S. COLO PWR DIV,	0		0
KANSAS			
-----			
CENTRAL KANSAS PWR	2,394		2,394
GR. PLS (CRA-FARMLAND)	100,00	2,394	

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KANSAS GAS & ELEC	251,002		251,002
ASPH&PETRO INDUST	84,70	212,598	
FRONTIER PRODUCTION	15,30	38,403	
KANSAS POWER & LIGHT	182,536		182,536
GR. PLS	38,40	70,093	
NIL COOP REFINERY	15,50	28,293	
PHILLIPS PETROLEUM	46,10	84,149	
CT&U, WESTERN PWR DIV	36,830		36,830
AMOCO	73,00	26,886	
NO. AM. PETRO.	23,00	8,471	
CARTER WTR.	4,00	1,473	
CHANUTE, CITY OF	0		0
CLAY CENTER LT&WTR	0		0
COFFEYVILLE LT & PWR	0		0
LARNED WTR & ELEC	0		0
MCPHERSON BD OF PUB UTIL	0		0
OTTAWA WTR & LT	0		0
LOUISIANA			
-----			
CENTRAL LOUISIANA ELECTR	0		0
JONESBORO POWER & LIGHT	0		0
SOUTHWESTERN ELECTRIC PO	0		0
MIDDLE SOUTH SERVICES	2,089,844		2,089,844
E L BRIDE (OKC REF.)	1,70	35,527	
TAUBER OIL CO	20,50	428,418	
ERGON INC (EXXON)	3,80	79,414	
REESE OIL (SUN OIL)	30	6,269	
SHELL	21,30	445,136	
EXXON	12,90	269,589	
GULF	9,50	198,535	
MURPHY OIL CORP	30,00	626,953	

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## NOTICES

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## MISSISSIPPI

CLARKSDALE WTR & LT	10,076			10,076
SOUTHLND OIL		100.00	10,076	

YAZOO CITY PUB SERV	0			0
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## MISSOURI

ST JOSEPH LT & PWR	0			0
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EMPIRE DIST ELEC	0			0
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## OKLAHOMA

OKLAHOMA GAS & ELEC	0			0
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BLACKWELL WTR & LT	0			0
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WESTERN FARMERS ELEC COO	0			0
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## TEXAS

GULF STATES UTILITIES	0			0
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LAJET	4.00
EXXON	20.10
SOUTH HAMPTON CO	22.30
TENNECO	16.10
COASTAL STATES MKTG	37.50

## 5. ELECTRIC RELIABILITY COUNCIL OF TEXAS (ERCOT)

DALLAS POWER & LT.	0			0
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HOUSTON LIGHT & PWR	0			0
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TEXAS ELEC SERV	0			0
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TEXAS PWR & LT	0			0
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WEST TEXAS UTIL	0			0
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AUSTIN CITY ELEC DEPT	19,626			19,626
TESORO		100.00	19,626	

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BRYAN, CITY OF	6,330			6,330
PETROLEUM T&T(3 RIVE		100.00	6,330	

GARLAND, CITY OF	0			0
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LOWER COLORADO RIVER AUT	0			0
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SAN ANTONIO PUB SERV	51,485			51,485
TESORO		100.00	51,485	

BRAZOS ELEC COOP	0			0
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MEDINA ELEC COOP	0			0
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## 6. MID-AMERICA INTERPOOL NETWORK (MAIN)

## ILLINOIS

COMMONWEALTH EDISON CO.	189,979			189,979
ALLIED O.		98.00	186,179	
CLARK OIL&REF. CORP		2.00	3,799	

ILLINOIS POWER CO	0			0
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## MISSOURI

UNION ELECTRIC	38,500			38,500
APEX OIL CO		100.00	38,500	

## WISCONSIN

SUPERIOR WTR & LT	11,905			11,905
MURPHY OIL CORP		100.00	11,905	

WISCONSIN ELEC PWR	0			0
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## 7. MID-CONTINENT AREA RELIABILITY COORDINATION AGREEMENT (MARCA)

## IOWA

ATLANTIC MUNICIPAL UTILI	0			0
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LAMONI MUNIC	0			0
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INTERSTATE POWER	0		0
----- MINNESOTA -----			
MINNESOTA PWR & LT	30,700		30,700
MURPHY OIL	100.00	30,700	
AUSTIN UTILITIES	0		0
FAIRMONT WTR & LT	0		0
MARSHALL MUNICIPAL UTIL	0		0
OWATONNA MUN UTIL	0		0
WORTHINGTON, CITY OF	0		0
NORTHERN STATES PWR	0		0
----- NEBRASKA -----			
CENTRAL NEBRASKA PUBLIC	0		0
FAIRBURY LT & WTR	187		187
CARTER WTR (TEXACO)	100.00	187	
GRAND ISLAND ELEC	13,634		13,634
E L BRIDE	100.00	13,634	
HASTINGS UTILITIES DEPT	0		0
LINCOLN ELECTRIC SYSTEM	0		0
NEBRASKA PUBLIC POWER DI	0		0
OMAHA PUB PWR DIST	0		0
----- WISCONSIN -----			
LAKE SUPERIOR DIST PWR	0		0

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## 8. EAST CENTRAL AREA RELIABILITY COORDINATION AGREEMENT (ECAR)

## MICHIGAN

CLINTON LT & WTR	316		316
CRYSTAL REFINING CO	100.00	316	
GRAND HAVEN BD PUB	0		0
HILLSDALE BD OF PUB WORK	0		0
CONSUMERS POWER	655,200		655,200
MURPHY MI. DIV. AMOCO	6.00	39,312	
ENTERPRISE OIL CO	6.00	39,312	
INDUST FUEL & ASPHALT	2.00	13,104	
RUPP OIL COMPANY	2.00	13,104	
CONSUMERS PWR-CRUDE	54.00	353,808	
BORON OIL (STANDARD)	3.00	19,656	
GLADIEUX REF	1.00	6,552	
LAKE SIDE REFINING CO	14.00	91,728	
TOTAL LEONARD INC	4.00	26,208	
OSCEOLA REFINING CO	8.00	52,416	
DETROIT EDISON CO.	588,245		588,245
ENTERPRISE OIL CO	4.80	28,235	
CANADIAN FUEL MKTRS	9.90	58,236	
PETRO PRODUCTS	5.40	31,765	
SUN OIL LTD	70.00	411,771	
MARATHON OIL	9.90	58,236	
----- OHIO -----			
CLEVELAND ELEC ILLUMIN	29,048		29,048
ALLIED O. (ASHLAND)	100.00	29,048	
TOLEDO EDISON	6,756		6,756
SUN OIL	100.00	6,756	
----- PENNSYLVANIA -----			
ALLEGHENY POWER SERVICE	0		0

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## 9. WESTERN SYSTEMS COORDINATING COUNCIL (WSCC)

## ARIZONA

TUCSON GAS & ELEC	264,510			264,510
GOLDEN GATE PETRO		22.00	58,192	
TOSCO		43.00	113,739	
HOLLAND OIL (TOSCO)		5.00	13,225	
UNION OIL OF CA		25.00	66,127	
NAVAJO REFINING		5.00	13,225	

SALT RIVER PROJECT	131,000			131,000
GUSTAFSON OIL CO		.90	1,179	
DOUGLAS OIL CO		2.80	3,658	
LITTLE AMERICA		19.70	25,807	
TESORO		12.40	16,244	
MACMILLAN		17.00	22,270	
POWERINE OIL CO		18.10	23,711	
SAN JOAQUIN REF		29.10	38,121	

ARIZONA PUBLIC SERVICE C	289,095			289,095
PACIFIC SOUTHWEST		16.50	47,700	
BAKIN FUELS		4.00	11,563	
UNION OIL OF CAL		63.00	182,129	
SAN JOAQUIN REF		16.50	47,700	

## CALIFORNIA

PACIFIC GAS & ELECTRIC C	116,000			116,000
ARCO		71.30	82,708	
PHILLIPS PETROLEUM		24.00	27,840	
UNION OIL OF CA		4.70	5,452	

SAN DIEGO GAS & ELECTRIC	607,000			607,000
HRI		16.20	98,334	
TESORO		32.70	198,489	
UNION OIL OF CA		29.80	180,886	
EDGINGTON OIL CO		21.30	129,291	

BURBANK CITY PUBLIC SER.	46,000			46,000
ATLANTIC RICHFIELD		100.00	46,000	

GLENDALE PUBLIC SERVICES	110,594			110,594
POWERINE OIL CO		100.00	110,594	

IMPERIAL IRRIGATION DIST	69,100			69,100
CRESCENT REF&O(GULF)		100.00	69,100	

LOS ANGELES DEPT OF WATE	1,339,000			1,339,000
PETROBAY		7.60	101,764	
ARCO		59.80	800,722	
EDGINGTON OIL CO		20.90	279,851	
NEWHALL REFINING CO		5.00	66,950	
POWERINE OIL CO		3.20	42,848	
SAN JOAQUIN REF		3.50	46,865	

SOUTHERN CALIF EDISON	3,849,000			3,849,000
EXXON		20.40	785,196	
ARCO		7.80	300,222	
CONOCO		2.20	84,678	
TEXACO		9.70	373,353	
STD. OIL-CAL		50.10	1,928,349	
MACMILLAN R.F.OIL		3.00	115,470	
PACIFIC RESOURCES		6.80	261,732	

PASADENA POWER CO.	109,807			109,807
GOLD EAGLE		100.00	109,807	

## COLORADO

PUB SERV COLORADO	15,168			15,168
CONOCO		36.40	5,521	
REF. CORP		43.50	6,598	
PLATEAU INC		20.10	3,048	

COLORADO SPRINGS LT & PW	0			0
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LAMAR LT & PWR	0			0
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## MONTANA

MONTANA POWER	0			0
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## NEVADA

NEVADA POWER COMPANY	111,000			111,000
GUSTAFSON OIL CO		54.00	59,940	
HUSKY OIL COMPANY		46.00	51,060	



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SIERRA PACIFIC POWER GOLDEN GATE PETRO	10,227	100.00	10,227	10,227
NEW MEXICO				
PUB SERV NEW MEXICO	0			0
PLAINS ELEC GEN & TRANSM	0			0
OREGON				
PACIFIC POWER & LIGHT CO	0			0
TEXAS				
COMMUNITY PUB SERV STD.OIL-TEXAS	15,280	100.00	15,280	15,280
EL PASO ELECTRIC SOUTHERN UNION TESORO	11,920	74.50 25.50	8,880 3,039	11,920
UTAH				
UTAH POWER & LIGHT CO.	0			0
WASHINGTON				
PUGET SOUND POWER & LIGHT	0			0
SEATTLE DEPT OF LI	0			0
TACOMA DEPT OF PUBLIC UT	0			0
10. ALASKA SYSTEMS COORDINATING COUNCIL (ASCC)				
ALASKA				
CORDOVA, TOWN OF	0			0

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HAWAII				
HAWAIIAN ELECTRIC COMPAN STD.OIL-CA	680,286	100.00	680,286	680,286
HILO ELFC LT STD.OIL-CA	37,860	100.00	37,860	37,860
KAUAI ELECTRIC STD. OIL-CA.	14,839	100.00	14,839	14,839
MAUI ELECTRIC STD.OIL-CA	40,352	100.00	40,352	40,352
11. NOT OTHERWISE CLASSIFIED (NOC)				
UNKNOWN				
GUAM PWR AUTH U.S.NAVY	79,663	100.00	79,663	79,663
UNKNOWN				
PUERTO RICO WATER RESOUR COMMONWEALTH OIL PUERTO RICO SUN OIL CARIBBEAN GULF REF	1,736,207	50.00 30.00 20.00	868,103 520,862 347,241	1,736,207
UNKNOWN				
ST CROIX, V.I. WTR PWR AMERADA HESS CORP	47,718	100.00	47,718	47,718
UNKNOWN				
ST THOMAS, V.I. WTR PWR AMERADA HESS CORP	33,937	100.00	33,937	33,937

[FR Doc.75-13366 Filed 5-19-75;8:45 am]

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## CODE OF FEDERAL REGULATIONS

(Revised as of November 1, 1974)

Title 49—Transportation (Parts 1200–1299)----- \$7.55

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federal register

TUESDAY, MAY 27, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 102

Pages 22823-23068



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## rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

### Title 7—Agriculture

#### CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

[Amdt. No. 67]

#### PART 401—FEDERAL CROP INSURANCE

##### Subpart—Regulations for the 1969 and Succeeding Crop Years

##### SUGAR BEETS, CALIF.

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended, § 401.149 of the Federal Crop Insurance Corporation Regulations contained in 7 CFR, Part 401, is revised effective beginning with the 1976 Crop Year to read as follows:

##### § 401.149 The Sugar Beet Endorsement (Applicable only in California) for the 1976 and Succeeding Crop Years.

The provisions of the Sugar Beet Endorsement (Applicable only in California) for the 1976 and Succeeding Crop Years are as follows:

1. *Insured crop.* The crop insured shall be sugar beets grown under a contract with a processor for processing as sugar. Item (1) of the second sentence of subsection 2(c) of the policy shall not be applicable to sugar beets.

Insurance shall not attach or be considered to have attached to any acreage (1) excluded from the processor contract for, or during, the crop year, and (2) unless otherwise provided on the county actuarial table, planted to sugar beets the two preceding crop years.

2. *Production guarantees.* The applicable production guarantees in tons per acre shall be those shown on the county actuarial table (hereinafter called "actuarial table") and are progressive as follows:

(1) *The First Stage*—from planting until thinning or 90 days after planting, whichever occurs first, and to any acreage that the Corporation determines was damaged in this stage to the extent that growers in the area usually would not further care for the crop.

(2) *The Second Stage*—from thinning or the 91st day after planting, whichever occurs first, until 15 percent of the per acre production guarantee for the third stage has been harvested.

(3) *The Third Stage*—after 15 percent of the per acre production guarantee for this stage has been harvested.

The stage of production applicable in any case shall not be determined to be the same for an entire insurance unit unless the entire unit meets the requirements for the same stage. When the entire unit does not meet the requirements for the same stage, the stages of production shall be determined for the various portions of the unit.

3. *Acreage insured.* Notwithstanding the provisions of section 2 of the policy, upon acceptance by the Corporation of an application for sugar beet insurance the acreage insured shall be (a) all insurable acreage planted after the filing of the application and (b) any acreage planted before the fil-

ing of the application, or reinstatement request, that is inspected by the Corporation after a normal stand has been obtained and designated in writing as approved by the Corporation for insurance for the crop year.

4. *Insurance period.* Insurance on any insured acreage shall attach or be considered to have attached at the time the sugar beets are planted and shall cease upon the earlier of (a) harvesting or (b) July 15 for Imperial County or the last day of the 12th calendar month after planting of the acreage for all other counties, unless a written request from the insured for an extension of the insurance period is received prior to such date and is approved by the Corporation.

5. *Claims for loss.* (a) Any claim for loss on an insurance unit (hereinafter called "unit") must be submitted to the Corporation on a form prescribed by the Corporation, no later than 60 days after the applicable calendar date for the end of the insurance period (see section 4 above). The Corporation reserves the right to provide additional time if it determines that circumstances beyond the control of either party prevent compliance with this provision.

(b) It is the responsibility of the insured to provide complete information of all production from the unit, to establish that the loss claimed was caused during the insurance period by one or more of the hazards insured against, and to furnish such other information about the loss as may be required by the Corporation.

(c) Losses shall be determined separately for each unit. The amount of loss with respect to any unit shall be determined by (1) multiplying the insured acreage of sugar beets on the unit by the applicable production guarantee per acre; which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in (3) by the insured interest: *Provided*, That if for the unit the insured fails to report all of his interest or insurable acreage, the amount of loss shall be determined with respect to all of his interest and insurable acreage, but in such cases or otherwise, if the premium computed on the basis of the insurable acreage and interest exceeds the premium on the reported acreage and interest, or the acreage and interest when determined by the Corporation under section 3 of the policy, the amount of loss shall be reduced proportionately.

The total production to be counted for a unit shall be determined by the Corporation and, subject to provisions hereinafter, shall include all harvested production and any appraisals made by the Corporation for unharvested or potential production, poor farming practices, uninsured causes of loss, or for acreage abandoned or put to another use without the consent of the Corporation: *Provided*, That for unharvested acreage or acreage not qualifying for the third stage production guarantee only the amount of appraised and harvested production in excess of the difference between the third stage production guarantee and the production

guarantee applicable to such acreage shall be counted except that for acreage abandoned, put to another use without prior written consent of the Corporation, or damaged solely by an uninsured cause, not less than the applicable production guarantee shall be counted.

(d) Any harvested production of sugar beets shall be adjusted by the factor (rounded to three decimal places) obtained by dividing the average percentage of sugar in the sugar beets, as determined from individual tests made at the time of delivery to the processor, by the percentage of sugar shown on the actuarial table: *Provided*, however, That if individual tests of sugar content are not made by the processor at the time of delivery of the sugar beets, the factor to be used shall be 1.000: *Provided*, further, That for harvested sugar beets which are not acceptable under the contract with a processor due to an insurable cause of loss occurring within the insurance period, the Corporation will determine the production to count by dividing the value of the beets, as determined by the Corporation, by the value of undamaged beets containing the percentage of sugar shown on the actuarial table and multiplying the result obtained by the tons of beets harvested: *Provided*, further, That any Corporation appraisals in the preceding paragraph shall be the tons appraised with no adjustment for quality.

6. *Cancellation and termination for indebtedness dates.* That portion of item (1) of section 13(b) of the policy which reads, "other than the premium due on a crop normally harvested in the calendar year in which the termination date for indebtedness for that crop occurs," shall not be applicable with respect to sugar beet crop insurance in any county in California.

The cancellation date shall be June 15, for all counties, preceding the beginning of the crop year for which such cancellation becomes effective.

The termination date for indebtedness shall be the August 31 preceding the beginning of the crop year for Imperial County and for all other counties shall be the date the insured begins planting for the next crop year unless prior to such date the insured has made arrangements satisfactory to the Corporation for payment of the premium owed the Corporation.

7. *Annual premium.* If at any time the cumulative dollar amount of indemnities paid under this endorsement exceeds the cumulative premiums earned through the previous crop year, the premium discounts referred to in section 6(b) of the policy shall not thereafter be applicable until the cumulative earned premiums equal or exceed the cumulative indemnities.

8. *Meaning of terms.* (a) "Harvest" means the lifting and topping of the sugar beets for the purpose of delivery to a processor.

(b) "Crop year," notwithstanding section 19(c) of the policy, shall be the period from planting until the applicable date for the end of the insurance period and shall be designated by reference to the calendar year in which planted if planted by June 15, and if planted after June 15 by reference to the next calendar year.



(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

The foregoing amendment provides for a revision of the contractual changes in the Sugar Beet Endorsement (Applicable only in California) which are necessary due to the discontinuance of the Sugar Act of 1948, as amended, on December 31, 1974. These contractual revisions will permit the continuation of sugar beet crop insurance with the establishment of a revised method of evaluation of production and acreage records by the Corporation upon which coverage guarantees are based, such records that were heretofore established under the provisions of the now defunct Sugar Act of 1948, as amended. In view of the absence of the Sugar Act of 1948, it is imperative that the foregoing amendment become effective for the 1976 crop year. Notice of changes must be given to insureds by June 15, 1975, and applications will be taken in the near future. Under the circumstances, the Board of Directors found that it would be impracticable and contrary to the public interest to follow the procedure for notice and public participation prescribed by 5 U.S.C. 553 (b) and (c), as directed by the Secretary of Agriculture in a Statement of Policy, executed July 20, 1971 (36 FR 13804), prior to its adoption. Accordingly, said amendment was adopted by the Board of Directors on May 15, 1975.

[SEAL] PETER F. COLE,  
Secretary, Federal Crop  
Insurance Corporation.

Approved on: May 21, 1975.

EARL L. BUTZ,  
Secretary.

[FR Doc.75-13690 Filed 5-23-75; 8:45 am]

#### CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

##### PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

##### Increase in Expenses of the Prune Administrative Committee and the Rate of Assessment for 1974-75 Crop Year

Notice was published in the April 29, 1975, issue of the FEDERAL REGISTER (40 FR 18562) regarding an increase in expenses of the Prune Administrative Committee and the rate of assessment for the 1974-75 crop year under §§ 993.80 and 993.81 of the marketing agreement, as amended, and Order No. 993, as amended (7 CFR Part 993), regulating the handling of dried prunes produced in California. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

Interested persons were given until May 15, 1975, in which to submit written data, views, or arguments with respect to the proposal. None were received.

The proposal was based on a unanimous recommendation of the Prune Administrative Committee. The increased expenses of the Committee for the 1974-75 crop year were proposed at \$154,100. Also, the assessment rate was proposed to be increased to \$1.28 per ton of assessable prunes.

Increased Committee operating costs, and changed demand conditions, have created costs that will exceed the expenses previously established for the 1974-75 crop year. It is also necessary to increase the assessment rate for that year to obtain sufficient funds to defray the increased expenses.

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Prune Administrative Committee, and other available information, it is found that the expenses of the Prune Administrative Committee and the rate of assessment for the crop year beginning August 1, 1974, shall be as hereinafter set forth.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said marketing agreement and this part require that the rate of assessment fixed for a particular crop year shall be applicable to all salable prunes handled by handlers as the first handlers thereof; and (2) the current crop year began on August 1, 1974, and the rate of assessment hereinafter fixed will automatically apply to all such prunes beginning with that date.

The expenses and assessment rate as set forth in § 993.325 are revised to read as follows:

§ 993.325 Expenses of the Prune Administrative Committee and rate of assessment for the 1974-75 crop year.

(a) *Expenses.* Expenses in the amount of \$154,100 are reasonable and likely to be incurred by the Prune Administrative Committee during the crop year beginning August 1, 1974, for its maintenance and functioning and for such other purposes as the Secretary may, pursuant to the applicable provisions of the marketing agreement, as amended, and this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for such crop year which each handler is required, pursuant to § 993.81, to pay to the Prune Administrative Committee as his pro rata share of the said expenses is fixed at \$1.28 per ton of salable prunes handled by him as the first handler thereof.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: May 21, 1975.

CHARLES R. BRADER,  
Deputy Director,  
Fruit and Vegetable Division.

[FR Doc.75-13734 Filed 5-23-75; 8:45 am]

#### CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

##### SUBCHAPTER D—GUARANTEED LOANS

[FmHA Instructions 449.1 and 449.2]

##### PART 1842—BUSINESS AND INDUSTRIAL LOANS

##### Prohibition on Use of Guaranteed Loan Funds

On April 7, 1975, there was published in the FEDERAL REGISTER (40 FR 15405) a notice of proposed rulemaking amending § 1842.14(b) of Part 1842, Chapter XVIII, Title 7, Code of Federal Regulations (39 FR 34264) to prohibit guaranteed loan funds from being paid or distributed to one who owns or has an interest in any business if such person retains his equity in the business. Interested persons were given 30 days in which to submit written comments, suggestions or objections to the proposed amendments.

No written objections have been received and the proposed regulations are hereby adopted without change and are set forth below.

*Effective date.* This amendment is effective May 27, 1975.

Dated: May 9, 1975.

FRANK B. ELLIOTT,  
Administrator,  
Farmers Home Administration.

Part 1842 is amended by revising § 1842.14(b) to read as follows:

§ 1842.14 Ineligible loan purposes.

(b) For distribution or payment to the owner, partners, shareholders or beneficiaries of the applicant or members of their families when such persons shall retain any portion of their equity in the business.

(7 U.S.C. 1989; delegation of authority by the Sec. of Agr., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

[FR Doc.75-13683 Filed 5-23-75; 8:45 am]

[No. 75-443]

##### Title 12—Banks and Banking

##### CHAPTER V—FEDERAL HOME LOAN BANK BOARD

##### SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

##### PART 563—OPERATIONS

##### Investment in Service Corporations

MAY 19, 1975.

*Summary.* The following summary of the amendment adopted by this Resolution is provided for the reader's convenience and is subject to the full provisions of this Resolution, including the provisions in the preamble thereof and in the amended regulation set forth below.

I. *Existing regulation.* Without prior Corporation approval, insured institutions are prohibited from exercising their salvage powers to exceed otherwise authorized investment in their service corporations.

II. *Amended regulation.* The amended regulation restates the existing prohibition in clearer language.

III. *Reason for amending the regulation.* To clarify its meaning.

The Federal Home Loan Bank Board considers it desirable to amend Part 563 of the rules and regulations for Insurance of Accounts (12 CFR 563) by amending § 563.38 thereof to make clear that said section prohibits any investment by an insured institution in its service corporation which would be unauthorized other than as an exercise of such institution's salvage powers, unless prior approval for such investment is obtained pursuant to such section from the Federal Savings and Loan Insurance Corporation. In its present form § 563.38 is susceptible of an interpretation that would also permit Corporation approval of any investment in excess of that permitted by law. To preclude such misreading of § 563.38, the Board considers it desirable to amend paragraph (a) thereof to delete the words "or otherwise" immediately following the words "salvage power" presently therein and adding the word "otherwise" immediately prior to the words "permitted by law" presently therein.

Accordingly, the Federal Home Loan Bank Board hereby amends said Part 563 by revising § 563.38(a) thereof, to read as set forth below, effective May 27, 1975.

Since the above amendment is for the purpose of clarification, the Board hereby finds that notice and public procedure with respect to said amendment are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b), and since publication of said amendment for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of said amendment would, in the opinion of the Board, likewise be unnecessary for the same reason, the Board hereby provides that said amendment shall become effective as hereinbefore set forth.

Section 563.38(a) is revised as follows:

§ 563.38 Salvage power of insured institution to assist service corporation.

(a) *Salvage power and investment authority.* No insured institution, in the exercise of its salvage power, shall, without the prior approval of the Corporation, make any contribution, loan, or guarantee of a loan made by any other person to its service corporation, or invest in its service corporation or assume any of its liabilities, if such contribution, loan, investment, guarantee, or assumption of liability, together with such guaranteed loans, direct loans, contributions and direct investments by the insured institution in its service corporations, would exceed the maximum investment otherwise permitted by law or regulation.

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, JR.,  
Assistant Secretary.

[FR Doc.75-13721 Filed 5-23-75; 8:45 am]

##### Title 14—Aeronautics and Space

##### CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 75-WE-33-AD; Amdt. 39-2218]

##### PART 39—AIRWORTHINESS DIRECTIVES

##### Douglas Model DC-10 Series Airplanes

Pursuant to the authority delegated to me by the Administrator (31 FR 13697), an airworthiness directive was adopted on April 24, 1975, amended on April 28, 1975, and made effective immediately by telegrams dated April 24, 1975, and April 28, 1975, to all known United States operators of certain Douglas Model DC-10 Series airplanes, certificated in all categories. The agency has received a report of inadvertent opening of a forward (No. 1R) passenger door and automatic deployment of the evacuation slide, after arrival and parking at the ramp as the cabin attendant was about to disarm the door. The malfunction was due, in combination, to the close (down) lock not being fully engaged, and the emergency air storage bottle control valve being in a "cocked" condition. The airworthiness directive requires a one-time inspection of the close (down) lock and air bottle control valve lever, and inspection or check of the close (down) lock prior to each flight, with certain specified exceptions. The inspections are intended to preclude inadvertent opening of doors pending further AD action.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest, and good cause existed for making the airworthiness directive effective immediately to all known U.S. operators of certain Douglas Model DC-10-10 and -40 Series airplanes by individual telegrams dated April 24, 1975, and April 28, 1975.

After issuing this emergency AD, the agency has established terminating AD action and, therefore, prior to publishing the original emergency AD in the FEDERAL REGISTER, an airworthiness directive is being issued which supersedes the telegraphic AD. The adopted rule requires installation of production 6½ coil close (down) lock springs and airbottle control valve lever retention springs as terminating action to the mandatory close (down) lock inspection prior to each flight. Also, as a result of a recent incident in which a right-hand close (down) lock was found installed on a left-hand door, and vice versa, the adopted rule requires an inspection to insure left-hand and right-hand close (down) locks are installed on respective left and right-hand doors.

The conditions which required issuance of the telegraphic AD still exist. Immediate adoption of the regulation is required; it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

McDONNELL DOUGLAS. Applies to Douglas Model DC-10-10, -10F, -30, -30F, and -40 Series airplanes, certificated in all categories, with factory serial or fuselage numbers as indicated in the following Douglas Service Bulletins or All Operators Letters or later FAA-approved revisions:

Para. (A), below—S/B 52-139, dated April 28, 1975.  
Para. (B), below—AOL 10-814, dated May 9, 1975.  
Para. (C), below—S/B 52-140, dated April 30, 1975.  
Para. (D), below—S/B 52-139, dated April 28, 1975.

To prevent inadvertent opening of Type I passenger doors (most forward left and right doors) accomplish the following:

(A) Compliance required not later than 48 hours after the effective date of this AD, unless already accomplished either within 10 days prior to the effective date of this AD, or in accordance with that telegraphic AD dated April 24, 1975, amended April 28, 1975.

(1) Conduct the following one-time inspection of the Type I doors:

(a) Inspect the close (down) lock torque tube spline for damage. Repair or replace, if required.

(b) Visually inspect the door close (down) lock and spring for general condition and insure the spring is not riding over the flange of the drive spline.

(c) Functionally operate the door to insure that the close (down) lock is properly engaged.

(d) Inspect the air storage bottle control valve lever to insure that it is in its normal operating (stowed) position.

(2) Prior to each flight, except as provided herein, accomplish the following on the Type I doors:

(a) After the door is closed, and the inside operating handle is positioned in the neutral position, inspect or check the close (down) lock to insure that it is properly engaged.

(b) The inspection or check required by (A)(2)(a), above, does not have to be accomplished if it can be verified that the door handle has not been disturbed subsequent to the accomplishment of the inspection or check required by (A)(2)(a), above. Any method used to insure that the operating handle has not been disturbed must not interfere with normal and emergency operation of the door.

(c) The inspection or check required by (A)(2)(a), above, does not have to be accomplished if it can be verified during the inspection required by (A)(1), above, that a production P/N ABA8025-1 8½ coil close (down) lock spring is installed, and the conditions inspected in (A)(1), above, are satisfactory.

(d) The flight crew will be advised after the inspection or check required by (A)(2)(a), above, is satisfactorily accomplished.

(e) The inspection or check required by (A)(2)(a), above, does not have to be accomplished, provided:



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(1) The close (down) lock torque tube spline is reinspected for damage; and repaired or replaced, if required.

(2) There are no less than 3½ coils in the cut-off P/N ABA8025-1 close (down) lock spring.

(3) A P/N WBA7003-7 washer is installed at the forward end, and a P/N WBA7003-5 washer is installed at the aft end, of the close (down) lock spring. (Reference Douglas Service Bulletin No. 52-139, dated April 28, 1975). And

(4) After the P/N WBA7003-5 and -7 washers have been installed, the door is functionally operated to insure that the close (down) lock is properly engaged.

(5) Any inspection must be performed by the holder of a mechanic or repairman certificate, or by a person under the direct supervision of the holder of such certificate. A check may be performed by qualified or trained personnel designated by the operator for the purpose of performing the checks.

(6) Operators shall advise flight crews and cabin attendants of the foregoing procedures by the most immediate and practicable means.

(B) Compliance required within seven days after the effective date of this AD, unless already accomplished.

Inspect the torque tube close (down) locks on the Type I doors to insure that the P/N ABA8023-1 slide catch and P/N ABA8024-1 stop plate are installed on the left hand door, and the P/N ABA8023-2 slide catch and P/N ABA8024-2 stop plate are installed on the right hand door, in accordance with Douglas All Operators Letter No. 10-814, dated May 9, 1975, or later FAA-approved revisions.

(C) Compliance required within the next 1500 hours' time in service after the effective date of this AD, unless already accomplished.

Install retention springs on the Type I door air storage bottle control valve lever in accordance with Douglas Service Bulletin No. 52-140, dated April 30, 1975, or later FAA-approved revisions.

(D) Compliance required within the next 3000 hours' time in service after the effective date of this AD, unless already accomplished.

(1) Remove the Type I door cut-off P/N ABA8025-1 close (down) lock springs and P/N WBA7003-5 and -7 washers, and install production P/N ABA8025-1 8½ coil close (down) lock springs on the torque tube.

(2) Following installation of the new springs, recheck the engagement of the close (down) lock, and adjust if required, in accordance with Douglas Service Bulletin No. 52-132, Revision 1, dated February 21, 1975, or later FAA-approved revisions.

(E) The Chief, Aircraft Engineering Division, FAA Western Region, may approve equivalent inspections and installations or alternate design modifications upon submission of substantiating data.

(F) Airplanes may be flown to a base for performance of maintenance required by this AD per FAR's 21.197 and 21.199, provided that, with respect to the door(s) identified as in need of maintenance, the emergency evacuation slides or slide/rafts will be either removed or deactivated.

This supersedes the telegraphic AD adopted April 24, 1975, amended April 28, 1975, and distributed by telegrams dated April 24, 1975 and April 28, 1975.

This amendment becomes effective May 30, 1975.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Los Angeles, California on May 15, 1975.

ROBERT H. STANTON,  
Director,  
FAA Western Region.

[FR Doc.75-13667 Filed 5-23-75; 8:45 am]

[Airworthiness Docket No. 75-WE-36-AD; Amdt. 30-2219]

### PART 39—AIRWORTHINESS DIRECTIVES

#### Lockheed-California Company Model L-1011-385-1 Series Airplanes

There have been failures of the Belleville springs on Lockheed-California Company L-1011-385-1 airplanes due to surface flaws that could result in inoperative counterbalances which could cause the most rearward Type I, left and right emergency doors to be inoperative in the emergency mode. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require reduction of Belleville springs prewind as applicable, Type I, door operational checks, and replacement, as required, of counterbalances on Lockheed-California Company L-1011-385-1 Series airplanes, incorporating counterbalances identified by Lockheed Part Number 671827-107, -109, -113.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

LOCKHEED-CALIFORNIA COMPANY. Applies to Model L-1011-385-1 Series Airplanes, certificated in all categories, incorporating Lockheed counterbalances, P/N 671827-107, -109, -113.

To prevent possible failure of Belleville springs resulting in inoperative counterbalances of the Type I, emergency door actuation system, which could cause the most rearward Type I, left and right doors to be inoperative in the emergency mode, accomplish the following:

Compliance required as indicated.

(a) For airplanes incorporating P/N 671827-113 counterbalances:

(1) Within 300 additional flight hours after the effective date of this AD, unless already accomplished, reduce the spring prewind per accomplishment instructions of Lockheed-California Company Service Bulletin 093-52-072, Revision Number 1, dated May 8, 1975, or later FAA-approved revisions.

(2) Within 300 additional flight hours after the effective date of this AD, unless previously accomplished within the last 1,300 flight hours prior to the effective date of this AD, and at intervals not to exceed 1,600 hours thereafter, until (3) below is accomplished, perform the operational checks on the door emergency mode for proper functioning of the counterbalance for the most rearward Type I, left and right doors, per the accomplishment instructions of Lockheed-California Service Bulletin 093-52-072,

Revision Number 1, dated May 8, 1975, or later FAA-approved revisions.

(i) If the operational checks are not satisfactory, replace the defective counterbalances, P/N 671827-113, with either a P/N 671827-107, or -109 counterbalance per Lockheed-California Company Service Bulletin 093-52-072, Revision Number 1, dated May 8, 1975, or later FAA-approved revisions, or a counterbalance P/N 671827-115 or -117 per Lockheed-California Service Bulletin 093-52-076, Revision Number 1, dated May 8, 1975, or later FAA-approved revisions. Prior to further flight perform the operational checks to ensure that the operation of the doors with the new counterbalances is satisfactory.

(ii) Mark the defective P/N 671827-113 counterbalances in a conspicuous manner to prevent inadvertent return to service.

(3) Within 8000 hours additional flight time after the effective date of this AD, unless already accomplished, replace all counterbalances P/N 671827-113 with either counterbalances P/N 671827-115 or -117, per Service Bulletin 093-52-076, Revision Number 1, dated May 8, 1975, or later FAA-approved revisions or with counterbalances P/N 671827-107 or -109 per Lockheed-California Company Service Bulletin 093-52-072, Revision Number 1, dated May 8, 1975, or later FAA-approved revisions. Prior to further flight perform the operational checks to ensure that the operation of the doors with the new counterbalances is satisfactory. If satisfactory operation of the doors exist no further inspections are required per this AD.

(b) For airplanes incorporating counterbalances P/N 671827-107 and -109:

(1) Within 300 additional flight hours after the effective date of this AD, unless already accomplished, perform the operational checks of the door emergency mode for the most rearward Type I, left and right doors, per the accomplishment instructions of the Lockheed-California Company Service Bulletin 093-52-072, Revision Number 1, dated May 8, 1975, or later FAA-approved revisions.

(i) If the operational checks are satisfactory then no further checks are required per this AD.

(ii) If the operational checks are not satisfactory, replace the defective counterbalances, P/N 671827-107 or -109, with either a new counterbalance, P/N 671827-107 or -109, per Lockheed-California Company Service Bulletin 093-52-072, Revision Number 1, dated May 8, 1975, or later FAA-approved revisions, or with counterbalances, P/N 671827-115 or -117, per Lockheed-California Company Service Bulletin 093-52-076, Revision Number 1, dated May 8, 1975, or later FAA-approved revisions. Perform the doors operational checks to ensure that the operation of the doors with the new counterbalance is satisfactory. If satisfactory operation of the doors exist no further inspections are required per this AD.

(iii) Mark the defective P/N 671827-107 or -109 counterbalances in a conspicuous manner to prevent inadvertent return to service.

(c) Equivalent inspections may be approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(d) Airplanes may be flown to a base where the inspections and modifications can be performed per FAR's 21.197 and 21.199.

This amendment becomes effective May 30, 1975.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Los Angeles, California on May 15, 1975.

ROBERT H. STANTON,  
Director,  
FAA Western Region.

[FR Doc.75-13668 Filed 5-23-75; 8:45 am]

[Docket No. 14609; Amdt. No. 969]

### PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

#### Recent Changes and Additions

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 FR 5609).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue, SW, Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of \$150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for \$30.00 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAPs, effective July 3, 1975.

Alexandria, Ind.—Alexandria Arpt., VOR Rwy 27, Amdt. 2.

Cortez, Colo.—Cortez-Montezuma County Arpt., VOR Rwy 21, Amdt. 3.

Mankato, Minn.—Mankato Municipal Arpt., VOR Rwy 15, Amdt. 1.

Mankato, Minn.—Mankato Municipal Arpt., VOR Rwy 33, Amdt. 2.

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Millville, N.J.—Millville Municipal Arpt., VOR Rwy 19, Orig.

Millville, N.J.—Millville Municipal Arpt., VOR Rwy 23, Orig., cancelled.

Mount Pocono, Pa.—Mount Pocono Arpt., VOR Rwy 13, Orig.

Pine Bluff, Ark.—Grider Field, VOR/DME Rwy 35, Amdt. 4.

Pine Bluff, Ark.—Grider Field, VOR Rwy 17, Amdt. 14.

Wichita, Kans.—Comotara Airpark, VOR/-TAC-A, Orig.

Youngstown, Ohio—Youngstown Executive Arpt., VOR/DME-A, Amdt. 4.

• • • effective June 5, 1975:

Sarasota (Bradenton), Fla.—Sarasota-Bradenton Arpt., VOR Rwy 31, Amdt. 3.

• • • effective May 9, 1975:

Kinston, N.C.—Stallings Field, VOR/DME Rwy 4, Amdt. 8.

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAPs, effective July 3, 1975.

Akron, Ohio—Akron-Canton Regional Arpt., LOC (BC) Rwy 19, Amdt. 5.

• • • effective June 5, 1975:

Sarasota (Bradenton), Fla.—Sarasota-Bradenton Arpt., LOC Rwy 31, Orig., cancelled.

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, effective July 3, 1975.

Bradford, Pa.—Bradford Regional Arpt., NDB Rwy 32, Amdt. 11.

Omaha, Nebr.—Millard Arpt., NDB Rwy 12, Amdt. 4.

• • • effective June 26, 1975:

Elmira, N.Y.—Chemung County Arpt., NDB Rwy 24, Amdt. 7.

• • • effective June 5, 1975:

Sarasota (Bradenton), Fla.—Sarasota-Bradenton Arpt., NDB Rwy 31, Amdt. 1.

• • • effective May 12, 1975:

Milwaukee, Wis.—General Mitchell Field, NDB Rwy 11, Amdt. 27, cancelled.

• • • effective May 9, 1975:

Kinston, N.C.—Stallings Field, NDB Rwy 4, Amdt. 5.

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, effective July 3, 1975.

Bradford, Pa.—Bradford Regional Arpt., ILS Rwy 32, Amdt. 6.

Cleveland, Ohio—Cuyahoga County Arpt., ILS Rwy 23, Amdt. 1.

• • • effective June 5, 1975:

Sarasota (Bradenton), Fla.—Sarasota-Bradenton Arpt., ILS Rwy 31, Orig.

• • • effective May 29, 1975:

Augusta, Ga.—Bush Field, ILS Rwy 17, Orig.

• • • effective May 12, 1975:

Milwaukee, Wis.—General Mitchell Field, ILS Rwy 11, Amdt. 30, cancelled.

• • • effective May 9, 1975:

Kinston, N.C.—Stallings Field, ILS Rwy. 4, Amdt. 4.

5. Section 97.31 is amended by originating, amending, or canceling the following RADAR SIAPs, effective July 3, 1975.

Wichita, Kans.—Comotara Airpark, RADAR-3, Amdt. 2.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1948 (49 U.S.C. 1438, 1354, 1421, 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c) and 5 U.S.C. 552(a)(1)))

NOTE.—Incorporation by reference provisions in §§ 97.10 and 97.20 approved by the Director of the Federal Register on May 12, 1969, (35 FR 5610).

Issued in Washington, D.C., on May 15, 1975.

JAMES M. VINES,  
Chief,

Aircraft Programs Division.

[FR Doc.75-13669 Filed 5-23-75; 8:45 am]

### Title 16—Commercial Practices

#### CHAPTER I—FEDERAL TRADE COMMISSION

#### SUBCHAPTER A—PROCEDURES AND RULES OF PRACTICE

#### PART 4—MISCELLANEOUS RULES

##### Proof of Service of Documents

In addition to the amendments announced in the FEDERAL REGISTER issue for Monday, May 19, 1975, at pages 21708-9, pertaining to service of documents, the Federal Trade Commission announces the revision of § 4.4(c) (3) to read as follows:

§ 4.4 Service.

(c) *Proof of service.* . . . .  
(3) When a party has appeared in a proceeding by a partner, officer, or attorney, service on that individual of any document other than those specified in (a) (1) of this section shall be deemed service upon the party.

This amendment is effective May 27, 1975.

(15 U.S.C. 41, et seq., 5 U.S.C. 552)

By direction of the Commission dated May 6, 1975.

[SEAL] CHARLES A. TOBIN,  
Secretary.

[FR Doc.75-13722 Filed 5-23-75; 8:45 am]

### Title 17—Commodity and Securities Exchanges

#### CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-11425]

#### PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Revised Initial Fee and 1975 Annual Assessment for Nonmember (SECO) Broker-Dealers

On March 20, 1975 the Commission announced in Securities Exchange Act (the "Act") Release No. 11308 which was published in the FEDERAL REGISTER for March 27, 1975 at 40 FR 13525 a proposal



to adopt Form SECO-4-75 (17 CFR 249.504i) pursuant to Rule 15b9-2 (17 CFR 240.15b9-2) under the Act, which sets forth the annual schedule under which registered broker-dealers who are not members of the National Association of Securities Dealers, Inc. ("nonmember" or "SECO" broker-dealers) will be assessed for the current fiscal year and the amendment of Form SECO-2 (17 CFR 249.502) pursuant to Rule 15b9-1, (17 CFR 240.15b9-1) which sets forth the initial fee schedule for new associated persons of SECO broker-dealers. The Commission has considered the comments received regarding the proposals and has adopted them as proposed.

Sections 15(b)(8) and 15(b)(9) under the Act authorize the Commission to collect such reasonable fees and charges as may be necessary to defray the costs of the additional regulatory duties required for nonmember broker-dealers. Pursuant to these sections, the Commission adopted Rules 15b9-1, to establish initial fees, and 15b9-2 to provide for annual assessments. Rule 15b9-2 provides for the annual assessments to be set forth on Form SECO-4 and Rule 15b9-1 provides for initial fees to be set forth on Form SECO-5 and Form SECO-2.

This year's assessments, as set forth on new Form SECO-4-75, includes a base levy of \$250 per firm and an assessment of \$15 for each associated person.<sup>1</sup> As both Rule 15b9-2 and the Form indicate, these annual assessments would ordinarily be due and payable on or before June 1, 1975. But, because of a delay in the adoption of the Form, payment may be made on or before June 20, 1975. This extension of time applies to this year only.

Form SECO-2 will be amended so as to increase the initial assessment fee for a new associated person of a SECO broker-dealer to \$50.<sup>2</sup> The amended Form SECO-2 will become effective June 20, 1975.<sup>3</sup>

<sup>1</sup> Since the institution of the SECO program in 1965, the Commission has utilized fees and assessments which have been based substantially, although not exclusively, on the personnel characteristics of nonmember firms. While it appears that no method of defraying regulatory expenses can provide complete fairness to all firms, the Commission has found that, in general, this method has worked equitably. In the case of the annual personnel assessment, for example, the number of associated persons a firm employs gives a generally appropriate measure of firm size and ability to pay and takes into consideration regulatory costs peculiarly related to sales-oriented businesses. Moreover, this assessment has been a relatively inexpensive measure to administer and enforce.

<sup>2</sup> The initial fee now in effect (Form SECO-5) for each new member firm is \$500 and will remain unchanged.

<sup>3</sup> Form U-4 was approved by the Commission on April 16, 1975 and is scheduled to replace current Form SECO-2 on July 15, 1975. See Securities Exchange Act Release No. 11424.

These increases have been necessitated by the increased costs to the Commission in administering the SECO regulatory program. These administrative costs totalled some \$418,000 for fiscal 1974 and are expected to reach an estimated \$604,000 for fiscal 1975, an increase of approximately 45 percent.

Copies of Form SECO-4-75 will be forwarded to nonmember broker-dealers, and copies of Forms SECO-4-75 and SECO-2, as adopted, have been filed with the Office of the Federal Register. However, since it is the responsibility of each nonmember broker-dealer to comply with the requirements of Rule 15b9-2, any such broker-dealer which does not receive copies of Form SECO-4-75 should contact the Division of Market Regulation at the address and telephone number noted below, to obtain the necessary forms. The completed Form SECO-4-75 and appropriate remittances should be mailed to the Office of the Comptroller, Securities and Exchange Commission, Washington, D.C. 20549 on or before June 20, 1975.

**Commission Action.** The Securities and Exchange Commission, acting pursuant to the Securities Exchange Act of 1934, and particularly sections 15(b) and 23(a) thereof, hereby amends Part 249 of Title 17 of the Code of Federal Regulations as follows:

1. Section 249.504i is added below:

§ 249.504i Form SECO-4-75: 1975 assessment and information form for registered brokers and dealers not members of a registered national securities association.

This form shall be filed on or before June 20, 1975, pursuant to § 240.15b9-2 of this chapter, accompanied by the annual assessment fee required thereunder and as specified in this form, for the fiscal year ended June 30, 1975, by every registered broker and dealer not a member of a registered national securities association.

(Sec. 15(b), 48 Stat. 895, as amended 78 Stat. 565, 15 U.S.C. 78o; sec. 23(a), 48 Stat. 901, as amended, 49 Stat. 1370, sec. 8 (15 U.S.C. 78w))

§ 249.502 [Amended]

2. Section 249.502 is amended by changing the fee specified in form SECO-5 to read "\$50".

Additional copies of both Forms, as well as copies of Rules 15b9-1 and 15b9-2, may be obtained by contacting the Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549 or telephone (202) 755-1369. The foregoing action will become effective on June 20, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

MAY 16, 1975.

[FR Doc. 75-13732 Filed 5-23-75; 8:45 am]

#### Title 24—Housing and Urban Development

#### CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT—FEDERAL HOUSING COMMISSIONER (FEDERAL HOUSING ADMINISTRATION)

[Docket No. R-75-327]

#### PART 200—INTRODUCTION

##### Affirmative Fair Housing Market, Regulations Amended

##### Correction

In FR Doc. 75-12112 appearing at page 20080 in the issue for Thursday, May 8, 1975, in the third column, following paragraph E, the effective date should read "August 22, 1974" instead of "August 22, 1975".

#### SUBCHAPTER B—MORTGAGE AND LOAN INSURANCE PROGRAMS UNDER NATIONAL HOUSING ACT

[Docket No. R-75-330]

#### MULTIFAMILY, NURSING HOME, AND GROUP PRACTICE FACILITY PROGRAMS

##### Processing Procedure Revised

Parts 207, 213, 221, 232, 236 and 244 of the Regulations are amended to revise a processing procedure in the insured multifamily mortgage, nursing home and group practice facility programs.

The amendments to those mortgage insurance programs eliminate the former requirement that an applicant for mortgage insurance could not elect to omit the conditional commitment processing stage if it had begun with the SAMA (Site Appraisal and Market Analysis) processing stage initially. The purpose of the change is to accelerate and make more efficient the processing procedures in cases where the applicant is prepared to go directly from the SMSA stage to the firm commitment stage. Since these amendments are for the purpose of accelerating processing time and would not adversely affect any applicant for mortgage insurance, advance notice and public procedure are not necessary and good cause exists for making these amendments effective upon publication.

Accordingly, Parts 207, 213, 221, 232, 236 and 244 of Chapter II of Title 24 of the Code of Federal Regulations are amended to read as follows:

#### PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

§ 207.1 [Amended]

1. Section 207.1(a) is amended by deleting the clause which appears after the semicolon in the fifth sentence, which clause begins with the word "however" and ends with the word "initially".

2. Section 207.1(b)(1) is amended by deleting the word "conditional", before the word "commitment", from the last clause before the colon in the third sentence.

#### PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

§ 213.2 [Amended]

3. Section 213.2(a) is amended by deleting the clause which appears after the semicolon in the fifth sentence, which clause begins with the word "however" and ends with the word "initially".

4. Section 213.2(b)(1) is amended by deleting the word "conditional", before the word "commitment", from the last clause before the colon in the third sentence.

#### PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

§ 221.502 [Amended]

5. Section 221.502(c) is amended by deleting the last clause beginning with the word "however" and ending with the word "initially".

§ 221.509 [Amended]

6. Section 221.509(a)(1) is amended by deleting the word "conditional", before the word "commitment", from the last clause before the colon in the third sentence.

#### PART 232—NURSING HOMES AND INTERMEDIATE CARE FACILITIES MORTGAGE INSURANCE

§ 232.5 [Amended]

7. Section 232.5 is amended by deleting the last clause which appears after the semicolon in the fifth sentence, which clause begins with the word "however" and ends with the word "initially".

§ 232.50 [Amended]

8. Section 232.50(a)(1) is amended by deleting the word "conditional", before the word "commitment", from the last clause before the colon in the third sentence.

#### PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENTS FOR RENTAL PROJECTS

§ 236.5 [Amended]

9. Section 236.5(c) is amended by deleting the last clause beginning with the word "however" and ending with the word "initially".

#### PART 244—MORTGAGE INSURANCE FOR GROUP PRACTICE FACILITIES [TITLE XI]

§ 244.10 [Amended]

10. Section 244.10(a) is amended by deleting the last clause which appears after the semicolon in the fifth sentence, which clause begins with the word "however" and ends with the word "initially".

11. Section 244.10(b)(1) is amended by deleting the word "conditional", before the word "commitment", from the last clause before the colon in the third sentence.

(Sec. 7(d), Department of Housing and Urban Development Act (41 U.S.C. 3535(d)))

Effective date. These amendments will be effective May 27, 1975.

DAVID M. DEWILDE,  
Acting Assistant Secretary for  
Housing Production and  
Mortgage Credit—Federal  
Housing Commissioner.

[FR Doc. 75-13748 Filed 5-23-75; 8:45 am]

#### CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-75-334]

#### PART 811—FINANCING

##### Subpart A—Tax Exemption of Obligations of Public Housing Agencies

##### INTERIM RULE

The Department is amending Title 24 by adopting a new Part 811—Financing and a new Subpart A—Tax Exemption of Obligations of Public Housing Agencies. Subpart A implements, in accordance with section 201(b) of the Housing and Community Development Act of 1974 (42 USC 1437, note), sections 3(6) and 11(b) of the United States Housing Act of 1937, 42 USC 1437a, 1437i, both of which were added by section 201 of the Housing and Community Development Act of 1974 (42 USC 1437, note). Section 3(6) defines "Public Housing Agency" and section 11(b) authorizes tax exemption of obligations issued by a Public Housing Agency in connection with a low-income project. The Subpart further sets forth requirements and procedures for establishing eligibility and HUD approval of projects that involve tax exempt obligations.

Because this Subpart represents the regulatory promulgation of an existing policy that has been jointly effectuated by the Secretaries of HUD and of Treasury, comment and public procedure are unnecessary and good cause exists for making this amendment effective upon publication.

The Secretary has determined that it would be impracticable and contrary to the public interest to provide for public participation prior to the adoption of this Subpart. However, in furtherance of its policy of providing opportunity for comment in rulemaking procedures to the fullest extent appropriate (see Part 10 of this Title), the Department is inviting interested persons to submit comments, data and suggestions with respect to this Interim Rule. Such materials should be filed with the Rules Docket Clerk, Office of the General Counsel, Room 10245, Department of Housing and Urban Development, 451-7th Street, SW., Washington, D.C. 20410. All relevant comments filed on or before June 30, 1975, will be considered before a final rule is adopted in this proceeding. A copy of each comment will be available for public inspection at the above address during regular business hours, both before and after close of the comment period.

It has been determined that this amendment will not have a substantial environmental impact. A Finding of Inapplicability will be on file for public inspection at the above address.

Accordingly, Title 24 is amended by adding a new Part 811 and a new Subpart A to read as follows:

##### Subpart A—Tax Exemption of Obligations of Public Housing Agencies

Sec.  
811.101 Purpose.  
811.102 Definitions.  
811.103 Tax exemption of obligations.  
811.104 Approval of amount of obligations.  
811.105 Exemption of certain additional obligations.

AUTHORITY: Sections 3(6), 11(b) of the U.S. Housing Act of 1937 (42 USC 1437a, 1437i).

§ 811.101 Purpose.

The purpose of this Subpart A is to provide a basis for determining tax exemption of obligations of Public Housing Agencies in accordance with sections 3(6) and 11(b) of the United States Housing Act of 1937.

§ 811.102 Definitions.

(a) "Act" means the United States Housing Act of 1937, as amended by section 201 of the Housing and Community Development Act of 1974 (42 USC 1437, note), 42 USC 1437, et seq.

(b) "Department" means the Department of Housing and Urban Development.

(c) "Public Housing Agency" means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of low-income housing projects.

(d) "Secretary" means the Secretary of Housing and Urban Development or designee of the Secretary's authority under sections 3(6) and 11(b) of the Act.

§ 811.103 Tax exemption of obligations.

(a) Subject to requirements of paragraphs (b) and (c) of this section, obligations, including interest thereon, issued by Public Housing Agencies in connection with low-income housing projects developed, acquired or assisted under the Act shall be exempt from all taxation now or hereafter imposed by the United States, whether paid by such Agency or by the Secretary.

(b) To be tax exempt under paragraph (a) of this section, obligations must be issued in connection with a low-income housing project approved by the Department and the amount of the obligations must be approved by the Department as prescribed in § 811.104. An application for a project financed by tax exempt obligations shall be made on a form prescribed by the Department and must be made in accordance with regulations applicable to the project. In order to be eligible for a project involving tax exempt obligations, the applicant must be approved by the Department as a Public Housing Agency and must further be ap-



## RULES AND REGULATIONS

## Title 29—Labor

CHAPTER V—WAGE AND HOUR DIVISION,  
DEPARTMENT OF LABORPART 545—HOMEWORKERS IN  
INDUSTRIES IN PUERTO RICO

## Minimum Wage Rates for Piece Work

proved as qualified to carry out the project.

(c) To obtain the Department's approval of an applicant under paragraph (b) of this section:

(1) An applicant must identify any prior annual contributions contract under the Act (or under the United States Housing Act of 1937 prior to its amendment by the Housing and Community Development Act of 1974) to which contract it is a party and the applicant must also identify any pending application it has made for a contract under the Act. If the applicant has not previously entered into an annual contributions contract, it must furnish sufficient evidence to establish that:

(i) It is legally authorized to engage in or assist in the development or operation of low-income housing; and

(ii) It has the legal capacity to carry out the low-income housing project as described in its application.

(2) If the applicant is applying as an agency or instrumentality in accordance with Sec. 811.102(c), the applicant, in addition to complying with paragraphs (c) (1) (i) and (ii) of this section, must identify the parent entity, must establish the qualifications of that entity under paragraph (c) of this section and must submit documentary evidence of the designation or creation of the applicant as the duly authorized agency or instrumentality of the parent entity with powers to carry out the low-income housing project described in the application.

## § 811.104 Approval of amount of obligations.

Obligations shall be tax exempt under § 811.103(a), only if the amount of the obligation is determined by the Department not to exceed the estimated reasonable development cost of the project plus reasonable expenses of issuing the obligations.

## § 811.105 Exemption of certain additional obligations.

Sections 811.103 (b) and (c) and 811.104 shall not apply to any obligations sold and delivered prior to 5 p.m., e.d.t., January 22, 1975: *Provided*, That evidence of such prior sale and delivery is submitted to the Department and the Department certifies the fact of such prior sale and delivery.

(Sec. 7(d) of the Department of Housing and Urban Development Act, 42 USC 3535(d); sec. 201(b) of the Housing and Community Development Act of 1974, 42 USC 1437, note; sec. 5(b) of the United States Housing Act of 1937, 42 USC 1437c(b).)

*Effective date:* These amendments shall be effective May 27, 1975.

CARLA A. HILLS,  
Secretary of Housing and  
Urban Development.

[FR Doc. 75-13744 Filed 5-23-75; 8:45 am]

Pursuant to the Fair Labor Standards Act of 1938 (52 Stat. 1062, as amended (29 U.S.C. 206), including the Fair Labor Standards Amendments of 1974 (Pub. L. 93-259; 84 Stat. 35)), and Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), Secretary's Order No. 13-71 (36 FR 8755) and Employment Standards Order 1-74 (39 FR 33841), I hereby amend Part 545 of Title 29 of the Code of Federal Regulations by increasing proportionately the piece rates in industries in Puerto Rico as the result of the Fair Labor Standards Amendments of 1974. As the revised rates are commensurate with and reflect the increases in rates under the Fair Labor Standards Amendments of 1974 and are made pursuant to section 6 of the Act, it is found that notice and public procedure are unnecessary and good cause is found to curtail extensive delay in the effective date.

As revised, § 545.9 reads as follows:  
§ 545.9 Minimum piece rates prescribed by the Administrator.

Pursuant to the provisions of section 6(a) (2) of the act, each homemaker shall be paid in lieu of the applicable minimum hourly rates established by wage order, not less than the piece rates

Rate No.	Operations	Leather gloves		Unit of payment
		Fabric gloves for ladies (cents)	Ladies' Men's (cents)	
5	Feather stitch, 5 to 6 stitches per inch	1.577	0.491	Per inch.
6	Large stitch (husky), 5 to 6 stitches per inch	1.479	1.479	Do.
7	Regular stitch, 5 to 6 stitches per inch	1.231	1.553	Do.
8	Slip stitch, hem only, 5 to 6 stitches per inch	1.704	1.061	Do.
10	Swagger stitch, 5 to 6 stitches per inch	1.231	1.553	Do.
11	Whip stitch, 5 to 6 stitches per inch	1.231	1.553	Do.

## (2) Piece rates effective May 1, 1975.

Rate No.	Operations	Leather gloves		Unit of payment
		Fabric gloves for ladies (cents)	Ladies' Men's (cents)	
5	Feather stitch, 5 to 6 stitches per inch	2.065	0.540	Per inch.
6	Large stitch (husky), 5 to 6 stitches per inch	1.627	1.627	Do.
7	Regular stitch, 5 to 6 stitches per inch	1.354	1.708	Do.
8	Slip stitch, hem only, 5 to 6 stitches per inch	1.873	1.167	Do.
10	Swagger stitch, 5 to 6 stitches per inch	1.354	1.708	Do.
11	Whip stitch, 5 to 6 stitches per inch	1.354	1.708	Do.

(b) *Minimum piece rates for the handkerchief, scarf, and art linen industry in Puerto Rico.* The piece rates given below have been adjusted to reflect increases in the minimum hourly wage rates in the industry. The piece rates shown are those which became effective on May 1, 1974 and those effective May 1, 1975, as a result of the Fair Labor Standards Amendments of 1974. Of the rates given

prescribed in this section for the operations described herein. On and after the effective date of any increase in any applicable minimum hourly rate established by said wage orders and until the effective date of corresponding revisions in this section, the minimum piece rates which shall be paid are those given in this section adjusted in the same ratio as the change in the old and new applicable minimum hourly rates.

(a) *Minimum piece rates for the gloves and mittens industry in Puerto Rico.* The piece rates given below have been adjusted to reflect increases in the minimum hourly wage rates for the "hand-sewing on fabric gloves" and the "hand-sewing on leather gloves" classifications. The piece rates shown are those which became effective on May 1, 1974 and those effective May 1, 1975 as a result of the Fair Labor Standards Amendments of 1974. The piece rates for operations on fabric gloves are based upon the minimum hourly rate for the "hand-sewing on fabric gloves" classification which was increased from 50 cents to \$1.20 on May 1, 1974, and to \$1.32 effective May 1, 1975. The piece rates for operations on leather gloves are based upon the minimum hourly rate for the "hand-sewing on leather gloves" classification which was increased from 80 cents to \$1.20 on May 1, 1974, and to \$1.32 effective May 1, 1975. Each piece rate below has been increased by the same percent as the hourly rate upon which it is based was increased.

(1) Piece rates effective May 1, 1974.

below, number 37(b) is based upon the minimum hourly rate for the "oblong scarves" classification which was increased from \$1.60 to \$1.75 on May 1, 1974, and to \$1.90 effective May 1, 1975. Rates numbered 106, 107, and 108 are based upon the minimum hourly rate for the "other operations on products other than oblong scarves" classification which was increased from 85 cents to \$1.20 on

## RULES AND REGULATIONS

May 1, 1974, and to \$1.32 effective May 1, 1975. All other piece rates are based upon the minimum hourly rate for the "hand-sewing on products other than oblong scarves" classification, which was in-

creased from 78 cents to \$1.20 on May 1, 1974, and to \$1.32 effective May 1, 1975. Each piece rate below has been increased by the same percent as the hourly rate upon which it is based was increased.

Rate No.	Operations	Effective May 1, 1974 (cents)	Effective May 1, 1975 (cents)	Unit of payment
1	Arenillas (seed stitch), close, 1/2 in squares	144.00	158.40	Per dozen.
2	Arenillas (seed stitch), scattered 1/2 in squares	72.00	79.20	Do.
5	Basting stitch for trimming, forming crosses, etc., 4 stitches per inch	6.00	6.60	Per dozen inches.
6	Basting and folding hem on edges up to 1 1/2 inch hem	2.40	2.64	Do.
7	Blind hemstitch	24.00	26.40	Do.
8	Buttonhole stitch, 16 stitches per inch	24.00	26.40	Do.
9	Buttonhole stitch, 24 to 30 stitches per inch	36.00	39.60	Do.
10	Chain stitch, 4 stitches per inch	6.00	6.60	Do.
11	Chain stitch, 8 stitches per inch	12.00	13.20	Do.
12	Cord, solid, on stem	37.55	41.31	Do.
15	Couching or flat cord, 4 stitches per inch	6.00	6.60	Do.
16	Cross stitch, 6 crosses per inch	25.55	28.11	Do.
18	Haisies, 12 to 15 stitches, with double embroidery thread	36.00	39.60	Per dozen.
20	Dots, large, not finished off, 2 to 3 stitches	9.55	10.50	Do.
21	Dots, large, not finished off, 12 stitches	18.00	19.80	Do.
22	Dots, large, filled in, finished off, over 12 stitches	36.00	39.60	Do.
23	Dots, large, not filled in, finished off, over 12 stitches	24.00	26.40	Do.
24	Dots, medium, not finished off, 8 to 9 stitches	15.55	17.14	Do.
25	Dots, medium, in groups, not finished off, 5 stitches, with double embroidery thread	10.22	11.24	Do.
26	Dots, medium, finished off, 5 stitches, with double embroidery thread	13.55	14.91	Do.
28	Embroidery, solid, straight, or diagonal, same as image stitch, filled in, loose	48.00	52.80	Per dozen inches.
29	Embroidery, solid, straight or diagonal, same as image stitch, not filled in, loose	36.00	39.60	Do.
31	Feather stitch, 12 stitches per inch	26.68	29.35	Do.
32	Feather stitch cord	14.08	15.49	Do.
34	French knots, not finished off	5.05	5.56	Per dozen.
35	French knots, finished off, with double embroidery thread	9.60	10.56	Do.
37	Hand or French rolling, 10 stitches or less per inch:			
	(a) Square scarves	33.92	37.31	Per 48 inches.
	(b) Oblong scarves	49.46	53.70	Do.
38	Hand or French rolling, 11 stitches or more per inch	40.75	44.83	Do.
46	Leaves, simple	4.48	4.93	Per dozen.
47	Leaves, solid, not finished off, 1/4 in long	15.95	17.55	Do.
48	Leaves, solid, not finished off, 1/4 in to 1/2 in long	24.00	26.40	Do.
49	Leaves, solid, not finished off, 1/2 in to 3/4 in long	48.00	52.80	Do.
69	Rose buds, worm stitch, 4 worms, 2 colors or tones	35.65	39.22	Do.
71	Shadow stitch, up to 1/4 in wide	77.31	85.04	Do.
72	Spiders, 4 legs	24.00	26.40	Do.
73	Spiders, 8 legs	46.91	51.63	Do.

## SCALLOP CUTTING

Hand-cutting machine-embroidered shallow, curved scallops on handkerchiefs or square scarves				
106	Small, measuring from 1/4 in up to but not including 1/2 in along outside edge	63.54	69.89	Per dozen scallops.
107	Medium, measuring from 1/2 in up to but not including 3/4 in along outside edge	80.00	88.00	Do.
108	Large, measuring from 3/4 in to and inclusive of 1 1/4 in along outside edge	120.00	132.00	Do.

NEEDLEPOINT OPERATIONS<sup>1</sup>

109	Compact florals, figures, and landscapes	124.80	137.28	Per 1,000 stitches.
110	Scattered florals	134.40	147.84	Do.
111	Scattered florals consisting of borders or garlands only	144.00	158.40	Do.
112	Combinations of compact center and scattered borders in which the compact portion totals 45 percent or more of the total design	134.40	147.84	Do.
113	Combinations of compact center and scattered borders in which the compact portion totals less than 45 percent of the entire design	144.00	158.40	Do.
114	Must be added to the above piece rates to cover thumb-tack mounting on frame for each piece of canvas. Employers using other methods must set individual rates for mounting and removing canvas in accordance with Section 545.10.	9.60	10.56	

<sup>1</sup> These piece rates do not apply to the following types of needlepoint: a. Florals having more than 10,000 stitches; b. Florals having more than 36 color tones; c. Figures and landscapes having more than 3,000 stitches; d. Figures and landscapes having more than 25 color tones; e. Petit point; f. Stamped grospoint.

<sup>2</sup> A compact design is one in which 50 percent or more of the finished piece contains no spaces of unsewn canvas.

<sup>3</sup> A scattered design is one in which 50 percent or more of the component parts, when finished, are separated by spaces of unsewn canvas.

(c) *Minimum piece rates for the children's dress and related products industry in Puerto Rico.* The piece rates given below have been adjusted to reflect increases in the minimum hourly wage rates for this industry. All activities covered in this industry increased from \$1.60 to \$1.75 an hour on May 1, 1974, and to \$1.90 an hour effective May 1, 1975, as a result of the Fair Labor Standards Amendments of 1974. Each piece rate below has been increased by the same percent as the hourly rate was increased.



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Rate No.	Operations	Effective May 1, 1974 (cents)	Effective May 1, 1975 (cents)	Unit of payment
11	Buttons sewed on with double thread, 2 to 3 stitches....	24.37	26.46	Per dozen.
14	Buttonhole stitch, close.....	157.50	171.00	Per yard.
23	Dots, baby, not finished off, 2 to 3 stitches.....	14.58	15.83	Per dozen.
24	Dots, medium, not filled in, finished off, 8 to 9 stitches.....	23.02	25.07	Do.
29	Feather stitch, 12 stitches per inch.....	116.06	126.66	Per yard.
30	Feather stitch cord.....	61.41	66.07	Do.
32	French knots, not finished off.....	6.81	7.39	Per dozen.
41	Leaves, open $\frac{1}{4}$ inch long.....	70.00	76.00	Do.
42	Leaves, open $\frac{3}{8}$ inch to $\frac{1}{2}$ inch long.....	105.00	114.00	Do.
43	Leaves, simple.....	6.54	7.10	Do.
44	Leaves, solid, not finished off, $\frac{1}{4}$ inch long.....	19.21	20.86	Do.
45	Leaves, solid, not finished off, $\frac{1}{2}$ inch long.....	23.34	25.34	Do.
46	Leaves, solid, not finished off, $\frac{3}{8}$ inch to $\frac{1}{2}$ inch long.....	35.00	38.00	Do.
47	Leaves, solid, finished off, $\frac{3}{8}$ inch to $\frac{1}{2}$ inch long.....	70.00	76.00	Do.
61	Rose buds, worm stitch 4 worms, 1 or 2 colors or tones.....	52.00	56.46	Do.
62	Running stitch on hems up to 1 inch wide, 12 stitches per inch.....	50.39	54.71	Per yard.
63	Running stitch on lace.....	46.45	50.43	Do.
64	Running stitch for plain sewing.....	31.63	31.56	Do.
72	Smocking.....	1.44	1.56	Per dozen stitches.
78	Tucks, stamped, $\frac{1}{8}$ inch to $\frac{1}{4}$ inch wide, up to 6 inches long.....	54.75	59.44	Per dozen.

(d) *Minimum piece rates for the women's and children's underwear and women's blouse industry in Puerto Rico.* The piece rates given below have been adjusted to reflect increases in the minimum hourly wage rate for activities in the "pre-1961 coverage" classification of this industry. The minimum wage rate for these activities was increased from \$1.54 to \$1.69 an hour on May 1, 1974, and to \$1.84 an hour effective May 1,

1975 as a result of the Fair Labor Standards Amendments of 1974. Each piece rate below has been increased by the same percent as the hourly rate upon which it is based was increased. The piece rates for rates-numbered 11, 38 and 73 are not applicable when the operations are performed on articles wholly machine sewn or machine knit.

(1) Piece rates effective May 1, 1974.

Rate No.	Operations	Blouses, neckwear, and silk and synthetic underwear and nightwear (cents)	Cotton underwear and nightwear (cents)	Unit of payment
11	Buttons sewed on with double thread, 2 to 3 stitches....	22.08	19.86	Per dozen.
14	Buttonhole stitch, close.....	152.10	136.89	Per yard.
16	Cutting material applied over lace with hand-embroidered solid cord stitch.....	23.18	20.83	Do.
17	Hand cutting material over lace applique or other material and at edges of garment following machine embroidered cord, large outline, around scallops measuring 1 in or more.....	3.43	Do.	Do.
18	Hand-cutting material over lace applique or other material and at edges of garment following machine embroidered cord, small outline around scallops measuring less than 1 in.....	7.75	Do.	Do.
19	Cutting material under lace or at seams, straight outline, following hand-sewing operation.....	9.50	8.56	Do.
20	Cutting material under lace or at seams, straight outline, following machine operations.....	9.50	9.50	Do.
21	Hand-cutting material underneath straight or nearly straight outline.....	2.63	Do.	Do.
22	Hand-cutting material underneath irregular outline.....	3.93	Do.	Do.
23	Dots, baby, not finished off, 2 to 3 stitches.....	14.07	12.70	Per dozen.
24	Dots, medium, not filled in, finished off, 8 to 9 stitches.....	22.81	21.09	Do.
29	Feather stitch, 12 stitches per inch.....	112.64	101.40	Per yard.
30	Feather stitch cord.....	59.30	53.37	Do.
32	French knots, not finished off.....	7.06	6.34	Per dozen.
38	Hemming stitch for felling, cuffs, collars, plackets, and waist bands, 8 to 10 stitches per inch.....	75.60	68.05	Per yard.
41	Leaves, open $\frac{1}{4}$ in long.....	67.60	60.84	Per dozen.
42	Leaves, open $\frac{3}{8}$ in to $\frac{1}{2}$ in long.....	101.40	91.36	Do.
43	Leaves, simple.....	7.06	5.66	Do.
44	Leaves, solid, not finished off, $\frac{1}{4}$ in long.....	18.57	16.71	Do.
45	Leaves, solid, not finished off, $\frac{1}{2}$ in long.....	22.52	20.28	Do.
46	Leaves, solid, not finished off, $\frac{3}{8}$ in to $\frac{1}{2}$ in long.....	33.80	30.42	Do.
47	Leaves, solid, finished off, $\frac{3}{8}$ in to $\frac{1}{2}$ in long.....	67.60	60.84	Do.
52	Pasadas, short, 1 in to 8 in.....	15.76	15.76	Per dozen pasadas.
53	Patches, sewed on with single point de ture.....	306.65	302.09	Per yard.
54	Patches, rectangular, sewed on with blind stitch, up to $\frac{1}{4}$ in.....	21.26	19.12	Per dozen inches.
55	Patches, sewed on with solid cord, cutting and basting included.....	331.24	298.12	Per yard.
61	Rose buds, worm stitch, 4 worms, 1 or 2 colors or tones.....	50.22	45.18	Per dozen.
66	Shadow stitch, up to $\frac{3}{8}$ in wide.....	326.72	294.06	Per yard.
72	Smocking.....	1.39	1.24	Per dozen stitches.
78	Tucks, stamped, $\frac{1}{8}$ in to $\frac{1}{4}$ in wide, up to 6 in long.....	52.87	47.59	Do.

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## (2) Piece rates effective May 1, 1975.

Rate No.	Operations	Blouses, neckwear, and silk and synthetic underwear and nightwear (cents)	Cotton underwear and nightwear (cents)	Unit of payment
11	Buttons sewed on with double thread, 2 to 3 stitches....	24.04	21.62	Per dozen.
14	Buttonhole stitch, close.....	165.60	149.04	Per yard.
16	Cutting material applied over lace with hand-embroidered solid cord stitch.....	25.24	22.68	Do.
17	Hand cutting material over lace applique or other material and at edges of garment following machine embroidered cord, large outline, around scallops measuring 1 in or more.....	3.73	Do.	Do.
18	Hand cutting material over lace applique or other material and at edges of garment following machine embroidered cord, small outline, around scallops measuring less than 1 in.....	8.44	Do.	Do.
19	Cutting material under lace or at seams, straight outline, following hand-sewing operation.....	10.34	9.32	Do.
20	Cutting material under lace or at seams, straight outline, following machine operations.....	10.34	10.34	Do.
21	Hand cutting material underneath straight or nearly straight outline.....	2.86	Do.	Do.
22	Hand cutting material underneath irregular outline.....	4.28	Do.	Do.
23	Dots, baby, not finished off, 2 to 3 stitches.....	15.32	13.83	Per dozen.
24	Dots, medium, not filled in, finished off, 8 to 9 stitches.....	24.29	21.87	Do.
29	Feather stitch, 12 stitches per inch.....	122.68	110.40	Per yard.
30	Feather stitch cord.....	64.56	58.11	Do.
32	French knots, not finished off.....	7.69	6.90	Per dozen.
38	Hemming stitch for felling, cuffs, collars, plackets, and waist bands, 8 to 10 stitches per inch.....	82.31	74.09	Per yard.
41	Leaves, open $\frac{1}{4}$ in long.....	73.60	66.24	Per dozen.
42	Leaves, open $\frac{3}{8}$ in to $\frac{1}{2}$ in long.....	110.40	99.36	Do.
43	Leaves, simple.....	7.69	6.16	Do.
44	Leaves, solid, not finished off, $\frac{1}{4}$ in long.....	20.22	18.19	Do.
45	Leaves, solid, not finished off, $\frac{1}{2}$ in long.....	24.52	22.08	Do.
46	Leaves, solid, not finished off, $\frac{3}{8}$ in to $\frac{1}{2}$ in long.....	36.80	33.12	Do.
47	Leaves, solid, finished off, $\frac{3}{8}$ in to $\frac{1}{2}$ in long.....	73.60	66.24	Do.
52	Pasadas, short, 1 in to 8 in.....	17.16	17.16	Per dozen pasadas.
53	Patches, sewed on with single point de ture.....	366.53	329.88	Per yard.
54	Patches, rectangular, sewed on with blind stitch, up to $\frac{1}{4}$ in.....	23.15	20.82	Per dozen inches.
55	Patches, sewed on with solid cord, cutting and basting included.....	360.64	324.58	Per yard.
61	Rose buds, worm stitch, 4 worms, 1 or 2 colors or tones.....	54.68	49.19	Per dozen.
66	Shadow stitch, up to $\frac{3}{8}$ in wide.....	355.72	330.16	Per yard.
72	Smocking.....	1.51	1.35	Per dozen stitches.
78	Tucks, stamped, $\frac{1}{8}$ in to $\frac{1}{4}$ in wide, up to 6 in long.....	57.56	51.81	Do.

## (e) [Reserved]

(f) *Minimum piece rates for the leather, leather goods and related products industry in Puerto Rico.* The piece rates given below have been adjusted to reflect increases in the minimum hourly wage rate for the "other products and activities" classification of the industry. The minimum hourly wage rate for this classification was increased from \$1.425 to \$1.575 on May 1, 1974, and to \$1.725 effective May 1, 1975, as a result of the Fair Labor Standards Amendments of 1974. Each piece rate below has been increased by the same percent as the hourly rate was increased.

Rate No.	Operations	Effective May 1, 1974 (cents)	Effective May 1, 1975 (cents)	Unit of payment
1	Hand-lacing, single stitch, with plastic lacing material, of leather wallets and leather wallet covers.....	1.92	2.10	Per dozen stitches.
2	Hand-lacing, double stitch, with plastic lacing material, of leather wallets and leather wallet covers.....	4.73	5.18	Do.
3	Hand-lacing, double stitch, with plastic lacing material, of plastic wallets.....	5.87	6.43	Do.

(52 Stat. 1060 (29 U.S.C. 206) )

Signed at Washington, D.C. this 16th day of May 1975.

WARREN D. LANDIS,  
Acting Administrator, Wage and Hour  
Division, U.S. Department of Labor.

[FR Doc. 75-13599 Filed 5-23-75; 8:45 am]

Title 43—Public Lands: Interior  
CHAPTER II—BUREAU OF LAND  
MANAGEMENT

APPENDIX—PUBLIC LAND ORDERS  
[Public Land Order 5499; Idaho 5276]  
IDAHO

Revocation of Reclamation Withdrawals  
Correction

In FR Doc. 75-12127, appearing on page 20084 in the issue of Thursday, May 8, 1975, make the following change: In the second column, the thirty-first

line of the description for Boise Meridian should read, "SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ ".

Title 45—Public Welfare  
CHAPTER VII—COMMISSION ON CIVIL  
RIGHTS

PART 704—INFORMATION DISCLOSURE  
AND COMMUNICATIONS

Freedom of Information; Miscellaneous  
Amendments

On page 17267 of the FEDERAL REGISTER of April 18, 1975, there was published a

proposal to amend 45 CFR Part 704, § 704.1 Materials available pursuant to 5 U.S.C. 552 as amended. The amendments add a definition section to § 704.1 for key terms. All of the previous § 704.1(d) is deleted and replaced by a new (d) which establishes request procedures, Commission response standards, and time limitations on Commission action on FOIA requests. This new section complies with the requirements of 1974 FOIA amendments. Section 704.1(e) was published as a proposed rule in January 1975 and now is further amended to add provisions for waiver or reduction of fees, appeals from denials of waiver or reduction of fees requests, Commission action on such requests, and time limitations on Commission action. Section 704.1(f) (1) has been amended to reflect statutory changes in FOIA exemptions one and seven. The Commission amendments delete § 704.1 (f) (2) and (3) and replace those provisions with new paragraph (f) (2) and (3) which comply with the 1974 FOIA amendments by incorporating the changes in exemption 7 regarding investigatory records and adding the requirement on the Commission to delete only the exempt portions of requested records and not the entire record. The appeals paragraph § 704.1(g) is replaced in its entirety; although much of the original provision is retained (in different form), time requirements on the Commission are added for processing appeals, including a provision for extension of time as authorized under 5 U.S.C. 552(a) (6) (A).

As a result of comments received, the following changes are made:

1. In § 704.1(d) (1) (ii) the cross reference is to § 704.1(d) (1) (i) (B) instead of § 704.1(d) (1) (i) (A) as stated in the proposed rules published on April 18, 1975.

2. Section 704.1(d) (1) (iii) of the proposed rules contained a cross reference to § 704.1(d) (1) (i) (B) and that "(B)" in the cross reference is omitted.

Accordingly, with these changes and additions, the proposed amendments are adopted as set forth below.

ARTHUR S. FLEMMING,  
Chairman.

§ 704.1 Material available pursuant to 5 U.S.C. 552.

(a) *Purpose, scope, and definitions.* (1) This section contains the regulations of the U.S. Commission on Civil Rights implementing 5 U.S.C. 552. These regulations inform the public with respect to where and how records and information may be obtained from the Commission. Officers and employees of the Commission shall make Commission records available under 5 U.S.C. 552 only as prescribed in this section. Nothing contained in this section, however, shall be construed to prohibit officers or employees of the Commission from routinely furnishing information or records which are customarily furnished in the regular performance of their duties.

(2) For the purposes of these regulations the terms listed below are defined as indicated:

"Commission" means the United States Commission on Civil Rights;



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"General Counsel" means the General Counsel of the United States Commission on Civil Rights or his/her designee;

"FOIA" Freedom of Information Act, 5 U.S.C. 552;

"FOIA Request" means a request in writing, for records pursuant to 5 U.S.C. 552 which meets the requirements of 704.1(d) herein. These regulations do not apply to telephone or other oral communications and requests not complying with 704.1(d)(1)(i);

"Staff Director" means the Staff Director of the United States Commission on Civil Rights.

(b) *General policy.* In order to foster the maximum participation of an informed public in the affairs of Government, the Commission will make the fullest possible disclosure of its identifiable records and information consistent with such considerations as those provided in the exemptions of 5 U.S.C. 552, which are set forth in paragraph (f) of this section.

(c) *Material maintained on file pursuant to 5 U.S.C. 552(a)(2).* Material maintained on file pursuant to 5 U.S.C. 552(a)(2) shall be available for inspection during regular business hours at the offices of the Commission at 1121 Vermont Avenue, NW, Washington, D.C. 20425. Copies of such material shall be available upon written request, specifying the material desired, addressed to the Office of General Counsel, U.S. Commission on Civil Rights, Washington, D.C. 20425, and upon the payment of fees, if any, determined in accordance with paragraph (e) of this section.

(1) *Current index.* Included in the material available pursuant to 5 U.S.C. 552(a)(2) shall be an index of:

(i) all other material maintained on file pursuant to 5 U.S.C. 552(a)(2); and  
(ii) all material published by the Commission in the FEDERAL REGISTER and currently in effect.

(2) *Deletion of identifying details.* Wherever deletions from material maintained on file pursuant to 5 U.S.C. 552(a)(2) are required in order to prevent a clearly unwarranted invasion of privacy, justification for the deletions shall be placed as a preamble to documents from which such deletions are made.

(d) *Materials available pursuant to 5 U.S.C. 552(a)(3).*

(1) *Request Procedures.* (i) Each request for records pursuant to this subsection shall be in writing over the signature of the requester, addressed to the Office of General Counsel, U.S. Commission on Civil Rights, Washington, D.C. 20425 and: (A) Shall clearly and prominently be identified as a request for information under the Freedom of Information Act (if submitted by mail or otherwise submitted in an envelope or other cover, be clearly and prominently identified as such on the envelope or other cover—e.g., FOIA); and (B) shall contain a sufficiently specific description of the record requested with respect to names, dates, and subject matter to permit such record to be identified and located; and (C) shall contain a statement

that whatever costs involved pursuant to § 704.1(e) will be paid, that such costs will be paid up to a specified amount, or that waiver or reduction of fees is requested pursuant to § 704.1(e).

(ii) If the information submitted pursuant to § 704.1(d)(1)(i)(B) is insufficient to enable identification and location of the records, the General Counsel shall as soon as possible notify the requester in writing indicating the additional information needed. Every reasonable effort shall be made to assist in the identification and location of the record sought. Time requirements under these regulations are tolled from the date notification under this subsection is sent to the requester until an answer in writing to such notification is received from requester.

(iii) A request for records which is not in writing or does not comply with § 704.1(d)(1)(i) is not a request under the Freedom of Information Act and the 10 day time limit for agency response under the Act will not be deemed applicable.

(iv) Except as otherwise provided herein, the General Counsel shall immediately notify the requester of noncompliance with § 704.1(d)(1)(i)(C) and § 704.1(e).

(2) *Agency determinations.* (i) Responses to all requests pursuant to 5 U.S.C. 552(a)(3) shall be made by the General Counsel in writing to the requester within 10 working days after receipt by the General Counsel of such request except as specifically exempted under § 704.1(d)(1)(ii), (iii) and (iv), and shall state: (A) Whether and to what extent the Commission will comply with the request; (B) the probable availability of the records or that the records may be furnished with deletions or that records will be denied as exempt pursuant to 5 U.S.C. 552(b)(1)-(ix); (C) the estimated costs, determined in accordance with 704.1(e) herein, including waiver or reduction of fee as appropriate and any deposit or prepayment requirement; and (D) when records are to be provided, the time and place at which records or copies will be available determined in accordance with the terms of the request and with § 704.1(d)(3). Such response shall be termed a determination notice.

(ii) In the case of denial of requests in whole or part the determination notice shall state: (A) Specifically what records are being denied; (B) the reasons for such denials; (C) the specific statutory exemption(s) upon which such denial is based; (D) the names and titles or positions of every person responsible for the denial of such request; and (E) the right of appeal to the Staff Director of the Commission and procedures for such appeal as provided under § 704.1(g).

(iii) Each request received by the Office of General Counsel for records pursuant to these regulations shall be recorded immediately. The record of each request shall be kept current, stating the date and time the request is received, the name and address of the person making

the request, any amendments to such request, the nature of the records requested, the action taken regarding the request, including waiver of fees, extensions of time pursuant to 5 U.S.C. 552(a)(6)(B), and appeals. The date and subject of any letters pursuant to § 704.1(d)(1) or agency determinations pursuant to (d)(2)(i), the date(s) any records are subsequently furnished, and the payment requested and received.

(3) *Time limitations.* (i) Time limitations for agency response to a request for records established by these regulations shall begin when the request is recorded pursuant to § 704.1(d)(2)(iii). A written request pursuant to FOIA but sent to an office of the Commission other than the Office of General Counsel shall be dated stamped, initialed and redirected immediately to the Office of General Counsel. The required period for agency determination shall begin when it is received by the Office of General Counsel in accordance with § 704.1(d)(2)(iii).

(ii) In unusual circumstances, pursuant to 5 U.S.C. 552(a)(6)(B), the General Counsel may, in the case of initial determinations under these regulations, extend the 10 working day time limit in which the agency is required to make its determination notification. Such extension shall be communicated in writing to the requesting party setting forth with particularity the reasons for such extension and the date on which a determination is expected to be transmitted. Such extensions may not exceed 10 working days for any request and may only be used to the extent necessary to properly process a particular request. Such extension is permissible only where there is a demonstrated need: (A) To search for and collect the requested records from field facilities or other establishments that are separate from the Office of General Counsel; (B) to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or (C) for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the same agency having substantial subject matter interest therein.

(e) *Fees.*—(1) *Fee schedule:*

(i) Photocopy reproductions from all types of copying processes, each reproduction image—\$.03.

(ii) Standard searching, per hour (minimum charge one-quarter hour)—\$4.09.

(iii) Searching requiring particular training or skills not required of clerical personnel, per hour (minimum one-half hour)—\$8.88.

(iv) The above search fee is not applicable to computerized record search: In situations involving the use of computers to locate and extract the requested information charges will be based only on the direct cost to the agency, including labor, material and computer time.

(v) There will be a charge of \$1.00 each for certification of true copies.

(vi) Payment of fees shall be made by cash (if delivered in person), check or money order payable to "U.S. Treasury".

(2) The General Counsel may in his/her discretion, waive fees in whole or part otherwise assessable under paragraph (e)(1) of this section where:

(i) The total cost of providing the records is less than \$5.00.

(ii) Payment of the full fee by a State or local government agency, or nonprofit group would not be in the general public interest.

(iii) The records have been requested by a Federal agency, a foreign government, or an international governmental organization.

(3) Fees shall be waived or reduced for records requested in writing under § 704.1 when the General Counsel determines that:

(i) An individual has provided sufficient evidence in a signed statement that he is indigent and that reduction or waiver would not constitute an unreasonable expense to the Commission.

(ii) A person has demonstrated in a written statement that waiver or reduction of the fees is in the public interest because furnishing the information primarily benefits the general public. Requests for waiver or reduction under this subsection must be accompanied by a signed statement indicating ability to pay.

(4) Whenever waiver or reduction of fee is granted only one copy of the record will be furnished.

(5) Appeals from denials of requests for waiver or reduction of fees shall be considered by the Staff Director pursuant to the criteria set forth in § 704.1(e)(2) and (3). Appeal procedure under this subsection shall be in accordance with § 704.1(g) herein.

(6) Whenever a notification is required under § 704.1(d)(1)(iv) or the estimated costs exceed the limit established by the requesting party and the General Counsel has not determined to waive or reduce such fees as provided herein, such notification shall:

(i) Provide the requesting party with such information regarding cost as may be available;

(ii) Extend an offer to the requesting party to confer with the General Counsel in an attempt to reformulate the request in a manner that will minimize the fees and still meet the needs of the requesting party;

(iii) Inform the requesting party that the time requirement imposed by § 704.1(d)(2)(i) will be tolled pending a reformulation of the request, or receipt of an agreement from the requester to bear the estimated costs.

(7) Whenever a requesting party is notified of the possibility of an unproductive search in accordance with § 704.1(d)(2)(i)(B), no search will be conducted until prepayment is made or waived under § 704.1(e)(2) or (3). The

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time requirement under § 704.1(d)(2)(i) will be tolled from the date of dispatch prepayment as required.

(8) Whenever the estimated cost of providing requested records exceeds \$25.00, the requesting party will be so notified and required to prepay the estimated cost, unless waived, before a search for such records will be conducted. The time requirement under § 704.1(d)(2)(i) will be tolled from the date of dispatch of notification until the requester makes prepayment as required.

(f) *Exemptions* (5 U.S.C. 552(b))—

(1) *General.* The Commission may exempt from disclosure matters that are:

(i) (A) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive Order.

(ii) Related solely to the internal personnel rules and practices of an agency;

(iii) Specifically exempted from disclosure by statute;

(iv) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(v) Interagency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency;

(vi) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(vii) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would: (A) Interfere with enforcement proceedings; (B) deprive a person of a right to a fair trial or an impartial adjudication; (C) constitute an unwarranted invasion of personal privacy; (D) disclose the identity of a confidential source, and in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, would disclose confidential information furnished only by the confidential source; (E) disclose investigative techniques and procedures; or (F) endanger the life or physical safety of law enforcement personnel.

(viii) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; and

(ix) Geological and geophysical information and data, including maps, concerning wells.

(2) *Investigatory records* (5 U.S.C. 552(b)(7)). (i) Among the documents exempt from disclosure pursuant to 704.1(f)(1)(vii) shall be investigative files or similar documents reflecting investigations which either are conducted for the purpose of determining whether a viola-

tion(s) of legal right has taken place, or have disclosed that a violation(s) of legal right has taken place, but only to the extent that production of such records would: (A) Deprive a person of a right to a fair trial or an impartial adjudication; (B) constitute an unwarranted invasion of personal privacy; (C) disclose the identity of a confidential source; (D) disclose investigative techniques and procedures; or (E) endanger the life or physical safety of law enforcement personnel.

(ii) Among the documents included in paragraph (f)(2)(1)(C) of this section, shall be documents which disclose the fact or the substance of a communication made to the Commission in confidence relating to an allegation or support of an allegation of wrongdoing by certain persons. It is sufficient under this subsection to indicate the confidentiality of the source if the substance of the communication or the circumstances of the communication indicate that investigative effectiveness will be inhibited by disclosure.

(3) Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection.

(g) *Administrative appeals.* (1) These procedures apply whenever a requester is either denied records under 704.1(d)(2)(i) or denied waiver or reduction of fees under § 704.1(e)(2) or (3).

(2) Parties may appeal 704.1(d)(2)(i) and (e)(2) or (3) decisions within 90 days of the date of such decision by filing a written request for review addressed to the Staff Director, U.S. Commission on Civil Rights, Washington, D.C. 20425, by certified mail, including a copy of the written denial, and may include a statement of the circumstances, reasons or arguments advanced in support of disclosure or waiver/reduction of fees. Review will be made by the Staff Director on the basis of the written record.

(3) The decision on review of any appeal filed under this subsection shall be in writing over the signature of the Staff Director, will be promptly communicated to the person requesting review, and will constitute the final action of the Commission.

(4) Determinations of appeals filed under this subsection shall be made within 20 working days after the receipt of such appeal. If, on appeal, denial of records is in whole or part upheld, the Staff Director shall notify the persons making such request of the provisions for judicial review of that determination under 5 U.S.C. 552(a)(4).

(5) An extension of time may be granted under this subsection pursuant to criteria established in § 704.1(d)(3)(ii) (A) to (C), except that such extension together with any extension which may have been granted pursuant to § 704.1(d)(3)(ii) may not exceed a total of 10 working days.

[FR Doc. 75-13739 Filed 5-23-75; 8:45 am]

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**Title 47—Telecommunication**  
**CHAPTER I—FEDERAL**  
**COMMUNICATIONS COMMISSION**  
 [Docket No. 19622; FCC 75-542]

**PART 73—RADIO BROADCAST SERVICES**  
**Prime Time Access Rule; Third Report and Order<sup>1</sup>**

1. In this Third Report and Order, the Commission deals with some aspects of its recently amended "prime time access rule" (§ 73.658(k) (40 FR 12088) of the Commission's rules) pursuant to a decision of the U.S. Court of Appeals for the Second Circuit, decided April 21, 1975.<sup>2</sup>

2. In summary, this decision contains the following actions and other determinations concerning the points mentioned by the Court:

(a) The rule amendments adopted in January 1975 ("PTAR III") with modifications adopted herein as to Saturday night and feature film, will become effective September 8, 1975, the date contemplated in the January decision.

(b) At least for the first year of the rule (1975-76), there will be no overall "ceiling" on the amount of time which stations under the rule may devote to network or off-network material under the exemption for children's, documentary or public affairs programming (exemption (1) to the rule).

(c) However, at least for the first year, there may be no use of network or off-network material under that exemption on Saturday night; and feature films (movies) also may not be used on Saturday night in "cleared" or "access" time by stations subject to the rule.

(d) Feature films may be shown by stations on an individual basis on other nights of the week without any restriction such as where or when the movie was previously shown, or its origin.

(e) With respect to the last three matters—absence of a ceiling, rules concerning Saturday night, and feature film—the rules adopted herein do not specify any time limit on the duration of the pertinent provisions. However, it should be understood that these are being adopted as appropriate for the first year, 1975-76. The operation of the rule as modified will be closely observed during the year, and if it appears that the public interest would be served thereby, changes will be proposed for the future.

(f) "Public affairs" programs are defined for the purpose of exemption (1) to the rule.

This decision also discusses some other matters mentioned by the Court in its opinion, although not as specifically requiring Commission action.

The January 1975 decision and the Court's opinion. 3. In brief, the Commission's January 1975 decision adopting

<sup>1</sup> We are reopening this Docket in order to deal with matters discussed herein.

<sup>2</sup> National Association of Independent Television Producers and Distributors et al v. FCC, Case Nos. 75-4021 et al, opinion by Gurfein, J. (Slip Opinion).

"PTAR III" (Second Report and Order in Docket 19622, 50 FCC 2d 829) retained the basic concept of an hour of prime time each evening "cleared" of network or off-network programming, for stations in the top 50 markets which are network-owned or affiliated. Six exemptions from this concept for network or off-network programs were adopted. Four of these were codifications of waiver policies which had developed under the rule (concerning network news if preceded by a full hour of local news, sports rundowns, time-zone-difference situations and special network programs using access time as well as network prime time), and one was basically a continuation of an exemption previously in the rule (network coverage of fast-breaking events and political broadcasts). The other exemption—exemption (1)—provides that network or off-network material need not be counted toward the permissible three hours if it is programming designed for children aged two to 12, documentary programs, or public affairs programs. The decision also adopted a new rule as to feature films, providing that they could be shown in cleared or access time without restriction if never shown on a network, and are completely barred from access time (just like other off-network programs) if they formerly were played on a network.

4. The Court generally affirmed the Commission, both as to the basic rule and as to exemption (1), but it remanded the case for consideration and revision of the rules adopted in three respects. First, the Court directed the Commission to develop a definition of "public affairs" programs comparable to those adopted for children's and documentary programs. Second, the Commission was directed to reconsider its statement in the decision that the networks should present programs under exemption (1) on Saturday night only if required by "compelling public interest reasons". The Court viewed this as an improper delegation of the Commission's obligation to determine what is in the public interest, and directed us either to embody the concept in the rule or drop the admonition. Third, the Court held the new feature film provision to be "arbitrary and capricious", and ordered us to reconsider this matter. Finally, remanding the case for these reasons, the Court also directed us to re-determine the date on which the changes should become effective and in conjunction with that, to consider possible ceilings on the total amount of time which could be used for programming under exemption (1).

A. The effective date, the question of a "ceiling", and the Saturday night provisions. 5. These three subjects, which are related insofar as they bear on the operation of the rule during the 1975-76 year, are discussed together. It should be noted that the questions and the following discussion relate only to use of network or off-network material under "Exemption (1)" for network or off-network material falling into certain program categories. The propriety of the other five exemptions to the rule are not at issue.

6. Effective date. We have concluded that the new rule should be put into effect at the date contemplated in the PTAR III decision—September 8, 1975—without any overall ceiling with respect to use of material under Exemption (1), but with an absolute prohibition on its use, or use of feature films on Saturday night. We reach this conclusion essentially for three reasons: (1) the importance of bringing to the public at an early date the public-interest benefits intended by PTAR III, and (2) the limited degree of impact on the availability of access time to non-network sources of new material and the resultant small likelihood of undue harm to producers and distributors of independent programming; and (3) the absolute protection to access programs, especially hour-long programs and local material, on Saturday night, which we are affording by our actions herein. See pars. 21-22 infra.

7. We concluded in our January 1975 decision that the exemption is necessary to facilitate the presentation of important material of certain types (children's programming, documentaries and public affairs) whose showing is inhibited by the rule as it now stands. We concluded that these benefits should be brought to the public at an early date. See Second Report and Order, FCC 75-67, pars. 21, 29-30, 32-33, 38, 41, 46 and 64; 50 FCC 2d 829 at 838, 840-843, 845-848, 852-853. The general principle that the public should have the benefit of a new policy at an early date is especially compelling when the rule at issue has the impact on the public involved here, in that "(it) directly affects what millions of Americans watch on television for an hour every night and, indirectly, may affect all prime time programming." NAITPD v. FCC, 502 F. 2d 249, 257 (C.A. 2, 1974). We adhere to our earlier view; as to specific benefits, see pars. 9, 18 and 19 infra.

8. In view of the limited impact to be expected from the exemption, discussed below, it is not appropriate to deny the public the benefits of the modified rule for a year. We have also considered the possibility of setting an effective date at some intermediate time, such as January or March 1976, and have decided against it. Aside from the fact that we have no information indicating that any such delay to a "mid-season" date would be of much value to independent producers, this would mean the retention of the present rule's inhibition for another year in an important area, that of network children's specials which under PTAR I generally begin only at 8 p.m. As mentioned in the Commission's papers filed in Court in February 1975 in opposition to a Motion for a Stay (p. 20, footnote 9), the period from October through New Year's is the important time for such material, with some 20 having occurred between October 28, 1974 and January 1975, according to TV Guide listings.

9. In our judgment, the early provision of these benefits outweighs whatever disadvantages may result to those private interests which may be affected (independent producers and distributors) to

the extent that these are pertinent to the public interest. The impact from the "PTAR III" changes was designed to be relatively small, for example as compared with those in "PTAR II", and the possible impact is lessened by our action herein completely preserving access time on Saturday night for new non-network material. It appears that the regular 1975-76 network programming during what is presently "access time" will amount to no more than the additional Sunday hour for each network mentioned. While we foresee that there will be some additional network programming on an occasional basis, e.g., specials in the children's and other exempt categories, it is not anticipated that this would occur with great frequency. Pertinent here are marketplace conditions—the fact that the exempt categories include "the less commercially attractive programs." NAITPD v. FCC (1975), Slip Opinion p. 3023. With respect to possible use of off-network programs under "Exemption (1)", it is more difficult to get a reasonable idea of what will occur; but again it does not appear that the impact would be great. (See par. 17, infra).

10. We have taken into account, as suggested by the Court, the "number of independent programs for first-run syndication then available for early production." The evaluation of this subject is of necessity somewhat inexact. It is not easy to predict, from among the many programs offered early in the year (for example at the N.A.T.P.E. convention in February) how many will get enough customers to warrant going into production for the fall, aside from any uncertainties as to the rule. Moreover, it is hard to say, from this standpoint, what should be classified as an "access program", since numerous programs are shown in access time on one or several affiliated top-50-market stations but also in a number of places at other times, on independent stations or in markets outside the top 50.<sup>3</sup>

11. As far as we can determine from the limited inquiry which time permits, there are some 12 to 14 new syndicated regular program series designed primarily for "access period" use, which were in reasonably definite form as of early spring 1975 and which, at least in the absence of the PTAR III changes, might have a good chance of being seen in fall 1975. Three of these (two game shows which are also in daytime network television, and the MCA Don Adams Screen Test program) will definitely be available this

<sup>3</sup> At an earlier stage of the proceeding, ABC presented a tabulation showing that of 58 syndicated programs shown to some extent in prime time in the top 50 markets (on affiliated or independent stations), only 26 were not also shown in some markets in non-prime time, in 7 cases the non-prime showings outnumbering those in prime time. Of 32 programs shown in 70 or more markets in prime time, only 10 did not also have non-prime showings and 7 had 25% or more of their exposure in non-prime time.

fall in any event.<sup>4</sup> One syndicator claims that the success of his new Bobby Vinton variety-show series, will be jeopardized by the changes; but with a contract covering all 5 CBS-owned stations (at least four in access time) and purchase by two of the other multiple-owner stations mentioned, we certainly cannot assume here that this program will not be successful. Space: 1999, a science fiction series and the only one-hour program in the group, also appears to have a good chance of success under the changed rule, with sale in about half of the top 50 markets including 5 of the top 10 (to independent stations in the top 3) according to Television/Radio Age magazine for April 28. At the other end of the scale, one entertainment program (not a game show) is contracted for by one network company for some of its owned stations only for purchase if PTAR I remains in effect.<sup>5</sup> As to the other programs, it is not possible to say with assurance that PTAR I versus PTAR III would or would not be of crucial importance; some might succeed under PTAR III and others might not be successful under PTAR I.<sup>6</sup>

12. It is similarly difficult to evaluate the impact of the rule with respect to programs in access syndication for 1974-75, as to their availability in 1975-76. For the most part, programs tend to succeed or fail according to their audience appeal.<sup>7</sup> Of a total of 24 programs shown in access time in more than three markets in early 1975,<sup>8</sup> eleven were game shows. It appears that three of these definitely will not be in production, and two others (including that mentioned in footnote 5, above) are questionable. As far as we can determine from the available information, all of the five wildlife or "animal" shows will return (including Wild Kingdom and Animal World). With respect to the 8 other programs (drama, variety, etc.) one was not actually in new production this year and we assume

<sup>4</sup> MCA, in a letter to the Commission, has disassociated itself from the letter of syndicator Sandy Frank urging that PTAR III be postponed.

<sup>5</sup> One existing game-show program is under a similar contingent arrangement with the network group.

<sup>6</sup> The other program series include Skiboy (about a young skier training to make the Olympic team, 13 episodes of which have been produced); Wonderful World of Magic (a series made from tapes of many magicians, with a well-known host); Off Ramp 20, a comedy series; and other programs.

<sup>7</sup> As pointed out in the Appendix to our Second Report and Order (FCC 75-67, Appendix C, p. 39), an exhibit of the major film companies shows 48 syndicated programs which have been produced for access time but have not been continued, including Primus, Dr. Kildare, Dusty's Trail and Ozzy's Girls.

<sup>8</sup> The figure of 24 is based on a list derived from ARB Reports for February 1975, which included only half-hour shows run between 7 and 8 Monday-Saturday and 7-7:30 Sunday. We have added the Welk and Hee Haw hour-long programs, and two programs shown in several markets late Sunday evening (Protectors and Evil Touch).

it will not be seen to any substantial extent this fall; there appears to be a question about two others, and five apparently will definitely return. Thus, the number of these programs which will be available this fall appears to range from 16 to 20. Combined with the successful new programs, the total body of material does not appear to be greatly different from what it was last year.

13. We cannot find, in the matters discussed in the last few paragraphs, reason not to put the rule into effect at an early date, in light of our conclusion that the public interest would be served by that course. In view of the small extent of the impact from the PTAR III changes, especially with the new complete protection of the important Saturday night period, claims of serious injury, if the rule goes into effect this year, must be regarded as substantially speculative. Moreover, to a large extent the claims involve losses which would be likely to occur at whatever time the rule goes into effect and the number of protected access periods is thereby somewhat reduced, whether this occurs in fall 1975 or fall 1976. These parties have had notice since mid-November 1974 as to the Commission's intentions, and thus made their commitments with knowledge thereof. As far as equities are concerned, we would also have to consider the situations of the networks (or the producers of their new programs), who have relied on our November notice and January decision, and have committed themselves accordingly.<sup>9</sup> Moreover, access period producers have been on notice, at least since January 1974 when PTAR II was adopted, that the Commission contemplated some reduction in access time. With our decision herein released early in May, and if it receives judicial affirmation soon thereafter, the position of the access producers will be similar to that of the networks after the Mount Mansfield case four years ago, where the interval between the Court's decision and the effective date of the regulation upheld was less than five months (Mount Mansfield Television, Inc. v. FCC 442 F. 2d 470 (2nd Cir., May 3, 1971)).

14. We also mention one other significant reason for putting the rule into effect at an early date—to avoid the need for consideration of individual waiver requests, particularly for individual "off-network" programs. We have long recognized this as a problem, and the Court in its April 21 opinion expressed disapproval of the waiver situation and cautioned us not to use it in the future in connection with determinations as to whether individual programs come

<sup>9</sup> NBC has estimated its losses following the Court reversal of the "PTAR II" decision at approximately \$2.5 million—\$3.4 million for the cost of the additional programs ordered, less some \$900,000 it was able to save in re-run costs when it used the programming this spring.



within the "Exemption (1)" categories.<sup>10</sup>

15. The imposition of an overall ceiling on "Exemption (1)" material. The Court, in connection with its direction for us to redetermine the effective date, stated (Slip Opinion p. 3034): "The Commission should consider, in conjunction with its new effective date, a ceiling on total hours allowed for the exempted network programs in light of the number of independent programs for first-run syndication then available for early production."

16. We have decided not to adopt such a ceiling, at least for the first year, for three reasons: first, it does not appear to be necessary to afford sufficient protection for access time availability to sources of new non-network material; second, at least at this time on the information now before us, we have no basis for intelligent formulation of an appropriate restriction applicable to each and every station subject to the rule; and third, there is an alternative means of affording a substantial degree of protection, that of not permitting the exemption to be used on Saturday night, a highly important time for access-period material.

17. As to the first of these considerations, the facts with respect to proposed network use of the exemption have been set forth in par. 9. With respect to possible use of off-network programs, it is more difficult to get a reasonable idea of what will occur, but it does not appear that the impact will be great. Inquiry of 6 large multiple owners, whose stations include 20 affiliates in the top 10 markets and 10 more in the top 50, discloses no present plans to use any off-network material on a regular basis significantly different from the present usage of off-network material pursuant to Commission waivers.<sup>11</sup> In this regard a Commission staff analysis of a week of fall 1974 access programming in 48 of the 50 affected markets revealed that less than 3.5 percent of the access period (69 half-hours out of a total of more than 2000 half-hours per week in the 48 markets) was used for off-network programs shown pursuant to waivers.

<sup>10</sup> The Court there described the waiver process as representing other than good administrative practice, and stated: "... the Commission has now attempted to state certain categories for permissible intrusion by network programs on access time without recourse to the waiver procedure of the Commission. This codification has the advantage of a more soundly based rule of administrative procedure and a desirable accent on the licensee's freedom to control his own programming." (Slip Opinion, p. 3021)

<sup>11</sup> The six multiple owners include the three networks, Avco Broadcasting Corp., Storer Broadcasting Co. and Westinghouse Broadcasting Co., Inc. The 30 stations are of course not necessarily typical of all stations subject to the rule, for one reason because they are in the larger markets; but for the same reason they are significant as indicating what is to be expected in these important markets. One of the six companies is contemplating the development of a regular children's series for the stations, one element in which would be some off-network children's specials.

18. Concerning the second reason set forth in paragraph 16, the problem with an overall ceiling, which would have to apply to all stations subject to the rule and deal with both network and off-network programming, is its inflexibility. The problem is particularly difficult because, if our objective of getting out of the business of waivers for particular programs is to be achieved, we have to assume that any ceiling would be applied without such waivers. Therefore, we would have to arrive at a figure which would be suitable in all cases, regardless of the particular needs or desires of the station or network, and even though the presentation of material in excess of that figure by a few stations would not have a significant impact on the overall availability of time to non-network sources of new programming.<sup>12</sup> We do not believe it appropriate, at least at this point, in the absence of a stronger showing of necessity, to replace a flexible approach with a ceiling.<sup>13</sup>

19. Another possible approach is a ceiling only on network use of the exemption, since any network use probably means an incursion by a large number of stations into time available for access material. However, again, we believe that a ceiling limited to network programs introduces an unnecessary degree of inflexibility. The networks' plans to use the exemption for regularly scheduled programs are confined to one hour a week on Sunday for each network. We do not regard this as excessive. Moreover, as previously indicated, paragraph 9, we do not wish to foreclose the possibility of network use of the exemption for specials, particularly in view of the fact that the regularly scheduled network programs under the exemption are, as we understand it, designed to fall within only one of the three categories. Programs in the remaining public affairs and documentary categories would appear to be of particular interest to the public during the forthcoming Bicentennial period. Therefore, we do not regard the imposition of such a ceiling as appropriate at this time.

20. *Prohibition against use of Exemption (1) material or feature film on Saturday evenings.* In our January 1975 decision we recognized the importance of Saturday for access material, particularly for local programming presented on many stations that night, and for hour-long access programs, including

<sup>12</sup> The staff's fall 1974 study showed that 61 stations used off-network programs under waiver during access time of which 53 used a half-hour a week and eight used an hour. The additional half-hour a week by eight stations could certainly not be said to have a significant impact on the overall availability of prime time to access material, and thus a restriction to a half-hour a week would mean public deprivation without any substantial public interest benefit.

<sup>13</sup> It is sometimes said that a regulatory "ceiling" of this type tends to become a "floor" as well, so that those subject to the restriction will tend to make the full use of it even if they would not otherwise do so.

the two variety shows carried then on many stations. We cautioned the networks against incursion into it except for "compelling public interest reasons" (50 FCC 2d 843-844). The Court's April 21 decision held that delegating to others our responsibility to determine what is in the public interest was an improper approach. It stated: "We think that for the sake of orderly regulation, the Commission must either withdraw its admonition concerning Saturday programs or make the exempted categories wholly unavailable to licensees in access time on Saturdays." *NAITPD v. FCC* (1975), Slip Opinion p. 3029.

21. Saturday night is a very important period in this respect for the reasons mentioned. Moreover, as some of the letters from the public have pointed out, it is one night of the week when there is less necessity for children's material to be presented early. Since the Court has held our admonition to be an improper approach, we find that the public interest requires that such a restriction be put into the rule. While the admonition to which the Court objected was directed to networks and their scheduling practices, rather than to individual stations in their use of off-network material, the language of the Court quoted above, dictates the extension of the prohibition to off-network material as well as to network programs. Apart from the Court's language, we have concluded that the importance of protecting this period justifies a broad prohibition against the use of any material under Exemption (1) on Saturdays. We realize that this represents a restriction on station practices to some extent (11 off-network programs totaling 8 hours were presented by stations in the 48 markets in fall 1974), but it is our judgment that it is desirable to preserve the largest full-hour opportunity for new material. This restriction is particularly necessary because of the absence of an overall ceiling and in view of the possibility that off-network material now presented on Sunday might otherwise be moved to Saturday as a result of the additional network programs to be made available on Sunday under the exemption.<sup>14</sup>

22. For the same reasons, to afford the high degree of protection required in the public interest, we are also barring stations subject to the rule from using feature films during access time on Saturdays. As noted by the Court and in our earlier decision, the use of feature films overall has not represented a significant incursion into access time so far (only 25 hours in 48 markets as of fall 1974, or about 2.5 percent of access time). However, the frequency has been much greater on weekend nights (17 of the 25 hours on Saturday and Sunday, compared to 8 on the 5 weeknights combined), apparently because of less station emphasis then on early evening news and "strip-

<sup>14</sup> This restriction does not apply to material under the other exemptions to the rule.

ped" material. Accordingly, while we conclude below that overall the use of feature films is not a sufficient threat to warrant any restriction on their use as to other nights, this does not apply to weekend nights. A restriction is therefore required. However, since the networks plan to program under Exemption (1) on Sundays, and there is no purpose in protecting the access market from feature films then when it already faces network competition, we impose the movie restriction on Saturday only. This is necessary to afford an adequate degree of protection to access material, particularly since otherwise movies now shown on Sunday might be shifted to Saturday, thereby increasing the present incursion. As with the matter of a ceiling, this matter will be closely observed during the early months of 1975-76, and changes proposed if they appear appropriate.

B. *Feature films.* 23. The January 1975 PTAR III decision adopted a provision to the effect that a feature film could be used in access time without restriction if it had not been shown on a network and is barred completely from access time, like any other off-network program, if it had been on a network. The Court held this provision to be arbitrary. After discussion, it stated:

There is no reason, therefore, to bar one class of movies and permit another class to be shown. The differential treatment of feature films adopted by the Commission is arbitrary. Accordingly, so long as the F.C.C. permits movies never seen on a television network to be played in cleared access time it must also permit movies which have been shown on network to be played in that time. (*NAITPD v. FCC* (1975), Slip Opinion pp. 3033-3034).

24. The object of any such restriction is to prevent undue incursion into availability of time for access material, and the impact under "PTAR I" has been small.<sup>15</sup> Moreover, while other distinctions might be considered, such as one based on made-for-theatre v. made-for-television (which is synonymous with made-for-network-television) the language quoted above appears to raise some doubt as to whether the Court would uphold such a differentiation. The same doubt may apply also to continuation of the "two-year" distinction now in effect, as a permanent matter.

25. Therefore, we have a choice at this point of a total ban, no restriction at all, or adoption of some rule distinguishing among feature films which would not run afoul of the Court's language concerning arbitrary distinctions. In view of the small impact so far (in 48 markets, a total of 25 hours in fall 1974, divided about equally among Saturdays, Sun-

<sup>15</sup> Under PTAR I, as clarified by a Commission Public Notice issued in November 1972 (FCC 72-1032), pending the outcome of this proceeding, stations subject to the rule have been permitted to use feature films in access time, irrespective of whether or not they were made for or previously shown on a network, provided they had not been shown on a station in the market within the previous two years.

days and weekdays), we conclude that a total ban is out of the question. Neither of the restrictions mentioned in the last paragraph is desirable since—apart from any concern in relation to the Court's expression—they appear to act largely as a restraint on the freedom of stations wishing to present films to choose those which best serve the needs of their audiences. Accordingly, the rule adopted herein contains no restriction on the use of feature films on a syndicated individual-station basis, whether they are made-for-theatre and never shown on a network, made for theatre and previously shown on a network, or made for network television and later available in syndication, except as to Saturday.

26. We have imposed a total restriction on Saturday night because of the necessity to protect the access market. Otherwise, we do not find reason to fear a substantial incursion from a liberalized rule. However, the Commission will observe during the first year the extent to which feature films are used during access time. If experience indicates that there is a need to preserve the prime time access market on other nights from their impact, an appropriate restriction will be considered for adoption.

C. *Definition of "public affairs" for the purpose of Exemption (1).* 27. In considering our Exemption (1) for programs in certain categories, the Court's April 21 opinion approved the definitions of children's and documentary programs, and directed us to adopt a similar definition for "public affairs" programs, which PTAR III does not now contain, either in positive or negative terms.

28. In our logging rules, 47 CFR § 73.670, Note 1, public affairs programs are defined in the following terms:

(d) Public affairs programs (PA) include talks, commentaries, discussions, speeches, editorials, political programs, documentaries, forums, panels, roundtables, and similar programs primarily concerning local, national, and international public affairs.

While this definition uses the term "public affairs" as part of its own definition, our experience has not indicated that licensees have any difficulty in ascertaining its meaning. In a recent proceeding on a new television renewal form, comments were solicited regarding the continued use of this definition and it appeared to be generally satisfactory. Formulation of Rules and Policies Relating to the Renewal of Broadcast Licenses, 42 FCC 2d 405, 425 (1973). On April 11, 1975, we issued a Notice of Inquiry, FCC 75-375, Docket 20419, which also asks for comments on the possibility of structuring a more precise definition. In the interest of consistency, we hesitate to depart at this time from the definition in our logging rules, and we are adding it to the prime time rule. If, at the conclusion of our inquiry, a new logging definition is adopted, that definition will also apply to Exemption (1) of the Prime Time Access Rule.

D. *Other matters.*—29. *Determinations as to individual programs under the exemption.*—The Court in its recent

decision discussed the application of the Exemption (1) definitions to particular programs, expressing the view that ad hoc decisions by the Commission in this area are not to be desired because they suggest a system of censorship. Therefore, the Court said: "[w]e must leave it to the licensee himself to interpret the program categories in good faith" (Slip Opinion, p. 3027). The Court also said that the Commission should not make its waiver procedure available for making such determinations.

30. Accordingly, interpretations as to whether or not a particular proposed network or off-network program comes within the exemption are matters for the determination of networks and licensees of stations subject to the rule. We expect such determinations to be made in good faith, bearing in mind the fundamental objectives not only of the exemption but of the prime time access rule.

31. *Fictional material under the children's exemption category.* In footnote 22 of the Court's decision (Slip Opinion, p. 3026), the view was expressed that the Commission may intend to imply that fictional material is excluded from children's programming under Exemption (1). No such implication was intended. While our Second Report and Order emphasized educational and informational material for children (50 FCC 2d at 842, par. 31), we intended to make it clear that the exemption should by no means be so limited. Certainly, fictional material is a highly important part of material designed for young children.

32. In view of the foregoing, it is ordered, That:

(1) Effective September 8, 1975, § 73.658(k) of the Commission's rules, the prime time access rule, is amended, to read in its entirety as set forth below. Authority for the rule changes herein is contained in §§ 1, 2, 4(d), 301, 303 (b), (f), (g), (i) and (r), and 313 of the Communications Act of 1934, as amended.

(2) This proceeding, Docket 19622, is terminated.

(Secs. 1, 2, 4, 301, 303, 48 Stat., as amended, 1064, 1064, 1066, 1081, 1082; 47 U.S.C. 151, 152, 154, 301, 303)

Adopted: May 13, 1975.

Released: May 14, 1975.

FEDERAL COMMUNICATIONS COMMISSION<sup>1</sup>,

VINCENT J. MULLINS,  
Secretary.

Effective September 8, 1975, § 73.658 (k) of the Commission's rules, the prime time access rule, is revised to read as follows:

§ 73.658 Affiliation agreements and network program practices.

(k) Effective September 8, 1975, commercial television stations owned by or affiliated with a national television net-

<sup>1</sup> Statements of Commissioners Reid and Robinson filed as part of the original.



## RULES AND REGULATIONS

work in the 50 largest television markets (see Note 1 to this paragraph) shall devote, during the four hours of prime time (7-11 p.m. e.t. and p.t., 6-10 p.m. c.t. and m.t.), no more than three hours to the presentation of programs from a national network, programs formerly on a national network (off-network programs) other than feature films, or, on Saturdays, feature films; *provided, however*, That the following categories of programs need not be counted toward the three-hour limitation:

(1) On nights other than Saturdays, network or off-network programs designed for children, public affairs programs or documentary programs (see Note 2 to this paragraph for definitions).

(2) Special news programs dealing with fast-breaking news events, on-the-spot coverage of news events or other material related to such coverage, and political broadcasts by or on behalf of legally qualified candidates for public office.

(3) Regular network news broadcasts up to a half hour, when immediately adjacent to a full hour of continuous locally produced news or locally produced public affairs programming.

(4) Runovers of live network broadcasts of sporting events, where the event has been reasonably scheduled to conclude before prime time or occupy only a certain amount of prime time, but the event has gone beyond its expected duration due to circumstances not reasonably foreseeable by the networks or under their control. This exemption does not apply to post-game material.

(5) In the case of stations in the Mountain and Pacific time zones, on evenings when network prime-time programming consists of a sports event or other program broadcast live and simultaneously throughout the contiguous 48 states, such stations may assume that the network's schedule that evening occupies no more of prime time in these time zones than it does in the Eastern and Central time zones.

(6) Network broadcasts of an international sports event (such as the Olympic Games), New Year's Day college football games, or any other network programming of a special nature other than motion pictures or other sports events, when the network devotes all of its time on the same evening to the same programming, except brief incidental fill material.

NOTE 1. The top 50 markets to which this paragraph applies are the 50 largest markets in terms of prime time audience for all stations in the market, as listed each year in the Arbitron publication Television Market Analysis. This publication is currently issued each November, and shortly thereafter the Commission will issue a list of markets to which the rule will apply for the year starting the following September.

NOTE 2. As used in this paragraph, the term "programs designed for children" means programs primarily designed for children aged 2 through 12. The term "documentary programs" means programs which are non-fictional and educational or informational, but not including programs where the information is used as part of a contest among participants in the program, and not including programs relating to the visual entertainment arts (stage, motion pictures or television) where more than 50% of the program is devoted to the presentation of entertainment material itself. The term "public affairs programs" means talks, commentaries, discussions, speeches, editorials, political programs, documentaries, forums, panels, roundtables, and similar programs primarily concerning local, national, and international public affairs.

[FR Doc.75-13699 Filed 5-27-75;8:45 am]

## DEPARTMENT OF THE INTERIOR

## National Park Service

[ 36 CFR Part 7 ]

## MAMMOTH CAVE NATIONAL PARK, KY.

## Cave Entry

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3), the Act of May 25, 1926 (44 Stat. 635 as amended; 16 U.S.C. 404), the Act of June 5, 1942 (56 Stat. 317, as amended; 16 U.S.C. 404c-3), and pursuant to the delegations contained in 245 DM 1 (34 FR 13879), as amended, and Regional Director, Southeast Region Order No. 5 (37 FR 7721), it is proposed to amend § 7.36 of Title 36 of the Code of Federal Regulations as set forth below.

The purpose of this amendment is to establish restrictions on visitor activities and behavior within the caves open to the public within the park. This has become necessary to prevent persons from leaving organized cave tours, to provide for the safety of these persons and to protect the resources of the caves.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed amendment to the Superintendent, Mammoth Cave National Park, Mammoth Cave, Kentucky 42259, on or before June 26, 1975.

Paragraph (b) (2) and (3) of § 7.36 is revised to read as follows:

§ 7.36 Mammoth Cave National Park.

(b) \* \* \*

(2) Persons on guided cave tours must stay on the established designated trails and remain with the guides and tour group at all times. Exploration of side passages, going ahead of the lead guide and tour group or dropping behind the following guide or tour group is prohibited. All persons shall observe and abide by the officially posted signs, printed information and/or verbal instructions given concerning these restrictions.

(3) Persons on "self-guided" or "semi-guided" cave tours must stay on the established, designated trails at all times. Exploration of side passages or taking alternate routes is prohibited. All persons shall observe and abide by the officially posted signs, printed information

## proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

and/or verbal instructions given concerning these restrictions.

JOSEPH KULESZA,  
Superintendent,  
Mammoth Cave National Park.

[FR Doc.75-13671 Filed 5-23-75;8:45 am]

## DEPARTMENT OF AGRICULTURE

## Animal and Plant Health Inspection Service

[ 9 CFR Part 112 ]

## VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS

## Proposed Requirements

Notice is hereby given in accordance with the provisions contained in section 553 of Title 5, United States Code, that it is proposed to amend certain of the regulations relating to viruses, serums, toxins, and analogous products in Part 112 of Title 9, Code of Federal Regulations issued pursuant to the provisions of the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151-158).

Recommendations on labels of vaccines used for the prevention of feline panleukopenia are not consistent for all licensees. This has led to confusion and uncertainty among users particularly where products from more than one licensee are being used.

These amendments to the label requirements for these vaccines will correct this inconsistency.

The Department proposes that label changes necessitated by these amendments should be made by all licensees at their next printing of labels to which these changes would apply following the effective date of these proposed amendments, but in all cases not later than January 1, 1976.

This will allow a reasonable time to use any existing supply of labels, and compliance with these amendments will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective date thereof.

Section 112.7 is amended by adding a new paragraph (j) to read:

§ 112.7 Special additional requirements.

(j) Unless otherwise authorized in an approved Outline of Production, all but very small final container labels for Feline Panleukopenia Vaccines shall contain the following recommendations for use:

(1) *Killed virus vaccines.* Vaccinate kittens at 9 to 10 weeks of age and repeat the dose in 4 weeks. Annual revaccination with a single dose is recommended.

(2) *Modified live virus vaccines.* Vaccinate kittens at 9 to 10 weeks of age and repeat the dose in 4 weeks, except that a single dose is sufficient if kittens are 12 weeks of age or older when vaccinated. Annual revaccination with a single dose is recommended. Do not vaccinate pregnant cats.

Interested parties are invited to submit written data, views, or arguments regarding the proposed regulations to Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828-A, Federal Building, Hyattsville, Maryland 20782. All comments received on or before June 26, 1975, will be considered.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business.

(7 CFR 1.27(b))

Done at Washington, D.C., this 20th day of May, 1975.

PIERRE A. CHALOUX,  
Acting Deputy Administrator  
Veterinary Services Animal  
and Plant Health Inspection  
Service.

[FR Doc.75-13735 Filed 5-23-75;8:45 am]

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

## Food and Drug Administration

[ 21 CFR Part 130 ]

ADMINISTRATIVE REVIEW OF DECISIONS  
ON PROBABLY AND POSSIBLY EFFECTIVE  
INDICATIONS FOR DRUGS

## Withdrawal of Proposed Rulemaking

The purpose of this notice is to withdraw the proposed addition of § 130.—*Administrative review of decisions on probably and possibly effective indications for drugs*, published in the FEDERAL REGISTER of February 18, 1971 (36 FR 3127), to the new drug regulations in 21 CFR Part 130. (The provisions of Part 130 were recodified and transferred to Parts 310, 312, 314, and 330 by an order published in the FEDERAL REGISTER of March 29, 1974 (39 FR 11680).)

The comments received on this proposal were generally favorable toward



## PROPOSED RULES

establishing such a review procedure, but suggested a number of revisions in the proposal.

In the interim, the DESI review has been affected by the court order in *APHA v. Veneman*, 349 F. Supp. 1311 (D.D.C. 1972), as set out in the notice published in the *FEDERAL REGISTER* of December 14, 1972 (37 FR 26623), the enactment of the Federal Advisory Committee Act (5 U.S.C. App. I), the expansion of Food and Drug Administration standing advisory committees, the four Supreme Court decisions interpreting the Drug Amendments of 1962 (*Weinberger v. Hynson, Westcott & Dunning Inc.*, 412 U.S. 609 (1973); *CIBA Corp. v. Weinberger*, 412 U.S. 640 (1973); *Weinberger v. Bentex Pharmaceuticals, Inc.*, 412 U.S. 645 (1973); and *USV Pharmaceutical Corp. v. Weinberger*, 412 U.S. 665 (1973)), and the review of the regulations relating to hearings on withdrawal of a new drug application published in the *FEDERAL REGISTER* of March 13, 1974 (39 FR 9750). Published elsewhere in this issue of the *FEDERAL REGISTER* are procedural regulations that include provisions relating to internal review of agency decisions and the use of advisory committees, which are applicable to the DESI project as well as to all other administrative actions under the laws administered by the Commissioner.

Accordingly, the Commissioner concludes that the proposal published in the *FEDERAL REGISTER* of February 18, 1971 (36 FR 3127) is now superseded, and is hereby withdrawn.

This withdrawal is issued under authority of the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 505, 701(a), 52 Stat. 1052-1053, as amended, 1055 (21 U.S.C. 355, 371(a))) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: May 20, 1975.

SAM D. FINE,  
Associate Commissioner for  
Compliance.

[FR Doc. 75-13810 Filed 5-23-75; 8:45 am]

DEPARTMENT OF  
TRANSPORTATION

Hazardous Materials Regulations Board  
[49 CFR Part 171]

[Docket No. HM-22; Notice No. 75-6]

## MATTER INCORPORATED BY REFERENCE

## Notice of Proposed Rule Making

The Hazardous Materials Regulations Board of the Department of Transportation is considering amending § 171.7(d) (1) of the Hazardous Materials Regulations to update the reference to the addenda to sections VIII (Division I) and IX of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code.

The Compressed Gas Association, Inc., has petitioned the Board to effect this change.

In consideration of the foregoing, it is proposed to revise § 171.7(d) (1) to read as follows:

## § 171.7 Matter incorporated by reference.

(d) . . . . .  
(1) ASME Code means sections VIII (Division I) and IX of the 1974 edition of the "American Society of Mechanical Engineers Boiler and Pressure Vessel Code," and addenda thereto through December 31, 1974.

Interested persons are invited to give their views on this proposal. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, Washington, D.C. 20590. Communications received on or before July 1, 1975 will be considered before final action is taken on this proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, Room 6215 Trans Point Building, Second and V Streets SW., Washington, D.C. both before and after the closing date for comments.

(18 U.S.C. 831-835; sec. 6, Pub. L. 89-670, 80 Stat. 937 (49 U.S.C. 1655); Title VI, sec. 902(h), Pub. L. 85-726 (49 U.S.C. 14-1431, 1472(h)))

Issued in Washington, D.C. on May 21, 1975.

W. J. BURNS,  
Director.

Office of Hazardous Materials.

[FR Doc. 75-13718 Filed 5-23-75; 8:45 am]

## CIVIL SERVICE COMMISSION

[5 CFR Parts 293, 297]

## PROTECTION OF PRIVACY IN PERSONNEL RECORDS

## Notice of Proposed Rulemaking

The Civil Service Commission proposes to amend 5 CFR Part 293 by adding a subpart A and by establishing a new Part 297 which implement provisions of the Privacy Act of 1974 (Pub. L. 93-579). Part 293, Subpart A is a new subpart that establishes basic policies for the establishment and maintenance of personnel record systems, including safeguarding personnel information in manual and automated records systems. Part 297, subpart A is a new part that establishes procedures for protection of individual privacy in personnel records, including specific requirements regarding the collection of personal information about individuals, individual access to and amendment of personnel records, and the disclosure of information from personnel records.

Any person interested in the amendments herein may participate in this proposed rulemaking by submitting written data, views, or arguments on the proposed amendments, to the Director, Bureau of Manpower Information Systems, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415 on or before June 27, 1975.

1. Part 293 of Title 5, Code of Federal Regulations, is proposed to be amended

by establishing a new subpart A as follows:

## PART 293—PERSONNEL RECORDS AND FILES

## Subpart A—Basic Policies on Maintenance of Personnel Records and Files

- Sec.  
293.101 Purpose.  
293.102 General policy.  
293.103 Publication of annual notices.  
293.104 New uses of information.  
293.105 Reports concerning changes to systems.  
293.106 Use of Social Security Account Number in personnel systems. [Reserved]  
293.107 Rules of conduct.  
293.108 Safeguarding personnel information in manual record systems.  
293.109 Safeguarding personnel data in automated record systems.  
293.110 Accounting of the disclosure of personnel records.  
293.111 Annual report.

AUTHORITY: (5 U.S.C. 552a); 3 CFR, 1954-1958 Comp., p. 205.

## Subpart A—Basic Policies on Maintenance of Personnel Records and Files

## § 293.101 Purpose.

(a) The purpose of this part is to set forth the basic policies of the Commission governing the establishment and maintenance of personnel records and files within the Federal Government. Records covered by this part are those prescribed by the Commission and maintained by Federal agencies and those maintained by the Commission including those in which other agencies participate through temporary custody of record information. This part applies to each executive department and independent establishment of the Federal Government, including (1) each corporation wholly owned or controlled by the United States, and (2) with respect to positions subject to Civil Service rules and regulations, the legislative and judicial branches of the Federal Government and the Government of the District of Columbia.

(b) In this part:

(1) "Record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including but not limited to education, financial transactions, medical history, and criminal or employment history and that contains a name, or an identifying number, symbol, or other identifying particular assigned to an individual, such as a finger or voice print or photograph;

(2) "System of records" means a group of any records under the control of any agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to an individual;

(3) "Routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected; and

(4) "Personnel Record" means any personal information maintained in a system of records as defined in paragraph (b) (1) of this section that is

needed for personnel management programs or processes such as staffing, employee development, retirement, and grievances and appeals.

## § 293.102 General policy.

The responsibility for effective personnel management administration assigned by laws and Executive Orders to the Commission and to agencies requires the gathering and use of personal information about individuals. The Commission accepts its responsibility to protect the privacy of individuals, involved in any phase of the personnel management processes of the Government. Agencies are to ensure that all personnel records, including those maintained for the Commission, are maintained in such a way that the privacy of all individuals concerned is protected.

## § 293.103 Publication of annual notices.

(a) A notice of the existence of personnel records meeting the definition of a system of records as defined in this part shall be published annually in the format prescribed by the General Services Administration in the *FEDERAL REGISTER*, including:

(1) The name and location of the system;

(2) The categories of individuals on whom records are maintained in the system;

(3) The categories of records maintained in the system;

(4) Each routine use of the records contained in the system, including the categories of users and the purposes of such use;

(5) The policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records;

(6) The title and business address of the agency official who is responsible for the system of records;

(7) The agency procedures whereby an individual can be notified at his request if the system of records contains a record pertaining to him;

(8) The agency procedures whereby an individual can be notified how access can be gained to any record pertaining to that individual contained in the system of records, and the procedure for correction or contesting of its content; and

(9) The categories of sources of records in the system.

(b) All systems of personnel records that are maintained by an agency are subject to the annual public notice requirement. The Civil Service Commission will assume responsibility for publishing annually in the *FEDERAL REGISTER* a notice of all systems of personnel records. This notice will include personnel records systems that the Commission:

(1) Maintains as an agency;

(2) Specifically requires agencies to maintain;

(3) Authorizes agencies to maintain; and

(4) By implication in the Federal Personnel Manual, places a recordkeeping requirement on agencies.

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Agencies are responsible for publishing annually in the *FEDERAL REGISTER* a notice of systems of personnel records that they maintain in addition to those cited above.

## § 293.104 New uses of information.

(a) At least 30 days prior to publication of information under § 293.103, agencies shall publish in the *FEDERAL REGISTER* a notice of their intention to establish a new routine use for a system of records. This will give the public an opportunity to comment on such use. This notice must contain:

(1) The name of the system of records for which the routine use is to be established;

(2) The authority for the system;

(3) The purpose for which the record is to be maintained;

(4) The proposed routine use(s);

(5) The purpose of the routine use(s); and

(6) The categories of recipients for each.

(b) Agencies shall publish advance routine uses for all systems for which they publish annual notices. Requests for additions to routine uses for systems for which the Commission publishes the annual notices may be sent to:

Director, Bureau of Manpower Information Systems  
U.S. Civil Service Commission  
1900 E Street, NW  
Washington, D.C. 20415.

## § 293.105 Reports concerning changes to systems.

(a) Agencies shall provide to Congress, the Office of Management and Budget, and the Privacy Protection Study Commission advance notice of any proposal to establish or alter any system of personnel records. This report will be submitted in accordance with guidelines from the Office of Management and Budget.

## § 293.106 Use of the Social Security Account Number in personnel systems. [Reserved]

## § 293.107 Rules of conduct.

It is the responsibility of the head of each agency to assure that persons involved in the design, development, operation, or maintenance of any system of personnel records are informed of all requirements to protect the privacy of the individuals who are subjects of the records. Employees should be informed of all the implications of their actions in this area, including especially:

(a) That there are criminal penalties under 5 U.S.C. section 552a for knowingly and willfully disclosing a record about an individual without the written consent or the written request of that individual or unless disclosure is for one of the reasons listed under section 297.108 of this chapter; and

(b) That the agency may be subject to civil suit due to failure to comply with the provisions of §§ 297.111 and 297.112 of this chapter.

## § 293.108 Safeguarding personnel information in manual personnel record systems.

(a) Each agency shall establish administrative and physical controls to protect personal information in personnel records from unauthorized access or disclosure. Each agency shall designate an official who shall be responsible for providing protection and accountability for such records at all times and insuring that personnel records are secured in appropriate containers whenever they are not in use or under direct control of authorized persons. Personnel records may be used, held, or stored only where facilities or conditions are adequate to prevent unauthorized access. Whenever personnel records are not under the personal control of an authorized person, they must be stored in a metal filing cabinet having a built-in, three-position, dial-type combination lock; or a metal filing cabinet equipped with a steel lock bar, provided it is secured by a GSA-approved changeable combination padlock; or in lockable metal filing cabinets in a secured room. Alternative storage systems may be employed provided they furnish an equivalent or greater degree of physical security than the cited methods.

(b) Access to and use of personnel records shall be permitted only by persons whose official duties require such access or, pursuant to § 297.111 of this chapter, to a person to whom the personnel record pertains or his or her designated personal representative. Access to areas where personnel records are stored will be limited to only those persons whose official duties require work in such areas. Proper control of personnel records shall be maintained at all times, including an accounting of their removal from the storage area.

(c) Each agency shall assure that all persons whose official duties require access to and use of personnel records are adequately trained to protect the security and privacy of personnel records.

(d) The disposal and destruction of personnel records shall be in accordance with General Schedule 1 promulgated by the General Services Administration.

## § 293.109 Safeguarding personnel records in automated personnel record systems.

(a) Each agency shall establish administrative, technical, physical, and security safeguards to prevent unauthorized disclosure or destruction of identifiable personnel data in automated systems of records. These safeguards shall apply to all automated systems in which identifiable personnel data are processed, including all reports and outputs from those systems which contain identifiable personal information. The safeguards must be sufficient to prevent careless, accidental, or unintentional disclosure, modification, or destruction of identifiable personnel data as well as minimizing the risk that skilled technicians or knowl-



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edgeable persons could improperly obtain access to, modify, or destroy identifiable personnel data; and casual entry by unskilled persons who have no official reason for access to such data. Each agency shall designate an official where automated identifiable personnel data are processed, stored, or maintained who shall be responsible for the protection and accountability of all personnel data in automated systems, including input and output documents, punched cards, and magnetic tape disk or records.

(b) Identifiable personnel information may be processed, stored, or maintained by automated data systems only where facilities or conditions are adequate to prevent unauthorized access to identifiable personnel data in any form. Whenever identifiable personnel data, including input and output documents, punched cards, and magnetic tapes or disk are not under the personal control of an authorized person, such information must be stored in a metal filing cabinet having a built-in, three-position, dial-type combination lock; or a metal filing cabinet equipped with a steel lock bar, provided it is secured by a GSA-approved changeable combination padlock; or in adequate containers in a secured room. These are minimum requirements; however, more stringent physical security controls may be employed.

(c) Access to and use of identifiable personnel data associated with automated data systems shall be limited to those persons whose official duties require such access. Proper control of identifiable personnel data, in any form, associated with automated data systems shall be maintained at all times, including maintenance of accountability records showing disposition of input and output documents.

(d) Each agency shall assure that all persons whose official duties require access to, processing, and maintenance of identifiable personnel data in automated data systems are adequately trained in the security and privacy of personnel data.

(e) The disposal and disposition of identifiable personnel data in automated systems shall be by shredding, burning, or, in the case of magnetic tapes or disk, degaussing.

#### § 293.110 Accounting of the disclosures of personnel records.

(a) All disclosures of records covered by this section shall be accounted for by keeping a written record of the following information: the date, nature, and purpose of each disclosure of a record to any person or to another agency unless made pursuant to paragraph (a), (b), or (c) of § 297.108 of this chapter. In addition, the name and address of the person to whom the disclosure is made shall be recorded.

(b) The accounting of disclosures may be recorded in any system an agency determines is sufficient for this purpose. The agency must be able to construct from its system a listing of all disclosures. The accounting should provide a cross-

reference to the justification or basis upon which the release was made, including any written documentation required when records are released for statistical or law enforcement purposes.

(c) For purposes of this part, the system of accounting of disclosures is not a system of records under the definition in § 293.101(b) of this part and no accounting need be maintained for disclosure of the accounting of disclosures.

#### § 293.111 Annual report.

By April 30th of each year, agencies will submit to the Office of Management and Budget a report covering activities under the Privacy Act of 1974 as they relate to personnel records. Agencies shall follow the instructions issued by the Office of Management and Budget for submitting the report.

2. Title 5, Code of Federal Regulations, is also amended by establishing a new Part 297, Subpart A as follows:

### PART 297—PROTECTION OF PRIVACY IN PERSONNEL RECORDS

#### Subpart A—Records Maintained on Individuals

Sec.	Purpose.
297.101	Content of records systems.
297.102	Collection of personal information from individual concerned.
297.103	Uses of information.
297.104	Standards of accuracy.
297.105	Restriction on maintenance of certain records.
297.106	Routine uses of personnel records.
297.107	Written consent for disclosure.
297.108	Notification of disclosure under compulsory legal process.
297.109	Notification to prior recipients of corrected or disputed records.
297.110	Access to personnel records.
297.111	Requests to amend records and disputes thereto.
297.112	Disclosure of disputed information.
297.113	Publication of rules and procedures.
297.114	Fees.
297.115	Exemptions.

AUTHORITY: (5 U.S.C. 552a); sec. 4, E.O. 10561; 3 CFR 1964-1958 Comp., p. 205.

#### Subpart A—Records Maintained on Individuals

##### § 297.101 Purpose.

This part sets forth the basic policies of the Commission regarding the protection of individual privacy in personnel administration. It covers systems of records prescribed by the Commission, and applies to each executive department and independent establishment of the Federal Government, including (a) each corporation wholly owned or controlled by the United States, and (b) with respect to positions subject to Civil Service rules and regulations, the legislative and judicial branches of the Federal Government and the Government of the District of Columbia.

##### § 297.102 Content of records systems.

Agencies shall maintain in personnel records systems only information about an individual that is relevant to accomplish the personnel administration purposes of the agency required by statute or Executive Order. Agencies shall identify

the specific provision in law which authorizes them to maintain or propose to maintain information in a system of personnel records. Authority to maintain a system of records does not give the agency the authority to maintain any information it deems useful. Agencies should test each item in a system to ensure that it is both relevant and necessary. The Commission shall identify in Chapter 297 of the Federal Personnel Manual those statutes, Executive Orders, or other authority which authorizes agencies to maintain personal information in systems of personnel records. All other items of information recorded in personnel systems shall be similarly identified in an internal publication by the agency.

##### § 297.103 Collection of personal information from individual concerned.

Any information used in whole or in part in making a determination about an individual's rights, benefits, or privileges under Federal personnel programs should, to the extent practicable, be collected directly from the subject individual. Agencies should use information from the individual, such as that provided by the individual in the application for employment, unless: (a) The nature of the information is such that it can only be obtained from a third party; (b) the cost of collecting the information from the individual is unreasonable when compared with the cost of collecting it from a third party; (c) there is no risk that information collected from third parties, if inaccurate, could result in an adverse determination to the individual concerned; (d) the information supplied by an individual must be verified by a third party; or (e) provisions are made to verify with the subject individual information collected from a third party.

##### § 297.104 Uses of information.

Agencies shall ensure that individuals from whom information is collected about themselves are informed of the reasons for requesting the information, how it may be used, and what the consequences are, if any, of not providing the information. As a minimum, the individual should be given the following information in language which is explicit and easily understood and not so lengthy as to deter an individual from reading it:

(a) Cite the specific provisions of the statute or Executive Order, including a brief title or subject, which authorizes the agency to collect the personal information it is requesting. Inform the individual whether or not a response is mandatory or voluntary and the possible consequences for failing to respond. When possible, agencies should avoid including required and optional information on the same form.

(b) Cite the general purposes for which the information will be used including all purposes for which the record will be used by the agency which maintains it. Purposes should be stated specifically, but not in such detail that the individual is discouraged from reading it.

(c) Cite the specific routine uses for which the information will be employed. This may be a summary of the information published in the public notice under § 297.107.

(d) Cite the effects on the individual, if any, of not providing any or all of the information requested.

##### § 297.105 Standards of accuracy.

To minimize the risk that an agency will make an unwarranted adverse personnel determination about an individual or disseminate inaccurate information about an individual, all personnel records which are used in making any such determination shall be maintained with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination. Agencies must provide, at the employee's initiative and by public notice, to employees an opportunity, at least annually, to review automated and manual personnel records that are maintained concerning the employee and that have the potential of being used in making a determination about the individual or being inaccurately disclosed under routine uses outside the agency.

##### § 297.106 Restriction on maintenance of certain records.

Personnel records describing how individuals exercise rights guaranteed by the First Amendment are prohibited unless specifically authorized by statute, or by the individual concerned, or unless pertinent to and within the scope of an authorized law enforcement activity. The exercise of these rights includes, but is not limited to, religious and political beliefs, freedom of speech and the press, and freedom of assembly and to petition.

##### § 297.107 Routine uses of personnel records.

(a) The Commission will publish annually in the Federal Register a notice of the routine uses of systems of personnel records maintained or controlled by the Commission. This notice will include, but is not limited to, those indicated in chapter 293 of the Federal Personnel Manual that meet the definition of a "system of records" as defined in § 293.101(b) of this chapter. This notice will also include all the proper and necessary uses of these systems of records.

(b) Agencies are responsible for establishing and publishing annually in the Federal Register routine uses for all systems of personnel records that they maintain in addition to those cited in § 293.103(b) of this chapter.

##### § 297.108 Written consent for disclosure.

An agency may not disclose any personal information from personnel records to any person or to another agency unless they have or acquire the express written consent of the individual to whom the record pertains. Written consent is not required if the disclosure is:

(a) To officers or employees of the agency that maintains the record who have a need for the information in the official performance of their duties;

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(b) To transmit the personnel records to another personnel office in a different agency as a result of a transfer or potential transfer of the individual to whom the personnel records pertain.

(c) Required under the provisions of the Freedom of Information Act;

(d) For a routine use as published in the annual notice in the Federal Register;

(e) To the Bureau of the Census for uses pursuant to Title 13;

(f) To a recipient who has provided the agency with advance adequate assurance that the record will be used solely as a statistical research or reporting record and the record is to be transferred in a form that is not individually identifiable. The written statement should include as a minimum:

(1) A statement of the purpose for requesting the records; and

(2) Certification that the records will be used only for statistical purposes.

These written statements should be maintained as agency records under § 293.110 of this chapter. In addition to stripping personally identifying information from records released for statistical purposes, agencies shall ensure that the identity of the individual cannot reasonably be deduced by combining various statistical records.

(g) to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for the evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

(h) to another agency or unit of local, State, or Federal Government on receipt of an individual written request describing the law enforcement purpose for which the record is required and specifying which record is required. A record may be disclosed to a law enforcement agency at the initiative of the agency which maintains the record when criminal conduct is suspected, provided that such disclosure has been established as a routine use under § 297.104, or when the instance of misconduct is directly related to the purpose for which the record is maintained;

(i) to a person showing compelling circumstances affecting the health and safety of an individual (not necessarily the individual to whom the record pertains). Upon such disclosure, a notification of such must be sent to the last known address of the individual;

(j) to either House of Congress or to a subcommittee or committee (joint or of either House) to the extent that the subject matter falls within their jurisdiction;

(k) to the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

(l) pursuant to the order of a court of competent jurisdiction.

##### § 297.109 Notification of disclosure under compulsory legal process.

If a record is disclosed under a compulsory legal process under § 297.108(h)

or (l) and the issuance of the order or subpoena is made public by the court which issued it, the agency must make a reasonable effort to notify the individual to whom the record pertains. A notice should be sent to the individual's last known address according to the agency's files.

##### § 297.110 Notification to prior recipients of corrected or disputed records.

If any correction or notation of dispute is made about a personnel record under § 297.112, the agency maintaining the record must notify each person or agency who received that portion of the record of the exact nature of the correction or that a dispute of the record has been made. Agencies who are recipients of such information must, in turn, furnish the correction to those to whom they disclosed that portion of the record. This requirement applies only in those instances where a record of disclosure has been made. Therefore, it does not apply to disclosures made internally to agency personnel in the performance of their official duties, under the Freedom of Information Act, or prior to September 27, 1975.

##### § 297.111 Access to personnel records.

(a) Upon request, personnel records of an employee or former employee shall be disclosed to the individual to whom the record pertains and under whose individual name and/or identifier they are filed. A person of his or her own choosing may accompany the individual when the record is disclosed, or the record may be released to the individual's representative who has the notarized written consent of the employee or former employee or the notarized written consent of the person who has the right under § 294.109 of this chapter. Any disclosure of original records must be made in the presence of a representative of the agency having physical custody of the records. Before disclosure, the following procedures shall apply:

(1) The medical records shall be disclosed to the individual to whom it pertains unless, in the judgment of the agency, access to such record could have an adverse effect upon such individual. When the agency, in consultation with a medical doctor, determines that the disclosure of medical information could have an adverse effect upon the individual to whom it pertains, the agency may transmit such information to a medical doctor named by the requesting individual.

(2) Test material and copies of certificates and other lists of eligibles the disclosure of which is prescribed by § 294.501 of this chapter shall be removed from the records.

(3) Investigative reports shall be disclosed to the individual to whom they pertain as prescribed by § 294.601 of this chapter.

(b) Individuals will not be charged a fee for the first copy of any records pertaining to that individual. The individual may not be charged for search or review or for copies if they are a necessary part



of the process of making the record available for review.

(c) Agencies shall require reasonable identification of individuals to assure that records are disclosed to the proper person. Identification requirements should be consistent with the nature of the records being disclosed.

(1) Disclosure of personnel records to the employee or former employee in person requires that the individual show an identification card; employee identification, annuitant identification, medicare cards, or driver's licenses are examples of acceptable identification. For records disclosed in person or by mail, agencies may require whatever identifying information is needed to locate the record (name, social security number, date of birth, etc.). A comparison of the signatures of the requestor and those in the record will be used to determine identity. If the agency official who has responsibility for the release of the record determines that the data in the record is so sensitive that unauthorized access could cause harm or embarrassment to the individual or former employee, a signed notarized statement may be required when the record is requested by mail.

(2) If an individual can provide no suitable documents for identification, the agency may require a signed statement asserting identity and stipulating that the individual understands that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine of up to \$5,000.

(3) Agencies may require an employee or former employee who wishes to be accompanied by another person when reviewing his or her records to furnish a written statement authorizing discussion of his or her records in the presence of the accompanying person.

(4) The requirements of this section do not entitle an individual the right to access to any information compiled in reasonable anticipation of a civil action or proceeding.

#### § 297.112 Requests to amend records and disputes thereto.

(a) Agencies shall allow individuals to request amendment of their personnel records to the extent that such amendment does not violate existing statute, regulation, or administrative procedure. Requests to amend personnel records of active employees should be submitted, in writing, to the Director of Personnel of the agency who has the authority to maintain the records. Requests to amend personnel records of former Federal employees that are located in Federal records centers should be submitted to: Director, Bureau of Manpower Information Systems, U.S. Civil Service Commission, 1900 E Street, NW., Washington, D.C. 20415. Such requests should contain, as a minimum, identifying information needed to locate the record, a brief description of the item or items of information to be amended, and the reason for the requested change. Agencies may also require verification of identity consistent with § 297.111(c).

(b) Agencies will provide a written acknowledgement of the receipt of a request to amend a record to the individual within ten days excluding Saturdays, Sundays, and legal public holidays) to the individual who requested the amendment. Such an acknowledgement may, if necessary, request any additional information needed to make a determination. No acknowledgement is required if the request can be reviewed, processed, and the individual notified of compliance or denial within the ten-day period.

(c) Agencies will promptly take one of the following actions on requests to amend records:

(1) In accordance with existing statute, regulation, or administrative procedure, make any correction of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(2) Inform the individual of its refusal to amend the record in accordance with his or her request, the reason for the refusal, and the procedures established by the agency or the Commission for the individual to request a review of the refusal by:

(i) The head of the agency or an officer designated by the head of the agency and the name and business address of that official if the record is maintained in addition to those cited in § 293.103(b) of this chapter; or

(ii) The Director, Bureau of Manpower Information Systems, U.S. Civil Service Commission, Washington, D.C. 20415, if the request involves one of the record systems cited in § 293.103(b) of this chapter.

(3) Refer the request to the agency that has control and maintains the record in those instances where the record requested remains the property of the controlling agency.

(d) Agencies shall use the following standards in reviewing records:

(1) In reviewing a record in response to a request to amend it, agencies shall assess the accuracy, relevance, timeliness, or completeness of the record. Agencies shall develop tolerances for accuracy and timeliness, giving consideration to whether such tolerances could result in consequences adverse to the individual. Agencies must limit their records to those elements of information which clearly bear on the determination and assure that all those elements are present before a determination is made. Criteria for determining record quality will be published in pertinent chapters in the Federal Personnel Manual.

(2) Agencies shall develop similar criteria for their records systems and publish them in agency manuals.

(e) If the agency agrees with an individual's request to amend a personnel record, it shall:

(1) So advise the individual in writing;

(2) Correct the record accordingly; and

(3) If an accounting of disclosure has been made, advise all previous recipients of the record which was corrected of the correction and its substance.

(f) If the agency, after an initial review of a request to amend a personnel record, disagrees with all or any portion of it, the agency shall:

(1) Advise the individual of its refusal and the reasons for it;

(2) Inform the individual that he or she may request a further review in accordance with § 297.112(c)(2) of this part; and

(3) Describe the procedures for requesting such review including the name and address of the official to whom the request should be directed. The procedures shall be as brief and simple as possible and shall include an indication of where the individual can seek advice or assistance in obtaining such a review.

(g) If an individual disagrees with the initial agency determination, the individual may file a request for a further review of that determination. The review should be made by the agency head or someone he designates in writing who is senior to the officer or employee who made the initial determination, or by the Director, Bureau of Manpower Information Systems, U.S. Civil Service Commission, Washington, D.C., 20415, if the request involves one of the record systems cited in § 293.103(b) of this chapter.

(h) If after the review, the official also refuses to amend the records as the individual requested, the agency shall advise the individual:

(1) Of its refusal and the reasons for it;

(2) Of his or her right to file a concise statement of the reasons for disagreeing with the decision of the agency;

(3) Of the procedures for filing the statement of disagreement;

(4) That the statement which is filed will be made available to anyone to whom the record is subsequently disclosed together with, at the discretion of the agency, a brief statement by the agency summarizing its reasons for refusing to amend the record;

(5) That prior recipients of the disputed record will be provided a copy of any statement of dispute to the extent that an accounting of disclosures was maintained; and

(6) His or her right to seek judicial review of the agency's refusal to amend a record.

(i) If after the review, the official determines that the record should be amended in accordance with the individual's request, the agency should proceed as in § 297.112(e) of this chapter.

(j) A final agency or Commission determination on the individual's request for a review of the agency's initial refusal to amend the record must be concluded within 30 days (excluding Saturdays, Sundays, and legal public holidays) unless the agency head or the Commission determines that a fair and equitable review cannot be made within that time. If additional time is required, the individual will be informed in writing of reasons for the delay and of the approximate date on which the review is expected to be completed.

#### § 297.113 Disclosure of disputed information.

If after an agency or the Commission has refused to amend a personnel record and the individual has filed a statement under § 297.112(h), the agency or the Commission will clearly annotate the record so that the fact that the record is disputed is apparent to anyone who may subsequently have access to, use, or disclose it. When information that is the subject of a statement of dispute filed by an individual is subsequently disclosed, agencies should note that the information is disputed and provide a copy of the individual's statement. Agencies also may include a brief summary of their reasons for not making a correction when disclosing disputed information. Such statements normally will be limited to the reasons given to the individual for not amending the record. Copies of the agency's statement shall be treated as part of the individual's record for granting access; however, it will not be subject to amendment by the individual.

#### § 297.114 Publication of rules and procedures.

(a) The Commission sets forth in this part the rules and procedures for disclosure of personnel records for which it has responsibility.

(b) Agencies shall publish similar rules and procedures consistent with those of the Commission for disclosure of personnel records for which they have responsibility.

#### § 297.115 Fees.

Agencies shall charge no fees for providing the first copy of a record or any portion thereof to individuals to whom the record pertains.

#### § 297.116 Exemptions.

The following systems of records are partially exempt under the Privacy Act of 1974 and these rules:

(a) Personnel records that are specifically authorized under criteria established under an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order.

(b) Statistical personnel records that are used only to generate aggregate data or for other evaluative or analytical purposes and which are not used to make decisions on the rights, benefits, or entitlements of individuals.

(c) Investigatory material maintained solely for the purposes of determining an individual's qualifications, eligibility, or suitability for employment in the Federal civilian service, Federal contracts, or access to classified information, but only to the extent that disclosure of such material would reveal the identity of the source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

(d) Testing or examination material used solely to determine individual qualifications for promotion or appointment in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.  
[FR Doc.75-13768 Filed 5-23-75; 8:45 am]

#### ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

[OPP-260007; FRL 378-6]

#### LEPTOPHOS

##### Proposed Revocation of Tolerance

On May 31, 1974, the Environmental Protection Agency published in the FEDERAL REGISTER (39 FR 19208) a regulation (Section 180.345) which established tolerances for combined residues of the insecticide leptophos (O-(4-bromo-2,5-dichlorophenyl) O-methyl phenylphosphonothioate) and its metabolites O-(4-bromo-2,5-dichlorophenyl) O-methyl phenylphosphonate, 4-bromo-2,5-dichlorophenol, and O-(2,5-dichlorophenyl) O-methyl phenylphosphonothioate (calculated as leptophos) in or on the raw agricultural commodities lettuce at 10 parts per million and tomatoes at 2 parts per million. Section 180.3(e) was also amended at that time to include leptophos in the list of cholinesterase-inhibiting pesticides. These regulations were established based on data submitted by Velsicol Corp., 341 East Ohio St., Chicago IL 60611, in connection with a pesticide petition (PP 2F1228) which proposed the establishment of such tolerances.

Subsequent to the establishment of the above tolerances, a reevaluation of the petition and other data confirmed that leptophos is an agent which produces delayed neurotoxicity in hens. Additional information on leptophos is necessary to evaluate the possible hazard to man and other nontarget species from the potential effects of its use.

Based on the above information, there is a reasonable basis to propose revocation of the established tolerances for residues until adequate data are provided by the petitioner to show that the use of leptophos on lettuce and tomatoes will not be detrimental to the public health.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before June 26, 1975, that this proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation to the Federal Register Section, Technical Services Division (WH-

569), Office of Pesticide Programs, Environmental Protection Agency, Room 423, East Tower, 401 M Street SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in reviewing them. The comments must be received on or before June 26, 1975 and should bear a notation indicating the subject (OPP-260007). All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated May 16, 1975.

JOHN B. RITCH, JR.,  
Director, Registration Division.

(Sec. 408 (e) and (m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a (e) and (m)))

It is proposed to amend Part 180 as follows:

#### § 180.3 [Amended]

1. By deleting in § 180.3(e) (5) the sentence, "Leptophos and its cholinesterase-inhibiting metabolites."

#### § 180.345 [Removed]

2. By deleting § 180.345 from Subpart C.

[FR Doc.75-13661 Filed 5-23-75; 8:45 am]

#### FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 20401; RM-2363]

#### TABLE OF ASSIGNMENTS, MISSOURI

FM Broadcast Stations; Extension of Time for Comments and Reply Comments

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Jefferson City, Missouri).

1. On March 21, 1975, the Commission adopted a notice of proposed rule making in the above-entitled proceeding. Publication was made in the FEDERAL REGISTER on April 3, 1975, 40 FR 14946. The dates for filing comments and reply comments are presently May 19, and June 9, 1975, respectively.

2. On March 14, 1975, counsel for CLW Broadcasters, requested that the time for filing comments and reply comments be extended to and including June 9 and June 23, 1975, respectively. Counsel states that the additional time is needed to study the availability of other channels for assignment to Centralia, Missouri.

3. We are of the view that the public interest would be served by extending the time in this proceeding. Accordingly, it is ordered, That the dates for filing comments and reply comments are extended to and including June 9 and June 23, 1975, respectively.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and §§ 0.281 and 1.46 of the Commission's rules.



Adopted: May 16, 1975.

Released: May 20, 1975.

FEDERAL COMMUNICATIONS  
COMMISSION,  
[SEAL] WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.  
[FR Doc.75-13700 Filed 5-23-75; 8:45 am]

[47 CFR Parts 81, 83, 87, 91, 93, 95]

[Docket No. 20351]

# **SAFETY AND SPECIAL RADIO SERVICES** **Station Transmissions; Automatic Identifi-** **cation System; Extension for Time to File** **Comments**

In the matter of amendment of Parts 81, 83, 87, 89, 91, 93, and 95 to institute rules regarding a system for automatic identification of station transmissions.

1. Electronic Industries Association (EIA) requests a three month extension of time until August 18, 1975, within which to file comments in the captioned matter. Comments and reply comments were due May 19 and June 2, 1975, respectively.

2. In support of its request, EIA states that the complex issues raised by this proceeding require more time for study before a response can be made. In particular, EIA requires this additional time to study:

- How the quality of on-going communications will be affected by the proposal.
- The technical compatibility problems existing between the ATIS proposal and current standards for certain land mobile equipment.
- How the ATIS requirements may affect on-going products and systems involving mobile data transmission, and
- The economic implications.

Thus, we find that the statements made by EIA constitute a good cause for a grant of its request to extend the time for filing comments in this proceeding. While we are affording EIA and other interested persons additional filing time, we fully expect them to pursue their studies and arrange for needed meetings expeditiously and provide the Commission with meaningful comments.

3. Accordingly, it is ordered, pursuant to §§ 0.131, 0.331, and 1.46 of the Commission's rules that the time for filing comments in the above captioned matter is extended from May 19, 1975, to August 18, 1975, and reply comments from June 2, 1975, to September 2, 1975.

Adopted: May 13, 1975.

Released: May 20, 1975.

[SEAL]

CHARLES A. HIGGINBOTHAM,  
Chief, Safety and Special  
Radio Services Bureau.

[FR Doc.75-13701 Filed 5-23-75; 8:45 am]

## **POSTAL SERVICE**

### **[39 CFR Part 111]**

#### **CITY DELIVERY**

#### **Delivery Policy; New Establishments and Extensions**

Under the provisions of 39 CFR 111.3 the Postal Service proposes to revise its

"City Delivery" regulations in Part 155 (39 CFR 155) of the Postal Service Manual principally by including within this Part a number of rules and regulations as to entitlement to particular forms of postal city delivery which heretofore have been published only as regional instructions of the Postal Service. Because Regional Instructions are generally concerned only with internal operating procedures and guidelines in the postal regions, they are not usually published in Chapter I of the Postal Service Manual, which is incorporated by reference in the Federal Register (see 39 CFR 111.1), or otherwise published in the Federal Register. In this instance, however, incorporation of these regional instructions in Part 155 of the Postal Service Manual appears desirable to facilitate a better understanding of the City Delivery regulations of the Postal Service by concerned members of the public as well as by postal employees.

The proposed regulatory changes would add to § 155.41 a new sentence declaring that purchase, installation, maintenance, and replacement of delivery boxes are not the responsibility of the U.S. Postal Service. This will terminate an experiment under which boxes were supplied by the Postal Service to induce the selection of the most cost-effective form of city delivery.

The revised regulations would delete present § 155.2, authorizing the Regional Postmaster General or his designee to give final approvals for extension of door delivery. Recently, this discretionary authority has rarely been exercised, because of budgetary restraints. Accordingly, the change conforms to what has in fact become operating practice.

In place of § 155.2 the revised regulations would add a new § 155.2 containing detailed rules on entitlement to particular methods of postal delivery in business areas and residential housing (including mobile/trailer homes), which presently are found only in regional instructions. In addition, the new § 155.2 would contain a new § 155.23 to codify an administrative interpretation of regulations as to responses to municipal ordinances.

Minor changes are made in style and form (for example, the changes of "address number" to "street number" proposed for section § 155.62).

Interested persons who wish to do so may submit written data, views, or arguments concerning this proposed change in Postal Service regulations to Assistant General Counsel, Special Projects Division, U.S. Postal Service, Washington, D.C. 20260, at any time before June 30, 1975. After consideration of all comments received, the Postal Service will promulgate the final regulations through amendments to Part 155 of the Postal Service Manual. Accordingly, complying voluntarily with the advance notice requirements of the Administrative Procedure Act (5 U.S.C. 553 (b), (c)) regarding proposed rule-making, the Postal Service proposes the following amendments of the Manual:

In Part 155 of the Postal Service Manual the following changes are made:

1. Sections 155.1 and 155.2 are revised to read as follows:

#### **155.1 Requirements for delivery service.**

.11 *Establishment.* Establishment refers to initiation of delivery service in a community which currently does not receive mail delivery. Consideration for establishing delivery service will be given when the following requirements are met:

- A population of 2,500 or more within the area to be served, or 750 possible deliveries. (Postal population may vary greatly from the general census population because of different boundary interpretations and designations.)
- Fifty percent of the building lots in the area to be served are improved with houses or business places. Where a house or building and its yard or grounds cover more than one lot, all lots involved are considered completely built up.
- Streets are paved or otherwise improved to permit travel of post office vehicles at all times without damage or delay.
- Street signs are in place and house numbers displayed, where applicable.
- Right-of-ways, turnouts, and areas adjacent to roads and streets are improved so that installation and servicing of boxes will not be hazardous to the public or postal employees.
- Satisfactory walks exist for carriers where required.
- Approved mail receptacles or door slots are installed at designated locations. The requirements are essential to an efficient mail delivery service, and must be met before delivery is inaugurated in a community. In establishing delivery service, a combination of delivery methods should be considered to provide adequate service to all residential and business sections of a community. All establishments of delivery service must have final approval of the Regional Postmaster General or his designee.

.12 *Extension.* Extension refers to new delivery in areas not included in the boundaries of present delivery service. Delivery service extension requirements are the same as those listed in 155.11 with the exception of paragraph a.

**155.2 Delivery policy; new establishments and extensions.**

21 In new establishments and extensions, delivery service should be afforded in areas that meet the criteria in Sections 155.11 and 155.12, Postal Service Manual, and normally will be by motorized carrier to curbside boxes or to central delivery points/receptacles, supplemented as follows:

.211 *Business areas.* The type and design of buildings will dictate the method of delivery service to be implemented. Delivery options are:

a. Vertical Improved Mail (VIM) Program, which may include:

- Call Windows,
  - Lockboxes,
  - Mechanical Conveyors
- (Note: This is available only for high-rise, multiple-tenant buildings, and only if certain conditions are met. For details, consult your postmaster.)

b. Single points/receptacles/door slots provided by business management.

.212 *Residential Housing.—a. General.* For all residential areas, except apartment houses and mobile/trailer homes, delivery options are:

(1) Delivery to boxes located at the curb so they can be safely and conveniently served by the carrier from his vehicle; or,

(2) Central delivery at one or more central points within a residential housing development, community, or area. Requirements are:

(a) Local postal managers must approve mailbox sites and equipment;

(b) There must be a minimum of three mailboxes erected at one site (there is no maximum limit); and,

(c) Customers will not be required to travel an unreasonable distance to obtain their mail, not to exceed 300 feet.

b. *Apartment houses.* See 155.6 for delivery options.

c. *Mobile/trailer homes.* Delivery options for mobile/trailer home developments depend upon whether the development is permanent or transient.

(1) Permanent types are developments consisting of managed mobile home parks or residential mobile home subdivisions where: lots are permanently assigned; streets are maintained for public use; and conditions are similar to those of a normal residential subdivision. For permanent developments, delivery options are:

- Delivery to boxes located at the curb so they can be safely and conveniently served by the carrier from his vehicle;
- Delivery to a single point or receptacle designated by the management for receipt of mail for distribution by its employees;
- Central delivery at one or more central points within the area.

Requirements are:

- Local postal managers must approve mailbox sites and equipment;
- There must be a minimum of three mailboxes erected at one site (there is no maximum limit); and,
- Customers will not be required to travel an unreasonable distance to obtain their mail, not to exceed 300 feet.

(2) Transient types are developments comprising recreational vehicle parks and trailer courts where the lots are temporarily rented and the occupants are transient. Such developments are considered transient, even though some families might live in this type of park for an extended period of time. For transient developments, the only delivery option is delivery to a single point or receptacle designed by the trailer park management for receipt of mail for distribution by its employees.

NOTE: This method is one of three options for permanent developments.

.22 *Exceptions.—221 Fill-In.* New homes built within an existing block of homes receiving delivery service will receive the same level of service afforded other homes in the same block. However, where older homes are replaced with new housing, such as by urban renewal projects, the method of delivery provided the new housing shall be in accord with 155.212.

.222 *Hardship cases.* Door delivery will be considered on an individual customer case bases where service through curbside, lockbox, or general delivery would place an extreme hardship on the customer. Only the Regional Postmaster General may approve delivery exceptions for hardship cases.

.23 Where local, city, county, or state ordinances prohibit the installation of mailboxes at the curb and safe servicing of these receptacles by the carrier from his vehicle, delivery options are:

.231 Central delivery at one or more central points within a residential housing development, community, or area.

Requirements are:

a. Local postal managers must approve mailbox sites and equipment;

b. There must be a minimum of three mailboxes erected at one site (there is no maximum limit); and,

c. Customers will not be required to travel an unreasonable distance to obtain their mail, not to exceed 300 feet, or,

.232 Lockbox or general delivery service at the nearest postal facility where carrier delivery emanates.

#### **155.41 [Amended]**

2. In 155.41 the following sentence is added at the end thereof:

"Purchase, installation, maintenance, and replacement of delivery box equipment are not the responsibility of the U.S. Postal Service."

#### **155.62 [Amended]**

3. In 155.62, strike the words "address" in the section heading and in the first sentence and insert in lieu thereof the word "street".

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published on adoption of the proposal. (39 U.S.C. 101, 401(2), 403(a), (b), 404(1), 410(a))

ROGER P. CRAIG,  
Deputy General Counsel.

[FR Doc.75-13717 Filed 5-23-75; 8:45 am]

## **VETERANS ADMINISTRATION**

### **[38 CFR Part 21]**

#### **EDUCATIONAL BENEFITS**

#### **Determination of Satisfactory Progress, Conduct, and Enrollment**

It is proposed to amend Part 21, Title 38, Code of Federal Regulations to provide more explicit guidelines for determining satisfactory progress, conduct and enrollment of veterans and eligible persons.

Section 21.4135 is amended to provide new guidelines for determining the point in time beyond which benefits may no longer be paid because the veteran or other eligible person is not enrolled and pursuing the course.

Section 21.4203 is amended to be consistent with the change to §§ 21.4253 and 21.4277.

Sections 21.4253 and 21.4277 are amended to clarify and make explicit that the State approval agency should require educational institutions to maintain and enforce standards and practices for determining progress and conduct of veterans and eligible persons for both accredited and nonaccredited courses.

In addition to the substantive changes, editorial changes are made designed to reflect policy to avoid any appearance of seeming to preclude benefits for female veterans, their dependents and beneficiaries.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271 A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420. All relevant material received before June 26, 1975, will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Assistance Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Cen-

tral Office and furnished the address and the above room number.

Notice is also given that it is proposed to make these changes effective the date of final approval.

It is proposed to amend 38 CFR Part 21 as follows:

1. In § 21.4135, paragraphs (e), (o), (p) (1), (s), and (v) (2) are revised to read as follows:

§ 21.4135 Discontinuance dates.

(e) *Course discontinued—course interrupted.—*(1) *Residence training.* Last date of attendance.

(2) *Correspondence training.* Date last lesson is serviced.

(3) *Flight training.* Date of last instruction.

(4) *Job training.* Last date worked.

(5) *Independent study.* Official date of change in status under the practices of the institution.

(o) *Veteran no longer rated permanent total disabled; or spouse (trainee) divorced from veteran without fault on his or her part; or serviceman or service-woman removed from "missing status" listing; chapter 35 (§§ 21.3041 and 21.3046).* (1) End of quarter or semester if school is operated on quarter or semester system.

(2) End of course or a 9-week period whichever is earlier, if school is not operated on quarter or semester system.

(p) *Error; payee's or administrative.*

(1) Effective date of award or day preceding act, whichever is later, but not prior to the date entitlement ceased, on an erroneous award based on an act of commission or omission by a payee or with his or her knowledge.

(s) *Reduction in rate of pursuit of course (§ 21.4270).* End of month in which reduction occurred except, first date of a term, if the reduction is effective at beginning of the term.

(v) *Remarriage of widow of widower.*

(2) Conduct of widow or widower: Last day of month before inception of relationship.

2. In § 21.4203, paragraphs (c) and (d) are revised to read as follows:

§ 21.4203 Reports by schools; requirements.

(c) *Course changes.* Any changes in the number of credit hours or the clock hours of attendance or instruction or any other modification in the course as certified at enrollment must be reported promptly to the Veterans Administration. In institutions this reporting requirement will be satisfied if the official date of the change of status is reported in accordance with §§ 21.4253(d) or 21.4254(c) (7).

(d) (2) In other cases the school will initiate the certification. Information regarding any changes or an interruption



or termination of training must be reported during or immediately after the end of the month in which the event occurred. In institutions this reporting requirement will be satisfied if the official date of change of status or interruption or termination is reported in accordance with §§ 21.4253(d) or 21.4254(c)(7).

3. In § 21.4253, paragraphs (a)(1), (b), (d), (e) and (f) are revised to read as follows:

**§ 21.4253 Accredited courses.**

(a) *General.* A course may be approved as an accredited course if it meets one of the following requirements:

(1) The course has been accredited and approved by a nationally recognized accrediting agency or association. "Candidate for accreditation" status is not a basis for approval of a course as accredited.

(b) *Course objective.* Any curriculum offered by an educational institution which is a member of one of the nationally recognized accrediting agencies or associations and which leads to a degree, diploma, or certificate will be accepted as an accredited course when approved as such by the State approving agency. Any curriculum accredited by one of the specialized nationally recognized accrediting agencies or associations and which leads to a degree, diploma, or certificate will also be accepted as an accredited course when approved as such by the State approving agency. Approval of the individual subjects, required or elective, which are designated as a part of a degree curriculum will not be necessary. Such approval may include non-credit subjects that are prescribed as a required part of the curriculum. The course objective may be educational (high school diploma or a standard college degree) or it may be vocational or professional (an occupation).

(d) *School qualification.* A school desiring to enroll veterans or eligible persons in accredited courses will make application for approval of such courses to the State approving agency and will submit copies of its catalog or bulletin. The State approving agency may approve the application of the school when the school and its accredited courses are found to have met the following criteria:

(1) Adequate records are kept by the school to show the progress of each veteran or eligible person. The records must be sufficient to show continued pursuit at the rate for which enrolled and the progress being made. They must include final grade in each subject for each term, quarter, or semester; record of with-

drawal from any subject to include the last date of attendance for a resident course; and record of reenrollment in subjects from which there was a withdrawal; and may include such records as attendance for resident courses, periodic grades and examination results.

(2) The school maintains a written record of previous education and training of the veteran or eligible person which clearly indicates that appropriate credit has been given by the school for previous education and training, with the training period shortened proportionately, and the person and the Veterans Administration so notified. The record must be cumulative in that the results of each enrollment period (term, quarter or semester) must be included so that it shows each subject undertaken and the final result, i.e., passed, failed, incomplete or withdrawn. (38 U.S.C. 1775(b))

(3) The school enforces a policy relative to standards of conduct and progress required of the student. The school policy relative to standards of progress must be specific enough to determine the point in time when educational benefits should be discontinued, pursuant to section 1674, title 38, United States Code, when the veteran or eligible person ceases to make satisfactory progress. No student will be considered to have made satisfactory progress when he or she fails or withdraws from all subjects undertaken (except when there is a showing of extenuating circumstances) when enrolled in two or more unit subjects. The policy must include the grade or grade point average that will be maintained if the student is to graduate. For example, a 4-year college may require a 1.5 grade point average the first year, a 1.75 average at mid-year the second year, and a cumulative average of 2.0 thereafter on the basis of 4.0 for an A. The policy may include a probationary period of one quarter or semester when the student falls below the required average.

(4) The school maintains adequate attendance records for veterans and eligible persons enrolled in resident courses not leading to a standard college degree.

(e) *College level.* Under the provisions of paragraph (a)(1) of this section, any course at college level approved by the State approving agency as an accredited course will be accepted by the Veterans Administration as an accredited course when all of the following conditions are met:

(1) The college or university is accredited by a nationally recognized regional accrediting agency listed by the Commissioner of Education or the course is accredited at the college level by a specialized accrediting agency or association recognized by the Commissioner of Education; and

(2) The course has entrance requirements of not less than the requirements applicable to the college level program of the school; and

(3) Credit for the course is awarded in terms of standard semester or quarter hours or by recognition at completion by the granting of a standard college degree.

(f) *Courses not leading to a standard college degree.* Any course in a school approved by the State approving agency will be accepted as an accredited course when all of the following conditions are met:

(1) The course or the school offering such course is accredited by the appropriate accrediting agency; and

(2) The course offers training in the field for which the accrediting agency is recognized and at a level for which it is recognized; and

(3) The course leads to a high school diploma or a vocational objective.

4. Section 21.4277 is revised to read as follows:

**§ 21.4277 Discontinuance; unsatisfactory progress and conduct.**

(a) *Satisfactory pursuit of program.* Entitlement to a program of education is subject to the requirement that the veteran or eligible person having commenced the pursuit of such program, continues to maintain satisfactory progress in accordance with the regularly prescribed standards and practices of the institution in which he or she is enrolled. If the veteran or eligible person is not making satisfactory progress according to those standards and practices, educational benefits will be discontinued. See § 21.4253.

(b) *Satisfactory conduct.* Entitlement to a program of education is subject to the requirement that the veteran or eligible person, having commenced the pursuit of such program, continues to maintain satisfactory conduct in accordance with the regularly prescribed standards and practices of the institution in which he or she is enrolled. If the veteran or eligible person will no longer be retained as a student or will not be readmitted as a student by the institution in which he or she is enrolled, educational benefits will be discontinued, unless further development establishes that the action of the school is of a retaliatory nature. See § 21.4253. (38 U.S.C. 1674 and 1724)

Approved: May 20, 1975.

[SEAL] R. L. ROTDUBUSH,  
Administrator.  
[FR Doc.75-13749 Filed 5-23-75; 8:45 am]

## notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

### DEPARTMENT OF DEFENSE

Office of the Defense Advisor, United States Mission to NATO

#### DEFENSE INDUSTRY ADVISORY GROUP IN EUROPE (DIAGE)

##### Closed Meeting

The Defense Industry Advisory Group in Europe (DIAGE) will hold a closed meeting on June 17, 1975, in the United States Mission to the North Atlantic Treaty Organization, Brussels, Belgium, on matters which come under the purview of paragraph (4), section 552(b), Title 5 USC.

The agenda topics will be U.S./European Economic Cooperation in Military and Civil Technology, status of NATO projects, and discussion of activities of U.S. defense industry firms in Europe.

Any person desiring information about the advisory group may telephone Brussels 241.44.00 ext. 5728, or write to the Executive Secretary, Defense Industry Advisory Group—Europe, USNATO, HQS NATO, 1110 Brussels, Belgium.

MAURICE W. ROCHE,  
Director, Correspondence and  
Directives OASD (Comptroller).

MAY 21, 1975.

[FR Doc.75-13720 Filed 5-23-75; 8:45 am]

### DEPARTMENT OF JUSTICE

#### Drug Enforcement Administration

#### CONTROLLED SUBSTANCES IN SCHEDULES I AND II

#### Proposed 1975 Revised Aggregate Production Quotas

Section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations.

On January 20, 1975, a notice of the final aggregate production quotas for these substances was published in the FEDERAL REGISTER (40 FR 3225). Also noted in this notice was that pursuant to Title 21 Code of Federal Regulations, § 1303.23(c), the Administrator of the Drug Enforcement Administration would in early 1975 adjust individual manufacturing quotas allocated for 1975 based upon 1974 end of year inventory figures submitted by applicants, actual use, and

estimates of medical and scientific requirements for the United States to be provided by the Food and Drug Administration.

Based upon consideration of the end of year inventory figures submitted by applicants, the actual use, and the estimates submitted to the Drug Enforcement Administration by the Food and Drug Administration, the Administrator of the Drug Enforcement Administration, under the authority vested in the Attorney General by section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) and delegated to the Administrator by § 0.100 of Title 28 of the Code of Federal Regulations does hereby propose the following changes of the aggregate production quotas for 1975 for the below listed controlled substances, expressed in grams in terms of their respective anhydrous bases:

Basic class	Previously published 1975 aggregate production quotas <sup>1</sup>	Newly revised 1975 aggregate production quotas <sup>1</sup>	Net change <sup>1</sup>
Alphaprodine	34,500	47,000	+12,500
Cocaine	600,000	749,000	+149,000
Desoxyephedrine	1,215,374	1,566,833	+351,459
Dihydrocodeine	721,000	500,000	-221,000
Methaqualone	19,668,335	10,751,000	-8,917,335
Oxycodone	1,769,400	1,540,000	-229,400
Secobarbital	18,450,000	24,918,800	+6,468,800

<sup>1</sup> Expressed in terms of grams of anhydrous base.  
<sup>2</sup> Of this, 1,195,000 g are to be used for the production of 1-desoxyephedrine for use in the manufacture of a non-controlled substance (436,832,000 g more than the previously published quota) and 371,833,000 g are to be used for the production of methamphetamine (85,433,000 g less than the previously published quota).

When establishing the above listed newly revised quotas, the following facts weighed heavily on D.E.A.'s determination to raise or lower the 1975 aggregate production quotas for these substances:

(a) Relative to Alphaprodine—D.E.A.'s initial underestimation of the 1974 usage of this substance.

(b) Relative to Cocaine—Increased export requirements for 1975.

(c) Relative to Desoxyephedrine—Increased domestic usage of a product not controlled under the Controlled Substances Act but which contains the levo-rotary isomer of desoxyephedrine. This product has not shown significant abuse potential in the levo-rotary form.

(d) Relative to Dihydrocodeine—Decreased need at the dosage form manufacturing level.

(e) Relative to Methaqualone—Decreased need at the dosage form manufacturing level.

(f) Relative to Oxycodone—Decreased

need for raw material at the dosage form manufacturing level.

(g) Relative to Secobarbital—Increased export requirements for 1975.

All interested persons are invited to submit their comments and objections in writing regarding this proposal. The comments or objections should state with particularity the issues concerning which the person desires to be heard. A person may object or comment on the proposals relating to any one or more of the above mentioned substances without filing comments or objections regarding the others. Comments and objections should be submitted in quintuplicate to the Office of the Administrative Law Judge, Attention: Hearing Clerk, Drug Enforcement Administration, Department of Justice, 1405 Eye Street NW, Washington, D.C. 20537, and must be received by June 30, 1975. If a person believes that one or more issues raised by him warrant a full adversary-type hearing, he should so state and summarize the reasons for his belief.

In the event that comments or objections to this proposal raise one or more issues which the Administrator finds, in his sole discretion, warrants a full adversary-type hearing, the Administrator shall order a public hearing in the FEDERAL REGISTER summarizing the issues to be heard and setting the time for the hearing (which shall not be less than 30 days after the date of publication).

Dated: May 13, 1975.

JOHN R. BARTELS, Jr.,  
Administrator,  
Drug Enforcement Administration.

[FR Doc.75-13696 Filed 5-23-75; 8:45 am]

[Docket No. 74-21]

#### SAMUEL D. NOVICH

#### Revocation of Registration

On October 25, 1974, the Administrator of the Drug Enforcement Administration (DEA) issued to Samuel D. Novich, D.V.M., of Cherry Hill, New Jersey, an Order to Show Cause as to why the DEA Registration AN0604416, previously issued to him pursuant to section 303 of the Controlled Substances Act (21 U.S.C. 823), should not be revoked pursuant to section 304 of that Act (21 U.S.C. 824) for the reason that on May 15, 1974, in the United States District Court for the District of New Jersey, Dr. Novich (hereinafter "Respondent") was convicted of attempt and conspiracy to unlawfully distribute a controlled substance in violation of 21 U.S.C. 841(a)(1), a felony.



On November 21, 1974, Respondent requested a hearing on the order to show cause and, on January 20, 1975, a hearing was held in Washington, D.C., Administrative Law Judge Lewis F. Parker, presiding. On April 7, 1975, Judge Parker filed, pursuant to 21 CFR 1316.65, his recommended findings of fact and conclusions of law, a recommended decision, and the record of the proceedings in this matter including a transcript of the hearing, the various exhibits, and the proposed findings of fact, conclusions of law and briefs, in reply filed by the Government and the Respondent.

The Administrator, pursuant to 21 CFR 1316.66, hereby publishes his final order in this proceeding based upon the findings of fact and conclusions of law set forth below.

The Administrator finds that Respondent was charged in Counts 2 and 3 of a four-count indictment returned by a grand jury in the United States District Court for the District of New Jersey with conspiring with various other individuals to violate section 401(a)(1) of the Controlled Substances Act (21 U.S.C. 841 (a)(1)); that on May 15, 1974, Respondent pleaded guilty to, and was convicted of, one count of attempt and conspiracy to distribute a controlled substance, specifically methamphetamine; and that on August 14, 1974, the Court sentenced Respondent to pay a fine of \$15,000.

In his testimony and in the briefs filed on his behalf, Respondent attempted to explain the circumstances leading to his conviction and attempted to characterize his violation as being merely technical in nature. The Administrative Law Judge concluded that these contentions were relevant to the question of whether the Administrator should revoke the Respondent's registration as a practitioner under the Controlled Substances Act, especially in light of what the Administrative Law Judge perceived as the Government's failure to present any evidence as to the seriousness of the crime committed.

As the Administrator stated in his final order in Matter of Rosenberg, 40 FR 4024, Vol. 18, it is not the function of an administrative hearing to review the correctness of the Court's judgment in a criminal case upon which the order to show cause is based. The government introduced incontrovertible evidence of Respondent's conviction which stands on its own. Thus, the Administrator finds that the Respondent has been convicted of a felony under Title II of the Controlled Substances Act, that the felony related to the distribution of controlled substances, and that, therefore, Respondent's registration is properly subject to revocation or suspension pursuant to section 304 of the Act (21 U.S.C. 824).

The Administrative Law Judge, in his recommended decision, concluded that the Respondent should be permitted to retain his registration because, *inter alia*, his act was not that of a hardened crim-

inal and because the monetary loss and notoriety resulting from his conviction had caused him sufficient suffering. The purpose of the regulatory sanctions in Section 304 is not to add to an errant registrant's miseries. Indeed, the section is not punitive but rather remedial in nature. Penalties are found in other Sections of the Act, such as 841, 842 and 843. Congress recognized the grave problem of drug abuse when it enacted the Comprehensive Drug Abuse Prevention and Control Act of 1970 and, in section 304, provided a means of dealing with the serious problem of diversion and illicit trafficking in controlled substances. The determination of which sanctions in section 304 will best serve the public interest is left to the discretion of the Attorney General. See *Sokoloff v. Saxbe*, 501 F.2d 571, 576 (2nd Cir. 1974).

The Administrator finds upon consideration of all the facts and circumstances which led to the conviction, that Respondent's actions demonstrate a disregard both for the public health and safety and for his responsibilities as a registrant, and further finds that full revocation of his registration is a reasonable choice of sanctions under the circumstances.

Therefore, under the authority vested in the Attorney General by Section 304 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 824), and redelegated to the Administrator of the Drug Enforcement Administration by § 0.100, as amended, Title 28, Code of Federal Regulations, the Administrator hereby orders that the Certificate of Registration of Samuel D. Novich, D.V.M. (DEA Registration AN0604416) be, and hereby is, revoked, effective May 27, 1975.

Dated: May 9, 1975.

JOHN R. BARTELS, Jr.,  
Administrator.

[FR Doc 75-13697 Filed 5-23-75; 8:45 am]

[Docket No. 74-24]

JOHN R. AMATO  
Denial of Registration

John R. Amato, M.D., was registered as a practitioner under the Controlled Substances Act (21 U.S.C. 801, et seq.) and, pursuant to section 303 of that Act (21 U.S.C. 823), had been issued a certificate of registration. That certificate expired on June 30, 1974. On May 12, 1974, Dr. Amato (hereinafter "Respondent") applied to the Drug Enforcement Administration for a new registration. On November 6, 1974, the Administrator of the Drug Enforcement Administration issued to Respondent an Order to Show Cause as to why his application should not be denied for the reason that his license to practice medicine and surgery in the State of New Jersey, including his authorization to handle controlled substances under New Jersey law, had been revoked by that State's Board

of Medical Examiners. On December 3, 1974, Respondent requested a hearing on the order to show cause and, on February 21, 1975, a hearing was held in Washington, D.C., Administrative Law Judge Lewis F. Parker, presiding.

On May 1, 1975, Judge Parker filed, pursuant to 21 CFR 1316.65, his recommended findings of fact and conclusions of law, a recommended decision, and the record of the proceedings in this matter. The Administrator, pursuant to 21 CFR 1316.66, hereby publishes his final order in this proceeding based upon the findings of fact and conclusions of law set forth below.

The Administrative Law Judge found that on August 14, 1974, the Board of Medical Examiners of the State of New Jersey revoked Respondent's license to practice medicine and surgery in that State; that the revocation became effective on August 19, 1974, the date of service of the order on the Respondent; and that on November 15, 1974, the Appellate Division of the Superior Court of New Jersey, in a per curiam opinion, affirmed the order of the Board of Medical Examiners. The Administrator adopts these findings of fact.

The Administrative Law Judge concluded, as a matter of law, that 21 U.S.C. 823(f), which provides that "(p)ractitioners shall be registered . . . if they are authorized to dispense or conduct research under the law of the State in which they practice," must logically give the Administrator the authority to deny a registration if the practitioner is not authorized by the State to dispense controlled substances. The Administrator concurs in this conclusion. To hold otherwise would mean that all applications would have to be granted only to be revoked the next day under 21 U.S.C. 824(a)(3). This agency has consistently held that where a registration can be revoked under section 824, it can, a fortiori, be denied under section 823.

Judge Parker recommended, therefore, that the Administrator deny Respondent's application for the reason that he is not authorized under New Jersey law to administer, dispense or prescribe controlled substances. The Administrator accepts that recommendation.

Therefore, under the authority vested in the Attorney General by section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 823), and redelegated to the Administrator of the Drug Enforcement Administration by § 0.100, as amended, Title 28, Code of Federal Regulations, the Administrator hereby orders that the application of Dr. John R. Amato for registration as a practitioner be, and hereby is, denied. This order shall be effective May 27, 1975.

Dated: May 9, 1975.

JOHN R. BARTELS, Jr.,  
Administrator.

[FR Doc. 75-13698 Filed 5-23-75; 8:45 am]

## DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Order No. 149]

DIRECTOR, CINCINNATI SERVICE CENTER

Delegation of Authority

The authority vested in the Commissioner of Internal Revenue by 26 CFR 301.7701-9, 301.6331-1, 301.6332-1, 301.6332-2, and 301.6343-1, to levy on property in the possession of third parties, to issue final demand for enforcement of levy, and to release levy and return property, is hereby delegated to the Director, Cincinnati Service Center.

The authority herein delegated may be redelegated only to GS-1169 series personnel in the Collection Activity not lower than GS-9.

Date of Issue: May 22, 1975.

Effective date: May 22, 1975.

DONALD C. ALEXANDER,  
Commissioner.

[FR Doc. 75-13750 Filed 5-23-75; 8:45 am]

## DEPARTMENT OF THE INTERIOR

Bureau of Land Management

COEUR D'ALENE DISTRICT MULTIPLE USE ADVISORY BOARD

Meeting Cancellation

Notice is hereby given that the Coeur d'Alene District Multiple Use Advisory Board Meeting scheduled for May 29, 1975, at the Holiday Inn, Coeur d'Alene, Idaho has been cancelled.

Further information concerning the rescheduling of this meeting may be obtained from BLM District Manager Larry Woodard, 1808 North Third Street, Coeur d'Alene, Idaho 83814.

LARRY L. WOODARD,  
District Manager.

[FR Doc. 75-13712 Filed 5-23-75; 8:45 am]

Fish and Wildlife Service

DRS. RAY AND FAY

Marine Mammal Permit; Receipt of Application

On April 28, 1975, a notice was published in the *Federal Register* (40 FR 18477-78) that significant amendments had been filed with the Fish and Wildlife Service by Dr. G. Carleton Ray to the Marine Mammal permit issued on July 3, 1974, to Drs. Ray and Fay, to take Pacific walrus for scientific research. Public comment was invited for thirty days.

A determination has been made that this request, as submitted and published, will now be considered as a separate application for a new marine mammal permit for scientific research.

Considering the application is the same as originally published, and the public has had the opportunity to submit comments since the date of publication, the

30-day comment period remains effective through May 28, 1975.

Dated: May 20, 1975.

C. R. BAVIN,  
Chief, Division of Law Enforcement,  
U.S. Fish and Wildlife Service.

[FR Doc. 75-13692 Filed 5-23-75; 8:45 am]

National Park Service

APPALACHIAN NATIONAL SCENIC TRAIL ADVISORY COUNCIL

Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Appalachian National Scenic Trail Advisory Council will be held at 9 a.m. d.s.t. on June 20, 1975 at the Holiday Inn, 710 Blowing Rock Road in Boone, North Carolina.

The Council was originally established by Pub. L. 90-543 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the administration of the Appalachian National Scenic Trail, including the selection of rights-of-way and standards for the erection and maintenance of markers along the Trail. It was rechartered by the Secretary of the Interior on February 24, 1975 under the authority of Pub. L. 91-383.

The purpose of the Council is to provide for the free exchange of ideas between the National Park Service and the public, and to facilitate the solicitation of advice or other counsel from members of the public on problems and programs pertinent to the Appalachian National Scenic Trail.

The purpose of this meeting is as follows: (1) to organize the Council; (2) to discuss the progress of state land acquisition programs; (3) to consider policy statements and action proposals concerning trail corridor width, standards for trail design and construction and similar matters relevant to the quality of the Appalachian Trail and its environment; and (4) to consider formal management objectives for National Park Service involvement in the Appalachian Trail.

The meeting will be open to the public. Facilities and space can accommodate members of the public up to approximately 100. Persons will be accommodated on a first-come, first-served basis. Any member of the public may file with the Council a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact David A. Richie, Deputy Regional Director, North Atlantic Region, 150 Causeway Street, Boston, Massachusetts 02114, at area code (617) 223-3769.

Minutes of the meeting will be available for public inspection four weeks after the meeting at the above address. Copies of the minutes will also be available in Room 3308 Interior Building, 18th

and C Streets, NW, Washington, D.C., and at the Headquarters of the Appalachian Trail Conference, Filmore Street, Harpers Ferry, West Virginia.

Dated: May 13, 1975.

DAVID A. RICHIE,  
Deputy Regional Director,  
North Atlantic Region.

[FR Doc. 75-13672 Filed 5-23-75; 8:45 am]

Office of the Secretary

[INT PES 76-48]

INDIANA DUNES NATIONAL LAKESHORE

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for West Beach Unit Comprehensive Design, Indiana Dunes National Lakeshore.

The environmental statement considers the social, economic and ecological effects of development, management, and preservation procedures for the West Beach Unit, Indiana Dunes, located in Porter County, Indiana.

Copies of the final environmental statement are available from or for inspection at the following locations:

Midwest Regional Office  
National Park Service  
1709 Jackson Street  
Omaha, Nebraska 68102  
Chicago Field Office  
National Park Service  
2510 Dempster Street, Suite 214  
Des Plaines, Illinois 60018  
Superintendent  
Indiana Dunes National Lakeshore  
Route 2, Box 159A  
Chesterton, Indiana 46304

Dated: May 22, 1975.

STANLEY D. DOREMUS,  
Deputy Assistant  
Secretary of the Interior.

[FR Doc. 75-13870 Filed 5-23-75; 8:59 am]

## DEPARTMENT OF AGRICULTURE

Economic Research Service

ORGANIZATION, FUNCTIONS AND AVAILABILITY OF INFORMATION

Notice for Guidance of General Public

Notice is hereby given for the guidance of the general public as to the organization, functions and availability of information of the Economic Research Service pursuant to Pub. L. 93-502. This notice supersedes the notice contained in 32 FR 9730 (July 4, 1967).

PART I—ORGANIZATION AND FUNCTIONS

Section 1. General. The Economic Research Service was established by Secretary's Memorandum No. 1446, Supplement No. 1, of April 3, 1961, under Reorganization Plan No. 2 of 1953 and other authorities. The functions of the Economic Research Service are to conduct



economic research and service relating to agricultural production, marketing, and distribution, and to analyze the supply and demand for farm products in foreign countries and their effect on prospects for U.S. exports as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), 7 U.S.C. 1761, and other laws.

**Sec. 2. Organization.** The Service functions through a central office in Washington, D.C., located at 500 12th Street, SW. A small staff is maintained in each of 36 States, principally at the Land Grant Colleges and Universities. Much of the research is carried out in cooperation with State Agricultural Experiment Stations. The organization consists of the following:

Administrator, Food and Fiber Economics  
 Deputy Administrator, Food and Fiber Economics  
 Director, National Economic Analysis Division  
 Director, Commodity Economics Division  
 Director, Foreign Demand and Competition Division  
 Deputy Administrator, Resource and Development Economics  
 Director, Natural Resource Economics Division  
 Director, Economic Development Division  
 Director, Foreign Development Division  
 Chairman, Outlook and Situation Board  
 Director, Information Division

**Sec. 3. Administrator.** The Administrator, under the direction of the Director of Agricultural Economics, formulates current, intermediate, and long-range policies, plans, and programs to carry out the following major activities:

Maintains estimates of current resource use, output, and distribution of food and fiber.

Identifies the interrelationships of economic forces affecting resource use, production and distribution of food and fiber.

Maintains short-term forecasts and long-range projections of resource use, production and distribution of food and fiber for both probable and possible future events.

Evaluates the performance of the food and fiber sector in meeting the needs and wants of consumers and overall societal goals concerning such matters as resource ownership and use, income and income distribution, and quality of life.

Identifies probable and possible structural adjustments in the food and fiber sector and rural America and evaluates their impact on consumers, and overall societal goals.

Maintains current information on the principal social and economic factors affecting life in nonmetropolitan areas and identifies and evaluates alternative public and private actions which impact on these areas.

Provides direct assistance and coordinates the USDA's overall program to aid agricultural development in lower income countries.

Disseminates economic information on a timely basis and in a form that is understandable to the people likely to find the information of value.

**Sec. 4. Deputy Administrator, Food and Fiber Economics.** The Deputy Administrator, Food and Fiber Economics, is delegated authority to perform all duties and to exercise all functions which are now and which may be vested in the Administrator relating to economic research on the entire agriculture industry from farmer to consumer.

(a) **Director, National Economic Analysis Division.** The Director of the National Economic Analysis Division is delegated authority to perform all duties and to exercise all functions which are now and which may be vested in the Administrator relating to: (1) statistical studies and associated service work relating to aggregative economic supply and demand relationships, business functions, and coordinative processes characterizing the U.S. Food and Fiber Sector, including structure and adjustment; (2) performance measured in terms of income, efficiency, returns to resources, food prices and costs of marketing and consumer satisfaction; (3) transportation; (4) history; (5) pricing mechanism; (6) input supply utilization and productivity; (7) finance and taxation; (8) economic projections; (9) distribution systems; (10) market development; and (11) non-commodity programs and policies having influence on the Food and Fiber Sector and other related matters.

(b) **Director, Commodity Economics Division.** The Director of the Commodity Economics Division is delegated authority to perform all duties and exercise all functions which are now and which may be vested in the Administrator relating to the production, processing, and marketing of individual agricultural commodities. Research in each of the crop and livestock commodities includes (1) the organization and performance of production and marketing systems for major commodity subsectors; (2) response of farmers and marketing firms to changing economic, technical, and institutional conditions; (3) costs and returns to farmers and marketing firms; (4) spread in price between farmer and consumer; (5) supply, demand and price situation and outlook; and (6) intermediate and long-range projections.

(c) **Director, Foreign Demand and Competition Division.** The Director of the Foreign Demand and Competition Division is delegated authority to perform all duties and exercise all functions which are now and which may be vested in the Administrator relating to: (1) economic research on foreign economic conditions; (2) market developments; (3) world monetary and trade conditions; (4) trade policies of foreign countries that affect marketing of farm products; and (5) assisting in the formulation of policies and programs to promote exports of farm products.

**Sec. 5. Deputy Administrator, Resource and Development Economics.** The Deputy Administrator, Resource and Development Economics, is delegated authority to perform all duties and exercise all functions which are now and which may be vested in the Administrator relating

to natural resources, economic development, and foreign development.

(a) **Director, Natural Resource Economics Division.** The Director of the Natural Resource Economics Division is delegated authority to perform all duties and exercise all functions which are now and which may be vested in the Administrator relating to economic and social research and analysis, statistical studies, technical consultation, planning assistance, and associated service and staff work relating to natural resources. This includes: (1) supplies, uses, and projected future requirements of land and water; (2) effects of environmental quality improvement measures on agricultural production and agricultural resource use; (3) achievement of environmental goals in rural areas; (4) ownership and control of land and water resources; (5) methods for natural resource planning; (6) evaluation of natural resource plans and projects; (7) technical assistance to SCS in developing or reviewing policies and procedures for small watershed project planning and evaluation; and (8) socioeconomic studies of watershed project performance and contributions to economic development.

(b) **Director, Economic Development Division.** The Director of the Economic Development Division is delegated authority to perform all duties and exercise all functions which are now and which may be vested in the Administrator relating to economic and social research on the development of rural areas. This includes development and maintenance of basic data and analyses of important factors related to (1) changes in rural population; (2) economic activity in rural areas; (3) services and facilities available to rural people; (4) effectiveness of local units of government in providing public services; and (5) evaluation of alternative policies and programs to develop human and community resources, improve public and private opportunities, and provide better housing in rural areas.

(c) **Director, Foreign Development Division.** The Director of the Foreign Development Division is delegated authority to perform all duties and exercise all functions which are now and which may be vested in the Administrator relating to direct assistance and coordination of the U.S. Department of Agriculture's overall program to aid agricultural development in lower income countries. This includes (1) training of foreign agriculturalists and potential leaders with new skills and technology; (2) providing technical assistance to developing countries; (3) research in direct support of international technical assistance and training programs in agriculture; and (4) formulation of U.S. international development policy positions.

**Sec. 6. Chairman, Outlook and Situation Board.** The Chairman of the Outlook and Situation Board is delegated authority to perform all duties and exercise all functions which are now and which may be vested in the Administrator re-

lating to the technical review and approval of all economic situation and outlook reports prepared within the U.S. Department of Agriculture.

**Sec. 7. Director, Information Division.** The Director of the Information Division is authorized by the Administrator to provide the necessary services to assure that research results are disseminated on a timely basis and in a form that is understandable to the people likely to find the information of value.

#### PART II—AVAILABILITY OF INFORMATION

**Sec. 8. General statement.** This part is issued in accordance with the regulations of the Secretary of Agriculture in 7 CFR 1.1-1.16 and Appendix A thereto, implementing the Freedom of Information Act (5 U.S.C. 552). The Secretary's regulations, as implemented by the regulations in this part, govern the availability of records of the Economic Research Service to the public.

**Sec. 9. Public inspection and copying.** 5 U.S.C. 552(a)(2) requires that certain materials be made available for public inspection and copying. Members of the public may request access to such materials maintained by the Economic Research Service by writing to the Assistant to the Administrator, Economic Research Service, Room 446-D, 500 12th Street, SW, Washington, D.C. 20250.

**Sec. 10. Indexes.** 5 U.S.C. 552(a)(2) requires that each agency publish or otherwise make available a current index of all materials required to be made available for public inspection and copying. Research results are published in various periodical and special reports. Research of general interest is summarized in the monthly publication, *Farm Index*. The Economic Research Service also publishes monthly a "Checklist of New Reports" of the Economic Research Service, Rural Development Service, and Statistical Reporting Service. This publication lists all reports issued by the above listed organizations during the previous month and permits the recipient to check those he or she wishes to receive. Each year a complete listing of all publications and other documents prepared by the Economic Research Service are listed in the publication "Reports and Publications Issued or Sponsored by USDA's Economic Research Service (Year)." The above cited publications constitute the indexes maintained by ERS and they or other publications of the Economic Research Service may be obtained free of charge by writing: United States Department of Agriculture, Economic Research Service, Division of Information, Publications, Washington, D.C. 20250.

**Sec. 11. Requests for records.** Requests for records under 5 U.S.C. 552(a)(3) shall be made in accordance with 7 CFR 1.3(a) and addressed to: Assistant to the Administrator, Economic Research Service, Room 446-D, 500 12th Street, SW, Washington, D.C. 20250. This official is hereby delegated to make determination regarding such requests in accordance with 7 CFR 1.4(c).

**Sec. 12. Appeals.** Any person whose request under section 11 above is denied shall have the right to appeal such denial. This appeal should be made in accordance with 7 CFR 1.3(e) and addressed to: Administrator, Economic Research Service, Room 448-B, 500 12th Street, SW, Washington, D.C. 20250.

**Effective date:** This Notice is effective May 27, 1975.

KENNETH H. FARRELL,  
 Acting Administrator.

[FR Doc.75-13682 Filed 5-23-75;8:45 am]

#### Farmers Home Administration

[Notice of Designation No. A228]

#### GEORGIA

##### Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in Mitchell County, Georgia, as a result of a natural disaster consisting of tornadoes January 12, 1976.

Therefore, the Secretary has designated this area as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor George Busbee that such designation be made.

Indiana, 8 counties—1974

County	Excessive rainfall	Flooding	Drought	Frost and/or freeze	Hail
Hendricks	May 9 to June 22		June 23 to Aug. 10	Oct. 1 and 2	
Lake	Apr. 25 to June 22		July 10 to Aug. 30	Sept. 22	
Newton	Apr. 22 to May 22		June 22 to Aug. 10	Sept. 22	
Posey	Apr. 1 to June 13	May 29 and June 7	July 14 to Aug. 1	Mar. 24, Sept. 24, and Oct. 3	Mar. 29 to May 5 (intermittent)
Pulaski	May 1 to June 15		July 1 to Aug. 15	Sept. 23	
Vermillion	May 1 to June 22	May 1 to June 22	June 23 to Aug. 24	Sept. 23	
Washington				Oct. 1 and 2	
White	May 8 to 31		May 9 to Aug. 23	Sept. 29	June 14

Therefore, the Secretary has designated these areas as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Otis R. Bowen that such designation be made.

Applications for Emergency loans must be received by this Department no later than July 14, 1975, for physical losses and February 16, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 20th day of May, 1975.

FRANK B. ELLIOTT,  
 Administrator,  
 Farmers Home Administration.

[FR Doc.75-13689 Filed 5-23-75;8:45 am]

Applications for Emergency loans must be received by this Department no later than July 14, 1975, for physical losses and February 16, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 20th day of May, 1975.

FRANK B. ELLIOTT,  
 Administrator,  
 Farmers Home Administration.

[FR Doc.75-13684 Filed 5-23-75;8:45 am]

[Notice of Designation No. A229]

#### INDIANA

##### Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in certain counties in Indiana as a result of various adverse weather conditions. The following chart shows the counties, natural disasters, and dates on which the disasters occurred:

[Notice of Designation No. A227]

#### NEW MEXICO

##### Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in San Juan County, New Mexico, as a result of a natural disaster consisting of drought January 2 through October 20, 1974, and a late freeze June 6, 1974.

Therefore, the Secretary has designated this area as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Jerry Apodaca that such designation be made.

Applications for Emergency loans must be received by this Department no later than July 14, 1975, for physical losses and February 16, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes



it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 20th day of May 1975.

FRANK B. ELLIOTT,  
Administrator,  
Farmers Home Administration.  
[FR Doc.75-13685 Filed 5-23-75; 8:45 am]

[Notice of Designation No. A226]

#### TEXAS

##### Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in the following counties in Texas:

Brazos Throckmorton

The Secretary has found that this need exists as a result of a natural disaster consisting of excessive rainfall September 1 to December 31, 1974, in Brazos County and drought December 1, 1973, through August 31, 1974, in Throckmorton County.

Therefore, the Secretary has designated these areas as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for Emergency loans must be received by this Department no later than July 14, 1975, for physical losses and February 16, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 20th day of May 1975.

FRANK B. ELLIOTT,  
Administrator,  
Farmers Home Administration.  
[FR Doc.75-13686 Filed 5-23-75; 8:45 am]

[Notice of Designation No. A226]

#### WISCONSIN

##### Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in Door County, Wisconsin, as a result of a natural disaster consisting of excessive rainfall April 1 to May 31, 1974, drought July 1 through August 31, 1974, and a heavy freeze September 21 and 22, 1974.

Therefore, the Secretary has designated this area as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 93-237, and the provisions of 7 CFR

1832.3(b) including the recommendation of Governor Patrick J. Lucey that such designation be made.

Applications for Emergency loans must be received by this Department no later than July 14, 1975, for physical losses and February 16, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 20th day of May, 1975.

FRANK B. ELLIOTT,  
Administrator,  
Farmers Home Administration.  
[FR Doc.75-13687 Filed 5-23-75; 8:45 am]

[Notice of Designation No. A078, Amdt. 3 and A101 Amdt. 4]

#### WISCONSIN

##### Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in the following counties in Wisconsin:

Richland Rusk

The Secretary has found that this need exists as a result of a natural disaster consisting of frost September 20, 21, and 22, 1974, in Richland County and drought June 21 to August 15, 1974, in Rusk County.

Therefore, the Secretary has designated these areas as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Patrick J. Lucey that such designation be made.

Applications for Emergency loans must be received by this Department no later than July 14, 1975, for physical losses and February 16, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 20th day of May, 1975.

FRANK B. ELLIOTT,  
Administrator,  
Farmers Home Administration.  
[FR Doc.75-13688 Filed 5-23-75; 8:45 am]

#### Forest Service

##### HERBICIDE USE ON NATIONAL FORESTS OF ALASKA

##### Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of

1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement on Herbicide Use on National Forests in Alaska, USDA-FS-FES(Adm) R-10-75-03.

This environmental statement concerns herbicide use on road, railroad, airfield, and powerline rights-of-way on the Tongass and Chugach National Forests in Alaska.

This final environmental statement was transmitted to the CEQ on

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service  
South Agriculture Bldg., Room 3231  
12th St. & Independence Ave., SW.  
Washington, D.C. 20250

U.S. Department of Agriculture  
Forest Service—Alaska Region  
Federal Building  
Juneau, Alaska 99802

Forest Supervisor  
Chugach National Forest  
121 W. Fireweed Lane, Suite 205  
Anchorage, Alaska 99503

Forest Supervisor, Chatham Area  
Tongass National Forest  
Lloyd Center Building  
Sitka, Alaska 99835

Forest Supervisor, Sitka Area  
Tongass National Forest  
Federal Building  
Petersburg, Alaska 99833

Forest Supervisor, Ketchikan Area  
Tongass National Forest  
Federal Building, Room 313  
Ketchikan, Alaska 99901

A limited number of single copies are available upon request to Regional Forester C. A. Yates, U.S. Forest Service, Federal Office Building, Juneau, Alaska 99802.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

C. A. YATES,  
Regional Forester,  
Alaska Region.

MAY 19, 1975.

[FR Doc.75-13689 Filed 5-23-75; 8:45 am]

#### WHITE MOUNTAIN NATIONAL FOREST ADVISORY COMMITTEE

##### Notice of Meeting

The White Mountain National Forest Advisory Committee will meet June 16, 1975, at the Saco District Ranger's Office, North Conway, New Hampshire, at 9:00 a.m.

The purpose of this meeting is to discuss the Kancamagus Unit Plan.

The meeting will be open to the public. Persons who wish to attend should notify Ned Therrien, U.S. Forest Service, Lacombe, New Hampshire 03246. Telephone number 603-524-6450.

PAUL D. WEINGART,  
Forest Supervisor.

MAY 19, 1975.

[FR Doc.75-13690 Filed 5-23-75; 8:45 am]

#### BLACK PINE PLANNING UNIT Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Black Pine Planning Unit, Sawtooth National Forest, Idaho. The Forest Service report number is USDA-FS-DES (Adm) R4-75-20.

The environmental statement identifies and evaluates the probable effects of the land use plan for the Black Pine Planning Unit on the Sawtooth National Forest, Idaho. The purpose of the plan is to allocate National Forest lands within the unit to specific resource uses and activities; establish management objectives; document management direction, management decisions, and necessary coordination between resource uses and activities; and provide for the protection, use and development of the various resources within the planning unit. The plan provides for minimization of adverse effects and maximization of desirable effects. Significant areas will remain undeveloped with options for future management remaining open.

This draft environmental statement was transmitted to CEQ on May 19, 1975. Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service  
South Agriculture Bldg., Room 3230  
12th St. and Independence Ave., SW  
Washington, D.C. 20250

Regional Planning Office  
USDA, Forest Service  
Federal Building, Room 4403  
324-25th Street  
Ogden, Utah 84401

Forest Supervisor  
Sawtooth National Forest  
1525 Addison Avenue East  
Twin Falls, Idaho 83301  
District Forest Ranger  
Burley Ranger District  
P.O. Box 430  
Burley, Idaho 83318

A limited number of single copies are available upon request to Forest Supervisor E. A. Fournier, Sawtooth National Forest, 1525 Addison Avenue East, Twin Falls, Idaho 83301.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor E. A. Fournier, Sawtooth National Forest, 1525 Addison Avenue East, Twin Falls, Idaho 83301. Comments must be received by July 18, 1975, in order to be

considered in the preparation of the final environmental statement.

Dated: May 19, 1975.

P. M. REES, Director,  
Regional Planning and Budget.  
[FR Doc.75-13711 Filed 5-23-75; 8:45 am]

#### RURAL ELECTRIFICATION ADMINISTRATION

##### CHUGACH ELECTRIC ASSOCIATION, INC.

##### Draft Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration intends to prepare a Draft Environmental Impact Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 in connection with a loan application from Chugach Electric Association, Inc., Box 3518, Anchorage, Alaska 99501. The statement will cover approximately 20 miles of 230 kV transmission line from Teeland Substation to Reed Substation.

Interested persons are invited to submit comments which may be helpful in preparing the Draft Environmental Impact Statement.

Comments should be forwarded to the Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, with a copy to Chugach Electric Association, Inc., whose address was given above. Additional information may be obtained at Chugach Electric's office during regular business hours. Dated at Washington, D.C., the 19th day of May, 1975.

DAVID A. HAMIL,  
Administrator,  
Rural Electrification Administration.  
[FR Doc.75-13691 Filed 5-23-75; 8:45 am]

#### DEPARTMENT OF COMMERCE

##### Domestic and International Business Administration

##### UNIVERSITY OF PITTSBURGH

##### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 CFR 12253 et seq., 15 CFR 701, 1974).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 75-00306-98-29900. Applicant: University of Pittsburgh, Department of Physics, Pittsburgh, Pennsylvania 15260. Article: Far Ultraviolet Interference Filter. Manufacturer: Engins Matra, France. Intended use of article: The foreign article will be used to filter far ultraviolet light in equip-

ment intended to measure atomic oxygen at stratospheric altitudes.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides central wavelength ranges from 1300 Angstroms (Å) to 1350Å with narrow transmission band widths ranging from 70Å to 220Å. The National Bureau of Standards (NBS) advises in its memorandum dated April 30, 1975 that the specific narrow transmission band widths of the article is pertinent to the applicant's intended use. NBS also advises that it knows of no domestic manufacturer of far ultraviolet interference filters of equivalent scientific value to the foreign article for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,  
Director, Special Import  
Programs Division.

[FR Doc.75-13670 Filed 5-23-75; 8:45 am]

#### National Oceanic and Atmospheric Administration

##### COASTAL ZONE MANAGEMENT PROGRAM

##### Marine Sanctuaries Nomination; Intent To File Environmental Impact Statement

The Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration (NOAA), has received a nomination for the designation of a marine sanctuary for the coral reef tract seaward of John Pennekamp State Park in the State of Florida. This nomination was received January 23, 1975 pursuant to Title III of the Marine Protection, Research and Sanctuaries Act of 1972 (Pub. L. 92-532). NOAA has determined that the designation of a marine sanctuary has the potential for causing a significant impact on the environment, and that, therefore, an environmental impact statement for each proposed marine sanctuary should be prepared pursuant to the National Environmental Policy Act (42 USC 4321) and its implementing regulations (40 CFR Part 6).

The OCZM has received a nomination from the State of Florida for the following area:

Florida Keys Coral Reef Marine Sanctuary: Florida has nominated a marine sanctuary as a habitat preserve for the protection, preservation, and management of corals and coral reef ecosystems. The area nominated is adjacent to but excludes the State of Florida's John Pennekamp Coral Reef State Park, beginning at the three-mile limit extending seaward to the 300-foot isobath including the Key Largo Coral Reef Preserve.



The proposed marine sanctuary is being nominated for consideration as a habitat preserve as set forth in 15 CFR 922.10(a), to preserve, protect and manage specialized habitats representative of important marine systems. Management emphasis will be toward preservation of the habitat community (a natural association of organisms set apart according to certain defined features of the environment) associated with corals and coral reefs. The primary purpose shall be to preserve the coral reef ecosystem, however, management regulations will provide for all possible compatible uses of the coral reef which are consistent with the primary purpose of the habitat preserve.

Interested parties who wish to submit suggestions, comments, or substantive information concerning the scope or content of this environmental impact statement should do so as soon as possible. Comments may be submitted in writing or telephone to: Dr. Robert Kifer, (301-496-8821), Marine Sanctuary Coordinator, Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Rockville, Maryland 20852.

R. L. CARNAHAN,  
Acting Assistant Administrator  
for Administration.  
[FR Doc.75-13716 Filed 5-23-75; 8:45 am]

#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[NADA 2-676, 2-677]

#### PHENAZOID AND PHENAZOID COMPOUND

#### Withdrawal of Approval of New Animal Drug Applications

The Commissioner of Food and Drugs is withdrawing certain approved new animal drug applications for Phenazoid and Phenazoid Compound, effective May 27, 1975.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner (21 CFR 2.120), the following notice is issued:

Pitman-Moore, Inc., P.O. Box 344, Washington Crossing, NJ 08560, holder of approved new animal drug applications (NADA) No. 2-676 for Phenazoid, containing phenothiazine, and No. 2-677 for Phenazoid Compound, containing phenothiazine with oxgall and phenolphthalein, has requested, by letter of February 10, 1975, that approval of the NADA's be withdrawn and has waived the opportunity for a hearing. The NADA's, which were approved on July 27, 1940, provide for use of the drugs as oral anthelmintics.

Based upon a reevaluation of the NADA's by the Food and Drug Administration, the firm was requested to submit information about the identity, quality, strength, and purity of the raw materials used, revised labeling, and data to

establish the absence of phenothiazine residues in the edible tissues of food-producing animals or the safety for human consumption of any such residues that may be present. In lieu of the submission of the requested information and because these drug products are no longer made or distributed, the firm has requested withdrawal of approval of the NADA's and has waived its opportunity for a hearing.

Therefore, in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115) (formerly § 135.28 prior to recodification published in the FEDERAL REGISTER of March 27, 1975 (40 FR 13802)), notice is given that approval of NADA Nos. 2-676 and 2-677 and all supplements and amendments thereto for Phenazoid and Phenazoid Compound is hereby withdrawn, effective May 27, 1975.

Dated: May 20, 1975.

SAM D. FINE,  
Associate Commissioner  
for Compliance.

[FR Doc.75-13676 Filed 5-23-75; 8:45 am]

#### WORK-SHARING PROGRAM: DRUG MANUFACTURERS, REPACKAGERS, AND DISTRIBUTORS

#### Memorandum of Understanding With the Pennsylvania Department of Health

The Pennsylvania Department of Health and the Food and Drug Administration executed a Memorandum of Understanding on April 28, 1975. The purposes of this agreement is to provide an increased level of consumer protection through more efficient inspectional coverage of Pennsylvania drug manufacturers, repackagers, and distributors. The agreement reads as follows:

#### MEMORANDUM OF UNDERSTANDING BETWEEN THE PENNSYLVANIA DEPARTMENT OF HEALTH AND THE PHILADELPHIA DISTRICT, U.S. FOOD AND DRUG ADMINISTRATION

I. Purpose. It is the purpose of this understanding to provide more effective consumer protection through more efficient inspectional coverage of Pennsylvania drug manufacturers, repackagers and distributors. The Pennsylvania Department of Health and the Food and Drug Administration, Philadelphia District, will coordinate their programs to maximize effectiveness in making inspections and gaining compliance. This understanding will provide a format for formal discussion and planning in the development of a cooperative inspectional program satisfactory to both agencies.

II. Work-sharing Program. A. Goals and Responsibilities: The Pennsylvania Department of Health and the FDA Philadelphia District Investigations Branch will attempt to develop a formal program for sharing the responsibility of the inspection of all Pennsylvania drug, device, and cosmetic establishments of mutual obligation. Close coordination and communication will be developed; there will be joint planning to assure that manpower is more efficiently utilized and regulatory efforts are properly meshed to achieve a high level of industry compliance.

#### B. Inspectional Obligation:

1. Inspection Inventory: An inventory of firms covered by this understanding, here-

after referred to as the cooperative establishment inventory (CEI), will be developed by both agencies and maintained by FDA's data processing unit (DPU).

2. Registration Information: The Pennsylvania Department of Health will supply Philadelphia District FDA with drug and device registration information. FDA will supply the State with a listing of registered drug firms in Pennsylvania.

3. Joint Inspections: During the term of this understanding, joint inspections will be conducted to give each agency the opportunity to observe its partner's inspectional procedures. The inspections will be planned during the first planning session and discussed during the second and last, as stated in section IV-A.

III. General Provisions. A. Drug Sampling: 1. Collection: The Pennsylvania Department of Health will assist the Philadelphia District FDA in the collection of drug samples when requested and within the limits of its available manpower.

2. Assay: The Philadelphia District drug laboratory will assay drug samples when requested by the Pennsylvania Department of Health, within the limits of available resources.

B. Recall and Emergency: The agencies will cooperate to the fullest extent possible in handling emergency public health problems of drug and device origin and in checking the effectiveness of drug product recalls.

C. Complaint Investigations: When indicated, each agency will assist its partner to the extent possible in the investigation of complaints.

D. Cross-Commissioning: Consideration will be given by both agencies to the possibility of commissioning each other's inspectors to operate under the authority of State and Federal Acts. The need for such commissioning will be determined during the term of this understanding.

E. Training: Based on the results of the joint inspections, FDA and the State will identify training needs and, if needed, develop several possible training activities designed to meet the needs of implementing this understanding.

F. Personnel Exchange: An exchange of personnel will be accomplished during the term of this understanding to permit closer program coordination, better understanding of mutual responsibilities, and an insight into operational procedures and regulatory philosophies. An FDA official will be assigned for a two-week period to the State Drug Section and a State official will be assigned to the Philadelphia District FDA for a two-week period. The details will be conducted under the provisions of the Federal Intergovernmental Personnel Act at federal expense.

IV. Program Review. A. Planning Sessions: Three joint planning sessions will be held during the term of this understanding to discuss the cooperative program, establish effective communication, determine regulatory philosophy, and plan future objectives. The first session will be held within 4 months of the signing of this memorandum; the second will be held 4 months thereafter, and the third during the 11th month of this understanding. The first session will be conducted in Harrisburg, Pennsylvania; the second in Philadelphia, Pennsylvania; and the third in Harrisburg. Each session will be arranged for and moderated by FDA's Region III Assistant Food and Drug Director for Intergovernmental Affairs.

B. Performance Evaluation: During the term of this understanding, a procedure for evaluation of the quality of program performance will be developed. The evaluation procedure will be established during the current term and set into operation during the second year of the program.

V. Term of Understanding. This understanding will expire on May 31, 1976, unless renewed and signed by the heads of both cooperating agencies to continue it in effect for another year. A new memorandum will be prepared each year with asterisks included to indicate sections in which changes were made to this memorandum.

This understanding in its entirety, or in part, may be revised by mutual consent or terminated upon 30 days' written notice by either agency.

Approved and accepted for the Pennsylvania Department of Health:

Leonard Bachman, M.D., Secretary, Pennsylvania Department of Health.

Date: April 28, 1975.

Jack B. Ogun, R.Ph., Chief, Drug, Device and Cosmetic Compliance Section.

Date: April 28, 1975.

Approved and accepted for the Food and Drug Administration:

T. C. Maraviglia, Regional Food and Drug Director, Region III, Food and Drug Administration.

Date: April 28, 1975.

Effective date. This Memorandum of Understanding became effective April 28, 1975.

Dated: May 19, 1975.

SAM D. FINE,  
Associate Commissioner  
for Compliance.

[FR Doc.75-13664 Filed 5-23-75; 8:45 am]

#### Public Health Service

#### NATIONAL INSTITUTES OF HEALTH

#### Statement of Organization, Functions, and Delegations of Authority

Part 8 of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare is hereby amended to reflect the implementation of the Reorganization Order effective July 1, 1973, and the Reorganization Order effective September 25, 1973, with respect to the organization of the National Institutes of Health (NIH) as a Public Health Service agency. Current statements for the National Institutes of Health are to be deleted and replaced by those given below.

SECTION 8-A. Mission. The National Institutes of Health provides leadership and direction to programs designed to improve the health of the people of the United States through the following activities:

(1) Conducts and supports research in the causes, diagnosis, prevention, and cure of diseases of man, in the processes of human growth and development, in the biological effects of environmental contaminants, and in related sciences, and supports the training of research personnel, the construction of research facilities, and the development of other research resources.

(2) Directs programs for the collection, dissemination, and exchange of information in medicine and health, in-

cluding the development and support of medical libraries and the training of medical librarians and other health information specialists.

SEC. 8-B. Organization and functions. The National Institutes of Health is administered by the Director of the National Institutes of Health, under the direction of the Assistant Secretary for Health. NIH consists of the following major components with functions as indicated:

Office of the Director (8A). Provides leadership and direction to the programs and activities of the National Institutes of Health.

Office of the Director and Deputy Directors (8A01). (1) Assists the Assistant Secretary for Health in the formulation of national health policy; (2) provides leadership in the development and implementation of policies and programs in support of biomedical research and communications; (3) manages and coordinates the activities of the National Institutes of Health.

Division of Equal Employment Opportunity (8A0106). (1) Advises the NIH Director and his staff on matters related to the equal employment opportunity programs and policies of the NIH; (2) plans, coordinates, provides policy direction, monitors, and evaluates execution of the equal employment opportunity program; (3) provides for investigation of complaints of discrimination and for fair and judicious processing of such complaints; (4) coordinates with the Division of Personnel Management and other responsible organizational elements in the development and implementation of plans for achieving definite and measurable progress in the equal employment opportunity program; (5) consults with and advises responsible officials in bureaus, institutes, and divisions regarding problems and progress of equal employment opportunity programs in their respective organizations; (6) represents the Director, NIH, in contacts with groups, both within and outside NIH, concerned with equal employment opportunity; (7) maintains liaison with CSC, DHEW, PHS, and other Federal agencies concerned with Federal equal employment opportunity programs.

Office of Collaborative Research (8A02). (1) Advises the Director, NIH, and his staff on collaborative and research contract programs; (2) provides guidance to NIH components in the development and management of collaborative research programs.

Office of Extramural Research and Training (8A03). (1) Advises the Director, NIH, and his staff, and provides guidance to the bureaus, institutes, and divisions on the extramural research and training programs of the NIH; (2) coordinates grants policy for the whole of NIH, and represents the NIH to the Assistant Secretary for Health on overall grants policy.

Office of Intramural Affairs (8A04). Advises the Director, NIH, and his staff, and provides guidance to research bureaus and institutes on the intramural research programs of the NIH.

Office of Clinical Care (8A05). (1) Advises the Director, NIH, and his staff on policies relating to clinical care; (2) provides guidance to research bureaus and institutes on matters affecting clinical care.

Office of Program Planning and Evaluation (8A06). (1) Advises the Director, NIH, and his staff on program plans and policies and on legislative proposals; (2) evaluates the programs of the operating organizations of the NIH and makes recommendations thereon to the Director; (3) directs staff activities relating to program development, program analysis, resources analysis, and legislative liaison and development.

Division of Program Analysis (8A0602). (1) Prepares annually an overall long-range program plan for NIH and coordinates and/or carries out associated program planning activities; (2) prepares annual Research and Evaluation Plan for NIH and manages all NIH program evaluation activities conducted as part of the Department's Health Evaluation Program; (3) prepares a variety of analytic studies and reports to assist the Director of NIH and his top staff in making broad policy and program decisions affecting the size, scope, and direction of NIH programs; (4) performs the OMB project review and clearance function for NIH.

Division of Resources Analysis (8A0603). (1) Provides systematic, continuing analysis of national resources for biomedical research, education, and communication; (2) identifies significant national trends in allocation of resources for biomedical research and analyzes implications for NIH policy and program planning; (3) develops long-range projections of biomedical research requirements and resources; (4) designs and manages surveys and monitors contractual arrangements to obtain data on: (a) flow of funds for biomedical research, and (b) supply, utilization, characteristics, and training of manpower for biomedical research and education; (5) in coordination with PHS develops special reports on national needs and resources capabilities for the Executive Branch and the Congress.

Division of Legislative Analysis (8A0604). (1) Identifies, analyzes, and reports on legislative developments relevant to NIH programs and activities; (2) assesses the need for and proposes changes in the statutory base of NIH activities; (3) plans and develops new legislative proposals; (4) coordinates and controls NIH Congressional communications; (5) provides coordination on NIH legislative matters with the Office of the Assistant Secretary for Health, the Department, the Congress, and other bodies; (6) coordinates preparation of testimony or statements for the use of staff of the Office of the Director before Congressional committees or other groups; (7) develops special reports, staff documents, or other studies concerning NIH interests, activities, and relationships.

Office of Administration (8A07). (1) Advises the Director, NIH, and his staff



on administration and management; (2) provides leadership and guidance in all phases of management; (3) directs staff and service functions in the areas of budget and financial management, personnel management, management policy, engineering services, grant and contract management, general administration, and management surveys.

**Division of Financial Management (8A0702).** (1) Advises the Director, NIH, and his staff and provides leadership and direction for NIH financial management activities; (2) collaborates with the Office of Program Planning and Evaluation in the development and implementation of the long-range plan; (3) develops policies and instructions for budget preparations and presentation; (4) administers allocation of funds and manages a system of fund and budgetary controls; (5) provides an NIH manpower resource control system designed to allocate resources; (6) provides, through development and maintenance, an NIH Management Account Structure; (7) directs planning and implementation of NIH fiscal systems and procedures and provides accounting services to all NIH components; (8) provides a central grant accounting and financial reporting point for all DHEW grants to educational and nonprofit institutions; (9) participates in the development of policies and procedures pertaining to grants and contracts.

**Division of Personnel Management (8A0703).** (1) Advises the Director, NIH, and his staff on personnel management; (2) directs central personnel management services; (3) provides NIH leadership and planning on personnel program development, salary administration, Upward Mobility, and other personnel functions; (4) makes studies and recommendations to top management at NIH and PHS for new or redirected personnel efforts and policies and participates, as appropriate, in the development of such policies.

**Division of Administrative Services (8A0705).** (1) Plans and conducts a centralized program of technical and administrative services in support of biomedical research, patient care, and administrative and plant operations; (2) advises the Associate Director for Administration on central services matters and acts as his representative with PHS, DHEW, GAO, and GSA; (3) collaborates with scientific, technical, and administrative staff of NIH components in the management of programs to meet NIH needs for administrative services and logistical support; (4) develops and implements policies and procedures in areas of responsibility.

**Division of Engineering Services (8A0706).** (1) Plans and conducts a centralized program in support of the construction, operation, and maintenance of NIH facilities and advises the Associate Director for Administration in these areas; (2) provides engineering design and architectural services in the (a) planning of NIH facilities and improvements, (b) the administration and inspection of NIH construction under direct contract, and

(c) liaison with and inspection of projects administered by the GSA or the Office of Facilities Engineering and Property Management, DHEW, in coordination with PHS; (3) provides engineering craft and labor services in operating and maintaining NIH buildings, grounds, utility plants, and related equipment; (4) maintains liaison with state and local review and governing authorities.

**Division of Contracts and Grants (8A0707).** (1) Advises the Director, NIH, and his staff and provides leadership and direction for NIH contracting and grants management activities; (2) plans, develops, and recommends NIH-wide research and development negotiated contracting policies, procedures, and practices; (3) provides contracting officer services to those NIH components which have a small volume of research contracts; (4) maintains a continuing review of contracting operations in those bureaus, institutes, and divisions with decentralized authority to insure adherence to FPR, DHEW, PHS, and NIH policies and standards; (5) provides NIH research contracting operating units with price/cost analysis services and comprehensive advice on the financial responsibility of prospective contractors; (6) participates with other offices in the Office of the Director, NIH, and with NIH awarding components in the formulation, coordination, and implementation of DHEW, PHS, and NIH policies and procedures pertaining to grants administration, and serves as focal point of liaison with the management staffs of grantee institutions; (7) in coordination with PHS, maintains liaison with the Audit Agency, Office of the Assistant Secretary Comptroller, and with the Office of Grants and Procurement Management, OS, on contracts and grants management policy, procedural, and operating matters including the resolution of audit reports.

**Division of Management Policy (8A0708).** (1) Advises and assists OD staff and operating officials on management policy, procedures, organization, business ADP systems, and related management matters; (2) provides staff assistance and coordination in management planning and in related policy development and implementation; (3) conducts management studies and evaluates studies of NIH made by outside organizations; (4) reviews, monitors, and advises on the development of business ADP systems at NIH and furnishes assistance in the analysis, design, and coordination of data systems in the administrative areas; (5) conducts a management program covering directives, forms, reports, records, and other aspects of paper work management; (6) maintains liaison with and, as assigned, serves as NIH coordinator for PHS and Department-wide efforts to improve management and administration.

**Division of Management Survey and Review (8A0709).** Provides advice and assistance to OD staff and operating officials on management problems: (1) Plans and organizes a management survey program throughout NIH; (2) plans, schedules, and conducts reviews designed

to appraise soundness and adequacy of management control systems; (3) develops recommendations to the OD staff, NIH, and the head of the organization surveyed, for improving the system of management controls and follows up to verify if corrective actions have been taken and if results are satisfactory; (4) investigates specific problem areas at the request of top management; (5) in coordination with PHS, acts as the central NIH liaison point for relationships on internal audit matters with the GAO and the HEW Audit Agency.

**Office of Communications (8A09).** (1) Advises the Director, NIH, with particular reference to the communications aspects of NIH policies and programs; (2) plans and directs activities designed to achieve better understanding of NIH programs, and accomplishments on the part of the general public, Congress, biomedical institutions, and the medical profession; (3) plans and directs programs designed to facilitate dissemination of scientific and technical information arising from NIH research to professional audiences; (4) advises the Director, NIH, on applications of the Freedom of Information Act and serves as the principal NIH spokesman in these matters; (5) assures effective communication on policy and program between the Office of the Director and operating components of NIH.

**Division of Public Information (8A0902).** (1) Advises the Associate Director for Communications on policies and programs relating to public information and public affairs activities of the NIH; (2) plans and directs the public information program; (3) identifies NIH needs in the area of public information and plans and carries out special efforts to meet those needs; (4) provides for orderly and expeditious processing and dissemination of NIH public information materials.

**Division of Scientific Reports (8A0903).** (1) Advises the Associate Director for Communications on policy and program aspects of NIH's multicategorical effort to interpret, present, and disseminate research findings and scientific and health information to the biomedical community and other special audiences; (2) provides guidance and coordination to and evaluates bureau, Institute, and division programs of scientific and health reporting; (3) directs the public inquiry function for the Office of the Director; advises and assists operating components of NIH in establishing policies and procedures to insure prompt and informative answers to inquiries concerning their activities; (4) prepares and publishes scientific and technical publications and reports relating to NIH programs and accomplishments; (5) serves as principal advisor to the Associate Director for Communications on the requirements of the Freedom of Information Act as it applies to NIH and on Departmental and OMB regulations governing scientific reporting and public inquiries; develops and issues guidelines to insure conform-

ance with laws, policies, and regulations in these areas throughout NIH.

**National Cancer Institute (8C).** Plans, conducts and coordinates a national program involving (a) research on the detection, diagnosis, cause, prevention, treatment, and palliation of cancers and on rehabilitation of the cancer patient and (b) demonstration of the effectiveness of cancer control methods and techniques. Specifically: (1) Conducts and directs research performed in its own laboratories and through contracts; (2) supports and coordinates research projects by scientific institutions and individuals through research grants; (3) supports manpower training in fundamental sciences and clinical disciplines through individual and institutional research training awards and clinical education awards; (4) supports construction of laboratories and related facilities necessary for research on cancer; (5) supports field tests and community demonstration projects of methods and techniques for cancer control; (6) collaborates with voluntary organizations and other institutions engaged in cancer research, training, and control activities; (7) encourages and coordinates cancer research by industrial concerns where such concerns evidence a particular capability for programmatic research; (8) collects and disseminates information on cancer research and cancer control; (9) consults with appropriate individuals and agencies in the development, coordination, and support of cancer research programs in other countries.

**Office of the Director (8C01).** (1) Serves as the focal point for the National Cancer Program; (2) develops a National Cancer Plan and monitors implementation of the Plan; (3) directs and coordinates the Institute's programs and activities; and (4) develops and provides policy guidance and staff direction to the Institute's programs in areas such as program coordination, program planning, clinical care, and administrative management.

**Office of Program Planning and Analysis (8C02).** (1) Manages the development and updating of the National Cancer Plan and monitors implementation of the Plan; (2) plans and analyzes the program plans for the Institute; (3) provides leadership for and coordinates Institute scientific and technical information activities, including development of a research data bank and a management information system for the National Cancer Program; (4) provides staff support to the Office of the Director for coordination of the National Cancer Program.

**Office of Administrative Management (8C07).** (1) Directs and conducts administrative management activities of the Institute by providing services in areas of financial management, contract management, personnel management, and administrative services; (2) advises the Director and the Divisions of the Institute on developments in administrative management and their implications and effects on program management; (3) co-

ordinates administrative management activities of the Divisions; (4) develops policies on administrative management and prepares and issues procedures and guidelines for implementation of administrative policies and requirements.

**Office of Cancer Communications (8C08).** (1) Develops and manages the program communications activities of the National Cancer Institute/National Cancer Program; (2) interprets program and organizes, prepares, and disseminates reports on cancer research and treatment for Congress, HEW, and other Federal departments, and for research institutions and other organizations participating in the National Cancer Program; (3) maintains liaison with National Cancer Program constituents on behalf of the Director to facilitate program management and reporting and interpretation and information exchange, and advises the Director on these matters; (4) responds to public inquiries; (5) prepares and coordinates internal reports for dissemination within the Institute and other parts of the Executive Branch, and to the Congress; (6) serves as a focal point for information on legislation and other Congressional developments affecting the National Cancer Program; (7) supports the Cancer Control Program in developing cancer education programs for professionals treating cancer patients and for individuals with cancer and at risk to cancer.

**Division of Cancer Treatment (8C10).** (1) Plans, directs, and coordinates an integrated program of cancer treatment activities with the objective of curing or controlling cancer in man by utilizing combination modalities including chemical, surgical, radiological, and certain immunological techniques, through intramural laboratory and clinical studies, contracted research, and research conducted in cooperation with other Federal agencies; (2) administers a total drug development program encompassing all phases from drug acquisition up to and including clinical trials; (3) serves as the national focal point for information and data on experimental and clinical studies related to cancer treatment and for the distribution of such information to appropriate scientists and physicians; (4) participates in the evaluation of and advises the Institute Director on program related aspects of cancer control activities and of grants and grant applications as they relate to cancer treatment.

**Clinical Oncology Program (8C1006).** (1) Plans, directs, coordinates, and evaluates patient care activities of the NCI and a program of basic, applied and clinical research in cancer treatment; (2) establishes program priorities, allocates clinical resources, integrates the projects of the various branches, evaluates program effectiveness and represents the program area in management and scientific decision-making meetings within the Institute; (3) through intramural studies and contracts, administers research in surgery, radiotherapy, chemotherapy and combined modalities of treatment; (4) advises the Director

of the Division, the National Cancer Advisory Board and other scientific advisory committees.

**Baltimore Cancer Research Center Program (8C1007).** (1) Plans, directs, coordinates, and evaluates a program of laboratory and clinical research carried on by the NCI Baltimore Cancer Research Center; (2) establishes program priorities, allocates resources, integrates the projects of the various branches, evaluates program effectiveness, and represents program areas in management and scientific decision-making meetings within the Institute; (3) through intramural studies and contracts, administers research and clinical support in general medical services including surgical, chemotherapeutic, and radiotherapeutic services; (4) advises the Director of the Division and supports the activities of the National Cancer Advisory Board and other scientific advisory committees.

**Experimental Therapeutics Program (8C1008).** (1) Plans, directs, coordinates, and applies research concerning the pharmacologic and toxicologic aspects of cancer chemotherapy; (2) establishes program priorities, allocates resources, integrates the projects of the various branches, evaluates program effectiveness, and represents program area in management and scientific decision-making meetings within the Institute; (3) through intramural laboratories and contracts, administers research in cell biology, toxicology, pharmo-kinetics and dynamics, drug metabolism, experimental therapeutics, and molecular, chemical, and biochemical pharmacology; (4) advises the Director of the Division and supports the activities of the National Cancer Advisory Board and other scientific advisory committees.

**Drug Research and Development Program (8C1009).** (1) Plans, directs, coordinates, and evaluates a program of basic and applied research in drug development and evaluation; (2) establishes program priorities, allocates resources, integrates the projects of the various branches, evaluates program effectiveness, and represents program area in management and scientific decision-making meetings within the Institute; (3) through intramural laboratories and contracts, administers research in genetics, molecular biology, experimental chemotherapy, and drug development, procurement, distribution, and evaluation; (4) advises the Director of the Division and supports the activities of the National Cancer Advisory Board and other scientific advisory committees.

**Cancer Therapy and Evaluation Program (8C100B).** (1) Plans, directs, coordinates, and evaluates a clinical contract program of cancer therapy evaluation; (2) establishes program priorities, allocates resources, integrates the projects of the various branches, evaluates program effectiveness, and represents program area in management and scientific decision-making meetings within the Institute; (3) through intramural and contract activities, administers



studies in literature research, anti-cancer drugs, therapeutic methods, and maintains liaison with the Food and Drug Administration; (4) advises the Director of the Division and supports the activities of the National Cancer Advisory Board and other scientific advisory committees.

**Division of Cancer Cause and Prevention (8C11).** (1) Plans and directs a program of laboratory, field, and demographic research on the cause and natural history of cancer and means for preventing cancer through direct in-house research and through research contracts; (2) evaluates mechanisms of cancer induction by viruses and by environmental carcinogenic hazards; (3) serves as the focal point for the Federal Government on the synthesis of clinical, epidemiological, and experimental data relating to the cause of cancer; (4) participates in the evaluation of and advises the Institute Director on program aspects of cancer control activities and of grants and grant applications as they relate to cancer cause and prevention.

**Carcinogenesis Program (8C1103).** (1) Plans, directs, coordinates, and evaluates a program of basic and applied research on the cancer-causative factors and the prevention of carcinogenesis; (2) establishes program priorities, allocates resources, integrates the projects of the various branches, evaluates program effectiveness, and represents program area in management and scientific decision-making meetings within the Institute; (3) through intramural laboratories and contracts, administers research in carcinogenesis and related toxicology, metabolism, chemistry, immunology, cell biology, experimental tumor pathology, carcinogen bioassays, and information sciences; (4) advises the Director of the Division and supports the activities of the National Cancer Advisory Board and other scientific advisory committees.

**Field Studies and Statistics Program (8C1104).** (1) Plans, directs, coordinates, and evaluates a program of epidemiologic, statistical, and mathematical research activities and statistical and automatic data processing services for all NCI research programs; (2) establishes program priorities, allocates resources, integrates the projects of various branches, evaluates program effectiveness, and represents program area in management and scientific decision-making meetings within the Institute; (3) through intramural and contract activities, administers research in biometry and epidemiology and the development of mathematical models and statistical methodology; (4) advises the Director of the Division and supports the activities of the National Cancer Advisory Board and other scientific advisory committees.

**Viral Oncology Program (8C1105).** (1) Plans, directs, coordinates, and evaluates a program of basic and applied research regarding viruses as etiological agents of cancer; (2) establishes program priorities, allocates resources, integrates the projects of the various branches, evaluates program effectiveness, and represents program area in management and scientific decision-making meetings within the Institute; (3) through intramural and contract activities, administers research in biometry and epidemiology and the development of mathematical models and statistical methodology; (4) advises the Director of the Division and supports the activities of the National Cancer Advisory Board and other scientific advisory committees.

resents program area in management and scientific decision-making meetings within the Institute; (3) through intramural laboratories and contracts, administers research in biochemistry, tumors, genetics, pathology, biohazards, immunology, the environment, and viral and cell biology; (4) advises the Director of the Division and supports the activities of the National Cancer Advisory Board and other scientific advisory committees.

**Division of Cancer Research Resources and Centers (8C12).** (1) Plans and directs the Institute's grant-supported activities including research grants, centers grants, manpower training, and facilities construction; (2) recommends Institute policy relating to the administration of grant programs; (3) develops, reviews, and coordinates plans and criteria for the implementation of grants and evaluates effectiveness of grant-supported activities in achieving the Institute's missions; (4) advises the Institute Director, the National Cancer Advisory Board, and other advisory bodies of grant activities and developments, as they apply to programs supported by contracts and the overall mission of the National Cancer Program.

**Biomedical Research Program (8C1209).** (1) Plans, directs, coordinates, and evaluates grant-supported activities in multidisciplinary biomedical and clinical research, including research grants, individual and institutional research training awards, and awards for support of scientific meetings, and recommends Institute policies regarding these program grants; (2) establishes program priorities, allocates resources, integrates the projects of the various branches, evaluates program effectiveness, and represents program area in management and scientific decision-making meetings within the Institute; (3) advises the Director of the Division and supports the activities of the National Cancer Advisory Board and other scientific advisory committees.

**Cancer Center Program (8C1210).** (1) Plans, directs, coordinates, and evaluates the Cancer Center Program the Research Facilities Construction Program, and the Cancer Clinical Education Program; (2) establishes program priorities, allocates resources, integrates the projects of the various branches, evaluates program effectiveness, and represents program area in management and scientific decision-making meetings within the Institute; (3) advises the Director of the Division and supports the activities of the National Cancer Advisory Board and other scientific advisory committees.

**Division of Cancer Biology and Diagnosis (8C13).** (1) Plans and directs the general laboratory and clinical research activities of the National Cancer Institute; (2) cooperates with other divisions of the Institute in conducting basic research which is supportive of targeted activities of the Institute; (3) serves as the national focal point for programs to improve the detection and diagnosis of human cancers; (4) plans and manages a collaborative program in immunology,

diagnosis, and breast cancer; (5) participates in evaluation of and advises the Institute Director on program related aspects of cancer control activities and of grants and grant applications as they relate to cancer biology and diagnosis.

**Clinical Research Program (8C1302).** (1) Plans, directs, coordinates, and evaluates a program of basic, applied, and clinical research; (2) establishes program priorities, allocates resources, integrates the projects of the various branches, evaluates program effectiveness, and represents program area in management and scientific decision-making meetings within the Institute; (3) through contracts and intramural laboratory and clinical studies, administers research in immunology, dermatology, metabolism, endocrinology, breast oncology, radiation oncology, pathology, physiology, genetics, biochemistry, cytology, and molecular and general biology; (4) advises the Director of the Division and supports the activities of the National Cancer Advisory Board, and other scientific advisory committees.

**Immunology Program (8C1313).** (1) Plans, directs, coordinates, and evaluates a program of basic and applied research on tumor immunology and cell biology; (2) establishes program priorities, allocates resources, integrates the projects of the various branches, evaluates program effectiveness, and represents program area in management and scientific decision-making meetings within the Institute; (3) through intramural laboratories, administers research in tumor immunology, immunochemistry, cellular immunology, transplantation immunology, and other aspects of general immunology as applied to the study of the biology, diagnosis and treatment of neoplastic diseases; (4) develops and implements a single research program in tumor immunology for the National Cancer Institute utilizing the contract mechanism; (5) advises the Director of the Division and supports the activities of the National Cancer Advisory Board and other scientific advisory committees.

**Collaborative Research Program (8C1316).** (1) Plans, directs, coordinates, and evaluates a broad program of basic and applied research and also monitors the professional aspects of research contract management; (2) establishes program priorities, allocates resources, integrates the projects of the various branches, evaluates program effectiveness, and represents program area in management and scientific decision-making meetings within the Institute; (3) through research contracts, administers studies in cancer diagnosis and the diagnosis, therapy, and epidemiology of breast cancer; (4) advises the Director of the Division and supports the activities of the National Cancer Advisory Board and other scientific advisory committees.

**Division of Cancer Control and Rehabilitation (8C14).** (1) Plans, directs, and coordinates an integrated program of cancer control and rehabilitation ac-

tivities with the goal of identifying, testing, evaluating, demonstrating, communicating, and promoting the widespread application of available and new methods for reducing the incidence, morbidity, and mortality from cancer; (2) serves as the focal point of a coordinated national effort to control cancer, involving all appropriate elements of the Department of Health, Education, and Welfare, other Federal agencies, state and local health departments, voluntary health agencies and other elements of the private health community; (3) in collaboration with the research divisions of the National Cancer Institute, identifies candidate control techniques and methods for inclusion in the field test and demonstration activities of the Division; (4) serves as the focal point of the National Cancer Institute for research in cancer rehabilitation; (5) participates in evaluation of and advises the Institute Director on program related aspects of grants and contracts as they relate to cancer control and rehabilitation.

**Intervention Program (8C1412).** (1) Plans, directs, coordinates, and evaluates the identification and field testing of new and improved intervention methods and techniques to be used on a wide scale in community settings; (2) establishes program priorities, allocates resources, integrates the projects of the various branches, evaluates program effectiveness, and represents program area in management and scientific decision-making meetings within the Institute; (3) through contracts and grants, administers a broad program in cancer control intervention including prevention, detection, diagnosis, pretreatment evaluation, treatment, rehabilitation, and continuing care; (4) advises the Director of the Division and the Director of the Institute; supports the activities of the National Cancer Advisory Board and other advisory committees.

**Community Program (8C1413).** (1) Plans, directs, coordinates, and evaluates the demonstration and promotion of approved intervention techniques and methods in community settings; (2) establishes program priorities, allocates resources, integrates projects relative to intervention at the community level, evaluates program effectiveness, and represents the program area in management and scientific decision-making meetings within the Institute; (3) through contracts and grants, administers a broad program in cancer control intervention in community settings including prevention, detection, diagnosis, pretreatment evaluation, treatment, rehabilitation, and continuing care; (4) advises the Director of the Division and the Director of the Institute; supports the activities of the National Cancer Advisory Board and other scientific advisory committees.

**National Heart and Lung Institute (8G).** (1) Provides leadership for a national program in diseases of the heart, blood vessels, blood, and lungs; (2) plans, conducts, fosters, and supports an integrated and coordinated program of research, investigations, clinical trials, and

demonstrations relating to the causes, prevention, methods of diagnosis, and treatment (including emergency medical treatment) of the heart, blood vessel, lung, and blood diseases through: research performed in its own laboratories and through contracts and research grants to scientific institutions and to individuals; (3) plans and directs research in the development, trial, and evaluation of drugs and devices relating to the prevention and treatment of, and the rehabilitation of patients suffering from, such diseases; (4) conducts studies and research into the clinical use of blood and all aspects of the management of its resources; (5) supports training of manpower in fundamental sciences and clinical disciplines for participation in basic and clinical research programs relating to heart, blood vessel, blood, and lung diseases by individual and institutional research training awards; (6) coordinates with the other research institutes and with all Federal health programs relevant activities in the above diseases, including the related causes of stroke; (7) conducts educational activities, including the collection and dissemination of educational materials on these diseases, with emphasis on the prevention thereof, for health professionals and the lay public; (8) maintains continuing relationships with institutions and professional associations and with international, national, state, and local officials, and voluntary agencies and organizations working in these areas.

**Office of the Director (8G01).** (1) Develops and provides leadership for the national heart, blood vessel, blood, and lung program, including the coordination of all Federal health programs relating to the above diseases as authorized; (2) provides overall planning, direction, coordination, and evaluation of the Institute's programs; (3) collects, develops, and disseminates information on the above diseases, with emphasis upon factors in their prevention, and conducts and fosters related educational programs for scientists and clinicians; (4) provides overall management and administrative services for the Institute; (5) establishes internal Institute policies for program and administrative operations and maintains surveillance over their execution.

**Office of Program Planning and Evaluation (8G03).** (1) Advises the Director on program plans and policies; (2) assists in the establishment of Institute goals and in the development of programs to meet these objectives; (3) performs analysis and evaluation of data on cardiovascular, respiratory, and blood diseases and on blood resources for use in program planning and development; (4) coordinates the presentation of the Institute's varied activities in plans and reports to higher echelons.

**Office of Administrative Management (8G04).** (1) Advises and assists the Director on administrative matters; (2) plans and directs management functions of the Institute and provides leadership and coordination of Institute management activities; (3) participates in pro-

gram and legislative review, interpretation, analysis, and implementation to insure compliance with laws, regulations, and DHEW and PHS management policies, procedures, and goals; (4) provides coordination and selected supporting and staff services in fiscal management, personnel management, management analysis, and administrative services.

**Office of Prevention, Control, and Education (8G05).** (1) Plans, coordinates, and develops Institute policies and programs in the areas of information and education relating to cardiovascular, respiratory, and blood diseases and blood resources, and coordinates associated activities in the Divisions; (2) develops educational and informational materials for both the general public and the medical community as appropriate for professional use in the prevention, diagnosis, and treatment of these diseases and for general public education and information; (3) designs, develops, and operates or coordinates programs which facilitate or implement the transfer of knowledge gained through research and development into clinical practice through educational measures, demonstrations, and other means; (4) administers a clearinghouse for scientific and technical information on cardiovascular, respiratory, and blood diseases and blood resources.

**Division of Heart and Vascular Diseases (8G15).** (1) Plans and directs the Institute's research grant, contract, and training programs in heart and vascular diseases, encompassing basic research, targeted research, clinical trials and demonstrations, national cardiovascular centers, technological development, and application of research findings; (2) maintains surveillance over developments in its program area and assesses the national need for research in the causes, prevention, diagnosis, and treatment of cardiovascular diseases, in technological development, in the application of research findings, and for manpower training in these areas; (3) maintains the necessary scientific management capability to foster and guide an effective attack upon cardiovascular diseases.

**Etiology of Arteriosclerosis and Hypertension Program (8G1510).** (1) Plans and directs a program of grant and contract support for research on the etiology of arteriosclerosis and hypertension to insure maximum utilization of available resources in attainment of Institute objectives; (2) assesses need for research in program areas; (3) recommends priorities and funding levels for programs to be recommended to the advisory council for support by grants; (4) determines priorities and allocates funds for research to be supported by contract; (5) collaborates with intramural programs in the Institute and NIH-wide and maintains an awareness of national research efforts in program areas; (6) prepares reports and analyses to assist Institute staff and advisory groups in carrying out their responsibilities; (7) consults with voluntary health organizations and with professional associations in identifying



research needs and developing programs to meet them.

**Cardiology Program (8G1512).** (1) Plans and directs a program of grant and contract support for research in cardiology, in its clinical and fundamental aspects, and in the relevant technological and bioengineering devices areas, to insure maximum utilization of available resources in attainment of Institute objectives; (2) assesses need for research in program areas; (3) recommends priorities and funding levels for programs to be recommended to the advisory council for support by grants; (4) determines priorities and allocates funds for research to be supported by contract; (5) collaborates with intramural program in the Institute and NIH-wide and maintains an awareness of national research efforts in program area; (6) prepares reports and analyses to assist Institute staff and advisory groups in carrying out their responsibilities; (7) consults with voluntary health organizations and with professional associations in identifying research needs and developing programs to meet them.

**Clinical Applications and Prevention Program (8G1513).** (1) Plans and directs programs of basic and applied research and grant and contract support for research in biometrics, epidemiology, clinical trials, and preventive cardiology to insure maximum utilization of available resources in attainment of Institute objectives; (2) assesses need for research in these program areas; (3) recommends priorities and funding levels for programs to be recommended to the advisory council for support by grants; (4) determines priorities and allocates funds for research to be supported by contract; (5) collaborates with intramural program in the Institute and NIH-wide and maintains an awareness of national research efforts in program areas; (6) prepares reports and analyses to assist Institute staff and advisory groups in carrying out their responsibilities; (7) consults with voluntary health organizations and with professional associations in identifying research needs and developing programs to meet them.

**Division of Lung Diseases (8G16).** (1) Plans and directs the Institute's research grant, contract, and training programs in lung diseases, encompassing basic research, targeted research, clinical trials and demonstrations, national pulmonary centers, technological development, and application of research findings; (2) maintains surveillance over developments in program area and assesses the national need for research in the causes, prevention, diagnosis, and treatment of lung diseases, in technological development, in the application of research findings, and for manpower training in these areas; (3) maintains the necessary scientific management capability to foster and guide an effective attack upon lung diseases.

**Division of Blood Diseases and Resources (8G17).** (1) Plans and directs the Institute's research grant, contract, and training programs in blood diseases and

resources, encompassing basic research, targeted research, and clinical trials and demonstrations; (2) maintains surveillance over developments in this program area; (3) conducts research and demonstrations to improve the national systems of blood procurement, management, and distribution; (4) coordinates Federal sickle cell disease activities, and operates a national clearinghouse for information on sickle cell disease; (5) maintains the necessary scientific management capability to foster and guide an effective attack upon blood diseases and to improve use of blood and blood products.

**Division of Extramural Affairs (8G19).** (1) Advises the Director on research contract, grant, and training program policy; (2) represents the Institute on overall NIH extramural and collaborative program policy committees, coordinates such policy within the Institute and coordinates the Institute's research grant and training programs with the National Heart and Lung Advisory Council; (3) provides the Institute's program divisions with grant and contract management and processing services; (4) provides reports and statistics related to the Institute's grant and contract programs; (5) provides initial scientific merit review of project grants and research contracts for the Institute.

**Division of Intramural Research (8G20).** (1) Plans and directs a program of general laboratory and clinical research in heart, blood vessel, lung, and kidney diseases; certain blood diseases such as sickle cell anemia, hemophilia, hepatitis; and development of technology related to cardiovascular and pulmonary diseases; (2) maintains communication with other programs of the Institute to facilitate early practical application of basic research findings. Areas of major interest are: the biology of experimental and clinical arteriosclerosis and its manifestations; the pathophysiology of hypertensive vascular disease; functions of the lung; clinical and experimental studies on physiological and pharmacological aspects of heart, blood, and lung diseases, and a broad program of other basic research and technical developments related to them.

**National Library of Medicine (8Z).** (1) Assists the advancement of medical and related sciences through the collection, dissemination, and exchange of information important to the progress of medicine and health; (2) serves as a national medical information resource for medical education, research, and service activities of Federal and private agencies, organizations, institutions, and individuals; (3) publishes and distributes guides to medical literature and audiovisual materials in the form of catalogs, indexes, and bibliographies; (4) develops, produces, and disseminates audiovisual materials and systems and other aids to medical education, research, and practice; (5) supports the translation and publication of biomedical literature; (6) provides support for medical library development and for training of biomedical

librarians and other health information specialists; (7) conducts and supports research in techniques and methods for recording, storing, retrieving, and communicating health information; (8) provides technical consultation services and research assistance.

**Office of the Director (8Z01).** (1) Directs and coordinates library activities; (2) advises the Director, NIH, on policy relating to the management and control of biomedical communication media; (3) studies, identifies, and defines needs in biomedical communications; (4) provides the secretariat for the Board of Regents of the National Library of Medicine.

**Office of Administration (8Z02).** (1) Plans and directs administrative management functions of the Library including financial management, personnel management, contracts management, administrative services, program analysis, and legislation; (2) advises the Director and the Divisions on developments in administrative management and their implications and effects on program management; (3) coordinates administrative management activities of the Divisions of the Library.

**Office of Computer and Communications Systems (8Z04).** (1) Performs systems analysis in collaboration with user organizations to determine requirements for data processing support, and performs systems analysis and computer programming for the implementation of data processing systems; (2) guides the development of new systems developed under contract for the National Library of Medicine; (3) coordinates the planning for the provision of on-line information services from the NLM; (4) conducts information system analyses of ongoing programs of the NLM to identify areas requiring improvement; (5) as appropriate, coordinates the digital network planning and operations of the National Library of Medicine; (6) advises the Director on EDP and digital communications activities; (7) provides data processing technical interface with Medical Literature Analysis and Retrieval System (MEDLARS) Centers; (8) maintains operating systems; (9) operates and maintains digital computer phototypesetting and related data processing storage retrieval and transmission equipment; (10) establishes production schedules and performs production control for NLM machine based production; (11) produces magnetic tape for distribution to MEDLARS Search Centers and other authorized users in the United States and abroad.

**Lister Hill National Center for Biomedical Communications (8Z10).** (1) Designs, develops, implements, and manages a Biomedical Communications Network; (2) assists the biomedical community in identifying and developing products and services for dissemination through the network; (3) develops network and information systems to improve health education, medical research, and the delivery of health services; (4) applies

technology to the improvement of biomedical communications; (5) in coordination with the Department and PHS, represents DHEW in Federal activities related to biomedical communications activities; (6) in coordination with the Department and PHS, serves as the focal point in the Department for development and coordination of biomedical communications, systems, and network projects.

**Division of Extramural Programs (8Z11).** (1) Administers programs to augment and strengthen the health sciences libraries of the nation and to improve biomedical communications through grants to, or contracts with, non-Federal and private institutions; (2) analyzes and evaluates extramural programs in relation to program objectives and national needs to achieve balanced and effective support; (3) provides grants management, grants processing, and administrative management services.

**Division of Library Operations (8Z12).** (1) Selects, acquires, catalogs, and preserves biomedical publications; (2) indexes and provides access to the material through manual and machine produced bibliographies; (3) furnishes reference and loan services; (4) prepares and publishes indexes, catalogs, and other publications for the use of the biomedical community; (5) manages the Library component of the Biomedical Communications Network.

**Division of Specialized Information Services (8Z13).** (1) Coordinates the development and operation of specialized information services throughout the NLM; (2) plans, develops, and operates a national toxicological information system; (3) develops and administers a program to organize and analyze published information on the effects of drugs and chemicals on man, and prepares special bibliographies and reports on that subject.

**National Medical Audiovisual Center (8Z14).** Plans and administers a national program to improve the quality and the use of biomedical audiovisual materials in schools of the health professions and throughout the biomedical community through: (1) The acquisition and distribution of films and other audiovisual resource materials; (2) audiovisual reference and research services; (3) consultation and assistance in the development and use of audiovisual materials and systems; (4) audiovisual research, training, experimental production, and other activities in the development of media to support medical education; (5) encouragement of the production, dissemination, and use of audiovisual materials.

**National Eye Institute (8E).** Conducts, fosters, and supports research on the causes, natural history, prevention, diagnosis, and treatment of disorders of the eye and visual system, and in related fields (including rehabilitation) through: (1) Research performed in its own laboratories and through contracts; (2) a program of research grants and

individual and institutional research training awards; (3) cooperation and collaboration with voluntary organizations and other institutions engaged in research and training in the special health problems of the blind; (4) collection and dissemination of information on research and findings in these areas.

**Intramural Research Program (8E10).** (1) Plans and conducts the Institute's laboratory and clinical research program, which encompasses five major disease areas: retinal and choroidal diseases, corneal diseases, cataract, glaucoma, and sensory and motor disorders of vision, to insure maximum utilization of available resources in the attainment of Institute objectives; (2) evaluates research efforts and establishes program priorities; (3) allocates funds, space, and personnel ceilings and integrates ongoing and new research activities into the program structure; (4) collaborates with other Institute and NIH programs and maintains an awareness of national research efforts in program areas; (5) provides advice to Institute Director and staff on matters of scientific interest.

**Extramural and Collaborative Program (8E10).** (1) Plans and directs a program of grant and contract support for research and research training in five major disease areas: retinal and choroidal diseases, corneal diseases, cataract, glaucoma, and sensory and motor disorders of vision to insure maximum utilization of available resources in attainment of Institute objectives; (2) assesses need for research and research training in program areas; (3) determines program priorities and recommends funding levels for programs to be supported by grants; (4) collaborates with Institute and NIH intramural and collaborative activities and maintains awareness of national research efforts in program area; (6) prepares reports and analyses to assist Institute staff and advisory groups in carrying out their responsibilities; (7) consults with voluntary health organizations and with professional associations in identifying research needs and developing programs to meet them.

**National Institute of Allergy and Infectious Diseases (8J).** Conducts, fosters, and supports research and research training programs directed at finding the causes of and improved methods for diagnosing, treating, and preventing immunologic and infectious diseases through: (1) Research performed in its own laboratories; (2) research grants to scientific institutions and individuals; (3) individual and institutional research training awards; (4) a contract program aimed at the adaption and application of laboratory findings to the development of specific disease control measures and solutions to infectious and immunological disease problems; (5) collection and dissemination of research findings and related information.

**Intramural Research Program (8J10).** (1) Plans and conducts the Institute's laboratory and clinical research program, which encompasses allergic, immunologic, and infectious diseases, to insure maximum utilization of available resources in the attainment of Institute objectives; (2) evaluates research efforts and establishes program priorities; (3) allocates funds, space, and personnel ceilings and integrates ongoing and new research activities into the program structure; (4) collaborates with other Institute and NIH programs and maintains an awareness of national research efforts in program areas; (5) advises Director and staff on the intramural research and areas of science of interest to the Institute.

**Extramural Program (8J12).** (1) Plans and directs the Institute's grant program, which supports research and research training in allergic, immunologic, and infectious diseases, to assure maximum utilization of available resources in attainment of Institute objectives; (2) assesses need for research and research training in program areas; (3) determines program priorities and recommends funding levels for programs to be supported by grants; (4) collaborates with Institute and NIH intramural and collaborative activities and maintains awareness of national research efforts in program area; (5) prepares reports and analyses to assist Institute staff and advisory groups in carrying out their responsibilities; (6) consults with voluntary health organizations and with professional associations in identifying research needs and developing programs to meet them.

**Collaborative Program (8J13).** (1) Plans and directs the Institute's research contract program in support of research on allergic, immunologic, and infectious diseases to assure maximum utilization of available resources in the attainment of Institute objectives; (2) assesses need for research in program areas; (3) determines priorities and allocates funds for research to be supported by contract; (4) collaborates with Institute and NIH intramural and extramural activities and maintains awareness of national research efforts in program area; (5) prepares reports and analyses to assist Institute staff and advisory groups in carrying out their responsibilities; (6) disseminates information on the Institute's programs and interests through announcements, workshops, and notices in appropriate publications; (7) consults with voluntary health organizations and with professional associations in identifying research needs and developing programs to meet them.

**National Institute of Arthritis, Metabolism, and Digestive Diseases (8L).** Conducts, fosters, and supports basic and clinical research into the causes, prevention, diagnosis, and treatment of the various arthritic, metabolic, and digestive diseases, and covers the broad areas of arthritis, bone, and skin diseases; diabetes, blood, endocrine, and metabolic diseases; digestive diseases



and nutrition; and kidney and urologic diseases (joined with the Artificial Kidney/Chronic Uremia Program) through: (1) Research performed in its own laboratories and clinics; (2) research grants; (3) individual and institutional research training awards; (4) applied research and development programs through the contract mechanism; (5) field epidemiologic and clinical investigation studies on selected populations in the U.S.; (6) collection and dissemination of information on Institute programs.

**Intramural Research Program (8L11).** (1) Plans and conducts the Institute's laboratory and clinical research program, which encompasses the various arthritic, rheumatic and collagen diseases, the broad spectrum of metabolic diseases such as diabetes, other inborn errors of metabolism, digestive diseases, orthopedics, dermatology, hematology, nutrition, endocrine disorders, urology and renal disease, mineral metabolism, and subjects related to the above to insure maximum utilization of available resources in attainment of Institute objectives; (2) conducts basic research in biochemistry; nutrition; pathology; histochemistry; chemistry; physical, chemical, and molecular biology; pharmacology; and toxicology; (3) evaluates research efforts and establishes program priorities; (4) allocates funds, space, and personnel ceilings and integrates new research activities into the program structure; (5) collaborates with other Institute and NIH programs and maintains an awareness of national research efforts in program areas; and (6) advises Director and staff on Intramural research program and areas of science of interest to Institute.

**Digestive Diseases and Nutrition Program (8L12).** (1) Plans and directs a program of grants, contracts, and individual and institutional research training awards for digestive diseases and nutrition to insure maximum utilization of available resources to attain program objectives; (2) determines program priorities and recommends funding levels within program area; (3) prepares analyses of national research efforts to assist advisory groups in recommending new and/or continuing program emphases; (4) maintains surveillance over developments in designated categorical areas and assesses need for research into causes, diagnosis, prevention, and treatment of digestive diseases and nutrition and for training related thereto; (5) develops and manages an information system, covering research developments and identifying areas where additional research and training efforts are required, for research scientists and other interested groups; (6) consults with voluntary and professional health organizations in identifying and meeting research needs in digestive diseases and nutrition.

**Kidney, Urologic, and Blood Diseases Program (8L13).** (1) Plans and directs a program of research grants, contracts, and individual and institutional research training awards for kidney, urologic, and

blood diseases to insure maximum utilization of available resources to attain program objectives; (2) determines program priorities and recommends funding levels within program area; (3) prepares analyses of national research efforts to assist advisory groups in recommending new and/or continuing program emphases; (4) maintains surveillance over developments in designated categorical areas and assesses need for research into the causes, diagnosis, prevention, and treatment of kidney, urologic, and blood diseases and for training related thereto; (5) develops and manages an information system, covering research developments and identifying areas where additional research and training efforts are required, for research scientists and other interested groups; (6) consults with voluntary and professional health organizations in identifying and meeting research needs in kidney, urologic, and blood diseases.

**Arthritis, Bone, and Skin Diseases Program (8L14).** (1) Plans and directs a program of research grants, contracts, and individual and institutional research training awards for arthritis, bone, and skin diseases to insure maximum utilization of available resources to attain program objectives; (2) determines program priorities and recommends funding levels within program area; (3) prepares analyses of national research efforts to assist advisory groups in recommending new and/or continuing program emphases; (4) maintains surveillance over developments in designated categorical areas and assesses need for research into the causes, diagnosis, prevention, and treatment of arthritis, bone, and skin diseases and for training related thereto; (5) develops and manages an information system, covering research developments and identifying areas where additional research and training efforts are required, for research scientists and other interested groups; (6) consults with voluntary and professional health organizations in identifying and meeting research needs in arthritis, bone, and skin diseases.

**Diabetes, Endocrine, and Metabolic Diseases Program (8L15).** (1) Plans and directs a program of research grants, contracts, and individual and institutional research training awards for diabetes, endocrine, and metabolic diseases to insure maximum utilization of available resources to attain program objectives; (2) determines program priorities and recommends funding levels within program area; (3) prepares analyses of national research efforts to assist advisory groups in recommending new and/or continuing program emphases; (4) maintains surveillance over developments in designated categorical areas and assesses need for research into the causes, diagnosis, prevention, and treatment of diabetes, endocrine, and metabolic diseases and for training related thereto; (5) develops and manages an information system, covering research developments and identifying areas where additional research and training

efforts are required, for research scientists and other interested groups; (6) consults with voluntary and professional health organizations in identifying and meeting research needs in diabetes, endocrine, and metabolic diseases.

**Extramural Activities Program (8L16).** (1) Advises the Director on the Institute's extramural program, identifies areas where further efforts are needed and recommends funding levels for the four categorical programs; (2) coordinates program planning in the extramural area and assesses progress toward objectives within the broad field represented by the categorical disease programs; (3) keeps budget, personnel ceilings, and other matters of mutual concern to the extramural program area; (4) provides operational and technical support activities in program analysis, administrative services, and grants management.

**National Institute on Aging (8M).** Conducts, fosters, and supports biomedical, social, and behavioral research and training pertaining to the aging process and related health fields through: (1) Research performed in its own laboratories and through contracts; (2) a program of research grants and individual and institutional research training awards; (3) cooperation and collaboration with other Departmental agencies, voluntary organizations, and other institutions; (4) collection and dissemination of the findings of aging research and studies and other information about the process of aging.

**Gerontology Research Center (8M10).** (1) Plans and conducts the Institute's laboratory and clinical research program, which encompasses research designed to obtain fundamental knowledge of the nature of the aging process, to insure maximum utilization of available resources in the attainment of Institute objectives; (2) evaluates research efforts and establishes program priorities; (3) allocates funds, space, and personnel ceilings and integrates new research activities into the program structure; (4) collaborates with other Institute and NIH programs and maintains an awareness of national research efforts in program areas; (5) advises Institute Director and staff on intramural research programs and matters of scientific interest; (6) serves as a center for national and regional research by Federal or non-Federal investigators working on problems of the aging.

**Extramural and Collaborative Program (8M12).** (1) Plans and directs a program of grant and contract support for research and research training in the biological, behavioral, and social processes as they bear on adult development and aging to insure maximum utilization of available resources in attainment of Institute objectives; (2) assesses need for research and research training in program areas; (3) determines program priorities and recommends funding levels for programs to be supported by grants; (4) determines priorities and allocates funds for research to be supported by contract; (5) collaborates with intramural program in the Institute and NIH-

wide and maintains an awareness of national research efforts in program area; (6) prepares reports and analyses to assist Institute staff and advisory groups in carrying out their responsibilities; (7) consults with voluntary health organizations and with professional associations in identifying research needs and developing programs to meet them.

**National Institute of Child Health and Human Development (8N).** (1) Conducts, fosters, and supports biomedical and behavioral research through research grants, research contracts, and research performed in its own laboratories on: child health, maternal health, problems of human development with special reference to mental retardation; and on family structure, the dynamics of human population, and the reproductive process; (2) promotes the application of research findings to clinical practice; (3) initiates and cooperates in government-wide efforts on unique problems that emerge affecting the health of children and their families; (4) provides consultation to Federal agencies and non-Federal groups in the development of programs to improve the health of children and their families; (5) coordinates and integrates research efforts with service-oriented health agencies and the Office of Child Development; (6) disseminates information related to research findings to practitioners and the general public for improving the health of children and their families.

**Center for Population Research (8N11).** (1) Serves as the cognizant agency for population research and research training activities throughout the Federal government and provides a central source of information, referral, and consultation for all agencies with population related research in the biomedical, social, and behavioral sciences; (2) establishes program priorities and allocates program resources for population research; (3) plans and directs a collaborative (contract) research program in contraceptive development, the medical effects of contraception, the social, psychological, and demographic aspects of population change, and infertility; (4) plans and directs extramural (grant) programs in population related research and research training in the biomedical, social, and behavioral sciences; (5) maintains close liaison with intramural units having population research programs to stimulate and coordinate improved and expanded activities in population research and to recommend to the Institute Director new directions and approaches for these units in order to enhance research in this field; (6) coordinates population studies supported by the special foreign currency (P.L. 480) program.

**Center for Research for Mothers and Children (8N16).** (1) Serves as the cognizant agency for research, throughout the Federal government, on the special health problems of mothers and children; (2) establishes program priorities and allocates program resources in support of research and research training activities

ties in this field; (3) provides a central source of information, referral, and consultation for all agencies with programs of research related to mothers and children in the biomedical, social, and behavioral sciences; (4) directs biomedical, social, and behavioral sciences extramural (grant) and collaborative (contract) research, and a program of individual and institutional research training awards in pregnancy and perinatal biology, infancy, disabilities in human development, and mental retardation; (5) maintains liaison with intramural units having similar research programs to stimulate and coordinate improved and expanded activities in research for mothers and children, and recommends to the Institute Director new directions and approaches for these units in order to enhance research in this field.

**Intramural Research Program (8N13).** (1) Plans and conducts the Institute's laboratory and clinical research programs which encompass the biomedical and behavioral aspects of human development relating to reproductive biology, population, maternal health, and child health; (2) insures maximum utilization of available resources in the attainment of Institute objectives; (3) evaluates research efforts and establishes program priorities; (4) allocates funds, space, and personnel ceilings and integrates ongoing and new research activities into the program structure; (5) provides advice to Institute Director and staff on matters of scientific interest.

**Epidemiology and Biometry Research Program (8N14).** (1) Plans and directs an epidemiology and biometry research program on human development relating to reproduction, population, maternal health, and child health; (2) assesses the need for such research; (3) establishes program priorities; selects epidemiologic and biometric studies to be done in-house and those to be conducted by contracts; (4) insures the maximum utilization of available resources in the attainment of Institute objectives; (5) collaborates with the Institute's intramural and extramural program staff in the management of statistical and epidemiological phases of research projects.

**National Institute of Dental Research (8P).** Conducts, fosters, and supports research and research training in the causes, diagnosis, prevention, and cure of oral diseases and disorders through: (1) Laboratory, clinical, and field research; (2) grants for research projects and dental research institutes and individual and institutional research training awards; (3) collaborative and developmental research programs aimed at specific dental problems where major advance seems clearly possible; (4) collection and dissemination of research findings and related information.

**Extramural Program (8P11).** (1) Plans and directs the Institute's programs which support research and research training through grants and contracts in periodontal and soft tissues diseases, craniofacial anomalies, pain control and

behavioral studies to insure maximum utilization of available resources in attainment of Institute objectives; (2) assesses need for research and research training in program areas; (3) determines program priorities and recommends funding levels; (4) collaborates with Institute and NIH intramural and collaborative activities and maintains awareness of national research efforts in program areas; (5) prepares reports and analyses to assist Institute staff and advisory groups in carrying out their responsibilities; (6) establishes and maintains effective relationships with dental schools, professional dental organizations, and other institutions concerned with extramural programs; (7) consults with voluntary health organizations and professional associations in identifying research needs and developing programs to meet them.

**Intramural Research Program (8P12).** (1) Plans and conducts the Institute's laboratory and clinical research program, which encompasses research efforts in caries, periodontal and soft tissues diseases, developmental biology, pain control and behavioral studies to insure maximum utilization of available resources in the attainment of Institute objectives; (2) evaluates research efforts and establishes program priorities; (3) allocates funds, space, and personnel ceilings and integrates new research activities into the program structure; (4) collaborates with other Institute and NIH programs and maintains an awareness of national research efforts in program areas; (5) provides advice on intramural research and science in general to the Institute Director.

**National Caries Program (8P13).** (1) Plans and directs the Institute's applied research and development activities directed toward the prevention of dental caries; assures maximum utilization of available resources to attain Institute objectives in this area; (2) determines program priorities and allocates funds for epidemiological and biometrical research, field trials, demonstrations, and related laboratory and clinical research; recommends funding levels for programs to be supported by grants; (3) collaborates with intramural, extramural and collaborative staffs to insure consistency of research efforts with Institute policies and goals; (4) maintains an awareness of national programs in area of prevention of dental caries and works toward application of research findings in dental public health and practice and in dental school curricula; (5) prepares analyses and reports to assist Institute staff and advisory groups in carrying out their responsibilities; (6) consults with voluntary health organizations and professional associations in identifying research needs and developing programs to meet them.

**National Institute of Environmental Health Sciences (8Q).** Conducts, fosters, and coordinates (in its own laboratories and through contracts, grants, and support of Environmental Health Sciences



Centers) research and research training on the biological effects of chemical, physical, and biological substances in the environment to: (1) develop understanding of the mechanism of action of such substances; (2) provide the scientific basis for evaluating their extent and severity on a national scale; (3) define and develop methods for diagnosis and treatment of environmentally induced illnesses; (4) collect and disseminate information in furtherance of program.

**Extramural Program (§Q12).** (1) Plans, directs, and evaluates the Institute's grant program which supports research and research training in environmental health; (2) develops program priorities and recommends funding levels to assure maximum utilization of available resources in attainment of Institute objectives; (3) through cooperative relationships within the NIH and with public and private institutions and organizations, maintains an awareness of national research efforts and assesses the need for research and research training in environmental health; (4) prepares reports for, and provides advice to the Institute Director, staff, and advisory groups to assist them in carrying out their responsibilities; (5) represents the Institute Director in the development and implementation of grant policy.

**National Institute of General Medical Sciences (§R).** Administers, fosters, and supports research in the basic medical and biological sciences and the clinical and related natural or behavioral sciences which have significance for two or more other Institutes, are outside the general area of responsibility of any other Institute, and will benefit by administration from a single point. Programs are carried out through: (1) Grants to scientific institutions and to individuals for biomedical research including broad multidisciplinary research programs and studies; (2) individual and institutional research training awards; (3) applied research and development utilizing the contract mechanism.

**National Institute of Neurological and Communicative Disorders and Stroke (§S).** Conducts, fosters, and supports research and research training on the causes, prevention, diagnosis, and treatment of neurological, sensory, communicative, and muscle disorders through: (1) Intramural, collaborative, and field research in its own laboratories, branches, and clinics and through contracts; (2) research grants to scientific institutions and to individuals; (3) individual and institutional research training awards to increase trained professional research manpower in neurological and communicative fields; and (4) cooperation with various agencies in collecting and disseminating educational and informational material related to neurological and communicative disorders.

**Intramural Research Program (§S11).** (1) Plans and conducts the Institute's laboratory and clinical research program, which encompasses neurological and communicative disorders and stroke, to insure maximum utilization of avail-

able resources in the attainment of Institute objectives; (2) evaluates research efforts and establishes program priorities; (3) allocates funds, space, and personnel ceilings and integrates new research activities into the program structure; (4) collaborates with other Institute and NIH programs and maintains an awareness of national research efforts in program areas; (5) provides advice to Institute Director and staff on intramural program and areas of science of interest to the Institute.

**Fundamental Neurosciences Program (§S13).** (1) Plans and directs a program of research grants, contracts, and individual and institutional research training awards, for fundamental neurosciences to insure maximum utilization of available resources to attain program objectives; (2) determines program priorities and recommends funding levels within program area; (3) prepares analyses of national research efforts and assists advisory groups in recommending new and/or continuing program emphases; (4) maintains surveillance over developments in designated areas and assesses need for research into the pertinent areas and for training related hereto; (5) develops and manages information systems, covering research developments and identifying areas where additional research efforts are required, for research scientists and other interested groups; (6) consults with outside scientific and professional organizations in identifying and meeting research requirements in fundamental neurosciences.

**Communicative Disorders Program (§S14).** (1) Plans and directs a program of grant and contract support for research and research training on communicative disorders to insure maximum utilization of available resources in attainment of Institute objectives; (2) assesses need for research and research training in program areas; (3) determines program priorities and recommends funding levels for programs to be supported by grants; (4) determines priorities and funding levels for research to be supported by contracts; (5) collaborates with intramural program in the Institute and NIH-wide and maintains an awareness of national research efforts in program area; (6) prepares reports and analyses to assist Institute staff and advisory groups in carrying out their responsibilities; (7) consults with voluntary health organizations and with professional associations in identifying research needs and developing programs to meet them.

**Neurological Disorders Program (§S15).** (1) Plans and directs a program of grant and contract support for research and research training on neurological disorders to insure maximum utilization of available resources in attainment of Institute objectives; (2) assesses need for research and research training in program areas; (3) determines program priorities and recommends funding levels for programs to be supported by grants; (4) determines pri-

orities and funding levels for research to be supported by contracts; (5) collaborates with intramural program in the Institute and NIH-wide and maintains an awareness of national research efforts in program area; (6) prepares reports and analyses to assist Institute staff and advisory groups in carrying out their responsibilities; (7) consults with voluntary health organizations and with professional associations in identifying research needs and developing programs to meet them.

**Stroke and Trauma Program (§S16).** (1) Plans and directs a program of grant and contract support for research and research training on stroke and trauma to insure maximum utilization of available resources in attainment of Institute objectives; (2) assesses need for research and research training in program areas; (3) determines program priorities and recommends funding levels for programs to be supported by grants; (4) determines priorities and funding levels for research to be supported by contracts; (5) collaborates with intramural program in the Institute and NIH-wide and maintains an awareness of national research efforts in program area; (6) prepares reports and analyses to assist Institute staff and advisory groups in carrying out their responsibilities; (7) consults with voluntary health organizations and with professional associations in identifying research needs and developing programs to meet them.

**Extramural Activities Program (§S17).** (1) Advises the Director on the Institute's extramural programs; (2) represents the Institute Director as required in extramural relationships; (3) coordinates program planning in the extramural area; (4) coordinates recommendations for funding levels for the categorical programs; (5) provides technical support activities, including technical merit review of grant and contract applications and proposals, and grants and contract management services; (6) has operational responsibility for the extramural data system.

**Clinical Center (§T).** (1) Provides patient facilities and services, other than physician care, for clinical investigations in the Clinical Center; (2) conducts research in clinical care, hospital administration, and related areas; (3) supervises residency and other training programs.

**John E. Fogarty International Center for Advanced Study in the Health Sciences (§U).** (1) Provides the facility for the assembly of scientists and leaders in the biomedical, behavioral, and related fields for discussion, study, and research in the health sciences at an international level; (2) conceives, designs, develops, and conducts studies on current and emerging health problems; (3) awards scholarships to outstanding individuals for the purpose of encouraging creative, speculative thought and contributions to advanced study; (4) awards fellowships for training in the United States and abroad; promotes international exchange of individuals for teaching, research, and study in the health related sciences; and

provides programming services for health professional training for international organizations; (5) collects, translates, publishes, and disseminates information concerning health related activities outside the United States; (6) furthers international cooperation and collaboration in the life sciences through its research programs, conferences, seminars, and publications; (7) provides research grants to individuals and scientific institutions; (8) coordinates NIH activities and functions concerned generally with the health sciences at an international level; (9) administers the NIH Special Foreign Currency Program; (10) provides central point for receiving, assisting, and/or programming foreign visitors to the National Institutes of Health and provides administrative support to the NIH visiting program.

**Division of Research Grants (§D).** (1) Provides staff support to the Office of the Director, NIH, in the formulation of grant and award policies and procedures; (2) provides central receipt of all PHS applications for research and research training support and makes initial referral to PHS components; (3) assigns NIH applications to supporting bureaus, Institutes, and divisions and to DRG initial review groups; (4) provides for scientific review of NIH research grants, National Research Service Awards, and research career development applications; (5) collects, stores, retrieves, analyzes, and evaluates management and program data needed in the administration of extramural programs; (6) reviews and analyzes the character and direction of research and training supported through NIH grants and the resources involved in providing such support; (7) administers the Grants Associates Program.

**Division of Research Services (§H).** (1) Plans and conducts a centralized program of scientific, engineering, and technical services in support of NIH activities; (2) collaborates with research scientists in providing support during the research planning stage, in carrying out the research project, and in the presentation of findings; (3) furnishes services and specialized assistance in the following areas: (a) biomedical engineering and instrumentation design and development; (b) research animal production, care, procurement, and animal disease identification and control; (c) centralized glassware, tissue culture, and media preparation and issuance; (d) biomedical library and translation services; (e) environmental health and safety; (f) medical arts and photography.

**Division of Computer Research and Technology (§W).** Plans and conducts an integrated computer research and service program in support of the NIH mission. In fulfilling this responsibility, the Division: (1) Provides professional programming and computational and automatic data processing capability to meet NIH program needs; (2) conducts theoretical and applied research in

mathematical statistics, mathematics, and other (physical and life) sciences; (3) provides resources for research, development, and consultation for the design and implementation of project-supporting computer systems; (4) provides scientific and administrative direction in the formulation of NIH-wide policies, standards, methods, and procedures on computation and automatic data processing activities; (5) participates in the analysis of requirements, design, and development of automatic data processing systems to make effective use of advanced techniques and equipment.

**Division of Research Resources (§X).** (1) Serves as the focal point within the National Institutes of Health for the development and support of multicategorical research resources needed on an institutional, regional, or national basis for health related research; (2) collaborates with the categorical Institutes in the identification of research resources needs, required by ongoing activities, and planned new directions relating to the overall NIH mission; (3) through research grants, individual and institutional research training awards, and research and development contracts to institutions involved in biomedical research, assures the availability of adequate tools, the necessary environment, and stability of funding for multicategorical research resources which provide support for the NIH's research mission. These awards provide: (a) support for specialized resources for multidisciplinary research programs of institutions conducting health related research; (b) general support for research and research training programs at universities and other institutions.

**Sec. 8.C Order of succession.** During the absence or disability of the Director, or in the event of a vacancy in that office, the first official listed below who is available shall act as Director, except during a planned absence for which different order has been specified:

- (1) (a) Deputy Director
- (b) Deputy Director for Science
- (2) For a planned period of absence the Director may specify a different order of succession.

**Sec. 8.D Delegations of authorities.** The Director shall continue to exercise all the authorities given him under the Redesignation of Authority by the Assistant Secretary for Health, dated June 18, 1973 (38 FR 18261), as may be amended, and Reorganization Order, dated September 25, 1973 (39 FR 27316), as may be amended, and those administrative authorities which NIH receives from the Assistant Secretary for Health and the Executive Officer, PHS.

Dated: May 19, 1975.

JOHN OTTINA,  
Assistant Secretary for Administration and Management.  
[FR Doc.75-13719 Filed 5-23-75; 8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### BRIDGE TOLLS ON BRIDGES OPERATED BY DELAWARE RIVER PORT AUTHORITY

#### Opinion and Order of the Federal Highway Administrator

MAY 19, 1975.

**Findings.** The Federal Highway Administrator, after consideration of the evidence in the record of this matter, and for the reasons hereafter stated finds that the existing toll schedule for crossing the Walt Whitman, Benjamin Franklin, Commodore Barry and Betsy Ross Bridges, when opened to traffic, operated by the Delaware River Port Authority, is not reasonable and just, and that the toll schedule set forth in Appendix A is just and reasonable. The rates of toll set forth in Appendix A to this Order shall become effective 12:01 a.m., August 1, 1975, and shall become the legal rates demanded and received for transit over all bridges operated by the Delaware River Port Authority, unless and until the Administrator orders otherwise.

**Authority.** The Delaware River Port Authority, pursuant to the interstate compact between Pennsylvania and New Jersey which Congress approved in Pub. L. 573, 82d Congress (66 Stat. 738),<sup>1</sup> has constructed and operates four bridges spanning the Delaware River between Philadelphia and New Jersey. These bridges are the Walt Whitman, Benjamin Franklin, Commodore Barry and Betsy Ross Bridges. (The latter has not yet been opened to traffic.) Section 3 of Pub. L. 573 provides that, while the Authority may charge tolls for crossing its bridges, the rates it charges are subject to the provisions of section 503 of the General Bridge Act of 1946.

Section 503 (33 U.S.C. 526) provides that if tolls are charged for transit over any interstate bridge, the tolls "shall be reasonable and just, and the Secretary of the Army may, at any, and from time to time, prescribe the reasonable rates of toll for such transit over such bridge, and the rates so prescribed shall be the legal rates and shall be the rates demanded and received for such transit." The power to prescribe reasonable rates for tolls on interstate bridges was transferred from the Secretary of the Army to the Secretary of Transportation by section 6(g)(4)(b) of the Department of Transportation Act, 80 Stat. 931, 941; 49 U.S.C. 1655(g)(4)(B), and the Secretary has delegated this power to the Federal Highway Administrator in § 1.48(1)(2) of the Department of Transportation Regulations (49 CFR 1.48(1)(2)). DRPA also

<sup>1</sup> A subsequent statute, Pub. L. 88-320 (78 Stat. 215 (1964)), approved amendments to the compact but did not make any relevant change in the terms and conditions of the basic Federal consent.



operates the Lindenwold high-speed rail commuter line (PATCO), and maintains a World Trade Division to promote the Port of Philadelphia.

**Background.** Since 1968, there have been three different schedules of tolls for transit of vehicles using the bridges operated by the DRPA. The reasonableness of these tolls have been the subject of three public hearings, three recommended decisions of Administrative Law Judges, and four opinions of the Federal Highway Administrator. A chronology of these hearings, decisions and opinions is attached as Appendix B.

This current proceeding is the result of an increase in toll charges, effective April 1, 1972, instituted by DRPA for the stated purpose of attaining additional revenue to complete the financing of a capital construction program and to operate and maintain those facilities. Immediately after the Port Authority announced that tolls would be increased, the Administrator received a large number of protests from members of the public and their representatives in Congress. Acting pursuant to the Federal Highway Administration's bridge toll procedural rules (49 CFR 310.14), the Administrator directed a formal hearing be held in Philadelphia for the purpose of permitting interested parties to submit evidence on the reasonableness and justness of the Port Authority's toll schedule. Subsequent to the hearing, the Administrative Law Judge, by decision of December 29, 1972, found that the rates of toll instituted by the Port Authority on April 1, 1972, were not reasonable and just, and recommended that the Federal Highway Administrator prescribe the pre-April 1972 toll schedule as the legal rates to be charged for transit of vehicles over the Walt Whitman and Benjamin Franklin Bridges (the only two bridges open to traffic at the time).

The Administrator, upon consideration of the initial decision, and the exceptions and replies, issued a tentative opinion on June 1, 1973, as supplemented on June 22, 1973, and held oral argument in Philadelphia on June 29, 1973, at which the principal parties and several individuals presented their views to the Administrator. Subsequently, after consideration of the evidence, arguments, and briefs, the Administrator in an opinion dated November 5, 1973, found that the toll schedule adopted by the Delaware River Port Authority was not reasonable and just and instituted a new schedule to become effective January 1, 1974 (Appendix C). On December 3, 1973, the Administrator denied DRPA's petition for reconsideration and a stay of the November 5, 1973, Order. The DRPA filed a complaint in the Federal Court for a permanent injunction and a stay of the November 5, 1973, Order pending litigation. On December 11, 1973, representatives of the Authority met in Washington, D.C., with

<sup>1</sup> This case, Delaware River Port Authority v. Tiemann, et al. (U.S.D.C. Ed Pa.) No. 73-2749, was dismissed by order of the Court, dated September 26, 1974.

the Federal Highway Administrator to discuss the impact of the impending energy crisis upon the operations of the Authority and to consider the adoption of a new schedule of tolls for use on its bridges in the light of the gasoline shortage and fuel crisis.

As a result thereof, the Administrator issued a new opinion on December 21, 1973, permitting the DRPA to put its new proposed toll schedule (Appendix D) into effect, "at least on an interim basis," leaving open the question whether the revenues produced would be excessive. The Administrator, recognizing that there were parties other than the Port Authority who had cognizable interests in the proceeding, reopened the administrative proceeding so that evidence bearing on the justness and reasonableness of the new toll schedule could be adduced.

It is this toll schedule (Appendix D) which is currently in effect and the one before the Administrator as to the reasonableness and justness thereof.

On April 23, 24, and 25, 1974, hearings were held in Philadelphia before the Honorable Edward V. Alfieri, Administrative Law Judge. The DRPA presented witnesses and documents in support of the reasonableness of the toll schedule. The Automobile Club of Southern New Jersey, Pennsylvania Motor Truck Association, U.S. Environmental Protection Agency, the City of Philadelphia, Keystone Automobile Club, the Motorists for Lower Tolls (a group of southern New Jersey motorists), and the Transport of New Jersey appeared in opposition to the toll schedule. The FHWA's Office of the Chief Counsel appeared as public counsel representing the public interest.

The Administrative Law Judge, in his recommended decision on October 16, 1974, found that the toll schedule prescribed in the Administrator's Order of December 21, 1973, which was effective January 1, 1974, was unjust and unreasonable (Appendix D), and that the toll schedule (Appendix C) prescribed in the Opinion of November 5, 1973, be the lawful tolls to be charged for the transit of vehicles over the bridges.

It is this recommended decision that is now before the Administrator. However, in considering this decision and the voluminous hearing record produced, it was found that all evidence concerning the financial structure of the Authority was based upon its General Bond Resolution of 1969, wherein it established a 1969 Refunding and Construction Program designed to refund in 1969 the Authority's then outstanding debt and to construct the following: The Commodore Barry Bridge, the Betsy Ross Bridge, the Rapid Transit System, a new centralized maintenance building, and new approaches to the Benjamin Franklin and the Walt Whitman Bridges. Various series of bonds have been issued under the 1969 Resolution in May 1969, July 1970, May 1972, and October 1972, creating precise revenue requirements for the service of the outstanding bonds as to principal and interest. Thus, the

hearings and opinions of 1972 through 1974 focused upon this plan of financing.

Subsequent to the hearings before Judge Alfieri in April 1974, the Authority on June 19, 1974, undertook another refunding program and authorized the issuance of \$27,270,000 series 1974 Special Revenue Refunding Bonds, maturing January 15, 1990, and \$20,545,000 series 1974 Special Obligation Refunding Bonds, maturing January 15, and July 15, 1975-1985. The net proceeds to the Authority of the sale of these bonds, plus other available funds, together with investment income thereon will be sufficient to pay (i) \$40,000,000 principal amount of outstanding Serial Bonds at maturity, (ii) interest on the Serial Bonds from July 15, 1974, to January 15, 1985, in the amount of \$15,022,038, and (iii) principal of and interest on the 1974 Special Obligation Bonds. The stated purpose of the refunding program was to restructure the Authority's debt with the objective of reducing the Authority's Bond Service requirements with respect to its Revenue Bonds during the years 1974 through 1984.

The 1974 Refunding Program was not a part of the Record at the April 1974 hearings before Judge Alfieri, although three refunding plans were discussed during the hearings. With respect to Plan II (74 Exhibits 126, 127), which Mr. R. Jones, bond advisor for the Authority testified was adopted at the regular monthly meeting of the Port Authority in April 1974 (74 TR., Vol. II, p. 107), Judge Alfieri stated in his October 16, 1974, Opinion at page 10, that the justification for the plan was "... to prevent a valley of coverage," i.e., below the mandatory 1.20 figure beginning in 1978 (Jones, Vol. III, p. 88, Exhibit 127). Continuing, the Judge said:

However sound and desirable this plan may be in its concept, it lacks the requisite degree of accuracy and basis in fact to justify its implementation. It is based on assumptions, verbally reported (Vol. III, p. 102), was compiled without the benefit of financial data, failed to take into consideration the upward trend of traffic, incorporated misleading information (Vol. III, p. 103) and erroneously included the sum of \$2,000,000 (Vol. III, p. 142). Lastly, it employed revenues projected in the bond prospectus in 1972, Exhibit 7, ignoring the fact that the revenues were running at a higher rate (Jones, Vol. II, p. 84) than projected. The record speaks for itself as to the reliability of this evidence.

The Administrator agrees with the Judge in rejecting the refunding plan for the reasons stated and for the more pertinent reason that it was at the time of presentation only a plan, a plan which had not been executed. In reviewing the recommended decision and the evidence, the Administrator was particularly concerned as to whether this refunding plan or any refunding plan had been executed. The point is pertinent in that any refunding plan adopted and put into effect which would alter the bond service requirements of the Authority would substantially be affected by the rate of tolls to be charged for crossing the bridges. Thus, upon inquiry, it was learned by the

Administrator that a refunding program was, in fact, undertaken in June 1974, as hereinbefore described, and the Administrator concluded that the precise nature of the refunding program should be reviewed before making a final determination of the reasonableness and justness of a toll schedule.

By Order of February 10, 1975, the Administrator took note of the fact of the issuance by the Authority of the \$47 million in refunding bonds and directed, for consideration of reopening of the record, that the Authority submit to the Administrator (1) the 1974 official statement of the Delaware River Port Authority authorizing the issuance of refunding bonds in 1974, (2) the financial statement of the Authority for calendar year 1974, (3) traffic counts for 1974, and the Authority's 1975 proposed budget. Upon receipt of the documents, they were submitted to other parties of record for comments, which were received and considered. By Order of March 26, 1975, the Administrator reopened the record in this proceeding for the inclusion of the following documents in evidence:

- (1) Exhibit 136—Official statement of the Delaware River Port Authority relating to the \$47,815,000 bond issue, dated June 15, 1974.
- (2) Exhibit 137—Financial statement of DRPA for calendar year 1974.
- (3) Exhibit 138—Traffic counts by toll classes of vehicles—revenue classes of vehicular traffic.
- (4) Exhibit 139—DRPA 1975 Capital and Operating Budget Report.

These exhibits play a major part in the decision rendered in this opinion.

**Discussion.** The record in this proceeding consists of the transcribed testimony and exhibits thereto of the April 23, 24, and 25, 1974, hearing in Philadelphia, and by stipulation at that hearing (74 Vol. I, pp. 12 and 13), all prior proceedings, testimony, and exhibits are incorporated by reference (meaning the 1972 hearing record), the transcript of oral argument before the Administrator on June 30, 1973, and subsequent exhibits 136, 137, 138 and 139 included by the Administrator in his Order of March 26, 1975. Included in the record also are all decisions, recommended decisions, tentative positions, orders and supplemental orders of the Federal Highway Administrator which have previously been issued in the matter. In all, the record consists of an impressive quantity of documents, testimony, and materials to be considered.

At the outset, the Administrator would like to restate some of the principles enunciated in his previous opinions which continue to be applicable in this decision.

In considering the proper meaning of reasonable and just as applied to a toll schedule, all parties to this proceeding agree that DRPA's revenues should be sufficient to achieve a return sufficient to support its total activities, including the operation of the bridges, the PATCO rapid transit system, and the World Trade Division, and provide sufficient coverage for financings. Thus, a reasonable and just toll

schedule would be one sufficient to support these activities and requirements. The DRPA has covenanted, through bond indentures agreements, with its bondholders to collect tolls, fares and other charges for transit over the bridges it operates and on PATCO sufficient to provide revenues to pay all the expenses of operating, repairing, and maintaining its facilities and to provide net revenues available in each year equal to at least 120 percent (also expressed as 1.2 coverage) of the aggregate bond service for that year. (Ex. 136, p. 31.) This does not apply to the Special Revenue Bonds issued in 1974, which requires a coverage of only 1.0 (p. 39, Ex. 136). DRPA may reduce tolls or fares if in the preceding calendar year a coverage of at least 1.6 has been achieved, or if in each of the two preceding years a coverage of at least 1.4 has been achieved. DRPA has obligated itself to raise tolls and fares to ensure at least a 1.2 coverage if coverage for any year is less than that amount, or if it appears that coverage for the ensuing years will not meet that figure. (See 1972 Ex. 7 and 1974 Ex. 136.)

The Administrator's findings in the tentative opinion of June 1, 1973, with regard to burden of proof is hereby reaffirmed. The burden of proof in a case such as this in which an existing toll structure is the subject of complaint, clearly lies with the complainants. However, regardless of where the burden of proof lies, it has been usually required in cases decided by the Interstate Commerce Commission that the party which proposed or maintained the rates in issue go forward initially with the proof. In the case now under consideration, DRPA went forward initially with the proof, and complainants met their burden by way of cross-examination on this proof.

The Administrator has carefully considered the record in this matter, including the briefs and arguments filed by the parties. The Administrator respectfully rejects the Law Judge's October 16, 1974, decision which recommended a reinstitution of the pre-April 1972 tolls, not because it is basically incorrect, but principally because the Judge did not have before him an up-to-date record of the financial structure of the Port Authority, i.e., the June 1974 Refunding Program of the DRPA. In addition, the Administrator's opinions of November 5, 1973, and December 21, 1973, insofar they relate to the setting of a toll schedule, is hereby rescinded.

While this proceeding has been exceedingly long timewise, and this opinion has appeared to have suffered undue delay in issuing, the passage of time has enabled the Administrator to benefit from a review of the operations of the Authority under the current toll schedule, in light of the requirements of the 1974 Refunding Program.

The April 1, 1972, toll increase was adopted by DRPA to prevent its bond coverage from dropping below the 1.2 base. DRPA in forecasting its revenue needs, projected estimates on a 15-year basis in its 1969 Refunding Program and

DRPA was permitted to maintain substantial toll increases in 1968.<sup>2</sup> Again, in the 1974 Refunding Program, the revenue needs were projected on a 12-year basis. Recognizing that the Authority, in order to market its bonds, must have such long-term projections, complete reliance upon such projections for toll setting purposes is not necessary, nor is it wise in face of changing conditions such as failure to open new bridges, failure to issue authorized bonds, or reduction in traffic due to gasoline shortage. The Administrator favors a shorter projection as herein adopted of a 4-year projection, 1975 through 1978.

The Administrator's Order of December 21, 1973, permitted DRPA to institute a new toll schedule designed to cope with the severe gasoline shortage which existed in the Nation at that time because of the Middle East Oil Embargo. It contained the innovative feature of allowing reduced rates for cars carrying three or more persons. The April 1974 hearings were directed to be held because of this serious change in circumstances since the 1972 hearings. However, at the time of the 1974 hearings the Oil Embargo had been lifted and the evidence adduced therein was to the effect that no gasoline shortage existed in the area of the Philadelphia bridges. Thus, the Law Judge, on the bare face of the record, was probably correct in finding that "Although there is a national energy crisis the easing of the gasoline shortage which precipitated the creation of a new toll schedule effectively militates against a finding that the schedule of tolls is just and reasonable."

With the President and Congress struggling to establish a national energy policy, the Administrator must recognize that a national energy crisis does exist. Reduction of our vulnerability to foreign oil supplies and establishment of national self-sufficiency are very real goals which this country must achieve in the coming years. Accomplishment of these goals will require concerted efforts in many areas, such as an increase in domestic production of oil, development of synthetic or new kinds of energy-producing fuels, and, not the least of which is the conservation of existing fuel. The motor vehicle is a major user of petroleum supplies on the highways because our Nation has become dependent, to a large extent, on the mobility afforded by automobiles, buses, and trucks. This dependency will probably continue in our society for as far into the future as we can now foresee. However, ways must be found to manage the use of the motor vehicles better than we have in the past. It will be necessary to get low occupancy cars off the highways and to observe the national 55 m.p.h. speed limit. Unnecessary automobile trips must be eliminated.

These facts are not in the record of this proceeding, but such facts are com-

<sup>2</sup> Report and recommended Order of Hearing Examiner, served August 1, 1968, and Opinion of the Administrator issued September 11, 1968.



mon knowledge, of which the Administrator can take "administrative notice" in considering the decision to be reached in this matter. It is the Administrator's judgment that within the definition of reasonable and just tolls, the criteria of national interest and public policy must, at this time, also be inserted. The national interest and public policy in this case being the conservation of fuel. This criteria makes more complex the issue of determining what is a reasonable and just toll schedule to be permitted for crossing these bridges, in that the permitting of high tolls in order to discourage vehicle traffic would have the effect of allowing the Port Authority to receive a large amount of revenue which is not needed for financing of their operations, and substantially beyond the covenanted bond service requirements.

For example, Appendix E presents DRPA's net operating revenue available for bond service for 1974 (actual), calculated from the statement of Revenue and Expenses for 1974. (Ex. 137.) The appendix shows that in 1974, the net revenue available for bond service amounted to \$25,873,245, as compared with the \$22,140,000 estimate appearing on page 23 of the 1974 Refunding Program Statement (Ex. 136). The statement of revenues, expenses and equity (Ex. 137) shows that the bond service on outstanding revenue bonds for 1974 was \$17,975,433. Thus, for 1974, under the toll schedule now in effect, the bond service coverage enjoyed by the Authority amounted to 1.44, substantially above the required 1.20 of the bond covenant. The difference between the actual and estimated net revenue is explained on page 22 of Ex. 136, wherein the transportation consultants reduced their estimate by a "reduction allowance" of \$4,488,000 because of the energy crisis. Elimination of the "reduction allowance" would have given the Authority bond coverage of 1.49 under the present schedule of tolls.

Therefore, the Administrator is faced with the dilemma of devising a toll schedule which would prevent the Authority from an excessive revenue return, and at the same time, conserve gasoline by reducing traffic. A low passenger car rate would encourage the use of more automobiles, and a high rate would unnecessarily benefit the Authority. A balance between the two must be accomplished. An effective means of reducing traffic and conserving gasoline is to encourage the use of mass transit and carpools. A small step in encouraging carpools was made in the December 21, 1973, Order which instituted a carpool commutation rate at 25 cents per crossing. As can be seen from Ex. 138, traffic count by classes of vehicles, this was ineffectual in reduction of traffic. Only 577,543 carpool tickets were sold, as compared with tolls paid on 48,226,183 other passenger car vehicles and light trucks. Of this, 13,150,844 were commuter tolls, of which some portion might conceivably go into carpools. There are means available, both program-wise and

financial, to promote carpooling. The Department of Transportation of the Federal Government has been vigorously pushing a major carpool promotion campaign. Federal funds are available for areawide carpool campaigns. It would be commendable if the Authority, the City of Philadelphia, and the States of Pennsylvania and New Jersey could unite to formulate a vigorous carpool campaign in this area.

The use of the PATCO rapid rail transit line was encouraged in a decision by the Interstate Commerce Commission on February 3, 1975, which denied a fare increase on this line to the Port Authority. (I.C.C. Investigation and Suspension Docket No. 8705, 349 I.C.C. 160). The Commission concluded that the proposed fare increase might cause a long-term diversion of riders to alternative modes of transport (including automobiles) thus increasing congestion on the area's already overcrowded roads.

**Conclusion.** The Administrator, in an effort to balance off the opposing points of view, i.e., higher tolls, unneeded revenue, and traffic reduction against lower tolls, less revenue and an increase in traffic, is putting into effect, the toll schedule as set out in Appendix A. The main feature of this schedule is a substantial reduction in the carpool commuter rate from \$10.00 for 40 tickets (25 cents per crossing) to \$4.00 for the book of 40 tickets (10 cents per crossing). This rate should have the effect of attracting some one-passenger car commuters to a carpool. Also in order to possibly forego a fare increase on buses using the bridges, the rate for two axle buses is reduced from \$1.00 to 80 cents, and three axle buses from \$1.50 to \$1.20. Other changes in the schedule are, while the commuter rate 30-day decal remains \$12.00, the cash toll per crossing is reduced from 10 cents to 5 cents, and the passenger car and trucks up to 7,000 gross weight rate is reduced from 60 cents to 55 cents.

The latter two reductions are for the purposes of reducing to some extent the amount of revenue received by the Authority which the Administrator feels is necessary. The reductions are not of sufficient amount so as to encourage automobile traffic.

The toll schedule set forth in Appendix A provides more than adequate bond service coverage for several years to come. Appendix F sets forth the estimated debt service coverage under this toll schedule for the years 1975 through 1978. It allows a coverage of a high of 1.38 in 1975 to 1.27 in 1978, well above the bond covenant requirement of 1.20. Ap-

\*One of the protestants to the fare increase in the I.C.C. case was the City of Philadelphia, who is a protestant in this case, opposing a higher toll rate. In the I.C.C. case, the city argued that the PATCO increase would encourage automobile usage, thereby contributing to the environmental degradation of the area. It would appear to the Administrator that lower tolls on the bridges, which the city advocates in this case, would do the same. In short, the city's positions in the two cases are diametrically opposite.

pendix G contains the calculation of applicable tolls to achieve specified bond coverage for the years 1975 and 1976. Appendix H contains the traffic projections on the bridges for 1975 through 1978, on which Appendix F is based.

Considerable testimony was generated during the hearings dealing with the expenses and projected revenues of DRPA. Much effort was expended by the protestants to the toll increase to show that projected operating and administrative expenses set forth by the Authority was unrealistic and constitutes a burden on the tollpayer and that the traffic and revenue projections were underestimated in order to represent to the Administrator low bond service coverage. While such effort is commendable, the sufficiency of such evidence is, while impressive, not persuasive for the Administrator to substitute his judgment for that of the Commission in the operation of the DRPA. This is not to say that the Administrator will never look behind the expenses and budgets presented by a toll authority, but to say that in this particular case, the stated expenses and the projected revenue of the Authority is not so grossly incorrect as to require a detailed appraisal of all items. Hence, at this time, as will be seen from the relevant appendices, the Administrator has taken the statements in the Authority's documents as the basis for calculating bond service coverage under the directed toll schedule.

The Administrator finds that the toll schedule as set forth in the Order of December 21, 1975, is not reasonable and just; that the toll schedule set forth in Appendix A is just and reasonable; that the December 21, 1975, toll schedule is ordered cancelled effective 12:01 a.m., August 1, 1975; that the rates of tolls set forth in Appendix A to this Order shall become effective 12:01 a.m., August 1, 1975, and shall be the legal rates demanded and received for transit over all bridges operated by the Delaware River Port Authority, unless and until the Administrator orders otherwise.

Within 20 days after the date of service of this Order, any party may petition the Administrator for reconsideration of this Order. The filing of a petition for reconsideration does not stay the effectiveness of this Order, unless the Administrator so orders.

Issued in Washington, D.C., this 19th day of May 1975.

NORBERT T. TIEMANN,  
Federal Highway Administrator.

#### APPENDIX A

##### RATES ESTABLISHED BY THIS ORDER

<b>Classification:</b>	
Passenger automobile and trucks to and including 7,000 lbs gross weight	\$0.55
Passenger automobile and 1-axle trailer (each additional trailer axle \$0.30)	.85
Motorcycle	.35
Buses:	
2 axles	.80
3 axles	1.20

#### Classification:

Trucks, 2 or more axles, 7,001 lbs or more gross weight, per axle	.75
Commutation rate for passenger automobiles, and 2 axle trucks up to and including 7,000 lbs gross weight—decal valid for 30 days after the date of purchase	12.00
Plus cash toll per crossing	.05
Carpools commutation rate for registered passenger automobiles only, occupied by 3 or more persons (including driver), accepted at all times—transferable book of 40 tickets valid until the end of the calendar month following the month in which purchased	4.00
Special permits (noncommercial motor vehicles, 60,001 pounds gross weight and upward, commercial vehicles operating under official permit) \$10 permit fee plus a \$1.50 fee for the first 40,000 lbs and \$0.25 for each 2,000 lbs or fraction thereof in excess of 40,000 lbs.	

#### Bus and truck toll scrip (twenty-five crossings)

Denomination	Value	Price
\$1.50	\$25.00	\$22.50
1.50	37.50	33.75
2.25	50.25	50.62
3.00	75.00	67.50
3.75	93.75	84.37
4.50	112.50	101.25

#### Definitions and Restriction:

Decals non-transferable, and affixed to left side of vehicle.  
Commutation decal valid only in Exact-Change Automatic Toll Lanes and not valid in manned lanes.  
Carpool commutation ticket accepted in manned lanes only and not valid in automatic toll lanes.  
Tickets detached from the ticket book will not be honored for passage. Unused tickets will not be redeemable or refundable.  
Bus and Truck Toll Scrip shall be good and valid until used. Toll scrip in excess of the required toll may be tendered in payment; however, no refund of the excess shall be made. Toll scrip in denominations of less than the fare and the balance in cash may be tendered in payment of the fare. Toll scrip may not be used to purchase other reduced rate fares. Toll scrip may be purchased by mail or in person at the toll accounting offices located in the Administration Buildings for each of the bridges.  
Toll scrip will not be accepted in payment of a Special Permit.

#### APPENDIX B

##### CHRONOLOGY OF HEARINGS AND OPINIONS REGARDING THE BENJAMIN FRANKLIN AND WALT WHITMAN BRIDGES IN PHILADELPHIA

Feb. 1, 1968, DRPA increased toll rates.  
May 29, 1968, Federal Highway Administrator directed Hearings on the matter.  
June 25, 26, 27, and 28, July 1 and 2, 1968, Hearings were held before Hearing Examiner.  
Aug. 1, 1968, Report and Recommended Order of Hearing Examiner.  
Sept. 11, 1968, Opinion of the Administrator.  
Apr. 1, 1972, DRPA increased toll schedules of bridges.  
Aug. 10, 1972, Administrator ordered formal hearings before Administrative Law Judge.  
Sept. 8, 1972, Pretrial Conference.  
Sept. 28-Oct. 7, 1972, Formal hearings before Administrative Law Judge.

#### NOTICES

Dec. 29, 1972, Administrative Law Judge issued recommended decision that April 1972 tolls were not just and reasonable and that tolls prior thereto be reinstated.

June 1, 1973, Administrator, after considering DRPA's exceptions, issued "tentative opinion" that April 1972 toll schedule was "neither just nor reasonable."

June 22, 1973, Supplement to June 1, 1973, opinion.

June 30, 1973, Oral argument held before the Administrator.

Nov. 5, 1973, Administrator issued his opinion and Order where he adopted his ruling that April 1, 1972, tolls were neither just nor reasonable.

Dec. 3, 1973, Administrator denied DRPA's petition for reconsideration and stay of the November 5, 1973, Order.

Dec. 10, 1973, DRPA filed a complaint in Federal Court for a permanent injunction and a stay of the Nov. 5, 1973, Order pending litigation. Suit subsequently dismissed (Case dismissed September 1974).

Dec. 11, 1973, Representatives of the Authority met in Washington with the Administrator to discuss impact of impending energy crisis on Authority's operations and to consider the adoption of a new schedule of tolls.

Dec. 21, 1973, Administrator's Order and decision permitting DRPA to put its new proposed schedule into effect, "at least on an interim basis and reopened the proceeding so evidence bearing on the justness and reasonableness of the new toll schedule can be adduced. It is this toll schedule that is under consideration (Appendix A)."

Apr. 23-25, 1974, Hearings were held before Administrative Law Judge Alfieri.

Oct. 16, 1974, Recommended decision of the Administrative Law Judge that the toll schedule prescribed in the Administrator's Order of Nov. 5, 1973 (Schedule H) be the tolls to be charged on the bridges.

Feb. 10, 1975, Administrator's Order directing submission of additional information for consideration.

Mar. 26, 1975, Administrator's Order specifying certain documents be incorporated in the record.

Since 1968, there have been three hearings before Law Judges, three recommended decisions of Law Judges, and four decisions by the Administrator.

#### APPENDIX C

##### RATES OF TOLL PRESCRIBED IN THE NOVEMBER 5, 1973, ORDER OF THE ADMINISTRATOR (Stayed by December 21, 1973, Order)

<b>Passenger cars and light trucks:</b>	
Cash	\$0.50
Commuter 40-trip <sup>1</sup>	.35
Trucks (per axle) <sup>2</sup>	.75
Motorcycles	.50
<b>Automobile and trailer:</b>	
1-axle trailer	.90
2-axle trailer	1.20
Buses (per axle)	.50
Special permits <sup>3</sup>	

#### APPENDIX D

##### RATES OF TOLLS PRESCRIBED IN THE DECEMBER 21, 1973, ORDER (Currently in Effect)

<sup>1</sup> Subject to conditions and restrictions imposed as of Aug. 31, 1973.

<sup>2</sup> A 10 percent scrip discount will be offered.

<sup>3</sup> Charges will be those in effect Aug. 31, 1973.

#### Classification:

Passenger automobile and trucks to and including 7,000 lbs gross weight	\$0.60
Passenger automobile and 1-axle trailer (each additional trailer axle \$0.30)	.90
Motorcycle	.35
Buses:	
2 axles	1.00
3 axles	1.50
Trucks, 2 or more axles, 7,001 lbs or more gross weight, per axle	.75
Commutation rate for passenger automobiles, and 2-axle trucks up to and including 7,000 lbs gross weight—decal valid for 30 days after the date of purchase	12.00
Plus cash toll per crossing	.10
Carpools commutation rate for registered passenger automobiles (including driver), accepted at 43/5- only, occupied by 3 or more persons (including driver), accepted at all times—transferable book of 40 tickets valid until the end of the calendar month following the month in which purchased	10.00
Special permits (noncommercial motor vehicles 80,001 lbs gross weight and upward, commercial vehicles operating under official permit) \$10 permit fee plus a \$1.50 fee for the first 40,000 lbs and \$0.25 for each 2,000 lbs or fraction thereof in excess of 40,000 lbs.	

#### Bus and truck toll scrip (twenty-five crossings)

Denomination	Value	Price
\$1.00	\$25.00	\$22.50
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3.00	75.00	67.50
3.75	93.75	84.37
4.50	112.50	101.25

#### Definitions and Restriction:

Decals non-transferable, and affixed to left side of vehicle.  
Commutation decal valid only in Exact-Change Automatic Toll Lanes and not valid in manned lanes.  
Carpool commutation ticket accepted in manned lanes only and not valid in automatic toll lanes.  
Tickets detached from the ticket book will not be honored for passage. Unused tickets will not be redeemable or refundable.  
Bus and Truck Toll Scrip shall be good and valid until used. Toll scrip in excess of the required toll may be tendered in payment; however, no refund of the excess shall be made. Toll scrip in denominations of less than the fare and the balance in cash may be tendered in payment of the fare. Toll scrip may not be used to purchase other reduced rate fares. Toll scrip may be purchased by mail or in person at the toll accounting offices located in the Administration Buildings for each of the bridges.  
Toll scrip will not be accepted in payment of a Special Permit.

#### APPENDIX E

##### CALCULATION OF NET REVENUE AVAILABLE FOR BOND SERVICE—1974

Walt Whitman and Benjamin Franklin Bridges:	
DRPA, statement of revenues and expenses, exhibit 137:	
Tolls	\$33,346,015
O. & M.	9,586,691



Net operating revenue—		4,006,955
bridges	23,750,334	
Patco net operating revenue:		
Exhibit 137, note 5	59,223	
Interest, exhibit 137, note 4, balance sheet—note 4:		
Revenue fund	1,810,194	
Bond service fund	661,278	
Bond reserve fund	1,535,483	
Total net revenue		27,825,602
Administrative expenses: state-		
ment of revenues and ex-		
penses, exhibit 137		1,952,257
Net revenue available for bond		
service		25,873,245

APPENDIX F—Estimated debt service coverage under toll schedule prescribed in this order.<sup>1</sup>  
(In thousands)

	1975	1976	1977	1978
Adjusted toll income	32,449	35,119	36,277	36,705
Less discount	—790	—842	—868	—875
Total	31,659	34,277	35,409	35,830
M. & O. expenses	—10,296	—13,773	—14,599	—15,476
Administrative expenses	—2,088	—2,234	—2,269	—2,511
Total	19,315	18,270	18,441	17,843
Investment income	+3,898	+3,790	+3,962	+3,466
Total	23,213	22,060	22,158	21,369
Debt service request revenue bonds	16,769	16,769	16,769	16,769
Revenue bonds debt service coverage	1.38	1.31	1.31	1.27
Total debt service request	19,898	19,271	19,672	19,134
Total debt service coverage, including special revenue bonds	1.16	1.14	1.12	1.11

<sup>1</sup> The toll income estimates shown in this appendix are based on traffic estimates shown in table 6, app. A, exhibit 136. Actual 1974 traffic was substituted for the estimates shown in table 6 and each subsequent year's increase was based on the increase shown in table 6. The M. & O. and administrative expenses and investment income estimates were derived by using the same method described above and were based on estimates found on pp. 21 and 22 of exhibit 136.

APPENDIX G—Calculation of tolls to achieve required 1975-1978 revenue to obtain specified bond service coverage.  
(In thousands)

	Toll	1975	1976
Automobiles and light trucks <sup>1</sup>	\$0.55	\$19,754	\$21,263
Commuter <sup>2</sup>	.35	4,642	5,239
Carpool <sup>3</sup>	.10	73	84
Bus <sup>4</sup>	.40	429	435
All other <sup>5</sup>		7,551	8,075
Less discount <sup>6</sup>		32,449	35,119
		790	842
Operating Revenue O. & M.		31,659	34,277
Administrative		21,433	20,504
Interest		19,315	18,270
Total net revenue available for bond service		23,213	22,060

<sup>1</sup> Traffic volume from app. H.  
<sup>2</sup> Jan. 1, 1974, commuter toll restrictions retained.  
<sup>3</sup> Jan. 1, 1974, toll raised maintained for trucks, trailers, motorcycles, and special permits.  
<sup>4</sup> Assume a 10 percent scrip discount for all trucks and buses.

APPENDIX H—Traffic Projections WALT WHITMAN, BEN FRANKLIN, COMMODORE BARBY, AND BETSY ROSE BRIDGES<sup>1</sup>  
(In thousands)

	Regular auto	Commuter <sup>2</sup>	Bus
1975	35,917	14,000	505
1976	38,097	15,577	512
1977	39,828	16,558	521
1978	40,219	17,190	532

<sup>1</sup> Based on estimates included in bond prospectus for \$47,815,000 sold in 1974. Exhibit 136.  
<sup>2</sup> Includes carpools.  
<sup>3</sup> Assumes Betsy Rose Bridge open to traffic January 1976.

[FR Doc. 75-13575 Filed 5-23-75; 8:45 am]

#### National Highway Traffic Safety Administration NATIONAL MOTOR VEHICLE SAFETY ADVISORY COUNCIL Notice of Public Meeting

On June 10, 1975 the National Motor Vehicle Safety Advisory Council will hold open meetings in the DOT Headquarters Building, 400 Seventh Street SW., Washington, D.C. The Advisory Council is composed of 25 members, a majority of whom are representatives of the general public, including representatives of State and local governments, with the remainder including representatives of motor vehicle manufacturers, motor vehicle equipment manufacturers, and motor vehicle dealers. The Advisory Council makes recommendations to the Secretary of Transportation on motor vehicle safety and property loss reduction programs carried out by the National Highway Traffic Safety Administration.

The following meetings are subject to the approval of the National Highway Traffic Safety Administrator.

On June 10 at 1:00 p.m. in room 2232 of the DOT Headquarters Building the Congress Committee will meet with the following agenda:

To review plans for the upcoming Fourth International Congress on Automotive Safety.

On June 10 at 2:00 p.m. in room 2232 of the DOT Headquarters Building the Awards Committee will meet with the following agenda:

To review candidates nominated for the Council's annual Excellence Award.

For further information contact the NHTSA Executive Secretary, Room 5212, 400 Seventh Street, SW., Washington, D.C., telephone 202-426-2872.

This notice is given pursuant to section 10(a) (2) of Pub. L. 92-463, Federal Advisory Committee Act (FACA), effective January 5, 1973.

Issued: May 20, 1975.

JOHN F. MAGEE,  
Acting Executive Secretary.

[FR Doc. 75-13073 Filed 5-23-75; 8:45 am]

#### CIVIL AERONAUTICS BOARD

[Order 75-5-82; Docket No. 27570]

#### TEXAS INTERNATIONAL AIRLINES, INC. Order To Show Cause and Granting Temporary Suspension Regarding Certificate of Public Convenience and Necessity

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 21st day of May, 1975.

By application filed March 3, 1975, Texas International Airlines (TXI) requests the Board to issue an order requiring all interested persons to show cause why its certificate of public convenience and necessity for route 82 should not be amended so as to delete Pine Bluff, Arkansas, therefrom.

The City of Pine Bluff submitted a letter stating it is not opposed to the application.<sup>1</sup> No answer has been filed in opposition to the deletion request.

Upon consideration of the pleadings and all the relevant facts, we have decided to issue an order to show cause proposing to amend TXI's certificate as requested. In addition, we will grant TXI authority to suspend service temporarily at Pine Bluff pendente lite. Accordingly, we tentatively find and conclude that the public convenience and necessity require the amendment of TXI's certificate of public convenience and necessity for route 82 so as to delete Pine Bluff therefrom.<sup>2</sup>

In support of our ultimate conclusion, we make the following tentative findings and conclusions. TXI's service at Pine Bluff has been characterized by minimal traffic, has produced financial losses for the carrier in recent years, and is not likely to become economically sound in

<sup>1</sup> Pine Bluff forwarded its letter on April 17, 1975, expressing its position and suggestions in this matter. While not submitted within the precise deadline prescribed by the Board's rules of practice and procedure § 302.6, we have considered its contents in reaching our decision herein. Since the position of the City is essentially in accord with that of the applicant, we have concluded that no party will be harmed by such consideration.

<sup>2</sup> We also tentatively find and conclude that TXI is fit, willing and able properly to perform the air transportation authorized by the certificate proposed to be issued herein and to conform to the provisions of the Act and the Board's rules, regulations and requirements thereunder.

the future. Texas International has served Pine Bluff since 1953. Service has generally consisted of two round trips per day on a routing between Memphis and Dallas. Clearly the most important market for Pine Bluff has been Memphis, and TXI has consistently provided non-stop service between the two cities.<sup>3</sup> However, in recent years passenger boardings at Pine Bluff have steadily declined notwithstanding experimental increases in frequencies. According to the applicant, the average number of enplaned passengers per day has dropped from 15.2 in 1969 to 9.2 in 1974. This represents a present average of 2.7 passengers per departure.

These passengers will not be unduly inconvenienced by the proposed deletion.<sup>4</sup> Pine Bluff travelers will continue to have ready access to the nation's air transport system at Little Rock. Located only 46 miles and one hour's driving time away, Little Rock offers direct service by five different carriers to 25 cities, whereas TXI is the sole carrier serving Pine Bluff with single-plane prop service to only six cities.<sup>5</sup> There are 12 daily nonstop flights between Little Rock and Memphis spaced conveniently throughout the day; nine of these utilize jet equipment.<sup>6</sup> Public bus transportation between Pine Bluff and Little Rock consists of nine round trips daily between the two cities. Round-trip fare is \$6.00. In fact, the proximity of superior air services at Little Rock appears to be the primary factor in the recent decline of Pine Bluff traffic.<sup>7</sup>

We further tentatively conclude that in view of the limited public benefits, the increasing cost of providing service to Pine Bluff is not justified. TXI submitted exhibits indicating that it incurred a subsidy need of \$78,788 in serving Pine Bluff in the year ended September 30, 1974.<sup>8</sup> Consequently, a significant reduction in TXI's subsidy need would occur as a result of the deletion.<sup>9</sup>

Finally, we tentatively find that the public will not be totally without air services at Pine Bluff. To supplement the air transportation available at Little Rock, the City of Pine Bluff has indicated that

<sup>1</sup> According to the applicant's statistics over 70 percent of Pine Bluff's on-line O&D passengers in the 12 months ended September 30, 1974, traveled between Pine Bluff and Memphis.

<sup>2</sup> Compare with local service deletion findings in Orders 74-7-133, July 29, 1974; 75-2-103, February 26, 1975; and 75-3-105, March 27, 1975.

<sup>3</sup> TXI offers the following daily services from Pine Bluff: one nonstop to El Dorado/Camden, Arkansas; one nonstop to Hot Springs, Arkansas; two nonstops to Memphis, Tennessee; two nonstops to Jonesboro, Arkansas; one one-stop to Texarkana, Arkansas; one one-stop to Monroe, Louisiana; and one two-stop and one three-stop to Dallas-Ft. Worth, OAG, May 1, 1975.

<sup>4</sup> OAG, May 1, 1975.  
<sup>5</sup> In contrast to Little Rock, the quality of service at Pine Bluff is further limited by the airport's inability to accommodate jet aircraft.

it can obtain the services of a local commuter carrier as soon as there is a guarantee of no certificated competition in this small market. Accordingly, it has requested the Board to immediately suspend TXI's authority at Pine Bluff, pendente lite, in order to facilitate a prompt commitment by the commuter carrier. This is a reasonable request, and we will therefore authorize the requested suspension.<sup>10</sup>

Interested person will be given thirty days following the date of adoption of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to support their objections, if any, with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If any evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly, it is ordered, That:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein, and amending the certificate of public convenience and necessity of Texas International Airlines for route 82 so as to delete Pine Bluff, Arkansas, therefrom;

2. Any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth herein shall, within 30 days after the date of adoption of this order, file with the Board and serve upon all persons listed in paragraph 6 a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections;<sup>11</sup>

<sup>10</sup> We need not here detail TXI's figures in order to set out the precise reduction in subsidy need likely to result from the action we propose herein. However, we have studied the figures and found them to be generally reasonable. An appropriate ad hoc adjustment to the local service class rate (Class Rate VII as it applies to Texas International) of \$108,486 will be made in a separate order.

<sup>11</sup> As an additional benefit, the other communities along the Memphis-Dallas route of TXI would receive upgraded service if Pine Bluff is deleted. First nonstop service between El Dorado and Memphis would be instituted as would additional nonstop service between Hot Springs and Memphis.

<sup>12</sup> Our action does not result in a major Federal action significantly affecting the quality of the environment within the meaning of the National Environmental Policy Act of 1969. It is likely that our decision will result in some increase in surface traffic as well as the introduction of commuter air

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein;

5. Texas International Airlines be and it hereby is authorized to suspend service at Pine Bluff, Arkansas until 60 days after final decision on its deletion application in this Docket 27570;

6. A copy of this order shall be served upon Texas International Airlines; Governor, State of Arkansas; Mayor, City of Pine Bluff; Airport Manager, Grider Field; and the Postmaster General; and

7. The authority granted in paragraph 5 above may be amended or revoked at any time at the discretion of the Board without hearing.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,  
Secretary.

[FR Doc. 75-13724 Filed 5-23-75; 8:45 am]

[Order 75-5-81; Docket No. 27806]

#### TRANS WORLD AIRLINES, INC.

#### Order Regarding Nonacceptance of Restricted Articles on Cargo Aircraft

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 21st day of May, 1975.

By tariff revisions<sup>1</sup> issued April 23 and marked to become effective May 23, 1975, Trans World Airlines, Inc. (TWA) proposes to establish a provision refusing to accept on cargo aircraft all articles shown as not acceptable on passenger-carrying aircraft in the carrier's tariff.

In support of its proposal, TWA asserts, inter alia, that recent incidents involving hazardous materials in air transportation have caused it to evaluate its current practices of handling such materials from a safety aspect; that while there are no passengers on cargo aircraft, the flight crews and ground crews must be considered, along with the potential harm to carrier equipment; and that, consequently, the same reasons that lead to nonacceptance of certain articles on

service. However, in view of the low level of daily enplanements at Pine Bluff, it is doubtful that such increases will be significant, especially when placed against the beneficial environmental effects of the elimination of TXI's current operations at Pine Bluff.

<sup>12</sup> All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further such motions, requests, or petitions for reconsideration of this order will be entertained.

<sup>13</sup> Revisions to Airline Tariff Publishing Company, Agent, Tariff C.A.B. No. 82.



passenger aircraft equally apply to cargo aircraft.

A complaint has been filed by the Council for Safe Transportation of Hazardous Articles (COSTHA).<sup>1</sup> The complainant requests that the proposal be rejected, or in the alternative, suspended and investigated. COSTHA alleges, inter alia, that the proposal is in direct contravention of TWA's common-carrier responsibility; that this proposal concerns questions of safety, and the Board has recognized that the Federal Aviation Administration (FAA) has the necessary expertise and sole responsibility to prescribe regulations providing for safe transportation of hazardous materials by air; that FAA having thus preempted this area of regulation, no basis remains to conclude that carriers are free to pick and choose their traffic; and that since the proposal results, for certain articles, in a complete refusal to carry, the adequacy of alternative service, the justification offered, and the economic burden upon shippers should all be examined.

As the Board has previously concluded (see Order 75-4-75, and Order 75-2-127), it has accepted in principle the primary responsibility of the Department of Transportation (DOT)/Federal Aviation Administration for regulations on the transportation of hazardous materials by air.<sup>2</sup> TWA's proposal to refuse all restricted articles for cargo aircraft transportation if those articles are precluded from carriage aboard passenger aircraft would be more restrictive than current FAA Regulations, as well as rules currently proposed by FAA,<sup>3</sup> and, consequently, we will reject the filing.

The United States Court of Appeals for the Second Circuit, by an action dated March 25, 1975, in *Air Line Pilots Association Int'l v. Civil Aeronautics Board*, No. 75-4049, granted a motion filed by ALPA for a stay of Board Order 75-2-127 to preserve the status quo, pending its appeal.<sup>4</sup> In these circumstances and consistent with the Court's action, the Board will stay the effective-

ness of its order, pending determination by the Court of the issues before it. We believe that the issues herein and those before the Court in Case No. 75-4049 are sufficiently similar to warrant a stay in the effectiveness of this order.

This order will nevertheless be issued, served upon all parties, and published in the FEDERAL REGISTER to apprise all interested persons of the Board's opinions and decisions upon the issues now before it, subject, however, to the aforesaid provisions for a stay.

Accordingly, pursuant to the provisions of the Federal Aviation Act of 1958, and particularly sections 204(a), 401, 403, 404, and 1002 thereof,

It is ordered, That:

1. Subject to the conditions and provisions set forth in ordering paragraph 3 herein, 21st Revised Page 23 of C.A.B. No. 82, issued by Airline Tariff Publishing Company, Agent, be and hereby is rejected;

2. Except to the extent granted herein, the complaint filed by the Council for Safe Transportation of Hazardous Articles in Docket 27806 is dismissed;

3. The effective date of the Board's order as set forth in ordering paragraphs 1 and 2 herein is hereby stayed, pending determination by the United States Court of Appeals for the Second Circuit of the issues now before it in *Air Line Pilots Association Int'l v. Civil Aeronautics Board*, No. 75-4049, and further orders of the Board consistent therewith; and

4. Copies of this order shall be served upon Trans World Airlines, Inc., and the Council for Safe Transportation of Hazardous Articles.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,  
Secretary.

[FR Doc. 75-13723 Filed 5-23-75; 8:45 am]

#### DEFENSE MANPOWER COMMISSION MEETING

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the Commissioners of the Defense Manpower Commission will meet on June 13, 1975 at 1:30 p.m. and on June 20, 1975 at 1:30 p.m. in the New Executive Office Building, Room 3010, 726 Jackson Place, NW, Washington, D.C. 20036.

The purpose of the June 13th meeting will be to conduct an in-progress review of issues in the Management Functional Area and such other business as may be presented by the members.

The purpose of the June 20th meeting will be to conduct an in-progress review of issues in the Compensation Functional Area and such other business as may be presented by the members.

The meetings will be open to the public. Interested persons wishing to attend should telephone (202) 254-7803 before

close of business June 11, 1975 for the June 13th meeting and before close of business June 18, 1975 for the June 20th meeting.

Dated: May 19, 1975.

BRUCE PALMER, Jr.,  
General, USA (Ret.),  
Executive Director.

[FR Doc. 75-13786 Filed 5-23-75; 8:45 am]

#### ENVIRONMENTAL PROTECTION AGENCY

[OPP-33000/255; FRL 378-1]

#### NOTICE OF RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of Section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency Room EB-31, East Tower, 401 M Street SW., Washington, D.C. 20460.

On or before July 28, 1975, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alter-

natives available under the Act. No claims will be accepted for possible EPA adjudication which are received after July 28, 1975.

Dated: May 16, 1975.

JOHN B. RICH, Jr.,  
Director, Registration Division.

#### APPLICATIONS RECEIVED

EPA File Symbol 9403-RN. Alken Murray Corp., 111 5th Ave., New York NY 10003. ALKEN V-7. Active Ingredients: Disodium cyanodithiolimidocarbonate 3.68%; Potassium N-methylthiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy. PM22.

EPA File Symbol 8517-RG. American Machinery Corp., PO Box 3228, Orlando FL 32802. AMERICAN MACHINERY DOW-CIDE SOAP. Active Ingredients: Sodium Ortho-phenylphenate 18.9%. Method of Support: Application proceeds under 2(c) of interim policy. PM32.

EPA Reg. No. 5481-122. AMVAC Chemical Corp., 4100 E. Washington Blvd., Los Angeles CA 90023. DUSTING SULFUR 98. Active Ingredients: Sulfur 98.0%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Added use. PM22.

EPA File Symbol 3735-EL. Arlenge Lab., 175 Pearl St., Brooklyn NY 11201. ARLENGE BITE ME NOT INSECT REPELLENT. Active Ingredients: N, N-diethyl-methylamide 12.75%; other isomers 2.25%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 3735-EO. Arlenge Lab. ARLENGE X-34. Active Ingredients: Pyrethrins 0.3%; Technical Piperonyl Butoxide 1.2%; Cyclohexanone 5.0%; Petroleum Distillate 5.3%; Mineral Oil 2.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM17.

EPA File Symbol 4331-L. Arol Chem. Prod. Co., 849 Ferry St., Newark NJ 07105. ARO-CIDE B. Active Ingredients: Disodium cyanodithiolimidocarbonate 3.68%; Potassium N-methylthiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy. PM22.

EPA File Symbol 4331-U. Arol Chem. Prod. Co. ARO-CIDE A. Active Ingredients: Poly[oxyethylene(dimethyliminio)ethylene(dimethyliminio)ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 8512-IT. B & G Co., PO Box 20372, Dallas, TX 75220. B & G SYN-PY-2. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylate 2.000%; Related compounds 0.274%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 12455-RU. Bell Lab., Inc., PO Box 5133, Madison WI 53705. RODENT CAKE. Active Ingredients: Diphacinone (2-diphenylacetyl-1,3-indandione) 0.005%. Method of Support: Application proceeds under 2(c) of interim policy. PM11.

EPA File Symbol 6853-EE. BES-TEX Insecticides Co., Inc., PO Box 664, San Angelo TX 76901. BES-TEX SYSTEMIC HOME & GARDEN SPRAY. Active Ingredients: Dimethoate (0,0-dimethyl S-[N-methylcarbamoylmethyl]phosphorodithioate). Method of Support: Application proceeds under 2(c) of interim policy. PM16.

EPA File Symbol 6853-ER. BES-TEX Insecticides Co., Inc. BES-TEX BIOTROL XK WETTABLE POWDER. Active Ingredients: Bacillus thuringiensis Berliner [Contains 7500 International Units of Potency per milligram of product (12 billion viable

spores per gram). Equivalent to 3.4 billion International Units per pound.] 1.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 34571-I. BETZ ENTEC, Inc., 2500 Office Center, Willow Grove PA 19090. BETZ ENTEC 347. Active Ingredients: Copper sulfate 15.0%; N-Alkyl (C12-40%, C14-50%, C16-10%) dimethyl benzyl ammonium chloride 5.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM31.

EPA File Symbol 5887-RNI. Black Leaf Prod. Co., 677 N. State St., Elgin IL 60120. BLACK LEAF TOMATO & VEGETABLE LIQUID SPRAY. Active Ingredients: Carbaryl (1-Naphthyl - N - Methylcarbamate) 22.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM12.

EPA File Symbol 5887-RNO. Black Leaf Prod. Co. BLACK LEAF BAGWORM SPRAY. Active Ingredients: 0,0-diethyl 0-(2-isopropyl-4-methyl-6-pyrimidinyl) phosphorothioate 12.5%; Aromatic Petroleum Derivative Solvents 72.6%. Method of Support: Application proceeds under 2(c) of interim policy. PM15.

EPA File Symbol 4450-GT. Chemex Chemicals and Coatings Co., Inc., PO Box 5072, Tampa FL 33605. CHEMEX FLYING INSECTICIDE SPRAY. Active Ingredients: Pyrethrins 0.30%; Piperonyl butoxide, technical 0.6%; N-octyl bicycloheptene dicarboximide 1.00%; Petroleum distillate 81.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 7478-EL. Chem-Pak Co., PO Box 430757, So. Miami FL 33143. KLEAR-ALL. Active Ingredients: O.O.O'. O'-Tetraethyl S, S'methylene bis phosphorodithioate (related compounds 0.12%) 4.0%; Petroleum Oils 88.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM16.

EPA File Symbol 34224-RR. Chemrite Corp., 12600 S. Daphne Ave., Hawthorne CA 90250. CR-509 ALGAERITE B. Active Ingredients: Disodium cyanodithiolimidocarbonate 4.90%; Potassium N-methylthiocarbamate 6.76%. Method of Support: Application proceeds under 2(b) of interim policy. PM22.

EPA File Symbol 8201-RG. Chem-Tex, Inc., PO Box 1987, Anderson SC 29621. CTX-802 OIL BASE LIQUID. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylate 0.250%; Related compounds 0.084%; Aromatic petroleum hydrocarbons 0.456%; Petroleum distillate 99.250%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA Reg. No. 239-2419. Chevron Chem. Co., Ortho Div., 940 Hensley St., Richmond CA 94804. ORTHENE TOBACCO INSECT SPRAY. Active Ingredients: Acephate (O,S-Dimethyl acetylphosphorodithioate) 75.0%. Method of Support: Application proceeds under 2(a) of interim policy. PM16.

EPA File Symbol 239-EUGT. Chevron Chem. Co. ORTHOCIDE 4 FLOWABLE (FUNGICIDE). Active Ingredients: Captan 38.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM21.

EPA File Symbol 239-EUGL. Chevron Chem. Co. ORTHO VEGETABLE AND GARDEN FUNGICIDE. Active Ingredients: Chlorothalonil (Tetrachloroisophthalonitrile) 29.6%. Method of Support: Application proceeds under 2(c) of interim policy. PM21.

EPA File Symbol 5748-UO. Household Prod. Div., Conwood Corp., 701 N. Main St., Memphis TN 38101. HOT SHOT STRIKE ROACH AND ANT KILLER. Active Ingredients: Pyrethrins 0.050%; Technical Piperonyl Butoxide 0.075%; N-Octyl Bicycloheptene

Dicarboximide 0.125%; 2-(1-Methylethoxy) phenol methylcarbamate 1.000%; Petroleum Distillates 82.750%. Method of Support: Application proceeds under 2(c) of interim policy. PM12.

EPA File Symbol 5748-LN. Household Prod. Div. HOT SHOT STRIKE FLY AND MOSQUITO KILLER. Active Ingredients: Pyrethrins 0.150%; Technical Piperonyl Butoxide 0.300%; N-Octyl Bicycloheptene Dicarboximide 0.500%; Petroleum Distillates 98.900%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 7273-RL. Crown Chemicals, 4995 N. Main St., Rockford IL 61101. CROWN VEGETATION KILLER. Active Ingredients: Prometon; 2,4-bis (isopropylamino)-6-methoxy-s-triazine 3.73%; Petroleum distillate 81.04%. Method of Support: Application proceeds under 2(c) of interim policy. PM25.

EPA File Symbol 7273-RUL. Crown Chemicals. CROWN "READY TO USE" VEGETATION KILLER. Active Ingredients: Prometon; 2,4-bis (isopropylamino)-6-methoxy-s-triazine 1.5%; Petroleum distillate 94.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM25.

EPA File Symbol 9461-OR. Celanese Coatings & Specialties Co., Devoe & Reynolds Co. (Marine Div.), PO Box 99038, Jeffersonville KY 40299. NAVICOTE FISHERMAN'S PLASTIC ANTI-FOULING PAINT-MD-3840. Active Ingredients: Cuprous Oxide 25.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM22.

EPA File Symbol 1015-AN. Douglas Chemical Co., PO Box 297, Liberty MO 64068. DOUGLAS D-368 SOLVENT. Active Ingredients: Carbon Tetrachloride 82.09%; Carbon Disulfide 16.29%; Ethylene Dibromide 1.22%; Pentane 0.40%. Method of Support: Application proceeds under 2(c) of interim policy. PM11.

EPA File Symbol 1015-LO. Douglas Chemical Co. DOUGLAS F-310 SOLVENT. Active Ingredients: Carbon Tetrachloride 99.75%; Carbon Disulfide 0.25%. Method of Support: Application proceeds under 2(c) of interim policy. PM11.

EPA Reg. No. 464-393. The Dow Chemical Co., PO Box 1706, Midland MI 48640. DOW PLECTRAN 50W MITICIDE. Active Ingredients: Tricyclohexyltin hydroxide 50.0%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added uses. PM13.

EPA File Symbol 2127-A. Dumont Sales Co., 4400 Garfield St., Denver CO 80216. DU-O-SAN. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5.0%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 2127-L. Dumont Sales Co. SAN-O-KLEEN. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%; Tetrasodium ethylenediamine tetraacetate 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA Reg. No. 352-354. E. I. DuPont de Nemours & Co., 7056 Dupont Bldg., Wilmington DE 19898. BENLATE BENOMYL FUNGICIDE PLUS CAPTAN FUNGICIDE TANK MIXTURE-APPLES. Active Ingredients: Benomyl [Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate 50.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM22.



EPA Reg. No. 8343-7. Gabriel Chemicals, Ltd., 204 21st Ave., Paterson NJ 07509. AGRIS-ECT BRAND MALATHION 80 E.C. Active Ingredients: Malathion 80.00%; Aromatic Petroleum Derivative Solvent 7.79%. Method of Support: Application proceeds under 2(c) of interim policy. PM16

EPA File Symbol 2311-RL. The HAAO Lab., Inc., 14010 S. Seeley Ave., Blue Island IL 60406. PTF GERMICIDAL LIQUID DETERGENT. Active Ingredients: Petro 11 8.00%; Isopropyl alcohol, anhydrous 6.75%; Potassium laurate 3.22%; Ortho-benzyl-parachlorophenol 2.25%; Ortho-phenylphenol 2.00%; Potassium myristate 1.68%; 4-chloro-2-phenylphenol 1.28%; Para-tertiary amylphenol 1.00%; Tetrasodium ethylenediamine tetraacetate 0.78%; 6-chloro-2-phenylphenol 0.48%; Related phenolic and chloro-phenolic compounds 0.24%. Method of Support: Application proceeds under 2(c) of interim policy. PM32

EPA File Symbol 2596-AN. The Hartz Mountain Corp., 700 S. 4th St., Harrison NJ 07029. HARTZ MOUNTAIN 120 DAY CAT FLEA KILLING TAG. Active Ingredients: 2,2-dichlorovinyl dimethyl phosphate 18.6%; Related compounds 1.4%. Method of Support: Application proceeds under 2(c) of interim policy. PM13

EPA File Symbol 2393-EU. Hopkins Agricultural Chem. Co., PO Box 584, Madison WI 53701. HOPKINS ATRAZINE TECHNICAL. Active Ingredients: Atrazine (2-Chloro-4 [ethylamino]) 6 (isopropylamino-2-triazine) 95.00%; Related active triazine compounds 5.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM25

EPA File Symbol 1182-EN. Hubman Chemicals, 1123 W. Goodale Blvd., Columbus OH 43212. SANAMAX M7. Active Ingredients: Alkyl (C14, 58%; C16, 28%; C12, 14%) dimethyl benzyl ammonium chloride 2.0%; Isopropanol 2.0%; Methyl salicylate 0.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM32

EPA File Symbol 1182-ER. Hubman Chemicals. SANAMAX P6. Active Ingredients: Isopropanol 4.75%; Pine oil 3.95%; Alkyl (C14, 58%; C16, 28%; C12, 14%) dimethyl benzyl ammonium chloride 1.97%. Method of Support: Application proceeds under 2(c) of interim policy. PM32

EPA File Symbol 1182-RO. Hubman Chemicals. SANAMAX L15. Active Ingredients: Alkyl C14, 58%; C16, 28%; C12 14%) dimethyl benzyl ammonium chloride 4.0%; Isopropanol 2.0%; Essential oils 0.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 36301-R. J-CHEM, PO Box 5421, Houston TX 77012. J-PYREDI-510 SYNERGIZED PYRETHRINS MILL SPRAY. Active Ingredients: Pyrethrins 0.50%; Piperonyl Butoxide Technical 3.00%; Petroleum distillate 96.50%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 13683-G. I. B. Kremer Co., PO Box 221 15670 W. 10 Mile Rd., Southfield MI 48075. ALGICIDE #711. Active Ingredients: Disodium cyanodithiolmido-carbonate 7.35%; Potassium N-methyldithiocarbamate 10.15%. Method of Support: Application proceeds under 2(b) of interim policy. PM22

EPA File Symbol 13683-U. I. B. Kremer Co. ALGICIDE #713. Active Ingredients: Disodium cyanodithiolmido-carbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy. PM22

EPA File Symbol 939-UR. E. H. Leitte Co., PO Box 180, Lake Elmo MN 55042. LEITTE METHYL BROMIDE PLUS. Active Ingredients: Methyl Bromide 90.00%; Ethylene

Dibromide 10.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM11

EPA File Symbol 10324-EW. Mason Chem. Co., 5253 West Belmont Ave., Chicago IL 60641. MAQUAT NK-50%. Active Ingredients: n-Alkyl (60% C14, 25% C12 and 15% C16) dimethyl benzyl ammonium chloride 50.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 2434-I. Mercury Supply Co., 901 Second Ave., South, Nashville TN 37210. MERCO MINT ODOR DISINFECTANT PHENOL COEFFICIENT 7. Active Ingredients: Alkyl (C14, 58%; C16, 28%; C12, 14%) dimethyl benzyl ammonium chloride 2.0%; Isopropanol 2.0%; Methyl salicylate 0.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 2434-T. Mercury Supply Co. MERCO PINE ODOR DISINFECTANT. PHENOL COEFFICIENT 6. Active Ingredients: Isopropanol 4.75%; Pine oil 3.95%; Alkyl (C14, 58%; C16, 28%; C12, 14%) dimethyl benzyl ammonium chloride 1.97%. Method of Support: Application proceeds under 2(c) of interim policy. PM32

EPA File Symbol 11602-L. Molar Enterprises, Inc., 1821 Hennepin Ave., So., Minneapolis MN 55403. MOLAR HI-CQ. Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 3.750%; Diethyl Dimethyl Ammonium Chloride 1.875%; Didecyl Dimethyl Ammonium Chloride 1.875%; Benzyl Dimethyl Ammonium Chloride 5.000%; Tetrasodium Ethylenediamine Tetraacetate 3.420%; Isopropyl Alcohol 3.000%; Ethyl Alcohol 1.000%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 4476-TI. Morton Pharmaceuticals, 1625-39 North Highland, Memphis TN 38108. MORTON MOTH PROOFER. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounds 0.034%; Aromatic petroleum hydrocarbons 0.332%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 7001-EEN. Occidental Chemical Co., PO Box 198, Lathrop CA 95330. DIAZINON 14 GRANULES. Active Ingredients: 0,0-diethyl 0-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 3.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM15

EPA File Symbol 7001-ERO. Occidental Chemical Co. DIBROM 4 DUST. Active Ingredients: Naled 4.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM16

EPA Reg. No. 7001-42. Occidental Chemical Co. BBC 12-E. Active Ingredient: 1,2-Dibromo-3-Chloropropane and related Halogenated C3 Aliphatics 85.4%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 35940-R. Petro Con Chemical Co., 161 W. 231st St., Bronx NY 10463. PETRO-NAB-1. Active Ingredients: Disodium cyanodithiolmido-carbonate 7.35%; Potassium N-methyldithiocarbamate 10.15%. Method of Support: Application proceeds under 2(b) of interim policy. PM22

EPA File Symbol 35940-E. Petro Con Chemical Co. PETRO-NAB-3. Active Ingredients: Disodium cyanodithiolmido-carbonate

3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy. PM22

EPA File Symbol 4691-RNL. Phillips Roxane, Inc., 2621 North Belt Highway, St. Joseph MO 64502. FLEA & LICE SHAMPOO (IN-SECTICIDAL SHAMPOO). Active Ingredients: Gamma Isomer of Benzene Hexachloride from Lindane 0.097%. Method of Support: Application proceeds under 2(c) of interim policy. PM15

EPA File Symbol 35938-L. Pittsburgh Water & Waste Co., PO Box 72, Sarver PA 16055. ECO-CIDE 1166. Active Ingredients: Disodium cyanodithiolmido-carbonate 4.90%; Potassium N-methyldithiocarbamate 6.78%. Method of Support: Application proceeds under 2(b) of interim policy. PM22

EPA File Symbol 35938-U. Pittsburgh Water & Waste Co. ECO-CIDE 175. Active Ingredients: Disodium cyanodithiolmido-carbonate 7.35%; Potassium N-methyldithiocarbamate 10.15%. Method of Support: Application proceeds under 2(b) of interim policy. PM22

EPA File Symbol 904-EUE. B. G. Pratt Division, Gabriel Chemicals Ltd., 204 21st Ave., Paterson NJ 07509. RESMETHRIN 3 IN-SECT SPRAY. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylate 0.300%; Related compounds 0.041%; Aromatic petroleum hydrocarbons 0.397%; Petroleum distillate 99.250%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 904-EUG. B. G. Pratt Division. MALATHION ULV CONCENTRATE INSECTICIDE. Active Ingredients: Malathion 95%. Method of Support: Application proceeds under 2(c) of interim policy. PM16

EPA File Symbol 11824-R. Precise Chemical and Equip. Ltd., 5784 Second St., NE, Washington DC 20011. MOM'S MINT DISINFECTANT. Active Ingredients: Alkyl (C14, 58%; C16, 28%; C12, 14%) dimethyl benzyl ammonium chloride 2.0%; Isopropanol 2.0%; Methyl salicylate 0.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM32

EPA File Symbol 11824-G. Precise Chemical and Equip. Ltd. NEEDLE PINE ODOR DISINFECTANT. Active Ingredients: Isopropanol 4.75%; Pine oil 3.95%; Alkyl (C14, 58%; C16, 28%; C12, 14%) dimethyl benzyl ammonium chloride 1.97%. Method of Support: Application proceeds under 2(c) of interim policy. PM32

EPA File Symbol 11824-E. Precise Chemical and Equip. Ltd. LEMON TWIST DISINFECTANT. Active Ingredients: Alkyl (C14, 58%; C16, 28%; C12, 14%) dimethyl benzyl ammonium chloride 2.00%; Isopropanol 1.00%; Essential oils 0.25%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 10742-I. Prinova Co., Inc., 982 Terminal Way, San Carlos CA 94070. LADRIN HDG. Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 4.50%; Diethyl Dimethyl Ammonium Chloride 2.25%; Didecyl Dimethyl Ammonium Chloride 2.25%; Tetrasodium Ethylenediamine Tetraacetate 2.40%; Isopropyl Alcohol 3.60%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 10742-O. Prinova Co., Inc. LADRIN TOILET BOWL CLEANER. Active Ingredients: Octyl decyl dimethyl ammonium chloride 1.250%; Diethyl dimethyl ammonium chloride 0.625%; Didecyl dimethyl ammonium chloride 0.625%; Alkyl (C8 7%, C10 8%, C12 46%, C14 24%, C16

10%, C18 5%) amino betaine 1.000%; Hydrogen chloride 8.000%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 10742-T. Prinova Co., Inc. LADRIN CLEANSAN. Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 3.750%; Diethyl Dimethyl Ammonium Chloride 1.875%; Alkyl (C14, 50%; C12, 40%, C16, 10%) Benzyl Dimethyl Ammonium Chloride 5.000%; Tetrasodium Ethylenediamine Tetraacetate 3.420%; Isopropyl Alcohol 3.000%; Ethyl Alcohol 1.000%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 10742-RN. Prinova Co., Inc. LADRIN DISINFECTANT CLEANER (FR-1). Active Ingredients: Didecyl dimethyl ammonium chloride 4.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium carbonate 1.0%; Sodium metasilicate, anhydrous 0.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 9852-UU. Rite-Off Corp., 163 Dupont St., Plainview NY 11803. RITE-OFF PROFESSIONAL CONCENTRATE. Active Ingredients: Pyrethrins 0.5%; Piperonyl Butoxide, Technical 4.0%; Petroleum Distillate 5.3%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 538-RGU. O. M. Scott & Sons, Marysville OH 43040. STOP IN-SECTS AND DISEASE. Active Ingredients: Diazinon [O,O-diethyl-O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate] 13.25%; Chlorothalonil (2,4,5,6-tetrachloroisophthalonitrile) 26.50%; 2,4-Dinitro-6-octyl phenylcrotonate) 2.6-Dinitro-4-octyl phenylcrotonate) 3.04%; Nitroacetyl phenols (principally dinitro) 0.21%; Kelthane [1,1-bis (chlorophenyl)-2,2,2-trichloroethanol] 6.50%. Method of Support: Application proceeds under 2(c) of interim policy. PM15

EPA File Symbol 201-GIA. Shell Chemical Co., Suite 300, 1025 Conn. Ave. NW, Washington DC 20036. SHELL LIQUID ANT AND ROACH KILLER READY TO USE. Active Ingredients: 2,2-Dichlorovinyl dimethyl phosphate 0.460%; Related compounds 0.040%; Chlorpyrifos (O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate) 0.250%; Petroleum distillates 98.874%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Added uses. PM13

EPA File Symbol 201-GIT. Shell Chemical Co. SHELL PROFESSIONAL ANT AND ROACH KILLER. Active Ingredients: 2,2-Dichlorovinyl dimethyl phosphate 0.460%; Related compounds 0.040%; Chlorpyrifos (O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate) 0.500%; Petroleum distillates 98.848%. Method of Support: Application proceeds under 2(c) of interim policy. PM13

EPA File Symbol 201-GIT. Shell Chemical Co. SHELL PROFESSIONAL LIQUID ANT & ROACH KILLER. Active Ingredients: 2,2-Dichlorovinyl dimethyl phosphate 0.460%; Related compounds 0.040%; Chlorpyrifos (O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate) 0.500%; Petroleum distillates 98.348%. Method of Support: Application proceeds under 2(c) of interim policy. PM13

EPA File Symbol 5693-LL. Shield Chemical Co., Inc., 21 University Rd., Canton MA 02021. SHIELD INDOOR AND OUTDOOR DOG AND CAT REPELLENT. Active Ingredients: Methyl Nonyl Ketone 1.9%; Related Compounds 0.1%. Republished: Method of Support: Application proceeds

under 2(c) rather than 2(b) of interim policy. PM11

EPA File Symbol 6720-ELA. Southern Mill Creek Products Co., Inc., PO Box 1096, Tampa FL 33601. SMCP SBP 1382-0.5 EC. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 6.6%; Related compounds 0.9%; Aromatic Petroleum Derivative Solvents 74.8%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 11715-LN. Speer Products, Inc., 105 S. Parkway West, Memphis TN 38109. SPEER CEDAR SCENTED MOTH PROOFER. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounds 0.034%; Aromatic petroleum hydrocarbons 0.332%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 10308-I. Sumitomo Chemical Co., Ltd., Pesticide Div. 15, 5-chrome, Kitahama, Higashi-ku, Osaka, Japan. Agent: Sumitomo Chemical Co., Ltd., 1330 Dillon Heights Ave., Baltimore MD 21228. FAST KNOCK DOWN WITH NEO-PYNA-MIN. Active Ingredients: Tetramethrin 0.200%; and related compounds 0.027%; 3-phenoxybenzyl d-cis, trans chrysanthemate 0.100%; and related compounds 0.011%; petroleum distillate 8.662%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 36369-R. Tampa Paint & Varnish Co., 8504 E. Adamo Dr., Tampa FL 33622. SEMINOLE PAINT WOOD PRESERVATIVE COPPER NAPHTHENATE. Active Ingredients: Copper Naphthenate 10%; Petroleum Solvent 90%. Method of Support: Application proceeds under 2(c) of interim policy. PM22

EPA File Symbol 6735-EGU. Tide Products, Inc., PO Box 1020, Edinburg TX 78539. TIDE WEED & FEED WITH TREFLAN FOR COTTON & SOYBEANS-FALL APPLICATION. Active Ingredients: Trifluralin (a,a,a-trifluoro-2,6-dinitro-N,N-dipropyl-p-toluidine) 0.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM25

EPA File Symbol 7401-ETE. Voluntary Purchasing Groups, Inc., PO Box 460, Bonham TX 75418. HI-YIELD LIVESTOCK SPRAY NO. 1. Active Ingredients: Toxaphene (Technical Chlorinated Camphene containing 67-69% Chlorine) 43.4%; Lindane-Gamma isomer of benzene hexachloride 1.7%; Petroleum Distillate 25.2%; Aromatic Petroleum Derivative Solvent 19.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM15

EPA File Symbol 7401-ETG. Voluntary Purchasing Groups, Inc. HI-YIELD GRAIN STORAGE SPRAY. Active Ingredients: Malathion (O,O-dimethyl dithiophosphate of diethyl mercaptosuccinate) 54%; Aromatic Petroleum Derivative Solvent 34%. Method of Support: Application proceeds under 2(c) of interim policy. PM16

EPA File Symbol 7401-ETR. Voluntary Purchasing Groups, Inc. HI-YIELD LIVESTOCK SPRAY NO. 3. Active Ingredients: Methoxychlor, technical 23.2%; Malathion (O,O-dimethyl dithiophosphate of diethyl mercaptosuccinate) 23.2%; Aromatic Petroleum Derivatives Solvent 47.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM13

EPA File Symbol 15265-RN. Wausau Chemical Corp., 2001 N. River Dr., Wausau WI 54401. ROLAR BRAND FORMULA NUMBER 34 IODINE SANITIZER. Active Ingredients: Nonylphenoxypoly-Ethyleneoxy Ethanol Iodine Complex 13.75%; Phosphoric Acid 8.00%. Method of Support:

Application proceeds under 2(c) of interim policy. PM34  
[FR Doc.75-13486 Filed 5-23-75; 8:45 am]

[FRL 379-6]

## CHEVRON CHEMICAL CO.

## Extension of Temporary Tolerances

Chevron Chemical Co., 940 Hensley St., Richmond, CA 94804, was granted temporary tolerances for residues of the fungicide captatol [cis-N-(1,1,2,2-tetrachloroethyl) thiol - 4 - cyclohexene-1,2-dicarboximide] in or on the raw agricultural commodities peanut hulls at 1 part per million and peanuts at 0.1 part per million on May 31, 1974 in connection with Pesticide Petition No. 4G1420 (notice was published in the FEDERAL REGISTER of June 5, 1974 (39 FR 19976)). These temporary tolerances expire May 31, 1975.

The company has requested a 1-year extension of the fungicide in or on peanut hulls at 1 part per million and peanuts at 0.1 part per million to obtain additional experimental data.

It has been determined that such extension of the temporary tolerances will protect the public health. They are therefore extended as requested on condition that the herbicide be used in accordance with the temporary permit being issued concurrently and which provides for distribution under the Chevron Chemical Co. name.

These temporary tolerances expire May 22, 1976. Residues remaining in or on the above raw agricultural commodities after expiration of these tolerances will not be considered actionable if the pesticide is legally applied during the term, and in accordance with provisions of the temporary permit/tolerances.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (39 FR 18805).

Dated: May 22, 1975.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

[FR Doc.75-13822 Filed 5-23-75; 8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

## RADIO TECHNICAL COMMISSION FOR AERONAUTICS

## Establishment of Special Committee 130

The Federal Communications Commission has determined that the establishment of Special Committee 130, "Reliability Specifications for Airborne Electronics Systems", as a subcommittee of the Radio Technical Commission for Aeronautics is in the public interest and necessary in order to discharge the



agency's responsibilities. Notice of establishment is hereby published.

The purpose of RTCA Special Committee 130 is to: Investigate the various means of determining and specifying reliability for electronic systems recommended by RTCA Minimum Performance Standards; Assess the significance of specifying MTBR (Mean Time Between Repair) and MTBF (Mean Time Between Failure) for safety of flight electrical and electronic equipment; Recommend which, if any, of these available techniques may be applicable for incorporation into Minimum Performance Standards. During its investigations, the Special Committee should review the techniques employed by both civil and military agencies to improve reliability, and the result these techniques have achieved.

It is expected that Special Committee 130 will require approximately 6 meetings to complete its work. Pursuant to Pub. L. 92-463, notices will be published for all meetings. Anyone who desires additional information concerning the work of Special Committee 130 may contact the RTCA Secretariat, Suite 655, 1717 H Street, NW, Washington, D.C. 20006, telephone (202) 296-0484.

#### FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS,  
Secretary.

[FR Doc 75-13707 Filed 5-23-75; 8:45 am]

#### DOMESTIC SATELLITE EARTH STATIONS Construction Permit Applications

MAY 14, 1975.

In issuing construction permits and licenses for domestic satellite earth stations, the Commission specifies in the station authorization the "range of azimuths of center of main lobe of radiation with respect to true north" over which the earth station may be operated. This range of azimuths corresponds to the range of satellite orbital locations for which frequency coordination with terrestrial microwave stations has been successfully completed in accordance with Subpart C of Part 25 of the rules and regulations.

The Commission has recently become concerned with the fact that certain domestic satellite earth station applicants have been performing frequency coordination for a very limited portion of the geostationary arc (e.g. a 20° range of satellite orbital locations as compared to the range of 70° or more in satellite longitude which is potentially useable by United States domestic satellites). Moreover, it also appears that such earth station antennas have been constructed with mountings which can be physically steered only over such a limited range of azimuths and elevation angles without extensive alterations to the antenna mounting.

While Part 25 allows frequency coordination with terrestrial microwave stations over a limited portion of the geostationary arc visible at the proposed

earth station site and/or over a portion of the frequency band(s) to be utilized by the station, domestic satellite earth station applicants are hereby given notice that the Commission may not be able to accommodate such operational restrictions at particular earth stations in making or modifying domestic satellite orbital location assignments. Although the Commission will attempt to minimize the negative consequences on the operations of any domestic satellite earth station that may be authorized with such operational restrictions, the applicant will be required to accept any consequences that could result from such restrictions on operational flexibility. For this reason, domestic satellite earth station applicants are urged to perform frequency coordination with terrestrial microwave stations over as wide a range of satellite orbital locations and frequency as possible to maximize the operational flexibility of their proposed earth stations. The earth station antenna mounting must be physically capable of movement over the entire range of the geostationary satellite arc visible at the earth station for which frequency coordination has been performed. Moreover, we urge that the antenna be capable of movement over the entire orbital arc potentially useable by United States domestic satellites whether or not frequency coordination has been performed over the entire arc.

Accordingly, domestic satellite earth station applicants who do not perform frequency coordination over the entire range of satellite orbital locations from about 70° West to about 135° West suitable for use by domestic satellites or the entire 3700-4200 MHz and/or 5925-6425 MHz frequency bands should include in their applications a statement why such coordination is not practical. Applicants should also include in their applications a description of the physical mounting and steering capabilities of the proposed earth station antenna, including the range of azimuths and elevation angles over which the antenna can be steered. In the event that the range over which the antenna can be physically steered is less than the range over which frequency coordination has been effected, a justification for such a limitation should be included in the application.

#### FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS,  
Secretary.

[FR Doc 75-13704 Filed 5-23-75; 8:45 am]

#### WARC LAND MOBILE WORKING GROUP Meeting

To assist in FCC preparations activities for the 1979 World Administrative Radio Conference (WARC), the Land Mobile Working Group, headed by Neal Pike, will hold its second meeting on June 4, 1975 from 9 a.m. to 4 p.m. at the Commission's office at 2025 M Street NW., Washington, D.C. in Room 8210.

The meeting will be open to the public and any member of the public is invited to participate and present oral or written statements of relevance to the agenda upon recognition by the Chairman.

The meeting will be conducted in accordance with the following agenda:

1. Call of the agenda.
2. Opening Remarks of the Chairman.
3. Progress reports from the Informal Subgroup Chairman.
4. Discussion and review of work progress to date.
5. Delineation of main subjects for future work and establishment of informal schedules to accomplish this work.
6. Set next meeting date.
7. Further business.
8. Adjournment.

No part of this meeting will be concerned with matters which are within the exemptions of the Public Information Act, 5 U.S.C. 552(b).

#### FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS,  
Secretary.

[FR Doc 75-13706 Filed 5-23-75; 8:45 am]

#### [Docket No. 18875]

#### WORKING GROUPS

#### Reports Submitted To the Common Carrier Bureau

MAY 20, 1975.

The Chief, Common Carrier Bureau, has received the reports from the Traffic Forecasting, Service Reliability, and Economics Working Groups set up under Docket No. 18875 as informal groups composed of representatives from government and industry. These groups were charged with the task of discussing, analyzing and presenting information to the Bureau with respect to the above subject matters for the sole purpose of assisting the Commission in executing its responsibilities within the terms of reference of Docket No. 18875.

The Common Carrier Bureau staff is reviewing the reports in preparation for the forthcoming meeting to be held in June 1975 with European entities to discuss the factors that should be considered in establishing guidelines for the implementation of transatlantic facilities.

The three reports submitted are informal, and no definitive conclusions should be drawn at this time while the work under Docket No. 18875 is proceeding.

Anyone desiring copies of these reports may obtain them by contacting the FCC duplicating contractor at the following address:

Downtown Copy Center  
1730 K Street NW  
Washington, D.C. 20006  
Telephone 452-1422 or 337-1106.

The ordering party will be billed by the contractor.

A copy of each of these reports is available for public inspection in Room

546 at the Commission's offices at 1919 M Street NW, Washington, D.C.

#### FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS,  
Secretary.

[FR Doc 75-13705 Filed 5-23-75; 8:45 am]

#### [Report No. 754]

#### COMMON CARRIER SERVICES INFORMATION

#### Domestic Public Radio Services Applications Accepted for Filing

MAY 19, 1975.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cut-off dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60 day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

#### FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS,  
Secretary.

#### APPLICATIONS ACCEPTED FOR FILING

#### DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21567-CD-P-(5)-75, Radio Electronics Products Corp. (KMD687), C.P. for additional

\* All applications listed below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's Rules, regulations and other requirements.

\* The above alternative cut-off rules apply to those applications listed below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

facilities to operate on 454.075 and 454.125 MHz, Base and 72.78 MHz, Repeater at Loc. #1: Shasta Bally Mountain; 75.64 and 454.125 MHz, Control at Loc. #2: 310 Lake Boulevard, Redding, California.

21568-CD-P-(3)-75, The Pacific Telephone and Telegraph Company (KME435), C.P. to change antenna system for 152.54 and 152.60 MHz; and relocate standby facilities at Loc. #2 operating on 152.54 and 152.60 MHz to be located at Loc. #1: 2.8 Miles North of Edgemont, Box Spring Mountain, California.

21569-CD-P-75, Vincennes Telephone Answering Service, Inc. (New), C.P. for a new station to operate on 152.15 MHz to be located at Decker Road and Highway 41, 2.1 miles South of Vincennes, Indiana.

21570-CD-P-75, Telcom Corporation (New), C.P. for a new one-way station to operate on 35.22 MHz to be located 1950 feet South of Old Albany Road, Shelburne, Massachusetts.

21571-CD-AL-75, R. Harvey Squires d.b.a. Rockfish Radio Telephone Services Consent to Assignment of License from R. Harvey Squires d.b.a. Rockfish Radio Telephone Services, Assignor to Lynwood A. Williams d.b.a. Rockfish Radio Telephone Services, Assignee. Station: KUS229, Wallace, North Carolina.

21572-CD-AL-(2)-75, Maine State Telephone Company, Consent to Assignment of License from Maine State Telephone Company, Assignor to Continental Telephone Company of Maine, Assignee. Stations: KCI294 and KCI298, Concord, New Hampshire.

21573-CD-P-(4)-75, Mobile Telephone Company of New Jersey (KRS620), C.P. for additional facilities to operate on 454.075, 454.125, 454.175, and 454.325 MHz to be located at Cuthbert Colonial Builders, E. Cuthbert Blvd. and MacArthur Blvd., Westmont, New Jersey.

21574-CD-P-75, The Mountain States Telephone and Telegraph Company (KAD517), C.P. to change antenna system and relocate facilities operating on 152.75 MHz, to be located 8 miles WNW of Rangely, Colorado.

21575-CD-P-(4)-75, Radio Dispatch Service (KIJ352), C.P. to change antenna system of facilities operating on 454.025 and 454.125 MHz at Loc. #1: 2140 Warwick Road, Birmingham, Alabama; and 454.025 and 454.125 MHz at Loc. #3: Highway 150 near Readers Gap, Bessemer, Alabama.

21576-CD-P-75, McClellanville Telephone Company, Inc. (New), C.P. for a new station to operate on 152.75 MHz to be located Near Intersection of Hwy. U.S. 17 and 45, 0.5 mile NW of McClellanville, South Carolina.

#### Corrections

21563-CD-P-75, New England Telephone & Telegraph Company (KCA207), Correct location to read: Off Haggetts Road, 4.2 miles West of Andover, Massachusetts. All other particulars are to remain the same as reported on PN #753, dated May 12, 1975.

#### Rural Radio—Correction

60329-CR-P-75, RCA Alaska Communications, Inc. (New), Correct Class of Station to read Inter-Office. All other particulars are to remain the same as reported on PN #752 dated May 5, 1975.

#### Rural Radio

60338-CR-AL-75, Maine State Telephone Company, Consent to Assignment of License from Maine State Telephone Company, Assignor to Continental Telephone Company of Maine, Assignee. Station: KTK92, Concord, New Hampshire.

60339-CR-P-75, United Telephone Company of the Northwest (KY075), C.P. to change antenna system and for additional facilities

ties to operate on 152.75 MHz, located at 2650 Ave. G, White City, Oregon.

60340-CR-P-75, United Telephone Company of the Northwest (KY076), C.P. to change antenna system and for additional facilities to operate on 158.01 MHz, located 500 Ft. North of Fishlake Ranger Station, Oregon.

#### POINT-TO-POINT MICROWAVE RADIO SERVICE

3996-CF-P-75, Microwave Transmission Corporation (New), Oakland (KTUV-TV), California. Lat. 37°47'45" N., Long. 122°16'46" W. C.P. for a new station on 11545H MHz toward Vollmer Peak, California, on azimuth 28°34'.

3995-CF-P-75, (New), Vollmer Peak, 1.1 miles SW of Orinda, California. Lat. 37°52'58" N., Long. 122°13'11" W. C.P. for a new station on 10895V MHz and 10975V MHz toward Monument Peak, California, on azimuth 144°37'.

3997-CF-P-75, Same (New), Monterey, California. Lat. 36°35'08" N., Long. 121°51'09" W. C.P. for a new station on 11225V MHz, 11305V MHz, 11465V MHz, 11545V MHz, and 1625V MHz toward Huckleberry Hill, California, on azimuth 271°08' and (b) 11225H MHz, 11305H MHz, 11465H MHz, 11545H MHz, and 1625H MHz toward Seaside, California, on azimuth 17°01'.

4071-CF-P-75, United Video, Inc. (New), John Cochran, Missouri. Lat. 38°38'32" N., Long. 90°13'50" W. C.P. for a new station on 6226.9H MHz and 6345.5H MHz toward Jefferson Barracks, Missouri, on azimuth 194°46'.

4072-CF-P-75, Same (New), Jefferson Barracks, 1.3 miles West of Meville, Missouri. Lat. 38°29'40" N., Long. 90°16'49" W. C.P. for a new station on 5945.2H MHz and 6063.8H MHz toward John Cochran, Missouri, on azimuth 14°45' and 5945.2V MHz and 6063.8V MHz toward Selma, Missouri, on azimuth 189°29'.

4073-CF-P-75, Same (New), Weingarten, 1.1 miles NW of New Offenbure, Missouri. Lat. 37°55'08" N., Long. 90°13'05" W. C.P. for a new station on 5974.8V MHz and 6093.5V MHz toward Selma, Missouri, on azimuth 336°18' and 5945.2V MHz and 6063.8V MHz toward Perryville, Missouri, on azimuth 129°10'.

4074-CF-P-75, Same (New), 2.0 miles South of Perryville, Missouri. Lat. 37°41'07" N., Long. 89°51'29" W. C.P. for a new station on 6226.9V MHz and 6345.5V MHz toward Weingarten, Missouri, on azimuth 309°23', 6197.2H MHz toward Pomona, Illinois, on azimuth 101°14', and 6197.2V MHz toward Jackson, Missouri, on azimuth 149°45'.

4075-CF-P-75, Same (New), 1.7 miles North of Jackson, Missouri. Lat. 37°24'10" N., Long. 89°39'06" W. C.P. for a new station on 5945.2H MHz toward Oran, Missouri, on azimuth 180°56' and 5945.2V MHz toward Perryville, on azimuth 329°55'.

4076-CF-P-75, Same (New), 2.5 miles North of Oran, Missouri. Lat. 37°07'16" N., Long. 89°39'27" W. C.P. for a new station on 6226.9H MHz toward Jackson, Missouri, on azimuth 00°55' and 6286.2V MHz toward Aid, Missouri, on azimuth 238°21'.

4077-CF-P-75, Same (New), 5.0 miles North of Aid, Missouri. Lat. 36°56'30" N., Long. 90°01'10" W. C.P. for a new station on 5945.2V MHz toward Oran, Missouri, on azimuth 58°08' and 5974.8V MHz toward Poplar Bluff, Missouri, on azimuth 242°14'.

4078-CF-P-75, United Video, Inc. (New), Long. 90°25'00" W. C.P. for a new station Poplar Bluff, Missouri. Lat. 36°46'21" N., on frequency 6197.2V MHz toward Aid, Missouri, on azimuth 81°59'.

4079-CF-P-75, Same (New), Pomona, 4.0 miles NW of Alto Pass, Illinois. Lat. 37°36'28" N., Long. 89°22'24" W. C.P. for a new station on 5945.2H MHz toward Perryville,



Missouri, on azimuth 28°32' and 6004.5H MHz toward Marion, Illinois, on azimuth 70°50'.

4080-CF-P-75, Same (New), Marion, Illinois. Lat. 37°43'23" N., Long. 88°57'11" W. C.P. for a new station on 6226.9H MHz toward Pomona, Illinois, on azimuth 251°06'.

4081-CF-P-75, Same (New), 0.7 mile NW of Selma, Missouri. Lat. 38°09'31" N., Long. 90°21'05" W. C.P. for a new station on 6197.2V MHz and 6315.9V MHz toward Jefferson Barracks, Missouri, on azimuth 09°27'; and 6256.5V MHz and 6375.2V MHz toward Weingarten, Missouri, on azimuth 156°14'.

3448-CF-P-75, Sierra Microwave, Inc. (KOV82), Elko Mtn., 9.0 miles NE of Elko, Nevada. Lat. 40°53'41" N., Long. 115°37'42" W. C.P. to add 6375.2V MHz toward Elko, Nevada, on azimuth 238°52'.

3449-CF-P-75, Same (WHB20), 6.0 miles north of Wells, Nevada. Lat. 41°11'52" N., Long. 114°56'33" W. C.P. to add 4030V MHz toward Wells, Nevada, on azimuth 291°30'.

4000-CF-P-75, Southwest Texas Transmission Company (KLR38), D'Hanis, Texas. Lat. 29°18'48" N., Long. 99°16'03" W. C.P. to replace transmitters and increase power on 6115.0H MHz toward Uvalde, Texas, on azimuth 262°58'.

4001-CF-P-75, Same (KLP99), Wardlow Ranch, 9.5 miles NE of Carta Valley, Texas. Lat. 29°51'28" N., Long. 100°32'40" W. C.P. to replace transmitters and increase power on 6197.2H MHz and 6315.9H MHz toward Mayfield Ranch, Texas, on azimuth 01°56'.

3998-CF-P-75, Same (KLR36), Mayfield Ranch, 22.5 miles NW of Rocksprings, Texas. Lat. 30°11'12" N., Long. 100°31'54" W. C.P. to replace transmitters and increase power on 6135.0H MHz and 6256.5H MHz toward Sonora, Texas, on azimuth 347°34'.

3999-CF-P-75, Same (KLR37), 0.5 mile east of Sonora, Texas. Lat. 30°34'25" N., Long. 100°37'49" W. C.P. to replace transmitters and increase power on 6197.2H MHz and 6315.9H MHz toward Eldorado, Texas, on azimuth 06°36'.

3512-CF-MP-75, United Video, Inc. Mulhall, Oklahoma. Lat. 36°06'10" N., Long. 97°30'47" W. Mod of C.P. (22 CF-P-75) to power split 6286.2V MHz toward Stillwater, Oklahoma, on azimuth 83°30'.

4002-CF-P/L-75, General Telephone Company of Indiana, Inc. (New), Location: Within the territory served by General Telephone Company of Indiana, Inc. C.P. and Licensee to cover for a new developmental station on frequencies 2110-2130, 2160-2180, 3700-4200, 5925-6125, 10700-11700, and 13200-12350 MHz toward associated temporary fixed stations.

4009-CF-AL-(7)-75, First Colony Telephone Company, Consent of Assignment of Radio Station Licenses from First Colony Telephone Company, Assignor, to Continental Telephone Company of Virginia, Assignee, for stations: KIB21, Montebello Mtn., Raphine Va.; KJK48, Amherst, Va.; KJK22, Cole Mtn., Va.; KJK23, Montebello, Va.; KTF 98, Spear Mtn., Va.; KTF94, James River, Va.; WCZ69, Buffalo, Va.

4010-CF-AL-(6)-75, Tidewater Telephone Company, Application for Consent to Assignment of Radio Station Licenses for stations K1Y33, Cook's Corner, Va.; KJO25, Dahlgren, Va.; K1Y34, Gloucester, Va.; KJK91, Kilmarnock, Va.; K1V61, King William, Va. and K1K23, Warsaw, Va.; To: Continental Telephone Company of Virginia, Assignee, From Tidewater Telephone Company, Assignor.

4014-CF-P-75, RCA Global Communications, Inc. (New), Point Reyes, 5 miles East of Inverness, California. Lat. 38°05'45" N.,

Long. 122°56'45" W. C.P. for a new station on frequencies 11175.0V and 11096.0V MHz toward Bodega Bay, California on azimuth 346°46'.

4015-CF-P-75, Same (New), 1.5 miles NEE of Bodega Bay, California. Lat. 38°20'30" N., Long. 123°01'09" W. C.P. for a new station on frequencies 11585.0H and 11505.0H MHz toward Point Reyes, California, on azimuth 166°44'; frequencies 6063.8V and 5945.2V MHz toward Big Rock Mountain, California, on azimuth 130°34'.

4016-CF-P-75, Same (New), Big Rock Mountain, California. Lat. 38°03'34" N., Long. 122°36'12" W. C.P. for a new station on frequencies 6226.9V and 6345.5V MHz toward Bodega Bay, California, on azimuth 310°49'; frequencies 6226.0H and 6345.5H MHz toward One Market Plaza, San Francisco, California, on azimuth 147°55'.

4017-CF-P-75, Same (New), One Market Plaza, San Francisco, California. Lat. 37°47'36" N., Long. 122°23'36" W. C.P. for a new station on frequencies 5945.2H and 6038.8H MHz toward Big Rock Mountain, California, on azimuth 328°03'.

4045-CF-R-75, The Mountain States Telephone and Telegraph Company (KAR85), Location: Any temporary fixed location within the territory of the Grantee. Application for Renewal of Radio Station License (Developmental) expiring June 12, 1975. Term: June 12, 1975 to June 12, 1976.

4052-CF-P-75, Mid Rivers Telephone Cooperative, Inc. (New), Rimroad, 13.3 miles on a 135°25' azimuth from town of Circle, Montana. Lat. 47°18'37" N., Long. 105°23'24" W. C.P. for a new station on frequencies 2162V MHz toward Glendive Jct., Montana, on azimuth 103°59'; 2170H MHz toward Circle, Montana, on azimuth 315°24'; 2178V MHz toward Van Norman, Montana, on azimuth 275°55'.

4053-CF-P-75, Mid Rivers Telephone Cooperative, Inc. (New), 7600' South of center of Jordan, Montana. Lat. 47°18'21" N., Long. 106°54'50" W. C.P. for a new station on frequency 2162H MHz toward Van Norman, Montana, on azimuth 85°52'.

4054-CF-P-75, Same (New), 106 South Second Avenue, Circle, Montana. Lat. 47°24'54" N., Long. 105°35'27" W. C.P. for a new station on frequency 2120H MHz toward Rimroad, Montana, on azimuth 135°25'.

4055-CF-P-75, Same (New), Van Norman, Montana. Lat. 47°20'11" N., Long. 106°15'25" W. C.P. for a new station on frequencies 2128V MHz toward Rimroad, Montana, on azimuth 95°17'; 2112H MHz toward Jordan, Montana, on azimuth 268°20'.

4067-CF-P-75, Southern Bell Telephone and Telegraph Company (WDD43), 325 Gardenia Street, West Palm Beach, Florida. Lat. 26°42'34" N., Long. 80°03'11" W. C.P. to add frequency 6404.8V MHz toward Boynton Beach, Florida, on azimuth 198°00'.

4068-CF-P-75, Same (KJW99), 4 miles WSW of Boynton Beach, Florida. Lat. 26°30'45" N., Long. 80°07'27" W. C.P. to add frequencies 6152.8V MHz toward Margate, Florida, on azimuth 194°17'; and 6152.8H MHz toward West Palm Beach, Florida, on azimuth 17°58'.

4069-CF-P-75, Same (KJW98), Margate, 0.5 mile NE of Hammondville, Florida. Lat. 26°14'56" N., Long. 80°11'55" W. C.P. to add frequencies 6404.8H MHz toward Ft. Lauderdale, Florida, on azimuth 157°29'; add 6404.8H MHz toward Boynton Beach, Florida, on azimuth 14°15'.

4070-CF-P-75, Same (KJG87), 115 N.E. Third Avenue, Ft. Lauderdale, Florida. Lat. 26°07'25" N., Long. 80°08'28" W. C.P. to add frequency 6152.8H MHz toward Margate, Florida, on azimuth 337°31'.

#### Major Amendment

3003-CF-P-75, Microwave Transmission Corporation (New) Monument Peak, 4.5 miles NNE of Milpitas, California. Lat. 37°29'07" N., Long. 121°51'57" W. Application amended to add 11345H MHz, 11425H MHz, and 11625V MHz toward Bald Ridge, California, on azimuth 164°56'.

304-CF-P-75, (New), Bald Ridge, 5.0 miles NE of Watsonville, California. Lat. 36°58'00" N., Long. 121°41'31" W. Application amended to add 10735V MHz, 10855H MHz, 10895V, 10935H MHz, and 11095H MHz toward Salinas, Monterey, Watsonville, and Capitola, all in California, on azimuths 173°03'; 198°46'; 234°46'; and 274°38'; respectively. (Note: See file nos. 3395 thru 3997-CF-P-75).

#### Multipoint Distribution Services

50087-CM-P-75, Microband Corporation of America (New), Champaign Towers, 302 E. John Street, Champaign, Illinois. Lat. 40°06'33" N., Long. 88°14'06" W. C.P. for a new station on 2154.75H and 2150.25H. (Primary Service Area: Urbana, Illinois).

It appears that the following applications may be mutually exclusive and subject to the Commission's Rules regarding ex-parte presentations, reasons of potential electrical interference, to provide video service to Urbana, Illinois.

#### Major Amendment

7289-CF-P-71, Robert L. Mohr d.b.a. Radiocall Corporation amended to change applicant to "Metro Tel Corporation". Station location: Los Angeles, California. All other particulars remain the same as reported by Public Notice dated June 28, 1971.

#### Informative

The above amendment reflects a joint venture by Robert L. Mohr d.b.a. Radiocall Corporation, Microband Corporation of America, and Microwave Transmission Corporation to resolve mutually exclusive applications in Los Angeles. Upon grant of the above application, it is requested that the remaining applications in Los Angeles be dismissed. This amendment does not affect the applications status under the "Cut-off" rule. (See Notice of Proposed Rule Making in Docket 19905, 44 FCC 2d556).

[FR Doc.75-13703 Filed 5-23-75; 8:46 am]

[Docket No. 20477; File No. BR-261; File No. BRH-4; FCC 75-537]

#### RUST COMMUNICATIONS GROUP, INC. Application for License Renewal; Hearing

In re applications for renewal of license for stations WHAM & WHFM (FM), Rochester, New York.

1. The Commission has before it for consideration: (a) the above-captioned license renewal applications of Rust Communications Group, Inc. (Rust) licensee of Stations WHAM and WHFM (FM), Rochester, New York, filed March 3, 1972, and supplemented February 3, 1975; (b) a petition to deny said applications filed May 1, 1972, by Action for a Better Community, Inc. et al. (Action) comprised of individuals and organizations in the Rochester area; (c) a complaint filed by Metro-Act of Rochester, Inc. (Metro-Act), a local citizens

group; and (d) various related and responsive pleadings.<sup>1</sup>

2. Action bases its request to deny the WHAM and WHFM renewal applications upon the stations' alleged overall insensitivity to the needs and interests of Rochester's minorities. Specifically, the petitioners contend that the licensee has made no serious efforts to ascertain the needs of the area's minority population; the stations' programs have been and will continue to be unresponsive to the problems of the minorities; and the licensee discriminates in its employment practices.

3. Metro-Act's complaint alleges that Rust does not understand the composition of Rochester, the licensee has failed to deal with the community's needs, the stations have displayed unprofessional standards of journalism, Rust's employment record reflects a policy of discrimination and the stations' public files were not available for inspection.<sup>2</sup>

#### ASCERTAINMENT

4. Action maintains that Rust failed to adequately ascertain the needs of the minority community. The petitioners assert that although some of the 56 persons interviewed as leaders were black, none were representative of large, vocal black groups, and none of the contacted leaders represented Puerto Ricans, which, petitioners contend, comprise 7 percent of the city's population. Action also criticizes the general public survey for bias that allegedly results from Rust's use of "man-on-the-street" contacts and only white interviewers. However, the petitioners admit that the list of ascertained needs in the renewal application is "probably fairly accurate."

5. The Metro-Act complaint asserts that Rust's selection of community leaders reflects a failure to understand the real composition of the Rochester community. The complainant avers that none of the leaders represent major community groups such as FIGHT, Italian American Civil Rights League, SEAC, NEAD or 19th Ward Association. Also Metro-Act contends that only one-sixth of the leaders actually represent other

<sup>1</sup>Related pleadings include: the opposition filed by Rust June 30, 1972; a reply entered September 7, 1972 by Action; an amendment to the petition filed February 13, 1973; a supplement to the petition to deny submitted by petitioners on March 21, 1973; a letter response to the amendment to the petition entered by the licensee April 12, 1973; the applicant's May 4, 1973 opposition to the supplement to the petition; Action's replies to the stations' letter response and opposition filed June 5, 1973 and August 15, 1973 respectively; and the licensee's June 4, 1974 supplement to its opposition to the supplement to the petition.

<sup>2</sup>The complainant merely asserts that the file was not available until the filing date. The licensee contends that the renewal application is not required to be available for public inspection until filed with the Commission and it was available for public inspection after it was filed. These allegations do not raise any question warranting further Commission inquiry.

people in the community, with the balance comprised of politicians, representatives of institutions and persons merely responding as individuals. In the complainant's view, the survey ignored the busing issue, extreme political views, agribusiness, farm workers, the women's liberation movement and ethnic groups that represent the Ukrainian, German, Italian, Jewish and Polish population. Metro-Act alleges that although one Spanish speaking person was included in the leader survey, he was not a leader of any Spanish organization. With regard to WHFM, the complainant notes the absence of leaders under the age of 18 and the inclusion of just one leader between the ages of 25-35, despite the station's stated intent to provide entertainment programming for those groups. With regard to WHAM, Metro-Act argues that Rust selected all of the contacted leaders from Rochester and Monroe County despite the 15-county coverage of that station.<sup>3</sup>

6. In opposition to the petition, the licensee argues that its ascertainment efforts must have been sufficient if, as petitioners have admitted, the survey results were accurate. Rust contends that its leader survey of 56 persons covered all significant segments of the community including representatives of professional, minority, social action, business, government, women, youth, labor, charitable, civic, environmental, educational, cultural, agricultural, journalistic and religious organizations. The applicant alleges that the survey's seven black leaders represent the Southern Christian Leadership Conference, Monroe County Human Relations Commission, Virginia Wilson Center for the Poor, Rochester Community Chest, Legislature of Monroe County and the New York State Human Relations Division Appeals Board. Moreover, the licensee asserts that it contacted a Puerto Rican who is a member of the Rochester School Board. As to the validity of the general public survey, the applicant denies that bias results from the usage of white interviewers and notes that no specific instance of interviewer bias has been alleged. The licensee contends that 40 percent of the general public survey was made by telephone, which would eliminate the possibility of face-to-face bias.

7. Responding by letter to the complaint, Rust contends that the Primer supports the method by which the ascertainment was conducted.<sup>4</sup> The applicant observes that the Commission does not expect every organization in Rochester to be represented in the survey, nor does the Primer make distinctions between institutions and people in the selection of leaders, but directs stations to contact representatives of significant groups

<sup>3</sup>In this regard, we note that Rust's renewal application specifically states that WHAM will serve the needs of Rochester and Monroe County (Exhibit IV, page 4).

<sup>4</sup>Primer on Ascertainment of Community Needs by Broadcast Applicants, 27 FCC 2d 650 (1971).

which make up the community. The licensee alleges that its leader contacts were representative and included five female leaders and Mr. Emilio Serrano, the Administrator of the County Family Court and a member of the Rochester School Board. While Rust acknowledges that no surveyed leader was under 18 years old, it contends that the public involved more than 50 respondents in that age group and that 25 percent of the respondents were between 18 and 35.

8. In reply, Action asserts that the ascertained needs, however accurate, lack minority perspective. Petitioners contend that neither FIGHT nor Action for a Better Community, Rochester's two largest minority groups, or any Spanish speaking group was represented in the leadership survey. Similarly, Action alleges that the public survey lacks minority perspective since the licensee utilized white interviewers to whom minorities are unlikely to respond and employed telephones samples even though minority persons are unlikely to have personal telephone service.

9. The Primer requires renewal applicants to submit information on the means utilized to ascertain the problems of the community served, including the identification of the significant groups which make up the community, those features which make the community distinctive. See, Primer, supra, 661, 683. Rust's description of the area it undertakes to serve, submitted with its 1972 renewal application, included: the physical location of the city; a population breakdown of the city by age, race and sex; a list of five corporations as major industries; a list of five cultural facilities; and a list of five educational institutions. By letter of April 7, 1972, the Commission noted that this showing "did not furnish adequate information to support your determination of the composition of the community." That letter requested the stations to submit additional information pursuant to the requirements of the Primer. By letter dated May 2, 1972, the applicant submitted an amendment to the renewal applications which included the names of 134 clubs and organizations, presumably all located in Rochester. The amendment divides the organizations according to the following categories: cultural, agricultural, political, community action, educational, labor, professional and trade, veterans and patriotic, medical, women's clubs, religion, ethnic-racial, youth and social-charitable. In the supplemental renewal applications, filed February 3, 1975, Rust's description of Rochester is a verbatim copy of the original 1972 submission which was found to be inadequate.

10. The Primer requires an applicant to submit sufficient data to indicate the minority, racial or ethnic breakdown of the community as well as economic, governmental and other features that make the community distinctive. Here, the licensee's initial compositional study included no information on minorities other than black, and it failed to discuss



such matters as local government, religion, labor, agriculture, politics, social, professions, eleemosynary or ethnic elements of the community. The May, 1972 amendment merely recites numerous clubs and organizations under broad categories. This, in and of itself, fails to inform the Commission or the licensee as to whether any of the groups thereby disclosed are significant enough to warrant ascertainment. In 1975, the applicant again provided inadequate information by merely refilling its initial showing on the composition of the community. It therefore appears that Rust has three times failed to supply adequate information on the composition of the area it intends to serve.

11. Assuming arguendo that the groups catalogued in the licensee's May amendment reflect significant elements of the community, Rust's 1972 survey indicates no contacts in any of the ethnic, cultural, community action, labor, women's, religious, youth or social-charitable groups and organizations from that list. While contacts with representatives of some of the organizations listed in the May, 1972 amendment were reflected in the 1975 supplemental survey, Rust again failed to contact identified representatives of eight organizations reflecting diverse ethnic population segments. Therefore, assuming arguendo that Rust's description of the community was adequate, the applicant's survey efforts failed to reflect contacts with "significant" elements of the community revealed in that compositional showing.

12. However, as we have previously indicated, Rust's compositional showings were not adequate. We are therefore unable to find that the licensee has contacted representatives of the significant elements of the community. Under these circumstances, the Commission cannot conclude that the applicant's leadership surveys ascertained the problems of the community. Thus, we can have no confidence that Rust's proposed programming will be responsive to the real problems of the area. Accordingly, further inquiry into the licensee's ascertainment procedures, results and programming responses thereto is warranted, and an appropriate issue will be designated.

#### PROGRAM SERVICE

13. Petitioners allege that the public affairs programming broadcast by the Rust stations during the 1969-1972 license term was not responsive to the needs and interests of the Rochester community, especially the minority population. More specifically, Action asserts that in 1969 WHAM proposed to meet the needs of the community with four hours of public affairs programming but performed only one hour during the composite week. WHFM, according to the petition, offered no public affairs programming.

14. In the opposition, the licensee contends that it has treated the important needs of the community "in ways relevant to the whites as well as the poor." In this respect, Rust asserts that it has

responded to issues relative to the minority and majority segments of the population with such public affairs programs as: Five Minutes With Howard Coles, a five minute discussion aired Saturday evenings and featuring the publisher of Rochester's black newspaper; Opinion, a 90-minute telephone discussion program broadcast five nights a week; and Editorials, Observations, Washington Window, Washington Reports and City Conference.

15. According to the licensee, Opinion was discontinued in July, 1970 "... because a few vociferous individuals ... began to monopolize the program ... so that other members of the public became disinterested." Rust contends that the termination of this program resulted in the apparent loss of 75 percent of the applicant's proposed public affairs programming as reflected in the composite week. The licensee alleges that it resumed broadcast of the program in November, 1971. Rust acknowledges that WHFM presented no public affairs programming during the 1969-1972 period, but contends that none was proposed in 1969. The licensee further argues that it relies on WHAM to provide public affairs programming for the community.

16. In reply, Action alleges that none of the listed programs broadcast by WHAM, except for the Coles program, featured any blacks, Puerto Ricans or any other minorities as hosts or even guests. The petitioners conclude that the applicant has excluded minority perspectives from its programs dealing with the needs of the community.

17. It therefore appears that WHAM's 1969 renewal application proposed four hours per week of public affairs programming (2.5 percent), but the composite week reflected the broadcast of only one hour of such programming (0.6 percent). In this regard, we note that the licensee failed to notify the Commission of its decision to terminate the Opinion program until the filing of the renewal application, and Rust has provided no explanation of that failure or any reason why another program or programs were not substituted to meet the needs of the community during the 16-month hiatus of Opinion broadcasts. Moreover, WHAM's 1969 renewal application proposed Opinion, Editorials, Washington Report and Observations as the primary vehicles for addressing local issues and problems, but our review of WHAM's composite week logs indicates that the station did not broadcast Opinion, Editorials or Washington Report and Observations was aired only three times rather than the proposed five times per week.

18. Our review of the material before us therefore indicates that for at least 16 out of the 36 months between 1969 and 1972, Rust did not broadcast Opinion as promised in its 1969 application for renewal. This failing is made more significant by the fact that the station: did not inform the Commission of its decision to terminate a primary pro-

gramming response to ascertained local needs; has not explained its failure to replace the program for a 16-month period; did not fully adhere to the remainder of its local public affairs proposal during the composite week; and claims that WHAM bears the double burden of providing program responses to local problems for both itself and WHFM(FM). It is not our intent to lock a station into its program proposals during a license term. Rather, a licensee is free to respond to the changing needs of the community during that term and minor deviations from proposals must be excused so long as the overriding public interest standard is served. However, the deviation here is major, and it is not substantially lessened by the resumption of Opinion eight months before the expiration of the license term. See KORD, Inc., 31 FCC 85 (1961). Further, our confidence in granting Rust a license in 1969, was based, in part, on the proposed four hours of public affairs programming, and we cannot permit a licensee to disregard a significant portion of that programming without adequate explanations at the time and without program substitutions which are reasonably responsive to community needs. As a result of Rust's action, the Commission does not feel that it is ready to bestow that degree of confidence in the licensee which resulted in a grant of its renewal in 1969. Accordingly, appropriate issues will be designated.\*

19. Further, the licensee has failed to establish that its programming during the 1969-1972 period was responsive to the problems, needs and interests of the Rochester community. In its opposition pleading, WHAM alleges that seven programs had been broadcast during the 1969-1972 license term in response to community problems—Five Minutes With Howard Coles, Opinion, Editorials, Observations, Washington Window, Washington Reports and City Conference. The broadcast of these seven programs during the twelve months preceding the filing of WHAM's 1972 renewal application was reflected in Exhibit 9 of that application. However, the station's composite week logs reflect the broadcast of only three of the seven programs—Observations, Washington Window and City Conference. Absent a positive statement to the contrary,<sup>1</sup> a licensee's composite week logs and statement of programs broadcast during the twelve months preceding the filing of its application for renewal should provide a fair picture of the programming serv-

\* We recognize that we have imposed lesser sanctions in cases involving deviations of similar numerical magnitude. However, in view of the other factors present in this case and the need for a hearing on other issues, a full exploration of this question at that hearing is warranted.

<sup>1</sup> For example, in Exhibit 8 of the 1972 WHAM renewal application, the applicant explained its suspension of the Opinion program, but made no reference to the absence of the other listed programs from the composite week.

ice offered by the station during its three year license term. Here, these indicia do not establish that the programs which were alleged to have responded to local problems were broadcast throughout the license term, and the Commission therefore has no information on the extent of the licensee's programming responses to community needs during the first two years of the 1969-1972 term. In order to qualify for renewal, an applicant must show that it has been responsive to the needs of the community throughout its license term. See Primer, supra; KORD, Inc., supra. A substantial question as to what programming was offered in response to community needs during the first two years of the 1969-1972 license term has been raised, and we are unable to determine whether the licensee's programming during the entire license term was in fact responsive to community problems. An appropriate issue will therefore be designated.

20. We do not find further inquiry is necessitated on WHFM's past programming. Recalling the general economic state of FM broadcasting in 1969, it is apparent that the Commission was less demanding on FM licensees than is presently the case. Then Rust proposed no public affairs programming for WHFM and that proposal was approved by our grant of renewal. We cannot fault the station for performing in accordance with that proposal. We are encouraged by the applicant's increased public affairs proposals in 1972 and 1975. Accordingly, no further inquiry is warranted into the past programming of WHFM(FM).

21. With regard to the licensee's programming proposals for the 1972-1975 license term, both Action and Metro-Act have alleged an unresponsiveness to minority problems and a general inadequacy of programming. It is a licensee's duty to provide programming response to significant ascertained problems. See, Primer, supra. However, as previously pointed out, Rust does not appear to have adequately ascertained the problems of the Rochester area in either the 1972 renewal application or the 1975 supplement thereto. Under the circumstances, we cannot determine that the program proposals for either WHAM or WHFM(FM) would adequately respond to significant community problems. Appropriate issues will therefore be designated to resolve this question.

#### EMPLOYMENT

22. Action contends that Rust has not implemented its affirmative action program and engages in discriminatory hiring practices, including a requirement that minority job applicants be local and experienced while white applicants are not similarly restricted. The petitioners observe that, as of the filing of the petition, the licensee had only one minority employee, a janitor. In its complaint, Metro-Act asserts that the licensee's 1971 employment report reveals a discriminatory policy against minority persons in all job categories.

23. In response, the applicant con-

tends that it has adopted an equal employment affirmative action program as required by the Commission and that it "intends to implement it to the fullest." Rust alleges that its inability to hire professional minority employees stems from the nature of the broadcasting industry. Because the number of available qualified blacks is low, stations must compete for the experienced applicants. The licensee alleges that its low attrition rate lessens the opportunity to consider many applicants. Rather, the applicant asserts that the Rochester market requires experienced professionals and therefore the licensee must look to smaller radio markets for personnel who are ready to move up. In addition, the licensee argues that it has made affirmative efforts to seek out minority applicants, but, in one instance, one of the petitioning groups refused to refer any applicants.<sup>2</sup>

24. In its reply, Action argues that despite Rust's contention that few qualified minority applicants are available, most area stations have at least one minority employee. Action questions the licensee's failure to indicate the number of job openings it had during the past term and its failure to present examples of its competitive efforts to get qualified minority applicants. Petitioners further assert that any affirmative efforts to seek out minority applicants from local minority organizations came in May, 1972, after the petition to deny was filed.

25. In a supplement to its petition to deny filed March 21, 1973, Action alleges that Rust told a black job applicant, Charles Perkins, "come back when you learn to speak English." Rust denies that any discriminatory remarks were ever made to Charles Perkins and asserts that his application was rejected because of a total lack of broadcast experience.

26. Further, Action contends that, six months prior to filing its supplement, Al White, a black employed full-time as a technician-producer at Station WOKR-TV, Rochester, applied for a part-time job to produce a minority discussion program on WHAM. The petitioners allege that Rust continually failed to make any determination on his application. In its opposition, the licensee asserts that White's application was still being considered. The petitioners reply that White had been promised a decision on numerous occasions and was still awaiting WHAM's decision. Then in a pleading filed June 4, 1974, the licensee alleges that White had rejected their offer of a part-time announcing position at WHFM.<sup>3</sup>

<sup>2</sup> The licensee contends that it had an opening for an accounting clerk and it so notified four area minority organizations. Rust asserts that James McCuller, executive director of Action for a Better Community, Inc., refused to refer available, qualified applicants because he considered the job to be less desirable than a concurrently available opening in the sales department which was not communicated to the organizations.

<sup>3</sup> While petitioners have not supported the charges regarding Mr. White with a proper affidavit, the licensee has never challenged the accuracy of the facts alleged.

27. Sections 73.125 and 73.301 of the Commission's Rules require commercial radio licensees both to refrain from employment discrimination and to establish affirmative action programs which encompass positive efforts to recruit, employ, and promote qualified minorities. In cases where employment profiles fall outside a "zone of reasonableness," the licensee must modify or supplement its recruitment practices and policies by vigorous and systematic efforts to locate and encourage the candidacy of qualified minorities. See, Inquiry Into the Employment Policies and Practices of Certain Broadcast Stations Located in Florida, 44 FCC 2d 735 (1974); see also Bilingual Bicultural Coalition of Mass Media, Inc. v. F.C.C., 429 F. 2d 656 (D.C. Cir. 1974); Chuck Stone v. F.C.C., 466 F. 2d 316 (D.C. Cir. 1972). Our rules do not require fully proportional employment of minority group members, and we do not believe that fair employment practices will necessarily result in the employment of any minority group in direct proportion to its percentage of the community population. However, highly disproportionate representation of minorities employed by a licensee in relation to their presence in the workforce could constitute prima facie evidence of discriminatory practice. Report and Order Docket Number 18244, 23 FCC 2d 430, 431 (1971); Stone v. F.C.C., supra. In this respect, it is the consequences of the licensee's employment practices, not the intent, which determine whether discrimination requiring remedial action exists. See, Rosenfeld v. Southern Pacific Company, 44 F. 2d 1219 (9th Cir. 1971). Accordingly, if it is found that no additional efforts were undertaken to recruit, employ and promote minority employees, or that efforts undertaken are clearly insufficient, then administrative action to secure compliance with the Commission's Rules would be appropriate.

28. A review of Rust's Annual Employment Report (FCC Form 395) for 1971 indicates that the licensee had 39 full-time employees which included one black service worker.<sup>4</sup> In 1972, the applicant reported 38 full-time employees with no minority personnel. The 1973 figures show a total full-time work force of 33 with no minority employees. The licensee filed separate reports in 1974 which show a total of 37 full-time employees and no minorities. Individually, WHAM reported 24 employees and WHFM(FM) 13.<sup>5</sup> According to the 1970 Census, blacks comprise 6.5 percent of the population of the Rochester Standard Metropolitan Statistical Area and 16.8 percent of the population of the city. Clearly, the li-

<sup>4</sup> For the years 1971, 1972 and 1973 Rust filed combined Annual Employment Reports for WHAM and WHFM(FM). For 1974, the licensee filed individual reports for each station.

<sup>5</sup> Although WHAM and WHFM(FM) have not as yet filed Annual Employment Reports for 1975, their supplemental renewal applications reflect 26 full-time employees at WHAM with no minorities and 11 full-time employees at WHFM(FM) including one black professional.



licensee's employment profile showing no full-time black employees is outside the zone of reasonableness. Rust's female employment, we believe, also warrants further investigation. The licensee's 1974 report shows only five (3.5 percent) women on a full-time staff of 37 persons and only one (3.1 percent) female among the "upper four" category jobs at the two stations. See, Florida Inquiry, supra. Rust's record over the past four years sharply focuses our attention on the applicant's affirmative action program.

29. As set forth in its 1972 renewal application, Rust's affirmative action program indicates that: when the stations advertise for job openings, advertisements will be placed in newspapers with significant minority and female circulation; while the licensee does not usually recruit in schools and colleges, when it does so, it will select schools and colleges with significant minority enrollment; and the stations will maintain contact with organizations with significant minority involvement in order to seek out minority applicants. While this program, on paper, represents more than employment neutrality, it produced no positive results between 1971 and 1974. Further, it does not appear that the applicant adhered to this program in all respects, when, in May, 1972, it referred only one of two job openings to local minority organizations. See note 7. Rust's original program is therefore inadequate and more positive efforts to recruit, employ and promote qualified minorities are required. See Florida Inquiry, supra; Rosenfeld v. Southern Pacific Company, supra.

30. In its supplemental renewal application filed February 3, 1975, the licensee's affirmative action program reflects that the stations will not ordinarily use newspaper advertisements or school and college recruitment in filling job openings because of specialized work involved at a station the size of WHAM or WHFM(FM). That program further states that "when suitable openings exist" the licensee will contact minority organizations in an effort to recruit minority applicants. We find that such an affirmative action program does not satisfy the requirements of our rules. The affirmative action concept is meaningless unless positive action is undertaken to overcome the effects of past discrimination, however inadvertent. It is this past discrimination which, the licensee alleges, makes qualified minority applicants hard to find, but the stations cannot hide behind that past discrimination. Rather our rules require positive additional efforts to locate and encourage the candidacy of qualified minorities. See, Florida Inquiry, supra. Rust's most recent affirmative action program falls far short of such efforts.

31. We are particularly concerned by this program's apparent classification of only some positions as "suitable" or

<sup>11</sup> The WHFM(FM) affirmative action program states "where feasible" referrals will be requested from minority organizations."

"feasible" for minority applicants. This limitation is diametrically opposed to the policies which give rise to our rules, particularly the concept that equal employment opportunity, as a minimum, requires that minorities be considered for all job openings. We are further troubled by the callousness inherent in this program, which lessens the licensee's efforts to recruit minorities in the face of three years of zero minority employment. Under these circumstances, we believe that a prima facie case of employment discrimination has been established. While the petitioners have not alleged sufficient facts to establish that the licensee's delay in resolving Al White's employment application constituted discrimination based on race, Rust's conduct therein adds to our concern that the applicant may not have adhered to its stated policy of non-discrimination and affirmative action. We further find that the facts before us are not sufficient to permit this Commission to determine what, if any, administrative actions would be appropriate to secure compliance with our rules. Accordingly appropriate issues will be designated, covering both minority and female employment.

#### OTHER MATTERS

32. Complainant contends that the licensee has been unprofessional in the presentation of news, public affairs and other programming. Metro-Act complains about the applicant's selection of news stories and interviews; asserts that the stations have not provided an opportunity for the expression of contrasting views on controversial subjects on its news, public affairs, or other programs; and that several of the licensee's public affairs programs are nothing more than propaganda for elected officials.

33. On the basis of Metro-Act's allegations, we must conclude that no further inquiry is warranted into this matter. Complainant has not claimed that the stations have violated the fairness doctrine, and the complaint is devoid of the specific allegations of time, program, issue and request for response time necessary to make out a complaint under the fairness doctrine. Metro-Act has further failed to allege specific facts to establish that the licensee has somehow abused its discretion in the selection of news stories, interviewees or subjects to be handled in other non-entertainment programming. The Commission is prohibited by Section 326 of the Communications Act from censoring broadcast matter or from taking any action which would interfere with the right of free speech in broadcasting. Therefore, this Commission will not substitute its judgment for that of a licensee in the selection and presentation of material for programs of news or comment. Absent extrinsic evidence of deliberate distortion, slanting or staging, the Commission will not inquire into a licensee's decisions to cover or not to cover certain stories or certain persons. In re CBS Program "Hunger in America", 20 FCC 2d 143 (1969).

34. Accordingly, *it is ordered*, That

pursuant to Section 309(e) of the Communications Act of 1934, as amended, the captioned applications are designated for hearing at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine the efforts made by Rust Communications Group, Inc., to ascertain the community problems of the area to be served and the manner in which the applicant proposes to meet these problems;

(2) To determine whether Rust Communications Group, Inc. made reasonable and good faith efforts to carry out its Public Affairs programming proposal set forth in its 1969 application for renewal of license for Station WHAM during the 1969-1972 license term;

(3) To determine whether Rust Communications Group, Inc.'s non-entertainment programming (i.e., News, Public Affairs and Other) of Station WHAM was reasonably responsive to the community problems, needs and interests.

(4) To determine whether Rust Communications Group, Inc. has met the requirements of the Commission's equal employment opportunity rules and policies, in the formulation and implementation of its non-discrimination and affirmative action programs as reflected in both the 1972 renewal application and the 1975 supplement thereto;

(5) To determine, in light of the evidence adduced under the preceding issue, what sanctions, if any, should be imposed to eliminate past discriminatory practices and to insure compliance with our rules in the future;

(6) To determine in light of the evidence adduced under the above issues, whether the applicant has the requisite qualifications to be or remain a Commission licensee, and whether a grant of the applications would serve the public interest, convenience and necessity.

35. *It is further ordered*, That Action for a Better Community, Inc., et al. and Metro-Act of Rochester, Inc. ARE MADE PARTIES RESPONDENT to this proceeding.

36. *It is further ordered*, That in accordance with Section 309(e) of the Communications Act of 1934, as amended, the burden of proceeding with the introduction of evidence shall be on Action for a Better Community, Inc., et al. and Metro-Act of Rochester, Inc., as to Issues (1) through (5). The burden of proceeding with respect to Issue (6), and the burden of proof with respect to all issues herein shall be upon Rust Communications Group, Inc.

37. *It is further ordered*, That, to avail themselves of the opportunity to be heard, Rust Communications Group, Inc., the petitioners and the complainant, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, shall within twenty (20) days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and

present evidence on the issues specified in this Order.

38. *It is further ordered*, That Rust Communications Group, Inc. shall, pursuant to section 3.11(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such rules, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the Rules.

Adopted: May 8, 1975.

Released: May 22, 1975.

FEDERAL COMMUNICATIONS  
COMMISSION,  
[SEAL] VINCENT J. MULLINS,  
Secretary.

[FR Doc.75-13702 Filed 5-23-75; 8:45 am]

#### FEDERAL MARITIME COMMISSION [No. 73-22; Sub. No. 1]

#### MATSON NAVIGATION CO.—GENERAL RATE INCREASE IN THE HAWAIIAN TRADE

##### Order of Investigation; Correction

MAY 14, 1975.

In the Commission's order of investigation in this proceeding served April 24, 1975 (40 FR 18590, April 29, 1975), Military Sealift Command was inadvertently omitted from the list of those filing protests and the list of those named complainants. The order of investigation should be amended to correct this omission.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc.75-13733 Filed 5-23-75; 8:45 am]

#### FEDERAL RESERVE SYSTEM FEDERAL OPEN MARKET COMMITTEE Authorization for Domestic Open Market Operations

In accordance with the Committee's rules regarding availability of information, notice is given that on April 30, 1975, paragraph 1(a) of the Committee's authorization for domestic open market operations was amended to raise from \$3 billion to \$4 billion the limit on changes between Committee meetings in System Account holdings of U.S. Government and Federal Agency securities, effective immediately, through the close of business May 20, 1975. At its meeting on May 20, 1975, the Committee voted to maintain the limit at \$4 billion through the close of business June 17, 1975.

NOTE: For paragraph 1(a) of the authorization see 36 FR 22697.

By order of the Federal Open Market Committee, May 20, 1975.

ARTHUR L. BROIDA,  
Secretary.

[FR Doc.75-13740 Filed 5-23-75; 8:45 am]

#### NATIONAL DETROIT CORP.

##### Acquisition of Bank

National Detroit Corporation, Detroit, Michigan, has applied for the Board's

approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares (less directors' qualifying shares) of Bank of Commerce of Lansing, Lansing, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 19, 1975.

Board of Governors of the Federal Reserve System, May 20, 1975.

[SEAL] ROBERT SMITH, III,  
Assistant Secretary of the Board.  
[FR Doc.75-13741 Filed 5-23-75; 8:45 am]

#### GENERAL SERVICES ADMINISTRATION

##### FEDERAL GRANTS AND CONTRACTS Proposed Cost Principles for Nonprofit Institutions; Request for Comments

A uniform set of cost principles and procedures applicable to Federal contracts and grants with nonprofit institutions other than educational institutions, hospitals, and State and local governments, is being proposed for incorporation in the Federal Procurement Regulations. Parties interested in reviewing and commenting on this action are invited to submit a written request for the proposed amendment to the Federal Procurement Regulations Staff (AMC), Office of Federal Management Policy, General Services Administration, Washington, DC 20405. Requests for a copy of the proposed amendment should be received by June 12, 1975.

Dated: May 19, 1975.

PHILIP G. READ,  
Director, Federal Procurement  
Regulations Staff, Office of  
Procurement Management.

[FR Doc.75-13710 Filed 5-23-75; 8:45 am]

#### OFFICE OF MANAGEMENT AND BUDGET

##### CLEARANCE OF REPORTS List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 20, 1975 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

#### NEW FORMS

##### SMALL BUSINESS ADMINISTRATION

Program Evaluation: Surety Bond Guarantee Program, Singletime, Contractors of Surety Bond Guarantee Program, Economics and General Government Division, Lowry, R. L., 395-3451.

##### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service, Medical Eligibility Quality Control, SRS QCM-4, 301.1 through 301.6, monthly, Title XIX Recipients, Human Resources Division, Sunderhauf, M. B., 395-3532.

#### EXTENSIONS

##### DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, Vegetable Seed Stocks, CE-10-51, annually, Vegetable Seed Companies, Marsha Traynham, 395-4529.

##### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service, Quarterly Report of Child Care Arrangements of AFDC Recipients under the Work Incentive Program, SRSNCS 102, quarterly, Marsha Traynham, 395-4529.

Quality Control (QC) Adjustment for Prior Period Claims, SRS-OA-41, quarterly, Marsha Traynham, 395-4529. Quality Control Adjustment for Reported Expenditures, SRS-OA-41, semiannually, Marsha Traynham, 395-4529. Quarterly Estimate of Expenditures, SRS-OPM-65, quarterly, Marsha Traynham, 395-4529. Quarterly Statement of Expenditures, SRS-OA-41, quarterly, Marsha Traynham, 395-4529.

##### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management, Application for Cash Settlement—Multi-family Mortgage, FHA 1752, on occasion, Marsha Traynham, 395-4529. Notice of Property Transfer and Application for Insurance Benefits, FHA 1025, on occasion, Community and Veterans Affairs Division, 395-3532.

PHILLIP D. LARSEN,  
Budget and Management  
Officer.

[FR Doc.75-13629 Filed 5-23-75; 8:45 am]

#### CLEARANCE OF REPORTS

##### List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 21, 1975 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency



sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

#### NEW FORMS

##### DEPARTMENT OF COMMERCE

Bureau of East-West Trade, Statement by Ultimate Consignee and Purchaser, DIB-6007P, on occasion, foreign commercial importers, Caywood, D. P., 395-3443.  
Bureau of the Census, Evaluation of the 1974 Census of Agriculture, 74-A90, single-time, farms, Raynsford, R., 395-3814.  
Departmental and other, Request for: Name Check—Identification Record Check, CD-227, on occasion, individuals, Caywood, D. P., 395-3443.

##### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, Life Ethos Survey Questionnaire, SSA-3141, single-time, persons over 17 in Fla., Colorado, D.C., Hall, George, Strasser, A., 395-4697.

#### REVISIONS

##### DEPARTMENT OF COMMERCE

Economic Development Administration, Application for Federal Assistance, preapplication for Federal Assistance, ED-101A, ED-101P, on occasion, local units of govt., General Services Administration, Lowry, R. L.

#### EXTENSIONS

##### DEPARTMENT OF COMMERCE

Economic Development Administration, Quarterly Report on Guaranteed Loans, ED 700, quarterly, business firms, Marsha Traynham, 395-4529.

##### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Services, State Agency Program Expenditure Projection Report, SRS-OA-25, quarterly, Marsha Traynham, 395-4529.

PHILLIP D. LARSEN,  
Budget and Management  
Officer.

[FR Doc.75-13830 Filed 5-23-75;8:45 am]

#### NUCLEAR REGULATORY COMMISSION

##### ADVISORY COMMITTEE ON REACTOR SAFEGUARDS' SUBCOMMITTEE ON EMERGENCY CORE COOLING SYSTEMS (ECCS)

#### Rescheduling of Meeting

The meeting of the Advisory Committee on Reactor Safeguards' ECCS Subcommittee originally scheduled for

May 28, 1975 in Bloomington, MN, notice of which was published at 40 FR 20864, May 13, 1975, has been rescheduled as follows:

(a) The meeting will be held June 18, 1975 in Room 1046, 1717 H St., NW, Washington, D.C. 20555.

(b) Written statements may be submitted with a postmark no later than June 11, 1975.

(c) Information as to whether the meeting has been cancelled or rescheduled can be obtained by a prepaid telephone call on June 17, 1975.

(d) A copy of the transcript of the open portion of the meeting will be available on or after June 20, 1975.

(e) A copy of the minutes of the meeting will be made available, on request, after September 18, 1975.

All other matters pertaining to the meeting remain unchanged. The open portion of the meeting will commence at 9:15 a.m., June 18, 1975.

Dated: May 21, 1975.

JOHN C. HOYLE,  
Advisory Committee  
Management Officer.

[FR Doc.75-13713 Filed 5-23-75;8:45 am]

#### BOSTON EDISON CO.

##### Notice of Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 9 to Facility Operating License No. DPR-35 issued to the Boston Edison Company (the licensee), which revised Technical Specifications for operation of the Pilgrim Nuclear Power Station (the facility), located in Plymouth County, Massachusetts. The amendment is effective as of its date of issuance.

The amendment requires operability and surveillance of hydraulic snubbers required to protect the primary coolant system and all other safety related systems and components in accordance with the licensee's request dated October 7, 1974.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated October 7, 1974, (2) Amendment No. 9 to License No. DPR-35, with Change No. 11, and (3) the Commission's concurrently issued related Safety Evaluation. All of these items are available for public inspection at the

Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Plymouth Public Library on North Street in Plymouth, Massachusetts 02360. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 15th day of May 1975.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,  
Chief, Operating Reactors  
Branch #2, Division of Reactor Licensing.

[FR Doc.75-13715 Filed 5-23-75;8:45 am]

[Docket Nos. 50-514, 50-515]

#### PORTLAND GENERAL ELECTRIC CO. (PEBBLE SPRINGS NUCLEAR PLANT, UNITS 1 AND 2)

##### Schedule for Evidentiary Hearing

The U.S. Atomic Energy Commission by its December 9, 1974 "Notice Of Hearing On Application For Construction Permits", 39 FR 42938, ordered a public hearing to be held on the application by the Portland General Electric Company for construction permits for two pressurized water nuclear reactors designated as the Pebble Springs Nuclear Plant, Units 1 and 2, each of which would be designed for operation at 3,600 thermal megawatts with a net electrical output of approximately 1,260 megawatts. The proposed facilities are to be located in Gilliam County, Oregon.

The hearing on this application will be conducted by the Atomic Safety and Licensing Board, which has been designated by the Chairman of the Atomic Safety and Licensing Board Panel, consisting of Dr. Walter H. Jordan, Dr. William E. Martin, and James R. Yore, Esq., Chairman.

The evidentiary hearing is scheduled to begin at 10 a.m., local time, on Tuesday, June 24, 1975, in the Arlington Elementary School, Arlington, Oregon 97812. Members of the public are invited to attend this hearing. Individuals or representatives of organizations wishing to make limited appearances pursuant to § 2.715(a) of the Commission's rules of practice, 10 CFR Part 2, will be permitted to do so on Tuesday, June 24, 1975.

It is so ordered.

Dated at: Bethesda, Maryland this 21st day of May 1975.

For the Atomic Safety and Licensing Board.

JAMES R. YORE, Chairman.

[FR Doc.75-13714 Filed 5-23-75;8:45 am]

Pursuant to the Energy Reorganization Act, Pub. L. 93-438, all the regulatory and licensing functions of the Atomic Energy Commission were transferred to the Nuclear Regulatory Commission.

[Docket No. 50-249]

#### COMMONWEALTH EDISON CO. (DRESDEN NUCLEAR POWER STATION UNIT 3)

##### Proposed Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-25 issued to the Commonwealth Edison Company (the licensee) for operation of the Dresden Nuclear Power Station Unit 3 (the facility) located in Grundy County, Illinois. The licensee is presently licensed to operate the facility, a boiling water reactor, at power levels up to 2527 MWT using a mixture of 8x8 and 7x7 fuel assemblies in the core.

The amendment would revise the provisions in the facility Technical Specifications to permit operation of the facility (1) with additional 8x8 fuel assemblies, (2) using operating limits based on the General Electric Thermal Analysis Basis (GETAB), and (3) using modified operating limits based upon an evaluation of ECCS performance calculated in accordance with an acceptable evaluation model that conforms to the requirements of the Commission's regulations in 10 CFR § 50.46. The amendment would modify various limits established in accordance with the Commission's Interim Acceptance Criteria, and would, with respect to Dresden Unit 3, terminate the further restrictions imposed by the Commission's December 27, 1974, Order For Modification of License, and would impose instead, limitations established in accordance with the Commission's Acceptance Criteria for Emergency Core Cooling Systems for Light Water Nuclear Power Reactors, 10 CFR § 50.46. This action is in accordance with the licensee's applications dated January 21, 1975 (as supplemented by letter dated February 11, 1975), April 4, 1975 and May 5, 1975.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. By June 26, 1975 the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Wash-

ington, DC. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC. 20555, and to John W. Rowe, Esquire, Isham, Lincoln and Beale, One First National Plaza, Chicago, Illinois 60670, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see (1) the applications for amendment dated January 21, 1975 (as supplemented by filing dated February 11, 1975) April 4 and May 5, 1975, (2) the Technical Report on the General Electric Company 8x8 Fuel Assembly dated February 5, 1974, by the Directorate of Licensing, (3) the Report of the Advisory Committee on Reactor Safeguards on operation with 8x8 fuel assemblies dated February 12, 1974, (4) the non-proprietary General Electric Report NEDO-10958 on GETAB, (5) the Commission's evaluation dated September 1974 of the General Electric Report (NEDO-10953), (6) the Commission's Order for Modification of License dated December 27, 1974 and the documents referred to in the Order (published in the FEDERAL REGISTER on January 9, 1975 (40 FR 1790), and (7) the Commission's "Notice of Proposed Issuance of Amendment to Facility Operating License", dated November 14, 1974, relating to Dresden Unit 3 high total peaking factors, which was published in the FEDERAL REGISTER on November 21, 1974 (39 FR 40880). (Item 7 is referred to in the April 4, 1975 application referenced in item (1) above.) All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC, and at the Morris Public Library at 604 Liberty Street in Morris, Illinois 60451. The license amendment and the Safety Evaluation, when issued, may be inspected at the above locations and a copy may be obtained upon request addressed to the

U.S. Nuclear Regulatory Commission, Washington, DC. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland this 21st day of May 1975.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,  
Chief, Operating Reactors  
Branch 2, Division of Reactor Licensing.

[FR Doc.75-13770 Filed 5-23-75;8:45 am]

#### SECURITIES AND EXCHANGE COMMISSION

##### BOSTON STOCK EXCHANGE

##### Applications for Unlisted Trading Privileges and of Opportunity for Hearing

MAY 20, 1975.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

File No.

E. F. Hutton Group, Inc. (The)----- 7-4731  
Safeguard Industries, Inc.----- 7-4732

Upon receipt of a request, on or before June 5, 1975, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.75-13726 Filed 5-23-75;8:45 am]

[File No. 500-1]

#### INTEGRITY ENTERTAINMENT CORP.

##### Suspension of Trading

MAY 19, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common



stock of Integrity Entertainment Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 9:45 a.m. (e.d.t.) on May 19, 1975 through midnight (e.d.t.) on May 28, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.75-13727 Filed 5-23-75; 8:45 am]

[70-5673; Rel. No. 18996]

#### CONSOLIDATED NATURAL GAS CO.

##### Proposed Issue and Sale of Principal Amount of Debentures at Competitive Bidding

MAY 20, 1975.

Notice is hereby given that Consolidated Natural Gas Company ("Consolidated") 30 Rockefeller Plaza, New York, New York 10020, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Consolidated proposes to issue and sell, subject to the competitive bidding requirements of Rule 50, \$100,000,000 principal amount of — percent Debentures due July 1, 1995. The interest rate (which will be a multiple of  $\frac{1}{8}$  of 1 percent) and the price, exclusive of accrued interest (which will be not less than 99 percent or more than 102 percent of the principal amount thereof) will be determined by competitive bidding. The debentures will be issued as a new series under a Fifth Supplemental Indenture, dated as of July 1, 1975, to the Indenture between Consolidated and Manufacturers Hanover Trust Company, New York, New York, as Trustee. The Indenture includes a prohibition until July 1, 1980, against refunding the issue with or in anticipation of funds borrowed at a lower effective interest cost. The debentures will be subject to a sinking fund, commencing July 1, 1980, designed to retire 100 percent of the aggregate principal amount thereof by maturity. The proceeds of the sale of the debentures will be used to finance, in part, the 1975 capital expenditures of Consolidated's subsidiary companies, presently estimated at \$198,000,000, including \$161,600,000 required to develop sources of additional gas supply.

It is stated that the fees and expenses to be incurred in connection with the proposed transaction are estimated at \$158,000 including \$30,000 service charges at cost, and accountants fees and

expenses of \$13,000. The fees and expenses of counsel for the underwriters are to be paid by the successful bidders; the amount will be supplied by amendment.

It is further stated that no State commission and no Federal commission other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 15, 1975, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from its rules under the Act as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.75-13726 Filed 5-23-75; 8:45 am]

[70-5677; Rel. No. 18992]

#### MONONGAHELA POWER CO.

##### Proposed Issuance and Sale of First Mortgage Bonds at Competitive Bidding

MAY 19, 1975.

Notice is hereby given that Monongahela Power Company ("Monongahela"), 1310 Fairmont Avenue, Fairmont, West Virginia 26554, an electric utility subsidiary company of Allegheny Power System, Inc. ("APS"), registered holding company, has filed an application-declaration and amendments thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 6 and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, as amended, which is summarized below,

for a complete statement of the proposed transaction.

Monongahela proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, up to \$30,000,000 principal amount of First Mortgage Bonds, in one or more series, each such series to mature in not less than 5 and not more than 30 years. The interest rate (which will be expressed in a multiple of  $\frac{1}{8}$  of 1 percent) and the price to be paid to Monongahela for the Bonds (which shall not be less than 100 percent unless Monongahela shall authorize a lower percentage not less than 99 percent, and shall not exceed 102.75 percent) will be determined by competitive bidding. The terms of the Bonds preclude Monongahela from redeeming any such Bonds prior to June 1, 1980, if such redemption is for the purpose of refunding such Bonds with proceeds of funds borrowed at a lower effective interest cost. The Bonds will be issued under and secured by the Mortgage and Deed of Trust, dated as of August 1, 1945, as supplemented, to First National City Bank ("Trustee"), and a new Indenture Supplemental thereto which will be dated as of the first day of the month in which the Bonds are to be issued.

The proceeds realized from the sale of the Bonds are proposed to be used to pay short-term debt incurred by the Company, and to pay all or a part of the \$32,000,000 of 3 percent First Mortgage Bonds which mature on August 1, 1975. As of April 21, 1975, \$7,000,000 in short-term borrowings were outstanding, and it is anticipated that at the time of the issuance and delivery of the Bonds, approximately \$19,000,000 in short-term borrowings will be outstanding.

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that the Public Utilities Commission of Ohio has jurisdiction over the proposed issuance and sale of the Bonds and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 9, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the

application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.75-13728 Filed 5-23-75; 8:45 am]

[70-5679; Rel. No. 18987]

#### OHIO POWER CO.

##### Proposed Acquisition of Coal Cars and Sublease of Certain of Said Cars to Railroad Companies

MAY 15, 1975.

Notice is hereby given that Ohio Power Company ("Ohio Power"), 301 Cleveland Avenue SW, Canton, Ohio 44701, an electric utility subsidiary company of American Electric Power Company, a registered holding company, has filed with this Commission an application-declaration pursuant to the applicable provisions of the Public Utility Holding Company Act of 1935 ("Act") regarding the acquisition by lease of coal cars and related transactions. Ohio Power requests approval of these transactions, unless advised by the Commission that approval thereof under the Act is not required. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Ohio Power states that it has entered into agreements with Bethlehem Steel Corporation ("Bethlehem") and Greenville Steel Car Corporation ("Greenville") for the manufacture of 377 coal hopper cars by Bethlehem (collectively, the "cars") for aggregate purchase prices of approximately \$9,425,000 and \$10,630,000, respectively. By assignments dated December 23, 1974 and February 18, 1975, Ohio Power assigned its right to purchase the Bethlehem and Greenville cars, respectively, to C.I.T. Financial Services, Inc. ("lessor"). Ohio Power and lessor have entered into two leases ("lease #1" and "lease #2") dated December 23, 1974, with respect to the Bethlehem and Greenville cars, respectively. The leases are subject to the receipt of any required approval of this Commission.

Terms of the leases require Ohio Power to pay rent on the cars in the following manner: Ohio Power has paid, or will pay, to lessor an initial payment of rent on April 2, 1975 (for lease #1) and July 2, 1975 (for lease #2) in an amount

equal to .0355 percent of the purchase price of each car, and thereafter pay in sixty consecutive quarterly installments an amount equal to 3.194 percent of the purchase price thereof (or approximately \$798.50 and \$910.29 per car per quarter under lease #1 and #2, respectively). It is stated that the leases are net leases pursuant to which Ohio Power will pay the rents required thereunder unless such obligation to pay is executed or terminated under terms of the leases. Each lease contains a provision granting Ohio Power the option to purchase the cars from the lessor at a fair market sales value, said value to be determined on the basis of an arms-length transaction. These options to purchase may be exercised at the end of the leases or any extended term thereof. Ohio Power and the lessor have further agreed that in the event this Commission does not issue a no-action letter or approve Ohio Power's participation in the leases by June 15, 1975, Ohio Power will purchase the cars from the lessor at a price for each car equal to the sum of (i) the purchase price of the car, plus (ii) .0355 percent of said purchase price for each day which has elapsed between the acceptance of such car to and including June 15, 1975, plus (iii) certain expenses and (iv) less an amount equal to the initial rental payment.

It is further stated that Ohio Power is presently utilizing 167 of the 377 Bethlehem cars for the delivery of coal to its Mitchell Plant in West Virginia. Until the cars are fully utilized, Ohio Power has sublet 60 of the remaining cars to The Chesapeake and Ohio Railway Company ("C&O") under an agreement dated as of December 24, 1974 ("sublease"). Under terms of the sublease, Ohio Power may terminate the sublease of any and all cars upon 10 days' written notice to C&O. It is stated that the rental payments to Ohio Power from C&O are \$270 per car per month and that this is substantially equal to Ohio Power's cost under the lease. It is further stated that 150 of the Bethlehem cars are being subleased to the Burlington Northern ("BN") railroad under terms similar to those in effect with C&O. The C&O and BN subleases contemplate that additional cars may be made subject to those agreements.

Ohio Power's entry into Leases No. 1 and No. 2 have been expressly authorized by the Public Utilities Commission of Ohio and no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions. Fees and expenses to be incurred in connection with the proposed transactions are estimated at \$12,500, including legal fees of \$10,000.

Notice is further given that any interested person may, not later than June 11, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert, or he may request that he be notified if the

Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.75-13729 Filed 5-23-75; 8:45 am]

[Rel. No. 18994; 31-750, etc.]

#### EMPIRE STATE POWER RESOURCES, INC. ET AL

##### Utility Companies; Proposal to Acquire Stock of Electric Generation Subsidiary; Applications for Exemptions

MAY 19, 1975.

In the matter of Empire State Power Resources, Inc., c/o Milbank, Tweed, Hadley & McCloy, 1 Chase Manhattan Plaza, New York, New York 10005; Consolidated Edison Company of New York, Inc., 4 Irving Place, New York, New York 10003, (31-750); Long Island Lighting Company, 250 Old Country Road, Mineola, New York 11501 (31-751); New York State Electric & Gas Corporation, 4500 Vestal Parkway East, Binghamton, New York 13902 (31-752); Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, New York 13202 (70-5681); (31-753); Rochester Gas and Electric Corporation, 89 East Avenue, Rochester, New York 14649 (70-5681). (31-754).

Notice is hereby given that Empire State Power Resources, Inc. ("ESPRI"), a newly-organized electric generating company, and five of its seven sponsoring public-utility companies, Consolidated Edison Company of New York, Inc. ("Con Ed"), Long Island Lighting Company ("LILCO"), New York State Electric & Gas Corporation ("NYSEG"), Niagara Mohawk Power Corporation ("Niagara Mohawk") and Rochester Gas and Electric Corporation ("RG&E"), have filed with this Commission a joint

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application, including requests for exemptions, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating, to the extent applicable, sections 3(a)(1), 3(a)(2), 9(a)(2) and 10 of the Act. All interested persons are referred to the joint application, which is summarized below, for a complete statement of the proposals.

ESPRI was organized under New York law in 1974 by seven public-utility companies ("Sponsors"). The Sponsors include the five applicants named above and Central Hudson Gas & Electric Corporation ("Central Hudson") and Orange and Rockland Utilities, Inc. ("Orange and Rockland"). The Sponsors intend, through ESPRI, to facilitate the development of power resources in the State of New York for the period 1980-1991 in order to supply anticipated load growth in the Sponsors' service areas, to provide reserve capacity, and to allow for retirement of uneconomical generating units. It is stated that the collective participation of the Sponsors in developing such capacity will relieve the Sponsors of the burden of financing future needs on an individual basis, will allow them to share the financial risks, and should make financing more readily available.

It is proposed that ESPRI will construct thirteen nuclear and three coal-fired base-load units at various locations throughout New York State, with a total rated capacity of 18,600 MW. The various units are expected to be placed in service from time to time, with the first unit scheduled for the summer of 1980. Preliminary work has been started by several of the Sponsors on four units. ESPRI plans to acquire all work-in-progress and other property interests related to these units and to complete construction. Although ESPRI will assume full responsibility for all units and will ultimately employ its own staff, it may, during the initial years, enter into contracts for services with one or more of its Sponsors.

To defray organizational costs and to provide ESPRI with funds for engineering, siting, planning, legal, financial and other studies to be undertaken in connection with its long-term construction program, the Sponsors propose to acquire up to 2,000 shares of ESPRI's capital stock, par value \$1.00 per share, at a price of \$1,000 per share for an aggregate price of up to \$2,000,000. The number of shares, purchase price and percentage of the outstanding total of such shares to be acquired by each Sponsor shall be as follows:

Sponsor	Number of shares	Purchase price	Percentage of total
Consolidated Edison	400	\$400,000	20
LILCO	400	400,000	20
NYSEG	400	400,000	20
Niagara Mohawk	400	400,000	20
RG&E	200	200,000	10
Central Hudson	110	110,000	5.5
Orange and Rockland	90	90,000	4.5
Total	2,000	2,000,000	100

It is stated that the number of shares proposed to be purchased by each Sponsor has been determined on the basis of the approximate percentage of ESPRI's capital stock to be owned by each Sponsor following completion of the last of the sixteen generating units now proposed to be constructed by ESPRI. If less than 2,000 of ESPRI's shares of capital stock are issued, the number of shares purchased by each Sponsor will be in the respective proportions set forth above.

It is estimated that over \$20 billion in capital funds will be required to complete ESPRI's construction program. To finance these costs, in part, the Sponsors propose to acquire additional shares of capital stock. The Sponsors also expect to arrange for interim financing in the form of lines of credit, term loans and other commitments. It is expected that the permanent capitalization of the company will consist of approximately 60 percent senior debt, 20 percent pollution control financing, and 20 percent common equity.

Each Sponsor has tentatively designated the percentage of capacity of a particular unit that it will require, and pursuant to a capital funds agreement each of the Sponsors will be obligated to provide the same percentage of capital funds required to complete the unit. The Sponsors participating in a particular unit will also enter into a long-term power contract with respect to such unit. Under each power contract, a participating Sponsor will be obligated to pay its pro rata share of total capacity costs of all the units based on the percentage of capacity which it has agreed to purchase from all of the units. Such capacity payments will be made without regard to the amount of energy produced by an individual unit, and each participating Sponsor will be entitled to purchase its share of energy output at an average cost determined on a systemwide basis.

It is further provided that upon any default by a participating Sponsor under either the power contract or capital funds agreement, the remaining participating Sponsors must increase their participation on a pro-rata basis in order to satisfy the obligations of the defaulting participant.

Con Ed, LILCO and NYSEG, each of which is organized under New York law, provide gas and electric service to customers exclusively within New York State. None of the three companies is now a holding company or an affiliate of a public-utility company, and no part of their revenues are derived from public utility operations outside of New York State. Since each proposes to acquire more than 10 percent of ESPRI's capital stock, each will be a holding company as defined by the Act.

RG&E is a public-utility company and an exempt holding company under the Act (HCAR No. 9296, August 25, 1949) by virtue of its ownership of all of the outstanding stock of Canadea Power Corporation ("Canadea"). Its acquisition of ESPRI's capital stock is, therefore, subject to sections 9(a)(2) and 10 of the

Act. Canadea is organized and operated in New York State. No part of RG&E's income is derived from public utility operations outside of New York State.

Niagara Mohawk is also an exempt holding company under section 3(a)(1) of the Act pursuant to Rule 2 thereunder by virtue of its ownership of all of the outstanding stock of two Canadian electric utility companies and 82.78 percent of the voting stock of an hydro-electric generation subsidiary company. Its acquisition of ESPRI's stock will also be subject to section 9(a)(2) and 10 of the Act. Only Niagara Mohawk, among the five applicants, derives income from public utility subsidiaries which are not organized and operated within New York State. Its two Canadian subsidiaries, on a combined basis, serve approximately 14,000 retail electric consumers in the Province of Ontario. For the period ended December 31, 1974, gross revenues from such sales were \$9,836,000 after adjustments are made for sales to and purchases from Niagara Mohawk. The Canadian gross subsidiary revenues represent approximately 1 1/2 percent of Niagara Mohawk's consolidated electric revenues. All of Niagara Mohawk's gas revenues are derived from sales within New York State.

Orange and Rockland and Central Hudson are not applicants in this proceeding since neither company's acquisition of ESPRI's stock is subject to sections 9(a)(2) and 10 of the Act. Moreover, neither company will become a holding company with respect to ESPRI.

The Public Service Commission of the State of New York has jurisdiction over the issuance and sale of ESPRI's capital stock and over the acquisition thereof by its Sponsors. The Federal Power Commission has jurisdiction over the acquisition of ESPRI's capital stock by those Sponsors not requiring Commission approval under sections 9(a)(2) and 10. The orders of those commissions approving the proposed transactions will be supplied by amendment. No other State or Federal commission, other than this Commission, has jurisdiction over the proposed transaction and applications for exemption. A statement of the fees, commissions and expenses incurred or to be incurred in connection with the proposed transaction will also be supplied by amendment.

Notice is further given that any interested person may, not later than June 13, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants at the above-

stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.75-13730 Filed 5-23-75; 8:45 am]

[70-5683; Rel. No. 18995]

#### NEW ORLEANS PUBLIC SERVICE INC.

Issuance and Sale of Short-Term Promissory Notes to Banks

MAY 20, 1975.

Notice is hereby given that New Orleans Public Service Inc. ("NOPSI"), 317 Baronne Street, New Orleans, Louisiana 70160, an electric utility subsidiary company of Middle South Utilities, Inc., a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act as applicable to the following proposed transactions. All interested persons are referred to said declaration, which is summarized below, for a complete statement of the proposed transactions.

NOPSI proposes to issue and sell short-term notes to a group of banks from time to time through December 31, 1976. The maximum aggregate principal amount of notes outstanding at any one time shall not exceed the lesser of \$18,000,000 or 10 percent of the capitalization of the company, which is the maximum amount of unsecured borrowing permissible under the provisions of NOPSI's Restated Articles of Incorporation without the consent of the holders of a majority of the total number of shares of preferred stock outstanding. Applying this formula to the company's capitalization at March 31, 1975, an aggregate principal amount of \$21,442,699 of promissory notes would be issuable.

The proposed notes are to be issued and sold to the banks as listed below, will be due not more than nine months from date of issuance, will bear interest at the prime rate in effect at the time of borrowing, and are to be prepayable in whole or in part at any time without premium:

#### NOTICES

[In thousands of dollars]

	Present loans	Proposed maximum additional loans	Maximum loans to be outstanding
Whitney National Bank of New Orleans	\$3,000	\$5,100	\$8,100
Hilberts National Bank in New Orleans	2,000	1,500	3,500
First National Bank of Commerce in New Orleans		3,000	3,000
National American Bank of New Orleans		2,400	2,400
Chase Manhattan Bank		1,000	1,000
Total	5,000	13,000	18,000

No commitment fee and no compensating balances are required for any of the proposed borrowings.

It is further stated that the net proceeds to be received by NOPSI from the issuance and sale of the notes, together with other funds available from time to time from operations, will be applied principally to the company's construction program which is expected to result in expenditures of approximately \$19,000,000 in 1975 and \$20,500,000 in 1976.

The declaration also states that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions. Fees and expenses to be incurred in connection with the proposed transactions are estimated to be less than \$4,000.

Notice is further given that any interested person may, not later than June 16, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request.

At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.75-13731 Filed 5-23-75; 8:45 am]

#### ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

##### COMMITTEE ON RATE MAKING AND ECONOMIC REGULATION

###### Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Rate Making and Economic Regulation of the Administrative Conference of the United States, to be held at 10 a.m., June 5, 1975, in the office of the Administrative Conference of the U.S., 2120 L Street NW., Suite 500, Washington, D.C.

The Committee will meet for a general discussion of future projects.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least one day in advance. The Committee Chairman may, if he deems it appropriate, permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee, before, during, or after the meeting.

This meeting is being called without the customary notice period in order to take advantage of the presence of Committee members at the plenary session of the Conference.

For further information concerning this Committee meeting contact Mr. David B. H. Martin (phone 202-254-7065). Minutes of the meeting will be available on request.

Dated: May 23, 1975.

RICHARD K. BERG,  
Executive Secretary.

[FR Doc.75-13957 Filed 5-23-75; 12:31 pm]

#### INTERSTATE COMMERCE COMMISSION

##### IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

###### Elimination of Gateway Letter Notices

MAY 21, 1975.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed



with the Interstate Commerce Commission on or before June 6, 1975. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 21170 (Sub-No. E84), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohutki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes transporting: Food products and commodities exempt from economics regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on and west of a line beginning at the Iowa-Minnesota State line and extending along Iowa Highway 4 to junction Iowa unnumbered highway, thence along Iowa unnumbered highway to junction Iowa Highway 341, thence along Iowa Highway 341 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Iowa Highway 175, thence along Iowa Highway 175 to junction Iowa Highway 39, thence along Iowa Highway 39 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Iowa Highway 92, thence along Iowa Highway 92 to junction Iowa Highway 148, thence along Iowa Highway 148 to junction unnumbered highway, thence along unnumbered highway to the Iowa-Missouri State line, to points in Illinois on and south of a line beginning at the Missouri-Illinois State line and extending along Illinois Highway 140 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction unnumbered highway at Montrose, thence along unnumbered highway to junction Illinois Highway 13 at Rose Hill, thence along Illinois Highway 130 to junction unnumbered highway, thence along unnumbered highway to the Illinois-Indiana State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E85), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohutki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economics regulation pursuant to the provisions of Sec-

tion 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on and west of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 63 to junction Iowa Highway 21, thence along Iowa Highway 21 to junction Iowa Highway 92, thence along Iowa Highway 92 to junction Iowa Highway 108, thence along Iowa Highway 108 to junction unnumbered highway, thence along unnumbered highway to junction Iowa Highway 149, thence along Iowa Highway 149 to junction U.S. Highway 63, thence along U.S. Highway 63 to the Iowa-Missouri State line, to points in Illinois on and south of a line beginning at the Illinois-Missouri State line and extending along Illinois Highway 3 to junction Illinois Highway 149, thence along Illinois Highway 149 to junction Illinois Highway 13, thence along Illinois Highway 13 to junction Illinois Highway 34, thence along Illinois Highway 34 to the Illinois-Kentucky State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo.

No. MC 21170 (Sub-No. E86), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohutki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economics regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, and restricted to such commodities as are from points in Iowa on and west of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 65 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 69, thence along U.S. Highway 69 to the Iowa-Missouri State line, to points in Illinois on and south of a line beginning at the Missouri-Illinois State line and extending along U.S. Highway 50 to junction Illinois Highway 161, thence along Illinois Highway 161 to junction Illinois Highway 37, thence along Illinois Highway 37 to junction Illinois Highway 15, thence along Illinois Highway 15 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction unnumbered highway at Carmi, thence along unnumbered highway to the Illinois-Indiana State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo.

No. MC 21170 (Sub-No. E87), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohutki (same as above). Authority sought to operate as a common carrier,

by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economics regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on and west of a line beginning at the Minnesota-Iowa State line and extending along U.S. Highway 52 to junction Iowa Highway 24, thence along Iowa Highway 24 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 21, thence along Iowa Highway 21 to junction Iowa Highway 92, thence along Iowa Highway 92 to junction Iowa Highway 108, thence along Iowa Highway 108 to junction Iowa Highway 149, thence along Iowa Highway 149 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction unnumbered highway at Bloomfield, thence along unnumbered highway to the Iowa-Minnesota State line, to points in Illinois on, south, and west of a line beginning at the Missouri-Illinois State line and extending along Illinois Highway 146 to junction Illinois Highway 3, thence along Illinois Highway 3 to junction unnumbered highway, thence along unnumbered highway through Diswood to junction Illinois Highway 127, thence along Illinois Highway 127 to junction unnumbered highway, thence along unnumbered highway to junction U.S. Highway 51, thence along U.S. Highway 51 to the Illinois-Kentucky State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo.

No. MC 21170 (Sub-No. E88), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohutki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economics regulation pursuant to the provisions of Sections 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on and west of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 59 to junction unnumbered highway to junction Iowa Highway 60, thence along Iowa Highway 60 to junction unnumbered highway at LeMars, thence along unnumbered highway to junction U.S. Highway 20, thence along U.S. Highway 20 to junction unnumbered highway, thence along unnumbered highway through Danbury to junction Iowa Highway 141, thence along Iowa Highway 141 to junction Iowa Highway 183, thence along Iowa Highway 183 to junction Iowa Highway 37, thence along Iowa Highway 37 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction

unnumbered highway, thence along unnumbered highway to junction Iowa Highway 48, thence along Iowa Highway 48 to junction U.S. Highway 59, thence along U.S. Highway 59 to the Iowa-Missouri State line, to points in Indiana on and south of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 70 to junction Indiana Highway 39, thence along Indiana Highway 39 to junction Indiana Highway 42, thence along Indiana Highway 42 to junction Indiana Highway 144, thence along Indiana Highway 144 to junction Indiana Highway 44, thence along Indiana Highway 44 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Indiana-Ohio State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo.

No. MC 21170 (Sub-No. E89), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohutki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economics regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on and west of a line beginning at the Iowa-Minnesota State line and extending along Iowa Highway 4 to junction Iowa Highway 175, thence along Iowa Highway 175 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Iowa-Missouri State line, to points in Indiana on and south of a line beginning at the Illinois-Indiana State line and extending along Indiana Highway 54 to junction U.S. Highway 41-150, thence along U.S. Highway 41-150 to junction Indiana Highway 54, thence along Indiana Highway 54 to junction Indiana Highway 37, thence along Indiana Highway 37 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Indiana Highway 39, thence along Indiana Highway 39 to junction Indiana Highway 250, thence along Indiana Highway 250 to junction Indiana Highway 7, thence along Indiana Highway 7 to junction Indiana Highway 62, thence along Indiana Highway 62 to junction Indiana Highway 250, thence along Indiana Highway 250 to the Indiana-Kentucky State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo.

No. MC 21170 (Sub-No. E91), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohutki (same as above). Authority sought to operate as a common carrier, by motor vehicles, over irregular routes, transporting: Food products and com-

modities exempt from economics regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale and chain grocery stores, from points in Iowa on and west of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 59 to junction Iowa Highway 175, thence along Iowa Highway 175 to junction Iowa Highway 141, thence along Iowa Highway 141 to junction Iowa Highway 183, thence along Iowa Highway 183 to junction Iowa Highway 37, thence along Iowa Highway 37 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Iowa-Missouri State line, to points in Kentucky. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Inc. pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E92), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohutki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economics regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale and chain grocery stores, from points in Iowa on and west of U.S. Highway 69 to points in Kentucky on and south of a line beginning at the Indiana-Kentucky State line and extending along U.S. Highway 460 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction Kentucky Highway 32, thence along Kentucky Highway 32 to the Kentucky-West Virginia State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Inc. pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E95), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohutki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economics regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale and chain grocery stores, from points in Iowa on and west of a line beginning at the Minnesota-Iowa State line and extending

along unnumbered highway through Lake Park to junction Iowa Highway 10 at Peterson, thence along Iowa Highway 10 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Iowa Highway 141, thence along Iowa Highway 141 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction U.S. Highway 69 to junction U.S. Highway 65, thence along U.S. Highway 65 to the Iowa-Missouri State line, to points in Virginia. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Inc. pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E120), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohutki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on and west of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 169 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction Iowa Highway 117, thence along Iowa Highway 117 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Iowa Highway 14, thence along Iowa Highway 14 to junction Iowa Highway 163, thence along Iowa Highway 163 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction unnumbered highway near Melton, thence along unnumbered highway through Cantril, to the Iowa-Missouri State line, to points in Connecticut on and east of a line beginning at the Connecticut-Massachusetts State line and extending along U.S. Highway 86 to junction Connecticut Highway 89, thence along Connecticut Highway 89 to junction Connecticut Highway 66, thence along Connecticut Highway 66 to junction Connecticut Highway 17, thence along Connecticut Highway 17 to junction U.S. Highway 91, thence along U.S. Highway 91 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E121), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa



52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on and west of a line beginning at the Iowa-Minnesota State line and extending along Iowa Highway 9 to junction Iowa Highway 182, thence along Iowa Highway 182 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction Iowa Highway 3, thence along Iowa Highway 3 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Iowa Highway 44, thence along Iowa Highway 44 to junction Iowa Highway 25, thence along Iowa Highway 25 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction Iowa Highway 5, thence along Iowa Highway 5 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction unnumbered highway at Bloomfield, thence along unnumbered highway through Savannah to the Iowa-Missouri State line, to points in New Jersey. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E122), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on and west of a line beginning at the Iowa-Minnesota State line and extending along Iowa Highway 4 to junction Iowa Highway 7, thence along Iowa Highway 7 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction Iowa Highway 141, thence along Iowa Highway 141 to junction Iowa Highway 89, thence along Iowa Highway 89 to junction Iowa Highway 210, thence along Iowa Highway 210 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction Iowa Highway 92, thence along Iowa Highway 92 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction unnumbered highway at Bloomfield, thence along unnumbered highway through Savannah, to the Iowa-Missouri State line, to points in New Jersey on, west,

and south of a line beginning at the New Jersey-Pennsylvania State line and extending along New Jersey Highway 12 to junction U.S. Highway 202, thence along U.S. Highway 202 to junction U.S. Highway 208, thence along U.S. Highway 208 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction U.S. Highway 202, thence along U.S. Highway 202 to the New Jersey-New York State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E123), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on and west of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 169 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction Iowa Highway 117, thence along Iowa Highway 117 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Iowa Highway 14, thence along Iowa Highway 14 to junction Iowa Highway 163, thence along Iowa Highway 163 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction unnumbered highway near Milton, thence along unnumbered highway through Cantrill, to the Iowa-Missouri State line, to points in New Jersey on and bounded by a line beginning at the Delaware Bay and extending along New Jersey Highway 548 to junction New Jersey Highway 552, thence along New Jersey Highway 552 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E124), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and com-

modities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on and bounded by a line beginning at the Iowa-Nebraska State line and extending along U.S. Highway 75 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction Iowa Highway 5, thence along Iowa Highway 5 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction unnumbered highway near Mark, thence along unnumbered highway through Savannah, to the Iowa-Missouri State line, to points in New York on and east of a line beginning at Lake Ontario and extending along New York Highway 104 to junction New York Highway 34, thence along New York Highway 34 to junction New York Highway 13, thence along New York Highway 13 to junction New York Highway 14, thence along New York Highway 14 to the New York-Pennsylvania State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E125), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa, on, west, and south of a line beginning at the Iowa-Nebraska State line and extending along U.S. Highway 75 to junction Iowa Highway 37, thence along Iowa Highway 37 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Iowa Highway 92, thence along Iowa Highway 92 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction Iowa Highway 5, thence along Iowa Highway 5 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction unnumbered highway at Mark, thence along unnumbered highway through Savannah, to the Iowa-Missouri State line, to points in New York, on, south, and east of a line beginning at the New York-Pennsylvania State line and extending along New York Highway 17 to junction New York Highway 10, thence along New

York Highway 10 to junction New York Highway 7, thence along New York Highway 7 to junction New York Highway 30, thence along New York Highway 30 to junction New York Highway 67, thence along New York Highway 67 to junction U.S. Highway 9, thence along U.S. Highway 9 to junction New York Highway 29, thence along New York Highway 29 to junction New York Highway 153, thence along New York Highway 153 to the New York-Vermont State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E126), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa, on and south of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 59 to junction Iowa Highway 10, thence along Iowa Highway 10 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Iowa Highway 4, thence along Iowa Highway 4 to junction Iowa Highway 141, thence along Iowa Highway 141 to junction Iowa Highway 89, thence along Iowa Highway 89 to junction Iowa Highway 210, thence along Iowa Highway 210 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction Iowa Highway 5, thence along Iowa Highway 5 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction unnumbered highway near Milton, thence along unnumbered highway through Cantrill, to the Iowa-Missouri State line, to points in New York on and south of a line beginning at the New York-New Jersey State line and extending along New York Highway 210 to junction New York Highway 9W, thence along New York Highway 9W to junction U.S. Highway 6, thence along U.S. Highway 6 to the New York-Connecticut State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E133), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene

R. Prohuski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale and chain grocery stores, from points in Iowa, on, south and east of a line beginning at the Illinois-Iowa State line and extending along Iowa Highway 62 to junction U.S. Highway 61, thence along U.S. Highway 61 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 218, thence along U.S. Highway 218 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction Iowa Highway 1, thence along Iowa Highway 1 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction unnumbered highway through Savannah to the Iowa-Missouri State line, to points in Colorado on and south of a line beginning at the Colorado-Utah State line and extending along U.S. Highway 50 to junction Colorado Highway 92, thence along Colorado Highway 92 to junction Colorado Highway 133, thence along Colorado Highway 133 to junction Colorado Highway 135, thence along Colorado Highway 135 to junction unnumbered highway at Almont, thence unnumbered highway to junction Colorado Highway 306, thence along Colorado Highway 306 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Colorado Highway 94, thence along Colorado Highway 94 to junction unnumbered highway to junction Colorado unnumbered highway through Truckton and Kendrick to junction Colorado Highway 96 at Olney Springs, thence along Colorado Highway 96 to the Colorado-Kansas State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Inc., pursuant to No. MC-F-10199.

No. MC 21170 (Sub-No. E134), filed June 4, 1975. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale and chain grocery stores, from points in Iowa on and east of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 52 to junction Iowa Highway 150, thence along Iowa Highway 150 to junction U.S. Highway 151, thence along U.S. Highway 151 to junction U.S. Highway 218, thence along U.S. Highway 218 to junction U.S.

Highway 34, thence along U.S. Highway 34 to junction Iowa Highway 1, thence along Iowa Highway 1 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction unnumbered highway at Bloomfield, thence along Iowa unnumbered highway through Savannah, to the Iowa-Missouri State line, to points in Colorado on and south of a line beginning at the Colorado-Utah State line and extending along the Dolores River to junction Colorado Highway 141, thence along Colorado Highway 141 to junction Colorado Highway 90, thence along Colorado Highway 90 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Colorado-Kansas State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Inc., pursuant to No. MC-F-10199.

No. MC 21170 (Sub-No. E165), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in that part of Minnesota on and west of a line beginning at the North Dakota-Minnesota State line and extending along U.S. Highway 1 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Minnesota Highway 34, thence along Minnesota Highway 34 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Minnesota Highway 9, thence along Minnesota Highway 9 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Minnesota Highway 67, thence along Minnesota Highway 67 to junction Minnesota Highway 68, thence along Minnesota Highway 68 to junction U.S. Highway 14, thence along U.S. Highway 14 to junction Minnesota Highway 83, thence along Minnesota Highway 83 to junction Minnesota Highway 30, thence along Minnesota Highway 30 to junction Minnesota Highway 13, thence along Minnesota Highway 13 to junction U.S. Highway 65, thence along U.S. Highway 65 to Minnesota-Iowa State line, to points in West Virginia on and south of U.S. Highway 52. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E166), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa



52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in that part of Minnesota on and north of a line beginning at the United States-Canada International Boundary line and extending along Minnesota Highway 72 to junction Minnesota Highway 1, thence along Minnesota Highway 1 to junction unnumbered highway, thence along unnumbered highway to junction Minnesota Highway 92 at Clearbrook, thence along Minnesota Highway 92 to junction Minnesota Highway 32, thence along Minnesota Highway 32 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction Minnesota Highway 113, thence along Minnesota Highway 113 to the Minnesota-North Dakota State line, to points in that part of West Virginia on and south of a line beginning at the Kentucky-West Virginia State line and extending along U.S. Highway 52 to junction West Virginia Highway 65, thence along West Virginia Highway 65 to junction West Virginia Highway 10, thence along West Virginia Highway 10 to junction U.S. Highway 19-21, thence along U.S. Highway 19-21 to junction U.S. Highway 219-460, thence along U.S. Highway 219-460 to junction West Virginia Highway 20, thence along West Virginia Highway 20 to junction West Virginia Highway 3, thence along West Virginia Highway 3 to junction West Virginia Highway 63, thence along West Virginia Highway 63 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction U.S. Highway 60, thence along U.S. Highway 60 to the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Inc., located at or near California, Mo.

No. MC 21170 (Sub-No. E167), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in that part of Minnesota on and west of a line beginning at the United States-Canada International Boundary line and extending along Minnesota Highway 72 to

junction Minnesota Highway 46, thence along Minnesota Highway 46 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction Minnesota Highway 6, thence along Minnesota Highway 6 to junction Minnesota Highway 200, thence along Minnesota Highway 200 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction Minnesota Highway 210, thence along Minnesota Highway 210 to junction Minnesota Highway 371, thence along Minnesota Highway 371 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction Minnesota Highway 25, thence along Minnesota Highway 25 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction Minnesota Highway 19, thence along Minnesota Highway 19 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction U.S. Highway 218, thence along U.S. Highway 218 to the Minnesota-Iowa State line, to points in that part of West Virginia on and south of a line beginning at the Kentucky-West Virginia State line and extending along U.S. Highway 52 to junction West Virginia Highway 102, thence along West Virginia Highway 102 to the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E168), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in that part of Minnesota on and west of a line beginning at the United States-Canada International Boundary line and extending along U.S. Highway 53 to junction Minnesota Highway 73, thence along Minnesota Highway 73 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction Minnesota Highway 3, thence along Minnesota Highway 3 to junction Minnesota Highway 60, thence along Minnesota Highway 60 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction U.S. Highway 14, thence along U.S. Highway 14 to junction unnumbered highway, thence along unnumbered highway to junction U.S. Highway 218, thence along U.S. Highway 218 to the Minnesota-Iowa State line, to points in that part of Kentucky on and west of a line beginning at the Indiana-Kentucky State line and extending along U.S. Highway 41 to junction Kentucky Highway 54, thence along Kentucky Highway 54 to junction U.S. Highway 231, thence along U.S. Highway 231 to

junction U.S. Highway 31W, thence along U.S. Highway 31W to junction Kentucky Highway 80, thence along Kentucky Highway 80 to junction U.S. Highway 68, thence along U.S. Highway 68 to junction Kentucky Highway 90, thence along Kentucky Highway 90 to junction U.S. Highway 127, thence along U.S. Highway 127 to the Kentucky-Tennessee State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E169), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in that part of Minnesota on and west of a line beginning at the United States-Canada International Boundary line and extending along Minnesota Highway 72 to junction Minnesota Highway 71, thence along Minnesota Highway 71 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction Minnesota Highway 371, thence along Minnesota Highway 371 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction Minnesota Highway 15, thence along Minnesota Highway 15 to junction U.S. Highway 14, thence along U.S. Highway 14 to junction U.S. Highway 218, thence along U.S. Highway 218 to the Minnesota-Iowa State line, to points in that part of Kentucky on and south of a line beginning at the Indiana-Kentucky State line extending along U.S. Highway 60 to junction Kentucky Highway 86, thence along Kentucky Highway 86 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction U.S. Highway 150, thence along U.S. Highway 150 to junction Kentucky Highway 52, thence along Kentucky Highway 52 to junction Kentucky Highway 30, thence along Kentucky Highway 30 to junction Kentucky Highway 542, thence along Kentucky Highway 542 to junction Kentucky Highway 404, thence along Kentucky Highway 404 to junction Kentucky Highway 7, thence along Kentucky Highway 7 to junction Kentucky Highway 80, thence along Kentucky Highway 80 to junction U.S. Highway 119, thence along U.S. Highway 119 to the Kentucky-West Virginia State line. The purpose of this filing is to eliminate the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E172), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Minnesota on and bounded by a line beginning at the United States-Canada International Boundary line and extending along Minnesota Highway 18, thence along Minnesota Highway 18 to junction Minnesota Highway 21, thence along Minnesota Highway 21 to junction Minnesota Highway 135, thence along Minnesota Highway 135 to junction Minnesota Highway 4, thence along Minnesota Highway 4 to junction Minnesota Highway 23, thence along Minnesota Highway 23 to the Minnesota-Wisconsin State line, thence along the Minnesota-Wisconsin State line to junction U.S. Highway 8, thence along U.S. Highway 8 to junction Minnesota Highway 98, thence along Minnesota Highway 98 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction Minnesota Highway 371, thence along Minnesota Highway 371 to junction Minnesota Highway 210, thence along Minnesota Highway 210 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction Minnesota Highway 38, thence along Minnesota Highway 38 to junction Minnesota Highway 6, thence along Minnesota Highway 6 to junction U.S. Highway 71, thence along U.S. Highway 71 to the United States-Canada International Boundary line and point of beginning, to points in Illinois south and west of a line beginning at the Missouri-Illinois State line and extending along Illinois Highway 13 to junction Illinois Highway 34, thence along Illinois Highway 34 to the Illinois-Kentucky State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E173), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Minnesota on and bounded by a line beginning at the Minnesota-Wisconsin

State line, and extending along Minnesota Highway 58 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction U.S. Highway 63, thence along U.S. Highway 63 to Minnesota-Iowa State line, thence along the Minnesota-Iowa State line to junction U.S. Highway 35, thence along U.S. Highway 35 to junction Minnesota Highway 19, thence along Minnesota Highway 19 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction Minnesota Highway 25, thence along Minnesota Highway 25 to junction U.S. Highway 10-52, thence along U.S. Highway 10-52 to junction Minnesota Highway 98, thence along Minnesota Highway 98 to junction U.S. Highway 8, thence along U.S. Highway 8 to the Minnesota-Wisconsin State line and point of beginning, to points in Illinois on and south of a line beginning at the Missouri-Illinois State line and extending along U.S. Highway 460 to junction unnumbered highway at Carmi, thence along unnumbered highway to the Illinois-Indiana State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E174), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Minnesota on, south, and west of a line beginning at the South Dakota-Minnesota State line and extending along Minnesota Highway 68 to junction Minnesota Highway 19, thence along Minnesota Highway 19 to junction U.S. Highway 35, thence along U.S. Highway 35 to the Minnesota-Iowa State line, to points in Illinois on and south of a line beginning at the Missouri-Illinois State line and extending along U.S. Highway 50 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction unnumbered highway near Cisne, thence along unnumbered highway to junction Illinois Highway 130, thence along Illinois Highway 130 to junction Illinois Highway 15, thence along Illinois Highway 15 to the Illinois-Indiana State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E175), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa

52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and commodities exempt from economic regulation pursuant to the provisions of section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, from points in Minnesota on and bounded by a line beginning at the South Dakota-Minnesota State line and extending along Minnesota Highway 117 to junction Minnesota Highway 27, thence along Minnesota Highway 27 to junction Minnesota Highway 25, thence along Minnesota Highway 25 to junction Minnesota Highway 23, thence along Minnesota Highway 23 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction U.S. Highway 10-52, thence along U.S. Highway 10-52 to junction Minnesota Highway 25, thence along Minnesota Highway 25 to junction Minnesota Highway 5, thence along Minnesota Highway 5 to junction Minnesota Highway 19, thence along Minnesota Highway 19 to junction Minnesota Highway 68, thence along Minnesota Highway 68 to the Minnesota-South Dakota State line, and point of beginning, to points in Illinois on and south of a line beginning at the Missouri-Illinois State line and extending along Illinois Highway 140 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction unnumbered highway, thence along unnumbered highway through Gilmore and Mason, to junction U.S. Highway 45, thence along U.S. Highway 45 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Illinois-Indiana State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E176), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and commodities exempt from economic regulation pursuant to the provisions of section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and grocery stores, from points in Minnesota on and bounded by a line beginning at the North Dakota-Minnesota State line and extending along Minnesota Highway 1 to junction Minnesota Highway 6, thence along Minnesota Highway 6 to junction Minnesota Highway 18, thence along Minnesota Highway 18 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction Minnesota Highway 23, thence along Minnesota Highway 23 to junction Minnesota Highway 25, thence along Minnesota Highway 25 to junction Minnesota Highway 27, thence along



Minnesota Highway 27 to junction Minnesota Highway 117, thence along Minnesota Highway 117 to the Minnesota-South Dakota State line, thence along the Minnesota-South Dakota-Minnesota-North Dakota State line to point of beginning, to points in Illinois on and south of a line beginning at the Missouri-Illinois State line and extending along Illinois Highway 140 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction unnumbered highway near Patoka, thence along unnumbered highway to junction Illinois Highway 37, thence along Illinois Highway 37 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction unnumbered highway at Enterprise, thence along unnumbered highway to the Illinois-Indiana State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E177), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohurski (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Minnesota on and west of a line beginning at the South Dakota-Minnesota State line and extending along U.S. Highway 75 to junction Minnesota Highway 67, thence along Minnesota Highway 67 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Minnesota Highway 30, thence along Minnesota Highway 30 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction Minnesota Highway 4, thence along Minnesota Highway 4 to the Iowa-Minnesota State line, to points in Massachusetts on, east, and south of a line beginning at the New Hampshire-Massachusetts State line and extending along U.S. Highway 140, thence along Massachusetts Highway 140 to junction Massachusetts Highway 16, thence along Massachusetts Highway 16 to junction unnumbered highway at Mendon, thence along unnumbered highway to the Massachusetts-Rhode Island State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E178), filed June 4, 1974. Applicant: BOS LINES,

INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohurski (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Minnesota, on, south, and west of a line beginning at the South Dakota-Minnesota State line and extending along U.S. Highway 14 to junction U.S. Highway 59, thence along U.S. Highway 59 to the Iowa-Minnesota State line, to points in Massachusetts east and south of a line beginning at the Connecticut-Massachusetts State line and extending along U.S. Highway 202 to junction Connecticut Highway 57, thence along Connecticut Highway 57 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Massachusetts Highway 32, thence along Massachusetts Highway 32 to junction Massachusetts Highway 9, thence along Massachusetts Highway 9 to junction Massachusetts Highway 12, thence along Massachusetts Highway 12 to junction Massachusetts Highway 110, thence along Massachusetts Highway 110 to junction U.S. Highway 95, thence along U.S. Highway 95 to the New Hampshire-Massachusetts State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Inc., pursuant to MC-F-10199.

No. MC-21170 (Sub-No. E179), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohurski (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by wholesale, retail, and chain grocery stores, from points in Minnesota on, south, and west of a line beginning at the South Dakota-Minnesota State line and extending along Minnesota Highway 30, thence along Minnesota Highway 30 to junction Minnesota Highway 91, thence along Minnesota Highway 91 to the Minnesota-Iowa State line, to points in Massachusetts. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation, Inc., pursuant to MC-F-10199.

No. MC 30844 (Sub-No. E7), filed May 15, 1974. Applicant: KROBLIN

REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: John P. Rhodes (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meats, meat products, and meat by-products, dairy products, and articles distributed by meat packinghouses, as described in the Appendix to the report in Modification of Permits-Packing House Products, 48 M.C.C. 628, from Denver, Pueblo, and Colorado Springs, Colo., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, Ohio, Michigan, Indiana, Pennsylvania, West Virginia, the District of Columbia, and Chicago, Ill. The purpose of this filing is to eliminate the gateway of Waterloo, Iowa.

No. MC 30844 (Sub-No. E8), filed May 15, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: John P. Rhodes (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Frozen foodstuffs, from points in Indiana to points in Nebraska and Colorado. The purpose of this filing is to eliminate the gateway of Marshalltown, Iowa.

No. MC 30844 (Sub-No. E9), filed May 15, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: John P. Rhodes (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Groceries, from points in Texas, Oklahoma, Kansas, Nebraska, Colorado, and Missouri on and west of U.S. Highway 65 to Detroit, Mich. The purpose of this filing is to eliminate the gateway of Marshalltown, Iowa.

No. MC 30844 (Sub-No. E10), filed May 15, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: John P. Rhodes (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Canned goods, from Indianapolis, Ind., to points in Nebraska, Colorado, Kansas, Oklahoma, and Texas. The purpose of this filing is to eliminate the gateway of Chariton, Iowa.

No. MC 30844 (Sub-No. E11), filed May 15, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: John P. Rhodes (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Canned goods, from the Lower Peninsula of Michigan, to points in Colorado, Nebraska, Kansas, Oklahoma, and Texas. The purpose of this filing is to eliminate the gateway of Ottumwa, Iowa.

No. MC 30844 (Sub-No. E12), filed May 15, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: John P. Rhodes (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Prepared food products, from points in New York to points in Iowa, Nebraska, Colorado, Kansas, Oklahoma, and Texas. The purpose of this filing is to eliminate the gateways of Pittsburgh, Pa., Keokuk, and Davenport, Iowa.

No. MC 30844 (Sub-No. E13), filed May 15, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: John P. Rhodes (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Canned goods and groceries, from Pittsburgh, Pa., to points in Colorado, Kansas, Oklahoma, and Texas. The purpose of this filing is to eliminate the gateway of Keokuk, Iowa.

No. MC 45764 (Sub-No. E6), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, ESSINGTON, PA. 19029. Applicant's representative: ALAN KAHN, 2 Penn Center Plaza Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Commodities, the transportation of which because of size or weight require the use of special equipment, between points in Maryland (except those (a) west of Interstate Highway 81, (b) east of the Chesapeake Bay and the Susquehanna River, and (c) within 75 miles of Philadelphia, Pa.), on the one hand, and, on the other, points in New York on and east of a line beginning at Port Jervis, N.Y., on the New York-Pennsylvania State line and extending northwest over New York Highway 97 to junction New York Highway 42, thence north over New York Highway 42 to junction New York Highway 17 to Liberty, N.Y., thence east Highway 17 to Liberty, N.Y., thence east over New York Highway 55 to junction U.S. Highway 209, thence northeast over U.S. Highway 209 to junction New York Highway 213, thence north over New York Highway 213 to junction New York Highway 28A, thence west and north over New York Highway 28A to junction New York Highway 28, thence northwest over New York Highway 28 to Oneonta, N.Y., thence east over New York Highway 7 to junction New York Highway 28, thence north over New York Highway 28 to junction New York Highway 5S, thence west over New York Highway 5S to Utica, N.Y., thence north over New York Highway 12 to junction New York Highway 365, thence east over New York Highway 365 to junction New York Highway 8, thence northeast over New York Highway 8 to junction New York Highway 30, thence north over New York Highway 30 to junction New York to junction New York Highway 28, thence

northwest over New York Highway 28 to junction New York Highway 30, thence north over New York Highway 30 to the United States-Canadian Border line at Trout River, N.Y. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E7), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, ESSINGTON, PA. 19029. Applicant's representative: ALAN KAHN, 2 Penn Center Plaza Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Commodities, the transportation of which because of size or weight require the use of special equipment, between points in Pennsylvania on, south, and west of a line beginning at the Pennsylvania-Maryland State line and extending north over U.S. Highway 219 to Somerset, Pa., and thence west over the Pennsylvania Turnpike to the Pennsylvania-Ohio State line, on the one hand, and, on the other, points in Bergen, Passaic, and Sussex Counties, N.J. (except those within 75 miles of Philadelphia, Pa.). The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E8), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, ESSINGTON, PA. 19029. Applicant's representative: ALAN KAHN, 2 Penn Center Plaza Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Commodities, the transportation of which because of size or weight require the use of special equipment, between points in Pennsylvania on, south, and west of a line beginning at the Pennsylvania-Maryland State line and extending north over Interstate Highway 83 to York, Pa., thence west over U.S. Highway 30 to junction Pennsylvania Turnpike one mile east of Breezewood, Pa., and thence west over that Turnpike to the Pennsylvania-Ohio State line, on the one hand, and, on the other, points in New York on and east of a line beginning at the New York-New Jersey State line and extending over Interstate Highway 87 to Glen Falls, N.Y., thence east over New York Highway 32 to Hudson Falls, N.Y., thence northeast over U.S. Highway 4 to the New York-Vermont State line. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E9), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: ALAN KAHN, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Commodities, the transportation of which because of size or weight require the use of special equipment, between points in Pennsylvania Highway 27 to junction Pennsylvania Highway 36, thence southeast over Pennsylvania Highway 36 to junction Pennsylvania Highway 949, thence east over Pennsylvania Highway 949 to Ridgway, Pa., thence south over U.S. Highway 219 to Du Bois, Pa., thence east over Pennsylvania Highway 255 to junction Interstate Highway 80, thence east over Interstate Highway 80 to junction Pennsylvania Highway 153, thence south over Pennsylvania Highway 153 to junction U.S. Highway 322, thence east

points in the District of Columbia, on the one hand, and, on the other, points in New Jersey (except those within 75 miles of Philadelphia, Pa.). The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E10), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, ESSINGTON, PA. 19029. Applicant's representative: ALAN KAHN, 2 Penn Center Plaza Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Commodities, the transportation of which because of size or weight require the use of special equipment, between points in the District of Columbia, on the one hand, and, on the other, points in New York on and east of a line beginning at the New York-Pennsylvania State line, and extending north over New York Highway 282 to Nichols, N.Y., thence northeast over unnumbered highway to Owego, N.Y., thence northeast over New York Highway 96 to junction New York Highway 96B, thence northwest over New York Highway 96B to Ithaca, N.Y., thence northwest over New York Highway 96 to junction New York Highway 5, thence west over New York Highway 5 to Geneva, N.Y., thence north over New York Highway 14 to junction New York Highway 31, thence west over New York Highway 31 to Rochester, N.Y., thence northeast over New York Highway 18 to Sea Breeze, N.Y., on Lake Ontario, thence east and north along the south shore of Lake Ontario to the United States-Canadian Border at Cape Vincent, and thence northeast along that Border to its junction with the New York-Vermont State line. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E11), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, ESSINGTON, PA. 19029. Applicant's representative: ALAN KAHN, 2 Penn Center Plaza Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Commodities, the transportation of which because of size or weight require the use of special equipment, between points in Pennsylvania on and north of a line beginning at Erie, Pa., and extending south over Interstate Highway 79 to junction U.S. Highway 322, thence northeast over U.S. Highway 6 to Meadville, Pa., thence east over Pennsylvania Highway 27 to junction Pennsylvania Highway 36, thence southeast over Pennsylvania Highway 36 to junction Pennsylvania Highway 949, thence east over Pennsylvania Highway 949 to Ridgway, Pa., thence south over U.S. Highway 219 to Du Bois, Pa., thence east over Pennsylvania Highway 255 to junction Interstate Highway 80, thence east over Interstate Highway 80 to junction Pennsylvania Highway 153, thence south over Pennsylvania Highway 153 to junction U.S. Highway 322, thence east







plant (including refining, manufacturing, and processing plant) sites of storage sites.

(c) *Machinery, equipment, materials, and supplies* used in, or in connection with, the drilling of water wells, (d) *machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline right of way, (e) *earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with, (1) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (2) the completion of holes or wells drilled, (3) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (4) the injection or removal of commodities into or from holes or wells; (1) from points in Oklahoma on and east of U.S. Highway 77 and on and north of U.S. Highway 66, including Oklahoma City, to points in Tennessee on and east of the Tennessee River, points in Kentucky on and east of U.S. Highway 31W, points in Indiana on and east of U.S. Highway 75 and on and north of U.S. Highway 66 to points in Mississippi on and east of U.S. Highway 51, (3) from Oklahoma City, Okla., to points in Kentucky on and east of U.S. Highway 41, and (4) from points in Kansas to points in Mississippi, Alabama, Georgia, Florida, and South Carolina. The purpose of this filing is to eliminate the gateways of Ottawa Co., Okla., or Cherokee, Crawford, Labette, or Montgomery Counties, Kans., and Van Buren, Ark.

No. MC 76177 (Sub-No. E122), (Correction), filed April 15, 1974, published in the FEDERAL REGISTER December 26, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd St., Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives, and blasting supplies*, from points in New York to points in Texas. The purpose of this filing is to eliminate the gateways of (1) the storage magazine of the Trojan-U.S. Powder, Division of Commercial Solvents Corp., located at the junction of West Virginia Highway 62, and White Church Road near Point Pleasant (Mason County), W. Va.; (2) Grafton, Ill., and points within 2 miles thereof; (3) Wolf Lake, Ill., and points within 15 miles thereof. The purpose of this correction is to cor-

rect the "E" number, previously published as E89.

No. MC 83539 (Sub-No. E25), filed May 24, 1974. Applicant: C. & H. TRANSPORTATION CO., INC., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Kenneth Weeks (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of their size or weight, requires the use of special equipment, and related contractors' materials and supplies when their transportation is incidental to the transportation by carrier of commodities which by reason of size or weight require special equipment, between points in Colorado (except Logan, Sedgwick, Phillips, Washington, and Yuma Counties), and Illinois. The purpose of this filing is to eliminate the gateways of points in Iowa, South Dakota, Missouri, Wichita, Kansas, Texas, and New Mexico.

No. MC 83539 (Sub-No. E27), filed June 2, 1974. Applicant: C. & H. TRANSPORTATION CO., INC., 2010 West Commerce St., Dallas, Tex. 75208. Applicant's representative: Wiley Willingham (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as described in Appendix V to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, the transportation of which, because of their size or weight require the use of special equipment, or handling, and parts thereof, from points in Florida, Alabama, Mississippi, Louisiana, Arkansas, Texas, New Mexico, Arizona, and those points in Georgia on and west of Interstate Highway 75, and those in Oklahoma on and south of U.S. Highway 66 to points in Ohio. The purpose of this filing is to eliminate the gateway of Nashville, Tenn., and points in Ohio.

No. MC 83539 (Sub-No. E29), filed June 3, 1974. Applicant: C. & H. TRANSPORTATION CO., INC., 2010 West Commerce St., Dallas, Tex. 75208. Applicant's representative: Wiley Willingham (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel valves and hydrants, and iron and steel parts, attachments, and accessories for valves and hydrants*, from Houston, Texas to points in Alabama, Arizona, California, Colorado, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Beaumont, Tex.

No. MC 83539 (Sub-No. E30), filed May 17, 1974. Applicant: C. & H. TRANSPORTATION CO., INC., 2010 W. Commerce St., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Wiley C. Willingham (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Plastic pipe* (except those which because of size or weight require the use of special equipment, and except conduit or pipe such as are included in the first findings of the Commission in *T. E. Mercer and G. E. Mercer, Extension-Oilfield Commodities*, 74 M.C.C. 459, 543), from Brownwood, Texas to points in Idaho, Illinois, Iowa, Montana, Oregon, Utah, and Washington. The purpose of this filing is to eliminate the gateway of Oklahoma City, Okla., and Pueblo West, Colo.

No. MC 83539 (Sub-No. E31), filed June 4, 1974. Applicant: C. & H. TRANSPORTATION CO., INC., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Wiley C. Willingham (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, the transportation of which because of size or weight require the use of special equipment, (2) *Self propelled articles*, each weighing 15,000 pounds or more (except in driveway service), and (3) *Related machinery, parts, materials, and supplies* moving in mixed loads, respectively, with the commodities described in (1) and (2) above; (a) between points in California north of San Luis Obispo, Kern, and San Bernardino Counties, on the one hand, and, on the other, points in Texas (except those in Brewster, Presidio, Jeff Davis, Culberson, Hudspeth, and El Paso Counties); (b) between points in Santa Barbara, Kern, and San Luis Obispo Counties, Calif., on the one hand, and, on the other, all points in that part of Texas on, north, and east of a line beginning at the Texas-New Mexico State line, and extending along U.S. Highway 84 to junction with U.S. Highway 87, thence along U.S. Highway 87 to junction U.S. Highway 281, thence along U.S. Highway 281 to the United States-Mexico International Boundary line; (c) between points in Ventura and Los Angeles Counties, Calif., on the one hand, and, on the other, points in Texas on, north, and east of a line beginning at the Texas-New Mexico State line and extending along U.S. Highway 84 to junction U.S. Highway 283, thence along U.S. Highway 283 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction U.S. Highway 290, thence along U.S. Highway 290 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction Texas Highway 123, thence along Texas Highway 123 to junction U.S. Highway 181, thence along U.S. Highway 181 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction U.S. Highway 281, thence along U.S. Highway 281 to the United States-Mexico International Boundary line; (d) between all points in Orange, Riverside, and San Diego Coun-

ties, Calif., on the one hand, and, on the other, all points in Texas on and east of a line beginning at the Oklahoma-Texas State line and extending along U.S. Highway 77 to junction U.S. Highway 90, thence along U.S. Highway 90 to junction Texas Highway 71, thence along Texas Highway 71 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Texas Highway 172, thence along Texas Highway 172 to Port Lavaca, Tex; and (e) between all points in San Bernardino and Imperial Counties, Calif., on the one hand, and, on the other, all points in Texas on and east of a line beginning at the Oklahoma-Texas State line and extending along U.S. Highway 35 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction Interstate Highway 45, thence along Interstate Highway 45 to Galveston, Tex. The purpose of this filing is to eliminate the gateways of points in Colorado and Utah.

No. MC 83539 (Sub-No. E39), filed June 4, 1974. Applicant: C. & H. TRANSPORTATION CO., INC., 2010 W. Commerce St., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Kenneth Weeks (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, requires the use of special equipment, and related contractors' materials and supplies when their transportation is incidental to the transportation by the carrier of commodities which, because of size or weight, require the use of special equipment, between (1) points in North Dakota, on the one hand, and, on the other, points in Virginia (points in South Dakota, Kansas within 50 miles of Nashville, Tenn., and Philadelphia, Pa.); (2) points in Iowa, on the one hand, and, on the other, points in Massachusetts (points in Illinois, Braddock, and Philadelphia, Pa.); (3) points in Nebraska, on the one hand, and, on the other, points in Virginia (points within 50 miles of Nashville, Tenn., and Kansas, Illinois, Braddock, and Philadelphia, Pa.). The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 83539 (Sub-No. E46), filed June 4, 1974. Applicant: C. & H. TRANSPORTATION CO., INC., 2010 W. Commerce St., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Kenneth Weeks (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, requires the use of special equipment, and related machinery parts and related contractors' materials and supplies when their transportation is incidental to the transportation by the carrier of commodities which, because of size or weight, require the use of special equipment, between points in Arizona, on the one hand, and, on the other, points in Minnesota on and east of a line beginning at the Minnesota-Iowa State line

and extending along U.S. Highway 218 to junction Interstate Highway 35, thence along Interstate Highway 35 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction U.S. Highway 23, thence along U.S. Highway 23 to Lake Superior. The purpose of this filing is to eliminate the gateways of points in New Mexico and Illinois.

No. MC 83539 (Sub-No. E56), filed June 4, 1974. Applicant: C. & H. TRANSPORTATION CO., INC., 2010 W. Commerce St., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Kenneth Weeks (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, which because of size or weight, require the use of special equipment, and related machinery parts and related contractors' materials and supplies when the transportation of such commodities is incidental to the transportation of commodities, which because of size or weight, require the use of special equipment, between points in that part of Michigan on and south of U.S. Highway 10, on the one hand, and, on the other, points in Minnesota. The purpose of this filing is to eliminate the gateway of points in Illinois.

No. MC 83539 (Sub-No. E61), filed June 4, 1974. Applicant: C. & H. TRANSPORTATION CO., INC., 2010 W. Commerce St., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Kenneth Weeks (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, requires the use of special equipment, and related machinery parts and related contractors' materials and supplies when their transportation is incidental to the transportation by the carrier of commodities which, because of size or weight, require the use of special equipment, from points in Delaware to points in Kentucky on and west of a line beginning at the Ohio-Kentucky State line and extending along U.S. Highway 68 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Kentucky-Tennessee State line. The purpose of this filing is to eliminate the gateway of Philadelphia and Braddock, Pa.

No. MC 95540 (Sub-No. E348), filed May 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Oleomargarine*, from Detroit, Mich., to points in that part of California on and south of a line beginning at the Pacific Ocean and extending along California Highway 1 to junction U.S. Highway 101, thence along U.S. Highway 101 to junction Interstate Highway 680, thence along Interstate Highway 680 to junction California

Highway 4, thence along California Highway 4 to junction Temporary Interstate Highway 5, thence along Temporary Interstate Highway 5 to junction California Highway 88, thence along California Highway 88 to the California-Nevada State line near Woodfords, Calif. The purpose of this filing is to eliminate the gateway of Florence, Ala.

No. MC 100666 (Sub-No. E38), filed April 4, 1975. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Richard W. May (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Composition board*, from points in Texas (except Pineland or Silsbee and particleboard from Diboll), on or south of a line beginning at the junction of Texas State Highway 203 and the Oklahoma-Texas State line, thence west on Highway 203 to the junction with U.S. Highway 287, thence west on U.S. Highway 287 to the junction with Interstate Highway 40, thence west on Interstate Highway 40 to the New Mexico-Texas State line to points in Illinois. The purpose of this filing is to eliminate the gateways of Acme, Irving, Pineland and Silsbee, Tex., and Craig and Miami, Okla.

No. MC 100666 (Sub-No. E45), filed March 20, 1975. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Richard A. May (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Composition board*, from points in Texas (except Pineland and Silsbee and Particleboard from Diboll) to points in Oklahoma; (except not applicable from points in Texas located in Armstrong, Bailey, Briscoe, Carson, Castro, Cochran, Collingsworth, Dallam, Deaf Smith, Donley, Floyd, Gray, Hale, Hall, Hansford, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, and Wheeler Counties on the one hand; to points in Oklahoma located in Alfalfa, Beaver, Beckham, Blaine, Canadian, Cimarron, Custer, Dewey, Ellis, Garfield, Grant, Harper, Kay, Kingfisher, Logan, Major, Noble, Oklahoma, Osage, Payne, Pawnee, Roger Mills, Texas, Washita, Woods, and Woodward Counties on the other; nor shall the authority apply from points in Texas located in Childress, Cottle, Foard, Hardeman, and Motley Counties, on the one hand, to points in Oklahoma located in Beaver, Cimarron, and Texas Counties on the other, nor shall the authority apply from points in Texas located in Archer, Baylor, Bowie, Cass, Collin, Cooke, Denton, Fannin, Franklin, Grayson, Hardeman, Hopkins, Hunt, Jack, Knox, Lamar, Marion, Montague, Morris, Red River, Titus, Upshur, Van Zandt, Wichita, Wilbarger, Wise, Wood Counties in Texas to points in Oklahoma in the Adair, Atoka, Cherokee, Choctaw,



Delaware, Haskell, Latimer, Le Flore, Mayes, McCurtain, McIntosh, Okmulgee, Pittsburg, Pushmataha, Sequoyah, and Wagoner Counties.) The purpose of this filing is to eliminate the gateways of Acme and Irving, Tex.

No. MC 102567 (Sub-No. E9), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Jo E. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such petroleum products as are liquid chemicals (petrochemicals) in bulk, in tank vehicles, from those points within 150 miles of Henderson, Tex., which are north, south, and west of a line beginning at the junction of U.S. Highway 80 and U.S. Highway 180 near Weatherford, Tex., and extending along U.S. Highway 80/180 to junction Interstate Highway 20, to junction Louisiana Highway 157, to junction Louisiana Highway 132, to junction U.S. Highway 82, to junction U.S. Highway 271, to the Pittsburg-Atoka County line in Oklahoma, to those points in Louisiana west of a line beginning at the Louisiana-Arkansas State line and extending along U.S. Highway 167 to junction Louisiana Highway 34, to junction U.S. Highway 84, to junction Louisiana Highway 107, to junction Louisiana Highway 115, to junction U.S. Highway 71, to junction Louisiana Highway 31, to junction Louisiana Highway 30, to the Gulf of Mexico. The purpose of this filing is to eliminate the gateway of plant site of Dow Chemicals, U.S.A., in Columbia County, Ark.

No. MC 102567 (Sub-No. E19), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Jo E. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such petroleum products as are liquid chemicals (except liquefied petroleum gases), in bulk in tank vehicles, from those points in Texas within 150 miles of Henderson, Tex., including Henderson, and which are south of a line beginning at Chilton, Tex., and extending along Texas Highway 7 to junction U.S. Highway 287, to junction U.S. Highway 190, to the Louisiana-Texas State line, to those points in Kentucky east of a line beginning at the Kentucky-Indiana State line and extending along Kentucky Highway 91 to junction U.S. Highway 41, to the Kentucky-Tennessee State line. The purpose of this filing is to eliminate the gateway of plant site of American Cyanamid Company at Avondale, La.

No. MC 10345 (Sub-No. E1), filed December 4, 1974. Applicant: C. & J. COMMERCIAL DRIVEAWAY, INC., P.O. Box 689, Lansing, Mich. 48903. Applicant's representative: Joseph Gracia (same as above). Authority sought to operate as a common carrier, by motor

vehicle, over irregular routes, transporting: Automobiles, trucks, and chassis, new, used, unfinished, or wrecked, in secondary movements, in truckaway service, from Ft. Wayne, Ind., to points in Iowa, New Hampshire, Tennessee, Vermont, Virginia, New York, Massachusetts, Rhode Island, Connecticut, New Jersey, Pennsylvania, Maryland, West Virginia, Michigan, Kentucky, Indiana, Illinois, Wisconsin, Missouri, Arkansas, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Ohio, the District of Columbia, and those in Texas north of a line beginning at the Texas-Louisiana State line and extending along U.S. Highway 80 to junction U.S. Highway 81, thence along U.S. Highway 81 to the Texas-Oklahoma State line. The purpose of this filing is to eliminate the gateway of Indiana.

No. MC 106401 (Sub-No. E5), filed May 13, 1974. Applicant: JOHNSON MOTOR LINES, INC., P.O. Box 10877, Charlotte, N.C. 28234. Applicant's representative: Thomas G. Sloan (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General Commodities, except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, livestock, and commodities injurious or contaminating to other lading from points in Alamance, Buncombe, Burke, Cabarrus, Caldwell, Catawba, Chatham, Cumberland, Davidson, Davie, Durham, Forsyth, Guilford, Granville, Harnett, Iredell, McDowell, Mecklenburg, Moore, Orange, Randolph, Rowan, Stokes, Surry, and Stanly Counties, N.C., except points on U.S. Highway 29 between the Gaston-Mecklenburg County line and Charlotte, North Carolina Highway 49 between Charlotte and the Junction of unnumbered highway just south of Concord, unnumbered highway between the Junction of North Carolina Highway 49 and Concord, Alternate U.S. Highway 29 between Concord and the Junction of U.S. Highway 29, U.S. Highway 29 between the Junction of Alternate U.S. Highway 29 and High Point, Alternate U.S. Highway 29 between High Point and Greensboro, Alternate U.S. Highway 70 between Greensboro and Junction U.S. Highway 70, U.S. Highway 70 between the Junction of Alternate U.S. Highway 70 and Durham, U.S. Highway 15 between Durham and Oxford, U.S. Highway 158 between Oxford and the Granville-Vance County line, U.S. Highway 220 between the Montgomery-Randolph County line and the Junction of U.S. Highway 311 just south of Randleman, U.S. Highway 311 between the Junction of U.S. Highway 220 just south of Randleman and High Point, N.C. Highway 70 between Durham and the Junction of North Carolina Highway 54 (formerly unnumbered highway), North Carolina Highway 54 between the Junction of U.S. Highway 70 and the Durham-Wake County line, U.S. Highway 29 between Greensboro and the Guilford-

Rockingham County line, U.S. Highway 70 between Salisbury and Hickory, U.S. Highway 321 between Hickory and the Junction of Alternate U.S. Highway 321, Alternate U.S. Highway 321 between the Junction of U.S. Highway 321 and Valmead, U.S. Highway 29 between the Junction of North Carolina Highway 49 and China Grove, to points in South Carolina west or north of a line consisting of western and northern boundaries of Horry, Georgetown, Williamsburg, Clarendon, Calhoun, Orangeburg, and Barnwell Counties, except points on U.S. Highway 123 between the Georgia-South Carolina line and Greenville, U.S. Highway 29 between the Georgia-South Carolina State line and Lyman, Alternate U.S. Highway 29 between Lyman and the South Carolina-North Carolina State line, U.S. Highway 1 between the Georgia-South Carolina State line and the South Carolina-North Carolina State line, U.S. Highway 76 between Columbia and Florence, U.S. Highway 15 between Sumter and the Junction of U.S. Highway 52 near Society Hill, U.S. Highway 52 between Florence and the Junction of U.S. Highway 1 near Cheraw. The purpose of this filing is to eliminate the gateways of Greenville, Spartanburg, Blacksburg, Columbia, Cheraw, Sumter, Florence, and Camden, S.C. and Charlotte, N.C.

No. MC 106603 (Sub-No. E1), filed May 10, 1974. Applicant: DART TRANSIT LINES, INC., 200 Colrain St. SW., P.O. Box 8008, Grand Rapids, Mich. 49505. Applicant's representative: Martin Leavitt (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Building contractors' materials, restricted to roofing materials, from those points in Illinois on, south, and west of a line beginning at the Illinois-Missouri State line, and extending along U.S. Highway 51 to junction U.S. Highway 24, thence along U.S. Highway 24 to the Illinois-Missouri State line, thence along the Illinois-Missouri State line to those points in Ohio north of a line beginning at the Ohio-Indiana State line and extending along U.S. Highway 30 to junction U.S. Highway 30S, thence along U.S. Highway 30S to junction Ohio Highway 95, thence along Ohio Highway 95 to junction Ohio Highway 13, thence along Ohio Highway 13 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction U.S. Highway 250, thence along U.S. Highway 250 to the Ohio-West Virginia State line. The purpose of this filing is to eliminate the gateway of Whiting, Ind.

No. MC 106603 (Sub-No. E2), filed May 10, 1974. Applicant: DART TRANSIT LINES, INC., P.O. Box 80008, Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavett (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Building contractor's materials, restricted to roofing materials, from those points in Illinois on and north of U.S. Highway 17 to

points in Ohio. The purpose of this filing is to eliminate the gateway of Whiting, Ind.

No. MC 106603 (Sub-No. E3), filed May 10, 1974. Applicant: DART TRANSIT LINES, INC., P.O. Box 8003, Grand Rapids, Mich. 49508. Applicant's representative: Martin Leavitt (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Building contractor's materials, restricted to building and roofing materials, from points in Illinois to those points in the Lower Peninsula of Michigan. The purpose of this filing is to eliminate the gateway of Whiting, Ind.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-13747 Filed 5-23-75; 8:45 am]

[Notice No. 775]

#### ASSIGNMENT OF HEARINGS

May 21, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notifi-

#### NOTICES

fied of cancellation or postponements of hearings in which they are interested.

MC 136384 Sub 7, Palmer Motor Express, Inc., now assigned August 4, 1975 at Atlanta, Georgia is postponed to August 11, 1975, at Atlanta, Georgia.

MC 119493 Sub 133, Monkem Company, Inc., application dismissed.

MC 119726 Sub 47, N.A.B. Trucking Co., Inc., application dismissed.

MC-F 12338, Riteway Express, Inc.—Purchase—A. Knorr's Express, Inc., and MC 1668 Sub 6, Riteway Express, Inc., now assigned July 8, 1975, at New York, New York, is postponed to September 9, 1975 in New York, New York.

MC 130279, Four Winds Travel, Inc., now assigned July 23, 1975 at New York, New York, is postponed indefinitely.

MC-C-8619, Transport of New Jersey, Asbury Park-New York Transit Corporation; Decamp Bus Lines; Hudson Bus Transportation Company, Inc.; Hudson Transit Lines, Inc.; Lakeland Bus Lines, Inc.; Lincoln Transit Company; Manhattan Transit Company; Maplewood Equipment Company; New York-Keansburg-Long Branch Bus Company, Inc.; North Boulevard Transportation Company; Somerset Bus Company, Inc.; Suburban Transit Corporation; and Port Authority of New York and New Jersey—Investigation of Operations and Practices; now being assigned July 21, 1975 (1 week) at New York, New York; in a hearing room to be designated later.

No. 36093 Mississippi Public Service Commission v. Illinois Central Gulf Railroad Company, now being assigned September 15, 1975 (1 week), at Jackson, Miss., in a hearing room to be later designated.

MC 25708 Sub 25, Laney Tank Lines, Incorporated; MC 103191 Sub 49, The Goe. A. Rheman Co., Inc. and MC 106119 Sub 22, Associated Petroleum Carriers; now being assigned July 28, 1975 (1 week) at Colum-

bia, South Carolina, in a hearing room to be designated later.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-13746 Filed 5-23-75; 8:45 am]

#### FOURTH SECTION APPLICATION FOR RELIEF

May 21, 1975.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with rule 40 of the general rules of practice (49 CFR 1100.40) and filed on or before June 11, 1975.

FSA No. 42993—Corn and Soybeans Between Points in Iowa. Also From Points in Iowa, Minnesota and South Dakota, to Points in Illinois, Iowa and Wisconsin. Filed by Western Trunk Line Committee, Agent (No. A-2713), for interested rail carriers. Rates on corn and soybeans, in bulk, in carloads, as described in the application, between points in Iowa; also from points in Iowa, Minnesota and South Dakota, to points in Illinois, Iowa and Wisconsin.

Grounds for relief—Unregulated truck competition.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-13745 Filed 5-23-75; 8:45 am]



# **federal register**

TUESDAY, MAY 27, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 102

PART II



## **DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

**Food and Drug Administration**

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### **ADMINISTRATIVE PRACTICES AND PROCEDURES**

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## Title 21—Food and Drugs

## CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Administrative Practices and Procedures

This notice establishes administrative practices and procedures governing activities of the Food and Drug Administration. It includes the procedures under which citizen petitions will be submitted to and considered by the agency, the justification for and conduct of formal evidentiary public hearings, public hearings before a Public Board of Inquiry, public hearings before a public advisory committee, public hearings before the Commissioner, regulatory hearings before the Food and Drug Administration, and standards of conduct and conflicts of interest. It amends existing agency regulations to conform them to the new regulations governing practices and procedures. The new regulations are effective on July 28, 1975. Public comment on the new regulations may be submitted to the Hearing Clerk on or before July 28, 1975. Any changes warranted by such comment will be reflected in a further order modifying those new regulations.

The present administrative practices and procedures of the Food and Drug Administration are largely uncodified and, to the extent that they are included in existing regulations, are spread throughout numerous sections in the Code of Federal Regulations and in agency manuals. Many of these practices and procedures have been developed over the years on an ad hoc basis, to meet immediate needs, without systematically integrating them into the agency's overall practices and procedures. Many of the agency's practices and procedures have not been written down in any manual or regulation. Accordingly, the Commissioner of Food and Drugs has concluded that a thorough review of agency practices and procedures should be undertaken, and that comprehensive regulations should be adopted to codify existing requirements, establish new requirements where none currently exist, and conform present regulations so that practices and procedures will be applied consistently throughout the agency. This notice reflects the continuing efforts of the Food and Drug Administration on this project for more than a year.

Many of the matters covered in these regulations are not explicitly mentioned in any of the laws administered by the Commissioner. The Supreme Court recently recognized in *Weinberger v. Benetex Pharmaceuticals, Inc.*, 412 U.S. 653, 645 (1973), that the Food and Drug Administration has authority which "is implicit in the regulatory scheme, not spelled out in *haec verba*" in the statute. As stated in *Morrow v. Clayton* 326 F. 2d 36, 44 (10th Cir. 1963):

However, it is a fundamental principle of administrative law that the powers of an administrative agency are not limited to those expressly granted by the statutes, but include, also, all of the powers that may fairly be implied therefrom. *Pan American World*

*Airways v. United States*, 371 U.S. 206, 83 S. Ct. 470, 9 L.Ed.2d 325; *United States v. Pennsylvania Railroad Company*, 323 U.S. 612, 65 S.Ct. 471, 89 L.Ed. 499; *United States v. Bailey*, 9 Pet. 238, 34 U.S. 238, 9 L.Ed. 113. The rule in this respect is well stated in 1 Am. Jur.2d, Administrative Law, section 44, p. 848:

The Court is not limited to the mere words of a statute or what is expressly declared therein, and that which is incidentally necessary to a full exposition of the legislative intent should be upheld as being germane to the law. In the construction of a grant of powers, it is a general principle of law that where the end is required the appropriate means are given and that every grant of power carries with it the use of necessary and lawful means for its effective execution. There is therefore conferred by necessary implication every power proper and necessary to the exercise of the powers and duties expressly given and imposed.

The Commissioner concludes that all of the matters covered in the new regulations readily fall within these principles.

The Commissioner notes that this notice promulgates regulations dealing with administrative practices and procedures exclusive of regulatory enforcement activities. The Food and Drug Administration is presently at work codifying the agency's enforcement practices and procedures, which will include regulations relating to imports, criminal prosecution (including both the use of citations under section 305 and the criteria for recommending criminal prosecution), recall and detention of products, publicity, regulatory letters, and related matters. These regulations will be published in the *FEDERAL REGISTER* in the future.

## EFFECTIVE DATE

The Commissioner has concluded that there are compelling public interest reasons why these regulations should be made effective at this time, rather than first publishing them as a proposal with time for public comment.

All of these regulations establish procedures governing the on-going activities of the agency. It is clear that such activities will continue, whether or not written procedures exist to govern them. For example, citizens will continue to submit petitions to the agency, public hearings of all types will be conducted, advisory committees will meet, and other similar activities will take place. Without written regulations of the type established in this notice, considerable confusion and uncertainty about the procedures governing these activities will continue to exist. The Commissioner concludes that, rather than continue with inconsistent, incomplete, and out-of-date agency practices and procedures, many of which have never been codified in any form, it is in the public interest to establish clear new practices and procedures by making these regulations effective 60 days after their publication in the *FEDERAL REGISTER*.

At the same time, the Commissioner wishes to encourage public comment on these regulations. A period of 60 days is provided for submission of such comments. The Commissioner emphasizes that, although all of the regulations established in this notice have been the

subject of intensive agency consideration for over a year, and therefore represent the best current thinking of the Food and Drug Administration, all of them are subject to modification on the basis of persuasive public comment which points out errors, inconsistencies, or sound legal or public policy reasons for changing them. The fact that they are published as final regulations, rather than as a proposal, is simply to permit the orderly transaction of agency business, pursuant to written procedures, during the interim period while public comment is being obtained. Once all public comment has been obtained, further modification of these regulations will be undertaken.

Most of the statutory provisions implemented by these regulations are self-executing, and thus the agency must comply with such requirements regardless whether implementing regulations exist. Similarly, many agency practices and procedures already in existence, but uncodified, require no regulations for continuation. Rather than publish a proposal, which would then of necessity be implemented as if it were a final order, it is more forthright and fair to publish this notice as a final regulation, subject to modification on the basis of the public comment that will be received.

The Commissioner concludes that the Administrative Procedure Act (APA), 5 U.S.C. 553(b), as well as the provisions of these regulations, fully authorize their publication as final regulations with time for comment. Under the APA, all regulations governing procedure or practice may be published without the requirement of notice and public procedure, and indeed any other regulation may be so published where notice and public procedure are impracticable, unnecessary, or contrary to the public interest. The Commissioner concludes, for the reasons stated above, that both of these standards are met in this instance. Under the new regulations themselves, it is provided that any regulation may be issued in final form, without notice and public procedure, under such circumstances, and that in all such instances time will be provided for public comment in order to determine whether additional modification is appropriate. Although the Commissioner has very seldom used this procedure in the past few years, and intends to use it very seldom in the future, it is apparent that on occasions such as this it is the only practicable way to proceed in an orderly fashion with the activities of the agency.

The Commissioner will consider any reasonable request for an extension of the 60-day period for public comment on the new regulations, where good cause is shown. No extension of time for comment will be considered by the Commissioner, however, on any provision of the new regulations on which litigation is instituted. The Commissioner has concluded that, if any provision of the new regulations is challenged in the courts, it will be important to receive and act upon all comments relating at least to that portion of the regulations, so that any modification justified by the com-

ment can promptly be made and judicial reviews can therefore be obtained on the final version of the regulations, as so modified in light of the comments received.

The Commissioner recognizes that, with experience, these new regulations will undoubtedly require additions and modifications. As is true with any attempt to codify procedures on a comprehensive basis, it must be expected that some of the provisions will require change, and new provisions will be needed to clarify existing provisions and to codify new procedures not previously covered. This will necessarily be a lengthy on-going process that will never fully be completed.

## ADMINISTRATIVE PRACTICES AND PROCEDURES (PART 2)

The Commissioner has concluded that Part 2 of Title 21 of the Code of Federal Regulations should be set aside to contain all regulations governing Food and Drug Administration administrative practices and procedures. Accordingly, the existing provisions in Subparts H and M of Part 2, relating to delegations of authority and organization of the Food and Drug Administration, have been transferred to a new Part 5. The provisions relating to formal evidentiary public hearings in present Subpart F of Part 2 are substantially out of date, and are revoked and superseded by the new regulations in Subpart B of Part 2.

## GENERAL (SUBPART A)

Subpart A of new Part 2 is intended to encompass all of the general provisions relating to the agency's practices and procedures. The Commissioner anticipates that, as additional agency policy is established with regard to general practices and procedures, it will be added in the form of new sections in this subpart.

## SCOPE (§ 2.1)

Subpart A of new Part 2 deals with a number of provisions that have general applicability throughout the agency. It contains, for example, uniform requirements with respect to all information filed with the Hearing Clerk, and a standard form for petitions to be filed with the Hearing Clerk. The Commissioner recognizes, however, that specific provisions in other subparts of Part 2, or in other sections of Title 21 of the Code of Federal Regulations, state different requirements applicable to a particular matter. Thus, the form for a new drug application (NDA) in § 314.1(c)(2) will of course remain applicable, as will all of the other specific forms and formats specified throughout present agency regulations. Similarly, an NDA will continue to be submitted to the Bureau of Drugs as provided in § 314.1(c), a food additive petition will continue to be submitted to the Bureau of Foods as provided in § 121.51(c), and other forms will be submitted as provided in current agency regulations. In summary, all information submitted to the Hearing Clerk must comply with

the requirements specified in new § 2.5, except to the extent that other specific sections in existing regulations contain different requirements that are inconsistent with the provisions of new § 2.5. Thus, new general requirements are established that will be applied consistently and uniformly throughout the agency, except to the extent that they are explicitly overridden by specific provisions in other sections.

## DEFINITIONS (§ 2.3)

Section 2.3 contains uniform definitions for use throughout all of Part 2. Some of the more important definitions are as follows:

The definitions clearly distinguish between a "party" to and a "participant" in a formal evidentiary public hearing or a Board of Inquiry. A "party" is any person who has exercised the right to request a hearing and as a result of whose action a hearing has been granted. A "participant" means any person who wishes to participate in any proceeding, including the parties and other interested persons. The bureau of the Food and Drug Administration responsible for the matter involved is always a party in any hearing.

The terms "interested person" and "any person who will be adversely affected" are defined very broadly to mean any person who wishes to participate in any proceeding of the Food and Drug Administration. There is no requirement that such person exhibit any particular interest, or show any specific economic or other harm or other indicia of "standing." Since Food and Drug Administration activities directly affect all members of the public, all members of the public who wish to participate are "interested persons" and "adversely affected" by definition. The courts have ruled that all citizens who wish to challenge agency actions affecting food and drugs are "adversely affected" and thus may properly submit objections and otherwise participate in administrative proceedings where the statute requires such a showing. See *Reade v. Ewing*, 205 F. 2d 630 (2d Cir. 1953).

The term "petition" is defined broadly to include any form of formal request for agency action, including petitions, applications, or other similar documents. It does not include routine correspondence which does not purport to meet the requirements for a petition established in § 2.6(a) of the regulations.

The definitions distinguish between a "regulation" and an "order," for purposes of application of the requirements of the Administrative Procedure Act. Regulations are agency rules of general or particular applicability and future effect that are issued in the *FEDERAL REGISTER* and codified in the Code of Federal Regulations. A regulation may state either a legal requirement or a recommendation of the Food and Drug Administration. Orders mean final agency disposition of an administrative proceeding other than by the issuance of a regulation, including the issuance or revocation of product licenses.

A "meeting" is defined to include any oral discussion, whether by telephone or in person.

"Administrative action" includes every form and kind of act, including the refusal or failure to act, involved in the implementation of the laws administered by the Commissioner. The referral of apparent violations to United States attorneys for the institution of criminal and civil proceedings, including any enforcement activity in preparation for or incidental to such referral, is specifically excluded from this definition, however, since such enforcement action is solely within the discretion of the Commissioner and is not subject to petitions or other action by interested persons outside the agency. Thus, such compliance activity as factory inspection, requests for samples, section 305 citations, and similar matters related to the agency's law enforcement role are not included in this definition.

## SUMMARY OF PROCEDURES (§ 2.4)

Many interested persons have complained that it is difficult to know and understand all of the administrative procedures utilized by the Food and Drug Administration. The Commissioner recognizes that public understanding of agency procedures is essential to encourage and facilitate public participation in all agency activities. Accordingly, § 2.4 of the regulations requires preparation and broad dissemination of summaries of agency procedures, perhaps in pamphlet form, in terms that will be readily understood and usable by the lay public.

SUBMISSION OF DOCUMENTS TO HEARING CLERK; COMPUTATION OF TIME; AVAILABILITY FOR PUBLIC DISCLOSURE (§ 2.5)

Section 2.5 of the regulations contains new uniform requirements for submission of all documents to the Hearing Clerk, except where other provisions in agency regulations specify different requirements.

All submissions must be filed in quintuplicate, except for comments filed by individuals, and must include all data and information referred to or in any way relied upon unless the material has been previously submitted as part of the administrative file in the same proceeding, e.g., a petition for reconsideration may refer to the previously established administrative record without reproducing any portion of it. All such documents shall be considered as submitted on the date on which they are postmarked or delivered in person during regular business hours, unless an applicable regulation or *FEDERAL REGISTER* notice specifies otherwise. Actual copies of all documents to which reference is made are needed because of the Commissioner's experience that they are frequently hard to locate. Documents in a foreign language must be translated to avoid substantial agency resources being devoted to such translation and delay necessitated by obtaining translation.

Submissions must be signed by the person making the submission or by an attorney or other authorized representa-



tive. An attorney or other authorized representative may, of course, submit comments or other documents in his own name, without revealing that he is acting on behalf of a client. If a submission reveals that an attorney or representative is not acting on his own behalf, there must be documentation verifying his authority to act in a representative capacity.

The Commissioner advises that the Food and Drug Administration will require rigid adherence to these new requirements. Failure to comply with the requirements of § 2.5, or any other applicable requirements for format and content in these new regulations, e.g., § 2.112 relating to objections and requests for hearing, will result in rejection of the submission for filing or, if it has been filed, in exclusion from consideration of any portion of the submission which fails to comply. The courts have held that administrative agencies may properly reject a filing when it is deficient in form. See, e.g., *Municipal Light Boards v. Federal Power Comm'n.*, 450 F.2d 1341, 1345-1346 (D.C. Cir. 1971), cert. denied, 405 U.S. 989 (1972). It is therefore essential that the procedural requirements in these new regulations be complied with strictly.

The Commissioner recognizes that it will be difficult for the Hearing Clerk to determine compliance by the hundreds of thousands of submissions made yearly to the Food and Drug Administration with all of the technical requirements of these regulations. The appropriate bureau, the Chief Counsel, and the Associate Commissioner for Compliance may be called upon by the Hearing Clerk to advise as to whether a particular submission should be filed. It is anticipated that some submissions which do not comply will erroneously be filed. Accordingly, the regulations provide that acceptance for filing does not mean or imply that a document in fact meets all applicable requirements of the regulations.

Under some Food and Drug Administration regulations, acceptance for filing means that the agency has determined that a petition contains reasonable grounds for the action requested and that the action requested is in accordance with the law. In view of the fact that the Hearing Clerk is not in a position to make these determinations, the new regulations explicitly provide that acceptance for filing of any document by the Hearing Clerk does not mean or imply anything with respect to the merits of the request.

Because the office of the Hearing Clerk is located in Rockville, MD, it is sometimes inconvenient to deliver a submission which is required to be received by the Hearing Clerk on a specific date. Accordingly, any document delivered to Rm. 6819 of the Food and Drug Administration downtown headquarters building at 200 C Street, SW., Washington, DC, will be considered as having been received by the Hearing Clerk on the date on which it is logged in at that office. The Commissioner emphasizes that this provision applies only to documents that

are required to be received by the Hearing Clerk by a specific date, and not to documents that are required to be mailed to the Hearing Clerk by a specific date.

All submissions to the Hearing Clerk constitute a representation that, to the knowledge and belief of the person making the submission, the statements made are true and accurate. The False Reports to the Government Act, 18 U.S.C. 1001, provides that a willfully false statement in any submission of this type is a felony. All submissions will be required to be signed by the person making the submission, and that individual will therefore be subject to this provision of the law.

Section 2.5(j) governs the availability for public examination and copying of all submissions to the Hearing Clerk. Thus, it is applicable to such matters as petitions and comments on petitions, and also to all evidence and pleadings submitted to the Hearing Clerk in the course of a formal evidentiary public hearing pursuant to Subpart B of Part 2, a public hearing before a Public Board of Inquiry pursuant to Subpart C, a public hearing before the Commissioner pursuant to Subpart E, or any alternative form of public hearing used pursuant to § 2.117 in lieu of a formal evidentiary public hearing. It is not applicable to a public hearing before a public advisory committee pursuant to Subpart D except when it is being used pursuant to § 2.117 or to a regulatory hearing before the Food and Drug Administration pursuant to Subpart F, however, because those two subparts do not provide for submission of material to the Hearing Clerk. Accordingly, separate provisions in §§ 2.316 and 2.514 govern examination of the administrative record of a public hearing before a public advisory committee and a regulatory hearing before the Food and Drug Administration.

Section 2.5(j) divides submissions to the Hearing Clerk into three categories: those that may be seen and copied by the public, those that may be seen but not copied by the public, and those that may be neither seen nor copied by the public.

The Commissioner concludes that all petitions and comments thereon submitted to the Hearing Clerk must be available for public review and copying. These involve public procedures, and any action to be taken must be justified by the Commissioner to the public. For example, the Commissioner must publicly explain his action in accepting or rejecting any comment on a proposed regulation. Accordingly, material which any person does not wish to become available to the public should not be submitted to the Hearing Clerk with a petition or comment. Of course, since NDA's, NADA's, and applications for biologics licenses are submitted directly to the bureaus and not to the Hearing Clerk, their availability for public disclosure is governed by the provisions on public information in Part 4 and the regulations referenced therein, and not by the provisions of § 2.5(j).

The Commissioner concludes that the type of issue which is likely to be con-

sidered at a public hearing before the Commissioner pursuant to Subpart E of Part 2 is very similar to the type of issue likely to be considered in petitions and comments. Such a hearing will involve policy issues, not technical issues of the kind that will require submission and detailed consideration of trade secret material. For example, any valuable safety and effectiveness data relevant to such a hearing can be discussed in summary form without submitting the full reports in a way that would destroy their commercial value. Accordingly, all material submitted by any person at a public hearing before the Commissioner pursuant to Subpart E will also be fully available to the public.

The only exception to this will be when a public hearing before the Commissioner is being used pursuant to § 2.117 in lieu of a formal evidentiary public hearing. In that situation the same rules on examination and copying of the administrative record will apply as would apply if it were held pursuant to Subpart B, i.e., § 2.5(j) (2) and (3) will be applicable. The Commissioner concludes that the same disclosure rules must apply to all alternative forms of public hearing used under § 2.117.

Objections and requests for hearing filed pursuant to Subpart B, and material submitted at either a formal evidentiary public hearing or a public hearing before a Public Board of Inquiry, will also be fully available to the public except to the extent prohibited by the provisions in § 2.5(j) (2) and (3), discussed below, which limit public access to particular types of material. The Commission is of the opinion that public proceedings of any type should be held on the basis of publicly available data and information wherever possible. Unless this is true, participants in the proceeding may not be in a position to review and evaluate all relevant information, and thus to participate in such proceedings in a meaningful way. Accordingly, the Commissioner has concluded that all data and information submitted to the Hearing Clerk relating to such proceedings must be available for examination and copying by the public, with only very limited exceptions.

The exceptions to the general rule for public disclosure of material submitted to the Hearing Clerk are set out in § 2.5(j) (2) and (3), and relate solely to data and information which constitute trade secrets or which represent a clearly unwarranted invasion of personal privacy.

With respect to data and information involving personal privacy, the Commissioner has previously stated in paragraph 127 of the preamble to the public information regulations promulgated in the *FEDERAL REGISTER* of December 24, 1974 (39 FR 44602) that the right to privacy is a fundamental principle of law and ethics. Accordingly, §§ 4.63 and 4.82 prohibit discretionary release of any information that falls within the personal privacy exemption to the Freedom of Information Act. That policy is fully reflected in § 2.5(j) (3), which similarly prohibits public disclosure of material submitted to the Hearing Clerk which

contains data and information of a privacy nature, e.g., names of medical patients. The Commissioner anticipates that the prohibition against submission of such material to the Hearing Clerk in § 2.5(c) (4) will prevent its submission. If it is submitted and filed, however, it will not be available for public disclosure.

With respect to data and information which constitute trade secrets and confidential commercial or financial information, the agency's public information regulations published on December 24, 1974 reflect detailed consideration of the application of the provisions of 21 U.S.C. 331(j) and 18 U.S.C. 1905, which need not be repeated here. Those regulations clearly distinguish between material which provides a competitive advantage because it is needed for submission to the Food and Drug Administration by each person who wishes to obtain approval for marketing of a particular product (safety and effectiveness data) and material which, if known to any competitor, could be put to use directly by that competitor in his business activity (manufacturing and quality control procedures, production and sales data, quantitative and semiquantitative formulas, and design and construction information). The former have an indirect competitive effect, and the latter have a direct competitive effect. Accordingly, slightly different rules were adopted in the provisions of Part 4 and the regulations referenced therein with respect to these two different categories of material.

The Commissioner has concluded that the same distinction should be reflected in the provisions of § 2.5(j) (2) and (3) with respect to public disclosure of material filed with the Hearing Clerk. Data and information relating to safety and effectiveness, which of course necessarily reveal the protocols involved, will be placed on public display in the office of the Hearing Clerk but will not be available for copying. In contrast, data and information relating to such trade secrets as manufacturing processes and quantitative formulas will not be available either for examination or for copying by the public. Of course, any data and information which are available for public disclosure pursuant to Part 4 and the regulations referenced therein will be available for public examination and copying pursuant to § 2.5(j) (1) and will not be subject to the limitations set out in § 2.5(j) (2) or (3).

Thus, the provisions in § 2.5(j) (2) relating to limited availability of safety and effectiveness information are applicable only to new drugs and new animal drugs. Safety and effectiveness data relating to food additives, antibiotics, and biologics are available for public disclosure pursuant to the public information regulations promulgated on December 24, 1974.

In accordance with the provisions of Part 4 and the regulations referenced therein, a summary of secret safety and effectiveness data is itself not secret, because no NDA or NADA can properly be approved on the basis of such a summary. Moreover, the public information

regulations promulgated on December 24, 1974, provide that the Food and Drug Administration will release, for every NDA or NADA, a summary of the safety and effectiveness data on the basis of which the approval was made. Accordingly, any hearing which concerns the safety or effectiveness of a new drug or new animal drug will permit full public participation, since any participant will be able to obtain a copy of the summary of all of the relevant data and information and will then be able to check that summary against the full reports of the data and information contained in the office of the Hearing Clerk.

At the same time, providing the full reports only in the office of the Hearing Clerk, and prohibiting their copying or, if they should be copied, subsequent submission to the Food and Drug Administration in support of any petition or application, protects their commercial value to the maximum extent that is consistent with a public hearing. The Commissioner notes that the trade secret status of this type of data and information consists not in actual knowledge of the content of the reports, but in their availability for submission to the agency to support an NDA or NADA. By precluding such submission, the commercial value of this material is preserved.

The Commissioner is unaware of any formal evidentiary public hearing on an NDA or NADA conducted by the Food and Drug Administration since 1938 in which manufacturing processes and similar information were relevant. All such hearings have related to issues of safety and effectiveness. Under the provisions of new Subpart B, only the relevant portions of the NDA or NADA are submitted to the Hearing Clerk, and the irrelevant portions do not become a part of the administrative record. Accordingly, it is highly probable that, in practice, all participants in virtually all future hearings will have access to all of the data and information needed for meaningful participation. It will only be the rare instance where, in order to protect valid trade secrets, relevant information cannot be made available to all participants.

In order to reduce the possibility of damage to commercial interests, § 2.5(j) (2) provides that safety and effectiveness data and information which constitute trade secrets shall be available for public examination only as long as is necessary for participation in a hearing and any subsequent judicial review.

The Commissioner notes that the provisions of § 2.5(j) (2) represent a compromise between the need for public availability of information relevant to a public hearing, and the need for protection of trade secrets. Greater access to the data and information involved is provided than is the situation where no public hearing is held, but less access is provided than for data and information which do not constitute trade secrets. The Commissioner concludes that this resolution of the matter is consistent with applicable statutes and is in the public interest.

The Commissioner realizes that, in some instances, it would be a hardship to require that a participant in a proceeding, who is located elsewhere in the country, come to the Hearing Clerk's office in Rockville, MD, to review data and information that are available for examination in the Hearing Clerk's office but not for copying. Where this occurs, the Commissioner will entertain a petition requesting that the data and information involved be sent to the nearest Food and Drug Administration District Office, where they may be examined by the participant.

The Commissioner emphasizes that the provisions in § 2.5(j) will be strictly followed. If a person submits comments on a regulation and marks some of the attachments as "confidential," those attachments will be placed on public display in accordance with the provisions of §§ 2.5(j) (1) and 4.27 without consultation with the person who has submitted the information.

In some proceedings, the new regulations require the Food and Drug Administration to file the prior administrative record, which would include the relevant portions of an NDA or NADA. In performing this function, the Food and Drug Administration may either request that the holder of the NDA or NADA review and make an initial designation of those portions for which full public access is not warranted, pursuant to § 2.5(j) (2) or (3), after which the agency will make its final determination on the matter; or the agency may itself make a determination and then consult with the holder of the NDA or NADA on any close questions pursuant to the provisions of § 4.45.

#### INITIATION OF ADMINISTRATIVE PROCEEDINGS (§ 2.6)

Section 2.6 recognizes that an administrative proceeding may be initiated in any of three ways: On the initiative of an interested person outside the agency, on the agency's initiative, or at the request of a court.

The Supreme Court has held, in the four decisions it handed down on June 18, 1973, relating to the agency's regulation of new drugs, that the Food and Drug Administration has primary jurisdiction to make the initial administrative determination on issues within its statutory mandate: "A decision that FDA lacks authority to determine in its own proceedings the coverage of the Act it administers, subject of course to judicial review, would seriously impair FDA's ability to discharge the responsibility placed on it by Congress." *Ciba Corp. v. Weinberger*, 412 U.S. 640, 643 (1973). Accordingly, § 2.6(b) provides that the agency will request a court to dismiss, or to hold in abeyance its determination of, or to refer to the agency for administrative determination, any issue within the agency's jurisdiction which has not previously been determined by the agency or which, if it has previously been so determined, the agency concludes should be reconsidered and subject to a new administrative determination.



## CITIZEN PETITION (§ 2.7)

The Administrative Procedure Act, 5 U.S.C. 553(d), provides that every agency shall accord any interested person the right to petition for the issuance, amendment, or repeal of a rule. Even more fundamental, the First Amendment to the Constitution explicitly recognizes the right of the people to petition the government for a redress of grievances. Accordingly, § 2.7 provides that any person may submit to the agency a citizen petition requesting the Commissioner to issue, amend, or revoke a regulation or order to take or refrain from taking any other form of administrative action.

The citizen petition is intended to cover every form of agency administrative activity, including a refusal to act. It may relate to factual, policy, or legal issues. The regulation does not set out all of the possible activities involved because it is intended to be all-inclusive and any such list would necessarily be incomplete. It does not cover, however, referral of matters to United States attorneys for enforcement action in the courts and related regulatory activity.

In the past, there has been no form or other procedural requirements relating to a citizen petition. This has resulted in confusion and uncertainty on the part of those who wish to petition the agency on a particular matter, as well as on the part of those in the agency who have received various forms of requests and have been unable to determine how they should be handled.

Of course, the provisions of § 2.7 do not apply to routine correspondence. Where members of the public address letters to the Food and Drug Administration making informal requests or suggestions, they will be handled in the same way as other correspondence rather than as petitions under § 2.7. For example, anyone may send a letter to the agency suggesting particular action which, if the agency then pursues the matter on its own initiative, obviates filing a petition pursuant to § 2.7. Denial of an informal request or suggestion encompassed in routine correspondence will not be sufficient, however, to constitute final agency action and to invoke the right to judicial review of administrative action as set out in § 2.11 of the new regulations. Only those matters specifically raised in a formal petition submitted pursuant to § 2.7 will require a formal response by the Commissioner which constitutes final agency action subject to such court review.

The provisions of § 2.7 will therefore in no way impede the normal flow of informal and routine correspondence by the agency, on the basis of which most of its daily work is accomplished. Rather, § 2.7 will be reserved for those specific matters where, perhaps after informal discussion and correspondence, a member of the public concludes that a formal proceeding should be initiated to resolve a particular matter. Thus, the agency will easily be able to distinguish between informal discussion and formal petitions

in a way that has not previously been possible.

The petition must include the action requested, a statement of grounds, and the environmental impact, if any, of the action requested. In addition to including all data, information, and views on which the petition relies, it must also include representative data and information known to the petitioner that are unfavorable to the petition. The Commissioner has found, in reviewing petitions submitted in the past, that adverse or unfavorable information is omitted and ignored, thus resulting in a very unbalanced and misleading presentation. It is for this reason that, in recent regulations, the Commissioner has required submission of representative unfavorable information in order to provide a more balanced and reasonable presentation, e.g., § 328.30(c)(18) relating to submission of data and information on in vitro diagnostic products in connection with the development of a standard. Without such a requirement, a person submitting a petition could present only one side of the story and thus mislead both the Food and Drug Administration and the public as to the true situation. This provision will prevent, for example, a manufacturer from submitting only data showing the safety and utility of an ingredient or product, or a consumer advocate from submitting data showing only the hazards from an ingredient or product. In both instances, a balanced presentation, showing representative data on both sides of an issue, will be required. The failure to include such data and information would constitute a violation of the False Reports to the Government Act, 18 U.S.C. 1001.

Any petition which appears to meet the requirements set out in this new regulation shall be filed by the Hearing Clerk and handled in accordance with the provisions of this regulation. A docket number will be assigned to each petition (or to related petitions) which will be used to identify the administrative file established by the Hearing Clerk for all submissions relating to that petition.

The Commissioner on occasion receives petitions on which others wish to comment before the Commissioner takes action. The new regulation provides that such comments may be submitted to the Hearing Clerk and will be included as part of the administrative file.

The Commissioner will review and rule upon every petition as soon as possible, taking into consideration the agency resources, the priority assigned to the matter, and time requirements established by statute. Perhaps the greatest problem facing the Food and Drug Administration today is the scarcity of resources to deal with petitions and other similar requests. Quite frequently, a lack of resources, and the high priority necessarily given to health-related matters, requires that important but lower priority matters be deferred for a substantial period of time. It is evident that not all petitions can be handled in a short period of time, simply because of the lack of resources available. Thus the Commission-

er anticipates that, in a significant number of instances, petitions with a relatively low priority will not be acted upon promptly.

An apparent delay in responding to a petition may also result from the fact that the agency is in the process of taking action of the type sought in the petition, but has not reached the point of implementation. To grant the relief sought in the petition in such instances would be premature; to deny the petition would constitute final administrative action possibly triggering the unnecessary initiation of judicial review by the petitioner. A delay in ruling on the petition is prudent in such instances.

A determination with respect to the priority to be assigned to any particular petition or other matter must of necessity be within the discretion of the Commissioner, who is charged with the responsibility for implementing all provisions of the laws subject to his jurisdiction.

A petitioner may supplement or amend his petition at any time, and may withdraw it without agency approval at any time before the Commissioner rules on it.

The decision of the Commissioner on a petition shall be in writing and shall be sent to the petitioner as well as placed in the public administrative file in the office of the Hearing Clerk. The Commissioner has inherent discretionary power to set any reasonable effective date relating to any decision resulting from a citizen petition.

In reviewing the matter and making his decision, the Commissioner may, in his discretion, utilize any of a wide variety of optional procedures specified in the regulation.

The record of the administrative proceeding is specified in § 2.7(i) of the regulations. Under § 2.7(j), that administrative record shall constitute the exclusive basis for the Commissioner's decision. Accordingly, any subsequent judicial review shall be based solely upon that administrative record and the Commissioner's decision. If the Commissioner or any interested person wishes to rely upon other data or information not included in the administrative record, the new information must be submitted with a new petition seeking to modify the decision.

The Hearing Clerk is required to maintain a chronological list of all petitions filed pursuant to this section, including all requests for advisory opinions pursuant to § 2.19, showing the docket number, the date of filing, the name of the petitioner, and the subject matter involved. This list will exclude petitions submitted elsewhere in the agency pursuant to § 2.6(a)(1) of the new regulations. Those other petitions will be listed in the list of regulations prepared pursuant to § 2.10(i) of the new regulations or in other lists, e.g., the list of approved NDA's available pursuant to § 4.117(a)-(1) of the newly-promulgated public information regulations published in the FEDERAL REGISTER of December 24, 1974 (39 FR 44602).

## ADMINISTRATIVE RECONSIDERATION OF ACTION (§ 2.8)

Section 2.8(a) recognizes the inherent right of any administrative official to reopen and reconsider any matter, at any time, on his own initiative or on the petition of any interested person, for any reason whatever. This principle has long been recognized by the courts. See, e.g., *United States v. Pierce Auto Freight Lines, Inc.*, 327 U.S. 515, 534-535 (1946); *Interstate Commerce Comm'n. v. Jersey City*, 322 U.S. 503, 517-518 (1944); *American Chain & Cable Co. v. F.T.C.*, 142 F.2d 909, 911 (4th Cir. 1944); and *Cla Mexicana De Gas v. Federal Power Comm'n.*, 167 F.2d 804, 806-807 (5th Cir. 1948).

Section 2.8(b) contains a specific form for use by any interested person who wishes to request reconsideration by the Commissioner of any part or all of a decision rendered on the basis of a petition submitted pursuant to § 2.6(a), i.e., either in the form specified in § 2.7(b) or in a form specified in any other applicable section in Food and Drug Administration regulations. A petition for reconsideration must be limited to the administrative record on which the Commissioner made his decision, and must be filed within 30 days after the date of the decision involved and before legal action is brought in the courts to review such action. A petition for reconsideration submitted later than 30 days after the date of decision shall be denied as untimely. The Commissioner concludes that a strict time limit of 30 days must be established for such a petition, as well as for a petition for an administrative stay of action pursuant to § 2.9, in order to make certain that such matters are settled promptly. Although filing such petitions does not operate to delay any administrative action, the uncertainty that would be generated by permitting such petitions at any point in time would undermine effective implementation of the act.

A petition for reconsideration is limited to those situations involving reconsideration of a matter arising out of a petition submitted pursuant to § 2.6(a) of the regulations. The Commissioner concludes that, although he may, and in many instances will, reconsider other matters on his own initiative or at the request of an interested person, a formal petition for reconsideration should be limited to those situations in which a well-defined administrative record delineates the data and information on which a decision is reached, and where the decision is in writing. In the future, this will cover all matters where interested persons have formally requested action of the Commissioner, since all such formal requests must be the subject of a petition filed pursuant to § 2.6(a). Formal reconsideration of any other action must be initiated in the form of a petition pursuant to § 2.7, so that an appropriate administrative record can be delineated and considered. This procedure will be utilized, for example, where the Commissioner takes action on his

own initiative rather than pursuant to a petition, and thus the formal administrative record of the type specified in § 2.7 is not yet designated and ready for reconsideration.

The Commissioner has broad discretion in determining whether he should reconsider a matter as a result of a petition for reconsideration. If he concludes that a matter should be reconsidered, he must promptly review the merits of the matter and reaffirm, modify, or overrule his prior decision. His decision on reconsideration, like his initial decision, shall be made in writing, sent to the petitioner, and filed with the Hearing Clerk. In the event that reconsideration is undertaken, all pertinent records will become part of the administrative record of the proceeding.

## ADMINISTRATIVE STAY OF ACTION (§ 2.9)

Section 2.9(a) recognizes the inherent authority of an administrative official to set and to stay or postpone the effective date of any administrative action on his own initiative, or on the petition of any interested person, for good cause. See, e.g., 5 U.S.C. 705 and *N.L.R.B. v. Pool Mfg. Co.*, 339 U.S. 557, 580-582 (1950); *Moog Industries, Inc. v. Federal Trade Comm'n.*, 355 U.S. 411 (1948); *Niagara Mohawk Power Corp. v. Federal Power Comm'n.*, 379 F.2d 153, 158-159 (D.C. Cir. 1967); 1 Davis, *Administrative Law* Treatise § 6.07 (1958 ed.).

In contrast to the provisions governing reconsideration of action, which are limited to matters arising from petitions submitted pursuant to § 2.6(a), § 2.9(b) provides that an administrative stay of action may be requested with respect to any decision of the Commissioner. Such request for stay must be in the form specified in the regulations, and shall be submitted within 30 days after the date of the decision involved. For any decision published in the FEDERAL REGISTER, the date of decision shall be the date of such publication. A request for postponement or extension of the effective date of any regulation shall be made by submitting a petition for a stay pursuant to this regulation. The record of the administrative proceeding with respect to any requested stay shall become part of the total administrative proceeding relating to that matter.

For the same reasons that court enforcement action has been excluded from the definition of administrative action and thus cannot be the proper subject of a petition, it is also not a proper subject of a petition for an administrative stay of action.

The regulations point out that the mere filing of a petition for a stay of action pursuant to this section does not, in itself, operate to stay or otherwise delay any administrative action by the Commissioner, including enforcement action of any kind, unless the Commissioner, in his discretion, determines that a stay or delay is in the public interest, or a statutory provision requires a stay, or a court orders a stay. Similarly, other procedural actions taken by an interested person in accordance with the

new regulations, e.g., the filing of a petition or a request for advisory opinion or any other related action, does not stay or delay any administrative action to which it may relate. The Commissioner is charged with enforcement of important regulatory statutes vitally affecting the public health, and a determination as to when enforcement or other administrative action is appropriate must be subject to his discretionary determination, subject of course to judicial review.

The Commissioner may grant a stay or an extension of time for as short or as long a period of time as is justified under the circumstances. Such a stay may be for a specific time period, which can later be extended, or for an indefinite time period.

The Commissioner advises that adoption of a regulation itself constitutes a finding by the Commissioner that the regulation is in the public interest, and requires a substantial showing to justify a stay.

## PROMULGATION OF REGULATIONS FOR THE EFFICIENT ENFORCEMENT OF THE LAW (§ 2.10)

The Commissioner's general authority under section 701(a) of the Federal Food, Drug, and Cosmetic Act to promulgate regulations for the efficient enforcement of the act permits the establishment of any regulations which are "reasonably related to the purposes of the enabling legislation." See *Mourning v. Family Publications Services, Inc.*, 411 U.S. 356, 369 (1973), and *Thorpe v. Housing Authority of the City of Durham*, 393 U.S. 268, 280-281 (1969). All such regulations are subject to the procedural requirements and exemptions for informal rule making set out in the Administrative Procedure Act, 5 U.S.C. 553.

In addition to the general rule making authority under section 701(a) of the act, section 701(e) and certain other sections of the act specify particular provisions of the law with respect to which Congress concluded that more detailed and formal procedural requirements should be established. Those particular provisions, which are specified in § 2.12(c) (1) through (15) of the new regulations, require rule making "on a record" and thus are subject to a formal evidentiary public hearing pursuant to the requirements of 5 U.S.C. 556 and 557, as spelled out in the provisions contained in Subpart B of Part 2 of the new regulations. The provisions of § 2.10 therefore apply only to regulations not subject to the provisions of § 2.12 except insofar as § 2.12 and Subpart B incorporate by reference some of the general requirements of § 2.10.

Section 2.10(b) spells out the procedure for the promulgation of regulations to implement the laws administered by the Commissioner.

Each notice of proposed rule making must contain in the first or second paragraph a general statement describing the substance of the document in broad and simple terms, similar to the first paragraph of this notice promulgating these new regulations. The Commissioner has



received numerous requests that the agency include such a paragraph in all notices so that it can be reproduced and used by interested publications to describe, in terms readily understood by the public, the scope and intended impact of the proposal.

Each proposed regulation will also contain a proposed effective date. Most proposals published in the past have not specified the proposed effective date, and thus interested persons who have submitted comments have not had an opportunity to express their views on this aspect of the matter.

Ordinarily, 60 days will be provided for comment on a proposal, although the Commissioner may reduce or extend this time period for good cause. Approximately 3 years ago, the normal period for comment was extended from 30 days to 60 days in order to provide sufficient time for comment on most proposals, and to avoid the constant requests for additional time for comment that were then prevalent. Unfortunately, the Commissioner has found that many people do not take the stated time for comment seriously, and instead wait until the last minute before beginning work on their submission, with the belief that any request for extension will usually be granted. In the future, therefore, the Commissioner intends to deny requests for time extension without an extremely persuasive showing of good cause. Extensions of time to comment will not routinely or ordinarily be granted.

Two types of time extension may be utilized, where justified. First, a short period of time, of less than 30 days, may be granted to one or more persons by letter or memorandum filed with the Hearing Clerk without the necessity of a published notice in the *FEDERAL REGISTER*. Second, any extension of time for comment of 30 days or longer shall be the subject of a notice published in the *FEDERAL REGISTER* and shall be applicable to all interested persons.

Ordinarily, in accordance with § 2.5, all comments must be submitted to the Hearing Clerk in quintuplicate. The Commissioner recognizes, however, that this would be a burden upon individual members of the public who usually submit comments by letter, without enclosing any copies. Accordingly, individuals need submit only one copy of their comments.

Any interested person may of course petition for the establishment of a regulation in accordance with § 2.6(a). In the past, there have been no explicit criteria for determining when the Commissioner will issue a proposal to be published in the *FEDERAL REGISTER* on the petition of an interested person. The new regulation spells out the criteria for making this discretionary determination.

The Commissioner may, in his discretion, issue for publication two or more alternative proposals on the same subject to obtain comment on the different alternatives. Where the Commissioner does not have sufficient information to make a determination whether a proposal should be published, he may instead issue a notice stating that the petition has

been filed and requesting additional comment and information to determine whether a proposal is justified.

After the time for comment on a proposed regulation has expired, the Commissioner shall review the comments and terminate the proceeding, issue a new proposal, or promulgate a final regulation. Once again, the time within which this can be accomplished will be determined according to the priority of the matter in relation to other matters pending before the agency and the resources available to the agency for this type of work at that moment. No specific time period can be established with respect to this process because of the uncertainties involved.

The new regulations point out that the Commissioner's decision must be based on the entire administrative record, and that the quality and persuasiveness of the comments, rather than the number or length of comments, shall determine the Commissioner's conclusions on them. In the past, many persons have erroneously believed that the number of comments is in some way relevant to the Commissioner's decision. As a result, on several occasions the Commissioner has been flooded with thousands of form letters, each making the identical point, and often in identical words. The Commissioner advises that such repetitive comments are given no more weight than a single comment, and indeed that a single well-reasoned comment, relying upon sound data and information, will be given far greater weight than a large number of form letters which simply support or oppose a proposal in conclusory terms.

The Commissioner notes that agency experience shows that most comments filed in response to a proposal oppose the proposal in whole or in part. Indeed, in many instances all comments will oppose the proposal. This is true because persons opposing a proposal are far more likely to respond to the invitation for comment than are persons who support it. It is therefore apparent that the number of comments supporting or opposing a proposal must be regarded as immaterial to the Commissioner's ultimate decision.

Under the Administrative Procedure Act, 5 U.S.C. 706, the final regulation will be upheld by a court unless it is found, in light of the administrative record before the Commissioner at the time he made his decision, to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. Accordingly, the Commissioner's determination with respect to the final regulation must rest upon all of the information in the administrative record, including both the data and information submitted with the comments and the data and information identified by the Commissioner as relevant to the matter. It is this administrative record, and only this record, on which the Commissioner makes his decision.

The Administrative Procedure Act, 5 U.S.C. 553(c), requires that the agency incorporate in each regulation it promulgates "a concise general statement" of

the basis and purpose of the regulation. The courts have held that, although the agency is not required to develop specific and detailed findings and conclusions of the kind customarily associated with formal proceedings, it does require a sufficiently reasoned articulation of the administrative decision to permit meaningful judicial review. See, e.g., *Federal Trade Comm'n. v. Sperry & Hutchinson Co.*, 405 U.S. 233, 245-250 (1972); *Securities & Exchange Comm'n. v. Chenery Corp.*, 318 U.S. 80, 87-95 (1943); *National Nutritional Foods Ass'n. v. Weinberger*, F.2d (2d Cir. 1975); *Consumers Union v. Consumer Product Safety Comm'n.*, 491 F.2d 810, 812 (2d Cir. 1974); *Kennecott Copper Corp. v. Environmental Protection Agency*, 462 F.2d 846, 850 (D.C. Cir. 1972); *Environmental Defense Fund v. Ruckelshaus*, 439 F.2d 584, 597-598 (D.C. Cir. 1971); and *Automotive Parts & Accessories Ass'n. v. Boyd*, 407 F.2d 330, 338 (D.C. Cir. 1968). The new regulations therefore require that the preamble to the final regulation summarize each type of comment received, state the Commissioner's conclusions with respect to it, and contain a thorough and comprehensible articulation for the Commissioner's decision on each issue so raised.

The Administrative Procedure Act, 5 U.S.C. 553(b), provides that regulations that are interpretive, or that relate to agency practices and procedures, may be published as final regulations without time for comment. Nevertheless, as a matter of policy, the Commissioner has concluded that ordinarily such regulations will be published with time for comment before they are adopted, with the exceptions discussed below. Thus, they will be handled in the same way as any other regulations. This is in accordance with recent recommendations of the Administrative Conference of the United States, and codifies the practice of the Commissioner for the past three years.

On occasion, the Commissioner issues for publication in the *FEDERAL REGISTER* informational notices of interest to the regulated industry or the public, statements of legal interpretation, and matters involving agency organization and delegations of authority. In accordance with the Administrative Procedure Act, these will be published without time for comment, since they are intended solely for informational purposes and are not the type of material on which public comment is relevant.

In accordance with the provisions of the Administrative Procedure Act, 5 U.S.C. 553(b), the Commissioner may dispense with the requirements of notice and public procedure when he determines for good cause that they are impracticable, unnecessary, or contrary to the public interest. It is pursuant to this provision that the Commissioner has concluded that the notice promulgating these regulations should be issued as a final order rather than as a proposal. However, the new regulations provide that, whenever this procedure is used, the notice promulgating the regulation

must provide an opportunity for submission of comments to determine whether the regulation should subsequently be modified or repealed. This is, of course, the procedure being followed in the promulgation of these new regulations, and codifies current practice.

This procedure assures both that regulations can be promulgated in final form where that is essential, and that even under those circumstances the policy of the Administrative Procedure Act and these new regulations of providing time for public comment will nonetheless be implemented. Moreover, in the event that a court should determine that the regulation must first be published for comment, this defect will already have been cured by explicitly inviting comments and, by expediting consideration of those comments, the agency will be in a position to assure prompt promulgation of a final regulation.

The requirement that a regulation first be published as a proposal for comment is also inapplicable to food additive and color additive petitions and to new animal drug regulations. Food additive and color additive petitions are subject to a notice of filing rather than to a proposal, as provided in sections 409(b)(5) and 706(d)(1) of the act, and new animal drug regulations are promulgated by notice pursuant to section 512(i) of the act.

The regulations provide for a number of alternative optional procedures that the Commissioner may, in his discretion, use in reviewing any proposed or final regulations. All of these procedures have been used by the agency on occasion in the past, and this provision simply recognizes current practice.

The regulations specify the data and information which are included in the record of the administrative proceeding, and on which the Commissioner must base his decision and any reviewing court must base its review. Any interested person who subsequently requests that new information be considered by the Commissioner shall submit it with a new petition to modify the final regulation.

The Hearing Clerk is required to maintain a chronological list of all regulations proposed and promulgated pursuant to the provisions of this section and of § 2.12, which deals with regulations promulgated after an opportunity for a formal evidentiary hearing. The list must show the docket number, the name of the petitioner, if any, and the subject matter involved. This list will exclude those regulations resulting from petitions filed and assigned a docket number pursuant to § 2.7, which will appear separately on the list of petitions required to be maintained pursuant to § 2.7(1) of the regulations.

Thus, § 2.10 of the new regulation sets out a comprehensive procedure for issuance of the vast majority of the regulations promulgated by the Food and Drug Administration. For the most part, it simply codifies and unifies current practice. In the future, all employees of the agency and all interested persons

outside the agency will have available a consistent and fair procedure, in writing, for handling these matters.

#### COURT REVIEW OF FINAL ADMINISTRATIVE ACTION; EXHAUSTION OF ADMINISTRATIVE REMEDIES (§ 2.11)

Once the Commissioner has promulgated a final regulation pursuant to § 2.10, it is subject to judicial review in accordance with the Administrative Procedure Act, 5 U.S.C. 701 et seq., and, in many instances, the Declaratory Judgment Act, 28 U.S.C. 2201. All other forms of final administrative action taken by the Commissioner are also subject to court review in this way, except for those that are solely within the Commissioner's discretion. Section 2.11 establishes the practices and procedures governing such judicial review of most actions. Actions subject to the provisions of § 2.12 and Subpart B of Part 2 are, however, governed by the provisions in Subpart B and not by § 2.11, since unique statutory requirements apply to them.

As already noted, § 2.7 establishes a procedure by which any interested person may formally request action from the Commissioner. Accordingly, § 2.11(b) provides that this administrative procedure must be exhausted before any person may properly seek relief in court with respect to a particular matter. If any person files suit in court before exhausting his administrative remedies, the Commissioner will object to such court action and request its dismissal or referral to the agency on the grounds of a failure to exhaust administrative remedies, the lack of final agency action, and the lack of an actual controversy.

An existing Food and Drug Administration regulation is subject to judicial review under the Administrative Procedure Act, 5 U.S.C. 701 et seq., at any time by any interested person. If the regulation was promulgated some years ago, however, any person who concludes to challenge its legality may wish first to petition the Commissioner pursuant to § 2.7 to amend or revoke the regulation. The Commissioner's decision on that petition, as well as the regulation itself, would then be subject to judicial review in accordance with § 2.11.

A request that the Commissioner stay any form of administrative action must first be directed to the Commissioner in accordance with the provisions of § 2.9 before any request is made that a court stay such action. Pursuant to § 2.9 (b) and (f), such administrative relief must be requested within 30 days after the action involved is taken. If no such request is made within 30 days, any right to request such relief shall be deemed to have been waived, and the Commissioner will object to any subsequent request for a judicial stay on the ground of a failure to exhaust administrative remedies.

The Commissioner recognizes the right of any interested person to seek judicial review of any final agency administrative action, in accordance with *Abbott Laboratories v. Gardner*, 387 U.S. 136 (1967). Once a final agency decision has been made, it is the policy of the

Food and Drug Administration not to interpose technical objections, such as a lack of standing, to the right of any interested person to seek court review. Of course a decision of the Commissioner to institute or not to institute civil or criminal enforcement action in the courts on a particular matter is not subject to judicial review because it is committed by the law solely to his discretion.

The matters handled by the Food and Drug Administration, governing the safety, effectiveness, functionality, and labeling of consumer products that represent over 25 percent of the consumer dollar spent daily in this country, vitally and directly affect the interests of every citizen. Accordingly, applying the standards established in *Sierra Club v. Morton*, 405 U.S. 727 (1972), the Commissioner concludes that every citizen has standing in the courts to contest any action of the agency, and that no objection relating to such standing will be interposed by the agency in such cases. The Commissioner has followed this policy for the past 3 years.

The Commissioner has concluded that current judicial decisions require any court review of final administrative action taken by the Food and Drug Administration to be based solely on the administrative record of the proceeding identified in these regulations, on the basis of which the Commissioner made his decision. No additional data, information, or views may properly be presented to a reviewing court without first presenting them to the Commissioner by a petition pursuant to § 2.6(a), with a request that the action be modified or revoked on the basis of such new information. In short, both the Commissioner and any other person who is interested in any matter pending before the Food and Drug Administration are obligated to submit and identify all relevant data and information at the administrative stage of the proceeding. It is improper for either to wait until the matter is pending before the courts and then to identify new information, or to present new arguments, to support a position. See e.g., *Camp v. Pitts*, 411 U.S. 138 (1973); *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402, 419-420 (1971), and *Bradley v. Weinberger*, 483 F.2d 410, 414-415 (1st Cir. 1973).

Accordingly, all cases involving review of Food and Drug Administration action in the future should properly be decided solely on motions to dismiss or for summary judgment. A trial de novo or the submission of additional written or oral testimony or other evidence would not be proper. Pursuant to recent court decisions, it is apparent that judicial review of administrative action pursuant to the Administrative Procedure Act must proceed on the basis solely of the administrative record involved in the decision in the same way that administrative review of action taken after a formal evidentiary public hearing proceeds on the basis of the established administrative record. New information cannot be introduced at the judicial level, only at the administrative level.



The Commissioner recognizes that, on occasion, the administrative record relating to a particular matter may be found, upon judicial review, to be unclear or incomplete. Under these circumstances, the Commissioner will request that the court remand the matter for further administrative proceedings, prior to a final judicial ruling on the matter. See, e.g., *Securities & Exchange Comm'n. v. Chenery Corp.*, 318 U.S. 80, 93-94 (1943). The Commissioner believes that this procedure is preferable to a court decision based on an inadequate record, after which the Food and Drug Administration could in any event reopen the matter at the administrative level and correct the deficiencies in the administrative record, thereby requiring further judicial review on the basis of the new record.

Similarly, on occasion the administrative record relating to a particular matter may be found, upon judicial review, to be clear and complete, but the court may require further elucidation of the rationale for the administrative action. Under these circumstances, the Commissioner may either request that such further explanation be provided in writing directly to the court without further administrative proceedings, or that the matter be remanded to the agency for further administrative proceedings in order to provide the requested explanation. This choice will depend upon the facts of the specific situation. In neither event, however, would it be necessary or proper for a court to conduct its own evidentiary hearing on the matter. "A failure of the agency adequately to explain its actions is not a warrant to the district court to conduct de novo evidentiary hearing," but rather justifies a remand to the agency for a more complete articulation of its reasoning or a court hearing limited to that purpose. See, e.g., *National Nutritional Foods Ass'n. v. Weinberger*, — F.2d — (2d Cir. 1975).

Depending upon the nature of the specific matter involved, it may well be appropriate for a regulation or other administrative action to remain in effect pending remand to the agency or further court proceedings under these circumstances. Where this is in the public interest, the Commissioner will request that the court not stay the matter pending such remand. See, e.g., *Twin City Milk Producers Ass'n. v. McNutt*, 122 F.2d 564, 568 (8th Cir. 1941).

The Commissioner concludes that the requirement that his decision, and subsequent court review, be based solely on the administrative record will in no way diminish justifiable reliance upon the experience and expertise of the agency with respect to the matters involved. The Federal Trade Commission has for many years exercised its expertise in similar matters through written opinions, and reviewing courts have properly deferred to such expertise where it has been exercised in a reasonable manner and articulated through the written opinion. The requirement that a decision be based upon the record does not mean that such

expertise and judgment must in some way be encapsulated in documentary evidence or "proved" as a "fact," but simply that it be referred to and explained in the comprehensive written statement of the basis for the Commissioner's decision on a particular matter, so that it is a matter of record. For example, the courts have uniformly deferred to the expertise of the Federal Trade Commission in determining that advertising is misleading to the public without the need for specific evidence that particular persons have been so misled, and the Commissioner anticipates that the expertise, experience, and judgment of the Food and Drug Administration in such matters would be similarly recognized. See, e.g., *United States v. An Article of Drug*, — Bact. Unidisk, 394 U.S. 784, 791-792 (1969) and *Federal Trade Comm'n. v. Colgate-Palmolive Co.*, 380 U.S. 374, 384-392 (1965).

Thus, § 2.11 establishes a consistent administrative policy with respect to judicial review. First, it strongly encourages any person who believes that the agency is acting improperly to participate in the proceeding at the administrative level, and to advance all information and arguments at that point rather than wait until the matter has proceeded to the courts. Second, it requires the Food and Drug Administration to identify the data and information on which it bases a decision, and to articulate the reasons for that decision. Third, it encourages any person who believes that the agency has acted improperly to seek judicial review, and guarantees that the Food and Drug Administration will not interpose technical procedural issues but rather will meet the substantive issue on its merits. Fourth, it guarantees to the courts that there will be a specific and designated administrative record and a thorough explanation of the decision on the basis of which an informed judicial review can be conducted, and guarantees to the Commissioner that the court in conducting its review will consider only the data and information reviewed by the Commissioner rather than new information which the Commissioner has had no opportunity to review. In the opinion of the Commissioner, this procedure establishes an extremely fair and reasonable method of proceeding for all interested persons.

The Commissioner is aware of the possibility of a multiplicity of suits in various jurisdictions challenging a particular matter. The Supreme Court pointed out in *Abbott Laboratories v. Gardner*, 387 U.S. 136, 154-155 (1967), that:

... the courts are well equipped to deal with such eventualities. The venue transfer provision, 28 U.S.C. § 1404(a), may be invoked by the Government to consolidate separate actions. Or, actions in all but one jurisdiction might be stayed pending the conclusion of one proceeding. ... A court may even in its discretion dismiss a declaratory judgment or injunctive suit if the same issue is pending in litigation elsewhere. ... In at least one suit for a declaratory judgment, relief was denied with the suggestion that the plaintiff intervene in a pending action elsewhere. ...

Further, the declaratory judgment and injunctive remedies are equitable in nature, and other equitable defenses may be interposed. If a multiplicity of suits are undertaken in order to harass the Government or to delay enforcement, relief can be denied on this ground alone. ... The defense of laches could be asserted if the Government is prejudiced by a delay. ... And courts may even refuse declaratory relief for the non-joinder of interested parties who are not, technically speaking, indispensable.

Accordingly, if suit is brought in more than one jurisdiction on the same matter, the Commissioner will recommend one or more of the procedural mechanisms suggested by the Supreme Court to deal with the matter.

#### PROMULGATION OF REGULATIONS AND ORDERS AFTER AN OPPORTUNITY FOR A FORMAL EVIDENTIARY PUBLIC HEARING (§ 2.12)

In contrast to the regulations issued under section 701(a) of the act and 5 U.S.C. 553, some regulations and orders are designated in the act as requiring an opportunity for development "on the record," i.e., for a formal evidentiary trial-type public hearing conducted in accordance with the Administrative Procedure Act, 5 U.S.C. 556 and 557. In enacting the present act, Congress designated a limited number of provisions subject to this formal requirement. Section 2.12(c) (1) through (18) specifies those provisions of the law, some of which are listed in section 701(e) of the act and others of which are designated elsewhere in the act or other laws, and provides that they are subject to the special provisions established in Subpart B of Part 2. Those proceedings designated in § 2.12(c) (1) through (15) relate to rule making. Those designated in § 2.12(c) (16) through (18) relate to adjudication. The different procedures applicable to each category are set out in Subpart B.

The Commissioner has carefully considered whether the wording of section 701(e) of the act and the related provisions in the other sections of the act listed in § 2.12(c) require development of a formal record pursuant to the Administrative Procedure Act, 5 U.S.C. 556 and 557. This matter has never directly been adjudicated in the courts. In a recent decision, however, the Supreme Court used section 701(e) of the act as an example of a statutory provision which requires a hearing "on the record" and thus a formal evidentiary public hearing. See *United States v. Florida East Coast Railway Co.*, 410 U.S. 224, 237-238 (1973). Although this was dictum, and not a holding, the Commissioner concludes that it represents the Supreme Court's current thinking on the matter and thus should be followed without further litigation. Accordingly, the regulations require an opportunity for a formal evidentiary public hearing for all regulations and orders listed in section 701(e) and related provisions of the act and the Fair Packaging and Labeling Act.

A similar question arises with respect to the biological licensing provisions contained in section 351(a) of the Public Health Service Act, 42 U.S.C. 362(a).

This legal issue has never become a matter of contention, and has never been addressed by the courts. The provisions of 5 U.S.C. 558 relating to licensing do not change the requirement in 5 U.S.C. 554(a) that a formal evidentiary public hearing pursuant to 5 U.S.C. 556 and 557 is required only where the applicable statute specifically provides for an opportunity for a hearing "on the record." See, e.g., *Lincoln Transit Co. v. United States*, 256 F. Supp. 990, 993-994 (S.D. N.Y. 1966). Section 351(a) of the Public Health Service Act does not require a hearing "on the record." Nevertheless, the Commissioner concludes that an opportunity for a formal evidentiary public hearing should be available with respect to the licensing of biologics to the same extent that it is available for non-biological drugs, i.e., new drugs and antibiotics. Section 310.4 presently exempts biological drugs licensed pursuant to section 351(a) from the new drug requirements of section 505 of the act. In promulgating the review procedures for determining the safety, effectiveness, and proper labeling of biological drugs in § 601.25 of the regulations, however, the Commissioner announced in the *Federal Register* of August 18, 1972 (37 FR 16679) that this exemption would be superseded and revoked as the results of the biologics review become available. Accordingly, upon completion of the biologics review, § 310.4 will be totally revoked, and all biologics will be subject to the new drug provisions of the act as well as to the licensing requirements of section 351(a) of the Public Health Service Act. This means that the same procedural requirements will be applicable to biologics as are applicable to other new drugs, including an opportunity for a formal evidentiary public hearing. If these procedures are to be changed, as the Commissioner and the Administrative Conference of the United States believe they should, this is properly done by Congress. Accordingly, the new regulations provide that denial or revocation of a license pursuant to section 351(a) of the Public Health Service Act shall be subject to an opportunity for a formal evidentiary public hearing.

In contrast to the licensing provisions of section 351(a) of the Public Health Service Act, the standards authorized by section 351(d) are properly issued in regulations promulgated pursuant to the general rule making provisions of the Administrative Procedure Act, 5 U.S.C. 553, because they are not required to be based "on the record," and thus are subject to the general rule making provisions in § 2.10 rather than to the formal evidentiary hearing provisions in § 2.12 and Subpart B. The same is true of performance standards for electronic products promulgated pursuant to section 358 of the Public Health Service Act, 42 U.S.C. 263f, for which a hearing "on the record" also is not required by the statute. See *United States v. Allegheny-Ludlum Steel Corp.*, 406 U.S. 742, 756-757 (1972).

## RULES AND REGULATIONS

### SEPARATION OF FUNCTIONS: EX PARTE COMMUNICATIONS (§ 2.13)

In the *Federal Register* of March 24, 1972 (37 FR 6107), the Commissioner issued a proposed regulation to revise former § 2.104, dealing with separation of functions and ex parte communications before and during formal evidentiary public hearings. Former § 2.104 is revoked and replaced by these new regulations. The preamble to that proposal stated that, although present law does not require separation of functions in formal rule making proceedings and does not prohibit ex parte communications during formal hearings of any kind, as long as they are made a matter of record, the Commissioner had concluded that strict separation of functions and an outright prohibition of ex parte communications should be adopted in both formal rule making and adjudication proceedings to avoid even the appearance of unfairness.

Two comments were received on this proposal, one from a law student and the other from a trade association. The law student generally favored the proposal, although he enclosed an excerpt from Davis, *Administrative Law Text*, sec. 13.05 (1972), which strongly opposes formal hearings or separation of functions with regard to any Food and Drug Administration rule making. The trade association also generally approved the thrust of the proposal, although it suggested a number of clarifying changes and requested republication for further comment. The Commissioner concluded to defer final action on this proposal until a complete revision of all of the agency's procedural regulations could be undertaken.

Under the proposal, separation of functions would have occurred as of the moment of publication of a regulation or order on which there is an opportunity for a formal evidentiary public hearing. In the intervening 3 years, the Commissioner has as a matter of policy imposed separation of functions in the following way.

With respect to all rule making except the revocation of antibiotic monographs, separation of functions has been imposed as of the date of publication of a notice of hearing, rather than as of the date of publication of the final regulation which preceded the notice of hearing. This has allowed customary negotiations and attempts at settlement after the regulation is published and requests for hearing are made, and before it is finally concluded that a hearing must be held. Once it is determined that a hearing is necessary, and a notice of hearing has been published, strict separation of functions has been imposed.

With respect to all adjudication and revocation of antibiotic monographs, the Commissioner has imposed separation of functions as of the date of publication of the notice of opportunity for hearing or, in the case of an antibiotic monograph, the date of the request for hearing. This approach to separation of functions was promulgated in the *Federal*

*Register* of March 13, 1974 (39 FR 9750), for new drugs and antibiotics. It is adopted by cross-reference for biologics in these new regulations and will be adopted for new animal drugs in proposed amendments to § 514.200 to be published in the *Federal Register* in the near future.

The Commissioner concludes that the practice developed during the past 3 years should be adopted in new § 2.13. It has worked effectively and efficiently. It has assured all parties to a rule making proceeding that, once it is determined that a formal evidentiary public hearing must be held, all reasonable steps will be taken to make certain that no party to the proceedings improperly or unduly influences either the presiding officer or the Commissioner. It has similarly assured all parties to an adjudication (and to the related proceeding for revocation of an antibiotic monograph) that, once a formal evidentiary public hearing is requested, both the decision about whether a matter is properly subject to summary judgment or requires a hearing, and the decision resulting from any hearing, will be independently considered and resolved by the office of the Commissioner without ex parte communications from the bureau.

Accordingly, § 2.13 provides that, in any matter which is subject by statute to an opportunity for a formal evidentiary public hearing, the rules on separation of functions and ex parte communications become operable for rule making (except antibiotic monographs) as of the date of publication in the *Federal Register* of the notice of hearing, and for adjudication and antibiotic monographs at the time of the notice of opportunity for hearing and request for hearing. After that time, for either a rule making or an adjudication proceeding, the bureau of the Food and Drug Administration which is a party to the proceeding and the other parties to the proceeding are precluded from ex parte communications or any other form of participation with the presiding officer or the Commissioner, except in the way that all parties openly participate in the proceeding. Under the regulations governing adjudicatory proceedings such as withdrawal of approval of an NDA, the bureau involved in the matter submits to the office of the Commissioner a proposed final order granting or denying a hearing, without making this document available to the NDA holder or others, but there may be no ex parte communications between the bureau and the office of the Commissioner about that matter. In the event that ex parte communications do take place, they must be the subject of a written memorandum, and any person involved in such communications shall be made available for appropriate cross-examination and rebuttal testimony.

#### REFERRAL BY COURT (§ 2.14)

As a result of the Food and Drug Administration's primary jurisdiction over the matters within its statutory mandate, any Federal, State, or local court



may hold in abeyance, or refer to the Commissioner, any matter for an initial administrative determination. In such circumstances, the Commissioner shall promptly agree or decline to accept any such referral. The Commissioner will make every reasonable effort to accept such referrals and to institute proceedings to determine the matters so referred, but must reserve the right to decline a referral in light of other agency priorities and the resources available to the agency. In handling such a matter, the Commissioner may, in his discretion, utilize any of the various procedures established in the new regulations.

The Commissioner encourages the judiciary to utilize the provisions of this new section. Referral of complex and technical issues falling within the jurisdiction of the Food and Drug Administration to the agency for an initial administrative determination will promote consistent and fair interpretation and application of the law. See *Weinberger v. Hynson, Westcott and Dunning, Inc.*, 412 U.S. 609, 624, 627 (1973); *Ciba Corp. v. Weinberger*, 412 U.S. 640, 643-644 (1973); *Weinberger v. Bentez Pharmaceuticals, Inc.*, 412 U.S. 645, 652-654 (1973); *National Ethical Pharmaceutical Ass'n. v. Weinberger*, 365 F. Supp. 735 (D.S.C. 1973), aff'd. per curiam, 503 F.2d 1051 (4th Cir. 1974); *Purdue Frederick Co. v. Acme United Corp.*, Ruling on Reference to Food and Drug Administration, Civ. No. N-74-115 (D. Conn., January 30, 1975).

#### MEETINGS AND CORRESPONDENCE (§ 2.15)

In addition to formal proceedings, such as public hearings, the Commissioner recognizes that informal procedures are properly utilized to handle administrative determinations. Indeed, without them, the entire administrative process would bog down in stifling formality.

Such informal procedures include meetings and correspondence. Section 2.15 of the new regulations sets out the rules governing use of these procedures.

Section 2.15(b) relates to the use of an open public meeting to discuss any matter pending before the agency. Public notice of any such meeting shall be given through the agency's public calendar, and may, depending upon the time involved, also be published in the *Federal Register*. Any interested person may attend and participate although no transcript and recording is required, one may be taken and in any event a written summary shall be prepared and retained in any relevant administrative file.

The Commissioner notes that this procedure has usefully been employed in the recent past on a number of occasions. See, e.g., the notices on microwave ovens published in the *Federal Register* of December 5, 1973 (38 FR 33510), on dioxin published in the *Federal Register* of March 8, 1974 (39 FR 9219), and on high intensity mercury vapor discharge lamps published in the *Federal Register* of January 29, 1975 (40 FR 4328). Such meetings are to be conducted informally, very much like a town meeting, and are not to be structured. Unlike a public

hearing before the Commissioner, as established in Subpart E of Part 2 of the new regulations, there is no fixed order in which persons may participate nor any advance notice required of those who intend to attend and participate. The Commissioner anticipates increased use of these public meetings to explore pending matters in the future.

Under § 2.15(c), any meeting between an employee of the Food and Drug Administration and any person outside the Department of Health, Education, and Welfare relating to a pending case or other regulatory action or decision must be recorded in a written memorandum, and filed in the administrative file on the matter, unless it involves only a brief description of the matter provided for informational purposes. This assures that an adequate administrative record will be maintained of all contacts outside the Department on any regulatory matter, to avoid the possibility or appearance of improper influence.

Thus, if a person in another government agency outside the Department, or in Congress, were to telephone any person in the Food and Drug Administration to make any suggestion about a pending regulatory decision, a memorandum will be prepared summarizing the discussion. Other meetings with persons within the Federal government, however, which do not involve a pending regulatory matter, are not subject to this requirement. Preparation of memoranda of meetings with representatives of Congress are subject to additional rules established in paragraph (g) of § 2.15, discussed below.

Section 2.15(d) deals with any private meeting between a person and a representative of the Food and Drug Administration in the agency offices. The Commissioner concludes that is a fundamental right of every citizen to meet with his government in private. The Federal government is created by the people, and absent explicit statutory authority the government has no right to impose upon any citizen who requests an opportunity for a private meeting with a representative of the government a requirement that others outside of the government be present. Accordingly, § 2.15(d)(1) provides that neither the Food and Drug Administration nor any other person may require the attendance of any person who is not a Federal government employee or consultant without the agreement of the person requesting such a private meeting.

At the same time, by statute, the Food and Drug Administration is responsible for matters that affect all members of the public. Accordingly, whenever a private meeting involves a matter covered by paragraph (c) or any other important matter, a decision on an issue, or statements or advice or conclusions to which future reference may be required as part of the administrative record, a written memorandum summarizing the substance of any private meeting shall be prepared by a representative of the agency. This will make certain that any matter which should be documented as part of the public record is in fact so

recorded. The availability of such memoranda for public disclosure is determined by the provisions of the agency's public information regulations in Part 4 and the regulations referenced therein. The Commissioner believes that this will adequately protect the public interest, without infringing upon the citizen's right to a private meeting.

Somewhat different rules apply where the Food and Drug Administration is requested to send a representative to a meeting to be held outside agency offices. The Commissioner recognizes that agency employees have a responsibility to meet with all segments of the public in order to promote the objectives of the act and the agency. Accordingly, § 2.15(e) states that, where an agency representative is invited to attend an outside meeting, he may do so where he concludes that it is in the public interest and will promote the objectives of the act and the agency. He may, of course, request that such meeting be an open meeting when he concludes that this would be in the public interest. He may agree or decline to participate in any such meeting which is held as a private meeting, depending upon which action he concludes will best serve the public interest. In no event, however, may an agency representative knowingly participate in any meeting which is closed on the basis of sex, race, or religion. All outside meetings are subject to the requirements relating to preparation of memoranda summarizing the substance of the meeting.

In addition to meetings initiated by outside persons, Food and Drug Administration representatives may also initiate meetings with any person. Any such meetings with one or two people, e.g., relating to a pending petition, may be held as a private meeting. Any such meeting with a large number of people, however, shall be held as an open public meeting pursuant to § 2.15(b), and thus shall be publicly announced so that any person may attend and participate. Again, all such meetings are subject to the rules for preparation of a memorandum summarizing the substance of the matter, whether they are private or open.

The Commissioner recognizes that the content of summaries of oral discussions, whether by telephone or in person, may differ depending upon the person who prepares the summary. Accordingly, § 2.15(g) provides that, in addition to the agency summary, any outside person participating in such a meeting may prepare and submit to the agency for inclusion in the administrative record his own written memorandum recording the substance of the meeting. Pursuant to § 4.104 (c) of the public information regulations, this summary will be released along with the agency summary whenever public request is made for them.

All memoranda of meetings and correspondence shall be filed in any appropriate public administrative file and made a part of the administrative record of the relevant proceeding.

Any meeting between a Food and Drug Administration employee and a repre-

sentative of Congress, e.g., a committee staff member, relating to any pending or potential investigation, inquiry, or hearing shall be recorded in a written memorandum which shall be forwarded to the agency's Office of Legislative Services. This provision does not restrict the right of any agency employee to participate in any such meeting, but guarantees that the agency will be aware of any congressional concern about agency activities and thus be in a position to respond in an adequate way.

#### DOCUMENTATION OF SIGNIFICANT DECISIONS IN ADMINISTRATIVE FILES (§ 2.16)

Section 2.16 requires all Food and Drug Administration employees to document, in an appropriate manner, every significant agency decision.

The agency employees responsible for handling any matter are responsible for assuring that the agency has a complete administrative file on it. The file shall contain appropriate documentation, including the recommendations and decisions of responsible employees. It must reveal any significant controversies or differences of opinion and their resolution. Any agency employee working on a matter shall have the opportunity to record his views on that matter, for inclusion in the file. Once a written, signed, and dated memorandum is placed in the file, it may not be altered, added to, or removed. Rather than permit changes to be made in a document by a person other than the person who prepared that document, such changes will be reflected by preparing a new memorandum. This will provide a complete record of the development of the matter within the agency.

Memoranda and other documents prepared by agency employees not contained in the administrative file shall have no status or effect. Thus, the file will contain all pertinent material and will represent the definitive record of the administrative handling of the matter.

Memoranda placed in the administrative file shall relate to the issues under consideration, and shall be sent to other appropriate agency employees. Such memoranda shall avoid defamatory language, intemperate remarks, undocumented charges, or irrelevant matters, e.g., personnel complaints. To the extent that a memorandum records the views of any agency employee in addition to the author, it must be furnished to such other employee who will, pursuant to the new regulations, have an opportunity to respond in any way that they believe appropriate.

All agency employees working on a matter shall have access to the administrative file on that matter, as appropriate for the conduct of their work. Reasonable restrictions may be placed upon access by employees to such files in order to make certain that the files do not become dismantled, lost, or unavailable to others who need them for their work.

The Commissioner concludes that these rules guarantee full participation of all agency employees in the matters

on which they are working and adequate documentation of the manner in which, and the reasons for which, decisions are made within the agency, without at the same time entangling the agency in endless red tape and producing pointless paperwork.

#### INTERNAL AGENCY REVIEW OF DECISIONS (§ 2.17)

Many Food and Drug Administration decisions vitally affect interested persons and groups outside the agency. Inquiries are constantly received, throughout the agency, from individual consumers, manufacturers, and affected professionals, as well as organizations representing these interests. Few people outside the agency understand where their questions and complaints should be directed.

Section 2.17 of the new regulations provides for an orderly process of administrative review of decisions within the agency, and thus advises those outside the agency of how they should pursue matters which interest and concern them. Any decision of an agency employee is subject to review by that employee's supervisor at the request of the employee himself, on the initiative of the supervisor, at the request of any interested person outside the agency, or as required by duly promulgated delegations of authority. Such review ordinarily follows the established agency channels of supervision or review for the specific matter involved. Where a person outside the agency requests internal agency review of any decision, it shall be done only through established agency channels. Review shall take place to resolve issues, to review policy matters, in unusual situations requiring immediate review in the public interest, and as required by the delegations of authority.

Thus, where a matter has not yet been reviewed by a bureau director, any request from outside the agency that he review it would be denied until the matter was first reviewed at lower levels. Similarly, any request for intervention or review by the office of the Commissioner would be denied until the matter had been fully considered within the bureau and forwarded to the office of the Commissioner. It is, of course, entirely within the Commissioner's discretion to grant or deny a request to review any matter.

Any internal agency review of a decision must be based solely upon the data and information available in the administrative file. If any interested person presents new data or information not previously considered, the matter will be returned to the appropriate lower level within the agency for a reevaluation before it is again subjected to internal review at a higher level. Thus, bureau directors and the office of the Commissioner act in basically the same way as a reviewing court. Division personnel can be assured that higher agency officials will not intervene before a matter is fully considered at the lower level, and will not review any issue on the basis of information not available at that level.

#### DISSEMINATION OF DRAFT FEDERAL REGISTER NOTICES AND REGULATIONS (§ 2.18)

Until relatively recently, there has been no Food and Drug Administration policy or regulations governing the dissemination of draft *Federal Register* notices and regulations. As a result, such documents have at times been given to some persons and not to others, in a way that raised public concern about agency activities.

Section 2.18 codifies the policy that has been followed by the Food and Drug Administration on this matter during the past 2 years.

The Food and Drug Administration welcomes assistance from anyone in developing its policy and regulations. General concepts may be discussed by agency employees with any interested person. Details of a document, or a draft of a document, may not be furnished to any interested person outside the Executive Branch of the Federal Government unless and until it is made available to all interested persons by a notice published in the *Federal Register*. See, e.g., the notices with respect to the availability of the GMP regulations for low-acid canned foods published in the *Federal Register* of November 14, 1972 (37 FR 24117), and the various regulations for shellfish control published in the *Federal Register* of December 13, 1973 (38 FR 34353) and January 14, 1975 (40 FR 2607).

In some instances, detailed discussion of a draft document is necessary for proper development of administrative policy. This is especially true where a specific industry which is the subject of a particular regulation has detailed technical knowledge not otherwise available to the Food and Drug Administration, and which is critical in developing an effective regulation. Where this occurs, the draft document will be made available to all interested persons through an announcement in the *Federal Register*, and any other appropriate protective procedures will be undertaken to make sure that a full and impartial administrative record is established. Thus, public regulations will not be negotiated in private.

In certain limited instances, it has long been agency policy that a draft of a final regulation relating to a particular ingredient or product, e.g., a regulation relating to a food additive, new animal drug, or antibiotic drug, may be furnished to the petitioner for comment on the technical accuracy of such regulation. The new regulations continue this longstanding practice. In these situations, where only technical accuracy rather than any policy issue is involved, publication of the availability of the draft regulation in the *Federal Register* is unnecessary in order to protect the public interest.

The provisions of the Radiation Control for Health and Safety Act of 1968, 42 U.S.C. 263f, explicitly require the Commissioner to consult with interested persons in the development of performance standards. Accordingly, the Commis-



tioner will publish in the FEDERAL REGISTER an announcement that a performance standard is being considered, and thereafter a draft of a proposed or final performance standard, including any amendment thereof, shall be furnished to any interested person upon request and may be discussed by agency employees in detail with any interested person at any time through final consideration of such a document.

All such documents will be continuously available to the public after publication of the notice in the FEDERAL REGISTER, and it will therefore be unnecessary to publish in the FEDERAL REGISTER a specific notice of the availability of each draft of the document.

The regulations recognize that the restrictions on discussion and disclosure of draft FEDERAL REGISTER notices and regulations established in this paragraph do not apply to those situations in which internal agency documents are properly disclosed under §§ 4.83 through 4.89 of the agency's public information regulations. Such situations include disclosure to consultants, other Federal departments and agencies, Congress, State and local government officials, and foreign government officials, as well as disclosure required by court order and in administrative or court proceedings. Thus, it is entirely proper to provide a draft regulation to an advisory committee without making it publicly available to all interested persons. If it should become available to some members of the general public, however, the agency would make it available for public disclosure to all interested persons pursuant to § 4.31, as was done with a draft of revised drug GMP regulations by a notice published in the FEDERAL REGISTER of March 19, 1975 (40 FR 12535).

#### ADVISORY OPINIONS (§ 2.19)

Throughout its history, the Food and Drug Administration has issued advisory opinions in various forms. Early advisory opinions, between 1938 and 1946, were issued as trade correspondence (TC's). More recently, advisory opinions have been codified in the agency's Compliance Policy Guides manual, which is available from the Public Records and Documents Center. In other documents designated as "advisory opinions," and in preambles to FEDERAL REGISTER documents, the new regulations recognize the continuing status of these prior documents as advisory opinions except to the extent that they are revoked. Some of these advisory opinions, particularly those in the form of trade correspondence, have been revoked, e.g., the notice published in the FEDERAL REGISTER of May 20, 1969 (34 FR 7922).

Prior Food and Drug Administration policy has not distinguished between formal advisory opinions and informal oral advice and correspondence. As a result, confusion and uncertainty has been engendered both within the agency and outside as to whether opinions expressed in correspondence or orally carry the weight of the agency or only of the individual agency employee involved.

Absent specific regulations to the contrary, the statements of a government employee do not bind the government. See, e.g., *Bentex Pharmaceuticals, Inc. v. Richardson*, 463 F.2d 363, 368 n.17 (4th Cir. 1972), rev'd on other grounds, 412 U.S. 645 (1973); *Udall v. Oelschlaeger*, 389 F.2d 974, 977 (D.C. Cir. 1968), cert. denied, 392 U.S. 909 (1968); *AMP Inc. v. Gardner*, 275 F. Supp. 410, 412 n.1 (S.D.N.Y. 1967), aff'd, 389 F.2d 825 (2d Cir. 1968); and *United States v. 354 Bulk Cartons . . . Trim Reducing-Aid Cigarettes*, 178 F. Supp. 847, 853-854 (D.N.J. 1959). Accordingly, because of the lack of any agency regulations on this matter, none of the correspondence or oral advice previously issued by the agency has had any binding legal effect.

In many instances, important agency correspondence relating to the legal status of ingredients and products has not been compiled or reviewed in any comprehensive or systematic way, with the result that few in the agency have known about the existence of such correspondence nor has the fact that such correspondence has no legal status been understood by the public. For this reason, on recent occasions the agency has been forced to issue regulations formally withdrawing prior opinion letters relating to the food additive and new drug status of products. See 21 CFR 121.11 and 310.100.

The Commissioner concludes that the present uncertainty should be resolved by adoption of regulations that clearly and explicitly recognize the difference between the informal opinion of an individual in the agency, which represents his best information and advice, and the formal opinion of the agency, which represents a position of the Food and Drug Administration that is binding and commits the agency to the views expressed until they are formally modified or revoked. Section 2.19 of the new regulations establishes such a system.

Under § 2.19, a request for a formal advisory opinion shall be made pursuant to a specified form. The resulting advisory opinion must be followed by the agency until it is amended or revoked. Amendment or revocation of an advisory opinion is required to be made with the same degree of public dissemination as adoption of the original advisory opinion, or by publishing notice of such revocation in the FEDERAL REGISTER, which by statute constitutes adequate public notice. See 44 U.S.C. 1508; *North American Pharmacal, Inc. v. Department of HEW*, 491 F.2d 546 (8th Cir. 1973). An advisory opinion must, however, be explicitly revoked, and is not revoked by implication as a result of publication of other advisory opinions or regulations.

The Commissioner advises that a request for an advisory opinion will be granted whenever feasible. The fact that a course of action is already being followed by the person requesting the advisory opinion, or that an investigation or regulatory action is already pending with respect to the matter, shall not operate to preclude an advisory opinion.

On the other hand, the Commissioner recognizes that there are some circum-

stances where an advisory opinion is not feasible. For example, where there is insufficient information on which to base an informed opinion, e.g., further investigation is necessary before such opinion could be given, or where the subject matter is so complex that any opinion would be too qualified and indefinite to be helpful, a request for an advisory opinion may be denied. An advisory opinion will ordinarily concern policy matters or issues of broad applicability. Thus, advisory opinions ordinarily will not be given with respect to a particular product or label, unless a policy issue of broad applicability is involved. Similarly, a request for an advisory opinion on the legality of a product marketed by a competitor, or on any similar matter, will also ordinarily be denied, although the Food and Drug Administration will investigate complaints about the legality of products or practices when filed by any interested person.

All statements or advice given by a Food and Drug Administration employee orally or in writing, but which do not constitute an advisory opinion, represent informal communications that contain the best information and opinion available to that employee at that time, but do not have the same binding effect as an advisory opinion. Accordingly, such informal communications in no way obligate or commit the agency to the views expressed.

On occasion, the Food and Drug Administration receives oral or written requests which require resolution of important issues that have broad applicability, but which do not specifically request an advisory opinion. In the future, the Commissioner may, in his discretion, handle such inquiries as a request for an advisory opinion in order to provide a definitive agency position on the matter and to give it wide dissemination.

Ordinarily, an advisory opinion will commit the Food and Drug Administration to the position stated in the opinion, until it is amended or revoked. In unusual situations involving an immediate and significant danger to health, however, the Commissioner may take appropriate civil enforcement action contrary to an advisory opinion prior to amending or revoking it. Thus, although an advisory opinion will in virtually all instances be binding upon the agency until amended or revoked, the regulations provide for sufficient flexibility to permit immediate action where essential to public protection.

The Commissioner has carefully considered whether advisory opinions should be published in the FEDERAL REGISTER. In view of the potentially large number of advisory opinions and the resources that would be necessary to accomplish this, the Commissioner has concluded that it is not feasible. Such advisory opinions may be compiled as part of the agency's Compliance Policy Guides manual, or in a separate compilation of advisory opinions. The substance of these advisory opinions will undoubtedly be disseminated widely by the agency, trade associations, and the trade press.

One particular issue has frequently arisen within the Food and Drug Administration within the past few years. Companies often request the agency for so-called "certificates of free sale," i.e., a statement from the Food and Drug Administration that a particular ingredient or product may lawfully be sold in this country. Such "certificates" are often required by foreign governments before a product may be imported into that country.

In the opinion of the Commissioner, an unrestricted "certificate" of this kind cannot be given because the Food and Drug Administration cannot guarantee the legality of any particular product at all times. Nor is a formal advisory opinion appropriate, since it involves a particular product and the agency's resources are insufficient to provide this service for all products. The agency will, however, provide an informal letter stating specific information with respect to a product, e.g., that it is the subject of an approved NDA or food additive regulation, or that the agency does not presently object to the product's labeling, if sufficient information has been submitted to make such a determination and if there are sufficient agency resources to provide this service. Such "certificates" will thus not constitute a formal advisory opinion on the status of a product, but will provide informal written views which state the current views of the agency employee who signs the letter.

#### FOOD AND DRUG ADMINISTRATION REGULATIONS, GUIDELINES, RECOMMENDATIONS, AND AGREEMENTS (§ 2.20)

The Commissioner is aware that there is uncertainty about the status of some of the various types of documents adopted by the Food and Drug Administration. In general, these documents fall into the following four categories: Regulations, guidelines, recommendations, and agreements. The Commissioner has concluded that § 2.20 should be promulgated to clarify the status and legal effect of these different types of documents.

Section 2.20(a) provides that all agency regulations having general applicability and legal effect shall be promulgated in the FEDERAL REGISTER pursuant to § 2.10 or § 2.12. This is in accordance with the requirements of the Administrative Procedure Act and current case law. Any document, other than a statute, which the Food and Drug Administration intends to enforce as a legal requirement, shall be published as a regulation in the FEDERAL REGISTER.

Of course, the agency is not required to issue regulations implementing the law before it takes legal action to enforce specific statutory provisions against persons or products in violation of the law. Thus, the agency may seize a food product containing a poisonous or deleterious substance, or a new drug which is being marketed illegally without an approved NDA, regardless whether it has first issued a regulation designating that substance as poisonous

or deleterious or that drug as a new drug. On the other hand, if the agency chooses to bring such action, it may not rely upon any guidelines it may have issued as establishing substantive legal requirements.

In addition to provisions which will be enforced as legal requirements, regulations may contain provisions which are intended only as guidelines and recommendations. The specific language of each provision in a regulation states its intended application. For example, provisions which state that a person "shall" take certain action establish a legal requirement, whereas provisions which state that a person "should" or "may" take certain action establish guidelines and recommendations which are not legal requirements. Thus, the fact that a provision is published in the FEDERAL REGISTER as a regulation is not determinative of whether it establishes a legal requirement or guidelines and recommendations.

Section 2.20(b) governs the establishment and use of Food and Drug Administration guidelines, which are not published in the FEDERAL REGISTER as regulations. The Commissioner recognizes that such guidelines, which do not have the legal status of regulations, are increasingly important in providing assistance both to the regulated industry and to agency employees who are charged with consistent and fair administration of the law. In many instances, such guidelines are available on an informal basis before comparable regulations can be promulgated. For example, the Commissioner may wish to issue guidelines for acceptable premarket substantiation for safety of cosmetics, as required by § 740.10(a), published in the FEDERAL REGISTER of March 3, 1975 (40 FR 8912), in order to obtain experience with such guidelines before publishing them in a proposed regulation. Moreover, not all guidelines are appropriate for publication in the FEDERAL REGISTER as regulations. Some are intended as no more than informal suggestions. Others are so voluminous and complex as not to be appropriate for FEDERAL REGISTER dissemination. Still others are subject to such frequent change as to make their publication for comment virtually impossible. Under these circumstances, the development and use of guidelines that represent acceptable conduct from the standpoint of the agency, but which are not published in the form of regulations, are imperative for efficient administrative implementation of the law.

As the use of guidelines in the agency has increased, their methods of development, their availability, notice of any changes, and an opportunity to participate in their development and modification, have become more important. These new regulations will regularize these matters, and in the judgment of the Commissioner will provide for adequate notice and opportunity to participate for all interested persons.

Section 2.20(b) (1) defines "guidelines" broadly to include all technical or policy criteria relating to any matter subject

to the jurisdiction of the Commissioner. Guidelines state procedures or standards of general applicability which are not legal requirements but which are acceptable to the agency with respect to a particular subject matter. Although analytical methods are clearly guidelines, they are excepted from the provisions of this regulation because of their large number, their length and complexity, and the volume and frequency of amendments involved. Such analytical methods are, of course, available for public disclosure pursuant to the public information regulations contained or cross-referenced in 21 CFR Part 4.

Although a person may rely upon an agency guideline with assurance that it is acceptable to the Food and Drug Administration, he is also free to use any different procedure or standard even though it is not provided for in a guideline. When a person chooses to differ from a guideline, he may, but is not required to, discuss the matter further with the agency to prevent the expenditure of money and effort on work that may later be determined to be unacceptable. The Commissioner is concerned that innovation not be stifled by the adoption of guidelines. Nor does the Commissioner believe that, in all instances, a person who deviates from a guideline should feel obligated to consult with the agency first. Where such consultation is requested, however, the agency is obligated to provide the best answer available to it at that moment.

The Commissioner emphasizes that following a testing guideline does not in any way guarantee that the ingredient or product so tested will receive agency approval. Approval must depend, of course, upon all of the available information relating to the matter. The results may indicate that the ingredient or product should be disapproved, or that additional testing must be undertaken. Similarly, poor quality testing will not be acceptable even if the protocol complies with a guideline.

Guidelines will be issued by filing them in the public file established by the Hearing Clerk for this purpose, and publishing a notice of availability of the guideline in the FEDERAL REGISTER. Amendments to a guideline shall be issued in the same way. Any interested person may, of course, petition the agency pursuant to § 2.7 to issue a guideline relating to any matter.

When a guideline is amended or revoked, just as where an advisory opinion is amended or revoked, the question will inevitably arise as to whether work undertaken or completed in good faith reliance on the prior version of the guideline will remain acceptable to the Food and Drug Administration. The Commissioner has concluded that such work should remain acceptable unless substantial public interest considerations preclude continued acceptance. This determination must be made on the basis of all of the surrounding facts. Where the guideline consists of a protocol for an animal study which is simply being revised to reflect the latest knowledge



about appropriate scientific procedures rather than because of any concern about the scientific validity of prior results under the former protocol, the old work will undoubtedly remain acceptable. Where the guideline or advisory opinion consists of labeling standards, however, labels meeting the old guideline ordinarily will no longer remain acceptable after an appropriate transition period. Whenever possible, the notice of an amended guideline will state when it has been determined that work previously undertaken or completed on the basis of the prior guideline no longer remains acceptable.

For the same reasons that FEDERAL REGISTER notices and regulations must be available to all members of the public on an equal basis, all draft guidelines must similarly be accessible to all interested persons on the same basis. Accordingly, the dissemination of draft guidelines shall be subject to the requirements of § 2.18. Similarly, to guarantee an opportunity for interested persons to comment on guidelines and to suggest modifications, the notice of availability of a guideline shall state the individual or office responsible for each guideline so that written comments may be filed. Such comments can then be used by the agency in considering further modifications.

The Commissioner advises that guidelines have the same legal status as an advisory opinion. Until modified or revoked, they represent the formal position of the agency and bind the agency to that position. Other informal communications relating to acceptable procedures or standards represent the best information and opinion available to a particular employee at a particular time, but do not constitute a guideline or advisory opinion and thus do not obligate the agency to follow the views expressed.

The Commissioner emphasizes that only those guidelines which are issued by the Food and Drug Administration pursuant to § 220(b) shall have any official status. Other written documents shall, until issued as guidelines, stand on the same legal footing as any informal communication by an agency employee. Accordingly, it will be important for all such written documents relied upon throughout the agency to be reviewed and a decision made whether they should be issued as guidelines pursuant to these provisions or should no longer be used by the agency. To complete this process, § 220(b) will not become effective for 180 days. Those internal written documents which have not been issued as guidelines by that time will no longer be regarded as having official agency approval as representing acceptable procedures or standards and will have no status other than as representing the views of a particular employee.

Section 220(c) deals with agency recommendations which are not published in the FEDERAL REGISTER as regulations. In addition to guidelines, which relate to regulatory matters which fall within the laws administered by the Commissioner, the Food and Drug Ad-

ministration also formulates and disseminates recommendations about matters which are authorized by, but do not involve direct regulatory action under, those laws. Examples are model State and local ordinances, recommendations for physicians and technicians in the proper use of machines and products, and other similar matters.

The Commissioner concludes that recommendations of this nature may be handled pursuant to the procedures for guidelines, except that they shall be included in a separate public file established by the Hearing Clerk. Thus, recommendations may be made public in the same systematic and comprehensive way. Of course, recommendations may also be incorporated in agency regulations.

Finally, § 220(d) deals with agency agreements. The Food and Drug Administration enters into agreements, memoranda of understanding, and other similar formal written documents with government agencies, foreign governments, companies subject to the agency's regulatory jurisdiction, and other persons. All of these are required to be published in the FEDERAL REGISTER and included in the public file on agreements established by the Public Records and Documents Center pursuant to § 4.108. Any such document not included in that public file shall be deemed to be rescinded and shall have no force or effect whatever.

#### PARTICIPATION IN OUTSIDE STANDARD-SETTING ACTIVITIES (§ 2.21)

As the Food and Drug Administration has increased its reliance upon regulations to establish standards to regulate the practices and products of those subject to the laws administered by the Commissioner, questions about the activities of agency employees in outside standard-setting activities have arisen. The Commissioner has concluded that agency policy on this matter should be reflected in new § 2.21.

"Standard-setting activities" is defined broadly to include all of the same technical and policy criteria that are properly the subject of agency regulations and guidelines. In general, the Food and Drug Administration encourages employee participation in outside standard-setting activities that are in the public interest.

Section 2.21 divides outside standard-setting activities into three categories: Those conducted by other Federal government agencies; those conducted by State and local government agencies and by United Nations organizations and other international organizations and foreign governments pursuant to treaty; and those conducted by private groups and organizations.

With respect to all three categories of standard-setting activities, any agency employee may participate after the approval by the relevant bureau director or the Commissioner of Form PHS3763 ("Request for approval of appointment as liaison representative") covering the activity involved. This form and all pertinent background material describing

the activities must be included in the public file on standard-setting activities established for this purpose by the Public Records and Documents Center. The Food and Drug Administration employee who participates in these activities shall refer all requests for information about or participation in such activities to the group or organization responsible. Where, as often occurs, the agency employee may invite members of the public to accompany him at any meeting relating to such activities, such invitation shall be extended to a representative sampling of the public and not just to one interest group.

Special additional requirements apply with respect to standard-setting activities by private groups and organizations. The Food and Drug Administration employee may participate either as a voting or as a nonvoting liaison representative, but participation by the individual does not connote Food and Drug Administration agreement with, or endorsement of, any decisions reached. Should the matter come before the agency at a later date, that employee could not serve as the deciding official on the matter involved. Nor will the fact of that employee's participation, per se, be relevant in any subsequent agency determination with respect to the matter.

In addition, the new regulation establishes minimum standards that shall apply to all outside private standard-setting activities in which Food and Drug Administration employees participate. The activities must be based upon sound scientific and technological information, and be designed to protect the public against unsafe, ineffective, or deceptive products or practices. The activities may not be designed for economic benefit of any company, group, or organization, or involve violation of the antitrust laws. Perhaps most important, the group or organization responsible for the standard-setting activities shall have a procedure through which any interested person shall have an opportunity to provide information and views on the activities involved, without the payment of fees. The exact manner in which this is accomplished, including whether such presentation is in person or in writing, is at the discretion of the group or organization responsible for the activities.

In some situations involving private standard-setting activities, the Food and Drug Administration has a particular regulatory interest which justifies direct participation as an agency activity. Examples of such activities include the development of uniform State and local laws and regulations that will implement the same policies that are expressed in the laws administered by the Commissioner, and development of analytical methods used for regulatory purposes. In these situations, the Commissioner may determine that agency participation shall be an official activity that does connote agreement with or endorsement of the decisions reached, and that participation by the individual will not in any way disqualify him from consideration of the matter if it should arise within

the agency. Any such determination will be included in the public file on the matter.

Many Food and Drug Administration employees have close daily contact with associations of State and local government officials who have parallel responsibilities at the local level. Many agency employees are members of these associations, and participate in their activities. The Commissioner concludes that the standard-setting activities of these associations, of which 11 are listed in the new regulations, should not be subject to the requirements of this section. Instead, a list of all committees and other groups of these associations will be included in the public file on standard-setting activities so that agency participation in these matters will be a matter of public record.

#### PUBLIC CALENDARS (§ 2.22)

Section 2.22 provides for two types of public calendars to be disseminated weekly: A prospective calendar of public proceedings that will contain all public meetings and similar events for the following 4 weeks, and a retrospective calendar of private meetings of top agency officials for the previous week with persons outside the Federal government.

The prospective calendar contains public meetings, conferences, hearings, advisory committee meetings, seminars, and other public proceedings of the Food and Drug Administration, as well as significant public events involving the agency, such as congressional hearings and court cases. It does not contain future private meetings or similar nonpublic events, or public events of organizations other than the Food and Drug Administration in which agency employees participate. The Commissioner concludes that inclusion of such meetings and events would necessarily be incomplete and inaccurate because of the need to schedule or cancel meetings or agenda items on short notice, and would serve no useful purpose because others are not entitled to attend private meetings and will in any event be able to obtain memoranda of meetings shown on the retrospective calendar to the extent permitted by the public information regulations contained in 21 CFR Part 4 and the regulations referenced therein.

The retrospective public calendar contains, for the preceding week, all of the meetings with persons outside the Federal government and other significant events involving designated top officials of the Food and Drug Administration. The agency officials subject to this requirement are set forth in § 2.22(b)(3).

The Commissioner has concluded that the retrospective public calendar shall include all personal meetings, but may or may not include oral discussions by telephone at the option of the official making the report. Any meeting with an onsite contractor, e.g., at the National Center for Toxicological Research, need not be included because of the impracticalities involved. Meetings with other persons in the Federal government, e.g., with an official of another government

agency or a member of Congress, are not shown on the retrospective public calendar regardless of whether those other persons have also invited to the meeting persons from outside the Federal government.

The regulation provides that meetings with the working press also shall not be included in the retrospective calendar at this time. This issue was closely debated within the Food and Drug Administration, and there is a contrariety of views on it. Some agency officials believe that, because of the unique status of the press in this country, such discussions should not be required to be made a matter of public record. Other agency officials strongly believe that the same principles should apply to the working press as to any other member of the public, with respect to meetings and discussions. The Commissioner has concluded that, for purposes of these regulations, the working press will be exempt on an interim basis. The Commissioner particularly invites comment on this aspect of the regulations so that a final determination can be made on the matter.

Finally, the Commissioner recognizes that meetings which would prejudice law enforcement activities, or would invade privacy, are properly excluded from the retrospective public calendar, and the regulations so provide.

#### REPRESENTATION BY AN ORGANIZATION (§ 2.23)

It is common practice for organizations to represent their members by filing petitions, comments, objections, and otherwise participating in any administrative proceeding of the Food and Drug Administration. The Commissioner believes that this is an entirely proper function and that it serves very useful purposes.

At the same time, the Commissioner believes that, when a trade association participates in the administrative process in this way, such representation is properly interpreted as expressing the viewpoint of all of the members of the trade association except those specifically excluded by name in any submission. Accordingly, § 2.23(b) of the new regulations requires that every submission either attach a list of the members of the trade association or refer to such a list that is placed on permanent file with the Hearing Clerk and is kept current by the trade association. In this way, the representation of the trade association will be made a matter of public record.

When a trade association files an objection or request for hearing in a proceeding that permits an opportunity for a formal evidentiary public hearing, all subsequent action by the association with respect to such matters binds each member except to the extent that that member independently files its own objection or request for hearing or is otherwise specifically excluded from representation by the trade association in the matter, in which case its rights shall be entirely separate and distinct.

It has been common practice for trade associations and other organizations to file declaratory judgment actions or other judicial review proceedings on behalf of their members to determine the legality of Food and Drug Administration action. Again, the Commissioner believes that such activity is entirely proper and serves a useful public purpose. In the opinion of the Commissioner, a trade association or other membership organization has standing in the courts to represent its membership in such matters, and the Food and Drug Administration will not interpose procedural objections to such standing.

In the past, however, after a trade association has obtained an adverse judicial interpretation with respect to a particular issue, its members have continued to litigate the matter in separate judicial proceedings. For example, after the Pharmaceutical Manufacturers Association unsuccessfully challenged agency regulations governing adequate and well-controlled clinical investigations in Pharmaceutical Manufacturers Ass'n v. Richardson, 318 F. Supp. 301 (D. Del. 1970), and did not appeal that adverse determination, individual PMA members continued to litigate the same issues in courts throughout the country, and ultimately in the Supreme Court. Thus, the benefit of the initial representative legal action by the trade association to settle an issue on behalf of its members has been wholly destroyed, and litigation has proliferated, wasting public resources without the benefit of a definitive decision. The Commissioner believes that such proliferation is contrary to the public interest and to the purpose of such litigation, and that a determination in any suit involving a trade association properly binds all members of the association and precludes further litigation of the same issues by any association member.

In the future, the Commissioner intends to take two independent steps to assure that representative actions brought by trade associations or other organizations on behalf of their members settle issues and preclude further litigation by the membership. First, the Commissioner will take appropriate legal measures in such cases to have the case brought or considered as a class action or otherwise as binding upon all members of the association or organization except those explicitly excluded by name. Second, regardless whether the case is brought or considered as a class action or as otherwise binding upon all members, the Commissioner will take the position in any subsequent suit involving the same issues and any member of the association or organization not explicitly excluded by name from the prior suit that such issues are precluded from further litigation by such member pursuant to the doctrines of collateral estoppel or res judicata. Accordingly, § 2.23(c) gives adequate notice to all trade associations or organizations and their membership that future litigation by the association or organization will have this legal effect. See, e.g., Abbott Laboratories v. Gard-



ner, 387 U.S. 136, 154-156 (1967), National Automatic Laundry and Cleaning Council v. Schultz, 443 F.2d 689, 704 (D.C. Cir. 1971), and Acree v. Air Line Pilots Ass'n., 390 F.2d 199, 202 (5th Cir. 1968).

#### SETTLEMENT PROPOSALS (§ 2.24)

The Commissioner wishes to encourage settlement of issues without hearings and litigation wherever this is feasible. Accordingly, § 2.24 provides that settlement proposals and related matters may be raised by any person at any point in any administrative proceeding, and that unaccepted proposals of this nature shall not be admissible in evidence in any Food and Drug Administration proceeding. The Food and Drug Administration will oppose admission of such proposals in any other administrative or court proceeding. Thus, settlement may be proposed without the fear that it will later be used against the individual to imply that he did not have confidence in his case or was willing to concede the incorrectness of part of his position. The Commissioner recognizes that all settlement involves compromise on the part of all persons involved, and unless this protection is granted the possibility of settlement would be severely diminished.

On the other hand, where a compromise is accepted, it may well be necessary to submit the various settlement proposals and related matters in evidence in an administrative or court proceeding in order adequately to explain the compromise reached. Section 2.24 therefore applies only to unaccepted proposals for settlement.

#### WAIVER, SUSPENSION, OR MODIFICATION OF PROCEDURAL REQUIREMENTS (§ 2.25)

The Commissioner has concluded that it is important to establish detailed procedural rules for the various public hearings conducted by the agency. Without such rules, which are set forth in Subparts B through F, neither the presiding officers nor the participants would have sound guidance on how to proceed, and the uncertainty and confusion that would prevail would substantially hinder the progress of these hearings.

By providing such detailed regulations, on the other hand, there is the danger, on occasion, variations will be necessary. The Commissioner recognizes that the procedural requirements for these hearings must have sufficient flexibility to be workable in a wide variety of situations. It is simply not possible to take account of all reasonable variations and exceptions that have occurred in the past and will occur in the future. Accordingly, § 2.25 provides that the Commissioner or the presiding officer in any such hearing may modify any procedural requirement with respect to a particular hearing to assure a fair and efficient hearing, where this will serve the interests of justice and not prejudice any participant.

## RULES AND REGULATIONS

### FORMAL EVIDENTIARY PUBLIC HEARINGS (SUBPART B)

Subpart B of the new regulations establishes the requirements applicable to those situations where there is a statutory right to an opportunity for a hearing "on a record," i.e., a formal evidentiary trial-type public hearing, usually before an administrative law judge, or where the Commissioner concludes, in his discretion, that such an opportunity should be provided. The statutory provisions under which such an opportunity is granted are listed in § 2.12(c) (1) through (18). New Subpart B replaces former Subpart F of Part 2 and the provisions in other parts of the regulations relating to such specific matters as food additives and new drugs, which previously governed formal agency hearings.

Section 701(e) of the act originally required a formal evidentiary public hearing for every regulation promulgated pursuant to that section, regardless whether any controversy existed on the matter. Because this inflexible requirement was obviously unworkable, it was amended to require a hearing only upon receipt of objections and a request for a hearing. See Pub. L. No. 83-335, 68 Stat. 55 (1954) and Pub. L. No. 84-905, 70 Stat. 919 (1956). The courts have since narrowed the requirement for a hearing still further, as reflected in the provisions of § 2.113(b), discussed below.

One commentator has pointed out that "some of this country's gravest administrative deficiencies stem from lawyer-induced overreliance on courtroom methods to cope with problems for which they are unsuited." Gellhorn, Administrative Procedure Reform; Hardy Perennial, 48 Am. Bar Ass'n. Journal 243 (March 1962). Largely as a result of lengthy trial-type hearings on the regulations for special dietary foods and peanut butter, there has been virtually unanimous criticism of the way in which section 701(e) has been utilized. See, e.g., Byerley, Rx for Administrative Ills: Simplification, Association of Food & Drug Officials of the United States Quarterly Bulletin, Vol. 34, No. 1, p. 17 (January 1970); Note, FDA Rule-making Hearings: A Way Out of the Peanut Butter Quagmire, 40 Geo. Wash. L. Rev. 726 (1972). In 1971, the Administrative Conference of the United States released a report on the agency's use of formal hearings in which a number of recommendations for improvement were made. See Hamilton, Rulemaking on a Record by the Food and Drug Administration, 50 Tex. L. Rev. 1132 (1972). Subsequently, the Administrative Conference has also issued a report and recommendations suggesting modification of the present statutory requirements for formal hearings. See Hamilton, Procedures for the Adoption of Rules of General Applicability: The Need for Procedural Innovation in Administrative Rulemaking, 60 Cal. Law R. 1276 (1972) and Crampton,

Causes and Cures of Administrative Delay, 58 American Bar Ass'n. Journal 937 (September 1972).

At about the same time, the American Bar Association appointed a special committee to consider the agency's hearing procedures, which also issued a report and recommendations. See Pendergast, The Diagnosis and Treatment of FDA Hearings, Association of Food & Drug Officials of the United States Quarterly Bulletin, Vol. 34, No. 1, p. 23 (January 1970). These various reports and recommendations have been widely discussed. See, e.g., Hamilton, Rulemaking on a Record, 26 Food Drug Cosmetic Law Journal 627 (December 1971); Goodrich, A Reply to Professor Hamilton's Comments and Recommendations for Procedural Reform, 26 Food Drug Cosmetic Law Journal 639 (December 1971).

The Commissioner has carefully considered all of the comments and suggestions made in the course of these reports and discussions. Many are incorporated into these new regulations.

During the same period, the courts have realized that the use of a formal evidentiary public hearing is not always appropriate for agency decisionmaking. In American Airlines, Inc. v. Civil Aeronautics Board, 359 F.2d 624, 629 (D.C. Cir. 1965), cert. denied, 385 U.S. 843 (1966), the court noted that "rulemaking is not to be shackled, in the absence of clear and specific congressional requirement, by importation of formalities developed for the adjudicatory process and basically unsuited for policy rulemaking." In Marine Space Enclosures, Inc. v. Federal Maritime Commission, 420 F.2d 577, 589-590 (D.C. Cir. 1969), it was suggested that, in appropriate situations, a formal evidentiary public hearing "may usefully approach the legislative rather than the adjudicatory model." In Walter Holm & Co. v. Hardin, 449 F.2d 1009, 1016 (D.C. Cir. 1971), the court stated that "This requirement of hearing is not shackled by rigidities of procedure that may stultify the regulatory program." More recently, in Cooper Laboratories, Inc. v. Commissioner, 501 F.2d 772, 792-793 (D.C. Cir. 1974), it was suggested that the hearing required by the Federal Food, Drug, and Cosmetic Act with respect to withdrawal of approval of an NDA "need not borrow the characteristics of conventional courtroom controversy, burdened with the impedimenta of the kind of arcane questions with which lawyers often bedevil expert witnesses," by an on-the-record conference-hearing procedure, modeled on conference discussions between lawyers and experts."

Thus, the Commissioner has recognized that, in those situations where complex scientific and medical issues are involved, a searching scientific inquiry conducted by independent experts may well be more appropriate to resolve the matters involved than a formal evidentiary public hearing. Use of a public hearing before a Board of Inquiry pursuant to Subpart

C, or a public hearing before a public advisory committee pursuant to Subpart D, has therefore been authorized. Similarly, where a legislative-type public hearing before the Commissioner pursuant to Subpart E is appropriate to consider broad policy issues, the new regulations provide for this mechanism.

The courts have recently sustained the use of section 701(a) of the act for substantive rule making, in addition to section 701(e), so that the Food and Drug Administration "may follow streamlined procedures designed to avoid the endless delays that have tended to paralyze adjudicatory hearings and render them ineffective as a means of utilizing agency expertise." See National Nutritional Foods Ass'n. v. Weinberger, — F.2d — (2d Cir. 1975). As the Court stated in that case, which involved an agency rule making proceeding with respect to the safety of vitamins A and D, "Since the decision did not turn on precise factual issues or on the credibility of witnesses but represented a judgment based upon consideration of relevant medical and scientific data, we doubt that a trial-type adversary hearing would have shed any further light on the question . . ."

There has been substantial concern expressed in recent years about the need for development of more appropriate procedures than trial-type hearing for resolving difficult scientific issues. See, e.g., Hall, A. " . . . Diet Wholesome, But Not Excessive," Food Technology, Vol. 27, No. 7, p. 61 (1973) and Katz, One Professor's Finding of Fact is not Necessarily Another's, 22 National Academy of Sciences News Report, No. 6, pp. 4-5 (June-July 1972). The Commissioner believes that a Public Board of Inquiry or a public advisory committee represents a feasible approach to this problem, combining the features of traditional scientific inquiry with the need of the law to develop a full record on which to base the Commissioner's decision and subsequent judicial review. The Commissioner is hopeful that the flexibility provided by the range of procedures available under the new regulations will be fully utilized by the public and the regulated industries to avoid inappropriate use or abuse of formal trial-type hearings.

#### SCOPE OF SUBPART (§ 2.100)

Subpart B is applicable both to adjudicatory and to rule making proceedings subject to the requirements for a formal evidentiary public hearing in the Administrative Procedure Act, 5 U.S.C. 554, 556, and 557. For the most part, the procedures are identical in both situations. In a few instances, however, the new regulations provide different provisions for these two types of hearings.

In addition to formal evidentiary public hearings required by statute, the Commissioner may also, in his discretion, hold such a hearing with respect to any matter where he concludes that it would be in the public interest. Thus, even if a formal evidentiary hearing is requested but not justified pursuant to the new regulations, the Commissioner may order that a hearing be held on the matter

## RULES AND REGULATIONS

pursuant to this Subpart if he concludes that there are sound public policy reasons for doing so.

### INITIATION OF A FORMAL EVIDENTIARY PUBLIC HEARING INVOLVING THE ISSUANCE, AMENDMENT, OR REVOCATION OF A REGULATION (§ 2.110)

Section 2.110 governs initiation of a formal evidentiary public hearing involving rule making. The statutory provisions covered by this section are set out in § 2.12(c) (1) through (15).

In general, rule making that is subject to an opportunity for a formal evidentiary public hearing pursuant to § 2.12(c) (1) through (15) is no different than rule making that is subject only to the notice-and-comment procedures under 5 U.S.C. 553 and § 2.10 of these regulations, up through promulgation of the final regulation subject to this Subpart, however, any person who would be adversely affected shall have 30 days within which to file written objections and a request for a formal evidentiary public hearing.

The Commissioner notes that section 701(e) of the act and the other related statutory provisions explicitly provide 30 days within which objections and requests for hearing may be submitted. The Commissioner has no legal authority to extend this time period. In the past, many persons have requested, and been denied, an extension of this 30-day period. Accordingly, the new regulations explicitly provide that this 30-day period shall not be extended by the Commissioner.

The statutory provisions relating to color additives and food additives are somewhat different from those for other regulations subject to this Subpart. Under sections 409 and 706 of the act, the notice of filing of a petition published in the FEDERAL REGISTER takes the place of the customary proposal, and thereafter the final order is published with time for objections and a request for hearing but no time for additional comment. Under §§ 8.9 and 121.51(h) (21 CFR 8.9 and 121.51(h)), as established in the recently promulgated public information regulations, the Commissioner will make available for public disclosure all safety and functionality data relating to any color additive or food additive at the time of filing of the petition, so that public comment can be prepared meaningfully and submitted prior to publication of the final regulations.

Similarly, the statutory provisions relating to new animal drug regulations explicitly eliminate the need for a proposal before promulgating a final regulation. Under section 512(i) of the act, a new animal drug regulation is promulgated by notice, which upon publication in the FEDERAL REGISTER is effective as a regulation.

For many years, it has been customary to promulgate technical amendments to antibiotic monographs as final regulations rather than as proposals because they usually involve only technical considerations rather than policy issues, are prepared in consultation with the manu-

facturers who must meet them, and impose new safety requirements in the public interest. The new regulations permit the continuation of this practice under these circumstances. Where controversy or significant policy issues exist, such amendments will be published as proposals unless public health considerations require that they be made effective immediately.

### INITIATION OF A FORMAL EVIDENTIARY PUBLIC HEARING INVOLVING ISSUANCE, AMENDMENT, OR REVOCATION OF AN ORDER (§ 2.111)

Section 2.111 governs the initiation of a formal evidentiary public hearing that is adjudicatory in nature. The statutory provisions involved are set out in § 2.12(c) (16) through (18), and relate to approval or withdrawal of approval of new drugs, new animal drugs, and biological licenses.

In these circumstances, the Commissioner issues a notice of opportunity for hearing on any proposal to take adverse action with respect to the particular matter involved. The applicant for or holder of the order in question, and all other persons subject to the notice, e.g., the manufacturer of an identical, related, or similar drug that is covered by the order, shall have 30 days after the issuance of the notice within which to request a formal evidentiary public hearing on the matter.

The Commissioner notes that, pursuant to the statutory provisions involved, only specified persons have the legal right to exercise the opportunity for a hearing on these matters. Unlike the situation involved in public rule making, where every member of the public is entitled to an opportunity for a hearing, the statute explicitly states that only the persons directly affected by the agency action, i.e., those who hold or are covered by the license involved, have an opportunity for a hearing with respect to the matters involved under these three statutory provisions. Thus, for example, a physician has no legal right to a hearing to contest withdrawal of approval of a new drug.

Nonetheless, the Commissioner may, in his discretion, grant a formal evidentiary public hearing, or some other type of public hearing, e.g., a public hearing before the Commissioner pursuant to Subpart E of the new regulations, upon the request of any interested person even though he may not have the statutory right to a hearing. The Commissioner will carefully consider any request for a hearing involving a new drug, new animal drug, or biologics license, even though the person submitting the request has no statutory opportunity for a hearing on the matter involved.

Specific provisions are included in other sections in agency regulations relating to a request for hearing upon adverse action relating to new drugs, new animal drugs, and biological licenses, i.e., §§ 314.200, 514.200, and 601.7(a). The new regulations cross-reference these existing provisions.



# FILING OBJECTIONS AND REQUESTS FOR A HEARING ON A REGULATION OR ORDER (§ 2.112)

Section 2.112 of the new regulations specifies with particularity the form in which objections to agency action and requests for a hearing must be submitted. In general, each objection must be separately numbered and, if a hearing is requested on it, accompanied by a detailed description and analysis of the specified factual information intended to be presented in support of the objection if a hearing is held. Under § 2.113(b) (6), the failure to follow this form, or to file it within the time period specified, will result in denial of a hearing. As discussed in paragraph 16 of the preamble to the hearing regulations for new drugs and antibiotics published in the *FEDERAL REGISTER* of March 13, 1974 (39 FR 9750), it is not necessary to submit unfavorable data and information in requesting a hearing, but if a hearing is granted such unfavorable data and information will be required to be submitted pursuant to § 2.153 (a) (2) and (b).

## RULING ON OBJECTIONS AND REQUESTS FOR HEARING (§ 2.113)

Based upon any objections or requests for hearings filed pursuant to §§ 2.111 and 2.112, the Commissioner has a number of options to pursue. First, he may modify or revoke the regulation or order involved. Second, he may order a formal evidentiary public hearing or an alternative form of hearing on the matter. Third, he may deny any hearing as unjustified and let the regulation or order stand unmodified.

Section 2.113(b) sets out the criteria under which the Commissioner shall determine whether a request for hearing has been justified. The Commissioner believes that these criteria accurately reflect the legal standards enunciated by the courts in litigation on these matters during the past few years. See, e.g., *Weinberger v. Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609, 620-622 (1973); *Cooper Laboratories, Inc. v. Commissioner*, 501 F.2d 772, 776-777, 780 n.22 (D.C. Cir. 1974); *Hess & Clark v. Food & Drug Administration*, 495 F.2d 975, 982-985 (D.C. Cir. 1974); *Gulf States Utilities Co. v. Federal Power Comm'n.*, 411 U.S. 747, 772-775 (1973); *Federal Power Comm'n.*, 411 U.S. 747, 772-775 (1973); *Federal Power Comm'n. v. Texaco*, 377 U.S. 33, 39-41 (1964); *United States v. Storer Broadcasting Co.*, 351 U.S. 192, 202-205 (1956); *Municipal Light Boards v. Federal Power Comm'n.*, 450 F.2d 1341, 1345-1346 (D.C. Cir. 1971); *Citizens for Allegan County, Inc. v. Federal Power Comm'n.*, 414 F.2d 1125, 1128-1129 (D.C. Cir. 1969); *Total Telecable, Inc. v. Federal Communications Comm'n.*, 411 F.2d 639, 641-642 (9th Cir. 1969); *Virginia Electric & Power Co. v. Federal Power Comm'n.*, 351 F.2d 408, 410 (4th Cir. 1965); and *Dyestuffs and Chemicals Inc. v. Flemming*, 271 F.2d 281, 286-287 (8th Cir. 1959), cert. denied, 362 U.S. 911 (1960).

To justify a hearing, there must be a genuine and substantial issue of fact for

resolution at the hearing. If there are only policy or legal issues involved, rather than factual issues, there is no requirement that a hearing be held on the matter.

The factual issue must, moreover, be capable of being resolved by available and specifically identified reliable evidence. A request for hearing accompanied only by general allegations or denials or descriptions of contentions will not be sufficient to justify a hearing. Such a request must be accompanied by a detailed description and analysis of the specific factual information intended to be presented in the event that a hearing is held, not by general allegations. The failure to identify reliable evidence to be presented at the hearing will result in a decision that the hearing has not been justified.

The specific evidence identified in a request for hearing must be adequate to justify resolution of the factual issue in the way sought by the person submitting the request. If the Commissioner concludes that, even assuming the truth and accuracy of all of the data and information submitted in support of the objection and request for the hearing, they are insufficient to justify the factual determination urged, there is no issue of fact remaining and thus no point whatever in conducting a hearing on the matter. For example, an allegation that a regulation may have a particular economic impact may be accepted by the Commissioner as factually true, without the need for a hearing, and still not require any change in the regulation involved. Summary disposition of the matter is clearly warranted at that stage of the proceeding. If, on the other hand, the data and information submitted are on their face sufficient to justify the factual determination urged and the Commissioner would change the regulation or order if such facts were proved to be true, a hearing on the issue is warranted. Thus, a hearing will be denied only where there is no relevant factual issue in dispute.

Resolution of the factual issue in the way sought by the person must be adequate to justify the relief requested in the objections and requests for hearing. Irrelevant factual contentions that are not determinative or controlling with respect to the relief requested will not justify a hearing. In some instances in the past, the Commissioner has received requests for a hearing on food standards which fail to include a product, but which do not exclude or otherwise affect that product. Under these circumstances, a hearing is not justified. Whenever there is an effect upon a product, however, a hearing may be justified. See, e.g., *A. E. Staley Mfg. Co. v. Secretary of Agriculture*, 120 F.2d 253 (7th Cir. 1941).

The action requested must not, on its face, be inconsistent with or in violation of any provision of the act or in any agency regulation particularizing the statutory standards. Instead of requesting a hearing under these circumstances, the proper procedure for the person to follow is to request an amendment or waiver from the regulation involved. For

example, the Food and Drug Administration is presently engaged in rule making proceedings to establish monographs for OTC drug products and for biological products. Once those monographs are promulgated and made effective, new drug applications and biological licenses which are not in conformity with the monographs will be revoked or required to be amended to be consistent with the monographs. Hearings will not be granted with respect to such revocation or amendment, since the issue will already have been decided in the rule making proceeding. The proper procedure for any aggrieved manufacturer will be to request an amendment of or waiver from the monograph.

In some instances, a request for hearing may present a close question as to whether a hearing is justified, or the Commissioner may otherwise be uncertain as to whether the public interest justifies a hearing. In such circumstances, § 2.113(d) provides that the Commissioner may serve upon the party involved a proposed order denying a hearing, and the party shall have 30 days within which to respond with justification for the hearing.

## MODIFICATION OR REVOCATION OF REGULATION OR ORDER (§ 2.114)

Based upon objections or a request for hearing, the Commissioner may modify or revoke the regulation or order involved, in whole or in part. Such modification or revocation shall be accomplished through a further *FEDERAL REGISTER* notice. Thereafter, further objections or requests for hearing may be submitted with respect to such modification or revocation, but not with respect to any other provisions in the regulation or order involved. Such other provisions shall become final upon expiration of the original 30 days provided for objections or requests for hearing, and cannot thereafter be reopened except upon further notice by the Commissioner specifically reopening them.

## DENIAL OF FORMAL EVIDENTIARY PUBLIC HEARING IN WHOLE OR IN PART (§ 2.115)

Where the Commissioner concludes that a formal evidentiary public hearing, or the alternative form of hearing requested, is not justified, § 2.115 requires that he issue a notice of such determination in the *FEDERAL REGISTER*. In accordance with present procedure and applicable case law, any such determination must specify the reasons therefor.

Section 2.115(b) specifies the record of the administrative proceeding. That administrative record shall constitute the exclusive record for the Commissioner's decision, and the record upon which subsequent court review of the denial of a hearing may be obtained.

In some instances, a request for hearing may be granted on some issues and denied on others. Under these circumstances, the denial constitutes final agency action on that matter, and is subject to judicial review pursuant to the specific statutory provisions relating to that subject matter. The time for filing a petition for judicial review begins to run

on the date of publication in the *FEDERAL REGISTER* of the Commissioner's determination denying a public hearing on those particular issues. The failure to file such a petition within the time period established by the specific statutory provisions governing the matter constitutes a waiver of the right to judicial review of those particular issues at any later time, regardless whether a hearing has been granted on other issues. In this way, there will be prompt judicial review of any partial denial of a hearing. In the event that a reviewing court concludes such denial to be improper, the issues involved can then be added to the hearing before it is concluded.

## JUDICIAL REVIEW AFTER WAIVER OF HEARING ON A REGULATION (§ 2.116)

In the past, it has been assumed that any person who wishes to obtain judicial review of the Commissioner's decision on a final regulation which is subject to an opportunity for a hearing must request a hearing, and go through the entire hearing process, before he may obtain such review in the courts. The Commissioner concludes that this is a wasteful procedure that is not required by the statute. Accordingly, § 2.116 of the regulations provides a procedure under which judicial review may be obtained on any regulation which is subject to an opportunity for a formal evidentiary public hearing without the necessity of requesting or conducting such a hearing.

Under this procedure, the interested person need submit only an objection to the final regulation involved. After the Commissioner issues a notice in the *FEDERAL REGISTER* ruling upon any such objection, the person may then appeal the Commissioner's ruling on that objection to a United States Court of Appeals pursuant to the applicable statutory provisions in the act. The record for review shall be the administrative record of the proceeding designated in the new regulations.

The Commissioner notes that this procedure will not be available where a hearing is in fact requested and justified on the particular matter involved by some other person. Under those circumstances, since the matter will be the subject of a formal evidentiary hearing or an alternative form of hearing, it would be impermissible to have it also subject to immediate court review while the issue is being reviewed in a hearing. If a hearing is requested and justified on an unrelated aspect of the matter, however, immediate court review of an adverse ruling on an objection can, and indeed must, be obtained pursuant to this new procedure. The failure to file a petition for court review within the statutory time period after the Commissioner's determination rejecting the objections constitutes a waiver of judicial review on those objections.

This procedure is quite similar to the procedure used for review of regulations issued by the Commissioner under section 701(a) of the act which are reviewable in the courts under the Administrative Procedure Act, 5 U.S.C. 701 et seq., except that the statutory provisions of

the act permit direct review in a United States Court of Appeals rather than in a United States District Court. The record for review upon such appeal is, however, the same record in both instances, i.e., the administrative record compiled before the Commissioner on the basis of which he made his decision.

The Commissioner concludes that this procedure will substantially expedite matters by eliminating the necessity for a public hearing prior to court review of any matter on which an interested person wishes to institute legal challenge. It will provide a fair and efficient procedure for such challenge, without burdening both the party involved and the Food and Drug Administration in a needless public hearing. The courts will, moreover, have a full administrative record to review, even without the public hearing. That record will consist of all of the relevant *FEDERAL REGISTER* notices, a full articulation of the Commissioner's decision, including the reasons for his rejection of the objections filed to the final regulation, and all of the data and information on which the Commissioner and the other parties to the matter have relied. The reviewing court's determination of whether the Commissioner's decision is supported by substantial evidence of record in this instance will therefore be no more difficult, and indeed probably no different, than its determination after a public hearing is held on a matter.

## REQUEST FOR ALTERNATIVE FORM OF PUBLIC HEARING (§ 2.117)

For the reasons already noted above, the Commissioner has concluded that it is important to establish alternative forms of public hearings in addition to the formal evidentiary public hearing provided in Subpart B of the new regulations. Section 2.117 provides that a person who has a right to an opportunity for a formal evidentiary hearing may waive that opportunity and, in lieu thereof, request a public hearing before a Public Board of Inquiry pursuant to Subpart C, a public hearing before a public advisory committee pursuant to Subpart D, or a public hearing before the Commissioner pursuant to Subpart E. Such a waiver may, but need not, be conditioned upon the grant of one of these alternative forms of hearing. Such a request may be on his own initiative or at the suggestion of the Commissioner. The Commissioner anticipates that, in many instances, such a person will request a hearing under Subpart B and then indicate his willingness to waive that right to a hearing, conditioned upon the use of an alternative form of hearing. A request for an alternative form of hearing will be filed by the Hearing Clerk in the same administrative file as any related objections and request for hearing under Subpart B.

The Commissioner has concluded that, at this time, an alternative form a hearing will be used only where all persons who have a right to a formal evidentiary public hearing, and who justify such a hearing, agree to the alternative form. Under recent case law, it is clear that

an alternative form of hearing could in many instances be required even without the consent of the parties. The Commissioner believes, however, that it will be unnecessary to resort to this type of requirement, and that parties to a hearing will readily agree to the form of hearing that will resolve the issue most expeditiously. Should this not occur, however, the Commissioner will reconsider this portion of the new regulations and may require use of alternative forms of hearings where they are more appropriate under the circumstances involved.

The Commissioner may, of course, determine to hold an alternative form of public hearing even where the formal requirements for justifying a formal evidentiary public hearing are not fully satisfied. Where close questions arise with respect to justification for a formal evidentiary public hearing, it may well be in the best interests of all parties to agree to the use of an alternative form of hearing rather than to conduct litigation on the question whether a formal evidentiary public hearing has been justified.

If the Commissioner determines that an alternative form of public hearing should be used, a *FEDERAL REGISTER* notice shall be published setting forth all of the pertinent information relating to the hearing, including any provision of the regulation or order which has been stayed, the issues to be considered at the hearing, and similar matters. If the hearing is to be conducted by a Public Board of Inquiry or a public advisory committee, the notice will state whether the findings and conclusions resulting from the hearing will be handled as a recommended decision or as an initial decision.

## NOTICE OF HEARING; STAY OF ACTION (§ 2.118)

If the Commissioner determines that a request for hearing justifies a formal evidentiary public hearing, he must issue a notice of that determination in the *FEDERAL REGISTER*, setting forth all relevant information about the hearing, such as a statement as to which parts, if any, of the regulation or order involved are stayed pending the hearing, the parties to the hearing, the issues to be considered at the hearing, whether the presiding officer will prepare a recommended decision or an initial decision, and similar matters. The presiding officer and the time of the prehearing conference may be included in the notice of hearing or may be published in a later notice.

The Commissioner notes that the various provisions of the act subject to § 2.12 and Subpart B state different requirements with respect to whether a regulation or order is automatically stayed pending a public hearing. All regulations and orders subject to sections 505 and 701(e) of the act are automatically stayed by the filing of proper objections and requests for a hearing. Under section 409 of the act, the Commissioner has discretion to stay or not to stay a food additive regulation pending a hearing. Neither section 507 of the act nor section 351 of the Public Health Service Act provides for a stay of an antibiotic or



biologic regulation or order pending a hearing, and accordingly the Commissioner also has discretion to grant or deny a stay under these provisions. Where the Commissioner has discretion to consider a stay, any request for a stay pending a hearing must be submitted pursuant to § 2.9 of the new regulations.

The statement of the factual issues raised by the objections or requests for hearings contained in the notice of hearing determines the scope of the hearing. Although the presiding officer may revise or restate the issues, he may not add other issues or delete any of those issues contained in the notice of hearing.

#### EFFECTIVE DATE OF A REGULATION (§ 2.119)

If no objections are filed and no hearing is requested, the regulation shall become effective as specified in the notice promulgating it, and the Commissioner shall publish an appropriate notice in the *Federal Register* confirming the effective date of the regulation involved. Based upon additional information, the Commissioner may also wish to extend the time for compliance with the new regulation.

#### EFFECTIVE DATE OF AN ORDER (§ 2.120)

If no hearing is requested in response to a notice of opportunity for hearing, the Commissioner shall publish a final order withdrawing approval of the NDA, NADA, or biologics license involved. Such withdrawal may, of course, involve the entire approval or only a portion of it, e.g., elimination of a single indication from labeling. The final order shall establish the date on which it becomes effective.

Any person subject to the notice of opportunity for hearing, e.g., the manufacturer or distributor of a drug product which is identical, related, or similar to a drug product named in the notice, who does not request a hearing will be bound by the final order as of its effective date. If one person requests a hearing and others do not, the Commissioner may publish a final order covering those who do not request a hearing before he rules upon the other person's request for hearing, or he may delay any such final order and handle them all at once.

In accordance with section 512(i) of the act, a final order withdrawing or modifying approval of an NADA requires that a corresponding change forthwith be made in the regulation reflecting the action taken.

#### APPEARANCE AND PRACTICE (§§ 2.130 AND 2.131)

Sections 2.130 and 2.131 relate to the filing of a notice of appearance in any formal evidentiary public hearing. No person need be licensed or otherwise specially qualified to appear on his own behalf or on behalf of any other interested person.

No person may participate in any proceeding without first having filed a written notice of appearance under these provisions. A notice of appearance may be stricken by the presiding officer for good cause, in which case the person in-

volved may no longer participate in the proceeding.

#### PRESIDING OFFICER (§§ 2.140-2.144)

Sections 2.140 through 2.144 relate to the authority and functions of the presiding officer. In most instances the presiding officer will be an administrative law judge. In general, the presiding officer shall have the authority and duty to conduct a fair and expeditious hearing.

The Food and Drug Administration presently has no subpoena power, and accordingly the presiding officer has no authority to require witnesses to answer questions. In the event that a person whose direct testimony has been presented then declines to answer any question presented by the presiding officer or by any other participant on cross-examination, however, the presiding officer may strike all the testimony of that witness. Similarly, where a participant in the hearing fails to abide by the regulations and the orders issued by the presiding officer, all evidence presented by that participant may properly be stricken from the record.

#### HEARING PROCEDURES (§§ 2.150-2.165)

Sections 2.150 through 2.165 contain the procedures to be utilized in the conduct of the formal evidentiary public hearing.

#### FILING AND SERVICE OF SUBMISSIONS (§ 2.150)

Section 2.150 requires all submissions relating to a formal evidentiary public hearing to be filed with the Hearing Clerk in accordance with § 2.5. Copies of any such submission must be served on all participants in the proceeding except for documentary data and information.

#### PETITION TO PARTICIPATE IN FORMA PAUPERIS (§ 2.151)

Section 2.151 provides that the Commissioner may grant a participant's petition to proceed in forma pauperis, where the person is indigent and there is a strong public interest justification in his participation, or where such participation is in the public interest because it primarily benefits the general public. Under these circumstances, the participant need file only one copy of each submission with the Hearing Clerk, and the Hearing Clerk shall then be responsible for serving copies upon all other participants.

#### ADVISORY OPINIONS (§ 2.152)

Section 2.152 provides for the use of advisory opinions to settle issues during the course of a formal evidentiary public hearing.

#### DISCLOSURE OF DATA AND INFORMATION BY THE PARTICIPANTS (§ 2.153)

Section 2.153 requires the director of the agency bureau responsible for the matter involved in the hearing to submit to the Hearing Clerk, before the notice of hearing is published, all relevant portions of the administrative proceeding, all documents in the bureau files containing relevant factual data and in-

formation, whether favorable or unfavorable, all other documentary data and information on which the bureau relies for its position, and a narrative statement of his position on the factual issues involved and the type of evidence intended to be introduced in the hearing. Within 60 days after the notice of hearing is published, all other participants must file with the Hearing Clerk the same information. The failure to comply with this requirement constitutes a waiver of the right to participate further in the hearing and, in the case of a party, a waiver of the right to a hearing.

The Commissioner notes that those portions of the administrative record which are not relevant to the issues in the hearing will not be included in the documents filed by the bureau director. For example, if the manufacturing and quality control procedures for a new drug are not in issue in a hearing relating to the drug's safety or effectiveness, they will not be a part of the hearing record and, because they are otherwise prohibited from public disclosure pursuant to the provisions of Part 4 and the regulations referenced therein, will not be available for public disclosure.

Such submissions may be supplemented later in the proceeding with the approval of the presiding officer, but the Commissioner emphasizes that good cause must be shown as to why such supplemental material was not reasonably known or available, or why its relevance could not reasonably have been foreseen.

No participant need file data and information already filed by the Food and Drug Administration or by any other participant. Thus, participants are encouraged to exchange and consolidate lists of documentary evidence to reduce duplicative submissions.

#### PURPOSE; ORAL AND WRITTEN TESTIMONY; BURDEN OF PROOF (§ 2.154)

Section 2.154 governs the presentation of evidence and the burden of proof in a formal evidentiary public hearing. The Commissioner has concluded that, since the use of oral direct testimony and the use of cross-examination have been the principal causes for delay of Food and Drug Administration hearings in the past, most of the hearing should be developed through the submission of written documentary and testimonial evidence. Oral evidence should be permitted only where necessary for a full and true disclosure of relevant evidentiary facts. See, e.g., *Long Island R.R. v. United States*, 318 F. Supp. 490 (E.D.N.Y. 1970).

Under the Administrative Procedure Act, 5 U.S.C. 556(d), all direct evidence in a formal evidentiary public hearing involving rule making may be required to be introduced in writing, and a party to an adjudicatory proceeding may introduce direct testimony either orally or in writing. Commentators and the courts have pointed out, however, that it is virtually impossible to draw a clear line between rule making and adjudicatory proceedings, and thus that the true nature of any proceedings and the requirements applicable to them must be con-

sidered by reviewing the nature of the issues involved rather than by the use of arbitrary labels. See, e.g., *Appalachian Power Co. v. Environmental Protection Agency*, 477 F.2d 495, 500-501 (4th Cir. 1973); *City of Chicago v. Federal Power Comm'n.*, 458 F.2d 731, 739 (D.C. Cir. 1971), cert. denied, 405 U.S. 1074 (1972); *American Airlines, Inc. v. Civil Aeronautics Board*, 359 F.2d 624, 627-632 (D.C. Cir. 1966), cert. denied, 385 U.S. 843 (1966); 1 Davis, *Administrative Law Treatise* § 5.01; 2 Davis, *Administrative Law Treatise* § 15.03; and Note, *The Judicial Role in Defining Procedural Requirements for Agency Rulemaking*, 87 Harv. L. Rev. 782 (1974). This is particularly true with respect to Food and Drug Administration proceedings. Although revocation of an antibiotic monograph and withdrawal of approval of a new drug on grounds of lack of safety or effectiveness involve the identical issue, the former is technically regarded as "rule making" whereas the latter is technically regarded as "adjudication." It is apparent, and the courts have recognized, that this distinction is meaningless and that, under the circumstances, an agency may apply similar procedural requirements depending upon the nature of the issues involved.

Accordingly, the Commissioner has concluded that the need for oral direct testimony should depend upon whether the type of proceeding involves "adjudicatory" facts or "legislative" facts. Where the issues involve a particular party or product and have no general applicability, e.g., the failure of one manufacturer to use adequate quality control in processing a specific drug product, they will be regarded as adjudicatory in nature. Where the issues have general applicability, as is true with the safety and effectiveness of a class of drugs produced by a number of companies, they will be regarded as "legislative" or "rule making" in nature. Accordingly, all issues of general applicability will be subject to the requirement for written direct testimony, whereas issues involving specific applicability and particular parties shall be considered adjudicatory in nature and each party shall determine whether, and the extent to which, he wishes to present his direct testimony orally or in writing.

With respect to cross-examination, the Administrative Procedure Act, 5 U.S.C. 556(d), states that the same rules shall apply in both rule making and adjudicatory proceedings. Under the law, cross-examination shall be permitted upon a showing that it is necessary for a full and true disclosure of the facts. The Commissioner therefore adopts this standard, under which the presiding officer shall in all cases determine whether cross-examination has been justified. The burden shall be on the party involved to justify cross-examination in each instance in which it is requested. Ordinarily, cross-examination is justified when it relates to witness perception or credibility, but not when it relates to a judgment based on scientific, medical, or technical data.

The Commissioner emphasizes that these new regulations do not eliminate either oral direct examination or oral cross-examination. Rather, they require that any participant in a formal evidentiary public hearing justify the need for such oral presentation. Where the lack of an oral presentation can be shown to prejudice any participant, the new regulations provide that such an oral presentation shall be permitted. Accordingly, formal evidentiary public hearings will be far less protracted and legalistic but will preserve the right of each participant to make a full and fair presentation of his case.

The Commissioner concludes that these rules fully meet the requirements of the Administrative Procedure Act, as interpreted by the courts. They will neither hinder the parties in developing the relevant facts, nor unduly prolong the proceeding to the detriment of the public interest. Any diligent party will have full opportunity to present all relevant information for consideration by the presiding officer and the Commissioner.

Pursuant to the Administrative Procedure Act, 5 U.S.C. 556(d), the proponent of a regulation or order has the burden of proof in any formal evidentiary public hearing. Except as otherwise provided by statute, this means that, where an interested person submits a petition to the agency but the agency modifies it in any significant way, the agency itself must bear the burden of proof with respect to such modification. Where the matter involves a drug, food additive, or color additive, however, the provisions of the act specifically place the burden of proof on the person contending that the product is safe or effective or both and who is requesting approval or contesting withdrawal of approval. In these situations, the burden of proof remains on any such participants regardless whether the proceeding involves a denial of approval in the first instance, or revocation of prior approval. See, e.g., *Environmental Defense Fund v. Finch*, 428 F.2d 1083, 1092 n.27 (D.C. Cir. 1970) and *Dow Chemical Co. v. Ruckelshaus*, 447 F.2d 1317, 1324 (8th Cir. 1973).

#### PARTICIPATION OF NONPARTIES (§ 2.155)

Section 2.155 provides that a nonparty participant shall have basically the same rights as a party to the proceeding, except that he may not submit written interrogatories or conduct cross-examination except to the extent that the presiding officer finds that such additional rights should be granted because the participant's interests are not adequately protected otherwise, or it is required for a full and true disclosure of relevant evidentiary facts. Any person whose petition is the subject of the hearing shall have the same rights as a party, even though he does not meet the definition of a party in § 2.3(a) (10).

#### CONDUCT AT ORAL HEARINGS OR CONFERENCES (§ 2.156)

Section 2.156 requires dignified and ethical conduct by all participants in a hearing. Failure to observe this require-

ment shall result in exclusion from the proceeding by direction of the presiding officer. Exclusion of a participant for improper conduct at a hearing has been upheld in the courts. See, e.g., *Ubiotica Corp. v. Food and Drug Administration*, 427 F.2d 376, 382 (6th Cir. 1970).

#### TIME AND PLACE OF PREHEARING CONFERENCE (§ 2.157)

Section 2.157 provides for a prehearing conference to be held as scheduled in the notice of hearing or in a subsequent notice.

#### PREHEARING CONFERENCE PROCEDURE (§ 2.158)

Section 2.158 describes the matters to be determined at a prehearing conference. In general, the purpose of the prehearing conference is to lay out the full course of the hearing to the extent feasible, to identify all issues, to resolve all matters in contention between the participants with respect to the conduct of the hearing, and otherwise to take whatever action is necessary to assure a fair and efficient hearing. At the conclusion of the prehearing conference, the presiding officer must prepare a written prehearing order summarizing all of the decisions made, which shall control the subsequent course of the hearing unless later modified for good cause shown. The presiding officer may revise the prehearing order as the evidence develops in the course of the hearing.

#### SUMMARY DECISIONS (§ 2.159)

Section 2.159 provides that, just as in court proceedings, part or all of a formal evidentiary public hearing may be decided by summary judgment at any point in the proceeding.

#### RECEIPT OF EVIDENCE (§ 2.160)

Section 2.160 relates to the development of evidence at a formal evidentiary public hearing. All participants will be submitting evidence during the same time period, rather than having it developed in sequence. Separate rules are provided with respect to written and oral evidence.

A written submission to the record is admissible as evidence unless the document is not authentic or is excluded in order to enforce the procedural requirements of Subpart B. Thus, all of a participant's evidence may be excluded if he fails to comply with the requirements for a hearing.

Written evidence will not be excluded as inadmissible on the ground that it is irrelevant, immaterial, or repetitive. All such evidence shall be admitted even though it is of no probative value whatever. The admission of written evidence therefore does not indicate that it is of any weight or value in determining the issues raised at the hearing. The Commissioner concludes that it is far preferable to admit all written evidence and then to disregard irrelevant material in reaching a decision, than it would be to spend substantial time in debating the admissibility of such evidence at the hearing. For example, a scientific study



or consumer survey is admissible in evidence without the extensive voir dire that usually precedes it, in full court trials, and the other participants may then submit evidence on any alleged defects in the study or survey in order to support any contentions they may wish to make with respect to the weight that should be given to it. Admitting all written testimony into evidence, without consideration of evidentiary objections, will substantially shorten the time necessary to conduct a hearing.

Oral testimony, whether on direct or on cross-examination, will be admissible as evidence unless it is excluded as irrelevant, immaterial, or repetitive, or to enforce the procedural requirements relating to the hearing. If such evidence is excluded, it shall remain a part of the administrative record, as a proffer of proof, in the event that such ruling is later challenged on judicial review. The Commissioner concludes that excluding irrelevant, immaterial, and repetitious oral testimony will expedite the hearing by reducing the need for lengthy trial-type proceedings. Accordingly, by encouraging the use of written testimony and limiting oral testimony the new regulations will prevent the type of prolonged and contentious hearings for which the agency has been criticized in the past.

On occasion, oral testimony may be offered relating to matters which constitute trade secrets and which, pursuant to § 2.5(j) (3), are prohibited from public disclosure. After the presiding officer has assured himself that this is in fact the situation, he shall order the portion of the hearing closed which deals exclusively with oral testimony, whether on direct examination or cross-examination, relating to such matters. Testimony relating to other matters may not be offered during such a closed session. The only persons who may attend and participate in such a closed session are the witness, his counsel, and Federal Government Executive Branch employees and special government employees.

Any party may at any time in the course of the proceeding move for an order that the submission of oral and written evidence be concluded. It is within the power of the presiding officer to grant or deny such order. Once the taking of evidence is concluded, no additional evidence may be submitted and considered as part of the record unless the record is reopened for that purpose.

#### OFFICIAL NOTICE (§ 2.161)

Under § 2.161, the presiding officer may take official notice of specified matters on his own initiative or on the motion of any participant. All participants shall have an opportunity to object to any specific matter of which official notice is proposed to be taken.

#### BRIEFS AND ARGUMENT (§ 2.162)

Section 2.162 assures all participants of the right to file briefs, together with proposed findings of fact and conclusions of law, at the conclusion of the proceed-

ing. The presiding officer may also permit oral argument, in his discretion.

Where a formal evidentiary public hearing involves trade secret matters prohibited from public disclosure pursuant to § 2.5(j) (3), the participants who have access to this information, and particularly Food and Drug Administration representatives, shall make a reasonable effort to avoid disclosing the details of such matters in a way that would reveal the trade secrets involved, in their pleadings and oral arguments. Where such matters are at the very heart of the issue, however, and it is essential that they be discussed for the issue to be resolved, whatever presentation is necessary under the circumstances will be permitted.

#### INTERLOCUTORY APPEAL FROM RULING OF PRESIDING OFFICER (§ 2.163)

Ordinarily, an interlocutory appeal from a ruling of the presiding officer to the Commissioner is not permitted. Such an appeal pursuant to § 2.163 is allowed only where specifically provided for with respect to a particular matter in the subpart, or upon certification of the matter by the presiding officer.

#### OFFICIAL TRANSCRIPT (§ 2.164)

All oral testimony shall be transcribed.

#### MOTIONS (§ 2.165)

Under § 2.165, any participant may make a motion with respect to any matter by filing it with the Hearing Clerk and providing it to the other participants in the proceeding.

#### ADMINISTRATIVE RECORD (§§ 2.170-2.173)

Sections 2.170 through 2.173 designate the contents of the administrative record, provide for its examination and correction, and state that the record is the sole basis for decision on the matter involved.

The administrative record begins with the final regulation or order and the objections and requests for hearing thereon, and thus does not include any proposed regulation and comments on it which led to the final regulation. The Commissioner's decision on the matter must be based upon the evidence introduced at the hearing, and not upon earlier comments. The original proposal and some of or all the comments on it may, of course, be introduced as evidence by any participant in the hearing who wishes to rely upon such material.

The Commissioner has carefully considered the handling of data and information relevant to a formal evidentiary public hearing which would otherwise be prohibited from public disclosure pursuant to 21 U.S.C. 331(j) and 18 U.S.C. 1905, as interpreted and applied in the recently promulgated public information regulations contained in 21 CFR Part 4 and the regulations referenced therein. For the reasons already fully discussed above, § 2.5(j) (2) and (3) provides that safety and effectiveness data and information will be available for examination but not for copying, and that manufacturing procedures and related informa-

tion will not be available for examination or copying. In the Commissioner's experience, this will mean that, in virtually all formal evidentiary public hearings, all of the data and information necessary to full and meaningful participation by members of the public will be accessible.

#### RECOMMENDED, INITIAL, TENTATIVE, AND FINAL DECISIONS (§§ 2.180-2.185)

Sections 2.180 through 2.185 of the new regulations govern the initial decision of the presiding officer and the final decision of the Commissioner. Until now, Food and Drug Administration regulations have provided that the presiding officer in a formal evidentiary public hearing shall never prepare an initial decision on the matters involved, but shall always prepare a report and certify the record to the Commissioner. Thereafter, the Commission has prepared a tentative order, with time for exceptions by any party, and then a final order after which judicial review can be obtained.

The Commissioner has concluded that the new regulations should provide for the full flexibility permitted by the Administrative Procedure Act, 5 U.S.C. 557 (b), and thus should state that the Commissioner will in each instance decide, in the notice of hearing, whether the presiding officer will prepare a recommended decision or an initial decision.

Where the notice of hearing states that the presiding officer will prepare a recommended decision, the regulations provide for the same procedure that has been used in the past. That recommended decision will be certified to the Commissioner with the full record, and the Commissioner will then publish tentative and final decisions. This procedure will ordinarily be used where the hearing involves broad policy issues.

Where the notice of hearing states that the presiding officer will prepare an initial decision, or where the notice of hearing is silent on this matter, the new regulations provide that the initial decision shall stand as the final decision unless it is appealed by a party to the Commissioner, or the Commissioner concludes on his own initiative to review it. This procedure will ordinarily be used where the hearing involves narrow technical issues.

The same rule applies with respect to the handling of trade secret information prohibited from public disclosure pursuant to § 2.5(j) (3) in an initial or recommended decision as applies under § 2.162(c) for briefs and oral argument by the participants.

If the initial decision is appealed to the Commissioner, or he concludes to review it on his own initiative, the Commissioner shall have all the powers he would have in making the initial decision, and may take whatever action is necessary in the interest of justice, including a remand to the presiding officer for further proceedings. The scope of the issues on appeal shall be the same as the scope of the issues at the public hearing unless the Commissioner concludes to limit the issues as permitted by the Administrative

Procedure Act, 5 U.S.C. 557(b). The Commissioner's decision must, of course, be based upon substantial evidence of record, and shall be published in the FEDERAL REGISTER. Following his final decision, any participant may petition for reconsideration or a stay of action.

#### JUDICIAL REVIEW (§§ 2.190 AND 2.191)

Sections 2.190 and 2.191 provide for judicial review of the Commissioner's final decision, pursuant to the specific statutory provisions governing the matter involved.

#### PUBLIC HEARING BEFORE A PUBLIC BOARD OF INQUIRY (SUBPART C)

Subpart C of the new regulations establishes, as an alternative to a formal evidentiary public hearing, an informal public hearing before a Public Board of Inquiry that will be conducted in the form of a scientific inquiry rather than as a legal trial. The reasons for providing this alternative to a formal evidentiary public hearing have been discussed fully above.

#### SCOPE OF SUBPART (§ 2.200)

The Commissioner may convene a Public Board of Inquiry whenever he concludes, in his discretion, that it is in the public interest to hold a public hearing before such a Board with respect to any matter pending before the agency. Although no agency regulations currently provide for the right to a public hearing before a Board of Inquiry, the Commissioner may in the future promulgate regulations providing this right. A Public Board of Inquiry may also be requested by any person who has an opportunity for a hearing pursuant to Subpart B, and who waives that opportunity and instead requests pursuant to § 2.117 the establishment of a Board to act as an administrative law tribunal with respect to the matters involved. The Commissioner may, in his discretion, accept or deny such a request.

The Commissioner notes that the only persons who may request a Board of Inquiry pursuant to § 2.117 are those who are, by statute, entitled to an opportunity for a hearing under Subpart B. For example, an NDA applicant or holder who has received a denial of approval or withdrawal of approval has a statutory right to request a hearing on the matter, but no other member of the public has such a right. A physician or other citizen who wishes to have a Board inquire into the matter may request the Commissioner to order such a hearing pursuant to his discretionary authority, but he has no legal right to require either a formal evidentiary public hearing or the establishment of a Board of Inquiry.

#### NOTICE OF A PUBLIC HEARING BEFORE A PUBLIC BOARD OF INQUIRY (§ 2.201)

Once it is determined that a Board will be established, a notice of hearing will be published pursuant to § 2.201 which will provide the essential information about the hearing. If the hearing is in lieu of a formal evidentiary public

hearing the notice of hearing will provide all of the information required by § 2.117(e), and the criteria for granting a stay of the matter pending the hearing will be the same as for a formal evidentiary public hearing.

#### MEMBERS OF A PUBLIC BOARD OF INQUIRY (§ 2.202)

Section 2.202 requires that the members of a Board have medical, technical, scientific, or other qualifications relevant to the issues to be considered at the hearing. The members will be special government employees and thus subject to the conflict of interest rules applicable to such employees. Although a Board member may be a full-time or part-time Federal government employee or serve on a Food and Drug Administration advisory committee, he may not be a full-time or part-time employee of the agency or otherwise act as a consultant to the agency unless all of the parties to the proceeding agree.

Within 30 days after the notice of the hearing before the Board is published in the FEDERAL REGISTER, each of the parties to the proceeding and any person whose petition is the subject of the hearing shall submit a list of five nominees for members of the Board. Such persons may agree upon a single list of nominees. Following receipt of such lists, such persons may submit comments on the other lists submitted. The Commissioner shall then review the lists and comments and select one member of the Board from the lists submitted by the director of the agency bureau involved and any person whose petition is the subject of the hearing, one member from the lists submitted by the other parties, and one member of his own choosing from any source whatever who shall serve as the Chairman of the Board. Thus, although the parties shall have a right to participate in the selection of the members of the Board, the Commissioner shall have the final determination on this matter.

In lieu of the nomination procedure set out above, the parties to such a proceeding and any person whose petition is the subject of the hearing may meet and agree upon any other method of selection that is reasonable, subject to the approval of the Commissioner. For example, any standing advisory committee of the agency may be utilized as the Board for a particular proceeding.

Since the Board is acting as an administrative law tribunal with the consent of the parties involved, it does not meet the definition of an "advisory committee" and thus is not subject to the requirements of the Federal Advisory Committee Act or Subpart D of these regulations. On the other hand, the procedures established for a Board clearly meet all of the requirements with respect to public notice and participation for an advisory committee. The only difference is that a Board utilizes a public notice of hearing rather than a charter, and is not required to be approved by the Office of Management and Budget and the Department.

#### SEPARATION OF FUNCTIONS; EX PARTE COMMUNICATIONS; ADMINISTRATIVE SUPPORT (§ 2.203)

To assure objectivity and fairness, the proceedings of a Board are subject to the same provisions with respect to separation of functions and ex parte communications as are the proceedings of a formal evidentiary public hearing. Similarly, administrative support for a Board shall be provided only by the office of the Commissioner and not by the Bureau which is a party to the proceeding.

#### SUBMISSIONS TO A PUBLIC BOARD OF INQUIRY (§ 2.204)

All submissions to the Board shall be filed with the Hearing Clerk in accordance with the general requirements established in § 2.5. Documentary data and information need be filed only with the Hearing Clerk, but all submissions that are generally regarded as "pleadings," such as transmittal letters, summaries, statements of position, and other similar documents, as well as any certification of service required by § 2.204(d), shall be sent to each participant so that he will understand the position of all of the participants and will be able to follow the progress of the proceeding. The same provisions with respect to participating in forma pauperis apply to a public hearing before a Public Board of Inquiry as apply to a formal evidentiary public hearing.

#### DISCLOSURE OF DATA AND INFORMATION BY THE PARTICIPANTS (§ 2.205)

Section 2.205 requires that the director of the responsible agency bureau file with the Hearing Clerk, before the notice of hearing is published, the relevant portions of the administrative record of the proceeding up to that time, a list of the persons whose views will be presented orally or in writing at the hearing, all relevant documents in the agency files containing factual data and information, whether favorable or unfavorable, and all other documentary data and information on which he relies. In this way, the full position of the agency with respect to the matters involved will be made public at an early date.

Within 60 days after the notice of hearing, each participant in the proceeding who has submitted a notice of appearance is required to submit the same information. Because the agency will already have filed its information, no participant need submit duplicative documents. This will substantially reduce the amount of paperwork involved.

These submissions may be supplemented later in the proceeding upon a showing of good cause, but no participant may fail to conduct an adequate search and then later supply new information that could reasonably have been found at the time of the initial submission.

The Commissioner believes that it is important that this section be complied with fully. Accordingly, the failure to comply, e.g., the failure to submit any data and information as required by



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§ 2.205 (a) and (b), shall constitute a waiver of the right to participate further in the hearing and, in the case of a party, shall constitute a waiver of the right to a hearing.

## PROCEEDINGS OF A PUBLIC BOARD OF INQUIRY (§ 2.206)

Section 2.206(a) makes it clear that the purpose of a Board is to review complex technical issues in a reasonably short time by using the informal approach of a scientific inquiry rather than the formal procedures of a legal trial. Accordingly, it is anticipated that there will be little, if any, need for participation by attorneys in the proceeding. The participants will primarily be the scientists and others with technical backgrounds who wish to present data and information relevant to issues raised at the hearing. The agency's Chief Counsel will participate only to the extent that he is requested by the Chairman of the Board to provide legal assistance to the Board.

The Chairman of the Board shall determine the order in which the parties and participants make their presentations. Such order of presentation may well be the subject of a prior agreement. Each participant may then proceed with his presentation, which shall be made without interruptions and without objection or other legalistic procedures. At the conclusion of a participant's presentation, each of the other participants may briefly state questions or criticism and suggest further questioning with respect to specific matters. The members of the Board may interrupt a participant at any time to ask questions, and may conduct further questioning at the conclusion of the participant's full presentation either on their own initiative or at the suggestion of the other participants. The exact nature of the proceeding will largely be in the discretion of the Chairman, who shall be the presiding officer and shall have all of the powers necessary to conduct a fair and expeditious hearing.

Following the initial session, each participant shall have 30 days within which to submit additional written information. If a second session is requested and justified by any participant, the Chairman shall schedule it. Each hearing shall be subject to the same procedural requirements.

In addition to hearing the views of the participants, the Board may independently consult with any other person who it concludes may have useful information. All such consultation must be at an announced hearing of the Board unless all participants agree that it may be done in writing.

Moreover, any participant in the proceeding may submit to the Board a request that it consult with specific persons who may have useful information. The Board may accept or deny such a request, in its discretion.

All hearings of a Board will be conducted in open session, and thus may be attended by any interested person, except for presentation of data and in-

formation constituting trade secrets which are prohibited from public disclosure pursuant to § 2.5(j) (3). Presentation of such material shall be at a session closed to all persons except those making and participating in the presentation and Federal Government Executive Branch employees and special government employees. The person making the presentation may bring with him only such persons who are employees, consultants, or other persons with whom he has a commercial arrangement within the meaning of § 4.81(a), and thus to whom disclosure is properly made without destroying the trade secret status of the material.

At the conclusion of all hearings, the Board will permit the participants to submit written statements on their positions, with proposed findings and conclusions. Oral argument may also be permitted, in the discretion of the Board. The Board will then prepare its findings and conclusions on the matter involved.

## ADMINISTRATIVE RECORD OF A PUBLIC BOARD OF INQUIRY (§ 2.207)

Section 2.207 specifies the administrative record of a hearing before a Board. The administrative record shall be on public display and, except for trade secrets and other confidential information, available for copying.

## EXAMINATION OF ADMINISTRATIVE RECORD (§ 2.208)

The same provisions with respect to confidentiality of information submitted in the course of the hearing shall apply to the proceedings of a Board as apply in a formal evidentiary public hearing. In addition, both the lists of nominees for members of a Board and any comments thereon shall not be made available for public examination or copying at any time.

## RECORD FOR ADMINISTRATIVE DECISION (§ 2.209)

The administrative record of the public hearing constitutes the exclusive record for decision on the matter. If the public hearing is held in lieu of a formal evidentiary public hearing pursuant to § 2.117, the findings and conclusions of the Board shall constitute an initial decision unless the notice of hearing specifically states that they shall constitute a recommended decision. Thereafter, the participants in the proceeding may pursue the administrative and court remedies that are available as specified in §§ 2.180 through 2.191.

## PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE (SUBPART D)

Subpart D governs all proceedings and activities of Food and Drug Administration advisory committees.

## SCOPE OF SUBPART (§ 2.300)

Because of the requirements in this subpart for public notice and participation, all proceedings before a public advisory committee constitute a public hearing on the matters involved. Any interested person is entitled to present his views for the consideration of the ad-

visory committee, and the committee proceedings constitute part of the administrative record on the basis of which the agency makes its determination with respect to that matter.

The Commissioner may utilize a public advisory committee with respect to any matter on his own initiative, pursuant to specific provisions in other sections of agency regulations, or at the request of any interested person. Section 2.300(a) (2) of the regulations lists five specific provisions in existing laws and regulations which provide for the use of a public hearing before a public advisory committee as part of the administrative process. Pursuant to § 2.117, a person who has a right to an opportunity for a formal evidentiary public hearing may waive that opportunity and in lieu thereof request a public hearing before a public advisory committee.

As defined in the Federal Advisory Committee Act in § 2.3(a) (14), an advisory committee means any group or subgroup thereof that is not composed wholly of full-time employees of the Federal government and is established or utilized by the Food and Drug Administration to obtain advice or recommendations. On the basis of guidelines established by the Office of Management and Budget and the Department of Justice, and other available materials, the Commissioner has set out in § 2.300(b) a set of general principles governing the determination whether a committee or group falls within the definition of an advisory committee. All Food and Drug Administration advisory committees are also listed in § 2.340.

In general, an advisory committee shall ordinarily have a fixed membership, a defined purpose of providing advice to the agency on a particular matter, regular or periodic meetings, and an organizational structure, and shall serve as a source of independent advice rather than as a representative of or advocate for any particular interest. The Commissioner notes that the agency is charged with seeking out the views of all segments of the public on enforcement of the laws he administers. Thus, the fact that the agency meets with and requests the comments of a group on pending regulatory matters, or that a group regularly meets with the agency, does not necessarily mean that it is an advisory committee which is utilized by the agency. The provisions relating to advisory committees are not applicable, for example, to routine meetings, discussions, and other dealings, including exchanges of views, between the agency and any committee representing or advocating the particular interests of consumers, industry, professional organizations, or others. If this were not true, the Food and Drug Administration would be precluded from meeting with any group of individuals interested in the activities of the agency. Thus, when a consumer organization or trade association meets with the agency to obtain a briefing on various matters, or to protest certain action or lack of action, it is not an advisory committee for that purpose.

## ESTABLISHMENT AND RENEWAL OF PUBLIC ADVISORY COMMITTEES (§ 2.301)

Before any advisory committee may be established by the Commissioner, it must first be approved by the Department and the Office of Management and Budget. Its establishment shall then be published in the FEDERAL REGISTER, and the permanent list of standing advisory committees in § 2.340 will be amended to include it.

## TERMINATION OF PUBLIC ADVISORY COMMITTEES (§ 2.302)

All advisory committees except those established by statute shall terminate every 2 years unless renewed for an additional period. The only two permanent statutory advisory committees established under the laws administered by the Commissioner are the Technical Electronic Product Radiation Safety Standards Committee (TEPRSSC) and the Board of Tea Experts.

## PURPOSE OF PUBLIC HEARING BEFORE PUBLIC ADVISORY COMMITTEE (§ 2.303)

The Commissioner may use a public advisory committee to hold a public hearing on any matter pending before the Food and Drug Administration. The function of the advisory committee is to provide advice and recommendations to the Commissioner. The Commissioner is charged with sole statutory responsibility for making the ultimate determination with respect to action to be taken and policy to be expressed with respect to such matters.

## PORTIONS OF PUBLIC ADVISORY COMMITTEE MEETINGS (§ 2.304)

An advisory committee meeting may have four separable portions as described below. Every advisory committee meeting must have at least the first portion (an open public hearing). Whether or not it also has the other three portions will depend upon the specific meeting involved.

1. *The open public hearing.* Every advisory committee meeting must include an open portion which shall constitute a public hearing on the issues pending before the advisory committee. During this portion, any interested person may present data, information, or views, orally or in writing. Section 2.312 specifies the manner in which the hearing shall be conducted.

2. *The open committee discussion.* All discussion of any pending matter by an advisory committee shall be in an open portion of its meeting, unless that portion has been closed in accordance with the provisions established in § 2.318. The Commissioner concludes that, to the maximum extent feasible, an advisory committee should conduct its discussion of pending matters in the open portion. Ordinarily, there will be no public participation during this discussion by the advisory committee, but the chairman of the advisory committee may permit such further public participation when he concludes that it would be in the public interest and helpful to the advisory committee.

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3. *The closed presentation of data.* On occasion, it may be important for an interested person to present to an advisory committee, for its consideration, data and information which are prohibited from public disclosure pursuant to the provisions relating to public information contained in Part 4 of the agency regulations. Such presentations shall be made in a closed portion of a meeting. The Commissioner emphasizes, however, that this will be the exception rather than the rule, and will occur only when the information is clearly confidential.

4. *The closed committee deliberations.* Deliberations with respect to matters pending before an advisory committee may properly be made in a closed portion of its meeting, if the Commissioner makes an appropriate determination pursuant to § 2.318. A court has specifically held that a Food and Drug Administration advisory committee may properly conduct its deliberations in private, and other courts have similarly recognized the need to protect the confidentiality of such internal discussions in order to promote free and frank consideration of issues among government employees and consultants. See *Smart v. Food and Drug Administration* (N.D. Cal. 1974); *Washington Research Project, Inc. v. Department of Health, Education, and Welfare*, 504 F.2d 238, 246-252 (D.C. Cir. 1974); *Montrose Chemical Corp. v. Train*, 491 F.2d 63, 66-71 (D.C. Cir. 1974); *Grumman Aircraft Engineering Corp. v. Renegotiation Board*, 482 F.2d 710, 718-720 (D.C. Cir. 1973); *Wu v. National Endowment for Humanities*, 460 F.2d 1030, 1032 (5th Cir. 1972); *Soucie v. David*, 448 F.2d 1067, 1078 n.44 (D.C. Cir. 1971).

## NOTICE OF PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE (§ 2.305)

Before the first day of each month, and at least 15 days before any meeting, the Commissioner must issue a notice in the FEDERAL REGISTER containing information on all advisory committee meetings to be held during the coming month. Additional notices may also be published, at least 15 days in advance of the meeting, except that a shorter notice period may be authorized where an immediate meeting of an advisory committee is required, and no notice in the FEDERAL REGISTER is required in emergency situations. Whenever shorter notice is given or no notice is published in the FEDERAL REGISTER, public notice shall be given at the earliest time and in the most accessible form feasible.

The FEDERAL REGISTER notice shall include all relevant information on the advisory committee meeting, including the agenda items and, if any portion of the meeting is closed, the time of the open and closed portions. The name, address, and telephone number of the advisory committee executive secretary shall also be included.

Where a public hearing before a public advisory committee is used in lieu of a formal evidentiary public hearing pursuant to § 2.117, the initial notice of hearing shall be published separately in the FEDERAL REGISTER containing all of

the information described in § 2.117(e). The Commissioner may also publish such separate notices in the FEDERAL REGISTER whenever he concludes that it would be informative to do so, e.g., the notices relating to public hearings before advisory committees on intrauterine devices published in the FEDERAL REGISTER of July 15, 1974 (39 FR 25967), on reserpine published in the FEDERAL REGISTER of October 1, 1974 (39 FR 35404), and on medroxyprogesterone acetate injectable and other systemic steroidal contraceptives published in the FEDERAL REGISTER of March 21, 1975 (40 FR 12830).

In addition to the notice published in the FEDERAL REGISTER, the Food and Drug Administration will also distribute its list of advisory committee meetings to the press and will place them on its prospective public calendar.

## CHAIRMAN OF A PUBLIC ADVISORY COMMITTEE (§ 2.306)

The advisory committee chairman shall have full authority to conduct the meetings of the advisory committee. Each advisory committee shall also have an executive secretary or other designated agency employee, and an alternate, appointed by the Commissioner, who serves as staff to the advisory committee for the agency.

As required by the Federal Advisory Committee Act, a designated Federal employee shall be assigned to each advisory committee, and shall be authorized to adjourn any meeting whenever he determines adjournment to be in the public interest. No advisory committee meeting may be conducted without the presence and approval of the designated Federal employee.

## MEETINGS OF A PUBLIC ADVISORY COMMITTEE (§ 2.307)

Section 2.307 requires that there be an agenda for every advisory committee meeting. The Commissioner notes that, because the agenda must ordinarily be prepared at least 30 days in advance of a committee meeting to meet the requirement for publication in the FEDERAL REGISTER before the first day of each month and at least 15 days before the meeting, it is entirely possible that other agenda items may be added after its publication. The agency will take reasonable steps to anticipate agenda items, in order to minimize this problem. Where an agenda item is added to those published in the FEDERAL REGISTER, an attempt will be made to inform those persons known to be interested in the matter. Such changes will be announced at the beginning of the open portion of the meeting.

As a general rule, all advisory committee meetings will be held in Washington, DC, or Rockville, MD, where the Food and Drug Administration is located. A different location may be approved to obtain cost savings, or when it is at a more central location, or the majority of the advisory committee members will be there at no expense to the Food and Drug Administration for other reasons, or to facilitate increased participation on any matter, or to be near specific information or facilities relevant to the ad-



visory committee's work, e.g., a laboratory working on a particular matter.

Discussion of advisory committee proceedings by members of the committee has often been a source of confusion. The new regulations provide that such discussion is permissible, as soon as the meeting is completed and before official minutes or a report are available, within the specific rules set out in the regulations. In general, there must be no attribution of individual views or discussion relating to trade secrets or specific matters that are determined by the advisory committee or the agency to be confidential, but all other matters can be freely discussed.

#### CONSULTATION BY A PUBLIC ADVISORY COMMITTEE WITH OTHER PERSONS (§ 2.308)

An advisory committee may consult with any person who it concludes may have useful data, information, or views relating to any matter pending before it. Other interested persons may also recommend that the advisory committee consult with specific individuals, and the advisory committee may grant or deny such a request.

#### ADDITIONAL RULES FOR A PARTICULAR PUBLIC ADVISORY COMMITTEE (§ 2.309)

The Commissioner recognizes that, in addition to the rules established for all Food and Drug Administration advisory committees, any individual advisory committee may wish to adopt additional rules. Section 2.309 permits such additional rules with the concurrence of the agency, as long as they are not inconsistent with the new regulations or legal requirements.

#### COMPILATION OF MATERIALS FOR MEMBERS OF A PUBLIC ADVISORY COMMITTEE (§ 2.310)

The Food and Drug Administration has been criticized for failing to provide a comprehensive compilation of salient information and background material to all advisory committee members for their periodic review relating to their duties and responsibilities. Section 2.310 of the new regulations provides that such a compilation will be prepared and disseminated, and will contain all pertinent background information that may be helpful to the specific committee involved.

#### WRITTEN SUBMISSIONS TO A PUBLIC ADVISORY COMMITTEE (§ 2.311)

Section 2.311 permits any interested person to make written submissions to a public advisory committee before, during, or after any advisory committee meeting. Such submissions may be at the request of the advisory committee or on the initiative of any interested person. Ten copies of such submissions shall be sent to the executive secretary of the advisory committee. No copies need be sent to the Hearing Clerk.

The Commissioner shall provide to an advisory committee all data and information he concludes to be relevant to any matter pending before the advisory committee, but any member of the advisory committee shall upon request also

be provided whatever other material is available to the agency which is related to the matter. In particular, any member of the advisory committee shall be entitled to review raw data underlying any summary or report, if he wishes to do so. Raw data cannot routinely be provided to all committee members in all instances because of the massive amount of paperwork involved, but all advisory committee members who wish to review such data may do so.

#### CONDUCT OF A PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE (§ 2.312)

Under the provisions of § 2.312, no Food and Drug Administration advisory committee may meet without having an open portion for public participation which shall be a public hearing on the matters being considered by the advisory committee. The hearing shall be at least 1 hour long, unless the public participation does not last that long, and may last for whatever length of time the advisory committee chairman determines will facilitate the work of the committee.

In the past, agency notices of public advisory committee meetings have specified a 1-hour open portion, where the remainder of the meeting is closed, and have failed to point out that this is the minimum rather than the maximum time allocated for public participation. In many instances, the hearing has lasted far beyond the allotted hour, and has extended up to the entire day. Accordingly, future notices of advisory committee meetings will make this clear. A particular advisory committee meeting which is scheduled for more than one day nonetheless constitutes a single meeting for purposes of scheduling the open and closed portions.

Section 2.312 specifies the manner in which the public hearing before a public advisory committee shall be conducted. Persons who wish to be assured of an opportunity to make an oral presentation must so inform the committee executive secretary prior to the meeting. The executive secretary will then allot to each such person reasonable time for his presentation.

At the hearing, each person may use his allotted time in any reasonable way. The person making the presentation may be accompanied by others, to assist him. Persons making presentations will be taken in order, and if anyone is not present for his allotted time an attempt will be made to hear him at the conclusion of the hearing, as well as others who did not request an opportunity to make an oral presentation.

The chairman and other members of the advisory committee sit as a panel in conducting the hearing. They may question any person during or at the conclusion of his presentation, but no other person attending the hearing may conduct such questioning. The hearings shall be informal in nature, without motions or objections or other similar legal procedures. In short, the hearing will be conducted very much like hearings conducted by legislative bodies, in

the same manner as a public hearing before the Commissioner pursuant to Subpart E.

#### MINUTES AND REPORTS OF PUBLIC ADVISORY COMMITTEE MEETINGS (§ 2.313)

For every advisory committee proceeding, the executive secretary must prepare detailed minutes of the committee's activities. In the past, such minutes have at times been very detailed and at other times very general. The Commissioner has advised all executive secretaries that detailed minutes are required, and these regulations so provide.

Under the regulations, an advisory committee meeting is broken down into open and closed portions.

The open portion has two parts and includes both the open public hearing and the open advisory committee discussion. The open public hearing involves the presentation of views by interested members of the public, and any presentation of data and information by the Food and Drug Administration which are not confidential. The open portion may also include discussion by the advisory committee of all of the available data and information, to the extent that the presence of observers will not inhibit the discussion and thus interfere with the advisory committee or agency operations. The length of the open portion will vary from committee to committee, and from meeting to meeting, depending upon the agenda and other relevant factors. In general, it is the policy of the Commissioner to conduct as much of an advisory committee meeting in open session as is feasible.

The closed portion of an advisory committee meeting may include both the presentation of confidential information and closed advisory committee deliberations. Data and information that are prohibited from public disclosure pursuant to 21 U.S.C. 331(j) and 18 U.S.C. 1905, or by any provision in the public information regulations in 21 CFR Part 4, may properly be presented in such a closed portion. The person who owns such data and information may make such presentation, and may be accompanied by a reasonable number of persons to assist him. The use of this procedure will, however, be extremely rare. In accordance with 21 CFR Part 4 and the regulations referenced therein, a summary of safety and effectiveness data is itself not confidential. Accordingly, oral presentation of such data will be in open session unless it relates to matters that are truly confidential, e.g., an IND or NADA the existence of which has not previously been disclosed to the public.

The other part of a closed advisory committee meeting is the executive session, during which the advisory committee deliberations take place and the recommendations of the advisory committee are formulated. This portion is closed to permit free and open discussion of views, and formulation of the best advice possible for the consideration of the Commissioner. In addition, such closed session may involve discussion of trade se-

cret material, information that may not be released on the ground that it would invade personal privacy, and confidential regulatory issues pending before the agency.

To facilitate release, advisory committee minutes will be kept separately for three portions of the meeting: The open portions, the closed portion for presentation of confidential information, and the closed executive session for advisory committee deliberations. The minutes of a closed executive session of a meeting will not refer to advisory committee members by name, to encourage free discussion of the issues involved.

#### TRANSCRIPTS OF PUBLIC ADVISORY COMMITTEE MEETINGS (§ 2.314)

Present law does not require that a transcript or other recording be made of either open or closed portions of an advisory committee meeting. The Commissioner has concluded that each advisory committee should decide whether some type of recording should be made and, if so, by what means, e.g., stenographer or tape. Any transcript or recording of any portion of an advisory committee meeting that is made by the agency, or otherwise furnished to the agency, shall be retained by the agency and shall not be discarded or erased.

The Commissioner emphasizes, however, that a transcript or recording of a closed portion of an advisory committee meeting shall be retained as confidential by the agency and shall not be considered by the agency or included in the record of the advisory committee proceeding, for the reasons set out in the preamble to the notices discussing this subject in the context of the OTC drug review, published in the FEDERAL REGISTER of June 4 and November 8, 1974 (39 FR 19878, 39556). The Commissioner shall not refer to or otherwise consider any such transcript or recording in his review of the advisory committee recommendations and his decision on the matter involved.

#### ADMINISTRATIVE RECORD OF A PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE (§ 2.315)

Section 2.315(a) specifies the administrative record of the advisory committee proceedings with respect to a specific matter. That record shall be included as a part of the record of any administrative proceeding involving that matter.

#### EXAMINATION OF ADMINISTRATIVE RECORD AND OTHER ADVISORY COMMITTEE RECORDS (§ 2.316)

Section 2.316(a) sets out, in detail, the specific time at which the various portions of the administrative record and other advisory committee records will be made available for public disclosure.

As a general rule, data and information contained in the administrative record which were provided to the advisory committee by the agency and are exempt from public disclosure, pursuant to the public information regulations, or which were presented to the advisory committee by a person making a presentation and which are prohibited from public

disclosure pursuant to such regulations, shall not be available for public examination and copying. The sole exception to this general rule is where a public hearing before a public advisory committee is being used in lieu of a formal evidentiary hearing pursuant to the provisions of § 2.117, in which case the limited disclosure of safety and effectiveness data pursuant to § 2.5(j)(2) shall be applicable.

The new regulations require that the Public Records and Documents Center maintain a file for each advisory committee containing the principal records relating to that committee, i.e., the advisory committee charter, the list of members and their curricula vitae, the advisory committee minutes, and any formal advice or report of the advisory committee. These are the records for which public disclosure is most often sought.

#### PUBLIC INQUIRIES AND REQUESTS FOR PUBLIC ADVISORY COMMITTEE RECORDS (§ 2.317)

All requests for records shall be in accordance with the recently promulgated public information regulations, and particularly § 4.40. General inquiries may be handled by the agency's Committee Management Officer or the executive secretary of a particular advisory committee.

#### DETERMINATION TO CLOSE PORTIONS OF PUBLIC ADVISORY COMMITTEE MEETINGS (§ 2.318)

Section 2.318 sets out the circumstances under which the Commissioner may make a determination to close a portion of a public advisory committee meeting. As already noted, under no circumstances will all portions of a public advisory committee meeting be closed to the public.

The executive secretary of an advisory committee shall prepare the initial request for a determination to close a portion of an advisory committee meeting, which shall be forwarded to the agency Committee Management Officer and, from his office, to the office of the Chief Counsel and to the Commissioner. Based upon this request, the Commissioner may conclude to close a portion of the meeting, if the requirements of the regulations are satisfied, or may conclude that the portion should remain open.

The regulations set out various criteria for determining whether to close a portion of a meeting. Information prohibited from disclosure under 21 CFR Part 4 and the regulations referenced therein, e.g., trade secrets or material that would invade personal privacy, shall be discussed only in closed session. Advisory committee deliberation on regulatory decisions with respect to specific ingredients or products or pending applications for IND or NDA products will ordinarily be conducted in closed session. On the other hand, discussion of policy issues, such as general testing protocols or labeling for a class of drugs, or other information that has already been dis-

closed to the public, will be conducted only in open session.

A closed session shall be limited to the advisory committee members and employees and consultants of the Executive Branch of the Federal Government. If any other person attends such a portion, except to present confidential material, it must be opened to all interested persons. Of course, the Food and Drug Administration may properly limit attendance of consultants and employees at advisory committee meetings to those whose attendance is appropriate for the conduct of their work.

#### ADMINISTRATIVE REMEDIES (§ 2.319)

Section 2.319 provides procedures under which any person may contest action taken by an agency employee or an advisory committee relating to any aspect of Subpart D or the Federal Advisory Committee Act. If improper action has been taken, the Commissioner shall take appropriate steps to remedy the error and to prevent its recurrence.

#### APPLICABILITY TO CONGRESS (§ 2.320)

Under the Federal Advisory Committee Act, Congress stands on the same legal footing as any other member of the public. Accordingly, the provisions of Subpart D apply to Congress in the same way that they apply to any other member of the public, except that disclosure of advisory committee records to Congress shall be governed by § 4.87 of the public information regulations.

#### COMMITTEES WORKING PURSUANT TO A CONTRACT WITH THE FOOD AND DRUG ADMINISTRATION (§ 2.321)

The Department of Justice has provided an opinion to the Food and Drug Administration that, when the agency contracts with another organization to obtain advice and recommendations on particular matters, and that organization in turn utilizes a committee to prepare such advice and recommendations, the provisions of the Federal Advisory Committee Act do not apply if the governing body of that organization undertakes substantial policy and factual review of the committee's work. In short, the applicability of Subpart D of the new regulations to such committee will depend upon whether the advice obtained is the advice of the organization or of a committee of the organization.

The Commissioner has concluded, as a matter of policy, that committees working pursuant to a contract with the Food and Drug Administration should be subject to certain minimum standards regardless whether the other provisions of Subpart D are applicable to that committee. The Commissioner believes that such minimum standards should be applicable to assure that a fair procedure will be followed by such committees even though they are not subject to the specific requirements of the Federal Advisory Committee Act and Subpart D of the new regulations.

Accordingly, § 2.321(b) requires that any such committee give public notice of its meetings and agenda, and provide any



interested person an opportunity to submit relevant data, information, and views orally and in writing. Such notice may be published in the *FEDERAL REGISTER* or disseminated by any other reasonable means, but shall in any event be filed with the Hearing Clerk at least 15 days before the meeting involved. Minutes of all open sessions shall be maintained, but minutes of closed sessions are not required. Finally, the organization must apply the same principles relating to conflicts of interest as the agency does in establishing its own public advisory committees, but the organization is in no way obligated to consult with the Food and Drug Administration on such matters. Upon request, the agency will assist or provide guidance to any organization in meeting this requirement.

These minimum standards will apply only to a committee of an independent scientific or technical organization which is working pursuant to a contract initially executed with the Food and Drug Administration on or after July 1, 1975. Accordingly, such ongoing projects as the GRAS list review, being conducted by the Federation of American Societies of Experimental Biology, will not be affected. The Commissioner concludes that it would be unfair to impose such requirements retroactively upon such an organization which has entered into a project of this kind in good faith and had no advance warning that such requirements might become applicable. In all future documents relating to contracts, such requirements will clearly be spelled out so that no misunderstanding can exist.

#### APPLICATION OF ANTICANCER CLAUSES (§ 2.322)

The Food and Drug Administration has previously determined issues relating to the potential application of the anticancer clauses in the act in a number of different ways. The Commissioner has concluded that, in the future, such issues shall ordinarily be referred to the newly created Toxicology Advisory Committee, so that a consistent application of the law will be obtained.

#### QUALIFICATIONS FOR MEMBERS OF STANDING POLICY AND TECHNICAL ADVISORY COMMITTEES (§ 2.330)

Section 2.330 sets out general qualifications for advisory committee members. The new regulations recognize that representatives of particular interest groups, e.g., labor, industry, consumers, or agriculture, may properly be included on policy advisory committees, but not technical advisory committees, as voting members specifically to represent such interests, and the regulations constitute a determination pursuant to 18 U.S.C. 208(b) that no disqualifying conflict of interest exists by reason of the fact of such representation. The representational role of these members is clearly understood, and the Commissioner concludes that their viewpoint is essential for the type of general and broad issues considered by a policy advisory committee.

Advisory committee members may be removed from membership by the Commissioner for good cause. Although it is not possible to specify the precise content of "good cause," excessive unjustified absenteeism from meetings, a demonstrated bias, or a failure to abide by the advisory committee rules and regulations, will be adequate justification for removal from the advisory committee.

#### NOMINATIONS OF VOTING MEMBERS OF STANDING ADVISORY COMMITTEES (§ 2.331)

Section 2.331 provides a mechanism for any interested member of the public to nominate persons for consideration as voting members of standing advisory committees. The members of any advisory committee may be chosen from among the lists of nominees and from any other sources.

Voting members of standing technical advisory committees serve as individuals, and not as representatives of any group or organization which may have nominated them or with which they may be affiliated.

#### NOMINATIONS AND SELECTION OF NONVOTING MEMBERS OF STANDING TECHNICAL ADVISORY COMMITTEES (§ 2.332)

Section 2.332 provides a mechanism for nominating and selecting nonvoting members of standing technical advisory committees. In the past 3 years, the Commissioner has increasingly included such nonvoting members to represent consumer and industry interests on standing technical advisory committees. These members serve in a liaison function with those whom they represent.

Nonvoting consumer liaison members shall be nominated and selected by consumer organizations and other interested consumers, and nonvoting industry liaison members shall be selected by industry associations. Because they have no vote and their liaison role for particular interests is well understood, the regulations constitute a determination pursuant to 18 U.S.C. 208(b) that any financial interest they may have in the particular class which they represent does not constitute a disqualifying conflict of interest. Thus, an industry liaison representative is not disqualified because he holds stock in the regulated industry which he represents, but a consumer liaison representative would be disqualified if he were to hold stock in the regulated industry affected by the work of the technical advisory committee of which he is a member.

#### RIGHTS AND RESPONSIBILITIES OF NONVOTING MEMBERS OF ADVISORY COMMITTEES (§ 2.333)

Section 2.333 sets out the rights and responsibilities of nonvoting consumer and industry liaison members of advisory committees. In general, it is their responsibility to represent the consumer and industry interests fairly in all deliberations, but they must also exercise restraint in performing these functions and not engage in unseemly advocacy or

attempt to exert undue influence over the other members of the advisory committee.

The Commissioner notes that nonvoting consumer and industry liaison representatives have served on all of the OTC drug review advisory committees, the biologics review advisory committees, and the medical device classification panels, with enormous success. With rare exception, their conduct has been entirely dignified and proper, and they have made major contributions to the issues pending before those advisory committees.

#### AD HOC ADVISORY COMMITTEE MEMBERS (§ 2.334)

Section 2.334 provides that, when the Commissioner, in his discretion, utilizes an ad hoc advisory committee to review and consider a specific matter, he may select the members pursuant to §§ 2.331 and 2.332 or in any other appropriate manner.

#### COMPENSATION OF PUBLIC ADVISORY COMMITTEE MEMBERS (§ 2.335)

Section 2.335 provides for uniform compensation of all members of Food and Drug Administration public advisory committees, except for those who waive such compensation. The criteria under which an advisory committee member will be compensated for an agency-directed assignment when it is performed at a time other than at an advisory committee meeting are established in this regulation.

#### LIST OF STANDING ADVISORY COMMITTEES (§ 2.340)

Section 2.340 sets out a list of all current Food and Drug Administration standing advisory committees, including the date established and the function of the advisory committee. This list will be amended to add and delete advisory committees as they are formed and terminated.

#### TECHNICAL ELECTRONIC PRODUCT RADIATION SAFETY STANDARDS COMMITTEE (TEPRSSC) (§§ 2.350-2.354)

Sections 2.350 through 2.354 govern the establishment and procedures of TEPRSSC, one of the two permanent statutory advisory committees of the Food and Drug Administration. These provisions are to a large extent governed by provisions of the Radiation Control for Health and Safety Act of 1968, and have been in effect for this advisory committee for some time.

#### COLOR ADDITIVE ADVISORY COMMITTEES (§§ 2.360-2.364)

Sections 2.360 through 2.364 govern the establishment and procedures of a color additive advisory committee pursuant to section 706(b)(5)(B) of the act, as added by the Color Additive Amendments of 1960. There is a legal right to such an advisory committee for the limited purpose of reviewing the application of the anticancer clause contained in section 706 of the act to a specific color

additive, and the Commissioner may, in his discretion, also refer to any such advisory committee other issues relating to a color additive.

Section 706(b)(5)(D) of the act provides that a color additive advisory committee shall be composed of experts selected by the National Academy of Sciences or, if the NAS is unable or refuses to act, by the Secretary. The law is clear that the recommendations and advice shall be provided by the advisory committee, not by the NAS. Accordingly, the provisions of the Federal Advisory Committee Act and Subpart D of Part 2 will be fully applicable, and § 2.321, relating to committees working pursuant to a contract with the Food and Drug Administration, will not be applicable.

The Commissioner notes that section 203 of the Color Additive Amendments of 1960, which contain transitional provisions relating to commercially established colors, provided for reference of matters to a color additive advisory committee and for an opportunity for a formal evidentiary public hearing on certain matters, for a period of 2½ years after enactment of that statute. Since that time period has now expired, those provisions are no longer applicable and thus there is no right either to a color additive advisory committee or to an opportunity for a hearing on such matters at this time.

Some of the provisions contained in these new sections were previously contained in §§ 8.12 through 8.14 of the agency regulations. Those sections are therefore being revoked by these new regulations.

#### STANDING TECHNICAL PUBLIC ADVISORY COMMITTEES FOR HUMAN PRESCRIPTION DRUGS (§§ 2.370-2.373)

Sections 2.370 through 2.373 govern the use of standing technical public advisory committees to conduct public hearings on and to consider issues with respect to human prescription drugs, including antibiotic drugs and biologics. In the past few years, as the medical and scientific issues raised by the agency's review of human prescription drugs have increased in complexity, the Commissioner has increasingly relied upon the use of standing technical public advisory committees for advice and recommendations on such matters. Advisory committees of this nature have brought to the agency the experience and expertise of outstanding experts in the field. The Commissioner concludes that this use of advisory committees has important benefits for the public and the agency and should be subject to clear guidelines set out in these new regulations.

Section 2.371 establishes the criteria for those investigational and marketed drugs for which there is a high priority for review by the appropriate standing technical advisory committee. Such drugs include those which represent a significant therapeutic advance, new single chemical entities, and issues that have attracted wide public interest. An advisory committee may also request the Commissioner for an opportunity to hold a public hearing on and to review any

particular drug which falls within the pharmacological class covered by the advisory committee. Advisory committee members may be invited to bureau meetings and discussions relating to particular issues.

In the past, advice and recommendations on pending issues relating to human prescription drugs have at times been provided by advisory committees orally. This practice has led to some uncertainty about the specific opinions rendered by the advisory committee. Accordingly, § 2.372 provides that advice and recommendations given by these advisory committees shall ordinarily be in the form of a written report, which may consist of the approved minutes or a separate written document. The written report must respond to the specific issues posed to the advisory committee, and state the basis of the advice and recommendations given.

The Commissioner is aware that interested persons outside the agency may at times disagree with an important agency decision with respect to a particular drug. Section 2.373 therefore permits such interested persons to request that the agency refer any such matter to an advisory committee. The Commissioner may, of course, grant or deny any such request.

#### PUBLIC HEARING BEFORE THE COMMISSIONER (SUBPART E)

Subpart E establishes procedures governing a legislative-type public hearing during which any person may state his views, together with supporting data and information, with respect to the matters involved.

The Commissioner has concluded that a hearing of this type, which is basically the same as a hearing held by legislative bodies, is very useful when the agency is considering new regulations or broad policy or requirements which affect many interested persons. See, e.g., the notices of hearings on prescription drugs indicated for cough and allergy published in the *FEDERAL REGISTER* of May 15, 1973 (38 FR 12769), and on the tentative final order for OTC antacid drugs published in the *FEDERAL REGISTER* of January 8, 1974 (39 FR 1359). Such hearings assure concerned members of the public that the agency officials responsible for the matter will be directly presented with the issues involved, and provide agency officials with an opportunity to engage those concerned about the matter in a meaningful dialogue on those issues. See O'Keefe, A Fine New Twist—A brief Commentary on the Commissioner of Food and Drugs' First Oral Hearing, 29 Food Drug Cosmetic Law Journal 116 (March 1974).

#### SCOPE OF SUBPART (§ 2.400)

Section 2.400 provides that a public hearing before the Commissioner pursuant to Subpart E may be held in the discretion of the Commissioner, or pursuant to specific provisions in other sections of agency regulations, or in lieu of a formal evidentiary public hearing pursuant to § 2.117. The only provision presently contained in Food and Drug Administration

regulations which specifically provides for such a hearing is § 330.10(a)(8), which provides an opportunity for a public hearing before the Commissioner after the tentative final monograph is published for an over-the-counter (OTC) drug but before the final monograph is promulgated.

#### NOTICE OF A PUBLIC HEARING BEFORE THE COMMISSIONER (§ 2.401)

Section 2.401 requires that public notice of a hearing before the Commissioner be published in the *FEDERAL REGISTER*. The hearing notice shall state the purpose of the hearing and include or refer to any written document which is to be the subject matter of the hearing. If the hearing is in lieu of a formal evidentiary public hearing, the notice shall comply with the requirements of § 2.117(e).

In some instances, such a hearing will be limited to review of an existing administrative record. For example, pursuant to § 330.10(a)(10) of the regulations governing the development of OTC drug monographs, the administrative record is closed when the advisory review committee issues its report and recommendations to the Commissioner. Thereafter, no additional data or information may be submitted or considered.

#### NOTICE OF APPEARANCE; SCHEDULE FOR HEARING (§ 2.402)

After the notice appears in the *FEDERAL REGISTER*, any person interested in participating in the hearing must inform the Hearing Clerk or, if only a short period of time is involved, a specifically named Food and Drug Administration employee, of that interest. A specific amount of time shall be requested for each presentation. As promptly as possible after the time for making such requests expires, each person will be informed of the time of his presentation and the amount of time allocated for it.

#### CONDUCT OF A PUBLIC HEARING BEFORE THE COMMISSIONER (§ 2.403)

The Commissioner or his designee will preside at the hearing. Other agency employees may also accompany the presiding officer and may serve as a panel in conducting the hearing.

The hearing will be conducted in the same way that a legislative hearing is conducted. Those making presentations may be accompanied by anyone of their choosing and may present any relevant data, information, or views during their allotted time. The presiding officer and those who serve with him may ask such questions as they deem appropriate, but no other person may ask questions. Additional time may be allotted to any person, in the discretion of the presiding officer, but the time allotted for any person may not be reduced.

#### WRITTEN SUBMISSIONS PERTAINING TO A PUBLIC HEARING BEFORE THE COMMISSIONER (§ 2.404)

Following the hearing, the record shall remain open for 15 days for the filing of additional written submissions unless the notice of hearing or the presiding officer specifies otherwise.

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## ADMINISTRATIVE RECORD OF A PUBLIC HEARING BEFORE THE COMMISSIONER (§ 2.405)

Section 2.405 specifies the administrative record of the hearing. Such record shall be included as part of the record of any administrative proceeding involving the matter.

## EXAMINATION OF ADMINISTRATIVE RECORD (§ 2.406)

The entire administrative record of a public hearing before the Commissioner is available for public examination and copying, pursuant to the provisions of § 2.5(j)(1), except that where this form of hearing is being used as an alternative form of hearing in lieu of a formal evidentiary public hearing the limitations in § 2.5(j)(2) and (3) will be applicable.

## REGULATORY HEARING BEFORE THE FOOD AND DRUG ADMINISTRATION (SUBPART F)

Subpart F governs all informal fact-finding hearings held by the Food and Drug Administration in determining whether any, or what type of, regulatory action should be taken with respect to a particular matter involving a specified person. This type of hearing involves consideration of direct regulatory action in a specific fact situation limited to a particular firm, whether on an administrative basis or through the courts, and does not involve the type of policy issues usually considered in a public hearing before the Commissioner pursuant to Subpart E or other general matters such as the development of regulations. The requirements for a regulatory hearing, as established in this subpart, meet or exceed all the standards for procedural due process of law delineated in *Goldberg v. Kelly*, 397 U.S. 254 (1970).

## SCOPE OF SUBPART (§ 2.500)

A regulatory hearing before the Commissioner is appropriate in two quite different types of situations. In some instances, the Commissioner may be considering a particular matter and lacks sufficient information to make a final determination as to whether any regulatory action is warranted and, if so, what type of action is appropriate. In the past, the opportunity for informal presentation of views pursuant to section 305 of the act was frequently used for this purpose. The Food and Drug Administration concluded some time ago, however, that this was an improper use of section 305 of the act, and that section 305 should be limited to situations where criminal action is seriously being considered. Accordingly, wherever criminal action is not under serious consideration but additional information is needed for a regulatory determination, the Commissioner may use the regulatory hearing procedure set out in this subpart as one method of gaining information to make a final determination on appropriate action. If the Commissioner concludes that the possibility of criminal action should be considered after a regulatory hearing is held, an opportunity for presentation of views

will be given in accordance with section 305 of the act, but under no circumstances is a regulatory hearing required prior to a section 305 citation.

In addition, under some provisions of current agency regulations, persons affected by adverse agency action have an opportunity for a hearing. Present provisions of law do not require that this be a "hearing on a record," and thus the provisions of Subpart B relating to a formal evidentiary public hearing are not required to be applied. For the most part, present regulations simply provide an opportunity for a hearing, without specifying the form of the hearing or the procedure to be followed. Accordingly, the Commissioner concludes that a specific procedure should be incorporated in Subpart F for this purpose.

Section 2.500(b) lists some 24 provisions of current agency regulations which provide a hearing, or which are being amended by these regulations to provide for a hearing, upon a determination by the Food and Drug Administration that is adverse to the interests of the persons involved. In each of these instances, the provisions of Subpart F will be applicable. The Commissioner invites all interested persons to identify, in comments on these new regulations, additional provisions of current regulations which should also be subject to an opportunity for a regulatory hearing.

The Commissioner emphasizes that the new regulations provide a right to a regulatory hearing only with respect to those specific matters listed in § 2.500(b). In all other instances, an opportunity for a regulatory hearing is solely within the discretion of the Commissioner.

## INAPPLICABILITY AND LIMITED APPLICATION (§ 2.501)

Section 2.501(a) of the new regulations provides that the informal presentation of views before reporting a criminal violation pursuant to section 305 of the act and section 5 of the Federal Milk Import Act is not governed by the provisions of Subpart F. The Commissioner intends in the near future to revise the regulations governing these presentations, in §§ 1.6 and 1210.31, to provide better guidance with respect to such matters. The Commissioner concludes that these specific statutory proceedings are intended not to be adversarial in nature, but simply to provide an opportunity for discussion at an informal conference, for which the provisions of Subpart F would be inappropriate.

Similarly, § 2.501(a) provides that the hearing held with respect to a refusal of admission of any product offered for import into the country is not governed by Subpart F. The courts have held that importation of any product subject to the act into the United States is entirely within the discretion of the Commissioner and is not subject to the requirements for an adjudicatory hearing pursuant to the Administrative Procedure Act, 5 U.S.C. 554. See *Sugarman v. Forbragd*, 267 F. Supp. 817, 825-826 (N.D. Cal. 1967), *aff'd*, 405 F.2d 1189 (9th Cir.

1968). The Commissioner concludes that, because of the large number of import detentions involved, the present procedure for informal conferences is more suited to this type of matter than is a regulatory hearing under Subpart F.

The Commissioner recognizes that other specific procedural provisions in other sections of agency regulations, such as the new procedures governing emergency permit control under Subpart A of Part 90, should continue to govern those specific proceedings. Accordingly, where other specific procedural provisions exist, they will override the provisions of Subpart F except to the extent that the provisions in Subpart F supplement but are not in conflict with them. Thus, § 2.501(b) provides that the additional procedural safeguards provided by the right to counsel, reconsideration and stay, and judicial review in Subpart F will be applicable in all instances, since no other Food and Drug Administration procedural regulations conflict with those provisions, except for the proceedings exempted in § 2.501(a).

## PRESIDING OFFICER (§ 2.505)

Section 2.505 provides that any Food and Drug Administration employee to whom the Commissioner delegates such authority, or any person designated by such employee, may serve as the presiding officer at a regulatory hearing. The presiding officer must, however, be a neutral and unbiased official. Thus, he shall not have participated in the investigation or action which is the subject of the hearing, or be directly subordinate to a person who has participated in such investigation. The Food and Drug Administration may substitute a different presiding officer for the one originally designated, without notice to the parties, since the person originally designated as the presiding officer may be unavailable when the hearing occurs.

## RIGHT TO COUNSEL (§ 2.506)

Section 2.506 guarantees to every party to a hearing the fundamental due process right to be advised and accompanied by counsel.

## REGULATORY HEARING ON THE INITIATIVE OF THE COMMISSIONER (§ 2.510)

Section 2.510 governs the procedures to be followed at a regulatory hearing held on the initiative of the Commissioner. Such a hearing shall be initiated by a notice of opportunity for hearing given by the Food and Drug Administration to the party or parties involved. Such notice shall specify the facts and action which are the subject of an opportunity for a hearing and require a response within a stated time period to a specified individual.

If no response is filed within the stated time period, the offer for a hearing shall be deemed to have been refused, and no hearing shall be held. If a hearing is requested, it shall take place at a time and location agreed upon by the parties or, in the absence of such agreement, at a time and location designated by the presiding officer.

## REGULATORY HEARING PURSUANT TO REGULATION (§ 2.511)

Section 2.511 deals with regulatory hearings initiated at the request of a party, rather than on the initiative of the Commissioner. Pursuant to the various provisions of the agency regulations listed in § 2.500(b), any person who is adversely affected by the particular action specified therein shall have a right to an opportunity for a regulatory hearing. The Food and Drug Administration is required to furnish any such person a notice of opportunity for hearing, which shall include the amount of time within which he may request a hearing. The failure to request a hearing shall be deemed to constitute a waiver of any right to a hearing.

Before the hearing, the Food and Drug Administration shall, upon request, give to the party requesting the hearing reasonable notice of the matters to be considered at the hearing, including a comprehensive statement of the basis for the decision or action taken or proposed by the Commissioner and a general summary of the information that will be presented by the agency at the hearing in support of such decision or action. The Commissioner believes that such notice is necessary in order reasonably to inform the party of the matters involved. Because the time between the request for hearing and the hearing date may be short, however, such notice may be given either orally or in writing, in the discretion of the Commissioner.

The Commissioner may take such action pending a regulatory hearing under this section as he concludes to be necessary to protect the public health, except where expressly prohibited by statute or regulation. See *Goldberg v. Kelly*, 397 U.S. 254, 263 n. 10 (1970). If action is taken and not stayed pending the hearing, the hearing on the matter will be expedited. After the hearing is concluded, a written decision will be prepared stating the reasons for whatever administrative action is taken by the Commissioner, and the basis in the record.

## HEARING PROCEDURE (§ 2.512)

Section 2.512 specifies the procedure to be used in conducting any regulatory hearing pursuant to Subpart F. A regulatory hearing will be a private hearing unless the party who requests the hearing determines otherwise. The determination to make the hearing a public hearing may be made in either of two ways. First, the party requesting the hearing may simply request that it be conducted in public, in which case this will be done. Second, if the party requesting the hearing wishes to be accompanied by any person other than an employee or consultant or other person subject to a commercial arrangement as defined in § 4.81(a), the hearing must be a public hearing and any interested person may attend.

At the hearing, employees of the agency must give a full and complete statement of the action which is the subject of the hearing, together with the

information and reasons supporting it, and may present any information relevant to the hearing. The Food and Drug Administration has the burden of proof in any hearing conducted pursuant to the specific provisions listed in § 2.500(b). The party requesting the hearing shall have the right to present any oral or written information relevant to the hearing. All parties may conduct reasonable cross-examination.

The Commissioner emphasizes that the regulatory hearing is intended to be informal in nature. The technical rules of evidence shall not apply. Accordingly, objections on the basis of hearsay, leading questions, or similar legal technicalities, shall not be heard. All information in any way reasonably related to the matter shall be included in the record.

The presiding officer shall prepare a written report of the hearing. This report may be reviewed and corrected by all parties to the hearing if time permits, i.e., if immediate action is not necessary in the public interest as a result of information obtained during the hearing. If the hearing is transcribed, such transcription shall be a part of the report of the hearing.

## ADMINISTRATIVE RECORD OF A REGULATORY HEARING (§ 2.513)

Section 2.513 specifies the record of the administrative proceeding. This record will be included as part of the record of any administrative proceeding involving the matter.

## EXAMINATION OF ADMINISTRATIVE RECORD (§ 2.154)

The availability for public disclosure of the administrative record of a regulatory hearing shall be governed by the provisions of the public information regulations. Thus, disclosure will depend upon the subject matter involved in the hearing. For example, trade secrets and information that would represent a clearly unwarranted invasion of personal privacy will not be available for public disclosure, pursuant to §§ 4.61 and 4.63. If the hearing involves an IND plan, the provisions of §§ 312.5 and 314.14 will apply, and if the hearing involves the safety of a cosmetic ingredient any safety information voluntarily submitted to the agency at the hearing would be available for public disclosure pursuant to § 4.111 (data and information submitted voluntarily to the Food and Drug Administration). Investigatory records compiled for law enforcement purposes will be made available pursuant to the provisions of § 4.64, i.e., all information disclosed to the party will immediately be available for public disclosure, except where possible criminal prosecution is involved.

## RECORD FOR ADMINISTRATIVE DECISION (§ 2.615)

For those matters where the Commissioner has offered an opportunity for a hearing in his discretion, pursuant to § 2.500(a), the Commissioner may consider all relevant data and information as well as the administrative record of the hearing in determining whether regulatory action should be undertaken and,

if so, what form of action should be taken.

With respect to those regulatory hearings which are provided pursuant to the specific provisions in the regulations cross-referenced in § 2.500(b), the administrative record of the hearing constitutes the exclusive record for decision by the Commissioner.

## RECONSIDERATION AND STAY OF ACTION (§ 2.516)

Section 2.516 provides that, following any final administrative action which is the subject of a hearing, any participant may petition for reconsideration or a stay of action pursuant to §§ 2.8 or 2.9. This excludes, of course, any decision to institute civil or criminal action in the courts.

## JUDICIAL REVIEW (§ 2.520)

The availability of judicial review with respect to any administrative action which is the subject of a hearing pursuant to this subpart shall be governed by § 2.11. The Commissioner has concluded that it is not feasible to state definitive rules with respect to the availability of judicial review of action taken as a result of a regulatory hearing, because of the different types of action that may be the subject of such a hearing. If a regulatory hearing results in a seizure or injunction action or section 305 citation and criminal prosecution in the Federal courts, the proper remedy for any aggrieved party is to contest such action in the courts. Judicial review of the Commissioner's decision to take such action is not permissible. Where the administrative action taken by the Commissioner is not final in nature, judicial review also is not permitted. Where the Commissioner takes final administrative action as a result of a regulatory hearing, however, judicial review of such final action is clearly permitted in accordance with the provisions of § 2.11. Such review would, of course, be based solely upon the administrative record of the proceeding, and would not properly consider any data, information, or arguments not presented in the course of the regulatory hearing.

## STANDARDS OF CONDUCT AND CONFLICTS OF INTEREST (SUBPART G)

Subpart G of the regulations will include, or cross-reference, all regulations governing the standards of conduct and conflicts of interest with respect to present and former employees of the Food and Drug Administration, including special government employees and employees of the Food and Drug Division of the Office of General Counsel.

## SCOPE OF SUBPART (§ 2.600)

Although Subpart G is established to include all pertinent regulations with respect to these matters for all present and former agency employees, many of these regulations are still in the process of development. Accordingly, the provisions included in Subpart G at this time represent only brief and initial statements of very general policy. The Commissioner anticipates that substantial

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further regulations will be added to this subpart in the future, particularly relating to former employees and all special government employees.

#### REFERENCE TO DEPARTMENT REGULATIONS (§ 2.610)

All Food and Drug Administration employees are fully subject to the regulations (45 CFR Part 73) governing standards of conduct for Department of Health, Education, and Welfare employees, except that agency special government employees are subject only to Subpart L of 45 CFR Part 73. In addition, only Food and Drug Administration employees are subject to the provisions of 45 CFR Part 73a, which supplement the Department regulations. The provisions of 45 CFR Part 73a do not apply to special government employees of the Food and Drug Administration.

#### CODE OF ETHICS FOR GOVERNMENT SERVICE (§ 2.611)

Section 2.611 makes applicable to all Food and Drug Administration employees, including special government employees, the code of ethics for government service adopted by Congress in 1958. The Commissioner believes that this code embodies high ethical principles applicable to all agency employees.

#### FOOD AND DRUG ADMINISTRATION CONFLICT OF INTEREST REVIEW BOARD (§ 2.612)

Under § 2.612, the Commissioner will establish a permanent five-member Conflict of Interest Review Board which shall review and make recommendations to the Commissioner with respect to all matters brought before it relating to conflicts of interest. The Associate Commissioner for Administration shall be responsible for bringing issues to the Review Board. In addition, any individual inside or outside the agency who is the subject of an adverse determination of any kind by the Office of the Associate Commissioner for Administration shall have the right to an appeal to the Review Board with respect to that matter. The Review Board will be a permanent body whose purpose is to establish guidelines and precedents, through written decisions, guidelines, and regulations, that will govern all conflict of interest issues within the agency. Whenever feasible, the policy adopted as a result of the work of the Review Board shall be incorporated in regulations in Subpart G.

The Review Board shall be sensitive to the privacy rights of individuals with respect to the information it receives. In some instances, the only information that will be disseminated publicly will be written in a form that does not reveal the identity of the individual involved. In other instances, either pursuant to general regulations adopted by the agency or pursuant to a specific determination for a named individual, public disclosure of information related to an individual will be appropriate to provide public notice of the circumstances under which the individual is serving as a government employee or special government

employee. For example, information may routinely be filed with the Public Records and Documents Center with respect to stockholdings of agency consultants which have been determined not to be substantial, to give public notice about such holdings.

#### DUTY TO REPORT VIOLATIONS (§ 2.613)

Section 2.613 provides that all agency employees who have factual information showing or who otherwise believe that any present or former Food and Drug Administration employee has violated or is violating any provision of the laws summarized in 45 CFR Part 73 should report such information directly to the agency's Policy Management Staff (HFA-20), which is responsible for handling all matters of this type. The Commissioner advises that, under existing statutory and case law, the failure to report a violation, by itself, is not sufficient to subject an individual who knows of such violation to potential criminal liability as an accessory or accomplice. Accordingly, § 2.613(a) simply encourages reporting of violations, but no penalty is or can be imposed for failure to report under these circumstances. In considering reports submitted pursuant to this section, the Policy Management Staff will consult with the Conflict of Interest Review Board when close issues arise that require policy consideration.

The records received and generated pursuant to this section will be maintained by the agency in strictest confidence. Only those who are required to see such records in the performance of their duties will be given access to them.

The Commissioner has carefully considered the provisions in this section, and has consulted with a cross-section of employees throughout the agency on them. On the one hand, it is widely recognized that all citizens share a moral obligation to help enforce legal requirements. On the other hand, it is equally recognized that basic civil liberties must be respected, and that the rights of both the accuser and the accused must be fully protected. The Commissioner concludes that the provisions in this section strike an adequate balance between these valid concerns. No one is required to report violations, but all are encouraged to do so. Only those reports which a person is willing to put in writing will be regarded as sufficiently serious to pursue. Those written records will be carefully safeguarded, so that there will be no concern about their improper release to persons who are not required to review them in the course of their duties.

#### PERMANENT DISQUALIFICATION OF FORMER EMPLOYEES (§ 2.620)

Section 2.620 states the provisions of current law, 18 U.S.C. 207(a), with respect to permanent disqualification of former Food and Drug Administration employees on particular matters involving a specific party or parties in which the former employee participated personally and substantially. It is the intention of the Commissioner that this statutory language be supplemented in

the future by interpretive regulations to give better guidance to former employees with respect to permissible and impermissible activity.

#### TEMPORARY DISQUALIFICATION OF FORMER EMPLOYEES (§ 2.621)

Section 2.621 similarly summarizes the provisions of 18 U.S.C. 207(b) with respect to the 1-year disqualification of a former Food and Drug Administration employee on any matter which was under his official responsibility within 1 year preceding termination of such responsibility. Again, additional interpretive regulations will be issued to clarify this statutory disqualification.

#### CONFORMING CHANGES IN OTHER FOOD AND DRUG ADMINISTRATION REGULATIONS

The new procedures adopted in Part 2 of the regulations require corresponding changes in numerous other existing agency regulations in Title 21 of the Code of Federal Regulations. The following is a brief summary of these changes. The Commissioner recognizes that other conforming changes may also be appropriate, and invites comment suggesting further amendments to the agency regulations.

#### EXEMPTION FROM REQUIRED LABEL STATEMENTS

Section 1.1a has been revised to provide that exemptions from required label statements shall be adopted pursuant to Part 2.

#### EXEMPTION FROM FOOD LABELING INFORMATION REQUIREMENTS

Section 1.80d(f) has been revised to state that a petition requesting an exemption from the food labeling information requirements in that section shall be submitted pursuant to Part 2.

#### APPROVAL OF PRESCRIPTION DRUG ADVERTISEMENTS

Section 2.201 (j) (5) has been added to state that a regulatory hearing pursuant to Subpart F of Part 2 is available with respect to any determination that prior approval is required for advertisements concerning a particular prescription drug, or that a particular advertisement is not approvable. Previously, no opportunity for a hearing existed.

#### DELEGATIONS OF AUTHORITY AND ORGANIZATION

Former Subparts H and M of Part 2 have been recodified as a new Part 5. References to the Assistant General Counsel for Food and Drugs, Office of General Counsel, Department of Health, Education, and Welfare, have been revised to reflect that he now has the additional title of Chief Counsel for the Food and Drug Administration.

#### COLOR ADDITIVE ADVISORY COMMITTEES

Section 8.12 has been revised to cross-reference the new provisions relating to color additive advisory committees in §§ 2.360 through 2.364, and to revoke the prior provisions in §§ 8.12 through 8.14.

#### EXEMPTION FROM COLOR ADDITIVE CERTIFICATION

Section 8.18 has been revised to state that a petition for exemption from certification for a color additive shall be submitted pursuant to Part 2.

#### OBJECTIONS AND HEARINGS RELATING TO COLOR ADDITIVE REGULATIONS

The existing provisions in §§ 8.19 through 8.21 have been revoked, and a new § 8.19 provides that objections and hearings relating to color additive regulations shall be governed by Part 2.

#### COLOR ADDITIVE CERTIFICATION REFUSAL

Section 8.27(b) has been revised to add a sentence stating that a person who wishes to contest a refusal to certify a batch of a color additive has an opportunity for a regulatory hearing pursuant to Subpart F. Previously, no opportunity for a hearing existed.

#### CERTIFICATION SERVICE REFUSAL

Section 8.28(b) has been revised to provide that a person who wishes to contest refusal of certification service has an opportunity for a regulatory hearing pursuant to Subpart F of Part 2. The former provisions, which have been revoked, provided for a formal evidentiary public hearing. The Commissioner concludes that the statute does not require an opportunity for a formal evidentiary public hearing, and that a regulatory hearing is more appropriate for this type of proceeding.

#### INVESTIGATIONAL USE OF COLOR ADDITIVES

Section 8.33(a) has been revised to add a new sentence providing an opportunity for a regulatory hearing pursuant to Subpart F upon a refusal to permit the use of food derived from animals on which investigational color additives are used. Previously, no opportunity for a hearing existed.

#### FOOD STANDARDS

Section 10.2 has been revised to state that the procedure for establishing a food standard shall be governed by Part 2. The provisions previously contained in this section have been superseded by the more detailed provisions of Part 2.

#### FOOD STANDARD TEMPORARY PERMITS

A new paragraph (1) has been added to § 10.5 to provide that a person who wishes to contest denial, modification, or revocation of a temporary permit to vary from a standard of identity has an opportunity for a regulatory hearing pursuant to Subpart F of Part 2. Previously, no opportunity for a hearing existed.

#### STANDARDS OF QUALITY

Section 11.1(e) has been revised to state that standards of quality for foods for which there are no standards of identity may be established pursuant to Part 2 and to delete the reference to a former provision in Part 2 that has been revoked by the new regulations.

#### SPECIAL DIETARY FOODS

Section 80.1(b) (4) has been revised to delete the reference to a former provision in Part 2 that has been revoked by the new regulations.

#### EMERGENCY PERMIT CONTROL

Section 90.2(a) has been revised to refer to the provisions in Part 2 and to delete the reference to a former provision in Part 2 that has been revoked by the new regulation.

#### NUTRITIONAL QUALITY GUIDELINES FOR FOODS

Section 100.2 has been revised to refer to the provisions in Part 2 and to delete the reference to a former provision in Part 2 that has been revoked by the new regulations.

#### COMMON OR USUAL NAMES FOR NONSTANDARDIZED FOODS

Section 102.2(a) and (b) have been revised to refer to the provisions in Part 2 and to delete the reference to a former provision in Part 2 that has been revoked by the new regulations.

#### FOOD ADDITIVES

Sections 121.40(c) (1), 121.41(b) (1), and 121.400(c) have been revised to refer generally to the new procedures contained in Part 2 rather than to procedures previously used.

Section 121.55 has been added to state that objections and hearings relating to food additive regulations shall be governed by Part 2. All of the previous procedural provisions relating to food additives in Part 121 have been revoked.

Section 121.74 has been revised to state that the procedure for amending and repealing food additive regulations shall be governed by Part 2.

#### PRESCRIPTION EXEMPTION PROCEDURE FOR NEW DRUGS

Section 310.200(b) has been revised to replace the procedure previously set out in that provision with a reference to Part 2.

#### PHASE IV CLINICAL STUDIES

Section 310.303(b) has been revised to state that a proposal to require additional or continued studies for a new drug shall be pursuant to Part 2.

#### INVESTIGATIONAL NEW DRUGS

Section 312.1 (c) (1) and (4) and (d) has been revised to state that any person who wishes to contest any issue arising out of disqualification of an investigator and his work, and termination of an IND, has an opportunity for a regulatory hearing pursuant to Subpart F of Part 2. This replaces the prior procedure which was similar in nature but not specified in detail.

These provisions have also been revised to state that an IND plan may be terminated immediately upon a finding of a danger to health, rather than requiring an imminent hazard to health, in

order to conform them to new § 2.511(e). Section 505(i) of the act does not require the Commissioner to find an imminent hazard to health before an IND plan may be terminated.

#### LABORATORY RESEARCH ON INVESTIGATIONAL NEW DRUGS

Section 312.9(c) (2) has been revised to state that any person who wishes to contest termination of an investigational exemption for use of a new drug in laboratory research animals or in vitro tests has an opportunity for a regulatory hearing pursuant to Subpart F of Part 2. Previously, a conference was permitted but there was no opportunity for a hearing.

#### HEARINGS INVOLVING NEW DRUGS

Section 314.200 has been revised to delete material that is duplicative of requirements now contained in Subpart B of Part 2.

Section 314.201 has been added to state that hearings relating to new drugs shall be governed by Part 2. All of the prior procedural provisions relating to new drug hearings have been revoked.

Section 314.235 has been revised to conform it to the provisions of Subpart B by deleting duplicative material.

#### IN VITRO DIAGNOSTIC PRODUCTS FOR HUMAN USE

Section 328.30(a) has been revised to refer to Part 2 and to delete the reference to a former provision in Part 2 which has been revoked by the new regulations.

#### OTC DRUG REVIEW

Section 330.10(a) (11) has been revised to state that a petition to amend or repeal any OTC drug monograph shall be submitted pursuant to Part 2.

#### INSULIN

Section 429.50 has been revised to state that, upon suspension of insulin certification service, a person shall have an opportunity for a regulatory hearing pursuant to Subpart F of Part 2. Previously, a formal evidentiary public hearing was provided. The Commissioner concludes that a formal evidentiary public hearing is not required by statute and that a regulatory hearing pursuant to Subpart F is more appropriate for this type of proceeding.

#### ANTIBIOTIC REGULATIONS

Section 430.20(a) has been revised to state that the procedures for the issuance, amendment, or repeal of antibiotic regulations shall be governed by Part 2. The remaining procedural provisions relating to antibiotic hearings have been revoked.

Section 430.20(d), relating to requests for hearings with respect to the failure to issue an antibiotic regulation, or amendment or repeal of such a regulation, has been revised to make the same modifications that has been made in § 314.200 for new drugs, to conform it to the new provisions in Subpart B.



## CERTIFICATION OF ANTIBIOTIC DRUGS

Section 431.52 has been revised to state that, upon suspension of certification service, a person shall have an opportunity for a regulatory hearing pursuant to Subpart F of Part 2. Previously, suspension of certification service was subject to a formal evidentiary public hearing. The Commissioner concludes that the statute does not require a formal evidentiary public hearing under these circumstances and that Subpart F provides a more appropriate procedure for this type of proceeding.

## EXEMPTIONS FROM ANTIBIOTIC CERTIFICATION AND LABELING REQUIREMENTS

A number of specific sections in Part 433, relating to exemptions from antibiotic certification and labeling requirements, have been revised to provide that a person who wishes to contest adverse action by the Food and Drug Administration shall be subject to an opportunity for a regulatory hearing pursuant to Subpart F of Part 2. Previously, these provisions stated only that such action would be subject to a hearing, without specifying the type of hearing, or did not specify that any hearing would be permitted.

The prior provisions stated that such exemptions could in some instances be revoked only after notice and opportunity for hearing. The new cross-reference to the provisions governing a regulatory hearing under Subpart F of Part 2 will mean that the Commissioner may make any such revocation effective immediately if he finds that this is necessary to protect the public health, pursuant to § 2.511(e).

## NEW ANIMAL DRUGS

A number of specific provisions in Parts 511 and 514 relating to investigational and marketed new animal drugs have been revised in the same way as their counterpart provisions relating to investigational and marketed new drugs, to refer to the new procedural provisions in Part 2. The prior procedural provisions relating to hearings have been revoked.

## LICENSING OF BIOLOGICALS

The procedural provisions in Part 601 relating to licensing of biologicals, revocation and suspension of a license, and hearings on such matters have been substantially revised, consolidated, and simplified. Hearings on denial, revocation, or suspension of biologics license shall be governed by Part 2. The procedural requirements for new drugs in § 314.200 are incorporated by reference. Previous procedural provisions relating to biologics have been revoked.

## COSMETIC LABELING

Section 701.3 (b) and (e) has been revised to refer to the provisions in Part 2 and to delete the reference to a former provision in Part 2 that has been revoked by the new regulations.

## NOTIFICATION OF DEFECTS IN ELECTRONIC PRODUCTS

Sections 1003.11(a) and 1003.31(d) have been revised to add a provision stating that a person who wishes to contest a determination that a product fails to comply or has a defect, and a denial of an exemption from the notification provisions, has an opportunity for a regulatory hearing pursuant to Subpart F of Part 2. Previously, no opportunity for a hearing existed.

## REPURCHASE, REPAIRS, OR REPLACEMENT OF ELECTRONIC PRODUCTS

Section 1004.6 has been revised to add a new provision stating that, upon denial of a plan with respect to repurchase, repair, or replacement of an electronic product, a person shall have an opportunity for a regulatory hearing pursuant to Subpart F of Part 2. Previously, no opportunity for a hearing existed.

## HEARING UNDER THE FEDERAL IMPORT MILK ACT

A new § 1210.30 has been added to state that a person who wishes to contest denial, suspension, or revocation of a permit has an opportunity for a regulatory hearing pursuant to Subpart F of Part 2. All of the prior procedural provisions have been revoked.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act, (Sec. 201 et seq., 52 Stat. 1040; 21 U.S.C. 321 et seq.), the Public Health Service Act (sec. 1 et seq., 58 Stat. 682, as amended; 42 U.S.C. 201 et seq.), the Comprehensive Drug Abuse Prevention and Control Act of 1970 (sec. 4, 84 Stat. 1241; 42 U.S.C. 257a), the Controlled Substances Act (sec. 301 et seq., 84 Stat. 1253; 21 U.S.C. 821 et seq.), the Federal Meat Inspection Act (sec. 409(b), 81 Stat. 600; 21 U.S.C. 679(b)), the Poultry Products Inspection Act (sec. 24(b), 82 Stat. 807; 21 U.S.C. 467f(b)), the Egg Products Inspection Act (sec. 2 et seq., 84 Stat. 1620; 21 U.S.C. 1031 et seq.), the Federal Import Milk Act (44 Stat. 1101; 21 U.S.C. 141 et seq.), the Tea Importation Act (21 U.S.C. 41 et seq.), the Federal Cautic Poison Act (44 Stat. 1406; 15 U.S.C. 401-411 notes), the Fair Packaging and Labeling Act (80 Stat. 1296; 15 U.S.C. 1451 et seq.), and all other statutory authority delegated to him (21 CFR 2.120), the Commissioner amends Chapter I of Title 21 of the Code of Federal Regulations as follows:

## PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

1. Section 1.1a is revised to read as follows:

§ 1.1a Foods, drugs, devices, and cosmetics; labeling; procedure for requesting variations and exemptions from required label statements.

Section 403(e) of the act (in this Part 1, the term "act" means the Federal Food, Drug, and Cosmetic Act) provides

for the establishment by regulation of reasonable variations and exemptions for small packages from the required declaration of net quantity of contents. Section 403(i) of the act provides for the establishment by regulation of exemptions from the required declaration of ingredients where such declaration is impracticable, or results in deception or unfair competition. Section 502(b) of the act provides for the establishment by regulation of reasonable variations and exemptions for small packages from the required declaration of net quantity of contents. Section 602(b) of the act provides for the establishment by regulation of reasonable variations and exemptions for small packages from the required declaration of net quantity of contents. Section 5(b) of the Fair Packaging and Labeling Act provides for the establishment by regulation of exemptions from certain required declarations of net quantity of contents, identity of commodity, identity and location of manufacturer, packer, or distributor, and from declaration of net quantity of servings represented, based on a finding that full compliance with such required declarations is impracticable or not necessary for the adequate protection of consumers, and a further finding that the nature, form, or quantity of the packaged consumer commodity or other good and sufficient reasons justify such exemptions. The Commissioner, on his own initiative or on petition of an interested person, may propose a variation or exemption based upon any of the foregoing statutory provisions, including proposed findings if section 5(b) of the Fair Packaging and Labeling Act applies, pursuant to Part 2 of this chapter.

2. Section 1.8d(f) is revised to read as follows:

§ 1.8d Food labeling; information panel.

(f) If the label of any package of food is too small to accommodate all of the information required by §§ 1.8a, 1.8c, 1.10, 1.13, 1.17, and 1.18, and Parts 80 and 125 of this chapter, the Commissioner may establish by regulation an acceptable alternative method of disseminating such information to the public, e.g., a type size smaller than one-sixteenth inch in height, or labeling attached to or inserted in the package or available at the point of purchase. A petition requesting such a regulation, as an amendment to this paragraph shall be submitted pursuant to Part 2 of this chapter.

3. Part 2 is revised to read as follows:

## PART 2—ADMINISTRATIVE PRACTICES AND PROCEDURES

## Subpart A—General

Sec. 2.1 Scope.  
2.2 Definitions.  
2.3 Summary of administrative practices and procedures.  
2.4 Submission of documents to Hearing Clerk; computation of time; availability for public disclosure.  
2.5 Initiation of administrative proceedings.

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2.8 Administrative reconsideration of action.  
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2.11 Court review of final administrative action; exhaustion of administrative remedies.  
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2.13 Separation of functions; ex parte communications.  
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2.15 Meetings and correspondence.  
2.16 Documentation of significant decisions in administrative file.  
2.17 Internal agency review of decisions.  
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2.19 Advisory opinions.  
2.20 Food and Drug Administration regulations, guidelines, recommendations, and agreements.  
2.21 Participation in outside standard-setting activities.  
2.22 Public calendars.  
2.23 Representation by an organization.  
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2.25 Waiver, suspension, or modification of procedural requirements.

## Subpart B—Formal Evidentiary Public Hearings

2.100 Scope of subpart.  
2.110 Initiation of a formal evidentiary public hearing involving the issuance, amendment, or revocation of a regulation.  
2.111 Initiation of a formal evidentiary public hearing involving the issuance, amendment, or revocation of an order.  
2.112 Filing objections and requests for a hearing on a regulation or order.  
2.113 Ruling on objections and requests for hearing.  
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2.118 Notice of hearing; stay of action.  
2.119 Effective date of a regulation.  
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2.121 Appearance.  
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2.123 Presiding officer.  
2.124 Commencement of functions.  
2.125 Authority of presiding officer.  
2.126 Disqualification of presiding officer.  
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2.128 Filing and service of submissions.  
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2.130 Advisory opinions.  
2.131 Disclosure of data and information by the participants.  
2.132 Purpose; oral and written testimony; burden of proof.  
2.133 Participation of nonparties.  
2.134 Conduct at oral hearings or conferences.  
2.135 Time and place of prehearing conference.  
2.136 Prehearing conference procedure.  
2.137 Summary decisions.  
2.138 Receipt of evidence.  
2.139 Official notice.  
2.140 Briefs and argument.  
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2.142 Official transcript.

Sec. 2.165 Motions.  
2.170 Administrative record of a formal evidentiary public hearing.  
2.171 Examination of administrative record.  
2.172 Correction of administrative record.  
2.173 Record for administrative decision.  
2.180 Recommended decision or initial decision.  
2.181 Tentative order.  
2.182 Appeal from or review of initial decision.  
2.183 Decision by Commissioner after exceptions to the tentative order.  
2.184 Decision by Commissioner on appeal or review of initial decision.  
2.185 Reconsideration and stay of action.  
2.190 Review by the courts.  
2.191 Copies of petitions for judicial review.

## Subpart C—Public Hearing Before a Public Board of Inquiry

2.200 Scope of subpart.  
2.201 Notice of a public hearing before a Public Board of Inquiry.  
2.202 Members of a Public Board of Inquiry.  
2.203 Separation of functions; ex parte communications; administrative support.  
2.204 Submissions to a Public Board of Inquiry.  
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2.207 Administrative record of a Public Board of Inquiry.  
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## Subpart D—Public Hearing Before a Public Advisory Committee

2.300 Scope of subpart.  
2.301 Establishment and renewal of public advisory committees.  
2.302 Termination of public advisory committees.  
2.303 Purpose of proceedings before a public advisory committee.  
2.304 Portions of public advisory committee meetings.  
2.305 Notice of public hearing before a public advisory committee.  
2.306 Chairman of a public advisory committee.  
2.307 Meetings of a public advisory committee.  
2.308 Consultation by a public advisory committee with other persons.  
2.309 Additional rules for a particular public advisory committee.  
2.310 Compilation of materials for members of a public advisory committee.  
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2.315 Administrative record of a public hearing before a public advisory committee meeting.  
2.316 Examination of administrative record and other advisory committee records.  
2.317 Public inquiries and requests for public advisory committee records.  
2.318 Determination to close portions of public advisory committee meetings.  
2.319 Administrative remedies.  
2.320 Applicability to Congress.  
2.321 Committees working pursuant to a contract with the Food and Drug Administration.  
2.322 Application of anticancer clauses.

Sec. 2.330 Qualifications for members of standing policy and technical advisory committees.  
2.331 Nominations of voting members of standing advisory committees.  
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2.333 Rights and responsibilities of nonvoting members of advisory committees.  
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2.335 Compensation of public advisory committee members.  
2.340 List of standing advisory committees.  
2.350 Establishment of the Technical Electronic Product Radiation Safety Standards Committee (TEPRSSC).  
2.351 Functions of TEPRSSC.  
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2.361 Functions of a color additive advisory committee.  
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2.363 Membership of a color additive advisory committee.  
2.364 Fees and compensation pertaining to a color additive advisory committee.  
2.370 Establishment of standing technical public advisory committees for human prescription drugs.  
2.371 Utilization of a public advisory committee on the initiative of the Food and Drug Administration.  
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## Subpart E—Public Hearing Before the Commissioner

2.400 Scope of subpart.  
2.401 Notice of a public hearing before the Commissioner.  
2.402 Notice of appearance; schedule for hearing.  
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## Subpart F—Regulatory Hearing Before the Food and Drug Administration

2.500 Scope of subpart.  
2.501 Inapplicability and limited applicability.  
2.505 Presiding officer.  
2.506 Right to counsel.  
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2.511 Regulatory hearing pursuant to regulation.  
2.512 Hearing procedure.  
2.513 Administrative record of a regulatory hearing.  
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## Subpart G—Standards of Conduct and Conflict of Interest

2.600 Scope of subpart.  
2.610 Reference to Department regulations.  
2.611 Code of ethics for government service.  
2.612 Food and Drug Administration Conflict of Interest Review Board.



- Sec.  
2.613 Duty to report violations.  
2.620 Permanent disqualification of former employees.  
2.621 Temporary disqualification of former employees.

AUTHORITY: Sec. 201 et seq., Pub. L. 717, 52 Stat. 1040 as amended (21 U.S.C. 321 et seq.); sec. 1 et seq., Pub. L. 410, 58 Stat. 682 as amended (42 U.S.C. 201 et seq.); sec. 4, Pub. L. 91-513, 84 Stat. 1241 (42 U.S.C. 257a); sec. 301 et seq., Pub. L. 91-513, 84 Stat. 1253 (21 U.S.C. 821 et seq.); sec. 409(b), Pub. L. 242, 81 Stat. 600 (21 U.S.C. 679); sec. 24(b), Pub. L. 85-172, 82 Stat. 807 (21 U.S.C. 467; (b)); sec. 2 et seq., Pub. L. 91-597, 84 Stat. 1620 (21 U.S.C. 1031 et seq.); sec. 1 et seq., Pub. L. 825, 44 Stat. 1101-1103 as amended (21 U.S.C. 141 et seq.); sec. 1 et seq., Chapter 358, 29 Stat. 604-607 as amended (21 U.S.C. 41 et seq.); Pub. L. 783, 44 Stat. 1408 as amended by 74 Stat. 381 (15 U.S.C. 401-411, notes); sec. 2 et seq., Pub. L. 89-755, 80 Stat. 1296 (15 U.S.C. 1451 et seq.).

#### Subpart A—General

##### § 2.1 Scope.

(a) Part 2 governs practices and procedures applicable to all petitions, hearings, and other administrative proceedings and activities conducted by the Food and Drug Administration pursuant to the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and other laws with respect to which authority has been delegated to the Commissioner of Food and Drugs pursuant to § 5.1 of this chapter, except to the extent that specific provisions in other sections of this chapter state different requirements with respect to a particular matter.

(b) Where a specific provision in another section of this chapter states a different requirement with respect to a particular matter (e.g., the use of a form different from the one specified in § 2.7 (b)), the sections in this Part shall apply to the extent that they do not conflict with such other provisions (e.g., the requirements for inclusion of all data and information and for translations of foreign language in § 2.5(b) shall apply regardless of which form is used).

##### § 2.3 Definitions.

(a) As used in this Part, the following terms shall have the meanings specified:

- (1) "Act" means the Federal Food, Drug, and Cosmetic Act unless otherwise indicated.
- (2) "Department" means the United States Department of Health, Education, and Welfare.
- (3) "Secretary" means the Secretary of Health, Education, and Welfare.
- (4) "Commissioner" means the Commissioner of Food and Drugs, Food and Drug Administration, United States Department of Health, Education, and Welfare, or his designee.
- (5) "Agency" means the Food and Drug Administration.
- (6) "Person" includes an individual, partnership, corporation, association, or other legal entity.
- (7) "Presiding officer" means the Commissioner or his designee or an Ad-

ministrative Law Judge appointed as provided in 5 U.S.C. 3105.

(8) "Hearing Clerk" means the Hearing Clerk of the Food and Drug Administration, United States Department of Health, Education, and Welfare, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852.

(9) "Proceeding" and "administrative proceeding" mean any undertaking to issue, amend, or revoke a regulation or order, or to take or refrain from taking any other form of administrative action.

(10) "Party" means the bureau of the Food and Drug Administration responsible for the matter involved and every person who either has exercised a right to request or has been granted the right by the Commissioner to have a formal evidentiary public hearing pursuant to Subpart B of this Part or a regulatory hearing before the Commissioner pursuant to Subpart F of this Part, or who has waived any such right in order to obtain the establishment of a Public Board of Inquiry pursuant to Subpart C of this Part, and as a result of whose action a formal evidentiary hearing or a regulatory hearing before the Commissioner has been granted or a Public Board of Inquiry has been established.

(11) "Participant" means any person participating in any proceeding, including each party and any other interested person.

(12) "Interested person" or "any person who will be adversely affected" means any person who submits a petition or comment or objection or otherwise requests an opportunity to participate in any informal or formal administrative proceeding or court action.

(13) "Public Board of Inquiry" or "Board" means an administrative law tribunal constituted pursuant to the provisions of Subpart C of this Part.

(14) "Public advisory committee" or "advisory committee" means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof, that is not composed wholly of full-time officers or employees of the Federal government and is established or utilized by the Food and Drug Administration to obtain advice or recommendations.

(15) "Formal evidentiary public hearing" means any hearing conducted pursuant to the provisions of Subpart B of this Part.

(16) "Public hearing before a Public Board of Inquiry" means any hearing conducted by a Board pursuant to the provisions of Subpart C of this Part.

(17) "Public hearing before a public advisory committee" means any hearing conducted by an advisory committee pursuant to the provisions of Subpart D of this Part.

(18) "Public hearing before the Commissioner" means any hearing conducted by the Commissioner or his designee pursuant to the provisions of Subpart E of this Part.

(19) "Regulatory hearing before the Food and Drug Administration" means any hearing conducted by an authorized

employee of the Food and Drug Administration pursuant to the provisions of Subpart F of this Part.

(20) "The laws administered by the Commissioner" means all the statutory provisions with respect to which authority has been delegated to the Commissioner pursuant to § 5.1 of this chapter.

(21) "Petition" means any petition, application, other document requesting the Commissioner to establish, amend, or revoke a regulation or order, or to take or refrain from taking any other form of administrative action, under the laws administered by him.

(22) "Regulation" means any agency rule of general or particular applicability and future effect implementing or applying any law administered by the Commissioner or relating to administrative practices and procedures. Pursuant to § 2.20(a), all agency regulations shall be promulgated in the FEDERAL REGISTER and codified in the Code of Federal Regulations.

(23) "Order" means any final agency disposition, other than the issuance of a regulation, in a proceeding concerning any matter and includes action on any new drug application, new animal drug application, or biological license.

(24) "Meeting" means any oral discussion, whether by telephone or in person.

(25) "Office of the Commissioner" includes the offices of the associate and assistant commissioners and excludes the bureaus, the office of the Executive Director for Regional Operations, and all regional and district offices.

(26) "Administrative action" includes every form and kind of act, including the refusal or failure to act, involved in the implementations of the laws administered by the Commissioner, except that it does not include the referral of apparent violations to United States attorneys for the institution of civil and criminal proceedings and acts preparatory or incidental thereto.

(27) "Administrative file" or "administrative record" means the file maintained by the Food and Drug Administration, either by the Hearing Clerk or by any other agency employee, in which all documents comprising the official record of any administrative proceeding are retained.

(28) "Food and Drug Administration employee" or "Food and Drug Administration representative" shall be deemed to include members of the Food and Drug Division of the office of the General Counsel of the Department of Health, Education, and Welfare.

(b) Any term which is defined in section 201 of the Federal Food, Drug, and Cosmetic Act or Part 1 of this chapter shall have that definition.

(c) Words in the singular form shall be deemed to include the plural, words in the masculine form shall be deemed to include the feminine form, and vice versa, as the case may require.

(d) Whenever any reference is made in this Part to any person in the Food and Drug Administration, e.g., the director of a bureau, such reference shall

also be deemed to include all persons to whom that person delegated the specific function involved.

##### § 2.4 Summaries of administrative practices and procedures.

The Commissioner shall prepare for public distribution summaries of Food and Drug Administration administrative practices and procedures in terms that are readily understood in order to encourage and facilitate participation in all agency activities.

##### § 2.5 Submission of documents to Hearing Clerk; computation of time; availability for public disclosure.

(a) All submissions to the Hearing Clerk of petitions, comments, objections, notices, compilations of data and information, and any other documents pursuant to this Part or other sections in this chapter shall be filed in quintuplicate, except as otherwise specifically provided in any relevant FEDERAL REGISTER notice or in other sections of this chapter. The Hearing Clerk shall be the agency custodian of such documents.

(b) All such submissions shall be signed by the person making the submission, or by an attorney or other authorized representative on his behalf. If a submission is signed by an attorney or other authorized representative on behalf of another person, the submission shall be accompanied by a signed statement of authorization or other documentation verifying his authority to sign the submission as such person's representative, unless such authorization has previously been submitted as part of the administrative file in the same proceeding. Submissions by trade associations shall also be subject to the requirements of § 2.23(b).

(c) All data and information referred to or in any way relied upon in any such submissions shall be included in full and may not be incorporated by reference, unless previously submitted as part of the administrative file in the same proceeding.

(1) A copy of any article or other reference or source cited shall be included.

(2) If any part of the material submitted is in a foreign language, it shall be accompanied by an English translation verified under oath to be complete and accurate, together with the name, address, and a brief statement of the qualifications of the person making the translation. Translations of literature or other material in a foreign language shall be accompanied by copies of the original publication.

(3) Where relevant data or information are contained in a document also containing irrelevant matter, the irrelevant matter shall be deleted and only the relevant data or information shall be submitted.

(4) Pursuant to § 4.63 (a) and (b) of this chapter, the names and other information which would identify patients or research subjects shall be deleted from any record before it is submitted to the Hearing Clerk in order to preclude

a clearly unwarranted invasion of personal privacy.

(5) Defamatory, scurrilous, or intemperate matter shall be deleted from any record before it is submitted to the Hearing Clerk.

(6) The failure to comply with the requirements of this paragraph or any other requirement in this Part shall result in rejection of the submission for filing or, if it is filed, in exclusion from consideration of any portion of the submission which fails to comply. If a submission fails to meet any requirement of this section and such deficiency becomes known to the Hearing Clerk, the Hearing Clerk shall return the submission with a copy of the applicable regulations indicating those provisions not complied with in the submission. A deficient submission may be corrected or supplemented and subsequently filed.

(d) The filing of a submission shall mean only that the Hearing Clerk has not determined that it fails to meet the technical requirements for filing established in this section and in any other applicable sections in this chapter, e.g., § 2.7 relating to a citizen petition. The filing of a petition shall not mean or imply that it in fact meets all applicable requirements or that it contains reasonable grounds for the action requested or that the action requested is in accordance with law.

(e) All submissions to the Hearing Clerk shall be considered as submitted on the date on which they are postmarked or, if delivered in person during regular business hours, on the date on which they are so delivered, unless a provision in this Part or an applicable FEDERAL REGISTER notice specifically states that such documents must be received by a specified date, e.g., § 2.8(g) relating to a petition for reconsideration, in which case they shall be considered submitted on the date actually received.

(f) All such submissions shall be mailed or delivered in person to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, except that a submission which is required to be received by the Hearing Clerk by a specified date may be delivered in person to the Food and Drug Administration building in downtown Washington, Rm. 6819, 200 C St., SW., Washington, DC 20201 and shall be considered as received by the Hearing Clerk on the date on which it is logged in at Rm. 6819.

(g) The Food and Drug Administration ordinarily will not acknowledge or give receipt for such documents, except:

(1) Documents delivered in person or submitted by certified or registered mail with a return receipt requested.

(2) Petitions for which acknowledgment of receipt of filing is provided by regulations in this chapter or by customary practice, e.g., § 2.7(c) relating to a citizen petition.

(h) Saturdays, Sundays, and Federal legal holidays shall be included in computing the time allowed for the submission of any document, except that when such time expires on a Saturday, Sun-

day, or Federal legal holiday, such period shall be extended to include the next following business day.

(1) All submissions to the Hearing Clerk constitute a representation that, to the best of the knowledge, information, and belief of the person making the submission, all statements made in the submission are true and accurate. All such submissions are subject to the False Reports to the Government Act, 18 U.S.C. 1001, under which a willfully false statement is a criminal offense.

(j) The availability for public examination and copying of submissions to the Hearing Clerk shall be governed by the following rules:

(1) Except to the extent provided in paragraphs (j) (2) and (3) of this section, the following submissions, including all supporting material, shall be on public display and shall be available for public examination during regular business hours on Monday through Friday. Requests for copies of such submissions shall be filed and handled pursuant to the provisions of Subpart C of Part 4 of this chapter.

(i) Petitions.

(ii) Comments on petitions, on documents published in the FEDERAL REGISTER, and on similar public documents.

(iii) Objections and requests for hearings filed pursuant to Subpart B of this Part.

(iv) Material submitted at a formal evidentiary public hearing pursuant to Subpart B of this Part, a public hearing before a Public Board of Inquiry pursuant to Subpart C of this Part, a public hearing before the Commissioner pursuant to Subpart E of this Part, or an alternative form of hearing before a public advisory committee pursuant to § 2.117(a) (2).

(v) Material placed on public display pursuant to regulations in this chapter, e.g., agency guidelines filed pursuant to § 2.20(b).

(2) (i) Material submitted with objections and requests for hearings filed pursuant to Subpart B of this Part, or at a formal evidentiary public hearing pursuant to Subpart B, a public hearing before a Public Board of Inquiry pursuant to Subpart C of this Part, or an alternative form of public hearing before a public advisory committee or a public hearing before the Commissioner pursuant to § 2.117(a) (2) or (3), of the following types shall be on public display and shall be available for public examination during regular business hours on Monday through Friday, but shall not be available for copying or any other form of verbatim recording or transcription unless it is otherwise available for public disclosure pursuant to the provisions of Part 4 of this chapter and the regulations referenced therein:

(a) Safety and effectiveness data and information, which include all studies and tests of an ingredient or product on animals and humans and all studies and tests on the ingredient or product for identity, stability, purity, potency, bioavailability, performance, and usefulness.

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(b) A protocol for a test or study.

(ii) Material submitted pursuant to the provisions of this paragraph (j) (2) shall be segregated from all other submitted material and clearly so marked. Any person who does not agree that such a submission is properly subject to the provisions of this paragraph (j) (2) may request a ruling thereon from the Assistant Commissioner for Public Affairs whose decision on the matter shall be final, subject to judicial review pursuant to § 4.46 of this chapter.

(iii) Material submitted pursuant to the provisions of this paragraph (j) (2) shall be retained on public display and available for public examination only for such period of time as is appropriate to permit public participation in a public hearing and any related judicial review, and shall thereafter be subject to the provisions of paragraph (j) (3) of this section.

(iv) In accordance with the policy stated in § 4.86 of this chapter, the limited availability of material pursuant to this paragraph (j) (2) shall be deemed not to constitute prior disclosure to the public as defined in § 4.81 of this chapter and no such data and information shall, if copied or otherwise recorded or transcribed in violation of the provisions of this paragraph (j) (2), be submitted to or received or considered by the Food and Drug Administration by any other person in support of a petition or other request.

(3) (i) Material prohibited from public disclosure pursuant to § 4.63 of this chapter (clearly unwarranted invasion of personal privacy) as interpreted and applied in Part 4 of this chapter and the regulations referenced therein, and material submitted with objections and requests for hearings filed pursuant to Subpart B of this Part, or at a formal evidentiary public hearing pursuant to Subpart B of this Part, a public hearing before a Public Board of Inquiry pursuant to Subpart C of this Part, or an alternative form of public hearing before a public advisory committee or a public hearing before the Commissioner pursuant to § 2.117(a) (2) or (3), of the following types shall not be on public display, shall not be available for public examination, and shall not be available for copying or any other form of verbatim transcription unless they are otherwise available for public disclosure pursuant to the provisions of Part 4 of this chapter and the regulations referenced therein:

(a) Manufacturing methods of processes, including quality control procedures.

(b) Production, sales, distribution, and similar data and information, except any compilation of such data and information aggregated and prepared in a way that does not reveal confidential data and information.

(c) Quantitative or semiquantitative formulas.

(d) Data and information on design or construction of products.

(ii) Material submitted pursuant to the provisions of this paragraph (j) (3)

shall be segregated from all other submitted material and clearly so marked. Any person who does not agree that such a submission is properly subject to the provisions of this paragraph (j) (3) may request a ruling thereon from the Assistant Commissioner for Public Affairs whose decision on the matter shall be final, subject to judicial review pursuant to § 4.46 of this chapter.

## § 2.6 Initiation of administrative proceedings.

An administrative proceeding under the laws administered by the Commissioner may be initiated in any of the following three ways:

(a) Any interested person may petition the Commissioner to issue, amend, or revoke a regulation or order, or to take or refrain from taking any other form of administrative action, under the laws administered by him. Any such petition shall be either (1) in the form specified in other applicable sections in this chapter, e.g., the form for a food additive petition in § 121.51 of this chapter or for a new drug application in § 314.1 of this chapter or for a new animal drug application in § 514.1 of this chapter, or (2) in the form for a citizen petition in § 2.7.

(b) The Commissioner may on his own initiative institute a proceeding to issue, amend, or revoke a regulation or order, or to take or refrain from taking any other form of administrative action, under the laws administered by him.

The Food and Drug Administration has primary jurisdiction to make the initial determination on issues within its statutory mandate, and will request a court to dismiss, or to hold in abeyance its determination or to refer to the agency for administrative determination, any such issue which has not previously been determined by the agency or which, if it has previously been so determined, the agency concludes should be reconsidered and subject to a new administrative determination. The Commissioner may, in his discretion, utilize any of the procedures established in this Part in reviewing and making a determination on any matter on his own initiative.

(c) The Commissioner shall institute a proceeding to determine whether he should issue, amend, or revoke a regulation or order, or take or refrain from taking any other form of administrative action under the laws administered by him, whenever any court holds in abeyance or refers any such matter to him for an administrative determination and he concludes that such an administrative determination is feasible in light of agency priorities and resources.

## § 2.7 Citizen petition.

(a) The provisions of this section shall apply to any petition submitted by any person, except to the extent that specific provisions in other sections of this chapter state different requirements with respect to a particular matter.

(b) Any petition (including any attachments) shall be submitted in accordance with § 2.5 and in the following form:

-----  
(Date)  
-----

Hearing Clerk, Food and Drug Administration, Department of Health, Education, and Welfare, Rm. 4-65, 5600 Fishers Lane, Rockville MD 20852.

### CITIZEN PETITION

The undersigned submits this petition pursuant to \_\_\_\_\_ (relevant statutory sections, if known) of the \_\_\_\_\_ (Federal Food, Drug, and Cosmetic Act and/or the Public Health Service Act and/or any other statutory provision with respect to which authority has been delegated to the Commissioner of Food and Drugs pursuant to 21 CFR 5.1) to request the Commissioner of Food and Drugs to \_\_\_\_\_ (issue, amend, or revoke a regulation or order or take or refrain from taking any other form of administrative action).

A. *Action Requested.*  
(1) If the petition requests the Commissioner to issue, amend, or revoke a regulation, the exact wording of the existing regulation (if any) and the proposed regulation or amendment requested.)

(2) If the petition requests the Commissioner to issue, amend, or revoke an order, a copy or the exact wording of and citation to the existing order (if any) and the exact wording requested for the proposed order.)

(3) If the petition requests the Commissioner to take or refrain from taking any other form of administrative action, the specific action or relief requested.)

B. *Statement of Grounds.*  
(A full statement of the factual and legal grounds upon which the petitioner relies. Such grounds shall include all relevant data, information, and views on which the petitioner relies, as well as representative data and information known to the petitioner which are unfavorable to the petitioner's position, and shall be submitted in a well-organized format.)

C. *Environmental Impact.*  
(An environmental impact analysis report in the form specified in 21 CFR 61(g), except for the types of actions specified in 21 CFR 61(e).)

The undersigned certifies, that, to the best of his knowledge and belief this petition includes all data, information, and views on which the petition relies, and that it includes representative data and information known to the petitioner which are unfavorable to the petition.

Very truly yours,

-----  
(Signature)  
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(Name of petitioner)  
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(Mailing address)  
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(Telephone number)  
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(c) Any petition which appears to meet the requirements of paragraph (b) of this section and § 2.5 shall be filed by the Hearing Clerk, stamped with the date of filing, and assigned a docket number. The docket number shall be used to identify the administrative file established by the Hearing Clerk for all submissions relating to the petition, as provided in this Part. All subsequent submissions relating to the matter shall refer to such docket number and shall be filed in such administrative file. Identification, similar, or related petitions may be filed together and given the same docket number. The Hearing Clerk shall promptly notify the petitioner in writing of the filing and docket number of a petition.

(d) Any interested person may submit written comments to the Hearing Clerk on any filed petition, which shall become part of the administrative file. Such comments shall specify the docket number of the petition and may support or oppose the petition in whole or in part. Any request for alternative or different administrative action shall be in the form of a separate petition.

(e) The Commissioner shall review and rule upon every petition filed pursuant to paragraph (c) of this section as promptly as is feasible, taking into consideration (1) the agency resources available to handle the category of subject matter involved, (2) the priority assigned to the petition in relation both to the category of subject matter involved and the overall work of the agency, and (3) time requirements established by statute. The Commissioner may grant or deny such a petition, in whole or in part, and may grant such other relief or take such other action as he may determine to be warranted by the petition. The petitioner shall be notified in writing of the Commissioner's decision on a petition. Such decision shall be placed in the public docket file in the office of the Hearing Clerk and may also be in the form of a notice published in the FEDERAL REGISTER.

(f) If a petition filed pursuant to paragraph (c) of this section requests the Commissioner to issue, amend, or revoke a regulation, the provisions of § 2.10 or § 2.12 shall also apply.

(g) A petitioner may supplement, amend, or withdraw his petition upon written request without agency approval prior to the time the Commissioner rules on the petition unless the petition has been referred for a hearing under Subparts B, C, D, or E of this Part. In all other instances, a petition may be supplemented, amended, or withdrawn only with approval of the Commissioner.

(h) In reviewing any matter which is the subject of a petition filed pursuant to paragraph (c) of this section, the Commissioner may, in his discretion, utilize any of the following procedures:

(1) Conferences, meetings, discussions, and correspondence pursuant to § 2.15.

(2) A formal evidentiary public hearing pursuant to Subpart B of this Part.

(3) A public hearing before a Public Board of Inquiry pursuant to Subpart C of this Part.

(4) A public hearing before a public advisory committee pursuant to Subpart D of this Part.

(5) A public hearing before the Commissioner pursuant to Subpart E of this Part.

(6) A regulatory hearing before the Food and Drug Administration pursuant to Subpart F of this Part.

(7) A notice published in the FEDERAL REGISTER requesting data, information, and views.

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(8) A proposal to issue, amend, or revoke a regulation, in accordance with the provisions of § 2.10 or § 2.11.

(9) Any other specific public procedure established by the provisions in other sections of this chapter and explicitly made applicable to the matter by those provisions.

(i) The record of the administrative proceeding shall consist of the following:

(1) The petition, including all data and information on which it relies, filed by the Hearing Clerk.

(2) All comments received on the petition, including all data or information submitted as a part of such comments.

(3) If the petition resulted in a proposal to issue, amend, or revoke a regulation, all of the documents specified in § 2.10(g).

(4) The record, consisting of any transcripts, minutes of meetings, reports, FEDERAL REGISTER notices, and other documents, resulting from any of the optional procedures specified in paragraph (g) of this section, except that it shall not include the transcript of any closed portion of any public advisory committee meeting.

(5) The Commissioner's decision on the petition, including all data and information identified or filed by the Commissioner with the Hearing Clerk as part of the record supporting the decision.

(6) All documents filed with the Hearing Clerk pursuant to § 2.15(f).

(7) If any petition for reconsideration or for a stay of action is filed pursuant to paragraph (j) of this section, the administrative record specified in § 2.8 (k) or § 2.9(h) respectively.

(j) The administrative record specified in paragraph (i) of this section shall constitute the exclusive record for the Commissioner's decision. The record of the administrative proceeding shall be closed as of the date of the Commissioner's decision unless some other date for the closing of the record is specified by the Commissioner. Thereafter any interested person may submit a petition for reconsideration pursuant to § 2.8 and a petition for stay of action pursuant to § 2.9. Any person who wishes to rely upon data, information, or views not included in the administrative record shall submit it to the Commissioner with a new petition to modify the decision pursuant to this section.

(k) The provisions of this section shall not apply to requests, suggestions, and recommendations made informally in routine correspondence received by the Food and Drug Administration. Such correspondence does not constitute a petition within the meaning of this section unless it purports to meet the requirements of this section. Action with respect to such routine correspondence does not constitute final administrative action which is subject to judicial review pursuant to § 2.11.

(l) The Hearing Clerk shall maintain a chronological list of all petitions filed pursuant to this section and § 2.19, but excluding petitions submitted elsewhere

in the agency pursuant to § 2.6(a) (1), showing:

- (1) The docket number.
- (2) The date the petition was filed by the Hearing Clerk.
- (3) The name of the petitioner.
- (4) The subject matter involved.

## § 2.8 Administrative reconsideration of action.

(a) The Commissioner may at any time conclude to reconsider any matter, on his own initiative or on the petition of any interested person.

(b) Any interested person may request reconsideration of any part or all of a decision of the Commissioner on any petition submitted pursuant to § 2.6(a). Any such request shall be submitted in accordance with § 2.5 and in the following form no later than 30 days after the date of the decision involved.

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(Date)  
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Hearing Clerk, Food and Drug Administration, Department of Health, Education, and Welfare, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852

### PETITION FOR RECONSIDERATION

Docket No. -----

The undersigned submits this petition for reconsideration of the decision of the Commissioner of Food and Drugs in Docket No. -----

A. *Decision Involved.*  
(A concise statement of the decision of the Commissioner which the petitioner wishes to have reconsidered.)

B. *Action Requested.*  
(The decision which the petitioner requests the Commissioner to make upon reconsideration of the matter.)

C. *Statement of Grounds.*  
(A full statement of the factual and legal grounds upon which the petitioner relies. Such grounds shall demonstrate that relevant data, information, and views contained in the administrative record were not previously or not adequately considered by the Commissioner. No new data, information, or views may be included in a petition for reconsideration.)

Very truly yours,

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(Signature)  
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(Name of petitioner)  
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(Mailing address)  
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(Telephone number)  
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(c) A petition for reconsideration relating to a petition submitted pursuant to § 2.6(a) (2) shall be subject to the requirements of § 2.7 (c) and (d), except that it shall be filed in the same docket file as the petition to which it relates.

(d) The Commissioner shall promptly review a petition for reconsideration. The Commissioner may grant such a petition in any proceeding when he determines that it is in the public interest and in the interest of justice. The Commissioner shall grant a petition for reconsideration in any proceeding if he determines that all of the following apply: (1) the petition demonstrates that relevant data, information, or views contained in the administrative record were



not previously or not adequately considered by the Commissioner, (2) the petitioner's position is not frivolous and is being pursued in good faith, (3) the Petitioner has demonstrated sound public policy grounds supporting reconsideration, and (4) reconsideration is not outweighed by public health considerations or other public interests.

(e) A petition for reconsideration shall be based only on data, information, and views contained in the administrative record on which the Commissioner made his decision. Any interested person who wishes to rely upon data, information, or views not included in such administrative record shall submit it to the Commissioner with a new petition to modify the decision pursuant to § 2.6(a).

(f) The Commissioner's decision on a petition for reconsideration shall be in writing and shall be placed on public display as part of the administrative file on the matter in the office of the Hearing Clerk. A determination to grant reconsideration shall be published in the FEDERAL REGISTER if the Commissioner's original decision was published in the FEDERAL REGISTER. Any other determination to grant or to deny reconsideration may also be published in the FEDERAL REGISTER.

(g) The Commissioner will consider a petition for reconsideration only if it is submitted within 30 days of the date of the decision involved and before such petitioner brings legal action in the courts to review such action, except that such a petition shall also be considered if the Commissioner has denied a petition for stay of action and such petitioner has petitioned for judicial review of the Commissioner's action and requested the reviewing court to grant a stay pending consideration of such review. A petition for reconsideration submitted later than 30 days after the date of the decision involved shall be denied as untimely. A petition for reconsideration shall be considered as submitted on the day it is received by the Hearing Clerk.

(h) The Commissioner may on his own initiative decide to reconsider all or part of any matter at any time after it has been decided or action has been taken. If review of such matter is pending in the courts, the Commissioner may request that the court refer the matter back to the agency or hold its review in abeyance pending administrative reconsideration. The administrative record of the proceeding shall include all additional documents relating to such reconsideration.

(i) After determining to reconsider a matter, whether on the petition of an interested person or on his own initiative, the Commissioner shall review and rule on the merits of the matter pursuant to § 2.7(e). The Commissioner may reaffirm, modify, or overrule his prior decision, in whole or in part, and may grant such other relief or take such other action as he may determine to be warranted.

(j) The Commissioner's reconsideration of any matter relating to a petition submitted pursuant to § 2.6(a) (2) shall

be subject to the provisions of § 2.7(f) through (h), (j), and (k).

(k) The record of the administrative proceeding shall consist of the following:

(1) The record of the original petition specified in § 2.7(d).

(2) The petition for reconsideration, including all data and information on which it relies, filed by the Hearing Clerk.

(3) All comments received on such petition, including all data or information submitted as a part of such comments.

(4) The Commissioner's decision on such petition pursuant to paragraph (f) of this section, including all data and information identified or filed by the Commissioner with the Hearing Clerk as part of the record supporting the decision.

(5) Any FEDERAL REGISTER notices or other documents resulting from such petition.

(6) All documents filed with the Hearing Clerk pursuant to § 2.15(f).

(7) If the Commissioner reconsiders the matter, the administrative record relating to such reconsideration specified in § 2.7(i).

#### § 2.9 Administrative stay of action.

(a) The Commissioner may stay (including extend) the effective date of any relevant action pending or following his decision on any matter, on his own initiative or on the petition of any interested person.

(b) Any interested person may request the Commissioner to stay the effective date of any administrative action. Such a stay may be requested for a specific time period or for an indefinite time period. Any such request shall be submitted in accordance with § 2.5 and in the following form no later than 30 days after the date of the decision involved.

(Date)  
Hearing Clerk, Food and Drug Administration, Department of Health, Education, and Welfare, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852

#### PETITION FOR STAY OF ACTION

The undersigned submits this petition requesting that the Commissioner of Food and Drugs stay the effective date of his action with respect to the following matter.

##### A. Decision Involved.

(The specific administrative action being taken by the Commissioner for which a stay is requested, including the docket number or other citation to the action involved.)

##### B. Action Requested.

(The length of time for which the stay is requested, which may be for a specific or indefinite time period.)

##### C. Statement of Grounds.

(A full statement of the factual and legal grounds upon which the petitioner relies for the stay.)

Very truly yours,

(Signature)

(Name of petitioner)

(Mailing address)

(Telephone number)

(c) A petition for stay of action relating to a petition submitted pursuant to § 2.6(a) (2) shall be subject to the requirements of paragraphs (c) and (d) of § 2.7, except that it shall be filed in the same docket file as the petition to which it relates.

(d) Neither the filing of a petition for a stay of action pursuant to this section nor action taken by an interested person in accordance with any other administrative procedure in this part or in any other section of this chapter, e.g., the filing of a citizen petition pursuant to § 2.7 or a petition for reconsideration pursuant to § 2.8 or a request for an advisory opinion pursuant to § 2.18, shall operate to stay or otherwise delay any administrative action by the Commissioner, including enforcement action of any kind, unless one of the following applies:

(1) The Commissioner, in his discretion, determines that a stay or delay is in the public interest and stays the action.

(2) A statutory provision requires that the matter be stayed.

(3) A court orders that the matter be stayed.

(e) The Commissioner shall promptly review a petition for stay of action. The Commissioner may grant or deny such a petition, in whole or in part, and may grant such other relief or take such other action as he may determine to be warranted by the petition. The Commissioner may grant a stay in any proceeding if he determines that it is in the public interest and in the interest of justice. The Commissioner shall grant a stay in any proceeding if he determines that all of the following apply: (1) The petitioner will otherwise suffer irreparable injury, (2) the petitioner's case is not frivolous and is being pursued in good faith, (3) the petitioner has demonstrated sound public policy grounds supporting the stay, and (4) the delay resulting from the stay is not outweighed by public health considerations or other public interests.

(f) The Commissioner's decision on a petition for stay of action shall be in writing and shall be placed on public display as part of the file on the matter in the office of the Hearing Clerk. A determination to grant a stay shall be published in the FEDERAL REGISTER if the Commissioner's original decision was published in the FEDERAL REGISTER. Any other determination to grant or to deny a stay may also be published in the FEDERAL REGISTER.

(g) A petition for a stay of action submitted later than 30 days after the date of the decision involved shall be denied as untimely. A petition for a stay of action shall be considered as submitted on the day it is received by the Hearing Clerk.

(h) The record of the administrative proceeding shall consist of the following:

(1) The record of the proceeding to which the petition for stay of action is directed.

(2) The petition for stay of action, including all data and information on which it relies, filed by the Hearing Clerk.

(3) All comments received on such petition, including all data or information submitted as a part of such comments.

(4) The Commissioner's decision on such petition pursuant to paragraph (e) of this section, including all data and information identified or filed by the Commissioner with the Hearing Clerk as part of the record supporting the decision.

(5) Any FEDERAL REGISTER notices or other documents resulting from such petition.

(6) All documents filed with the Hearing Clerk pursuant to § 2.15(f).

#### § 2.10 Promulgation of regulations for the efficient enforcement of the law.

(a) The Commissioner may propose and promulgate regulations for the efficient enforcement of the laws administered by him whenever he concludes that it is necessary or appropriate to do so. The issuance, amendment, or revocation of any such regulation may be initiated in any of the ways specified in § 2.6.

(1) This section shall apply to any regulation (i) not subject to § 2.12 and Subpart B of this Part or (ii) if it is subject to § 2.12 and Subpart B of this Part, to the extent that those provisions make this section applicable.

(2) A regulation proposed by an interested person in a petition submitted pursuant to § 2.6(a) shall be published by the Commissioner in the FEDERAL REGISTER as a proposal if he determines that:

(i) The petition contains facts demonstrating reasonable grounds for the proposal.

(ii) The petition contains a substantial showing that the proposal is in the public interest and will promote the objectives of the act and the agency.

(iii) The requested proposal is lawful.

(3) The Commissioner may publish two or more alternative proposed regulations on the same subject in order to obtain comment on the different alternatives.

(4) The Commissioner may publish a regulation proposed by an interested person in a petition submitted pursuant to § 2.6(a) together with the Commissioner's preliminary views on the proposal and any alternative proposal.

(b) Except as provided in paragraphs (d) and (e) of this section, any such regulation shall be the subject of a notice of proposed rule making published in the FEDERAL REGISTER.

(1) Such notice shall contain (i) a general statement in the first or second paragraph describing the substance of the document in easily understandable terms, (ii) a preamble which summarizes the proposal and the facts and policy underlying it, (iii) references to all data and information on which the Commissioner relies for the proposal (copies or a full list of which shall be a part of the administrative file on the matter in the office of the Hearing Clerk), (iv) the au-

thority under which the regulation is proposed, (v) either the terms or substance of the proposed regulation or a description of the subjects and issues involved, (vi) a proposed effective date, (vii) a reference to the existence or lack of need for an environmental impact statement pursuant to § 6.1(a) (3) (ii) or (iii) of this chapter, (viii) the time, place, and method for interested persons to submit written comments on the proposal, and a statement that comments shall be submitted in accordance with the requirements of this Part and (ix) the docket number of the matter, which shall be used to identify the administrative file established by the Hearing Clerk for all submission relating to the matter, as provided in this Part.

(2) Such proposal shall ordinarily provide 60 days for comment, although the Commissioner may reduce or extend this time period for good cause. In no event shall the time for comment be less than ten days.

(3) After publication of the notice of proposed rule making, any interested person may request the Commissioner to extend the comment period for an additional specified period of time by submitting a written request to the Hearing Clerk stating the grounds therefor. Such requests shall be pursuant to § 2.9, except that the heading shall be "REQUEST FOR EXTENSION OF COMMENT PERIOD."

(i) Any such request shall demonstrate why comments could not reasonably be submitted within the time permitted, or that important new information will shortly be available, or that sound public policy otherwise supports an extension of the time for comment. The Commissioner may grant or deny such request or may grant an extension for a time period different than that requested. Extensions of time to comment will not ordinarily be granted. An extension of time to comment may be limited to specific persons who have made and justified such a request, but shall ordinarily apply to all interested persons.

(ii) Any extension of time to comment of 30 days or longer shall be the subject of a notice published in the FEDERAL REGISTER and shall be applicable to all interested persons. Any extension of time to comment of less than 30 days shall be the subject either of a letter or memorandum filed with the Hearing Clerk or of a notice published in the FEDERAL REGISTER.

(4) All comments shall be submitted in quintuplicate to the Hearing Clerk, except that individuals may submit single copies of comments. Comments will be stamped with the date of receipt and will be numbered chronologically.

(5) Persons submitting comments critical of a proposed regulation are encouraged to include alternative wording that they believe would be preferable.

(c) After the time for comment on a proposed regulation has expired, the Commissioner shall review the entire administrative record on the matter, including all comments, and shall terminate the proceeding, issue a new proposal,

or promulgate a final regulation, by notice published in the FEDERAL REGISTER.

(1) The quality and persuasiveness of the comments shall determine the Commissioner's decision with respect to such comments. The number or length of comments shall not be a significant factor in such decision.

(2) The decision of the Commissioner with respect to the matter shall be based solely upon the administrative record.

(3) The preamble to a final regulation published in the FEDERAL REGISTER shall contain in the first and second paragraphs reference to prior notices relating to the same matter and a general statement describing the substance of the document in easily understandable terms, and shall summarize each type of comment submitted on the proposal and the Commissioner's conclusions with respect to each such type of comment. The preamble shall contain a thorough and comprehensive articulation of the reasons for the Commissioner's decision on each issue.

(4) The notice promulgating a final regulation published in the FEDERAL REGISTER shall specify the effective date. Such effective date shall be not less than 30 days after the date of publication in the FEDERAL REGISTER, except for:

(i) A regulation which grants an exemption or relieves a restriction.

(ii) Any other regulation where the Commissioner finds, and states in the notice, good cause for an earlier effective date.

(d) The provisions for notice and comment in paragraphs (b) and (c) of this section shall apply to interpretive rules and to rules of agency practice and procedure except as provided in paragraph (e) of this section. The provisions of paragraphs (b) and (c) of this section shall not apply to general statements of policy in the form of informational notices published in the FEDERAL REGISTER or to matters involving agency organization.

(e) The requirements of notice and public procedure in paragraph (b) of this section shall not apply in any of the following situations:

(1) When the Commissioner determines for good cause that they are impracticable, unnecessary, or contrary to the public interest. In such cases, the notice promulgating the regulation shall state the reasons for such determination, and shall provide an opportunity for the submission of comments to determine whether the regulation should subsequently be modified or revoked.

(2) To food additive and color additive petitions, which are subject to the provisions of § 2.110(b) (2).

(3) To new animal drug regulations, which shall be promulgated by notice pursuant to section 512(i) of the act.

(f) In addition to the notice and public procedure required pursuant to paragraph (b) of this section, the Commissioner may, in his discretion, also subject any proposed or final regulation, before or after publication in the FEDERAL REGISTER, to any of the following additional procedures, where they are reasonably applicable to the matter involved:

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(1) Conferences, meetings, discussions, and correspondence pursuant to § 2.15.

(2) A formal evidentiary public hearing pursuant to Subpart B of this Part.

(3) A public hearing before a Public Board of Inquiry pursuant to Subpart C of this Part.

(4) A public hearing before a public advisory committee pursuant to Subpart D of this Part.

(5) A public hearing before the Commissioner pursuant to Subpart E of this Part.

(6) A notice published in the FEDERAL REGISTER requesting data, information, and views before the Commissioner determines whether to propose a regulation.

(7) A draft of a proposed regulation placed on public display in the office of the Hearing Clerk. If this procedure is used, the Commissioner shall publish an appropriate notice in the FEDERAL REGISTER stating that the document is available and specifying the time within which comments may be submitted orally or in writing on the draft of the proposed regulation.

(8) A revised proposal published in the FEDERAL REGISTER, which shall be subject to all the provisions in this section relating to proposed regulations.

(9) A tentative final regulation or tentative revised final regulation placed on public display at the office of the Hearing Clerk. If this procedure is used, the Commissioner shall publish an appropriate notice in the FEDERAL REGISTER stating that the document is available and specifying the time within which comments may be submitted orally or in writing on the tentative final regulation and shall mail a copy of the tentative final regulation and the FEDERAL REGISTER notice to each person who submitted comments on the proposed regulation.

(10) A final regulation published in the FEDERAL REGISTER which provides an opportunity for the submission of further comments to determine whether the regulation should subsequently be modified or revoked.

(11) Any other specific public procedure established by the provisions in other sections of this chapter and explicitly made applicable to the matter by the terms of those provisions.

(g) The record of the administrative proceeding shall consist of all of the following:

(1) If the regulation was initiated by a petition, the administrative record specified in § 2.7(i).

(2) If any petition for reconsideration or for a stay of action is filed, the administrative record specified in § 2.8(k) and § 2.9(h) respectively.

(3) The notice of proposed rule making published in the FEDERAL REGISTER, including all data and information identified or filed by the Commissioner with the Hearing Clerk as part of the administrative record supporting the proposal.

(4) All comments received on the proposal, including all data or information submitted as a part of such comments.

(5) The notice promulgating the final regulation, including all data and information identified or filed by the Commissioner with the Hearing Clerk as part of the administrative record supporting the final regulation.

(6) The transcripts, minutes of meetings, reports, FEDERAL REGISTER notices, and other documents resulting from any of the optional procedures specified in paragraph (f) of this section, except that it shall not include any transcript of any closed portion of any public advisory committee meeting.

(7) All documents submitted to the Hearing Clerk pursuant to § 2.15(f).

(h) The record of the administrative proceeding shall be closed as of the date the Commissioner's decision is published in the FEDERAL REGISTER or otherwise made available for public disclosure unless some other date for the closing of the record is specified by the Commissioner. Thereafter any interested person may submit a petition for reconsideration pursuant to § 2.8 and a petition for stay of action pursuant to § 2.9. Any person who wishes to rely upon data, information, or views not included in the administrative record shall submit it to the Commissioner with a new petition to modify the final regulation.

(i) The Hearing Clerk shall maintain a chronological list of all regulations proposed and promulgated pursuant to this section and § 2.12, but excluding regulations resulting from petitions filed and assigned a docket number pursuant to § 2.7, showing:

(1) The docket number, which in the case of a petition submitted directly to a bureau shall be the number or other designation assigned by the bureau, e.g., the number assigned to a food additive petition.

(2) The name of the petitioner, if any.

(3) The subject matter involved.

#### § 2.11 Court review of final administrative action; exhaustion of administrative remedies.

(a) The provisions of this section shall apply to court review of any final administrative action taken by the Commissioner, including action taken pursuant to §§ 2.6 through 2.10 and § 2.500(b), except action subject to the provisions of § 2.12 and Subpart B of this Part.

(b) Any request that the Commissioner take or refrain from taking any form of administrative action shall first be the subject of a final administrative decision based upon a petition submitted to the Commissioner pursuant to § 2.6(a) or, where applicable, a hearing pursuant to § 2.500(b) of this Part before any legal action filed in a court complaining of the Commissioner's action or failure to act. If any court action is filed complaining of the Commissioner's action or failure to act prior to the submission of and decision on a petition pursuant to § 2.6(a) or, where applicable, a hearing pursuant to § 2.500(b) of this Part, the Commissioner will request dismissal of such court action or referral to the agency for an initial administrative determination on the grounds

of a failure to exhaust the administrative remedies provided in this Part, the lack of final agency action as required by 5 U.S.C. 701 et seq., and the lack of an actual controversy as required by 28 U.S.C. 2201.

(c) Any request that any form of administrative action be stayed shall first be the subject of an administrative decision based upon a petition for stay of action submitted to the Commissioner pursuant to § 2.9 before any request is made that a court stay such action. If any court action is filed requesting a stay of any administrative action taken by the Commissioner prior to the Commissioner's decision on a petition submitted in a timely manner pursuant to § 2.9, the Commissioner will request dismissal of such court action or referral to the agency for an initial administrative determination on the grounds of a failure to exhaust the administrative remedies provided in this subpart, the lack of final agency action as required by 5 U.S.C. 701 et seq., and the lack of an actual controversy as required by 28 U.S.C. 2201. If any court action is filed requesting a stay of any administrative action taken by the Commissioner after a petition for a stay of action is denied because it was submitted after expiration of the 30-day time period specified in § 2.9, or after the time for submitting such a petition has expired, the Commissioner will request dismissal of such court action on the ground of a failure to exhaust the administrative remedies set out in this subpart.

(d) The Commissioner's final decision on a petition submitted pursuant to § 2.6(a), on a petition for reconsideration submitted pursuant to § 2.8, on a petition for stay of action submitted pursuant to § 2.9, or on any matter involving administrative action which is the subject of an opportunity for a hearing pursuant to § 2.500(b), each constitutes final agency action reviewable in the courts pursuant to 5 U.S.C. 701 et seq. and, where appropriate, 28 U.S.C. 2201.

(1) It is the position of the Food and Drug Administration except as otherwise provided in subparagraph (2) of this paragraph, that:

(i) Any such final agency action exhausts all administrative remedies and is ripe for pre-enforcement judicial review as of the date of such final decision, unless applicable law explicitly requires that the petitioner take further action before judicial review is available.

(ii) Any interested person is affected by, and thus has standing to obtain judicial review of, such final agency action.

(iii) It is not appropriate to move to dismiss a suit for pre-enforcement judicial review of such final agency action on the ground that indispensable parties are not joined or that it is an unconsented suit against the United States if such defect could be cured by amending the complaint.

(2) The Commissioner will object to judicial review of any matter if:

(i) The matter is committed by law to the discretion of the Commissioner, e.g., a decision to recommend or not to rec-

ommend civil or criminal enforcement action under sections 302, 303, and 304 of the act.

(ii) Review is not sought in a proper court.

(e) Any interested person may request judicial review of any final decision of the Commissioner in the courts without first petitioning the Commissioner for reconsideration or for a stay of action, except that in accordance with paragraph (c) of this section such person shall request a stay by the Commissioner pursuant to § 2.9 before he may request a stay by the court.

(f) The Commissioner will take the position in any action for judicial review under 5 U.S.C. 701 et seq., whether or not it includes a request for a declaratory judgment under 28 U.S.C. 2201, or in any other case in which the validity of administrative action is properly challenged, that the validity of the action shall be determined solely on the basis of the administrative record specified in §§ 2.7(i), 2.8(k), 2.9(h), 2.10(g), and 2.513(a), or the administrative record applicable with respect to any decision or action under the regulations referenced in § 2.500(b), and that additional data, information, or views may not be considered. Any interested person who wishes to rely upon data, information, or views not included in the administrative record shall submit it to the Commissioner with a new petition to modify the action pursuant to § 2.6(a).

(g) The Commissioner requests that all petitions for judicial review of a particular matter be filed in a single United States district court. If such petitions are filed in more than one jurisdiction, the Commissioner shall take appropriate action to prevent a multiplicity of suits in various jurisdictions, such as:

(1) A request for transfer of one or more suits to consolidate separate actions, pursuant to 28 U.S.C. 1404(a) or 28 U.S.C. 2112(a).

(2) A request that actions in all but one jurisdiction be stayed pending the conclusion of one proceeding.

(3) A request that all but one action be dismissed pending the conclusion of one proceeding, with the suggestion that the other plaintiffs intervene in that one suit.

(4) A request that one of the suits be maintained as a class action in behalf of all affected persons.

(h) Upon judicial review of administrative action pursuant to this section:

(1) If a court determines that the administrative record is inadequate to support the action, the Commissioner shall determine whether he wishes to proceed with such action.

(i) If the Commissioner concludes that such action should be pursued, he shall either request that the court remand the matter to the agency to reopen the administrative proceeding and record, or on his own initiative reopen the administrative proceeding and record upon receipt of the court determination. Any such reopened administrative proceeding shall be conducted pursuant to

the provisions of this part and in accordance with any directions of the court.

(ii) If the Commissioner concludes that the public interest requires that the action remain in effect pending further administrative proceedings, he shall request that the court not stay the matter in the interim and shall expedite the further administrative proceedings.

(2) If a court determines that the administrative record is adequate, but the rationale for the action requires further elucidation:

(i) The Commissioner shall request either that such further explanation be provided in writing directly to the court without further administrative proceedings, or that the administrative proceeding be reopened pursuant to paragraph (h)(1)(i) of this section.

(ii) If he concludes that the public interest requires that the action remain in effect pending further court or administrative proceedings, he shall request that the court not stay the matter in the interim and shall expedite such further proceedings.

#### § 2.12 Promulgation of regulations and orders after an opportunity for a formal evidentiary public hearing.

(a) The Commissioner shall promulgate regulations and orders after an opportunity for a formal evidentiary public hearing, in accordance with the procedures established in Subpart B of this Part, whenever all of the following apply:

(1) The subject matter of the regulation or order involved is subject by statute to an opportunity for a formal evidentiary public hearing.

(2) The person requesting such a hearing has a right to an opportunity for a hearing and submits adequate justification for such a hearing as required by §§ 2.110 through 2.115 and other applicable provisions in this chapter, e.g., §§ 314.200, 430.20(b), 514.200, and 601.7(a).

(b) The Commissioner may order a formal evidentiary public hearing on any matter whenever he determines, in his discretion, that it would be in the public interest to do so.

(c) The statutory provisions which permit a person who would be adversely affected by administrative action an opportunity for a formal evidentiary public hearing are as follows:

(1) Section 401 of the act relating to definitions and standards for food.

(2) Section 403(b) of the act relating to regulations for labeling of foods for special dietary uses.

(3) Section 404(a) of the act relating to regulations providing for emergency permit control.

(4) Section 406 of the act relating to tolerances for poisonous substances in food.

(5) Section 409(c), (d), and (h) of the act relating to food additive regulations.

(6) Section 501(b) of the act relating to tests or methods of assay for drugs described in official compendia.

(7) Section 502(d) of the act relating to regulations designating habit-forming drugs.

(8) Section 502(h) of the act relating to regulations designating requirements for drug liable to deterioration.

(9) Section 502(n) of the act relating to prescription drug advertising regulations.

(10) Section 506(c) of the act relating to insulin regulations.

(11) Section 507(f) of the act relating to regulations for antibiotic drug certification.

(12) Section 512(n)(5) of the act relating to regulations for animal antibiotic drugs and certification requirements.

(13) Section 706(b) and (c) of the act relating to regulations for color additives listing and certification.

(14) Section 4(a) of the Fair Packaging and Labeling Act relating to food, drug, device, and cosmetic labeling.

(15) Section 5(c) of the Fair Packaging and Labeling Act relating to additional economic regulations for food, drugs, devices, and cosmetics.

(16) Section 505(d) and (e) of the act relating to new drug applications.

(17) Section 512(d), (e), (m)(3), and (m)(4) of the act relating to new animal drug applications.

(18) Section 351(a) of the Public Health Service Act relating to plant and product licenses for a biologic.

#### § 2.13 Separation of functions; ex parte communications.

(a) The provisions of this section shall apply with respect to any matter which is subject by statute to an opportunity for a formal evidentiary public hearing, as listed in § 2.12(c), and any matter subject to a public hearing before a Public Board of Inquiry pursuant to Subpart C of this Part.

(b) In the case of any matter listed in § 2.12(c) (1) through (10) and (12) through (15):

(1) Any interested person may meet or correspond with any representative of the Food and Drug Administration with respect to any such matter prior to publication in the FEDERAL REGISTER of a notice announcing a formal evidentiary public hearing or a public hearing before a Public Board of Inquiry on the matter. The provisions of § 2.15 shall apply to such meetings and correspondence.

(2) Upon publication in the FEDERAL REGISTER of a notice announcing a formal evidentiary public hearing or a public hearing before a Public Board of Inquiry, the following separation of functions shall apply:

(i) The bureau responsible for the matter involved in the hearing shall, as a party to the hearing, be responsible for all investigative functions and for presentation of the position of the bureau at the hearing and in any pleading or oral argument before the Commissioner. Representatives of the bureau shall not participate or advise in any decision except as witness or counsel in public proceedings. There shall be no other communication between representatives of the bureau and representatives of the office of the Commissioner with respect to the matter involved in the hearing prior to the decision of the Commis-



sioner. All members of the Food and Drug Administration other than representatives of the involved bureau shall be available to advise and participate with the office of the Commissioner in its functions relating to the hearing and the final decision.

(ii) The Chief Counsel for the Food and Drug Administration shall designate those members of his office who shall advise and participate with the bureau in its functions in the hearing. The members of the office of General Counsel so designated shall not participate or advise in any decision except as counsel in public proceedings. Such designation shall be in the form of a memorandum filed with the Hearing Clerk and made a part of the administrative record in the proceeding. There shall be no other communication between those members of the office of General Counsel so designated and any other persons in the office of General Counsel or in the Food and Drug Administration except the members of the involved bureau with respect to the matter involved in the hearing, prior to the decision of the Commissioner. All members of the office of General Counsel other than those so designated shall be available to advise and participate with the office of the Commissioner in its functions relating to the hearing and the final decision.

(iii) The office of the Commissioner shall be responsible for the agency review of and final decision on the matter, with the advice and participation of anyone in the Food and Drug Administration other than representatives of the involved bureau and those members of the office of General Counsel who have been designated to assist in the bureau's functions relating to the hearing.

(c) In the case of any matter listed in § 2.12(c) (11) and (16) through (18), the specific provisions relating to separation of functions set forth in §§ 314.200 (f), 430.20(b) (9), 514.200, and 601.7(a) of this chapter shall be applicable prior to publication in the FEDERAL REGISTER of a notice announcing a formal evidentiary public hearing or a public hearing before a Public Board of Inquiry. Upon publication of any such notice the rules in paragraph (b) (2) of this section shall apply.

(d) Between the date that separation of functions applies pursuant to paragraph (b) or (c) of this section and the date of the Commissioner's decision on the matter, communication with respect to the matter involved in the hearing shall be restricted as follows:

(1) No person shall have any ex parte communication, orally or in writing, with the presiding officer or any person representing the office of the Commissioner with respect to the matter involved in the hearing. All such communications shall be public communications, as witness or counsel, in accordance with the applicable provisions of this Part.

(2) Any participant in the hearing may submit a written communication to the office of the Commissioner with respect to a proposal for settlement. Such written communications shall be in the form of pleadings and shall be served on all other participants and filed with the Hearing Clerk in the same manner as any other pleading.

(3) Any written communication contrary to this section shall immediately be filed with the Hearing Clerk, and any oral communication contrary to this section shall immediately be recorded in a written memorandum and filed with the Hearing Clerk, as a part of the administrative record of the proceeding. Any person, including any representative of any participant in the hearing, who is involved in any such oral communication shall be made available for cross-examination during the hearing with respect to the substance of that conversation. Rebuttal testimony pertinent to any such written or oral communication shall be permitted. Any cross-examination and rebuttal testimony shall be transcribed and filed in the administrative record of the proceeding.

#### § 2.14 Referral by court.

(a) The provisions of this section shall apply whenever any Federal, State, or local court holds in abeyance, or refers to the Commissioner, any matter for an initial administrative determination pursuant to § 2.6(c) or § 2.11(b).

(b) The Commissioner shall promptly agree or decline to accept such referral. Whenever feasible in light of agency priorities and resources, the Commissioner shall agree to accept any such referral and shall institute a proceeding to determine the matter so referred.

(c) In reviewing such a matter, the Commissioner may, in his discretion, utilize any of the following procedures: and correspondence pursuant to § 2.15.

(1) Conferences, meetings, discussions, and correspondence pursuant to § 2.15.

(2) A formal evidentiary public hearing pursuant to Subpart B of this Part.

(3) A hearing before a Public Board of Inquiry pursuant to Subpart C of this Part.

(4) A public hearing before a public advisory committee pursuant to Subpart D of this Part.

(5) A public hearing before the Commissioner pursuant to Subpart E of this Part.

(6) A regulatory hearing before the Food and Drug Administration pursuant to Subpart F of this Part.

(7) A notice published in the FEDERAL REGISTER requesting data, information, and views before the Commissioner makes his decision on it.

(8) Any other specific public procedure established by the provisions in other sections of this chapter and explicitly made applicable to the matter by those provisions.

(d) If the Commissioner's review of the matter results in the proposal of a regulation, the provisions of § 2.10 or § 2.12 shall also apply.

#### § 2.15 Meetings and correspondence.

(a) In addition to the public hearings and proceedings established by the provisions of this Part and in other sections of this chapter, meetings may be held and correspondence may be exchanged between representatives of the Food and Drug Administration and any interested person outside the Food and Drug Administration with respect to any matter within the jurisdiction of the laws administered by the Commissioner. Action with respect to such meetings and correspondence does not constitute final administrative action which is subject to judicial review pursuant to § 2.11.

(b) The Commissioner may conclude, in his discretion, that it would be in the public interest to hold an open public meeting to discuss a matter (or class of matters) pending before the Food and Drug Administration, at which any interested person may participate.

(1) The Commissioner shall give public notice through the public calendar described in § 2.21(b) of the time and place of the meeting and of the matters to be discussed, and may also publish such notice in the FEDERAL REGISTER.

(2) The meeting shall be conducted informally, i.e., any interested person may attend and participate fully in the discussion without giving prior notice to the agency or requesting time to make a presentation.

(3) No transcript or recording of any such meeting shall be required. A written memorandum summarizing the substance of the meeting shall be prepared by a representative of the Food and Drug Administration.

(c) Any meeting with any person outside the Department, including any person in the Executive or Legislative Branch of the Federal Government, relating to a pending court case, administrative hearing, or other regulatory action or decision, which involves more than a brief description of the matter shall be summarized in a written memorandum which shall be filed in the administrative file on the matter.

(d) Every person outside the Federal Government has a right to request and obtain a private meeting with a representative of the Food and Drug Administration in agency offices to discuss any matter in which he is interested.

(1) The person requesting such a meeting may be accompanied by a reasonable number of employees, consultants, or other persons with whom he has a commercial arrangement within the meaning of § 4.81(a) of this chapter. Neither the Food and Drug Administration nor any other person may require the attendance of any person who is not an employee of the Executive Branch of the Federal Government without the agreement of the person requesting the meeting. Any person may attend by mutual consent of the person requesting the meeting and the Food and Drug Administration.

(2) The Food and Drug Administration shall determine which representatives of the Food and Drug Administration shall attend the meeting. The person

requesting the meeting may request but not require or preclude the attendance of any specific Food and Drug Administration employee.

(3) Whenever appropriate (e.g., the meeting involved a matter covered by paragraph (c) of this section or any other important matter, a decision on an issue, or statements or advice or conclusions to which future reference may be required as part of an administrative record), a written memorandum summarizing the substance of the meeting shall be prepared by a representative of the Food and Drug Administration.

(4) Any person who wishes to attend a specific private meeting, but who is not permitted to attend because the person requesting the meeting or the Food and Drug Administration does not grant permission for such attendance, or because it is conducted by telephone, may request and obtain a separate meeting with the Food and Drug Administration to discuss the same matter or any additional matter.

(e) Food and Drug Administration employees have a responsibility to meet with all segments of the public in order to promote the objectives of the act and the agency. In pursuing this responsibility the following general policy shall apply where agency employees are invited by persons outside the Federal Government to attend or participate in meetings outside agency offices as representatives of the agency.

(1) A person outside the Executive Branch of the Federal Government may invite an agency representative to attend or participate in a meeting outside agency offices. The agency representative is not obligated to attend or participate in any such meeting, but may do so where he concludes that it is in the public interest and will promote the objectives of the act and the agency.

(2) An agency representative may request that any such meeting be an open meeting when he concludes that this would be in the public interest. The agency representative may agree to decline to participate in any such meeting which is held as a private meeting, depending upon which action he concludes will best serve the public interest.

(3) An agency representative shall not knowingly participate in any meeting which is closed on the basis of sex, race, or religion.

(4) Any such meeting, whether open or closed, shall be subject to the requirements of paragraph (d) (3) of this section with respect to memoranda summarizing the substance of the meeting.

(f) Representatives of the Food and Drug Administration may initiate a meeting or correspondence with any person outside the Federal Government with respect to any matter relating to the laws administered by the Commissioner.

(1) Any meeting initiated by the Food and Drug Administration which involves a small number of interested persons, e.g., a meeting with a petitioner or with two manufacturers of a particular product which requires additional testing or with a trade association employee to dis-

cuss an industry labeling problem, may be a private meeting. Any meeting initiated by the Food and Drug Administration which involves a large number of interested persons, e.g., 10 manufacturers of an ingredient to discuss appropriate testing or labeling, shall be held as an open conference or meeting pursuant to paragraph (b) of this section.

(2) Whenever appropriate (e.g., the meeting involved a matter covered by paragraph (c) of this section or any other important matter, a decision on an issue, or statements or advice or conclusions to which future reference may be required as part of the administrative record), a written memorandum summarizing the substance of any meeting shall be prepared by a representative of the Food and Drug Administration.

(g) Any person who participates in any meeting described in paragraphs (b) through (f) of this section may prepare and submit to the Food and Drug Administration for inclusion in the administrative file a written memorandum summarizing the substance of the meeting.

(h) All memoranda of such meetings prepared by a representative of the Food and Drug Administration or by any other person and all correspondence which relate to any matter pending before the agency shall promptly be filed in the relevant administrative file and made a part of the administrative record of the proceeding.

(i) Any meeting with a representative of Congress relating to a pending or potential investigation, inquiry, or hearing by a congressional committee or a member of Congress shall be summarized in a written memorandum which shall be forwarded to the Food and Drug Administration, Office of Legislative Services. This provision shall not restrict the right of any agency employee to participate in any such meeting.

(j) Any meeting of an advisory committee shall be subject to the requirements of Subpart D of this Part.

(k) Pursuant to 42 U.S.C. 2631(a) (8), a log or summary shall be made of all meetings held between representatives of the Food and Drug Administration and representatives of industry and other interested parties with respect to implementation of the Radiation Control for Health and Safety Act of 1968.

#### § 2.16 Documentation of significant decisions in administrative file.

(a) The provisions of this section shall apply to every significant Food and Drug Administration decision on any matter under the laws administered by the Commissioner, whether it is raised formally, e.g., by a petition, or informally, e.g., by correspondence.

(b) The Food and Drug Administration employees responsible for handling any matter shall be responsible for assuring the completeness of the administrative file relating to it. Such file:

(1) Shall contain appropriate documentation of the basis for the decision, including relevant evaluations, reviews, memoranda, letters, opinion of consult-

ants, minutes of meetings, and all other written documents pertinent to the matter.

(2) Shall contain the recommendations and decisions of individual employees, including supervisory personnel, responsible for handling the matter.

(i) Such recommendations and decisions shall reveal any significant controversies or differences of opinion and their resolution.

(ii) Any agency employee working on a matter shall have the opportunity to record his views on that matter in a written memorandum, which shall be included in the file.

(c) All written documents placed in such an administrative file:

(1) Shall relate to the factual, scientific, legal, or related issues under consideration.

(2) Shall be dated and signed by the author.

(3) Shall be directed to the file, to appropriate supervisory personnel, and to other appropriate employees, and shall show all persons to whom copies were sent.

(4) Shall avoid defamatory language, intemperate remarks, undocumented charges, or irrelevant matters (e.g., personnel complaints).

(5) Shall, if it records the views, analyses, recommendations, or decisions of any agency employee in addition to the author, be given to such other employees.

(6) Shall, once completed (i.e., typed in final form, dated, and signed), not be altered, added to, or removed. Subsequent additions to, or revisions of, any such document shall be accomplished by the preparation of a new document.

(d) Memoranda or other documents prepared by agency employees not contained in the administrative file shall have no status or effect.

(e) All Food and Drug Administration employees working on a matter shall have access to the administrative file on that matter, as appropriate for the conduct of their work. Reasonable restrictions may be placed upon such access to assure the proper cataloging and storage of documents, the availability of the file to others, and the completeness of the file for review.

#### § 2.17 Internal agency review of decisions.

(a) Any decision of a Food and Drug Administration employee other than the Commissioner on any matter, e.g., an informal opinion on the need for further animal toxicology tests to support a food additive regulation or new drug application, is subject to review by the employee's supervisor under any of the following circumstances:

(1) At the request of the employee.

(2) On the initiative of the supervisor.

(3) At the request of any interested person outside the agency.

(4) As required by duly promulgated delegations of authority.

(b) Such review shall be accomplished by consultation between the employee and the supervisor or by review of the administrative file on the matter, or both.



Such review shall ordinarily follow the established agency channels of supervision or review for that matter.

(c) Any interested person outside the agency may request internal agency review of any such decision through the established agency channels of supervision or review for that matter. Personal review of such matters by bureau directors or the office of the Commissioner shall take place for any of the following purposes:

(1) To resolve an issue which cannot be resolved at lower levels within the agency;

(2) Between two parts of a bureau or other component of the agency, or

(3) Between two bureaus or other components of the agency, or

(4) Between the agency and an interested person outside the agency.

(2) To review policy matters requiring the attention of bureau or agency management.

(3) In unusual situations requiring an immediate review in the public interest.

(4) As required by duly promulgated delegations of authority.

(d) Internal agency review of any such decision shall be based upon the data and information available in the administrative file. In the event that any interested person presents new data or information not contained in such file, the matter shall be returned to the appropriate lower level within the agency for a reevaluation based upon such new information.

#### § 2.18 Dissemination of draft Federal Register notices and regulations.

(a) Any representative of the Food and Drug Administration may discuss orally or in writing with any interested person ideas and recommendations for Federal Register notices or regulations. The Food and Drug Administration welcomes assistance in developing ideas for, and in gathering the data and information to support, notices and regulations.

(b) Once it is determined that a proposed notice or regulation will be prepared, the general concepts may be discussed by a representative of the Food and Drug Administration with any interested person. Details of a draft of a proposed notice or regulation may be discussed with any person outside the Executive Branch of the Federal Government only with the specific permission of the Commissioner. A draft of a proposed notice or regulation or its preamble, or any portion thereof, may be furnished to an interested person outside the Executive Branch of the Federal Government only if it is made available to all interested persons by a notice published in the Federal Register.

(c) After publication of a proposed regulation in the Federal Register, and before preparation of a draft of the final regulation, a representative of the Food and Drug Administration may discuss the proposal with any interested person to understand and resolve questions raised and concerns expressed about the proposal.

(d) Details of a draft of a final notice or regulation may be discussed with any interested person outside the Executive Branch of the Federal Government only with the specific permission of the Commissioner. A draft of a final notice or regulation or its preamble, or any portion thereof, may be furnished to an interested person outside the Executive Branch of the Federal Government only if it is made available to all interested persons by a notice published in the Federal Register, except as otherwise provided in paragraphs (g) and (j) of this section.

(1) The final notice or regulation and its preamble shall be prepared solely on the basis of the administrative record.

(2) If any additional technical information from a person outside the Executive Branch of the Federal Government is necessary to draft the final notice or regulation or its preamble, it shall be requested by the Food and Drug Administration in general terms and furnished directly to the Hearing Clerk to be included as part of the administrative record.

(3) If direct discussion by the Food and Drug Administration of a draft of a final notice or regulation or its preamble is required with a person outside the Executive Branch of the Federal Government, appropriate protective procedures will be undertaken to make certain that a full and impartial administrative record is established. Such procedures may include:

(i) The scheduling of an open public meeting conducted pursuant to § 2.15(b) at which any interested person may participate in review of and comment on the draft document.

(ii) The preparation of a tentative final regulation or tentative revised final regulation pursuant to § 2.10(f) (9), on which all interested persons will be given an additional period of time for oral and written comment.

(e) After a final regulation is published in the Federal Register, a representative of the Food and Drug Administration may discuss any aspect of it with any interested person.

(f) In addition to the requirements of this section, the provisions of § 2.13 shall apply to the promulgation of any regulation subject to the provisions of § 2.12 and Subpart B of this Part.

(g) A draft of a final food additive, color additive, or new animal drug regulation or a proposed or final antibiotic regulation may be furnished to the petitioner for comment on the technical accuracy of such regulation. Every meeting with a petitioner relating to such a draft shall be recorded in a written memorandum, and all such memoranda and correspondence shall be filed with the Hearing Clerk as part of the administrative record of the regulation, pursuant to the provisions of § 2.15.

(h) Pursuant to 42 U.S.C. 263f, the Commissioner is required to consult with interested persons in the development of, and with the Technical Electronic

Product Radiation Safety Standards Committee (TEPRSSC) before prescribing, any performance standard for an electronic product. Accordingly, the Commissioner shall publish in the Federal Register an announcement when a proposed or final performance standard, including any amendment thereof, is being considered for an electronic product, and thereafter any draft of any such document shall be furnished to any interested person upon request and may be discussed in detail with any interested person at any time.

(1) The provisions of § 2.15 shall apply to meetings and correspondence relating to draft Federal Register notices and regulations.

(j) The provisions of this section restricting discussion and disclosure of draft Federal Register notices and regulations shall not apply to those situations covered by §§ 4.83 through 4.89 of this chapter.

#### § 2.19 Advisory opinions.

(a) Any person may request an advisory opinion from the Commissioner with respect to any matter of general applicability in which he is interested.

(1) Such request shall be granted whenever feasible.

(2) Such request may be denied if any of the following apply:

(i) The request contains incomplete information on which to base an informed advisory opinion.

(ii) The Commissioner concludes that an advisory opinion cannot reasonably be given on the matter involved.

(iii) The matter is adequately covered by a prior advisory opinion or a regulation.

(iv) The request covers a particular product or ingredient or label and does not raise a policy issue of broad applicability.

(v) The Commissioner otherwise concludes, in his discretion, that an advisory opinion would not be in the public interest.

(b) A request for an advisory opinion shall be submitted in accordance with § 2.5, shall be subject to the provisions of § 2.7(e) through (i), and shall be in the following form:

(Date)

Hearing Clerk, Food and Drug Administration, Department of Health, Education, and Welfare, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852

#### REQUEST FOR ADVISORY OPINION

The undersigned submits this request for an advisory opinion of the Commissioner of Food and Drugs with respect to \_\_\_\_\_ (the general nature of the matter involved).

A. Issues Involved.

(A concise statement of the issues and questions on which an opinion is requested.)

B. Statement of Facts and Law.

(A full statement of all facts and legal points relevant to the request.)

The undersigned certifies that, to the best of his knowledge and belief, this request includes all data, information, and views relevant to the matter, whether favorable or unfavorable to the position of the undersigned, which is the subject of the request.

Very truly yours,

(Signature)

(Person making request)

(Mailing address)

(Telephone number)

(c) The Commissioner may, in his discretion, handle any oral or written request to the agency as a request for an advisory opinion, in which case the request shall be filed with the Hearing Clerk and shall be subject to the provisions of this section.

(d) Any statement of policy or interpretation made in any of the following documents shall constitute an advisory opinion:

(1) Any portion of a Federal Register notice other than a proposed or final regulation, e.g., a notice to manufacturers or a preamble to a proposed or final regulation.

(2) Trade Correspondence (TC) Nos. 1-431 and 1A-8A issued by the Food and Drug Administration between 1938 and 1946.

(3) Compliance Policy Guides issued by the Food and Drug Administration beginning in 1968 and codified in the Compliance Policy Guides manual.

(4) Other documents specifically identified as advisory opinions, e.g., advisory opinions on the performance standard for diagnostic x-ray systems, issued prior to July 1, 1975, and filed in a permanent public file for such prior advisory opinions maintained in the Public Records and Documents Center.

(5) Guidelines issued by the Food and Drug Administration pursuant to § 2.20 (b).

(e) An advisory opinion represents the formal position of the Food and Drug Administration on the matter involved, and except as provided in paragraph (f) of this section obligates the agency to follow it until it is amended or revoked. The Commissioner shall not recommend legal action against any person or product with respect to any action taken in conformity with an advisory opinion which has not been amended or revoked.

(f) In unusual situations involving an immediate and significant danger to health, the Commissioner may take appropriate civil enforcement action contrary to an advisory opinion issued pursuant to this section prior to amending or revoking such advisory opinion as provided in paragraph (g) of this section. Such action shall be taken only with the approval of the Commissioner, which may not be delegated. Appropriate amendment or revocation of the advisory opinion involved shall be expedited.

(g) An advisory opinion may be amended or revoked at any time after it has been issued. Notice of such amendment or revocation shall be given in the same manner in which notice was originally given of the advisory opinion or in the Federal Register, and in any event shall be placed on public display as part of the file on the matter in the office of the Hearing Clerk.

inally given of the advisory opinion or in the Federal Register, and in any event shall be placed on public display as part of the file on the matter in the office of the Hearing Clerk.

(h) Action undertaken or completed in conformity with an advisory opinion issued pursuant to this paragraph which has subsequently been amended or revoked shall remain acceptable to the Food and Drug Administration unless the Commissioner determines that substantial public interest considerations preclude such continued acceptance. Whenever possible, an amended or revoked advisory opinion shall state when it has been determined that action previously undertaken or completed in conformity with a prior advisory opinion does not remain acceptable, and any transition period that may be applicable.

(i) Any interested person may submit written comments on an advisory opinion or modified advisory opinion. Three copies of any comments shall be sent to the Hearing Clerk for inclusion in the public file on the advisory opinion. Such comments shall be considered in determining whether further modification of an advisory opinion is warranted.

(j) An advisory opinion may be used in administrative or court proceedings to illustrate acceptable and unacceptable procedures or standards, but not as a legal requirement.

(k) A statement made or advice provided by an employee of the Food and Drug Administration shall constitute an advisory opinion only if it is issued in writing pursuant to this section. A statement or advice given by a Food and Drug Administration employee orally, or given in writing but not pursuant to this section or § 2.20, is an informal communication that represents the best information and opinion available to that employee at that time but does not constitute an advisory opinion, does not necessarily represent the formal position of the Food and Drug Administration, and thus does not bind or otherwise obligate or commit the agency to the views expressed.

§ 2.20 Food and Drug Administration regulations, guidelines, recommendations, and agreements.

(a) Regulations. All Food and Drug Administration regulations having general applicability and legal effect shall be promulgated in the Federal Register pursuant to § 2.10 or § 2.12 and codified in the Code of Federal Regulations. Regulations may contain provisions which will be enforced as legal requirements, or which are intended only as guidelines and recommendations, or both. The dissemination of draft notices and regulations shall be subject to the provisions of § 2.17.

(b) Guidelines. All Food and Drug Administration guidelines having general applicability shall be included in the public file of guidelines established by the Hearing Clerk, pursuant to this paragraph, unless they have been published in the Federal Register as regulations

pursuant to paragraph (a) of this section.

(1) Guidelines establish principles or practices of general applicability and do not include decisions or advice limited to particular situations. Guidelines relate to such matters as performance characteristics, preclinical and clinical test procedures, manufacturing practices, product standards, scientific protocols, compliance criteria, ingredient specifications, labeling, or other technical or policy criteria. Guidelines state procedures or standards of general applicability which are not legal requirements but which are acceptable to the Food and Drug Administration for a subject matter which falls within the laws administered by the Commissioner, e.g., a protocol for a particular type of animal toxicity test or human clinical trial.

(2) A person may rely upon a guideline with assurance that it is acceptable to the Food and Drug Administration, or may follow different procedures or standards. Where a person chooses to use different procedures or standards, he may, but is in no instance required to, discuss the matter in advance with the Food and Drug Administration to prevent the expenditure of money and effort on activity that may later be determined to be unacceptable.

(3) Use of testing guidelines established by the Food and Drug Administration assures acceptance of a test as scientifically valid, if properly conducted, but does not assure approval of any ingredient or product so tested. The results of any such test or other available information may require disapproval or that additional testing be undertaken.

(4) A guideline represents the formal position of the Food and Drug Administration on the matter involved, and except as provided in paragraph (b) (3) of this section obligates the agency to follow it until it is amended or revoked. The Commissioner shall not recommend legal action against any person or product with respect to any action taken in conformity with a guideline issued pursuant to this section that has not been amended or revoked.

(5) In unusual situations involving an immediate and significant danger to health, the Commissioner may take appropriate civil enforcement action contrary to a guideline issued pursuant to paragraph (b) of this section prior to amending or revoking such guideline as provided in paragraph (b) (5) of this section. Such action shall be taken only with the approval of the Commissioner, which may not be delegated. Appropriate amendment or revocation of the guideline involved shall be expedited.

(6) A guideline shall be included in the public file upon approval of the guideline by the relevant bureau director and publication by the Commissioner in the Federal Register of a notice of its availability. The notice shall state (i) the title of the guideline, (ii) the subject matter it covers, and (iii) the office or individual responsible for maintaining the guideline.



(5) A guideline may be amended or revoked upon approval of the amended guideline or revocation of the guideline by the relevant bureau director and publication by the Commissioner in the *FEDERAL REGISTER* of a notice of such amendment or revocation. The notice shall state (i) the title of the guideline, (ii) the subject matter it covers, and (iii) the office or individual responsible for maintaining the guideline. All original guidelines and subsequent amendments shall be retained in the public file on a permanent basis so that a complete record of the development of each guideline remains available.

(6) Action undertaken or completed in conformity with a guideline issued pursuant to paragraph (b) of this section which has subsequently been amended or revoked shall remain acceptable to the Food and Drug Administration unless the Commissioner determines that substantial public interest considerations preclude such continued acceptance. Such determination may be made at the time of or subsequent to amendment or revocation of the guideline. Whenever possible, the notice of an amended or revoked guideline published pursuant to paragraph (b) (3) of this section shall state when it has been determined that action previously undertaken or completed in conformity with a prior guideline does not remain acceptable, and any transition period that may be applicable.

(7) The notice of a guideline or amended or revoked guideline published pursuant to paragraph (b) (2) or (3) of this section shall state that any interested person may submit written comments on the guideline or amended guideline. Two copies of any comments shall be sent to the Public Records and Documents Center for inclusion in the public file on the guideline and two copies shall be sent to the office or individual designated in the notice as responsible for maintaining the guideline. Such comments shall be considered in determining whether further amendments to or re-institution of a guideline are warranted.

(8) A guideline may be used in administrative or court proceedings to illustrate acceptable and unacceptable procedures or standards, but not as establishing a legal requirement.

(9) A statement relating to acceptable procedures or standards given by a Food and Drug Administration employee orally, or in writing but not pursuant to § 2.19 of this section, is an informal communication that represents the best information and opinion available to that employee at that time but does not constitute a guideline, does not necessarily represent the formal position of the Food and Drug Administration, and thus does not bind or otherwise obligate the agency to the views expressed.

(10) Because of the large number of analytical methods involved in Food and Drug Administration activities, their length and complexity, and the volume and frequency of amendment, the provisions of this paragraph shall not apply to such material except to the extent that the Commissioner concludes, in his dis-

cretion, that particular analytical methods should be included in the public file for a particular purpose. Food and Drug Administration analytical methods are available for public disclosure pursuant to the provisions of Part 4 of this chapter.

(11) The dissemination of draft guidelines shall be subject to the same provisions as the dissemination of draft notices and regulations pursuant to § 2.18.

(c) *Recommendations.* In addition to the guidelines subject to paragraph (b) of this section, the Food and Drug Administration often formulates and disseminates recommendations about matters which are authorized by, but do not involve direct regulatory action under, the laws administered by the Commissioner, e.g., model state and local ordinances, or personnel practices for reducing radiation exposure, issued pursuant to 42 U.S.C. 243 and 263d(b). Such recommendations may, in the discretion of the Commissioner, be handled pursuant to the procedures established in paragraph (b) of this section, except that such recommendations shall be included in a separate public file of recommendations established by the Public Records and Documents Center and shall be separated from the guidelines in the notice of availability published in the *FEDERAL REGISTER*, or be published in the *FEDERAL REGISTER* as regulations pursuant to paragraph (a) of this section.

(d) *Agreements.* All formal agreements, memoranda of understanding, or other similar written documents executed by the Food and Drug Administration and another person shall be included in the public file on agreements established by the Public Records and Documents Center pursuant to § 4.108 of this chapter. Any such document not included in the public file shall be deemed to be rescinded and shall have no force or effect whatever.

#### § 2.21 Participation in outside standard-setting activities.

(a) *General.* This section applies to participation by Food and Drug Administration employees in any standard-setting activities outside the Food and Drug Administration. Standard-setting activities include such matters as the development of performance characteristics, testing methodology, manufacturing practices, product standards, scientific protocols, compliance criteria, ingredient specifications, labeling, or other technical or policy criteria. The Food and Drug Administration encourages employee participation in outside standard-setting activities that are in the public interest.

(b) *Standard-setting activities by other Federal government agencies.* (1) Any Food and Drug Administration employee may participate in such activities after the approval by the appropriate bureau director or the Commissioner of Form PHS-3763 "Request for approval of appointment as liaison representative."

(2) The Form PHS-3763 and all pertinent background information describing such activities shall be included in the public file on standard-setting activities established in the Public Records and Documents Center.

(3) If any members of the public are invited by the Food and Drug Administration to present views to, or to accompany, the Food and Drug Administration employee at any meeting, such invitations shall be extended to a representative sampling of the public, including consumer groups, industry associations, professional societies, and academic institutions.

(4) A Food and Drug Administration employee appointed as the liaison representative to such an activity shall refer all requests for information about or participation in the activity involved to the group or organization responsible for such activity.

(c) *Standard-setting activities by State and local government agencies and by United Nations organizations and other international organizations and foreign governments pursuant to treaty.*

(1) Any Food and Drug Administration employee may participate in such activities after the approval by the appropriate bureau director or the Commissioner of Form PHS-3763.

(2) The Form PHS-3763 and all pertinent background information describing such activities shall be included in the public file on standard-setting activities established in the Public Records and Documents Center.

(3) The availability for public disclosure of records relating to such activities shall be governed by the regulations in Part 4 of this chapter.

(4) If any members of the public are invited by the Food and Drug Administration to present views to, or to accompany, the Food and Drug Administration employee at any meeting, such invitations shall be extended to a representative sampling of the public, including consumer groups, industry association, professional societies, and academic institutions.

(5) A Food and Drug Administration employee appointed as the liaison representative to such an activity shall refer all requests for information about or participation in the activity involved to the group or organization responsible for such activity.

(d) *Standard-setting activities by private groups and organizations.* (1) Any Food and Drug Administration employee may engage in such activities after the approval by the appropriate bureau director or the Commissioner of Form PHS-3763. A request for such official participation shall be made by the group or organization in writing, shall describe the scope of the activity involved, and shall demonstrate that the minimum standards set out in paragraph (d) (5) of this section are met by the activity involved. Except as provided in paragraph (d) (7) of this section, any such request that is granted shall be the subject of a letter from the Commissioner or the bureau director to the organization stating:

(i) Whether participation by the individual will be as a voting or nonvoting liaison representative.

(ii) That participation by the individual shall not conote Food and Drug

Administration agreement with, or endorsement of, any decisions reached.

(iii) That participation by the individual disqualifies him from serving as the deciding official on the standard involved if it should later come before the Food and Drug Administration. The "deciding official" is the person who signs a document ruling upon such standard.

(2) The letter requesting official Food and Drug Administration participation, the Form PHS-3763, and the Commissioner's or bureau director's letter, together with all pertinent background information describing the activities involved, shall be included in the public file on standard-setting activities established in the Public Records and Documents Center.

(3) The availability for public disclosure of records relating to such activities shall be governed by the regulations in Part 4 of this chapter.

(4) A Food and Drug Administration employee appointed as the liaison representative to such an activity shall refer all requests for information about or participation in the activity involved to the group or organization responsible for such activity.

(5) The following minimum standards shall apply to all outside private standard-setting activities in which Food and Drug Administration employees participate.

(i) The activities shall be based upon consideration of sound scientific and technological information, shall permit revision on the basis of new information, and shall be designed to protect the public against unsafe, ineffective, or deceptive products or practices.

(ii) The activities and resulting standards shall not be designed for the economic benefit of any company, group, or organization, shall not be used as devices for such antitrust violations as fixing prices or hindering competition, and shall not involve establishment of certification or specific approval of individual products or services.

(iii) The group or organization responsible for the standard-setting activities shall have a procedure through which any interested person shall have an opportunity to provide information and views on the activities and standards involved, without the payment of fees, and such information and views shall be considered. The manner in which this is accomplished, including whether such presentation shall be in person or in writing, shall be decided by the group or organization responsible for the activities.

(6) Membership of a Food and Drug Administration employee in an organization that also conducts standard-setting activities does not invoke the provisions of this paragraph unless the employee participates in such standard-setting activities. Participation in any standard-setting activity shall be subject to the provisions of this paragraph.

(7) The Commissioner may determine in writing that, because direct involvement by the Food and Drug Administration in a particular standard-setting

activity is in the public interest and will promote the objectives of the act and the agency, such participation shall be exempt from the requirements set forth in paragraph (d) (1) (ii) and/or (iii) of this section. Any such determination shall be included in the public file on standard-setting activities established by the Public Records and Documents Center and in any relevant administrative file. Such activities may include the establishment and validation of analytical methods for regulatory use, drafting uniform laws and regulations, and the development of recommendations concerning public health and preventive medicine practices by national and international organizations.

(8) Because of the close daily cooperation between the Food and Drug Administration and the association of State and local government officials listed below, and the large number of agency employees who are members of or work with these associations, such participation in the activities of these associations shall be exempt from the provisions of paragraphs (d) (1) through (d) (7) of this section, except that a list of all committees and other groups of these associations shall be included in the public file on standard-setting activities established in the Public Records and Documents Center:

- (i) Association of Food and Drug Officials.
- (ii) International Association of Milk, Food and Environmental Sanitarians, Inc.
- (iii) Conference of Radiation Control Program Directors.
- (iv) Association of American Feed Control Officials, Inc.
- (v) National Environmental Health Association.
- (vi) National Conference on Weights and Measures.
- (vii) American Public Health Association.
- (viii) Conference of State Sanitary Engineers.
- (ix) National Conference on Interstate Milk Shipments.
- (x) National Shellfish Sanitation Program.
- (xi) Interstate Seafood Seminar.
- (xii) Association of Official Analytical Chemists.

#### § 2.22 Public calendars.

(a) *Prospective public calendar of public proceedings.* (1) A public calendar shall be prepared and made publicly available each week showing, to the extent feasible, for the following 4 weeks all public meetings, public conferences, public hearings, public advisory committee meetings, public seminars, and other public proceedings of the Food and Drug Administration, and other significant public events involving the Food and Drug Administration, e.g., congressional hearings and trial or argument of court cases.

(2) A copy of this public calendar shall be placed on public display in the following places:

- (i) Office of the Hearing Clerk.

(ii) Office of the Assistant Commissioner for Public Affairs.

(iii) A central place in each bureau.

(iv) A central place in each field office.

(v) A central place at the National Center for Toxicological Research.

(b) *Retrospective public calendar of meetings.* (1) A public calendar shall be prepared and made publicly available each week showing for the previous week all meetings with persons outside the Federal government and other significant events involving the representatives of the Food and Drug Administration designated under paragraph (b) (3) of this section, except that telephone conversations shall be included on an optional basis and meetings with the working press and with on-site contractors shall not be included.

(2) Such calendar shall include all meetings, conferences, seminars, social events sponsored by the regulated industry, and speeches. The calendar shall specify the date, the person involved, and the subject matter involved. Where more than one Food and Drug Administration representative is in attendance, only the presiding or head representative shall report the meeting on the public calendar. If a large number of persons are involved, the name of each need not be specified. Meetings the existence of which would prejudice law enforcement activities (e.g., a meeting with an informant) or invade privacy (e.g., a meeting with a candidate for possible employment in the Food and Drug Administration) shall not be reported.

(3) The following Food and Drug Administration representatives and their deputies shall be subject to the requirements of paragraphs (b) (1) and (2) of this section:

- (i) Commissioner of Food and Drugs.
- (ii) Deputy Commissioner.
- (iii) Associate Commissioners.
- (iv) Assistant Commissioners.
- (v) Executive Director for Regional Operations.
- (vi) Director, Office of Legislative Services.
- (vii) Director, National Center for Toxicological Research.
- (viii) Bureau Directors.
- (ix) Chief Counsel for the Food and Drug Administration.

(4) A copy of this public calendar shall be placed on public display in the following places:

- (i) Office of the Hearing Clerk.
- (ii) Office of the Assistant Commissioner for Public Affairs.
- (iii) A central place in each bureau.
- (iv) A central place in each field office.
- (v) A central place at the National Center for Toxicological Research.

#### § 2.23 Representation by an organization.

(a) An organization may represent its members by filing petitions, comments, and objections, and otherwise participating in any administrative proceeding subject to this Part.

(b) Any such petitions, comments, objections, or other representation by a trade association shall be on behalf of its

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members and shall constitute a representation on behalf of each member of the trade association, except those specifically excluded by name in any such submission.

(1) Every petition, comment, objection, or other representation by a trade association in an administrative proceeding shall have attached thereto a current list of all of the members of such trade association, or shall refer to such a list that is placed on permanent file with the Hearing Clerk and is kept current by the trade association.

(2) The filing by a trade association of an objection or request for hearing pursuant to §§ 2.110 through 2.112 shall not provide to any member any legal right with respect to such objection or request for hearing that the member may exercise in its own name. All subsequent action by the trade association with respect to such objection or request for hearing shall bind each member except to the extent that any member independently files its own objection or request for hearing.

(c) In any court proceeding in which an organization participates, the Commissioner will take appropriate legal measures to have the case brought or considered as a class action or otherwise as binding upon all members of the organization except those specifically excluded by name for the reason that the organization does not represent their views. Regardless whether the case is brought or considered as a class action or as otherwise binding upon all members of the organization except those specifically excluded by name, the Commissioner will take the position in any subsequent suit involving the same issues and any member of the organization that such issues are precluded from further litigation by such member pursuant to the doctrines of collateral estoppel or res judicata.

#### § 2.24 Settlement proposals.

At any time in the course of any proceeding subject to this Part, any person may propose settlement of any of the issues involved. All participants in any proceeding shall have an opportunity to consider any proposed settlement. Unaccepted proposals of settlement and related matters, e.g., proposed stipulations not agreed to, shall not be admissible in evidence in any administrative proceeding of the Food and Drug Administration. The Food and Drug Administration will oppose the admission in evidence of any such information in any court proceeding or in any other administrative proceeding.

#### § 2.25 Waiver, suspension, or modification of procedural requirements.

The Commissioner or the presiding officer, with respect to matters pending before him, may on his own initiative or at the request of any participant waive, suspend, or modify any provision in Subparts B through F of this Part applicable to the conduct of a public hearing by announcement at the hearing or by notice in advance of the hearing, if he deter-

mines that no participant will be prejudiced, the ends of justice will thereby be served, and such action is in accordance with law.

#### Subpart B—Formal Evidentiary Public Hearings

##### § 2.100 Scope of subpart.

Subpart B governs the procedures applicable whenever any of the following applies:

(a) A person has a right to an opportunity for a hearing under the provisions of the laws administered by the Commissioner specified in § 2.12(c).

(b) The Commissioner concludes, in his discretion, that it would be in the public interest to hold a formal evidentiary public hearing on any matter, or class of matters, of importance pending before the Food and Drug Administration.

##### INITIATION OF PROCEEDINGS

#### § 2.110 Initiation of a formal evidentiary public hearing involving the issuance, amendment, or revocation of a regulation.

(a) An administrative proceeding in which there is an opportunity for a formal evidentiary public hearing pursuant to sections 409(f), 502(n), 507(f), 512(n)(5), 701(e), or 706(d) of the act or sections 4 or 5 of the Fair Packaging and Labeling Act involving the issuance, amendment, or revocation of a regulation shall be initiated:

(1) By the Commissioner on his own initiative, e.g., as provided in § 121.72 for food additives, or

(2) By a petition from an interested person:

(i) In the form specified in other applicable sections in this chapter, e.g., the form for a color additive petition in § 8.4 of this chapter or the form for an antibiotic petition in § 431.50 of this chapter, or

(ii) If no form is specified in other applicable sections of this chapter, in the form specified in § 2.7.

(b) Upon receiving a petition submitted pursuant to paragraph (a) (2) of this section, the Commissioner shall:

(1) If it involves any matter subject to section 701(e) of the act or sections 4 or 5 of the Fair Packaging and Labeling Act, and meets the requirements for filing, follow the provisions of § 2.10 (b) through (f).

(2) If it relates to a color additive or food additive, and the petition meets the requirements for filing in §§ 8.4, 8.5, and 121.51 through 121.53 of this chapter, publish a notice of filing of the petition in the FEDERAL REGISTER within 30 days after the petition is filed in lieu of a notice of proposed rule making.

(c) The Commissioner may issue, amend, or revoke an antibiotic regulation without the requirements of notice and public procedure in § 2.10(b) or delayed effective date in § 2.10(c) (4) on his own initiative or as a result of a petition containing the required evidence of safety and effectiveness when the regulation is technical in nature, interested persons have been consulted, and there

are no significant points of controversy, or when the regulation imposes safety requirements which the Commissioner concludes are important for the public health.

(d) The notice published in the FEDERAL REGISTER promulgating the regulation shall state the time, place, and method for adversely affected persons to submit objections and requests for hearing, and that objections and requests for hearing shall be submitted in accordance with the requirements of this Part.

(e) On or before the 30th day after the date of the publication in the FEDERAL REGISTER of a final regulation, or of a notice withdrawing a proposal initiated by a petition pursuant to § 2.6(a), subject to this section, any person who would be adversely affected if such regulation were placed in effect may submit written objections thereto to the Commissioner and may make a written request for a formal evidentiary public hearing on the stated objections. This 30-day period shall not be extended by the Commissioner. In the case of any petition or proposal to issue, amend, or repeal a color additive regulation after publication of the final regulation, if referral of such petition or proposal is made to an advisory committee in accordance with section 706(b) (5) (C) of the act, written objections and requests for a hearing may be submitted on or before the 30th day after the date on which the Commissioner publishes his order confirming or modifying his previous order.

#### § 2.111 Initiation of a formal evidentiary public hearing involving the issuance, amendment, or revocation of an order.

(a) An administrative proceeding in which there is an opportunity for a formal evidentiary public hearing pursuant to sections 505 (d) or (e), 512 (d), (e), (m) (3), or (m) (4) of the act, or section 351(a) of the Public Health Service Act, involving the issuance, amendment, or revocation of an order shall be initiated:

(1) By the Commissioner on his own initiative, or

(2) By a petition submitted in the form specified in other applicable sections in this chapter, e.g., § 314.1(c) for new drug applications, § 514.1 for new animal drug applications, § 514.2 for applications for animal feeds, or § 601.3 for licenses for biologic products, or

(3) By a petition from an interested person in the form specified in § 2.7.

(b) A notice of opportunity for hearing on any proposal to deny or revoke approval of an order or any part thereof shall be published in the FEDERAL REGISTER together with an explanation of the grounds for the proposed action. The notice of opportunity for hearing shall state the time, place, and method for adversely affected persons to submit requests for hearing, and that requests for hearing shall be submitted in accordance with the requirements of this Part. The applicant for or holder of the approval or license that is the subject of the order in question and all other persons subject

to the notice shall have 30 days after issuance of the notice within which to request a hearing on the proposed action pursuant to the provisions of §§ 314.200, 514.200, and 601.7(a) of this chapter. This 30-day period shall not be extended by the Commissioner.

(c) In considering the issuance, amendment, or revocation of an order, the Commissioner may use any applicable optional procedure specified in § 2.7 (g).

#### § 2.112 Filing objections and requests for a hearing on a regulation or order.

(a) Objections to agency action and requests for a hearing submitted pursuant to § 2.110(d) shall be submitted to the Hearing Clerk and shall be accepted for filing if they comply with all of the following conditions:

(1) Objections and requests for a hearing shall be submitted on or before the day specified in § 2.110(d).

(2) Each objection to a specific provision of the Commissioner's regulation or proposed order shall be separately numbered.

(3) Each numbered objection shall specify with particularity the provision of the regulation or proposed order to which objection is made.

(4) Each numbered objection on which a hearing is requested shall specifically so state. The failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection.

(5) Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. The failure to include such description and analysis for any particular objection shall constitute a waiver of the right to a hearing on that objection, but such description and analysis shall be used only for the purpose of determining whether a hearing has been justified pursuant to § 2.113 and shall not limit the evidence that may be presented if a hearing is granted.

(1) A copy of any report, article, survey, or other written document relied upon shall be submitted.

(ii) A summary of the nondocumentary testimony to be presented by any witnesses relied upon shall be submitted.

(b) Requests for hearing submitted pursuant to § 2.111(b) shall be submitted to the Hearing Clerk and shall be accepted for filing if they comply with all of the following conditions:

(1) Requests for hearing shall be submitted on or before the 30th day after the date of publication of the notice of opportunity for hearing in the FEDERAL REGISTER.

(2) Requests for hearing shall comply with the requirements specified in §§ 314.200, 514.200, and 601.7(a) of this chapter.

(c) Any objection or request for a public hearing which meets the requirements of this section shall be filed by the

Hearing Clerk in the relevant docket file. If an objection or request for a public hearing fails to meet the requirements of this section and the deficiency becomes known to the Hearing Clerk, the Hearing Clerk shall return it with a copy of the applicable regulations, indicating those provisions not complied with. A deficient objection or request for a hearing may be supplemented and subsequently filed if submitted within the 30-day time period specified in § 2.110(d) or § 2.111(b).

(d) If an objection to a regulation issued pursuant to a petition submitted pursuant to § 2.110(a) (2) is submitted by a person other than the petitioner and is filed by the Hearing Clerk, the petitioner may submit a written reply thereto to the Hearing Clerk.

#### § 2.113 Ruling on objections and requests for hearing.

(a) As promptly as is feasible the Commissioner shall review all objections and requests for hearing filed pursuant to § 2.112 and shall determine:

(1) Whether any of the objections or requests for hearing filed justify modification or revocation of the regulation or order involved pursuant to § 2.114.

(2) If a formal evidentiary public hearing has been requested, whether it has been justified as required by this section.

(3) If a public hearing has been requested before a Public Board of Inquiry pursuant to Subpart C of this Part, or before a public advisory committee pursuant to Subpart D of this Part, or before the Commissioner pursuant to Subpart E of this Part, whether it has been justified.

(b) A request for a formal evidentiary public hearing shall be granted on a matter involving the issuance, amendment, or revocation of a regulation or order if, based upon the data, information, and views contained in his objection and request for hearing, a person has shown that all of the following are true:

(1) There is a genuine and substantial issue of fact for resolution at a hearing. A hearing will not be granted on issues of policy or law.

(2) The factual issue is capable of being resolved by available and specifically identified reliable evidence. A hearing will not be granted on the basis of mere allegations or denials or general descriptions of positions and contentions.

(3) The data and information identified in the objection and request for hearing, if established at a hearing, would be adequate to justify resolution of the factual issue in the way sought by the person. A hearing will be denied if the Commissioner concludes that, even assuming the truth and accuracy of all of the data and information submitted in support of the objection and request for hearing, they are insufficient to justify the factual determination urged.

(4) Resolution of the factual issue in the way sought by the person is adequate to justify the action requested. A hearing will not be granted on factual issues that are not determinative or controlling

with respect to the action requested, e.g., when the Commissioner concludes that his action would be the same even if the factual issue were resolved in the way sought, or in the case of a request that a final regulation include a provision not reasonably encompassed within the proposal. A hearing will be granted upon proper objection and request for hearing when a food standard or other regulation is shown to have the effect of excluding or otherwise affecting a product or ingredient, but not when such standard or regulation does not have such an effect.

(5) The action requested is not on its face inconsistent with or in violation of any provision in the act or any regulation in this chapter particularizing statutory standards. The proper procedure in such circumstances is for the person requesting the hearing to petition for an amendment or waiver of the regulation involved, e.g., a hearing will be denied with respect to withdrawal of approval of a new drug application which is not in compliance with an applicable OTC drug monograph promulgated pursuant to the procedures established in Part 330 of this chapter or which is not supported by evidence of effectiveness meeting the requirements of §§ 314.111(a) (5) and 330.10(a) (4) (ii) of this chapter on the ground that the procedure is to petition for an amendment to the monograph pursuant to § 330.10(a) (11) of this chapter, or to obtain approval of a deviation pursuant to § 330.11 of this chapter, or to request a waiver of the requirements for proof of effectiveness as provided in §§ 314.111(a) (5) and 330.10(a) (4) (ii) of this chapter.

(6) All of the conditions and requirements specified in other applicable provisions of this chapter, e.g., §§ 2.5, 2.111, 2.112, 314.200, 430.20(b), 514.200, and 601.7(a), and in the notice promulgating the final regulation or the notice of opportunity for hearing are fully met.

(c) In making his determination pursuant to paragraph (a) of this section, the Commissioner may use any of the optional procedures specified in § 2.7(g) and in other applicable provisions of this chapter, e.g., §§ 314.200, 430.20(b), 514.200, and 601.7(a).

(d) Where a person files an objection and request for hearing pursuant to §§ 2.110 through 2.112 relating to a regulation or order, it is uncertain whether a hearing has been justified pursuant to the principles established in paragraph (b) of this section, and the Commissioner concludes that summary decision against the person requesting a hearing should be considered, he may serve upon such person by registered mail a proposed order denying a hearing. Such person shall have 30 days after receipt of such proposed order to demonstrate that the submission justifies a hearing.

#### § 2.114 Modification or revocation of regulation or order.

If the Commissioner determines upon review of an objection or request for hearing filed pursuant to §§ 2.110 through 2.112 that the regulation or order involved in the proceeding should properly







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to § 2.111(b) requests a hearing and others do not, the Commissioner may issue a final order covering all such drug products at once or may issue more than one final order covering different drug products at different times.

## APPEARANCE AND PRACTICE

## § 2.130 Appearance.

(a) Any interested person may appear in person or by or with counsel or other duly qualified representative in any formal evidentiary public hearing and, subject to § 2.155, may be heard with respect to all matters relevant to the issues under consideration.

(b) Any person appearing in a representative capacity in any such hearing shall submit a signed statement of authorization or other documentation verifying his authority to do so.

## § 2.131 Written notice of appearance.

(a) Any interested person desiring to appear at any formal evidentiary public hearing shall, within 30 days after publication of the notice of hearing in the FEDERAL REGISTER pursuant to § 2.117, file with the Hearing Clerk in accordance with § 2.5 a written notice of appearance in the form specified in paragraph (b) of this section. The notice shall state with particularity the person's interest in the proceeding and shall set forth the issues on which the person desires to be heard.

(b) The form of the written notice of appearance shall be as follows:

(Date)

Hearing Clerk, Food and Drug Administration, Department of Health, Education, and Welfare, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852

## NOTICE OF APPEARANCE

Docket No. -----

Pursuant to the provisions of 21 CFR 2.121 governing the procedure in this matter, please enter the appearance of:

(Name)

(Street address)

(City and State)

(Telephone number)

on behalf of:

(Name)

(Street address)

(City and State)

(Telephone number)

The following statements are made as part of this notice of appearance.

A. *Specific Interest.* (A statement of the specific interest of the person in the proceeding, including the specific issues of fact concerning which the person desires to be heard.)

B. *Commitment to Participate.* (A statement that the person will present documentary evidence or testimony at the hearing and will comply with the requirements of 21 CFR 2.153, or, in the case of a hearing before a Public Board of Inquiry, with the requirements of 21 CFR 2.205.)

C. *Statement of Representation.* (If the person is appearing in a representative capacity, a statement that he is authorized to do so. A signed statement of authorization or other documentation verifying his authority shall be attached.)

(Signed)

(c) All notices, pleadings, documents, and other submissions to be served upon a person in the course of the hearing pursuant to § 2.151 shall be mailed to the address shown in the notice of appearance or delivered in person to the person specified in the notice of appearance.

(d) A written notice of appearance may be amended by filing a new written notice of appearance and serving it upon all participants in the hearing.

(e) No person may participate in any aspect or at any stage of a formal evidentiary public hearing if he has not filed a written notice of appearance or if his notice of appearance has been stricken pursuant to paragraph (g) of this section.

(f) The presiding officer may, upon motion, permit a person to file a written notice of appearance in the hearing after the 30-day time period for filing such notices has expired, but only upon a showing of good cause as to why such a notice was not filed within such time period.

(g) The presiding officer may strike the appearance of any person, after giving him an opportunity to show cause why his appearance should not be stricken, for nonparticipation in the hearing, for failure to comply with any requirement of this subpart, e.g., disclosure of information as required by § 2.153 or the prehearing order issued pursuant to § 2.158, or for violation of the rules of conduct established in § 2.156. Any person whose appearance has been stricken may petition the Commissioner for interlocutory review of such action.

## PRESIDING OFFICER

## § 2.140 Presiding officer.

A presiding officer shall preside over every formal evidentiary public hearing held pursuant to this subpart. The presiding officer shall be the Commissioner, a member of the office of the Commissioner to whom the Commissioner has delegated the responsibility for the matter involved, or an Administrative Law Judge qualified under 5 U.S.C. 3105 and designated by the Commissioner to conduct the hearing in the notice of hearing or in a later notice published pursuant to § 2.118(a) (6) of this chapter.

## § 2.141 Commencement of functions.

The functions of the presiding officer shall commence upon his designation and terminate upon the forwarding of the recommended decision or the filing of the initial decision pursuant to § 2.180.

## § 2.142 Authority of presiding officer.

The presiding officer shall have the authority and duty to conduct a fair and expeditious hearing and to maintain

order. He shall have all powers necessary to these ends, including, but not limited to, the power to:

(a) Arrange and issue notice of the date, time, and place of oral hearings and conferences and, upon proper notice, to change the date, time, and place of oral hearings and conferences previously set.

(b) Establish the methods and procedures to be used in the development of evidentiary facts, including the procedures specified in § 2.158(b) and to rule upon the need for oral testimony and cross-examination pursuant to § 2.154 (b).

(c) Prepare, after considering the views of the participants, written statements of areas of factual disagreement among the participants.

(d) Hold conferences to settle, simplify, or determine the issues in a hearing or to consider other matters that may facilitate the expeditious disposition of the hearing.

(e) Administer oaths and affirmations.

(f) Regulate the course of the hearing and govern the conduct of participants therein.

(g) Examine witnesses and inform witnesses that they must fully respond to all questions or have all of their testimony stricken.

(h) Rule on, admit, exclude, or limit evidence.

(i) Establish the time for filing motions, petitions, briefs, findings, or other submissions.

(j) Rule on motions and other procedural matters pending before him.

(k) Rule on motions for summary decision in accordance with § 2.159.

(l) Order that the hearing be conducted in stages in cases where the number of parties is large or the issues are numerous and complex.

(m) Waive, suspend, or modify any rule in this subpart pursuant to § 2.25 if he determines that no party will be prejudiced, the ends of justice will be thereby served, and such action is in accordance with law.

(n) Strike the appearance of any person pursuant to § 2.131(g) or exclude any person from the hearing pursuant to § 2.156 or otherwise take reasonable disciplinary action.

(o) Take any action permitted to the presiding officer as authorized by this Subpart B or in conformance with law for the maintenance of order at the hearing and for the expeditious, fair, and impartial conduct of the proceeding.

## § 2.143 Disqualification of presiding officer.

(a) Any participant in the proceeding may, by motion made to the presiding officer, request that the presiding officer disqualify himself and withdraw from the proceeding. The presiding officer shall rule upon any such motion and shall promptly certify the motion and his ruling thereon to the Commissioner for interlocutory review.

(b) A presiding officer shall withdraw from any proceeding in which he deems himself disqualified for any reason.

## § 2.144 Unavailability of presiding officer.

(a) In the event that the presiding officer is unable to act for any reason whatever, the powers and duties to be performed by him in connection with any proceeding shall be assigned by the Commissioner to another presiding officer. Such substitution shall have no effect on any aspect of the hearing, except as the new presiding officer may order pursuant to the provisions of this subpart.

(b) Any motion predicated upon such substitution shall be made within 10 days thereafter.

## HEARING PROCEDURES

## § 2.150 Filing and service of submissions.

(a) All submissions, including pleadings, relating to a formal evidentiary public hearing shall be filed with the Hearing Clerk pursuant to § 2.5.

(b) A copy of each such submission shall be served by the person making the submission upon each other participant in the proceeding, except that submissions of documentary data and information may but are not required to be served upon each participant. Any transmittal letter, pleading, summary, statement of position, certification pursuant to paragraph (d) of this section, or other similar document accompanying a submission of documentary data and information shall be served upon each participant pursuant to this paragraph.

(c) Service pursuant to this section shall be accomplished by mailing it to the address shown in the notice of appearance or by personal delivery.

(d) All submissions pursuant to this section shall be accompanied by a signed certification stating the extent to which the submission has been served on each participant, or is exempt from such service, pursuant to paragraph (b) of this section.

(e) No written submission or other portion of the administrative record shall be held in confidence, except as provided in § 2.171.

## § 2.151 Petition to participate in forma pauperis.

(a) Any participant who believes that compliance with the filing and service requirements of this section constitutes an unreasonable financial burden shall submit to the Commissioner a petition to participate in forma pauperis.

(b) Such petition shall be pursuant to § 2.7, except that the heading shall be "REQUEST TO PARTICIPATE IN FORMA PAUPERIS, DOCKET NO. -----" Pursuant to the guidelines established in § 4.43 (b) and (c) of this chapter, such petition shall demonstrate that either (i) the person is indigent and his participation has a strong public interest justification, or (ii) such participation is in the public interest because it can be considered primarily as benefiting the general public.

(c) The Commissioner may, in his discretion, grant or deny such petition. If such petition is granted, the participant

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may file only one copy of each submission with the Hearing Clerk, and it shall be the responsibility of the Hearing Clerk, at agency expense, to make sufficient additional copies for the administrative record and to serve a copy upon each other participant.

## § 2.152 Advisory opinions.

Prior to or during the pendency of any formal evidentiary public hearing any person may request the Commissioner for an advisory opinion as to the applicability to a specific situation of any regulation or order under consideration in an administrative proceeding. Requests for such opinions shall be made pursuant to § 2.19.

## § 2.153 Disclosure of data and information by the participants.

(a) Before the notice of hearing is published pursuant to § 2.118, the director of the bureau responsible for the matters involved in the hearing shall submit to the Hearing Clerk:

(1) The relevant portions of the administrative record of the proceeding up to that time. Those portions of the administrative record of the proceeding which are not relevant to the issues to be considered at the public hearing shall not be placed on public display and shall not be part of the administrative record of that proceeding.

(2) All documents in his files containing factual data and information, whether favorable or unfavorable to his position, which relate to the issues involved in the hearing.

(3) All other documentary data and information on which he relies.

(4) A narrative statement of his position on the factual issues stated in the notice of hearing and the type of evidence he intends to introduce in the hearing in support of his position.

(5) A signed statement that, to the best of his knowledge and belief, the submission complies with the requirements of this section.

(b) Within 60 days after the notice of hearing is published in the FEDERAL REGISTER pursuant to § 2.118, each participant shall submit to the Hearing Clerk all data and information specified in paragraphs (a) (2) through (5) of this section, and any objections with respect to the completeness of the administrative record filed pursuant to paragraph (a) (1) of this section.

(c) The submissions required by paragraphs (a) and (b) of this section may be supplemented later in the proceeding, with the approval of the presiding officer, upon a showing that the material contained in the supplement was not reasonably known or available when the submission was made or that the relevance of the material contained in the supplement could not reasonably have been foreseen at that time.

(d) The failure to comply with the provisions of this section in the case of a participant shall constitute a waiver of the right to participate further in the hearing and in the case of a party shall also constitute a waiver of the right to a hearing.

(e) Any documentary data and information submitted by one participant may be referenced by another. Participants are encouraged to exchange and consolidate lists of documentary evidence prior to reproducing it for submission to the Hearing Clerk in order to reduce duplicative submissions. If a particular document is bulky or is in limited supply and cannot reasonably be reproduced, and it constitutes relevant evidence, a participant may request the presiding officer for permission to submit a reduced number of copies to the Hearing Clerk.

(f) The presiding officer shall rule on questions relating to this section.

## § 2.154 Purpose; oral and written testimony; burden of proof.

(a) A formal evidentiary public hearing is held for the purpose of receiving evidence relating to an issue of fact determining the validity of a regulation or order subject to such a hearing. The objective of such a hearing is the fair determination of facts in a manner consistent with the right of all interested persons to participate and the public interest in expeditiously concluding controversies over matters affecting the public health and welfare.

(b) To achieve this objective, the evidence at a formal evidentiary public hearing shall be developed to the maximum feasible extent through written submissions, including written direct testimony which may be in narrative or in question-and-answer form, written cross-examination, and such other methods for the testing and proper evaluation of factual propositions as the presiding officer determines are necessary for a full and true disclosure of relevant evidentiary facts.

(1) In a hearing held pursuant to section 409(f), 502(n), 507(f), 512(n), 701 (e), or 706(d) of the act or section 4 or 5 of the Fair Packaging and Labeling Act involving the issuance, amendment, or revocation of a regulation:

(i) All direct testimony shall be submitted in writing, except upon a showing that written direct testimony is insufficient to adduce testimony for a full and true disclosure of relevant evidentiary facts and that the participant will be prejudiced by denial of a request to present oral direct testimony.

(ii) Oral cross-examination of witnesses shall be permitted only upon a showing that the cross-examination requested is necessary because alternative means of developing relevant evidentiary facts are insufficient to adduce testimony required for a full and true disclosure of relevant evidentiary facts, and that the party requesting an opportunity for oral cross-examination will be prejudiced by denial of the request.

(2) In a hearing held pursuant to section 505 (d) or (e) or 512 (d), (e), (m) (3), or (4) of the act, or section 351 (a) of the Public Health Service Act, involving the issuance, amendment, or revocation of an order, the issues may have general applicability and depend upon general facts that do not concern any particular action of a specific party, e.g., the safety or effectiveness of a class



of drug products, or may have specific applicability to past action and depend upon particular facts concerning only that party, e.g., the applicability of a grandfather clause to a particular brand of a drug or the failure of a particular manufacturer to meet required manufacturing and processing specifications or other general standards.

(i) Where the proceeding involves general issues, all direct testimony shall be submitted in writing, except upon a showing that written direct testimony is insufficient to adduce testimony for a full and true disclosure of relevant evidentiary facts and that the participant will be prejudiced by denial of a request to present oral direct testimony. Where the proceeding involves particular issues, each party shall determine whether, and the extent to which, he wishes to present his direct testimony orally or in writing.

(ii) Oral cross-examination of witnesses shall be permitted only upon a showing that the cross-examination requested is necessary because alternative means of developing relevant evidentiary facts are insufficient to adduce testimony required for a full and true disclosure of relevant evidentiary facts, and that the party requesting opportunity for oral cross-examination will be prejudiced by denial of the request.

(3) All oral and written testimony of witnesses shall be under oath.

(c) In considering whether a request for cross-examination of a particular witness has been justified, the presiding officer shall take into account the following factors:

(1) The extent to which a full and true disclosure with respect to any disputed issue of fact can be achieved through the presentation of additional direct evidence.

(2) The extent to which there are circumstantial guarantees of the trustworthiness of the direct evidence sought to be made the subject of cross-examination.

(3) Whether the particular person's testimony sought to be made the subject of cross-examination is required for the resolution of any disputed issue of fact.

(4) Whether a dispute concerns facts in contrast to the inferences and conclusions to be drawn from the facts.

(5) Whether the direct evidence sought to be made the subject of cross-examination is relevant and material to the issues of fact as to which the hearing has been justified.

(d) Except as provided in paragraph (e) of this section, in any formal evidentiary public hearing involving the issuance, amendment, or revocation of a regulation or order, the originator of the proposal or petition or of any significant modification thereof shall be, within the meaning of 5 U.S.C. 556(d), the proponent of the regulation or order, and accordingly shall have the burden of proof. Any participant who proposes the substitution of a new provision for a provision objected to shall have the burden of proof in relation to the new provision so proposed.

(e) At any formal evidentiary public hearing involving the issuance, amendment, or revocation of a regulation or order relating to the safety or effectiveness of a drug, food additive, or color additive, the participant who is contending that the product is safe or effective or both and who is requesting approval or contesting withdrawal of approval shall have the burden of proof in establishing safety or effectiveness or both and thus the right to approval. The burden of proof remains on such participant in an amendment or revocation proceeding.

#### § 2.155 Participation of nonparties.

(a) A nonparty participant shall have the right:

(1) To attend all conferences (including the prehearing conference), oral proceedings, and arguments held in connection with or as part of a formal evidentiary public hearing.

(2) To submit written testimony and documentary evidence for inclusion in the record.

(3) To file written objections, briefs, and other pleadings.

(4) To present oral argument.

(b) A nonparty participant shall not have the right:

(1) To submit written interrogatories.

(2) To conduct cross-examination.

(c) Any person whose petition is the subject of the hearing shall have the same rights as a party.

(d) The presiding officer may, in his discretion, permit a nonparty participant additional rights when he concludes that the participant's interests would not be adequately protected otherwise or that broader participation is required for a full and true disclosure of relevant evidentiary facts, but the rights of a nonparty participant shall in no event exceed the rights of a party.

#### § 2.156 Conduct at oral hearings or conferences.

All participants in a formal evidentiary public hearing shall conduct themselves with dignity and observe judicial standards of practice and ethics. They shall not indulge in personal attacks, unseemly wrangling, or intemperate accusations or characterizations. A representative of any party shall use his best efforts to restrain his client from improprieties in connection with any proceeding. Disrespectful, disorderly, or contemptuous language or contemptuous conduct, refusal to comply with directions, continued use of dilatory tactics, or refusal to adhere to reasonable standards of orderly and ethical conduct during any such hearing, shall constitute grounds for immediate exclusion from the proceeding at the direction of the presiding officer.

#### § 2.157 Time and place of prehearing conference.

A prehearing conference shall commence at the date, time, and place announced in the notice of hearing or in a later notice, published in the FEDERAL REGISTER pursuant to § 2.118(a)(8). At

that conference the presiding officer shall establish the methods and procedures to be used in developing the evidence, determine reasonable time periods for the conduct of the hearing, and designate the times and places for the production of witnesses for direct and cross-examination if leave to conduct oral examination is granted on any issue, insofar as is practicable at that time.

#### § 2.158 Prehearing conference procedure.

(a) All participants in a formal evidentiary hearing shall appear at the prehearing conference, which shall not commence until after the time for disclosure of data and information specified in § 2.153 has expired, fully prepared to discuss in detail and resolve all matters specified in paragraph (b) of this agenda as may be issued by the Commissioner or the presiding officer.

(1) All participants shall cooperate fully at all stages of the proceeding to achieve the objective of a fair and expeditious hearing, through advance preparation for the prehearing conference, including communications between the participants, requests for information at the earliest possible time, and the commencement of preparation of testimony. The failure of any participant to appear at the prehearing conference or to raise any matters that could reasonably be anticipated and resolved at the prehearing conference shall not be permitted to delay the progress of the hearing and shall constitute a waiver of the rights of the participant with regard thereto, including all objections to the agreements reached, actions taken, or rulings issued by the presiding officer with regard thereto, and may be grounds for striking his appearance pursuant to § 2.131.

(2) Each participant shall bring to the prehearing conference the following specific information, which shall be filed with the Hearing Clerk pursuant to § 2.151:

(i) Any additional data or information to supplement the submission filed pursuant to § 2.153, which may be filed if approved pursuant to § 2.153(c).

(ii) A list of all witnesses whose testimony will be offered, orally or in writing, at the hearing, together with a full curriculum vitae for each such witness. Additional witnesses may later be identified, with the approval of the presiding officer, upon a showing that the witness was not reasonably available at the time of the prehearing conference or that the relevance of his views could not reasonably have been foreseen at that time.

(iii) All prior written statements, which shall include articles and any written statement signed or adopted, or a recording or transcription of an oral statement made, by the persons who have been identified as witnesses if all of the following conditions apply:

(a) The statement is available without making request of the witness or any other person.

(b) The statement relates to the subject matter of the witness' testimony.

(c) The statement either was made before the time the person agreed to become a witness or has been made publicly available by the person.

(b) The presiding officer shall conduct a prehearing conference for the following purposes:

(1) To determine and reduce to writing the areas of factual disagreement which are to be considered at the formal evidentiary hearing. The presiding officer may:

(i) Require each participant to prepare and file written statements of position on the areas of disagreement described in the notice of hearing.

(ii) Require each participant to summarize the testimony which he proposes to present in support of his position, and to describe and justify any additional documentary evidence not included with the submission pursuant to § 2.153 and expected to be introduced.

(iii) Consider oral or written argument with respect to the areas of disagreement described in the notice of hearing or with respect to objections thereto.

(iv) Hold conferences off the record in an effort to reach agreement as to factual questions on which disagreement exists, except that all statements as to areas of disagreement shall be reduced to writing or be the subject of a verbatim transcript approved by the participants.

(2) To identify the most appropriate techniques for the development of the evidence on issues in controversy in addition to the submissions pursuant to § 2.153, and the manner and sequence in which they will be used, including, where oral examination is to be conducted, the sequence in which witnesses will be produced for, and the time and place of, the oral examination. The methods and procedures which the presiding officer may consider for use in developing the evidence include but are not limited to:

(i) Submission of narrative statements of position on each factual issue in controversy.

(ii) Submission of evidence or identification of previously submitted evidence in support of such statements, such as affidavits, verified statements of fact, data, studies, reports, and any other type of written material.

(iii) Identification of all witnesses and submission of testimony of such witnesses.

(iv) Exchange of written interrogatories directed to particular witnesses for the purpose of developing the evidence on particular disputed facts.

(v) Written requests to any party for the production of additional documentation, data, or other information relevant and material to the facts in issue.

(vi) Submission of written questions to be orally propounded by the presiding officer to a specific witness.

(vii) Isolation of disputed facts as to which oral examination and/or cross-examination is appropriate pursuant to § 2.154(b).

(3) To group participants with substantially like interests for purposes of

eliminating duplicative or repetitive development of the evidence, making and arguing motions and objections, including motions for summary decision, filing briefs, and presenting oral argument.

(4) To hear and determine objections to the admission into evidence of data and information submitted pursuant to § 2.153.

(5) To investigate the possibility of obtaining stipulations and admissions of facts.

(6) To consider such other matters and take such other action as may aid in the expeditious disposition of the proceeding.

(c) The presiding officer shall prepare a written prehearing order reciting the actions taken at the prehearing conference and setting forth the schedule for the hearing. Such order shall include a written statement of the areas of factual agreement and disagreement and of the methods and procedures to be used in developing the evidence and the respective duties of the parties in connection therewith. Such order shall control the subsequent course of the hearing unless modified by the presiding officer for good cause shown.

#### § 2.159 Summary decisions.

(a) Any participant in a formal evidentiary public hearing may, after commencement of the hearing, submit to the Hearing Clerk pursuant to § 2.150 a motion with or without supporting affidavits for a summary decision in his favor with respect to any issue under consideration. Any other participant may, within 10 days after service of the motion, which time may be extended for an additional 10 days by the presiding officer for good cause shown, serve opposing affidavits or countermove for summary decision. The presiding officer may, in his discretion, set the matter for argument and call for the submission of briefs.

(b) The presiding officer shall grant such motion if the objections, requests for hearing, other pleadings, affidavits, and any material filed in connection with the hearing, or matters officially noticed, show that there is no genuine issue as to any material fact and that a participant is entitled to summary decision.

(c) Affidavits shall set forth such facts as would be admissible in evidence and shall show affirmatively that the affiant is competent to testify to the matters stated therein. When a motion for summary decision is made and supported as provided in this section, a participant opposing the motion may not rest upon mere allegations or denials or general descriptions of positions and contentions. His response, by affidavits or as otherwise provided in this section, must set forth specific facts showing that there is a genuine issue of fact for the hearing.

(d) Should it appear from the affidavits of a participant opposing the motion that he cannot, for sound reasons stated, present by affidavit facts essential to justify his opposition, the presiding officer may deny the motion for summary decision or may order a continuance to permit affidavits or additional evidence

to be obtained or may make such order as is just.

(e) If on motion under this motion a summary decision is not rendered upon the whole case or for all the relief asked, and development of evidentiary facts is found necessary, the presiding officer shall make an order specifying the facts that appear without substantial controversy and directing further evidentiary proceedings. The facts so specified shall be deemed established.

(f) Any participant may obtain interlocutory review by the Commissioner of a summary decision of the presiding officer.

#### § 2.160 Receipt of evidence.

(a) A formal evidentiary public hearing consists of the development of evidence and the resolution of factual issues in the manner set forth in the procedures established in this subpart and in the order issued by the presiding officer after the prehearing conference.

(b) All orders issued by the presiding officer, transcripts of oral hearings or arguments, written statements of position, written direct testimony, written interrogatories and the responses thereto, and any other data, studies, reports, documentation, information, and other written material of any kind submitted in the proceeding shall be a part of the administrative record of the hearing, and shall be placed on public display in the office of the Hearing Clerk promptly upon receipt in that office, except as provided in § 2.171.

(c) A written submission to the record shall be admissible as evidence unless a participant objects and the presiding officer excludes it as inadmissible.

(1) The presiding officer shall exclude written evidence as inadmissible only on the following grounds:

(i) The evidence is a document that is not authentic, or

(ii) Exclusion of part or all of the written evidence of a participant is necessary or appropriate to enforce the requirements of this subpart.

(2) The presiding officer shall not exclude any written evidence as inadmissible on the ground that it is irrelevant, immaterial, or repetitive. All such written evidence shall be admitted even if it is of no probative value. Irrelevant or immaterial written evidence shall be regarded as such and shall not be given weight or probative value because of its admission.

(3) Any written evidence excluded by the presiding officer as inadmissible shall remain a part of the administrative record, as an offer of proof, for purposes of judicial review.

(d) Oral testimony, whether on direct or on cross-examination, shall be admissible as evidence unless a participant objects and the presiding officer excludes it as inadmissible.

(1) The presiding officer shall exclude oral evidence as inadmissible only on the following grounds:

(i) The oral evidence is irrelevant, immaterial, or repetitive, or

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(ii) Exclusion of part or all of the oral evidence of a participant is necessary or appropriate to enforce the requirements of this subpart.

(2) Whenever oral evidence is excluded by the presiding officer as inadmissible, the participant offering such evidence may make an offer of proof, which shall be part of the record. The offer of proof shall consist of a brief statement, which the presiding officer may require to be in writing, describing the evidence excluded. Upon review, the Commissioner may reopen the hearing to permit such evidence to be admitted if he determines that its exclusion was erroneous and prejudicial.

(e) All participants shall be responsible for apprising themselves of the contents of the administrative record in timely fashion for purposes of formulating objections to the admissibility of any item into evidence and evaluating the need for the submission of additional evidence.

(f) The presiding officer shall, on his own initiative as the circumstances warrant, or upon the motion of any participant for good cause shown, schedule conferences to monitor the progress of the hearing, narrow and simplify the issues, and consider and rule on motions, requests, and other matters concerning the development of the evidence.

(g) The presiding officer shall conduct such proceedings as are necessary for the taking of oral testimony, for the oral examination of witnesses by the presiding officer on the basis of written questions previously submitted to him by the parties, and for the conduct of cross-examination of witnesses by the parties. The presiding officer shall screen written questions submitted to him to be asked orally of witnesses in order to exclude irrelevant or repetitious questions. The presiding officer shall limit oral cross-examination to prevent irrelevant or repetitious questions.

(h) The presiding officer shall order that the proceedings be closed for the taking of oral testimony relating to matters specified in § 2.5(j) (3). Participation in such closed proceedings shall be limited to the witness, his counsel, and Federal Government Executive Branch employees and special government employees. Such closed proceedings shall be permitted only for such oral testimony as directly relates to matters specified in § 2.5(j) (3) and shall not include other matters.

(i) Any party may at any time move for an order that the taking of evidence be concluded. Such motion shall be granted unless within 10 days of service thereof a participant files an opposition to such motion, supported by an affidavit stating that he wishes to submit, or by specified means adduce, additional evidence on facts relevant to the issues at the hearing, describing the nature of such evidence, and estimating the time necessary to submit or adduce it. In the event that such an opposition is filed, the presiding officer may (1) grant the motion if it appears that the evidence described in the affidavit filed in support of

the opposition does not relate to relevant facts or is duplicative or cumulative of evidence already on record at the hearing, (2) deny the motion, or (3) grant the motion but postpone its effect to a specified date in order that the participant opposing it may submit or adduce the evidence described in the affidavit. Upon the denial of a motion made under this paragraph, or the granting of a motion with a postponed effective date, no participant may submit additional evidence unless he has filed an opposition to the motion, and any participant who has filed an opposition shall confine the submission of additional evidence to the matters set forth in the affidavit in support of the opposition.

#### § 2.161 Official notice.

(a) Upon motion of any participant, the presiding officer shall take official notice of official publications of the Food and Drug Administration and other Federal agencies and of any technical, scientific, or other fact that is not subject to reasonable dispute in that it is capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

(b) The presiding officer may take official notice of matters whether requested to do so or not.

(c) Where official notice is requested to be taken or is taken of a material fact not appearing in the evidence of record, any participant, on timely request, shall be afforded an opportunity to show the contrary.

#### § 2.162 Briefs and argument.

(a) As soon as possible after the completion of the taking of evidence, the presiding officer shall announce a schedule for the filing of briefs. Briefs shall include a statement of position on each issue as supported by the evidence of record, with specific and complete citations to the evidence, together with citations of points of law relied upon. Briefs shall contain proposed findings of fact and conclusions of law.

(b) The presiding officer may permit the presentation of oral argument at his discretion and in such manner as he believes is both practical and fair.

(c) Briefs and oral argument shall attempt to refrain from disclosing specific details of written and oral testimony and documents relating to matters specified in § 2.5(j) (3), but any reference essential to resolution of the issues involved shall be permitted.

#### § 2.163 Interlocutory appeal from ruling of presiding officer.

(a) Except as provided in paragraph (b) of this section and in §§ 2.131(g), 2.143(a), 2.159(f), and 2.165(c), where an interlocutory appeal is specifically authorized by this subpart, rulings of the presiding officer may not be appealed to the Commissioner prior to his consideration of the entire administrative record of the hearing.

(b) Any ruling of the presiding officer shall be the subject of an interlocutory appeal to the Commissioner where the presiding officer certifies on the record or

in writing that such an interlocutory appeal is necessary to prevent exceptional delay, expense, or prejudice to any participant, or substantial harm to the public interest.

(c) Where an interlocutory appeal is made to the Commissioner, any participant may file a brief with the Commissioner within such period as the Commissioner directs. Oral argument will be heard only at the discretion of the Commissioner.

#### § 2.164 Official transcript.

(a) Any oral testimony given at a formal evidentiary public hearing shall be reported verbatim. The presiding officer will make provision for a stenographic record of the testimony and for such copies of the transcript thereof as he requires for his own purpose.

(b) One copy of such transcript shall be placed on public display in the office of the Hearing Clerk upon receipt, where it may be reviewed by any interested person.

(c) Any person desiring a copy of the transcript of the testimony taken at the hearing or of any part thereof shall be entitled to the same, except as provided in § 2.171, upon application to the official reporter and payment of the costs thereof or pursuant to the provisions of Part 4 of this chapter.

#### § 2.165 Motions.

(a) Any participant may make a motion, including any request, to the presiding officer with respect to any matter relating to the proceeding. All motions shall be filed pursuant to § 2.150, except those made in the course of an oral hearing before the presiding officer.

(b) Within 10 days after service of any such motion, which may be shortened to 3 days or extended for an additional 10 days by the presiding officer for good cause shown, any participant in the proceeding may file a response to the motion.

(c) The presiding officer shall rule upon such motion and may certify such motion, together with his ruling, to the Commissioner for interlocutory review.

#### ADMINISTRATIVE RECORD

##### § 2.170 Administrative record of a formal evidentiary public hearing.

(a) The record of the administrative proceeding shall consist of the following:

(1) The order or regulation which gave rise to the hearing.

(2) All objections and requests for hearing filed by the Hearing Clerk pursuant to §§ 2.110 through 2.112.

(3) The notice of hearing published pursuant to § 2.118.

(4) All notices of appearance filed pursuant to § 2.131.

(5) All FEDERAL REGISTER notices pertinent to the proceeding.

(6) All submissions filed pursuant to § 2.151, e.g., the submissions required by § 2.153, all other documentary evidence and written testimony, pleadings, statements of position, briefs, and other similar documents.

(7) The transcript, written order, and all other documents relating to the pre-

hearing conference, prepared pursuant to § 2.158.

(8) All documents relating to any motion for summary decision pursuant to § 2.159.

(9) All documents of which official notice is taken pursuant to § 2.161.

(10) All pleadings filed pursuant to § 2.162.

(11) All documents relating to any interlocutory appeal pursuant to § 2.163.

(12) All transcripts prepared pursuant to § 2.164.

(13) Any other documents relating to the hearing and filed with the Hearing Clerk by the presiding officer or any participant.

(b) The record of the administrative proceeding shall be closed:

(1) With respect to the taking of evidence, at the time specified in § 2.160 (g).

(2) With respect to pleadings, at the time specified in § 2.162(a) for the filing of briefs.

(c) The presiding officer may, in his discretion, reopen the record to receive further evidence at any time prior to the filing of a recommended or initial decision.

##### § 2.171 Examination of administrative record.

The availability for public examination and copying of each document which is a part of the administrative record of the hearing shall be governed by the provisions of § 2.5(j). Each document which is available for public examination or copying shall be placed on public display in the office of the Hearing Clerk promptly upon receipt in that office.

##### § 2.172 Correction of administrative record.

After the close of the taking of evidence, the presiding officer shall afford witnesses, participants, and their counsel time, not longer than 30 days except in unusual cases, in which to submit written proposed corrections of the transcript of any oral testimony taken at the hearing, pointing out errors that may have been made in transcribing the testimony. The presiding officer shall promptly thereafter order such corrections made as in his judgment are required to make the transcript conform to the testimony.

##### § 2.173 Record for administrative decision.

The administrative record of the hearing specified in § 2.170 shall constitute the exclusive record for decision.

##### RECOMMENDED, INITIAL, TENTATIVE, AND FINAL DECISIONS

##### § 2.180 Recommended decision or initial decision.

(a) Within 90 days after the filing of briefs and any oral argument pursuant to § 2.162, the presiding officer shall prepare and file a recommended decision or initial decision based solely upon the administrative record of the hearing.

(1) The presiding officer shall prepare a recommended decision if the notice

of hearing so states pursuant to § 2.118 (a) (10).

(2) The presiding officer shall prepare an initial decision if the notice of hearing so states pursuant to § 2.118(a) (10) or if the notice of hearing is silent on the matter.

(b) The recommended decision or initial decision shall contain:

(1) Findings of fact based upon relevant, material, and reliable evidence of record.

(2) Conclusions of law.

(3) A full articulation of the reasons for the findings and conclusions, including a discussion of the significant factual and legal contentions made by any participant.

(4) Full citations to the administrative record supporting the findings and conclusions.

(5) An appropriate regulation or order supported by substantial evidence of record and based upon the findings of fact and conclusions of law.

(6) An effective date for the regulation or order.

(c) The recommended decision or initial decision shall attempt to refrain from disclosing specific details of written and oral testimony and documents relating to matters specified in § 2.5(j) (3), but any reference essential to resolution of the issues involved shall be permitted.

(d) If the presiding officer prepares a recommended decision he shall forward it, together with the certified record of the hearing, to the Commissioner.

(e) If the presiding officer prepares an initial decision:

(1) It shall be filed with the Hearing Clerk and served upon all participants.

(2) The initial decision shall become the decision of the Commissioner unless within 30 days after it is filed with the Hearing Clerk a participant in the proceeding files with the Hearing Clerk a notice of appeal to the Commissioner pursuant to § 2.182(a) or the Commissioner, on his own initiative, files with the Hearing Clerk a notice of review pursuant to § 2.182(d).

##### § 2.181 Tentative order.

(a) If the presiding officer prepares a recommended decision, as soon as practicable after it is received the Commissioner either shall adopt it as his tentative order or shall prepare a different tentative order. The tentative order shall contain findings of fact and conclusions of law as set forth in § 2.180 (b) and (c), and shall be filed with the Hearing Clerk and served upon all participants.

(b) The tentative order shall specify a reasonable time, ordinarily not to exceed 60 days, within which any participant may file exceptions. The exceptions shall point out with particularity the alleged errors in the tentative order and shall contain a specific reference to the items in the record on which exceptions are based. Such exceptions may be accompanied by a memorandum or brief in support thereof. If oral argument on the exceptions is desired, such a request shall be made with the exceptions.

(c) After the exceptions are filed the Commissioner shall determine whether he wishes to hear oral argument on the matter. If the Commissioner concludes that he should hear oral argument on the matter, the participants shall be informed of the date, time, and place for such oral argument, the amount of time that will be allotted to each participant for such oral argument, and the issues to be addressed.

##### § 2.182 Appeal from or review of initial decision.

(a) If the presiding officer files an initial decision, any participant in a proceeding may appeal it to the Commissioner by filing a notice of appeal with the Hearing Clerk within 30 days after the initial decision is filed. If any participant appeals the initial decision, all participants shall have an equal opportunity to participate in the appeal.

(b) Promptly after a notice of appeal is filed with the Hearing Clerk, the Commissioner shall inform all participants of the date by which they may file briefs, stating exceptions to or agreement with the initial decision and supporting reasons therefor, the time for which shall be not less than 30 nor more than 60 days following such notice. Reply briefs may be filed only with the express permission of the Commissioner.

(c) If oral argument on the appeal is desired, such a request shall be made with the briefs. After the briefs are filed the Commissioner shall determine whether he wishes to hear oral argument on the matter. If the Commissioner concludes that he should hear oral argument on the matter, the participants shall be informed of the date, time, and place for such oral argument, the amount of time that will be allotted to each participant for such oral argument, and the issues to be addressed.

(d) Within 40 days after the initial decision is filed, the Commissioner may file with the Hearing Clerk a notice stating that he will review the initial decision on his own initiative. Such review shall proceed pursuant to the provisions of paragraph (b) of this section.

##### § 2.183 Decision by Commissioner after exceptions to the tentative order.

If the presiding officer prepares a recommended decision and the Commissioner files a tentative order, as soon as practicable after the time for filing exceptions to the tentative order has passed, the Commissioner shall publish in the FEDERAL REGISTER his final order in the proceeding. The final order shall meet the requirements established in § 2.180 (b) and (c).

##### § 2.184 Decision by Commissioner on appeal or review of initial decision.

(a) If the presiding officer files an initial decision and a notice of appeal or review is filed pursuant to § 2.182, the presiding officer shall certify to the Commissioner the full administrative record of the proceeding, which shall include all briefs filed pursuant to § 2.162 and the initial decision.

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(b) On appeal from or review of the initial decision, the Commissioner shall have all the powers he would have in making the initial decision. The Commissioner may, on his own initiative or on the motion of any participant, remand the proceeding to the presiding officer with specific directions, e.g., to receive further evidence relating to a particular issue, where he concludes that such action is necessary for a proper decision in the matter.

(c) The scope of the issues on appeal shall be the same as the scope of the issues at the public hearing unless the Commissioner specifies otherwise.

(d) As soon as practicable after the filing of briefs and any oral argument, the Commissioner shall issue in the FEDERAL REGISTER his final decision in the proceeding based solely upon the administrative record of the hearing. Such final decision shall meet the requirements established in § 2.180 (b) and (c).

(e) The Commissioner may adopt the initial decision as the final decision, in whole or in part, if he concludes, after reviewing the administrative record, that it meets all the requirements specified in § 2.180 (b) and (c) and represents a sound, reasonable, and fair decision based upon all relevant factual, legal, and policy considerations.

#### § 2.185 Reconsideration and stay of action.

Following publication of the final decision, any participant may petition the Commissioner for reconsideration of any part or all of such decision pursuant to § 2.8 or may petition for a stay of such decision pursuant to § 2.9.

#### JUDICIAL REVIEW

##### § 2.190 Review by the courts.

(a) The Commissioner's final decision constitutes final agency action from which any participant may petition for judicial review pursuant to the statutory provisions governing the matter involved. Before requesting an order from a court for relief pending review, any participant seeking court review shall first submit a petition for a stay of action pursuant to § 2.9.

(b) The Food and Drug Administration will request consolidation in a single court of all petitions for judicial review related to a particular matter pursuant to 28 U.S.C. 2112(a).

##### § 2.191 Copies of petitions for judicial review.

The Chief Counsel for the Food and Drug Administration has been designated by the Secretary as the officer upon whom copies of petitions for judicial review shall be served. Such officer shall be responsible for filing in the court the record of the proceedings on which the final decision is based. The record of the proceeding shall be certified by the Commissioner.

#### Subpart C—Public Hearing Before a Public Board of Inquiry

##### § 2.200 Scope of subpart.

Subpart C governs the practices and procedures applicable whenever:

(a) The Commissioner concludes, in his discretion, that it is in the public interest to hold a public hearing before a Public Board of Inquiry, hereinafter referred to as a "Board," with respect to any matter, or class of matters, of importance pending before the Food and Drug Administration.

(b) Pursuant to specific provisions in other sections of this chapter, a matter pending before the Food and Drug Administration is subject to a public hearing before a Board.

(c) A person who has a right to an opportunity for a formal evidentiary public hearing under Subpart B of this Part waives that opportunity and in lieu thereof requests pursuant to § 2.117 of this Part the establishment of a Board to act as an administrative law tribunal with respect to the matters involved, and the Commissioner, in his discretion, accepts this request.

##### § 2.201 Notice of a public hearing before a Public Board of Inquiry.

If the Commissioner determines that a Board should be established to conduct a public hearing on any matter, he shall publish in the FEDERAL REGISTER a notice of hearing setting forth the following information:

(a) If the hearing is pursuant to § 2.200 (a) or (b), all applicable information described in § 2.117(e).

(1) If any written document is to be the subject matter of the hearing, it shall be published as part of the notice, or reference shall be made to it if it has already been published in the FEDERAL REGISTER, or the notice shall state that the document is available from the Hearing Clerk or an agency employee designated in the notice.

(2) For purposes of any such hearing, all participants who file a notice of appearance pursuant to § 2.117(e) (6) (ii) shall be deemed to be parties and shall be entitled to participate in selection of the Board pursuant to § 2.203(b).

(b) If the hearing is in lieu of a formal evidentiary hearing as provided in § 2.200(c), all of the information described in § 2.117(e).

##### § 2.202 Members of a Public Board of Inquiry.

(a) All members of a Board shall have medical, technical, scientific, or other qualifications relevant to the issues to be considered at the hearing, shall be subject to the conflict of interest rules applicable to special government employees, and shall be free from bias or prejudice with respect to the issues involved. A member of a Board may be a full-time or part-time Federal government employee or may serve on a Food and Drug Administration advisory committee but except with the agreement of all parties

shall not currently be a full-time or part-time employee of the Food and Drug Administration or otherwise act as a special government employee of the Food and Drug Administration.

(b) The director of the bureau of the Food and Drug Administration responsible for the matter which is the subject of a public hearing before a Board, the other parties to the proceeding, and any person whose petition is the subject of the hearing, shall, within 30 days after publication of the notice of hearing in the FEDERAL REGISTER, each submit to the Hearing Clerk the names and full curricula vitae of five nominees for members of the Board. Nominations shall state that the nominee is aware of the nomination, is interested in becoming a member of the Board, and appears to have no conflict of interest.

(1) All such persons may in consultation with each other agree upon a single list of five qualified nominees.

(2) Within 10 days after receipt of such names of nominees, such persons may submit comments to the Hearing Clerk on whether the nominees of the other persons meet the criteria established in paragraph (a) of this section.

(3) In addition to being filed with the Hearing Clerk, the lists of nominees and comments thereon shall be submitted to the persons who have the right to submit a list of nominees pursuant to this paragraph but not to all participants. They shall be held in confidence by the Hearing Clerk as part of the administrative record of the proceeding and shall not be available for public disclosure, and shall similarly be held in confidence by all persons who submit or receive them. This portion of the administrative record shall remain confidential but shall be available for judicial review in the event that it becomes relevant to any issue before a court.

(c) After reviewing the lists of nominees and any comments thereon, the Commissioner shall choose three qualified persons as members of a Board. One member shall be chosen from the lists of nominees submitted by the director of the bureau and any person who is not a party and whose petition is the subject of the hearing. The second member shall be chosen from the lists of nominees submitted by the other parties. The Commissioner shall then choose the third member from any source, who shall be the Chairman of the Board.

(1) If the Commissioner is unable to find a qualified person with no conflict of interest from among a list of nominees submitted, or if additional information is needed, the Commissioner shall request from the party involved the submission of such additional nominees or information as is necessary to choose a qualified person nominated by that person.

(2) If a person fails to submit a list of nominees as required by paragraph (b) of this section, the Commissioner may choose a qualified person in lieu of a person nominated by that person with-

out further consultation with that person.

(3) The Commissioner shall announce the members of a Board by filing a memorandum in the record of the proceeding and sending a copy to each participant who has filed a notice of appearance.

(d) In lieu of the procedure for selection of the members of a Board specified in paragraphs (b) and (c) of this section, the director of the bureau, the other party or parties to the proceeding, and any person whose petition is the subject of the hearing, may agree that any standing advisory committee listed in § 2.330 shall constitute the Board for a particular proceeding, or may mutually agree on any other procedure for selection of the members of the Board, or the number of members of the Board, subject to the approval of the Commissioner.

(e) The members of a Board shall serve as consultants to the Commissioner and shall be special government employees or government employees. A Board shall function as an administrative law tribunal with the consent of the parties involved in the proceeding and is not an advisory committee subject to the requirements of the Federal Advisory Committee Act or Subpart D of this Part.

(f) The chairman of a Board shall have the authority of a presiding officer set out in § 2.142.

##### § 2.203 Separation of functions; ex parte communications; administrative support.

(a) All proceedings of a Board shall be subject to the provisions of § 2.13, relating to separation of functions and ex parte communications. Representatives of the participants in any proceeding before a Board shall have no contact with the members of the Board, except as participants in such proceeding, and shall not participate in the deliberations of the Board.

(b) Administrative support for a Board shall be provided only by the office of the Commissioner and the Chief Counsel for the Food and Drug Administration.

##### § 2.204 Submissions to a Public Board of Inquiry.

(a) All submissions relating to a hearing before a Board shall be filed with the Hearing Clerk pursuant to § 2.5.

(b) A copy of any such submission shall be sent by the person making the submission to each participant in the proceeding, except as provided in §§ 2.202 (b) (3) and 2.207(c) and except that submissions of documentary data and information may but are not required to be sent to each participant. Any transmittal letter, summary, statement of position, certification pursuant to paragraph (d) of this section, or similar document accompanying a submission of documentary data and information shall be sent to each participant pursuant to this paragraph.

(c) Any such submission shall be sent as required by paragraph (b) of this section by mailing it to the address shown in the notice of appearance or by personal delivery.

(d) All submissions pursuant to this section shall be accompanied by a signed certification stating the extent to which the submission has been served on each participant, or is exempt from such service, pursuant to paragraph (b) of this section.

(e) No written submission or other portion of the administrative record shall be held in confidence, except as provided in §§ 2.202(b) (3) and 2.207(c).

(f) Any participant who believes that compliance with the requirements of this section constitutes an unreasonable financial burden shall submit to the Commissioner a petition to participate in forma pauperis.

(1) Such petition shall be pursuant to § 2.7, except that the heading shall be "REQUEST TO PARTICIPATE IN FORMA PAUPERIS, DOCKET NO. \_\_\_\_\_" Pursuant to the guidelines established in § 4.43 (b) and (c) of this chapter, such petition shall demonstrate that either (i) the person is indigent and his participation has a strong public interest justification, or (ii) such participation is in the public interest because it can be considered primarily as benefiting the general public.

(2) If the Commissioner grants such petition, the participant may file only one copy of each submission with the Hearing Clerk, and it shall be the responsibility of the Hearing Clerk to make sufficient additional copies for the administrative record and to serve a copy upon each other participant.

##### § 2.205 Disclosure of data and information by the participants.

(a) Before the notice of hearing is published pursuant to § 2.201, the director of the bureau responsible for the matters involved in the hearing shall submit to the Hearing Clerk:

(1) The relevant portions of the existing administrative record of the proceeding. Those portions of the administrative record of the proceeding which are not relevant to the issues to be considered at the public hearing shall not be submitted to the Hearing Clerk or placed on public display and shall not be part of the administrative record of the proceeding.

(2) A list of all persons whose views will be presented orally or in writing at the hearing.

(3) All documents in his files containing factual data and information, whether favorable or unfavorable to his position, which relate to the issues involved in the hearing.

(4) All other documentary data and information on which he relies.

(5) A signed statement that, to the best of his knowledge and belief, the submission complies with the requirements of this section.

(b) Within 60 days after the notice of hearing is published pursuant to § 2.201, each participant shall submit to the Hearing Clerk all data and information specified in paragraph (a) (2) through (5) of this section, and any objections with respect to the completeness of the administrative record filed pursuant to paragraph (a) (1) of this section.

(c) The submissions required by paragraphs (a) and (b) of this section may be supplemented later in the proceeding, with the approval of the Board, upon showing that the views of the persons or the material contained in the supplement were not known or reasonably available when the initial submission was made or that the relevance of the views of the persons or the material contained in the supplement could not reasonably have been foreseen.

(d) The failure to comply with the provisions of this section in the case of a participant shall constitute a waiver of the right to participate further in the hearing and in the case of a party shall constitute a waiver of the right to a hearing.

(e) The Chairman of the Board shall rule on questions relating to this section. Any participant dissatisfied with any such ruling may request the Commissioner for an interlocutory review of that ruling.

##### § 2.206 Proceedings of a Public Board of Inquiry.

(a) The purpose of a Board is to review medical, scientific, and technical issues fairly and expeditiously in order to reach a reasonable decision that is sound from a medical, scientific, and technical standpoint. The proceedings of a Board shall be conducted in the manner of a scientific inquiry rather than as a legal trial.

(b) Prior to the first hearing of a Board, all participants in the hearing shall have submitted to the Hearing Clerk the data and information required to be disclosed pursuant to § 2.205, subject to the sanctions specified in § 2.205(d).

(c) The Chairman of a Board shall call the first hearing of the Board at a reasonable time subsequent to receipt of the data and information specified in paragraph (b) of this section. Notice of the time and location of such hearing shall be published in the FEDERAL REGISTER at least 15 days in advance and the hearing shall be open to the public. The director of the bureau, the other parties, and all other participants shall have an opportunity at the first hearing to make an oral presentation of the data, information, and views which in their opinion are pertinent to resolution of the issues being considered by a Board. The Chairman shall determine the order in which these presentations shall be made. Each initial presentation shall be made without interruption from other participants, but members of the Board may ask any questions that they wish. At the conclusion of each presentation, each of the other participants may briefly state questions and criticism of the presentation and may request that the Board conduct further questioning with respect to specified matters. The Chairman and members of the Board may then ask further questions, and the Chairman may permit any other participant in the proceeding to ask questions if he determines this will facilitate resolution of the issues.



(d) The hearing shall be informal in nature, and the rules of evidence shall not apply. No motions or objections relating to the admissibility of data, information, and views shall be made or considered, but other participants may comment upon or rebut all such data, information, and views. No participant may interrupt the presentation of another participant for any reason.

(e) Within 30 days after the first hearing of a Board is concluded, each participant in the proceeding may submit in writing such rebuttal data, information, and views as he believes relevant to the issues, in accordance with the requirements of § 2.206. The Chairman shall thereafter schedule a second hearing of a Board if requested and justified by any participant. A second hearing, and any subsequent hearing, shall be called only if the Chairman concludes that it is necessary for the full and fair presentation of information that cannot otherwise adequately be considered and for the proper resolution of the issues involved. Notice of the time and location of any such subsequent hearings shall be published in the FEDERAL REGISTER at least 15 days in advance of the date of such hearing and the hearings shall be open to the public.

(f) A Board may consult with any person who it concludes may have data, information, or views relevant to resolution of the issues involved.

(1) Such consultation shall occur only at an announced hearing of a Board, and all participants shall have the right to be present and to suggest or, with the permission of the Chairman, conduct questioning of such consultants and to present rebuttal data, information, and views, as provided in paragraphs (c) and (d) of this section, except that written statements may be submitted to the Board with the consent of all participants.

(2) Any participant may submit to the Board a request that it consult with specific persons who may have data, information, or views relevant to the resolution of the issues. Such requests shall state the reasons why the person named should be consulted and why the views of that person cannot reasonably be furnished to the Board by any means other than having the Food and Drug Administration arrange for his appearance at a hearing of the Board. The Board may, in its discretion, grant or deny such a request.

(g) All hearings of a Board at which presentations of data, information, and views are made shall be transcribed. All such hearings shall be open to the public, except that the presentation of data and information which are prohibited from public disclosure pursuant to the provisions of § 2.5(j) (3) shall be closed to all persons except the persons making and participating in the presentation and Federal Government Executive Branch employees and special government employees. At least a majority of the members of the Board shall be present at every hearing. The executive sessions of a Board, during which a Board deliber-

ates on the issues, shall be closed and shall not be transcribed. The report of the Board shall be voted upon by all members of the Board.

(h) All legal issues shall be referred to the Chief Counsel for the Food and Drug Administration for resolution.

(i) After the conclusion of all public hearings a Board shall announce that the record is closed with respect to the gathering of data and information. The Board shall provide an opportunity for all participants to submit a written statement of their positions, with proposed findings and conclusions, and may, in its discretion, provide an opportunity for participants to summarize their positions orally to assist the Board in its deliberations on the issues involved.

(j) At the conclusion of its deliberations, a Board shall prepare its decision on the issues, which shall include specific findings and references supporting and explaining its conclusions, and a detailed statement of the reasoning on which the conclusions are based. Any member of the Board may file a separate report with additional or dissenting views.

#### § 2.207 Administrative record of a Public Board of Inquiry.

(a) The administrative record of a hearing before a Board shall consist of the following:

(1) All relevant FEDERAL REGISTER notices.

(2) All written submissions pursuant to § 2.204.

(3) The transcripts of all hearings of the Board.

(4) The recommended or initial decision of the Board.

(b) The record of the administrative proceeding shall be closed:

(1) With respect to the gathering of information and data, at the time specified in § 2.206(i).

(2) With respect to pleadings, at the time specified in § 2.206(i) for the filing of a written statement of position with proposed findings and conclusions.

(c) The Board may, in its discretion, reopen the record to receive further evidence at any time prior to the filing of a recommended or initial decision.

#### § 2.208 Examination of administrative record.

(a) The availability for public examination and copying of each document which is a part of the administrative record of the hearing shall be governed by the provisions of § 2.5(j). Each document which is available for public examination or copying shall be placed on public display in the office of the Hearing Clerk promptly upon receipt in that office.

(b) Lists of nominees and comments thereon submitted pursuant to § 2.202 (b) (3) shall be subject to the provisions of § 2.5(j) (3).

#### § 2.209 Record for administrative decision.

The administrative record of the hearing specified in § 2.207(a) shall constitute the exclusive record for decision.

#### Subpart D—Public Hearing Before a Public Advisory Committee

##### GENERAL

##### § 2.300 Scope of subpart.

(a) Subpart D governs the practices and procedures applicable whenever:

(1) The Commissioner concludes, in his discretion, that it is in the public interest for a standing or ad hoc policy or technical public advisory committee, hereinafter an "advisory committee" or "committee," to hold a public hearing and to review and make recommendations with respect to any matter or class of matters of importance pending before the Food and Drug Administration, and for interested persons to present data, information, and views at an oral public hearing before the advisory committee.

(2) Pursuant to specific provisions in other sections of this chapter, a matter pending before the Food and Drug Administration is subject to a public hearing before an advisory committee. Such specific provisions are:

(i) Section 2.350 relating to review of a performance standard for an electronic product by the Technical Electronic Product Radiation Safety Standards Committee.

(ii) Section 2.360 relating to review of the safety of color additives.

(iii) Section 2.370 relating to review of the safety and effectiveness of human prescription drugs.

(iv) Section 330.10 of this chapter relating to review of the safety and effectiveness of over-the-counter drugs.

(v) Section 601.25 of this chapter relating to review of the safety and effectiveness of biological drugs.

(3) A person who has a right to an opportunity for a formal evidentiary public hearing under Subpart B of this Part waives that opportunity and in lieu thereof requests pursuant to § 2.117 a public hearing before a public advisory committee pursuant to this subpart, and the Commissioner, in his discretion, accepts this request.

(b) In determining whether a group is a "public advisory committee" as defined in § 2.3(a) (14) and thus subject to the requirements of this subpart and of the Federal Advisory Committee Act, the following guidelines shall be used:

(1) An advisory committee may be a standing advisory committee or an ad hoc advisory committee. All standing advisory committees shall be listed in § 2.340.

(2) An advisory committee may be a policy advisory committee or a technical advisory committee. A policy advisory committee advises on broad and general matters. A technical advisory committee advises on specific regulatory issues.

(3) An advisory committee includes any subgroup thereof when it is working on behalf of the committee. An advisory committee may have members and consultants.

(4) A committee composed entirely of full-time Federal government employees is not an advisory committee.

(5) An advisory committee shall ordinarily have a fixed membership, a de-

finied purpose of providing advice to the agency on a particular subject, regular or periodic meetings, and an organizational structure, e.g., a chairman and staff, and shall serve as a source of independent expertise and advice rather than as a representative of or advocate for any particular interest.

(i) A group of persons convened on an ad hoc basis to discuss a matter of current interest to the agency, but which has no continuing function or organization, does not involve substantial special preparation, and does not as a group issue a report to or advise the agency, is not an advisory committee.

(ii) A group of two or more agency consultants meeting with the agency on an ad hoc basis is not an advisory committee.

(iii) A group of experts who are employed by a private company or a trade association which has been requested by the agency to provide its views on a regulatory matter pending before the agency is not an advisory committee.

(iv) A consulting firm hired by the agency to provide advice regarding a matter is not an advisory committee.

(6) An advisory committee which is utilized by the agency is subject to the requirements of this subpart even though it was not established by the agency. In general, a committee is "utilized" by the agency when the agency requests advice or recommendations from the committee on a specific matter in order to obtain an independent review and consideration of the matter, and not when the agency is merely seeking the comments of all interested persons or of persons who have a specific interest in the matter involved.

(i) A committee formed by an independent scientific or technical organization is utilized by the agency if the agency requests the advice of that committee rather than of the parent organization, or if the circumstances show that the advice given is that of the committee and not of the parent organization. A committee formed by an independent scientific or technical organization is not utilized by the agency if the agency requests advice of the organization rather than of a committee and if the recommendations of any committee formed in response to the agency's request for advice are subject to substantial independent policy and factual review by the governing body of the parent organization.

(ii) A committee is not utilized by the agency if it provides only data and information, as contrasted with advice or opinions or recommendations.

(iii) The Food and Drug Administration is charged with seeking out the views of all segments of the public on enforcement of the laws administered by the Commissioner. The fact that a group of individuals or a committee meets regularly with the agency, e.g., a monthly meeting with consumer representatives, does not make that group or committee an advisory committee. Thus, the provisions of this subpart are not applicable to routine meetings, discussions, and other dealings, including exchanges

of views, between the agency and any committee representing or advocating the particular interests of consumers, industry, professional organizations, or others.

(7) The inclusion of one or two agency consultants who are special government employees on an internal agency committee does not make that committee an advisory committee.

(8) A Public Board of Inquiry established under Subpart C of this Part or other similar group convened by agreement between the parties to a regulatory proceeding pending before the Food and Drug Administration, to review and prepare an initial decision on the issue in lieu of a formal evidentiary public hearing, is acting as an administrative law tribunal and is not an advisory committee.

(9) An open public conference or meeting conducted pursuant to § 2.15(b) is not an advisory committee meeting.

(c) The provisions of this subpart apply only when a committee convenes to conduct committee business. Site visits, social gatherings, informal discussions by telephone or during meals or while traveling or at other professional functions, or other similar activities do not constitute a meeting.

(d) An advisory committee which is utilized but not established by the Food and Drug Administration shall be subject to the provisions of this subpart only to the extent of such utilization, and not with respect to any other activities of such committee.

(e) Any conference or meeting between an employee of the Food and Drug Administration and a committee or group which is not an advisory committee shall be subject to the provisions of § 2.15 or other provisions specifically applicable to such committee or group, e.g., Subpart C of this Part for a Public Board of Inquiry.

(f) The provisions of this subpart shall apply to all Food and Drug Administration advisory committees, except to the extent that specific statutory requirements provide otherwise for a particular committee, e.g., the Technical Electronic Product Radiation Safety Standards Committee (TEPRSSC) and the Board of Tea Experts.

#### § 2.301 Establishment and renewal of public advisory committees.

(a) A public advisory committee may be established or renewed whenever it is necessary or appropriate for such an advisory committee to hold a public hearing and to review and make recommendations on any matter pending before the Food and Drug Administration. Before an advisory committee is established or renewed it shall first be approved by the Department pursuant to 45 CFR Part 11 and the Office of Management and Budget pursuant to duly promulgated procedures.

(b) Upon the establishment or renewal of an advisory committee, the Commissioner shall issue in the FEDERAL REGISTER a notice certifying that the establishment or renewal of the advisory

committee is in the public interest and stating the structure, function, and purposes of the advisory committee and, if it is a standing advisory committee, shall amend § 2.340 to add it to the list of standing advisory committees. The notice shall be published in the FEDERAL REGISTER at least 15 days prior to the filing of the advisory committee charter pursuant to paragraph (c) of this section.

(c) No advisory committee shall meet or take any action until its charter is prepared and filed as required by section 9(c) of the Federal Advisory Committee Act. This requirement shall be met by an advisory committee utilized by the Food and Drug Administration, even though it is not established by the agency, prior to such utilization.

(d) An advisory committee not required by law will be established or utilized only if it is in the public interest and only if its functions could not reasonably be performed by other existing advisory committees or by the Food and Drug Administration directly.

(e) An advisory committee shall:

(1) Have a clearly defined purpose.

(2) Have a membership that is balanced fairly in terms of the points of view represented in light of the functions to be performed. Although proportional representation is not required, there shall be no discrimination on the basis of race, color, national origin, religion, age, or sex in the selection of advisory committee members.

(3) Be constituted and utilized procedures designed to assure that its advice and recommendations are not inappropriately influenced by any special interest or by the Food and Drug Administration, and are the result of the advisory committee's independent judgment.

(4) Have an adequate staff. The Commissioner shall designate an executive secretary and alternate for every advisory committee, who shall be employees of the Food and Drug Administration. The executive secretary shall be responsible for all staff support for the advisory committee unless other agency employees are specifically designated for this function with respect to particular advisory committees.

(5) Whenever feasible, include representatives of the public interest.

#### § 2.302 Termination of public advisory committees.

(a) A standing advisory committee shall be terminated when it is no longer needed and in any event shall terminate not later than 2 years following its date of establishment unless it is renewed for an additional 2-year period. An advisory committee may be renewed for as many 2-year periods as the public interest requires. The requirements for establishment of an advisory committee pursuant to § 2.301 shall also apply to renewal of an advisory committee.

(b) Upon termination of any advisory committee the Commissioner shall issue in the FEDERAL REGISTER a notice announcing the termination and the reasons therefor and, if it is a standing



advisory committee, amending § 2.340 to delete it from the list of standing advisory committees.

(c) The Technical Electronic Product Radiation Safety Standards Committee is a permanent statutory advisory committee established by section 358(f)(1) (A) of the Public Health Service Act (42 U.S.C. 263f(f)(1)(A)), as added by the Radiation Control for Health and Safety Act of 1968, and is not subject to the termination and renewal provisions of paragraph (a) of this section, except that a new charter shall be prepared and filed at the end of each 2-year period as provided in § 2.301(c).

(d) The Board of Tea Experts is a permanent statutory advisory committee established by the Tea Importation Act (21 U.S.C. 42), and is not subject to the termination and renewal provisions of paragraph (a) of this section, except that a new charter shall be prepared and filed at the end of each 2-year period as provided in § 2.301(c).

(e) Color additive advisory committees are required to be established under the circumstances specified in section 706(b)(5) (C) and (D) of the act. A color additive advisory committee is subject to the termination and renewal requirements of the Federal Advisory Committee Act and of this subpart.

#### § 2.303 Purpose of proceedings before a public advisory committee.

(a) An advisory committee shall be utilized to conduct public hearings on matters of importance that come before the Food and Drug Administration, to review the issues involved, and to provide advice and recommendations to the Commissioner on such matters.

(b) The Commissioner shall have sole discretion with respect to action to be taken and policy to be expressed on any matter considered by an advisory committee.

#### § 2.304 Portions of public advisory committee meetings.

An advisory committee meeting shall have the following separable portions:

(a) *The open public hearing.* Every advisory committee meeting shall include an open portion which shall constitute a public hearing during which any interested person may present data, information, or views, orally or in writing, relevant to the advisory committee's agenda or other work. Such hearing shall be conducted in accordance with § 2.312.

(b) *The open committee discussion.* An advisory committee shall discuss any matter pending before it in an open portion of its meeting unless the meeting has been closed with respect to that matter pursuant to § 2.318. To the maximum extent feasible, consistent with the policy expressed in § 2.318, an advisory committee shall conduct its discussion of pending matters in an open portion. No public participation is permissible during this portion of the meeting except with the consent of the chairman of the advisory committee.

(c) *The closed presentation of data.* Data and information which are prohibited from public disclosure pursuant to the provisions of Part 4 of this chapter and the regulations referenced therein shall be presented to the advisory committee in a closed portion of its meeting. If such data and information are presented in the form of a summary which is not prohibited from public disclosure, such presentation shall not be made in a closed portion of its meeting.

(d) *The closed committee deliberations.* Deliberations with respect to matters pending before an advisory committee may be made in a closed portion of its meeting upon an appropriate determination by the Commissioner pursuant to § 2.318.

#### § 2.305 Notice of public hearing before a public advisory committee.

(a) Before the first day of each month, and at least 15 days before any meeting so announced, the Commissioner shall publish a notice in the FEDERAL REGISTER containing information on all advisory committee meetings to be held during the subsequent month. Any advisory committee meetings for that month called subsequent to the publication of the general monthly notice shall be announced in the FEDERAL REGISTER on an individual basis at least 15 days in advance. The Commissioner may authorize an exception to the notice requirements of this section in an emergency or for other reasons requiring an immediate meeting of an advisory committee, in which case public notice shall be given at the earliest time and in the most accessible form feasible including, whenever possible, publication in the FEDERAL REGISTER.

(b) The FEDERAL REGISTER notice shall include:

(1) The name of the advisory committee.

(2) The date, time, and place of the meeting.

(3) The general function of the advisory committee.

(4) A list of all agenda items, showing whether each will be discussed in an open or closed portion of the meeting.

(5) If any portion of the meeting is closed, a statement of the time of the open and closed portions.

(6) The nature of the subjects to be discussed during, and the reasons for closing, any closed portion of the meeting.

(7) The time specifically set aside for oral statements by interested persons and for other public participation.

(8) The name, address, and telephone number of the advisory committee executive secretary and any other agency employee designated as responsible for the administrative support for the advisory committee.

(9) A statement that written submissions may be made to the advisory committee at any time. Such submissions shall be made pursuant to § 2.311(c).

(10) Where a notice is published in the FEDERAL REGISTER less than 15 days

before a meeting, an explanation for the lateness of the notice.

(c) If a public hearing before a public advisory committee is being used in lieu of a formal evidentiary public hearing as provided in § 2.300(a)(3), an initial notice of hearing shall be published separately in the FEDERAL REGISTER containing all the information described in § 2.117(e). Such a separate notice may also be published in the FEDERAL REGISTER with respect to any other public hearing before a public advisory committee when the Commissioner concludes, in his discretion, that it would be informative to the public.

(d) A list of public advisory committee meetings shall be distributed to the press by the Assistant Commissioner for Public Affairs.

(e) All public advisory committee meetings shall be included on the public calendar described in § 2.21(a).

#### § 2.306 Chairman of a public advisory committee.

(a) The advisory committee chairman shall have the authority to conduct hearings and meetings, including the authority to adjourn any hearing or meeting whenever he determines adjournment to be in the public interest, to discontinue discussion of a particular matter, to conclude the open portion of a meeting, or to take any other action in furtherance of a fair and expeditious hearing or meeting.

(b) If the chairman is not a full-time employee of the Food and Drug Administration, the executive secretary of the advisory committee or other designated agency employee, or his alternate, shall be the designated Federal employee who is assigned to the advisory committee. The designated Federal employee is also authorized to adjourn any hearing or meeting whenever he determines adjournment to be in the public interest.

#### § 2.307 Meetings of a public advisory committee.

(a) No advisory committee may conduct a meeting except at the call or with the advance approval of, and with an agenda approved by, the designated Federal employee or his alternate. No such meeting shall be held in the absence of such designated Federal employee.

(1) If any matter is added to the agenda after its publication in the FEDERAL REGISTER pursuant to § 2.303(b)(4), an attempt shall be made to so inform any person known to be interested in such matter, and the addition of such matter shall be announced at the beginning of the open portion of the meeting.

(2) The advisory committee meeting shall be conducted in accordance with the approved final agenda insofar as is practical.

(b) Advisory committee meetings shall be held at places that are reasonably accessible to members of the public. All advisory committee meetings shall be held in Washington, DC, or Rockville, MD, or the immediate vicinity, unless the Commissioner receives a written request from the advisory committee for,

and approves, a different location. A different location may be approved when one or more of the following applies:

(1) The total cost of the meeting to the government will be reduced.

(2) A substantial number of the advisory committee members will be at the location at no expense to the Food and Drug Administration for other reasons, e.g., for a meeting of a professional association.

(3) It is a central location which is more readily accessible to advisory committee members.

(4) There is a need for increased participation available at that location.

(5) The advisory committee wishes to review work or facilities in a specific location.

(c) Advisory committee members may, with the approval of the Food and Drug Administration, conduct onsite visits relevant to the work of the advisory committee.

(d) A quorum for an advisory committee shall be a majority of the current voting members of the advisory committee, except as provided in § 2.352(c) for TEPRSSC. Any matter before the advisory committee shall be decided by a majority vote of the voting members present at the time, except that the designated Federal official may require that any final report be voted upon by all current voting members of the advisory committee. Any current voting member of the advisory committee may file a separate report with additional or minority views.

(e) Subject to availability of space, any interested person may attend any portion of any advisory committee meeting which is not closed.

(f) Whenever feasible, meetings shall be held in government facilities or other facilities involving the least expense to the public. The size of the meeting room shall be reasonable, considering such factors as the size of the advisory committee, the number of members of the public who could be expected to attend a particular meeting, the number of persons who attended or sought to attend similar meetings in the past, and the resources and facilities available.

(g) Any portion of a meeting shall be closed by the advisory committee chairman when matters which have been determined by the Commissioner to be closed in accordance with § 2.318 are to be discussed. Where a portion of the meeting is closed, the closed portion shall be held after the conclusion of the open portion whenever practicable.

(h) Any advisory committee member may take notes during advisory committee meetings and report and discuss advisory committee deliberations after a meeting is completed and before official minutes or a report are available, within such rules and regulations as are adopted by the Food and Drug Administration and by the advisory committee with the concurrence of the Food and Drug Administration, including all of the following:

(1) There shall be no attribution of individual views expressed in a closed session or revealing of numerical votes.

(2) There shall be no reporting or discussion with respect to any particular matter where the advisory committee or the Food and Drug Administration specifically so directs, e.g., where deliberations are incomplete or involve a sensitive regulatory decision which requires preparation for implementation.

(3) There shall be no reporting or discussion with respect to data or information prohibited from public disclosure pursuant to § 2.316.

(4) Any notes or minutes kept or report prepared by any advisory committee member shall have no status or effect whatever unless adopted as or incorporated into the official minutes or report by the advisory committee. It shall be the responsibility of each advisory committee member to make certain that the official minutes and reports are complete and accurate and fully reflect what happened at any meeting he attended.

#### § 2.308 Consultation by a public advisory committee with other persons.

(a) An advisory committee may consult with any person who may have data, information, or views relevant to any matter pending before the advisory committee.

(b) Any interested person may submit to the advisory committee a written request that it consult with specific persons who may have data, information, or views relevant to any matter pending before the advisory committee. Such request shall state why the specified person should be consulted and why the views of that person cannot reasonably be furnished to the advisory committee by any other means. The advisory committee may, in its discretion, grant or deny such a request.

#### § 2.309 Additional rules for a particular public advisory committee.

(a) In addition to the rules established for all Food and Drug Administration advisory committees in this subpart, any advisory committee may, with the concurrence of the designated Federal official, adopt additional rules which are not inconsistent with this subpart or with applicable legal requirements.

(b) Such additional rules shall be included in the minutes of the meeting when adopted and in the materials compiled pursuant to § 2.310 and shall be available for public disclosure pursuant to § 2.317(c).

#### § 2.310 Compilation of materials for members of a public advisory committee.

The Commissioner shall prepare and provide to all advisory committee members a compilation of materials bearing upon an advisory committee member's duties and responsibilities, including:

(a) All applicable conflict of interest laws and regulations and a summary of their principal provisions.

(b) All applicable laws and regulations relating to trade secrets and con-

fidential commercial or financial information that may not be disclosed publicly and a summary of their principal provisions.

(c) All applicable laws, regulations, and guidelines relating to the subject matter covered by the advisory committee and a summary of their principal provisions.

(d) All applicable laws, regulations, advisory committee charters, FEDERAL REGISTER notices, curricula vitae, rules adopted by the advisory committee, and other material relating to the formation, composition, and operation of the advisory committee, and a summary of their principal provisions.

(e) Instructions on whom to contact when any questions arise.

(f) Such other material relating to the Food and Drug Administration and the subject matter covered by the committee as may facilitate the work of the advisory committee.

#### § 2.311 Written submissions to a public advisory committee.

(a) Ten copies of all written submissions for an advisory committee shall be sent to the executive secretary of the advisory committee, unless an applicable FEDERAL REGISTER notice or other regulations in this chapter specify otherwise. All such submissions shall be subject to the provisions of § 2.5, except that no copies need be sent to the Hearing Clerk.

(b) At the request of an advisory committee, or on his own initiative, the Commissioner may at any time issue in the FEDERAL REGISTER a notice requesting the submission to the advisory committee of written data, information, and views pertinent to any matter being reviewed by an advisory committee. Such notice may specify the format in which the submission shall be made, the number of copies to be submitted, and the time within which submission shall be made.

(c) Any interested person may submit to an advisory committee written data, information, or views on any matter being reviewed by that advisory committee. Voluminous data shall be accompanied by a summary.

(1) Any such submission shall be distributed to each advisory committee member, either by mail or at the next advisory committee meeting, and shall be considered by the advisory committee in its review of the matter.

(2) An advisory committee may establish, and shall give public notice of, a cut-off date after which submissions relating to any matter shall no longer be received or considered.

(d) The Commissioner shall provide to an advisory committee all data and information he concludes to be relevant to any matter being reviewed by the advisory committee. Any member of the advisory committee shall, upon request, also be provided any additional material available to the Food and Drug Administration which he believes appropriate for an independent judgment on the matter, e.g., raw data underlying any summary or report, or a briefing on the legal aspects of the matter.



### § 2.312 Conduct of a public hearing before a public advisory committee.

(a) For each advisory committee meeting, the open portion for public participation which constitutes a public hearing pursuant to § 2.30(a) shall be at least 1 hour long unless the public participation does not last that long, and may last for whatever longer time the advisory committee chairman determines will facilitate the work of the advisory committee. The **FEDERAL REGISTER** notice published pursuant to § 2.303 shall designate the time specifically reserved for such public hearing, which shall ordinarily be the first portion of the meeting. Further public participation in any open portion of the meeting pursuant to § 2.304(b) shall be solely at the discretion of the advisory committee chairman.

(b) Any interested person who wishes to be assured of the right to make an oral presentation at a particular advisory committee hearing shall so inform the executive secretary of the advisory committee or other designated agency employee, orally or in writing, prior to the advisory committee meeting.

(1) Such person shall state the general nature of the presentation and the approximate time requested. Whenever possible, all written data and information to be discussed by that person at the advisory committee hearing shall be furnished in advance to the executive secretary or other designated agency employee. Such written material shall be mailed to the advisory committee members in advance of the committee meeting if time permits, and otherwise will be distributed to the advisory committee members when they arrive for the meeting. Such mailing or distribution shall be undertaken only by the agency unless the agency specifically permits the person making the presentation to mail or distribute such material.

(2) Prior to the advisory committee hearing, the executive secretary or other designated agency employee shall determine the amount of time allocated to each person for his oral presentation and the time that oral presentation is scheduled to begin. Each such person shall be so informed in writing, or if the time prior to the hearing is short, by telephone. Joint presentations may be required by persons with common interests.

(c) The chairman of the advisory committee shall preside at the hearing pursuant to § 2.306 and shall be accompanied by other advisory committee members who shall serve as a panel in conducting the hearing.

(d) Each person may use his allotted time in whatever way he wishes, consistent with a reasonable and orderly hearing. A person may be accompanied by any number of additional persons, and may present any written data, information, or views for inclusion in the record of the hearing, subject to the requirements of § 2.311(c).

(e) If a person is not present at the time specified for his presentation, the persons following will appear in order.

An attempt will be made to hear any such person at the conclusion of the hearing. Any interested persons attending the hearing who did not request an opportunity to make an oral presentation shall be given an opportunity to make an oral presentation at the conclusion of the hearing, in the discretion of the chairman of the advisory committee, to the extent that time permits.

(f) The chairman and other members of the advisory committee may question any person during or at the conclusion of his presentation. No other person attending the hearing may question a person making a presentation. The chairman may allot additional time to any person when he concludes that it is in the public interest, but may not reduce the time allotted for any person without his consent.

(g) Public participants may question an advisory committee member only with that advisory committee member's permission and only about matters before the advisory committee.

(h) The hearing shall be informal in nature, and the rules of evidence shall not apply. No motions or objections relating to the admissibility of data, information, and views shall be made or considered, but other participants may comment upon or rebut all such data, information, and views. No participant may interrupt the presentation of another participant at any hearing for any reason.

### § 2.313 Minutes and reports of public advisory committee meetings.

(a) The executive secretary or other designated agency employee shall prepare detailed minutes of all advisory committee meetings, except that less detailed minutes may be prepared for open portions of meetings which are transcribed or recorded by the agency. Their accuracy shall be approved by the advisory committee and certified by the advisory committee chairman. Such approval and certification may be accomplished by mail and by telephone.

(b) The minutes shall include:

- (1) The time and place of the meeting.

- (2) The advisory committee members, committee staff, and agency employees present, and the names and affiliations or interests of public participants in the meeting.

- (3) A copy of or reference to all written information made available for consideration by the advisory committee at such proceedings.

- (4) A complete and accurate description of matters discussed and conclusions reached. Such description shall be kept separately for the following portions of the meeting to facilitate their public disclosure: The open portions specified in § 2.304 (a) and (b), any closed portion during which a presentation is made pursuant to § 2.304(c), and any closed deliberative portion pursuant to § 2.304(d).

The minutes of a closed deliberative portion of a meeting shall not refer to advisory committee members by name, except upon their request, or to data or information described in § 2.316(b). Any

such inadvertent references which do occur shall be deleted prior to public disclosure.

(5) A copy of or reference to all reports received, issued, or approved by the advisory committee.

(6) The extent to which the meeting was open and closed to the public.

(7) The extent of public participation, including a list of members of the public who presented oral or written statements.

(c) For all advisory committee meetings any portion of which is closed, either (1) the minutes of the closed portion shall be available for public disclosure pursuant to § 2.316(a) (6) (i), or (2) if pursuant to § 2.316(a) (6) (ii) such minutes are not promptly available, the executive secretary or other designated agency employee shall prepare a brief summary of the matters considered in such manner as is informative to the public, consistent with the policy of 5 U.S.C. 552(b).

(d) Where a significant portion of the meetings of an advisory committee is closed, the advisory committee shall issue a report at least annually setting forth a summary of its activities and such related matters as would be informative to the public consistent with the policy of 5 U.S.C. 552(b). Such report shall be a compilation of or be prepared from the individual reports on closed portions of meetings prepared pursuant to paragraph (c) of this section.

(e) The executive secretary of each advisory committee or other designated agency employee shall, with the approval of the advisory committee, prepare an annual report describing its membership, functions, recommendations, and other actions.

### § 2.314 Transcripts of public advisory committee meetings.

(a) A transcript or recording is not required for any portion of an advisory committee meeting.

(b) Each advisory committee shall decide whether any portion or all of its meetings shall be transcribed or recorded and, if so, by what means. Any such transcription or recording shall be arranged by the agency.

(c) If a transcript or recording of an open portion of an advisory committee meeting is made by the Food and Drug Administration, or is made by any interested person and is submitted to the Food and Drug Administration, it shall be included in the record of the advisory committee proceedings.

(d) If a transcript or recording of any closed portion of an advisory committee meeting is made by the Food and Drug Administration, it shall not be included in the administrative record of the advisory committee proceedings. Any such transcript or recording shall be retained as confidential by the Food and Drug Administration and shall not be discarded or erased. The chairman of the advisory committee may, in his discretion, permit discussion without transcription or recording during any closed portion of an advisory committee meeting that is otherwise being transcribed or recorded.

(e) Any transcript or recording of an advisory committee meeting or portion thereof which is publicly available pursuant to this section shall be available at actual cost of duplication, which shall be, where applicable, the fees established in § 4.42 of this chapter. The Food and Drug Administration may furnish the requested transcript or recording for copying to a private contractor who shall charge directly for the cost of copying pursuant to § 4.51 of this chapter.

(f) Any person attending any open portion of an advisory committee meeting may, consistent with the orderly conduct of the meeting, record or otherwise take his own transcript of the meeting. No person attending any closed portion of any advisory committee meeting may record or otherwise take his own transcript of the meeting, except for an official transcript or recording arranged by the Food and Drug Administration.

### § 2.315 Administrative record of a public hearing before a public advisory committee.

(a) Advice or recommendations of an advisory committee shall be given only on matters covered in the administrative record of the advisory committee's proceedings. Except as specified otherwise in regulations in this chapter, such administrative record shall consist of all of the following:

- (1) Any transcript or recording that was made of any open portion of a meeting relating to the matter.

- (2) The minutes of all portions of all advisory committee meetings relating to the matter, after any deletions pursuant to § 2.313(b) (4).

- (3) All written submissions made to and data and information considered by the advisory committee relating to the matter.

- (4) All reports made by the advisory committee relating to the matter.

(b) The record of the administrative proceeding shall be closed at the time the advisory committee renders its advice or recommendations or at any earlier time specified by the advisory committee or in other sections in this chapter.

### § 2.316 Examination of administrative record and other advisory committee records.

(a) The administrative record and other advisory committee records shall be available for public disclosure pursuant to the provisions of Part 4 of this chapter, except as provided in paragraph (b) of this section, at the following time:

- (1) The written information made available for consideration by the advisory committee at any meeting, at the same time.

- (2) The transcript or recording of any open portion of a meeting, as soon as it is available.

- (3) The minutes of any open portion of a meeting, after they have been approved by the advisory committee and certified by the advisory committee chairman.

(4) The brief summary of any closed portion of a meeting prepared pursuant to § 2.313(c), as soon as it is available.

(5) All written data, information, or views submitted to the advisory committee at any open portion of a meeting, as soon as they are so submitted.

(6) The minutes or portions thereof of any closed executive portion of a meeting:

- (i) For any matter not directed to be maintained as confidential pursuant to § 2.307(h) (2), after they have been approved by the advisory committee and certified by the advisory committee chairman.

- (ii) For any matter directed to be maintained as confidential pursuant to § 2.307(h) (2), after the advice or report of the advisory committee relevant to those minutes or portions thereof is acted upon by the Commissioner, or upon a determination by the Commissioner that such minutes or portions thereof may be made available for public disclosure without undue interference with agency or advisory committee operations.

(7) Any formal advice or report of the advisory committee, after it has been acted upon, i.e., approved, disapproved, or rejected as inadequate, by the Commissioner, or upon a determination by the Commissioner that such formal advice or report may be made available for public disclosure without undue interference with agency and/or advisory committee operations. Such formal advice or report may be retained as confidential while it is under active advisement.

(8) Any other advisory committee records relating to the matter involved, except transcripts and recordings of closed portions of advisory committee meetings, after the advice or report of the advisory committee relevant to those records is acted upon by the Commissioner, or upon a determination by the Commissioner that such records may be made available for public disclosure without undue interference with agency or advisory committee operations.

(b) The following data and information contained in the administrative record shall not be available for public examination or copying except as provided in § 2.117(g):

- (1) Material provided to the advisory committee by the Food and Drug Administration which is exempt from public disclosure pursuant to the provisions of Part 4 of this chapter and the regulations referenced therein.

- (2) Material provided to the advisory committee by a person making a presentation described in § 2.304(c) and which is prohibited from public disclosure pursuant to the provisions of Part 4 of this chapter and the regulations referenced therein.

- (c) The Public Records and Documents Center shall maintain a file for each advisory committee containing the following principal records of that advisory committee for ready access by the public: The advisory committee charter, a list of advisory committee members

and their curricula vitae, the minutes of advisory committee meetings, and any formal advice or report of the advisory committee.

### § 2.317 Public inquiries and requests for public advisory committee records.

(a) Public inquiries on general advisory committee matters, except requests for records, shall be directed to: Committee Management Officer (HFS-20), Office of the Associate Commissioner for Science, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852.

(b) Public inquiries on matters relating to a specific advisory committee, except requests for records, shall be directed to the executive secretary of the advisory committee or other designated agency employee as listed in the **FEDERAL REGISTER** notices published pursuant to § 2.303.

(c) All requests for public advisory committee records, including minutes, shall be made to the Food and Drug Administration Public Records and Documents Center pursuant to § 4.40 and the related provisions of Part 4 of this chapter.

### § 2.318 Determination to close portions of public advisory committee meetings.

(a) No advisory committee meeting shall be entirely closed. A portion of an advisory committee meeting may be closed only pursuant to a determination made in writing by the Commissioner, stating the reasons therefor, in accordance with this section.

(b) The executive secretary of an advisory committee or other designated agency employee shall prepare the initial request for a determination to close a portion of an advisory committee meeting, specifying the matter(s) to be discussed during the closed portion and the reasons why the portion should be closed. The Commissioner, based upon this request and with the concurrence of the Chief Counsel, shall determine whether to close a portion of an advisory committee meeting. Such a determination may be made with respect to a single meeting or, where appropriate, a series of meetings. The reasons for closing a portion of a meeting shall be made in the **FEDERAL REGISTER** notice of the meeting published pursuant to § 2.305 in accordance with the following rules:

- (1) Any determination to close a portion of a meeting shall restrict such closing to the shortest possible time consistent with the policy established in this section.

- (2) Portions of meetings devoted to the review, discussion, evaluation, or ranking of grant applications, contract proposals, or performance by grantees and contractors shall be closed.

- (3) Portions of meetings during which matters are considered that are prohibited from public disclosure pursuant to the provisions of Part 4 of this chapter and the regulations reference therein shall be closed.

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(4) Portions of meetings during which matters are considered that are exempt from public disclosure pursuant to 5 U.S.C. 552(b) may be closed if the Commissioner determines that:

(i) It involves discussion of existing documents falling within 5 U.S.C. 552(b) (1) through (4) and (6) through (9) or matters that, if in writing, would fall within 5 U.S.C. 552(b) (1) through (4) and (6) through (9).

(ii) It involves discussion of existing documents falling within 5 U.S.C. 552(b) (5) and § 4.62 of this chapter (inter-agency or intragovernment memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency) or matters that, if in writing, would fall within 5 U.S.C. 552(b) (5) and § 4.62 of this chapter, and it is essential to close such portion of such meeting to protect the free exchange of internal views and to avoid undue interference with agency or advisory committee operations.

(5) Examples of portions of advisory committee meetings which ordinarily may be closed include the review, discussion, and evaluation of specific investigational or marketed drugs and devices which are intended to result in recommendations for regulatory decisions under the laws administered by the Commissioner, deliberative sessions to formulate advice and recommendations to the agency, review of confidential data and information, consideration of matters involving investigatory files compiled for law enforcement purposes, and review of matters involving personal privacy.

(6) Examples of advisory committee meetings which ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices, consideration of labeling requirements for a class of marketed drugs and devices, review of data and information on specific investigational or marketed drugs and devices which have previously been made public, and presentation of any other data or information which is not exempt from public disclosure pursuant to the provisions of Part 4 of this chapter and the regulations referenced therein.

(7) No portion of an advisory committee meeting devoted to matters other than those designated in paragraph (b) (1) through (4) of this section may be closed, and no portion of a meeting of the Technical Electronic Product Radiation Safety Standards Committee may be closed, except in accordance with § 2.354.

(8) A matter which is properly considered in an open portion of an advisory committee meeting may instead be considered in a closed portion only if it is so inextricably intertwined with matters to be discussed in a closed portion that it is not feasible to separate them or discussion of the matter in an open portion would compromise or impinge upon the matters to be discussed in the closed portion.

(c) A closed portion of an advisory committee meeting shall be attended only

by advisory committee members and Federal Government Executive Branch employees and consultants, except as provided in § 2.304(c) for presentation of data and information which are prohibited from public disclosure pursuant to the provisions of Part 4 of this chapter and the regulations referenced therein. Any person making a presentation described in § 2.304(c) may be accompanied by a reasonable number of employees, consultants, or other persons with whom he has a commercial arrangement within the meaning of § 4.81(a) of this chapter. If any person other than an advisory committee member or a Federal Government Executive Branch employee or special government employee or a person making a presentation described in § 2.304(c) attends a portion of an advisory committee meeting, that portion shall be open to attendance by any interested person.

#### § 2.319 Administrative remedies.

Any person who alleges noncompliance by the Commissioner or an advisory committee with any provision of this subpart or the Federal Advisory Committee Act may pursue the following administrative remedies:

(a) If the person objects to any action, including a failure to act, other than denial of access to an advisory committee document, he shall submit a petition in the form and pursuant to the requirements specified in § 2.7. The provisions of § 2.11 relating to exhaustion of administrative remedies shall be applicable.

(1) If the person objects to past action, the petition shall be submitted within 30 days after the action objected to. If the Commissioner determines that there was noncompliance with any provision of this subpart or of the Federal Advisory Committee Act, he shall grant any appropriate relief and shall take appropriate steps to prevent its recurrence in the future.

(2) If the person objects to proposed future action, the Commissioner shall expedite his review of the petition and shall make a reasonable effort to render a decision prior to the action which is the subject of the petition.

(3) If the person objects to action that is imminent or is occurring and which could not reasonably have been anticipated in advance, e.g., the closing of a portion of a meeting which is made known for the first time on the day of the meeting, the matter may be handled by an oral petition in lieu of a written petition.

(b) If the person objects to a denial of access to an advisory committee document, administrative review shall be pursued in accordance with the procedures established by the Department of Health, Education, and Welfare under 45 CFR 5.82.

#### § 2.320 Applicability to Congress.

The provisions of this subpart shall apply to Congress, individual members of Congress, and other employees or representatives of Congress, in the same way that they apply to any other member of

the public, except that disclosure of advisory committee records to Congress shall be governed by the provisions of § 4.87 of this chapter.

#### § 2.321 Committees working pursuant to a contract with the Food and Drug Administration.

(a) The Food and Drug Administration may enter into contracts with independent scientific or technical organizations to obtain advice and recommendations on particular matters, and such organizations may in turn undertake such work through existing or new committees. Whether a particular committee working pursuant to such a contract is a public advisory committee and thus subject to all of the provisions of the Federal Advisory Committee Act and this subpart will depend upon application of the criteria and principles established in § 2.300(b).

(b) The following minimum standards shall apply to any committee of an independent scientific or technical organization which is working pursuant to a contract initially executed with the Food and Drug Administration subsequent to July 1, 1975, but which is determined not to be a public advisory committee:

(1) The committee shall give public notice of its meetings and agenda, and shall provide any interested person an opportunity to submit data, information, and views, in writing at any time, and orally at specified times, relevant to the matter which is the subject of the contract. Such notice may be published in the FEDERAL REGISTER or disseminated by any other reasonable means, and shall in any event be filed with the Hearing Clerk not less than 15 days before the meeting. The length of time permitted for oral presentations and the extent to which the committee meets in open session other than for such oral presentations is in the discretion of the committee.

(2) Minutes of all open sessions shall be maintained, to which shall be attached all written submissions made to the committee in open session. After approval, such minutes shall be forwarded to the Hearing Clerk and placed on public display. The extent to which the committee maintains minutes of closed sessions is at the discretion of the committee.

(3) In selecting the members of the Committee, the organization involved shall apply the same principles relating to conflicts of interest as the Food and Drug Administration does in establishing a public advisory committee. Such principles are set out or cross-referenced in this subpart and in Subpart G of this Part. Upon request, the Food and Drug Administration will assist or provide guidance to any such organization in meeting this requirement.

#### § 2.322 Application of anticancer clauses.

Whenever the Commissioner concludes that it is appropriate to obtain an independent review of any scientific issue involving application of the anticancer clauses in section 409(c) (3) (A), 512(d) (1) (H), or 706(b) (5) (B) of the act, in-

cluding whether a substance has been found to induce cancer when ingested by man or animal, and whether a substance has been found, after appropriate tests other than ingestion, to induce cancer in man or animal, he shall ordinarily refer such matter to the Toxicology Advisory Committee which shall hold a public hearing and provide advice and recommendations to the Commissioner on such matter, except as specifically required by the provisions of section 706(b) (5) (C) of the act and § 2.363(a) (2) relating to color additives.

#### MEMBERS OF PUBLIC ADVISORY COMMITTEE

##### § 2.330 Qualifications for members of standing policy and technical advisory committees.

(a) Members of policy advisory committees, which advise the Commissioner on broad and general matters, shall possess the following qualifications:

(1) Policy advisory committee members shall possess diverse interests, education, training, and experience. Technical expertise in the subject matter with which the advisory committee is involved shall not be a requirement.

(2) Policy advisory committee members are special government employees and subject to the conflict of interest laws and regulations. The Commissioner has determined that, because members representing particular interests, e.g., a representative of labor, industry, consumers, or agriculture, are included on advisory committees specifically for the purpose of representing such interests, any financial interest covered by 18 U.S.C. 208(a) in the class which the member represents is irrelevant to the services which the government expects from them and thus is hereby exempted pursuant to 18 U.S.C. 208(b) as too remote and inconsequential to affect the integrity of their services.

(3) All members of policy advisory committees shall be voting members.

(b) Members of technical advisory committees, which advise on specific regulatory issues, shall possess the following qualifications:

(1) Voting members of technical advisory committees:

(i) Shall possess expertise in the particular subject matter with which the committee is concerned. Members shall have diverse professional education, training, and experience so that the committee will reflect a balanced composition of sufficient scientific expertise to handle the problems that come before it.

(ii) Are special government employees, subject to the conflict of interest laws and regulations.

(2) The Commissioner may, in his discretion, provide for nonvoting members of a technical advisory committee to serve as representatives of and liaison with interested organizations. Nonvoting members of technical advisory committees:

(i) Shall be selected by the interested organizations, as provided in § 2.332. Technical expertise in the subject matter with which the advisory committee is involved shall not be a requirement.

(ii) Are special government employees subject to the conflict of interest laws and regulations, except as provided in § 2.332(e).

(c) No person may serve as a voting or nonvoting member on more than one Food and Drug Administration advisory committee unless the Commissioner determines in writing that such dual membership will facilitate the work of the committees involved and is in the public interest.

(d) Members of Food and Drug Administration advisory committees and the chairman thereof shall be appointed from among those nominated pursuant to §§ 2.331 and 2.333 and from any other sources by the Secretary, the Assistant Secretary for Health, or the Commissioner, pursuant to duly promulgated procedures and delegations of authority.

(e) Members appointed to an advisory committee shall continue to serve for the duration of the advisory committee, or until their terms of appointment expire, they resign, or are removed from membership by the Commissioner.

(f) An advisory committee member may be removed from membership by the Commissioner for good cause. Good cause shall include excessive unjustified absenteeism from advisory committee meetings, a demonstrated bias which interferes with the ability to render objective advice, failure to abide by the procedures established in this subpart, or violation of other applicable rules and regulations, e.g., for nonvoting members, the provisions of § 2.333(c).

##### § 2.331 Nominations of voting members of standing advisory committees.

(a) The Commissioner shall publish one or more notices in the FEDERAL REGISTER each year requesting nominations for voting members of all existing standing advisory committees. Each such notice shall list separately the standing advisory committees covered by the notice in which it is known that vacancies will occur during the next 12 months and in which vacancies are not expected but may occur. The notice shall invite the submission of nominations for voting members for any vacancies from any interested individual as well as from consumer, industry, and professional organizations for the advisory committees listed.

(b) The notice published in the FEDERAL REGISTER announcing the establishment of a new standing advisory committee pursuant to § 2.301(b) shall invite the submission of nominations for voting members for such advisory committee.

(c) Any interested person may nominate one or more qualified persons as a member of a particular advisory committee. Nominations shall specify the advisory committee for which the nominee is recommended. A complete curriculum vitae of the nominee shall be included. Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the advisory committee, and appears to have

no conflict of interest which would preclude committee membership.

(d) Voting members of standing technical advisory committees shall serve as individuals and not as representatives of any group or organization which nominated them or with which they may be affiliated.

##### § 2.332 Nominations and selection of nonvoting members of standing technical advisory committees.

(a) The provisions of this section shall apply whenever the Commissioner concludes, in his discretion, that a standing technical advisory committee should include nonvoting members in order to represent and serve as a liaison with interested individuals and organizations.

(b) Except where the Commissioner determines otherwise, non-voting members of a standing technical advisory committee shall be limited to one member selected by consumer groups and organizations and one person selected by industry groups and organizations.

(c) With respect to any nonvoting member representing consumer interests, the Commissioner shall publish a notice in the FEDERAL REGISTER requesting nominations for each specific standing technical advisory committee for which he has determined that nonvoting members are appropriate.

(1) A period of 60 days shall be permitted for submission of such nominations for that particular advisory committee. Any interested person may nominate one or more qualified persons as a nonvoting member of a particular advisory committee to represent consumer interests. Interested persons may, in addition, nominate one or more qualified persons for general consideration as a nonvoting member of any advisory committee to represent consumer interests. All nominations shall be submitted in writing to Director, Office of Consumer Programs (HFG-1), Office of Assistant Commissioner for Professional and Consumer Programs, Food and Drug Administration, Rm. 15B-41, 5600 Fishers Lane, Rockville, MD 20852.

(2) A complete curriculum vitae of any nominee shall be included. Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of an advisory committee, and appears to have no conflict of interest. If a nominee is interested only in a particular advisory committee, the nomination shall so state. If a nominee is interested in becoming a member of any advisory committee, the nomination shall so state. Nominations which do not comply with the requirements of this paragraph shall not be considered.

(3) The Director, Office of Consumer Affairs, shall compile a list of organizations representing consumers or otherwise involved in consumer affairs, who shall be entitled to vote upon the nominees. Any organization which qualifies as a consumer organization may be included on such list upon request.

(4) After the time for nominations has expired, the curriculum vitae of



each of the nominees shall be sent to each of the organizations on the list compiled pursuant to paragraph (c)(3) of this section and to any other person submitting a nomination, together with a ballot to be filled out and returned within 30 days. After the time for return of the ballots has expired, the ballots shall be counted and the nominee who has received the highest number of votes shall be selected as the nonvoting member representing consumer interests for that particular advisory committee. In the event of a tie, the Commissioner shall select the winner by lot from among those tied for the highest number of votes.

(d) With respect to any nonvoting member representing industry interests, the Commissioner shall issue in the *Federal Register*, for each specific standing technical advisory committee for which he has determined that nonvoting members are appropriate, a notice requesting that any industry organization interested in participating in the selection of an appropriate nonvoting member representing industry interests send a letter stating that interest to the Food and Drug Administration employee designated in the notice within 30 days. After the time for such expression of interest has expired, a letter shall be sent to each organization which has expressed such an interest, attaching a complete list of all such organizations, and stating that it is their responsibility to consult with each other in selecting a single nonvoting member representing industry interests for that particular advisory committee within 60 days after receipt of the letter. If no such individual is so selected within that period of time, the Commissioner shall select the nonvoting member representing industry interests to serve on that advisory committee.

(e) The Commissioner has determined that, because nonvoting members representing consumer and industry interests are included on advisory committees specifically for the purpose of representing such interests and have no vote, any financial interest covered by 18 U.S.C. 208(a) in the class which the member represents is irrelevant to the services which the government expects from them and thus is hereby exempted pursuant to 18 U.S.C. 208(b) as too remote and inconsequential to affect the integrity of their services.

#### § 2.333 Rights and responsibilities of nonvoting members of advisory committees.

(a) A nonvoting member of an advisory committee selected to represent and serve as a liaison with interested individuals, associations, and organizations, shall have the same rights as any other advisory committee member except that:

(1) A nonvoting member shall not vote on any matter before the advisory committee except such procedural matters as additional rules adopted pursuant to § 2.309(a), approval of minutes pursuant to § 2.313(a), decisions relating to transcripts pursuant to § 2.314(b), and future meeting dates.

(2) A nonvoting member shall not have access to data and information that constitute a trade secret or confidential commercial or financial information as defined in § 4.61 of this chapter.

(b) A nonvoting member of an advisory committee is subject to, and shall abide by, all rules and regulations adopted by the Food and Drug Administration and the advisory committee.

(c) It is the responsibility of the nonvoting consumer and industry members of an advisory committee to represent the consumer and industry interests in all deliberations.

(1) A nonvoting member does not represent any particular organization or group, but rather represents all interested persons within the class which he is selected to represent. Accordingly, any interested person within the class represented by that nonvoting member shall have access to all written statements or oral briefings related to the committee prepared by the nonvoting member for distribution to any person outside the advisory committee.

(2) The nonvoting member shall review all official advisory committee minutes to assure their completeness and accuracy.

(3) The nonvoting member shall act as a liaison and conduit between the advisory committee and the interested persons whom he represents, and shall transmit requests for information from the committee and relevant data, information, and views to the committee. He shall take the initiative in contacting interested persons whom he represents, to seek out relevant data, information, and views, and to relate the progress of the advisory committee.

(4) A nonvoting industry member shall represent all members of the industry, and not any particular association, company, product, or ingredient. If a matter comes before the committee that directly or indirectly affects the company which employs the nonvoting industry member, he shall so inform the committee but need not absent himself during the discussion or decline to participate in the discussion. A nonvoting industry member shall not discuss his company's position as such, but may discuss any matter in general terms. All presentations and discussions of scientific data and their interpretation on behalf of a company shall occur in open session, except as provided in § 2.305(c).

(5) A nonvoting member of an advisory committee shall not make any presentation to that advisory committee during a hearing conducted by that advisory committee.

(6) Although a nonvoting member is serving in a representative capacity, he shall exercise restraint in performing his functions and shall not engage in unseemly advocacy or attempt to exert undue influence over the other members of the committee.

(d) A nonvoting member of an advisory committee may be removed by the Commissioner for failure to comply with the provisions of this section as well as § 2.330(f).

#### § 2.334 Ad hoc advisory committee members.

In selecting members of an ad hoc advisory committee, the Commissioner may utilize the procedures established in §§ 2.331 and 2.332 or any other procedure he concludes to be appropriate under the circumstances.

#### § 2.335 Compensation of public advisory committee members.

(a) All voting and nonvoting advisory committee members shall (1) be appointed as special government employees, except for members of the Technical Electronic Product Radiation Safety Standards Committee, and (2) receive a consultant fee and be reimbursed for their travel expenses, including per diem in lieu of subsistence, unless such compensation and reimbursement is waived.

(b) An advisory committee member, notwithstanding his primary residence, while in attendance at meetings of the full committee, or of a subcommittee, will be paid whether the meetings are held in the Washington, DC area or elsewhere.

(c) An advisory committee member who participates in any agency-directed assignment will be paid at an hourly rate when he performs his work at his home, place of business, or in a Food and Drug Administration facility located within his commuting area, and at a daily rate when he is required to travel outside of his commuting area to perform his assignment. An advisory committee member will not be paid for time spent on normal preparation for a committee meeting.

(1) An agency-directed assignment which meets the following criteria:

(i) An activity which requires undertaking a definitive study. The activity must produce a tangible end product, usually a written report. Examples are:

(a) an analysis of the risks and benefits of the use of a class of drugs or a report on a specific problem generated by an IND or NDA; (b) the performance of similar investigations or analysis of complex industry submissions to support advisory committee deliberations other than normal meeting preparation; (c) the preparation of a statistical analysis leading to an estimate of toxicologically safe dose levels; and (d) the design or analysis of animal studies of toxicity, mutagenicity, teratogenicity, or carcinogenicity.

(ii) The performance of an IND or NDA review or similar review.

(2) An advisory committee member who undertakes a special assignment, the end product of which does not represent the end product of the advisory committee, but rather of his own assignment, can be compensated. Should such preparatory work by advisory committee members collectively result in an end product of the advisory committee, this is to be considered normal meeting preparation and advisory committee members are not to be compensated for this work.

(d) Salary while in travel status is authorized when an advisory committee member has his ordinary pursuits interrupted for the substantial portion of an additional day beyond the day or days on which he performs services, and as a consequence he sustains a loss in his regular compensation. This applies on weekends and holidays if the special government employee suffers a loss in income he would otherwise earn on that day. For travel purposes, a substantial portion of a day is defined as 50 percent of the working day, and the traveler will be paid at a daily rate.

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#### STANDING ADVISORY COMMITTEES

##### § 2.340 List of standing advisory committees.

The following standing advisory committees have been established for the Food and Drug Administration.

(a) *Office of the Commissioner*—(1) *Board of Tea Experts*. (i) Date established: March 2, 1897.

(ii) Function: Advises on establishment of uniform standards of purity, quality, and fitness for consumption of all tea imported into the United States pursuant to 21 U.S.C. 42.

(2) *National Advisory Food and Drug Committee*. (i) Date established: November 15, 1974.

(ii) Function: Reviews and evaluates agency programs and advises on policy matters of national significance as they relate to the statutory mission of the Food and Drug Administration in the areas of foods, drugs, cosmetics, medical devices, biological products, and electronic products. Reviews and makes recommendations on applications for grants-in-aid for research projects relevant to the mission of the Food and Drug Administration as required by law.

(3) *Toxicology Advisory Committee*. (i) Date established: December 9, 1974.

(ii) Function: Reviews and evaluates available data relating to the evaluation of the safety of chemicals present in foods, drugs, cosmetics, and medical devices. Advises on the safety of specific human drugs, animal drugs, color and food additives, cosmetic components, and components of devices. Recommends the development of standardized methodologies for the toxicity testing of such materials.

(b) *Bureau of Biologics*. (1) Advisory review panels for biological products, and dates established. (i) *Bacterial Vaccines and Bacterial Antigens Panel*. Established December 22, 1972.

(ii) *Bacterial Vaccines and Toroids Panel*. Established April 16, 1973.

(iii) *Viral Vaccines and Rickettsial Vaccines Panel*. Established April 16, 1973.

(iv) *Skin Test Antigens Panel*. Established August 24, 1973.

(v) *Allergenic Extracts Panel*. Established August 24, 1973.

(vi) *Blood and Blood Derivatives Panel*. Established August 24, 1973.

(2) Function: Reviews and evaluates available data concerning the safety and effectiveness of biological products.

(c) *Bureau of Drugs*—(1) *Anti-Infective Agents Advisory Committee*. (i) Date established: August 30, 1967.

(ii) Function: Reviews and evaluates available data concerning safety and effectiveness of marketed and investigational prescription drugs for use in infectious diseases.

(2) *Arthritis Advisory Committee*. (i) Date established: April 5, 1974.

(ii) Function: Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in arthritic conditions.

(3) *Biometric and Epidemiological Methodology Advisory Committee*. (i) Date established: March 7, 1968.

(ii) Function: Reviews and evaluates scientific studies and data with respect to, and otherwise advises the Commissioner on, epidemiological and biometric methodology.

(4) *Cardiovascular and Renal Advisory Committee*. (i) Date established: August 27, 1970.

(ii) Function: Reviews and evaluates available data concerning safety and effectiveness of marketed and investigational prescription drugs for use in cardiovascular and renal disorders.

(5) *Controlled Substances Advisory Committee*. (i) Date established: September 27, 1973.

(ii) Function: Advises the Commissioner regarding the scientific and medical evaluation of all information gathered by the Department of Justice and the Department of Health, Education, and Welfare with regard to safety, effectiveness, and abuse potential of drugs or other substances classified as stimulants, sedatives, hypnotics, or analgesics, and recommends actions to be taken with regard to control of such substances.

(6) *Dental Drug Products Advisory Committee*. (i) Date established: June 6, 1972.

(ii) Function: Reviews and evaluates available data concerning safety and effectiveness of marketed and investigational prescription drugs for use in the practice of dentistry.

(7) *FDA/NIDA Drug Abuse Research Advisory Committee*. (i) Date established: March 9, 1967.

(ii) Function: Advises the Food and Drug Administration on action to be taken with respect to investigational use of substances with abuse potential. Advises the National Institute on Drug Abuse on supplies of substances for clinical studies and on quantities of substances for animal and in vitro studies. Advises FDA and NIDA on development of broad outlines for studies of substances with abuse potential and on new methods and tests in animals and man by which the dependence liability of investigational drugs may be estimated.

(8) *Endocrinology and Metabolism Advisory Committee*. (i) Date established: August 27, 1970.

(ii) Function: Reviews and evaluates available data concerning safety and effectiveness of marketed and investigational prescription drugs for use in endocrine and metabolic disorders.

(9) *Gastrointestinal Drugs Advisory Committee*. (i) Date established: January 3, 1974.

(ii) Function: Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in gastrointestinal diseases.

(10) *Neurologic Drugs Advisory Committee*. (i) Date established: June 4, 1974.

(ii) Function: Reviews and evaluates available data concerning safety and effectiveness of marketed and investigational prescription drugs for use in neurologic disease.

(11) *Obstetrics and Gynecology Advisory Committee*. (i) Date established: August 31, 1965.

(ii) Function: Reviews and evaluates available data concerning safety and effectiveness of marketed and investigational prescription drugs for use in the practice of obstetrics and gynecology.

(12) *Oncologic Drugs Advisory Committee*. (i) Date established: October 24, 1973.

(ii) Function: Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of cancer.

(13) *Ophthalmic Drugs Advisory Committee*. (i) Date established: September 20, 1971.

(ii) Function: Reviews and evaluates available data concerning safety and effectiveness of marketed and investigational prescription drugs for use in diseases and disorders of the eye.

(14) *Psychopharmacological Agents Advisory Committee*. (i) Date established: June 4, 1974.

(ii) Function: Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of psychiatry and related fields.

(15) *Pulmonary Allergy and Clinical Immunology Advisory Committee*. (i) Date established: February 17, 1972.

(ii) Function: Reviews and evaluates available data concerning safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of pulmonary disease and diseases with allergic and/or immunologic mechanisms.

(16) *Radioactive Pharmaceuticals Advisory Committee*. (i) Date established: August 30, 1967.

(ii) Function: Reviews and evaluates available data concerning safety and effectiveness of marketed and investigational prescription drugs for use in the practice of nuclear medicine.

(17) *Respiratory and Anesthetic Drugs Advisory Committee*. (i) Date established: March 23, 1966.

(ii) Function: Reviews and evaluates available data concerning safety and effectiveness of marketed and investigational prescription drugs for use in the field of anesthesiology.

(18) *Surgical Drugs Advisory Committee*. (i) Date established: September 14, 1971.

(ii) Function: Reviews and evaluates available data concerning safety and effectiveness of marketed and investigational prescription drugs for use in the field of surgery.



(19) *Advisory review panels for over-the-counter (OTC) drugs.* (1) Dates established.

(a) *Antimicrobial Panel.* Established March 16, 1972.

(b) *Internal Analgesic Panel.* Established August 31, 1972.

(c) *Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Panel.* Established September 19, 1972.

(d) *Sedative, Tranquilizer, and Sleep Aid Panel.* Established September 19, 1972.

(e) *Laxative, Antidiarrheal, Antiemetic, and Emetic Panel.* Established December 27, 1972.

(f) *Topical Analgesic Panel.* Established December 27, 1972.

(g) *Dentifrice and Dental Care Panel.* Established December 27, 1972.

(h) *Hemorrhoidal Panel.* Established April 16, 1973.

(i) *Ophthalmic Panel.* Established April 16, 1973.

(j) *Contraceptive and Other Vaginal Drug Products Panel.* Established June 27, 1973.

(k) *Oral Cavity Panel.* Established July 16, 1973.

(l) *Antiperspirant Panel.* Established July 16, 1973.

(m) *Miscellaneous Internal Drug Products Panel.* Established July 16, 1973.

(n) *Miscellaneous External Drug Products Panel.* Established July 16, 1973.

(o) *Vitamin, Mineral, and Hematinic Panel.* Established July 16, 1973.

(i) *Function:* Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

(d) *Bureau of Medical Devices and Diagnostic Products.* (1) *Advisory review panels for medical devices, and dates established.*

(i) *Cardiovascular Panel.* Established March 22, 1972.

(ii) *Orthopaedic Panel.* Established April 25, 1972.

(iii) *Diagnostic Products Advisory Committee.* Established August 9, 1972.

(iv) *Dental Panel.* Established October 3, 1972.

(v) *Anesthesiology Panel.* Established October 3, 1972.

(vi) *Gastroenterology and Urological Panel.* Established April 16, 1973.

(vii) *Obstetrical and Gynecological Panel.* Established April 16, 1973.

(viii) *Radiology Panel.* Established October 15, 1973.

(ix) *Neurology Panel.* Established October 15, 1973.

(x) *General Hospital Panel.* Established October 15, 1973.

(xi) *Physiatry Panel.* Established October 15, 1973.

(xii) *General and Plastic Surgery Panel.* Established October 15, 1973.

(xiii) *Ear, Nose, and Throat Panel.* Established October 15, 1973.

(xiv) *Ophthalmic Panel.* Established October 15, 1973.

(2) *Function:* Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use

and makes recommendations for their regulation.

(e) *Bureau of Radiological Health—* (1) *Medical Radiation Advisory Committee.* (i) Date established: October 31, 1963.

(ii) *Function:* Advises on the formulation of policy and development of a coordinated program related to the application of ionizing radiation in the healing arts.

(2) *Technical Electronic Product Radiation Safety Standards Committee.*

(i) Date established: October 18, 1968.

(ii) *Function:* Advises on technical feasibility, reasonableness, and practicability of performance standards for electronic products to control the emission of radiation pursuant to 42 U.S.C. 263 (f) (1) (A).

(3) *Radiation Bio-Effects and Epidemiology Advisory Committee.* (i) Date established: October 21, 1971.

(ii) *Function:* Advises on the total research program of laboratory and epidemiological studies of biological effects and health implications of exposure to radiation.

(f) *National Center for Toxicological Research, Science Advisory Board.* (1) Date established: June 2, 1973.

(2) *Function:* Advises on establishment of an implementation of a research program that will assist the Commissioner of Food and Drugs and the Administrator, Environmental Protection Agency, in fulfilling their regulatory responsibilities.

TECHNICAL ELECTRONIC PRODUCTS RADIATION SAFETY STANDARDS COMMITTEE

§ 2.350 *Establishment of the Technical Electronic Product Radiation Safety Standards Committee (TEPRSSC).*

The Technical Electronic Product Radiation Standards Committee (TEPRSSC), consisting of 15 members, is established pursuant to the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f (f) (1) (A)). The purpose of TEPRSSC is to provide consultation with the Commissioner before he prescribes any performance standard for an electronic product, as required by law.

§ 2.351 *Functions of TEPRSSC.*

(a) In performing its function of advising the Commissioner, TEPRSSC:

(1) May propose electronic product radiation safety standards to the Commissioner for his consideration.

(2) Shall provide consultation to the Commissioner on all performance standards proposed for consideration under 42 U.S.C. 263f.

(3) May make recommendations to the Commissioner on any other matters it deems necessary or appropriate in fulfilling the purposes of the act.

(b) Responsibility for action with respect to performance standards under 42 U.S.C. 263f rests with the Commissioner, after receiving the advice of TEPRSSC.

§ 2.352 *Procedures of TEPRSSC.*

(a) When the Commissioner is considering promulgation of a performance

standard for an electronic product, or any amendment of an existing standard, he shall, prior to issuance of a proposed regulation in the FEDERAL REGISTER, submit to TEPRSSC the proposed standard or amendment under consideration, together with other relevant information to aid TEPRSSC in its deliberations.

(b) The agenda and other material to be considered at any meeting shall be sent to members whenever possible at least 2 weeks prior to the meeting.

(c) Ten members shall constitute a quorum, provided at least three members from each group specified in 42 U.S.C. 263f (f) (1) (A) and in § 2.353 (a), i.e., government, industry, and the public, are present.

(d) The chairman of TEPRSSC shall ordinarily submit to the Commissioner a report of the committee's consideration of any proposed performance standard for an electronic product within 60 days after such consideration. If the chairman believes that more time is needed, he shall so inform the Director of the Bureau of Radiological Health in writing, in which case an additional 30 days will be allowed to make the report.

(e) The provisions of §§ 2.300 through 2.319 shall be applicable to TEPRSSC, except where other provisions are specifically included in §§ 2.350 through 2.354.

§ 2.353 *Membership of TEPRSSC.*

(a) The members shall be appointed by the Commissioner after consultation with public and private associations and organizations concerned with the technical aspect of electronic product radiation safety. TEPRSSC shall consist of fifteen members, each of whom shall be technically qualified by training and experience in one or more fields of science or engineering applicable to electronic product radiation safety, as follows:

(1) Five members shall be selected from government agencies, including State and Federal governments.

(2) Five members shall be selected from the affected industries after consultation with industry representatives.

(3) Five members shall be selected from the general public, of whom at least one shall be a representative of organized labor.

(b) The Commissioner shall appoint a committee member as chairman of TEPRSSC.

(c) Appointments of members shall be for a term of 3 years or as specified by the Commissioner.

(1) The chairman shall be appointed for a term concurrent with his term as a member of TEPRSSC. If the chairmanship becomes vacant without adequate notice, the executive secretary may appoint a committee member as temporary chairman pending appointment of a new chairman by the Commissioner.

(2) Members shall not be reappointed for a second consecutive full term.

(d) A person otherwise qualified for membership shall not be eligible for selection as a member of TEPRSSC from government agencies or the general public if the Commissioner determines that

he does not meet the requirements of the conflict of interest laws and regulations.

(e) Retention of membership is conditioned upon:

(1) The member's continued status as a member of the group from which he was selected as specified in paragraph (a) of this section.

(2) The absence of any conflict of interest during the term of membership as specified in paragraph (d) of this section.

(3) Active participation in TEPRSSC activities.

(f) Appointment as a member of TEPRSSC shall be conditioned upon a certification from the prospective member that he:

(1) Agrees to the procedures and criteria as specified in this subpart.

(2) Has no conflict of interest as specified in paragraph (d) of this section.

(3) Will notify the executive secretary of TEPRSSC prior to any change in his representative status on TEPRSSC which may be contrary to the conditions of his appointment.

(g) Members of TEPRSSC who are not full-time officers or employees of the United States shall, in accordance with 42 U.S.C. 210(c), receive compensation pursuant to the provisions of § 2.335.

§ 2.354 *Conduct of TEPRSSC meetings; availability of TEPRSSC records.*

(a) In accordance with 42 U.S.C. 263 (f) (1) (B), all proceedings of TEPRSSC shall be open, except as provided in paragraph (b) of this section, and shall be recorded, and the record of each such proceeding shall be available for public inspection.

(b) The provisions of paragraph (a) of this section with respect to open meetings shall not apply where TEPRSSC:

(1) Consider any information which contains or relates to a trade secret or other matter referred to in 18 U.S.C. 1905 and thus in accordance with 42 U.S.C. 263(e) may not be publicly disclosed.

(2) Meets in executive session to formulate and vote on its recommendations or to consider administrative matters.

COLOR ADDITIVE ADVISORY COMMITTEES

§ 2.360 *Establishment of a color additive advisory committee.*

The Commissioner shall establish a color additive advisory committee whenever:

(a) The Commissioner concludes, in his discretion, that it would be in the public interest for a color additive advisory committee to review and make recommendations with respect to the safety of any color additive on which important issues are pending before the Food and Drug Administration, and for interested persons to present data, information, and views at an oral public hearing before a color additive advisory committee.

(b) Any person who would be adversely affected by the issuance, amendment, or repeal of a regulation listing a color additive requests that any issue relating

to the safety of the color additive arising under section 706(b) (5) (B) of the act because of the color additive's potential or actual carcinogenicity and requiring the exercise of scientific judgment be referred to a color additive advisory committee.

(1) The provisions of paragraph (b) of this section are inapplicable to any issue arising under the transitional provisions in section 203 of the Color Additive Amendments of 1960 relating to provisional listing of commercially established colors. Any color additive advisory committee to consider any such matter shall be established pursuant to the provisions of paragraph (a) of this section.

(2) A request for establishment of a color additive advisory committee shall be pursuant to § 2.7. The Commissioner may deny any such petition if inadequate grounds are stated for establishment of a color additive advisory committee. A request for establishment of a color additive advisory committee may not rest on mere allegations or denials, but must set forth specific facts showing there is a genuine and substantial issue of fact that requires scientific judgment and justifies a hearing before a color additive advisory committee. When it conclusively appears from the request for a color additive advisory committee that the matter is premature or that it does not involve an issue arising under section 706(b) (5) (B) of the act or there is no genuine and substantial issue of fact requiring scientific judgment or for any other reason a color additive advisory committee is not justified, the Commissioner may deny the establishment of a color additive advisory committee.

(3) Establishment of a color additive advisory committee on the request of an interested person shall be conditioned upon receipt of the applicable fee specified in § 2.364.

(4) Any person so adversely affected may request referral of such a matter to a color additive advisory committee at any time before, or within 30 days after, publication of an order of the Commissioner acting upon a color additive petition or proposal.

§ 2.361 *Functions of a color additive advisory committee.*

(a) A color additive advisory committee shall review all available information relating to the matter referred to it, including all data and information contained in any pertinent color additive petition and in Food and Drug Administration files. All such data and information so reviewed shall be placed on public display and available for review at the office of the Hearing Clerk.

(b) The Commissioner shall specify to the color additive advisory committee, in writing, the issues on which review and recommendations are requested.

(c) The date of the first meeting of a color additive advisory committee, following receipt of the administrative record by each of the committee members, shall be designated as the beginning of the period allowed for consideration of the matter by the color additive advisory

committee. Within 60 days after that first meeting, unless the time is extended as provided in paragraph (d) of this section, the chairman of the color additive advisory committee shall certify to the Commissioner the report containing the recommendations of the color additive advisory committee, including any minority report. The report shall state the recommendations of the color additive advisory committee and the reasons or basis for such recommendations. The report shall include copies of all material considered by the color additive advisory committee in addition to the administrative record furnished to it.

(d) If the chairman concludes that the color additive advisory committee needs additional time, he shall so inform the Commissioner in writing and may certify the report of the color additive advisory committee to the Commissioner within 90 days instead of 60 days.

(e) More than one matter may be handled by a color additive advisory committee concurrently.

§ 2.362 *Procedures of a color additive advisory committee.*

(a) A color additive advisory committee shall be subject to all the requirements of the Federal Advisory Committee Act and this subpart.

(b) All interested persons shall have a right to consult with the color additive advisory committee reviewing a matter, and to submit data, information, and views to a color additive advisory committee, in accordance with the procedures established in this subpart.

§ 2.363 *Membership of a color additive advisory committee.*

(a) The member of a color additive advisory committee shall be selected in the following manner:

(1) If a color additive advisory committee is established for purposes that do not include review of an issue arising under section 706(b) (5) (B) of the act, or is established on the initiative of the Commissioner, the Commissioner may utilize the procedure established in paragraph (a) (2) of this section to select the members, or may utilize an existing standing advisory committee listed in § 2.340, or may establish a new advisory committee pursuant to the provisions of this subpart. Once the Commissioner has established a color additive advisory committee pursuant to this paragraph and has referred to it a matter relating to a color additive, no interested person may subsequently request that an additional or different color additive advisory committee be established to review and make recommendations with respect to that color additive.

(2) If the Commissioner establishes a color additive advisory committee to review an issue arising under section 706(b) (5) (B) of the act on the request of an interested person, it shall be established pursuant to the following requirements.

(i) Except as provided in paragraph (a) (2) (ii) and (iii) of this section, the Commissioner shall request the National Academy of Sciences to select the mem-



bers of a color additive advisory committee from among experts qualified in the subject matter to be reviewed by the committee, and of adequately diversified professional backgrounds. The Commissioner shall appoint one of the members so selected as the chairman.

(ii) If the National Academy of Sciences is unable or refuses to select the members of a color additive advisory committee, the Commissioner shall select such members, who shall ordinarily be the Toxicology Advisory Committee in accordance with § 2.322.

(iii) If the Commissioner and the requesting party agree, the provisions of section 706(b)(5)(D) of the act may be waived and the matter may be referred to any standing advisory committee listed under § 2.340 or to any advisory committee established pursuant to any other procedure that is mutually agreeable, which shall ordinarily be the Toxicology Advisory Committee in accordance with § 2.322. Once the Commissioner has so established a color additive advisory committee and has referred to it a matter relating to a color additive, no interested person may subsequently request that an additional or different color additive advisory committee be established to review and make recommendations with respect to that color additive.

(b) Members of a color additive advisory committee shall be subject to the requirements of the Federal Advisory Committee Act and this subpart, except that no member of a color additive advisory committee shall by reason of such membership alone be a special government employee or be subject to the conflict of interest laws and regulations.

#### § 2.364 Fees and compensation pertaining to a color additive advisory committee.

(a) In the event of a referral of any matter to a color additive advisory committee, all costs related thereto, including personal compensation of committee members, travel, materials, and other costs, shall be borne by the person requesting the referral, such costs to be assessed on the basis of actual cost to the government. The compensation of such costs shall include personal compensation of color additive advisory committee members at a rate not to exceed \$128.80 per member per day.

(b) In the case of a request for referral to a color additive advisory committee, a special advance deposit shall be made in the amount of \$2,500.00. Where required, further advances in increments of \$2,500.00 each shall be made upon request of the Commissioner. All deposits for referrals to a color additive advisory committee in excess of actual expenses shall be refunded to the depositor.

(c) All deposits and fees required by the regulations in this section shall be paid by money order, bank draft or certified check drawn to the order of the Food and Drug Administration, collectable at par in Washington, DC. All deposits and fees shall be forwarded to the Associate Commissioner for Administration.

tion. Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852, whereupon after making appropriate record thereof they will be transmitted to the Treasurer of the United States for deposit in the special account "Salaries and Expenses, Certification, Inspection, and Other Services, Food and Drug Administration."

(d) The Commissioner may waive or refund such fees in whole or in part when, in his judgment, such action will promote the public interest. Any person who believes that payment of these fees will work a hardship on him may petition the Commissioner pursuant to § 2.7 to waive or refund the fees.

#### PUBLIC ADVISORY COMMITTEES FOR HUMAN PRESCRIPTION DRUGS

##### § 2.370 Establishment of standing technical public advisory committees for human prescription drugs.

The standing technical advisory committees for human prescription drugs are established to advise the Commissioner:

(a) Generally on the safety and effectiveness, including the labeling and advertising, and regulatory control of any of the human prescription drugs falling within the pharmacologic class covered by the advisory committee and on the scientific standards appropriate for a determination of safety and effectiveness in that class of drugs.

(b) Specifically on any particular matter involving a human prescription drug pending before the Food and Drug Administration, including whether the available data and information are adequate to support a determination that:

(1) A particular IND study may properly be conducted.

(2) A particular drug meets the statutory standard for proof of safety and effectiveness necessary for approval or continued approval for marketing.

(3) A particular drug is properly classified as a new drug, an old drug, or a banned drug.

##### § 2.371 Utilization of a public advisory committee on the initiative of the Food and Drug Administration.

(a) Any matter involving a human prescription drug under review within the agency may, in the discretion of the Commissioner, be the subject of a public hearing and continuing or periodic review by the appropriate standing technical advisory committee for human prescription drugs. The Commissioner's determinations with respect to the agenda of such an advisory committee shall be based upon the priorities of the various matters pending before the agency which fall within the pharmacologic class covered by that advisory committee.

(b) High priority for such hearing and review by the appropriate standing technical advisory committee for human prescription drugs shall be given to the following types of human prescription drugs:

(1) Investigational drugs which are potential therapeutic advances over currently marketed products from the standpoint of safety or effectiveness, or which

pose significant safety hazards, or which present narrow benefit-risk considerations requiring a close judgmental decision in regard to approval for marketing, or which have a novel delivery system or formulation, or which are the subject of major scientific or public controversy, or which may be subject to special regulatory requirements such as a limitation on clinical trials, a patient followup requirement, post-marketing Phase IV studies, distributional controls, or boxed warnings.

(2) Marketed drugs for which an important new use has been discovered, or which pose newly discovered safety hazards, or which are the subject of major scientific or public controversy, or which may be subject to important regulatory actions such as withdrawal of approval for marketing, boxed warnings, distributional controls, or newly required scientific studies.

(c) The advisory committee may request the Commissioner for an opportunity to hold a public hearing and to review any matter involving a human prescription drug which falls within the pharmacologic class covered by the advisory committee. The Commissioner shall, after consulting with the advisory committee on such request, grant or deny the request in light of the priorities of the other matters pending before the advisory committee. Whenever feasible, consistent with the other work of the advisory committee, such a request shall be granted.

(d) For any drug which meets any of the criteria established in paragraph (b) of this section, one or more members of or consultants to the appropriate advisory committee may be selected for more detailed monitoring of the matter and consultation with the Food and Drug Administration on behalf of the committee. Such member or consultant may be invited by the agency to attend appropriate meetings and shall assist the bureau in any briefing of the committee with respect to that matter.

(e) An advisory committee may obtain advice and recommendations from the Toxicology Advisory Committee, the Biometric and Epidemiological Methodology Advisory Committee, and from such other agency advisory committees, consultants and experts as the advisory committee and the bureau conclude would facilitate the work of the advisory committee.

(f) Presentation of all relevant data and information relating to any such matter shall be made in open session unless it relates to an IND the existence of which has not previously been disclosed to the public as defined in § 4.81 of this chapter or is otherwise prohibited from public disclosure pursuant to the provisions of Part 4 of this chapter and the regulations referenced therein. The provisions of §§ 314.14, 431.71, and 601.51 of this chapter shall determine whether, and the extent to which, relevant data and information shall be made available for public disclosure, summarized and discussed in open session but not otherwise made available for public disclosure,

or not in any way discussed or disclosed in open session or otherwise disclosed to the public.

##### § 2.372 Advice and recommendations in writing.

Advice and recommendations given by an advisory committee with respect to a specific drug or a class of drugs shall ordinarily be in the form of a written report. Such written report may consist of the approved minutes of the meeting or a separate written report. Such written report shall respond to the specific issues or questions which the Commissioner has addressed to the advisory committee, and shall state the basis of the advice and recommendations of the advisory committee.

##### § 2.373 Utilization of a public advisory committee at the request of an interested person.

Any interested person may request, pursuant to § 2.7 of this Part, that a specific matter relating to a particular human prescription drug be submitted to an appropriate advisory committee for a hearing and review and recommendations. Any such request shall demonstrate the importance of the matter and the reasons why it should be submitted for a hearing and at that time. The Commissioner may, in his discretion, grant or deny any such request.

#### Subpart E—Public Hearing Before the Commissioner

##### § 2.400 Scope of subpart.

Subpart E governs the practices and procedures applicable whenever:

(a) The Commissioner concludes, in his discretion, that it is in the public interest to permit interested persons to present data, information, and views at a public hearing on any particular matter, or class of matters, of importance pending before the Food and Drug Administration.

(b) Pursuant to specific provisions in other sections of this chapter, a matter pending before the Food and Drug Administration is subject to a public hearing before the Commissioner. Such specific provisions are in § 330.10(a)(8) of this chapter relating to review of the safety, effectiveness, and labeling of over-the-counter drugs.

(c) A person who has right to an opportunity for a formal evidentiary public hearing under Subpart B of this Part waives that opportunity and in lieu thereof requests pursuant to § 2.117 of this Part a public hearing before the Commissioner pursuant to this Subpart E, and the Commissioner, in his discretion, accepts this request.

##### § 2.401 Notice of a public hearing before the Commissioner.

(a) If the Commissioner determines that a public hearing before the Commissioner should be held on any matter, he shall publish in the FEDERAL REGISTER a notice of hearing setting forth the following information:

(1) If the hearing is pursuant to § 2.400 (a) or (b):

(i) The purpose of the hearing and the subject matter to be considered. If any written document is to be the subject matter of the hearing, it shall be published as part of the notice, or reference shall be made to it if it has already been published in the FEDERAL REGISTER, or the notice shall state that the document is available from the Hearing Clerk or an agency employee designated in the notice.

(ii) The time, date, and place of the hearing, or a statement that such information shall be contained in a subsequent notice published in the FEDERAL REGISTER.

(2) If the hearing is in lieu of a formal evidentiary hearing pursuant to § 2.400 (c), all of the information described in § 2.117(e) of this Part.

(b) The scope of the hearing shall be determined by the notice of hearing and any specific provisions in other sections of this chapter. If any such specific provision, e.g., § 330.10(a)(10) of this chapter, limits a hearing to review of an existing administrative record, data and information not already included in the record shall not be submitted or considered at the hearing.

##### § 2.402 Notice of appearance; schedule for hearing.

(a) The notice of hearing shall provide interested persons an opportunity to file a written notice of appearance with the Hearing Clerk within a specified period of time in the form and pursuant to the requirements specified in § 2.131. If the public interest requires that such a hearing be conducted within a short period of time, the notice may name a specific Food and Drug Administration employee, together with his telephone number, to whom an oral notice of appearance shall be given. A written or oral notice of appearance shall be received by the Hearing Clerk, or other designated person, by the close of business of the day specified in the notice.

(b) A notice of appearance shall state the approximate amount of time requested by the person for his presentation. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations.

(c) Promptly after expiration of the time specified in the notice for the filing of a notice of appearance, the Commissioner shall determine the amount of time allocated to each such person for his oral presentation and the time that oral presentation is scheduled to begin. Each such person shall be so informed in writing or, if the time prior to the hearing is short, by telephone. The Commissioner may require joint presentations by persons with common interests.

(d) The Commissioner shall prepare a hearing schedule showing the persons making oral presentations and the time allotted to each such person, which shall be filed with the Hearing Clerk and mailed or telephoned to each such person and, if time permits, published in the FEDERAL REGISTER.

##### § 2.403 Conduct of a public hearing before the Commissioner.

(a) The Commissioner or his designee shall preside at the hearing, except where specific provisions in other sections of this chapter require that the Commissioner preside personally. The presiding officer may be accompanied by other Food and Drug Administration employees or other Federal government employees designated by the Commissioner, who may serve as a panel in conducting the hearing.

(b) The hearing shall be transcribed.

(c) Each person may use his allotted time in whatever way he wishes, consistent with a reasonable and orderly hearing. A person may be accompanied by any number of additional persons, and may present any written data, information, or views for inclusion in the record of the hearing, subject to the requirements of § 2.404.

(d) If a person is not present at the time, specified for his presentation, the persons following will appear in order. An attempt will be made to hear any such person at the conclusion of the hearing. Any other interested persons attending the hearing who did not request an opportunity to make an oral presentation shall be given an opportunity to make an oral presentation at the conclusion of the hearing, in the discretion of the presiding officer, to the extent that time permits.

(e) The presiding officer and any other persons serving with him as a panel may question any person during or at the conclusion of his presentation. No other person attending the hearing may question a person making a presentation. The presiding officer may allot additional time to any person when he concludes that it is in the public interest, but may not reduce the time allotted for any person without their consent.

(f) The hearing shall be informal in nature, and the rules of evidence shall not apply. No motions or objections relating to the admissibility of data, information, and views shall be made or considered, but other participants may comment upon or rebut all such data, information, and views. No participant may interrupt the presentation of another participant at any hearing for any reason.

##### § 2.404 Written submissions pertaining to a public hearing before the Commissioner.

Any interested person may submit data, information, or views on the matter that is the subject of the hearing in writing to the Hearing Clerk, pursuant to § 2.5. The record of the hearing shall remain open for 15 days after the hearing is held for any additional written submissions, unless the notice of the hearing specifies otherwise or the presiding officer rules otherwise at the hearing.

##### § 2.405 Administrative record of a public hearing before the Commissioner.

(a) The administrative record of a public hearing before the Commissioner shall consist of the following:

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(1) All relevant FEDERAL REGISTER notices, including any documents to which they refer.

(2) All written submissions pursuant to § 2.404.

(3) The transcript of the oral hearing.

(b) The record of the administrative proceeding shall be closed at the time specified in § 2.404.

#### § 2.406 Examination of administrative record.

The availability for public examination and copying of each document which is a part of the administrative record of the hearing shall be governed by the provisions of § 2.511. Each document which is available for public examination or copying shall be placed on public display in the office of the Hearing Clerk promptly upon receipt in that office.

#### Subpart F—Regulatory Hearing Before the Food and Drug Administration

##### § 2.500 Scope of subpart.

Subpart F governs the practices and procedures applicable whenever:

(a) The Commissioner is considering any regulatory action, including a refusal to act, and concludes, in his discretion, on his own initiative or at the suggestion of any person, to offer an opportunity for a regulatory hearing before he makes a decision or takes action.

(b) Any provision in any regulation of this chapter provides any person with an opportunity for a hearing with respect to any regulatory action, including proposed action, and such regulation either specifically provides an opportunity for a regulatory hearing pursuant to this subpart or provides an opportunity for a hearing but does not specify the procedures for such hearing and such procedures are not specified in other provisions of this chapter. Such sections are:

(1) Section 202.1(j)(5), relating to approval of prescription drug advertisements.

(2) Section 8.27(b), relating to refusal to certify a batch of a color additive.

(3) Section 8.28(b), relating to suspension of certification service for a color additive.

(4) Section 8.33(a), relating to use of food containing a new color additive.

(5) Section 10.5(d), relating to a temporary permit to vary from a food standard.

(6) Section 121.75(b), relating to use of food containing an investigational food additive.

(7) Section 511.1(b)(5), relating to use of food containing an investigational new animal drug.

(8) Section 511.1(c)(1), relating to termination of an INAD for an investigator.

(9) Section 511.1(c)(4) and (d), relating to termination of an INAD for a sponsor.

(10) Section 514.210, relating to suspension of certification service for a veterinary antibiotic drug.

(11) Section 312.1(c)(1), relating to whether an investigator is entitled to receive investigational new drugs.

(12) Sections 312.1(c)(4) and (d), relating to termination of an IND for a sponsor.

(13) Section 312.9(c), relating to termination of an IND for tests in vitro and in laboratory research animals for a sponsor.

(14) Section 429.50, relating to suspension of certification service for an antibiotic drug.

(15) Section 433.2(d), relating to exemption from certification for an antibiotic drug.

(16) Section 433.12(b)(5), relating to an exemption from labeling for a certifiable antibiotic drug.

(17) Section 433.13(b), relating to an exemption from manufacturing use for a certifiable antibiotic drug.

(18) Section 433.14(b), relating to an exemption for storage for a certifiable antibiotic drug.

(19) Section 433.15(b), relating to an exemption for processing for a certifiable antibiotic drug.

(20) Section 433.16(b), relating to an exemption for repackaging for a certifiable antibiotic drug.

(21) Section 1003.11(a)(3), relating to the failure of an electronic product to comply with an applicable standard or to a defect in an electronic product.

(22) Section 1003.31(d), relating to denial of an exemption from notification requirements for an electronic product which fails to comply with an applicable standard.

(23) Section 1004.6, relating to plan for repurchase, repair, or replacement of an electronic product.

(24) Section 1210.30, relating to denial, suspension, or revocation of a permit under the Federal Import Milk Act.

(25) Any other provision in the regulations in this chapter under which a party who is adversely affected by regulatory action is entitled to an opportunity for a hearing, and no other procedural provisions in this part are by regulation applicable to such hearing.

(26) Section 1210.31, relating to plan for repurchase, repair, or replacement of an electronic product.

(27) Section 1210.32, relating to denial, suspension, or revocation of a permit under the Federal Import Milk Act.

(28) Section 1210.33, relating to denial, suspension, or revocation of a permit under the Federal Import Milk Act.

(29) Section 1210.34, relating to denial, suspension, or revocation of a permit under the Federal Import Milk Act.

(30) Section 1210.35, relating to denial, suspension, or revocation of a permit under the Federal Import Milk Act.

(31) Section 1210.36, relating to denial, suspension, or revocation of a permit under the Federal Import Milk Act.

(32) Section 1210.37, relating to denial, suspension, or revocation of a permit under the Federal Import Milk Act.

(33) Section 1210.38, relating to denial, suspension, or revocation of a permit under the Federal Import Milk Act.

(34) Section 1210.39, relating to denial, suspension, or revocation of a permit under the Federal Import Milk Act.

(35) Section 1210.40, relating to denial, suspension, or revocation of a permit under the Federal Import Milk Act.

(36) Section 1210.41, relating to denial, suspension, or revocation of a permit under the Federal Import Milk Act.

(37) Section 1210.42, relating to denial, suspension, or revocation of a permit under the Federal Import Milk Act.

(38) Section 1210.43, relating to denial, suspension, or revocation of a permit under the Federal Import Milk Act.

(39) Section 1210.44, relating to denial, suspension, or revocation of a permit under the Federal Import Milk Act.

(40) Section 1210.45, relating to denial, suspension, or revocation of a permit under the Federal Import Milk Act.

(41) Section 1210.46, relating to denial, suspension, or revocation of a permit under the Federal Import Milk Act.

(42) Section 1210.47, relating to denial, suspension, or revocation of a permit under the Federal Import Milk Act.

sections include Subpart A of Part 90 of this chapter, relating to emergency permit control.

##### § 2.505 Presiding officer.

(a) Any Food and Drug Administration employee to whom the Commissioner delegates such authority, or any other agency employee designated by an employee to whom such authority is delegated, may serve as the presiding officer at and conduct a regulatory hearing pursuant to the provisions of this subpart.

(b) The presiding officer shall be free from bias or prejudice and shall not have participated in the investigation or action that is the subject of the hearing or be subordinate to a person who has participated in such investigation or action.

(c) A different presiding officer may be substituted for the one originally designated pursuant to §§ 2.510 and 2.511 without notice to the parties.

##### § 2.506 Right to counsel.

Any party to a hearing pursuant to this subpart shall have the right at all times to be advised and accompanied by counsel.

##### § 2.510 Regulatory hearing on the initiative of the Commissioner.

(a) A regulatory hearing on the initiative of the Commissioner pursuant to § 2.500(a) shall be initiated by a notice of opportunity for hearing from the Food and Drug Administration.

(1) Such notice shall be sent by registered mail, telegram, telex, personal delivery, or any other mode of written communication.

(2) Such notice shall specify the facts and the action that are the subject of the opportunity for a hearing.

(3) Such notice shall state that the notice of opportunity for hearing and the hearing are governed by the provisions of this subpart.

(4) Such notice shall state the time within which a hearing shall be requested, shall be signed by the Food and Drug Administration employee who will be the presiding officer in the event a hearing is held, and shall state the name, address, and telephone number of the presiding officer.

(b) Any person offered an opportunity for a hearing shall have the amount of time specified in the notice, which shall be not less than 3 working days after receipt of such notice, within which to request a hearing. Such request may be filed by registered mail, telegram, telex, personal delivery, or any other mode of written communication, addressed to the presiding officer. If no response is filed within such time, the offer shall be deemed to have been refused and no hearing shall be held.

(c) If a hearing is requested, such hearing shall take place at a time and location agreed upon by the party requesting the hearing and the presiding officer or, if such agreement cannot be reached, at a reasonable time and location designated by the presiding officer.

(d) A notice of opportunity for hearing under this section shall not operate

to delay or stay any administrative action, including enforcement action of any kind, by the agency unless the Commissioner, in his discretion, determines that delay or a stay is in the public interest.

##### § 2.511 Regulatory hearing pursuant to regulation.

(a) A regulatory hearing pursuant to a regulation listed in § 2.500(b) shall be initiated by a notice of opportunity for hearing from the Food and Drug Administration.

(1) Such notice shall be sent by registered mail, telegram, telex, personal delivery, or any other mode of written communication.

(2) Such notice shall specify the facts and the action that are the subject of the opportunity for hearing, and shall state whether the action is or is not being taken pending the hearing pursuant to paragraph (e) of this section.

(3) Such notice shall state that the notice of opportunity for hearing and the hearing are governed by the provisions of this subpart.

(4) Such notice shall state the time within which a hearing shall be requested, and shall state the name, address, and telephone number of the Food and Drug Administration employee to whom any request for hearing shall be addressed.

(b) Any person offered an opportunity for hearing shall have the amount of time specified in the notice, which shall be not less than 3 working days after receipt of such notice, within which to request a hearing. Such request may be filed by registered mail, telegram, telex, personal delivery, or any other mode of written communication, addressed to the presiding officer. If no response is filed within such time, the offer shall be deemed to have been refused and no hearing shall be held.

(c) If a hearing is requested, the Commissioner shall designate a presiding officer and such hearing shall take place at a time and location agreed upon by the party requesting the hearing and the presiding officer or, if such agreement cannot be reached, at a reasonable time and location designated by the presiding officer. The hearing may not be required to be held at a time less than two working days subsequent to receipt of the request for hearing.

(d) Before the hearing, the Food and Drug Administration shall give to the party requesting the hearing reasonable notice of the matters to be considered at the hearing, including a comprehensive statement of the basis for the decision or action taken or proposed that is the subject of the hearing and a general summary of the information that will be presented by the Food and Drug Administration at the hearing in support of such decision or action. Such information may be given orally or in writing, in the discretion of the Commissioner.

(e) The Commissioner may take such action pending a hearing pursuant to this section as he concludes is necessary to protect the public health, except where expressly prohibited by statute or regulation.

lation. A hearing to consider action already taken, and not stayed by the Commissioner, shall be conducted on an expedited basis.

(f) On the basis of the administrative record of the hearing specified in § 2.513(a), the Commissioner shall issue a written decision stating the reasons for his administrative action and the basis in the record.

##### § 2.512 Hearing procedure.

(a) A regulatory hearing may be conducted in private or may be a public hearing, as determined by the party requesting the hearing.

(1) The party requesting the hearing shall inform the presiding officer or other designated agency employee at the time that he requests the hearing, whether it will be a private or public hearing. If the party requesting the hearing fails to state whether the hearing shall be private or public, it shall be a private hearing.

(2) If the hearing is a private hearing, no persons other than the party requesting the hearing, his counsel and witnesses, and an employee or consultant or other person subject to a commercial arrangement as defined in § 4.81(a) of this chapter, and Food and Drug Administration representatives, shall be entitled to attend.

(3) If the hearing is a public hearing, it shall be announced on the public calendar described in § 2.21(a) whenever feasible, and any interested person who attends the hearings may participate to the extent of presenting relevant information.

(b) A regulatory hearing shall be conducted by a presiding officer. Employees of the Food and Drug Administration shall first give a full and complete statement of the action which is the subject of the hearing, together with the information and reasons supporting it, and may present any oral or written information relevant to the hearing. The party requesting the hearing shall then have the right to present any oral or written information relevant to the hearing. All parties may confront and conduct reasonable cross-examination of any person (except for the presiding officer and counsel for the parties) who makes any statement with respect to the matter at the hearing.

(c) The hearing shall be informal in nature, and the rules of evidence shall not apply. No motions or objections relating to the admissibility of data, information, and views shall be made or considered, but any other party may comment upon or rebut all such data, information, and views.

(d) The Commissioner may, in his discretion, order the hearing to be transcribed. The party requesting the hearing shall have the right to have the hearing transcribed, at his expense, in which case a copy of such transcription shall be furnished to the Food and Drug Administration and included with the presiding officer's report of the hearing. Any transcription of the hearing shall

be included with the presiding officer's report of the hearing.

(e) The presiding officer shall prepare a written report of the hearing. All written material presented at the hearing shall be attached to the report. Whenever time permits, the parties to the hearing shall be given the opportunity to review and offer corrections to the presiding officer's report of the hearing.

##### § 2.513 Administrative record of a regulatory hearing.

(a) The record of the administrative proceeding shall consist of the following:

(1) The notice of opportunity for hearing and the response thereto.

(2) All written data, information, and views submitted to the presiding officer at the hearing.

(3) Any transcript of the hearing.

(4) The presiding officer's report of the hearing.

(b) The record of the administrative proceeding shall be closed with respect to the submission of data, information, and views, at the close of the hearing, unless the presiding officer specifically permits additional time for a further submission.

##### § 2.514 Examination of administrative record.

The availability for public disclosure of each document which is a part of the administrative record of a regulatory hearing shall be governed by the provisions of Part 4 of this chapter and the regulations referenced therein.

##### § 2.515 Record for administrative decision.

(a) With respect to any matter which is subject to an opportunity for a hearing pursuant to §§ 2.500(a) and 2.510, the administrative record of the hearing specified in § 2.513(a) shall be considered by the Commissioner together with all other relevant data and information available to the Food and Drug Administration in determining whether regulatory action should be taken and, if so, what form of regulatory action should be taken.

(b) With respect to any matter which is subject to an opportunity for a hearing pursuant to §§ 2.500(b) and 2.511, the administrative record of the hearing specified in § 2.513(a) shall constitute the exclusive record for decision.

##### § 2.516 Reconsideration and stay of action.

Following any final administrative action which is the subject of a hearing pursuant to this subpart or any provision referenced in § 2.501(b), any party may petition the Commissioner for reconsideration of any part or all of such decision or action pursuant to § 2.8 or may petition for a stay of such decision or action pursuant to § 2.9.

##### § 2.520 Judicial review.

The availability of judicial review with respect to any regulatory action which is the subject of a hearing pursuant to this subpart shall be governed by the provisions of § 2.11.

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## RULES AND REGULATIONS

## Subpart G—Standards of Conduct and Conflicts of Interest

## § 2.600 Scope of subpart.

Subpart G governs the standards of conduct for, and establishes regulations to prevent conflicts of interest by, all Food and Drug Administration employees.

## § 2.610 Reference to Department regulations.

(a) The provisions of 45 CFR Part 73, establishing standards of conduct for all Department employees, are fully applicable to all Food and Drug Administration employees, except that such regulations shall be applicable to special government employees, i.e., consultants to the Food and Drug Administration, only to the extent stated in Subpart L of 45 CFR Part 73.

(b) The provisions of 45 CFR Part 73a supplement the Department standards of conduct and apply only to Food and Drug Administration employees except special government employees.

## § 2.611 Code of ethics for government service.

The following code of ethics, adopted by Congress on July 11, 1958, shall apply to all Food and Drug Administration employees:

## CODE OF ETHICS FOR GOVERNMENT SERVICE

Any person in Government service should:

1. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

2. Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion.

3. Give a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.

4. Seek to find and employ more efficient and economical ways of getting tasks accomplished.

5. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

6. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

7. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

8. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

9. Expose corruption wherever discovered.

10. Uphold these principles, ever conscious that public office is a public trust.

## § 2.612 Food and Drug Administration Conflict of Interest Review Board.

(a) The Commissioner shall establish a permanent five-member Conflict of Interest Review Board, which shall review and make recommendations to the Commissioner on all specific or policy matters relating to conflicts of interest arising within the Food and Drug Administration that are forwarded to it by (1) the Associate Commissioner for Administration or (2) anyone who is the subject of an adverse determination by the Associate Commissioner for Administration on any matter arising under the conflict of interest laws, except a determination of an apparent violation of law. The Director, Division of Personnel Management, Office of the Associate Commissioner for Administration, shall serve as executive secretary of the Review Board.

(b) It shall be the responsibility of every Food and Drug Administration employee with whom any specific or policy issue relating to conflicts of interest is raised, or who otherwise wishes to have any such matter resolved, to forward the matter to the Associate Commissioner for Administration for resolution, except that reporting of apparent violations of law are governed by § 2.613.

(c) All general policy relating to conflicts of interest shall be established in guidelines pursuant to the provisions of § 2.19(b) and whenever feasible shall be incorporated in regulations in this subpart.

(d) All decisions relating to specific individuals shall be placed in a public file established for this purpose by the Public Records and Documents Center, e.g., a determination that a consultant may serve on an advisory committee with specific limitations or with public disclosure of stock holdings, except that such determination shall be written in a way that does not identify the individual in the following situations:

(1) A determination that an employee must dispose of prohibited financial interests or refrain from incompatible outside activities in accordance with established Department or agency regulations.

(2) A determination that a proposed consultant is not eligible for employment by the agency.

(3) A determination that public disclosure of any information would constitute an unwarranted invasion of personal privacy in violation of § 4.63 of this chapter.

## § 2.613 Duty to report violations.

(a) The Policy Management Staff, Associate Commissioner for Administration, is responsible for obtaining factual information for the Food and Drug Administration on any matter relating to allegations of misconduct, impropriety, conflict of interest, or other violations of Federal statutes by agency personnel.

(b) Any Food and Drug Administration employee who has factual information showing or who otherwise believes that any present or former Food and Drug Administration employee has violated or is violating any provision of this subpart or of 45 CFR Parts 73 or 73a or of any statute listed in Appendix A to 45 CFR Part 73 should report such information directly to the Policy Management Staff. Any such reports shall be in writing or shall with the assistance of the Policy Management Staff be reduced to writing, and shall be promptly investigated.

(c) Any report pursuant to paragraph (b) of this section and any records relating to an investigation of such reports shall be maintained in strict confidence in the files of the Policy Management Staff, shall be exempt from public disclosure, and may be reviewed only by authorized Food and Drug Administration employees who are required to do so in the performance of their duties.

## § 2.620 Permanent disqualification of former employees.

No former Food and Drug Administration employee, including a special government employee, shall knowingly act as agent or attorney for anyone other than United States in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and in which he participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, investigation, or otherwise as a Food and Drug Administration employee.

## § 2.621 Temporary disqualification of former employees.

Within 1 year after termination of employment with the Food and Drug Administration, no former Food and Drug Administration employee, including a special government employee, shall appear personally before the Food and Drug Administration or other federal agency or court as agent or attorney for any person other than the United States in connection with any proceeding or matter in which the United States is a party or has a direct and substantial interest and which was under his official responsibility at any time within one year preceding termination of such responsibility. The term "official responsibility" means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct government action.

4. A new Part 5—Delegations of Authority and Organization, consisting of the redesignated Subparts H and M of Part 2, is established as follows:

## PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

## Subpart A—Delegations of Authority to the Commissioner of Food and Drugs

Sec. 5.1 Delegations from the Secretary and Assistant Secretary.

## Subpart B—Redelegations of Authority from the Commissioner of Food and Drugs

5.20 General redelegations of authority from the Commissioner to other officers of the Food and Drug Administration.

5.21 Delegations regarding hearings and review boards.

5.22 Delegations regarding imports.

## RULES AND REGULATIONS

Sec. 5.23 Delegations regarding certification of true copies and use of Department seal.

5.24 Delegations regarding disclosure of official records.

5.25 Delegations regarding certification of color additives.

5.26 Delegations regarding certification of insulin.

5.27 Delegations regarding certification of antibiotic drugs.

5.28 Delegations regarding approved new animal drug applications and approved new animal drug application supplements for new animal drugs.

5.29 Delegations regarding approval of new-drug applications and new-drug application supplements for drugs for human use.

5.30 Delegations regarding issuance of notices relating to proposals to refuse approval or to withdraw approval of new drug applications and new drug application supplements for drugs for human use.

5.31 Delegation regarding designation of official master and working standards for antibiotic drugs.

5.32 Delegations regarding emergency functions.

5.33 Delegations regarding enforcement activities.

5.34 Delegations regarding certification following inspections.

5.35 Delegations regarding grants and fellowships.

5.36 Delegation regarding issuance, amendment, or repeal of regulations pertaining to antibiotic drugs for human use.

5.37 Delegation regarding issuance of notices of filing of petitions, and notices of proposed rule making pertaining to food standards, food additives, and color additives.

5.38 Delegations regarding termination of exemptions for new drugs for investigational use in human beings or in animals.

5.39 Delegations regarding detention of meat, poultry, eggs, and related products.

5.40 Delegations regarding approval of schools providing food-processing instruction.

5.41 Delegations regarding issuance of reports of minor violations.

5.42 Delegations relating to granting and withdrawing variances from performance standards for electronic products.

5.43 Delegations relating to exemptions from performance standards for electronic products.

5.44 Delegations relating to testing programs and methods of certification and identification for electronic products.

5.45 Delegations relating to notification of defects in, and repair or replacements of, electronic products.

5.46 Delegations relating to manufacturer's resident import agents.

5.47 Delegations relating to requiring manufacturers to provide data to ultimate purchasers of electronic products.

5.48 Delegations relating to directing dealers and distributors of electronic products to provide data to manufacturers.

5.49 Delegations relating to acceptance of assistance from State and local authorities for enforcement of radiation control legislation and regulations.

Sec. 5.50 Delegations regarding issuance and revocation of licenses for the propagation or manufacture and preparation of biological products.

## Subpart C—Organization

5.100 Headquarters.

5.105 Chief Counsel for the Food and Drug Administration and Assistant General Counsel for Food and Drugs, Office of General Counsel, Department of Health, Education, and Welfare.

5.110 FDA Public Records and Documents Center.

5.111 FDA Hearing Clerk.

5.115 Field structure.

## Subpart A—Delegations of Authority to the Commissioner of Food and Drugs

## § 5.1 Delegations from the Secretary and Assistant Secretary.

(a) The Assistant Secretary for Health has redelegated to the Commissioner of Food and Drugs with authority to redelegate (35 FR 606 as amended) all authority delegated to him by the Secretary of Health, Education, and Welfare as follows:

(1) Functions vested in the Secretary under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), the Filled Milk Act (21 U.S.C. 61-63), the Federal Import Milk Act (21 U.S.C. 141 et seq.), the Tea Importation Act (21 U.S.C. 41 et seq.), the Federal Cautic Poison Act (44 Stat. 1406), and The Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.), pursuant to section 12 of Reorganization Plan No. IV and Reorganization Plan No. 1 of 1953, including authority to administer oaths vested in the Secretary of Agriculture by 7 U.S.C. 2217.

(2) Functions vested in the Secretary under section 301 (Research and Investigation); section 307 (International Cooperation); section 310 (Health Education and Information); section 311 (Federal-State Cooperation); and section 314(f) (Interchange of Personnel with States) of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 243, 246(f)) which relate to the functions of the Food and Drug Administration.

(3) Functions vested in the Secretary under sections 354 through 360F of the Public Health Service Act (42 U.S.C. 263b through 263n) which relate to electronic product radiation control.

(4) Functions vested in the Secretary under section 361 of the Public Health Service Act (42 U.S.C. 264) which relate to the law enforcement functions of the Food and Drug Administration concerning the following products and activities: biologicals (including blood and blood products); interstate travel sanitation (except interstate transportation of etiologic agents under 42 CFR 72.25); food (including milk and food service sanitation and shellfish sanitation); and drugs, devices, cosmetics, and electronic products, and other items of products regulated by the Food and Drug Administration.

(5) Functions vested in the Secretary under sections 351 and 352 of the Public Health Service Act (42 U.S.C. 262 and 263) which relate to biological products.

(6) Functions vested in the Secretary pertaining to section 302(a) of the Public Health Service Act (42 U.S.C. 242(a)) which relate to the determination and reporting requirements with respect to the medicinal and scientific requirements of the United States for controlled substances.

(7) Functions vested in the Secretary pertaining to section 303 of the Public Health Service Act (42 U.S.C. 242a) which relate to the authorization of persons engaged in research on the use and effect of drugs to protect the identity of their research subjects with respect to drugs scheduled under Public Law 91-513 for which a notice of claimed exemption for an investigational new drug is filed with the Food and Drug Administration and with respect to all drugs not scheduled under Public Law 91-513.

(8) Functions vested in the Secretary pertaining to section 4 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1241) which relate to the determination of the safety and effectiveness of drugs or to approve new drugs to be used in the treatment of narcotic addicts.

(9) Functions vested in the Secretary pertaining to section 303(f) of the Controlled Substances Act (21 U.S.C. 823(f)) which relate to the determination of the qualifications and competency of practitioners wishing to conduct research with controlled substances listed in Schedule I of the Act, and the merits of the research protocol.

(10) Functions vested in the Secretary pertaining to provisions of the Controlled Substances Act (21 U.S.C. 801 et seq.) which relate to administration of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(11) Functions vested in the Secretary under section 409(b) of the Federal Meat Inspection Act (21 U.S.C. 679(b)) which relate to the detention of any carcass, part thereof, meat, or meat product of cattle, sheep, swine, goats, or equines.

(12) Functions vested in the Secretary under section 24(b) of the Poultry Products Inspection Act (21 U.S.C. 467f(b)) which relate to the detention of any poultry carcass, part thereof, or poultry product.

(13) Functions vested in the Secretary under the Egg Products Inspection Act (21 U.S.C. 1031 et seq.).

(14) Functions vested in the Secretary by amendments to the foregoing statutes subsequent to Reorganization Plan No. 1 of 1953.

(15) Function of issuing all regulations of the Food and Drug Administration. The reservation of authority contained in Chapter 2-000 of the Department Organization Manual shall not apply.

(16) Functions vested in the Secretary under Executive Order 11490, section 1103(5), and those portions of sections 1103(1), 1103(3), 1103(4), 3001(2), 3001(3), 3002(1), 3002(2), 3002(3), 3004, and 3009 which relate to food, drugs, and biologicals. In the performance of these emergency functions the Commissioner shall coordinate his activities with the Administrator, Health Services and Men-

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tal Health Administration, in order that preemergency plans shall be developed in consonance with postattack organization plans and structure of the Department for the Emergency Health Service.

(17) Function vested in the Secretary of authorizing and approving miscellaneous and emergency expenses of enforcement activities.

(18) Function vested in the Secretary under the Federal Advisory Committee Act, Public Law 92-463, to make determinations that advisory committee meetings are concerned with matters listed in section 552(b) of title 5, U.S.C. and therefore may be closed to the public for those committees under the administrative jurisdiction of the Commissioner of Food and Drugs. This authority may not be redelegated. This authority is to be exercised in accordance with the requirements of the Act and only with respect to the following:

(i) Meetings, to the extent that they directly involve review, discussion or consideration of records of the Department which are exempt from disclosure under 5 U.S.C. 552(b) (4), (6), and (7), namely, (a) records containing trade secrets and commercial or financial information obtained from a person and privileged or confidential; (b) personnel, medical and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (c) investigatory files compiled for law enforcement purposes;

(ii) Meetings to the extent that they involve the review, discussion, and evaluation of specific drugs and devices regulated by FDA which are intended to result in recommendations for regulatory decisions under the Federal Food, Drug, and Cosmetic Act and which are concerned with matters listed in 5 U.S.C. 552(b) (4), (5), and (7);

(iii) Meetings held for the sole purpose of considering and formulating advice which the committee will give or any final report it will render. *Provided:*

(a) The meetings will involve solely the internal expression of views and judgments of the members and it is essential to close the meeting or portions thereof to protect the free exchange of such views and avoid undue interference with agency or committee operations, and such views if reduced to writing would be protected from mandatory disclosure under section 552(b) (5) of title 5 U.S.C.;

(b) The meeting is closed for the shortest time necessary, summarizing the work of the committee during the closed sessions, and a report, prepared by the executive secretary will be made available promptly to the public.

(c) When feasible, the public is given a timely opportunity to present relevant information and views to the committee; and

(d) Concurrence for closing the meetings for such purpose is obtained from the Office of the General Counsel and the Office of Public Affairs.

(19) Functions vested in the Secretary under the second sentence of section 309 (Health Conferences) of the Public

Health Service Act (42 U.S.C. 242n) to call for a conference and invite as many health authorities and officials of State or local public or private agencies or organizations as deemed necessary or proper on subjects related to the functions of the Food and Drug Administration.

(20) Functions vested in the Secretary under section 501 (Gifts) of the Public Health Service Act (42 U.S.C. 219) to accept offers of unconditional gifts, of other than real property, provided such gifts are of \$1,000 value or less and the total costs associated with acceptance of property will not exceed the cost of purchasing a similar item and the cost of normal care and maintenance.

(21) Functions vested in the Secretary under section 362 of the Public Health Service Act (42 U.S.C. 265) which relate to the prohibition of the introduction of foods, drugs, devices, cosmetics, and electronic products and other items or products regulated by the Food and Drug Administration into the United States when it is determined that it is required in the interest of public health when such functions relate to the law enforcement functions of the Food and Drug Administration.

(b) The Chief Counsel for the Food and Drug Administration and Assistant General Counsel in charge of the Division of Food and Drugs, Office of General Counsel, Department of Health, Education, and Welfare, has been authorized to report apparent violations to the Department of Justice for the institution of criminal proceedings, pursuant to section 305 of the Federal Food, Drug, and Cosmetic Act, section 4 of the Federal Import Milk Act, and section 9(b) of the Federal Cautic Poison Act.

(c) The Assistant Secretary for Health has redelegated to the Commissioner of Food and Drugs, with authority to redelegate, the authority delegated to him by the Assistant Secretary for Administration and Management: (1) To certify true copies of any books, records, papers, or other documents on file within the Department, or extracts from such; to certify that true copies are true copies of the entire file of the Department; to certify the complete original record or to certify the nonexistence of records on file within the Department; and to cause the Seal of the Department to be affixed to such certifications and to agreements, awards, citations, diplomas, and similar documents.

(2) To establish volunteer service programs and accept volunteer services for use in the operation of a health care facility or the provision of health care under section 223 of the Public Health Service Act (42 U.S.C. 217b).

#### Subpart B—Redelegations of Authority From the Commissioner of Food and Drugs

§ 5.20 General redelegations of authority from the Commissioner to other officers of the Administration.

(a) Final authority of the Commissioner of Food and Drugs is redelegated as set forth in this subpart. Further redelegation of the authority vested herein

is not authorized. Authority redelegated herein to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis, unless prohibited by a restriction written into the document designating him as "acting" or unless not legally permissible.

(b) The Deputy Commissioner of Food and Drugs and the Associate Commissioner for Compliance are authorized to perform all the functions of the Commissioner of Food and Drugs.

#### § 5.21 Delegations regarding hearings and review boards.

(a) The Directors and Deputy Directors of Bureaus, Regional Food and Drug Directors, Deputy Regional Food and Drug Directors, and District Directors are authorized to designate officials to hold informal hearings which relate to their assigned functions under sections 305, 404(b), and 801(a) of the Federal Food, Drug, and Cosmetic Act, section 6 of the Fair Packaging and Labeling Act, section 9(b) of the Federal Cautic Poison Act, and section 5 of the Federal Import Milk Act. Officials so designated are delegated authority vested in the Secretary of Agriculture by 7 U.S.C. 2217 (43 Stat. 803) to administer or to take from any person an oath, affirmation, affidavit, or deposition for use in any prosecution or proceeding under or in enforcement of any law as cited in this section.

(b) The Director, Deputy Director, and Associate Director of the Bureau of Biologics are authorized to appoint review boards as provided by § 601.41 of this chapter.

(c) The Director and Deputy Director of the Bureau of Radiological Health are authorized to hold hearings under section 360(a) of the Public Health Service Act, and to designate officials to hold informal hearings under section 360(a) of the act.

#### § 5.22 Delegations regarding imports.

(a) The Regional Food and Drug Directors, Deputy Regional Food and Drug Directors, and District Directors are authorized to designate officials who may request, under section 801(a) of the Federal Food, Drug, and Cosmetic Act, from the Secretary of the Treasury samples of foods, drugs, devices or cosmetics imported, or offered for import, in order to determine whether such articles are in compliance with the act.

(b) The Director and Deputy Director of the Bureau of Radiological Health, and the Director of the Division of Compliance of that Bureau are authorized to request, under section 360(a) of the Public Health Service Act, from the Secretary of the Treasury samples of electronic products imported or offered for import in order to determine whether such articles are in compliance with that act.

(c) The Director and Deputy Director of the Bureau of Radiological Health, and the Director of the Division of Compliance of that Bureau may, under section 360(b) of the Public Health Service Act, exempt persons from issuing a

certification as required by section 358 (h) of the act, for electronic products imported into the United States for testing, evaluation, demonstration, or training, which will not be introduced into commerce and upon completion of their function, will be destroyed or exported in accord with Bureau of Customs regulations.

(d) The Regional Food and Drug Directors, Deputy Regional Food and Drug Directors, and District Directors are authorized to exercise all of the functions of the Commissioner of Food and Drugs under section 362 of the Public Health Service Act (42 U.S.C. 265) that relate to the prohibition of the introduction of foods, drugs, devices, cosmetics, and electronic products and other items or products regulated by the Food and Drug Administration into the United States when it is determined that it is required in the interest of public health, and such functions relate to the law enforcement functions of the Food and Drug Administration.

#### § 5.23 Delegations regarding certification of true copies and use of Department seal.

(a) The following officials are authorized to certify true copies of or extracts from any books, records, papers, or other documents on file within the Food and Drug Administration, to certify that copies are true copies of the entire file, to certify the complete original record, or to certify the nonexistence of records on file within the Administration, and to cause the seal of the Department to be affixed to such certifications:

(1) Associate and Deputy Associate Commissioners.

(2) Assistant and Deputy Assistant Commissioners.

(3) Director of the Executive Secretariat.

(4) Director and Deputy Director of the Office of Legislative Services.

(5) The FDA Regulations Officer and their alternates of the Office of the Associate Commissioner for Compliance.

(6) Directors and Deputy Directors of Bureaus and Executive Director and Deputy Executive Director of Regional Operations.

(7) Director of the Office of Planning and Evaluation, the Associate Director and Deputy Associate Director for Compliance, and the Directors of the Divisions of: Methadone Monitoring; Drug Product Quality; Drug Labeling Compliance; and Drug Manufacturing of the Bureau of Drugs.

(8) Associate Director for Management, the Associate Director and Deputy Associate Director for Compliance, and the Directors of the Divisions of: Regulatory Guidance; Food Technology; and Food Service of the Bureau of Foods.

(9) Associate Director and the Director of the Division of Compliance of the Bureau of Biologics.

(10) Director and Deputy Director of the Division of Compliance of the Bureau of Veterinary Medicine.

(11) Associate Director for Administration of the Bureau of Radiological Health, and the Director of the Division of Compliance of that Bureau.

(12) Assistant Director for Program Operations and the Director of the Division of Compliance of the Bureau of Medical Devices and Diagnostic Products.

(b) The following officials are authorized to cause the seal of the Department to be affixed to agreements, awards, citations, diplomas, and similar documents.

(1) Associate and Deputy Associate Commissioners.

(2) The Director of the Division of Personnel Management of the Office of Administration and the Chief of the Career Development and Training Branch of that Division and Office.

(c) The Federal Register Writer and his alternates of the Office of Compliance are authorized to certify true copies of Federal Register documents.

#### § 5.24 Delegations regarding disclosure of official records.

(a) The following officials are authorized to make determinations to disclose official records and information in accordance with Part 4 of this chapter.

(1) The Director and Deputy Director of the Bureau of Drugs, and the Associate Director and Deputy Associate Director for Compliance and the Directors of the Divisions of: Methadone Monitoring; Drug Product Quality; Drug Labeling Compliance; and Drug Manufacturing of that Bureau.

(2) The Director and Deputy Director of the Bureau of Foods, and the Associate Director and Deputy Associate Director for Compliance and the Director of the Division of Regulatory Guidance of that Bureau.

(3) The Director and Deputy Director of the Bureau of Veterinary Medicine and the Director and Deputy Director of the Division of Compliance of that Bureau.

(4) The Director and Deputy Director, Bureau of Radiological Health, and the Director of the Division of Electronic Products and the Director of the Division of Compliance of that Bureau.

(5) The Director and Deputy Director of the Bureau of Biologics, and the Associate Director and the Director of the Division of Compliance of that Bureau.

(6) The Director and Deputy Director of the Bureau of Medical Devices and Diagnostic Products and the Director of the Division of Compliance of that Bureau.

(b) The Chief of the Drug Listing Branch of the Division of Drug Labeling Compliance of the Bureau of Drugs is authorized to sign affidavits regarding the presence or absence of records of Registration of Drug Establishments.

(c) The Chief of the Records Section of the Administrative Services Branch, Division of Management Services, Office of Administration, is authorized to sign affidavits regarding the presence or absence of records in the files of that section.

#### § 5.25 Delegations regarding certification of color additives.

The Director and Deputy Director of the Bureau of Foods, the Associate Director and Deputy Associate Director for Technology, and the Director and Deputy Director of the Division of Color Technology of that Bureau are authorized to certify batches of color additives for use in foods, drugs, or cosmetics, under section 706 of the Federal Food, Drug, and Cosmetic Act.

#### § 5.26 Delegations regarding certification of insulin.

The Director, Deputy Director, and the Associate Director and Deputy Associate Director for Compliance of the Bureau of Drugs, the Director and Deputy Director of the Division of Drug Product Quality of that Bureau, and the Chief and Assistant Chief of the Certification Services Branch of that Division and Bureau are authorized to certify or reject batches of drugs containing insulin, pursuant to section 506(a) of the Federal Food, Drug, and Cosmetic Act.

#### § 5.27 Delegations regarding certification of antibiotic drugs.

The Director, Deputy Director, and the Associate Director and Deputy Associate Director for Compliance of the Bureau of Drugs, the Director and Deputy Director of the Division of Drug Product Quality of that Bureau, and the Chief and Assistant Chief of the Certification Services Branch of that Division and Bureau are authorized to certify or reject batches of antibiotic drugs, or any derivative of these drugs, pursuant to sections 507(a) and 512(n) of the Federal Food, Drug, and Cosmetic Act.

#### § 5.28 Delegations regarding approved new animal drug applications and approved new animal drug application supplements for new animal drugs.

The Director of the Bureau of Veterinary Medicine is authorized to perform all the functions of the Commissioner of Food and Drugs with regard to the approval of new animal drug applications, and new animal drug application supplements, for new animal drugs submitted pursuant to section 512 of the Federal Food, Drug, and Cosmetic Act. The Director of the Division of Veterinary Medical Review of the Bureau of Veterinary Medicine is authorized to perform for functions of the Commissioner with regard to the approval of applications for animal feeds containing new animal drugs.

#### § 5.29 Delegations regarding approval of new-drug applications and new-drug application supplements for drugs for human use.

(a) The Director, Deputy Director, and Associate Director for New Drug Evaluation of the Bureau of Drugs are authorized to perform all the functions of the Commissioner of Food and Drugs with regard to the approval of new-drug applications and new-drug application supplements which are for drugs for human

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use and have been submitted pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act.

(b) The Directors of the Divisions of: Anti-Infective Drug Products; Cardio-Renal Drug Products; Surgical-Dental Drug Products; Metabolism and Endocrine Drug Products; Neuropharmacological Drug Products; Oncology and Radiopharmaceutical Drug Products; and Drug Advertising of the Bureau of Drugs are authorized to perform all the functions of the Commissioner with regard to the approval of new-drug application supplements which are for drugs for human use and have been submitted pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act.

§ 5.30 Delegations regarding issuance of notices relating to proposals to refuse approval or to withdraw approval of new drug applications and new drug application supplements for drugs for human use.

The Director of the Bureau of Drugs is authorized to issue notices of an opportunity for a hearing on proposals to refuse approval or to withdraw approval of new drug applications and new drug application supplements for drugs for human use submitted pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act and to issue notices of denial or withdrawal of approval when opportunity for hearing has been waived.

§ 5.31 Delegation regarding designation of official master and working standards for antibiotic drugs.

The Director, Deputy Director, and Associate Director for Pharmaceutical Research and Testing of the Bureau of Drugs, and the Director of the National Center for Antibiotics Analysis of that Bureau are authorized to designate official Food and Drug Administration master and working standards for antibiotic drugs under § 430.5 of this chapter.

§ 5.32 Delegations regarding emergency functions.

Each Regional Food and Drug Director is authorized, during any period when normal channels of direction are disrupted between the Food and Drug Administration headquarters and his region, to fully represent the Food and Drug Administration within his region in consonance with the Department of Health, Education, and Welfare regional emergency plans and to exercise the authority of the Commissioner for supervision of and direction to all Food and Drug Administration activities and use of resources within his region for continuity and for Federal Emergency Health Service operations. These same officials are authorized to provide in Regional Emergency Plans for the delegation of Food and Drug Administration regional authorities to heads of field activities when such activities are cut off from national and regional headquarters.

§ 5.33 Delegations regarding enforcement activities.

(a) Duly appointed and authorized inspectors, officers, and employees of the

Food and Drug Administration who have been issued the Food and Drug Administration official credentials consisting of FD Form 200a entitled "Identification Record" and FD Form 200b entitled "Specification of General Authority" are designated by the Commissioner of Food and Drugs:

(1) To conduct examinations, inspections, and investigations; to collect and obtain samples; to have access to and to copy and verify records; and to supervise compliance operations, for the enforcement of the Federal Food, Drug, and Cosmetic Act, the Fair Packaging and Labeling Act, the Federal Cautic Poison Act, the Import Milk Act, the Filled Milk Act, the Tea Importation Act, the Radiation Control for Health and Safety Act of 1968, and section 361 of the Public Health Service Act.

(2) To administer oaths and affirmations under section 1 of the Act of January 31, 1925 (Ch. 124, 43 Stat. 803); sections 12 to 15 of Reorganization Plan No. IV, effective June 30, 1940; and Reorganization Plan No. 1 of 1953, effective April 11, 1953.

(b) Duly appointed and authorized inspectors, officers, and employees of the Food and Drug Administration who have been issued the Food and Drug Administration official credentials consisting of FD Form 200a entitled "Identification Record" and FD Form 200c entitled "Specification of General and Special Authority" are designated by the Commissioner of Food and Drugs:

(1) To perform the duties enumerated in paragraph (a) (1) and (2) of this section.

(2) As officers and employees having the authority to request and the authority to have access to and copy and verify records and reports required by sections 505 (i) and (j), 507 (d) and (g), and 512 (i) and (m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (i) and (j), 357 (d) and (g), and 360b (i) and (m)).

(c) The Food and Drug Administration official credentials referred to in paragraphs (a) and (b) of this section are described as follows:

(1) FD Form 200a entitled "Identification Record" bears a color photograph, description, and signature of the bearer, an identification number, an expiration date, the Department of Health, Education, and Welfare seal with blue imprint centered to the left of the photograph and the Food and Drug Administration symbol centered to the right of the photograph.

(2) FD Form 200b entitled "Specification of General Authority" bears the holder's name, his general authority, an identification number, an expiration date, and the Commissioner's signature.

(3) FD Form 200c entitled "Specification of General and Special Authority" bears the holder's name, his general and special authority, an identification number, an expiration date, and the Commissioner's signature and is superimposed in the lower right corner with a red, white, and blue stripe imprint.

(4) Both FD Form 200b and FD Form 200c bear the name of the Department of Health, Education, and Welfare, Public Health Service, and Food and Drug Administration and are superimposed with the Department seal with blue imprint.

(d) The Director and Deputy Director of the Bureau of Radiological Health are authorized to refuse admission of non-complying electronic product imports and to notify the Secretary of the Treasury of such refusal under section 360(a) of the Public Health Service Act and are authorized to refuse or to grant permission and time extensions to bring such products into compliance, and are authorized to supervise or designate an official to supervise such operations under section 360(b) of the act.

(e) The Director and Deputy Director of the Bureau of Radiological Health and the Director of the Division of Compliance of that Bureau are authorized to perform all of the functions of the Commissioner of Food and Drugs under section 360A(a) of the Public Health Service Act relating to electronic product safety and inspection of electronic product manufacturers' premises, and to perform all of the functions of the Commissioner of Food and Drugs under section 360A(b) of the act relating to the establishment, maintenance, and inspection of electronic product manufacturers' records.

(f) The Director and Deputy Director of the Bureau of Radiological Health are authorized to designate officials to make accident and investigation reports under section 360A(d) of the Public Health Service Act.

(g) The Director, Deputy Director, and Associate Director of the Bureau of Biologics and the Director of the Division of Compliance of that Bureau may authorize, pursuant to section 351(c) of the Public Health Service Act (42 U.S.C. 262 (c)), any officer, agent, or employee to enter and inspect any establishment which is subject to the provisions of section 351 of the act (42 U.S.C. 262).

§ 5.34 Delegations regarding certification following inspections.

Regional Food and Drug Directors, Deputy Regional Food and Drug Directors, and District Directors are authorized to issue certificates of sanitation under 42 CFR 72.181.

§ 5.35 Delegations regarding grants and fellowships.

(a) The Associate and Deputy Associate Commissioner for Science are authorized to approve or disapprove all applications for grants and fellowships and to select officials to serve as program managers to exercise scientific oversight and to monitor grantee progress.

(b) The Associate and Deputy Associate Commissioner for Administration and the Director and Deputy Director of the Division of Contracts and Grants Management of the Office of the Associate Commissioner for Administration are authorized to execute grant awards upon approval by the Associate or Deputy As-

sociate Commissioner for Science under sections 301, 308, 311, and 356 of the Public Health Service Act, and to notify grantees of officials who will serve as the FDA program manager for their grant.

§ 5.36 Delegation regarding issuance, amendment, or repeal of regulations pertaining to antibiotic drugs for human use.

The Director and Deputy Director of the Bureau of Drugs and the Assistant Director for Regulatory Affairs are authorized to perform all of the functions of the Commissioner of Food and Drugs under section 507 of the Federal Food, Drug, and Cosmetic Act regarding the issuance, amendment, or repeal of regulations pertaining to antibiotic drugs for human use.

§ 5.37 Delegation regarding issuance of notices of filing of petitions and notices of proposed rulemaking pertaining to food standards, food additives, and color additives.

The Director of the Bureau of Foods is authorized to perform all the functions of the Commissioner of Food and Drugs under sections 401, 409, and 706 of the Federal Food, Drug, and Cosmetic Act regarding the issuance of notices of filing of petitions and notices of proposed rulemaking pertaining to food standards, food additives, and color additives.

§ 5.38 Delegations regarding termination of exemptions for new drugs for investigational use in human beings, in laboratory research animals or in vitro tests, or in animals.

(a) The Director and Deputy Director of the Bureau of Drugs are authorized to perform all the functions of the Commissioner of Food and Drugs with regard to the termination of exemptions for new drugs for investigational use in human beings under § 312.1 and in laboratory research animals or in vitro tests under § 312.9 of this chapter, except those which pertain to a biological product subject to the licensing provisions of section 351 of the Public Health Service Act (42 U.S.C. 262). The Associate Director and Deputy Associate Director for New Drug Evaluation and the Directors of the Divisions of: Anti-Infective Drug Products; Cardio-Renal Drug Products; Surgical-Dental Drug Products; Metabolism and Endocrine Drug Products; Neuropharmacological Drug Products; and Oncology and Radiopharmaceutical Drug Products of the Bureau of Drugs are authorized to notify sponsors and invite correction prior to termination action on such exemptions.

(b) The Director, Deputy Director, and Associate Director of the Bureau of Biologics are authorized to perform all the functions of the Commissioner of Food and Drugs with regard to the termination of those exemptions for new drugs for investigational use in human beings under § 312.1 and in laboratory research animals or in vitro tests under § 312.9 of this chapter pertaining to a biological product subject to the licensing provisions of section 351 of the Public Health Service Act (42 U.S.C. 262).

(c) The Director and Deputy Director of the Bureau of Veterinary Medicine are authorized to perform all the functions of the Commissioner of Food and Drugs with regard to the termination of exemptions for new animal drugs for investigational use in animals under § 511.1 of this chapter.

§ 5.39 Delegations regarding detention of meat, poultry, eggs, and related products.

The Regional Food and Drug Directors, Deputy Regional Food and Drug Directors, and District Directors are authorized to perform and to designate other officials to perform all the functions of the Commissioner of Food and Drugs under:

(a) Section 409(b) of the Federal Meat Inspection Act (21 U.S.C. 679(b)) which relate to the detention of any carcass, part thereof, meat, or meat product of cattle, sheep, swine, goats, or equines.

(b) Section 24(b) of the Poultry Products Inspection Act (21 U.S.C. 467f(b)) which relate to the detention of any poultry carcass, part thereof, or poultry product.

(c) The Egg Products Inspection Act (21 U.S.C. 1031 et seq.)

§ 5.40 Delegations regarding approval of schools providing food-processing instruction.

The Director and Deputy Director of the Bureau of Foods are authorized to perform all of the functions of the Commissioner of Food and Drugs under § 128b.10 of this chapter regarding the approval of schools giving instruction in retort operations, processing systems operations, aseptic processing and packaging systems operations, and container closure inspections.

§ 5.41 Delegations regarding issuance of reports of minor violations.

(a) The following officials are authorized to perform all the functions of the Commissioner of Food and Drugs under section 306 of the Federal Food, Drug, and Cosmetic Act regarding the issuance of written notices or warnings:

(1) The Director and Deputy Director of the Bureau of Drugs and the Associate Director and Deputy Associate Director for Compliance of that Bureau.

(2) The Director and Deputy Director of the Bureau of Foods and the Associate Director and Deputy Associate Director for Compliance of that Bureau.

(3) The Director and Deputy Director of the Bureau of Veterinary Medicine and the Director and Deputy Director of the Division of Compliance of that Bureau.

(4) The Director and Deputy Director of the Bureau of Medical Devices and Diagnostic Products and the Director of the Division of Compliance of that Bureau.

(5) The Director and Deputy Director of the Bureau of Biologics, and the Associate Director and the Director of the Division of Compliance of that Bureau.

(b) The Director and Deputy Director of the Bureau of Radiological Health are authorized to perform all the functions

of the Commissioner of Food and Drugs under section 360C(d) of the Public Health Service Act regarding the issuance of written notices or warnings.

§ 5.42 Delegations relating to granting and withdrawing variances from performance standards for electronic products.

The Director and Deputy Director of the Bureau of Radiological Health are authorized to grant and withdraw variances from the provisions of performance standards for electronic products established in Subchapter J of this chapter.

§ 5.43 Delegations relating to exemptions from performance standards for electronic products.

The Director of the Bureau of Radiological Health is authorized to exempt from performance standards any electronic product intended solely or predominantly for departments or agencies of the United States under section 358 (a) (5) of the Public Health Service Act.

§ 5.44 Delegations relating to testing programs and methods of certification and identification for electronic products.

The Director and Deputy Director of the Bureau of Radiological Health and the Director of the Division of Compliance of that Bureau are authorized to review and evaluate industry testing programs under section 358(g) of the Public Health Service Act, and to approve or disapprove alternate methods of certification and identification and to disapprove testing programs upon which certification is based under section 358(h) of the act.

§ 5.45 Delegations relating to notification of defects in, and repair or replacement of, electronic products.

The Director and Deputy Director of the Bureau of Radiological Health are authorized to perform all the functions of the Commissioner of Food and Drugs relating to notification of defects in, and repair or replacement of, electronic products under section 359 of the Public Health Service Act and under §§ 1003.11, 1003.22, 1003.31, 1004.2, 1004.3, 1004.4, and 1004.6 of this chapter. The Director of the Division of Compliance of the Bureau of Radiological Health is authorized to notify manufacturers of defects in, and noncompliance of, electronic products under section 359(e) of the Public Health Service Act.

§ 5.46 Delegations relating to manufacturer's resident import agents.

The Director and Deputy Director of the Bureau of Radiological Health are authorized to reject manufacturers' designations of resident import agents pursuant to § 1005.25(b) of this chapter.

§ 5.47 Delegations relating to requiring manufacturers to provide data to ultimate purchasers of electronic products.

The Director and Deputy Director of the Bureau of Radiological Health are authorized to require manufacturers to



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provide performance and technical data to the ultimate purchaser of electronic products under section 360A(c) of the Public Health Service Act.

§ 5.43 Delegations relating to directing dealers and distributors of electronic products to provide data to manufacturers.

The Director and Deputy Director of the Bureau of Radiological Health and the Director of the Division of Compliance of that Bureau and the Regional Food and Drug Directors are authorized to direct dealers and distributors of electronic products to furnish information on first purchasers of such products to the manufacturer of the product under section 360A(f) of the Public Health Service Act.

§ 5.49 Delegations relating to acceptance of assistance from State and local authorities for enforcement of radiation control legislation and regulations.

The Director and Deputy Director of the Bureau of Radiological Health are authorized to accept assistance from State and local authorities engaged in activities related to health or safety or consumer protection on a reimbursable basis or otherwise, under section 360E of the Public Health Service Act.

§ 5.50 Delegations regarding issuance and revocation of licenses for the propagation or manufacture and preparation of biological products.

The Director and Deputy Director of the Bureau of Biologics and the Associate Director of that Bureau are authorized to issue licenses under section 351 of the Public Health Service Act (42 U.S.C. 262) for propagation or manufacture and preparation of biological products as specified in the act, and to revoke such licenses at the manufacturer's request.

## Subpart C—Organization

§ 5.100 Headquarters.

The central organization of the Food and Drug Administration consists of the following:

OFFICE OF THE COMMISSIONER<sup>1</sup>

Commissioner of Food and Drugs.  
Deputy Commissioner.  
Administrative Law Judge.  
Associate Commissioner for Compliance.  
Hearing Clerk.  
Associate Commissioner for Medical Affairs.  
Associate Commissioner for Science.  
Associate Commissioner for Administration.  
Assistant Commissioner for Public Affairs.  
Assistant Commissioner for Planning and Evaluation.  
Assistant Commissioner for Professional and Consumer Programs.

BUREAU OF BIOLOGICS<sup>1</sup>

Office of the Director.  
Division of Compliance.  
Division of Virology.  
Division of Blood and Blood Products.  
Division of Control Activities.  
Division of Pathology.  
Division of Bacterial Products.

<sup>1</sup> Mailing address: 5600 Fishers Lane, Rockville, MD 20852.

<sup>2</sup> Mailing address: 8800 Rockville Pike, Bethesda, MD 20014.

BUREAU OF DRUGS<sup>1</sup>

Office of the Director.  
Office of Planning and Evaluation.  
Associate Director for Drug Monographs.  
Division of OTC Drug Evaluation.  
Division of Biopharmaceutics.  
Division of Generic Drug Monographs.  
Associate Director for Biometrics and Epidemiology.  
Division of Biometrics.  
Division of Poison Control.  
Division of Drug Experience.  
Associate Director for Compliance.  
Division of Methadone Monitoring.  
Division of Drug Product Quality.  
Division of Drug Labeling Compliance.  
Division of Drug Manufacturing.  
Associate Director for Pharmaceutical Research and Testing.  
Division of Drug Biology.  
Division of Drug Chemistry.  
National Center for Antibiotics Analysis.  
National Center for Drug Analysis.  
Associate Director for New Drug Evaluation.  
Division of Anti-Infective Drug Products.  
Division of Cardiac-Renal Drug Products.  
Division of Surgical-Dental Drug Products.  
Division of Metabolism and Endocrine Drug Products.  
Division of Neuropharmacological Drug Products.  
Division of Oncology and Radiopharmaceutical Drug Products.  
Division of Drug Advertising.  
Associate Director for Information Systems.  
Division of Drug Information Resources.  
Division of Information Systems Design.  
Medical Library.

BUREAU OF FOODS<sup>1</sup>

Office of the Director.  
Associate Director for Compliance.  
Division of Regulatory Guidance.  
Division of Compliance Programs.  
Division of Industry Programs.  
Division of Food and Color Additives.  
Associate Director for Sciences.  
Division of Chemistry and Physics.  
Division of Toxicology.  
Division of Pathology.  
Division of Microbiology.  
Division of Mathematics.  
Associate Director for Technology.  
Division of Food Technology.  
Division of Chemical Technology.  
Division of Color Technology.  
Division of Cosmetics Technology.  
Associate Director for Nutrition and Consumer Sciences.  
Division of Consumer Studies.  
Division of Food Service.  
Division of Nutrition.

BUREAU OF MEDICAL DEVICES AND DIAGNOSTIC PRODUCTS<sup>1</sup>

Office of the Director.  
Division of Compliance.  
Division of Diagnostic Product Standards and Research.  
Division of Medical Device Standards and Research.  
Division of Classification and Scientific Evaluation.

BUREAU OF RADIOLOGICAL HEALTH<sup>1</sup>

Office of the Director.  
Division of Compliance.  
Division of Biological Effects.  
Division of Electronic Products.  
Division of Radioactive Materials and Nuclear Medicine.  
Division of Training and Medical Applications.

<sup>1</sup> Mailing address: 200 C St. SW., Washington, D.C. 20204.

BUREAU OF VETERINARY MEDICINE<sup>1</sup>

Office of the Director.  
Division of Compliance.  
Division of New Animal Drugs.  
Division of Nutritional Sciences.  
Division of Veterinary Medical Review.  
Division of Veterinary Research.

EXECUTIVE DIRECTOR OF REGIONAL OPERATIONS<sup>1</sup>

Office of the Executive Director.  
Division of Field Operations.  
Division of Planning and Analysis.  
Division of Federal-State Relations.

NATIONAL CENTER FOR TOXICOLOGICAL RESEARCH<sup>1</sup>

Office of the Director.  
Office of Plans, Programs, and Systems.  
Associate Director for Operations.  
Division of Animal Husbandry.  
Division of Diagnostics.  
Division of Diet Preparation.  
Division of Facilities Engineering and Maintenance.  
Division of Chemistry.  
Associate Director for Pathology.  
Division of Histopathology.  
Division of Clinical Pathology.  
Division of Pathology Research.  
Associate Director for Toxicology.  
Division of Acute/Subacute Studies.  
Division of Chronic Studies.  
Division of Teratogenic Research.  
Division of Mutagenic Research.  
Division of Comparative Pharmacology.

§ 5.105 Chief Counsel for the Food and Drug Administration and Assistant General Counsel for Food and Drugs.  
Office of General Counsel, Department of Health, Education, and Welfare.

Chief Counsel for the Food and Drug Administration and Assistant General Counsel for Food and Drugs, Room 6-57, 5600 Fishers Lane, Rockville, MD 20852.

§ 5.110 FDA Public Records and Documents Center.

The FDA Public Records and Documents Center, HFC-18, is located in Rm. 4-62, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20852, Telephone: 301-443-6310.

§ 5.111 FDA Hearing Clerk.

The FDA Hearing Clerk, HFC-20, is located in Rm. 4-65, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20852, Telephone: 301-443-1753.

§ 5.115 Field structure.

## REGION I

Regional Field Office: 585 Commercial Street, Boston, MA 02109.  
District Office: 585 Commercial Street, Boston, MA 02109.  
Winchester Engineering and Analytical Center: 109 Holton Street, Winchester, MA 01890.

## REGION II

Regional Field Office: 850 Third Avenue, Brooklyn, NY 11232.  
District Office: 850 Third Avenue, Brooklyn, NY 11232.  
District Office: 599 Delaware Avenue, Buffalo, NY 14202.  
District Office: Room 831, 970 Broad Street, Newark, NJ 07102.  
District Office: Post Office Box S-4427, San Juan Station, San Juan, PR 00905.

<sup>1</sup> Mailing address: Jefferson, AR 72079.

## REGION III

Regional Field Office: Room 1204, Second and Chestnut Streets, Philadelphia, PA 19106.  
District Office: Room 1204, Second and Chestnut Streets, Philadelphia, PA 19106.  
District Office: 900 Madison Avenue, Baltimore, MD 21201.

## REGION IV

Regional Field Office: 880 West Peachtree Street, Atlanta, GA 30309.  
District Office: 880 West Peachtree Street, Atlanta, GA 30309.  
District Office: 297 Plus Park Boulevard, Nashville, TN 37217.  
District Office: Post Office Box 118, Orlando, FL 32802.

## REGION V

Regional Field Office: Room A-1945, 175 West Jackson Boulevard, Chicago, IL 60607.  
District Office: Room 1222, 433 West Van Buren Street, Chicago, IL 60607.  
District Office: 1141 Central Parkway, Cincinnati, OH 45202.  
District Office: 1550 East Jefferson Avenue, Detroit, MI 48207.  
District Office: 240 Hennepin Avenue, Minneapolis, MN 55401.  
Minneapolis Center for Microbiological Investigations: 240 Hennepin Avenue, Minneapolis, MN 55401.

## REGION VI

Regional Field Office: 3032 Bryan Street, Dallas, TX 75204.  
District Office: 3032 Bryan Street, Dallas, TX 75204.  
District Office: Room 222, 423 Canal Street, New Orleans, LA 70130.  
Houston Section: Room 413, 201 Fannin Street, Houston, TX 77002.

## REGION VII

Regional Field Office: 1009 Cherry Street, Kansas City, MO 64106.  
District Office: 1009 Cherry Street, Kansas City, MO 64106.

## REGION VIII

Regional Field Office: 721 19th Street, U.S. Customhouse, Denver, CO 80202.  
District Office: 721 19th Street, U.S. Customhouse, Denver, CO 80202.

## REGION IX

Regional Field Office: Room 518, 50 Fulton Street, San Francisco, CA 94102.  
District Office: Room 518, 50 Fulton Street, San Francisco, CA 94102.  
District Office: 1521 West Pico Boulevard, Los Angeles, CA 90015.

## REGION X

Regional Field Office: Room 5003, 909 First Avenue, Seattle, WA 98174.  
District Office: Room 5003, 909 First Avenue, Seattle, WA 98174.

## PART 6—ENVIRONMENTAL IMPACT CONSIDERATIONS

§ 6.1 [Amended]

5. In Part 6, by amending § 6.4(a) (2) to change the reference to "§ 2.121" to read "Subpart B of Part 5".

## PART 8—COLOR ADDITIVES

6. In Part 8 § 8.12 is revised to read as follows:

§ 8.12 Advisory committee on the applicability of the anticancer clause.

All requests for and procedures governing any advisory committee on the

## RULES AND REGULATIONS

anticancer clause shall be subject to the provisions of Subpart D of Part 2, and particularly §§ 2.360 through 2.364, of this chapter.

§§ 8.13, 8.14 [Revoked].

7. Sections 8.13 and 8.14 are revoked.  
8. Sections 8.18 and 8.19 are revised to read as follows:

§ 8.18 Petition for exemption from certification.

A manufacturer, packer, or distributor of a color additive or color additive mixture may petition for an exemption from certification pursuant to Part 2 of this chapter. Any such petition shall show why such certification is not necessary for the protection of public health.

§ 8.19 Procedure for objections and hearings.

(a) Objections and hearings relating to color additive regulations under sections 706 (b) and (c) of the act shall be governed by Part 2 of this chapter.

(b) The fees specified in § 8.50 shall be applicable.

§§ 8.20, 8.21 [Revoked].

9. Sections 8.20 and 8.21 are revoked.  
10. Section 8.27 is amended by adding a sentence at the end of paragraph (b) to read as follows:

§ 8.27 Certification.

(b) . . . Any person who contests such refusal shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

11. Section 8.28(b) is revised to read as follows:

§ 8.28 Authority to refuse certification service.

(b) Any person who contests suspension of service shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

12. Section 8.33 is amended by adding a sentence at the end of paragraph (a) to read as follows:

§ 8.33 Exemption of color additives for investigational use.

(a) . . . Any person who contests a refusal to grant such authorization shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

## PART 10—DEFINITIONS AND STANDARDS FOR FOOD

13. In Part 10, § 10.2 is revised to read as follows:

§ 10.2 Procedure for establishing a food standard.

(a) The procedure for establishing a food standard under section 401 of the act shall be governed by Part 2 of this chapter.

(b) Any petition for a food standard shall show that the proposal if adopted, would promote honesty and fair dealing in the interest of consumers.

(c) Any petition for a food standard shall assert that the petitioner commits himself to substantiate the information in the petition by evidence in a public hearing, if such a hearing becomes necessary.

(d) If a petitioner fails to appear, or to substantiate the information in his petition, at a public hearing on the matter, the Commissioner may either (1) withdraw the regulation and terminate the proceeding or (2) if he concludes that it is in accordance with the requirements of section 401 of the act, continue the proceeding and introduce evidence to substantiate such information.

14. A new paragraph (1) is added to § 10.5 to read as follows:

§ 10.5 Temporary permits for interstate shipment of experimental packs of food varying from the requirements of definitions and standards of identity.

(1) Any person who contests denial, modification, or revocation of a temporary permit shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

## PART 11—STANDARDS OF QUALITY FOR FOODS FOR WHICH THERE ARE NO STANDARDS OF IDENTITY

15. In Part 11, § 11.1(e) is revised to read as follows:

§ 11.1 General principles.

(e) The Commissioner of Food and Drugs, either on his own initiative or on behalf of any interested person who has submitted a petition, may establish, amend, or repeal, under Subpart B of this Part, a regulation prescribing a standard of quality for a food pursuant to Part 2 of this chapter.

## PART 80—DEFINITIONS AND STANDARDS OF IDENTITY FOR FOOD FOR SPECIAL DIETARY USES

16. In Part 80, § 80.1(b) (4) is revised to read as follows:

§ 80.1 Dietary supplements of vitamins and minerals: definition, identity, label statements.

(b) . . .

(4) Addition to or amendment of the list of permissible combinations of vitamins and/or minerals contained in paragraph (b)(1) of this section may be proposed by the Commissioner of Food and Drugs, on his own initiative, or upon petition by an interested person pursuant to Part 2 of this chapter. Any such petition shall include scientific data of a human nutritional and/or technological nature to support such addition or amendment as being consistent with the definition and purpose of dietary sup-



plements as described by this section. The Commissioner, upon request, may extend the effective date of this section with respect to any particular product or class of products pending consideration and any administrative or court proceedings relating to any such petition, and may set a new effective date upon completion of the matter.

#### PART 90—EMERGENCY PERMIT CONTROL

17. In Part 90, § 90.2(a) is revised to read as follows:

§ 90.2 Establishment of requirements for exemption from section 404 of the act.

(a) Whenever the Commissioner finds after investigation that the distribution in interstate commerce of any class of food may, by reason of contamination with microorganisms during the manufacture, processing, or packing thereof in any locality, be injurious to health, and that such injurious nature cannot be adequately determined after such articles have entered interstate commerce, he shall promulgate regulations in Subpart B of this part establishing requirements and conditions governing the manufacture, processing, or packing of the food necessary to protect the public health. Such regulations may be proposed by the Commissioner on his own initiative or in response to a petition from any interested person pursuant to Part 2 of this chapter.

#### PART 100—NUTRITIONAL QUALITY GUIDELINES FOR FOODS

18. In Part 100, § 100.2 is revised to read as follows:

§ 100.2 Petitions.

The Commissioner of Food and Drugs, on his own initiative, on the advice of the National Academy of Sciences or other experts, or on behalf of any interested person who has submitted a petition, may issue a proposal to issue, amend, or revoke a regulation prescribing a nutritional quality guideline for a class of foods, pursuant to Part 2 of this chapter.

#### PART 102—COMMON OR USUAL NAMES FOR NONSTANDARDIZED FOODS

19. In Part 102, § 102.2 is revised to read as follows:

§ 102.2 Petitions.

(a) The Commissioner of Food and Drugs, either on his own initiative or on behalf of any interested person who has submitted a petition, may publish a proposal to issue, amend, or revoke, under Subpart B of this Part, a regulation prescribing a common or usual name for a food, pursuant to Part 2 of this chapter.

(b) If the principal display panel of a food for which a common or usual name regulation is established is too small to accommodate all mandatory requirements, the Commissioner may establish by regulation an acceptable alternative, e.g., a smaller type size. A petition requesting such a regulation, which would amend the applicable regulation, shall be submitted pursuant to Part 2 of this chapter.

#### PART 121—FOOD ADDITIVES

20. In Part 121, the introductory text of § 121.40(c) (1) is revised to read as follows:

§ 121.40 Affirmation of generally recognized as safe (GRAS) status.

(c) (1) Persons seeking the affirmation of GRAS status of substances as provided for in § 121.3(e), except those subject to the NAS-NRC GRAS list survey (36 FR 20546), shall submit a petition for GRAS affirmation pursuant to Part 2 of this chapter. Such petition shall contain information to establish that the GRAS criteria as set forth in § 121.3(b) have been met, in the following form:

21. Section 121.41(b) (1) is revised to read as follows:

§ 121.41 Determination of food additive status.

(b) (1) The Commissioner, on his own initiative or on the petition of any interested person, pursuant to Part 2 of this chapter, may issue a notice in the FEDERAL REGISTER proposing to determine that a substance is not GRAS and is a food additive subject to section 409 of the act. Any petition shall include all relevant data and information of the type described in § 121.74(b). The Commissioner will place all of the data and information on which he relies on public file in the office of the Hearing Clerk and will include in the FEDERAL REGISTER notice the name of the substance, its known uses, and a summary of the basis for the determination.

22. Section 121.55 is revised to read as follows:

§ 121.55 Procedure for objections and hearings.

Objections and hearings relating to food additive regulations under section 409 (c), (d), or (h) of the act shall be governed by Part 2 of this chapter.

§§ 121.56, 121.57, 121.58, 121.59, 121.60, 121.61, 121.62, 121.63, 121.64, 121.65, 121.66, 121.67, 121.68, 121.69, 121.70, 121.71, 121.72, 121.73 [Revoked]

23. Sections 121.56, 121.57, 121.58, 121.59, 121.60, 121.61, 121.62, 121.63, 121.64, 121.65, 121.66, 121.67, 121.68, 121.69, 121.70, 121.71, and 121.73 are revoked.

24. Section 121.72(b) is revised to read as follows:

§ 121.72 Adoption of regulation on initiative of Commissioner.

(b) Action upon a proposal made by the Commissioner shall proceed as provided in Part 2 of this chapter.

25. Section 121.74 is revised to read as follows:

§ 121.74 Procedure for amending and repealing tolerances or exemptions from tolerances.

(a) The Commissioner, on his own initiative or on the petition of any interested person, pursuant to Part 2 of this chapter, may propose the issuance of a regulation amending or repealing a regulation pertaining to a food additive or granting or repealing an exemption for such additive.

(b) Any such petition shall include an assertion of facts, supported by data, showing that new information exists with respect to the food additive or that new uses have been developed or old uses abandoned, that new data are available as to toxicity of the chemical, or that experience with the existing regulation or exemption may justify its amendment or repeal. New data shall be furnished in the form specified in § 121.51 for submitting petitions.

26. The introductory text of § 121.4000 (c) is revised to read as follows:

§ 121.4000 General.

(c) The Commissioner, on his own initiative or on the petition of any interested person, pursuant to Part 2 of this chapter, may propose an interim food additive regulation. A final order promulgating an interim food additive regulation shall provide that continued use of the substance in food is subject to each of the following conditions:

#### PART 202—PRESCRIPTION DRUG ADVERTISING

13. In Part 202, a new paragraph (j) (5) to § 202.1 is added to read as follows:

§ 202.1 Prescription drug advertisements.

(j) . . . . .

(5) The sponsor shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter with respect to any determination that prior approval is required for advertisements concerning a particular prescription drug, or that a particular advertisement is not approvable.

#### PART 310—NEW DRUGS

13a. In Part 310, § 310.200(b) to read as follows:

§ 310.200 Prescription-exemption procedure.

(b) Prescription-exemption procedure for drugs limited by a new drug application. Any drug limited to prescription use under section 503(b) (1) (C) of the act shall be exempted from prescription-dispensing requirements when the Commissioner finds such requirements are not necessary for the protection of

the public health by reason of the drug's toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, and he finds that the drug is safe and effective for use in self-medication as directed in proposed labeling. A proposal to exempt a drug from the prescription-dispensing requirements of section 503(b) (1) (C) of the act may be initiated by the Commissioner or by any interested person. Any interested person may file a petition seeking such exemption, which petition may be pursuant to Part 2 of this chapter, or in the form of a supplement to an approved new drug application.

29. Section 310.303(b) is revised to read as follows:

§ 310.303 Continuation of long term studies, records, and reports on certain drugs for which new drug applications have been approved.

(b) A proposal to require additional or continued studies with a drug for which a new drug application has been approved may be made by the Commissioner on his own initiative or on the petition of any interested person, pursuant to Part 2 of this chapter. Prior to issuance of such a proposal, the applicant will be provided an opportunity for a conference with representatives of the Food and Drug Administration. When appropriate, investigators or other individuals may be invited to participate in the conference. All requirements for special studies, records, and reports will be published in § 310.304.

#### PART 312—NEW DRUGS FOR INVESTIGATIONAL USE

30. In Part 312, § 312.1 (c) (1) and (4), (d), and (g) are revised to read as follows:

§ 312.1 Conditions for exemption of new drugs for investigational use.

(c) (1) Whenever the Food and Drug Administration has information indicating that an investigator has repeatedly or deliberately failed to comply with the conditions of these exemption regulations outlined in Form FD-1572 or FD-1573, set forth in paragraph (a) (12) and (13) of this section, or has submitted to the sponsor of the investigation false information in his Form FD-1572 or FD-1573 or in any required report, the Director, Bureau of Drugs, will furnish the investigator written notice of the matter complained of in general terms and offer him an opportunity to explain the matter in an informal conference and/or in writing. If an explanation is offered but not accepted by the Bureau of Drugs, the investigator shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter, on the question

of whether the investigator is entitled to receive investigational new drugs.

(4) If the Commissioner determines, after the unreliable data submitted by the investigator are eliminated from consideration, that the data remaining are inadequate to support a conclusion that it is reasonably safe to continue the investigation, he will notify the sponsor who shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter. If a danger to the public health exists, however, he shall terminate the exemption forthwith and notify the sponsor of the termination. In such event the sponsor shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter on the question of whether the exemption should be reinstated.

(d) If the Director, Bureau of Drugs, finds that:

(1) The submitted "Notice of claimed investigational exemption for a new drug" contains an untrue statement of a material fact or omits material information required by said notice; or

(2) The results of prior investigations made with the drug are inadequate to support a conclusion that it is reasonably safe to initiate or continue the intended clinical investigations with the drug; or

(3) There is substantial evidence to show that the drug is unsafe for the purposes and in the manner for which it is offered for investigational use; or

(4) There is convincing evidence that the drug is ineffective for the purposes for which it is offered for investigational use; or

(5) The methods, facilities, and controls used for the manufacturing, processing, and packing of the investigational drug are inadequate to establish and maintain appropriate standards of identity, strength, quality, and purity as needed for safety and to give significance to clinical investigations made with the drug; or

(6) The plan for clinical investigations of the drugs described under section 10 of the "Notice of claimed investigational exemption for a new drug" is not a reasonable plan in whole or in part, solely for a bona fide scientific investigation to determine whether or not the drug is safe and effective for use; or

(7) The clinical investigations are not being conducted in accordance with the plan submitted in the "Notice of claimed investigational exemption for a new drug"; or

(8) The drug is not intended solely for investigational use, since it is being or is to be sold or otherwise distributed for commercial purposes not justified by the requirements of the investigation; or

(9) The labeling or other informational material submitted for the drug as required by section 7 of the "Notice

of claimed investigational exemption for a new drug" or any other labeling of the drug disseminated within the United States by or on behalf of the sponsor fails to contain an accurate description of prior investigations or experience and their results pertinent to the safety and possible usefulness of the drug, including all relevant hazards, contraindications, side-effects, and precautions; or any promotional materials disseminated within the United States by or on behalf of the sponsor contains any representation or suggestion that the drug is safe or that its usefulness has been established for the purposes for which it is offered for investigations; or

(10) The sponsor fails to submit accurate reports of the progress of the investigations with significant findings at intervals not exceeding 1 year; or

(11) The sponsor fails promptly to investigate and inform the Food and Drug Administration and all investigators of newly found serious or potentially serious hazards, contraindications, side-effects, and precautions pertinent to the safety of the new drug;

he shall notify the sponsor and invite his immediate correction or explanation. A conference will be arranged with the Bureau of Drugs if requested. If the Bureau of Drugs does not accept the explanation or the correction submitted by the sponsor, the sponsor shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter on the question of whether his exemption should be terminated. Such hearing shall be requested within 10 days after receipt of notification that the explanation or correction is not acceptable. After evaluating all the available information including any explanation and or correction submitted by the sponsor, if the Commissioner determines that the exemption should be terminated he shall notify the sponsor of the termination of the exemption and the sponsor shall recall unused supplies of the drug. If at any time the Commissioner concludes that continuation of the investigation presents a danger to the public health, he shall terminate the exemption forthwith and notify the sponsor of the termination. The Commissioner will inform the sponsor that the exemption is subject to reinstatement on the basis of additional submissions that eliminate such danger and will afford the sponsor an opportunity for a regulatory hearing before the Commissioner pursuant to Subpart F of Part 2 of this chapter on the question of whether the exemption should be reinstated. The sponsor shall recall the unused supplies of the drug upon notification of the termination.

(g) A "Notice of Claimed Investigational Exemption for a New Drug" which pertains to a product subject to the licensing provisions of the Public Health Service Act of July 1, 1944 (53 Stat. 682, as amended; 42 U.S.C. 201 et seq.), shall be submitted initially to the Director,



Bureau of Biologics, 8800 Rockville Pike, Bethesda, MD 20014. Amendments of or supplements to such notice, and progress reports, consultations, or other communications with regard to the investigation, shall be directed to the Bureau of Biologics, which monitors the development of biological products subject to license under section 351 of the Public Health Service Act. A sponsor for a "Notice of Claimed Investigational Exemption for a New Drug" pertaining to such biologic shall substitute in reading this § 312.1 "Bureau of Biologics" for "Bureau of Drugs," wherever it appears.

31. Section 312.9(c)(2) is revised to read as follows:

§ 312.9 New drugs for investigational use in laboratory research animals or in vitro tests.

(c) \*\*\*

(2) The continuance of the investigation is unsafe or otherwise contrary to the public interest or the drug is used for purposes other than bona fide scientific investigation. He shall notify the sponsor and invite his immediate correction. If the conditions of the exemption are not immediately met, the sponsor shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter. If the exemption is terminated, the sponsor shall recall or have destroyed the unused supplies of the drug.

#### PART 314—NEW DRUG APPLICATIONS

32. In Part 314, § 314.200 is revised to read as follows:

§ 314.200 Notice of opportunity for hearing; notice of appearance and request for hearing; grant or denial of hearing.

(a) The notice to the applicant, and to all other persons who manufacture or distribute identical, related, or similar drug products as defined in § 310.6 of this chapter, of an opportunity for a hearing on a proposal by the Director of the Bureau of Drugs to refuse to approve an application or to withdraw the approval of an application will state the reasons for his action and the grounds upon which he proposes to issue his order.

(1) Such notice may be general (i.e., simply summarizing in a general way the information resulting in the notice) or specific (i.e., either referring to specific requirements in the statute and regulations with which there is a lack of compliance, or providing a detailed description and analysis of the specific facts resulting in the notice).

(2) The notice will be published in the FEDERAL REGISTER and will state that the applicant, and other persons subject to the notice pursuant to § 310.6 of this chapter, has 30 days after the date of publication of the notice within which he is required to file a written notice of appearance and request for hearing if he elects to avail himself of the opportunity for a hearing. The failure to file such a

written notice of appearance and request for hearing within that 30 days constitutes an election by the applicant, and other persons subject to the notice pursuant to § 310.6 of this chapter, not to avail himself of the opportunity for a hearing.

(3) It is the responsibility of every manufacturer or distributor of a drug product to review every notice of opportunity for hearing published in the FEDERAL REGISTER to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of such a notice to a specific product he manufactures or distributes that may be identical, related, or similar by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance, HFD-310, 5600 Fishers Lane, Rockville, MD 20852. If such an opinion is requested, the time for filing an appearance and request for hearing and supporting studies and analyses shall begin as of the date of receipt of the opinion from the Food and Drug Administration.

(b) The notice of opportunity for hearing shall be provided to applicants and to other persons subject to the notice pursuant to § 310.6 of this chapter:

(1) To any person who has submitted a new drug application, by delivering the notice in person or by sending it by registered or certified mail to the last address shown in the new drug application.

(2) To any person who has not submitted a new drug application but who is subject to the notice pursuant to § 310.6 of this chapter, by publication of the notice in the FEDERAL REGISTER.

(c) (1) If the applicant, or any other person subject to the notice pursuant to § 310.6 of this chapter, elects to avail himself of the opportunity for a hearing, he shall file with the Hearing Clerk (1) within 30 days after the date of the publication of the notice (or of the date of receipt of an opinion requested pursuant to paragraph (a)(3) of this section) a written notice of appearance and request for hearing, and (ii) within 60 days after the date of publication of the notice, unless a different period of time is specified in the notice of opportunity for hearing, the studies on which he relies to justify a hearing as specified in paragraph (d) of this section. The raw data underlying a study submitted may be incorporated by reference from a prior submission as part of a new drug application or other report.

(2) No data or analysis submitted after such 60 days will be considered in determining whether a hearing is warranted unless they are derived from well-controlled studies begun prior to the date of the notice of opportunity for hearing, the results of which were not in existence during that 60 days. Exceptions may be made on the basis of a showing of inadvertent omission and hardship. All studies in progress, the results of which the person requesting the hearing intends later to submit in support of the request for hearing, shall be listed. A copy of the complete protocol, a list of the participant-

ing investigators, and a brief status report of the studies shall be included in the submission made pursuant to paragraph (c)(1)(ii) of this section.

(3) Any other interested person who is not subject to the notice of opportunity for hearing may also submit comments on the proposal to withdraw approval of the new drug application. Such comments shall be submitted within the time and pursuant to the requirements specified in this section.

(d) A request for hearing shall be supported by a submission as specified in paragraph (c)(1)(ii) of this section containing the studies (including all protocols and underlying raw data) on which the person relies to justify a hearing with respect to his drug product.

(1) If effectiveness is at issue, a request for hearing shall be supported only by adequate and well-controlled clinical studies meeting all of the precise requirements of § 314.111(a)(5) and, for combination drug products, § 300.50 of this chapter, or by other studies not meeting those requirements for which a waiver has been previously granted by the Food and Drug Administration pursuant to the provisions of § 314.111(a)(5). All adequate and well-controlled clinical studies on the drug product known to the person requesting the hearing shall be submitted. Any unfavorable analyses, views, or judgments with respect to such studies known to such person shall also be submitted. No other data, information, or studies shall be submitted.

(2) Such submission shall include a factual analysis of all studies submitted. If effectiveness is at issue, such analysis shall specify how each such study accords, on a point-by-point basis, with each criterion required for an adequate well-controlled clinical investigation established in § 314.111(a)(5) and, if the product is a combination drug product, with each of the requirements for a combination drug established in § 300.50 of this chapter, or shall be accompanied by an appropriate waiver previously granted by the Food and Drug Administration. If a study deals with a drug entity or dosage form, or condition of use, or mode of administration other than the one(s) in question, such fact(s) shall be clearly stated. Any study conducted on the final marketed form of the drug product shall be so designated.

(3) Such analysis shall be submitted in the following format, except that the required information relating either to safety or to effectiveness shall be omitted if the notice of opportunity for hearing does not raise any issue with respect to that aspect of the drug; and information on compliance with § 300.50 shall be omitted if the drug product is not a combination drug product. Submissions not made in this format or not containing the required analyses will not be considered and will result in denial of a hearing, except that minor technical deficiencies may be excused if it is apparent that a good faith attempt has been made to comply with the requirements of this section and any deficiencies noted are immediately corrected upon request.

#### I. Safety data.

##### A. Animal safety data.

###### 1. Individual active component(s).

###### a. Controlled studies.

###### b. Partially controlled or uncontrolled studies.

###### 2. Combinations of the individual active components.

###### a. Controlled studies.

###### b. Partially controlled or uncontrolled studies.

##### B. Human safety data.

###### 1. Individual active component(s).

###### a. Controlled studies.

###### b. Partially controlled or uncontrolled studies.

###### c. Documented case reports.

###### d. Pertinent marketing experiences that may influence a determination as to the safety of each individual active component.

###### 2. Combinations of the individual active components.

###### a. Controlled studies.

###### b. Partially controlled or uncontrolled studies.

###### c. Documented case reports.

###### d. Pertinent marketing experiences that may influence a determination as to the safety of combinations of the individual active components.

#### II. Effectiveness data.

##### A. Individual active components: Controlled studies, with an analysis showing clearly how each study satisfies, on a point-by-point basis, each of the criteria required by § 314.111(a)(5).

##### B. Combinations of individual active components.

###### 1. Controlled studies, with an analysis showing clearly how such study satisfies, on a point-by-point basis, each of the criteria required by § 314.111(a)(5).

###### 2. An analysis showing clearly how each requirement of § 300.50 of this chapter has been satisfied.

#### III. A summary of the data and views setting forth the medical rationale and purpose for the drug and its ingredients and the scientific basis for the conclusion that the drug and its ingredients have been proven safe and/or effective for the intended use. If there is an absence of controlled studies in the material submitted, or the requirements of any element of § 300.50 of this chapter or § 314.111(a)(5) have not been fully met, such fact(s) shall be clearly stated, and a waiver obtained pursuant to § 314.111(a)(1) shall be enclosed.

#### IV. A statement signed by the person responsible for such submission, that it includes in full (or incorporates by reference as permitted in § 314.200(c)(2)) all studies and information specified in § 314.200(d). (Warning: A willfully false statement is a criminal offense, 18 U.S.C. 1001).

(e) A notice of opportunity for hearing encompasses all issues relating to the legal status of the drug product(s) subject to it, including identical, related, and similar drug products as defined in § 310.6 of this chapter. Any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act, or because it is exempt from part or all of the new drug provisions of the act pursuant to section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962, or for any other reason shall be stated in a notice of appearance and request for hearing pursuant to paragraph (c)(1)(i) of this section and supported by a

submission pursuant to paragraph (c)(1)(ii) of this section and shall be the subject of an administrative determination by the Commissioner. The failure of any person subject to a notice of opportunity for a hearing, including any person who manufactures or distributes an identical, related, or similar drug product as defined in § 310.6 of this chapter, to submit a notice of appearance and request for hearing or to raise all such contentions on which he relies shall constitute a waiver of any such contentions not so raised.

(1) A contention that a drug product is generally recognized as safe and effective within the meaning of section 201(p) of the act must be supported by submission of the same quantity and quality of scientific evidence as is required to obtain approval of a new drug application for the product, unless a waiver has been obtained from such requirement for effectiveness (as provided in § 314.111(a)(5)) and/or safety for good cause shown. Such submission shall be in the format and with the analyses required by paragraph (d) of this section. The failure to submit such scientific evidence or a submission that is not in the format or does not contain the analyses required by paragraph (d) of this section shall constitute a waiver of any such contention. General recognition of safety and effectiveness shall ordinarily be based upon published studies which may be corroborated by unpublished studies and other data and information.

(2) A contention that a drug product is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938 contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962, shall be supported by submission of evidence of past and present quantitative formulas, labeling, and evidence of marketing, on which reliance is made for such contention. The failure to submit such formulas, labeling, and evidence of marketing in the following format shall constitute a waiver of any such contention.

#### I. Formulation.

##### A. A copy of each pertinent document or record to establish the exact quantitative formulation of the drug (both active and inactive ingredients) on the date of initial marketing of the drug.

B. A statement whether such formulation has at any subsequent time been changed in any manner. If any such change has been made, the exact date, nature, and rationale for each change in formulation, including any deletion or change in the concentration of any active ingredient and/or inactive ingredient, shall be submitted, together with a copy of each pertinent document or record to establish the date and nature of each such change including but not limited to the formula which resulted from each such change. If no such change has been made, a copy of representative documents or records showing the formula at representative points in time shall be submitted to support the statement.

#### II. Labeling.

A. A copy of each pertinent document or record to establish the identity of each item of written, printed, or graphic matter used

as labeling on the date the drug was initially marketed.

B. A statement whether such labeling has at any subsequent time been discontinued or changed in any manner. If such discontinuance or change has been made, the exact date, nature, and rationale for each discontinuance or change and a copy of each pertinent document or record to establish each such discontinuance or change shall be submitted, including but not limited to the labeling which resulted from each such discontinuance or change. If no such discontinuance or change has been made, a copy of representative documents or records showing labeling at representative points in time shall be submitted to support the statement.

#### III. Marketing.

A. A copy of each pertinent document or record to establish the exact date the drug was initially marketed.

B. A statement whether such marketing has at any subsequent time been discontinued. If such marketing has been discontinued, the exact date of each such discontinuance shall be submitted, together with a copy of each pertinent document or record to establish each such date.

#### IV. Verification.

A statement signed by the person responsible for such submission, that all appropriate records have been searched and to the best of his knowledge and belief it includes a true and accurate presentation of the facts (Warning: A willfully false statement is a criminal offense, 18 U.S.C. 1001).

(3) No drug product, including any active ingredient, which is identical, related, or similar, as defined in § 310.6, to a drug product, including any active ingredient for which a new drug application is or at any time has been effective or deemed approved, or approved under section 505 of the act, will be determined to be exempt from part or all of the new drug provisions of the act.

(4) A contention that a drug product is not a new drug for any other reason must be supported by submission of such factual records, data, and information as is necessary and appropriate to support such contention.

(5) It is the responsibility of every person who manufactures or distributes a drug product in reliance upon a "grandfather" provision(s) of the act to maintain in his files, organized as required by this paragraph, the data and information necessary fully to document and support such status.

(f) Upon receipt of any request for hearing, the Director of the Bureau of Drugs shall prepare an analysis of the request and a proposed order ruling upon the matter. The analysis and proposed order, the request for hearing, and any proposed order denying a hearing and response pursuant to paragraph (g)(2) or (3) of this section, shall be submitted to the office of the Commissioner for independent review and decision. No representative of the Bureau of Drugs shall participate or advise in the review and decision by the Commissioner. The office of the General Counsel shall observe the same separation of functions.

(g) A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing with

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respect to the particular drug product(s) specified in the request for hearing.

(1) Where a specific notice of opportunity for hearing as defined in paragraph (a)(1) of this section is used, it shall state that, if it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the refusal to approve the application or the withdrawal of approval of the application, e.g., no adequate and well-controlled clinical investigations meeting each of the precise elements of § 314.111(a)(5) and, for a combination drug product, § 300.50 of this chapter, showing effectiveness have been identified, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing. Any such order entering summary judgment shall set forth the Commissioner's findings and conclusions in detail and shall specify why each study submitted fails to meet the requirements of the statute and regulations or why the request for hearing does not raise a genuine and substantial issue of fact or shall specify the requirements of this section with respect to format or analyses with which there is a lack of compliance.

(2) Where a general notice of opportunity for hearing (as defined in paragraph (a)(1) of this section) is used and the Director of the Bureau of Drugs concludes that summary judgment against the person(s) requesting a hearing should be considered, he shall serve upon such person(s) by registered mail a proposed order denying a hearing. Such person(s) shall have 60 days after receipt of such proposed order to respond with sufficient data, information, and analyses to demonstrate that there is a genuine and substantial issue of fact which justifies a hearing.

(3) Where a general or specific notice of opportunity for hearing is used and the person(s) requesting a hearing submits data or information of a type required by the statute and regulations, and the Director of the Bureau of Drugs concludes that summary judgment against such person(s) should be considered, he shall serve upon such person(s) by registered mail a proposed order denying a hearing. Such person(s) shall have 60 days after receipt of such proposed order to respond with sufficient data, information, and analyses to demonstrate that there is a genuine and substantial issue of fact which justifies a hearing.

(4) If review of the data, information, and analyses submitted warrants the conclusion that the ground(s) cited in the notice are not valid, e.g., that substantial evidence of effectiveness exists, the Commissioner shall deny the hearing, enter summary judgment for the person(s) requesting the hearing, and rescind the notice of opportunity for hearing.

(5) If a hearing is requested and is justified the hearing will commence no more than 90 days after the expiration of such 30 days unless the parties otherwise agree in the case of denial of approval, and as soon as practicable in the case of withdrawal of approval.

(6) A hearing shall be granted if there exists a genuine and substantial issue of fact or if the Commissioner concludes, in his discretion, that a hearing would otherwise be in the public interest.

(7) If the manufacturer or distributor of a drug product that may be an identical, related, or similar drug product requests and is granted a hearing, the issue whether the product is in fact identical, related, or similar to the drug subject to new drug application is properly encompassed within the hearing.

(8) A request for hearing, and any subsequent grant or denial of a hearing, shall be applicable only to the particular drug product(s) named in such documents.

(h) Any drug product subject to a notice of opportunity for hearing, including any identical, related, or similar drug product as defined in § 310.6 of this chapter, for which an opportunity for a hearing is waived or for which a hearing is denied shall promptly be the subject of a notice withdrawing the new drug application approval and declaring all such products unlawful. The Commissioner may, in his discretion, defer or stay such action pending a ruling on any related request for a hearing or pending any related hearing or other administrative or judicial proceeding.

33. A new § 314.201 is added to read as follows:

§ 314.201 Procedure for hearings.

Hearings relating to new drugs under section 505 (d) and (e) of the act shall be governed by Part 2 of this chapter.

§§ 314.202, 314.203, 314.204, 314.205, 314.206, 314.220, 314.221, 314.222, 314.230, 314.231, 314.232 [Revoked].

34. Sections 314.202, 314.203, 314.204, 314.205, 314.206, 314.220, 314.221, 314.222, 314.230, 314.231 and 314.232 are revoked.

35. Section 314.235 is revised to read as follows:

§ 314.235 Judicial review.

(a) The transcript and record shall be certified by the Commissioner. In any case in which the Commissioner enters an order without a hearing pursuant to § 314.200(g), the requests for hearing together with the data and information submitted and the Commissioner's findings and conclusions shall be included in the record certified by the Commissioner.

(b) Judicial review of an order withdrawing approval of a new drug application, whether or not a hearing has been held, may be sought by a manufacturer or distributor of an identical, related, or similar drug product, as defined in § 310.6 of this chapter, in a United States court of appeals pursuant to section 505 (h) of the act.

#### PART 328—IN VITRO DIAGNOSTIC PRODUCTS FOR HUMAN USE

36. In Part 328, § 328.30(a) is revised to read as follows:

§ 328.30 Procedure for establishing, amending or repealing standards.

(a) Basis for standards and available approaches to developing standards. Whenever in the judgment of the Commissioner the establishment of a product class standard is necessary to reduce or eliminate unreasonable risk of illness or injury associated with exposure to or use of an in vitro diagnostic product and there are no other more practicable means to protect the public from such risk, he may propose such a standard. In proposing a product class standard he shall consider, and publish in the FEDERAL REGISTER findings on, the degree of risk or injury associated with the use of the product, the availability of information relating to the sciences upon which the products or their uses are based, the approximate number of products subject to the standard, the medical need for the products, and the probable effect of the standard upon the utility, cost, or availability of the product, and available means of achieving the objective of the standard with a minimal disruption of supply and of reasonable manufacturing and other commercial practices. Three procedures are available for developing product class standards and may be proposed on the initiative of the Commissioner or by petition of interested persons, pursuant to Part 2 of this chapter:

- (1) An existing standard may be utilized.
- (2) Interested persons outside of the Food and Drug Administration may develop a proposed standard or
- (3) the Food and Drug Administration may develop the standard.

#### PART 330—OVER-THE-COUNTER (OTC) HUMAN DRUGS WHICH ARE GENERALLY RECOGNIZED AS SAFE AND EFFECTIVE AND NOT MISBRANDED

37. In Part 330, § 330.10(a)(11) is revised to read as follows:

§ 330.10 Procedures for classifying OTC drugs as generally recognized as safe and effective and not misbranded, and for establishing monographs.

(a) . . .

(11) Amendment of monographs. The Commissioner may propose on his own initiative to amend or repeal any monograph established pursuant to this section. Any interested person may petition the Commissioner for such proposal, pursuant to Part 2 of this chapter. The Commissioner may deny the petition if he finds a lack of safety or effectiveness employing the standards in paragraph (a)(4) of this section (in which case the appeal provisions of paragraph (a)(10) of this section shall apply) or he may issue a proposed amendment or repeal in the FEDERAL REGISTER if he finds general recognition of safety and effectiveness employing the standards in paragraph (a)(4) of this section (in which case the provisions of paragraph (a)(6), (7), (8), and (9) of this section shall apply). A new drug application may be submitted in lieu of or in addition to a petition under this paragraph.

graph (a)(4) of this section (in which case the provisions of paragraph (a)(6), (7), (8), and (9) of this section shall apply). A new drug application may be submitted in lieu of or in addition to a petition under this paragraph.

#### PART 429—DRUGS COMPOSED WHOLLY OR PARTLY OF INSULIN

38. In Part 429, § 429.50 is revised to read as follows:

§ 429.50 Hearing procedure.

Hearings pursuant to § 429.47 shall be governed by Subpart F of Part 2 of this chapter.

#### PART 430—ANTIBIOTIC DRUGS: GENERAL

39. In Part 430, § 430.20 is revised to read as follows:

§ 430.20 Procedure for the issuance, amendment, or repeal of regulations.

(a) The procedures for the issuance, amendment, or repeal of regulations under section 507 of the act shall be governed by Part 2 of this chapter.

(b) (1) The Commissioner, on his own initiative or on the application or request of any interested person, may publish in the FEDERAL REGISTER a notice of proposed rule making and order to issue, amend, or repeal any regulation contemplated by section 507 of the act. Such notice and order may be general (i.e., simply summarizing in a general way the information resulting in the notice and order) or specific (i.e., either referring to specific requirements in the statute and regulations with which there is a lack of compliance, or providing a detailed description and analysis of the specific facts resulting in the notice and order).

(2) An opportunity shall be given for interested persons to submit written comments and to request an informal conference on the proposal, unless such notice and opportunity for comment and informal conference have already been provided in connection with the announcement of the reports of the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, to persons who will be adversely affected, or as provided in §§ 2.10(e) or 2.110(b)(2) of this chapter. The time for requesting an informal conference shall be 30 days unless otherwise specified in the notice of proposed rule making. If an informal conference is requested and granted, those persons participating in the conference shall be provided an additional 30 days for comment, beginning the date of the conference, unless otherwise specified in the proposal.

(3) It is the responsibility of every manufacturer or distributor of an antibiotic drug product to review every proposal published in the FEDERAL REGISTER to determine whether it covers any product he manufactures or distributes.

(4) After considering the written comments, the results of any conference, and the data available, the Commissioner will publish an order in the FEDERAL REGISTER

acting on the proposal, with opportunity for any person who will be adversely affected to file objections, to request a hearing, and to show reasonable grounds for the hearing. Any such person who elects to avail himself of the opportunity for a hearing shall file with the Hearing Clerk (1) within 30 days after the date of publication of the order a written notice of appearance and request for hearing, and (ii) within 60 days after the date of publication of the order, unless a different period of time is specified in the order, the studies on which he relies to justify a hearing as specified in paragraph (b)(6) of this section. The raw data underlying a study submitted may be incorporated by reference from a prior submission as part of an antibiotic application, or other applications or reports.

(5) No data or analysis submitted after such 60 days will be considered in determining whether a hearing is warranted unless they are derived from well-controlled studies begun prior to the date of the order, the results of which were not in existence during that 60 days. Exceptions may be made on the basis of a showing of inadvertent omission and hardship. All studies in progress, the results of which the person requesting the hearing intends later to submit in support of the request for hearing, shall be listed. A copy of the complete protocol, a list of the participating investigators, and a brief status report of the studies shall be included in the submission made pursuant to paragraph (b)(4) (ii) of this section.

(6) A request for hearing shall be supported by a submission as specified in § 314.200(c)(1)(ii) of this chapter containing the studies (including all underlying raw data) on which the person relies to justify a hearing with respect to his drug product.

(1) If effectiveness is at issue, a request for hearing shall be supported only by adequate and well-controlled clinical studies meeting all of the precise requirements of § 314.111(a)(5) of this chapter and, for combination drug products, § 300.50 of this chapter, or by other studies not meeting those requirements for which a waiver has been previously granted by the Food and Drug Administration pursuant to the provisions of § 314.111(a)(5) of this chapter. All adequate and well-controlled clinical studies on the drug product known to the person requesting the hearing shall be submitted. Any unfavorable analyses, views, or judgments with respect to such studies known to such person shall also be submitted. No other data, information, or studies shall be submitted.

(ii) Such submission shall include a factual analysis of all studies submitted. If effectiveness is at issue, such analysis shall specify how each such study accords, on a point-by-point basis, with each criterion required for an adequate and well-controlled clinical investigation established in § 314.111(a)(5) of this chapter and, if the product is a combination drug product, with each of the requirements for a combination drug es-

tablished in § 300.50 of this chapter, or shall be accompanied by an appropriate waiver previously granted by the Food and Drug Administration. If a study deals with a drug entity or dosage form, or condition of use, or mode of administration other than the one(s) in question, such fact(s) shall be clearly stated. Any study conducted on the final marketed form of the drug product shall be so designated.

(iii) Such analysis shall be submitted in the following format, except that information relating to safety or effectiveness shall be omitted if the order does not raise any issue with respect to that aspect of the drug; and information on compliance with § 300.50 of this chapter shall be omitted if the drug product is not a combination drug product. Submissions not made in this format or not containing the required analyses will not be considered and will result in denial of hearing, except that minor technical deficiencies may be excused if it is apparent that a good faith attempt has been made to comply with the requirements of this section and any deficiencies noted are immediately corrected upon request.

- I. Safety data.
  - A. Animal safety data.
  1. Individual active component(s).
  - a. Controlled studies.
  - b. Partially controlled or uncontrolled studies.
  2. Combinations of the individual active components.
    - a. Controlled studies.
    - b. Partially controlled or uncontrolled studies.
  - B. Human safety data.
    1. Individual active component(s).
    - a. Controlled studies.
    - b. Partially controlled or uncontrolled studies.
    - c. Documented case reports.
    - d. Pertinent marketing experiences that may influence a determination as to the safety of each individual active component.
    2. Combinations of the individual active components.
      - a. Controlled studies.
      - b. Partially controlled or uncontrolled studies.
      - c. Documented case reports.
      - d. Pertinent marketing experiences that may influence a determination as to the safety of combinations of the individual active components.
- II. Effectiveness data.
  - A. Individual active components: Controlled studies, with an analysis showing clearly how each such study satisfies, on a point-by-point basis, each of the criteria required by § 314.111(a)(5) of this chapter.
  - B. Combinations of individual active components.
    1. Controlled studies with an analysis showing clearly how each such study satisfies, on a point-by-point basis, each of the criteria required by § 314.111(a)(5) of this chapter.
    2. An analysis showing clearly how each requirement of § 300.50 of this chapter has been satisfied.
- III. A summary of the data and views setting forth the medical rationale and purpose for the drug and its ingredients and the scientific basis for the conclusion that the drug and its ingredients have been proven safe and/or effective for the intended use. If there is an absence of controlled studies in the material submitted, or the re-

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requirements of any element of § 300.50 of this chapter or § 314.111(a)(5) of this chapter have not been fully met, such fact(s) shall be clearly stated, and a waiver obtained pursuant to § 314.111(a)(5) of this chapter shall be enclosed.

IV. A statement signed by the person responsible for such submission, that it includes in full (or incorporates by reference as permitted in § 430.20(b)(4)) all studies and information specified in § 430.20(b). (Warning: A willfully false statement is a criminal offense, 18 U.S.C. 1001.)

(7) Upon receipt of any request for hearing, the Director of the Bureau of Drugs shall prepare an analysis of the request and a proposed order ruling upon the matter. The analysis and proposed order, the request for hearing, and any proposed order denying a hearing and response pursuant to paragraph (b)(8)(ii) or (iii) of this section, shall be submitted to the office of the Commissioner for independent review and decision. No representative of the Bureau of Drugs shall participate or advise in the review and decision by the Commissioner. The office of the General Counsel shall observe the same separation of functions.

(8) A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact with respect to the particular drug product(s) which is specified in the request for hearing that requires a hearing.

(i) Where a specific proposal or order (as defined in paragraph (b)(1) of this section) is used, the order published in the *FEDERAL REGISTER* shall state that, if it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that there is no genuine and substantial issue of fact which precludes the action taken on the proposal, e.g., no adequate and well-controlled clinical investigations meeting each of the precise elements of § 314.111(a)(5) of this chapter and, for a combination drug product, § 300.50 of this chapter, showing effectiveness have been identified, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests a hearing, making findings and conclusions, denying a hearing. Any such order entering summary judgment shall set forth the Commissioner's findings and conclusions in detail and shall specify why each study submitted fails to meet the requirements of the statute and regulations or why the request for hearing otherwise does not raise a genuine and substantial issue of fact or shall specify the requirements of this paragraph with respect to format or analyses with which there is a lack of compliance.

(ii) Where a general notice or order (as defined in paragraph (b)(1) of this section) is used and the Director of the Bureau of Drugs concludes that summary judgment against the person(s) requesting a hearing should be considered, he shall serve upon such person(s) by registered mail a proposed order denying a

hearing. Such person(s) shall have 60 days after receipt of such proposed order to respond with sufficient data, information and analyses to demonstrate that there is a genuine and substantial issue of fact which justifies a hearing.

(iii) Where a general or specific notice or order is used and the person(s) requesting a hearing submits data or information of a type required by the statute and regulations, and the Director of the Bureau of Drugs concludes that summary judgment against such person(s) should be considered, he shall serve upon such person(s) by registered mail a proposed order denying a hearing. Such person(s) shall have 60 days after receipt of such proposed order to respond with sufficient data, information, and analyses to demonstrate that there is a genuine and substantial issue of fact which justifies a hearing.

(iv) If review of the data, information, and analyses submitted warrants the conclusion that the basis for the order is not valid, e.g., that substantial evidence of effectiveness exists, the Commissioner shall deny the hearing, enter summary judgment for the person(s) requesting the hearing, and revoke the order. If a hearing is not requested, the order will become effective as published.

(v) If a hearing is requested and justified, the provisions of Part 2 of this chapter shall apply to such hearing.

(vi) A hearing shall be granted if there exists a genuine and substantial issue of fact or if the Commissioner concludes, in his discretion, that a hearing would otherwise be in the public interest.

(9) The repeal of any regulation constitutes a revocation of all outstanding certificates based upon such regulation. However, the Commissioner may, in his discretion, defer or stay such action pending a ruling on any related request for a hearing or pending any related hearing or other administrative or judicial proceeding.

(c) Whenever any interested person submits an application or request pursuant to provisions of section 507 of the act, or regulations promulgated thereunder, which application or request contemplates the issuance, amendment, or repeal of any regulation, and such person has been informed in writing that such application or request is not approvable, or whenever such person has received no written communication advising whether or not such application is approvable by the 180th day after its submission, such interested person may file a petition proposing the issuance, amendment, or repeal of such regulation under the provisions of section 507(f) of the act and Part 2 of this chapter. The Commissioner shall cause the regulation proposed in such petition to be published in the *FEDERAL REGISTER* within 60 days of the receipt of an acceptable petition and further proceedings shall be in accord with the provisions of sections 507(f) and 701(f) and (g) of the act and Part 2 of this chapter.

(d)(1) No regulation providing for the certification of any batch of any drug composed wholly or in part of any kind

of penicillin, streptomycin, chlortetracycline, chloramphenicol, bacitracin, or any other antibiotic drug, or any derivative thereof, intended for use by man shall be promulgated and no existing regulation will be continued in effect unless it is established by substantial evidence that the drug will have such characteristics of identity, strength, quality, and purity necessary to adequately insure safety and efficacy of use. "Substantial evidence" has been defined by Congress to mean "evidence consisting of adequate and well-controlled investigations, including clinical investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, on the basis of which it could fairly and responsibly be concluded by such experts that the drug will have the effectiveness it purports and is represented to have under the conditions prescribed, recommended or suggested in the labeling thereof." This definition is made applicable to a number of antibiotic drugs by section 507(h) of the act and it is the test of efficacy that will be applied in promulgating, amending, or repealing regulations for the certification of all antibiotics under section 507(a) of the act as well.

(2) The scientific essentials of an adequate and well-controlled clinical investigation are described in § 314.111(a)(5) of this chapter.

#### PART 431—CERTIFICATION OF ANTIBIOTIC DRUGS

40. In Part 431, § 431.52 is revised to read as follows:

##### § 431.52 Hearings.

Any person who contests the suspension of certification service under § 431.51 shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

#### PART 433—EXEMPTIONS FROM ANTIBIOTIC CERTIFICATION AND LABELING REQUIREMENTS

41. In Part 433, § 433.2 (c) and (d) are revised to read as follows:

##### § 433.2 Conditions on the effectiveness of exemptions from certification.

(c) If the Commissioner repeals or suspends an exemption for an antibiotic drug, the approved new drug application, or an exemption from batch certification requirements, a notice to that effect and the reasons therefor will be published in the *FEDERAL REGISTER*.

(d) Any person who contests the revocation or suspension or denial of reinstatement of an exemption shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

42. Section 433.12(b)(4) is revised and adding a paragraph (b)(5) to read as follows:

##### § 433.12 Exemption for labeling.

(b) . . . . .  
(4) When the Commissioner finds that such application contains any untrue statement of a material fact or that any provision of any such agreement has been violated he may revoke such permit.

(5) Any person who contests the denial or revocation of a permit shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

43. Section 433.13(b) is revised to read as follows:

##### § 433.13 Exemption for manufacturing use.

(b) An application for such a permit shall be in a form specified by the Commissioner, shall give the name and location of the establishment in which such drug is to be used and shall be accompanied by:

(1) A written agreement signed by the applicant that he will keep complete records showing the date, quantity, and batch mark of each shipment and other delivery of any such drug to such establishment, and that he will make such records available to any officer or employee of the Food and Drug Administration at any reasonable hour within 3 years after the date of such shipment or delivery;

(2) A written statement signed by the operator of such establishment showing that he has adequate facilities for the manufacture of such other drug; such statement shall contain an agreement that he will keep complete records showing the date of receipt by him and the quantity and batch mark of each such shipment and delivery and the disposition thereof and showing the quantity and batch mark of each batch of such other drug manufactured by him and the disposition thereof; that he will make such records available to any officer or employee of the Food and Drug Administration at any reasonable hour within 3 years after the date of such disposition, and that he will accord full opportunity to such officer or employee to make inventories of stocks on hand and otherwise check the correctness of such records; and

(3) A written agreement signed by the person who will own the drug after its manufacture is completed that he will request certification of each batch thereof unless it is exempt under section 801(d) of the act or §§ 433.12, 433.14, 433.16, or 433.17, and that he will not remove any of such drug from such establishment unless it complies with section 502(1) of the act or the certification requirements of section 512(n) of the act or is so exempt or is returned to him for labeling.

When the Commissioner finds that such application contains any untrue statement of a material fact or that any provision of any such agreement has been

violated, he may revoke such permit. Any person who contests the denial or revocation of a permit shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

44. Section 433.14(b) is revised to read as follows:

##### § 433.14 Exemption for storage.

(b) An application for such a permit shall be in a form specified by the Commissioner, and shall give the name and location of the warehouse in which such drug is to be stored. Such application shall be accompanied by:

(1) A written agreement signed by the applicant that he will request certification of each batch thereof unless it is exempt under section 801(d) of the act or §§ 433.12, 433.13, or 433.16, that he will not remove any of such drug from such warehouse unless it complies with section 502(1) of the act or the certification requirements of section 512(n) of the act or is so exempt or, if certification is refused unless it is returned within a reasonable time to permit reprocessing and certification, destruction, or such exemption at the establishment where it was manufactured; that he will keep complete records showing the date, quantity, and batch mark of each shipment and other delivery of any such drug to such warehouse, and that he will make such records available to any officer or employee of the Food and Drug Administration at any reasonable hour within 3 years after the date of such shipment or delivery; and

(2) A written statement signed by the operator of such warehouse showing that he has adequate facilities for such storage; such statement shall contain an agreement that he will hold each shipment or other delivery of such drug intact, under such conditions as will not cause failure of the drug to comply with the requirements for certification, that he will keep complete records showing the date of receipt by him and the quantity and batch mark of each such shipment and delivery and the disposition thereof, that he will make such records available to any officer or employee of the Food and Drug Administration at any reasonable hour within 3 years after the date of such disposition, and that he will accord full opportunity to such officer or employee to make inventories of stocks on hand and otherwise check the correctness of such records.

If the applicant keeps complete records showing the date, quantity, and batch mark of each shipment and other delivery of any such drug from such warehouse and the name and post-office address of the person to whom such shipment or delivery was made, the agreement to keep records of such disposals, to make such records available, and to afford opportunity for checking their correctness may be included in the applicant's agreement and omitted from that of the operator. When the Commis-

sioner finds that such application contains any untrue statement of a material fact or that any provision of any such agreement has been violated he may revoke such permit. Any person who contests the denial or revocation of a permit shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

45. Section 433.15(b) is revised to read as follows:

##### § 433.15 Exemption for processing.

(b) An application for such a permit shall be in a form specified by the Commissioner and shall give the name and location of the establishment in which such processing is to be done. Such application shall be accompanied by:

(1) A written agreement signed by the applicant that he will keep complete records showing the date, quantity, potency, and batch mark of each shipment and other delivery of any such solution to such establishment, and that he will make such records available to any officer or employee of the Food and Drug Administration at any reasonable hour within 3 years after the date of such shipment or delivery;

(2) A written agreement signed by the operator of such establishment showing that he has adequate facilities for such processing; such statement shall contain an agreement that he will keep complete records showing the date of receipt by him and the quantity and batch mark of each such shipment and delivery and the disposition thereof, that he will make such records available to any officer or employee of the Food and Drug Administration at any reasonable hour within 3 years after the date of such disposition, and that he will accord full opportunity to such officer or employee to make inventories of stocks on hand and otherwise check the correctness of such records; and

(3) A written agreement signed by the person who will own the drug after the processing is completed that he will request certification of each batch thereof unless it is exempt under section 801(d) of the act or §§ 433.12, 433.13, 433.14, 433.16, or 433.17, and that he will not remove any of such drug from such establishment unless it complies with section 502(1) of the act or the certification requirements of section 512(n) of the act or is so exempt.

When the Commissioner finds that such application contains any untrue statement of a material fact or that any provision of any such agreement has been violated he may revoke such permit. Any person who contests the denial or revocation of a permit shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

46. Section 433.16(b) is revised to read as follows:



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## § 433.16 Exemption for repacking.

(b) An application for such a permit shall be in a form specified by the Commissioner, and shall give the name and location of the establishment in which such repacking is to be done. Such application shall be accompanied by:

(1) A written agreement signed by the applicant that he will keep complete records showing the date, quantity, and batch mark of each shipment and other delivery of any such drug to such establishment, and that he will make such records available to any officer or employee of the Food and Drug Administration at any reasonable hour within 3 years after the date of each shipment or delivery;

(2) A written statement signed by the operator of such establishment showing that he has adequate facilities for such repacking; such statement shall contain an agreement that he will keep complete records showing the date of receipt by him and the quantity and batch mark of each such shipment and delivery and the disposition thereof, that he will make such records available to any officer or employee of the Food and Drug Administration at any reasonable hour within 3 years after the date of such disposition, and that he will accord full opportunity to such officer or employee to make inventories of stocks on hand and otherwise check the correctness of such records; and

(3) A written agreement signed by the person who will own the drug after the repacking is completed that he will request certification of each batch thereof unless it is exempt under section 801(d) of the act or §§ 433.12, 433.13, 433.14, or 433.17, and that he will not remove any of such drug from such establishment unless it complies with section 502(1) of the act or the certification requirements of section 512(n) of the act or is so exempt or is returned to him for labeling or, if certification is refused, unless it is returned within a reasonable time to permit reprocessing and certification, destruction, or such exemption at the establishment where it was manufactured.

When the Commissioner finds that such application contains any untrue statement of a material fact or that any provision of any such agreement has been violated he may revoke such permit. Any person who contests the denial or revocation of a permit shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

## PART 511—NEW ANIMAL DRUGS FOR INVESTIGATIONAL USE

47. In Part 511, by amending § 511.1 by revising the undesignated paragraph at the end of paragraph (b) (5) and paragraphs (c) (1) and (4) and (d) (2) to read as follows:

## § 511.1 New animal drugs for investigational use exempt from section 512 (a) of the act.

(b) . . .  
(5) . . .

Authorizations granted under this subparagraph do not exempt investigational animals and their products from compliance with other applicable inspection requirements. Any person who contests a refusal to grant such authorization shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

## (c) Withdrawal of eligibility to receive investigational-use new animal drugs.

(1) Whenever the Food and Drug Administration has information indicating that an investigator has repeatedly or deliberately failed to comply with the conditions of these exempting regulations or has submitted false information either to the sponsor of the investigation or in any required report, the Director, Bureau of Veterinary Medicine, will furnish the investigator written notice of the matter complained of in general terms and offer him an opportunity to explain the matter in an informal conference and/or in writing. If an explanation is offered but not accepted by the Bureau of Veterinary Medicine, the investigator shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter on the question of whether the investigator is entitled to receive investigational new animal drugs.

(c) (4) If the Commissioner determines, after the unreliable data submitted by the investigator are eliminated from consideration, that the data remaining are inadequate to support a conclusion that it is reasonably safe to continue the investigation, he shall first notify the sponsor, who shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter on whether the exemption should be terminated. If a danger to the public health exists, however, he shall terminate the exemption forthwith and notify the sponsor of the termination. In such event the sponsor shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter on the question of whether the exemption should be reinstated.

(d) . . .

(2) The continuance of the investigation is unsafe or otherwise contrary to the public interest or the drug is being or has been used for purposes other than bona fide scientific investigation, he shall first notify the sponsor and invite his immediate correction. If the conditions of the exemption are not immediately

met, the sponsor shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter on whether the exemption should be terminated. If the exemption is terminated the sponsor shall recall or have destroyed the unused supplies of the new animal drug.

## PART 514—NEW ANIMAL DRUG APPLICATIONS

48. In Part 514, § 514.201 is revised to read as follows:

## § 514.201 Procedure for hearings.

Hearings relating to new animal drugs under section 505 (d), (e), (m) (3), and (m) (4) of the act shall be governed by Part 2 of this chapter.

§§ 514.202, 514.203, 514.204, 514.205, 514.206 [Revoked].

49. Sections 514.202, 514.203, 514.204, 514.205, and 514.206 are revoked.

50. Section 514.210 is revised to read as follows:

## § 514.210 Hearing procedure.

Hearings pursuant to § 514.155 shall be governed by Subpart F of Part 2 of this chapter.

§§ 514.220, 514.221, 514.222, 514.230, 514.231, 514.232 [Revoked].

51. Sections 514.220, 514.221, 514.222, 514.230, 514.231, and 514.232 are revoked.

52. Section 514.235 is revised as follows:

## § 514.235 Judicial review.

(a) The transcript and record shall be certified by the Commissioner. In any case in which the Commissioner enters an order without a hearing pursuant to § 314.200(g) of this chapter, the request(s) for hearing together with the data and information submitted and the Commissioner's findings and conclusions shall be included in the record certified by the Commissioner.

(b) Judicial review of an order withdrawing approval of a new drug application, whether or not a hearing has been held, may be sought by a manufacturer or distributor of an identical, related, or similar drug product, as defined in § 310.6 of this chapter, in a United States court of appeals pursuant to section 505(h) of the act.

## PART 601—LICENSING

53. In Part 601, §§ 601.4, 601.5, and 601.6(c) are revoked and the remainder of § 601.6 is redesignated as § 601.12, new §§ 601.4 through 601.9 are added to read as follows:

## § 601.4 Issuance and denial of license.

(a) An establishment or product license shall be issued upon a determination by the Commissioner that the establishment or the product, as the case may be, meets the applicable standards established in this chapter. Licenses shall be valid until suspended or revoked.

(b) If the Commissioner determines that the establishment or product does not meet the standards established in this chapter, he shall deny the application and inform the applicant of the grounds for, and of an opportunity for a hearing on, his decision. If the applicant so requests, the Commissioner shall issue a notice of opportunity for hearing on the matter pursuant to § 2.111(b) of this chapter.

## § 601.5 Revocation of license.

(a) An establishment or product license shall be revoked upon application of the manufacturer giving notice of intention to discontinue the manufacture of all products or to discontinue the manufacture of a particular product for which a license is held, and waiving an opportunity for a hearing on the matter.

(b) If the Commissioner finds that (1) authorized Food and Drug Administration employees after reasonable efforts have been unable to gain access to an establishment or a location for the purpose of carrying out the inspection required under § 600.21 of this chapter, (2) manufacturing of products or of a product has been discontinued to an extent that a meaningful inspection or evaluation cannot be made, (3) the manufacturer has failed to report a change as required by § 601.12, (4) the establishment or any location thereof, or the product for which the license has been issued, fails to conform to the applicable standards established in the license and in this chapter designed to ensure the continued safety, purity, and potency of the manufactured product, (5) the establishment or the manufacturing methods have been so changed as to require a new showing that the establishment or product meets the standards established in this chapter in order to protect the public health, or (6) the licensed product is not safe and effective for all of its intended uses or is misbranded with respect to any such use, he shall notify the licensee of his intention to revoke the license, setting forth the grounds for, and offering an opportunity for a hearing on, the proposed revocation. Except as provided in § 601.6 and in cases involving willfulness, the notification required in this paragraph shall provide a reasonable period for the licensee to demonstrate or achieve compliance with the requirements of this chapter, before proceedings will be instituted for the revocation of the license. If compliance is not demonstrated or achieved and the licensee does not waive the opportunity for a hearing, the Commissioner shall issue a notice of opportunity for hearing on the matter pursuant to § 2.111(b) of this chapter.

(c) If the Commissioner determines that the establishment or product does not meet the standards established in this chapter, he shall deny the application and inform the applicant of the grounds for, and of an opportunity for a hearing on, his decision. If the applicant so requests, the Commissioner shall issue a notice of opportunity for hearing on the matter pursuant to § 2.111(b) of this chapter.

(d) If the Commissioner determines that the establishment or product does not meet the standards established in this chapter, he shall deny the application and inform the applicant of the grounds for, and of an opportunity for a hearing on, his decision. If the applicant so requests, the Commissioner shall issue a notice of opportunity for hearing on the matter pursuant to § 2.111(b) of this chapter.

(e) If the Commissioner determines that the establishment or product does not meet the standards established in this chapter, he shall deny the application and inform the applicant of the grounds for, and of an opportunity for a hearing on, his decision. If the applicant so requests, the Commissioner shall issue a notice of opportunity for hearing on the matter pursuant to § 2.111(b) of this chapter.

(f) If the Commissioner determines that the establishment or product does not meet the standards established in this chapter, he shall deny the application and inform the applicant of the grounds for, and of an opportunity for a hearing on, his decision. If the applicant so requests, the Commissioner shall issue a notice of opportunity for hearing on the matter pursuant to § 2.111(b) of this chapter.

(g) If the Commissioner determines that the establishment or product does not meet the standards established in this chapter, he shall deny the application and inform the applicant of the grounds for, and of an opportunity for a hearing on, his decision. If the applicant so requests, the Commissioner shall issue a notice of opportunity for hearing on the matter pursuant to § 2.111(b) of this chapter.

(h) If the Commissioner determines that the establishment or product does not meet the standards established in this chapter, he shall deny the application and inform the applicant of the grounds for, and of an opportunity for a hearing on, his decision. If the applicant so requests, the Commissioner shall issue a notice of opportunity for hearing on the matter pursuant to § 2.111(b) of this chapter.

(i) If the Commissioner determines that the establishment or product does not meet the standards established in this chapter, he shall deny the application and inform the applicant of the grounds for, and of an opportunity for a hearing on, his decision. If the applicant so requests, the Commissioner shall issue a notice of opportunity for hearing on the matter pursuant to § 2.111(b) of this chapter.

(j) If the Commissioner determines that the establishment or product does not meet the standards established in this chapter, he shall deny the application and inform the applicant of the grounds for, and of an opportunity for a hearing on, his decision. If the applicant so requests, the Commissioner shall issue a notice of opportunity for hearing on the matter pursuant to § 2.111(b) of this chapter.

(k) If the Commissioner determines that the establishment or product does not meet the standards established in this chapter, he shall deny the application and inform the applicant of the grounds for, and of an opportunity for a hearing on, his decision. If the applicant so requests, the Commissioner shall issue a notice of opportunity for hearing on the matter pursuant to § 2.111(b) of this chapter.

(l) If the Commissioner determines that the establishment or product does not meet the standards established in this chapter, he shall deny the application and inform the applicant of the grounds for, and of an opportunity for a hearing on, his decision. If the applicant so requests, the Commissioner shall issue a notice of opportunity for hearing on the matter pursuant to § 2.111(b) of this chapter.

(m) If the Commissioner determines that the establishment or product does not meet the standards established in this chapter, he shall deny the application and inform the applicant of the grounds for, and of an opportunity for a hearing on, his decision. If the applicant so requests, the Commissioner shall issue a notice of opportunity for hearing on the matter pursuant to § 2.111(b) of this chapter.

(n) If the Commissioner determines that the establishment or product does not meet the standards established in this chapter, he shall deny the application and inform the applicant of the grounds for, and of an opportunity for a hearing on, his decision. If the applicant so requests, the Commissioner shall issue a notice of opportunity for hearing on the matter pursuant to § 2.111(b) of this chapter.

(o) If the Commissioner determines that the establishment or product does not meet the standards established in this chapter, he shall deny the application and inform the applicant of the grounds for, and of an opportunity for a hearing on, his decision. If the applicant so requests, the Commissioner shall issue a notice of opportunity for hearing on the matter pursuant to § 2.111(b) of this chapter.

(p) If the Commissioner determines that the establishment or product does not meet the standards established in this chapter, he shall deny the application and inform the applicant of the grounds for, and of an opportunity for a hearing on, his decision. If the applicant so requests, the Commissioner shall issue a notice of opportunity for hearing on the matter pursuant to § 2.111(b) of this chapter.

(q) If the Commissioner determines that the establishment or product does not meet the standards established in this chapter, he shall deny the application and inform the applicant of the grounds for, and of an opportunity for a hearing on, his decision. If the applicant so requests, the Commissioner shall issue a notice of opportunity for hearing on the matter pursuant to § 2.111(b) of this chapter.

(r) If the Commissioner determines that the establishment or product does not meet the standards established in this chapter, he shall deny the application and inform the applicant of the grounds for, and of an opportunity for a hearing on, his decision. If the applicant so requests, the Commissioner shall issue a notice of opportunity for hearing on the matter pursuant to § 2.111(b) of this chapter.

(s) If the Commissioner determines that the establishment or product does not meet the standards established in this chapter, he shall deny the application and inform the applicant of the grounds for, and of an opportunity for a hearing on, his decision. If the applicant so requests, the Commissioner shall issue a notice of opportunity for hearing on the matter pursuant to § 2.111(b) of this chapter.

(t) If the Commissioner determines that the establishment or product does not meet the standards established in this chapter, he shall deny the application and inform the applicant of the grounds for, and of an opportunity for a hearing on, his decision. If the applicant so requests, the Commissioner shall issue a notice of opportunity for hearing on the matter pursuant to § 2.111(b) of this chapter.

(u) If the Commissioner determines that the establishment or product does not meet the standards established in this chapter, he shall deny the application and inform the applicant of the grounds for, and of an opportunity for a hearing on, his decision. If the applicant so requests, the Commissioner shall issue a notice of opportunity for hearing on the matter pursuant to § 2.111(b) of this chapter.

(v) If the Commissioner determines that the establishment or product does not meet the standards established in this chapter, he shall deny the application and inform the applicant of the grounds for, and of an opportunity for a hearing on, his decision. If the applicant so requests, the Commissioner shall issue a notice of opportunity for hearing on the matter pursuant to § 2.111(b) of this chapter.

(w) If the Commissioner determines that the establishment or product does not meet the standards established in this chapter, he shall deny the application and inform the applicant of the grounds for, and of an opportunity for a hearing on, his decision. If the applicant so requests, the Commissioner shall issue a notice of opportunity for hearing on the matter pursuant to § 2.111(b) of this chapter.

(x) If the Commissioner determines that the establishment or product does not meet the standards established in this chapter, he shall deny the application and inform the applicant of the grounds for, and of an opportunity for a hearing on, his decision. If the applicant so requests, the Commissioner shall issue a notice of opportunity for hearing on the matter pursuant to § 2.111(b) of this chapter.

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such product or products have been delivered of such suspension, and (2) furnish to the Director, Bureau of Biologics, complete records of such deliveries and notice of suspension.

(b) Upon suspension of a license, the Commissioner shall either (1) proceed pursuant to the provisions of § 601.5(b) to revoke the license, or (2) if the licensee agrees, hold revocation in abeyance pending resolution of the matters involved.

## § 601.7 Procedure for hearings.

(a) A notice of opportunity for hearing, notice of appearance and request for hearing, and grant or denial of hearing for a biological drug pursuant to this Part, for which the exemption from the Federal Food, Drug, and Cosmetic Act in § 310.4 of this chapter has been revoked, shall be subject to the provisions of § 314.200 of this chapter except to the extent that the notice of opportunity for hearing on the matter issued pursuant to § 2.111(b) of this chapter specifically provides otherwise.

(b) Hearings pursuant to §§ 601.4 through 601.6 shall be governed by Part 2 of this chapter.

(c) When a license has been suspended pursuant to § 601.6 and a hearing request has been granted, the hearing shall proceed on an expedited basis.

(d) When a license has been suspended pursuant to § 601.6 and a hearing request has been granted, the hearing shall proceed on an expedited basis.

(e) When a license has been suspended pursuant to § 601.6 and a hearing request has been granted, the hearing shall proceed on an expedited basis.

(f) When a license has been suspended pursuant to § 601.6 and a hearing request has been granted, the hearing shall proceed on an expedited basis.

(g) When a license has been suspended pursuant to § 601.6 and a hearing request has been granted, the hearing shall proceed on an expedited basis.

(h) When a license has been suspended pursuant to § 601.6 and a hearing request has been granted, the hearing shall proceed on an expedited basis.

(i) When a license has been suspended pursuant to § 601.6 and a hearing request has been granted, the hearing shall proceed on an expedited basis.

(j) When a license has been suspended pursuant to § 601.6 and a hearing request has been granted, the hearing shall proceed on an expedited basis.

(k) When a license has been suspended pursuant to § 601.6 and a hearing request has been granted, the hearing shall proceed on an expedited basis.

(l) When a license has been suspended pursuant to § 601.6 and a hearing request has been granted, the hearing shall proceed on an expedited basis.

(m) When a license has been suspended pursuant to § 601.6 and a hearing request has been granted, the hearing shall proceed on an expedited basis.

(n) When a license has been suspended pursuant to § 601.6 and a hearing request has been granted, the hearing shall proceed on an expedited basis.

(o) When a license has been suspended pursuant to § 601.6 and a hearing request has been granted, the hearing shall proceed on an expedited basis.

(p) When a license has been suspended pursuant to § 601.6 and a hearing request has been granted, the hearing shall proceed on an expedited basis.

(q) When a license has been suspended pursuant to § 601.6 and a hearing request has been granted, the hearing shall proceed on an expedited basis.

(r) When a license has been suspended pursuant to § 601.6 and a hearing request has been granted, the hearing shall proceed on an expedited basis.

(s) When a license has been suspended pursuant to § 601.6 and a hearing request has been granted, the hearing shall proceed on an expedited basis.

(t) When a license has been suspended pursuant to § 601.6 and a hearing request has been granted, the hearing shall proceed on an expedited basis.

(u) When a license has been suspended pursuant to § 601.6 and a hearing request has been granted, the hearing shall proceed on an expedited basis.

(v) When a license has been suspended pursuant to § 601.6 and a hearing request has been granted, the hearing shall proceed on an expedited basis.

(w) When a license has been suspended pursuant to § 601.6 and a hearing request has been granted, the hearing shall proceed on an expedited basis.

(x) When a license has been suspended pursuant to § 601.6 and a hearing request has been granted, the hearing shall proceed on an expedited basis.

(y) When a license has been suspended pursuant to § 601.6 and a hearing request has been granted, the hearing shall proceed on an expedited basis.

on any appropriate information panel in letters not less than 1/8 of an inch in height and without obscuring design, vignettes, or crowding. In the absence of sufficient space for such declaration on the package, or where the manufacturer or distributor wishes to use a decorative container, the declaration may appear on a firmly affixed tag, tape, or card. In those cases where there is insufficient space for such declaration on the package, and it is not practical to firmly affix a tag, tape, or card, the Commissioner may establish by regulation an acceptable alternate, e.g., a smaller type size. A petition requesting such a regulation as an amendment to this paragraph shall be submitted pursuant to Part 2 of this chapter.

(e) Interested persons may submit a petition requesting the establishment of a specific name for a cosmetic ingredient pursuant to Part 2 of this chapter. The Commissioner may also propose such a name on his own initiative.

## PART 1003—NOTIFICATION OF DEFECTS OF FAILURE TO COMPLY

56. In Part 1003, § 1003.11 is amended by adding an undesignated paragraph at the end of paragraph (a) as follows:

§ 1003.11 Determination by Secretary that product fails to comply or has a defect.

(a) . . .

The manufacturer shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

57. Section 1003.31(d) is added to read as follows:

## § 1003.31 Granting the exemption.

(d) Any person who contests denial of an exemption shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

(e) Any person who contests denial of an exemption shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

(f) Any person who contests denial of an exemption shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

(g) Any person who contests denial of an exemption shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

(h) Any person who contests denial of an exemption shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

(i) Any person who contests denial of an exemption shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

(j) Any person who contests denial of an exemption shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

(k) Any person who contests denial of an exemption shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

(l) Any person who contests denial of an exemption shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

(m) Any person who contests denial of an exemption shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

(n) Any person who contests denial of an exemption shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

(o) Any person who contests denial of an exemption shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

(p) Any person who contests denial of an exemption shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

(q) Any person who contests denial of an exemption shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

(r) Any person who contests denial of an exemption shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

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**Subpart D—Hearings****§ 1210.30 Hearing procedure for permit denial, suspension, and revocation.**

Any person who contests denial, suspension, or revocation of a permit shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

60. Section 1210.31 is revoked and § 1210.63 is redesignated as new § 1210.31 to read as follows:

**§ 1210.31 Hearing before prosecution.**

Before violation of the act is referred to the Department of Justice for prosecution under section 5 of the Federal Import Milk Act, an opportunity to be heard will be given to the party against whom prosecution is under considera-

tion. The hearing will be private and confined to questions of fact. The party notified may present evidence, either oral or written, in person or by attorney, to show cause why he should not be prosecuted. After a hearing is held, if it appears that the law has been violated, the facts will be reported to the Department of Justice.

§§ 1210.32, 1210.33, 1210.40, 1210.41, 1210.42, 1210.43, 1210.44, 1210.50, 1210.51, 1210.52, 1210.53, 1210.54, 1210.55, 1210.56, 1210.57, 1210.58, 1210.59, 1210.60, 1210.61, 1210.62, [Revoked].

61. Sections 1210.32, 1210.33, and Subparts E, F and G of Part 1210, including 1210.40, 1210.41, 1210.42, 1210.43, 1210.44, 1210.50, 1210.51, 1210.52, 1210.53, 1210.54, 1210.55, 1210.56, 1210.57, 1210.58, 1210.59, 1210.60, 1210.61, 1210.62 are revoked.

*Effective date.* This order shall be effective on July 28, 1975, except that §§ 2.20(b) and 2.21 shall be effective on November 24, 1975. Interested persons may, on or before July 28, 1975, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written comments in quintuplicate on any aspect of this order. Comments received will be available for public inspection at the above office during working hours, Monday through Friday. Any changes in this order justified by such comments will be the subject of a further order amending the specific regulations involved.

Dated: May 9, 1975.

A. M. SCHMIDT,  
Commissioner of Food and Drugs.

[FR Doc.75-13283 Filed 5-19-75;8:45 am]

# federal register

TUESDAY, MAY 27, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 102

PART III



## DEPARTMENT OF TRANSPORTATION

Federal Aviation  
Administration

### AIRWORTHINESS REVIEW PROGRAM

Equipment and Systems Proposals

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# DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[ 14 CFR Parts 23, 25, 27, 29, 91, 121 and 127 ]

[ Docket No. 14625; Notice No. 75-23 ]

## AIRWORTHINESS REVIEW PROGRAM

### Notice No. 5: Equipment and Systems Proposals

The Federal Aviation Administration is considering amending Parts 23, 25, 27, 29, 91, 121 and 127 of the Federal Aviation Regulations to update and improve the airworthiness standards applicable to aircraft equipment and systems and to make related changes in the operating rules.

This is one of a series of notices of proposed rule making issued, or to be issued, as a part of the First Biennial Airworthiness Review Program. Notice No. 74-33 (39 FR 36595; October 11, 1974) was the first. Amendments 21-43, 23-16, and 25-37, issued on December 31, 1974 (40 FR 2576; January 14, 1975) pursuant to that notice, incorporated certain form number and clarifying revisions into the Federal Aviation Regulations. In addition to Notice 74-33, the following Airworthiness Review notices of proposed rule making have been issued: Notice No. 75-10 (40 FR 10802; March 7, 1975); Notice No. 75-19 (40 FR 21866; May 19, 1975); and Notice 75-20 (40 FR 22110; May 20, 1975).

Interested persons, including the general public, manufacturers and users of aircraft and their components, both foreign and domestic, and foreign airworthiness authorities, are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments relating to any significant environmental or economic impact that might result because of the adoption of the proposals contained herein may also be submitted. Comments should identify this regulatory docket or notice number (Docket No. 14625; Notice No. 75-23) and be submitted in duplicate to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW, Washington, D.C. 20591. All communications received on or before August 25, 1975, will be considered by the Administrator before taking action on the proposed rules. However, interested persons are urged to submit their comments as early as possible to facilitate rapid resolution of any issues raised. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket for examination by interested persons.

On February 12, 1974, the FAA issued an invitation to all interested persons to submit proposals for consideration during the First Biennial Airworthiness Review Conference (see Notice 74-5, 39 FR 5785, February 15, 1974). In that notice, the FAA announced that it would make available for comment by inter-

ested persons a compilation of proposals that were to be given further consideration as possible agenda items for the First Biennial Airworthiness Review Conference. On May 22, 1974, the FAA issued an announcement of the availability of the compilation of proposals containing over 1000 submissions by the FAA and interested persons, and invited all interested persons to submit comments on the proposals it contained (see Notice 74-5A, 39 FR 18662, May 29, 1974).

In response to that invitation for comments, the FAA received over 4900 individual comments contained in 74 submissions. Based on those comments and on the compilation of proposals, the FAA prepared a number of working documents for the Airworthiness Review Conference held in Washington, D.C., on December 2-11, 1974. The FAA distributed those documents to all persons who had participated in the Airworthiness Review Program and to all other interested persons who requested them (see Notice 74-5B, 39 FR 36594, October 11, 1974).

For reasons given in Notice 74-5B, not all of the proposals contained in the compilation were included in the agenda for the conference. However, the proposals not included in the agenda were listed in a conference workbook titled "Proposals Not in Agenda." In general, Notice 75-10 deals with the proposals identified as "Items for Notice" in that workbook.

On November 25, 1974, the FAA issued a notice of conference that set forth the schedule for the conference and invited all interested persons to attend the conference (see Notice 74-5C, 39 FR 41319, November 26, 1974).

The Airworthiness Review Conference was attended by over 586 individuals representing 22 foreign airworthiness authorities as well as aircraft manufacturers and users. Except for the opening and closing plenary sessions of the conference, one or more committees discussed agenda items during conference working hours. Summaries were given by the FAA Committee Chairmen at the close of discussions on each agenda item. Persons present were given an opportunity to correct those oral summaries. Transcripts of those summaries (with editorial revisions) were combined with an attendee list for the conference as well as with transcripts of certain plenary session speeches and were distributed in accordance with a notice of availability issued February 4, 1975 (see Notice 74-5D, 40 FR 5810; February 7, 1975).

In general this notice deals with the proposals that were contained in the Committee workbook titled "Committee V—Equipment." That workbook contained the proposals discussed by the Equipment and Systems Committee at the Airworthiness Review Conference. Another conference working document used was the Agenda for the Airworthiness Review Conference. That document, in addition to providing general information relating to the conference, included details on how the proposals were grouped into agenda items, and the

scheduling of those items for discussion. Both the workbooks and the agenda were updated and corrected by a supplemental working document distributed prior to and at the conference to participating individuals as well as to other interested persons. These workbooks along with the committee discussions and written information submitted by conference attendees have provided the basis upon which the FAA has developed this notice.

A number of proposals contained in this notice were not included in the Committee V workbook. Among these are proposals that are directly related to the proposals in the workbook and are included for the sake of clarity, consistency, and comprehensiveness. In addition, there are several proposals dealt with in this notice which appeared as "Items for Notice" in the "Proposal Not in Agenda" workbook but were withheld from consideration pending the completion of the Airworthiness Review Conference (see Appendix I to Notice 75-10 for a list of those proposals).

A number of proposals contained in the Committee V workbook are not included in this notice. These proposals (listed in Appendices I, II, and III) fall into three categories as follows:

**Appendix I**—those proposals which are being deferred to a later notice or to the next Airworthiness or Operations Review.

**Appendix II**—those proposals which were withdrawn by their proponent.

**Appendix III**—those proposals which were removed from consideration during this Airworthiness Review.

The FAA believes that, in general, the proposals in Appendix I have sufficient merit to warrant further consideration and will be dealt with in the next Airworthiness or Operations Review, unless withdrawn by their proponent. But, because of the complexity of the proposal, the need for additional data, or the operational character of the proposal, further consideration within this Airworthiness Review is not feasible. The proposals in Appendix III have been removed from consideration for the reasons stated in that appendix.

The FAA believes that the airworthiness standards should, to the extent practical, be consistent throughout the airplane and rotorcraft certification parts (Parts 23, 25, 27, and 29). Therefore, the FAA has attempted within the time frame of this Airworthiness Review Program, to make consistent and parallel proposals, where appropriate, for each of these certification parts.

To avoid unnecessary repetition, in a number of instances the proposals developed for purposes of consistency are not set forth in their entirety if those proposals are substantively identical to another proposal in this notice. A short-form proposal referring to a proposal that is expressly set forth in this notice is used. Where a short-form proposal is used, however, there may be a need, if the proposal is to be adopted as a final rule, to change paragraph designations, cross references, or aircraft terminology

(i.e. "airplane" to "rotorcraft", or vice versa) from that used in the referenced express proposal.

The FAA recognizes that there may exist additional instances in which a proposed rule change prescribed in this notice as expressly applying only to certain parts of the Federal Aviation Regulations should more appropriately apply to additional parts as well. Therefore, with respect to each proposal in this notice relating to Parts 23, 25, 27, or 29 of the Federal Aviation Regulations for which similar proposals do not exist for all of those parts, comments are solicited from all interested persons with respect to the applicability of that proposal (and its stated explanation) to those parts for which the proposal has not been expressly presented. Such comments received in response to this notice will either be dealt with as a part of the 1974-1975 Airworthiness Review Program or be considered as a part of the next Biennial Airworthiness Review.

For convenience, each proposal in this notice is numbered separately. The FAA requests that interested persons, when submitting comments, refer to proposals by these numbers, or by the section to which they relate. Each proposal contains, or references a proposal that contains, a reference to the Airworthiness Review Program proposal number, section, and agenda item to which that proposal relates. Comment on this notice should not refer to the Airworthiness Review Program proposal numbers or section numbers without also referring to the corresponding proposal numbers as set forth in this notice. Each proposal in this notice is provided with an explanation. In addition, to avoid confusion several of the proposals in this notice reference proposals in Notice 75-10 that deal with the same regulatory provisions. Several explanations deal with comments received in response to Notice 74-5A; however, all comments submitted in response to Notice 74-5A or submitted for the Airworthiness Review Conference, dealing with proposals contained in this notice, should be re-submitted if it is desired that they be considered as a part of this rulemaking action.

This amendment is proposed under the authority of sections 313(a), 601, 603, 604 and 605 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, 1424, and 1425) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend Parts 23, 25, 27, 29, 91, 121 and 127 of the Federal Aviation Regulations as follows:

## PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, AND ACROBATIC CATEGORY AIRPLANES

5-1. By revising § 23.1301 to read as follows:

### § 23.1301 Function and installation.

(a) Each item of installed equipment must—

(1) Be of a kind and design appropriate to its intended function;

## PROPOSED RULES

(2) Be permanently and legibly marked or, if the item is too small to mark, tagged as to its identification, function, and operating limitations;

(3) Be installed according to limitations specified for that equipment; and

(4) Function properly when installed.

(b) No item of installed equipment may under any circumstance prevent the proper operation of any required system or of any other system provided to the flight crew for controlling, navigating, or monitoring performance of the airplane.

**Explanation.** This proposal would expand the applicability of this section to cover some optional equipment not now covered by present paragraph (a). Service experience has shown that improperly designed or malfunctioning optional equipment may introduce hazards. Proposed paragraph (a) is identical to the present requirement in § 25.1301 except for the clarification in proposed paragraph (a) (2). Proposed paragraph (b) would prohibit detrimental interference with required systems or any other system used in controlling, navigating or monitoring performance of the airplane. The addition of proposed paragraph (b) would render present § 23.1309(a) superfluous. Therefore, it is also being proposed that § 23.1309(a) be deleted.

**Ref.** Proposal No. 672; § 23.1301; Agenda Item A-1.

### § 23.1309 [Amended]

5-2. By deleting § 23.1309(a) and marking it "[Reserved]".

**Explanation.** See the proposal for § 23.1301.

**Ref.** Proposal No. 672; § 23.1301; Agenda Item A-1.

5-3. By revising § 23.1321(a) and by adding a new § 23.1321(e) to read as follows:

### § 23.1321 Arrangement and visibility.

(a) Each instrument which has a visual indicator for use in flight by any pilot must be plainly visible to him from his station with the minimum practicable deviation from his normal position and line of vision when he is looking forward along the flight path.

(e) If a visual indicator is provided to indicate malfunction of an instrument, it must be effective under all cockpit lighting conditions.

**Explanation.** The present visibility requirement in § 23.1321(a) pertains only to flight, navigation, and powerplant instruments. Since other devices may be intended for use in flight and a pilot may develop vertigo by his head movements to see these devices, the location of all visual indicators for use in flight needs to be considered. Of course, flight safety will remain the primary consideration in position priority. The standard of "minimum practicable deviation" will remain, if the rule is adopted as proposed, thus allowing considerations of all factors related to utilization and flight safety. This same proposal is also made for §§ 25.1321(a), 27.1321(a), and 29.1321(a).

The proposed § 23.1321(e), if adopted, would extend the requirement of the present and proposed § 23.1321(a) to require consideration of all possible cockpit lighting conditions for visibility of required malfunction indicators.

The FAA considered the question whether the proposal should apply only to required malfunction indicators or to all indicators, and believes that if a malfunction indicator has been provided for the crew it should be effective under all cockpit lighting conditions.

**Ref.** Proposal Nos. 680, 681, 791, 864, 950; §§ 23.1321, 23.1321(a), 25.1321(b), 27.1321, 29.1321; Agenda Items B-7, B-8.

5-4. By revising § 23.1323 to read as follows:

### § 23.1323 Airspeed indicating system.

(a) Each airspeed indicating instrument must be calibrated to indicate true airspeed (at sea level with a standard atmosphere) with a minimum practicable instrument calibration error when the corresponding pitot and static pressures are applied.

(b) Each airspeed system must be calibrated in flight to determine the system error. The system error, including position error, but excluding the airspeed indicator instrument calibration error, may not exceed three percent of the indicated airspeed or five knots, whichever is greater, throughout the following speed ranges:

(1) 1.3  $V_{SI}$  to  $V_{SO}/M_{SO}$  or  $V_{SR}$ , whichever is appropriate with flaps retracted.

(2) 1.3  $V_{SI}$  to  $V_{SR}$  with flaps extended.

**Explanation.** See the proposal for § 23.1545(a).

**Ref.** Proposal Nos. 114, 129; §§ 23.1323(a), 23.1545(a); Agenda Item B-9.

5-5. By amending § 23.1325 by adding paragraph (d) to read as follows:

### § 23.1325 Static pressure system.

(d) Each system must be designed and installed so that the error in indicated pressure altitude, at sea level, with a standard atmosphere, excluding instrument calibration error, does not result in an error of more than  $\pm 30$  feet per 100 knots speed for the appropriate configuration in the speed range between 1.3  $V_{SI}$  with flaps extended and 1.8  $V_{SI}$  with flaps retracted. However, the error need not be less than  $\pm 30$  feet.

**Explanation.** This proposal is identical to the standard presently required by § 25.1325(e). Part 23 now contains no specified standard of allowable error for the static pressure system. This proposal, if adopted, will provide a standard which would be consistent for small airplanes and transport category airplanes.

Airworthiness Review Notice 75-10 proposed a new § 23.1325(c).

**Ref.** Proposal No. 685; § 23.1325; Agenda Item B-12.

5-6. By revising § 23.1327(b), and by adding a new § 23.1327(c), to read as follows:

### § 23.1327 Magnetic direction indicator.

(b) Except as provided in paragraph (c), the compensated installation may

V  
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not have a deviation, in level flight, greater than ten degrees on any heading.

(c) A magnetic nonstabilized direction indicator may deviate more than ten degrees due to the operation of electrically powered systems such as electrically heated windshields if either an additional magnetic direction indicator (stabilized or nonstabilized) which does not have a deviation, in level flight, greater than ten degrees on any heading, or a gyroscopic direction indicator, is installed. Deviations of a magnetic nonstabilized direction indicator of more than 10 degrees must be placarded in accordance with § 23.1547(e).

**Explanation.** This proposal would allow deviation (exceeding 10 degrees) in a magnetic nonstabilized direction indicator caused by operation of electrically powered systems if the airplane is equipped with another direction indicator that meets the standard specified in paragraph (b) and the airplane is placarded in accordance with proposed § 23.1547(e). Under these conditions, safety would not be adversely affected. A similar change is proposed for § 27.1327.

Ref. Proposal Nos. 686, 867; §§ 23.1327 (b), 27.1327(b); Agenda Item B-13.

5-7. By redesignating § 23.1329 as § 23.1311; and by revising the heading, by deleting the introductory phrase, by revising paragraph (a), and by adding new paragraphs (g) and (h) to read as follows:

**§ 23.1311 Automatic flight control systems.**

(a) Each automatic flight control system must be designed so that it can—

(1) Be quickly and positively disengaged by the pilots to prevent it from interfering with their control of the airplane; and

(2) Be sufficiently overpowered by one pilot to let him control the airplane. The overpower and control forces may not exceed the temporary application limits set forth in § 23.143.

(g) Quick release (emergency) controls must be on each control wheel (or stick control) on the side opposite the throttles.

(h) Means independent of the mode selector switch must be provided to indicate to the flight crew the current mode of operation and the availability status of each alternate system.

**Explanation.** It is proposed that § 23.1329 be redesignated as § 23.1311, and that the term "automatic pilot system" be replaced with "automatic flight control system", as proposed for Part 25 in Airworthiness Review Notice No. 2 (Notice 75-10).

Under present § 23.1329(a), either the airplane must have a means to quickly and positively disengage the automatic pilot system or one pilot must be able to overpower that system. The FAA believes that neither of these alternatives, by itself, provides an adequate level of safety. If a disengage device is provided, and a malfunction or failure in it pre-

vents disengagement in an emergency, the pilot may not be able to overpower the automatic system. And if overpowering capability is provided, any need to continuously overpower the automatic flight control system adds a large increment to the pilot's workload and, should another failure occur, may prevent continued safe flight and landing. It is therefore proposed to require both a means to quickly and positively disengage the automatic flight control system and the ability to overpower that system. In addition, proposed § 23.1311 (a) would also require that the overpower and control forces may not exceed the temporary application limits set forth in present § 23.143(c).

To ensure quick release of the automatic flight control system in an emergency, proposed § 23.1311(g) would require that quick release controls be installed on each control wheel (or stick control), on the side opposite the throttles. This would allow disengagement without moving the hand from its normal position.

A proposal identical to § 23.1311(a) is being proposed for Part 25. Also see the proposal for §§ 27.1311 and 29.1311.

For an explanation of proposed § 23.1311(h) see the proposal for § 25.1329(h).

Ref. Proposal No. 687; § 23.1329(a) (1); Agenda Item C-20.

5-8. By revising § 23.1335, including the heading, to read as follows:

**§ 23.1335 Flight director systems.**

If a flight director system is installed, means independent of the mode selector switch must be provided to indicate to the flight crew its current mode of operation.

**Explanation.** See the proposal for § 25.1335.

A proposal was made in Airworthiness Review Notice No. 2 (Notice 75-10) to delete present § 23.1335. This Notice No. 2 proposal was not included in the agenda for the Airworthiness Review Conference. At the conference, however, proposals concerning flight director systems were discussed, and have been included in this notice as a proposal for § 25.1335. Pursuant to FAA's belief that the airworthiness standards should be consistent, to the extent practicable, throughout the airplane and rotorcraft certification parts new proposals for §§ 23.1335, 27.1335 and 29.1335 are being made. The proposal contained in Notice No. 2 for § 23.1335 will be withdrawn at the time of final rulemaking action if the new proposal for § 23.1335 is adopted. All comments received in response to proposed § 23.1335 in Notice No. 2 will be considered for this new proposal for § 23.1335.

Ref. Proposal No. 141; § 25.1333; Agenda Item C-23.

5-9. By adding a new § 23.1351(f) to read as follows:

**§ 23.1351 General.**

(f) **External power.** If provisions are made for connecting external power to the airplane, and that external power is not used solely for starting the engine,

means must be provided to ensure that no external power supply having a reverse polarity, or a reverse phase sequence, can supply power to the airplane's electrical system.

**Explanation.** If an external power supply with reverse polarity or reverse phase sequence were to supply power to the airplane's electrical system extensive damage to the system could result. This proposal would require a means to prevent such an occurrence.

Ref. Proposal Nos. 118, 308; §§ 23.1351, 25.1355; Agenda Item D-29.

5-10. By revising § 23.1353(b) (1) and by adding a new § 23.1353(g) to read as follows:

**§ 23.1353 Storage battery design and installation.**

(1) At maximum regulated voltage or power;

(g) Each nickel cadmium battery installation capable of being used to start an engine or auxiliary power unit must have provisions to prevent any hazardous effect on structure or essential systems that may be caused by the maximum amount of heat the battery can generate during a short circuit of the battery or of its individual cells.

**Explanation.** Proposed § 23.1353(b) (1) would add "or power" to the battery recharging standard. The proposal by adding an alternative standard is intended to clarify the present rule to more appropriately include all battery charging means and parameters. In some battery charging techniques, voltage is not a controlled factor except by response of the battery. Also, power is a measure of heat input to the battery. A similar proposal is made for §§ 25.1353(c) (1) (i), 27.1353(b) (1), and 29.1353(c) (1) (i).

Short circuits of nickel cadmium batteries (either internally or to the airplane structure through the battery caps) have occurred in service. The heat generated by such short circuits may in some circumstances damage nearby structure or essential systems. It is therefore proposed to require provisions to prevent any hazardous effect from this cause. See also proposed new § 23.1353(f) in Airworthiness Review Notice No. 2 (Notice 75-10), which is aimed at reducing the occurrence of short circuits that are caused by excessive battery charging current.

Ref. Proposal Nos. 307, 694, 800, 871, 956; §§ 23.1353(f), 25.1353, 25.1353(d), 27.1353(f), 29.1353(d); Agenda Items D-30, D-31.

5-11. By revising § 23.1357(b) to read as follows:

**§ 23.1357 Circuit protective devices.**

(b) A protective device for a circuit essential to flight safety may not be used to protect any other circuit.

**Explanation.** Proposed paragraph (b) would clarify the present rule by specifically prohibiting the use of a single

protective device to protect an essential and a nonessential circuit, or more than one essential circuit. A protective device protecting two circuits would trip in response to a fault in either one; thus a fault in the nonessential circuit would render the essential circuit inoperative.

Ref. Proposal Nos. 695, 872, 119; §§ 23.1357(b), 27.1357(b); Agenda Item D-32.

**§ 23.1361 [Amended]**

5-12. By amending § 23.1361(b) by adding, at the end thereof, the sentence, "These circuits must be isolated, or physically shielded, to prevent their igniting flammable fluids or vapors that might be liberated by the leakage or rupture of flammable fluid systems".

**Explanation.** Circuits by-passing the master switch remain energized after the master switch is opened. If such circuits fall during a crash landing they might possibly ignite nearby flammable fluids or vapors. This proposal would reduce that possibility.

Ref. Proposal No. 696; § 23.1361(b); Agenda Item D-34.

**§ 23.1401 [Amended]**

5-13. By amending § 23.1401 by striking the number "30" in both places in paragraph (b) and inserting in place thereof (in both places) the number "75"; and by adding a line at the end of the table in paragraph (f) to read as follows: "30° to 75°-----20".

**Explanation.** The present anticollision light rule in § 23.1401(b) requires that the field of coverage extend in each direction within at least 30° above and 30° below the horizontal plane of the airplane. The FAA believes that this minimum coverage should be increased. Under the present rule, visibility of the light may be less than is needed when the airplane is approached by another aircraft ascending or descending, or when the airplane is banked at more than 30°. This proposal would expand the present field of coverage so that it extends in each direction within at least 75° above and 75° below the horizontal plane of the airplane. In addition, this proposal would specify at least a 20-candle effective intensity in the 30° to 75° field of coverage, thereby increasing the probability of seeing the airplane from other aircraft (including air rescue aircraft) and from control towers.

Ref. Proposal Nos. 124, 697, 313, 801; §§ 23.1401(b), 23.1401(f), 25.1401(b), 25.1401(f); Agenda Item E-36.

5-14. By adding a new § 23.1438 to read as follows:

**§ 23.1438 Pressurization and pneumatic systems.**

(a) Pressurization system components must be burst pressure tested to 2.0 times, and proof pressure tested to 1.5 times, the maximum normal operating pressure.

(b) Pneumatic system components must be burst pressure tested to 4.0 times, and proof pressure tested to 1.5

times, the maximum normal operating pressure.

**Explanation.** Components (such as ducts and couplings) of pressurization and pneumatic systems have failed at an unacceptable rate in service. The proposed standards for these components have been effective in preventing design deficiencies in the past.

Ref. Proposal Nos. 702, 811; §§ 23.1438 (a) (b) (c) (d), 25.1438; Agenda Item G-45.

5-15. By adding a new § 23.1447 (c) and (d) to read as follows:

**§ 23.1447 Equipment standards for oxygen dispensing units.**

(c) If certification for operation above 30,000 feet is requested, the dispensing units providing the required oxygen flow rate must be automatically presented to each occupant before the cabin pressure altitude exceeds 14,000 feet.

(d) If an automatic dispensing unit (hose and mask, or other unit) system is installed, each occupant served by that system must be provided with a manual means to make the dispensing unit immediately available in the event of failure of the automatic system.

**Explanation.** The proposal would require automatic presentation of oxygen dispensing units on airplanes certificated under Part 23 for operations above 30,000 feet. Should loss of pressurization occur at those altitudes, the time of useful consciousness varies between 90 seconds at 30,000 feet and 10-12 seconds at 40,000 feet, necessitating automatic presentation of oxygen dispensing units. It is also proposed to specify 14,000 feet as the cabin pressure altitude at which they must be automatically presented so that they would be ready for use not only when the cabin pressure altitude goes very rapidly to very high values but also in the event of a pressurization system failure or malfunction after which (under present § 23.841(a)) the cabin pressure altitude may go to 15,000 feet. The 14,000-foot cabin pressure altitude for automatic presentation is also being proposed for Part 25.

In addition, since service experience has shown that the automatic-presentation feature may fail, it is proposed that a manual means be provided to enable each occupant to gain access to his oxygen dispensing unit. This manual means is also being proposed for Part 25.

Ref. Proposal Nos. 704, 322; §§ 23.1447 (c) and (d), 25.1447(c) (1); Agenda Item H-47.

**§ 23.1450 [New]**

5-16. By adding a new § 23.1450 that would be substantially identical to the proposed new § 25.1450.

**§ 23.1461 [New]**

5-17. By adding a new § 23.1461, following § 23.1449, that would be substantially identical to the proposed new § 25.1461.

5-18. By revising § 23.1545(a) and § 23.1545(b) (5), and by adding § 23.1545 (b) (6), to read as follows:

**§ 23.1545 Airspeed indicator.**

(a) Each airspeed indicator must be marked as specified in paragraph (b) of this section, with the marks located at the corresponding indicated airspeeds.

(b) . . .

(5) For the one-engine-inoperative best rate of climb speed,  $V_r$ , a blue sector extending from the  $V_r$  speed at sea level to the  $V_r$  speed at—

(i) An altitude of 5000 feet, if the one-engine-inoperative best rate of climb at that altitude is less than 100 feet per minute; or

(ii) The highest 1000-foot altitude (at or above 5000 feet) at which the one-engine-inoperative best rate of climb is 100 feet per minute or more. Each side of the sector must be labeled to show the altitude for the corresponding  $V_r$ .

(6) For the minimum control speed (one-engine-inoperative),  $V_{mc}$ , a red radial line.

**Explanation.** Proposed § 23.1545(a) would require airspeed limitation marks be located at the corresponding indicated airspeeds instead of at the calibrated airspeeds, thereby providing a more useful indicator dial for operation of the airplane. However, to ensure uniformity, it is also proposed to revise § 23.1323 to require that the airspeed instrument be calibrated according to the standard relationship between pressure and airspeed. (See the proposal for § 23.1323.) The allowable airspeed system error would then include position error, but exclude the airspeed instrument calibration error, consistent with Part 25. The airspeed range for calibration, as set forth in proposed § 23.1323, would encompass the airspeed limitations in proposed § 23.1545(a).

Also, proposed § 23.1545(b) (5) would provide for the variation in the one-engine-inoperative best rate of climb speed with altitude, and proposed § 23.1545(b) (6) would cover  $V_{mc}$ .

Ref. Proposal Nos. 114, 129, §§ 23.1323 (a), 23.1545(a); Agenda Item B-9.

5-19. By adding a new § 23.1547(e) to read as follows:

**§ 23.1547 Magnetic direction indicator.**

(e) If a magnetic nonstabilized direction indicator can have a deviation of more than 10 degrees caused by electrical equipment, the placard must state which electrical loads, or combination of loads, would cause a deviation of more than 10 degrees when turned on.

**Explanation.** See the proposal for § 23.1327 (b) and (c). Proposed § 23.1547(e) would require that the magnetic direction indicator placard identify those electrical loads which cause a deviation of more than 10 degrees. The pilot would thus know when the indicated heading of the magnetic nonstabilized direction indicator is not reliable due to magnetic fields associated with airplane electrical systems.

Ref. Proposal Nos. 686, 867; §§ 23.1327 (b), 27.1327(b); Agenda Item B-13.



# **PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES**

5-20. By revising § 25.831(e) and by adding a new § 25.831(f) to read as follows:

## **§ 25.831 Ventilation.**

(e) Except as provided in paragraph (f) of this section, there must be a means in each compartment or area occupied by crewmembers to enable the occupants of each area or compartment to control the temperature and quantity of ventilating air supplied to that compartment or area independently of the temperature and quantity of air supplied to other compartments or areas.

(f) Means to control the temperature and ventilating air flow in the crew compartment independently of the temperature and air flow in the passenger compartment are not required if all of the following conditions are met:

(1) The total volume of the crew and passenger compartments is 800 cubic feet or less.

(2) The air inlets and passages for air to flow between crew and passenger compartments are arranged to provide compartment temperatures within 5° F of each other and adequate ventilation to occupants in both compartments.

(3) The temperature and ventilation controls are accessible to the pilot.

**Explanation.** A proposal was made in Airworthiness Review Notice No. 2 (Notice 75-10) to revise § 25.831(e) and to add a new § 25.831(f). These proposals were not included in the agenda for the first Airworthiness Review Conference. At the conference, however, other proposals concerning § 25.831(e) were discussed. The FAA now believes that a further revision of § 25.831(e) may be needed. Also, the proposed new § 25.831(f) is repropoed to avoid confusion with Notice No. 2. The proposals contained in Notice No. 2 for § 25.831 will thus be withdrawn at the time of final rulemaking action if the proposal for § 25.831 in this Notice is adopted. All comments received in response to the proposal for § 25.831 in Notice No. 2 will be considered for the new proposal for § 25.831.

The proposed new § 25.831(f) would allow an exception to the requirement of independent controls for ventilating air for certain airplanes. If the conditions in new paragraph (f) are met, the FAA believes independent controls do not contribute significantly to airworthiness. However, the FAA believes if those conditions are not met that greater control in individual areas may be needed.

Neither present § 25.831(e) nor proposed § 25.831(e) in Notice No. 2 requires independent control in flight attendant areas of ventilating air supplied to those areas. Since both flight attendants and flight crewmembers perform various duties affecting safety, it is necessary that the ventilation in their work areas be adequate to ensure that their efficiency is not adversely affected. The ventilation needed in flight attendant areas may be quite different due to the presence of heating elements and the activ-

ity required in performance of their duties. Control of ventilation in flight attendant areas may be needed when flight crewmembers are busy with other tasks. Therefore, the FAA believes that all crewmember compartments or areas should have not only their own supply of ventilating air, but should have a control of such air in the individual compartment or area.

Ref. Proposal Nos. 251, 729; §§ 25.831, 25.831(f); Agenda Item G-42.

5-21. By revising § 25.1301(b) to read as follows:

## **§ 25.1301 Function and installation.**

(b) Be permanently and legibly marked or, if the item is too small to mark, tagged as to its identification, function, and operating limitations;

**Explanation.** The proposal would provide a more realistic and specific requirement for labeling airplane equipment. The proposal is consistent with the corresponding requirement for equipment manufactured in accordance with a Technical Standard Order and with the proposal for § 23.1301.

Ref. Proposal No. 781; § 25.1301; Agenda Item A-1.

5-22. By amending the lead-in of § 25.1309 (d) and (e) and by revising § 25.1309 (a), (b), (c), (e)(3) and (f) to read as follows:

## **§ 25.1309 Equipment systems and installations.**

(a) The equipment, systems, and installations whose functioning is required by this chapter, must be designed to ensure that they perform their intended functions under any foreseeable operating condition.

(b) The airplane systems and associated components, considered separately and in relation to other systems, must be designed so that—

(1) The occurrence of any failure condition which would prevent the continued safe flight and landing of the airplane or which, in the event of loss of all propulsive power, would preclude controlled flight to an emergency landing, is extremely improbable; and

(2) The occurrence of any other failure condition which would significantly reduce the operational or performance capability of the airplane is improbable.

(c) Warning information must be provided to alert the crew to unsafe system operating conditions, and to enable them to take appropriate corrective action. Systems, controls, and associated monitoring and warning means must be designed to minimize crew errors which could create additional hazards.

(d) Compliance with the requirements of paragraph (b) of this section must be shown by analysis, and where necessary, by appropriate ground, flight, or flight simulator tests. The analysis must consider—

(e) Each installation whose functioning is required by this chapter, and that

requires a power supply, is an "essential load" on the power supply. . . .

(3) Essential loads after failure of—

(i) Any one engine on two-engine airplanes; and

(ii) Any two engines on three-or-more engine airplanes.

(f) In determining compliance with paragraphs (e) (2) and (3) of this section, the power loads may be assumed to be reduced under a monitoring procedure consistent with safety in the kinds of operation authorized. Loads not required in controlled flight need not be considered for the two-engine-inoperative condition on airplanes with three or more engines.

**Explanation.** The proposed revision of § 25.1309(a) and the lead-in of paragraph (e) would change the term "subchapter" to "chapter" in both. The term "chapter" is being proposed to broaden the applicability of § 25.1309. Equipment, systems, and installations not specifically required by Subchapter C are installed in airplanes in order to engage in operations covered by other subchapters. Dependence for safety of flight might be placed on installations not otherwise mentioned in the rules. The proposal for § 25.1309(a) is also made for § 27.1309(a) and § 29.1309(a).

The proposal for § 25.1309(b) would qualify the present requirement in § 25.1309(b) (1) to take into account the possibility of loss of all propulsive power, in which event "continued safe flight and landing" would not necessarily be attainable. In addition, the proposal would delete the reference to occupant injury in present § 25.1309(b) (2) since the matter of preventing injuries to occupants is treated elsewhere in the regulations (see §§ 25.785, 25.787, 25.789, 25.801), and would clarify the language in that paragraph.

Also the proposal would revise the language in present § 25.1309(c) and delete the reference to paragraph (c) from the language of paragraph (d). The method of compliance set forth in paragraph (d) which is applicable to paragraph (c) in the present rule has been found to be an unreasonably burdensome procedure in some instances. Further, the revision of paragraph (c) would more appropriately emphasize the required design considerations of minimizing crew errors.

Under present § 25.1309(e) (3), system power sources on three-engine airplanes need not be capable of supplying essential loads after failure of two engines. It is proposed to upgrade this requirement by specifying that essential loads must be supplied after failure of two engines on three-engine airplanes. In general, three-engine airplanes are capable of considerable performance on one engine. Essential loads required for controlled flight on one engine must be supplied. A corresponding change has been proposed for § 25.1309(f).

A proposal in Airworthiness Review Notice Number 2 (Notice 75-10) would add commas in the section heading be-

tween "Equipment" and "systems," and between "systems" and "and."

Ref. Proposal Nos. 295, 296, 299, 789; §§ 25.1309, 25.1309(a), 25.1309(e); Agenda Items A-2, A-3, A-6.

## **§ 25.1321 [Amended]**

5-23. By amending § 25.1321 in a manner substantively identical to that proposed for § 23.1321.

5-24. By revising the title of § 25.1329 and § 25.1329(a), and by adding a new § 25.1329(h) to read as follows:

## **§ 25.1329 Automatic flight control systems.**

(a) Each automatic flight control system must be designed so that it can—

(1) Be quickly and positively disengaged by the pilots to prevent it from interfering with their control of the airplane; and

(2) Be sufficiently overpowered by one pilot to let him control the airplane. The overpower and control forces may not exceed the temporary application limits set forth in § 25.143.

(h) Means independent of the mode selector switch must be provided to indicate to the flight crew the current mode of operation and the availability status of each alternative system.

**Explanation.** For an explanation of § 25.1329(a), see the proposal for § 23.1329 (proposed redesignation to § 23.1311).

Service experience has shown that where automatic flight control systems are installed, confusion may result if there is no indication of the current mode of operation, and of the status of alternate systems. Moreover, experience has also shown that the position of a mode selector switch is not a reliable means of providing such indications. This proposal would ensure that an indication entirely independent of the mode selector switch is provided.

In Airworthiness Review Notice Number 2 (Notice 75-10), a proposal was made to change all references from "Automatic Pilot systems" to "Automatic flight control systems", and this proposal has been worded to be consistent with that proposal. The proposal in Notice 75-10 would also redesignate § 25.1329 as § 25.1311. This proposal (for § 25.1329 (h)), if adopted, will be designated accordingly.

Ref. Proposal Nos. 687, 795; §§ 23.1329 (a) (1), 25.1329(h); Agenda Items C-20, C-22.

5-25. By amending § 25.1331 by striking the phrase "or adjacent to," in paragraph (a) (1); and by adding a new paragraph (a) (3) to read as follows:

## **§ 25.1331 Instruments using a power supply.**

(a) . . .

(3) If in instrument presenting navigation data receives information from sources external to that instrument and loss of that information would render the presented data unreliable, the instrument must incorporate a visual means to warn the crew, when such loss

of information occurs, that the presented data should not be relied upon.

**Explanation.** By deleting the alternative "adjacent to" location for instrument power failure indicators, this proposal would require that these indicators be integral with the instrument. An integral indicator provides a more reliable warning of instrument-power failure. The proposal for paragraph (a) (3) would ensure that the flight crew is warned when loss of information to an instrument presenting navigation data renders that data unreliable.

Ref. Proposal No. 796; § 25.1331(a) (c); Agenda Item B-15.

5-26. By striking the period at the end of § 25.1333 (a) and inserting a semicolon in place thereof, and by revising § 25.1333 (b) to read as follows:

## **§ 25.1333 Instrument systems.**

(b) The equipment, systems, and installations must be designed so that one display of the information essential to the safety of flight which is provided by the instruments, including attitude, direction, airspeed, and altitude will be immediately available to the pilots after any single failure or combination of failures that is not shown to be extremely improbable; and

**Explanation.** A major revision to § 25.1333 was made by Amendment 25-23, effective May 8, 1970 (35 FR 5665). The FAA still believes, as stated in Amendment 25-23, that instrument systems must be designed considering a combination of failures that are not shown to be extremely improbable and the necessity of providing information essential to the safety of flight to any pilot after these failures. However, the FAA believes that the requirement in present § 25.1333(b) of availability of this information without crewmember action is too restrictive. Some minimal crewmember action, such as allowing manual switching, would be a more reasonable alternative without degrading the level of safety. Therefore, it is proposed to delete the words "without additional crewmember action" and "remain", and to insert "will be immediately" available.

Ref. Proposal No. 303; § 25.1333 (a) and (b); Agenda Item B-14.

5-27. By adding a new § 25.1335 to read as follows:

## **§ 25.1335 Flight director systems.**

If a flight director system is installed, means independent of the mode selector switch must be provided to indicate to the flight crew its current mode of operation.

**Explanation.** Service experience has shown that safety is compromised when the flight crew is not informed as to the current mode of operation of the flight director system. Moreover, experience has also shown that the position of the mode selector switch is not a reliable means of providing that information. This proposal would ensure that an indi-

cation entirely independent of the mode selector switch is provided.

Ref. Proposal No. 141; § 25.1333; Agenda Item C-23.

5-28. By adding a new § 25.1351(c) that would be substantively identical to the proposed new § 23.1351(f) and by adding a new § 25.1351(d) to read as follows:

## **§ 25.1351 General.**

(d) Operation without normal electrical power. It must be shown by analysis, tests, or both, that the airplane can be operated safely in VFR conditions, for a period of not less than five minutes, with the normal electrical power inoperative, with critical type fuel (from the standpoint of flameout and restart capability), and with the airplane initially at the maximum certificated altitude. Parts of the electrical system may remain on if—

(1) A single malfunction, including a wire bundle or junction box fire, cannot result in loss of the part turned off and the part turned on;

(2) The parts turned on are electrically and mechanically isolated from the parts turned off; and

(3) The electrical wire and cable insulation, and other materials, of the parts turned on are self-extinguishing when tested in accordance with § 25.1359(d).

**Explanation.** The FAA has been applying for the past few years, as a special condition, a requirement that the airplane can be operated safely for a period of five minutes under VFR conditions without normal generator or battery power. Emergency power should be provided to those services which are necessary to complete the flight in safety. Such emergency power should be mechanically and electrically isolated from the normal system and be such that no single malfunction, including the cutting of a cable bundle or the loss of a junction box, will affect both the normal and emergency power.

Ref. Proposal No. 798; § 25.1351(c); Agenda Item D-24.

## **§ 25.1353 [Amended]**

5-29. By adding a new § 25.1353 (c) (1) (i) and (c) (6) that would be substantively identical to the proposed new § 23.1353 (b) (1) and (g).

## **§ 25.1401 [Amended]**

5-30. By amending § 25.1401 (b) and (f) in a manner substantively identical to that proposed for § 23.1401 (b) and (f), respectively.

5-31. By adding a new § 25.1421, following § 25.1419, to read as follows:

## **§ 25.1421 Megaphones.**

(a) If a megaphone is installed, the megaphone must be so protected that it will perform its function after being subjected to the ultimate inertia forces specified in § 25.561(b) (3).

(b) Each compartment used for megaphone stowage must be conspicuously marked—"MEGAPHONE".



**Explanation.** Although § 121.309(f) prescribes megaphones, there are no corresponding airworthiness standards covering their installation. This proposal would add airworthiness standards in part 25 dealing with the ability of the megaphone installation to withstand emergency landing loads, and with the marking of megaphone stowage compartments, thereby providing additional assurance that it is serviceable, and can be located, in an emergency.

Ref. Proposal No. 806; § 25.1421; Agenda Item J-58.

5-32. By amending § 25.1435 by striking the language in § 25.1435(a)(3) and in place thereof inserting the term "[Reserved]"; by revising § 25.1435(a)(2) and (a)(4)(ii), and by adding a new § 25.1435(a)(7) and (a)(8), to read as follows:

**§ 25.1435 Hydraulic systems.**

- (a) . . . . .
- (2) A system pressure gage and a fluid quantity gage, both located at a flight crewmember station, must be provided for each hydraulic system that—
  - (i) Performs a function that is essential for continued safe flight and landing; or
  - (ii) In the event of hydraulic system malfunction, requires corrective action by the crew to ensure continued safe flight and landing.

- (4) . . . . .
- (ii) Except as provided in paragraph (a)(7) of this section, will not exceed 125 percent of the design operating pressure, excluding pressure at the outlets specified in paragraph (a)(4)(i) of this section. Design operating pressure is the maximum steady operating pressure.

(7) Transient pressure in a part of the system may exceed the limit specified in paragraph (a)(4)(ii) of this section if—

- (i) A survey of those transient pressures is conducted to determine their magnitude and frequency; and

- (ii) Based on the survey, the fatigue strength of that part of the system is substantiated by analysis or tests, or both.

(8) Each hydraulic pump must be designed and installed so that loss of hydraulic fluid to the pump cannot create a hazard that might prevent continued safe flight and landing.

**Explanation.** The term "continuously operating system" in present § 25.1435(a)(2) and (a)(3) is not sufficiently definitive, nor is it clear whether the "means to indicate" system pressure and fluid quantity must necessarily be a gage. The proposal would identify those hydraulic systems for which a means to indicate system pressure and fluid quantity must be provided, and would require specifically that, for such systems, the means be a gage.

Present § 25.1435(a)(4)(ii) does not allow for transient pressures which, although taken into account in the design

of the hydraulic system, exceed the prescribed limit. The FAA believes, after further study of this issue in the light of recent service experience, that if the magnitude and frequency of such transient pressures in some part of the system were determined by survey, and the fatigue strength of this part of the system were substantiated on the basis of that survey, safety would not be adversely affected, nor would system performance be reduced significantly. The proposed revision to § 25.1435(a)(4)(ii) and proposed new § 25.1435(a)(7) would remove this restriction on design.

Service experience has shown that hydraulic fluid to hydraulic pumps may be lost, after which the pump continues to rotate, overheats, and disintegrates. Proposed § 25.1435(a)(8) would require that no hazard preventing continued safe flight and landing results after loss of such hydraulic fluid.

Ref. Proposal Nos. 319, 808, 809; §§ 25.1435(a), 25.1435(a)(4), 25.1435(d)(e)(f); Agenda Items F-39, F-41.

**§ 25.1438 [Amended]**

5-33. By adding a new § 25.1438 that would be substantially identical to proposed new § 23.1438.

5-34. By revising § 25.1447(c)(1) and (c)(2) to read as follows:

**§ 25.1447 Equipment standards for oxygen dispensing units.**

- (c) . . . . .
- (1) There must be an oxygen dispensing unit connected to oxygen supply terminals immediately available to each occupant, wherever seated. If certification for operation above 30,000 feet is requested, the dispensing units providing the required oxygen flow must be automatically presented to the occupants before the cabin pressure altitude exceeds 14,000 feet. Each occupant served by the automatic dispensing unit system must be provided with a manual means to make the dispensing unit immediately available in the event of failure of the automatic system. The total number of dispensing units and outlets must exceed the number of seats by at least 10 percent. The extra units must be as uniformly distributed throughout the cabin as practicable.

- (2) Each flight crewmember on flight deck duty must be provided with demand equipment. In addition, each flight crewmember must be provided with a quick-donning type of oxygen dispensing unit, connected to an oxygen supply terminal, that is immediately available to him when seated at his station, and that is designed and installed so that it—

- (i) Can be placed on the face from its ready position, properly secured, sealed, and supplying oxygen upon demand, with one hand within five seconds, and without disturbing eyeglasses or causing delay in proceeding with emergency duties; and

- (ii) Allows, while in place, the performance of normal communication functions.

**Explanation.** For an explanation of § 25.1447(c)(1) see the proposal for new § 23.1447(c) and (d).

Present § 25.1447(c)(2) requires that oxygen dispensing units be "immediately available" to each flight crewmember when seated at his station, but does not define that term. The proposal, which uses the language in present § 121.333(c)(2), would provide a basis for approving oxygen dispensing units that must be "immediately available" in the event of rapid depressurization.

Ref. Proposal Nos. 322, 704, 815; §§ 23.1447(c) and (d), 25.1447(c)(1), 25.1447(c)(2); Agenda Items H-47, H-49.

5-35. By adding a new § 25.1450 to read as follows:

**§ 25.1450 Chemical oxygen generators.**

- (a) For the purpose of this section, a chemical oxygen generator is defined as a device which produces oxygen by chemical reaction.

- (b) Each chemical oxygen generator must be designed and installed in accordance with the following requirements:

- (1) Surface temperature developed by the generator during operation may not create a hazard to the airplane or to its occupants.
- (2) Means must be provided to—
  - (i) Indicate positively that oxygen is flowing; and
  - (ii) Relieve any internal pressure that may be hazardous.

- (c) Each portable chemical oxygen generator that is capable of sustained operation by successive replacement of a generator element must be designed to meet the following requirements in addition to those in paragraph (b):

- (1) The generator must be placarded to show—
  - (i) The rate of oxygen flow, in liters per minute;

- (ii) The duration of oxygen flow, in minutes, for the replaceable generator element; and

- (iii) A warning that the replaceable generator element may be hot, unless the element construction is such that the surface temperature cannot exceed 100°F.

- (2) Means must be provided for safe replacement and stowage of used generator elements.

**Explanation.** Chemical oxygen generators have been in use for some time. This proposal would require that they be designed and installed in accordance with specified safety standards derived from service experience.

Ref. Proposal Nos. 705, 816; §§ 23.1450, 25.1450; Agenda Item H-50.

5-36. By revising § 25.1457(b), (d)(1), (e) and (g) to read as follows:

**§ 25.1457 Cockpit voice recorders.**

- (b) The recording requirements of paragraph (a)(2) of this section must be met by installing two directional microphones and, if necessary, an area microphone. The microphones must be located in the cockpit so that—

- (1) One directional microphone is directed toward the captain and the other toward the first officer;

- (2) The intelligibility of the recorded communications is as high as practicable under flight cockpit noise conditions.

- (d) Each cockpit voice recorder must be installed so that—

- (1) It receives its electric power from a bus that supplies emergency loads;

- (e) The record container must be located and mounted to minimize the probability of rupture of the container as a result of crash impact and consequent heat damage to the record from fire. If the record is on tape, the tape must be stored on a reel, or stored by any other method that is equivalent to storage on a reel with respect to providing protection against damage by crash impact or heat exposure. In meeting this requirement, the record container must be as far aft as practicable, but may not be where aft mounted engines may crush the container during impact. However, it need not be outside the pressurized compartment.

- (g) Each record container must—

- (1) Be either bright orange or bright yellow;
- (2) Have reflective tape affixed to its external surface to facilitate its location under water; and
- (3) Have an underwater locating device, when required by the operating rules of this chapter, on or adjacent to the container which is secured in such a manner that they are not likely to be separated during crash impact.

**Explanation.** The proposal for § 25.1457(a)(4) is intended to promote the availability of information from the flight recorder. The present requirement includes checking the recorder from proper tape movement which is not a sufficient indication that the recorder is capable of actually recording. Information available to the FAA indicates that there are presently devices available which can check this capability.

The proposal for § 25.1459(d) would make the applicable flight recorder requirements consistent with those proposed for cockpit voice recorders. However, the only additional requirement proposed for this section is the provision for reflective tape.

Ref. Proposal Nos. 325, 534, 818; §§ 25.1457, 25.1459(a)(4), 121.343; Agenda Items I-52, I-53, I-55.

5-38. By adding a new § 25.1461, following § 25.1459, to read as follows:

**§ 25.1461 Equipment containing high energy rotors.**

- (a) Equipment containing high energy rotors must meet paragraph (b), (c), or (d) of this section.

- (b) High energy rotors contained in equipment must be able to withstand damage caused by malfunctions, vibration, abnormal speeds, and abnormal temperatures. In addition—

- (1) Auxiliary rotor cases must be able to contain damage caused by the failure of high energy rotor blades; and

- (2) Equipment control devices, systems, and instrumentation must reasonably ensure that no operating limitations affecting the integrity of high energy rotors will be exceeded in service.

The proposed revision to § 25.1457(e) would require, if the voice record is on tape, that the tape be stored on a reel, or by an equivalent method with respect

to protection against damage by crash impact or heat exposure. Information has been lost from tapes stored in random fashion due to crushing and folding of the tape when exposed to high deceleration forces.

For explanation of paragraph (g), see the proposal for § 121.359.

Ref. Proposal Nos. 324, 325, 817; § 25.1457; Agenda Items I-54, I-55, I-56, 5-37. By amending § 25.1459 by deleting paragraph (a)(7); and by revising § 25.1459(a)(4) and (d) to read as follows:

**§ 25.1459 Flight recorders.**

- (a) Each flight recorder required by the operating rules of this chapter must be installed so that—

- (4) There is a means for preflight checking of the recorder for proper operation.

- (d) Each record container must—

- (1) Be either bright orange or bright yellow;
- (2) Have reflective tape affixed to its external surface to facilitate its location under water; and
- (3) Have an underwater locating device, when required by the operating rules of this chapter, on or adjacent to the container which is secured in such a manner that they are not likely to be separated during crash impact.

**Explanation.** The proposal for § 25.1459(a)(4) is intended to promote the availability of information from the flight recorder. The present requirement includes checking the recorder from proper tape movement which is not a sufficient indication that the recorder is capable of actually recording. Information available to the FAA indicates that there are presently devices available which can check this capability.

The proposal for § 25.1459(d) would make the applicable flight recorder requirements consistent with those proposed for cockpit voice recorders. However, the only additional requirement proposed for this section is the provision for reflective tape.

Ref. Proposal Nos. 325, 534, 818; §§ 25.1457, 25.1459(a)(4), 121.343; Agenda Items I-52, I-53, I-55.

5-38. By adding a new § 25.1461, following § 25.1459, to read as follows:

**§ 25.1461 Equipment containing high energy rotors.**

- (a) Equipment containing high energy rotors must meet paragraph (b), (c), or (d) of this section.

- (b) High energy rotors contained in equipment must be able to withstand damage caused by malfunctions, vibration, abnormal speeds, and abnormal temperatures. In addition—

- (1) Auxiliary rotor cases must be able to contain damage caused by the failure of high energy rotor blades; and

- (2) Equipment control devices, systems, and instrumentation must reasonably ensure that no operating limitations affecting the integrity of high energy rotors will be exceeded in service.

(c) It must be shown by test that equipment containing high energy rotors can contain any failure of a high energy rotor that occurs at the highest speed obtainable with the normal speed control devices inoperative.

(d) Equipment containing high energy rotors must be located where rotor failure will neither endanger the occupants nor adversely affect continued safe flight.

**Explanation.** This proposal would add requirements for protection against the failure of equipment containing high energy rotors, such as turbine engine starters, air cycle machines, and certain cooling fans. Experience has shown that failures which release the energy stored in these rotors may result in engine or structural damage, fires, or injury to occupants. The language in this proposal is identical to §§ 27.1461 and 29.1461.

Ref. Proposal Nos. 771, 810, 701; §§ 25.1167, 25.1436, 23.1436; Agenda Item J-67.

**PART 27—AIRWORTHINESS STANDARDS: NORMAL CATEGORY ROTORCRAFT**

5-39. By revising § 27.1301 to read as follows:

**§ 27.1301 Function and installation.**

- (a) Each item of installed equipment must—

- (1) Be of a kind and design appropriate to its intended function;

- (2) Be permanently and legibly marked or, if the item is too small to mark, tagged as to its identification, function, and operating limitations;

- (3) Be installed according to limitations specified for that equipment; and

- (4) Function properly when installed.
- (b) No item of installed equipment may under any circumstance prevent the proper operation of any required system provided to the flight crew for controlling, navigating, or monitoring performance of the rotorcraft.

**Explanation.** See the proposal for § 23.1301.

Ref. Proposal No. 862; § 27.1301; Agenda Item A-1.

**§ 27.1309 [Amended]**

5-40. By changing the term in § 27.1309(a) from "subchapter" to "chapter".

**Explanation.** See the proposal for § 25.1309(a).

Ref. Proposal No. 789; § 25.1309(a); Agenda Item A-2.

5-41. By adding a new § 27.1311 to read as follows:

**§ 27.1311 Automatic flight control system.**

- (a) Each automatic flight control system must be designed so that it can—

- (1) Be quickly and positively disengaged by the pilots without moving their hands from the normal position on the cyclic control; and

- (2) Be sufficiently overpowered by one pilot within the limits specified in § 27.397 to let him control the rotorcraft.

- (b) Unless there is automatic synchronization, each system must have a means to readily indicate to the pilot the align-



ment of the actuating device in relation to the control system it operates:

(c) Each manually operated control for the system's operation must be readily accessible to the pilots.

(d) The system must be designed and adjusted so that, within the range of adjustment available to the pilot, it cannot produce hazardous loads on the rotorcraft, or create hazardous deviations in the flight path, under any flight condition appropriate to its use, either during normal operation or in the event of a malfunction, assuming that corrective action begins within a reasonable period of time.

(e) Means independent of the mode selector switch must be provided to indicate to the flight crew the current mode of operation and the availability status of each alternate system.

*Explanation.* This proposal would provide standards applicable to automatic flight control systems in Part 27.

A proposal was made in Airworthiness Review Notice Number 2 (Notice 75-10) to add a new § 27.1329 dealing with automatic pilot systems, and to amend § 27.1329(a)(1) in a manner identical to that proposed for § 27.1329(a)(1). These proposals were not included in the agenda for the first Airworthiness Review Conference. At the Conference, however, proposals concerning § 23.1329 were discussed, and have been included in this notice as proposals for § 23.1311 (presently § 23.1329). Pursuant to FAA's belief that the airworthiness standards should be consistent, to the extent practicable, throughout the aircraft certification parts (Part 23, 25, 27 and 29), new proposals for §§ 27.1311 and 29.1311 are being made. The proposals contained in Notice Number 2 for §§ 27.1329 and 29.1329 will be withdrawn at the time of final rulemaking action if the proposals for §§ 27.1311 and 29.1311 are adopted, but all comments received in response to proposed §§ 27.1329 and 29.1329 will be considered for §§ 27.1311 and 29.1311.

The new proposals for §§ 27.1311 and 29.1311 are similar to the previous proposals (in Notice Number 2) for §§ 27.1329 and 29.1329(a)(1) except for the following: (1) Change in terminology from "automatic pilot system" to "automatic flight control system". (2) The change of the word "or" at the end of paragraph (a)(1) to "and". (3) The redesignation already noted. (4) The addition of paragraph (e). The change in terminology and the redesignation were proposed in Notice Number 2 for § 25.1329. The change from the requirement that either paragraph (a)(1) or (a)(2) be complied with to a requirement that both be complied with is discussed in the proposal for § 23.1329. For an explanation of paragraph (e) see the proposal for § 25.1329(h).

A proposal is also being made for Parts 23, 25 and 29.

*Ref.* Proposal Nos. 687, 795, 868, 1315; §§ 23.1329(a)(1), 25.1329(h), 25.1329, 27.1329; Agenda Items C-20, C-22.

#### § 27.1321 [Amended]

5-42. By amending § 27.1321 in a manner substantively identical to that proposed for § 23.1321.

5-43. By amending § 27.1323 by redesignating paragraph (b) as paragraph (c); by revising paragraph (a) and redesignating it as paragraph (b), and by adding a new paragraph (a) to read as follows:

#### § 27.1323 Airspeed indicating system.

(a) Each airspeed indicating instrument must be calibrated to indicate true airspeed (at sea level with a standard atmosphere) with minimum practicable instrument calibration error when the corresponding pitot and static pressures are applied.

(b) The airspeed indicating system must be calibrated in flight at forward speeds of 20 knots and over.

*Explanation.* The proposed addition of paragraph (a) would require that the airspeed instrument be calibrated according to the standard relationship between pressure and airspeed. A similar proposal is also made for Part 23, and is the same as the present Part 29 requirement.

Information available to the FAA indicates that the present 10-knot low speed calibration requirement (present paragraph (a) which is redesignated as paragraph (b)) is not achievable without extreme difficulty. The FAA believes that 20 knots would be a more realistic lowest-speed criterion.

*Ref.* Proposal Nos. 114, 129, 365; §§ 23.1323(a), 27.1323(a); Agenda Items B-9, B-10.

5-44. By amending § 27.1325 by revising the section heading; by designating the present paragraph as paragraph (a); and by adding a new paragraph (b), to read as follows:

#### § 27.1325 Static pressure system.

(b) Each static pressure port must be designed and located in such manner that the correlation between air pressure in the static pressure system and true ambient atmospheric static pressure is not altered when the rotorcraft encounters icing conditions. An anti-icing means or an alternate source of static pressure may be used in showing compliance with this requirement.

*Explanation.* This proposal would provide the same level of safety, insofar as inadvertent icing of the static pressure port is concerned, as is currently provided for Part 23 airplanes. Part 27 rotorcraft now have increased performance, and operate over a wide range of environments, thereby increasing the exposure to icing.

*Ref.* Proposal No. 866; § 27.1325(b); Agenda Item B-11.

#### § 27.1327 [Amended]

5-45. By amending § 27.1327(b) and (c) in a manner substantively identical to that proposed for § 23.1327 (b) and (c).

#### § 27.1335 [New]

5-46. By adding a new § 27.1335 that would be substantively identical to the proposed new § 25.1335.

#### § 27.1351 [Amended]

5-47. By adding a new § 27.1351(e) that would be substantively identical to the proposed new § 23.1351(f).

#### § 27.1353 [Amended]

5-48. By amending § 27.1353 in a manner substantively identical to that proposed for § 23.1353.

#### § 27.1357 [Amended]

5-49. By amending § 27.1357(b) in a manner substantively identical to that proposed for § 23.1357(b).

5-50. By amending § 27.1401 by striking "30" in both places in paragraph (b) and inserting in place thereof (in both places) the number "75"; and by revising § 27.1401 (d) and (f) to read as follows:

#### § 27.1401 Anticollision light system.

(d) *Color.* Each anticollision light must be aviation red and must meet the applicable requirements of § 27.1397.

(f) *Minimum effective intensities for anticollision light.* Each anticollision light effective intensity must equal or exceed the applicable values in the following table:

Angle above or below the horizontal plane:	Effective intensity (candles)
0° to 5°	150
5° to 10°	90
10° to 20°	30
20° to 30°	15
30° to 75°	10

*Explanation.* See the proposal for § 23.1401 (b) and (f) for an explanation of § 27.1401(b). A 10-candle minimum effective intensity in the 30° to 75° region is proposed for rotorcraft consistent with the general reduction of intensities proposed for §§ 27.1401(f) and 29.1401 (f). Service experience and experimentation by the military services has indicated that the intensities specified in present § 27.1401 for rotorcraft anticollision lights are excessive because of objectionable multiple reflections in the cockpit, and that while anticollision lights are particularly objectionable (even at reduced intensity) in rotorcraft because of reflections and stroboscopic effects associated with having rotor blades in the flight crew's field of view. It is therefore proposed to reduce the present intensities to an acceptable level, and to limit the color to aviation red.

*Ref.* Proposal Nos. 368, 874, 408, 957, 873, 958, 407, 367; §§ 27.1401(b), 29.1401 (b), 27.1401(f), 29.1401(f); Agenda Items E-36, E-37.

5-51. By revising § 27.1545(a) to read as follows:

#### § 27.1545 Airspeed indicator.

(a) Each airspeed indicator must be marked as specified in paragraph (b) of

this section, with the marks located at the corresponding indicated airspeeds.

*Explanation.* This proposal is made to clarify the marking requirement for airspeed indicators in § 27.1545. See the proposal for § 23.1545(a).

*Ref.* Proposal No. 129; § 23.1545(a); Agenda Item B-9.

#### § 27.1547 [Amended]

5-52. By adding a new § 27.1547(e) that would be substantively identical to the proposed new § 23.1547(e).

### PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

5-53. By revising § 29.1301 to read as follows:

#### § 29.1301 Function and installation.

(a) Each item of installed equipment must—

(1) Be of a kind and design appropriate to its intended function;

(2) Be permanently and legibly marked or, if the item is too small to mark, tagged as to its identification, function, and operating limitations.

(3) Be installed according to limitations specified for that equipment; and

(4) Function properly when installed.

(b) No item of installed equipment may in any circumstance prevent the proper operation of any required system or of any other system provided to the flight crew for controlling, navigating, or monitoring performance of the rotorcraft.

*Explanation.* See the proposal for § 23.1301.

*Ref.* Proposal No. 944; § 29.1301; Agenda Item A-1.

5-54. By revising § 29.1303(g) to read as follows:

#### § 29.1303 Flight and navigation instruments.

The following are required flight and navigational instruments:

(g) A gyroscopic rate-of-turn indicator combined with an integral slip-skid indicator (turn-and-slip indicator) except that only a slip-skid indicator is required on rotorcraft with a third attitude instrument system that—

(1) Is useable through flight attitudes of  $\pm 80^\circ$  of pitch and  $\pm 120^\circ$  of roll;

(2) Is powered from a source independent of the electrical generating system;

(3) Continues reliable operation for a minimum of 30 minutes after total failure of the electrical generating system;

(4) Operates independently of any other attitude indicating system;

(5) Is operative without selection after total failure of the electrical generating system;

(6) Is located on the instrument panel in a position acceptable to the Administrator that will make it plainly visible to and useable by any pilot at his station; and

(7) Is appropriately lighted during all phases of operation.

*Explanation.* Present Part 25 does not require a gyroscopic rate-of-turn indicator when the airplane is fitted with a third attitude instrument system meeting certain conditions. The same exception is equally applicable to transport category rotorcraft.

*Ref.* Proposal No. 946; § 29.1303(g); Agenda Item B-16.

5-55. By amending § 29.1309 by changing the term in § 29.1309(a) and (d) from "subchapter" to "chapter"; by deleting the word "four" in § 29.1309(e) and inserting the word "three" in place thereof; and by revising § 29.1309(d)(3)(i) and (ii) to read as follows:

#### § 29.1309 Equipment, systems, and installations.

(d) . . .

(3) . . .

(i) Any one engine, on rotorcraft with two engines; and

(ii) Any two engines, on rotorcraft with three or more engines.

*Explanation.* See the proposal for § 25.1309.

*Ref.* Proposal No. 299, 789; § 25.1309(e), 25.1309(a); Agenda Items A-2, A-6.

#### § 29.1321 [Amended]

5-56. By amending § 29.1321 in a manner substantively identical to that proposed for § 23.1321.

5-57. By amending § 29.1325 by revising the section heading; by redesignating paragraphs (e), (d), and (e) as paragraphs (d), (e), and (f), respectively; and by adding a new paragraph (c), to read as follows:

#### § 29.1325 Static pressure and pressure altimeter systems.

(c) Each static pressure port must be designed and located in such manner that the correlation between air pressure in the static pressure system and true ambient atmospheric static pressure is not changed when the rotorcraft is exposed to the continuous and intermittent maximum icing conditions defined in Appendix C of Part 25.

*Explanation.* This proposal would provide the same level of safety, insofar as inadvertent icing of the static pressure port is concerned, as is provided for Part 25 airplanes. Part 29 rotorcraft now have increased performance, and operate over a wider range of environments, thereby increasing the exposure to icing.

*Ref.* Proposal No. 952; § 29.1325; Agenda Item B-11.

5-58. By redesignating § 29.1329 as § 29.1311; and by revising the heading and paragraph (a), and by adding a new paragraph (e), to read as follows:

#### § 29.1311 Automatic flight control systems.

(a) Each automatic flight control system must be designed so that it can—

(1) Be quickly and positively disengaged by the pilots without moving their hands from the normal position on the cyclic control; and

(2) Be sufficiently overpowered by one pilot within the limits specified in § 29.397 to let him control the rotorcraft.

(e) Means independent of the mode selector switch must be provided to indicate to the flight crew the current mode of operation and the availability status of each alternate system.

*Explanation.* See the proposal for § 27.1311.

*Ref.* Proposal Nos. 687, 795, 868, 1315; §§ 23.1329(a)(1), 25.1329(h), 25.1329, 27.1329; Agenda Items C-20, C-22.

#### § 29.1335 [New]

5-59. By adding a new § 29.1335 that would be substantively identical to the proposed new § 25.1335.

5-60. By adding a new § 29.1351(d) that would be substantively identical to the proposed new § 23.1351(f); and by adding a new § 29.1351(c) to read as follows:

#### § 29.1351 General.

(c) *Operation without normal electrical power.* It must be shown by analysis, tests, or both, that the rotorcraft can be operated safely in VFR conditions, for a period of not less than five minutes, with the normal electrical power inoperative, with critical type fuel (from the standpoint of flameout and restart capability), and with the rotorcraft initially at the maximum certificated altitude. Parts of the electrical system may remain on if—

(1) A single malfunction, including a wire bundle or junction box fire, cannot result in loss of the part turned on and the part turned off;

(2) The parts turned on are electrically and mechanically isolated from the parts turned off; and

(3) The electrical wire and cable insulation, and other materials, of the parts turned on are self-extinguishing when tested in accordance with § 25.1359 (d) in effect on (date on which this proposal would become effective).

*Explanation.* The substance of the proposed paragraph (c) has been applied as a special condition to Part 25 airplanes for the past few years. It is equally applicable to Part 29 rotorcraft. See the proposal for § 25.1351.

*Ref.* Proposal No. 954; § 29.1352; Agenda Item D-24.

#### § 29.1353 [Amended]

5-61. By amending § 29.1353 in a manner substantively identical to that proposed for § 23.1353.

5-62. By revising § 29.1355(b)(1) to read as follows:



**§ 29.1355 Distribution system.**

(b) Each system must be designed so that—

(1) For category A rotorcraft, essential load circuits can be supplied in the event of reasonably probable faults or open circuits; and

*Explanation.* The reference to "individual distribution systems" in the present rule is superfluous. The lead-in specifies "each system", and § 29.1355(a) defines the components of each distribution system. It is proposed to clarify the present requirement by deleting the words "Individual distribution systems ensure that".

*Ref.* Proposal No. 405; § 29.1355; Agenda Item D-28.

**§ 29.1401 [Amended]**

5-63. By amending § 29.1401 in a manner substantively identical to that proposed for § 27.1401.

**§ 29.1457 [Amended]**

5-64. By amending § 29.1457 (b), (d) (1), and (e) in a manner substantively identical to that proposed for § 25.1457 (b), (d) (1), and (e).

**§ 29.1545 [Amended]**

5-65. By amending § 29.1545(a) in a manner substantively identical to that proposed for § 23.1545(a).

**PART 91—GENERAL OPERATING AND FLIGHT RULES**

5-66. By revising § 91.33(d) (3) to read as follows:

**§ 91.33 Powered civil aircraft with standard category U.S. airworthiness certificates; instrument and equipment requirements.**

(d) *Instrument flight rules.* For IFR flight the following instruments and equipment are required:

(3) Gyroscopic rate-of-turn indicator, except on the following aircraft:

(i) Large airplanes with a third attitude instrument system useable through flight attitudes of 360° of pitch and roll and installed in accordance with § 121.305(j) of this chapter; and

(ii) Rotorcraft, type certificated under Part 29 of this chapter, with a third attitude instrument useable through flight attitudes of ±80° of pitch and ±120° of roll and installed in accordance with § 29.1303(g) of this chapter.

*Explanation.* In view of the proposed revision of § 29.1303(g), which would allow, under certain conditions, the substitution of a third attitude gyro for the required gyroscopic rate-of-turn indicator, it is proposed to adjust § 91.33(d) (3).

*Ref.* Proposal No. 946; § 29.1303(g); Agenda Item B-16.

5-67. By amending § 91.36 by striking the word "or" at the end of paragraph (a); by striking the period at the end of

paragraph (b) and inserting in place thereof a semicolon followed by the word "or"; and by adding a new paragraph (c) to read as follows:

**§ 91.36 Data correspondence between automatically reported pressure altitude data and the pilot's altitude reference.**

(c) After (a date one year after the effective date of this amendment), unless the altimeters and digitizers in that equipment meet the performance standards in TSO-C10b and TSO-C88, respectively.

*Explanation.* This proposal, by specifying that altimeters and digitizers (those associated with automatic pressure altitude reporting equipment) meet existing Technical Standard Order performance standards, would prevent the introduction of equipment with unacceptable performance on operational aircraft. Substandard equipment could seriously degrade the Air Traffic Control System's altitude reporting capability.

*Ref.* Proposal No. 1012; § 91.36; Agenda Item B-19.

**PART 121—CERTIFICATION AND OPERATION: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT**

5-68. By amending § 121.337 by striking the last sentence of paragraph (a) including the parenthetical and inserting in place thereof two sentences to read as follows:

**§ 121.337 Protective breathing equipment for the flight crew.**

(a) . . . There must be at least a 300-liter, normal temperature and pressure (70° F and 760 mm. Hg respectively) dry, supply of oxygen for each required flight crewmember on flight deck duty. After (date one year after the effective date of this amendment) the equipment provided must be fitted to each flight crewmember to provide the protection specified in this paragraph.

*Explanation.* The proposal would require, after one year after the effective date of this amendment, that protective breathing equipment be fitted to each crewmember for whom it must be provided under § 121.337(a), to ensure that the equipment affords the specified protection. Without such fitting, entry of harmful gases can occur, as experience has shown.

It is also proposed to specify the presently required supply of oxygen at normal rather than standard temperature and pressure, to be consistent with the requirement in present § 25.1439(b) (5).

*Ref.* Proposal No. 1093, 532; § 121.337 (a); Agenda Item H-51.

5-69. By revising § 121.343(a) to read as follows:

**§ 121.343 Flight recorders.**

(a) No person may operate a large airplane that is certificated for operations above 25,000 feet altitude or is turbine engine powered, unless it is equipped with one or more approved flight recorders

that record data from which the following information may be determined and, if set forth in Appendix B of this part, within the ranges, accuracies, and recording intervals specified in Appendix B of this part:

(1) Time, altitude, airspeed, vertical acceleration, heading, and the information specified in paragraphs (a) (2) and (a) (3) of this section, as applicable.

(2) Except as provided in paragraph (a) (3) of this section, for airplanes having an original type certificate issued after September 30, 1969, pitch attitude, roll attitude, side slip angle or lateral acceleration, pitch trim position, control column or pitch control surface position, control wheel or lateral control surface position, rudder pedal or yaw control surface position, thrust of each engine, position of each thrust reverser, trailing edge flap or cockpit flap control position, and leading edge flap or cockpit flap control position.

(3) After (date one year after the effective date of this proposed amendment), for airplanes having an original airworthiness certificate issued on or after (date one year after the effective date of this proposed amendment) and for airplanes having an original type certificate issued after September 30, 1969, (regardless of the date of the original airworthiness certificate), pitch attitude, roll attitude, side slip angle or lateral acceleration, pitch trim position, control column and pitch control surface position, control wheel and lateral control surface position, rudder pedal and yaw control surface position, thrust of each engine, position of each thrust reverser, trailing edge flap or cockpit flap control position, leading edge flap or cockpit flap control position, Greenwich mean time, automatic flight control system selected mode and engagement status, spoiler and speedbrake position, selected flight director mode, localizer and glide-slope deviation, hydraulic system status, electrical bus status, activation of each fire warning system, activation of the pressurization system cockpit warning, vertical acceleration recorded at 0.25 second intervals, longitudinal acceleration, outside ambient or total air temperature, position of the strut extension-retraction switch, indication of outer, middle, and inner marker passage, and radio altitude.

*Explanation.* The present flight recorder requirements are restated in paragraph (a) (1) and (a) (2) except for minor revisions to account for the new requirement in paragraph (a) (3). Proposed paragraph (a) (3) would add several new parameters. Also, some changes would be made to items now set forth in paragraph (a) (2). The new parameters begin with "Greenwich mean time" and go to the end of the sentence in the proposed paragraph (a) (3). The changes to items now set forth include replacing the "or's" after "control column", "control wheel", and "rudder pedal" with "and's".

Flight recorders capable of recording the additional parameters would be required (after a date one year after the effective date of the proposed amendment) on airplanes having an original airworthiness certificate issued after that date and on airplanes having an original type certificate issued after September 30, 1969, regardless of the date of the original airworthiness certificate. Proposed paragraph (a) (1) and (a) (2) would allow airplanes to operate under present flight recorder rules until the new parameters are required.

The National Transportation Safety Board has found that, because of factors such as the increased sophistication of airplane design, ground-based navigation equipment and approach guidance information is sometimes inadequate for the determination of the cause of airplane accidents. Although there may be a need to specify ranges, accuracies, and recording intervals, for certain of the additional parameters, none are proposed at this time. However, the FAA plans to undertake separate rulemaking to incorporate such standards under the Technical Standard Order systems.

*Ref.* Proposal No. 535; § 121.343; Agenda Item I-52.

5-70. By revising § 121.359(c) to read as follows:

**§ 121.359 Cockpit voice recorder.**

(c) The cockpit voice recorder required by this section must meet the following application standards:

(1) Except as provided in paragraphs (c) (3) and (c) (4) of this section, the requirements of Part 25 of this chapter in effect on (date one day before the effective date of this amendment).

(2) After (date one year after the effective date of this amendment), each recorder container must—

(i) Be either bright orange or bright yellow;

(ii) Have reflective tape affixed to the external surface to facilitate its location under water; and

(iii) Have an approved underwater locating device on or adjacent to the container which is secured in such a manner that they are not likely to be separated during crash impact.

(3) After (date two years after the effective date of this amendment), each cockpit voice recorder installation must comply with § 25.1457 (b) and (d) in effect on (the effective date of this amendment).

(4) After (date five years after the effective date of this amendment) each cockpit voice recorder installation must comply with § 25.1457(e) in effect on (the effective date of this amendment).

*Explanation.* Present § 121.359(c) requires that voice recorders be installed in accordance with the requirements of Part 25 of this chapter. It is also proposed to require that each cockpit voice recorder container have reflective tape

affixed, and an underwater locating device, one year after the effective date of the amendment. The requirement that the record container be either bright orange or bright yellow is in the present rule and is restated in the proposed rule to have all the container requirements together.

Experience has shown that underwater locating devices greatly facilitate underwater recovery of the record containers, which contain important accident investigation data. Reflective tape enables pinpoint location of the record container after its general location by the underwater locating device. The amendment would not become applicable for Part 121 operators until one year after the effective date of this proposed amendment to allow time for procurement and installation.

For an explanation of § 121.359 (c) (3) and (c) (4), see the proposals for § 25.1457. This proposal would require cockpit voice recorder installations on airplanes operated under Part 121 to meet proposed § 25.1457 (b) and (d) (1) within two years, and proposed § 25.1457(e) within five years.

*Ref.* Proposal Nos. 325, 324, 537, 817; §§ 25.1457, 121.359; Agenda Items I-55, I-54, I-56.

**PART 127—CERTIFICATION AND OPERATIONS OF SCHEDULED AIR CARRIERS WITH HELICOPTERS**

5-71. By revising § 127.127(b) to read as follows:

**§ 127.127 Cockpit voice recorders.**

(b) Except as provided in paragraphs (b) (1) and (b) (2) of this section, each cockpit voice recorder must be installed in accordance with the requirements of Part 29 of this chapter in effect on (date one day before the effective date of this amendment).

14 CFR (FAR section)	Proposal No.	Agenda item	Proponent
25.831	250	G-42	Joint Airworthiness Requirements Committee.
25.1431	316	J-59	Air Line Pilots Association.
43.15	466	H-17	Sun Chemical Corp.
Pt. 91	484	J-60	Curtis Hewitt.
91.33	494	J-61	General Motors Corp.
91.101	502	B-17	Sun Chemical Corp.
91.170	507	B-17	Do.
121.349	536	J-65	Aerospace Industries Association.
135.153	552	J-66	Air Line Pilots Association.

**APPENDIX II COMMITTEE V (SYSTEMS) PROPOSALS WITHDRAWN BY PROPONENT.**

The proposals listed below were withdrawn by their proponents after the publication of the committee workbooks but prior to the

14 CFR (FAR section)	Proposal No.	Agenda item	Proponent
23.1323	683	B-9	Federal Aviation Administration.
23.1435	700	F-41	Do.
25.1399	700	A-5	Aerospace Industries Association.
25.1435	304	D-24	Do.
25.1435	330	F-41	Federal Aviation Administration.
25.1443	814	H-46	Do.
25.1547	823	B-13	Do.
135.159	1104	J-66	Air Line Pilots Association.
135.155	1106	J-66	Do.

(1) After (date two years after the effective date of this amendment) each cockpit voice recorder installation must comply with § 29.1456 (b) and (d) (1) in effect on (the effective date of this amendment).

(2) After (date five years after the effective date of this amendment) each cockpit voice recorder installation must comply with § 29.1457(e) in effect on (the effective date of this amendment).

*Explanation.* See the proposals for § 25.1457 (b), (d) (1), and (e) and § 29.1457 (b), (d) (1), and (e). This proposal would require that cockpit voice recorders on rotorcraft operated under Part 127 be modified to meet proposed § 29.1457 (b) and (d) (1) within two years after the effective date of this amendment, and proposed § 29.1457(e) within five years after the effective date of this amendment.

*Ref.* Proposal Nos. 324, 537, 817; § 25.1457, 121.359; Agenda Items I-54, I-56.

**APPENDIX I COMMITTEE V (SYSTEMS) PROPOSALS DEFERRED**

Based upon the discussions at the Airworthiness Review Conference, the FAA has determined that the proposals listed below appear to have sufficient merit to warrant further consideration but for various reasons should be deferred for consideration at the next Airworthiness Review or Operations Review as appropriate. Included in the reasons for deferral are the following:

1. The proposal is so complex or extensive that more time is required than is available within the 1974-75 Airworthiness Review to give it full consideration.

2. There is insufficient data presently available on which to base a decision on the outcome of the proposal.

3. The proposal would be more appropriately considered during an operations review.

The deferral of these proposals does not foreclose the FAA from taking separate rule-making action on the deferred proposals if a need for such action should arise.

end of the Airworthiness Review Conference. The proponents or other interested persons may submit similar proposals in the future. The withdrawal of FAA proposals does not commit the FAA to any future course of action.



## PROPOSED RULES

## APPENDIX III COMMITTEE V (SYSTEMS) PROPOSALS REMOVED FROM CONSIDERATION

Based on the FAA's review of the discussion at the Airworthiness Review Conference and of the information submitted by interested persons, the following proposals considered by Committee V at the Airworthiness Review Conference are removed from consideration during the First Biennial Airworthiness Review for the reasons listed below:

14 CFR (FAR section)	Proposal No.	Agenda Item	Proponent
14.23	57	A-4	National Transportation Safety Board.
23.1357	120	D-33	Department of Transportation—Australia.
23.1401	122	E-38	General Aviation Manufacturers Association.
23.1401	123	E-37	Air Line Pilots Association.
23.831	252	G-43	General Aviation Manufacturers Association.
25.41	253	G-44	Aerospace Industries Association.
25.1309	190	A-1	National Transportation Safety Board.
25.1329	301	C-21	Aerospace Industries Association.
25.1351	167	D-25	Do.
25.1351	305	D-27	Do.
25.1351	306	D-26	Do.
25.1401	312	E-35	Air Line Pilots Association.
25.1435	318	E-40	Aerospace Industries Association.
25.1435	323	H-48	Do.
27.1401	304	E-35	Air Line Pilots Association.
27.1401	406	E-35	Do.
29.133	488	H-18	Department of Transportation—Australia.
29.133	492	E-35	Air Line Pilots Association.
91.32	499	J-62	General Motors Corp.
121.315	527	J-63	Aerospace Industries Association.
121.315	528	J-64	Do.

**Proposal No. 57**—The proponent requested that Parts 23 and 25 be amended to require that safety analyses be completed in a manner similar to that required by "Military Standard 882, System Safety Program for Systems and Associated Subsystems and Equipment: Requirements for." The FAA believes that adoption of the proposed rule is inappropriate because—

1. Other adequate methods of safety assessment and fault analysis exist;
2. The proposed requirement would severely limit and would tend to dictate design procedures; and
3. The experience to date with § 25.1309 does not justify the regulation change.

**Proposal No. 120**—The proponent, citing instances of non-compliance with § 23.1357 (c), requested that the rule be clarified. The FAA believes that the current rule is sufficiently definitive. The FAA has initiated an investigation to determine if alleged non-compliance exists, and if it does, appropriate action will be taken.

**Proposal No. 122**—The proposal would "establish a means by which parts or components produced to a higher standard can be installed without the need to recertify the whole aircraft." The FAA believes that the regulations now provide appropriate methods for the approval of aircraft parts or components produced to an equivalent or higher standard. The procedures for such approval must include an adequate balance of all interests, and the FAA does not believe that this procedure should be amended without further justification. A procedure for each type of system set forth in the regulations, as proposed, would yield an unmanageable regulatory system.

**Proposal No. 123**—This proposal would require that xenon strobe lights be installed

at specific locations on each aircraft. Xenon lights are already permitted by regulation. To require that only this type be used would be too restrictive since other types of satisfactory lights exist.

**Proposal No. 252**—The proponent suggested that § 25.831 be amended to provide for relaxed ventilation control requirement for small airplanes. The purpose of the proposal is covered by the proposed amendment to § 25.831, 46 FR 10810 (Notice 75-10).

**Proposal No. 253**—The proposal would allow the use of a 10,000-foot cabin pressure altitude for all-cargo airplanes. The FAA believes that exposure of the crew to a cabin pressure altitude of 10,000 feet (as opposed to the currently prescribed 8,000 feet) would lead to a significant degradation of crew performance and efficiency.

**Proposal No. 140**—See the comments for Proposal No. 57.

**Proposal No. 301**—This proposal would increase the airplane velocity limit for autopilot malfunction to that specified in § 25.253(a)(2). Those speeds, however, assume manual flying within control force limits without a failed autopilot. The FAA believes that the human pilot, working against adverse control forces being applied by a malfunctioning autopilot, needs an increment of safety achievable by specifying, during type certification, a finite limit on the authority of the autopilot. That limit should be the lowest practicable and the FAA believes that the value set forth (as an acceptable means of compliance) in AC 25.1329-1A is satisfactory for this purpose.

**Proposal No. 167**—The proposal would have amended § 25.1351(b) to allow a momentary loss of power to essential circuits due to switching, fault clearing, or other causes. The FAA has determined that insufficient

justification was presented to justify the possible degradation in safety which could result from adoption of the proposal.

**Proposal No. 305**—The proposal would amend § 25.1351(b) to provide for power sources which cannot be disconnected. The FAA has determined that utilization of power source without a disconnect capability is an inappropriate change at the present time and that insufficient justification has been provided to warrant the possible degradation in flight safety.

**Proposal No. 306**—This proposal would eliminate the reference to voltage and current in § 25.1351(b)(6). Those references are examples and not requirements. The present rule provides adequate flexibility.

**Proposal No. 312**—See the comments for Proposal No. 123.

**Proposal No. 318**—This proposal would allow an alternative design criterion for hydraulic fluid quantity indicators by allowing a low quantity warning light to satisfy the present requirement. With respect to § 25.1435(a)(3), the FAA believes that warning lights alone do not provide an adequate indication of the quantity of fluid in each continually operating system.

**Proposal No. 323**—The proponent requested the elimination of the present requirement that portable oxygen equipment be immediately available to flight attendants. The FAA has determined that adoption of the proposal would result in an unjustified degradation in the level of safety currently provided by regulation.

**Proposal No. 366**—See the comments for Proposal No. 123.

**Proposal No. 406**—See the comments for Proposal No. 123.

**Proposal No. 488**—The proponent assumed that requiring "approved" altimeters as proposed would assure that all altimeters meet the altimeter TSO. This is not the case since under § 21.305 there are other methods by which an altimeter may be approved. Those methods have proven adequate in the past and a change that would eliminate them has not been justified.

**Proposal No. 492**—See comments for Proposal No. 123.

**Proposal No. 499**—This proposal would permit certain aircraft operation with an inoperative ELT. Such a change is inconsistent with the Public Law and beyond the scope of the Airworthiness Review Program.

**Proposal No. 527**—This proposal covers provisions included in Notice 75-14 [40 FR 11736], March 13, 1975.

**Proposal No. 528**—This proposal covers provisions included in Notice 75-14 [40 FR 11736], March 13, 1975.

Issued in Washington, D.C., on May 19, 1975.

J. A. FERRARESE,  
Acting Director,  
Flight Standards Service.

[FR Doc.75-13607 Filed 5-23-75;8:45 am]

# federal register

TUESDAY, MAY 27, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 102



## PART IV

## SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION

## DRUG TREATMENT SERVICES AND CENTRAL INTAKE UNITS

Federal Funding Criteria



Title 21—Food and Drugs  
CHAPTER III—SPECIAL ACTION OFFICE  
FOR DRUG ABUSE PREVENTION

PART 1402—FEDERAL FUNDING CRITERIA FOR DRUG TREATMENT SERVICES  
PART 1403—FEDERAL FUNDING CRITERIA FOR DRUG TREATMENT CENTRAL INTAKE UNITS

General Statement

In the FEDERAL REGISTER of December 23, 1974 (Volume 39, No. 247, pp. 44,384-44,387), two new parts were proposed to be added to Title 21 of the Code of Federal Regulations, Part 1402 entitled "Federal Funding Criteria for Drug Treatment Services" and Part 1403 entitled "Federal Funding Criteria for Drug Treatment Central Intake Units." These parts were published as a proposed rulemaking under sections 210, 221, and 222 of the Drug Abuse Office and Treatment Act of 1972, Pub. L. 92-255 (21 U.S.C. 1120, 1131, and 1132).

To provide information necessary to aid the Director of the Special Action Office for Drug Abuse Prevention in determining whether Parts 1402 and 1403 should be issued, interested persons were invited to submit written data, views, and arguments. Numerous comments, suggestions, and recommendations were received from professional and other organizations and individuals as well as known authorities in the field of drug abuse treatment and rehabilitation. With few exceptions, the comments supported the underlying policy of establishing minimum levels of program performance for the administration of federally funded drug treatment and central intake unit programs with the least possible controls imposed by the Federal Government.

The Special Action Office, along with the National Institute on Drug Abuse, Department of Health, Education, and Welfare, have given serious consideration to all comments, suggestions, and recommendations that have been submitted. Several were based on a misconstruction of the proposed regulations and required no change. Others raised valid questions regarding certain sections of the proposed regulations which required clarification or amendment. The Director has determined that all of the changes, as hereinafter set forth, are necessary or desirable in furtherance of the Government's policy of upgrading the quality of services provided by federally funded drug abuse treatment programs and central intake units.

A review of the principal comments and recommendations and the action taken with respect thereto are set forth below, followed by the full text of the regulations as revised.

COMMENTS AND RECOMMENDATIONS ON PART 1402, FEDERAL FUNDING CRITERIA FOR TREATMENT SERVICES

1. *Applicability.* (a) *Programs funded by several sources.* Two basic questions have been raised in regard to the applicability of the treatment standards. The first question concerned whether or not

the regulations were intended to apply to a program which is funded by several sources, only one of which is by the Federal Government. Section 1402.01 has been revised to make it clear that in the case of a program funded by several sources, only one of which is by the Federal Government, the standards of treatment shall apply to all segments of such program which provide services to which this part applies. For example, a program may be funded by four different sources only one of which is the Federal Government. If any segment of a program is federally funded, all other segments which perform the types of services to which this part applies would also be covered by the standards of treatment set forth in this part. Of course, programs conducted directly by departments and agencies of the Federal Government are exempted.

(b) *Demonstration and research programs.* The second question concerns the applicability of the federal funding criteria to demonstration and research projects. It was not intended that this part should apply to either of these projects. Section 1402.01 has been amended to specifically exclude them.

2. *Definitions.* (a) *Patient.* Paragraph (a) of section 1402.02 as proposed defined "patient" as "any person who has been accepted for treatment or rehabilitation services." It has been suggested that this definition is too broad and should be limited in such manner as to relate only to patients receiving the drug abuse services to which this part applies. To be consistent with the language of Pub. L. 92-255 and the regulations on the confidentiality of patient records, the definition is amended accordingly.

(b) *Program.* The definition of "program" in paragraph (b) of section 1402.02 has been simplified. It refers to any drug abuse project or activity which administers services to which this part applies.

(c) *Medical director.* To avoid any confusion that might arise regarding the respective responsibilities of the medical director of a drug abuse program and the program director as defined in paragraph (c) of § 1402.02, a new paragraph (d) has been added to this section defining the responsibilities of the medical director. While the responsibilities of the program director and the medical director are separately defined in this part, this should not be construed as precluding a duly licensed physician from filling both positions.

(d) *Treatment and treatment plan.* To avoid repetition of the various services usually associated with treatment, the term "treatment" has been defined to include interviewing, counseling, and any other services or activities carried on for the purpose of, or as an incident to, diagnosis, treatment, or rehabilitation with respect to drug abuse, whether or not conducted by a member of the medical profession. The term "treatment plan" means the mode of treatment that is determined appropriate to meet the objective needs of the patient.

(e) *Qualified mental health professional.* Another comment recommended the inclusion of a definition of "qualified mental health professional." Paragraph (f) of § 1402.02 has been added defining "qualified mental health professional" as a person who, by virtue of education, training, or experience, is capable of assessing the psychological and sociological background of drug abusers to determine the treatment plan most appropriate for the patient.

3. *Technical assistance.* The proposed § 1402.03 relating to technical assistance has been deleted because of the difficulty in establishing an adequate standard for purposes of this regulation.

4. *General requirements—(a) Admission of patients and termination of services.* Several comments recommended clarification and elaboration of the requirements for admission of patients and termination of services in paragraph (c) of proposed § 1402.04 (redesignated as § 1402.03). This section has been amended to make it clear that, at a minimum, the admission criteria are applicable only to those patients who are known to have primary drug abuse problems other than alcohol. Services to a patient must be terminated whenever the level of services does not meet the requirements of this part or legitimate person to person, services are not provided at least once each month on a regularly scheduled basis.

(b) *Personal, medical and drug history.* Paragraph (e) of proposed § 1402.04 (redesignated as § 1402.03) has been amended to describe the information to be obtained in a personal, medical and drug history. Unless otherwise indicated, a treatment program need not, in developing a patient's personal medical and drug history, secure information which already has been obtained by the referring Central Intake Unit and which is contained in the patient's intake record when transferred to the treatment program. Also, the three day discretionary period for the completion of the intake process has been changed to provide that it must be completed within the earliest practicable time.

(c) *Notice and review of termination of services.* Paragraph (f) has been added to § 1402.03 requiring that the patient be given written notice of the termination or substantial change in treatment and an opportunity to have such decision reviewed in accordance with appropriate procedures established for that purpose.

5. *Minimum standards for physical and laboratory examinations—(a) Performance requirements.* Several comments recommended clarification of paragraph (a) of § 1402.05 (redesignated as § 1402.04) relating to performance requirements to indicate which examinations are mandatory. Also, paragraph (a) has been amended to require that physical and laboratory examinations be administered as soon as practicable by qualified personnel but not later than 21 days after admission. Further, a treatment program need not repeat any part of a physical and laboratory examination

which was completed by a Central Intake Unit from which a patient was referred unless the results of the examination forwarded by the Intake Unit to the treatment program are found to be incomplete or in question. The documentation and results of these examinations should be contained in the person's intake record upon transfer to the treatment program.

(b) *Exceptions to physical and laboratory examinations.* It is recognized that there may be substantial cause for requesting exception to the physical or laboratory examinations set forth in § 1402.05 as proposed (redesignated as § 1402.04), particularly in the case of out-patient drug free programs administered in rural areas, programs which serve mainly polydrug abusers and those which treat significant numbers of adolescent patients. Therefore, paragraph (a) has been amended to underscore the fact that programs may request exception to the physical and laboratory examinations criteria established in this section. All requests for exception in the case of programs administering such services must be submitted in writing by the medical director. This request must contain the rationale and criteria in support of granting the exception to the requirements.

(c) *Physical and laboratory examinations.* Several comments have been made that the requirements for physical and laboratory tests are too restrictive and the terminology uncertain. As a result, item 6 in paragraph (b) of § 1402.05 (redesignated as § 1402.04) identified as "SMA 12/60 or equivalent" has been changed to "multiphasic chemistry profile." Also item 8 in paragraph (b) of proposed § 1402.05 identified as "sickle cell, as appropriate" has been deleted. Finally, item 9 in paragraph (b) of § 1402.05 identified as "Australian antigen, as appropriate" has been changed to "Australian antigen [HBsAg testing (HAA testing)], as appropriate" and redesignated as item 8.

(d) *Over-professionalization.* Concern was expressed by some that the overall effect of the guidelines might over-professionalize drug abuse therapy. The Director does not share this view and has determined that such guidelines are necessary in order to insure adequate standards of quality for programs to which this part applies.

(e) *Other changes.* Other language changes were made in § 1402.5 of the proposed rulemaking for purposes of clarification and the number of the section has been changed to 1402.04.

6. *Pre-admission interview.* Another comment suggests the need for clarifying paragraph (a) of proposed § 1402.06 (redesignated as § 1402.05), which recommended that specific items be covered in a personal history on each patient. This paragraph has been amended to provide that, under the supervision and guidance of the mental health professional, the staff shall obtain sufficient, relevant information (areas to be covered are identified) from the patient for a complete personal history.

7. *Mental health consultation.* Several comments suggested some clarification of the scope of professional mental health consultation in § 1402.09. This section (redesignated as § 1402.07) has been amended to provide that each program shall provide a minimum of five hours of mental health consultation per 100 patients per week by a qualified mental health professional.

8. *Counseling.* Several comments suggested that it would be extremely difficult to determine the appropriate size of a counseling group as proposed in § 1402.10. As a result, this section (redesignated as § 1402.08) has been amended to provide that the size of the counseling group should be left to the discretion of a duly qualified professional under whose supervision the group counseling sessions are conducted. It is also provided that such counseling services may be provided either by the program or by private consultants under contract.

9. *Vocational rehabilitation and employment programs.* An important point was made that because of the current economic situation and the divergent make-up of individual communities, it would not be appropriate to require that patients enrolled in residential programs be employed or be in attendance in a training program within 60 days after the date of admission. This is not the intent of § 1402.13 (now redesignated as § 1402.11). Programs are merely required to encourage patients to enroll in such programs. If a patient refuses to enroll or is unsuccessful in obtaining employment, this will be merely reflected in his treatment plan and progress notes but will not otherwise affect his relations with the program.

10. *Patient follow-up.* Many comments supported the follow-up program as provided in § 1402.14. However, because of the many problems involved, it has been determined that the provisions for such a program should be dropped and the proposal abandoned.

11. *Patient record system.* For purposes of clarification, § 1402.15 has been amended to provide that such patient records must be kept in accordance with the confidentiality regulations set forth in Part 1401 of the Code of Federal Regulations (21 CFR Part 1401) as proposed to be amended by Subchapter A of Chapter I, Title 42, of such Code (42 CFR Ch. I). Also, § 1402.15 has been redesignated as § 1402.12.

12. *Program hours for services.* Several comments misconstrued the intent underlying the rules governing program hours as set forth in § 1402.16. The purpose of providing for minimum hours is to insure that the program hours are scheduled in such a manner as to assure sufficient hours of operation on weekdays and weekends to meet the requisite need of patients. Comments also recommended a change in the requirements for day care drug free services. Accordingly, paragraph (b) (4) has been amended to provide that day care programs must be open at least five days per week rather than six at ten hours per day with a reduced schedule for the remaining two days. Also the language in this section has been revised for purposes of clarification, and the section has been redesignated as § 1402.13.

COMMENTS AND RECOMMENDATIONS ON PART 1403, FEDERAL FUNDING CRITERIA FOR CENTRAL INTAKE UNITS

1. *Definitions.* For purposes of clarification and consistency, the definition of "patient" has been changed as indicated in paragraph 2 of the comments relating to Part 1402.

Several comments indicated that a person should not be considered a "patient" until he has completed the intake process. To be consistent with the language of Public Law 92-255 and the regulations on the confidentiality of patient records, the definition has been amended accordingly.

2. *Technical assistance.* For the reasons stated in paragraph 3 of the comments relating to Part 1402, section 1403.03 has been deleted, and the sections that follow have been re-numbered accordingly.

3. *Operation of facilities and examination of patients.* Several comments recommended that the language in proposed § 1403.05 establishing a mandatory two day period for completing the intake process be changed to make the two day period preferable but not mandatory. Paragraph (a) has been amended accordingly. It was also suggested that the examination criteria as set forth in paragraph (b) of proposed § 1403.05 be made mandatory. This paragraph has been amended accordingly. Although the examination criteria are established as mandatory requirements, requests for exceptions may be made when deemed necessary or appropriate. Tests with respect to tetanus toxoid and sickle cell were not retained as mandatory requirements. Therefore, the requirements for these tests have been deleted and paragraph (b) amended accordingly. Section 1403.05 has been redesignated as § 1403.04.

4. *Patient recordkeeping—confidentiality.* Section 1403.15 (redesignated as § 1403.12) has been added to require that each program establish an adequate system of patient records and maintain such records in accordance with the Confidentiality Regulations (currently set forth as 21 CFR, Part 1401; proposed to be incorporated in 42 CFR, Part 2; see 40 FR 20522, May 9, 1975).

Based on the foregoing considerations, the Director has concluded that Parts 1402 and 1403 should be issued and be made effective immediately on May 27, 1975. Therefore, pursuant to sections 210, 221 and 222 of the Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92-255), it is accordingly determined that Title 21 of the Code of Federal Regulations should be amended by adding Part 1402 and Part 1403 as set forth hereinafter.

Dated: May 19, 1975.

ROBERT L. DUPONT,  
Director, Special Action Office  
for Drug Abuse Prevention.

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Part 1402 is added as set forth below:

Sec.	Applicability.
1402.01	Definitions.
1402.02	General requirements.
1402.03	Minimum standards for physical and laboratory examinations.
1402.04	Pre-admission interview.
1402.05	Medical services.
1402.06	Mental health consultation.
1402.07	Counseling.
1402.08	Provision for supportive services.
1402.09	Procedures for urine surveillance.
1402.10	Vocational rehabilitation and employment programs.
1402.11	Patient record system.
1402.12	Program hours for services.
1402.13	Provision for meals.
1402.14	Compliance with all Federal and State regulations.
1402.15	Exceptions to requirements.

AUTHORITY: Secs. 210, 221, 222, the Drug Abuse Office and Treatment Act of 1972, Pub. L. 92-255, (21 U.S.C. 1120, 1131, and 1132).

#### § 1402.01 Applicability.

This part sets forth the criteria which all Federal departments and agencies shall apply with respect to standards of treatment to be maintained in programs or projects (other than research or demonstration) funded by them, by means of grants or contracts awarded or renewed after the effective date of this part, for drug abuse treatment services, including but not limited to outpatient methadone, residential methadone, residential drug fee, out-patient drug fee and day care drug free, whether such services are performed directly by the recipient of any such grant or contract or indirectly through subcontracts, grants, or other means in implementation of the recipient's contract or grant with the Federal agency or department supplying the funds. In the case of a program funded by several sources, only one of which source is Federal, the standards of treatment set forth in this part shall apply to all segments of such program which provide the type of services to which this part applies. This part, however, does not apply to programs conducted within or by departments and agencies of the Federal Government.

#### § 1402.02 Definitions.

(a) *Patient.* The term "patient" means any person who has applied for or been given diagnosis or treatment for drug abuse at a treatment program or Central Intake Unit which administers services to which this part applies.

(b) *Program.* The term "program" means any drug abuse project or activity which administers services to which this part applies.

(c) *Program director.* The term "program director" means the person having the ultimate responsibility for managing and supervising a drug abuse program which administers services to which this part applies.

(d) *Medical director.* The term "medical director" means a duly licensed physician who has been appointed to assume responsibility for all medical affairs conducted by a program which administers services to which this part applies.

(e) *Treatment and treatment plan.* For the purposes of this part, the term "treatment" includes interviewing, counseling, and any other services or activities carried on for the purpose of, or as incident to, diagnosis, treatment, or rehabilitation with respect to drug abuse, whether or not conducted by a member of the medical profession; and the term "treatment plan" means the mode of treatment that is determined appropriate to meet the objective needs of the patient.

(f) *Qualified mental health professional.* The term "qualified mental health professional" means a person who, by virtue of education, training, or experience, is capable of assessing the psychological and sociological background of drug abusers to determine the treatment plan most appropriate for patients in programs administering services to which this part applies.

#### § 1402.03 General requirements.

The grantee or contractor shall provide the necessary facilities, materials, services, and personnel for the operation of a drug abuse program to which this part applies. The contractor or grantee shall establish and operate, or shall engage a subcontractor to establish and operate, such facilities, and shall provide such material, services, and personnel as are deemed necessary to provide patients with services in accordance with the provisions of this part. The grantee or contractor shall:

(a) *Appropriate facilities.* Provide services through such drug abuse treatment facilities as may be appropriate at such site or sites as shall be approved by the contracting or awarding authority.

(b) *Maintain in sanitary condition.* Maintain all facilities in a clean, safe, and sanitary condition in accordance with applicable standards established under Federal, State and local laws.

(c) *Admission criteria.* Develop criteria which meet the requirements of this part for the admission of patients and the termination of services to them. The admission criteria are applicable only to those individuals with a primary drug abuse problem other than alcohol. Services to a patient must be terminated whenever there is evidence that the level of services does not meet the requirements of this part or where legitimate, person to person, services are not provided at least once per month on a regularly scheduled basis.

(d) *Equipment and furnishings.* Install and maintain appropriate equipment and furnishings which are suitable for the type of treatment services being conducted.

(e) *Personal, medical and drug history.* Establish procedures under which a complete personal, medical, and drug history for each patient will be secured upon the patient's entry into the program and shall be maintained and kept up to date throughout the patient's treatment. This is essential for the purpose of identifying symptoms of

flashbacks, psychotic manifestations, and severe physical illness requiring immediate psychiatric or medical care and also for the development of the patient's treatment plan. The intake process must proceed expeditiously to avoid discouragement and shall be completed within the earliest practicable time. A treatment program need not secure personal, medical, or drug information which already had been obtained by a Central Intake Unit on a patient who was referred to the program by such unit unless the information is deemed incomplete or appears questionable. The documentation and results of these CIU examinations must be transferred to the treatment program as such results become available.

(f) *Notice and review of termination of treatment.* In any case in which a decision is made that a patient's treatment to which this part applies be terminated or substantially changed by the program director, the patient shall be given written notice of this fact and the right to have such decision reviewed in accordance with procedures established for that purpose.

#### § 1402.04 Minimum standards for physical and laboratory examinations.

(a) *Performance requirements.* A physical and laboratory examination shall be administered by qualified personnel as soon as practicable but not later than 21 days after admission of the patient. The results of the physical and laboratory examination and their implications for the patient's treatment shall be detailed in his treatment plan. Residential drug-free programs are required to perform physical examinations at the earliest practicable time because of the possibility of the existence of infectious diseases which might affect other patients. In the event that the residential program requires a period of induction, the physical examination should be administered during that period. A treatment program need not repeat any part of a physical or laboratory examination which had been completed by a Central Intake Unit from which a patient was referred unless the results of the examination are incomplete or questionable. The documentation and results of these examinations should be contained in the patient's intake record upon transfer to the treatment program. When special circumstances warrant an exception to the required physical and laboratory examination, a request for such exception may be made in accordance with § 1402.16 of this part. Such request must be submitted by the Medical Director and must contain a full explanation of the need for the exception to the requirements. However, the granting of an exception under this part shall not be considered as an exception to any applicable regulation of the Food and Drug Administration.

(b) *Physical and laboratory examination.* The physical and laboratory examination of each patient shall include:

(1) Investigation of the possibility of infectious disease, pulmonary, liver, cardiac abnormalities, dermatologic sequelae of addiction and possible concurrent surgical problems;

(2) Complete blood count and differential;

(3) Serological test for syphilis;

(4) Routine and microscopic urinalysis;

(5) Urine screening for drugs (toxicology);

(6) Multiphasic chemistry profile;

(7) Chest x-ray;

(8) Australian antigen (HbAg testing (HAA testing)) as appropriate, and

(9) EKG and biological tests for pregnancy, as appropriate.

#### § 1402.05 Pre-admission interview.

(a) *Information to be obtained.* Each patient seeking admission or re-admission for the purpose of obtaining treatment services shall be interviewed by a qualified mental health professional having qualifications as described in paragraph (f) of § 1402.02, or by a qualified intake counselor under the supervision of such a professional. Under the supervision and guidance of such professional, the staff shall obtain a complete personal history including information relating to the patient's social, economic, and family background, his education and vocational achievements, any history of past drug abuse and treatment, any record of past criminal conduct, and any other information which is relevant to his application and which may be helpful in determining an appropriate treatment program.

(b) *Development of appropriate treatment plan.* A primary objective of the admission interview is to determine the most appropriate mode of treatment for the patient and to assure that he understands the nature of the program and what may be expected of him. Any program of treatment recommended must be designed to meet the needs of the patient consistent with the projected program expectations. If a Central Intake Unit provides intake screening, it is the responsibility of the program to which the patient has been referred by such Unit to develop an individually tailored treatment plan based on the interview and his case history.

(c) *Reexamination and reports.* For persons receiving outpatient treatment, individual treatment plans shall be reexamined by the treatment team at least once in each ninety day period and altered where necessary to satisfy any needed changes. For all other modalities, the individual treatment plan shall be reexamined at least once in each 30 day period. A complete report of each review shall be recorded in the patient's record.

(d) *Information to be documented.* Each treatment plan must include documented information relating to (1) short and long term goals for treatment generated by both staff and patient, (2) the assignment of a primary counselor, (3) a description of the type of counseling services to be provided, and the frequency thereof, and (4) a description of

the supportive services determined to be needed by the individual patient.

#### § 1402.06 Medical services.

(a) *Designation of medical director.* Each grantee or contractor shall designate a medical director who must assume responsibility for the administration of all medical services performed by the program. He must be licensed to practice medicine in the jurisdiction in which he administers medical services. It will also be his responsibility to assure that the initial evaluation is properly performed, the medical needs of each patient are periodically evaluated, and that any emergency medical services, when needed, are adequately provided. The medical director shall also be responsible for determining what emergency medical equipment and supplies are needed to deal with possible overdoses and other medical emergencies that might arise and to make certain that such equipment and supplies are provided.

(b) *Services to patients (other than methadone) receiving prescription medication.* Each grantee or contractor shall, for those patients receiving prescription medication through the program, establish procedures under which consultation with the medical director or other program physician will be provided, at a minimum, once in every four week period or more frequently depending upon the needs of the patient.

(c) *Provision for emergency medical services.* (1) Each program is required to formalize a written agreement with a licensed hospital or hospitals in the community for the purpose of providing emergency, inpatient and ambulatory medical services, when needed.

(2) Medical services which are not directly related to the provision of drug abuse treatment services are not reimbursable under Federal contracts or grants. To the extent practicable, however, each program should arrange for the provision of such services.

#### § 1402.07 Mental health consultation.

Each program shall provide, through a qualified mental health professional, a minimum of five hours per week of mental health consultation for each 100 patients. The objective of this consultation should be to review selected cases and to provide assistance to the staff in the management of patient services or for the purpose of referral for psychiatric services.

#### § 1402.08 Counseling.

All counseling services are required to be performed by trained personnel under the supervision of a qualified professional, utilizing the individual, family, or group counseling technique which best meets the needs of the patients. In the case of group counseling, the size of the group should be left to the discretion of the professional under whose supervision the group counseling services are administered. For outpatient methadone and outpatient drug-free programs, a minimum of three hours of formalized counseling per week shall be made available

for each patient either by the program or by an outside qualified consultant under a contract. For residential drug-free, residential methadone, and day care drug-free programs, a minimum of 10 hours of formalized counseling per week shall be made available for each patient either by the program or by an outside qualified consultant. The hours of counseling actually provided should vary according to the needs of the patient.

#### § 1402.09 Provision for supportive services.

The following supportive services shall be provided:

(a) Educational;

(b) Vocational counseling and training;

(c) Job development and placement; and

(d) Legal services through local licensed lawyers to the extent such services are related to the patient's treatment.

To the maximum extent possible, programs shall utilize community resources to provide these services. Copies of any agreements for the provision of such services shall be furnished to the contracting or awarding authority. If any program is unable to obtain any of the requisite supportive services, a formal request to provide such services directly must be made to the project officer for the contract or grant award.

#### § 1402.10 Procedures for urine surveillance.

The following standards shall be applied for urine surveillance:

(a) *Procedures.* Urine specimens from each patient must be collected in a manner that minimizes falsification and on a randomly scheduled basis. In programs dispensing methadone, urine specimens for all patients must be analyzed weekly for opiates and monthly for methadone, amphetamines, barbiturates, as well as other drugs as indicated. For all other programs it is recommended that urine specimens from all patients be analyzed at least monthly for opiates, methadone, amphetamines, barbiturates, as well as other drugs as indicated. More frequent testing should occur when clinically indicated.

(b) *Compliance with other standards.* Laboratories used for urine testing shall comply with all applicable Federal proficiency testing and licensing standards and all state standards in conformity therewith. Laboratories covered by this requirement include any independent, clinical, government or program facility that offers to perform presumptive analysis for screening purposes as well as definitive qualitative analysis for confirmed identifications.

(c) *Use of urine testing results.* Urine testing results shall be used as one clinical tool for the purposes of diagnosis, and in the determination of patient treatment plans. Patient records must reflect the manner in which test results are utilized, and shall distinguish presumptive qualitative laboratory results from those which are definitive.



(d) *Use of laboratory analysis.* Program and medical directors electing to rely on the results of presumptive urinalysis for patient management must demonstrate reasonable access to definitive qualitative laboratory analysis for use when necessary, e.g., criminal justice system records, intake urine testing on all prospective methadone clients, any loss of patient privileges based on urinalysis results, and any frequency of use of other drugs not detectable by a screening method.

§ 1402.11 Vocational rehabilitation and employment programs.

All patients enrolled in outpatient treatment should be encouraged to participate in an educational or job training program or to obtain gainful employment as soon as appropriate but not later than 120 days from the date of enrollment. In the case of patients enrolled in residential programs, such patients should be encouraged to participate in one of such programs or to obtain gainful employment within sixty days from the date of admission. All efforts toward either of these objectives and the results derived therefrom must be noted in the patient's treatment plan and the notes of his progress. If, for any reason, a patient is not encouraged to pursue one of these alternatives, the reasons therefore also shall be recorded in the patient's records.

§ 1402.12 Patient record system.

Each program shall establish a patient record system to document and monitor patient care. This system shall comply with all Federal and State reporting requirements. All records shall be kept confidential in accordance with the applicable regulations (currently 21 CFR, Part 1401; proposed to be incorporated in 42 CFR, Part 2; see 40 FR 20522, May 9, 1975).

§ 1402.13 Program hours for services.

(a) *General requirements.* A reasonable effort must be made to adjust the hours of program operation to meet patient needs. For outpatient treatment programs, consideration should be given to the employment hours of patients, and, to the extent practicable, clinic operating hours should be scheduled at such times as will accommodate the working hours of such patients. Patients who are not employed or who are not attending school or training programs are expected to arrange their schedules in such manner as to receive services at suitable times. Where necessary to accommodate the needs of patients, the program must recognize that the usual 9 a.m. to 5 p.m. workday shall not be rigidly adopted for outpatient treatment. In many clinics with large patient admissions, a 12 hour day of operations is frequently necessary.

(b) *Minimum hours of operation.* The following minimum hours of operation shall be maintained:

(1) *Outpatient methadone.* Each outpatient methadone program shall provide services seven days each week. Services provided on at least five of these

seven days shall be on the basis of an eight hour day provided that, services for a minimum of two hours of such eight hour day must be scheduled at a time other than the regular 9 a.m. to 5 p.m. day. Services administered during the remaining two days must be scheduled for a period of at least four hours each day at a time most convenient to the patients.

(2) *Residential methadone and residential drug-free.* Each residential methadone and residential drug-free program shall provide services seven days per week, twenty-four hours per day.

(3) *Outpatient drug-free.* Each outpatient drug-free program shall provide services at least six days per week. Services provided on at least five of these six days shall be on the basis of an eight hour day provided that a minimum of two hours of such eight hour day must be scheduled at a time other than the regular 9 a.m. to 5 p.m. day. Services administered during the remaining (sixth) day must be scheduled for a period of at least five hours.

(4) *Day care drug-free.* Each day care drug-free program must provide services at least five days per week, ten hours per day. Services provided for the remaining two days may be so scheduled as to accommodate the needs of the patients.

(5) *Central intake unit.* Each central intake unit must provide services at least five days per week, eight hours per day.

§ 1402.14 Provision for meals.

Residential methadone and residential drug-free programs shall provide each patient a minimum of three meals per day. While meals are not required for day care drug-free programs, such programs are encouraged to provide each patient one meal daily, if practicable.

§ 1402.15 Compliance with all Federal and State regulations.

All programs which use methadone for detoxification and maintenance treatment must comply with all applicable regulations of the Food and Drug Administration, as well as other applicable Federal and State regulations and directives.

§ 1402.16 Exceptions to requirements.

Exceptions to the requirements set forth in this Part 1402 may be requested by submitting a request to the Director, Division of Community Assistance, National Institute on Drug Abuse, 11400 Rockville Pike, Rockville, Maryland 20852. The request must fully explain and justify the necessity for the exception.

Part 1403 is added as set forth below:

Sec.	
1403.01	Applicability.
1403.02	Definitions.
1403.03	General requirements.
1403.04	Operation of facilities and examination of patients.
1403.05	Medical services.
1403.06	Agreement for emergency medical services.
1403.07	Pre-admission interview.

Sec.	
1403.08	Patient file.
1403.09	Referral for treatment.
1403.10	Adoption of procedures to avoid duplication.
1403.11	Procedure for urine surveillance.
1403.12	Patient recordkeeping.
1403.13	Agreements between CIU and community programs.
1403.14	Requirements to be adopted in CIU procedures.
1403.15	Compliance with all Federal and State regulations.
1403.16	Exceptions to requirements.

AUTHORITY: Secs. 210, 221, 222, Drug Abuse Office and Treatment Act of 1972 Pub. L. 92-255, (21 U.S.C. 1120, 1131, and 1132.)

§ 1403.01 Applicability.

This part sets forth the criteria to be applied by all Federal departments and agencies with respect to standards to be maintained for drug abuse programs or projects (other than research or demonstration) funded by them by means of grants or contracts awarded or renewed after the effective date of this part, for the conduct of central intake services, whether such services are performed directly by the recipient of any such grant or contract or indirectly through subcontracts, grants, or other means in implementation of the recipient's contract or grant with the Federal agency or department supplying the funds. In case of a program funded by several sources, only one of which source is Federal, the standards of treatment set forth in this part shall apply to all segments of such program which provide the type of services to which this part applies. This part, however, does not apply to programs conducted within or by departments and agencies of the Federal Government.

§ 1403.02 Definitions.

(a) *Patient.* The term "patient" means any person who has applied for or been given diagnosis or treatment for drug abuse at a treatment program or central intake unit which administers services to which this part applies.

(b) *Program.* The term "program" means any drug abuse project or activity which administers services to which this part applies.

(c) *Central intake unit.* The term "Central Intake Unit" (CIU) means a centralized facility which is responsible for the initial screening, evaluation, diagnosis and orientation of a patient for purposes of referral to an appropriate modality for drug abuse treatment.

(d) *Qualified mental health professional.* The term "qualified mental health professional" means a person who, by virtue of education, training, or experience is capable of assessing the psychological and sociological background of drug abusers to determine the treatment plan most appropriate for patients in programs to which this part applies.

(e) *Treatment and treatment plan.* For the purposes of this part, the term "treatment" includes interviewing, counseling, and any other services or activities carried on for the purpose of, or as incident to, diagnosis, treatment, or re-

habilitation with respect to drug abuse whether or not conducted by a member of the medical profession; and the term "treatment plan" means the mode of treatment that is determined appropriate to meet the objective needs of the patient.

(f) *Program and medical director.* The term "program director" and "medical director" shall have the meaning set forth in §§ 1402.02(c) and 1402.02(d), respectively, of Part 1402 of this chapter.

§ 1403.03 General requirements.

The grantee or contractor shall provide adequate facilities, material, services, and personnel for the operation of a central intake facility. The contractor or grantee shall establish and operate, or shall engage a subcontractor to establish and operate, such facilities and provide such material, services, and personnel as are necessary to render such services to drug dependent persons in accordance with the provisions of this part. The Central Intake Unit shall be established at such site or sites as shall be approved by the awarding authority. The unit shall operate under procedures which provide (a) criteria for the admission of patients and for the termination of services rendered to them and (b) informal, standardized, initial patient orientation, multiphasic health screening, and referral to an appropriate treatment modality for new or readmitted patients.

§ 1403.04 Operation of facilities and examination of patients.

(a) *Hours of operation.* Each CIU facility shall remain open at least eight hours each day, five days per week. The intake process must proceed expeditiously to avoid discouragement and should not exceed a period of two days. The facility shall be appropriately furnished to provide the required services and shall be maintained in a condition consistent with applicable regulations of Federal, State and local authorities.

(b) *Examination.* At the time of intake, an initial personal, medical, and drug history shall be obtained and a physical and laboratory examination administered by qualified personnel. Such examination shall check the possibility of infectious diseases, pulmonary, liver, cardiac abnormalities, dermatologic sequelae of addiction and possible concurrent surgical problems. The laboratory examination shall include:

- (1) Complete blood count and differential;
- (2) Serological test for syphilis;
- (3) Routine and microscopic urinalysis;
- (4) Urine screening for drugs (toxicology);
- (5) Multiphasic chemistry profile;
- (6) Chest x-ray;
- (7) Australian antigen (HbAg testing (HAA testing)) as appropriate;
- (8) EKG and biological tests for pregnancy, as appropriate; and
- (9) Pap smear and gonorrhea culture, as appropriate.

§ 1403.05 Medical services.

(a) *Designation of medical director.* Each grantee or contractor shall designate a medical director who shall assume responsibility for the administration of all medical services performed by the CIU. Such director must be licensed to practice medicine in the jurisdiction in which the program is located.

(b) *Initial evaluation.* It will be the responsibility of the medical director to assure that the initial evaluation is properly performed and that the appropriate needs of each patient are evaluated and the type of treatment, if any, prescribed. The evaluation shall include an initial diagnostic work up, an identification of medical and surgical problems for referral to other treatment facilities, and a periodic review of the patient's records. If the patient has a previous medical record and it is available, the medical director should obtain it if possible and include it with the records sent to the treatment center to which the patient has been or is being transferred.

§ 1403.06 Agreement for emergency medical services.

(a) Each program is required to formalize a written agreement with a licensed hospital or hospitals in the community for the purpose of providing emergency, inpatient and ambulatory medical services, when needed.

(b) Medical services which are not directly related to the provision of drug abuse treatment services are not reimbursable under Federal contracts or grants. To the extent practicable, however, each program should arrange for the provision of such services.

§ 1403.07 Pre-admission interview.

Programs shall conduct an interview by a mental health professional, or by a qualified intake counselor under the supervision of such a professional, of each patient or former patient re-admitted. In the course of the interview, the staff shall obtain a complete personal history, including information relating to the patient's social, economic, and family background, his education and vocational achievements, any history of past drug abuse and treatment, any record of past criminal conduct and any other information which is relevant to his application and which may be helpful in determining an appropriate treatment program. The staff should then discuss with the patient the various treatment modalities available to him. After discussing the availability of these modalities in the light of the patient's particular needs (including the results of physician's evaluation), a treatment plan should be selected by mutual agreement and an appropriate referral made.

§ 1403.08 Patient file.

The program should maintain a file for each drug dependent patient. This file should be kept up to date by the particular agencies and all transfers to other programs and terminations noted.

All records shall be held confidential in accordance with the Confidentiality Regulations set forth in Part 1401 of this chapter.

§ 1403.09 Referral for treatment.

Upon reaching an agreement as to the modality to be applied, the patient should be referred to treatment within 48 hours and his intake records transferred to the center administering such treatment.

§ 1403.10 Adoption of procedures to avoid duplication.

Each program shall adopt such intake procedures as will avoid the duplication of services by programs receiving patients through the central intake process.

§ 1403.11 Procedure for urine surveillance.

Urine specimen shall be obtained by CIU from each patient under appropriate supervision. The specimens must be analyzed for morphine, methadone, cocaine, codeine, amphetamines, barbiturates, as well as other drugs if indicated. Laboratories which are used for urine testing must comply with applicable Federal proficiency testing and licensing standards and all State standards in conformity therewith.

§ 1403.12 Patient recordkeeping.

Each CIU program shall establish a record system for patients processed which must be adequate to meet all Federal and State reporting requirements and all patient records shall be maintained in accordance with the Confidentiality Regulations (currently set forth as Part 1401 of this chapter; proposed to be incorporated in 42 CFR Part 2; see 40 FR 20522, May 9, 1975).

§ 1403.13 Agreements between CIU and community programs.

Each CIU program shall establish and provide the contracting or awarding agency with documentary evidence of formal agreements with community based drug abuse treatment programs. Such documentary evidence shall include the treatment program's agreement to utilize the CIU for patient intake functions. The agreement should also provide for the acceptance of only those patients who have been processed through the CIU.

§ 1403.14 Requirements to be adopted in CIU procedures.

Each CIU program shall adopt procedures relating to the following:

(a) Orientation of patients with particular instructions on the available treatment options and the specific treatment program recommended to meet the needs of the patient;

(b) Consideration and determination of the most appropriate method to be followed for referral to treatment;

(c) The negotiation of an agreement with the patient covering the terms and conditions of referral to treatment; and



## RULES AND REGULATIONS

(d) Subject to approval by Federal and State project representatives, establishment of standards for meeting the needs of patients referred to CIU for rescreening and for referral to a modality or program determined to be more suitable for their needs.

§ 1403.15 Compliance with all Federal and State regulations.

All programs using methadone for detoxification and maintenance treatment must comply with all regulations of the Food and Drug Administration as well as all other relevant Federal and State regulations and directives.

§ 1403.16 Exceptions to requirements.

Requests for exceptions to the criteria and requirements set forth in this Part 1403 shall be submitted to the Director, Division of Community Assistance, National Institute on Drug Abuse, 11400 Rockville Pike, Rockville, Maryland 20852, for his consideration and action. Each request shall fully explain and justify the necessity for the requested exception.

[FR Doc.75-13602 Filed 5-23-75;8:45 am]

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# federal register

WEDNESDAY, MAY 28, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 103

Pages 23069-23270



## PART I

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In order to minimize costs of publishing the large volume of information expected under the Privacy Act of 1974, the Office of the Federal Register will accept magnetic tape or word processing equipment input by prior arrangement only. Call the Federal Register Privacy Act coordinator on 523-5240.

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Citizens Advisory Committee on Civil Rights; to be held in Atlanta, Ga. (open) 6-3, 6-4, and 6-5-75.

15418; 4-7-75

#### ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Rulemaking; to be held in Wash., D.C. (open with restrictions) 6-5-75.

Efficiency, adequacy, and fairness of the administrative agencies in carrying out programs; to be held in Washington, D.C. (open) 6-5 and 6-6-75.

22163; 5-21-75

#### ADVISORY COUNCIL ON HISTORIC PRESERVATION

Advisory Council on Historic Preservation; to be held in Chitna, Alaska (open, with restrictions) 6-3-75.

19674; 5-6-75

Advisory Council on Historic Preservation; to be held in Cordova, Alaska (open, with restrictions) 6-4-75.

19674; 5-6-75

#### AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

American Revolution Bicentennial Council; to be held in Washington, D.C. (open with restrictions) 6-2-75.

20124; 5-8-75

#### CIVIL RIGHTS COMMISSION

Maine State Advisory Committee; to be held in Augusta, Maine (open) 6-4-75..... 17778; 4-22-75

Pennsylvania State Advisory Committee; to be held at Harrisburg, Pennsylvania (open) 6-6-75..... 20663; 5-12-75

#### COMMERCE DEPARTMENT

Domestic and International Business Administration—

Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; to be held at Washington, D.C. (partially closed) 6-5-75..... 18199; 4-25-75

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Federal Information Processing Standards Coordinating And Advisory Committee; to be held at Gaithersburg, Maryland (open), 6-4-75.

17866; 4-23-75

National Oceanic and Atmospheric Administration—

Marine Petroleum and Minerals Advisory Committee; Working Group on Impacts of Offshore Oil and Gas Development; to be held in Washington, D.C. (open) 6-4-75.

19225; 5-2-75

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Navy Department—

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22008; 5-20-75

Office of the Secretary—

Acquisition Advisory Group, Advisory Committee; to be held at Arlington, Va. (closed) 6-3-75..... 21499; 5-16-75

Defense Science Board Task Force on "Federal Contract Research Center Utilization"; to be held in Arlington, Virginia (closed) 6-3-75.

19663; 5-6-75

Defense Science Board Task Force on "Federal Contract Research Center Utilization"; to be held in Bedford, Mass. (closed) 6-5-75..... 19663; 5-6-75

Defense Science Board Task Force on "Federal Contract Research Center Utilization"; to be held in Falls Church, Virginia (closed) 6-4-75.

19663; 5-6-75

Defense Science Board Task Force on "Federal Contract Research Center Utilization"; to be held in Lexington, Mass. (closed) 6-6-75.

19663; 5-6-75

Defense Science Board Task Force on "Federal Contract Research Center Utilization"; to be held in Silver Spring, Md. (closed) 6-4-75.

19663; 5-6-75

Defense Science Board Task Force on "Federal Contract Research Center Utilization"; to be held at Washington, D.C. (open) 6-2-75.. 19663; 5-6-75

Wage Committee; to be held in Washington, D.C. (closed) 6-3-75.

20655; 5-12-75

FEDERAL COMMUNICATIONS COMMISSION

Radio Special Commission for Aeronautics Special Committee 128—Minimum Performance Standards for Airborne Ground Proximity Warning System; to be held at Washington, D.C. (open, with restrictions) 6-3 through 6-4-75..... 19682; 5-6-75

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Center for Disease Control—

Medical Laboratory Services Advisory Committee; to be held at Atlanta, Ga. (open) 6-2 and 6-3-75.

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#### Food and Drug Administration—

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Health Resources Administration—

National Advisory Council on Nurse Training; to be held in Bethesda, Md. (open and closed) 6-2 through 6-5-75..... 19673; 5-6-75

National Advisory Council on Health Professions Education; to be held in Bethesda, Maryland (open and closed) 6-2 through 6-6-75.

19673; 5-6-75

National Institute of Education—

National Council on Educational Research; to be held in St. Louis, Missouri (open with restrictions) 6-6-75..... 41391; 11-27-74

National Institutes of Health—

Board of Scientific Counselors, to be held in Bethesda, Md. (open), 6-5 and 6-6-75..... 17060; 4-16-75

Board of Scientific Counselors, National Institutes of Environmental Health Sciences to be held in Triangle Park, N.C. (closed) 6-5 and 6-6-75..... 17060; 4-16-75

Cardiology Advisory Committee; to be held at Bethesda, Md. (open) 6-5 and 6-6-75..... 18831; 4-30-75

Chemical/Biological Information Handling Review Committee; to be held at Bethesda, Md. (open with restrictions) 6-2-75..... 18831; 4-30-75

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National Commission on Arthritis and Related Musculoskeletal Diseases; to be held at New Orleans, La. (closed) 6-2-75..... 22162; 5-21-75

Periodontal Diseases Advisory Committee; to be held at Bethesda, Md. (open) 6-2 and 6-3-75..... 18831; 4-30-75

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Social Security Administration—

Supplemental Security Income Study Group; to be held in Baltimore, Md. (open) 6-3-75..... 20337; 5-9-75

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Bonneville Power Administration—

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Draft Facility Supplement to 1976 Program Environmental Statement; to be held in Spokane, Washington (open) 6-3-75..... 20115; 5-8-75

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Boise District Advisory Board; to be held in Boise, Idaho (open) 6-4-75..... 20115; 5-8-75



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Bureau of Reclamation—  
Savage Rapids Dam; to be held at Grants Pass, Oregon (open) 6-3-75.....18815; 4-30-75  
Geological Survey—  
Earthquake Studies Advisory Panel; to be held in Golden, Colo. (open) 6-4 and 6-5-75 20967; 5-14-75  
**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**  
NASA Ad Hoc Advisory Subcommittee to Evaluate Proposals for Participation in the Scientific Definition of Explorer-class Payloads; to be held in Washington, D.C. (closed) 6-4, 6-5, and 6-6-75.....20358; 5-9-75  
**NATIONAL SCIENCE FOUNDATION**  
Advisory Panel for Neurobiology and Advisory Panel for Psychobiology; to be held in Washington, D.C. (closed) 6-5 and 6-6-75.....22047; 5-20-75  
Advisory Panel for Systematic Biology; to be held at Washington, D.C. (closed) 6-2 and 6-3-75.....21079; 5-15-75

**NUCLEAR REGULATORY COMMISSION**  
Advisory Committee on Reactor Safeguards' Subcommittee on Clinch River Breeder Reactor; to be held in Washington, D.C. (open and closed) 6-4-75.....22024; 5-20-75  
Advisory Committee on Reactor Safeguards' Subcommittee on St. Lucie Nuclear Generating Station, Unit 1; to be held in Washington, D.C. (open and closed) 6-4-75.....22025; 5-20-75

## STATE DEPARTMENT

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## TREASURY DEPARTMENT

Internal Revenue Service—  
Commissioner's Advisory Group; to be held at Washington, D.C. (open with restrictions), 6-4 and 6-5-75, 20871; 5-13-75

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Veterans Administration Wage Committee; to be held at Washington, D.C. (closed) 6-5-75.....12554; 3-19-75

## Next Week's Public Hearings

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Roll-over protective structures; to be held in Dallas, Texas, on 6-4 and 6-5-75.....19499; 5-5-75

## JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Enrollment of actuaries, access to records; to be held in Washington, D.C., on 6-2 and 6-3-75.....20326; 5-9-75

## List of Public Laws

NOTE: No acts approved by the President were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

# rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## Title 12—Banks and Banking CHAPTER V—FEDERAL HOME LOAN BANK BOARD

### SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[No. 75-375]

## PART 523—MEMBERS OF BANKS Liquidity

APRIL 29, 1975.

The following summary of the amendment adopted by this Resolution is provided for the reader's convenience and is subject to the full provisions of this Resolution, including the provisions in the preamble thereof, and in the amended regulation set forth below.

I. *Existing regulation.* Loans of Federal funds to an insured bank which is a member of the Federal Reserve System count toward satisfaction of the liquidity requirements of members of the Federal Home Loan Bank System.

II. *Amended regulation.* Authorizes loans of unsecured day(s) funds to an insured bank to count toward the computation of the liquidity requirements of members of the Federal Home Loan Bank System, but adds the restriction that lenders of such funds must not be subordinated in their priority of claims to an insured bank's depositors.

III. *Reason for changing the regulation.* To permit unsecured day(s) fund investments by members of the Federal Home Loan Bank System in any insured bank, regardless of whether it is a member of the Federal Reserve System, and to substitute the more descriptive term "unsecured day(s) funds" for the term "Federal funds" used in the existing regulation.

The Federal Home Loan Bank Board considers it advisable to amend § 523.10 of the regulations for the Federal Home Loan Bank System (12 CFR 523.10) by revising subparagraph (g) (4) thereof for the purpose of authorizing members of the Federal Home Loan Bank System to include as liquidity loans of unsecured day(s) funds to insured banks. An additional purpose of this amendment is to require that claims of Federal Home Loan Bank System member lenders of such funds not be subordinated in priority to claims of depositors of a bank to which such funds are loaned.

Under the present § 523.10(g) (4), thrift institutions which are members of the Federal Home Loan Bank System may make loans of Federal funds to an insured bank which is a member of the Federal Reserve System. The regulation, when adopted on November 2, 1973, restricted such investments to Federal Reserve System members because the Board

believed that only such members could deal in the Federal funds market. This is not the case, however, and the Board now believes that the present regulation is a needless discrimination against non-Federal Reserve member insured banks.

Therefore, the Board considers it appropriate to revise § 523.10(g) (4) to allow loans of unsecured day(s) funds to any insured bank to count toward satisfaction of the liquidity requirements of members of the Federal Home Loan Bank System. In order to minimize any risk attendant to such investments, a new § 523.10(g) (4) (v) is being added which requires that claims of Bank System member lenders of such funds not be subordinated in priority to claims of depositors in a bank to which such funds are loaned. The Board also considers it appropriate to substitute the phrase "unsecured day(s) funds" for "Federal funds" wherever it appears in § 523.10(g) (4). The phrase "unsecured day(s) funds" is defined as Federal funds or similar unsecured loans to insured banks and is believed to be more descriptive than "Federal funds".

Accordingly, the Board hereby amends said § 523.10(g) (4) to read as set forth below, effective June 27, 1975.

Since this amendment relieves restriction, the Board hereby finds that notice and public procedure with respect to said amendment is unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b).

## § 523.10 Definitions.

(g) Prior to January 1, 1972, the term "liquid assets" means the total of cash, accrued interest on unpledged assets which qualify as liquid assets under this paragraph, or would so qualify except for their maturities, and the book value of unpledged assets specified in subparagraphs (1) through (6) of this paragraph, without regard to the proviso contained in subparagraph (2) of this paragraph. Beginning on January 1, 1972, the term "liquid assets" means the total of cash, accrued interest on unpledged assets which qualify as liquid assets under this paragraph, or would so qualify except for their maturities, and the book value of the following unpledged assets:

(4) time deposits in an insured bank including such time deposits held subject to a repurchase agreement and loans of unsecured day(s) funds (Federal funds or similar unsecured loans to insured banks) to an insured bank, if:

(i) the total of all time deposits, including loans of unsecured day(s) funds

of the same member, in the same bank does not exceed the greater of (a) one-fourth of 1 percent of the total deposits of such bank (calculated on the basis of total deposits of such bank as shown by its last published statement of condition preceding the date each time deposit is made or acquired by a member), or (b) \$20,000;

(ii) no consideration, other than discounting to a current market rate of interest, is received by the member from a third party in connection with the making or acquiring of such deposits (excluding loans of unsecured day(s) funds) by the member and no consideration is received by the member from a third party in connection with loans of unsecured day(s) funds by the member; (iii) except for loans of unsecured day(s) funds, the remaining periods to maturity of such deposits are not more than 1 year and such deposits are negotiable, or, in the case of time deposits which may not be withdrawn without notice, the notice periods do not exceed 90 days;

(iv) the periods to maturity of loans of unsecured day(s) funds are not more than 6 months; and

(v) the claims of a lender of such unsecured day(s) funds are not subordinated in priority to claims of depositors in the insured bank to which such funds are loaned;

(Sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, as amended, sec. 17, 47 Stat. 736, as amended; (12 U.S.C. 1425a, 1437), Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48, Comp., p. 1071).

Dated: April 29, 1975.

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, Jr.,  
Assistant Secretary.

[FR Doc. 75-13837 Filed 5-27-75; 8:45 am]

## Title 14—Aeronautics and Space

### CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75-NE-22; Amdt. 39-2221]

## PART 39—AIRWORTHINESS DIRECTIVES

Sikorsky S-61L, S-61N, S-61NM and S-61R Helicopters Certificated in All Categories

Amendment 39-1992 (39 FR 37356), AD 74-22-02 and Amendment 39-2031 (39 FR 41739), AD 74-25-07 required a radiographic inspection of the main rotor blades of S-61 helicopters, as well as auditory inspections conducted by shaking the blades, to detect loose counter-



weights that were free to move within, and damage, the blade spar and tip. After the issuance of Amendments 39-1992 and 39-2031, the manufacturer modified the design of the counterweights and improved the process for the bonding that retains the counterweights in their proper positions within the blade spar. Sikorsky Service Bulletin No. 61B15-18 has been revised to indicate that the inspections are required only for the blades that were produced prior to these design improvements.

The agency has determined that certain main rotor blades need not be inspected in accordance with the AD, and that the requirements of AD 74-22-02 and AD 74-25-07 can be consolidated into a single AD.

Therefore, AD 74-22-02 and AD 74-25-07 are being superseded with a new AD which combines the auditory inspection requirements of the two directives and incorporates the latest Sikorsky service bulletin revision.

Since this amendment combines the requirements of two AD's, eliminates the requirements for inspecting new main rotor blades, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary, and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, is amended by adding the following new airworthiness directive:

**SIKORSKY AIRCRAFT.** Applies to S-61L, S-61N, S-61R, and S-61NM helicopters certificated in all categories including Military type CH-3C, HH-3C, CH-3E, and HH-3E helicopters equipped with the following main rotor blades:

(1) S6115-20501 series, prior to and including S6115-20501-9 main rotor blade assemblies.

(2) S6115-20601 series, prior to and including S6115-20601-044 main rotor blade assemblies.

(3) S6117-20101 series, prior to and including S6117-20101-053 main rotor blade assemblies.

(4) S6188-15001 series, prior to and including S6188-15001-044 main rotor blade assemblies.

Compliance required as indicated.

(a) Prior to the first flight of each day, inspect each main rotor blade in accordance with section 2, paragraph C of Sikorsky Service Bulletin No. S61B15-18B or later FAA-approved revisions for possible free counterweights or loose material in the blade spar cavity. If any sound is evident, remove the blade from service immediately and notify Sikorsky Aircraft Product Support Department.

(b) If any unusual one-per-rev vibration is noted, inspect each main rotor blade prior to further flight for a possible free counterweight or loose material in the spar cavity in accordance with Section 2, paragraph C of Sikorsky Service Bulletin No. 61B15-18B or later FAA-approved revisions. If any sound is evident, remove the blade from service immediately and notify Sikorsky Aircraft Product Support Department.

(c) Upon request of the operator, equivalent methods of compliance with the inspection requirements of this AD may be approved by the Chief, Engineering and Manu-

facturing Branch, New England Region, if the request contains substantiating data to justify that equivalent method for that operator.

This supersedes Amendment 39-1992 (39 FR 37356), AD 74-22-02 and Amendment 39-2031 (39 FR 41739), AD 74-25-07.

This amendment becomes effective June 12, 1975.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Burlington, Mass., on May 20, 1975.

QUENTIN S. TAYLOR,  
Director, New England Region.

[FR Doc.75-13766 Filed 5-27-75; 8:45 am]

## CHAPTER II—CIVIL AERONAUTICS BOARD

### SUBCHAPTER D—SPECIAL REGULATIONS [Reg. SPR-83; Amdt. 8]

#### PART 375—NAVIGATION OF FOREIGN CIVIL AIRCRAFT WITHIN THE UNITED STATES

Director, Bureau of Operating Rights

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., May 22, 1975.

The amendment herein substitutes "Director, Bureau of Operating Rights" for "Director, Bureau of Air Operations" in § 375.40.

The editorial amendment is issued by the undersigned pursuant to a delegation of authority from the Board to the General Counsel in 14 CFR 385.19 and shall become effective on June 17, 1975. Procedures for review of this amendment by the Board are set forth in Subpart C of Part 385 (14 CFR 385.50 through 385.54).

Accordingly, the Civil Aeronautics Board hereby amends § 375.40(a) of Part 375 (14 CFR Part 375) as follows:

§ 375.40 Permits for commercial air operations.

(a) *Applications.* Commercial air operations in the United States may not be undertaken by foreign civil aircraft unless the Board has issued a permit therefor upon application pursuant to this subpart and such permit is carried on board the aircraft. Permits are not transferable. Applications for permits may be filed directly with the Board and need not be filed through diplomatic channels. They shall be made on CAB Form 272, addressed to the attention of the Director, Bureau of Operating Rights, and shall contain a proper identification of the applicant, the operator of the aircraft concerned and of the owner thereof, a description of the aircraft by make, model, and registration marks; and a full description of the operations for which authority is desired, indicating type and dates of operations and number of flights, and routing. In case of cargo flights, the names of all contractors and the beneficial owner of the cargo, a de-

scription of the cargo and of the proposed operations, including services to be performed by any exporter, importer or transportation agent, shall be provided. In case of passenger flights, a full identification and description of the group chartering the aircraft, and identification of the travel agent, if any, shall be provided. A copy of any newspaper or other advertising of the flights shall be enclosed. The application shall also be accompanied by such documents as may be necessary to establish that reciprocity for similar operations by United States registered aircraft exists in the country of registration of the aircraft. Applications shall be submitted at least 15 days in advance of the date of the commencement of the proposed operation. Such additional information as may be specifically requested by the Board shall also be furnished.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; (49 U.S.C. 1374), Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5969; (49 U.S.C. 1324 (note)))

By the Civil Aeronautics Board.

[SEAL] THOMAS J. HEYE,  
General Counsel.

[FR Doc.75-13842 Filed 5-27-75; 8:45 am]

#### Title 21—Food and Drugs

### CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

#### SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

##### PART 510—NEW ANIMAL DRUGS

###### Subpart G—Sponsors of Approved Applications

##### PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

###### Tylosin

The Commissioner of Food and Drugs has evaluated a new animal drug application (98-687V) filed by Kerber Milling Co., Emmetsburg, IA 50536, proposing safe and effective use of a tylosin premix in making swine feed. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act, (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 510 and 558 (formerly Parts 135 and 135e prior to recodification published in the FEDERAL REGISTER of March 27, 1975 (40 FR 13802)) are amended as follows:

1. In Part 510 by amending § 510.600 (formerly § 135.501) by adding a new sponsor, alphabetically to paragraph (c) (1) and numerically to paragraph (c) (2), to read as follows:

§ 510.600 Names, addresses, and code numbers of sponsors of approved applications.

• • • • •  
(c) • • • • •  
(1) • • • • •

Firm name and address:	Drug Listing No.
Kerber Milling Co., Box 152, 1817 E. Main St., Emmetsburg, IA 50536	029341
(2) • • • • •	• • • • •
Drug listing No.	Firm name and address
029341	Kerber Milling Co., Box 152, 1817 E. Main St., Emmetsburg, IA 50536.
• • • • •	• • • • •

2. In Part 558 by adding a new paragraph (b) (31) to § 558.625 (formerly § 135e.10) to read as follows:

§ 558.625 Tylosin.

(b) • • • • •  
(31) To 029341: 5 grams per pound; paragraph (f) (1) (vi) (a) of this section.

Effective date. This order shall be effective on May 28, 1975.

(Sec. 512(i), 82 Stat. 347; (21 U.S.C. 360b(i)))

Dated: May 20, 1975.

C. D. VAN HOUWELING,  
Director, Bureau of Veterinary  
Medicine.

[FR Doc.75-13811 Filed 5-27-75; 8:45 am]

#### PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

##### Thiabendazole-Trichlorfon

The Commissioner of Food and Drugs has evaluated a new animal drug application (91-067V) filed by Merck Sharp and Dohme Research Laboratories, Division of Merck and Co., Inc., Rahway, NJ 07065, proposing safe and effective use of thiabendazole with trichlorfon for treating bot and certain worm infections in horses. The application is approved.

The Commissioner is amending Part 520 (formerly Part 135c prior to recodification published in the FEDERAL REGISTER of March 27, 1975 (40 FR 13802)), to reflect approval as set forth below. The amendment shall become effective on May 28, 1975.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 520 is amended by adding a new section to read as follows:

§ 520.2380e Thiabendazole with trichlorfon.

(a) *Specifications.* The drug contains 5 grams of thiabendazole with 4.5 grams of trichlorfon, or 20 grams of thiabendazole with 18 grams of trichlorfon.

(b) *Sponsor.* See No. 000006 in § 510.600(c) of this chapter.

(c) *Conditions of use.* (1) Used for the treatment and control of bots (*Gasterophilus* spp.), large strongyles (*Strongylus* spp.), small strongyles (genera *Cyathostomum*, *Cylicobrachytus*, *Craterostomum*, *Oesophagodontus*, *Poteriostomum*), pinworms (*Oxyuris* spp., *Strongyloides* spp.), and ascarids (*Parascaris* spp.) in horses.

(2) Administer 2 grams of thiabendazole with 1.8 grams of trichlorfon per 100 pounds of body weight sprinkled on the animals' usual daily ration of feed, or may be mixed in 5 to 10 fluid ounces of water and administered by stomach tube or drench.

(3) Do not re-treat more than once every 30 days, preferably every 6 to 8 weeks.

(4) Do not treat animals if sick or debilitated; less than 4 months of age; or mares in last month of pregnancy.

(5) Do not administer intravenous anesthetics, especially muscle relaxants, within 2 weeks of use.

(6) Not for animals intended for food use.

(7) Do not use within a few days before or after treatment with or exposure to cholinesterase-inhibiting drugs, pesticides, or chemicals.

(8) If the label bears directions for administration of the drug by stomach tube or drench it shall also bear the statement: Caution; Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This order shall be effective on May 28, 1975.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: May 20, 1975.

C. D. VAN HOUWELING,  
Director,  
Bureau of Veterinary Medicine.

[FR Doc.75-13812 Filed 5-27-75; 8:45 am]

[FRL 360-1; FAPSE5070/RE]

#### PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

##### Methoprene

On January 7, 1975, notice was given (40 FR 1299) that Zoecon Corp., 975 California Ave., Palo Alto CA 94304, had filed a food additive petition (FAP 5H5070) with the Environmental Protection Agency (EPA). This petition proposed establishment of a feed additive regulation to provide for the safe use of the insect growth regulator methoprene (isopropyl (E,E)-11-methoxy-3, 7,11-trimethyl-2,4-dodecadienoate) in processed feed supplements for cattle in an amount not to exceed 0.025 percent by weight of the processed feed supplement. (A related document concerning the establishment of a pesticide tolerance for methoprene also appears in today's FEDERAL REGISTER, 40 FR 23073).

The data submitted in the petition and other relevant material have been eval-

uated. It is concluded that the regulation should be established expressed as the amount of pesticide fed to the animals per body weight of the animal per duration of time.

Any person adversely affected by this regulation may, on or before June 27, 1975, file written objections with the Hearing Clerk, Environmental Protection Agency, 401 M Street SW., East Tower, Room 1019, Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions for the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on May 28, 1975, Part 561 is amended by adding § 561.282.

(Sec. 409(c) (1) & (4), Federal Food, Drug and Cosmetic Act, (21 U.S.C. 348(c) (1) & (4)), transferred to the Administrator EPA in Reorganization Plan No. 3 (35 FR 15623))

Dated: May 22, 1975.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

Part 561 is amended by adding § 561.282 to read as follows.

§ 561.282 Methoprene.

The feed additive methoprene (isopropyl (E,E)-11-methoxy-3,7,11-trimethyl-2,4-dodecadienoate) may be safely used in accordance with the following prescribed conditions:

(a) It is used as a feed additive in the feed for cattle at the rate of 0.375 to 0.750 milligram per 100 pounds of body weight per month.

(b) It is used to prevent the breeding of hornflies in the manure of treated cattle.

(c) To ensure safe use of the additive, the label and labeling of the pesticide formulation containing this additive shall conform to the label and labeling registered by the U.S. Environmental Protection Agency.

[FR Doc.75-13936 Filed 5-27-75; 8:45 am]

#### CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

##### PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

###### Exemption of Chloral

The Drug Enforcement Administration has become aware that a large number of industrial users of chloral are not registered with the Drug Enforcement Administration, as required by section 302 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 822), for persons whose activities include the processing of controlled substances. Chloral is merely the anhydrous form of chloral hydrate, which is a controlled substance listed in Schedule IV of the Act (21 U.S.C. 812(c)), and, as such, has a low potential for abuse



relative to the drugs or other substances in Schedules III. Therefore, all persons who engage in industrial activities with respect to chloral are engaged in activities with respect to a Schedule IV controlled substance, and must become registered for such activities with DEA.

However, information submitted to DEA by several industrial users of chloral has revealed that there is no significant potential for abuse with respect to chloral when it is in "package" form, i.e., when shipped and stored in tank cars and pipelines which are fully sealed under nitrogen pressure in an oxygen-free atmosphere.

Therefore, industrial users of chloral who maintain it under the above circumstances shall be exempt from the application of sections 305, 306, 307, 308, 309, 1002, 1003 and 1004 of the Act (21 U.S.C. 825-829, 952-954, respectively), and Title 21 of the Code of Federal Regulations (CFR) §§ 1301.71-1301.73 and 1301.74 (a), (b), (d), (e) and (f), by virtue of the Administrator hereby finding that chloral, when existing under the above circumstances, is a substance which is not intended for general administration to a human being or other animal, and contains no narcotic controlled substances and is packaged in such a form that the package quantity does not present any significant potential for abuse.

Therefore, under the authority vested in the Attorney General by sections 301 and 501(b) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 821 and 871(b), respectively), and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations (CFR), the Administrator hereby orders that § 1308.24 of Title 21 of the Code of Federal Regulations (CFR) be amended to read as follows:

§ 1308.24 Exempt chemical preparations.

(a) The chemical preparations and mixtures set forth in paragraph (1) of this section have been exempted by the Administrator from application of sections 302, 303, 305, 306, 307, 308, 309, 1002, 1003 and 1004 of the Act (21 U.S.C. 822-3, 825-9, 952-4) and § 1301.74 of this chapter, to the extent described in paragraphs (b) to (h) of this section. Substances set forth in paragraph (j) shall be exempt from the application of sections 305, 306, 307, 308, 309, 1002, 1003 and 1004 of the Act (21 U.S.C. 825-9, 952-4) and §§ 1301.71-1301.73 and 1301.74(a), (b), (d), (e) and (f) of this chapter to the extent as hereinafter may be provided.

(j) The following substances are designated as exempt chemical preparations for the purposes set forth in this section.

(1) Chloral. When packaged in a sealed, oxygen-free environment, under nitrogen pressure, safeguarded against exposure to the air.

#### EFFECTIVE DATES

1. *Registration.* The requirement of registration which is imposed by this order is effective as follows:

(a) Any person who manufactures, distributes, dispenses, engages in research, imports or exports chloral, in such form as hereinabove described in proposed § 1308.24(j) of Title 21 of the Code of Federal Regulations, or who proposes to engage in the manufacture, distribution, importation or exportation of, or research with, chloral in such form, shall obtain a registration to conduct such activities on or before July 1, 1975.

2. *Criminal liability.* Any person who manufactures, distributes, engages in research, imports or exports chloral, in such form as hereinabove described in proposed § 1308.24(j) of Title 21 of the Code of Federal Regulations, and who is not now registered to handle chloral in such form but is entitled to registration under the Controlled Substances Act or the Controlled Substances Import and Export Act, may continue to conduct normal business, industrial or research activities with respect to such substance, during the time period which falls between the date upon which this order becomes effective and the date upon which he obtains or is denied registration, but not beyond July 1, 1975.

3. *Other.* In all other respects, this order is effective. Any person interested may file written comments or objections raise significant issues regarding any finding of fact or conclusion of law upon which the order is based, the Administrator shall immediately suspend the effectiveness of the order until he may reconsider the order in light of the comments and objections filed. Thereafter, the Administrator shall reinstate, revoke or amend his original order as he determines appropriate.

Dated: May 9, 1975.

JOHN R. BARTELS, JR.,  
Administrator.

Drug Enforcement Administration.  
[FR Doc.75-13820 Filed 5-27-75; 8:45 am]

#### Title 29—Labor

#### CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

#### PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

#### PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

#### Recodification of Air Contaminant Standards

On September 20, 1974, at 39 FR 33843, the Occupational Safety and Health Administration announced its intention to initiate rulemaking proceedings to issue more complete standards for each of the substances listed in Tables G-1, G-2 and G-3 of 29 CFR 1910.93. As a result, it is expected that approximately 400 additional standards dealing with toxic substances will be promulgated.

Regulations dealing with toxic substances are contained in Subpart G of

Part 1910. This subpart contains only a few sections and additional serially numbered sections cannot be added without completely renumbering the subparts which follow. Therefore new standards dealing with individual toxic substances have in the past been inserted following § 1910.93 by the addition of letter suffixes (e.g., § 1910.93a—Asbestos; § 1910.93b—Coal tar pitch volatiles; interpretation of term; § 1910.93c—4-Nitrophenyl; . . . § 1910.93q—Vinyl chloride).

While such numbering is satisfactory for limited use, it is not suitable for a large group of new sections, because of the complex multiple-letter suffixes that result. Therefore, in view of the fact that OSHA contemplates promulgating a large number of standards dealing with toxic substances, the current numbering system cannot be continued. Consequently the toxic substance standards presently contained in Subpart G of Part 1910 are hereby recodified and placed in a new Subpart Z of Part 1910, beginning at § 1910.1000. New standards dealing with the new subpart. This recodification will simplify the manner in which standards for toxic substances may be referenced and will eliminate unnecessary confusion. Since this recodification makes no change in the standards, it is not necessary to provide notice of proposed rulemaking, opportunity for public participation therein, nor any delay in effective date under either section 6(b) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1593, 29 U.S.C. 655) or 5 U.S.C. 553.

Accordingly, pursuant to authority in sections 6 and 8 of the Act, Secretary's Order No. 12-71 (36 FR 8754) and 29 CFR Part 1911, Title 29 of the Code of Federal Regulations is hereby amended by recodifying §§ 1910.93 through 1910.93q as §§ 1910.1000 through 1910.1017 respectively, in a new Subpart Z of Part 1910 entitled "Toxic and Hazardous Substances." In addition, other sections of Parts 1910 and 1926 are amended so that internal references are consistent with this recodification, and a reference to the new Subpart Z is inserted in Subpart G, as follows:

1. The following table sets forth the recodification of §§ 1910.93 through 1910.93q as §§ 1910.1000 through 1910.1017 respectively:

Old Section No. (Subpart G)	New Section No. (Subpart Z)
1910.93	1910.1000
1910.93a	1910.1001
1910.93b	1910.1002
1910.93c	1910.1003
1910.93d	1910.1004
1910.93e	1910.1005
1910.93f	1910.1006
1910.93g	1910.1007
1910.93h	1910.1008
1910.93i	1910.1009
1910.93j	1910.1010
1910.93k	1910.1011
1910.93l	1910.1012
1910.93m	1910.1013
1910.93n	1910.1014
1910.93o	1910.1015
1910.93p	1910.1016
1910.93q	1910.1017

2. The following sections in Part 1910 which reference § 1910.93 are revised to refer to § 1910.1000.

a. In § 1910.94, paragraphs (a) (2) (II), (a) (5) (II) (c) and (d) (2) (III).

b. In § 1910.141, paragraph (a) (2) (VIII).

c. In § 1910.178, paragraph (i) (1).

d. In § 1910.252, paragraphs (f) (1) (iv), (f) (8), (f) (9) (i) and (f) (10).

e. In § 1910.261, paragraphs (g) (15) (iv) and (g) (20).

f. In § 1910.262, paragraph (tr).

g. In § 1910.285 paragraph (c) (17) (i).

h. New § 1910.1002.

3. The reference in § 1910.99 to § 1910.93 is deleted.

4. The following sections in Parts 1910 and 1926 which reference § 1910.93a are revised to refer to § 1910.1001.

a. § 1910.19.

b. In § 1910.141, paragraph (a) (2) (VIII).

c. In § 1926.55, paragraph (c).

5. As a result of this recodification, the table of contents for new Subpart Z reads as follows:

Subpart Z—Toxic and Hazardous Substances

Sec.:  
1910.1000 Air Contaminants.

1910.1001 Asbestos.

1910.1002 Coal tar pitch volatiles; interpretation of term.

1910.1003 4-Nitrophenyl.

1910.1004 alpha-Naphthylamine.

1910.1005 4,4'-Methylene bis (2-chloroaniline).

1910.1006 Methylchloromethyl ether.

1910.1007 3,3'-Dichlorobenzidine (and its salts).

1910.1008 bis-Chloromethyl ether.

1910.1009 beta-Naphthylamine.

1910.1010 Benzidine.

1910.1011 4-Aminodiphenyl.

1910.1012 Ethyleneimine.

1910.1013 beta-Propiolactone.

1910.1014 2-Acetylaminofluorene.

1910.1015 4-Dimethylaminoazobenzene.

1910.1016 N-Nitrosodimethylamine.

1910.1017 Vinyl chloride.

6. Tables G-1, G-2 and G-3 of § 1910.93 (now redesignated § 1910.1000) are redesignated as Tables Z-1, Z-2 and Z-3 respectively. All references in new § 1910.1000 to Tables G-1, G-2 and G-3 are revised to correspond with this redesignation.

7. New § 1910.1499 and 1910.1500 are added to Subpart Z to read as follows:

§ 1910.1499 Source of standards.

Section 1910.1000.. 41 CFR 50-204.50, except for Table Z-2, the source of which is American National Standards Institute, Z37 series.

§ 1910.1500 Standards organizations.

Specific standards of the following organizations have been referred to in this subpart. Copies of the standards may be obtained from the issuing organization.

American Conference of Governmental Industrial Hygienists  
1014 Broadway  
Cincinnati, Ohio 45202

American National Standards Institute  
1430 Broadway  
New York, New York 10018

National Fire Protection Association  
470 Atlantic Avenue  
Boston, Massachusetts 02210

8. In Subpart G of Part 1910, the following reference is added: §§ 1910.93-1910.93q (These sections have been recodified in Subpart Z of this part, beginning at § 1910.1000).

Effective date. This amendment shall become effective on May 27, 1975.

(Secs. 6, 8(g), Pub. L. 91-506, 84 Stat. 1593, 1600 (29 U.S.C. 655, 657), Secretary of Labor's Order No. 12-71, 36 FR 8754, 29 CFR Part 1911)

Signed at Washington, D.C., this 20th day of May 1975.

JOHN STENDER,  
Assistant Secretary of Labor.

[FR Doc.75-13809 Filed 5-27-75; 8:45 am]

#### Title 40—Protection of Environment CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

#### SUBCHAPTER E—PESTICIDE PROGRAMS [FRL 379-8; PP541592/R28]

#### PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

#### Methoprene

On March 28, 1975, notice was given (40 FR 14117) that Zoon Corp., 975 California Ave., Palo Alto CA 94304, had filed a pesticide petition (PP 5F1592) with the Environmental Protection Agency (EPA). This petition proposed establishment of a tolerance for residues of the insect growth regulator methoprene (isopropyl (E,E)-11-methoxy-3,7,11-trimethyl-2,4-dodecadienoate) in the raw agricultural commodities meat, fat, and meat byproducts of cattle at 0.1 part per million and in milk at 0.01 part per million. (A related document concerning the establishment of a feed additive regulation for methoprene also appears in today's FEDERAL REGISTER, 40 FR 23071.)

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The proposed tolerances for residues in milk, meat, fat, and meat byproducts of cattle are adequate to cover residues resulting from the proposed and established uses. Consequently, these raw agricultural commodities are being deleted from § 180.1033 "Methoprene; exemption from the requirement of a tolerance". The tolerances established by this regulation will protect the public health.

Any person adversely affected by this regulation may on or before June 27, 1975, file written objections with the Hearing Clerk, Environmental Protection Agency, 401 M Street SW., East Tower Room 1019, Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions for the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the

objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on May 28, 1975, Part 180, Subpart C, is amended by adding § 180.359, and Subpart D is amended by revising § 180.1033.

(Sec. 408(d)(2), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)))

Dated: May 22, 1975.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

1. Section 180.359 is added to Part 180, Subpart C, to read as follows:

§ 180.359 Methoprene; tolerances for residues.

Tolerances are established for residues of the insect growth regulator methoprene (isopropyl (E,E)-11-methoxy-3,7,11-trimethyl-2,4-dodecadienoate) in or on raw agricultural commodities as follows:

0.1 part per million in meat, fat, and meat byproducts of cattle

0.01 part per million in milk.

2. Section 180.1033 in Subpart D, Part 180, is revised by deleting the words cattle and milk from the list of raw agricultural commodities to read as follows:

§ 180.1033 Methoprene; exemption from the requirement of a tolerance.

The insect growth regulator methoprene (isopropyl (E,E)-11-methoxy-3,7,11-trimethyl-2,4-dodecadienoate) is exempt from the requirement of a tolerance in or on the raw agricultural commodities eggs; the fat, meat, and meat byproducts of goats, hogs, horses, poultry, and sheep; fish; forage grasses; forage legumes; rice; rice straw; and shellfish; when used on pastures, rice fields and marshlands and other noncrop areas to control floodwater mosquitoes.

[FR Doc.75-13934 Filed 5-27-75; 8:45 am]

#### Title 49—Transportation CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 25; Notice 17]

#### PART 575—CONSUMER INFORMATION REGULATIONS

#### Uniform Tire Quality Grading Standards

This notice establishes Uniform Tire Quality Grading Standards. The notice is based on proposals published June 14, 1974 (39 FR 20808, Notice 12), August 9, 1974 (39 FR 28644, Notice 14), January 7, 1975 (40 FR 1273, Notice 15). Comments submitted in response to these proposals have been considered in the preparation of this notice.

A rule on this subject was issued on January 4, 1974 (39 FR 1037). It was revoked on May 9, 1974 (39 FR 16469), due to the inability of the NHTSA to obtain from the tire industry "control tires" which were to have been used as the basis for determining the compara-



tive performance grades for treadwear and traction.

The rule issued today requires manufacturers to provide grading information for new passenger car tires in each of the following performance areas: Treadwear, traction, and temperature resistance. The respective grades are to be molded into or onto the tire sidewall, contained in a label affixed to each tire (except for OEM tires), and provided for examination by prospective purchasers in a form retainable by them at each location where tires are sold.

#### TREADWEAR

Treadwear grades are based on a tire's projected mileage (the distance which it is expected to travel before wearing down to its treadwear indicators) as tested on a single, predetermined test run of approximately 6400 miles. A tire's treadwear grade is expressed as the percentage which its projected mileage represents of a nominal 30,000 miles, rounded off to the nearest lower 10 percent increment. For example, a tire with a projected mileage of 24,000 would be graded "80", while one with a projected mileage of 40,000 would be graded "130".

The test course has been established by the NHTSA in the vicinity of San Angelo, Texas, as described in Appendix A. It is the same as that discussed at the public briefings on this subject which took place July 23 and July 29, 1974, except that the direction of travel has been reversed on the northwest loop to increase safety by reducing the number of left turns. The course is approximately 400 miles long, and each treadwear test will require 16 circuits. It is anticipated that both the industry, at each manufacturer's option, and the agency will perform treadwear tests on this course; the former for establishing grades, and the latter for purposes of compliance testing, i.e., testing the validity of the grades assigned. To arrange for allocations of test time at the site, industry members should contact the NHTSA facility manager, P.O. Box 6501, Goodfellow Air Force Base, San Angelo, Texas 76901; telephone (915) 655-0546. While manufacturers are not required to test on the site, it would be to their advantage to do so, since the legal standard against which compliance with the rule will be measured is a tire's performance in government tests on that course.

The method of determining projected mileages is essentially that proposed in Notice 12 as modified by Notices 14 and 15 in this docket. The treadwear performance of a candidate tire is measured along with that of course monitoring tires (CMTs) of the same general construction type (bias, bias-belted, or radial) used to monitor changes in course severity. The CMTs are tires procured by the NHTSA—one group each of the three general types—which are made available by the agency for purchase and use by regulated persons at the test site. To obtain course monitoring tires, regulated persons should contact the NHTSA facility manager at the above address.

Each test convoy consists of one car equipped with four CMTs and three or

fewer other cars equipped with candidate tires of the same construction type. (Candidate tires on the same axle are identical, but front tires on a test vehicle may differ from rear tires as long as all four are of the same size designation.) After a two-circuit break-in period, the initial tread depth of each tire is determined by averaging the depth measured at six equally spaced locations in each groove. At the end of every two circuits (800 miles), each tire's tread depth is measured again in the same way, the tires are rotated, and wheel alignments are readjusted if necessary. At the end of the 16-circuit test, each tire's overall wear rate is calculated from the nine measured tread depths and their corresponding mileages-after-break-in as follows: The regression line which "best fits" these data points is determined by applying the method of least squares as described in Appendix C; the wear rate is defined as the absolute value of the slope of the regression line, in mils of tread depth per 1000 miles. This wear rate is adjusted for changes in course severity by a multiplier consisting of the base wear rate for that type of course monitoring tire divided by the measured average of the wear rates for the four CMTs in that convoy. A candidate tire's tread depth after break-in (minus 62 mils to account for wearout when the treadwear indicators are reached) divided by its adjusted wear rate and multiplied by 1000, plus 800 miles, yields its projected mileage. The projected mileage is divided by 30,000 and multiplied by 100 to determine the percentage which, when rounded off, represents the candidate tire's treadwear grade.

A discussion of the NHTSA response to the comments on treadwear grading follows.

**Duration of break-in period and test.** The 400 mile break-in period originally proposed in Notice 12 was extended in Notice 15 to 800 miles, to permit the rotation of each tire between axles after 400 miles. The Rubber Manufacturers Association (RMA) suggested that a 1600-mile break-in, by permitting each tire to be rotated once through each position on the test car, would provide more reliable results. An analysis of variance in a study conducted by the NHTSA showed no significant variations in wear from one side of a car to the other. Further, a review of data from extensive testing on the San Angelo course showed no anomalies or consistent variations in wear rate occurring after the first 800 miles. The NHTSA is convinced that the 800-mile break-in period is sufficient to allow a tire to establish its equilibrium inflated shape and stabilize its wear rate. Therefore, the RMA suggestion has not been adopted.

Many of the comments to Notice 12 suggested that testing distances greater than 6400 miles are necessary for accurate tread life projections. Testing to 40 percent, 50 percent, and even 90 percent of wearout was urged. Unfortunately, only the submission of North American Dunlop was accompanied by substantive data. These data, showing non-linear wear rates, were of questionable validity

because the tires were not broken in prior to testing and because the data were collected by different test fleets in different parts of the country. Nonetheless, as a result of the large number of adverse comments, the NHTSA requested further information from all knowledgeable and concerned parties to document and substantiate the position that a longer treadwear test is necessary. The additional data were requested in a written inquiry to the RMA and in Notice 15. Because of the need to limit test time, test cost, and fuel consumption, the objective was to determine the minimum test distance which can reliably predict ultimate tire treadwear life.

The responses to these requests have been reviewed and analyzed. Again, the NHTSA finds the industry data and conclusions that greater testing distances are necessary lacking in rigor and completeness. In most cases, the conditions of the industry tests were not disclosed or did not coincide with the prescribed control procedures. Serious doubt is cast upon the conclusions because of inadequate information on one or more of the following test conditions: Changes in weather and season, course severity, conformity with prescribed break-in period, mileage between readings, method of projecting mileage, size of convoy, number of tires tested, and uniformity and frequency of tread depth measurement.

A controlled test program recently completed by the NHTSA was designed to test the hypothesis that the rate of wear of tires is constant after an 800-mile break-in. The design and conclusions of the test are discussed in detail in a paper by Brenner, Scheiner, and Kondo ("Uniform Tire Quality Grading: Effect of Status of Wear on Tire Wear," NHTSA Technical Note T-1014, March, 1975—General Reference entry No. 42 in this docket.) The general conclusions of the test are: (1) That the inherent rate of wear of tires, after an 800-mile break-in period, is constant and (2) that the projected tread life for a tire estimated from a 6,400-mile test after 800-mile break-in is accurate for all three tire types. Accordingly, the 6,400 mile test period has been retained.

**Grading based on minimum performance.** The RMA expressed strong disagreement with any system in which treadwear grades are based on a tire line's "minimum" projected mileage on the San Angelo test course, urging instead that the average performance of a line is a more appropriate grade. The RMA suggested further that the proposed grading system "ignores the bell-shaped distribution curve which describes any performance characteristic and would require the downgrading of an entire line of tires until no portion of the distribution curve fell below any selected treadwear grade, notwithstanding that the large bulk of a given group of tires was well above the grade."

The NHTSA rejects the arguments and the position taken by the industry on this issue. It is precisely the fact that, in industrial processes involving production of large numbers of items, the products group themselves into the so-called bell-

shaped or normal distribution which allows for measurement of central tendency and variation and forms the basis of scientific quality control.

Tests performed by the NHTSA and described in the paper cited above have shown conclusively that different production tires exhibit considerable differences in their variability about their respective average values. Thus, two different tire brands might have identical average values for treadwear, but differ markedly in their variance or standard deviation. These differences would probably be attributable to differences in process and quality control.

Recognition of differences in inherent variability among tire manufacturers and tire lines is of the utmost importance to the consumer. The average or mean measure of a group of tires does not provide sufficient information to enable the consumer to make an informed choice. If one tire on a user's car wears out in 10,000 miles, the fact that the "average" tire of that type wears to 25,000 miles in the same driving environment does not alter his need to purchase a new tire. Ideally, the consumer might be provided with more information if he were given a measure of the mean (central tendency) and standard deviation (variability) for each tire type, but the complexity and possible confusion generated by such a system would negate its advantages. In the NHTSA's judgment, the most valuable single grade for the consumer is one corresponding to a level of performance which he can be reasonably certain is exceeded by the universe population for that tire brand and line.

As with the other consumer information regulations issued by this agency, a grade represents a minimum performance figure to which every tire is expected to conform if tested by the government under the procedures set forth in the rule. Thus, any manufacturer in doubt about the performance capabilities of a line of his tires is free to assign a lower grade than what might actually be achieved, and he is expected to ensure that substantially all the tires marked with a particular grade are capable of achieving it.

**Homogeneity of course monitoring tires.** Another aspect of the Notice 12 proposal which generated much controversy is the adoption by the NHTSA of production tires for use as course monitoring tires. The commenters suggested that changes in course severity be monitored instead by tires manufactured under rigidly specified conditions to ensure homogeneity. Because variations in the performance of course monitoring tires are reflected in treadwear projections for all candidate tires, it follows that the more homogeneous the universe of the monitoring tires, the more precisely the performance of the candidate tires can be graded. The NHTSA is in complete accord with the industry's desire to minimize the variability of tires chosen for course monitoring. The development of specifications for special "control tires", in which materials, processing, and other conditions

are rigidly controlled to a degree beyond that possible for mass production, will continue. The NHTSA hopes to work with the tire industry to reduce the variability of course monitoring tires to the maximum extent possible. However, it should be noted that an earlier version of this regulation had to be revoked due to the difficulty in obtaining such "control tires." Recent tests (summarized in the paper cited above) demonstrate that implementation of a viable treadwear grading system need not be delayed further, pending development of special tires. In these tests, the current radial CMTs—Goodyear Custom Steelgards chosen from a single, short production run—show a coefficient of variation (standard deviation of wear rate divided by mean) of 4.9 percent. This degree of uniformity is commensurate with universally accepted criteria for test control purposes. Hence, grading of radial tires may be started immediately. The tentatively adopted bias and bias-belted CMTs showed coefficients of variation of 7.3 percent and 12.4 percent, respectively. Existing test data indicate that the NHTSA will be able to identify and procure other tires of these two construction types, exhibiting homogeneity comparable to the current radial CMTs, in time for testing in accordance with the implementation schedule set out below. In any event, the variability of course monitoring tires will be taken into account by the NHTSA in connection with its compliance testing. At worst, the degree of grading imprecision associated with CMT variability will be no greater than one-half the levels measured for the current bias and bias-belted tire lots, because the standard deviation for the average of a set of four tires is equal to one-half that of the universe standard deviation. It is the NHTSA's judgment that treadwear grades of this level of precision will provide substantially more meaningful information to the prospective tire buyer than is currently available.

To make efficient use of the available CMTs, the NHTSA expects to conduct treadwear tests with used CMTs, as well as with new ones. This will not affect any mileage projections, because the inherent wear rate of tires is constant after break-in. Test results will be discarded if the treadwear indicators are showing on any of the CMTs at the end of a test.

**The need for three separate course monitoring tires.** Many commenters suggested that a single CMT of the bias-ply type be used, arguing that the use of a different CMT for each general construction type would create three separate treadwear rating systems. These suggestions appear to result from a misunderstanding of the role of the course monitoring tires. They are not used as yardsticks against which candidate tires are graded. Instead, they are used to monitor changes in the severity of the test course. Experiments performed by the NHTSA (Brenner, F. C. and Kondo, A., "Elements in the Road Evaluation of Tire Wear", "Tire Science and Technology," Vol. 1, No. 1, February 1973, p. 17—General Reference entry No. 17 in

this docket) show that changes in test course severity will affect tires of differing construction types to differing degrees. For example, the improvement in projected tread life from the severest to the mildest test courses in the experiments was 12 percent for bias tires, yet it was 91 percent for bias-belted tires and 140 percent for radial tires. In fact, a variety of factors influence course severity, each having different relative effects on the various tire types. Therefore, the use of a single course monitoring tire on courses of varying severity, or even on a given course whose severity is subject to variation due to weather and road wear, would not permit the correct adjustment of measured wear rates for environmental influences. Only with a CMT for each construction type can a single, uniform treadwear grading system be established.

**Expression of treadwear grades.** The system of treadwear grading proposed in Notice 12 specified six grades, as follows:

Grade X (projected mileage less than 15,000)  
Grade 15 (projected mileage at least 15,000)  
Grade 25 (projected mileage at least 25,000)  
Grade 35 (projected mileage at least 35,000)  
Grade 45 (projected mileage at least 45,000)  
Grade 60 (projected mileage at least 60,000)

Among the objections to this proposal was that small differences in actual treadwear in the vicinity of grade boundaries would be misrepresented as large differences because of the breadth of the predetermined categories. The NHTSA was also concerned that the broad categories could in some cases reduce the desirable competitive impact of the treadwear grading system if tires of substantially differing treadwear performance were grouped in the same grade. For these reasons, a relatively continuous grading system was proposed in Notice 15, in which tires would be graded with two digit numbers representing their minimum projected mileages in thousands of miles as determined on the San Angelo test course. The major objection to both of these proposals was that grades expressing projected mileages would lead consumers to expect every tire to yield its indicated mileage. The manufacturers were especially concerned that this would subject them to implied warranty obligations, despite the disclaimer on the label. The NHTSA remains convinced that treadwear grades which are directly related to projected mileages are the most appropriate way of expressing treadwear performance. To overcome any possible misinterpretation by consumers, the grading system established today is changed from that of Notice 15 to indicate relative performance on a percentage basis, as described above. This decision is based in part upon the fact that testing performed to date on the San Angelo course has given projected mileages that are generally higher than those the average user will obtain; i.e., it appears to be a relatively mild course.

**Wheel alignment procedure.** Test vehicle wheel alignment procedures received considerable comment. Notice 12



proposed alignment to vehicle manufacturer's specifications after vehicle loading. Notice 15 proposed that this be done before loading, and that the measurements taken after loading be used as a basis for setting alignment for the duration of the test. The majority of the commenters strongly favored a return to the original procedure. The NHTSA takes particular cognizance of the fact that those commenters who have actually tried both procedures in testing at San Angelo find the procedure of Notice 12 to be satisfactory and practicable, and that of Notice 15 to be unusable. NHTSA representatives at San Angelo have reported satisfactory operation on a variety of vehicles using the originally proposed procedure, and have not observed any uneven tire wear that would indicate alignment problems. For these reasons, the final rule prescribes alignment procedures which are identical with those proposed in Notice 12.

**Tire rotation procedure.** Several commenters objected to using the proposed "X" rotation procedure for testing radial tires. The NHTSA is aware that this procedure differs from that recommended by many groups for consumers' use. While some vehicle and tire manufacturers recommend that radial tires be rotated only fore-aft, others recommend no rotation at all and yet others are silent on the subject. The primary reason for these other methods appears to be to improve passenger comfort by reducing vibration. No data have been submitted, however, to suggest that the proposed method has any adverse or uneven effect on radial tire wear. Further, this method has the advantage, for treadwear testing, of balancing out any side-to-side or axle wear differences attributable to the vehicle or to the course. Accordingly, the proposed tire rotation method has been adopted without change.

**Choice of grooves to be measured.** Some commenters suggested that treadwear projections be calculated from measurements of the most worn grooves on candidate tires, rather than from the averages of measurements made in all grooves. It was argued that, because many States require replacement of passenger car tires when treadwear indicators appear in any two adjacent grooves, the proposed method of calculation would yield misleadingly high projections. Analysis of projections based on both methods (Brenner, F. C. and Kondo, A., "Patterns of Tread Wear and Estimated Tread Life," "Tire Science and Technology," Vol. 2, No. 1, 1973—General Reference entry no. 27 in this docket) shows a high correlation between the resulting tire rankings. Because the treadwear grading system established today is based on relative performance, there is no disadvantage in adopting the proposed method. On a related issue, the E.T.R.T.O. pointed out that some grooves near the tire shoulder which are designed only for esthetic reasons exhibit practically no wear, and suggested that measurements be made only in those grooves

which contain treadwear indicators. This suggestion has been adopted.

**Calculation of projected mileage.** Several methods for calculating the tire wear rates to be used in determining projected mileages were considered. Notice 12 proposed calculating the geometric mean of the wear rates measured for each 800-mile increment. This approach was rejected because the geometric mean is extremely sensitive to inaccurate readings in any single measurement. Use of the arithmetic mean of the incremental wear rates appears to be the general industry practice. Unfortunately, however, the intermediate readings have no effect on such a calculation, because the result is a function only of the initial tread depth (after break-in) and that measured 6,400 miles later. Therefore, a wear rate calculated by the industry method is extremely sensitive to errors in these two measurements. In Notice 15, the NHTSA proposed that wear rate be calculated by the least-squares regression method, as described above. This approach has the advantage of weighting all measurements and minimizing the effect of inaccurate readings, so it has been adopted.

**Differing tires on a single test vehicle.** Uniroyal and the E.T.R.T.O. argued that each test convoy vehicle should be equipped with four identical tires; the reason given was that otherwise, the performance of a candidate tire would be a function of the tires chosen by the NHTSA for use on the other axle of the test vehicle during compliance testing. The NHTSA is unaware of any data that support this position. The rule adopted today requires that all vehicles in a single convoy be equipped with tires of the same general construction type, and that all tires on a single vehicle be of the same size designation. In extensive testing at San Angelo with this procedure, none of the suggested undesirable variations has been observed.

**Differing test vehicles in a single convoy.** Several commenters suggested that the rule specify that all vehicles in a given convoy be identical, to reduce variations in projected treadlife. The NHTSA is in complete agreement with the premise that those variables which can be identified and which can affect treadwear results should be controlled as closely as is feasible. Variations in vehicle type, however, do not appear to produce significant variations in treadwear projections. Nevertheless, to minimize such variations, tires will be tested for compliance only on vehicles for which they are available as original equipment or recommended replacement options. Where practical, all vehicles in a given convoy will be of the same make. However, to test tires designed for the range of wheel sizes available, the suggested method would require a proliferation of course monitoring tires, one for each combination of wheel size and construction type. Therefore, the suggestion has not been adopted.

**Accuracy of tread depth measurements.** The RMA suggested that the

interval between measurements be increased to 1,600 miles to reduce the effects of measurement error. However, if this interval were used instead of 800 miles, only five readings would be obtained in the 6,400 mile treadwear test, so errors in any one reading would result in a greater overall error. A recently completed study (Kondo, A. and Brenner, F. C., "Report on Round-Robin Groove Depth Measuring Experiment," "NHTSA Technical Note T-1012," March 1975—General Reference entry No. 44 in this docket) shows that variations among measurements of the same tread depth by different operators do not present a serious problem. The study found that the only significant variations in measurement results occur as a result of differences in measuring techniques between different laboratories. Since these techniques are consistent within a given laboratory, the different laboratories arrive at the same results in terms of the slope of the tread depth regression line that is the basis of the treadwear grade.

#### TRACTION

Traction grades are based on a tire's traction coefficient as measured on two wet skid pads, one of asphalt and one of concrete. Because a method for producing identical skid test surfaces at different sites has not yet been developed, the NHTSA has established two skid pads, described in Appendix B, near the treadwear test course in San Angelo. These pads represent typical highway surfaces. The asphalt surface has a traction coefficient, when tested wet using the American Society for Testing and Materials (ASTM) E 501 tire, of  $0.50 \pm 0.10$ . The concrete surface was described in Notice 12 as having a traction coefficient, when similarly tested, of  $0.47 \pm 0.05$ . Due to surface polishing, this coefficient has declined and stabilized at  $0.35 \pm 0.10$ . As with the treadwear course, these pads are available for use by manufacturers as well as the agency. For allocations of test time, industry members should contact the NHTSA facility manager at the above address.

Before each candidate tire test, the traction coefficient of each surface is measured with two ASTM tires to monitor variations in the surface, using a two-wheeled test trailer built in accordance with ASTM Method E-274-70. The candidate tire's traction coefficient is similarly measured on each surface, and then adjusted by adding a fixed coefficient (0.50 for asphalt, 0.35 for concrete) and subtracting the average coefficient obtained from measurements with the two ASTM tires.

The tire industry's major objection to the proposed rule was that, with four possible grades for traction, two tires might be graded differently without a meaningful difference in their performance. The RMA suggested a scheme with two grade categories above a minimum requirement. The rule issued today, by setting two threshold levels of performance, establishes three grades: "0", for performance below the first threshold;

threshold; and "...", for performance above the second threshold. The NHTSA is convinced that the grades thus defined reflect significant differences in traction performance.

Firestone suggested that further testing may demonstrate that only one pad is necessary to give the best and most consistently repeatable results. However, the ranking of a group of tires based on their performance on one surface can differ from their ranking on another surface. In fact, one tire manufacturer suggested that an additional surface of low coefficient be included in the testing scheme for this reason. The NHTSA agrees that an additional surface may increase the utility of the traction grading system, and anticipates a proposal to implement this suggestion in the future.

The suggestion of Pirelli, that measurements be made during the period between 0.5 and 1.5 seconds after wheel lockup instead of the period between 0.2 and 1.2 seconds, has been adopted. To permit more efficient use of the skid pads, the rule specifies a test sequence which differs slightly from that originally proposed: "Instead of being tested repeatedly on the asphalt pad and then repeatedly on the concrete pad, each tire is run alternately over the two pads. A change in paragraph (f)(2)(i)(A) permits tires to be conditioned on the test trailer as an alternative to conditioning on a passenger car. Another change facilitates the use of trailers with instrumentation on only one side, which had been inadvertently precluded by the wording of the proposed rule.

#### TEMPERATURE RESISTANCE

The major objection to the proposed high speed performance grading scheme was that it was neither necessary nor beneficial to the consumer. Several commenters pointed out that Standard No. 109 specifies testing a tire against a laboratory wheel at a speed corresponding to 85 mph, and argued that certification of a tire to this minimum requirement provides the consumer with adequate information about its performance at all expected driving speeds. They suggested that only one higher grade be established, for tires designed to be used on emergency vehicles. Some commenters indicated that, as proposed, the rule seemed to condone or even encourage the unsafe operation of motor vehicles above legal speed limits. To preclude this misinterpretation, the third tire characteristic to be graded has been renamed "temperature resistance". The grade is indicative of the running temperature of the tire. Sustained high temperature can cause the material of the tire to degenerate and reduce tire life, and excessive temperature can lead to sudden tire failure. Therefore, the distinctions provided by three grades of temperature resistance are meaningful to the consumer. Except for the name change, this aspect of quality grading has been adopted as proposed. A grade of "C" corresponds to the minimum requirements of Standard

No. 109. "B" indicates completion of the 500 rpm test stage specified in paragraph (g)(9), while "A" indicates completion of the 575 rpm test stage.

#### PROVISION OF GRADING INFORMATION

Several commenters objected to the proposed tread label requirement, suggesting that point-of-sale material such as posters and leaflets could provide the consumer with adequate information about tire grades. For the reasons discussed in Notice 12, the NHTSA is convinced that labels affixed to the tread of the tire are the only satisfactory method of providing complete information to replacement tire purchasers. Therefore, the scheme of transmitting quality grading information to consumers, combining sidewall molding, tread labels, and point-of-sale materials, has been adopted substantially as proposed. A change in paragraph (d)(1)(ii) clarifies the respective duties of vehicle manufacturers and tire manufacturers to provide information for prospective purchasers.

Several vehicle manufacturers requested that new vehicles not be required to be equipped with graded tires until six months after the date that tires must be graded. These commenters appear to have misunderstood the scope of the quality grading standard. The NHTSA expects that tires which comply with the standard will appear on new vehicles as inventories of ungraded tires are depleted. Part 575.6 requires of the vehicle manufacturer only that he provide the specified information to purchasers and prospective purchasers when he equips a vehicle with one or more tires manufactured after the applicable effective date of this rule.

The NHTSA has determined that an Inflationary Impact Statement is not required pursuant to Executive Order 11621. Industry cost estimates and an inflation impact review are filed in public Docket No. 25. This review includes an evaluation of the expected cost of the rule.

In consideration of the foregoing, a new § 575.104, "Uniform Tire Quality Grading Standards" is added to 49 CFR Part 575, to read as set forth below.

**Effective dates.** For all requirements other than the molding requirement of paragraph (d)(1)(i)(A): January 1, 1976, for radial ply tires; July 1, 1976, for bias-belted tires; January 1, 1977, for bias ply tires. For paragraph (d)(1)(i)(A): July 1, 1976, for radial ply tires; January 1, 1977, for bias-belted tires; July 1, 1977, for bias-ply tires.

(Secs. 103, 112, 119, 201, 203; Pub. L. 89-563, 80 Stat. 718 (16 U.S.C. 1392, 1401, 1407, 1421, 1423); delegation of authority at 49 CFR 1.51.)

Issued on May 20, 1975.

JAMES B. GREGORY,  
Administrator.

#### § 575.104 Uniform tire quality grading standards.

(a) **Scope.** This section requires motor vehicle and tire manufacturers and tire brand name owners to provide information

indicating the relative performance of passenger car tires in the areas of treadwear, traction, and temperature resistance.

(b) **Purpose.** The purpose of this section is to aid the consumer in making an informed choice in the purchase of passenger car tires.

(c) **Application.** This section applies to new pneumatic tires for use on passenger cars manufactured after 1948. However, this section does not apply to deep tread, winter-type snow tires.

(d) **Requirements—(1) Information.** (i) Each manufacturer of tires, or in the case of tires marketed under a brand name, each brand name owner, shall provide grading information for each tire of which he is the manufacturer or brand name owner in the manner set forth in paragraphs (d)(1)(i)(A) and (d)(1)(i)(B) of this section. The grades for each tire shall be only those specified in paragraph (d)(2) of this section. Each tire shall be able to achieve the level of performance represented by each grade with which it is labeled. An individual tire need not, however, meet further requirements after having been subjected to the test for any one grade.

(A) Each tire shall be graded with the words, letters, symbols, and figures specified in paragraph (d)(2) of this section, permanently molded into or onto the tire sidewall between the tire's maximum section width and shoulder in accordance with one of the methods described in Figure 1.

(B) Each tire, except a tire sold as original equipment on a new vehicle, shall have affixed to its tread surface in a manner such that it is not easily removable a label containing its grades and other information in the form illustrated in Figure 2. The treadwear grade attributed to the tire shall be either imprinted or indelibly stamped on the label adjacent to the description of the treadwear grade. The label shall also depict all possible grades for traction and temperature resistance. The traction and temperature resistance performance grades attributed to the tire shall be indelibly circled.

(ii) In the case of information required in accordance with § 575.6(c) to be furnished to prospective purchasers of motor vehicles and tires, each vehicle manufacturer and each tire manufacturer or brand name owner shall as part of that information list all possible grades for traction and temperature resistance, and restate verbatim the explanations for each performance area specified in Figure 2. The information need not be in the same format as in Figure 2, but must indicate clearly and unambiguously the grade in each performance area for:

(A) In the case of a vehicle manufacturer, each tire offered for sale on a new motor vehicle; and

(B) In the case of a tire manufacturer or brand name owner, each tire of that manufacturer or brand name owner offered for sale at the particular location.

V  
4  
0  
1  
0  
3  
M  
A  
Y  
2  
8  
7  
5



(iii) In the case of information required in accordance with § 575.6(a) to be furnished to the first purchaser of a new motor vehicle, each manufacturer of motor vehicles shall as part of that information list all possible grades for traction and temperature resistance and restate verbatim the explanation for each performance area specified in Figure 2. The information need not be in the format of Figure 2, but must clearly and unambiguously indicate the quality grades for the tires with which the vehicle is equipped.

(2) **Performance—(i) Treadwear.** Each tire shall be graded for treadwear performance with the word "TREADWEAR" followed by a number of two or three digits representing the tire's grade for treadwear, expressed as a percentage of the NHTSA nominal treadwear value, when tested in accordance with the conditions and procedures specified in paragraph (e) of this section. Treadwear grades shall be multiples of 10 (e.g., 80, 150).

(ii) **Traction.** Each tire shall be graded for traction performance with the word "TRACTION," followed by the symbols 0, \*, or \*\* (either asterisks or 5-pointed stars) when the tire is tested in accordance with the conditions and procedures specified in paragraph (f) of this section.

(A) The tire shall be graded 0 when the adjusted traction coefficient is either:

(1) 0.38 or less when tested in accordance with paragraph (f) (2) of this section on the asphalt surface specified in paragraph (f) (1) (i) of this section, or

(2) 0.26 or less when tested in accordance with paragraph (f) (2) of this section on the concrete surface specified in paragraph (f) (1) (i) of this section.

(B) The tire may be graded \* only when its adjusted traction coefficient is both:

(1) More than 0.38 when tested in accordance with paragraph (f) (2) of this section on the asphalt surface specified in paragraph (f) (1) (i) of this section, and

(2) More than 0.26 when tested in accordance with paragraph (f) (2) of this section on the concrete surface specified in paragraph (f) (1) (i) of this section.

(C) The tire may be graded \*\* only when its adjusted traction coefficient is both:

(1) More than 0.47 when tested in accordance with paragraph (f) (2) of this section on the asphalt surface specified in paragraph (f) (1) (i) of this section, and

(2) More than 0.35 when tested in accordance with paragraph (f) (2) of this section on the concrete surface specified in paragraph (f) (1) (i) of this section.

(iii) **Temperature resistance.** Each tire shall be graded for temperature resistance performance with the word "TEMPERATURE" followed by the letter A, B, or C, based on its performance when the tire is tested in accordance with the procedures specified in paragraph (g)

of this section. A tire shall be considered to have successfully completed a test stage in accordance with this paragraph if, at the end of the test stage, it exhibits no visual evidence of tread, sidewall, ply, cord, innerliner or bead separation, chunking, broken cords, cracking or open splices as defined in § 571.109 of this chapter, and the tire pressure is not less than the pressure specified in paragraph (g) (1) of this section.

(A) The tire shall be graded C if it fails to complete the 500 rpm test stage specified in paragraph (g) (9) of this section.

(B) The tire may be graded B only if it successfully completes the 500 rpm test stage specified in paragraph (g) (9) of this section.

(C) The tire may be graded A only if it successfully completes the 575 rpm test stage specified in paragraph (g) (9) of this section.

(e) **Treadwear grading conditions and procedures—(1) Conditions.** (i) Tire treadwear performance is evaluated on a specific roadway course approximately 400 miles in length, which is established by the NHTSA both for its own compliance testing and for that of regulated persons. The course is designed to produce treadwear rates that are generally representative of those encountered in public use for tires of differing construction types. The course and driving procedures are described in Appendix A to this section.

(ii) Treadwear grades are evaluated by first measuring the performance of a candidate tire on the government test course, and then correcting the projected mileage obtained to account for environmental variations on the basis of the performance of course monitoring tires of the same general construction type (bias, bias-belted, or radial) run in the same convoy. The three types of course monitoring tires are made available by the NHTSA at Goodfellow Air Force Base, San Angelo, Texas, for purchase by any persons conducting tests at the test course.

(iii) In convoy tests each vehicle in the same convoy, except for the lead vehicle, is throughout the test within human eye range of the vehicle immediately ahead of it.

(iv) A test convoy consists of no more than four passenger cars, each having only rear-wheel drive.

(v) On each convoy vehicle, all tires are mounted on identical rims: either a "test rim" as defined with respect to that tire in paragraph S3 of § 571.109 of this chapter (Standard No. 109) or any other rim listed for use with that tire in Appendix A of § 571.110 of this chapter (Standard No. 110) having a width within  $-0+0.50$  inches of the "test rim" width.

(2) **Treadwear grading procedure.** (i) Equip a convoy with course monitoring and candidate tires of the same construction type. Place four course monitoring tires on one vehicle. On each other vehicle, place four candidate tires with identical size designations. On each

axle, place tires that are identical with respect to manufacturer and line.

(ii) Inflate each candidate and each course monitoring tire to an inflation pressure 8 pounds per square inch less than its maximum permissible inflation pressure.

(iii) Load each vehicle so that the load on each course monitoring and candidate tire is 85 percent of the load specified in Appendix A of § 571.109 of this chapter (Standard No. 109) at the inflation pressure specified in paragraph (e) (2) (ii) of this section.

(iv) Adjust wheel alignment to that specified by the vehicle manufacturer.

(v) Subject candidate and course monitoring tires to "break-in" by running the tires in convoy for two circuits of the test roadway (800 miles). At the end of the first circuit, rotate each vehicle's tires by moving each front tire to the same side of the rear axle and each rear tire to the opposite side of the front axle.

(vi) After break-in, allow the tires to cool to the inflation pressure specified in paragraph (e) (2) (ii) of this section or for two hours, whichever occurs first. Measure, to the nearest 0.001 inch, the tread depth of each candidate and course monitoring tire, avoiding treadwear indicators, at six equally spaced points in each groove. For each tire compute the average of the measurements. Do not include those shoulder grooves which are not provided with treadwear indicators.

(vii) Adjust wheel alignment to the manufacturer's specifications.

(viii) Drive the convoy on the test roadway for 6,400 miles. After each 800 miles:

(A) Following the procedure set out in paragraph (e) (2) (vi) of this section, allow the tires to cool and measure the average tread depth of each tire;

(B) Rotate each vehicle's tires by moving each front tire to the same side of the rear axle and each rear tire to the opposite side of the front axle.

(C) Rotate the vehicles in the convoy by moving the last vehicle to the lead position. Do not rotate driver position within the convoy.

(D) Adjust the wheel alignment to the vehicle manufacturer's specifications, if necessary.

(ix) Determine the projected mileage for each candidate tire as follows:

(A) For each course monitoring and candidate tire in the convoy, using the average tread depth measurements obtained in accordance with paragraph (e) (2) (vi) of this section and the corresponding mileages as data points, apply the method of least squares as described in Appendix C to this section to determine the estimated regression line of  $y$  on  $x$  given by the following formula:

$$y = a + \frac{bx}{1000}$$

Where:

$y$  = average tread depth in mills,  $x$  = miles after break-in.

$a$  =  $y$  intercept of regression line (reference tread depth) in mills, calculated using the method of least squares; and

$b$  = the slope of the regression line in mills of tread depth per 1,000 miles, calculated using the method of least squares. This slope will be negative in value. The tire's wear rate is defined as the absolute value of the slope of the regression line.

(B) Average the wear rates of the four course monitoring tires as determined in accordance with paragraph (e) (2) (ix) (A) of this section.

(C) Determine the course severity adjustment factor by dividing the base wear rate for the course monitoring tire (see note below) by the average wear rate for the four course monitoring tires determined in accordance with paragraph (e) (2) (ix) (B) of this section.

NOTE: The base wear rates for the course monitoring tires will be furnished to the purchaser at the time of purchase.

(D) Determine the adjusted wear rate for each candidate tire by multiplying its wear rate determined in accordance with paragraph (e) (2) (ix) (A) of this section by the course severity adjustment factor determined in accordance with paragraph (e) (2) (ix) (C) of this section.

(E) Determine the projected mileage for each candidate tire using the following formula:

$$\text{Projected mileage} = \frac{1000(a-b)}{b} + 800$$

Where:

$a$  =  $y$  intercept of regression line (reference tread depth) for the candidate tire as determined in accordance with paragraph (e) (2) (ix) (A) of this section.

$b$  = the adjusted wear rate for the candidate tire as determined in accordance with paragraph (e) (2) (ix) (D) of this section.

(F) Compute the percentage of the NHTSA nominal treadwear value for each candidate tire using the following formula:

$$P = \frac{\text{Projected Mileage}}{30,000} \times 100$$

Round off the percentage to the nearest lower 10 percent increment.

(f) **Traction grading conditions and procedures—(1) Conditions.** (i) Tire traction performance is evaluated on skid pads that are established, and whose severity is monitored, by the NHTSA both for its compliance testing and for that of regulated persons. The test pavements are asphalt and concrete surfaces constructed in accordance with the specifications for pads "C" and "A" in the "Manual for the Construction and Maintenance of Skid Surfaces," National Technical Information Service No. DOT-HS-800-814. The surfaces have locked wheel traction coefficients when evaluated in accordance with paragraphs (f) (2) (i) through (f) (2) (vii) of this section of  $0.50 \pm 0.10$  for the asphalt and  $0.35 \pm 0.10$  for the concrete. The location of the skid pads is described in Appendix B to this section.

(ii) The standard tire is the American Society for Testing and Materials

(ASTM) E 501 "Standard Tire for Pavement Skid Resistance Tests."

(iii) The pavement surface is wetted in accordance with paragraph 3.5, "Pavement Wetting System," of ASTM Method E 274-70, "Skid Resistance of Paved Surfaces Using a Full-Scale Tire."

(iv) The test apparatus is a test trailer built in conformity with the specifications in paragraph 3, "Apparatus," of ASTM Method E 274-70, and instrumented in accordance with paragraph 3.3.2 of that method, except that "wheel load" in paragraph 3.2.2 and tire and rim specifications in paragraph 3.2.3 of that method are as specified in the procedures in paragraph (f) (2) of this section for standard and candidate tires.

(v) The test apparatus is calibrated in accordance with ASTM Method F 377-74, "Standard Method for Calibration of Braking Force for Testing of Pneumatic Tires" with the trailer's tires inflated to 24 psi and loaded to 1085 pounds.

(vi) Consecutive tests on the same surface are conducted not less than 30 seconds apart.

(vii) A standard tire is discarded in accordance with ASTM Method E 501.

(2) **Procedure.** (i) Prepare two standard tires as follows:

(A) Condition the tires by running them for 200 miles on a pavement surface.

(B) Mount each tire on a "test rim" as defined in S3 of Standard No. 109 (§ 571.109 of this chapter), or on any rim listed for use with that tire in the Appendix of Standard No. 110 (§ 571.110 of this chapter) that is of a width within  $-0+0.50$  inches of the "test rim" width. Then inflate the tire to 24 psi.

(C) Static balance each tire-rim combination.

(D) Allow each tire to cool to ambient temperature and readjust its inflation pressure to 24 psi.

(ii) Mount the tires on the test apparatus described in paragraph (f) (1) (iv) of

$u_a$  = Measured candidate tire coefficient for asphalt + 0.50  
— Measured standard tire coefficient for asphalt

(x) Compute a candidate tire's adjusted traction coefficient for concrete ( $u_c$ ) by the following formula:

$u_c$  = Measured candidate tire coefficient for concrete + 0.35  
— Measured standard tire coefficient for concrete

(g) **Temperature resistance grading.** (1) Mount the tire on any test rim as defined in S3 of Standard No. 109 (§ 571.109 of this chapter) and inflate it to 2 pounds per square inch less than its maximum permissible inflation pressure.

(2) Condition the tire-rim assembly at an ambient temperature of 105° F. for 3 hours.

(3) Adjust the pressure again to 2 pounds per square inch less than the maximum permissible inflation pressure.

(4) Mount the tire-rim assembly on an axle, and press the tire tread against the surface of a flat-faced steel test wheel that is 67.23 inches in diameter and at least as wide as the section width of the tire.

this section and load each tire to 1085 pounds.

(iii) Tow the trailer on the asphalt test surface specified in paragraph (f) (1) (i) of this section at a speed of 40 mph, lock one trailer wheel, and record the locked-wheel traction coefficient on the tire associated with that wheel between 0.5 and 1.5 seconds after lockup.

(iv) Repeat the test on the concrete surface, locking the same wheel.

(v) Repeat the tests specified in paragraphs (f) (2) (iii) and (f) (2) (iv) of this section for a total of 10 measurements on each test surface.

(vi) Repeat the procedures specified in paragraphs (f) (2) (iii) through (f) (2) (v) of this section, locking the wheel associated with the other tire.

(vii) Average the 20 measurements taken on the asphalt surface to find the standard tire traction coefficient for the asphalt surface. Average the 20 measurements taken on the concrete surface to find the standard tire traction coefficient for the concrete surface.

(viii) Prepare two candidate tires of the same construction type, manufacturer, line, and size designation in accordance with paragraph (f) (2) (i) of this section, mount them on the test apparatus, and test one of them according to the procedures of paragraphs (f) (2) (ii) through (v) of this section, except load each tire to 85 percent of the load specified at 24 psi for the tires' size designation in Appendix A of Standard No. 109 (§ 571.109 of this chapter). Average the 10 measurements taken on the asphalt surface to find the candidate tire traction coefficient for the asphalt surface. Average the 10 measurements taken on the concrete surface to find the candidate tire traction coefficient for the concrete surface.

(ix) Compute a candidate tire's adjusted traction coefficient for asphalt ( $u_a$ ) by the following formula:

$u_a$  = Measured candidate tire's adjusted traction coefficient for asphalt + 0.50  
— Measured standard tire coefficient for asphalt

(x) Compute a candidate tire's adjusted traction coefficient for concrete ( $u_c$ ) by the following formula:

$u_c$  = Measured candidate tire coefficient for concrete + 0.35  
— Measured standard tire coefficient for concrete

(5) During the test, including the pressure measurements specified in paragraphs (g) (1) and (g) (3) of this section, maintain the temperature of the ambient air, as measured 12 inches from the edge of the rim flange at any point on the circumference on either side of the tire, at 105° F. Locate the temperature sensor so that its readings are not affected by heat radiation, drafts, variations in the temperature of the surrounding air, or guards or other devices.

(6) Press the tire against the test wheel at the load specified in Appendix A of § 571.109 of this chapter (Motor Vehicle Safety Standard No. 109) for the tire's size designation and the inflation pressure that is 8 pounds per square inch less than the tire's maximum permissible inflation pressure.



(7) Rotate the test wheel at 250 rpm for 2 hours.

(8) Remove the load, allow the tire to cool to 105° F. or for 2 hours, whichever occurs last, and readjust the inflation pressure to 2 pounds per square inch less than the tire's maximum permissible inflation pressure.

(9) Reapply the load and without interruption or readjustment of inflation pressure, rotate the test wheel at 375 rpm for 30 minutes, and then at successively higher rates in 25 rpm increments, each for 30 minutes, until the tire has run at 575 rpm for 30 minutes, or to failure, whichever occurs first.

**Temperature** The temperature grades are A (the highest), B, and C, representing the tire's resistance to the generation of heat and its ability to dissipate heat. Sustained high temperature can cause the material of the tire to degenerate and reduce tire life, and excessive temperature can lead to sudden tire failure. The grade C corresponds to a level of performance which all passenger car tires must meet under the Federal motor vehicle safety standards. Grades B and A represent higher levels of performance than the minimum required by law.

#### APPENDIX A—TREADWEAR TEST COURSE AND DRIVING PROCEDURES

**Introduction.** The test course consists of three loops of a total of 400 miles in the geographical vicinity of Goodfellow AFB, San Angelo, Texas.

The first loop runs south 143 miles through the cities of Eldorado, Sonora, and Juno, Texas, to the Camp Hudson Historical Marker, and returns by the same route.

The second loop runs northwest toward Robert Lee, through Water Valley, and returns to the vicinity of Goodfellow AFB.

The third loop runs east over Farm and Ranch Roads (FM) and returns to the starting point.

**Route.** The route is shown in Figure 3. The table identifies key points by number. These numbers are encircled in Figure 3 and in parentheses in the descriptive material that follows.

**Southern Loop.** The course begins at the intersection (1) of Ft. McKavitt Road and Paint Rock Road (FM388) at the northwest corner of Goodfellow AFB. Drive east via FM388 to junction with Loop Road 306 (2). Turn right onto Loop Road 306 and proceed south to junction with US277 (3). Turn left onto US277 and proceed south through Eldorado and Sonora (4), continuing on US277 to junction with FM189 (5). Turn right onto FM189 and proceed to junction with Texas 163 (6). Turn left onto Texas 163, proceed south to Camp Hudson Historical Marker (7) and U-turn in highway. Reverse route to junction of Loop Road 306 and FM388 (2).

**Northwestern Loop.** Thru junction of Loop Road 306 and FM388 (2), proceed north on Loop Road 306, onto US277, to junction with FM2106 (8). Turn left onto FM2106 and proceed west to junction with US87 (9). Turn right on US87 and proceed northwest to the junction with FM2034 near the town of Water Valley (10). Turn right onto FM2034 and proceed north to Texas 208 (11). Turn right onto Texas 208 and proceed south to junction with FM2105 (12). Turn left onto FM2105 and proceed east to junction with US277 (8). Turn right onto US277 and proceed south onto 306 to junction with 388 (2).

**Eastern Loop.** From junction of Loop Road 306 and FM388 (2) make left turn onto FM388 and drive east to junction with FM2334 (13). Turn right onto FM2334 and proceed south across FM765 (14) to junction of FM2384 and US87 (15). Make U-turn and return to junction of FM388 and Loop Road 306 (2) by the same route. Proceed to start-

upon the actual conditions of their use, however, and may depart significantly from the norm due to variations in driving habits, service practices, and differences in road characteristics and climate.

The traction grades are \*\* (the highest), \*, and 0, and represent the tire's ability to stop on wet pavements as measured on asphalt and concrete test surfaces. A tire marked 0 for traction may have poor traction performance.

TREADWEAR 160 TRACTION \*\* TEMPERATURE B

OPTION 1

Curvature to Suit Mold

TREADWEAR 160 TRACTION \*\* TEMPERATURE B

2 1/2" min.

OPTION 2

Locate quality grades between the shoulder and the maximum section width.

Maximum Section Width

Note: The quality grades shall be in "Futura Bold, Modified, Condensed or Gothic" characters permanently molded (.020 to .040 deep) into or onto the tire as indicated.

FIGURE 1

FIGURE 2—DOT QUALITY GRADES

ALL PASSENGER CAR TIRES MUST CONFORM TO FEDERAL SAFETY REQUIREMENTS IN ADDITION TO THESE GRADES

**Treadwear** The treadwear grade is a comparative rating based on the wear rate of the tire when tested under controlled conditions on a specified government test course. For example, a tire graded 200 would wear twice as well on the government course as a tire graded 100. The relative performance of tires depends

**Traction**

\*\*

\*

0

ing point at junction of Ft. McKavitt Road and FM388 (1).

**Driving Instructions.** The drivers shall run at posted speed limits throughout the course unless an unsafe condition arises. If such condition arises, the speed should be reduced to the maximum safe operating speed.

**Braking procedures at STOP signs.** There are a number of intersections at which stops are required. At each of these intersections a series of signs is placed in a fixed order as follows:

#### SIGN LEGEND

Highway Intersection 1000 (or 2000) Feet  
STOP AHEAD  
Junction X X X  
Direction Sign (Mereta →)  
STOP or YIELD

**Procedures.** 1. Approach each intersection at the posted speed limit.

2. When abreast of the STOP AHEAD sign, apply the brakes so that the vehicle decelerates smoothly to 10 mph when abreast of the direction sign.

3. Come to a complete stop at the STOP sign or behind any vehicle already stopped.

Key points along treadwear test course, approximate mileages, and remarks

	Mileage	Remarks
1 Ft. McKavitt Road & FM388	0	
2 FM388 & Loop 306	3	STOP
3 Loop 306 & US277	19	
4 Sonora	72	
5 US277 & FM189	85	
6 FM189 & Texas 163	124	
7 Historical Marker (Camp Hudson)	143	U-TURN
8 Sonora	214	
9 Loop 306 & US277	275	
10 FM388 & Loop 306	281	
11 US277 & FM2106	287	
12 US277 & FM2106	294	
13 FM2034 & US87	312	
14 Texas 208 & FM2034	336	
15 FM2105 & Texas 208	361	
16 FM2105 & US277	365	
17 Loop 306 & FM388	371	
18 FM388 & FM2334	378	STOP
19 FM2334 & FM765	380	STOP
20 FM2334 & FM765	383	STOP
21 FM2334 & US87	389	U-TURN
22 FM2334 & FM765	387	STOP
23 FM2334 & FM388	389	STOP
24 FM388 & Ft. McKavitt Road	399	STOP

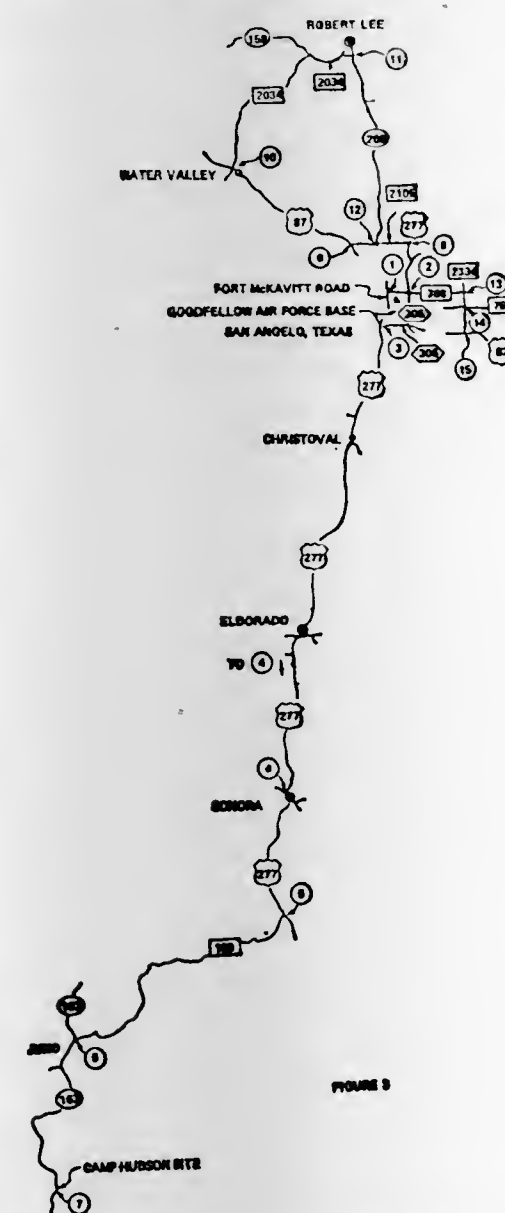


FIGURE 3

#### APPENDIX B—TRACTION SKID PADS

Two skid pads have been laid on an unused runway and taxi strip on Goodfellow AFB. Their location is shown in Figure 4.

The asphalt skid pad is 600 ft. x 60 ft. and is shown in black on the runway in Figure 2. The pad is approached from either

end by a 75 ft. ramp followed by 100 ft. of level pavement. This arrangement permits the skid trailers to stabilize before reaching the test area. The approaches are shown on the figure by the hash-marked area.

The concrete pad is 600 ft. x 48 ft. and is on the taxi strip. The approaches to the

V 4 0 - 1 0 3 M A Y 2 8 7 5

XUM



## RULES AND REGULATIONS

concrete pad are of the same design as those for the asphalt pads.

A two lane asphalt road has been built to connect the runway and taxi strip. The road is parallel to the northeast-southwest runway at a distance of 100 ft. The curves have super-elevation to permit safe exit from the runway at operating speeds.

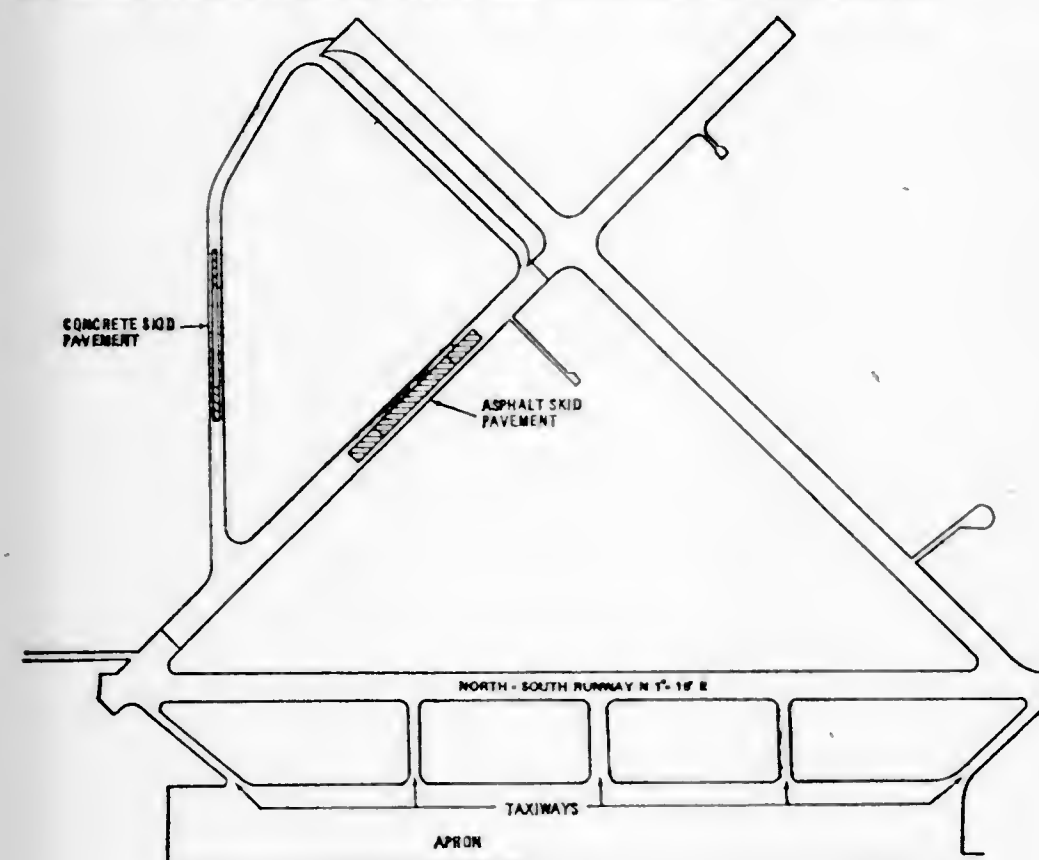
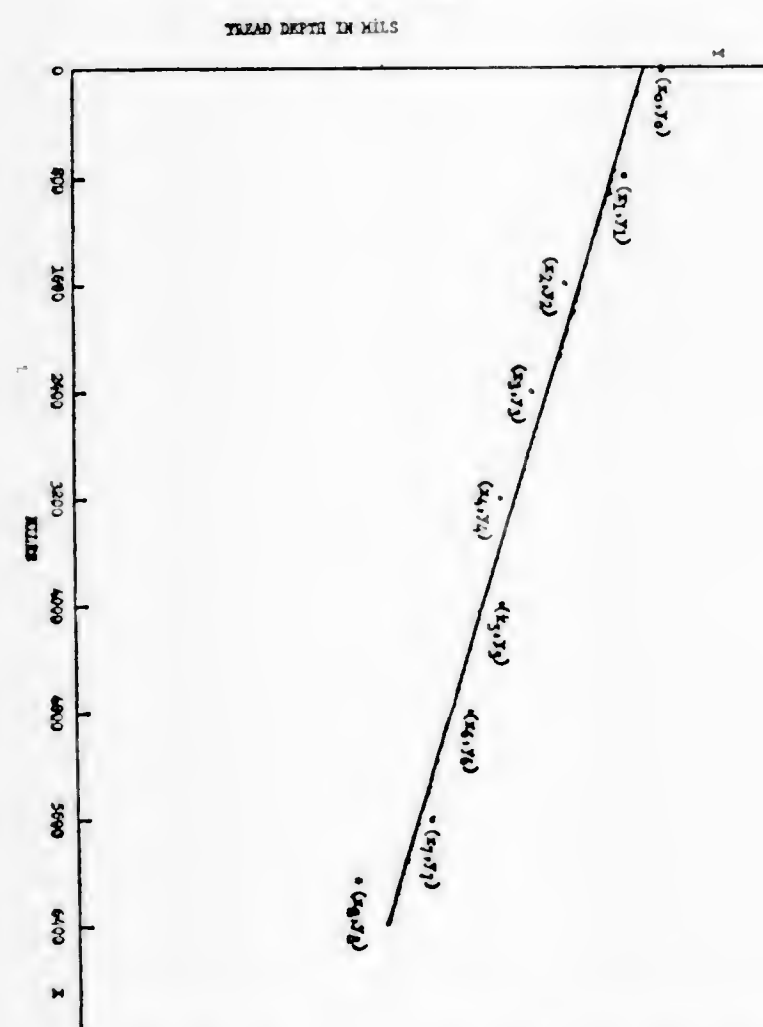


FIGURE 4



FEDERAL REGISTER, VOL. 40, NO. 103—WEDNESDAY, MAY 28, 1975

## RULES AND REGULATIONS

23083

In this graph,  $(x_j, y_j)$  [ $j=0, 1, \dots, 8$ ] are the individual data points representing the tread depth measurements (the overall average for the tire with 6 measurements in each tire groove) at the beginning of the test (after break-in) and at the end of each 800-mile segment of the test.

The absolute value of the slope of the regression line is an expression of the miles of tread worn per 1,000 miles, and is calculated by the following formula:

$$b = 1000 \frac{\left( \sum_{j=0}^8 x_j y_j - \frac{1}{9} \sum_{j=0}^8 x_j \sum_{j=0}^8 y_j \right)}{\sum_{j=0}^8 x_j^2 - \frac{1}{9} \left( \sum_{j=0}^8 x_j \right)^2}$$

The "y" intercept of the regression line (a) in miles is calculated by the following formula:

$$a = \frac{1}{9} \sum_{j=0}^8 y_j - \frac{b}{9000} \sum_{j=0}^8 x_j$$

[FR Doc.75-13606 Filed 5-27-75; 8:45 am]

FEDERAL REGISTER, VOL. 40, NO. 103—WEDNESDAY, MAY 28, 1975

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XUM



## proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

### DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[ 7 CFR Part 1207 ]

#### POTATO RESEARCH AND PROMOTION PLAN

Proposed Expenses and Rate of Assessment

Consideration is being given to the approval of the expenses and rate of assessment, hereinafter set forth, which were recommended by the National Potato Promotion Board, established pursuant to the Potato Research and Promotion Plan (7 CFR 1207; 37 FR 5008).

This research and promotion program is effective pursuant to the Potato Research and Promotion Act (title III of Public Law 91-670; 91st Congress, approved January 11, 1971, 84 Stat. 3041).

All persons who desire to submit written data, views, or arguments in connection with these proposals may file the same, in duplicate, with the Hearing Clerk, Room 112-A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than June 12, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the office of the hearing clerk during regular business hours (7 CFR 1.27(b)).

The proposals are as follows:

#### § 1207.401 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period beginning July 1, 1975, and ending June 30, 1976, by the National Potato Promotion Board for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate will amount to \$1,780,000.

(b) The rate of assessment to be paid by each designated handler in accordance with the provisions of the plan shall be 1 cent (\$0.01) per hundredweight of assessable potatoes handled by him as the designated handler thereof during said fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as an operating monetary reserve.

(d) Terms used in this section have the same meaning as when used in the Potato Research and Promotion Plan.

Dated: May 22, 1975.

E. L. PETERSON,  
Administrator,  
Agricultural Marketing Service.  
[FR Doc. 75-13840 Filed 5-27-75; 8:45 am]

### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[ 45 CFR Part 121a ]

#### ASSISTANCE TO STATES FOR THE EDUCATION OF HANDICAPPED CHILDREN

Proposed Distribution of Funds

Correction

In FR Doc. 75-10527 appearing at page 17849 in the issue of Wednesday, April 23, 1975, in the third column, sixth line, the date now reading, "June 23, 1975" should be corrected to read, "June 4, 1975".

### DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[ 14 CFR Part 71 ]

[ Airspace Docket No. 75-NW-12 ]

#### TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment of Part 71 of the Federal Aviation Regulations that would alter the description of the Burley, Idaho, transition area.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Operations, Procedures, and Airspace Branch, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Washington 98108. All communications received on or before June 27, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Washington 98108.

The Burley VOR/DME-B Instrument Approach Procedure has recently been revised. A review of this revision disclosed that additional Transition Area

would be required in order to provide controlled airspace to the procedure.

In consideration of the foregoing, and to clarify the description, the FAA proposes to amend Part 71 of the Federal Aviation Regulations as follows:

In § 71.181 (40 FR 441) the description of the Burley, Idaho, transition area is amended to read as follows:

All after that portion of the description beginning "... and that airspace extending upward from 1200 feet above the surface ..." is deleted and the following is substituted, therefor,

"... that airspace extending upward from 1200 feet above the surface north of Burley bounded by a line 8 miles northwest of, and parallel to, V-365 extending from the Burley VORTAC to the south edge of V-500; that airspace northeast of Burley bounded on the northeast by V-500, on the southeast by V-260, on the northwest by V-366; that airspace east of Burley bounded on the north by V-260 on the east by an arc of a 28-mile radius circle, centered on the Burley VORTAC, on the southwest by V-4; that airspace southeast of Burley bounded on the north by V-4, on the southeast by an arc of a 38.5 mile circle centered on the Burley Municipal Airport (Latitude 42°32'29" N; Longitude 113°46'27" W) on the southwest by the northeast edge of V-10; that airspace southwest of Burley bounded by a line 10 miles southeast of, and parallel to, the Burley VORTAC 223° radial extending from the VORTAC 19 miles southwest.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Seattle, Wash., on May 16, 1975.

C. B. WALK, JR.,  
Director, Northwest Region.

[FR Doc. 75-13764 Filed 5-27-75; 8:45 am]

### Federal Highway Administration

[ 49 CFR Part 393 ]

[ Docket No. MC-63; Notice No. 75-6 ]

#### INSTALLATION OF TACHOGRAPHS IN BUSES

##### Advance Notice of Proposed Rule Making

The purpose of this notice is to invite interested persons to submit comments on a petition for rule making filed with the Bureau of Motor Carrier Safety, requesting the Director of the Bureau to amend the Federal Motor Carrier Safety Regulations to require the installation and use of tachographs in buses operated by common and contract motor carriers engaged in interstate or foreign commerce. The petition was filed by Sangamo Electric Company (Sangamo) of

Springfield, Illinois, a manufacturer of tachographs.

A tachograph is a device which, when installed in a motor vehicle, produces an automatic written record of certain vehicle operation functions, such as engine speed, vehicle speed, and engine operation and shut-off. The record is produced on a chart, and the recording equipment is controlled by a clockwork mechanism, so that the time at which changes in the operating characteristics being recorded took place can be ascertained by reading the chart. The tachograph may also provide the driver with a visible indication of vehicle speed, engine revolutions per minute, or both.

In support of the petition, Sangamo has submitted data purporting to show that mandatory installation of tachographs in commercial motor vehicles would be justified on the basis of improved safety and would result in an overall reduction of operating costs for the motor carrier industry. With respect to the first issue—safety justification—the petitioner has presented a study of comparative statistics relating to the performance of selected motor carriers of property chosen from a list of the 100 largest Class I common and contract carriers, published by "Commercial Car Journal" magazine.

The petitioner has divided the carriers selected into two classes, those who equip their fleets with tachographs and those who do not. It has then compared the Bureau's statistics on safety performance of the two classes for the years 1971 and 1972. The results of its study indicate that carriers who use tachographs have an accident rate of 1.93 per million miles of intercity operations, a fatality rate of 7.23 per hundred million miles of operation, a rate of bodily injury of 1.03 per million miles, and have accidents resulting in an average of \$4,716 in property damage per million miles. The petitioner contrasts these figures with the record compiled by selected Class I motor carriers who do not use tachographs: 2.42 accidents per million miles of operation, 8.34 fatalities per hundred million miles of operation, 1.15 bodily injuries per million miles, and average property damage of \$5,699 per million miles.

On the subject of buses, Sangamo notes that New York is the only State which by law requires its school buses to be equipped with speed-recording devices. New York, it says, has a school bus accident record that is second best of all the States and that is considerably better than the national average.

Sangamo places considerable emphasis on cost savings attributed to the installation of tachographs. The installed cost of "the tachograph model most often used" is said to be about \$185, with maintenance expenses running between \$20 and \$25 per year. These added expendi-

Sangamo has also filed a petition for rulemaking seeking issuance of a rule requiring installation and use of tachographs on certain motor vehicles used to transport hazardous materials. This petition will be the subject of a separate notice to be issued by the Bureau at a later date.

tures for the installation and maintenance of tachographs, Sangamo contends, are more than offset by savings in two areas: First, there are "operational savings resulting from the control of speed" and the availability of a vehicle operational record that can be used to schedule vehicle operations and maintenance and to ensure efficient use of equipment. Second, Sangamo asserts that certain insurance companies are willing to give motor carriers who have tachographs installed in their fleets reductions in their premiums for liability and collision coverage.

Sangamo concedes that a tachograph is not fully tamperproof, but argues that it is possible to construct the device so that unauthorized removal of the tachograph chart can readily be detected. Specifications for its current models indicate that a mark or notch is made in the chart whenever it is removed from the housing.

The petition proposed that the Director specify that an acceptable tachograph must have the following features:

A. *Visual indicators.* 1. Dial with pointer to indicate vehicle speed in miles per hour, readily visible to the driver of the vehicle at all times.

2. Resettable odometer to record total miles traveled by the vehicle, up to at least 1 million miles.

3. A signal, visible or audible, to indicate to the driver of the vehicle when it is exceeding a pre-set rate of speed.

B. *Chart records.* Charts, when placed in the recording instrument and operated under environmental conditions surrounding the instrument as installed in the vehicle, shall provide a permanent record, visually readable when removed from the instrument, of the following:

a. Speed of the vehicle in miles per hour.

b. Distance traveled by the vehicle in miles.

c. Vehicle's engine ignition on and off.

d. Indication of movement or non-movement of the vehicle over the road.

e. Time scales to indicate when the chart is advanced by an accurate clock drive mechanism, the hour and approximate minute when events a, b, c and d above occurred.

f. Spaces to enter date, time and odometer mileage reading when chart installed and when removed.

g. Spaces to enter name of driver at start of trip, and name of relief driver if such a change is made during the trip.

c. *Installation and controls.* 1. Mechanical provisions for installation of the recording instrument in a position readily visible to the driver.

2. Provision by: (a) Lock and key, or (b) seal, to secure the recording instrument enclosure containing the chart to prevent or detect unauthorized access, and to assure that the specified recorded data is automatically recorded by the instrument without manual alteration.

3. Mechanical marker or notching blade, to record on the chart the hour and approximate minute each time the recording instrument is opened or closed.

D. *Retention of chart records.* 1. Charts automatically recorded by the recording instrument shall be kept on file by the persons responsible for operation of the vehicles for a period of at least 2 years.

2. Charts shall be made available by the persons responsible for operation of the vehicles for inspection and review by any authorized representative of the Bureau of Motor Carrier Safety.

E. *Specifications.* 1. Recording instruments as a minimum shall meet motor vehicle industry standards comparable to specifications applicable to standard speedometers used on motor vehicles covered by these regulations. As a minimum the required recording instrument when properly installed and operated in a range of environments normal to those found in the interior of motor vehicles covered by this regulation, shall meet specifications for:

(a) Maintenance of specified accuracy under forces caused by shock, vibration, temperature and humidity.

(b) Visibility of all instrument indicators.

(c) Resistance to impact and corrosion of instrument's internal operating mechanisms, external cover, and mounting device.

Interested persons are invited to submit written data, views, or arguments pertaining to the subject-matter of the petition for rulemaking under consideration in this docket. All comments submitted should refer to the docket number and notice number that appear at the top of this document. Comments should be submitted in triplicate to the Director, Bureau of Motor Carrier Safety, Department of Transportation, Washington, D.C. 20590. All comments received before the close of business on September 2, 1975 will be considered before further action is taken on the petition for rulemaking. If further rulemaking action is deemed advisable, the Director will issue a notice of proposed rulemaking, setting forth the terms of the rule under consideration.

All comments received, as well as the original petition for rulemaking, will be available for examination in the public docket room of the Bureau of Motor Carrier Safety, Room 3401, 400 Seventh Street, SW., Washington, D.C., both before and after the closing date for comments.

This advance notice of proposed rulemaking is issued under the authority of section 204 of the Interstate Commerce Act, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C. 1655, and the delegations of authority by the Secretary of Transportation and the Federal Highway Administrator at 49 CFR 1.48 and 49 CFR 389.4, respectively.

Issued on May 16, 1975.

ROBERT A. KAYE,  
Director, Bureau of  
Motor Carrier Safety.

[FR Doc. 75-13762 Filed 5-27-75; 8:45 am]

### Federal Railroad Administration

[ 49 CFR Ch. II ]

[ Docket No. RSSI-1, Notice 1 ]

#### SIGNAL SYSTEMS ON COMMUTER RAILROADS AND RAPID TRANSIT LINES

Standards; Correction

On May 2, 1975, the Federal Railroad Administration published in the FEDERAL REGISTER (40 FR 19209) an advanced notice of proposed rulemaking with respect to the development of safety regulations which would require the use of signal equipment which provides specified train



protection systems on railroads where commuter or rapid transit service is provided.

The fourth paragraph of the preamble text, entitled Background, is amended to read as follows:

"Also, in the past two years there have been four rear-end collisions on the Chicago Transit Authority as follows: Evans-ton, Illinois, November 1, 1973—33 injured; Chicago, Illinois, January 16, 1974—13 injured; Chicago, Illinois, May 10, 1974—214 injured; Chicago, Illinois, September 13, 1974—85 injured."

Issued in Washington, D.C., on May 19, 1975.

DONALD W. BENNETT,  
Chief Counsel.

[FR Doc. 75-13755 Filed 5-27-75; 8:45 am]

#### National Highway Traffic Safety Administration [49 CFR Part 571]

[Docket No. 75-2, Notice 01; Docket No. 75-3, Notice 01; Docket No. 73-34, Notice 02; Docket No. 73-20, Notice 04]

#### SCHOOL BUS SAFETY STANDARDS Comment Period Reopened

The purpose of this notice is to reopen the period for submission of comments to the recent notices proposing establishment of school bus safety standards relating to body joint strength, rollover protection, emergency exits, and fuel system integrity.

On February 28, 1975, new school bus requirements were proposed for rollover protection (40 FR 8570) and emergency exits (40 FR 8569), on March 13, 1975, for school bus body joint strength (40 FR 11738), and on April 16, 1975, for school bus fuel system integrity (40 FR 17036). The comment periods for these proposals have expired.

In a letter dated April 25, 1975, Representatives John E. Moss and Les Aspin requested that the period for submission of comments to the school bus standards relating to joint strength, rollover, and emergency exits be extended 30 days to provide time for further evaluation of the proposals. The letter explained that many members of Congress have only recently become aware of the notices and therefore have not had sufficient opportunity to prepare comments.

Since school bus safety has been a subject of great concern to the Congress, its members' analyses of the contents of the three school bus proposals is especially important.

Petitions were received from the Motor Vehicle Manufacturers Association and the Truck Body and Equipment Association requesting that the period for submission of comments to the proposed school bus provisions of Standard No. 301, "Fuel System Integrity," be extended to allow time for more detailed analysis of the requirements. These requests are considered meritorious since the test procedure proposed for school buses over 10,000 pounds GVWR is one which has not been previously used.

In light of the above, interested persons are again invited to submit data, views, and arguments concerning the proposals, cited above, to establish new requirements for school bus body joint strength, rollover protection, emergency exits, and fuel system integrity. All comments received before the close of business on June 26, 1975, will be considered before a rule on any of the above subjects is issued. Comments should be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590. Reference should be made to the following docket and notice numbers:

School Bus Body Joint Strength: Docket No. 73-34; Notice 02 Rollover Protection: Docket No. 75-2; Notice 01 Emergency Exits: Docket No. 75-3; Notice 01 Fuel System Integrity: Docket No. 73-20; Notice 04.

All comment received may be examined at the above address during business hours both before and after the closing date.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); Sec. 202, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1392); delegations of authority at 49 CFR 1.51 and 49 CFR 501.8)

Issued on May 21, 1975.

ROBERT L. CARTER,  
Associate Administrator,  
Motor Vehicle Programs.

[FR Doc. 75-13817 Filed 5-27-75; 8:45 am]

#### ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

#### ENFORCEMENT AUTHORITY

State and Federal Enforcement of Implementation Plan Requirement After Statutory Deadlines; Extension of Period for Comment

#### Correction

In FR Doc. 75-12736, appearing on page 21046, of the issue of Thursday, May 15, 1975, the word "able" in the third column, second paragraph, eleventh line, should be changed to read "unable".

[40 CFR Part 409]

[FRL 379-2]

#### SUGAR PROCESSING POINT SOURCE CATEGORY

Effluent Limitations and Guidelines; Availability and Extension of Public Comment Period

On February 27, 1975, the Agency published a notice of interim final rulemaking establishing effluent limitations and guidelines based on best practicable control technology currently available for the sugar processing point source category (40 FR 8493). Simultaneously a notice of proposed rules establishing effluent limitations and guidelines based on best available technology economically achievable, standards of performance for new sources, and pretreatment standards

for both existing and for new sources was published for the sugar processing point source category (40 FR 8506). Reference was made in the preambles to these notices of a technical report and an economic report prepared by the Agency in connection with the development of these regulations.

The report entitled "Development Document for Interim Final Effluent Limitations Guidelines and Proposed New Source Performance Standards for the Raw Cane Sugar Processing Segment of the Sugar Processing Point Source Category" details the analysis undertaken in support of the regulations and is available for inspection in the EPA Freedom of Information Center, Room 204, West Tower, Waterside Mall, Washington, D.C. 20460, at all EPA regional offices, and at State water pollution control offices. A supplementary analysis entitled "Economic Analysis of Proposed Effluent Guidelines, Sugar Cane Milling Industry" which discusses the possible economic effects of the regulation is also available for inspection at these locations. Copies of both of these documents have been sent to persons or institutions affected by the proposed regulation or who have placed themselves on a mailing list for this purpose (see EPA's Advance Notice of Public Review Procedures, 38 FR 21202, August 6, 1973). An additional limited number of copies of both reports are available. Persons wishing to obtain a copy may write the EPA Freedom of Information Center, Environmental Protection Agency, Washington, D.C. 20460, Attention: Ms. Ruth Brown.

All comments received on or before June 27, 1975, will be considered. Steps previously taken by the Environmental Protection Agency to facilitate public response within this time period are outlined in the advance notice concerning public review procedures published on August 6, 1973 (38 FR 21202).

Dated: May 19, 1975.

JAMES L. AGEE,  
Assistant Administrator,  
Water and Hazardous Materials.

[FR Doc. 75-13751 Filed 5-27-75; 8:45 am]

#### FEDERAL TRADE COMMISSION

[16 CFR Part 437]

#### FOOD ADVERTISING

#### Proposed Trade Regulation Rule

Notice of proceeding, statement of reasons for proposed rule, invitation to propose issues of specific fact for consideration in public hearings, invitation to comment on proposed rule, and proposed trade regulation rule.

Notice is hereby given that the Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41, et seq., the provisions of Part I, Subpart B of the Commission's procedures and rules of practice, 16 CFR 1.7, et seq., and section 553 of Subchapter II, Chapter 5, Title 5, U.S. Code (Administrative Procedure) has initiated a proceeding for the promulgation of a Trade Regulation Rule on Food Adver-

tising. Previous notice of proposed rule-making was published in the *FEDERAL REGISTER* on November 11, 1974, 39 FR 39842, and included a proposed rule. The Commission republishes the proposed rule below following the invitation to comment.

In addition to the proposed rule, the Commission republishes for comment through incorporation by reference: (a) The "Explanation And Basis Of Proceeding"; (b) the "Analysis And Statement of Issues By Section" (as amended 40 FR 6375), including certain issues relating to affirmative disclosure in food advertising; (c) the "Staff Statement of Fact, Law and Policy" (not adopted by the Commission) and the issues raised thereby, including, in particular, the form which the disclosures called for therein should take; (d) the text of a staff proposal for achieving the affirmative disclosure of nutrition information in food advertising (which neither the Commission nor the Bureau Director nor the Assistant Director for National Advertising is presently prepared to propose as part of the rule); and (e) specific provisions recommended by staff, but not proposed by the Commission, for inclusion in those sections of the proposed Rule which have been reserved. All of the above-mentioned materials were originally published on November 11, 1974 (39 FR 39842 et seq.), and copies are available upon request to the Federal Trade Commission.

In addition to the questions raised in the aforementioned materials on which the Commission invites comment, the Commission also seeks comments evaluating the economic impact of the rule on small business.

#### STATEMENT OF REASONS FOR THE PROPOSED RULE

It is the Commission's purpose, in issuing this statement, to set forth its reasons for proposing this Trade Regulation Rule with sufficient particularity to allow informed comment. The precise format of such statements may vary from rule to rule depending on the complexity of the issues involved. For the purpose of assisting the Commission's deliberations on this proposed rule, the Commission has determined that meaningful comment by the public will be facilitated by presenting, in addition to the republished materials, a statement describing the basic factual premises underlying the Commission's determination to propose the rule.

The Commission's objective in these proceedings is to develop rules which will assure the accuracy of nutrition claims without restricting the amount of useful information an advertiser may present and to evaluate the staff statement calling for industry-wide disclosure requirements that will inform consumers of the nutritional worth of advertised foods.

The Commission emphasizes that neither the statement of factual premises nor the issues set out in the materials accompanying the proposed rule should be interpreted as a designation of disputed issues of specific fact. Such design-

nations shall be made by the Commission or its duly authorized presiding official pursuant to the Commission's rules of practice.

#### STATEMENT

In recent years, the Commission has been particularly concerned with problems surrounding the advertising of food products. This concern was initially sparked, in part, by findings of the 1969 White House Conference on Food, Nutrition and Health. The 1969 White House Conference Report emphasized that significant sectors of the American population were either malnourished or not well-fed due, in part, to the fact that they lacked the requisite knowledge to make rational determinations of their nutritional needs.

Since food is of central importance to a consumer's health and finances, it is important that food advertisers' claims respecting their products' nutritional value be scrupulously accurate. The Commission has reason to believe that some current food advertising contains curately represent the nutritional worth of the advertised food or accurately describe particular nutrition characteristics being advertised.

The Commission has further reason to believe that the American consumer is being confronted with general advertising claims relating to the nutritional value of foods which have no commonly accepted or well-understood meanings and that definitions should be established so as to enable consumers to utilize these terms in making their food purchase decisions.

The Commission has determined that it has reason to believe the above statements on the basis of a staff review of food advertising which was aimed at identifying common food messages, analyzing the nutrition information they provide and identifying patterns of misleading nutrition claims. The staff's examination of food advertising has included consultations with experts from a variety of disciplines whose expertise bears upon the issues raised in this proposal. The Commission has not adopted any findings or conclusions of the staff. All findings in this proceeding shall be based solely on matter in the rulemaking record.

The Proposed Trade Regulation Rule on Food Advertising is designed to eliminate deception and unfairness which may result from the making of certain affirmative claims with respect to the nutritional value of foods. This proposed rule establishes uniform definitions for certain terms the use of which is subject to ambiguity and deception, and prohibits outright certain other claims the making of which is deceptive.

In addition, the staff of the Commission is of the view, for reasons described at length in its statement, that it is an unfair and deceptive act or practice under Section 5 for advertisers of food products to fail to disclose affirmatively certain information concerning the nutritive quality of advertised food products. The Commission is extremely con-

cerned about the considerations discussed in the staff statement, including the implications for food advertising raised by the Food and Drug Administration's nutrient labeling program. The Commission has therefore concluded that it is in the public interest to solicit comment on the staff statement, including, in particular, the form which the affirmative disclosures called for in that statement might take.

Furthermore, the Commission has for some years undertaken extensive adjudicative efforts in an attempt to remedy deceptive or unfair advertising by some food manufacturers. In past years the Commission has litigated many cases involving allegedly false or unfair advertising for foods and within the past four years has issued approximately twenty consent orders requiring food advertisers to cease and desist from the dissemination of certain misleading nutrition claims. The Commission, having reason to believe that adjudication alone is inadequate to establish well-defined legal standards for the guidance of consumers and food advertisers, undertakes herewith to define with specificity some acts or practices which may be unfair or deceptive and to prescribe requirements for the purpose of preventing such acts or practices.

#### INVITATION TO PROPOSE ISSUES OF SPECIFIC FACT FOR CONSIDERATION IN PUBLIC HEARINGS

All interested persons are hereby given notice of opportunity to propose any disputed issues of specific fact, in contrast to legislative fact, which are material and necessary to resolve. The Commission, or its duly authorized presiding official, shall, after reviewing submissions hereunder, identify any such issues in a Final Notice which will be published in the *FEDERAL REGISTER*. Such issues shall be considered in accordance with section 18(c) of the Federal Trade Commission Act as amended by Pub. L. 93-637, and rules promulgated thereunder. Proposals shall be accepted until not later than July 28, 1975, by the Special Assistant Director for Rulemaking, Federal Trade Commission, Washington, D.C. 20580. A proposal should be identified as a "Proposed Identifying Issues of Specific Fact—Food Advertising," and furnished, when feasible and not burdensome, in five copies.

#### INVITATION TO COMMENT ON THE PROPOSED RULE

All interested persons are hereby notified that they may also submit to the Special Assistant Director for Rulemaking, Federal Trade Commission, Washington, D.C. 20580, data, views or arguments on any issue of fact, law or policy which may have some bearing upon the proposed rule. Written comments, other than proposals identifying issues of specific fact, will be accepted until ten (10) days before commencement of public hearings, but at least until July 28, 1975. The times and places of public hearings will be set forth in a later notice which will be published in the *FEDERAL REGISTER*.

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To assure prompt consideration of a comment, it should be identified as a "Food Advertising Comment," and furnished, when feasible and not burdensome, in five copies.

Interested persons should also be advised that the Commission will consider all data, views, arguments or any other relevant information previously submitted on the public record in this matter since notice of publication in the *Federal Register* on November 11, 1974 (39 FR 39842 et seq.). Resubmission of previously filed data, views, arguments or other relevant information is not required.

In accordance with above, the Commission has proposed to amend Subchapter D, Trade Regulation Rules, Chapter I of 16 CFR by adding a new Part 437 to read as below.

Issued: May 23, 1975.

By direction of the Commission.

[SEAL] CHARLES A. TOBIN,  
Secretary.

- Sec. 437.0 Preamble.
- Subpart A—General
- 437.1 Definitions.
- 437.2 Form, content and method of making disclosures.
- Subpart B—Voluntary Claims
- 437.3 Emphatic nutrition claims.
- 437.4 Nutrient comparison claims.
- 437.5 Nourishment claims.
- 437.6 Natural and organic food claims [Reserved].
- 437.7 Claims for foods intended to be combined with other foods.
- 437.8 Energy and calorie claims.
- 437.9 Fat, fatty acid and cholesterol content claims [Reserved].
- 437.10 Health and related claims [Reserved].
- AUTHORITY: 38 Stat. 717, as amended; (15 U.S.C. 41-58).

#### § 437.0 Preamble.

In connection with the advertising of foods in commerce, as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of food, it is an unfair method of competition and an unfair or deceptive act or practice within the meaning of sections 5 and 12 of that Act to fail to comply with the following provisions of this Trade Regulation Rule:

#### Subpart A—General

##### § 437.1 Definitions.

For the purpose of this rule the following definitions shall apply:

(a) "Advertisement" or "Advertising." Any written or verbal statement, illustration, or depiction, other than a label or in the labeling, which is designed to effect the sale of any food product, or to create interest in the purchase of such product, whether the same appears in a newspaper, magazine, leaflet, circular, mailer, book insert, catalog, sales promotional material, other periodical literature (except professional or scientific journals), billboard, public transit card, or in a radio or television broadcast or in any other media. It does not

include point-of-purchase advertising or any promotional material developed and/or disseminated by retail supermarket and food store establishments and wholesale food distributors the content of which refers solely to the price of an advertised food and which does not contain representations regarding nutrition, nourishment, or other nutrition claims relative to the product.

(b) "Food." Any article used for food or drink by humans, including chewing gum. However, it does not include:

(1) Special formula foods which are developed, intended or marketed exclusively for infants (persons not more than 12 months of age) and which provide the complete nutritional requirements of infants.

(2) Foods represented for use solely under medical supervision to meet nutritional requirements in specific medical conditions and advertised only in professional journals or publications.

(3) Alcoholic beverages subject to the provisions of the Federal Alcohol Administration Act of 1935 (27 U.S.C. section 201 et seq.).

(c) "Nutrients." Protein and those vitamins and minerals listed in 21 CFR 1.17(c) (7) (iv) and 21 CFR 125.1(b).

(d) "United States Recommended Daily Allowances" (U.S. RDA). The nutrients and levels established, subject to amendment, in 21 CFR 125.1.

(e) "Serving." That reasonable quantity of food suited for or practicable of consumption as part of a meal by an adult male engaged in light physical activity or by a child who is more than 12 months of age (when the food purports or is represented to be for consumption by any such child); or, if a nutrient label is affixed to the container of the advertised food, "serving" shall be the same measure as that which is stated on the label.

(f) "Portion." The amount of a food customarily used only as an ingredient in the preparation of a meal component or, if a nutrient label is affixed to the container of the advertised food, "portion" shall be the same measure as that which is stated on the label (e.g., ½ cup of flour, ½ tablespoon of cooking oil).

(g) "Clearly and Conspicuously Disclose." (1) Disclosing in a manner which can be easily understood (in the case of television and print advertising, also easily seen and read) by the casual observer, listener, or reader among members of the public and which conforms (except where otherwise provided in this rule), for advertising in any media, in all relevant respects to the Commission's Statement of Enforcement Policy of October 21, 1970. (See Vol. 2, CCH Trade Regulation Reporter section 7569.09.) Each disclosure shall be presented in the same language principally employed in the advertisement. (See Commission's Statement of Policy of July 24, 1973, as amended, 38 FR 21494-95.)

(2) In any television advertisement any disclosure of information shall be made in the manner and form prescribed by § 437.2(g).

(3) In any print advertisement any disclosure of information shall be made

in the manner and form prescribed by § 437.2(h).

(h) "Representation" or "Represent." Any direct or indirect statement, suggestion or implication in advertising, including but not limited to one which is made orally, in writing, pictorially, or by any other audio or visual means, or by any combination thereof.

(i) "Protein Efficiency Ratio" (PER). The protein efficiency ratio (PER) shall be determined in accordance with the method described in 21 CFR 1.17(c) (4).

#### § 437.2 Form, content and method of making disclosures.

Any disclosure required or described by any provision of this rule shall be made in accordance with the following general provisions of this rule and as may be specifically prescribed in a section dealing with that particular disclosure.

(a) *Nutrients.* (1) Any advertisement which contains a representation concerning a nutrient or a disclosure of a nutrient shall make such representation or disclosure only from among the nutrients listed in 21 CFR 1.17(c) (7) (iv) and 21 CFR 125.1(b).

(2) A food shall not be represented in advertising as containing a nutrient, unless (i) the nutrient's (a) identity (stated as the common or usual name) and (b) amount (expressed as a percentage of the U.S. RDA contained in a stated serving of the advertised food) are clearly and conspicuously disclosed in accordance with all the provisions of this subpart of this rule, and unless (ii) a serving of such food contains the identified nutrient in an amount of 10 percent or more of the U.S. RDA; *Provided, however,* That, in instances where a food or a serving thereof is not required to contain a nutrient at a certain percentage of the U.S. RDA before a voluntary claim is made, an advertisement may represent the presence of nutrients contained in amounts of less than 10 percent of the U.S. RDA per serving if the identities of all nutrients required to be disclosed by 21 CFR 1.17 when a nutrition claim is made, as well as their respective percentages of the U.S. RDA per serving (including zero percent), are clearly and conspicuously disclosed in accordance with all of the provisions of this subpart of this rule. If a food or a serving thereof is required to contain any nutrient at a certain percentage of the U.S. RDA before a voluntary claim may be made (see Subpart B), the actual percentage (prior to any rounding off) of the U.S. RDA at which any such nutrient is contained in the advertised food or a serving thereof shall determine whether the condition(s) for making the claim has (have) been satisfied.

(3) An advertised food or a serving thereof may not be represented as containing a nutrient in an amount of 50 percent or more of the U.S. RDA, unless such food or serving contains the identified nutrient only in a naturally occurring (indigenous) form or such nutrient has been added in compliance with 21 CFR 1.17(a) (2).

(4) Disclosures of nutrients shall be expressed to the nearest two percent increment up to and including the 10 percent level; to the nearest five percent increment above the 10 percent level and up to and including the 50 percent level; and to the nearest 10 percent increment above the 50 percent level. If the percentage falls equidistant between the upper and lower increment in any percentage level, the disclosure shall be expressed as the lower increment.

(b) *Protein.* (1) The percentage of the U.S. RDA of protein present per serving of the advertised food shall be based on a U.S. RDA of 45 grams of protein, if the total protein has a PER equal to or greater than the PER or casein; or based on a U.S. RDA of 65 grams of protein, if the total protein has a PER less than that of casein.

(2) Except with respect to the amount of protein as permitted by the proviso in paragraph (a) (2) of this section, representations in advertising of the presence of protein may be made only if a serving of the advertised food contains protein at a level of 10 percent or more of the U.S. RDA and the total protein in the advertised food alone has a PER of 20 percent or more of the PER of casein.

(c) *Analytical methods.* The procedures and methods used for determining the amount of any nutrient contained in an advertised food shall be in accord with the provisions of 21 CFR 1.17 or, where applicable, 9 CFR.

(d) *Calories.* The energy content of a food shall be stated in calories per serving, expressed to the nearest two calorie increment up to and including 20 calories; to the nearest five calorie increment above 20 calories and up to and including 50 calories; and to the nearest 10 calorie increment above 50 calories. Calorie content shall be determined in the manner described in 21 CFR 1.17(c) (3).

(e) *Serving or portion.* Statements regarding servings or portions shall be consistently stated in terms of a convenient unit of such food or a convenient unit of measure that can be easily identified as an average or usual serving or portion and can be readily understood as such by purchasers of such food. Servings or portions may be expressed in terms of ounces, fluid ounces, tablespoonfuls, cupfuls, or other customary or usual units, and shall be consistent with the applicable provisions of 21 CFR 1.17. Provisions of this rule which refer to "servings" shall be construed to mean "portions" if the use of the latter term would be more appropriate with respect to a particular food or ingredient.

(f) *Identification and designation of foods.* A food shall be identified or designated in accordance with any applicable Federal regulations prescribed in the Code of Federal Regulations. Non-standardized foods shall be identified or designated by their respective common or usual names, if such exist, pursuant to 21 CFR Part 102.

(g) *Television advertisements—method and form of disclosures.* Under § 437.2 (a) and (b) and Subpart B of this rule, any disclosure in any television advertisement shall be made in the same portion (audio or video) of the advertisement in which the voluntary claim is made. The video portion of the disclosure in each advertisement shall be prominently displayed in the form of a super or title, or prominently displayed on the screen by itself so as to enable it to be completely and easily seen and read on all television sets, regardless of picture tube size, that are commonly available for purchase by the consuming public. Any disclosure required by Subpart B of this rule in any advertisement shall be made in immediate conjunction with the voluntary claim which creates the requirement for such disclosure.

(h) *Print advertisements—method and form of disclosures.* (1) Any disclosure in a print or display advertisement shall be prominently displayed in any sans serif type style consistent with the requirements set forth in § 437.1(g) (1) and hereinbelow, but in no event in condensed type. The type shall be set on a slug at least one point larger than the point size of the type (not solid), using only normal word and letter spacing. A determination of whether a particular disclosure is "clear and conspicuous" within the definition set forth under § 437.1(g) (1) of this rule shall be made by examining the context of the total advertisement, but in no event shall a disclosure be deemed clear and conspicuous unless it appears in type of at least the following sizes, size being measured by the height of the smallest letter employed in making the disclosure:

(i) At least ¼ inch type, in advertisements of a trim size not larger than 65 square inches.

(ii) At least ⅜ inch type, in advertisements of a trim size larger than 65 square inches, but not larger than 110 square inches.

(iii) At least ½ inch type, in advertisements of a trim size larger than 110 square inches, but not larger than 180 square inches.

(iv) At least type of a size bearing the same proportion to the size of the advertisement as the proportion of ½ inch to 180 square inches, in print advertisements of a trim size larger than 180 square inches.

(v) For any billboard or other display advertisement (except one which is located in the interior of a public transit vehicle) normally viewed and read from a distance substantially greater than the normal range of reading distances for a book, newspaper, magazine, or other similar printed reading matter:

(a) At least ¼ inch type in advertisements of a trim size larger than 180 square inches, but not larger than 270 square inches.

(b) At least ⅜ inch type in advertisements of trim size larger than 270 square inches, but not larger than 1500 square inches.

(c) A size of one inch per 3000 square inches times the area of the advertisement expressed in square inches, i.e., size = (1 inch/3000 square inches) × (area of the advertisement in square inches), but in no event of a size less than ½

inch, in advertisements of trim size larger than 1500 square inches.

(2) If a print advertisement appears on more than one page, and if the total area of the advertisement is greater than the area of the largest page upon which it appears, the required type size shall be determined as though the advertisement were of an area equal to the area of the largest page upon which it appears.

(3) In the case of advertisements that are in whole or part lighted or reflectively surfaced or advertisements otherwise prepared for enhanced visibility, any disclosure shall be lighted or otherwise treated in the same manner as the most prominently lighted or otherwise specially treated portion of the advertisement.

(4) For multi-sided displays and like advertising material, the required type size shall be determined as though the advertisement were of an area equal to the area of the major display area of the display, and any disclosure shall be prominently positioned upon such display area.

(5) For unusual advertising materials or materials too small to reasonably comply with the requirements of paragraphs (h) (1) through (4) of this section, the Commission may establish acceptable alternative forms of making the required disclosures. A petition formally requesting permission to utilize an alternative form of disclosure may be submitted to the Secretary for due consideration by the Commission.

#### Subpart B—Voluntary Claims

##### § 437.3 Emphatic nutrition claims.

Emphatic, extraordinary, positive or similar claims concerning the nutritional value of a food with general or specific reference to any nutrient(s) contained in such food, including but not limited to the use of terms such as "lots (or 'full') of . . .", "high (or 'rich') in . . .", "packed (or 'loaded') with . . .", and "excellent (or 'significant' or 'good') source of . . ." shall not be used in advertising unless:

(a) The identity of any nutrient upon which the claim is based, as well as the percentage of the U.S. RDA per stated serving provided by each such identified nutrient, is clearly and conspicuously disclosed; and

(b) A serving of the advertised food contains each nutrient identified pursuant to paragraph (a) of this section in an amount of at least 35 percent of the U.S. RDA.

##### § 437.4 Nutrient comparison claims.

(a) Representations in advertising which make a comparative claim for the amount of any nutrient contained in an advertised food shall not be made, unless:

(1) The comparison is with an equal-sized serving of a commercially available food; and

(2) If a serving of the advertised food contains the same number of calories as or fewer calories than an equal-sized serving of the compared food, the compared food contains no more than two nutrients in amounts greater by 10 per-



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cent or more of the U.S. RDA than the amounts (including zero percent) at which the same two nutrients are contained in a serving of the advertised food; and

(3) If a serving of the advertised food contains more calories than an equal-sized serving of the compared food, the compared food contains no more than two nutrients in amounts greater on a per 100 calorie basis than the amounts (including zero percent) at which the same two nutrients are contained in a serving of the advertised food; and

(4) If the comparison concerns protein, a serving of the advertised food contains protein of at least the same quality as that contained in an equal-sized serving of the compared food; and

(5) The identities of the advertised and compared foods are clearly and conspicuously disclosed; and

(6) The advertised food and the food with which it is compared normally serve the same purpose in the diet; and

(7) The same nutrients are compared and the name of each such compared nutrient is clearly and conspicuously disclosed; and

(8) The percentage of the U.S. RDA of each compared nutrient provided by a stated serving of the advertised food is clearly and conspicuously disclosed; and

(9) If an advertised food is represented as one which contains any nutrient in any amount greater than the amount of such nutrient in another food, the amount contained in a serving of the advertised food exceeds that contained in an equal-sized serving of the compared food by at least 10 percent of the U.S. RDA.

(b) A food shall not be represented in advertising to be a substitute or replacement for another food (unless it is a food labeled "imitation" in compliance with 21 CFR 1.8), or as nutritious as another food, unless:

(1) A serving of the advertised food contains at least the same nutrients as those nutrients contained in an amount of 2 percent or more of the U.S. RDA in an equal-sized serving of the compared food, and each such nutrient is present in the advertised food in an amount which is at least equivalent to the amount at which each is contained in an equal-sized serving of the compared food; and

(2) If the compared food contains protein, a serving of the advertised food contains protein of at least the same quality as that contained in an equal-sized serving of the compared food; and

(3) The identity of the compared food and number of calories provided by equal-sized, stated servings of the advertised and compared foods, respectively, is clearly and conspicuously disclosed; and

(4) If the advertised food contains a higher fat content than the compared food, such fact, as well as the total fat content (in accordance with 21 CFR § 1.17(c)(6) and 1.18(c)(2)(i)), is clearly and conspicuously disclosed; and

(5) If an advertisement is for a food labeled "imitation" in compliance with 21 CFR 1.8, it is clearly and conspicuously

disclosed that such food is not as nutritious as the food for which it is intended to be a substitute or replacement.

(c) A food shall not be represented in advertising to be nutritionally superior to another food, unless:

(1) The nutrients in a serving of the advertised food provide at least 10 percent more of the U.S. RDA than are provided by those nutrients contained in an amount of 2 percent or more of the U.S. RDA in an equal-sized serving of the compared food; and

(2) If the compared food contains protein, a serving of the advertised food contains protein of at least the same quality as that contained in an equal-sized serving of the compared food; and

(3) The identity of the compared food and number of calories provided by equal-sized, stated servings of the advertised and compared foods, respectively, is clearly and conspicuously disclosed; and

(4) If the advertised food contains a higher fat content than the compared food, such fact, as well as the total fat content (in accordance with 21 CFR 1.17(c)(6) and 1.18(c)(2)(i)), is clearly and conspicuously disclosed.

## § 437.5 Nourishment claims.

(a) An advertisement shall not represent a food to be "nourishing", "wholesome", "nutritious", or use any other term of similar import which in any way states, suggests or implies that such food is a valuable or significant source of nutrition, unless a serving of the food contains at least four nutrients, including protein, each of which is present in an amount of at least 10 percent of the U.S. RDA per 100 calories, and unless at least one of such nutrients is present in a serving of such food in an amount of at least 10 percent of the U.S. RDA; *Provided, however*, That such terms may be used to describe any identified nutrient(s) which is (are) contained in such food (e.g., "nutritious Vitamin C"), subject to the provisions of § 437.2(a)(2) of this rule.

(b) A food or a serving thereof shall not be represented in advertising as providing all of the nutrients necessary for a sound, complete or balanced diet, unless it satisfies the U.S. RDA requirements for protein, vitamins and minerals prescribed in 21 CFR Part 125, and unless competent and reliable scientific tests demonstrate that such food is a total diet replacement.

(c) Subject to the provisions of paragraph (b) of this section, an advertisement shall not represent that an advertised food or a serving thereof alone is "perfect" or "nutritionally perfect", provides "complete nutrition", contains "all the good things you need", or use any other term of similar import which in any way states, suggests or implies that consumption of only the advertised food will provide enough nutrition to constitute a sufficient and full source of nutrition; or that consumption of the advertised food or a serving thereof maintains health, makes an individual well-fed or in any way is a unique, special or exclusive source of nutrition or health benefits.

(d) An advertisement shall not represent that a food or a serving thereof constitutes a nutritionally adequate meal, unless such advertised food or serving thereof complies with an applicable Federal regulation prescribed in the Code of Federal Regulations.

## § 437.6 Natural and organic food claims. [Reserved]

[See Explanation of Proceeding and Analysis and Statement of Issues by Section.]

## § 437.7 Claims for foods intended to be combined with other foods.

(a) If, in order to prepare a food for consumption, it is necessary for a consumer to add to an advertised food any other food(s), characterizing ingredient(s) or component(s), as such ingredient(s) or component(s) is (are) defined in 21 CFR 102.1, that fact shall be clearly and conspicuously disclosed in any advertisement for such food.

(b) An advertisement for a food described in paragraph (a) of this section may represent that consumption of a serving of the combination provides a designated percentage of the U.S. RDA of each of the nutrients contained in a serving of such combination, subject to the provisions of § 437.2(a)(2) of this rule. However, a representation that the advertised food alone provides a designated percentage of the U.S. RDA of the nutrients which are contained in a serving of such combination shall not be made.

(c) If a serving of the food(s), ingredient(s) or component(s) with which an advertised food is (are) necessarily combined contributes more than 50 percent of the U.S. RDA of any nutrient named in the advertisement, it shall be clearly and conspicuously disclosed that most of such nutrient is provided by such food(s), ingredient(s) or component(s).

(d) If an advertised food is frequently, but not necessarily, combined with any other food(s), ingredient(s) or component(s) for consumption, any representation regarding nutrition shall be based on the nutritional value of the advertised food alone.

## § 437.8 Energy and calorie claims.

(a) An advertisement shall not represent that a food or nutrient contains, produces, provides, enhances, or is a source of "energy" or "food energy", or use any other word, demonstration or depiction of similar import, unless it clearly and conspicuously discloses, in immediate conjunction with the making of each such representation, that "energy" or "food energy" is supplied by calories, as well as the number of calories contained in a stated serving of the advertised food.

(b) An advertisement shall not represent that consumption of a food or nutrient, by itself, will produce or provide health, general vigor, sustained energy or alertness, or that the energy from calories, by itself, will produce or provide strength, endurance, intellectual

performance, or the prevention or relief of fatigue.

(c) An advertisement shall not represent that consumption of a food in any way enhances or contributes to a person's vigor, energy, alertness, strength or endurance, unless it clearly and conspicuously discloses, in immediate conjunction with the making of each such representation:

(1) That such vigor, energy, alertness, strength or endurance is enhanced by and depends, in part, upon the calories in the food; and

(2) The number of calories contained in a stated serving of the advertised food.

(d) An advertisement shall not represent that consumption of any food or meal is useful for, or contributes in any way to, or is useful in, regulating or maintaining caloric intake or body weight by the use of any demonstration or depiction, or any word or phrase such as "diet", "dietetic", "low calorie", "low in calories", "fewer calories", "calorie reduced", "contains artificial sweeteners", "artificially sweetened", or any other demonstration, depiction or term of similar import, unless:

(1) The advertised food complies with the provisions of 21 CFR 125.6; and

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(2) The number of calories contained in a stated serving of the advertised food is clearly and conspicuously disclosed.

(e) An advertisement for a food which makes any representation described in paragraph (d) of this section, and which contains any artificial sweetener, except one which serves an authorized technological purpose (as defined in 21 CFR 125.1(i)) shall comply with the provisions of paragraphs (d)(1) and (2) of this section, and

(1) Shall clearly and conspicuously disclose the number of calories contained in a stated, equal-sized serving of the same food made with nutritive sweeteners; and

(2) If the artificially sweetened product contains a nutritive sweetener, the advertisement shall clearly and conspicuously make the following specific disclosure:

This food contains sugars and should not be used by diabetics without the advice of a physician.

(f) An advertisement shall not represent that a food is "sugarless", "sugar free", "contains no sugar" or use any other term of similar import, unless such food contains no sugars, including, but

not limited to, sorbitol, mannitol, or other hexitol(s).

## § 437.9 Fat, fatty acid and cholesterol content claims. [Reserved]

[See Explanation of Proceeding and Analysis and Statement of Issues by Section.]

## § 437.10 Health and related claims. [Reserved]

[See Explanation of Proceeding and Analysis and Statement of Issues by Section.]

[FR Doc.75-13680 Filed 5-27-75;8:45 am]

[ 16 CFR Part 438 ]  
PROPRIETARY VOCATIONAL AND HOME STUDY SCHOOLS

## Proposed Advertising, Disclosure, Cooling Off and Refund Requirements

## Correction

In FR Doc. 75-12777 appearing at page 21048 in the issue of Thursday, May 15, 1975 on page 21052, third column in paragraph 4, the fourth line from the bottom now reading, "training useless in obtaining course-" should read, "training useless unless shown otherwise?"



## notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

### DEPARTMENT OF STATE

Agency for International Development  
[No. 99.1.14]

#### MISSION DIRECTOR, USAID, VIETNAM Cancellation of Redlegation of Authority

Pursuant to the authority delegated to me by Redlegation of Authority No. 99.1 (38 FR 12336), dated May 1, 1973, from the Assistant Administrator for Program and Management Services, I hereby revoke Redlegation of Authority No. 99.1.14 to the Mission Director, USAID, Vietnam (39 FR 30059).

This revocation is effective immediately.

Dated: May 14, 1975.

HUGH L. DWELLEY,  
Acting Director,  
Office of Contract Management.

[FR Doc. 75-13760 Filed 5-27-75; 8:45 am]

[No. 99.1.56]

#### MISSION DIRECTOR, USAID, KHMER REPUBLIC

#### Cancellation of Redlegation of Authority

Pursuant to the authority delegated to me by Redlegation of Authority No. 99.1 (38 FR 12336), dated May 1, 1973, from the Assistant Administrator for Program and Management Services, I hereby revoke Redlegation of Authority No. 99.1.56 to the Mission Director, USAID, Khmer Republic (39 FR 12902).

This revocation is effective immediately.

Dated: May 14, 1975.

HUGH L. DWELLEY,  
Acting Director,  
Office of Contract Management.

[FR Doc. 75-13761 Filed 5-27-75; 8:45 am]

#### Office of the Secretary

[Public Notice CM-C5/1]

#### ADVISORY COMMITTEE ON PRIVATE INTERNATIONAL LAW STUDY GROUP ON MATRIMONIAL MATTERS

##### Cancellation of Meeting

The meeting of the Study Group on Matrimonial Matters, a subgroup of the Secretary of State's Advisory Committee on Private International Law, announced as scheduled for June 4, 1975, has been cancelled. The documents which were to have been the subject of study at the meeting will not be available for distribution by that date.

The announcement of this meeting appeared on page 22007 of the FEDERAL

REGISTER for Tuesday, May 20, 1975 (40 FR 22007).

Dated: May 20, 1975.

ROBERT E. DALTON,  
Executive Director.

[FR Doc. 75-13757 Filed 5-27-75; 8:45 am]

[Public Notice CM-5/55]

#### SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

##### Meeting

The working group on container operations of the Subcommittee on Safety of Life at Sea (SOLAS) will hold an open meeting at 9:30 a.m. on Wednesday, June 18, 1975 in Room 8334 of the Department of Transportation, 400 7th Street, SW., Washington, D.C.

The purpose of this meeting will be to discuss United States positions for the 16th session of the Intergovernmental Maritime Consultative Organization's (IMCO) Subcommittee on Containers and Cargoes scheduled to meet June 30, 1975 in London.

The principal items on the agenda for the 16th session are:

Decisions of the IMCO Maritime Safety Committee related to the work of the Subcommittee  
Carriage of Grain  
Code of Safe Practice for Bulk Cargoes  
International Convention for Safe Containers (CSC), 1973  
Code of Safe Practice for Ships Carrying Timber Deck Cargoes  
Safe Stowage and Securing of Cargo in non-container ships

The working group will also discuss a common American position on container standards for use in all foreign affairs forums; and problems concerning stowage of military explosives in commercial containers for overseas shipments.

Further information on this working group meeting may be obtained from Mr. M. H. Allen, Chairman of the working group on container operations. He may be reached by telephone on (area code 202) 426-1577.

Members of the public may submit written comments to the Chairman prior to June 12. The Chairman will, as time permits, entertain oral comments from members of the public attending the meeting.

RICHARD K. BANK,  
Chairman,

Shipping Coordinating Committee.

MAY 19, 1975.

[FR Doc. 75-13758 Filed 5-27-75; 8:45 am]

[Public Notice CM-5/55]

#### SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

##### Meeting

The working group on radio communications of the Subcommittee on Safety of Life at Sea (SOLAS) will hold an open meeting at 9:30 a.m. on Thursday, June 19, 1975 in Room 847 of the Federal Communications Commission, 1919 M Street, NW., Washington, D.C.

The purpose of the working groups' meeting will be to discuss the agenda and preparations for the 15th session of the Intergovernmental Maritime Consultative Organization's Subcommittee on Radio Communications, scheduled to be held in London, September 15-19, 1975. Among the items on the agenda for the 15th session are:

Actions taken by the Maritime Safety Committee at its thirty-second session;  
Operational standards for shipborne radio equipment;  
Report on the outcome of the Conference on the Establishment of an International Maritime Satellite System.

Requests for further information on the meeting should be directed to Captain W. T. Adams, Chairman of the working group on radio communications, United States Coast Guard, 400 7th Street, SW., Washington, D.C. 20590. He may be reached by telephone on (area code 202) 426-1345.

Members of the public may submit written comments to the Chairman prior to June 12. The Chairman will, as time permits, entertain oral comments from members of the public attending the meeting.

RICHARD K. BANK,  
Chairman,  
Shipping Coordinating Committee.

MAY 19, 1975.

[FR Doc. 75-13759 Filed 5-27-75; 8:45 am]

### DEPARTMENT OF DEFENSE

Department of the Air Force

#### SCIENTIFIC ADVISORY BOARD

##### Meeting

MAY 22, 1975.

The USAF Scientific Advisory Board Electronics Panel on Prioritization of Electron Device Technology will hold a meeting on June 17 and 18, 1975 from 9:00 a.m. to 5:00 p.m. at the Air Force Avionics Laboratory, Wright Patterson Air Force Base, Ohio.

The meeting will be closed to the public in accordance with Title 5, U.S.C.

552(b) (1), (4) and (5). The Panel will receive classified and proprietary briefing on the present electron device technology base and anticipated Air Force development opportunities and requirements through FY 1981.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-4648.

JAMES L. ELMER,  
Major, USAF Executive,  
Directorate of Administration.

[FR Doc. 75-13831 Filed 5-27-75; 8:45 am]

#### SCIENTIFIC ADVISORY BOARD

##### Meeting

MAY 22, 1975.

The USAF Scientific Advisory Board C-141 Independent Review Team will hold a meeting on June 17, 1975, from 8:30 a.m. to 5:00 p.m. and on June 18, 1975, from 8:30 a.m. to 2:45 p.m. at the Lockheed Georgia Company, Marietta, Georgia.

The meeting will be closed to the public in accordance with Title 5, U.S.C. 552(b) (1), (4) and (5). The Committee will receive classified and proprietary briefings on the proposed modification to stretch the C-141.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-4648.

JAMES L. ELMER,  
Major, USAF Executive,  
Directorate of Administration.

[FR Doc. 75-13832 Filed 5-27-75; 8:45 am]

#### SCIENTIFIC ADVISORY BOARD

##### Meeting

MAY 22, 1975.

The USAF Scientific Advisory Board Committee on Gas Turbine Technology will hold a meeting on June 23, 1975 from 8:30 a.m. to 5:00 p.m. and on June 24, 1975 from 8:30 a.m. to 3:30 p.m. at the Air Force Aero Propulsion Laboratory, Wright-Patterson Air Force Base, Ohio.

The meeting will be closed to the public in accordance with Title 5, U.S.C. 552(b) (1), (4) and (5). The Committee will receive classified and proprietary briefings on contractors' gas turbine technology programs.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-4648.

JAMES L. ELMER,  
Major, USAF Executive,  
Directorate of Administration.

[FR Doc. 75-13834 Filed 5-27-75; 8:45 am]

### NOTICES

#### SCIENTIFIC ADVISORY BOARD

##### Meeting

MAY 22, 1975.

The USAF Scientific Advisory Board Ad Hoc Committee on Laser Technology will hold a meeting on June 19 and 20, 1975 from 8:30 a.m. to 5:00 p.m. at the Air Force Weapons Laboratory, Kirtland Air Force Base, New Mexico.

The meeting will be closed to the public in accordance with Title 5, U.S.C. 552(b) (1), (4) and (5). The Committee will receive classified briefings and hold classified discussions on laser technology programs.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-4648.

JAMES L. ELMER,  
Major, USAF Executive,  
Directorate of Administration.

[FR Doc. 75-13833 Filed 5-27-75; 8:45 am]

#### SCIENTIFIC ADVISORY BOARD

##### Meeting

MAY 22, 1975.

The USAF Scientific Advisory Board Committee on B-1 Structures will hold a meeting on June 25 and 26, 1975 from 8:30 a.m. to 5:00 p.m. at Rockwell International, Los Angeles, California.

The meeting will be closed to the public in accordance with Title 5, U.S.C. 552(b) (1), (4) and (5). The Committee will receive classified informational briefings on the structural aspects of the B-1 aircraft development program.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-4648.

JAMES L. ELMER,  
Major, USAF Executive,  
Directorate of Administration.

[FR Doc. 75-13835 Filed 5-27-75; 8:45 am]

### DEPARTMENT OF JUSTICE

#### Drug Enforcement Administration MANUFACTURE OF CONTROLLED SUBSTANCES

##### Application

Section 303(a) (1) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 823(a) (1)) states:

The Attorney General shall register an applicant to manufacture controlled substances in schedules I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part. In determining the public interest, the following factors shall be considered:

(1) Maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into

other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes;

Section 1008 of the Controlled Substance Import and Export Act (21 U.S.C. 958(h)) provides that the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedules I or II, and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Pursuant to § 1301.43 of Title 21 of the Code of Federal Regulations, notice is hereby given that on April 9, 1975, Regis Chemical Company, 8210 N. Austin Avenue, Morton Grove, Illinois 60053, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of mescaline, a basic class controlled substance listed in schedule I.

Any person registered to manufacture mescaline in bulk may, on or before July 1, 1975, file written comments on or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on the application (stating with particularity the objections or issues, if any, concerning which the person desires to be heard and a brief summary of his position on those objections or issues).

Comments and objections may be addressed to the Hearing Clerk, Office of the Administrative Law Judge, Drug Enforcement Administration, Room 1130, 1405 Eye Street, NW., Washington, D.C. 20537.

Dated: May 20, 1975.

JOHN R. BARTELS, Jr.,  
Administrator,  
Drug Enforcement Administration.

[FR Doc. 75-13819 Filed 5-27-75; 8:45 am]

### DEPARTMENT OF THE INTERIOR

#### Fish and Wildlife Service

#### ENDANGERED SPECIES PERMIT

##### Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant, Idaho Cooperative Wildlife Research Unit, College of Forestry, Wildlife and Range Science, University of Idaho, Moscow, Idaho 83843. Dr. Maurice Hornocker, Leader, Dr. Roderick C. Drewien, Research Wildlife Biologist.

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DEPARTMENT OF THE INTERIOR  
U.S. FISH AND WILDLIFE SERVICE  
FEDERAL FISH AND WILDLIFE  
LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)  
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:  
To transplant whooping crane eggs from Ft. Smith, Alberta, Canada to Grays Lake National Wildlife Refuge, Idaho and place eggs into nests of Greater Sandhill cranes. The eggs will be hatched and the young reared by the sandhill crane foster-parents. Subsequent activity will consist of close observation of foster-parent family groups and possible capture and leg banding of whooping crane chicks.

3. APPLICANT (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested):  
Idaho Cooperative Wildlife Research Unit. The staff field investigator who will be handling the whooping cranes is Dr. Roderick C. Drewien, Research Wildlife Biologist, College FWR, Univ. of ID., Moscow, ID. 83843. Phone: 208-885-6433.

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:  
Field Investigator Description  
NAME: MR. DREWEN, R. C. HEIGHT: 5' 8" WEIGHT: 170 lbs.  
DATE OF BIRTH: 30 July 1939 COLOR HAIR: Brown COLOR EYES: Brown  
SOCIAL SECURITY NUMBER: 555-50-5042

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:  
Business, Agency, or Institution: Idaho Cooperative Wildlife Research Unit (Univ. of Idaho and U.S. Fish and Wildlife Service Cooperating) headquartered at College of Forestry, Wildlife & Range Sciences, Univ. of Idaho, Moscow, ID.

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED:  
Foster-parent experiment will be at Grays Lake National Wildlife Refuge and vicinity, Wayan, Idaho 83285.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT?  
YES ☐ NO ☒ (If yes, list license or permit number): Fed. Banding Permit 5991

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSED?  
YES ☐ NO ☒ (If yes, list jurisdiction and type of document): Canadian government. Permits being secured by the Canadian Wildlife Service for handling of whooper eggs by their personnel.

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF:  
N/A

10. DESIRED EFFECTIVE DATE: 25 May 1975

11. DURATION NEEDED: 25 May 1975-30 June 1975

12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 17.23) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED:  
17.23 Zoological, educational, scientific, or propagation permits

CERTIFICATION  
I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.  
Signature: Maurice Hornocker DATE: 7 April, 1975

## ATTACHMENT—50 CFR 17.23(b)

Section 17.23. Zoological, educational, scientific, or propagation permits.

17.23(a)(1). This permit request is for the importation of up to 15 eggs of the whooping crane (*Grus americana*) from Canada in 1975 and a similar number of whooping crane eggs in 1976.

17.23(a)(2). Written agreement between the United States and the Canadian governments covering this research experiment is being prepared by the Directorate of the U.S. Fish and Wildlife Service.

17.23(a)(3). The eggs are to be taken from wild whooping crane nests (one egg from each 2-egg nest) at Wood Buffalo National Park, Northwest Territories, Canada. Personnel of the Canadian Wildlife Service will pick up the eggs, handle by incubator and insulated

carrying case in Canada, and transport them by jet aircraft to Idaho Falls or Pocatello, Idaho, where they will become the responsibility of the Idaho Cooperative Wildlife Research Unit.

The eggs, in their insulated carrying cases, will then be airlifted to Grays Lake National Wildlife Refuge where they will be placed in the nests of selected sandhill crane foster-parents for completion of incubation and hatching.

Continuous observational follow-up of the nests and the whooping crane chicks will be conducted. It is possible that whooping crane chicks will be color-banded by capturing chicks before they reach the flight stage.

Subsequent follow-up of the foster-parent crane families will be conducted as they migrate from Grays Lake in the fall, proceed

to their migration stopping point in the San Luis Valley in Colorado and go on to their wintering area on and in the vicinity of Bosque del Apache National Wildlife Refuge parent families will be observed throughout the winter and during their northbound migration the following spring. Dispersal and summer activities of the yearling whooping cranes will be monitored. A second transplant of whooping crane eggs from Wood Buffalo National Park, Canada, to Grays Lake, Idaho will occur in 1976, utilizing the same procedures.

Date: April 7, 1975.

Director, U.S. Fish and Wildlife Service, Chief, Division of Law Enforcement, Chief, Division of Wildlife Research—From Leader, Idaho Cooperative Wildlife Research Unit. Request for permit to conduct research on an endangered species.

As required by the Endangered Species Act of 1973, attached find application from the Idaho Cooperative Wildlife Research Unit for a permit to conduct research on endangered wildlife.

We are requesting permission to receive whooping crane eggs from the Canadian Wildlife Service at Idaho Falls or Pocatello, Idaho, transport the eggs to Grays Lake NWR by helicopter, place eggs in the nests of foster-parent greater sandhill cranes and conduct follow-up observations on the foster-parent families, with possible capture and leg-banding of whooping crane chicks.

It is our understanding that we will not require permit from the Canadian government since their personnel will be handling the eggs in Canada.

Sincerely,

MAURICE HORNOCKER,  
Unit Leader.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before June 27, 1975 will be considered.

Dated: May 20, 1975.

C. R. BAVIN,  
Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc. 75-13693 Filed 5-27-75; 8:45 am]

## ENDANGERED SPECIES PERMIT

## Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Tarzan Zerbini, Route 2, Box 8, Sarasota, Florida 33580.

DEPARTMENT OF THE INTERIOR  
U.S. FISH AND WILDLIFE SERVICE  
FEDERAL FISH AND WILDLIFE  
LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)  
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:  
CIRCUS ACT AND  
INTERSTATE TRANSPORTATION

3. APPLICANT (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested):  
TARZAN ZERBINI,  
RT 2, Box 8,  
SARASOTA, FLA. 33580

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:  
NAME: MR. ZERBINI, T. HEIGHT: 6 WEIGHT: 195  
DATE OF BIRTH: JUNE 25, 1942 COLOR HAIR: BROWN COLOR EYES: BROWN  
PHONE NUMBER WHERE EMPLOYED: 813 371 8808 SOCIAL SECURITY NUMBER: 362 38 8834  
OCCUPATION: WILD ANIMALS TRAINER

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:  
Business, Agency, or Institution: CIRCUS ACT AND  
INTERSTATE TRANSPORTATION.

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED:  
United States

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT?  
YES ☐ NO ☒ (If yes, list license or permit number):

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSED?  
YES ☐ NO ☒ (If yes, list jurisdiction and type of document):

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF:  
\$50.00

10. DESIRED EFFECTIVE DATE: 3 27 1975

11. DURATION NEEDED: Life.

12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 17.23) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED:

CERTIFICATION  
I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.  
Signature: Tarzan Zerbini DATE: 3 27 1975

SUMMARY OF ATTACHMENTS TO PERMIT  
APPLICATION FROM TARZAN ZERBINI

Application for interstate transportation of circus act:

One male Siberian tiger, born March 14, 1971, in the Birmingham (Ala.) Zoo.

One male and two female Bengal tigers, born December 7, 1966, in the Cleveland (Ohio) Zoo.

15 lions, males and females.

The cages of the tigers are 7 ft. long, 7½ ft. wide, and 4 ft. high. The cages travel in a semi-truck/trailer. The semi has a door on the side for feeding during travel between engagements, and a 6000-pound freezer for the meat. The trailer is heated in the winter; in the summer all windows are open for air.

Five photographs, and a check for \$50.00.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before June 27, 1975 will be considered.

Dated: May 20, 1975.

C. R. BAVIN,  
Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc. 75-13694 Filed 5-27-75; 8:45 am]


## ENDANGERED SPECIES PERMIT

## Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Mr. T. A. Beckett III, Magnolia Gardens, Route 4, Charleston, South Carolina 29407.



 <b>DEPARTMENT OF THE INTERIOR</b> <b>U.S. FISH AND WILDLIFE SERVICE</b> <b>FEDERAL FISH AND WILDLIFE</b> <b>LICENSE/PERMIT APPLICATION</b>																			
1. APPLICATION FOR (Indicate only one) <input type="checkbox"/> IMPORT OR EXPORT LICENSE <input checked="" type="checkbox"/> PERMIT																			
2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED. 2A Brown pelican 2B Red-cockaded woodpecker  See attachments																			
3. APPLICANT (Print, complete address and phone number of individual, business, agency, or institution for which permit is requested) T. A. Beckett, III, Magnolia Gardens—Route 4 Charleston, S. C. 29407 Phone: 766-8040 (Area Code 803)																			
4. IF APPLICANT IS AN INDIVIDUAL, COMPLETE THE FOLLOWING: <table border="1"> <tr> <td>DATE OF BIRTH</td> <td>WEIGHT</td> <td>HEIGHT</td> </tr> <tr> <td>Nov. 23, 1918</td> <td>138 lbs.</td> <td>5' 9"</td> </tr> <tr> <td>PHOTO NUMBER WHEN EMPLOYED</td> <td>COLOR HAIR</td> <td>COLOR EYES</td> </tr> <tr> <td>766-3462</td> <td>Brown</td> <td>Brown</td> </tr> <tr> <td>SOCIAL SECURITY NUMBER</td> <td colspan="2"></td> </tr> <tr> <td>247-20-5754</td> <td colspan="2"></td> </tr> </table> OCCUPATION Nursery Manager—Magnolia Gardens ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT		DATE OF BIRTH	WEIGHT	HEIGHT	Nov. 23, 1918	138 lbs.	5' 9"	PHOTO NUMBER WHEN EMPLOYED	COLOR HAIR	COLOR EYES	766-3462	Brown	Brown	SOCIAL SECURITY NUMBER			247-20-5754		
DATE OF BIRTH	WEIGHT	HEIGHT																	
Nov. 23, 1918	138 lbs.	5' 9"																	
PHOTO NUMBER WHEN EMPLOYED	COLOR HAIR	COLOR EYES																	
766-3462	Brown	Brown																	
SOCIAL SECURITY NUMBER																			
247-20-5754																			
5. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED Red-cockaded woodpecker (Francis Marion National Forest) Brown pelican (Deveaux Bank) Charleston, S. C.																			
6. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? (If yes, list license or permit number) Banding permit No. 6741 Collecting permit No. 4-SC-385 S. C. Game Department																			
7. CERTIFIED CHECK OR MONEY ORDER (If applicable, payable to the U.S. Fish and Wildlife Service) ENCLOSED IN AMOUNT OF \$ 10. DATED EFFECTIVE DATE May 1, 1975 11. DURATION NEEDED Indefinite																			
12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 17.11) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED. See attachments for item 2																			
CERTIFICATION I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 17, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER 1 OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001. SIGNATURE (INK) _____ DATE April 9, 1975																			

## ATTACHMENT 2A—BROWN PELICAN

I request permission to continue my work with the Brown pelican, *P. occidentalis*, which has been in progress for over 25 years. It was in part through my efforts that the species was placed on the endangered list. Indirectly it brought about visits to the West Coast nesting colonies where the species was said to be in excellent condition numerically. Initial visits disclosed soft shelled eggs and practically no reproduction. To date I have banded about 11,000 pelicans, monitored the breeding success and carried out numerous studies regarding the species' life history. I have published my work on the Deveaux Bank site and worked for many years for its protection. On May 1 the site will be dedicated to the late Dr. Alexander Sprunt as a memorial to his many years of service to the Audubon Society.

It is my firm belief that it is only through banding that a true picture can be secured of the Brown pelican's breeding success and later mortality on the wintering grounds.

To date there has never been any form of harm occur from my efforts and I can

secure statements from personnel in your enforcement division.

## ATTACHMENT 2B—RED-COCKADED WOODPECKER

I request permission to continue my work with the Red-cockaded woodpecker, *D. borealis*, which has been in progress since 1969 and includes the color banding of about 200 individuals currently under study. It was in a large part my work and letters to the Secretary of the Interior that succeeded in acquiring the endangered species status.

My studies have been included in the Symposium Report—1971. I have published in Eastern Bird Banding—1974 acreage requirements of colonies in natural habitat areas.

I have been asked by the Forest Service and the Department of the Interior to assist in developing means of moving and introducing the species into habitat suitable but not in current use by the species.

I currently have enough information on the species to write a book on its life history, but in acquiring this information many more questions have been raised. I can easily see that another 10 years' work will

still leave many voids regarding its habits and needs.

Above all I do not want to feel as have previous authors Lignon and Lay—that they have published prematurely.

## EBRA NEWS

Winter 1974 Volume 37, No. 1  
 Published by the Eastern Bird Banding Association

## HABITAT ACREAGE REQUIREMENTS OF THE RED-COCKADED WOODPECKER BY T. A. BECKETT, III

The Red-cockaded woodpecker (*Dendrocopos borealis*) is one of numerous species of wildlife in habitat trouble. It is still considered common by some knowledgeable persons but it should remain on the endangered list. There is no species that we can more safely state is headed for extinction than this highly specialized and localized woodpecker. The main factor working against continuing this bird on the endangered list is the ease with which it may be found due to its habitat.

The Red-cockaded is a non-migratory species. It is sedentary in that individuals may be found for several years within a rather small area. My current studies indicate that the species has a relatively long life in favorable habitat. One of the most perplexing questions currently needing answering is—what is the minimum habitat in which the species can exist? This paper will not attempt to furnish any of these answers but will simply show that a certain number of clans of birds are found in an area that meets the need to isolate them from possible intrusions by adjacent birds.

This study represents a small segment of over 3 years' work in locating over 200 clans, study information from about 300 trees, and color banding about 200 birds. I know of no other North American species of bird that can be handled under wild conditions on a year-round basis as the need arises. I know of no other species about which so little information is in print and even that small amount is often in error.

The nomenclature used in this manuscript follows the proposed terms set forth in the published Symposium on the Red-cockaded Woodpecker, Bureau of Sport Fisheries and Wildlife, 1971, edited by R. L. Thompson.

To date there has been no factual information regarding the support timber and habitat needed by the Red-cockaded woodpecker in relatively "natural habitat." I know of no primitive areas, not altered by man, on which a study of this type might be based. It is true that possibly 1 or 2 colonies might be selected in isolated areas but these would be far from the type conditions under which the species came into existence.

This study is based on banding and observation periodically on a year-round basis covering a little over 3 years. Some first hand information regarding surrounding habitat and former clans dates back over 20 years. The tract limits itself to ready incursions by other members of the species by the surrounding vegetation. All highway and road names and numbers have been purposely deleted from the small scale map so that abnormal visits by birders might be kept to a minimum. They are available for any ornithologist seriously interested in the species for study purposes.

The study area is in a National Forest and follows most of the guide lines formulated by Melvin Hopkins and T. E. Lynn, Jr. in the previously mentioned symposium publication. Some suggestions are followed closely whereas others, such as raking around the base of hole trees, appear to be ignored. No attempt will be made to bring out changes that need to be made if the species is to

remain with us as a living bird. In fact we only know that changes must be made but have little knowledge of minimal needs.

The area receives prescribed burning, a necessity to maintain habitat, and periodic thinning. Logging is restricted in hole tree areas to the non-breeding seasons. In general the district foresters show a great deal of interest in preserving the Red-cockaded woodpecker. The loggers, "stumpers", and those holding "dead tree" permits are another matter. Their activities in and around hole trees need much greater control. Holders of "dead tree" permits have destroyed several clans.

Some critics may say that this study area is not normal habitat and should not be the basis for a population study, but I can assure them that the species, with very few exceptions, exists today over most of its present range under these rather artificial conditions. Due to ecological claims of air pollution even the needed periodic controlled burning is in danger of being banned. There can be little question that the current selective cutting has a tendency toward even aged management.

The area selected for this attempt to determine roughly the acreage needs was relatively isolated by the surrounding habitat. It contained 13 clans, composed of 70 Red-cockaded woodpeckers, 52 of which were color banded. To date there has been no evidence of any influx of birds from adjacent clans. From observations it was concluded that clans 12 and 13 spent roughly half of their feeding efforts across adjacent roads. They were both small clans, averaging over the 3 years period from 3 to 5 birds each. If we assume their habitat acreage requirements were equal we can eliminate one clan.

From current literature we can readily understand that any conclusions drawn from habitat acreage needed in this particular study site would not necessarily apply to other sites, such as some marginal areas of Florida or Texas. We do not, in fact, have a picture of what an optimum habitat consists. We can safely state that thinning of trees beyond a certain minimum will cause abandonment and abnormal predation in a clan.

One of the greatest problems in the study of the Red-cockaded woodpecker continues to be the fact that there is no species which approximates its life history. New questions continue to arise that have no parallel in the literature. Many of its current habits are possible relic in origin and no single answer will suffice in its current habitat utilization.

The greatest single need today is for our federal government to set aside, on public lands, areas to be manipulated for optimum use by the Red-cockaded woodpecker. These areas should be available for scientific study and possible manipulation to gain knowledge of minimal requirements of the species. If the Red-cockaded woodpecker is to survive in the current projected 25 to 30 year clear cut rotations that are in use on so much of our pine land in the south today, it needs help. I, for one, believe that this is highly possible and have some field observations that will support this line of thought.—Rt. 4, Charleston, S.C. 29407.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Of-

fice Box 19183, Washington, D.C. 20036. All relevant comments received on or before June 27, 1975 will be considered.

Dated: May 20, 1975.

C. R. BAVIN,  
 Chief, Division of Law Enforcement,  
 U.S. Fish and Wildlife Service.

[FR Doc.75-13695 Filed 5-27-75; 8:45 am]

## DONALD B. SINIFF

## Issuance of Permit for Marine Mammals

On March 20, 1975, a notice was published in the FEDERAL REGISTER (40 FR 12690), that an application had been filed with the Fish and Wildlife Service by Dr. Donald B. Siniff and Dr. John R. Tester, Bio Science Center, University of Minnesota, St. Paul, Minnesota, for a permit to engage in sea otter research.

Notice is hereby given that on May 19, 1975, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Fish and Wildlife Service issued a permit to Donald B. Siniff, subject to certain conditions set forth therein. The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Dated: May 22, 1975.

C. R. BAVIN,  
 Chief, Division of Law Enforcement,  
 U.S. Fish and Wildlife Service.

[FR Doc.75-13686 Filed 5-27-75; 8:45 am]

## ENDANGERED SPECIES PERMIT

## Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant, Dr. F. Prescott Ward, Chief, Ecological Research Office, Biomedical Laboratory, Edgewood Arsenal, Aberdeen Proving Ground, Maryland 21010.

## DEPARTMENT OF THE ARMY

## HEADQUARTERS, EDGEWOOD ARSENAL

ABERDEEN PROVING GROUND, MARYLAND 21010

Mr. CLARK R. BAVIN,  
 Chief, Division of Law Enforcement,  
 U.S. Fish and Wildlife Service  
 Washington, DC 20240

APRIL 16, 1975.

DEAR MR. BAVIN: The following information is submitted to be considered for publication in the FEDERAL REGISTER in applying for an Endangered Species Permit as required by Pub. L. 93-205 (Endangered Species Act of 1973).

The application is for a permit to band peregrine falcons (*Falco peregrinus tundrius* and *F. p. anatum*), and to salvage, for the purpose of donating to a public, scientific, or educational institution, peregrine falcons killed or found dead as a result of normal banding operations or peregrine falcon casualties from other causes.

Populations of peregrine falcons have experienced unprecedented declines during the

last 25 years in many parts of the world. Biomagnifications of cumulative toxins such as DDT and polychlorinated biphenyls have been incriminated as the major cause of these declines. Indeed, no other species has been more decimated than the peregrine by chemical pollution of the biosphere; it is probably the best global indicator of this pervasive contamination. In this climate, it is imperative that population trends of peregrine falcons be monitored closely in order that informed management procedures can be accomplished. Traditional methods of studying peregrine falcon populations are varied:

a. Reproductive surveys at nest sites have been widely and successfully employed.

b. Population trends have been monitored by observing falcons on autumn migration at sites of concentration on flyways such as: Padre Island, Texas; Assateague Island, Maryland; Cedar Grove, Wisconsin; and Cape May, New Jersey.

c. Banding of falcons at nesting sites and migration foci with standard Fish and Wildlife Service tarsal bands has been practiced for about 40 years, and recoveries have provided some valuable information on peregrine movements, longevity, and demography.

d. Recently, biotelemetry has been employed successfully in detailed studies of the autumn migration of peregrine falcons.

It is the purpose of this study to establish a coordinated plan for ecological studies of peregrine falcons at selected sites on a global scale. Nesting, migration, biotelemetry, and banding investigations are planned. However, conventional banding of peregrine falcons suffers from several statistical and logistical shortcomings. Only a few individuals of this rare species are banded each year, and recovery rates usually average less than 10 percent; this results in extremely small samples to analyze statistically. Furthermore, nearly all conventional returns are from falcons that have been "shot" or "found dead" meaning that they have been removed from the population. Therefore, it is desirable to augment, not to replace, the standard banding regime with a system colored plastic tarsal bands. The basic color of the lightweight plastic band will indicate the geographic area where the band was applied, and a contrasting three-digit number inscribed into the plastic will individually identify the bird. This system has many advantages: It will permit casual observers to note the background color of the band and therefore supply general migration data; it will allow researchers to identify a bird individually in demographic studies without having to capture it and read the conventional band; and it will facilitate repeated observations and identifications on a falcon without removing it from the population.

The objectives of this program are:

a. To conduct basic ecological surveys of nesting peregrine falcons in selected areas of North America and Greenland including measures of reproductive success, prey selection, nesting behavior, and dynamics of pesticides, heavy metals, and polychlorinated biphenyls.

b. To establish standard observation, marking, and analytical techniques so that the results of these investigations can be used as baselines for interpreting future trends, and so that results of geographically separate studies will be compatible.

c. To gather migration statistics (abundance, age and sex ratios, correlation of movement with weather patterns) of peregrine falcons in spring and fall at sites of geographical concentration from records of sightings and captures, and to compare these data with observations from previous years.



## NOTICES

d. To band with standard U.S. Fish and Wildlife Service metal bands and color-coded, lightweight, plastic tarsal bands peregrine falcons on a global scale to augment scanty information on population dynamics.

e. To implement international working agreements involving scientists from the United States, Canada, Greenland, Great Britain, Central America, and the Soviet Union.

This study has been incorporated as Sub-project E, Problem Area VI, of the Agreement between the United States of America and the Union of Soviet Socialist Republics on Cooperation in the Field of Environmental Protection. The Sub-project is entitled, "A Cooperative Marking Program for Raptors with Emphasis on the Peregrine Falcon (*Falco peregrinus*)"; Dr. P. Prescott Ward is the scientific coordinator for the U.S. and Dr. Vladimir Glausin is the scientific coordinator for the U.S.S.R.

Facets of this study have been in progress for several years. Dr. P. P. Ward and Mr. Robert B. Berry have conducted an autumn migration survey of peregrine falcons at Assateague Island, MD/VA since 1970, last year under the authority of Endangered Species Permit Number PRT-8-2-C. Dr. William G. Mattox has supervised an annual reproductive study of peregrine falcons in a small area of West Greenland since 1972. Dr. Ward and other investigators have studied peregrine movements in spring and fall in recent years in Panama, at Dry Tortugas, Florida, and on barrier islands in Virginia.

Plastic bands will be attached to one tarsus and a Fish and Wildlife Service metal band to the other. Each plastic band will have a different three-digit letter/number inscribed into a contrasting background color to facilitate easy individual identification in the field. Background colors of the bands will be keyed generally to the following areas: Alaska, white; western Canada, black; eastern Canada, yellow; most of continental U.S., sky blue; Greenland, red; Great Lakes area, dark blue; east coast of U.S., green; Caribbean and Central America south of Mexico, gray; and Gulf Coast and Mexico, orange. Many years of experience with a similar style plastic tarsal band on whistling swans indicate that the bands are durable and safe; recaptures, resightings, and recoveries of color-banded peregrine falcons during the past two years indicate the same. No more than 500 falcons of various ages and sexes will be banded annually (107 peregrine falcons were so marked in 1973 and 140 in 1974 in North America/Greenland under authority of other permits, so the maximum number of 500 is very unlikely to be attained in any season). All peregrine falcons will be released immediately after banding, unless previous injury or substantial injury or death incident to the banding operation dictates that they be treated or salvaged (of 135 peregrine falcons banded at Assateague Island by Dr. P. P. Ward and Mr. R. B. Berry during the last five autumn surveys, none has ever been injured or killed, thus injury or death is highly unlikely).

The purpose of this permit application is to expand somewhat the limited scope of my original endangered species permit. This request for an amended permit is due to new information on peregrine biology which has become available since the original application. Authority is requested:

a. To observe, capture, and band migrating peregrine falcons at Assateague Island, MD/VA during spring and fall migrations. No more than two principal investigators will engage in this activity at one time.

b. To observe, trap, and band migrating peregrine falcons at no more than five additional sites or areas in the United States which include, but will not necessarily be limited to, sites or areas in Florida (Dry Tortugas and/or a barrier island along the Atlantic Coast), Georgia (coastal barrier island), Virginia (coastal barrier island and/or Cape Charles), and/or Alaska.

c. To radio-track telemetered peregrines (radios applied to a small sample of falcons in Greenland and/or Canada).

The primary applicant for an endangered species permit is: Dr. P. Prescott Ward, Chief, Ecological Research Office, Biomedical Laboratory, Edgewood Arsenal, Aberdeen Proving Ground, MD 21010; born 22 August 1940; male; 5'10" tall; 170 pounds; brown hair; brown eyes; business telephone (301) 671-2588; social security number 165-32-2200; occupation, research scientist for the United States Army.

Planned cooperators are listed below, but because of exigencies at survey times involving such things as illness, other personal business, or equipment malfunction, the principal investigator requests permission to name alternates by formally notifying the Chief of Law Enforcement, U.S. Fish and Wildlife Service. Because it is also impossible to obtain commitments from all potential cooperators at this time, additional persons who can demonstrate competence and ability will be named as assistants in this project at a later date. Names and a statement concerning the qualifications and extent of participation of these individuals will be provided in writing to the Chief of Law Enforcement, U.S. Fish and Wildlife Service.

Mr. Robert B. Berry, RD #1, Yellow Springs Road, Chester Springs, PA 19425 is identified as Dr. Ward's co-investigator in the Assateague Island study, and as potential principal investigator in other migration investigations in the U.S. listed above.

To band peregrine falcons at a barrier island in Virginia, Captain Kyle H. Woodbury (United States Navy), 1068 Rector Lane, McLean, Virginia 22101 is identified as principal investigator. He will band as a sub-permittee on Dr. Ward's federal bird banding permit (number 9448), but will need explicit endangered species authority, for he will not band under Dr. Ward's direct supervision.

To band peregrine falcons at a barrier island in southern Georgia and/or the east coast of Florida, Mr. Patrick R. Leary, 2453 South Fletcher Avenue, Fernandina Beach, Florida 32034 is named as principal investigator. He will band as Dr. Ward's subpermittee, but will not be under Dr. Ward's direct supervision.

The following individuals are identified as cooperators in banding of peregrine falcons at Dry Tortugas, Florida: Mr. C. William Harry, 9207 Drian Drive, Vienna, Virginia 22180; Mr. James L. Ruos, 7145 Deer Valley Road, Highland, Maryland 20777; and/or Mr. William S. Seagar, Hillside Road, Stevenson, Maryland 21153. Mr. Ruos and Mr. Harry have federal bird banding permits, and Mr. Seagar is Dr. Ward's subpermittee. Most banding on Dry Tortugas, Florida will not be under Dr. Ward's direct supervision.

To band peregrine falcons at nesting sites along the Colville River, Alaska, Dr. Thomas J. Cade, Cornell Laboratory of Ornithology, 159 Sapsucker Woods Road, Ithaca, New York 14850 is named as principal investigator. Dr. Cade holds federal bird banding permit number 7253, expires 28 February 1977, which authorizes him to color-band peregrine falcons in coordination with this program.

As research needs dictate shifting a banding site within a given geographical area, or

naming alternate investigators, the Chief of Law Enforcement, U.S. Fish and Wildlife Service will be notified by letter. If the general thrust, scope, or intent of this project changes substantially, or if the likely impact of this research upon the endangered species changes sufficiently so that activities would have a greater adverse impact on the survival potential or reproductive ability of peregrine falcons, then application will be made for a new endangered species permit.

I currently hold the following valid U.S. Fish and Wildlife Service permits:

a. Endangered Species Permit Number PRT-8-2-C, effective 25 November 1974 and which expires 31 December 1976.

b. Federal bird banding permit number 9448 with salvage, mist-net, and color-marking riders, which expires 30 November 1976.

c. Federal migratory bird permit number 5-SC-580 with amendment, which expires 31 December 1975.

d. Special-use permit for studies on the Chincoteague National Wildlife Refuge.

These permits are in addition to: a Maryland state endangered species permit; state bird banding permits for Maryland, Virginia, New Jersey, and Florida; special-use permits for Assateague Island National Seashore and Everglades National Park (Dry Tortugas); an Assateague Island National Seashore collecting permit and a Maryland State collecting permit (for peregrine prey species); and authorization from the U.S. Coast Guard to band birds of prey on Loggerhead Key, Dry Tortugas, Florida. In addition, permits germane to international banding activities have been applied for or have been provided by the Republic of Panama, the Republic of Mexico, Canada, and Denmark (Greenland).

The desired effective date of this permit is July 1, 1975; the duration needed is five years, at which time results will be evaluated and a new application will be submitted if necessary.

I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in Subchapter B of Chapter I of Title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

Sincerely yours,

DR. P. PRESCOTT WARD,  
Chief, Ecological Research  
Office, Biomedical Laboratory.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before June 27, 1975 will be considered.

Dated: May 22, 1975.

C. R. BAVIN,  
Chief, Division of Law Enforcement  
U.S. Fish and Wildlife Service.

[FR Doc.75-13867 Filed 5-27-75; 8:45 am]

National Park Service  
NATIONAL CAPITAL MEMORIAL  
ADVISORY COMMITTEE  
Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the National Capital Memorial Advisory Committee will be held at 1:30 p.m. on Monday, June 16, 1975, in Room 234 at the National Capital Parks Headquarters, 1100 Ohio Drive, SW., Washington, D.C. 20242.

The Committee was established for the purpose of preparing and recommending to the Secretary broad criteria, guidelines, and policies for memorializing persons and events on Federal lands in the National Capital Region (as defined in the National Capital Planning Act of 1952, as amended) through the media of monuments, memorials, and statues. It is to examine each memorial proposal for adequacy and appropriateness, make recommendations to the Secretary with respect to site location on Federal land in the National Capital Region and to serve as an information focal point for those seeking to erect memorials on Federal land in the National Capital Region.

The members of the Committee are as follows:

Mr. Gary Everhardt, Chairman  
Director, National Park Service  
Washington, D.C.

Mr. George M. White  
Architect of the Capitol  
Washington, D.C.

General Mark W. Clark  
Chairman, American Battle Monuments  
Commission  
Washington, D.C.

Mr. J. Carter Brown  
Chairman, Fine Arts Commission  
Washington, D.C.

Chairman, National Capital Planning Commission  
Washington, D.C.

Honorable Walter E. Washington  
Mayor of the District of Columbia  
Washington, D.C.

Commissioner, Public Buildings Service  
Washington, D.C.

The purpose of this meeting is to review the subarea plans for the FDR Memorial.

The meeting will be open to the public. Any person may file with the Committee a written statement concerning the matters to be discussed. Persons who wish to file a written statement or who want further information concerning the meeting may contact Mr. Richard L. Stanton, Associate Director, Cooperative Activities, National Capital Parks, at area code 202-426-6715. Minutes of the meeting will be available for public inspection and copying 2 weeks after the meeting at the Office of National Capital Parks, Room 208, 1100 Ohio Drive SW., Washington, D.C.

Dated: May 20, 1975.

JOHN A. TOWNSLEY,  
Acting Director, National  
Capital Parks.

[FR Doc.75-13821 Filed 5-22-75; 8:45 am]

## NOTICES

DEPARTMENT OF AGRICULTURE  
Forest Service  
ALPINE LAKES AREA  
Availability of Final Environmental  
Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for a recommended Land Use Plan for the Alpine Lakes Area in the State of Washington.

The environmental statement concerns a proposed plan for the management of lands including wilderness in the Alpine Lakes Area on portions of the Mt. Baker-Snoqualmie and Wenatchee National Forests in the State of Washington. USDA-FS-FES-(Leg.) 74-16.

This final environmental statement was transmitted to CEQ on May 21, 1975. Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service  
South Agriculture Bldg., Room 3231  
12th St. & Independence Ave., SW.  
Washington, D.C. 20250

USDA, Forest Service  
Pacific Northwest Region  
319 SW. Pine Street  
Portland, Oregon 97204

Mt. Baker-Snoqualmie National Forest  
1601 Second Avenue Building  
Seattle, Washington 98101

Wenatchee National Forest  
301 Yakima Street  
Wenatchee, Washington 98801

A limited number of single copies are available upon request to the same offices listed above.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

R. MAX PETERSON,  
Deputy Chief, Forest Service.

MAY 16, 1975.

[FR Doc.75-13814 Filed 5-27-75; 8:45 am]

CASCADE HEAD SCENIC-RESEARCH AREA  
ADVISORY COUNCIL  
Meeting

The Cascade Head Scenic-Research Area Advisory Council will meet at 1:00 pm on June 27 and 28 at the Dunes Motel in Lincoln City, Oregon.

The purpose of this meeting is to familiarize the Advisory Council with Pub. L. 93-535 and the Cascade Head Scenic-Research Area. A second purpose is to review the draft guidelines on substantial change required by section 5b of Pub. L. 93-535.

The meeting will be open to the public. Persons who wish additional information or plan to attend should contact Pamela D. Wilson, Sluslaw National Forest, at 545 SW Second Street, Corvallis, Oregon, 97330, phone 752-4211, Extension 502.

[FR Doc.75-13821 Filed 5-22-75; 8:45 am]

The public may participate in the meeting by either submitting written comments to the Chairman or speak to the Counsel when recognized by the Chairman.

F. DALE ROBERTSON,  
Forest Supervisor.

MAY 20, 1975.

[FR Doc.75-13823 Filed 5-27-75; 8:45 am]

EIGHTMILE-BLUE CREEK UNITS-SIX  
RIVERS NATIONAL FOREST LAND USE  
PLANS

Availability of Final Environmental  
Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Land Use Plans, Eightmile and Blue Creek Units, Six Rivers National Forest, California, USDA-FS-R5-FES(Adm)-75-9.

The environmental statement concerns proposed land use management plans for the 94,000 acres of National Forest lands known as the Eightmile-Blue Creek Units of the Six Rivers National Forest, in Del Norte and Humboldt Counties, California. Fifty-nine thousand, eight hundred acres within these Units have been inventoried as "roadless."

This final environmental statement was transmitted to the Council on Environmental Quality (CEQ) on May 20, 1975.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service  
South Agriculture Bldg., Room 3230  
12th St. & Independence Ave., SW.  
Washington, D.C.

Regional Forester  
U.S. Forest Service, Rm. 529  
630 Sansome Street  
San Francisco, California

Forest Supervisor's Office  
Six Rivers National Forest  
710 E Street  
Eureka, California

Forest Service  
District Ranger  
Gasquet, California

Forest Service  
District Ranger  
Orleans, California

A limited number of single copies are available, upon request, from Forest Supervisor George Roether, Six Rivers National Forest, 710 E Street, Eureka, California 95501.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

A modification is made of the review period for the statement. A decision will be made regarding proposed land uses in the Units and announced after June 9, 1975.

JOHN A. VANCE,  
Deputy Regional Forester.

MAY 20, 1975.

[FR Doc.75-13825 Filed 5-27-75; 8:45 am]



# **LANDOWNERSHIP ADJUSTMENT PLAN BETWEEN WEYERHAEUSER CO. AND GIFFORD PINCHOT NATIONAL FOREST, WASH.**

## **Availability of Addendum to Final Environmental Statement**

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Landownership Adjustment Plan Between Weyerhaeuser Company and Gifford Pinchot National Forest, Washington. USDA-FS-FES-(Adm) 73-70.

The environmental statement concerns a proposed landownership adjustment plan between Weyerhaeuser and the Forest Service. Weyerhaeuser is offering 13,674 acres of their land to the Forest Service in exchange for 16,155.0 acres of National Forest lands, all in the State of Washington. The exchange will consolidate public and private lands and will increase the number of land management alternatives, reduce management costs, and make several thousand acres of public land available primarily for recreation use.

This addendum to the final environmental statement was transmitted to CEQ on May 21, 1975.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service  
South Agriculture Bldg., Room 3230  
12th St. & Independence Ave., S.W.  
Washington, D.C. 20260  
USDA, Forest Service  
Pacific Northwest Region  
319 S.W. Pine Street  
Portland, OR 97204  
Gifford Pinchot National Forest  
500 West 12th Street  
Vancouver, WA 98660

A limited number of single copies are available upon request to Regional Forester, T.A. Schlapfer, Pacific Northwest Region, PO Box 3823, Portland, Oregon 97208, or Forest Supervisor Spencer T. Moore, 500 West 12th Street, Vancouver, Washington 98660.

Copies of the environmental statement have been sent to various Federal, State and local agencies as outlined in the CEQ Guidelines.

**R. MAX PETERSON,**  
Deputy Chief, Forest Service.

MAY 12, 1975.

[FR Doc.75-13815 Filed 5-27-75; 8:45 am]

## **NEBRASKA NATIONAL FOREST LIVESTOCK ADVISORY BOARD**

### **Meeting Correction**

In FR Doc. 75-13304, appearing on page 23160, of the issue of Wednesday, May 21, 1975, the word "members" in the second paragraph, second line, should be changed to read "officers".

# **PALOMAR MOUNTAIN UNIT, CLEVELAND NATIONAL FOREST, CALIFORNIA**

## **Extension of Comment Period**

On February 7, 1975, the Forest Service, Department of Agriculture, transmitted to the Council on Environmental Quality a draft environmental statement for the proposed Land Use Plan for the Palomar Mountain Unit, Cleveland National Forest, California. USDA-FS-R5-DES(Adm)-75-8, pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969. Notice of availability of this draft environmental statement was published in the FEDERAL REGISTER on February 13, 1975 (40 FR 6995). Comments were requested within 90 days after transmittal to CEQ.

Because of numerous requests for an extended opportunity for public review, the comment period for this draft environmental statement is being extended an additional 90 days.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service  
South Agriculture Building, Room 3230  
14th Street & Independence Ave. SW.  
Washington, D.C. 20260  
USDA, Forest Service  
California Region  
630 Sansome Street, Room 581  
San Francisco, California 94111  
Forest Supervisor's Office  
Cleveland National Forest  
3211 Fifth Avenue  
San Diego, California 92103  
Forest Service  
District Ranger  
732 North Broadway  
Escondido, California 92025

A limited number of single copies are available, upon request, from Forest Supervisor, Cleveland National Forest, 3211 Fifth Avenue, San Diego, California 92103.

Comments concerning the proposed action should be addressed to Forest Supervisor, Cleveland National Forest, 3211 Fifth Avenue, San Diego, California 92103. Comments must be received by August 11, 1975, in order to be considered in the preparation of the final environmental statement.

**T. W. KOSKELLO,**  
Acting Regional Forester,  
California Region.

MAY 20, 1975.

[FR Doc.75-13824 Filed 5-27-75; 8:45 am]

## **Rural Electrification Administration DAIRYLAND POWER COOPERATIVE, LA CROSSE, WISCONSIN**

### **Final Environmental Impact Statement**

Notice is hereby given that the Rural Electrification Administration has prepared a Final Environmental Impact Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a loan guarantee issued to Dairyland Power Cooperative of LaCrosse, Wisconsin.

sin, from the Rural Electrification Administration. The financing will provide funds for the purchase and installation of a 70 percent share of a 350 MW steam generating plant near Alma, Wisconsin, and related 161 kV transmission facilities. Northern States Power Company of Minnesota will provide the remaining 30 percent share of funds.

Additional information may be secured on request, submitted to Mr. David H. Askegaard, Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The Final Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, SW., Washington, D.C., Room 4310, or at the borrower address indicated above.

Final REA action with respect to this matter (including any release of funds) may be taken after thirty (30) days, but only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 21st day of May 1975.

**DAVID H. ASKEGAARD,**  
Acting Administrator, Rural  
Electrification Administration  
[FR Doc.75-13816 Filed 5-27-75; 8:45 am]

## **Soil Conservation Service LONG CREEK WATERSHED, MISSISSIPPI**

### **Availability of Negative Declaration**

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, and Part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and Part 650.8 (b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Long Creek Watershed, Attala County, Mississippi.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. W. L. Heard, State Conservationist, Soil Conservation Service, Room 590, Milner Building, P.O. Box 610, Jackson, Mississippi 39205, has determined that the preparation and review of an environmental impact statement is not needed at this time for this project.

The project concerns a plan for watershed protection, flood prevention, and recreation. The remaining planned works of improvement as described in the negative declaration include conservation

land treatment supplemented by two floodwater retarding structures and one multiple purpose structure with basic recreation facilities.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA  
Room 590, Milner Building  
P.O. Box 610  
Jackson, Mississippi 39205

The Negative Declaration is available for single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until June 12, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services)

Dated: May 19, 1975.

**WILLIAM B. DAVEY,**  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

[FR Doc.75-13756 Filed 5-27-75; 8:45 am]

## **DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE National Institutes of Health CANCER RESEARCH EMPHASIS GRANTS Program Announcement**

The National Cancer Institute under authority of Section 301 and Title IV Part A of the Public Health Service Act, as amended (42 U.S.C. 241, 281 et seq.), will establish grant-supported Cancer Research Emphasis Grants programs (CREG) to promote research in areas of concern to the National Cancer Program. The purpose of CREG programs is to promote cancer research in areas where (a) knowledge gaps are not being sufficiently addressed by on-going research, (b) there is a need for independent efforts to verify and corroborate on-going research, or (c) there is a need to stimulate or intensify effort in promising research areas. Research areas and research projects suitable for CREG's will be identified by NCI with the help of outside consultants and advisory groups.

The general characteristics of the CREG program include the following. NCI Program Directors will develop a detailed statement announcing the purpose, objectives, rationale and significance to program goals for each research project area which is appropriate for CREG. Each announcement will contain a date for receipt of applications for the specific program area. The approaches and methodology will be left to the creativity and initiative of the scientists who apply. Direction of the research or technical supervision by NCI will be neither necessary nor desirable. Cancer Research Emphasis program announcements will be published in the NIH Guide for Grants and Contracts and in other appropriate publications. The NIH Guide for Grants and Contracts may be obtained from the Division of Research

Grants, National Institutes of Health, Westwood Building, 5333 Westbard Avenue, Bethesda, Maryland 20016.

Cancer Research Emphasis Grants will be awarded only to nonprofit organizations and institutions, state and local governments and their agencies, authorized Federal institutions and, occasionally to individuals, in accordance with NIH and PHS policy. Receipt, review and referral of applications will be accomplished according to the policies and procedures contained in 42 CFR Part 52 and the Public Health Service Grants Policy Statement which may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Investigators will send applications to the Division of Research Grants (DRG), National Institutes of Health, on NIH Form 398 and must identify in a covering letter the single Cancer Research Emphasis announcement to which the application responds. The DRG Referral Officer with the NCI Program Director will determine if the application is responsive or unresponsive to the announcement. An applicant whose application is judged unresponsive to the announcement will be notified by DRG and will be given the opportunity to withdraw the application or submit it for consideration in the other grant programs of NIH.

Competitive applications may elaborate on the statement of purpose, objectives, rationale, and significance contained in the soliciting announcement, and the applicant must complete portions of the application pertaining to procedural details, the investigator's research experience, facilities available, specific budgets for all years of support requested, and biographical sketches for professional personnel.

Applications will be reviewed in accordance with the normal peer review system of the NIH utilizing the Study Sections of the Division of Research Grants. Applications with direct costs in excess of \$35,000 will receive a secondary review by the National Cancer Advisory Board.

NCI Program Directors will have authority and responsibility for monitoring scientific progress and administration of Cancer Research Emphasis Grants. Each year, preceding the anniversary date of the award, the investigator will submit a comprehensive scientific report as an integral part of his noncompetitive continuation application. More frequent reports may be requested in the announcement.

If the research is to be continued, applications for the renewal of Cancer Research Emphasis Grants beyond the project period as defined in appropriate CREG announcement must be competitively reviewed by study sections. Cancer Research Emphasis Program Directors must notify grantees twelve months before a project period ends whether or not the specific CREG program is to be continued. If the program is to be continued, the Program Director will prepare an announcement for publication in the

NIH Guide to Grants and Contracts. If the program is to be discontinued, grantees may, of course, respond to other published announcements or apply for a regular research grant.

For further information contact the Director, Division of Cancer Research Resources and Centers, National Cancer Institute, 9000 Rockville Pike, Bethesda, Maryland 20014.

(Catalogue of Federal Domestic Assistance Program No. 13.399, No. 13.394, No. 13.395, No. 13.396, and No. 13.399)

Dated: May 13, 1975.

**R. W. LAMONT-HAVERS,**  
Acting Director,  
National Institutes of Health.

[FR Doc.75-13800 Filed 5-27-75; 8:45 am]

## **EXPERIMENTAL VIROLOGY STUDY SECTION ET AL Establishment**

The Director, National Institutes of Health, announces the establishment on April 25, 1975, of the advisory committees indicated below by the Secretary of Health, Education, and Welfare under the authority of 42 U.S. Code 217a (section 222 of the Public Health Law, as amended). These advisory committees shall be governed by the provisions of the Public Advisory Committee Act (Pub. L. 92-463) setting forth standards governing the establishment and use of advisory committees.

**Name.** Experimental Virology Study Section

**Purpose.** This Committee reviews applications for grants-in-aid for research projects, and for grants and awards for research and training activities dealing with experimental virology, rickettsiology, and cell structure studies relating to basic and applied studies in pathogen-host cell interaction, genetics, morphology, diagnosis, therapeutic agents, immunology, mechanisms of replication and pathogenesis.

**Name.** Immunological Sciences Study Section

**Purpose.** This Committee reviews applications for grants-in-aid for research projects, and for grants and awards for research and training activities dealing with immunopathology, immunotherapy, hypersensitivity and problems of the immune response.

**Name.** Molecular Cytology Study Section

**Purpose.** This Committee reviews applications for grants-in-aid for research projects, and for grants and awards for research and training activities dealing with studies of the molecular basis of disease, cell structure and function (nucleus, cytoplasm, membranes and organelles).

**Name.** Pathobiological Chemistry Study Section

**Purpose.** This Committee reviews applications for grants-in-aid for research projects, and for grants and awards for research and training activities dealing with the biochemistry of disease (chemical pathology) enzymology, protein



chemistry, immunochemistry (chemical immunology), and membrane chemistry.

These Committees will terminate on April 25, 1977.

Dated: May 19, 1975.

R. W. LAMONT-HAVERS,  
Acting Director,  
National Institutes of Health.  
[FR Doc.75-13798 Filed 5-27-75; 8:45 am]

# **NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES COUNCIL**

## **Amended Notice of Meeting**

Notice is hereby given of an addition to the meeting of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, which was published in the *FEDERAL REGISTER* on April 30, 1975 (40 FR 18829-30).

The Allergy and Immunology Subcommittee of the National Advisory Allergy and Infectious Diseases Council will meet on June 18, 1975, at 8:00 p.m., Conference Room 7A24, Building 31, National Institutes of Health, Bethesda, Maryland, for the review, discussion, and evaluation of individual initial pending, supplemental and renewal grant applications, and applications for National Research Service and Institutional Research Service Awards. This meeting is necessary because more time is required to review the volume of applications assigned to this subcommittee than has already been provided for during the closed portion of the Council meeting on June 19, 1976.

The meeting will be closed to the public.

Dated: May 19, 1975.

SUZANNE L. FREMEAUX,  
Committee Management Officer,  
National Institutes of Health.  
[FR Doc.75-13799 Filed 5-27-75; 8:45 am]

# **DEPARTMENT OF TRANSPORTATION**

## **Federal Railroad Administration**

[FRA Waiver Petition No. HS-75-11]

# **ST. JOHNSBURY & LAMOILLE COUNTY RAILROAD**

## **Petition for Exemption From Hours of Service Act**

The St. Johnsbury & Lamoille Railroad has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, 45 U.S.C. 61, 62, 63, and 64.

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver Petition No. HS-75-11, Room 5101, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before June 13, 1975, will be considered before

final action is taken on this petition. All comments received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Issued in Washington, D.C., on May 19, 1975.

DONALD W. BENNETT,  
Chief Counsel,  
Federal Railroad Administration.  
[FR Doc.75-13754 Filed 5-27-75; 8:45 am]

# **CIVIL AERONAUTICS BOARD**

[Docket No. 27764]

# **FGH FINANCIAL CORP. and McCULLOCH INTERNATIONAL AIRLINES, INC.**

## **Stock Acquisition; Hearing**

Notice is hereby given pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on June 18, 1975, at 9:30 a.m. (local time) in Room 911, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned Administrative Law Judge.

Dated at Washington, D.C., May 21, 1975.

[SEAL] BURTON S. KOLKO,  
Administrative Law Judge.  
[FR Doc.75-13841 Filed 5-27-75; 8:45 am]

[Docket No. 26977]

# **NEW YORK-RIO-JOHANNESBURG CASE**

## **Oral Argument**

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on June 4, 1975, at 2 p.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Dated at Washington, D.C., May 21, 1975.

[SEAL] ROBERT L. PARK,  
Chief Administrative Law Judge.  
[FR Doc.13840 Filed 5-27-75; 8:45 am]

# **CONSUMER PRODUCT SAFETY COMMISSION**

## **VOLUNTARY STANDARDS FOR FLAME-FIRED APPLIANCE**

### **Meeting**

Calspan Corporation, under contract to the Consumer Product Safety Commission, Bureau of Engineering Sciences, will conduct a conference to discuss the results of its review, under that contract, of existing voluntary standards for flame-fired furnaces, water heaters, ranges and clothes dryers. The conference will be held June 5, 1975 at Calspan Corporation, Buffalo, New York.

Topics to be presented include identified equipment hazards, safety criteria deficiencies and potential remedial action.

The meeting is open, but attendance will be limited because of facility limitations. Persons desiring to attend should contact Mr. Al Bullerdiek, Calspan Corporation, (716) 632-7500. An agenda is available from Mr. Bullerdiek. Questions may also be directed to James P. Talantino, Bureau of Engineering Sciences, Consumer Product Safety Commission, (301) 496-7588.

Dated: May 22, 1975.

SADYE E. DUNN,  
Secretary, Consumer Product  
Safety Commission.  
[FR Doc.75-13813 Filed 5-27-75; 8:45 am]

# **ENVIRONMENTAL PROTECTION AGENCY**

[FRL 375-8]

# **CALIFORNIA STATE MOTOR VEHICLE POLLUTION CONTROL STANDARDS**

## **Waiver of Federal Preemption**

I. *Introduction.* On April 10, 1975, the Environmental Protection Agency, by notice published in the *FEDERAL REGISTER* (40 FR 16234), announced a public hearing pursuant to section 209(b) of the Clean Air Act (the "Act") as amended (42 U.S.C. 1857f-6a(a), 81 Stat. 501, Pub. L. 91-604), to consider a request by the State of California that the Administrator waive application of the prohibitions of section 209(a) of the Act to the State of California with respect to State emission standards applicable to 1977 model year light duty motor vehicles. Section 209(b) of the Act requires the Administrator to grant such waiver, after public hearing, unless he finds that the State of California does not require standards more stringent than applicable Federal standards to meet compelling and extraordinary conditions, or that such State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act. State standards and enforcement procedures are deemed to be consistent with section 202(a) if adequate technology exists with which to meet them, and if adequate lead time is available in which to implement that technology.

The public hearing was held in Los Angeles, California, on April 29, 1975. The record was kept open until May 2, 1975, for the submission of written material, data or arguments by interested persons. I have determined that the statutory criteria of section 209(b) of the Act have been met, and therefore that I am compelled to grant the requested waiver of Federal preemption. The record of the hearing and the other evidence available to me clearly reveal that compelling and extraordinary conditions exist in the State of California, and that adequate technology and lead time are available to meet the 1977 model year California standards.

In addition to the action taken with respect to light duty vehicles, I am announcing today the disposition of several other questions regarding waiver of Federal preemption for the State of California concerning the 1976 assembly-line

test procedures and the 1977 model year light duty truck and heavy duty engine standards. These questions were not at issue in the April 29 hearing. The action taken in each case is described fully in Part IV of this decision.

II *Background.* I believe that it is appropriate at this time to trace the more recent past events connected with the California waiver question, in order to give a better understanding of the circumstances surrounding the waiver request being granted today.

Under the Clean Air Amendments of 1970, the Administrator was required to set standards for the 1975 model year for hydrocarbons (HC) and carbon monoxide (CO) to achieve a 90 percent reduction of those pollutants from the emission levels allowed under regulations then applicable to the 1970 model year, and also to set a standard for the 1976 model year for oxides of nitrogen (NOx) to achieve a similar reduction, as measured against 1971 model year vehicles. As a result, standards of .41 gram/mile HC, 3.4 grams/mile CO and .4 gram/mile NOx were promulgated as the ultimate statutory standards for those pollutants.

The 1970 amendments also provided that motor vehicle manufacturers could apply for a one-year suspension of these standards. Application was made in March of 1972 to suspend the HC and CO standards. After an initial denial and a court appeal resulting in a remand (see "International Harvester Co. v. Ruckelshaus," 478 F.2d 615 (D.C. Cir. 1973)), a suspension was granted for the 1975 model year on April 11, 1973, (see 38 FR 10317), and interim standards of 1.5 gm/ml HC and 15 gm/ml CO were established. On July 30, 1973, the 1976 model year statutory NOx standard of .4 gm/ml was suspended for one year and an interim standard of 2.0 gm/ml was established.

In the April 11 suspension decision, the Administrator also took action which resulted in emission standards applicable in California of .9 gm/ml HC, 9.0 gm/ml CO and 2.0 gm/ml NOx for the 1975 model year.

In June of 1974, the Act was amended to provide that (1) the 1975 Federal and California interim standards shall also be applicable to the 1976 model year, (2) the original statutory standards for HC and CO of .41 and 3.4 gm/ml respectively shall be applicable to the 1977 and subsequent model years, (3) an interim NOx standard of 2.0 gm/ml shall be applicable to the 1977 model year, (4) the original statutory NOx standard of .4 gm/ml shall be applicable to the 1978 and subsequent model years, and (5) any motor vehicle manufacturer may, at any time after January 1, 1975, apply for a one-year suspension of the imposition of the statutory HC and CO standards to the 1977 model year.

On January 2, 1975, application was made to EPA by three motor vehicle manufacturers for a one-year suspension of the 1977 HC and CO standards. On March 5, 1975, I granted the suspension and simultaneously established interim standards of 1.5 gm/ml HC and 15 gm/ml

CO. On March 17, 1975, California adopted 1977 standards of .41 gm/ml HC, 9.0 gm/ml CO and 1.5 gm/ml NOx, and on March 26, 1975, they requested a waiver of Federal preemption for these standards and for the accompanying test and enforcement procedures, including the assembly-line test procedures. It is that waiver request which is the subject of this decision.

III *Discussion—Legal Criteria.* Section 209 of the Clean Air Act was added to that statute by the Air Quality Act of 1967, Pub. L. 90-148, 81 Stat. 501, and has been preserved in the statute essentially unamended since then. It prohibits any state from establishing or enforcing emission standards for new motor vehicles unless it had adopted such standards prior to March 30, 1966. Only California meets this test. California, however, may establish and enforce such standards unless the Administrator of EPA, after notice and opportunity for hearing, finds either that California has not adopted more stringent standards "to meet compelling and extraordinary conditions" or that the "standards and accompanying enforcement procedures are not consistent with section 202(a)" of the Act.

These provisions must be read in the light of their unusually detailed and explicit legislative history. Three major points emerge from such a reading.

1. At the time the California waiver provision was adopted, Congress believed that "compelling and extraordinary conditions" existed in California. S. Rep. No. 403, 90th Cong., 1st Sess. 33 (1967) ("Senator Murphy convinced the committee that California's unique problems . . . justified a waiver"). 113 Cong. Rec. H 14404 (daily ed. Nov. 2, 1967) (Cong. Herlong) ("These are conditions specially tailored for California which California clearly meets").

2. Congress meant to ensure by the language it adopted that the Federal government would not second-guess the wisdom of state policy here. This appears most dramatically from the debates on the floor of the House over two alternative versions of the statutory language. One, sponsored by the relevant legislative committee, would have required the Federal government, upon application, to set special California standards if the two conditions set forth above were met; the second, which was sponsored by the entire California delegation, see 113 Cong. Rec. H 14428 (Cong. Moss) (daily ed. Nov. 2, 1967), and eventually adopted on the floor, would have required a waiver to be granted if the same two conditions were met.

Despite the understandable efforts of some sponsors of the committee language to portray the differences between the two versions as purely verbal, 113 Cong. Rec. H 14404 (Cong. Herlong); H 14432 (Cong. Rogers) (daily ed. Nov. 2, 1967), the majority of the House clearly disagreed. Sponsors of the language eventually adopted referred repeatedly to their intent to make sure that no "Federal bureaucrat" would be able to tell the people of California what auto

emission standards were good for them, as long as they were stricter than Federal standards. 113 Cong. Rec. H 14393 (Cong. Sisk); H 14395 (Cong. Smith); H 14396 (Cong. Hollifield); H 14399 (Cong. Hosmer); H 14408 (Cong. Roybal); H 14409 (Cong. Reinicke); H 14429 (Cong. Wilson) (daily ed. Nov. 2, 1967). They also viewed the change as necessary to their intent to preserve the California state auto emission control program in its original form, see H.R. Rep. No. 728, 90th Cong. 1st Sess. 96-97 (1967) (separate views of Congressmen Moss and Van Deerlin), 113 Cong. Rec. H 14415 (daily ed. Nov. 2, 1967) (Cong. Van Deerlin) and to continuing the national benefits that might flow from allowing California to continue to act as a pioneer in this field. 113 Cong. Rec. H 14407 (Cong. Moss) (daily ed. Nov. 2, 1967); S 16395 (daily ed. Nov. 14, 1967) (Senator Murphy).

These points had also previously been made by the Senate Public Works Committee in reporting out waiver language identical to that eventually adopted by the House. S. Rep. No. 403, 90th Cong. 1st Sess. 32-33 (1967).

3. Even in the two areas concededly reserved for Federal judgment by this legislation—the existence of "compelling and extraordinary" conditions and whether the standards are technologically feasible—Congress intended that the standard of EPA review of the state decision be a narrow one. This is implicit, of course, in the many statements in favor of state autonomy referred to above. More directly, Congressman Moss, the main sponsor of the language which the House adopted, asserted that under his language the burden of proof in denying a waiver would be on the Federal government, see H.R. Rep. No. 728, 90th Cong. 1st Sess. 96 (1967) (Separate views of Congressman Moss and Van Deerlin). See also 113 Cong. Rec. H 14398 (Cong. Hanna) (daily ed. Nov. 2, 1967) (Senate language says "You may go beyond the Federal statutes unless we find that there is no justification for your progress").

One Congressman indicated that a decision to deny waiver should be subject to considerably less deference on judicial review than the Administrative Procedure Act normally provides, a view which would necessarily imply that the agency discretion to deny waiver is considerably narrower than is its discretion to act or not act in other contexts. 113 Cong. Rec. H 14405 (Cong. Hollifield) (daily ed. Nov. 2, 1967).

EPA's approach to California waiver decisions in the past has been shaped by this Congressional intent. Thus, in grant-

<sup>1</sup> The legislative history does contain one statement that under the language adopted, the burden of proof would be on California. 113 Cong. Rec. H 14432 (daily ed. Nov. 2, 1967) (Cong. Harvey). However, since the statement was made by an opponent of that language and was designed to win votes by portraying the change it would make from the committee version as negligible, it is entitled to little weight under the normal rules of statutory construction.



ing a waiver to California in August of 1971 to establish an assembly-line test program, Mr. Ruckelshaus said:

The law makes it clear that the waiver request cannot be denied unless the specific findings designated in the statute can properly be made. The issue of whether a proposed California requirement is likely to result in only marginal improvement in air quality not commensurate with its cost or is otherwise an arguable unwise exercise of regulatory power is not legally pertinent to my decision under section 209, so long as the California requirement is consistent with section 202(a) and is more stringent than applicable Federal requirements in the sense that it may result in some further reduction in air pollution on California. 36 FR 17458 (August 31, 1971)

Accordingly, I do not view the arguments of increased cost or fuel economy penalties, or only marginal improvements in air quality, advanced by some as arguments against the waiver, as controlling in my decision here. For similar reasons, I do not view the question whether the proposed California standards may result in an increase in emissions of sulfuric acid mist as controlling given the current state of our knowledge. The structure and history of the California waiver provision clearly indicate both a Congressional intent and an EPA practice of leaving the decision on ambiguous and controversial matters of public policy to California's judgment. As I indicated in my suspension decision, any assessment of the magnitude of the automobile sulfate risk and measures to deal with it clearly falls under that heading.

The core issue, then, is whether automobile companies—by whatever technology—will be able to satisfy the formal requirements of the regulations which California seeks to place upon them in the 1977 model year. Our discussion of that point is contained in the next section.

It is worth noting here, however, that even on this issue I would feel constrained to approve a California approach to the problem which I might also feel unable to adopt at the Federal level in my own capacity as a regulator. The whole approach of the Clean Air Act is to force the development of new types of emission control technology where that is needed by compelling the industry to "catch up" to some degree with newly promulgated standards. Such an approach to automotive emission control may be attended with costs, in the shape

<sup>3</sup> The issue was raised whether EPA is required to file an Inflation Impact Statement, pursuant to Executive Order 11821 and OMB Circular No. A-107, in conjunction with this decision. We have determined that none is required, for the waiver granted herein falls under the category of "Approval of State Actions," one of four categories of action which do not require IIS's under the Interim Procedures for Inflation Impact Statements issued internally within EPA on February 24, 1975, implementing section 6(b) (Interim Provision) of OMB Circular No. A-107. Approval of these exempt categories has been given by OMB and they are included in the final draft Guidelines now pending before OMB.

of a reduced product offering, or price or fuel economy penalties, and by risks that a wider number of vehicle classes may not be able to complete their development work in time. Since a balancing of these risks and costs against the potential benefits from reduced emissions is a central policy decision for any regulatory agency, under the statutory scheme outlined above I believe I am required to give very substantial deference to California's judgment on this score.

**Findings.** Having given due consideration to the record of the public hearing, all material submitted for that record, and other relevant information, I hereby make the following findings of fact.

1. The State of California had, prior to March 30, 1966, adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles and new motor vehicle engines.

2. The California State emission standards applicable to 1977 model year light duty vehicles, when considered as a total regulatory program, including related assembly-line testing and enforcement procedures, are more stringent than the applicable Federal standards.

3. Compelling and extraordinary conditions continue to exist in the State of California. The testimony of the representatives of the Air Resources Board revealed that the State oxidant pollution problem, and particularly that of the South Coast Air Basin, continues to be the worst in the nation. The data presented demonstrates that the National Ambient Air Quality Standard for photochemical oxidant has been violated in the South Coast region at a substantially greater frequency and at significantly higher levels of concentration than in other major metropolitan areas of the country. Furthermore, the latest data reveal that, following an improvement between the years of 1967 and 1972, the trend reversed and the oxidant concentrations in the South Coast area have actually worsened during 1973 and 1974. The evidence thus graphically demonstrates that California is struggling with an air pollution problem of unique proportions, and that it is one which is not necessarily improving.

4. The California standards are consistent with section 202(a) of the Act, in that technology exists with which to meet them and adequate lead time is available in which to implement that technology. The testimony at the hearing on this issue varied somewhat from witness to witness.

General Motors stated that the standards as proposed could be met and that they were prepared to introduce and market a representative product line conforming with those standards in the California market in 1977. Ford, though somewhat less optimistic, said in its testimony that they opposed granting the waiver

not because the standards cannot be met on some cars. Particularly with a catalyst change, Ford believes that low standards at these levels are achievable

but at a penalty in first cost and fuel economy which they asserted was not justified. Some other manufacturers, such as Chrysler and American Motors, were in varying degrees more pessimistic about their ability to achieve these standards. All manufacturers asserted that compliance with the California standards could be accomplished only by paying penalties in the form of increased costs, restricted model lines, poorer fuel economy, and reduced driveability. However, no manufacturer stated that it would be forced out of the California market by the new standards.

On the other side, the California Air Resources Board presented a list of 29 engine families from the 1975 model year which, though not aimed at meeting standards as low as the ones for which waiver was sought, nevertheless did meet or almost meet them. Though most of these cars were imports (which account for some 30 percent of the market in California), Chrysler, Ford and GM were also represented. The Air Resources Board also presented a statement by one of its members, Dr. Robert Sawyer, Professor of Mechanical Engineering at Berkeley and a leading contributor to the latest report of the National Academy of Sciences on motor vehicle emissions, stating his conclusion that the standards could be met.

I have already determined in the March 5 suspension decision that emission standards of .41 gm/ml HC and 2.0 gm/ml NOx could be met nationwide in 1977. Since the legal test for California waiver is easier to satisfy, I believe I am at a minimum compelled to grant a waiver at these levels as a matter of law.

The question then centers around the California 1.5 gm/ml NOx requirement. The record reveals that no manufacturer disputed the fact that 1.5 gm/ml NOx could be met. The problem was meeting it together with the other standards. General Motors testified that both the .41 gm/ml HC and the 1.5 gm/ml NOx standards could be met through system optimization (i.e., achieving the proper balance between exhaust gas recirculation (EGR), spark advance and fuel/air ratio). Some manufacturers indicated, with lesser degrees of certainty, that they would employ similar system changes involving reoptimized EGR, spark control and air/fuel ratio to certify their vehicles to these standards. Other manufacturers indicated that systems utilizing start catalysts or three-way catalysts are under consideration. Ford did express concern that there may not be sufficient time remaining to perform the required recalibrations and still certify in time for the normal introduction date. However, they did not say that such recalibrations were not technically feasible.

On this record, and against the background of our suspension hearings, I cannot conclude that the California standards cannot be met. I am strengthened in this conclusion by two subsidiary factors.

(i) "Basic demand" can be met more easily in California, because California

sales comprise but 10 percent of the national total and thus there exists greater potential for "model switching." That is, there is a high probability that at least one model of one manufacturer's product line for each class of vehicle will be certified at the California standards. Since California's share of the national market is limited, manufacturers of certified vehicles will in all probability have enough production capacity available to satisfy California consumer demand for that class. Manufacturers of corresponding models which could not meet the California standards would then sell a higher percentage of their vehicles in the other 49 states because of the increased demand caused by the cars switched to California. (I am not deciding here that the "basic demand" test, as set out in the "International Harvester" decision, is applicable in the case of California waiver. However, I do believe that if the test were to be applied, it would not be applicable to its fullest stringency due to the degree of discretion given to California in policy areas, as discussed in the "Legal Criteria" section above.)

(ii) The lead time restrictions are not necessarily as severe as the manufacturers stated, for under California law, manufacturers may delay the introduction of 1977 model year vehicles until January 1, 1977. This could provide up to an additional four months of lead time, depending on presently planned introduction dates, in which to complete the certification procedures.

5. The hearing record allows several other findings which, while not controlling in this decision, do show some of its probable effects and therefore are included for informational purposes.

(i) According to the manufacturers' testimony, 1977 California cars can be expected to have increased initial and catalyst replacement costs over the 1975 California cars of from \$65 to \$275, depending on manufacturer and model.

(ii) The manufacturers also claimed that 1977 California cars can also be expected to achieve from 8 percent to 24 percent poorer fuel economy than the comparable 1975 versions.

(iii) Most, if not all manufacturers indicated that they will market a more restricted model line in California in 1977 than they presently can provide for the 1975 model year.

(iv) Most manufacturers believe that the system changes necessary to meet the 1977 California standards will result in poorer driveability.

(v) Representatives of the California automobile dealers believed that their business would suffer substantially as a result of a waiver. They felt that, because of increased cost, restricted product offering, and reduced performance and fuel economy, potential customers will be inclined to either purchase their 1977 vehicles in other states, or forego a purchase entirely and retain their older models.

**IV Decision.** Based upon the above stated findings, I hereby waive the application of section 209(a) to the State of California with respect to the follow-

ing identified State standards and test procedures, insofar as they apply to the 1977 and subsequent model years.

1. Section 1955.1, Title 13, California Administrative Code, as amended March 17, 1975, entitled "Exhaust Emission Standards and Test Procedures—1975 and Subsequent Model-Year Passenger Cars"; and

2. Section 2054, Title 13, California Administrative Code, as amended December 11, 1974, entitled "Assembly-Line or Pre-Delivery Test Procedures—1976 and Subsequent Model-Year Gasoline-Powered Passenger Cars and Light Duty Trucks".

In addition, I have made the following determinations with respect to other issues involving a California waiver question:

1. The waiver previously granted for 1976 model year light duty trucks (38 FR 30136, November 1, 1973) is deemed to extend to 1977 and subsequent model years inasmuch as the California 1976 and 1977 standards are identical;

2. The waiver previously granted for the California assembly-line test procedures, as they apply to the 1975 model year (38 FR 10317, April 26, 1973) is deemed to extend to the 1976 model year, inasmuch as the 1975 and 1976 California standards are identical;

3. The waiver previously granted for the original 1975 California heavy duty engine standards (36 FR 8172, April 30, 1971) is deemed to extend to the 1977 model year, inasmuch as the 1975 and 1977 standards are identical; and

4. The waiver referred to in 3. is deemed to extend to the alternative set of heavy duty engine standards of 1.0 HC, 25 CO and 7.5 NO<sub>x</sub>, all in grams per brake horsepower-hour, for which waiver was requested on April 25, 1975, inasmuch as we find those standards to be more stringent than the comparable Federal standards.

Copies of the above standards and procedures are available for inspection at the Freedom of Information Center, Room 207, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Copies of the standards and procedures may also be obtained from the California Air Resources Board, 1025 P Street, Sacramento, California 95814.

Dated: May 20, 1975.

RUSSELL E. TRAIN,  
Administrator.

[FR Doc.75-13752 Filed 5-27-75; 8:45 am]

[FRL 379-4]

EDWARDS AQUIFER, SAN ANTONIO, TEXAS

Public Hearing

On Thursday, March 6, 1975 there was published in the FEDERAL REGISTER (40 FR 10514) a notice that a petition had been received pursuant to section 1424 (e) of the Public Health Service Act, as amended by the Safe Drinking Water Act, Pub. L. 93-523. The petition requested the Administrator of the Envi-

ronmental Protection Agency to determine that the Edwards Aquifer is the sole or principal source of drinking water for the San Antonio, Texas area which, if contaminated, would create a significant hazard to public health. Public comments, data, and references to relevant sources of information were requested to be submitted not later than May 5, 1975. The Agency indicated that it would consider holding a public hearing if there were significant public interest in such a hearing.

Since the publication of that notice, requests for a public hearing have been received, including a request from the Attorney General of the State of Texas. The Agency believes that there is significant public interest, and accordingly will hold a public hearing to consider whether or not the Administrator should make the requested determination. The hearing will be held at the following time, date and location:

June 4, 1975, 9:30 a.m., C.d.t.	Mission Room San Antonio Convention Center HemisFair Grounds San Antonio, Texas
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Persons who wish to make statements at this hearing are urged to submit three written copies of their remarks at the time they are presented for inclusion in the record.

In order to ensure that all interested persons, including those who wish to appear at the hearing, have a full opportunity to present views and information, and to ensure as complete a record as possible, the Agency hereby extends the final date for the submission of written comments until June 18, 1975.

Dated: May 23, 1975.

CHARLES L. ELKINS,  
Acting Assistant Administrator  
for Water and Hazardous Materials.

[FR Doc.75-13933 Filed 5-27-75; 8:45 am]

[FRL 374-7]

#### IDENTIFICATION OF PRODUCTS AS MAJOR SOURCES OF NOISE Report

The Noise Control Act of 1972 (Pub. L. 92-574, 86 Stat. 1234) established, by statutory mandate, a national policy "to promote an environment for all Americans free from noise that jeopardizes their health and welfare." The Act provides for a division of powers between the Federal and state and local governments in which the primary Federal responsibility is for noise source emission control. The states and other political subdivisions retain rights and authorities to establish and enforce controls on environmental noise through licensing, regulation, or restriction of the use, operation, or movement of noise sources and on the levels of noise permitted in their environments. As specified in the Noise Control Act of 1972, the first step toward promulgation of noise standards for new products is identification of those



products that are major sources of noise. Section 5(b) of the Act provides as follows:

"The Administrator shall, after consultation with appropriate Federal agencies, compile and publish a report or series of reports (1) identifying products (or classes of products) which in his judgment are major sources of noise, and (2) giving information on techniques for control of noise from such products, including available data on the technology, costs, and alternate methods of noise control. The first such report shall be published not later than eighteen months after the date of enactment of this Act."

Section 6(a) (1) (C) sets out four categories of products that must be considered by the Administrator for noise regulation.

1. Construction equipment.
2. Transportation equipment (including recreational vehicles and related equipment).
3. Any motor or engine (including any equipment of which an engine or a motor is an integral part).
4. Electrical or electronic equipment.

On June 21, 1974 (39 FR 22297), the Administrator published the first report under section 5(b) identifying two products as major sources of noise: Medium and heavy duty trucks and portable air compressors. Proposed regulations have been published that would provide for the control of noise produced by these products. That report also listed a number of other candidates for possible future identification.

**Approach used to assess environmental impact.** To accomplish the broad intent of the Noise Control Act of 1972, the EPA has developed an overall framework for assessing the environmental impact of all the sources of environmental noise. The first step of this development was the Title IV report ("Report to the President and Congress on Noise," Doc. No. 92-63, 92nd Congress 2nd Session, February 1972), which provided an initial data base on noise reduction technology appropriate to various product types, environmental noise levels, and criteria related to public health and welfare. The second step was the publication of the "Criteria Document" ("Public Health and Welfare Criteria for Noise," EPA, July 27, 1973) as required by section 5(a) (1) of the Noise Control Act of 1972. The third step was the publication of the "Levels Document" ("Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety," EPA, March 1974) as required by section 5(a) (2).

The levels identified in the "Levels Document" are baseline target goals based on the risks to public health and welfare from noise pollution without regard for cost or technical feasibility. To identify the levels, EPA selected two cumulative energy measures for quantifying noise exposures that can be related to human response.

1. **Leq**, the A-weighted equivalent sound level (the source level in dBA conveying the same sound energy as the actual time-varying sound during a given period) was selected as

a descriptor of noise relative to long-term hazard to hearing.

2. **Ldn**, the day-night sound level (the 24 hour Leq with a 10 dBA penalty applied to the period from 10 p.m. to 7 a.m.) was selected as a descriptor of noise relative to interference with human activities, e.g., speech communication, sleep, and other factors that may lead to annoyance.

An abbreviated summary of the identified levels is given in Table 1.

TABLE 1.—Noise levels protective of health and welfare

Human response	Leq	Ldn
Hearing loss (8 hr).....	75	75
Hearing loss (24 hr).....	70	70
Outdoor interference and annoyance.....	65	65
Indoor interference and annoyance.....	45	45

**Analytic procedures.** The impact of an environmental noise has two basic dimensions: extensity and intensity. Extensity of impact is measured in terms of the numbers of people impacted regardless of the severity of the impact. Intensity, or severity, of an individual's impact is measured in terms of the level of the environmental noise.

For analytic purposes, it is desirable to have a single number representing the magnitude of the total noise impact in terms of both extensity and intensity in a specific environmental situation. With a single noise impact scale, changes in impact can be evaluated in terms of simple percentage changes from the initial value. This need led to the use by EPA of the Equivalent Noise Impact Analysis Method. An example showing the nature and use of the method is EPA's "Project Report, Noise Standards for Civil Subsonic Turbojet Engine-Powered Airplanes (Retrofit and Fleet Noise Level)", 16 December 1974, obtainable from the Environmental Protection Agency, Office of Noise Abatement and Control, 1921 Jefferson Davis Highway, Arlington, Va. 20460. In this method, the intensity of an environmental noise impact at a specific location is characterized by the Fractional Impact (FI).

The fractional impact of a noise environment on an individual as used by EPA is proportional to the amount (in decibels) that the noise level exceeds the appropriate level identified in the "Levels Document" as shown in Table 1. The fractional impact is zero when the noise level is at or below the identified level. The fractional impact rises to 1.0 at 20 decibels above the identified level and can exceed unity in situations in which the noise level exceeds 20 decibels above the identified level. The range from zero to 20 decibels above the criterion level represents the range between those noise levels that are totally acceptable and those noise levels that are totally unacceptable to the individual in terms of annoyance response and speech interference. The total Equivalent Noise Impact (ENI) is then determined by summing the individual fractional impacts for all people affected by the environment. In this counting, then, two people exposed to 10 decibels above the identified level (fractional impact = 0.5) would

be equivalent to one person exposed to 20 decibels above the identified level (fractional impact = 1.0). The ENI can thus be considered as the equivalent number of people 100 percent impacted by the noise environment.

To determine which sources ought to be identified for regulation, EPA considers their fractionally weighted noise impact. This measure includes both the intensity (loudness) and extensity (population affected) of noise source impact. Nevertheless, it cannot completely supplant the Administrator's judgment as to an appropriate sequence of noise source regulation. In addition, other factors such as necessary lead time for development of a regulation, voluntary industry noise standards, interrelationship of regulations, and relative availability of data can affect the sequence of identification.

**Candidates for major noise sources.** The noise impact method has been applied in analyses using available noise data on products and classes of products distributed in commerce, population exposure data in various locations, and "Levels Document" criteria to develop a list of product types for possible consideration for regulatory action. This list is reflected in Table 2. In applying judgment, as prescribed in section 5(b) of the Act, as to which of these product types warrant identification as major sources of noise, those candidates having cumulative noise levels in normal use contributing to environmental noise levels in excess of "Levels Document" criteria are considered major noise source candidates. Using the fractional noise impact technique and available data, further consideration is given to those candidates contributing the greatest impact. Both the contribution to outdoor environmental noise and the impact on passengers and operators are included in the analysis.

TABLE 2.—Possible candidates for noise sources

SURFACE TRANSPORTATION	
Automobiles (including sports cars, compact cars, and standard passenger cars)	
Buses	
Medium and Heavy Duty Trucks (already identified)	
Light Trucks	
Motorcycles	
Railroad locomotives	
Rapid Transit-rail	
Special auxiliary equipment on trucks	
Tires	
AIR TRANSPORTATION (NOT CANDIDATES FOR SECTION 5 REGULATION)	
Business jet aircraft	
Commercial subsonic jet aircraft	
Commercial supersonic jet aircraft	
Helicopters	
Propeller driven small airplanes	
Short haul aircraft	
CONSTRUCTION/INDUSTRIAL EQUIPMENT	
Air compressors (already identified)	
Backhoes	
Chain saws	
Concrete vibrators	
Cranes, derrick	
Cranes, mobile	
Dozers (track and wheel)	

Engine driven industrial equipment  
Generators  
Graders  
Loaders (track and wheel)  
Mixers  
Pavement breakers  
Pavers  
Pile drivers  
Pneumatic and hydraulic tools  
Power saws  
Pumps  
Rock drills  
Rollers  
Scrapers  
Shovels

#### RECREATIONAL VEHICLES

Snowmobiles  
Motorboats  
Offroad motorcycles (including minicycles)  
Other off highway vehicles

#### LAWN CARE

Edgers  
Garden tractors  
Hedge clippers  
Home tractors  
Lawn mowers  
Snow and leaf blowers  
Tillers  
Trimmers

#### HOUSEHOLD APPLIANCES

Air conditioners  
Clothes dryers  
Clothes washers  
Dehumidifiers  
Dishwashers  
Electric can openers  
Electric heaters  
Electric knives  
Electric knife sharpeners  
Electric shavers  
Electric toothbrushes  
Exhaust fans  
Floor fans  
Food blenders  
Food disposals (grinders)  
Food mixers  
Freezers  
Hair clippers  
Hair dryers  
Home shop tools  
Humidifiers  
Refrigerators  
Sewing machines  
Slide/movie projectors  
Vacuum cleaners  
Window fans

**Identification of major noise sources.** EPA hereby identifies the following products as major sources of noise in accordance with section 5(b) of the Noise Control Act of 1972: motorcycles, buses, wheel and track loaders and wheel and track dozers (earth moving equipment), truck transport refrigeration units, and truck-mounted solid waste compactors (special auxiliary equipment on trucks). Additional information, as prescribed in section 5(b) (2) of the Act, will be published in advance of rulemaking. For the products identified, this will include information on techniques for control of noise, available data on technology, costs, and alternate methods of noise control.

Motorcycles, buses, wheel and track loaders and wheel and track dozers contribute significant impacts to outdoor environmental noise and on passengers/operators. Identification of special purpose truck equipment, such as transport refrigeration units and solid waste compactor units, provides for noise control

standards consistent with standards already proposed for new medium and heavy duty trucks. It is recognized that the noise impact from such special purpose equipment alone is of a lower order of magnitude. However, in view of the actions already taken to control noise emissions from medium and heavy duty trucks, control of these sources is required to avoid reducing the effectiveness of those regulations.

In the development of regulations for those products identified as major sources of noise, possible labeling requirements will be examined as well as noise control standards.

EPA will be selecting other products for future identification from among the large number of possible candidates listed in Table 2. The order in which they are identified will depend upon the various considerations discussed above, of which fractional noise impact is the major, but not exclusive, consideration. Automobiles and snowmobiles are currently under study. The size and complexity of the automotive industry and the extensive effort necessary to adequately evaluate cost and available technology make immediate regulation of automobile noise impossible. The EPA judgment to temporarily defer identification of snowmobiles takes into account consideration of voluntary standards being developed by the snowmobile industry. Major progress has been made in that regard, and continuing action is underway. EPA is in the process of evaluating this voluntary industry effort. In so doing, EPA is taking into account the fact that much of the noise impact associated with snowmobiles affects operators and passengers in recreational and other voluntary activities. EPA also is developing information on the need for labeling of snowmobiles under section 8 of the Act, working in conjunction with the Consumer Product Safety Commission.

EPA also intends to study during Fiscal Year 1976 light trucks, motorboats, chain saws, tires, pneumatic and hydraulic tools, pile drivers, lawn care equipment, and other special auxiliary equipment on trucks for possible future identification. This report is issued under the authority of the Noise Control Act of 1972, section 5(b) (1), 86 Stat. 1236 (42 U.S.C. 4904(b) (1)).

Dated: May 20, 1975.

RUSSELL E. TRAIN,  
Administrator.

[FR Doc. 75-13753 Filed 5-27-75; 8:45 am]

[FRL 379-8]

#### MUNICIPAL WASTE TREATMENT GRANTS Public Hearings on Potential Legislative Amendments to the Federal Water Pollution Control Act

Notice was published in the FEDERAL REGISTER on May 2, 1975, (40 FR 19236), of a series of four public hearings to discuss possible Administration proposals to amend the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 et seq.

The notice indicated that five papers would be prepared for public review prior to the public meetings. These papers are presented here with the intent that they assist in focussing discussion at the meetings. The papers do not encompass all the points that might be made on these candidate proposals and are not meant to confine the discussion.

Several background points should be considered when reviewing each of the five papers.

**Papers 1, 2, 3.** These papers discuss possible modifications to the present provisions of Title II of the Act which authorizes the construction grants program. They were developed after the 1974 Survey of State Needs indicated that approximately \$350 billion in municipal facility construction is needed to meet the requirements of the Act. The magnitude of this indicated need appears to be beyond the funding capability of the Federal budget, and proposals have been made to selectively reduce the need for Federal funds, without negating the major water quality objectives of the Act. These papers, in a summary fashion, present these proposals. These proposals have been previously discussed, in a preliminary way, with selected groups with whom the Agency frequently meets to discuss the implementation of the Act.

A groundrule observed in preparing these discussion papers has been that none of the proposals would retroactively apply to the \$18 billion presently authorized and allotted.

**Paper 4.** This paper discusses a proposed extension of the July 1977 date for compliance by municipal dischargers with the secondary treatment requirement established by section 301(b) (1) (B) of the Act. This proposal has been suggested previously and discussed with representatives of State agencies and several public groups.

**Paper 5.** This paper discusses a proposed amendment to the Act to authorize an increased delegation of responsibility to the States for managing the construction grants program. Amendments to achieve this objective have been introduced in the House of Representatives as H.R. 2175 and H.R. 6991 which are identical bills. EPA has generally endorsed these Amendments.

Dated: May 22, 1975.

EDWIN L. JOHNSON,  
Acting Assistant Administrator  
for Water and Hazardous Materials.

PAPER NO. 1—REDUCTION OF THE FEDERAL SHARE

**Statement of Issue.** This paper deals with the issue of whether Pub. L. 92-500 should be amended to reduce the Federal share for construction grants from the current level of 75 percent to a level as low as 55 percent.

The objectives of such an amendment would be twofold. The first is to permit the limited funding available to go further in assisting needed projects. The second objective is to encourage greater accountability for cost effective design and project management on the part of



the grantee by virtue of his greater investment in the project.

#### BACKGROUND

**Statutory Reference.** Section 202(a) of Pub. L. 92-500 sets the current Federal grant share at 75 percent. Under legislation in effect from 1966 to 1972, the Federal grant share ranged from 30 to 55 percent. From 1956 to 1966, the Federal share was 30 percent, with restrictions that effectively reduced the grant share for large projects to less than 30 percent.

**1974 Needs Survey.** The recently completed 1974 Needs Survey reports total needs of \$342 billion for facilities eligible for construction grants under Pub. L. 92-500. At a 75 percent Federal share, these needs, if satisfied, would require almost \$260 billion in Federal funding. The most critical categories reported in the Survey—secondary treatment, advanced treatment, and interceptor sewers—need over \$46 billion, which would require Federal funding of nearly \$35 billion. The question is raised as to whether these needs—the total amount or even the amount for the critical categories—can be accommodated in the Federal budget in time to meet the 1977 and 1983 municipal pollution control requirements of Pub. L. 92-500.

**Incentives.** It has been traditionally held that a community's incentives for building treatment plants are relatively low because the primary beneficiary is not the community itself but, instead, downstream communities. More recently, the environmental ethic and the enforceable effluent standards issued under Pub. L. 92-500 appear to have significantly strengthened these incentives. A community has traditionally had more incentive to build collection and interceptor sewers, since the beneficiaries reside within the community. In considering these factors, a reduction of the Federal grant share would reduce incentives to construct needed facilities. However, there is no way of quantifying this effect, especially because of the short history of municipal effluent standards.

**Increased Local Share.** Reduction of the Federal share will require an increase in local or State funding. With recent changes in the economy, including both inflation and recession, it is not possible to predict the effect of a reduced Federal share on local financing capabilities.

#### ISSUES TO BE DISCUSSED

The following questions will be discussed in the public hearings:

1. Would a reduced Federal share inhibit or delay the construction if needed facilities?
2. Would the States have the interest and capacity to assume, through State grant or loan programs a larger portion of the financial burden of the program?
3. Would communities have difficulty in raising additional funds in capital markets for a larger portion of the program?
4. Would the reduced Federal share lead to greater accountability on the part of the grantee for cost effective design, project management, and postconstruction operation and maintenance?

5. What impact would a reduced Federal share have on water quality and on meeting the goals of Pub. L. 92-500?

#### PAPER NO. 2—LIMITING FEDERAL FUNDING OF RESERVE CAPACITY TO SERVE PROJECTED GROWTH

**Statement of issue.** This paper deals with the issue of whether Pub. L. 92-500 should be amended to limit the amount of reserve capacity of facilities that would be eligible for construction grant assistance. Reserve capacity is defined as that portion of the capacity of sewers, treatment plants, and other facilities designed to serve future population, industrial, and commercial growth. Under a proposed amendment, eligible reserve capacity could range from zero to some specified finite value such as that needed to serve 10 or 20 years of estimated growth. A zero limit would prohibit Federal funding of reserve capacity to serve growth occurring after construction of the facilities is completed. A 10- and 20-year limit would permit Federal funding of reserve capacity to serve 10 years of growth for treatment plants and 20 years for sewers.

The limiting of eligibility for reserve capacity is not intended to preclude the cost-effective sizing and design of the facilities. The grantee would be permitted and, in fact, encouraged to provide cost effective reserve capacity, but he would be required to fund 100 percent of this capacity.

The objectives to be achieved by limiting eligibility for reserve capacity are twofold. The first objective is to permit limited Federal authorizations for the construction grant program to go further in funding the backlog of projects. The estimates in the recently completed 1974 Needs Survey appear to exceed any reasonable capacity for funding within the Federal budgets for the next several years. The second objective is to induce more careful sizing and design of capacity to serve future growth; this will alleviate tendencies to provide excessive growth-related reserve capacity and reduce the secondary environmental impacts of growth that could result from such capacity.

#### BACKGROUND

**Statutory Reference.** Section 204(a) (5) of Pub. L. 92-500 specifically authorizes Federal funding of reserve capacity in facilities eligible for construction grant assistance. This Section provides that the EPA Administrator must determine "that the size and capacity of such works relate directly to the needs to be served by such works, including sufficient reserves as a part of the works to be capacity provided shall be approved by the Administrator on the basis of a comparison of the cost of constructing such reserves as a part of the works to be funded and the anticipated cost of providing expanded capacity at a date when such capacity will be required."

**Definition.** In the broadest sense, reserve capacity includes several components: (1) Capacity required to serve estimated population growth within the service area, (2) capacity to serve anticipated new industrial and commercial

sources, (3) capacity required to handle, fully or partially, wet-weather flows, (4) capacity required to handle flows from existing sources in a service area which are not connected to the system but will be connected during the life of the system, (5) capacity included in the system as a hydraulic safety factor to accommodate daily and seasonal fluctuations, and (6) capacity included to provide for projected increases in per capita flow rates. In this paper, reserve capacity includes only components (1) and (2).

**Present Practice.** Under current regulations, eligible reserve capacity is determined on the basis of cost-effective analysis performed by the grantee in the Step I, facilities planning stage of the grant. This analysis is reviewed by the States and/or EPA and, if it conforms to good analytical practices as defined by EPA guidelines, the reserve capacity determined by the analysis is found to be eligible. Basically, the analysis encompasses a projection of population, industrial, and commercial growth and a comparison of total present monetary worth of various sizings of the facilities designed to serve alternative periods of growth. In addition, the nonmonetary impacts (the secondary impacts of growth) of the alternatives are compared.

The adequacy of the cost-effective analysis varies from "rule of thumb" designs to fairly sophisticated evaluations. Generally, these analyses have resulted in approved eligible reserve capacities of up to 20 years for treatment plants and 30 to 50 years for interceptor sewers.

**Recent studies.** Two recent studies have addressed the problems associated with current practices in basing eligible reserve capacity on cost-effective analyses. The first is a study on interceptor sewers conducted for the Council on Environmental Quality. This study was critical of EPA's present practice in that it occasionally permits excessive reserve capacity for interceptors, which facilitates growth and its attendant secondary environmental impacts.

The second is an unpublished EPA study analyzing 68 treatment plants and interceptors. Recent construction projects which had received Federal grants were selected at random from around the country. Each project was evaluated to determine the amount of reserve capacity provided. The EPA study found that reserve capacity in 53 treatment plants provided for an average of 18 years of increased flow, and reserve capacity in 15 interceptors, for 47 years of increased flow. There are two partial explanations for the large amount of reserve capacity found in this small sample of interceptors. First, large economies-of-scale are realized in interceptor construction—for example, a 10 percent increase in capacity represents only a 3 to 5 percent increase in cost. Second, traditional design periods are very long, usually about 50 years.

**California experience.** In 1973, California instituted its own policies on reserve capacity. The State certifies, as eligible, the costs of treatment plant

capacity required to serve projected residential and commercial flows within 10 years of commencement of construction, but only industrial flows existing at the commencement of construction are eligible. For interceptors, outfalls, and sewer lines, the cost of capacity for 20 years of growth is allowed.

California's system does not limit the amount of capacity which the grantee may build, but simply limits the capacity the State will certify as eligible for construction grant funds. For every grant, the State Department of Finance and the State Water Quality Control Board determines the population projections to be used in calculating eligible reserve capacity.

This so-called "10/20" program was chosen by California because it did not have enough construction funds to provide grants for every eligible project. The State felt too much money was being used for reserve capacity to serve population growth, thus delaying the funding of needed project and inducing adverse environmental impacts. The plan was the subject of public hearings before its enactment.

One result of California's approach was an increase in the administrative task of determining the eligible portion of the total project cost. For projects funded in FY 1973 and 1974, the State allocated costs between eligible and ineligible portions on a straight-line, or pro rata basis. For FY 1975 projects, costs are separated using a marginal cost, or incremental cost analysis. The difference between the two types of allocation is that the incremental analysis reflects the actual costs of reserve capacity by taking into account economies-of-scale, while the pro rata system does not.

**Reserve Capacity Included in 1974 Needs Survey.** One of the reasons for considering the limitation of eligibility for reserve capacity is that it conserves Federal funds authorized for construction grants and enables more, if not all, of these funds to be used to correct the "backlog" of facilities needs. To address this point, the recently completed 1974 Needs Survey was examined to determine the amount of growth related reserve capacity included in future needs. In Category I, secondary treatment, growth related reserve capacity appears to represent about 20 percent of the \$12.6 billion needs reported in the 1974 Needs Survey. For Category II, advanced treatment, the 1974 Needs Survey reported needs of \$15.7 billion. At this time it is impossible to estimate what portion of this need is for growth, although the ratio of growth to backlog is probably rather small. It is also difficult to estimate what part of interceptor needs — Category IVB — is for growth, without making a case-by-case investigation. However, on the basis of a small random sample of interceptors, growth needs are estimated to represent from 30 to 50 percent of reported needs, which the 1974 survey set at \$17.9 billion. In summary, of the \$46.2 billion in needs reported for treatment plants and interceptors in the 1974 Needs Surveys, \$12

billion or more appears to represent needs to serve population growth.

#### ISSUES TO BE DISCUSSED

The public hearings will address at least the following questions on this issue of limiting eligibility for growth-related reserve capacity.

1. Does current practice lead to overdesign of treatment works? Studies suggest that current practices permit substantial capacity to serve population growth. If true, this results in secondary environmental impacts and monetary inefficiencies. The 75 percent Federal grant rate appears to introduce an incentive for overdesign.
2. What could be done to eliminate problems with the current program, short of a legislative change? Population projections could be coordinated on a statewide basis and limited to the lowest of the Census Bureau's projected fertility rates. EPA and the States could give greater emphasis to overseeing better cost effective analyses in facilities planning; however, this would require more manpower than now available and could lead to project delays.
3. What are the merits and demerits of prohibiting eligibility of growth-related reserve capacity? Would this alleviate overdesign and its attendant monetary inefficiencies and secondary environmental impacts? Would municipalities, particularly rapidly growing communities, be able to accommodate 100 percent funding of necessary, cost-effective growth-related reserve capacity? Would this lead to underdesign and create a backlog problem for the future?
4. What are the merits and demerits of limiting eligibility for growth-related reserve capacity to 10 years for treatment plants and 20 or 25 years for sewers? Would this be sufficient to eliminate over-design? Could this be efficiently and effectively administered? Can the California experience be achieved in other States?
5. Are there other alternatives?

**PAPER NO. 3—RESTRICTING THE TYPES OF PROJECTS ELIGIBLE FOR GRANT ASSISTANCE**

**Statement of issue.** This paper deals with the issue of whether Pub. L. 92-500 should be amended to restrict the types of projects eligible for construction grants funding. Pub. L. 92-500 authorizes funding of the following types of projects:

- I Secondary treatment plants
- II Tertiary treatment plants as needed to meet water quality standards
- IIIA Correction of sewer infiltration/inflow
- IIIB Major sewer rehabilitation
- IVA Collector sewers
- IVB Interceptor sewers
- V Correction of combined sewer overflows
- VI Treatment or control stormwaters

The above classification is the same as that used in the 1974 Needs Survey. The issue is whether any of these categories should be eliminated from eligibility.

The principal purpose to be achieved in limiting eligibilities is to reduce the Federal burden in financing the construction grants program. A secondary purpose is to limit Federal participation to those types of projects that are most essential to meet the water quality goals of Pub. L. 92-500 and to require that some projects be fully financed by local and State authorities where such projects are clearly within their responsi-

bilities and capabilities. A proposal to limit eligibilities to categories I, II and IVB is being considered; however, other combinations are also being evaluated.

**Background.** Many types of actions may be involved in efforts to reduce water pollution. Certain of these actions, such as installation of treatment plants and interceptor lines, involve large amounts of capital for construction of facilities. Other actions, relying little if at all on construction of facilities, involve the extent and timing of pollutant loadings to the actual treatment and collection system by which such methods as frequent street sweeping or direct reduction of wastewater generation through legal or pricing mechanisms.

Prior to Pub. L. 92-500, Federal financial support was limited to treatment plants and interceptors. Other facilities were considered the responsibility of local governments, although specific Federal and State programs provided assistance in some cases. These limitations encouraged local governments to favor the few eligible types of projects, such as large treatment plants, rather than to bear the full cost for more effective solutions such as correction of infiltration/inflow problems.

Pub. L. 92-500 permitted funding of many previously ineligible construction-oriented approaches to water pollution control, increasing the incentive for local governments to develop projects economically efficient with respect to all construction-oriented approaches. Pub. L. 92-500 did not provide assistance for operating and maintenance costs, for most management alternatives to construction facilities, or for most nonpoint source control measures such as sediment catchments. Therefore, although the current grant program may have fewer biases than its predecessor programs, it has not eliminated all of the biases in local governments' incentive.

Any restrictions in eligibilities might produce some of the same biases that the Amendments worked to eliminate. However, section 313 of Pub. L. 92-500 explicitly requires applications for construction grants to be accompanied by a demonstration that the proposed project is "over the life of such works, the most cost-efficient alternative." In theory, this compels a locality to select the least costly actions, whether management- or construction-oriented, whether eligible or not eligible for Federal financial assistance. In fact, cost-effectiveness analysis seldom generates irrefutable conclusions. Since the most cost-efficient solution may be one for which there is little State or Federal assistance, there is a clear incentive for local governments in their cost-effectiveness analyses to favor actions that are eligible for assistance. The areawide planning program may in the future provide greater reliability in determining cost-effective solutions than an individual facilities plan currently does. However, areawide planners, like facilities planners, may hesitate to produce a plan that identifies means which are ineligible for Federal cost-sharing as the most cost-effective.



Several arguments have been advanced for restricting existing eligibilities in some manner:

**Ensure that Federal funds provide greatest water quality benefits.** Effective use of Federal resources requires that the limited funds available be allocated to obtain the greatest water quality benefits relative to costs, taking into account local willingness and capacity to invest in facilities. Because of this, States, in conjunction with EPA, have developed a system of priorities for funding projects. In an effort to structure these priorities so that they reflect anticipated project benefits, projects have been ranked in large part according to the type of facility to be built. As a result, treatment plants and interceptors have high priority, while collector sewers, correction of wet weather overflows, and stormwater treatment and control generally have low priority. Congress, however, has allocated available funds among States partly according to total needs for all eligible facilities, including both low and high priority facilities. Relative needs for these facilities vary widely among States and EPA Regions. It will become increasingly difficult therefore to ensure on a national basis that high-priority projects are funded before low-priority projects, and thus ensure that maximum water quality benefits are being derived from Federal expenditures. A statutory elimination of certain eligibilities, this argument runs, would have three closely-related effects: (1) Legislate greater adherence throughout the nation to priorities, promoting maximum benefits; (2) simplify administration of the program by giving clearer statutory authority to established priorities; and (3) simplify Congressional allocation of funds among States in an equitable, efficient manner more closely in accord with established priorities by eliminating those facilities for which needs can be least reliably ascertained.

**Reduce Federal budgetary commitments.** In 1974, States estimated their eligible needs for all these facilities at \$356 billion, including \$235 billion for storm water treatment and/or control. Since Congress is unlikely ever to appropriate this amount, explicit restrictions would clarify the nature and extent of Federal commitment over the next few years and facilitate the budget-making process.

**Encourage State and local self-sufficiency.** Restrictions in eligibility would encourage State and local governments to assume increased responsibility both in determining environmental needs and financing pollution-control facilities. Greater self-sufficiency, in turn, would probably result in States and localities setting water quality goals that more accurately reflect their perceived benefits.

**Encourage wiser investment decisions.** Reduction in eligibility might discourage construction-oriented solutions for certain problems, such as stormwater runoff, that may better be handled by management techniques. Reduction in eligibility for facilities with a high propor-

tion of local benefits and for which there is adequate local willingness and ability to finance, such as collection sewers, would prevent the expenditure of Federal funds which could finance projects with higher water quality benefits. Similarly, elimination of eligibility for certain elements would reduce the tendency for localities to delay needed or desired investment in hopes of receiving a grant.

On the other hand, there are several arguments for retaining or even broadening current eligibilities.

**Encourage examination of broad options.** Among construction-oriented elements, broad eligibilities encourage selection of the most cost-effective system. Rather than focusing attention on one or two types of construction solutions, such as a larger treatment plant instead of less-costly correction of infiltration/inflow, or advanced treatment for sanitary wastes rather than treatment or control of stormwater runoff, all major construction approaches would be encouraged.

**Preserve administrative flexibility.** Facilities integral to an effective wastewater management system, such as collector sewers, can be supported by Federal funds when they are beyond local financial capability. By allowing such selective funding, broad eligibilities preserve program flexibility and allow EPA to overcome obstacles which might otherwise delay construction of high-priority facilities.

**Increase incentive to achieve the goals and requirements of the Act.** Pub. L. 92-500 set very high goals, including waters suitable for swimming by 1983 and the elimination of discharge of pollutants by 1985. Broad eligibilities—coupled with adequate resources—provide greater support to the efforts of local government to meet these goals.

**Prevent inequitable changes.** Some communities may have received financial assistance for facilities which a legislative amendment would make ineligible, thereby denying similar grants to other municipalities with equal qualifications.

**Considerations.** Any proposal must be judged, primarily by how it will affect attainment of the Act's objective "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." Along with the environmental impact, however, consideration must be given to economic impacts such as employment, inflation, and efficient allocation of resources, as well as to considerations such as ease and equity of administration. The basic questions which must be explored in evaluating alternative proposals are the following:

1. What would the net environmental impacts be of the major alternatives under consideration? Upon what specific premises should an evaluation of the environmental impact be based?

2. How would the various changes affect administration of the program? What are the major differences between administrative problems resulting from restricting, as opposed to eliminating, certain types of eligibilities? What sorts of restriction could most easily be enforced?

3. What changes in investment and employment in wastewater pollution control would result from adoption of any of the major alternatives? What changes in total employment in the entire economy? What are the probable impacts on inflation in costs for pollution control facilities and in costs of other goods and services?

In examining these basic questions, it may be useful to consider other closely related questions:

1. What impact do different eligibility structures have on the determination of need for a particular facility? A need may be perceived for a facility for a variety of reasons—a secondary treatment plant to meet the requirement of the Act, a stormwater treatment plant to allow high water quality standards to be achieved throughout the year, collector sewers to replace failing septic tanks, etc. Since all needed facilities cannot be built at once, a grant system ideally should seek to provide the greatest improvement in water quality.

Would restricted eligibilities facilitate or hinder the achievement of this objective? Are the differences in benefits accruing from different types of facilities sufficient to justify restriction by category? What problems are currently and would in the future be associated with accomplishing this objective if, in order to preserve flexibility, it is done administratively rather than by legislative amendment?

Eligibility for certain elements may lead a local agency to construct such a facility when in fact an equally effective management alternative to the problem is less expensive, in terms of all Federal, State, and local costs. It has been argued that this problem is especially evident in ameliorating the impact of urban stormwater runoff.

Do certain eligibilities in fact create this difficulty, and if so, how might it be alleviated?

2. Is there adequate local incentive to undertake needed investment in certain types of facilities, even in the absence of Federal financial assistance? Where a high proportion of the benefits of pollution abatement actions accrue to an individual locality, it would be expected that the locality would have adequate incentive to undertake investment without Federal assistance. But when Federal funds support such projects, (thereby substituting for local funds which would have been invested anyway), fewer Federal funds are available for projects with more nonlocal benefits thus less local incentive to invest. The result, would be less total investment in wastewater pollution control facilities.

How does the proportion of local benefits, and thus local incentive to undertake investment without financial assistance, vary among types of facilities?

The concept of benefits, of course, implies that localities receive positive gains from their actions. There is also the possibility that enforcement actions brought against localities for not complying with specific requirements of the Act would serve as a major incentive to undertake investment without assistance. This might raise serious questions of equity, of course, but does suggest one means of increasing local incentive to invest in the absence of Federal assistance.

How do, or might, enforceable provisions of the law affect incentive to construct different types of facilities?

3. Is there adequate local financial capability to undertake investment in different types of facilities? If there is a definite need for a facility, but inadequate local financial capability, it is unlikely to be constructed without financial assistance, even if there is considerable local incentive. As a result,

a grant program oriented toward financial assistance may be needed to ensure that appropriate levels of investment are attained. Financial constraints on local governments resulting from the current recession may be significantly reduced by the time any amendment would become effective, presumably after FY 1976. Other Federal grant programs, such as the community development block grant program of the Department of Housing and Urban Development, might provide local governments with funds needed for certain types of facilities even if eligibility under the Act were eliminated. In addition, different ways to finance different types of facilities—for example, special bonds for collector sewers—may facilitate financing when the local government has encountered difficulties financing other types of facilities.

Are there differences—such as cost or financing methods—among types of facilities eligible for assistance that would lead to different impacts on local financial capability if certain eligibilities were reduced or eliminated?

PAPER NO. 4—EXTENDING 1977 DATE FOR THE PUBLICLY OWNED PRETREATMENT WORKS TO MEET WATER QUALITY STANDARDS

**Statement of issue.** This paper deals with the issue of whether Pub. L. 92-500 should be amended to extend the date by which publicly owned treatment works are to achieve compliance with requirements of section 301 of the statute. Sections 301(b)(1)(B) and 301(b)(1)(C) of Pub. L. 92-500, require that publicly owned treatment works (POTW's) achieve effluent limitations based upon secondary treatment or a more stringent level of treatment, if necessary, to meet water quality standards. These effluent limitations are to be attained no later than July 1, 1977. The only exception is where grants to POTW's were approved before July 1, 1974. These POTW's are required to complete construction within four years of the construction grant approval date.

It is currently estimated that 50 percent or 9,000 municipalities serving 60 percent of the 1977 population will not be able to comply with the above requirements. This stems almost exclusively from the fact that municipalities have depended, with EPA acquiescence, on construction grants to assist them in constructing the necessary facilities to enable them to meet these requirements. This dependence has encountered two problems. First, the amount of construction grant funds thus far authorized—\$18 billion—is not sufficient to cover the 1977 needs which are estimated by the 1974 Needs Survey to be at least \$46 billion (based on categories I, II and IVB which are secondary treatment plants, tertiary treatment plants when required to meet water quality standards, and interceptor sewers, respectively). As a result, a part of the 9,000 municipalities have not received a grant to construct the facilities needed to comply with the 1977 requirement.

Second, a great many of the projects funded under the construction grants program cannot be feasibly completed by 1977 to enable compliance with the section 301 requirements. Because of a variety of problems and delays in re-

vising the construction grants program to incorporate the many new requirements of Pub. L. 92-500, because of the longer project planning and design periods required to meet these new requirements and because of other factors, only \$4.8 billion of the \$18 billion has been obligated. Consequently, only a small portion of the projects that will be constructed under the \$18 billion have been started and a majority of these have not yet reached construction stage. Moreover, the time period to bring a project to completion is typically 2 to 5 years and occasionally exceeds 5 years. Accordingly, even some of the projects initiated about the time of, or shortly after the passage of, Pub. L. 92-500 cannot be completed within the Section 301 time period.

**Alternatives.** Five principal alternative solutions to the problem of noncompliance have been identified. In cases where a proposed extension of secondary treatment requirements results in a violation of water quality standards, EPA is assuming that Congress would provide an exemption from compliance with water quality standards.

The five alternatives are:

1. Retain the 1977 date and enforce against violators.

2. Retain the 1977 date without enforcing against those dischargers that cannot realistically be expected to meet the deadline due solely to funding problems.

3. Seek statutory amendments that would maintain the 1977 date but would provide the EPA Administrator with discretion to grant compliance schedule extensions on an ad hoc basis, based upon actual time required with the expenditure of good faith efforts to build the necessary facilities.

4. Seek statutory amendments that would maintain the 1977 date but would provide the Administrator with discretion to grant compliance schedule extensions on an ad hoc basis based upon the availability of Federal funds.

5. Seek a statutory extension of the 1977 deadline to 1983 and require compliance regardless of Federal funding.

Alternative (1) implicitly denies any connection between the availability of construction grant funds and EPA's compliance/enforcement of municipal permits. This appears to be politically unrealistic, few if any communities are expected to finance their own POTW's and thereby jeopardize Federal support, whether confronted by an enforcement threat or not. Under most circumstances, the community would probably take the issue to court rather than attempt to raise its own funds. In fact, the State of Virginia, in anticipation of possible EPA enforcement activity, has challenged EPA's enforcement authority claiming "a Federal share" of the cost of compliance with Section 301 and thereby arguing that enforcement is viable only where funds have been made available in sufficient time to comply with the deadline. The United States District Court (Eastern District, Virginia) is expected to rule on this issue in approximately 60 days.

The policy supported by Alternative (1) has the added consequence of aggravating existing equity problems cre-

ated by limited funding capabilities and the inability to spread available funds among the needed facilities in the State since the statute requires that the Federal government pay 75 percent of the construction costs. This effectively prevents the Administrator from making grants in amounts less than 75 percent and thereby providing funding of all needed facilities at lesser levels of Federal participation.

Furthermore, the logic of taking enforcement action against a facility that is physically unable to meet 1977 requirements because of construction limitations can be questioned. However, the EPA does not feel constrained to take specific remedial action such as sewer moratoriums where appropriate.

On the other hand, the aggressive enforcement program supported by Alternative (1) might motivate reluctant communities to speed construction where possible to avoid severe penalties for violation of permits.

Alternative (2) reflects current EPA policy in part. This policy has been to issue five-year permits providing for full compliance with 1977 requirements to all publicly owned treatment works where no major construction is needed to achieve compliance with section 301, where construction scheduled for completion by the 1977 deadline is presently underway, or where the source is sufficiently high on the State's priority list for funding and the proposed construction schedule is such that compliance with the 1977 requirements is probable.

Short-term permits (expiring prior to the section 301 deadline) are issued to municipal facilities that cannot realistically be expected to meet required discharge limitations by the 1977 deadlines. These permits include effluent limitations established so as to require optimum operation and maintenance of existing facilities and completion of any modifications to facilities which could reasonably be undertaken with State and local monies or revenue sharing funds in the absence of a Federal construction grant.

Following this policy, EPA strictly monitors and enforces compliance schedules and requirements established in permits. As a result, EPA has not initiated enforcement action against municipalities whose violations of the statutory deadline can be shown to have resulted solely from the lack of Federal funds, and their discharge is in compliance with an issue permit.

The inherent weakness of this option lies in the potential loss of a very effective tool—permits and enforcement rather than grants—for achieving compliance with section 301 requirements. Furthermore, this option does not prevent possible citizen suits on the matter nor does it limit potential State enforcement activity. Twenty-two States have already received National Pollutant Discharge Elimination System (NPDES) program approval and thus have independent enforcement authority. Municipalities may thus be vulnerable to differing standards of compliance.



Alternative (3) enables EPA to grant extensions to municipalities based upon physical construction limitations that cannot, under any circumstances, be overcome, but without any full commitment to Federal funding support. Under this alternative EPA could still mandate construction without Federal funds, although it is unlikely to do so. By granting the Administrator discretion to extend compliance deadlines on a project-by-project basis, this alternative provides for a more uniform and aggressive enforcement policy than those possible under alternative (2). Facilities capable of meeting the 1977 deadline are required to do so, and strong enforcement action is taken when they fail. Facilities granted extensions are placed on specific compliance schedules subject to a vigorous monitoring program to alert the EPA Regional Offices to slippage. Enforcement action would then be taken as appropriate.

However, it may be difficult to limit the application of this alternative to municipal dischargers, since industrial dischargers who have also experienced construction delays could make similar arguments. This problem is aggravated by the dependence of some industrial dischargers upon the successful construction of municipal plants to complete their treatment requirements. Current EPA policy expects the industrial facility to satisfactorily treat its wastes until such time as it can hook up into a municipal system, even if such treatment might require construction of a treatment plant to be utilized for a very short time period.

Alternative (4) seeks Congressional agreement to provide 75 percent funding for the construction of facilities needed to comply with the 1977 deadline. This alternative links the availability of Federal funding with the enforcement provisions contained in section 309.

A significant problem in adopting this alternative is the fact that eligible construction costs, as now defined in the Act, would provide 75 percent funding for "eligible projects." Eligible projects may achieve effluent reductions far greater than required for the 1977 deadline. As the Needs Survey observed, the cost of eligible facilities under Pub. L. 92-500 is \$342 billion dollars, a significantly greater figure than that required for compliance with the 1977 deadline.

Thus, it becomes apparent that should alternative (4) be adopted, eligibility would need to be redefined in such a manner as to prevent the Federal share from being used to construct facilities more sophisticated than necessary to achieve the 1977 deadline. This alternative has significant Federal budgetary implications not found in other options. If the Federal government assumed responsibility for construction of all publicly owned treatment works required to provide secondary treatment, current Federal funding levels would probably be more than tripled.

Alternative (4) also carries the same compliance ramifications evident under Alternative (3), since responsiveness to

the problem of construction delays is implicit in this option.

Alternative (5), which changes the municipal compliance date to 1983, offers an across-the-board extension regardless of the problems of any given POTW. It could possibly jeopardize the entire NPDES program. Industrial facilities would insist on similar extensions, particularly those under great financial strain to comply with their effluent limitations. Water quality standards would be violated unless new regulations were written providing for some sort of exemption.

However, this alternative is somewhat responsive to the national economic situation. Furthermore, it allows for more flexibility in local decision making procedures. It is also unambiguous, requiring compliance regardless of Federal funding. Thus it eliminates the problem of administrative subjectivity as well as compliance uncertainty inherent under alternatives (2), (3), and (4).

Furthermore, alternative (5) would also accommodate the suggestion of an EPA task force to allow the postponement of construction of the municipal treatment works with an ocean discharge, pending environmental assessments of specific outfall sites to determine the most effective technology.

**Considerations.** EPA is interested in a public response to these alternatives. It is important that policy formulation reflect the relative priorities and tradeoffs of affected communities. Apart from the obvious question of which alternative is preferred, there are other considerations:

1. Should Pub. L. 92-500 be amended to permit prefinancing of POTW's subject to Federal reimbursement?
2. Is it fair to require industry to meet the 1977 deadline while extending it for municipalities?
3. Is it fair to make industrial requirements more stringent pending municipal compliance, as is the case with joint systems?
4. Should an outside limit be provided to the Administrator granting extensions, for example five years from date of amendment, or should the possible compliance deadlines be open-ended?
5. Will EPA lose credibility supporting an across-the-board extension for municipal compliance, especially in cases where it is unnecessary? Or are the current economic priorities such that such an extension is only reasonable?
6. How big a difference would these alternatives make on local funding or State financing?
7. Should EPA consider changing the definition of secondary treatment to allow for classifications according to size, age, equipment, and process employed? Extensions of the 1977 deadline might therefore be unnecessary, since the amended secondary treatment requirements could be responsive to many of the construction problems causing current compliance delays.
8. Would a two-year extension for compliance be preferable to the six-year extension promoted under Alternative (5)? Is this alternative unnecessarily lenient?
9. Until such a time when a solution to current compliance delays is adopted, should EPA issue letters of authorization to those POTW's that cannot achieve compliance with the 1977 deadline instead of issuing short-

term permits? Letters of authorization are administratively simpler than short-term permits.

#### PAPER NO. 5—DELEGATING A GREATER PORTION OF THE MANAGEMENT OF THE CONSTRUCTION GRANTS PROGRAM TO THE STATES

**A. Background.** With the recent release of the full \$18 billion in construction grant funds, it is important that all construction grant applications be processed as efficiently as possible, while maintaining financial and environmental integrity. One current proposal for improving the performance of the program is to delegate a greater number of functions and responsibilities directly to the States with EPA assuming more of an oversight role. If States were able to assume a greater degree of program management, it might be possible to expedite the flow of funds into necessary construction projects, thereby obtaining both environmental and economic benefits.

A bill, H.R. 2175, has been introduced which would permit the Administrator to delegate to the States the broad range of grant processing functions, including those that go beyond just the review and approval of documents. Included also is a provision to compensate the States directly out of State allotments for administrative costs which they incur—up to a maximum of 2 percent of a State's yearly allotment. Under the H.R. 2175, EPA activities would be largely confined to overall policy making and to auditing and monitoring the grant activities performed by the States. However, EPA would remain responsible for any Environmental Impact Statements necessary on individual projects.

Current procedures authorize States to certify that such key documents as construction plans and specification and operation and maintenance manuals fulfill all legal and administrative requirements. EPA can then approve them without further review.

The bill would authorize the State agency to certify that plans, specifications, and estimates for a proposed project meet the requirements of the Act, and that the proposed project conforms to applicable areawide and State plans, is entitled to priority, and relates directly to the needs to be served by such works, including sufficient reserve capacity. Finally, the State agency would be able to certify as to such matters as bidding procedures, cost sharing requirements, cost effectiveness, and user charge and industrial cost recovery requirements, as well as legal, institutional, managerial, and financial capabilities.

The proposed measure would also provide for State certification of the fulfillment of various requirements for facilities grants under Title II of the Pub. L. 92-500 is intended to (1) reduce duplication of efforts by the States and the Federal government, (2) avoid substantially enlarging the number of Federal personnel needed to carry out the provisions of the Act, and (3) enhance the policy expressed in Pub. L. 92-500 to

"recognize, preserve, and protect the primary responsibilities and rights of States" in the prevention, reduction, and elimination of pollution. EPA has had a continuing policy of delegating to the States, to the extent possible, responsibility for conducting functions related to the Act—provided that the quality of the State's performance will equal or exceed requirements for fulfilling these functions. The proposed amendment would allow the States, as they become ready, to assume responsibilities commensurate with their capabilities, and would, as well provide funds to reimburse them for the responsibilities assumed.

**B. Alternatives.** The general intent of the proposed legislation is to process grants more effectively and efficiently and to give more attention to activities and problems at the State level. Alternative course for making the processing of grants more effectively and efficiently tending all of the responsibilities in EPA or, (2) continuing the present mix of EPA/State grant activities, but improving the overall procedures. With greater delegation of responsibility to the States, some time will be necessary for the States to organize and acquire adequate staff.

**C. Considerations.** In considering this issue, the public may wish to discuss the following questions: (1) Exactly what functions in the review and approval of construction grant applications should be delegated, (2) should all parts of the construction grants process be delegated, (3) in addition to ordinary staffing problems, what difficulties may be encountered in State staffing when a Federal financial commitment is involved, (4) will the funding level suggested in the proposed bill be adequate, (5) in actual practice, will greater delegation of program responsibility to the States make the program more efficient without compromising environmental concerns, (6) how much time would be required for individual States to assume additional responsibilities, and (7) are there alternative funding schemes, either Federal or non-Federal.

#### H.R. 2175

##### A BILL

To amend title II of the Federal Water Pollution Control Act to provide for State certification:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title II of the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.) is amended by adding at the end thereof the following new section:

##### CERTIFICATION

Sec. 213. (a) The Administrator may discharge any of his responsibilities for actions, determinations, or approvals under sections 201(g) (2) and (3), 203 (a) and (d), 204 (a), (b) (1), and (b) (3), and 212 (2) (B) of this Act with respect to projects or proposed projects for treatment works by accepting a certification by the State water pollution control agency of its performance of such responsibilities.

(b) The Administrator shall not accept any certification provided for in subsection (a) of this section unless the Administrator determines that the State water pollution control agency has the authority, responsibility, and capability to take all of the actions, determinations, or approvals for which certification is submitted under subsection (a) of this section.

(c) If the Administrator determines after public hearings that a State water pollution control agency, with respect to any requirement, condition, or limitation for which he has accepted a certification under subsection (a), fails to meet the requirements of this Act, he may suspend his acceptance of certification as to such requirement, condition, or limitation with respect to any project, or with respect to all projects in such State, as he determines necessary, and during such suspension he shall be responsible for such requirement, condition, or limitation.

(d) (1) The Administrator is authorized to conduct interim and final inspections and audits, and to require such information, data, and reports as he may determine necessary to carry out this section.

(2) Nothing in this section shall affect or discharge any responsibility or obligation of the Administrator under any other Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) (1) The Administrator shall reserve an amount not to exceed 2 percent of the allotment made to each State for each fiscal year under section 205, after the date of enactment of this section. Sums so reserved shall be available for making grants to such State under paragraph (2) of this subsection for the same period as sums are available from such allotment under subsection (b) of section 205, and any such grant shall be available for obligation only during such period. Any grant made from sums reserved under this subsection which has not been obligated by the end of the period for which available shall be added to the amounts last allotted to such State under section 205, and shall be immediately available for obligation in the same manner and to the same extent as such last allotment.

(2) The Administrator is authorized to grant to any State exercising, or proposing to exercise certification authority under this section, from amounts reserved to such State under this subsection, the reasonable costs, as determined by the Administrator, of carrying out such authority.

(f) The Administrator shall promulgate such rules and regulations as may be necessary to carry out this section. The initial rules and regulations necessary to carry out this section shall be promulgated not later than the ninetieth day after date of enactment of this section.

[FR Doc. 75-13865 Filed 5-27-75; 8:45 am]

[FRL 378-2; OPP-33000/256]

#### RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

##### Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c) (1) (d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown

below. The labeling furnished by applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street, SW., Washington, D.C. 20460.

On or before July 28, 1975, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c) (1) (D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street, SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received, within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after July 28, 1975.

Dated: May 16, 1975.

JOHN B. RITCH, JR.,

Director,

Registration Division.

APPLICATIONS RECEIVED (OPP-33000/256)

EPA File Symbol 3862-LI. ABC Compounding Co., Inc., P.O. Box 932, Atlanta GA 30301. BROMA-KIL 125 WEED KILLER. Active Ingredients: Bromacil (5-bromo-3-sec-butyl-6-methyluracil) 1.25%. Method of Support: Application proceeds under 2(c) of interim policy. PM25

EPA File Symbol 10807-LN. Aero Mist, Inc., 990 Industrial Park Dr., Marietta GA 30062. MISTY HOSPITAL DISINFECTANT DEODORANT. Active Ingredients: Orthophenylphenol 0.177%; Para-tertiary-aminophenol 0.045%; Alcohol 53.508%. Method of Support: Application proceeds under 2(c) of interim policy. PM32

EPA File Symbol 4876-LI. AG Supply Co., Div. of Seedkem Inc., Industrial Dr., Hopkinsville KY 42240. CHLORDANE-8 TER-MITE CONTROL. Active Ingredients: Technical Chlordane 72%; Aromatic petroleum Derivative Solvent 21%. Method of Support: Application proceeds under 2(c) of interim policy. PM15

EPA Reg. No. 1730-38. American Cyanamid Co., 859 Berdan Ave., Wayne NJ 07470. PINE SOL. Active Ingredients: Pine Oil 30.0%; Isopropanol 10.9%; Soap 10.0%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Additional uses. PM32



EPA File Symbol 14451-E. Antiseptol Chem. Corp., 141 Central Ave., Farmingdale NY 11735. A TO Z SANNI RINSE. Active Ingredients: Alkyl (60% C14, 30% C16, 5% C12, 5% C18) Dimethyl Benzyl Ammonium Chlorides 1.28%; Alkyl (68% C12, 32% C14) Dimethyl Ethylbenzyl Ammonium Chlorides 1.28%; Sodium carbonate 2.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 18593-2. Ashland Chem. Co., Div. of Ashland Oil, Inc., PO Box 2219, Columbus OH 43216. VARIQUAT 50MC. Active Ingredients: Alkyl (50% C14, 40% C12, 10% C18) dimethylbenzyl ammonium chlorides 50.0%. Isopropyl alcohol 7.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 35909-R. Associated Water Conditioners, Inc., Route 202, Mt. Kernal Ave., Morristown NJ 07960. BIOCID 467. Active Ingredients: Sodium Dimethylthiocarbamate 15%; Nabam (Disodium Ethylene Bisdithiocarbamate) 15%. Method of Support: Application proceeds under 2(c) of interim policy. PM33

EPA File Symbol 12455-RL. Bell Labs., Inc., Box 5133, Madison WI 53706. "RAZE" RAT AND MOUSE BAIT PELLETS READY TO USE BAIT FOR RATS AND MICE. Active Ingredients: Warfarin, (3-(Alpha-Acetylbenzyl) - 4 - Hydroxycoumarin) 0.025%; N1-(2-Quinoxaliny) Sulfanilamide (Sulfacinoxaline) 0.025%. Method of Support: Application proceeds under 2(c) of interim policy. PM11

EPA File Symbol 1757-AE. Drew Chem. Corp., 701 Jefferson Rd., Parsippany NJ 07054. BIOSPERSE 216. Active Ingredients: Diethyl dimethyl ammonium chloride 50%; Ethyl alcohol 10%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 35941-R. Edwards Industrial Center, 740 Lloyd Rd., Matawan NJ 07747. EDWARDS INSECT CONTROL. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2-dimethyl - 3 - (2 - methylpropenyl)cyclopropanecarboxylate 0.100%; Related compounds 0.014%; Aromatic petroleum hydrocarbons 0.132%; Petroleum distillate 99.750%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 35941-E. Edwards Industrial Center, 740 Lloyd Rd., Matawan NJ 07747. BUG-OUT INSECTICIDE. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2-dimethyl - 3 - (2 - methylpropenyl)cyclopropanecarboxylate 0.250%; Related compounds 0.034%; Aromatic petroleum hydrocarbons 0.331%; Petroleum distillate 99.375%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 3286-UA. The Ferd Staffel Co., 331 Burnet St., San Antonio TX 78202. STAFFEL'S BIO DUST. Active Ingredients: Bacillus thuringiensis, Berliner. Potency of 320 International Units per mg. (at least 0.5 billion viable spores per g.) 0.064%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA Reg. No. 7001-144. Occidental Chem. Co., PO Box 198, Lathrop CA 95330. 50% MALATHION SPRAY. Active Ingredients: Malathion 50.0%; Xylene 35.4%. Method of Support: Application proceeds under 2(c) of interim policy. PM16

EPA File Symbol 892-GN. Pioneer Mfg. Co., 3053 E. 87th St., Cleveland OH 44104. PIONEER KO WEED KILLER WITH DRIPT CONTROL. Active Ingredients: Petroleum oil 94.94%; 2,4-Dichlorophenoxy-acetic acid, isooctyl ester 1.09%; Bromacil (5-

bromo-3-sec-butyl-6-methyluracil) 0.98%; Pentachlorophenol 0.80%; Other Chlorophenols 0.09%. Method of Support: Application proceeds under 2(c) of interim policy. PM24

EPA File Symbol 37022-R. Pro-Chem, Inc., 16536 Broadway, Cleveland OH 44137. PROCIDE 7. Active Ingredients: Poly[oxyethylene - (dimethyliminio) ethylene (dimethyliminio)ethylene dichloride] 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 35939-G. R-Square Chem. & Coating, Inc., PO Box 1919 WSB, Gainesville GA 30501. R-QUAT-15. Active Ingredients: Octyl decyl dimethyl ammonium chloride 1.250%; Diethyl dimethyl ammonium chloride 0.625%; Didecyl dimethyl ammonium chloride 0.625%; Alkyl (C8 7%, C10 8%, C12 46% C14 24%, C16 10%, C18 5%) amino betaine 1.000%; Hydrogen chloride 8.000%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 201-G10. Shell Chem. Co., Suite 200, 1025 Conn. Ave., NW, Washington DC 20036. BLADEX 80 WETTABLE POWDER HERBICIDE FOR USE IN WITCHWEED CONTROL. Active Ingredients: 2-[[4-chloro-6-(ethylamino)-s-triazin-2-yl]amino]-2 - methylpropanitrile 80%. Method of Support: Application proceeds under 2(b) of interim policy. PM25

[FR Doc.75-13487 Filed 5-27-75; 8:45 am]

[FRL 378-5; OPP-33000/258]

# RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

## Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c) (1) (D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street, SW, Washington DC 20460.

On or before July 28, 1975, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c) (1) (D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street, SW, Washington DC 20460. Every such claimant must

include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60-day period has expired. If no claims are received within the 60-day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60-day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after July 28, 1975.

Dated: May 19, 1975.

DOUGLAS D. CAMPT,  
Acting Director,  
Registration Division.

APPLICATIONS RECEIVED (OPP-33000/258)

EPA File Symbol 5481-RII. Amvac Chemical Corp., 4100 E. Washington Blvd., Los Angeles CA 90023. DURHAM MONURON 22% CONCENTRATE. Active Ingredients: Monuron [3-(p-chlorophenyl)-1,1-dimethylurea] 22.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM24

EPA File Symbol 2986-EE. Atlantic Chemicals, Inc., PO Box 8035, Orlando FL 32806. ATAMINE SWIMMING POOL ALGAECIDE. Active Ingredients: Alkyl (C14 60%, C12 25%, C16 15%) dimethyl benzyl ammonium chloride 10%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Originally 2(c). PM34

EPA File Symbol 3876-RII. Betz Lab., Inc., 4636 Somerset Rd., Trevose PA 19047. SLIME-TROL RX-56. Active Ingredients: 4-(2-nitrobutyl) morpholine 95.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM33

EPA File Symbol 3286-UG. Ferd Staffel Co., 321 East Commerce, San Antonio TX 78298. MALATHION 25% WETTABLE POWDER. Active Ingredients: Malathion 25.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM16

EPA File Symbol 3286-UU. Ferd Staffel Co., 5% MALATHION DUST. Active Ingredients: Malathion 5.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM16

EPA File Symbol 34688-RA. Interstab Chemicals, Inc., 1287 Air City Ave., Dayton OH 45404. CUPRI-GUARD. Active Ingredients: Cupric Salt of Gluconic Acid 25.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM24

EPA File Symbol 34688-RA. Interstab Chemicals, Inc., 800 Jersey Ave., New Brunswick NJ 08903. INTERCIDE SE. Active Ingredients: Bis (Tri-n-butyltin) Oxide 50.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM24

EPA File Symbol 36301-E. J. Chem, PO Box 5421, Houston TX 77012. SYNERGIZED PYRETHRINS AREA SPRAY. Active Ingredients: Pyrethrins 0.30%; Piperonyl Butoxide Technical 1.50 ; Petroleum distillate 98.20%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA Reg. No. 635-383. E-Z Flow Chemical Co., Div. of Kirsto Co., PO Box 808, Lansing MI 48903. E-Z FLOW CYTHION. Active Ingredients: Malathion (0, 0-dimethyl di-thiophosphate of diethyl mercaptosuccinate) 57.0%; Xylene 35.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM16

EPA Reg. No. 1719-66. Mobile Paint Mfg. Co., Inc., PO Box 2567, Mobile AL 36601. JACK TAR NO-COP VINYL BLUE ANTI-FOULING 473-31 MARINE FINISHES. Active Ingredients: Tributyltin fluoride 11.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM24

EPA File Symbol No. 1969-REN. Parsons Chemical Works, Inc., PO Box 146, Grand Ledge MI 48837. PARSONS 2,4-D WEED KILLER NO. 40. Active Ingredients: Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid 49.8%. Method of Support: Application proceeds under 2(c) of interim policy. PM23

EPA File Symbol 36330-R. Ron Bar Lab., 32-02 Greenpoint Ave., Long Island City NY 11101. RONCHLOR. Active Ingredients: Sodium Hypochlorite 3.25%; Tri-sodium Phosphate expressed as Na3PO4-12H2O 91.75%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA Reg. No. 11273-3. Sandoz-Wander, Inc., PO Box 1469, Crop Protection Dept., Homestead FL 33030. THURICIDE-HPC. Active Ingredients: Bacillus thuringiensis Berliner, potency of 4,000 International Units (at least 6 million viable spores) per milligram 0.8%; Petroleum hydrocarbon solvent 3.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA Reg. No. 400-104. Unifroyal Chemical, Bethany CT 06525. COMITE AGRICULTURAL MITTICIDE. Active Ingredients: Propargite 2-(p-tert-butylphenoxy)cyclohexyl 2-propynyl sulfite 75.0%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Added use. PM13

## CORRECTED ITEM

The following is a correction to the list of Applications Received previously published in the FEDERAL REGISTER.

EPA File Symbol 2398-ETU. Hopkins Agricultural Chem. Co., PO Box 684, Madison WI 53701. HOPKINS DIAZINON 14G GRANULAR INSECTICIDE. Active Ingredients: 0,0-diethyl 0-(2-isopropyl-6-methyl-4-pyrimidinyl) Phosphorothioate 14.3%. Method of Support: Application proceeds under 2(c) of interim policy. Originally published with incorrect file symbol. PM15 (40 FR 18031)

[FR Doc.75-13662 Filed 5-27-75; 8:45 am]

## FEDERAL HOME LOAN BANK BOARD

[No. 75-444]

## DE NOVO BRANCHING IN HAMILTON COUNTY, OHIO

### Termination

MAY 19, 1975.

Notice is hereby given that the Federal Home Loan Bank Board has terminated the moratorium on de novo branching by Federal savings and loan associations in Hamilton County, Ohio, by the following resolution adopted by the Board on May 19, 1975:

Resolved that section III ("Hamilton County, Ohio") of the "Working Understanding between the Federal Home Loan Bank

Board and the Ohio Division of Building and Loan Associations for Coordination of Prerequisite Requirements and Administrative Treatment of Applications for New Facilities", approved by Board Resolution No. 74-1018, dated December 18, 1974, is hereby terminated with respect to Federal associations effective June 30, 1975 or on such earlier date as said Ohio Division may terminate said Section III with respect to Ohio-chartered associations; and after such termination the Board will accept branch office applications in Hamilton County by Federal associations.

Resolved further That the remainder of said Understanding is hereby reaffirmed.

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, Jr.,  
Assistant Secretary.

[FR Doc.75-13836 Filed 5-27-75; 8:45 am]

## FEDERAL MARITIME COMMISSION

[Docket No. 75-18]

## PUERTO RICO MARITIME SHIPPING AUTHORITY

## Order of Investigation and Suspension of Reduced Rates From Florida to Puerto Rico

Effective May 25, 1975, the Puerto Rico Maritime Shipping Authority (hereinafter PRMSA) proposes to reduce rates on certain tariff items set forth in its tariff, FMC-F No. 1. PRMSA, currently serving the Continental U.S. ports of New York, Baltimore, Charleston, Jacksonville and New Orleans, would by these provisions reduce the above-noted rates applicable to Jacksonville, Florida and extend service to the Port of Miami, Florida, with the reduced rates applicable. The prospective service, to triangulate between San Juan, Jacksonville and Miami, would be facilitated by one of PRMSA's Roll-on/Roll-off (Ro/Ro) vessels that would otherwise be serving the Port of New York.

TMT Trailer Ferry, Inc. (hereinafter TMT), a barge carrier serving Jacksonville and Miami, and Puerto Rico, and the only carrier affording substantial competition to the recently consolidated service maintained by PRMSA, protested the proposed reduction in rates. TMT's protest alleges in substance, that: (1) The reduced rates are exclusive to Jacksonville and Miami and therefore correspondingly below the rates for service

\* See the following table:

Item No.	Effective date
2300..... 2d revised page 201.....	May 25, 1975
2540..... 5th revised page 208.....	Do.
2600..... do.....	Do.
3520..... 3d revised page 218.....	Do.
3530..... do.....	Do.
3265..... 3d revised page 249.....	June 9, 1975
6350..... 4th revised page 271.....	May 25, 1975
7170..... 6th revised page 284.....	June 9, 1975
7180..... do.....	Do.
8790..... 2d revised page 311.....	May 25, 1975
8794..... Original page 311-A.....	Do.
10120..... 4th revised page 332.....	Do.
14530..... 2d revised page 409.....	Do.
14640..... 4th revised page 406.....	Do.
14660..... do.....	Do.
14670..... do.....	Do.
15030..... 6th revised page 407.....	Do.
15940..... 4th revised page 419.....	June 9, 1975
Note 8..... 3d revised page 420.....	Do.

rendered by PRMSA from the Ports of New York, Baltimore and New Orleans, and could result in an unlawful diversion of cargo to PRMSA's prospective service; (2) the reduced rates would be non-compensatory given PRMSA's currently unprofitable operation; (3) the reductions would be to levels identical with those rates on commodities vital to TMT, causing irreparable harm to TMT, and eventually resulting in monopolization of that trade by PRMSA, and (4) the elimination of the rate differential between TMT's rates and PRMSA's rates violates the principles stated by the Commission in Docket No. 1182, "Rates from Jacksonville, Florida to Puerto Rico," 10 FMC 376 (1967), where the Commission allowed a rate differential based on cost differences in the value of service.

The General Electric Company protested the proposed redeployment of the Ro/Ro vessel from New York to Florida, stating in substance that such would seriously impair its shipments and cause detriment to the economy of Puerto Rico.

PRMSA replied to the protests, disputing the allegations set forth, and averred in substance that: 1. It desired to provide an alternative source of transportation to shippers from Jacksonville and Miami, 2. Additional capacity south-bound was sorely needed, 3. Four of the proposed reductions were to levels previously charged by Sea-Land Service, Inc. when it served Puerto Rico from Jacksonville and Miami in competition with TMT, and 4. A regulated carrier has a right to initiate rates to meet competition provided the rates are compensatory and not lower than necessary to meet the competition.

Upon consideration of the above matter, the Commission is of the opinion that the proposed reductions should be made the subject of a public investigation and hearing to determine whether they are unjust, unreasonable or otherwise unlawful under sections 16, First and 18(a) of the Shipping Act, 1916, and/or sections 3 and 4 of the Intercoastal Shipping Act, 1933, and good cause appearing:

Therefore, it is ordered, That pursuant to the authority of section 22 of the Shipping Act, 1916, and sections 3 and 4 of the Intercoastal Shipping Act, 1933, an investigation is hereby instituted into the lawfulness of PRMSA's proposed reductions for the purpose of making such findings and orders as the facts and circumstances warrant. In the event that the tariff matter hereby placed under investigation is further changed, amended, or reissued such changes are hereby ordered to be made a part of this investigation.

It is further ordered, That pursuant to section 3, Intercoastal Shipping Act, 1933, the tariff items above-noted from the Puerto Rico Maritime Shipping Authority's Tariff FMC-F No. 1 are hereby suspended and the use thereof deferred to and including September 24, 1975, unless otherwise ordered by the Commission;



## NOTICES

It is further ordered, That there shall be filed immediately by PRMSA a consecutively numbered supplement to the aforesaid tariff which supplement shall bear no effective date, shall reproduce the portion of this order wherein the suspended matter is described and shall state that the aforesaid matter is suspended and may not be used until September 25, 1975, unless otherwise authorized by the Commission and that the rates and charges heretofore in effect and which were to be changed by the suspended matter shall remain in effect during the period of suspension, and neither the matter suspended nor the matter continued in effect as a result of suspension may be changed until this proceeding has been disposed of or until the period of suspension has expired, whichever comes first, unless otherwise ordered by the Commission:

It is further ordered, That pursuant to section 18(a) of the Shipping Act, 1916, and sections 3 and 4 of the Intercoastal Shipping Act, 1933, a determination shall be made as to whether the proposed reductions are just and reasonable;

It is further ordered, That pursuant to section 16 First of the Shipping Act, 1916, a determination shall be made as to whether PRMSA's proposed reductions are likely to result in undue or unreasonable preference or advantage to shippers using the ports of Jacksonville and Miami or undue or unreasonable prejudice or disadvantage to shippers using other Atlantic and Gulf Coast ports.

It is further ordered, That copies of this order shall be filed with the appropriate tariff schedules in the Bureau of Compliance of the Federal Maritime Commission;

It is further ordered, That pursuant to section 21 of the Shipping Act, 1916, the respondent shall submit schedules showing vessel utilization, on a voyage-by-voyage basis, between Charleston, South Carolina, Jacksonville and Miami, Florida on the one hand, and San Juan, Puerto Rico on the other hand. The report shall clearly show the number of container-trailer spaces and automobile spaces available for each port on each vessel on each voyage, and the number of these spaces utilized by revenue producing units both southbound and northbound. These reports shall be submitted to the Director, Bureau of Compliance not later than five normal working days after the completion of each vessel's voyage, after the commencement of the service extension to Miami;

It is further ordered, That PRMSA be named as Respondent in this proceeding and that TMT Trailer Ferry, Inc. and the General Electric Company be named as Complainants;

It is further ordered, That this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by the Presiding Administrative Law Judge, but in any event, the hear-

ing shall commence not later than July 29, 1975;

It is further ordered, That (I) a copy of this order be forthwith served upon the respondent, complainants and upon the Commission's Bureau of Hearing Counsel and published in the Federal Register; and (II) the respondent, complainants and Hearing Counsel be duly served with notice of time and place of the hearing.

All persons (including individuals, corporations, associations, firms, partnerships and public bodies) having an interest in this proceeding and desiring to intervene herein should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with rule 45(1) of the Commission's rules of practice and procedure (46 CFR 502.72) with a copy to all parties to this proceeding.

By the Commission.

[SEAL] FRANCIS C. HURNEY,  
Secretary.

[FR Doc 75-13843 Filed 5-27-75; 8:45 am]

## FEDERAL POWER COMMISSION

[Docket No. E-8360]

## ALABAMA POWER CO.

## Revisions in Interconnection Agreement

MAY 20, 1975.

Take notice that Alabama Power Company (Applicant) on May 12, 1975 filed with the Federal Power Commission Revised Exhibit B to the Interconnection Agreement between Applicant and Alabama Electric Cooperative, Inc., which was accepted for filing by the Commission and designated as Applicant Rate Schedule FPC No. 133. Revised Exhibit B is stated to be submitted pursuant to Section 5.05 of said Interconnection Agreement and reflects agreement between the parties to the estimated maximum integrated peak hour demands as reflected therein. Applicant further filed in the form of Statement O, pursuant to § 35.13 of the Commission's regulations, a change in the fuel cost adjustment factor to be used under the Interconnection Agreement in the ensuing contract year. The application states, however, that the billing under the new fuel cost adjustment factor is subject to the decision of this Commission in Docket No. E-8360 now pending before this Commission for decision. That docket involves a controversy between Applicant and Alabama Electric Cooperative, Inc. regarding the use of a transmission loss multiplier in the calculation of the fuel cost adjustment factor.

A copy of this filing was served upon Alabama Electric Cooperative, Inc.

Any person desiring to be heard or to protest said application should file a petition to intervene with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 or 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 3, 1975. Protests will be considered by the

Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13771 Filed 5-27-75; 8:45 am]

[Docket No. E-9436]

## CENTRAL TELEPHONE AND UTILITIES CORP.

## Filing of Addendum to Contract

MAY 20, 1975.

Take notice that on May 8, 1975, Central Telephone and Utilities Corporation (CTU), tendered for filing an Addendum, dated April 1, 1975, to the contract of October 31, 1973, between Central Telephone and Utilities Corporation and the Victory Electric Cooperative Association, Inc.

The Addendum, agreed to between the parties, modifies in part Article II, Paragraph 2.4 of said Contract. The Contract remains in full force and effect except as to this modification.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 10, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc 75-13772 Filed 5-27-75; 8:45 am]

[Docket No. E-9338]

## CENTRAL TELEPHONE &amp; UTILITIES CORP.

## Addendum to Rate Contract

MAY 20, 1975.

Take notice that on March 24, 1975, Central Telephone & Utilities Corp. filed an Addendum to their contract with C.M.S. Electric Cooperative, Inc., dated October 19, 1973. The Addendum sets forth several revised delivery points and the appropriate descriptions thereof.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 3, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure

(18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13773 Filed 5-27-75; 8:45 am]

[Docket No. E-9445]

## CENTRAL VERMONT PUBLIC SERVICE CORP.

## Filing of Rate Schedule

MAY 20, 1975.

Take notice that on May 15, 1975 the Central Vermont Public Service Corporation (Central Vermont) tendered for filing the following rate schedule:

Purchase Agreement for the sale of sixty thousand kilowatts (60,000 KW) and related energy from certain Vermont gas turbines to the Central Maine Power Company, dated as of February 21, 1975.

Central Vermont states that service under this Agreement began at 11:59 p.m. on February 28, 1975 and terminated at 11:59 p.m. on April 30, 1975. Service to Central Maine under this rate schedule is stated to consist of the sale of 60,000 KW capacity and related energy for delivery as emergency reserve, and is to be provided on the basis of a capacity charge at \$69,000 per month. This capacity charge includes \$1.50 KW per year to cover the estimated cost of charges by Vermont Electric Power Company (Velco) to Central Vermont under other contracts between Central Vermont and Velco for the transmission of power by Velco. Central Vermont further states that the proposed rate schedule also includes a maintenance charge of one mill per KWH and an energy charge equal to fuel expense actually incurred to operate the gas turbines necessary to serve Central Maine.

Central Vermont requests a waiver of § 35.3 of the Commission's rules and regulations to allow an effective date of March 1, 1975, citing extensive contract negotiations with Central Maine, and no effect upon purchasers of Central Vermont's gas turbine power under other rate schedules if granted.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 3, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any

## NOTICES

person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13774 Filed 5-27-75; 8:45 am]

[Docket No. E-7631]

## CLEVELAND ELECTRIC ILLUMINATING CO.

## Filing of Interconnection Agreement

MAY 20, 1975.

Take notice that on April 28, 1975, Cleveland Electric Illuminating Company (CEI) filed with the Commission an interconnection agreement between CEI and the City of Cleveland, Ohio (City) pursuant to Opinion No. 644, issued January 11, 1973 (49 F.P.C. 118) in Docket Nos. E-7631, et al.

Specifically the agreement, dated April 17, 1975, provides for the installation and operation of a 138 kv synchronous interconnection for emergency service which is expected to become effective April 29, 1975. Due to the nature of the service to be rendered, CEI is presently unable to estimate the revenues from any emergency service.

Pursuant to § 35.11 of the Commission's regulations, CEI requests waiver of the notice requirement in order that the agreement may become effective upon the date the interconnection facilities become available to provide emergency service.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 6, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13775 Filed 5-27-75; 8:45 am]

[Docket No. RP74-77]

## COLORADO INTERSTATE GAS CO.

## Proposed Settlement Agreement

MAY 20, 1975.

Take notice that on May 12, 1975, Colorado Interstate Gas Company (CIG) filed with the Commission a proposed Stipulation and Agreement of Settlement in the above-captioned docket. CIG states that it, all intervenors, and the Commission Staff have agreed to the substance of this agreement, and that no person has expressed any opposition or disagreement with the proposed settlement.

CIG also states that copies of the proposed Settlement Agreement were mailed to each of its customers, all parties to the instant proceeding, and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 2, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13776 Filed 5-27-75; 8:45 am]

[Docket No. RP72-89]

## COLUMBIA GAS TRANSMISSION CORP.

## Compliance Filing

MAY 20, 1974.

Take notice that on May 5, 1975, Columbia Gas Transmission Corporation (Columbia) tendered for filing certain revised tariff sheets, Third Revised Sheet No. 62A and Third Revised Sheet No. 62B, excluding the compensation features from the curtailment provisions of the General Terms and Conditions contained in its FPC Gas Tariff, Original Volume No. 1, to be effective May 1, 1975, in accordance with the Commission's order issued April 25, 1975, in the above-captioned proceeding.

Copies of the filing were served upon Columbia's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 28, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules. Persons that have previously filed a notice or petition for intervention in this proceeding need not file additional notices or petitions to become parties with respect to the instant filing. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13777 Filed 5-27-75; 8:45 am]



[Docket No. CP74-104]  
**COLUMBIA GULF TRANSMISSION CO.**  
 Petition To Amend

MAY 20, 1975.

Take notice that on May 7, 1975, Columbia Gulf Transmission Company (Petitioner), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP74-104 a petition to amend the order of the Commission issued in the subject docket on January 31, 1974 (51 FPC 383), pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(g) of the regulations thereunder (18 CFR 157.7 (g)), by increasing the single project installation cost limitation from \$500,000 to \$714,558, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

By order issued January 31, 1974, Petitioner was granted a budget-type certificate authorizing construction, and permitting and approving the abandonment, for calendar year 1974, and operation of field gas compression and related facilities. Construction authorization was limited to a total cost of \$2,000,000 and a maximum of \$500,000 for any one project.

Applicant states that it constructed a compressor unit pursuant to such authorization and that the actual cost of such construction was \$714,558. Applicant explains that although it had originally estimated the cost of the compressor unit to be \$466,000, a change in location and inflation caused the cost overrun substantially as follows:

- (1) The cost of the compression package, installed, increased from \$391,000 to \$530,200, for an increase of \$139,200. This increase is said to have been caused by unanticipated increases in the cost of the unit itself and in associated marsh dredging costs and installation costs.
- (2) The cost of an electric generator package, installed, increased \$2,900, from \$75,000 to \$77,900.
- (3) For safety reasons the compression was not installed adjacent to an existing producer separation platform as originally planned but over 100 feet away from it. Petitioner states that this change of site necessitated construction of a separate boat landing, separators and sump, at a cost of \$20,600.
- (4) For the reason described in (3) above, elevated walkways were installed to connect the new unit with existing installations, at a cost of \$23,300.
- (5) Inspection, supervision and transportation costs increased \$21,500 along with the increased work done.
- (6) As a result of increased material costs, state and parish sales taxes increased \$20,500. Thus, total direct costs increased from \$466,000 to \$694,558, or \$228,000 (Items (1) through (6)).
- (7) Labor overheads associated with the increased construction increased \$20,558.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 9, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18

CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,  
 Secretary.

[FR Doc.75-13778 Filed 5-27-75; 8:45 am]

[Docket No. ID-1547]

**W. E. CORNELIUS**  
 Supplemental Application

MAY 20, 1975.

Take notice that on April 30, 1975, W. E. Cornelius (Applicant), filed a supplemental application with the Federal Power Commission, pursuant to section 305(b) of the Federal Power Act, seeking authority to hold the following position:

Director, Missouri Utilities Company, Public Utility

Missouri Utilities is engaged in the generation, purchase and sale of electric energy and in the purchase and sale of natural gas within portions of the State of Missouri. It also provides water service in Cape Girardeau, Missouri.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 5, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,  
 Secretary.

[FR Doc.75-13779 Filed 5-27-75; 8:45 am]

[Docket No. E-8947]

**DELMARVA POWER AND LIGHT CO.**  
 Extension of Procedural Dates

MAY 20, 1975.

On May 15, 1975, the Municipal Intervenor filed a motion to extend the procedural dates fixed by order issued March 14, 1975, as most recently modified by notice issued May 2, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Intervenor's Testimony, June 13, 1975.  
 Service of Company Rebuttal, June 27, 1975.  
 Hearing, July 7, 1975 (10 a.m., e.d.t.).

KENNETH F. PLUMB,  
 Secretary.

[FR Doc.75-13780 Filed 5-27-75; 8:45 am]

[Docket No. E-9381]

**IOWA POWER AND LIGHT CO.**  
 Cancellation

MAY 20, 1975.

Take notice that on April 7, 1975, Iowa Power and Light Company (Iowa Power) tendered for filing a notice of cancellation of a wholesale rate schedule for the Town of Imogene, Iowa, designated Iowa Power Rate Schedule FPC No. 10, as amended. Iowa Power states that effective March 27, 1975, it will acquire the electric distribution system within the Town of Imogene and will furnish electricity to the Town on a retail basis.

Iowa Power states that copies of the notice of cancellation have been mailed to the Town of Imogene, Iowa and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 30, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Notice are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
 Secretary.

[FR Doc.75-13781 Filed 5-27-75; 8:45 am]

[Docket No. E-9441]

**LAKE SUPERIOR DISTRICT POWER CO.**  
 Filing of Superseding Wheeling Agreement

MAY 20, 1975.

Take notice that on May 5, 1975, Lake Superior District Power Company (LSDP) tendered for filing a contract to provide wheeling services for Dairyland Power Cooperative (DPC). LSDP concurrently filed a notice of termination of the previous contract. LSDP requests waiver of the Commission's 30 day advance filing requirement in order that an effective date of May 1, 1975 may be established. The contract is an interim agreement.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and pro-

cedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 6, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
 Secretary.

[FR Doc.75-13782 Filed 5-27-75; 8:45 am]

[Docket Nos. RP73-109 and RP74-96]

**NORTHWEST PIPELINE CORP.**  
 Extension of Procedural Dates

MAY 20, 1975.

On May 16, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued June 28, 1974, as most recently modified by order issued February 13, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, July 7, 1975.  
 Service of Intervenor's Testimony, July 23, 1975.  
 Service of Company Rebuttal, August 8, 1975.  
 Hearing, September 3, 1975 (10 a.m., e.d.t.).

KENNETH F. PLUMB,  
 Secretary.

[FR Doc.75-13783 Filed 5-27-75; 8:45 am]

[Docket No. E-9429]

**OHIO POWER CO.**  
 Filing of Initial Rate Schedule

Take notice that on May 6, 1975, Ohio Power Company (Ohio Power), tendered for filing copies of an Agreement dated April 1, 1974, between American Municipal Power-Ohio, Inc. (AMP-Ohio), and Ohio Power Company, as supplemented by letter agreement dated April 24, 1975. The Agreement sets forth terms pursuant to which (1) Ohio Power proposes to render to AMP-Ohio, transmission service, and may render emergency service, short-term service and limited term service, for the benefit of Patrons of AMP-Ohio, and (2) AMP-Ohio may render emergency service, short-term service and limited term service to Ohio Power. The Company states the purposes of the AMP-Ohio Power Agreement are to enable AMP-Ohio to achieve for the benefit of the municipal electric systems in Ohio which are from time to time Patrons of AMP-Ohio benefits derived from economies of scale and the coordination of programs and operations of its Patrons, through the services provided under the AMP-Ohio Agreement.

The rate for transmission service rendered by Ohio Power to AMP-Ohio, is \$1.00/kw/month, resulting in a monthly charge, assuming a load factor of 70 per-

cent, of approximately 1.86 mills per kwh. The rate contained in the Agreement for emergency service on a reciprocal basis is 110 percent of out-of-pocket costs of the supplier or 17.5 mills per kwh. The rates relative to short-term service and limited term service on a reciprocal basis, the Company states, are substantially the same as those for such services in 1975 reflected in interconnection agreements between Ohio Power and other systems, and which, on March 24, 1975 in Docket No. E-9241, were accepted for filing by the Commission.

The Company states that the AMP-Ohio Power Agreement has an effective date contingent on the occurrence of the last of certain events specified in § 12.04 of said Agreement. The Company requests the Commission accept said Agreement as promptly as possible and fix as an effective date, one consistent with the provisions of § 12.04 of which the Commission will then be notified.

The Company further requests the Commission to find that good cause exists to waive any otherwise applicable requirements of Part 35 of its Regulations including, in particular, a requirement that rate schedules be filed not more than ninety days prior to the date on which electric service is to commence.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before May 30, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are available for public inspection at the Federal Power Commission.

KENNETH F. PLUMB,  
 Secretary.

[FR Doc.75-13784 Filed 5-27-75; 8:45 am]

[Docket No. E-9439]

**PUBLIC SERVICE CO. OF NEW HAMPSHIRE**

Filing of Proposed Transmission Contract

MAY 20, 1975.

Take notice that Public Service Company of New Hampshire (PSNH), on May 12, 1975, tendered for filing Transmission Contract dated April 15, 1975, between it and City of Holyoke, Massachusetts, Gas and Electric Department. This Contract, together with supporting materials, is submitted in accordance with Part 35 of the Commission's regulations.

The Contract provides for transmission of power from Seller, Vermont Electric Power Company, Inc. (VEPC) to Buyer, City of Holyoke Gas and Electric Depart-

ment. Transmission will cover a 10.8 mile distance from a point at the Vermont-New Hampshire state line to a point at the Massachusetts-New Hampshire state line. The Contract period is from May 1, 1975, through October 31, 1975.

PSNH states that 5,000 KW of power will be entitled monthly to Buyer at a charge of \$135.00 per month. No new facilities are needed to be installed or modified for this contract.

PSNH requests waiver of the normal 30 day notice requirement due to the late date it received notice of such transmission request, and the immediate needed capacity of the Buyer. Accordingly, PSNH further requests said Transmission Contract to become effective May 1, 1975.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 10, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
 Secretary.

[FR Doc.75-13785 Filed 5-27-75; 8:45 am]

[Docket No. CP75-254]

**TEXAS EASTERN TRANSMISSION CORP.**  
 Proposed Changes in FPC Gas Tariff

MAY 20, 1975.

Take notice that Texas Eastern Transmission Corporation on May 2, 1975 tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 2. The proposed changes consist of an Amendment dated February 17, 1975 to Rate Schedule X-14, an exchange agreement with Transcontinental Gas Pipe Line Corporation (Transco) dated November 1, 1960 as amended on July 14, 1972.

Rate Schedule X-14 will be amended such that during the period from April 16, 1975 through November 15, 1975, Transco will deliver up to 60,000 Mcf of gas per day to Texas Eastern at presently authorized points of exchange in the Pennsylvania-New Jersey-New York area, and Texas Eastern will concurrently deliver equal quantities to Transco by delivering same to Texas Gas Transmission Corporation (Texas Gas) for the account of Transco at Lebanon, Ohio. The quantity of gas delivered to Texas Gas for the account of Transco will be balanced with the quantity of gas delivered to Texas Eastern by Transco on a Btu basis. The purpose of the exchange is to assist in effectuating a temporary underground storage ar-

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range between Transco and Texas Gas.

The proposed effective date of this filing is April 21, 1975.

A copy of this filing was served upon Transcontinental Gas Pipe Line Corporation and Texas Gas Transmission Corporation.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 30, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13786 Filed 5-27-75; 8:45 am]

[Docket No. E-9437]

**VERMONT ELECTRIC POWER CO., INC.**  
**Notice of Filing of Agreement**

MAY 20, 1975.

Take notice that on May 12, 1975, Vermont Electric Power Company, Inc. (Velo) tendered for filing a purchase agreement for the sale of thirty thousand kilowatts (30,000 KW) and related energy from the Vermont Yankee Nuclear Electric Generating Unit in Vernon, Vermont, to the New Bedford Gas and Edison Light Company by the Vermont Electric Power Company, Inc., dated April 1, 1975.

Velo states that service to New Bedford under this rate schedule is being provided at the monthly rate of \$270,000/month. According to the Company, these charges, inclusive of all relevant capacity, maintenance, and net energy charges by Vermont Yankee, are the same as those reimbursed by Velo for capacity and energy under this rate schedule; and, therefore, there will be no change in the overall rate of return of Velo. The Company adds that no cost of service studies were prepared in connection with the derivation of the rate.

Velo is requesting waiver of the thirty day notice requirement prior to the effective date of service pursuant to § 35.3 of the regulations. Velo submits that good cause exists for the waiver of the notice requirement under § 35.11 and requests the date of May 1, 1975, as the effective date of this rate schedule.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure.

cedure. All such petitions or protests should be filed on or before May 30, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13787 Filed 5-27-75; 8:45 am]

[Docket No. E-9438]

**VERMONT ELECTRIC POWER CO., INC.**  
**Filing of Agreement**

MAY 20, 1975.

Take notice that on May 12, 1975, Vermont Electric Power Company, Inc. (Velo) tendered for filing a purchase agreement for the sale of five thousand kilowatts (5,000 KW) and related energy from the Vermont Yankee Nuclear Electric Generating Unit in Vernon, Vermont, to the City of Holyoke, Massachusetts, Gas and Electric Department, by the Vermont Electric Power Company, Inc., dated April 1, 1975.

Velo states that service to Holyoke under this rate schedule is being provided at the monthly rate of \$45,000/month. According to the Company, these charges, inclusive of all relevant capacity, maintenance, and net energy charges by Vermont Yankee, are the same as those reimbursed by Velo for capacity and energy under this rate schedule; and, therefore, there will be no change in the overall rate of return of Velo. The Company adds that no cost of service studies were prepared in connection with the derivation of this rate.

Velo is requesting waiver of the thirty day notice requirement prior to the effective date of service pursuant to § 35.3 of the regulations. Velo submits that good cause exists for the waiver of the notice requirement under § 35.11, and requests the date of May 1, 1975, as the effective date of this rate schedule.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protests should be filed on or before May 30, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13788 Filed 5-27-75; 8:45 am]

[Docket No. CP75-331]

**UNITED GAS PIPE LINE CO.**

**Application**

MAY 20, 1975.

Take notice that on May 8, 1975, United Gas Pipe Line Company (Applicant), 1500 Southwest Tower, Houston, Texas 77002, filed in Docket No. CP75-331 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon in place approximately 5,187 feet of 6-inch pipeline located in sections 16 and 17, Township 8 North, Range 15 West, Covington County, Mississippi, serving Colonial Pipeline Company (Colonial), and to abandon and remove meter, regulating and appurtenant facilities, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant states that it has discontinued gas service to Colonial's Collins, Mississippi, pump station as of November 18, 1974. Applicant further states that Colonial has no potential need for future emergency deliveries of gas. The application indicates that Colonial has converted its Collins station to use electric rather than gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 9, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13789 Filed 5-27-75; 8:45 am]

**GENERAL ACCOUNTING OFFICE**  
**REGULATORY REPORTS REVIEW**

**Receipt of Report Proposal**

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO on May 21, 1975. See 44 U.S.C. 3512 (c) & (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed report form are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments (in triplicate) must be received on or before June 16, 1975, and should be addressed to Mr. Monte Canfield, Jr., Director, Office of Special Programs, United States General Accounting Office, 425 I Street, NW., Washington, D.C. 20548.

Further information may be obtained from the Regulatory Reports Review Officer, 202-376-5425.

**FEDERAL ENERGY ADMINISTRATION**

Request for clearance of a new FEA Form P315-M-O entitled, "Monthly Survey of Propane Sales Volume to Ultimate Consumers". This form will be completed by all (approximately 250) refiners/importers and independent gas processing plant operators, pursuant to section 4(c) (2) (A), Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159), and sections 5 and 13, Federal Energy Administration Act of 1974 (Pub. L. 93-275). The average monthly compliance burden is estimated to be 16 manhours per respondent, but it could be as high as 160 manhours, depending on the size of the reporting firm.

CARL F. BOGAR,  
Assistant Director,  
Regulatory Reports Review.

[FR Doc. 75-13839 Filed 5-27-75; 8:45 am]

**INTERNATIONAL TRADE COMMISSION**  
[AA1921-134/135]  
**PRIMARY LEAD METAL FROM AUSTRALIA AND CANADA**  
**Hearing**

Having received a letter dated April 9, 1975, from the Assistant Secretary of the Treasury David R. Macdonald forwarding a petition requesting revocation of the dumping findings on Primary Lead Metal from Australia and Canada published in the FEDERAL REGISTER of

**NUCLEAR REGULATORY COMMISSION**

[Docket No. 70-1729]

**ALLIED-GENERAL NUCLEAR SERVICES, ET AL**

**Availability of Draft Environmental Statement for Barnwell Fuel Receiving and Storage Station**

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement prepared by the Commission's Office of Nuclear Material Safety and Safeguards related to the proposed issuance of a materials license to receive and store irradiated fuel and related materials in the Fuel Receiving and Storage Station at the Barnwell Nuclear Fuel Plant near Barnwell, South Carolina, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C., and Office of the Barnwell County Board of Commissioners, P.O. Box 443, Barnwell, South Carolina 29812. The Draft Statement is also being made available at the State Clearinghouse, Division of Administration, 1205 Pendleton Street, 4th Floor, Columbia, South Carolina 29201 and at the Regional Clearinghouse, Lower Savannah Regional Planning and Development Commission, P.O. Box 850, Aiken, South Carolina 29801.

Requests for copies of the Draft Environmental Statement, identified as NUREG-75/026, should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Materials and Fuel Cycle Facility Licensing.

The Applicant's Environmental Report for the Barnwell Nuclear Fuel Plant, as supplemented, which includes consideration of the Fuel Receiving and Storage Station, is also available for public inspection at the above designated locations. Notice of availability of the Applicant's Environmental Report was published in the FEDERAL REGISTER on November 27, 1971.

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Draft Environmental Statement (local agencies may obtain this document upon request). Comments are due by July 21, 1975. Comments by Federal, State, and local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C., and the Local Public Document Room in Barnwell, South Carolina. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the Commission's staff will prepare a Final

April 17, 1974 (39 FR 13783), the United States International Trade Commission on May 20, 1975, ordered a public hearing to be held July 22, 1975, in the U.S. International Trade Commission's Hearing Room, 8th and E Streets, NW., Washington, D.C. 20436, at 10:00 a.m., e.d.t., to determine whether the Commission should reopen and review its determination of January 10, 1974, in investigations Nos. AA1921-134 and 135 relating to Primary Lead Metal from Australia and Canada. All interested parties will be given an opportunity to show cause why the Commission should grant or deny the petition to reopen and review its determinations of January 10, 1974. Requests to appear at the public hearing should be received by the Secretary of the International Trade Commission, in writing, at its office in Washington, D.C., not later than noon, Thursday, July 17, 1975.

Issued: May 21, 1975.

By order of the Commission.

KENNETH R. MASON,  
Secretary.

[FR Doc. 75-13769 Filed 5-27-75; 8:45 am]

**NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES**  
**MUSIC ADVISORY PANEL**  
**Meeting**

Due to unforeseen circumstances, the open meeting of the Music Panel of the National Endowment for the Arts to be held on May 29 and 30, 1975, and announced in the FEDERAL REGISTER of Monday, May 12, 1975, will be closed for purposes of application review during the May 30th portion of the meeting.

This session is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of January 10, 1973, these sessions, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b), (4) and (5)), will not be open to the public.

Further information with reference to this meeting can be obtained from Mrs. Luna Diamond, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-7144.

EDWARD M. WOLFE,  
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc. 75-14039 Filed 5-27-75; 10:41 am]



Environmental Statement, the availability of which will be published in the FEDERAL REGISTER.

Comments on the Draft Environmental Statement from interested persons of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Materials and Fuel Cycle Facility Licensing.

Dated at Bethesda, Md., this 19th day of May, 1975.

For the Nuclear Regulatory Commission.

PETER LOYSEN,  
Acting Chief, Fuel Cycle Li-  
censing Branch 2, Division of  
Materials and Fuel Cycle  
Facility Licensing.

[FR Doc.75-13763 Filed 5-27-75;8:45 am]

[Docket No. 50-213]

#### CONNECTICUT YANKEE ATOMIC POWER CO.

##### Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 2 to Facility Operating License No. DPR-61 issued to Connecticut Yankee Atomic Power Company which revised Technical Specifications for operation of the Haddam Neck Plant, located in Middlesex County, Connecticut. The amendment is effective as of its date of issuance.

This amendment changes the containment integrated leakage rate tests of the Technical Specifications to conform to the requirements of 10 CFR Part 50, Appendix J, Type A tests.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment. Prior public notice of this amendment is not required since this amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated March 14, 1975, (2) Amendment No. 2 to License No. DPR-61, with Change No. 2, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Russell Library, 119 Broad Street, Middletown, Connecticut 06457.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 20th day of May 1975.

For the Nuclear Regulatory Commission.

ROBERT A. PURPLE,  
Chief, Operating Reactors  
Branch #1, Division of Re-  
actor Licensing.

[FR Doc.75-13793 Filed 5-27-75;8:45 am]

[Docket No. 50-341]

#### DETROIT EDISON CO. (ENRICO FERMI ATOMIC POWER PLANT, UNIT 2)

##### Receipt of Application for Facility Operating License; Availability of Applicant's Environmental Report; and Consideration of Issuance of Facility Operating License

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has received an application for facility operating license from the Detroit Edison Company (the applicant) to possess, use, and operate the Enrico Fermi Atomic Power Plant, Unit 2, a boiling water nuclear reactor (the facility), located on the applicant's site in Frenchtown Township, Monroe County, Michigan, at a steady-state power level of 3292 megawatts thermal.

The applicant has also filed an Environmental Report, Operating License Stage, in accordance with the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51. This report updates the discussion of environmental considerations relating to the proposed operation of the facility, as well as the results of the ongoing monitoring programs, which were previously discussed in the Environmental Report as amended, Construction Permit Stage, dated September, 1970. Both Environmental Reports are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161. The reports are also being made available at the State Clearinghouse, Division of Intergovernmental Relations, Bureau of Management and Budget, Lewis Cass Building, Lansing, Michigan 48913, and the Metropolitan Clearinghouse, South East Michigan Council of Governments, 810 Book Building, 1249 Washington Boulevard, Detroit, Michigan 48226.

After the Environmental Report, Operating License Stage, has been analyzed by the Commission's Director of Nuclear Reactor Regulation or his designee, a draft environmental statement will be prepared. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement requesting comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that any comments of Federal agencies and State and local officials will be made available when received. The draft environmental statement will focus on any

relevant conditions and/or considerations which were not addressed in, or which have changed since preparation of, the final environmental statement prepared in connection with the issuance of the construction permit. Upon consideration of comments submitted with respect to the draft environmental statement, the regulatory staff will prepare a final environmental statement, notice of the availability of which will be published in the FEDERAL REGISTER.

The Commission will consider the issuance of a facility operating license to The Detroit Edison Company which would authorize the applicant to possess, use, and operate the Enrico Fermi Atomic Power Plant, Unit 2, in accordance with the provisions of the license and the technical specifications appended thereto, upon: (1) The completion of a favorable safety evaluation on the application by the Office of Nuclear Reactor Regulations; (2) the completion of the environmental review required by the Commission's regulations in 10 CFR Part 51; (3) the receipt of a report on the applicant's application for a facility operating license by the Advisory Committee on Reactor Safeguards; and (4) a finding by the Commission that the application for the facility license, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR Ch. I. Construction of the facility was authorized by Construction Permit No. CPR-97, issued by the Commission on September 26, 1972. Construction of the facility is anticipated to be completed by April, 1979.

Prior to issuance of any operating license, the Commission will inspect the facility to determine whether it has been constructed in accordance with the application, as amended, and the provisions of the Construction Permit. In addition, the license will not be issued until the Commission has made the findings reflecting its review of the application under the Act, which will be set forth in the proposed license, and has concluded that the issuance of the license will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the license, the applicant will be required to execute an indemnity agreement as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

The Commission has commenced the radiological safety review of the application. However, since the construction permit has been extended until April 1979, the Commission has postponed commencement of its environmental review so as to enable the Commission's Staff to utilize the information which will be more current when the facility is ready for operation. It is anticipated that the Commission's radiological safety and environmental review of the application will not be completed for approximately three years. Under these circumstances, it has been determined that the soonest practicable time for issuance of the

Notice of Opportunity for Hearing is about January 1976.

For further details, see the application for the facility operating license, dated April 4, 1975, and the applicant's Environmental Report, Operating License Stage, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161. As they become available, the following documents may be inspected at the above locations: (1) The safety evaluation report prepared by the Office of Nuclear Reactor Regulation; (2) the draft environmental statement; (3) the final environmental statement; (4) the report of the Advisory Committee on Reactor Safeguards on the application for facility operating licenses; (5) the proposed facility operating license; and (6) the technical specification which will be attached to the proposed facility operating license.

Copies of the proposed operating license and the ACRS report, when available, may be obtained by request to the Director, Division of Reactor Licensing, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the Division of Reactor Licensing's safety evaluation and final environmental statement, when available, may be obtained from the National Technical Information Service, Springfield, Virginia 22161.

Dated at Bethesda, Md., this 21st day of May 1975.

For the Nuclear Regulatory Commission.

KARL KNIEL,  
Chief, Light Water Reactors,  
Branch 2-2, Division of Re-  
actor Licensing.

[FR Doc.75-13794 Filed 5-27-75;8:45 am]

[Docket No. 50-536]

#### GENERAL ELECTRIC TECHNICAL SERVICES CO.

##### Application for and Consideration of Issuance of Facility Export License

Please take notice that General Electric Technical Services Co., Inc. has submitted to the Nuclear Regulatory Commission an application for a license to authorize the export of a boiling water reactor with a thermal power level of 3012 megawatts to Kernkraftwerk Leibstadt AG, Zurich, Switzerland and that the issuance of such license is under consideration by the Nuclear Regulatory Commission.

No license authorizing the proposed reactor export will be issued until the Nuclear Regulatory Commission determines that such export is within the scope of and consistent with the terms of an applicable agreement for cooperation arranged pursuant to section 123 of the Atomic Energy Act of 1954, as amended (the Act), nor until the Nuclear Regulatory Commission has found that:

(a) The application complies with the requirements of the Act, and the Com-

mission's regulations set forth in 10 CFR Ch. I, and

(b) The reactor proposed to be exported is a utilization facility as defined in said Act and regulations.

In its review of applications solely to authorize the export of production or utilization facilities, the Nuclear Regulatory Commission does not evaluate the health and safety characteristics of the facility to be exported.

Unless on or before June 12, 1975, a request for a hearing is filed with the Nuclear Regulatory Commission by the applicant, or a petition for leave to intervene is filed by any person whose interest may be affected by the proceeding, the Director of the Office of Nuclear Material Safety and Safeguards may, upon the determinations and findings noted above, cause to be issued to General Electric Technical Services Company a facility export license and may cause to be published in the FEDERAL REGISTER a notice of issuance of the license. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in the notice, the Nuclear Regulatory Commission will issue a notice of hearing or an appropriate order.

A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

Dated at Bethesda, Md., this 9th day of May 1975.

For the Nuclear Regulatory Commission.

G. WAYNE KERR,  
Chief, Agreements & Exports  
Branch, Division of Materials  
and Fuel Cycle Facility Li-  
censing.

[FR Doc.75-13795 Filed 5-27-75;8:45 am]

[Docket Nos. 50-461, 50-462]

#### ILLINOIS POWER CO. (CLINTON POWER STATION, UNITS 1 AND 2)

##### Hearing on Application for Construction Permits

Please take notice that in accordance with the "Notice of Hearing on Application for Construction Permits," published by the Atomic Energy Commission<sup>1</sup> in the FEDERAL REGISTER on December 7, 1973 (38 FR 33789), a public hearing will be held before an Atomic Safety and Licensing Board, pursuant to the Atomic Energy Act of 1954, as amended, and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection," and Part 2, "Rules of Practice," to consider the application filed under the Act by Illinois Power Company (the

<sup>1</sup> In accordance with the Energy Reorganization Act of 1974, Pub. L. 93-438, the Nuclear Regulatory Commission (NRC) was established on January 19, 1975. The NRC assumed the licensing and regulatory functions of the former Atomic Energy Commission.

Applicant) for construction permits for two boiling water nuclear reactors designated as the Clinton Power Station, Units 1 and 2, proposed to be located at Applicant's site in DeWitt County, approximately six miles east of Clinton, Illinois.

The public hearing in this proceeding shall be convened on Tuesday, June 17, 1975, at 1:30 p.m. local time, at the following location:

Clinton Junior High School Gymnasium  
401 North Center Street  
Clinton, Illinois 61727

Morning and afternoon sessions of the hearing also will be held at the above location on Wednesday, June 18, 1975, commencing at 10 a.m. and 1:30 p.m., respectively. The hearing will reconvene in Champaign, Illinois, for the remaining sessions, beginning on Thursday, June 19, 1975 at 10 a.m., at the following location:

Brundage Room  
Ramada Inn Convention Center  
1501 South Neil Street  
Champaign, Illinois 61820

Members of the public are invited to attend the hearing. Limited appearances by any persons wishing to state their views orally, or to file a written statement in this proceeding will be received at the commencement of the first day of hearing. In addition, for the convenience of members of the public who are unable to attend sessions during regular business hours of the day, the Board has scheduled an evening session from 7 to 9 p.m. on the first day of the hearing on June 17, 1975, at which time limited appearance statements also will be received.

Issued at Bethesda, Md., this 21st day of May 1975.

It is so ordered.

The Atomic Safety and Licensing Board.

ROBERT M. LAZO,  
Chairman.

[FR Doc.75-13838 Filed 5-27-75;8:45 am]

#### REGULATORY GUIDE

##### Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.96, "Design of Main Steam Isolation Valve Leakage Control Systems for Boiling Water Reactor Nuclear Power Plants," describes a basis acceptable to the NRC staff for implementing the criterion regarding the design of a leakage control system for the main steam isolation valves of boiling



water reactor nuclear power plants to ensure that total site radiological effects do not exceed Commission guidelines in the event of a postulated design-basis loss-of-coolant accident.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed (listed below) or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 1.96 will, however, be particularly useful in evaluating the need for an early revision if received by July 25, 1975.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Docketing and Service Section.

Regulatory Guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted and Commission approval is not required to reproduce them.

Other Division 1 Regulatory Guides currently being developed include the following:

Prevention of Fracture of Structural Discontinuities in Reactor Pressure Vessel.  
Protection Against Postulated Events and Accidents Outside of Containment.  
Fracture Toughness Requirements for Materials for Class 2 and 3 Components.  
Maintenance of Water Purity in PWR Secondary Systems.  
Criteria for Heatup and Cooldown Procedures.  
Effects of Residual Elements on Predicted Radiation Damage.  
Surveillance Testing and Inservice Inspection of Thermal Barrier and Steam Generator Materials in High-Temperature Gas-Cooled Reactors.  
Surveillance and Postirradiation Examination of Fuel Rods in Lead Assemblies.  
Design Load Combinations for Component Supports.  
Interim Guide on Tornado Missiles.  
Criteria for Plugging Steam Generator Tubes.  
Structural Design Criteria for Fuel Assemblies in Light-Water-Cooled Reactors.  
Overhead Crane Handling Systems for Nuclear Power Plants.  
Recommended Procedure for Resintering Test to Monitor Densification Stability of Production Fuel.  
Tornado Design Classification.  
Overpressure Protection of Low-Pressure Systems Connected to Reactor Coolant Pressure Boundary.  
Protective Coatings for Light-Water Reactor Containment Facilities.  
Quality Assurance Requirements for Installation, Inspection, and Testing of Mechanical Equipment and Systems.  
Assumptions Used for Evaluating the Potential Radiological Consequences of a BWR Radioactive Offgas System Failure.  
Fire Protection Criteria for Nuclear Power Plants.  
Requirements for Auditing of Quality Assurance Programs for Nuclear Power Plants.

Quality Assurance Requirements for Control of Procurement of Equipment, Materials, and Services for Nuclear Power Plants.  
Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant Conditions During and Following an Accident.  
Quality Assurance Requirements for Lifting Equipment.  
Maintenance and Testing of Batteries.  
Qualification Test of Class IE Cables, Connections, and Field Splices for Nuclear Power Plants.  
Seismic Qualification of Class I Electric Equipment.  
Fuel Oil Systems for Standby Diesel Generators.

Quality Assurance Requirements for the Manufacture of Class IE Instrumentation and Electric Equipment for Nuclear Power Plants.  
Assumptions Used for Evaluating the Potential Radiological Consequences of a Liquid Radioactive Waste System Accident.  
Containment Isolation Provisions.  
Instrument Spans and Setpoints.  
Initial Startup Testing Program for Facility Shutdown from Outside the Control Room.  
Periodic Testing of Diesel Generators.  
Qualification of Inspection, Examination, and Testing Personnel for Nuclear Facilities.  
Quality Assurance Program Requirements for Nuclear Power Plant Fuels.  
Testing of Nuclear Air Cleaning Systems.  
Preoperational and Initial Startup Testing of Feedwater Systems for BWRs.  
Design Criteria for Overload Protection of Motor-Operated Valves.  
Probable Maximum Storm Surge Flooding on Lakes and Sea Shores.  
Protection of Nuclear Power Plants Against Industrial Sabotage.  
Emergency Planning for Nuclear Power Plants.  
Control Room Manning.  
Flood Protection for Nuclear Power Plants.  
Hydrologic Design Criteria for Water Control Structures and Constructed for Nuclear Power Plants.  
Spill Analysis—Dispersion and Dilution in Surface and Ground Water.  
Design Objectives for LWR Spent Fuel Facilities.  
Design Objectives for LWR Fuel Handling Systems.

(5 U.S.C. 552(a))  
Dated at Rockville, Md., this 20th day of May 1975.  
For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,  
Acting Director,  
Office of Standards Development.  
[FR Doc.75-13797 Filed 5-27-75; 8:45 am]

[Docket No. 50-533]

WESTINGHOUSE ELECTRIC CORP.  
Application for and Consideration of  
Issuance of Facility Export License

Please take notice that Westinghouse Electric Corporation has submitted to the Nuclear Regulatory Commission an application for a license to authorize the export of a pressurized water reactor with a thermal power level of 2783 megawatts to Statens Vattenfallsverk, Stockholm, Sweden and that the issuance of such license is under consideration by the Nuclear Regulatory Commission.

No license authorizing the proposed reactor export will be issued until the

Nuclear Regulatory Commission determines that such export is within the scope of and consistent with the terms of an applicable agreement for cooperation arranged pursuant to section 123 of the Atomic Energy Act of 1954, as amended (Act), nor until the Nuclear Regulatory Commission has found that:

(a) The application complies with the requirements of the Act, and the Commission's regulations set forth in 10 CFR Ch. I, and

(b) The reactor proposed to be exported is a utilization facility as defined in said Act and regulations.

In its review of applications solely to authorize the export of production or utilization facilities, the Nuclear Regulatory Commission does not evaluate the health and safety characteristics of the facility to be exported.

Unless on or before June 12, 1975, a request for a hearing is filed with the Nuclear Regulatory Commission by the applicant, or a petition for leave to intervene is filed by any person whose interest may be affected by the proceeding, the Director of the Office of Nuclear Material Safety and Safeguards may, upon the determinations and findings noted above, cause to be issued to Westinghouse Electric Corporation a facility export license and may cause to be published in the FEDERAL REGISTER a notice of issuance of the license. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in the notice, the Nuclear Regulatory Commission will issue a notice of hearing or an appropriate order.

A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 9th day of May 1975.

For the Nuclear Regulatory Commission.

G. WAYNE KERR,  
Chief, Agreements & Exports  
Branch, Division of Materials  
and Fuel Cycle Facility Li-  
censing.  
[FR Doc.75-13796 Filed 5-27-75; 8:45 am]

## OFFICE OF MANAGEMENT AND BUDGET

### CLEARANCE OF REPORTS

#### List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 22, 1975 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an

Indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS  
NATIONAL ACADEMY OF SCIENCES  
Guide for Interviewing Research Patents, DMS-BRVA-OO, single-time, VA patients on research protocols, Human Resources Division, Dick Eisinger, 395-3532.

DEPARTMENT OF COMMERCE  
Bureau of the Census, Task II—Interviewing the Industry, single-time, institutions; selected experts, Economics and General Government Division, 395-3451.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
Office of the Secretary, Health Insurance Survey—Semi-Annual Survey I, OS-32-75, other (see SF-83), individuals, Caywood, D. P., Reese, B. F., 395-3443.

DEPARTMENT OF THE INTERIOR  
National Park Service, Quadalupe Mountains National Park—Visitor Preference Survey, single-time, park visitors, Planchon, P., 395-3898.

REVISIONS  
DEPARTMENT OF COMMERCE  
Bureau of East-West Trade, Single Transaction Statement by Consignee and Purchaser, DIB-628P, on occasion, foreign commercial importers, Caywood, D. P., 395-3443.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
Health Resources Administration, Evaluation of Regional Medical Program Activities Affecting the Health of Children, HRAOPEL 0516, single-time, regional health programs, Human Resources Division, Reese, B. F., 395-3532.

OFFICE OF THE SECRETARY  
Baseline Interview—Health Insurance Study, OS-24-75, single-time, sample-HH's in urbanized area of Seattle SMSA, Reese, B. F., 395-5630.

Bureau of East-West Trade, Multiple Transactions Statement by Consignee and Purchaser, DIB-627P, annually, foreign commercial importers, Caywood, D. P., 395-3443.

DEPARTMENT OF JUSTICE  
Federal Bureau of Investigation, Age, Sex and Race of Persons Arrested 18 Yrs. of Age and Over; Under 18 Yrs. of Age, 12-90, 12-90A, monthly, all law enforcement agencies, Hall, George, 395-4697.

EXTENSIONS  
DEPARTMENT OF AGRICULTURE  
Agricultural Stabilization and Conservation Service:  
Application for Small Farm Payment—Upland Cotton Program, ASCA-453, annually, cotton farmers, Marsha Traynham, 395-4529.

Food and Nutrition Service:  
Special Milk Program Application, FNS-826, on occasion, nonprofit private service institutions, Marsha Traynham, 395-4529.

Producer Identification of Cotton, ASCS-503, annually, farmers, Lowry, R. L., 395-3772.

Agreement—National School Lunch, School Breakfast and Special Milk Programs, FNS-87, on occasion, governing body of nonprofit private schools, Marsha Traynham, 395-4529.

PHILLIP D. LARSEN,  
Budget and Management Officer.  
[FR Doc.75-13918 Filed 5-27-75; 8:45 am]

SMALL BUSINESS ADMINISTRATION  
CONCORD DISTRICT ADVISORY COUNCIL  
Public Meeting

The Small Business Administration Concord District Advisory Council will meet at 11:00 a.m., (e.d.t.), Wednesday, June 11, 1975, in the Knox Room of the New Hampshire Highway Hotel, Traffic Circle, Concord, New Hampshire, to discuss such business as may be presented by members, the staff of the Small Business Administration, and others attending. For further information, call or write Bert F. Teague, Small Business Administration, 55 Pleasant Street, Concord, New Hampshire 03301, (603) 224-7724.

Dated: May 19, 1975.

ANTHONY S. STASIO,  
Chief Counsel for Advocacy,  
Small Business Administration.  
[FR Doc.75-13826 Filed 5-27-75; 8:45 am]

[Delegation of Authority No. 12-B; Rev. 1]

DEPUTY ASSOCIATE ADMINISTRATOR  
FOR INVESTMENT

Delegation of Authority Regarding  
Investment Activities

Delegation of Authority No. 12-B (38 FR 13787) is hereby revised to delete reference to audit and investigatory powers under section 310 of the Small Business Investment Act of 1958, as amended. Audit and investigatory functions have been transferred to the Office of the Assistant Administrator for Administration.

Delegation of Authority No. 12-B, Revision 1, is revised to read as follows:

I. Pursuant to the authority delegated to the Associate Administrator for Finance and Investment in Delegation of Authority No. 12, (Revision 1), (38 FR 13063), as amended (38 FR 16001, 38 FR 26509, 40 FR 8398, and 40 FR 18054), the following authority is hereby delegated:

A. Deputy Associate Administrator for Investment. To take any and all actions necessary to carry out the provisions of Titles I, II, and III (with the exception of section 310 of Title III) of the Small Business Investment Act of 1958, as amended, and of the regulations thereunder as amended from time to time, including without limitation all necessary action in connection with the servicing,

administration, collection, sale and liquidation of partially or fully disbursed loans, obligations and property (real, personal or mixed, tangible or intangible) held by or assigned to SBA and arising out of activities under said Act, and, in connection therewith, to accept or reject offers of settlement or of compromise for cash, credit, or property (real, personal, or mixed, tangible or intangible).

II. The authority delegated herein may not be redelegated.

III. The authority delegated herein may be exercised by any SBA employee officially designated as Acting Deputy Associate Administrator for Investment.

Effective date: May 28, 1975.

Dated: May 20, 1975.

EDWIN T. HOLLOWAY,  
Acting Associate Administrator  
for Finance and Investment.  
[FR Doc.75-13827 Filed 5-27-75; 8:45 am]

[Delegation of Authority No. 15-A; Amdt. 2]

DIRECTOR, OFFICE OF AUDITS AND INVESTIGATIONS

Delegation of Administrative, Financial and Investigation Activities

Delegation of Authority No. 15-A (37 FR 24716), as amended (38 FR 19294), is hereby further amended to delegate certain investigatory authority to the Director, Office of Audits and Investigations. Actions taken by the Director, Office of Audits and Investigations under the provisions of Section 310 of the Small Business Investment Act of 1958, as amended, and section 5(b)(11) of the Small Business Act, as amended, prior to the date hereof are hereby ratified.

Section C is therefore added to Delegation of Authority No. 15-A as follows:

C. Investigation Authority—1. Director, Office of Audits and Investigations. a. To exercise in the name of the Administrator the powers conferred on the Administration by section 310 of the Small Business Investment Act of 1958, as amended, and section 5(b)(11) of the Small Business Act, as amended.

Effective date: May 28, 1975.

Dated: March 20, 1975.

HERBERT T. MILLS,  
Acting Assistant Administrator  
for Administration.  
[FR Doc.75-13828 Filed 5-27-75; 8:45 am]

UNITED STATES RAILWAY ASSOCIATION

[Docket No. 75-17]

PENN CENTRAL TRANSPORTATION CO.

Abandonment of Portion of Norwalk Branch, Huron and Sandusky Counties, Ohio

Order. The Trustees of Penn Central Transportation Company, debtor, a railroad in reorganization under the Regional Rail Reorganization Act of 1973

administration, collection, sale and liquidation of partially or fully disbursed loans, obligations and property (real, personal or mixed, tangible or intangible) held by or assigned to SBA and arising out of activities under said Act, and, in connection therewith, to accept or reject offers of settlement or of compromise for cash, credit, or property (real, personal, or mixed, tangible or intangible).

II. The authority delegated herein may not be redelegated.

III. The authority delegated herein may be exercised by any SBA employee officially designated as Acting Deputy Associate Administrator for Investment.

Effective date: May 28, 1975.

Dated: May 20, 1975.

EDWIN T. HOLLOWAY,  
Acting Associate Administrator  
for Finance and Investment.  
[FR Doc.75-13827 Filed 5-27-75; 8:45 am]

[Delegation of Authority No. 15-A; Amdt. 2]

DIRECTOR, OFFICE OF AUDITS AND INVESTIGATIONS

Delegation of Administrative, Financial and Investigation Activities

Delegation of Authority No. 15-A (37 FR 24716), as amended (38 FR 19294), is hereby further amended to delegate certain investigatory authority to the Director, Office of Audits and Investigations. Actions taken by the Director, Office of Audits and Investigations under the provisions of Section 310 of the Small Business Investment Act of 1958, as amended, and section 5(b)(11) of the Small Business Act, as amended, prior to the date hereof are hereby ratified.

Section C is therefore added to Delegation of Authority No. 15-A as follows:

C. Investigation Authority—1. Director, Office of Audits and Investigations. a. To exercise in the name of the Administrator the powers conferred on the Administration by section 310 of the Small Business Investment Act of 1958, as amended, and section 5(b)(11) of the Small Business Act, as amended.

Effective date: May 28, 1975.

Dated: March 20, 1975.

HERBERT T. MILLS,  
Acting Assistant Administrator  
for Administration.  
[FR Doc.75-13828 Filed 5-27-75; 8:45 am]

UNITED STATES RAILWAY ASSOCIATION

[Docket No. 75-17]

PENN CENTRAL TRANSPORTATION CO.

Abandonment of Portion of Norwalk Branch, Huron and Sandusky Counties, Ohio

Order. The Trustees of Penn Central Transportation Company, debtor, a railroad in reorganization under the Regional Rail Reorganization Act of 1973

administration, collection, sale and liquidation of partially or fully disbursed loans, obligations and property (real, personal or mixed, tangible or intangible) held by or assigned to SBA and arising out of activities under said Act, and, in connection therewith, to accept or reject offers of settlement or of compromise for cash, credit, or property (real, personal, or mixed, tangible or intangible).

II. The authority delegated herein may not be redelegated.

III. The authority delegated herein may be exercised by any SBA employee officially designated as Acting Deputy Associate Administrator for Investment.

Effective date: May 28, 1975.

Dated: May 20, 1975.

EDWIN T. HOLLOWAY,  
Acting Associate Administrator  
for Finance and Investment.  
[FR Doc.75-13827 Filed 5-27-75; 8:45 am]

[Delegation of Authority No. 15-A; Amdt. 2]

DIRECTOR, OFFICE OF AUDITS AND INVESTIGATIONS

Delegation of Administrative, Financial and Investigation Activities

Delegation of Authority No. 15-A (37 FR 24716), as amended (38 FR 19294), is hereby further amended to delegate certain investigatory authority to the Director, Office of Audits and Investigations. Actions taken by the Director, Office of Audits and Investigations under the provisions of Section 310 of the Small Business Investment Act of 1958, as amended, and section 5(b)(11) of the Small Business Act, as amended, prior to the date hereof are hereby ratified.

Section C is therefore added to Delegation of Authority No. 15-A as follows:

C. Investigation Authority—1. Director, Office of Audits and Investigations. a. To exercise in the name of the Administrator the powers conferred on the Administration by section 310 of the Small Business Investment Act of 1958, as amended, and section 5(b)(11) of the Small Business Act, as amended.

Effective date: May 28, 1975.

Dated: March 20, 1975.

HERBERT T. MILLS,  
Acting Assistant Administrator  
for Administration.  
[FR Doc.75-13828 Filed 5-27-75; 8:45 am]

UNITED STATES RAILWAY ASSOCIATION

[Docket No. 75-17]

PENN CENTRAL TRANSPORTATION CO.

Abandonment of Portion of Norwalk Branch, Huron and Sandusky Counties, Ohio

Order. The Trustees of Penn Central Transportation Company, debtor, a railroad in reorganization under the Regional Rail Reorganization Act of 1973



(45 U.S.C. 701 et seq.), applied to the United States Railway Association for the authorization required by section 304(f) of that Act to abandon a portion of a line of railroad known as the Norwalk Branch, between milepost 250.7 near Bellevue and milepost 257.7 near Clyde, a distance of 7.0 miles in Huron and Sandusky Counties, Ohio.

Section 304(f) provides that a railroad in reorganization may not abandon a line of railroad "unless it is authorized to do so by the Association and unless no state or local or regional transportation authority reasonably opposes such action."

No state or local or regional transportation authority opposes this application. The Congress of Railway Unions and the Brotherhood of Locomotive Engineers request the imposition of labor protective conditions for any employees who may be affected by this abandonment. Abandonment of this line would not otherwise be inconsistent with the purposes of the Act.

Accordingly, the application will be granted on the condition that adversely affected employees receive, until the effective date of mandatory offers to "protected employees" under section 502(b) of the Act, the labor protection customarily imposed by the Interstate Commerce Commission, as in Chicago, B&Q R. Co., Abandonment, 257 I.C.C. 700.

This order shall be effective on June 17, 1975.

Dated this 21st day of May 1975.

[SEAL] EDWARD G. JORDAN,  
President, United States  
Railway Association.

[FR Doc. 75-13801 Filed 5-27-75; 8:45 am]

[Docket No. 75-66]

#### PENN CENTRAL TRANSPORTATION CO.

##### Abandonment of Portion, Lansing Branch

Order. On October 31, 1974, the Trustees of the Penn Central Transportation Company, debtor, a railroad in reorganization under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.), applied to the United States Railway Association for the authorization required by section 304(f) of that Act to abandon a portion of a line railroad known as the Albion segment of the Lansing Branch between milepost 23.6 at Albion, Michigan, and its terminus at milepost 23.8, a distance of 0.2 miles, in Calhoun County, Michigan.

Section 304(f) provides that a railroad in reorganization may not abandon a line of railroad "unless it is authorized to do so by the Association and unless no state or local or regional transportation authority reasonably opposes such action."

No state or local or regional transportation authority opposes this application. The Brotherhood of Locomotive Engineers, the Railway Labor Executives Association, and the Congress of Railway Unions have requested the Association impose conditions for the protection of

employees who may be affected by this abandonment. Abandonment of this line would not otherwise be inconsistent with the purposes of the Act.

Accordingly, the application will be granted on the condition that adversely affected employees receive, until the effective date of mandatory offers to "protected employees" under section 502(b) of the Act, the labor protection customarily imposed by the Interstate Commerce Commission, as in Chicago, B&Q R. Co., Abandonment, 257 I.C.C. 700.

This Order shall be effective on June 17, 1975.

Dated this 21st day of May 1975.

[SEAL] EDWARD G. JORDAN,  
President, United States  
Railway Association.

[FR Doc. 75-13803 Filed 5-27-75; 8:45 am]

[Docket No. 75-67]

#### PENN CENTRAL TRANSPORTATION CO.

##### Abandonment of Portion, Lansing Branch

Order. On October 31, 1974, the Trustees of the Penn Central Transportation Company, debtor, a railroad in reorganization under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.), applied to the United States Railway Association for the authorization required by section 304(f) of that Act to abandon a portion of a line railroad known as the Eaton Rapids segment of the Lansing Branch between milepost 41.9 at Eaton Rapids, Michigan, and its terminus at milepost 42.5, a distance of 0.6 miles, in Eaton County, Michigan.

Section 304(f) provides that a railroad in reorganization may not abandon a line of railroad "unless it is authorized to do so by the Association and unless no state or local or regional transportation authority reasonably opposes such action."

No state or local or regional transportation authority opposes this application. The Brotherhood of Locomotive Engineers, the Railway Labor Executives Association, and the Congress of Railway Unions have requested the Association impose conditions for the protection of employees who may be affected by this abandonment. Abandonment of this line would not otherwise be inconsistent with the purposes of the Act.

Accordingly, the application will be granted on the condition that adversely affected employees receive, until the effective date of mandatory offers to "protected employees" under section 502(b) of the Act, the labor protection customarily imposed by the Interstate Commerce Commission, as in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700.

This Order shall be effective on June 17, 1975.

Dated this 21st day of May 1975.

[SEAL] EDWARD G. JORDAN,  
President, United States  
Railway Association.

[FR Doc. 75-13806 Filed 5-27-75; 8:45 am]

[Docket No. 75-68]

#### PENN CENTRAL TRANSPORTATION CO.

##### Abandonment of Portion, Lansing Branch

Order. On October 31, 1974, the Trustees of the Penn Central Transportation Company, debtor, a railroad in reorganization under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.), applied to the United States Railway Association for the authorization required by section 304(f) of that Act to abandon a portion of a line railroad known as the Lansing segment of the Lansing Branch between milepost 59.7 near Lansing to its terminus at milepost 60.4, a distance of 0.7 mile, in Ingham County, Michigan.

Section 304(f) provides that a railroad in reorganization may not abandon a line of railroad "unless it is authorized to do so by the Association and unless no state or local or regional transportation authority reasonably opposes such action."

No state or local or regional transportation authority opposes this application. The Brotherhood of Locomotive Engineers, the Railway Labor Executives Association, and the Congress of Railway Unions have requested the Association impose conditions for the protection of employees who may be affected by this abandonment. Abandonment of this line would not otherwise be inconsistent with the purposes of the Act.

Accordingly, the application will be granted on the condition that adversely affected employees receive, until the effective date of mandatory offers to "protected employees" under section 502(b) of the Act, the labor protection customarily imposed by the Interstate Commerce Commission, as in Chicago, B&Q R. Co., Abandonment, 257 I.C.C. 700.

This order shall be effective on June 17, 1975.

Dated this 21st day of May 1975.

[SEAL] EDWARD G. JORDAN,  
President, United States  
Railway Association.

[FR Doc. 75-13807 Filed 5-27-75; 8:45 am]

[Docket No. 75-70]

#### PENN CENTRAL TRANSPORTATION CO.

##### Abandonment of Olean Branch, Sixteenth Street Track

Order. On December 16, 1974, the Trustees of the Penn Central Transportation Company, debtor, a railroad in reorganization under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.), applied to the United States Railway Association for the authorization required by section 304(f) of that Act to abandon the Olean Branch, Sixteenth Street Track between Valuation Station 9+15 and Valuation Station 68+20, a distance of 1.1 miles, all in the City of Olean, Cattaraugus County, New York.

Section 304(f) provides that a railroad in reorganization may not abandon

a line of railroad "unless it is authorized to do so by the Association and unless no state or local or regional transportation authority reasonably opposes such action. The Brotherhood of Locomotive Engineers, the Railway Labor Executives Association, and the Congress of Railway Unions, have requested that the Association impose conditions for the protection of employees who may be affected by this abandonment. Abandonment of this line would not otherwise be inconsistent with the purposes of the Act.

Accordingly, the application will be granted on the condition that adversely affected employees receive, until the effective date of mandatory offers to "protected employees" under section 502(b) of the Act, the labor protection customarily imposed by the Interstate Commerce Commission, as in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700.

This Order shall be effective on June 17, 1975.

Dated this 21 day of May 1975.

[SEAL] EDWARD G. JORDAN,  
President, United States  
Railway Association.

[FR Doc. 75-13808 Filed 5-27-75; 8:45 am]

[Docket No. 75-42]

#### PENN CENTRAL TRANSPORTATION CO.

##### Discontinuance of Service, Evansville Secondary Track

Order. On May 17, 1974, the Trustees of the Penn Central Transportation Company, debtor, a railroad in reorganization under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.), applied to the United States Railway Association for the authorization required by section 304(f) of that Act to discontinue service over a portion of a line of railroad known as the Evansville Secondary Track between milepost 132.0 at Skelton and milepost 154.1 at Evansville, 22.1 miles in length in Gibson, Posey, and Vanderburgh Counties, Indiana.

Section 304(f) provides that a railroad in reorganization may not discontinue service or abandon a line of railroad "unless it is authorized to do so by the Association and unless no state or local or regional transportation authority reasonably opposes such action. The Congress of Railway Unions and the Railway Labor Executives Association have requested that the Association impose conditions for the protection of employees who may be affected by this abandonment. M. M. Reaves, Secretary-Treasurer of Local #1431 of the United Transportation Union and R. K. Hockgeiger, Division Chairman, R.R. #3, Brotherhood of Railway Airline and Steamship Clerks, oppose the application on more general grounds. Discontinuance of this service would not otherwise be inconsistent with the purposes of the Act.

Accordingly, the application will be granted on the condition that adversely affected employees receive, until the effective date of mandatory offers to "protected employees" under section 502(b) of the Act, the labor protection custo-

marily imposed by the Interstate Commerce Commission, as in Chicago, B & Q. R. Co., Abandonment, 257 I.C.C. 700.

This Order shall be effective on June 17, 1975.

Dated this 21st day of May 1975.

[SEAL] EDWARD G. JORDAN,  
President, United States  
Railway Association.

[FR Doc. 75-13802 Filed 5-27-75; 8:45 am]

#### DEPARTMENT OF LABOR

##### Office of Federal Contract Compliance AFFECTED CLASS AND BACK PAY GUIDELINES

###### Extension of Comment Period

On March 26, 1975, the Office of Federal Contract Compliance published proposed Affected Class and Back Pay Guidelines at 41 CFR Part 13311. The proposed Guidelines would amend 41 CFR Part 60-60, known as Revised Order 14, by clarifying the means of identifying an affected class, resolving affected class problems and setting forth the principles applicable in awarding back pay relief to identifiable victims of discrimination including affected class members.

Interested persons were invited to comment upon the proposal by submitting written data, views or arguments to the Department of Labor on or before April 25, 1975. That comment period has expired, and many persons have submitted requests asking for an extension of the time to comment. In consideration of these requests, the comment period is hereby extended until June 27, 1975.

Interested persons may submit their comments to Mr. Philip J. Davis, Director, Office of Federal Contract Compliance, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N3402, Washington, D.C. 20210.

JOHN T. DUNLOP,  
Secretary of Labor.

BERNARD E. DELURY,  
Assistant Secretary for  
Employment Standards.

PHILIP J. DAVIS,  
Director, Office of Federal  
Contract Compliance.

MAY 22, 1975.

[FR Doc. 75-13846 Filed 5-27-75; 8:45 am]

##### Office of the Secretary ALLEN QUIMBY VENEER CO. Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 9, 1975 in response to a worker petition received on April 8, 1975 which was filed on behalf of workers formerly en-

gaged in the production of birch plywood doorskins at the Allen Quimby Veneer Co., Bingham, Maine, a Division of Columbia Plywood Corp., Portland, Oregon.

The notice of investigation was published in the FEDERAL REGISTER (40 FR 17089) on April 16, 1975. No public hearing was requested and none was held.

The information upon which the determination is made was obtained principally from officials of Allen Quimby Veneer Co., its major customers, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant total or partial separations. All hourly workers and most salaried workers of the Allen Quimby Veneer Co. were separated in September-November 1974 when the company was phasing out production prior to closing.

Sales or production, or both, have decreased absolutely. Sales and production of birch plywood doorskins manufactured at the Allen Quimby Veneer Co. decreased absolutely in the second and third quarters of 1974. All production of birch plywood doorskins ceased in November 1974.

Increases of imports contributed importantly. Imports of articles like or directly competitive with the birch plywood doorskins produced at the Allen Quimby Veneer Co. increased as a percent of domestic consumption and production from 75 percent and 307 percent respectively in 1973 to 78 percent and 335 percent respectively in 1974. In the fourth quarter of 1974 the ratios of imports to consumption and imports to production were 83 percent and 500 percent respectively. Import levels of birch plywood doorskins declined from 126 million square feet in 1973 to 87 million square feet in 1974.

The evidence developed in the Department's investigation indicates that increased import competition was an important factor contributing to the closing of the Allen Quimby Veneer plant. In recent years imports held a dominant share of the domestic market for birch plywood doorskins and significantly influenced the prices which domestic producers could obtain for their products.



During 1974, as doorskin sales declined sharply due to cutbacks in housing construction, imports of birch plywood doorskins increased their share of the domestic market. Major customers of Allen Quimby Veneer stated that in the last 6 months of 1974 birch plywood doorskins from Japan, the largest supplier in the domestic market, were available at prices substantially below those of domestic producers. Allen Quimby Veneer could not meet the lower import prices without incurring substantial losses on its doorskin operations. In these circumstances Columbia Plywood Corp., the parent company of Allen Quimby Veneer, concluded that continued doorskin production would not be profitable and that the Allen Quimby Veneer plant should be closed.

**Conclusion.** After careful review of the facts obtained in the investigation, I conclude that increases of imports like and directly competitive with the birch plywood doorskins produced at the Allen Quimby Veneer Co. contributed importantly to the total or partial separation of the workers of that firm. Section 223 (b) (2) of the Trade Act of 1974 provides that a certification of eligibility to apply for worker adjustment assistance may not apply to any worker who was last separated from the firm or subdivision more than 6 months before the effective date of the new program (i.e. October 3, 1974). In accordance with this provision of the Act I make the following certification:

All hourly and salaried workers of the Allen Quimby Veneer Co., Bingham, Maine, a Division of Columbia Plywood Corp., Division of Columbia Corp., Portland, Oregon, who became totally or partially separated from employment on or after October 7, 1974, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of May 1975.

HERBERT N. BLACKMAN,  
Associate Deputy Under Secretary  
for Trade and Adjustment Policy.

[FR Doc.75-13847 Filed 5-27-75; 8:45 am]

[TA-W-28]

#### ROHR INDUSTRIES, INC.

#### Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On May 19, 1975 the Department of Labor received a petition filed under section 221(a) of the Trade Act of 1974 ("the Act") by the International Association of Machinists and Aerospace Workers on behalf of the workers and former workers of the Chula Vista, California plant of Rohr Industries, Inc., Chula Vista, California.

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with door frame weldments for transit cars and detailed sheet metal parts and subassemblies for aircraft engine nacelles produced by the Chula Vista, California plant of Rohr Industries, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number of proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing. *Provided*, Such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 7, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 19th day of May 1975.

MARVIN M. FOOKS,  
Acting Director, Office of  
Trade Adjustment Assistance.

[FR Doc.75-13848 Filed 5-27-75; 8:45 am]

#### INTERSTATE COMMERCE COMMISSION

[Notice 776]

#### ASSIGNMENT OF HEARINGS

MAY 22, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 139721, All World Travel, Inc., now assigned June 10, 1975 at Philadelphia, Pennsylvania is postponed indefinitely.

MC F-12443, Jerry Lipps, Inc.—Purchase—Pascagoula Drayage Company, Inc. and Jerry Lipps, Inc., now being assigned September 9, 1975 (4 days) at Jackson, Miss., in a hearing room to be later designated.  
MC 730 Sub 364, Pacific Intermountain Express Co., now being assigned September 9, 1975 (14 days) at Los Angeles, California; in a hearing room to be designated later.  
MC-F 12254, Economy Movers, Inc.—Control and Merger—Eckley Trucking and Leasing, Inc., and MC 5227 Sub 15, Economy Movers, Inc., now assigned July 14, 1975 at Omaha, Nebraska is cancelled, and transferred to Modified Procedure.

MC 124211 Sub 254, Hilt Truck Line, Inc., now being assigned July 14, 1975 (2 days), at Omaha, Nebraska; in a hearing room to be designated later.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-13852 Filed 5-27-75; 8:45 am]

[AB 6 (Sub-No. 7)]

#### BURLINGTON NORTHERN INC.

#### Abandonment Between Brisbin and Gardiner, Park County, Montana

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing, that no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Park County, Mont., on or before June 6, 1975 and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 15th day of May 1975.

By the Commission, Commissioner Tuggle.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[AB 6 (Sub-No. 7)]

#### BURLINGTON NORTHERN INC.

#### ABANDONMENT BETWEEN BRISBIN AND GARDINER, PARK COUNTY, MONTANA

The Interstate Commerce Commission hereby gives notice that by order dated May 15, 1975, it has been determined that the proposed abandonment by the Burlington Northern Inc., of its line of railroad between Milepost 10.60 at Brisbin and Milepost 54.36 at Gardiner, a total distance of 43.75 mainline miles, plus

4.28 yard track miles, all in Park County, Mont., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. § 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2) (C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because (1) the volume of traffic handled on the line has been low and is steadily declining, (2) U.S. Highway 89, which parallels the subject line, provides an adequate highway route, (3) any resultant diversion of traffic from rail to truck will not have a significant impact on air and water quality, and (4) there is the availability of applicant's rail service at Livingston, Mont. In addition, approval of the abandonment proceeding could allow private and public agencies the opportunity to offer to purchase all or part of the right-of-way property with its related materials and structures for rail service and public use.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-2086.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before June 23, 1975.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

[FR Doc.75-13864 Filed 5-27-75; 8:45 am]

[AB 1 (Sub-No. 30)]

#### CHICAGO AND NORTH WESTERN TRANSPORTATION CO.

#### Abandonment Between Blue Earth and Elmore, in Fairbault County, Minnesota

MAY 16, 1975.

The Interstate Commerce Commission hereby gives notice that: 1. By order served April 14, 1975, applicant was required to publish a notice in the Fairbault County, Minn., that an environmental threshold assessment survey was made in the above-entitled proceeding and based on that assessment it was determined that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq. 2. No comments in opposition, of an

environmental nature, were received by the Commission in response to the April 14, 1975, order and subsequent notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.  
[FR Doc.75-13858 Filed 5-27-75; 8:45 am]

[AB 29]

#### CINCINNATI, NEW ORLEANS-TEXAS PACIFIC RAILWAY CO.

#### Abandonment Between Harriman and Dearmond in Roane and Morgan Counties, Tennessee

MAY 16, 1975.

The Interstate Commerce Commission hereby gives notice that: 1. By order served April 9, 1975, applicant was required to publish a notice in the Roane and Morgan Counties, Tenn., that an environmental threshold assessment survey was made in the above-entitled proceeding and based on that assessment it was determined that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq. 2. No comments in opposition, of an environmental nature, were received by the Commission in response to the April 9, 1975, order and subsequent notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.  
[FR Doc.75-13860 Filed 5-27-75; 8:45 am]

[Finance Docket No. 27628]

#### OREGON-WASHINGTON RAILROAD AND NAVIGATION CO.

#### Construction and Operation Near Hedges, Benton County, Washington

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing, that no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Benton County, Wash., on or before June 6, 1975 and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 15th day of May 1975.

By the Commission, Commissioner Tuggle.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[Finance Docket No. 27628]

#### OREGON-WASHINGTON RAILROAD AND NAVIGATION CO. CONSTRUCTION AND OPERATION NEAR HEDGES, BENTON COUNTY, WASHINGTON

The Interstate Commerce Commission hereby gives notice that by order dated May 15, 1975, it has been determined that the proposed construction by the Oregon-Washington Railroad and Navigation Company of its line near Hedges, Benton County, Wash., a distance of 5,005 feet together with 1,000 feet of paralleling run around track, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2) (C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because the industrial development accelerated by the subject action is consistent with land use plans for the area. The potential for increased traffic congestion and subsequent deterioration of air quality will be mitigated by the occurrence of switching operations after working hours. Energy resources will be minimally conserved as the construction would allow for less circuitous routing for rail traffic.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-2086.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C., 20423, on or before June 23, 1975.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

[FR Doc.75-13863 Filed 5-27-75; 8:45 am]



[No. 36125]

**REPORTING EXTRAORDINARY, UNUSUAL OR INFREQUENTLY OCCURRING EVENTS AND TRANSACTIONS; PRIOR PERIOD ADJUSTMENTS; EFFECTS OF DISPOSAL OF A SEGMENT OF A BUSINESS****Extension of Time for Filing Comments**

Upon consideration of the record in the above-entitled proceeding, including the letter-request dated May 12, 1975, of the Association of Oil Pipe Lines seeking an extension of time to file comments to July 21, 1975;

It is ordered, That the due date for the filing of comments by interested persons be, and it is hereby, extended to July 3, 1975.

Dated at Washington, D.C., on the 21st day of May 1975.

By the Commission, Vice Chairman O'Neal.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-13857 Filed 5-27-75; 8:45 am]

[AB 12 (Sub-No. 14)]

**SOUTHERN PACIFIC TRANSPORTATION CO.****Abandonment Near Inglewood, in Los Angeles County, California**

MAY 16, 1975.

The Interstate Commerce Commission hereby gives notice that: 1. by order served April 14, 1975, applicant was required to publish a notice in the City and County of Los Angeles, Calif., that an environmental threshold assessment survey was made in the above-entitled proceeding and based on that assessment it was determined that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq. 2. No comments in opposition, of an environmental nature, were received by the Commission in response to the April 14, 1975, order and subsequent notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-13859 Filed 5-27-75; 8:45 am]

[AB 12 (Sub-No. 11)]

**SOUTHERN PACIFIC TRANSPORTATION CO.****Abandonment Between Wise Transfer and El Segundo, in Los Angeles County, California**

MAY 16, 1975.

The Interstate Commerce Commission hereby gives notice that: 1. By order served April 14, 1975, applicant was required to publish a notice in the Los Angeles, Calif., that an environmental threshold assessment survey was made

in the above-entitled proceeding and based on that assessment it was determined that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq. 2. No comments in opposition, of an environmental nature, were received by the Commission in response to the April 14, 1975, order and subsequent notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-13861 Filed 5-27-75; 8:45 am]

[I.C.C. Order No. P-3]

**SOUTHERN PACIFIC TRANSPORTATION CO.****Passenger Train Operation**

It appearing, that the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Chicago, Illinois, and Los Angeles, California; that the operation of these trains require the use of employees, tracks and other facilities of The Atchison, Topeka and Santa Fe Railway Company (ATSF); that a portion of ATSF's tracks between Barstow, California, and San Bernardino, California, are temporarily out of service due to a freight train derailment; that an alternate route is available between Barstow and Mojave, California, on the ATSF, thence via the Southern Pacific Transportation Company from Mojave to Los Angeles, California; that its use is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

**It is ordered, That:**

(a) Pursuant to the authority vested in me by order of the Commission served June 14, 1974; and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), the Southern Pacific Transportation Company (SP) be, and it is hereby authorized to operate trains of the National Railroad Passenger Corporation (Amtrak) between a connection with The Atchison, Topeka and Santa Fe Railway Company (ATSF) at Mojave, California, and Los Angeles, California.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed

by the Commission upon petition of any or all of the said carriers, in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(d) *Effective date.* This order shall become effective at 6:00 p.m., PST, May 12, 1975.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., p.s.t., May 13, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

It is further ordered, That this order shall be served upon Southern Pacific Transportation Company and upon the National Railroad Passenger Corporation (Amtrak), and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 12, 1975.

INTERSTATE COMMERCE  
COMMISSION,  
LEWIS R. TEEPLE,  
Agent.

[FR Doc.75-13862 Filed 5-27-75; 8:45 am]

**IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY****Elimination of Gateway Letter Notices**

MAY 22, 1975.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR Part 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before June 7, 1975. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 106603 (Sub-No. E4), filed May 10, 1974. Applicant: DART TRANSPORT LINES, INC., P.O. Box 8008, Grand Rapids, Mich. 49508. Applicant's representative: Martin Leavitt (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Building contractors' materials*, restricted to building materials, as described by the Commission, from points in Indiana to those points in the Upper Peninsula of Michigan on and west of U.S. Highway

41. The purpose of this filing is to eliminate the gateway of Wilmington, Del.

No. MC 106603 (Sub-No. E5), filed May 10, 1974. Applicant: DART TRANSPORT LINES, INC., P.O. Box 8008, Grand Rapids, Mich. 49508. Applicant's representative: Martin Leavitt (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Building contractors' materials*, restricted to building materials as described by the Commission, from those points in Indiana on and west of Interstate Highway 65 to those points in the Upper Peninsula on and east of U.S. Highway 41. The purpose of this filing is to eliminate the gateway of Wilmington, Ill.

No. MC 106603 (Sub-No. E6), filed May 10, 1974. Applicant: DART TRANSPORT LINES, INC., P.O. Box 8008, Grand Rapids, Mich. 49508. Applicant's representative: Martin Leavitt (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Building contractors' materials*, restricted to roofing materials, from those points in Illinois south and west of a line beginning at the Illinois-Missouri State line, and extending along Interstate Highway 55/U.S. Highway 66 to junction U.S. Highway 36, thence along U.S. Highway 36 to the Illinois-Missouri State line to those points in the Upper Peninsula of Michigan on and north of U.S. Highway 2. The purpose of this filing is to eliminate the gateway of Whiting, Ind., and Wilmington, Ill.

No. MC 106603 (Sub-No. E7), filed May 10, 1974. Applicant: DART TRANSPORT LINES, INC., P.O. Box 8008, Grand Rapids, Mich. 49508. Applicant's representative: Martin Leavitt (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Building contractors' materials*, restricted to roofing materials, from those points in Illinois bounded by a line beginning at the Illinois-Missouri State line and extending along U.S. Highway 36 to junction U.S. Highway 66/Interstate Highway 55, thence along Interstate Highway 55 to junction Interstate Highway 74, thence along Interstate Highway 74 to junction U.S. Highway 34, thence along U.S. Highway 34 to the Illinois-Iowa State line, to those points in the Upper Peninsula of Michigan on and east of U.S. Highway 41. The purpose of this filing is to eliminate the gateways of Whiting, Ind., and Wilmington, Ill.

No. MC 106603 (Sub-No. E8), filed May 10, 1974. Applicant: DART TRANSPORT LINES, INC., P.O. Box 8008, Grand Rapids, Mich. 49508. Applicant's representative: Martin Leavitt (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Building contractor's materials*, restricted to building and roofing materials, from points in Indiana (except the plant site of the Bethlehem Steel Corporation, lo-

cated at Burns Harbor, Porter County, Ind.), to points in the St. Louis, Mo., commercial zone. The purpose of this filing is to eliminate the gateway of Vandalia, Ill.

No. MC 106603 (Sub-No. E9), filed May 10, 1974. Applicant: DART TRANSPORT LINES, INC., P.O. Box 8008, Grand Rapids, Mich. 49508. Applicant's representative: Martin Leavitt (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Building contractors' materials*, restricted to building and roofing materials, in truckloads, from those points in Ohio on and south of a line beginning at the Ohio-Kentucky State line and extending along Ohio Highway 73 to junction Ohio Highway 725, thence along Ohio Highway 725 to the Ohio-Indiana State line to those points in the Lower Peninsula bounded by a line beginning at the Michigan-Indiana State line and extending along Interstate Highway 94 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction U.S. Highway 10, thence along U.S. Highway 27 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction Interstate Highway 10, thence along Interstate Highway 10 to junction Michigan Highway 32. The purpose of this filing is to eliminate the gateway of Lockland, Ohio.

No. MC 106920 (Sub-No. E35), filed June 4, 1974. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, Ohio 45869. Applicant's representative: E. Stephen Helsley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Milk, cream and buttermilk*, (except concentrated whole milk and concentrated skim milk), in bulk, in tank vehicles, from those points in Minnesota on and north of a line beginning at the Minnesota-North Dakota State line and extending along U.S. Highway 2 to junction U.S. Highway 71, thence along U.S. Highway 71 to the United States-Canada International Boundary line, to those points in Indiana on and south of a line beginning at the Indiana-Michigan State line and extending along Interstate Highway 69 to junction Indiana Highway 9, thence along Indiana Highway 9 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction U.S. Highway 460, thence along U.S. Highway 460 to the Indiana-Illinois State line. The purpose of this filing is to eliminate the gateways of Darke, Mercer, and Auglaize Counties, Ohio.

No. MC 106920 (Sub-No. E95), filed June 3, 1974. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, Ohio 45869. Applicant's representative: E. Stephen Helsley, 666 Eleventh Street, NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Com-

modities classified as *dairy products* under B in the appendix to the report in *Modification of Permits of Motor Contract Carriers of Packing-house Products*, 46 M.C.C. 23 and/or 48 M.C.C. 628, from those points in Wisconsin on and west of a line beginning at the Wisconsin-Illinois State line and extending along Wisconsin Highway 83 to junction Wisconsin Highway 60, thence along Wisconsin Highway 60 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction Wisconsin Highway 74, thence along Wisconsin Highway 74 to Lake Michigan, to those points in Mississippi on and south of a line beginning at the Mississippi-Louisiana State line and extending along Mississippi Highway 35 to junction U.S. Highway 98, thence along U.S. Highway 98 to junction U.S. Highway 49, thence along U.S. Highway 49 to junction U.S. Highway 98, thence along U.S. Highway 98 to the Mississippi-Alabama State line. The purpose of this filing is to eliminate the gateways of Darke, Mercer, and Auglaize Counties, Ohio.

No. MC 107002 (Sub-No. E111), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Nitric acid, dry fertilizer, and fertilizer solutions*, in bulk, in tank or hopper-type vehicles, from the plant of Mississippi Chemical Corporation near Yazoo City, Miss., to points in Ohio. The purpose of this filing is to eliminate the gateway of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E112), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from the site of the plant of Mississippi Chemical Corporation near Yazoo City, Miss., to points in Illinois. The purpose of this filing is to eliminate the gateway of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E113), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Taylorsville, Miss., to points in Florida. The purpose of this filing is to eliminate the gateway of Mobile, Ala.

No. MC 107002 (Sub-No. E126), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a com-



mon carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Barfield, Ark., and points within 10 miles thereof, to points in Georgia. The purpose of this filing is to eliminate the gateway of Collierville, Tenn.

No. MC 107002 (Sub-No. E127), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Barfield, Ark., and points within 10 miles thereof, to points in Florida. The purpose of this filing is to eliminate the gateway of Mobile, Ala.

No. MC 107002 (Sub-No. E128), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except petroleum products, plasticizers, and titanium dioxide), in bulk, in tank vehicles, from Hamilton, Miss., to points in Indiana. The purpose of this filing is to eliminate the gateway of Decatur, Ala.

No. MC 107002 (Sub-No. E129), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except petroleum products, plasticizers, and titanium dioxide), in bulk, in tank vehicles, from Hamilton, Miss., to points in Kansas, restricted against the transportation of liquid hydrogen, liquid oxygen, and liquid nitrogen when moving to missile storage or launching sites, missile test facilities or manufacturing plants producing liquid hydrogen, liquid oxygen, or liquid nitrogen. The purpose of this filing is to eliminate the gateway of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E130), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except petroleum products, plasticizers, and titanium dioxide), in bulk, in tank vehicles, from Hamilton, Miss., to points in Iowa, restricted against the transportation of liquid hydrogen, liquid oxygen, and liquid nitrogen when moving to missile storage or launching sites, missile test facilities or manufacturing plants producing liquid hydrogen, liquid oxygen, or liquid nitrogen. The purpose of this filing is to eliminate the gateway of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E131), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except petroleum products, plasticizers, and titanium dioxide), in bulk, in tank vehicles, from Hamilton, Miss., to points in Kentucky. The purpose of this filing is to eliminate the gateway of Collierville, Tenn., and Decatur, Ala.

No. MC 107002 (Sub-No. E132), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except petroleum products, plasticizers, and titanium dioxide), in bulk, in tank vehicles, from Hamilton, Miss., to points in Michigan. The purpose of this filing is to eliminate the gateway of Memphis, Tenn.

No. MC 107002 (Sub-No. E133), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except petroleum products, plasticizers, and titanium dioxide), in bulk, in tank vehicles, from Hamilton, Miss., to points in North Carolina. The purpose of this filing is to eliminate the gateway of Fox, Ala.

No. MC 107002 (Sub-No. E134), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except hydrogen peroxide, petroleum products, plasticizers, and titanium dioxide), in bulk, in tank vehicles, from Hamilton, Miss., to points in Ohio. The purpose of this filing is to eliminate the gateway of Memphis, Tenn.

No. MC 107002 (Sub-No. E135), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except petroleum products, plasticizers, and titanium dioxide), in bulk, in tank vehicles, from Hamilton, Miss., to points in Oklahoma. The purpose of this filing is to eliminate the gateway of Collierville, Tenn.

No. MC 107002 (Sub-No. E136), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above).

Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Barfield, Ark., and points within 10 miles thereof, to points in Texas on, west, and south of a line beginning at the Oklahoma-Texas State line and extending along U.S. Highway 281 to junction U.S. Highway 876, to the Gulf of Mexico, restricted against (1) spent catalyst, liquid hydrogen, liquid oxygen, and liquid nitrogen, when moving to missile storage or launching sites, missile test facilities or manufacturing plants producing liquid hydrogen, liquid oxygen, or liquid nitrogen. The purpose of this filing is to eliminate the gateway of Arlington, Tenn.

No. MC 107002 (Sub-No. E137), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except petroleum products, plasticizers, and titanium dioxide), in bulk, in tank vehicles, from Hamilton, Miss., to South Carolina. The purpose of this filing is to eliminate the gateway of Fox, Ala.

No. MC 107002 (Sub-No. E138), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except petroleum products, plasticizers, and titanium dioxide), in bulk, in tank vehicles, from Hamilton, Miss., to points in Carter, Greene, Hamblen, Hawkins, Johnson, Sullivan, Unicoi, and Washington Counties, Tenn. The purpose of this filing is to eliminate the gateway of Decatur, Ala.

No. MC 107002 (Sub-No. E139), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except arsenic acid, acetic acid, wood alcohol, hydrogen peroxide, petroleum products, plasticizers, and titanium dioxide), in bulk, in tank vehicles, from Hamilton, Miss., to points in Texas, restricted against the transportation of creosote oil to points in that part of Texas on and west of U.S. Highway 75. The purpose of this filing is to eliminate the gateway of Memphis, Tenn.

No. MC 107002 (Sub-No. E140), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except petroleum products, plasticizers, and titanium dioxide), in

bulk, in tank vehicles, from Hamilton, Miss., to points in West Virginia. The purpose of this filing is to eliminate the gateway of the plant site of Monsanto Chemical Company in Anniston, Ala.

No. MC 107002 (Sub-No. E141), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except petroleum products, plasticizers, hydrogen peroxide, and titanium dioxide), in bulk, in tank vehicles, from Hamilton, Miss., to points in Illinois. The purpose of this filing is to eliminate the gateway of Memphis, Tenn.

No. MC 107002 (Sub-No. E142), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dry chemicals* (except fertilizer and fertilizer ingredients), in bulk, in tank vehicles, from Memphis, Tenn., to points in Wisconsin. The purpose of this filing is to eliminate the gateway of those points in Tennessee within 10 miles of Barfield, Ala.

No. MC 107002 (Sub-No. E143), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid caustic soda*, in bulk, in tank vehicles, from McIntosh, Ala., to points in Ohio. The purpose of this filing is to eliminate the gateway of those points in Mississippi within the Memphis, Tenn., commercial zone.

No. MC 107002 (Sub-No. E144), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Vegetable oil*, in bulk, in tank vehicles, from points in Mississippi to points in South Carolina. The purpose of this filing is to eliminate the gateway of Fox, Ala.

No. MC 107002 (Sub-No. E145), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dry chemicals* (except fertilizer and fertilizer ingredients), in bulk, in tank vehicles, from Memphis, Tenn., to those points in Tennessee east and south of a line beginning at the Georgia-Tennessee State line and extending along U.S. Highway 27 to junction U.S. Highway 70, thence along U.S. Highway 70 to the Tennessee-North Carolina State line. The purpose of this

filing is to eliminate the gateway of those points in Tennessee within 10 miles of Barfield, Ala.

No. MC 107002 (Sub-No. E146), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, liquid, in bulk, in tank vehicles, from Collierville, Tenn., to points in Iowa. The purpose of this filing is to eliminate the gateway of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E147), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, liquid, in bulk, in tank vehicles, from Collierville, Tenn., to points in Texas. The purpose of this filing is to eliminate the gateway of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E148), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Tall oil and tall oil products*, in bulk, in tank vehicles, from Mobile, Ala., to points in Maine. The purpose of this filing is to eliminate the gateway of Picayune, Miss.

No. MC 107002 (Sub-No. E149), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Tall oil and tall oil products*, in bulk, in tank vehicles, from Mobile, Ala., to points in Maryland. The purpose of this filing is to eliminate the gateway of Picayune, Miss.

No. MC 107002 (Sub-No. E150), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Tall oil and tall oil products*, in bulk, in tank vehicles, from Mobile, Ala., to points in Connecticut. The purpose of this filing is to eliminate the gateway of Picayune, Miss.

No. MC 107002 (Sub-No. E151), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except hydrogen peroxide), in

bulk, in tank vehicles, from Collierville, Tenn., to points in Ohio north of U.S. Highway 40. The purpose of this filing is to eliminate the gateway of Memphis, Tenn.

No. MC 107002 (Sub-No. E152), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, restricted to naval stores and naval stores products, in bulk, in tank vehicles, from Mobile, Ala., to points in Connecticut. The purpose of this filing is to eliminate the gateway of Picayune, Miss.

No. MC 107002 (Sub-No. E153), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid caustic soda*, in bulk, in tank vehicles, from McIntosh, Ala., to those points in Tennessee on and west of a line beginning at the Alabama-Tennessee State line and extending along U.S. Highway 43 to junction Tennessee Highway 99, thence along Tennessee Highway 99 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Tennessee-Kentucky State line. The purpose of this filing is to eliminate the gateway of Louisville, Miss.

No. MC 107107 (Sub-No. E15), filed April 6, 1975. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 425, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as defined by the Commission, from Boston and Southboro, Mass., to points in Louisiana, thence in Mississippi on and south of U.S. Highway 80, those in Georgia on and south of U.S. Highway 280 (except Savannah), and those in Alabama on and south of U.S. Highway 80. The purpose of this filing is to eliminate the gateway of Florida.

No. MC 107107 (Sub-No. E17), filed April 6, 1975. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 425, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Candy*, from Providence, R.I., to those points in Georgia on and south of a line beginning at the Atlantic Ocean and extending along U.S. Highway 341 to junction U.S. Highway 280, thence along U.S. Highway 280 to the Alabama-Georgia State line. The purpose of this filing is to eliminate the gateway of Florida.

No. MC 107107 (Sub-No. E18), filed April 6, 1975. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 425, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (Same



as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products*, as defined by the Commission, from Hartford, Conn., to those points in Georgia on and south of U.S. Highway 280, (except Chatham County), and those in Alabama on and south of U.S. Highway 80 (Florida)\*; *meat, meat products, and meat by-products*, as defined by the Commission, from Hartford, Conn., to points in Louisiana and those in Mississippi on and south of U.S. Highway 80, (Jacksonville, Fla.)\*; and *fresh meats*, from Hartford, Conn., to points in Texas (Florida)\*. The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

No. MC 107107 (Sub-No. E19), filed April 6, 1975. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 425, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods*, from those points in New York west of U.S. Highway 11, to those points in Georgia on and south of a line beginning at the Alabama-Georgia State line and extending along U.S. Highway 82 to junction U.S. Highway 84, thence along U.S. Highway 84 to the Atlantic Ocean; those in Alabama on and south of U.S. Highway 80, those in Louisiana on and south of U.S. Highway 84, and those in Texas on and south of a line beginning at the Louisiana-Texas State line and extending along U.S. Highway 84 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Texas-New Mexico State line; (2) *meat, meat products, and meat by-products*, as defined by the Commission, from Rochester, N.Y., to those points in Alabama on and south of U.S. Highway 80, and those in Georgia on and south of U.S. Highway 280 (except Chatham County, Ga.); and (3) *fresh meats*, from Rochester, N.Y., to those points in Texas on and south of a line beginning at the Louisiana-Texas State line and extending along U.S. Highway 84 to junction U.S. Highway 80, thence along U.S. Highway 80 to the United States-Mexico International Boundary line. The purpose of this filing is to eliminate the gateway of Florida.

No. MC 107107 (Sub-No. E20), filed April 6, 1975. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 425, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat by-products*, as defined by the Commission, from Baltimore, Md., to those points in Georgia on and south of a line beginning at the Georgia-Alabama State line and extending along U.S. Highway 82 to junction U.S. Highway 84, thence along U.S. Highway 84 to the Atlantic Ocean, those in Alabama on and south of a line beginning at the Alabama-Georgia State line and extending along U.S. Highway 82 to junction U.S. Highway 80, thence along

U.S. Highway 80 to the Alabama-Mississippi State line, points in Hancock, Harrison, and Jackson Counties, Miss., and those in Louisiana on and south of U.S. Highway 190; those in Louisiana on and south of U.S. Highway 190, and those in Texas except those north of a line beginning at the Texas-Oklahoma State line and extending along U.S. Highway 70 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 66, thence along U.S. Highway 66 to the Texas-New Mexico State line. The purpose of this filing is to eliminate the gateway of Florida.

No. MC 107107 (Sub-No. E32), filed April 6, 1975. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 425, Opa Locka, Florida 33054. Applicant's representative: Ford W. Sewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, as defined by the Commission, from Alexandria, Butterfield, Grand Meadow, Litchfield, Pease, Rochester, St. Charles, St. Peter, Wells and Willmar, Minn., to those points in Alabama on and south of U.S. Hwy. 80 and those in Georgia on and south of U.S. Hwy. 280.

The purpose of this filing is to eliminate the gateway of Florida.

No. MC 107107 (Sub-No. E33), filed April 6, 1975. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 425, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, as described by the Commission, from Green Bay, Monroe, Mt. Horeb, New Richmond, Plymouth, and Rice Lake, Wisc., to those points in Alabama on and south of Alabama Hwy. 10 and those in Georgia on and south of U.S. Hwy. 280. The purpose of this filing is to eliminate the gateway of Florida.

No. MC 107107 (Sub-No. E34), filed April 16, 1975. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 425, Opa Locka, Florida 33054. Applicant's representative: Ford W. Sewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Cleveland, Ohio, to those points in Texas on and south of a line beginning at the Texas-Louisiana State line and extending along U.S. Highway 79 to junction U.S. Highway 81, to the United States-Mexico International Boundary line. The purpose of this filing is to eliminate the gateway of Florida.

No. MC 108449 (Sub-No. E82), filed May 21, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road, C, St. Paul, Minnesota 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor*

*Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from the Duluth Petroleum Products Terminal (located about eight miles from Duluth, Minn.), and points within two miles thereof, to points in Iowa. The purpose of this filing is to eliminate the gateway of St. Paul, Minn.

No. MC 108449 (Sub-No. E93), filed May 21, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 W. County Rd. C, St. Paul, Minn. 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Grand Forks, N. Dak., and points in North Dakota within 10 miles thereof, to points in Illinois. The purpose of this filing is to eliminate the gateways of the Williams Brothers Pipe Line Company terminal located at or near St. Cloud, Minn.; the facilities of American Oil Company, in Dubuque, Iowa; and Minneapolis, Minn.

No. MC 108449 (Sub-No. E80), filed May 21, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 W. County Rd. C, St. Paul, Minn. 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from the terminal of Duluth Petroleum Products, about eight miles from Duluth, Minn., and points within two miles thereof, to points in Nebraska. The purpose of this filing is to eliminate the gateways of Minneapolis, Minn. and of the Williams Brothers Pipe Line Company terminal located at or near Spirit Lake, Iowa.

No. MC 109064 (Sub-No. E14), filed June 4, 1974. Applicant: TEX-O-KA-N TRANSPORTATION COMPANY, INC., P.O. Box 8367, Fort Worth, Tex. 76112. Applicant's representative: Clayte Binton, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *plastic pipe, plastic tubing, plastic conduit, valves, fittings, compounds, joint sealer, bonding cement, primer, coating, thinner, vinyl building products and accessories* used in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines for the transportation of water and sewage, including the stringing and picking up of pipe, from points in California to points in Alabama, Florida, Georgia, Mississippi, Tennessee, Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, Wisconsin, and points in Minnesota on and east of a line beginning at the Iowa-Minnesota State line and extending over U.S. Highway 59 to Worthington, thence over Minnesota Highway 60 to junction U.S. Highway 169, thence along U.S.

Highway 169 to junction Minnesota Highway 38, thence over Minnesota Highway 38 to junction with Minnesota Highway 6, thence over Minnesota Highway 6 to junction U.S. Highway 71, thence over U.S. Highway 71 to International Falls; restricted to the transportation of traffic originating at, or destined to, pipeline rights-of-way. The purpose of this petition is to eliminate the gateways of McPherson, Kansas or Waco, Texas.

No. MC 109397 (Sub-No. E2), (Correction), filed May 15, 1974, published in the FEDERAL REGISTER December 24, 1974. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: E. S. Gordon (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Source, special nuclear and by-product materials, and radioactive materials*, between points in Washington, on the one hand, and, on the other, points in Washington. The purpose of this filing is to eliminate the gateway of the facilities of the General Electric Co., located near Morris, Grundy County, Ill. The purpose of this correction is to omit the restriction.

No. MC 109397 (Sub-No. E3), (Correction), filed May 15, 1974, published in the FEDERAL REGISTER December 24, 1974. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: E. S. Gordon (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Source, special nuclear and byproduct materials, and radioactive materials*, between points in the Lower Peninsula of Michigan, on the one hand, and, on the other, points in that part of Illinois on and west of U.S. Highway 66. The purpose of this filing is to eliminate the gateway of the facilities of the General Electric Co., located near Morris, Grundy County, Ill. The purpose of this correction is to omit the restriction.

No. MC 109397 (Sub-No. E4) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER December 24, 1974. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: E. S. Gordon (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Source, special nuclear and byproducts materials, and radioactive materials*, between points in Washington, on the one hand, and, on the other, points in Kentucky, Tennessee, Alabama, Georgia, South Carolina, and Florida. The purpose of this filing is to eliminate the gateways of (1) the facilities of the General Electric Co., located near Morris, Grundy County, Ill., and (2) points in DuPage County, Ill. The purpose of this correction is to omit the restriction.

No. MC 109397 (Sub-No. E5) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER December 24, 1974. Ap-

plicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: E. S. Gordon (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Source, special nuclear and by-products materials, and radioactive materials*, between points in Washington, on the one hand, and, on the other, points in the Lower Peninsula of Michigan and that part of Wisconsin on and east of a line beginning at the Michigan-Wisconsin State line, thence along U.S. Highway 41 to junction Wisconsin Highway 67, thence along Wisconsin Highway 67 to the Wisconsin-Illinois State line. The purpose of this filing is to eliminate the gateways of (1) the facilities of the General Electric Co., located near Morris, Grundy County, Ill., and (2) points in DuPage County, Ill. The purpose of this correction is to omit the restriction.

No. MC 109397 (Sub-No. E6), (Correction), filed May 15, 1974, published in the FEDERAL REGISTER December 24, 1974. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: E. S. Gordon (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Source, special nuclear and by-product materials and radioactive materials*, between points in Anderson and Roane Counties, Tenn., on the one hand, and, on the other, points in Iowa, Minnesota, and Wisconsin. The purpose of this filing is to eliminate the gateways of (1) the facilities of the General Electric Co., located near Morris, Grundy County, Ill., and (2) points in DuPage County, Ill. The purpose of this correction is to omit the restriction.

No. MC 109397 (Sub-No. E7), (Correction), filed May 15, 1974, published in the FEDERAL REGISTER December 24, 1974. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: E. S. Gordon (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Source, special nuclear and by-products materials, and radioactive materials*, between points in Anderson and Roane Counties, Tenn., on the one hand, and, on the other, points in that part of Illinois on and north of Illinois Highway 17. The purpose of this filing is to eliminate the gateway of points in DuPage County, Ill. The purpose of this correction is to omit the restriction.

No. MC 109397 (Sub-No. E8), (correction), filed May 15, 1974, published in the FEDERAL REGISTER December 24, 1974. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: E. S. Gordon (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Source, special nuclear and by-products materials and radioactive materials*, between the Cimarron facilities of Kerr-McGee Corporation at or near Crescent, Okla., on the one hand, and on the other, points in Michigan,

that part of Wisconsin on and east of U.S. Highway 51, and those parts of Indiana and Ohio on and north of U.S. Highway 30. The purpose of this filing is to eliminate the gateways of (1) the facilities of the General Electric Co., located near Morris, Grundy County, Ill., and (2) the Argonne National Laboratory of the United States Atomic Energy Commission, near Lemont, Ill. The purpose of this correction is to omit the restriction.

No. MC 108397 (Sub-No. E9), (correction), filed May 15, 1974, published in the FEDERAL REGISTER December 24, 1974. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: E. S. Gordon (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Source, special nuclear and by-product materials, and radioactive materials*, between points in Washington, Idaho, Oregon, Nevada, and that part of California, on, west, and north of Interstate Highway 18, on the one hand, and, on the other, points in Illinois. The purpose of this filing is to eliminate the gateway of the facilities of the General Electric Co., located near Morris, Grundy County, Ill. The purpose of this correction is to omit the restriction.

No. MC 109397 (Sub-No. E10), (Correction), filed May 15, 1974, published in the FEDERAL REGISTER December 24, 1974. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: E. S. Gordon (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Special, nuclear, radioactive and by-products materials*, between the Nuclear Generating Stations located at or near Monticello, Minn., and Two Rivers, Wis., on the one hand, and, on the other, points in that part of South Carolina on and east of South Carolina Highway 121. The purpose of this filing is to eliminate the gateways of (1) the facilities of the General Electric Co., located near Morris, Grundy County, Ill., and (2) Sheffield, Ill. The purpose of this correction is to omit the restriction.

No. MC 109397 (Sub-No. E11), (Correction), filed May 15, 1974, published in the FEDERAL REGISTER December 24, 1974. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: E. S. Gordon (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Source, special nuclear, and by-product materials, and radioactive materials*, between points in that part of South Carolina on and east of South Carolina Highway 121, on the one hand, and, on the other, points in that part of Illinois on and north of U.S. Highway 36. The purpose of this filing is to eliminate the gateway of the facilities of the General Electric Co., located near Morris, Grundy County, Ill. The purpose of this correction is to omit the restriction.



No. MC 111401 (Sub-No. E23), filed May 12, 1974. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from points in Texas on and west of a line beginning at the Oklahoma-Texas State line and extending along U.S. Highway 259 to junction U.S. Highway 59 to junction Texas Highway 288 to the Gulf of Mexico. The purpose of this filing is to eliminate the gateway of Houston, Tex.

No. MC 111401 (Sub-No. E28), filed May 12, 1974. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia and acrylonitrile*, in bulk, in tank vehicles, from Avondale, La., to points in Arizona, California, Colorado, Idaho, Iowa, Kansas, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming, and those points in Missouri on and west of U.S. Highway 65 and on and north of Interstate Highway 44. The purpose of this filing is to eliminate the gateway of Longview, Tex.

No. MC 111401 (Sub-No. E29), filed May 12, 1974. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, and those synthetic plastics which are chemicals (not in liquid form), in specialized motor vehicles equipment, from points in Arkansas on and south of U.S. Highway 64 to points in California, Oregon, and Washington. The purpose of this filing is to eliminate the gateway of Longview, Tex.

No. MC 111401 (Sub-No. E34), filed May 12, 1974. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petrochemicals*, in bulk, in tank vehicles, from points in Oklahoma on and east of U.S. Highway 81 and on and west of U.S. Highway 177 to points in Nebraska, Iowa, and those points in Missouri on and north of U.S. Highway 50. The purpose of this filing is to eliminate the gateway of Wichita, Kans.

No. MC 111401 (Sub-No. E35), filed May 12, 1974. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same as above). Au-

thority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank or hopper-type vehicles, from points in Arkansas on and south of a line beginning at the Arkansas-Texas State line and extending along Interstate Highway 30 to junction Arkansas Highway 4, thence along Arkansas Highway 4 to junction Arkansas Highway 81, thence along Arkansas Highway 81 to the Arkansas-Louisiana State line. The purpose of this filing is to eliminate the gateway of Longview, Tex.

No. MC 111401 (Sub-No. E44), filed May 12, 1974. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid petroleum wax*, in bulk, in tank vehicles, from points in Texas on, east, and south of a line beginning at Loredo, Tex., and extending along U.S. Highway 59 to junction U.S. Highway 90 to the Texas-Louisiana State line to points in Missouri. The purpose of this filing is to eliminate the gateway of Beaumont, Tex.

No. MC 111401 (Sub-No. E46), filed May 12, 1974. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Number 5 and 6 fuel oils*, in bulk, in tank vehicles, from points in Oklahoma on and south of U.S. Highway 66 and west of U.S. Highway 75 to points in Missouri north of U.S. Highway 66. The purpose of this filing is to eliminate the gateway of Tulsa, Okla.

No. MC 111401 (Sub-No. E73), filed May 14, 1974. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Number 5 and 6 fuel oils*, in bulk, in tank vehicles, from points in Texas on, south, and east of a line beginning at the Texas-Oklahoma State line and extending along U.S. Highway 62 to junction U.S. Highway 83 to the United States-Mexico International Boundary line, and on and west of a line beginning at the Texas-Oklahoma State line and extending along U.S. Highway 75 to junction U.S. Highway 77 to the United States-Mexico International Boundary line. The purpose of this filing is to eliminate the gateway of Tulsa, Okla.

No. MC 111401 (Sub-No. E76), filed May 14, 1974. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petrochemicals*, in bulk, in tank vehicles, from points in Arkansas on and south of a line begin-

ning at the Texas-Arkansas State line and extending along Interstate Highway 30 to its junction with U.S. Highway 67 to the Missouri-Arkansas State line, and on, north, and west of a line beginning at the Louisiana-Arkansas State line and extending along State Highway 81 to its junction with U.S. Highway 79 to the Arkansas-Tennessee State line to points in Texas on and east of Interstate Highway 35, and on and south of Interstate Highway 20, and on and west of a line beginning at the junction of Interstate Highway 20 and U.S. Highway 259 and extending along U.S. Highway 259 to its junction with U.S. Highway 69 and thence along U.S. Highway 69 to Port Arthur. The purpose of this filing is to eliminate the gateway of Longview, Tex.

No. MC 111401 (Sub-No. E79), filed May 14, 1974. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from points in Kansas on and south of U.S. Highway 50 and on and west of U.S. Highway 283 to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Virginia, and Louisiana. Service to Louisiana is restricted to shipments of liquid chemicals, in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Longview, Tex.

No. MC 112988 (Sub-No. E1), filed May 13, 1974. Applicant: WEST COAST TRUCK LINES, INC., Rt. 4, P.O. Box 194-R, Eugene, Ore. 97405. Applicant's representative: Michael D. Crew, 620 Blue Cross Bldg., Portland, Ore. 97201. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) (a) *Lumber*, between points in Humboldt and Del Norte Counties, Calif., on the one hand, and, on the other, points in Lane, Lincoln, Tillamook, and Clatsop Counties, Ore.; (b) *Lumber*, between points in Siskiyou County, Calif., on or west of Interstate Highway 5, on the one hand, and, on the other, points in Lane, Lincoln, Tillamook, and Clatsop Counties, Ore.; (c) *Lumber*, from points in Kern, Fresno, Sacramento, Santa Cruz, Los Angeles, Monterey, Humboldt, San Luis Obispo, San Mateo, Alameda, Contra Costa, and Marin Counties, Calif., to points in Tillamook and Clatsop Counties, Ore. (points in Coos County, Ore.); (2) *Lumber mill products*, from points in California to Astoria, Newport, Coos Bay, and Portland, Ore., and points in Clark and Cowlitz Counties, Wash. (points in Josephine County, Ore.); (3) *Lumber*, from points in California to Garibaldi and Portland, Ore., and Vancouver, Wash. (points in Douglas and Coos Counties, Ore.); (4) *Lumber and forest products*, between points in California on or south of Mendocino, Glenn, Butte, Yuba, and Sierra Counties, Calif., on the one hand, and, on the other, points in Klamath County,

Oreg. (points in Jackson County, Ore.); (5) *Lumber*, from points in Del Norte, Humboldt, and Siskiyou Counties, Calif., to Astoria, Newport, Coos Bay, and Portland, Ore., and points in Clark and Cowlitz Counties, Wash. (points in Curry County, Ore.); (6) *Woodchips*, from points in Del Norte and Humboldt Counties, Calif., to Astoria, Newport, and Portland, Ore. (points in Josephine County, Ore.); (7) *Woodchips*, from points in Del Norte and Humboldt Counties, Calif., to points in Clark County, Wash. (except Camas, Wash.) (points in Josephine County, Ore.); (8) *Machinery*, between points in Del Norte and Humboldt Counties, Calif., on the one hand, and, on the other, points in Washington (points in Coos or Curry Counties, Ore.); (9) *Heavy machinery and contractors' equipment*, the transportation of which requires the use of special equipment, between points in California, on the one hand, and, on the other, points in Washington (points in Douglas County, Ore.); (10) *Heavy machinery and contractors' equipment*, the transportation of which requires the use of special equipment, between points in Jackson and Josephine Counties, Ore., on the one hand, and, on the other, points in Washington (Douglas County, Ore.); (11) *Heavy machinery and contractors' equipment*, the transportation of which requires the use of special equipment, between points in Lane County, Ore., on and west of a line extending south along Oregon Highway 126 to Rainbow, thence along unnumbered highway to Oakridge, and thence along Oregon Highway 58, on the one hand, and, on the other, points in Washington (points in Douglas County, Ore.); and (12) *Lumber*, between points in Chicago and Tillamook Counties, Ore., on the one hand, and, on the other, points in California (points in Douglas County, Ore.). The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 113843 (Sub-No. E179), filed May 15, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Shells (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen fruits*, from those points in Virginia east of the Chesapeake Bay and south of the Chesapeake and Delaware Canal, to points in Colorado, Kansas, Minnesota, those in Oklahoma on, north, and west of a line beginning at the Oklahoma-Kansas State line and extending along U.S. Highway 77 to junction U.S. Highway 177, thence along U.S. Highway 177 to junction Oklahoma Highway 51, thence along Oklahoma Highway 51 to junction U.S. Highway 183, thence along U.S. Highway 183 to the Oklahoma-Texas State line, and those in Texas on, west, and north of a line beginning at the Texas-Oklahoma State line and extending along Texas Highway 283 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction U.S. High-

way 62, thence along U.S. Highway 61 to junction Texas Highway 116, thence along Texas Highway 116 to the United States-Mexico International Boundary line. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E182), filed May 14, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Shells (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen potatoes and potato products*, (1) from Presque Isle and Easton, Maine, to those points in New York within 75 miles of and including Rochester, and (2) from Portland, Maine, to those points in New York within a 75 mile radius of Rochester, N.Y., and including Rochester (except those east of a line beginning at the New York-Pennsylvania State line and extending along New York Highway 17 to junction New York Highway 13 to Ithaca, thence along New York Highway 13 to Ithaca, thence along New York Highway 96, thence along New York Highway 96 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction New York Highway 14, thence along New York Highway 14 to Lake Ontario). The purpose of this filing is to eliminate the gateway of Athens, Pa.

No. MC 113855 (Sub-No. E167), filed May 30, 1974. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Road construction equipment and machinery and lift trucks*, the transportation of which, because of their size or weight require the use of special equipment, (2) *Self-propelled articles*, described in (1) above which do not require special equipment for their transportation, each weighing 15,000 pounds or more (restricted to commodities transported on trailers), (a) from points in Wyoming to points in Maine, Vermont, New Hampshire, South Carolina, Florida (except points in and west of Hamilton, Suwannee, Lafayette, and Dixie Counties), New York, Delaware, Virginia, North Carolina, and Maryland; (j) from points in Crook, Weston, Campbell, Johnson, Sheridan, Big Horn, Washakie, Hot Springs, Park, Yellow Stone National Park, and Teton Counties, Wyo., to points in Tennessee, Georgia, Alabama, Mississippi, and Kentucky; (k) from points in Niobrara, Converse, Natrona, Fremont, Sublette, Lincoln, Uinta, and Sweetwater Counties, Wyo., to points in Tennessee on and east of Interstate Highway 65, Georgia, Alabama, and Kentucky; (c) from points in Niobrara, Converse, Natrona, Fremont, Sublette, Lincoln, Uinta, and Sweetwater Counties, Wyo., to points in Tennessee on and east of Interstate Highway 65, Georgia, Alabama, and Kentucky; (d) from points in Laramie, Goshen, Platte, Albany, and Carbon Counties, Wyo., to points in Tennessee on and east of Tennessee Highway 70; *Road construction machinery and equipment*, as described in Appendix VIII

to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, and lift trucks in flat bed trailers only, restricted to the transportation of so-called "twilight zone" commodities as described by the Commission in *National Automobile Transporters Association v. Rowe Transfer* 64 M.C.C. 229; (e) between points in Wyoming, on the one hand, and, on the other, points in Maine, Vermont, New Hampshire, South Carolina, Florida (except points in Hamilton, Suwannee, Lafayette, and Dixie Counties), New York, Delaware, Virginia, and North Carolina; (f) between points in Crook, Weston, Campbell, Johnson, Sheridan, Big Horn, Washakie, Hot Springs, Park, Yellow Stone National Park, and Teton Counties, Wyo., on the one hand, and, on the other, points in Tennessee, Georgia, Alabama, Mississippi, and Kentucky; (g) between points in Niobrara, Converse, Natrona, Fremont, Sublette, Lincoln, Uinta, and Sweetwater Counties, Wyo., on the one hand, and, on the other, points in Tennessee on and east of Interstate Highway 65, Georgia, Alabama, and east of U.S. Highway 231, Kentucky on and east of U.S. Highway 41; (h) between points in Laramie, Goshen, Platte, Albany, and Carbon Counties, Wyo., on the one hand, and, on the other, points in Tennessee on and east of Tennessee Highway 70, *street sweeping machines* the transportation of which, because of their size or weight, require the use of special equipment, and related street sweeper parts and attachments when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight, require special equipment, and self-propelled articles described in (1) above, not requiring special equipment for their transportation, each weighing 15,000 pounds or more and related machinery, and parts moving in connection therewith (restricted to commodities transported on trailers); (i) between points in Wyoming to points in Maine, Vermont, New Hampshire, South Carolina, Florida (except points in and west of Hamilton, Suwannee, Lafayette, and Dixie Counties), New York, Delaware, Virginia, North Carolina, and Maryland; (j) from points in Crook, Weston, Campbell, Johnson, Sheridan, Big Horn, Washakie, Hot Springs, Park, Yellow Stone National Park, and Teton Counties, Wyo., to points in Tennessee, Georgia, Alabama, Mississippi, and Kentucky; (k) from points in Niobrara, Converse, Natrona, Fremont, Sublette, Lincoln, Uinta, and Sweetwater Counties, Wyo., to points in Tennessee on and east of Interstate Highway 65, Georgia, Alabama, and east of U.S. Highway 231, Kentucky on and east of U.S. Highway 41; and (1) from points in Laramie, Goshen, Platte, Albany, and Carbon Counties, Wyo., to points in Tennessee on and east of Tennessee Highway 70. The purpose of this filing is to eliminate the gateways of South Dakota east of Missouri River, Minneapolis-St. Paul, Minn., and points within 15 miles thereof, as to paragraphs (a) through (h); and, South Dakota east of Missouri River, Minneapolis, Minn., as to paragraphs (i) through (1).



No. MC 113855 (Sub-No. E172), filed May 30, 1974. Applicant: INTERNATIONAL TRANSPORT, INC. 2450 Marston Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Road construction machinery and equipment*, as described in appendix VIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, and lift trucks in flat-bed trailers only; *Restriction*: the above authority is restricted to the transportation of so-called "twilight zone" commodities as described by the Commission in *National Automobile Transporters Association v. Rowe Transfer* 64 M.C.C. 229. (A) between points in Colorado on the one hand, and, on the other, points in Maine, Vermont, New Hampshire, New York, Delaware; (B) between points in Colorado on and west of Interstate Highway 25, on the one hand, and, on the other, points in Virginia on, north, and east of a line beginning at the West Virginia-Virginia State line along U.S. Highway 250, thence easterly along U.S. Highway 301, thence southerly along U.S. Highway 301 to the Virginia-North Carolina state line; (C) between points in Colorado on and north of U.S. Highway 6, on the one hand, and, on the other, points in Virginia on and east of U.S. Highway 15.

(D) Between points in Moffat, Rio Blanco, Garfield, Mesa, Pitkin, Eagle, Routt Counties, Colorado, on the one hand, and, on the other, points in North Carolina; (E) between points in Colorado on and north of U.S. Highway 6 (except points in the counties named in paragraph (N) below, on the one hand, and, on the other, points in North Carolina in and east of Person, Durham, Wake, Johnston, Sampson, Pender, and Brunswick Counties. (2) *Road construction equipment and machinery and lift trucks*, the transportation of which, because of their size and weight require the use of special equipment, (3) *self-propelled articles*, described in (2) above which do not require special equipment for their transportation, each weighing 15,000 pounds (restricted to commodities transported on trailers); (F) between points in Colorado, on the one hand, and, on the other, points in Maine, Vermont, New Hampshire, New York, Delaware; (G) between points in Colorado on and west of Interstate Highway 25, on the one hand, and, on the other, points in Virginia on, north, and east of a line beginning at the West Virginia-Virginia state line along U.S. Highway 250, thence easterly along U.S. Highway 250 to the junction of U.S. 301, thence along U.S. Highway 301 to the Virginia-North Carolina State line; (H) between points in Colorado on and north of U.S. Highway 6, on the one hand, and, on the other, points in Virginia on and east of U.S. Highway 15; (I) between points in Moffat, Rio Blanco, Garfield, Mesa, Pitkin, Eagle, Routt Counties, Colorado on the one hand, and, on the other, points

in North Carolina; (J) between points in Colorado on and north of U.S. Highway 6 (except points in the counties named in paragraph (N) below), on the one hand, and, on the other, points in North Carolina in and east of Person, Durham, Wake, Johnston, Sampson, Pender, and Brunswick Counties; (K) from points in Colorado to points in Maine, Vermont, New Hampshire, New York, Delaware, Maryland, (except Garrett and Allegany Counties) and the District of Columbia.

(L) From points in Colorado on and west of Interstate Highway 25, to points in Virginia on, north, and east of a line beginning at the West Virginia-Virginia State line along U.S. Highway 250, thence easterly along U.S. Highway 250 to the junction of U.S. Highway 301 thence southerly along U.S. Highway 301 to the Virginia-North Carolina State line; (M) from points in Colorado on and north of U.S. Highway 6 to points in Virginia on and east of U.S. Highway 15; (N) from points in Moffat, Rio Blanco, Garfield, Mesa, Pitkin, Eagle, Routt Counties, Colorado to points in North Carolina; (O) from points in Colorado on and north of U.S. Highway 6 (except points in the counties named in (N) above) to points in North Carolina in and east of Person, Durham, Wake, Johnston, Sampson, Pender, and Brunswick Counties. The purpose of this filing is to eliminate the gateways of South Dakota or points in Iowa or Minnesota within 50 miles of Sioux Falls, S.D., and Minneapolis and St. Paul, Minnesota and points within 15 miles thereof, for paragraphs (A) through (J), and South Dakota, on points in Minnesota or Iowa within 50 miles of Sioux Falls, South Dakota and Minneapolis, Minnesota for parts (K) through (O).

No. MC 113908 (Sub-No. E272), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Charlotte, N.C., to points in California, with no transportation for compensation on return (except as otherwise authorized). The purpose of this filing is to eliminate the gateway of Denver, Colo.

No. MC 113908 (Sub-No. E273), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Charlotte, N.C., to points in California, with no transportation for compensation on return (except as otherwise authorized). The purpose of this filing is to eliminate the gateway of Marionville, Mo.

No. MC 113908 (Sub-No. E274), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Charlotte, N.C., to points in California, with no transportation on return (except as otherwise authorized). The purpose of this filing is to eliminate the gateway of Memphis, Tenn.

No. MC 113908 (Sub-No. E275), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Bailey, Belding, and Fremont, Mich., to points in California, with no compensation on return (except as otherwise authorized). The purpose of this filing is to eliminate the gateway of Denver, Colo.

No. MC 113908 (Sub-No. E276), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Hutchinson and Wichita, Kans., to points in California, with no transportation for compensation on return (except as otherwise authorized). The purpose of this filing is to eliminate the gateway of Denver, Colo.

No. MC 113908 (Sub-No. E278), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Lyndonville and North Rose, N.Y., to points in California, with no transportation for compensation on return (except as otherwise authorized). The purpose of this filing is to eliminate the gateway of St. Paul, Minn.

No. MC 113908 (Sub-No. E280), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Memphis, Tenn., to points in California, with no transportation for compensation on return (except as otherwise authorized). The purpose of this filing is to eliminate the gateway of Oklahoma City, Okla.

No. MC 113908 (Sub-No. E281), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Memphis, Tenn., to points in California, with no transportation for compensation on return (except as otherwise authorized). The purpose of this filing is to eliminate the gateway of Paris, Tex.

No. MC 113908 (Sub-No. E282), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Charlotte, N.C., to points in California, with no transportation for compensation on return (except as otherwise authorized). The purpose of this filing is to eliminate the gateway of Rogers, Ark.

No. MC 113908 (Sub-No. E283), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Charlotte, N.C., to points in California, with no transportation for compensation on return (except as otherwise authorized). The purpose of this filing is to eliminate the gateway of Oklahoma City, Okla.

No. MC 113908 (Sub-No. E284), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Kansas City, Mo., to points in California, with no transportation for compensation on return (except as otherwise authorized). The purpose of this filing is to eliminate the gateway of Oklahoma City, Okla.

No. MC 114457 (Sub-No. E356), filed June 3, 1974. Applicant: DART TRUCKING COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal canned glass containers and container ends, accessories, and materials and supplies* used in connection with the manufacture and distribution of metal containers (except commodities in bulk and those which because of size or weight require the use

of special equipment), when moving in mixed loads with metal containers, from points in Wisconsin to points in Montana. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114552 (Sub-No. E8), filed April 29, 1974. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: Tony G. Russell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber* (except veneer and plywood), (1) from points in Florida to points in Delaware, Maine, Maryland, New Hampshire, Vermont, and North Dakota; (2) from points in Florida to points in Connecticut, New Jersey, New York, Pennsylvania, and Virginia; (3) (a) from points in Florida on and east of U.S. Highway 231, to points in Wisconsin, South Dakota, and Minnesota, (b) from points in Florida on and east of a line beginning at the Georgia-Florida State line, thence along U.S. Highway 221 to junction Florida Highway 361A, thence along Florida Highway 361A to the Gulf of Mexico, to Nebraska, Kansas, and points in Missouri on and north of a line beginning at the Missouri-Illinois State line, thence along Missouri Highway 32 to junction Missouri Highway 39, thence along Missouri Highway 39 to junction U.S. Highway 160, thence along U.S. Highway 160 to the Missouri-Kansas State line, (c) from points in Florida on and east of a line beginning at the Florida-Georgia State line, thence along Interstate Highway 75 to junction Florida Highway 51, thence along Florida Highway 51 to the Gulf of Mexico, to points in Oklahoma on and west of a line beginning at the Oklahoma-Arkansas State line, thence along Oklahoma Highway 33 to junction Interstate Highway 44, thence along Interstate Highway 44 to junction U.S. Highway 277/281, thence along U.S. Highway 277/281 to the Oklahoma-Texas State line, and (d) from points in Florida on and east of the Ochlocknee River, to points in Iowa; (4) from points in Florida to points in Massachusetts, Rhode Island, and the District of Columbia; and (5) from points in Florida on and east of the Ochlocknee River, to points in Alabama. The purpose of this filing is to eliminate the gateways of: Greenwood County, S.C., in (1) and (3); McDuffie County, Ga., in (2); Clay County, N.C., and Georgia in (4); and Georgia in (5).

No. MC 114552 (Sub-No. E10), filed May 1, 1974. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 919 Eighteenth St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber* (except plywood and veneer); (1) from points in Illinois to points in Virginia, on, south, and east of a line beginning at the Virginia-North Carolina State

line, thence along U.S. Highway 220 to junction Virginia Highway 122, thence along Virginia Highway 122 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction U.S. Highway 29, thence along U.S. Highway 29 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Chesapeake Bay; (2) between points in Mississippi, on, east, and south of a line beginning at the Alabama-Mississippi State line, thence along Mississippi Highway 18 to junction Mississippi Highway 35, thence along Mississippi Highway 35 to the Mississippi-Louisiana State line, on the one hand, and, on the other, points in Illinois, on and north of a line beginning at the Illinois-Indiana State line, thence along U.S. Highway 24 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction Illinois Highway 17, thence along Illinois Highway 17 to the Illinois-Iowa State line; (3) between points in South Carolina, on the one hand, and, on the other, points in Illinois; (4) from points in Illinois to points in Alabama; (5) from points in Mississippi on and east of a line beginning at the Mississippi-Alabama State line, thence along U.S. Highway 80 to junction Interstate Highway 59, thence along Interstate Highway 59 to junction Mississippi Highway 18, thence along Mississippi Highway 18 to junction Mississippi Highway 35, thence along Mississippi Highway 35 to the Mississippi-Louisiana State line, to points in Indiana on and north of a line beginning at the Indiana-Kentucky State line, thence along Indiana Highway 256, from Madison, Ind., to junction Indiana Highway 39, thence along Indiana Highway 39 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Indiana Highway 37, thence along Indiana Highway 37 to junction Indiana Highway 46, thence along Indiana Highway 46 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Interstate Highway 74, thence along Interstate Highway 74 to the Indiana-Illinois State line.

(6) Between points in South Carolina, on the one hand, and, on the other, points in Indiana; (7) from points in Indiana to points in Alabama; (8) from points in Indiana on and west of a line beginning at the Indiana-Ohio State line, thence along Indiana Highway 67 to junction Indiana Highway 3, thence along Indiana Highway 3 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction Interstate Highway 74, thence along Interstate Highway 74 to the Indiana-Ohio State line, to points in Virginia on and south of a line beginning at the Virginia-North Carolina State line, thence along U.S. Highway 220 to junction Virginia Highway 122, thence along Virginia Highway 122 to junction U.S. Highway 221, thence along U.S. Highway 221 to junction U.S. Highway 29, thence along U.S. Highway 29 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction Virginia Highway 33, thence along Virginia Highway 33 to the Chesapeake Bay; (9) between points in that part of Kentucky on and west of a line beginning at



junction U.S. Highway 231 and the Indiana-Kentucky State line, thence along U.S. Highway 231 to Eden, Ky., thence along Kentucky Highway 90 to Williamsburg, Ky., thence along Interstate Highway 75 to the Kentucky-Tennessee State line, on the one hand, and, on the other, the District of Columbia; (10) between points in Louisiana, on the one hand, and, on the other, points in that part of Kentucky on and east of Interstate Highway 75; (11) between points in Maryland, on and east of a line beginning at the Maryland-Pennsylvania State line, thence along Interstate Highway 83 to junction Interstate Highway 695, thence along Interstate Highway 695 to junction Maryland Highway 2, thence along Maryland Highway 2 to junction Maryland Highway 3, thence along Maryland Highway 3 to junction U.S. Highway 50, thence along U.S. Highway 50 to the District of Columbia line, on the one hand, and, on the other, points in Kentucky, on and west of a line beginning at the Kentucky-Tennessee State line, thence along U.S. Highway 31E/231 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Kentucky Highway 70, thence along Kentucky Highway 70 to junction Kentucky Highway 85, thence along Kentucky Highway 85 to junction U.S. Alternate Highway 41, thence along U.S. Alternate Highway 41 to junction Kentucky Highway 109, thence along Kentucky Highway 109 to junction Kentucky Highway 56, thence along Kentucky Highway 56 to the Kentucky-Indiana State line.

(12) Between points in Mississippi on and south of a line beginning at the Mississippi-Alabama State line, thence along Mississippi Highway 16 to junction Mississippi Highway 22, thence along Mississippi Highway 22 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Mississippi-Louisiana State line, on the one hand, and, on the other, points in Kentucky on and east of a line beginning at the Kentucky-Indiana State line, thence along U.S. Highway 60/460 to junction U.S. Highway 127, thence along U.S. Highway 127 to the Kentucky-Tennessee State line; (13) between points in New Jersey, on the one hand, and, on the other, points in Kentucky on and west of a line beginning at the Kentucky-Tennessee State line, thence along U.S. Highway 127 to junction Kentucky Highway 90, thence along Kentucky Highway 90 to junction Cumberland Parkway, thence along Cumberland Parkway to junction Kentucky Highway 259, thence along Kentucky Highway 259 to junction Kentucky Highway 70, thence along Kentucky Highway 70 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Kentucky-Indiana State line; (14) from points in Kentucky, on and west of a line beginning at the Kentucky-Tennessee State line, thence along U.S. Highway 231 to the Kentucky-Indiana State line, to points in Virginia on and south of a line beginning at the Virginia-North Carolina State line, thence along U.S. Highway 29 to junction U.S. High-

way 60, thence along U.S. Highway 60 to the Atlantic Ocean; (15) from points in Kentucky, on and west of a line beginning at the Kentucky-Tennessee State line, thence along U.S. Highway 127 to junction Kentucky Highway 90, thence along Kentucky Highway 90 to junction Kentucky Highway 70, thence along Kentucky Highway 70 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Kentucky-Indiana State line, to Rhode Island; (16) from points in Kentucky to points in Alabama.

(17) From points in Kentucky on and west of a line beginning at the Kentucky-Tennessee State line, thence along U.S. Highway 127 to junction Kentucky Highway 90, thence along Kentucky Highway 90 to junction Kentucky Highway 70, thence along Kentucky Highway 70 to junction U.S. Highway 41, thence along U.S. Highway 41 to the Kentucky-Indiana State line, to Connecticut; (18) from points in Kentucky on and west of a line beginning at the Kentucky-Tennessee State line, thence along U.S. Highway 127 to junction Kentucky Highway 90, thence along Kentucky Highway 90 to junction Kentucky Highway 70, thence along Kentucky Highway 70 to junction U.S. Highway 41, thence along U.S. Highway 41 to the Kentucky-Indiana State line, to Maine; and (19) from points in Kentucky on and west of a line beginning at the Kentucky-Tennessee State line, thence along U.S. Highway 127 to junction Kentucky Highway 90, thence along Kentucky Highway 90 to junction Kentucky Highway 70, thence along Kentucky Highway 70 to junction U.S. Highway 41, thence along U.S. Highway 41 to the Kentucky-Indiana State line, to Massachusetts. The purpose of this filing is to eliminate the gateways of: Buncombe, Chatam, Cherokee, Columbus, Cumberland, Franklin, Guilford, Harnett, Henderson, Lee, Macon, Orange, Rockingham, Transylvania, and Union Counties, N.C., in (1), (8), and (10); Georgia and Tennessee in (2), (5), and (7); Tennessee in (3), (4), (6), (7), and (16); Tennessee and Georgia in (9), (11), (8), (9), (15), (17), and (19); and Greenwood County, S.C., in (18).

No. MC 114552 (Sub-No. E14), filed May 16, 1974. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 919 Eighteenth St. NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Plywood*, from Manatee County, Fla., to points in Michigan. The purpose of this filing is to eliminate the gateway of Greenwood County, S.C.

No. MC 114552 (Sub-No. E15), filed May 16, 1974. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 919 Eighteenth St. NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Fiberboard*, from the plant site of the Masonite Cor-

poration, located at or near Spring Hope, N.C., to points in Texas and Oklahoma. The purpose of this filing is to eliminate the gateway Greenwood County, S.C.

No. MC 114552 (Sub-No. E23), filed May 21, 1974. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: WILLIAM P. JACKSON, JR., 919 18th St. NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Composition board and plywood*, from the plant and warehouse sites of Weyerhaeuser Company at Adel, Ga., to points in North Carolina and Virginia; (2) *Composition board and plywood*, from the facilities of Plywood Panels, Inc., at or near New Orleans, La., to points in Virginia and that part of North Carolina on and east of a line beginning at the North Carolina-Georgia State line, thence along the U.S. Highway 178 to its junction with unnumbered North Carolina Highway, thence along unnumbered North Carolina Highway to its junction with the Blue Ridge Parkway, thence along the Blue Ridge Parkway to its junction with U.S. Highway 23, thence along U.S. Highway 23 to its junction with North Carolina Highway 209, thence along North Carolina Highway 209 to its junction with U.S. Highway 25/70, thence along U.S. Highway 25/70 to the North Carolina-Tennessee State line.

(3) *Composition board*, from the plant and warehouse sites of Weyerhaeuser Company at Adel, Ga., to the District of Columbia, points in Massachusetts, Connecticut, Rhode Island, and points in New York on and south of New York Highway 7, restricted to the transportation of traffic originating at the above named plant and warehouse site, and restricted against the transportation of commodities in bulk; (4) *Composition board* (except commodities in bulk), from the facilities of International Paper Company, located in Greenwood County, S.C., to points in Massachusetts, Connecticut, Rhode Island, the District of Columbia, and New York; (5) *Roofing and roofing materials, gypsum and gypsum products, composition boards, insulation materials, urethane and urethane products* (except commodities in bulk), from the facilities of The Celotex Corporation at or near Port Clinton, Ohio, to points in Mississippi, Alabama, Georgia, Florida, and that part of South Carolina on and west of a line beginning at the South Carolina-North Carolina State line, thence along U.S. Highway 276 to its junction with Interstate Highway 26 thence along Interstate Highway 26 to the Atlantic Ocean; and

(6) *Roofing materials, gypsum and gypsum products, composition board, insulation materials, urethane and urethane products* (except commodities in bulk), from Cincinnati, Ohio, to points in Alabama and Mississippi, restricted to the transportation of shipments originating at the facilities utilized by The Celotex Corporation at the named origin. The purpose of this filing is to eliminate the gateways of: Greenwood County,

S.C., in (1) and (2); Greenwood County, S.C., and Roaring River, N.C., in (3); Roaring River, N.C., in (4); and Elizabethtown, Ky., in (5) and (6).

No. MC 114552 (Sub-No. E54), filed March 13, 1975. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 919 Eighteenth Street NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Steel electrical conduit pipe*, from the facilities of Jones & Laughlin Steel Corporation at New Kensington, Pa., to points in Texas, on and south and west of a line beginning at the Texas-Oklahoma State line, thence along U.S. Highway 66 to its junction with U.S. Highway 287, thence along U.S. Highway 287 to the Texas-Oklahoma State line, points in Oklahoma, on and south of Interstate Highway 40, and points in Arkansas, on and south of a line beginning at the Arkansas-Tennessee State line, thence along U.S. Highway 61 to its junction with U.S. Highway 63, thence along U.S. Highway 63 to its junction with Arkansas Highway 18, thence along Arkansas Highway 18 to its junction with Arkansas Highway 14, thence along Arkansas Highway 14 to its junction with Arkansas Highway 9, thence along Arkansas Highway 9 to its junction with Arkansas Highway 95, thence along Arkansas Highway 95 to its junction with Interstate Highway 40, thence along Interstate Highway 40 to the Arkansas-Oklahoma State line. The purpose of this filing is to eliminate the gateway of the facilities of Fitecraft-Luminous Ceilings, Division of the Celotex Corporation, located at or near Scottsboro, Ala.

No. MC 115841 (Sub-No. E31), filed June 3, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, and articles* distributed by meat packinghouses (except hides, liquid commodities, in bulk, and commodities in bulk, in tank vehicles), as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, in vehicles equipped with mechanical refrigeration, from the plant site of Armour and Company near Sterling, Ill., to points in Florida, North Carolina, and South Carolina, restricted to the transportation of traffic originating at the above-named plant site. The purpose of this filing is to eliminate the gateways of Birmingham, Ala., and Chattanooga, Tenn.

No. MC 115841 (Sub-No. E33), filed June 3, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E.

Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from Buffalo, N.Y., to points in Florida, points in Arkansas on and south of Interstate Highway 40 from West Memphis to Little Rock, Ark., and on and south of Interstate Highway 30 from Little Rock, Ark., to the Arkansas-Texas State line, and points in California on and south of a line extending along U.S. Highway 6 from the Nevada-California State line to Benton Station, Calif., thence along California Highway 120 to Manteca, Calif., thence along California Highway 99 to Lodi, Calif., thence along California Highway 12 to Santa Rosa, Calif., and thence westward to the Pacific Ocean. The purpose of this filing is to eliminate the gateway of Birmingham, Ala.

No. MC 115841 (Sub-No. E34), filed June 3, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foods and foodstuffs*, not including in foods (except in both instances liquid commodities, in bulk, and in tank vehicles, and bananas), in vehicles equipped with mechanical refrigeration, from New York, N.Y., points in that part of Rockland County, N.Y., east of the Garden State Parkway and south of Interstate Highway 287, that part of Nassau County, N.Y., west of Nassau County Highway 1, and points in Bergen, Essex, Hudson, Passaic, and Union Counties, N.J., to points in Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Tennessee. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 115841 (Sub-No. E38), filed June 3, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from Derry Township, Dauphin County, Pa., and Lebanon, Pa., to points in Arkansas, California, Oregon, and in Florida on and west of U.S. Highway 221 from the Georgia-Florida State line to Perry, Fla., and thence on and west of a line extending southwest to the Gulf of Mexico. The purpose of this filing is to eliminate the gateway of Birmingham, Ala.

No. MC 115841 (Sub-No. E39), filed June 3, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E.

Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration, from points in Erie and Chautauqua Counties, N.Y., to points in Arkansas on and south of Interstate Highway 40 from the Arkansas-Tennessee State line to Little Rock, Ark., and on and south of Interstate Highway 30 from Little Rock, Ark., to the Texas-Arkansas State line, points in California on and south of U.S. Highway 6 from the Nevada-California State line to Benton Station, Calif., on and south of California Highway 120 from Benton Station to Manteca, Calif., on and south of Interstate Highway 205 and 580 to San Francisco, and points in Georgia on and west of Interstate Highway 75. The purpose of this filing is to eliminate the gateway of Birmingham, Ala.

No. MC 115841 (Sub-No. E82), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION INCORPORATED, P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dairy products* (except in bulk, or in tank vehicles), in vehicles equipped with mechanical refrigeration, from points in Alabama on and north of U.S. Highway 80 (except Cullman, Ala.), to points in Delaware, Maine, Rhode Island, Virginia, and West Virginia. The purpose of this filing is to eliminate the gateway of Birmingham, Ala.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc. 75-13856 Filed 5-27-75; 8:45 am]

[Notice #295]

#### MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

MAY 28, 1975.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before June 17, 1975. Pursuant to section 17(b) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending



its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-35467. By order of May 28, 1975, the Motor Carrier Board approved the lease to Blaschke Trucking Company, a corporation (formerly Pinepoint, Inc.), Houston, Tex., for a period of one year commencing November 1, 1974, of the operating rights evidenced by Certificate of Registration No. MC-120851 (Sub-No. 1) issued April 3, 1967, to Blaschke Trucking Company (now Pinepoint, Inc.), a corporation, Houston, Tex., covering the transportation of oilfield equipment and pipe and other named commodities pursuant to the scope of intrastate authority in certificate of convenience and necessity No. SMC-5255 issued March 21, 1966, by the Railroad Commission of Texas. Paul D. Angenend, P.O. Box 2207, Austin, Texas 78767, attorney for applicants.

No. MC-FC-75751. By order entered May 21, 1975, the Motor Carrier Board approved the transfer to Midcoast Trucking, Belleville, N.J., of the operating rights set forth in Permits Nos. MC-30209, MC-30209 (Sub-No. 4), MC-30209 (Sub-No. 6), MC-30209 (Sub-No. 9), and MC-30209 (Sub-No. 18), issued by the Commission November 10, 1949, March 22, 1962, July 22, 1971, July 22, 1971, and July 28, 1971, respectively, to John O'Shea, Inc., Ridgefield Park, N.J., authorizing the transportation of such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, equipment, materials, and supplies used in the conduct of such businesses, between points in New York, New Jersey, and Pennsylvania. Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102, attorney for applicants.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc. 75-13851 Filed 5-27-75; 8:45 am]

[Notice 57]

#### MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 16, 1975.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative,

if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

#### MOTOR CARRIERS OF PROPERTY

No. MC 531 (Sub-No. 311TA), filed May 6, 1975. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, Houston, Tex. 77021. Applicant's representative: Wray E. Hughes (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors*, in bulk, in tank vehicles, from Weston, Mo., and Atchison, Kans., to Portland, Oreg., for 180 days. Supporting shipper: Crown Century Ltd., 16444 S.W. 72 Ave., Portland, Oreg. 97223. Send protests to: John F. Mensing, District Supervisor, Interstate Commerce Commission, 515 Rusk, Room 8610 Federal Bldg., Houston, Tex. 77002.

No. MC 21455 (Sub-No. 36TA), filed May 9, 1975. Applicant: GENE MITCHELL CO., West Liberty, Iowa 52776. Applicant's representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Precast polyester panels*, from points in Williamsburg, Iowa, to points in Chicago and Peoria, Ill.; Minneapolis, Minn.; St. Louis, Mo.; Blsmarck, N. Dak.; and Milwaukee, Wis., for 180 days. Supporting shipper: Poly-Cast Systems, Inc., Box 660, Williamsburg, Iowa 52316. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 875 Federal Bldg., Des Moines, Iowa 50309.

No. MC 50069 (Sub-No. 500TA), filed May 7, 1975. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, Ohio 43616. Applicant's representative: Jack A. Gollan (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Hot roofing asphalt*, in bulk, in tank vehicles, from the plantsite of The Trumbull Asphalt Co., Hazelwood, Mo., to points in Illinois and Kentucky, for 180 days. Supporting shipper: Trumbull Asphalt Co., 59th & Archer, Summit, Ill. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operation, Interstate Commerce Commission, 313 Federal Office Bldg., 234 Summit St., Toledo, Ohio 43604.

No. MC 63417 (Sub-No. 75TA), filed May 7, 1975. Applicant: BLUE RIDGE TRANSFER COMPANY, INCORPORATED, P.O. Box 13447, Roanoke, Va. 24034. Applicant's representative: William E. Bain (same address as appli-

cant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Plumbers goods and plumbing fixtures*, from points in Salem, Ohio, and New Castle and Ford City, Pa., to points in Alabama, Florida, Georgia, Kentucky, Mississippi, Virginia and Tennessee; (2) *Damaged, defective and returned shipments of plumbers goods and plumbing fixtures*, from the destination states named in (1) to Salem, Ohio, and New Castle and Ford City, Pa., for 180 days. Supporting shippers: Wallace Murray Corp., Eljer Plumbingware Division, Pittsburgh, Pa., Universal Rundle Corporation, New Castle, Pa. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 215 Campbell Ave. S.W., Roanoke, Va. 24011.

No. MC 107295 (Sub-No. 767TA), filed May 9, 1975. Applicant: PRE-FAB TRANSIT CO., 100 South Main St., Farmer City, Ill. 61842. Applicant's representative: Duane Zehr (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Concrete and masonry curing, waterproofing, conditioning, cleaning, bonding, and releasing compounds*. Restriction: Restricted against the transportation of commodities in bulk, from points in Kansas City, Mo., to points in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Massachusetts, Michigan, Mississippi, New Jersey, New York, Ohio, Pennsylvania, Tennessee, and Wisconsin, for 180 days. Supporting shipper: Alden V. Brownlee, President Con Spec Marketing and Manufacturing Co., 8164 NW. Twin Oaks Drive, Kansas City, Mo. 64151. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 108207 (Sub-No. 421TA), filed May 9, 1975. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: J. B. Ham (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Human blood plasma*, from points in Arizona and New Mexico to points in Oakland and Berkeley, Calif., for 180 days. Supporting shipper: Cutter Laboratories, Inc., 4th & Parker Streets, Berkeley, Calif. 94710. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75202.

No. MC 108449 (Sub-No. 386TA), filed May 5, 1975. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: W. A. Myllenbeck (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Fly ash*, in bulk, in tank vehicles, from Rochester, Minn., to points in Wisconsin and Iowa, for 180 days.

Supported by: American Admixtures Division, Chicago Fly Ash Company, 5909 No. Rogers Ave., Chicago, Ill. 60646. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 South 4th St., Minneapolis, Minn. 55401.

No. MC 116947 (Sub-No. 41TA), filed May 8, 1975. Applicant: SCOTT TRANSFER CO., INC., 920 Ashby Street SW., Atlanta, Ga. 30310. Applicant's representative: William Addams, Suite 212, 5299 Roswell Road NE., Atlanta, Ga. 30342. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Bread crumbs or cubes, dry, in boxes, cereal, granulated; mixes, dip, dry, in boxes; mushrooms, canned or preserved, in liquid, in containers in boxes; salad dressing preparation, in boxes; table sauce, n.o.l. in boxes, from Atlanta and Forest Park, Ga., to points in Mississippi, for 180 days. Supporting shipper: The Clorox Company, 7901 Oakport St., Oakland, Calif. 94621. Send protests to: William L. Scroggs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 546, Atlanta, Ga. 30309.*

No. MC 117119 (Sub-No. 535TA), filed May 9, 1975. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by retail discount stores*, from the New York, N.Y., Commercial Zone (as defined by the Commission) to the warehouse facilities of Howard Bros. Discount Stores, Inc., at Monroe, La., for 180 days. Supporting shipper: Howard Bros. Discount Stores, Inc., 3030 Aurora, Monroe, La. 71201. Send protests to: District Supervisor William H. Land, Jr., Bureau of Operations, Interstate Commerce Commission, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 117589 (Sub-No. 26TA), filed May 9, 1975. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 Seventh Avenue South, P.O. Box 24507, 98124, Seattle, Wash. 98108. Applicant's representative: Michael D. Duppenhaler, 515 Lyon Building, 607 Third Avenue, Seattle, Wash. 98104. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meat and meat products and articles distributed by meat packing houses*, as described in Appendix I to the Report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766, from Seattle and Tukwila, Wash., to Ontario, Oreg., for 180 days. Supporting shipper: General Meats, 18338 Andover Park West, P.O. Box 88990, Tukwila, Wash. 98188. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., Seattle, Wash. 98174.

No. MC 117589 (Sub-No. 27TA), filed May 9, 1975. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 Seventh Avenue South, P.O. Box 24507, 98124, Seattle, Wash. 98108. Applicant's representative: James T. Johnson, 1610 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts*, from Ellensburg and Seattle, Wash., to points in Massachusetts, New York, Pennsylvania and the District of Columbia, for 180 days. Supporting shipper: Superior Packing Co., Box 277, Ellensburg, Wash. 98926. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, Wash. 98174.

No. MC 117940 (Sub-No. 164TA), filed May 8, 1975. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Donald L. Stern, 530 Univac Bldg., 7100 W. Center Road, Omaha, Nebr. 68106. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from plantsite and storage facilities of Kraftco Corporation at Champaign, Ill., to points in Connecticut, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Virginia, Vermont, and the District of Columbia, for 180 days. Supporting shipper: Kraft Foods, Division of Kraftco Corporation, 500 Peshtigo Court, Chicago, Ill. 60690. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.*

No. MC 118130 (Sub-No. 74TA), filed May 6, 1975. Applicant: SOUTH EASTERN EXPRESS, INC., P.O. Box 6985, Fort Worth, Tex. 76115. Applicant's representative: Billy R. Reid, 6108 Sharon Road, Fort Worth, Tex. 76116. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products, and articles distributed by meat packinghouses*, as described in Section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except commodities in bulk, in tank vehicles, from points in New Mexico to points in Alabama, Arizona, California, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia, for 180 days. Supporting shipper: Glover Packing Co., P.O. Box 40, Roswell, N. Mex. 88201. Send protests to: H. C. Morrison, Sr., District Supervisor, Room 9A27, Federal Bldg., 819 Taylor St., Fort Worth, Tex. 76102.

No. MC 118866 (Sub-No. 7TA), filed May 5, 1975. Applicant: PAUL L. ZAMBERLAN & SONS, INC., Box 15, Lewis

Run, Pa. 16738. Applicant's representative: William J. Hirsch, Esq., 43 Court Street, Suite 1125, Buffalo, N.Y. 14202. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (A) (1) *Used and reconditioned pipe incidental to or used in the construction, development, operation and maintenance of water wells and facilities for the discovery, development, and production of natural gas and petroleum*, from points in Cattaraugus, and Allegany Counties, N.Y., and points in Allegany, Cameron, Elk, Forest, Mercer, McKean, Potter, and Warren Counties, Pa., to points in the states of Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia and returned shipments in return; (2) *New Pipe incidental to or used in the construction, development, operation and maintenance of water wells and facilities for the discovery, development, and production of natural gas and petroleum*, from points in Erie County, N.Y.; Lorain and Youngstown, Ohio; and points in Mercer, Beaver, and McKean Counties, Pa., to points in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and West Virginia, and return shipments in return. Restriction: Restricted against the transportation of pipe incidental to or used in the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, between points in McKean, Potter, Elk, Warren, Cameron, Forest, Clearfield, and Clinton Counties, Pa., on the one hand, and, on the other, points in Ohio, New York, and West Virginia, to avoid duplication of operating authority. (B) *Corrugated steel culvert pipe*, from Olean, N.Y., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, and returned shipments in the reverse direction, restricted to traffic originating at, or returned to, the facilities of Wheeling Corrugating Company, A Division of Wheeling-Pittsburgh Steel Corp., at Olean, N.Y., for 180 days. Supporting shippers: Goodman Brothers, Inc., 286 High St., P.O. Box 176, Bradford, Pa. 16701. Wheeling Corrugating Company, A Division of Wheeling-Pittsburgh Steel Corp., 1722 Walden Ave., Buffalo, N.Y. 14225. Send protests to: James C. Donaldson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 119399 (Sub-No. 51TA), filed May 6, 1975. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Joplin, Mo. 64801. Applicant's representative: David L. Sitton (Same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Sorghum Syrup*, in containers, from Waconia Sorghum Company, Cedar Rapids, Iowa, to Pine Ridge, Ark., for



180 days. Supported by: Hatfield Sorghum Company, Pine Ridge, Ark. 71966. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 127739 (Sub-No. 1TA), filed May 5, 1975. Applicant: BOYCE BRUCE, 417 North Metts St., Louisville, Miss. 39339. Applicant's representative: John A. Crawford, P.O. Box 22567, Jackson, Miss. 39205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick and tile*, (1) Between the plantsite and other facilities of Tri-State Brick and Tile Company, Inc., at or near Jackson, Miss., and points in Alabama, Arkansas, Louisiana, and Tennessee. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts with Tri-State Brick and Tile Company, Inc.; (2) Between the plantsite and other facilities of Louisville Brick, Inc., located at or near Louisville, Miss., and points in Alabama, Arkansas, Louisiana, and Tennessee. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts with Louisville Brick, Inc., for 180 days. Supporting shippers: Tri-State Brick and Tile Company, Inc., P.O. Box 9787, Jackson, Miss. 39206. Louisville Brick, Inc., P.O. Box 426, Louisville, Miss. 39339. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Bldg., Jackson, Miss. 39201.

No. MC 133590 (Sub-No. 7TA), filed May 6, 1975. Applicant: WESTERN CARRIERS, INC., 288 Franklin Street, Worcester, Mass. 01604. Applicant's representative: Robert L. Kendall, Jr., Esq., 1719 Packard Bldg., Philadelphia, Pa. 19102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pork carcasses, pork by-products, and offal* (except commodities in bulk and hides), from points in Union City, Tenn., to the plantsites and storage facilities of Western Pork Packers, Inc., a New York Corporation, at Bronx, N.Y., and Western Pork Packers, Inc., a Massachusetts Corporation, at Worcester, Mass., for 180 days. Supporting shippers: Western Pork Packers, Inc., a Massachusetts Corporation, 288 Franklin St., Worcester, Mass. 01604. Western Pork Packers, Inc., a New York Corporation, 529 Westchester Ave., Bronx, N.Y. 10455. Send protests to: Joseph W. Balin, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 338 Federal Bldg. & U.S. Courthouse, 436 Dwight St., Springfield, Mass. 01103.

No. MC 136342 (Sub-No. 8TA), filed May 6, 1975. Applicant: JACKSON AND JOHNSON, INC., West Church Street, Box 327, Savannah, N.Y. 13146. Applicant's representative: S. Michael Richards, 44 North Avenue, P.O. Box 225, Webster, N.Y. 14580. Authority sought to

operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and by-products* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, between points in Rochester, N.Y., on the one hand, and, on the other, the District of Columbia and points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, and Virginia, for 180 days. Supporting shipper: Rochester Independent Packer, Inc., Rochester, N.Y. 14611. Send protests to: Morris H. Gross, District Supervisor, Interstate Commerce Commission, Room 104, 301 Erie Blvd., West, Syracuse, N.Y. 13202.

No. MC 136527 (Sub-No. 2TA), filed April 29, 1975. Applicant: J. O. BATTLES, INC., Center Road, Bradford, N.H. 03221. Applicant's representative: John P. Monte, Esq., P.O. Box 568, Barre, Vt. 05641. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction machinery and equipment and/or parts; farm machinery and equipment; mining and quarrying machinery and equipment and/or parts; and saw and pulp mill machinery and equipment and/or parts*, between points in New Hampshire, on the one hand, and, on the other, points in all states in the United States, for 180 days. Supporting shippers: Hawkens Enterprises, Inc., RFD #2, Plymouth, N.H. 03264. Forest-All Corp., Sheep Davis Rd., Concord, N.H. 03301. Joy Manufacturing Company, Inc., Oliver Bldg., Pittsburgh, Pa. 15222. R. N. Johnson, Inc., P.O. Box 448, Walpole, N.H. 03608. Grappone Inc., Ind. Div., Box 478, Concord, N.H. 03301. HMC Corporation, Contocook, N.H. 03229. Send protests to: Ross J. Seymour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Bldg., Concord, N.H. 03301.

No. MC 140267 (Sub-No. 1TA), filed May 1, 1975. Applicant: R A TRANSPORTATION, INC., 115 Jacobus Avenue, S. Kearny, N.J. 07032. Applicant's representative: S. M. and R. A. Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bags, from Buffalo, N.Y., to Perth Amboy, N.J., for 180 days. Supporting shipper: Metzen-dorf Bros., Inc., 248 New Brunswick Avenue, Perth Amboy, N.J. 08862. Send protests to: District Supervisor Robert E. Johnston, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 140930 (Sub-No. 1TA), filed May 6, 1975. Applicant: FLOYD J. FULBRIGHT, doing business as F & W TRUCKING CO., 339 Terrell Drive, Toccoa, Ga. 30577. Applicant's representative: Virgil H. Smith, 1587 Phoenix Blvd., Suite 12, Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Iron or steel fabrications*, from the plantsite of Brady In-

dustrial Sales & Service, Inc., at or near Toccoa, Stephens County, Ga., to points in Ambridge and Pittsburgh, Pa.; Jeffersonville and Tell City, Ind.; Paducah, Ky.; Decatur, Ala.; Cincinnati, Ohio; Morris and Hartford, Ill.; Pine Bluff, Ark.; St. Paul, Minn.; and Waynesboro, Va.; (b) *Iron or steel tubing, bars or plates*, from points in Butler and Pittsburgh, Pa.; Detroit, Mich.; Chicago, Ill.; Cleveland, Ohio; Fairfield, Ala.; and Cookeville, Tenn., to the plantsite of Brady Industrial Sales & Service, Inc., at or near Toccoa, Stephens County, Ga., for 180 days. Supporting shipper: Brady Industrial Sales & Service, Inc., 119 Brady St., P.O. Box 548, Toccoa, Ga. 30577. Send protests to: William L. Scroogs, District Supervisor, 1252 W. Peachtree St. NW., Room 546, Atlanta, Ga. 30309.

No. MC 140931 TA, filed May 7, 1975. Applicant: HEZIKIAH PEACE, 368 Barbey St., Brooklyn, N.Y. 11207. Applicant's representative: Simon & Drabkin, Esqs., 150 Broadway, New York, N.Y. 10038. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Elevator entrances, elevator cabs, and all related parts*, between points in New York, New Jersey, Pennsylvania, Connecticut, Massachusetts, New Hampshire, Vermont, Maine, North Carolina, South Carolina, Georgia, Tennessee, Ohio, West Virginia, Washington, D.C., Maryland, Virginia, California, Nevada, Texas, Arizona, Kentucky, Illinois, Indiana, Michigan, Florida, Nebraska, and Kansas, for 180 days. Supporting shipper: National Elevator Cab & Door Corp., 33-66, 54th St., Woodside, N.Y. Send protests to: Marvin Kampel, District Supervisor, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 140932 TA, filed May 6, 1975. Applicant: ALLEN I. BAILEY AND REGINALD A. FIELD, doing business as BAILEY & FIELD TRANSPORTATION, Box 69, Grantham, N.H. 03753. Applicant's representative: Allen I. Bailey (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mobile and modular homes*, between all points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, and Pennsylvania, for 180 days. Supporting shippers: Airport A1 Mobile Homes, 5 Bowdoin Terrace, Topsham, Maine 04086. Blairs Trailer Park & Sales, Shattuck Hill Road, Newport, Vt. 05885. Fineline Mobile Homes, Inc., Rt. 119, Hinsdale, N.H. 03451. McGreevy Mobilehomes, Sales, Inc., Box 135, Lebanon, N.H. 03766. Paddy Hollow Mobile Park, Inc., Paddy Hollow Road, Claremont, N.H. 03743. Latham Trailer Sales, Inc., RFD 1, Waterbury, Vt. 05760. Send protests to: Ross J. Seymour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Bldg., Concord, N.H. 03301.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-13854 Filed 5-27-75;8:45 am]

[Notice 58-TA]

# MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 16, 1975.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a (a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

No. MC 106400 (Sub-No. 104TA), filed May 8, 1975. Applicant: KAW TRANSPORT COMPANY, P.O. Box 12628, North Kansas City, Mo. 64116. Applicant's representative: Harold D. Holwick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing asphalt*, in bulk, in tank vehicles, from the plantsite of Mid America Asphalt Co., Kansas City, Mo., to the states of Iowa and Nebraska, for 180 days. Supporting shipper: Mid America Asphalt Co., 4900 Blue Parkway, Kansas City, Mo. Send protests to: Vernon V. Coble, District Supervisor, 600 Federal Bldg., Interstate Commerce Commission, 911 Walnut St., Kansas City, Mo. 64106.

No. MC 106603 (Sub-No. 141TA), filed May 2, 1975. Applicant: DIRECT TRANSPORT LINES, INC., 200 Colrain St. SW., P.O. Box 8008, Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay and clay products* (except in bulk), from points in Scott County, Mo., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, New York, Ohio, Pennsylvania, Tennessee, West Virginia, and Wisconsin, for 180 days. Supporting shipper: Lowe's, Inc., North Edward St., Cassopolis, Mich. 49031. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Bldg., Lansing, Mich. 48933.

No. MC 112822 (Sub-No. 375TA), filed May 7, 1975. Applicant: BRAY LINES, INCORPORATED, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Charles D. Midkiff, 1401 N. Little St., P.O. Box 1191, Cushing, Okla. 74023. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except frozen foods and commodities in bulk), (1) from the facilities utilized by Vlasic Foods, Inc., at or near Greenville, Miss., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Montana, New Mexico, Oklahoma, South Carolina, Tennessee, and Texas; (2) from the facilities used and owned by Vlasic Foods, Inc., located in Bridgeport, Imlay City and Memphis, Michigan, to points in Mississippi, restricted to traffic originating at the named origin points and destined to the named destination points, for 180 days. Supporting shipper: Vlasic Foods, Inc., Ernest P. Szwarc, Transportation Mgr., P.O. Box 757, Detroit, Mich. 48232. Send protests to: Marie Spillars, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Room 240, Old P.O. Bldg., 215 N.W. Third, Oklahoma City, Okla. 73102.

No. MC 113908 (Sub-No. 341TA), filed May 7, 1975. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, P.O. Box 3180, Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wine, wine products, and wine by-products*, in bulk, from points in Altus, Ark., to points in Brooklyn, Hammondport, Hudson, Highland, Hudson Falls, Marlboro, Naples, N.Y.; Buchanan, Harbert, Hartford, Lawton, Paw Paw, St. Joseph, Mich., for 180 days. Supporting shipper: Wiederkel Wine Cellars, Inc., Altus, Ark. 72821. Send protests to: John V. Barry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 114457 (Sub-No. 233TA), filed May 8, 1975. Applicant: DART TRANSIT COMPANY, 780 N. Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel* (on hangers) in specially equipped trailers, and products dealt in by retail and wholesale department stores, when moving therewith from Secaucus and Jersey City, N.J., and Boston, Mass., to points in Minneapolis, Minn., restricted to traffic originating at and destined to the named origins and destinations, for 180 days. Supporting shippers: Dayton's, 700 on the Mall, Minneapolis, Minn. 55402. Northern Cargo Association, 501 N. 2nd St., Minneapolis, Minn. 55401. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bu-

reau of Operations, 414 Federal Bldg., & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 115994 (Sub-No. 12TA), filed May 8, 1975. Applicant: FIDERAK TRUCKING, INC., Lafayette St., R.D. 2, Tamaqua, Pa. 18252. Applicant's representative: Paul B. Kemmerer, 1620 North 19th St., Allentown, Pa. 18104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Spent or junk electric storage batteries*, from points in Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, the District of Columbia, Ohio, and West Virginia, to points in Nesquehoning, Pa., for 90 days. Supporting shipper: Tonoli Corp., R.D. 1, Nesquehoning, Pa. 18240. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 314 U.S. P.O. Bldg., Scranton, Pa. 18503.

No. MC 119295 (Sub-No. 7TA), filed May 9, 1975. Applicant: RAY E. CAGLE, doing business as CAGLE BROS., 845 S. 59th Ave., Phoenix, Ariz. 85031. Applicant's representative: W. Francis Wilson, Suite 2, Luhrs Bldg., Phoenix, Ariz. 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber products* from points in Washington, Oregon, and California to points in Arizona; (2) *Lumber products*, from points in Arizona to points in California, Oregon, and Washington; (3) *Lumber and lumber products*, from points in Arizona, to points in New Mexico; (4) *Lumber and lumber products*, from points in New Mexico to points in Arizona; (5) *Chemical fire retardants*, from points in Arizona to points in New Mexico; (6) *Chemical fire retardants*, from points in New Mexico to points in Arizona, for 180 days. Supporting shippers: Chemonics Industries, P.O. Box 21568, Phoenix, Ariz. 85036. Spellman Hardwoods, Inc., 2865 Grand Ave., Phoenix, Ariz. 85107. Sequoia Supply Inc., 1838 N. 23rd Ave., Phoenix, Ariz. 85009. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 3427, Federal Bldg., Phoenix, Ariz. 85025.

No. MC 123361 (Sub-No. 1TA), filed May 7, 1975. Applicant: CANTWELL MOTOR SERVICE, INC., 1718 Pontiac Road, East St. Louis, Ill. 62203. Applicant's representative: Ernest A. Brooks, II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packing-houses*, as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, in peddle delivery service, between points in St. Louis, Mo., on the one hand, and on the other, points in Vigo, Sullivan, Knox, Gibson, Posey, and Vanderburgh Counties, Ind.; Peoria, Woodford, Tazewell, and McLean Counties, Ill., and points in Illinois on and south of U.S. Highway 136, for 180 days. Supporting shippers: Regina D. Kane, Traffic Manager, Krey Packing Co., Inc., 3607 N. Florissant, St. Louis, Mo. 63107. B. G. Gray,



Vice-President, Gilt Edge, Inc., 314 S. 21st St., St. Louis, Mo. 63103. James E. Sweeney, Traffic Asst., Mgr., Mor Meat Co., Inc., 3000 North 9th St., St. Louis, Mo. 63147. Joe D. Serati, Manager, Dinzer Meat Company, 3945 Dr. M. L. King Drive, St. Louis, Mo. 63113. Send protests to: Harold C. Joliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 123885 (Sub-No. 19TA), filed May 8, 1975. Applicant: C & R TRANSFER CO., P.O. Box 1010, Rapid City, S. Dak. 5771. Applicant's representative: James W. Olson, 821 Columbus St., Rapid City, S. Dak. 57701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal and coal by-products*, from points in Wyoming to points in Rapid City, S. Dak., for 180 days. Supporting shipper: South Dakota State Cement Plant, P.O. Box 360, Rapid City, S. Dak. 57701. Send protests to: J. L. Hammond, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 369, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 124230 (Sub-No. 20TA), filed May 9, 1975. Applicant: C. B. JOHNSON, INC., P.O. Drawer S, Cortez, Colo. 81321. Applicant's representative: Leslie R. Kehl, Esq., Suite 1600 Lincoln Center Bldg., 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ores and concentrates*, in bulk, (1) from points in Piute County, Utah to points in San Miguel County, Colo., and (2) from points in San Miguel County, Colo., to points in East Helena, Mont., for 150 days. Supporting shipper: Idarado Mining Company, Ouray, Colo. 81427. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 1961 Stout St., 2022 Federal Bldg., Denver, Colo. 80202.

No. MC 134599 (Sub-No. 123TA), filed May 2, 1975. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 748, Salt Lake City, Utah 84110. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from points in Indianapolis, Ind., to points in Colorado, Utah, Washington, Oregon, New Mexico, Arizona, and California, under a continuing contract with Scott Paper Company, for 180 days. Supporting shipper: Beveridge Paper Company (Division of Scott Paper Company), 717 West Washington St., Indianapolis, Ind. 46204. Send protests to: Lyle D. Heifer, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5301 Federal Bldg., 125 South State St., Salt Lake City, Utah 84138.

No. MC 135713 (Sub-No. 4TA), filed May 8, 1975. Applicant: AFRO-URBAN TRANSPORTATION, INC., 1167 At-

lantic Ave., Brooklyn, N.Y. 11216. Applicant's representative: Bert Collins, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, except in bulk, for the account of Diamond Crystal Salt Company, from points in St. Clair, Mich., to points in the New York, N.Y. Commercial Zone; points on Long Island, N.Y.; and those points in Bergen, Essex, Hudson, Hunterdon, Middlesex, Somerset, and Union Counties, N.J.; and Springfield, Mass., for 180 days. Supporting shipper: Diamond Crystal Salt Company, 916 South Riverside Ave., St. Clair, Mich. 48079. Send protests to: Marvin Kampel, District Supervisor, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 136273 (Sub-No. 4TA), filed May 9, 1975. Applicant: KENNETH G. MAY AND ORVILLE L. HOWARD, doing business as CORONADO TRUCKING CO., 307 Old County Road, Edgewater, Fla. 32032. Applicant's representative: William J. Monheim, 15492 Whittier Blvd., P.O. Box 1756, Whittier, Calif. 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pottery*, from points in Chula Vista, Corona, La Verne, and Los Angeles, Calif., and Marshall, Tex., to points in Daytona Beach, Fla., for 180 days. Supporting shipper: Tony's Pottery, Inc., President, P.O. Box 1743, 1231 S. Ridgewood Ave., Daytona Beach, Fla. 32014. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay St., Jacksonville, Fla. 32202.

No. MC 136987 (Sub-No. 11TA), filed May 5, 1975. Applicant: REMINGTON FREIGHT LINES, INC., P.O. Box 315, U.S. Hwy. 24 West, Remington, Ind. 4977. Applicant's representative: James Robert Evans, 145 West Wisconsin Ave., Neenah, Wis. 54956. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Soya flour and soya flour products*, from points in Remington, Ind., to points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with Griffith Food Products, a subsidiary of Griffith Laboratories, Inc., Chicago, Ill., for 180 days. Supporting shipper: Griffith Laboratories, Inc., doing business as Griffith Food Products, 1415 W. 37th St., Chicago, Ill. 60609. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 140029 (Sub-No. 5TA), filed May 9, 1975. Applicant: CLIFFORD H. HALL, INC., Pearl Street, Bliss, N.Y. 14024. Applicant's representative: William J. Hirsch, Esq., Suite 1125, 43 Court St., Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transport-

ing: *Liquid feed and feed ingredients*, from the Town of Arcade (Wyoming County, N.Y.), to all points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and Virginia, and returned shipments in return, for 180 days. Supporting shipper: Ruminant Nitrogen Products Company, 770 Riverside Drive, Adrian, Mich. 49221. Send protests to: George M. Parker, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 612 Federal Bldg., 111 West Huron St., Buffalo, N.Y. 14202.

No. MC 140538 (Sub-No. 3TA), filed May 9, 1975. Applicant: LESLIE NORMAN FRED, doing business as NORMAN FRED, RFD #1, DeSoto, Ill. 62924. Applicant's representative: John G. Gilbert, 231 W. Main, P.O. Box 1058, Carbondale, Ill. 62901. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products, ice cream mix, cottage cheese, ice cream, milk powder and milk substitutes*, for the account of Prairie Farms Dairy, Inc., over irregular routes, between Carbondale, Ill., and points in Dunklin County, Mo., and points in Green, Craighead, and Mississippi Counties, Arkansas, for 180 days. Supporting shipper: Harold Hauter, Comptroller, Prairie Farms Dairy, Inc., 1100 N. Broadway, Carlinville, Ill. 62626. Send protests to: Harold C. Joliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 140844 (Sub-No. 1TA), filed April 29, 1975. Applicant: TERRY L. PRIEST, Box 188, New Florence, Pa. 15944. Applicant's representative: John A. Pillar, 1122 Frick Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* (except in bulk) and related advertising material, (1) from points in Cleveland, Ohio, to the Boroughs of Clymer and Indiana, Indiana County, Pa., the Boroughs of East Vandergrift and Bolivar, Westmoreland County, Pa., and the Township of Somerset, Somerset County, Pa., and *empty malt beverage containers on return*, under a continuing contract or contracts with (1) Paul and Dominic LaMantia t/a LaMantia Beer Distributors; (2) George J. Paytash and Elsie Paytash t/d/b/a Clymer Beverage Company; (3) Bertha T. Dellaflora d/b/a National Beer Sales; (4) Chester Rukas and Irene Rukas d/b/a Rukas Beverage Distributing Company; and (5) Joseph and Josephine Picadio d/b/a Picadio Beer Distributors; (2) from points in Winston-Salem, N.C., to the Borough of Blairsville, Indiana County, Pa., and *empty malt beverage containers on return*, under a continuing contract with Frances L. LaMantia d/b/a F. L. LaMantia Beer Distributor, for 180 days. Supporting shippers: Paul and Dominic LaMantia t/a LaMantia Beer Distributors, 609-611 Washington St., Bolivar, Pa. 15923. Bertha T. Dellaflora d/b/a Na-

tional Beer Sales, 471 Water St., Indiana, Pa. 15701. Chester Rukas and Irene Rukas d/b/a Rukas Beverage Distributing Company, 701 McKinley Avenue, East Vandergrift, Pa. 15629. Joseph Picadio and Josephine Picadio d/b/a Picadio Beer Distributors, R.D. #6, Route 31, Somerset, Pa. 15501. George J. Paytash and Elsie Paytash, t/d/b/a Clymer Beverage Company, 81 Sherman St., Clymer, Pa. 15728. Frances L. LaMantia d/b/a F. L. LaMantia Beer Distributor, 42 W. Ranson Ave., Blairsville, Pa. 15717.

No. MC 140854 (Sub-No. 1TA), filed May 5, 1975. Applicant: MICHAEL TARANTINO, doing business as M. TARANTINO TRUCKING, P.O. Box 602, Bound Brook, N.J. 08805. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soap*, in tank vehicles, from points in Middlesex County, N.J., to the facilities of Lehigh Valley RR. Co., at Middlesex, N.J., restricted to shipments having subsequent movement by railroad, for 180 days. Supporting shipper: The Miranel Chemical Company, Inc., 660 Stuyvesant Ave., Irvington, N.J. 07111. Send protests to: Robert S. H. Vance, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 140884 (Sub-No. 1TA), filed May 9, 1975. Applicant: PAUL SWENGLISH, R.D. #4, Box 611, Uniontown, Pa. 15401. Applicant's representative: Wil-

lam A. Gray, Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metals*, (Shipper advises that special equipment such as A-Frame, winch or hydraulic boom is needed to handle larger sections of scrap metal. Shipper also advises that because of the nature of the commodities, carrier must do cutting with acetylene torch in certain situations in order to insure proper loading), from points in Morgantown, Fairmont, Barrackville, Idamay and Clarksburg, W. Va., to points in Monongahela, Glassport, Elizabeth, and Pittsburgh, Pa., under a continuing contract or contracts with Edward Fields & Company of Morgantown, W. Va., for 180 days. Supporting shipper: Edward Fields & Company, P.O. Box 737, Morgantown, W. Va. 26505. Send protests to: Joseph A. Niggemyer, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 416 Old Post Office Bldg., Wheeling, W. Va. 25003.

No. MC 140888 (Sub-No. 1TA), filed May 7, 1975. Applicant: CONTAINER SERVICE (NIAGARA REGION) LTD., Box 26, Wellandport, Ontario, Canada. Applicant's representative: Robert D. Gunderman, Suite 710, Statler Hilton, Buffalo, N.Y. 14202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, in bags, and in bulk, for the account of Skyway Fertilizers Ltd., of Smithville, Ontario, Canada, from ports of entry on the International Boundary line between the United States

and Canada located on the Niagara River to points in the New York counties of Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Steuben, Wayne, Wyoming, Yates, and the City of North East, Pa., restricted to traffic moving in foreign commerce, for 180 days. Supporting shipper: Skyway Fertilizers Limited, Box 274, Smithville, Ontario, Canada. Send protests to: George M. Parker, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 612 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 140927 (Sub-No. 1TA), filed May 5, 1975. Applicant: FREDERICK J. CAREY, JR., doing business as F. J. CAREY, JR. TRANS, 35 Brett Street, Brockton, Mass. 02401. Applicant's representative: Frank J. Weiner, Esq., 15 Court Sq., Boston, Mass. 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metals*, in bulk, in dump vehicles, from points in Everett, Mass., to points in Jersey City, N.J., for 180 days. Supporting shipper: Prolerized Transportation Systems, Inc., Rover Street, Everett, Mass. Send protests to: John B. Thomas, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 150 Causeway St., Boston, Mass. 02114.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-13855 Filed 5-27-75; 8:45 am]



# **federal register**

WEDNESDAY, MAY 28, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 103

PART II



## **DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

**Food and Drug Administration**

■

### **FOOD FOR SPECIAL DIETARY USES**

**Additional Formulations Applications  
and Preliminary Notice of Reopening  
of Hearing**

**V 40-103 MAY 28 75**

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# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 80, 125]

## FOOD FOR SPECIAL DIETARY USES

Opportunity for Filing Applications for Additional Formulations of Dietary Supplements of Vitamins and Minerals; Preliminary Notice of Reopening of Hearing; Tentative Amendments to Final Orders

In the FEDERAL REGISTER of August 2, 1973 (38 FR 20708, 20730), the Commissioner of Food and Drugs established new regulations to govern the labeling of foods for special dietary uses in §§ 125.1, 125.2 and 125.3 (21 CFR 125.1, 125.2, 125.3) and to govern the composition of dietary supplements of vitamins and minerals in § 80.1 (21 CFR 80.1). Subsequently, 15 petitions for review of these regulations were filed in various United States courts of appeals, and all petitions were eventually consolidated in the United States Court of Appeals for the Second Circuit. After extensive briefing and argument, that Court rendered judgment on August 15, 1974. "National Nutritional Foods Association v. Food and Drug Administration," 504 F.2d 761 (2d Cir. 1974). While the Court stated that it was "broadly sustaining the regulations," it nevertheless remanded the regulations to the Food and Drug Administration for certain specified action and stayed the effective date of the regulations "until six months after our judgment becomes final or June 30, 1975, whichever is later". (504 F.2d 785-786.) A copy of this judgment is on file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852.

On February 24, 1975, the Supreme Court denied certiorari in this case. Accordingly, the Commissioner concludes that it is now appropriate to develop revised regulations, in compliance with the directions of the Court of Appeals, as expeditiously as is feasible.

### I. APPLICATIONS FOR ADDITIONAL FORMULATIONS

The Court's decision directs the Commissioner to receive and consider applications for additional formulations of dietary supplements.

The Commissioner hereby invites applications from any interested persons who desire that additional formulations of dietary supplements of vitamins and/or minerals be permitted under § 80.1 (21 CFR 80.1). Applications may be filed for additional combinations of vitamins and/or minerals and/or for increased potency of any vitamins or minerals within a combination. An additional formulation incorporating a substance or potency that is not generally recognized as safe shall also require a food additive petition pursuant to sections 201(s), 402 (a) (2) (C), and 409 of the act (21 U.S.C. 321(s), 342(a) (2) (C), 348).

A separate application shall be filed with the Hearing Clerk, in quadruplicate, for each formulation sought. Each application shall include:

## PROPOSED RULES

a. A description of the formulation sought, containing a list of all vitamins and/or minerals to be included, the potency of each, and an explanation of how the formulation differs from those presently authorized by 21 CFR 80.1, together with the name proposed by the applicant for such formulation.

b. A statement of the nutritional or other physiological rationale, if any, which the applicant believes justifies the formulation. One or more affidavits by qualified experts, and/or copies of published scientific literature in support of any such rationale shall be included.

c. A statement of any other rationale which the applicant believes shows a need for the formulation. If an existing consumer demand or market for the formulation is asserted on behalf of the product, the applicant shall include copies of labeling for the existing product, including labels, cartons, leaflets, etc., and an affidavit(s) with accompanying documentation establishing the scope of the existing market, including data on the number of units sold and the wholesale and retail value involved.

All applications shall be received by the Hearing Clerk, Food and Drug Administration, not later than close of business on or before July 14, 1975. Applications received after that date will be held in abeyance pending review after all other issues relating to this matter are disposed of.

In evaluating the applications the Commissioner will be guided by the following statement by the Court:

The FDA should establish dates for the filing of such applications and, if these should prove to be numerous, procedures to screen out the most meritorious for early hearing and decision. In determining whether it is "reasonable" to deny a particular application, the primary consideration must of course be the degree of increase in potential consumer confusion. Since the sheer variety of products is a central problem here, the applications will in a real sense be in competition with one another, and we do not expect a very large number to be granted. It would be reasonable in resolving this competition to favor products which, because of widespread prior publicity or even just because of simplicity of terminology, are unlikely to confuse many consumers when properly labeled. Indeed, we specifically direct that the FDA consider any such applications as to vitamin C in larger dosages and vitamin B complex supplements. Moreover, against any danger of slight increases in confusion should be weighed such factors as the following: (1) How large is the consumer demand for the product at present, and how widespread any expert belief that it is not an irrational product for a significant number of consumers; (2) how effectively could any potential confusion with respect to the particular product be reduced or eliminated by requiring on the label (A) with respect to a high dosage product, a legend to the effect that the FDA has determined this product contains quantities of such-and-such nutrients not normally essential to human health, or (B) with respect to a combination, a legend to the effect that the FDA has determined this product does not contain all the nutrients essential to human health, and (3) in the case of application to exceed the upper limits, how dependable, if this can be determined, is the particular NAS RDA on which the upper limit is based relative to other RDA's . . . We wish to make clear, that, while it would defeat the purposes of Part 80 for a very large number of such applications to be granted, either with respect to dosage limitations or with respect to combinations of less than all essential ingredients, we expect each application to receive the most serious consideration on its merits relative to the criteria just outlined. At the same time it should be obvious to the petitioners that we are broadly sustaining the regulations and that any attempt to convert the procedures we are here directing into something like a nearly complete reopening of the proceeding will be counter-productive. Indeed, if an avalanche of petitions for exceptions should occur, the agency would be justified in denying all applications (except those as to increased dosages of vitamin C and vitamin B complex supplements), without prejudice to subsequent renewal, on this ground alone. What we are doing is to provide the industry with another chance of individualized consideration of the most meritorious cases of exceptions. An exercise of responsibility on the part of the industry will be necessary if this is to confer the benefits we intend. (504 F.2d 785-786.)

The Commissioner advises that it will not be necessary for anyone to file an application for the high potency vitamin C product mentioned by the Court or for any other high potency product composed of a single vitamin or mineral. As set forth in section III of this notice, the Commissioner is tentatively amending the final orders so that Parts 80 and 125, which establish a standard of identity and labeling requirements, will impose no potency limitations on products consisting of a single vitamin or mineral. Limitations for reasons of safety may be imposed by other regulations in Part 121 and in other sections in this chapter or by direct application of the act, as discussed in section III.h. of this preamble.

As explained in section III.h. below, new information may be developed by the GRAS Review Project or the OTC Drug Review concerning the toxicity of particular vitamins and/or minerals which would cause the Food and Drug Administration either to propose new restrictions in the interest of public safety or to propose elimination of certain existing restrictions as no longer justified.

The Commissioner is trusting industry to exercise restraint and common sense in restricting itself to applications with some legitimate basis and hopes that it will not be necessary to respond to an "avalanche" of applications with the sanction suggested by the Court in the passage quoted above. The Commissioner requests that the affected industries consolidate their interests and file joint applications, documented in the manner set forth above, for a small number of additional formulations.

II. PRELIMINARY NOTICE OF REOPENING OF HEARING

The Court's decision remanded the regulations to the Agency "with instructions to reopen the record for the limited purpose of permitting reasonable cross-examination of Dr. (William H.) Sebrell (or, if he is not available, some

other qualified member of the [Food and Nutrition] Board [of the National Academy of Sciences] by Dr. (Miles) Robinson or counsel of some other similarly interested Participant". (504 F.2d 799.)

Dr. Sebrell is no longer a member of the Food and Nutrition Board. Tentative arrangements have been made to call instead Dr. Alfred E. Harper, who was Dr. Sebrell's successor as the Chairman of the Committee on Dietary Allowances of the Food and Nutrition Board, serving in that capacity at the time of development and publication of the most recent (eighth) edition (1974) of the National Academy of Sciences-National Research Council's "Recommended Dietary Allowances." Dr. Harper is Professor of Nutrition Sciences and Biochemistry and Chairman of the Department of Nutritional Sciences, University of Wisconsin. Dr. Harper will not tender any direct testimony on behalf of the Government except to identify and provide for the record a copy of the eighth edition (1974) of the "Recommended Dietary Allowances" developed by the Food and Nutrition Board of the National Academy of Sciences-National Research Council. (The seventh edition (1968) of this publication was one of the fundamental sources relied upon in the development of Parts 80 and 125. The eighth edition was published after appellate review of these regulations had begun. Since the eighth edition was cited and quoted in briefs before the Court of Appeals and the Court itself referred to the eighth edition in its decision (504 F.2d 791, 798, 799 (Ftnt. 67)), it seems clear that a copy of the publication in its entirety should be included in the record prior to the commencement of the examination of Dr. Harper.) Instead, pursuant to the Court's direction, he will be available as Dr. Sebrell's successor to respond to inquiry by those opposed to the regulations, concerning (1) the methodology employed in development of the recommended dietary allowances by the Board and the scientific foundation upon which these allowances are based, (2) the scientific appropriateness of the Food and Drug Administration's use of the Board's recommended dietary allowances, and (3) possible biases or conflicts of interests on the part of the Board, as well as other relevant subjects.

The Commissioner intends to issue shortly in the FEDERAL REGISTER a notice announcing a specific time and place for reopening of the hearing for examination of Dr. Harper. At that time new notices of appearance will be required for all who wish to participate since it is likely that some of the participants of record may have changed their address or their counsel or may no longer wish to participate, and the Commissioner believes the proceeding should be open to new persons who are not presently participants of record.

It is the Commissioner's intention that this proceeding take place in the Hearing Room at the Food and Drug Administration headquarters in Rockville, MD. While the Court has required only that

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Dr. Robinson or counsel of some other similarly interested participant be allowed to engage in examination, the Commissioner intends that the examination be open to as many participants reflecting as many points of view as is reasonably possible. (Indeed, such an open approach appears necessary to avoid a conflict concerning the person to conduct cross-examination. At the time of the hearing, Dr. Robinson was the official representative of the National Health Federation (NHF). It appears that Dr. Robinson is no longer acting for the NHF and that both Dr. Robinson and the NHF may assert a claim to conduct the cross-examination envisioned by the Court.)

The Commissioner will direct the Administrative Law Judge that, if requests to engage in examination are numerous and the participants cannot agree among themselves on apportionment of time or subject matter sufficient to accommodate all within a reasonable period of time, he should group participants with truly common interests and allow only one, or perhaps a few, qualified representative(s) from each group to examine Dr. Harper.

The Administrative Law Judge will be directed to expedite his report to the Commissioner upon concluding the hearing.

### III. TENTATIVE AMENDMENTS TO FINAL ORDERS

Having carefully considered the decision of the Court of Appeals, the Commissioner concludes that a number of revisions, discussed below, should be made in the regulations.

a. *Elimination of maximum potency restrictions on dietary supplements consisting of a single vitamin or mineral.* Section 80.1(c) (1) is tentatively amended below to eliminate any maximum potency limitations on dietary supplements consisting of a single vitamin or mineral. (As discussed below in paragraph III.h. of this notice, potency may be restricted for reasons of safety by other sections of the act not here involved or by other regulations.)

The Commissioner remains convinced that, in the case of multicomponent supplements, consumed by individuals who wish to assure themselves that they consume the range of vitamins and/or minerals important for good nutrition, the vitamins and/or minerals included should be present in potency ranges generally recognized by qualified experts to be appropriate for such purposes, reflecting reasonable balances among the vitamins and/or minerals. The concept of standardized multicomponent supplements is that they provide essential vitamins and/or minerals which are useful for supplementation purposes (i.e., those which are not only essential to good health but for which there is a reasonable possibility of dietary deficiency) at levels that are nutritionally useful and that maintain reasonable balance among the vitamins and/or minerals. In the Commissioner's judgment, such combination products should not provide excessive quantities of a vitamin or mineral

which are wasteful, i.e., nutritionally useless and immediately excreted out of the system, and which serve only to create consumer confusion leading to false bases of comparison and competition between products, which may lead to higher prices but not to better products. Pursuant to the tentative amendment, on the other hand, dietary supplements consisting of a single vitamin or mineral may be marketed whether or not there is a nutritional rationale for such supplementation at potencies in excess of any established nutritional usefulness. The Commissioner concludes that this approach preserves the nutritional integrity of the multicomponent dietary supplements while assuring the public that dietary supplements consisting of a single vitamin or mineral will be available individually with no upper limits except those dictated by safety.

b. *Status of vitamins and minerals for which there are no U.S. RDA's.* With regard to dietary supplements of vitamins and/or minerals, the decision of the Court enjoins the provisions of § 125.1 (c) which had prohibited the addition of certain vitamins and minerals recognized as essential in human nutrition but for which no U.S. Recommended Daily Allowances (U.S. RDA's) have been established and which had prohibited the addition of such vitamins and minerals to general purpose foods. The Court also directed the Agency to consider whether there are other essential nutrients for which no U.S. RDA's have been established, which are unmentioned in the present regulations and which should be added. The Court specifically mentioned cobalt and selenium for consideration.

Pursuant to the Court's decision, § 125.1(c) is tentatively amended below to become simply an informational paragraph. It lists those vitamins and minerals which are essential or probably essential in human nutrition but for which no U.S. RDA's have been established. The list has been expanded to include all additional vitamins and minerals which the Food and Nutrition Board of the National Academy of Sciences-National Research Council (NAS-NRC) has concluded are essential nutrients, or probably essential nutrients for man but for which the NAS-NRC has established no recommended dietary allowances and for which, consequently, no U.S. RDA's have been established. As tentatively amended, the list now includes two vitamins, i.e., vitamin K and choline, and twelve minerals, i.e., chlorine, chromium, fluorine, manganese, molybdenum, nickel, potassium, selenium, silicon, sodium, tin and vanadium.

The Commissioner concludes that cobalt should not be added to § 125.1(c). Cobalt per se is not an essential nutrient. Its only known function is as an integral part of vitamin B<sub>12</sub> (cobalamin), which is already included in the list of mandatory essential vitamins. Therefore, there is no basis for including cobalt in § 125.1 (c). In any event, cobalt is not generally recognized as safe for use in food and thus any food use is illegal in the absence of a supporting food additive regulation.

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(21 U.S.C. 321(s), 342(a)(2)(C), 348.) Because of toxicity, 21 CFR 121.106(d)(9), published in the *FEDERAL REGISTER* of September 23, 1974 (39 FR 34172), specifically prohibits any food use of cobaltous salts.

Sulfur has been deleted from § 125.1(c) as tentatively revised because sulfur per se is not an essential nutrient but rather an integral part of the molecular structure of several amino acids (methionine, cystine, cysteine). The concept of sulfur being referred to as an essential nutrient stems from this fact. Sulfur involved in metabolic processes other than protein synthesis is derived in fully adequate amounts from the normal degradation of proteins containing the sulfur amino acids. Dietary sulfur in the form of various salts makes no contribution to the metabolic function of sulfur in the body. Sulfur may lawfully be sold as an ordinary food in any compound which is generally recognized as safe, if there is anyone interested in buying of selling such a product. (Several sulfur compounds which are generally recognized as safe and thus lawful for use without a food additive regulation, 21 U.S.C. 321(s), 342(a)(2)(C), 348, are listed in 21 CFR 121.101(d).) However, any representation that such sulfur is a dietary supplement or that it has special dietary properties would be false or misleading and unlawful.

For many of the substances included in § 125.1(c) as tentatively revised, it is unlikely that NAS-NRC RDA's or U.S. RDA's will ever be established. For example, while nickel appears to be essential to good health as determined by experimental animal studies, the needed level of intake is so low and natural environmental availability is so pervasively abundant that there is no prospect of any dietary insufficiency and no need to divert research resources to determining a specific NAS-NRC RDA or U.S. RDA for humans.

The decision of the Court of Appeals also directs that all essential vitamins and minerals for which no U.S. RDA's have been established be integrated into § 80.1(b)(1)(v) and into the list of optional nutrients in § 80.1(f) until such time as U.S. RDA's may be established. The Commissioner is tentatively amending the regulations in a manner which he believes is responsive to the intentions of the Court.

The Court was concerned about the lack of support for the banning from sale of safe amounts of essential nutrients for which U.S. RDA's have not been established. The Commissioner accordingly concludes that the regulations should be amended to add to § 80.1 a new paragraph (f)(3) to recognize and list other vitamins and minerals, unlisted in § 80.1(f)(1), which are recognized as essential, or probably essential, in human nutrition but for which no U.S. RDA's have been established. (This is the same list of nutrients which appears in tentatively amended § 125.1(c), as discussed above.)

Because § 80.1(b)(2) provides that a dietary supplement may be composed of any single vitamin or mineral listed in

§ 80.1(f), the effect of new § 80.1(f)(3) is that a dietary supplement consisting of a single vitamin or mineral for which no U.S. RDA has been established may be sold without any restrictions on potency imposed by Part 80 or 125. (As discussed in paragraph III.h. of this preamble, availability may be restricted for reasons of safety by other sections of the act not here involved or by other regulations.)

However, on the basis of scientific knowledge presently available to him and contained in the record, the Commissioner concludes that a standard of identity for multicomponent dietary supplements of vitamins and/or minerals, consumed by individuals who wish to assure themselves that they consume the range of vitamins and/or minerals important for good nutrition, does not properly encompass vitamins and minerals for which no NAS-NRC RDA nor any U.S. RDA has been established. While there is evidence that these nutrients are "essential", there currently is no body of scientific evidence establishing that American diets are deficient in any of them. Accordingly, it would be wasteful and misleading to include them in standardized multicomponent dietary supplements consumed by individuals who wish to assure themselves that they consume the range of vitamins and/or minerals important for good nutrition. Under these circumstances, the Commissioner concludes that it would not promote honesty and fair dealing in the interest of consumers for him on his own initiative to provide for the addition of such nutrients to multicomponent supplements.

In section I of this preamble, the Commissioner invites the filing of applications for additional formulations of dietary supplements of vitamins and minerals. The Commissioner advises that he will give unbiased consideration to any application which concerns additional multicomponent combinations involving vitamins and/or minerals for which no U.S. RDA has been established, and he recognizes his obligation under the decision of the Court to consider permitting a limited number of additional formulations under the conditions established by the Court.

Finally, the Commissioner has concluded that dietary supplements of vitamins and/or minerals containing a vitamin(s) or mineral(s) for which no U.S. RDA has been established should bear a statement to inform the consumer of this fact. Sections 80.1(d)(1) and 125.3(a)(2) are tentatively amended to require label statement of such information.

c. *Elimination of provision that high potency vitamin/mineral products are drugs.* The Court ruled § 125.1(h) to be invalid. This paragraph had provided that, except for certain specified and quite limited products, a vitamin/mineral product with a potency exceeding the limits set by § 80.1 was necessarily a drug.

The Court concluded that the hearing record did not show that there is no

known food use of nutrients at such high levels.

• • • It cannot be said even as an objective matter that a given bottle of pills, each containing more than the upper limit of one or more nutrients, is not being used for nutritional purposes.

A fortiori it follows that the vendor of such a product can in good faith intend it for nontherapeutic use. Section 201(g)(1)(B) [21 U.S.C. 321(g)(1)(B)] makes the vendor's intent the crucial element in the definition of "drug" here at issue • • • while we agree that a factfinder should be free to pierce all of a manufacturer's subjective claims of intent and even his misleadingly "nutritional" labels to find actual therapeutic intent on the basis of objective evidence in a proper case, such objective evidence would need to consist of something more than demonstrated uselessness as a food for most people • • •

Our invalidation of this subsection in no way prevents high-dosage products properly labeled from being marketed as over-the-counter drugs. But under our ruling § 125.1(h) will cease to have any independent restrictive force. [504 F.2d 789.]

The Commissioner has considered whether the record should be reopened to permit the admission of additional evidence on this matter. In view of the fact that the sole difference between the approach taken in § 125.1(h) and the approach taken by the Court is that, pursuant to the Court's decision, these products will now be regulated under the law as foods rather than as over-the-counter (nonprescription) drugs, the Commissioner has concluded that no useful purpose would be served by pursuing this point as a general rule at this time. It is now clear that, in specific situations involving an individual vitamin or mineral, where the need for prescription drug control is essential to protect the public health, the vitamin or mineral in question may properly be classified as a prescription drug to prevent indiscriminate use by laymen without medical supervision. See "National Nutritional Foods Association v. Weinberger," No. 74-1738 (2d Cir. 1975). Accordingly, pursuant to the Court's decision, the tentative order revokes § 125.1(h).

As the foregoing quotation from the Court's decision specifically recognizes, a person may choose to offer a vitamin and/or mineral product as a drug rather than as a food, in which case the product must comply with the drug requirements of the act and the regulations promulgated pursuant thereto rather than these regulations.

The term "dietary supplement" applies solely to foods and has no application to a product offered solely as a drug. A vitamin and/or mineral product which is offered as a food and which comes within the definition of a "dietary supplement" in Part 80 must, of course, comply with the definition and standard of identity established by Part 80. Section 403(g) of the act (21 U.S.C. 343(g)) provides that a food shall be deemed to be misbranded if it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulation unless it conforms to such definition and standard.

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A new § 80.1(n)(1) is added to the regulations to explain that a dietary supplement which does not comply with the standard of identity for dietary supplements will be deemed to be a misbranded food pursuant to section 403(g) of the act.

d. *"Unmentioned elements."* The Agency was directed by the Court "to articulate its intentions with respect to those unmentioned elements which it finds not to be essential".

Ingredients which have in the past been represented as having nutritional properties but which have not been shown to be essential in human nutrition and thus are not included in § 125.1 will continue to be governed by the provisions of § 125.2(b)(5), i.e., they may not be added to vitamin/mineral supplements but they may be sold as ordinary foods by themselves or in combination with one another. Thus, for example, a person remains free to sell rutin tablets, or tablets containing a combination of rutin and para-amino-benzoic acid, etc., as food provided no claims are made for such foods to the effect that they have special nutritional properties. However, one may not add rutin or para-amino-benzoic acid to a vitamin and/or mineral supplement because to do so would tend to mislead a consumer into believing that the additional ingredient makes the supplement more useful.

Section 125.2(b)(5) presently lists specific substances which have in the past been represented as having nutritional properties but which have not been shown to be essential to human nutrition e.g., rutin, para-amino-benzoic acid. The substances included by name in § 125.2(b)(5) are automatically banned by operation of law from vitamin and/or mineral supplements by § 125.2(b)(5). To rely on this section of the regulation for banning any other such substance from a vitamin and/or mineral supplement, it would be necessary either (1) to demonstrate by an appropriate factual showing that the substance has been represented as having nutritional properties but has not been shown to be essential in human nutrition, and that it is thus within the class of substances banned from dietary supplements by 21 CFR 125.2(b)(5), e.g., in a civil seizure action pursuant to section 304 of the act (21 U.S.C. 334), or (2) to engage in new rule making to add the substance, by name, to § 125.2(b)(5).

Under the regulations, it is not permissible to add to a dietary supplement any ingredient which does not provide a vitamin or mineral or serve a functional purpose, since the definition and standard of identity does not provide for the inclusion of such substances. (21 CFR 80.1(g); 21 U.S.C. 343(g)(1).) Thus a substance which does not provide any vitamin or mineral and which is not a "preservative, stabilizer, flavor, sweetener, color, seasoning, carrier, base, or vehicle" and which does not "facilitate preparation" of the vitamin and mineral substances, may not be included in a dietary supplement. (21 CFR 80.1(g); 21 U.S.C. 343(g)(1).)

Of course, even if a substance may legally be included in a dietary supplement of vitamins and minerals, it may not be declared on the label in a manner which is false or misleading or otherwise in violation of the act or regulations. For example, assuming that alfalfa is a source of vitamin A activity, the regulations would permit use of alfalfa as the source of vitamin A in the manufacture of a dietary supplement of vitamin A. Such a product would be labeled as a "vitamin A supplement" (21 CFR 80.1(h)), and "alfalfa" would be included in the list of ingredients (21 CFR 80.1(i)(4)), but not in the listing of vitamins and minerals (21 CFR 80.1(i)(1)). It would also be permissible to include in labeling for such a dietary supplement of vitamin A a truthful statement that it is "derived from alfalfa". However, to offer such a product as a "vitamin A—alfalfa supplement" would violate 21 CFR 80.1(h) and section 403(a) of the act (21 U.S.C. 343(a)). (A product such as "powdered alfalfa" could be sold as an ordinary food, rather than as a dietary supplement, with nutrition labeling pursuant to 21 CFR 1.17.)

Of course, any unqualified representation in labeling of a special dietary food to the effect that the vitamin or mineral content is derived from a particular source would be misleading, in violation of sections 403(a) and 201(n) of the act (21 U.S.C. 343(a), 321(n)), unless that source provides a significant portion of the vitamin or mineral content of the product. For example, it would be misleading for a dietary supplement to bear labeling claims such as "vitamin A derived from alfalfa" or "vitamin C derived from rose hips", if only two percent of the vitamin A, or vitamin C, content of the product is derived from that source.

To help clarify this situation and prevent misleading labeling with regard to the source of a vitamin or mineral, a tentative amendment to the regulations, 21 CFR 125.3(c), requires that whenever a representation is included in labeling concerning the source of a vitamin or mineral, the representation shall be accompanied, in type of at least equal size and prominence, by a statement of the percent of the vitamin or mineral content provided by that source. For example, if 40 percent of the vitamin A content of a dietary supplement is derived from alfalfa, a label statement "contains vitamin A derived from alfalfa" would be required to be accompanied, in type of equal size and prominence, by a statement such as "40 percent of the vitamin A content of this product is derived from alfalfa".

e. *Certain representations concerning iron.* Pursuant to the Court's decision, § 125.2(b)(2) is amended to permit representations that infants, children, and women of childbearing age may not be receiving adequate amounts of iron in their daily diets.

f. *Revisions in formulations.* As directed by the Court, § 80.1(b)(4) is amended to make clear that future revisions regarding permissible formulations might involve greater product potencies as well as different combinations

of ingredients, when such revisions would promote honesty and fair dealing in the interest of consumers.

g. *Fresh fruits and vegetables.* Section 80.1(e)(5) and (6) is amended to implement the Court's order that fresh fruits and fresh vegetables be exempted from the regulations. In a notice published in the *FEDERAL REGISTER* of February 26, 1975 (40 FR 8214), the Commissioner proposed regulations to govern nutrition labeling of fresh fruits and fresh vegetables.

h. *Safety restrictions imposed by other regulations or by the act.* Although Parts 80 and 125, as tentatively amended, do not place any restriction upon the potency of a vitamin or mineral sold individually, restrictions on maximum potency or other restrictions on availability or use may be imposed for reasons of safety by other regulations or by the act. For informational purposes, pertinent restrictions are cross-referenced in tentative new § 80.1(n)(2).

i. *A discussion of existing limitations on food use of vitamins and minerals imposed by other regulations and cross-referenced for informational purposes in new § 80.1(n)(2) follows:*

(1) *Vitamin A.* Any oral preparation containing vitamin A in excess of 10,000 IU per dosage unit or recommended daily intake is deemed to be a drug and is restricted to prescription sale (21 CFR 250.109). Sale of a product exceeding this potency as a dietary supplement would be illegal.

(2) *Vitamin D.* Any oral preparation containing vitamin D in excess of 400 IU per dosage unit or recommended daily intake is deemed to be a drug and is restricted to prescription sale (21 CFR 250.110). Sale of a product exceeding this potency as a dietary supplement would be illegal. (21 CFR 250.11 contains an exception for foods which are for use under medical supervision to meet nutritional requirements of persons with poor vitamin D absorption, which may contain vitamin D not in excess of 1,000 IU per dosage unit or recommended daily intake.)

(3) *Folic acid.* Folic acid is not generally recognized as safe for addition to food for its vitamin property and consequently the substance is a food additive for such use subject to the limitations on use set forth in the food additive regulation 21 CFR 121.1134 (e.g., maximum daily adult intake not to exceed 0.4 mg except for pregnant or lactating women, for whom the limit is 0.8 mg).

(4) *Iodine.* Iodine is not generally recognized as safe for addition to food for its mineral property except when added to table salt as cuprous iodide or potassium iodide at a level not to exceed 0.01 percent (21 CFR 121.101(d)(5)). Any other addition of iodine to food for its mineral property constitutes usage as a food additive and must be in accord with a food additive regulation. Food additive regulation 21 CFR 121.1073 permits the addition of iodine to food for its mineral property if contributed as potassium iodide, with certain restrictions (e.g., maximum daily adult intake not to exceed 225 mcg except for pregnant or



lactating women, for whom the limit is 300 mcg). Food additive regulation 21 CFR 121.1149 permits the addition of kelp to food as a source of iodine, with the same potency restrictions.

(5) **Copper.** Copper contributed as copper gluconate is not generally recognized as safe for addition to food for its mineral property if the copper gluconate exceeds 0.005 percent by weight of the finished food product (21 CFR 121.101(d)(5)). Use of copper gluconate in a dietary supplement in excess of this level is illegal in the absence of a food additive regulation approving such use.

(6) **Fluorine.** Because of the potential toxicity of fluorine compounds, fluorine is not generally recognized as safe for addition to food, except for low levels in water as approved by the Public Health Service (21 CFR 121.10). Accordingly, in the absence of an authorizing food additive regulation, the inclusion of fluorine in a dietary supplement product would be illegal.

(7) **Potassium.** Preparations of potassium salts providing 100 mg or more of potassium per tablet (or 20 mg or more per milliliter) are deemed to be drugs and are restricted to sale on a prescription basis by § 201.306 (21 CFR 201.306) because concentrated doses of potassium salts may produce serious and possibly fatal lesions in the small bowel.

In addition to the limitations on use of particular vitamins and minerals imposed by existing regulations, as discussed above, food use of a vitamin or mineral may be restricted for reasons of safety by direct application of the act.

Any added vitamin or mineral which is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown to be safe under the conditions of its intended use in food is a food additive within the meaning of section 201(s) of the act (21 U.S.C. 321(s)), and pursuant to sections 402(a)(2)(C) and 409 of the act (21 U.S.C. 342(a)(2)(C) and 348) such use is illegal in the absence of a food additive regulation approving such use. This legal principle is set forth in new § 80.1(n) for informational purposes.

For example, in the judgment of the Commissioner, molybdenum is not generally recognized as safe for addition to food. Thus, a "molybdenum supplement" would be subject to regulatory action, e.g., a civil seizure action in a United States District Court pursuant to section 304 of the act (21 U.S.C. 334), charging that the supplement is adulterated within the meaning of section 402(a)(2)(C) of the act (21 U.S.C. 342(a)(2)(C)) in that it contains a food additive within the meaning of section 201(s) of the act (21 U.S.C. 321(s)), i.e., molybdenum, which is unsafe for such use within the meaning of section 409 of the act (21 U.S.C. 348) because there is no food additive regulation or exemption permitting such use. Should a claimant, under these circumstances, contend that molybdenum is generally recognized as safe and thus not a food additive within the meaning of 21 U.S.C. 321(s), this would be a factual issue for determination in

the civil seizure action in the absence of a regulation governing the status of the nutrient.

A listing of some of the vitamins, minerals and compounds with vitamin and/or mineral properties which are generally recognized as safe (GRAS), and thus (since a substance which is GRAS is not a food additive, 21 U.S.C. 321(s)) lawful for use without a food additive regulation, appears at § 121.101(d)(5) (21 CFR 121.101(d)(5)).

As 21 CFR 121.101(a) specifically advises, it is not practicable to list by regulation all substances that are generally recognized as safe for their intended use. Accordingly, upon request, addressed to U.S. Food and Drug Administration, Bureau of Foods, Division of Regulatory Guidance, HFF-310, 200 C St. SW., Washington, D.C. 20204, the Food and Drug Administration will advise whether, in its judgment, a particular use of a vitamin or mineral (not specifically governed by regulation) is generally recognized as safe within the meaning of section 201(s) of the act and thus lawful for use without a food additive regulation.

Pursuant to new safety data developed by the Food and Drug Administration's GRAS Review Project, described in the FEDERAL REGISTER of July 26, 1973 (38 FR 20053), or developed by the Food and Drug Administration's Over-the-Counter (OTC, i.e., nonprescription) Drug Review, described in § 330.10 (21 CFR 330.10), or derived from other sources, additional restrictions in the interest of safety may be imposed on the use of a vitamin or mineral by appropriate new rule making, or existing restrictions may be eliminated. Restrictions contained in such regulations will routinely be cross-referenced in § 80.1(n)(2).

The Commissioner advises that he is planning to initiate new rule making to particularize more comprehensively than existing § 121.101(d)(5) the vitamins, minerals and compounds with vitamin and/or mineral properties which are GRAS (specifying potency limitations where recognition of safety depends upon such limited use) and to list as well those substances which are not GRAS at any level of use. Proposals for such rule making will appear in the FEDERAL REGISTER.

In the meantime, the Commissioner advises that he presently has the following tentative views regarding safety of nutrients not already discussed above. Except for vitamins A and D and folic acid (all three of which are subject to existing regulations restricting potency, discussed above), the Commissioner does not believe that current scientific knowledge warrants any potency restrictions in the interest of safety upon use of the vitamins (mandatory or optional) listed in § 80.1(f)(1) or upon the use of choline. However, with regard to vitamin K, the Commissioner is presently of the opinion that synthesized vitamin K (menadione) could only be intended for therapeutic use, and, because of the potential for harm involved in its use, that it should be dispensed only on prescription. The naturally occurring vi-

tamin K (phyloquinone), on the other hand, appears to be generally recognized as safe for use as a dietary supplement at least up to levels providing 100 mcg per recommended daily quantity. While all of the minerals included in § 80.1(f)(1) are generally recognized as safe for use in dietary supplements at levels of up to 150 percent of the U.S. RDA per day, toxicity concerns arise if higher potencies are chronically consumed, and, if practicable, it would be useful to particularize by regulation, in the forthcoming rule making, the potency levels at which these nutrients cease to be GRAS. Manganese appears to be generally recognized as safe for use as a dietary supplement for adults and children 4 or more years of age at levels of up to 7.0 mg per recommended daily quantity. Chlorine and sodium may cease to be GRAS for dietary supplement use at certain levels. Finally, in the absence of any reliable data existing at this time to indicate a safe level for addition to food, and in view of recognized toxic potentialities, the Commissioner has tentatively concluded that chromium, molybdenum, nickel, selenium, silicon, tin, and vanadium are not GRAS for addition to food for dietary supplementation and that any such use would require a food additive application. The foregoing observations are offered simply as a matter of information concerning the Commissioner's present, tentative, views on the GRAS status of particular nutrients; the forthcoming proposed rule making will include a detailed discussion of the safety concerns, if any, which arise with regard to each nutrient, together with citations to published literature.

1. **Lower limits for supplements without U.S. RDA's.** The Commissioner advises that, based on current scientific knowledge available to him, a dietary supplement providing respectively less than 200 mg of choline, 50 mcg of naturally occurring vitamin K (phyloquinone), or 1.25 mg of manganese per recommended daily quantity would not serve a useful purpose as a dietary supplement. Promotion of supplements containing less than these respective amounts would be misleading, in violation of section 403(a) of the act.

2. **Future revisions of U.S. RDA's.** The United States Recommended Daily Allowances (U.S. RDA's) were established primarily on the basis of the recommended dietary allowances (RDA's) contained in the 7th edition of "Recommended Dietary Allowances," published in 1968 by the NAS-NRC. The 8th edition, published in 1974, contains a number of changes in the NAS-NRC RDA's for various age and sex groups. It is the Commissioner's present view that the changes made are not of sufficient magnitude as they relate to overall public health to warrant similar changes in the U.S. RDA's at this point in time. However, the Commissioner advises that U.S. RDA's may be proposed for additional nutrients over the next several years on the basis of accumulating scientific knowledge, and that it is reasonable to anticipate changes in existing U.S. RDA's to reflect changes in the NAS-

NRC RDA's when the latter are next published, probably 1979.

k. **Miscellaneous.** The remaining changes implemented by the amendment to the tentative order involve adjustments for consistency with the changes already discussed.

In accordance with the foregoing discussion and pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 401, 403 (a) and (j), 701 (a) and (e), 52 Stat. 1041, 1046-1048, 1055, 70 Stat. 919; 21 U.S.C. 321(n), 341, 343 (a) and (j), 371 (a) and (e)) and under authority delegated to him (21 CFR 2.120), the Commissioner issues the following tentative amendments to the final orders establishing §§ 80.1, 125.1, 125.2, and 125.3.

#### PART 80—DEFINITIONS AND STANDARDS OF IDENTITY FOR FOOD FOR SPECIAL DIETARY USES

1. Section 80.1 is amended by revising the introductory text of paragraph (b)(1), paragraphs (b)(4), (c)(1), (e)(5) and (6), (h)(2)(v) and (i)(1), and by adding new paragraphs (f)(3) and (n) to read as follows:

§ 80.1 Dietary supplements of vitamins and minerals; definition, identity, label statements.

(b) . . . . .  
(1) A dietary supplement consisting of more than one vitamin or mineral shall contain only those vitamins and/or minerals listed in paragraph (f)(1) of this section and shall be offered for its vitamin and/or mineral content only in the following combinations, with the provision that any vitamin or mineral defined as optional in paragraph (f)(1) of this section may be omitted:

(4) Amendment of the list of permissible combinations of vitamins and/or minerals contained in paragraph (b)(1) of this section and/or of the permitted range of potency for any vitamin(s) or mineral(s) in a combination product, or any other amendments to this section, may be proposed by the Commissioner of Food and Drugs on his own initiative or upon petition by an interested person in accordance with the procedure set forth in Part 2 of this chapter. Any such petition shall be submitted in the form set forth in § 2.65 of this chapter and shall include data to show that such amendment will promote honesty and fair dealing in the interest of consumers.

(c) . . . . .

(1) Subject to good manufacturing practices, dietary supplements consisting of more than one vitamin or mineral shall contain in the specified daily quantity not less than the lower limit nor more than the upper limit of any nutrient specified in paragraph (f)(1) of this section for the groups for which the supplement is offered; and dietary supplements consisting of a single vitamin or mineral listed in paragraph (f)(1) of this section shall contain in the specified daily

quantity not less than the lower limit of the nutrient specified in paragraph (f)(1) of this section for the groups for which the nutrient is offered.

(e) . . . . .

(5) Foods to which one or more nutrient(s) listed in paragraph (f)(1) of this section are added to improve nutritional quality, unless the total level, including any naturally occurring amounts, of any such added vitamin or mineral per single serving attains or exceeds 50 percent of the U.S. Recommended Daily Allowance (U.S. RDA) for adults and children 4 years or more of age as specified in § 125.1(b) of this chapter, in which case the provisions of both this section and § 1.17 of this chapter shall apply. If the provisions of both this section and § 1.17 of this chapter apply to a food, the labeling of such food shall conform to the labeling established in this section except that the labeling established in § 1.17(c) of this chapter, including the order for listing vitamins and minerals established in § 1.17(c)(7)(iv) of this chapter, shall be used in lieu of the labeling established in paragraph (i)(1) of this section.

(6) Raw agricultural commodities.

(f) . . . . .

(3) In addition to the nutrients listed in paragraph (f)(1) of this section, other vitamins and minerals recognized as essential, or probably essential, in human nutrition in their biologically active forms are vitamin K, choline, and the minerals chlorine, chromium, fluorine, manganese, molybdenum, nickel, potassium, selenium, silicon, sodium, tin, and vanadium.

(h) . . . . .

(2) . . . . . (v) "\_\_\_\_\_ supplement" for a dietary supplement containing a single vitamin or mineral listed in paragraph (f) of this section (the blank to be filled in with the name of the vitamin or mineral).

(i) . . . . .

(1) Immediately following the name and group designation on the principal display panel, as required by paragraph (h) of this section, or on the information panel under § 1.8d of this chapter, if insufficient space is available on the principal display panel, the label shall bear a listing in tabular form of each of the vitamins and/or minerals supplied by the specified daily quantity of the dietary supplement, such daily quantity being specified at the top of the list. The vitamins and/or minerals shall be described by the names appearing in paragraph (f) of this section, shall appear in the order listed in paragraph (f) of this section, and shall be grouped and identified separately as "vitamins" and/or "minerals" without reference to "mandatory" or "optional." The quantity of each vitamin and/or mineral present in a specified daily quantity of the dietary supplement shall be stated as a part of this list and expressed in per-

centage of the U.S. RDA for each specific group for which the supplement is offered. The quantity of each vitamin and/or mineral present in the specified daily quantity of the dietary supplement shall also appear in the tabular listing in terms of the unit of measures specified in paragraph (f) of this section. If the dietary supplement consists of a vitamin or mineral for which no U.S. RDA has been established, the principal display panel shall state the number of milligrams or other recognized unit of measure of such nutrient supplied by the food when consumed in the specified quantity during a period of 1 day followed by the statement "No U.S. Recommended Daily Allowance (U.S. RDA) has been established for this nutrient".

(n) . . . . .

(1) Any food product which meets the definition of a dietary supplement in paragraph (a) of this section and which is not subject to any of the exemptions set forth in paragraph (e) of this section and which fails to comply with the requirements of this section (including a multicomponent supplement which offers an added vitamin or mineral not permitted by this section or which offers a greater potency of any vitamin or mineral than is permitted by this section) will be deemed to be in violation of section 403(g) of the act (21 U.S.C. 343(g)), which provides that a food shall be deemed to be misbranded if it purports to be or is represented as a food for which a definition and standard of identity has been prescribed, unless it conforms to the definition standard.

(2) Restrictions on the maximum potency of vitamins and minerals sold individually as dietary supplements, or other restrictions on dietary supplement use of a vitamin or mineral, may be imposed for reasons of safety by other regulations or by the act. For convenience, certain restrictions are cross-referenced below:

(i) Vitamin A. See § 250.109 of this chapter.

(ii) Vitamin D. See § 250.110 of this chapter.

(iii) Folic acid. See § 121.1134 of this chapter.

(iv) Iodine. See §§ 121.1073 and 121.1149 of this chapter.

(v) Copper. See § 121.101(d)(5) of this chapter.

(vi) Fluorine. See § 121.10 of this chapter.

(vii) Potassium. See § 201.306 of this chapter.

(viii) Any vitamin or mineral which is included in a dietary supplement and which is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown to be safe under the conditions of its intended use is a food additive within the meaning of section 201(s) of the act (21 U.S.C. 321(s)), and pursuant to sections 402(a)(2)(C) and 409 of the act (21 U.S.C. 342(a)(2)(C) and 348) such use is illegal in the absence of a food additive regulation approving such use. A listing of some of the

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vitamins, minerals, and compounds with vitamin and/or mineral properties which are generally recognized as safe, and which thus may lawfully be used without a food additive regulation, appears at § 121.101(d)(5) of this chapter.

(3) Compliance with the requirements of this section does not exempt a dietary supplement of vitamins and/or minerals from the requirements of any other applicable regulations or requirements of the act, whether or not cross-referenced herein.

**PART 125—LABEL STATEMENTS CONCERNING DIETARY PROPERTIES OF FOOD PURPORTING TO BE OR REPRESENTED FOR SPECIAL DIETARY USES**

2. Section 125.1 is amended by revising paragraph (c) and by revoking paragraph (h), as follows:

**§ 125.1 Definitions and interpretations of terms.**

(c) In addition to the nutrients listed in paragraph (b) of this section, the following other vitamins and minerals are essential or probably essential in human nutrition in their biologically active forms but no U.S. RDA's have been established for them: Vitamin K, choline, and the minerals chlorine, chromium, fluorine, manganese, molybdenum, nickel, potassium, selenium, silicon, sodium, tin, and vanadium.

(h) [Revoked]

3. Section 125.2 is amended by revising paragraph (b)(2) to read as follows:

**§ 125.2 General label statements; dietary properties; value; placement.**

(b) . . .

(2) That a balanced diet of ordinary foods cannot supply adequate amounts of nutrients: *Provided*, That representations may be made that it is often impractical to supply the iron requirements of infants, children, and women of child-bearing age with a diet of conventional foods.

4. Section 125.3 is amended by revising paragraph (a) and adding a new paragraph (c) as follows:

**§ 125.3 Label statements relating to vitamins and minerals.**

(a)(1) Vitamins and minerals for which U.S. RDA's are established. If a food purports or is represented to be for special dietary use because of vitamin or mineral properties, the label shall bear a statement of the percentage of the U.S. RDA of such vitamins and minerals, as set forth in § 125.1(b), supplied by such food when consumed in a specified quantity during a period of 1 day. The quantity specified shall be a reasonable quantity suitable for and practicable of consumption within 1 day. The order in which the nutrients appear on the label shall be in the order listed in § 125.1(b), except when other regulations indicate otherwise. Immediately preceding the declaration of vitamin and mineral content, the following heading shall be stated, "Percentage of U.S. Recommended Daily Allowances (U.S. RDA)". If such purported or represented special dietary use is for persons within one or more age groups for which the recommended daily allowance is set, such statement shall include the percentage for each age group. When such proportion or percentage is a whole number and a fraction or a whole number and a decimal, it shall be expressed as the whole number disregarding the fraction or decimal. The total quantity of vitamins or minerals in a food shall be no less than the amount declared, and no more than a reasonable amount above the declared quantity. Reasonable variations caused by heat, light, oxidation, storage, transportation, or unavoidable deviations in good manufacturing practice are recognized.

(2) Vitamins and minerals for which no U.S. RDA's are established. If a food purports or is represented to be for special dietary use because of the presence of a vitamin or mineral for which no U.S. RDA has been established, the quantity of each such nutrient (in the order listed in § 125.1(c), except when other regulations provide otherwise) supplied by the food when consumed in a specified quantity during a period of one day shall be stated on the label in milligrams or other recognized unit of measure (the quantity of consumption specified shall be a reasonable quantity suitable for and practicable of consumption within 1 day) followed by the statement "No U.S. Recommended Daily Allowance (U.S. RDA) has been established for this nutrient".

(3) Where both paragraph (a)(1) and paragraph (a)(2) of this section are applicable to a food, the information required by paragraph (a)(2) of this section shall follow immediately after the information required by paragraph (a)(1) of this section and the quantity of consumption specified pursuant to each paragraph shall be the same.

(c) Whenever a representation is included in labeling of a food for special dietary uses to the effect that vitamin and/or mineral content is derived from a particular source, the representation shall immediately be accompanied, in type of at least equal size and prominence, by a statement of the percentage of the vitamin and/or mineral content provided by that source. For example, a representation such as "contains vitamin A from alfalfa" must immediately be accompanied by a statement such as "— percent of the vitamin A content of this product is derived from alfalfa"; alternatively, a single statement incorporating the percentage declaration would be appropriate, for example, "— percent of the vitamin A provided by alfalfa".

Any interested person may, on or before July 14, 1975, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written exceptions to these tentative amendments. Exceptions and accompanying briefs shall be submitted in quintuplicate.

The Commissioner will endeavor to issue final revised regulations, taking into consideration the relative merits of the applications for additional dietary supplement formulations, the record of the examination of Dr. Harper and the report of the Administrative Law Judge, and the exceptions received to the tentative amendments, as rapidly as is feasible. The final regulations will be published in the *FEDERAL REGISTER*.

Dated: May 17, 1975.

A. M. SCHMIDT,  
Commissioner of Food and Drugs.  
[FR Doc.75-13876 Filed 5-27-75; 8:45 am]

# federal register

WEDNESDAY, MAY 28, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 103

PART III



## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance  
Administration

## FEDERAL DISASTER ASSISTANCE

Final Regulations

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Title 24—Housing and Urban Development  
CHAPTER XIII—FEDERAL DISASTER ASSISTANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-75-282]

PART 2205—FEDERAL DISASTER ASSISTANCE

Final Regulations

Notice was given on August 5, 1974, at 39 FR 28212 that the Federal Disaster Assistance Administration was issuing interim regulations to implement the Disaster Relief Act of 1974 (42 U.S.C. 5121n.) by adding a new Part 2205 to Title 24 of the Code of Federal Regulations. Although these interim regulations were effective on the date of publication in the FEDERAL REGISTER, interested parties and government agencies were encouraged to submit written comments, views or data regarding those regulations.

Some of the significant changes in the Disaster Relief Act of 1974 over the prior law which are implemented by these regulations include:

1. Redefining "major disaster" to include additional causes for disasters and including a new category, termed "emergency" to provide specialized assistance to meet specific needs;
2. Strengthening provisions for disaster planning, preparedness, and mitigation;
3. Requiring acquisition of insurance reasonably available, adequate and necessary to protect against future disaster losses any public property and certain other property repaired or restored with Federal assistance;
4. Imposing civil and criminal penalties for violations of this Act;
5. Authorizing Presidential assistance in allocating scarce construction materials needed in major disaster areas;
6. Authorizing 100 percent grants for repairing or reconstructing public educational and recreational facilities (in addition to other public facilities) and private, nonprofit educational, utility, emergency, medical, and custodial care facilities, including those for the aged or disabled, and facilities on Indian reservations which were damaged by a major disaster;
7. Permitting State and local governments the option of 90 percent grants with greater administrative flexibility for restoring certain selected damaged public facilities or to construct new public facilities;
8. Allowing direct expenditures for restoration of damaged homes to habitable condition;
9. Creating a grant program to States to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster;
10. Authorizing procurement of food commodities for distribution in major disaster areas;
11. Authorizing loans (subject to later forgiveness in part or whole) not to exceed 25 percent of annual operating

budgets to local governments suffering revenue losses and in financial need because of major disasters; and

12. Providing professional counseling, training, and services for mental health problems caused or aggravated by a disaster.

The Federal Disaster Assistance Administration has received more than twenty-four responses to the August 5, 1974 publication. All of these comments were seriously considered and many changes have been incorporated in these regulations as a result. The principal changes in the regulations made in response to the comments are as follows:

1. Allowing an Indian tribe or authorized tribal organization, or Alaska Native village or organization to submit a project application directly to the FDAA Regional Director who may provide Federal assistance to such Indian organization without State participation pursuant to § 2205.7(a);
2. Allowing a private nonprofit organization to submit satisfactory evidence from the State that the nonrevenue producing organization or entity is a nonprofit one organized or doing business under State law in lieu of an Internal Revenue Service ruling letter as one of the assurances which must be submitted with a project application pursuant to § 2205.7(k)(1);
3. Allowing a statement by a private nonprofit organization that it has the necessary licenses to restore a facility in lieu of a finding of need of the community for such facility pursuant to § 2205.7(k)(2);
4. Eliminating in § 2205.13(b) the apparent limitation on nondiscrimination to the site of the major disaster and making the nondiscrimination requirements apply to anyone carrying out a disaster assistance function regardless of location;
5. Requiring written assurance of intent to comply with nondiscrimination regulations pursuant to § 2205.13(c);
6. Increasing the time limitation for submission of appeals in § 2205.21(b) from thirty days to sixty days;
7. Providing in § 2205.21(e) for an applicant's appeal to the Administrator if the State refuses or neglects to appeal on the applicant's behalf;
8. Clarifying the statements about "emergencies" in § 2205.23 to explain that it is "specialized assistance to meet specialized need";
9. Providing in § 2205.28 for reimbursement of local government expenditures for emergency mass care only on an affirmative showing that voluntary agencies are not providing all or part of such care;
10. Requiring in § 2205.41(b)(3) information on contributions by a local government separately for each disaster affected area requested by the State;
11. Eliminating in § 2205.48(a) the inference that the Regional Director will make a separate and independent determination of the need for individual and family grants;
12. Providing in § 2205.48(a) a clearer definition of the terms "necessary ex-

penses", "serious needs" and "other means";

13. Expanding national eligibility criteria by adding "Eligible Categories" and "Ineligible Categories" to the explanation of individual and family grants (§ 2205.48(c)(2) and (3));

14. Prescribing separate time limitations on actions related to individual and family grants (§ 2205.48(g));

15. Placing a State on notice that failure to repay Federal advances of the State share of individual and family grants may result in Federal withholding of subsequent advances (§ 2205.48(h)(2));

16. Revising the regulations to reflect a Delegation of Authority to the Secretary of Health, Education, and Welfare concerning crisis counseling assistance and training (§ 2205.51);

17. Adding consideration of the three-fiscal-year period following a disaster in determining the amount of a community disaster loan (§ 2205.56(c));

18. Authorizing the Administrator to extend the time for repayment of a community disaster loan up to 10 years (§ 2205.56(e)).

One commenter suggested that § 2205.21 (Appeals) be amended to establish an appeals board to rule on a request from a State for reconsideration of a determination by a Regional Director on a project application. This suggestion was not adopted since it is felt that an appeal to the Administrator will provide an adequate remedy. The Administrator, pursuant to his Delegation of Authority (39 FR 28227) to implement the Act, has the responsibility for making the final determination of eligibility for Federal disaster assistance. If an applicant disagrees with this determination, it may petition to the Federal Courts for relief.

Another commenter suggested that § 2205.3(a)(4) be amended to delete the word "individuals" from the list of those encouraged to obtain insurance to supplement or replace governmental assistance. This suggestion was not accepted since the language is identical to section 101(b)(4) of the Act. While section 314 (Insurance) of the Act does not apply to individuals, individuals in special flood hazard areas receiving assistance under section 408 (Individual and Family Grant Programs) of the Act for acquisition or construction purposes within the meaning of the Flood Disaster Protection Act of 1973 (87 Stat. 980), may be required to purchase flood insurance pursuant to Subpart E of these regulations.

The Administrator of the Federal Disaster Assistance Administration, with the concurrence of the appropriate Department officials, has issued a Finding of Inapplicability of Environmental Impact concerning these final regulations. It is the position of the signatories to that Finding that these regulations in themselves have no significant impact on the human environment since they do not materially extend or alter the language already adopted by Congress in the Act. Interested parties may inspect and obtain copies of this Finding of Inapplicability of Environmental Impact at the

office of the Rules Docket Clerk of the Department of Housing and Urban Development in Washington, D.C.

Pursuant to the authority contained in section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d), 79 Stat. 670) and section 601 of the Disaster Relief Act of 1974 (42 U.S.C. 5121n.), new Part 2205 is added to Title 24 of the Code of Federal Regulations, as follows:

Subpart A—General

- Sec.
- 2205.1 Purpose.
- 2205.2 Definitions.
- 2205.3 Policy.
- 2205.4 State Emergency Plans.
- 2205.5 Coordinating Officers.
- 2205.6 Emergency support teams.
- 2205.7 Project applications.
- 2205.8 Assistance by Federal Agencies.
- 2205.9 Federal equipment and supplies.
- 2205.10 Public assistance inspections.
- 2205.11 Use of local firms and individuals.
- 2205.12 Use and coordination of relief organizations.
- 2205.13 Non-discrimination in disaster assistance.
- 2205.14 Insurance settlement or recovery.
- 2205.15 Duplication of benefits.
- 2205.16 Non-Liability.
- 2205.17 Financial management.
- 2205.18 Criminal and civil penalties.
- 2205.19 Federal audits.
- 2205.20 Reviews and reports.
- 2205.21 Appeals.
- 2205.22 Effective date.

Subpart B—Emergencies

- 2205.23 General.
- 2205.24 Requests for emergency assistance.
- 2205.25 Processing of State requests.
- 2205.26 Initiating Federal assistance.
- 2205.27 Federal-State agreements.
- 2205.28 Emergency mass care.
- 2205.29 Emergency debris clearance.
- 2205.30 Emergency protective measures.
- 2205.31 Emergency restorative work.
- 2205.32 Emergency communications.
- 2205.33 Time limitations.

Subpart C—Fire Suppression

- 2205.34 General.
- 2205.35 Federal-State agreement.
- 2205.36 Requests for assistance.
- 2205.37 Providing assistance.
- 2205.38 Reimbursement.

Subpart D—Major Disasters

- 2205.39 General.
- 2205.40 Definitions.
- 2205.41 Requests for major disaster assistance.
- 2205.42 Processing a request for a major disaster declaration.
- 2205.43 Initiation of Federal assistance.
- 2205.44 Federal-State agreement.
- 2205.45 Temporary housing assistance.
- 2205.46 Mortgage and rental payments.
- 2205.47 Disaster unemployment assistance.
- 2205.48 Individual and family grants.
- 2205.49 Flood commodities.
- 2205.50 Relocation assistance.
- 2205.51 Crisis counseling assistance and training.
- 2205.52 Availability of materials.
- 2205.53 Emergency public transportation.
- 2205.54 Repair and restoration of damaged facilities.
- 2205.55 Debris and wreckage clearance.
- 2205.56 Community disaster loans.
- 2205.57 Grants for removing timber from privately owned lands.
- 2205.58 Protection of the environment.
- 2205.59 Minimum standards for public and private structures.
- 2205.60 Time limitations.

Subpart E—Flood Insurance

- Sec.
- 2205.61 General.
- 2205.62 Definitions.
- 2205.63 Exclusions.
- 2205.64 Applicability.

Subpart F—Other Insurance

- 2205.65 General.
- 2205.66 Definitions.
- 2205.67 Exclusions.
- 2205.68 Applicability.
- 2205.69 Type of insurance.
- 2205.70 Extent of insurance.
- 2205.71 Duration of insurance coverage.
- 2205.72 Assurances for categorical grants.
- 2205.73 Assurances for flexible funding.
- 2205.74 Self-insurance.

Subpart G—Disaster Preparedness Assistance

- 2205.75 General.
- 2205.76 Definitions.
- 2205.77 Federal Disaster Preparedness Program.
- 2205.78 Technical assistance.
- 2205.79 Financial assistance.

AUTHORITY: Sec. 7(d), Department of Housing and Urban Development Act (79 Stat. 670, 42 U.S.C. 3535(d)).

Subpart A—General

§ 2205.1 Purpose.

The purpose of this part is to prescribe the standards and procedures to be followed in implementing those sections of Pub. L. 93-288 assigned to the Secretary by Executive Order 11795 and delegated to the Administrator on August 5, 1974.

§ 2205.2 Definitions.

As used in this part:

- (a) "The Act" means Pub. L. 93-288, cited as the "Disaster Relief Act of 1974."
- (b) "Administrator" means the Administrator, Federal Disaster Assistance Administration (FDAA), Department of Housing and Urban Development.
- (c) "Applicant" means the State or local government submitting a project application or request for direct Federal assistance under the Act or on whose behalf the Governor's Authorized Representative takes such action.
- (d) "Categorical grants" means contributions to State or local governments, which must be used for emergency assistance, debris removal, temporary housing, restoration of facilities damaged or destroyed by a major disaster, or other eligible work not flexibly funded, on a project-by-project basis, subject to State and Federal inspection and audit. Included are contributions made to such governments on behalf of eligible private non-profit organizations or entities.
- (e) "Contractor" means any individual, partnership, corporation, agency, or other entity (other than an organization engaged in the business of insurance), performing work by contract for the Federal Government or a State or local agency.
- (f) "Emergency" means any hurricane, tornado, storm, flood, high-water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which re-

quires Federal emergency assistance to supplement State and local efforts to save lives and protect property, public health and safety or to avert or lessen the threat of a major disaster.

(g) "Emergency shelter" means a form of mass or other shelter provided for the communal care of individuals or families made homeless by a major disaster or an emergency.

(h) "Federal agency" means any department, independent establishment, Government corporation, or other agency of the executive branch of the Federal Government, including the United States Postal Service, but shall not include the American National Red Cross.

(i) "Federal assistance" means aid to disaster victims or State or local governments by Federal agencies under provisions of the Act.

(j) "Federal Coordinating Officer (FCO)" means the person appointed by the Administrator to coordinate Federal assistance in an emergency or a major disaster.

(k) "Flexible funding" means in-lieu contributions to State or local governments under § 2205.54(h)(1) and (2).

(l) "Governor" means the chief executive of any State.

(m) "Governor's Authorized Representative" means the person named by the Governor in the Federal-State Agreement to execute on behalf of the State all necessary documents for disaster assistance following the declaration of an emergency or a major disaster, including certification of applications for public assistance.

(n) "Local government" means (1) any county, city, village, town, district, or other political subdivision of any State, any Indian tribe or authorized tribal organization, or Alaska Native village or organization, and (2) includes any rural community or unincorporated town or village or any other public entity for which an application for assistance is made by a State or political subdivision thereof.

(o) "Major disaster" means any hurricane, tornado, storm, flood, high-water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act, above and beyond emergency services by the Federal Government, to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

(p) "Public facility" includes any publicly owned flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility, any non-Federal-aid street, road, or highway, and any other public building, structure, or system including those used for educational or recreational purposes, or any park.

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## RULES AND REGULATIONS

(q) "Regional Director" means a director of a regional office of the Federal Disaster Assistance Administration (FDAA).

(r) "Secretary" means the Secretary of Housing and Urban Development.

(s) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, or the Trust Territory of the Pacific Islands.

(t) "State Coordinating Officer (SCO)" means the person appointed by the Governor to act in cooperation with the Federal Coordinating Officer appointed under section 303(a) of the Act.

(u) "State emergency plan," as used in section 301(b) of the Act, means that State plan which is designed specifically for State-level response to emergencies or major disasters, and which sets forth actions to be taken by the State and local governments including those for implementing Federal disaster assistance.

(v) "Temporary housing" means accommodations provided by the Federal Government to individuals or families made homeless by a major disaster as further defined in § 2205.45.

(w) "United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands.

(x) "Voluntary organization" means any chartered or otherwise duly recognized tax exempt local, State, national organization or group which has provided or may provide services to the States, local governments, or individuals in a major disaster or emergency.

#### § 2205.3 Policy.

(a) It is the policy of the Administrator to provide an orderly and continuing means of assistance by the Federal Government to State and local governments in carrying out their responsibilities to alleviate the suffering and damage that result from disasters by:

(1) Providing Federal assistance for public and private losses and needs sustained from disasters.

(2) Encouraging the development of comprehensive disaster preparedness and assistance plans, programs, capabilities, and organizations by the States and by local governments.

(3) Achieving greater coordination and responsiveness of disaster preparedness and relief programs.

(4) Encouraging individuals, States, and local governments to protect themselves by obtaining insurance coverage to supplement or replace governmental assistance.

(5) Encouraging hazard mitigation measures and environmental planning, to reduce losses from disasters, including development of land-use and construction regulations.

(b) It is also the policy of the Administrator to foster the development of State and local government organizations and plans for coping with major disasters, and to provide advice and guidance to Federal agencies and States

and local governments on organization and preparedness in order to meet the effects of major disasters.

(c) It is further a policy of FDAA to insure that the individual disaster victims are apprised of Federal assistance available and to assist the individual victim in obtaining the Federal assistance to which he is entitled.

#### § 2205.4 State emergency plans.

All responsibilities and actions as provided for in the Act and these regulations required of a State and its political subdivisions to prepare for and respond to disasters and to facilitate the delivery of Federal disaster assistance will be set forth in the State's emergency plan.

#### § 2205.5 Coordinating Officers.

(a) Upon the declaration of a major disaster or an emergency the Administrator will appoint a Federal Coordinating Officer (FCO) who shall:

(1) Make an immediate appraisal of the types of relief aid most urgently needed;

(2) Establish such field offices as he deems necessary;

(3) Coordinate the administration of relief activities of other Federal agencies as well as those of the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other voluntary relief organizations which agree to operate under his advice or direction;

(4) Coordinate the administration of relief with State and local government officials;

(5) Undertake appropriate action to make certain that all of the Federal agencies are carrying out their appropriate disaster assistance roles under their own legislative authorities and operational policies.

(6) Take such other action, consistent with authority delegated to him by the Regional Director and with the provisions of the Act, as he may deem necessary to assist local citizens and public officials in promptly obtaining assistance to which they are entitled.

(b) The Governor shall be requested to appoint a State Coordinating Officer (SCO) in emergencies and major disasters for the purpose of coordinating State and local disaster assistance efforts with those of the Federal Government. The SCO will be the principal point of contact for the FCO regarding coordination of State and local disaster relief activities, implementation of the State Emergency Plan, and State compliance with the Federal-State Agreement. The functions, responsibilities, and authorities of the SCO should be set forth in the State Emergency Plan.

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(d) The Governor shall be requested to appoint a State Coordinating Officer (SCO) in emergencies and major disasters for the purpose of coordinating State and local disaster assistance efforts with those of the Federal Government. The SCO will be the principal point of contact for the FCO regarding coordination of State and local disaster relief activities, implementation of the State Emergency Plan, and State compliance with the Federal-State Agreement. The functions, responsibilities, and authorities of the SCO should be set forth in the State Emergency Plan.

#### § 2205.6 Emergency support teams.

The Administrator or Regional Director shall form emergency support teams of Federal personnel to be deployed in an area affected by a major disaster or emergency. Such emergency support teams shall assist the Federal Coordinating Officer in carrying out his responsibilities pursuant to the Act and these regulations. Upon request of the Administrator, the head of any Federal

department or agency is authorized to detail to temporary duty with the emergency support teams, on either a reimbursable or non-reimbursable basis as is determined necessary by the Administrator, such personnel within the administrative jurisdiction of the head of the Federal department or agency as the Administrator may need or believe to be useful for carrying out the functions of the emergency support teams. Each such detail shall be without loss of seniority, pay, or other employee status.

#### § 2205.7 Project applications.

(a) Federal funding for work approved under the Act may be provided on the basis of project applications submitted by the State or local governments and approved by the State and the Regional Director or his authorized representative, pursuant to the Federal-State Agreement (see §§ 2205.27 and 2205.44) and in accordance with this part. The approved project application will provide the basis of a request for an advance of funds and reimbursement for eligible expenditure. Notwithstanding any other provisions in this section, when assistance is authorized under the Act for a local government and a State is unable to assume the responsibilities prescribed in these Regulations, an Indian tribe or authorized tribal organization or Alaska Native village or organization may submit a project application directly to the Regional Director who may provide Federal assistance to such local government without State participation.

(b) Project applications shall be submitted within the time limits prescribed by § 2205.33 or § 2205.60 or as otherwise prescribed by the Administrator.

(c) The State shall assure that procurement of work and services under project applications hereunder comply with provisions of the Act, and with State or local statutes, regulations, and ordinances not in conflict with Federal procurement policies or procedures covering procurement of such supplies and services by such State or the political subdivision thereof.

(d) The State shall assure that no contract entered into by an applicant under the Act or these regulations shall contain a provision which makes the payment for such work contingent upon reimbursement under this Act or these regulations.

(e) The Governor's Authorized Representative(s) shall review all project applications and shall recommend approval or disapproval. Every project application shall contain a certification by the Governor or the Governor's Authorized Representative and that (1) Federal funds requested will be, or have been, expended in accordance with applicable law and regulations, and (2) the project application meets all the requirements and conditions of the Federal-State Agreement and such other terms established by the Regional Director.

(f) In those cases where a State or local government elects to request a contribution for flexible funding in accordance with section 402(f) of the Act, the basic application shall include only

debris clearance, emergency protective measures, and other emergency work and shall be handled as a request for a categorical grant. Replacement, reconstruction, permanent repair or restoration of public facilities, or other permanent work categories otherwise eligible for flexible funding will be covered by separate supplement or supplements to the basic project application.

(g) In those cases where the total estimated cost approved by the Regional Director for one applicant for emergency work, permanent repair and restoration of damaged public facilities, and debris clearance is less than \$25,000, the basic application should include all eligible work and will be processed in accordance with § 2205.54(i). In any instance where the applicant submits a supplemental project application, the approval of additional Federal funding in excess of \$25,000 by the Regional Director will result in the entire grant, including the previous flexible funding, reverting to a categorical grant, or to flexible funding for any assistance pursuant to section 402(f) of the Act.

(h) If a project application is approved by the Regional Director without change, signed copies thereof evidencing such approval shall be returned to the State.

(i) If disapproved, the project application shall be returned to the State with a statement of the reasons for such disapproval.

(j) If the approval is made subject to revisions, additional conditions, or partial disapproval, signed copies thereof evidencing such approval, together with a full explanation of the revisions or additional conditions, shall be returned to the State.

(k) A private organization or entity may request assistance for private nonprofit educational, utility, emergency, medical, and custodial care facilities under section 402(b) of the Act. Such request must be made to the local government or the State, which shall submit the project application and shall be responsible for project administration including requests and accounting for advances of funds, presentation of the summary of documentation, and submission of vouchers for payment. In addition to the completed application documents, the following documents and assurances must be submitted with the project application:

(1) A copy of the Internal Revenue Service ruling letter which grants the organization or entity tax exemption under section 501 (c), (d), or (e) of the Internal Revenue Code of 1954, as amended, or satisfactory evidence from the State that the nonrevenue producing organization or entity is a nonprofit one organized or doing business under State law.

(2) That it has the necessary permits and licenses to repair, restore, reconstruct or replace the facility in accordance with the project application and to maintain and operate the facility thereafter.

(3) A statement by the applicant which shall identify applicable codes, specifications, and standards to which any proposed restorative work must conform when undertaken.

(4) When appropriate, the comments and recommendations of State or local government clearinghouses pursuant to the guidelines contained in OMB Circular No. A-95.

(5) A copy of the following assurances by the interested private organization or entity:

(i) That it owns the facility and, in the case of real property, that it has or will have a title in fee simple or such other estate or interest in the site, including necessary easements and rights of way, sufficient to assure for a reasonable period of time undisturbed use and possession for the purpose of the construction and operation of the facility.

(ii) That the facility will continue to be operated in such a manner as to maintain either the tax exempt status granted under the Internal Revenue Code or the nonprofit status under State law during the normal anticipated useful life of the restored facility or the useful life of the restorative work, whichever is lesser.

(iii) That it will maintain adequate and separate accounting and fiscal records which account for all funds provided from any source to pay the cost of the project, and permit audit of such records and accounts at any reasonable times; and that claims for Federal reimbursement do not duplicate funding provided from any other source.

(iv) That it will provide and maintain competent and adequate architectural or engineering supervision and inspection at the construction site to insure that the completed work conforms with the approved plans and specifications; and

(v) That adequate financial support will be available for maintenance and operation when completed.

(vi) That insurance required by the Act and these regulations will be obtained and maintained.

## RULES AND REGULATIONS

(3) A statement by the applicant which shall identify applicable codes, specifications, and standards to which any proposed restorative work must conform when undertaken.

(4) When appropriate, the comments and recommendations of State or local government clearinghouses pursuant to the guidelines contained in OMB Circular No. A-95.

(5) A copy of the following assurances by the interested private organization or entity:

(i) That it owns the facility and, in the case of real property, that it has or will have a title in fee simple or such other estate or interest in the site, including necessary easements and rights of way, sufficient to assure for a reasonable period of time undisturbed use and possession for the purpose of the construction and operation of the facility.

(ii) That the facility will continue to be operated in such a manner as to maintain either the tax exempt status granted under the Internal Revenue Code or the nonprofit status under State law during the normal anticipated useful life of the restored facility or the useful life of the restorative work, whichever is lesser.

(iii) That it will maintain adequate and separate accounting and fiscal records which account for all funds provided from any source to pay the cost of the project, and permit audit of such records and accounts at any reasonable times; and that claims for Federal reimbursement do not duplicate funding provided from any other source.

(iv) That it will provide and maintain competent and adequate architectural or engineering supervision and inspection at the construction site to insure that the completed work conforms with the approved plans and specifications; and

(v) That adequate financial support will be available for maintenance and operation when completed.

(vi) That insurance required by the Act and these regulations will be obtained and maintained.

#### § 2205.8 Assistance by Federal Agencies.

(a) Upon the declaration of a major disaster or the determination of an emergency by the President, the Administrator or Regional Director may direct any Federal agency to provide assistance to State and local governments, by:

(1) Utilizing or lending their equipment, supplies, facilities, personnel, and other resources, other than the extension of credit under the authority of any Act;

(2) by distributing medicine, food, and other consumable supplies; and (3) by rendering emergency assistance. Such assistance will be with or without compensation as deemed appropriate by the Administrator or Regional Director under the provisions of Federal reimbursement regulations, Part 2201 of this chapter.

(b) The Regional Director is authorized to coordinate all activities of Federal agencies in providing disaster assistance under the Act.

(c) The Regional Director is authorized to request that other Federal agencies shall provide any reports or information relative to disaster assistance which he deems necessary.

(d) Assistance to be furnished by any Federal agency under paragraph (a) of this section shall be subject to the criteria of eligibility provided by the Administrator under these regulations and other instructions as may be issued from time to time by the Administrator or the Regional Director.

(e) Assistance under paragraph (a) of this section, when directed by the Administrator or Regional Director, shall not affect the authority of any Federal agency to provide disaster relief assistance independent of the Act: However, such disaster relief assistance by other Federal agencies is subject to the coordination of the Federal Coordinating Officer.

(f) In carrying out the purposes of the Act, any Federal agency is authorized to accept and utilize, with the consent of the State or local government, the services, personnel, materials and facilities of any State or local government, or of any agency, office or employee thereof: *Provided, however,* That such utilization shall not be considered to make such services, materials, or facilities Federal in nature or to make the State, local governments, or agencies thereof an arm or agency of the Federal Government.

(g) Eligible work under the provisions of section 402 of the Act will not be performed by or under the direct supervision of a Federal agency except when the State or local government lacks the capability to perform or contract for the approved work or when direct assistance by a Federal agency is deemed necessary by the Regional Director to meet an immediate threat to life, health or safety.

#### § 2205.9 Federal equipment and supplies.

(a) In any major disaster or emergency the Administrator or the Regional Director may direct Federal agencies to donate their equipment and supplies to State and local governments for use and distribution by them for the purposes of the Act.

(b) The Regional Director may authorize donation or loan of equipment and supplies determined in accordance with applicable laws and regulations to be surplus to the needs and responsibilities of the Federal Government, to States and local governments for use or distribution by them for the purposes of the Act or these regulations. The donation of such surplus property shall be made upon the basis of a certification by the State that such property is usable and necessary for current disaster purposes. Such a donation of surplus property will be made in accordance with the procedures prescribed by the General Services Administration.

(c) In providing assistance pursuant to the Act, maximum utilization will be made of surplus Federal property.

#### § 2205.10 Inspections.

In making his determinations of eligibility of Federal grants based on project applications or of direct Federal assistance



ance, the Regional Director shall arrange for damage surveys by Federal inspectors, accompanied by a State inspector when required by the Regional Director, and by an authorized local representative. Federal inspectors will prepare damage survey reports, which provide recommendations to the Regional Director. The Regional Director shall require interim Federal or State inspections when warranted and a final inspection for all categorical grants. Following his approval of Federal grants involving flexible funding, the Regional Director may require such inspections as he deems necessary to assure compliance with the Act and these regulations.

#### § 2205.11 Use of local firms and individuals.

In the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other disaster assistance activities which may be carried out by contract with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals who reside or do business primarily in the affected political subdivisions in which such activities are being performed.

#### § 2205.12 Use and coordination of relief organizations.

(a) In providing relief and assistance under the Act, the Administrator or Regional Director may utilize, with their consent, the personnel and facilities of the American National Red Cross, The Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, in the distribution of medicine, food, supplies, or other items, and in the restoration, rehabilitation, or reconstruction of community services and essential facilities, whenever the Administrator or Regional Director finds that such utilization is necessary.

(b) In any major disaster or emergency, the Regional Director may provide assistance by distributing or rendering through the American National Red Cross, The Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations, medicine, food and other consumable supplies, or emergency services.

(c) The Administrator is authorized to enter into agreements with the American National Red Cross, The Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations under which the disaster relief activities of such organizations may be coordinated by the Federal Coordinating Officer whenever such organizations are engaged in providing relief during and after a major disaster or emergency. Any such agreement shall include provisions assuring that use of Federal facilities supplies and services will be in compliance with §§ 2205.13 (Non-Discrimination in Disaster Assistance) and 2205.15 (Duplication of Benefits) of these regulations and such other regulations as the Administrator may issue.

(d) Nothing contained herein shall be construed to limit or in any way affect the responsibilities of the American National Red Cross as stated in Pub. L. 58-4 approved January 5, 1905 (33 Stat. 599).

#### § 2205.13 Non-discrimination in disaster assistance.

(a) Federal financial assistance to the States or their political subdivisions is conditioned on full compliance with Regulation 5, 32A CFR Part 98.

(b) All personnel carrying out Federal major disaster or emergency assistance functions, including the distribution of supplies, the processing of applications, and other relief and assistance activities, shall perform their work in an equitable and impartial manner, without discrimination on the grounds of race, religion, sex, color, age, economic status, or national origin.

(c) As a condition of participation in the distribution of assistance or supplies under the Act or of receiving assistance under sections 402 or 404 of the Act, government bodies, and other organizations shall provide a written assurance of their intent to comply with regulations relating to nondiscrimination promulgated by the President or the Administrator, and shall comply with such other regulations applicable to activities within an area affected by major disaster or emergency as the Administrator deems necessary for the effective coordination of relief efforts.

(d) By reference to this part, the following provisions shall be included in every Federal-State Agreement:

During the performance of any contract entered into under the Federal-State Agreement, the State, local government or other organization issuing such contract, shall require the contractor to agree as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, religion, sex, color, age, economic status, or national origin. The contractor will take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to their race, religion, sex, color, age, economic status, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this non-discrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, sex, color, age, economic status, or national origin.

(3) The contractor will send to each labor union, or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the said labor union or workers' representative of the contractor's commitments under section 202 of Executive Order No. 11246 of September 24, 1965 and

shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provision of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(6) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for non-compliance. *Provided, however,* That in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

#### § 2205.14 Insurance settlement or recovery.

Prior to approval of a Federal grant for the restoration of property or involving supplies or equipment, the applicant shall notify the Regional Director of any entitlement to insurance settlement or recovery for such properties. The Regional Director shall reduce the grant by the actual amount of insurance proceeds received by the grantee. In the event insurance recovery is contingent upon the amount of reimbursement under the Act, reimbursement will be limited to eligible costs as determined by the Regional Director after deducting the maximum amount otherwise recoverable under and to the limit of the policy.

#### § 2205.15 Duplication of benefits.

(a) The Administrator, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns or other entities suffering losses as the result of a major disaster, shall assure that no such person, business concern, or other entity will receive such Federal financial assistance with respect to any part of such loss for

which he has received financial assistance under any other program.

(b) The Administrator shall assure that no person, business concern, or other entity receives any Federal assistance for any part of a loss suffered as the result of a major disaster if such person, business concern, or entity received compensation from insurance or any other source for that part of such a loss. Partial compensation for a loss or a part of a loss suffered as the result of a major disaster shall not preclude additional Federal assistance for any part of such a loss not compensated otherwise.

(c) Whenever the Administrator determines (1) that a person, business concern, or other entity has received assistance under this Act for a loss and that such person, business concern or other entity received assistance for the same loss from another source, and (2) that the amount received from all sources exceeded the amount of the loss, he shall direct such person, business concern, or other entity to pay to the Treasury an amount, not to exceed the amount of Federal assistance received, sufficient to reimburse the Federal Government for that part of the assistance which he deems excessive.

#### § 2205.16 Non-liability.

The Federal Government shall not be liable for any claim based upon the exercise or performance of or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Federal Government in carrying out the provisions of the Act.

#### § 2205.17 Financial management.

All Federal funds made available to the States under these regulations shall be properly accounted for as Federal funds in the accounts of the States. In each case the State agency concerned shall render such authenticated reports to FDAA, covering the status and the application of the funds, the liabilities and obligations on hand, and such other facts as may be required by the Administrator or the Regional Director.

#### § 2205.18 Criminal and civil penalties.

(a) Any individual who fraudulently or willfully misstates any fact in connection with a request for assistance under this Act shall be fined not more than \$10,000 or imprisoned for not more than one year or both for each violation.

(b) Any individual who knowingly violates any order or regulation under this Act shall be subject to a civil penalty of not more than \$5,000 for each violation.

(c) Whoever knowingly misapplies the proceeds of a loan or other cash benefit obtained under any section of this Act shall be subject to a fine in an amount equal to one and one-half times the original principal amount of the loan or cash benefit.

#### § 2205.19 Federal audits.

The Administrator and the Comptroller General of the United States or

their duly authorized representatives shall have access to any books, documents, papers, and records that pertain to Federal funds, equipment and supplies received under these regulations for the purpose of audit and examination.

#### § 2205.20 Reviews and reports.

(a) The Administrator shall conduct annual reviews of the activities of Federal agencies and State and local governments providing disaster preparedness and assistance, in order to assure maximum coordination and effectiveness of such programs, and shall from time to time report thereon to the Congress.

(b) In carrying out this provision, the Administrator or the Regional Director may direct Federal agencies to submit reports relating to their disaster preparedness and assistance activities. He may request similar reports from the States relating to these activities on the part of State and local governments. Additionally, the Administrator may conduct independent investigations, studies, and evaluations as he deems necessary to complete the annual reviews.

#### § 2205.21 Appeals.

(a) An appeal is a request from a State for reconsideration of a determination by the Regional Director on any action related to Federal assistance pursuant to the Act and these regulations.

(b) An appeal shall be made in writing by the State with such additional information as is appropriate to support the request for reconsideration. All appeals shall be made within 60 days of receipt of the notice of determination by the Regional Director.

(c) Upon receipt of an appeal, the Regional Director shall review the material submitted and make such additional investigation as he deems appropriate. Following his review and investigation, the Regional Director shall notify the State, in writing, of his decision to accept or deny the appeal. If his decision is to accept the appeal, the Regional Director shall take such additional action as is necessary to implement his decision including, but not limited to approval of project applications.

(d) If the Regional Director denies the appeal, the State may submit an appeal to the Administrator. Such appeal shall be made in writing through the Regional Director, and shall be submitted not later than 60 days after receipt of notice of the Regional Director's denial of the appeal. Action by the Administrator is final.

(e) If an applicant requests the State to make an appeal to the Regional Director or to the Administrator in accordance with this section and the State declines or takes no action on such request, the applicant may make an appeal to the Regional Director or the Administrator. Such appeal shall be made in writing within 60 days after receipt from the State of the notice of determination or denial of appeal by the Regional Director, or notification by the State that no appeal will be made by the State. An ap-

peal made by an applicant shall be made through the State. The State shall forward such appeal promptly to the Regional Director with or without comment.

(f) Based on his determination that such action is warranted, the Administrator or the Regional Director may extend any of the time periods prescribed by this section.

#### § 2205.22 Effective date.

These regulations are effective for all major disasters declared on or after April 1, 1974, and for all emergency or fire suppression assistance made available on or after April 1, 1974; except that § 2205.48 which implements section 408 of the Act, is effective for all major disasters declared on or after April 20, 1973.

(a) For major disasters declared on or after April 1, 1974 and prior to May 22, 1974:

(1) Project applications Federally funded and approved or other Federal financial assistance obligations incurred under Pub. L. 91-606 may be amended to include the benefits of retroactive implementation of the Act.

(2) No applicant shall be required to surrender any benefits of Pub. L. 91-606.

(b) For major disasters declared prior to April 1, 1974:

(1) All actions taken or to be taken shall be in accordance with Part 2200 (Federal Disaster Assistance) of Title 24, CFR.

#### Subpart B—Emergencies

#### § 2205.23 General.

Upon the occurrence of a catastrophe within the State which the Governor finds (a) is of such severity and magnitude that effective response is beyond the capability of the State and the affected local governments, and (b) requires emergency assistance to save lives and protect property, health and safety or to avert or lessen the threat of a disaster, which, because of the pressures of time or because of the unique capabilities of a Federal agency, can be more readily provided by the Federal Government; the Governor may present to the President, through the Regional Director, a request for Federal assistance which includes the above findings. Based on such Governor's request, the President may determine that an emergency exists which warrants Federal assistance and may provide such assistance under the Act as he deems appropriate.

#### § 2205.24 Requests for emergency assistance.

(a) The request for emergency assistance shall be made by the Governor of the affected State to the President, through the Regional Director.

(b) The Governor's request will furnish information describing State and local efforts and resources which have been or will be used to alleviate the emergency including that for which no Federal funding will be requested, and will define the particular type and specific extent of Federal aid required.



**§ 2205.25 Processing of State requests.**

(a) The Regional Director shall acknowledge the Governor's request. Based on his investigation of the situation, which may include field assessments and consultations with appropriate State and Federal officials or other interested parties, the Regional Director shall promptly submit his report and recommendations to the Administrator.

(b) The Administrator shall forward the Governor's request, together with his report and recommendations, to the Secretary.

(c) The Secretary shall forward the Governor's request to the President, together with his recommendation regarding Presidential action thereon.

**§ 2205.26 Initiation of Federal assistance.**

Upon a determination by the President that an emergency exists which warrants Federal assistance, the Administrator shall immediately initiate action to provide Federal assistance under such determination and in accordance with applicable laws, and regulations and the Federal-State Agreement for Emergencies. The Regional Director may approve or undertake emergency work only as authorized under the determination by the President.

**§ 2205.27 Federal-State agreements.**

(a) A Federal-State Agreement for Emergencies (Agreement) shall be executed by the Governor, acting for the State, and the Regional Director, acting for the Federal Government. The Agreement will contain the necessary terms and conditions consistent with the provisions of applicable laws, executive orders, and regulations, as the Administrator may require and will set forth the type and extent of Federal assistance. The emergency area in which assistance is authorized shall be determined by the Administrator based on the State's request.

(b) It is intended that continuing agreements shall be executed between each State and the Federal Government as soon as possible. Where continuing agreements have been executed, an amendment to such agreement shall be executed by the Governor and the Regional Director for each emergency to specify the incidence period and to include any specifics peculiar to the current emergency. Subsequent amendments to such agreements for the same emergency may be executed by the Governor's Authorized Representative and the Regional Director. A new continuing agreement will be executed if there is a change in Governors or Regional Directors.

(c) The type and extent of Federal assistance set forth in the Agreement, or supplement thereto, shall be the only assistance which is eligible for Federal reimbursement or funding under the Act.

(d) In the event funds are to be transferred to a State for disaster relief purposes, the Agreement, by reference to

this section shall contain, and the State and its political subdivisions will agree to, the following provisions:

In the event that a State or local government violates any of the conditions imposed upon disaster relief assistance under law, this Agreement or applicable Federal regulations, the Administrator will notify the State that additional financial assistance for the purpose of the project in connection with which the violation occurred will be withheld until such violation has been corrected: *Provided, however*, That if the Administrator, after such notice to the State, is not satisfied with the corrective measures taken to comply with his notification, the Administrator will notify the State that further financial assistance will be withheld for the project for which it has been determined that a violation exists, or for all or any portion of financial assistance which has or is to be made available to the State or local governments for the purpose of disaster relief assistance under the provisions of this Agreement, applicable Federal regulations, and the Act.

(e) By reference to this part, the following provision shall be included in the Agreement:

No Member of or Delegate to Congress or resident commissioner, shall be admitted to any share or part of this Agreement, or to any benefit to arise thereupon: *Provided, however*, That this provision shall not be construed to extend to any contract made with a corporation for its general benefit.

(f) When assistance is authorized for a local government and a State is unable to assume the responsibilities prescribed in these Regulations and an Indian tribe or authorized tribal organization or Alaska Native village or organization submits a project application in accordance with § 2205.7(a), Federal disaster assistance will be administered in accordance with a Federal-Tribal agreement. Such Federal-Tribal agreement will provide that the Indian tribe or authorized tribal organization or Alaska Native village or organization will perform the regulatory or coordinating functions to be performed by a State or its political subdivisions as set forth in this section.

**§ 2205.28 Emergency mass care.**

Emergency mass care, such as emergency medical care, emergency shelter, emergency provision of food, water and medicine, and other essential needs, are normally provided by the Red Cross or other voluntary organizations and Federal emergency assistance will be approved by the Regional Director only upon an affirmative showing that such organizations are not providing all or part of emergency mass care essential needs.

**§ 2205.29 Emergency debris clearance.**

The Regional Director is authorized to provide emergency debris clearance limited to the clearance of debris to save lives and protect property and public health and safety. This includes debris clearance from roads and facilities as necessary for the performance of emergency tasks and for restoration of essential public services.

**§ 2205.30 Emergency protective measures.**

The Regional Director is authorized to provide emergency protective measures, including but not limited to search and rescue, demolition of unsafe structures, warning of further risks and hazards, public information on health and safety measures, and other actions necessary to remove or to reduce immediate threats to public health and safety, or to public property, or to private property when in the public interest.

**§ 2205.31 Emergency restorative work.**

The Regional Director is authorized to provide emergency repairs to essential utilities and other essential facilities as necessary to provide for their continued operation. This includes but is not limited to: Emergency bridge work, emergency road detours, tie-ins to neighboring utilities, emergency building repairs, and rental of alternate space for restoration of essential community services.

**§ 2205.32 Emergency communications.**

The Regional Director is authorized during or in anticipation of an emergency or major disaster to establish emergency communications and make them available to State and local government officials and other persons as he deems appropriate. Communications provided under this section are intended to supplement but not replace normal communications that remain operable after a major disaster. Such emergency communications will be discontinued immediately when the essential emergency communications needs of the community have been met.

**§ 2205.33 Time limitations.**

(a) Project applications shall be submitted within 30 days, or a lesser period if so prescribed by the Regional Director, following the declaration of an emergency by the President. When warranted, the Regional Director may, if the State so requests, extend this time limitation.

(b) Federal Emergency Assistance provided under this Subpart B shall terminate no later than one month after the President's determination that an emergency exists, except that:

(1) Based on extenuating circumstances beyond the control of the applicant, the Regional Director, as he deems necessary, may extend the time limitation not to exceed an additional two months for such assistance.

(2) Based on his determination that such action is warranted, the Administrator may extend the time limitation completion date beyond 3 months when requested by the State.

**Subpart C—Fire Suppression****§ 2205.34 General.**

When the Administrator determines that a fire or fires threaten such destruction as would constitute a major disaster, he may authorize assistance, including grants, equipment, supplies, and personnel to any State for the suppression of any fire on publicly or privately owned forest or grassland.

**§ 2205.35 Federal-State agreements.**

Federal assistance under section 417 of the Act will be in accordance with a Federal-State Agreement for Fire Suppression (Agreement), signed when possible in advance of the fire season by the Governor and the Regional Director. The Agreement will contain the necessary terms and conditions consistent with the provisions of applicable laws, executive orders, and regulations, as the Administrator may require and will set forth the type and extent of Federal assistance. The Governor may designate authorized representatives to execute requests and certifications and otherwise act for the State during fire emergencies. Supplemental agreements shall be filed as necessary, but at least annually in order to keep the continuing agreement updated.

**§ 2205.36 Requests for assistance.**

When a Governor determines that fire suppression assistance is warranted, his request for assistance should specify in detail the facts supporting such a request. In order that all actions in processing a State request are executed as rapidly as possible, the request may be submitted to the Regional Director by telephone, promptly followed by confirming telegram or letter.

**§ 2205.37 Providing assistance.**

Following the Administrator's decision on the State request, the Regional Director will notify the Governor and the Federal firefighting agency involved. Requests for assistance from Federal agencies may be made by the Regional Director if requested by the State. For each fire or fire situation, a separate Fire Project Application will be prepared by the State and submitted to the Regional Director for approval.

**§ 2205.38 Reimbursement.**

Payment will be made to the State for its actual eligible costs, subject to verification, as necessary, by Federal inspection and audit. When requested by the State, such payments may be made directly to other Federal agencies for eligible assistance provided by them. The following costs will not be considered eligible for reimbursement: Any clerical or overhead costs other than field administration and supervision; any costs of pre-suppression, including salvaging timber, restoring facilities, seeding and planting operations; and any costs not incurred during the incidence period as determined by the Regional Director other than directly related mobilization or demobilization costs.

**Subpart D—Major Disasters****§ 2205.39 General.**

Upon the occurrence of a catastrophe within a State which the Governor finds is of such severity and magnitude that effective response is beyond the capability of the State and the affected local governments and that Federal assistance is necessary to supplement the efforts and available resources of the State, local

governments and disaster relief, organizations, the Governor may present to the President, through the Regional Director a request for Federal assistance which includes the above findings. Based on such Governor's request, the President may declare that a major disaster exists. Federal assistance pursuant to such declaration may include emergency assistance pursuant to Subpart B of this part. Where the situation is not of sufficient severity and magnitude to warrant major disaster assistance under the Act, or where information upon which to base such a declaration is insufficient or not readily available, the President may determine that an emergency exists which warrants Federal assistance.

**§ 2205.40 Definitions.**

As used in this part:

(a) "Field Assessment" means those preliminary estimates and descriptions, based on actual observations by government engineers or inspectors, of the nature and extent of damages, resulting from a disaster, and of the Federal assistance potentially eligible under the Act.

(b) "Disaster-affected areas" means any local government, as defined in § 2205.2 or part thereof, designated by the Administrator, upon request by the State, as being eligible for Federal assistance under the Act.

(c) "Applicable standards of safety, decency, and sanitation" are those minimum guidelines prescribed or approved by the Administrator for any repair or reconstruction financed by Federal grants or loans under the Act.

**§ 2205.41 Requests for major disaster assistance.**

(a) The request for a major disaster declaration shall be made by the Governor of the affected State to the President, through the Regional Director.

(b) As a part of such request, and as a prerequisite to major disaster assistance under the Act, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan, and shall advise the Administrator thereof. In addition, the request shall include the following:

(1) An estimate of the amount and severity of damage broken down by type, such as private non-agricultural, agricultural, and public.

(2) A statement of actions pending or taken by the State or local legislative and governing authorities with regard to the disaster.

(3) A certification that, for the current disaster, State and local government obligations and expenditures (of which State commitments must be a significant proportion) will constitute the expenditure of a reasonable amount of the funds of such State and local governments for alleviating the damage, loss, hardship, or suffering resulting from such disaster. The certification by the Governor shall include the following:

Pursuant to Federal Disaster Assistance Administration Regulations, I certify that the total of expenditures and obligations for this disaster for which no Federal reimburse-

ment will be requested are expected to exceed \$ \_\_\_\_\_ in accordance with the following table:

Category of assistance	Amount <sup>1</sup>	
	State	Local
Individual assistance:		
Housing.....	\$.....	\$.....
Individual and family grants.....		
Mass care.....		
Other (specify).....		
Total.....		
Public assistance:		
Debris and wreckage clearance.....		
Protective work.....		
Restoration of public facilities.....		
Public safety.....		
Other (specify).....		
Total.....		
Grand total.....		

<sup>1</sup> Provide separately for each disaster affected area requested.

(4) An estimate of the extent and nature of Federal assistance needed within the State, broken down by category of public or individual assistance for each disaster affected area for which Federal assistance is requested and the estimated Federal funds required for each category.

(5) As appropriate, other justification in support of the request.

**§ 2205.42 Processing the request of a Governor for a declaration of a "major disaster".**

(a) The Regional Director shall acknowledge the Governor's request. Based on his investigation of the situation, which may include field assessments of the affected area and consultations with appropriate State and Federal officials, or other interested parties, the Regional Director shall promptly submit his report and recommendations to the Administrator.

(b) The Administrator shall forward the Governor's request, together with his report and recommendations, to the Secretary.

(c) The Secretary shall forward the Governor's request to the President, together with his recommendation regarding Presidential action thereon.

**§ 2205.43 Initiation of Federal assistance.**

Upon a declaration of a major disaster by the President, the Administrator shall immediately initiate action to provide Federal assistance in accordance with such declaration, applicable laws, regulations, and the Federal-State Agreement for Major Disasters. Disaster affected areas within the State will be determined by the Administrator based on the State's request. A disaster affected area designated by the Administrator includes all local governments within its boundaries.

**§ 2205.44 Federal-State agreements.**

(a) Upon the declaration of a major disaster, a Federal-State Agreement for Major Disasters (Agreement) will be executed by the Governor, acting for the State; and the Regional Director, acting for the Federal Government. Such Agreement shall provide for the manner in



which Federal assistance is to be made available and contain the assurance of the Governor that a reasonable amount of the funds of the State, local governments, or other agencies therein will be expended in alleviating damage caused by the disaster. The Agreement will also contain such other terms and conditions consistent with the provisions of applicable laws, executive orders, and regulations as the Administrator may require.

(b) The Agreement will specify the assistance to be provided as a result of major disaster.

(c) In the event funds are to be transferred to a State for disaster relief purposes, the Agreement, by reference to this section shall contain, and the State and its political subdivisions will agree to, the following provisions:

In the event that a State or local government violates any of the conditions imposed upon disaster relief assistance under law, this Agreement or applicable Federal regulations, the Administrator will notify the State that additional financial assistance for the purpose of the project in connection with which the violation occurred will be withheld until such violation has been corrected: *Provided, however*, That if the Administrator, after such notice to the State, is not satisfied with the corrective measures taken to comply with his notification, the Administrator will notify the State that further financial assistance will be withheld for the project for which it has been determined that a violation exists, or for all or any portion of financial assistance which has or is to be made available to the State or local governments for the purpose of disaster relief assistance under the provisions of this Agreement, applicable Federal regulations, and the Act.

(d) By reference to this part, the following provision shall be included in the Agreement:

No Member of or Delegate to Congress or resident commissioner, shall be admitted to any share or part of this agreement, or to any benefit to arise thereupon: *Provided, however*, That this provision shall not be construed to extend to any contract made with a corporation for its general benefit.

(e) When assistance is authorized for a local government and a State is unable to assume the responsibilities prescribed in these Regulations and an Indian tribe or authorized tribal organization or Alaska Native village or organization submits a project application in accordance with § 2205.7(a), Federal disaster assistance will be administered in accordance with a Federal-Tribal agreement. Such Federal-Tribal agreement will provide that the Indian tribe or authorized tribal organization or Alaska Native village or organization will perform the regulatory or coordinating functions to be performed by a State or its political subdivisions as set forth in this section.

#### § 2205.45 Temporary housing assistance.

(a) Temporary housing may be provided, either by purchase or lease, for those who, as a result of a major disaster, require temporary housing.

(b) Temporary housing assistance may be made available to those disaster victims who as a result of a major disaster

(or emergency) require temporary housing for reasons including, but not limited to, the following:

(1) Physical damage to the dwelling to the extent that it has been rendered uninhabitable.

(2) The dwelling has been determined uninhabitable as a result of the disaster by an authorized government entity requiring evacuation of an area. This does not include subsequent condemnation for redevelopment of an area following a disaster.

(3) Impeded access to the dwelling which cannot be quickly alleviated by debris removal even though the structure may be unharmed.

(4) Extended interruption of essential utilities sufficient to constitute a health hazard.

(5) Eviction from residence by the owner because of the owner's personal need for housing as a direct result of the major disaster.

(6) Eviction from residence by owner because of a financial hardship which is a direct result of the disaster.

(7) Other such circumstances which the Regional Director determines to require temporary housing.

(c) Temporary housing shall be limited to minimum accommodations necessary for adequate housing.

(d) Temporary housing accommodations may include, but are not limited to:

(1) Unoccupied, available housing owned by the United States.

(2) Unoccupied, available housing units, financed totally or in part with Federal funds, including public housing.

(3) Rental properties.

(4) Mobile homes, or other readily fabricated dwellings.

(5) Transient accommodations, when the nature or duration of the housing requirement does not justify more stable arrangements, as determined by the Regional Director.

(e) In lieu of providing other types of temporary housing listed in paragraph (d) of this section, expenditures may be made to repair or restore to a habitable condition owner-occupied private residential structures made uninhabitable by a major disaster, which are capable of being restored quickly to a habitable condition with minimal repairs. No assistance provided under this section may be used for major reconstruction or rehabilitation of damaged property.

(f) Utility use costs which are normally paid by the owner or occupant will not be paid by the Federal Government. In those cases where the Federal Government becomes the guarantor for utility services not metered separately, each recipient will be assessed a monthly allowance equivalent to the pro-rata costs of utilities services.

(g) A disaster victim is expected to accept the first adequate housing offered. Refusal by the applicant to accept such accommodations may result in his forfeiture of eligibility for temporary housing assistance.

(h) Any mobile home or readily fabricated dwelling shall be placed on a site complete with utilities provided either by the State or local government, or by

the owner or occupant of the site who was displaced by the major disaster, without charge to the United States. The Administrator may authorize installation of essential utilities at Federal expense and he may elect to provide other more economical or accessible sites when he determines such action to be in the public interest.

(i) Temporary housing shall not be made available to those individuals or families with insurance coverage which provides the full cost of alternate living arrangements, except where, as determined by the Regional Director, adequate alternate housing is not readily available or the receipt of insurance benefits is uncertain or inadequate to meet temporary housing needs. Individuals or families who qualify for and accept assistance under this exception shall repay or pledge to repay to the Government from any insurance proceeds for temporary housing to which they are entitled an amount equivalent to the fair market value of the housing provided.

(j) Temporary housing shall not be made available to any person or family for use as a vacation or recreational residence.

(k) The period of eligibility for occupancy in temporary housing shall be determined on the basis of need. Each temporary housing occupant shall endeavor to place himself in adequate alternate housing at the earliest possible time. Each occupant's eligibility for continued occupancy shall be recertified no less frequently than every 90 days. No rentals shall be established for the first 12 months of occupancy. Thereafter, provided no adequate alternate housing exists, rentals shall be established based upon the fair market value of the accommodations being furnished. Such rentals shall be adjusted to take into consideration the financial ability of the occupant.

(l) Pursuant to this section, temporary housing assistance may be terminated on 30-day written notice after which 30 days the occupant may be liable for such additional charges as the Regional Director may deem appropriate. Termination of temporary housing assistance to an occupant may be for reasons including, but not limited to, the following:

(1) Adequate alternate housing is now available.

(2) Failure on the part of the occupant to utilize or maintain the housing provided in the manner normally expected of a tenant.

(3) Failure on the part of the occupant to pay rent, utilities, or other appropriate charges (including duplication of benefits) or to reimburse the Government for such charges as authorized by the Regional Director in accordance with this section.

(4) Determination that the temporary housing assistance was obtained either through misrepresentation or fraud.

(m) Termination of temporary housing assistance may be in the form of:

(1) Eviction from temporary housing.

(2) Termination of financial assistance.

#### § 2205.48 Individual and family grants.

(a) *General.* The Governor may request that Federal funds be made available to a State for the purpose of such State making grants to individuals and families who as a result of a major disaster are unable to meet necessary expenses or serious needs. The grant program authorized by this section will be 75 percent Federally funded and 25 percent State funded. The Governor of the affected State or his authorized representative will administer the grant program. The grant program is intended to provide funds to disaster victims to permit them to meet those necessary expenses or serious needs for which other governmental assistance is either unavailable or inadequate. The grant program is not intended to indemnify all disaster losses or to purchase items or services that may generally be characterized as nonessential, luxury, or decorative.

(b) *Definitions as used in this section.*

(1) "Necessary expense" means the cost of an item or service essential to an individual or family to mitigate or overcome an adverse condition caused by a major disaster.

(2) "Serious need" means a requirement for an item or service essential to an individual or family to prevent or reduce hardship, injury, or loss caused by a major disaster.

(3) "Family" means a social unit comprised of husband and wife and dependents, if any, or a head of a household, as these terms are defined in the Internal Revenue Code of 1954.

(4) "Individual" means a person who is not a member of a family, as defined in subparagraph (3) of this paragraph.

(5) "Assistance from other means" means assistance including monetary or in-kind contributions from other governmental programs, insurance, voluntary or charitable organizations, or from any sources other than those of the individual or family.

(c) *National eligibility criteria.* In administering the Individual and Family Grant Program, a State shall determine the eligibility of an individual or family for a grant to meet a necessary expense or serious need in accordance with the following criteria.

(1) *General.* (i) In order to qualify for a grant under this section, an individual or family representative must certify:

(A) That application has been made to other available governmental programs for assistance to meet a necessary expense or serious need and that neither he nor any member of his family has been determined to be qualified for such assistance, or for demonstrated reasons, any assistance received has not satisfied any such necessary expense or serious need.

(B) That with respect to the specific necessary expense or serious need or portion thereof for which application is made, neither he, nor to the best of his knowledge, any member of his family, has previously received or refused assistance from other means.

(C) That should the individual or family receive a grant and assistance from other means later becomes available to meet the necessary expense or serious need, the individual or family shall refund to the State that part of the grant for which financial assistance from other means has been received.

(1) Individuals or families who incurred a necessary expense or serious need in the major disaster area may be eligible for assistance under this section without regard to their residency in the major disaster area or within the State in which the major disaster had been declared.

(2) Individuals or families otherwise eligible for assistance under this section must obtain flood insurance, as required by Subpart E of these regulations.

(2) *Eligible categories.* Assistance under this section may be made available to meet necessary expenses or serious needs by providing essential items or services in the categories set forth below:

(i) Medical or dental.

(ii) Housing. With respect to private owner-occupied primary residences (including mobile homes), grants may be authorized to:

(A) Repair, replace, rebuild.

(B) Provide access.

(C) Clean or make sanitary, or

(D) Remove debris from such residences. Any debris removal will be limited to the minimum required to remove health hazards or protect against additional damage to the residence.

(iii) Personal property.

(A) Clothing.

(B) Household items furnishings or appliances.

(C) Tools, specialized or protective clothing or equipment which are essential to or a condition of a wage earner's employment.

(D) Repair, clean, or sanitize any eligible personal property item.

(iv) Transportation.

(A) Grants may be authorized to provide transportation by public conveyance provided that the requirement for this transportation was the direct result of the disaster.

(B) Grants may be authorized to repair, replace or provide private transportation, if the loss of or requirement for this transportation was the direct result of the disaster, and transportation by public conveyance is inadequate or unavailable.

(v) Funeral expenses.

Grants for funeral expenses will be based on minimum expenditures for interment or cremation.

(3) *Ineligible categories.* Assistance under this section will not be made available for any item or service in the following categories:

(i) Business losses, including farm businesses.

(ii) Improvements or additions to real or personal property.

(iii) Landscaping.

(iv) Real or personal property used exclusively for recreation.

(v) Financial obligations incurred prior to the disaster.

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(vi) Any necessary expense or serious need or portion thereof for which assistance was available from other means but was refused by the individual or family.

(4) *Other categories.* Should the State determine that an individual or family has an expense or need not specifically identified as eligible, the State shall provide a factual summary to the Regional Director, and request a determination.

(d) *State request to participate in the Individual and Family Grant Program.* In order to make assistance under this section available to disaster victims, the Governor must file with the appropriate Regional Director a request which includes the following:

(1) A certification that assistance under the Act and from other means is insufficient to meet necessary expenses or serious needs of disaster victims.

(2) An estimate of the number of disaster victims who have necessary expenses or serious needs and the basis for such estimate.

(3) An estimate of the total Federal grant as identified in paragraph (f) (1) of this section.

(4) A commitment to implement an administrative plan as identified in paragraph (e) of this section.

(5) A commitment to identify specifically in the accounts of the State all Federal and State funds committed to the grant program.

(6) A commitment to maintain close coordination with the Federal Coordinating Officer and provide him with such reports as he may require in order to insure proper administration, including avoidance of duplication of benefits.

(7) A commitment to implement the grant program throughout the major disaster area designated by the Administrator.

(8) A certification that the State will pay its 25 percent share of all grants to individuals or families. If the State is unable immediately to pay its 25 percent share, the State may request an advance of Federal funds as identified in paragraph (h) of this section.

(e) *State Administrative Plan.* (1) The State will develop a plan for the administration of the Individual and Family Grant Program that includes but is not limited to:

(i) Assignment of grant program responsibilities to State officials or agencies.

(ii) Methods and procedures for notification of potential applicants.

(iii) Establishment of local application centers.

(iv) Administrative procedures for filing, investigating and approving applications; applicant appeals; disbursement of grants; State program audit.

(v) National eligibility criteria as defined in paragraph (c) of this section.

(vi) Provisions for compliance with §§ 2205.13, 2205.15 and 2205.18 of these regulations and the Flood Disaster Protection Act of 1973 (Pub. L. 93-234, 87 Stat. 975) and the Federal Insurance Administration Regulations, 24 CFR Parts 1909 *et seq.*

(2) The Governor or his authorized representative may request the Regional Director to provide technical assistance in the preparation of an administrative plan to implement the Individual and Family Grant Program.

(3) The Regional Director will review the State administrative plan for each disaster for which assistance is requested under this section to insure that the requirements of these regulations have been met. The Regional Director may defer approval of a State administrative plan until any deficiencies have been corrected.

(4) The State administrative plan is to be made a part of the State's emergency plan, as described in § 2205.4 of these regulations.

(f) *Limitation on grants.* (1) The Federal grant under this part shall be equal to 75 percent of the actual cost of meeting necessary expenses or serious needs of individuals and families, plus State administrative expense not to exceed 3 percent of the total Federal grant, and shall be made only on condition that the remaining 25 percent of such actual cost is paid to such individuals and families from funds made available by the affected State.

(2) An individual or family shall not receive a grant or grants under the provisions of this section aggregating more than \$5,000 with respect to any one major disaster. Such aggregate amount shall include both the Federal and State share of the grant.

(g) *Time limitations.* (1) In the administration of the Individual and Family Grant Program authorized under section 408 of the Act, the following time limitations will be applicable except as described in subdivision (vi) of this subparagraph:

(i) Should the Governor decide to request assistance under this section, he must submit such request no later than seven days following the date on which the major disaster was declared and in the manner set forth in paragraph (d) of this section.

(ii) The State will accept applications from individuals or families for a period of 60 days following the date on which the major disaster was declared.

(iii) Any application filed after the 60-day period stated above must be reviewed by the State to determine whether the late filing was the result of extenuating circumstances or conditions beyond the control of the individual or family. If such conditions or circumstances are demonstrated, the State will determine that good cause existed for late filing and accept that application as though it had been filed on a timely basis; otherwise the application will be rejected.

(iv) No application will be accepted by the State if it is filed more than 90 days following the date on which the major disaster was declared.

(v) All administrative activities including the submission of final reports and vouchers to the Regional Director, shall be completed by the State within 180 days following the date on which the major disaster was declared.

(vi) The Regional Director may extend any time limitation set forth above for a period not to exceed 30 days. The Administrator may further extend any of the above time limitations.

(2) Pursuant to the Federal Disaster Assistance Administration Notice for Individual and Family Grant Application (Docket No. N.75-261, 40 FR 5507, dated Feb. 6, 1975), applications by a Governor for assistance pursuant to Section 408 of the Act for all major disasters declared subsequent to Apr. 20, 1973, but prior to Feb. 5, 1975 must have been made to the appropriate Regional Director of the Federal Disaster Assistance Administration not later than Mar. 21, 1975.

(h) *Advance of State share.* (1) If the State is unable immediately to pay its 25 percent share of the grants to be made under this section, the Governor may request that this amount be advanced by the Federal Government. Requests for such advances will be made to the Regional Director and will include the following:

(i) A certification that the State is immediately unable to pay its 25 percent share and an explanation of the reasons therefor.

(ii) A statement as to the specific actions taken or to be taken to overcome the inability to provide the State share, including a time schedule for such actions.

(iii) A commitment to repay the Federal advance at the time the State is able to do so.

(iv) An estimate of the total amount needed to meet the 25 percent State share.

(v) An agreement to return immediately upon discovery all Federal funds advanced to meet the State's 25 percent share which exceeds actual requirements.

(A) Failure to repay the advance of the State share, in accordance with the time schedule in paragraph (h) (1) (ii) of this section, may result in the withholding by the Federal Government of subsequent advances under this section.

(i) *Approval—Authorization of Funds.* (1) The Regional Director may approve Federal assistance and authorize advances of funds under this section upon his determination that:

(i) all required certifications and commitments have been completed by the Governor.

(ii) the administrative plan provided by the State to implement the Individual and Family Grant Program meets the requirements of these regulations.

(iii) The Regional Director may authorize Federal assistance based on his estimate of the amount required to meet the necessary expenses or serious needs of disaster victims.

(j) *Reimbursement to the State.* Reimbursement to the State of the Federal share of eligible costs will be on the basis of a voucher filed by the State and approved by the Regional Director.

(k) *Federal Audit.* All disbursements will be subject to Federal audit, including those for administrative costs for which the State requests reimbursement.

#### § 2205.49 Food commodities.

(a) The Administrator will assure that adequate stocks of food will be ready and conveniently available for emergency mass feeding or distribution in any area of the United States which suffers a major disaster or emergency.

(b) In carrying out his responsibilities in paragraph (a) of this section, the Administrator may direct the Secretary of Agriculture to purchase food commodities in accordance with authorities prescribed in section 410(b) of the Act.

#### § 2205.50 Relocation assistance.

Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970" (Pub. L. 91-646) shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such Act.

#### § 2205.51 Crisis counseling assistance and training.

The Secretary of Health, Education and Welfare, consistent with the Delegation of Authority to him by the Secretary (Docket No. —, FR —, dated —) will, subject to the general policy guidance and coordination of the Administrator, (a) provide professional counseling services to victims of major disasters in order to relieve mental health problems caused or aggravated by such major disaster or its aftermath; (b) provide financial assistance to State or local agencies or private mental health organizations to provide such services or training of disaster workers; and (c) issue such rules and regulations as may be necessary and appropriate to effectuate this delegation.

#### § 2205.52 Availability of materials.

The Regional Director may, at the request of the Governor of an affected State, provide for a survey of construction materials needed in the disaster affected area on an emergency basis for housing repair, replacement housing, public facilities repairs and replacement, farming operations, and business enterprises and may take appropriate action to assure the availability and the fair distribution of needed materials. Where possible, such action may include the voluntary allocation of such materials for a period of not more than 180 days after the major disaster. Any allocation program shall be implemented by the Regional Director, to the extent possible, by working with and through those companies which traditionally supply construction materials in the affected area. For the purposes of this section, "construction materials" shall include building materials and materials required for housing repair, replacement housing, public facilities repair and replacement, and for normal farm and business operations.

#### § 2205.53 Emergency public transportation.

The Regional Director may provide emergency public transportation service in a disaster-affected area for persons who, as a result of a major disaster, have lost ready access to governmental offices, supply centers, stores, post offices, schools, and major employment centers, and to such other places as may be necessary in order to meet the emergency needs of the communities. Any transportation provided under this section is intended to supplement but not replace normal transportation facilities that remain operable after a major disaster. Such emergency transportation will be discontinued immediately when the emergency need of the community has been met.

#### § 2205.54 Repair and restoration of damaged facilities.

(a) *Definitions as used in this section.* (1) "Private non-profit organization" means any non-governmental agency or entity that currently has (i) an effective ruling letter from the U.S. Internal Revenue Service, granting tax exemption under section 501 (c), (d), or (e) of the Internal Revenue Code of 1954, or (ii) satisfactory evidence from the State that the non-revenue producing organization or entity is a nonprofit one organized or doing business under State law.

(2) "Educational Institution" means (i) Any elementary school as defined by section 501(c) of the Elementary and Secondary Education Act of 1965;

(ii) Any secondary school as defined by section 801(h) of the Elementary and Secondary Education Act of 1965; or (iii) Any institution of higher education as defined by section 1201 of the Higher Education Act of 1965

(3) Private non-profit facility means any private non-profit educational, utility, emergency, medical, and custodial care facilities, including those for the aged or disabled, and facilities on Indian reservations as defined by the President.

(i) "Education facilities" means classrooms and related facilities; and equipment, machinery, and utilities necessary or appropriate for instructional purposes. It does not include athletic stadiums or structures or facilities intended primarily for athletic exhibitions, contests, games or other events for which admission is to be charged to the general public; and facilities used primarily for religious instruction or any facility to be used primarily in connection with any part of the program of a school or department of divinity. "School or department of divinity" is used herein as defined by section 1201 of the Higher Education Act of 1965.

(ii) "Utility" means structures of systems of any power, water storage, supply and distribution, sewage collection and treatment, telephone, transportation, or other similar public service.

(iii) "Emergency facility" means those buildings, structures, or systems used to provide services, such as fire protection,

ambulance, or rescue, to the general public as the result of disasters or other situations of great urgency.

(iv) "Medical facility" means any "hospital," "outpatient facility," "rehabilitation facility," or "facility for long term care" as such terms are defined in section 645 of the Public Health Service Act (42 U.S.C. 2910), and any similar facility offering diagnosis or treatment of mental or physical injury or disease, including the administrative and support facilities essential to the operating of such medical facilities although not contiguous thereto.

(v) "Custodial care facility" means those buildings, structures, or systems including those for essential administration and support, which are used to provide institutional care for such persons such as the aged and disabled who do not require day-to-day health care by doctors.

(4) "Pre-disaster design" means that capacity or measure of productive usage for which a facility could be used immediately prior to a major disaster in accordance with locally applicable health or safety codes, specifications or standards.

(5) "Pre-disaster condition" means the state of repair or serviceability of a facility immediately prior to the disaster taking into consideration prior damages, age, deterioration, and any limitations which had been placed upon its operation.

(6) Grant-in-lieu means a contribution pursuant to a project application whose scope of work includes improvements in the public facility to be repaired, restored, reconstructed or replaced, or any changes therein which are not eligible under sections 402 or 419 of the Act, and for which the Regional Director limits his approval and Federal funding to the estimated costs of the eligible work.

(b) *Procedure.* State and local governments may submit applications for Federal assistance under the Act to repair, restore, reconstruct, or replace public facilities belonging to them which were damaged or destroyed in a major disaster. State and local governments may also submit applications on behalf of private non-profit organizations for educational, utility, emergency, medical, and custodial care facilities, including such facilities for the aged and disabled, and facilities on Indian reservations which were damaged or destroyed by a major disaster.

(c) *Codes, specifications, and standards.* For the purposes of these regulations, current applicable codes, specifications, and standards are those which relate directly to the health and safety of persons using the damaged facility and which were in general use and were enforced locally at the time of the disaster. If such codes, specifications, and standards are not in writing, the applicant must provide evidence, and a Federal official shall verify, that the codes, specifications, and standards, were in use



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at the time of the disaster. Where no codes, specifications, or standards, as prescribed above, apply to eligible restorative work, Federal funding will be limited to restoring the facility to its pre-disaster condition and pre-disaster design in accordance with minimum safety standards prescribed by the Administrator. If compliance with locally applicable codes, specifications, and standards in effect at the time of the disaster clearly will not result in a safe and usable facility, the Administrator may authorize appropriate deviations.

(d) **Public facilities.** Permanent repair or restoration of public facilities may be approved for categorical grants using the following criteria:

(1) The Federal contribution shall not exceed the net eligible cost of restoring a facility based on the pre-disaster design of such facility and on the current codes, specifications, and standards in use by the applicant for similar facilities in the locality.

(2) If the damaged facility is repairable to pre-disaster condition as determined by the Regional Director, approved restorative work will be limited to the cost of eligible repairs. In such cases, only those repairs will be approved which are designed to restore the portions of the structure damaged by the major disaster in conformity with current codes, specifications, and standards locally applicable to such repairs. If the facility was in a damaged or unsafe condition prior to the major disaster, the applicant shall agree to pay the cost of correcting any such condition as a prerequisite to Federal assistance.

(3) If the damaged facility is not repairable to pre-disaster condition as determined by the Regional Director, approved restorative work may include replacement of the facility on the basis of its pre-disaster design, in conformity with current codes, specifications, and standards locally applicable to new construction.

(4) A policy objective in restoring facilities damaged by a major disaster shall be to assure consideration of the advantages or disadvantages of disaster proofing, relocation, or other hazard mitigation measures, before any Federal work or other expense is authorized. In restoring damaged facilities by use of Federal disaster assistance, the Regional Director may authorize minimum disaster proofing as eligible work under the Act. When the Regional Director determines that a facility should not be restored in a hazard area, he may authorize relocation to a less hazardous site. Provided, however, that the overall Federal project cost is not increased. He may decline to authorize Federal disaster assistance to restore facilities at the original site when such facilities are subject to repetitive heavy damages or destruction.

(5) A grant-in-lieu of repair or restoration otherwise eligible under the Act may be approved if repair or replacement of the damaged facility involves betterment or change in design of the facility. When the Regional Director de-

termines that a grant-in-lieu is necessary in the public interest, he may require the applicant to submit an acceptable alternative for restorative work on a grant-in-lieu basis.

(6) Facilities that are (i) obsolete or obsolescent and not in active use, or (ii) that are in otherwise non-operable condition at the time of occurrence of the major disaster, are not eligible for permanent repairs or other restorative work except in those instances, as determined by the Regional Director, where the facilities were only temporarily closed for repairs or remodeling, or where active use by the applicant was firmly scheduled prior to the major disaster to begin within a reasonable time.

(7) Facilities which were in limited use prior to the disaster, or were being used for other purposes than originally designed, may be eligible for assistance only to the extent necessary to resume immediate pre-disaster use, and in conformity with current applicable codes, specifications, and standards.

(e) **Private non-profit facilities.** Categorical grants for the repair or restoration of private non-profit facilities by Federal disaster assistance may be approved, using the criteria for public facilities outlined in paragraph (d) of this section. No payment will be made for any work which was not within the scope of responsibility of the private non-profit facility prior to the major disaster. The following additional criteria apply for determining the eligibility of such facility:

(1) It must be operated in a manner to carry out the non-profit purposes of the owning organization or entity.

(2) Damages must have occurred as the result of a major disaster and impair the capability of the facility to perform services for the community.

(3) The eligible owning organization must give assurances of its continued operation of the facilities when restored that are acceptable to the Regional Director.

(4) It must have the necessary permits and licenses to repair, restore, reconstruct or replace the facility in accordance with the project application and to maintain and operate the facility thereafter.

(f) **Limitations.** (1) Grants made under the provisions of this subpart for private non-profit facilities shall not:

(i) Be used to pay any part of the cost of facilities, supplies, or equipment which are to be used primarily for sectarian purposes; or

(ii) Be used to restore or rebuild any facility to be used primarily for religious worship; replace, restore, or repair any equipment or supplies to be used primarily for religious instruction, or restore or rebuild any facility or furnish any equipment or supplies which are to be used primarily in connection with any part of the program of a school or department of divinity.

(2) No grants shall be made under this subpart for the repair, restoration, reconstruction, or replacement of any educational facility for which disaster relief assistance would not be authorized for a

public facility under the Act, under Pub. L. 81-815, or Title VII of the Higher Education Act of 1965.

(g) **Facilities under construction.** Categorical grants may be approved for those facilities eligible under this paragraph which were in the process of construction when damaged or destroyed by a major disaster.

(1) Federal reimbursement shall not exceed the net eligible costs of the applicant, of an eligible private non-profit organization or entity, or of the contractors in restoring a facility to substantially the same condition as existed prior to the major disaster. The Regional Director may authorize alternative restorative work as a grant-in-lieu of restoring the facility to the same condition as existed prior to the disaster: *Provided, however,* That the net eligible costs to the Federal Government are not increased by approval of such alternative.

(2) Eligible costs shall not include any interest cost on project funding or any cost for which reimbursement is received pursuant to insurance contracts or otherwise by the party incurring the economic burden of such costs, including reimbursements which might be received from any other private, State or local government or Federal agency.

(3) No Federal reimbursement will be made to any applicant for damages caused by its own negligence, by the negligence of any interested private organization or entity, or by any contractor.

(h) **Flexible funding.** (1) Ninety percent contribution. Grants described in paragraph (d) of this section, an applicant may elect to receive a contribution based on 90 per centum of the Federal estimate of the total cost of repairing, restoring, reconstructing, or replacing all damaged public facilities owned by it within its jurisdiction. Such election will provide maximum flexibility in the use of the Federal contribution where an applicant determines that public welfare would not be best served by repairing, restoring, reconstructing or replacing particular public facilities damaged or destroyed in the major disaster.

(1) The total cost will be estimated on the basis of the pre-disaster design of each such facility and in conformity with current applicable codes, specifications, and standards.

(ii) Funds contributed under this subsection may be expended either to repair or restore certain selected damaged public facilities or to construct new public facilities which the applicant determines to be necessary to meet its needs for governmental services and functions in the disaster-affected area.

(iii) Such election must be declared in writing by the applicant to the Regional Director through the Governor's Authorized Representative before the approval of any project application from such applicant for assistance under § 2205.54(d), except as provided under § 2205.54(i) (3) below, and except project applications approved for major disasters declared after April 1, 1974 and prior to May 22, 1974.

(iv) Based on approval of a project application by the Regional Director, partial payments may be made not to exceed a quarterly projection of the applicant's planned obligations and expenditures. Further partial payments may be made periodically as necessary to assure an adequate cash flow for the applicant's restorative work. Within 90 days after the initial partial payment, the applicant shall submit a listing of the public facilities to be repaired, restored, or constructed using the requested funds, the estimated cost of each, and a proposed schedule for initiation and completion, including estimated quarterly fund requirements. Following receipt of such listing and schedule, with amendments by the applicant as necessary, further Federal participation in the administration of these funds will be through additional partial payments. There shall be such final inspection and audit as deemed necessary to assure that the funds were expended in accordance with the purposes of section 402(f) of the Act and as shown in the listing and schedule, and final payment of the grant.

(A) **Small project applications (in-lieu contributions).** (1) In any case where the Federal estimate of total cost approved by the Regional Director for reimbursement to the applicant is less than \$25,000 under sections 306, 402, and 403 of the Act, the in-lieu contribution will be based on 100 per cent of such approved total estimated cost. Direct Federal assistance, and any assistance requested by an applicant on behalf of a private non-profit organization, shall not be included in determining the amount of the in-lieu contribution under section 419 of the Act. However, the Regional Director may approve Federal funding under sections 306, 402, or 403 in any instance where he determines that the circumstances do not justify an in-lieu contribution under section 419 of the Act.

(B) Funds contributed under this subsection may be expended either to repair, restore, reconstruct or replace certain selected damaged or destroyed public facilities; to construct new public facilities which the applicant determines to be necessary to meet its needs for governmental services and functions in the disaster affected areas; or to undertake the disaster work authorized under sections 306 and 403 of the Act upon which the Federal estimate of damages is based.

(C) Within 30 days following completion of the work performed pursuant to this subsection, the applicant shall furnish a listing through the Governor's Authorized Representative to the Regional Director of the work performed and the public facilities that were repaired, restored, reconstructed, replaced or constructed. This listing shall include a brief description, location, insurance coverages, and total project costs of the completed work. A final inspection will be made to verify that the funds were expended in accordance with the purposes of section 419 of the Act.

(D) If an applicant subsequently submits a supplement to its project application that would increase the grant

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under section 419 of the Act to an amount exceeding \$25,000, the entire contribution shall revert to a categorical grant or to a 90 percent contribution under § 2205.54(h) (1) as approved by the Regional Director.

(1) For the purposes of this section, functional furnishings and equipment essential to the operation of the facility will be considered as part of a facility: *Provided, however,* That comparable used or surplus equipment shall be utilized to the extent practicable.

(j) Consumable supplies damaged or lost in a disaster will be considered eligible for replacement to the extent that such replacement is made within 90 days of the date of the President's declaration, but limited to a 30-day requirement of each item so replaced. The 90-day deadline for replacement may be waived by the Regional Director where appropriate.

(k) When the circumstances warrant, the Regional Director may change the original project approval to a grant-in-lieu based on cost estimates for the approved work that do not include escalation of costs caused by lengthy delays on the part of the applicant or his contractors.

## § 2205.55 Debris and wreckage clearance.

(a) General: Debris and wreckage clearance is normally accomplished by the affected State or local government, however, if the State or local government requests and the Regional Director determines that the use of a Federal agency is necessary he may direct that agency to accomplish the work. No authority under this section for debris clearance through the use of Federal agencies shall be exercised unless the affected State or local government shall first arrange an unconditional authorization for removal of such debris or wreckage from public and private property, and shall agree to indemnify the Federal Government against any claim arising from such removal. All emergency debris and wreckage clearance shall be performed without delay. Other debris clearance is to be completed as rapidly as possible.

(b) In addition to emergency work under Subpart B of this part, the Regional Director, whenever he determines it to be in the public interest, may:

(1) Through the use of Federal agencies, clear debris and wreckage resulting from a major disaster from publicly and privately owned lands and waters, and

(2) Make reimbursements to any State or local government for the removal of such debris or wreckage.

(c) Determination of public interest under this section shall consider:

(1) Whether removal of such debris and wreckage is necessary to eliminate threats to life and property.

(2) Whether removal of such debris and wreckage is necessary to eliminate a hazard which threatens substantial destruction of undamaged public or private property.

(3) Whether removal of debris and wreckage is essential to the economic recovery of the affected community.

(4) Whether a benefit is derived, directly or indirectly, to the community-at-large.

(d) No Federal reimbursement will be made to a State or local government for reimbursement of an individual or non-governmental entity for the cost of removing debris from his own property.

(e) Any salvage value of debris or wreckage cleared under an application for public assistance shall be deducted from the Federal reimbursement to the applicant for expenses actually incurred for such clearance of debris and wreckage.

## § 2205.56 Community disaster loans.

(a) The Administrator may make a community disaster loan, to any local government which may suffer a substantial loss of tax and other revenues as a result of a major disaster, and has demonstrated a need for financial assistance in order to perform its governmental functions.

(b) A community disaster loan may be approved in either the fiscal year in which the disaster occurred or the fiscal year immediately following that year: *Provided, however,* That only one such loan may be approved. This loan, if approved, will be used to carry on existing local government functions or to expand such existing functions to meet disaster related needs.

(c) To obtain a community disaster loan, the local government must submit a loan request through the Governor or his authorized representative. The loan must be justified on the basis of need and shall be based on the actual and projected losses of revenues and disaster-related expenses, as a result of the major disaster, for the fiscal year in which the disaster occurred and for the three succeeding fiscal years. This loan request will be prepared by the affected local government and certified as legal by the Governor or his authorized representative. If the Administrator determines that the projected loss is substantial and that the projected revenue loss is consistent with Federal damage estimates, he may approve a loan up to the amount of projected loss and projected disaster-related expenses of a municipal operating character or 25 percent of the annual operating budget for the fiscal year in which the major disaster occurred, whichever is the lesser. The principal of the loan will be made available in increments based on disaster-related needs of the applicant.

(d) Such loans shall bear interest at a rate not less than (1) a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, plus (2) such additional charge, if any, toward covering other costs of the pro-

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gram as the Administrator may determine to be consistent with its purposes.

(e) No loan made under this section shall be for a period more than three years, unless otherwise approved by the Administrator. When requested by the applicant and warranted by the applicant's financial condition, the Administrator may extend the term of the loan: *Provided, however*, That the total term of the loan shall not exceed 10 years.

(f) To the extent that revenues of the local government during the three full fiscal year period following the disaster are insufficient, as a result of the major disaster, to meet the operating budget of the local government, including additional disaster-related expenses of a municipal operating character, repayment of all or any part of such community disaster loan shall be cancelled: *Provided*, That prior to expiration date of the loan, the local government requests in writing with justification any cancellation considered appropriate. Such request will be submitted through the Governor's Authorized Representative and the Regional Director to the Administrator for determination. Cancellation of all or any part of the principal of the loan shall include related interest.

(g) Any community disaster loans including cancellations made under this section shall not reduce or otherwise affect any grants or other assistance under the Act or these regulations.

#### § 2205.57 Grants for removing timber from privately owned lands.

When he determines it to be in the public interest, the Regional Director may approve grants to a State or local government for the purpose of removing from privately owned lands timber damaged as a result of a major disaster.

(a) An action plan shall be prepared by the State to tailor the cleanup and timber salvage operation to fit the specific situation, including at least the following:

(1) Priorities in the approval of work shall be established to guide efforts to areas where fire, pest, and wildlife hazards are concentrated.

(2) An appropriate limitation shall be placed on the degree of cleanup to be approved.

(3) Approved work practices and a scale of acceptable unit costs (per acre or otherwise) shall be established, if feasible.

(b) Inspection of the areas to be cleared shall be made by State and Federal representatives to provide a valid basis for approval of work to be done. In those cases where work has already been started or completed, the inspection is to determine a reasonable basis for approving or disapproving such work. Inspection reports shall include a complete description of the land to be cleared and of the eligible work and an estimate of the salvage value as well as the estimated cost of such work.

(c) The determination of public interest under this section shall include threats to life and property including possible flood hazards.

(d) In determining eligible cost under this section:

(1) Any applicable insurance recoveries and any salvage value of all timber removed or to be removed are to be considered and deducted from the costs for approved work. If the individual property owner elects to burn or otherwise dispose of the damaged timber instead of salvaging it, an estimated net value of potential salvage shall be established by the State and Federal representatives. If they cannot agree, the Regional Director shall make the determination, and his decision will be final.

(2) Costs for construction of temporary roads approved by the Regional Director as necessary for access to or salvage of damaged timber are eligible.

(e) Claims for reimbursement shall be subject to verification on the basis of inspections and audits of completed work.

#### § 2205.58 Protection of the environment.

(a) No action taken or assistance provided pursuant to sections 305, 306, or 403 of the Act, or any assistance provided pursuant to sections 402 or 419 of the Act that has the effect of restoring facilities substantially as they existed prior to the disaster in conformity with current applicable codes, specifications, and standards, shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852). Major Federal actions significantly affecting the quality of the environment are those actions which require Environmental Impact Statements in accordance with section 102(2)(c) of the National Environmental Policy Act.

(b) Environmental clearances may be required for permanent replacement projects, including grants-in-lieu under § 2205.54 that do not have the effect of restoring facilities substantially as they existed prior to the disaster in conformity with current applicable codes, specifications, and standards. However, minor relocations to restore facilities essentially to the same design and capacity that existed prior to the disaster shall not be deemed major Federal actions significantly affecting the quality of the human environment.

(c) For nonexempt Federal actions involving Federal disaster assistance under the Act, the Regional Director shall determine whether or not it is a major Federal action significantly affecting the quality of the human environment. In any case where affirmative determination may result, the Regional Director shall consult with the Administrator or his staff to arrange for compliance with section 102, National Environmental Policy Act.

#### § 2205.59 Minimum standards for public and private structures.

As a condition of a disaster loan or grant made under the provisions of the Act, the recipient applicant shall agree that any repair or construction to be financed therewith shall be in accordance with applicable standards of safety,

decency, and sanitation and in conformity with current locally applicable codes, specifications, and standards, and shall furnish such evidence of compliance with this section as may be required by the Regional Director. If compliance with such locally applicable codes, specifications, and standards in effect prior to the major disaster clearly will not result in a safe and usable facility, the Administrator may authorize additional work as appropriate. As a further condition of any loan or grant made under the provisions of the Act, the State or local government shall agree that the natural hazards in the areas in which the proceeds of the grants or loans are to be used shall be evaluated. The State or local government shall also agree that appropriate action shall be taken to mitigate such hazards, including safe land-use and construction practices, in accordance with standards prescribed by the Administrator after adequate consultation with the appropriate elected officials of general purpose local governments.

#### § 2205.60 Time limitations.

(a) Project applications shall be submitted within 90 days, or a lesser period if so prescribed by the Regional Director, following the date of the President's declaration of a major disaster. If the circumstances of the disaster are such as to make immediate detailed damage surveys and reports by local/State/Federal agencies impractical the Regional Director may, if the State so requests, extend this time limitation.

(b) Federal assistance provided under sections 305, 306, 402, 403, and 419 of the Act shall begin with the President's declaration of a major disaster and, with the following exceptions, shall terminate upon expiration of these prescribed time periods:

	Initiation deadline	Completion deadline
(1) Debris clearance.....	30 days.....	180 days.
(2) Emergency measures.....	do.....	Do.
(3) Permanent restorative projects.....	do.....	18 months. <sup>1</sup>

<sup>1</sup> These time limitations apply to categorical grants and to grants involving flexible funding under sections 402(f) and 419 of the Act. The Regional Director may require an applicant to submit a completion schedule for his approval.

(c) Exceptions:

(1) Based on extenuating circumstances or unusual project requirements clearly beyond the control of the applicant and the direct recipient of the Federal assistance, the Regional Director may extend any of these time periods, not to exceed 180 days on a project-by-project basis.

(2) Based on his determination that such action is warranted, the Administrator may extend any of the time periods prescribed by this section or completion dates prescribed above.

(d) The Regional Director may impose lesser time limits for completion of work under paragraphs (b) (1), (2), and (3) of this section if considered appropriate.

(e) When an applicant fails to make a timely start of work approved under sections 305, 306, 402, 403, or 419 of the Act, the Regional Director shall review the project approval and may withdraw Federal funding.

#### Subpart E—Flood Insurance

##### § 2205.61 General.

The Flood Disaster Protection Act of 1973, Pub. L. 93-234, imposes certain restrictions on approval of Federal financial assistance for acquisition or construction purposes for use in any area defined by the Secretary as an area having special flood hazards. The implementation of Pub. L. 93-234 under the Act is provided by this subpart.

##### § 2205.62 Definitions.

As used in this subpart.

(a) "Federal financial assistance" means any loan or grant or any other form of direct or indirect Federal financial assistance under the Act and these regulations and which is not excluded pursuant to § 2205.63.

(b) "Financial assistance for acquisition or construction purposes" means any form of Federal financial assistance which is intended in whole or in part for the acquisition, construction, reconstruction, repair, or improvement of any publicly or privately owned building or mobile home, and for any machinery, equipment, fixtures, and furnishings contained or to be contained therein.

(c) "Building" means a walled and roofed structure, other than a gas or liquid storage tank, that is fully enclosed and affixed to a permanent site.

(d) "Community" means any State or area or political subdivision thereof, or any Indian tribe or authorized tribal organization, or Alaska Native village or organization, for which an application for participation in the National Flood Insurance program is made and which has authority to adopt and enforce flood plain management regulations for the areas within its jurisdiction. Unincorporated communities or private nonprofit facilities which may be otherwise eligible for Federal disaster assistance but do not fulfill the above definition must meet the flood insurance requirements of these regulations and must be sponsored by an applicant (community) which fulfills this definition in cases when the provision of the Flood Disaster Protection Act applies.

##### § 2205.63 Exclusions.

(a) The following categories of Federal disaster assistance authorized under the Act are excluded from the provisions of the Flood Disaster Protection Act of 1973:

(1) Federal financial assistance for emergency work essential for the protection and preservation of life and property eligible for Federal reimbursement under the Act. This exemption includes eligible emergency work under: (i) Subpart B (Emergencies); (ii) Subpart C (Fire Suppression); and; (iii) §§ 2205.45, 2205.53, 2205.54, 2205.55, 2205.56, and 2205.57 of Subpart D (Major Disasters), of this part.

(2) Federal financial assistance on any State-owned property that is covered by an adequate State policy of self-insurance approved by the Federal Insurance Administrator.

(3) Federal financial assistance under Title II of the Act.

##### § 2205.64 Applicability.

(a) Federal financial assistance for permanent work on buildings in an area identified by the Federal Insurance Administrator as having special flood hazards unless exempted above, is subject to the full restrictions and limitations imposed by the Flood Disaster Protection Act of 1973 for all project applications approved for such buildings in accordance with the following:

(1) Effective March 2, 1974, if the Federal Insurance Administrator has identified the areas having special flood hazards in a community in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, any building and contents not covered by flood insurance for the full insurable value or the maximum amount of insurance available, whichever is the lesser, is not eligible for Federal financial assistance.

(2) For all project applications approved after June 30, 1975, if the Federal Insurance Administrator has identified an area in a community as having special flood hazards and the community is not participating in the flood insurance program under the National Flood Insurance Act of 1968, restorative work as the result of disaster damage to buildings in a special flood hazard area is ineligible for Federal financial assistance.

(3) In the case of subparagraph (1) or (2) of this paragraph, any building may become eligible for Federal financial assistance, if the community concerned within six months after the date of the Federal Damage Survey Report qualifies for and enters the flood insurance program; obtains and maintains the necessary flood insurance policy for the anticipated life of the restorative work or of the insured property, whichever is the lesser, as determined by the Regional Director; and provides FDAA with written evidence thereof.

(4) Flood insurance is required in connection with obtaining Federal financial assistance for permanent restorative work within an identified flood-hazard area, even if a flood had not occasioned the major disaster declaration. If the applicant replaces a building outside of the special flood hazard area, Federal financial assistance for eligible permanent restorative work will not be denied for failure to insure or failure of the community to participate in the flood insurance program.

(b) Where permanent repair, replacement, or relocation is involved, flood-proofing not required by locally applicable codes, specifications, and standards shall be accomplished at the owner's expense.

(c) The Regional Director will work closely with the State Coordinating Officer, State and local governments, and the field staff of the Federal Insurance

Administration to ensure that the provisions of this part for special flood hazard areas are considered in the processing and approval of project applications under § 2205.7. In addition, the Regional Director will require compliance with the provisions in this part in issuing mission assignments for direct Federal assistance under § 2205.8 whenever property subject to the provisions of the Flood Disaster Protection Act of 1973 is involved.

(d) For any State-owned building not covered by an approved State policy of self-insurance, the Regional Director shall require proof of adequate flood insurance covering proposed permanent restorative work eligible for reimbursement under the Act.

(e) When an eligible applicant for permanent restorative work to buildings damaged by a disaster provides proof of flood insurance to obtain Federal financial assistance he makes a commitment to continue the flood insurance for the useful life of the eligible restorative work, as determined by the Regional Director. For those buildings on which the eligible applicant is delinquent on flood insurance commitments, the Regional Director shall suspend any future Federal financial assistance until such delinquency is eliminated.

(f) When a State has been approved by the Federal Insurance Administrator as a self-insurer, the Regional Director shall determine the amount of self-insurance applicable to any building damaged by a major disaster and shall deduct such self-insurance coverage from the Federal grant for permanent restorative work.

(g) In administering this section, Regional Directors will utilize current information obtained from the Federal Insurance Administration to identify States having a satisfactory program of self-insurance, the communities eligible for flood insurance under the regular or emergency programs, flood hazard boundary maps and flood insurance rate maps.

#### Subpart F—Other Insurance

##### § 2205.65 General.

Provisions of this subpart do not apply to Flood Insurance under the Flood Disaster Protection Act of 1973, Pub. L. 93-234, which is covered under Subpart E of this part.

##### § 2205.66 Definitions as used in this subpart.

(1) "Assistance" means any form of Federal grant under sections 402 or 419, to replace, restore, repair, reconstruct or construct any property as the result of a major disaster and which is not excluded pursuant to § 2205.67.

(2) "Property" means any structure, vehicles, equipment, materials, or supplies.

##### § 2205.67 Exclusions.

The following categories of Federal disaster assistance are excluded from the requirements to obtain and maintain such insurance as is required by section 314 of the Act, and this subpart:

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(a) Emergency assistance provided under section 305 or 306, of the Act.

(b) Assistance otherwise eligible under section 402 or 419 of the Act for any State-owned property that is covered by an adequate State policy of self-insurance approved by the Administrator.

(c) Assistance under section 402 or 419 of the Act for any property for which insurance is not reasonably available, adequate, and necessary, including but not limited to: Roads, streets, bridges and other highway facilities, traffic controls, parking meters, drainage channels and debris basins, dikes and levees, pumping stations, and utility distribution systems.

#### § 2205.68 Applicability.

(a) The requirements of this subpart shall apply to all assistance pursuant to section 402 or 419 of the Act with respect to any major disaster declared by the President after May 22, 1974.

(b) No such assistance shall be approved unless the applicant has provided assurances, acceptable to the Regional Director, that any insurance required under these regulations will be obtained and maintained.

(c) Approval of otherwise eligible project applications may be deferred by the Regional Director for not to exceed six months to permit the applicant to provide such assurances referred to in paragraph (b) of this section. The Administrator, when he deems necessary, may extend the time for submission of such assurances by the applicant.

(d) No applicant for assistance under sections 402 and 419 of the Act shall receive such assistance for any property or part thereof for which he has previously received assistance under the Act unless insurance required under section 314 of the Act and these regulations has been obtained and maintained with respect to such property.

(e) Insurance requirements prescribed in this subpart shall apply equally to private non-profit facilities which receive assistance under section 402(b) of the Act. Private non-profit organizations shall submit necessary documentation and assurances pursuant to this subpart through the appropriate applicant.

#### § 2205.69 Type of insurance.

Assurances by the applicant under this subpart to obtain reasonably available, adequate, and necessary insurance shall be required only for the type or types of hazard included in the declaration of the major disaster in which the damages occurred. The Regional Director shall not require greater types and extent of insurance than are certified to him as reasonable by the appropriate State Insurance Commissioner responsible for regulation of such insurance.

#### § 2205.70 Extent of insurance.

Prior to approval of assistance under section 402 or 419 of the Act to replace, restore, repair, reconstruct, or construct any property for which insurance is required under this subpart, the applicant shall provide assurances acceptable to the Regional Director that he will obtain

and maintain reasonably available, adequate, and necessary insurance to protect against future loss to the property. Such insurance must protect against loss to the property and not solely to that portion which was damaged or destroyed by the major disaster.

#### § 2205.71 Duration of insurance coverage.

The applicant shall provide assurances that the required insurance coverage will be maintained for the anticipated life of the restorative work or of the insured property, whichever is the lesser.

#### § 2205.72 Assurances for categorical grants.

Where insurance is required, under this subpart the applicant shall submit evidence of applicable insurance coverage or other related assurances with his project application. The type and extent of such insurance coverage will be subject to approval by the Regional Director.

#### § 2205.73 Assurances for flexible funding.

When applying for assistance under the provisions of sections 402(f) and 419 of the Act, the applicant shall provide assurances acceptable to the Regional Director that it will obtain and maintain such insurance as required by section 314 of the Act and the regulation in this subpart. As part of such assurance the applicant shall agree to provide to the Regional Director a listing of insured property including location, description, extent and duration of insurance coverage, name and address of the insurer, and applicable insurance policy numbers. The Regional Director, after review of the listing and schedule required by § 2205.54(h)(4) and other reviews as he deems necessary shall, if appropriate, require the applicant to obtain additional insurance pursuant to the Act and these regulations.

#### § 2205.74 Self-insurance.

A State may elect to act as a self-insurer with respect to any or all of the facilities belonging to it. Such an election, if declared in writing at the time of accepting assistance under sections 402 or 419 of the Act or subsequently, and accompanied by a plan for self-insurance which is satisfactory to the Administrator, shall be deemed compliance with subsection 314(a) of the Act. No such self-insurer shall receive assistance under such sections for any property or part thereof for which it has previously received assistance under the Act, to the extent that insurance for such property or part thereof would have been reasonably available.

#### Subpart G—Disaster Preparedness Assistance

#### § 2205.75 General.

(a) The purpose of this subpart is to prescribe the standards and procedures to be followed in implementing Pub. L. 93-288 Title II—Disaster Preparedness Assistance, section 201, Federal and State Disaster Preparedness Programs.

(b) The disaster preparedness program shall be carried out in accordance with the policies set forth in § 2205.3 and the following priorities:

(1) To prepare for the efficient and expeditious provision of disaster relief.

(2) To mitigate potential disaster effects on persons and property through warning, evacuation, and emergency protective measures.

(3) To reduce the effects of hazards through effective land use and construction practices and by eliminating or lessening disaster-producing events.

#### § 2205.76 Definitions.

As used in this subpart:

(a) "Disaster preparedness plans" means those plans prepared by Federal, State, and local governments in advance of anticipated disasters for the purpose of assuring effective management and delivery of aid to disaster victims, and providing for disaster mitigation, warning, rehabilitation, and recovery.

(b) "Financial assistance" means grants from the President's Disaster Relief Fund under authority of section 201 of the Act.

(c) "State disaster preparedness coordinator" means the person designated by the Governor or by State law as responsible for overall disaster preparedness program coordination or management.

(d) "Technical assistance" means provision of guidance through advice and consultations, workshops and conferences, studies and analyses, reports and instructional materials, and other services.

(e) "Vulnerability analysis" means a systematic investigation of potential disasters in terms of probability, frequency, magnitude, and location, in order to forecast their probable effects, in specific geographical areas, on the people, systems, facilities, resources, and institutions.

#### § 2205.77 Federal Disaster Preparedness Program.

(a) The Administrator is authorized to establish a program of disaster preparedness that utilizes the services of all appropriate agencies and to provide overall management of that program by:

(1) Providing policy guidance to Federal agencies and conducting program reviews of Federal activities relating to disaster preparedness.

(2) Directing the preparation and review of Federal disaster preparedness plans.

(3) Determining goals and arranging for training of Federal and State personnel, and conducting exercises, critiques, and evaluations to enhance disaster preparedness programs.

(4) Sponsoring and monitoring disaster-related research and the application of science and technology to Federal, State, and local disaster preparedness plans and programs.

(b) The Regional Director shall establish a regional program of disaster preparedness that is consistent with the overall national program and with the State programs within his region and

shall manage that regional program by:

(1) Reviewing Federal agency, State, and local disaster preparedness and response activities and recommending improvements.

(2) Assisting the States in accordance with the Act and these regulations.

(3) Coordinating the disaster preparedness programs of Federal agencies within his region.

(4) Preparing plans and conducting training, exercises, critiques, and evaluations to enhance Federal agencies' preparedness for disaster assistance; arranging for and carrying out such activities in conjunction with the States to ensure coordinated Federal, State, and local response to disasters.

#### § 2205.78 Technical assistance.

(a) The Regional Director shall, upon request, provide technical assistance to the States, in accordance with the priorities specified in § 2205.75(b) of these regulations, for comprehensive plans and practicable programs for preparation against disasters, including hazard reduction, avoidance, and mitigation and for assistance to individuals, businesses, and State and local governments following such disasters.

(b) Particular emphasis shall be given to technical assistance in the following aspects of disaster preparedness:

(1) The drafting of disaster related State legislation and executive authorities.

(2) Vulnerability analyses.

(3) Work plans and other documentation for disaster preparedness grants.

(4) State and local disaster preparedness programs and procedures.

(5) Staff training, workshops, and seminars.

(6) Disaster assistance exercises.

(7) Program evaluation.

(8) Public information and education programs.

(9) Application of technological information to the disaster preparedness program.

(c) The Regional Director shall also advise the States regarding complementary Federal programs that will enhance State and local disaster assistance and preparedness.

(d) Requests for Federal technical assistance under section 201(b) of the Act shall be made by the Governor or the State disaster preparedness coordinator to the Regional Director.

(1) The request for technical assistance shall indicate as specifically as possible the objectives, nature, and duration of the requested assistance; the recipient agency or organization within the State; the State official responsible for utilizing

such assistance; the manner in which such assistance is to be utilized; and any other information needed for a full understanding of the need for such requested assistance.

(2) The State shall provide assurance that technical assistance does not duplicate any existing State capability, any State or local effort funded by the Federal Government, or any Federal assistance provided under other authority.

(e) Nothing in these regulations shall be construed to prevent the States from obtaining appropriate technical assistance from other sources, including other Federal agencies under such agencies' own statutory or delegated authorities.

#### § 2205.79 Financial assistance.

(a) The Regional Director may provide the following financial assistance to the States, in accordance with the priorities specified in § 2205.75(b) of these regulations, upon written request by the Governor or his authorized representative:

(1) An initial development grant, not to exceed in the aggregate \$250,000, for the development of plans, programs, and capabilities for disaster preparedness and prevention, provided that such grant is applied for by May 22, 1975.

(2) An annual improvement grant of up to \$25,000 but not to exceed 50 percent of the cost of improving, maintaining, and updating State disaster assistance plans.

(b) Any financial assistance provided under Public Law 91-79 or Public Law 91-606 for these purposes shall not preclude assistance in the full amount authorized by Public Law 93-288 for further development of disaster preparedness plans, programs, and capabilities.

(c) Application for a development grant shall:

(1) Include a State work plan that sets forth a comprehensive and detailed program of work to develop adequate capability for preparation against and assistance following emergencies and major disasters, including provisions for assistance to individuals, businesses, and local governments.

(2) *Comment:* (See previous comments on similar terms.) Indicates the designated State agency or agencies that will be involved in the development effort and the State disaster preparedness coordinator appointed by the Governor.

(3) Include provisions for appointment and training of appropriate staffs, formulation of necessary regulations and procedures, and conduct of required exercises to ensure that the plans, programs and capabilities to be developed can be implemented.

(4) Describe the relationship of the proposed work with other disaster-related plans, programs, and capabilities under development.

(d) The following minimum requirements shall apply to financial assistance under section 201 of the Act in the development of the comprehensive and detailed State disaster preparedness program:

(1) A "State emergency plan" for implementation as required by section 301 (b) of the Act shall be developed.

(2) The State shall take into account the kinds of disasters to which it is most vulnerable and the particular requirements therefrom for disaster response and mitigation.

(3) State guidance and assistance shall be provided to local jurisdictions in the development of their disaster preparedness plans, programs, and capabilities.

(4) The State emergency plan shall incorporate appropriate policies and procedures pertaining to environmental clearance to assure State and local compliance with applicable Federal, State, and local laws and regulations.

(e) The development grant may apply to such preparedness programs and capabilities as:

(1) Planning for disaster response in general, for specific disaster contingencies in special locales, for local and area mutual emergency support under State sponsorship, and for disaster mitigation and hazard reduction.

(2) Revision, as necessary, of State legislation, implementing orders, regulations, and other authorities and assignments relevant to disaster preparedness and assistance.

(3) Disaster-related mutual aid compacts and agreements.

(4) Conduct of vulnerability analyses not otherwise available but necessary for the development of State and local disaster preparedness plans and programs.

(5) Design of disaster-related emergency systems.

(6) Training and exercises.

(7) Program reviews and postdisaster critiques.

(8) Public information and education programs.

(f) Federal funds provided to the State, or through the State to local government, under the provisions of section 201 of this Act may not be used to procure or repair equipment, materials, or facilities except that required for administration of the grant.

(g) The Regional Director may accept a letter from the Governor requesting grant assistance as meeting the applica-



## RULES AND REGULATIONS

tion time limit prescribed by the Act for a development grant.

(h) Work under a development grant shall be scheduled so that the entire effort specified can be completed within three years of approval of the formal application, unless special exception is approved by the Administrator.

(i) Application for an improvement grant shall include:

(1) The designated agency or agencies that will be involved in the improvement effort.

(2) A work plan setting forth those elements of the comprehensive and detailed program that are to be improved under this grant and any additional or subordinate plans to be developed for specific contingencies or disaster functions in accordance with the State's disaster preparedness program.

(j) A grant application may be amended at any time prior to the scheduled completion of work under the grant if warranted on the basis of new requirements, changes in Federal or State statutes or other legal authorities, or

other sufficient reason, provided such proposed modifications are mutually agreed upon by the Governor or his authorized representative and by the Regional Director.

(k) All grants under section 201 of the Act are subject to the appropriate provisions of Circular No. A-95, Federal and Federally assisted programs and projects: evaluation, review and coordination (revised November 13, 1973, and effective January 1, 1974), and GSA Federal Management Circulars No. 74-4, Cost principles applicable to grants and contracts with State and local governments (issued July 18, 1974), and No. 74-7 Uniform administrative requirements for grants-in-aid to State and local governments (issued September 13, 1974). In accordance with these requirements the following provisions shall also apply:

(1) Financial status and performance reports shall be made quarterly to the Regional Director.

(2) At the request of the State and with the approval of the Regional Direc-

tor, an advance of funds not to exceed the first 90 days' estimated operational expenses may be made.

(3) (i) State audits shall be made to determine, as a minimum, the fiscal integrity of financial transactions and reports, and the compliance with laws, regulations, and administrative requirements. The State shall schedule such audits with reasonable frequency, usually annually, but not less frequently than once every two years, considering the nature, size, and complexity of the activity. A final audit of the grant shall be conducted upon completion of all work presented in the State application, including amendments thereto.

(ii) Federal audits shall be scheduled as deemed necessary.

*Effective date.* These regulations shall be effective on May 28, 1975.

THOMAS P. DUNNE,  
Administrator, Federal Disaster  
Assistance Administration.

[FR Doc. 75-13743 Filed 5-27-75; 8:45 am]

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federal register

THURSDAY, MAY 29, 1975  
WASHINGTON, D.C.

Volume 40 ■ Number 104  
Pages 23271-23425



PART I

NOTICE TO AGENCIES

In order to minimize costs of publishing the large volume of information expected under the Privacy Act of 1974, the Office of the Federal Register will accept magnetic tape or word processing equipment input by prior arrangement only. Call the Federal Register Privacy Act coordinator on 523-5240.

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This is a listing of public bills enacted by Congress and approved by the President, together with the law number, the date of approval, and the U.S. Statute citation. The list is kept current in each issue of the Federal Register and copies of the laws may be obtained from the U.S. Government Printing Office.

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Agriculture

Section 213.3313 is amended to show that the position of Administrator, Soil Conservation Service, is no longer excepted under Schedule C.

§ 213.3313 [Amended]

Effective May 29, 1975, § 213.3313(k) (1) is revoked.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp. p. 218).

UNITED STATES CIVIL SERVICE COMMISSION.

[SEAL] JAMES C. SPRY,

Executive Assistant

to the Commissioners.

[FR Doc. 75-13877 Filed 5-28-75; 8:45 am]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

[Order No. 604-75]

PART 1—DEFINITIONS

PART 292—REPRESENTATION AND APPEARANCES

Representation and Appearance Before Immigration and Naturalization Service and Board of Immigration Appeals

On April 16, 1974, a notice of proposed rule making concerning representation of persons in proceedings before the Immigration and Naturalization Service and the Board of Immigration Appeals was published in the FEDERAL REGISTER, 39 FR 13659. Pursuant to that notice written comments of interested parties were submitted to the Chairman, Board of Immigration Appeals. All such comments have been considered. The existing regulations regarding representation and appearances are amended in the following major respects:

(1) Law students and law graduates not yet admitted to the bar may serve as representatives, under certain specified conditions, with the permission of the presiding official (8 CFR 292.1(a)(2));

(2) Specific criteria are provided for authorizing "reputable individuals" to serve as representatives (8 CFR 292.1(a)(3));

(3) A provisions requiring a licensed foreign attorney to obtain permission from the presiding official to serve as a representative is deleted, so that foreign attorneys will be on an equal footing

with attorneys in this country (8 CFR 292.1(a)(6); and

(4) Standards are established for accrediting recognition to organizations and for accrediting representatives (8 CFR 292.2).

1. Section 1.1 of 8 CFR Part 1 is amended by revising paragraphs (j) and (k) and adding a new paragraph (m) to read as follows:

§ 1.1 Definitions.

(j) The term "representative" refers to a person who is entitled to represent others as provided in § 292.1(a)(2), (3), (4), (5), (6), and § 292.1(b) of this chapter.

(k) The term "preparation," constituting practice, means the study of the facts of a case and the applicable laws, coupled with the giving of advice and auxiliary activities, including the incidental preparation of papers, but does not include the lawful functions of a notary public or service consisting solely of assistance in the completion of blank spaces on printed Service forms by one whose remuneration, if any, is nominal and who does not hold himself out as qualified in legal matters or in immigration and naturalization procedure.

(m) The term "representation" before the Board and the Service includes practice and preparation as defined in § 1.1(i) and (k).

2. Section 292.1 of 8 CFR Part 292 is revised to read as follows:

§ 292.1 Representation of others.

(a) A person entitled to representation may be represented by any of the following:

(1) Attorneys in the United States. Any attorney as defined in § 1.1(f) of this chapter.

(2) Law students and law graduates not yet admitted to the bar. A law student who is enrolled in the final year of an accredited law school or a law school graduate who is not yet admitted to the bar, provided that:

(i) He is appearing on an individual case basis, at the request of the person entitled to representation;

(ii) In the case of a law student, he has filed a statement that he is participating, under the direct supervision of a faculty member or an attorney, in a legal aid program or clinic conducted by the law school, and that he is appearing without direct or indirect remuneration; and

(iii) His appearance is permitted by the official before whom he wishes to appear (namely a special inquiry officer,

district director, officer-in-charge, regional commissioner, the Commissioner, or the Board), which official, in his opinion special circumstances warrant it, may require that a law student be accompanied by the supervising faculty member or attorney.

(3) Reputable individuals. Any reputable individual of good moral character, provided that:

(i) He is appearing on an individual case basis, at the request of the person entitled to representation;

(ii) He is appearing without direct or indirect remuneration and files a written declaration to that effect;

(iii) He has a pre-existing relationship or connection with the person entitled to representation (e.g., as a relative, neighbor, clergyman, business associate or personal friend), provided that such requirement may be waived, as a matter of administrative discretion, in cases where adequate representation would not otherwise be available; and

(iv) His appearance is permitted by the official before whom he wishes to appear (namely, a special inquiry officer, district director, officer-in-charge, regional commissioner, the Commissioner, or the Board), provided that such permission shall not be granted with respect to any individual who regularly engages in immigration and naturalization practice or preparation, or holds himself out to the public as qualified to do so.

(4) Accredited representatives. A person representing an organization described in § 292.2 of this chapter who has been accredited by the Board.

(5) Accredited officials. An accredited official, in the United States, of the government to which an alien owes allegiance, if the official appears solely in his official capacity and with the alien's consent.

(6) Attorneys outside the United States. An attorney other than one described in § 1.1(f) of this chapter, who does not maintain an office in the United States, who resides outside the United States and is licensed to practice law and in good standing in a court of general jurisdiction of the country in which he resides, and who is engaged in such practice.

(b) Persons formerly authorized to practice. A person, other than a representative of an organization described in § 292.2 of this chapter, who on December 23, 1952, was authorized to practice before the Board and the Service may continue to act as a representative, subject to the provisions of § 292.3 of this chapter.

(c) Former employees. No person previously employed by the Department of

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Justice shall be permitted to act as a representative in any case in violation of the provisions of 28 CFR 45.735-7.

(d) *Amicus curiae*. The Board may grant permission to appear, on a case-by-case basis, as *amicus curiae*, to an attorney or to an organization represented by an attorney, if the public interest will be served thereby.

(e) Except as set forth in this section, no other person or persons shall represent others in any case.

3. The heading and text of § 292.2 of 8 CFR Part 292 are revised to read as follows:

§ 292.2 Organizations qualified for recognition; requests for recognition; withdrawal of recognition; accreditation of representatives; roster.

(a) *Qualifications of organizations*. A non-profit religious, charitable, social service, or similar organization established in the United States and recognized as such by the Board may designate a representative or representatives to practice before the Service and the Board. Such organization must establish to the satisfaction of the Board that:

(1) it makes only nominal charges and assesses no excessive membership dues for persons given assistance; and

(2) it has at its disposal adequate knowledge, information and experience.

(b) *Requests for recognition*. An organization having the qualifications prescribed in paragraph (a) of this section may file a request for recognition on Form G-27 with a district director, regional commissioner or the Commissioner for transmittal to the Board. The Service shall forward the request, along with recommendations for approval or disapproval and reasons therefor. The organization and the Service shall be informed of the action taken by the Board.

(c) *Withdrawal of recognition*. The Board may withdraw the recognition of any organization which has failed to maintain the qualifications required by § 292.2(a). Withdrawal of recognition may be accomplished in accordance with the following procedure:

(1) The Service, by the district director within whose jurisdiction the organization is located, may conduct an investigation into any organization it believes no longer meets the standards for recognition.

(2) If the investigation establishes to the satisfaction of the district director that withdrawal proceedings should be instituted, he shall cause a written statement of the grounds upon which withdrawal is sought to be served upon the organization, with notice to show cause why its recognition should not be withdrawn. The notice will call upon the organization to appear before a special inquiry officer for a hearing at a time and place stated, not less than 30 days after service of the notice.

(3) The special inquiry officer shall hold a hearing, receive evidence, make findings of fact, state his recommendations, and forward the complete record to the Board.

(4) The organization and the Service shall have the opportunity of appearing

at oral argument before the Board at a time specified by the Board.

(5) The Board shall consider the entire record and render its decision. The order of the Board shall constitute the final disposition of the proceedings.

(d) *Accreditation of representatives*. An organization recognized by the Board under paragraph (b) of this section may apply for accreditation of persons of good moral character as its accredited representatives. An application for accreditation shall state the nature and extent of the proposed representative's experience and knowledge of immigration and naturalization law and procedure. An application may be filed with a district director, regional commissioner or the Commissioner for transmittal to the Board. The Service shall forward the application along with recommendations for approval or disapproval and reasons therefor. No individual may submit an application on his own behalf under this paragraph. The Board shall provide the organization with a copy of any adverse recommendation by the Service, with opportunity for rebuttal. The organization and the Service shall be advised of the action taken by the Board.

The accreditation of a representative shall be valid for three years only. Renewal may be sought by making application in the same manner as for an initial accreditation. Accreditation terminates when the Board's recognition of the organization ceases for any reason or when the representative's employment or other connection with the organization ceases. The organization shall promptly notify the Board of such changes. Renewal applications shall be due for those who are accredited on May 29, 1975 as follows: For those accredited prior to January 1, 1974, no later than May 29, 1976, and for those accredited on or after January 1, 1974, no later than May 29, 1977. The application should be filed at least 30 days before the anniversary of the Board's notification to the organization that the individual had been accredited.

(e) *Roster*. The Board shall maintain an alphabetical roster of recognized organizations and their accredited representatives. A copy of the roster shall be furnished to the Commissioner and he shall be advised from time to time of changes therein.

(Secs. 103, 292, 68 Stat. 173, 235; (8 U.S.C. 1103, 1362)).

Dated: May 22, 1975.

EDWARD H. LEVI,  
Attorney General.

[FR Doc.75-13960 Filed 5-28-75; 8:45 am]

# Title 10—Energy CHAPTER II—FEDERAL ENERGY ADMINISTRATION

[Ruling 1975-6]

## NATURAL GAS LIQUID PRODUCTS Pricing Prior to January 1, 1975

On December 20, 1974, FEA issued a new Subpart K to 10 CFR, Part 212, the Mandatory Petroleum Price Regulations,

effective January 1, 1975. Subpart K provides regulations designed specifically to cover the pricing of natural gas liquids and natural gas liquid products (propane, butane, and natural gasoline). The pricing of these items was, until December 31, 1974, subject to Subpart E of the FEA price regulations, which applied generally to "refiners," a term defined in 10 CFR 212.31 to include a firm that "refines liquid hydrocarbons from oil and gas field gases." Both refiners of crude oil and of natural gas and natural gas liquids are included within this definition. The new Subpart K was adopted to provide a set of price rules tailored to the purpose of regulating the prices charged for liquid products produced from natural gas, since the process of extracting liquid hydrocarbon products from natural gas differs in significant respects from the process of refining such products from crude oil.

In adopting the new Subpart K regulations, the FEA intended to accomplish three basic objectives: first, to provide a specific method by which maximum lawful prices for natural gas liquid products shall be computed, including a method by which increased product costs may be passed through in prices charged for products; second, to provide a method by which those entities whose May 15, 1973 selling prices for natural gas liquid products were abnormally low could adjust their prices to reflect more closely industry-wide average prices for those products on that date; and third, to provide a method by which refiners may pass through increased non-product costs attributable to gas plant operations.

To accomplish the first of these objectives, FEA provided for the passthrough of increased product costs associated with obtaining natural gas liquids and liquid products, expressly including increased costs of natural gas shrinkage, in a manner analogous to that provided in Subpart E of the FEA regulations for the passthrough of increased product costs. The reason for implementation of this method of increased cost passthrough was, in part, to provide a specific method by which the increased costs of raw materials associated with gas processing may be recovered in the prices charged for products that is basically equivalent to the method by which the increased costs of raw materials associated with crude oil refining may be recovered in prices charged for products. For processors of natural gas, the equivalent of increased product cost is the increase in the cost of "shrinkage" which occurs in the natural gas stream as a result of the extraction of natural gas liquids. The refiner's price rules of Subpart E, which applied to prices charged for natural gas liquid products until December 31, 1974, provided for the passthrough of increased product costs, but did not expressly indicate that sellers of natural gas liquids and liquid products could recover increased natural gas "shrinkage" costs as increased product costs, in prices charged for processed products.

To accomplish the second objective, FEA provided in Subpart K for the use

of adjusted May 15, 1973 prices by those firms that had May 15, 1973 selling prices for natural gas liquid products that were below average.

To accomplish the third objective, FEA included in Subpart K a provision for the passthrough, in prices charged for processed products, of actual increases in non-product costs attributable to gas plant operations, subject to a maximum limitation of \$.005 per gallon.

The changes in the regulations effected by Subpart K were prospective. The FEA has concluded, however, that the basic issues which the Subpart was intended to resolve have been in existence since the inception of FEA regulations, and that, insofar as practicable, they need to be resolved with respect to the period prior to January 1, 1975, during which Subpart E applied to the pricing of natural gas liquid products, particularly in view of the fact that FEA compliance actions, as well as private rights, remain dependent in large measure upon the application and interpretation of Subpart E to natural gas liquid product price determinations.

FEA is therefore issuing this ruling to make clear that increased costs of natural gas shrinkage could be passed through as increased product costs pursuant to the provisions of Subpart E, and, generally, to more clearly describe the application of the price rules of Subpart E in determining natural gas liquid product prices, before Subpart K became effective on January 1, 1975.

Also, since there were no provisions in Subpart E for use of adjusted May 15, 1973 prices by those firms that had lower than average prices on that date, and since the atypical pricing patterns of May 15, 1973, which are permitted to be adjusted by Subpart K, have affected firms since before the effective date of Subpart K, the FEA is proposing, concurrently with the issuance of this ruling, a class exception to permit the adjusted May 15, 1973 prices of Subpart K to be applied retroactively. The exception proposal also contains provisions to afford passthrough of actual non-product cost increases incurred prior to January 1, 1975, subject to a specific per gallon limitation.

*Facts:* Firms A, B and C are "refiners," as defined in 10 CFR 212.31, which process natural gas or natural gas liquids and recover natural gas liquid products (propane, butane and natural gasoline), which they sell. During 1974, Firms A, B and C obtained natural gas or natural gas liquids for processing in their plants under three different arrangements:

(1) Firm A purchased a mixed stream of natural gas liquids at a fixed price per gallon from Firm X, a firm which had extracted the natural gas liquids from natural gas. Firm A fractionated the mixed stream of natural gas liquids and sold the resulting natural gas liquid products;

On May 15, 1973, Firm A purchased the mixed stream of natural gas liquids from Firm X at a rate of 6 cents per gallon for the propane content, 6.5 cents per gallon for the butane content, and 8.5 cents per

gallon for the natural gasoline content. During November 1974, Firm A purchased the mixed stream of natural gas liquids at a lawful rate of 8 cents per gallon for the propane content, 8.5 cents per gallon for the butane content, and 10.5 cents per gallon for the natural gasoline content.

(2) Firm B purchased "wet" natural gas under a "net back" contract arrangement with Firm Y, a natural gas producer. Title to the "wet" natural gas passed to Firm B at the wellhead, and Firm B transported the gas to its gas plant, where the natural gas liquids were extracted and fractionated into natural gas liquid products. Both the natural gas liquid products and the residue gas were sold by Firm B, subject to the "net back" arrangement with Firm Y. Firms B and Y shared in the proceeds from the sale of the natural gas liquid products and from the sale of the residue gas on a percentage basis. On May 15, 1973, Firm B sold its residue gas at a rate of 23 cents per MCF, and in November, 1974, it sold the residue gas at a rate of \$1.50 per MCF; and

(3) Firm C produced and processed "wet" natural gas in its plants to extract natural gas liquids and to fractionate those liquids into natural gas liquid products. Firm C sold the natural gas liquid products and the residue gas. On May 15, 1973, Firm C sold its residue gas at a rate of 22.3 cents per million BTU's and in November, 1974 it sold the residue gas at a rate of \$1.45 per million BTU's.

On May 15, 1973, Firms A, B and C all sold the natural gas liquid products from their gas plants to Firm M, a distributor and marketer of natural gas liquid products, at 7.5 cents per gallon for propane, 8 cents per gallon for butane, and 10 cents per gallon for natural gasoline.

*Issue:* For months prior to January 1975, how should Firms A, B and C have computed the amount of increased product costs which were available for recovery in the base prices of their natural gas liquid products pursuant to § 212.83?

*Ruling:* It is an underlying principle of all of FEA pricing regulations that refiners, resellers and retailers of crude oil and petroleum products be permitted to recover increases in their product costs on a dollar-for-dollar basis in the prices permitted to be charged. Section 4(b) (2) (A) of the Emergency Petroleum Allocation Act of 1973 generally provides that recovery of increased product costs be permitted on a dollar-for-dollar basis.

Thus, for example, in implementing this principle, the "base price" for products sold by a refiner under FEA's pricing regulations (and before that under the Cost of Living Council's regulations) has been defined by the following general rule:

The base price for sales of an item by a refiner is the weighted average price at which the item was lawfully priced in transactions with the class of purchaser concerned on May 15, 1973, plus increased product costs incurred between the month of measurement and the month of May 1973 and measured pursuant to the provisions of § 212.83.

Section 212.83(b) of the FEA regulations (which is identical to the corre-

sponding section of the predecessor CLC regulations in Title 8 of C.F.R.) includes within the definition of "increased product costs" for products refined and sold by a refiner, "the difference between the total costs of crude petroleum during the month of measurement and the total cost of crude petroleum during the month of May 1973. . . ." Methods for computing this difference and allowing it to be passed through on a dollar-for-dollar basis are described in the refiner's cost formulae contained in § 212.83(c).

Although Subpart E of Part 212 of FEA's regulations specifically address only the passthrough of the increased cost of crude petroleum and petroleum product, a comparable dollar-for-dollar passthrough of increased shrinkage costs is also permitted for the reasons stated above. A dollar-for-dollar passthrough of all increased product costs may therefore be achieved by firms A, B and C in the foregoing fact situations as follows:

Firm A. Firm A is entitled to increase its May 15, 1973 selling price for its natural gas liquid products in the month following the month of measurement to reflect increased costs of the mixed gas liquid stream which it purchased for processing during the month of measurement. Since Firm A purchases its mixed stream at a fixed price per gallon, its increased product costs under § 212.83 are equal to the difference between the per gallon cost of the mixed stream on May 15, 1973 and the per gallon cost during the month of measurement multiplied by the number of gallons purchased by Firm A during the month of measurement.

Firm B. In many instances in which natural gas is processed pursuant to "net back" arrangements, such as that between Firms B and Y, the equivalent of increased product costs incurred by crude oil refiners is the increased cost of natural gas shrinkage. That is, an increase in the amount by which the value of the unprocessed natural gas is reduced through processing. This reduction in value is often referred to as the cost of natural gas "shrinkage." The cost of such shrinkage is the reduction in sales revenues that could otherwise have been received for the natural gas pursuant to the contract under which the gas is being sold, if its volume or BTU content had not been reduced through processing to extract natural gas liquids.

Accordingly, where the natural gas sales revenues are reduced by processing, and where the selling price of the natural gas that has been processed has increased since May 15, 1973, the cost of shrinkage resulting from extraction of the liquids will also have increased. The FEA considers this increased shrinkage to be an "increased product cost" under § 212.83 and it may therefore be recovered on a dollar-for-dollar basis in Firm B's base prices for natural gas liquid products in the month following the month of measurement.

The cost of shrinkage shall be determined by comparing the value of the natural gas prior to processing with the value of the natural gas after processing. The value of the natural gas stream for



this purpose shall be computed by reference to the contractual terms in effect for the sale of Firm B's "residue" natural gas during the relevant month. For example, since the sale of residue gas by Firm B was made on a volumetric basis, shrinkage costs incurred by Firm B as a result of extraction from the gas stream must be calculated on a volumetric basis. On the other hand, if Firm B sold its residue gas on a \$/MMBTU basis during the relevant month, its shrinkage costs would be determined on the same basis. Any increase in the cost of shrinkage shall be determined by comparing the cost of shrinkage respecting a particular stream during the month of May, 1973, with the cost of shrinkage during the month of measurement.

Since there is no sale of the natural gas liquid products and the residue gas under the "net-back" arrangement for which a per-unit price can be determined until after the gas has been processed, the increased cost of shrinkage is calculated with respect to residue gas sold in the month of measurement and is then applied in the month following the month of measurement to the May 15, 1973 selling price of the natural gas liquid products with the proceeds from these sales by Firm B apportioned between Firm B and Firm Y as provided by the "net-back" agreement.

Firm C. Firm C also incurs "shrinkage" costs when it removes natural gas liquids from its natural gas stream since the revenues received for its natural gas stream are thereby reduced. Firm C is therefore entitled to recover its shrinkage costs on a dollar-for-dollar basis under § 212.83 in the same manner as Firm B, above.

ROBERT E. MONTGOMERY, Jr.,  
General Counsel,  
Federal Energy Administration.

MAY 23, 1975.

[FR Doc. 75-14041 Filed 5-27-75; 9:51 am]

**Title 12—Banks and Banking**  
**CHAPTER III—FEDERAL DEPOSIT**  
**INSURANCE CORPORATION**  
**SUBCHAPTER B—REGULATIONS AND**  
**STATEMENTS OF GENERAL POLICY**  
**PART 329—INTEREST ON DEPOSITS**

**Elimination of Penalty Provisions for Withdrawal of Time Deposits Before Maturity Upon Death of Depositor**

On April 4, 1975 the Board of Directors of the Federal Deposit Insurance Corporation adopted a proposed amendment to § 329.4(d) of the FDIC's rules and regulations (12 CFR 329.4(d)). The proposed amendment would permit insured nonmember banks to pay time deposits before maturity, without imposing a penalty therefor, in certain cases where the depositor has died. The proposed amendment was published as a notice of proposed rulemaking in the *FEDERAL REGISTER* of April 10, 1975 (40 FR 16219-20). Interested persons were given until May 16, 1975 to submit written data,

views or arguments on the proposed amendment.

After considering all comments submitted to the FDIC, the Board of Directors has decided to adopt the proposed amendment without change as set forth below. Since the amendment relieves a present restriction, its effective date will not be delayed for 30 days following publication.

**Effective date.** The amendment to § 329.4(d) shall be effective May 26, 1975.

By order of the Board of Directors,  
May 23, 1975.

FEDERAL DEPOSIT INSURANCE  
CORPORATION,  
[SEAL] ALAN R. MILLER,  
Executive Secretary.

Section 329.4(d) is amended by adding a new sentence at the end thereof as follows:

§ 329.4 Payment of time deposits before maturity.

(d) *Penalty on payment of time deposits before maturity.* . . . *Provided*, that the penalty prescribed by this paragraph (d) shall not apply to the withdrawal of all or any portion of a time deposit before the maturity thereof upon the death of an individual depositor who, at the time of his death, is the sole legal and beneficial owner of such deposit.

[FR Doc. 75-14037 Filed 5-23-75; 8:45 am]

**Title 14—Aeronautics and Space**  
**CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION**

[Airspace Docket No. 74-NW-26]

**PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS**

**Alteration of Control Zone**

On March 21, 1975, a notice of proposed rule making was published in the *FEDERAL REGISTER* (40 FR 12810) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Boise, Idaho, Control Zone.

Interested persons were given 30 days in which to submit written data, views, or arguments. No objections were received.

In consideration of the foregoing, the amendment is hereby adopted without change.

**Effective date:** This amendment shall be effective 0901 G.m.t., August 14, 1975.

This amendment is issued under the authority of sec. 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Seattle, Washington, on May 12, 1975.

C. B. WALK, Jr.,  
Director, Northwest Region.

**§ 71.171 [Amended]**

In § 71.171 (40 FR 354) the description of the Boise, Idaho Control Zone is amended to read as follows:

**BOISE, IDAHO**

Within a 5-mile radius of the Boise Air Terminal (Latitude 43°33'55" N., Longitude 116°13'30" W.); within 2 miles each side of the Boise VORTAC 304° radial, extending from the 5-mile radius zone to 12 miles northwest of the VORTAC; within 2 miles each side of the Boise VORTAC 319° radial, extending from the 5-mile radius zone to 12 miles northwest of the VORTAC; within 5 miles each side of the Boise VORTAC 114° radial, extending from the 5-mile radius area to 12 miles southeast of the VORTAC; and within 2 miles west and 5 miles east of the Boise VORTAC 179° radial extending from the 5-mile radius area to 7 miles south of the VORTAC.

[FR Doc. 75-13902 Filed 5-28-75; 8:45 am]

**Title 15—Commerce and Foreign Trade**

**CHAPTER IX—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE**

**PART 927—COASTAL ZONE MANAGEMENT PROGRAM, ADMINISTRATIVE GRANTS, ALLOCATION OF SECTION 306 FUNDS TO STATES**

**Interim Regulations**

Notice is hereby given of the establishment of interim regulations regarding allocation of coastal zone management program administrative grants to State governments pursuant to section 306(a) of the Coastal Zone Management Act of 1972 (Pub. L. 92-583; 86 Stat. 1280).

Under section 306 of the Act, the Secretary of Commerce is authorized to make annual grants to any coastal State for the purpose of administering the State's coastal zone management program if he approves such program in accordance with section 306 of the Act. Such grants shall not exceed 66⅔ percent of the costs of administering the program in any one year. Federal funds received from other sources shall not be used to pay the State's share of costs. No annual administrative grants made under section 306 shall exceed \$2,000,000 for fiscal year 1975, \$2,500,000 for fiscal year 1976, or \$3,000,000 for fiscal year 1977. In addition, no such grant may be awarded for less than one percent of the amount so appropriated, except upon a request of a waiver of such provision by a coastal State.

Section 306(b) states in part:

Such grants shall be allocated to the States with approved programs based on rules and regulations promulgated by the Secretary which shall take into account the extent and nature of the shoreline and area of the plan, population of the area and other relevant factors . . .

The interim regulations set forth below establish the procedure for allocating funds under section 306 to the coastal States and are intended to fulfill the above requirements of section 306(b). Such interim regulations are intended for allocation of funds made available for grants under section 306 in Fiscal

Year 1975 only. Allocation to States of such grant funds in subsequent fiscal years may reflect changes in these regulations; such changes, if made, will be duly published.

Comments upon these regulations are invited through June 30, 1975. Comments should be addressed to the Administrator, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20230. Following the close of this 30 day period any comments received will be reviewed. In the discretion of the Administrator, these interim regulations will be amended so as to reflect any such comments. The Administrator shall then publish final regulations in the *FEDERAL REGISTER*. As authorized by USC section 553(d) (3), these interim regulations are effective in order to allocate such funds to the States until final regulations become effective.

Part 927 is added as set forth below:

Sec.  
927.1 Purpose of rules and regulations.  
927.2 Basis of allocation.  
927.3 Allocation of non-distributed funds.  
927.4 Duration of allocation.

**AUTHORITY:** Pub. L. 92-583; 86 Stat. 1280.

**§ 927.1 Purpose of rules and regulations.**

Twelve million dollars has been appropriated by the Congress for Fiscal Year 1975 to implement the Coastal Zone Management Act of 1972 (Pub. L. 92-583; 86 Stat. 1280). Of this amount, \$2.1 million has been made available for coastal zone management program administrative grants-in-aid to those coastal States and territories which have had coastal zone management programs approved by the Secretary of Commerce, pursuant to section 306(b) of the Act. It is the purpose of this part to establish the rules and regulations for allocation of grant-in-aid funds under section 306 of the Coastal Zone Management Act of 1972 pursuant to the requirements of section 306(b) which states:

Such grants shall be allocated to the states with approved program based on rules and regulations promulgated by the Secretary which shall take into account the extent and nature of the shoreline and area covered by the plan, population of the area, and other relevant factors: **PROVIDED**, That no annual grant made under this section shall be in excess of \$2,000,000 for Fiscal Year 1975, in excess of \$2,500,000 for Fiscal Year 1976, nor in excess of \$3,000,000 for Fiscal Year 1977: **Provided further**, That no annual grant made under this section shall be less than 1 per centum of the total amount appropriated to carry out the purposes of this section: **And provided further**, That the Secretary shall waive the application of the 1 per centum minimum requirement as to any grant under this section, when the coastal State involved requests such a waiver.

**§ 927.2 Basis of allocation.**

Coastal zone management program administrative grants under Section 306 may be awarded only to States whose

coastal zone management programs have been approved by the Secretary of Commerce, pursuant to requirements and standards set forth in various sections of the Act and subsequent administrative rules and regulations (see 15 CFR Part 923). To date, no coastal State has received such approval. NOAA's Office of Coastal Zone Management (OCZM), which has responsibility for administering the Act, has determined that a limited number of States are in a position to request such approval for all or a segment of their coastal zone, and further that, of this number, a maximum of two programs can be processed and approved in Fiscal Year 1975. Thus, with the prospect of approving only two, one, or no such management programs in Fiscal Year 1975, there does not appear to be a reasonable rationale for developing a formula allocation of section 306 administrative grant funds to all coastal States, to all States likely to apply for approval, or to those States actually applying. Therefore, for Fiscal Year 1975 only, OCZM will review applications from States with approved programs or which are deemed likely to receive such approval within that fiscal year, and will award administrative grants to States actually receiving approval in the fiscal year in amounts which take into account and bear reasonable relationship to the extent and nature of the shoreline and area covered by the plan, population of the area, and other relevant factors.

**§ 927.3 Allocation of non-distributed funds.**

Funds appropriated in order to make coastal zone management program administrative grants under section 306 remain available until expended, pursuant to section 315(a)(2) of the Act. Such funds not obligated during Fiscal Year 1975 will be carried over into Fiscal Year 1976 and added to such funds appropriated for that year.

**§ 927.4 Duration of allocation.**

The allocations as contained herein are published for the distribution of coastal zone management program administrative grants during Fiscal Year 1975, which is the first year for which these funds are available. Assessments regarding the relative needs of States for such grants may lead to alterations in the method of allocation for fiscal years subsequent to Fiscal Year 1975. Such revisions will be duly published.

ROBERT L. CARNAHAN,  
Deputy Assistant Administrator  
for Administration.

[FR Doc. 75-14056 Filed 5-28-75; 8:45 am]

**PART 928—COASTAL ZONE MANAGEMENT PROGRAM DEVELOPMENT GRANTS, OUTER CONTINENTAL SHELF Supplemental Appropriation, Allocation of Funds to States, Interim Regulations**

The National Oceanic and Atmospheric Administration (NOAA) on November 29, 1973, published final guidelines pursuant to section 305 of the

Coastal Zone Management Act of 1972 (Pub. L. 92-583, 86 Stat. 1280), hereinafter referred to as the "Act," for the purposes of defining the procedures by which States can qualify to receive development grants under section 305 of the Act and policies for development of the management program.

The Act recognizes that the coastal zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of the immediate and potential value to the present and future well-being of the Nation. Present State and institutional arrangements for planning and regulation of land and water uses in the coastal zone are often inadequate to deal with the competing demands and the urgent need to protect natural systems in the ecologically fragile area. Section 305 of the Act authorizes annual grants to any coastal state for the purpose of assisting the State in the development of a management program for the land and water resources of its coastal zone (development grant).

Once a coastal State has developed a management program it is submitted to the Secretary of Commerce for approval and, if approved, the State is then eligible, under section 306, to receive annual grants for administering its management program (administrative grants).

The guidelines contained in this part are for the allocation of funds to States based on a supplemental appropriation to section 305 of the Act. The reasons for the supplemental appropriation and its allocation to the States are set forth below.

There are published herewith interim regulations relating to the allocation of funds to States on the basis of the supplemental appropriation formula set forth below.

Comments upon these regulations are invited through June 30, 1975. Comments should be addressed to the Administrator, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20230. Following June 30, 1975, any comments received will be reviewed. In the discretion of the Administrator, these interim regulations will be amended so as to reflect any such comments. The Administrator shall then publish final regulations in the *FEDERAL REGISTER*. As authorized by 5 USC 553(d) (3), these interim regulations are effective in order to allocate such funds to the States until final regulations become effective.

Sec.  
928.1 Background.  
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928.7 Local governments.  
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928.9 Miscellaneous.  
928.10 Allocation of funds.

**AUTHORITY:** Pub. L. 92-583, 86 Stat. 1280.



## § 928.1 Background.

(a) Current plans by the Department of the Interior call for the leasing of extensive tracts of offshore seabed on the Outer Continental Shelf (OCS) over the next few years for the purpose of oil and gas extraction, in order to increase domestic energy production and diminish reliance upon foreign energy sources.

(b) Certain onshore areas of the coastal States lying adjacent to these tracts will be looked upon as potential staging points for offshore operations, as land-side terminal points for the transmission and storage of oil and gas, and as possible locations for refineries, industrial processing plants and electrical generating facilities. The coastal States are especially concerned that inadequate opportunity may exist for OCS and localities to plan for the onshore physical, social and economic impacts of OCS leasing and oil and gas production.

## § 928.2 Administration proposal.

(a) On November 13, 1974, President Ford announced to a meeting of coastal State governors a number of actions designed to ameliorate the concerns expressed by coastal States. Among these actions was the decision to request an additional \$3 million for FY 1975 for program development grants to coastal States under Section 305 of the Coastal Zone Management Act.

(b) While the President did not postpone the leasing of OCS tracts until State coastal zone management programs are completed, he pointed out that States will want to utilize the time between leasing and actual production to prepare for the shoreside impact of such activity, and that States would be asked to participate in the tract selection process. The \$3 million supplemental appropriation requests intended "to facilitate coastal State participation in this effort" and to accelerate State planning efforts. The President's FY 76 budget request to Congress also reflects this additional level of funding.

## § 928.3 Intent of guidance.

(a) The intent of this document is (1) to identify the purposes for which States may apply for grants awarded under this supplemental appropriation, when and if made, (2) to indicate how work elements so funded should be integrated into the ongoing development of State coastal zone management programs, and (3) to specify the method of allocating funds which may be thus available to the coastal States.

## § 928.4 Purpose of supplemental funding.

(a) The central focus of grants made under this supplemental appropriation shall be to improve State capabilities to plan for and manage the projected or potential impacts induced by Federal actions leading to or resulting from OCS production. A central objective should be to integrate such planning and management activities into the development of an approvable State coastal zone management program.

(b) Activities to be funded by these grants should fulfill the following general purposes:

(1) To determine the probable physical, social and economic effects of OCS leasing, exploration, production, and eventual shut-down on a State's coastal zone.

(2) Where those effects could include or lead to the establishment of land or water uses which have a direct and significant impact upon coastal waters, to make appropriate plans to take into account these effects and include them within the terms of the State's management program.

(3) To provide policy guidance and advice, based upon (1) and (2) above, to the State's governor and legislature.

## § 928.5 Nature of onshore impacts.

(a) In attempting to evaluate not only the environmental impacts on coastal areas resulting from OCS activities but the social and economic effects as well, it may be useful to divide them into the following categories.

(1) *Malfunctioning of the oil and gas production system.* Oil spills (accidental or chronic), blowouts, fires and other catastrophic events are major concerns in the minds of citizens of coastal areas. While they are obviously rare occurrences, States may wish to integrate planning for such contingencies into the development of their coastal zone management programs. It is not anticipated, however, that such planning activities will represent a significant portion of a grant under this supplemental, particularly in view of the limited amount of funding available, and work now being carried out by the Coast Guard.

(2) *Onshore activities and facilities which are required to service the construction of and production from OCS oil and gas facilities.* These would include oil platform fabrication sites, boat docks, storage yards, pipeline corridors, pumping stations, tank farms, intermodal transfer facilities and onshore pipelines, for example.

(3) *Onshore activities and facilities which are located in the coastal zone in order to take advantage of the availability of oil and gas produced from the OCS* either as raw material or as a source of energy. These would include oil refineries, petrochemical processing facilities, and electrical generating plants, for example.

(4) *Onshore activities and facilities whose presence has been induced by (a)*

(2) and (3) of this section. These would include incremental additions to community facilities such as roads, sewers, schools, housing and transit facilities as well as to public services. The actual sites these facilities may occupy in the coastal zone will result from locational decisions influenced by both economic considerations of the private market and restraints exerted by Federal, State and local governments. The resulting pattern of facilities across the coastal zone will thus be irregular, and often very localized depending upon the economic requirements and physical characteristics of each facility. Some communities

may be likely to undergo disruptions, the severity of which will vary according to the size of the facilities and their relationship to existing development. Others, while not directly impacted, may nonetheless experience change as a result of activities in neighboring communities. Still others, perhaps the vast majority, may not be affected in any significant manner.

(b) Some impacts will be viewed as beneficial, others as adverse. These perceptions may be colored by the particular perspectives of various levels of government or the private sector. What are positive benefits to some may be negative to others. Also in some cases, the impact may be adverse at first and beneficial later, or vice versa. Examples of these impacts include:

(1) *Beneficial.*

(i) More jobs and lower unemployment;

(ii) Increased personal and corporate income;

(iii) Increased tax base;

(iv) Better job opportunities and mobility.

(2) *Adverse.*

(i) Additional costs of community infrastructure;

(ii) Potential oil pollution;

(iii) Environmental and esthetic damage;

(iv) Changes in the social and culture fabric of the community;

(v) Decline in traditional employment.

## § 928.6 Regional approach.

(a) Some offshore lease sale sites will induce onshore development in only one State, while others will affect a number of States adjacent to the site. Some States will welcome OCS development for what they perceive to be beneficial onshore impacts, while others will oppose it for the adverse effects. The "national interest" clause (section 306(c) (8)) of the Act is interpreted as meaning that States may not arbitrarily exclude or restrict the siting of facilities deemed to be of greater than statewide significance. In locations where regional groupings of States are likely to be affected, it is important that one State not be called upon to bear the entire regional burden of such facilities, nor should it expect to receive all of the benefits of such development. Siting decisions in such cases should be taken in the context of a broad regional approach which assesses both economic and social needs, environmental considerations and public desires in the affected States. The mechanisms for making such decisions in the coastal zone should be an integral part of the development or implementation of each State's coastal zone management program.

(b) Thus, where more than one State will be directly impacted as the result of the leasing of and production from OCS tracts, as will almost certainly be the case in New England, and the Mid and South Atlantic regions, it would be beneficial if all of the affected States were to be involved in cooperative re-

gional studies, which the individual States can then utilize to integrate OCS-related impacts into their State's coastal zone management program. The nature of these regional studies and the manner of carrying them out shall be left to the States involved. No specific regional organizations or cooperative mechanisms shall be prescribed by OCZM, but clearly where such an entity is used, it should have the capacity to undertake the work contemplated and sufficient credibility throughout the region to assure public acceptance.

(c) While the regional interstate approach described here is desirable and strongly recommended, it is not mandatory. States within a region affected by OCS activities may choose not to utilize funds for regional studies, reserving them for developing an individual State response to OCS-related impacts and integrating them into the State's management program.

## § 928.7 Local governments.

Because of the nature of the potential onshore impacts, it is likely that local governments will need to be heavily involved in State planning activities. Whereas the aggregate impact on State government may be fairly nominal, the economies of individual communities and counties may undergo severe fluctuations and dislocations. Thus, it will be important that the planning of State and local governments be closely integrated and coordinated, and that local governments be provided, to the extent practicable and appropriate, with funds from these grants for such coordinated management program development.

## § 928.8 Specific use of funds.

(a) It is not the intent of OCZM to mandate the specific work elements to be funded under this appropriation. Each State should develop its own work program to fit both its own needs and the general purposes of the funding. It may prove helpful to States, however, to provide some examples of work which is considered eligible, as follows:

(b) Inventories and analyses. (1) Specialized surveys of coastal resources, public and private facilities and services and land and water uses, of a nature specific to OCS-induced impacts and of a detail not normally required for management program development.

(2) Existing oil and gas distribution and processing systems;

(3) Locational aspects of existing land use and air and water pollution controls;

(4) Compilation of data on existing levels, types of employment, income, skills;

(5) Projections of physical, economic, social conditions in the absence of OCS development;

(6) Surveys of public sentiment.

(c) Required facilities and anticipated impact. (1) Formulation of assumptions on location and quantity of OCS oil and gas;

(2) requirements onshore to service OCS exploration, construction, production and shutdown;

(3) alternative patterns and timing of facilities to fulfill such requirements;

(4) environmental and socio-economic impacts of alternative siting options, at State, interstate and local levels;

(5) analyses of impacts and timing of additional induced growth at various levels;

(6) determination and distribution of costs to State and local governments of onshore impacts;

(d) Integration of coastal zone planning and OCS impacts: (1) Studies of carrying capacity and suitability of specific uses;

(2) Detailed analysis of areas of particular concern;

(3) Establishment of siting criteria;

(4) Identification of appropriate and inappropriate sites and conditions;

(5) Formulation of controls on siting and operation;

(6) Establishment of timetable for completion of management program and coordination with OCS field production plan;

(7) Establishment of management system for monitoring and altering plans as new or changing impacts as perceived.

(e) Policy guidance for governor and legislature: (1) Interpretation of detailed studies for popular consumption;

(2) Formulation of State strategy for dealing with OCS issues.

## § 928.9 Miscellaneous.

(a) With the exception of the items noted above, the procedures and regulations applying to section 305 program development grants, including A-95 project notification and review, shall also apply to funds under this appropriation. States may apply for supplemental funds either as a part of the regular application for section 305 grants or in a separate request, depending upon their own timetable. Unless modified by Congressional action, the statutory requirement of a one-third State matching share continues to apply.

(b) Funds received by the States may also be passed through to interstate bodies for regional studies, to local governments, to areawide planning agencies, to other State agencies, to universities or other such institutions, or to private or non-profit contractors.

## § 928.10 Allocation of funds.

(a) Funds available from appropriations in FY 1975 will be allocated to all coastal States considered to be impacted by OCS oil and gas development on the same general formula as earlier grants made under Section 305. That is, each grant made under the supplemental would be allocated funds on the following basis:

(1) *Uniform allocation:* Each affected State will be allocated 1% of the funds available (presumably \$30,000 for FY 1975).

(2) *Variable allocation:* Of the amount available after distribution of the uniform allocation,

(i) 40 percent will be distributed to affected States, based upon the ratio of any given State's marine shoreline to the

total of marine shorelines of affected States

(ii) 40 percent will be distributed to affected States, based upon the ratio of any given State's coastal population in marine coastal counties (the same counties, excluding those not on marine shorelines, earlier identified for allocation purposes) to the total population in marine coastal counties of affected States

(iii) 20 percent will be distributed on the basis of identified needs. Examples of such needs may include, but are not limited to:

(A) States which have chosen to participate with other States similarly impacted by development of the same offshore field in studies, inventories or analyses of regional needs and resources.

(B) States being impacted by OCS development for the first time (i.e., so-called "frontier" areas) and which have not had experience in dealing with these or similar issues.

(C) States where OCS-induced impacts will be felt earliest as a result of current leasing and production timetables.

(D) States where special physical, ecological, demographic or social conditions obtain to the extent that distribution of funds by the formula above creates obvious inequities.

(b) All impacted States are eligible to apply for funds appropriated for FY 1975. However, States will be limited to three grants under appropriations made for this purpose; States adjacent to fields scheduled for leasing in later years should be aware of this limitation and plan the development of work under the supplemental accordingly.

(c) Funds not obligated by the end of FY 1975 (June 30, 1975) will remain available. States thus should attempt to develop the strongest possible work program and not feel bound by time constraints imposed by the short time between the data of appropriations and the end of the fiscal year. Later in FY 1976, States which have not submitted application for such FY 1975 funds will be asked if and when they intend to apply. Funding of any given State under this supplemental will depend, of course, upon approval of a satisfactory application for such funds which carries out the terms of the Coastal Zone Management Act of 1972, and its associated regulations, including the guidance set forth herein.

(d) It is recognized that a number of States may have their coastal zone management programs approved by the Secretary of Commerce during the period for which the State may be receiving OCS supplemental grants. At present, the supplemental applies only to section 305 program development grants and program approval under the current statute would make the State ineligible for further section 305 grants.

(e) Basic allocations to States from the FY 1975 supplemental (rounded to the nearest \$1,000) without any distribution on the basis of need are indicated below. Also displayed are regional totals for groupings of States likely to be impacted by leasing and development of the



same field. Data and computations by which these allocations were determined are on file and questions should be directed to OCZM.

Impacted States:	Basic Allocation (nearest \$1,000; excluding needs)
Alabama	\$42,000
Alaska	300,000
California	300,000
Connecticut	65,000
Delaware	42,000
Florida	198,000
Georgia	59,000
Louisiana	149,000
Maine	73,000
Maryland	105,000
Massachusetts	86,000
Mississippi	37,000
New Hampshire	34,000
New Jersey	128,000
New York	228,000
North Carolina	73,000
Oregon	61,000
Pennsylvania	87,000
Rhode Island	47,000
South Carolina	68,000
Texas	107,000
Virginia	91,000
Washington	97,000
Total	2,447,000
Needs distribution	553,000
Total	3,000,000

<sup>1</sup> No State may receive more than 10 percent of the amount appropriated in any fiscal year for section 305 grants, or \$1,200,000 should the supplemental appropriation be enacted. In States where the previous maximum of \$900,000 has been or has a reasonable expectation of being awarded, exclusive of the supplemental, the additional funds cannot exceed \$300,000. As was done earlier, the difference of basic allocation and legal maximum has been applied to the needs distribution.

REGIONAL TOTALS	Basic Allocation (nearest \$1,000; excluding needs)
South Atlantic Area:	
North Carolina	\$ 73,000
South Carolina	68,000
Georgia	59,000
Florida	198,000
Total	298,000
MAFLA:	
Mississippi	37,000
Alabama	42,000
Florida	98,000
Total	177,000
Georges Bank:	
Maine	73,000
New Hampshire	34,000
Massachusetts	86,000
Rhode Island	47,000
Connecticut	65,000
New York	114,000
Total	417,000
Baltimore Canyon:	
New York	114,000
New Jersey	128,000
Delaware	42,000
Maryland	105,000
Pennsylvania	87,000
Virginia	91,000
Total	547,000

<sup>1</sup> State likely to be impacted by two different fields. Allocation split evenly by region.

R. R. HAGEMeyer,  
Acting Deputy Assistant  
Administrator for Administration.  
[FR Doc.75-14057 Filed 5-28-75; 8:45 am]

## RULES AND REGULATIONS

### Title 16—Commercial Practices CHAPTER 1—FEDERAL TRADE COMMISSION

#### SUBCHAPTER A—PROCEDURES AND RULES OF PRACTICE

##### PART 4—MISCELLANEOUS RULES

#### Public Records, Confidential Information, and Freedom of Information Act Requests

On February 21, 1975, the Federal Trade Commission published in the *FEDERAL REGISTER* (40 FR 7628) its revised regulations relating to public records, inspection and copying of records, exempted records, and requests for disclosure of records. To remove a possible ambiguity concerning the applicability of Freedom of Information Act exemptions to Congressional committee requests and to clarify the procedure to be utilized by other agencies in requesting Commission records in cases in which a formal liaison arrangement exists between those agencies and the Commission, § 4.11(b) is amended to read as follows:

§ 4.11 Requests for disclosure of records.

(b) *Requests from Government Agencies and Congressional Committees.* (1) Requests from Congressional committees and subcommittees shall be referred to the General Counsel for processing, subject to the provision in 5 U.S.C. section 552(c) that that section is not authority to withhold information from Congress. (2) Requests from agencies of the Federal Government shall be referred to the liaison officer for the requesting agency, or if there is none, to the General Counsel for determination. If it is determined that the records are not exempt under 5 U.S.C. 552(b), the request shall be granted. If it is determined that the records are exempt, the matter shall be forwarded to the Commission for final determination.

For similar clarification purposes, the phrase "administrative manuals" contained in § 4.10(a)(1), which is also used in § 4.9(b)(1) and thus may be confusing, should be deleted. Section 4.10(a)(1) is therefore amended to read as follows:

##### § 4.10 Confidential information.

(a) . . . .  
(1) Records, except to the extent required to be disclosed under other laws or regulations, related solely to the internal personnel rules and practices of the Commission. This exemption applies to internal rules or instructions to Commission personnel which must be kept confidential in order to assure effective performance of the functions and activities for which the Commission is responsible and which do not affect members of the public.

(15 U.S.C. 41, et seq., 5 U.S.C. 552)

Effective date: May 29, 1975.

By direction of the Commission dated May 9, 1975.

[SEAL] CHARLES A. TOBIN,  
Secretary.

[FR Doc.75-13903 Filed 5-28-75; 8:45 am]

### Title 17—Commodity and Securities Exchange

#### CHAPTER 1—COMMODITY FUTURES TRADING COMMISSION

##### PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

#### Registration of Associated Persons, Commodity Trading Advisors, and Commodity Pool Operators

##### Correction

In FR Doc. 75-12437 appearing at page 20614 in the issue for Monday, May 12, 1975, on page 20615 in the last column, the fifth paragraph, the fifth line, the U.S.C. cite should read "5 U.S.C. 553(d)." .

### Title 24—Housing and Urban Development

#### CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

##### SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-584]

##### PART 1916—CONSULTATION WITH LOCAL OFFICIALS

#### Modification of Existing Base Flood Elevations Determinations in Orleans Parish, Louisiana

On March 6, 1970, at 53 FR 4208-9, and October 19, 1971, at 36 FR 20225, the Federal Insurance Administrator published lists of communities with Special Flood Hazard Areas and the map numbers and locations where Flood Insurance Rate Maps were available for public inspection. These lists included Flood Insurance Rate Maps for portions of Orleans Parish, Louisiana.

The Federal Insurance Administration has determined that it is appropriate to modify the base (100-year) flood elevations of some locations in Orleans Parish, Louisiana. These modified elevations are currently in effect and amend the Flood Insurance Rate Map, which was in effect prior to this determination. A revised map will be published as soon as possible. The modifications are made in accordance with section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 225203A and must be used for all new policies and renewals.

Under the above mentioned Acts of 1968 and 1973 the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The modified elevations are in effect. However, from the date of this notice, any person has 90 days in which he can

request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, the Administrator's new determination of elevations may itself be changed.

Any person having knowledge or wishing to comment on these changes should immediately notify:

Director-Secretary, City Planning Commission, City Hall, 1300 Perdido Street, New Orleans, Louisiana 70112.

Also, at this location is the map showing the new base flood elevations. This map is a copy of the one that will be printed.

The numerous changes made in the base flood elevations on the Orleans Parish Flood Insurance Rate Map make it administratively unfeasible to publish all of the base flood elevation changes contained on the Orleans Parish map.

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended 39 FR 2787, January 24, 1974.)

Issued: May 9, 1975.

J. ROBERT HUNTER,  
Acting Federal  
Insurance Administrator.

[FR Doc.75-13845 Filed 5-28-75; 8:45 am]

[Docket No. FI-583]

##### PART 1916—CONSULTATION WITH LOCAL OFFICIALS

#### Modifications of Existing Base Flood Elevations Determinations in St. Bernard Parish, Louisiana

On March 11, 1970, at 35 FR 4331-2, March 27, 1970, at 35 FR 5175-6, and September 7, 1973, at 38 FR 24355, the Federal Insurance Administrator published lists of communities with Special Flood Hazard Areas and the map numbers and locations where Flood Insurance Rate Maps were available for public inspection. These lists involved Flood Insurance Rate Maps for portions of St. Bernard Parish, Louisiana.

The Federal Insurance Administrator has determined that modification of the base (100-year) flood elevations of some locations in St. Bernard Parish, Louisiana, is appropriate. These modified elevations are currently in effect and amend the Flood Insurance Rate Map. A revised rate map will be published as soon as possible. The modifications are made in accordance with section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and the National Flood Insurance Act of 1968, as amended (Title XIII

## RULES AND REGULATIONS

of the Housing and Urban Development Act of 1968, Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, as of February 6, 1975 (the date of notice to the community), the new community number is 225204A and must be used for all new policies and renewals.

The changes in base flood elevations are as follows:

Previous Federal Insurance Administration zones (as on map)	Previous base flood elevations (as on map) (mean sea level)	New Federal Insurance Administration zones	New base flood elevations (mean sea level)
Zone A18 (S of Highway 40)	10.8	Zone A9.....	6.0
Zone A18 (N of Highway 40)	10.8	Zone A6.....	5.0
Zone A8.....	4.6	Zone A1.....	1.2
Zone A6.....	3.5	Zone A1.....	1.2
Zone A2.....	-1.4	Zone A2.....	-1.5
Zone A1.....	(1)	Zone A1.....	(2)
Zone V11.....	12.5	Zone V12.....	12.5
Zone V10.....	10.2	Zone A2.....	6.0
Zone V12.....	12.2	Zone V12.....	12.0

<sup>1</sup> Varies (see maps).

<sup>2</sup> Unchanged (see maps).

Under the above mentioned Acts of 1968 and 1973 the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The modified elevations are in effect. However, from the date of this notice, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, the Administrator's new determination of elevations may itself be changed.

Any person having knowledge or wishing to comment on these changes should immediately notify:

President, St. Bernard Parish Police Jury, Courthouse Annex, Chalmette, Louisiana.

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to the Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended 39 FR 2787, January 24, 1974.)

Issued: May 9, 1975.

J. ROBERT HUNTER,  
Acting Federal  
Insurance Administrator.

[FR Doc.75-13844 Filed 5-28-75; 8:45 am]

### Title 40—Protection of Environment

#### CHAPTER 1—ENVIRONMENTAL PROTECTION AGENCY

##### SUBCHAPTER C—AIR PROGRAMS

[FRL 365-7]

##### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

#### Connecticut: Control of Air Pollution from Facilities Owned, Operated or Under Contract With Connecticut Transportation Authority

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator initially approved the State Plan for implementation of the National Ambient Air Quality Standards in the State of Connecticut. The Administrator's approval of the Legal Authority section of that Plan was based on the assumption that the State had the legal authority required by 40 CFR 51.11, including authority to prevent construction, modification or operation of any stationary source where emissions from such source would prevent the attainment or maintenance of a national standard.

Subsequently, the Connecticut Supreme Court ruled in *Town of Greenwich v. Connecticut Transportation Authority*, et al., 35 Conn. L.J. 45 (1974), that Connecticut General Statutes Section 16-344 exempts facilities owned, operated or under contract with the Connecticut Transportation Authority from the State Implementation Plan. Therefore, under the present state of the law in Connecticut, the State does not have the legal authority required by the Clean Air Act. The Administrator proposed to disapprove the State implementation plan insofar as the State lacked the requisite legal authority with regard to facilities of the Connecticut Transportation Authority in a notice of proposed rulemaking on January 16, 1975 (40 FR 2832).

Section 110(c)(1) of the Clean Air Act directs the Administrator to publish proposed regulations to be substituted for any portion of a plan submitted by a State which he determines not to be in accordance with the requirements of section 110 of the Act, and to provide opportunity for a public hearing on the regulations to be substituted within such State. The proposed regulations would become a part of the State implementation plan if finally promulgated. On January 16, 1975 (40 FR 2832), the Administrator published the regulations proposed to be substituted which are identical to Connecticut Regulations for the Abatement of Air Pollution, sections 19-508-1 through 19-508-25 inclusive, and gave notice of a hearing to be held on February 11, 1975 in Greenwich, Connecticut. Actual written notice was sent to interested parties, and the *Greenwich Times* on January 9, 1975 carried a story announcing the public hearing on page one.



A hearing was held on February 11, 1975, and reconvened on February 18, 1975. There was substantial testimony by local health officers, local residents and by representatives of the Connecticut Department of Environmental Protection that the Cos Cob Generating Plant owned by Penn Central Transportation Company and leased to the Connecticut Transportation Authority was frequently in violation of the applicable emission and opacity limitations. No person appearing at the hearing, or submitting testimony subsequently opposed the disapproval of the State Implementation plan or the substitution of the proposed regulation by the Administrator. Representatives of the Connecticut Transportation Authority and of the Penn Central Transportation Company appeared, presented plans for the phasing out of the Cos Cob Generating Plant and asked for a delay in the implementation of the regulation. The hearing provided for adequate notice to and participation of the public.

Accordingly, on the basis of information produced at the public hearing and otherwise before the EPA, the Administrator hereby disapproves the Connecticut Implementation Plan insofar as the State lacks the legal authority to control emissions from sources owned or controlled by the Connecticut Transportation Authority; and hereby further promulgates, as federal regulations for inclusion in the implementation plan, regulations identical to those originally intended by the implementation plan to apply to facilities of the Connecticut Transportation Authority.

This rulemaking is effective June 30, 1975.

(42 USC 1857c-5)

Dated: May 22, 1975.

RUSSELL E. TRAIN,  
Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is as amended as follows:

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

##### Subpart H—Connecticut

1. Section 52.377 is amended by adding a new paragraph (b) as follows:

§ 52.377 Legal authority.

(b) The requirements of § 51.11(a) of this chapter are not met because the State does not have the legal authority to enforce approved implementation plan regulations against facilities owned, operated, or under contract with the Connecticut Transportation Authority.

2. A new § 52.380 is added, as follows:

§ 52.380 Rules and regulations.

(a) All facilities owned, operated or under contract with the Connecticut Transportation Authority shall comply in all respects with Connecticut Regulations for the Abatement of Air Pollution sec-

tions 19-508-1 through 19-508-25 inclusive, as approved by the Administrator.

(b) For the purposes of subsection (a) of this section the word "Administrator" shall be substituted for the word "Commissioner" wherever that word appears in Connecticut Regulations for the Abatement of Air Pollution Sections 19-508-1 through 19-508-25 inclusive, as approved by the Administrator.

[FR Doc.75-14018 Filed 5-28-75; 8:45 am]

#### SUBCHAPTER E—PESTICIDE PROGRAMS

[PP5F1552/R31]

#### PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

##### 3,5-Dichloro-N-(1,1-Dimethyl-2-Propynyl) Benzamide

On November 15, 1974, notice was given (39 FR 40326) that Rohm and Haas Co., Independence Mall West, Philadelphia PA 19105, had filed a pesticide petition (PP 5F1552) with the Environmental Protection Agency (EPA). This petition proposed an increase in the established tolerance for combined residues of the herbicide 3,5-dichloro-N-(1,1-dimethyl-2-propynyl) benzamide and its metabolites (calculated as the herbicide in or on the raw agricultural commodities fresh forage and hay of alfalfa from 5 to 10 parts per million.

The data submitted in the petition and other relevant material have been evaluated. The herbicide is considered useful for the purpose for which the increased tolerance is sought. The established tolerances for residues in eggs, meat, milk, and poultry are adequate to cover residues resulting from the proposed and established uses. The tolerance established by amending § 180.317 of the regulations will protect the public health. Therefore, it is concluded that the tolerance should be established as set forth below.

Any person adversely affected by this regulation may on or before June 30, 1975, file written objections with the Hearing Clerk, Environmental Protection Agency, 401 M St. SW., East Tower, Room 1019, Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on May 29, 1975, Part 180, Subpart C, is amended by revising § 180.317.

AUTHORITY: Section 408(d) (2) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(d) (2)].

Dated: May 23, 1975.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

Part 180, Subpart C, § 180.317, is amended by adding the new paragraph "10 parts per million . . ." after the introductory paragraph and by deleting "fresh forage and hay of alfalfa" from the paragraph "5 parts per million . . ." to read as follows:

§ 180.317 3,5-Dichloro-N-(1,1-dimethyl-2-propynyl) benzamide; tolerances for residues.

10 parts per million in or on fresh forage and hay of alfalfa.  
5 parts per million in or on clover, crown vetch, sainfoin, and trefol.

[FR Doc.75-14016 Filed 5-28-75; 8:45 am]

[PP5F1552/R32; FRL 380-2]

#### PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

##### Butanoic Anhydride, Exemption From the Requirement of a Tolerance

On August 15, 1974, notice was given (39 FR 29418) that Cloverland Products, Route 1, Pearl City IL 61062, had filed a pesticide petition (PP 5F1526) with the Environmental Protection Agency (EPA). This petition proposed establishment of an exemption from the requirement of a tolerance for residues of butyric acid in honey from use of the insect repellent butyric anhydride. (The correct chemical names for these compounds are butanoic anhydride and butanoic acid.)

The data submitted in the petition and other relevant material have been evaluated. It was determined that the exemption should be expressed in terms of the use of butanoic anhydride rather than as residues of butanoic acid in honey. The insect repellent is considered useful for the purpose for which the exemption is sought and the exemption established by regulation will protect the public health.

Any person adversely affected by this regulation may on or before June 30, 1975 file written objections with the Hearing Clerk, Environmental Protection Agency, 401 M Street, SW., East Tower, Room 1019, Washington DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective May 29, 1975, Part 180, Subpart D, is amended by adding § 180.1034.

Dated: May 22, 1975.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.  
(Sec. 408(d) (2) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(d) (2)])

Part 180, Subpart D, is amended by adding § 180.1034 to read as follows.

§ 180.1034 Butanoic anhydride; exemption from the requirement of a tolerance.

The insect repellent butanoic anhydride is exempt from the requirements of a tolerance when applied in an absorbent pad over the hive to repel bees during the harvesting of honey.

[FR Doc.75-13936 Filed 5-28-75; 8:45 am]

#### Title 47—Telecommunication

##### CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20148; RM-2072]

#### PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

##### Radiotelegraph Auto Alarm Receiver Timing Tolerances

In the matter of amendment of Part 83 to specify radiotelegraph auto alarm receiver timing tolerances, add requirements for reception of additional emissions, and to make editorial changes.

The Annex to Report and Order, FCC 75-442, in the above matter, released May 1, 1975, which amended § 83.554 of the rules with respect to Auto Alarm Receiver Tolerances, was not included in the Federal Register with the published document. At the special request of the FCC, the Office of the Federal Register published the Annex separately as Part V in the issue of May 19, 1975. For the benefit of interested persons, this memorandum is issued to reference the Annex to the original document as follows:

Report and Order, FCC 75-442  
Docket 20148, RM-2072  
Published at 40 FR 19644 (May 6, 1975)  
Annex to Report and Order, FCC 75-442  
Docket 20148, RM-2072  
Published at 40 FR 21877 (May 19, 1975)

Released: May 22, 1975.

##### FEDERAL COMMUNICATIONS COMMISSION.

[SEAL] VINCENT J. MULLINS,

Secretary.

[FR Doc.75-13923 Filed 5-28-75; 8:45 am]

#### Title 50—Wildlife and Fisheries

##### CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

#### PART 82—ADMINISTRATIVE PROCEDURES FOR GRANTS-IN-AID (MARINE MAMMAL PROTECTION ACT OF 1972)

Proposed regulations were published in the FEDERAL REGISTER of October 21, 1974 (39 FR 37394-37396) to implement section 110 of the Marine Mammal Protection Act of 1972 ((16 U.S.C. 1361-1407) 86 Stat. 1027), pertaining to administrative procedures governing grants-in-aid.

The regulations define procedures whereby grants can be made to Federal or State agencies, public or private institutions, or private individuals for the purpose of undertaking research in subjects

which are relevant to the protection and conservation of marine mammals.

Applications must be received by September 1 of the year preceding the fiscal year in which the research is contemplated.

The deletions, additions and minor changes in this final rule-making reflect comments received and correct certain technical errors and omissions. The following changes have been made:

1. Section 82.1—This is a new section which will clarify the regulations.
2. Section 82.2—This is a new section provided for clarification.
3. Section 82.3—This section provides supplementary information and procedures for applicants.
4. Section 82.5—The definition of "Cooperative Agreement" and "grantee" have been reworded for clarification.
5. Section 82.6—This section simplifies the application procedures.
6. Section 82.7—This section clarifies coordinating proposals with the various states.

It is determined that compliance with a delayed effective date 5 U.S.C. 553(d) is unnecessary, impracticable, and contrary to the public interest in as much as these regulations are merely procedural in nature. Accordingly, these regulations shall become effective upon publication.

Effective Date: These regulations become effective on May 29, 1975.

Dated: May 22, 1975.

LYNN A. GREENWALT,  
Director.

##### Subpart A—Introduction

- |      |   |
|------|---|
| Sec. | Scope of regulations.                     |
| 82.1 | Purpose of regulations.                   |
| 82.2 | Supplementary information and procedures. |
| 82.3 | Authority.                                |
| 82.4 | Definitions.                              |

##### Subpart B—Application for Grants

- |      |                           |
|------|---------------------------|
| 82.5 | Submission of proposals.  |
| 82.6 | Coordination with States. |

##### Subpart C—Administration

- |       |  |
|-------|--|
| 82.7  | Prosecution or work.                   |
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| 82.9  | Payments to grantee.                   |
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##### Subpart A—Introduction

§ 82.1 Scope of regulations.

The regulations in this part are issued, pursuant to the authority of the Secretary in section 1380 of the Marine Mammal Protection Act, 16 U.S.C. 1361-1407 (Supp. II 1972), to provide procedures for the submission and review of applications and the award and administration of research grants, or other forms of financial assistance, to Federal or state agencies, public or private institutions, or other

persons including any foreign governments for research relevant to the protection and conservation of marine mammals.

#### § 82.2 Purpose of regulations.

The Marine Mammal Protection Act of 1972 (Pub. L. 92-552) authorizes appropriations, and confers authority upon the Secretary, subject to such terms and conditions as he deems necessary, and after review by the Marine Mammal Commission, to make grants, or provide other forms of financial assistance, for the purpose of undertaking research relevant to the protection and conservation of marine mammals. Research initiated pursuant to this authorization is to be directed toward increasing the available knowledge of the ecology and population dynamics of marine mammals and of the factors which bear upon their ability to reproduce themselves successfully, which information may be used for the purposes of increasing and maintaining the number of animals within species and populations of marine mammals at the optimum carrying capacity of their habitat.

#### § 82.3 Supplementary information and procedures.

The regulations in this part are intended to provide for the maximum flexibility and simplicity in the application and award of grants or other financial assistance and the minimum amount of Federal control in the conduct of the research and supervision of Federal funds, consistent with the anticipated level of appropriated funds and demand for such funds. With respect to grants to state or local governments these regulations are intended to implement and be read as consistent with Federal Management Circular 74-7, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments," (FMC 74-7) 34 CFR Part 256, 39 FR 35787-35796, October 4, 1974, unless specifically noted otherwise. The standards and procedures set forth therein, and other referenced Federal management circulars, will, to the extent practical, govern other forms of financial assistance to state and local governments, public and private institutions and persons as well as grants to such institutions and persons. Other Federal regulations and sources of guidance potential applicants may find worthwhile to consult for information which may be helpful in applying and implementing research grants or other financial assistance under these regulations include: 34 CFR Part 211, Cost Sharing on Federal Research (FMC 73-3); 34 CFR Part 251, Audit of Federal Operations and Programs by Executive Branch Agencies, superseding OMB Circular No. A-73, dated August 4, 1965; 34 CFR Part 252, Coordinating Indirect Cost Rates and Audit at Educational Institutions, (FMC 73-6); 34 CFR Part 253, Administration of College and University Grants (FMC 73-7); 34 CFR Part 254, Cost Principles for Educational Institutions (FMC 73-8); FMC 74-4, Cost Principles under Grants to State and Local Governments.



### § 82.4 Authority.

The Secretary of the Interior has delegated to the Director, Fish and Wildlife Service, his authority under the Marine Mammal Protection Act to enter into grants or other forms of financial assistance for research relevant to the protection and conservation of marine mammals covered by the Act excluding the order *Cetacea* and members, other than walruses, of the order *Pinnipedia*.

### § 82.5 Definitions.

As used in this part, terms shall have the meanings ascribed in this section.

(a) "Act" means the Marine Mammal Protection Act of 1972, 16 U.S.C. §§ 1361-1407.

(b) "Cooperative Agreement" means the properly signed documentation, including the Application for Federal Assistance, which describes the project goals, the time schedule for achieving them, the estimated expenses to be incurred and the terms and conditions under which the research will be conducted, the totality of which constitutes the legally binding instrument between the Secretary and the grantee.

(c) "Grantee" means (A) any private person or entity, or (B) any officer, employee, agent, department, or instrumentality of the Federal Government, or any state or political subdivision thereof or any foreign government, participating in a cooperative agreement with the Secretary.

(d) "Marine Mammal" means any specimen of the following species, whether alive or dead, or any part thereof, including but not limited to, any raw, dressed, or dyed fur or skin:

Scientific name:	Common name
<i>Ursus maritimus</i> .....	Polar bear.
<i>Enhydra lutris</i> .....	Sea Otter.
<i>Odobenus rosmarus</i> .....	Walrus.
<i>Dugong dugong</i> .....	Dugong.
<i>Trichechus inunguis</i> .....	West Indian manatee.
<i>Trichechus manatus</i> .....	West African manatee.
<i>Trichechus senegalensis</i> .....	Amazonian manatee.

Note: Common names given may be at variance with local usage; they are not required to be provided by the Act, and they have no legal significance.

(e) "Non-Federal Interest" means any organization, association, institution, business, school, individual or group of individuals, state agency, municipality, or others outside the Federal Government which desires to participate within the terms of the Act.

(f) "Project" means any program for which an Application for Federal Assistance and a cooperative agreement have been approved and which provides for research in subjects which are relevant to the protection and conservation of marine mammals.

(g) "Secretary" means the Secretary of the Interior or his delegated representative.

(h) "State" means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, the possessions of the United States, and

the Trust Territory of the Pacific Islands.

(i) "State agency" means any department(s), commission(s), or official(s), of a state empowered under its laws to administer the state program for marine mammals.

### Subpart B—Application for Grants

#### § 82.6 Submission of proposals.

(a) Preapplication forms may be submitted by any potential grantee in order to (1) Establish communication between the Fish and Wildlife Service and the applicant; (2) to determine the applicant's eligibility; (3) determine how well the project can compete with applications from others; and (4) eliminate any proposals which have little or no chance for Federal funding before the applicant incurs significant expenditures for preparing an application. A notice of review action will be sent to the applicant within 45 days of the receipt of the preapplication form informing the applicant of the results of the review of the preapplication form. If the review cannot be completed within 45 days, the applicant will be informed by letter as to when the review will be completed.

(b) An Application for Federal Assistance for non-construction shall be submitted by all applicants for grants, however, an Application for Federal Assistance—Short Form may be utilized for single purpose and one-time grant applications for less than \$10,000 not requiring clearinghouse approval, an environmental impact statement, or the relocation of persons, businesses, or farms.

(c) Copies of the applications described in subsections (a) and (b) may be obtained from the Federal Aid Coordinator, State Fish and Game Agency, and the Director, U.S. Fish and Wildlife (Attention: Division of Cooperative Research), Washington, D.C. 20240. An original and two copies of the appropriate application forms should be submitted to the Director at this address. In order to allow sufficient time for processing, the Federal Assistance Application must be submitted by September 1 of the year preceding the fiscal year in which the research is contemplated. Any requests by grantees for changes, continuations, and supplements to approved grants must be submitted on the same form as the original application.

#### § 82.7 Coordination with States.

If the proposed project is to be conducted within the territorial limits of a state, the Secretary shall not enter into an agreement with a non-Federal interest other than a State without first consulting with the State agency.

### Subpart C—Administration

#### § 82.8 Prosecution of work.

(a) The grantee shall pursue the agreed-upon objectives expeditiously, adhering to the procedures set forth in the Cooperative Agreement. Failure to do so or failure to provide timely and adequate reports shall be cause for the Secretary to withhold further reimburse-

ments to the grantee until project commitments are satisfactorily met. All further disbursement of funds under the cooperative agreement may be terminated upon determination by the Secretary that satisfactory progress has not been maintained.

(b) All work shall be performed in accordance with applicable Federal, state, and local laws, including safety, health and sanitation laws, except that when state and local laws are in conflict with Federal laws or regulations, such Federal laws or regulations shall prevail.

#### § 82.9 General information for the Secretary.

Before any Federal funds may be obligated for any project the grantee shall furnish to the Director such information regarding the authority of the grantee to participate in the benefits of the Act, such information of the type described in FMC 74-7 Attachment G, concerning the system to be used by the grantee for the financial management of grant funds, the state laws affecting marine mammals, and such other information as the Director may request.

(a) *Document signature.* The Application for Federal Assistance and the Cooperative Agreement must bear the signature of an official who is legally authorized to commit the prospective grantee to expenditure of funds. The Secretary may, from time to time, request, and grantee shall furnish, information relating to the administration and maintenance of any project established under the Act.

#### § 82.10 Payments to grantee.

Payments may be requested by the grantee at intervals of not less than 30 days as work described in the cooperative agreement progresses.

#### § 82.11 Forms of vouchers.

Vouchers, on forms provided by the Secretary, showing amounts expended on each project, and the Federal portion claimed to be due on account thereof, shall be certified, and submitted to the Director by the grantee.

#### § 82.12 Permit requirements.

No work shall commence on a proposal funded under the provisions of 16 U.S.C. 1380 until all appropriate State and Federal permits have been applied for and issued.

#### § 82.13 Ownership of property.

When property is acquired pursuant to the provisions of the Act, title to such property or interests therein shall be vested in the grantee as long as the property is used for the authorized purpose. When the property is no longer needed for such purpose, the Director and the grantee shall mutually agree regarding the assignment of title and any compensations consistent with the terms of Federal Management Circular 74-7 or other appropriate referenced Federal Management Circulars cited in § 82.3 above.

#### § 82.14 Inspection and audit.

Supervision of each project shall be as specified in the initial cooperative agreement and shall include adequate and continuous inspection by the grantee. The project will be subject at all reasonable times to Federal inspection. The Director and the Comptroller General of the United States, or their duly authorized representatives, shall be given access by the grantee during regular business hours to any books, documents, papers, and records of the grantee which are pertinent to the project for the purposes of making audit, examination, excerpts, and transcripts.

#### § 82.15 Record retention.

All records of accounts, and reports, with supporting documentation thereto, will be maintained by the grantee for a period of three years after submission of the final expenditure report, with the qualifications stated in FMC 74-7, Attachment C, paragraph 1.

#### § 82.16 Reporting.

Performance reports and other specified reports shall be submitted to the Secretary by the grantee in accordance with requirements prescribed by FMC 74-7 or other appropriate referenced Federal Management Circulars cited in § 82.3 above.

#### § 82.17 Procurement.

Grantees may use their own procurement regulations which reflect applicable State and local laws, rules, and regulations, provided that procurements made with funds under the Act adhere to the standards set forth in FMC 74-7 or other appropriate referenced Federal Management Circulars cited in § 82.3 above.

#### § 82.18 Officials not to benefit.

No member of, or delegate to, Congress, or Resident Commissioner, shall be admitted to any share or any part of an agreement, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to an agreement made with a corporation for its general benefit.

#### § 82.19 Patents and inventions.

Determination of the patent rights in any inventions or discoveries resulting from work under cooperative agreements entered into pursuant to the Act shall be governed by the "Government Patent Policy," President's Memorandum for Heads of Executive Departments and Agencies, August 23, 1971, and statement of government patent policy as printed in 36 FR 16889.

#### § 82.20 Civil rights.

Each cooperative agreement shall be supported by a statement of assurance executed by the grantee providing that the project will be carried out in accordance with Title VI, non-discrimination in federally assisted programs, of the Civil Rights Act of 1964, 42 U.S.C. 2000d-2000d-4, and with the Secretary's regula-

tions promulgated thereunder, 43 CFR Part 17.

#### § 82.21 Copyrights.

Where research conducted under a grant issued pursuant to this part results in a book or other copyrightable material, the author or grantee, subject to the terms of the Cooperative Agreement, is encouraged to publish the work, but the Department of the Interior reserves a royalty free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use the work for Government purposes. Any publication by the grantee must bear in an appropriate place an acknowledgment of grant support under the Marine Mammal Act from the Department of the Interior. In addition, any publication must include a statement that the findings, conclusions, etc., do not necessarily represent the views of the Department of the Interior. At least two copies of any printed publications must be furnished to the United States Fish and Wildlife Service.

[FR Doc. 75-13958 Filed 5-28-75; 8:45 am]

### Title 7—Agriculture

#### CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Reg. 500]

#### PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

##### Limitation of Handling

This regulation fixes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period May 30-June 5, 1975. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908. The quantity of Valencia oranges so fixed was arrived at after consideration of the total available supply of Valencia oranges, the quantity of Valencia oranges currently available for market, the fresh market demand for Valencia oranges, Valencia orange prices, and the relationship of season average returns to the parity price for Valencia oranges.

#### § 908.800 Valencia Orange Regulation 500.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby

found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the respective quantities of Valencia oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Valencia oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Valencia oranges is generally good except for smaller-size fruit.

Prices f.o.b. averaged \$3.46 per carton on a reported sales volume of 660,000 cartons last week, compared with an average f.o.b. price of \$3.36 per carton and sales of 655,000 cartons a week earlier. Track and rolling supplies at 447 cars were up 51 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Valencia oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy







FR 20070; 40 FR 13202), is amended to clarify the Farmers Home Administration's policies regarding the method of computing the interest rate for transfers of association-type loans to ineligible applicants. Since the changes are minor in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary.

As amended, § 1861.85(c) (3) reads as follows:

§ 1861.85 Transfer of security and assumption of loans.

(c) Transfers to ineligible applicants.

(3) Interest rates to ineligible transferees will be the current rate charged individual borrowers for operating-type loans on the date the transfer is approved less one percent, and in accordance with the following:

((7 U.S.C. 1989): delegation of authority by the Sec. of Agril., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO, 29 FR 14764, 33 FR 9850)

Dated: May 16, 1975.

FRANK B. ELLIOTT,  
Administrator,  
Farmers Home Administration.

[FR Doc. 75-14023 Filed 5-28-75; 8:45 am]

#### Title 20—Employees' Benefits

#### CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 4]

#### PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE Elective Social Security Coverage for Vow-of-Poverty Members of Religious Orders

On December 18, 1974, there was published in the FEDERAL REGISTER (39 FR 43729) a Notice of Proposed Rule Making and proposed amendments reflecting the provisions of section 123 of Pub. L. 92-603, enacted October 30, 1972 (86 Stat. 1354), regarding elective social security coverage for members of religious orders who have taken a vow of poverty. Interested parties were given 30 days within which to submit data, views, and arguments. The only comment received was later withdrawn. Therefore, the regulations are adopted as proposed, and are set forth below.

Under prior law, the services performed by a member of a religious order who is subject to a vow of poverty which were in the exercise of the duties required by the order were excluded from coverage under social security. Under section 123 of Pub. L. 92-603 such service will be covered under social security if the order (or an autonomous subdivision of the order) irrevocably elects coverage for its members subject to a vow of poverty, and if the order also makes an ir-

revocable election (or makes irrevocable a previous election) to cover its lay employees. The election may be made retroactive for a maximum of 20 calendar quarters preceding the quarter in which the certificate of election is filed.

The "wages" of these members of religious orders for social security purposes include the fair market value of any board, lodging, clothing, and other perquisites furnished to the member, except that the amount included as such individual's remuneration shall not be less than \$100 a month. These regulations provide that where the fair market value of any board, lodging, clothing, and other perquisites furnished to all members of an electing religious order or subdivision (or to all in a group of members) does not vary significantly, such order or subdivision may treat all of its members (or all in such group of members) as having a uniform wage.

A member of a religious order (i.e., an individual whose "wages" are subject to tax) is defined as any individual who is subject to a vow of poverty as a member of such order, who performs tasks usually required (and to the extent usually required) of an active member of such order, and who is not considered retired because of old age or total disability. These regulations provide that, in determining whether it is reasonable to consider an individual to be retired because of old age, consideration is first to be given to the nature of the services rendered by the individual to his religious order, the amount of time the individual devotes to the performance of services for his religious order, and the nature and extent of the services rendered by the individual before he "retired," as compared with the services performed thereafter. Where consideration of these factors does not establish whether an individual is or is not reasonably considered retired, all other factors are considered.

Under these rules, an electing religious order or subdivision which determines that a member has retired must submit with its employment tax return a summary of the facts upon which the determination has been made.

These regulations also provide that a religious order or an autonomous subdivision of such an order desiring to make an election of coverage shall file a certificate of election on Form SS-16, Certification of Election of Coverage. However, a document other than Form SS-16 may, under certain circumstances, constitute a certificate of election.

(Secs. 206, 310, and 1102 of the Social Security Act, as amended, and section 123 of the Social Security Amendments of 1972 (Pub. L. 92-603), 86 Stat. 1368, as amended, 84 Stat. 494, as amended, 40 Stat. 641, as amended, 86 Stat. 1354; (42 U.S.C. 406, 410, and 1302).)

**Effective date:** These amendments are effective May 29, 1975.

(Catalog of Federal Domestic Assistance Program No. 13.803, Social Security—Retirement Insurance.)

Dated: May 5, 1975.

J. B. CARDWELL,  
Commissioner of Social Security.

Approved: May 22, 1975.

CASPAR W. WEINBERGER,  
Secretary of Health,  
Education, and Welfare.

Subpart K, Regulations No. 4 of the Social Security Administration, as amended (20 CFR Part 404), is further amended as follows:

1. Section 404.1015 is amended by revising paragraph (a) to read as follows:

§ 404.1015 Ministers of churches and members of religious orders.

(a) *In general.* Services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, or by a member of a religious order not subject to a vow of poverty in the exercise of his duties required by such order, are excluded from employment, but are included under the self-employment provisions of the Act. However, services performed by a member of a religious order who has taken a vow of poverty which are in the exercise of duties required by such order (whether performed for the order or for another employer) are included in employment if an election of coverage under section 3121(r) of the Internal Revenue Code of 1954 is in effect with respect to such order or with respect to an autonomous subdivision thereof to which such member belongs. For provisions relating to the election available to certain ministers and members of religious orders not subject to a vow of poverty with respect to the extension of the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act to certain services performed by them, see §§ 404.1070(e), 404.1080, and 404.1086. See also section 1402(e) of the Internal Revenue Code of 1954 (26 U.S.C. 1402(e)).

2. Section 404.1015a is added to read as follows:

§ 404.1015a Election of coverage by religious orders.

(a) *In general.* A religious order whose members are required to take a vow of poverty, or any autonomous subdivision of such an order, may elect to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to services performed by its members which are in the exercise of duties required by such order or subdivision. See § 404.1026 (a) for provisions relating to the computation of the amount of remuneration of such members. For purposes of this section, a subdivision of a religious order is autonomous if it directs and governs its members, if it is responsible for its

members' care and maintenance, if it is responsible for members' support and maintenance in retirement, and if the members live under the authority of a religious superior who is elected by them or appointed by higher authority.

(b) *Definition of member.* (1) *In general.* For purposes of this section, a member of a religious order means any individual who is subject to a vow of poverty as a member of such order and who performs tasks usually required (and to the extent usually required) of an active member of such order and who is not considered retired because of old age or total disability.

(2) *Retirement because of old age.* (i) *In general.* For purposes of this paragraph, an individual is considered retired because of old age if the order to which he belongs has an established retirement program, (e.g., all members are retired at age 70, or all members are retired when they become incapacitated by advanced age), and the member meets the criteria established by such retirement program. If an order does not have an established retirement program, an individual is considered retired because of old age if (A) in view of all the services performed by the individual and the surrounding circumstances it is reasonable to consider him to be retired, and (B) his retirement occurred by reason of old age. Even though an individual performs some services in the exercise of duties required by the religious order, the first test (the retirement test) is met where it is reasonable to consider the individual to be retired.

(ii) *Factors to be considered.* In determining whether it is reasonable to consider an individual to be retired, consideration is first to be given to all of the following factors:

(A) *Nature of services.* Consideration is given to the nature of the services performed by the individual in the exercise of duties required by his religious order. The more highly skilled and valuable such services are, the more likely the individual rendering such services is not reasonably considered retired. Also, whether such services are of a type performed principally by retired members of the individual's religious order may be significant.

(B) *Amount of time.* Consideration is also given to the amount of time the individual devotes to the performance of services in the exercise of duties required by his religious order. This time includes all the time spent by him in any activity in connection with services which might appropriately be performed in the exercise of duties required of active members by the order. Normally, an individual who, solely by reason of his advanced age, performs services of less than 45 hours per month shall be considered retired. In no event shall an individual who, solely by reason of his advanced age, performs services of less than 15 hours per month not be considered retired.

(C) *Comparison of services rendered before and after retirement.* In addition, consideration is given to the nature and extent of the services rendered by the

individual before he "retired," as compared with the services performed thereafter. A large reduction in the importance or amount of services performed by the individual in the exercise of duties required by his religious order tends to show that the individual is retired; absence of such reduction tends to show that the individual is not retired. Normally, an individual who reduces by at least 75 percent the amount of services performed shall be considered retired.

Where consideration of the factors described in paragraph (b) (2) (ii) of this section does not establish whether an individual is or is not reasonably considered retired, all other factors are considered.

(3) *Retirement because of total disability.* For purposes of this paragraph, an individual is considered retired because of total disability (i) if he is unable, by reason of a medically determinable physical or mental impairment, to perform the tasks usually required of an active member of his order to the extent necessary to maintain his status as an active member, and (ii) if such impairment is reasonably expected to prevent his resumption of the performance of such tasks to such extent. A physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques. Statements of the individual, including his own description of his impairment (symptoms), are alone insufficient to establish the presence of a physical or mental impairment.

(4) *Evidentiary requirements with respect to retirement.* There shall be attached to the return of taxes paid pursuant to an election under section 3121(r) of the Internal Revenue Code of 1954 a summary of the facts upon which any determination has been made, by the religious order or autonomous subdivision, that one or more of its members retired during the period covered by such return. Each summary shall contain the name and social security number of each such retired member as well as the date of his retirement. Such order or subdivision shall maintain records of the details relating to each such "retirement" sufficient to show whether or not such member or members has in fact retired.

(c) *Certificates of election.* (1) *In general.* A religious order or an autonomous subdivision of such an order desiring to make an election of coverage pursuant to section 3121(r) of the Internal Revenue Code of 1954 and this section shall file Form SS-16, *Certificate of Election of Coverage Under the Federal Insurance Contributions Act*, with the Internal Revenue Service in accordance with the instructions applicable thereto. However, in the case of an election made before August 9, 1973, a document other than form SS-16 shall constitute a certificate of election if it purports to be a binding election of coverage and if it is filed with an appropriate official of the Internal Revenue Service. Such a document shall be given the effect it would have if it were

a certificate of election containing the provisions required by paragraph (c) (2) of this section. However, it should subsequently be supplemented by a form SS-16.

(2) *Provisions of certificates.* Each certificate of election shall provide that:

(i) Such election of coverage by such order or subdivision shall be irrevocable.

(ii) Such election shall apply to all current and future members of such order, or in the case of a subdivision thereof to all current and future members of such order who belong to such subdivision.

(iii) All services performed by a member of such order or subdivision in the exercise of duties required by such order or subdivision shall be deemed to have been performed by such member as an employee of such order or subdivision, and

(iv) The wages of each member, upon which such order or subdivision shall pay the taxes imposed on employees and employers by sections 3101 and 3111 of the Internal Revenue Code of 1954, will be determined as provided in § 404.1026(e).

(d) *Effective date of election.* (1) *In general.* Services which are performed by members of orders as defined in §§ 404.1015a(b) (1) are covered during any period either retroactive or prospective for which an order has elected coverage provided the member is not considered retired because of old age or total disability. Except as provided in paragraph (e) of this section, a certificate of election of coverage filed by a religious order or its subdivision, pursuant to section 3121(r) of the Internal Revenue Code of 1954 and this section, shall be in effect, for purposes of section 3121(b) (8) (A) of the Internal Revenue Code of 1954 and for purposes of section 210(a) (8) (A) of the Act, for the period beginning with whichever of the following may be designated by the electing religious order or subdivision:

(i) The first day of the calendar quarter in which the certificate is filed.

(ii) The first day of the calendar quarter immediately following the quarter in which the certificate is filed, or

(iii) The first day of any calendar quarter preceding the calendar quarter in which the certificate is filed, except that such date may not be earlier than the first day of the 20th calendar quarter preceding the quarter in which such certificate is filed.

(2) *Retroactive elections.* Whenever a date is designated as provided in paragraph (d) (1) (iii) of this section, the election shall apply to services performed before the quarter in which the certificate is filed only if the member performing such services was a member at the time such services were performed and is living on the first day of the quarter in which such certificate is filed. Thus, the election applies to an individual who is no longer a member of a religious order on the first day of such quarter if he performed services as a member at any time on or after the date so designated and is living on the first day of the quarter in which such certificate is filed.

(e) *Coordination with coverage of lay employees.* If at the time the certificate



of election of coverage is filed by a religious order or autonomous subdivision, a certificate of waiver of exemption under section 3121(k) of the Internal Revenue Code of 1954 (extending coverage to any lay employees) is not in effect, the certificate of election shall not become effective unless the order or subdivision files a Form SS-15, *Certificate Waiving Exemption from Taxes Under the Federal Insurance Contributions Act*, and a Form SS-15a, *List to Accompany Certificate on Form SS-15 Waiving Exemption from Taxes Under the Federal Insurance Contributions Act*, to accompany the certificate on Form SS-15, as provided by section 3121(k) of the Internal Revenue Code of 1954. The preceding sentence applies even though an order or subdivision has no lay employees at the time it files a certificate of election of coverage. The effective date of the certificate of waiver of exemption must be no later than the date on which the certificate of election becomes effective, and it must be specified on the certificate of waiver of exemption that such certificate is irrevocable. The certificate of waiver of exemption required under this paragraph shall be filed notwithstanding the provisions of section 3121(k)(3) of the Internal Revenue Code of 1954 (relating to no renewal of the waiver of exemption) which otherwise would prohibit the filing of a waiver of exemption if an earlier waiver of exemption had previously been terminated. If at the time the certificate of election of coverage is filed a certificate of waiver of exemption is in effect with respect to the electing religious order or autonomous subdivision, the filing of the certificate of election shall constitute an amendment of the certificate of waiver of exemption and make the latter certificate irrevocable.

3. Section 404.1018 is amended by revising paragraph (a) to read as follows:

§ 404.1016 Religious, charitable, educational, or certain other organizations exempt from income tax.

(a) In general. Services performed by an employee in the employ of a religious, charitable, educational, or other organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from income tax under section 501(a) of the Internal Revenue Code of 1954 (section 101 (b) of the Internal Revenue Code of 1939) are excepted from employment. However, this exception does not apply to services performed during the period for which a Form SS-15, *Certificate Waiving Exemption From Taxes Under the Federal Insurance Contributions Act*, or Form SS-15b, *Certificate for Retroactive Coverage*, filed pursuant to section 3121(k) or section 3121(r) of the Internal Revenue Code of 1954 or section 1426(l) of the Internal Revenue Code of 1939, is in effect if such services are performed by an employee (1) whose signature appears on form SS-15b or on the Form SS-15a, *List to Accompany Certificate on Form SS-15 Waiving Exemption from Taxes Under the Federal Insurance Contributions Act*, or Form

SS-15a Supplement, *Amendment to List on Form SS-15a*, filed by such organization under section 3121(k) of the Internal Revenue Code of 1954 (section 1426(l) of the Internal Revenue Code of 1939); (2) who became an employee of such organization after the calendar quarter in which the form SS-15 was filed; or (3) who became a member of a group of employees as described in section 3121(k)(1)(E) of the Internal Revenue Code of 1954 after the calendar quarter in which the form SS-15 was filed with respect to such group. (See § 404.1015(b) and (d) relating to services performed by a minister of a church in the exercise of his ministry or by a member of a religious order not subject to a vow of poverty in the exercise of duties required by such order; § 404.1015a relating to services performed by a member of a religious order or subdivision thereof whose members are required to take a vow of poverty; § 404.1018 relating to services performed in the employ of an organization otherwise exempt from income tax under section 501 (a) of the Internal Revenue Code of 1954 (section 101 of the Internal Revenue Code of 1939); § 404.1019 relating to services performed in the employ of a school, college, or university by certain students; and § 404.1022 relating to services performed by certain student nurses and hospital interns. See 26 CFR § 31.3121(k)-1 relating to waiver of exemption from taxes with respect to certain services under section 3121(k) of the Internal Revenue Code of 1954 and 26 CFR § 31.3121(r)-1 relating to services with respect to which a certificate is in effect under section 3121(r) of the Internal Revenue Code of 1954.)

4. Section 404.1026 is amended by adding paragraph (e) to read as follows:

§ 404.1026 Wages.

(e) Remuneration for service performed by certain members of religious orders. In any case where an individual is a member of a religious order as defined in § 404.1015a(b) and performing service in the exercise of duties required by such order, and an election of coverage under section 3121(r) of the Internal Revenue Code of 1954 is in effect with respect to such order or the autonomous subdivision thereof to which such member belongs, the term "wages" shall, subject to the provisions of section 3121(a)(1) of the Internal Revenue Code of 1954 (relating to definition of wages), include as such individual's remuneration for such service the fair market value of any board, lodging, clothing, and other perquisites furnished to such member by such order or subdivision or by any other person or organization pursuant to an agreement (whether written or oral) with such order or subdivision. Such other perquisites shall include any cash either paid by such order or subdivision or paid by another employer and not required by such order or subdivision to be remitted to it. For purposes of this section, perquisites

shall be considered to be furnished over the period during which the member receives the benefit of them. In no case shall the amount included as such individual's remuneration under this paragraph be less than \$100 a month. All relevant facts and elements of value shall be considered in every case. Where the fair market value of any board, lodging, clothing, and other perquisites furnished to all members of an electing religious order or autonomous subdivision (or to all in a group of members) does not vary significantly, such order or subdivision may treat all of its members (or all in such group of members) as having a uniform wage.

[FR Doc.75-13921 Filed 5-28-75; 8:45 am]

[Reg. No. 5, further amended]

#### PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

##### Admissions to Skilled Nursing Facilities More Than 14 Days After Discharge From Hospital

On July 8, 1974, there was published in the *FEDERAL REGISTER* (39 FR 24920) a notice of proposed rule making with proposed amendments to Subpart A of Regulations No. 5 (20 CFR Part 405), implementing section 248 of Pub. L. 92-603 (86 Stat. 1425), and providing that services furnished eligible beneficiaries in skilled nursing facilities may be covered if admission to the skilled nursing facility occurred more than 14 days after discharge from a hospital in the following situations: (a) Where an individual who required extended care services within 14 days of his discharge from a hospital was unable to be admitted to a skilled nursing facility within such 14 days because of a shortage of appropriate bed space in the geographic area in which he resides, provided he entered the skilled nursing facility within 28 days of his hospital discharge, or (b) where an individual whose condition is such that covered skilled nursing facility care would not be medically appropriate within 14 days after discharge from a hospital was admitted to a skilled nursing facility within such time as it would be medically appropriate to begin an active course of treatment in such a facility. Interested persons were given active course of treatment in such a facility. Comments and suggestions received with regard to such notice of proposed rule making and response thereto are summarized below.

(1) One individual questioned the use of the term "extended care services" since in the Social Security Act the title of the setting in which such services are rendered has been changed from "extended care facility" to "skilled nursing facility." Since the statute still refers to the services rendered as "extended care services", we feel that a change would not be appropriate.

(2) Another individual was concerned that since the index of the *FEDERAL REGISTER* indicated that this was a Medical regulation, that the prior hospitalization requirement might inadvertently be imposed on individuals who are patients under title XIX of the Social Security Act. This, of course, is not possible since this amendment relates strictly to a requirement of title XVIII of the Social Security Act and individuals admitted to skilled nursing facilities under the requirements of title XIX would not be affected by this amendment in any way.

In addition, the proposed regulations have been revised to reflect the decision of the court in *Wilson v. Secretary of Health, Education, and Welfare*, 502 F.2d 1337 (4th Cir. 1974), decided after the notice of proposed rule making, in which the court applied section 248 of Pub. L. 92-603 to a claim involving an admission to a skilled nursing facility which occurred prior to October 30, 1972, the date of enactment of section 248. The regulations, as revised, provide that section 248 of Pub. L. 92-603 shall be applied to skilled nursing facility admissions prior to October 30, 1972, with respect to which a final determination had not been made prior to that date.

The amendments are adopted as so revised and are set forth below.

(Secs. 1102, 1861(i), and 1871 of the Social Security Act, 49 Stat. 647, as amended, 79 Stat. 317, 79 Stat. 331; (42 U.S.C. 1302, 1395x (i), and 1395hh))

**Effective date:** These amendments shall be effective on June 30, 1975 and apply to skilled nursing facility admissions occurring on or after October 30, 1972, or to skilled nursing facility admissions occurring prior to October 30, 1972, with respect to which a final determination had not been made prior to October 30, 1972.

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged—Hospital Insurance.)

Dated: May 5, 1975.

J. B. CARDWELL,  
Commissioner of Social Security.

Approved: May 22, 1975.

CASPAR W. WEINBERGER,  
Secretary of Health, Education,  
and Welfare.

Regulations No. 5 of the Social Security Administration (20 CFR Part 405), are further amended as set forth below:

1. Paragraph (a)(1) of § 405.120 is amended by deleting the phrase "within 14 days (as defined in paragraph (d) of this section)" and inserting in its place the phrase "within the time specified in paragraph (d) of this section."

2. Paragraph (d) of § 405.120 is revised to read as follows:

§ 405.120 Posthospital extended care services; scope of benefits.

(d) **Timely admission to a skilled nursing facility.** To be eligible for extended care services an individual must be admitted to a skilled nursing facility within a specified time period.

(1) **Skilled nursing facility admissions prior to October 30, 1972.** With respect

to skilled nursing facility admissions occurring prior to October 30, 1972, which do not fall within the exception referred to in paragraph (d)(2) of this section, an individual must have been admitted to the skilled nursing facility and received required post-hospital extended care (see § 405.126) within 14 days after his discharge from a hospital (see paragraph (d)(3) of this section for method of counting days).

(2) **Skilled nursing facility admissions on or after October 30, 1972.** With respect to skilled nursing facility admissions occurring on or after October 30, 1972, or to skilled nursing facility admissions occurring prior to October 30, 1972, with respect to which a final determination (see Subpart G of this part for definition of "final determination") had not been made prior to October 30, 1972, an individual must (i) be admitted to the skilled nursing facility and receive required post-hospital extended care (see § 405.126) within 14 days after discharge from a hospital, or (ii) be admitted to the skilled nursing facility within 28 days after such discharge, in the case of an individual who was unable to be admitted to a skilled nursing facility within 14 days because of a shortage of appropriate bed space in the geographic area in which he resides provided he required posthospital extended care (see § 405.126) within 14 days of the hospital discharge and continued to require such care through the time of his admission to the facility, or (iii) must be admitted to the skilled nursing facility within such time as it would be medically appropriate to begin an active course of treatment in such a facility, in the case of an individual whose condition is such that post-hospital extended care (see § 405.126) would not be medically appropriate within 14 days after discharge from a hospital (see paragraph (d)(3) of this section for method of counting days).

(3) **Counting days.** For the purpose of this section, "within 14 days" or "within 28 days" means the period of 14 or 28 consecutive calendar days (including Saturdays, Sundays, legal holidays, and days, all or part of which is declared to be a nonworkday for Federal employees by statute or Executive order) beginning with the calendar day following the day of discharge from the hospital or, where paragraph (b)(2) of this section applies, beginning with the calendar day following the day of discharge from a skilled nursing facility.

[FR Doc.75-14012 Filed 5-28-75; 8:45 am]

#### Title 39—Postal Service CHAPTER I—UNITED STATES POSTAL SERVICE

##### PART 111—GENERAL INFORMATION ON POSTAL SERVICE

###### Lockbox and Caller Service Rentals

On April 8, 1975, the Postal Service published in the *FEDERAL REGISTER* (40 FR 15909) a notice of proposed rule-making on this subject, setting forth a

complete revision of Part 169 of the Postal Service Manual, dealing with post office boxes. The primary purpose of the revision is to reorganize the existing postal box service into two distinct categories of service: Lockbox service, and caller service. Interested persons were invited to submit written views and arguments on the proposed revision at any time on or before May 8, 1975.

A number of commenters recommended that the Postal Service provide free lockbox service to customers in small rural communities who do not have carrier delivery. Several commenters recommended free lockbox service to inner-city residents whose mail has been stolen from their mail boxes.

Persons entitled to carrier delivery who show that their mail boxes have been vandalized or their mail stolen would appear clearly to satisfy the requirement in § 113.32 of the Postal Service Manual to show "good and sufficient reasons" to receive their mail at general delivery windows. There is, of course, no charge for this service. Rural customers who do not receive carrier delivery are likewise entitled to the free service at general delivery windows. Free lockbox service for these customers, as well as for those whose mail boxes have been vandalized, would not be justified because adequate free service is provided at the general delivery window. Secondly, lockbox service causes costs to be incurred by the Postal Service. Accordingly, it is proper to recover such costs from those who benefit from the service.

One commenter believes that it is discriminatory to require rural mail patrons who do not receive home delivery to pay for a post office lockbox, since others receive home delivery free of charge. Since general delivery service is available free of charge, we do not believe it is discriminatory to transfer the additional costs which the Postal Service incurs in providing lockboxes to customers who would bear box purchase and maintenance costs if home delivery were provided.

Some commenters stated that general delivery was not available to them because at the time they left town to go to work the general delivery window was either not open or the mail had not yet been sorted, and when they returned in the evening the window was closed. If there is no one at home to pick up the mail during regular window hours, it would seem that this problem could largely be solved by the customer picking up his mail at the general delivery window in the city or town where he is employed. We believe it not inappropriate that the few customers whose residential or professional practices that make even this solution impracticable are charged a fee for delivery into a box owned and maintained by the Postal Service.

One commenter opposed adoption of a reserved number fee system on the ground that the present no-fee system is mutually beneficial to the Postal Service and its customers and a reserved-number fee system might upset the balance.



The argument is that, if this change is adopted, some customers who usually reserve large blocks of numbers might well give up numbers now held on reserve. Then, when such customers request additional numbers at a later time the numbers assigned may be out of sequence with previously assigned numbers. This would increase sortation costs for the Postal Service and tend to delay mail delivery.

The purpose of the reserved number fee system is to provide an additional service to our customers by assuring the future availability of particular numbers or blocks of numbers to persons or firms who plan for personal or business reasons to use those numbers. The regulation does not prohibit postmasters from continuing to reserve without charge sequential numbers for heavy users of postal boxes when it would be in the best interest of the Postal Service to do so.

One commenter recommended, in effect, that the regulations should be amended to take away a postmaster's discretion under proposed § 169.122j to restrict caller service "if local conditions justify such restrictions." We decline to do so. Local postmasters are in the best position to know how much space they need for efficient postal operations. They know what portion can be allocated to caller service, and whether funds are, or would be, available for adding additional space. Accordingly, it is reasonable, in our opinion, to lodge in the local postmaster the discretion to restrict caller service, if justified by local conditions, subject to the District Manager's approval. We have attempted, however, to clarify the regulation by adding new § 169.323b, providing that customers presently holding more than five lockboxes must pay the appropriate rental fee for the five lockboxes plus the caller service fee for those boxes in excess of five. This addition is essentially a clarification of § 169.122b(2), which has been similarly amended.

Accordingly, having given due consideration to all comments received, the Postal Service has determined to adopt the revision, which is set forth below, with the following additional changes:

1. The rental rate of \$27 shown in proposed § 169.27 for group 1, subgroup B, number 5 box size was incorrect. It has been changed to the correct amount—\$27.50.

2. In proposed § 169.122d reference was made to Fourth Class Post Offices. These offices have been redesignated in terms of the number of revenue units generated by such offices. Accordingly, the term Fourth Class Post Offices is not being used in these regulations and has been changed to post offices with 35 or fewer revenue units.

To be consistent with this change we also removed reference to the term Fourth Class Post Office Group, which was the third of three groups of rental rates proposed in § 169.231, and substituted the term Group 3. These name changes required amendments in several places in the new regulation.

3. A new § 169.234c is added to provide guidance in the assigning of rates by post offices established after July 1, 1973, which do not provide city carrier delivery.

4. A new § 169.235 is added to provide a formula for determining the rates to be charged by post offices with 35 or fewer revenue units, and to provide for increased rates if the number of revenue units increases.

We also made a number of minor, technical, or editorial changes.

In view of the considerations discussed above, the Postal Service hereby adopts revised Part 169 of the Postal Service Manual, which is effective immediately, reading as set forth below.

#### PART 169. POST OFFICE LOCKBOX AND CALLER SERVICE

##### 169.1 PURPOSE AND DEFINITION OF SERVICE

###### 1.1 General Purpose

Post Office Lockbox and Caller Service are premium services provided for the convenience of the public. These two services, provided in addition to available carrier or general delivery, afford customers privacy and permit them to obtain their mail at their convenience during the hours the lobby is open. Both services make use of the traditional Post Office Box Number as the address.

###### 1.2 Description of Services

###### 1.21 Lockbox Service

a. Lockbox Service is provided only through the use of Post Office Lockboxes. The term Drawer is hereby abolished and all boxes previously referred to by that term are to be considered the same as Lockboxes for all purposes, including rental rates. The terms lockbox and box are to be considered the same for purposes of these regulations and the term boxholder is to be applied to those who use lockboxes.

b. Lockboxes are located only in Postal facilities. Customers receive their mail in these boxes and may open the boxes by means of a key or combination. Numbers are assigned to the boxes and the customers must use their assigned Post Office Box Number in their addresses immediately above the city, state and Zip Code.

c. Five sizes of lockboxes are available for rent and customers are assigned a lockbox of a certain size in accordance with their needs as determined by the postmaster.

d. Boxes without doors for customer access, formerly identified as "Call Boxes", shall be used only in conjunction with General Delivery service, and no rent shall be charged for their use.

e. Lockbox Service Does Not Include "alternate means of delivery" established to replace, simplify or extend carrier delivery service. Examples are Vertical Improved Mail (VIM) units, neighborhood cluster box units, apartment house units, rural non-personnel units, etc. These "alternate means of delivery" shall not be administered or charged for under provisions of Part 169 of the Postal Service Manual.

###### 1.22 Caller Service

a. Caller Service is provided through the use of sacks, pouches, trays, bundles and other devices. Normally, mail is handed to the customer or his agent at a call window or from a loading dock. Caller Service users are termed Callers throughout these regulations.

b. Caller Service will be provided to customers under the following conditions:

(1) To boxholders who normally receive too much mail for their box when no larger box is available. (Do not consider parcels, catalogs or other bulky items in such a determination).

(2) To customers who wish to rent more than five (5) lockboxes in any one facility. Five lockboxes may be rented to one customer, but additional separation may be provided only through the use of Caller Service. Customers who currently rent more than five lockboxes may retain those boxes providing that the appropriate caller fees are paid.

c. Caller Service may be provided to customers under the following conditions:

(1) To a new customer who will receive (or can be expected to receive) too much mail to be accommodated in the largest box available in the facility.

(2) To a customer who, at his option, desires a lockbox but none are available with the provision that such service does not adversely affect normal postal operations.

(3) To any customer who desires Caller Service in lieu of lockbox service even though boxes of adequate size may be available and the provision of such service does not adversely affect normal postal operations.

d. No Caller Service shall be provided from post offices with 35 or fewer Revenue Units (Note: those offices otherwise known as 4th Class Post Offices).

e. A Post Office Box Number is assigned to the caller for each separation utilized and the caller must use his assigned number in the address immediately above the city, state and Zip Code.

f. A customer may obtain Caller Service for the purpose of receiving the mail of a client. A Caller Number issued to such a customer shall be considered to be held by the customer and not the client. All restrictions or regulations provided in 169.212 shall be applicable to the provision of Caller Service under this section.

g. No physical lockbox shall be used for purposes of obtaining a number for a caller.

h. If a caller is already using a number assigned to a lockbox, the caller may be issued a new caller number to replace it. However, this may be done only with the consent of the caller. (See 169.323 for rate to be charged when a caller holds a number assigned to a lockbox.)

i. Where possible, a post office lockbox presently used by a caller for purposes of obtaining a caller number may be renumbered, or an ALPHA prefix or suffix added to the number, and rented to another party.

j. Caller service may be restricted by postmasters with approval of the District Manager if local conditions justify such restrictions.

##### 1.3 General Caller Service Information

###### 1.31 Caller Service Terms

Services which may have been locally termed as Phantom Box Service, Holdout Service, Firm Direct Service, Firm Holdout Service, Sack Service and miscellaneous other services of similar nature which involved the customer use of a Post Office Box Number as an address and which required the customer pick-up of mail from a postal facility on a regular basis are replaced with Caller Service.

###### 1.32 Carrier Holdout Service and Other Exceptions

a. Caller Service Does Not Include Firm Holdout service provided to customers under provisions of 361 of the Postal Service Manual.

b. Caller Service Does Not Include General Delivery Service.

##### 1.33 Reservation of Caller Numbers

a. Callers of record may reserve caller numbers for future use. Postmasters shall determine which numbers may be reserved and may restrict this service in accordance with local conditions. The fee for this special service is detailed in 169.31.

b. If a caller has reserved a number and subsequently receives mail separated to that number or otherwise notifies the Post Office that he intends to begin receiving mail addressed and separated to that number, then the appropriate semi-annual rate for caller service will be charged and no return of the reservation fee or any part of the reservation fee will be made. If the customer continues to receive mail addressed for separation to the number he will be charged the appropriate caller fee and for the next fiscal year no reservation fee will be charged. (Note exception in § 169.322b.)

##### 1.4 How To Rent a Lockbox or Obtain Caller Service

###### 1.41 Application for Post Office Box, Form 1093

Form 1093, obtainable from any postmaster, must be filled out completely and submitted to the postmaster at the post office where box or caller service is desired. The application will be approved or denied by the postmaster. Furnishing false information on the application is sufficient reason for denial. (See 169.8.)

###### 1.42 Known Applicant

A known applicant shall be issued a box or provided caller service upon submission of Form 1093 and payment of the proper rent or fee.

###### 1.43 Unknown Applicant

a. Applicant must present his driver's license, military ID or other valid identification to postmaster upon submission of the application, Form 1093.

b. Postmasters will verify that the applicant resides or conducts business at the address shown. Verification procedures will be initiated immediately upon receipt of the application. Verification for local customers should be completed within three working days.

c. A box will be assigned or caller service provided immediately upon approval of the application and receipt of box rent or caller fee.

###### 1.44 Minors

Boxes may be rented or caller service extended to minors unless parents or guardians object in writing.

##### 1.5 Conditions of Use

###### 1.51 Individuals

An individual boxholder or caller may receive through his box or caller service mail addressed to himself, his family, relatives or other persons residing in his household whether permanently or temporarily if the mail is properly addressed to the box number.

###### 1.52 Firms, Corporations, Associations or Institutions

A firm, corporation, association, public or private institution may receive through its box or caller service mail addressed to its name, any of its officials, employees, inmates, students, teachers or other individuals associated with the organization if the mail is properly addressed to the box number. (See also § 169.122f.)

###### 1.53 Mail Addressed to a Box Number

Mail addressed only to a box number may be delivered to the boxholder or caller as long as no improper or unlawful business is conducted.

###### 1.54 Updating Application Form

Whenever any information required on Form 1093, Application for Post Office Box,

changes or becomes obsolete it shall be the duty of the boxholder or caller to file a revised box application reflecting such changes. Changes or obsolete information must be updated as soon as noted. (See also § 169.821.)

##### 1.6 Restriction on Use

###### 1.61 Accumulation of Mail

Only matter which has passed through the mail, or official postal notices may be placed in a post office box. Boxholders shall remove mail promptly from their boxes. If mail is to be accumulated for more than 30 days, specific arrangements must be made in advance with the postmaster.

###### 1.62 Unlawful Activity

No post office boxes or caller service may be used for or in connection with a scheme or enterprise which:

a. Violates any Federal, State or local law;

b. Breaches an agreement with a Federal, State or local agency whereby the boxholder has agreed to discontinue a specified activity, or

c. Violates or attempts to evade any order of a court or administrative body.

###### 1.63 Forwarding

Boxes and Caller numbers may not be used when the sole purpose is, by subsequently filing change of address orders, to have mail forwarded or transferred to another address by the Postal Service free of charge.

##### 169.2 LOCKBOX SERVICE RENTAL RATES AND FEES

###### 2.1 Changes in Rates

a. Revisions of lockbox rental rates and fees may be made effective at any time. If rates for the rental of a lockbox are changed by reason of a general rate change, discontinuance of a post office and reestablishment of same as a station or branch of another post office or the extension of carrier delivery service, no customer shall be made to pay at the newly established rate until the end of the current semi-annual period for which he has already paid. Box customers will receive specific notice when such a change is made.

Customers shall pay the difference, if any, between the old rate and the new rate for any period paid in advance of their current period if rates are changed.

b. Rates listed are for a semi-annual or 6-month period. One or two periods may be paid at a time. (See also § 169.526.)

###### 2.2 Key Fee

Keys for key-type lockboxes shall be issued to customers upon receipt of payment of \$1.00 for each key. This shall apply to all keys, including those initially issued to new customers. Account for payments for keys the same as box rents. However, issue Form 3544, Non-Postal Receipt. Other key information is in 169.4.

###### 2.3 Rental Rate Groups

###### 2.31 Three Groups for Establishment of Lockbox Rents

Three groups are established for the determination of lockbox rental rates. These groups are called Group 1, Group 2 and Group 3.

###### 2.32 New Groups as Related to Previously Established Groups

In general the new groups are related to the previously established groups in the following manner:

a. Group 1 is subdivided into five subgroups called Subgroup A, B, C, D and E. These subgroups correspond to previously established Groups A, B, C, D and E respectively.

b. Group 2, is subdivided into three subgroups called Subgroup F, G or H. These subgroups correspond to previously established Groups F, G and H respectively.

c. Group 3 corresponds to previously established Group I (eye) which was used exclusively in offices otherwise known as 4th Class Post Offices.

###### 2.33 Assignment of Subgroups in Group 1

a. Facilities established prior to July 1, 1973 which were classified as Group A, B, C, D or E at that time shall use Subgroup A, B, C, D or E lockbox rental rates respectively.

b. All mail processing facilities not under the administration of a post office and new post offices providing city carrier service established after July 1, 1973 shall use Subgroup A lockbox rental rates.

c. Facilities established after July 1, 1973, which are under the administration of a post office providing city carrier delivery service, shall be subject to the same lockbox rental rates as those applicable to the main post office.

d. If a post office is discontinued and re-established as a station or branch of another post office, then that facility will be subject to the same lockbox rental rates as those applicable to the main office.

e. Post offices initiating city carrier delivery service after July 1, 1973 are to charge at Subgroup A rental rates.

###### 2.34 Assignment of Subgroups in Group 2

a. Facilities established prior to July 1, 1973 and which were classified as Group F, G or H at that time shall charge at Subgroup F, G or H lockbox rental rates respectively except as provided in 169.242c.

b. Facilities which were established as Group F, G, H or I on or before July 1, 1973, but which have experienced any of the changes listed in 169.233 shall charge rents at the appropriate new levels as indicated by the changes.

2.34c. Post Offices established after July 1, 1973, not providing city carrier delivery service shall charge at Group 2, Subgroup F rates.

##### 169.235 ASSIGNMENT IN GROUP 3

Post offices with 35 or fewer Revenue Units shall charge at Group 3 rates unless or until:

a. They were classified as Group A, B, C, D, E, F, G or H on or before July 1, 1973, in which case they will charge rents at Subgroup A, B, C, D, E, F, G or H respectively.

b. They exceed 35 Revenue Units in which case they will charge rents at Group 2, Subgroup F if city carrier has not been established, or at Group 1, Subgroup A if city carrier delivery is established.

##### 2.4 Rental Rate Group Application Rules for Customers

###### 2.41 Group 1 Rates, General Rule

Group 1 rates are charged to customers for whom the rental of a lockbox constitutes a premium delivery service. If a customer has available to him or if he is otherwise eligible for delivery by carrier, then his lockbox is a premium means of delivery and he shall be charged at Group 1 rates.

###### 2.42 Group 1 Rates, Specific Application

a. In mail processing facilities not under the administration of a post office, all customers shall be charged at the appropriate Group 1, Subgroup A rates.

b. Post offices providing city carrier delivery shall normally charge all customers at the appropriate Group 1 rates in all of their facilities except that a customer eligible for Group 2 rates in that post office may rent one lockbox at Group 2, Subgroup F rates (See 169.244).



## RULES AND REGULATIONS

c. Post offices not providing city carrier delivery shall charge Group 1, Subgroup A rates to any customers who do any one of the following:

(1) Give as a permanent address of residence or business a different post office or city from that where the box is rented.

(2) Are located on or receive service from a rural carrier route.

(3) Rent more than one lockbox. (First box excepted.)

d. The qualification of a business, association, organization, church or other institution to rent a box at Group 1 or Group 2 rates shall be determined separately from the qualification of any associated person.

## 243 Group 2 Rates, General Rule

Group 2 rates are charged customers who do not have available to them, or who are not eligible for, delivery by carrier. Thus, the basic delivery service available to them is more restricted than that available to those who are charged Group 1 rates. However, the use of a lockbox represents a premium service as compared with general delivery.

## 244 Group 2 Rates, Specific Application

a. In mail processing facilities not under the administration of a post office, no customer shall be eligible for Group 2 box rental rates.

b. Post offices providing city carrier delivery service shall charge Group 2, Subgroup F rates to customers who:

(1) Are not eligible for and do not receive carrier delivery because of the provisions of Part 156 or Part 156 of the Postal Service Manual and are not served by another post office; or

(2) Are resident in or have a place of business in an area not served by carrier and where an agreement has been made between the postmaster and all customers in that area that delivery will not be provided by carrier but by post office box at a postal facility. Such customers may rent one lockbox at Group 2, Subgroup F rates. They may rent additional lockboxes at the appropriate Group 1 rates.

c. The qualification of a business, association, organization, church or other institution to rent a box at Group 1 or Group 2 rates shall be determined separately from the qualification of any associated person.

## 245 Group Three Rates

All lockboxes in post offices with 35 or fewer Revenue Units shall be charged for at the established Group 3 rates without exception. Postmasters shall make every effort to reserve boxes in such offices for local customers.

## 25 General Delivery

Customers who are eligible to rent a post office box at Group 2 rates but who in fact do not rent a lockbox may be extended no more than one separation in General Delivery without time limit. Any caller separations utilized in addition to the one General Delivery separation by such customers shall be charged for at the full caller rate. Customers who are not eligible to rent a post office lockbox at Group 2 rates may not receive General Delivery for periods longer than 30 days except as provided in Part 113 of the Postal Service Manual.

## 26 Facilities Primarily Serving Academic Institutions

## 261 Boxes Owned by the Institution

The Postal Service shall not set or collect rent for boxes owned by an academic institution if the boxes are separate from designated Postal Service areas and serviced by employees or agents of the institution. The institution may set and collect rent for such

boxes, but the revenues shall not be considered to be Postal Service funds. In all other cases rents shall be collected as otherwise provided in 169.2 and the Postal Service shall retain the revenues.

## 262 Adjustment of Rental Rates to Meet Semester Schedules

In facilities primarily serving academic institutions or the students of such institutions, box rental rates may be adjusted to better fit the semester schedules as follows:

Period for Box Rental	Adjusted rate
95 days or less	$\frac{1}{2}$ semi-annual rate.
96 to 140 days	$\frac{3}{4}$ semi-annual rate.
141 to 190 days	Full semi-annual rate.
191 to 230 days	$1\frac{1}{4}$ semi-annual rate.
231 to 270 days	$1\frac{1}{2}$ semi-annual rate.
271 days to full year	Full annual rate.

Round off fractions to next highest ten cents. Make no refunds for discontinued service when box has been rented under these provisions.

## 27 Rental Rates for Lockboxes

Box size	Cubic inch capacity of lockboxes				
	To 265	266 to 500	501 to 1000	1001 to 2000	2001 and over
Group 1:					
Subgroup A	12.50	15.00	20.00	25.00	30.00
Subgroup B	10.00	14.00	17.50	20.00	27.50
Subgroup C	8.00	10.00	12.50	17.50	22.50
Subgroup D	7.00	8.00	10.00	15.00	17.50
Subgroup E	5.50	6.50	7.50	12.50	15.00
Group 2:					
Subgroup F	2.50	3.00	4.00	6.00	7.50
Subgroup G	2.00	2.50	3.00	4.50	6.00
Subgroup H	1.50	2.00	2.50	3.50	4.00
Group 3:	1.00	1.00	1.00	1.00	1.00

## 28 Effective Date of Lockbox Rental Rates

The foregoing rates shall be effective July 1, 1975 for all periods of service beginning on or after July 1, 1975. Postmasters shall collect these rents and fees during the last 20 days of June 1975 as provided in these regulations.

## 169.3 CALLER SERVICE RATES AND FEES

## 31 Reserved Number Fee

Each number reserved by a customer for future use shall be charged for at the rate of \$10 per Postal fiscal year or any part of such a fiscal year. Account for these revenues in the same manner as box rent.

## 32 Caller Service Fees

## 321 When Rates are Effective

Revisions in caller service rates and fees may be made effective at any time. When rates are changed, customers shall pay at the newly established rate at the end of the current semi-annual period for which they have already paid. If customers have paid for an annual period, then at the end of their current semi-annual period they shall pay the difference, if any, between the new rate and that which they have already paid for the second semi-annual period. One or two periods may be paid at a time.

## 322 Basic Caller Service Fee

a. General Rule. The basic fee for Caller Service for semi-annual periods beginning on or after July 1, 1975 to be applied to each Caller Number or Separation used shall be \$35.00. Account for these revenues the same as box rent. (See also 169.122e.)

b. Exceptions. If a Caller utilizes many post office box numbers but receives only a bulk delivery of his mail, not separated to those numbers either because his mail is sorted to a unique five-digit ZIP Code held only by him or because sortation is made by caller name or other identification, then the Caller shall be charged the basic caller fee for each separation actually made. He shall be charged the reserved number fee for each of the post office box numbers to which mail received by the caller is addressed.

c. Local Agreements. No local agreements between postmasters and Caller Service or Lockbox Service customers shall be established which shall in any way contravene the provisions of these regulations with respect to the determination or collection of Caller Service fees.

## 323 Caller Numbers Which are Also Assigned to a Lockbox

a. If a caller presently uses a physical lockbox for purposes of obtaining a caller number, then he must pay the appropriate rental fee for the lockbox in addition to the caller service fee.

b. Customers presently holding more than five lockboxes in any one facility must pay the appropriate rental fee for all of their lockboxes plus the caller service fee for all lockboxes they hold in excess of five.

## 169.4 Equipment: Keys, Locks and Boxes

## 41 Keys

## 411 Issuance of Keys

Customers utilizing key-type lockboxes will be supplied with keys according to their needs upon payment of the key fee for each key issued.

## 412 Restriction on Source of Keys

Customers utilizing post office lockboxes are not permitted to obtain or use any keys except those issued through the Postal Service.

## 413 How to get new or additional keys

Customers may obtain keys by submitting Form 1094, Application for Additional Keys to Post Office Box. Customers will pay the appropriate key charges at that time.

## 414 Refund of Key Fee

This section shall be applicable only to boxholders renting a key-type box for the first time on or after July 1, 1975.

Upon termination of rental the Postal Service will refund to boxholders the purchase price for up to two keys if such keys are returned to the post office where the box was rented. Use Form 1096 as the receipt but account for funds returned the same way as for box rents or fees returned.

## 415 Worn or Broken Keys

Worn or broken keys are replaced without charge if the keys are returned.

## 416 Acceptance of Orders for Additional or New Keys

Postmasters shall not hold orders for new or additional keys for more than 24 hours. Key orders should not be consolidated except for general orders for keys for an entire unit of lockboxes. Process all orders for keys as rapidly as possible.

## 417 Key Inventory Maintenance

At least three keys must be provided for each keylocking lockbox. Keep at least one key on hand at all times for issuance upon submission by boxholder of Form 1094. Upon issuance of the spare key, regulation a replacement. Withdraw keys in excess of reserve requirements, tag to indicate the key

or lock number, file numerically and store in a safe place.

## 42 Boxes

## 421 Surrender of Keyless Boxes

When a keyless box is surrendered, change the combination before reassignment.

## 422 Surrender of Key Boxes

When a customer surrenders his box and fails to return all keys, send Form 1099, Notice to return keys to the customer's new address.

## 43 Locks

Do not rent boxes having broken locks. When the lock on a rented box is broken, replace the lock and issue the same number of keys to the customer as had been issued to him for the broken lock. Make no charge for these keys. Do not force customer to change boxes or box numbers due to the failure of postal equipment.

## 44 Changing Locks

Always change the lock immediately when a key type box is surrendered.

## 169.5 INTERNAL CONTROLS, RECORD KEEPING AND RENT PAYMENT

## 51 Record of Boxholders

Keep a record of boxes, boxholders and callers on Form 1091, Box Rent Register for Keylocking and Keyless Equipment in five files as follows:

a. Cards for vacant boxes in numerical sequence.

b. Cards for boxes rented for one semi-annual period, by month rent is due and in numeric sequence within the month.

c. Cards for boxes rented for two semi-annual periods, by month rent is due and in numeric sequence within the month.

d. Cards for callers paid for one semi-annual period, by month fee is due and in numeric sequence within the month.

e. Cards for callers paid for two semi-annual periods, by month payment is due and in numeric sequence within the month.

## 52 Payment of Box Rent and Caller Fees

## 521 Purpose

This section establishes semi-annual payment periods for customers that are not bound by the Postal Service fiscal year.

## 522 Rent Paid in Advance

Box rent and caller fees must be paid in advance for no less than a semi-annual or no more than an annual period. Fees and rent may be paid by check to postmasters. However, checks sent by mail must be received by the postmaster by the due date.

## 523 Receipt

A Form 1538, Box Rent Receipt, will be given for each box rent or caller payment except that:

a. Boxholders or callers who hold more than one box or caller number may be issued one receipt for payment for all of their box and caller numbers.

b. Maintain a separate list of such multiple number customers showing numbers used, customer name, fee charged and normal due date for each. Mark receipt with the number (count) of boxes or caller numbers paid for at that time.

## 524 Payment Periods

Payment may be made for any six or twelve consecutive months. The beginning of a payment period is established on the date of the approval of the application to rent a box.

## RULES AND REGULATIONS

## 525 How a Customer May Change His Payment Period Date

Boxholders of record may change their payment period by submitting a new application to rent a box and noting on the application the month they wish to use as the start of their payment period. This date must be before the end of their current payment period and rents and fees already paid will not be refunded or applied to the new payment period, except that a remaining period of six (6) months or more will be applied to six (6) months of the new payment period.

## 526 Boxholders and Callers of Record

Boxholders and callers of record may, during the last month of their rental period, pay rent for their next semi-annual or annual payment period.

## 527 Rented Before 15th of Month

If a lockbox is rented by a new boxholder on or before the 15th of any month the rental period shall be from the first day of that month. If rented after the 15th day of the month the rental period shall be computed from the first day of the following month.

## 53 Notices

531 Notices of rent due, Notice 32, shall be placed in boxes or handed to callers 20 days before rent is due. If a boxholder or caller is temporarily out of town, and if he has filed a temporary forwarding order, the notice will be sent to him.

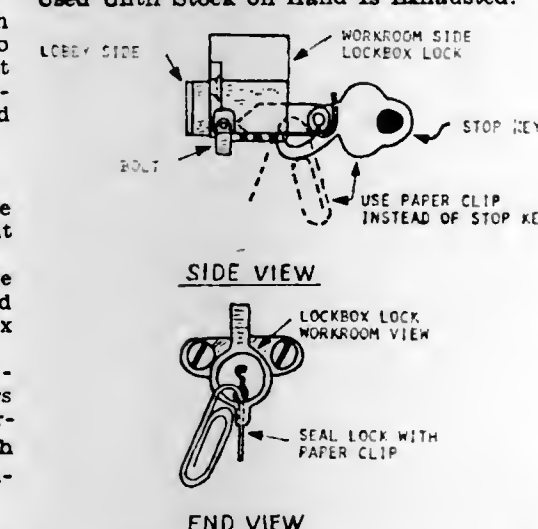
532 Notices to government agencies paying rent and fees on an annual basis will be postmarked before release and will show the box number(s) and the amount due for one year.

## 54 Past Due Box Rent or Caller Fee

## 541 Boxes

a. Plug the Lock or Change the Combination if a Lockbox Customer Fails To Pay Rent by the Due Date and has not submitted a change of address order or otherwise indicated that he is terminating the service.

b. Prohibition of Access to a Key-Type Lock may be accomplished according to the following diagram. If key-stops are available, use them but if they are not available use a paper clip. Do Not Order any Key Stops. They Are a Discontinued Item but May Be Used Until Stock on Hand is Exhausted.



c. Continue to Distribute the Mail to the Box for up to 10 Days. If at the end of that time the customer has not paid the rent or left other instructions, remove the mail from the box and treat that mail and any subsequent mail addressed to the customer at

that box as undeliverable mail unless it is possible to deliver it by carrier or general delivery.

d. At the End of 10 Days Close the Box if the customer has not paid his rent or submitted other instructions.

e. If the Customer Pays His Rent unplug the lock or notify him of his new combination.

## 542 Callers

a. If a caller fails to pay his fee by the due date and does not submit a change of address order and does not attempt to obtain his mail, retain his mail for a period not exceeding 10 days, then treat his mail as undeliverable mail unless it may be readily delivered by carrier.

b. If a caller fails to pay his fee by the due date and attempts to obtain his mail within 10 days, explain to him or his agent that at the end of the tenth day after the due date, if payment or a change of address order is not received his mail will be delivered to his street address and that he will lose the use of his post office or caller box number(s) and may not obtain his mail at the postal facility. Continue to give him his mail until the end of the ten day period, but do not provide him in excess of one separation (in case multiple separations had been provided) during that period.

## 55 When a Box Is Surrendered

## 551 Rental of a Surrendered Box

If a customer surrenders a box before the end of the payment period, the box may be rented to another customer after 15 days. If the box has been closed by the Judicial Officer, the box may be rented to another customer after 20 days. (See Section 169.8.)

## 552 Surrender of a Box

A box shall be considered to have been surrendered if:

a. The boxholder submits a permanent change of address order.

b. The boxholder refuses or fails to pay appropriate rent or fees by the due date.

c. The boxholder submits in writing an order to discontinue service.

## 553 Nonsurrender of a Box

A box shall not be considered to have been surrendered if:

a. The boxholder dies or disappears before the end of the period for which he has rented the box.

b. The boxholder submits a temporary change of address order.

c. There is a change of address order issued for mail going to the box by any person other than the boxholder.

## 554 Refund of Box Rent and Caller Fees

When a lockbox is closed or surrendered or Caller Service discontinued, no portion of the rent or fees shall be refunded to a customer who has paid on a semi-annual basis. A customer who has paid on an annual basis and who discontinues service before the end of his annual period may apply for a refund of that portion of his payment that is applicable to a full, remaining semi-annual period.

## 169.6 Operations

## 61 Placing in Boxes

Place mail addressed to post office boxes in proper boxes immediately after distribution. If the flow of the mail allows it and no lengthy delays will occur, attempt to place larger items such as newspapers, catalogs and magazines in boxes prior to placing smaller items such as letter mail and flats into the boxes.



## RULES AND REGULATIONS

## .62 Withdrawal From Boxes

Mail may be delivered to authorized persons who have forgotten their key or cannot open their box. However, mail should not be handed out to persons properly supplied with keys who can open their boxes but who make it a practice of requesting that their mail be given to them.

## .63 Delivery by Carrier

Do not remove mail from boxes of address for delivery by carrier except for the case of box service discontinued due to failure to pay rent.

## .64 Multi-Pickup Callers

Callers who desire to call at a postal facility for their mail more than once in any 24 hour period as a regular practice shall make provisions with the postmaster for the establishment of a proper and reasonable schedule of pick-up. Postmasters shall determine the times and places most satisfactory to the post office.

## .65 Standards

## .651 Box Service

If the postmaster determines that safety and security provisions allow it and if he determines that there is sufficient public demand, then he may keep the box lobby open to the public 24 hours per day.

## .652 Caller Service

Caller service shall be provided during normal hours of business. Caller service may be provided at all other hours during which mail is undergoing distribution within the facility if it is consistent with normal operations.

## .66 Changes of Address Order

## .661 Standard Procedure for Use in Facilities Without Central Markup System

a. When the number of Forms 3575, Change of Address Order, average five or more per month, maintain a change of address order book (supply item 0-391-M) in the box and caller section.

b. Use a separate address change sheet, Form 1564, for each letter of the alphabet separated by item 0-89(b), Index.

c. As Forms 3575 are received, post pertinent information chronologically on appropriate sheet. Make appropriate entries on Forms 1564 whenever a former boxholder fails to furnish a forwarding order at the time he surrenders a lockbox or when it is closed for nonpayment of rent.

d. Maintain one set of Forms 1564 at the main office, station or branch providing the service.

e. After entry to Forms 1564, file Forms 3575 chronologically by months or alphabetically, in a manner that will permit withdrawal at the end of the month after requests are 2 years old. See 158.2 for forwarding time limit.

f. If the number of requests on Form 3575 averages less than 5 per month follow the same procedure except that Forms 3575 may be filed in alphabetical order and used for reference purposes in lieu of a register.

## .662 Flag Boxes

a. White labels identify lockboxes for which there are no entries on Forms 1564. Use a colored label or a colored dot or tab applied to a white label to identify all boxes for which there ARE entries on Form 1564 and for which mail may be received addressed to other than the current boxholder.

b. If a box has changed hands more than 3 times in the last year use any reasonable means in addition to colored labels or dots that will identify this box as one which will probably receive mail addressed to other than the current boxholder.

c. If desired, the dates on which colored labels should be replaced with white labels or dots or tabs removed from white labels may be shown on the labels. Except for these dates only information relating to the name of the current boxholder shall be shown on any label. No data pertaining to the forwarding address of the former boxholder shall be placed on labels either before or after rental of the box.

d. Case all mail addressed to color coded boxes, other than that addressed to or in care of the current boxholder, to a single separation for determination of forwarding address from Forms 1564. If no forwarding address is on record, distribute the mail to the boxes as addressed unless the boxholder of record advises that mail for the addressee shall not be placed in his box.

e. Mail rejected by the boxholder shall be treated as undeliverable mail unless it may be readily delivered by carrier.

f. Replace Colored Labels With White Labels or Remove Colored Dots or Tabs From White Labels Immediately Following Termination of a Forwarding or Change of Address Order or as Soon as It Is Apparent That a Need for the Color Coding No Longer Exists.

## 169.7 (Reserved)

## 169.8 Refusal To Provide Service.

## .81 Refusal To Provide Service to a New Customer.

## .811 Postmaster's Authority.

A postmaster may refuse to rent a post office box or extend caller service to any person if he has reason to believe that such person:

a. has falsified the application or has, within the previous 2 years, physically abused a box or violated any regulation or contractual provision relating to the care and use of a box or caller service; or

b. is likely to use a box or caller service in connection with a scheme or enterprise in violation of 169.162.

## .812 Customer's Right of Appeal

Whenever the rental of a post office box or the extension of new (or additional) caller service is refused, the postmaster shall, upon written request made within 10 days, furnish the applicant with the reasons for such refusal in writing. Where the refusal to rent or extend is based in whole or in part upon the grounds specified in 169.811, an appeal may be taken in the same manner and subject to the same limitations as where a Notice of Intent To Close a Post Office Box (or to terminate caller service) has been issued. (See 39 C.F.R. 958.)

## .82 Refusal To Continue To Provide Service to a Current Customer

## .821 Postmaster's Authority

Postmasters do not have authority to close a post office box or terminate caller service without referral to higher authority except in cases of failure to pay rent or where the boxholder has clearly and unequivocally given up the box or abandoned it under the conditions given in 169.552.

## .822 Grounds for Closure or Refusal To Renew

A box may be closed or caller service terminated whenever the boxholder has falsified the application for the box or has violated, or is violating, any of the regulations or contractual terms or conditions relating to its care and use.

## .823 Procedures

Postmasters or any other postal officials who have reason to believe that any regulation or contractual provision governing the rental or use of a post office box or caller

service has been or is being violated shall send a report of the facts, with any supporting documents to the General Counsel.

## .824 Notice of Intent To Close a Post Office Box

Whenever the General Counsel is in receipt of substantial evidence which he believes warrants the closing of a post office box or the termination of caller service, he may issue Notice of Intent To Close a Post Office Box (or to terminate caller service). Such notice shall state clearly the reasons for the contemplated action and inform the boxholder or caller of his right to appeal this determination to the Judicial Officer, United States Postal Service, Washington, D.C. 20260.

## .825 Service of Notice

The Notice of Intent To Close a Post Office Box (or terminate caller service) may be served on the boxholder or caller by certified mail, with restricted delivery, addressed to his post office box or other address. Obtain a return receipt therefor and forward immediately to the General Counsel. If restricted delivery cannot be made, deposit the notice in the box or in the receptacle provided for the caller for delivery as ordinary mail and this shall constitute valid service. Complete a post office delivery receipt, Form 3849, and send to the General Counsel. Endorse both the Form 3849 and the return receipt for the certified mail to show that restricted delivery could not be made and that the notice was delivered as ordinary mail. An order of the Judicial Officer closing a post office box or terminating caller service or affirming the refusal to grant an original or renewal application for such box or caller service shall bar the granting of any similar application wherever made, by or on behalf of the person involved, until such order has been revoked, amended or modified by the Judicial Officer.

## .826 Right of Appeal

a. An appeal taken from a Notice to Close a Post Office Box (or to terminate caller service) issued under 169.82 must be filed with the docket clerk no later than 20 days after service of such notice. (See 39 CFR 958.3.)

b. If no appeal is taken within 20 days after service of the Notice of Intent to Close a Post Office Box (or to terminate caller service), the box may be closed or the caller service terminated by order of the General Counsel without further notice to the boxholder or caller.

## .83 Disposition of Mail

When a box has been closed or caller service terminated pursuant to 169.81 or 169.82 or by the order of the Judicial Officer, notify the boxholder or caller and transfer mail addressed to the box or to the box number assigned to the caller to general delivery. Hold the current time limitation for forwarding orders. At the end of the applicable period, all mail addressed to the caller shall be handled as undeliverable. However, this shall not preclude compliance with sender's request in accordance with 122.32.

A Post Office Services (Domestic) transmittal letter making this change in the pages of the Postal Service Manual is in the process of being published and will be transmitted to subscribers automatically as soon as possible. Notice of the issuance of this transmittal letter will be published in the usual manner in the FEDERAL REGISTER through an appropriate amendment to 39 CFR 111.3.

(39 U.S.C. 401, 404)

LOUIS A. COX,  
General Counsel.

[FR Doc.75-13972 Filed 5-28-75; 8:45 am]

## RULES AND REGULATIONS

## PART 310—ENFORCEMENT OF THE PRIVATE EXPRESS STATUTES

## PART 320—SUSPENSION OF THE PRIVATE EXPRESS STATUTES

## Correction and Clarification

On September 16, 1974, the Postal Service published regulations under the Private Express Statutes as 39 CFR Parts 310 and 320, to take effect on October 20, 1974. The Postal Service now amends its regulations in Parts 310 and 320 to correct three errors that have been discovered in the regulations as originally published. (A missing word "or" was inserted in § 310.1(a) (7) (vii) by publication at 39 FR 36114 (Oct. 8, 1974).) The changes are described as follows:

Section 310.1(a) (7) (v) is amended to make clear that books—as well as catalogs—are not considered to be letters for purposes of the Private Express Statutes. The line between what are considered letters and what are not considered letters is drawn on the basis of number of pages, since short printed reports, price lists, and other bound matter constitute "messages" that may have all the attributes of "letters", as defined in § 310.1 (a), and have physical characteristics similar to other personal and business communications. The line of "24 or more bound pages with at least 22 printed" has simply been borrowed from § 134.121 of the Postal Service Manual, where it has long served as a guide to what is included within the meaning of "books or catalogs" for certain rate classification purposes. It has, however, no necessary connection with the classification schedule, and the exceptional tie to the classification schedule reflected in unamended § 310.1(a) (7) (v) has been severed since this tie produced an unintended result in private express administration.

Section 310.7 is amended to make clear that changes in Part 320 as well as in Part 310 will be made only in accordance with the rulemaking provisions of the Administrative Procedure Act.

Section 320.3(b) is amended to correct a misprint in which the word "contained" appeared in lieu of the proper word, "carried".

Because these changes are corrective and clarifying only, because they are limited in scope, and because they relieve a restriction that might otherwise appear to exist, the Postal Service finds that publication for comment or publication in advance of the effective date is unnecessary and would be contrary to the public interest. The Postal Service will, however, entertain any comments on these changes that the public may wish to submit.

Accordingly, the following amendments are effective immediately:

1. In § 310.1, paragraph (a) (7) (v) is revised to read as follows:

## § 310.1 Definitions.

(a) . . .  
(7) . . .

(v) Books and catalogs consisting of 24 or more bound pages with at least 22 printed, and telephone directories.

2. Section 310.7 is revised to read as follows:

## § 310.7 Amendment of regulations.

Amendments of the regulations in this part and in Part 320 may be made only in accordance with the rulemaking provisions of the Administrative Procedure Act.

## § 320.3(b) [Amended]

3. In § 320.3(b) the word "contained" in the second sentence is changed to "carried."

(39 U.S.C. 401, 404, 601-606 (18 U.S.C. 1693-99, 1724))

ROGER P. CRAIG,  
Deputy General Counsel.

[FR Doc.75-13971 Filed 5-28-75; 8:45 am]

## Title 45—Public Welfare

## SUBTITLE A—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, GENERAL ADMINISTRATION

## PART 63—GRANT PROGRAMS ADMINISTERED BY THE OFFICE OF THE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION

On January 8, 1975, a document was published in the FEDERAL REGISTER (40 FR 1516) proposing to amend 45 CFR Subtitle A by adding a new part 63 establishing rules for the award and administration of grants by the Office of the Assistant Secretary for Planning and Evaluation, Department of Health, Education, and Welfare, hereafter referred to as the Assistant Secretary.

All comments supported adoption of the rules. However, as a result of the comments and further Departmental analysis, the following changes are made.

The title of the proposed rules and the Purpose and scope, § 63.1, raised a number of questions concerning the applicability and scope of the program. To clarify this, the title of Part 63 is changed to indicate that the regulations apply only to the grant programs administered by the Office of the Assistant Secretary for Planning and Evaluation. In addition, § 63.1, Purpose and scope, has been redrafted to identify the various programs from which grants may be awarded under these regulations. The revised section also describes the overall objectives of the policy research program, which is the only program under which the Assistant Secretary plans to award grants in FY-75. The new language lists the statutory authorities for the Assistant Secretary's grant programs, cites the regulations for determining if an award shall be by grant or contract, and identifies the regulations which govern contracts awarded by the Assistant Secretary.

A new section, § 63.8 has been added to identify and clarify the relationship among the supplemental regulations and conditions affecting grants awarded by the Assistant Secretary. It identifies the specific regulations and statutory provisions which apply to grants awarded by the Assistant Secretary under Section 232 of the Community Services Act. It further provides for the timely identification in the Federal Register of any other regulations which would be ap-

plicable to future programs under which the Assistant Secretary may make grants. Finally, it brings together in one place a listing of the major Departmental regulations which will apply to all grants awarded by the Assistant Secretary.

To make the policies compatible with overall Departmental policy, three new sections have been added and one existing section has been expanded. They are: § 63.22, *Cost sharing, provides for cost sharing as required by law for DHEW grants.*

Section 63.32, *Data collection instruments*, has been supplemented with two paragraphs defining the responsibility for collection of information, and the requirement for parental consent when children are involved as respondents.

Section 63.38, *Publications*, provide for the customary acknowledgement of Federal assistance for publications resulting from grants.

Section 63.39, *Religious worship or instruction*, restricts the use of Federal funds in those areas.

In addition, a number of editorial changes were made, the term Assistant Secretary was defined (§ 63.2), and a central address was established for applications and questions on the interpretation of regulations and administration of grants (§ 63.3).

These regulations are issued under the authority of section 602 of the Community Services Act of 1974 (42 USC 2942) and section 1110 of the Social Security Act (42 USC 1310).

*Effective date.* This part was published for comment on January 8, 1975, and all changes reflect established policies and practices which are generally in effect for Departmental grant programs. Therefore, Subtitle A of Title 45 of the Code of Federal Regulations is amended by adding a new Part 63 as follows. effective.

Dated: May 2, 1975.

WILLIAM A. MORRILL,  
Assistant Secretary for  
Planning and Evaluation.

Approved: May 22, 1975.

CASPAR W. WEINBERGER,  
Secretary of Health,  
Education, and Welfare.

## Subpart A—General

Sec.  
63.1 Purpose and scope.  
63.2 Eligibility for award.  
63.3 Program announcements and solicitations.  
63.4 Cooperative arrangements.  
63.5 Effective date of approved grant.  
63.6 Evaluation of applications.  
63.7 Disposition of applications.  
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## Subpart B—Financial Provisions

63.16 Scope of Subpart.  
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## RULES AND REGULATIONS

- Sec.  
63.20 Period during which grant funds may be obligated.  
63.21 Obligation and liquidation by grantee.  
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## Subpart C—Special Provisions

- 63.30 Scope of subpart.  
63.31 Protection of human subjects.  
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63.35 Dual compensation.  
63.36 Fees to Federal employees.  
63.37 Leasing facilities.  
63.38 Publications.  
63.39 Religious worship or instruction.

AUTHORITY: Sec. 602, Community Services Act (42 U.S.C. 2942); Section 1110, Social Security Act (42 U.S.C. 1310).

## Subpart A—General

## § 63.1 Purpose and scope.

(a) *Applicability.* Except to the extent inconsistent with an applicable Federal statute the regulations in this part apply to all grant awards of Federal assistance made by the Assistant Secretary for Planning and Evaluation or his designee, hereinafter referred to in this part as the Assistant Secretary. Such grants include those under section 232 of the Community Services Act (42 USC 2825), section 1110 of the Social Security Act (42 USC 1310), and such other authority as may be delegated to the Assistant Secretary for policy research activities.

(b) *Exceptions to applicability.* The award and administration of contracts and cooperative agreements by the Assistant Secretary shall not be covered by this subchapter. Contracts entered into by the Assistant Secretary shall be subject to the regulations in 41 CFR Chapters 1 and 3. Generally, the Assistant Secretary will select between grant and contract procedures and instruments, both with regard to the solicitation process and with respect to unsolicited proposals, on the basis of criteria set forth in the proposed revision of 41 CFR 3-1.53 published at 39 FR 27469 at any subsequent revision thereof.

(c) *Overall objective.* The overall objective of policy research activities is to obtain information, as it relates to the mission of the Department of Health, Education, and Welfare, about the basic causes of and methods for preventing and eliminating poverty and dependency and about improved methods for delivering human resources services. Such information is obtained through the conduct of basic and applied research, statistical analyses, and demonstrations and evaluations which have demonstrated a high probability of impacting on the formulation or modification of major Departmental policies and programs.

## § 63.2 Eligibility for award.

(a) *Groups and organizations eligible.* Except where otherwise prohibited by law, any public or nonprofit private agency, institution, or organization which is found by the Assistant Secretary to be authorized and qualified by educational, scientific, or other relevant competence to carry out a proposed project in accordance with the regulations of this

subchapter shall be eligible to receive a grant under this part.

(b) *Project eligible.* Any project found by the Assistant Secretary to be a research, pilot, evaluation, or demonstration project within the meaning of this section and § 63.1 shall be eligible for an award. Eligible projects may include planning, policy modeling or research utilization studies; experiments; demonstrations; field investigations; statistical data collections or analyses; or other types of investigation or studies, or combinations thereof, and may either be limited to one aspect of a problem or subject, or may consist of two or more related problems or subjects for concurrent or consecutive investigation and may involve multiple disciplines, facilities, and resources.

## § 63.3 Program announcements and solicitations.

(a) In each fiscal year the Assistant Secretary may from time to time solicit applications through one or more general or specialized program announcements. Such announcements will be published in the FEDERAL REGISTER as notices and will include:

(1) A clear statement of the type(s) of applications requested;

(2) A specified plan, time(s) of application, and criteria for reviewing and approving applications;

(3) Any grant terms or conditions of general applicability (other than those set forth in this part) which are necessary (i) to meet the statutory requirements of applicable legislation, (ii) to assure or protect the advancement of the project, or (iii) to conserve grant funds.

(b) *Applications for grants.* Any applicant eligible for grant assistance may submit on or before such cutoff date or dates as the Assistant Secretary may announce in program solicitations, an application containing such pertinent information and in accordance with the forms and instructions as prescribed herein and additional forms and instructions as may be specified by the Assistant Secretary. Such application shall be executed by the applicant or an official or representative of the applicant duly authorized to make such application. The Assistant Secretary may require any party eligible for assistance under this subchapter to submit a preliminary proposal for review and approval prior to the acceptance of an application submitted under these provisions.

63.3(c) All applications and preliminary proposals should be addressed to:

Grants Officer, Office of the Assistant Secretary for Planning and Evaluation, Department of Health, Education, and Welfare, 330 Independence Avenue, SW., Room 5027, Washington, D.C. 20201.

## § 63.4 Cooperative arrangements.

(a) Eligible parties may enter into cooperative arrangements with other eligible parties, including those in another State, to apply for assistance.

(b) A joint application made by two or more applicants for assistance under

this subchapter may have separate budgets corresponding to the programs, services and activities performed by each of the joint applicants or may have a combined budget. If joint applications present separate budgets, the Assistant Secretary may make separate awards, or may award a single grant authorizing separate amounts for each of the joint applicants.

(c) In the case of each cooperative arrangement authorized under paragraph (a) of this section and receiving assistance, except where the Assistant Secretary makes separate awards under paragraph (b) of this section all such applicants (1) shall be deemed to be joint legal recipients of the grant award and (2) shall be jointly and severally responsible for administering the project assisted under such grant.

## § 63.5 Effective date of approved grant.

Federal financial participation is normally available only with respect to obligations incurred subsequent to the effective date of an approved project. The effective date of the project will be set forth in the notification of grant award. Grantees may be reimbursed for costs resulting from obligations incurred before the effective date of the grant award if such costs are authorized by the Assistant Secretary in the notification of grant award or subsequently in writing, and otherwise would be allowable as costs of the grant under the applicable regulations and grant terms and conditions.

## § 63.6 Evaluation of applications.

(a) *Review procedures.* All applications filed in accordance with § 63.3 shall be evaluated by the Assistant Secretary through officers, employees, and such experts or consultants engaged for this purpose as he/she determines are specially qualified in the areas of research pursued by this office. The evaluation criteria below will be supplemented each fiscal year by a program announcement outlining priorities and objectives for policy research, and by other general or specialized solicitations. Such supplements may modify the criteria in paragraph (b) of this section to provide greater specificity or otherwise improve their applicability to a given announcement or solicitation.

(b) *Criteria for evaluation.* Review of applications under paragraph (a) of this section will take into account such factors as:

(1) Scientific merit and the significance of the project in relation to policy objectives;

(2) Feasibility of the project;

(3) Soundness of research design, statistical technique, and procedures and methodology;

(4) Theoretical and technical soundness of the proposed plan of operation including consideration of the extent to which:

(i) The objectives of the proposed project are sharply defined, clearly stated, and capable of being attained by the proposed procedures;

(ii) The objectives of the proposed project show evidence of contributing to the achievement of policy objectives;

(iii) Provisions are made for adequate evaluation of the effectiveness of the project and for determining the extent to which the objectives are accomplished; and

(iv) Appropriate provisions are made for satisfactory inservice training connected with project services.

(5) Expected potential for utilizing the results of the proposed project in other projects or programs for similar purposes;

(6) Sufficiency of size, scope, and duration of the project so as to secure productive results;

(7) Adequacy of qualifications and experience, including managerial, of personnel;

(8) Adequacy of facilities and other resources;

(9) Reasonableness of estimated cost in relation to anticipated results; and

(10) Where the applicant has previously received an award from the Department of Health, Education, and Welfare, the applicant's compliance or noncompliance with requirements applicable to such prior award as reflected in past written evaluation reports, memoranda on performance, and completeness of required submissions: Provided, that in any case where the Assistant Secretary proposes to deny assistance based upon the applicant's noncompliance with requirements applicable to a prior award, he shall do so only after affording the applicant reasonable notice and an opportunity to rebut the proposed basis for denial of assistance.

## § 63.7 Disposition of applications.

(a) *Approval, disapproval, or deferral.* On the basis of the review of an application pursuant to § 63.6 the Assistant Secretary will either (1) approve the application in whole or in part, for such amount of funds and subject to such conditions as he/she deems necessary or desirable for the completion of the approved project, (2) disapprove the application, or (3) defer action on the application for such reasons as lack of funds or a need for further review.

(b) *Notification of disposition.* The Assistant Secretary will notify the applicant in writing of the disposition of its application. A signed notification of grant award will be issued to notify the applicant of an approved project application.

## § 63.8 Supplemental Regulations and Grant Conditions.

(a) *Grants under section 232 of the Community Services Act.* (1) Any grants awarded with funds appropriated under section 232 of the Community Services Act shall be subject to the following regulations issued by the Director of the Community Services Administration (formerly the Office of Economic Opportunity):

(2) Part 80 of this title, effectuating the provisions of title VI of the Civil Rights Act of 1964; and

(3) Part 16 of this title, establishing a Departmental Grant Appeals Board for the resolution of specified post-award grant disputes.

## Subpart B—Financial Provisions

§ 63.16 Scope of Subpart.  
This subpart sets forth supplemental financial provisions which apply to all grants awarded by the Assistant Secretary.

## RULES AND REGULATIONS

- 45 CFR 1060.2 (Income Poverty Guidelines)  
45 CFR 1060.3 (Limitation on Benefits to Those Voluntarily Poor)  
45 CFR 1067.1 (Suspension and Termination of Assistance)  
45 CFR 1068.6 (Grantee Compliance with IRS Requirements for Withheld Federal Income and Social Security Taxes)  
45 CFR 1069.1 (Employee Participation in Direct Action)  
45 CFR 1069.2 (Limitations with Respect to Unlawful Demonstrations, Rioting, and Civil Disturbances)  
45 CFR 1070.1 (Public Access to Grantee Information)

No other portions of Chapter X of this title are applicable to such grants.

(2) Grants awarded with funds appropriated under section 232 of the Community Services Act shall also be subject to the applicable statutory requirements in sections 242, 243, and 244, and title VI of the Community Services Act. The Assistant Secretary will advise grantees of the nature of these requirements at or prior to the time of award.

(3) In the event that any provision of this part is inconsistent with a provision of law or a regulation referenced in paragraphs (1) and (2) of this section with respect to any grant funded under section 232 of the Community Services Act, the provision of this part shall, to the extent of any such inconsistency, not be effective.

(b) *Grants under other statutory authority.* Grants awarded by the Assistant Secretary may be subject to regulations, other than those set forth in this part, which have been issued under the authority of statutes authorizing particular awards. In such a case, that fact will be set forth in the program announcement soliciting applications for such grants published in the FEDERAL REGISTER pursuant to § 63.3.

(c) *Other regulations applicable to grants under this part.* Federal financial assistance provided under this part shall be subject to the following additional regulations except as otherwise provided in this part:

(1) Part 74 of this title, establishing uniform administrative requirements and cost principles for grants by the Department of Health, Education, and Welfare.

(2) Part 80 of this title, effectuating the provisions of title VI of the Civil Rights Act of 1964; and

(3) Part 16 of this title, establishing a Departmental Grant Appeals Board for the resolution of specified post-award grant disputes.

## Subpart B—Financial Provisions

## § 63.16 Scope of Subpart.

This subpart sets forth supplemental financial provisions which apply to all grants awarded by the Assistant Secretary.

## § 63.17 Amount of award.

Federal assistance shall be provided only to meet allowable costs incurred by the award recipient in carrying out an approved project in accordance with the authorizing legislation and the regulations of this Part.

## § 63.18 Limitations on costs.

The amount of the award shall be set forth in the grant award document. The total cost to the Government will not exceed the amount set forth in the grant award document or any modification thereof approved by the Assistant Secretary which meets the requirements of applicable statutes and regulations. The Government shall not be obligated to reimburse the grantee for costs incurred in excess of such amount unless and until the Assistant Secretary has notified the grantee in writing that such amount has been increased and has specified such increased amount in a revised grant award document. Such revised amount shall thereupon constitute the maximum cost to the Government for the performance of the grant.

## § 63.19 Budget revisions and minor deviations.

Pursuant to § 74.102(d) of this title, paragraphs (b)(3) and (b)(4) of that section are waived.

## § 63.20 Period during which grant funds may be obligated.

(a) The amount of the grant award shall remain available for obligation by the grantee during the period specified in the grant award or until otherwise terminated. Such period may be extended by revision of the grant with or without additional funds pursuant to paragraph (b) of this section where otherwise permitted by law.

(b) When it is determined that special or unusual circumstances will delay the completion of the project beyond the period for obligation, the grantee must in writing request the Assistant Secretary to extend such period and must indicate the reasons therefor.

## § 63.21 Obligation and liquidation by grantee.

Obligations will be considered to have been incurred by a grantee on the basis of documentary evidence of binding commitments for the acquisition of goods or property or for the performance of work, except that funds for personal services, for services performed by public utilities, for travel, and for the rental of facilities, shall be considered to have been obligated as of the time such services were rendered, such travel was performed, and such rented facilities were used, respectively.

## § 63.22 Cost sharing.

Policy Research funds shall not be used to pay any recipient of a grant for the conduct of a research project an amount equal to as much as the entire cost of the project.



## Subpart C—Special Provisions

## § 63.30 Scope of Subpart.

This subpart sets forth supplemental special provisions which apply to all grants awarded by the Assistant Secretary.

## § 63.31 Protection of human subjects.

All grants made pursuant to this part are subject to the specific provisions of Part 46 of this title relating to the protection of human subjects.

## § 63.32 Data collection instruments.

(a) *Definitions.* For the purposes of this section "Child" means an individual who has not attained the legal age of consent to participate in research as determined under the applicable law of the jurisdiction in which such research is to be conducted.

"Data-collection instruments" means tests, questionnaires, inventories, interview schedules or guides, rating scales, and survey plans or any other forms which are used to collect information on substantially identical items from 10 or more respondents.

"Respondents" means individuals or organizations from whom information is collected.

(b) *Applicability.* This section does not apply to instruments which deal solely with (1) functions of technical proficiency, such as scholastic aptitude or school achievement, or (2) routine demographic information.

(c) *Protection of privacy.* (1) No project supported under this part may involve the use of data collection instruments which constitute invasions of personal privacy through inquiries regarding such matters as religion, sex, race, or politics. (2) A grantee which proposes to use a data collection instrument shall set forth in the grant application an explanation of the safeguards which will be used to restrict the use and disclosure of information so obtained to purposes directly connected with the project, including provisions for the destruction of such instruments where no longer needed for the purposes of the project.

(d) *Clearance of instruments.* (1) Grantees will not be required to submit data-collection instruments to the Assistant Secretary or obtain the Assistant Secretary's approval for the use of these instruments, except where the notification of grant award specifically so provides. (2) If a grantee is required under paragraph (d) (1) of this section to submit data-collection instruments for the approval of the Assistant Secretary or if a grantee wishes the Assistant Secretary to review a data-collection instrument, the grantee shall submit seven copies of the document to the Assistant Secretary along with seven copies of the Office of Management and Budget's standard form No. 83 and seven copies of the Supporting Statement as required in the "Instructions for Requesting OMB Approval under the Federal Reports Act" (Standard form No. 83A).

(e) *Responsibility for collection of information.* A grantee shall not in any way represent or imply (either in a

letter of transmittal, in the data-gathering instruments themselves, or in any other manner) that the information is being collected by or for the Federal Government or any department, agency or instrumentality thereof. Basic responsibility for the study and the data-gathering instruments rests with the grantee.

(f) *Parental consent.* In the case of any survey using data-collection instruments in which children are involved as respondents, the grantee, in addition to observing the other requirements contained in this section, and in Part 46 as appropriate, shall provide assurances satisfactory to the Assistant Secretary that informed consent will be obtained from the parents of each such respondent prior to the use of such instruments, except that a waiver from the requirements of this paragraph for specific data-collection activities may be granted upon the written request by the grantee and a determination by the Assistant Secretary that a waiver is necessary in order to fully carry out the purposes of the grant.

## § 63.33 Treatment of animals.

If animals are utilized in any project receiving assistance, the applicant for such assistance shall provide assurances satisfactory to the Assistant Secretary that such animals will be provided with proper care and humane treatment; in accordance with the Animal Welfare Act (7 U.S.C. 2131 et seq.) and regulations set forth in (9 CFR 1, 2, 3, 4)

## § 63.34 Principal investigators.

The principal investigator(s) designated in successful grant applications as responsible for the conduct of the approved project, shall not be replaced without the prior approval of the Assistant Secretary or his designee. Failure to seek and acquire such approval may result in the grant award being terminated in accordance with the procedures set forth in § 74.114 of this title or such other regulations as may be indicated in the grant terms and conditions.

## § 63.35 Dual compensation.

If a project staff member or consultant of one grantee is involved simultaneously in two or more projects supported by any funds either under this part or otherwise, he/she may not be compensated for more than 100 percent of his/her time from any funds during any part of the period of dual involvement.

## § 63.36 Fees to Federal employees.

The grantee shall not use funds from any sources to pay a fee to, or travel expenses of, employees of the Federal Government for lectures, attending program functions, or any other activities in connection with the grant.

## § 63.37 Leasing facilities.

In the case of a project involving the leasing of a facility, the grantee shall demonstrate that it will have the right to occupy, to operate, and, if necessary, to maintain and improve the leased

facility during the proposed period of the project.

## § 63.38 Publications.

Any publication or presentation resulting from or primarily related to Federal financial assistance under this part shall contain an acknowledgement essentially as follows:

The activity which is the subject of this report was supported in whole or part by a grant from the Office of the Assistant Secretary for Planning and Evaluation, Department of Health, Education, and Welfare. However, the opinions expressed herein do not necessarily reflect the position or policy of that Office and no official endorsement by that Office should be inferred.

## § 63.39 Religious worship or instruction.

Federal funds shall not be used for the making of any payment for religious worship or instruction, or for the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious instruction.

[FR Doc. 75-13922 Filed 5-28-75; 8:45 am]

## CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## PART 126—SUPPLEMENTARY EDUCATIONAL CENTERS AND SERVICES, SPECIAL PROGRAMS AND PROJECTS, TITLE III, SECTION 306

## Final Funding Criteria

Notice of proposed rulemaking was published in the FEDERAL REGISTER on March 14, 1975, (40 FR 11885) which described criteria for determining the award of grants under Title III, section 306 of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 844b). This program provides financial assistance to local educational agencies for special programs and projects. Pursuant to section 431(d) of the General Education Provisions Act, as amended, (20 U.S.C. 1231(d)) these regulations were transmitted to the Congress concurrently with the publication of the notice of proposed rulemaking in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the day of such transmission, subject to the provisions therein concerning congressional action and adjournment.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed criteria. No comments have been received and the proposed criteria are hereby adopted without change and are set forth below.

It should be noted that pursuant to section 402(a) (2) (ii) of Pub. L. 93-380, the authorization for ESEA, Title III, section 306 expires June 30, 1975.

*Effective date.* The notice of proposed rulemaking was transmitted to Congress on March 10, 1975 pursuant to section 431(d) of the General Education

Provisions Act (20 U.S.C. 1232(d)). The time period set forth therein for congressional action has expired without such having been taken. These criteria shall become effective on May 29, 1975.

(20 U.S.C. 844b)

(Catalog of Federal Domestic Assistance No. 13.516, Special Programs and Projects of the Elementary and Secondary Education Act of 1965, as amended, Title III, Section 306)

Dated: May 8, 1975.

T. H. BELL,  
U.S. Commissioner of Education.

Approved: May 22, 1975.

CASPAR W. WEINBERGER,  
Secretary of Health, Education,  
and Welfare.

## APPENDIX

I. *Types of applications.* A. Many innovative approaches contributing to the solution to national education problems have been developed in past years with Title III funds and other monies. Emphasis for Section 306 grants for Fiscal Year 1975 has been placed on the dissemination and diffusion of successful educational programs and practices in areas of national concern. Therefore, applications for the following three types of projects will be given priority in the award of grants:

1. *Developer-Demonstration Projects.* Projects in which a local educational agency that has successfully implemented an exemplary approach to the solution of an educational problem common to all or several States undertakes to aid other local educational agencies (through such activities as training and dissemination activities) in adopting that approach. Of particular interest are projects which have successfully implemented preschool programs which serve the needs of parents and other persons relating to preschool children.

2. *Statewide Facilitator Projects.* Projects in which a local educational agency in cooperation with the State educational agency assists other local educational agencies within its own State to find an appropriate Developer-Demonstration program selected under categories I.A.1 above and I.F. below, to meet their educational needs.

3. *Replication of Projects Validated by Office of Education.* Projects in which a local educational agency having large numbers or proportions of children with deficiencies in reading and mathematics undertakes to replicate compensatory education programs "Project Information Packages" (hereinafter referred to as PIPs) which have been validated by the Office of Education and which are appropriate to the demonstrated needs of the district.

B. The Commissioner has also assigned priority to helping the schools assume a substantially new role in assisting parents and parenting persons, such as day care center and nursery school workers, babysitters, and other persons having direct contact with young children, to respond more effectively to the needs and potential of young children. Applications are sought for the establishment in school districts of early childhood outreach programs which extend school services to the community and home.

C. The Commissioner has also recognized the fact that many local school district administrators are requesting training in the application of performance-based management techniques to assure optimal use of limited resources to meet the most critical educational needs of their schools. Applications may therefore be made for support of

short term training programs in the implementation of performance-based management approaches such as Management By Objectives (MBO). Applicants may choose from among a number of already developed performance-based training approaches listed by the funding agency, or they may select another already developed program.

D. In addition, educational problems associated with child abuse and neglect have been identified as a national educational problem. Therefore, priority will also be given to applications for projects in which a local educational agency implements a comprehensive demonstration program to provide more effective educational services to victims of child abuse and neglect enrolled in elementary and secondary schools.

E. Pursuant to section 306(b) of the Act, grants will be made to local educational agencies to develop, implement or aid in the adoption of programs designed to meet the special educational needs of handicapped children. Priority will be given to projects holding promise of having a favorable early impact upon the education of handicapped children.

F. The Commissioner is also interested in special programs for the teaching of standard mathematics in schools with large numbers of children with severe deficiencies in mathematics through instruction in advanced mathematics by qualified instructors with bachelor degrees or above in mathematics or the mathematical sciences or equivalent experience. Applications may be submitted for a Developer-Demonstration Project (see I.A.1) with this program focus or for a one-year careful replication and evaluation of an already developed program.

(20 U.S.C. 841, 843(b), 844, 844b; E. Rep. No. 634, 91st Cong., 2d Sess. 27-28 (1970))

II. *General criteria for the selection of applications.* General program criteria for the review of project applications submitted pursuant to Section 306 of the Act are found in § 126.B of the regulations promulgated under Section 306 of the Act. (40 FR 8179, published February 26, 1975). Additionally, review criteria found in 45 CFR 100a.26(b) (38 FR 30664, published November 6, 1973) are applicable to grants made under this program.

(20 U.S.C. 843(b), 844, 844b)

III. *Additional criteria for each type of application.* The following criteria will be used in judging the specific type of project application indicated:

A. *Developer-Demonstration Projects.* Activities supportable with project funds will include the development and dissemination of a variety of information packages about the exemplary approach being demonstrated, the refinement of training materials for use with school districts planning to adopt the approach, the maintenance of a small staff to provide training to potential adopters at the development site and limited technical assistance at adopted sites, and other activities clearly related to the demonstration nature of the project. School districts must agree to cover the operational costs of the project as it serves local school children with State and local funds. The developer-demonstration project will not cover these operational costs.

1. The approach to be demonstrated will be judged by its degree of exemplariness as characterized by:

a. The extent to which the project constitutes a comprehensive means of meeting a critical national educational need or a problem common to all or several States;

b. The extent of the availability of the components required to implement the approach, including material products, train-

ing, detailed documentation regarding needs addressed, target population characteristics, staffing, institutional setting, parent and community involvement, objectives, procedures and activities, evaluation design and outcomes, and costs;

c. The extent to which a wide range of school districts would find the approach practicable for adoption relative to instructional methodology, materials, equipment, and facilities, management scheduling, and assessment;

d. The degree of innovativeness of the approach; and

e. Availability of statistically significant evidence that in at least two previous implementations of the approach with comparable groups (either in the same year or two succeeding years), the approach has demonstrated a high degree of success in the achievement of its major objectives.

2. The project will also be judged by the extent to which the application sets forth procedures for:

a. Disseminating information about the approach in a variety of ways and levels of specificity;

b. Making readily available material products to potential adopters; and

c. Providing them with training and other kinds of technical assistance required to implement the approach in a new location.

B. *Statewide facilitator projects.* A statewide facilitator will be furnished with a list of and information about exemplary approaches selected under I.A.1 above and I.H.1. below by the Office of Education. The facilitator will then assist local educational agencies in its own State to select programs for replication from among the selected developer-demonstration approaches, as follows:

1. Funds will be made available to support a small core staff who will perform a variety of activities such as:

a. Providing detailed information about the available demonstration approaches selected to interested school districts within the State;

b. Assisting local school districts to match needs with the most appropriate developer-demonstration approach; and

c. Implementing the project with a small experienced staff who will seek to promote actual adoption within their State of the exemplary approaches before the end of the 1975-76 school year or at the beginning of the next school year.

C. *Replication of Projects Validated by the Office of Education.* The Office of Education has identified six exemplary compensatory education programs "Project Information Packages" (hereinafter referred to as PIPs) which have been validated. Local educational agencies which have had applications approved under this category will replicate at least one such program consistent with local educational needs as determined by the Office of Education.

1. Grant funds will provide support for a full-time project director with support services, technical assistance from districts and persons involved in the development and implementation of the successful approach, materials and supplies referenced or included in the PIP, and for a locally designed evaluation.

2. The following criteria will be used to select applicants who will replicate a PIP approach:

a. The extent to which the applicant local educational agency provides evidence that it has a high concentration of students with severe deficiencies in reading or mathematics;

b. The extent to which the district can provide the necessary human and material resources using State and local funds to implement an exemplary program; and



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c. The extent to which the application sets forth a cohesive plan to initiate evaluation on the effect, implementation, and design of the PIFs. The evaluation should include establishment by the applicant district of two comparison groups, one of which would serve as the experimental group using testing, interviews, questionnaires, and continuous classroom monitoring.

D. *Early Childhood Outreach Projects.* School districts may apply for support to implement a new preschool effort designed to help parents and parenting persons provide more effectively for the early education of children in the home, day care centers, or elsewhere.

1. Grant funds will be made available to support a full-time project director with credentials and experience in early childhood education/child development and parent involvement and education; secretarial assistance; local travel; and library resources, such as printed and audiovisual materials and toys; and program evaluation.

2. The criteria used to review these applications are as follows:

a. The extent to which the applicant local educational agency provides evidence of the need for an early childhood outreach program;

b. The extent to which the applicant provides evidence indicating community interest in early childhood education;

c. The extent to which the proposed activity builds upon earlier preschool initiatives on the part of the applicant district;

d. The extent to which the district will make available facilities and resources to accommodate the program and can demonstrate past commitment to opening school facilities to various community activities;

e. The extent to which the proposed outreach program includes carefully defined goals and specific activities to meet the goals which respond to the varied preschool needs identified; and

f. The extent to which the proposed program includes a plan for coordinating activities and services with those of other local institutions and organizations serving families with young children.

E. *Child Abuse and Neglect Projects.* School districts may apply for support to implement a comprehensive program which will prepare teachers to:

1. Identify children who are victims of child abuse and neglect;

2. Make proper referral of these children to other individuals or agencies for help; and

3. Work more effectively with such children in their classrooms and with the children's parents.

The criteria used to review these applications are as follows:

1. The extent to which the critical nature of the child abuse and neglect problem to be attacked by the project is supported by specific data collected systematically in the local school district;

2. The extent to which the proposed project builds upon local experiences in attempting to prepare teachers to identify and provide appropriate services to victims of child abuse and neglect enrolled in their classroom;

3. The extent to which the project represents an innovative, comprehensive strategy for enabling the schools to contribute effectively to reducing the incidence and effects of child abuse and neglect; and

4. The extent to which the application reflects a knowledge of State and local laws which affect the school's role in coping with child abuse and neglect.

F. *Projects Aiding Handicapped Children.* Projects will be judged by the same criteria as the Developer-Demonstration Projects as described under III.A.1. above. In addition, priority will be given local school districts

which apply for funds for one-year developmental projects which hold promise of having a favorable early impact upon the education of handicapped children in the following areas of focus: Early childhood education, education of the severely handicapped (severely emotionally disturbed—schizophrenic and autistic, profoundly and severely mentally retarded, those having two or more serious handicapping conditions—mentally retarded-deaf and mentally retarded-blind, etc.), career education, and questions involving the placement of handicapped children in the regular classroom. These projects may be new efforts or may represent a development of an operating program.

G. *Projects to Train Local School Administrators in Performance-Based Management Approaches.* Districts may apply for support to conduct a short term training program to enable local school administrators to effectively implement performance-based management approaches such as Management by Objectives. Applicant districts may choose from a number of training programs identified by the funding agency or may request funds to implement another performance-based management approach training program of their own selection. In the latter case a full description of the training program, as well as evidence that the program has been judged effective in earlier tests, must be included with the application.

1. Grant funds will support the instructional fees, travel, and per diem of the trainers; materials and supplies associated with the training; local travel and per diem of trainees if necessary; and an evaluation of the effectiveness of the training.

2. The criteria used to review these applications are as follows:

a. The extent to which the applicant district provides evidence of consensus among local school administrators from the School Principals to the Superintendent for the need for training in the implementation of a performance-based management approach.

b. The extent to which the local educational agency presents a concise statement of the problems which it believes can be resolved through use of the approach selected.

c. The extent to which the applicant provides evidence of a long-term concern about improved local school management; and

d. The extent to which the district commits itself to implementing the management approach district-wide for a minimum of a full school year following the training.

H. *Projects to diffuse or to replicate mathematics programs taught by mathematics specialists.* 1. School districts may apply for support to help other school districts adopt an exemplary program involving mathematics specialists in the teaching of standard mathematics through advanced mathematics instruction in schools with large numbers of children with severe deficiencies in mathematics. Criteria to be used in the review of such applications are found in III.A. above.

2. School districts may also apply to replicate and evaluate an already developed mathematics program with the same characteristics.

a. Grant funds for the replication and evaluation project will be made available for a full-time project director, secretarial assistance, the instructional services of mathematics specialists, program evaluation, local travel, consultant services and materials and supplies.

b. The criteria used to review these applications are as follows:

1. The extent to which the applicant local school district provides evidence that it has a high concentration of students with severe deficiencies in mathematics;

II. The extent to which the applicant district provides a detailed description of the program proposed for implementation, including its rationale, objectives, activities, staff requirements, material requirements, and previous evaluation findings;

III. The extent to which the local educational agency provides evidence of earlier attempts to solve the local mathematics achievement problems and presents strong reasons for greater expectations for success from the proposed program;

IV. The extent to which the applicant district provides evidence of its intent and capability to continue the program with State and local funds if it proves successful locally; and

v. The extent to which the application sets forth a cohesive plan to evaluate the effects and implementation of the new program. The evaluation should include (a) establishment by the applicant district of two comparison groups, one of which would serve as the experimental group, (b) valid and reliable data collection instruments, and (c) appropriate data analysis techniques.

IV. *Priority Order for Selecting Projects.* Applications meeting the "general criteria" (See II above) and the "additional criteria" (See III above) will be selected for funding according to the following priority order:

A. Currently funded Developer-Demonstration Projects, Statewide Facilitator Projects, "Project Information Package" Replication Projects, and Child Abuse and Neglect Projects which have performed satisfactorily during the past year.

B. Projects which in addition to projects under A are necessary to meet the legislative set-aside for the education of handicapped children.

C. New Projects in each of the following areas:

1. Developer-Demonstration projects in home-based preschool education and projects which provide early childhood outreach programs.

2. Projects which provide short-term training programs for local school administrators to assist them in implementing performance-based management approaches such as Management by Objectives.

3. Developer-Demonstration and replication projects which provide for mathematics programs taught by mathematics specialists.

4. State Facilitator Projects.

5. New Developer-Demonstration Projects. The Commissioner will use his discretion, consistent with the overall merit of the proposals submitted and each State's allotment, to determine the number of projects and the amounts of money to be used in each of these areas.

(20 U.S.C. 843(b), 844, 844b; S. Rep. No. 634, 91st Cong., 2d Sess. 27-28 (1970))

[FR Doc. 75-14011 Filed 5-28-75; 8:45 am]

# PART 189—VETERANS' COST-OF-INSTRUCTION PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION

Notice of proposed rule making setting forth proposed amendments to the regulations governing the veterans' cost-of-instruction program (authorized at 20 U.S.C. 1070e-1) was published in the FEDERAL REGISTER on January 6, 1975 (40 FR 1053-1057). Interested persons were invited to submit written comments, suggestions, or objections regarding the notice to the Office of Education within 30 days.

A. *Comments and responses.* After consideration of the comments received, it has been determined that the proposed regulatory amendments should be adopted without change. A summary of the comments, with responses, follows:

1. Comment. Several commenters suggested that the three veteran counting dates designated for payments to institutions in § 189.3(b) be dates which occur in the same academic year.

Response. In light of (1) the desirability that an institution utilize its three payments within one academic year and (2) the timing of the Congressional appropriations process, the current dates appear to be appropriate. They enable an institution of higher education to plan its veterans' services over the summer, on the basis of the size of its first payment, for an academic year beginning in the fall.

2. Comment. Several commenters objected to the new provision concerning use of program funds by institutions for travel expenditures (§ 189.17(c)).

Response. This provision is deemed necessary in order to prevent unreasonable expenditures by institutions for travel and to establish a uniform policy.

3. Comment. Several commenters suggested that more detailed applications as to intended use of funds be required than is currently the case. One commenter suggested more rigorous auditing procedures by the Commissioner.

Response. In light of the size of awards under this program, the corresponding requirements and procedures provided for in the proposed regulations are deemed adequate. It should be noted that a new provision at § 189.21(b)(7) calls for the submission by an educational institution of a proposed budget and that new § 189.32(b) calls for an audit of its program expenditures by an institution.

4. Comment. Other suggestions included the following: a. Provide for payments for students not enrolled as at least half-time students.

b. Compute an institution's payment on the basis of the average number of veterans enrolled on the three counting dates.

c. Provide a flat amount of \$20 per veteran to each institution.

d. Provide for a maximum annual payment to an institution of \$75,000 rather than \$135,000.

e. Provide for payments for veterans who are graduate students.

f. Require an institution to expend 90 percent or 100 percent of its program funds for required veterans' services.

Response. Each of these suggestions would conflict with statutory provisions, the first with section 491(c)(2) of the Higher Education Act of 1965 (20 U.S.C. 1088(c)(2)) and the others with the program statute (20 U.S.C. 1070e-1). With regard to the last suggestion, however, it should be noted that § 189.17(a) requires an institution to expend more than 75 percent of its program funds for required veterans' services if such greater amount is needed to provide such services.

B. *Effective date.* These regulations were transmitted to the Congress concurrently with their publication as a notice of proposed rule making pursuant to section 431(d) of the General Education

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Provisions Act (20 U.S.C. 1232(d)). The period set forth in such section 431(d) for Congressional action on the regulations has expired without such action having been taken. The proposed regulations are hereby adopted without change, as set forth below. These regulations are effective May 29, 1975.

(Catalog of Federal Domestic Assistance Program No. 13.540, Higher Education—Cost of Veterans' Instruction (VCIP))

Dated: April 10, 1975.

T. H. BELL,  
U.S. Commissioner of Education.

Dated: May 6, 1975.

R. L. ROUDEBUSH,  
Administrator of  
Veterans' Affairs.

Approved: May 22, 1975.

CASPAR W. WEINBERGER,  
Secretary of Health,  
Education, and Welfare.

## Subpart A—General Provisions

Sec. 189.1 Definitions.  
189.2 Institutional eligibility.  
189.3 Calculation of cost-of-instruction payment.  
189.4 Applicability of civil rights provisions.

## Subpart B—Required Services and Use of Funds

189.11 Special definitions.  
189.12 Office of veterans' affairs.  
189.13 Related veterans' services.  
189.14 Institutions with small number of students and veterans.  
189.15 Consortium agreements.  
189.16 Criteria for assessing adequacy of veterans' programs.  
189.17 Expenditure requirements.

## Subpart C—Application Process

189.21 Submission of application by individual institutions.  
189.22 Submission of applications by parties to consortium agreements.

## Subpart D—Fiscal and Reporting Requirements

189.31 Maintenance of records.  
189.32 Audits.  
189.33 Fiscal operations reports.  
189.34 Limitations on costs.  
189.35 Reporting requirements.

AUTHORITY.—Section 420, Higher Education Act of 1965, as added by section 1001(a) of Pub. L. 92-318, 86 Stat. 378 (20 U.S.C. 1070e-1), as amended, unless otherwise noted.

## Subpart A—General Provisions

### § 189.1 Definitions.

As used in this part:

"Academic year" means a period beginning on July 1 and ending on the following June 30.

"Cost-of-instruction payment," or "payment," means an amount calculated with respect to an institution of higher education for an academic year on the basis of undergraduate veteran student enrollment.

"Institution of higher education," or "institution," means an educational institution in any State which: (a) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (b) is legally authorized within such

State to provide a program of education beyond secondary education, (c) provides an educational program for which it awards a bachelor's degree or provides not less than a 2-year program which is acceptable for full credit toward such a degree, (d) is a public or other nonprofit institution, and (e) is accredited by a nationally recognized accrediting agency or association as determined by the Commissioner or, if not so accredited, (1) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (2) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited, or (3) is an institution which has been approved by a state agency recognized by the Commissioner pursuant to § 438(b) of the Higher Education Act of 1965, as amended. Such term also includes any school which provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (a), (b), (d), and (e) of this definition.

"Instructional expenses in academically related programs" means the expenditures of instructional departments of an institution of higher education for salaries, office expenses, equipment, and research.

"School or department of divinity" means an institution or a department or a branch of an institution the program of instruction of which is designed for the education of students (a) to prepare them to become ministers of religion or to enter upon some other religious vocation (or to provide continuing training for any such vocation), or (b) to prepare them to teach theological subjects.

"State" includes the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"Student" means a person in attendance as at least a half-time student at an institution of higher education. The term is further defined as follows:

(a) "Full-time student" means a student who (1) is enrolled for the equivalent of at least 14 semester hours or (2) is enrolled for the equivalent of not less than 12 semester hours and is being charged on the basis of the institution's normal full-time fee schedule.

(b) "Three-quarter time student" means a student who (1) is enrolled for the equivalent of 10 through 13 semester hours or (2) is enrolled for the equivalent of not less than 9 semester hours and is being charged at least three-quarters of the institution's normal full-time fees.

(c) "Half-time student" means a student who (1) is enrolled for the equivalent



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lent of 7 through 9 semester hours or (2) is enrolled for the equivalent of not less than 6 semester hours and is being charged at least one-half of the institution's normal full-time fees.

"Undergraduate" refers to a student who (a) has not earned his first bachelor's degree or professional degree, and (b) (1) is pursuing a program of studies leading to a certificate or diploma or (2) is receiving or has received educational assistance under subchapter V or subchapter VI of chapter 34 of title 38, United States Code. A student who has not earned his first bachelor's or professional degree and who is enrolled in a program of study at the postsecondary level which is designed to extend for more than four academic years shall not be considered as an undergraduate student in that portion of the program that involves study beyond the fourth academic year unless that program leads to a first degree and is designed to extend for a period of five academic years.

"Veteran" means a person receiving benefits under chapter 31 or chapter 34 of title 38, United States Code, or who, if enrolled in an institution of higher education, would be eligible for such benefits.

(20 U.S.C. 1070e, 1070e-1, 1087-1(b), 1088, 1141.)

#### § 189.2 Institutional eligibility.

(a) To apply for assistance under this part, an applicant must be an institution of higher education, and must meet the requirements specified in paragraph (b) or (c) of this section.

(b) In order for an institution of higher education to apply for assistance under this part during an academic year following one during which it was not eligible for or did not apply for such assistance, it must have in attendance on April 16 of such academic year (or, where such date falls between academic terms of the institution, the end of the previous academic term), a number of undergraduate veteran students receiving benefits under chapter 31 or chapter 34 of title 38, United States Code (or who have received benefits under subchapter V or subchapter VI of such chapter 34 while attending such institution during that academic year) equal to at least 25 and to at least (1) 110 percent of the number of undergraduate veteran students who were in attendance on the first counting date adopted under this part for the preceding academic year and were at that time receiving benefits under chapter 31 or chapter 34 of title 38, United States Code (or had received benefits under subchapter V or subchapter VI of such chapter 34 while attending such institution during that academic year), or (2) 10 percent of the total number of undergraduate students in attendance at such institution during such current academic year, if such number does not constitute a percentage of such undergraduate students which is less than such percentage for the preceding academic year.

(c) In order for an institution of higher education to apply for assistance

under this part during an academic year following one during which it has received such assistance, it must have in attendance on April 16 of such academic year (or, where such date falls between academic terms of the institution, the end of the previous academic term), a number of undergraduate veteran students receiving benefits under chapter 31 or chapter 34 of title 38, United States Code (or who have received benefits under subchapter V or subchapter VI of such chapter 34 while attending such institution during that academic year) equal to at least (1) the number of undergraduate veteran students who were in attendance on the first counting date adopted under this part for the preceding academic year and were at that time receiving benefits under chapter 31 or chapter 34 of title 38, United States Code (or had received benefits under subchapter V or subchapter VI of such chapter 34 while attending such institution during that academic year), or (2) the minimum number of such persons which was necessary for such institution to establish eligibility for assistance under this part during the preceding academic year, whichever is less.

(d) Schools or departments of divinity and proprietary institutions (i.e., organized for profit) are not eligible to apply for assistance under this part.

(20 U.S.C. 1070e-1.)

#### § 189.3 Calculation of cost-of-instruction payment.

(a) To compute an institution's cost-of-instruction payment under this part, the Commissioner of Education shall determine, on the basis of data provided by the institution:

(1) The number of undergraduate veteran students in attendance on the applicable dates specified in paragraph (b) of this section who are at those times recipients of vocational rehabilitation assistance under chapter 31 of title 38, United States Code, or of educational assistance under chapter 34 of title 38, United States Code, and to whom the services required by §§ 189.12 and 189.13 will be reasonably accessible, and

(2) The number of undergraduate veteran students in attendance on the applicable dates specified in paragraph (b) of this section who have ever received educational assistance under subchapter V or subchapter VI of chapter 34 of title 38, United States Code, and to whom the services required by §§ 189.12 and 189.13 will be reasonably accessible.

(b) A cost-of-instruction payment for a given academic year shall, by reason of paragraph (d) of this section, be based on the number of students in attendance on April 16 of the preceding academic year and October 16 and February 16 of the given year (or, where such dates fall between academic terms of the institution, the end of the previous academic term), and shall, subject to the availability of funds, be computed at the following annual rate:

(1) For students described in paragraph (a) (1) of this section:

(i) \$300 per full-time student;

(ii) \$225 per three-quarter time student;

(iii) \$150 per half-time student; and

(iv) No payment for students not enrolled as at least half-time students.

(2) For students described in paragraph (a) (2) of this section:

(i) \$150 per full-time student;

(ii) \$112.50 per three-quarter time student;

(iii) \$75 per half-time student; and

(iv) No payment for students not enrolled as at least half-time students.

(c) (1) Notwithstanding any other provision of this section, the maximum amount of payments in any fiscal year to any institution of higher education, or any branch thereof which is located in a community which is different from that in which the parent institution is located, shall be \$135,000.

(2) Funds which become available as a result of the limitation on payments set forth in subparagraph (c) (1) shall be apportioned in such a manner as will result in the receipt by institutions of a uniform minimum amount of first up to \$9,000, and then in excess of \$9,000, to the extent that funds remain available, except that no institution shall receive funds in excess of the amounts calculated according to paragraph (b) of this section.

(d) One third of the program funds available for a given academic year shall be used for payment to institutions based on enrollment data for April 16 of the preceding academic year. Funds obligated to an individual institution which remain after the payment to such institution based on the April 16 enrollment data shall be paid to such institution on the basis of enrollment data for October 16 and February 16 of the given year at rates per undergraduate veteran student in the categories set forth in § 189.3 (a) (1) and (2) equal to the rates for such students at which the payment based on April 16 enrollment data was made.

(e) Notwithstanding any other provision of this section, the sum of the second and third payments to an institution for any academic year may not exceed twice the amount of the first payment to such institution for such year.

(20 U.S.C. 1007e-1, 31 U.S.C. 701.)

#### § 189.4 Applicability of civil rights provisions.

(a) Federal financial assistance under this part is subject to the regulations in part 80 of this title, issued by the Secretary of Health, Education, and Welfare and approved by the President, to effectuate the provisions of title VI of the Civil Rights Act of 1964 (Pub. L. 88-352).

(b) Federal financial assistance under this part is also subject to the provisions of title IX of the Education Amendments of 1972 (prohibition of sex discrimination) and any regulations issued thereunder.

(20 U.S.C. 1681-86; Pub. L. 92-318, section 906.)

#### Subpart B—Required Services and Use of Funds

##### § 189.11 Special definitions.

For purposes of this subpart:

(a) "Full-time," with respect to an office of veterans' affairs, means that the office of veterans' affairs (1) is staffed by at least one person who is employed by an institution on a full-time basis and whose sole institutional responsibility is that of coordinating the activities of the office (except that an institution described in § 189.14 may employ part-time employees for this purpose who together assume the responsibility of at least one full-time employee) and (2) provides services at times and places convenient to the veterans being served.

(b) "Outreach" means an extensive, coordinated, communitywide program of reaching veterans within the institution's normal service area, determining their needs, and making appropriate referral and follow-up arrangements with relevant service agencies.

(c) "Recruitment" means a concerted effort to interest veterans in taking advantage of opportunities for a wide variety of postsecondary training experiences at the institution.

(d) "Special education programs" means specially designed remedial, tutorial, and motivational programs designed to promote success in the postsecondary experience.

(e) "Counseling" means professional assistance available to veterans for consultation on personal, family, educational, and career problems.

(20 U.S.C. 1070e-1.)

##### § 189.12 Office of veterans' affairs.

Except as provided in § 189.14, an application for assistance under this part shall be approved only if the Commissioner is satisfied that the applicant will, during the period for which the award is made, make an adequate effort, as measured by the criteria set forth in § 189.16, in the areas of outreach, recruitment, special education programs, and counseling.

(20 U.S.C. 1070e-1.)

##### § 189.13 Related veterans' services.

Except as provided in § 189.14, an application for assistance under this part shall be approved only if the Commissioner is satisfied that the applicant will, during the period for which the award is made, make an adequate effort, as measured by the criteria set forth in § 189.16, to carry out:

(a) Programs designed to prepare educationally disadvantaged veterans for postsecondary education (1) under subchapter V of chapter 34 of title 38, United States Code, and (2) in the case of any institution located near a military installation, under subchapter VI of such chapter 34;

(b) Active outreach, recruiting, and counseling activities through the use of other funds such as those available under

## RULES AND REGULATIONS

federally assisted work-study programs; and

(c) An active tutorial assistance program (including dissemination of information regarding such program) in order to make maximum use of the benefits available under section 1692 of title 38, United States Code.

(20 U.S.C. 1070e-1.)

##### § 189.14 Institutions with small numbers of students and veterans.

An institution with less than 2,500 students and no more than 70 undergraduate veteran students in attendance on April 16 (or, where such date falls between academic terms of the institution, the end of the previous academic term) of an academic year during which assistance under this part is sought need provide the services described in § 189.12 only to the extent of maintaining a full-time office of veterans' affairs with adequate services in the areas of recruitment and counseling, and need not provide the services described in § 189.13.

(20 U.S.C. 1070e-1.)

##### § 189.15 Consortium agreements.

In the case of an institution with less than 2,500 students in attendance on April 16 (or, where such date falls between academic terms of the institution, the end of the previous academic term) of an academic year during which assistance under this part is sought, the Commissioner may permit one or more of the functions set forth in §§ 189.12 and 189.13 to be carried out under a consortium agreement between that institution and one or more other such institutions located within a reasonable commuting distance therefrom if he finds that (a) such institution cannot feasibly carry out such functions by itself, and (b) the benefits of such functions will be readily accessible to veterans attending, and to veterans in the community served by, each of the institutions which are parties to the agreement.

(20 U.S.C. 1070e-1.)

##### § 189.16 Criteria for assessing adequacy of veterans' programs.

An applicant institution's assurance pursuant to § 189.21(b) (6), with respect to the requirements of §§ 189.12 and 189.13 and to the extent that such requirements are not waived pursuant to § 189.14, shall be made in light of the following criteria, which criteria shall also be used by the Commissioner in evaluating the adequacy of the institution's veterans' programs:

(a) *In general.*—(1) Adequate identification and assessment of the veteran population in the institution's normal service area;

(2) Appropriate consideration, in terms of programs and services, of the number of veterans enrolled at the institution;

(3) The establishment of an advisory mechanism involving community and institutional personnel to assist in the institution's decisionmaking process with respect to veterans' services and

through which the institution may become aware of the views of the institution's administrative and academic staff, its veteran student population, and relevant community organizations;

(4) The use of qualified Vietnam-era veterans in staffing the institution's office of veterans' affairs and in providing related services;

(5) The employment of a sufficient number of qualified staff members in order to adequately support required veterans' activities and services;

(6) The provision of adequate, visible and accessible housing for the institution's office of veterans' affairs, in light of the institution's veteran student enrollment and physical environment; and

(7) The coordination of veterans' services with other campus services available to veterans, such as admissions, student financial aid, counseling, and job placement.

(b) With respect to outreach, the establishment and maintenance of—

(1) Contact with veterans in the institution's normal service area;

(2) A procedure for assessing veterans' needs, problems, and interests; and

(3) A coordinated and extensive referral service involving agencies providing assistance in areas such as housing, employment, health, recreation, vocational and technical training, and financial assistance;

(c) With respect to recruitment, the establishment and maintenance of a process of bringing the maximum number of veterans into purposeful systematic programs of postsecondary education most suited to their educational and career aspirations, including such techniques as publications, use of mass media, and personal contacts;

(d) With respect to special education programs, the establishment and maintenance of—

(1) Support from appropriate departments of the institution for launching special education programs for the veteran student of a remedial, motivational, and tutorial nature;

(2) Support throughout the institution for appropriate changes in rules, policies, and procedures that will accommodate the special needs and problems of the veteran student; and

(3) Adequate guidance for individual veteran students that will insure the highest possible rate of their retention in educational programs; and

(e) With respect to counseling, the establishment and maintenance of—

(1) Ease of access of veteran students to professional assistance for consultation on personal, family, educational, and career problems as appropriate and necessary; and

(2) Frequent and scheduled liaison of the office of veterans' affairs with the institution's academic departments, counseling service, and central administration.

(20 U.S.C. 1070e-1.)

##### § 189.17 Expenditure requirements.

(a) Not less than (1) 75 percent of funds awarded to an institution under



## RULES AND REGULATIONS

this part or (2) the amount of funds needed to implement the required services set forth in §§ 189.12 and 189.13, whichever is greater, shall be used by the institution to implement such services. Any remaining awarded funds may be used solely to defray instructional expenses in academically related programs of such institution.

(b) All assistance received under this part must be expended or obligated for the foregoing purposes not later than the end of the period for which the award is made. Obligations will be considered to have been incurred by a recipient on the basis of documentary evidence of binding commitments for the acquisition of goods or property or for the performance of work, except that funds for personal services, for services performed by public utilities, for travel, and for the rental of facilities, shall be considered to have been obligated as of the time such services were rendered, such travel was performed, and such rented facilities were used, respectively.

(c) Travel expenditures shall be restricted to recruitment and outreach activities, attendance at Office of Education sponsored meetings providing technical assistance for this part, and attendance at Office of Education approved professional meetings.

(20 U.S.C. 1070e, 1070-1, 1232c(b)(2); 31 U.S.C. 200)

## Subpart C—Application Process

## § 189.21 Submission of application by individual institutions.

(a) Assistance under this part will be provided only on the basis of an application submitted by an institution which sets forth all information necessary to determine the institution's eligibility and payment amount.

(b) Each application must be submitted on a form to be provided by the Commissioner and contain the following:

(1) Information necessary to show that the institution is eligible for assistance under this part;

(2) Information necessary to determine the amount of the institution's payment, in accordance with § 189.3;

(3) An assurance that any funds received by the institution under this part will not be used for a school or department of divinity or for any religious worship or sectarian activity;

(4) An assurance that any funds received by the institution under this part which are not required pursuant to § 189.17 to be used to implement the requirements of §§ 189.12 and 189.13 will be used solely to defray instructional expenses in academically related programs of the institution;

(5) An assurance that the institution will expend during the period for which the award is made, for all academically related programs of the institution, an amount equal, in terms of either total or per student expenditure, to at least the average amount so expended during the 3 academic years preceding such period, together with such supporting data as the Commissioner may require;

(6) An assurance that the institution will carry out the required services set forth in §§ 189.12 and 189.13;

(7) An assurance that the institution will initiate the services required by §§ 189.12 and 189.13, and will submit a proposed budget for the operation of the office of veterans' affairs, not later than 90 days after the date of award notification;

(8) An assurance that the services required by §§ 189.12 and 189.13 will be reasonably accessible to all undergraduate veteran students on behalf of whom funds are received by the institution under this part; and

(9) If the institution is seeking a waiver of any of the required activities specified in §§ 189.12 and 189.13 pursuant to § 189.14, information necessary to show that it has less than 2,500 students and not more than 70 undergraduate veteran students in attendance on April 16 (or, where such date falls between academic terms of the institution, the end of the previous academic term) of the academic year during which assistance under this part is sought.

(20 U.S.C. 1070e-1.)

## § 189.22 Submission of applications by parties to consortium agreements.

Institutions proposing to carry out the activities required under this part through a consortium agreement, pursuant to § 189.15, must submit their applications on a form to be provided by the Commissioner, and each such institution must provide all information and assurances required pursuant to § 189.21 as well as information and assurances necessary to a finding by the Commissioner that the conditions for a consortium agreement set forth in § 189.15 have been met.

(20 U.S.C. 1070e-1.)

## Subpart D—Fiscal and Reporting Requirements

## § 189.31 Maintenance of records.

(a) *Records.* Each institution and consortium of institutions shall keep intact and accessible records relating to the receipt and expenditure of Federal funds in accordance with section 434(a) of the General Education Provisions Act, including all accounting records and related original and supporting documents that substantiate direct costs charged to the award. Records must be maintained so as to reflect (1) expenditures made for veterans' services provided for under this part, and (2) expenditures made for instructional costs in academically related programs.

(b) *Period of retention.* (1) Except as provided in paragraph (b)(2) or (b)(3) of this section, the records specified in paragraph (a) of this section shall be retained for 3 years after the date of the submission of the fiscal operations report, pursuant to § 189.33, to which they pertain.

(2) Records for nonexpendable personal property which was acquired with Federal funds shall be retained for 3 years after it is no longer needed for program purposes.

(3) The records involved in any claim or expenditure which has been questioned by Federal audit shall be further retained until resolution of any such audit questions.

(c) *Microfilm copies.* Institutions may substitute microfilm copies in lieu of original records in meeting the requirements of this section.

(20 U.S.C. 1232c(a).)

## § 189.32 Audits.

(a) *Audit and examination.* The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to all records required pursuant to § 189.31(a) and to any other pertinent books, documents, papers, and records of the institution or consortium of institutions. The Commissioner may, at any time before or after making a payment under this part, review the data supplied by an institution with respect to such payment and take appropriate action as a result thereof, including that of requiring the institution to return funds received on the basis of inaccurate data submitted by the institution.

(b) *Audit responsibilities.* All expenditures by recipient institutions or consortiums thereof shall be audited by the recipient or at the recipient's direction to determine, at a minimum, the fiscal integrity of financial transactions and reports, and the compliance with laws and regulations. Such audits shall be scheduled with reasonable frequency, usually annually, but not less frequently than once every two years, considering the nature, size, and complexity of the activity.

(20 U.S.C. 1232c(a), (b)(2).)

## § 189.33 Fiscal operations reports.

(a) In addition to such other accounting as the Commissioner may require, an institution or consortium shall render annually, with respect to the assistance awarded under this part, a full account of funds expended, obligated, and remaining.

(b) A report of such accounting in a format approved by the Commissioner shall be submitted to the Commissioner within 90 days of the expiration of the academic year for which such assistance was awarded, and the institution or consortium shall remit within 30 days of the receipt of a written request therefor any amounts found by the Commissioner to be due. Such period may, upon written request, be extended at the discretion of the Commissioner.

(20 U.S.C. 1232c(b)(3); 31 U.S.C. 628)

## § 189.34 Limitations on costs.

(a) The maximum amount of a payment under this part shall be set forth in the award document. The total payment from the Federal Government will not exceed the amount so set forth.

(b) Institutions will be governed by the cost principles set forth in Part II

## RULES AND REGULATIONS

of Appendix D of 45 CFR Part 74 (Part II of Appendix C of 45 CFR Subchapter A). (31 U.S.C. 200; 20 U.S.C. 1070e-1.)

## § 189.35 Reporting requirements.

(a) Institutions of higher education, and consortiums thereof, receiving assistance under this part must submit to the Commissioner no more than 30 days after the close of each academic year, a report describing the manner in which the required veterans' services were provided during such academic year. Such a report shall be in a format approved by the Commissioner and shall make specific reference to the extent to which the criteria set forth in § 189.16 of this part have been met.

(b) Interim reports describing the progress being made in providing the veterans' services required pursuant to §§ 189.12 and 189.13 of this part shall be submitted if, and at such times as, the Commissioner deems such reports necessary.

(20 U.S.C. 1070e-1.)

[FR Doc.75-13920 Filed 5-28-75; 8:45 am]

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## proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

### DEPARTMENT OF JUSTICE

#### Drug Enforcement Administration

##### [ 21 CFR Part 1308 ]

#### SCHEDULES OF CONTROLLED SUBSTANCES

#### Proposed Placement of Mecloqualone and the Thiophene Analog of Phencyclidine in Schedule I

On March 15, 1974, the Administrator of the Drug Enforcement Administration requested the Assistant Secretary of Health to submit, in behalf of the Department of Health, Education and Welfare, a scientific and medical evaluation and recommendation that the thiophene analog of phencyclidine (1-[1-(2-thienyl) cyclohexyl] piperidine) be placed in Schedule I of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Pub. L. 91-513).

On October 22, 1974, a similar request was made with respect to mecloqualone.

By a letter dated January 21, 1975, the Assistant Secretary for Health submitted the requested scientific and medical evaluations and recommendations. That letter is set out as follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

OFFICE OF THE SECRETARY  
Washington, D.C. 20201

JANUARY 21, 1975

Mr. JOHN R. BARTELS, JR.,  
Administrator, Drug Enforcement Administration, Department of Justice, 1405 Eye Street NW., Washington, D.C. 20537.

DEAR Mr. BARTELS: The appropriate agencies within the Department of Health, Education and Welfare, and the FDA Controlled Substances Advisory Committee, have evaluated the DEA proposals of March 15 and October 22, 1974 to control the thiophene analog of phencyclidine ([1-(1-2-thienyl) cyclohexyl] piperidine) and mecloqualone. We agree that these substances should be controlled in Schedule I of the Controlled Substances Act (Pub. L. 91-513).

Pursuant to the criteria for Schedule I substances described in section 202(b) of the Controlled Substances Act, the present evidence indicates that these substances have a high potential for abuse, have no currently accepted medical use in treatment in the United States, and there is lack of accepted safety for use of these substances under medical supervision.

Schedule I control of the thiophene analog of PCP and mecloqualone therefore seems to be clearly in the interest of public health. Enclosed please find a document supporting these recommendations.

Sincerely yours,

CHARLES C. EDWARDS, M.D.,  
Assistant Secretary for Health.

Upon receipt of this letter, the Drug Enforcement Administration undertook a review of the following: (1) Materials submitted to DEA by the Department of Health, Education and Welfare with the

letter of January 21, 1975; (2) materials on file with the Food and Drug Administration; (3) published scientific and medical literature from the United States and other nations regarding these drugs; (4) selected investigatory files compiled for law enforcement purposes by the Drug Enforcement Administration; and (5) the legislative history of the Comprehensive Drug Abuse Prevention and Control Act of 1970.

Based upon the investigations and review of the Drug Enforcement Administration and upon the scientific and medical evaluations and recommendations of the Secretary of Health, Education and Welfare, received pursuant to sections 201(a) and 201(b) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811(a) and 811(b)), the Administrator of the Drug Enforcement Administration finds that:

1. Based on information now available, mecloqualone and the thiophene analog of phencyclidine have a high potential for abuse.

2. Mecloqualone and the thiophene analog of phencyclidine have no currently accepted medical use in treatment in the United States.

3. There is a lack of accepted safety for use of mecloqualone and of the thiophene analog of phencyclidine under medical supervision.

Therefore, under the authority vested in the Attorney General by section 201 (a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811(a)), and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, the Administrator proposes that § 1308.11 of Title 21 of the Code of Federal Regulations be amended to read:

§ 1308.11 Schedule I.

(d) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this paragraph only, the term "isomer" includes the optical, position and geometric isomers):

- (1) 4-bromo-2,5-dimethoxyamphetamine ----- 7391  
Some trade or other names: 4-bromo-2,5-dimethoxy- $\alpha$ -methylphenethylamine; 4-bromo-2,5-DMA.
- (2) 2,5-dimethoxyamphetamine ----- 7396  
Some trade or other names: 2,5-dimethoxy- $\alpha$ -methylphenethylamine; 2,5-DMA.

- (3) 4-methoxyamphetamine ----- 7411  
Some trade or other names: 4-methoxy- $\alpha$ -methylphenethylamine; paramethoxyamphetamine; PMA.
- (4) 5-methoxy-3,4-methylenedioxyamphetamine ----- 7401  
Some trade and other names: 4-methyl-2,5-dimethoxy- $\alpha$ -methylphenethylamine; "DOM"; and "STP".
- (5) 4-methyl-2,5-dimethoxyamphetamine ----- 7395  
Some trade and other names: 4-methyl-2,5-dimethoxy- $\alpha$ -methylphenethylamine; "DOM"; and "STP".
- (6) 3,4-methylenedioxyamphetamine ----- 7400  
(7) 3,4,5-trimethoxyamphetamine ----- 7390  
(8) Bufotenine ----- 7433  
Some trade and other names: 3-( $\beta$ -Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indole; N,N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mapine.
- (9) Diethyltryptamine ----- 7434  
Some trade and other names: N,N-Diethyltryptamine; DET.
- (10) Dimethyltryptamine ----- 7435  
Some trade or other names: DMT.
- (11) Ibogaine ----- 7260  
Some trade and other names: 7-Ethyl-6,6a,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1',2':1,2] azepino [5,4-b] indole; tabernanthe iboga.
- (12) Lysergic acid diethylamide ----- 7315
- (13) Marihuana ----- 7360
- (14) Mescaline ----- 7381
- (15) Peyote ----- 7415
- (16) N-ethyl-3-piperidyl benzilate ----- 7482
- (17) N-methyl-3-piperidyl benzilate ----- 7484
- (18) Psilocybin ----- 7437
- (19) Psilocyn ----- 7438
- (20) Tetrahydrocannabinols ----- 7370  
Synthetic equivalents of the substances contained in the plant, or in the resinous extracts of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:  
 $\Delta^1$  cis or trans tetrahydrocannabinol, and their optical isomers.  
 $\Delta^8$  cis or trans tetrahydrocannabinol, and their optical isomers.  
 $\Delta^9$  cis or trans tetrahydrocannabinol, and its optical isomers.

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions are covered.)

- (21) Thiophene Analog of Phencyclidine -----  
Some trade or other names: 1-[1-(2-thienyl) cyclohexyl] piperidine; 2-Thienyl Analog of Phencyclidine, TPCP.

### PROPOSED RULES

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(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) mecloqualone ----- 2572

All interested persons are invited to submit their comments or objections in writing regarding this proposal. The comments or objections should state with particularity the issues concerning which the person desires to be heard. Comments and objections should be submitted in quintuplicate to the Hearing Clerk, Office of the Administrative Law Judge, Drug Enforcement Administration, Department of Justice, Room 1130, 1405 Eye Street NW., Washington, D.C. 20537, and must be received no later than July 1, 1975.

In the event that an interested party submits objections to this proposal which present grounds for this rule not to be finalized and requests a hearing in accordance with 21 CFR 1308.45, the party will be notified by registered mail that a hearing on these objections will be held as soon as the matter may be heard at the Drug Enforcement Administration, 1405 Eye Street NW., Washington, D.C. 20537. If objections submitted do not present such reasonable grounds, the party will be so advised by registered mail.

If no objections presenting reasonable grounds for a hearing on the proposal are received within the time limitations, and all interested parties waive or are deemed to waive their opportunity for the hearing or to participate in the hearing, the Administrator may, without a hearing, and, after giving consideration to written comments, issue his final order pursuant to 21 CFR 1308.48 without a hearing.

Dated: May 9, 1975.

JOHN R. BARTELS, JR.,  
Administrator,  
Drug Enforcement Administration.  
[FR Doc. 75-13818 Filed 5-28-75; 8:45 am]

### DEPARTMENT OF THE INTERIOR

#### Fish and Wildlife Service

##### [ 50 CFR Part 18 ]

#### MARINE MAMMALS

#### Procedures for Hearings on Proposed Regulations

The Marine Mammal Protection Act authorizes the Secretary to prescribe regulations and to waive the moratorium on the taking and/or importation of marine mammals and marine mammal products and, for such prescription or waiver, refers the Secretary to section 103 of the Act (16 U.S.C. 1373). Section 103(d) requires that regulations be made on the record after opportunity for an agency

hearing on such regulations and, in the case of a waiver, on a determination by the Secretary to waive the moratorium.

On July 12, 1974 proposed regulations to govern hearings on the record as required by section 103 of the Act (16 U.S.C. 1373) were published in the FEDERAL REGISTER, 39 FR 25664-25667, by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce. Thirty days were provided for comments on the proposed regulations.

The only comment received was from the Environmental Protection Agency (EPA). The EPA suggested that provision be made for introducing the environmental impact statement into the record of the hearing. To comply with that suggestion, §§ 216.73(b)(6) and 216.85(b) have been amended. Furthermore, if an environmental impact statement is necessary, the statement will be considered when the Director determines the issues of fact published in the notice of hearing pursuant to § 216.73(b)(5).

The regulations to govern hearings on the record as required by section 103 of the Marine Mammal Protection Act (16 U.S.C. 1373) were published in final form in the FEDERAL REGISTER, 40 FR 10182-10186, March 5, 1975.

It is the intent of the Director, U.S. Fish and Wildlife Service to adopt the regulations published in final form by the NMFS on March 5, 1975 [40 FR 10182-10182]. The purpose of adopting these regulations would be to allow the two Departments to handle joint requests for a waiver of the moratorium and hearings simultaneously.

The basic format for the proposed hearing procedures to govern section 103 hearings consist of:

(1) Publication of notice in the FEDERAL REGISTER of (i) an intent to waive the moratorium and/or to prescribe regulations and (ii) issues which may be involved in the hearing;

(2) Submission in writing of all direct testimony to be introduced at the hearing. Such submission must be accomplished by a date specified in the notice;

(3) As soon as possible after the date specified in (2) above, the presiding officer shall consider all the direct testimony offered and make a preliminary determination of the issues presented;

(4) The presiding officer shall then conduct a prehearing conference and cause to be published in the FEDERAL REGISTER a final hearing agenda;

(5) If the presiding officer determines at the prehearing conference that no issues of fact are presented by the written direct testimony, the presiding officer shall publish in the FEDERAL REGISTER such determination and notice that no hearing will be held and that any person may submit written comments for the presiding officer's consideration prior to his rendering of a recommended decision;

(6) When a hearing is held, only direct testimony previously submitted may be introduced. Direct testimony not submitted as provided in these regulations and introduced at the hearing shall not

be considered a part of the record;

(7) The hearing shall be limited to cross-examination of witnesses introducing direct testimony. Oral arguments may be allowed at the presiding officer's discretion;

(8) After the hearing, written comments may be submitted by any interested person;

(9) After the time provided for submission of written comments, the presiding officer shall make a recommended decision and transmit such decision with the transcript and comments to the Director for a final determination.

Written comments, views and objections with respect to this proposed adoption of regulations may be submitted to the Director, U.S. Fish and Wildlife Service (MNB), Washington, D.C. 20240. All material received on or before June 30, 1975 will be considered.

The Fish and Wildlife Service published the present subpart G in the FEDERAL REGISTER on February 13, 1975 (40 FR 6661-6663) for the hearing to waive the Moratorium and return the Management of Walrus to the State of Alaska. This proposal will replace the earlier publication as the new subpart G will broaden the hearing procedures from walrus to all marine mammals.

Accordingly, it is hereby proposed to amend Subpart G, Part 18, Subchapter B, Chapter I of Title 50, CFR by deleting it in its entirety and replacing it with the following new language.

LYNN A. GREENWALT,  
Director.

MAY 21, 1975.

#### Subpart G—Notice and Hearing on Section 103 Regulations

- Sec. 18.70 Basis and purpose.
- 18.71 Definitions.
- 18.72 Scope of regulations.
- 18.73 Notice of hearing.
- 18.74 Notification by interested persons.
- 18.75 Presiding officer.
- 18.76 Direct testimony submitted as written documents.
- 18.77 Mailing address.
- 18.78 Inspection and copying of documents.
- 18.79 Ex parte communications.
- 18.80 Prehearing conference.
- 18.81 Final agenda of the hearing.
- 18.82 Determination to cancel the hearing.
- 18.83 Rebuttal testimony and new issues of fact in final agenda.
- 18.84 Waiver of right to participate.
- 18.85 Conduct of the hearing.
- 18.86 Direct testimony.
- 18.87 Cross-examination.
- 18.88 Oral and written arguments.
- 18.89 Recommended decision, certification of the transcript and submission of comments on the recommended decision.
- 18.90 Director's decision.

Authority: Title I of the Marine Mammal Protection Act of 1972, 86 Stat. 1027 (16 U.S.C. 1361-1407), Pub. L. No. 92-522.

#### Subpart G—Notice and Hearing on Section 103 Regulations

##### § 18.70 Basis and purpose.

(a) Sections 101(a)(2), 101(a)(3)(A), and 101(b) (16 U.S.C. §§ 1371(a)(2), 1371(a)(3)(A), 1371(b) (1972)) of the Act and these regulations authorize the Director, U.S. Fish and Wildlife Service,



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to (1) impose regulations governing the taking of marine mammals incidental to commercial fishing operations; (2) waive the moratorium and to adopt regulations with respect to the taking and importing of animals from each species of marine mammals under his jurisdiction; (3) prescribe regulations governing the taking of depleted marine mammals by any Indian, Aleut or Eskimo, respectively. In prescribing regulations to carry out the provisions of said sections, the Act refers the Director to § 103 (16 U.S.C. § 1373 (1972)). In accordance with § 103(d), regulations must be made on the record after opportunity for an agency hearing on such regulations and, in the case of a waiver, on the determination by the Director to waive the moratorium pursuant to section 101(a)(3)(A) (16 U.S.C. 1371(a)(3)(A) (1972)).

(b) The purpose of this subpart is to establish rules of practice and procedure for all hearings conducted pursuant to § 103(d).

## § 18.71 Definitions.

Definitions shall be the same as in subpart A of this Part except as follows:

(a) "Party" means, for the purposes of this subpart:

(1) The Director or his representative;

(2) A person who has notified the Director by specified dates of his or her intent to participate in the hearing pursuant to §§ 18.74 and 18.83(b).

(b) "Witness" means, for the purposes of this subpart, any person who submits written direct testimony on the proposed regulations.

A person may be both a party and a witness.

## § 18.72 Scope of regulations.

The procedural regulations in this subpart govern the practice and procedure in hearings held under § 103(d) of the Act. These hearings will be governed by the provisions of 5 U.S.C. § 556 and § 557 of the Administrative Procedure Act. The regulations shall be construed to secure the just, speedy, and inexpensive determination of all issues raised with respect to any waiver or regulation proposed pursuant to § 103(d) of the Act with full protection for the rights of all persons affected thereby.

## § 18.73 Notice of hearing.

(a) A notice of hearing on any proposed regulations shall be published in the FEDERAL REGISTER, together with the Director's proposed determination to waive the moratorium pursuant to section 101(a)(3)(A) (16 U.S.C. § 1371(a)(3)(A)), where applicable.

(b) The notice shall state:

(1) The nature of the hearing;

(2) The place and date of the hearing. The date shall not be less than 60 days after publication of notice of the hearing;

(3) The legal authority under which the hearing is to be held;

(4) The proposed regulations and waiver, where applicable, and a summary of the statements required by § 103

(d) of the Act (16 U.S.C. § 1373(d));

(5) Issues of fact which may be involved in the hearing;

(6) If a draft Environmental Impact Statement is required, the date of publication of the draft and the place(s) where the draft and comments thereon may be viewed and copied;

(7) Any written advice received from the Marine Mammal Commission;

(8) The place(s) where records and submitted direct testimony will be kept for public inspection;

(9) The final date for filing with the Director a notice of intent to participate in the hearing pursuant to § 18.74;

(10) The final date for submission of direct testimony on the proposed regulations and waiver, if applicable, and the number of copies required;

(11) The docket number assigned to the case which shall be used in all subsequent proceedings; and

(12) The place and date of the prehearing conference.

## § 18.74 Notification by interested persons.

Any person desiring to participate as a party shall notify the Director, by certified mail, on or before the date specified in the notice.

## § 18.75 Presiding officer.

(a) Upon publication of the notice of hearing pursuant to § 18.73, the Director shall appoint a presiding officer pursuant to 5 U.S.C. 3105. No individual who has any conflict of interest, financial or otherwise, shall serve as presiding officer in such proceeding.

(b) The presiding officer, in any proceeding under this subpart, shall have power to:

(1) Change the time and place of the hearing and adjourn the hearing;

(2) Evaluate direct testimony submitted pursuant to these regulations, make a preliminary determination of the issues, conduct a prehearing conference to determine the issues for the hearing agenda, and cause to be published in the FEDERAL REGISTER a final hearing agenda;

(3) Rule upon motions, requests and admissibility of direct testimony;

(4) Administer oaths and affirmations, question witnesses and direct witnesses to testify;

(5) Modify or waive any rule (after notice) when determining no party will be prejudiced;

(6) Receive written comments and hear oral arguments;

(7) Render a recommended decision; and

(8) Do all acts and take all measures, including regulation of media coverage, for the maintenance of order at and the efficient conduct of the proceeding.

(c) In case of the absence of the original presiding officer or his inability to act, the powers and duties to be performed by the original presiding officer under this part in connection with a proceeding may, without abatement of the proceeding, be assigned to any other presiding officer unless otherwise ordered by the Director.

(d) The presiding officer may upon his own motion withdraw as presiding officer in a proceeding if he deems himself to be disqualified.

(e) A presiding officer may be requested to withdraw at any time prior to the recommended decision. Upon the filing by an interested person in good faith of a timely and sufficient affidavit alleging the presiding officer's personal bias, malice, conflict of interest or other basis which might result in prejudice to a party, the hearing shall recess. The Director shall immediately determine the matter as a part of the record and decision in the proceeding, after making such investigation or holding such hearings, or both, as he may deem appropriate in the circumstances.

## § 18.76 Direct testimony submitted as written documents.

(a) Unless otherwise specified, all direct testimony, including accompanying exhibits, must be submitted to the presiding officer in writing no later than the dates specified in the notice of the hearing (§ 18.73), the final hearing agenda (§ 18.81), or within 15 days after the conclusion of the prehearing conference (§ 18.83) as the case may be. All direct testimony shall be in affidavit form and exhibits constituting part of such testimony, referred to in the affidavit and made a part thereof, must be attached to the affidavit. Direct testimony submitted with exhibits must state the issue to which the exhibit relates; if no such statement is made, the presiding officer shall determine the relevance of the exhibit to the issues published in the FEDERAL REGISTER.

(b) The direct testimony submitted shall contain:

(1) A concise statement of the witness' interest in the proceeding and his position regarding the issues presented. If the direct testimony is presented by a witness who is not a party, the witness shall state his relationship to the party; and

(2) Facts that are relevant and material.

(c) The direct testimony may propose issues of fact not defined in the notice of the hearing and the reason(s) why such issues should be considered at the hearing.

(d) Ten copies of all direct testimony must be submitted unless the notice of the hearing otherwise specifies.

(e) Upon receipt, direct testimony shall be assigned a number and stamped with that number and the docket number.

(f) Contemporaneous with the publication of the notice of hearing, the Director's direct testimony, in support of the proposed regulations and waiver, where applicable, shall be available for public inspection as specified in the notice of hearing. The Director may submit additional direct testimony during the time periods allowed for submission of such testimony by witnesses.

## § 18.77 Mailing address.

Unless otherwise specified in the notice of hearing, all direct testimony shall be addressed to the Presiding Officer,

c/o Director, U.S. Fish and Wildlife Service, Washington, D.C. 20240. All affidavits and exhibits shall be clearly marked with the docket number of the proceedings.

## § 18.78 Inspection and copying of documents.

Any document in a file pertaining to any hearing authorized by this subpart or any document forming part of the record of such a hearing may be inspected and/or copied in the Office of the Director, U.S. Fish and Wildlife Service, Washington, D.C. 20240 unless the file is in the care and custody of the presiding officer, in which case he shall notify the parties as to where and when the record may be inspected.

## § 18.79 Ex parte communications.

(a) After notice of a hearing is published in the FEDERAL REGISTER, all communications, whether oral or written, involving any substantive or procedural issue and directed either to the presiding officer or to the Director, Deputy Director or Marine Mammal Coordinator, U.S. Fish and Wildlife Service, without reference to these rules of procedure, shall be deemed ex parte communications and are not to be considered part of the record for decision.

(b) A record of oral conversations shall be made by the above persons who are contacted. All communications shall be available for public viewing at the place(s) specified in the notice of hearing.

(c) The presiding officer shall not consult any person or party on any fact in issue or on the merits of the matter unless notice and opportunity is given for all parties to participate.

## § 18.80 Prehearing conference.

(a) After an examination of all the direct testimony submitted pursuant to § 18.76, the presiding officer shall make a preliminary determination of issues of fact which may be addressed at the hearing.

(b) The presiding officer's preliminary determination shall be made available at the place or places provided in the notice of the hearing (§ 18.73(b)(8)) at least five days before the prehearing conference is held.

(c) The purpose of the prehearing conference shall be to enable the presiding officer to determine, on the basis of the direct testimony submitted and prehearing discussions:

(1) Whether the presiding officer's preliminary determination of issues of fact for the hearing has omitted any significant issues;

(2) What facts are not in dispute;

(3) Which witnesses may appear at the hearing; and

(4) The nature of the interest of each party and which parties' interests are adverse.

(d) Only parties may participate in the prehearing conference and a party may appear in person or be represented by counsel.

## PROPOSED RULES

(e) Parties who do not appear at the prehearing conference shall be bound by the conference's determinations.

## § 18.81 Final agenda of the hearing.

(a) After the prehearing conference, the presiding officer shall prepare a final agenda which shall be published in the FEDERAL REGISTER within ten days after the conclusion of the conference. A copy of the final agenda shall be mailed to all parties.

(b) The final agenda shall list: (1) all the issues which the hearing shall address, the order in which those issues shall be presented, and the direct testimony submitted which bears on the issues; and (2) a final date for submission of direct testimony on issues of fact not included in the notice of hearing if such issues are presented. The final agenda may also specify a final date for submission of direct testimony to rebut testimony previously submitted during the time specified in the notice of the hearing.

(c) The presiding officer shall publish with the final agenda a list of witnesses who may appear at the hearing, a list of parties, the nature of the interest of each party, and which parties' interests are adverse on the issues presented.

## § 18.82 Determination to cancel the hearing.

(a) If the presiding officer concludes that no issues of fact are presented by the direct testimony submitted, the presiding officer shall publish such conclusion and notice in the FEDERAL REGISTER that a hearing shall not be held and shall also publish a date for filing written comments on the proposed regulations. Written comments may include proposed findings and conclusions, arguments or briefs.

(b) A person need not be a party to submit any written comments.

(c) Promptly after expiration of the period for receiving written comments, the presiding officer shall make a recommended decision based on the record, which in this case shall consist of the direct testimony and written comments submitted. He shall transfer to the Director his recommended decision, the record and a certificate stating that the record contains all the written direct testimony and comments submitted. The Director shall then make a final decision in accordance with these regulations (§ 18.90).

## § 18.83 Rebuttal testimony and new issues of fact in final agenda.

(a) Direct testimony to rebut testimony offered during the time period specified in the notice of hearing may be submitted pursuant to these regulations within fifteen days after the conclusion of the prehearing conference unless the presiding officer otherwise specifies in the final agenda.

(b) If the final agenda presents issues not included in the notice of the hearing published pursuant to § 18.73:

(1) Any person interested in participating at the hearing on such issues presented shall notify the Director by certified mail of an intent to participate not later than ten days after publication

of the final agenda. Such person may present direct testimony or cross-examine witnesses only on such issues presented unless he previously notified the Director pursuant to § 18.74; and

(2) Additional written direct testimony concerning such issues may be submitted within the time provided in the final agenda. Such direct testimony will comply with the requirements of § 18.76.

## § 18.84 Waiver of right to participate.

Persons who fail to notify the Director pursuant to § 18.74 and § 18.83 shall be deemed to have waived their right to participate as parties in any part of the hearing.

## § 18.85 Conduct of the hearing.

(a) The hearing shall be held at the time and place fixed in the notice of hearing, unless the presiding officer changes the time or place. If a change occurs, the presiding officer shall publish the change in the FEDERAL REGISTER and shall expeditiously notify all parties by telephone or by mail: *Provided*, That if the change in time or place of hearing is made less than five days before the date previously fixed for the hearing, the presiding officer shall also announce, or cause to be announced, the change at the time and place previously fixed for the hearing.

(b) The presiding officer shall, at the commencement of the hearing, introduce into the record: the notice of hearing as published in the FEDERAL REGISTER; all subsequent notices published in the FEDERAL REGISTER; the draft Environmental Impact Statement if it is required and the comments thereon and agency responses to the comments; and a list of all parties. Direct testimony shall then be received with respect to the matters specified in the final agenda in such order as the presiding officer shall announce. With respect to direct testimony submitted as rebuttal testimony or in response to new issues presented by the prehearing conference, the presiding officer shall determine the relevancy of such testimony.

(c) The hearing shall be publicly conducted and reported verbatim by an official reporter.

(d) If a party objects to the admission or rejection of any direct testimony or to any other ruling of the presiding officer during the hearing, he shall state briefly the grounds of such objection, whereupon an automatic exception will follow if the objection is overruled by the presiding officer. The transcript shall not include argument or debate thereon except as ordered by the presiding officer. The ruling of the presiding officer on any objection shall be a part of the transcript and shall be subject to review at the same time and in the same manner as the Director's final decision. Only objections made before the presiding officer may subsequently be relied upon in the proceedings.

(e) All motions and requests shall be addressed to, and ruled on by, the presiding officer, if made prior to his certification of the transcript or by the Director if made thereafter.



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## § 18.86 Direct testimony.

(a) Only direct testimony submitted by affidavit as provided in these regulations and introduced at the hearing by a witness shall be considered part of the record. Such direct testimony shall not be read into evidence but shall become a part of the record subject to exclusion of irrelevant and immaterial parts thereof.

(b) The witness introducing direct testimony shall:

(1) State his name, address and occupation;

(2) State qualifications for introducing the direct testimony. If an expert, the witness shall briefly state the scientific or technical training which qualifies him as an expert;

(3) Identify the direct testimony previously submitted in accordance with these regulations; and

(4) Submit to appropriate cross and direct examination. Cross-examination shall be by a party whose interests are adverse on the issue presented, to the witness, if the witness is a party, or to the interests of the party who presented the witness.

(c) A party shall be deemed to have waived the right to introduce direct testimony if such party fails to present a witness to introduce the direct testimony.

(d) Official notice may be taken of such matters as are judicially noticed by the courts of the United States. *Provided*, That parties shall be given adequate notice, by the presiding officer, at the hearing, of matters so noticed and shall be given adequate opportunity to show that such facts are inaccurate or are erroneously noticed.

## § 18.87 Cross examination.

(a) The presiding officer may:

(1) Require the cross-examiner to outline the intended scope of the cross-examination;

(2) Prohibit parties from cross-examining witnesses unless the presiding officer has determined that the cross-examiner has an adverse interest on the facts at issue to the party-witness or the party presenting the witness. For the purposes of this subsection, the Director's or his representative's interest shall be considered adverse to all parties;

(3) Limit the number of times any party or parties having a common interest may cross-examine an "adverse" witness on the same matter; and

(4) Exclude cross-examination questions that are immaterial, irrelevant or unduly repetitious.

(b) Any party shall be given an opportunity to appear, either in person or through an authorized counsel or representative, to cross-examine witnesses. Before cross-examining a witness, the party or counsel shall state his name, address and occupation. If counsel cross-examines the witness, counsel shall state for the record the authority to act as counsel. Cross-examiners shall be assumed to be familiar with the direct testimony.

(c) Any party or party's counsel who fails to appear at the hearing to cross-examine an "adverse" witness shall be deemed to have waived the right to cross-examine that witness.

(d) Scientific, technical or commercial publications may only be utilized for the limited purposes of impeaching witnesses under cross-examination unless previously submitted and introduced in accordance with these regulations.

## § 18.88 Oral and written arguments.

(a) The presiding officer may, in his discretion, provide for oral argument at the end of the hearing. Such argument when permitted, may be limited by the presiding officer to the extent necessary for the expeditious disposition of the proceeding.

(b) The presiding officer shall announce at the hearing a reasonable period of time within which any interested person may file with the presiding officer any written comments on the proposed regulations and waiver, including proposed findings and conclusions and written arguments or briefs, which are based upon the record and citing where practicable the relevant page or pages of the transcript. If a party filing a brief desires the presiding officer to reconsider any objection made by such party to a ruling of the presiding officer, he shall specifically identify such rulings by reference to the pertinent pages of the transcript and shall state his arguments thereon as a part of the brief.

(c) Oral or written arguments shall be limited to issues arising from direct testimony on the record.

## § 18.89 Recommended Decision, Certification of the transcript and submission of comments on the recommended decision.

(a) Promptly after expiration of the period for receiving written briefs, the presiding officer shall make a recommended decision based on the record and transmit the decision to the Director. The recommended decision shall include:

(1) A statement containing a description of the history of the proceedings;

(2) Findings on the issues of fact with the reasons therefor; and

(3) Rulings on issues of law.

(b) The presiding officer shall also transmit to the Director the transcript of the hearing, the original and all copies of the direct testimony, and written comments. The presiding officer shall attach to the original transcript of the hearing a certificate stating that, to the best of his knowledge and belief, the transcript is a true transcript of the testimony given at the hearing except in such particulars as are specified.

(c) Immediately after receipt of the recommended decision, the Director shall give notice thereof in the FEDERAL REGISTER, send copies of the recommended decision to all parties, and provide opportunity for the submission of comments. The recommended decision may be reviewed and/or copied in the office of the Director, U.S. Fish and Wild-

life Service, Washington, D.C. 20240.

(d) Within twenty days after the notice of receipt of the recommended decision has been published in the FEDERAL REGISTER, any interested person may file with the Director any written comments on the recommended decision. All comments, including recommendations from or consultation with the Marine Mammal Commission, must be submitted during the twenty-day period to the Director at the above address.

## § 18.90 Director's decision.

(a) Upon receipt of the recommended decision and transcript and after the twenty-day period for receiving written comments on the recommended decision has passed, the Director shall make a final decision on the proposed regulations and waiver, where applicable. The Director's decision may affirm, modify, or set aside, in whole or in part, the recommended findings, conclusions and decision of the presiding officer. The Director may also remand the hearing record to the presiding officer for a fuller development of the record.

(b) The Director's decision shall include:

(1) A statement containing a description of the history of the proceeding;

(2) Findings on the issues of fact with the reasons therefor; and

(3) Rulings on issues of law.

(c) The Director's decision shall be published in the FEDERAL REGISTER. If the waiver is approved, the final adopted regulations shall be promulgated with the decision.

[FR Doc. 75-13959 Filed 5-28-75; 8:45 am]

## DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

## [ 14 CFR Part 71 ]

[Airspace Docket No. 75-EA-37]

## TRANSITION AREA

## Proposed Alteration

## Correction

In FR Doc. 75-13408, appearing in the FEDERAL REGISTER, Thursday, May 22, 1975, on page 22272, in the third paragraph, third sentence which reads, "All communications received on or before June 30, 1975 . . .", the date should be corrected to read " . . . June 23, 1975 . . .".

Federal Railroad Administration

## [ 49 CFR Ch. II ]

[Docket No. RSOR-4, Notice 2]

## PROTECTION OF RAILROAD MAINTENANCE-OF-WAY-AND-STRUCTURE EMPLOYEES

## Extension of Comment Period

Notice is hereby given that, at the request of the Railway Labor Executives' Association, the Federal Railroad Administration (FRA) has extended to June 30, 1975, the period for filing written comments on the advance notice of

proposed rulemaking published on April 18, 1975 (40 FR 17265). This advance notice solicited public participation and comment in the development of safety regulations to require railroads to take certain protective measures to prevent rail equipment from striking railroad maintenance-of-way-and-structure employees engaged in servicing, repairing or installing of track, track structures, and signal system components.

Issued in Washington, D.C. on May 22, 1975.

DONALD W. BENNETT,

Chief Counsel,

Federal Railroad Administration.

[FR Doc. 75-13932 Filed 5-28-75; 8:45 am]

## National Highway Traffic Safety Administration

## [ 49 CFR Part 552 ]

[Docket No. 75-12; Notice 1]

## PETITION PROCEDURES

## Proposed Rulemaking

## Correction

In FR Doc. 75-12931 appearing in the issue of Friday, May 16, 1975, the proposed effective date in the last paragraph of column 2 on page 21487 should read: "30 days after FEDERAL REGISTER publication of the rule."

## ACTION

## [ 45 CFR Part 1212 ]

## SPONSORS' AGREEMENTS

## Suspension and Termination and Denial of Request To Renew

Full-time volunteers serving in programs under Part A and some full-time volunteers under Part C of Title I of the Domestic Volunteer Service Act of 1973 (87 Stat. 397, 400) are assigned to sponsors pursuant to agreements between ACTION and sponsors. (ACTION also funds full-time volunteer programs under Part C through grants to sponsors.) Procedures for ACTION's suspension and termination of such agreements, as well as for denying requests to renew them, are needed to give sponsors an opportunity to present their views concerning any such actions. Section 402(15) of the Act (87 Stat. 411) authorizes the Director generally to perform such functions and take such steps consistent with the purposes and provisions of the Act, as he deems necessary or appropriate to carry out the provisions of the Act.

Notice is hereby given that the Director of ACTION proposes to amend Chapter XII of Title 45, Code of Federal Regulations to add a new Part 1212. This will provide procedures, including notice and an opportunity to present views, with respect to the suspension and termination and denial of requests to renew agreements for the assignment of full-time volunteers under Parts A and C of Title I, the Domestic Volunteer Service Act of 1973.

The proposed procedures provide for the suspension and termination of an

## PROPOSED RULES

agreement because of the material failure of a sponsor to comply with its terms and conditions. They also provide for denial of a request to renew an agreement. These procedures do not apply to the suspension or the termination of or denial to refund grants or contracts of assistance which may fund full-time volunteer program under Part C of Title I. Part 1206 of this title is applicable to such situations.

Inquiries may be addressed and comments and views concerning the proposed new part may be submitted to ACTION, 806 Connecticut Avenue, Washington, D.C. 20525, Attention: Associate Director for Domestic and Anti-Poverty Operations. All comments received on or before June 30, 1975, will be considered. All comments in response to this proposal will be available for public inspection during normal business hours at the foregoing address.

It is therefore proposed to add a new Part 1212 to Chapter XII of Title 45 of the Code of Federal Regulations as follows:

## PART 1212—SPONSORS' AGREEMENTS—SUSPENSION AND TERMINATION AND DENIAL OF REQUESTS TO RENEW

## Subpart A—Suspension and Termination of Agreements

Sec.	Purpose and scope.
1212.1-1	Application of this part.
1212.1-2	Definitions.
1212.1-3	Suspension.
1212.1-4	Termination.
1212.1-5	Time and place of termination hearings.
1212.1-6	Termination of hearing procedures.
1212.1-7	Decisions and notices regarding termination.
1212.1-8	Right to counsel; travel expenses.
1212.1-9	Modification of procedures by consent.
1212.1-10	Other remedies.
1212.1-11	Other remedies.

## Subpart B—Request To Renew Agreement

Sec.	Applicability of this subpart.
1212.2-1	Purpose.
1212.2-2	Definitions.
1212.2-3	Procedures.
1212.2-4	Right to counsel.

AUTHORITY: Sections: 103, 122, 402 (12), and 420 of Pub. L. 93-113, 87 Stat. 394, 396, 401, and 414.

## Subpart A—Suspension and Termination of Agreements

## § 1212.1-1 Purpose and scope.

(a) This subpart establishes rules and review procedures for the suspension and termination of agreements between ACTION and sponsors for the assignment of full-time volunteers under Parts A and C of Title I, the Domestic Volunteer Service Act of 1973, 87 Stat. 394, Pub. L. 93-113 (the Act), because of a material failure of a sponsor to comply with the terms and conditions of any such agreement including applicable laws, regulations, program guidelines and policies, instructions, plans, or approved volunteer work assignments.

(b) These procedures do not apply to the termination of projects resulting from a State Governor's action pursuant to section 103(d) of the Act, which pro-

vides that the assignment of a volunteer within a State may be terminated by the Director of ACTION when requested by the Governor or Chief executive officer of the State concerned.

(c) This subpart does not apply to any administrative action of the ACTION agency based upon any violation, or alleged violation, of Title VI of the Civil Rights Act of 1964 and sections 417 (a) and (b) of the Act relating to nondiscrimination. In the case of any such violation or alleged violation Part 1203 of this chapter shall apply.

(d) Suspension and termination of agreements are not grievances under Part 1211, Chapter XII, Title 45, "Volunteer Grievance Procedure".

## § 1212.1-2 Application of this part.

This subpart applies to full-time volunteer programs authorized under Parts A and C of Title I of the Act and operated pursuant to agreements between ACTION and sponsors. It does not apply to volunteer programs operated pursuant to grants or contracts of assistance under Part C of Title I, Part 1206, Chapter XII, Title 45, Code of Federal Regulations applies to such grants and contracts.

## § 1212.1-3 Definitions.

As used in this section—

(a) The terms "ACTION" or "ACTION Agency" include each regional office and state office.

(b) The term "Deputy Director" means the Deputy Director of the ACTION agency.

(c) The term "responsible ACTION official" refers to the appropriate ACTION Regional Director or his designee in the case of volunteer programs authorized under Parts A and C of Title I of the Act. However, in the case of programs under Part C of Title I, in which the sponsor agrees to reimburse ACTION for part or all of the costs of the program, the "responsible ACTION official" is the appropriate Regional Contracts Officer or his designee.

(d) The term "Hearing Examiner" means the individual conducting the termination hearing pursuant to § 1206.1-7.

(e) The term "agreement" means any written instrument, including a memorandum, arrangement, or contract between ACTION and a sponsor providing for the assignment or referral of full-time domestic volunteers under either Parts A or C of the Act, except grants or contracts of assistance.

(f) The term "sponsor" means a public or non-profit private agency, institution, or organization or a state or other political jurisdiction which has signed an agreement.

(g) The term "agency" means a public or non-profit private agency, institution, or organization or a State or other political jurisdiction with which the sponsor has entered into an arrangement for the placement or service of a volunteer or volunteers.

(h) The term "party" in the case of a termination hearing means ACTION, the sponsor concerned, and any other agency or organization which has a right or



which has been granted permission by the Hearing Examiner to participate in a hearing concerning termination pursuant to § 1212.1-5(e).

(i) The term "termination" means an action permanently terminating part or all of an agreement with respect to a program prior to the time that such program is concluded by the terms and conditions of the agreement. It does not include the refusal to sign a new or amended agreement, which is covered by Subpart B.

(j) The term "suspension" means any action temporarily suspending or curtailing part or all of an agreement with respect to a program prior to the time that such program is concluded by the terms and conditions of the agreement. It does not include the refusal to sign a new or amended agreement which is covered by subpart B.

(k) The term "volunteer" means a full-time domestic volunteer serving pursuant to an agreement.

(l) The term "Act" means the Domestic Volunteer Service Act of 1973, Pub. L. 93-113, 87 Stat. 394, as amended from time to time.

(m) The term "program" is used in several distinct ways in this Part. It may mean a full-time domestic volunteer program, such as VISTA, or the ACTION Cooperative Volunteer program. It may also mean a part or whole of a project or program in which a volunteer participates or to which he is assigned or referred.

(n) The term "administrative hold" means that period starting when a volunteer has been removed from a program because of any suspension or termination action taken against a sponsor and has not yet resigned or been terminated or transferred to a new program. During such period, he continues to receive his regular allowances and stipend.

(o) The term "contract of assistance" refers to contracts or other written arrangements entered into between ACTION and sponsors whereby ACTION provides or shares the cost of volunteer support. One example would be a VISTA contract of assistance for transportation or supervisory support services. (See Vol. 39, FEDERAL REGISTER, No. 47, March 8, 1974, p. 9221.) Termination of contract of assistance is governed by section 412 of the Act and Part 1206 of this Title.

#### § 1212.1-4 Suspension.

(a) *General.* The responsible ACTION official may suspend an agreement in whole or in part for a material failure or threatened material failure to comply with any requirement stated in § 1212.1-1. Such suspension shall be pursuant to notice and opportunity to show cause why the agreement should not be suspended as provided in paragraph (b) of this section. However, in emergency cases, where the responsible ACTION official determines summary action is appropriate, the alternative summary procedure of paragraph (c) of this section shall be followed.

(b) *Suspension on notice.* (1) Except as provided in paragraph (c) of this sec-

tion, the procedure for suspension shall be on notice of intent to suspend as hereinafter provided.

(2) The responsible ACTION official shall notify the sponsor by letter or by telegram that ACTION intends to suspend the agreement in whole or in part unless good cause is shown why it should not be suspended. In such letter or telegram the responsible ACTION official shall specify the grounds for the proposed suspension and the proposed effective date of the suspension.

(3) The responsible ACTION official shall also inform the sponsor of its right to submit written material in opposition to the intended suspension and of its right to request an informal meeting at which it may respond and attempt to show why such suspension should not occur. The period of time within which the sponsor may submit such written material or request the informal meeting shall be stated in the notice of intent to suspend. However, in no event shall the period of time within which the sponsor must submit written material or request such a meeting be less than 5 days after the notice of intent to suspend the agreement is received. If the sponsor requests a meeting, the responsible ACTION official shall fix a time and place for the meeting, which shall not be more than 10 days after the sponsor's request is received by ACTION.

(4) In lieu of the provisions of subparagraph (3) of this paragraph dealing with the right of the sponsor to request an informal meeting, the responsible ACTION official may within 10 days on his own initiative establish a time and place for such a meeting and notify the sponsor in writing or by telegram.

(5) The responsible ACTION official may in his discretion extend the period of time or date referred to in the previous paragraphs of this section and shall notify the sponsor in writing or by telegram of any such extension.

(6) At the time the responsible ACTION official sends the notification referred to in subparagraphs (2), (3), and (4) of this paragraph to the sponsor, he shall also send a copy of it to any agency whose activities or failures to act have substantially contributed to the proposed suspension, and shall inform such agency that it is entitled to submit written material or to participate in the informal meeting referred to in subparagraphs (3) and (4) of this paragraph. In addition, the responsible ACTION official may in his discretion give such notice to any other agency.

(7) Within 3 days of receipt of the notice referred to in subparagraphs (2), (3), and (4) of this paragraph, the sponsor shall send a copy of such notice and a copy of these regulations to any agency which would lose the services of a volunteer as a result of any suspension action. Any agency that wishes to submit written material may do so within the time stated in the notice. Any agency that wishes to participate in the informal meeting with the responsible ACTION official contemplated herein may request permission to do so from

the responsible ACTION official, who may in his discretion grant or deny such permission. In acting upon any such request from an agency, the responsible ACTION official shall take into account the effect of the proposed suspension on the particular agency, the extent to which the meeting would become unduly complicated as a result of granting such permission, and the extent to which the interests of the agency requesting such permission appear to be adequately represented by other participants.

(8) In the notice of intent to suspend assistance the responsible ACTION official shall invite voluntary action to adequately correct the deficiency which led to the initiation of the suspension proceeding.

(9) The responsible ACTION official shall consider any timely material presented to him in writing, any material presented to him during the course of the informal meeting provided for in subparagraphs (3) and (4) of this paragraph as well as any showing that the sponsor has adequately corrected the deficiency which led to the initiation of suspension proceedings. If after considering the material presented to him the responsible ACTION official concludes the sponsor has failed to show cause why assistance should not be suspended, he may suspend assistance in whole or in part and under such terms and conditions as he shall specify.

(10) Notice of such suspension shall be promptly transmitted to the sponsor and shall become effective upon delivery. Suspension shall not exceed 30 days unless during such period of time termination proceedings are initiated in accordance with § 1212.1-5, or unless the responsible ACTION official and the sponsor agree to a continuation of the suspension for an additional period of time. If termination proceedings are initiated, the suspension shall remain in full force and effect until such proceedings have been fully concluded.

(11) During a period of suspension, the responsible ACTION official shall decide whether the volunteers assigned to the program should be removed and placed in "administrative hold." In making his decision, the responsible ACTION official shall pay particular attention to the importance of not interrupting a volunteer's assignment. However, where, in his opinion, the best interests of the volunteers and ACTION would be so served, he may remove the volunteers from the program. The decision to remove the volunteers is not a grievance under Part 1211, Chapter XII, Title 45, "Volunteer Grievance Procedure."

During the period of suspension, no new expenditures shall be made and no new obligations shall be incurred under any contract of assistance in connection with the suspended program except as specifically authorized in writing by the responsible ACTION official. Expenditures under any such contract to fulfill legally enforceable commitments made prior to the notice of suspension, in good faith and in accordance with the sponsor's approved work plan, and not in anticipation of suspension or termina-

tion, shall not be considered new expenditures.

(12) The responsible ACTION official may in his discretion modify the terms, conditions and nature of the suspension or rescind the suspension action at any time on his own initiative or upon a showing satisfactory to him that the sponsor had adequately corrected the deficiency which led to the suspension and that repetition is not threatened. Suspensions partly or fully rescinded may, in the discretion of the responsible ACTION official, be reimposed with or without further proceedings: Provided, however, That the total time of any suspension, including a resumption of a suspension, may not exceed 30 days unless termination proceedings are initiated in accordance with § 1212.1-5 or unless the responsible ACTION official and the sponsor agree to a continuation of the suspension for an additional period of time. If termination proceedings are initiated, the suspension of assistance shall remain in full force and effect until such proceedings have been fully concluded.

(c) *Summary suspension.* (1) The responsible ACTION official may suspend the agreement without the prior notice and opportunity to show cause provided in paragraph (b) of this section if he determines in his discretion that immediate suspension is necessary because of a serious risk of (i) substantial injury to or loss of government property or loss of Federal funds, or (ii) violation of a Federal, state, or local criminal statute, or (iii) violation of section 403 of the Act or any applicable regulations, guidelines and instructions, published in accordance with section 420 of the Act implementing this section of the Act, and that such risk is sufficiently serious to outweigh the general policy in favor of advance notice and opportunity to show cause.

(2) Notice of summary suspension shall be given to the sponsor by letter or by telegram, shall become effective upon delivery to the sponsor and shall specifically advise the sponsor of the effective date of the suspension and the extent, terms and conditions of any partial suspension. The notice shall also forbid the sponsor to make any new expenditures or incur any new obligations under any contract of assistance, or part thereof, in connection with the suspended portion of the program. Expenditures under any such contract to fulfill legally enforceable commitments made prior to the notice of suspension, in good faith and in accordance with the sponsor's approved work plan and not in anticipation of suspension or termination, shall not be considered new expenditures.

The notice may also inform the sponsor that a volunteer or volunteers are being removed from the program. Such removal shall be governed by the same terms and conditions as in paragraph (b) (11) of this section.

(3) In the notice of summary suspension the responsible ACTION official shall advise the sponsor that it may request

ACTION to provide it with an opportunity to show cause why the summary suspension should be rescinded. If the sponsor requests such an opportunity, the responsible ACTION official shall immediately inform sponsor in writing of the specific grounds for the suspension and shall within 7 days after receiving such request from the sponsor hold an informal meeting at which the sponsor may show cause why the summary suspension should be rescinded. Notwithstanding the provisions of this subparagraph, the responsible ACTION official may proceed to initiate termination proceedings at any time even though assistance to the sponsor has been suspended in whole or in part. In the event that termination proceedings are initiated, the responsible ACTION official shall nevertheless afford the sponsor, if it so requests, an opportunity to show cause why suspension should be rescinded pending the outcome of the termination proceedings.

(4) Copies of the notice of summary suspension shall be furnished by the sponsor to agencies in the same manner as notices of intent to suspend as set forth in paragraph (b) (6), (7), and (8) of this section. Agencies may submit written material to the responsible ACTION official or to participate in the informal meeting as in the case of intended suspension proceedings set forth in paragraph (b) (6) and (7) of this section.

(5) The effective period of a summary suspension of assistance may not exceed 30 days unless termination proceedings are initiated in accordance with § 1212.1-5, or unless the parties agree to a continuation of summary suspension for an additional period of time, or unless the sponsor, in accordance with paragraph (c) (3) of this section, requests an opportunity to show cause why the summary suspension should be rescinded.

(6) If the sponsor requests an opportunity to show cause why a summary suspension action should be rescinded the suspension shall continue in effect until the sponsor has been afforded such opportunity and a decision has been made. Such a decision shall be made within 5 days after the conclusion of the informal meeting referred to in paragraph (c) (3) of this section. If the responsible ACTION official concludes, after considering all material submitted to him, the sponsor has failed to show cause why the suspension should be rescinded, the responsible ACTION official may continue the suspension in effect up to a total of 30 days, provided however, That if termination proceedings are initiated, the summary suspension of assistance shall remain in full force and effect until all termination proceedings have been fully concluded.

#### § 1212.1-5 Termination.

(a) If the responsible ACTION official believes that an alleged failure to comply with any requirement stated in § 1212.1-1 may be sufficiently serious to warrant termination of the agreement, whether or not the agreement has been suspended,

he shall so notify the sponsor by letter or telegram. The notice shall state that there appear to be grounds which warrant terminating the agreement and shall set forth the specific reasons therefor. If the reasons result in whole or substantial part from the activities of an agency other than the sponsor, which presently has volunteers assigned to it, the notice shall identify that agency. The notice shall also advise the sponsor that the matter has been set down for hearing at a stated time and place, in accordance with § 1212.1-6. In the alternative the notice shall advise the sponsor of its right to request a hearing and shall fix a period of time, which shall not be less than 10 days from receipt of notice, in which the sponsor may request a hearing.

(b) Termination hearings shall be conducted in accordance with the provision of §§ 1212.1-7 and 1212.1-8. They shall be scheduled for the earliest practicable date, but not later than 30 days after a sponsor has requested a hearing in writing or by telegram. Consideration shall be given to a request by a sponsor to advance or postpone the date of a hearing scheduled by ACTION. Any such hearing shall afford the sponsor a full and fair opportunity to demonstrate that it is in compliance with requirements specified in § 1212.1-1. In any termination hearing, the sponsor shall have the burden of proving why the proposed termination action should not take place.

(c) If the responsible ACTION official pursuant to paragraph (a) of this section informs a sponsor that a proposed termination action has been set for hearing, the sponsor shall within 5 days of its receipt of this notice send a copy of it to all agencies which would be affected by the termination and to each agency identified in the notice pursuant to paragraph (a) of this section. The sponsor shall send the responsible ACTION official a list of all agencies notified and the date of notification.

(d) If the responsible ACTION official has initiated termination proceedings because of the activities of an agency, that agency may participate in the hearing as a matter of right. Any other agency, person, or organization that wishes to participate in the hearing may, in accordance with § 1212.1-7(d), request permission to do so from the Hearing Examiner. Such participation shall not, without the consent of ACTION and the sponsor, alter the time limitations for the delivery of papers or other procedures set forth in this section.

(e) The results of the proceeding and any measure taken thereafter by ACTION pursuant to this part shall be fully binding upon the sponsor and all agencies whether or not they actually participated in the hearing.

(f) A sponsor may waive a hearing by notice to the responsible ACTION official in writing and submit written information and argument for the record. Such material shall be submitted to the responsible ACTION official within a reasonable period of time to be fixed by him upon the request of the sponsor. The failure



of a sponsor to request a hearing, or to appear at a hearing for which a date has been set, unless excused for good cause, shall be deemed a waiver of the right to a hearing and consent to the making of a decision on the basis of such information as is then in the possession of ACTION.

(g) The responsible ACTION official may attempt, either personally or through a representative, to resolve the issues in dispute by informal means prior to the date of any applicable hearing.

#### § 1206.1-6 Time and place of termination hearings.

The termination hearing shall be held in Washington, D.C., or in the appropriate Regional Office or state office, at a time and place fixed by the responsible ACTION official unless he determines that the convenience of ACTION, or of the parties or their representatives, requires that another place be selected.

#### § 1206.1-7 Termination hearing procedures.

(a) *General.* The termination hearing, decision, and any review thereof shall be conducted in accordance with the rules of procedure set forth in this section and §§ 1212.1-8 and 1212.1-9.

(b) *Presiding Officer.* The presiding officer at the hearing shall be an independent hearing examiner. The responsible ACTION official shall notify the Chief, Labor and Employees Relations Branch that appointment of a Hearing Examiner will be required. He shall within seven days after such notification, secure the services of a Hearing Examiner, who shall possess the qualifications specified in Appendix A. The Hearing Examiner shall conduct a full and fair hearing, avoid delay, maintain order, and make a sufficient record for a full and true disclosure of the facts and issues. To accomplish these ends, the Hearing Examiner shall have all powers authorized by law, and he may make all procedural and evidentiary rulings necessary for the conduct of the hearing. The hearing shall be open to the public unless the Hearing Examiner for good cause shown shall otherwise determine.

(c) *Presentation of evidence.* Both ACTION and the sponsor are entitled to present their case by oral or documentary evidence, to submit rebuttal evidence and to conduct such examination and cross-examination as may be required for a full and true disclosure of all facts bearing on the issues.

(d) *Participation.* (1) In addition to ACTION, the sponsor, and any agency which has a right to appear, the Hearing Examiner in his discretion may permit the participation in the proceedings of such persons or organizations as he deems necessary for a proper determination of the issues involved. Such participation may be limited to those issues or activities which the Hearing Examiner believes will meet the needs of the proceeding, and may be limited to the filing of written material.

(2) Any person or organization that wishes to participate in a proceeding may

apply for permission to do so from the Hearing Examiner. This application, which shall be made as soon as possible after the notice of proposed termination has been received by the sponsor, shall state the applicant's interest in the proceeding, the evidence or arguments the applicant intends to contribute, and the necessity for the introduction of such evidence or arguments.

(3) The Hearing Examiner shall permit or deny such participation and shall give notice of his decision to the applicant, the sponsor, and ACTION, and, in the case of denial, a brief statement of the reasons therefor. If participation is granted, the Hearing Examiner shall notify all parties of that fact and may, in appropriate cases, include in the notification a brief statement of the issues as to which participation is permitted.

(4) Permission to participate to any extent is not a recognition that the participant has any interest which may be adversely affected or that the participant may be aggrieved by any decision, but is allowed solely for the air and information of the Hearing Examiner.

(e) *Filing.* All papers and documents which are required to be filed shall be filed with the Hearing Examiner. Simultaneous with filing, copies shall be sent to the other parties.

(f) *Notice.* The responsible ACTION official shall send the sponsor and any other party a written notice which states the time, place, nature of the hearing, the legal authority and jurisdiction under which the hearing is to be held. The notice shall also identify with reasonable specificity the facts relied on as justifying termination and/or the ACTION requirements which it is contended the sponsor has violated. The notice shall be filed and served not later than 10 days prior to the hearing and a copy thereof shall be filed with the Hearing Examiner.

(g) *Notice of intention to appear.* The sponsor and any other party which has a right or has been granted permission to participate in the hearing shall give written confirmation to ACTION of its intention to appear at the hearing 3 days before it is scheduled to occur. Failing to do so may, at the discretion of the Hearing Examiner, be deemed a waiver of the right to a hearing.

(h) *Form and date of service.* All papers and documents filed or sent to a party shall be signed in ink by the appropriate party or his authorized representative. The date on which papers are filed shall be the day on which the papers or documents are deposited, postage prepaid in the U.S. mail, or delivered in person: *Provided however,* That the effective date of the notice that there appear to be grounds which warrant terminating assistance shall be the date of its delivery or attempted delivery at the sponsor's last known address as reflected in the records of ACTION.

(i) *Prehearing conferences.* Prior to the commencement of a hearing the Hearing Examiner may, subject to the provisions of paragraph (b)(2), of this section, require the parties to meet with him or correspond with him concerning

the settlement of any matter which will expedite the hearing.

(j) *Evidence.* Technical rules of evidence shall not apply to hearings conducted pursuant to this subpart, but the Hearing Examiner shall apply rules or principles designed to assure production of relevant evidence and to subject testimony under oath to such examination and cross-examination as may be required for a full and true disclosure of the facts. The Hearing Examiner may exclude irrelevant, immaterial, or unduly repetitious evidence. A transcript shall be made of the oral evidence and shall be made available to any participant upon payment of the prescribed costs. All documents and other evidence submitted shall be open to examination by the parties and opportunity shall be given to refute allegations and arguments advanced on either side of the issues.

(k) *Depositions.* The Hearing Officer may authorize the taking of depositions provided that all parties are afforded an opportunity to participate in the taking of the depositions. The party who requested the deposition shall arrange for a transcript to be made of the proceedings and shall upon request, and at his expense, furnish all other parties with copies of the transcript.

#### § 1212.1-3 Decisions and notices regarding termination.

(a) Each decision of a Hearing Examiner shall set forth his findings of fact and conclusions. The decision shall also specify the requirement or requirements with which it is found that the sponsor has failed to comply.

(b) The decision of the Hearing Examiner may provide for continued suspension or termination of the agreement in whole or in part, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act.

(c) A copy of the decision shall be mailed to all parties. Any party may, within 20 days of the mailing of such decision, or such longer period of time as the Hearing Examiner specifies, file with the Regional Director his written exceptions to the decision and any supporting brief or statement. Upon the filing of such exceptions the Regional Director shall, within 20 days of the mailing of the exceptions, review the decision and issue his own written decision thereof, including the reasons therefor. The decision of the Regional Director may increase, modify, approve, vacate, remit, or mitigate any sanction imposed in the decision of the Hearing Examiner or may remand the matter to the Hearing Examiner for further hearing or consideration.

(d) Whenever a hearing is waived, a decision shall be made by the responsible ACTION official and a written copy of the final decision shall be given to the sponsor.

(e) The sponsor may request the Deputy Director to review a final decision by the responsible ACTION official which provides for the termination of an agreement. Such a request must be made in

writing within 15 days after the sponsor has been notified of the decision in question and must state in detail the reasons for seeking the review. In the event the sponsor requests such a review, the Deputy Director or his designee shall consider the reasons stated by the sponsor for seeking the review and shall approve, modify, vacate or mitigate any sanction imposed by the responsible ACTION official or remand the matter to the responsible ACTION official for further hearing or consideration. The decision of the responsible ACTION official will be given great weight by the Deputy Director or his designee during the review. Pending the decision of the Deputy Director or his designee assistance shall remain suspended under the terms and conditions specified by the responsible ACTION official, unless the responsible ACTION official or the Deputy Director or his designee otherwise determines. Every reasonable effort shall be made to complete the review by the Deputy Director or his designee within 30 days of receipt of the sponsor's request.

#### § 1212.1-9 Right to counsel.

In all proceedings under this subpart, whether formal or informal, the sponsor and ACTION shall have the right to be represented by counsel or other authorized representatives.

#### § 1212.1-10 Modification of procedures by consent.

The responsible ACTION official or the Hearing Examiner of a termination hearing may alter, eliminate, or modify any of the provisions of this subpart with the consent of the sponsor, and in the case of a termination hearing, with the consent of all agencies that have a right to participate in the hearing pursuant to § 1212.1-5(e). Such consent must be in writing or be recorded in the hearing transcript.

#### § 1212.1-11 Other remedies.

The procedures established by this subpart shall not preclude ACTION from pursuing any other remedies authorized by law.

#### APPENDIX A STANDARD FOR EXAMINERS

An examiner must meet the requirements specified in either (1), (2), (3), or (4) below:

(1) (a) Current employment in grade GS-12 or equivalent, or above.

(b) Satisfactory completion of a specialized course of training prescribed by the Civil Service Commission for examiners.

(c) At least four years of progressively responsible experience in administrative, managerial, professional, investigative, or technical work which has demonstrated the possession of:

(i) The personal attributes essential to the effective performance of the duties of an examiner, including integrity, discretion, reliability, objectivity, impartiality, resourcefulness, and emotional stability.

(ii) A high degree of ability to: Identify and select appropriate sources of information; collect, organize, analyze, and evaluate information; and arrive at sound conclusions on the basis of that information; Analyze situation; make an objective and logical determination of the pertinent facts;

evaluate the facts; and develop practicable recommendations or decisions on the basis of facts;

Recognize the causes of complex problems and apply mature judgment in assessing the practical implications of alternative solutions to those problems;

Interpret and apply regulations and other complex written material;

Communicate effectively orally and in writing, including the ability to prepare clear and concise written reports; and

Deal effectively with individuals and groups, including the ability to gain the cooperation and confidence of others.

(iii) A good working knowledge of: The relationship between volunteer administration and over-all management concerns; and

The principles, systems, methods, and administrative machinery for accomplishing the work of an organization.

(2) Designation as an arbitrator on a panel of arbitrators maintained by either the Federal Mediation and Conciliation Service or the American Arbitration Association.

(3) Current or former employment as, or current eligibility on the Civil Service Commission's register for, Hearing Examiner, GS-935-0.

(4) Membership in good standing in the National Academy of Arbitrators.

(5) A former Federal employee who at the time of leaving the Federal service was in grade GS-12 or equivalent, or above, and who meets all the requirements specified for an examiner except completion of the prescribed training course, may be used as an examiner upon satisfactory completion of the training course.

#### Subpart B—Refusal To Renew Agreement

##### § 1212.2-1 Applicability of this subpart.

This subpart applies to full-time volunteer programs authorized under Parts A and C of Title I of the Act and operates pursuant to agreements between ACTION and sponsors. It does not apply to full-time volunteer programs operated pursuant to grants or contracts of assistance under Part C of Title I. Part 1206, Chapter XII, Title 45, Code of Federal Regulations applies to such grants and contracts.

##### § 1212.2-2 Purpose.

This subpart establishes rules and review procedures for the denial of a request by a sponsor to renew an agreement for the assignment of full-time volunteers under Parts A and C of Title I of the Act. It also includes denial of a request to amend an existing agreement to add additional volunteers. Such denials are not grievances under Part 1211, Chapter XII, Title 45, "Volunteer Grievance Procedure."

##### § 1212.2-3 Definitions.

As used in this subpart, the terms "ACTION," "responsible ACTION official," "agreement," and "sponsor" shall have the same meaning as specified in § 1212.1-3.

##### § 1212.2-4 Procedures.

(a) Wherever possible, the responsible ACTION official shall make a tentative decision at the time of its field review as to the level of new volunteers which it intends to offer a sponsor for the sponsor's next program year. An ACTION official shall notify the sponsor of this tentative

decision as soon as possible following the field review.

(b) The procedures set forth in paragraphs (c) through (g) of this section shall apply only where a new application for volunteers submitted by a current sponsor is rejected or is reduced to 80 percent or less of the sponsor's authorized volunteer level in the current agreement. These procedures do not apply to reductions based on legislative requirements, or on general policy, including limiting the number of years volunteers will be provided to a sponsor for a particular program or project, or in instances where regardless of a sponsor's current authorized volunteer level, its application for volunteers is not reduced by 20 percent or more.

(c) Before rejecting an application of a sponsor within the meaning of paragraph (b) of this section, the responsible ACTION official shall notify the sponsor of its intention and shall offer the sponsor an opportunity to submit written material and to meet informally with another ACTION official to show cause why its application should not be rejected or reduced. Written notification of ACTION's intention shall be sent to the sponsor as far in advance of the end of the sponsor's current program year as possible. The notice shall inform the sponsor that a tentative decision has been made to reject or reduce an application. The notice shall also state the reasons for the tentative decision to which the sponsor shall address himself if he wishes to make a presentation.

(d) If the sponsor requests an informal meeting with an ACTION official as discussed in paragraph (c) of this section, such a meeting shall be scheduled by ACTION as soon as possible after the notice is sent to the sponsor informing it of ACTION's tentative decision to reject or reduce its application. However, this meeting may not, without the consent of the sponsor, be scheduled sooner than 14 days after ACTION has mailed the notice to the sponsor.

(e) The ACTION official who shall conduct this meeting shall be an ACTION official who is not authorized to sign an agreement with the sponsor and did not participate in the tentative decision to reject or reduce the application.

(f) An ACTION official who participated in the tentative decision to reject or reduce the application shall wherever possible attend the meeting. The meeting shall be held in Washington, D.C., in the appropriate Regional or state office, or in the city or county in which the sponsor is located.

(g) The recommendation of the official who conducts the meeting together with any written material submitted by the sponsor shall be forwarded for review to the responsible ACTION official. He shall inform the sponsor of his decision and the basis for the decision in writing. If he rejects or reduces the application, no further appeal lies to any other ACTION official.

##### § 1212.2-5 Right to counsel.

In all proceedings under this subpart, whether formal or informal, the sponsor

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and ACTION shall have the right to be represented by counsel or other authorized representatives.

Issued in Washington, D.C. on May 23, 1975.

MICHAEL P. BALZANO, JR.,  
Director.

[FR Doc. 75-14034 Filed 5-28-75; 8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

### [47 CFR Part 76]

[Docket No. 20487; FCC 75-565]

## CABLE TELEVISION CARRIAGE

### Selection of Television Signals

In the matter of amendment of Part 76, Subpart D of the Commission's Rules and Regulations Relative to Selection of Television Signals for Cable Television Carriage (leapfrog rules): §§ 76.59(b) (1) and (2), 76.61(b) (1) and (2), 76.63.

1. Notice is hereby given of proposed rule making in the above-entitled matter concerning the "leapfrogging" provisions of §§ 76.59(b) (1) and (2), 76.61(b) (1) and (2), and 76.63 of the Commission's cable television rules.<sup>1</sup>

2. The evolution of the Commission's current "leapfrogging" rule can be traced back to the Notice of Inquiry and Notice of Proposed Rule Making in Docket 15971, FCC 65-334, 1 FCC 2d 453 (1965). In that document the Commission began grappling with its jurisdiction over non-microwave cable television systems and the impact of cable television on the television broadcast industry. Parties commenting in that proceeding asserted that generalized restrictions on the distance the signal of a television broadcast station may be extended beyond the station's contour were necessary in order

<sup>1</sup> Similar provisions of the rules apply to first 50, second 50 and smaller television markets. Sections 76.61(b) (1) and (2), for example, provide:

(1) Full network stations. A cable television system may carry the nearest full network stations, or the nearest in-State full network stations;

NOTE: The Commission may waive the requirements of this subparagraph for good cause shown in a petition filed pursuant to § 76.7.

(2) Independent stations. (1) For the first and second additional signals, if any, a cable television system may carry the signals of any independent television station: Provided, however, That if signals of stations in the first 25 major television markets (see § 76.51 (a)) are carried pursuant to this subparagraph, such signals shall be taken from one or both of the two closest such markets, where such signals are available. If a third additional signal may be carried, a system shall carry the signal of any independent UHF television station located within 200 air miles of the reference point for the community of the system (see § 76.53), or, if there is no such station, either the signal of any independent VHF television station located within 200 air miles of the reference point for the community of the system, or the signal of any independent UHF television station.

NOTE: It is not contemplated that waiver of the provisions of this subparagraph will be granted.

to prevent the multiplicity of local stations contemplated by the Sixth Report and Order, 41 FCC 148 (1952), from being displaced by a CATV "network" distributing the New York, Chicago and Los Angeles signals nationwide. They added that CATV systems should be required to select the stations it carries in an order of priority determined by the distance of each station from the system, i.e., that the system should carry nearer stations in preference to more distant ones, so as to avoid, "leapfrogging". The Commission concluded that the petitioners' assertions raised matters of future importance, but reached no conclusion on the issue and requested interested parties to address themselves to it in future proceedings.<sup>2</sup> Further comment on the issue was sought by the Commission in the Notice of Proposed Rule Making and Notice of Inquiry in Docket 18397, FCC 68-1176, 15 FCC 2d 417 (1968).

This was followed by the August 5, 1971 "Letter of Intent," 36 FCC 2d 260, in which we proposed to allow carriage of one independent station without restriction as to point of origin, permit carriage of other stations under rules intended to encourage UHF station carriage, and permit cable systems to compose channels of programming from more than one station.

3. In the Cable Television Report and Order, FCC 72-108, 36 FCC 2d 143 (1972), rules embodying the current leapfrog policy were adopted. In doing so we stated:

In establishing policy in this area we have had a number of conflicting considerations to reconcile. On the one hand, it is arguably desirable to allow cable systems the greatest possible choice, on the assumption that they will select those signals that will most appeal to their subscribers and are available at the least expense. But in that event there is a risk that most cable systems would select stations from either Los Angeles, Chicago, New York, or one of the other larger markets. There would then be no general participation by broadcast television stations in the benefits of cable carriage. There is the additional consideration that carriage of closer stations, because they are usually in the same region and often in the same state, supplies some programming that is more likely to be of interest in the cable community. We believe we have struck an appropriate balance. (Paragraph 92)

Since that time suggestions have been made by the Commission's Federal State/Local Advisory Committee and to

<sup>2</sup> The Commission asked interested parties to address themselves to the following questions among others:

Does it promote more effective use of our communications systems if closer signals are carried?

Is such carriage called for in the public interest in order to extend the service area of UHF stations or VHF stations serving sparsely populated areas and thus enhance their chances of successful operation?

If a policy along these lines is adopted, should it be accompanied by a concomitant duty, on the part of the station carried, to provide some amount of programming of particular interest to the people in the CATV community. (Paragraph 53)

the Cable Television Re-regulation Task Force that further consideration be given to particular aspects of this issue.<sup>3</sup> In the Clarification of Rules and Notice of Proposed Rule Making, FCC 74-383, 46 FCC 2d 175, para. 9 (1974), the Commission responded to the Advisory Committee's suggestion that consideration be given to the views of cable operators and franchising authorities in ruling on waiver requests based on a showing of community of interest. The Commission agreed with the Advisory Committee suggestion and went on to state that "as we gain more experience in this area, we may consider appropriate amendments of our leapfrogging rules (§ 76.59, 61 et seq.) to accommodate the carriage of in-state signals in some or all situations."

4. Our continuing review of our cable television rules generally as well as our specific experience with the operation of the existing leapfrogging rules, particularly insofar as problems have been brought to our attention in waiver petitions,<sup>4</sup> and through the work of our Re-regulation Task Force, has led us to question whether the current rules achieve the practical objectives we had desired. Whether the problem lies with the specifics of the rules or their underlying objectives is uncertain, but it does appear that matter relevant to these rules bear considerable new discussion.

5. A major concern with the rules is that they deprive cable system operators (and hence cable subscribers) of a choice as to which signals may be carried and thus may deprive subscribers of a quality or diversity of programming they might otherwise enjoy. A number of facets of this general problem deserve special mention. Among the reasons discussed for having rules of this type was the desirability of cable subscribers having access to programming from the same state or region which would likely be of particular

<sup>3</sup> The Federal-State/Local Advisory Committee was established at the time the Cable Television Report and Order was adopted to further advise the Commission as to the allocation of regulatory responsibilities among the various levels of government. The Re-regulation Task Force, whose creation was announced in a Public Notice of May 15, 1974, was established to review the Commission's cable television rules with a view towards eliminating unnecessary rules and improving the operation of those rules considered necessary.

<sup>4</sup> See for example, denial of leapfrogging waivers requested on grounds of excessive microwave costs; Vidi-Comm of Saugerties, Inc., FCC 74-1201, 49 FCC 2d 893 (1974); Citizens Cable of Allen County, FCC 75-240, — 1 FCC 2d — (1975); Moshannon Valley TV Cable Co., FCC 73-1206, 43 FCC 2d 1190 (1973), recons. denied, FCC 74-357, 46 FCC 2d 619 (1974); Morgantown Cable Company, FCC 74-68, 45 FCC 2d 158 (1974); on ground of de minimis mileage; Citizens Cable of Allen County, supra; Auburn Cable Company, FCC 74-1350, 50 FCC 2d 220 (1974); on grounds of near-by systems carrying the requested signals; High Fidelity Cable Television, FCC 74-511, 47 FCC 2d 73 (1974); Warner Cable of Pittsfield/Dalton, FCC 74-429, 46 FCC 2d 852 (1974); Citizens Cable of Allen County, supra, on grounds of carrying an in-state signal; STV Cable Television, Inc., FCC 74-1392, 50 FCC 2d 424 (1974).

interest in the cable community.<sup>5</sup> Although the present rules concerning the carriage of distant network affiliated stations recognize this rationale by providing a preference to "in-state" stations, the independent station rules do not. The result, with respect to independent stations, may be the required carriage of stations closer in proximity geographically but not from the same state and possibly more distant in community of interest. Compare Commission on Cable Television of the State of New York, FCC 73-1148, 43 FCC 2d 836 (1973), reconsid. denied, FCC 74-99, 45 FCC 2d 283 (1974), First Illinois Cable TV Inc., FCC 74-125, 45 FCC 2d 304 (1974), reconsid. granted in part, FCC 74-694, 47 FCC 2d 715 (1974).

6. Beyond this problem of systems being cut off from in-state programming, the restriction on the system operators' ability to select signals freely may be undesirable from the subscribers' point of view for other reasons. Systems may be forced to carry signals with very limited audience appeal. The type of "specialty stations" involved broadcast predominantly religious oriented programming and/or stock market quotations. Cable subscribers in such situations do not receive the type and variety of programming which was contemplated when the rules were adopted. By limiting choice as to stations available for carriage, subscriber welfare may be affected in other ways as well. Access to stations with a somewhat different format than local stations could be lost. With greater freedom of choice, signals more beneficial to subscribers and stations alike might be carried.

7. Another major concern is with the burdens these rules may place on cable systems and hence their subscribers when additional costs are passed on in the form of rate increases. The cost problem has two aspects. If the leapfrog rules require carriage of signals from two different directions, the microwave route costs are likely to be far greater than if a single route can be used to import two or three signals from the same city or the same general direction. Further, microwave expenses are likely to be high unless a number of different systems help bear the cost of constructing and operating the facilities. If costs are to be shared, all sys-

<sup>5</sup> For example, in the Notice of Inquiry and Notice of Proposed Rule Making in Docket 15971, FCC 65-339, 1 FCC 2d 453, para. 53 (1965), the Commission questioned whether carriage of closer stations should be required "on the ground that carriage of such signals would bring a programming service more likely to come closer to meeting the CATV community's interests than those from a distant state?" In the Notice of Proposed Rule Making and Notice of Inquiry in Docket 18397, FCC 68-1176, 15 FCC 2d 417, para. 56 (1968), we made reference to systems "carrying the signals of stations of the same type that are located closer to the system and thus are much more apt to have regional or in-state programming more attuned to the needs and interest of the community." See also Cable Television Report and Order, supra, paragraph 92.

tems involved must be permitted to carry the same signals. The magnitude of the costs involved, of course, vary widely depending on system location. It appears likely, however, that there are some areas in which the costs imposed are so large as to preclude carriage of any distant independent signals.<sup>6</sup>

8. Another concern with the operation of the existing rules, and possibly with rules of this type generally, is that their operation may be subject to so many vagaries of geography and population distribution as to conflict in significant fashion with some of the reasons initially advanced as warranting their adoption. The rules in their present form, because they apply only to top-25 market independent stations and allow a choice between the two closest such markets, would not, for example, prohibit a Washington, D.C. station from being carried as far away as Miami, Florida while they would prohibit the carriage of the same stations in much closer areas of Pennsylvania. They do not prohibit carriage of New York City stations into many of the larger eastern seaboard cities such as Philadelphia, Hartford, New Haven, or Boston, but would prohibit such carriage in Rhode Island. The rules, if strictly applied, would tend to encourage, if not require, carriage of Los Angeles stations as far away as Salt Lake City. Cf. Western TV Cable Corp., FCC 73-152, 39 FCC 2d 624 (1973). While some more restrictive type of rules might tend to eliminate some of their apparent anomalies, they would further limit such flexibility in obtaining distant signals as now exists.

9. Finally, we think it appropriate to give further consideration to the underlying rationale of the rules. Do the rules actually benefit stations that would

<sup>6</sup> An extreme instance of the type of problem that may be encountered is reflected in the Commission's recent decision in Citizens Cable of Allen County, Inc., FCC 75-240, — FCC 2d — (1974). In that case, the applicant asked for a waiver of the "leapfrogging" rules to permit it to import Chicago Independent Station WGN-TV to its five proposed cable systems surrounding and contiguous to the city of Fort Wayne. Citizens argued that there was an existing microwave link from Chicago to Fort Wayne, but none from Detroit or Cincinnati (two closer top-25 markets) and it could not afford the cost of the construction of such links. While all five systems were to operate off a common headend, Chicago was the second closest to two communities, Detroit was the second closest to two, and Cincinnati was the second closest to one. If the applicant chose to go to the second closest top-25 market for its second independent, it was forced to go to three such markets and construct two separate microwave links which it had made a substantial showing it could not afford to construct. Although the practical problems involved in such a situation were recognized, the Commission felt constrained to deny the waiver request in view of the express policy statement in the Reconsideration of the Cable Television Report and Order, supra, that "we do not intend to return to the process whereby waiver is requested in case after case because of microwave savings." \* \* \* Paragraph 25.

otherwise be passed over by giving them cable carriage? Are the costs they impose worth the benefits produced? Are they necessary to assure cable subscribers access to in-state and regional programming? Is there any real threat of undue concentration of control over media voices?

10. In view of these substantial questions, we believe it desirable to consider whether or not it is in the public interest to eliminate the existing rules. On the other hand, if it is our ultimate determination that some rules should be retained, can their flexibility be increased and their operation improved through some alternative to the existing rules? We seek comment on the value of adopting one or more of the following alternatives:

a. A deletion of the Note to §§ 76.59 (b) (2) and 76.61 (b) (2) and the policy against considering microwave costs when waivers of the rule are sought;

b. A revision of the rules to allow at least one signal to be carried without restriction as to point of origin;

c. Elimination of the rules application insofar as they prohibit carriage of stations from within the same state;

d. A definition of "specialty stations" (see paragraph 6 above) and their elimination as stations to which the leapfrog rules apply;

e. Application of the rules only to stations in the three or four largest markets, i.e., New York, Los Angeles, Chicago and Philadelphia;

f. New rules based on a zone or regional concept with all stations within the zone equally available for carriage and systems beyond such zones not limited by leapfrog rules as to stations available for carriage. Zones would be of sufficient size (150-200 miles?) to assure stations carriage in areas where they would receive some benefit from cable carriage but not so large as to impose carriage restrictions in areas where cable carriage would be so far distant from a station's off-the-air market area as to be of limited value to the stations involved;

g. Rules specifically intended to encourage the carriage of UHF television stations.

11. In filing comments, parties are encouraged to be as explicit as possible concerning the reasons why particular regulations are thought appropriate and the factual premises underlying such reasons. Of particular interest to us in reaching a decision in this proceeding will be studies or information quantifying:

a. The benefits, if any, of cable carriage to stations whose carriage is mandated by the rules;

b. The additional burdens, nationwide and in particular communities, which compliance with existing or alternative regulation imposes on cable system operators;

c. How these private benefits and burdens on television stations and cable television systems are reflected in television service to the public, including both cable subscribers and the non-cable viewing public.

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## PROPOSED RULES

12. Authority for the rule making proposed herein is contained in section 4(i), 303 and 403 of the Communications Act of 1934, as amended. All interested parties are invited to file written comments on this rule making proposal on or before July 8, 1975, and reply comments on or before July 23, 1975. In reaching a decision on this matter, the Commission may take into account any other relevant information before it, in addition to the comments invited by this Notice.

15. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, replies, pleadings, briefs, or other documents filed in this proceeding shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Docket Reference Room (Room 239) at its Headquarters in Washington, D.C. (1919 M St., NW.).

Adopted: May 15, 1975.

Released: May 22, 1975.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] VINCENT J. MULLINS,  
Secretary.

[FR Doc. 75-13927 Filed 5-28-75; 8:45 am]

## [47 CFR Part 76]

[Docket No. 20482; FCC 75-541]

## CABLE TELEVISION SYSTEMS

## Exempt from Obligation of Providing Syndicated Program Exclusivity Protection

In the matter of amendment of Part 76, Subpart F of the Commission's Rules and Regulations to Exempt Smaller Cable Television Systems and Smaller System Conglomerates from the Obligation of Providing Syndicated Program Exclusivity Protection: §§ 76.99 and 76.151 et seq.

1. Notice is hereby given of proposed rule making in the above captioned matter. As set forth in the attached Appendix, and as discussed herein, we are proposing adoption of a rule which would exempt from the obligations of our syndicated program exclusivity rules cable television systems and systems conglomerates serving fewer than 1000 subscribers. The Commission has previously exempted from these rules.

2. Between 1965<sup>1</sup> and 1972<sup>2</sup>, the Commission had program exclusivity or non-duplication rules which generally made no distinction between network and syndicated programming. These rules required cable television systems, at the request of local stations as defined in the rules, to delete certain programming from distant or lower priority station's signals. In the Cable Television Report

and Order of 1972, separate rules were applied to network and syndicated programming.<sup>3</sup>

3. In our Notice of Proposed Rule Making in Docket 19995,<sup>4</sup> we raised the question of whether, as had been suggested in a rule making petition filed by the National Cable Television Association, cable television systems with under 1500 subscribers should be exempt from the requirements of our network non-duplication rules.<sup>5</sup> In the First Report and Order<sup>6</sup> in that proceeding, we adopted rules exempting systems or system conglomerates with fewer than 1000 subscribers from non-duplication obligations on the grounds that the burden of providing such protection fell disproportionately heavily on these systems in view of their small size and in the belief that such an exemption would not be likely to have any significant adverse impact on television broadcast service to the public.<sup>7</sup>

4. It would appear that the analysis upon which this network non-duplication exemption was based may also be relevant to the matter of syndicated program exclusivity. The manpower and capital expenditure factors associated with the purchase, operation, and maintenance of a program exclusivity switcher apply with equal import to the provision of both network and syndicated program protection. And, while we are aware of the need to consider the cumulative impact of exemptions of this type, we question whether, either individually or in combination with the existing network non-duplication exemption, a 1000 subscriber exemption from the syndicated exclusivity protection rules (§§ 76.99 and 76.151 et seq.) would adversely impact on television broadcast service to the public. We note that, at least as to network affiliated stations, most program schedules include far more network programs than syndicated programs, that the number of systems now subject to our syndicated program exclusivity rules (due to market location, etc.) is significantly smaller than that number obligated to protect network programs, and that the syndicated protection rules, in contrast to the network rules, do not

necessarily provide insulation against audience fractionalization because of the ability of systems to insert non-protected programs during those times when protected programs must be deleted.<sup>8</sup> In sum, we believe it may be inappropriate for the Commission to exempt, on the basis of subscriber count, a particular system or system conglomerate from the network program exclusivity obligations but still require these systems' adherence to our syndicated program exclusivity rules. It is our tentative belief, subject to further evaluation as the result of comments filed in this proceeding, that an exemption similar to that now found in § 76.95(b) of the rules, made applicable to syndicated program exclusivity protection, would not create any substantial adverse effect on broadcasters, local broadcast service, or on the value of syndicated program material.

5. In view of the above, and consistent with our decision in Docket 19995, we propose to amend our present rules in the manner set forth below.

6. Authority for the rule making proposed herein is contained in sections 2, (3), 4 (i), and (j), 301, 303, 307, 308, and 309 of the Communications Act of 1934, as amended. All interested parties are invited to file written comments on this rule making proposal on or before July 3, 1975, reply comments on or before July 23, 1975. In reaching a decision on this matter, the Commission may take into account any other relevant information before it, in addition to that invited by this Notice.

7. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, replies, pleadings, briefs, or other documents filed in this proceeding shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission Public Reference Room (Room 239) at its Headquarters in Washington, D.C. (1919 M St., NW.).

Adopted: May 13, 1975.

Released: May 20, 1975.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] VINCENT J. MULLINS,  
Secretary.

Part 76 of Chapter I of Title 47 of the Code of Federal Regulations is amended, as follows:

A new § 76.161 is added, as follows:

Section 76.61(b)(2)(ii), for example, provides that:

(ii) Whenever, pursuant to [the syndicated exclusivity rules], a cable television system is required to delete a television program on a [distant signal] . . . , such system may, consistent with the program exclusivity rules of Subpart F of this part, substitute a program from any other television broadcast station. A program substituted may be carried to its completion, and the cable system need not return to its regularly carried signal until it can do so without interrupting a program already in progress.

## PROPOSED RULES

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## § 76.161 Exception.

The provisions of §§ 76.99 and 76.151 shall not apply to a cable television system (as described in § 76.5(a)) serving fewer than 1000 subscribers or to a conglomerate of commonly-owned and technically-integrated cable systems serving fewer than 1000 subscribers. Within sixty (60) days following the provision of service to 1000 subscribers each such cable system or system conglomerate shall file a notice to that effect with the Commission and shall send a copy thereof to all television broadcast stations carried by the cable system.

NOTE: Technical integration, for the purpose of this section, is limited to that accomplished by a local cable or microwave (e.g., a CARS/LDS facility) interconnection. Satellite or microwave networking to geographically separated systems of a multiple system owner does not constitute technical integration for the purposes of this section.

[FR Doc. 75-13926 Filed 5-28-75; 8:45 am]

## [47 CFR Part 89]

[Docket No. 20484; FCC 75-544]

POLICE AND EMERGENCY RADIO SERVICE  
UHF Band Frequencies

In the matter of amendment of Part 89 of the Commission's rules concerning certain UHF band frequencies in the Police Radio Service and the Special Emergency Radio Service.

1. Notice of Inquiry and Proposed Rule Making is hereby given with respect to utilization and possible exchange of the frequencies 462.950/467.950 MHz and 462.975/467.975 MHz in the Police Radio Service, and the frequencies 460.525/465.525 MHz and 460.550/465.550 MHz in the Special Emergency Radio Service.

2. On March 23, 1972, the Commission adopted a Report and Order in Docket No. 19261 (34 FCC 2nd 241) and allocated the above two 462/467 MHz band frequency pairs exclusively for digital radiocommunications or other non-voice uses, particularly with respect to mobile computer terminal installations, in the Police Radio Service. Assignment of these frequencies is limited to the Nation's thirty largest cities (1970 population census). In this regard, the Commission had noted that there appeared to be a requirement for dedicated channels for these police operations in the major cities where there may be serious limitations on availability of frequencies for non-voice purposes. However, in the more than three years since allocation of these frequencies, only five cities have been licensed to operate a total of approximately 150 mobile units on the 462/467 MHz channels for digital subsystems. Obviously, this is not the extent of non-voice police operations being conducted in the thirty largest cities and it appears that other police channels are being utilized for these purposes, presumably under the Commission's rules which permit secondary non-voice communications on voice channels.

3. In view of the apparently limited demand and need for these frequencies in the thirty cities where their assignment may be presently authorized the Commission believes that rule changes to expand the opportunity for use of the Police 462/467 MHz frequencies is warranted. In support of this approach, we are presently in receipt of requests for use of these frequencies from the New York State Police who propose a state-wide non-voice sub-system employing hundreds of units on these frequencies, and from Atlantic City, New Jersey, which conducts combined voice/non-voice operations on other police channels but is experiencing inter-system interference problems that it hopes to eliminate by utilizing the dedicated 462/467 MHz channels. It is likely that other communities outside of the thirty largest cities would also make use of these frequencies if they were generally available.

4. For the foregoing reasons, the Commission proposes to amend its rules to delete the limitation to thirty cities that applies to assignment of the 462/467 MHz band non-voice frequencies.

5. At the same time, and while these frequencies are still relatively lightly assigned, the Commission also wishes to consider a recommendation from the State of Florida with respect to the possible exchange of the 462/467 MHz band channels for the frequency pairs 460.525/465.525 and 460.550/465.550 MHz. These latter frequency pairs were also re-allocated in the Docket 19261 proceeding, and they are made assignable in the Special Emergency Radio Service for dispatch and common calling in medical radio systems.

6. The basis for Florida's request is that the 462/467 MHz Police frequencies are contiguous to eight pairs of 463/468 MHz band frequencies that are also assignable for medical services operations and, therefore, the requested re-allocation would enable the combined use of the 462/467 MHz and 463/468 MHz channels on the same radio equipment. The 460/465 MHz channels, on the other hand, must be utilized on separate equipment.

7. Florida's request for exchanging frequencies was reviewed in a rule making proceeding in Docket No. 19880,<sup>9</sup> where, in a Memorandum Opinion and Order adopted October 22, 1974 (39 FR 38902, November 4, 1974), the Commission stated in part:

before re-allocating these pairs, we will need to consider, in context of a separate rule making proceeding, among other things, the impact of such change to existing users and to those who may have gone ahead in planning radio systems on these frequencies. This process takes time and would further delay implementation of planned medical communication systems which have been awaiting completion of this proceeding. For these reasons, we will deny Florida's request. However, its suggestion will be considered further in a proceeding we plan concerning the two 462/467 MHz Police Radio Service frequency pairs.

8. In the period following the adoption of rule changes for medical radio systems in Docket 19880, the Commission has had an opportunity to study and evaluate the development of numerous wide-area medical radio systems. In some situations, there may well be significant advantages to contiguous medical services channels. However, there are also some apparent difficulties involved with effecting an exchange of frequencies where there are presently numerous licensed systems involved. Accordingly, the Commission believes that there should be public inquiry to enable the submission of comments as to the merits and problems associated with Florida's proposal. One problem to be addressed is the issue of whether to apply any exchange of these frequencies to present licensees so as to require that they modify existing equipment; or whether to "grandfather" such systems, and, if so, for what period of time. It is assumed that if the comments support a finding that an exchange of frequencies as requested would serve the public interest, the Commission will adopt appropriate rule changes to meet the requirements for this amendment.

9. The proposed amendment and inquiry herein are issued pursuant to authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

10. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before July 24, 1975, and reply comments on or before August 11, 1975. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to the specific comments noted by this Notice.

11. In accordance with the provisions of § 1.419 of the Commission's rules, an original and fourteen copies of all briefs, or comments filed shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Docket Reference Room at its Headquarters in Washington, D.C.

Adopted: May 13, 1975.

Released: May 20, 1975.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] VINCENT J. MULLINS,  
Secretary.

[FR Doc. 75-13928 Filed 5-28-75; 8:45 am]



# FEDERAL ENERGY ADMINISTRATION

[ 10 CFR Part 212 ]

## RETROACTIVE APPLICATION OF SUBPART K—NATURAL GAS LIQUIDS

### Proposed Class Exception and Public Hearing

The Federal Energy Administration hereby gives notice of a proposal to issue a class exception to permit, generally, the retroactive application of the price rules of Subpart K, which currently apply to the pricing of natural gas liquids and natural gas liquid products (propane, butane and natural gasoline). Written comments will be received and a public hearing held with respect to this proposal.

**Background:** On December 19, 1974, FEA issued a new Subpart K to 10 CFR, Part 212, the Mandatory Petroleum Price Regulations, effective January 1, 1975. Subpart K provides regulations designed specifically to cover the pricing of natural gas liquids and natural gas liquid products, including propane. In adopting the new Subpart K regulations, FEA expressly stated that four basic components are allowed in the lawful selling price: (1) The May 15, 1973 lawful selling price; (2) the passthrough of increased costs of natural gas shrinkage, in a manner analogous to that provided in Subpart E for the passthrough of increased costs of crude oil and petroleum products; (3) an adjustment to May 15, 1973 selling prices to correct a disequilibrium market condition at that time; and (4) a specific price increment to afford passthrough of increased non-product costs incurred by producers and processors of natural gas liquids, without a requirement for prenotification. Previously, the pricing of natural gas liquids and natural gas liquid products had been subject to Subpart E of the FEA price regulations, which applied generally to "refiners"—both of crude oil and of natural gas. It was, however, never made very clear how the price rules of Subpart E, which did not specifically address the activities of natural gas producers and processors, should be construed in their application to such activities.

A major ambiguity of the Subpart E price rules, as they related to natural gas processing, is that they did not explicitly provide for the recovery of increased natural gas "shrinkage" costs incurred from the extraction of natural gas liquids from the gas (i.e., the reduced value of natural gas after it has been reduced in volume and BTU content by the extraction of liquids). In order to clarify this aspect of the Subpart E Regulations, the FEA has issued a ruling to make explicit that the regulations of Subpart E which afford dollar-for-dollar passthrough of increased product costs also afford a passthrough of the increased costs of natural gas shrinkage, in the same manner as is now expressly provided for in Subpart K.

Subpart K authorizes the use of adjusted May 15, 1973 prices by those sellers of natural gas liquid products that were

selling at unusually low prices on that date. However, the problem of unusually low May 15, 1973 prices resulting from market disequilibrium respecting natural gas liquid products on that date adversely affected sellers with such prices from the inception of the price control system based on May 15, 1973 prices, until Subpart K became effective on January 1, 1975. Therefore, FEA has tentatively concluded that the pricing inequities among processors of natural gas liquids that were sought to be resolved by the permissible price adjustments of Subpart K warrant relief on a retroactive as well as a prospective basis.

The class exception here proposed would permit sellers to use the adjusted May 15, 1973 prices now provided by Subpart K in computing lawful prices pursuant to the provisions of Subpart E, prior to the effective date of Subpart K.

With respect to increased non-product costs, attributable to gas processing, Subpart E permitted the passthrough of "allowable" increased non-product costs, subject to prenotification and profit margin limitations. Although some gas processors did prenotify price increases to reflect increased non-product costs, it is possible that many gas processors, particularly the smaller operators, were not fully aware of the availability of this procedure under the FEA price regulations.

Pursuant to Subpart K, an increment of not more than \$.005 per gallon is permitted to be added to the selling price of natural gas liquid products to reflect actual increased non-product costs attributable to gas plant operations. In view of the fact that many gas plant operators may well have been unaware of the former prenotification procedures of Subpart E, this proposed class exception would also permit a non-product cost price increment to be used to justify prices charged prior to the effective date of Subpart K.

The provisions of Subpart K which place a \$.005 per gallon limit on the non-product cost price increment were based on FEA's determination that computation of actual increases in non-product costs on a plant by plant or firm by firm basis in the manner of § 212.87 of FEA's regulations pertaining generally to the passthrough of non-product costs by crude oil refiners, would present an unreasonable administrative burden in light of the large number of gas plants and the even larger number of gas plant owners involved. This proposed class exception would place a similar limitation on the passthrough of non-product cost increases. However, since increases in such costs have occurred gradually over time, FEA has determined that in proposing an exception to implement retroactively the pricing mechanisms of Subpart K, a lower limit should be placed on the price increment reflecting non-product cost increases prior to January 1, 1975. The exception here proposed would therefore permit sellers to justify a price increment of up to \$.0025 per gallon to afford passthrough of actual non-product cost increases incurred prior to

January 1, 1975, without regard to whether or not a seller prenotified such an increment. Sellers would be required, however, to maintain evidence sufficient to justify any non-product cost increment permitted, just as they would be required to do with respect to price increments representing increased shrinkage costs, and the passthrough of increased non-product costs by refiners that process natural gas and refine crude oil would be subject to the profit margin limitations of Subpart E.

Currently FEA is in the process of auditing the prices charged for natural gas liquid products prior to the January 1, 1975 effective date of Subpart K, particularly prices charged by independent gas processors (those not affiliated with a crude oil refiner). Preliminary indications are that many such gas processors were either unaware that FEA's price regulations applied to their sales activities or unsure as to the effect of the regulations on the prices which could lawfully be charged for their products. This proposed class exception is issued in light of the need to state a uniform method of application of Subpart E to the activities of natural gas liquids processors, so that these matters can be resolved on a uniform basis and without undue hardship to gas processors or the purchasers of natural gas liquid products.

The FEA remains very concerned over the potential adverse impact of its price regulations on the supply of natural gas liquid products, especially propane. An important reason for the proposal of this class exception is to obviate the need for time-consuming individual exception proceedings, which could adversely affect individual gas processors and delay the conclusion of compliance efforts in this area. In addition, this proposed exceptional relief will permit all parties affected by the proposal to submit comments. Specifically, FEA requests comments respecting:

- the need for and extent of the proposed class exception in its current form;
- the criteria that FEA should apply in evaluating requests by individual firms for further exceptional relief; and
- the potential impact of the proposed exception on gas processors which may have mistakenly believed they were not covered by FEA regulations or were exempt from the regulations by virtue of the stripper well exemption or for some other reason.

Interested persons are invited to participate in this proceeding by submitting data, views or arguments with respect to the proposed class exception set forth in this notice to Executive Communications, Room 3309, Federal Energy Administration, Box DF, Washington, D.C. 20461.

Comments should be identified on the outside envelope and on documents submitted to FEA Executive Communications with the designation "Retroactive Application of Subpart K." Fifteen copies should be submitted. All comments received by Monday, June 16, 1975, before 4:30 p.m., d.s.t., and all other relevant information, will be considered by the Federal Energy Administration before

final action is taken on the proposed exception.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

The public hearing regarding the proposed class exception will be held beginning at 9:30 a.m., d.s.t., on Wednesday, June 18, 1975, and will be continued if necessary on Thursday, June 19, 1975, in Room 2105, 2000 M Street, NW., Washington, D.C. 20461, in order to receive comments from interested persons on the matters set forth herein.

Any person who has an interest in this matter, or who is a representative of a group or class of persons that has an interest in this matter, may make written request for an opportunity to make oral presentation. Such a request should be directed to Executive Communications, Room 3309, FEA, and must be received before 4:30 p.m., d.s.t., on Wednesday, June 11, 1975. Such a request may be hand delivered to Executive Communications, Room 3309, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he is a proper representative of a group or class of persons that has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he may be contacted through Tuesday, June 17, 1975. Each person selected to be heard will be so notified by the FEA before 4:30 p.m., d.s.t., Friday, June 13, 1975, and must submit 100 copies of his statement to Executive Communications, FEA, Room 2214, 2000 M Street NW., Washington, D.C. 20461, before 4:30 p.m., d.s.t., on Tuesday, June 17, 1975.

The FEA reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearings. These will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings, and there will be no cross-examination of person presenting statements. Any decision made by the FEA with respect to the subject matter of the hearings will be based on all information available to the FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions, to be asked of any person mak-

ing a statement at the hearings, to Executive Communications, FEA, before 4:30 p.m., d.s.t., Monday, June 16, 1975. Any person who wishes to ask a question at the hearings may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearings, will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

A transcript of the hearings will be made and the entire record of the hearings, including the transcript, will be retained by the FEA and made available for inspection at the Administrator's Reception Area, Room 3400, Federal Building, 12th & Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments on this proposal.

Issued in Washington, D.C., May 23, 1975.

ROBERT E. MONTGOMERY, Jr.,  
General Counsel,  
Federal Energy Administration.

[FR Doc.75-14042 Filed 5-27-75; 9:51 am]

## FEDERAL HOME LOAN BANK BOARD

[ 12 CFR Part 545 ]

[ 75-445 ]

### FEDERAL SAVINGS AND LOAN SYSTEM Proposed Amendment Relating to Service Corporations

MAY 19, 1975.

The following outline regarding the amendment proposed herein is included for the reader's convenience and is subject to the full description in the preamble as well as the specific provisions in the regulation.

**I. Present situation.** A service corporation must apply for Board approval before acquiring any office building of an association.

**II. Proposed regulation.** A service corporation would be authorized to acquire, maintain and manage any office building of a parent association as a preapproved activity.

**III. Reason for proposed change.** To increase the business planning flexibility available to management of associations and service corporations.

The Federal Home Loan Bank Board considers it desirable to propose an amendment to § 545.9-1(a)(4) of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.9-1(a)(4)) for the purpose of per-

mitting a service corporation in which Federal savings and loan associations may invest under § 545.9-1 to acquire, maintain and manage any office building of an association which holds stock in such service corporation. Appropriate stylistic revisions would be made in current §§ 545.9-1(a)(4)(xii) and 545.9-1(a)(4)(xiii).

At present, Federal association service corporations must apply for Board approval before acquiring any office building of an association. This proposed amendment, by making such activity preapproved, would increase the business planning flexibility available to the management of such associations and service corporations.

If this proposal is adopted, a service corporation subsidiary of a subsidiary insured institution of a savings and loan holding company would be authorized to perform this same activity, if it has legal power to do so, because of current § 584.2(c) of the Regulations for Savings and Loan Holding Companies (12 CFR 584.2(c)). That section incorporates any changes made in § 545.9-1(a)(4) into the holding company regulations for service corporation subsidiaries. No similar amendment is necessary for multiple holding companies and their subsidiaries, which are neither insured institutions nor service corporations of a subsidiary insured institution, since they are already authorized by section 408(c)(2) of the National Housing Act, as amended (12 USC 1730a(c)), to hold and manage an insured institution's office building.

Accordingly, the Board hereby proposes to amend § 545.9-1(a)(4) by redesignating as paragraphs (xiii) and (xiv), respectively, the present paragraphs (xii) and (xiii) thereof and adding thereto a new paragraph (xii) to read as set forth below.

Interested persons are invited to submit written data, views and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 320 First Street, NW., Washington, D.C. 20552, by June 30, 1975, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.5 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.5).

The proposed amendment to § 545.9-1(a)(4) would read as follows:

§ 545.9-1 Service corporations.

(a) General service corporations.

(4) Substantially all of the activities of such service corporation, performed directly or through one or more wholly-owned subsidiaries or joint ventures, consist of one or more of the following:

(xii) Acquisition, maintenance and management of any office building of a savings and loan association which holds stock in such service corporation;



(Sec. 5, 48 Stat., 132, as amended (13 U.S.C. 1464); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, Jr.,  
Assistant Secretary.

FR Doc. 75-14003 Filed 5-28-75; 8:45 am

## FEDERAL POWER COMMISSION

[18 CFR Parts 101, 104, 201, 204, 141 and 260]

[Docket No. RM75-27]

### UNIFORM SYSTEMS OF ACCOUNTS FOR PUBLIC UTILITIES FUNDS USED DURING CONSTRUCTION AND REVISIONS OF CERTAIN SCHEDULE PAGES OF FPC REPORTS

#### Proposed Rulemaking

MAY 20, 1975.

Pursuant to 5 U.S.C. 553, sections 3, 4, 301, 304, 308, 309, and 311 of the Federal Power Act (41 Stat. 1063, 1065; 49 Stat. 838, 839, 854, 855, 858, 859; 16 U.S.C. 796, 797, 825a, 825c, 825g, 825h, 825j) and sections 8, 10, and 16 of the Natural Gas Act (52 Stat. 825, 826, 830; 15 U.S.C. 717g, 717i, 717o), the Commission gives notice it proposes to revise and amend:

A. Two instructions and certain accounts in the Uniform System of Accounts for Class A and Class B Public Utilities and Licensees, prescribed by Part 101, Chapter I, Title 18, CFR.

B. Two instructions and certain accounts in the Uniform System of Accounts for Class C and Class D Public Utilities and Licensees, prescribed by Part 104, Chapter I, Title 18, CFR.

C. Two instructions and certain accounts in the Uniform System of Accounts for Class A and Class B Natural Gas Companies, prescribed by Part 201, Chapter I, Title 18, CFR.

D. Two instructions and certain accounts in the Uniform System of Accounts for Class C and Class D Natural Gas Companies, prescribed by Part 204, Chapter I, Title 18, CFR.

E. Certain schedules of FPC Form No. 1, Annual Report for Electric Utilities, Licensees and Others (Class A and Class B) prescribed by Section 141.1, Chapter I, Title 18, CFR.

F. Certain schedules of FPC Form No. 1-F, Annual Report for Public Utilities and Licensees, (Class C and Class D) prescribed by § 141.2, Chapter I, Title 18, CFR.

G. FPC Form No. 5, Monthly Statement of Electric Operating Revenue and Income, prescribed by § 141.25, Chapter I, Title 18, CFR.

H. Certain schedules of FPC Form No. 2, Annual Report for Natural Gas Companies (Class A and Class B) prescribed by § 260.1, Chapter I, Title 18, CFR.

I. Certain schedules of FPC Form No. 2-A, Annual Report for Natural Gas Companies (Class C and Class D) prescribed by § 260.2, Chapter I, Title 18, CFR.

J. FPC Form No. 11, Natural Gas Pipeline Company Monthly Statement, prescribed by § 260.3, Chapter I, Title 18, CFR.

The allowance for funds used during construction (AFUDC) is essentially an outgrowth of historical ratemaking procedures. Regulatory Commissions have traditionally included in rate determinations

amounts to cover interest costs, return on equity capital, depreciation, and other costs relating only to plant that is "used and useful" in utility operations, that is, completed plant. However, they also recognized a need to compensate a utility for funds invested in construction programs prior to the time facilities are placed in service. Recognition of such construction financing costs has usually been given by permitting a utility to add to construction work in progress a computed amount as compensation for the use of funds. The other part of the accounting entry is currently reported as "other income". When facilities are placed in service, they become part of rate base and the utility is then able to recover the capitalized AFUDC in the same manner as any other construction cost, i.e. through rates which include depreciation charges to recover the capitalized amounts over the service life of the facilities.

The amendments as proposed herein are to provide for a uniform method of determining the maximum rates to be used for AFUDC and to provide for accounting and reporting requirements for AFUDC which accord with the elements entering into the determination of AFUDC rates.

With respect to the rates to be used in computing AFUDC, plant instruction 3(17) of the Uniform System of Accounts currently reads in part:

Allowance for funds used during construction includes the net cost for the period of construction of borrowed funds used for construction purposes and a reasonable rate on other funds when so used.

This plant instruction and similar earlier plant instructions have been interpreted and applied in a variety of ways. This historical lack of uniformity was not a source of serious general concern because the capitalized amounts involved were relatively small until the mid 1960's. Since that time the increases in financing costs, expansion of construction programs and lengthened construction periods have caused major increases in the amounts of AFUDC capitalized, particularly by electric utility companies.

The two basic problems in interpreting and applying existing instructions relating to AFUDC involve the reasonableness of methods of determining (1) the sources of funds used during construction and (2) the rates for such funds, particularly the "reasonable rate" for non-borrowed funds. It is generally impossible to specifically trace the source of funds used to finance construction of specific projects and widely different approaches could be taken on determining the appropriate "cost" of construction funds. However, a basic objective of AFUDC should be to enable a company to construct new facilities without causing a significant adverse effect on its earnings on plant in service. Stated another way, the AFUDC computation should interface with ratemaking practices in a manner which will permit a utility to earn on its total utility operations, including its construction program, at approximately the level which would

be allowed in a rate case. The proposed method for determining AFUDC recognizes the interrelationship between capital utilized for rate case purposes and the capital components of AFUDC.

Generally, for rate case purposes, short-term debt has not been included in rate of return computations on the grounds that such debt is temporary and is used for construction purposes. The proposed method for determining sources of capital for AFUDC purposes would track this rate case concept by assuming that short-term debt is the first source of financing used for construction work in progress. Any remaining construction work in progress is assumed to be financed by funds provided according to the pro rata capitalization of the company.

The proposed method of determining the rates attributable to the sources of funds would also track the rate case methodology by using actual book cost rates for debt and preferred stock. The rate attributable to common equity would be the rate allowed by the Regulatory Commission having primary rate jurisdiction in the last rate proceeding or, if no such rate is available, the average rate actually earned during the latest 3-year period.

The accounting for and reporting of AFUDC is a subject which appears to be widely misunderstood and in need of revision and clarification. AFUDC has always consisted of two principal elements, namely the interest cost of borrowed funds used for construction purposes and a reasonable rate (or imputed cost) for non-borrowed funds used for construction. However, these two elements have never been accounted for or reported separately, but instead have been combined and reported as one amount in the income section of financial statements. This situation appears to have led to misunderstandings on the part of some readers of financial statements as to the nature of AFUDC.

While the issue is currently receiving attention of some accounting bodies, the propriety of capitalizing the interest cost element of AFUDC has never been seriously questioned. Interest costs are actually incurred and can be viewed in the same manner as labor, materials, equipment and other costs which are incurred and properly capitalized during construction. The capitalization of the non-borrowed funds element of AFUDC (imputed costs) is unique to regulated utilities and is fully justified by historical rate processes. While the income recorded resulting from this element of AFUDC is not immediately accompanied by cash flow it is evidenced by an increase in plant. The ratemaking process in effect guarantees that the capitalized amounts will be recovered in cash in future periods through depreciation charges allowed in setting rate levels.

To clearly disclose the source of capitalized AFUDC amounts, the proposed amendments would establish separate accounts for recording the credits resulting from the two elements of AFUDC. The proposed amendments

would also position these two elements of AFUDC in the appropriate sections of the income statements.

Good cause exists for proposing to make the amendments to the Uniform Systems of Accounts for Public Utilities and Licensees and Natural Gas Companies proposed herein, to become effective upon the issuance of a final order in this proceeding, in accordance with the provisions of the Administrative Procedure Act, 5 U.S.C. 553(d) (3).

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, to be received no later than July 7, 1975, data, views, comments or suggestions in writing concerning all or part of the proposals herein. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Washington, D.C. during regular business hours. The Commission will consider all such written submittals before acting on the matters herein proposed. An original and 14 conforming copies should be filed with the Secretary of the Commission. Submittals to the Commission should indicate the name, title, mailing address and telephone number of the person to whom communications concerning the proposal should be addressed and whether the person filing them requests a conference with the staff of the Federal Power Commission to discuss the proposed revisions. The staff, in its discretion, may grant or deny requests for conference.

The proposed amendments to the Commission's Uniform Systems of Accounts under the Federal Power Act and to FPC Forms No. 1, No. 1-F and No. 5 would be issued under the authority granted the Federal Power Commission by the Federal Power Act, particularly sections 3, 4, 301, 304, 308, 309, and 311 (41 Stat. 1063, 1065; 49 Stat. 838, 839, 854, 855, 858, 859; 16 U.S.C. 796, 797, 825a, 825c, 825g, 825h, 825j).

The proposed amendments to the Commission's Uniform Systems of Accounts under the Natural Gas Act and to the FPC Forms No. 2, No. 2-A and No. 11 would be issued under the authority granted the Federal Power Commission by the Natural Gas Act, particularly sections 8, 10, and 16 (52 Stat. 825, 826, 830; 15 U.S.C. 717g, 717i, 717o).

A. The following are the proposed amendments to the Uniform System of Accounts for Class A and Class B Public Utilities and Licensees in Part 101, Chapter I, Title 18 of the Code of Federal Regulations:

#### PART 101—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR CLASS A AND CLASS B UTILITIES AND LICENSEES

1. The General Instructions are amended by revising paragraph "I" of Instruction "17. Long-Term Debt: Premium, Discount and Expense, and Gain or Loss on Recacquisition." As amended

this portion of General Instruction 17 will read:

#### General Instructions

17. Long-Term Debt: Premium, Discount and Expense, and Gain or Loss on Recacquisition.

I. Premium, discount, or expense on debt shall not be included as an element in the cost of construction or acquisition of property (tangible or intangible), except under the provisions of account 432, Allowance for Borrowed Funds Used During Construction—Credit.

2. Amend subparagraph "(17) Allowance for Funds Used During Construction" of Electric Plant Instruction "3. Components of Construction Cost." by revising the first sentence of the paragraph and immediately following the first paragraph adding three new paragraphs (a), (b) and (c). As amended, subparagraph (17) will read:

#### Electric Plant Instructions

3. Components of Construction Cost.

(17) "Allowance for funds used during construction" includes the net cost for the period of construction of borrowed funds used for construction purposes and a reasonable rate on other funds when so used, not to exceed allowances computed in accordance with the formula prescribed in paragraph (a) below. No allowance for funds used during construction charges shall be included in these accounts upon expenditures for construction projects which have been abandoned.

(a) The formula and elements for the computation of the allowance for funds used during construction shall be:

$$A_1 = s \left( \frac{S}{W} \right) + d \left( \frac{D}{D+P+C} \right) \left( 1 - \frac{S}{W} \right) \\ A_2 = \left[ 1 - \frac{S}{W} \right] \left[ p \left( \frac{P}{D+P+C} \right) + c \left( \frac{C}{D+P+C} \right) \right]$$

$A_1$  = Allowance for borrowed funds used during construction rate.

$A_2$  = Allowance for other funds used during construction rate.

$S$  = Average short-term debt.

$s$  = Short-term debt interest rate.

$D$  = Average long-term debt.

$d$  = Long-term debt interest rate.

$P$  = Average preferred stock.

$p$  = Preferred stock cost rate.

$C$  = Average common equity.

$c$  = Common equity cost rate.

$W$  = Average construction work in progress balance.

(b) The rates shall be determined annually and the various components in the formula for the current year rates shall be derived from actual book balances and book cost rates for the prior year, with the exception that the rate used for common equity shall be the rate granted

common equity in the last rate proceeding before the ratemaking body having primary rate jurisdiction. If such rate is not available, the average rate actually earned during the preceding three years shall be used.

(c) For those companies which are required to flow-through the interest expense portion of AFUDC in computing income taxes for cost of service purposes, the utility would use the gross AFUDC rate. For companies where the interest portion of AFUDC is not utilized in computing income taxes for cost of service purposes, depending upon the requirements of the appropriate regulatory commission, a net-of-tax rate should be used or a gross rate with appropriate normalization entries for the tax effect of the interest.

NOTE: . . .

3. The Chart of Income Accounts is amended by revising the title of account "419.1, Allowance for Funds Used During Construction," to read 419.1, Allowance for Other Funds Used During Construction, and immediately following account "431, Other Interest Expense," adding a new account 432, Allowance for Borrowed Funds Used During Construction—Credit. As amended the Chart of Income Accounts will read:

Income Accounts	
1. OTHER INCOME AND DEDUCTIONS	
A. OTHER INCOME	
419.1 Allowance for other funds used during construction.	
3. INTEREST CHARGES	
432 Allowance for borrowed funds used during construction—Credit.	
4. The text of the Income Accounts is amended by revising the title and text of account "419.1, Allowance for Funds Used During Construction," and immediately following account "431, Other Interest Expense," adding a new account 432, Allowance for Borrowed Funds Used During Construction—Credit. As amended, these portions of the text of the Income Accounts will read:	

Income Accounts	
2. OTHER INCOME AND DEDUCTIONS	
419.1 Allowance for other funds used during construction.	

This account shall include concurrent credits for allowance for other funds used during construction, not to exceed amounts computed in accordance with the formula prescribed in Electric Plant Instruction 3(17).



## PROPOSED RULES

## 3. INTEREST CHARGES

## 432 Allowance for borrowed funds used during construction—Credit.

This account shall include concurrent credits for allowance for borrowed funds used during construction, not to exceed amounts computed in accordance with the formula prescribed in Electric Plant Instruction 3(17).

B. The following are the proposed amendments to the Uniform System of Accounts for Class C and Class D Public Utilities and Licensees in Part 104, Chapter I, Title 18 of the Code of Federal Regulations:

## PART 104—UNIFORM SYSTEM OF ACCOUNTS FOR PUBLIC UTILITIES AND LICENSEES (CLASS C AND CLASS D)

1. The General Instructions are amended by revising paragraph "I" of Instruction "51. Long-Term Debt: Premium, Discount and Expense, and Gain or Loss on Reacquisition." As amended this portion of General Instruction 15 will read:

## General Instructions

15. Long-Term Debt: Premium, Discount and Expense, and Gain or Loss on Reacquisition.

I. Premium, discount, or expense on debt shall not be included as an element in the cost of construction or acquisition of property (tangible or intangible), except under the provisions of account 432, Allowance for Borrowed Funds Used During Construction—Credit.

2. Amend Electric Plant Instruction "2. Components of Construction Cost." by revising the first paragraph and lettering it "A." and immediately following the first paragraph adding three new paragraphs B., C., and D. As amended, Instruction 2 will read:

## Electric Plant Instructions

## 2. Components of Construction Cost.

A. The cost of construction of property chargeable to the electric plant accounts shall include, where applicable, the cost of labor; materials and supplies; transportation; work done by others for the utility; injuries and damages incurred in construction work; privileges and permits; special machine service; allowance for funds used during construction, not to exceed amounts computed in accordance with the formula prescribed in paragraph B below; and such portion of general engineering, administrative salaries and expenses, insurance, taxes, and other analogous items as may be properly includible in construction costs.

B. The formula and elements for the computation of the allowance for funds used during construction shall be:

$$A_c = s \left( \frac{S}{W} \right) + d \left( \frac{D}{D+P+C} \right) \left( 1 - \frac{S}{W} \right) \\ A_c = \left[ 1 - \frac{S}{W} \right] \left[ p \left( \frac{P}{D+P+C} \right) + c \left( \frac{C}{D+P+C} \right) \right]$$

A<sub>c</sub> = Allowance for borrowed funds used during construction rate.  
A<sub>c</sub> = Allowance for other funds used during construction rate.  
S = Average short-term debt.  
s = Short-term debt interest rate.  
D = Average long-term debt.  
d = Long-term debt interest rate.  
P = Average preferred stock.  
p = Preferred stock cost rate.  
C = Average common equity.  
c = Common equity cost rate.  
W = Average construction work in progress balance.

C. The rates shall be determined annually and the various components in the formula for the current year rates shall be derived from actual book balances and book cost rates for the prior year, with the exception that the rate used for common equity shall be the rate granted common equity in the last rate proceeding before the ratemaking body having primary rate jurisdiction. If such rate is not available, the average rate actually earned during the preceding three years shall be used.

D. For those companies which are required to flow-through the interest expense portion of AFUDC in computing income taxes for cost of service purposes, the utility would use the gross AFUDC rate. For companies where the interest portion of AFUDC is not utilized in computing income taxes for cost of service purposes, depending upon the requirements of the appropriate regulatory commission, a net-of-tax rate should be used or a gross rate with appropriate normalization entries for the tax effect of the interest.

3. The Chart of Income Accounts is amended by revising the title of account "419.1, Allowance for Funds Used During Construction," to read 419.1, Allowance for Other Funds Used During Construction, and immediately following account "431, Other Interest Expense," adding a new account 432, Allowance for Borrowed Funds Used During Construction—Credit. As amended the Chart of Income Accounts will read:

INCOME ACCOUNTS  
(Chart of Accounts)

## 2. OTHER INCOME AND DEDUCTIONS

## A. OTHER INCOME

419.1 Allowance for other funds used during construction.

## 3. INTEREST CHARGES

432 Allowance for borrowed funds used during construction—Credit.

4. The text of the Income Accounts is amended by revising the title and text of account "419.1, Allowance for Funds

Used During Construction," and immediately following account "431, Other Interest Expense," adding a new account 432, Allowance for Borrowed Funds Used During Construction—Credit. As amended these portions of the text of the Income Accounts will read:

## Income Accounts

## 2. OTHER INCOME AND DEDUCTIONS

419.1 Allowance for other funds used during construction.

This account shall include concurrent credits for allowance for other funds used during construction, not to exceed amounts computed in accordance with the formula prescribed in Electric Plant Instruction 2. No allowance for funds used during construction shall be capitalized on plant which is completed and ready for service.

## 3. INTEREST CHARGES

432 Allowance for borrowed funds used during construction—Credit.

This account shall include concurrent credits for allowance for borrowed funds used during construction, not to exceed amounts computed in accordance with the formula prescribed in Electric Plant Instruction 2. No allowance for funds used during construction shall be capitalized on plant which is completed and ready for service.

C. The following are the proposed amendments to the Uniform System of Accounts for Class A and Class B Natural Gas Companies in Part 201, Chapter I, Title 18 of the Code of Federal Regulations:

## PART 201—UNIFORM SYSTEM OF ACCOUNTS FOR NATURAL GAS COMPANIES

1. The General Instructions are amended by revising paragraph "I" of Instruction "17. Long-Term Debt: Premium, Discount and Expense, and Gain or Loss on Reacquisition." As amended this portion of General Instruction 17 will read:

## General Instructions

17. Long-Term Debt: Premium, Discount and Expense, and Gain or Loss on Reacquisition.

I. Premium, discount, or expense on debt shall not be included as an element in the cost of construction or acquisition of property (tangible or intangible), except under the provisions of account 432, Allowance for Borrowed Funds Used During Construction—Credit.

2. Amend paragraph "17. Allowance for Funds Used During Construction" of Gas Plant Instruction "3. Components of

Construction Cost." by revising the present paragraph, and immediately following the present paragraph, adding three new paragraphs (a), (b) and (c). As amended subparagraph (17) will read:

## Gas Plant Instructions

## 3. Components of Construction Cost.

(17) "Allowance for funds used during construction" includes the net cost for the period of construction of borrowed funds used for construction purposes and a reasonable rate on other funds when so used, not to exceed allowances computed in accordance with the formula prescribed in paragraph (a) below, except when such other funds are used for exploration and development or leases acquired after October 7, 1969, no allowance on such other funds shall be included in these accounts.

(a) The formula and elements for the computation of the allowance for funds used during construction shall be:

$$A_c = s \left( \frac{S}{W} \right) + d \left( \frac{D}{D+P+C} \right) \left( 1 - \frac{S}{W} \right) \\ A_c = \left[ 1 - \frac{S}{W} \right] \left[ p \left( \frac{P}{D+P+C} \right) + c \left( \frac{C}{D+P+C} \right) \right]$$

A<sub>c</sub> = Allowance for borrowed funds used during construction rate.  
A<sub>c</sub> = Allowance for other funds used during construction rate.  
S = Average short-term debt.  
s = Short-term debt interest rate.  
D = Average long-term debt.  
d = Long-term debt interest rate.  
P = Average preferred stock.  
p = Preferred stock cost rate.  
C = Average common equity.  
c = Common equity cost rate.  
W = Average construction work in progress balance.

(b) The rates shall be determined annually and the various components in the formula for the current year rates shall be derived from actual book balances and book cost rates for the prior year, with the exception that the rate used for common equity shall be the rate granted common equity in the last rate proceeding before the ratemaking body having primary rate jurisdiction. If such rate is not available, the average rate actually earned during the preceding three years shall be used.

(c) For those companies which are required to flow-through the interest expense portion of AFUDC in computing income taxes for cost of service purposes, the utility would use the gross AFUDC rate. For companies where the interest portion of AFUDC is not utilized in computing income taxes for cost of service purposes, depending upon the requirements of the appropriate regulatory commission, a net-of-tax rate should be used or a gross rate with appropriate normalization entries for the tax effect of the interest.

NOTE: . . .

3. The Chart of Income Accounts is amended by revising the title of account "419.1, Allowance for Funds Used During Construction," to read 419.1, Allowance

## PROPOSED RULES

## General Instructions

15. Long-Term Debt: Premium, Discount and Expense, and Gain or Loss on Reacquisition.

I. Premium, discount, or expense on debt shall not be included as an element in the cost of construction or acquisition of property (tangible or intangible), except under the provisions of account 432, Allowance for Borrowed Funds Used During Construction—Credit.

2. Amend Gas Plant Instruction "2. Components of Construction Cost." by revising the first paragraph and lettering it "A." and immediately following the first paragraph adding three new paragraphs B., C., and D. As amended, Instruction 2 will read:

## Gas Plant Instructions

2. Components of Construction Cost.  
A. The cost of construction of property chargeable to the gas plant accounts shall include, where applicable, fees for construction, privileges and permits, paid after grant of certificate, the cost of labor, materials and supplies, transportation, work done by others for the utility, injuries and damages incurred in construction, privileges and permits, special machine service, allowance for funds used during construction, not to exceed amounts computed in accordance with the formula prescribed in paragraph B below, training costs and such portion of general engineering, administrative salaries and expenses, insurance, taxes, and other analogous items as may be properly includible in construction costs. (See Operating Expense Instruction 3.) When the utility employs its own funds in exploration and development on leases acquired after October 7, 1969, no allowance for funds used during construction on such funds shall be included in these accounts.

B. The formula and elements for the computation of the allowance for funds used during construction shall be:

$$A_c = s \left( \frac{S}{W} \right) + d \left( \frac{D}{D+P+C} \right) \left( 1 - \frac{S}{W} \right) \\ A_c = \left[ 1 - \frac{S}{W} \right] \left[ p \left( \frac{P}{D+P+C} \right) + c \left( \frac{C}{D+P+C} \right) \right]$$

A<sub>c</sub> = Allowance for borrowed funds used during construction rate.  
A<sub>c</sub> = Allowance for other funds used during construction rate.  
S = Average short-term debt.  
s = Short-term debt interest rate.  
D = Average long-term debt.  
d = Long-term debt interest rate.  
P = Average preferred stock.  
p = Preferred stock cost rate.  
C = Average common equity.  
c = Common equity cost rate.  
W = Average construction work in progress balance.

C. The rates shall be determined annually and the various components in the formula for the current year rates

for Other Funds Used During Construction, and immediately following account "431, Other Interest Expense," adding a new account 432, Allowance for Borrowed Funds Used During Construction—Credit. As amended the Chart of Income Accounts will read:

## Income Accounts

## 2. OTHER INCOME AND DEDUCTIONS

## A. OTHER INCOME

419.1 Allowance for other funds used during construction.

## 3. INTEREST CHARGES

432 Allowance for borrowed funds used during construction—Credit.

4. The text of the Income Accounts is amended by revising the title and text of account "419.1, Allowance for Funds Used During Construction," and immediately following account "431, Other Interest Expense," adding a new account 432, Allowance for Borrowed Funds Used During Construction—Credit. As amended these portions of the text of the Income Accounts will read:

## Income Accounts

## 2. OTHER INCOME AND DEDUCTIONS

419.1 Allowance for other funds used during construction.

This account shall include concurrent credits for allowance for other funds used during construction, not to exceed amounts computed in accordance with the formula prescribed in Gas Plant Instruction 3(17).

## 3. INTEREST CHARGES

432 Allowance for borrowed funds used during construction—Credit.

This account shall include concurrent credits for allowance for borrowed funds used during construction, not to exceed amounts computed in accordance with the formula prescribed in Gas Plant Instruction 3(17).

D. The following are the proposed amendments to the Uniform System of Accounts for Class C and Class D Natural Gas Companies in Part 204, Chapter I, Title 18 of the Code of Federal Regulations:

## PART 204—UNIFORM SYSTEM OF ACCOUNTS FOR NATURAL GAS COMPANIES (CLASS C AND CLASS D)

1. The General Instructions are amended by revising paragraph "I" of Instruction "15. Long-Term Debt: Premium, Discount and Expense, and Gain or Loss on Reacquisition." As amended this portion of General Instruction 15 will read:



## PROPOSED RULES

shall be derived from actual book balances and book cost rates for the prior year, with the exception that the rate used for common equity shall be the rate granted common equity in the last rate proceeding before the ratemaking body having primary rate jurisdiction. If such rate is not available, the average rate actually earned during the preceding three years shall be used.

D. For those companies which are required to flow-through the interest expense portion of AFUDC in computing income taxes for cost of service purposes, the utility would use the gross AFUDC rate. For companies where the interest portion of AFUDC is not utilized in computing income taxes for cost of service purposes, depending upon the requirements of the appropriate regulatory commission, a net-of-tax rate should be used or a gross rate with appropriate normalization entries for the tax effect of the interest.

3. The Chart of Income Accounts is amended by revising the title of account "419.1, Allowance for Funds Used During Construction," to read 419.1, Allowance for Other Funds Used During Construction, and immediately following account "431, Other Interest Expense," adding a new account 432, Allowance for Borrowed Funds Used During Construction—Credit. As amended, the Chart of Income Accounts will read:

Income Accounts (Chart of Accounts)	
2	OTHER INCOME AND DEDUCTIONS
A.	OTHER INCOME
419.1	Allowance for other funds used during construction.
3.	INTEREST CHARGES
432	Allowance for borrowed funds used during construction—Credit.

4. The text of the Income Accounts is amended by revising the title and text of account "419.1, Allowance for Funds Used During Construction," and immediately following account "431, Other Interest Expense," adding a new account 432, Allowance for Borrowed Funds Used During Construction—Credit. As amended these portions of the text of the Income Accounts will read:

Income Accounts	
2.	Other Income and Deductions
419.1	Allowance for other funds used during construction.
This account shall include concurrent credits for allowance for other funds used during construction, not to exceed amounts computed in accordance with the formula prescribed in Gas Plant Instruction 2. No allowance for funds used during construction shall be capitalized on plant which is completed and ready for service.	
3.	Interest Charges
432	Allowance for borrowed funds used during construction—Credit. This account shall include concurrent credits for allowance for borrowed funds used during construction, not to exceed amounts computed in accordance with the formula prescribed in Gas Plant Instruction 2. No allowance for funds used during construction shall be capitalized on a plant which is completed and ready for service.

## PART 141—STATEMENTS AND REPORTS (SCHEDULES)

E. Effective for the reporting year 1975, it is proposed to revise certain schedule pages of FPC Form No. 1, Annual Report for Electric Utilities, Licensees and Others (Class A and Class B), prescribed by § 141.1, Chapter I, Title 18 of the Code of Federal Regulations, all as set out in Attachments A and B hereto.

F. Effective for the reporting year 1975, it is proposed to revise certain schedule pages of FPC Form No. 1-F, Annual Report for Public Utilities and Licensees (Class C and Class D), prescribed by § 141.2, Chapter I, Title 18 of the Code of Federal Regulations, all as set out in Attachment E hereto.

G. It is proposed to revise FPC Form No. 5, Monthly Statement of Electric Operating Revenue and Income, prescribed by § 141.25, Chapter I, Title 18 of the Code of Federal Regulations, all as set out in Attachment E hereto.

H. Effective for the reporting year 1975, it is proposed to revise certain schedule pages of FPC Form No. 2, Annual Report for Natural Gas Companies (Class A and Class B), prescribed by § 260.1, Chapter I, Title 18 of the Code of Federal Regulations, all as set out in Attachments A and C hereto.

## PART 260—STATEMENTS AND REPORTS (SCHEDULES)

I. Effective for the reporting year 1975, it is proposed to revise certain schedule pages of FPC Form No. 2-A, Annual Report for Natural Gas Companies (Class C and Class D), prescribed by § 260.2, Chapter I, Title 18 of the Code of Federal Regulations, all as set out in Attachment D hereto.

J. It is proposed to revise FPC Form No. 11, Natural Gas Pipeline Company Monthly Statement, prescribed by § 260.3, Chapter I, Title 18 of the Code of Federal Regulations, all as set out in Attachment F.

The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,  
Secretary.

## PROPOSED RULES

Docket No. RM75-27  
FPC Form No. 1 and No. 2

Annual Report of . . . . . Year ended December 31, 19 . . .

STATEMENT OF INCOME FOR THE YEAR (Continued)			STATEMENT C	
Line No.	Account (a)	Sch. page No. (b)	TOTAL	
			Current year (c)	Increase or (decrease) from preceding year (d)
22	Net Utility Operating Income (Forwarded from Page 114)	—	\$	\$
23	<b>OTHER INCOME AND DEDUCTIONS</b>			
24	Other Income:			
25	Nonutility Operating Income (415-418) . . . . .	303		
26	Equity in Earnings of Subsidiary Companies (418.1) . . . . .	—		
27	Interest and Dividend Income (419) . . . . .	303		
28	Allowance for Funds Used During Construction (419.1) . . . . .	—		
29	Miscellaneous Nonoperating Income (421) . . . . .	303		
30	Gain on Disposition of Property (421.1) . . . . .	300		
31	Total Other Income . . . . .	—	\$	\$
32	Other Income Deductions:			
33	Loss on Disposition of Property (421.2) . . . . .	300		
34	Miscellaneous Amortization (425) . . . . .	304		
35	Miscellaneous Income Deductions (426.1 - 426.5) . . . . .	304		
36	Total Other Income Deductions . . . . .	—	\$	\$
37	Taxes Applicable to Other Income and Deductions:			
38	Taxes Other Than Income Taxes (408.2) . . . . .	222		
39	Income Taxes - Federal (409.2) . . . . .	222		
40	- Other (409.2) . . . . .	222		
41	Provision for Deferred Inc. Taxes (410.2) . . . . .	214C-227		
42	Provision for Deferred Income Taxes - On (411.2) . . . . .	214C-227		
43	Investment Tax Credit Adj. - Net (411.5) . . . . .	228-9		
44	Investment Tax Credits (420) . . . . .	228-9		
45	Total Taxes on Other Income and Deductions . . . . .	—	\$	\$
46	Net Other Income and Deductions . . . . .	—	\$	\$
47	<b>INTEREST CHARGES</b>			
48	Interest on Long-Term Debt (427) . . . . .	—		
49	Amort. of Debt Disc. and Expense (428) . . . . .	211		
50	Amortization of Loss on Recquired Debt (428.1) . . . . .	214B		
51	Amort. of Premium on Debt - Credit (429) . . . . .	211		
52	Amortization of Gain on Recquired Debt - Credit (429.1) . . . . .	214B		
53	Interest on Debt to Assoc. Companies (430) . . . . .	304		
54	Other Interest Expense (431) . . . . .	304		
55	Total Interest Charges . . . . .	—	\$	\$
56	Income Before Extraordinary Items . . . . .	—	\$	\$
57	<b>EXTRAORDINARY ITEMS</b>			
58	Extraordinary Income (434) . . . . .	306		
59	Extraordinary Deductions (435) . . . . .	306		
60	Net Extraordinary Items . . . . .	—	\$	\$
61	Income Taxes - Federal and Other (409.3) . . . . .	222		
62	Extraordinary Items After Taxes . . . . .	—	\$	\$
63	NET INCOME . . . . .	—	\$	\$

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Docket No. RM75-27

FPC Form No. 1 and No. 2

Annual Report of ..... Year ended December 31, 19..

STATEMENT E		STATEMENT OF CHANGES IN FINANCIAL POSITION	
Line No.	SOURCES OF FUNDS (a)	Amounts (b)	
1	Funds from Operations:		
2	Net Income .....		
3	Principal Non-Cash Charges (Credits) to Income:		
4	Depreciation and depletion .....		
5	Amortization of .....		
6	Provision for deferred or future income taxes (net) .....		
7	Investment tax credit adjustments .....		
8	Other (net):		
12	Total Funds from Operations .....	\$	
13	Funds from Outside Sources (new money):		
14	Long-term debt (b) (c) .....		
15	Preferred stock (c) .....		
16	Common stock (c) .....		
17	Net increase in short-term debt (d) .....		
18	Other (net):		
21	Total Funds from Outside Sources .....	\$	
22	Sale of Non-Current Assets (e):		
23	Contributions from Associated and Subsidiary Companies .....		
24	Other (net) (e):		
28	Total Sources of Funds .....	\$	
29	APPLICATION OF FUNDS		
31	Construction and Plant Expenditures (incl. land):		
32	Gross additions to utility plant (less nuclear fuel) .....		
33	Gross additions to nuclear fuel .....		
34	Gross additions to common utility plant .....		
35	Gross additions to nonutility plant .....		
36	Other .....		
38	Total Applications to Construction and Plant Expenditures (incl. land) .....	\$	
39	Dividends on Preferred Stock .....		
40	Dividends on Common Stock .....		
41	Funds for Retirement of Securities and Short-Term Debt:		
42	Long-term debt (b) (c) .....		
43	Preferred stock (c) .....		
44	Redemption of capital stock .....		
45	Net decrease in short-term debt (d) .....		
46	Other (net):		
47	Purchase of Other Non-Current Assets (e):		
49	Investments in and Advances to Associated and Subsidiary Companies .....		
50	Other (net) (e):		
53	Total Applications of Funds .....	\$	

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FPC Form No. 1

Docket No. RM75-27

Annual report of ..... Year ended December 31, 19..

## GENERAL DESCRIPTION OF CONSTRUCTION OVERHEAD PROCEDURE

1. For each construction overhead explain: (a) the nature and extent of work, etc., the overhead charges are intended to cover, (b) the general procedure for determining the amount capitalized, (c) the method of distribution to construction jobs, (d) whether different rates are applied to different types of construction, (e) basis of differentiation in rates for different types of construction and (f) whether the overhead is directly or indirectly assigned.

2. State the general policy with respect to the capitalization of allowance for funds used during construction to include: (a) the general classes of property included in the allowance base, (b) the method used to compute the allowance, (c) the allowance computation period and (d) the specific factors to support the allowance rate for the year.

## Revise:

2. Show below the computation of allowance for funds used during construction rates, in accordance with the provisions of Electric Plant Instruction 3 (17).

## Add:

3. Where a net-of-tax rate for borrowed funds is used, show the appropriate tax effect adjustment to the computations below in a manner that clearly indicates the amount of reduction in the gross rate for tax effects.

Components of formula (derived from actual book balances and book cost rates):

Title	Amount	Capitalization Ratio (percent)	Cost Rate Percentage
Average short-term debt	S		s
Short-term interest rate			
Average long-term debt	D		d
Average preferred stock	P		p
Average common equity	C		c
Total capitalization		100%	
Average construction work in progress balance	W		

$$\text{Rate for borrowed funds} = s \left( \frac{S}{W} \right) + d \left( \frac{D}{D+P+C} \right) \left( 1 - \frac{S}{W} \right)$$

$$\text{Rate for other funds} = \left[ 1 - \frac{S}{W} \right] \left[ p \left( \frac{P}{D+P+C} \right) + c \left( \frac{C}{D+P+C} \right) \right]$$

1/ Rate shall be the rate granted in the last rate proceeding. If such is not available, the average rate actually earned during the preceding three years shall be used.

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Docket No. RM75-27  
FPC Form No. 2

Annual report of ..... Year ended December 31, 19 .....

### GENERAL DESCRIPTION OF CONSTRUCTION OVERHEAD PROCEDURE

1. For each construction overhead explain: (a) the nature and extent of work, etc., the overhead charges are intended to cover, (b) the general procedure for determining the amount capitalized, (c) the method of distribution to construction jobs, (d) whether different rates are applied to different types of construction, (e) basis of differentiation in rates for different types of construction and (f) whether the overhead is directly or indirectly assigned.

2. State the general policy with respect to the capitalization of allowance for funds used during construction to include: (a) the general classes of property included in the allowance base, (b) the method used to compute the allowance, (c) the allowance computation period and (d) the specific factors to support the allowance rate for the year.

Revise:

2. Show below the computation of allowance for funds used during construction rates, in accordance with the provisions of Gas Plant Instruction 3 (17).

Add:

3. Where a net of tax rate for borrowed funds is used, show the appropriate tax effect adjustment to the computations below in a manner that clearly indicates the amount of reduction in the gross rate for tax effects.

Components of formula ( derived from actual book balances and book cost rates):

Title	Amount	Capitalization Ratio (percent)	Cost Rate Percentage
Average short-term debt	S _____		s _____
Short-term interest rate			
Average long-term debt	D _____		d _____
Average preferred stock	P _____		p _____
Average common equity	C _____		c _____ 1/
Total capitalization	_____	100%	
Average construction work in progress balance	W _____		

$$\text{Rate for borrowed funds} = s \left( \frac{S}{W} \right) + d \left( \frac{D}{D+P+C} \right) \left( 1 - \frac{S}{W} \right)$$

$$\text{Rate for other funds} = \left[ 1 - \frac{S}{W} \right] \left[ p \left( \frac{P}{D+P+C} \right) + c \left( \frac{C}{D+P+C} \right) \right]$$

1/ Rate shall be the rate granted in the last rate proceeding. If such is not available, the average rate actually earned during the preceding three years shall be used.

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Docket No. RM75-27  
FPC Form No. 1-1 and 2-1

Annual Report of ..... Year ended December 31, 19 .....

### STATEMENT OF INCOME FOR THE YEAR

LINE NO	ACCOUNT (a)	TOTAL		ELECTRIC
		CURRENT YEAR (b)	CHANGE FROM PRIOR YEAR (c)	CURRENT YEAR (d)
1	OPERATING REVENUES			
2	Operating revenues (400) .....	\$	\$	\$
3	Operating expenses:			
4	Operating expense (401) .....			
5	Maintenance expense (402) .....			
6	Depreciation expense (403) .....			
7	Amortization expense (specify by account) .....			
8	.....			
9	.....			
10	.....			
11	Taxes other than income taxes (408.1) .....			
12	Income taxes: Federal (409.1) .....			
13	Other (409.1) .....			
14	Provision for deferred income taxes (410.1) .....	( )		( )
15	Provision for deferred income taxes-cr. (411.1) .....			
16	Investment tax credit adjustment-net (411.4) .....	( )		( )
17	Gains from disposition of utility plant (411.6) .....			
18	Losses from disposition of utility plant (411.7) .....			
19	Total utility operating expenses .....	\$	\$	\$
20	Net utility operating income .....	\$	\$	\$
21	OTHER INCOME AND DEDUCTIONS			
22	Other Income:			
23	Nonutility operating income (415-418) .....			
24	Interest and dividend income (419) .....			
25	Allowance for funds during construction (419.1) .....			
26	Miscellaneous nonoperating income (421) .....			
27	Gain on disposition of property (421.1) .....			
28	Total other income .....	\$	\$	
29	Other income deductions:			
30	Loss on disposition of property (421.2) .....			
31	Miscellaneous amortization (425) .....			
32	Miscellaneous income deductions (426.1 - 426.5) .....			
33	Total other income deductions .....	\$	\$	
34	Taxes applicable to other income and deductions:			
35	Taxes other than income taxes (408.2) .....			
36	Income taxes: Federal (409.2) .....			
37	Other (409.2) .....			
38	Provision for deferred income taxes (410.2) .....			
39	Provision for deferred income taxes-cr. (411.2) .....			
40	Investment tax credit adjustment-net (411.5) .....			
41	Investment tax credits (420) .....			
42	Total taxes applicable to other income and deductions .....	\$	\$	
43	Net other income and deductions .....	\$	\$	
44	INTEREST CHARGES			
45	Interest on long-term debt (427) .....			
46	Amortization of debt discount and expense (428) .....			
47	Amortization of loss on reacquired debt (428.1) .....			
48	Amortization of premium on debt-credit (429) .....			
49	Amortization of gain on reacquired debt-cr. (429.1) .....			
50	Interest on debt to associated companies (430) .....			
51	Other interest expense (431) .....			
52	Total interest charges .....	\$	\$	
53	Income before extraordinary items .....	\$	\$	
54	EXTRAORDINARY ITEMS			
55	Extraordinary income (434) .....			
56	Extraordinary deductions (435) .....			
57	Net extraordinary items .....	\$	\$	
58	Income taxes - Federal and other (409.3) .....			
59	Extraordinary items after taxes .....	\$	\$	
60	NET INCOME .....	\$	\$	

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FPC Form No. 5 Docket No. RM75-27

FEDERAL POWER COMMISSION FPC Form No. 5		Form Approved OMB No. 54R080					
MONTHLY STATEMENT OF ELECTRIC OPERATING REVENUE AND INCOME							
NAME OF COMPANY:		CODE #	REPORT FOR THE MONTH OF:				
ADDRESS: (number, street, city, state and zip code)							
Line No.	ITEM	REVENUES AND INCOME (Omit Cents)		Sales (Thousands Kwh)		Customers	
		Previous Year	Current Year	Previous Year	Current Year	Previous Year	Current Year
1	SALES OF ELECTRIC ENERGY:						
2	Residential Service.....						
3	Commercial Service.....						
4	Industrial Service.....						
5	Other Sales to Ultimate Consumers..						
6	Total Sales to Ultimate Consumers..						
7	Sales for Resale.....						
8	Total Sales of Electric Energy....						
9	OTHER ELECTRIC REVENUES.....			DIVIDENDS DECLARED (Omit Cents)			
10	TOTAL ELECTRIC OPERATING REVENUES....						
11	ELECTRIC OPERATING EXPENSES:						
12	Operation & Maintenance Expenses(a).....						
13	Depreciation and Amortization.....						
14	Taxes Other Than Income Taxes.....						
15	Income Taxes - Federal.....						
16	Income Taxes - Other.....						
17	Prov. for Deferred Income Taxes Net.....						
18	Investment Tax Credit Adjustments-Net.....						
19	Total Taxes.....						
20	Total Electric Operating Expenses.....						
21	NET ELECTRIC OPERATING REVENUES.....						
22	INCOME FROM ELECTRIC PLANT LEASED TO OTHERS.....						
23	ELECTRIC UTILITY OPERATING INCOME.....						
24	OTHER UTILITY OPERATING INCOME.....						
25	DISPOSITION OF UTILITY PLANT.....						
26	TOTAL UTILITY OPERATING INCOME.....						
27	OTHER INCOME AND DEDUCTIONS-NET.....						
28	ALLOWANCE FOR FUNDS USED DURING CONSTRUCTION.....						
29	TOTAL INCOME.....						
30	Interest on Long-Term Debt.....						
31	Amort. Debt Disc., Prem. & Expense.....						
32	Amort. of Gain and Loss on Reacquired Debt-Net.....						
33	Other Interest Charges.....						
34	Total Interest Charges.....						
35	INCOME BEFORE EXTRAORDINARY ITEMS....						
36	EXTRAORDINARY ITEMS-NET.....						
37	NET INCOME.....						

(a) STATE SEPARATELY THE FOLLOWING DETAIL:

36	Salaries and Wages Charged to Electric Operations.....		
37	Fuel Expense for Production of Electric Energy.....		

One Copy is for your File

\* Accounts 411.6 and 411.7

FPC Form No. 11 Docket No. RM75-27		REFERENCE DATA		
FEDERAL POWER COMMISSION FPC Form No. 11		COMPANY CODE NO.	Form Approved Budget Bureau No. 54R056	
NATURAL GAS PIPELINE COMPANY MONTHLY STATEMENT		FOR MONTH OF	Page 1 of 5	
INSTRUCTIONS - Each "major" natural gas interstate pipeline company, listed on the reverse side of this page, shall complete and return two copies to the Federal Power Commission within 40 days after the end of the reported month. Retain one copy for your files. Include brief description of		any adjustments significantly affecting the monthly statement. Estimates subject to later revision are permissible. Year ago estimates now revised should be identified by a double asterisk (**).		
RETURN TO	FEDERAL POWER COMMISSION WASHINGTON, D. C. 20426			
ATTN: OFFICE OF ACCOUNTING AND FINANCE				
FROM (Name of Company)				
ADDRESS (Number, Street, City, State and Zip Code)				
SIGNATURE (Chief Accounting Officer)		DATE PREPARED (Enter numerically, month, day and year)		
TABLE 1 CONDENSED STATEMENT OF INCOME				
ITEM (a)	CURRENT YEAR (Omit cents)		PREVIOUS YEAR (Omit cents)	
	24 (b)	34 (c)	24 (b)	34 (c)
(Indicate contra items by a minus sign preceding the amount.)				
Utility Operating Income:				
1. Gas Operating Revenues (400) -				
Gas Operating Expenses:				
2. Operation and maintenance (401, 402) -				
3. Depreciation, depletion, and amortization (403 - 407) -				
4. Taxes other than income taxes (408.1) -				
5. Income taxes - Federal (408.1) -				
6. Income taxes - Other (408.1) -				
7. Provision for deferred income taxes-Net (410.1, 411.1) -				
8. Investment tax credit adjustments (Net) (411.4) -				
9. Total taxes -				
10. Total operating expenses -				
11. Net gas operating revenues -				
12. Income from gas plant leased to others (412, 413, 408.1, 409.1) -				
13. Gas utility operating income -				
14. Other utility operating income (414, 408.1, 409.1) -				
15. Disposition of utility plant (411.6, 411.7) -				
16. Total utility operating income -				
17. Other income and deductions - Net- (except Allowance for funds used during construction (419.1).) (415-419, 421-421.2, 425-426.5, 408.2-411.2, 411.5, 420) -				
18. Allowance for funds used during construction (419.1) -				
19. Total income -				
Interest Charges:				
20. Interest on long-term debt (427) -				
21. Amort. of debt discount, premium & expense (428, 429) -				
22. Amortization of gain or loss on reacquired debt - Net - (428.1, 429.1) -				
23. Other interest charges (430, 431) -				
24. Total interest charges -				
25. Income before extraordinary items -				
26. Extraordinary items -Net- (434, 435, 409.3) -				
27. Net income -				

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[FR Doc.75-13792 Filed 5-28-75;8:45 am]

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## FEDERAL TRADE COMMISSION

[16 CFR Part 441]

## MOBILE HOME SALES AND SERVICE

## Proposed Trade Regulation Rule

Notice is hereby given that the Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41, et seq., the provisions of Part 1, Subpart B of the Commission's Procedures and Rules of Practice, 16 CFR 1.7, et seq., and § 553 of Subchapter II, Chapter 5, Title 5, U.S. Code (Administrative Procedure), has initiated a proceeding for the promulgation of a Trade Regulation Rule concerning mobile home sales and service.

Accordingly, the Commission proposes the following Trade Regulation Rule and to amend Subchapter D, Trade Regulation Rules, Chapter 1 of 16 CFR by adding a new Part 441.

- Sec.
- 441.1 Definitions.
  - 441.2 Warranty performance systems.
  - 441.3 Warrantor reliance on third parties.
  - 441.4 Written warranties and other related documents.
  - 441.5 Disclaimers, limitations, and exclusions.
  - 441.6 Prohibited conditions precedent.
  - 441.7 Dimensions of mobile homes.
  - 441.8 Labels, seals, or certifications.

AUTHORITY: 38 Stat. 717, as amended (15 U.S.C. 41, et seq.).

## § 441.1 Definitions.

For the purpose of this part, the following terms and definitions shall apply:

(a) "Consumer" shall refer to a buyer (other than for purposes of resale) of a mobile home which is used or bought for use primarily as a place of residence, any person to whom such mobile home is transferred during the duration of an implied or written warranty applicable to the mobile home, and any other person who is entitled under the terms of such warranty or under applicable Federal or State law to enforce against the warrantor the obligations of the warranty.

(b) "Mobile home" refers to a structure, transportable in one or more sections, which is eight body feet or more in width and is thirty-two body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

(c) "Defect" refers to any non-conformity in the performance, construction, components, or material of a mobile home that renders the home or any part thereof not in accordance with the obligations under the contract of sale or not fit for the ordinary use for which it was intended.

(d) "Written warranty" refers to: (1) Any written affirmation of fact or written promise made in connection with the retail sale of a mobile home by a warrantor to a consumer which relates to the nature of the material or workmanship and affirms or promises that

such material or workmanship is defect free or will meet, a specified level of performance over a specified period of time, or

(2) Any undertaking in writing in connection with the sale by a warrantor of a mobile home to refund, repair, replace or take other remedial action with respect to such mobile home in the event that such mobile home fails to meet the specifications set forth in the undertaking, which written affirmation, promise or undertaking becomes part of the basis for the bargain between a warrantor and a consumer of such mobile home.

(e) "Implied warranty" refers to an implied warranty arising under State law as modified, if at all, under Federal law.

(f) "Warrantor" refers to a corporation, a partnership, or other person engaged in the manufacture, wholesale or retail sale, offering for wholesale or retail sale, distribution, financing, or servicing of mobile homes produced or sold primarily for use by consumers, who gives or offers a written warranty or who is or may be obligated under an implied warranty.

(g) "Manufacturer" refers to any corporation, partnership, or person engaged in the manufacture, assembly, and wholesale sale of mobile homes, including any corporation, partnership, or person engaged in importing mobile homes for resale.

(h) "Corporate headquarters" refers to the location where the offices of the most senior officers in the hierarchy of a manufacturer's enterprise are located and/or where responsibility for management of the enterprise on a company-wide basis is generally exercised.

(i) "Authorized dealer" refers to a business enterprise, including but not necessarily limited to a corporation, a partnership, and an individual proprietor, neither owned nor controlled by a manufacturer, formed for the purpose of selling and servicing products, including but not limited to new mobile homes, from one or more established and recognizable locations, and which is authorized and approved by one or more manufacturers to buy and sell to consumers new mobile homes produced by said manufacturers.

(j) "Tender of possession" refers to the time when the mobile home has been properly set up at the consumer's home site and all necessary documents and keys are transferred to the consumer or the consumer's representative to enable the consumer to exercise the right to take possession and to complete delivery. *Provided, however,* That in cases where the initial set up of the home was arranged by the consumer and not by or through the manufacturer or authorized dealer, "tender of possession" refers to the time when all necessary documents and keys are transferred to the consumer or the consumer's representative to enable the consumer to exercise the right to take possession and to complete delivery.

(k) "Home site" refers to a plot of land designated by the consumer as the

location where the mobile home is to be set up or the location where the mobile home has in fact been set up.

(l) "Set up" refers to the operation whereby a mobile home is installed, leveled, and tied down on a permanent foundation of cinder blocks, cement piers, steel horses, or the like which properly distribute and support its weight. In the case of double-wide and triple-wide homes, "set up" includes the assembly of the two or more units of the mobile home and the sealing of the seams. "Set up" may also include the connection of certain utilities in accordance with local law.

(m) "Normal course of business" refers to the usual or regular manner of operation of the business enterprise in question under ordinary conditions. "Normal course of business" does not include:

(1) Conditions under which abnormal demands are made upon service capabilities as the result of natural disasters, or other acts of God or the government, or any other event beyond the control of the warrantor and, where applicable, its authorized dealers or other third parties which places an unusually large demand upon service facilities; and

(2) Events such as disasters, strikes, acts of the government, instances of force majeure or other occurrences which are beyond the control of the warrantor and, where applicable, its authorized dealers and other third parties which prevent the warrantor and, where applicable, its authorized dealers or other third parties from responding to service requests within the time periods stated herein; and

(3) Slight omissions or deviations from the provisions of this part which are inadvertent, unintentional, and are not due to bad faith.

## § 441.2 Warranty performance systems.

In connection with the manufacture, sale, offering for sale, distribution, and service of mobile homes produced or sold primarily for use by consumers in commerce, as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice within the meaning of section 5 of that Act for a corporation, partnership, person, or other business entity to offer or otherwise provide, any written or implied warranty unless the warrantor establishes and maintains a regular and effective warranty performance system which is designed to assure that each consumer of mobile homes so warranted will receive full performance of all such warranty obligations either directly or by action through its authorized dealers or other third parties within the time period requirements set forth hereinbelow and unless the warrantor performs all of its obligations under such warranty within such time period requirements. An effective warranty performance system which is designed to assure that each consumer of a mobile home receives full performance of the warrantor's obligations under the warranty shall incorporate but not necessarily be limited to the following:

(a) The warrantor shall perform warranty service and repair obligations arising subsequent to the tender of possession of the home to the consumer by the warrantor, either directly or through an authorized dealer or other third parties at the site of the mobile home.

(b) The warrantor shall, directly or through an authorized dealer or other third parties, in the normal course of business, commence all warranty service or repair of defects giving rise to a condition which affects the safety of a mobile home or renders it substantially uninhabitable as soon as possible but in no event later than three business days following receipt of notice of such a defect by the warrantor from the retail purchaser or two business days following notice of the determination by the warrantor's authorized dealer or other third parties to rely upon the warrantor to perform or to complete service or repairs requested by consumers with respect to such defects. Such repairs are to be completed expeditiously.

(c) The warrantor shall, directly or through an authorized dealer or other third parties, in the normal course of business, respond to notice of the need for service and repairs of warranty defects other than those set forth in paragraph (b) of this section, within a reasonable time not to exceed seven business days of receipt of notice of such defects by the warrantor, its authorized dealer or other third parties, and complete such service or repairs within a reasonable time not to exceed thirty days following said receipt of notice.

(d) The warrantor shall assure that in the event of a bona fide dispute between the warrantor or its dealers and a consumer pursuant to § 441.3(f) of this part, as to whether the defect(s) complained of by the consumer are or are not covered by an applicable warranty, then: In the event it is determined that warranty service or repair is required, which determination shall be made promptly, the warrantor shall be allowed, notwithstanding the provisions of paragraphs (b) and (c) of this section with respect to the time allowances for repairs, in the normal course of business, from the date of notification of the dispute as set forth in this paragraph (d) of this section, no more than three business days in the case of defects referred to in paragraph (b) of this section to commence service or repair (such repairs to be completed expeditiously) and no more than thirty days in the case of defects referred to in paragraph (c) of this section to complete service or repair.

(e) The warrantor shall, either directly or through its authorized dealers or other third parties, in the normal course of business, inspect each mobile home at the home site prior to or at the time of tender of possession to the consumer to assure that the home is being delivered to such consumer free of all defects which affect the safety of the mobile home or render it substantially uninhabitable and that it is properly set up.

(f) The warrantor shall, either directly or through its authorized dealers

or other third parties, in the normal course of business, reinspect each mobile home within a reasonable time not to exceed 90 days after tender of possession of the home to the consumer to determine the existence of defects in the mobile home or problems relating to its setup, and to correct or arrange for the correction of defects within the scope of any applicable warranty, or improper setup and problems arising therefrom.

(g) Results of the inspections required pursuant to paragraphs (e) and (f) of this section shall be set forth in a report or reports which, if performed by an authorized dealer or other third party, shall be signed by said authorized dealer or other third party and shall be signed by the consumer or said consumer's representative indicating agreement with the information set forth therein. If no signature of the consumer or said consumer's representative appears on such a report, the authorized dealer or other third party shall certify that the necessary inspections and repairs were in fact accomplished and state in writing the reason for the absence of the signature of the consumer or said consumer's representative to the best of the authorized dealer's or other third party's knowledge and belief. Notwithstanding the provisions of paragraphs (e) and (f) of this section, in the event that the initial setup of the mobile home is not provided by or arranged through the warrantor or the warrantor's authorized dealer but is arranged independently by the consumer of such mobile home, there shall be no obligation to make those portions of the inspections described in paragraphs (e) and (f) of this section which cannot be accomplished prior to the initial setup.

(h) The warrantor shall, in the normal course of business, obtain information as to the date of purchase and the name and address of the consumer of each of its mobile homes and shall maintain adequate records of the information so ascertained.

(i) Where the warrantor chooses to delegate, assign, contract, or otherwise rely on a continuing basis upon any authorized dealers or any third parties not employees of the warrantor to satisfy the obligations assumed by the warrantor under any warranty, whether written or implied by law, then the warrantor shall assure that if a dispute or disagreement should arise between the warrantor and one or more of its authorized dealers or other third parties as to which of them is to incur any such obligation, burden, or responsibility or is to correct a malfunction related or alleged to relate to the set up of the warrantor's mobile homes, any and all necessary repairs or other corrective action will be expeditiously accomplished, regardless of whether the dispute or disagreement has been resolved. Nothing in this section shall be construed to preclude a warrantor from replacing a mobile home, refunding the purchase price or taking any other remedial action with respect to the mobile home which is within the scope of the terms of the written or implied warranty applicable to such

mobile home; *Provided, however,* That such a refund, replacement or other remedial action with respect to a mobile home shall be delivered to the consumer within a reasonable time, taking into account the individual circumstances of each case, but in no event later than thirty days following the receipt of notice of the defect for which the remedy is provided.

## § 441.3 Warrantor reliance on third parties.

In connection with the manufacture, sale, offering for sale, distribution, and service of mobile homes produced or sold primarily for use by consumers in commerce, as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice within the meaning of section 5 of that Act for a mobile home manufacturer who is a warrantor to delegate, assign, contract with, or otherwise rely on a continuing basis upon any authorized dealers or any other third parties who are not employees of said manufacturer to: First, determine whether any mobile home constructed by the manufacturer contains any defects which are within the scope of any written or implied warranty or whether any such mobile home otherwise requires remedial action pursuant to any such warranty; second, notify the manufacturer of the existence of any such defects or need for remedial action pursuant to the aforesaid warranties; or third, perform any repairs or otherwise provide services in satisfaction of any warranty obligations incurred by the manufacturer, if the manufacturer shall fail to:

(a) Enter into a written service agreement with each such person desiring to be authorized to assume the responsibility of satisfying the manufacturer's mobile home warranty obligations on a continuing basis which sets forth the respective warranty service obligations to be discharged by the manufacturer and by the authorized dealer or other third party. Mobile home manufacturers who extend a warranty, express or implied, and rely upon authorized dealers or other persons not employees of said manufacturers to perform their warranty obligations shall require all such dealers and other persons to execute such agreements described herein within 180 days of the effective date of this part as a condition precedent to the manufacturer continuing the aforesaid delegation, assignment, contractual relationship or reliance subsequent to the 180th day following the effective date of this part. Dealers or the other third parties upon whom the manufacturer commences to rely, delegate, assign, or contract with as aforesaid after the effective date of the part shall execute such agreements prior to or at the time of said delegation, assignment, contracting, or reliance. Such agreements shall include but not necessarily be limited to:

(1) A clear and accurate description of the scope of those duties, burdens and responsibilities to be borne by the manu-



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facturer and those to be borne by authorized dealers or other third parties as aforesaid and a statement as to the allocation of responsibility for the proper set up of mobile homes constructed by the manufacturer;

(2) The requirement that the authorized dealer or other third party as aforesaid shall, in the normal course of business, commence all warranty service or repair of defects which become necessary as a result of a condition which affects the safety of the mobile home or renders it substantially uninhabitable, as soon as possible but not later than three business days following receipt of notice of such defects or condition by the authorized dealer or other third party, and shall complete such service or repairs expeditiously. In those cases in which the authorized dealer or other party determines to rely upon the manufacturer to perform or to complete service or repairs requested by consumers on such defects, such determination shall be made and communicated to the manufacturer immediately upon such determination but no later than two business days following receipt of notice of such defect from the consumer;

(3) The requirement that except as set forth in paragraph (a)(2) of this section the authorized dealer or other third party as aforesaid must respond to a request for warranty repairs or service within seven business days of the receipt of notice and must complete all such warranty service or repairs within a reasonable time, not to exceed thirty days in the normal course of business, following receipt of notice of such condition by such authorized dealer or other third party. In those cases in which the authorized dealer or other third party determines to rely upon the manufacturer to perform or to complete such service or repairs requested by the consumer, such determination shall be made and communicated to the manufacturer as soon as possible but no later than five business days following receipt of notice from the consumer;

(4) The requirement that the authorized dealer or other third party as aforesaid must, in the normal course of business, inspect each mobile home at the home site prior to or at the time of tender of possession to the consumer to assure that the home is being delivered to such consumer free of all defects which affect the safety of the home or render it substantially uninhabitable and that it is properly set up. Such an inspection shall be reported in written form to the manufacturer as described in paragraph (a)(6) of this section;

(5) The requirement that the authorized dealer or other third party as aforesaid must, in the normal course of business, reinspect each of the mobile homes constructed by the manufacturer at a reasonable time not to exceed 90 days following tender of possession of the home to the consumer to determine the existence of any defects in the mobile home or an improper set up or problems arising therefrom, and to correct or arrange for the correction of any such

conditions. Such a reinspection shall be reported in written form to the manufacturer as described in paragraph (a)(6) of this section;

(6) The requirement that the authorized dealer or other third party as aforesaid in the normal course of business provide the manufacturer with written reports which document the results of the inspections set forth in paragraphs (a)(4) and (5) of this section. The signature of the consumer or the consumer's representative thereon shall be required as certification that the inspections and repairs alleged therein to have been completed were in fact accomplished to the best of his or her knowledge and belief. *Provided, however,* That if the signature of the consumer or the consumer's representative cannot be obtained, the authorized dealer or other third party shall so state in writing in the report and shall also state the reasons for the absence of the required signature to the best of his or her knowledge and belief. Notwithstanding the provisions of paragraphs (a)(4) and (5) of this section, in cases where the initial set up of the mobile home was not provided by or arranged through the warrantor or the warrantor's authorized dealer but was arranged independently by the consumer of such mobile home, there shall be no obligation to make those portions of the inspections described in paragraphs (a)(4) and (5) of this section which cannot be accomplished prior to the initial set up of the mobile home;

(7) The requirement that the authorized dealer or other third party as aforesaid establish and maintain, or contract for the services of personnel and facilities which are capable of providing all necessary warranty repairs and service within the time period requirements set forth in paragraphs (a)(2) and (3) of this section in the normal course of business.

(8) A statement that the manufacturer shall have the right to withdraw authorization from authorized dealers and other third parties as aforesaid who fail to meet their responsibilities under the written service agreement as set forth herein;

(9) A provision providing for the disposition of the manufacturer's continuing obligation, subsequent to the time that authorization has been withdrawn, to perform warranty service on mobile homes sold by the dealer until such time as the terms of all warranties outstanding on such homes have expired.

(b) Fully scrutinize and evaluate the number of personnel, level of expertise, and adequacy of facilities and equipment of such parties desiring to be authorized to perform warranty obligations incurred by the manufacturer on a continuing basis with respect to their ability to capably perform all necessary warranty service, repairs, and set up of said manufacturer's mobile homes within the standards to be set forth in the agreement prior to the authorization of a dealer or reliance upon any other third party as aforesaid. A check of credit references and other evidence of the financial standing of the dealer is not

by itself sufficient to comply with the requirements of this paragraph. If a prospective authorized dealer chooses to rely on an outside service agency with respect to set ups, warranty repairs and service, the manufacturer shall satisfy itself as to the capability of said agency to perform adequate set ups and service through a regular procedure capable of providing a true and objective assessment of such agency's set up, repair, and service capability.

(c) Establish a regular procedure for the effective ongoing evaluation of the manner in which authorized dealers or other third parties as aforesaid maintain their service and set up capability and the manner in which they perform such warranty and set up responsibilities. Such a procedure shall include but not necessarily be limited to the dissemination of a questionnaire to all consumers who purchase the manufacturer's mobile homes at retail within 60 to 120 days subsequent to the date of tender of possession of the home to the consumer but in no event prior to ten days following reinspection of the home which inquiries as to the following:

(1) The existence of any defects in said mobile homes within the scope of the manufacturer's written warranty and any warranties implied by law or of an improper set up or any problems arising therefrom;

(2) The name of the person, if any, whom the mobile home consumer notified as to the existence of said defects or set up problems;

(3) The identity of any person who sought to service or repair any such defects or set up problems;

(4) Whether such defects or set up problems were fully repaired, the period of time required to effect such repairs, and the identity of the parties who accomplished such repairs;

(5) Whether the consumer is satisfied with the promptness and quality of the repairs made on his or her home to date. Such questionnaire shall be sent in the form of a pre-paid self-addressed postcard or a letter containing a pre-paid self-addressed envelope. Such a procedure shall also include regular periodic visits by one or more employees of the manufacturer to review the service facilities and personnel maintained by the authorized dealer or other third party. Such a visit and review shall be immediately initiated by the manufacturer upon the receipt of an unreasonable number of meritorious complaints or unsatisfactory reports, questionnaires or other similar communications from consumers. The manufacturer shall forthwith terminate its authorization of and reliance on authorized dealers or other third parties who fail to meet the responsibilities and standards set by the manufacturer pursuant to the written service agreement and this part.

(d) Assure that the person or persons to whom responsibility for supervising and assuring the implementation of the manufacturer's warranty service program is delegated shall make periodic reports at least on a monthly basis to the

manufacturer's responsible officers. Such reports shall include but not necessarily be limited to current information concerning:

(1) The current cost to the manufacturer of warranty service;

(2) The incidence and nature of frequently recurring defects and of defects which have been determined to deleteriously affect the health and safety of the occupants of mobile homes containing such defects;

(3) Those measures undertaken in response to reports of defects described in paragraph (d)(2) of this section including but not necessarily limited to modification in production and design of the manufacturer's mobile homes;

(4) Analysis of the manner in which the manufacturer's employees, authorized dealers and other third parties are performing their warranty and set up responsibilities.

(e) With respect to manufacturers who produce in excess of 5,000 mobile homes annually, vest the direct administration of such manufacturer's warranty service program at the corporate headquarters level and the responsibility for supervising and assuring the implementation of the warranty service program in only those corporate officials who have no direct responsibilities on a day-to-day basis for the sale of the manufacturer's mobile homes.

(f) Establish a uniform procedure for the systematic receipt and analysis and fair disposition of all complaints or disputes which may arise between the aforesaid consumers of mobile homes constructed by the manufacturer and the manufacturer, its agents, assigns, successors, or other third parties including but not necessarily limited to the manufacturer's authorized dealers, with respect to any alleged warranty obligations of the manufacturer. Such a procedure shall incorporate but not necessarily be limited to:

(1) The prompt evaluation of and response by the manufacturer, directly or by action through a third party, in the normal course of business, to all complaints within a reasonable time not to exceed five business days after receipt of such complaints;

(2) With respect to manufacturers which produce in excess of 5,000 mobile homes annually, the designation of a single focal point within the corporation for the receipt of consumer complaints regarding warranty repairs or set up programs;

(3) An effective mechanism for the fair and impartial resolution of disputes with respect to alleged warranty obligations. With respect to manufacturers which produce in excess of 5,000 mobile homes annually, the responsibility for resolving disputes through the above-described mechanism shall be vested in only those personnel who are not responsible for sales on a day-to-day basis;

(4) An accurate and complete record keeping system regarding the nature and disposition of all such disputes and complaints received by the manufacturer;

(5) Periodic review and evaluation by

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the manufacturer as to the effectiveness of such procedures and correction of such procedures where necessary;

(g) Maintain full and accurate records and to periodically review such records which shall disclose:

(1) The date of receipt, the disposition, and the date of disposition of each request for warranty service (including any refusal of a request for service or repairs and the reasons for such refusal) received by the manufacturer; and

(2) The results of the evaluations of service capacity provided for in paragraph (c) of this section and the results of any action taken with respect thereto.

## § 441.4 Written warranties and other related documents.

In connection with the manufacture, sale, offering for sale, distribution, and service of mobile homes produced or sold primarily for use by consumers in commerce, as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice within the meaning of section 5 of that Act for a warrantor who chooses to disseminate a written warranty not to provide consumers with a written warranty and other related documents which clearly and fully describe and effectively communicate to the consumer, in simple and readily understood language the manner in which the warrantor intends to provide for the performance of warranty obligations, including disclosure of any delegation of warranty responsibility to third parties; *Provided, however,* That disclosure of said delegation must be accompanied by additional disclosure that such delegation in no way relieves the warrantor of the ultimate responsibility to fulfill all warranty obligations.

## § 441.5 Disclaimers, limitations, and exclusions.

In connection with the manufacture, sale, offering for sale, distribution, and service of mobile homes produced or sold primarily for use by consumers in commerce, as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice within the meaning of section 5 of that Act to suffer or permit mobile homes to be sold either directly or by action through a third party, without any written or implied warranties or limitations or exclusions of liability under any warranty or to disseminate or cause the dissemination of any statement or representation which represents directly or by implication that any written or implied warranty has been limited or excluded unless the person or persons so representing have a reasonable basis, in the form of an opinion by legal counsel, that said disclaimer, limitations and exclusions are enforceable under governing Federal and State law, and clear and conspicuous notice of such "as is" sale or other disclaimer, limitation or exclusion is given to prospective consumers of their mobile homes prior to the execution of the contract of retail purchase. *Provided, however,* That with respect to the "as is" sale of damaged, salvaged, demonstrator or

repossessed mobile homes, the aforesaid opinion by legal counsel shall not be required. A clear and conspicuous notice of an "as is" sale shall contain the following language:

## NOTICE

The manufacturer of this mobile home sells it "as is" and refuses to assume any responsibility for defects. The purchaser of this mobile home must accept it with all defects and take the entire risk, under contract law, as to its condition.

## § 441.6 Prohibited conditions precedent.

In connection with the manufacture, sale, offering for sale, distribution, and service of mobile homes produced or sold primarily for use by consumers in commerce, as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice within the meaning of section 5 of that Act, notwithstanding the provisions of § 441.4(g) for any warrantor of a mobile home to:

(a) Disseminate a written warranty or any documents associated therewith which require or purport to require the return of the home or any defective part thereof to the location of its manufacture as a condition precedent to obtaining warranty repairs or service;

(b) Disseminate a written warranty or any documents associated therewith which require or purport to require the return of a warranty card, owner's registration card, or any similar document bearing certain information about the consumer or the retail purchase transaction as a condition precedent to the validation of the warranty or as a condition precedent to the manufacturer's obligation to perform warranty repairs and service on said consumer's mobile home.

## § 441.7 Dimensions of mobile homes.

In connection with the manufacture, sale, offering for sale, distribution, and service of mobile homes produced or sold primarily for use by consumers in commerce, as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice within the meaning of section 5 of the Act for any manufacturer of mobile homes to disseminate or cause the dissemination of any representation or statement which represents, directly or by implication, the dimensions of mobile homes unless the actual dimensions of the mobile homes, from exterior wall to exterior wall, and the dimensions of any tow hitch or other appendage, not part of said living space are clearly and conspicuously disclosed.

## § 441.8 Labels, seals, or certifications.

In connection with the manufacture, sale, offering for sale, distribution, and service of mobile homes produced or sold primarily for use by consumers in commerce, as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice within the meaning of section 5 of that Act to use or disseminate any label, seal or certification which makes any representation, directly or by implication, as to the compliance of the mobile homes with any standard, code or the like re-

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garding construction or performance characteristics without disclosing clearly, conspicuously and in close conjunction therewith exactly what said label, seal or certification means and what remedy, if any, is available to a consumer in the event that his or her mobile home is not in compliance with said code or standard. For example, a clear and conspicuous disclosure in close conjunction with a label, seal or certification attached to a mobile home which represents directly or by implication that the particular home is in full compliance with ANSI Standard A119.1 shall consist of the following:

There is no assurance by the manufacturer that this mobile home complies with every requirement of ANSI Standard A119.1. If you believe that this mobile home is not in compliance with ANSI Standard A119.1, the manufacturer suggests that you consult your warranty for instructions on obtaining necessary corrective action.

## STATEMENT OF REASON FOR THE PROPOSED RULE

It is the Commission's purpose, in issuing this statement, to set forth its reason for proposing this Trade Regulation Rule with sufficient particularity to allow informed comment. In this proceeding, it has been determined that meaningful comment by the public will be best facilitated by presenting (1) a statement describing the basic factual and legal premises upon which the Commission has determined to propose the rule, and (2) a series of questions designed to draw to the public's attention matters which the Commission presently deems particularly pertinent and on which comment is especially solicited.

The Commission emphasizes that neither the statement of factual and legal premises nor the questions should be interpreted as designating disputed issues of specific fact. Such designations shall be made by the Commission or its duly authorized presiding official pursuant to the Commission's Rules of Practice.

## STATEMENT

Based upon the information gathered to date, the Commission has reason to believe that:

1. Mobile home warranty performance often does not conform to the representations of warrantors of mobile homes.
2. Substantial numbers of mobile home purchasers in need of warranty service are subjected to unreasonable delay or have never received adequate redress of their warranty problems due to the failure of mobile home warrantors to maintain adequate warranty performance systems reasonably designed to assure that each mobile home consumer receives full performance of warranty repairs within a reasonable time.
3. The practices which contribute to the inadequate performance of mobile home warranty repairs and service include:

a. The delegation by warrantors of substantial warranty responsibilities to mobile home dealers and other third parties without sufficient safeguards to assure

that both the warrantor and the party to which warranty responsibilities have been delegated understand and live up to their agreed upon obligations.

b. The failure of warrantors to systematically scrutinize the ability of a dealer or other third party to perform warranty service and set up prior to the time that the dealer or other third party is delegated the responsibility of servicing the warrantor's mobile homes.

c. The absence of a written service contract between warrantors and their authorized dealers or other third parties to define the scope of their respective responsibilities with respect to service and to make those duties legally enforceable.

d. The lack of regular monitoring of the actual performance of warranty service and set up by authorized dealers or other third parties after a warrantor has delegated the responsibility of servicing its mobile homes to such parties.

e. The failure of warrantors to maintain adequate staff or procedures for the systematic and fair resolution of warranty-related complaints or disputes.

f. The failure of warrantors or their authorized dealers or other third parties to respond to warranty requests within a reasonable time.

g. The delay of needed repairs until after the settlement of disputes between warrantors and their authorized dealers or other third parties as to which party is responsible for the repair in question.

4. Warrantors have disseminated mobile home warranties which contain disclaimers, limitations, and exclusions of express and implied warranties in States where such disclaimers, limitations, and exclusions are unenforceable under governing State law.

5. Warrantors have disseminated mobile home warranties which contain certain conditions precedent to warranty service which have the capacity or tendency to mislead consumers as to the extent of their warranty coverage.

6. Manufacturers and others have utilized representations in promotional materials of the length of mobile homes as a certain distance which includes three to four feet for the length of the tow hitch; such representations have the capacity or tendency to mislead consumers by inducing them to believe that the represented length dimension is the total distance between the outer front and rear walls of the mobile home, rather than the overall length of the mobile home including the tow hitch.

7. Manufacturers have utilized and displayed certification seals which represent either directly or by implication that a particular mobile home is in total compliance with certain construction codes or standards; such use of certification seals has the capacity or tendency to mislead prospective purchasers as to the quality of the particular mobile home they are considering for purchase and has the capacity or tendency to mislead actual purchasers by inducing them to believe that their particular home is in compliance with the codes or standards. In addition, the Commission has reason to believe that mobile home consumers

are inadequately informed as to what steps should be taken in order to obtain remedial action for defects in their homes which may in fact be code violations.

The Commission's authority to prescribe rules which define with specificity acts or practices which are unfair or deceptive acts or practices in or affecting commerce is set forth in section 18(a) (1) (B) of the Federal Trade Commission Act, as amended (15 U.S.C. 57(a) (1) (B)). Such rules may include requirements prescribed for the purpose of preventing such acts or practices. Accordingly, it appears to the Commission that the relief which is now set forth in the various sections of the proposed rule is mandated by section 5 of the Federal Trade Commission Act because:

1. Those mobile home warrantors who fail to establish and maintain regular and effective warranty performance systems designed to assure that each consumer of a mobile home that is warranted will receive full performance of warranty service and repairs within a reasonable period of time (as delineated in the proposed rule) are engaging in unfair or deceptive acts or practices within the meaning of section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

2. Certain acts and practices used in connection with mobile home warranty provisions and other associated documents should be prohibited or restricted in order to prevent deception as to the extent of warranty coverage in violation of section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

3. The use of descriptions of mobile home dimensions and the use of certification seals which have the capacity or tendency to mislead consumers should be prohibited and, instead, such descriptions of mobile home dimensions and such certification seals should be worded so that they are presented to consumers in a manner which will not be deceptive in violation of section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

The Commission has determined that it has reason to believe the above statements on the basis of information compiled during an extensive investigation of the manufacturing, advertising, sales and service practices engaged in by the mobile home industry. In the course of this investigation, the staff has received documentary evidence of these practices and has conducted interviews with consumers; representatives of mobile home manufacturers, dealers, and trade associations; Federal, State, and local officials; and other interested parties. The Commission has not adopted any of the findings or conclusions of the staff. All findings in this proceeding shall be based solely on materials in the rulemaking record.

The terms of the proposed rule differ in some respects from the terms which were made public in December 1974. The previous version of the proposed rule was not published in the Federal Register at that time due to the need to assess the impact of the Magnuson-Moss War-

ranty—Federal Trade Commission Improvements Act (Pub. L. 93-637) on Commission rulemaking procedures. The most significant difference between the two versions of the proposed rule is the deletion of most of the provisions which appeared in the December 1974 version which related to disclosures to be contained in written mobile home warranties and other related documents. The Commission has reason to believe that the disclosure of the nature and extent of mobile home warranty coverage will, for the most part, be adequately treated by the warranty rules to be promulgated under section 102 of Title I of the Magnuson-Moss Warranty—Federal Trade Commission Improvements Act (15 U.S.C. 2302). In addition, several insubstantial language changes in § 441.1 (Definitions) of the proposed rule were made in order to assure that the language in that section conforms, where applicable and appropriate, to the language of 15 U.S.C. 2301 (Definitions) and of section 5402 (Definitions) of the National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. 5401, et seq.).

Finally, a provision has been added to § 441.2 (Warranty performance systems) in order to reflect the fact that under the Magnuson-Moss Act, a warranty may also provide for the replacement of the warranted mobile home, a refund of the purchase price or other remedial action with respect to the mobile home. Under this new provision of the proposed rule, a warrantor would be able to perform a promise under the warranty issued by that company to give a refund or to replace the home, but the proposed rule requires that the warrantor provide the chosen remedy within a reasonable time under the circumstances of the individual case but in no event later than thirty days after receipt of the notice of the defect for which the remedy is to be provided.

At the same time the December 1974 version of the proposed rule was made public, the Commission accepted four consent orders agreed to by mobile home manufacturers which provided for certain relief to past purchasers of those manufacturers' mobile homes and for the elimination of certain alleged unfair and deceptive acts and practices. The Commission, having reason to believe that such proceedings alone are inadequate to establish well defined standards of enforcement for the guidance of consumers, mobile home manufacturers, and other interested parties, undertakes herewith to define with specificity some acts or practices which may be unfair or deceptive and to prescribe requirements for the purpose of preventing such acts or practices.

## QUESTIONS

1. In the accompanying Statement of Reason for the proposed rule the Commission has outlined its tentative appraisal of deception and unfairness in the context of mobile home sales and service. How prevalent are the challenged practices set forth in the Statement, and in what manner and context

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are such acts and practices unfair or deceptive?

2. Section 441.2 (b), (c), and (d) sets forth certain time standards for the commencement and completion of the repair of defects which affect the safety of a mobile home or render it substantially uninhabitable, for the completion of other warranty repairs, for the response to a notification by a consumer of a defect and for the resolution of disputes with respect to warranty coverage. Are the respective time limits set forth in that section fair and workable? Would different time standards be more appropriate after potential consumer injury, feasibility, and cost to the warrantors are taken into account? Should these time standards be waived or modified in situations governed by 42 U.S.C. 5414 (g) and (h), and if so how should this waiver or modification be accomplished?

3. Section 441.2(e) and 441.2(f) presently require warrantors to assure that mobile homes manufactured by them are inspected at the home site prior to or at the time of tender of possession to the consumer and to reinspect the home within 90 days to assure that the home is being delivered free of defects which affects the safety of the home or render it substantially uninhabitable and to see that the home is properly set up. Would this requirement adequately protect consumers from moving into seriously defective homes? Would such a pre-delivery inspection result in expeditious repair (within the framework of the applicable requirements of the rule) of all defects discovered during the inspection? Would a reinspection of the home within 90 days assure that any settling of the home after the initial set up would be detected and corrected? Is the time standard contemplated by the 90 day limit sufficiently flexible to allow for both the discovery of most warranty problems and defects resulting from a faulty set up while still allowing for an expeditious follow up as to the satisfaction of the consumer by the mobile home warrantor?

4. Section 441.3(c) presently requires warrantors who delegate warranty responsibilities to authorized dealers or other third parties to establish a procedure for evaluating the effectiveness of the performance of warranty repairs by the authorized dealer or other third party, including the use of a consumer questionnaire to be sent to all retail purchasers after the reinspection of their mobile homes (between 60 and 120 days after the date of purchase). Will this requirement result in a reliable, inexpensive, and useful audit of the performance of warranty repairs by authorized dealers and other third parties, and will it reveal whether the mobile home consumers have received all necessary repairs? If not, what alternative or supplemental procedure would achieve these desired results?

5. Section 441.3(f) of the proposed rule requires the establishment by the warrantor of a procedure for resolving consumer complaints and disputes (which may involve manufacturers, dealers, and

other third parties) with respect to warranty problems. This procedure would not come within the purview of section 110 of Title I of the Magnuson-Moss Warranty—Federal Trade Commission Improvements Act (15 U.S.C. 2310) because the rule presently contains no provision for a dispute settlement procedure operated independently of the parties involved in the dispute. In light of section 110 of the Magnuson-Moss Act, is there an additional need in the case of mobile home warranty disputes for the proposed rule to set forth an effective mechanism, to be used in appropriate situations, for the independent, fair, and impartial arbitration of disputes with respect to warranty obligations? How might this arbitration best be accomplished?

6. Section 441.3 (e) and (f) contains requirements which are specifically not imposed upon mobile home manufacturers which produce fewer than 5,000 mobile homes annually. What is the economic effect of the rule on small business? Should special allowances for smaller manufacturers be made with respect to other requirements and why? Is a production figure of 5,000 mobile homes on an annual basis a reasonable cut-off point or would another figure be more appropriate? If so, why?

7. The proposed rule does not at present contain a requirement that the set up of a mobile home be subject to a warranty. Should § 441.2 of the proposed rule include a provision which would address itself to the problems relating to set up that mobile home purchasers appear to experience? If so, should additional measures, including a requirement that all set ups be subject to a separate warranty, be included in the proposed rule?

8. The proposed rule does not at present place any requirements directly upon retail dealers of mobile homes or other third parties except to the extent that such parties are warrantors within the meaning of the rule. In light of the expansion of the Commission's jurisdiction to acts and practices "in or affecting commerce" as "commerce" is defined in the Federal Trade Commission Act, would it be useful and appropriate to include provisions directly relating to the performance of warranty repairs, service, and set ups by mobile home dealers and other third parties in the proposed rule? If so, what provisions would serve to best assure the regular, expeditious and capable performance of warranty repairs and mobile home set ups by dealers and other third parties?

In addition to the above questions, the Commission desires, for each of the individual requirements contained in the proposed rule, comments on:

1. Any benefits which flow from any acts or practices which would be proscribed by the proposed rule;
2. Any detrimental effects which will result from the imposition of any requirement of the proposed rule; and
3. The economic effect of the proposed rule on consumers.

The Commission wishes to know whether consumer injury associated with practices restricted by the rule or with the



failure to utilize practices required by the rule, may be eliminated without eliminating the practices entirely, or without utilizing the practices required by the rule. That is, are there alternative and more desirable ways of attaining the results that the proposed rule seeks to achieve?

#### INVITATION TO PROPOSE ISSUES OF SPECIFIC FACT FOR CONSIDERATION IN PUBLIC HEARINGS

All interested persons are hereby given notice of opportunity to propose any disputed issues of specific fact, in contrast to legislative facts, which are material and necessary to resolve. The Commission, or its duly authorized presiding official, shall, after reviewing submissions hereunder, identify any such issues in a notice which will be published in the *FEDERAL REGISTER*. Such issues

shall be considered in accordance with section 18(c) of the Federal Trade Commission Act as amended by Public Law 93-637, and rules promulgated thereunder. Proposals shall be accepted until July 29, 1975, by the Special Assistant Director for Rulemaking, Federal Trade Commission, Washington, D.C. 20580. A proposal should be identified as a "Proposal Identifying Issues of Specific Fact—Mobile Home Sales and Service," and furnished, when feasible and not burdensome, in five copies. The times and places of public hearings will be set forth in a notice which will be published in the *FEDERAL REGISTER*.

#### INVITATION TO COMMENT ON THE PROPOSED RULE

All interested persons are hereby notified that they may also submit to the Special Assistant Director for Rulemak-

ing, Federal Trade Commission, Washington, D.C. 20580, data, views or arguments on any issue of fact, law or policy which may have some bearing upon the proposed rule. Written comments, other than proposals identifying issues of specific fact, will be accepted until ten days before commencement of public hearings, but at least until July 29, 1975. To assure prompt consideration of a comment, it should be identified as a "Mobile Home Comment" and furnished, when feasible and not burdensome, in five copies.

Issued: May 29, 1975.

By direction of the Commission.

[SEAL] CHARLES A. TOBIN,  
Secretary.

[FR Doc.75-13681 Filed 5-28-75; 8:45 am]

## notices

This section of the *FEDERAL REGISTER* contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

### DEPARTMENT OF STATE

[CM-5/56]

#### SHIPPING COORDINATING COMMITTEE— SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

##### Meeting

The working group on subdivision, stability and load lines of the Subcommittee on Safety of Life at Sea (SOLAS) will hold an open meeting on Tuesday, June 24, 1975, at 9:30 a.m., in Room 7234 of the Department of Transportation, 400 7th Street, SW., Washington, D.C.

The meeting will consider:

- Evaluation of Equivalent Regulations for Subdivision and Stability of Passenger Ships;
- Intact Stability of Offshore Supply Vessels;
- Subdivision and Stability of Mobile Offshore Units;
- Improvement of Regulation 27 of the 1966 Load Line Convention.

Requests for further information on the meeting should be directed to Mr. E. H. Middleton, Chairman of the working group on subdivision, stability and load lines, United States Coast Guard, 400 7th Street, SW., Washington, D.C. 20590. He may be reached by telephone on (area code 202) 426-2170.

Members of the public may submit written comments to the Chairman prior to June 18. The Chairman will, as time permits, entertain oral comments from members of the public attending the meeting.

RICHARD K. BANK,  
Director,  
Shipping Coordinating Committee.

MAY 19, 1975.

[FR Doc.75-13874 Filed 5-28-75; 8:45 am]

### DEPARTMENT OF DEFENSE

#### Department of the Navy

#### PROFESSIONAL EDUCATION ADVISORY COMMITTEE, U.S. MARINE CORPS

##### Meeting

Notice is hereby given, pursuant to the Federal Advisory Committee Act (5 U.S.C. App. I), that the Professional Education Advisory Committee, U.S. Marine Corps, will hold an open meeting on June 19 and 20, 1975, in room 120, Breckinridge Hall, Marine Corps Development and Education Command, Quantico, Virginia. The meeting will convene at 8 a.m., Thursday, June 19 and adjourn at 4:30 p.m., June 20. Limited

seating is available. The agenda will include recommendations concerning ways that the schools within the Education Center can ensure that their programs of instruction best prepare students to meet the professional requirements of their assignments subsequent to graduation, recommendations concerning the optional lengths of schools within the Education Center, and discussion of the proposed Education Center Adjunct Facility.

Any person desiring information about the Professional Education Advisory Committee, U.S. Marine Corps, may write to the Director, Education Center, Marine Corps Development and Education Command, Quantico, Virginia 22134.

Dated: May 22, 1975.

WILLIAM O. MILLER,  
Rear Admiral, JAGC, U.S. Navy,  
Deputy Judge Advocate General.  
[FR Doc.75-13872 Filed 5-28-75; 8:45 am]

#### Office of the Secretary

#### DEFENSE SCIENCE BOARD TASK FORCE ON SURFACE NAVAL WARFARE

##### Advisory Committee Meeting

The Defense Science Board Task Force on Surface Naval Warfare will meet in closed session on 26-27 June 1975 at the Pentagon, Washington, D.C. The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long range guidance in these areas to the Department of Defense.

The Task Force will undertake a review of the adequacy and directions of U.S. Navy programs in surface offensive operations in the face of continuing increases in Soviet capabilities in naval weapons, command and control, and out-of-area operations. The Task Force will concentrate first on U.S. programs in tactical surface surveillance, targeting, command and control, and weaponry for surface engagement to help assure that our R&D investments yield the greatest improvement in our total force capabilities, when deployed in quantities we can afford. Classified details of U.S. and Soviet systems will be reviewed.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, specifically subparagraph

(1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,  
Director, Correspondence and  
Directives, OASD (Comptroller).

MAY 22, 1975.

[FR Doc.75-13904 Filed 5-28-75; 8:45 am]

### DEPARTMENT OF THE INTERIOR

#### Bureau of Land Management

[NM 25670]

#### NEW MEXICO

##### Application

MAY 20, 1975.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 4½ inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 26 E.  
Sec. 3, lot 3.  
T. 20 S., R. 27 E.  
Sec. 28, SW¼SE¼;  
Sec. 33, W¼E½.

These pipelines will convey natural gas across 1.34 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, PO Box 1397, Roswell, NM 88201.

FRED E. PADILLA,  
Chief, Branch of  
Lands and Minerals Operations.

[FR Doc.75-13873 Filed 5-28-75; 8:45 am]

#### Fish and Wildlife Service


#### MAETON C. FREEL, JR.

#### Endangered Species Permit; Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant:  
Maeton C. Freel, Jr.,  
938 4th Street, Apartment 104  
Santa Monica, California 90403



 <b>DEPARTMENT OF THE INTERIOR</b> <b>U.S. FISH AND WILDLIFE SERVICE</b> <b>FEDERAL FISH AND WILDLIFE</b> <b>LICENSE/PERMIT APPLICATION</b>		1. APPLICATION FOR (Indicate only one) <input type="checkbox"/> SPORT OR EXPORT LICENSE <input checked="" type="checkbox"/> PERMIT	
2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: Capture, tagging and release of various marine mammals, migratory birds, and possible endangered species for tracking and population study purposes. Collection of data concerning above for analysis of cause of death and checking for presence of hydrocarbons in the body.		3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested) <b>MARTIN C. FREEL, JR.</b> <b>938 4th St. Apt. 104</b> <b>Santa Monica, Calif. 90402</b>	
4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING: MR. <input type="checkbox"/> MRS. <input type="checkbox"/> MISS <input type="checkbox"/> MR. <input type="checkbox"/> HEIGHT: 5'9" WEIGHT: 185 DATE OF BIRTH: 10/23/46 COLOR HAIR: Brn. COLOR EYES: Blue PHONE NUMBER WHERE EMPLOYED: 313-699-7234 SOCIAL SECURITY NUMBER: 455-66-7347 OCCUPATION: Wildlife Biologist ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: U.S. Bureau of Land Management Pacific OCS Office 3400 N. 4th Avenue, Suite 200 Los Angeles, Calif. 90012		5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING: EXPLAIN TYPE OR NAME OF BUSINESS, AGENCY, OR INSTITUTION: NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.: IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED:	
6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED: Along the coast of California and its offshore islands.		7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? (If yes, list license or permit number) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
8. CERTIFIED CHECK OR MONEY ORDER (If applicant) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF:		9. DESIRED EFFECTIVE DATE: 3/25/75	
10. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED: 502 FWS-18, 19, 20, 21, 22, 23		11. DURATION NEEDED: 1 year	
CERTIFICATION I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER 8 OF TITLE 18, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.			
SIGNATURE (In ink): <i>Martin C. Freel, Jr.</i>		DATE: 2/21/75	

**Introduction.** The Southern California Continental Borderland area contains a large and diverse fauna of marine mammals and the only major breeding sites for marine birds between San Francisco and the Mexican border. The possibility of future oil exploration and extraction in such a biologically important and sensitive area demands that baseline studies be made to assess the present location, size and health of populations of marine birds and mammals. Such information will permit wise planning for the area's resources so that damage to these attractive and important mammals and birds may be minimized and the effects of any oil-related accidents may be adequately documented.

**Presence of marine mammals and birds in the continental borderland.** In southern California, the Channel Islands provide the only major breeding areas for seabirds such as Western Gulls, Double-crested and Brandt's Cormorants, Xantus Murrelets and Brown Pelicans between San Francisco and the Mexican border. Since many of the seabirds breeding on the Channel Islands are already suffering from reduced reproductive success (in some cases due to chlorinated hydrocarbon pollution; see Risebrough et al., 1971; Gress et al., 1973), all efforts should be made to protect these birds from further harm.

**Vulnerability of organisms to oil.** Vulnerability to spilled oil or oil extraction procedures will vary from one organism to the next, depending upon behavior, mode of insulation and the seasonal timing of an oil spill. During the life cycle of many marine mammals there will be periods when exposure to floating oil or oiled beaches will be of particularly great potential danger.

One can only guess at the effects of deep-water offshore drilling and oil handling with its attendant ship activity upon most marine mammal populations. Certainly forms which reproduce on shore in highly restricted breeding grounds such as seals, sea elephants and sea lions are highly vulnerable. The sea otter, which relies upon fluffy clean fur for survival, is supremely vulnerable.

Seabirds are more vulnerable to oil at sea than almost any other group of organisms other than possibly those in the littoral zone. In reports of the biological effects of oil spilled in the Hamilton Trader, Torrey Canyon, and Santa Barbara accidents, seabirds have been shown to suffer significant losses (Spoooner 1967, Beer 1968, Straughan 1971, Connell 1971, Clark 1973, Nelson-Smith 1973). This mortality results both from the direct effect of heavy oiling which may cause death from reduced insulation and buoyancy (Nelson-Smith 1973), and from the killing of eggs by transfer of oil from the feathers of lightly oiled incubating adults to the egg surface (references cited in Nelson-Smith 1973).

Oil spills may also prevent seabirds from foraging or may reduce the amount of food available. Reduction in food supplies may also cause the birds to mobilize fat reserves rapidly, possibly releasing lethal quantities of chlorinated hydrocarbon pollutants stored in the fat (Nelson-Smith 1973).

#### THE BASELINE STUDY PROBLEMS

Many of the problems or questions that present themselves are common to the three groups of animals being considered; namely, the seabirds, the cetaceans and the pinnipeds. In the broadest terms we must ask what animals occupy this study area, how many are there, what species are they and, in general, construct a demographic description for the Southern California Bight. In addition, we must concern ourselves with their migratory habits, feeding habits and locales in addition to the reproductive cycles and success of each species.

Questions that also need answering but which will not be approached during this phase concern long-term effects of chronic exposure to modest amounts of oil. Such studies must include reproductive biology, alterations within the food web, breeding success, changes in breeding sites and gross modification of behavior due to avoidance of man's activities or the by-products of such activities.

**Study Area.** The area to be surveyed includes the region between Point Conception in the north and the United States-Mexico International border to the south. The western edge of the study area will extend to approximately 120°40' west longitude in the northern sectors of the study area and will veer southeastward at approximately 33°45' north latitude along a line falling westward of the Tanner and Cortes banks to approximately 120° west longitude and 32°10' north latitude. Within this area all islands and major rocks or islets will be surveyed for nesting or roosting seabirds and breeding or hauling grounds for pinnipeds.

In order to assess the numbers, distribution and activities of marine mammals and birds within the study area, a coordinated program of aerial and shipboard censusing is required. Initially, several coincident aerial and surface censuses over designated routes will permit cross-calibration (ground truth) of the two primary sampling methods.

**Studies of local movements and seasonal migration routes.** In order to determine local movements, population mixing, or seasonal migration routes in many cases it is necessary to study marked individuals. In this way movements of individuals can be traced and it can be determined with certainty whether members of a population are moving about within the study area. Without such individual marking, it cannot be determined that an individual has moved or that two separate individuals have been sighted.

**Marine mammal tracking.** Cetacea and Pinnipeds will be marked by three methods from shipboard:

- (1) Radio tagging and release of selected species.
- (2) Spaghetti tagging on a target of opportunity basis.
- (3) Cryobranding of captured animals as a possible means of resighting from low flying aircraft.

**Seabird tracking.** We propose to approach seabird tracking in two ways. First a number of adult and immature birds will be color marked at selected breeding colonies using commercially available dyes (Hunt, 1972). Marks will be highly visible and relatively

permanent. Observations of marked birds, which will be conducted in the course of regular ship and aerial censusing schemes described in the preceding section, will yield gross information on large numbers of birds and will show where they concentrate and what their interactions are with other species. Land-based observers will also endeavor to locate marked individuals as they forage close to the breeding islands.

Second, in an effort to provide detailed information about movements of individual breeding birds, we will radio tag and track small numbers of adults of various species in and around the breeding colonies. This is a relatively low-cost technique that will provide detail of the sort that is not usually accessible through the use of visual tags and stationary or shipboard observers due to rapid, long-distance movements of marked subjects. Radio-tagged individuals can be followed over relatively large distances with a minimal investment of ship and observer time. The location of telemetry subjects will be evaluated by triangulation using one stationary and one shipboard receiver. All necessary telemetry gear is available commercially at present.

**Beached animal surveys.** Selected mainland beaches in Ventura, Los Angeles and Orange Counties in addition to beaches on Santa Cruz and other Channel Islands will be walked on a monthly basis to check for carcasses of marine birds or mammals which have washed ashore. All carcasses will be photographed, and when possible identified to species and cause of death. When marine mammals are found beached, appropriate experts will be notified so that samples of parasites present may be collected.

**Parasites and food samples.** Whenever marine mammals or birds are handled, the collection of food samples and parasites from their stomachs will be attempted. These samples will be identified in the field or preserved for later study.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 9183, Washington, D.C. 20038. All relevant comments received on or before June 30, 1975, will be considered.

Dated: May 21, 1975.

C. R. BAVIN,  
Chief, Division of Law Enforcement,  
U.S. Fish and Wildlife Service.


[FR Doc. 75-13868 Filed 5-28-75; 8:45 am]

#### NATIONAL PARK SERVICE

##### Endangered Species Permit; Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

**Applicant:**  
National Park Service  
Death Valley National Monument  
Death Valley, California 92328  
James B. Thompson, Superintendent

 <b>DEPARTMENT OF THE INTERIOR</b> <b>U.S. FISH AND WILDLIFE SERVICE</b> <b>FEDERAL FISH AND WILDLIFE</b> <b>LICENSE/PERMIT APPLICATION</b>		1. APPLICATION FOR (Indicate only one) <input type="checkbox"/> SPORT OR EXPORT LICENSE <input checked="" type="checkbox"/> PERMIT	
2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: Habitat management and research, including censusing, maintenance and operation of recording instruments and prophylactic devices, and other actions deemed necessary to insure perpetuation of Devils Hole Pupfish, <i>Stenodon diabolis</i> .		3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested) <b>National Park Service</b> <b>Death Valley National Monument</b> <b>Death Valley, California 92328</b> <b>Tel.: 714-786-2331</b>	
4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING: MR. <input type="checkbox"/> MRS. <input type="checkbox"/> MISS <input type="checkbox"/> MR. <input type="checkbox"/> HEIGHT: COLOR HAIR: COLOR EYES: DATE OF BIRTH: COLOR HAIR: COLOR EYES: PHONE NUMBER WHERE EMPLOYED: SOCIAL SECURITY NUMBER: OCCUPATION: ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT:		5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING: EXPLAIN TYPE OR NAME OF BUSINESS, AGENCY, OR INSTITUTION: Federal managing agency and custodian of natural resources of Death Valley National Monument, California and Nevada NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.: James B. Thompson, Superintendent IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED:	
6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED: Devils Hole, Nevada, a 40-acre detached section of Death Valley National Monument located in SW 1/4, Section 36, T. 17 S., R. 50 E., Mount Diablo Meridian.		7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? (If yes, list license or permit number) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
8. CERTIFIED CHECK OR MONEY ORDER (If applicant) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF:		9. DESIRED EFFECTIVE DATE: 1 July 1975	
10. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED: See attached.		11. DURATION NEEDED: Five years	
CERTIFICATION I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER 8 OF TITLE 18, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.			
SIGNATURE (In ink): <i>James B. Thompson</i>		DATE: April 3, 1975	

#### PERMIT APPLICATION

The following information is provided in compliance with 50 CFR 13.12 (b):

(1-3) Applicant: Name: National Park Service, Death Valley National Monument. Address: National Park Service, Death Valley National Monument, Death Valley, California 92328. Telephone: 714-786-2331.

Applicant is a field office of the National Park Service, U.S. Department of the Interior, charged with the management and protection of federally owned lands and resources within Death Valley National Monument, California and Nevada.

(4) Location: Devil's Hole, Nevada. (SW 1/4, Section 36, T. 17 S., R. 50 E., Mount Diablo Meridian.) Within a 40 acre detached section of Death Valley National Monument lies a spring-fed pool with surface area of approximately 10 x 40 feet. Herein exists the sole endemic naturally existing population of Devil's Hole pupfish.

(5) Type of permit: Application is being made for an Endangered Species Permit for habitat management and research purposes. The requirement for such a permit is stated

in section 9(a) and is required to implement actions necessary for the conservation of endangered species as stated in section 7 of Pub. L. 93-205, the Endangered Species Act of 1973. The law prohibits the "taking" of any endangered species within the United States, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct. (Pub. L. 93-205, section 3(14)).

Application is made to lawfully permit habitat management and research activities by members of State and Federal agencies and institutional research personnel for projects as follows:

a. Research of fish population at least monthly and gathering of environmental data such as food production rates, water temperatures, water chemistry, and dissolved oxygen content. This work is to be performed by or under direct supervision of Dr. James E. Deacon, University of Nevada, Las Vegas. Work performed under contract with the National Park Service. Research on fish population and gathering of environmental data by Nevada Department of Fish and Game.



b. Hydrologic monitoring of water levels at Devil's Hole, including operation and maintenance of water level recording instruments and water sampling. Work performed by personnel of the U.S. Geological Survey.

c. Continuing litigation between the Federal Government and an owner of adjacent private lands over utilization of ground waters may require additional surveillance and management activities by the U.S. District Court appointed special master.

d. Entry or disturbance of Devil's Hole water by scuba divers and surface tenders, and observers participating in monthly population censuses as described in (a) above. Personnel involved are employees of the National Park Service, U.S. Fish and Wildlife Service, and Nevada Department of Fish and Game.

e. Unavoidable harassment of fish population for the purposes of habitat restoration, monitoring of population, inspections, and maintenance by personnel of the National Park Service, U.S. Fish and Wildlife Service, Nevada Department of Fish and Game, University of Nevada (Dr. James E. Deacon), and University of Michigan (Dr. Robert R. Miller, NPS Collaborator).

f. Installation, adjustments or removal, maintenance, repair, and operation of temporary prophylactic devices (such as floating feeding/spawning shelf, and electrical lighting fixtures) deemed necessary for species preservation.

g. Habitat disturbance of a corrective nature (such as removal of flash flood debris from natural rock feeding/spawning shelf) as required to provide optimum space for survival of the species.

h. Entry to habitat area and unavoidable harassment by any experts or consultants invited or contracted by State and Federal agencies named above.

i. Projects outlined above do not include collecting of fish and the population will be subjected to as little disturbance as possible.

(6) Not applicable.

(7) Certification: I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in Subchapter B of Chapter I of Title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

(8) Desired effective date of permit: July 1, 1975.

(9) Date: April 3, 1975.

(10) James B. Thompson, Superintendent, Death Valley National Monument.

(11) Additional information as requested in Form 50 CFR 17, § 17.23, "zoological, educational, scientific, or propagation permits."

(1) Description of wildlife to be covered in the permit. Scientific name: *Cyprinodon diabolis* (Wales). Common names: Devil's Hole pupfish, Devil pupfish.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036,

All relevant comments received on or before June 30, 1975 will be considered.

Dated: May 21, 1975.

C. R. BAVIN,  
Chief, Division of Law Enforcement,  
U.S. Fish and Wildlife Service.

[FR Doc.75-13869 Filed 5-28-75; 8:45 am]

## DEPARTMENT OF AGRICULTURE

### Economic Research Service

#### NATIONAL COTTON MARKETING STUDY COMMITTEE

##### Public Meeting

Pursuant to the provisions of section 10(a)(2) of Public Law 92-463, notice is hereby given of a meeting of the National Cotton Marketing Study Committee established by Secretary's Memo 1852. The Committee will meet at 9 a.m. on Tuesday, July 8, 1975, and at 9 a.m. on Wednesday, July 9, 1975, in Room 218-A of the Administration Building of the U.S. Department of Agriculture, Washington, D.C.

The meeting will be open to the public and a brief period will be set aside for public comments and questions. The agenda of the Committee meeting includes a review of final reports from the eight Study Groups, and development of recommendations for the Committee report to the Secretary of Agriculture.

The names of the appointees comprising the Committee, agenda and other information pertaining to the meeting may be obtained from Mr. Irving Starbird, Executive Secretary, Room 212, 500 12th Street, SW., Washington, D.C. 20250 (202-447-8400).

AMOS D. JONES,

Chairman.

Economic Research Service.

[FR Doc.75-13931 Filed 5-28-75; 8:45 am]

### Forest Service

#### BIG PINEY PLANNING UNIT

##### Environmental Statement; Availability of Draft

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Big Piney Planning Unit, Bridger-Teton National Forest, Wyoming. The Forest Service report number is USDA-FS-DES (Adm) R4-75-21.

The environmental statement identifies and evaluates the probable effects of the land use plan for the Big Piney Planning Unit on the Bridger-Teton National Forest, Wyoming. The purpose of the plan is to allocate National Forest lands within the unit to specific resource uses and activities; establish management objectives; document management direction, management decisions, and necessary coordination between resource uses

and activities; and provide for the protection, use and development of the various resources within the planning unit. The plan provides for minimization of adverse effects and maximization of desirable effects. Significant areas will remain undeveloped with options for future management remaining open.

This draft environmental statement was transmitted to CEQ on May 21, 1975.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service  
South Agriculture Bldg., Room 3230  
12th St. and Independence Ave., SW  
Washington, D.C. 20250

Regional Planning Office  
USDA, Forest Service  
Federal Building, Room 4403  
324-25th Street  
Ogden, Utah 84401

Forest Supervisor  
Bridger-Teton National Forest  
Forest Service Building  
Jackson, Wyoming 83001

District Forest Ranger  
Big Piney Ranger District  
P.O. Box 218  
Big Piney, Wyoming 83113

A limited number of single copies are available upon request from Acting Forest Supervisor Ernest C. Hirsch, Bridger-Teton National Forest, Forest Service Building, Jackson, Wyoming 83001.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Acting Forest Supervisor Ernest C. Hirsch, Bridger-Teton National Forest, Forest Service Building, Jackson, Wyoming 83001. Comments must be received by July 20, 1975, in order to be considered in the preparation of the final environmental statement.

Dated: May 21, 1975.

P. M. REES,

Director, Regional Planning  
and Budget.

[FR Doc.75-13871 Filed 5-28-75; 8:45 am]

### Soil Conservation Service

#### BRYANT SWAMP WATERSHED PROJECT, N.C.

##### Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Envi-

ronmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental impact statement (EIS) for the Bryant Swamp Watershed Project, Bladen County, North Carolina, USDA-SCS-EIS-WS-(ADM)-73-19-(F) NC.

The EIS concerns a plan for watershed protection, flood prevention and drainage. The planned works of improvement provide for conservation land treatment, six grade control structures, and 22.9 miles of channel work. The channel work will involve a floodway on 1.5 miles of existing channel, enlargement of 16.2 miles of existing channel, and construction of 5.2 miles of new channel to provide improved water management in a flatland watershed that is 91% agricultural cropland, grassland and forestland. Of the 22.9 miles of work proposed, 15.3 miles will involve channels with ephemeral flow, 1.5 miles of intermittent flow, and 6.1 miles of perennial flow.

The final EIS has been filed with the Council on Environmental Quality.

Bryant Swamp Watershed Project, North Carolina

Notice of Availability of  
Final Environmental Impact Statement

A limited supply is available at the following location to fill single copy requests:

Soil Conservation Service, USDA,  
P.O. Box 27307  
Raleigh, North Carolina 27611

Dated: May 21, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

[FR Doc.75-13964 Filed 5-28-75; 8:45 am]

### WALKER CREEK WATER-BASED RECREATION RESOURCE CONSERVATION & DEVELOPMENT (RC&D) MEASURE

#### Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 650.-8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Walker Creek Measure, Wood County, West Virginia.

The environmental assessment of this federal action indicates that the measure will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the measure. As a result of these findings, Mr. James B. Bennett, State Conservationist, Soil

Conservation Service, USDA, Federal Building, High Street, West Virginia 26505, has determined that the preparation and review of an environmental impact statement is not needed for this measure.

The measure concerns a plan for watershed protection and water-based recreation as a facet of Mountwood Park, a 2,478 acre facility sponsored by the Wood County Park and Recreation Commission. The planned works of improvement include conservation land treatment, a single-purpose dam which will create a 48 surface-acre lake, and water-based recreation facilities.

The negative declaration is available for single copy requests and the environmental assessment file is available for inspection during regular working hours at the following location: Soil Conservation Service, USDA, Federal Building, High Street, Morgantown, West Virginia 26505.

No administrative action on implementation of the proposal will be taken until 15 days after the date of this notice.

Dated: May 20, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.901, National Archives Reference Services.)

ROBERT E. WILLIAMS,  
Acting Deputy Administrator  
for Field Services, Soil Conservation Service.

[FR Doc.75-13963 Filed 5-28-75; 8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Office of Education

#### TEACHER CORPS PROJECTS

##### Notice of Final Criteria for Selection of Applications

On December 16, 1974, there was published in the *FEDERAL REGISTER* at 39 FR 43566, a notice of proposed rule making which set forth criteria for selection of applicants for Tenth Cycle Teacher Corps projects under Part B-1 of the Education Professions Development Act of 1965, as amended (79 Stat. 1255-1258 as amended, 20 U.S.C. 1101-1107a). The General Provisions Regulations (45 CFR Part 100a), published in the *FEDERAL REGISTER* on November 6, 1973, at 38 FR 30654 and effective December 6, 1973, are also applicable to these grants.

Interested persons were given thirty days after December 16, 1974 to submit comments, suggestions or objections to the proposed criteria. Four comments were received relating to the number of teacher interns allowable to each project. Three comments strongly suggested that four to ten interns per project were too few and that emphasis should remain on preservice training. The fourth comment suggested that there was still too much emphasis on interns even though new legislation shifted emphasis to retraining of experienced teachers. No action was taken regarding the suggestions submitted. The basic purpose of the new amendments to the Teacher Corps program contained in Pub. L. 93-380 is to shift the

focus from the recruitment and training of large numbers of new teachers for poverty areas to helping local schools reform and improve the education offered poor children by retraining present staff. The shift in focus, however, does not mean the elimination of interns. The Teacher Corps will continue to attract and train a limited number of interns. By so doing, the very format that has made Teacher Corps a success, the Teacher Corps team, can now be put to the wider use of helping local schools improve the quality of education throughout entire schools by including in the program not only new teacher interns but also experienced teachers within the school.

The criteria are set forth below.

**Effective date.** The Notice of Proposed Funding Criteria was transmitted to Congress on December 10, 1974 pursuant to section 431(d) of the General Education Provisions Act (20 U.S.C. 1232(d)). The time period set forth therein for congressional action has expired without such action having been taken. Therefore, these criteria shall become effective May 29, 1975.

(Catalog of Federal Domestic Assistance Program No. 13.489; Teacher Corps)

Dated: May 8, 1975.

T. H. BELL,  
U.S. Commissioner of Education.

Approved: May 22, 1975.

CASPAR W. WEINBERGER,  
Secretary of Health,  
Education, and Welfare.

#### I. CRITERIA FOR THE SELECTION OF TEACHER CORPS PROJECT APPLICATIONS

In addition to the criteria set forth in 45 CFR 100a.26(b), the following criteria will also be used as a basis for approving applications for Teacher Corps projects and in determining the amount of the award under approved applications:

(A) **Instructional program.** The extent to which it is shown that the proposed instructional program (i) provides training options including training designed to enable Teacher Corps interns, teacher aides, and experienced teachers to provide individualized instruction for pupils in classrooms at the local school level, (ii) provides adequate means for identifying and evaluating teacher interns', teacher aides' and experienced teachers' competencies and (iii) makes provision for the training necessary to prepare them to serve in schools in areas having concentrations of low income families (as determined in accordance with section 103 of Title I of the Elementary and Secondary Education Act of 1965 as amended), including training necessary to identify children with learning and behavioral problems, diagnose their special needs, and prescribe learning activities to meet such needs of these children in the regular classrooms of such schools. (See paragraph F.)

(20 U.S.C. 1101, 1103)



(B) *Community based education.* The extent to which the application (i) delineates specific opportunities for consultation with and involvement of parents of children to be served by the proposed project for mutual, deliberate, collaborative decision making in the planning, development, implementation, and evaluation of such project; (ii) includes evidence that such participation has been encouraged and has in fact occurred in the development of the application; (iii) provides for developing the capabilities of such parents, residents in the community, and secondary education and college students to serve as part-time tutors or full-time instructional assistants in the project (including, where appropriate, provision for university courses) and (iv) sets forth policies and procedures for adequate dissemination of program plans and evaluation to such parents and the public.

(20 U.S.C. 1101, 1103, 1231d)

(C) *Institutional adoption.* The extent to which the proposed project is designed in such a manner as to facilitate adaptation or adoption of successful elements of the project by the applicant institution or agency into its overall instructional program.

(20 U.S.C. 1101, 1103)

(D) *Needs analysis.* Whether the application specifies that the retraining of experienced teachers and teacher aides, along with the training of teacher interns, will be based on an analysis of the critical nature of the need for special skills and/or personnel to meet the special learning needs of children from low income families, including improving opportunities for children with learning and behavioral problems.

(20 U.S.C. 1101, 1103)

(E) *Multi-cultural consideration.* The extent to which the application indicates special provisions for meeting the diverse cultures represented by the proposed project's target populations, both in terms of the training program for experienced teachers, teacher interns, teacher aides, and community volunteers, and of the specific needs of the communities and students to be served by the Teacher Corps project. In proposals for programs in areas where the target population has limited cultural diversity, there must be an indication of the extent to which teacher interns, experienced teachers and teacher aides are prepared to understand and to use multi-cultural concepts in their work with children.

(F) *Diagnostic-prescriptive teaching.* The extent to which the application indicates special provisions for training in the techniques of diagnostic-prescriptive teaching, including skills in the identification of special learning problems, skills in diagnosing particular learning needs, and skills in prescribing programs to meet such needs. The application must show how these skills can be applied by participants to improve educational op-

portunities for all children to be served by the project, but especially for improving the educational opportunities in the regular classroom for children with learning and behavioral problems. Development of diagnostic-prescriptive teaching skills must be an ongoing, sequentially organized part of the program design, regardless of the major teaching area, subject, or grade levels with which the Teacher Corps application is concerned.

(20 U.S.C. 1101, 1103)

(G) *School-staff focus.* The extent to which the proposed retraining of experienced teachers and teacher aides will be available to the entire educational staff of each individual school involved in the project.

(20 U.S.C. 1101)

(H) *Field based instruction.* The extent to which instruction for experienced teachers, teacher aides, teacher interns, or community volunteers will be delivered at or near their teaching stations, in those instances when instruction will be enhanced by the close proximity to such teaching stations, rather than on the campus of the participating college or university.

(20 U.S.C. 1101, 1103)

(I) *Collaborative decision-making.* The extent to which the application indicates wide participation in collaborative decision-making by a school-community council for each participating school. Activities of the council must be planned so as to assure active and continuing involvement by, and responsiveness to the needs and desires of, as many as possible of the following groups or institutions: (i) The respective Teacher Corps role groups (including teacher interns, team leaders, project management staff, and coordinators); (ii) community, institution(s) of higher education, and local education agency(ies) involved in the project; (iii) professional associations of teachers and/or other educators; (iv) the state education department (teacher education certification offices); (v) officials of other federally supported education projects; (vi) representatives of social service (public and private) agencies assigned responsibilities within the communities served by the Teacher Corps project; (vii) parent, community, social, welfare, or educational organizations; and (viii) other organizations which may impinge upon the success of the project or the Teacher Corps role groups described in (i) above.

(20 U.S.C. 1101, 1103)

(J) *Teaching teams.* The extent to which the application sets forth a teaching team organization which will be able to operate effectively in carrying out the purposes of the project. A teaching team is defined as not less than 4 nor more than 10 teacher interns led by an experienced teacher. Each project must contain 1 or 2 teams, but shall not exceed a maximum of 10 teacher interns for that project.)

(20 U.S.C. 1103)

(K) *Special characteristics.* Within the context of the proposed strategy, the extent to which the application indicates special characteristics of the project which will make it adaptable to the specific conditions of the sites and communities served by the project (such as population density, housing patterns, etc.).

(20 U.S.C. 1101, 1103)

(L) *Equitable geographical distribution.* The extent to which approval of the project will further the equitable geographical distribution of projects, including proportional representation among urban and rural areas.

(20 U.S.C. 1101, 1103)

(M) *Management and evaluation plans.* The extent to which the application sets forth specific plans for program organization, management, and evaluation of both process and outcome. Specific data collection procedures must be described, based on the careful specification of program goals, performance criteria, and regular program review, so as to assure a record of the project's demonstration aspects and its achievements in terms of Teacher Corps purposes.

(20 U.S.C. 1101, 1103)

## II. DEMONSTRATION REQUIREMENTS

Each application for a Teacher Corps project must combine (1) the meeting of local educational needs and concerns with (2) a demonstration project for the training of teacher interns and the retraining of experienced teachers and teacher aides. The demonstration project must adopt one of the following broadly defined strategies:

(A) *The Training complex.* A training complex is an organization designed to provide preservice and inservice education for potential and practicing educational personnel at a site located within or near the schools where Teacher Corps interns are serving and where retraining of experienced teachers and teacher aides is being initiated. Applications may show wide diversity in the features of a training complex, but it is essential that the application describe plans for (i) the direct involvement of training personnel from the institution of higher education involved in the Teacher Corps project, Teacher Corps interns, experienced teachers, teacher aides, and community volunteers in decision-making; (ii) the assuring that instructional experience for teacher interns, experienced teachers and teacher aides will be administered through the training complex, and (iii) a wide use of community and local educational agency resources for the development and delivery of both training and retraining.

(20 U.S.C. 1101, 1103)

(B) *Competency-based teacher education.* Competency-based teacher education is marked by the specification of objectives for learning based on observation of teacher skills and behaviors which positively influence children's learning.

Instructional programs for experienced teachers, teacher interns, teacher aides, and community volunteers are delivered through sequential programs based on various levels of professional activities and competencies. Applications must describe how the proposed project will (i) demonstrate objective-based programs of training and retraining for educational staff which are designed to improve learning opportunities for low-income children through careful analyses of training and retraining needs; (ii) develop systematic management processes so that persons in training or retraining can evaluate their own learning needs and achievements; (iii) provide alternative modes of instruction based on the achievement of pre-determined competencies for teachers or other educational personnel in relation to the improvement of pupil learning; and (iv) direct the use of university and other program resources towards meeting the needs of teacher interns, experienced teachers, teacher aides, and community volunteers within the school districts served by the project.

(20 U.S.C. 1101, 1103)

(C) *Training for implementing alternative school designs.* School districts which have planned a major organizational or structural educational innovation may choose to demonstrate, through a Teacher Corps project, a program of training teacher interns and retraining experienced teachers and teacher aides which helps meet the special needs for implementing such an innovation. Applications must (i) contain assurances that the school district is already committed to this innovation and that the institution of higher education involved in the Teacher Corps project will be able to demonstrate appropriate training and retraining activities; (ii) contain evidence that other aspects of the innovation have been planned and provided for separately from those supported under the Teacher Corps program and described in the application (which is limited to training and retraining activities); (iii) indicate directions for the improvement of training of Teachers Corps interns and retraining of experienced teachers and teacher aides through relating these activities to institutional change; and (iv) demonstrate a viable strategy for improving the education of low income children by improving both the skills of educational personnel and the conditions under which education takes place.

(20 U.S.C. 1101, 1103)

(D) *Interdisciplinary training approaches.* This strategy provides for training of teacher interns and the retraining of experienced teachers and teacher aides through the demonstration of programs which emerge from the participation in teacher education by representatives from various academic disciplines (such as the liberal and fine arts, physical and natural sciences, social sciences, and humanities), and which are aimed at increasing the educational op-

portunities of low income children by reorganizing the base of knowledge and experience which the educational staff can use as a basis for planning and managing learning activities. Applications must emphasize: (i) The collaborative planning by representatives of diverse disciplines for developing programs of training and retraining geared specifically to populations of learners from low income families; (ii) the relationship of multidisciplinary training and retraining programs to the specific cultural and life styles of the pupils to be served so as to reinforce extant community values; (iii) the development of professional educational staffs which are flexible in their organization and use of knowledge in relation to growth and development of Children as members of specific cultural and social groups; and (iv) the improvement of interrelationships among educational agencies and institutions (such as universities and local school districts) and other community institutions.

(20 U.S.C. 1101, 1103)

(E) *Training for the systematic adaptation of research findings.* There is presently available, in immediately usable form, a substantial body of results from research concerning learning and educational processes. Such research results can be incorporated into the design of programs for the training of teacher interns and the retraining of experienced teachers and teacher aides. This research can be drawn upon to identify training objectives, select approaches to training and evaluation, create instructional materials and activities or adapt existing materials to new situations, and organize training or retraining programs. This research evidence represents a vast potential resource which, as yet, has not been organized into systemic or overall program demonstrations. Applications selecting this strategy must emphasize (i) the systemic organization of validated research findings into demonstration programs of teacher intern training and the retraining of experienced teachers and teacher aides; (ii) the utilization of data based solutions to persistent educational problems addressed by the application; (iii) the relating of research activities and findings to the everyday life and activities of practicing educational personnel; and (iv) the broad-scale, public demonstration of programs based on research findings and involving collaboration among school districts and educational groups.

(20 U.S.C. 1101, 1103)

[FR Doc.75-14010 Filed 5-28-75; 8:45 am]

Food and Drug Administration  
[FDA-225-75-4050]

## ARTX TELECOMMUNICATION EQUIPMENT

Memorandum of Understanding With the Connecticut Department of Consumer Protection

Pursuant to the notice published in the FEDERAL REGISTER of October 3, 1974

(39 FR 35697) stating that future memoranda of understanding between the Food and Drug Administration and others would be published in the FEDERAL REGISTER, the Commissioner of Food and Drugs issues the following notice:

The Food and Drug Administration executed a Memorandum of Understanding with the Connecticut Department of Consumer Protection on March 25, 1975. The purpose of the memorandum is to establish the procedures and guidelines for the operation, maintenance, and protection of FDA-rented ARTX Telecommunication Equipment. It reads as follows:

MEMORANDUM OF UNDERSTANDING BETWEEN THE CONNECTICUT DEPARTMENT OF CONSUMER PROTECTION AND THE FOOD AND DRUG ADMINISTRATION

I. *Purpose.* To establish the procedures and guidelines for the operation, maintenance, and protection of FDA-rented ARTX Telecommunication Equipment located in the office of the Food, Meat and Poultry Division, Room 173, Department of Consumer Protection, State Office Building, Hartford, Connecticut.

II. *Background.* The FDA, Assistant Secretary for Health, Department of HEW, and the General Services Administration have approved a program to install full telecommunication transmit and receive terminals in a number of prime state food and drug agencies. Although terminals will be placed in a number of prime food and drug regulatory agencies, there are a number of other agencies with food and drug responsibilities in each state, where no terminal will be installed. Therefore, your agency, being one that received a terminal, must agree to share the terminal with other food and drug agencies in your state to assure that the communication system is accessible to all agencies with food and drug related responsibilities.

In addition to terminal-sharing, it is necessary for our two agencies to assure that proper operation and necessary supporting requirements for the equipment is maintained and proper security is provided for the equipment.

III. *Substance of agreement.* A. The Food and Drug Administration agrees:

1. To arrange for the installation of the equipment in the location designated by your agency.
2. To support financially the cost of initial installation of the equipment and pay directly to GSA and Western Union the monthly rental cost. After the initial installation, the state will be responsible for relocation installation cost, unless relocation is in conjunction with a major move of the terminal agency to a new location address.
3. To identify for you those units in your state on which terminal-sharing must be accomplished.
4. To require that the terminal location agency (your agency) submit to FDA a terminal-sharing plan to be developed by you and other sharing units in your state.
5. To arrange through Western Union for training of terminal operators.
6. To provide operation instruction manual.
7. To withdraw financial support for the terminal if gross misuse of the terminal is practiced after due notice.

B. The State Terminal Agency agrees:

1. To provide suitable physical location for equipment with adequate security protection.
2. To provide and pay for electric power source to operate the terminal. (110 volts)

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3. To provide for paper, tape and other material necessary for the operation of the equipment.

4. To share the terminal with other food and drug agencies in the state according to a terminal-sharing plan agreed to by each potential user.

5. To submit to the FDA Regional Office monthly traffic log. (Form to be furnished by FDA)

6. To submit promptly all messages received for addressees other than your agencies. Transmit promptly messages to FDA received from other appropriate agencies.

7. Maintain operator coverage for the terminal between normal working hours of your agency.

8. Notify vendor (Western Union) of any breakdown of the equipment or other needs for maintenance.

9. Notify FDA (Regional or Headquarters) of periods that the equipment is out-of-service.

10. That the system will be used only for communication between your state and FDA (Regional, District, or Headquarters Office). It is understood that the equipment is not to be used for communication between state agencies.

IV. *Name and Address of Terminal Agency.* Connecticut Department of Consumer Protection, State Office Building, Hartford, Connecticut 06115.

V. *Liaison Officers.* For Connecticut Dept. of Consumer Protection: R. E. Ledogar, Director, Food/Meat and Poultry Division. Address: State Office Bldg., Hartford, Ct. 06115. Telephone No.: (203) 566-2891.

For FDA: Richard J. Davis, Address: Boston. Telephone No.: (617) 223-5067.

IV. *Period of agreement.* This agreement, when accepted by both parties, will have an effective period of performance three (3) years from date of signature and may be modified by mutual consent by both parties or may be terminated by either upon a thirty (30) day advance written notice to the other.

Approved and accepted for the Connecticut Department of Consumer Protection.

Dated: March 25, 1975.

Mary M. Heslin  
Commissioner.

Approved and accepted for the Food and Drug Administration.

Dated: March 13, 1975.

A. J. Beebe, Jr.  
Reg. Food and Drug Director.

*Effective date.* This memorandum of understanding became effective March 25, 1975.

Dated: May 22, 1975.

SAM D. FINE,  
Associate Commissioner  
for Compliance.

[FR Doc.75-13912 Filed 5-28-75; 8:45 am]

[FDA-225-75-4035]

#### ARTX TELECOMMUNICATION EQUIPMENT

Memorandum of Understanding With the Missouri Department of Social Services

Pursuant to the notice published in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697), stating that future memoranda of understanding between the Food and Drug Administration and others would be published in the FEDERAL REGISTER, the Commissioner of Food and Drugs issues the following notice:

The Food and Drug Administration executed a Memorandum of Understanding with the Missouri Department of Social Services, Division of Health, on February 21, 1975. The purpose of the memorandum is to establish the procedures and guidelines for the operation, maintenance, and protection of FDA-rented ARTX Telecommunication Equipment. It reads as follows:

MEMORANDUM OF UNDERSTANDING BETWEEN THE MISSOURI DEPARTMENT OF SOCIAL SERVICES DIVISION OF HEALTH AND THE FOOD AND DRUG ADMINISTRATION

I. *Purpose.* To establish the procedures and guidelines for the operation, maintenance, and protection of FDA-rented ARTX Telecommunication Equipment located in the office complex of the Division of Health, Broadway State Office Building, P.O. Box 570, Jefferson City, MO 65101.

II. *Background.* The FDA, Assistant Secretary for Health, Department of HEW, and the General Services Administration have approved a program to install full telecommunication transmit and receive terminals in a number of prime state food and drug agencies. Although terminals will be placed in a number of prime food and drug regulatory agencies, there are a number of other agencies with food and drug responsibilities in each state, where no terminal will be installed. Therefore, your agency, being one that received a terminal, must agree to share the terminal with other food and drug agencies in your state to assure that the communication system is accessible to all agencies with food and drug related responsibilities.

In addition to terminal-sharing, it is necessary for our two agencies to assure that proper operation and necessary supporting requirements for the equipment is maintained and proper security is provided for the equipment.

III. *Substance of agreement.* A. The Food and Drug Administration agrees:

1. To arrange for the installation of the equipment in the location designated by your agency.

2. To support financially the cost of initial installation of the equipment and pay directly to GSA and Western Union the monthly rental cost. After the initial installation, the state will be responsible for relocation installation cost, unless relocation is in conjunction with a major move of the terminal agency to a new location address.

3. To identify for you those units in your state on which terminal-sharing must be accomplished.

4. To require that the terminal location agency (your agency) submit to FDA a terminal-sharing plan to be developed by you and other sharing units in your state.

5. To arrange through Western Union for training of terminal operators.

6. To provide operation instruction manual.

7. To withdraw financial support for the terminal if gross misuse of the terminal is practiced after due notice.

B. The State Terminal Agency agrees:

1. To provide suitable physical location for equipment with adequate security protection.

2. To provide and pay for electric power source to operate the terminal. (110 volts)

3. To provide for paper, tape and other material necessary for the operation of the equipment.

4. To share the terminal with other food and drug agencies in the state according to a terminal-sharing plan agreed to by each potential user.

5. To submit to the FDA Regional Office monthly traffic log. (Form to be furnished by FDA)

6. To submit promptly all messages received for addressees other than your agencies. Transmit promptly messages to FDA received from other appropriate agencies.

7. Maintain operator coverage for the terminal during normal working hours of your agency.

8. Notify vendor (Western Union) of any breakdown of the equipment or other needs for maintenance.

9. Notify FDA (Regional or Headquarters) of periods that the equipment is out-of-service.

10. That the system will be used only for communication between your state and FDA (Regional, District, or Headquarters Office). It is understood that the equipment is not to be used for communication between state agencies.

IV. *Name and address of terminal agency.* Missouri Department of Social Services, Division of Health, Broadway State Office Building, P.O. Box 570, Jefferson City, MO 65101.

V. *Liaison Officers.* For Missouri Dept. of Social Services: Erwin P. Gadd, Director, Bureau of Community Sanitation. Address: Broadway State Office Bldg., P.O. Box 570, Jefferson City, MO 65101. Telephone No.: (314) 751-3791.

For FDA: Dwight F. Ringhausen, Asst. to Dir. for Federal, State, and Industrial Affairs. Address: 1009 Cherry Street, Kansas City, Missouri 64106. Telephone No. (816) 374-3817.

VI. *Period of agreement.* This agreement, when accepted by both parties, will have an effective period of performance three (3) years from date of signature and may be modified by mutual consent by both parties or may be terminated by either party upon a thirty (30) day advance written notice to the other.

Approved and accepted for the Missouri Department of Social Services.

6. To submit promptly all messages received for addressees other than your agencies. Transmit promptly messages to FDA received from other appropriate agencies.

7. Maintain operator coverage for the terminal during normal working hours of your agency.

8. Notify vendor (Western Union) of any breakdown of the equipment or other needs for maintenance.

9. Notify FDA (Regional or Headquarters) of periods that the equipment is out-of-service.

10. That the system will be used only for communication between your state and FDA (Regional, District, or Headquarters Office). It is understood that the equipment is not to be used for communication between state agencies.

IV. *Name and address of terminal agency.* Missouri Department of Social Services, Division of Health, Broadway State Office Building, P.O. Box 570, Jefferson City, MO 65101.

V. *Liaison Officers.* For Missouri Dept. of Social Services: Erwin P. Gadd, Director, Bureau of Community Sanitation. Address: Broadway State Office Bldg., P.O. Box 570, Jefferson City, MO 65101. Telephone No.: (314) 751-3791.

For FDA: Dwight F. Ringhausen, Asst. to Dir. for Federal, State, and Industrial Affairs. Address: 1009 Cherry Street, Kansas City, Missouri 64106. Telephone No. (816) 374-3817.

VI. *Period of agreement.* This agreement, when accepted by both parties, will have an effective period of performance three (3) years from date of signature and may be modified by mutual consent by both parties or may be terminated by either party upon a thirty (30) day advance written notice to the other.

Approved and accepted for the Missouri Department of Social Services.

Dated: February 21, 1975.

JOSEPH B. REICHAUT,  
Deputy Director,  
Division of Health.

Approved and accepted for the Food and Drug Administration.

Dated: February 3, 1975.

LLOYD R. CLAIBORNE,  
Regional Food and Drug Director,  
Region VII.

*Effective date.* This memorandum of understanding became effective February 21, 1975.

Dated: May 22, 1975.

SAM D. FINE,  
Associate Commissioner  
for Compliance.

[FR Doc.75-13911 Filed 5-28-75; 8:45 am]

[FDA-225-75-4060]

#### ARTX TELECOMMUNICATION EQUIPMENT

Memorandum of Understanding With the Nebraska Department of Agriculture

Pursuant to the notice published in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697), stating that future memoranda of understanding between the Food and Drug Administration and others would be published in the FEDERAL REGISTER, the Commissioner of Food and Drugs issues the following notice:

The Food and Drug Administration executed a Memorandum of Understanding with the Nebraska Department of Agriculture

culture on April 8, 1975. The purpose of the memorandum is to establish the procedures and guidelines for the operation, maintenance, and protection of FDA-rented ARTX Telecommunication Equipment. It reads as follows:

MEMORANDUM OF UNDERSTANDING BETWEEN THE NEBRASKA DEPARTMENT OF AGRICULTURE AND THE FOOD AND DRUG ADMINISTRATION

I. *Purpose.* To establish the procedures and guidelines for the operation, maintenance, and protection of FDA-rented ARTX Telecommunication Equipment located in the offices of the Deputy Director, Nebraska Department of Agriculture, 1420 P Street, 3rd Floor, State House Station, Lincoln, Nebraska.

II. *Background.* The FDA, Assistant Secretary for Health, Department of HEW, and the General Services Administration have approved a program to install full telecommunication transmit and receive terminals in a number of prime state food and drug agencies. Although terminals will be placed in a number of prime food and drug regulatory agencies, there are a number of other agencies with food and drug responsibilities in each state, where no terminal will be installed. Therefore, your agency, being one that received a terminal, must agree to share the terminal with other food and drug agencies in your state to assure that the communication system is accessible to all agencies with food and drug related responsibilities.

In addition to terminal-sharing, it is necessary for our two agencies to assure that proper operation and necessary supporting requirements for the equipment is maintained and proper security is provided for the equipment.

III. *Substance of agreement.* A. The Food and Drug Administration agrees:

1. To arrange for the installation of the equipment in the location designated by your agency.

2. To support financially the cost of initial installation of the equipment and pay directly to GSA and Western Union the monthly rental cost. After the initial installation, the state will be responsible for relocation installation cost, unless relocation is in conjunction with a major move of the terminal agency to a new location address.

3. To identify for you those units in your state on which terminal-sharing must be accomplished.

4. To require that the terminal location agency (your agency) submit to FDA a terminal-sharing plan to be developed by you and other sharing units in your state.

5. To arrange through Western Union for training of terminal operators.

6. To provide operation instruction manual.

7. To withdraw financial support for the terminal if gross misuse of the terminal is practiced after due notice.

B. The State Terminal Agency agrees:

1. To provide suitable physical location for equipment with adequate security protection.

2. To provide and pay for electric power source to operate the terminal. (110 volts)

3. To provide for paper, tape and other material necessary for the operation of the equipment.

4. To share the terminal with other food and drug agencies in the state according to a terminal-sharing plan agreed to by each potential user.

5. To submit to the FDA Regional Office monthly traffic log. (Form to be furnished by FDA)

6. To submit promptly all messages received for addressees other than your agencies. Transmit promptly messages to FDA received from other appropriate agencies.

7. Maintain operator coverage for the terminal during normal working hours of your agency.

8. Notify vendor (Western Union) of any breakdown of the equipment or other needs for maintenance.

9. Notify FDA (Regional or Headquarters) of periods that the equipment is out-of-service.

10. That the system will be used only for communication between your state and FDA (Regional, District, or Headquarters Office). It is understood that the equipment is not to be used for communication between state agencies.

IV. *Name and address of terminal agency.* Nebraska Department of Agriculture, P.O. Box 94844, Lincoln, Nebraska 68509.

V. *Liaison Officers.* For Nebraska Department of Agriculture: Roger Sandman, Deputy Director. Address: 1420 P Street, 3rd Floor, Lincoln, Nebraska 68509. Telephone No. (402) 471-2341.

For FDA: Dwight F. Ringhausen, Asst. to the Director for FSIA. Address: 1009 Cherry Street, Kansas City, Missouri 64106. Telephone No. (816) 374-3817.

VI. *Period of agreement.* This agreement, when accepted by both parties, will have an effective period of performance three (3) years from date of signature and may be modified by mutual consent by both parties or may be terminated by either party upon a thirty (30) day advance written notice to the other.

Approved and accepted for the State of Nebraska.

Dated: April 8, 1975.

Glenn W. Kreuscher,  
Director,  
Department of Agriculture.

Approved and accepted for the Food and Drug Administration.

Dated: April 3, 1975.

Lloyd R. Claiborne,  
Regional Food & Drug Director,  
Region VII.

*Effective date.* This memorandum of understanding became effective April 8, 1975.

Dated: May 22, 1975.

SAM D. FINE,  
Associate Commissioner  
for Compliance.

[FR Doc.75-13910 Filed 5-28-75; 8:45 am]

[FDA-225-75-4051]

#### ARTX TELECOMMUNICATION EQUIPMENT

Memorandum of Understanding With the North Carolina Department of Agriculture

Pursuant to the notice published in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697), stating that future memoranda of understanding between the Food and Drug Administration and others would be published in the FEDERAL REGISTER, the Commissioner of Food and Drugs issues the following notice:

The Food and Drug Administration executed a Memorandum of Understanding with the North Carolina Department of Agriculture on April 7, 1975. The purpose of the memorandum is to establish the procedures and guidelines for the operation, maintenance, and protection

of FDA-rented ARTX Telecommunication Equipment. It reads as follows:

MEMORANDUM OF UNDERSTANDING BETWEEN THE NORTH CAROLINA DEPARTMENT OF AGRICULTURE AND THE FOOD AND DRUG ADMINISTRATION

I. *Purpose.* To establish the procedures and guidelines for the operation, maintenance, and protection of FDA-rented ARTX Telecommunication Equipment located in the Food and Drug Protection Division, N.C. State Dept. of Agriculture, Agriculture Bldg., Edenton Street, Raleigh, North Carolina.

II. *Background.* The FDA, Assistant Secretary for Health, Department of HEW, and the General Services Administration have approved a program to install full telecommunication transmit and receive terminals in a number of prime state food and drug agencies. Although terminals will be placed in a number of prime food and drug regulatory agencies, there are a number of other agencies with food and drug responsibilities in each state, where no terminal will be installed. Therefore, your agency, being one that received a terminal, must agree to share the terminal with other food and drug agencies in your state to assure that the communication system is accessible to all agencies with food and drug related responsibilities.

In addition to terminal-sharing, it is necessary for our two agencies to assure that proper operation and necessary supporting requirements for the equipment is maintained and proper security is provided for the equipment.

III. *Substance of agreement.* A. The Food and Drug Administration agrees:

1. To arrange for the installation of the equipment in the location designated by your agency.

2. To support financially the cost of initial installation of the equipment and pay directly to GSA and Western Union the monthly rental cost. After the initial installation, the state will be responsible for relocation installation cost, unless relocation is in conjunction with a major move of the terminal agency to a new location address.

3. To identify for you those units in your state on which terminal-sharing must be accomplished.

4. To require that the terminal location agency (your agency) submit to FDA a terminal-sharing plan to be developed by you and other sharing units in your state.

5. To arrange through Western Union for training of terminal operators.

6. To provide operation instruction manual.

7. To withdraw financial support for the terminal if gross misuse of the terminal is practiced after due notice.

B. The State Terminal Agency agrees:

1. To provide suitable physical location for equipment with adequate security protection.

2. To provide and pay for electric power source to operate the terminal. (110 volts)

3. To provide for paper, tape and other material necessary for the operation of the equipment.

4. To share the terminal with other food and drug agencies in the state according to a terminal-sharing plan agreed to by each potential user.

5. To submit to the FDA Regional Office monthly traffic log. (Form to be furnished by FDA)

6. To submit promptly all messages received for addressees other than your agencies. Transmit promptly messages to FDA received from other appropriate agencies.

7. Maintain operator coverage for the terminal during normal working hours of your agency.

8. Notify vendor (Western Union) of any breakdown of the equipment or other needs for maintenance.

9. Notify FDA (Regional or Headquarters) of periods that the equipment is out-of-service.

10. That the system will be used only for communication between your state and FDA (Regional, District, or Headquarters Office). It is understood that the equipment is not to be used for communication between state agencies.

IV. *Name and address of terminal agency.* Nebraska Department of Agriculture, P.O. Box 94844, Lincoln, Nebraska 68509.

V. *Liaison Officers.* For Nebraska Department of Agriculture: Roger Sandman, Deputy Director. Address: 1420 P Street, 3rd Floor, Lincoln, Nebraska 68509. Telephone No. (402) 471-2341.

For FDA: Dwight F. Ringhausen, Asst. to the Director for FSIA. Address: 1009 Cherry Street, Kansas City, Missouri 64106. Telephone No. (816) 374-3817.

VI. *Period of agreement.* This agreement, when accepted by both parties, will have an effective period of performance three (3) years from date of signature and may be modified by mutual consent by both parties or may be terminated by either party upon a thirty (30) day advance written notice to the other.

Approved and accepted for the State of Nebraska.

Dated: April 8, 1975.

Glenn W. Kreuscher,  
Director,  
Department of Agriculture.

Approved and accepted for the Food and Drug Administration.

Dated: April 3, 1975.

Lloyd R. Claiborne,  
Regional Food & Drug Director,  
Region VII.

*Effective date.* This memorandum of understanding became effective April 8, 1975.

Dated: May 22, 1975.

SAM D. FINE,  
Associate Commissioner  
for Compliance.

[FR Doc.75-13910 Filed 5-28-75; 8:45 am]

[FDA-225-75-4051]

ARTX TELECOMMUNICATION EQUIPMENT

Memorandum of Understanding With the North Carolina Department of Agriculture

Pursuant to the notice published in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697), stating that future memoranda of understanding between the Food and Drug Administration and others would be published in the FEDERAL REGISTER, the Commissioner of Food and Drugs issues the following notice:

The Food and Drug Administration executed a Memorandum of Understanding with the North Carolina Department of Agriculture on April 7, 1975. The purpose of the memorandum is to establish the procedures and guidelines for the operation, maintenance, and protection

of FDA-rented ARTX Telecommunication Equipment. It reads as follows:

MEMORANDUM OF UNDERSTANDING BETWEEN THE NORTH CAROLINA DEPARTMENT OF AGRICULTURE AND THE FOOD AND DRUG ADMINISTRATION

I. *Purpose.* To establish the procedures and guidelines for the operation, maintenance, and protection of FDA-rented ARTX Telecommunication Equipment located in the Food and Drug Protection Division, N.C. State Dept. of Agriculture, Agriculture Bldg., Edenton Street, Raleigh, North Carolina.

II. *Background.* The FDA, Assistant Secretary for Health, Department of HEW, and the General Services Administration have approved a program to install full telecommunication transmit and receive terminals in a number of prime state food and drug agencies. Although terminals will be placed in a number of prime food and drug regulatory agencies, there are a number of other agencies with food and drug responsibilities in each state, where no terminal will be installed. Therefore, your agency, being one that received a terminal, must agree to share the terminal with other food and drug agencies in your state to assure that the communication system is accessible to all agencies with food and drug related responsibilities.

In addition to terminal-sharing, it is necessary for our two agencies to assure that proper operation and necessary supporting requirements for the equipment is maintained and proper security is provided for the equipment.

III. *Substance of agreement.* A. The Food and Drug Administration agrees:

1. To arrange for the installation of the equipment in the location designated by your agency.

2. To support financially the cost of initial installation of the equipment and pay directly to GSA and Western Union the monthly rental cost. After the initial installation, the state will be responsible for relocation installation cost, unless relocation is in conjunction with a major move of the terminal agency to a new location address.

3. To identify for you those units in your state on which terminal-sharing must be accomplished.

4. To require that the terminal location agency (your agency) submit to FDA a terminal-sharing plan to be developed by you and other sharing units in your state.

5. To arrange through Western Union for training of terminal operators.

6. To provide operation instruction manual.

7. To withdraw financial support for the terminal if gross misuse of the terminal is practiced after due notice.

B. The State Terminal Agency agrees:

1. To provide suitable physical location for equipment with adequate security protection.

2. To provide and pay for electric power source to operate the terminal. (110 volts)

3. To provide for paper, tape and other material necessary for the operation of the equipment.

4. To share the terminal with other food and drug agencies in the state according to a terminal-sharing plan agreed to by each potential user.

5. To submit to the FDA Regional Office monthly traffic log. (Form to be furnished by FDA)

6. To submit promptly all messages received for addressees other than your agencies. Transmit promptly messages to FDA received from other appropriate agencies.

7. Maintain operator coverage for the terminal during normal working hours of your agency.

8. Notify vendor (Western Union) of any breakdown of the equipment or



8. Notify vendor (Western Union) of any breakdown of the equipment or other needs for maintenance.

9. Notify FDA (Regional or Headquarters) of periods that the equipment is out-of-service.

10. That the system will be used only for communication between your state and FDA (Regional, District, or Headquarters Office). It is understood that the equipment is not to be used for communication between state agencies.

IV. Name and address of terminal agency. N.C. State Department of Agriculture, Agriculture Building, Edenton Street, Box 27647, Raleigh, North Carolina 27611.

V. Liaison Officers. For N.C. State Dept. of Agriculture: Dr. W. Y. Cobb, Director, Food and Drug Protection Division, Address: Agriculture Bldg., Edenton St., Box 27647, Raleigh, NC 27611. Telephone No.: (919) 829-7366.

For FDA: Mr. George R. White, Director, Atlanta District, Food and Drug Administration, Address: 880 W. Peachtree St., NW, Atlanta, GA 30309. Telephone No.: (404) 526-3218.

VI. Period of agreement. This agreement, when accepted by both parties, will have an effective period of performance three (3) years from date of signature and may be modified by mutual consent by both parties or may be terminated by either party upon a thirty (30) day advance written notice to the other.

Approved and accepted for the North Carolina Department of Agriculture.

Dated: April 1, 1975.

James A. Graham,  
Commissioner of Agriculture.

Approved and accepted for the Food and Drug Administration.

Dated: April 7, 1975.

M. D. Kinslow,  
Regional Food and  
Drug Director, Region IV.

Effective date. This memorandum of understanding became effective April 7, 1975.

Dated: May 22, 1975.

SAM D. FINE,  
Associate Commissioner for  
Compliance.

[FR Doc.75-13914 Filed 5-28-75; 8:45 am]

[FDA-225-75-4055]

#### ARTX TELECOMMUNICATION EQUIPMENT

Memorandum of Understanding With the Ohio Department of Agriculture

Pursuant to the notice published in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697), stating that future memoranda of understanding between the Food and Drug Administration and others would be published in the FEDERAL REGISTER, the Commissioner of Food and Drugs issues the following notice:

The Food and Drug Administration executed a Memorandum of Understanding with the Ohio Department of Agriculture on March 26, 1975. The purpose of the memorandum is to establish the procedures and guidelines for the operation, maintenance, and protection

of FDA-rented ARTX Telecommunication Equipment. It reads as follows:

MEMORANDUM OF UNDERSTANDING BETWEEN THE OHIO DEPARTMENT OF AGRICULTURE AND THE FOOD AND DRUG ADMINISTRATION

I. Purpose. To establish the procedures and guidelines for the operation, maintenance, and protection of FDA-rented ARTX Telecommunication Equipment located in the offices of the Division of Foods, Dairies & Drugs, Ohio Department of Agriculture, Route 40, Reynoldsburg, Ohio.

II. Background. The FDA, Assistant Secretary for Health, Department of HEW, and the General Services Administration have approved a program to install full telecommunication transmit and receive terminals in a number of prime state food and drug agencies. Although terminals will be placed in a number of prime food and drug regulatory agencies, there are a number of other agencies with food and drug responsibilities in each state, where no terminal will be installed. Therefore, your agency, being one that received a terminal, must agree to share the terminal with other food and drug agencies in your state to assure that the communication system is accessible to all agencies with food and drug related responsibilities.

In addition to terminal-sharing, it is necessary for our two agencies to assure that proper operation and necessary supporting requirements for the equipment is maintained and proper security is provided for the equipment.

III. Substance of agreement. A. The Food and Drug Administration agrees:

1. To arrange for the installation of the equipment in the location designated by your agency.

2. To support financially the cost of initial installation of the equipment and pay directly to GSA and Western Union the monthly rental cost. After the initial installation, the state will be responsible for relocation installation cost, unless relocation is in conjunction with a major move of the terminal agency to a new location address.

3. To identify for you those units in your state on which terminal-sharing must be accomplished.

4. To require that the terminal location agency (your agency) submit to FDA a terminal-sharing plan to be developed by you and other sharing units in your state.

5. To arrange through Western Union for training of terminal operators.

6. To provide operation instruction manual.

7. To withdraw financial support for the terminal if gross misuse of the terminal is practiced after due notice.

B. The State Terminal Agency agrees:

1. To provide suitable physical location for equipment with adequate security protection.

2. To provide and pay for electric power source to operate the terminal. (110 volts)

3. To provide for paper, tape and other material necessary for the operation of the equipment.

4. To share the terminal with other food and drug agencies in the state according to a terminal-sharing plan agreed to by each potential user.

5. To submit to the FDA Regional Office monthly traffic log. (Form to be furnished by FDA)

6. To submit promptly all messages received for addressees other than your agencies. Transmit promptly messages to FDA received from other appropriate agencies.

7. Maintain operator coverage for the terminal between normal working hours of your agency.

8. Notify vendor (Western Union) of any breakdown of the equipment or other needs for maintenance.

9. Notify FDA (Regional or Headquarters) of periods that the equipment is out-of-service.

10. That the system will be used only for communication between your state and FDA (Regional, District, or Headquarters Office). It is understood that the equipment is not to be used for communication between state agencies.

IV. Name and address of terminal agency. Ohio Department of Agriculture, Division of Foods, Dairies & Drugs, Route 40, Reynoldsburg, Ohio 43068.

V. Liaison Officers. For Ohio Dept. of Agriculture: Roland E. Jenkins, Chief, Division of Foods, Dairies & Drugs, Address: Route 40, Reynoldsburg, OH 43068. Telephone No.: (614) 866-6361.

For FDA: Kermit N. Peterson, Super. Consumer Safety Officer, DHEW/PHS/U.S. Food and Drug Administration, Address: Rm. 550 B, New Federal Bldg., 85 Marconi Blvd., Columbus, OH 43215. Telephone No.: (614) 469-7353.

VI. Period of agreement. This agreement, when accepted by both parties, will have an effective period of performance three (3) years from date of signature and may be modified by mutual consent by both parties or may be terminated by either party upon a thirty (30) day advance written notice to the other.

Approved and accepted for the Ohio Department of Agriculture.

Dated: March 26, 1975.

Roland E. Jenkins,  
Chief, Division of Foods,  
Dairies & Drugs.

Approved and accepted for the Food and Drug Administration.

Dated: March 24, 1975.

Donald C. Heaton,  
Regional Director, Food and  
Drug Administration.

Effective date. This memorandum of understanding became effective March 26, 1975.

Dated: May 22, 1975.

SAM D. FINE,  
Associate Commissioner for  
Compliance.

[FR Doc.75-13915 Filed 5-28-75; 8:45 am]

[FDA-225-75-4059]

#### ARTX TELECOMMUNICATION EQUIPMENT

Memorandum of Understanding With the Tennessee Department of Agriculture

Pursuant to the notice published in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697), stating that future memoranda of understanding between the Food and Drug Administration and others would be published in the FEDERAL REGISTER, the Commissioner of Food and Drugs issues the following notice:

The Food and Drug Administration executed a Memorandum of Understanding with the Tennessee Department of Agriculture on April 7, 1975. The purpose of the memorandum is to establish the procedures and guidelines for the operation, maintenance, and protection of FDA-

rented ARTX Telecommunication Equipment. It reads as follows:

MEMORANDUM OF UNDERSTANDING BETWEEN THE TENNESSEE DEPARTMENT OF AGRICULTURE AND THE FOOD AND DRUG ADMINISTRATION

I. Purpose. To establish the procedures and guidelines for the operation, maintenance, and protection of FDA-rented ARTX Telecommunication Equipment located in Room 106-A, Office and Laboratory Building, Ellington Agricultural Center, Melrose Station, Nashville, TN 37204.

II. Background. The FDA, Assistant Secretary for Health, Department of HEW, and the General Services Administration have approved a program to install full telecommunication transmit and receive terminals in a number of prime state food and drug agencies. Although terminals will be placed in a number of prime food and drug regulatory agencies, there are a number of other agencies with food and drug responsibilities in each state, where no terminal will be installed. Therefore, your agency, being one that received a terminal, must agree to share the terminal with other food and drug agencies in your state to assure that the communication system is accessible to all agencies with food and drug related responsibilities.

In addition to terminal-sharing, it is necessary for our two agencies to assure that proper operation and necessary supporting requirements for the equipment is maintained and proper security is provided for the equipment.

III. Substance of agreement. A. The Food and Drug Administration agrees:

1. To arrange for the installation of the equipment in the location designated by your agency.

2. To support financially the cost of initial installation of the equipment and pay directly to GSA and Western Union the monthly rental cost. After the initial installation, the state will be responsible for relocation installation cost, unless relocation is in conjunction with a major move of the terminal agency to a new location address.

3. To identify for you those units in your state on which terminal-sharing must be accomplished.

4. To require that the terminal location agency (your agency) submit to FDA a terminal-sharing plan to be developed by you and other sharing units in your state.

5. To arrange through Western Union for training of terminal operators.

6. To provide operation instruction manual.

7. To withdraw financial support for the terminal if gross misuse of the terminal is practiced after due notice.

B. The State Terminal Agency agrees:

1. To provide suitable physical location for equipment with adequate security protection.

2. To provide and pay for electric power source to operate the terminal. (110 volts)

3. To provide for paper, tape and other material necessary for the operation of the equipment.

4. To share the terminal with other food and drug agencies in the state according to a terminal-sharing plan agreed to by each potential user.

5. To submit to the FDA Regional Office monthly traffic log. (Form to be furnished by FDA)

6. To submit promptly all messages received for addressees other than your agencies. Transmit promptly messages to FDA received from other appropriate agencies.

7. Maintain operator coverage for the terminal during normal working hours of your agency.

8. Notify vendor (Western Union) of any breakdown of the equipment or other needs for maintenance.

9. Notify FDA (Regional or Headquarters) of periods that the equipment is out-of-service.

10. That the system will be used only for communication between your state and FDA (Regional, District, or Headquarters Office). It is understood that the equipment is not to be used for communication between state agencies.

IV. Name and address of terminal agency. Tennessee State Department of Agriculture, Ellington Agricultural Center, Box 40627, Melrose Station, Nashville, Tennessee 37204.

V. Liaison Officers. For Tennessee State Department of Agriculture: Eugene H. Holman, Director, Division of Food and Drugs, Address: Ellington Agricultural Center, Box 40627, Melrose Station, Nashville, Tennessee 37204. Telephone No. (615) 741-1411.

For FDA: Mr. Hayward E. Mayfield, Director, Nashville District, Food and Drug Administration, Address: 297 Pius Park Blvd., Nashville, TN 37217. Telephone No. (615) 749-5851.

VI. Period of agreement. This agreement, when accepted by both parties, will have an effective period of performance three (3) years from date of signature and may be modified by mutual consent by both parties or may be terminated by either party upon a thirty (30) day advance written notice to the other.

Approved and accepted for the Tennessee Department of Agriculture.

Dated: April 3, 1975.

Edward S. Porter,  
Commissioner, Tennessee Department  
of Agriculture.

Approved and accepted for the Food and Drug Administration.

Dated: April 7, 1975.

M. D. Kinslow,  
Regional Food and Drug  
Director, Region IV.

Effective date. This memorandum of understanding became effective April 7, 1975.

Dated: May 22, 1975.

SAM D. FINE,  
Associate Commissioner  
for Compliance.

[FR Doc.75-13913 Filed 5-28-75; 8:45 am]

[NADA No. 15-168]

PFIZER, INC.

Curatin Tablets; Notice of Withdrawal of Approval of New Animal Drug Application

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-351; 21 U.S.C. 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), the following notice is issued:

New animal drug application (NADA) No. 15-168, held by Pfizer, Inc., 235 East 42d St., New York, NY 10017, provides for Curatin Tablets, a prescription drug indicated for the treatment of pruritus and dermatitis in dogs.

The applicant requested that approval of the application be withdrawn on the basis that the drug is no longer being marketed.

Therefore, in accordance with 21 CFR 514.115(d), notice is given that approval of NADA No. 15-168 and all supplements and amendments thereto is hereby withdrawn effective May 29, 1975.

Dated: May 21, 1975.

SAM D. FINE,  
Associate Commissioner  
for Compliance.

[FR Doc.75-13907 Filed 5-28-75; 8:45 am]

[DESI 4687; Docket No. FDC-D-670; NDA No. 12-216]

SCHERING CORP.

Preparation Containing Polycarbophil and Thiexinol Methylbromide; Withdrawal of Approval of New Drug Application

In a notice of opportunity for hearing (DESI 4687) which was published in the FEDERAL REGISTER of June 4, 1974 (39 FR 19799), the Director of the Bureau of Drugs proposed to issue an order withdrawing approval of the drug product described below. The basis of the proposed action was the lack of substantial evidence that the product is effective for its labeled indication. The product has been used for symptomatic treatment of acute and chronic diarrhea. No person contested the proposed action and approval of the new drug application is now being withdrawn.

NDA 12-216; Sorboquel Tablets, polycarbophil 0.5 gram and thiexinol methylbromide 15 milligrams; Schering Corporation, Galloping Hill Road, Kenilworth, NJ 07033.

All identical, related, and similar drug products, not the subject of an approved new drug application, are covered by the application reviewed and are subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write the Food and Drug Administration, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20852.

Neither the holder of the application nor any other person filed a written appearance of election as provided by said notice. The failure to file such an appearance constitutes an election by such persons not to avail themselves of the opportunity for a hearing.

The Director of the Bureau of Drugs, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1053, as amended; 21 U.S.C. 355), and under authority delegated to him (21 CFR 2.121), finds that on the basis of new information before him with respect to the drug product, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug product will have the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing findings, approval of new drug application No. 12-216, and all amendments and supplements applying thereto is withdrawn effective June 9, 1975.



Shipment in interstate commerce of the above-listed product or of any identical, related, or similar product, of the subject of an approved new drug application, will then be unlawful.

Dated: May 19, 1975.

J. RICHARD CROUT,  
Director, Bureau of Drugs.

[FR Doc.75-13908 Filed 5-28-75; 8:45 am]

#### SURGICAL DRUGS ADVISORY COMMITTEE

##### Meeting Cancellation

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announced in a notice published in the FEDERAL REGISTER of May 19, 1975 (40 FR 21745), public advisory committee meetings and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act. Notice is hereby given that the Surgical Drugs Advisory Committee meeting scheduled for June 9, 1975, is canceled.

Dated: May 22, 1975.

SAM D. FINE,  
Associate Commissioner  
for Compliance.

[FR Doc.75-13909 Filed 5-28-75; 8:45 am]

#### Office of the Secretary

#### SOCIAL SECURITY BENEFIT INCREASES

##### Cost-of-Living Increase in Benefits and in Income Limitations

##### Correction

In FR Doc. 75-13220, appearing in the FEDERAL REGISTER, Thursday, May 22, 1975 on page 22289, two corrections should be made as follows: The amount "\$946" on page 22289, the second column, the 16th line and on page 22290, the second column, the last line of the second full paragraph should be corrected to read "\$946.80".

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration  
[Docket No. N-75-339]

#### BEAR CREEK LAKES

##### Notice of Hearing

In the matter of Bear Creek Lakes, OILSR No. 0-2170-44-131, Docket No. Y-1051.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) notice is hereby given that:

1. Bear Creek Lakes, Inc., Josiah W. H. Behrens, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing issued February 24, 1975, which was sent to the developer pursuant to 15

U.S.C. 1706(d), 24 CFR 1710.45(b) (1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Bear Creek Lakes, located in Carbon County, Pennsylvania, contain untrue statement of material fact or omit to state material facts required to be stated therein as necessary to make the statement therein not misleading.

2. The Respondent filed an Answer received March 10, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on June 4, 1975, at 2 p.m.

5. The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before May 28, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b) (1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: May 2, 1975.

JAMES W. MAST,  
Administrative Law Judge.

[FR Doc.75-13951 Filed 5-28-75; 8:45 am]

[Docket No. N-75-354]

#### BRIARBROOK FIRST SUBDIVISION

##### Notice of Hearing

In the matter of Briarbrook First Subdivision, OILSR No. 0-1433-29-53, Docket No. Y-878.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) notice is hereby given that:

1. Briarbrook Development Corporation, Jack L. Perry, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for

Hearing issued February 27, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b) (1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Briarbrook First Subdivision, located in Jasper County, Missouri, contain untrue statement of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received March 17, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on June 6, 1975, at 2 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before May 30, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b) (1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: April 22, 1975.

JAMES W. MAST,  
Administrative Law Judge.

[FR Doc.75-13947 Filed 5-28-75; 8:45 am]

[Docket No. N-75-335]

#### CAROVA BEACH, SWAN BEACH, WHALEHEAD CLUB

##### Notice of Hearing

In the matter of Carova Beach, OILSR No. 0-0974-38-9 (A-C), Swan Beach, OILSR No. 0-1417-38-22 (A-C), Whalehead Club OILSR No. 0-2262-38-95; Docket No. 75-26.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) notice is hereby given that:

1. Carova Corporation, Ocean Sands Corporation, and Construction Associates, Inc., James H. Kabler, President; Ocean Associates, Gerald J. Friedman, President its officers and agents, hereinafter referred to as "Respondents," being subject to the provisions of the Inter-

state Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing issued April 16, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Carova Corporation, Ocean Sands Corporation, Construction Associates, and Ocean Associates, located in Currituck County, North Carolina, contain untrue statement of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received May 1, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on July 25, 1975, at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before July 18, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b) (1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: May 7, 1975.

JAMES W. MAST,  
Administrative Law Judge.

[FR Doc.75-13955 Filed 5-28-75; 8:45 am]

[Docket No. N-75-363]

#### EL PINAR

##### Hearing

In the matter of El Pinar, OILSR No. 0-3065-09-872, Docket No. Y-1096.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) Notice is hereby given that:

1. Central Florida Action, Inc., Hector Marrero, President, its officers and agents, hereinafter referred to as "Re-

spondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing issued February 27, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b) (1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for El Pinar, located in Polk County, Florida, contain untrue statement of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received March 25, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street SW., Washington, D.C., on June 9, 1975, at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before June 2, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b) (1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: April 22, 1975.

By the Secretary.

JAMES W. MAST,  
Administrative Law Judge.

[FR Doc.75-13940 Filed 5-28-75; 8:45 am]

[Docket No. N-75-336]

#### FAWN LAKE

##### Notice of Hearing

In the matter of Fawn Lake, OILSR No. 0-1273-23-43, Docket No. Y-204.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) notice is hereby given that:

1. Lakeland Development Ltd., James E. Carr, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act

(Pub. L. 90-448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing issued March 31, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Lakeland Development Ltd., located in Franklin County, Missouri, contain untrue statement of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received April 22, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on July 14, 1975, at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before July 7, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b) (1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: May 8, 1975.

JAMES W. MAST,  
Administrative Law Judge.

[FR Doc.75-13954 Filed 5-28-75; 8:45 am]

[Docket No. N-75-356]

#### FREEPORT RIDGE ESTATES

##### Notice of Hearing

In the matter of Freeport Ridge Estates Limited, OILSR No. 0-0468-60-14 Docket No. Y-856, Y-864, Y-865, Y-1042, Y-1043, Y-1044, Y-1045.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) notice is hereby given that:

1. Freeport Ridge Estates Limited, Daniel S. Dublin, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701 et seq.), received a Notice of



Proceedings and Opportunity for Hearing issued March 19, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Freeport Ridge Estates Limited, located in Grand Bahama Island, Bahamas, contain untrue statement of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received March 25, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on May 23, 1975, at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before May 16, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: May 2, 1975.

JAMES W. MAST,  
Administrative Law Judge.  
[FR Doc.75-13945 Filed 5-28-75; 8:45 am]

[Docket No. N-75-350]

#### GRANNY SQUIRREL GAP DEVELOPER Notice of Hearing

In the matter of Granny Squirrel Gap Developer, Leisure Properties, Inc. OILSR No. 0-1870-38-58, Docket No. Y-729.

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b) notice is hereby given that:

1. Leisure Properties, Inc., Michael J. O'Grady, President, its officers and agents hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701 et seq.), received an Order of Suspension issued February 14, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(1) informing the developer of his failure to comply with the request of the Secretary for documents concerning Granny Squirrel Gap, located in Andrews, North Carolina, was not effective pursuant to the Act, and the regulations contained in 24 CFR Part 1710.

2. The Respondent filed an Answer received March 13, 1975, in response to the Suspension Order dated February 14, 1975.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Suspension.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1720.165(b) it is hereby ordered, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Suspension will be held before Judge James W. Mast, Administrative Law Judge, in room 7146, Department of HUD Building, 451 7th Street SW., Washington, D.C. on June 10, 1975, at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before June 3, 1975.

5. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the suspension of the Statement of Record, herein identified, shall continue until vacated by order of the Secretary, pursuant to 24 CFR 1720.165.

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.165.

By the Secretary.

Dated: April 29, 1975.

JAMES W. MAST,  
Administrative Law Judge.  
[FR Doc.75-13956 Filed 5-28-75; 8:45 am]

[Docket No. N-75-364]

#### INDIGO PLANTATION Notice of Hearing

In the matter of Indigo Plantation, OILSR No. 0-0993-60-28, Docket No. Y-843.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) notice is hereby given that:

1. Indigo Development Corporation, Joseph A. Waldschmitt, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing issued February 27, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Indigo Plantation, located in British Virgin Islands, contain untrue statement of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received March 27, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C. on July 16, 1975 at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before July 9, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: April 21, 1975.

JAMES W. MAST,  
Administrative Law Judge.  
[FR Doc.75-13941 Filed 5-28-75; 8:45 am]

[Docket No. N-75-353]

#### JAY PEAK SUBDIVISION II Notice of Hearing

In the matter of Jay Peak Subdivision II, OILSR No. 0-2949-53-36, Docket No. Y-991.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) notice is hereby given that:

1. Jay Peak, Inc., Harold J. Haynes, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing issued February 24, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Jay Peak Subdivision II, located in Orleans County, Vermont, contain untrue statement of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received March 24, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on June 11, 1975, at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before June 4, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: April 22, 1975.

JAMES W. MAST,  
Administrative Law Judge.  
[FR Doc.75-13949 Filed 5-28-75; 8:45 am]

[Docket No. N-75-338]

#### LAKE ARROWHEAD Notice of Hearing

In the matter of Lake Arrowhead, OILSR No. 0-2547-29-112 (A), Doc. No. 75-25.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) notice is hereby given that:

1. National Development Co., Inc., Robert J. Sabinske, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing issued April 10, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for National Development Co., Inc., located in Clinton County, Missouri, contain untrue statement of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received May 6, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on June 10, 1975, at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before June 3, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: May 9, 1975.

JAMES W. MAST,  
Administrative Law Judge.  
[FR Doc.75-13952 Filed 5-28-75; 8:45 am]

[Docket No. N-75-337]

#### LAKE FOREST Notice of Hearing

In the matter of Lake Forest, OILSR No. 0-2519-34-53, Docket No. Y-996.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) notice is hereby given that:

1. Gilford Industries, Inc., Robert W. Valpey, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing issued February 24, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Gilford Industries, Inc., located in Grafton County, New Hampshire, contain untrue statements of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.

2. The Respondent filed an answer received March 13, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on June 3, 1975, at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before May 27, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: May 9, 1975.

JAMES W. MAST,  
Administrative Law Judge.  
[FR Doc.75-13953 Filed 5-28-75; 8:45 am]

[Docket No. N-75-361]

#### LAKE IN THE WOODS Notice of Hearing

In the matter of Lake in the Woods, OILSR No. 0-3278-29-158, Docket No. Y-1073.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) notice is hereby given that:

1. American Central Corporation, Howard J. Bohnet, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing issued March 19, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Lake in the Woods, located in Callaway and Montgomery Counties, Michigan, contain untrue statement of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.



2. The Respondent filed an Answer received March 31, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on June 24, 1975, at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before June 17, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an Order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: April 21, 1975.

JAMES W. MAST,  
Administrative Law Judge.

[FR Doc.75-13938 Filed 5-28-75; 8:45 am]

[Docket No. N-75-360]

#### LAKE THUNDERBIRD Notice of Hearing

In the matter of Lake Thunderbird, OILSR No. 0-0654-13-9, Docket No. Y-819.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) notice is hereby given that:

1. American Central Corporation, Don L. Foote, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing issued March 19, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Lake Thunderbird, located in Putnam and Bureau Counties, Illinois, contain untrue statement of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received March 31, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on June 24, 1975, at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before June 17, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an Order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: April 21, 1975.

By the Secretary.

JAMES W. MAST,  
Administrative Law Judge.

[FR Doc.75-13937 Filed 5-28-75; 8:45 am]

[Docket No. N-75-358]

#### MISSAUKEE HILLS Notice of Hearing

In the matter of Missaukee Hills, OILSR No. 0-2868-26-58, Docket No. Y-985.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) notice is hereby given that:

1. American Central Corporation, Howard J. Bohnet, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing issued March 19, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Missaukee Hills, located in Missaukee County, Michigan, contain untrue statement of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.

2. The Respondent filed an answer received March 31, 1975, in response to the

Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on June 24, 1975, at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before June 17, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: April 21, 1975.

JAMES W. MAST,  
Administrative Law Judge.

[FR Doc.75-13943 Filed 5-28-75; 8:45 am]

[Docket No. N-75-351]

#### PALM RIVER ESTATES AND COUNTRY CLUB Notice of Hearing

In the matter of Palm River Estates and Country Club OILSR No. 0-1924-09-580, Docket No. Y-239.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) notice is hereby given that:

1. Palm River Estates, Inc., Robert E. Forsythe, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing issued March 28, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Palm River Estates and Country Club, located in Collier County, Florida, contain untrue statement of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received April 15, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on June 25, 1975, at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before June 18, 1975.

The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: April 28, 1975.

JAMES W. MAST,  
Administrative Law Judge.

[FR Doc.75-13950 Filed 5-28-75; 8:45 am]

[Docket No. N-75-359]

#### RIVIERA GOLF ESTATES Notice of Hearing

In the matter of Riviera Golf Estates, OILSR No. 0-3272-09-894, Docket No. Y-837.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) notice is hereby given that:

1. Riviera Estates Corporation, William T. McCluskey, Vice President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing issued March 28, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Riviera Golf Estates, located in Collier County, Florida, contain untrue statement of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received April 17, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on July 1, 1975, at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before June 24, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: May 2, 1975.

JAMES W. MAST,  
Administrative Law Judge.

[FR Doc.75-13942 Filed 5-28-75; 8:45 am]

[Docket No. N-75-357]

#### STRATFORD HARBOR Notice of Hearing

In the matter of Stratford Harbor, OILSR No. 0-129-54-8, Docket No. Y-1101.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) notice is hereby given that:

1. American Central Corporation of Virginia, Jim Miller, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing issued March 3, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Stratford Harbor, located in Westmoreland County, Virginia, contain untrue statement of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received March 17, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on May 21, 1975, at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before May 16, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: April 28, 1975.

JAMES W. MAST,  
Administrative Law Judge.

[FR Doc.75-13944 Filed 5-28-75; 8:45 am]

[Docket No. N-75-362]

#### TROPICAL RIVER GROVES Notice of Hearing

In the matter of Tropical River Groves, OILSR No. 0-0001-09-1, Docket No. Y-861.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) notice is hereby given that:

1. American Agronomics Corporation, Jack A. Freeman, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing issued March 19, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Tropical River Groves, located in De Soto County, Florida, contain untrue statement of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.



2. The Respondent filed an Answer received April 2, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street SW., Washington, D.C., on July 14, 1975, at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before July 7, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b) (1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: April 21, 1975.

JAMES W. MAST,  
Administrative Law Judge.

[FR Doc.75-13939 Filed 5-28-75; 8:45 am]

[Docket No. N-75-352]

#### TUCSON ESTATES

##### Notice of Hearing

In the matter of Tucson Estates, OILSR No. 0-0353-02-58, Docket No. Y-821.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) notice is hereby given that:

1. Tucson Estates, Inc., Melvin J. Hutchinson, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing issued March 19, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b) (1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Tucson Estates, located in Pima County, Arizona, contain untrue statement of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.

2. The Respondent filed an Answer

received April 10, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street SW., Washington, D.C., on June 19, 1975, at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before June 13, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b) (1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: April 28, 1975.

JAMES W. MAST,  
Administrative Law Judge.

[FR Doc.75-13948 Filed 5-28-75; 8:45 am]

[Docket No. N-75-355]

#### WEST MIAMI ACREAGE

##### Notice of Hearing

In the matter of West Miami Acreage, OILSR No. 0-1252-09-341, Docket No. Y-881.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) notice is hereby given that:

1. Florida Leisure Time, Inc., Gerald Robbins, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing issued March 19, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b) (1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for West Miami Acreage, located in Dade County, Florida, contain untrue statement of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received April 10, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street SW., Washington, D.C., on July 22, 1975, at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before July 15, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b) (1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: April 28, 1975.

JAMES W. MAST,  
Administrative Law Judge.

[FR Doc.75-13946 Filed 5-28-75; 8:45 am]

#### DEPARTMENT OF TRANSPORTATION

##### Federal Aviation Administration

[Docket No. 14626]

#### ELIMINATION OF VFR FLIGHT PLAN SERVICE

##### Proposed Change in Policy

The Federal Aviation Administration is considering elimination of VFR flight plan service except where specifically required by the Federal Aviation Regulations or in certain areas prescribed by the Administrator.

No rule-making action is proposed herein. However, because the FAA believes that the aviation community may have an unusually great interest in the policy matters under consideration, this notice is published so that interested persons may participate by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. All communications received on or before August 28, 1975, will be considered by the Administrator before taking action on the proposed change in policy. The proposal contained herein may be changed in the light of comments received. All comments submitted will be available, both before and after the closing dates for

comments, in the Docket for examination by interested persons.

Elimination of the VFR flight plan is neither a new idea nor is it revolutionary. A 1973 DOT-FAA study of modernizing the Flight Service Station system proposed the service be eliminated once a suitable alternative was available.

On November 15, 1974, the Aircraft Owners and Pilots Association (AOPA) submitted a proposal for Flight Service Station modernization. One of AOPA's recommendations was the immediate elimination of the VFR flight plan. It was also recommended that the Flight Service Station workforce currently used to provide VFR flight plan service could in turn be used to implement En Route Flight Advisory Service nationwide. This proposal was jointly developed with the General Aviation Manufacturers Association, coordinated with other user groups, and formally presented to the General Aviation Associations Council December 3, 1974.

Coincident to the AOPA proposal was an ongoing agency effort to provide better definition and direction to Flight Service Station modernization. In a re-assessment of Flight Service Station functional requirements, the review team working group reaffirmed that VFR flight plans should be eliminated.

VFR flight plan service requires some 368,000 manhours annually, yet only 10-15 percent of all VFR itinerant flights file a flight plan. It is felt this workforce, if used to provide an en route flight advisory service, would be more responsive to the needs of the aviation community.

The main value of the VFR flight plan lies in the initiation of search. With the perfection of the Emergency Locator Transmitter (ELT) search may be initiated earlier than is possible with flight plan action. In areas where the ELT value is reduced the Flight Service Station system would continue its flight following service for prescribed areas, i.e., lake, island, mountain, swamp reporting, which are described and depicted in the Airman's Information Manual Part 1.

The provisions of this notice are not intended to delete or alter any requirement for a VFR flight plan where such a requirement is so stated in the Federal Aviation Regulations. Flight Service Stations will continue to service VFR flight plans where specifically required by the Federal Aviation Regulations.

Accordingly, the Federal Aviation Administration proposes elimination of VFR flight plan services except:

1. When such VFR flight plans are required by the Federal Aviation Regulations.

2. When such VFR flight plans involve flight over certain areas (lake, island, swamp, and mountain reporting service) which are described and depicted within the Airman's Information Manual Part 1.

Issued in Washington, D.C., on May 22, 1975.

RAYMOND G. BELANGER,  
Director, Air Traffic Service.

[FR Doc.75-13901 Filed 5-28-75; 8:45 am]

#### AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION Advisory Council Meeting

In FR Doc. 75-12099 appearing on page 20124 in the issue for Thursday, May 8, 1975, notice was given pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463), of the June meeting of the American Revolution Bicentennial Council. Notice is hereby given that the June 2 meeting will be held at the New Executive Office Building in Room 10103, 17th and Pennsylvania Avenue NW., Washington, D.C. from 9:30 a.m. to 5 p.m.

Agenda items will include a report from the Subcommittee on July 4, 1976, presentations on BINET, the American Issues Forum and the American Folklife Festival.

The meeting will be open to the public on a space available basis. Further information can be obtained from Ms. Jane Shay, Executive Assistant to the Administrator, ARBA, 2401 "E" Street NW., Washington, D.C. 20276, telephone (202) 634-1881.

JOHN W. WARNER,  
Administrator, ARBA

[FR Doc.75-13976 Filed 5-28-75; 8:45 am]

#### CIVIL AERONAUTICS BOARD

[Docket No. 27158]

##### AEROPERU

##### Notification and Order Disapproving Schedules

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 20th day of March, 1975.

AeroPeru (Empresa de Transportes Aero del Peru) is the holder of a foreign air carrier permit, issued pursuant to Order 74-7-121,<sup>1</sup> which authorizes it to perform foreign air transportation with respect to persons, property, and mail, over a route between: (1) a point or points in Peru; the intermediate points Guayaquil and Quito, Ecuador; Bogota and Cali, Columbia; Panama City, Panama; Caracas, Venezuela; and Miami, Florida; and the terminal point Montreal, Canada; and (2) a point or points in Peru; the intermediate points Guayaquil, Ecuador; and Mexico City, Mexico; and the terminal point Los Angeles, California; and to engage in charter trips subject to Part 212 of the Board's Economic Regulations. This permit, issued pursuant to the Air Transport Services Agreement between the Government of the United States and the Government of Peru, enables AeroPeru to operate to the United States with whatever number of frequencies and combination of authorized points it desires, utilizing whatever type aircraft it alone chooses.

In May 1974 the U.S.-designated carrier (Braniff Airways) applied to the

<sup>1</sup> Approved by the President on July 25, 1974.

aeronautical authorities of Peru for authority to operate two additional frequencies to that country. When the Government of Peru indicated that it would not approve Braniff's application, the United States Government noted its objections and requested the Peruvian authorities to reconsider their decision pending consultations. The Peruvian authorities declined to do so.<sup>2</sup>

On October 22, 1974 the Government of Peru issued Braniff a new operating permit with an expiration date of February 28, 1975. The permit reduced the number of flights permitted the U.S. carrier between the United States and Peru and beyond and required the carrier to adhere to a prescribed itinerary on those flights which would continue to operate. Further restrictions were placed on the number of flights that the carrier might operate to individual points along the route. Braniff's services between Lima, La Paz and Asuncion; Lima, La Paz and Buenos Aires; Lima, La Paz and Santiago and between Lima, Sao Paulo and Rio de Janeiro were authorized to continue only provisionally (for a period of 45 days), it being alleged that they were not contemplated in the Route Annex of the U.S.-Peru Air Transport Services Agreement. The U.S. carrier was given 45 days, or until January 7, 1975, to comply with the terms of the new permit. Subsequently, this period was extended to January 31, 1975. The net effect of the restrictions and termination of beyond authority was to reduce Braniff's flights between Miami and Lima from 14 round-trip frequencies per week to 7, and its operations beyond Peru from 14 weekly round-trip flights to 1 weekly round trip.

Faced with these restrictions on the operations of the U.S. carrier to Peru, on November 8, 1974 the Civil Aeronautics Board issued Order 74-11-43 under Part 213 of its Regulations, requiring AeroPeru to file its existing and proposed schedules so that the Board could determine whether the operation of such services, or any part thereof, were contrary to applicable law or adverse to the public interest.

Subsequent to the issuance of this order, representatives of the Government of Peru and the Government of the United States met for consultations in Lima November 11-15, 1974, and January 8-24, 1975. During the talks the U.S. representatives made clear the United States Government's view that the restrictions the Government of Peru had unilaterally imposed on the U.S. carrier constituted a violation of the Agreement. They urged that the two delegations explore bilateral solutions to the civil aviation problems between the two countries. These talks were unsuccessful. Inter-carrier discussions were similarly unproductive. Beginning February 1, 1975 Braniff was forced to reduce schedules to those authorized pursuant to the terms of the new permit.

<sup>2</sup> The Air Transport Services Agreement between the United States and Peru provides that "neither Government will delay nor deny the entry into effect of proposed schedules."



## NOTICES

In view of the rights denied by the Government of Peru to the U.S.-designated carrier, on February 24, 1975 the Board issued Order 75-2-88 in Docket 27539, in which it found that the foundation for the grant of a permit to AeroPeru no longer existed, and directed interested persons to show cause why the Board should not cancel the foreign air carrier permit held by AeroPeru.

As the Board heretofore found in Order 75-2-88, the unilateral action of the Government of Peru, over the objections of the United States Government, in restricting and terminating rights of the U.S.-designated carrier between the United States and Peru, and beyond, granted pursuant to the U.S.-Peruvian bilateral, has significantly impaired, limited and denied operating rights in a manner inconsistent with and in violation of the United States-Peru Air Transport Service Agreement. Despite strong representations by the United States Government, the Peruvian Government has failed to restore the rights withdrawn from Braniff Airways. Under these circumstances, it is clear that effective and immediate action is required to insure that the rights of the U.S.-designated carrier to maintain a fair and equitable opportunity to conduct the operations provided for under the U.S.-Peru Air Transport Services Agreement will be restored. While the question of cancellation of the AeroPeru permit, by reason of the extinguishment of the foundation for the grant of that permit, will be considered in Docket 27539, pending ultimate determination in that proceeding, AeroPeru remains entitled under its permit to conduct unrestricted operations to the United States while Braniff's rights have been sharply curtailed. The Board finds that to permit AeroPeru to maintain authority to conduct unrestricted operations under its permit, while Braniff is subject to the restrictions imposed by the Government of Peru in violation of the Agreement, would not be consistent with the public interest. Part 213 of the Board's regulations was specifically promulgated, *inter alia*, to provide a means by which the Board could take remedial action in the event of such foreign government restrictions.

In Order 75-2-88 the Board found that the foundation for a grant of a permit to AeroPeru had been terminated by Peru's restrictive actions against Braniff. The Board pointed out that the underlying foundation for the grant of a foreign air carrier permit to AeroPeru rests upon the faithful adherence to the terms of the United States-Peru Air Transport Services Agreement, i.e., the grant to U.S. carriers of the rights exchanged and provided for in that Agreement, and that the Peruvian Government had denied these rights with respect to the operations of the U.S.-designated carrier to Peru. The Peruvian restrictions have seriously drawn into question the economic viability of Braniff's entire operations to Peru. Nevertheless, the Peruvian

Government is presently permitting some Braniff operations, and under these circumstances, pending ultimate decision in Docket 27539, we will, although the justification for such operations does not appear to exist under the current circumstances, permit AeroPeru to continue to operate one round-trip flight per week solely between Lima and Miami, without intermediate stops, or extra sections. The Board therefore finds, pursuant to § 213.3 (d) of its regulations, that the operation by AeroPeru of any existing or proposed schedules in excess of the one weekly round-trip schedule between Lima and Miami, as set forth below, would be adverse to the public interest; and, except to that extent, the schedules of AeroPeru should be disapproved.

Should the two Governments reach an understanding subsequent to this order, reconsideration of this action would, of course, be appropriate.

Accordingly, it is ordered, That:

1. The schedules filed by AeroPeru on November 15, 1974, with the exception of flight 602 which departs Lima on Tuesdays and arrives in Miami on Wednesdays and flight 603 which departs Miami on Thursdays and arrives in Lima on the same day, be, and they hereby are, disapproved, and effective 30 days from the date of service of this order, AeroPeru shall cease operating such schedules. Flights 602 and 603 must originate or terminate in Lima or Miami and must be operated without intermediate stops. Extra sections for such flights shall not be operated;

2. This order shall be submitted to the President and shall become effective on June 26, 1975;

3. This order shall remain in effect until further order of the Board; and

4. This order shall be served on AeroPeru (Empresa de Transportes Aero del Peru) and the Ambassador of Peru in Washington, D.C.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,  
Secretary.

[FR Doc. 75-14014 Filed 5-28-75; 8:45 am]

[Docket No. 26993; Order 75-5-63]

## ALASKA AIRLINES, INC.

Fuel Surcharge Applicable to the Carriage of Intra-Alaska Mail; Order To Show Cause  
Correction

In FR Doc. 75-13478 appearing in the issue of Thursday, May 22, 1975 on page 22297, the first sentence of paragraph 2 should read: "By order 74-12-80, the Board pro-".

\*In this connection, the carrier and the Government of Peru should be advised of the provisions of § 213.3(e) of the regulations, which permit the carrier to apply for reinstatement of any or all of its schedules, as may be appropriate under the circumstances.

\*This order was submitted to the President on March 21, 1975.

[Docket Nos. 27810 and 22859]

## AMERICAN AIRLINES, INC.

Domestic Air Freight Rate Investigation;  
Order of Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 23rd day of May, 1975.

By tariff revisions<sup>1</sup> issued April 24 and marked to become effective May 24, 1975, American Airlines, Inc. (American) proposes to revise the expiry date on its "Daylight" general commodity container rates so as to extend their effectiveness to May 24, 1976. This action amounts to a one year extension of the rates, which pertain to LD-N, LD-3 and LD-5 containers in selected markets only.

The tariff provides that the rates are applicable only to shipments in containers, loaded by the shipper and tendered to the carrier between the hours of 4 a.m. and 4 p.m. any day of the week. The date and exact time of tender of the shipment to the carrier by the shipper will be entered upon the airbill by the carrier.

In support of the proposal and in answer to the complaint, American asserts that since their effectiveness in June 1972, these daylight tender charges have generated approximately 80,000,000 pounds of freight, representing approximately \$8,500,000 in revenue. The carrier seeks to extend these charges for another 12-month period in order to permit further evaluation of the effectiveness of the rates. The carrier expects an annual contribution on LD-3 containers of approximately \$766.961 to its capacity costs from the proposal.

A complaint requesting rejection, or, in the alternative, suspension and investigation was filed by The Flying Tiger Line Inc. (Tiger) asserting, *inter alia*, that (1) American has not submitted adequate economic justification to support continuation of these discounted general commodity container rates, (2) the traffic generation figures supplied are inconsistent with American's publicly available, reported data, especially that published in C.A.B. Form T-103 reports, and (3) the rates undercut bulk and container general commodity rates in major markets at all densities causing a highly dilutionary effect on industry revenues.

The proposed rates come within the scope of the Domestic Air Freight Rate Investigation (DAFRI), Docket 22859, and their lawfulness will be determined in that proceeding. The issue now before the Board is whether to permit them to become effective or to suspend them pending final decision in DAFRI.

Upon consideration of all relevant factors, the Board concludes that the proposal should be suspended pending the final decision of DAFRI. The requirements in § 221.165(b) and (c) of the Board's regulations to supply specific data in support of a tariff filing do not

<sup>1</sup>Revisions to Airline Tariff Publishing Company, Agent, Tariff C.A.B. No. 227.

apply to an extension of an existing rate (as distinguished from new or changed matter) and accordingly we find no basis for rejection of the filing as urged by Tiger.

In the past the Board has regarded reduced daylight rates as a rational experiment in which the attraction of new high-density traffic would counterbalance the yield dilution (See Reduced "Daylight" LD-3 container charges proposed by Trans World Airlines, Inc., Order 71-8-92 dated August 19, 1971). However, American has provided no meaningful information as to whether this test has been met, although the rates have been in effect since June 1972. More specifically, while American has submitted data as to the total daylight freight carried and the revenues therefrom (gross revenues and contribution to capacity costs), the carrier has made no attempt to assess revenues or the volume of freight moving at daylight discount which would not otherwise move by air transportation under the applicable regular bulk or container general commodity rates. It has not attempted to show the net revenue impact these rates have had in the past nor forecast results for the next annual period. On the other hand, Tiger asserts that it has filed at least 23 new specific commodity rates and daylight container rates to permit effective competition with daylight container rates. In these circumstances, we are concerned that the net impact of the rates will dilute industry revenues by diversion of traffic which would otherwise move under the general commodity rates. Clearly a more affirmative case for the rates must be made for us to conclude that they make a net contribution to American's cargo service.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered That:

1. Pending hearing and decision by the Board, the provisions in the explanation of reference mark "e" which would extend the expiration date of general commodity container rates subject to time of tender restrictions beyond May 24, 1975, on 8th Revised Page 63 of the Tariff C.A.B. No. 227, issued by Airline Tariff Publishing Company, Agent, are suspended, and their use deferred to and including August 21, 1975, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension, except by order or special permission of the Board;

2. Except to the extent granted herein, the complaint of The Flying Tiger Line Inc., in Docket 27810 is dismissed; and

3. Copies of this order shall be filed with the tariff.

\*Tiger notes that the data supplied by American in its justification conflicts with other data which it has submitted to the Board.

## NOTICES

23361

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,  
Secretary.  
[FR Doc. 75-14015 Filed 5-28-75; 8:45 am]

[Docket No. 27061]

## EASTERN AIR LINES, INC.

Suspension/Deletion of Service, Mayaguez, Puerto Rico; Postponement of Hearing

Notice is hereby given that the hearing in this proceeding, previously scheduled to be held on June 3, 1975, (40 FR 19674, May 6, 1975), has been postponed indefinitely.

Dated at Washington, D.C., May 23, 1975.

[SEAL] ROBERT L. PARK,  
Chief Administrative Law Judge.  
[FR Doc. 75-14013 Filed 5-28-75; 8:45 am]

COMMISSION ON CIVIL RIGHTS  
CALIFORNIA STATE ADVISORY  
COMMITTEE

## Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning and briefing session of the California State Advisory Committee (SAC) to this Commission will convene at 7:00 p.m. and end at 11:00 p.m. on June 25, 1975, in the Cosmopolitan Motor Hotel, 13th and N Streets, Terrace Room, Sacramento, California 95814.

Persons wishing to attend this planning and briefing session should contact the Committee Chairperson, or the Western Regional Office of the Commission, Room 1015, 312 North Spring Street, Los Angeles, California 90012.

The purpose of this meeting is a review of agenda witnesses and hearing book for the two-day open meeting on State and Federal responsibilities regarding bilingual/bicultural education and placement of minorities in educable mentally retarded education.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 23, 1975.

ISAIAH T. CRESWELL, Jr.,  
Advisory Committee  
Management Officer.

[FR Doc. 75-14004 Filed 5-28-75; 8:45 am]

CALIFORNIA STATE ADVISORY  
COMMITTEE

## Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights,

that a fact finding meeting of the California State Advisory Committee (SAC) to this Commission will convene at 9:00 a.m. and end at 6:00 p.m. on June 26, and 27, 1975, at the State Capitol Building, Room 3191, Sacramento, California 95814.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, Room 1015, 312 North Spring Street, Los Angeles, California 90012.

The purpose of this meeting is to collect public statements on State and Federal responsibilities regarding bilingual/bicultural education and placement of minorities in educable mentally retarded classes.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 23, 1975.

ISAIAH T. CRESWELL, Jr.,  
Advisory Committee  
Management Officer.

[FR Doc. 75-14005 Filed 5-28-75; 8:45 am]

COLORADO STATE ADVISORY  
COMMITTEE

## Cancellation of Meeting

Notice is hereby given, pursuant to the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Colorado State Advisory Committee (SAC) to this Commission, originally scheduled for June 14, 1975, has been cancelled.

Dated at Washington, D.C., May 23, 1975.

ISAIAH T. CRESWELL, Jr.,  
Advisory Committee  
Management Officer.

[FR Doc. 75-14006 Filed 5-28-75; 8:45 am]

COLORADO STATE ADVISORY  
COMMITTEE

## Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Colorado State Advisory Committee (SAC) to this Commission will convene at 8:00 a.m. on June 21, 1975, at the Quality Inn Motel, Summit Room, 1840 Sherman Street, Denver, Colorado.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mountain States Regional Office of the Commission, Room 216, 1726 Champa Street, Denver, Colorado 80202.

The purpose of this meeting is to finalize plans for the report on the Committee's project, access to the medical and legal professions by minorities and women.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

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Dated at Washington, D.C., May 23, 1975.

ISAIAH T. CRESWELL, Jr.,  
Advisory Committee  
Management Officer.

[FR Doc.75-14007 Filed 5-28-75;8:45 am]

#### NEW JERSEY STATE ADVISORY COMMITTEE

##### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Jersey State Advisory Committee (SAC) to this Commission will convene at 7:30 p.m. on June 17, 1975, at the Holiday Inn, 430 Broad Street, Newark, New Jersey.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting is to review draft report of prison project.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 23, 1975.

ISAIAH T. CRESWELL, Jr.,  
Advisory Committee  
Management Officer.

[FR Doc.75-14008 Filed 5-28-75;8:45 am]

#### OKLAHOMA STATE ADVISORY COMMITTEE

##### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a conference of the Oklahoma State Advisory Committee (SAC) to this Commission will convene at 9:30 a.m., June 14, and 2:00 p.m. June 15, 1975, at the Hilton Inn West, 401 S. Meridian Avenue (Gold Room), Oklahoma City, Oklahoma 73108.

Persons wishing to attend this conference should contact the Committee Chairperson, or the Southwestern Regional Office of the Commission, Room 231, New Moore Building, 106 Broadway, San Antonio, Texas 78205.

The purpose of this conference is orientation and training for SAC members from Arkansas and Oklahoma on the USCCR, SACs, Regional Office structure, purpose and functions. Also each SAC will initiate its program planning and establish goals and objectives.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 23, 1975.

ISAIAH T. CRESWELL, Jr.,  
Advisory Committee  
Management Officer.

[FR Doc.75-14009 Filed 5-28-75;8:45 am]

## NOTICES

### CIVIL SERVICE COMMISSION DEPARTMENT OF AGRICULTURE

#### Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Associate Administrator, Office of the Administrator, Soil Conservation Service.

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc.75-13884 Filed 5-28-75;8:45 am]

### DEPARTMENT OF AGRICULTURE

#### Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Assistant Administrator, Rural Electrification Administration.

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc.75-13885 Filed 5-28-75;8:45 am]

### DEPARTMENT OF THE ARMY

#### Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Army to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Secretary of the Army (Civilian Aide Program), Office, Secretary of the Army.

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc.75-13886 Filed 5-28-75;8:45 am]

### DEPARTMENT OF COMMERCE

#### Title Change in Noncareer Executive Assignment

By notice of June 5, 1970, FR Doc. 70-6990 the Civil Service Commission authorized the Department of Commerce to fill by noncareer executive assignment the position of Director, Office of Public Affairs, Office of the Secretary. This is notice that the title of this position is now being changed to Special Assistant

for Public Affairs, Immediate Office, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc.75-13878 Filed 5-28-75;8:45 am]

### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

#### Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Secretary (Student Assistance), Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc.75-13881 Filed 5-28-75;8:45 am]

### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

#### Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Legislation (Health), Office of the Deputy Assistant Secretary for Legislation (Health), Office of the Assistant Secretary for Legislation, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc.75-13889 Filed 5-28-75;8:45 am]

### DEPARTMENT OF LABOR

#### Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Labor to fill by noncareer executive assignment in the excepted service the position of Public Affairs Director, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc.75-13882 Filed 5-28-75;8:45 am]

### DEPARTMENT OF LABOR

#### Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Labor to fill by noncareer executive assignment in the excepted service the position of Deputy Under Secretary for Legislative Affairs, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc.75-13883 Filed 5-28-75;8:45 am]

### ENVIRONMENTAL PROTECTION AGENCY

#### Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Environmental Protection Agency to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Administrator (Executive Secretary), Office of the Administrator.

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc.75-13887 Filed 5-28-75;8:45 am]

### EXPORT-IMPORT BANK

#### Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Export-Import Bank to fill by noncareer executive assignment in the excepted service the position of Senior Vice President, Research and Communications.

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc.75-13880 Filed 5-28-75;8:45 am]

### EXPORT-IMPORT BANK

#### Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Export-Import Bank to fill by noncareer executive assignment in the excepted service the position of Senior Vice President for Public Affairs and Export Expansion, Executive Vice President.

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc.75-13888 Filed 5-28-75;8:45 am]

## NOTICES

### GENERAL SERVICES ADMINISTRATION

#### Title Change in Noncareer Executive Assignment

By notice of November 23, 1973, FR Doc. 73-24917 the Civil Service Commission authorized the General Services Administration to fill by noncareer executive assignment the position of Assistant Director for Government Preparedness, Office of Preparedness, Office of the Administrator. This is notice that the title of this position is now being changed to Assistant Director for Conflict Preparedness, Office of Preparedness, Office of the Administrator.

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc.75-13879 Filed 5-28-75;8:45 am]

### COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

#### COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN PAKISTAN

##### Entry or Withdrawal From Warehouse for Consumption

May 23, 1975.

On July 7, 1972, there was published in the FEDERAL REGISTER (37 FR 13365) a letter dated June 28, 1972 from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs, prohibiting entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products produced or manufactured in Pakistan and exported from Pakistan for which the Government of Pakistan had not issued a visa. One of the requirements is that each visa include the signature of an official authorized by the Government of Pakistan to issue visas.

On May 30, 1973 and January 18, 1974, there were published in the FEDERAL REGISTER (38 FR 14184 and 39 FR 2293) letters dated May 16, 1973 and January 15, 1974, respectively, from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs, announcing an administrative mechanism to certify for exemption from the levels of restraint established under the Bilateral Cotton Textile Agreement of May 6, 1970, as amended, between the Governments of the United States and Pakistan, certain handloomed and folklore products of the cotton industry of Pakistan. To qualify for exemption each shipment of exempt cotton textile items must be accompanied by a signed certification, in addition to the visa described in the letter of June 28, 1972.

The purpose of this notice is to announce that at the request of the Government of Pakistan the list of officials published below as an enclosure to the

letter to the Commissioner of Customs are authorized to issue export visas and certifications for exempt items exported to the United States from Pakistan.

Accordingly, there is published below a letter of May 23, 1975 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that the indicated officials be authorized to issue visas and certifications for exempt textile items exported to the United States from Pakistan.

Effective date: May 23, 1975.

ALAN POLANSKY,  
Chairman, Committee for the  
Implementation of Textile  
Agreements, and Deputy  
Assistant Secretary for  
Resources and Trade Assistance.

May 23, 1975.

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229.

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive of June 28, 1972, from the Chairman, Committee for the Implementation of Textile Agreements, that directed you to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1 through 84 produced or manufactured in Pakistan for which the Government of Pakistan had not issued a visa. It also amends, but does not cancel, the directives of May 16, 1973 and January 15, 1974 which established a certification requirement for entry into the United States for consumption and withdrawal from warehouse for consumption of designated handloomed and folklore products of the cottage industry of Pakistan, which are exempt from the levels of restraint of the Bilateral Cotton Textile Agreement of May 6, 1970, as amended, between the Governments of the United States and Pakistan.

One of the requirements is that the visa and the certification for exempt items must each include the signature of an official authorized by the Government of Pakistan. Under the terms of the Bilateral Cotton Textile Agreement of May 6, 1970, as amended, between the Governments of the United States and Pakistan, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, the directives of June 28, 1972, May 16, 1973 and January 15, 1974 are hereby amended to authorize the officials indicated on the enclosed list to issue visas and certifications for exempt items exported to the United States from Pakistan.

The actions taken with respect to the Government of Pakistan and with respect to imports of cotton textiles and cotton textile products from Pakistan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States.

Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

ALAN POLANSKY,  
Chairman, Committee for the  
Implementation of Textile  
Agreements, and Deputy  
Assistant Secretary for  
Resources and Trade Assistance.



**GOVERNMENT OF PAKISTAN OFFICIALS AUTHORIZED TO ISSUE VISAS AND CERTIFICATES FOR EXEMPT COTTON TEXTILE ITEMS EXPORTED TO THE UNITED STATES**

Mohammad Yaqoob Khan  
Riaz K. Haq  
Muzaffar Ali Khan  
M. Q. Hashmi  
M. S. Haider  
Humayun Shafig  
M. Aslam  
Abdul Qayyum  
Riaz Ahmad  
Mohammad Said  
Taj Mohammad Khan  
Mohammad Aslam Khan  
Ch-Israr-Ul-Haque  
Shamsuddin Ansari  
M. Adil Siddiqui  
Abdul Sattar  
M. R. Khokhar  
Allah Rakha  
Mohammad Aslam  
Ch. Allah Rakhs  
A. P. Hamrani  
Sajjad Hussain Naqvi  
Mojib-ur-Rahman  
Mohammad Mohsin

[FR Doc. 75-13962 Filed 5-28-75; 8:45 am]

**COMMODITY FUTURES TRADING COMMISSION**

**ASSOCIATED PERSONS; COMMODITY TRADING ADVISORS; COMMODITY POOL OPERATORS**

Intention to Consider Requests for Interpretations and Exclusions; Solicitation of Comments

**Correction**

In FR Doc. 75-12438 appearing at page 20663 in the issue for Monday, May 12, 1975 make the following changes:

1. On page 20663 in paragraph (1) of 1. Associated Persons in line three, after the word merchant insert the following: "or with any agent of a futures commission merchant".

2. On page 20664 in the fifth paragraph of 3. Commodity Pool Operators, change the date in the third line to "July 18".

**DEFENSE MANPOWER COMMISSION**

**PUBLIC HEARING**

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the Defense Manpower Commission will hold a public hearing on August 18, 1975, in Conference Room 2705, The Federal Building, 26 Federal Plaza, New York, New York 10007, from 9 a.m. to 4 p.m., so that representatives of public and private organizations and interested citizens can express their views on the issues which the Commission is required to address by its enabling legislation.

Pub. L. 93-155 directs the Commission to conduct a comprehensive study and investigation of the overall manpower requirements of the Department of Defense on both a short- and long-term basis with a view to determining what the manpower requirements are currently and will likely be over the next ten years, and how manpower can be more effectively

utilized in the Department of Defense.

The Commission is required to submit its Final Report to the Congress and to the President not more than 24 months after the appointment of the Commission, and shall cease to exist 60 days after the submission of its Final Report.

In carrying out its study and investigation, the Commission has been directed to give special consideration to:

(1) The effectiveness with which civilian and active duty personnel are utilized, particularly in headquarters staffing and in the number of support forces in relation to combat forces;

(2) Whether the pay structure, including fringe benefits, is adequate and equitable at all levels;

(3) The distribution of grades within each Armed Force and the requirements for advancement in grade;

(4) The cost-effectiveness and manpower utilization of the United States Armed Forces as compared with the armed forces of other countries;

(5) Whether the military retirement system is consistent with overall Department of Defense requirements and is comparable to civilian retirement plans;

(6) The methods and techniques used to attract and recruit personnel for the Armed Forces, and whether such methods and techniques might be improved or new and more effective ones utilized;

(7) The implications for the ability of the Armed Forces to fulfill their mission as a result of the change in the socio-economic composition of military enlistees since the enactment of new recruiting policies provided for in Pub. L. 92-129 and the implications for national policies of this change in the composition of the Armed Forces; and

(8) Such other matters related to manpower as the Commission deems pertinent to the study and investigation.

Interested persons may make an oral presentation and/or submit a written statement for consideration by the Commission during the meeting.

The length and number of oral presentations to be made will depend on the number of requests received.

Each person desiring to make an oral presentation or submit a written statement must notify the Commission and provide at least 10 copies of the presentation statement by August 4, 1975. The order of the presentations on the agenda will be determined by the order in which requests are received by the staff.

Statements should be limited to the mission of the Commission as outlined in Pub. L. 93-155, or other current issues regarding Department of Defense manpower.

Written material in furtherance of presentations will be accepted by the Commission at the time of the meeting and for four days thereafter.

Persons wishing to make presentations, or interested persons wishing to attend the public hearing as observers, must notify Mr. Rippe of the Commission staff (202-254-7803) by August 4,

1975. Copies of the statements and other correspondence must be sent to: Defense Manpower Commission, 1111 18th Street, NW., Room 301, Washington, D.C. 20036, ATTN: Hearing Management.

Dated: May 23, 1975.

BRUCE PALMER, Jr.,  
General, USA (Ret.)  
Executive Director.

[FR Doc. 75-13969 Filed 5-28-75; 8:45 am]

**PUBLIC HEARING**

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the Defense Manpower Commission will hold a public hearing on July 17, 1975, in the New Executive Office Building, Room 2010, 726 Jackson Place NW., Washington, D.C. 20036, from 9 a.m. to approximately 4 p.m., so that representatives of public and private organizations and interested citizens can express their views on issues which the Commission is required to address by its enabling legislation.

Pub. L. 93-155 directs the Commission to conduct a comprehensive study and investigation of the overall manpower requirements of the Department of Defense on both a short and long term basis with a view to determining what the manpower requirements are currently and will likely be over the next ten years, and how manpower can be more effectively utilized in the Department of Defense.

The Commission is required to submit its final report to the Congress and the President by April 19, 1976.

In carrying out its study and investigation, the Commission has been directed to give special consideration to (among other points):

(1) The methods and techniques used to attract and recruit personnel for the Armed Forces, and whether such methods and techniques might be improved or new and more effective ones utilized;

(2) The implications for the ability of the Armed Forces to fulfill their mission as a result of the change in the socio-economic composition of military enlistees since the enactment of new recruiting policies provided for in Pub. L. 92-129 and the implication for national policies of this change in the composition of the Armed Forces; and

(3) Such other matters related to manpower as the Commission deems pertinent to the study and investigation.

The public hearing on July 17, 1975, will be exclusively on the subject of the All-Volunteer Force. Specific issues to be addressed are:

(1) Can the All-Volunteer Force be sustained over the next 10 years?

(2) Is it in the National Interest to avoid a Total Force which is composed of a disproportionate number of minorities, minorities or personnel from a given geographical area?

(3) How best can the Nation provide adequate personnel for the Total Force over the next 10 years?

Other hearings of the Commission as announced in the Federal Register have provided, or will provide, opportunity for consideration of other Defense manpower matters within the Commission's preview, as specified in Pub. L. 93-155.

The Defense Manpower Commission is inviting several individuals to make presentations at the hearing on July 17, 1975, to ensure that various aspects of the subject are addressed and that representative viewpoints are heard. In addition, any interested person may submit a written statement on the subject for consideration by the Commission. Each person desiring to submit a written statement should provide it to the Commission by July 17, 1975.

Interested persons wishing to attend the public hearing as observers, subject to capacity limits, should notify the Commission staff (Mr. Rippe—Telephone Number: 202-254-7803) by July 11, 1975. Copies of statements and other correspondence should be sent to: Defense Manpower Commission, 1111 18th Street NW., Room 301-F, Washington, D.C. 20036, ATTN: All-Volunteer Force Hearing.

Dated: May 23, 1975.

BRUCE PALMER, Jr.,  
General, USA (Ret.)  
Executive Director.

[FR Doc. 75-13970 Filed 5-28-75; 8:45 am]

**ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION  
DEVELOPMENT OF VERY HIGH TEMPERATURE REACTOR (VHTR) FOR PROCESS HEAT APPLICATIONS**

**ERDA/NASA Information Meeting**

The Division of Reactor Research and Development of the Energy Research and Development Administration and the National Aeronautics and Space Administration will hold an information meeting on June 6, 1975 in the Auditorium of the Energy Research and Development Building, Germantown, Maryland. The meeting will begin at 9 a.m. on June 6 and will adjourn at 4:45 p.m. The purpose of the meeting is to present a review of the progress of ERDA and NASA sponsored activities in the development of the Very High Temperature Reactor (VHTR) for process heat applications. No conclusions or recommendations will be made.

While this information meeting is not considered to be a meeting of an "advisory committee" as that term is defined in section 3 of the Federal Advisory Committee Act (Pub. L. 92-463), the meeting is believed to be of sufficient importance and interest to the general public to be announced in the FEDERAL REGISTER as a meeting open for public attendance. The agenda is as follows:

9:00 a.m.—ERDA program on VHTR.  
9:30 a.m.—Hollifield National Laboratory (HNL) presentation on VHTR design studies

and study on the "Application of VHTR's to Coal Conversion."

10:00 a.m.—HNL program for assessing the incentives of the VHTR for process heat applications.

10:30 a.m.—LASL process heat studies and program plans.

11:00 a.m.—American Iron and Steel Institute (AISI) presentation on nuclear steel-making task force studies.

11:30 a.m.—Institute of Gas Technology (IGT) presentation on long range requirements for hydrogen and the application of the VHTR to hydrogen production.

12:00 noon—Break for lunch (Cafeteria available).

1:00 p.m.—NASA activities related to VHTR.

1:15 p.m.—Presentation of Westinghouse study on hydrogen production processes for use with VHTR.

3:00 p.m.—Presentation of General Atomic study on hydrogen production processes for use with VHTR.

4:45 p.m.—End of meeting.

Practical considerations may require changes in the agenda or schedule.

The meeting will be chaired by Mr. E. A. Womack, Jr., Assistant Director for the Office of Gas Cooled Reactor Projects, Division of Reactor Research and Development, U.S. Energy Research and Development Administration. The Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business. With respect to public participation in agenda items scheduled above, the following requirements shall apply:

(a) Persons wishing to submit written statements on those agenda items may do so by mailing 25 copies thereof, deposited, if possible, no later than June 4, 1975, to Mr. E. A. Womack, Jr., Mail Stop F-309, Energy Research and Development Administration, Washington, D.C. 20545. Minutes of the meeting will be kept open for 30 days for receipt of written statements for the record.

(b) Those persons submitting a written statement in accordance with (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement, and shall set forth reasons justifying the need for such oral statements and their usefulness to the meeting. To the extent that the time available for the meeting permits, oral statements may be received at an appropriate time, chosen by the Chairman.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call to Mr. J. C. Montgomery at 301-973-3692.

(e) Seating for the public will be made available on a first-come, first-served basis, subject to space limitations.

(f) Copies of minutes of the sessions will be made available for copying, at the

Energy Research and Development Administration's Public Document Room, 1717 H Street NW., Washington, D.C., upon payment of all charges required by law.

Individuals who wish to attend the Seminar should inform Mr. J. C. Montgomery, ERDA/RDD by phone (301-973-3692) or by mail (Mail Stop F-309, Energy Research and Development Administration, Washington, D.C. 20545).

G. W. CUNNINGHAM,  
Acting Director, Division of  
Reactor Research and Development.  
[FR Doc. 75-14216 Filed 5-28-75; 8:45 am]

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL 380-5]

**AMCHEM PRODUCTS INC.**

**Renewal of Temporary Tolerance**

Amchem Products, Inc., Brookside Avenue, Ambler, PA 19002, was granted a temporary tolerance for residues of the herbicide Ethephon ((2-chloroethyl) phosphonic acid) in or on grapes at 10 parts per million on August 30, 1973, in connection with Pesticide Petition No. 3G1341 (notice was published in the FEDERAL REGISTER of September 10, 1973 (38 FR 24682)). The firm requested and received a two month extension of these tolerances (notice was published in the FEDERAL REGISTER of March 15, 1974 (39 FR 10014)). This temporary tolerance expired October 31, 1974.

The firm has requested a 1-year renewal of the temporary tolerance to obtain additional experimental data. It is concluded that such a renewal of the temporary tolerance will protect the public health. A condition under which this temporary tolerance is renewed is that the herbicide be used in accordance with the temporary permit which is being issued concurrently and which provides for distribution under the Amchem Products, Inc., name.

This temporary tolerance expires May 23, 1976. Residues remaining in or on the above raw agricultural commodity after expiration of this tolerance will not be considered actionable if the pesticide is legally applied during the term, and in accordance with provisions of the temporary permit/tolerance.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (39 FR 18805).

Dated: May 23, 1975.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

[FR Doc. 75-14019 Filed 5-28-75; 8:45 am]

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[FRL 380-4]

**CIBA-GEIGY CORP.****Extension of Temporary Tolerances**

CIBA-GEIGY Corp., P.O. Box 11422, Greensboro, NC 27409, was granted temporary tolerances for combined residues of the insecticide chlordimeform (N'-4-chloro-o-tolyl)-N,N-dimethylformamidine and its metabolites containing the 4-chloro-o-toluidine moiety (calculated as chlordimeform) in or on the raw agricultural commodities citrus fruits and hybrids of these at 5 parts per million on May 28, 1974, in connection with Pesticide Petition No. 4G1456 (notice was published in the FEDERAL REGISTER of June 3, 1974 (39 FR 19535)). These temporary tolerances expire May 28, 1975.

The petitioner has requested a one-year extension of these temporary tolerances to obtain additional experimental data. It has been determined that such extension of the temporary tolerances will protect the public health. They are therefore extended on the condition that the insecticide be used in accordance with the temporary permits being issued concurrently and which provide for distribution under the CIBA-GEIGY Corp. name.

These temporary tolerances expire May 28, 1978. Residues remaining in or on the above raw agricultural commodities after expiration of these tolerances

will not be considered actionable if the pesticide is legally applied during the term, and in accordance with provisions of the temporary permits/tolerances.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; (21 U.S.C. 346a(j))), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (39 FR 18805).

Dated: May 23, 1975.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

[FR Doc.75-14020 Filed 5-28-75; 8:45 am]

[FRL 380-3]

**PENNWALT CORP.****Establishment of Temporary Tolerances**

The Pennwalt Corp., P.O. Box 1297, Tacoma, WA 98401, submitted a petition (4G1449) requesting establishment of temporary tolerances for negligible residues of the pesticide endothal (7-oxabicyclo[2.2.1]heptane - 2,3-dicarboxylic acid) in or on the raw agricultural commodities rice straw at 0.1 part per million and rice at 0.05 part per million from use of its mono-N,N-dimethylal- kylamine salt as an aquatic herbicide.

It has been determined that the temporary tolerances for negligible residues of the herbicide in or on the above raw agricultural commodities will protect the public health. They are therefore established as requested on condition that the herbicide be used in accordance with the temporary permit being issued concurrently and which provides for distribution under the Pennwalt Corp. name.

These temporary tolerances expire May 23, 1976. Residues remaining in or on the above raw agricultural commodities after expiration of these tolerances will not be considered actionable if the pesticide is legally applied during the term, and in accordance with provisions of the temporary permit/tolerances.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; (21 U.S.C. 346a(j))), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (39 FR 18805).

Dated: May 23, 1975.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

[FR Doc.75-14021 Filed 5-28-75; 8:45 am]

**FEDERAL COMMUNICATIONS COMMISSION**

[No. 340]

**CANADIAN BROADCAST ASSIGNMENTS****Notification List**

MAY 6, 1975.

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Meeting January 30, 1941.

Call letters	Location	Power kilowatt	Antenna	Schedule	Class	Antenna height (feet)	Ground system Number of radials	Length (feet)	Proposed date of commencement of operation
CJNW (now in operation)	Musgravetown, Newfoundland, N. 48° 24'10", W. 53°55'00"	670 kHz	10	DA-2	U	II			
CHQR (PO 810 kHz, 10 kW, DA-2—change in proposed daytime operation)	Calgary, Alberta, N. 50°53'50", W. 50° 114°05'35"	810 kHz	10	DA-2	U	II			E.I.O. 5/6/76.
(New)	La C. Etchemin, Quebec, N. 46°22'18", W. 70°26'00"	980 kHz	1	DA-N	U	III			E.I.O. 5/6/76.
CJNH (now in operation)	Rancourt, Ontario, N. 45°03'37", W. 77°50'30"	1200 kHz	1D/0.25N	ND-175	U	IV	140	100	200
							Top loaded to 75°		
CKSJ (now in operation with corrected coordinates)	St. Jovite, Quebec, N. 46°07'48", W. 74°33'45"	1400 kHz	0.25	ND-192	U	IV	180	100	280
CKLR (now in operation)	L'Annonciation, Quebec, N. 46°25'35", W. 74°52'40"	1400 kHz	1D/0.25N	ND-196	U	IV	180	100	264

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,  
WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.

[FR Doc.75-13930 Filed 5-28-75; 8:45 am]

**RADIO TECHNICAL COMMISSION FOR AERONAUTICS****Meeting**

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Radio Technical Commission for Aeronautics, Special Committee 130—"Reliability Specifications for Airborne Electronics Systems." The meeting is to be held on June 17-18, 1975, in RTCA Conference Room 261, 1717 H Street, NW., Washington, D.C. The meeting will commence each day at 9:30 a.m.

The Agenda is as follows:

1. Opening comments from the Chairman.
2. Review Terms of Reference and definition of Systems Reliability.
3. Review events leading up to Determination of MTBF for Ground Proximity Warning System.
4. Review international consideration of Reliability Specifications.
5. Reliability Specifications for Airborne Electronic Systems as related to reliability of the National Airspace System (to be presented by the FAA).
6. NTSB views on Reliability Specifications for Airborne Electronic Systems.
7. Military views on Systems Reliability. Identify Special Committee Work Program:
  - a. Collection of information and establishment of required studies.
  - b. Consideration of task assignments.
  - c. Other Business.
8. Date and place of next meeting.

Meetings of Special Committee 130 are open to the public, subject to limitations of space available, and any member of the public may present oral statements at the meeting, subject to time available, or may submit written statements to the RTCA Secretariat. Persons planning to attend or who desire additional information concerning this meeting are requested to contact the RTCA Secretariat, Suite 655, 1717 H Street NW., Washington, D.C. 20006, or telephone Area Code (202) 296-0484.

**FEDERAL COMMUNICATIONS COMMISSION.**

[SEAL] VINCENT J. MULLINS,  
Secretary.  
[FR Doc.75-13929 Filed 5-28-75; 8:45 am]

**FEDERAL ENERGY ADMINISTRATION****RETAIL DEALERS ADVISORY COMMITTEE Meeting**

This order is issued pursuant to section 6(c) (4) of the Emergency Petroleum Allocation Act of 1973. The meeting described below is necessary in order to comply with the provisions of the Act and the regulations issued thereunder.

The meeting is scheduled to take place at 9:30 a.m. on Monday, June 16, 1975 in Room 305, Regional Conference Room B, J. W. McCormack Post Office Building, Post Office and Courthouse, Boston Massachusetts. The participants at the meeting will be the members of the Retail Dealers Advisory Committee.

The objectives of the meeting are to provide the Administrator, FEA, with expert technical advice on a wide range of

activities associated with the retail sale of gasoline/diesel fuel. The subject matter to be discussed at the meeting shall be limited, in light of the foregoing objectives, to the following items:

1. Discussion of Extension of the Emergency Petroleum Allocation Act of 1973
2. Discussion of Market Shares
3. Discussion of Branded Dealer Problems (Margins)
4. Discussion of Priority Projects
  - a. Market Force vs. Allocation and Conservation
  - b. Entitlements—Their Effects in the Market Place and an Updated Review
  - c. Tank Wagon Prices vs. Rack Prices

The meeting shall take place in the presence of a representative of the Antitrust Division of the Department of Justice. A verbatim transcript of the meeting shall be taken and, together with any written agreement resulting from the meetings, shall be deposited with the Attorney General of the United States and the Federal Trade Commission where it will be available for public inspection.

Dated: May 22, 1975.

ROBERT E. MONTGOMERY, Jr.,  
General Counsel.

[FR Doc.75-13876 Filed 5-23-75; 10:43 am]

**FEDERAL MARITIME COMMISSION**

[Docket No. 73-80]

**CARGO DIVERSION PRACTICES AT U.S. GULF PORTS BY MEMBERS OF THE GULF-EUROPEAN FREIGHT ASSOCIATION****Intent To Make an Environmental Assessment**

The above referenced proceeding is an investigation to determine whether particular actions by certain carriers serving Gulf and Atlantic port areas constitute illegal diversion of cargo, and if so, whether such actions are:

- (1) Contrary to the tariffs on file and, therefore, in violation of sections 18(b) (1), 18(b) (2), and 18(b) (3) of the Shipping Act, 1916; or whether said tariff provisions establish unjust or unreasonable regulations and practices within the meaning of section 17, Shipping Act, 1916;
- (2) In violation section 16 of the Shipping Act, 1916;
- (3) Authorized by Agreement No. 9360 and, if so, whether the agreement, to the extent that it authorizes such practices, should be disapproved, cancelled, or modified pursuant to section 15, Shipping Act, 1916, or are in implementation of any other agreement which has not been filed with or approved by the Federal Maritime Commission as required by section 15 of the Shipping Act, 1916;
- (4) Contrary to the policy of section 8, Merchant Marine Act, 1920.

The Commission believes that its final resolution of the issues in this proceeding may constitute a major Federal action significantly affecting the quality of the human environment within the meaning

of the National Environmental Policy Act of 1969 (NEPA). Consequently, the scope of environmental factors involved warrants consideration and evaluation before decision making is undertaken.

Therefore, notice is hereby given that the Federal Maritime Commission intends to make an Environmental Assessment to determine whether its final decision in this proceeding will constitute a major federal action significantly affecting the quality of the human environment within the meaning of NEPA. Written comments regarding possible environmental effects which may occur from the eventual resolution of the proceeding are invited. Such comments should be submitted within 30 days of the date of this order to the Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573.

It is further ordered, That a copy of this notice be issued to the presiding Administrative Law Judge, and that this proceeding continue its course in accordance with a procedural schedule not inconsistent with our own rules of practice and procedure or NEPA.

By the Commission.

[SEAL] FRANCIS C. HURNEY,  
Secretary.

[FR Doc.75-14035 Filed 5-28-75; 8:45 am]

**FLOTA MERCANTE GRAN CENTRO AMERICANA, S.A. AND PAN AMERICAN MAIL LINE, INC.****Notice of Agreement Filed**

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763 (46 U.S.C. 814)).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Juan, Puerto Rico and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before June 9, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.



## Notice of Agreement Filed by:

Edwin Longcope, Esquire  
Hill, Betts & Nash  
26 Broadway  
New York, New York 10004

Agreement No. 10040-2, between Flota Mercante Gran Centroamericana, S.A. and Pan American Mail Line, Inc., extends the effective period of the cooperative working arrangement for two years from May 31, 1975.

By order of the Federal Maritime Commission.

Dated: May 23, 1975.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc. 75-14036 Filed 5-28-75; 8:45 am]

## FEDERAL POWER COMMISSION

[Docket No. G-15425, et al.]

## SUN OIL CO. ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates<sup>1</sup>

MAY 20, 1975.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 13, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to

<sup>1</sup> This notice does not provide for consolidation for hearing of the several matters covered herein.

the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is re-

quired by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

## Filing Code:

A - Initial Service  
B - Abandonment  
C - Amendment to add acreage  
D - Amendment to delete acreage  
E - Total Succession  
F - Partial Succession

Docket No. and Date Filed	Applicant	Purchaser and Location	Price Per Mcf	Pressure Base
G-15425 5-1-75	Sun Oil Company (succ. to Forest Oil Corporation) P. O. Box 2880 Dallas, Texas 75221	West Lake Natural Gasoline Co. and Atlantic Richfield Company Mena Lucia Field, Nolan County, Texas	16.35 1/	14.65
C175-356 5-2-75	Mesa Petroleum Co. P. O. Box 2009 Amarillo, Texas 79105	Colorado Interstate Gas Company, a Division of Colorado Interstate Corporation Patrick Drew Area Field, Sweetwater County, Wyoming	51.0 2/	14.65
C175-654 (G-9144) 5-1-75	Northern Pump Company (Operator), et al. 1915 - 57th Avenue North Minneapolis, Minnesota 55430	Texas Eastern Transmission Corporation Laura L. Boothe Lease (Deep Rights) West Cadden Field, Bee County, Texas	depleted	
C175-657 5-2-75 3/	GRA International, Ltd. P. O. Box 2329 Tulsa, Oklahoma 74101	Natural Gas Pipeline Company of America Spearman East-Atoka Field, Hansford County, Texas	12.045 4/	14.65
C175-658 5-2-75	Mesa Petroleum Co. (succ. to Amoco Production Company)	Colorado Interstate Gas Company, a Division of Colorado Interstate Corporation Playa Area, Sweetwater County, Wyoming	50.723 2/	14.65
C175-659 (G-966-90) 5-5-75	Exxon Corporation (succ. to John L. May) P. O. Box 2180 Houston, Texas 77001	Northern Natural Gas Company Coyanosa Field, Pecos County, Texas	26.124 5/	14.65
C175-660 5-5-75	Hudson Ohio Oil Company, et al. 1125 Fidelity Plaza Oklahoma City, Oklahoma 73102	Michigan Wisconsin Pipe Line Company Foster No. 1 Well and Morris No. 1 Well, Woodward County, Oklahoma	depleted	

1/ Includes 1.35¢ per Mcf upward Btu adjustment.

2/ Subject to upward and downward Btu adjustment.

3/ Applicant proposes to cover its own interest in the sale of natural gas heretofore authorized to be made by Nafco Oil & Gas, Inc., now holder of a small producer certificate.

4/ Includes 0.045¢ per Mcf tax reimbursement and is subject to Btu adjustment.

5/ Includes 0.624¢ per Mcf upward Btu adjustment and 1.5¢ gathering.

## Filing Code:

A - Initial Service  
B - Abandonment  
C - Amendment to add acreage  
D - Amendment to delete acreage  
E - Total Succession  
F - Partial Succession

Docket No. and Date Filed	Applicant	Purchaser and Location	Price Per Mcf	Pressure Base
C175-661 5-5-75	Tenneco Oil Company P.O. Box 2511 Houston, Texas 77001	El Paso Natural Gas Company Basin Dakota Field, San Juan County, New Mexico	56.3856 6/	15.025
C175-662 5-5-75	Tenneco Oil Company	El Paso Natural Gas Company Blanco (Mesa Verde) Field, San Juan County, New Mexico	56.3856 6/	15.025
C175-663 5-7-75	Mobil Oil Corporation Three Greenway Plaza East Suite 800 Houston, Texas 77046	Mid Louisiana Gas Company Main Pass Block 140 Area, offshore Louisiana	\$1.00 7/	15.025
C175-664 5-8-75	Atlantic Richfield Company P. O. Box 2819 Dallas, Texas 75221	El Paso Natural Gas Company West Winchester Area, Eddy County, New Mexico	55.22 2/	14.73

2/ Supra.

6/ Includes 4.3642¢ per Mcf tax reimbursement and is subject to upward and downward Btu adjustment.

7/ Applicant is willing to accept a certificate in accordance with Section 2.56a of the Commission's General Policy and Interpretations.

[FR Doc. 75-13791 Filed 5-28-75; 8:45 am]

[Docket No. CP75-333]

## NORTHERN NATURAL GAS CO.

## Application

MAY 20, 1975.

Take notice that on May 9, 1975, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP75-333, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to construct and operate certain sales measuring station facilities and to sell and deliver natural gas in the states of Kansas, Okla-

homa and Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authority to construct and operate 53 delivery stations in the states of Kansas, Oklahoma and Texas and to sell certain volumes of natural gas to Southern Union Gas Company (Southern Union) and West Texas Natural Gas Company (West Texas) for resale to certain of Applicant's pipeline right-of-way grantors or to make direct sales of natural gas to right-of-way grantors. The proposed natural gas service would provide for domestic and small volume agricultural needs. Details of the proposed service are in the appendix hereto.

Estimated total cost of all facilities proposed is \$54,977. Total annual estimated sales are 177,134 Mcf.

According to the application, Applicant will install and operate 35 delivery stations in Kansas and one in Texas which will be required to make direct sales of natural gas volumes to customers through Applicant's Peoples Natural Gas Division. Applicant states that the firm volumes to be delivered will be provided from Peoples' presently authorized contract demand or from capacity of existing pipeline facilities in the producing areas where contract demand rate schedules are not applicable.

Applicant proposes to sell gas for resale to Southern Union to serve 14 right-of-way grantors in Oklahoma. To deliver said gas Applicant proposes to construct minor sales measuring stations as it acquires new reserves and extends gathering lines to new wells. Applicant also proposes to sell gas for resale to West Texas so as to serve three right-of-way grantors located in Texas. The application indicates that Applicant will file revised rate schedules for the sale of the additional volumes to Southern Union and West Texas.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 12, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

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## NOTICES

## APPENDIX

## Proposed Sales Measuring Facilities of Northern Natural Gas Company

Peoples Natural Gas Division					
Consumer Name	Location of Delivery Station Facilities		Estimated Sales (Mcf)		Primary End-Use
	County	State	Peak Day	Annual	
Aeschliman, Ezra J.	Gray	Kansas	24.0	4,000	Irrigation
Benedict, Claude	Morton	Kansas	2.4	252	Res. Heat
Chmelka, G. C.	Finney	Kansas	132.0	26,400	Feed Lot
Claar, Ralph	Kearney	Kansas	10.2	1,000	Irrigation
Clawson, Mary	Meadow	Kansas	72.0	11,200	Irrigation
Cook, Maye L.	Finney	Kansas	24.0	2,900	Irrigation
Cow Country Equip.	Stevens	Kansas	2.4	252	Comp. Heat
Dick, Frank L.	Finney	Kansas	60.0	5,500	Irrigation
Enlow, Elmer A. #1	Lawrence	Kansas	21.6	1,439	Irrigation
Enlow, Elmer A. #2	Edwards	Kansas	21.6	1,439	Irrigation
Hammer, Jay C.	Haskell	Kansas	33.6	3,507	Irrigation
Hammer, Robert D.	Haskell	Kansas	33.6	3,507	Irrigation
Hawes, Ed	Haskell	Kansas	33.6	3,507	Irrigation
Heitschmidt, Bobby C.	Hillsboro	Kansas	1.0	165	Res. Heat
Hendricks, William J.	Finney	Kansas	4.8	300	Res. Heat
Hensle, Richard L.	Finney	Kansas	33.6	4,000	Irrigation
Huelskamp, Leroy	Meadow	Kansas	24.0	5,400	Irrigation
Hunt, Doyle	Hutchinson	Kansas	28.2	3,000	Irrigation
Hunt, Paul E.	Washington	Kansas	9.6	984	Crop Drier
Kuster Farms #1	Stevens	Kansas	33.6	3,507	Irrigation
Kuster Farms #2	Stevens	Kansas	33.6	3,507	Irrigation
Kueseker, Willis	Washington	Kansas	24.0	600	Crop Drier
Kull, Clarence	Finney	Kansas	57.6	5,800	Irrigation
Kuhn, Andy	Lawrence	Kansas	42.0	252	Crop Drier
McCaustland, Inf.	Clark	Kansas	21.6	1,439	Irrigation
McClure, Frank	Finney	Kansas	28.8	1,100	Irrigation
Farnish, Robert L.	Hillsboro	Kansas	26.0	750	Crop Drier

## APPENDIX CONT.

## Proposed Sales Measuring Facilities of Northern Natural Gas Company

Peoples Natural Gas Division					
Consumer Name	Location of Delivery Station Facilities		Estimated Sales (Mcf)		Primary End-Use
	County	State	Peak Day	Annual	
Phelps, Gerald	Grant	Kansas	120.0	1,340	Crop Drier
Rich, Thomas W.	Lawrence	Kansas	21.6	1,439	Irrigation
S Bar Ranch	Haskell	Kansas	38.4	3,300	Feed Lot
Sessler, Charles W.	Butler	Kansas	21.6	1,439	Irrigation
Shaw Ranch & Feedlot	Clark	Kansas	70.0	5,940	Irrigation
Wedel, Delton	Haskell	Kansas	33.6	3,507	Irrigation
Wells, Howard	Finney	Kansas	4.8	300	Res. Heat
Widows, Gilbert	Finney	Kansas	7.2	500	Res. Heat
W-W Feeders	Finney	Kansas	48.0	12,000	Feed Lot

Total Peoples Natural Gas Division 131,072

Southern Union Gas Company					
Consumer Name	Location of Delivery Station Facilities		Estimated Sales (Mcf)		Primary End-Use
	County	State	Peak Day	Annual	
Burly, Lloyd R.	Beaver	Okl.	1.5	185	Res. Heat
Carr, Robert	Woodward	Okl.	1.5	185	Res. Heat
Hamman, William	Woodward	Okl.	1.5	250	Res. Heat
Hurrell, R. W.	Ellis	Okl.	16.5	2,120	Irrigation
Kirby, Jack	Ellis	Okl.	20.0	3,800	Irrigation
Kirby, H. J.	Ellis	Okl.	20.0	3,800	Irrigation
Jeffers, Martha	Texas	Okl.	180.0	9,200	Crop Drier
Yile, Terry	Beaver	Okl.	7.0	1,100	Irrigation
Little, Fred R.	Harper	Okl.	36.0	8,516	Irrigation
Kotspeich, Troy	Beaver	Okl.	10.0	2,280	Res. Heat
Priest, Glen	Beaver	Okl.	1.5	205	Irrigation
Bowley, Edgar	Woodward	Okl.	24.0	1,850	Res. Heat
Tucker, Lloyd E.	Texas	Okl.	1.5	131	Irrigation
White, Edgar W.	Texas	Okl.	10.0	1,019	Irrigation

Total Southern Union 34,843

West Texas Natural Gas Company					
Consumer Name	Location of Delivery Station Facilities		Estimated Sales (Mcf)		Primary End-Use
	County	State	Peak Day	Annual	
Osborne, Linsin	Carson	Texas	25.0	2,435	Irrigation
Smith, B.G. #1	Pecos	Texas	12.0	2,928	Irrigation
Smith, B.G. #2	Pecos	Texas	24.0	5,856	Irrigation

Total West Texas 11,219

[FR Doc.75-13790 Filed 5-28-75; 8:45 am]

FEDERAL REGISTER, VOL. 40, NO. 104—THURSDAY, MAY 29, 1975

## NOTICES

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[Docket No. RI75-126]  
AMERICAN PETROFINA COMPANY OF TEXAS

## Petition for Special Relief; Correction

APRIL 22, 1975.

In the Notice of Petition for Special Relief issued April 17, 1975, and Published in the FEDERAL REGISTER on April 24, 1975, 40 FR 18038, Paragraph 1, line 16, change section "33" to section "23".

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13890 Filed 5-28-75; 8:45 am]

[Docket No. RP72-138 PGA75-2]  
FLORIDA GAS TRANSMISSION CO.  
Proposed Changes in Rates and Charges

MAY 21, 1975.

Take notice that on May 15, 1975, Florida Gas Transmission Company (Florida Gas) tendered for filing Substitute Seventh Revised Sheet 3-A to its FPC Gas Tariff, Original Volume No. 1, containing changes in rates in its Rate Schedules G and I for effectiveness on July 1, 1975. The changes in rates result from the application of the purchased gas cost adjustment provision in section 15, General Terms and Conditions of the tariff, which was approved by the Commission in Docket No. RP72-136.

A comparison between the currently effective rates and those to be made effective on July 1, 1975 under this filing is as follows:

Rate Schedule	Cents per therm	
	Currently effective	To become effective July 1, 1975
Rate Schedule G.....	7.276	7.244
Rate Schedule I.....	5.886	5.854

The annual effect on the proposed changes is a decrease of \$237,000 based on sales for the twelve months ended March 31, 1975.

Florida Gas states that a copy of its filing has been served upon all customers purchasing gas under its FPC Gas Tariff, Original Volume No. 1 and the Florida Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with section 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 16, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

## NOTICES

the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13819 Filed 5-28-75; 8:45 am]

[Docket No. RP73-17 (PGA75-5)]  
GRANITE STATE GAS TRANSMISSION, INC.  
Proposed Changes in Rates Pursuant to Purchased Gas Adjustment Provision

MAY 21, 1975.

Take notice that Granite State Gas Transmission, Inc. (Granite State) on May 15, 1975, tendered for filing Eighth Revised Sheet 3A in its FPC Gas Tariff, Original Volume No. 1, containing proposed changes in rates to be effective July 1, 1975. According to Granite State, the proposed changes would decrease revenues from jurisdictional sales by approximately \$332,007 annually, based on deliveries for the 12 months ended March 31, 1975. Granite State states that the instant filing is made pursuant to a purchased gas adjustment provision, previously approved by the Commission, on December 14, 1972, in Docket No. RP73-17. Granite State further states that the decreased purchased gas costs result from a proposed decrease in the rates of Tennessee Gas Pipeline Company, a Division of Tenneco, Inc., which Tennessee proposes to make effective on July 1, 1975 and that Granite State purchases its entire natural gas supply from Tennessee.

According to Granite State, copies of the filing were served upon Northern Utilities, Inc., the Company's sole jurisdictional customer and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 16, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13892 Filed 5-28-75; 8:45 am]

[Docket No. E-9446]

GREEN MOUNTAIN POWER CORP.  
Tariff Change

MAY 21, 1975.

Take notice that Green Mountain Power Corporation, on May 15, 1975, tendered for filing proposed changes in its

Federal Power Commission Electric Service Tariff. The proposed changes would increase revenues from jurisdictional sales and service by \$955,956 based on the twelve month period ending December 31, 1974. The Company proposed that the new rates will become effective as of June 16, 1975.

The Company states that in said test year it experienced a negative rate of return from its wholesale business and that an increase in its wholesale rates is necessitated by increased financing and operating costs.

Copies of the filing were served upon the Company's jurisdictional customers and the Vermont Public Service Board and the New Hampshire Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 12, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13893 Filed 5-28-75; 8:45 am]

[Project No. 2188]

## THE MONTANA POWER CO.

## Application for Conveyance of Interest in Project Lands

MAY 21, 1975.

Public notice is hereby given that application was filed November 1, 1974, and supplemented on January 31, 1975, under the Federal Power Act (16 U.S.C. 791a-825r) by Montana Power Company (Correspondence to Mr. John Carl, Attorney, The Montana Power Company, 40 East Broadway, Butte, Montana 59701 with copy to Mr. Lee S. Sherline, Leighton and Sherline, 1701 K Street NW., Washington, D.C. 20006) for Commission approval of conveyance of interest in project lands in Cascade County, Montana for Project No. 2188 on the Missouri River.

Applicant is seeking Commission approval to convey to a private owner approximately 0.31 acre of project property at the Morony development of Project No. 2188. Automation of the Morony plant was completed in 1959 and the license for Project No. 2188 was amended by Commission order dated October 15, 1963, deleting six residences and other structures once used by the operators of the plant. One operator remained until December 1972 and occupied the resi-



## NOTICES

dence on the subject parcel. This parcel of project property is located outside of the contiguous project boundary of the development and applicant states that its sale will not affect the operation of the project.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 14, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR § 1.8 or § 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13894 Filed 5-28-75; 8:45 am]

[Docket Nos. RP71-125, PGA75-11]

# **NATURAL GAS PIPELINE COMPANY OF AMERICA**

## **PGA Filing To Track a Pipeline Supplier Rate Decrease**

MAY 21, 1975.

Take notice that on May 19, 1975, Natural Gas Pipeline Company of America (Natural) submitted for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, Twenty-Fourth Revised Sheet No. 5, to be effective July 1, 1975.

Natural states the filing was made pursuant to the provisions of section 18, Purchased Gas Cost Adjustment, of the General Terms and Conditions of its FPC Gas Tariff, to track a decrease in the cost of gas purchased, effective July 1, 1975, from United Gas Pipe Line Company, a pipeline supplier to Natural. United's filing was made on May 16, 1975 to be effective July 1, 1975 in accordance with the terms of its PGA Clause.

Natural states that as notice of the supplier filing was not received by Natural in time to permit it to meet the 45-day filing requirement of its PGA Tariff provision, it requests that that provision be waived to permit Natural's PGA unit adjustment to become effective July 1, 1975.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 10, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a

party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13895 Filed 5-28-75; 8:45 am]

[Docket No. RP73-89; PGA75-3]

# **SEA ROBIN PIPELINE CO.**

## **Filing of Revised Tariff Sheet**

MAY 21, 1975.

Take notice that on May 16, 1975, Sea Robin Pipeline Company tendered for filing Sixth Revised Sheet No. 4 to its FPC Gas Tariff, Original Volume No. 1. This tariff sheet and supporting information are being filed 45 days before the effective date of July 1, 1975, pursuant to Section 1 of Sea Robin's tariff, and is in compliance with the provisions of Order Nos. 452, 452-A and 452-B.

Copies of the revised tariff sheet and supporting data are being mailed to Sea Robin's jurisdictional customers and interested state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 11, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13896 Filed 5-28-75; 8:45 am]

[Docket No. C175-340]

# **SKYLINE OIL CO. ET AL.**

## **Amendment to Application; Correction**

APRIL 22, 1975.

In the Notice of Amendment to Application, issued April 14, 1975, and published in the FEDERAL REGISTER on April 18, 1975, 40 FR 17337, Page 17337, paragraph 3, lines 9-13, please delete the last sentence and substitute the following: "The amendment indicates the the volume of gas subject to the contract covering the No. 4 Well is 2,500 Mcf per day which volume is in addition to the 2,500 Mcf of gas per day proposed to be sold from Well Nos. 1 and 2. The amendment further indicates that the proposed price of the gas from Well No. 4 is to be the same as the proposed price of the gas from Well Nos. 1 and 2, \$1.00 per million Btu."

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13897 Filed 5-28-75; 8:45 am]

[Docket No. RP71-29, and RP71-120  
(Phase I)]

# **UNITED GAS PIPE LINE CO.**

## **Extension of Time; Correction**

APRIL 23, 1975.

In the Notice of Extension of Time issued April 16, 1975 and published in the FEDERAL REGISTER on April 23, 1975, 40 FR 17884, please delete the word "Company" from the ordering paragraph.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13898 Filed 5-28-75; 8:45 am]

[Project No. 2075]

# **WASHINGTON WATER POWER CO.**

## **Application for Amendment of License (Major)**

MAY 21, 1975.

Public notice is hereby given that application was filed on November 18, 1974, and supplemented on November 29, 1974, under the Federal Power Act (16 U.S.C. 791a-825f) by The Washington Water Power Company, Licensee (correspondence to: J. P. Buckley, Secretary, The Washington Water Power Company, P.O. Box 3727, Spokane, Washington 99220; and Mr. Lee S. Sherline, Leighton and Sherline, 1701 K Street, NW., Washington, D.C. 20006), to amend the major license for its constructed Noxon Rapids Project No. 2075. The Noxon Rapids project is on the Clark Fork River, a navigable water of the United States, in Sanders County, Montana near Sandpoint, Coeur D'Alene, and Wallace, Idaho, and Thompson Falls, Kallispell, and Missoula, Montana and affecting lands of the United States within the Kaniksu and Lolo National Forests.

The Noxon Rapids, project, as licensed, consists of: a dam composed of a concrete spillway section, a concrete intake section, and two earth-fill sections, creating a reservoir with a normal maximum water surface elevation of about 2,331 feet and extending upstream about 38 miles; a powerhouse at the toe of the dam containing four units, each rated 70,720 kilowatts, with provision for the future installation of a fifth similar generating unit; five penstocks; two 230-kilovolt transmission lines—one extending approximately 20 miles from Noxon Rapids to Cabinet Gorge (P-2058) and the other extending approximately 44 miles from Noxon Rapids to Pine Creek substation; and appurtenant facilities.

Article 28 of the license for Project No. 2075 states that "The Licensee . . . shall at such time as the Commission may direct and to the extent that it is economically sound and in the public interest to do so, after notice and opportunity for hearing, complete the project to its ultimate development . . ."

Licensee has requested in its application that the Commission direct Licensee to complete the project pursuant to Article 28. Licensee proposes to install a fifth generating unit rated at 114,000 kW and appurtenant facilities. Licensee states that the new unit is scheduled to be in

service by November 1977 and would cost \$14,198,000 (October 1974 price level).

Any person desiring to be heard or to make protest with reference to said application should on or before June 30, 1975 file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by sections 308 and 309 of the Federal Power Act (16 U.S.C. § 825g, § 825h) and the Commission's rules of practice and procedure, specifically § 1.32(b) (18 CFR § 1.32(b)), as amended by Order No. 518, a hearing may be held without further notice before the Commission on this application if no issue of substance is raised by any request to be heard, protest or petition filed subsequent to this notice within the time required herein and if the applicant or initial pleader requests that the shortened procedure of § 1.32(b) be used. If an issue of substance is so raised or applicant or initial pleader fails to request the shortened procedure, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant or initial pleader to appear or be represented at the hearing before the Commission.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13899 Filed 5-28-75; 8:45 am]

[Docket No. RP72-110; PGA 75-8]

# **ALGONQUIN GAS TRANSMISSION CO.**

## **Rate Change Pursuant To Purchased Gas Cost Adjustment Provision**

MAY 21, 1975.

Take notice that Algonquin Gas Transmission Company (Algonquin Gas), on May 8, 1975 tendered for filing Substitute Sixth Revised Sheet No. 10 to its FPC Gas Tariff, First Revised Volume No. 1.

This sheet is being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment Provision set forth in Section 17 of the General Terms and Conditions of its FPC Gas Tariff, First Revised Volume No. 1. The rate change is being

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filed to reflect a change in purchased gas costs to be paid by Algonquin Gas to its supplier, Texas Eastern Transmission Corporation (Texas Eastern) on June 1, 1975. Algonquin Gas requests that the Commission waive the requisite notice and grant special permission to permit such Substitute Sixth Revised Sheet No. 10 to become effective June 1, 1975, which will synchronize Algonquin Gas' rates with those of Texas Eastern.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8, 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 30, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13978 Filed 5-28-75; 8:45 am]

Filing date	Producer	Rate schedule No.	Buyer	Area
May 7, 1975	Amerada Hess Corp., 1200 Milam, 6th Floor, Houston, Tex. 77002.	7	Tennessee Gas Pipeline Co.	Texas Gulf Coast.
May 9, 1975	Atlantic Richfield Co., P.O. Box 2619, Dallas, Tex. 75221.	373	do.	Do.
May 12, 1975	Cities Service Oil Co., Box 300, Tulsa, Okla. 74102.	50	Texas Gas Transmission Corp.	Other Southwest.
Do.	do.	231	do.	Do.
Do.	Clinton Oil Co., P.O. Box 1201, Wichita, Kans. 67201.	109	Columbia Gas Transmission Corp.	South Louisiana.
May 13, 1975	Amerada Hess Corp.	2 and 25	El Paso Natural Gas Co.	Rocky Mountain.

[FR Doc.75-14001 Filed 5-28-75; 8:45 am]

# **[Docket No. C175-672] BIGLANE OPERATING CO. Application**

MAY 22, 1975.

Take notice that on May 12, 1975, Biglane Operating Company (Applicant), P.O. Box 988, Natchez, Mississippi 39120, filed in Docket No. C175-672 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Southern Natural Gas Company (Southern) from the Oldenburg Field, Franklin County, Mississippi, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authority to sell to Southern up to 1,400 Mcf of gas per day from the Oldenburg Field for one year at an initial base price of 52.02 cents per

[Rate Schedule Nos. 7, et al.]

# **AMERADA HESS CORP. ET AL.**

## **Rate Change Filings**

MAY 22, 1975.

Take notice that the producers listed in the Appendix attached hereto have filed proposed increased rates to the applicable new gas national ceiling based on the interpretation of vintage concepts set forth by the Commission in its Opinion No. 699-H, issued December 4, 1974.

The information relevant to each of these sales is listed in the Appendix.

Any person desiring to be heard or to make any protest with reference to said filing should on or before June 10, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,  
Secretary.

Mcf (15.025 psia), subject to heat adjustment, 100 percent tax reimbursement, and a 1.25 cent gathering charge, within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70).

Any person desiring to be heard or to make any protest with reference to said application should on or before June 17, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.



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Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13979 Filed 5-28-75; 8:45 am]

[Docket No. E-7172]

# DEPARTMENT OF THE INTERIOR AND SOUTHWESTERN POWER ADMINISTRATION

## Request for Approval of Rates and Charges

MAY 21, 1975.

Notice is hereby given that the Secretary of the Interior (Secretary), acting on behalf of Southwestern Power Administration (SWPA) and pursuant to section 5 of the Flood Control Act of 1944 (58 Stat. 887, 890), filed with the Federal Power Commission on May 9, 1975, a request in Docket No. E-7172 for an extension of the Commission's confirmation and approval of SWPA's rates and charges for the sale of electric power and energy included in (1) Rate Schedules F-1 (firm power), P-2 (Revised) (peaking power), EE (excess energy) and IC (interruptible capacity), (2) Contract No. Ispa-356 between SWPA and Oklahoma Gas and Electric Company and Public Service Company of Oklahoma and (3) Contract No. 14-02-001-864-8 between SWPA and Tex-La Electric Cooperative, Inc. The Commission, by orders issued November 30, 1971 and February 20, 1973 in this docket (46 FPC 1275 and 49 FPC 420), approved such rates and charges for the period ending May 31, 1974, and by order issued May 31, 1974, extended its approval for a period ending not later than May 31, 1975. Approval of those rates and charges, which are described in detail in the above-mentioned Commission orders, is now requested by the Secretary for the additional period of six months ending November 30, 1975.

The Secretary represents, in substance, that the requested extension of approval of SWPA's rates and charges is necessary to allow additional time for SWPA to complete the rate and repayment study and other related studies currently underway to determine the

adjustments in such rates and charges which may be appropriate in order that they will produce revenues sufficient to satisfy the payout requirements of the Flood Control Act of 1944.

The rate schedules and rate contracts of SWPA referred to above are on file with the Commission and available for public inspection. Any person desiring to make comments or suggestions for the Commission's consideration with respect to SWPA's rates and charges set forth in said rate schedules and rate contracts should submit the same in writing on or before June 6, 1975 to the Federal Power Commission, Washington, D.C. 20426.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-14000 Filed 5-28-75; 8:45 am]

[Docket No. RP71-15; PGA75-5]

# EAST TENNESSEE NATURAL GAS CO. Proposed Rate Change Under Tariff Rate Adjustment Provisions

MAY 22, 1975.

Take notice that on May 16, 1975, East Tennessee Natural Gas Company (East Tennessee) tendered for filing Twelfth Revised Sheet No. 4 to Sixth Revised Volume No. 1 of its FPC Gas Tariff to be effective July 1, 1975.

East Tennessee states that the purpose of this revised tariff sheet is (1) to adjust East Tennessee's rates pursuant to the PGA provision in section 22 of the General Terms and Conditions to reflect decreased purchased gas costs resulting from a rate decrease by its sole supplier, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), and (2) to adjust East Tennessee's rates pursuant to § 24.8 of the General Terms and Conditions so as to reflect Curtailment Credits.

East Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 17, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13980 Filed 5-28-75; 8:45 am]

[Docket No. E-9461]

# ILLINOIS POWER CO.

## Filing of Modification of Interconnection Agreement

MAY 22, 1975.

Take notice that on May 19, 1975, Illinois Power Company (Illinois) tendered for filing a Letter of Agreement which modifies the Interconnection Agreement dated November 27, 1961 between Illinois and Indiana & Michigan Electric Company (Indiana).

According to Illinois, the date, under subsection 1.023 of the Interconnection Agreement, which requires Indiana to install 345,000 volt metering equipment, at Indiana's Eugene Substation has been advanced due to Illinois installing a 345,000/138,000 volt Bunsonville Substation (referred to in the Letter of Agreement as Georgetown Substation). Instead of at the time that a second 345,000 volt transmission line is connected to the Sidney substation.

In consideration of these changes, Illinois states it will reimburse Indiana for an amount equal to one-half of Indiana's expenditure for the installation of the 345,000 volt metering equipment at Eugene Substation. This expenditure is presently estimated to be in the order of \$30,000.

Illinois requests that the Letter of Agreement dated March 12, 1973, be permitted to become effective June 15, 1975, the estimated date for the completion of the Bunsonville Substation.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before June 13, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are available for public inspection at the Federal Power Commission.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13981 Filed 5-28-75; 8:45 am]

[Docket No. E-8815]

# IOWA PUBLIC SERVICE CO. Tariff Sheet Pursuant To Order Approving Settlement

MAY 14, 1975.

Take notice that Iowa Public Service Company, on December 26, 1974, tendered for filing its Wholesale Electric Tariff Sheets. The filing was made in compliance with the Commission's Order Approving Rate Settlement issued in this docket on December 11, 1974.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the

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[Docket No. CP75-334]

# KANSAS-NEBRASKA NATURAL GAS CO., INC.

## Application

MAY 22, 1975.

Take notice that on May 9, 1975, Kansas-Nebraska Natural Gas Company, Inc. (Applicant), P.O. Box 608, Hastings, Nebraska 68901, filed in Docket No. CP 75-334 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition, construction and operation of facilities for the purpose of developing the Big Springs gas field, Deuel County, Nebraska, as an underground storage field, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant requests authorization to:

(1) acquire, develop and operate as an underground gas storage reservoir, the "D" sand interval of the Upper Dakota Formation in the Big Springs Field in Deuel County, Nebraska, including the acquisition of storage rights therein, acquisition and use of the remaining gas for cushion gas, the reworking of existing producing and previously abandoned wells and the drilling of new wells as required for storage injection and withdrawal service, at an estimated working gas capacity of 39,000,000 Mcf and an injection-withdrawal capacity of 100,000 Mcf per day;

(2) construct an injection-withdrawal system consisting of approximately 11.1 miles of 12 3/4-inch O.D., 10 3/4-inch O.D., and 6 3/4-inch O.D. pipeline, dehydration equipment, measurement and other auxiliary facilities necessary to inject and withdraw gas, and to salvage the existing gathering system, consisting of approximately 8.8 miles of 4-inch and 8-inch pipeline, following completion of the injection-withdrawal system;

(3) recylinder one 800 H.P. compressor unit now in field gathering service and utilize said unit, in conjunction with existing compressor units presently in transmission service, for dual transmission and storage operations.

Applicant estimates that the total cost of acquiring and developing the Big Springs Field "D" sand reservoir for underground storage, including the converting of existing facilities to dual transmission and storage service and the construction of the required additional facilities, will be \$5,420,000, which will be financed from current working capital or will be obtained from interim bank loans which at a later date may be funded through a security issue.

Applicant states it is presently producing, purchasing and transporting in interstate commerce gas produced from the "D" sand interval of the Upper Dakota Formation in the Big Springs Field, which is approaching depletion. Applicant further states that it is in the process of acquiring by purchase, or contracting to acquire by purchase, the 81.5

percent of leasehold interests and assignments of oil and gas leases in the Big Springs Field not previously owned by Applicant and that it is also securing the remaining royalty interests and obtaining the surface and subsurface rights from the landowners which are required for the gas storage field. As of March 31, 1975, Applicant states it had secured such gas storage agreements covering 36,744 net surface acres or 82.25 percent of the approximately 44,672 acres contained in the proposed storage unit.

Applicant states that the proposed net injection for the first three years will total approximately 18 million Mcf and will consist of 2.8 million Mcf of injected cushion gas and 15.2 million Mcf of working gas and that, after this initial period, gas available during periods of low demand will be injected as system operations allow to build a total storage inventory of 39 million Mcf at Big Springs. Cushion gas requirements for design operating conditions are estimated to be 14.8 million Mcf, consisting of 1.0 million Mcf of nonrecoverable native gas in place, 2.0 million Mcf of remaining recoverable native gas, and 2.8 million Mcf of injected cushion gas.

Applicant avers that the proposed facilities are required to carry out effectively conservation practices and the husbanding of gas for high priority firm gas customers and provide necessary flexibility to manage existing gas supply and to contract effectively and manage new gas supplies as they become available. Applicant also states that the new facilities will provide flexibility in system operations and will obtain greater efficiency in its existing transmission facilities which will improve the reliability of service to its peak day firm gas customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 11, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and pro-



## NOTICES

cedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13984 Filed 5-28-75; 8:45 am]

[Project No. 2444]

# LAKE SUPERIOR DISTRICT POWER CO. Filing of Notice of Withdrawal of Application for Surrender of Minor License

MAY 13, 1975.

Public notice is hereby given that notice of withdrawal of application for surrender of minor license was filed on May 2, 1975, pursuant to § 1.11(d) of the Commission's rules of practice and procedure under the Federal Power Act (16 U.S.C. 791a-825r) by Lake Superior District Power Company (correspondence to: Mr. K. S. Austin, President, Lake Superior District Power Company, 101 West Second Street, Ashland, Wisconsin 54806, and Mr. Glen H. Bell, Aberg, Bell, Blake and Metzner, S.C., 222 West Washington Avenue, Madison, Wisconsin 53703) for White River Project No. 2444, located on the White River near the towns of Ashland and Odanah, Ashland County, Wisconsin.

On November 26, 1974, Lake Superior District Power Company (LSDPC) filed an application for surrender of its minor license for White River Project No. 2444. In this application, LSDPC pointed out that the penstock from the project dam to the downstream powerhouse had collapsed, thus rendering the project unusable for the production of power, and averred that it would not be economically feasible to rehabilitate the project for power production purposes.

LSDPC now maintains that there have been two developments in the interim since the application was filed which affect the feasibility of restoring the project to operating condition. These developments are: (1) The new investment tax credit was found to reduce the costs of rehabilitating the project works and making the project operable, and (2) the estimated costs related to abandoning the project were found to be higher than had originally been anticipated.

Accordingly, LSDPC now desires to withdraw its application for surrender of license and has requested the Commission to return the original license for Project No. 2444 which was tendered to the Commission with the application.

Any person desiring to be heard or to make protest with reference to said notice should on or before May 30, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The notice is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13985 Filed 5-28-75; 8:45 am]

[Docket No. E-9206]

# MCDOWELL COUNTY CONSUMER COUNCIL, INC.

Extension of Time

MAY 21, 1975.

On May 16, 1975, McDowell County Consumer Council, Inc., filed a motion for extension of time to file response to the April 30, 1975, motion of Appalachian Power Company to dismiss, in the above-designated matter.

Upon consideration, notice is hereby given that the time to respond to the above motion to dismiss is extended to and including May 30, 1975.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13986 Filed 5-28-75; 8:45 am]

[Docket No. CP75-339]

# MICHIGAN CONSOLIDATED GAS CO.

Application

MAY 22, 1975.

Take notice that on May 14, 1975, Michigan Consolidated Gas Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP75-339 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to render natural gas storage service to Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it and Panhandle have entered into a gas storage agreement dated May 1, 1975, providing that during the months of May through October 1975 (the Summer Period), Panhandle will deliver to Applicant for storage, at Applicant's River Rouge Station in Melvindale, Michigan, approximately 3.7 million Mcf of natural gas, and that during the months of November 1975 through April 1976 (the Winter

Period), Applicant will redeliver an equivalent amount of natural gas to Panhandle through displacement, by making deliveries, except during the month of April 1976, to Southeastern Michigan Gas Company (Southeastern) for the account of Panhandle. According to the agreement, if the volume being redelivered on any day by Applicant is in excess of that which Southeastern can accommodate, then the excess shall be redelivered at such other points as the parties may agree upon, but during the month of April 1976 all redeliveries to Panhandle from Applicant shall be by displacement at Applicant's River Rouge Station.

The gas storage agreement also provides that Panhandle shall have the right through May 31, 1975, to increase the volume of gas to be stored by Applicant to 6.0 million Mcf. Applicant proposes to charge Panhandle 43.88 cents per Mcf for natural gas stored.

Applicant states that the gas storage agreement between Applicant and Panhandle is intended only as a temporary arrangement to enable some of Panhandle's resale and direct sale customers to meet their anticipated market or processing requirements during the 1975-76 heating season.

The May 1, 1975, contract provides that the agreement is conditioned upon the issuance by the Commission of requisite authorization to Applicant to provide the storage service without affecting the continued exemption of Applicant under section 1(c) of the Natural Gas Act.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 16, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion

believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13987 Filed 5-28-75; 8:45 am]

[Docket No. CP70-22]

# MICHIGAN WISCONSIN PIPE LINE CO.

Petition To Amend

MAY 22, 1975.

Take notice that on May 15, 1975, Michigan Wisconsin Pipe Line Company (Petitioner), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP70-22 a petition to amend its import authorization issued pursuant to section 3 of the Natural Gas Act in the subject docket so as to authorize Petitioner to continue importing natural gas from Canada purchased at the new prices to be established by the National Energy Board of Canada, all as more fully set forth in the petition to amend, which is on file with the Commission and open to public inspection.

Petitioner states that on May 5, 1975, the Honorable Donald S. Macdonald, Minister of Energy, Mines and Resources of the Dominion of Canada, issued a statement that the Canadian government will increase the price of natural gas exported to the United States to \$1.40 per Mcf effective August 1, 1975, and to \$1.60 per Mcf effective November 1, 1975.

Petitioner further states that it presently purchases 50,000 Mcf of gas per day from TransCanada PipeLines Limited (TransCanada) which are imported pursuant to authorization granted in the instant docket. The current price paid is \$1.00 per Mcf, which became effective on January 1, 1975, as a result of Canadian government policy to achieve commodity value pricing with respect to energy alternatives in the United States.

Petitioner states that natural gas imported from Canada forms a vital portion of its gas supply, and that, in addition to the gas purchased from TransCanada, Petitioner purchases gas from other Canadian sources such that the total gas purchased from Canada represents approximately 14 percent of Petitioner's gas supply on an annual basis. Unless permission is granted for the requested price increase, Petitioner states, it will face the loss of a substantial part of its gas supply.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 17, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be

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considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13988 Filed 5-28-75; 8:45 am]

[Docket Nos. RP74-97; PGA75-2]

# MONTANA-DAKOTA UTILITIES CO.

Adjustments Pursuant to PGA Clause

MAY 22, 1975.

Take notice that on May 16, 1975, Montana-Dakota Utilities Co. ("MDU") tendered for filing "Second Revised Sheet No. 3A" to its FPC Gas Tariff, Original Volume No. 4. MDU states that this filing is pursuant to its presently effective Purchased Gas Cost Adjustment Provision. The proposed effective date is July 1, 1975.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 6, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13989 Filed 5-28-75; 8:45 am]

[Docket No. E-9442]

# NEW BEDFORD GAS AND EDISON LIGHT CO.

Cancellation of Rate Schedule

MAY 22, 1975.

Take notice that New Bedford Gas and Edison Light Company (New Bedford), on May 14, 1975, tendered for filing Notice of Cancellation of certain Rate Schedules now on file with the Commission on behalf of Cape and Vineyard Electric Company (Cape). These cancellations are sought to become effective as of January 31, 1972, the effective date of the merger of Cape into New Bedford, and the dissolution of Cape as a corporate entity.

Two Rate Schedules are to be affected: (1) Rate Schedule FPC No. 1, consisting of an agreement dated February 27, 1969, wherein New England Power Company established and operated a central dispatch and interchange office known as REMVEC. (2) Rate Schedules FPC No. 8 to 11, consisting of agreements dated

February 14, 1972, wherein NEPOOL member companies, of which Cape is one, agreed to exchange energy between themselves and four other New York energy companies.

This request is filed pursuant to an order of the Commission issued January 20, 1972, in Docket No. E-7640 (47 FPC 122), and the Commission's request to New Bedford dated February 26, 1975. In light of the foregoing, New Bedford requests waiver of the notice requirements pursuant to § 35.11 of the regulations.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 12, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13990 Filed 5-28-75; 8:45 am]

[Docket Nos. E-8641, E-8251, E-8169, and E-8476]

# NEW ENGLAND POWER CO.

Extension of Time

MAY 21, 1975.

On May 20, 1975, New England Power Company, filed a motion to extend the briefing schedule and the time for initial decision on rate of return fixed by order issued February 27, 1975 in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the briefing schedule in the above matter are modified as follows:

Initial Briefs, May 27, 1975.  
Reply Briefs, June 6, 1975.  
Initial Decision, June 27, 1975.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-13991 Filed 5-28-75; 8:45 am]

[Docket No. G-19040]

# NORTHERN NATURAL GAS CO.

Filing of Refund Report

MAY 21, 1975.

Take notice that on April 30, 1975, Northern Natural Gas Company (Northern) tendered for filing a Report of Proposed Flow-Through of Refunds to its jurisdictional customers pursuant to the Commission "Order Denying Motion for Approval of Exploration Fund", issued April 14, 1975. Northern states that such refunds were received from Phillips Petroleum Company (Phillips) which

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## NOTICES

were refunded pursuant to the Commission's Order issued March 18, 1974, denying Phillips' special relief and ordered Phillips to comply with the provision of Opinion No. 586, Docket No. AR64-1, et al.

Northern further states that its proposed disposition of the refunds in the amount of \$5,600,671.09 is in accord with the provision set forth in the documents comprising Northern's settlement agreements in Docket No. G-19040 which settlement was approved by Commission Order issued December 27, 1961.

Northern states that copies of the filing have been mailed to each of the Gas Utility customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 28, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13992 Filed 5-28-75; 8:45 am]

[Docket Nos. CP75-340, CP75-341, and CP75-342]

## NORTHWEST PIPELINE CORP.

## Applications

MAY 22, 1975.

Take notice that on May 15, 1975, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket Nos. CP75-340, CP75-341, and CP75-342 applications pursuant to Section 3 of the Natural Gas Act for authorization to continue the importation of natural gas from Canada at points on the International Boundary near Sumas, Washington, and Kingsgate, British Columbia, purchased at the prices established by the Government of Canada and as have been or will be the subject of appropriate order of the National Energy Board of Canada (NEB), all as more fully set forth in the applications, which are on file with the Commission and open to public inspection.

Applicant states that on May 5, 1975, the Honorable Donald S. Macdonald, Minister of Energy, Mines and Resources of the Dominion of Canada, issued a statement on the pricing of gas exports to the United States. The Canadian government, according to the statement, has decided to establish, effective August 1, 1975, a new export price for gas of \$1.40 per Mcf and to adjust that price upwards

to \$1.60 per Mcf on November 1, 1975. Applicant, as a result, requests permission to import gas pursuant to authorizations previously granted but at the new costs to be established by the NEB.

In the application in Docket No. CP75-340, Applicant requests authorization to continue the importation of up to 125,000 Mcf on a peak day and 30,000 Mcf per day on an annual basis at the Kingsgate import point. The volumes were authorized to be imported by Commission order issued December 28, 1973, in Docket No. CP73-332, as amended October 31, 1974. Said volumes are made available to Westcoast Transmission Company Limited (Westcoast) from Alberta and Southern Gas Company Limited (A&S) on a best efforts basis. The application in Docket No. CP75-340 states that the permission to export the subject volumes of natural gas expires on October 31, 1975. Applicant requests the Commission to authorize the importation of these volumes of natural gas at Kingsgate at a cost of \$1.40, effective August 1, 1975. In its application in Docket No. CP75-341, Applicant requests authorization to import gas, purchased at the increased prices to be established, at the Sumas import point. By order issued September 21, 1973, in Docket No. CP73-332, the Commission authorized Applicant to import at Sumas up to 800,000 Mcf of gas per day at 14.9 psia purchased from Westcoast. Applicant requests authorization to import gas purchased at \$1.40 per Mcf effective August 1, 1975, and \$1.60 per Mcf effective November 1, 1975.

In its application in Docket No. CP75-342, Applicant requests authorization to import gas, purchased at increased prices of \$1.40 and \$1.60 per Mcf, from Westcoast at Kingsgate. By the September 21, 1973, order in Docket No. CP73-332, Applicant was authorized to import 151,731 Mcf on a peak day and 51 million Mcf annually (at 14.73 psia) at Kingsgate.

Applicant states that the Sumas volumes represent approximately 52 percent of its annual gas supply and that the Kingsgate volumes represent approximately 11 percent of its annual gas supply. Applicant further states that the gas obtained through A&S is required to assist Applicant in providing a supplemental supply of natural gas to assist it in satisfying the requirements of its customers as a result of the shortfall which Applicant has experienced at the Sumas import point.

Applicant states that the increases of the price of Canadian gas will result in an increase in Applicant's jurisdictional rates of 27.57 cents per Mcf, effective August 1, 1975 (\$117,413,539 in annualized system purchased gas costs) and that it will file for an increase in rates effective November 1, 1975, to recover an estimated additional \$58,600,000 in annualized purchased gas costs.

The increase described herein is said to be the next step in the policy of the Canadian government to increase the price of exported gas so as to increase prices progressively towards achieving a goal of commodity value pricing of nat-

ural gas in relation to energy alternatives in the United States. Effective November 1, 1974, the NEB had increased the price of exported gas to \$1.00 per Mcf at Sumas and for the A&S gas; and effective January 1, 1975 the price for the gas exported at Kingsgate was increased to \$1.00 per Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 17, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13993 Filed 5-28-75; 8:45 am]

## PANHANDLE EASTERN PIPE LINE CO.

[Docket No. CP75-335]

## Application

MAY 21, 1975.

Take notice that on May 13, 1975, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP75-335 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to transport natural gas in interstate commerce to implement a gas storage agreement between Applicant and Michigan Consolidated Gas Company (Mich Con) and gas storage and transportation agreements between Applicant and certain of its existing customers, all as more fully described in the application, which is on file with the Commission and open to public inspection.

Applicant seeks authorization to transport gas to implement agreements with certain of its customers which provide that, during the 1975 summer period, such customers will direct that a portion of their monthly gas entitlement be transported by Applicant to storage and that, during the 1975-76 heating season, specified portions of such stored volumes will be redelivered by Applicant. The total proposed charge for the services to be performed by Applicant during the summer and winter period is 48.88 cents per Mcf for gas delivered into storage and redelivered.

The volumes of gas to be stored are proposed to be transported and delivered by Applicant to Mich Con at an existing measurement facility at Melvindale, Michigan, for injection into Mich Con's underground storage fields. Applicant would pay Mich Con 43.88 cents per Mcf

for such storage service according to the applicable contract. No new facilities will be required to be installed by Applicant to implement this storage project, the application states.

Applicant states that this arrangement will assist the participating customers by providing, at a minimum of cost to such customers, additional volumes of gas during the winter season when curtailments are at their deepest level.

According to the contract between Applicant and Mich Con, Applicant's deliveries to Mich Con would total up to 3,700,000 Mcf of natural gas. The contract also provides that the agreement is conditioned upon the issuance by the Commission of requisite authorization to Mich Con to provide the storage service without affecting the continued exemption of Mich Con under section 1(c) of the Natural Gas Act.

Applicant has contracted with the following customers for the following storage volumes in connection with its arrangement with Mich Con:

Customer:	Volume (Mcf)
Michigan Gas Utilities Co.	552,000
Ohio Gas Co.	235,000
The Toledo Edison Co.	35,000
Citizens Gas Fuel Co.	154,000
City of Indianapolis	1,130,000
Missouri Utilities Co.	65,000
City of Morton, Ill.	70,000
Brockway Glass Co., Inc.	20,830
Alsey Refractories Co.	21,000
Johns-Manville Fiber Glass, Inc.	250,000
National Distillers and Chemical Corp.	750,000
Marblehead Lime Co.	10,000
Northern Indiana Public Service Co.	1,000,000
Hayes-Albion Corp., Albion Millable Division	30,000
City of Bushnell, Ill.	18,100
The Gas Service Co.	20,000

Any person desiring to be heard or to make any protest with reference to said application should on or before June 13, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public

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[Docket No. RP73-64; PGA75-4]

SOUTHERN NATURAL GAS CO.  
Proposed Changes in FPC Gas Tariff

MAY 22, 1975.

Take notice that Southern Natural Gas Company (Southern) on May 16, 1975 tendered for filing proposed changes in its FPC Gas Tariff, Sixth Revised Volume No. 1, to become effective July 1, 1975. Such filing is pursuant to Section 17 (Purchased Gas Adjustment) of the General Terms and Conditions of Southern's FPC Gas Tariff, Sixth Revised Volume No. 1. The proposed changes would decrease the commodity and one-part rates by 6.358¢ per Mcf. The overall decrease is made up of the following items:

(1) A Current Adjustment, pursuant to § 17.3, for decreased cost of purchased gas to jurisdictional customers of \$40,064,133, or 6.645¢ per Mcf.

(2) A Surcharge Adjustment, pursuant to § 17.4 of the General Terms and Conditions of Southern's FPC Gas Tariff, for Unrecovered Purchased Gas Costs. The balance in Account No. 191, Unrecovered Purchased Gas Costs, as of March 31, 1975, is \$2,862,724. Such balance will be returned over the estimated sales for the six-month period commencing July 1, 1975 and reflects a net increase of .287¢ above the present Surcharge Adjustment.

Copies of the filing are being served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 11, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13995 Filed 5-28-75; 8:45 am]

[Docket No. CP75-329]

## STINGRAY PIPELINE CO.

## Application

MAY 21, 1975.

Take notice that on May 6, 1975, Stingray Pipeline Company (Stingray), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP75-329, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline facilities for the transportation of natural gas for Natural Gas Pipeline Company of America (Natural), Trunkline Gas Company (Trunkline), and United Gas Pipe Line Company



(United), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Stingray proposes to construct and operate approximately 5 miles of 12 3/4-inch O.D. gathering line to connect the West Cameron Block 533 Field (West Cameron Blocks 532, 533, and 534, offshore Louisiana), plus 7.1 miles of 6.5-inch O.D. pipeline to connect the East Cameron Block 322 Field (East Cameron Blocks 322 and 323, offshore Louisiana) together with related facilities for the gathering and transmission of gas through Stingray's offshore system (authorized in Commission Opinion No. 693 (51 FPC )) to the existing onshore delivery point to Natural at the terminus of Stingray's system. The total cost of the facilities applied for by Stingray is estimated to be approximately \$5,100,000 which cost is to be financed by revolving credit and term loan agreements with banks, equity contributions, and internally generated funds.

Stingray states that all of the production from the West Cameron Block 533 Field will be purchased by Natural, United, and Trunkline under various contracts with the various producers, and all of the production from the East Cameron Block 322 Field will be purchased by Natural and Trunkline. Stingray states that it will receive the production at the producers' platforms and transport it to shore pursuant to Stingray's existing transportation contracts with Natural and Trunkline (Stingray's FPC Rate Schedule T-1) and with United (Stingray's FPC Rate Schedule T-2). Stingray states that proved, probable and potential reserves for transportation approximate 130 million Mcf from the West Cameron Block 533 Field and 9 million Mcf from the East Cameron Block 322 Field.

The application indicates that the proposed facilities will be extensions of Stingray's system which will have a total capacity of 1,000,000 Mcf per day. Stingray proposes to charge a transportation rate of \$3.02 per Mcf based on a rate of return of 10.38 percent.

Stingray further requests approval of an amendment dated April 28, 1975, to its transportation contract with United dated October 2, 1973, which amendment adds the West Cameron Block 533 Field as an additional point of receipt from United without altering the daily transportation quantity.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 13, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a

proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc 75-13996 Filed 5-28-75; 8:45 am]

[Docket Nos. CI75-45, et al. CP75-330]

#### TENNECO OIL CO. ET AL. AND TRUNKLINE GAS CO.

Order Consolidating Proceedings and  
Prescribing Service of Evidence

May 16, 1975.

By order issued April 14, 1975, the Commission, inter alia, consolidated a number of proceedings in Docket No. CI75-45, et al., granted petitions to intervene, ordered a formal hearing to convene on May 19, 1975, and prescribed procedures to be followed therein.

Subsequent to the issuance of the Commission's April 14, 1975, order, Trunkline Gas Company (Trunkline) filed an application in Docket No. CP75-330, seeking a certificate of public convenience and necessity authorizing the transportation of certain volumes of gas for two groups of producers. These groups include Placid Oil Company, Hunt Industries, Hunt Petroleum Corporation, Hamilton Brothers Oil Company, Hamilton Brothers Exploration Company, Hamilton Brothers Petroleum Corporation (Placid Group) and Ashland Oil, Inc., Highland Resources, Inc. and Kewanee Oil Company (Ashland Group). This application also involves the transportation of offshore reserves from South Marsh Island Blocks 268, 269 and 281. The gas to be transported will be received in a common stream with other gas purchased by Trunkline from other producers and will be transported through facilities requested by Trunkline in Docket No. CP75-19. On May 7, 1975, Trunkline filed a motion requesting the Commission to consolidate the above referenced docket with Docket No. CP75-19.

The Commission in considering Trunkline's motion has taken note of the relationship of the issues contained in the

instant proceeding to those set forth in Docket No. CP75-19, which has been consolidated, with other dockets, into Docket No. CI75-45, et al., and has determined that a sufficiently direct relationship exists to warrant the consolidation of this docket with Docket No. CI75-45, et al.

The Commission finds. The proceeding involved in Docket No. CP75-330 contains common questions of law and fact with the proceedings in Docket No. CP75-45, et al., consequently, good cause exists to consolidate this proceeding with Docket No. CP75-45, et al.

The Commission orders. (A) The Proceeding involved in Docket No. CP75-330 is hereby consolidated with the proceedings in Docket No. CP75-45, et al., for purposes of hearing and decision.

(B) Applicants and persons in support of the application in Docket No. CP75-330 shall serve prepared testimony in support thereof, including prepared testimony of witnesses and exhibits, on the Office of the Administrative Law Judge, the Commission's Staff, and every party to this proceeding within ten days after issuance of this order.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc 75-13997 Filed 5-28-75; 8:45 am]

[Docket Nos. RP74-48 and RP75-3 AP75-1]

#### TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Tariff Filing

May 22, 1975.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on May 16, 1975, tendered for filing seven revised tariff sheets to its FPC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2.

Transco states that such filing is made in accordance with the provisions of Section 6 of Article III of its Agreement as to Rates in the above dockets to track advance payments for gas not previously reflected in rates of \$32.287,081. The proposed effective date of the filing is July 1, 1975, subject to Commission approval of the Agreement.

Transco states that the revised tariff sheets included in the filing reflect an increase of 0.6¢ per Mcf in the commodity rate or delivery charge of the Company's CD, G, OG, E, PS, S-2, X-11, X-20, X-42, X-52, and X-56 rate schedules.

The company states that copies of the filing have been mailed to each of the Company's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 6, 1975. Protests will be considered by the Commission in determining

the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc 75-13977 Filed 5-28-75; 8:45 am]

[Docket No. CP75-337]

#### TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

May 22, 1975.

Take notice that on May 13, 1975, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP75-337 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to transport up to 15,000 Mcf per day of natural gas on an interruptible basis for Public Service Electric and Gas Company (Public Service), an existing resale customer of Applicant, under a transportation agreement between the two companies dated April 11, 1975, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The subject gas is proposed to be delivered to Applicant at an existing point of interconnection of Applicant's system with that of Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), near Rivervale, Bergen County, New Jersey, and subsequently delivered to Public Service at existing points of delivery to that customer on Applicant's Rivervale lateral.

According to the application, Public Service will pay Applicant an initial charge of 2.8 cents per Mcf transported. No additional facilities are proposed.

Applicant states that Public Service, as one means of alleviating the shortage of natural gas on its distribution system, has arranged to purchase from its subsidiary, Energy Development Corporation (EDC), up to 15,000 Mcf of gas per day to be produced in the North Parc Perdue Field, Lafayette and Vermillion Parishes, Louisiana. The gas, according to the application is to be transported to the gasoline plant of Shell Oil Company located near Chalkley, Louisiana, by Texas Gas Transmission Corporation (Texas Gas), and thence transported to the Rivervale point of delivery to Applicant by Tennessee. Applications by Texas Gas and Tennessee to render these services are pending in Docket Nos. CP75-275 and CP75-276, respectively.

Applicant further states that EDC has been granted a small producer certificate in Docket No. CS73-296, which, Applicant claims, will permit EDC to sell the subject gas to Public Service.

Any person desiring to be heard or to make any protest with reference to said application should on or before June

12, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc 75-13998 Filed 5-28-75; 8:45 am]

[Docket No. E-9447]

#### VIRGINIA ELECTRIC AND POWER CO. Contract Supplement and Delivery Point Change

May 22, 1975.

Take notice that on May 15, 1975, Virginia Electric and Power Company (Virginia), tendered for filing a Contract Supplement dated April 14, 1975, to the Agreement designated as Virginia's Rate Schedule FPC No. 93-12 between Virginia and Tideland Electric Membership Corporation (Tideland). Also, Virginia requests cancellation as of March 31, 1975, of an Agreement for the Purchase of Electricity for Resale and a supplemental agreement servicing Pamlico Power and Light Company (Pamlico). Virginia states that Pamlico's delivery point load was transferred permanently to Tideland's Fairfield Delivery Point on April 1, 1975.

Said supplement requests Commission authorization for connection of Tideland's Fairfield Delivery Point, located on and east of N.C. Route 94 and approximately 1.4 miles south of the Intracoastal Waterway, in Hyde County, North Carolina. Fairfield Delivery Point was created by the transfer, by contract and lease, of

the facilities of Pamlico Power and Light Company, and all its customers, to Tideland as of midnight March 31, 1975.

Virginia requests an effective date for the termination of the Agreement with Pamlico as of March 31, 1975, and for the connection of the Fairfield Delivery Point as of April 1, 1975, and further requests waiver of those regulations requiring timely filing and filing of cost of service data.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 12, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc 75-13999 Filed 5-28-75; 8:45 am]

#### GENERAL ACCOUNTING OFFICE REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO on May 27, 1975. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed report form are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments (in triplicate) must be received on or before June 16, 1975, and should be addressed to Mr. Monte Canfield, Jr., Director, Office of Special Programs, United States General Accounting Office, 425 I Street NW., Washington, D.C. 20548.

Further information may be obtained from the Regulatory Reports Review Officer, 202-376-5425.

#### FEDERAL ENERGY ADMINISTRATION

On May 21, the Federal Energy Administration submitted to GAO a proposed report form P-302-M-1 entitled, Petroleum Industry Monthly Report for Product Prices. This is a revision to Parts I-IV of the CLC-90. All refiners including gas plant operators, and those Re-



sellers and Retailers which derive \$50 million or more in annual sales or revenues from the retailing or reselling of covered products shall prepare and file this form. This form will collect information on volume and price information on sales of petroleum products, sales of products from gas plants and costs of imported products. The amount of time required to complete the report form will vary with the size of the firm, but the average number of man hours per response is estimated to be 220.

CARL F. BOGAR,  
Assistant Director,  
Regulatory Reports Review.

[FR Doc.75-13919 Filed 5-28-75; 8:45 am]

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (75-34)]

### ADVISORY BOARD ON AIRCRAFT FUEL CONSERVATION TECHNOLOGY

#### Meeting

The Advisory Board on Aircraft Fuel Conservation Technology will meet on June 18, 1975, at NASA Headquarters, Washington, D.C. 20546. The meeting will be held in Room 625 of Federal Office Building 10B, 600 Independence Avenue SW. Members of the public will be admitted on a first-come, first-served basis, up to the seating capacity of the room which is about 40 persons. All visitors must sign in prior to attending the meeting.

The Advisory Board on Aircraft Fuel Conservation Technology serves in an advisory capacity. Its Chairman is Dr. Raymond L. Bisplinghoff, and there are 13 members. The following list sets forth the approved agenda and schedule for the meeting of this Advisory Board on June 18, 1975. For further information, please contact the Executive Secretary, Mr. James J. Kramer, Area Code 202, 755-2403.

JUNE 18, 1975

Time	Topic
9 a.m.	Remarks by the Chairman (Purpose: To review the status of the Advisory Board Report resulting from the last Board meeting.)
9:15 a.m.	Remarks by the Associate Administrator for Aeronautics and Space Technology (Purpose: To review the actions taken on the Aircraft Fuel Conservation Technology Plan since the last meeting and outline the future steps to be taken for approval of the plan.)
9:30 a.m.	Report by the Executive Secretary (Purpose: To present the Final Aircraft Fuel Conservation Technology Plan prepared by a Task Force of NASA and other Government agency personnel.)

## NOTICES

Time	Topic
1 p.m.	Advisory Board Discussion (Purpose: To evaluate and prioritize the elements of the Aircraft Fuel Conservation Technology Plan for the purpose of presenting to NASA a recommended and endorsed list of technology programs.)
3 p.m.	Chairman's Report (Purpose: To present the consensus views of the Board on the Final Task Force Aircraft Fuel Conservation Technology Plan and an endorsed list of prioritized programs.)
4 p.m.	Consideration of Future Advisory Board Activities (Purpose: To determine what actions the Advisory Board should undertake in the future.)
4:30 p.m.	Adjournment.

DUWARD L. CROW,  
Assistant Administrator for  
DOD and Interagency Affairs,  
National Aeronautics and  
Space Administration.

MAY 22, 1975.

[FR Doc.75-13875 Filed 5-28-75; 8:45 am]

## NATIONAL SCIENCE FOUNDATION

### AD HOC TASK GROUP 13 OF THE ADVISORY COMMITTEE FOR RESEARCH

#### Open Meeting

A two-day meeting of Task Group 13 of the Advisory Committee for Research will be held on June 19 and 20, beginning at 9 a.m. in Rm. 543 at the National Science Foundation, 1800 G Street NW., Washington, D.C.

The purpose of the ad hoc task group of the Advisory Committee for Research is to provide the Committee with a mechanism to consider numerous issues of interest to the full Committee. The task groups are composed of members of the Advisory Committee for Research and function in accordance with the Federal Advisory Committee Act, Pub. L. 92-463.

The agenda for this meeting will be a discussion of the implications of relying more heavily upon institutions and departments to select the highest quality individual research projects. The task group will also discuss alternatives for more effectively distributing limited support for scientific research equipment.

The meeting is open to the public. Anyone who plans to attend or would like more information about the task group should contact Mr. Leonard Gardner, Executive Secretary, Advisory Committee for Research, Rm. 320, National Science Foundation, Washington, D.C. 20550, telephone 202/632-4278.

Summary minutes of this meeting may be obtained from the Committee Management Coordination Staff, Management Analysis Office, National Science Foundation, Rm. 248, Washington, D.C. 20550.

FRED K. MURAKAMI,  
Committee Management Officer.

MAY 22, 1975.

[FR Doc.75-13906 Filed 5-28-75; 8:45 am]

## NATIONAL TRANSPORTATION SAFETY BOARD

[1467A, 1432A; 1323]

### ACCIDENT REPORTS; RESPONSE TO SAFETY RECOMMENDATION

#### Notice of Availability and Receipt

The National Transportation Safety Board announces the release last week of an aviation accident report and a highway accident report which contains two safety recommendations. Also, a letter responsive to an earlier Safety Board recommendation was received.

The reports are available to the general public; single copies may be obtained without charge. A \$4.00 user-service charge will be made for the response copy, in addition to a charge of 10¢ per page for reproduction. All requests must be in writing, addressed to: Publications Unit, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of the accident reports may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

**Aviation Accident Report.** Report No. NTSB-AAR-75-7, released May 19, 1975, concerns the crash of a Trans World Airlines Boeing 707 in the Ionian Sea, September 8, 1974. The Safety Board determined that the probable cause of the accident was the "detonation of an explosive device within the aft cargo compartment of the aircraft which rendered the aircraft uncontrollable." On January 10, 1975, the Board issued four safety recommendations to the Federal Aviation Administration, aimed at increasing the security of international and domestic flights. FAA responded April 16, 1975. (40 FR 21079)

**Highway Accident Report.** Report No. NTSB-HAR-75-1, released May 22, 1975, covers the schoolbus-type bus crash at Blythe, California, January 15, 1974, which killed the driver and 18 Mexican farm laborers. The Safety Board found the probable cause of the accident to be the "failure of the driver to reduce the speed of the bus to that required to negotiate the turn, despite the presence of a turn warning/advisory speed sign. Contributing to this failure was a lack of driver alertness induced by fatigue." The Board recommended that the Riverside County Road Commission (1) survey the accident scene and insure that turn warning/advisory speed signs conform with the Federal Highway Administra-

tion's Manual on Uniform Traffic Control Devices for Streets and Highways, and (2) "provide delineation of the pathway around the turn." (Recommendations H-75-1 and -2 are contained in the report.)

**Response to safety recommendation.** The Federal Railroad Administration has again responded to Recommendation R-74-27, contained in the Board's report No. NTSB-RAR-74-3, "Collision of Missouri Pacific Railroad Company Freight Train Extra 615 South with a Standing Locomotive, Cotulla, Texas, December 1, 1973." FRA's response of May 13, 1975, was in reply to the Safety Board's answer of April 1, 1975, to an earlier FRA letter dated December 11, 1974. The recommendation to FRA required positive indications of both normal and reversed switch positions on main tracks not equipped with automatic block signals. The May 13 letter states, "After considering all of the variables involved in this accident, it was our conclusion that to require by Federal law a device (namely a switch target), which would duplicate the installation at the time of accident, would have very little impact on safety, if the other factors were not concurrently addressed."

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (40 U.S.C. 1903, 1906)))

MARGARET L. FISHER,  
Federal Register Liaison Officer.

MAY 23, 1975.

[FR Doc.75-14038 Filed 5-28-75; 8:45 am]

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-237 and 50-249]

### COMMONWEALTH EDISON CO.

#### Issuance of Amendments to Facility Licenses

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 8 and 6 to Facility Operating License Nos. DPR-19 and DPR-25 (respectively) to the Commonwealth Edison Company (the licensee) which revised Technical Specifications for operation of the Dresden Nuclear Power Station Units 2 and 3 (the facilities) located in Grundy County, Illinois. The license amendments are effective as of their date of issuance.

The license amendments revised the Technical Specifications for the facilities to incorporate appropriate requirements for flood protection equipment and to include a change to the performance requirements for the containment cooling service water pumps in accordance with the licensee's request dated November 4, 1974.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the

## NOTICES

license amendments. Notice of Proposed Issuance of Amendments to Facility Operating Licenses in connection with this action was published in the FEDERAL REGISTER on January 28, 1975 (40 FR 4194). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

39-000—Folio 1382—31-10—5-28-75  
55230—C. F. LEONARD—(5)—Day Lino  
For further details with respect to these actions, see (1) the application for amendments dated November 4, 1974, (2) Amendment Nos. 8 and 6 to License Nos. DPR-19 and DPR-25, with Change Nos. 34 and 23, respectively, and (3) the Commission's concurrently issued related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., and at the Morris Public Library at 604 Liberty Street in Morris, Illinois 60451. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 16th day of May 1975.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,  
Chief, Operating Reactors Branch  
#2, Division of Reactor Licensing.

[FR Doc.75-13966 Filed 5-28-75; 8:45 am]

[Docket Nos. 50-463, 50-464]

## PHILADELPHIA ELECTRIC CO. (FULTON UNITS 1 AND 2)

### Special Prehearing Conference

Notice is hereby given that the Special Prehearing Conference previously scheduled to be held on May 21, 1975, will be held on Wednesday, June 18, 1975 at 11 a.m., at the Lancaster County Courthouse, Courtroom No. 2, at Duke and East King Streets, Lancaster, Pennsylvania.

The Conference will deal with the matters set forth in the Board's Notice of May 2, 1975, to wit, a consideration of the current status of discovery procedures in the case. The attention of the parties is specifically called again to the Board's directive that the parties consult prior to the Conference with a view toward a possible resolution of the pending objections on discovery.

It is so ordered.

Dated at Bethesda, Maryland this 22nd day of May 1975.

For the Atomic Safety and Licensing Board.

MAX D. PAGLIN,  
Chairman.

[FR Doc.75-13967 Filed 5-28-75; 8:45 am]

## REGULATORY GUIDE

### Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to

the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations, and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.70.33, "Information for Safety Analysis Reports—Initial Test Programs," identifies information that is needed in safety analysis reports at the construction permit and operating license stages of review.

This guide is one of a number being issued in the 1.70.X series to identify information that has often been missing from applicants' safety analysis reports or to present revisions necessary to make a portion of the "Standard Format and Content of Safety Analysis Reports for Nuclear Power Plants," Revision 1, October 1972 (Regulatory Guide 1.70), consistent with the appropriate Standard Review Plan. Standard Review Plans (SRPs) are being prepared by the NRC staff for the guidance of staff reviewers who perform the detailed safety review of applications to construct or operate nuclear power plants. A primary purpose of SRPs is to improve the quality and uniformity of staff reviews and to provide a well-defined base from which to evaluate proposed changes in the scope and requirements of reviews. A complete Revision 2 of the Standard Format incorporating the changes presented in this 1.70.X series will be issued following completion of publication of the SRPs.

Comments and suggestions in connection with improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 1.70.33 will, however, be particularly useful in developing the forthcoming revision of the Standard Format if received by July 28, 1975.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

Regulatory Guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted and Commission approval is not required to reproduce them.

(5 U.S.C. 522(a))

Dated at Rockville, Maryland this 21st day of May 1975.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,  
Acting Director,  
Office of Standards Development.

[FR Doc.75-13968 Filed 5-28-75; 8:45 am]

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# OFFICE OF MANAGEMENT AND BUDGET

## CLEARANCE OF REPORTS List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on 05/23/75 (44 U.S.C. 3509). The purpose of publishing this list in the *FEDERAL REGISTER* is to inform the public. The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release. Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

### NEW FORMS

#### VETERANS ADMINISTRATION

Report of Grant Expenditures, 10-5359, annually, colleges and universities, Lowry, R. L., 395-3772.

#### NATIONAL ACADEMY OF SCIENCES

Guide for Interviewing non-Research Patients, DMS-BRVA-00, single-time, VA patients, Dick Eisinger, 395-4716.

#### NATIONAL SCIENCE FOUNDATION

Agency-Industry questionnaires, single-time, nonprofit organizations and universities, Hulett, D. T., 395-4730.

#### DEPARTMENT OF AGRICULTURE

Economic Research Service, Project Statement and Survey Plans, Public Values, and Attitudes Toward Predator Control, single-time, telephone households in mainland U.S., Lowry, R. L., 395-3772.

#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Application for Admission to an Institute, Short-Term Training Program or Special Project V-E Pub. L. 90-35 (EPDA), OE 1186, annually, institute nominees, Lowry, R. L., 395-3772. Budget and Financial Report of Funds Received Under Title V-E, EPDA, Pub. L. 90-35, OE 1163, annually, directors of institutions and training programs, Lowry, R. L., 395-3772.

Office of the Secretary, Services for the Aging: Preliminary Plan for Area Planning and Social Services Program Evaluation, OE-31-75, single-time, services delivery systems members, Reese, B. P., 395-5630.

#### DEPARTMENT OF THE TREASURY

Departmental and other Bicentennial Coin Set Survey Questions, single-time, mint visitors, Caywood, D. P., 395-3443.

## NOTICES

### REVISIONS

#### VETERANS ADMINISTRATION

Certification of Loan Disbursement, 26-1876, on occasion, veteran and lender, Caywood, D. P., 395-3443.

### EXTENSIONS

#### DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service, Certification of Use or Non-Use of DDT or TDE on Tobacco, MQ-38, on occasion, Burley, Fire, Sun, Air, Cigar tobacco producers, Lowry, R. L., 395-3772. Food and Nutrition Service, Special Milk Program Agreement, FNS-826-2, on occasion, schools/service institutions, Marsha Traynham, 395-4529. National School Lunch and Milk Program Application, FNS-1, annually, nonprofit private schools, Marsha Traynham, 395-4529.

#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Application for a Stipend for Teachers Attending Institutes, OE-7213, on occasion, institute graduate nominees, Lowry, R. L., 395-3772.

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit, Home Mortgage Default Notice, FHA-2068, on occasion, Community & Veterans Affairs Division, 395-3532. Housing Management, Monthly Report for Establishing Net Income, HUD 93479, monthly, Community & Veterans Affairs Division, 395-3532.

#### DEPARTMENT OF LABOR

Manpower Administration, Area Manpower Reports, semi-annually, State employment security agencies, Strasser, A., 395-3880.

#### DEPARTMENT OF THE INTERIOR

Bureau of Mines, Distribution of Bituminous Coal and Lignite Shipments, 6-1419-Q, quarterly, Marsha Traynham, 395-4529. Crude Feldspar and Feldspar Concentrates (Production), 6-1204-A, annually, Marsha Traynham, Peterson, M. O., 395-4529. Ground Feldspar (Grinders Report), 6-1245-A, annually, Marsha Traynham, Peterson, M. O., 395-4529. Synthetic Mullite In, 1286-A, annually, Marsha Traynham, 395-4529.

#### ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Report of Proposed Foreign Travel, AEC-290, on occasion, Userda and contractor employees, Marsha Traynham, 395-4529.

PHILLIP D. LARSEN,  
Budget and Management  
Officer.

[FR Doc.75-14078 Filed 5-28-75;8:45 am]

## POSTAL RATE COMMISSION VISIT TO POSTAL FACILITY

MAY 22, 1975.

Notice is hereby given that the Chairman of the Postal Rate Commission will be visiting the Atlanta Bulk Mail Facility on May 23, 1975, for the purpose of acquiring general background knowledge of postal operations.

No particular matter at issue in contested proceedings before the Commission nor the substantive merits of a matter that is likely to become a particular matter at issue in contested proceedings before the Commission will be discussed. A report of the visit will be on file in the Commission's docket room.

By direction of the Commission.  
JAMES R. LINDSAY,  
Secretary of the Commission.

[FR Doc.75-13965 Filed 5-28-75;8:45 am]

## INTERSTATE COMMERCE COMMISSION

[Notice 777]

### ASSIGNMENT OF HEARINGS

MAY 23, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

I & S 9034, Coal, Harris West Virginia to Hycos, North Carolina, now assigned July 21, 1975, at Washington, D.C. is postponed to August 25, 1975 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 138806, James B. Chiselm Common Carrier Application, now assigned June 24, 1975 at Savannah, Georgia; will be held in Room 108 Federal Building & U.S. Courthouse, 125 Bull Street, MC 124174 Sub 100, Momen Trucking Co., now assigned July 28, 1975 at Amarillo, Texas is cancelled and transferred to Modified Procedure.

I & S 9033, Coal Transfer Charges at Lake Erie Ports, has been continued to June 24, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

AB-43 Sub 3, Illinois Central Gulf Railroad Company Abandonment Dyersburg Branch Between Roberts and Dyersburg, in Madison, Crockett, and Dyer Counties, Tennessee, now being assigned July 23, 1975 (3 days) at Alamo, Tennessee; in a hearing room to be designated later.

MC 106674 Sub 142, Schilli Motor Lines, Inc., now being assigned July 28, 1975 (1 day) at Memphis, Tennessee; in a hearing room to be designated later.

MC 107496 Sub 986, Ruan Transport Corporation, now being assigned July 29, 1975 (2 days) at Memphis, Tennessee; in a hearing room to be designated later.

MC 106497 Sub 108, Parkhill Truck Company, now being assigned July 31, 1975 (2 days) at Memphis, Tennessee; in a hearing room to be designated later.

MC 98952 Sub 31, General Transfer Company, now assigned July 7, 1975 at Indianapolis, Indiana, has been postponed indefinitely.

## NOTICES

MC 42261 Sub 120, Langer Transport Corp., now being assigned July 7, 1975 (2 days) at New York, New York; in a hearing room to be designated later.

MC 107743 Sub 28, System Transport, Inc., now assigned July 15, 1975 at Portland, Oregon, has been postponed indefinitely.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-14028 Filed 5-28-75;8:45 am]

## FOURTH SECTION APPLICATIONS FOR RELIEF

MAY 23, 1975.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General rules of practice (49 CFR 1100.40) and filed on or before June 13, 1975.

FSA No. 42994—*Joint Water-Rail Container Rates—Japan Line, Ltd.* Filed by Japan Line, Ltd., (No. 101), for itself and interested rail carriers. Rates on general commodities, between ports in Hong Kong, Japan, Korea, The Peoples Republic of China, The Philippines, and Taiwan, and rail stations on the U.S. Atlantic and Gulf Seaboard.

Grounds for relief—Water competition.

FSA No. 42995—*Joint Water-Rail Container Rates—Seatrains International, S.A.* Filed by Seatrain International, S.A., (No. 18), for itself and interested rail carriers. Rates on general commodities, between rail terminals on the U.S. Gulf Coast, and ports in Japan, Hong Kong, Korea, and Taiwan. Grounds for relief—Water competition.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-14029 Filed 5-28-75;8:45 am]

## IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

### Elimination of Gateway Applications

MAY 23, 1975.

The following applications to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination rules (49 CFR 1065(d)(2)), and notice thereof to all interested persons is hereby given as provided in such rules.

Carriers having a genuine interest in an application may file an original and three copies of verified statements in opposition with the Interstate Commerce

Commission on or before June 30, 1975. (This procedure is outlined in the Commission's report and order in *Gateway Elimination*, 119 M.C.C. 530.) A copy of the verified statement in opposition must also be served upon applicant or its named representative. The verified statement should contain all the evidence upon which protestant relies in the application proceeding including a detailed statement of protestant's interest in the proposal. No rebuttal statements will be accepted.

No. MC 94393 (Sub-No. 6G) (Correction), filed December 17, 1974, published in the *FEDERAL REGISTER* issue of May 2, 1975, and republished as corrected this issue. Applicant: W. J. CASEY TRUCKING & RIGGING CO., INC., 184 Doremus Avenue, Newark, N.J. 07105. Applicant's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, N.J. 08904. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Pumps and pump supplies, (1) from points in New Jersey and New York within 75 miles of Montclair including Montclair, those in Pennsylvania on and east of U.S. Highway 15, and points in Connecticut, to points in Virginia, Maryland, Rhode Island, New Jersey, Ohio, and West Virginia, and (2) between points in New Jersey and New York within 75 miles of Montclair including Montclair, those in Pennsylvania on and east of U.S. Highway 15, and points in Connecticut, on the one hand, and, on the other, points in Connecticut, Delaware, Massachusetts, New York, and Pennsylvania. The purpose of this filing is to eliminate the gateway of Rockaway, N.J.

NOTE.—This correction indicates the additional destination points in Ohio in (1) above, which was inadvertently omitted from the previous publication.

MAY 23, 1975.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination* Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before June 9, 1975. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successfully filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 1936 (Sub-No. E6), filed May 30, 1974. Applicant: B & P MOTOR EXPRESS, INC., 720 Gross Street, Pitts-

burgh, Pa. 15224. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Commodities which because of size or weight, require the use of special equipment, between points in that part of Pennsylvania on and north of a line beginning at the Ohio-Pennsylvania State line and extending along U.S. Highway 80 to junction Pennsylvania Highway 477, thence along Pennsylvania Highway 477 to junction Pennsylvania Highway 45, thence along Pennsylvania Highway 45 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction unnumbered highway, thence along unnumbered highway to junction Pennsylvania Highway 147, thence along Pennsylvania Highway 147 to junction Pennsylvania Highway 61, thence along Pennsylvania Highway 61 to junction Pennsylvania Highway 54, thence along Pennsylvania Highway 54 to junction Pennsylvania Highway 309, thence along Pennsylvania Highway 309 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Pennsylvania-New Jersey State line, on the one hand, and, on the other, points in that part of West Virginia on, south and west of a line beginning at the Kentucky-West Virginia State line and extending along U.S. Highway 60 to junction U.S. Highway 119, thence along U.S. Highway 119 to the West Virginia-Kentucky State line. The purpose of this filing is to eliminate the gateways of Cuyahoga, Lake or Lorain Counties, Ohio, or points in Medina County, Ohio on and north of U.S. Highway 224.

No. MC 1936 (Sub-No. E8), filed May 30, 1974. Applicant: B & P MOTOR EXPRESS, INC., 720 Gross Street, Pittsburgh, Pa. 15224. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Commodities which because of size or weight require the use of special equipment, between points in Venango County, Pa., on the one hand, and, on the other, points in that part of New York on and north of a line beginning at the United States-Canada International Boundary line and extending along New York Highway 68 to junction New York Highway 56, thence along New York Highway 56 to junction New York Highway 3, thence along New York Highway 3 to junction New York Highway 86, thence along New York Highway 86 to junction New York Highway 73, thence along New York Highway 73 to junction New York Highway 9N, thence along New York Highway 9N to the Vermont-New York State line. The purpose of this filing is to eliminate the gateways of Cuyahoga, Lake or Lorain Counties, Ohio, or points in Medina County, Ohio on and north of U.S. Highway 224.

No. MC 1936 (Sub-No. E10), filed May 30, 1974. Applicant: B & P MOTOR EXPRESS, INC., 720 Gross Street, Pittsburgh, Pa. 15224. Applicant's representa-



tive: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* which because of size or weight require the use of special equipment, between points in Brooke, Hancock, and Ohio Counties, W. Va., on the one hand, and, on the other, points in New York on, west and north of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 62 to junction New York Highway 17, thence along New York Highway 17 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction New York Highway 19, thence along New York Highway 19 to junction New York Highway 244, thence along New York Highway 244 to junction New York Highway 21, thence along New York Highway 21 to junction unnumbered highway at Hornell, thence along unnumbered highway to junction New York Highway 54, thence along New York Highway 54 to junction unnumbered highway near Hammondsport, thence along unnumbered highway to junction New York Highway 14, thence along New York Highway 14 to junction New York Highway 224, thence along New York Highway 224 to junction New York Highway 13, thence along New York Highway 13 to junction New York Highway 79, thence along New York Highway 79 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction New York Highway 206, thence along New York Highway 206 to junction New York Highway 7, thence along New York Highway 7 to junction New York Highway 23, thence along New York Highway 23 to the New York-Massachusetts State line. The purpose of this filing is to eliminate the gateways of Cuyahoga, Lake, or Lorain Counties, Ohio, or points in Medina County, Ohio on and north of U.S. Highway 224.

No. MC 1936 (Sub-No. E13), filed May 24, 1974. Applicant: B & P MOTOR EXPRESS, INC., 720 Gross Street, Pittsburgh, Pa. 15224. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* which because of size or weight require the use of special equipment, between points in Pennsylvania, on the one hand, and, on the other, points in that part of Indiana on and south of a line beginning at the Ohio-Indiana State line and extending along U.S. Highway 40 to junction Indiana Highway 38, thence along Indiana Highway 38 to junction Indiana Highway 32, thence along Indiana Highway 32 to the Indiana-Illinois State line, and points in that part of Illinois on and south of a line beginning at the Indiana-Illinois State line and extending along U.S. Highway 74 to junction U.S. Highway 34, thence along U.S. Highway 34 to the Illinois-Iowa State line. The purpose of this filing is to eliminate the gateway of Belmont County, Ohio.

No. MC 1936 (Sub-No. E15), filed May 24, 1974. Applicant: B & P MOTOR EX-

PRESS, INC., 720 Gross Street, Pittsburgh, Pa. 15224. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* which because of size or weight require the use of special equipment, between points in Brooke, Hancock, and Ohio Counties, W. Va., on the one hand, and, on the other, points in that part of Kentucky on and west of a line beginning at the Indiana-Kentucky State line and extending along U.S. Highway 31E to junction Kentucky Highway 61, thence along Kentucky Highway 61 to junction Kentucky Highway 55, thence along Kentucky Highway 55 to junction U.S. Highway 127, thence along U.S. Highway 127 to the Kentucky-Tennessee State line. The purpose of this filing is to eliminate the gateways of Cuyahoga, Lake, or Lorain Counties, Ohio, or points in Medina County on and north of U.S. Highway 224.

No. MC 1936 (Sub-No. E16) filed May 24, 1974. Applicant: B & P MOTOR EXPRESS, INC., 720 Gross Street, Pittsburgh, Pa. 15224. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe and pipe fittings*, which because of size or weight require the use of special equipment, from points in Illinois, Indiana, Michigan, and that part of Kentucky on and west of a line beginning at the Kentucky-Ohio State line and extending along U.S. Highway 68 to junction U.S. Highway 25, thence along U.S. Highway 25 to junction U.S. Highway 25W, thence along U.S. Highway 25W to the Kentucky-Tennessee State line, to points in New York, New Jersey, the District of Columbia, and points in Maryland on and east of U.S. Highway 520. The purpose of this filing is to eliminate the gateways of Cuyahoga, Lake, or Lorain Counties, Ohio, or points in Medina County, Ohio on and north of U.S. Highway 224, and Wheatland, Pittsburgh, or Aliquippa, Pa.

No. MC 1936 (Sub-No. E17), filed May 24, 1974. Applicant: B & P MOTOR EXPRESS, INC., 720 Gross Street, Pittsburgh, Pa. 15224. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe and pipe fittings*, which because of size or weight require the use of special equipment, from points in that part of Kentucky on, north and west of a line beginning at the Ohio-Kentucky State line and extending along U.S. Highway 60 to junction Kentucky Highway 7, thence along Kentucky Highway 7 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction Kentucky Highway 30, thence along Kentucky Highway 30 to junction U.S. Highway 25, thence along U.S. Highway 25 to junction U.S. Highway 25W, thence along U.S. Highway 25W to the Ken-

tucky-Tennessee State line, to points in New Jersey. The purpose of this filing is to eliminate the gateways of Cuyahoga, Lake, or Lorain Counties, Ohio, or points in Medina County, Ohio on and north of U.S. Highway 224, and Sharon, Wheatland, Pittsburgh, or Aliquippa, Pa.

No. MC 1936 (Sub-No. E18), filed May 24, 1974. Applicant: B & P MOTOR EXPRESS, INC., 720 Gross Street, Pittsburgh, Pa. 15224. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* requiring special equipment, restricted so that the loading and/or unloading which necessitates the special equipment is performed by the consignor or consignee or both ("Twilight Zone" commodities), as described in 64 M.C.C. 229 (1955), between Canton, Ohio, on the one hand, and, on the other, points in Illinois, Indiana, Michigan, Kentucky, New York, and Pennsylvania. The purpose of this filing is to eliminate the gateway of points within 25 miles of Canton, Ohio which are on and north of U.S. Highway 224.

No. MC 1936 (Sub-No. E19), filed May 24, 1974. Applicant: B & P MOTOR EXPRESS, INC., 720 Gross Street, Pittsburgh, Pa. 15224. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe and pipe fittings*, which because of size or weight require the use of special equipment, from points in Kentucky to points in New York. The purpose of this filing is to eliminate the gateways of Cuyahoga, Lake, or Lorain Counties, Ohio, or points in Medina County on and north of U.S. Highway 224, and Sharon, Wheatland, Pittsburgh, or Aliquippa, Pa.

No. MC 21170 (Sub-No. E100), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52460. Applicant's representative: Gene R. Prohaski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economics regulations pursuant to the provisions of sections 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products from points in Iowa on and west of a line beginning at the Minnesota-Iowa State line and extending along U.S. Highway 59 to junction Iowa Highway 7, thence along Iowa Highway 7 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Iowa Highway 175, thence Iowa Highway 175 to junction Iowa Highway 39, thence along Iowa Highway 39 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Iowa Highway 141, thence along Iowa Highway 141 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction Iowa Highway 92, thence along Iowa Highway 92 to junction Iowa Highway 5, thence along Iowa Highway 5 to junction U.S. Highway 34, thence

along U.S. Highway 34 to junction U.S. Highway 63, thence along U.S. Highway 63 to the Iowa-Missouri State line, to points in Vermont. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co. located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E101), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52460. Applicant's representative: Gene R. Prohaski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulation pursuant to the provisions of section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on and west of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 59 to junction Iowa Highway 7, thence along Iowa Highway 7 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Iowa Highway 196, thence along Iowa Highway 196 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Iowa Highway 141, thence along Iowa Highway 141 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Iowa Highway 5, thence along Iowa Highway 5 to junction Iowa Highway 92, thence along Iowa Highway 92 to junction U.S. Highway 63, thence along U.S. Highway 63 to the Iowa-Missouri State line, to points in New Hampshire. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co. located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc. pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E102), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52460. Applicant's representative: Gene R. Prohaski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economics regulations pursuant to the provisions of section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on and west of a line beginning at the Minnesota-Iowa State line and extending along Iowa Highway 4 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction Iowa Highway 314, thence Iowa Highway 314 to junction Iowa Highway 7, thence along Iowa Highway 7 to junction U.S. Highway 169, thence U.S. Highway 169 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Iowa Highway 14 thence along Iowa Highway 14 to junction Iowa Highway 163, thence along Iowa Highway 163 to junction U.S. Highway 63 thence along U.S. Highway 63 to the Iowa-Missouri State line, to points in New Hampshire on, south and east of a line beginning at the Massachusetts-New Hampshire State line and extending along U.S. Highway 3 to junction U.S. Highway 202, thence along U.S. Highway 202 to the New Hampshire-Maine State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co. located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E104), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52460. Applicant's representative: Gene R. Prohaski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulation pursuant to the provisions of section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products restricted to such commodities as are

tion Iowa Highway 14 thence along Iowa Highway 14 to junction Iowa Highway 163, thence along Iowa Highway 163 to junction U.S. Highway 63 thence along U.S. Highway 63 to the Iowa-Missouri State line, to points in New Hampshire on, south and east of a line beginning at the Massachusetts-New Hampshire State line and extending along U.S. Highway 3 to junction U.S. Highway 202, thence along U.S. Highway 202 to the New Hampshire-Maine State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co. located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E103), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52460. Applicant's representative: Gene R. Prohaski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economics regulation pursuant to the provisions of section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products from points in Iowa south and west of a line beginning at the South Dakota-Iowa State line and extending along U.S. Highway 18 to junction U.S. Highway 59, thence along U.S. Highway 59 to the Iowa-Missouri State line, to points in Ohio, on and south of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 50 to junction Ohio Highway 264, thence along Ohio Highway 264 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Ohio Highway 131, thence along Ohio Highway 131 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Ohio Highway 41, thence along Ohio Highway 41 to junction unnumbered highway, thence along unnumbered highway to junction Ohio Highway 124 thence along Ohio Highway 124 to junction Ohio Highway 7, thence along Ohio Highway 7 to junction unnumbered highway, thence unnumbered highway Portland to the Ohio-West Virginia State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co. located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc. pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E104), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52460. Applicant's representative: Gene R. Prohaski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulation pursuant to the provisions of section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products restricted to such commodities as are

dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on and west of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 75 to junction unnumbered highway at Le Mars, thence unnumbered highway to junction U.S. Highway 20, thence along U.S. Highway 20 to junction unnumbered highway at Merville, thence along unnumbered highway to junction Iowa Highway 37 at Onawa, thence along Iowa Highway 37 to junction unnumbered highway at Dunlap, thence along unnumbered highway to junction Iowa Highway 44, thence Iowa Highway 44 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Iowa Highway 92, thence along Iowa Highway 92 to junction Iowa Highway 48, thence along Iowa Highway 48 to junction unnumbered highway, thence along unnumbered highway to junction Iowa Highway 2, thence along Iowa Highway 208, thence along Iowa Highway 208 to the Iowa-Missouri State line, to points in Ohio on and south of a line beginning at the Indiana-Ohio State line and extending along Ohio Highway 121 to junction Ohio Highway 320, thence along Ohio Highway 320 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction Ohio Highway 49, thence along Ohio Highway 49 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction Ohio Highway 159, thence along Ohio Highway 159 to junction Ohio Highway 180, thence along Ohio Highway 180 to junction Ohio Highway 56, thence along Ohio Highway 56 to junction U.S. Highway Alternate 50, thence along U.S. Highway Alternate 50 to junction Ohio Highway 7, thence along Ohio Highway 7 to the Ohio-West Virginia State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co. located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc. pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E105), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52460. Applicant's representative: Gene R. Prohaski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economics regulation pursuant to the provisions of section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on, west and south of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 75 to junction unnumbered highway at Le Mars, thence along unnumbered highway to junction U.S. Highway 20 near Lawton, thence along U.S. Highway 20 to junction unnumbered highway, thence along unnumbered highway to junction



Iowa Highway 37 at Onawa, thence along Iowa Highway 37 to junction Iowa Highway 183, thence along Iowa Highway 183 to junction Iowa Highway 141, thence along Iowa Highway 141 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Iowa Highway 141, thence along Iowa Highway 141 to junction Iowa Highway 161, thence along Iowa Highway 161 to junction Iowa Highway 141, thence along Iowa Highway 141 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction Iowa Highway 92, thence along Iowa Highway 92 to junction Iowa Highway 5, thence along Iowa Highway 5 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction U.S. Highway 63, thence along U.S. Highway 63 to the Iowa-Missouri State line, points in Pennsylvania on, east and south of a line beginning at the New York-Pennsylvania State line and extending along Pennsylvania Highway 191 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 507, thence along Pennsylvania Highway 507 to junction Pennsylvania Highway 309, thence along Pennsylvania Highway 309 to junction Pennsylvania Highway 447, thence along Pennsylvania Highway 447 to junction Pennsylvania Highway 191, thence along Pennsylvania Highway 191 to junction Pennsylvania Highway 512, thence along Pennsylvania Highway 512 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Pennsylvania Turnpike, thence along Pennsylvania Turnpike to junction U.S. Highway 222, thence along U.S. Highway 222 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction U.S. Highway 322, thence along U.S. Highway 322 to junction U.S. Highway 11, thence along U.S. Highway 11 to the Pennsylvania-Maryland State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E106), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulations pursuant to the provisions of section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on, west and south of a line beginning at the Iowa-South Dakota State line and extending along U.S. Highway 29 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction Highway 59, thence along U.S. Highway 59 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction U.S. Highway 69, thence along U.S. Highway 69 to the Iowa-Missouri State line, to points in Pennsylvania on, east and south of a line

beginning at the Ohio-Pennsylvania State line and extending along U.S. Highway 22 to junction Pennsylvania Highway 286, thence along Pennsylvania Highway 286 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Pennsylvania Highway 350, thence along Pennsylvania Highway 350 to junction U.S. Highway 220, thence along U.S. Highway 220 to the Pennsylvania-New York State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E114), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulation pursuant to the provisions of section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on, west and south of a line beginning at the Iowa-Minnesota State line and extending along Iowa Highway 9 to junction Iowa Highway 182, thence along Iowa Highway 182 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction Iowa Highway 3, thence along Iowa Highway 3 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Iowa Highway 175, thence along Iowa Highway 175 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction Iowa Highway 5, thence along Iowa Highway 5 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction unnumbered highway at Bloomfield, thence along unnumbered highway through Savannah to the Iowa-Missouri State line, to points in Maryland. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E115), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulation pursuant to the provisions of section 203(b)(c) of the Interstate Commerce Act in mixed loads with food prod-

ucts, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on, west and south of a line beginning at the Iowa-Minnesota State line and extending along Iowa Highway 4 to junction Iowa Highway 7, thence along Iowa Highway 7 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction Iowa Highway 141, thence along Iowa Highway 141 to junction Iowa Highway 89, thence along Iowa Highway 89 to junction Iowa Highway 210, thence along Iowa Highway 210 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction Iowa Highway 163, thence along Iowa Highway 163 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction unnumbered highway at Bloomfield, thence along unnumbered highway through Savannah, to the Iowa-Missouri State line, to points in Maryland on and south of a line beginning at the Maryland-Virginia State line and extending along U.S. Highway 495 to junction Maryland Highway 450, thence along Maryland Highway 450 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Maryland Highway 404, thence along Maryland Highway 404 to junction Maryland Highway 313, thence along Maryland Highway 313 to junction Maryland Highway 314, thence along Maryland Highway 314 to the Maryland-Delaware State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E116), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulation pursuant to the provisions of section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, from points in Iowa on and west of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 169 to through Lakota, Iowa to junction U.S. Highway 169 and U.S. Highway 20 near Fort Dodge, Iowa, thence along U.S. Highway 20 to junction Interstate Highway 35 at Williams, Iowa, thence along Interstate Highway 35 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 65 at Colo, Iowa, thence along U.S. Highway 65 to junction Iowa Highway 117, thence along Iowa Highway 117 to junction U.S. Highway 6 at Colfax, Iowa, thence along U.S. Highway 6 to junction Iowa Highway 14 at Newton, Iowa, thence along Iowa Highway 14 to junction Iowa Highway 163 at Monroe, Iowa, thence along Iowa Highway 163 to junction U.S. Highway 63 at Oskaloosa, Iowa, thence along U.S. Highway 63 through Ottumwa, Iowa, to junction Iowa Highway 2 at Bloomfield, Iowa,

thence along Iowa Highway 2 to junction Iowa unnumbered highway near Milton, Iowa, thence along Iowa unnumbered highway through Cantril to the Iowa-Missouri State line, to points in Maryland on and south of a line beginning at the Maryland-Virginia State line and extending along Maryland Highway 6 to junction Maryland Highway 232, thence along Maryland Highway 232 to junction Maryland Highway 231, thence along Maryland Highway 231 to junction Maryland Highway 2-4, thence along Maryland Highway 2-4 to the Chesapeake Bay, and those points in Maryland on and south of a line beginning at the Chesapeake Bay and extending along Maryland Highway 16 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E117), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulation pursuant to the provisions of section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on and east of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 52 to junction Iowa Highway 150, thence along Iowa Highway 150 to junction U.S. Highway 151, thence along U.S. Highway 151 to junction U.S. Highway 218, thence along U.S. Highway 218 to the Iowa-Missouri State line, to points in Kansas on, south and west of a line beginning at the Kansas-Oklahoma State line and extending along U.S. Highway 56 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction Kansas Highway 1, thence along Kansas Highway 1 to the Kansas-Oklahoma State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E118), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulation pursuant to the provisions of section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities

as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on and west of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 169 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction Iowa Highway 117, thence along Iowa Highway 117 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Iowa Highway 14, thence along Iowa Highway 14 to junction Iowa Highway 163, thence along Iowa Highway 163 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction unnumbered highway near Milton, thence along unnumbered highway through Cantril to the Iowa-Missouri State line to points in Rhode Island. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E119), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulation pursuant to the provisions of section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on and west of a line beginning at the Iowa-Minnesota State line and extending along Iowa Highway 4 to junction Iowa Highway 7, thence along Iowa Highway 7 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction Iowa Highway 92, thence along Iowa Highway 92 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction unnumbered highway at Bloomfield, thence along unnumbered highway through Savannah to the Iowa-Missouri State line, to points in Connecticut. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 29886 (Sub-No. E81), filed May 23, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such commodities

which because of size or weight require the use of special equipment or special handling, and self-propelled articles, each weighing 15,000 pounds or more, and related machinery; tools, parts and supplies moving in connection therewith. (a) between those points in Pennsylvania on and west of a line beginning at the Pennsylvania-Maryland State line and extending along U.S. Highway 522 to junction Pennsylvania Highway 15, thence along Pennsylvania Highway 15 to junction Pennsylvania Highway 220 to the Pennsylvania-New York State line, on the one hand, and, on the other, those points in Connecticut, except those west of a line beginning at the Long Island Sound and extending along Connecticut Highway 69 to junction Interstate Highway 84, thence along Interstate Highway 84 to the Massachusetts-Connecticut State line, (b) between those points in Pennsylvania on and west of a line beginning at the Pennsylvania-New York State line and extending along Interstate Highway 79 to junction Interstate Highway 96, thence along Interstate Highway 96 to junction Pennsylvania Highway 8, thence along Pennsylvania Highway 8 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Pennsylvania-West Virginia State line, on the one hand, and, on the other, those points in Connecticut except those south and west of a line beginning at the Long Island Sound and extending along Connecticut Highway 58 to junction Interstate Highway 84, thence along Interstate Highway 84 to the New York-Connecticut State line, and (c) between those points in Fulton, Franklin, Adams, York, Lancaster, Lebanon, Berks, Chester, Montgomery, Delaware, Philadelphia, Bucks, Lehigh and Northampton Counties, Pa., on the one hand, and, on the other, those points in New York on and east of a line beginning at the United States-Canada International Boundary line and extending along U.S. Highway 30 to junction Interstate Highway 90, thence along Interstate Highway 90 to the New York-Massachusetts State line. The purpose of this filing is to eliminate the gateway of Massachusetts.

No. MC 29886 (Sub-No. E82), filed May 23, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Contractors' equipment, restricted to (1) crawler tractors, set-up, with loading and grading attachments, and (2) wheeled tractors (other than truck tractors), from those points in Iowa on and north of Interstate Highway 80, to those points in Kentucky in and east of Trimble, Henry, Shelby, Spencer, Anderson, Washington, Marion, Taylor, Green, Metcalfe, and Monroe Counties. The purpose of this filing is to eliminate the gateway of points in Michigan on and south of a line extending



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along the northern boundaries of Allegan, Barry, and Eaton Counties, Mich., thence along Business Route Interstate Highway 96 to Lansing, Mich., thence on and west of a line extending along U.S. Highway 127 to Jackson, Mich., thence along unnumbered highway (formerly portion U.S. Highway 127) to junction U.S. Highway 12 near Somerset Center, Mich., thence along U.S. Highway 12 to junction U.S. Highway 127 near Somerset, Mich., thence along U.S. Highway 127 to the Michigan-Ohio State line, and Churubusco, Ind.

No. MC 29886 (Sub-No. E83), filed May 23, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Contractors' equipment*, restricted to (1) crawler tractors, set-up, with loading and grading attachments, and (2) wheeled tractors (other than truck tractors), from those points in the Lower Peninsula of Michigan on and south of U.S. Highway 10 (except Berrien, Van Buren, and Cass Counties), to points in South Dakota, Nebraska, Wyoming, Montana, Idaho, Washington, and North Dakota (except those north and east of a line beginning at the United States-Canadian International Boundary line, and extending along North Dakota Highway 1 to junction Interstate Highway 94, thence along Interstate Highway 94 to the North Dakota-Minnesota line. The purpose of this filing is to eliminate the gateway of Churubusco, Ind.

No. MC 29886 (Sub-No. E84), filed May 23, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Contractors' equipment*, restricted to (1) crawler tractors, set-up, with loading and grading attachments, and (2) wheeled tractors (other than truck tractors), from those points in Iowa on and north of Interstate Highway 80, to those points in Georgia on and east of a line beginning at the Georgia-Tennessee State line and extending along Georgia Highway 5 to junction Interstate Highway 75, thence along Interstate Highway 75 to the Georgia-Florida State line. The purpose of this filing is to eliminate the gateway of points in Michigan on and south of a line extending along the northern boundaries of Allegan, Barry, and Eaton Counties, Mich., thence along Business Route Interstate Highway 96 to Lansing, Mich., thence on and west of a line extending along U.S. Highway 127 to Jackson, Mich., thence along unnumbered highway (formerly portion U.S. Highway 127) 127 near Somerset, Mich., thence along U.S. Highway 127 to the Michigan-Ohio State line, and Churubusco, Ind.

No. MC 29886 (Sub-No. E87), filed May 23, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Self-propelled road construction and earth moving machines and equipment*, each weighing 15,000

No. MC 29886 (Sub-No. E85), filed May 23, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes transporting: *Contractors' equipment*, the transportation of which because of size or weight require the use of special equipment, between points in Michigan, on the one hand, and, on the other, those points in Pennsylvania in and east of Tioga, Lycoming, Clinton, Centre, Blair, and Bedford Counties, and between points in Pennsylvania, on the one hand, and, on the other, points in Michigan (except Lenawee, Monroe, Washtenaw, Wayne, Livingston, Oakland, Macomb, Lapeer, St. Clair, and Sanilac Counties). The purpose of this filing is to eliminate the gateway of points in that part of Michigan on, south and west of a line beginning at Lake Michigan and extending along the northern boundaries of Allegan, Barry, and Eaton Counties, Mich., to junction Business Route Interstate Highway 96, thence along Business Route Interstate Highway 96 to Lansing, Mich., and thence along U.S. Highway 127 to the Michigan-Ohio State line.

No. MC 29886 (Sub-No. E86), filed May 23, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Self-propelled contractors' equipment*, restricted to tractors (other than truck tractors) each weighing 15,000 pounds or more, which, because of size or weight, require special handling or special equipment, from those points in New York on and west of a line beginning at Lake Ontario and extending along U.S. Highway 15 to junction New York Highway 21, thence along New York Highway 21 to the New York-Pennsylvania State line, to points in the United States (except Michigan, Wisconsin, Iowa, Missouri, Arkansas, Mississippi, Illinois, Indiana, Kentucky, Tennessee, Alabama, Georgia, South Carolina, North Carolina, Virginia, West Virginia, Ohio, Pennsylvania, Maryland, District of Columbia, Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, and Vermont), and to those in Massachusetts on and east of Interstate Highway 91. The purpose of this filing is to eliminate the gateway of Batavia, N.Y.

No. MC 29886 (Sub-No. E87), filed May 23, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Self-propelled road construction and earth moving machines and equipment*, each weighing 15,000

No. MC 29886 (Sub-No. E88), filed May 23, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Contractors' equipment* (restricted to steam shovels, cranes, crawler-type shovels and cranes, straddle trucks, fork trucks, and self-propelled building, construction and moving machinery), which because of size or weight require the use of special equipment or special handling, from those points in the Lower Peninsula of Michigan, and those in the Upper Peninsula of Michigan on and east of U.S. Highway 41 to points in Florida, Mississippi, Arkansas, Louisiana, Oklahoma, Texas, New Mexico, Utah, Arizona, Nevada, California, and Alabama (except that portion in and east of Lauderdale, Colbert, Lawrence, Cullma, Blount, Saint Clair, Talladega, Coosa, Elmore, Macon, Bullock, and Barbour Counties), and from those points in the Lower Peninsula of Michigan in and south of Mason, Newaygo, Mecosta, Montcalm, Gratiot, Saginaw, Tuscola, and Huron Counties,

pounds or more, which because of size or weight require special handling or the use of special equipment (except automobiles, trucks, buses, trailers, cabs, and chassis), from those points in Illinois on and north of U.S. Highway 30 from the Indiana-Illinois State line to junction Illinois Highway 31, thence along Illinois Highway 31 to the Wisconsin-Illinois State line, to points in Washington, Oregon, California, Nevada, Arizona, Utah, Idaho, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, West Virginia, Maryland, Delaware, the District of Columbia, New Jersey, Pennsylvania, New York, Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, Maine, those in Montana in and west of Powder River, Rosebud, Garfield, McCone, Roosevelt, and Daniels Counties, those in Wyoming on and west of a line beginning at the Montana-Wyoming State line and extending along Montana Highway 59 to junction Interstate Highway 25, thence along Interstate Highway 25 to the Colorado-Wyoming State line, those in Colorado on and west of Interstate Highway 25, those in Tennessee on and east of Interstate Highway 65, and the District of Columbia; and from those points in Illinois on and south of U.S. Highway 36 to Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, Vermont, Maine, Pennsylvania (except those in, south and west of Mercer, Butler, Armstrong, Indiana, Cambria, Blair, Huntingdon, and Franklin Counties), those in Maryland (except Garrett, Allegany, Washington, Frederick, Montgomery, Charles, Saint Marys, Somerset, and Worcester Counties), and the District of Columbia. The purpose of this filing is to eliminate the gateway of South Bend, Ind.

No. MC 29886 (Sub-No. E88), filed May 23, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Contractors' equipment* (restricted to steam shovels, cranes, crawler-type shovels and cranes, straddle trucks, fork trucks, and self-propelled building, construction and moving machinery), which because of size or weight require the use of special equipment or special handling, from those points in the Lower Peninsula of Michigan, and those in the Upper Peninsula of Michigan on and east of U.S. Highway 41 to points in Florida, Mississippi, Arkansas, Louisiana, Oklahoma, Texas, New Mexico, Utah, Arizona, Nevada, California, and Alabama (except that portion in and east of Lauderdale, Colbert, Lawrence, Cullma, Blount, Saint Clair, Talladega, Coosa, Elmore, Macon, Bullock, and Barbour Counties), and from those points in the Lower Peninsula of Michigan in and south of Mason, Newaygo, Mecosta, Montcalm, Gratiot, Saginaw, Tuscola, and Huron Counties,

Mich., to points in Minnesota. The purpose of this filing is to eliminate the gateway of Benton Harbor, Mich.

No. MC 45764 (Sub-No. E1), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Sussex County, Del., on the one hand, and, on the other, points in New Jersey (except those within 75 miles of Philadelphia, Pa.). The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E2), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Sussex County, Del., on the one hand, and, on the other, points in New York. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E3), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Maryland (except those within 75 miles of Philadelphia, Pa.), on the one hand, and, on the other, points in New Jersey. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E4), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Maryland east of the Chesapeake Bay and the Susquehanna River (except those within 75 miles of Philadelphia, Pa.), on the one hand, and, on the other, points in New York. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E5), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36,

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Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Maryland west of Interstate Highway 81, on the one hand, and, on the other, points in New York on and east of Interstate Highway 87. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E13), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Pennsylvania on and east of a line beginning at the Pennsylvania-Delaware State line, and extending over U.S. Highway 202 to junction Pennsylvania Turnpike Northeast Extension, thence north over that extension to junction Interstate Highway 81, and thence north over Interstate Highway 81 to the Pennsylvania-New York State line (except those within 75 miles of Philadelphia, Pa.), on the one hand, and, on the other, points in the District of Columbia. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E14), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in New York in and west of Monroe, Livingston, and Steuben Counties, on the one hand, and, on the other, points in Fairfield, New Haven, Middlesex, and New London. The purpose of this filing is to eliminate the gateway of Paterson, N.J.

No. MC 45764 (Sub-No. E15), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between New York, N.Y., and points on Long Island, N.Y., on the one hand, and, on the other, points in Massachusetts. The purpose of this filing is to eliminate the gateway of Paterson, N.J.

No. MC 45764 (Sub-No. E18), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Sussex County, N.J. (except those within 75 miles of Philadelphia), on the one hand, and, on the other, points in Massachusetts. The purpose of this filing is to eliminate the gateway of Lafayette, N.J.

No. MC 45764 (Sub-No. E19), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Delaware (except those within 75 miles of Philadelphia, Pa.), on the one hand, and, on the other, points in Connecticut. The purpose of this filing is to eliminate the gateway of Paterson, N.J.

No. MC 45764 (Sub-No. E20), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Delaware (except those within 75 miles of Philadelphia, Pa.), on the one hand, and, on the other, points in Massachusetts. The purpose of this filing is to eliminate the gateway of Paterson, N.J.

No. MC 45764 (Sub-No. E21), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Maryland (except those within 75 miles of Philadelphia, Pa.), on the one hand, and, on the other, points in Connecticut. The purpose of this filing is to eliminate the gateway of Paterson, N.J.

No. MC 45764 (Sub-No. E22), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in New Jersey, on the one hand, and, on the other, points in West Vir-

## NOTICES

Philadelphia, Pa. 19102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the trans-

Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a

Ohio. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E29), filed

way 30, thence northeast over New York Highway 30 to New York Highway 206, thence northwest over New York Highway 206 to junction New York Highway 10, thence east and north over New York

of Phillipsburg, N.J., and extending northeast over New Jersey Highway 57 to junction U.S. Highway 46, thence east over U.S. Highway 46 to junction New Jersey Highway 15, thence northwest over New Jersey Highway 15 to

erate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in New Jersey, on the one hand, and, on the other, points in West Vir-



Iowa Highway 37 at Onawa, thence along Iowa Highway 37 to junction Iowa Highway 183, thence along Iowa Highway 183 to junction Iowa Highway 141, thence along Iowa Highway 141 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Iowa Highway 141, thence along Iowa Highway 141 to junction Iowa Highway 161, thence along Iowa Highway 161 to junction Iowa Highway 141, thence along Iowa Highway 141 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction Iowa Highway 92, thence along Iowa Highway 92 to junction Iowa Highway 5, thence along Iowa Highway 5 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction U.S. Highway 63, thence along U.S. Highway 63 to the Iowa-Missouri State line, points in Pennsylvania on, east and south of a line beginning at the New York-Pennsylvania State line and extending along Pennsylvania Highway 191 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 507, thence along Pennsylvania Highway 507 to junction Pennsylvania Highway 309, thence along Pennsylvania Highway 309 to junction Pennsylvania Highway 447, thence along Pennsylvania Highway 447 to junction Pennsylvania Highway 191, thence along Pennsylvania Highway 191 to junction Pennsylvania Highway 512, thence along Pennsylvania Highway 512 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Pennsylvania Turnpike, thence along Pennsylvania Turnpike to junction U.S. Highway 222, thence along U.S. Highway 222 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction U.S. Highway 322, thence along U.S. Highway 322 to junction U.S. Highway 11, thence along U.S. Highway 11 to the Pennsylvania-Maryland State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E106), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulations pursuant to the provisions of section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on, west and south of a line beginning at the Iowa-South Dakota State line and extending along U.S. Highway 29 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction Highway 59, thence along U.S. Highway 59 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction U.S. Highway 69, thence along U.S. Highway 69 to the Iowa-Missouri State line, to points in Pennsylvania on, east and south of a line

beginning at the Ohio-Pennsylvania State line and extending along U.S. Highway 22 to junction Pennsylvania Highway 286, thence along Pennsylvania Highway 286 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Pennsylvania Highway 350, thence along Pennsylvania Highway 350 to junction U.S. Highway 220, thence along U.S. Highway 220 to the Pennsylvania-New York State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co. located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E114), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulation pursuant to the provisions of section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on, west and south of a line beginning at the Iowa-Minnesota State line and extending along Iowa Highway 9 to junction Iowa Highway 182, thence along Iowa Highway 182 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction Iowa Highway 3, thence along Iowa Highway 3 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Iowa Highway 175, thence along Iowa Highway 175 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction Iowa Highway 5, thence along Iowa Highway 5 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction unnumbered highway at Bloomfield, thence along unnumbered highway through Savannah to the Iowa-Missouri State line, to points in Maryland. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E115), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulation pursuant to the provisions of section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on, west and south of a line beginning at the Iowa-South Dakota State line and extending along U.S. Highway 29 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction Highway 59, thence along U.S. Highway 59 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction U.S. Highway 69, thence along U.S. Highway 69 to the Iowa-Missouri State line, to points in Pennsylvania on, east and south of a line

beginning at the Ohio-Pennsylvania State line and extending along U.S. Highway 22 to junction Pennsylvania Highway 286, thence along Pennsylvania Highway 286 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Pennsylvania Highway 350, thence along Pennsylvania Highway 350 to junction U.S. Highway 220, thence along U.S. Highway 220 to the Pennsylvania-New York State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co. located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

ucts, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on, west and south of a line beginning at the Iowa-Minnesota State line and extending along Iowa Highway 4 to junction Iowa Highway 7, thence along Iowa Highway 7 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction Iowa Highway 141, thence along Iowa Highway 141 to junction Iowa Highway 89, thence along Iowa Highway 89 to junction Iowa Highway 210, thence along Iowa Highway 210 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction Iowa Highway 163, thence along Iowa Highway 163 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction unnumbered highway at Bloomfield, thence along unnumbered highway through Savannah, to the Iowa-Missouri State line, to points in Maryland on and south of a line beginning at the Maryland-Virginia State line and extending along U.S. Highway 495 to junction Maryland Highway 450, thence along Maryland Highway 450 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Maryland Highway 404, thence along Maryland Highway 404 to junction Maryland Highway 313, thence along Maryland Highway 313 to junction Maryland Highway 314, thence along Maryland Highway 314 to the Maryland-Delaware State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E116), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulation pursuant to the provisions of section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, from points in Iowa on and west of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 169 to through Lakota, Iowa to junction U.S. Highway 169 and U.S. Highway 20 near Fort Dodge, Iowa, thence along U.S. Highway 20 to junction Interstate Highway 35 at Williams, Iowa, thence along Interstate Highway 35 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 65 at Colo, Iowa, thence along U.S. Highway 65 to junction Iowa Highway 117, thence along Iowa Highway 117 to junction U.S. Highway 6 at Colfax, Iowa, thence along U.S. Highway 6 to junction Iowa Highway 14 at Newton, Iowa, thence along Iowa Highway 14 to junction Iowa Highway 163 at Monroe, Iowa, thence along Iowa Highway 163 to junction U.S. Highway 63 at Oskaloosa, Iowa, thence along U.S. Highway 63 through Ottumwa, Iowa, to junction Iowa Highway 2 at Bloomfield, Iowa,

thence along Iowa Highway 2 to junction Iowa unnumbered highway near Milton, Iowa, thence along Iowa unnumbered highway through Cantril to the Iowa-Missouri State line, to points in Maryland on and south of a line beginning at the Maryland-Virginia State line and extending along Maryland Highway 6 to junction Maryland Highway 232, thence along Maryland Highway 232 to junction Maryland Highway 231, thence along Maryland Highway 231 to junction Maryland Highway 2-4, thence along Maryland Highway 2-4 to the Chesapeake Bay, and those points in Maryland on and south of a line beginning at the Chesapeake Bay and extending along Maryland Highway 16 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E117), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulation pursuant to the provisions of section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on and east of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 52 to junction Iowa Highway 150, thence along Iowa Highway 150 to junction U.S. Highway 151, thence along U.S. Highway 151 to junction U.S. Highway 218, thence along U.S. Highway 218 to the Iowa-Missouri State line, to points in Kansas on, south and west of a line beginning at the Kansas-Oklahoma State line and extending along U.S. Highway 56 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction Kansas Highway 1, thence along Kansas Highway 1 to the Kansas-Oklahoma State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E118), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulation pursuant to the provisions of section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities

as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on and west of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 169 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction Iowa Highway 117, thence along Iowa Highway 117 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Iowa Highway 14, thence along Iowa Highway 14 to junction Iowa Highway 163, thence along Iowa Highway 163 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction unnumbered highway near Milton, thence along unnumbered highway through Cantril to the Iowa-Missouri State line to points in Rhode Island. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E119), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushki (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Food products and commodities exempt from economic regulation pursuant to the provisions of section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale, and chain grocery stores, from points in Iowa on and west of a line beginning at the Iowa-Minnesota State line and extending along Iowa Highway 4 to junction Iowa Highway 7, thence along Iowa Highway 7 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction Iowa Highway 92, thence along Iowa Highway 92 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction unnumbered highway at Bloomfield, thence along unnumbered highway through Savannah to the Iowa-Missouri State line, to points in Connecticut. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo. The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Inc., pursuant to MC-F-10199.

No. MC 29886 (Sub-No. E81), filed May 23, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such commodities

which because of size or weight require the use of special equipment or special handling, and self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts and supplies moving in connection therewith, (a) between those points in Pennsylvania on and west of a line beginning at the Pennsylvania-Maryland State line and extending along U.S. Highway 522 to junction Pennsylvania Highway 15, thence along Pennsylvania Highway 15 to junction Pennsylvania Highway 220, thence along Pennsylvania Highway 220 to the Pennsylvania-New York State line, on the one hand, and, on the other, those points in Connecticut, except those west of a line beginning at the Long Island Sound and extending along Connecticut Highway 69 to junction Interstate Highway 84, thence along Interstate Highway 84 to the Massachusetts-Connecticut State line, (b) between those points in Pennsylvania on and west of a line beginning at the Pennsylvania-New York State line and extending along Interstate Highway 79 to junction Interstate Highway 96, thence along Interstate Highway 96 to junction Pennsylvania Highway 8, thence along Pennsylvania Highway 8 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Pennsylvania-West Virginia State line, on the one hand, and, on the other, those points in Connecticut except those south and west of a line beginning at the Long Island Sound and extending along Connecticut Highway 58 to junction Interstate Highway 84, thence along Interstate Highway 84 to the New York-Connecticut State line, and (c) between those points in Fulton, Franklin, Adams, York, Lancaster, Lebanon, Berks, Chester, Montgomery, Delaware, Philadelphia, Bucks, Lehigh and Northampton Counties, Pa., on the one hand, and, on the other, those points in New York on and east of a line beginning at the United States-Canada International Boundary line and extending along U.S. Highway 30 to junction Interstate Highway 90, thence along Interstate Highway 90 to the New York-Massachusetts State line. The purpose of this filing is to eliminate the gateway of Massachusetts.

No. MC 29886 (Sub-No. E82), filed May 23, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Contractors' equipment, restricted to (1) crawler tractors, set-up, with loading and grading attachments, and (2) wheeled tractors (other than truck tractors), from those points in Iowa on and north of Interstate Highway 80, to those points in Kentucky in and east of Trimble, Henry, Shelby, Spencer, Anderson, Washington, Marion, Taylor, Green, Metcalfe, and Monroe Counties. The purpose of this filing is to eliminate the gateway of points in Michigan on and south of a line extending



along the northern boundaries of Allegan, Barry, and Eaton Counties, Mich., thence along Business Route Interstate Highway 96 to Lansing, Mich., thence on and west of a line extending along U.S. Highway 127 to Jackson, Mich., thence along unnumbered highway (formerly portion U.S. Highway 127) to junction U.S. Highway 12 near Somerset Center, Mich., thence along U.S. Highway 12 to junction U.S. Highway 127 near Somerset, Mich., thence along U.S. Highway 127 to the Michigan-Ohio State line, and Churubusco, Ind.

No. MC 29886 (Sub-No. E83), filed May 23, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors' equipment*, restricted to (1) crawler tractors, set-up, with loading and grading attachments, and (2) wheeled tractors (other than truck tractors), from those points in the Lower Peninsula of Michigan on and south of U.S. Highway 10 (except Berrien, Van Buren, and Cass Counties), to points in South Dakota, Nebraska, Wyoming, Montana, Idaho, Washington, and North Dakota (except those north and east of a line beginning at the United States-Canadian International Boundary line, and extending along North Dakota Highway 1 to junction Interstate Highway 94, thence along Interstate Highway 94 to the North Dakota-Minnesota line. The purpose of this filing is to eliminate the gateway of Churubusco, Ind.

No. MC 29886 (Sub-No. E84), filed May 23, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors' equipment*, restricted to (1) crawler tractors, set-up, with loading and grading attachments, and (2) wheeled tractors (other than truck tractors), from those points in Iowa on and north of Interstate Highway 80, to those points in Georgia on and east of a line beginning at the Georgia-Tennessee State line and extending along Georgia Highway 5 to junction Interstate Highway 75, thence along Interstate Highway 75 to the Georgia-Florida State line. The purpose of this filing is to eliminate the gateway of points in Michigan on and south of a line extending along the northern boundaries of Allegan, Barry, and Eaton Counties, Mich., thence along Business Route Interstate Highway 96 to Lansing, Mich., thence on and west of a line extending along U.S. Highway 127 to Jackson, Mich., thence along unnumbered highway (formerly portion U.S. Highway 127) 127 near Somerset, Mich., thence along U.S. Highway 127 to the Michigan-Ohio State line, and Churubusco, Ind.

No. MC 29886 (Sub-No. E85), filed May 23, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Contractors' equipment*, the transportation of which because of size or weight require the use of special equipment, between points in Michigan, on the one hand, and, on the other, those points in Pennsylvania in and east of Tioga, Lycoming, Clinton, Centre, Blair, and Bedford Counties, and between points in Pennsylvania, on the one hand, and, on the other, points in Michigan (except Lenawee, Monroe, Washtenaw, Wayne, Livingston, Oakland, Macomb, Lapeer, St. Clair, and Sanilac Counties). The purpose of this filing is to eliminate the gateway of points in that part of Michigan on, south and west of a line beginning at Lake Michigan and extending along the northern boundaries of Allegan, Barry, and Eaton Counties, Mich., to junction Business Route Interstate Highway 96, thence along Business Route Interstate Highway 96 to Lansing, Mich., and thence along U.S. Highway 127 to the Michigan-Ohio State line.

No. MC 29886 (Sub-No. E86), filed May 23, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled contractors' equipment*, restricted to tractors (other than truck tractors) each weighing 15,000 pounds or more, which, because of size or weight, require special handling or special equipment, from those points in New York on and west of a line beginning at Lake Ontario and extending along U.S. Highway 15 to junction New York Highway 21, thence along New York Highway 21 to the New York-Pennsylvania State line, to points in the United States (except Michigan, Wisconsin, Iowa, Missouri, Arkansas, Mississippi, Illinois, Indiana, Kentucky, Tennessee, Alabama, Georgia, South Carolina, North Carolina, Virginia, West Virginia, Ohio, Pennsylvania, Maryland, District of Columbia, Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, and Vermont), and to those in Massachusetts on and east of Interstate Highway 91. The purpose of this filing is to eliminate the gateway of Batavia, N.Y.

No. MC 29886 (Sub-No. E87), filed May 23, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled road construction and earth moving machines and equipment*, each weighing 15,000

pounds or more, which because of size or weight require special handling or the use of special equipment (except automobiles, trucks, buses, trailers, cabs, and chassis), from those points in Illinois on and north of U.S. Highway 30 from the Indiana-Illinois State line to junction Illinois Highway 31, thence along Illinois Highway 31 to the Wisconsin-Illinois State line, to points in Washington, Oregon, California, Nevada, Arizona, Utah, Idaho, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, West Virginia, Maryland, Delaware, the District of Columbia, New Jersey, Pennsylvania, New York, Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, Maine, those in Montana in and west of Powder River, Rosebud, Garfield, McCone, Roosevelt, and Daniels Counties, those in Wyoming on and west of a line beginning at the Montana-Wyoming State line and extending along Montana Highway 59 to junction Interstate Highway 25, thence along Interstate Highway 25 to the Colorado-Wyoming State line, those in Colorado on and west of Interstate Highway 25, those in Tennessee on and east of Interstate Highway 65, and the District of Columbia; and from those points in Illinois on and south of U.S. Highway 36 to Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, Vermont, Maine, Pennsylvania (except those in, south and west of Mercer, Butler, Armstrong, Indiana, Cambria, Blair, Huntingdon, and Franklin Counties), those in Maryland (except Garrett, Allegany, Washington, Frederick, Montgomery, Charles, Saint Marys, Somerset, and Worcester Counties), and the District of Columbia. The purpose of this filing is to eliminate the gateway of South Bend, Ind.

No. MC 29886 (Sub-No. E88), filed May 23, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors' equipment* (restricted to steam shovels, cranes, crawler-type shovels and cranes, straddle trucks, fork trucks, and self-propelled building, construction and moving machinery), which because of size or weight require the use of special equipment or special handling, from those points in the Lower Peninsula of Michigan, and those in the Upper Peninsula of Michigan on and east of U.S. Highway 41 to points in Florida, Mississippi, Arkansas, Louisiana, Oklahoma, Texas, New Mexico, Utah, Arizona, Nevada, California, and Alabama (except that portion in and east of Lauderdale, Colbert, Lawrence, Cullma, Blount, Saint Clair, Talladega, Coosa, Elmore, Macon, Bullock, and Barbour Counties), and from those points in the Lower Peninsula of Michigan in and south of Mason, Newaygo, Mecosta, Montcalm, Gratiot, Saginaw, Tuscola, and Huron Counties,

Mich., to points in Minnesota. The purpose of this filing is to eliminate the gateway of Benton Harbor, Mich.

No. MC 45764 (Sub-No. E1), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Sussex County, Del., on the one hand, and, on the other, points in New Jersey (except those within 75 miles of Philadelphia, Pa.). The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E2), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Sussex County, Del., on the one hand, and, on the other, points in New York. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E3), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Maryland (except those within 75 miles of Philadelphia, Pa.), on the one hand, and, on the other, points in New Jersey. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E4), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Maryland east of the Chesapeake Bay and the Susquehanna River (except those within 75 miles of Philadelphia, Pa.), on the one hand, and, on the other, points in New York. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45784 (Sub-No. E5), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36,

Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Maryland west of Interstate Highway 81, on the one hand, and, on the other, points in New York on and east of Interstate Highway 87. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E13), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Pennsylvania on and east of a line beginning at the Pennsylvania-Delaware State line, and extending over U.S. Highway 202 to junction Pennsylvania Turnpike Northeast Extension, thence north over that extension to junction Interstate Highway 81, and thence north over Interstate Highway 81 to the Pennsylvania-New York State line (except those within 75 miles of Philadelphia, Pa.), on the one hand, and, on the other, points in the District of Columbia. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E14), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in New York in and west of Monroe, Livingston, and Steuben Counties, on the one hand, and, on the other, points in Fairfield, New Haven, Middlesex, and New London. The purpose of this filing is to eliminate the gateway of Paterson, N.J.

No. MC 45764 (Sub-No. E15), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between New York, N.Y., and points on Long Island, N.Y., on the one hand, and, on the other, points in Massachusetts. The purpose of this filing is to eliminate the gateway of Paterson, N.J.

No. MC 45764 (Sub-No. E18), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Sussex County, N.J. (except those within 75 miles of Philadelphia), on the one hand, and, on the other, points in Massachusetts. The purpose of this filing is to eliminate the gateway of Lafayette, N.J.

No. MC 45764 (Sub-No. E19), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Delaware (except those within 75 miles of Philadelphia, Pa.), on the one hand, and, on the other, points in Connecticut. The purpose of this filing is to eliminate the gateway of Paterson, N.J.

No. MC 45764 (Sub-No. E20), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Delaware (except those within 75 miles of Philadelphia, Pa.), on the one hand, and, on the other, points in Massachusetts. The purpose of this filing is to eliminate the gateway of Paterson, N.J.

No. MC 45764 (Sub-No. E21), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Maryland (except those within 75 miles of Philadelphia, Pa.), on the one hand, and, on the other, points in Connecticut. The purpose of this filing is to eliminate the gateway of Paterson, N.J.

No. MC 45764 (Sub-No. E22), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Maryland (except those within 75 miles of Philadelphia, Pa.), on the one hand, and, on the other, points in Connecticut. The purpose of this filing is to eliminate the gateway of Paterson, N.J.



delphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Maryland (except those within 75 miles of Philadelphia, Pa.), on the one hand, and, on the other, points in Massachusetts. The purpose of this filing is to eliminate the gateway of Paterson, N.J.

No. MC 45764 (Sub-No. E23), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Pennsylvania (except those within 75 miles of Philadelphia, and those in Potter, Tioga, Bradford, Susquehanna, Wayne, and Pike Counties), on the one hand, and, on the other, points in Connecticut. The purpose of this filing is to eliminate the gateway of Paterson, N.J.

No. MC 45764 (Sub-No. E24), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Pennsylvania (except those within 75 miles of Philadelphia, and those in Potter, Tioga, Bradford, Susquehanna, Wayne, and Pike Counties), on the one hand, and, on the other, points in Massachusetts on, south, and east of a line beginning at the Massachusetts-New York State line and extending east over Interstate Highway 90 to junction Massachusetts Highway 41, thence north and northeast over Massachusetts Highway 41 to junction U.S. Highway 20, thence east over U.S. Highway 20 to Pittsfield, Mass., thence east over Massachusetts Highway 9 to junction Massachusetts Highway 32, thence northeast over Massachusetts Highway 32 to junction Massachusetts Highway 62, thence east over Massachusetts Highway 62 to junction Massachusetts Highway 31, thence north over Massachusetts Highway 31 to junction Massachusetts Highway 2A, thence east over Massachusetts Highway 2A to Fitchburg, Mass., and thence north over Massachusetts Highway 31 to the Massachusetts-New Hampshire State line. The purpose of this filing is to eliminate the gateway of Hazelton, Pa.

No. MC 45764 (Sub-No. E25), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O.

Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in the District of Columbia, on the one hand, and, on the other, points in Connecticut. The purpose of this filing is to eliminate the gateway of Paterson, N.J.

No. MC 45764 (Sub-No. E26), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in the District of Columbia, on the one hand, and, on the other, points in Massachusetts. The purpose of this filing is to eliminate the gateway of Paterson, N.J.

No. MC 45764 (Sub-No. E27), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in New York on and east of a line beginning at the New York-New Jersey State line and extending north over Interstate Highway 87 to junction U.S. Highway 44, thence east over U.S. Highway 44 to Poughkeepsie, N.Y., thence southeast over New York Highway 55 to Pawling, N.Y., thence northeast over New York Highway 55 to the New York-Connecticut State line, on the one hand, and, on the other, points in Ohio. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E28), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in New York on and east of a line beginning at Port Jervis, N.Y., on the New York-Pennsylvania State line and extending northeast over U.S. Highway 209 to junction Interstate Highway 87, thence north over Interstate Highway 87 to the United States-Canadian Border line, on the one hand, and, on the other, points in and south of Jefferson, Harrison, Guernsey, Muskingum, Licking, Franklin, Madison, Champaign, Miami, and Darke Counties,

Ohio. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E29), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between New York, N.Y., and points in Westchester, Nassau, and Suffolk Counties, N.Y., on the one hand, and, on the other, points in Ohio. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E30), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in and east of Chemung, Schuyler, Yates, Ontario, and Monroe Counties, N.Y., on the one hand, and, on the other, points in North Carolina. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E31), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in New York (except those west of New York Highway 19), on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E32), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in New York on and east of a line beginning at Port Jervis, N.Y., on the New York-Pennsylvania State line and extending north over New York Highway 97 to Hankins, N.Y., thence northeast over unnumbered highway to Roscoe, N.Y., thence west over New York Highway 17 to junction New York High-

way 30, thence northeast over New York Highway 30 to New York Highway 206, thence northwest over New York Highway 206 to junction New York Highway 10, thence east and north over New York Highway 10 to junction New York Highway 28, thence north and west over New York Highway 28 to Oneonta, N.Y., thence north over New York Highway 205 to junction New York Highway 28, thence northeast over New York Highway 28 to junction New York Highway 30, and thence north over New York Highway 30 to the United States-Canadian Border line, on the one hand, and, on the other, points in Virginia. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E33), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in New York on and east of a line beginning at Port Jervis, N.Y., on the New York-Pennsylvania State line, and extending northeast over New York Highway 209 to junction Interstate Highway 87, thence north over Interstate Highway 87 to junction New York Highway 73, and thence east over New York Highway 73 to the New York-Vermont State line, on the one hand, and, on the other, points in West Virginia. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E34), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in New Jersey on and south of U.S. Highway 30, on the one hand, and, on the other, points in Rhode Island. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E35), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in New Jersey on and south of a line beginning at the New Jersey-Pennsylvania State line one mile north

of Phillipsburg, N.J., and extending northeast over New Jersey Highway 57 to junction U.S. Highway 46, thence east over U.S. Highway 46 to junction New Jersey Highway 15, thence northwest over New Jersey Highway 15 to junction New Jersey Highway 517, thence north over New Jersey Highway 517 to junction New Jersey Highway 23, thence southeast over New Jersey Highway 23 to junction New Jersey Highway 513, thence northeast over New Jersey Highway 513 to junction New Jersey Highway 511, and thence northeast over New Jersey Highway 511 to the New Jersey-New York State line, on the one hand, and, on the other, points in Ohio. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E36), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in New Jersey, on the one hand, and, on the other, points in North Carolina. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E37), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in New Jersey, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E38), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in New Jersey, on the one hand, and, on the other, points in Virginia. The purpose of this filing is to eliminate the gateway of Marcus Hook, Pa.

No. MC 45764 (Sub-No. E39), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to op-

erate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in New Jersey, on the one hand, and, on the other, points in West Virginia. The purpose of this filing is to eliminate the gateway of Marcus Hook, Pa.

No. MC 45764 (Sub-No. E40), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Delaware, on the one hand, and, on the other, points in Rhode Island. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E41), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Delaware, on the one hand, and, on the other, points in Ohio on and east of a line beginning at Cleveland, Ohio, and extending south over Ohio Highway 8 to Akron, Ohio, thence south over Interstate Highway 77 to junction U.S. Highway 40, thence west over U.S. Highway 40 to Columbus, Ohio, and thence southwest over Interstate Highway 71 to Cincinnati, Ohio. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E42), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in New Castle County, Del., north of the Chesapeake & Delaware Canal, on the one hand, and, on the other, points in North Carolina. The purpose of this filing is to eliminate the gateway of Marcus Hook, Pa.

No. MC 45764 (Sub-No. E43), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over ir-

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regular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Delaware on and north of Delaware Highway 8, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate the gateway of Marcus Hook, Pa.

No. MC 45764 (Sub-No. E44), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Delaware on and north of Delaware Highway 41, on the one hand, and, on the other, points in Virginia. The purpose of this filing is to eliminate the gateway of Marcus Hook, Pa.

No. MC 45764 (Sub-No. E45), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Delaware on and north of Delaware Highway 41, on the one hand, and, on the other, points in West Virginia. The purpose of this filing is to eliminate the gateway of Marcus Hook, Pa.

No. MC 45764 (Sub-No. E46), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Delaware on and north of Delaware Highway 8, on the one hand, and, on the other, points in West Virginia on and east of a line beginning at the West Virginia-Pennsylvania State line, and extending south over West Virginia Highway 26 to junction West Virginia Highway 73, thence over West Virginia Highway 73 to Morgantown, thence over U.S. Highway 19 to junction U.S. Highway 33/119, thence over U.S. Highway 33/119 to Charleston, and thence southeast over U.S. Highway 21 to Bluefield, W. Va., on the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateway of Marcus Hook, Pa.

No. MC 45764 (Sub-No. E47), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Delaware on and north of Delaware Highway 41, on the one hand, and, on the other, points in Virginia. The purpose of this filing is to eliminate the gateway of Marcus Hook, Pa.

ter Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Maryland, on the one hand, and, on the other, points in Rhode Island. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E48), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Maryland, on east and north of a line beginning at the Maryland-Pennsylvania State line, and extending south over Maryland Highway 213 to junction U.S. Highway 40, thence over U.S. Highway 40 to the Maryland-Delaware State line, on the one hand, and, on the other, points in and west of Craig, Roanoke, Bedford, Campbell, Charlotte, and Mecklenburg Counties, Va. The purpose of this filing is to eliminate the gateway of Marcus Hook, Pa.

No. MC 45764 (Sub-No. E49), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Pennsylvania on and south of a line beginning at Erie, Pa., and extending southeast over Pennsylvania Highway 8 to junction U.S. Highway 6, thence east over U.S. Highway 6 to junction U.S. Highway 219, thence south over U.S. Highway 219 to junction Pennsylvania Highway 255, thence southeast over Pennsylvania Highway 255 to junction Pennsylvania Highway 555, thence east over Pennsylvania Highway 555 to junction Pennsylvania Highway 120, thence east over Pennsylvania Highway 120 to U.S. Highway 220, thence northeast over U.S. Highway 220 to junction Pennsylvania Highway 442, thence southeast over Pennsylvania Highway 555 to junction Pennsylvania Highway 42, thence south over Pennsylvania Highway 42 to junction Interstate Highway 81, thence east over Interstate Highway 81 to junction Pennsylvania Highway 93, thence southeast over Pennsylvania Highway 93 to junction U.S. Highway 209, thence south and east over U.S. Highway 209 to junction Pennsylvania Highway 248, thence east over Pennsylvania Highway 248 to junction Pennsylvania Highway 145, thence southeast over Pennsylvania Highway 309 to junction Pennsylvania

Highway 663, thence east over Pennsylvania Highway 663 to Quakertown, Pa., thence southeast over Pennsylvania Highway 313 to junction U.S. Highway 202, and thence northeast over U.S. Highway 202 to the Pennsylvania-New Jersey State line, on the one hand, and, on the other, points in Rhode Island. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E50), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Pennsylvania (a) on and east of a line beginning at the Pennsylvania-Delaware State line and extending northwest over Pennsylvania Highway 82 to junction Pennsylvania Highway 23, thence west over Pennsylvania Highway 23 to junction Pennsylvania Highway 10, and thence north over Pennsylvania Highway 10 to Reading, Pa., and (b) on and south of a line extending from Reading east over Pennsylvania Highway 562 to junction Pennsylvania Highway 100, thence northeast over Pennsylvania Highway 100 to junction Pennsylvania Highway 29, thence southeast over Pennsylvania Highway 29 to junction Pennsylvania Highway 663, thence east over Pennsylvania Highway 663 to junction Pennsylvania Highway 313 to Pennsylvania Highway 113, thence northeast over Pennsylvania Highway 113 to junction U.S. Highway 611, thence south over U.S. Highway 611 to Pipersville, Pa., and thence east over unnumbered highway to the Pennsylvania-New Jersey State line at Point Pleasant, Pa., on the one hand, and, on the other, points in Ohio. The purpose of this filing is to eliminate the gateway of Conshohocken, Pa.

No. MC 45764 (Sub-No. E51), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line, and extending northwest over Pennsylvania Highway 472 to junction U.S. Highway 222, thence northwest over U.S. Highway 222 to Lancaster, Pa., thence northeast over U.S. Highway 222 to Allentown, Pa., and thence east over U.S. Highway 22 to the Pennsylvania-New Jersey State line, on the one hand, and, on the other, points in Ohio west of a line beginning at Lake Erie and extending south over Ohio Highway 4 to junction Ohio Highway 98, thence south over Ohio

Highway 98 to junction U.S. Highway 23, and thence south over U.S. Highway 23 to Columbus, Ohio (including Columbus) and on and west of a line extending from Columbus south over U.S. Highway 23 to the Ohio-Kentucky State line. The purpose of this filing is to eliminate the gateway of Conshohocken, Pa.

No. MC 45764 (Sub-No. E52), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line, and extending northwest along the east bank of the Susquehanna River to Marietta, Pa., thence northeast over Pennsylvania Highway 141 to junction Pennsylvania Highway 501, thence north over Pennsylvania Highway 501 to junction Pennsylvania Highway 125, thence northwest over Pennsylvania Highway 125 to Shamokin, Pa., thence over Pennsylvania Highway 61 to junction Pennsylvania Highway 487, thence northeast over Pennsylvania Highway 487 to Pennsylvania Highway 42, thence north over Pennsylvania Highway 42 to junction U.S. Highway 220, and thence north over U.S. Highway 220 to the Pennsylvania-New York line, on the one hand, and, on the other, points in North Carolina. The purpose of this filing is to eliminate the gateway of Marcus Hook, Pa.

No. MC 45764 (Sub-No. E53), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line, and extending northwest along the east bank of the Susquehanna River to Millersburg, Pa., thence west over unnumbered highway across the Susquehanna River to junction U.S. Highway 15, and thence north over U.S. Highway 15 to the Pennsylvania-New York State line, on the one hand, and, on the other, points in North Carolina on and east of a line beginning at the North Carolina-Virginia State line and extending south over U.S. Highway 17 to Wilmington, N.C., and thence east over unnumbered highway to Wrightsville Beach, N.C. The purpose of this filing is to eliminate the gateway of Marcus Hook, Pa.

No. MC 45764 (Sub-No. E54), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line, and extending northwest along the east bank of the Susquehanna River to Millersburg, Pa., thence west over unnumbered highway across the Susquehanna River to junction U.S. Highway 15, and thence north over U.S. Highway 15 to the Pennsylvania-New York State line, on the one hand, and, on the other, points in North Carolina on and east of a line beginning at the North Carolina-Virginia State line and extending south over U.S. Highway 17 to Wilmington, N.C., and thence east over unnumbered highway to Wrightsville Beach, N.C. The purpose of this filing is to eliminate the gateway of Marcus Hook, Pa.

representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line, and extending north over Interstate Highway 83 to junction U.S. Highway 15, thence north over U.S. Highway 15 to the Pennsylvania-New York State line, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate the gateway of Marcus Hook, Pa.

No. MC 73165 (Sub-No. E104), filed October 8, 1974. Applicant: EAGLE MOTOR LINES, INC., P.O. Box 11086, Birmingham, Ala. 35202. Applicant's representative: Carl U. Hurst (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors' outfits and equipment* (except pipe, pipeline material, machinery, equipment, and supplies incidental to and used in connection with the construction, dismantling, and repair of pipelines), when such commodities, because of size or weight, require the use of special equipment, which is embraced in the commodities descriptions below: (1) Machinery, equipment, materials, and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products; (2) Machinery, materials, supplies, and equipment incidental to or used in the construction, development, operation, and maintenance of facilities for the discovery, mining, and milling of minerals (other than lead, zinc, iron, and coal), when (a) such activities are in connection with the drilling of water wells, the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, the completion of holes or wells drilled, the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, the injection or removal of commodities into or from holes or wells, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products, and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline right of way, or (b) commodities consist of earth drilling machinery and equipment or machinery and equipment used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of sulphur and its products and supplies (not including sulphur) used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of sulphur and its products, restricted to the transportation of shipments moving to or from exploration, drilling, production, job, construction, plant (including refining, manufacturing, and processing plant) sites of storage sites.

(c) Machinery, equipment, materials, and supplies used in, or in connection with, the drilling of water wells, (d) Machinery, equipment, materials, and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products, and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline right of way, (e) Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe incidental to, used in, or in connection with (1) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (2) the completion of holes or wells drilled, (3) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (4) the injection or removal of commodities into or from holes or wells; between all points in Kansas and points in Oklahoma on and east of U.S. Highway 77 and on and north of U.S. Highway 66, including Oklahoma City, on the one hand, and, on the other, Bessemer, Ala., and points in Alabama within 100 miles of Bessemer. The purpose of this filing is to eliminate the gateways of Arkansas, Tennessee, and Ottawa County, Okla., or Cherokee, Crawford, Labette, or Montgomery Counties, Kans.



No. MC 73165 (Sub-No. E105), filed October 8, 1974. Applicant: EAGLE MOTOR LINES, INC., P.O. Box 11086, Birmingham, Ala. 35202. Applicant's representative: Carl U. Hurst (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Oilfield equipment and supplies*, the transportation of which because of size or weight requires the use of special equipment (except pipe, pipeline material, machinery, equipment, and supplies incidental to and used in connection with the construction, dismantling, and repair of pipelines), (1) between points in Texas, on the one hand, and, on the other, points in Tennessee and Kentucky, (2) between points in Louisiana, on and west of a line extending from the Arkansas-Louisiana State line along U.S. Highways 71 and 171 to Lake Charles and points in Calcasieu and Cameron Parishes, La., on the one hand, and, on the other, points in Kentucky and Tennessee. The purpose of this filing is to eliminate the gateway of Texas within 200 miles and Arkansas within 150 miles of Texarkana, Tex.

No. MC 73165 (Sub-No. E106), filed October 8, 1974. Applicant: EAGLE MOTOR LINES, INC., P.O. Box 11086, Birmingham, Ala. 35202. Applicant's representative: Carl U. Hurst (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Material handling equipment* when such commodities consist of: (A) contractors outfits and equipment (except commodities in bulk, pipe, pipeline material, machinery, equipment and supplies incidental to and used in connection with the construction, dismantling and repair of pipelines), when such commodities because of size or weight require the use of special equipment, which is embraced in the following:

(1) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products;

(2) *Machinery, materials, supplies, and equipment* incidental to or used in the construction, development, operation and maintenance of facilities for the discovery, mining and milling of minerals (other than lead, zinc, iron and coal), when (a) such activities are in connection with the drilling of water wells; the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment; the completion of holes or wells drilled; the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites; the injection or removal of commodities into or from holes or wells; the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the

transportation of shipments moving to or from pipeline right of way; or (b) commodities consist of *earth drilling machinery and equipment* or *machinery and equipment* used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of sulphur and its products, and materials and supplies (not including sulphur) used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of sulphur and its products, restricted to the transportation of shipments of materials and supplies moving to or from exploration, drilling, production, job, construction, plant (including refining, manufacturing, and processing plant) sites of storage sites.

(3) Commodities the transportation of which by reason of their size or weight require the use of special equipment or special handling, when such commodities consist of (a) *Machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; (b) *Machinery and equipment* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of sulphur and its products, and *materials and supplies* (not sulphur) used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of sulphur and its products, restricted to the transportation of shipments of materials and supplies moving to or from exploration, drilling, production, job, construction, plant (including refining, manufacturing and processing plant) sites of storage sites; (c) *Machinery, equipment, materials and supplies* used in, or in connection with, the drilling of water wells; (d) *Machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water or sewerage, restricted to the transportation of shipments moving to or from pipeline right of way; (e) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (1) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment; (2) the completion of holes or wells drilled; (3) the production, storage, and transmission of commodities resulting from drilling operations at well

or hole sites, and (4) the injection of removal of commodities into or from holes or wells.

between all points in Kansas and points in Oklahoma on and east of U.S. Highway 77 and on and north of U.S. Highway 66, including Oklahoma City, on the one hand, and, on the other, points in Georgia, South Carolina, Florida, and points in Alabama on or east of U.S. Highway 29.

The purpose of this filing is to eliminate the gateway of Winfield, Ala., Arkansas, Tennessee, and Ottawa County, Okla., or Cherokee, Crawford, Labette, or Montgomery Counties, Kans.

No. MC 73165 (Sub-No. E107), filed October 8, 1974. Applicant: EAGLE MOTOR LINES, INC., P.O. Box 11086, Birmingham, Ala. 35202. Applicant's representative: Carl U. Hurst (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Oilfield contractors' material handling equipment*, and parts, attachments and accessories used in connection with such commodities, (except pipe, pipeline material machinery, equipment, and supplies incidental to and used in connection with the construction, dismantling, and repair of pipelines), when the commodities described herein because of size or weight require the use of special equipment, between points in Texas on and south of U.S. Highway 70, on the one hand, and, on the other, points in Ohio and West Virginia on and north of U.S. Highway 50, points in Maryland and Delaware, and points in the United States northeast thereof. The purpose of this filing is to eliminate the gateway of Texas within 200 miles of Arkansas within 150 miles of Texarkana, Tex., and Winfield, Ala.

No. MC 73165 (Sub-No. E110), filed October 8, 1974. Applicant: EAGLE MOTOR LINES, INC., P.O. Box 11086, Birmingham, Ala. 35202. Applicant's representative: Carl U. Hurst (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Iron and steel articles (except those which because of size or weight require the use of special equipment) which consist of commodities named in (1) below: (1) *Machinery, equipment, material, and supplies* used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, supplies, and equipment* incidental to or used in the construction, development, operation, and maintenance of facilities for the discovery, mining and milling of lead, zinc, iron, coal, and other minerals, and *commodities* the transportation of which by reason of their size or weight require the use of special handling, when any of the commodities described in this paragraph consist of the following: (a) *Machinery, equipment, materials, and supplies* used in, or in

connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof;

(b) *Machinery, equipment, materials, and supplies* used in, or in connection with, the drilling of water wells; or (c) *Machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline right of way, between points in that part of Montana on and east of a line beginning at the Montana-Wyoming State Line near Alzada, Montana, and extending along U.S. Highway 212 to junction U.S. Highway 312, thence along U.S. Highway 312 to Miles City, Montana, thence along Montana Highway 22 to Jordan, Montana, thence northwesterly in a straight line to Malta, Montana, and thence along Montana Highway 242 to the United States-Canada Boundary Line, points in that part of North Dakota on and west of a line beginning at the United States-Canada Boundary Line and extending along North Dakota Highway 30 to junction unnumbered highway at Lehr, North Dakota, and thence along unnumbered highway to Ashley, N. Dak., thence North Dakota Highway 3 to the South Dakota line, and points in South Dakota west of the Missouri River and on and north of U.S. Highway 14, on the one hand, and, on the other, points in Tennessee, Mississippi, Alabama, Georgia, Florida, and South Carolina. The purpose of this filing is to eliminate the gateway of Ottawa County, Okla., points on the Mississippi River in Arkansas, and, as to South Carolina, a further gateway of points in Alabama.

No. MC 73165 (Sub-No. E111), filed October 8, 1974. Applicant: EAGLE MOTOR LINES, INC., P.O. Box 11086, Birmingham, Ala. 35202. Applicant's representative: Carl U. Hurst (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *contractors outfits and equipment*, consisting of the commodities in (1) below (except pipe, pipeline material, machinery, equipment, and supplies incidental to and used in connection with the construction, dismantling and repair of pipelines) the transportation of which because of size or weight requires the use of special equipment:

(1) *Machinery, equipment, material, and supplies* used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, supplies, and equipment* incidental to or used in the construction, development, operation, and maintenance of facilities for the discovery, mining and milling of lead, zinc, iron, coal, and other minerals, and *commodities* the transportation of which by reason of their size or weight require the use of special handling, when any of the commodities described in this paragraph consist of the following: (a) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribu-

tion of natural gas and petroleum and their products and by-products, and *machinery, materials, supplies, and equipment* incidental to or used in the construction, development, operation, and maintenance of facilities for the discovery, mining and milling of lead, zinc, iron, coal, and other minerals, and *commodities* the transportation of which by reason of their size or weight require the use of special equipment or special handling, when any of the commodities described in this paragraph consist of the following:

(1) *Machinery, equipment, material, and supplies* used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, supplies, and equipment* incidental to or used in the construction, development, operation, and maintenance of facilities for the discovery, mining and milling of lead, zinc, iron, coal, and other minerals, and *commodities* the transportation of which by reason of their size or weight require the use of special equipment or special handling, when any of the commodities described in this paragraph consist of the following:

(a) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, supplies, and equipment* incidental to or used in the construction, development, operation, and maintenance of facilities for the discovery, mining and milling of lead, zinc, iron, coal, and other minerals, and *commodities* the transportation of which by reason of their size or weight require the use of special handling, when any of the commodities described in this paragraph consist of the following:

(a) *Machinery, equipment, materials, and supplies* used in, or in connection with, the drilling of water wells; or

(c) *Machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline right of way.

between points in that part of Montana on and east of a line beginning at the Montana-Wyoming State Line near Alzada, Montana, and extending along U.S. Highway 212 to junction U.S. Highway 312, thence along U.S. Highway 312 to Miles City, Montana, thence along Montana Highway 22 to Jordan, Montana, thence northwesterly in a straight line to Malta, Montana, and thence along Montana Highway 242 to the United States-Canada Boundary Line, points in that part of North Dakota on and west of a line beginning at the United States-Canada Boundary Line and extending along North Dakota Highway 30 to junction unnumbered at Lehr, North Dakota, and thence along unnumbered highway to Ashley, N. Dak., and thence along North Dakota Hwy. 3 to the South Dakota line, and points in South Dakota west of the Missouri River and on and north of U.S. Hwy. 14, on the one hand, and, on the other, Bessemer, Alabama, and points in Alabama within 100 miles of Bessemer. The purpose of this filing is to eliminate the gateway of Ottawa County, Okla., Arkansas and Tennessee.

No. MC 73165 (Sub-No. E112), filed October 8, 1974. Applicant: EAGLE MOTOR LINES, INC., P.O. Box 11086, Birmingham, Ala. 35202. Applicant's representative: Carl U. Hurst (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Contractors material handling equipment* the transportation of which because of size or weight requires the use of special equipment (except pipe, pipeline material, machinery, equipment, and supplies incidental to and used in connection with the construction, dismantling, and repair of pipelines) which consist of the commodities named in (1) below:

(1) *Machinery, equipment, material, and supplies* used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, supplies, and equipment* incidental to or used in the construction, development, operation, and maintenance of facilities for the discovery, mining and milling of lead, zinc, iron, coal, and other minerals, and *commodities* the transportation of which by reason of their size or weight require the use of special handling, when any of the commodities described in this paragraph consist of the following:

(1) *Machinery, equipment, material, and supplies* used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, supplies, and equipment* incidental to or used in the construction, development, operation, and maintenance of facilities for the discovery, mining and milling of lead, zinc, iron, coal, and other minerals, and *commodities* the transportation of which by reason of their size or weight require the use of special handling, when any of the commodities described in this paragraph consist of the following:

(a) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof.

(b) *Machinery, equipment, materials, and supplies* used in, or in connection with, the drilling of water wells; or

(c) *Machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline right of way.

between points in that part of Montana on and east of a line beginning at the Montana-Wyoming State Line near Alzada, Montana, and extending along U.S. Highway 212 to junction U.S. Highway 312, thence along U.S. Highway 312 to Miles City, Montana, thence along Montana Highway 22 to Jordan, Montana, thence northwesterly in a straight line to Malta, Montana, and thence along Montana Highway 242 to the United States-Canada Boundary Line, points in that part of North Dakota on and west of a line beginning at the United States-Canada Boundary Line and extending along North Dakota Highway 30 to junction unnumbered highway to Ashley, North Dakota, and thence along North Dakota Hwy. 3 to the South Dakota line, and points in South Dakota west of the Missouri River and on and north of U.S. Highway 14, on the one hand, and, on the other, all points in South Carolina, Georgia, Florida, and points in Alabama on and south of U.S.



Highway 80. The purpose of this filing is to eliminate the gateway of Infield, Ala., Ottawa County, Okla., Arkansas and Tennessee.

No. MC 95540 (Sub-No. E137), filed April 22, 1974. Applicant: WATKINS MOTOR LINES, INC. P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Frozen foods, from points in that part of California on and south of a line beginning at Eureka, thence along U.S. Highway 101 to junction California Highway 299, thence along California Highway 299 to Redding, thence along California Highway 44 to junction California Highway 36, thence along California Highway 36 to junction U.S. Highway 395, thence along U.S. Highway 395 to junction unnumbered California highway, through Wendell to the California-Nevada State line to points in that part of Virginia on, south, and east of a line beginning at Bristol, thence along U.S. Highway 11 to Staunton, thence along Interstate Highway 64 to Charlottesville, thence along U.S. Highway 29 to Culpeper, thence along U.S. Highway 15 to the Virginia-Maryland State line. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[PR Doc.75-14025 Filed 5-28-75; 8:45 am]

[No. MC-6807 (Sub-No. 14)]

J. J. MINNEHAN, INC.  
Extension—Corn Products

MAY 23, 1975.

At a session of the Interstate Commerce Commission, Review Board Number 1, held at its office in Washington, D.C., on the 13th day of May, 1975.

It appearing, That by application filed September 13, 1973, J. J. Minnehan, Inc., of Bellefonte, Pa., seeks a permit authorizing operation, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of (1) corn products and blends of corn products with other sweeteners, in bulk, in tank vehicles, from Beverly and Boston, Mass., to points in New Hampshire, Vermont, Rhode Island, those in that part of Maine bounded by a line beginning at the New Hampshire-Maine State line and extending in an easterly direction along U.S. Highway 2 to Norridgewock, Maine, thence in a northerly direction along Alternate U.S. Highway 201 to junction U.S. Highway 201 to Bingham, Maine, thence in an easterly direction along Maine Highway 16 through Milo and La Grange, Maine, to junction Maine Highway 43, thence along the western shore of the Penobscot River and the Penobscot Bay to the Atlantic Ocean, thence in a southwesterly direc-

tion along the Atlantic Coast to the Maine-New Hampshire State line, and thence along the Maine-New Hampshire State line to the point of beginning, including points on the above-described boundary lines, and those in that part of Connecticut on and east of a line beginning at the Connecticut-Massachusetts State line and extending in a southerly direction along Connecticut Highway 159 to Hartford, Conn., thence in a southerly direction along Interstate Highway 91 to the interchange of Interstate Highway 91 and U.S. Highway 5, thence in a southerly direction along U.S. Highway 5 to New Haven, Conn.; (2) sugar and blends of sugar with other sweeteners from Beverly and Boston, Mass., to points in the destination areas described in (1) above, restricted in (1) and (2) above to a transportation service to be performed under contracts with CPC International, Inc., and the Clinton Corn Processing Co.; and (3) commodities as described in (1) and (2) above, from Boston, Mass., to Naugatuck and Watertown, Conn., restricted to a transportation service to be performed under contract with Revere Sugar Refinery.

It further appearing, That the application has been processed under the Commission's modified procedure; that applicant has filed verified statements in support of the application; that protestant P. B. Mutrie Motor Transportation, Inc., a motor common carrier, has filed verified statements in opposition to the application; and that applicant and supporting shipper CPC International, Inc., have filed rebuttal statements.

It further appearing, That Minnehan is a contract carrier currently authorized to serve three shippers; that applicant is the wholly owned subsidiary of Gleason Transportation Co., Inc., a non-carrier, which in turn is owned by Multivisions Corp. and Environmental Leasing Corp., also non-carriers; that applicant maintains a fleet of 115 suitable tank trailers which are available to perform the proposed service; that applicant submitted an operational feasibility statement and proposes to render for its supporting shipper (CPC) a "house carrier" service involving expeditious deliveries and day-and-night emergency operations; and that it also submitted appropriate financial data.

It further appearing, That CPC International, Inc., of Englewood Cliffs, N.J., sells an estimated 30 million pounds of liquid blends each year in Massachusetts, which is transported by a non-protesting carrier; that these blends, which consist

of a mixture of sugar and dextrose, initially are transported by rail from CPC's manufacturing plant at Yonkers, N.Y., to its facility at South Boston; that at this facility the blends are heated and loaded into tank vehicles; that, on the average, one shipment of blends will be transported every other month from South Boston to New England and protestant has been utilized for these movements; that in its initial verified statement, shipper stated that based on its projected studies it would be transporting its commodities throughout the involved territory and also stood a good chance of adding new customers and volume formerly of Revere Sugar Refinery, of Charlestown, Mass.; however, as shipper notes in its rebuttal statement, Revere did not go out of business as anticipated; that shipper states that Revere and Amstar Corporation, both of Charlestown, supply liquid sugar to consignees in the involved territory; that shipper is convinced it will be competitive with these manufacturers in the transportation of the involved commodities; that shipper estimated that by the end of 1974 it would have a need for the transportation of 20 million pounds of commodities each year with six million moving to Maine, six million to New Hampshire, three million to Vermont, three million to Rhode Island, and two million to Connecticut; and that at the involved origin points the liquid bulk products can be blended according to customer specifications.

It further appearing, That shipper indicates that the involved consignees have and are installing bulk facilities for warehousing the involved commodities; that these customers reduce their inventory to a minimum before replacement and therefore often place orders no more than 1 day in advance of delivery; that, therefore, an expedited timed delivery service is required encompassing transportation of the involved bulk liquid products in specialized tank vehicles; that special pumps must be installed for unloading and the trucks must be extremely clean and properly insulated; and that the evidence demonstrates that shipper requires emergency shipments during the summer and holiday seasons, since during this time demands increase between 30 and 40 percent.

It further appearing, That at the time of filing this application shipper did not blending at the involved facilities but estimated that by the end of 1974 it would be involved in some blending at its Boston facility; that shipper anticipates working closely with applicant at the above-noted facilities on such operations as cleaning the equipment and anticipates requiring applicant to station its own dispatcher on a full time basis at its Boston facility; and that while shipper will utilize protestant's service when available, it is asserted that since protestant's two competitors both utilize its service and since protestant has only two pieces of equipment available, it could not render a satisfactory service on the new tonnage.

It further appearing, That protestant Mutrie is, as pertinent, authorized to transport, over regular routes, liquid commodities between the involved origin points and points in Connecticut, Massachusetts, New Hampshire, Rhode Island, Vermont, and a described portion of Maine, and general commodities from Boston to specified points in, as pertinent, Connecticut and Rhode Island; that protestant maintains two trailers at Medford, Mass., which assertedly are not being utilized to full capacity despite the fact that protestant has been providing service for the supporting shipper from South Boston (apparently with these two trailers); that protestant attaches an abstract of shipments handled for the account of the supporting shipper from August 8, 1973 through January 4, 1974, indicating ten shipments weighing 224 tons to points in Vermont, Connecticut, and Maine which produced revenues of approximately \$2,800; and that protestant asserts that applicant is currently serving a prohibitive number of shippers and contends that in any event, it has failed to demonstrate that its proposal is one of contract carriage.

It further appearing, That in considering section 203(a) (15) of the Act we note that it does not appear from the evidence adduced that applicant intends to assign vehicles for a continuing period of time to the exclusive use of the supporting shipper; that conversely we believe that applicant has met the alternative criterion for establishing contract carriage, viz, that the proposed service is designed to meet the supporting shipper's distinct needs; that in this regard we note that the supporting shipper requires an expedited, timed delivery service encompassing deliveries performed, at a maximum, within 1 day, in specialized tank vehicles and also the performance of emergency deliveries during the summer months and various holidays; and that the evidence also demonstrates that shipper needs a "house carrier" type service since it will require applicant to clean its equipment at the various origin points and more importantly, at its Boston facility, it will require Minnehan to station dispatchers on a full time basis in order to facilitate the handling of traffic.

It further appearing, That while applicant requested that the authority sought authorized a transportation service for three named shippers, the only shipper who submitted a verified statement in support of the application was CPC International, Inc., and therefore the authority here granted will be limited to that performed under continuing contract with this firm.

It further appearing, That inasmuch as the grant of authority described in this order duplicates applicant's existing authority to a certain extent, such grant of authority and applicant's existing authority that it duplicates shall be construed as conferring only a single operating right.

It further appearing, That because it is possible that other parties, who have relied upon the notice of the application as published (which failed to indicate because of an oversight by applicant that its intended operations include service at points on the described boundary lines with respect to Connecticut as well as Maine), may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an

appropriate petition for leave to intervene in the proceeding setting forth in detail the precise manner in which it has been prejudiced.

And it further appearing, That the evidence of record establishes that applicant has suitable and available motor vehicle equipment, is experienced in the transportation of the type of commodities involved here, and is financially and otherwise fit, willing, and able properly to conduct the operation authorized; and that such evidence in all other respects amply warrants the grant of authority set forth below, which is phrased to conform to the evidence and current Commission practice.

Wherefore, and good cause appearing therefor:

We find, That operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of (1) corn products and blends of corn products with other sweeteners, in bulk, in tank vehicles, and (2) sugar and blends of sugar with other sweeteners, from Beverly and Boston, Mass., to points in (a) New Hampshire, Vermont, and Rhode Island, (b) that part of Maine bounded by a line beginning at the junction of U.S. Highway 2 and the Maine-New Hampshire State line and extending in an easterly direction along U.S. 2 to Norridgewock, Maine, thence in a northerly direction along Alternate U.S. Highway 201 to junction U.S. Highway 201, thence along U.S. Highway 201 to Bingham, Maine, thence in an easterly direction along Maine Highway 16 through Milo and La Grange, Maine, to junction Main Highway 43, thence along the western shore of the Penobscot River and Penobscot Bay to the Atlantic Ocean, thence in a southwesterly direction along the Atlantic Ocean to the Maine-New Hampshire State line, and thence along the Maine-New Hampshire State line to the point of beginning, including points on the described boundary line, and (c) that part of Connecticut on and east of a line beginning at the junction of Connecticut Highway 159 and the Connecticut-Massachusetts State line and extending in a southerly direction along Connecticut Highway 159 to Hartford, Conn., thence in a southerly direction along Interstate Highway 91 to the junction of Interstate Highway 91 and U.S. Highway 5, thence in a southerly direction along U.S. Highway 5 to New Haven, Conn., including points on the described boundary line, under a continuing contract or contracts with CPC International, Inc., of Englewood Cliffs, N.J., will be consistent with the public interest and the national transportation policy; that such grant and any existing authority duplicated thereby shall be construed as conferring only a single operating right; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; that this decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental

any proper party in interest may file an

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Policy Act of 1969; that an appropriate permit should be granted subject to the publication condition noted below; and that the application in all other respects should be denied.

*It is ordered.* That said application, except to the extent granted herein, be, and it is hereby, denied.

*It is further ordered.* That upon compliance by applicant with the requirements of sections 215, 218, and 221(c) of the Interstate Commerce Act, with the Commission's rules and regulations thereunder, and with the requirements established in *Contracts of Contract Carriers*, 1 M.C.C. 628 (49 CFR 1053), within the time specified in the next succeeding paragraph, a permit be issued to applicant authorizing the operations described, subject to prior publication in the *Federal Register* of a notice of the authority actually granted by this order.

*And it is further ordered.* That unless compliance is made by applicant with the requirements of sections 215, 218, and 221(c) of the Act within 90 days after the date of service of this order, or within such additional time as may be authorized by the Commission, the grant of authority made herein shall be considered as null and void, and the application shall stand denied in its entirety effective upon the expiration of the said compliance time.

By the Commission, Review Board Number 1.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc 75-14033 Filed 5-28-75; 8:45 AM]

[Notice 41]

#### MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

MAY 23, 1975.

The following publications include motor carrier, water carrier, broker, freight forwarder and rail proceedings indexed as follows: (1) Grants of authority requiring republication prior to certification; (2) notices of filing of petitions for modification of existing authorities; (3) new operating right's applications directly related to and processed on a consolidated record with finance applications filed under sections 5(2) and 212(b); (4) notices of filing of sections 5(2) and 210a(b) finance applications; and (5) notices of filing of section 212(b) transfer applications.

Each applicant (except as otherwise specifically noted) states that there will be no significant effect on the quality of the human environment resulting from approval of its application in compliance with the requirements of 49 CFR 1100.250.

Protests to the granting of the requested authority must be filed with the Commission on or before June 30, 1975 (unless otherwise specified). Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest should comply with section 247(d) or section 240(c) as appropriate of the Commis-

sion's General Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and a detailed description of the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest (except for petitions and Finance Dockets under Rule 40 requiring the original and six (6) copies of the protest) shall be filed with the Commission, and a copy shall be served concurrently upon applicant's or petitioner's representative, or applicant or petitioner if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d) (4) or section 240(c) (4) of the special rules, and shall include the certification required therein.

No. MC 32838 (Notice of Filing of Petition To Remove Restrictions), filed May 1, 1975. Petitioner: ST. LOUIS-KANSAS CITY EXPRESS, INC., 26 East Mercury Street, Chesterfield, Mo. 63017. Petitioner's representative: Harold G. Hernly, 118 North St. Asaph Street, Alexandria, Va. 22314. Petitioner holds a motor common carrier certificate in No. MC 32838, issued November 26, 1971, authorizing transportation, as pertinent, over regular and irregular routes, of: (A) over regular routes, (1) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Tipton and California, Mo., as intermediate points in connection with carrier's regular route operations between Union, Mo. and Kansas City, Kans. Restriction: The service authorized above is subject to the following conditions: (a) The authority granted above and the authority now held by carrier in Section (A) herein shall not be tacked or combined for the purpose of performing through service between St. Louis and Kansas City, Mo., and (b) neither carrier's existing irregular route authority to serve Tipton and California, Mo., nor the regular route authority granted above to serve those points shall be severable by sale or otherwise; (2) *Charcoal and charcoal briquettes*, in bags or in bulk, from Meta, Mo., to Kansas City, Kans., serving no intermediate points: From Meta over Missouri Highway 133 to junction U.S. Highway 63, thence over U.S. Highway 63 to junction U.S. Highway 50, thence over U.S. Highway 50 to Kansas City, and return over the same route; (3) *General commodities* (except those of unusual

value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (a) serving ballistic missile and launching sites, and supply points therefor, located in Johnson, Pettis, Henry, Morgan, and Cooper Counties, Mo., as intermediate or off-route points in connection with the regular route operations authorized in Section (A) hereinbelow;

(b) Between Union, Mo., and Kansas City, Kans., serving the intermediate points of Jeffriesburg, Beaufort, Leslie, Gerald, Rosebud, Drake, Mt. Sterling, Loose Creek, Schubert, and Kansas City, Mo., and the off-route points of Bend, Bay, Cooper Hill, Hope, Frankenstein, Ryors, Taos, Freedom, Swiss, Rich Fountain, and Luystown, Mo.: From Union over U.S. Highway 50 to Kansas City, and return over the same route; (c) Between Rosebud, Mo., and Kansas City, Kans., serving the intermediate points of Owensville, Canaan, Bland, Belle, Lanes Prairie, Vichy Federal Air Port, Vienna, Freeburg, Westphalia, and Kansas City, Mo., and the off-route points of Vichy, Lindell, the plant site of the Kingsford Charcoal Co., about 5 miles south of Belle, Argyle, Koeltztown, and Loose Creek, Mo.: From Rosebud over Missouri Highway 28 to junction U.S. Highway 63, thence over U.S. Highway 63 to junction U.S. Highway 50, thence over U.S. Highway 50 to Kansas City, and return over the same route. Restriction: The authority granted in the 2 paragraphs next above and the authority otherwise granted in Section (A) hereinbelow to carrier shall not be tacked or combined for the purpose of performing through service between St. Louis and Kansas City, Mo.; (d) Between Tipton, Mo., and East St. Louis, Ill., serving the intermediate and off-route points of St. Louis, Centertown, Prairie Home, and Marion Township, Mo., points in Monticau County, Mo., and points in St. Clair County, Ill.: From Tipton over U.S. Highway 50 to junction U.S. Highway 66 at or near Gray Summit, Mo., thence over U.S. Highway 66 to East St. Louis, and return over the same route; (e) Between Loose Creek, Mo., and St. Louis, Mo., serving the intermediate point of Freedom, Mo., and the off-route points of Cooper Hill, Hope, Rich Fountain, Bonnots Mill, Frankenstein, and Luystown, Mo.: From Loose Creek over U.S. Highway 50 to St. Louis, and return over the same route; and

(f) Between Jefferson City, Mo., and National City, Ill., serving the intermediate and off-route points of Loose Creek, Linn, Mount Sterling, Drake, Rosebud, Gerald, Leslie, Beaufort, Union, Jeffriesburg, Algoa, Freedom, Westphalia, Freeburg, Vienna, Vichy, Lanes Prairie, Belle, Bland, Canaan, Owensville, St. Louis, Schubert, Useful, Taos, Ryors, Bay, Swiss, Cooper Hill, Lindell, Rich Fountain, Argyle, Koeltztown, and Bend, Mo., Hope, Osage County, Mo., and points in the St. Louis, Mo., Commercial Zone, as defined by the Commission: (1) From Jefferson City over U.S. Highway 50 via

Rosebud, Mo., to junction U.S. Highway 66 at or near Gray Summit, Mo., thence over U.S. Highway 66 to East St. Louis, Ill., and thence over city streets to National City, and return over the same route; and (2) From Jefferson City over U.S. Highway 50 to junction U.S. Highway 63, thence over U.S. Highway 63 to junction Missouri Highway 28, thence over Missouri Highway 28 to Rosebud, Mo., and thence to National City as specified above, and return over the same route; and (4) *General commodities* (except those of unusual value, classes A and B explosives, and household goods as defined by the Commission): Between Belle, Mo., and the plant site of the Kingsford Charcoal Company located approximately 6 miles southwest of Belle, Mo., serving no intermediate points: From Belle over Missouri Highway 28 to junction unnumbered highway, thence over unnumbered highway to the plant site of the Kingsford Charcoal Company, and return over the same route; and over irregular routes, (1) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), Between Centertown, Prairie Home, and points in Marion Township, Mo., and those in Monticau County, Mo., on the one hand, and, on the other, points in Wyandotte County, Kans.;

(2) *Livestock*, Between Loose Creek, Mo., and points within 15 miles of Loose Creek, Mo., on the one hand, and, on the other, National Stockyards, Ill.; (3) *Household goods*, Between points in Marion Township, Mo., and those in Monticau County, Mo., on the one hand, and, on the other, points in Oklahoma and Iowa; and (4) *Feed and fertilizer*, From East St. Louis, Ill., to Loose Creek, Mo., and points within 15 miles of Loose Creek, Mo.

By the instant petition, petitioner seeks to remove the restrictions in the above authority preventing the performance of through service between St. Louis, Mo. and Kansas City, Mo. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition on or before June 30, 1975.

No. MC 108531 (Sub-No. 16) (Notice of Filing of Petition To Add a Destination), filed April 11, 1975. Petitioner: BLUE BIRD COACH LINES, INC., 502-504 N. Barry St., Olean, N.Y. 14760. Petitioner's representative: Ronald W. Malin, Bankers Trust Building, Jamestown, N.Y. 14701. Petitioner holds a motor common carrier certificate in No. MC 108531 (Sub-No. 16), issued December 20, 1974, authorizing transportation, over irregular routes, of *Passengers and their baggage*, in special operations, in round-trip sightseeing and pleasure tours, Beginning and ending at points in Chautauque County, N.Y., and extending to points in Arizona, Arkansas, California, Colorado, Idaho, Kansas, Min-

nesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming. By the instant petition, petitioner seeks to add points in Iowa as a destination in the above authority. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition on or before June 30, 1975.

Nos. MC 128233 and Sub-No. 1 (Notice of Filing of Petition To Add a Contracting Shipper), filed April 30, 1975. Petitioner: OLIE M. ERICKSEN, P.O. Box 107, Transfer, Pa. 16154. Petitioner's Representative: John A. Vuono, 2310 Grant Building, Pittsburgh, Pa. 15219. Petitioner holds motor contract carrier permits in Nos. MC 128233 and Sub-No. 1, issued October 29, 1968 and June 10, 1969, respectively, authorizing transportation, over irregular routes, in MC 128233, of (1) *Scrap metals*, From points in Connecticut, Illinois, Maryland, Massachusetts, New Jersey, New York, Ohio, Rhode Island, and Wisconsin, to points in Pymatuning Township, Mercer County, Pa.; and (2) *Processed scrap metals*, From points in Pymatuning Township, Mercer County, Pa., to Baltimore, Md., Philadelphia, Pa., and points in Illinois, Massachusetts, New Jersey, New York, Ohio, and Wisconsin, under a continuing contract, or contracts with Mercer Alloys Corporation, of Greenville, Pa.; and in MC 128233 (Sub-No. 1), of (1) *Scrap metals and processed scrap metals*, Between points in Pymatuning Township, Pa., on the one hand, and, on the other, points in Alabama, California, Colorado, Connecticut, Delaware, Indiana, Louisiana, Maryland, Michigan, North Carolina, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, and West Virginia; and (2) *Alloys*, Between points in Pymatuning Township, Pa., on the one hand, and, on the other, Chicago, Ill., and points in Alabama, California, Connecticut, Delaware, Louisiana, Maryland (except alloys from Baltimore, Md.), Massachusetts, New Jersey, New York, North Carolina, Ohio (except alloys, in bulk, in dump vehicles, to and from points in Ashtabula, Cuyahoga, Lake, Summit, Muskingum, Licking, Franklin, and Wayne Counties, Ohio, and except alloys to and from points in Waterford Township, Washington County, Ohio), Oklahoma, Pennsylvania (except alloys, in dump vehicles, from Philadelphia, Pa.), Rhode Island, South Carolina, Tennessee, Texas and West Virginia under a continuing contract, or contracts, with Mercer Alloys Corp. of Greenville, Pa. By the instant petition, petitioner seeks to add National Nickel Alloy Corp. as an additional contracting shipper in the above authorities. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition on or before June 30, 1975.

No. MC 136658 (Sub-No. 2) (Notice of Filing of Petition To Add a Contracting Shipper), filed February 14, 1975. Petitioner: ARALDO C. RICHIE, doing business as A. R. TRUCKING, 12 Spurr Place, Nutley, N.J. 07110. Petitioner's Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Petitioner holds a motor contract carrier permit in No. MC 136658 (Sub-No. 2), issued March 30, 1973, authorizing transportation, over irregular routes, of (1) *Such commodities* as are dealt in by a manufacturer of gas and electrical appliances and gas and electrical fixtures, from Kearney and Clifton, N.J., to points in Massachusetts, Rhode Island, Connecticut, New Jersey, Delaware, the District of Columbia, that part of New York on, south and east of a line beginning at the Massachusetts-New York State line and extending along New York Highway 2 to junction New York Highway 7, thence along New York Highway 7 to junction Interstate Highway 81, thence along Interstate Highway 81 to the New York-Pennsylvania State line, those points in Pennsylvania and Maryland on and east of Interstate Highway 81, points in that part of Virginia on, east, and north of a line beginning at the Virginia-West Virginia State line and extending along Interstate Highway 81 to junction U.S. Highway 17, thence along U.S. Highway 17 to junction U.S. Highway 301, thence along U.S. Highway 301 to the Potomac River; and (2) *Used commodities* of the same description in (1) above, From destination points in the above-described territory, to Kearny and Clifton, N.J., under a continuing contract, or contracts, with the Tappan Company. By the instant petition, petitioner seeks to add Westinghouse Electric Corporation as a contracting shipper in the above authority. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition on or before June 30, 1975.

#### APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's Special Rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1,240).

No. MC 43963 (Sub-No. 9), filed May 5, 1975. Applicant: CHIEF TRUCK LINES, INC., 1479 Ripley Street, East Gary, Ind. 46405. Applicant's representative: James C. Hardman, 33 North La Salle Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heavy machinery and articles* requiring specialized handling or rigging because of size or weight; between Chicago, Ill. and points in Illinois and Indiana within 50 miles of Chicago, on the



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one hand, and, on the other, Minneapolis, St. Paul, South St. Paul, and Stillwater, Minn.; (2) material handling equipment, winches, compaction and road making equipment, rollers, mobile cranes, and highway freight trailers; and parts, attachments and accessories for the commodities named; between the plantsites of Hyster Company at or near Danville, Peoria, Ind. and Kewanee, Ill., and Crawfordville, Ind. on the one hand, and, on the other, Minneapolis, St. Paul, South St. Paul, and Stillwater, Minn., restricted to the transportation of shipments originating at or destined to the above-named plantsites; (3) iron and steel angles, bars, channels, conduits, fencing, flooring, joists, lath mesh, piling, pipe, parts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils, from Chicago and Joliet, Ill. and Burns Harbor, Ind., to Minneapolis, St. Paul, South St. Paul, and Stillwater, Minn.

(4) Iron and steel angles, bars, channels, conduits, fencing, flooring, joists, lath mesh, piling, pipe, parts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils, which because of size and weight require specialized handling or rigging, between points in Will, Kankakee, Iquoquois, Ford, Vermillion, Champaign, Douglas, Edgar, Coles, Clark, Cumberland, Effingham, Jasper, Crawford, Clay, Richland, Lawrence, Wayne, Edwards, Wabash, Hamilton, White, Franklin, Williamson, Saline, Gallatin, Johnson, Pope, Hardin, Pulaski, Kendall, Grundy, Livingston, McLean, DeWitt, Platt, Macon, Moultrie, Shelby, Christian, Fayette, Bond, Marion, Clinton, Washington, Jefferson, Randolph, Perry, Jackson, Union, Alexander, and Massac Counties, Ill.; those in Kane, DuPage and Cook Counties, Ill. on and south of Illinois Highway 64; and those in Indiana on and north of U.S. Highway 40, on the one hand, and, on the other, Minneapolis, St. Paul, South St. Paul, and Stillwater, Minn.; and (5) iron and steel angles, bars, channels, conduits, fencing, flooring, joists, lath mesh, piling, pipe, parts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils, (except articles requiring specialized handling or rigging because of size or weight), from points in Illinois and Indiana within 40 miles of Grant Park, Chicago, Ill., to Minneapolis, St. Paul, South St. Paul, and Stillwater, Minn.

NOTE—The purpose of this filing is to eliminate the gateway of Erin Township, Wisconsin. This application is a gateway elimination request filed pursuant to the Commission's Policy Statement in Ex Parte No. 55, Sub. No. 8 notice in the FEDERAL REGISTER issue of December 9, 1974; and is directly related to a Section 5 proceeding in MC-F-12515 published in the FEDERAL REGISTER of May 14, 1975.

No. MC-F-12520. Authority sought for purchase by CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 90425, of a portion of the operating rights of De CASPER BROTHERS FREIGHT LINES, INC., P.O. Box

230, Bradford, PA 16701, and for acquisition by CONSOLIDATED FREIGHTWAYS, INC., International Bldg., 601 California St., San Francisco, CA 94108, of control of such rights through the purchase. Applicants' attorneys: Robert C. Stetson, 175 Linfield Drive, Menlo Park, CA 90425, and Eugene T. Lippfert, Suite 1100, 1660 L St., NW., Washington, DC 20036. Operating rights sought to be transferred: General commodities, excepting among others, classes A and B explosives, commodities in bulk and household goods, as a common carrier over regular routes, between Jamestown, N.Y., and Bradford, Farmers Valley and Kane, Pa. Vendee is authorized to operate as a common carrier in all of the States in the United States (except Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC-F-12521. Authority sought for purchase by RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, FL 32203, of a portion of the operating rights of TRANSAMERICAN FREIGHT LINES, INC., 5650 Foremost Drive, SE., Grand Rapids, MI 49506, and for acquisition by IU TRANSPORTATION SERVICES, INC., The Wilmington Tower, 1105 N. Market St., Wilmington, DE 19801, which in turn, is controlled by IU INTERNATIONAL CORPORATION, also of Wilmington, DE 19801, of control of such rights through the purchase. Applicants' attorneys: Roland Rice, 618 Perpetual Bldg., Washington, DC 20004, H. Beatty Chadwick, 1500 Walnut St., Philadelphia, PA 19102, and Charles F. Rodgers, 744 Broad St., Newark, NJ 07102. Operating rights sought to be transferred: General commodities, with certain specified exceptions, and numerous other specified commodities, as a common carrier, over regular and irregular routes, from, to, and between specified points in the States of Missouri, Texas, Oklahoma, Arkansas, Kansas, Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, West Virginia, Vermont, Indiana, Illinois, Kentucky, Michigan, Ohio, North Carolina, South Carolina, Georgia, Iowa, and the District of Columbia, with certain restrictions, serving various intermediate and off-route points, over two alternate routes for operating convenience only, as more specifically described in Docket No. MC-10761 and Sub-numbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating, in full, the entirety thereof. Vendee is authorized to operate as a common carrier in all of the States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC-F-12522. Authority sought for control by RALPH C. WILSON AGENCY,

INC., One Woodward Ave., Detroit, MI 48226, of AUTOMOBILE CARRIERS, INC., 3401 N. Dort Highway, P.O. Box 128, Flint, MI 48501, and for acquisition by RALPH C. WILSON, JR., also of Detroit, MI 48226, of control of AUTOMOBILE CARRIERS, INC., through the acquisition by RALPH C. WILSON AGENCY, INC. Applicants' attorneys: Walter N. Bleneman, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013, and Jack Goodman, 39 S. La Salle St., Chicago, IL 60606. Operating rights sought to be controlled: New automobiles, new trucks, new bodies, new cabs, new chassis, and parts thereof, restricted to initial movements, in truckaway service (except that the stated restrictions do not apply to the transportation of the said bodies, cabs, and parts), as a common carrier over irregular routes, from Flint, Mich., to Lincoln, Nebr., and points in Alabama, Illinois, Georgia, Indiana, Iowa, Michigan, Missouri, Tennessee, Ohio, Wisconsin, and Kentucky, except that parts thereof of the above-specified commodities may not be transported to points in Alabama, Georgia and Tennessee, and to points in Kentucky other than those on the Ohio River; automobiles, trucks, bodies, cabs, chassis, and parts thereof, new, used, unfinished, and/or wrecked, and automobile show displays, restricted to secondary movements, in truckaway service (except that the stated restrictions do not apply to the transportation of the said bodies, cabs, and parts), between Flint, Mich., on the one hand, and, on the other, Lincoln, Nebr., and points in Alabama, Illinois, Georgia, Indiana, Iowa, Michigan, Missouri, Tennessee, Ohio, Wisconsin, and Kentucky, except that automobile show displays, and parts thereof of automobiles, trucks, bodies, cabs, and chassis may not be transported to or from points in Alabama, Georgia, and Tennessee, and to and from points in Kentucky other than those on the Ohio River; automobiles, trucks, and buses, as described in descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, in initial movements, in truckaway service, from Janesville, Wis., to points in the Lower Peninsula of Michigan. RALPH C. WILSON AGENCY, INC., holds no authority from this Commission. However he is affiliated with MOTORCAR TRANSPORT COMPANY, 1280 Joslyn Ave., Pontiac, MI 48055 (MC-60470), which is authorized to operate as a common carrier in Illinois, Michigan, Nebraska, Alabama, Georgia, Indiana, Iowa, Missouri, Tennessee, Ohio, Wisconsin, Kentucky, Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, Pennsylvania, West Virginia and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-12523. Authority sought for purchase by DeFAZIO EXPRESS, INC., 1028 Springbrook Ave., Moosic, PA 18057, of the operating rights of L & L EQUIPMENT, INC., doing business as DELTA TRUCK LINES, Box 216, Newfoundland, PA 18445, and for acquisition by BENNY

DeFAZIO, JR., R. D. #3, Box 222F, Moscow, PA 18444, W. R. MARQUARD, 247 E. Morton St., Old Forge, PA 18518, and THOMAS R. MELVIN, 1721 Penn Ave., Scranton, PA 18509, of control of such rights through the purchase. Applicants' attorney: Kenneth R. Davis, 121 S. Main St., Taylor, PA 18517. Operating rights sought to be transferred: Coal, as a common carrier over regular routes, from Wilkes-Barre, Pa., to New York, N.Y., serving the intermediate point of Avoca, Pa., restricted to pick-up only; groceries and farm products, from New York, N.Y., to Wilkes-Barre, Pa., serving various intermediate and off-route points. Vendee is authorized to operate as a common carrier in Connecticut, Massachusetts, New Jersey, New York and Pennsylvania; and as a contract carrier in Connecticut, New Jersey, New York and Pennsylvania. Application has been filed for temporary authority under section 210a(b).

No. MC-F-12524. Authority sought for purchase by SILVEY REFRIGERATED CARRIERS, INC., Gifford Road, Council Bluffs, IA 51501, of a portion of the operating rights of ROAD RUNNER TRUCKING, INC., P.O. Box 37491, Omaha, NE 68137, and for acquisition by LEWIS R. CIMINO, Gifford Rd., Council Bluffs, IA 51501, of control of such rights through the purchase. Applicants' attorney: Donald L. Stern, 530 Univac Bldg., 7100 W. Center Rd., Omaha, NE 68106. Operating rights sought to be transferred: Meats, meat products, and meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix 1 to the report in Descriptions in Motor Carrier Certificates 61 M.C.C. 206 and 766 (except hides and commodities in bulk), as a common carrier over irregular routes, from the plant sites and storage facilities of Iowa Beef Processors, Inc., at Dakota City, Nebr. Vendee is authorized to operate as a common carrier in Iowa, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania and Nebraska, and as a contract carrier in Alabama, Connecticut, Kentucky, Maryland, Massachusetts, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia and Ohio. Application has been filed for temporary authority under section 210a(b).

No. MC-F-12525. Authority sought for purchase by CROUSE CARTAGE COMPANY, P.O. Box 151, Carroll, IA 51401, of a portion of the operating rights and property of GROTHAUS EXPRESS, 201 E. Fourth St., Kingsley, IA 51028, and for acquisition by PAUL E. CROUSE, also of Carroll, IA 51401, of control of such rights and property through the purchase. Applicants' attorneys: William S. Rosen, 630 Osborn Bldg., St. Paul, MN 55102, and Homer Bradshaw, 1100 Des Moines Bldg., Des Moines, IA 50309. Operating rights sought to be transferred: General commodities, as a common carrier over regular routes, between Sioux City, and Schaller, Iowa, serving various intermediate and off-route points; general commodities (except classes A and

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B explosives, commodities in bulk, in tank vehicles, and beverages), between Omaha, Nebr., and Merville, Iowa, serving (a) the intermediate points of Whitling, Sloan, Hornick, and Climbing Hill, Iowa, (b) the off-route points of Salix and Bronson, Iowa, and (c) the following off-route points, restricted to the transportation of traffic originating at or destined to such points: Oto, Anthon, Correctionville, Pierson, Kingsley, Washta, Cushing, Holstein, Quimby, Galva, and Schaller, Iowa, with restrictions; general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment and beverages), serving the facilities of Western Electric Company, Inc., at or near Underwood, Iowa, as an off-route point in connection with carrier's otherwise authorized regular route operations from and to Omaha, Nebr.; general commodities, with exceptions, from Omaha, Nebr., to Denison, Iowa, serving intermediate and off-route points within 25 miles of Denison; livestock, from Denison, Iowa to Omaha, Nebr., serving intermediate and off-route points within 25 miles of Denison; general commodities, except those of unusual value, classes A and B explosives, livestock, petroleum products in tank trucks, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, over irregular routes, between points within 20 miles of Sioux City, Iowa, including Sioux City. Vendee is authorized to operate as a common carrier in Iowa, Nebraska, Missouri, Kansas, Indiana, Kentucky, Illinois, Michigan, Ohio, Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Minnesota, North Dakota, South Dakota, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-12526. Authority sought for purchase by OHIO EASTERN EXPRESS, INC., P.O. Box 2297, Sandusky, OH 44870, of the operating rights of TROGANI, 155 Club House Drive, Willingboro, NJ 08046, and for acquisition by THOMAS FEICK, 2297 W. Perkins Ave., Sandusky, OH 44870, and KENNETH TONE, 333 E. Washington St., Sandusky, OH 44870, of control of such rights through the purchase. Applicants' attorney: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. Operating rights sought to be transferred: Bananas, as a common carrier over irregular routes, from New York, N.Y., to Rosenhay, N.J., and Philadelphia and Harrisburg, Pa., from Weehawken, N.J., to Rosenhay and Newark, N.J., and Philadelphia and Harrisburg, Pa., from Baltimore, Md., to New York, N.Y., and Philadelphia and Harrisburg, Pa., from Newark and Port Newark, N.J., to Philadelphia and Harrisburg, Pa., from Philadelphia, Pa., to Newark, N.J., New York, N.Y., and Baltimore, Md. Vendee is authorized to operate as a common carrier

in Delaware, Illinois, Indiana, Ohio, Kentucky, Maryland, Michigan, New York, New Jersey, Pennsylvania, West Virginia, Wisconsin and Missouri. Application has been filed for temporary authority under section 210a(b).

No. MC-F-12529. Authority sought for purchase by OZARK MOTOR LINES, INC., 27 West Illinois Street, Memphis, TN, 38106, of the operating rights and property of HAY TRUCKING CO., 954 Barton, Memphis, TN, 38106 and for acquisition by M. M. Higginbotham, 27 West Illinois Street, Memphis, TN, 38106, for control of such rights and property through the purchase. Applicants' attorney: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN, 38137. Operating rights sought to be transferred: General commodities, with exceptions as a common carrier over regular routes between Memphis, Tenn., and Cotton Plant, Ark., between Cotton Plant, Ark., and Des Arc, Ark., between Cotton Plant, Ark., and Augusta, Ark., between Brinkley, Ark., and Lenoire, Ark., rubber tires and tubes, between Brinkley, Ark., and Hazen, Ark. Vendee is authorized to operate as a common carrier in Arkansas, Mississippi, Missouri and Tennessee. Application has been filed for temporary authority under section 210a(b).

No. MC-F-12530. Authority sought for purchase by BUSH MOTOR FREIGHT, INC., 327 West Avenue, Lenoir, N.C., 28645, of a portion of the operating rights of INTEROCEAN SERVICE CORP., 1419 Bloomfield Street, Hoboken, N.J. 07030, and for acquisition by D. J. THURSTON, JR., 600 Johnston Rd., Charlotte, N.C. 28234, P.O. Box 10638, Charlotte, N.C. 28234, of control of such rights through the purchase. Applicants' attorney: Roland Rice, 618 Perpetual Bldg., 1111 E Street NW., Washington, D.C. 20004. Operating rights sought to be transferred: General commodities with exceptions as a common carrier over irregular routes, between Allamuchy, Dover and Trenton, N.J., New York and Suffern, N.Y., and points in that part of New Jersey bounded by a line beginning at Raritan Bay and extending along the north bank of the Raritan River to Highland Park, N.J., thence along New Jersey Highway 27 to New Brunswick, N.J., thence along New Jersey Highway 514 (formerly unnumbered highways) through Clyde, Middlebush, East Millstone, and Hamilton to Woods Tavern, N.J., thence north along U.S. Highway 206 to junction U.S. Highway 202, thence north and northeast along U.S. Highway 202 to junction U.S. Highway 46 (west of Parisippa, N.J.), thence along U.S. Highway 46 to Paterson, N.J., thence along New Jersey Highway 4 to the George Washington Bridge, thence south along the New Jersey State line to Raritan Bay, including points on the highways named, on the one hand, and, on the other, points in Massachusetts, Rhode Island and Connecticut. Paper products as a contract carrier over irregular routes from Centerville, Holmdel Township, Monmouth County, N.J.,



to points in Massachusetts, Rhode Island and Connecticut, *Rags, skids, paper and paper products, machinery, materials, and supplies* used in the manufacture of paper and paper products, between Whippany, N.J., and New York, N.Y., and points in that portion of New Jersey bounded by a line beginning at the George Washington Bridge and extending along New Jersey Highway 4 to the Saddle River, thence along the east bank of the Saddle River to the Passaic River, thence along the east bank of the Passaic River to Harrison, N.J., thence along New Jersey Highway 10 to junction New Jersey Highway 21, thence along New Jersey Highway 21 to junction U.S. Highway 1, thence along U.S. Highway 1 to junction New Jersey Highway 28, thence along New Jersey Highway 28 to the Goethals Bridge, thence north along the New Jersey State line to the George Washington Bridge, on the one hand, and, on the other, points in Massachusetts, Rhode Island and Connecticut, with restrictions. Vendee is authorized to operate as a common carrier in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York and North Carolina. Application has been filed for temporary authority under section 210a(b).

No. MC-F-12531. Authority sought for purchase by CROUCH FREIGHT SYSTEMS INC., P.O. Box 1059, St. Joseph, MO 64502, of a portion of the operating rights of INTEROCEAN SERVICE CORP., 1271 Ave., of the Americas, New York, NY 10020, and for acquisition by U T S FREIGHT SYSTEMS, O.N.C. FREIGHT SYSTEMS, both of 2800 W. Bayshore Rd., Palo Alto, CA 94303, and ROCOR INTERNATIONAL, a non-carrier holding company, and in turn by DAVID P. ROUSH AND DIANE G. ROUSH, as custodian, for their minor children, of 260 Sheridan Ave., Palo Alto, CA 94306, of control of such rights through the purchase. Applicants' attorney: Roland Rice, 1111 E St., NW, Suite 618, Washington, DC 20004. Operating rights sought to be transferred: *General commodities*, with exceptions, as a common carrier over irregular routes, between Allamuchy, Dover and Trenton, N.J., New York and Suffern, N.Y., and points in that part of New Jersey bounded by a line beginning at Raritan Bay and extending along the north bank of the Raritan River to certain specified points in New Jersey, on the one hand, and, on the other, points in Massachusetts, Rhode Island and Connecticut; and *paper products, machinery, materials, irregular routes*, from Centerville, Holmdel Township, Monmouth County, N.J., to points in Massachusetts, Rhode Island, and Connecticut; *rags, skids, paper and paper products, machinery, materials, and supplies* used in the manufacture of paper products, between Whippany, N.J., and New York, N.Y., and points in that portion of New Jersey bounded by a line beginning at the George Washington Bridge and extending along New Jersey Highway 4 to certain specified points in New Jersey, on the one hand, and, on the

other points in Massachusetts, Rhode Island and Connecticut, with restrictions. Vendee is authorized to operate as a common carrier in Missouri, Kansas, Iowa, Illinois, Nebraska, Oklahoma, Arkansas, Louisiana, Texas, Indiana, Minnesota, Wisconsin, Arkansas, Connecticut, Massachusetts, New Jersey, New York, North Dakota, and South Dakota. Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc 75-14031 Filed 5-28-75; 8:45 am]

[Notice 296]

#### MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

MAY 29, 1975.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before June 18, 1975. Pursuant to section 17(b) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-75560. By order of May 22, 1975 the Motor Carrier Board approved the transfer to MacEvoy, Inc., Philadelphia, Pa., of the operating rights in Certificate No. MC 14126 issued January 3, 1975 to Gray Construction Co., a corporation, Morristown, N.J., authorizing the transportation of heavy machinery between points in New Jersey, on the one hand, and, on the other, points in New Jersey, New York and Pennsylvania. Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa., 19102 Attorney for transferee. Alvin Altman, 1776 Broadway, New York, N.Y., 10019 Attorney for transferor.

No. MC-FC-75730. By order of May 22, 1975, the Motor Carrier Board on reconsideration approved the transfer to R & J Leasing Co., Inc., North Arlington, N.J., of that portion of the operating rights in Certificate No. MC-2455 issued September 13, 1957, to Bayard Trucking Co., Inc., Elizabeth, N.J., authorizing the transportation of general commodities, with usual exceptions, between points in Newark, N.J., and between Newark, N.J., on the one hand, and, on the other, Irvington, South Orange, Orange, West Orange, Montclair, Glen Ridge, Bloom-

field, Elizabeth, Belleville, and Jersey City, N.J. Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, N.J. 08904, Registered Practitioner for applicants.

No. MC-FC-75821. By order of May 22, 1975 the Motor Carrier Board approved the transfer to J. K. Vreeland Moving & Storage, a corporation, Plainfield, N.J., of Certificate No. MC-76992 issued by the Commission January 8, 1971, to Charles Fear Co., Inc., Montclair, N.J., authorizing the transportation of household goods between points in Essex, Passaic, and Union Counties, N.J., on the one hand, and, on the other, points in New Jersey, New York, Pennsylvania, and Connecticut. Robert J. Gallagher, Esq., Brodsky, Linett and Altman, 1776 Broadway, New York, N.Y. 10019.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc 75-14028 Filed 5-28-75; 8:45 am]

[Notice 297]

#### MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 29, 1975.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-75876. By application filed May 16, 1975, ROGERS MOTOR LINES, INC., Route 46, P.O. Box 175, Great Meadows, NJ 07838, seeks temporary authority to lease a portion of the operating rights of DONALD SUNSHINE Trustee in bankruptcy of GENE ADAMS REFRIGERATED TRUCKING SERVICE, INC., 1230 Sixth Ave., New York, NY 10020, under section 210a(b). The transfer to ROGERS MOTOR LINES, INC., of the operating rights of DONALD SUNSHINE Trustee in bankruptcy of GENE ADAMS REFRIGERATED TRUCKING SERVICE, INC., is presently pending.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc 75-14027 Filed 5-28-75; 8:45 am]

[Notice No. 42]

#### MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

MAY 23, 1975.

The following applications are governed by Special Rule 1100.247<sup>1</sup> of the Commission's general rules of practice (49 CFR, as amended), published in the Federal Register issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must

<sup>1</sup> Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

be filed with the Commission on or before June 30, 1975. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d) (3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d) (4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and on or before July 29, 1975, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the Federal Register of a notice that the proceeding has been assigned for oral hearing.*

Evidence respecting how equipment is expected to be returned to an origin point, as well as other data relating to operational feasibility (including the need for dead-head operations), must be presented as part of an applicant's initial evidentiary presentation (either at oral hearing or in its opening verified statement under the modified procedure) with respect to all applications filed on or after December 1, 1973.

If an applicant states in its initial evidentiary presentation that empty or partially empty vehicle movements will result upon a grant of its application,

applicant will be expected (1) to specify the extent of such empty operations, by mileages and the number of vehicles, that would be incurred, and (2) to designate where such empty vehicle operations will be conducted.

Each applicant (except as otherwise specifically noted) states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 340 (Sub-No. 34), filed April 16, 1975. Applicant: QUERNER TRUCK LINES, INC., 1131-33 Austin Street, San Antonio, Tex. 78208. Applicant's representative: M. Ward Bailey, 2412 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Paints, stains and varnishes and compounds* used for reducing, removing, thickening, or thinning such commodities (except commodities in bulk), from Fort Wayne, Ind., East Moline and Rockford, Ill., to points in Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Dallas, Tex. or Chicago, Ill.

No. MC 1872 (Sub-No. 83), filed April 14, 1975. Applicant: ASHWORTH TRANSFER, INC., 1526 South 700 West Street, Salt Lake City, Utah 84104. Applicant's representative: C. Michael Trapp (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Aluminum articles and aluminum products*, including, but not limited to, tubing and couplers, between points in Twin Falls County, Idaho, on the one hand, and, on the other, points in Arizona, California, Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah or Twin Falls, Idaho.

No. MC 2202 (Sub-No. 484), filed April 28, 1975. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, Ohio 44309. Applicant's representative: William O. Turney, 2001 Massachusetts Ave. NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Sugar Valley, Ga., as an off-route point in connection with applicant's present regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga. or Washington, D.C.

No. MC 4963 (Sub-No. 48), filed April 25, 1975. Applicant: ALLEGHANY CORPORATION, doing business as JONES MOTOR, Bridge Street and Schuylkill Road, Spring City, Pa. 19475.

Applicant's representative: Roland Rice, Suite 618 Perpetual Bldg., 1111 E St., NW., Washington, D.C. 20004. Authority sought to operate as a common carrier by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment): Serving Zayre Corporation store, at Ballwin, Mo., as an off-route point in connection with applicant's regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 5267 (Sub-No. 19), filed April 28, 1975. Applicant: ATWOOD TRUCK LINE, INC., 5001 E. 52nd Avenue, Commerce City, Colo. 80022. Applicant's representative: Leslie R. Kehl, Suite 1600, Lincoln Center Bldg., 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Cement*, (1) from Laramie, Wyo., to points in Nebraska; and (2) from Boettcher, Colo., to points in Wyoming, and points in Sioux, Scotts Bluff, Banner, Kimball, Dawes, Box Butte, Morrill, Cheyenne, Deuel, Garden, and Sheridan Counties, Nebr.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 11722 (Sub-No. 42), filed April 15, 1975. Applicant: BRADER HAULING SERVICE, INC., P.O. Box 655, Zillah, Wash. 98953. Applicant's representative: Douglas A. Wilson, 303 East D Street, Suite 2, Yakima Legal Center, Yakima, Wash. 98901. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Empty containers and parts thereof* weighing less than 100 lbs. per unit, between points in Oregon, Idaho and Washington.

NOTE.—Applicant hold contract carrier authority in MC 124558 Sub 2 and 6, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Portland, Oreg. or Seattle, Wash.

No. MC 14252 (Sub-No. 26), filed April 10, 1975. Applicant: COMMERCIAL MOTOR FREIGHT, INC., 3400 Refugee Road, Columbus, Ohio 43227. Applicant's representative: William C. Buckingham (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities* (except articles of unusual value, dangerous explosives, livestock, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, articles requiring special equipment), serving points in Ohio as off-route points in connection with carrier's authorized regular and irregular route operations under MC 14252 and subs thereunder.

NOTE.—If a hearing is deemed necessary, the applicant does not specify a location.



No. MC 20783 (Sub-No. 108), filed April 25, 1975. Applicant: TOMPKINS MOTOR LINES, INC., P.O. Box 1830, Gadsden, Ala. 35902. Applicant's representative: John P. Carlton, 903 Frank Nelson Bldg., Birmingham, Ala. 35203. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from points in Mobile County, Ala., to points in Tennessee, Kentucky, Ohio, Michigan, Indiana, Wisconsin, Illinois, Minnesota, Iowa, Missouri, Kansas, Nebraska, South Dakota, and North Dakota.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Mobile, Ala.

No. MC 29910 (Sub-No. 160), filed April 28, 1975. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, Ark. 72901. Applicant's representative: Don A. Smith, P.O. Box 43, Kelley Bldg., Fort Smith, Ark. 72901. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Copper wire and cable*, from Holsington, Kans., to points in Alabama, Arkansas, Georgia, Illinois, Indiana, Kentucky, Louisiana, Michigan, Missouri, Mississippi, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held in Kansas City, Mo., or Indianapolis, Ind.

No. MC 41951 (Sub-No. 28), filed March 27, 1975. Applicant: WHEATLEY TRUCKING, INC., Box 458, Cambridge, Md. 21613. Applicant's representative: Francis P. Desmond, 115 East 5th Street, Chester, Pa. 19013. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities* (except Classes A and B explosives, household goods, and bulk commodities), in containers, in shipments having a prior movement by water, from ports in Baltimore, Md., to Archbold and Jackson, Ohio, and Cambridge, Md.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Wilmington, Del.

No. MC 42011 (Sub-No. 16), filed April 30, 1975. Applicant: D. Q. WISE & CO., INC., 13309 E. Apache Street, P.O. Box 15125, Tulsa, Okla. 74115. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Metal tubing and pipe*, plain or fabricated, other than oilfield, and (2) *materials and supplies* used in, or in connection with, the manufacture, fabrication or distribution of the commodities in (1) above, between Mannford and Sand Springs, Okla., on the one hand, and, on the other, points in Arkansas, Colorado, Illinois, Indiana, Kansas, Louisiana, Michigan, Missouri, Texas (except Lone Star, Tex.), and Wisconsin, restricted to shipments originat-

ing at or destined to the facilities of Southwest Tube Manufacturing Company at Mannford and Sand Springs, Okla.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Tulsa or Oklahoma City, Okla.

No. MC 43421 (Sub-No. 54), filed April 25, 1975. Applicant: DOHRN TRANSFER COMPANY, a Corporation, 4016 Ninth Street, Rock Island, Ill. 61201. Applicant's representative: David Axelrod, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving all points in Massachusetts as intermediate and off-route points in connection with carriers authorized regular route operations between Cleveland, Ohio and Boston, Mass.

NOTE.—Applicant seeks to eliminate the gateway of Boston, Mass. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 51146 (Sub-No. 427), filed April 28, 1975. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54304. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Containers, container ends, and equipment, materials, supplies and accessories* used in the manufacture and distribution of containers and container ends when moving with containers and container ends, from Bishopville, S.C., to points in the United States (except Alaska, Hawaii, and South Carolina).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 59367 (Sub-No. 98), filed April 28, 1975. Applicant: DECKER TRUCK LINE, INC., P.O. Box 915, Fort Dodge, Iowa 50501. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Peoria, Ill., to Fort Dodge, Iowa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 82063 (Sub-No. 59), filed March 18, 1975. Applicant: KLIPSCH HAULING CO., 119 East Loughborough, St. Louis, Mo. 63110. Applicant's representative: E. Stephen Heitsley, Suite 805, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Memphis, Tenn., to points in the United States on and east of U.S. Highway 85,

and points in Texas, New Mexico, Colorado, Wyoming, South Dakota, and North Dakota.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Memphis, Tenn.

No. MC 88161 (Sub-No. 89), filed April 18, 1975. Applicant: INLAND TRANSPORTATION CO., INC., 6737 Corson Avenue South, Seattle, Wash. 98108. Applicant's representative: Stephen A. Cole (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, between points in Whitman County, Wash., on the one hand, and, on the other, points in Washington.

NOTE.—Applicant holds contract carrier authority in MC 128203 (Sub-No. 1), therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Portland, Oreg. or Olympia, Wash.

No. MC 106497 (Sub-No. 115), filed April 28, 1975. Applicant: PARKHILL TRUCK COMPANY, a Corporation, P.O. Box 912 (Bus. Rte. I-44 East), Joplin, Mo. 64801. Applicant's representative: A. N. Jacobs, P.O. Box 113, Joplin, Mo. 64801. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Air coolers, heaters, humidifiers, blowers and fans*; (2) *parts and accessories* of items in (1) above, from points in Arkansas County, Ark., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex. or New Orleans, La.

No. MC 106644 (Sub-No. 202) (Correction), filed February 5, 1975, published in the FEDERAL REGISTER issue of March 6, 1975, and republished as corrected this issue. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road NW., P.O. Box 916, Atlanta, Ga. 30301. Applicant's representative: W. Randall Tye, 1500 Candler Bldg., Atlanta, Ga. 30301. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (a) (1) *Lead* viz: Pigs, buttons, slabs, sheet, ingots, bars, billets, blooms, rods, rings, shapes, solder, flashing, wool, brick, wool blankets, pipe; (2) *materials and supplies* used in the processing and manufacturing of commodities in (1); and (3) *scrap copper, aluminum, brass, batteries, zinc*, for recycling and reuse; and (b) (1) commodities named in (1) and (2) between points in Louisiana, Arkansas, Missouri, Iowa, Minnesota, and points in states east thereof, and Atlanta, Ga., in a non-radial movement, (2) between points in Louisiana, Arkansas, Missouri, Iowa, Minnesota, and points east thereof on commodities in (3) above.

NOTE.—The purpose of this republication is to clarify the territorial description part (2) of this proceeding. If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga., or Washington, D.C.

No. MC 106644 (Sub-No. 208), filed April 28, 1975. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. BOX 916, Atlanta, Ga. 30318. Applicant's representative: Hubert Johnson (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *self-propelled draglines, shovels and drills, and accessories, attachments, and parts*, for self-propelled draglines, shovels and drills; and (2) *material, equipment and supplies*, used or useful in the manufacture, sale or distribution of the commodities in (1) above, between points in the United States (including Alaska, but excluding Hawaii), restricted to shipments originating at or destined to the plants, warehouses, storage and other facilities owned, operated or used by Marion Power Shovel Co., Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Atlanta, Ga.

No. MC 107403 (Sub-No. 941), filed April 25, 1975. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Coloring syrup*, in bulk, in tank vehicles, from Louisville, Ky., to Cedar Rapids, Iowa; and (2) *alloys, ores, cast iron borings, and alloyed cast iron*, in dump vehicles, from Dearborn, Mich., to points in Illinois, Indiana, Ohio, and Pennsylvania (except alloys, to points in Pennsylvania and Ohio within 150 miles of Monongahela, Pa.).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107515 (Sub-No. 982), filed April 30, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road NE, Suite 375, Atlanta, Ga. 30328. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products* (except in bulk), in vehicles equipped with mechanical refrigeration, from Roswell, N. Mex., to points in Illinois, Indiana, Michigan, Ohio, Kentucky, West Virginia, Virginia, Delaware, the District of Columbia, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Pennsylvania, Vermont, New Hampshire, Maine, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Maryland.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 107743 (Sub-No. 34), filed April 25, 1975. Applicant: SYSTEM TRANSPORT, INC., P.O. Box 3456 TA, Spokane, Wash. 99220. Applicant's representative: Edward G. Rawle, (same ad-

dress as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Pre-cut log buildings*, knocked down, and *materials and supplies* used in the construction and erection thereof, from the facilities of Real Log Homes, Inc., located at or near Missoula, Mont., to points in Ohio, lower peninsula of Michigan, Indiana, Illinois, Wisconsin, Missouri, Iowa, Minnesota, Nebraska, South Dakota, North Dakota, Colorado, Wyoming, Utah, Idaho, Washington, Oregon, Nevada, and California.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Missoula, Mont.

No. MC 108207 (Sub-No. 420), filed April 28, 1975. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz Street, P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: J. B. Ham (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs, meats, meat products, and meat by-products* (except hides and commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from points in Mobile County, Ala., to points in Arizona, Arkansas, California, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Mobile, Ala., or New Orleans, La.

No. MC 109397 (Sub-No. 312), filed April 25, 1975. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113 (Bus. Rte. I-44 east), Joplin, Mo. 64801. Applicant's representative: A. N. Jacobs (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Contractors' construction and mining machinery, equipment, materials, supplies, and parts* (except commodities in bulk), between Pocatello, Idaho, on the one hand, and, on the other, points in the United States (except Hawaii), restricted to traffic originating at the plantsite or warehouse facilities of Bucyrus-Erie Co., located at Pocatello, Idaho.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Salt Lake City, Utah, or Boise, Idaho.

No. MC 110525 (Sub-No. 1121), filed April 29, 1975. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from the plantsite of Dow Corning Corp. at Carrollton, Ky., to points in Alabama, Arizona, Arkansas, California, Florida,

Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Mississippi, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, West Virginia, and Wisconsin, restricted to traffic originating at the above named plantsite and destined to the above destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 111545 (Sub-No. 213), filed April 28, 1975. Applicant: HOME TRANSPORTATION COMPANY, INC., 1425 Franklin Road, Marietta, Ga. 30062. Applicant's representative: Robert E. Born, P.O. Box 6426, Station A, Marietta, Ga. 30062. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Self-propelled cranes*; (2) *material handling equipment*; and (3) *accessories, attachments, and parts* when moving in mixed loads with the commodities described in (1) and (2) above, from Shawnee, Kans., to points in the United States (except Alaska, Hawaii, and Kansas).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 112750 (Sub-No. 319), filed April 28, 1975. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: Russell S. Bernhard, 1625 K St. NW., Washington, D.C. 20006. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, written instruments, and business papers*, (a) between Dickinson, N. Dak., on the one hand, and, on the other, points in Carter, Custer, Dawson, Fallon, Prairie, and Wibaux Counties, Mont.; and points in Butte, Campbell, Corson, Edmunds, Harding, McPherson, Perkins, and Wallowa Counties, S. Dak.; and (b) between Minot, N. Dak., on the one hand, and, on the other, points in Daniels, Richland, Roosevelt, and Sheridan Counties, Mont., under a continuing contract or contracts with American National Bank & Trust Co., at St. Paul, Minn.

NOTE.—Applicant holds motor common carrier authority in MC-111729 and suba thereunder, therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Washington, D.C., or Minneapolis, Minn.

No. MC 112822 (Sub-No. 374), filed April 28, 1975. Applicant: BRAY LINES INCORPORATED, 1401 North Little Street, Cushing, Okla. 74023. Applicant's representative: Edward T. Lyons, Jr., Suite 1600 Lincoln Center Building, 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (1) From points in the United States (except Alaska and Hawaii), to Laramie, Wyo.; and (2) from Laramie, Wyo., to points in the United States (except Alaska and



Hawaii), restricted to the transportation of traffic moving to or from storage facilities at Laramie, Wyo.

**NOTE.**—If a hearing is deemed necessary, the applicant requests it be held on a consolidated record with the application of Denver-Albuquerque Motor Transport, Inc.

No. MC 113495 (Sub-No. 71), filed April 28, 1975. Applicant: GREGORY HEAVY HAULERS, INC., 51 Oldham Street, P.O. Box 60628, Nashville, Tenn. 37206. Applicant's representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) (a) *Cranes*; and (b) *parts, attachments and accessories* for the commodities named in (a) above, between the plantsites and facilities of FMC Corporation located at or near Bowling Green, Ky., on the one hand, and, on the other, points in the United States, including Alaska, but excluding Hawaii; and (2) *materials, equipment and supplies* used in manufacture of the commodities named in (1) above (except commodities in bulk), from points in the United States, including Alaska, but excluding Hawaii, to the plantsite and facilities of FMC Corporation, at or near Bowling Green, Ky.

**NOTE.**—If a hearing is deemed necessary, the applicant requests it be held at either Nashville, Tenn. or Washington, D.C.

No. MC 113678 (Sub-No. 589), filed April 28, 1975. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City (Denver), Colo. 80022. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Margarine, mayonnaise, salad and cooking oils, and salad dressings*, from points in Alameda, San Francisco, Santa Clara, and San Mateo Counties, Calif., to points in Oregon and Washington.

**NOTE.**—If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif.

No. MC 113678 (Sub-No. 591), filed April 28, 1975. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City (Denver), Colo. 80022. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Carpets, rugs, padding, textile products, tile, linoleum, molding, hard surface floor coverings, and adhesives*, from points in Pennsylvania and New Jersey, to points in Colorado and Utah; and (2) *materials and supplies* used in the installation of the commodities in (1) above, from Itasca, Ill., and Dallas and Mineral Wells, Tex., to points in Colorado, points in Albany, Goheen, Laramie, and Natrona Counties, Wyo., and points in Cheyenne, Kimball, Perkins, and Scottsbluff, Nebr.

**NOTE.**—If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 113822 (Sub-No. 5), filed April 28, 1975. Applicant: DALGARNO TRANSPORTATION, INC., P.O. Box 340, Casper, Wyo. 82601. Applicant's representative: Marion F. Jones, 1600 Lincoln Center, 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, (except the stringing or picking up of pipe in connection with main or trunk pipelines), between points in Idaho, on the one hand, and, on the other, points in Colorado, Nebraska, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.

**NOTE.**—If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 114604 (Sub-No. 32), filed April 28, 1975. Applicant: CAUDELL TRANSPORT, INC., State Farmers Market, Forest Park, Ga. 30050. Applicant's representative: K. Edward Wolcott, 1600 First Federal Bldg., Atlanta, Ga. 30303. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Chattanooga, Tenn., to points in Virginia and West Virginia.

**NOTE.**—If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga.

No. MC 114789 (Sub-No. 47), filed April 24, 1975. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Donald L. Stern, 530 Univac Bldg., 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *General commodities* (except foodstuffs, those of unusual value; explosives, commodities in bulk, household goods, and those requiring special equipment), (1) from points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia to points in Illinois, Indiana, Michigan, Minnesota, North Dakota, Ohio, and Wisconsin; and (2) from points in Illinois, Indiana, Michigan, Ohio, and Wisconsin to points in Minnesota and North Dakota, restricted to shipments originating at the above named origins and destined to the facilities utilized by Gamble-Skogmo, Inc., and its divisions and subsidiaries at the above-named destinations, the operations authorized herein are limited to a transportation service to be performed, under a continuing con-

tract or contracts, with Gamble-Skogmo, Inc., of Minneapolis, Minn.

**NOTE.**—Applicant holds common carrier authority in MC 117940 and subs thereunder, therefore dual operations, may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 114789 (Sub-No. 48), filed April 30, 1975. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Donald L. Stern, 530 Univac Bldg., 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by discount and variety stores* (except foodstuffs and commodities in bulk), from points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and West Virginia, to points in Minnesota and Wisconsin, restricted to traffic originating at points in the named origin states and destined to the facilities of S. S. Kresge Company at points in the named destination states, under a continuing contract or contracts with S. S. Kresge Company.

**NOTE.**—Applicant holds common carrier authority in MC 117940 Sub Nos. 155, 156, 158 thru 161 and 163, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at either Detroit, Mich., or Chicago, Ill.

No. MC 115218 (Sub-No. 1) (correction), filed April 9, 1975, published in the FEDERAL REGISTER issue, May 15, 1975, and republished as corrected, this issue. Applicant: ALLAN D. GIBSON, 1915 Main Street, Eldorado, Ill. 62930. Applicant's representative: E. Stephen Helsley, Suite 805, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Sand, gravel, stone, fluor spar and barite*, from the facilities of Allied Chemical Corporation located in Hardin County, Ill., to points in Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Texas, West Virginia, and Wisconsin, restricted to the transportation of traffic moving under a continuing contract or contracts with Allied Chemical Corporation of Morristown, N.J.

**NOTE.**—The purpose of this republication is to correct the spelling of Hardin County, Ill. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or St. Louis, Mo.

No. MC 115814 (Sub-No. 14), filed April 25, 1975. Applicant: MARK TRUCKING, INC., Trella Street, P.O. Box 5701, Belleville, Pa. 17004. Applicant's representative: S. Berne Smith, P.O. Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), and *dairy products* in bulk, (1) from Belle-

ville, Pa., to points in West Virginia; and (2) from Wallington, N.J., to Belleville, Pa., parts (1) and (2) are restricted to operations under a continuing contract or contracts with Abbotts Dairies, Division of Fairmont Foods Corporation.

**NOTE.**—If a hearing is deemed necessary, the applicant requests it be held at either Harrisburg, Pa. or Washington, D.C.

No. MC 116325 (Sub-No. 70), filed April 30, 1975. Applicant: JENNINGS BOND, doing business as BOND ENTERPRISES, P.O. Box 8, Lutesville, Mo. 63762. Applicant's representative: Jennings Bond (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Clay and clay products* (except in bulk), from Scott and Stoddard Counties, Mo., to points in the United States (except Alaska and Hawaii).

**NOTE.**—If a hearing is deemed necessary, the applicant requests it be held at either St. Louis, Mo., or Washington, D.C.

No. MC 116763 (Sub-No. 314), filed April 24, 1975. Applicant: CARLSBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Canned foodstuffs*, from Turkey, N.C., to points in Florida, Georgia, South Carolina, and Massachusetts.

**NOTE.**—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 117068 (Sub-No. 47), filed April 22, 1975. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, North Highway 63, Rochester, Minn. 55901. Applicant's representative: Paul F. Sullivan, 711 Washington Bldg., Washington, D.C. 20005. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Mixer feeders, fertilizer spreaders and forage systems*, from Rochester, Long Lake, and Cambridge, Minn., to points in the United States (except Alaska and Hawaii); and (2) *materials and supplies* (except commodities in bulk), used in the manufacture of the commodities described in (1) above, from points in the United States (except Alaska and Hawaii), to Long Lake, Rochester, and Cambridge, Minn.

**NOTE.**—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 117068 (Sub-No. 48), filed April 29, 1975. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, Rochester, Minn. 55901. Applicant's representative: Paul F. Sullivan, 711 Washington Bldg., Washington, D.C. 20005. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transport-

ing: *Motor graders and related parts* moving therewith, from Davless County, Ky., to points in Minnesota.

**NOTE.**—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 117940 (Sub-No. 161) (Correction), filed April 7, 1975, published in the FEDERAL REGISTER issue of May 8, 1975, and republished as corrected, this issue. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Donald L. Stern, 530 Univac Bldg., 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from points in Minnesota and Wisconsin to points in Arkansas, Oklahoma, Texas, and Shreveport, La., restricted to the transportation of traffic for the account of Land O'Lakes, Inc., originating at the plant sites and facilities of and used by Land O'Lakes, Inc., and destined to the above-named destinations.

**NOTE.**—The purpose of this republication is to add Texas as a destination point. If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 119878 (Sub-No. 2), filed April 28, 1975. Applicant: MRS. GAYNELLE H. BOWMAN, doing business as A. B. COLLIER WRECKER SERVICE, 475 Humphreys Street, Nashville, Tenn. 37203. Applicant's representative: Val Sanford, 23rd Floor, Life & Casualty Tower, Nashville, Tenn. 37219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Wrecked, damaged, and disabled motor vehicles and motor vehicles* to be utilized for replacement of such wrecked, damaged, and disabled vehicles using wrecker equipment only, and repossessed, stolen and abandoned vehicles when unable to move on their own power, between points in Tennessee and Logan and Todd Counties, Ky., on the one hand, and, on the other, points in the United States, (except Alaska and Hawaii).

**NOTE.**—If a hearing is deemed necessary, the applicant requests it be held at Nashville, Tenn.

No. MC 119988 (Sub-No. 80), filed April 30, 1975. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, Tex. 75901. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, aluminum articles, iron and steel tanks, aluminum tanks, and parts, attachments and accessories* for iron and steel tanks and aluminum tanks, between points in Liberty County, Tex., on the one hand, and, on the other, points in Arkansas, Louisiana, Mississippi, Oklahoma, Kansas, Mis-

souri, New Mexico, Colorado, Wyoming, and Utah.

**NOTE.**—If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 120023 (Sub-No. 2), filed April 25, 1975. Applicant: SWEENEY BROTHERS, INCORPORATED, 280 New Ludlow Road, Chicopee, Mass. 01020. Applicant's representative: David M. Marshall, 135 State Street, Suite 200, Springfield, Mass. 01103. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *General commodities*, between points in Massachusetts; and (2) *paper, paper products, plastic and plastic products, and supplies and materials*, used in the manufacture, distribution, and sale of paper, plastic and paper and plastic products, between the plants and facilities of New England Container Company, Inc., located in Hampden County, Mass., on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Ohio, Delaware, Maryland, Virginia, West Virginia, and the District of Columbia.

**NOTE.**—If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn.; Boston, Mass.; Albany, N.Y.; New York, N.Y., or Washington, D.C.

No. MC 120098 (Sub-No. 26), filed April 28, 1975. Applicant: UINTAH FREIGHTWAYS, a Corporation, 1030 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: W. Claude Smith (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Hamilton, Colo. and Baggs, Wyo.; From Hamilton over Colorado Highway 789 to the Colorado-Wyoming Boundary line, thence over Wyoming Highway 789 to Baggs, and return over the same route, serving all intermediate points, and serving Dixon and Savery, Wyo., as off-route points.

**NOTE.**—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Salt Lake City or Denver, Colo.

No. MC 123778 (Sub-No. 28), filed April 28, 1975. Applicant: JALT CORP., doing business as UNITED NEWSPAPER DELIVERY SERVICE, 75 Cutters Lane, Woodbridge, N.J. 07095. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Magazines*, from Lancaster, Pa., the Newark Airport at Newark, N.J., and LaGuardia and John F. Kennedy Airports at New York, N.Y., to points in New Jersey,



points in that part of New York on, south and east of a line beginning at the New York-Vermont State Boundary line and extending along New York Highway 7 to Schenectady, N.Y., thence along New York Highway 5 to Syracuse, N.Y., and thence along U.S. Highway 11 to the New York-Pennsylvania State Boundary line, points in that part of Pennsylvania on and east of U.S. Highway 15, and Wilmington, Del., Baltimore, Md., and the District of Columbia, under a continuing contract or contracts with Newsweek, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 124775 (Sub-No. 8), filed April 28, 1975. Applicant: HRIBAR TRUCKING, INC., Route No. 1, Box 82, Caledonia, Wis. 53108. Applicant's representative: Frank M. Coyne, 25 West Main Street, Madison, Wis. 53703. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, in bulk and in packages, and *materials and supplies* used in agricultural, water treatment, food processing, wholesale grocery, and institutional supply industries, when shipped in mixed loads with salt and salt products, from Milwaukee, Wis., to points in Michigan, Minnesota, Iowa, Illinois, and Indiana.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Madison, Wis. or Chicago, Ill.

No. MC 125254 (Sub-No. 33), filed April 25, 1975. Applicant: MORGAN TRUCKING CO., a Corporation, 1201 East 5th Street, P.O. Box 714, Muscatine, Iowa 52761. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Feed, feed ingredients, starch, dehydrated corn syrup* (except in bulk), from Muscatine, Iowa, to points in Ohio, West Virginia, Virginia, Tennessee, Kentucky, Georgia, Alabama, North Carolina, South Carolina, and Mississippi.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Kansas City, Mo.

No. MC 125479 (Sub-No. 14), filed April 28, 1975. Applicant: P-N-J KORNACKER, INC., doing business as KORNACKER TRUCKING CO., 3050 West 10th Street, Waukegan, Ill. 60085. Applicant's representative: Albert A. Andrin, 127 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising material*: (a) from the plant and warehouse sites of Stroh's Brewery at Detroit, Mich., the plant and warehouse sites of Grain Belt Brewery at Minneapolis, Minn., the plant and warehouse sites of Champale at Trenton, N.J., the plant and warehouse sites of Kozak Distributing Company at Detroit, Mich., and the plant and warehouse sites of Schaefer Brewery at Cleveland, Ohio, to the warehouse facilities of Joseph Triner Corporation at Chicago, Ill. and the warehouse facility of Herner Distributors at Waukegan, Ill.; and (b) from the plantsite of Carling Brewing Co. at Frankenmuth, Mich., to the warehouse facility of Herner Distributors at Waukegan, Ill.; and (2) *malt beverages and related advertising material* having a prior movement by water, from the port of Milwaukee, Wis., to the warehouse facility of Joseph Triner Corporation at Chicago, Ill. and the warehouse facility of Herner Distributors at Waukegan, Ill., under a continuing contract or contracts in (1) and (2) above with Herner Distributors and Joseph Triner Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 125637 (Sub-No. 3), filed April 17, 1975. Applicant: KODIAK OILFIELD HAULERS, INC., Suite 210, 707 A Street, Anchorage, Alaska 99501. Applicant's representative: David J. Marchant, One Maritime Plaza, San Francisco, Calif. 94111. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacturing, processing, storage, transmission, and distribution of natural gas, oil and petroleum and their products and by-products; and (2) *machinery, materials, equipment and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, between points within the geographical area encompassed by a line which extends southward from Barrow, Alaska (the northern most point of Alaska) to Tanana, Alaska, thence to a point where said line meets the 68th parallel north, at which point the line extends eastward along the 68th parallel north to a point where the line meets the International Boundary line between the United States and Canada at which point the line extends northward to a point where the International Boundary line meets the Beaufort Sea, at which point the line extends westward along the northern coast of Alaska adjacent to the Beaufort Sea to Barrow, Alaska.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Anchorage, Fairbanks, Alaska or San Francisco, Calif.

No. MC 126091 (Sub-No. 3) (correction), filed April 2, 1975, published May 1, 1975, and republished as corrected this issue. Applicant: K. J. FRALEY AND E. W. SCHILLING, a Partnership, doing business as FRALEY AND SCHILLING, Rushville, Ind. 46173. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Metal and metal alloys*, (A) From the plant sites and facilities of Foote Mineral Company at or near Bylesville, Ohio and Graham, W. Va., to points in Iowa, Min-

nesota, and Missouri; and (B) From the plant site and facilities of Foote Mineral Company at or near Mingo Junction, Ohio, to points in Illinois, Indiana, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, Wisconsin, Iowa, Minnesota, and Missouri; and (2) *metal and metal alloys, ores, chemicals and unbaked carbon mixture*, from points in Iowa, Minnesota and Missouri, to the plant sites and facilities of Foote Mineral Company at or near Bylesville, Ohio and Graham, W. Va., under a continuing contract or contracts with Foote Mineral Company.

NOTE.—The purpose of this correction is to indicate the correct destination territory in (2) above. If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or Washington, D.C.

No. MC 127042 (Sub-No. 160), filed April 18, 1975. Applicant: HAGEN, INC., 3232 Highway 75 North, P.O. Box 98, Leeds Station, Sioux City, Iowa 51108. Applicant's representative: Edward A. O'Donnell (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Soap, toilet preparations and cleaning compounds* (except commodities in bulk), from Des Moines, Iowa, to points in California, Arizona, Nevada, Oregon, Washington, Utah, Idaho, Montana, Wyoming, Colorado, Kansas, Nebraska, North Dakota, South Dakota, Minnesota, Missouri, Wisconsin, Illinois, Indiana, and Michigan; and (2) *scented oils, cleaning compounds, toilet preparations and supplies* (except commodities in bulk), from Des Moines, Iowa, to points in California, Wyoming, Colorado, Missouri, Kansas, Nebraska, Arizona, New Mexico, Washington, Oregon, Utah, Texas, Nevada, Idaho, and Montana, restricted in (1) and (2) above to traffic interchanged at Des Moines, Iowa.

NOTE.—The purpose of this application is to relocate the interchange points of Eldora and Madrid, Iowa to Des Moines, Iowa. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 128273 (Sub-No. 184), filed April 25, 1975. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross, Jr., 1403 S. Horton Street, Fort Scott, Kans. 66701. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Cordage, cordage products, and scrap materials*, generated in manufacture of cordage and cordage products, from Tracy, Minn., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Washington, D.C.

No. MC 128273 (Sub-No. 185), filed April 25, 1975. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross, Jr., 1403 South Horton Street, Fort Scott, Kans. 66701. Authority sought to operate as a common carrier, by motor vehicle, over

irregular routes, transporting: *Cordage, cordage products, and scrap materials*, generated in the manufacture of cordage and cordage products, from Kingman, Kans., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 128273 (Sub-No. 186), filed April 28, 1975. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross, Jr., 1403 South Horton Street, Fort Scott, Kans. 66701. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Athletic and sporting goods, toys and games and parts and accessories thereof*, from Evansville, Ind., to points in the United States (except Alaska, Hawaii and Indiana); and (2) *materials and supplies* used in the manufacture or distribution of athletic and sporting goods, toys and games, from points in the United States (except Alaska, Hawaii and Indiana), to Evansville, Ind.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at Evansville, Ind. or Lexington, Ky.

No. MC 133000 (Sub-No. 11), filed April 23, 1975. Applicant: DIAMOND SAND & STONE CO., a Corporation, 155 East 21st Street, P.O. Box 4667, Jacksonville, Fla. 32201. Applicant's representative: L. H. Blow (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Road building and construction aggregates, mineral, sand and ore*, in bulk, between points in Alabama, Florida, and Georgia.

NOTE.—Applicant presently holds and will submit for cancellation duplicate authority to transport road building and construction aggregates between 128 counties in Alabama, Florida and Georgia also Bauxite Ore between points in Alabama, Florida and Georgia. Applicant is under common control with Petroleum Carrier Corporation of Florida and will submit for cancellation from that certificate duplicate authority to transport sand, from Clay and Putnam Counties, Fla., to points in Georgia. If a hearing is deemed necessary, applicant requests it be held at either Jacksonville or Tallahassee, Fla.

No. MC 133146 (Sub-No. 13), filed April 28, 1975. Applicant: INTERNATIONAL TRANSPORTATION SERVICE, INC., 3300 Northeast Expressway, Suite 1-M, Atlanta, Ga. 30341. Applicant's representative: Richard D. Cooper (same address as applicant). Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Inedible waste foodstuffs* (except waste meats), and *inedible meal*, between points in Georgia and Florida, under a continuing contract or contracts with International Bakerage.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga.

No. MC 134150 (Sub-No. 5), filed April 28, 1975. Applicant: SOUTHWEST

EQUIPMENT RENTAL, INC., doing business as SOUTHWEST MOTOR FREIGHT, 4283 Mission Blvd., Pomona, Calif. 91768. Applicant's representative: Walter Harwood, P.O. Box 15214, Nashville, Tenn. 37215. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Residential heating and air conditioning equipment, and ranges, refrigerators, dishwashers, disposals, and range hoods*, from Los Angeles and City of Industry, Calif., to points in Washington, Oregon, Nebraska, Illinois, Indiana, Massachusetts, Tennessee, and Alabama, under a continuing contract with Gaffers & Sattler, Inc.

NOTE.—Applicant holds common carrier authority in MC 138157 and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Nashville, Tenn., or Atlanta, Ga., or Los Angeles, Calif.

No. MC 133485 (Sub-No. 15), filed April 17, 1975. Applicant: INTERNATIONAL DETECTIVE SERVICE, INC., 1828 Westminster Street, Providence, R.I. 02909. Applicant's representative: Morris J. Levin, 1620 Eye Street NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Bullion, precious metals, precious ores, precious stones, jewelry, and rare and valuable objects*, (1) between Providence, R.I., on the one hand, and, on the other, San Francisco, Calif.; Reno and Las Vegas, Nev.; and points in Broward and Dade Counties, Fla.; (2) between points in Broward and Dade Counties, Fla., on the one hand, and, on the other, San Francisco, Calif.; Reno and Las Vegas, Nev.; and Chicago, Ill.; (3) between Chicago, Ill., on the one hand, and, on the other, San Francisco, Calif., and Reno and Las Vegas, Nev.

NOTE.—Applicant states that he intends to tack the requested authority with its existing authority in Providence, R.I., to serve points in New York, New Jersey; points in Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa.; points in Barnstable, Bristol Middlesex, Norfolk, Plymouth, Suffolk, and Worcester Counties, Mass.; and points in Rhode Island, Connecticut, Canada, and Chicago (pending Subs. 9 and 10). Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Providence, R.I., or Miami, Fla.

No. MC 134323 (Sub-No. 73), filed April 21, 1975. Applicant: JAY LINES, INC., 720 North Grand Street, Amarillo, Tex. 79105. Applicant's representative: Mr. Gailyn Larsen, 521 South 14th Street, P.O. Box 80806, Lincoln, Neb. 68501. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Meat and meat products*, (a) from the plantsite and facilities of MBPXL Corporation at Omaha, Neb., to points in Ohio, Michigan, Pennsylvania, New York, New Jersey, Massachusetts, Maryland, Delaware, Georgia, Florida, Oregon, Washington, California, and the District of Columbia; (b) from the plantsite and storage facilities of MBPXL Corporation at or near Rockport, Mo., to the plantsite and

facilities of MBPXL Corporation at Omaha, Neb.; (c) between the plantsite and storage facilities of MBPXL Corporation at or near Plainview, Tex., and Omaha, Neb.; and (d) from the ports of entry on the International Boundary line between the United States and Canada located in New York and New Jersey, to the plantsite and storage facilities of MBPXL Corporation at Omaha, Neb.; (2) *plastic bags*, from Mount Vernon, Ohio, to the plantsite and facilities of MBPXL Corporation at Omaha, Neb.; and (3) *curing compound*, from Chicago, Ill., to the plantsite and facilities of MBPXL Corporation at Omaha, Neb., under a continuing contract or contracts with MBPXL Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Neb. or Amarillo, Tex.

No. MC 134498 (Sub-No. 2), filed April 14, 1975. Applicant: FREEWAY TRANSPORT, INC., 635 S.E. 11th Avenue, Portland, Ore. 97214. Applicant's representative: Earle V. White, 2400 S.W. Fourth Avenue, Portland, Ore. 97201. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Bananas*, from Long Beach, Los Angeles, and Wilmington, Calif., to points in Oregon and Washington.

NOTE.—Dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Portland, Ore.

No. MC 134755 (Sub-No. 53), filed April 28, 1975. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Hospital supplies, underpads, gowns, and sheets*, from Philadelphia, Pa., to points in Sioux Falls, S. Dak., Sioux City, Iowa, Des Moines, Iowa, Grand Island, Neb., Kansas City, Mo., Cedar Rapids, Iowa, Amarillo, Tex., Fort Dodge, Iowa, Little Rock, Ark., Ft. Smith, Ark., Minneapolis, Minn., Omaha, Neb., and Oklahoma City, Okla.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Kansas City, Kans., or St. Louis, Mo.

No. MC 134919 (Sub-No. 4), filed April 28, 1975. Applicant: A & D RENTALS, INC., P.O. Box 52, North Brunswick, N.J. 08902. Applicant's representative: Maxwell A. Howell, 1511 K Street, NW., Washington, D.C. 20005. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from the facilities of the F & M Schaefer Brewing Co. at or near Fogelsville, Pa., to points in Middlesex, Somerset, Hunterdon, Union, Mercer, Morris, Monmouth, Essex, Sussex, Warren and Passaic Counties, N.J., and points in the New York, N.Y. Commercial Zone, under a continuing contract or contracts with High Grade Beverage, Delaware Valley Distributors, Inc., the W. H. Cawley Co.,

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L. A. Piccirillo, Inc., Joseph Pingitore Co., and Rutgers Distributors, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Newark, N.J.

No. MC 135185 (Sub-No. 25), filed April 30, 1975. Applicant: COLUMBINE CARRIERS, INC., 5925 East Evans Ave., P.O. Box 22198, Denver, Colo. 80222. Applicant's representative: Arnold L. Burke, 127 North Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) Drugs, medicines, cosmetics, plastic boxes, weed killing compounds and animal and poultry feed supplement, from the plantsites, warehouses and/or facilities used by Eli Lilly & Co., at or near Roanoke, Va., and Indianapolis, Lafayette and Clinton, Ind., to points in the United States (except Alaska and Hawaii); (2) Materials and supplies used in the manufacture and production of the above-named commodities and rejected or damaged shipments of the commodities named in (1) above, from points in the United States (except Alaska and Hawaii), to the above-named origins, under a continuing contract or contracts with Eli Lilly & Co., at Indianapolis, Ind.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Indianapolis, Ind.

No. MC 135684 (Sub-No. 12), (correction), filed May 8, 1975, published in the FEDERAL REGISTER issue, May 8, 1975, and republished as corrected, this issue. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Flemington, N.J. 08822. Applicant's representative: Bert Collins, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Glass containers, closures, caps, covers, cartons and carton parts, and materials, used in the manufacture, sale and distribution of glass containers (except in bulk), (1) between the plant site or other facilities of Thatcher Glass Manufacturing Company, Division of Dart Industries, Inc., located at Lawrenceburg, Ind., on the one hand, and, on the other, points in Illinois, Wisconsin, Kentucky, Ohio (except Cincinnati), Missouri, Michigan (except Lower Peninsula), and Indiana; and (2) between the plant site or other facilities of Thatcher Glass Manufacturing Company, Division of Dart Industries, Inc., located at Lawrenceburg, Ind., on the one hand, and, on the other, points in Maryland and Pennsylvania.

NOTE.—The purpose of this republication is to correct the territorial description. Applicant holds contract carrier authority in MC 87720 Sub 2 and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 135760 (Sub-No. 21), filed April 29, 1975. Applicant: COAST REFRIGERATED TRUCKING CO., INC., P.O. Box 188, Holly Ridge, N.C. 28445. Applicant's representative: Herbert Alan

Dubin, 1819 H St., NW., Washington, D.C. 20006. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Pork products, in vehicles equipped with mechanical refrigeration, from Detroit and Grand Rapids, Mich., to points in Minnesota, Iowa, Nebraska, Kansas, and Texas, under a continuing contract, or contracts with Frederick & Herrud, Inc., and its subsidiaries.

NOTE.—Applicant has pending a motor common carrier application in MC-140460, but states that dual operations are not involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 135843 (Sub-No. 4), filed April 2, 1975. Applicant: IOWA GATEWAY, INC., doing business as IOWA GATEWAY TERMINAL, River Road, Keokuk, Iowa 52632. Applicant's representative: Robert F. Holz, Jr., 2300 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Rock, sand and gravel, between points in Iowa, Illinois and Missouri.

NOTE.—Applicant holds contract carrier authority in MC 133399 and Sub 1, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Des Moines, Iowa.

No. MC 136008 (Sub-No. 57), filed April 25, 1975. Applicant: JOE BROWN COMPANY, INC., 20 Third Street NE., P.O. Box 1669, Ardmore, Okla. 73401. Applicant's representative: Rufus H. Lawson, 106 Bixler Building, 2400 Northwest 23rd Street, Oklahoma City, Okla. 73107. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Fly ash, from the Big Brown Steam Electric Station located 12 miles northeast of Fairfield, Tex., and the Monticello Steam Electric Station located 8 miles southwest of Mt. Pleasant, Tex., to points in Mississippi.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Oklahoma City, Okla. or Dallas, Tex.

No. MC 136168 (Sub-No. 4) (Correction), filed January 2, 1975, and published in the FEDERAL REGISTER issue of February 6, 1975, and republished as corrected this issue. Applicant: WILSON CERTIFIED EXPRESS, INC., P.O. Box 529, Albert Lea, Minn. 56007. Applicant's representative: Donald L. Stern, Suite 530 Univac Bldg., 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) Meats, meat products, and meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsites and warehouse facilities utilized by Wilson & Co., Inc., at Cherokee and Cedar Rapids, Iowa, to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Ken-

tucky, Louisiana, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia and (2) materials, supplies and equipment, utilized in the manufacture, sale and distribution of commodities in (1) above (except in bulk), from the requested destinations to facilities utilized by Wilson & Co., Inc., at Cherokee and Cedar Rapids, Iowa, under contract with Wilson & Co., Inc., restricted to traffic originating or terminating at the above facilities utilized by Wilson & Co., Inc.

NOTE.—The purpose of this correction is to indicate the destinations requested in the instant application. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Oklahoma City, Okla. or Omaha, Nebr.

No. MC 136223 (Sub-No. 12), filed April 23, 1975. Applicant: LUISI TRUCK LINES, INC., New Walla Walla Hwy., P.O. Box 606, Milton-Freewater, Ore. 97862. Applicant's representative: Eugene Luisi (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Wine and malt beverages, from points in Los Angeles, Orange, Riverside, Kern, Madera, Merced, Stanislaus, San Joaquin, Santa Clara, Sacramento, San Benito, San Francisco, and Napa Counties, Calif., to points in Spokane, and Whitman Counties, Wash.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Portland, Ore.

No. MC 136728 (Sub-No. 1), filed April 21, 1975. Applicant: HUB FREIGHT SYSTEMS, INC., Post Office Box 729, Marietta, Ohio 45750. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities (except those of unusual value, household goods as defined by the Commission, livestock, and commodities requiring special equipment), between Riverview (Washington County), Ohio, on the one hand, and, on the other, points in Athens, Guernsey, Meigs, Monroe, Morgan, Muskingum, Noble, Perry and Washington Counties, Ohio and points in Jackson, Pleasants, Ritchie, Tyler, Wirt, and Wood Counties, W. Va., restricted: (1) against the transportation of traffic originating at or destined to Riverview, Ohio; (2) to service at Riverview, Ohio for the purpose of interchange of traffic only; and (3) the authority granted herein shall not be severable by sale or otherwise from applicant's authority in MC 136728 authorizing the transportation of general commodities, with exceptions, between Marietta, Ohio on the one hand, and, on the other, points in Ohio and West Virginia within 35 miles of Marietta.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 136786 (Sub-No. 73), filed April 28, 1975. Applicant: ROBCO TRANSPORTATION, INC., 309 Fifth Avenue Northwest, New Brighton, Minn. 55112. Applicant's representative: Stanley C. Olsen, Jr., 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meats, meat products, meat by-products, and articles distributed by meat packinghouses, from Wichita, Kans., to points in Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 138000 (Sub-No. 19), filed April 24, 1975. Applicant: ARTHUR H. FULTON, P.O. Box 86, Stephens City, Va. 22655. Applicant's representative: Charles E. Creager, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Malt beverages, (a) from Detroit, Mich., to points in Virginia; and (b) from Pittsburgh, Pa., to points in Virginia and Morgan, Berkeley, Jefferson, Hampshire, Hardy, Pendleton, and Grant Counties, Va., to Kearny, N.J., and Baltimore, Md. or cradles, from points in Clark County, Va., to Kearney, N.J., and Baltimore, Md.

NOTE.—Applicant holds contract carrier authority in MC 129613, Sub-No. 2 and others, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 138415 (Sub-No. 12), filed April 28, 1975. Applicant: TRAILER EXPRESS, INC., P.O. Box 321, Topeka, Ind. 46571. Applicant's representative: Michael M. Yoder (same address as applicant). Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) Camping trailers, utility trailers, canoes and sailboats, from the plantsite of The Coleman Company, Inc., located in Somerset, Pa., to points in the United States; and (2) repossessed or damaged camping trailers, sailboats or canoes, from points in the United States to Somerset, Pa., under a continuing contract with The Coleman Company, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Indianapolis, Ind., or Chicago, Ill.

No. MC 138878 (Sub-No. 4), filed April 25, 1975. Applicant: JOHN S. WATSON, doing business as JOHN S. WATSON TRUCKING COMPANY, Route 2, Box 94, Weston, W. Va. 26452. Applicant's representative: John M. Friedman, 2930 Putnam Ave., Hurricane, W. Va. 25526. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Steel tubing, from Jane Lew, W. Va., to points in Pennsylvania, New York, New Jersey, Ohio, West Virginia, Indiana, Michigan, Il-

linois, Kentucky, Virginia, Maryland, North Carolina, South Carolina, Tennessee, Georgia, and Alabama; (2) timbers, cants and railroad ties, from Sutton, W. Va., to points in Illinois, Indiana, Michigan, and New Jersey; (3) wood residuals, from Elizabeth, W. Va., to Coshocton and Philo, Ohio; and (4) wood chips, from Sutton, W. Va., to Covington, Va.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Charleston, W. Va. or Columbus, Ohio.

No. MC 139123 (Sub-No. 7), filed April 25, 1975. Applicant: GLOUCESTER DISPATCH, INC., Box 127, Kelly Road, Plaistow, N.H. 03865. Applicant's representative: Ignatius C. Goode (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Frozen foods, foodstuffs, in boxes, bags, cartons, packages, but not in bulk, in refrigerated trailers, from points in Maine, Massachusetts, New Hampshire, and Rhode Island, to points in Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Boston, Mass.

No. MC 139193 (Sub-No. 26), filed April 28, 1975. Applicant: ROBERTS & OAKE, INC., 208 South La Salle Street, Chicago, Ill. 60604. Applicant's representative: Jacob P. Billig, 1126 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) Meat, meat products, meat by-products and articles distributed by meat packinghouses, as defined by the Commission in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except liquid commodities in bulk), from the plantsite and facilities utilized by John Morrell & Co. at Fort Smith, Ark., to Mobile and Montgomery, Ala.; Jacksonville, Miami, Plant City, Pompano Beach, Tampa, Fla.; Atlanta, Ga.; Chicago, E. St. Louis and Springfield, Ill. Estherville and Waterloo, Iowa; Arkansas City, Kans.; Boston and Marlboro, Mass.; Detroit and Livonia, Mich.; Minneapolis and St. Paul, Minn.; Kansas City, St. Louis, and Trenton, Mo.; Woodbridge, N.J.; New York, N.Y.; Charlotte and Raleigh, N.C.; Cincinnati, Cleveland, and Salem, Ohio; Philadelphia, Pa.; Charleston and Ft. Jackson, S.C.; Sioux Falls, S. Dak.; Memphis, Killeen, and San Antonio, Tex.; Mechanicsville and Richmond Va.; Butler, Green Bay, and Milwaukee, Wis.; and (2) Such commodities

as are used by the meat packers in the conduct of their business (except liquid commodities in bulk), from the destination points in (1) above to the plantsite and facilities utilized by John Morrell & Co. at Fort Smith, Ark., under a continuing contract or contracts with John Morrell & Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at (1) Washington, D.C.; or (2) Chicago, Ill.

No. MC 139193 (Sub-No. 27), filed April 28, 1975. Applicant: ROBERTS & OAKE, INC., 208 South La Salle Street, Chicago, Ill. 60604. Applicant's representative: Jacob P. Billig, 1126 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) Meat, meat products, meat by-products and articles distributed by meat packinghouses, as defined by the Commission in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except liquid commodities in bulk), from the plantsite and facilities utilized by John Morrell & Co. at Shreveport, La., to Birmingham, Dothan, Mobile and Montgomery, Ala.; points in Arkansas; Hialeah, Jacksonville, Miami, Panama City, Pensacola, Plant City, Pompano Beach, and Tampa, Fla.; Atlanta, Augusta, Ft. McPherson and Quitman, Ga.; Chicago, Elmhurst, and Geneseo, Ill.; Estherville, Iowa; Arkansas City, Emporia and Kansas City, Kans.; Louisville, Ky.; points in Louisiana, Baltimore and Landover, Md.; Boston, Mass.; Detroit and Livonia, Mich.; St. Paul, Minn.; Biloxi, Gulfport, Jackson and Tupelo, Miss.; Kansas City and St. Louis, Mo.; Elizabeth, Florence, South Kearny and Woodbridge, N.J.; Cortland, Mt. Kisco, New York, Syracuse, and Waterford, N.Y.; Charlotte, Ft. Bragg, and Raleigh, N.C.; Oklahoma City, Okla.; Cincinnati, Cleveland, Columbus and Salem, Ohio; Philadelphia and Pittsburgh, Pa.; Charleston, S.C.; Knoxville, Memphis, Nashville and Whites Creek, Tenn.; points in Texas; Hampton, Mechanicsville, Richmond, Roanoke, and Salem, Va.; Eau Claire and Milwaukee, Wis.; and (2) such commodities as are used by meat packers in the conduct of their business (except liquid commodities in bulk), from the destination points in (1) above, to the plantsite and facilities utilized by John Morrell & Co. at Shreveport, La., under a continuing contract or contracts with John Morrell & Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at (1) Washington, D.C.; or (2) Chicago, Ill.

No. MC 139495 (Sub-No. 59), filed April 22, 1975. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H St. NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Carpets, from Columbus, Ga., to points in Arizona, California, Colorado, Illinois, Indiana,



Iowa, Kansas, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, Texas, and Utah.

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 139495 (Sub-No. 62), filed April 30, 1975. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Toilet preparations and pet supplies*, from the plantsite and storage facilities of Carter Wallace, Inc., located at or near Cranbury, N.J., to points in Georgia, Alabama, Tennessee, Kentucky, Indiana, Illinois, Missouri, Arkansas, Louisiana, Minnesota, Kansas, Oklahoma, Texas, and Colorado.

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139495 (Sub-No. 60), filed April 28, 1975. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, toilet preparations, and household products*: (1) Between the plantsite and storage facilities of Bristol-Myers Products located at or near Hillside, N.J. and St. Louis, Mo.; and (2) between the plantsite and storage facilities of Bristol-Myers Products located at or near Franklin, Ky., on the one hand, and, on the other, points in New Jersey, Maryland, Virginia, Ohio, Illinois, Tennessee, Georgia, Florida, Texas, Missouri, Kansas, California, and Oregon.

NOTE.—Applicant holds motor contract carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 140267 (Sub-No. 2), filed January 6, 1975. Applicant: R A TRANSPORTATION, INC., 115 Jacobus Avenue, S. Kearny, N.J. 07032. Applicant's representative: S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Flour*, in bags, from Buffalo, N.Y., to Perth Amboy, N.J., under a continuing contract or contracts with Metzendorf Bros., Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Newark, N.J. or New York City, N.Y.

No. MC 140255 (Sub-No. 2), filed April 30, 1975. Applicant: DELBERT DEWEY, doing business as DEWEY'S TRUCKING, 1227 F Street, Fairbury, Nebr. 68501. Applicant's representative: Duane L. Stro-

mer, P.O. Box 82028, 605 South 14th Street, Lincoln, Nebr. 68501. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Bricks and brick pavers*, from the Plantsite of Endicott Clay Products Co. at or near Endicott, Nebr., to points in Arizona, California, Nevada, New Mexico, Oregon, Texas, and Utah, under a continuing contract or contracts with Endicott Clay Products Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Lincoln or Omaha, Nebr.

No. MC 140492 (Sub-No. 1), filed April 22, 1975. Applicant: JACK N. WILKERSON, doing business as ANNISTON MOVING AND STORAGE COMPANY, 515 South Noble Street, Anniston, Ala. 36201. Applicant's representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Bibb, Blount, Calhoun, Cherokee, Clay, Cleburne, Cullman, De Kalb, Etowah, Fayette, Jefferson, Lamar, Marion, Plekens, Randolph, St. Clair, Shelby, Talladega, Tuscaloosa, Walker, and Winston Counties, Ala., restricted to the transportation of traffic having a prior or subsequent movement, in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating and decontainerization of such traffic.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Anniston, Ala.

No. MC 140499 (Amendment), filed December 13, 1974, published in the FEDERAL REGISTER issue of March 27, 1975, and republished as amended this issue. Applicant: RANDOLPH COUNTY HAULING CO., INC., 819 Opdyke, Chester, Ill. 62233. Applicant's representative: John R. Bauer, 424 Lebanon Avenue, Belleville, Ill. 62222. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Stone*, in bulk from points in Perry County, Mo., to points in Madison, St. Clair, Washington, Randolph, Perry, and Jackson Counties, Ill.

NOTE.—The purpose of this correction is to indicate the restrictive amendment above. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 140604 (Sub-No. 1), filed April 28, 1975. Applicant: AM-DEL-CO., INC., Suite 301 Chateau Building, 4030 Chateau, St. Louis, Mo. 63110. Applicant's representative: Whitney R. Harris, 2 Glen Creek Lane, St. Louis, Mo. 63124. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Uncrusted furniture and crated and uncrated household appliances*, between St. Louis, Mo., and points in St. Louis County, Mo., on the one hand, and, on the other, those points in Illinois on and within a line beginning at the Mississippi River at or near Moxler, Ill., and extending east along Illinois Highway 96 to junction Illinois

Highway 108, thence east along Illinois Highway 108 to junction Interstate Highway 55, thence south along Interstate Highway 55 to junction Illinois Highway 16, thence east along Illinois Highway 16 to junction Illinois Highway 127, thence south along Illinois Highway 127 to junction Illinois Highway 154, thence west along Illinois Highway 154 to junction Illinois Highway 150, thence southwest along Illinois Highway 150 to the Mississippi River at or near Chester, Ill., under a continuing contract, or contracts, with Rhodes, Inc., d.b.a. Crossroads Furniture Warehouse and Showroom.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at St. Louis, Mo.

No. MC 140628 (Sub-No. 2), filed April 24, 1975. Applicant: CHARLES R. PALS, doing business as PALS CARTAGE, 31 West 168th Street, South Holland, Ill. 60473. Applicant's representative: Charles R. Pals (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Doors and made up window units*, not boxed and shipped in trailers that are set up to handle glass and made up window units that are not boxed, from the plantsite of Dekker Brish Millwork located at or near Dolton, Ill., to points in Indiana located on and west of U.S. Highway 31 and north of U.S. Highway 24; and Twin Lakes and Silver Lakes, Wis.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 140710 (Sub-No. 2), filed April 28, 1975. Applicant: CENTRAL STORAGE & VAN COMPANY, a Corporation, 828 South 17th Street, Omaha, Nebr. 68108. Applicant's representative: William A. Watts (same address as applicant). Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Commodities, as are dealt in by retail department stores*, between the facilities of Montgomery Ward & Co., Inc., at Omaha, Nebr., and points in Monona, Crawford, Harrison, Shelby, Audubon, Pottawattamie, Cass, Mills, Montgomery, Fremont, and Page Counties, Iowa, under a continuing contract or contracts with Montgomery Ward & Co., Inc.

NOTE.—Applicant holds common carrier authority in MC 127005, Sub-No. 1, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 140792 (Sub-No. 1), filed April 25, 1975. Applicant: STANLEY E. WHITEHEAD, 1017 Third Avenue, Monroe, Wis. 53566. Applicant's representative: Wayne W. Wilson, 329 West Wilson Street, Madison, Wis. 53703. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Animal feed ingredients and bags*, between the plantsite and warehouse facilities of Milk Specialties Co., a division of Cudahy Foods Co., located at or near Dundee, Ill., on the one hand, and, on the other, the plantsite

and warehouse facilities of Milk Specialties Co., a division of Cudahy Foods Co., located at or near Browstown, Wis., restricted against the transportation of the named commodities in bulk, in tank vehicles, and further restricted to the transportation of the named commodities, under a continuing contract or contracts with Milk Specialties Co., a division of Cudahy Foods Co.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Madison or Monroe, Wis.

No. MC 140855, filed April 14, 1975. Applicant: TAB TRUCKING, INC., 3628 Syndicate Blvd., Spokane, Wash. 99202. Applicant's representative: Charles C. Flower, Suite 2, 303 East "D" Street, Yakima, Wash. 98901. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Medical, hospital, clinic, surgical and laboratory supplies, equipment, goods, wares and merchandise*, (1) from Rutherford, N.J., to points in Idaho, Montana, Washington, and Oregon, (2) from Greenwood, S.C., to points in Idaho, Montana, Washington, and Oregon, (3) from Los Angeles and Menlo Park, Calif., to points in Idaho, Montana, Washington, and Oregon; and (4) from Shey-bogan and Two Rivers, Wisc., to points in Idaho, Montana, Washington, and Oregon, under a continuing contract or contracts with Sea-Tac Medical & Scientific Supply Co.; Physicians & Surgeons Supply Co., Inc.; and Portland Medical & Scientific Supply Co.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Spokane, Seattle, or Portland, Ore.

No. MC 140895, filed April 14, 1975. Applicant: TANK LINES, INCORPORATED, 1325 Diamond Springs, Virginia Beach, Va. 23455. Applicant's representative: C. Roger Malbon (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Waste products for recycling or reuse*, from Moyock, N.C., to Virginia Beach and Richmond, Va.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Norfolk, Va.; Richmond, Va.; or Washington, D.C.

No. MC 140920, filed April 28, 1975. Applicant: B. T. CARTAGE CO., a Corporation, 411 Bayou Drive, Channelview, Tex. 77530. Applicant's representative: William D. Lynch, 1003 West 6th Street, P.O. Box 912, Austin, Tex. 78767. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, aluminum articles, iron and steel tanks, aluminum tanks and parts, attachments and accessories for iron and steel tanks and aluminum tanks*, between points in Liberty County, Tex., on the one hand, and, on the other, points in Louisiana, Arkansas, Oklahoma, New Mexico, Kansas, Missouri, Mississippi and Texas.

NOTE.—If a hearing is deemed necessary,

the applicant requests it be held at Houston, Tex., Birmingham, Ala., or Washington, D.C.

No. MC 140921, filed April 28, 1975. Applicant: WIN-LINE, INC., 4850 Briar-bend Drive, Houston, Tex. 77035. Applicant's representative: Basil O. Penney (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Cameras, camera equipment and supplies, copy machines, supplies and equipment*, from Clarendon, Scottsburg, Oneonta, and Morganville, N.Y.; Lavery and Du Bois, Pa.; and Dyersburg, Tenn., to points in California.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Houston, Tex., or Los Angeles, Calif.

No. MC 140923, filed April 25, 1975. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1330, Gadsden, Ala. 35902. Applicant's representative: John P. Carlton, 903 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from points in Mobile County, Ala., to points in Colorado, Wyoming, Montana, New Mexico, Arizona, Utah, Idaho, Washington, Nevada, California, and Oregon.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Mobile, Ala.

No. MC 140936, filed April 28, 1975. Applicant: VAN FLEET MOVING & STORAGE CO., INC., 696 Harvey Road, Manchester, N.H. 03103. Applicant's representative: William A. Kerr, Jr., (same address as applicant). Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Such commodities as are sold by retail department stores*, from Manchester, N.H., to points in Vermont, under a continuing contract or contracts with Jordan Marsh Company.

NOTE.—Applicant holds common carrier authority in MC 129508 and Sub-No. 1, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Concord, N.H.

#### PASSENGER APPLICATIONS

No. MC 109780 (Sub-No. 68), filed April 23, 1975. Applicant: CONTINENTAL TRAILWAYS, INC., 315 Continental Avenue, Dallas, Tex. 75207. Applicant's representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, (1) in special operations, in round-trip sightseeing and pleasure tours, beginning and ending at points in Alameda, Fresno, Kern, Kings, Los Angeles, Madera, Merced, Orange, Riverside, San Bernardino, San Diego, San Francisco, San Joaquin, Stanislaus, and Tulare Counties, Calif. and extending to points in the United States including Alaska but excluding Hawaii; and (2) in special operations, in one way sightseeing and pleasure tours, beginning and ending at the points named

in (1) above, and extending to the points named in (1) above.

NOTE.—Applicant holds a Broker's license in MC 12790. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Los Angeles or San Francisco, Calif.

No. MC 125057 (Sub-No. 1), filed April 17, 1975. Applicant: ANTELOPE VALLEY BUS, INC., 44706 Yucca Avenue, Lancaster, Calif. 93534. Applicant's representative: James H. Lyons, 523 West 6th Street, Suite 1216, Los Angeles, Calif. 90014. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter and special operations, beginning and ending at points in that part of California within a line as follows: Beginning at the junction of the Los Angeles Aqueduct and the southern boundary line of Kern County, Calif., located approximately 16 miles southeast of Lebec, Calif., and extending along the Los Angeles Aqueduct to junction of Elizabeth Lake-Pine Canyon Road, located at Lake Hughes, Calif.; thence along Elizabeth Lake-Pine Canyon Road to Palmdale, Calif.; thence east from Palmdale over Avenue Q and Palmdale Boulevard to junction of California Highway 138 located near Palmdale, Calif.; thence east along California Highway 138 to the junction of the eastern boundary line of Los Angeles County located near Desert Springs, Calif.; thence north from Desert Springs along the eastern boundary line of Los Angeles County to its junction with the Kern County line located approximately 11 miles south of Boron, Calif.; thence east along the southern boundary line of Kern County to its junction with the eastern boundary line of Kern County; thence north along the eastern boundary line of Kern County to its junction with the southern boundary line of Inyo County, Calif.; located approximately 12 miles northeast of Brown, Calif.; thence west along the northern boundary of Kern County to its junction with the Los Angeles Aqueduct located approximately three miles northwest of Brown; thence south along the Los Angeles Aqueduct to the point of beginning; and extending to points in Arizona, Colorado, Idaho, Montana, New Mexico, Oregon, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Lancaster or Los Angeles, Calif.

No. MC 140279 (Sub-No. 1), filed April 21, 1975. Applicant: A-1 CHARTER SERVICE, INC., 106 South Henry Street, Annawan, Ill. 61234. Applicant's representative: John H. Bickley, Jr., 77 W. Washington Street, Suite 2110, Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special and charter operations, from points in Henry and Bureau Counties, Ill., to points in Michigan, Indiana, Kentucky, Tennessee, Missouri, Wisconsin, Iowa, Minne-



sota, and Illinois and return, restricted to traffic originating at the named counties and destined to named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

## BROKER APPLICATIONS

No. MC 130302, filed February 24, 1975. Applicant: EASTERN SKI TOURS, INC., 1700 Walnut Street, Philadelphia, Pa. 19103. Applicant's representative: M. Mark Mendel, 1620 Locust Street, Philadelphia, Pa. 19103. Authority sought to engage in operation, in interstate or foreign commerce as a broker, at Philadelphia, Pa., to sell or offer to sell the transportation of passengers as individuals and in groups, in special and charter seasonal operation, between November 1 and April 30 inclusive, by motor carrier, beginning and ending at points in Albany, Allegany, Bronx, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Erie, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Kings, Lewis, Livingston, Madison, Monroe, Montgomery, Nassau, New York, Niagara, Oneida, Onondaga, Ontario, Orange, Orleans, Oswego, Putnam, Queens, Rensselaer, Richmond, Rockland, St. Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, Steuben, Suffolk, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Westchester, Wyoming, and Yates Counties, N.Y. and points in New Jersey, Pennsylvania and Delaware, and Accomack, Albemarle, Alleghany, Amelia, Amherst, Appomattox, Arlington, Augusta, Bath, Bedford, Bland, Botetourt, Brunswick, Buchanan, Buckingham, Campbell, Caroline, Carroll, Charles City, Charlotte, Chesterfield, Clarke, Craig, Culpeper, Cumberland, Dickenson, Dinwiddie, Essex, Fairfax, Fauquier, Floyd, Fluvanna, Franklin, Frederick, Giles, Gloucester, Goochland, Grayson, Greene, Greensville, Halifax, Hanover, Henrico, Henry, Highland, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Lee, Loudoun, Louisa, Lunenburg, Madison, Mathews, Mecklenburg, Middlesex, Montgomery, Nelson, New Kent, Northampton, Northumberland, Nottoway, Orange, Page, Patrick, Pittsylvania, Powhatan, Prince Edward, Prince George, Prince William, Pulaski, Rappahannock, Richmond, Roanoke, Rockbridge, Rockingham, Russell, Scott, Shenandoah, Smyth, Southampton, Spotsylvania, Stafford, Surry, Sussex, Tazewell, Warren, Washington, Westmoreland, Wise, Wythe, and York Counties, Va., and the District of Columbia and extending to sports facilities located at points in Pennsylvania, New York, New Jersey and Vermont.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., New York, N.Y. or Camden, N.J.

No. MC 130317, filed April 24, 1975. Applicant: NIELSON TOURS, INC., 128 West Pepper Place, P.O. Box 1441, Mesa, Ariz. 85201. Applicant's representative: Miss Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to engage in operation, in interstate or foreign commerce, as a broker at Mesa, Ariz., to sell or offer to sell the transportation of individual passengers and groups of passengers, and their baggage and personal effects, in charter and special operations, in sightseeing and pleasure tours, by motor carriers, from points in Arizona, to points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Phoenix or Mesa, Ariz.

No. MC 130318, filed April 22, 1975. Applicant: AAA EAST FLORIDA DIVISION, a Corporation, 4300 Biscayne Boulevard, Miami, Fla. 33137. Applicant's representative: Morris J. Levin, 1620 Eye Street, N.W., Washington, D.C. 20006. Authority sought to engage in operation, in interstate or foreign commerce, as a broker at Jacksonville, Daytona Beach, Orlando, Cocoa, Fort Pierce, West Palm Beach, Pompano Beach, Fort Lauderdale, North Miami Beach, South Miami, and Miami, Fla., to sell or offer to sell the transportation of individual passengers and groups of passengers, and their baggage, in special and charter operations: (1) between points in Baker, Brevard, Broward, Clay, Duval, Dade, Flagler, Indian River, Martin, Monroe, Nassau, Okeechobee, Orange, Osceola, Palm Beach, Putnam, St. Johns, St. Lucie, Seminole, and Volusia Counties, Fla.; and (2) between points in the counties named in (1) above, on the one hand, and, on the other, points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Miami, Fla.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-14024 Filed 5-28-75; 8:45 am]

[I.C.C. Order No. P-3]

## SOUTHERN PACIFIC TRANSPORTATION CO.

## Passenger Train Operation

It appearing, that the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Chicago, Illinois, and Los Angeles, California; that the operation of these trains require the use of employees, tracks and other facilities of the Atchison, Topeka and Santa Fe Railway Company (ATSF); that a portion of ATSF's tracks between Barstow, California, and San Bernardino, California, are temporarily out of service due to a

freight train derailment; that an alternate route is available between Barstow and Mojave, California, on the ATSF, thence via the Southern Pacific Transportation Company from Mojave to Los Angeles, California; that its use is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That: (a) Pursuant to the authority vested in me by order of the Commission served June 14, 1974; and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 USC 562 (c)), the Southern Pacific Transportation Company (SP) be, and it is hereby authorized to operate trains of the National Railroad Passenger Corporation (Amtrak) between a connection with The Atchison, Topeka and Santa Fe Railway Company (ATSF) at Mojave, California, and Los Angeles, California.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers, in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) Application. The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(d) Effective date. This order shall become effective at 6 p.m., p.s.t., May 12, 1975.

(e) Expiration date. The provisions of this order shall expire at 11:59 p.m., p.s.t., May 13, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

It is further ordered, That this order shall be served upon Southern Pacific Transportation Company and upon the National Railroad Passenger Corporation (Amtrak), and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 12, 1975.

INTERSTATE COMMERCE  
COMMISSION,  
LEWIS R. TEEPLE,  
Agent.

[FR Doc.75-14030 Filed 5-28-75; 8:45 am]

[Notice No. 51]

## TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below.

Temporary authority application	Final action or certificate or permit	Date of action
National Freight, Inc., MC-2860 Sub-125	MC-2860 Sub-125	Aug. 30, 1974
P. B. Nuttle Motor Transportation, Inc., MC-31600 Sub-661, Sub-665	MC-31600 Sub-665	Aug. 22, 1974
Loomis Armored Car Service, Inc., MC-36509 Sub-21	MC-36509 Sub-22	Aug. 26, 1974
Refiners Transport & Terminal Corp., MC-50069 Sub-467	MC-50069 Sub-471	Aug. 8, 1974
Ringsby Truck Lines, Inc., MC-52709 Sub-322	MC-52709 Sub-323	Aug. 6, 1974
Herman Bros., Inc., MC-61306 Sub-258	MC-61306 Sub-261	Aug. 28, 1974
Central Express, Inc., MC-06902 Sub-5	MC-06902 Sub-6	Aug. 29, 1974
National Trailer Convey, Inc., MC-106398 Sub-630	MC-106398 Sub-632	Aug. 1, 1974
Direct Transit Lines, Inc., MC-106603 Sub-128	MC-106603 Sub-129	Aug. 22, 1974
Hilt Truck Line, Inc., MC-12421 Sub-3	MC-12421 Sub-191	Aug. 29, 1974
Beer Transit, Inc., MC-111310 Sub-11	MC-111310 Sub-12	Aug. 28, 1974
Greendyke Transport, Inc., MC-111401 Sub-381	MC-111401 Sub-385	Aug. 21, 1974
Purulator Courier Corp., MC-111729 Sub-380, Sub-383, Sub-385	MC-111729 Sub-386	Aug. 8, 1974
Purulator Courier Corp., MC-111729 Sub-388, Sub-389	MC-111729 Sub-396	Aug. 26, 1974
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Todd Transport Co., Inc., MC-113158 Sub-22, Sub-23	MC-113158 Sub-24	Aug. 29, 1974
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C & R Transfer Co., MC-123885 Sub-8	MC-123885 Sub-13	Nov. 30, 1974
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B & H Motor Lines, Inc., MC-127100 Sub-10	MC-127100 Sub-12	Do.
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Jans Motor Service, MC-129191 Sub-3, Sub-5	MC-129191 Sub-4	Nov. 21, 1974
D.b.a. Bill Payne Trucking Co., MC-129387 Sub-17	MC-129387 Sub-18	Oct. 18, 1974
Pack Transport, Inc., MC-129631 Sub-34	MC-129631 Sub-37	Oct. 4, 1974
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George Appel, MC-133796 Sub-8	MC-133796 Sub-12	Nov. 22, 1974
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[SEAL]

JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-13853 Filed 5-28-75; 8:45 am]



# **federal register**

THURSDAY, MAY 29, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 104

PART II



## **ENVIRONMENTAL PROTECTION AGENCY**

■

### **RADIATION PROTECTION FOR NUCLEAR POWER OPERATIONS**

Proposed Standards

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# ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 190]

[FRL 376-1]

## ENVIRONMENTAL RADIATION PROTECTION FOR NUCLEAR POWER OPERATIONS

### Proposed Standards

Reorganization Plan No. 3, which became effective on December 2, 1970, transferred to the Administrator of the Environmental Protection Agency the functions of the former Atomic Energy Commission to establish "... generally applicable environmental standards for the protection of the general environment from radioactive material." The Plan defined these standards as "limits on radiation exposures or levels, or concentrations or quantities of radioactive material outside the boundaries of locations under the control of persons possessing or using radioactive material." On May 10, 1974, the Agency published an advance notice of its intent to propose standards under this authority for the uranium fuel cycle and invited public participation in the formulation of this proposed rule.

The Agency has reviewed and considered the comments received in response to that notice and proposes herein environmental radiation standards which would assure protection of the general public from unnecessary radiation exposures and radioactive materials in the general environment resulting from the normal operations of facilities comprising the uranium fuel cycle. Nuclear power generation based on recycled plutonium or on thorium is excluded from these standards because sufficient operating data and experience concerning fuel cycles utilizing these fuels are not yet available. Before any of these developing technologies becomes of potential significance to public health the need for additional generally applicable standards will be considered.

The environmental radiation standards proposed in this notice supplement existing Federal Radiation Protection Guideline limiting maximum exposure of the general public [FR Docs. 60-4539 and 61-9402] by providing more explicit public health and environmental protection from potential effects of radioactive effluents from the uranium fuel cycle during normal operation. Numerically the proposed standards are below current Federal Radiation Protection Guides. The Agency is not, at this time, proposing revisions in existing Federal Radiation Protection Guidance for the general public because of its belief that a detailed examination of each major activity contributing to public radiation exposure is required before revision of this general guidance should be considered. Existing Federal Radiation Protection Guidance for workers in the fuel cycle is also not affected by these proposed standards. In addition, since these standards are proposed under authority derived from the Atomic Energy Act of 1954, as amended, they do not apply to

radioactive materials and exposures in the general environment that are the result of effluents from mining operations because that Act does not provide authority over such effluents. Finally, since there are no planned releases from existing radioactive waste disposal sites and these sites primarily serve sources of waste other than uranium fuel cycle operations, these standards do not apply to such sites. The Agency has each of these areas of concern under continuing study.

It is the intent of the Agency to maintain a continuing review of the appropriateness of these environmental radiation standards and to formally review them at least every five years, and to revise them, if necessary, on the basis of information that develops in the interval.

**Interagency relationships.** Reorganization Plan No. 3 transferred to the Environmental Protection Agency (EPA) the broad guidance responsibilities of the former Federal Radiation Council and also transferred from the former Atomic Energy Commission (AEC) the more explicit responsibility to establish generally applicable radiation standards for the environment. However, the responsibility for the implementation and enforcement of both this guidance and these standards lies, in most cases, in agencies other than EPA as a part of their normal regulatory functions. For nuclear power operations, this responsibility, which had been vested in the AEC, is now vested in the Nuclear Regulatory Commission (NRC), which will exercise the responsibility for implementation of these generally applicable standards through the issuance and enforcement of regulations, regulatory guides, licenses, and other requirements for individual facilities.

**Basic considerations.** The Agency has concluded that environmental radiation standards for nuclear power industry operations should include consideration of: 1) the total radiation dose to populations, 2) the maximum dose to individuals, 3) the risk of health effects attributable to these doses, including the future risks arising from the release of long-lived radionuclides to the environment, and 4) the effectiveness and costs of the technology available to mitigate these risks through effluent control. The Agency also recognizes the findings of the recent study of the biological effects of low levels of ionizing radiation by the Advisory Committee on the Biological Effects of Ionizing Radiation (BEIR Committee) of the National Academy of Sciences—National Research Council. Two of the principal conclusions of the BEIR Committee were: 1) that current societal needs appear to be achievable "... with far lower average exposure and lower genetic and somatic risk than permitted by the current Radiation Protection Guide. [Thus,] to this extent, the current Guide is unnecessarily high ..." and 2) that "Guidance for the nuclear power industry should be established on the basis of cost-benefit analysis, particularly taking into account the total biological and environmental risks of

the various options available and the cost-effectiveness of reducing these risks."

For the purpose of setting radiation protection standards the most prudent basis for relating radiation dose to its possible impact on public health continues to be to assume that a potential for health effects due to ionizing radiation exists at all levels of exposure and that at the low levels of exposure characteristic of environmental levels of radiation the number of these effects will be directly proportional to the dose of radiation received (a linear non-threshold dose-effect relationship). Even under these assumptions, the range of estimates of the health risks associated with a given level of exposure derived from existing scientific data is broad. It is recognized that sufficient data are not now available to either prove or disprove these assumptions, nor is there any reasonable prospect of demonstrating their validity at the low levels of expected exposure with any high degree of certainty. However, the Agency believes that acceptance of the above prudent assumptions, even with the existence of large uncertainties, provides a sound basis for developing environmental radiation standards which provides reasonable protection of the public health and do so in a manner most meaningful for public understanding of the potential impact of the nuclear power industry. Standards developed on this basis are believed to also protect the overall ecosystem, since there is no evidence that there is any biological species sensitive enough to warrant a greater level of protection than that adequate for man.

**Radiological protection of the public from nuclear power industry operations** has been based to date on guidance which has had as its primary focus the general limitation of dose to the most exposed individual, rather than limitation of the total population dose from any specific type of activity. The proposed expanded development of the nuclear power industry requires, however, the use of a broader environmental perspective that more specifically considers the potential radiological impact on human populations of radioactive effluents from this industry, rather than just that on the most exposed individual. A number of long-lived radionuclides are now discharged from various fuel cycle operations which carry a potential for build-up of environmental levels and irreversible commitments for exposure of populations that may persist for tens, hundreds, or thousands of years. The extent of the cumulative population doses which may occur over the years following release of such radionuclides is related to their radioactive decay times, the details of their dispersion through environmental media, the period over which they remain in the biosphere, and their exposure (both internal and external) of individuals in populations. The cumulative dose resulting from releases to the environment of such materials can be termed an "environmental dose commitment," and quantitatively expressed in terms of the number of person-rem of dose committed. The proposed standards are based, to the extent that present knowledge permits, on such projections of the migration of radioactive effluents through the biosphere and estimates of the sum of potential doses to present and future populations during that migration.

Since potential effects from radiation exposure are assumed to occur at any level of exposure, it is not possible to specify solely on a health basis an acceptable level of radiation exposure for either individuals or populations; it is necessary to balance the health risks associated with any level of exposure against the costs of achieving that level. In developing the proposed standards, EPA has carefully considered, in addition to potential health effects, the available information on the effectiveness and costs of various means of reducing radioactive effluents, and therefore potential health effects, from fuel cycle operations. This consideration has included the findings of the AEC and the NRC with respect to practicability of effluent controls, as well as EPA's own continuing cognizance of the development, operating experience, and costs of control technology. Such an examination made it possible to propose the standards at levels consistent with the capabilities of control technology and at a cost judged by the Agency to be acceptable to society, as well as reasonable for the risk reduction achieved. Thus, the standards generally represent the lowest radiation levels at which the Agency has determined that the costs of control are justified by the reduction in health risk. The Agency has selected the cost-effectiveness approach as that best designed to strike a balance between the need to reduce health risks to the general population and the need for nuclear power. Such a balance is necessary in part because there is no sure way to guarantee absolute protection of public health from the effects of a non-threshold pollutant, such as radiation, other than by prohibiting outright any emissions. The Agency believes that such a course would not be in the best interests of society.

The total population impact associated with a particular level of effluent control is best assessed in terms of dose commitments to populations measured in person-rem, which are then converted into estimates of potential health impact. However, the environmental models used for deriving these assessments, while useful for making estimates of potential health impact, are not considered to be so well-defined as to allow standards for populations to be expressed directly in terms requiring their explicit use. The Agency believes that future changes and refinements in models, and thus in the person-rem assessments upon which these standards are based, will occur on a continuing basis. The standards are therefore not proposed directly in terms of person-rem, but future reviews of their adequacy will reflect any changes in

model-based assessments of population dose. Standards have also not been proposed directly in terms of person-rem because the regulatory implementation of such a requirement does not appear to be administratively feasible for the fuel cycle under existing widely varying geographical and demographic conditions and for doses that may, in some instances, be delivered over indeterminately long periods of time. The proposed standards are expressed in terms of 1) limits on individual doses to members of the public and 2) on quantities of certain long-lived radioactive materials in the general environment. On the basis of its assessments of the health risks associated with projected annual population doses and environmental dose commitments, the Agency has concluded that these two types of standards are the most appropriate choice of criteria to provide effective limitation of the potential health impact on populations of short-lived and long-lived radioactive materials, respectively.

Even though adequate protection of populations considered as a whole may be assured by standards based upon the above consideration of health risks and control costs, it may not always be the case that adequate protection is assured on this basis to some individuals in these populations who reside close to the site boundaries of nuclear facilities, because of the distribution characteristics of certain effluents. Such a situation is possible in the case of thyroid doses due to releases of radioiodines from reactors and fuel reprocessing facilities. Although the risk from such doses to nearby individuals is quite small, it is inequitable to permit doses to specific individuals that may be substantially higher than those to other members of the population from other radionuclides. Additional protection for these individuals should be provided when technology or other procedures are available for minimizing any additional potential risk at a reasonable cost. The standards proposed to limit doses to individuals reflect this additional requirement where it is appropriate to do so.

**Technical considerations.** It is convenient to consider effects of radioactive materials introduced into the environment by the uranium fuel cycle in three categories. Prior to the occurrence of nuclear fission at the reactor only naturally occurring radioactive materials are present in fuel cycle operations. This first category of materials consists principally of uranium, thorium, radium, and radon with its daughter products. Radioactive materials introduced to the environment from facilities for milling, chemical conversion, isotopic enrichment, and fabrication of fuel from uranium which has not been recycled are limited to these naturally occurring radionuclides. As a result of the power-producing fission process at the reactor a large number of new radionuclides are created as fission or activation products. These may be introduced into the general environment principally by reactors

or at fuel reprocessing and are conveniently categorized as either long-lived or short-lived fission and activation products, depending upon whether their half-lives are greater than or less than one year. Although naturally occurring radionuclides are of some concern, it is these fission and activation products which are of greatest concern from the point of view of controlling radiation doses to the public due to nuclear power operations.

Standards are proposed for the fuel cycle in two major categories. The proposed standards would limit: 1) the annual dose equivalent to the whole body to 25 millirems, to the thyroid to 75 millirems, and to any other organ to 25 millirems; and 2) the quantities of krypton-85, iodine-129, and certain long-lived transuranic radionuclides released to the environment per gigawatt-year of power produced by the entire fuel cycle to 50,000 curies, 5 millicuries, and 0.5 millicuries, respectively. The first standards are designed to limit population and individual exposures near fuel cycle operations due to short-lived fission-produced materials and naturally occurring materials, and due to transportation of any radioactive materials, while the second specifically addresses potential population exposure and buildup of environmental burdens of long-lived materials.

The proposed standard for annual whole body dose to any individual limits the combined internal and external dose equivalent from gaseous and liquid effluents as well as exposure to gamma and neutron radiation originating from all operations of the fuel cycle to 25 millirems. Such a limit is readily satisfied at all sites for which fuel cycle facilities are presently projected through the year 1985 (including any potential overlap of doses from adjacent sites) by levels of control that are cost-effective for the reduction of potential risk achieved; is in accord with the capabilities of controls anticipated by the AEC for all sites for which Environmental Statements have been filed; and, on the basis of present operating experience at existing sites, can be readily achieved in practice. The combined effect of any combinations of operations at the same location that are foreseeable for the next decade or so was also examined and is judged to be small, so that the proposed standards can readily be satisfied by use of levels of control that are similar to those required for single operations. It should be noted that this proposed standard for maximum whole body dose, which is higher than that proposed by the AEC as guidance for design objectives for light-water-cooled reactors, differs from those objectives in that it applies to the total dose received from the fuel cycle as a whole and from all pathways, including gamma radiation from onsite locations. It is also not a design objective, but a standard which limits doses to the public under conditions of actual normal operation.

The appropriate level for a standard limiting the maximum annual total dose to the thyroid of individuals is not easy



to determine. A standard for maximum total thyroid dose based on considerations limited to the same criteria as for maximum whole body dose (cost-effectiveness of reduction of total population impact and achievability) would permit unacceptably high doses to individuals near some site boundaries. The proposed standard of 75 millirems per year to the thyroid has therefore been chosen to reflect a level of biological risk comparable, to the extent that current capability for risk estimation permits, to that represented by the standard for dose to the whole body. The effluent controls required to achieve this limit have been examined extensively by EPA, AEC, and the industry, particularly in regard to the AEC's proposed Appendix I to 10 CFR 50 for light-water-cooled reactors, and, in the view of the Agency, this level of maximum annual individual dose to the thyroid can be achieved at reasonable effort and cost.

The principal potential doses to internal organs other than the thyroid are to the lung via inhalation of airborne particulates and to bone due to ingestion via water and other pathways of the naturally occurring materials processed in the several components of the fuel cycle required to convert uranium ore into reactor fuel. The impact on populations due to effluents from these operations is generally quite small (due to their predominately remote locations and lack of widespread dispersion), however, significant lung doses are possible to individuals near to these operations, particularly in the case of mills and conversion facilities. The use of well-established, efficient, and inexpensive technology for the retention and control of particulate effluents can readily achieve the levels of control required to meet the proposed standard of 25 millirems per year for limiting dose equivalent to the internal organs (other than thyroid) of individuals.

Environmental radiation exposures from transportation operations are due to direct radiation. Although average radiation doses to individuals in the general public from transportation activities are very small, situations in which individuals could receive higher doses may reasonably be postulated. It is recognized that exposures due to transportation of radioactive materials are difficult to assess and regulate because as shipments move in general commerce between sites the exposed population is constantly changing. Transportation activities should be conducted with every effort made to maintain doses to individuals as low as reasonably achievable, consistent with technical and economic feasibility. In any case, the maximum dose to any member of the general public due to uranium fuel cycle operations, including those due to shipments of radioactive materials, should not exceed the proposed standard of 25 millirems per year to the whole body of an individual. The Agency will continue to examine potential exposures due to transportation of radioactive materials

with a view to further action, if necessary.

Among the variety of long-lived radionuclides produced in the fuel cycle, tritium, carbon-14, krypton-85, iodine-129, plutonium, and certain other long-lived transuranic radionuclides are of particular significance as environmental pollutants. Environmental pathways of tritium, carbon-14, and krypton-85 are worldwide. Even though the balance of the above radionuclides may not rapidly become widely dispersed, they are significant because of their potential for extreme persistence in environmental pathways, possibly for thousands of years for plutonium and other transuranics, and for even longer periods for iodine-129.

Because of their high toxicity and long half-lives, the cumulative impact of releases of plutonium and other transuranics to the environment could be large. However, due to very large uncertainties concerning their environmental behavior over long periods of time, as well as a lack of definitive information concerning the relationship between exposure to these materials and health effects, the limits of this potential impact cannot be more than roughly estimated. Therefore prudence dictates that the environmental burden of these materials be minimized to the lowest levels reasonably achievable. Similarly, although its toxicity is less than that of the alpha-emitting transuranics, in view of the extreme persistence of iodine-129 (half-life 17 million years) and great uncertainty concerning its environmental behavior, environmental releases of this isotope should be also maintained at the lowest level reasonably achievable. The prevention of unlimited discharges of krypton-85 to the environment from fuel cycle operations is of high priority because of its potential for significant long-term public health impact over the entire world. Finally, carbon-14 and tritium, both of which rapidly enter worldwide pathways as gaseous radioactive materials, are of particular concern because carbon and hydrogen are principal constituents of the chemical structures of all life forms.

These long-lived radionuclides should only be discharged to the environment after careful consideration of the trade-offs between the societal benefits of the power generated, the current and projected health risks to populations, and the costs and effectiveness of methods available to limit their release. Since the anticipated maximum dose to any single individual from any of these materials is very small, the primary concern is the cumulative risk to population groups over long periods of time. For this reason, it is not of primary importance where or when in the fuel cycle any such materials are released, since the committed impact will be similar. What is important is to assure that any permitted discharge has been offset by a beneficial product, i.e., a quantity of electricity, and that every reasonable effort has been made to minimize it. It is also important to assure that society is not burdened with unreasonable expenditures to minimize

these risks in order to gain the necessary benefits of electric power. Fortunately the vast majority of potential health effects due to release of these radionuclides can be avoided at a reasonable cost. The Agency estimates the cost of implementing the proposed standards for these long-lived radioactive materials to be less than \$100,000 per potential case of cancer, leukemia, or serious genetic effect averted (less than \$75 per person-rem). In view of the above considerations, the Agency believes that the proposed standards, which limit the number of curies of certain of these radionuclides released to the general environment for each gigawatt-year of electricity produced by the fuel cycle, represent the most reasonable means of providing required protection of the general environment for present and future generations. The standards will assure that any environmental burdens of long-lived radioactive materials accumulate only as the necessary result of the generation of an offsetting quantity of electrical energy.

The proposed standards for long-lived materials fall into two categories: those which can be achieved using currently available methods for control of environmental releases, and those that require use of methods that have been demonstrated on a laboratory or larger scale, but have not yet achieved routine use. In the former case, exemplified by the standard of 0.5 millicuries per gigawatt-year for plutonium and other long-lived alpha-emitting transuranics, the standard limits the environmental burden to the lowest level reasonably achievable using currently available control methods. In the latter case, that of the proposed standard of 50,000 curies per gigawatt-year for krypton-85 and 5 millicuries per gigawatt-year for iodine-129, these limiting levels of environmental burdens are not those achievable by best demonstrated performance, but instead by minimum performance reasonably anticipated from introduction of these new systems into commercial operations. As experience is gained with the ability of the industry to limit fuel cycle releases of these materials to the environment, it may be appropriate to reconsider the standards limiting the maximum environmental burdens of these particular radionuclides.

Similarly, as knowledge becomes available concerning the practicability of limiting environmental releases of tritium and carbon-14, the appropriate levels of maximum environmental burdens of these radionuclides due to fuel cycle operations will be carefully considered by the Agency. However, the knowledge base now available is inadequate for such a determination, and no standards are presently proposed for these radionuclides. The potential for a long-term impact due to carbon-14 released from fuel cycle operations was not recognized until the Agency considered environmental dose commitments from the industry in the course of developing these standards; thus consideration of methods for limit-

ing its release to the general environment are only now beginning. Tritium levels in the general environment from fuel cycle operations are not expected to become significant until the late 1980's, and development programs are in existence for control of releases of this radionuclide from its principal source, fuel reprocessing operations. The Agency believes that the development and installation of controls to minimize environmental burdens of both carbon-14 and tritium are important objectives, and will carefully follow the development of new knowledge concerning both the impact and controllability of these radionuclides.

To allow adequate time for implementing the standards for krypton-85 and iodine-129 control, including the necessary testing and analysis required prior to licensing of these control systems, the effective date is proposed as January 1, 1983. Implementation by this date would result in control of these releases before any substantial potential health impact from these materials due to uranium fuel cycle operations can occur and would, in the judgment of the Agency, provide adequate protection of public health thereafter.

The proposed standard for maximum dose to organs excludes radon and its daughter products. Radon is released as a short-lived (3.8 days half-life) inert gas, mainly from tailings piles at mills, and produces its principal potential impact through deposition of its daughter products in the lung. There exists considerable uncertainty about the public health impact of existing levels of radon in the atmosphere, as well as over the best method for management of new sources of radon created by man's activities, which remove this naturally occurring material and its precursors from beneath the earth's protective crust. Radon levels in the general environment are substantial and are dominated by natural sources, except in the immediate vicinity of man-made sources. Exposures from radon and its daughters have previously been the subject of Federal Radiation Protection Guidance. In the case of underground uranium miners (FR Doc. 71-7210 and FR Doc. 71-9697), and of guidance from the Surgeon General, in the case of public exposure due to the use of uranium mill tailings in or under structures occupied by members of the general public ("Use of Uranium Mill Tailings for Construction Purposes," Hearings before the Subcommittee on Raw Materials of the Joint Committee on Atomic Energy, October 28-29, 1971, pp. 226-233). The Agency has concluded that the problems associated with radon emissions are sufficiently different from those of other radioactive materials associated with the fuel cycle to warrant separate consideration, and has under way an independent assessment of man-made sources of radon emissions and their management.

Implementation of the standards. These proposed standards are expected to be implemented for the various components of the uranium fuel cycle, operating under normal conditions, by the

Nuclear Regulatory Commission. The mechanisms by which these standards are achieved will be a matter between the NRC and the industries that are licensed to carry out various uranium fuel cycle operations, but, in general, will be based on regulations and guides for the design and operation of the various facilities. The Agency is confident that these proposed standards can be effectively implemented by such procedures.

Current rules and regulations applicable to fuel cycle operations generally contain provisions which have the effect of limiting doses to individuals, thus implementation of the proposed standards for maximum doses to individuals should be straightforward. Protection of the public from the environmental accumulation of long-lived radioactive materials may require some changes in regulatory requirements. For example, this standard limit environmental accumulations of certain radionuclides associated with the generation of a gigawatt-year of electrical energy, which is generated only at the power reactor. Since other operations in the cycle which do not generate power are more likely to discharge such materials, it may be necessary for the regulatory agency to make an appropriate allocation to each facility and to determine the emission rates required to satisfy the standard for the entire fuel cycle. This is especially the case for a radionuclide like krypton-85 which can be released either at reactors, during fuel storage, or during fuel reprocessing. The standards do not specify the time, location, or concentration of emissions of long-lived radionuclides. Once a given quantity of electrical power has been generated the specified amount of the radionuclide may be released at any time and at any rate or location that does not exceed the individual dose limitations. Demonstration of compliance with the standard requires only that the total quantity of electricity generated after the effective date of the standards be recorded to determine the maximum quantity of these long-lived radionuclides that may eventually be released.

The Agency recognizes that implementation of the standards for krypton-85 and iodine-129 by the proposed effective date of January 1, 1983, will require successful demonstration of control technology for commercial use that is now in advanced stages of development. The Agency, as stated above, intends to review all of these standards in at least five year intervals. If substantial difficulty should develop for implementing the standards for krypton-85 and iodine-129 with respect to the proposed levels, facility safety, or cost, the Agency will give these factors careful and appropriate consideration prior to the effective date.

With respect to operations associated with the supply of electrical power it is important not only to set standards which will provide satisfactory public health protection, consistent with technical and economic feasibility, but also to minimize societal impacts which may occur as the result of temporary interruptions in those fuel cycle operations

that are necessary to assure the orderly delivery of electric power. Such a twofold objective requires consideration of the question whether to impose stricter standards which achieve lower levels of radiation exposure and environmental burdens of long-lived radioactive materials, but which may force temporary shutdowns which may not be justified on a risk-benefit basis for such periods; or to establish more liberal standards which decrease the possibility of such shutdowns, but may be overly permissive with respect to public exposure and long-term environmental releases. The Agency has attempted to avoid this dilemma by proposing standards that are not permissive with respect to either public exposures or long-term environmental releases and at the same time providing a variance which allows the standards to be temporarily exceeded under unusual conditions. The use of such variances by the regulatory agency will depend to a large degree upon their value judgments concerning the necessity of the fuel cycle operation concerned to a region, overall facility safety, and the possible impact on public health. The proposed variance provides that temporary increases above the standards for normal operations are allowable when the public interest is served, such as to maintain a dependable source of continuous power or during a power crisis. The Agency anticipates that the need to use such variances will be infrequent and of short duration, and that the overall impact on population and individual radiation doses from the operations of the entire fuel cycle will be minimal.

With respect to regulatory implementation of the flexibility provided by this proposed variance provision, the Agency has carefully examined the guidance for design objectives and limiting conditions for operation of light-water-cooled nuclear power reactors as set forth recently by the NRC in Appendix I to 10 CFR 50. It is the view of the Agency that this guidance for reactors will provide an appropriate and satisfactory implementation of these proposed environmental radiation standards for the uranium fuel cycle with respect to light-water-cooled nuclear reactors utilizing uranium fuel. The various monitoring and reporting procedures required by the AEC in the past and supplemented by Appendix I are expected to provide continuing information sufficient to determine that these standards are being satisfied during the course of normal operations of the fuel cycle.

Although the Agency has attempted to limit the effect of radioactive discharges from the fuel cycle on populations and on individuals through these proposed standards, it has not attempted to specify constraints on the selection of sites for fuel cycle facilities, even though the Agency recognizes that siting is an important factor which affects the potential health impact of most planned releases from operations in the fuel cycle. The standards were developed, however, on the assumption that sound siting practices will continue to be promoted



as in the past and that facility planners will utilize remote sites with low population densities to the maximum extent feasible.

The Agency has also considered the need for special provisions for single sites containing large numbers of facilities, of single or mixed types, as exemplified by the "nuclear park" concept. Present construction projections by utilities indicate that no such sites are likely to be operational during the next ten years. In view of the need to accumulate operating experience for the new large individual facilities now under construction and the intent of the Agency to review these standards at reasonable intervals in the future, it is considered premature and unnecessary to predicate these standards on any siting configurations postulated for the next decade and beyond. The Agency will consider changes in these standards based on such considerations when they are needed and justified by experience.

It is the conclusion of the Agency that implementation of the proposed standards for normal operations of the nuclear power industry based on the uranium fuel cycle will provide society protection of its environment and the health of its citizens and that this protection is obtained without placing unreasonable financial burdens upon society. In this context, these standards are responsive to the President's energy messages of June 4, 1971, and April 18, 1973, which challenged the Nation to the twin objectives of developing sufficient new energy resources while providing adequate protection for public health and the environment.

**Request for comments.** Notice is hereby given that pursuant to the Atomic Energy Act of 1954, as amended, and Reorganization Plan No. 3 of 1970 (FR Doc. 70-13374), adoption of Part 190 of Title 40 of the Code of Federal Regulations is proposed as set forth below. All interested persons who wish to submit comments or suggestions in connection with this proposed rulemaking are invited to send them to the Director, Criteria and Standards Division (AW-560), Office of Radiation Programs, Environmental Protection Agency, Washington, D.C. 20460, on or before July 28, 1975. Within this same time period, interested parties are also invited to indicate their desire to participate in a public hearing on the proposed rulemaking to be scheduled after the comment period ends. Comments and suggestions received after July 28, 1975 period will be considered if it is practical to do so, but such assurance can only be given for comments filed within the period specified. Single copies of a Draft Environmental Statement for the proposed standards and a technical report entitled "Environmental Analysis of the Uranium Fuel Cycle" are available upon request at the above address. The above-mentioned technical documents and

comments received in response to this notice, as well as comments received in response to the Agency's advance notice of this proposed rulemaking published on May 10, 1974, and the Agency's response to these comments, constitute part of the background for this rulemaking and may be examined in the Agency's Freedom of Information Office, 401 M Street, SW., Washington, D.C. 20460.

Dated: May 23, 1975.

RUSSELL E. TRAIN,  
Administrator.

A new Part 190 is proposed to be added to Title 40, Code of Federal Regulations, as follows:

**PART 190—ENVIRONMENTAL RADIATION PROTECTION STANDARDS FOR NUCLEAR POWER OPERATIONS**

**Subpart A—General Provisions**

Sec.  
190.01 Applicability.  
190.02 Definitions.

**Subpart B—Environmental Standards for the Uranium Fuel Cycle**

190.10 Standards for normal operations.  
190.11 Variance for unusual operations.  
190.12 Effective date.

**AUTHORITY:** Atomic Energy Act of 1954, as amended; and Reorganization Plan No. 3 of 1970.

**Subpart A—General Provisions**

**§ 190.01 Applicability.**

The provisions of this part apply to radiation doses received by members of the public in the general environment and to radioactive materials introduced into the general environment as the result of operations which are part of a nuclear fuel cycle.

**§ 190.02 Definitions.**

(a) "Nuclear fuel cycle" means the operations defined to be associated with the production of electrical power for public use by any fuel cycle through utilization of nuclear energy.

(b) "Uranium fuel cycle" means all facilities conducting the operations of milling of uranium ore, chemical conversion of uranium, isotopic enrichment of uranium, fabrication of uranium fuel, generation of electricity by a light-water-cooled nuclear power plant using uranium fuel, reprocessing of spent uranium fuel, and transportation of any radioactive material in support of these operations, to the extent that these support commercial electrical power production utilizing nuclear energy, but excludes mining operations and the reuse of recovered non-uranium fissile products of the cycle.

(c) "General environment" means the total terrestrial, atmospheric and aquatic environments outside sites upon which any operation which is part of a nuclear fuel cycle is conducted.

(d) "Site" means any location, contained within a boundary across which ingress or egress of members of the general public is controlled by the person conducting activities therein, on which is conducted one or more operations covered by this part.

(e) "Radiation" means any or all of the following: alpha, beta, gamma, or x rays; neutrons; and high-energy electrons, protons, or other atomic particles; but not sound or radio waves, nor visible, infrared, or ultraviolet light.

(f) "Radioactive material" means any material which emits radiation.

(g) "Uranium ore" is any ore which contains one-twentieth of one percent (0.05 percent) or more of uranium by weight.

(h) "Curie" (Ci) means that quantity of radioactive material producing 37 billion nuclear transformations per second. (One millicurie (mCi) = 0.001 Ci.)

(i) "Dose equivalent" means the product of absorbed dose and appropriate factors to account for differences in biological effectiveness due to the quality of radiation and its spatial distribution in the body. The unit of dose equivalent is the "rem." (One millirem (mrem) = 0.001 rem.)

(j) "Organ" means any human organ exclusive of the dermis, the epidermis, or the cornea.

(k) "Gigawatt-year" refers to the quantity of electrical energy produced at the busbar of a generating station. A gigawatt is equal to one billion watts. A gigawatt-year is equivalent to the amount of energy output represented by an average electric power level of one gigawatt sustained for one year.

(l) "Member of the public" means any individual that can receive a radiation dose in the general environment, whether he may or may not also be exposed to radiation in an occupation associated with a nuclear fuel cycle. However, an individual is not considered a member of the public during any period in which he is engaged in carrying out any operation which is part of a nuclear fuel cycle.

(m) "Regulatory agency" means the government agency responsible for issuing regulations governing the use of sources of radiation or radioactive materials or emissions therefrom and carrying out inspection and enforcement activities to assure compliance with such regulations.

**Subpart B—Environmental Standards for the Uranium Fuel Cycle**

**§ 190.10 Standards for normal operations.**

(a) The annual dose equivalent shall not exceed 25 millirems to the whole body, 75 millirems to the thyroid, and 25 millirems to any other organ of any member of the public as the result of exposure to planned discharges of radioactive materials, radon and its daughters excepted, to the general environment from uranium fuel cycle operations and radiation from these operations.

(b) The total quantity of radioactive materials entering the general environment from the entire uranium fuel cycle, per gigawatt-year of electrical energy produced by the fuel cycle, shall contain less than 50,000 curies of krypton-85, 5

millicuries of iodine-129, and 0.5 millicuries combined of plutonium-239 and other alpha-emitting transuranic radionuclides with half-lives greater than one year.

**§ 190.11 Variance for unusual operations.**

The standards specified in § 190.10 may be exceeded if:

(a) The regulatory agency has granted a variance based upon its determination that a temporary and unusual operating condition exists and continued operation is necessary to protect the overall societal interest with respect to the orderly delivery of electrical power, and

(b) Information delineating the nature and basis of the variance is made a matter of public record.

**§ 190.12 Effective date.**

(a) The standards in this Subpart, excepting those for krypton-85 and iodine-129, shall be effective 24 months from the promulgation date of this rule.

(b) The standards for krypton-85 and iodine-129 shall be effective January 1, 1983.

[FR Doc. 75-14017 Filed 5-28-75; 8:45 am]



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(Revised as of January 1, 1975)

Title 7—Agriculture (Parts 1200–1499)----- \$4.05

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such assurance can only be given for comments filed within the period specified. Single copies of a Draft Environmental Statement for the proposed standards and a technical report entitled "Environmental Analysis of the Uranium Fuel Cycle" are available upon request at the above address. The above-mentioned technical documents and

environments outside sites upon which any operation which is part of a nuclear fuel cycle is conducted.

(d) "Site" means any location, contained within a boundary across which ingress or egress of members of the general public is controlled by the person conducting activities therein, on which is conducted one or more operations covered by this part.

excepted, to the general environment from uranium fuel cycle operations and radiation from these operations.

(b) The total quantity of radioactive materials entering the general environment from the entire uranium fuel cycle, per gigawatt-year of electrical energy produced by the fuel cycle, shall contain less than 50,000 curies of krypton-85, 5

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## presidential documents

### Title 3—The President

PROCLAMATION 4376

### Father's Day, 1975

*By the President of the United States of America*

#### A Proclamation

Growing up has never been easy. We have all experienced moments of sorrow, disappointment, and frustration. And there have been times of joy and great satisfaction. For each of us, there have been special men along the way—men who cared.

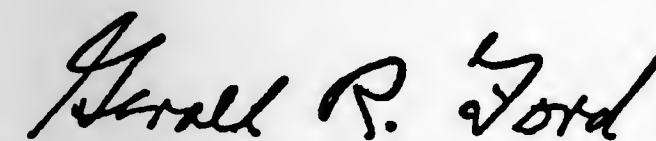
They loved us and made us feel important. They helped provide for our needs. They took time to work and to play with us. And we often modelled ourselves after them.

These men who have given so much of themselves are our natural fathers, our foster fathers, our adoptive fathers and our big brothers. It is a fitting American tradition that once a year we pay a well-deserved tribute to these fathers of America.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, in accordance with a joint resolution of Congress (36 U.S.C. 142a), urge each American to observe Sunday, June 15, 1975, as Father's Day, with appropriate public and private expressions of the love and gratitude we bear for our fathers.

I call upon Government officials to display the flag of the United States on all Government buildings, and I invite the governments of the States and local communities to observe Father's Day with appropriate ceremonies.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of May, in the year of our Lord nineteen hundred seventy-five, and of the Independence of the United States of America the one hundred ninety-ninth.



[FR Doc.75-14263 Filed 5-28-75;10:45 am]

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Proclamation 4377

May 27, 1975

**Modifying Proclamation No. 3279,<sup>1</sup> as Amended, Relating to Imports of Petroleum and Petroleum Products, and Providing for the Long-Term Control of Imports of Petroleum and Petroleum Products Through a System of License Fees**

*By the President of the United States of America*

#### A Proclamation

WHEREAS, pursuant to the authority of Section 232 of the Trade Expansion Act of 1962, Proclamation No. 3279, as amended, was modified by Proclamation No. 4341 of January 23, 1975, in order to impose a system of supplemental license fees on imported petroleum and petroleum products; and

WHEREAS, the system of supplemental license fees on imported petroleum and petroleum products was imposed pursuant to an investigation and recommendation by the Secretary of the Treasury in accordance with the provisions of Section 232 of the Trade Expansion Act of 1962; and

WHEREAS, the scheduled increases in the level of fees established by Proclamation No. 4341 were deferred by Proclamation No. 4370 of April 30, 1975, in order to afford Congress an opportunity to propose alternative programs for discouraging importation into the United States of petroleum and petroleum products in such quantities or under such circumstances as threaten to impair the national security; and

WHEREAS, such alternative programs have not been developed and are unlikely to be enacted in the near future; and

WHEREAS, I judge it necessary and consistent with the national security to reinstitute the originally scheduled increase in the supplemental fee to the level of \$2.00 per barrel; and

WHEREAS, the Administrator of the Federal Energy Administration has recommended that certain other changes in the license fee system be made;

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, acting under and by virtue of the authority vested in me by the Constitution and the laws of the United States, including Section 232 of the Trade Expansion Act of 1962, as amended, do hereby proclaim that, effective as of June 1, 1975, Proclamation No. 3279, as amended, is hereby further amended as follows:

SECTION 1. (a) Clauses (iii), (iv), and (viii) of subparagraph (1) of paragraph (a) of Section 3 are amended to read as follows:

"(iii) with respect to imports of crude oil, natural gas products, unfinished oils, and all other finished products (except ethane, propane, butanes, and asphalt) entered into the customs territory of the United States on or after February 1, 1975, there shall be a supplemental fee per barrel of \$1.00, rising to \$2.00 on imports entered on or after June 1, 1975;

"(iv) with respect to the fees imposed pursuant to paragraphs 3(a)(1)(i)-(iii), the amount of such fees shall be reduced, on a monthly basis, by an amount equal to any applicable duties paid less any draw-

<sup>1</sup> 24 FR 1781; 3 CFR, 1959-1963 Comp., p. 11.

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backs received during the same period charged against imports made on or after February 1, 1975, except that where duty drawbacks exceed the duty paid during that period, the net differences shall be applied to subsequent periods; provided that when the duty less drawbacks exceeds the fee imposed, the Administrator may provide that any excess may be used to reduce fees payable in subsequent months, such extended period not to exceed six months;

"(viii) with respect to licenses issued pursuant to paragraph 3(a)(1)(iii) for imports other than (A) any material imported for refining that qualifies for inclusion in a refiner's crude oil runs to stills under the Old Oil Allocation Program or (B) products refined in a refinery outside of the customs territory as to which crude oil runs to stills would qualify a refiner to receive entitlements under the Old Oil Allocation Program, the Administrator may by regulation reduce the fee payable by the following amounts, or by such other amounts as he may determine to be necessary to achieve the objectives of this Proclamation and the Emergency Petroleum Allocation Act of 1973;

—for imports entered into the United States customs territory during the months of February through May, 1975, \$1.00 per barrel;

—for imports entered during the month of June, 1975, and thereafter, \$1.40 per barrel."

(b) Paragraph (b) of Section 3 is amended by redesignating the existing paragraph (b) as (b)(1), and by adding a new paragraph (2) to read as follows:

"(2) With respect to allocations and licenses issued prior to June 1, 1975, for which a bond was not required or with respect to which a bond was required in amounts less than the full amount of the fees imposed pursuant to this Proclamation, the Administrator may, by regulation, provide for such bonding procedures as he deems necessary."

Sec. 2. (a) Paragraph (c) of Section 5 is amended to read as follows:

"(c) The Administrator of the Federal Energy Administration may modify or alter the composition of the Appeals Board or abolish the Board and establish such other appellate procedures as he deems appropriate."

(b) A new paragraph (d) is added to Section 5 to read as follows:

"(d) The authority granted by this Section shall expire on April 30, 1980."

Sec. 3. Paragraph (1) of Section 11 is amended to read as follows:

"(1) The term 'imports' includes both entry for consumption and withdrawal from warehouse for consumption, but excludes unfinished oils and finished products processed in United States territories and foreign trade zones from crude oil produced in the United States."

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of May, in the year of our Lord nineteen hundred seventy-five, and of the Independence of the United States of America the one hundred ninety-ninth.

*Gerald R. Ford*

[FR Doc.75-14355 Filed 5-28-75;4:35 pm]

EDITORIAL NOTE: For the President's address to the Nation on energy programs, see the Weekly Compilation of Presidential Documents (vol. 11, no. 22).

FEDERAL REGISTER, VOL. 40, NO. 105—FRIDAY, MAY 30, 1975

# PROCLAMATION 4378

## Flag Day and National Flag Week, 1975

*By the President of the United States of America*

### A Proclamation

Two hundred years ago, American minutemen raised their muskets at the Old North Bridge. What Ralph Waldo Emerson called "the shot heard around the world" rang out. The American Revolution had begun. Two years later, while the outcome of the Revolutionary War remained in doubt, the Continental Congress met in Philadelphia on June 14, 1777, and approved the following resolution:

"Resolved, that the flag of the thirteen United States be thirteen stripes, alternate red and white: that the union be thirteen stars, white in a blue field, representing a new constellation."

That short and unadorned declaration gave birth to our flag. With the addition of thirty-seven stars, and after two centuries of history, the flag chosen in Philadelphia is our flag today, symbolizing our commitment as a people to freedom, equality, and independence.

To commemorate the adoption of our flag, the Congress, by a joint resolution of August 3, 1949 (63 Stat. 492, 36 U.S.C. 157), designated June 14 of each year as Flag Day and requested the President to issue annually a proclamation calling for its observance. The Congress also requested the President, by joint resolution of June 9, 1966 (80 Stat. 194, 36 U.S.C. 157a), to issue annually a proclamation designating the week in which June 14 occurs as National Flag Week and to call upon all citizens of the United States to display the flag of the United States on those days.

This year, Flag Day is an especially historic occasion, since it is also the Bicentennial birthday of the United States Army. Two hundred years ago, on June 14, 1775, the Continental Congress adopted resolutions which in effect established the military units of New England as the official national army. By this action, the Continental Army was created and the Nation's military service was born. The U.S. Navy and the U.S. Marine Corps were established later that same year by the Continental Congress.

It is appropriate, as our Nation launches its Bicentennial commemoration, that the United States flag, first flown two centuries ago, be displayed together with an ensign bearing the official American Revolution Bicentennial Symbol set on a white field, which is designated as the official Bicentennial Flag.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, do hereby designate the week beginning June 8, 1975, as National Flag Week and I call upon the appropriate officials of the government to display the National Flag on all government buildings during that week. The heads of all government departments and agencies are also authorized and requested to provide, as they deem appropriate, for the flying of the official Bicentennial Flag, on

FEDERAL REGISTER, VOL. 40, NO. 105—FRIDAY, MAY 30, 1975

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## THE PRESIDENT

government buildings, military installations, naval vessels, and other places where the United States flag is flown, during that period and for the remainder of the year 1975 and the entire year 1976. I urge all Americans to observe Flag Day, June 14, and Flag Week this year by flying the Stars and Stripes from their homes and other suitable places.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of May, in the year of our Lord nineteen hundred seventy-five, and of the Independence of the United States of America the one hundred ninety-ninth.

*Gerald R. Ford*

[FR Doc.75-14356 Filed 5-28-75;4:35 pm]

## THE PRESIDENT

Memorandum of May 9, 1975

**Presidential Determination Under Section 614(a) of the Foreign Assistance Act of 1961, as Amended—Spain**

[Presidential Determination No. 75-18]

Memorandum for the Secretary of State

THE WHITE HOUSE,  
Washington, May 9, 1975.

Pursuant to the authority vested in me by Section 614(a) of the Foreign Assistance Act of 1961, as amended, I hereby:

(a) Determine that the use of not to exceed \$1.6 million in FY 1975 in military assistance funds for the grant of defense services (training) to Spain, and the use of up to \$3 million in security supporting assistance funds to finance programs of non-military cooperation with Spain, without regard to Section 620(m) of the Act, is important to the security of the United States; and

(b) Authorize such use of up to \$1.6 million of military assistance funds and up to \$3 million in security supporting assistance funds, without regard to Section 620(m) of the Act.

This determination shall be published in the FEDERAL REGISTER.

*Gerald R. Ford*

[FR Doc.75-14323 Filed 5-28-75;2:55 pm]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture  
CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

[Amdt. 68]

PART 401—FEDERAL CROP INSURANCE  
Subpart—Regulations for the 1969 and Succeeding Crop Years

BARLEY; WYOMING

On page 14777 of the FEDERAL REGISTER of April 2, 1975, (40 FR 14777), was published a notice of proposed rule making to issue an amendment to §§ 401.103 and 401.125 of the Federal Crop Insurance Regulations for the 1969 and Succeeding Crop Years, as amended (7 CFR 401.101 et seq.).

Interested persons were given 30 days after publication of the notice in which to submit written data, views, or arguments with respect to the proposed amendment, but none have been received.

The proposed amendment, as issued in the notice, effective beginning with the 1976 Crop Year was adopted with the following additions:

- 1. A basis and purpose paragraph is added preceding the amendment.
- 2. An authority clause is added immediately following the amendment.

**Basis and purpose.** The amendment herein is issued pursuant to and in accordance with the Federal Crop Insurance Act, as amended. Section 401.103 (a) presently specifies March 31 as the closing date for the submission of applications for barley crop insurance in Wyoming. Section 401.125, the Barley Endorsement, presently provides for March 31 as the termination date for indebtedness in Wyoming. Such date is at variance with the dates for sales campaigns on other insurable crops in Wyoming. The amendment herein will change the closing date and the termination date for indebtedness to April 15 in order to make the barley program in Wyoming more administratively effective.

The subpart-Regulations for the 1969 and Succeeding Crop Years (32 FR 15911), as amended, are amended as follows:

- 1. The portion of the table relating to "Closing Dates" following paragraph (a) of § 401.103 of this chapter under the heading "Barley" is amended effective beginning with the 1976 Crop Year by striking out "and Wyoming" from the line reading "Colorado and Wyoming."
- 2. In section 6 of the Barley Endorsement shown in § 401.125 of this chapter, the table at the end thereof is amended effective beginning with the 1976 Crop Year by striking out "and Wyoming" from the line reading "Colorado and Wyoming."

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

Adopted by the Board of Directors on May 15, 1975.

[SEAL] PETER F. COLE,  
Secretary, Federal Crop Insurance Corporation.

Approved: May 27, 1975.

EARL L. BUTZ,  
Secretary.

[FR Doc.75-14077 Filed 5-29-75; 8:45 am]

[Amdt. 7]

PART 406—CALIFORNIA ORANGE CROP INSURANCE

Subpart—Regulations for the 1963 and Succeeding Crop Years

CALIFORNIA ORANGES

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended, the above-identified regulations are amended effective beginning with the 1975 Crop Year in the following respects:

- 1. The heading of the California Orange Application and Policy shown in § 406.6 is amended to read as follows:

UNITED STATES DEPARTMENT OF AGRICULTURE  
Federal Crop Insurance Corporation  
APPLICATION AND POLICY FOR CALIFORNIA ORANGE CROP INSURANCE  
(For 19— and Succeeding Crop Years)

(Name of Insured)		(Contract Number)	
		(County)	(State)
(Address of Insured)	(Zip Code)	(Identification Number)	

- 2. Reference to "County Office," found in Section 1 of the California Orange Application and Policy shown in § 406.6 is amended to read "Office for the County."

- 3. Subsection 3(a) of the California Orange Application and Policy shown in § 406.6 is amended to read as follows:

3. *Insured crop.* (a) Application for insurance may be made with respect to both navel and valencia oranges, or with respect to either navel or valencia oranges, produced by the applicant on trees that have reached at least the sixth growing season after being set out, except that the applicant may, subject to approval by the Corporation, elect to insure or exclude from insurance for any crop year any definitely described and designated insurable acreage having a potential of less than 200 standard field boxes per acre. Acreage so excluded with approval of the Corporation shall be disregarded for all purposes of this contract for the crop year involved. If the insured fails to report and

designate any defined acreage, the Corporation will disregard such acreage if at least 200 standard field boxes per acre are not produced thereon. However, if the production equals or exceeds such minimum, the Corporation shall determine the percent of damage on all the insurable acreage for the unit but will not permit the percent of damage for the insurance unit to be increased by reason of the use of such unreported acreage. The potential to be used to determine the percent of damage under Section 14 shall never be less than 200 standard field boxes per acre. Except as otherwise provided herein, the insured acreage for each crop year shall be all that acreage in the county of the variety or varieties of oranges for which the insured has applied for insurance, which is shown as insurable acreage on the actuarial table and not excluded otherwise because of risk, and in which the insured has an interest on the date insurance attaches.

- 4. Section 6 of the California Orange Application and Policy shown in § 406.6 is amended to read as follows:

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6. Insurance period. For each crop year insurance shall attach on October 1, except that for the first crop year if the application is submitted to the office for the county after September 30 and is accepted by the Corporation, insurance shall attach on the 10th day after the submission of the application, and as to any portion of the orange crop shall cease upon harvest, or March 31 of the following calendar year, whichever occurs first.

5. Subsection 7(b) of the California Orange Application and Policy shown in § 406.6 is amended to read as follows:

7. Annual premium. . . .  
(b) The total annual premium for the insured crop on all insurance units shall be reduced as follows for consecutive years of insurance, without a loss for which an indemnity was paid on any insurance unit immediately preceding the crop year for which the reduction is applicable (eliminating any year in which a premium was not earned):

Premium reduction	Consecutive years with no loss
5 percent after . . . . .	1.
8 percent after . . . . .	2.
10 percent after . . . . .	3.
10 percent after . . . . .	4.
15 percent after . . . . .	5.
20 percent after . . . . .	6.
25 percent after . . . . .	7 or more.

10. (Code No.) (Witness to Signature) (Signature of Applicant)  
Recommended for acceptance by: (Date) 19\_\_\_\_  
(Corporation Representative) (Date) 19\_\_\_\_

7. Section 11 of the California Orange Application and Policy shown in § 406.6 is amended to read as follows:

ADDRESS OF OFFICE FOR COUNTY	LOCATION OF HEADQUARTERS
PHONE:	PHONE:

8. Subsection 13(a) of the California Orange Application and Policy shown in § 406.6 is amended to read as follows:

13. Notice of damage or loss. (a) It shall be a condition precedent to payment of any indemnity on any insurance unit (hereinafter called "unit") hereunder that the insured report each damage to the insured crop from freeze to the office for the county immediately after such damage becomes apparent giving the date of such damage. If not so reported within seven days, the Corporation reserves the right to reject any claim arising out of such damage on the unit if it determines that it has been prejudiced by such failure to report or by failure to give notice as required in subsection (b) of this section. Notwithstanding any other provision of this section to the contrary, no insured damage shall be deemed to have occurred on any acreage damaged by freeze unless a notice of the damage thereon is given to the office for the county within 30 days after the applicable calendar date for the end of the insurance period for navel oranges and 60 days after the applicable calendar date for the end of the insurance period for valencia oranges.

9. Subsection 14(a) of the California Orange Application and Policy shown in § 406.6 is amended to read as follows:

If an insured has a loss on a crop for which an indemnity is paid, the number of such consecutive years of insurance on such crop without a loss for which an indemnity was paid shall be reduced by three years, except that, where the insured has seven or more such years, a reduction to four shall be made and where the insured has three or less such years, a reduction to zero shall be made.

If at any time the cumulative dollar amount of indemnities paid under this policy exceeds the cumulative premiums earned through the previous crop year, the discounts referred to in this section shall not thereafter be applicable until the cumulative premiums earned equal or exceed the cumulative indemnities. If there is no break in continuity of participation, any premium reduction earned hereunder shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of the death of the insured, (2) the contract of the person who succeeds the insured as the insured's transferee in operating only the same farm or farms, if the Corporation finds that such transferee has previously actively participated in the farming operation involved, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

6. Section 10 of the California Orange Application and Policy shown in § 406.6 is amended to read as follows:

10. (Code No.) (Witness to Signature) (Signature of Applicant)  
Recommended for acceptance by: (Date) 19\_\_\_\_  
(Corporation Representative) (Date) 19\_\_\_\_

7. Section 11 of the California Orange Application and Policy shown in § 406.6 is amended to read as follows:

ADDRESS OF OFFICE FOR COUNTY	LOCATION OF HEADQUARTERS
PHONE:	PHONE:

14. Amount of loss and proof of loss. (a) Any claim for loss on any unit shall be submitted to the Corporation on a form prescribed by the Corporation within 60 days after harvest of the insured crop is completed on the unit but not later than the applicable date set forth below of the calendar year following the calendar year in which insurance attached.

Navel Oranges—July 31  
Valencia Oranges—September 30  
The Corporation reserves the right to provide additional time if it determines that circumstances beyond the control of either party prevent compliance with this provision.

10. Subsection 14(c) of the California Orange Application and Policy shown in § 406.6 is amended to read as follows:

14. Amount of loss and proof of loss. . . .  
(c) Oranges lost as a result of freeze shall be oranges to which damage from freeze is serious (as defined in the Agricultural Code of California) as determined by the Corporation on the basis of cuts made in the grove of representative samples of fruit. The average percent of damage to the insured crop on any unit shall be the ratio of the number of standard field boxes of the crop lost as a result of freeze to the total number of standard field boxes which would have been

produced (herein called the "potential"): Provided, That for any portion of the navel orange crop which has damage, as determined by such cuts, of 80 percent or less, the percent of damage so determined shall be increased one percentage point for each full percent of damage in excess of 30 percent; however, the total of the percent of damage determined by such cuts including such increased percentage shall be limited to a maximum of 80 percent. If the percent of damage as determined by such cuts is in excess of 80, the percent of damage so determined shall be allowed. The potential shall not be less than 200 standard field boxes per acre and shall include (1) oranges picked before the freeze occurred, (2) oranges remaining on the trees after the freeze occurred, (3) oranges lost from freeze, and (4) any other oranges not included in items (1) through (3), including oranges lost from causes not insured against other than normal dropping, "rots," and "splits." Notwithstanding the above provisions of this subsection, the Corporation shall consider (1) any portion of the insured crop which is harvested prior to the grove inspection by the Corporation as fruit undamaged, (2) any fruit which is or could be packed as fresh fruit as being undamaged, and (3) any fruit on the ground as a result of freeze which is not marketed as being damaged the greater of: 70 percent or the percent of damage determined from cuts made in the grove of representative samples of fruit on the tree, including any increased percentage in the case of navel; however, if over 90 percent of the potential production on any acreage is on the ground as a result of freeze, the percent of damage for such fruit shall be considered 90 percent.

A final grove inspection to determine the extent of serious freeze damage to unharvested fruit shall be made within 30 days after the end of the insurance period for navel oranges and 60 days after the end of the insurance period for valencia oranges or as soon thereafter as possible. The Corporation reserves the right to delay the final determination of the average percent of damage and the settlement of any loss until the insured makes available to it complete records of the marketing of the insured crop for the crop year. It shall be a condition precedent to payment of any claim that the insured (1) furnish any production records and any other information required by the Corporation regarding the manner and extent of damage and (2) hereby authorize the Corporation to examine and obtain any records pertaining to the production and/or marketing of the crop insured under this contract from the packinghouse and the Navel Orange and Valencia Orange Administrative Committees established under orders issued by the U.S. Department of Agriculture (7 CFR 907.1 et seq. and 908.1 et seq.) pursuant to the Agricultural Marketing Agreement Act of 1937, as amended.

11. Reference to "County Office" found in section 16 of the California Orange Application and Policy shown in § 406.6 is amended to read "Office for the County."

12. Subsections 22(a) and 22(b) of the California Orange Application and Policy shown in § 406.6 are amended to read as follows:

22. Meaning of terms. For purposes of insurance on oranges the terms:

(a) "County actuarial table" means the forms and related material approved by the Corporation which are on file for public inspection in the office for the county, and

which show the applicable amounts of insurance, premium rates, and related information with respect to orange crop insurance for the crop year in the county.

(b) "Office for the county" means the Corporation's office serving the county shown in this application and policy, or such office as may be designated by the Corporation from time to time.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

This amendment will permit the Corporation to provide a revision of the current application and policy for insuring oranges in California to correct an inequity in adjusting losses. The current application and policy for insuring oranges in California uses a formula for adjustment of losses that is based on determinations made by packinghouses as to the acceptability of the oranges. Such determinations have proven to be inequitable in that, while one packinghouse may allow a certain grade of oranges to pass, another will not, thus discriminating against certain insureds. Under the terms of the proposed amendment, loss determinations will be made by Corporation personnel in the groves at the time of adjusting losses, and be based on cuts in the fruit to determine the extent of damage or loss. This would result in a program of orange crop insurance based on sounder insurance principles. The foregoing amendment also changes the designation of a blank line in the heading of the application and Policy from "State and County Code and Contract Number" to "Contract Number" and adds a blank line designated as "Identification Number." On the latter line will be entered either the insured's Social Security number or the identification number assigned by the Internal Revenue Service. These numbers will facilitate access to production data accumulated by other agencies of the Department of Agriculture. It is desirable that this amendment become effective with the 1975 Crop Year. Notice of changes must be given to insureds by July 15. As some new applications have already been taken, it is necessary to contact each new applicant and all existing policyholders to inform them of the program changes.

Under the circumstances, the Board of Directors found that it would be impracticable and contrary to the public interest to follow the procedure for notice and public participation prescribed by 5 U.S.C. 553(b) and (c), as directed by the Secretary of Agriculture in a Statement of Policy, executed July 20, 1971 (36 FR 13804), prior to its adoption. Accordingly, said amendment was adopted by the Board of Directors on May 15, 1975.

[SEAL] PETER F. COLE,  
Secretary, Federal Crop  
Insurance Corporation.

Approved: May 27, 1975.

EARL L. BUTZ,  
Secretary.

[FR Doc. 75-14074 Filed 5-29-75; 8:45 am]

## RULES AND REGULATIONS

## CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Regulation 694]

## PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

## Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period June 1-7, 1975. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.994 Lemon Regulation 694.

(a) Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

(1) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons is quite active this week in Southern and Eastern markets but less active in the Midwest due to cooler weather. Average f.o.b. price was \$6.42 per carton the week ended May 24, 1975, compared to \$6.23 per carton the previous week. Track and rolling supplies at 137 cars were up 7 cars from last week.

(1) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication

hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on May 27, 1975.

(b) Order. (1) The quantity of lemons grown in California and Arizona which may be handled during the period June 1, 1975 through June 7, 1975, is hereby fixed at 325,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: May 28, 1975.

CHARLES R. BRADER,  
Deputy Director, Fruit and  
Vegetable Division, Agricultural  
Marketing Service.

[FR Doc. 75-14399 Filed 5-29-75; 11:12 am]

## CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order No. 126]

## PART 1126—MILK IN THE TEXAS MARKETING AREA

## Order Amending and Merging Orders

7 CFR part	Marketing Area	Docket No.
1121	South Texas . . . . .	AO-364-A-8.
1126	North Texas . . . . .	AO-231-A-11.
1127	San Antonio, Texas . . . . .	AO-232-A-27.
1128	Central West Texas . . . . .	AO-238-A-30.
1129	Austin-Waco, Texas . . . . .	AO-256-A-23.
1130	Corpus-Christi, Texas . . . . .	AO-259-A-27.



## RULES AND REGULATIONS

## FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the aforesaid marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 801 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The Texas order, which amends and merges the aforesaid orders, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the Texas marketing area, and the minimum prices specified in the Texas order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The Texas order regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, the marketing agreements upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in the Texas order, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1126.85 of the attached order.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within the Texas marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of the Texas order, which amends and merges the aforesaid orders, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the Texas order;

(3) The issuance of the Texas order (exclusive of the Advertising and Promotion Program) is approved or favored by at least two-thirds of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the Texas marketing area; and

(4) The issuance of the provisions constituting the Advertising and Promotion Program under the Texas order is approved or favored by at least two-thirds of the producers who participated in a separate referendum and who during the determined representative period were engaged in the production of milk for sale in the Texas marketing area.

*Order relative to handling.* It is therefore ordered that on and after the effective date hereof the orders regulating the handling of milk in the North Texas, South Texas, San Antonio, Central West Texas, Austin-Waco, and Corpus Christi marketing areas (Parts 1126, 1121, 1127, 1128, 1129, and 1130, respectively) shall be amended and merged into one order. Parts 1121, 1127, 1128, 1129, and 1130 are hereby superseded, and such vacated part designations shall be reserved for future assignment. The handling of milk in the merged marketing area, to be designated as the "Texas Marketing Area" (Part 1126), shall be in conformity to and in compliance with the terms and conditions of the following attached order:

## PART 1126—MILK IN THE TEXAS MARKETING AREA

## Subpart—Order Regulating Handling

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DEFINITIONS	
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1126.110 Agency.  
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1126.113 Selection of Agency members.  
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1126.115 Powers of the Agency.  
1126.116 Duties of the Agency.  
1126.117 Advertising, Research, Education and Promotion Program.  
1126.118 Limitation of expenditures by the Agency.  
1126.119 Personal liability.  
1126.120 Procedure for requesting refunds.  
1126.121 Duties of the market administrator.  
1126.122 Liquidation.  
1126.123 Initial operating procedures under merger of orders.

AUTHORITY: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 801-874.

## GENERAL PROVISIONS

## § 1126.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

## DEFINITIONS

## § 1126.2 Texas marketing area.

The "Texas marketing area," hereinafter called the "marketing area," means all territory within the boundaries of the following Texas counties, including all piers, docks, and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed counties:

ZONE 1	
Camp.	Johnson.
Coilin.	Kaufman.
Cooke.	Lamar.
Dallas.	Morris.
Delta.	Parker.
Denton.	Rains.
Ellis.	Red River.
Fannin.	Rockwall.
Franklin.	Somervell.
Grayson.	Tarrant.
Hill (Blum and Itasca divisions only).	Titus.
Hood.	Upshur.
Hopkins.	Van Zandt.
Hunt.	Wise.
	Wood.
ZONE 2	
Gregg.	Panola.
Harrison.	Rusk.
Marion.	Smith.
ZONE 3	
Anderson.	Henderson.
Bell.	Hill (except Blum and Itasca divisions).
Boesque.	Cherokee.
Comanche.	Lampasas.
Coryell.	Limestone.
Erath.	McLennan.
Falls.	Navarro.
Freestone.	
Hamilton.	
ZONE 4	
Angelina.	Polk.
Houston.	Sabine.
Jasper.	San Augustine.
Leon.	Shelby.
Nacogdoches.	Trinity.
Newton.	Tyler.
ZONE 5	
Brazos.	Madison.
Robertson.	Milam.
Burleson.	Walker.
Grimes.	
ZONE 6	
Andrews.	King.
Borden.	Knox.
Brown.	Martin.
Callahan.	Midland.
Coke.	Mitchell.
Coleman.	Nolan.
Dawson.	Palo Pinto.
Eastland.	Runnels.
Ector.	Scurry.
Fisher.	Shackelford.
Foard.	Stephens.
Glasscock.	Sterling.
Haakell.	Stonewall.
Howard.	Taylor.
Jack.	Throckmorton.
Jones.	Tom Green.
Kent.	Young.
ZONE 7	
Bastrop.	Travis.
Burnet.	Williamson.
Lee.	
ZONE 8	
Austin.	Harris.
Brazoria.	Jefferson.
Chambers.	Liberty.
Colorado.	Montgomery.
Payette.	Orange.
Port Bend.	San Jacinto.
Galveston.	Waller.
Hardin.	Washington.
ZONE 9	
Bexar.	Hays.
Carlwell.	Jackson.
Comal.	Lavaca.
De Witt.	Matagorda.
Gonzales.	Wharton.
Guadalupe.	Wilson.

## RULES AND REGULATIONS

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ZONE 10	
Aransas.	Karnes.
Bee.	Live Oak.
Calhoun.	Refugio.
Goliad.	Victoria.

ZONE 11	
Brooks.	Kleberg.
Duval.	Nueces.
Jim Wells.	San Patricio.
Kenedy.	

ZONE 12	
Cameron.	Willacy.
Hidalgo.	

## § 1126.3 Route disposition.

"Route disposition" means any delivery (including any delivery by a vendor or disposition at a plant store) of a fluid milk product classified as Class I milk, other than a delivery to a plant.

## § 1126.4 Plant.

"Plant" means the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products (including filled milk) are received, processed, or packaged. Separate facilities without stationary storage tanks which are used only as a reload point for transferring bulk milk from one tank truck to another or separate facilities used only as a distribution point for storing packaged fluid milk products in transit for route disposition shall not be a plant under this definition.

## § 1126.5 [Reserved]

## § 1126.6 [Reserved]

## § 1126.7 Pool plant.

Except as provided in paragraph (f) of this section, "pool plant" means:

(a) Any plant that is approved by a duly constituted regulatory agency for the processing or packaging of Grade A milk and from which during the month there is:

(1) Route disposition, except filled milk, in the marketing area equal to 10 percent or more of the receipts of Grade A fluid milk products at such plant, including producer milk diverted from the plant; and

(2) Total route disposition, except filled milk, equal to 50 percent or more of the receipts of Grade A fluid milk products at such plant, including producer milk diverted from the plant. If two plants operated by the same handler each meet the performance requirement of paragraph (a) (1) of this section and such handler requests that the two plants be considered together for the purpose of meeting the total route disposition requirement, each such plant shall be deemed to have met the total disposition requirement of this subparagraph if the combined route disposition, except filled milk, of such plants is 50 percent or more of the combined receipts of Grade A fluid milk products at such plants, including producer milk diverted from the plants.

(b) Any plant, other than a plant described in paragraph (a) of this section, that is approved by a duly constituted regulatory agency for the disposition of

Grade A milk in the marketing area and from which during the month 50 percent or more of the receipts at such plant of Grade A milk from dairy farmers (including producer milk diverted from the plant but excluding milk received as diverted milk) and handlers described in § 1126.9(c) is transferred in the form of a bulk fluid milk product, except filled milk, to pool plants described in paragraph (a) of this section, except that such percentage shall be 15 percent for the months of:

(1) August, if the plant was a pool plant under this paragraph or paragraph (d) of this section during the immediately preceding month of July; and

(2) December, if the plant was a pool plant under this paragraph during the immediately preceding month of November.

(c) Any plant, other than a plant described in paragraph (a) or (b) of this section or that qualifies as a pool plant under another Federal order, from which during the month 50 percent or more of the receipts at such plant of Grade A milk from dairy farmers (including milk diverted from the plant but excluding milk received as diverted milk) and handlers described in § 1126.9(c) is transferred in the form of a bulk fluid milk product, except filled milk, to pool plants described in paragraph (a) of this section and distributing plants fully regulated under other Federal orders, if the total quality so transferred to pool plants exceeds in the case of each other order the total quantity so transferred to other order distributing plants, except that:

(1) For the following months, such percentage shall be 15 percent and shall apply only to transfers to pool plants described in paragraph (a) of this section:

(i) August, if the plant was a pool plant under this paragraph or paragraph (d) of this section during the immediately preceding month of July; and

(ii) December, if the plant was a pool plant under this paragraph during the immediately preceding month of November; and

(2) Such plant shall not be a pool plant under this paragraph in any of the months of February through July unless it was a pool plant under this paragraph in three or more of the immediately preceding months of September through January.

(d) Any plant during the months of February through July, other than a plant described in paragraph (a) of this section, that was a pool plant under paragraph (b) or (c) of this section during each of the immediately preceding months of September through January and is approved by a duly constituted regulatory agency for the disposition of Grade A milk in the marketing area, subject to the following conditions:

(1) For the months of February through July 1975, the required qualification under paragraph (b) of this section in prior months shall be deemed to have been met if the plant was a pool supply plant under the Austin-Waco, West Texas, Corpus Christi, North Texas, San Antonio, or South Texas orders (or



any combination thereof) during the months of September, October, and November 1974; and

(2) If the plant operator files with the market administrator prior to any of the months of February through July a written request for nonpool status, a plant shall not be a pool plant under this paragraph during any of such remaining months through July.

(e) Any plant located in the marketing area that is operated by a cooperative association if pool plant status under this paragraph is requested for such plant by the cooperative association and 60 percent or more of the producer milk of members of the cooperative association (excluding such milk that is received at or diverted from pool plants described in paragraphs (b), (c) and (d) of this section) is physically received during the month in the form of a bulk fluid milk product at pool plants described in paragraph (a) of this section either directly from farms or by transfer from plants of the cooperative association for which pool plant status under this paragraph has been requested, subject to the following conditions:

(1) The plant does not qualify as a pool plant under paragraph (a), (b), (c) or (d) of this section or under the provisions of another Federal order applicable to a distributing plant or a supply plant; and

(2) The plant is approved by a duly constituted regulatory agency for the disposition of Grade A milk in the marketing area.

(f) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A governmental agency plant;

(3) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area;

(4) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which there is a greater quantity of route disposition, except filled milk, in this marketing area than in such other marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(5) A plant qualified pursuant to paragraph (b) or (c) of this section which has automatic pooling status under another Federal order.

#### § 1126.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or

processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is not an other order plant, a governmental agency plant, or a producer-handler plant and from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are moved to a pool plant during the month but which is not an other order plant, a governmental agency plant, or a producer-handler plant.

(e) "Governmental agency plant" means a plant operated by a governmental agency from which fluid milk products are distributed in the marketing area. Such plant shall be exempt from all provisions of this part.

#### § 1126.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to milk of a producer that is diverted for the account of the cooperative association from a pool plant of another handler in accordance with § 1126.13;

(c) Any cooperative association with respect to milk that it receives for its account from the farm of a producer for delivery to a pool plant of another handler in a tank truck owned and operated by, or under the control of, such cooperative association, unless both the cooperative association and the operator of the pool plant notify the market administrator prior to the time that such milk is delivered to the pool plant that the plant operator will be the handler for such milk and will purchase such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples. Milk for which the cooperative association is the handler pursuant to this paragraph shall be deemed to have been received by the cooperative association at the location of the pool plant to which such milk is delivered;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) Any person who is a producer-handler; and

(f) Any person in his capacity as the operator of an other order plant described in § 1126.7(f).

#### § 1126.10 Producer-handler.

"Producer-handler" means any person:

(a) Who operates a dairy farm and a processing plant from which there is route disposition in the marketing area;

(b) Who receives no fluid milk products from sources other than his own farm production and pool plants;

(c) Whose receipts of fluid milk products during the month from pool plants do not exceed the lesser of 5 percent of his Class I disposition during the month or 10,000 pounds;

(d) Who disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from his own farm production or pool plants; and

(e) Who provides proof satisfactory to the market administrator that the care and management of the dairy farm and other resources necessary for his own farm production of milk and the management and operation of the processing plant are the personal enterprise and risk of such person.

#### § 1126.11 (Reserved)

#### § 1126.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk approved by a duly constituted regulatory agency for disposition in the marketing area as Grade A milk and whose milk is:

(1) Received at a pool plant directly from such person;

(2) Received by a handler described in § 1126.9(c); or

(3) Diverted from a pool plant in accordance with § 1126.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) A governmental agency that operates a plant exempt pursuant to § 1126.8(e);

(3) Any person with respect to milk produced by him that is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1126.44(a)(8)(iii) and the corresponding step of § 1126.44(b);

(4) Any person with respect to milk produced by him that is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order; or

(5) Any person with respect to milk produced by him during the months of February through July that is caused to be delivered to a pool plant by a cooperative association or a pool plant operator if during the immediately preceding period of September through November milk from the same farm was caused by such cooperative association or pool plant operator to be delivered to plants as other than producer milk (except milk that is not producer milk as a result of a temporary loss of Grade A approval or the application of § 1126.13(e)(4) and (5)), unless such pool plant was a nonpool plant during any of such immediately preceding months: *Provided*, That from the effective date of this merged order through July 1975 the month immediately preceding such ef-

fective date shall be used rather than the months of September through November.

#### § 1126.13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk of a producer that is:

(a) Received at a pool plant directly from such producer by the operator of the plant;

(b) Received by a handler described in § 1126.9(c);

(c) Picked up from the producer's farm tank in a tank truck owned and operated by, or under the control of, the operator of a pool plant but which is not received at a plant until the following month. Such milk shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm and shall be priced at the location of the plant where it is physically received in the following month. This paragraph shall apply in like manner to milk received by the operator of a pool plant who, in accordance with § 1126.9(c), is the handler for such milk;

(d) Diverted from a pool plant described in § 1126.7(a) for the account of the handler operating such plant to a pool plant described in § 1126.7(b), (c), (d) or (e), except that milk diverted to a plant operated by a cooperative association may not be milk of the cooperative association's members. Milk so diverted shall be priced at the plant to which diverted; or

(e) Diverted from a pool plant described in § 1126.7(a), (b), (c), and (d) to a nonpool plant that is not a producer-handler plant for the account of the handler operating such pool plant or a handler described in § 1126.9(b), subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion during any month unless milk of such dairy farmer was physically received as producer milk at a pool plant under this order or the Austin-Waco, Central West Texas, Corpus Christi, North Texas, San Antonio, or South Texas orders and the dairy farmer has continuously retained producer status under any of such orders since that time. If a dairy farmer loses his producer status under this order (except as a result of a temporary loss of Grade A approval), his milk shall not be eligible for diversion until milk of such dairy farmer has been physically received as producer milk at a pool plant;

(2) The total quantity of milk so diverted during the month by a cooperative association shall not exceed one-third of the producer milk that the cooperative association causes to be delivered during the month to pool plants described in § 1126.7(a), (b), (c), and (d) and that is physically received thereat;

(3) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (e)(2) of this section. The total quantity of milk so diverted during the month shall not exceed one-third

of the producer milk physically received at such pool plant during the month that is eligible to be diverted by the plant operator;

(4) Any milk diverted in excess of the limits prescribed in paragraph (e)(2) and (3) of this section shall not be producer milk. If the diverting handler fails to designate the dairy farmers' deliveries that are not to be producer milk, no milk diverted by the handler during the month to a nonpool plant shall be producer milk;

(5) The quantity of milk diverted for the account of a cooperative association from a pool plant of another handler that would cause the pool plant to become a nonpool plant shall not be producer milk; and

(6) Diverted milk shall be priced at the location of the plant to which diverted.

#### § 1126.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1126.40(b)(1) from any source other than producers, handlers described in § 1126.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1126.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1126.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1126.40(b)(1)) for which the handler fails to establish a disposition.

#### § 1126.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1126.40 (b) or (c)(1) (i) through (viii) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

#### § 1126.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

#### § 1126.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

#### § 1126.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members.

#### § 1126.19 Current marketing period.

For the purpose of terminating this order under § 608c(16)(B) of the Act, the term "current marketing period" shall mean the first month following the date on which the Secretary publicly announces his finding that the termination of the order is favored by such majority of producers under the order as is prescribed by the Act.

#### HANDLER REPORTS

#### § 1126.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1126.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products



and products specified in § 1126.40(b) (1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1126.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of producer milk; and

(2) The utilization or disposition of such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

#### § 1126.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler who elects pursuant to § 1126.73(d) to pay producers shall report to the market administrator the following information with respect to the handler's partial and final payments for producer milk received during such month:

(1) The name and address of each producer;

(2) The amounts paid each producer; and

(3) The dates such payments were made.

(b) On or before the 20th day after the end of the month, each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1126.76(b) shall report to the market administrator with respect to milk received from each dairy farmer who would have been a producer if the plant had been fully regulated the following information for such month:

(1) The name and address of each dairy farmer;

(2) The total pounds of milk received from each dairy farmer;

(3) The average butterfat content of such milk;

(4) The amount and nature of any deductions, as authorized in writing by the dairy farmer, from the payment for such milk; and

(5) The rate of payment per hundred-weight and the net amount paid each dairy farmer.

#### § 1126.32 Other reports.

(a) On or before the 24th day of each month, each handler described in § 1126.9 (a), (b), and (c), except a cooperative association with respect to producer milk for which it elects to collect payments, shall report to the market administrator the following information

with respect to its receipts of milk during the first 18 days of the month:

(1) The name and address of each producer from whom milk was received;

(2) The total pounds of producer milk received from such producer;

(3) The amount and nature of any deductions, as authorized in writing by the producer, to be made from the partial payment for such milk;

(4) The total pounds of milk received from a handler described in § 1126.9(c); and

(5) The pounds of skim milk and butterfat in bulk fluid milk products received from a pool plant operated by a cooperative association.

(b) On or before the 6th day after the end of each month, each handler described in § 1126.9 (a), (b), and (c) shall report to the market administrator the following information with respect to its receipts of milk during such month:

(1) The name and address of each producer from whom milk was received;

(2) The total pounds of producer milk received from such producer and its average butterfat content;

(3) Except in the case of producer milk for which a cooperative association is collecting payments, the amount and nature of any deductions, as authorized in writing by the producer, to be made from the final payment for such milk;

(4) The total pounds of skim milk and butterfat received from a handler described in § 1126.9(c); and

(5) The pounds of skim milk and butterfat in bulk fluid milk products received from a pool plant operated by a cooperative association.

(c) On or before the second day prior to the reporting dates specified in paragraphs (a) and (b) of this section, each cooperative association that operates a pool plant from which bulk fluid milk products were transferred to pool plants of other handlers within the time periods described in paragraphs (a) and (b) of this section shall report to each such pool plant operator the name and location of the transferor-plant and the total pounds and butterfat content of the bulk fluid milk products transferred from the plant.

(d) In addition to the reports required pursuant to paragraphs (a) through (c) of this section and §§ 1126.30 and 1126.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

#### CLASSIFICATION OF MILK

##### § 1126.40 Classes of utilization.

Except as provided in § 1126.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1126.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b) (1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c) (1) (iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b) (1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b) (1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b) (1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1126.15, plus the fluid equivalent of loss of nonfat

milk solids occurring in the process of modification in any case where determination of the quantity of added nonfat milk solids disposed of in such products is based upon laboratory analysis by the market administrator, such loss allowable pursuant to this subparagraph not to exceed 2 percent of the fluid equivalent of the quantity of added nonfat milk solids so determined to be added; and

(6) In shrinkage assigned pursuant to § 1126.41(a) to the receipts specified in § 1126.41(a) (2) and in shrinkage specified in § 1126.41(b) and (c).

§ 1126.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1126.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a) (1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1126.9(c) and in milk diverted to such plant from another pool plant, except that, in either case, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1126.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1126.42 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferor-plant or divortee-plant after the computations pursuant to § 1126.44 (a) (12) and the corresponding step of § 1126.44(b);

(2) If the transferor-plant or divortee-plant received during the month other source milk to be allocated pursuant to § 1126.44(a) (7) or the corresponding step of § 1126.44(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or divortee-handler received during the month other source milk to be allocated pursuant to § 1126.44(a) (11) or (12) or the corresponding steps of § 1126.44(b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferor-plant or divortee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream

product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b) (3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1126.40.

(c) *Transfers to producer-handlers and transfers and diversions to governmental agency plants.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to a governmental agency plant shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.



(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant, or a governmental agency plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (a) and (b) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(a) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1126.30 for the month within which such transaction occurred; and

(b) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(b) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(d) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(b) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(a) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(b) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

(e) *Transfers by a handler described in § 1126.9(c) to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1126.9(c) to another handler's pool plant shall be classified pursuant to § 1126.44 pro rata with producer milk received at the transferee-handler's plant.

#### § 1126.43 General classification rules.

In determining the classification of producer milk, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1126.30 and shall compute separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to § 1126.9(b) or (c) that was not received at a pool plant, the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1126.40, 1126.41, and 1126.42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in § 1126.9(b) or (c) shall be such handler's classification of producer milk;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized

or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1126.9(b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

#### § 1126.44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in § 1126.9(a) for each of his pool plants separately the classification of producer milk and milk received from a handler described in § 1126.9(c), by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1126.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1126.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1126.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a

fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1126.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1126.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from a governmental agency plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section;

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant; and

(vii) Receipts of fluid milk products from a person described in § 1126.12(b)(5);

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in

Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount;

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1126.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1126.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which

fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1126.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk re-



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maining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(ii) Except as provided in paragraph (a) (12) (i) of this section, should the computations pursuant to paragraph (a) (12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II) to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a) (12) (i) of this section, should the computations pursuant to paragraph (a) (12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1126.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk received from a handler described in § 1126.9(c), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk received from a handler described in § 1126.9(c) in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a) (14)

of this section and the corresponding step of paragraph (b) of this section.

#### § 1126.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1126.44 (a) (12) and the corresponding step of § 1126.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1126.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 14th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class.

#### CLASS PRICES

##### § 1126.50 Class prices.

Subject to the provisions of § 1126.52, the class prices for the month per hundredweight of milk shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$2.32.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

##### § 1126.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such

adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

##### § 1126.52 Plant location adjustments for handlers.

(a) For milk received at a plant from producers or a handler described in § 1126.9(c) and which is classified as Class I milk without movement in bulk form to a pool distributing plant at which a higher Class I price applies, the price specified in § 1126.50(a) shall be adjusted by the amount stated in paragraph (a) (1) through (7) of this section for the location of such plant:

(1) For a plant located within one of the zones set forth in § 1126.2, the adjustment shall be as follows:

	Adjustment per hundredweight
Zone 1.....	No adjustment.
Zone 2.....	Plus 6 cents.
Zone 3.....	Plus 15 cents.
Zone 4.....	Plus 18 cents.
Zone 5.....	Plus 20 cents.
Zone 6.....	Plus 25 cents.
Zone 7.....	Plus 30 cents.
Zone 8.....	Plus 36 cents.
Zone 9.....	Plus 42 cents.
Zone 10.....	Plus 53 cents.
Zone 11.....	Plus 66 cents.
Zone 12.....	Plus 75 cents.

(2) For a plant located in any of the following Texas counties, the adjustment shall be as follows:

Plus 10 cents.	
Bailey.	Hale.
Castro.	Hockley.
Cochran.	Lamb.
Cottle.	Lubbock.
Crosby.	Lynn.
Dickens.	Motley.
Floyd.	Parmer.
Gaines.	Terry.
Garza.	Yoakum.

(ii) Minus 7 cents.

Armstrong.	Hemphill.
Briscoe.	Hutchinson.
Carson.	Lipscomb.
Childress.	Moore.
Collingsworth.	Ochiltree.
Dallam.	Oldham.
Deaf Smith.	Potter.
Donley.	Randall.
Gray.	Roberts.
Hall.	Sherman.
Hansford.	Swisher.
Hartley.	Wheeler.

(iii) Minus 12 cents.

Archer.	Montague.
Baylor.	Wichita.
Clay.	Wilbarger.
Hardeman.	

(3) For a plant located in any of the following Oklahoma counties, the adjustment shall be as follows:

(i) Minus 24 cents.

Comanche.	Stephens.
Cotton.	Tillman.
Jefferson.	

(ii) Minus 27 cents.

Carter.	Marshall.
Love.	

(iii) Minus 28 cents.

Beckham.	Harmon.
Greer.	Jackson.

(iv) Minus 34 cents.

Caddo.	McClain.
Canadian.	Murray.
Cleveland.	Oklahoma.
Garvin.	Pontotoc.
Grady.	Pottawatomie.
Johnston.	Seminole.
Kiowa.	Washita.

(v) Minus 44 cents.

Alfalfa.	Mayes.
Beaver.	Noble.
Blaine.	Nowata.
Cimarron.	Okfuskee.
Craig.	Okmulgee.
Creek.	Osage.
Custer.	Ottawa.
Delaware.	Payne.
Dewey.	Pawnee.
Ellis.	Roger Mills.
Garfield.	Rogers.
Grant.	Texas.
Harper.	Tulsa.
Kay.	Wagoner.
Kingsfisher.	Washington.
Lincoln.	Woods.
Logan.	Woodward.
Major.	

(4) For a plant located in Bowie or Cass County, Texas, or in Little River or Miller County, Arkansas, the adjustment shall be minus 9 cents;

(5) For a plant located in the States of Louisiana or New Mexico or in El Paso County, Texas, no adjustment shall apply;

(6) For a plant located in the State of Texas but outside any area described in paragraph (a) (1) through (5) of this section, the adjustment shall be the adjustment applicable at Corpus Christi, Midland, San Angelo, or San Antonio, Texas, whichever city is nearest; and

(7) For a plant located outside the areas described in paragraph (a) (1) through (6) of this section, the adjustment shall be minus 1.5 cents per hundredweight for each 10 miles or fraction thereof that such plant is located from the Dallas, Texas, city hall, such distance to be based on the shortest hard-surfaced highway distance as determined by the market administrator.

(b) For fluid milk products transferred in bulk from a pool plant to a pool distributing plant at which a higher Class I price applies and which are classified as Class I milk, the Class I price shall be the Class I price applicable at the location of the transferee-plant subject to a location adjustment credit for the transferor-plant which shall be determined by the market administrator for skim milk and butterfat, respectively, as follows:

(1) Subtract from the pounds of skim milk remaining in Class I at the transferee-plant after the computations pursuant to § 1126.44(a) (12) an amount equal to:

(i) 95 percent of the pounds of skim milk in receipts of milk at the transferee-

## RULES AND REGULATIONS

plant from producers and handlers described in § 1126.9(c); and

(ii) The pounds of skim milk in receipts of packaged fluid milk products from other pool plants;

(2) Assign any remaining pounds of skim milk in Class I at the transferee-plant to the skim milk in receipts of bulk fluid milk products from other pool plants, first to the transferor-plants at which the highest Class I price applies and then to other plants in sequence beginning with the plant at which the next highest Class I price applies;

(3) Compute the total amount of location adjustment credits to be assigned to transferor-plants by multiplying the hundredweight of skim milk assigned pursuant to paragraph (b) (2) of this section to each transferor-plant at which the Class I price is lower than the Class I price at the transferee-plant by the difference in Class I prices applicable at the transferor-plant and transferee-plant, and add the resulting amounts;

(4) Assign the total amount of location adjustment credits computed pursuant to paragraph (b) (3) of this section to those transferor-plants that transferred fluid milk products containing skim milk classified as Class I milk pursuant to § 1126.42(a) and at which the applicable Class I price is less than the Class I price at the transferee-plant, in sequence beginning with the plant at which the highest Class I price applies. Subject to the availability of such credits, the credit assigned to each plant shall be equal to the hundredweight of such Class I skim milk multiplied by the applicable adjustment rate determined pursuant to paragraph (b) (3) of this section for such plant. If the aggregate of this computation for all plants having the same adjustment rate as determined pursuant to paragraph (b) (3) of this section exceeds the credits that are available to those plants, such credits shall be prorated to the volume of skim milk in Class I transfers from such plants; and

(5) Location adjustment credit for butterfat shall be determined in accordance with the procedure outlined for skim milk in paragraph (b) (1) through (4) of this section.

(c) The Class I price applicable to other source milk shall be adjusted by the amounts set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

##### § 1126.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

##### § 1126.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the

price or pricing constituent that is required.

#### UNIFORM PRICE

##### § 1126.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1126.9 (b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the pounds of producer milk and milk received from a handler described in § 1126.9(c) that were classified in each class pursuant to § 1126.43 (a) and 1126.44(c) by the applicable class prices, and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1126.44(a) (14) and the corresponding step of § 1126.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1126.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1126.44 (a) (9) and the corresponding step of § 1126.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1126.44(a) (7) (i) through (iv) and (vi) and the corresponding step of § 1126.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1126.44(a) (7) (v) and (vi) and the corresponding step of § 1126.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1126.44(a) (11) and the corresponding step of § 1126.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any







## RULES AND REGULATIONS

the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b) (1) (i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1126.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1126.60 for such handler shall include, in lieu of the value of other source milk specified in § 1126.60(f) less the value of such other source milk specified in § 1126.71(b)(4), a value of milk determined pursuant to § 1126.60 for each nonpool plant that is not an order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1126.7(b) and the corresponding provisions of § 1126.7(d), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1126.30(b) and 1126.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1126.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b) (1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1126.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b) (1) (iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1126.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b) (1) (iii) of this section applies.

## § 1126.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses adjustments to be made, for any reason, which result in monies due the market administrator from such handler, the market administrator shall promptly notify such handler of any such amount due, and payment thereof shall be made on or before the next day for making payment set forth in the provision under which such error occurred. Any monies found to be due a handler from the market administrator shall be paid promptly to such handler, except that the market administrator shall offset any monies due a handler against monies due from such handler.

## § 1126.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1126.71, 1126.73(g), 1126.76, 1126.77, or 1126.85 shall be increased three-fourths of 1 percent per month beginning on the first day after the due date, and on each date of subsequent months following the day on which such type of obligation is normally due, subject to the following conditions:

(a) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid interest charges previously computed pursuant to this section; and

(b) For the purpose of this section, any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

## ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

## § 1126.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 16th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Receipts of producer milk (including such handler's own production) other than such receipts by a handler described in § 1126.9(c) that were delivered to pool plants of other handlers or held in inventory at the end of the month;

(b) Receipts from a handler described in § 1126.9(c);

(c) Other source milk allocated to Class I pursuant to § 1126.44(a) (7) and (11) and the corresponding steps of § 1126.44(b), except such other source

milk that is excluded from the computations pursuant to § 1126.60 (d) and (f); and

(d) Route disposition from a partially regulated distributing plant in the marketing area that exceeds the skim milk and butterfat specified in § 1126.76 (a) (2).

## § 1126.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, the market administrator, in making payments to producers pursuant to § 1126.73, shall deduct 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to the milk of such producer (except a handler's own farm production) for whom the marketing services set forth in this paragraph are not being performed by a cooperative association as determined by the Secretary. The monies shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. The services shall be performed by the market administrator or an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section, the market administrator shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers and on or before the 18th day after the end of each month shall pay such deductions to the cooperative association rendering such services, accompanied by a statement showing the quantity of milk for which a deduction was computed for each such producer.

## ADVERTISING AND PROMOTION PROGRAM

## § 1126.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1126.121(b) (1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

## § 1126.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1126.113(b), is authorized one Agency representative for each full 5 percent of

the participating member producers it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1126.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one Agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one Agency representative. For the purpose of determining the Agency's composition, all producers who have not requested refunds for the most recent calendar quarter under any order shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1126.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the Agency representatives.

## § 1126.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

## § 1126.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1126.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

## RULES AND REGULATIONS

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for Agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

## § 1126.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

## § 1126.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1126.110,

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1126.110 and 1126.117.

## § 1126.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1126.110 and 1126.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

## § 1126.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

## § 1126.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1126.121(b) (1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

## § 1126.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

## § 1126.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information

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necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved.

#### § 1126.121 Duties of the market administrator.

Except as specified in § 1126.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program, including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1126.113(c).

(b) Set aside the amounts subtracted under § 1126.61(d) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1126.61(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1126.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1126.61(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b) (2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1126.110 through 1126.123).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

#### § 1126.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1126.70.

#### § 1126.123 Initial operating procedures under merger of orders.

Notwithstanding the provisions of §§ 1126.110 through 1126.122, the following procedures shall apply during the initial operation of the advertising and promotion program under this order amending and merging the Austin-Waco, Central West Texas, Corpus Christi, North Texas, San Antonio, and South Texas orders:

(a) During the first month in which this merged order is effective, the Agencies previously established under the advertising and promotion programs of the six above-listed orders shall continue to function as separate Agencies under this merged order. Such individual Agencies shall operate in accordance with the provisions of §§ 1126.110 through 1126.122, but subject to the following conditions:

(1) The composition of the Agencies as constituted under the six respective orders shall remain unchanged. Members serving on the respective Agencies immediately prior to the effective date of this amending order shall continue to serve on such Agencies except for any replacement of members in accordance with § 1126.113 (a) and (c) (2);

(2) The activities of the Agencies shall be limited to those programs set forth in § 1126.110 for which budgets have been approved by the Secretary and for which financial commitments were made prior to the effective date of this amending order; and

(3) The term of office of each member of each Agency shall expire at the end of the first month in which this merged order is effective;

(b) Within 30 days after the effective date of this amending order, a new single Agency shall be formed in accordance with §§ 1126.111 and 1126.113. Such Agency shall first become operative at the beginning of the second month in which this merged order is effective and at that time shall assume all advertising and promotion funds and obligations of the six individual Agencies provided for in paragraph (a) of this section;

(c) During the first month in which this merged order is effective, the monies set aside by the market administrator for advertising and promotion from proceeds of producer milk pooled in the preceding month under each of the six above-listed orders shall be disbursed to the respective Agencies provided for in paragraph (a) of this section;

(d) In making refunds of advertising and promotion assessments pursuant to

§ 1126.121(b) (3), the market administrator shall honor all valid refund requests filed under the advertising and promotion programs of the six above-listed orders;

(e) Any dairy farmer who filed a valid request for refund of advertising and promotion assessments under any of the six above-listed orders for the calendar quarter in which this merged order became effective shall be eligible without refiling for refund of assessments on his producer milk under this merged order during such quarter; and

(f) Any producer who elected to participate in the advertising and promotion program of any of the six above-listed orders for the calendar quarter in which this merged order became effective shall not be eligible to request a refund of the assessments against his deliveries of producer milk under the merged order until the next quarterly filing period.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Effective date: July 1, 1975.

Signed at Washington, D.C., on May 28, 1975.

RICHARD L. FELTNER,  
Assistant Secretary.

[FR Doc. 75-14262 Filed 5-29-75; 8:45 am]

#### Title 9—Animals and Animal Products

#### CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE (MEAT AND POULTRY PRODUCTS INSPECTION), DEPARTMENT OF AGRICULTURE

#### PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES; AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

##### Designation of the State of Colorado

**Statement of Considerations:** A representative of the Governor of the State of Colorado has advised this Department that the State of Colorado is no longer in a position to continue administering the State meat inspection program after June 30, 1975, and has requested the Department to assume the responsibility for carrying out the provisions of titles I and IV of the Federal Meat Inspection Act, with respect to establishments within the State at which cattle, sheep, swine, goats, or equines are slaughtered or their carcasses, or parts or products thereof, are prepared for use as human food, solely for distribution within such State, and with respect to intrastate operations and transactions concerning meat products and other articles and animals subject to the Federal Meat Inspection Act, and persons, firms, and corporations engaged therein.

The Secretary heretofore determined that the State of Colorado had developed and activated requirements at least equal to the requirements under titles I and IV of the Federal Meat Inspection Act. However, such titles contemplate a continuous, ongoing program, and in view of the termination date now applicable to the Colorado program, it is hereby de-

termined that Colorado is not effectively enforcing requirements at least equal to those imposed under titles I and IV of the Federal Meat Inspection Act. Therefore, notice is hereby given that the Secretary of Agriculture designates said State under section 301(c) (3) of the Federal Meat Inspection Act.

On July 1, 1975, the provisions of titles I and IV of the Federal Meat Inspection Act shall apply to intrastate operations and transactions in said State and to persons, firms, and corporations engaged therein, to the same extent and in the same manner as if such operations and transactions were conducted in or for "commerce," within the meaning of the Federal Meat Inspection Act, and any establishment in the State of Colorado which conducts any slaughtering or preparation of carcasses or parts or products thereof of cattle, sheep, swine, goats, horses, mules, or other equines, must have Federal inspection or cease its operations, unless it qualifies for an exemption under section 23(a) or 301(c) of the Federal Meat Inspection Act.

Therefore, the operator of each such establishment who desires to continue any such operations after designation of the State becomes effective should immediately communicate with the Regional Director for Meat and Poultry Inspection, as listed below, for information concerning the requirements and exemptions under the Act and application for inspection and survey of the establishment:

Dr. L. J. Rafoth, Director, Western Region, Meat and Poultry Inspection Program, Room 102, Building 2C, 620 Central Avenue, Alameda, California 94501 (Telephone: (415) 273-7402).

Accordingly, the table in § 331.2 of the Federal meat inspection regulations (9 CFR 331.2) is amended as follows:

1. In the "State" column, "Colorado" is added immediately above "Guam."

2. In the "Effective date of application of Federal provisions" column, "July 1, 1975" is added on the line with "Colorado."

(Secs. 21 and 301(c), 34 Stat. 1260, as amended; 21 U.S.C. 621, 661(c); 37 FR 28464, 28477)

This amendment of the Federal meat inspection regulations is necessary to reflect the determination of the Secretary of Agriculture under section 301(c) of the Federal Meat Inspection Act. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Secretary. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such public procedure is impracticable and unnecessary.

This amendment and the notice given hereby shall become effective July 1, 1975.

Done at Washington, D.C., on: May 23, 1975.

F. J. MULHERN,  
Administrator, Animal and Plant  
Health Inspection Service.

[FR Doc. 75-13916 Filed 5-29-75; 8:45 am]

#### PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES; AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

##### PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

##### Designation of the State of New Jersey

**Statement of Considerations:** A representative of the Governor of the State of New Jersey has advised this Department that the State of New Jersey is no longer in a position to continue administering the State meat inspection program after June 30, 1975, and has requested the Department to assume the responsibility for carrying out the provisions of titles I and IV of the Federal Meat Inspection Act, with respect to establishments within the State at which cattle, sheep, swine, goats, or equines are slaughtered or their carcasses, or parts or products thereof are prepared for use as human food, solely for distribution within such State, and with respect to intrastate operations and transactions concerning meat products and other articles and animals subject to the Federal Meat Inspection Act, and persons, firms, and corporations engaged therein.

Also, the said representative of the Governor of the State of New Jersey has advised this Department that the State of New Jersey is no longer in a position to continue administering the State poultry inspection program after June 30, 1975, and has requested the Department to assume the responsibility for carrying out the provisions of sections 1-4, 6-10, and 12-22 of the Poultry Products Inspection Act with respect to establishments within the State at which poultry are slaughtered or poultry products are processed for use as human food, solely for distribution within such State, and with respect to intrastate operations and transactions concerning products and other articles and animals subject to the Poultry Products Inspection Act, and persons, firms, and corporations engaged therein.

The Secretary heretofore determined that the State of New Jersey had developed and activated requirements at least equal to the requirements under titles I and IV of the Federal Meat Inspection Act and sections 1-4, 6-10, and 12-22 of the Poultry Products Inspection Act. However, such titles and sections contemplate continuous, ongoing programs, and in view of the termination date now applicable to the New Jersey programs, it is hereby determined that New Jersey is not effectively enforcing requirements at least equal to those imposed under titles I and IV of the Federal Meat Inspection Act and sections 1-4, 6-10, and 12-22 of the Poultry Products Inspection Act. Therefore, notice is hereby given that the Secretary of Agriculture designates said State under section 301(c) (3) of the Federal Meat Inspection Act and 5(c) (3) of the Poultry Products Inspection Act.

On July 1, 1975, the provisions of titles I and IV of the Federal Meat Inspection Act shall apply to intrastate operations

and transactions in said State and to persons, firms, and corporations engaged therein, to the same extent and in the same manner as if such operations and transactions were conducted in or for "commerce," within the meaning of the Federal Meat Inspection Act, and any establishment in the State of New Jersey which conducts any slaughtering or preparation of carcasses or parts or products thereof of cattle, sheep, swine, goats, horses, mules, or other equines, must have Federal inspection or cease its operations, unless it qualifies for an exemption under section 23(a) or 301(c) of the Federal Meat Inspection Act.

Also, on July 1, 1975, the provisions of sections 1-4, 6-10, and 12-22 of the Poultry Products Inspection Act shall apply to intrastate operations and transactions in said State and to persons, firms, and corporations engaged therein, to the same extent and in the same manner as if such operations and transactions were conducted in or for "commerce," within the meaning of the Poultry Products Inspection Act, and any establishment in the State of New Jersey which conducts any slaughtering or processing of poultry or poultry products must have Federal inspection or cease its operations, unless it qualifies for an exemption under section 15 or 5(c) (2) of the Poultry Products Inspection Act.

Therefore, the operator of each such establishment who desires to continue any such operations after designation of the State becomes effective should immediately communicate with the Regional Director for Meat and Poultry Inspection, as listed below, for information concerning the requirements and exemptions under the Acts and application for inspection and survey of the establishment:

Dr. M. J. Hatter, Director, Northeastern Region, Meat and Poultry Inspection Program, Seventh Floor, 1421 Cherry Street, Philadelphia, PA 19102 (Telephone: 215/597-4219).

Accordingly, the table in § 331.2 of the Federal Meat inspection regulations (9 CFR 331.2) is amended as follows:

1. In the "State" column, "New Jersey" is added immediately below "Nevada."

2. In the "Effective date of application of Federal provisions" column, "July 1, 1975" is added on the line with "New Jersey."

(Secs. 21 and 301(c), 34 Stat. 1260, as amended; 21 U.S.C. 621, 661(c); 37 FR 28464, 28477)

Further, the table in § 381.221 of the poultry products inspection regulations (9 CFR 381.221) is amended as follows:

1. In the "State" column, "New Jersey" is added immediately below "Nevada."

2. In the "Effective date of application of Federal provisions" column, "July 1, 1975" is added on the line with "New Jersey."

(Secs. 5(c) and 14, 71 Stat. 441, as amended; 21 U.S.C. 454(c), 463; 37 FR 28464, 28477)

These amendments of the Federal meat inspection regulations and the poultry products inspection regulations are necessary to reflect the determina-



tion of the Secretary of Agriculture under section 301(c) of the Federal Meat Inspection Act and section 5(c) of the Poultry Products Inspection Act. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Secretary. Therefore under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such public procedure is impracticable and unnecessary.

These amendments and the notice given hereby shall become effective July 1, 1975.

Done at Washington, D.C., on: May 23, 1975.

F. J. MULHERN,  
Administrator, Animal and Plant  
Health Inspection Service.

[FR Doc.75-13917 Filed 5-29-75; 8:45 am]

#### SUBCHAPTER A—MANDATORY MEAT INSPECTION

#### PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES; AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

##### SUBCHAPTER C—MANDATORY POULTRY PRODUCTS INSPECTION

#### PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

Subpart V—Special Provisions for Designated States and Territories; Criteria and Procedure for Designating Establishments With Operations Which Would Clearly Endanger the Public Health; Disposition of Poultry Products Therein

DESIGNATION OF NEW JERSEY UNDER FEDERAL MEAT AND POULTRY PRODUCTS INSPECTION ACTS FOR SPECIAL PURPOSES

*Statement of Considerations:* Sections 202, 203, and 204 of the Federal Meat Inspection Act (21 U.S.C. 642, 643, 644) provide for recordkeeping, access, and related requirements; registration requirements; and regulation of transactions involving dead, dying, disabled, or diseased livestock of specified kinds, or parts of the carcasses of such animals that died otherwise than by slaughter, with respect to operators engaged in specified classes of business in or for "commerce" as defined in the Act. Similar provisions with respect to poultry and poultry products are contained in section 11 of the Poultry Products Inspection Act (21 U.S.C. 460). Section 205 of the Federal Meat Inspection Act and section 11(e) of the Poultry Products Inspection Act (21 U.S.C. 645, 460(e)) authorize the Secretary of Agriculture to exercise the authorities under the aforesaid sections with respect to persons, firms, and corporations engaged in the specified kinds of business but not in or for "commerce" in any State or organized Territory when he determines, after consultation with an appropriate advisory committee, that the State or Territory does not have at least equal authority under its laws or is not exercising such authority in a manner to effectuate the purposes of the Acts.

Officials of the State of New Jersey have advised this Department that effective July 1, 1975, the State of New Jersey will no longer be in a position to continue administering authorities under the aforesaid sections with respect to persons, firms, and corporations engaged in the specified kinds of business but not in or for "commerce."

The Secretary heretofore determined that the State of New Jersey had developed and activated requirements at least equal to the requirements under sections 202, 203, and 204 of the Federal Meat Inspection Act and section 11 (b) and (c) of the Poultry Products Inspection Act. However, such sections contemplate continuous ongoing programs, and in view of the termination date now applicable to the New Jersey programs, the Secretary, after consultation with the appropriate advisory committee, has now determined that New Jersey is not exercising, in a manner to effectuate the purposes of said Acts, with respect to intrastate businesses, authorities at least equal to those under sections 202, 203, and 204 of the Federal Meat Inspection Act and section 11 (b) and (c) of the Poultry Products Inspection Act, including the Secretary or his representative being afforded access to such places of business and the facilities, inventories, and records thereof. Therefore, New Jersey is hereby designated under section 205 of the Federal Meat Inspection Act and section 11(e) of the Poultry Products Inspection Act for the exercise of the specified authorities with respect to intrastate businesses, and hereafter sections 202, 203, and 204 of the Federal Meat Inspection Act and section 11 (b) and (c) of the Poultry Products Inspection Act shall apply as hereinafter provided, to persons, firms, and corporations engaged in the kinds of business specified in said sections, but not in or for commerce, to the same extent and in the same manner as if they were engaged in such business in or for commerce and the transactions involved were in commerce.

Accordingly, the table in § 331.6 of the meat inspection regulations (9 CFR 331.6) is amended as follows:

1. In the "State" column, "New Jersey" is added immediately below "Nevada" in all three places.

2. In the "Effective date of designation" column, "July 1, 1975" is added on the line with "New Jersey" in all three places.

(Secs. 21 and 205, 34 Stat. 1260, as amended, 81 Stat. 584, 21 U.S.C. 621, 645; 37 FR 28464, 28477).

Further, the table in § 381.224 of the poultry products inspection regulations (9 CFR 381.224) is amended as follows:

1. In the "State" column, "New Jersey" is added immediately below "Nevada" in both places.

2. In the "Effective date" column, "July 1, 1975" is added on the line with "New Jersey" in both places.

(Secs. 11(e) and 14, 71 Stat. 441, as amended, 82 Stat. 791, 21 U.S.C. 460(e), 463; 37 FR 28464, 28477).

These amendments of the regulations are necessary to reflect the determinations of the Secretary of Agriculture under section 205 of the Federal Meat Inspection Act and section 11(e) of the Poultry Products Inspection Act, and to effectuate the purposes of the Acts by affording representatives of the Secretary of Agriculture access to places of business engaged in intrastate activities and otherwise facilitate the enforcement of the Acts. It does not appear that public participation in this rule making proceeding would make additional relevant information available to the Secretary. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such public procedure is impracticable and unnecessary.

These amendments and the notice given hereby shall become effective July 1, 1975.

Done at Washington, D.C., on: May 28, 1975.

HARRY C. MUSSMAN,  
Acting Administrator, Animal  
and Plant Health Inspection  
Service.

[FR Doc.75-14303 Filed 5-29-75; 8:45 am]

#### SUBCHAPTER A—MANDATORY MEAT INSPECTION

#### PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES; AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

##### PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

Subpart V—Special Provisions for Designated States and Territories; Criteria and Procedure for Designating Establishments With Operations Which Would Clearly Endanger the Public Health; Disposition of Poultry Products Therein

DESIGNATION OF THE STATE OF COLORADO UNDER THE FEDERAL MEAT INSPECTION ACT AND THE POULTRY PRODUCTS INSPECTION ACT FOR SPECIAL PURPOSES

*Statement of Considerations:* Sections 202 and 203 of the Federal Meat Inspection Act (21 U.S.C. 642 and 643) provide for recordkeeping, access, and related requirements, and registration requirements, with respect to operators engaged in specified classes of business in or for "commerce" as defined in the Act. Similar provisions with respect to poultry and poultry products are contained in sections 11(b) and (c) of the Poultry Products Inspection Act (21 U.S.C. 460 (b), (c)). Section 205 of the Federal Meat Inspection Act and section 11(e) of the Poultry Products Inspection Act (21 U.S.C. 645, 460(e)) authorize the Secretary of Agriculture to exercise the authorities under the aforesaid sections with respect to persons, firms, and corporations engaged in specified kinds of business but not in or for "commerce" in any State or organized Territory when he determines, after consultation with an

appropriate advisory committee, that the State or Territory does not have at least equal authority under its laws or is not exercising such authority in a manner to effectuate the purposes of the Acts.

Officials of the State of Colorado have advised this Department that effective July 1, 1975, the State of Colorado will no longer be in a position to continue administering authorities under the aforesaid sections with respect to persons, firms, and corporations engaged in the specified kinds of business but not in or for "commerce."

The Secretary heretofore determined that the State of Colorado had developed and activated requirements at least equal to the requirements under sections 202 and 203 of the Federal Meat Inspection Act, and section 11 (b) and (c) of the Poultry Products Inspection Act. However, such sections contemplate continuous ongoing programs, and in view of the termination date now applicable to the Colorado programs, the Secretary, after consultation with the appropriate advisory committee, has now determined that Colorado is not exercising, in a manner to effectuate the purposes of said Acts, with respect to intrastate businesses, authorities at least equal to those under sections 202 and 203 of the Federal Meat Inspection Act and section 11 (b) and (c) of the Poultry Products Inspection Act, including the Secretary or his representative being afforded access to such places of business and the facilities, inventories, and records thereof. Therefore, Colorado is hereby designated under section 205 of the Federal Meat Inspection Act and section 11(e) of the Poultry Products Inspection Act for the exercise of the specified authorities with respect to intrastate businesses, and hereafter sections 202 and 203 of the Federal Meat Inspection Act and section 11 (b) and (c) of the Poultry Products Inspection Act shall apply as hereinafter provided, to persons, firms, and corporations engaged in the kinds of business specified in said sections, but not in or for commerce, to the same extent and in the same manner as if they were engaged in such business in or for commerce and the transactions involved were in commerce.

Accordingly, the table in § 331.6 of the meat inspection regulations (9 CFR 331.6) is amended as follows:

1. In the "State" column, Colorado is added in alphabetical order to the list of States in which the provisions of sections 202 and 203 of the Federal Meat Inspection Act and related regulations are applicable.

2. In the "Effective date of designation" column, "July 1, 1975," is added on the line with Colorado in both places.

(Secs. 21 and 205, 34 Stat. 1260, as amended, 81 Stat. 584, 21 U.S.C. 621, 645; 37 FR 28464, 28477).

Further, the table in § 381.224 of the poultry products inspection regulations (9 CFR 381.224) is amended as follows:

1. "Colorado" is added in alphabetical order to the list of States in which the

provisions of sections 11 (b) and (c) of the Poultry Products Inspection Act and related regulations are applicable.

2. In the "Effective date" column, "July 1, 1975," is added on the line with Colorado in both places.

(Secs. 11(e) and 14, 71 Stat. 441, as amended, 82 Stat. 791, 21 U.S.C. 460(e), 463; 37 FR 28464, 28477).

These amendments of the regulations are necessary to reflect the determinations of the Secretary of Agriculture under section 205 of the Federal Meat Inspection Act and section 11(e) of the Poultry Products Inspection Act, and to effectuate the purposes of the Acts by affording representatives of the Secretary of Agriculture access to places of business engaged in intrastate activities and otherwise facilitate the enforcement of the Acts. It does not appear that public participation in this rule making proceeding would make additional relevant information available to the Secretary. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such public procedure is impracticable and unnecessary.

These amendments and the notice given hereby shall become effective July 1, 1975.

Done at Washington, D.C., on: May 28, 1975.

HARRY C. MUSSMAN,  
Acting Administrator, Animal  
and Plant Health Inspection  
Service.

[FR Doc.75-14304 Filed 5-29-75; 8:45 am]

#### Title 12—Banks and Banking

#### CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

#### PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

#### PART 745—CLARIFICATION AND DEFINITION OF ACCOUNT INSURANCE COVERAGE

##### Public Unit Accounts

On pages 8967-8968 of the March 4, 1975, edition of the FEDERAL REGISTER (40 FR 8967-8968) there was published a proposal to amend Parts 701 (12 CFR Part 701) and 745 (12 CFR Part 745). The purpose of the amendment is to implement the provisions of Public Law 93-495 which (1) amend the Federal Credit Union Act (12 U.S.C. 1751, et seq.) to permit Federal credit unions to accept public unit funds, (2) provide for insurance protection of such funds, and (3) limit the aggregate amount of funds that may be invested or deposited in federally-insured credit unions. Interested persons were given until April 4, 1975, to submit written comments, suggestions and objections regarding the proposed revision. As a result of the comments, the following change has been made:

Section 701.32(b) is revised. Accordingly, with the above change, the proposed §§ 701 and 745 are adopted as set forth below, effective immediately.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1014 (12 U.S.C. 1789))

HERMAN NICKERSON, JR.,  
Administrator.

MAY 22, 1975.

1. Part 701 of the rules and regulations relating to organization and operation of Federal credit unions is amended by adding a new § 701.32 to read as follows:

§ 701.32 Payments on shares by public units.

(a) A Federal credit union may receive payments on shares from the following member or nonmember units of Federal, state or local governments:

(1) An officer, employee, or agent of the United States having official custody of public funds and lawfully investing such funds in a Federal credit union;

(2) An officer, employee, or agent of any state of the United States or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in a Federal credit union;

(3) An officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing the same in a Federal credit union; or

(4) An officer, employee, or agent of the Commonwealth of Puerto Rico, of the Panama Canal Zone, or of any territory or possession of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in a Federal credit union.

(b) Withdrawal of shares held in public unit accounts may be subject to a requirement providing for written notice, not to exceed 60 days, of intention to withdraw the whole or any portion of such shares. In the event notice is required, the Federal credit union shall communicate such requirement to the party having official custody of the funds prior to the acceptance of such funds by the Federal credit union.

(c) The maximum amount of each account established pursuant to this section shall not exceed 5 per centum of the total assets of the Federal credit union at the time of the share payment and no share payments shall be accepted in an amount which would cause the aggregate amount of all such accounts to exceed 20 per centum of the total assets of the Federal credit union.

(d) The term "public unit" means the United States, any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Panama Canal Zone, any territory or possession of the United States, any county, any municipality, or political subdivision thereof.

(e) The term "political subdivision" includes any subdivision or principal department of a public unit, (1) the creation of which subdivision or department has been expressly authorized by state statute, (2) to which some functions of



government have been delegated by state statute, and (3) to which funds have been allocated by statute or ordinance for its exclusive use and control. It also includes drainage, irrigation, navigation, improvement, levee, sanitary, school or power districts, and bridge or port authorities and other special districts created by state statute or compacts between the states. Excluded from the term are subordinate or nonautonomous divisions, agencies, or boards within principal departments.

2. Part 745 of the rules and regulations relating to clarification and definition of account insurance coverage is amended by redesignating §§ 745.10, 745.11, and 745.12 as 745.11, 745.12, and 745.13, respectively, and by adding a new § 745.10 to read as follows:

**§ 745.10 Public unit accounts.**

(a) Public funds invested in Federal credit unions and federally-insured state credit unions authorized to accept such investments shall be insured as follows:

(1) Each official custodian of funds of the United States lawfully investing the same in a federally-insured credit union shall be separately insured up to \$100,000;

(2) Each official custodian of funds of any state of the United States or any county, municipality, or political subdivision thereof lawfully investing the same in a federally-insured credit union in the same state shall be separately insured up to \$100,000;

(3) Each official custodian of funds of the District of Columbia lawfully investing the same in a federally-insured credit union in the District of Columbia shall be separately insured up to \$100,000;

(4) Each official custodian of funds of the Commonwealth of Puerto Rico, the Panama Canal Zone, or any territory or possession of the United States, or any county, municipality, or political subdivision thereof lawfully investing the same in a federally-insured credit union in Puerto Rico, the Panama Canal Zone, or any such territory or possession, respectively, shall be separately insured up to \$100,000;

(5) Each official custodian referred to in subsections (a) (2), (3), and (4) of this section lawfully investing such funds in a federally-insured credit union outside their respective jurisdictions shall be separately insured up to \$40,000; and

(6) For purposes of this section, if the same person is an official custodian of more than one public unit, he shall be separately insured with respect to the public funds held by him for each such unit, but he shall not be separately insured with respect to all public funds of the same public unit by virtue of holding different offices in such unit or by holding such funds for different purposes.

(b) With respect to public funds invested in federally-insured state credit unions, the maximum amount of each account shall not exceed 5 per centum of the total assets of the credit union at the time of the investment and no investment shall be accepted in an amount which would cause the aggregate amount

of all such accounts to exceed 20 per centum of the total assets of the credit union.

(c) For the purposes of this section, the terms "public unit" and "political subdivision" have the same meaning as that stated in § 701.32(d) and (e), respectively.

[FR Doc.75-14177 Filed 5-29-75;8:45 am]

**Title 14—Aeronautics and Space**

**CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION**

[Docket No. 72-CE-30-AD; Amdt. 39-2222]

**PART 39—AIRWORTHINESS DIRECTIVES**

**Beech Model 18 Airplanes**

Amendment 39-1632, AD 72-20-5, published in the FEDERAL REGISTER on May 7, 1973 (38 FR 11340 and 11341), was an amendment to Amendment 39-1526. In part it required the installation of approved straps or reinforcements on the basic wing carry-through structure within 2,000 hours' time in service after May 7, 1973, but in any case by no later than May 1, 1975. Subsequent to the issuance of this amendment a detailed review of the fatigue characteristics of the Model 18 wing has uncovered a seriously foreshortened fatigue life. As a result, the FAA issued notice of proposed rulemaking 75-CE-12-AD as well as AD 75-09-18 on April 17, 1975. Until such time as the FAA has had an opportunity to consider the comments and evaluate the action proposed by that notice of proposed rulemaking, it has been determined that it is in the public interest to extend the May 1, 1975, deadline for compliance with Paragraph D(4) of AD 72-20-5.

During this interim, in order to provide an adequate level of safety, AD 72-20-5 is being amended to provide that airplanes which have not been modified in accordance with Paragraph D(4) may continue to be operated only if the x-ray plates required by ADs 72-20-5 and 73-18-4 have been transmitted to the FAA and the airplanes are reinspected in accordance with Paragraphs B, C, E, and F of AD 75-09-18 every 500 hours' time in service. In addition, airplanes which have accumulated more than 500 hours' time in service since the last x-ray inspection must be reinspected before further flight in accordance with AD 75-09-18.

Since this amendment is relieving in nature and is in the interest of safety, it imposes no additional burden on any person. Consequently, notice and public procedure hereon are impracticable and good cause exists for making the amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89 (31 FR 13697), § 39.13 of Part 39, Amendment 39-1632 (38 FR 11340 and 11341), AD 72-20-5, is amended in the following respect:

Add Paragraph (H):

(H) Those airplanes which have not been modified in accordance with Paragraph D(4) as of the effective date of this amendment are exempt from the requirements of that subparagraph until October 15, 1975, and may continue to be operated, provided they meet the following requirements:

(1) The x-ray plates required to be transmitted to the FAA by this AD and AD 73-18-4 have been so transmitted.

(2) For airplanes that have accumulated 500 or more hours' time in service since the last x-ray inspection of the wings and for which x-ray plates have been submitted to the FAA or Beech Aircraft Corporation, reinspect in accordance with Paragraphs B, C, E and F of AD 75-09-18 before further flight.

(3) For airplanes which have accumulated less than 500 hours' time in service since the last x-ray inspection of the wings and for which x-ray plates have been submitted to the FAA or Beech Aircraft Corporation, prior to the accumulation of 500 hours' time in service and thereafter at 500 hour intervals, reinspect in accordance with Paragraphs B, C, E and F of AD 75-09-18.

This amendment becomes effective June 3, 1975.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423), and of sec. 8(c), Department of Transportation Act (49 U.S.C. 1655(c))).

Issued in Kansas City, Missouri, on May 13, 1975.

C. F. MELUGIN, Jr.,  
Director, Central Region.

[FR Doc.75-14043 Filed 5-29-75;8:45 am]

[Docket 74-EA-91, Amdt. 39-2220]

**PART 39—AIRWORTHINESS DIRECTIVES**  
**Canadair Aircraft**

On page 8568 of the FEDERAL REGISTER for February 28, 1975, the Federal Aviation Administration published a proposed amendment applicable to Canadair CL-215-1A10 airplanes.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 FR 13697) § 39.13 of the Federal Aviation Regulations is amended hereby and the airworthiness directive adopted as published.

This amendment is effective May 30, 1975.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1421, 1423); sec. 8(c), Department of Transportation Act (49 U.S.C. 1655(c))).

Issued in Jamaica, N.Y., on May 15, 1975.

JAMES BISPO,  
Acting Director, Eastern Region.

CANADAIR—Applies to Canadair CL-215-1A10 airplanes certificated in all categories.

Compliance required with the next twenty-five hours' time in service after the effective date of this AD unless already accomplished.

To preclude the possibility of incorrect connection being made to the engine fire bottles, accomplish the following:

Modify the routing of the wire harness to the engine fire bottles in accordance with Canadair Service Information Circular No. 86-CL-215, Revision A, dated August 13, 1974, or an equivalent modification approved by Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

[FR Doc.75-13765 Filed 5-29-75;8:45 am]

[Airspace Docket No. 75-RM-9]

**PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS**

**Revocation of VOR Federal Airway**

On April 9, 1975, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (40 FR 16089) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would revoke VOR Federal Airway No. 148 between Denver, Colo., and Kiowa, Colo.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 9:01 a.m. G.m.t., August 14, 1975, as hereinafter set forth. Section 71.123 (40 FR 307) is amended as follows:

In V-148: All before "Thurman, Colo." is deleted and "From Kiowa, Colo.," is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))).

Issued in Washington, D.C., on May 23, 1975.

F. L. CUNNINGHAM,  
Acting Chief, Airspace and  
Air Traffic Rules Division.

[FR Doc.75-14044 Filed 5-29-75;8:45 am]

[Airspace Docket No. 75-SW-10]

**PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS**

**PART 73—SPECIAL USE AIRSPACE**

**Designation of Temporary Restricted Areas**

On March 17, 1975, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (40 FR 12110) stating that the Federal Aviation Administration (FAA) was considering amendments to Parts 71 and 73 of the Federal Aviation Regulations that would designate temporary restricted areas adjacent to Fort Hood, Tex. The restricted areas would be used to contain a joint military exercise "BRAVE SHIELD XII" which is scheduled from August 21 through August 24, 1975. Those areas with airspace at or above 14,500 feet MSL

would also be included in the continental control area for the duration of their time of designation.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. No comments were received.

In consideration of the foregoing, Parts 71 and 73 of the Federal Aviation Regulations are amended, effective 9:01 G.m.t., August 14, 1975, as hereinafter set forth.

1. In § 71.151 (40 FR 343) the following restricted areas are included for the duration of their time of designation from 0001 CDT, August 21, 1975, through 2400 CDT, August 24, 1975:

a. R-6315A Brave Shield XII, Tex.

b. R-6315B Brave Shield XII, Tex.

2. In § 73.63 (40 FR 694) the following restricted areas are added:

a. R-6315A Brave Shield XII, Tex.

**BOUNDARIES**

Beginning at Lat. 32°00'00" N., Long. 97°50'00" W.; to Lat. 32°10'00" N., Long. 98°32'00" W.; to Lat. 31°36'00" N., Long. 99°00'00" W.; to Lat. 31°00'00" N., Long. 99°00'00" W.; to Lat. 30°47'00" N., Long. 98°03'00" W.; to Lat. 30°50'00" N., Long. 97°44'00" W.; to Lat. 31°06'00" N., Long. 97°32'42" W.; to Lat. 31°13'45" N., Long. 97°32'35" W.; to Lat. 31°50'00" N., Long. 97°46'00" W.; to point of beginning excluding that airspace beginning at Lat. 31°00'00" N., Long. 97°37'00" W.; to Lat. 31°00'30" N., Long. 97°41'00" W.; thence clockwise via the arc of a 5-mile radius circle centered on the Killeen, Tex., Airport (Lat. 31°05'10" N., Long. 97°41'05" W.) to Lat. 31°09'00" N., Long. 97°40'20" W.; to Lat. 31°08'08" N., Long. 97°32'42" W.; to point of beginning from 500 feet AGL to and including 4,000 feet MSL, and excluding that airspace from 500 feet AGL to and including 800 feet AGL within a 3-mile radius of the following airports:

City-County Airport, Gatesville, Tex. (Lat. 31°25'16" N., Long. 97°47'48" W.).  
Moccasin Bend Airport, Gatesville, Tex. (Lat. 31°29'06" N., Long. 97°48'05" W.).  
Hamilton Municipal Airport, Hamilton, Tex. (Lat. 31°40'16" N., Long. 98°08'45" W.).  
Dublin Jaycee Community Air Park, Dublin, Tex. (Lat. 32°03'19" N., Long. 98°19'09" W.).  
Dublin Municipal Airport, Dublin, Tex. (Lat. 32°04'05" N., Long. 98°19'30" W.).  
Lee Campbell Ranch Airport, Dublin, Tex. (Lat. 32°01'57" N., Long. 98°25'09" W.).  
DeLeon Municipal Airport, DeLeon, Tex. (Lat. 32°05'55" N., Long. 98°31'30" W.).  
Comanche County-City Airport, Comanche, Tex. (Lat. 31°55'00" N., Long. 98°38'00" W.).  
Dudley Airport, Comanche, Tex. (Lat. 31°52'15" N., Long. 98°39'45" W.).  
Mills County Airport, Goldthwaite, Tex. (Lat. 31°28'55" N., Long. 98°34'25" W.).  
Bowie Memorial Airport, Brownwood, Tex. (Lat. 31°40'00" N., Long. 98°59'00" W.).  
San Saba County Municipal Airport, San Saba, Tex. (Lat. 31°14'06" N., Long. 98°43'00" W.).  
Lampasas Airport, Lampasas, Tex. (Lat. 31°08'27" N., Long. 98°11'45" W.).  
Lometa Airport, Lometa, Tex. (Lat. 31°14'00" N., Long. 98°28'00" W.).

Designated altitudes. 500 feet AGL to and including FL 180.

Time of designation. Continuous, 0001 CDT August 21 through 2400 CDT August 24, 1975.

Controlling agency. Federal Aviation Administration Houston ARTC Center.

Using agency. U.S. Air Force, Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

b. R-6315B Brave Shield XII, Tex.

**BOUNDARIES**

Beginning at Lat. 32°10'00" N., Long. 98°32'00" W.; to Lat. 32°10'00" N., Long. 99°30'00" W.; to Lat. 31°10'00" N., Long. 99°30'00" W.; to Lat. 31°00'00" N., Long. 99°00'00" W.; to Lat. 30°47'00" N., Long. 98°03'00" W.; to Lat. 31°05'00" N., Long. 97°47'00" W.; to Lat. 31°50'00" N., Long. 97°46'00" W.; to Lat. 32°00'00" N., Long. 97°50'00" W.; to point of beginning. Designated altitudes. FL 180 to and including FL 280.

Time of designation. Continuous, 0001 CDT August 21 through 2400 CDT August 24, 1975.

Controlling agency. Federal Aviation Administration Houston ARTC Center.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

c. R-6315C Brave Shield XII, Tex.

**BOUNDARIES**

Beginning at Lat. 30°47'00" N., Long. 98°03'00" W.; to Lat. 31°02'00" N., Long. 98°11'00" W.; to Lat. 31°27'00" N., Long. 98°11'00" W.; to Lat. 31°24'00" N., Long. 97°43'00" W.; to Lat. 31°22'33" N., Long. 97°42'45" W.; to Lat. 31°20'48" N., Long. 97°40'32" W.; to Lat. 31°19'37" N., Long. 97°40'32" W.; to Lat. 31°13'45" N., Long. 97°32'35" W.; to Lat. 31°08'06" N., Long. 97°32'42" W.; to Lat. 31°09'00" N., Long. 97°40'20" W.; thence counterclockwise via the arc of a 5-mile radius circle centered on the Killeen, Tex., Airport (Lat. 31°05'10" N., Long. 97°41'05" W.) to Lat. 31°05'10" N., Long. 97°41'05" W.; to point of beginning from 500 feet AGL to and including 4,000 feet MSL, and excluding that airspace from 500 feet AGL to and including 800 feet AGL within a 3-mile radius of the following airports:

City-County Airport, Gatesville, Tex. (Lat. 31°25'16" N., Long. 97°47'48" W.).  
Lampasas Airport, Lampasas, Tex. (Lat. 31°08'27" N., Long. 98°11'45" W.).

Designated altitudes. 100 feet AGL to and including 500 feet AGL.

Time of designation. Continuous, 0001 CDT August 21 through 2400 CDT August 24, 1975.

Controlling agency. Federal Aviation Administration, Houston ARTC Center.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

As stated in the original notice, the users of the temporary restricted areas designated herein understand that they are obligated to observe the minimum safe altitudes prescribed in § 91.79 of the Federal Aviation Regulations that are applicable to all nonparticipating persons and property on the surface.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 8(c), Department of Transportation Act (49 U.S.C. 1655(c))).

Issued in Washington, D.C., on May 23, 1975.

F. L. CUNNINGHAM,  
Acting Chief, Airspace and  
Air Traffic Rules Division.

[FR Doc.75-14048 Filed 5-29-75;8:45 am]



[Airspace Docket No. 75-WA-8]

**PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS****PART 73—SPECIAL USE AIRSPACE**  
**Revocation of Restricted Areas**

The purpose of these amendments to Parts 71 and 73 of the Federal Aviation Regulations is to revoke Restricted Areas R-6303A Matagorda Island, Tex., and R-6303B Matagorda Island, Tex.

Revocation of R-6303A and R-6303B is appropriate because the Department of the Air Force has determined that it no longer requires the restricted areas.

Since these amendments make available for public use airspace from which the public was previously restricted, thereby relieving a restriction upon the public, they are minor matters in which the public would have no particular interest and notice and public procedure thereon are unnecessary. Moreover, since they relieve a restriction, they may become effective immediately.

In consideration of the foregoing, Parts 71 and 73 of the Federal Aviation Regulations are amended, effective May 30, 1975 as hereinafter set forth.

1. In § 71.151 (40 FR 343) "R-6303 Matagorda Island, Tex." is deleted.

2. In § 73.63 (40 FR 694) Restricted Areas R-6303A Matagorda Island, Tex., and R-6303B Matagorda Island, Tex., are revoked.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c)).)

Issued in Washington, D.C., on May 23, 1975.

F. L. CUNNINGHAM,  
Acting Chief, Airspace and  
Air Traffic Rules Division.

[FR Doc. 75-14047 Filed 5-29-75; 8:45 am]

[Airspace Docket No. 75-WA-9]

**PART 73—SPECIAL USE AIRSPACE**  
**Alteration of Restricted Area**

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to reduce the time of designation for Restricted Area R-2403A Little Rock, Ark.

A review of Restricted Area R-2403A indicates that the time of designation from September 1 through April 30 is incorrect. The current time of designation omits an activation by NOTAM at least 24 hours in advance provision. The time of designation during this period should be from 7 am Saturday to 5 pm Sunday, September 1 through April 30 to be activated by NOTAM at least 24 hours in advance. The using agency concurs in the redesignation.

This amendment relieves a restriction upon the public and it is a minor amendment upon which the public should have no particular reason to comment. Therefore, notice and public procedure thereon are deemed unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication.

**RULES AND REGULATIONS**

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 9:01 a.m., August 14, 1975, as hereinafter set forth.

In § 73.24 (40 FR 659) the time of designation for R-2403A Little Rock, Ark., is amended to read as follows:

Time of designation. Daily 0700 to 2100 May 1 through August 31, to be activated by NOTAM 48 hours in advance. Other times, 0700 Saturday to 1700 Sunday, September 1 through April 30, to be activated by NOTAM at least 24 hours in advance. All times local.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on May 23, 1975.

F. L. CUNNINGHAM,  
Acting Chief, Airspace and  
Air Traffic Rules Division.

[FR Doc. 75-14045 Filed 5-29-75; 8:45 am]

**Title 19—Customs Duties****CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY**

[T.D. 75-121]

**PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE****Documents To Be Filed With Entry of Wool or Hair**

On September 16, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 33227) which proposed to amend §§ 151.64, 151.71(b) and 151.72(b) of the Customs Regulations (19 CFR 151.64, 151.71(b), 151.72(b)). The proposed amendments would require the importer of wool or hair to submit his name and address on Customs Form 6451, Notice of Percentage Clean Yield and Grade of Wool or Hair, with the entry of wool or hair. In addition, the proposal provided for the subsequent use of that form by Customs to notify the importer of the percentage clean yield of the wool or hair. In those cases where a laboratory analysis of the imported wool or hair is made and the district director receives a copy of the Laboratory Report, Customs Form 6415, the proposed amendments provided that a copy of the report would be forwarded to the importer with the notification of percentage clean yield.

No comments were received in response to the notice of proposed rulemaking.

Accordingly, Part 151 of the Customs Regulations (19 CFR Part 151) is amended as set forth below.

**Effective date.** This amendment shall become effective June 30, 1975.

VERNON D. ACREE,  
Commissioner of Customs.

Approved: May 16, 1975.

DAVID R. MACDONALD,  
Assistant Secretary  
of the Treasury.

1. Section 151.64, including the heading thereof, is amended to read as follows:

**§ 151.64 Additional documents.**

(a) *Notice of percentage clean yield and grade of wool or hair.* Customs Form 6451, Notice of Percentage Clean Yield and Grade of Wool or Hair, containing the name and address of the importer, shall be filed in duplicate with each entry covering wool or hair.

(b) *Extra copy of entry.* One copy of each entry covering wool or hair subject to duty at a rate per clean pound shall be filed in addition to the copies otherwise required.

2. Paragraph (b) of § 151.71 is amended to read as follows:

**§ 151.71 Laboratory testing for clean yield.**

(b) *Notification to importer.* The district director shall promptly notify the importer by mail on Customs Form 6451, Notice of Percentage Clean Yield and Grade of Wool or Hair, of the percentage clean yield found by him. Where samples of wool or hair have been tested in a Customs Laboratory and the district director has received a copy of the Laboratory Report, Customs Form 6415, a copy of that report shall accompany the notification to the importer.

3. Paragraph (b) of § 151.72 is amended to read as follows:

**§ 151.72 Estimation of clean yield by nonlaboratory method.**

(b) *Notification to importer.* The district director shall promptly notify the importer by mail on Customs Form 6451, Notice of Percentage Clean Yield and Grade of Wool or Hair, of the percentage clean yield estimated by the appropriate Customs officer.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

[FR Doc. 75-14072 Filed 5-29-75; 8:45 am]

**Title 21—Food and Drugs****CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE****PART 701—COSMETIC LABELING****Designation of Ingredients; Warning Statements; Confirmation of Effective Dates**

The Commissioner of Food and Drugs is confirming the effective date of amendments to the cosmetic ingredient labeling requirements in § 701.3 *Designation of Ingredients* (21 CFR 701.3) to provide alternative methods for the declaration of ingredients; one alternative method is stayed pending a public hearing. In addition, the partial stay of § 701.3 is being terminated, so as to place the requirements for ingredient declaration fully into effect. The effective dates of those regulations dealing with warning statements on aerosol products and feminine deodorant sprays are confirmed and coordinated with the

effective dates for cosmetic ingredient designation.

On October 17, 1973, a final order establishing the requirement for declaration of ingredients on cosmetic product packages was published in the FEDERAL REGISTER (38 FR 28912). In an order published in the FEDERAL REGISTER of March 3, 1975 (40 FR 8918), the Commissioner amended that requirement by adding paragraphs (f) through (q) to § 701.3 so as to create certain exemptions from the general requirement for ingredient declaration and to permit alternative methods of declaring ingredients. A period of 30 days was provided for the filing of objections and requests for hearing. Objections were filed by Italian Labs, Ltd.; Evelyn Marshall Cosmetics, Ltd.; the Independent Cosmetic Manufacturers and Distributors; the Cosmetic, Toilet and Fragrance Association, Inc. Each objection was accompanied by a request for hearing.

A. A number of objections opposed the requirement in § 701.3(a) for ingredient declaration on cosmetic products. Italian Labs, Ltd., objected to the requirement that ingredients of color blends be declared. Evelyn Marshall Cosmetics, Ltd., objected to the requirement that ingredients be listed in descending order of predominance. The Independent Cosmetic Manufacturers and Distributors (ICMAD) objected "totally to the concept of ingredient labeling on cosmetics." Shorell Products, Inc., adopted the ICMAD objection by reference.

The Commissioner notes that nothing in the regulations published March 3, 1975, requires the declaration of ingredients on cosmetic products. That requirement was issued under § 701.3(a) in the order published in the FEDERAL REGISTER of October 17, 1973, at which time a period of 30 days was provided for the filing of objections and requests for hearing. Consequently, the objections to provisions of § 701.3(a) received in response to the announcement of March 3, 1975, are untimely, and the requests for hearing on those provisions are denied.

B. The Independent Cosmetic Manufacturers and Distributors (and Shorell Products, by reference) filed a "legal objection" on the ground that the Commissioner failed to cite evidence demonstrating that the listing of ingredients on cosmetics is necessary to prevent consumer deception or facilitate value comparisons, which is the standard under the Fair Packaging and Labeling Act.

The Commissioner notes that the question whether a particular regulation prevents consumer deception or facilitates value comparisons is a question of fact, not a question of law. Full opportunity to object and request a hearing on the ground that ingredient declaration does not prevent consumer deception or facilitate value comparisons was offered at the time of publication of the order on October 17, 1973. Had objections and a request for hearing been made at that time, the Commissioner would have placed any

**RULES AND REGULATIONS**

appropriate additional evidence in the record at such a hearing, demonstrating that ingredient declaration prevents consumer deception and facilitates value comparisons. The Commissioner concludes, therefore, that the objection presented is not timely and the request for hearing is denied.

C. A number of objections purported to object to the amendments in paragraphs (f) through (q) by requesting that additional exemptions and alternative methods of declaring ingredients be permitted.

Evelyn Marshall Cosmetics, Ltd., objected to all the amendments, but stated specific grounds in respect to only two paragraphs of the amendments. Objection was made to paragraph (f) of the regulation, on the ground that it should be revised to permit alphabetical listing of all ingredients. Objection was also made to paragraph (i) of the regulation on the ground that it fails to permit a manufacturer to place ingredient lists inside small packages of cosmetics.

The Independent Cosmetic Manufacturers and Distributors (and Shorell Products, by reference) objected to all the amendments on the ground that the alternatives "in fact give no relief from the adverse effects of § 701.3(a)." The objection proposed as alternatives to listing ingredients in descending order of predominance, as is required by § 701.3(a), that ingredients be permitted to be listed alphabetically, or that only "known allergens" be declared, or that color ingredients not be specifically named. In addition, objection was made to the provisions of paragraphs (j), (k), and (l), which permit off-package labeling for cosmetics held for sale in tightly compartmented trays or racks. The objection demanded that the exemption permitting off-package labeling be extended to include all cosmetic products. Objection was also made to paragraph (i) on the ground that it should be extended to apply to cosmetics in cartons.

The Cosmetic, Toilet and Fragrance Association, Inc., objected to paragraph (p) "to the extent that section 701.3(p) limits the availability of the option of 1/2 inch type size to packages having an available labeling area of less than 12 square inches rather than to packages having an area of the principal display panel not exceeding 5 square inches."

The Commissioner concludes that none of these objections to the amendments is valid. Although styled as an "objection" to the promulgated amendments, each is in fact a request that additional exemptions be granted or alternative methods of labeling be permitted. None of the objections raises questions about the exemptions that have been granted. None of the objections identifies any factual issue, the outcome of which at a hearing would determine the legality of any amendment. Under the Fair Packaging and Labeling Act, which incorporates by reference the provisions of section 701(e) of the Federal Food, Drug, and Cosmetic Act, the proper procedure for requesting an additional exemption is not through objection to

exemptions granted, but through a petition to amend the regulation imposing the requirement. Section 701(e)(1) of the Federal Food, Drug, and Cosmetic Act requires the publication of any proposal made by petition of an interested person showing reasonable grounds. The act clearly contemplates that proposed amendments should be considered by the agency in an orderly manner and not raised for the first time at a public hearing. Since the objections do not state a valid basis for a hearing, the requests for hearing are denied.

D. Objection was made by the Independent Cosmetic Manufacturers and Distributors (and Shorell Products, Inc. by reference) to the provisions of paragraph (f) which permit ingredients, other than color additives, present at a concentration of less than one percent to be listed without respect to order of predominance. The objection stated that either all noncolor ingredients should be listed in order of predominance or none should. The ground for the objection was that under the regulation some manufacturers "will be able to 'scramble' essentially all important ingredients, and thus protect their formulas, while others will be required to divulge the relative quantities of essentially all ingredients." The objection stated that, at a hearing, the objector "will adduce evidence that there is no benefit to the consumer in such a requirement."

Since this objection opposes the provisions of paragraph (f) which permit ingredients present at a low concentration to be listed without respect to order of predominance, the Commissioner concludes that it constitutes a valid objection and is properly the subject of a public hearing. Although the objection is ambiguous as to the precise grounds of objection, the Commissioner states the issue for hearing presented by the objection as follows: "Whether it is reasonable to establish a level of concentration below which cosmetic ingredients need not be listed in descending order of predominance, and if so, whether it is reasonable that that level be 1 percent." A notice will be published later in the FEDERAL REGISTER announcing the time and place for the hearing to be held on this issue.

In accordance with section 701(e)(2) of the Federal Food, Drug, and Cosmetic Act, the filing of this objection stays the effectiveness of 21 CFR 701.3(f)(1) and (2). However, pending the outcome of the hearing on the issue presented by the objection, the Commissioner will not take regulatory action against products labeled in accordance with § 701.3(f)(1) and (2).

Because of the interest shown by some manufacturers in additional exemptions to the requirements for ingredient declaration in § 701.3(a) through (e), the Commissioner has concluded to treat those objections calling for additional exemptions as if they were petitions under section 701(e)(1) of the Federal Food, Drug, and Cosmetic Act. The Commissioner notes, however, that section 701(e)(1) of the act requires that peti-



tions show reasonable grounds for requested amendments prior to their being published as proposals. The Commissioner concludes that the objections consist exclusively of conclusory and unsupported statements that do not constitute reasonable grounds within the meaning of section 701(e)(1) of the act. Therefore, elsewhere in this issue of the FEDERAL REGISTER a notice is published inviting all interested persons to submit data and other information in support of the additional exemptions sought by the objections.

Portions of § 701.3 (a) through (e), published in the FEDERAL REGISTER of October 17, 1973, were stayed by the filing of objections, in accordance with section 701(e)(2) of the Federal Food, Drug, and Cosmetic Act. The stay was announced in an order published in the FEDERAL REGISTER of March 3, 1975 (40 FR 8924), together with the order amending paragraphs (f) through (q). It was noted in the preamble to the amendments that, "It is the Commissioner's belief that these additional provisions will satisfy the objections submitted in response to the October 1973 order that have resulted in portions of that order being stayed by the order published elsewhere in this issue of the FEDERAL REGISTER. The Commissioner anticipates that upon publication of these additional provisions, the four objectors who requested a hearing in response to the original order will withdraw their objections, permitting the entire order to be placed into effect."

As anticipated, the four objections have been withdrawn conditioned upon the Commissioner's determining that all or substantially all of the amendments adopted as § 701.3 (f) through (q) can be placed into effect and that no significant portions of the amendments are stayed. Since that condition has been met, the stay of portions of the order of October 17, 1973 is being terminated, and the provisions of § 701.3 (a) through (q) are being placed fully into effect, with the exception of § 701.3 (f) (1) and (f) (2).

Because the filing of objections to the amendments in paragraphs (f) through (q) has created uncertainty as to the final form of the requirements for ingredient labeling, the Commissioner recognizes that manufacturers have been unable to begin useful planning for labeling changes. Consequently, the Commissioner has concluded that the announced effective dates should be set back by the amount of time that has passed since publication of the March 3, 1975 order. In addition, the effective dates of those regulations (published in the same issue of the FEDERAL REGISTER (39 FR 8912, 8926)) which had been coordinated with the effective dates of ingredient declaration are being similarly adjusted. Those regulations deal with warnings on aerosol products, feminine deodorant sprays, and cosmetics not adequately substantiated for safety.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 402, 403, 501, 502, 601,

602, 701, 52 Stat. 1041, 1046-1051 as amended, 1054-1056 as amended (21 U.S.C. 321(n), 342, 343, 351, 352, 361, 362, 371)) and the Fair Packaging and Labeling Act (sec. 5(c), 6(a), 80 Stat. 1298, 1299 (15 U.S.C. 1454, 1455)), and under authority delegated to him (21 CFR 2.120), the Commissioner hereby orders as follows:

1. The partial stay of § 701.3, which was announced in the FEDERAL REGISTER of March 3, 1975, (40 FR 8924, 8926), is revoked.

2. The effectiveness of § 701.3 (f) (1) and (f) (2) is stayed pending the outcome of a hearing on those provisions. Pending the outcome of that hearing, regulatory action will not be taken against products labeled in accordance with the provisions of § 701.3 (f) (1) and (f) (2).

3. All labeling for cosmetic products ordered after May 31, 1976 and all cosmetic product packages labeled after November 30, 1976 shall comply with the requirements of § 701.3.

4. The effective date of the regulations announced in FR Doc. 75-5328 (pertaining to warnings on aerosol products and on cosmetic products not adequately substantiated for safety) published in the FEDERAL REGISTER of March 3, 1975 (40 FR 8912) and in FR Doc. 75-5329 (pertaining to warning statements on feminine deodorant sprays) published in the FEDERAL REGISTER of March 3, 1975 (40 FR 8926) is revised as follows:

All labeling ordered after May 31, 1976, all products labeled after November 30, 1976, and all products initially introduced into interstate commerce after November 30, 1977, shall comply with these regulations.

Dated: May 25, 1975.

A. M. SCHMIDT,  
Commissioner of Food and Drugs.

[FR Doc. 75-14283 Filed 5-29-75; 8:45 am]

**Title 24—Housing and Urban Development**  
**CHAPTER X—FEDERAL INSURANCE ADMINISTRATION**  
**SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM**

**PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS**

**Arlington, Tex.; Correction**

On July 23, 1971, in 36 FR 13675, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included the City of Arlington, Texas, as an eligible community and included Map No. H 485454 16 which indicates that Lot No. 26, Block No. 2, Oak Creek Estates (present address: 4608 Ramsgate Court), Arlington, Texas, as recorded in Volume 388-73, Page 19 in the office of the Clerk of the County Court of Tarrant County, Texas, in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration,

after further technical review of the above map in light of additional, recently acquired flood information, that the above property is within Zone C, and not within the Special Flood Hazard Area. Accordingly, effective July 23, 1971, Map No. H 485454 16 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: April 30, 1975.

J. ROBERT HUNTER,  
Acting Federal Insurance  
Administrator.

[FR Doc. 75-14123 Filed 5-29-75; 8:45 am]

**PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS**

**Arlington, Tex.; Correction**

On July 23, 1971, in 36 FR 13676, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included the City of Arlington, Texas, as an eligible community and included Map No. H 485454 17 which indicates that Block No. 1, Lots No. 1 through 4; Block No. 2, Lots No. 1 through 5, and 10 through 16; and Block No. 3, Lots No. 11 through 18, Stoneridge West Addition, Arlington, Texas, as recorded in Plat Record Volume 388-76, Page 6 in the records of the Clerk of Tarrant County, Texas, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Block No. 1, Lots No. 2 through 4, and Block No. 2, Lots No. 3 through 5, and 10 through 12 are located in Zone B. Block No. 1, Lot No. 1; Block No. 2, Lots No. 1, 2, and 13 through 16; and Block No. 3, Lots No. 11 through 18 are located within Zone C. Accordingly, effective August 7, 1970, Map No. H 485454 17 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: April 29, 1975.

J. ROBERT HUNTER,  
Acting Federal Insurance  
Administrator.

[FR Doc. 75-14106 Filed 5-29-75; 8:45 am]

**PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS**

**Arvada, Colo.; Correction**

On July 13, 1972, in 37 FR 13715, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included the City of Arvada, Colorado, as an eligible community and included Map No. H 085072 02 which indicates that Block No. 1, Lots No. 1, 2, and 11 through 23; Block No. 2, Lots No. 1 through 7; Block No. 3, Lots No. 1 through 7; and Block No. 4, Lots No. 1 through 8, Filing No. 1, Casa Granada Subdivision, Arvada, Colorado, as recorded in Volume 31-5 in the office of the Clerk and Recorder of Jefferson County, Colorado; Block No. 1, Lots No. 1 and 2; Block No. 2, Lots No. 1 through 18, and 20 through 22; and Block No. 3, Lots No. 1 through 14, Filing No. 2, Casa Granada Subdivision, Arvada, Colorado, as recorded in Volume 37-22 in the office of the Clerk and Recorder of Jefferson County, Colorado, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area.

Filing No. 1, Block No. 1, Lots No. 1, 2, 11, and 22; Block No. 2, Lots No. 1 through 3; Block No. 4, Lots No. 1 through 8; and Filing No. 2, Block No. 2, Lots No. 1 through 18, and 20 through 22, and Block No. 3, Lots No. 1 through 14 are located within Zone B. Filing No. 1, Block No. 1, Lots No. 12 through 21, and 23; Block No. 2, Lots No. 4 through 7; Block No. 3, Lots No. 1 through 7; and Filing No. 2, Block No. 1, Lots No. 1 and 2 are within Zone C. Accordingly, effective May 1, 1971, Map No. H 085072 02 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: May 13, 1975.

J. ROBERT HUNTER,  
Acting Federal Insurance  
Administrator.

[FR Doc. 75-14102 Filed 5-29-75; 8:45 am]

[Docket No. FI-314]

**PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS**

**Aurora, Colo.; Correction**

On August 6, 1974, in 39 FR 28235, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map

number and locations where Flood Hazard Boundary Maps were available for public inspection. This list included City of Aurora, Colorado, as an eligible community and included Map No. H 080002 11 which indicates that Kingsborough Filing No. 2, Unit No. 1, Block No. 5, Lots No. 1 through 3; Block No. 6, Lots No. 1 through 10; Block No. 7, Lots No. 1 through 9; Block No. 10, Lots No. 1 through 7; Block No. 11, Lots No. 1 through 4, as recorded in Book 22, Pages 59 through 60 in the office of the Clerk and Recorder of Arapahoe County, Colorado; and Kingsborough Filing No. 4, Block No. 2, Lots No. 1 and 15; Block No. 3, Lots No. 1 through 8; Block No. 4, Lots No. 1 through 5; Block No. 5, Lots No. 1 through 13; Block No. 6, Lots No. 1 through 5; and Block No. 7, Lots No. 1 through 3, as recorded in Book 23, Page 16 in the office of the Clerk and Recorder of Arapahoe County, Colorado, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, effective June 28, 1974, Map No. H 080002 11 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: May 9, 1975.

J. ROBERT HUNTER,  
Acting Federal Insurance  
Administrator.

[FR Doc. 75-14110 Filed 5-29-75; 8:45 am]

[Docket No. FI-289]

**PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS**

**Canal Winchester, Ohio; Correction**

On February 1, 1974, in 39 FR 4101, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Hazard Boundary Maps were available for public inspection. This list included the Village of Canal Winchester, Ohio, as an eligible community and included Map No. H 390169 02 which indicates that Lots No. 1 through 3, 27 through 31, 37, 38, and 49, Washington Knoll Subdivision, Canal Winchester, Ohio, as recorded in Plat Book 48, Page 11 in the office of the Recorder of Franklin County, Ohio, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not

within the Special Flood Hazard Area. Accordingly, effective January 25, 1974, Map No. H 390169 02 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: April 25, 1975.

J. ROBERT HUNTER,  
Acting Federal Insurance  
Administrator.

[FR Doc. 75-14117 Filed 5-29-75; 8:45 am]

**PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS**

**Columbus, Ohio; Correction**

On August 21, 1974, in 39 FR 30122, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Hazard Boundary Maps were available for public inspection. This list included the City of Columbus, Ohio, as an eligible community and included Map No. H 390170 55 which indicates that Lots No. 14 through 19, 21 through 25, 53 through 57, 85 through 94, 99 through 102, 107 through 110, 118 through 147, 150 through 158, 194 through 198, 230, 263, 268 through 283, and 339, Three Rivers Project, Columbus, Ohio, as recorded in Book 48, Pages 36 through 37 in the office of the Recorder of Franklin County, Ohio, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, effective August 9, 1974, Map No. H 390170 55 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: May 13, 1975.

J. ROBERT HUNTER,  
Acting Federal Insurance  
Administrator.

[FR Doc. 75-14114 Filed 5-29-75; 8:45 am]

**PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS**

**Dade County, Fla.; Correction**

On September 29, 1972, in 37 FR 20535, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map



number and locations where Flood Insurance Rate Maps were available for public inspection. This list included Dade County, Florida, as an eligible community and included Map No. H 12 025 0000 02 which indicates that Leisure Mobile Park, being the North  $\frac{1}{2}$  of the Southwest  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of Section 4, Township 57 South, Range 39 East of Dade County, Florida, recorded in Official Records Book 317, at Page 615 in the Office of the Clerk of the Circuit Court of Dade County, Florida; Leisure Mobile Park South, being the Southeast  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of Section 4, Township 57 South, Range 39 East of Dade County, Florida, recorded in Official Records Book 6355, at Page 139 in the Office of the Clerk of the Circuit Court of Dade County, Florida; and Leisure Mobile Park South Addition, being the Southwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of Section 4, Township 57 South, Range 39 East of Dade County, Florida, recorded in Official Records Book 8079, at Page 505 in the Office of the Clerk of the Circuit Court of Dade County, Florida, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in view of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, effective September 30, 1972, Map No. H 12 025 0000 02 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (secs. 408-410, Public Law 91-152, December 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 31, 1974.

J. ROBERT HUNTER,  
Acting Federal Insurance  
Administrator.

[FR Doc. 75-14108 Filed 5-29-75; 8:45 am]

[Docket No. FI-310]

#### PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

Davenport, Iowa; Correction

On July 12, 1974, in 39 FR 25649, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Hazard Boundary Maps were available for public inspection. This list included the City of Davenport, Iowa, as an eligible community and included Map No. H 190242 10 which indicates that Lots No. 1 through 27, Hickory Hill 8th Addition, Davenport, Iowa, as recorded in Plat Book 0-21-4 in the records of Scott County, Iowa, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical

review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, effective June 21, 1974, Map No. H 190242 10 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: April 30, 1975.

J. ROBERT HUNTER,  
Acting Federal Insurance  
Administrator.

[FR Doc. 75-14122 Filed 5-29-75; 8:45 am]

[Docket No. FI-310]

#### PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

Davenport, Iowa; Correction

On July 12, 1974, in 39 FR 25649, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Hazard Boundary Maps were available for public inspection. This list included the City of Davenport, Iowa, as an eligible community and included Map No. H 190242 11 which indicates that 2726 East George Washington Boulevard, being Lot No. 9, Peaceful Valley 1st Addition, Davenport, Iowa, as recorded in Plat Book Davenport "D," Section 19, Page 4 in the office of the Auditor of Scott County, Iowa, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, effective June 21, 1974, Map No. H 190242 11 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: May 1, 1975.

J. ROBERT HUNTER,  
Acting Federal Insurance  
Administrator.

[FR Doc. 75-14119 Filed 5-29-75; 8:45 am]

[Docket No. FI-310]

#### PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

Davenport, Iowa; Correction

On July 12, 1974, in 39 FR 25649, the Federal Insurance Administrator pub-

lished a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Hazard Boundary Maps were available for public inspection. This list included the City of Davenport, Iowa, as an eligible community and included Map No. H 190242 10 which indicates that Lots No. 10 through 14 and 20, Cedar Vista Annex First Addition, Davenport, Iowa, subject to the conditions of the Iowa Natural Resources Council No. 70 through 142, July 7, 1970, specifying minimum elevations for construction, and recorded in Davenport Book A-1 NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  22-78-3, in the Office of the Scott County Auditor, Davenport, Iowa, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, effective June 21, 1974, Map No. H 190242 10 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: May 13, 1975.

J. ROBERT HUNTER,  
Acting Federal Insurance  
Administrator.

[FR Doc. 75-14115 Filed 5-29-75; 8:45 am]

#### PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

Denville, N.J.; Correction

On June 26, 1971, in 36 FR 12171, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included the Township of Denville, New Jersey, as an eligible community and included Map No. H 345292 04, which indicates that property located at 51 Lakewood Drive, Denville, New Jersey, as recorded in Deed Book 2137, Page 497, in the office of the County Clerk of Morris County, New Jersey, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is within Zone C, and is not within the Special Flood Hazard Area. Accordingly, effective July 11, 1970, Map No. H 345292 04 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended 42

U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: May 1, 1975.

J. ROBERT HUNTER,  
Acting Federal Insurance  
Administrator.

[FR Doc. 75-14121 Filed 5-29-75; 8:45 am]

#### PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

Fairfax County, Va.; Correction

On January 8, 1972, in 37 FR 281, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included Fairfax County, Virginia, as an eligible community and included Map No. H 515525 18 which indicates that Lot No. 550 of Canterbury Woods, Section 8, Fairfax County, Virginia, (present address: 4801 Tabard Place, Annandale, Virginia), as recorded in Deed Book 3320, at pages 14 through 16, and Lot 589 of Canterbury Woods, Section 9, Fairfax County, Virginia (present address: Tabard Place, Annandale, Virginia), as recorded in Deed Book 3321 at pages 530 through 533 in the Office of the Clerk of the Court, Fairfax County, Virginia, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that Lot No. 589, Section 9 and the structure on Lot No. 550, Section 8 are within Zone C, and not within the Special Flood Hazard Area. Accordingly, effective June 17, 1970, Map No. H 515525 18 is hereby corrected to reflect that the above properties are not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: April 17, 1975.

J. ROBERT HUNTER,  
Acting Federal Insurance  
Administrator.

[FR Doc. 75-14103 Filed 5-29-75; 8:45 am]

#### PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

Fort Smith, Ark.; Correction

On August 28, 1971, in 36 FR 17335, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insur-

ance Rate Maps were available for public inspection. This list included the city of Fort Smith, Arkansas, as an eligible community and included Map No. H 055013 13 which indicates that Lot No. 113, Village Harbor, Phase II, Fort Smith, Arkansas, as recorded in Volume 342, Page 2002 in the Office of the Circuit Clerk of Sebastian County, Arkansas, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional recently acquired flood information, that the above property is within Zone C, and not within the Special Flood Hazard Area. Accordingly, effective December 29, 1970, Map No. H 055013 13 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: April 23, 1975.

J. ROBERT HUNTER,  
Acting Federal Insurance  
Administrator.

[FR Doc. 75-14107 Filed 5-29-75; 8:45 am]

[Docket No. FI-270]

#### PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

Indianapolis, Ind.; Correction

On May 17, 1974, in 39 FR 17518, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Hazard Boundary Maps were available for public inspection. This list included the City of Indianapolis, Indiana, as an eligible community and included Map No. H 180159 33-34 which indicates that property located at the junction of I-74 and I-465, Indianapolis, Indiana, which is the area indicated by cross-hatching on the plat map recorded at Instrument 75-16114 in the office of the Recorder of Marion County, Indiana, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, effective May 17, 1974, Map No. H 180159 33-34 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Adminis-

trator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: May 1, 1975.

J. ROBERT HUNTER,  
Acting Federal Insurance  
Administrator.

[FR Doc. 75-14116 Filed 5-29-75; 8:45 am]

[Docket No. FI-270]

#### PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

Indianapolis, Ind.; Correction

On May 17, 1974, in 39 FR 17518, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Hazard Boundary Maps were available for public inspection. This list included the City of Indianapolis, Indiana, as an eligible community and included Map No. H 180159 14 which indicates that Lots No. 549, 555, and 556, Section 15, Ivy Hills Subdivision, Indianapolis, Indiana, as recorded at Instrument No. 69-1843 in the office of the Recorder of Marion County, Indiana, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, effective May 17, 1974, Map No. H 180159 14 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: April 29, 1975.

J. ROBERT HUNTER,  
Acting Federal Insurance  
Administrator.

[FR Doc. 75-14109 Filed 5-29-75; 8:45 am]

#### PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

Mobile County, Ala.; Correction

On January 8, 1972, in 37 FR 281, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included Mobile County, Alabama, as an eligible community and included Map No. H 015008 25 which indicates that Lots No. 5 through 25, and 37 through 58, Pine Run Subdivision, Unit One, Mobile, Alabama, as recorded in Book 24, Page 63, in the office of the Judge of Probate, Mobile County, Alabama, are in their entirety within the Special Flood



Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the property is not within the Special Flood Hazard Area. The structure on Lot No. 5 is within Zone B, and Lots No. 6 through 25, and 37 through 58 are within Zone C. Accordingly, effective December 15, 1970, Map No. H 015008 25 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: April 16, 1975.

J. ROBERT HUNTER,  
Acting Federal Insurance  
Administrator.

[FR Doc.75-14104 Filed 5-29-75; 8:45 am]

#### PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

##### Mobile County, Ala.; Correction

On January 8, 1973, in 38 FR 1002, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included the County of Mobile, Alabama, as an eligible community and included Map No. H 015008 25, which indicates that the subdivision called Adobe Ridge Estates Unit One, Mobile, Alabama, as recorded in Map Book 24, Page 96, in the records of Mobile County, Alabama, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is within Zone C, and is not within the Special Flood Hazard Area. Accordingly, effective January 8, 1972, Map No. H 015008 25 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: May 1, 1975.

J. ROBERT HUNTER,  
Acting Federal Insurance  
Administrator.

[FR Doc.75-14120 Filed 5-29-75; 8:45 am]

#### RULES AND REGULATIONS

#### PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

##### Palatine, Ill.; Correction

On February 20, 1973, in 38 FR 4669, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included the Village of Palatine, Illinois, as an eligible community and included Map No. H 175170 02 which indicates that Block 207, Lot 218 Willowood, being 704 North Stark Drive, Palatine, Illinois, as recorded in Docket No. 2046942, Volume 148, Page 315, in the office of the Register of Deeds of Cook County, Illinois, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, effective February 16, 1973, Map No. H 175170 02 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: April 17, 1975.

J. ROBERT HUNTER,  
Acting Federal Insurance  
Administrator.

[FR Doc.75-14105 Filed 5-29-75; 8:45 am]

#### PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

##### Prince George's County, Md.; Correction

On August 2, 1972, in 37 FR 15428, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included Prince George's County, Maryland, as an eligible community and included Map No. H 245208 49 which indicates that Lot No. 10, Block B, Section No. 2, Clover Homes Subdivision, Clinton, Maryland, as recorded in Plat WWW 77, Plat No. 52 in the office of the Clerk of the Circuit Court of Prince George's County, Maryland, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, effective August 2, 1970, Map No. H 245208 49 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: April 30, 1975.

J. ROBERT HUNTER,  
Acting Federal Insurance  
Administrator.

[FR Doc.75-14118 Filed 5-29-75; 8:45 am]

[Docket No. FI-471]

#### PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

##### Temple, Tex.; Correction

On February 18, 1975, in 40 FR 6963, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Hazard Boundary Maps were available for public inspection. This list included the City of Temple, Texas, as an eligible community and included Map No. H 480034 05 which indicates that Block No. 1, Lots No. 1 through 43, and 46; Block No. 2, Lots No. 1 through 22; Block No. 3, Lots No. 1 through 27; Block No. 4, Lots No. 1 through 29; Block No. 5, Lots No. 1 through 20; and Block No. 6, Lots No. 1 through 7, Oak Creek Subdivision, Temple, Texas, as recorded in Volume 1250, Page 808, in the office of the County Clerk of Bell County, Texas, as in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, effective March 1, 1974, Map No. H 480034 05 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: May 13, 1975.

J. ROBERT HUNTER,  
Acting Federal Insurance  
Administrator.

[FR Doc.75-14111 Filed 5-29-75; 8:45 am]

[Docket No. FI-128]

#### PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

##### Wheeling, Ill.; Correction

On May 17, 1973, in 38 FR 12916, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Hazard

Boundary Maps were available for public inspection. This list included the Village of Wheeling, Illinois, as an eligible community and included Map No. H 170173 01 which indicates that Cluster 3, Lots 1 through 7, Cluster 4, Lots 1 through 5, Cluster 5, Lots 1, 2, and 4 through 7, Cluster 6, Lots 1 through 10, Cluster 7, Lots 1 through 9, Cluster 12, Lots 1 through 4, Phase I, Shadow Bend Subdivision, Wheeling, Illinois, registered as LR 2690975 and recorded as Document No. 22320783 on May 10, 1973, and amended by an affidavit of correction, registered as LR 2699912, and recorded as Document No. 22372158 on June 22, 1973, in the office of the Registrar of Cook County, Illinois; and Cluster 15, Lots 1 through 6, Cluster 16, Lots 1 through 6, Cluster 17, Lots 1 through 5, Cluster 18, Lots 1 through 5, Cluster 19, Lot 7, Cluster 33, Lots 2 through 4, Cluster 34, Lots 1 through 5, Cluster 37, Lots 3 through 5, Cluster 38, Lots 1 through 8, Phase III, Shadow Bend Subdivision, Wheeling, Illinois, registered as LR 2690976 and recorded as Document No. 22320784 on May 10, 1973, and amended by an affidavit of correction, registered as LR 2699913, and recorded as Document No. 22372159 on June 22, 1973, in the office of the Registrar of Cook County, Illinois, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, effective May 25, 1973, Map No. H 170173 01 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: May 13, 1975.

J. ROBERT HUNTER,  
Acting Federal Insurance  
Administrator.

[FR Doc.75-14112 Filed 5-29-75; 8:45 am]

#### PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

##### Winston-Salem, N.C.; Correction

On August 31, 1972, in 37 FR 17704, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included Winston-Salem, North Carolina, as an eligible community and included Map No. H 375360 10 which indicates that Lot No. 2 of Sherwood Forest Subdivision, Section 9A, Winston-Salem, North Carolina, as recorded in Plat Book 25, at Page 53 in the Office of the Register

#### RULES AND REGULATIONS

of Deeds, Forsyth County, North Carolina, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is within Zone C, and not within the Special Flood Hazard Area. Accordingly, effective March 24, 1971, Map No. H 375360 10 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: May 9, 1975.

J. ROBERT HUNTER,  
Acting Federal Insurance  
Administrator.

[FR Doc.75-14113 Filed 5-29-75; 8:45 am]

#### Title 29—Labor

#### CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

#### PART 1902—STATE PLANS FOR THE DEVELOPMENT AND ENFORCEMENT OF STATE STANDARDS

#### PART 1955—PROCEDURES FOR WITHDRAWAL OF APPROVAL OF STATE PLANS

##### Notice of Final Rulemaking

1. *Background.* On November 12, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 39891) concerning regulations under section 18(f) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) setting forth the policies and procedures by which approval of a State plan under section 18 of the Act could be withdrawn. After consideration of the relevant material which has been submitted by interested persons, the proposal is hereby adopted with some changes.

2. *Public comments.* Contemporaneously with its submission for public comment, the proposal was submitted to the Advisory Commission on Intergovernmental Relations. Public comments were received from the States of California, Michigan, New York, and Washington; the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO); the National Electrical Manufacturers Association; the National Newspaper Association; and the Air Transport Association of America.

The comments primarily requested that additional clarifications be added to the regulations particularly with regard to the requirement for a State to show cause why a withdrawal proceeding should not be initiated, the time limits set in the regulations, and the examples of situations that would constitute grounds for withdrawal. The comments also indicated some confusion as to the nature of a withdrawal proceeding, how

the State could request a hearing on withdrawal, and whether the right to a hearing could be waived.

3. *Discussion of changes.* Several substantive and organizational changes were made in the regulations as follows:

(a) Definitions were added in § 1955.2 for "developmental step"; "commencement of a case" as used in section 19(f) of the Act in determining the scope of State jurisdiction following withdrawal of plan approval; and "separable portion of a plan" for purposes of withdrawal of approval (Michigan).

(b) The examples for the circumstances for withdrawal of approval in § 1955.3 were revised to clarify the impact of a failure to enact enabling legislation on the finding of reasonable expectations for completion of developmental steps (New York), and to add several items that could constitute failure to comply substantially with any provision of the plan including any assurances. Those items added were (1) failure to comply with the assurances on a sufficient number of qualified personnel and adequate resources for administration and enforcement, (AFL-CIO), and (2) where, on the basis of actual operations, the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) determines that the criteria in section 18(c) of the Act are not being met, that the period of concurrent authority under section 18(e) of the Act should not be extended, and final approval under section 18(e) of the Act should not be given.

(c) The regulations created some confusion as to the various types of notices mentioned and the effects of certain actions taken by, or required of, the States (Washington). Therefore, the general definition of a notice of withdrawal of approval, § 1955.2, was deleted and particular references were included in the relevant sections as to what constituted notice of withdrawal. Accordingly, where a State voluntarily withdraws its approved plan, § 1955.3(b), the Assistant Secretary shall publish a notice of withdrawal of approval in the Federal Register (see Montana notice 39 FR 23261, June 27, 1974). A similar type of notice would be published in the Federal Register by the Assistant Secretary where a State fails to show cause why a withdrawal proceeding should not be initiated, § 1955.10(a), or where a State fails to respond to the Assistant Secretary's notice of proposed withdrawal, § 1955.10 (b) and (c). In both these circumstances the State will be deemed to have waived its right to a formal proceeding. Where a State has not either voluntarily withdrawn its plan or waived its right to a formal proceeding as described above, the formal proceeding commences. That proceeding, as described in paragraph (d) below, may or may not result in a hearing. Consequently, there is no one point at which a State must request a hearing but rather several points, e.g. the request to show cause, where the State may opt to either withdraw its plan or go forward to a formal proceeding.



(d) The use of the word "hearing" to describe the withdrawal proceeding also resulted in some confusion that necessitated clarification (Washington). Therefore, the regulations were revised to refer to a "formal proceeding" rather than a hearing. By using this terminology and by rearranging the subparts to place those referring to a hearing after the provisions for settlements and summary decisions, the regulations should be clear that a hearing is only one part of the entire proceeding. For example, where there are no genuine issues of material fact in dispute, the proceeding could be resolved by a summary decision without a hearing (see Subpart C) or, revisions may be made to the program thereby settling the case before a hearing is held (see Subpart C).

(e) The provision for submission of substantive written comments by persons not parties to the proceedings was revised to substitute submission to the Assistant Secretary or the State rather than the administrative law judge since only a party, not the administrative law judge, could introduce these comments into evidence. One State (California) mentioned the criteria for admissibility of these comments. The basic criteria for admission of evidence are contained in § 1955.40(b) (1). Under these criteria, as well as under § 1955.21(a) (2) on motions for summary decisions, affidavits may be necessary but should not be required.

(f) The provision in § 1955.10(a) for the Assistant Secretary to provide the State an opportunity to show cause why a withdrawal proceeding should not be initiated was made mandatory (California, Michigan).

(g) A specific reference was added to § 1955.44 on the authority of an administrative agency to stay its final decision pending judicial review. An automatic stay of the Secretary of Labor's (hereinafter called the Secretary) decision pending judicial review was not added (California, Michigan) because it would unduly restrict his discretion in very serious cases. It should be noted that under Rule 18 of the Federal Rules of Appellate Procedure, the circuit court can also stay an administrative decision.

4. Discussion of provisions that were not changed. Changes to the proposed regulations were not considered necessary or appropriate in the following cases:

(a) The nature of the continuing commitment required by section 18(c) of the Act is for a standard-setting and enforcement program which will continue to be at least as effective as the on-going Federal program and it is not limited only to those provisions in the State plan at the time of approval. One State, (New York) questioned the scope of this commitment insofar as failure to meet Federal program changes initiated subsequent to plan approval may result in a withdrawal proceeding. The examples given were unilateral changes in field enforcement techniques or minor revisions to Federal procedures. Regulations governing the type of Federal program changes included in each State's com-

mitment to continue to provide an "at least as effective" enforcement program are set out in 29 CFR Part 1953, Subpart C, (39 FR 32905, September 12, 1974). These regulations adequately describe the types of Federal program changes required of the States and also provide an opportunity for the State to show cause why a change need not be submitted to maintain an "at least as effective as" program. No further delineation is considered necessary in Part 1955.

(b) Several States objected to the time periods in the regulations, more specifically, the 45 day period to show cause in § 1955.10(a) (California, 60 days), the five (5) day period for State publication in § 1955.10(b) (2) (California 10 days; Michigan, 30 days), and the 30 day period for filing a response in § 1955.10 (b) and (c) (Michigan, 60 days). These time periods are consistent with those contained in other State plan regulations (see 29 CFR 1902.11(a) on publication of State notices and 29 CFR Part 1953 which has 30 day requirements for State action in general). It should also be noted that, except for the 45 day requirement to show cause, which can be extended by the Assistant Secretary, the State may ask the administrative law judge for an extension of time under § 1955.12(a) (5). Because of the absence of any difficulty with these time limits in either the Virginia (39 FR 27844) or New Mexico (39 FR 42726) rejection proceedings and due to the serious implication of a withdrawal proceeding on the full and adequate protection of employees, the time periods have not been revised.

(c) The regulations clearly distinguish between the responsibility of the Assistant Secretary and the Secretary and through these regulations the Secretary reserves the right and obligation to make the final decision on the Assistant Secretary's proposed withdrawal where the administrative law judge's decision is appealed. These regulations are consistent with Secretary's Order 12-71, 36 FR 8554 and do not necessitate a further statement on delegation (Washington).

(d) Several States (e.g. California and Michigan) suggested that some changes were necessary in the provision for petitions for withdrawal of approval under § 1955.5. The provision as proposed outlined a number of steps that might be taken in response to a petition. These included public comment, discussions with the State, and/or informal hearings.

In all instances, the State will have an opportunity to respond fully to the petition and its response will be part of the public record. Where a petition is found to constitute sufficient grounds for proposed withdrawal of approval, § 1955.10 (b) (1) provides for the Assistant Secretary to publish a notice of proposed withdrawal. The provision that "any interested person" may file a petition merely reflects the language of the Administrative Procedure Act, 5 U.S.C. 553 (e) which gives any interested person the right to petition an agency.

(e) One comment raised the question of the scope of "official notice" in § 1955.40(c) and also the meaning of the

phrase "extra record fact" in § 1955.44 (California). The latter phrase was deleted as unnecessary. The section on official notice is analogous to judicial notice in a court proceeding. It is authorized by the Administrative Procedure Act, 5 U.S.C. 556(e) and as stated in § 1955.40(c) a party has the opportunity to show the contrary based on facts or other information available to it as well as because of its expertise in the area.

(f) No definition of the term "good cause" as used in § 1955.3(a) (3) (iii) was added (Michigan) because the reasons why a State may not need to change its program and therefore can show "good cause" vary greatly depending on the State and the change involved (see 29 CFR Part 1953).

(g) One State (Michigan) raised the issue of continued funding of public employer and consultation programs after plan withdrawal. While the subject of funding is not within the scope of these procedural regulations, it should be noted that where a plan approval is withdrawn, funding under section 23(g) of the Act is no longer available. However, where only a portion of a plan is withdrawn, then section 23(g) funding would generally be available for the remaining program which may include public employers and consultation. In addition, some limited consultation money may be available under section 7(c) (1) of the Act.

(h) The Assistant Secretary has the burden of proof in a withdrawal proceeding and he has available to him all the factual material developed during evaluations of State plans. This does not appear to place any undue restriction on the State in supporting its case. In addition, the regulations § 1955.32 specifically provide for discovery of facts for use in the proceedings (Michigan).

(i) The regulations, § 1955.3(a) (3), require compliance with all plan provisions. It would be impossible to spell out each and every commitment. The commitment that States not adopt product standards unless they meet the criteria in section 18(c) (2) of the Act is contained in every approved State plan and failure to meet it may be a factor in withdrawal proceeding. (National Electrical Manufacturers Association).

(j) The National Newspaper Association suggested that the "reasonable notice" requirement for State publication in § 1955.10(b) (2) could only be met by newspaper publication. While newspaper publication may be used by most States, it has never been a requirement. Indeed, several States use legal journals as well as general circulation newspapers while others have publications similar to the Federal Register. Each approved plan has a procedure for public notice for promulgation of standards, rules and regulations, (29 CFR 1902.4(b) (2) (iii)) and compliance with these procedures would generally be considered reasonable notice.

In accordance with the above, Chapter XVII of Title 29 Code of Federal Regulations is hereby amended by adding a new Part 1955 effective June 30, 1975.

1. Subpart E of 29 CFR Part 1902—"Procedures for Withdrawal of Plan Approval (Reserved)"—is hereby deleted, effective June 30, 1975.

2. The new Part 1955 reads as follows:

#### Subpart A—General

Sec.  
1955.1 Purpose and scope.  
1955.2 Definitions.  
1955.3 General policy.  
1955.4 Effect of withdrawal of approval.  
1955.5 Petitions for withdrawal of approval.

#### Subpart B—Notice of Formal Proceeding

1955.10 Publication of notice of formal proceeding.  
1955.11 Contents of notice of formal proceeding.  
1955.12 Administrative law judge; powers and duties.  
1955.13 Disqualification.  
1955.14 Ex parte communications.  
1955.15 Manner of service and filing.  
1955.16 Time.  
1955.17 Determination of parties.  
1955.18 Provision for written comments.

#### Subpart C—Consent Findings and Summary Decisions

1955.20 Consent findings and orders.  
1955.21 Motion for a summary decision.  
1955.22 Summary decision.

#### Subpart D—Preliminary Conference and Discovery

1955.30 Submission of documentary evidence.  
1955.31 Preliminary conference.  
1955.32 Discovery.  
1955.33 Sanctions for failure to comply with orders.  
1955.34 Fees of witnesses.

#### Subpart E—Hearing and Decision

1955.40 Hearings.  
1955.41 Decision of the administrative law judge.  
1955.42 Exceptions.  
1955.43 Transmission of the record.  
1955.44 Final decision.  
1955.45 Effect of appeal of administrative law judge's decision.  
1955.46 Finality for purposes of judicial review.  
1955.47 Judicial review.

AUTHORITY: Secs. 8(g) (2), 18, 84 Stat. 1598, 1608 (29 U.S.C. 657(g) (2), 667).

#### Subpart A—General

§ 1955.1 Purpose and scope.

(a) This part contains rules of practice and procedure for formal administrative proceedings on the withdrawal of initial or final approval of State plans in accordance with section 18(f) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667).

(b) These rules shall be construed to secure a prompt and just conclusion of the proceedings subject thereto.

§ 1955.2 Definitions.

(a) As used in this part unless the context clearly requires otherwise:

(1) "Act" means the Occupational Safety and Health Act of 1970;

(2) "Assistant Secretary" means Assistant Secretary of Labor for Occupational Safety and Health;

(3) "Commencement of a case" under section 18(f) of the Act means, for the purpose of determining State jurisdiction following a final decision withdraw-

ing approval of a plan, the issuance of a citation.

(4) "Developmental step" includes, but is not limited to, those items listed in the published developmental schedule, or any revisions thereto, for each plan contained in 29 CFR Part 1952. A developmental step also includes those items in the plan as approved under section 18(c) of the Act, as well as those items in the approval decision which are subject to evaluations (see e.g., approval of Michigan plan), which were deemed necessary to make the State program at least as effective as the Federal program within the 3 year developmental period. (see 29 CFR 1953.10(a)).

(5) "Final approval" means approval of the State plan, or any modification thereof under section 18(e) of the Act and Subpart D of 29 CFR Part 1902.

(6) "Initial approval" means approval of a State plan, or any modification thereof under section 18(c) of the Act and Subpart C of 29 CFR Part 1902;

(7) "Party" includes the State agency or agencies designated to administer and enforce the State plan that is the subject of withdrawal proceedings, the Department of Labor, Occupational Safety and Health Administration (hereinafter called OSHA), represented by the Office of the Solicitor and any person participating in the proceedings pursuant to § 1955.17;

(8) "Person" means an individual, partnership, association, corporation, business trust, legal representative, an organized group of individuals, or an agency, authority, or instrumentality of the United States or of a State;

(9) "Secretary" means Secretary of Labor;

(10) "Separable portion of a plan" for purposes of withdrawal of approval generally means an issue as defined in 29 CFR 1902.2(c), i.e. "an industrial, occupational or hazard grouping which is at least as comprehensive as a corresponding grouping contained in (i) one or more sections in Subparts B or R of Part 1910 of this chapter, or (ii) one or more of the remaining subparts of Part 1910". Provided, That wherever the Assistant Secretary has determined that other industrial, occupational or hazard groupings are administratively practicable, such groupings shall be considered separable portions of a plan.

§ 1955.3 General policy.

(a) The following circumstances shall be cause for initiation of proceedings under this part for withdrawal of approval of a State plan, or any portion thereof.

(1) Whenever the Assistant Secretary determines that under § 1902.2(b) of this chapter a State has not substantially completed the developmental steps of its plan at the end of three years from the date of commencement of operations as defined in § 1953.10(b) of this chapter, a withdrawal proceeding shall be instituted. Examples of a lack of substantial completion of developmental steps include but are not limited to the following:

(i) a failure to develop the necessary regulations and administrative guidelines

for an "at least as effective" enforcement program; (ii) failure to promulgate all or a majority of the occupational safety and health standards in an issue covered by the plan; or (iii) failure to enact the required enabling legislation.

(2) Whenever the Assistant Secretary determines that there is no longer a reasonable expectation that a State plan will meet the criteria of § 1902.3 of this chapter involving the completion of developmental steps within the three year period immediately following commencement of operations as defined in § 1953.10 (b) of this chapter, a withdrawal proceeding shall be instituted. Examples of a lack of reasonable expectation include but are not limited to the following: (i) a failure to enact enabling legislation in the first two years following commencement of operations where the remaining developmental steps are dependent on the passage of enabling legislation and cannot be completed within one year; or (ii) repeal or substantial amendment of the enabling legislation by the State legislature so that the State program fails to meet the criteria in § 1902.3 of this chapter; or (iii) inability to complete the developmental steps within the indicated three year period.

(3) Whenever the Assistant Secretary determines that in the operation or administration of a State plan, or as a result of any modifications to a plan, there is a failure to comply substantially with any provision of the plan, including assurances contained in the plan, a withdrawal proceeding shall be instituted in a State which has received final approval under section 18(e) of the Act, and may be instituted in a State which has received initial approval under section 18(c) of the Act. Examples of a lack of substantial compliance include but are not limited to the following: (i) where a State over a period of time consistently fails to provide effective enforcement of standards; (ii) where the rights of employees are circumscribed in such a manner as to diminish the effectiveness of the program; (iii) where a State, without good cause, fails to continue to maintain its program in accordance with the appropriate changes in the Federal program; (iv) where a State fails to comply with the required assurances on a sufficient number of qualified personnel and/or adequate resources for administration and enforcement of the program; or (v) where, on the basis of actual operations, the Assistant Secretary determines that the criteria in section 18(c) of the Act are not being met, that the period of concurrent authority under section 18(e) of the Act should not be extended, and that final approval under section 18(e) of the Act should not be given.

(b) A State may, at any time both before or after a determination under section 18(e) of the Act, voluntarily withdraw its plan, or any portion thereof, by notifying the Assistant Secretary in writing setting forth the reasons for such withdrawal. Such notification shall be accompanied by a letter terminating the application for related grants authorized



under section 23(g) of the Act in accordance with 29 CFR 1951.25(d). Upon receipt of the State notice the Assistant Secretary shall cause to be published in the *FEDERAL REGISTER* a notice of withdrawal of approval of the State plan or portion thereof (see Montana notice 39 FR 2361, June 27, 1974).

(c) Approval of a portion of a plan may be withdrawn under any of the paragraphs in this section when it is determined that that portion is reasonably separable from the remainder of the plan in a manner consistent with the provisions in § 1902.2(c) of this chapter defining the scope of a State plan. As an example, such a partial withdrawal of approval would be considered appropriate where a State fails to adopt, without good cause shown, Federal standards within a separable issue, such as occupational health.

#### § 1955.4 Effect of withdrawal of approval.

(a) After receipt of notice of withdrawal of approval of a State plan, such plan, or any part thereof, shall cease to be in effect and the provisions of the Federal Act shall apply within that State. But the State, in accordance with section 18(f) of the Act, may retain jurisdiction in any case commenced before receipt of the notice of withdrawal of approval of the plan, in order to enforce standards under the plan, whenever the issues involved in the case or cases pending do not relate to the reasons for withdrawal of the plan.

(b) Such notice of withdrawal of approval shall operate constructively as notice of termination of all related grants authorized under section 23(g) of the Act in accordance with 29 CFR 1951.25(c).

#### § 1955.5 Petitions for withdrawal of approval.

(a) At any time following the initial approval of a State plan under section 18(c) of the Act, any interested person may petition the Assistant Secretary in writing to initiate proceedings for withdrawal of approval of the plan under section 18(f) of the Act and this part. The petition shall contain a statement of the grounds for initiating a withdrawal proceeding, including facts to support the petition.

(b)(1) The Assistant Secretary may request the petitioner for additional facts and may take such other actions as are considered appropriate such as: (i) publishing the petition for public comment; (ii) holding informal discussion on the issues raised by the petition with the State and other persons affected; or (iii) holding an informal hearing in accordance with § 1902.13 of this chapter.

(2) Any such petition shall be considered and acted upon within a reasonable time. Prompt notice shall be given of the denial in whole or in part of any petition and the notice shall be accompanied by a brief statement of the grounds for the denial. A denial of a petition does not preclude future action on those issues or any other issues raised regarding a State plan.

#### Subpart B—Notice of Formal Proceeding

##### § 1955.10 Publication of notice of formal proceeding.

(a) The Assistant Secretary, prior to any notice of a formal proceeding under this subpart, shall by letter, provide the State with an opportunity to show cause within 45 days why a proceeding should not be instituted for withdrawal of approval of a plan or any portion thereof. When a State fails to show cause why a formal proceeding for withdrawal of approval should not be instituted, the State shall be deemed to have waived its right to a formal proceeding under paragraph (b) of this section and the Assistant Secretary shall cause to be published in the *FEDERAL REGISTER* a notice of withdrawal of approval of the State plan.

(b)(1) Whenever the Assistant Secretary, on the basis of a petition under § 1955.5 of this part or on his own initiative, determines that approval of a State plan or any portion thereof should be withdrawn, and the State has not waived its right under § 1955.3(b) of this part or paragraph (a) of this section to a formal proceeding, he shall publish a notice of proposed withdrawal in the *FEDERAL REGISTER* as set out in § 1955.11 of this part and cause such notice, in the form of a complaint, to be served on the State in accordance with § 1955.15 of this part.

(2) Not later than 5 days following the publication of the notice in the *FEDERAL REGISTER*, the State agency shall publish, or cause to be published, within the State reasonable notice containing a summary of the information in the Federal notice, as well as the location or locations where a copy of the full notice is available for inspection and public copying.

(3) Two copies of such notice shall be served on the Assistant Secretary in accordance with § 1955.15 of this part.

(c) Not less than 30 days following publication of the notice in the *FEDERAL REGISTER*, the State shall submit a statement of those items in the notice which are being contested and a brief statement of the facts relied upon, including whether the use of witnesses is intended. This statement shall be served on the Assistant Secretary in accordance with § 1955.15 of this part. When a State fails to respond to the notice of proposed withdrawal under paragraph (b)(1) of this section, the State shall be deemed to have waived its right to a formal proceeding and the Assistant Secretary shall cause to be published in the *FEDERAL REGISTER* a notice of withdrawal of approval.

##### § 1955.11 Contents of notice of formal proceeding.

(a) A notice of a formal proceeding published under § 1955.10 of this part shall include:

(1) A statement on the nature of the proceeding and addresses for filing all papers;

(2) The legal authority under which the proceeding is to be held;

(3) A description of the issues and the grounds for the Assistant Secretary's proposed withdrawal of approval;

(4) A specified period, generally not less than 30 days after publication of the notice in the *FEDERAL REGISTER*, for the State to submit a response to the statement of issues in the notice;

(5) A provision for designation of an administrative law judge under 5 U.S.C. 3105 to preside over the proceeding.

(b) A copy of the notice of the proceeding stating the basis for the Assistant Secretary's determination that approval of the plan, or any portion thereof, should be withdrawn shall be referred to the administrative law judge.

##### § 1955.12 Administrative law judge: powers and duties.

(a) The administrative law judge appointed under 5 U.S.C. 3105 and designated by the Chief Administrative Law Judge to preside over a proceeding shall have all powers necessary and appropriate to conduct a fair, full, and impartial proceeding, including the following:

(1) To administer oaths and affirmations;

(2) To rule upon offers of proof and receive relevant evidence;

(3) To provide for discovery, including the issuance of subpoenas authorized by section 8(b) of the Act and 5 U.S.C. 555 (d) and 556(c)(2), and to determine the scope and time limits of the discovery;

(4) To regulate the course of the proceeding and the conduct of the parties and their counsel;

(5) To consider and rule upon procedural requests, e.g. motions for extension of time;

(6) To hold preliminary conferences for the settlement or simplification of issues;

(7) To take official notice of material facts not appearing in the evidence in the record in accordance with § 1955.40 (c) of this part;

(8) To render an initial decision;

(9) To examine and cross-examine witnesses;

(10) To take any other appropriate action authorized by the Act, the implementing regulations, or the Administrative Procedure Act, 5 U.S.C. 554-557 (hereinafter called the APA).

(b) On any procedural question not otherwise regulated by this part, the Act, or the APA, the administrative law judge shall be guided to the extent practicable by the pertinent provisions of the Federal Rules of Civil Procedure.

##### § 1955.13 Disqualification.

(a) If an administrative law judge deems himself disqualified to preside over a particular proceeding, he shall withdraw by notice on the record directed to the Chief Administrative Law Judge. Any party who deems an administrative law judge, for any reason, to be disqualified to preside, or to continue to preside, over a particular proceeding may file a motion to disqualify and remove the administrative law judge, provided the motion is filed prior to the time the administrative law judge files his decision. Such motion must be supported by affidavits setting forth the alleged ground for disqualification. The Chief Administrative Law Judge shall rule upon the motion.

(b) Contumacious conduct at any proceeding before the administrative law judge shall be ground for summary exclusion from the proceeding. If a witness or party refuses to answer a question after being so directed, or refuses to obey an order to provide or permit discovery, the administrative law judge may make such orders with regard to the refusal as are just and proper, including the striking of all testimony previously given by such witness on related matters.

##### § 1955.14 Ex parte communications.

(a) Except to the extent required for the disposition of *ex parte* matters, the administrative law judge shall not consult any interested person or party or their representative on any fact in issue or on the merits of any matter before him except upon notice and opportunity for all parties to participate.

(b)(1) Written or oral communications from interested persons outside the Department of Labor involving any substantive or procedural issues in a proceeding directed to the administrative law judge, the Secretary of Labor, the Assistant Secretary, the Associate Assistant Secretary for Regional Programs, the Solicitor of Labor, or the Associate Solicitor for Occupational Safety and Health, or their staffs shall be deemed *ex parte* communications and are not to be considered part of any record or the basis for any official decision, unless the communication is made by motion to the administrative law judge and served upon all the parties.

(2) To facilitate implementation of this requirement, the above-mentioned offices shall keep a log of such communications which shall be made available to the public and which may, by motion, be entered into the record.

(c) No employee or agent of the Department of Labor engaged in the investigation or presentation of the withdrawal proceeding governed by this part shall participate or advise in the initial or final decision, except as a witness or counsel in the proceeding.

##### § 1955.15 Manner of service and filing.

(a) Service of any document upon any party may be made by personal delivery of, or by mailing a copy of the document by certified mail, to the last known address of the party or his representative. The person serving the document shall certify to the manner and date of service.

(b) In addition to serving a copy of any documents upon the parties, the original and two copies of each document shall be filed with the administrative law judge. With respect to exhibits and transcripts, only originals or certified copies need be filed.

##### § 1955.16 Time.

Computation of any period of time under these rules shall begin with the first business day following that on which the act, event or development initiating such period of time shall have occurred. When the last day of the period so computed is a Saturday, Sunday, or national holiday, or other day on

which the Department of Labor is closed, the period shall run until the end of the next following business day. When such period of time is 7 days or less, each of the Saturdays, Sundays, and such holidays shall be excluded from the computation.

##### § 1955.17 Determination of parties.

(a) The designated State agency or agencies and the Department of Labor, OSHA, shall be the initial parties to the proceedings. Other interested persons may, at the discretion of the administrative law judge, be granted the right to participate as parties if he determines that the final decision could substantially affect them or the class they represent or that they may contribute materially to the disposition of the proceedings.

(b)(1) Any person wishing to participate in any proceeding as a party under paragraph (a) of this section shall submit a petition to the administrative law judge within 30 days after the notice of such proceeding has been published in the *FEDERAL REGISTER*. The petition shall also be served upon the other parties. Such petition shall concisely state: (i) petitioner's interest in the proceeding; (ii) how his participation as a party will contribute materially to the disposition of the proceeding; (iii) who will appear for petitioner; (iv) the issue or issues as set out in the notice published under § 1955.10 of this part on which petitioner wishes to participate; and (v) whether petitioner intends to present witnesses.

(2) The administrative law judge shall, within 5 days of receipt of the petition, ascertain what objections, if any, there are to the petition. He shall then determine whether the petitioner is qualified in his judgment to be a party in the proceedings and shall permit or deny participation accordingly. The administrative law judge shall give each petitioner written notice of the decision on his petition promptly. If the petition is denied, the notice shall briefly state the grounds for denial. Persons whose petition for party participation is denied may appeal the decision to the Secretary within 5 days of receipt of the notice of denial. The Secretary will make the final decision to grant or deny the petition no later than 20 days following receipt of the appeal.

(3) Where the petitions to participate as parties are made by individuals or groups with common interests, the administrative law judge may require all such petitioners to designate a single representative, or he may recognize one or more of such petitioners to represent all such petitioners.

##### § 1955.18 Provision for written comments.

Any person who is not a party may submit a written statement of position with 4 copies to either the Assistant Secretary or the State at any time during the proceeding which statement shall be made available to all parties and may be introduced into evidence by a party. Mere statements of approval or opposi-

tion to the plan without any documentary support shall not be considered as falling within this provision.

#### Subpart C—Consent Findings and Summary Decisions

##### § 1955.20 Consent findings and orders.

(a)(1) At any time during the proceeding a reasonable opportunity may be afforded to permit negotiation by the parties of an agreement containing consent findings and a rule or order disposing of the whole or any part of the proceeding. The allowance of such opportunity and the duration thereof shall be in the discretion of the administrative law judge, after consideration of the requirements of section 18 of the Act, the nature of the proceeding, the requirements of the public interest, the representations of the parties, and the probability of an agreement which will result in a just disposition of the issues.

(2) Any agreement containing consent findings and a rule or order disposing of a proceeding shall also provide: (i) that the rule or order shall have the same force and effect as if made after a full hearing; (ii) a waiver of any further procedural steps before the administrative law judge and the Secretary; and (iii) a waiver of any right to challenge or contest the validity of the findings and of the rule or order made in accordance with the agreement.

(b)(1) On or before the expiration of the time granted for negotiations, the parties or their counsel may: (i) submit the proposed agreement to the administrative law judge for his consideration; or (ii) inform the administrative law judge that agreement cannot be reached.

(2) In the event an agreement containing consent findings and a rule or order is submitted within the time allowed therefor, the administrative law judge may accept such agreement by issuing his decision based upon the agreed findings. Such decision shall be published in the *FEDERAL REGISTER*.

##### § 1955.21 Motion for a summary decision.

(a)(1) Any party may move, with or without supporting affidavits, for a summary decision on all or any part of the proceeding. Any other party may, within 10 days after service of the motion, serve opposing affidavits or file a cross motion for summary decision. The administrative law judge may, in his discretion, set the matter for argument and call for submission of briefs. The filing of any documents under this section shall be with the administrative law judge and copies of any such document shall be served on all the parties.

(2) The administrative law judge may grant such motion if the pleadings, affidavits, material obtained by discovery or otherwise obtained, or matters officially noticed, show that there is no genuine issue as to any material fact and that a party is entitled to summary decision. Affidavits shall set forth such facts as would be admissible in evidence in the hearing and shall show affirmatively that the affiant is competent to testify to the



matters stated therein. When a motion for summary decision is made and supported as provided in paragraph (a) (1) of this section, the party opposing the motion may not rest upon the mere allegations or denials of his pleading; his response must set forth specific facts showing that there is a genuine issue of fact for the hearing.

(3) Should it appear from the affidavits of a party opposing the motion that he cannot, for reasons stated, present by affidavit facts essential to justify his opposition, the administrative law judge may refuse the application for summary decision or may order a continuance to permit affidavits to be obtained, or depositions to be taken, or discovery to be had, or may make such other order as is just.

(b) (1) The denial of all or any part of a motion or cross motion for summary decision by the administrative law judge shall not be subject to interlocutory appeal to the Secretary unless the administrative law judge certifies in writing: (i) that the ruling involves an important question of law or policy as to which there is substantial ground for difference of opinion; and (ii) that an immediate appeal from the ruling may materially advance the ultimate termination of the proceedings.

(2) The allowance of such an interlocutory appeal shall not stay the proceeding before the administrative law judge unless the Secretary so orders.

#### § 1955.22 Summary decision.

(a) (1) Where no genuine issue of material fact is found to have been raised, the administrative law judge shall issue an initial decision to become final 30 days after service thereof upon each party unless, within those 30 days, any party has filed written exceptions to the decision with the Secretary. Requests for extension of time to file exceptions may be granted if the requests are received by the Secretary no later than 25 days after service of the decision.

(2) If any timely exceptions are filed, the Secretary may set a time for filing any response to the exceptions with supporting reasons. All exceptions and responses thereto shall be served on all the parties.

(b) (1) The Secretary, after consideration of the decision, the exceptions, and any supporting briefs filed therewith and any responses to the exceptions with supporting reasons, shall issue a final decision.

(2) An initial decision and a final decision under this section shall include a statement of: (i) findings of fact and conclusions of law and the reasons and bases therefor on all issues presented; (ii) reference to any material fact based on official notice; and (iii) the terms and conditions of the rule or order made. The final decision shall be published in the FEDERAL REGISTER and served on all the parties.

(c) Where a genuine material question of fact is raised, the administrative law judge shall, and in any other case may, set the case for an evidentiary hearing.

A notice of such hearing shall be published in the FEDERAL REGISTER at least 30 days prior to the hearing date.

#### Subpart D—Preliminary Conference and Discovery

##### § 1955.30 Submission of documentary evidence.

(a) Where there has been no consent finding or summary decision under Subpart C of this part and a formal hearing is necessary, the administrative law judge shall set a date by which all documentary evidence, which is to be offered during the hearing, shall be submitted to the administrative law judge and served on the other parties. Such submission date shall be sufficiently in advance of the hearing as to permit study and preparation for cross-examination and rebuttal evidence. Documentary evidence not submitted in advance may be received into evidence upon a clear showing that the offering party had good cause for failure to produce the evidence sooner.

(b) The authenticity of all documents submitted in advance shall be deemed admitted unless written objections are filed prior to the hearing, except that a party will be permitted to challenge such authenticity at a later date upon clear showing of good cause for failure to have filed such written objections.

##### § 1955.31 Preliminary conference.

(a) Upon his own motion, or the motion of a party, the administrative law judge may direct the parties to meet with him for a conference or conferences to consider: (1) simplification of the issues; (2) the necessity or desirability of amendments to documents for purposes of clarification, simplification, or limitation; (3) stipulations of fact, and of the authenticity, of the contents of documents; (4) limitations on the number of parties and of witnesses; (5) scope of participation of petitioners under § 1955.17 of this part; (6) establishment of dates for discovery; and (7) such other matters as may tend to expedite the disposition of the proceedings, and to assure a just conclusion thereof.

(b) The administrative law judge shall enter an order which recites the action taken at the conference, the amendments allowed to any documents which have been filed, and the agreements made between the parties as to any of the matters considered. Such order shall limit the issues for hearing to those not disposed of by admissions or agreements, and control the subsequent course of the hearing, unless modified at the hearing to prevent manifest injustice.

##### § 1955.32 Discovery.

(a) (1) At any time after the commencement of a proceeding under this part, but generally before the preliminary conference, if any, a party may request of any other party admissions that relate to statements or opinions of fact, or of the application of law to fact, including the genuineness of any document described in the request. Copies of documents shall be served with the re-

quest unless they have been or are otherwise furnished or made available for inspection or copying. The matter shall be deemed admitted unless within 30 days after service of the request, or within such shorter or longer time as the administrative law judge may prescribe, the party to whom the request is directed serves upon the party requesting the admission a specific written response.

(2) If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission and when good faith requires that a party qualify his answer or deny only a part of the matter on which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as the reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny.

(3) The party who has requested the admission may move to determine the sufficiency of the answers or objections. Unless the administrative law judge determines that an objection is justified, he may order either that the matter is admitted or that an amended answer be served. The administrative law judge may, in lieu of these orders, determine that final disposition of the requests be made at a preliminary conference, or at a designated time prior to the hearing. Any matter admitted under this section is conclusively established unless the administrative law judge on motion permits withdrawal or amendment of the admission. Copies of all requests and responses shall be served on all parties and filed with the administrative law judge.

(b) (1) The testimony of any witness may be taken by deposition. Depositions may be taken orally or upon written interrogatories before any person designated by the administrative law judge or having power to administer oaths.

(2) Any party desiring to take the deposition of a witness may make application in writing to the administrative law judge setting forth: (i) the time when, the place where, and the name and post office address of the person before whom the deposition is to be taken; (ii) the name and address of each witness; and (iii) the subject matter concerning which each witness is expected to testify.

(3) Such notice as the administrative law judge may order shall be given by the party taking the deposition to every other party.

(c) (1) Each witness testifying upon deposition shall be sworn, and the parties not calling him shall have the right to cross-examine him. The questions propounded and the answers thereto, together with all objections made, shall be reduced to writing and shall be read to or by the witness unless such exami-

nation and reading are waived by the witness and the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness and certified by the officer before whom the deposition was taken. Thereafter, the officer shall seal the deposition, with copies thereof, in an envelope and mail the same by registered or certified mail to the administrative law judge.

(2) Subject to such objections to the questions and answers as were noted at the time of taking the deposition, and to the provisions in § 1955.40(b) (1) of this part, any part or all of a deposition may be offered into evidence by the party taking it as against any party who was present, represented at the taking of the deposition, or who had due notice thereof.

(d) Whenever appropriate to a just disposition of any issue in the proceeding the administrative law judge may allow discovery by any other appropriate procedure, such as by interrogatories upon a party or request for production of documents by a party.

(e) Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the administrative law judge may make any order which justice requires to limit or condition discovery in order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.

##### § 1955.33 Sanctions for failure to comply with orders.

(a) If a party or an official or agent of a party fails, without good cause, to comply with an order including, but not limited to, an order for the taking of a deposition, written interrogatories, the production of documents, or an order to comply with a subpoena, the administrative law judge or the Secretary or both, for the purpose of permitting resolution of relevant issues and disposition of the proceeding without unnecessary delay despite such failure, may take such action as is just, including but not limited to the following:

(1) Infer that the admission, testimony, documents, or other evidence would have been adverse to the party;

(2) Rule that for the purposes of the proceeding, the matter or matters concerning which the order or subpoena was issued be taken as established adversely to the party;

(3) Rule that the party may not introduce into evidence or otherwise rely, in support of any claim or defense, upon testimony by such party, officer or agent, or the documents or other evidence;

(4) Rule that the party may not be heard to object to introduction and use of secondary evidence to show what the withheld admission, testimony, documents, or other evidence would have shown;

(5) Rule that a pleading, or part of a pleading, on a motion or other submis-

sion by the party, concerning which the order or subpoena was issued, be stricken or that decision on the pleading be rendered against the party, or both.

(b) Any such action may be taken by written or oral order issued in the course of the proceeding or by inclusion in the initial decision of the administrative law judge or an order or opinion of the Secretary. The parties may seek, and the administrative law judge may grant, such of the foregoing means of relief or other appropriate relief as may be sufficient to compensate for the lack of withheld testimony, documents, or other evidence.

##### § 1955.34 Fees of witnesses.

Witnesses, including witnesses for depositions, shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Fees shall be paid by the party at whose instance the witness appears, and the person taking a deposition shall be paid by the party at whose instance the deposition is taken.

#### Subpart E—Hearing and Decision

##### § 1955.40 Hearings.

(a) (1) Except as may be ordered otherwise by the administrative law judge, the Department of Labor shall proceed first at the hearing.

(2) The Department of Labor shall have the burden of proof to sustain the contentions alleged in the notice of proposed withdrawal, published under § 1955.10(b) (1) but the proponent of any factual proposition shall be required to sustain the burden of proof with respect thereto.

(b) (1) A party shall be entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence may be received, but the administrative law judge shall exclude evidence which is irrelevant, immaterial, or unduly repetitious.

(2) The testimony of a witness shall be upon oath or affirmation administered by the administrative law judge.

(3) If a party objects to the admission or rejection of any evidence, or to the limitation of the scope of any examination or cross-examination, or to the failure to limit such scope, he shall state briefly the grounds for such objection. Rulings on all objections shall appear in the record. Only objections made before the administrative law judge may be relied upon subsequently in the proceeding.

(4) Formal exception to an adverse ruling is not required.

(c) Official notice may be taken of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice, or concerning which the Department of Labor by reason of its functions is presumed to be expert: Provided, that the parties shall be given adequate notice, at the hearing or by reference in the admin-

istrative law judge's and the Secretary's decision of the matters so noticed and shall be given adequate opportunity to show the contrary.

(d) When an objection to a question propounded to a witness is sustained, the examining party may make a specific offer of proof of what the party expects to prove by the answer of the witness orally or in writing. Written offers of proof, adequately marked for identification, shall be retained in the record so as to be available for consideration by any reviewing authority.

(e) Hearings shall be stenographically reported. Copies of the transcript may be obtained by the parties and the public upon payment of the actual cost of duplication to the Department of Labor in accordance with 29 CFR 70.62(c).

(f) Corrections of the official transcript may be made only when they involve errors affecting substance and then only in the manner herein provided. Corrections may be ordered by the administrative law judge or agreed to in a written stipulation by all parties or their representatives. Where the parties are in disagreement, the administrative law judge shall determine the corrections to be made and so order. Corrections may be interlined in the official transcript so as not to obliterate the original text.

##### § 1955.41 Decision of the administrative law judge.

(a) Within 30 days after receipt of notice that the transcript of the testimony has been filed with the administrative law judge, or such additional time as the administrative law judge may allow, each party may file with the administrative law judge proposed findings of fact, conclusions of law, and rules or orders, together with a supporting brief expressing the reasons for such proposals. Such proposals and brief shall be served on all other parties and shall refer to all portions of the record and to all authorities relied upon in support of each proposal.

(b) (1) Within a reasonable time after the time allowed for the filing of proposed findings of fact, conclusions of law, and rules or orders, the administrative law judge shall make and serve upon each party his initial decision which shall become final upon the 30th day after service thereof unless exceptions are filed thereto.

(2) The decision of the administrative law judge shall be based solely upon substantial evidence on the record as a whole and shall state all facts officially noticed and relied upon. The decision of the administrative law judge shall include: (i) a statement of the findings of fact and conclusions of law, with reasons and bases therefor upon each material issue of fact, law, or discretion presented on the record; (ii) reference to any material fact based on official notice; and (iii) the appropriate rule, order, relief, or denial thereof.

##### § 1955.42 Exceptions.

(a) Within 30 days after service of the decision of the administrative law judge, any party may file with the Secretary



written exceptions thereto with supporting reasons. Such exceptions shall refer to the specific findings of fact, conclusions of law, or terms of the rule or order excepted to; and shall suggest corrected findings of fact, conclusions of law, or terms of the rule or order referencing the specific pages of the transcript relevant to the suggestions. Requests for extension of time to file exceptions may be granted if the requests are received by the Secretary no later than 25 days after service of the decision.

(b) If any timely exceptions are filed, the Secretary may set a time for filing any response to the exceptions with supporting reasons. All exceptions and responses thereto shall be served on all the parties.

#### § 1955.43 Transmission of the record.

If exceptions are filed, the Secretary shall request the administrative law judge to transmit the record of the proceeding to the Secretary for review. The record shall include the State plan; a copy of the Assistant Secretary's notice of proposed withdrawal; the State's statement of items in contention; the notice of the hearing if any; any motions and requests filed in written form and rulings thereon; the transcript of the testimony taken at the hearing, together with any documents or papers filed in connection with the preliminary conference and the hearing itself; such proposed findings of fact, conclusions of law, rules or orders, and supporting reasons as may have been filed; the administrative law judge's decision; and such exceptions, responses, and briefs in support thereof as may have been filed in the proceedings.

#### § 1955.44 Final decision.

(a) After review of any exceptions, together with the record references and authorities cited in support thereof, the Secretary shall issue a final decision ruling upon each exception and objection filed. The final decision may affirm, modify, or set aside in whole or in part the findings, conclusions, and the rule or order contained in the decision of the administrative law judge. The final decision shall also include reference to any material fact based on official notice.

(b) The Secretary's final decision shall be served upon all the parties and shall become final upon the 30th day after service thereof unless the Secretary grants a stay pending judicial review.

#### § 1955.45 Effect of appeal of administrative law judge's decision.

An administrative law judge's decision shall be stayed pending a decision on appeal to the Secretary. If there are no exceptions filed to the decisions of the administrative law judge, the administrative law judge's decision shall be published in the *Federal Register* as a final decision and served upon the parties.

#### § 1955.46 Finality for purposes of judicial review.

Only a final decision by the Secretary under § 1955.44 of this subpart shall be

deemed final agency action for purposes of judicial review. A decision of an administrative law judge which becomes final for lack of appeal is not deemed final agency action for purposes of 5 U.S.C. 704.

#### § 1955.47 Judicial review.

The State may obtain judicial review of a decision by the Secretary in accordance with section 18(g) of the Act.

Signed at Washington, D.C., this 23rd day of May 1975.

JOHN T. DUNLOP,  
Secretary of Labor.

[FR Doc. 75-14094 Filed 5-29-75; 8:45 am]

#### PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

##### North Carolina Plan; Level of Federal Enforcement Correction

In FR Doc. 75-9741, appearing at page 16843 in the issue of Tuesday, April 15, 1975 the preamble should be changed by adding, at the end of item 2.(b)(3) in the second column on page 16843, "exercising their rights under OSHANC (NCSC, Chapter 295, section 5(h))".

##### Title 40—Protection of Environment CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

##### SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 375-3]

#### PART 416—PLASTICS AND SYNTHETICS MANUFACTURING POINT SOURCE CATEGORY

##### Miscellaneous Amendments

##### Correction

In FR Doc. 75-12956 appearing at page 21731, in the issue for Monday, May 19, 1975, make the following change: Amendatory paragraph 3 on page 21732 should read as follows:

3. In § 416.12(a), (b), (c), the COD effluent limitation shall be withdrawn.

##### Title 43—Public Lands: Interior CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5500; Montana 30912]

##### MONTANA

#### Transfer of Jurisdiction of the Charles M. Russell National Wildlife Range: Correction

In FR Doc. 75-11443, paragraph 1 of Public Land Order No. 5498, approved April 25, 1975, appearing at page 18996 in the *Federal Register* of May 1, 1975, "Executive Order No. 2951" is corrected to read "Public Land Order No. 2951."

JACK O. HORTON,  
Assistant Secretary of the Interior.

MAY 23, 1975.

[FR Doc. 75-14173 Filed 5-29-75; 8:45 am]

#### SUBCHAPTER B—LAND RESOURCE MANAGEMENT (2000)

[Circular No. 2369]

#### PART 2920—SPECIAL LAND USE PERMITS

##### Subpart 2920—Principles and Procedures, General

##### REVISED PROCEDURES FOR ISSUING PERMITS FOR CERTAIN USES

On pages 2818 and 2819 of the *Federal Register* of January 16, 1975, there was published a notice and text of a proposed amendment to Subpart 2920 of Title 43, Code of Federal Regulations. The purposes of the amendment are to: (1) Provide an abbreviated permit process for uses that will have little environmental impact and will continue for less than 90 days duration; (2) exempt applicants for and holders of such permits from the payment of application fees and rentals; (3) clarify authority of the authorized officers to terminate special land use permits in accordance with a recent court decision.

Pursuant to regulations presently found at Subpart 2920, applicants for special land use permits must complete a lengthy application form and pay a \$10 filing fee. In addition, the permittee must pay a fair market rental for use of lands. The rental may not be less than \$10. Under the revised procedures, applicants for special land use permits other than those permitted under 43 CFR 2920.7 will still be required to comply with present application procedures and pay filing fees and rentals. Applicants for permits to use lands under 43 CFR 2920.7 will be allowed to use the new simpler procedures if the authorized officer determines that such use will not alter the character of the land or its resources and does not involve the construction or erection of improvements or structures.

The rule found at § 2920.3(a) states that the special land use permits will be revocable in the discretion of the authorized officer at any time, upon notice, if in his judgment the lands should be devoted to another use, or the conditions of the permit have been breached. This provision has been revised to state that the special land use permits are revocable in the discretion of the authorized officer at any time and upon notice to the permittee. In *Wilderness Society vs. Morton*, 479 F. 2d 842 (D.C. Cir. 1973), the court ruled that special land use permits are intended to be used for temporary uses and are revocable without condition. The court ruling makes the criteria for revocation in present § 2920.3(a) inapplicable and unnecessary.

Interested persons were allowed until February 21, 1975, to submit comments, suggestions or objections to the proposed amendment. Only three comments were received. One writer endorsed the regulations and suggested no changes. The other two argued against changing the provision on revocation of permits. In

the light of the court decision this recommendation has not been accepted. There is little reason to retain the language of the present regulations when its effect has been determined to be meaningless.

Additionally, one writer recommended that low impact recreational uses be exempted from the requirement for special land use permits. Special land use permits are not issued for recreational uses. Rules for recreational uses and permits are found at Part 18 and Group 6000 of Title 43, Code of Federal Regulations. Special land use permits are not issued where there are specific provisions in law governing the intended use of the lands. Recreation permits and fees are established pursuant to section 4, Land and Water Conservation Fund Act of 1965 (16 U.S.C.A. 4601-6a (Supp., 1974)), as amended by Pub. L. 93-303; and section 3, Act of July 11, 1972, (86 Stat. 461).

The proposed amendment is hereby adopted without change, and is set forth below. This amendment shall become effective July 1, 1975.

Dated: May 27, 1975.

JACK O. HORTON,  
Assistant Secretary of the Interior.

Subpart 2920 of Chapter II is amended as follows:

1. Section 2920.2 is revised to read as follows:

#### § 2920.2 Fees.

Each application for a special land-use permit or a renewal thereof, except those under § 2920.7 for which no service charge is required, must be accompanied by a nonrefundable application service fee of \$10. However, no charges will be made for applications by agencies of the

Federal Government or agencies of the States and political subdivisions thereof.

2. Paragraph 2920.3(a)(1) is revised to read as follows:

#### § 2920.3 Terms.

(a) *General.* (1) A special land-use permit is revocable in the discretion of the authorized officer at any time upon notice to the permittee.

3. Paragraph 2920.4(a) is revised to read as follows:

#### § 2920.4 Rental charges.

(a) Except as to permits issued under § 2920.7, for which no rentals are required, each permittee will be required to pay to the Bureau of Land Management, in advance, a rental determined by the authorized officer as the fair market value of the privileges granted. The authorized officer will determine whether payments will be annual or otherwise; he may adjust the rental at the end of each payment period. In no case will the minimum rental charge be fixed at less than \$10 per payment.

4. A new § 2920.7 is added to read as follows:

#### § 2920.7 Short form.

The authorized officer may issue a short form special land use permit for temporary use of the public lands not to exceed 90 days where the proposed use of these lands does not involve construction or the erection of improvements or structures, and in the opinion of the authorized officer will not alter the character of the land or its resources.

[FR Doc. 75-14382 Filed 5-29-75; 10:51 am]



## proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

### DEPARTMENT OF THE INTERIOR

#### Fish and Wildlife Service

##### [ 50 CFR Part 32 ]

#### NUNIVAK NATIONAL WILDLIFE REFUGE

##### Hunting

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 927 as amended; 16 U.S.C., 666dd), as delegated to the Director, U.S. Fish and Wildlife Service by Chapter 2, Part 242 of the Departmental Manual, it is proposed to amend 50 CFR 32 by the addition of Nunivak National Wildlife Refuge, Alaska, to the list of areas open to hunting of big game (muskox).

The proposed hunting of muskox is one phase of the management program required to reduce the population of muskox on the Nunivak National Wildlife Refuge to the carrying capacity of the winter range. A maximum of 25 bulls are proposed to be taken in each of two seasons, established between September 1 and October 31, 1975, and February 1 and March 30, 1976.

An assessment of the environmental impact of this proposed herd management program has been made and it has been determined that it will not significantly affect the quality of the human environment, and that it is not a major Federal action under the National Environmental Policy Act and the guidelines of the Council on Environmental Quality. The environmental assessment is available for public inspection during normal business hours at the following locations:

Director  
U.S. Fish and Wildlife Service  
18th and C Streets, NW.  
Washington, D.C. 20240  
Alaska Area Office  
U.S. Fish and Wildlife Service  
813 "D" Street  
Anchorage, Alaska 99501  
Clarence Rhode National Wildlife Range  
U.S. Fish and Wildlife Service  
P.O. Box 346  
Bethel, Alaska 99559

Public Hearings will be held in accordance with Part 453, Chapter I, of the Departmental Manual. The dates, times and places of the hearings are as follows:

Date: July 1, 1975  
Place: Wood Center, University of Alaska, Fairbanks, Alaska  
Time: 7 P.M.  
Date: July 2, 1975  
Place: KVNA Building, Bethel, Alaska  
Time: 7:30 P.M.

Persons wishing to make an oral presentation or to submit their views in writing at any of these hearings should deliver a notice to that effect to the Area Director, Alaska Area Office, U.S. Fish and Wildlife Service, 813 "D" Street, An-

chorage, Alaska 99501, no less than five working days before the date of the hearing at which the testimony is to be presented. A time limit of 10 minutes per witness is imposed in the case of oral testimony, although additional time may be granted in advance at the discretion of the Presiding Officer.

Accordingly, it is proposed that Section 32.11, List of open areas; big game, be amended by the following addition:

#### ALASKA

##### NUNIVAK NATIONAL WILDLIFE REFUGE

E. V. SCHMIDT,  
Acting Director,  
U.S. Fish and Wildlife Service.

MAY 28, 1975.

[FR Doc.75-14239 Filed 5-29-75;8:45 am]

### DEPARTMENT OF AGRICULTURE

#### Agricultural Marketing Service

##### [ 7 CFR Part 1139 ]

[Docket No. AO-374-A3]

#### MILK IN LAKE MEAD MARKETING AREA

##### Extension of Time for Filing Exceptions to Recommended Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Lake Mead marketing area, which was issued on May 9, 1975, (40 FR 21034) is hereby extended to June 14, 1975.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Signed at Washington, D.C., on May 23, 1975.

E. L. PETERSON,  
Administrator,  
Agricultural Marketing Service.

[FR Doc.75-14073 Filed 5-29-75;8:45 am]

### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

##### [ 14 CFR Parts 23, 25, 27, 29, and 91 ]

[Docket No. 14623; Notice No. 75-22]

#### AIRCRAFT FUELING

##### Notice of Proposed Rulemaking

##### Correction

In FR Doc. 75-13524 appearing at page 22554 in the issue of Friday, May 23, 1975,

§ 91.31(e) (1) on page 22556 is incorrect. It should read as follows:

§ 91.31 Civil aircraft operating limitations and marking requirements.

(c) . . .

(1) For aircraft powered by engines that use aviation gasoline, a solid red circle, 12 inches in diameter, and bordered with a 2-inch white band.

##### [ 14 CFR Part 71 ]

[Airspace Docket No. 75-NW-9]

#### ALTERATION OF ADDITIONAL CONTROL AREA

##### Notice of Proposed Rulemaking

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Omak, Wash., Additional Control Area.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Northwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108. All communications received on or before June 30, 1975 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The proposed amendment would alter the description of the Omak, Wash., Additional Control Area contained in § 71.163 as follows:

#### OMAK, WASHINGTON

That airspace extending upward from 5500' MSL within 5 miles each side of a line extending from the Omak RBN to the Ephrata VOR; that airspace extending upward from 5500' MSL bounded on the north by the U.S./Canadian border, on the east by Longitude 119°00' W., on the south by Latitude 48°00' N., and on the west by a line from Latitude 48°00' N., Longitude 120°30' W., to Latitude 49°00' N., Longitude 120°00' W., excluding that airspace below 1,200 feet AGL.

The U.S. Air Force has a requirement to conduct training missions within con-

trolled airspace below Area Positive Control. Alteration of the Omak, Wash., Additional Control Area is necessary to provide the controlled airspace required by the U.S. Air Force for these training missions.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on May 23, 1975.

F. L. CUNNINGHAM,  
Acting Chief, Airspace and  
Air Traffic Rules Division.

[FR Doc.75-14048 Filed 5-29-75;8:45 am]

##### [ 14 CFR Part 71 ]

[Airspace Docket No. 75-WA-6]

#### FEDERAL AIRWAY

##### Proposed Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the United States' portion of an airway between Spokane, Wash., and Castlegar, British Columbia, Canada.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Northwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108. All communications received on or before June 30, 1975 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The proposed amendment would designate the United States' portion of an airway from Spokane VORTAC to Castlegar Low Frequency Radio Range. This airway would provide controlled airspace and a route identifier for flights now operating between Spokane and Castlegar.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on May 23, 1975.

F. L. CUNNINGHAM,  
Acting Chief, Airspace and  
Air Traffic Rules Division.

[FR Doc.75-14049 Filed 5-29-75;8:45 am]

### PROPOSED RULES

##### [ 14 CFR Part 75 ]

[Airspace Docket No. 75-WE-4]

#### JET ROUTE

##### Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 75 of the Federal Aviation Regulations that would realign a segment of J-88 from Los Angeles, Calif., via direct radials to Santa Barbara, Calif.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 1500 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before June 30, 1975, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The proposed amendment would eliminate the bend in J-88 between Los Angeles and Santa Barbara, creating a shorter, more economical operation for its users.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on May 23, 1975.

F. L. CUNNINGHAM,  
Acting Chief, Airspace and  
Air Traffic Rules Division.

[FR Doc.75-14050 Filed 5-29-75;8:45 am]

### FEDERAL COMMUNICATIONS COMMISSION

##### [ 47 CFR Part 73 ]

[Docket No. 20488; RM-2356; RM-2397]

#### FM BROADCAST STATIONS; ARCADIA, FLORIDA TO LAKE PLACID, FLORIDA

##### Reassignment

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations, (Arcadia, Lake Placid and Englewood, Florida).

1. On April 1, 1974, Mr. Russell G. Salter, licensee of FM Station WKKD-FM, Aurora, Illinois, filed a petition requesting the reassignment of FM Channel 252A from Arcadia, Florida, to Lake Placid, Florida. No replacement for Channel 252A at Arcadia, the sole FM

channel assigned to that community, is proposed or appears available. His petition (RM-2356), a petition related to it (RM-2397), and pleadings and comments generated will be discussed below.

2. Arcadia, Florida (pop. 5,658<sup>1</sup>) is located in De Soto County (pop. 13,060). Arcadia has one AM station, WAPG, a daytime-only service, licensed to Arcadia-Punta Gorda Broadcasting Co., Inc. (Arcadia-Punta Gorda). FM Channel 252A was assigned to Arcadia in our Third Report, Memorandum Opinion and Order in Docket No. 14185 adopted July 25, 1963, FCC 63-735, 28 Fed. Reg. 8077.

3. Highlands County, Florida (pop. 29,507), contains the small community of Lake Placid (pop. 656). There is no FM channel assignment at Lake Placid nor is there any standard broadcast station located there.

4. Mr. Salter's petition suggests that the Lake Placid market is growing rapidly with 30,000 persons residing in a ten-mile radius of the town. Petitioner maintains that there is no primary FM signal in southern Highlands County and that Lake Placid requires a first local radio service. In describing the community Mr. Salter states:

Lake Placid is in the heart of the southern Florida Citrus belt. The entire area produces much of the nation's and the world supply of Citrus fruits. Citrus and Avocados represent the largest industry of the area, which includes sorting and packing plants, processing plants and transporting the products to market by truck and railroad. More and more Citrus groves are being planted in this area as demands increase.

The second most important product of the area is cattle. Florida is fast becoming a top producer of beef cattle and Lake Placid is near the center of this business. One friend operates a cattle ranch of over 40 thousand acres and ships about 65 thousand head of cattle per year. This is truly big business.

The petition also contains a description of other local businesses and of residential developments near Lake Placid and the area's school system.

5. Morgan Broadcasting Company through its owner, Mr. Harry J. Morgan (Morgan Broadcasting), licensee of Class IV AM Station WSEB and FM Station WSKP-FM, both at Sebring, Highlands County, Florida, 15 miles distant from Lake Placid, filed an opposition to Mr. Salter's petition in letter form. Community Enterprises Inc. through its president, Mr. C. Wesley Ward (Community Enterprises), licensee of daytime-only AM Station WJCM, Sebring, Florida, also filed an opposition to Mr. Salter's petition in letter form. Both Morgan Broadcasting and Community Enterprises suggest, in sum, that their three stations along with WAPG, a daytime-only AM service, licensed to Electronics Services, Inc. at Avon Park, Florida, 23 miles distant from Lake Placid, serve Lake Placid and derive vital economic support from it. It is

<sup>1</sup> All population figures cited are from the 1970 U.S. Census unless otherwise specified.



## PROPOSED RULES

maintained that if an FM service is added to Lake Placid that station would drain advertising revenue from the existing services in the area to the extent of preventing them from providing appropriate programming or possibly, to the extent of forcing them off the air. On this point we note only that it has long been Commission policy not to consider *Carroll* issues in rule making proceedings. We will follow that policy in this matter while noting that a *Carroll* issue may appropriately be raised at the time of application for a construction permit for any new station at Lake Placid if a channel assignment is made there.

6. On June 10, 1974, Sarasota-Charlotte Broadcasting Corporation (S-C Corp.), licensee of daytime-only AM Station WENG, Englewood, Florida, filed a petition (RM-2397) acknowledging the above-described petition of Mr. Salter, concurring in it and asking that Channel 252A be deleted from Arcadia not only to reassign it to Lake Placid but also to reassign it to Englewood, Florida. If Channel 252A is deleted from Arcadia our minimum mileage separation requirements will permit its assignment to both Lake Placid and Englewood.

7. Englewood, Florida, with 5,182 residents, is located in Charlotte and Sarasota Counties (respective populations 27,559 and 120,413). S-C Corp. is the licensee of the community's only local aural service, daytime-only AM Station WENG. There is no FM channel assigned to Englewood.

8. S-C Corp. describes Englewood as a rapidly growing Florida community which is not adequately described by citing U.S. Census figures. It is said that Englewood is an unincorporated community on Florida's southern Gulf Coast extending from Manasota Road on the north of Pam Marina Gulf Blvd., on the south on 775, and east from San Casa Drive on 776 to Lemon Bay and Manasota Key on the west. A compilation of statistics indicates that the 1974 population of Englewood is 18,500 persons with projected 1979 and 1984 populations of 37,000 and 74,000, respectively. It is asserted that from 1950 to 1970 the population of Charlotte County increased over 500 percent while the population of Sarasota County increased over 300 percent. S-C Corp. points to various indices of local growth such as substantial increases in local bank assets and school enrollment.

9. In a response to S-C Corp.'s petition Mr. Salter agrees to its point that it would be in the public interest to delete Channel 252A from Arcadia in order to assign it to the two communities of Lake Placid and Englewood.<sup>1</sup>

10. A brief informal comment opposing both Mr. Salter's and S-C Corp.'s peti-

tions was filed by Mr. Albert G. Erickson on July 16, 1974. Mr. Erickson expressed his intention to apply for the use of Channel 252A at Arcadia.

11. An admittedly late filing (on August 12, 1974) of Arcadia-Punta Gorda responded to both Mr. Salter's and S-C Corp.'s petitions by announcing an intention to apply for the use of Channel 252A at Arcadia. Objections to the late filing were made by both Mr. Salter and S-C Corp. on the basis of its lateness. We acknowledge that Mr. Salter and S-C Corp. are clearly correct with respect to the undesirability of accepting a late filing in a rule making proceeding. Hence, we are not accepting Arcadia-Punta Gorda's late filing of August 12, 1974, in this matter. However, we do note Mr. Erickson's statement of intention to file for the use of Channel 252A at Arcadia which was timely filed (see paragraph 10, *supra*) and we take official notice of the fact that Arcadia-Punta Gorda filed an application for the use of Channel 252A at Arcadia on August 27, 1974, BPH-9148.

12. Our engineering study indicates that preclusion as a result of both the Englewood and Lake Placid proposals occurs only on Channel 252A. The six channels adjacent to Channel 252A are, in both cases, already precluded by existing assignments, not including the Arcadia assignment. Co-channel preclusion occurring under the Lake Placid proposal affects only a small area of 30 square miles in addition to that occurring from the existing Arcadia assignment. This area extends between Immokalee and Lake Okeechobee, Florida, and contains no communities with populations greater than 1,000 persons. Co-channel preclusion occurring under the Englewood proposal affects a similarly small area of 39 square miles in addition to that present as a result of the existing Arcadia assignment. This area is north of Naples, Florida. Naples appears to have ample local radio service. S-C Corp.'s engineering statement notes that deletion of the Arcadia assignment of Channel 252A and its reassignment to Lake Placid and/or Englewood will permit the additional use of Channel 252A in a formerly precluded 101.5 square-mile area around Immokalee, Florida. We find this technically accurate as to the size of the new area but not telling because the only community existing within that area is Immokalee and Channel 252A is not presently excluded from assignment to Immokalee by our rules notwithstanding its assignment at Arcadia.

13. As an aid in determining what course of action better reflects the public interest, the Commission requests S-C Corp., Russell G. Salter, and Arcadia-Punta Gorda to furnish, for Englewood, Lake Placid, and Arcadia, respectively, a *Roanoke Rapids-Goldsboro, N.C.* showing, 9 F.C.C. 2d 672 (1967). This showing should, of course, assume

<sup>1</sup> Our study indicates that should Channel 252A be deleted at Arcadia it can be assigned to both Englewood and Lake Placid. In order for the channel to be available at both communities the antenna site for the Lake Placid assignment must be 6.7 miles north-northwest of the community and the Englewood antenna site must be approximately 1 mile west of that community.

<sup>2</sup> This comment was timely filed in connection with S-C Corp.'s petition, Public Notice of which was given on June 21, 1974.

the operation of both existing stations and channel assignments with either existing operating facilities or those set forth in the *Roanoke Rapids* decision depending upon which is greater.

14. We propose for consideration the following alternative amendments to § 73.202(b) of our rules with respect to the cities listed below:

City	Channel No.	
	Present	Proposed
Alternative I		
Arcadia, Fla.	252A	252A
Lake Placid, Fla.		
Englewood, Fla.		
Alternative II		
Arcadia, Fla.	252A	
Lake Placid, Fla.		252A
Englewood, Fla.		252A

15. Comments in this proceeding must be filed on or before July 7, 1975, and reply comments must be filed on or before July 28, 1975.

16. Authority for the institution of this rule making proceeding and the procedural rules and regulations governing it are set out and/or cited in the attached Appendix.

Adopted: May 13, 1975.

Released: May 21, 1975.

FEDERAL COMMUNICATIONS COMMISSION,  
[SEAL] WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.

APPENDIX  
1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and section 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are

filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in sections 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of section 1.419 of the Commission's rules and regulations, an original and fourteen copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW, Washington, D.C.

[FR Doc. 75-13924 Filed 5-29-75; 8:45 am]

## [ 47 CFR Part 73 ]

[Docket No. 20483; RM-2422]

FM BROADCAST STATIONS;  
CHARLOTTESVILLE, VIRGINIA  
Table of Assignments

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations. (Charlottesville, Virginia.)

1. *Petitioner, proposal and comments.* Petitioner, WUVA, Inc., a non-profit, non-stock, membership corporation organized under the laws of Virginia. Its membership is composed entirely of students of the University of Virginia and it states that it has operated carrier-current radio Station WUVA since 1947.<sup>1</sup>

*Proposal.* Assign Channel 224A to Charlottesville, Virginia. This proposal can be adopted without affecting existing FM assignments elsewhere.

*Comments.* In objection to the WUVA proposal, Clay Realty Co. (Clay), licensee of Stations WCHV and WCCV-FM, Charlottesville, contends, among other things, that there are sufficient aural services currently available to fill the university-related needs of the Charlottesville community. Clay correctly points out that the service needs of Charlottesville, not the University of Virginia, should form the basis for our consideration. However, WUVA does not disagree. It seeks a commercial FM assignment to serve Charlottesville. That its membership is composed entirely of students is not relevant at the rule making level.

<sup>1</sup> Carrier-current stations operate under Part 15 of the Commission Rules without individual license.

## PROPOSED RULES

2. *Location, population, and present aural service.*

*Location.* Charlottesville is the seat of Albemarle County and is located approximately 65 miles northwest of Richmond, Virginia.

*Population.* Charlottesville—38,880; Albemarle County—37,780 (county figure does not include Charlottesville City population). All population figures are from the 1970 U.S. Census.

*Present aural service.* Charlottesville transmission services include: FM Stations WCCV-FM (Channel 248) and WQMC (Channel 237A); noncommercial educational FM Station WTJU (Channel 217A); and full-time AM Stations WCHV, WINA, and WELK.

3. *Preclusion considerations.*

We are told that no new preclusions would result to Channels 222, 223, 226, and 227; that the preclusion area that would occur for Channel 221A contains only 2,655 persons in a 62 square mile area and contains no communities listed in the U.S. Census; and that the preclusion that would occur for Channel 225 would be to a 26 square mile area on the eastern slopes of the Blue Ridge Mountains containing approximately 1,000 persons. The following cities are within the Channel 224A preclusion area: Staunton (pop. 24,504), Waynesboro (pop. 16,707), Crozet (pop. 1,434) and Monterey (pop. 223). Staunton has one full-time AM station (WTON), one daytime-only AM station (WAFB), and one FM station (WQMC). Waynesboro has two full-time AM stations (WANV and WAYB). Crozet has a daytime-only AM station and Monterey has no local aural service. WUVA believes that other channels are available for assignment to Waynesboro and Staunton<sup>2</sup> and says that, pending final calculations, it will submit them in this rule making proceeding. WUVA should also indicate whether other channels are available for assignment to Crozet but due to its size need not do so for Monterey.

4. *Comments.* Ordinarily, two FM transmission services are considered adequate for a com-

<sup>2</sup> Waynesboro and Staunton are located in the West Virginia Quiet Zone (Commission Rule § 73.215(a)) which was established to protect the work of the National Radio Astronomy Observatory and the Naval Radio Research Observatory from harmful interference. Channel 224A was at one time assigned to Waynesboro and applications were filed for its use. However, no agreement concerning the technical aspects of the proposed operations was reached between the applicants and both observatories. In order to avoid the impression that Channel 224A was available on the same basis as other channels listed in the FM Table of Assignments, the Commission deleted it from the Table indicating that it would consider reassigning it there if a petitioner and the observatories reach an agreement as to the proposal's technical feasibility. A channel assignment was also deleted from Staunton (6 F.C.C. 2d 793 (1967)). Under these circumstances, consideration will be given to the fact that the Commission has received no petitions seeking assignments for Staunton or Waynesboro since channels were deleted from there seven years ago.

munally of Charlottesville's size and population. However, we have made assignments in excess of our general guidelines when the petitioner has shown that a need for such an assignment exists and that it would not adversely affect future assignments to the area. Therefore, WUVA should address itself to these points in its comments. We believe that WUVA has made a sufficient showing to merit further consideration of its proposal in a rule making proceeding.

5. Accordingly, the Commission proposes to amend § 73.202(b) of the Commission's rules, the FM Table of Assignments as follows:

City	Channel No.	
	Present	Proposed
Charlottesville, Va.	237A, 248	224A, 237A, 248

6. The Commission's authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix and are incorporated into this *Notice of Proposed Rule Making*.

7. Interested parties may file comments on or before July 7, 1975, and reply comments on or before July 28, 1975.

Adopted: May 13, 1975.

Released: May 21, 1975.

FEDERAL COMMUNICATIONS COMMISSION,  
[SEAL] WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.

## APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and section 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than



that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in sections 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of section 1.419 of the Commission's rules and regulations, an original and fourteen copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 75-13925 Filed 5-29-75; 8:45 am]

## INTERNATIONAL TRADE COMMISSION

[19 CFR Part 201]

### INFORMATION AVAILABLE TO THE PUBLIC

#### Fee Schedule; Proposed Amendment

The Commission is considering an amendment to Title 19, Part 201, of the Code of Federal Regulations that would revise subparagraph (a) to § 201.20 concerning the schedule of fees for searches and related services rendered under the Freedom of Information Act, as amended (5 U.S.C. 552).

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted to the Office of the Secretary, United States International Trade Commission, Washington, D.C. 20436. All communications received on or before June 30, 1975, will be considered before action is taken on the proposed amendment. Comments received will be available for public examination in the Office of the Secretary.

The Commission's proposed changes would reflect both the recent experience of the agency with requests for records not filed centrally within the Office of the Secretary and recent analyses of the distribution of Commission personnel at the GS grade levels 2 through 18. The proposed charges reflect the average weighted salary for all Commission employees at GS-2 through GS-10 who could be called upon to perform searches and the average weighted salary for all Commission employees at GS-11 through GS-18 who could be called upon to perform searches. In the proposed amendment the charges for the direct costs of other services, presently described in general terms only, allows a charge for

nonroutine types of services in response to requests, such as computer costs.

§ 201.20(a) of the Code of Federal Regulations is proposed to be revised to read as follows:

#### § 201.20 Fees.

(a) Search for records—(1) The charge will be computed at the rate of \$5.35 per hour for actual search time spent by agency personnel in salary grades GS-2 through GS-10 and at the rate of \$11.65 per hour for actual search time by agency personnel in salary grades GS-11 through GS-18; provided, however, that no charge will be made for any search of only one-half hour or less. (2) When no specific fee has been established for a service performed for a requester, other than searches provided for above, the Secretary is authorized to charge as the fee actual costs to the agency within the meaning of 5 U.S.C. 552(a) (4) (A). An example of a service covered by this latter provision is when the search involves computer time.

By order of the Commission.

Issued: May 27, 1975.

KENNETH R. MASON,  
Secretary.

[FR Doc. 75-14088 Filed 5-29-75; 8:45 am]

## NUCLEAR REGULATORY COMMISSION

[10 CFR Part 20]

### STANDARDS FOR PROTECTION AGAINST RADIATION

#### Personnel Monitoring Reports

The Nuclear Regulatory Commission has under consideration proposed amendments to 10 CFR Part 20. The proposed amendments would extend to all NRC specific licensees the requirements of § 20.407 for the submission of an annual statistical summary report of estimated whole body radiation doses.

The amendments proposed in this notice do not involve any changes in requirements for the provision and use of personnel monitoring equipment or the records of personnel monitoring data that must be kept. The changes relate solely to the reporting of the data.

On December 19, 1968 (33 FR 18926), amendments to 10 CFR Part 20 were published by the Atomic Energy Commission (licensing and related regulatory functions of the AEC were transferred to the NRC pursuant to section 201 of the Energy Reorganization Act of 1974) incorporating into the Commission's regulations requirements for the annual reporting of personnel monitoring information by four categories of licensed activities. The four categories of licensees identified in § 20.407(a) are those that were considered to involve the greatest potential for significant occupational radiation doses.

At the same time, reports by the four categories of licensees were required pursuant to § 20.408 on the exposure of individuals to radiation and radioactive

material upon their termination of employment or work assignment in a licensee's facility. This requirement was justified, primarily, as a means of evaluating the likelihood of significant multiple doses being received by a so called "transient worker".

On January 4, 1974 (39 FR 1000), AEC published an amendment to § 20.407 to require the annual reporting of only a statistical summary of the estimated whole body exposures, rather than the actual estimated exposures to any body part of a named individual that exceeded in a year the applicable quarterly limit. This amendment provides additional data in that it requires submission of a statistical summary of all of the exposures estimated to have been received by individuals who are required to be monitored pursuant to §§ 20.202(a) or 34.33(a). Further, some licensees choose to include data on individuals who were provided personnel monitoring equipment as part of good health physics practice even though it could have been shown that such monitoring was not required.

The Commission considers the information obtained pursuant to the required reports to be essential to the evaluation of the risk of radiation exposure associated with the related activities. The data permit a meaningful comparison of current exposure experience among types of licensees and among licensees within each type. The data are being used in the identification of situations to be studied further in order that guidance can be developed on action that should be taken to keep occupational radiation exposures "as low as practicable". However, it should be noted that the personnel monitoring data do not permit evaluation of what occupational exposures are "as low as practicable". Such evaluation requires study of the specific factors associated with a specific facility and activity.

Therefore, in order to permit comparable evaluation of the occupational radiation exposure risks associated with all categories of licensed activities, the proposed amendment to § 20.407 that follows, would extend the reporting requirements of that section to all activities specifically licensed by the NRC.

Section 20.408 would be amended only to include specification of the four categories of licensees that continue to be required to submit reports of individual exposure to radiation and radioactive material upon termination of individual employment or work assignment in their facilities. Those categories are currently set out in § 20.407 and incorporated in § 20.408 by reference.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 20 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the

Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section by July 14, 1975. Copies of the comments on the proposed amendments may be examined at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

1. Section 20.407 of 10 CFR Part 20 is revised to read as follows:

#### § 20.407 Personnel monitoring reports.

Each person specifically licensed by the Commission shall, within the first quarter of each calendar year, submit to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the following reports covering the preceding calendar year:

(a) A report of either (1) the total number of individuals for whom personnel monitoring was required under §§ 20.202(a) or 34.33(a) of this chapter during the calendar year; or (2) the total number of individuals for whom personnel monitoring was provided during the calendar year: *Provided*, that such total includes at least the number of individuals required to be reported under paragraph (a) (1) of this section. The report shall indicate whether it is submitted in accordance with paragraph (a) (1) or (a) (2) of this section. If personnel monitoring was not required to be provided to any individual by the licensee under §§ 20.202(a) or 34.33(a) of this chapter during the calendar year, the licensee shall submit a negative report indicating that such personnel monitoring was not required.

(b) A statistical summary report of the personnel monitoring information recorded by the licensee for individuals for whom personnel monitoring was either required or provided, as described in paragraph (a) of this section, indicating the number of individuals whose total whole body exposure recorded during the previous calendar year was in each of the following estimated exposure ranges:

Estimated whole body exposure range (Rems): <sup>1</sup>	Number of individuals in each range
No measurable exposure.....	
Measurable exposure less than 0.1.....	
0.1 to 0.25.....	
0.25 to 0.5.....	
0.5 to 0.75.....	
0.75 to 1.....	
1 to 2.....	
2 to 3.....	
3 to 4.....	
4 to 5.....	
5 to 6.....	
6 to 7.....	
7 to 8.....	
8 to 9.....	
9 to 10.....	
10 to 11.....	
11 to 12.....	
12+.....	

<sup>1</sup>Individual values exactly equal to the values separating Exposure Ranges shall be reported in the higher range.

The low exposure range data are required in order to obtain better information about the exposures actually recorded. This section does not require improved measurements.

2. Section 20.408, 10 CFR Part 20, is revised to read as follows:

#### § 20.408 Reports of personnel monitoring on termination of employment or work.

(a) This section applies to each person licensed by the Commission to:

(1) Operate a nuclear reactor designed to produce electrical or heat energy pursuant to §§ 50.21(b) or 50.22 of this chapter or a testing facility as defined in § 50.2(r) of this chapter;

(2) Possess or use byproduct material for purposes of radiography pursuant to Parts 30 and 34 of this chapter;

(3) Possess or use at any one time, for purposes of fuel processing fabrication, or reprocessing, special nuclear material in a quantity exceeding 5,000 grams of contained uranium-235, uranium-233, or plutonium or any combination thereof pursuant to Part 70 of this chapter; or

(4) Possess or use at any one time, for processing or manufacturing for distribution pursuant to Part 30, 32, or 33 of this chapter, byproduct material in quantities exceeding any one of the following quantities:

Radionuclide: <sup>2</sup>	Quantity in curies
Cesium-137.....	1
Cobalt-60.....	1
Gold-198.....	100
Iodine-131.....	1
Iridium-192.....	10
Krypton-85.....	1,000
Promethium-147.....	10
Technetium-99m.....	1,000

<sup>2</sup>The Commission may require, as a license condition, or by rule, regulation or order pursuant to § 20.502, reports from licensees who are licensed to use radionuclides not on this list, in quantities sufficient to cause comparable radiation levels.

(b) When an individual terminates employment with a licensee described in paragraph (a) of this section, or an individual assigned to work in such a licensee's facility but not employed by the licensee, completes his work assignment in the licensee's facility, the licensee shall furnish to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, a report of the individual's exposure to radiation and radioactive material, incurred during the period of employment or work assignment in the licensee's facility, containing information recorded by the licensee pursuant to §§ 20.401(a) and 20.108. Such report shall be furnished within 30 days after the exposure of the individual has been determined by the licensee or 90 days after the date of termination of employment or work assignment, whichever is earlier.

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841))

Dated at Washington, D.C. this 23rd day of May 1975.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,  
Secretary of the Commission.

[FR Doc. 75-14061 Filed 5-29-75; 8:45 am]

## DEPARTMENT OF LABOR

Office of the Secretary

[29 CFR Part 4]

### LABOR STANDARDS FOR FEDERAL SERVICE CONTRACTS

#### Public Hearing

On April 9, 1975, the Wage and Hour Division, Employment Standards Administration, published proposed amendments to Part 4 in the FEDERAL REGISTER (40 FR 16082), and written data, views or arguments concerning the amendments were invited. The proposed amendments resulted from a study by an inter-agency working group of the administration of the Service Contract Act, as amended (41 U.S.C. 351, et seq.).

The following is a summary of the changes in the rules which were proposed in 40 FR 16082 and which should be consulted for details:

(1) The obligations of an employer under a "successor" contract for work previously under contract, to pay not less than the wages and fringe benefits of his predecessor where they were reflected in a collective bargaining agreement, will apply only where substantially the same services will be performed at the same place as the previous contract.

(2) A cut-off date is established for collective bargaining agreements which create the "successorship" obligation, and for requests for hearings to determine whether such agreements are substantially at variance with wages prevailing in the locality of the place of performance.

(3) Where the place of performance is unknown at the time bids are solicited, the wage and fringe benefit determinations will reflect rates applicable to the ultimate place of contract performance.

(4) A prospective bidder who has a collective bargaining agreement will be allowed to bid solely on the basis of that agreement under section 2(a) of the Act.

As a result of the comments received, it has been determined that an informal hearing is desirable. Accordingly it will be held on Monday, June 23, 1975, in the Department of Labor Auditorium, New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C., at which time and place interested persons may testify on the proposed amendments to Part 4, as outlined above, and the procurement problems which prompted the proposed amendments.

Beginning at 9:30 a.m. e.d.t. on June 23, 1975, the presiding Administrative Law Judge will hold a pre-hearing conference in order to establish the order and time for the presentations, and in order to settle any other matters relating to the proceedings. All persons intending to make presentations should attend the pre-hearing conference, which is open to the public. The public hearing will imme-



diately follow the pre-hearing conference, and will be continued on June 24, 1975, if necessary.

Persons desiring to appear at the hearing must file a written notice of intention to appear along with four duplicate copies with Mr. Warren D. Landis, Acting Administrator, Wage and Hour Division, 200 Constitution Avenue, NW, Room S-3502, U.S. Department of Labor, Washington, D.C. 20210. In order to facilitate scheduling the appearances, such notices should be filed before Monday, June 16, 1975.

The notice should state the name and address of the person wishing to appear, the capacity in which he will appear, and the approximate amount of time required for the presentation. The notice should also include, or be accompanied by, a brief statement of the presentation to be made.

The oral proceedings shall be reported verbatim. The use of prepared statements by witnesses is encouraged. An original and four copies of all documents to be used should be submitted at the hearing.

Persons who wish to submit data, views, or arguments, but who do not wish to attend the hearing, may mail such written comments along with four duplicate copies to Mr. Warren D. Landis at the above address by June 23, 1975. Such comments will be submitted to the Administrative Law Judge for inclusion in the hearing record, together with all comments already received in response to the proposed amendments to Part 4.

The Administrative Law Judge shall have all the powers necessary or appropriate to conduct a fair and full informal hearing, including the powers:

- To regulate the course of the hearing;
- To dispose of procedural requests, objections, and comparable matters;
- To confine the presentations to matters pertinent to the requested information;
- To regulate the conduct of those present at the hearing by appropriate means;

(e) In his discretion, to keep the record open for a reasonable stated time to receive written data from any person who has participated in the oral proceeding.

Following the close of the hearing, the presiding Administrative Law Judge shall certify the record thereof to the Acting Administrator of the Wage and Hour Division for transmittal to the Assistant Secretary for Employment Standards.

A copy of the record will be available for public inspection and examination at the Office of Warren D. Landis, Acting Administrator, Room S-3502, New Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. The entire record or any part thereof may be purchased as provided in 29 CFR 70.62(c) at the actual cost of duplication as computed pursuant to the fee schedule in 29 CFR 70.62(b).

Signed at Washington, D.C. on this 28th day of May, 1975.

BERNARD E. DELURY,  
Assistant Secretary for  
Employment Standards.

[FR Doc.75-14220 Filed 5-29-75;8:45 am]

#### INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 1241, 1249, 1250, 1251]  
[No. 36126]

#### CONFIDENTIAL ANNUAL REPORT SUPPLEMENT FOR CERTAIN CARRIERS AND REVISION TO RAILROAD ANNUAL REPORT

##### Revision; Correction

This is to correct the notice of proposed rulemaking and order decided on April 4, 1975, served May 9, 1975, and published in the FEDERAL REGISTER May 22, 1975 (40 FR 22466), for the following inadvertent errors:

- The title is changed by deleting the references to class I carriers because the proposed rules would also apply to certain carriers designated as class A and other carriers for which there is no class designation.

2. Appendices F through O of the notice are sample reports designed to apply to each particular mode of carrier under the jurisdiction of this Commission. However, each appendix in the first sentence of page 2 contains this description: "... all Class I carriers subject to the provisions of Part I and Part II of the Interstate Commerce Act ...". The references to class I carriers and the Part of the Act are replaced by the following to specify the particular mode and part which correspond to each Appendix.

Appendix	As corrected
F-----	Class I railroad companies subject to part I.
G-----	Refrigerator car lines with annual operating revenues of \$1,000,000 or more subject to part I.
H-----	Maritime carriers with annual operating revenues of \$1,000,000 or more subject to part III.
I-----	Pipeline companies with annual operating revenues of \$1,000,000 or more subject to part I.
J-----	Express companies with annual operating revenues of \$1,000,000 or more subject to part I.
K-----	Class A freight forwarders subject to part IV.
L-----	Class I electric railways subject to part I.
M-----	Class I motor carriers of property subject to part II.
N-----	Class I motor carriers of passengers subject to part II.
O-----	Class A inland and coastal waterways carriers subject to part III.

3. The decision date is corrected to April 4, 1975.

Service of this notice does not change the date on which written statements shall be filed.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-14204 Filed 5-29-75;8:45 am]

## notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

#### DEPARTMENT OF THE TREASURY

[Public Debt Series No. 17-75]

##### Office of the Secretary

#### TREASURY NOTES OF SERIES O-1976

##### Interest Rate

May 23, 1975.

The Secretary of the Treasury announced on May 22, 1975, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 17-75, dated May 16, 1975, will be 6½ percent per annum. Accordingly, the notes are hereby redesignated 6½ percent Treasury Notes of Series O-1976. Interest on the notes will be payable at the rate of 6½ percent per annum.

JOHN K. CARLOCK,  
Fiscal Assistant Secretary.

[FR Doc.75-14040 Filed 5-29-75;8:45 am]

#### DEPARTMENT OF DEFENSE

##### Office of the Secretary

#### DOD ADVISORY GROUP ON ELECTRON DEVICES

##### Advisory Committee Meeting

Working Group A (Mainly Microwave Devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, 9th Floor, New York, NY 10014 on June 23, 1975.

The purpose of the Advisory Group is to provide the Director of Defense Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The microwave area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details and will result in advice or recommendations to government research and development agencies preliminary to decisions or actions, the preliminary disclosure of which would interfere with the orderly conduct of government.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, specifically subparagraphs

(1) and (5) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,  
Director, Correspondence and  
Directives, OASD (Comptroller).

MAY 27, 1975.

[FR Doc.75-14087 Filed 5-29-75;8:45 am]

#### DEPARTMENT OF JUSTICE

##### Law Enforcement Assistance Administration

#### LAW ENFORCEMENT/PRIVATE SECURITY RELATIONSHIP STUDY COMMITTEE

##### Meeting

Notice is hereby given that the Law Enforcement/Private Security Relationship Study Committee of the Private Security Advisory Council to the Law Enforcement Assistance Administration will meet Friday, June 13, 1975. The meeting will take place from 9:30 AM to 5 PM at the Marriott at O'Hare International Airport, 8535 West Higgins, Chicago, Illinois.

Further discussion will be held concerning the relationships between businesses which provide private security services and public law enforcement agencies.

The meeting will be open to the public. For further information, contact: Mr. Irving Slott, Director, Program Development and Evaluation, Office of National Priority Programs, LEAA, 633 Indiana Avenue NW., Washington, D.C. 20531. 202/376-3687.

GERALD YAMADA,  
Attorney-Advisor,  
Office of General Counsel.  
[FR Doc.75-14180 Filed 5-29-75;8:45 am]

##### Office of the Attorney General

[Order 603-75]

#### FEDERAL METROPOLITAN CORRECTIONAL CENTER AT NEW YORK, N.Y.

##### Establishment and Designation

By virtue of the authority vested in me by sections 4003, 4042, 4081, and 4082 of Title 18, United States Code, I hereby establish and designate the Metropolitan Correctional Center, New York, New York, as a place of confinement for the detention of persons held under authority of any Act of Congress, and for persons charged with or convicted of offenses against the United States or otherwise placed in the custody of the Attorney General of the United States.

Dated: May 22, 1975.

EDWARD H. LEVI,  
Attorney General.  
[FR Doc.75-14176 Filed 5-29-75;8:45 am]

#### DEPARTMENT OF THE INTERIOR

##### Bureau of Land Management

[NM 25508, 25587, 25588, 25589, 25590, and 25591]

##### NEW MEXICO

##### Notice of Applications

May 21, 1975.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for three 4½-inch and three 2½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 30 N., R. 9 W.  
Sec. 3, lot 3, SE¼NW¼, NE¼SW¼;  
Sec. 15, N¼NW¼;  
T. 31 N., R. 10 W.  
Sec. 13, lot 16;  
Sec. 20, lots 10, 15;  
Sec. 21, lots 4, 9, 16;  
Sec. 22, lot 12.

These pipelines will convey natural gas across 0.519 miles of national resource lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, NE, Albuquerque, NM 87107.

FRED E. PADILLA,  
Chief, Branch of Lands  
and Minerals Operations.  
[FR Doc.75-14181 Filed 5-29-75;8:45 am]

[NM 25592 and 25669]

##### NEW MEXICO

##### Notice of Applications

May 21, 1975.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 4½ inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 23 S., R. 23 E.  
Sec. 8, NE¼SE¼;  
Sec. 9, SW¼NE¼, S¼NW¼ and NW¼SW¼;  
T. 23 S., R. 31 E.  
Sec. 35, SE¼SE¼;  
Sec. 36, SW¼SW¼.



These pipelines will convey natural gas across 1.133 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions. Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201.

FRED E. PADILLA,  
Chief, Branch of Lands  
and Minerals Operations.

[FR Doc.75-14182 Filed 5-29-75;8:45 am]

[NM 25521 and 25683]

#### NEW MEXICO Notice of Applications

MAY 21, 1975.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Natural Gas Pipeline Company of America has applied for a 4 inch and two 6 inch natural gas pipeline and 3 meter site rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 19 S., R. 25 E.  
Sec. 34, W $\frac{1}{2}$ NW $\frac{1}{4}$  and SE $\frac{1}{4}$ NW $\frac{1}{4}$ .  
T. 20 S., R. 25 E.  
Sec. 21, NW $\frac{1}{4}$ SW $\frac{1}{4}$ .  
Sec. 29, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ , and SW $\frac{1}{4}$ SW $\frac{1}{4}$ .

These pipelines will convey natural gas across 1.465 miles and .05 acres of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201.

FRED E. PADILLA,  
Chief, Branch of Lands  
and Minerals Operations.

[FR Doc.75-14183 Filed 5-29-75;8:45 am]

[NM 25497, 25518, 25519, 25520 and 25698]

#### NEW MEXICO Notice of Applications

MAY 21, 1975.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for five 4, 6, 8 and 10 inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 28 E.  
Sec. 13, SE $\frac{1}{4}$ SE $\frac{1}{4}$ .  
Sec. 23, E $\frac{1}{2}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ .  
Sec. 24, N $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ .  
Sec. 26, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ .  
Sec. 27, N $\frac{1}{2}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ .  
Sec. 28, SW $\frac{1}{4}$ SE $\frac{1}{4}$ .  
Sec. 33, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$  and NE $\frac{1}{4}$ SE $\frac{1}{4}$ .  
T. 20 S., R. 29 E.  
Sec. 8, S $\frac{1}{2}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ .  
Sec. 15, S $\frac{1}{2}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ .  
Sec. 16, W $\frac{1}{2}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ .  
Sec. 17, N $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ NW $\frac{1}{4}$ .  
Sec. 18, lots 2, 3, 4, E $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$  and NW $\frac{1}{4}$ SE $\frac{1}{4}$ .

These pipelines will convey natural gas across 8.53 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201.

FRED E. PADILLA,  
Chief, Branch of Lands  
and Minerals Operations.

[FR Doc.75-14184 Filed 5-29-75;8:45 am]

[NM 25499, 25501 and 25507]

#### NEW MEXICO Notice of Applications

MAY 23, 1975.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for three 4 $\frac{1}{2}$  inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 30 N., R. 8 W.  
Sec. 34, SW $\frac{1}{4}$ SE $\frac{1}{4}$ .  
T. 29 N., R. 9 W.  
Sec. 1, lots 5, 6, 11 and 12;  
Sec. 21, lot 4;  
Sec. 22, lot 5.

These pipelines will convey natural gas across .849 miles of national resource lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, NE, Albuquerque, NM 87107.

FRED E. PADILLA,  
Chief, Branch of Lands  
and Minerals Operations.

[FR Doc.75-14185 Filed 5-29-75;8:45 am]

[NM 25695, 25696, 25697, 25699 and 25700]

#### NEW MEXICO Notice of Applications

MAY 23, 1975.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for five 4, 6, and 8 inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 28 E.  
Sec. 26, NE $\frac{1}{4}$ NW $\frac{1}{4}$ .  
T. 20 S., R. 29 E.  
Sec. 8, S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$  and SW $\frac{1}{4}$ SE $\frac{1}{4}$ .  
Sec. 9, SW $\frac{1}{4}$ NW $\frac{1}{4}$ .  
Sec. 16, W $\frac{1}{2}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$  and W $\frac{1}{2}$ SE $\frac{1}{4}$ .  
Sec. 21, E $\frac{1}{2}$ NW $\frac{1}{4}$ .

These pipelines will convey natural gas across 2.38 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201.

FRED E. PADILLA,  
Chief, Branch of Lands  
and Minerals Operations.

[FR Doc.75-14186 Filed 5-29-75;8:45 am]

[NM 25703]

#### NEW MEXICO Notice of Application

MAY 22, 1975.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 4 $\frac{1}{2}$  inch natural gas pipeline rights-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 26 E.  
Sec. 3, W $\frac{1}{2}$ SW $\frac{1}{4}$ .

These pipelines will convey natural gas across 0.352 miles of national resource land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201.

FRED E. PADILLA,  
Chief, Branch of Lands  
and Minerals Operations.

[FR Doc.75-14187 Filed 5-29-75;8:45 am]

[NM 25702]

#### NEW MEXICO Notice of Application

MAY 22, 1975.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corporation has applied for a cathodic protection station right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 32 N., R. 7 W. Sec. 27, lot 7.

This cathodic protection station will cross .087 miles of national resource land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, NE, Albuquerque, NM 87107.

FRED E. PADILLA,  
Chief, Branch of Lands  
and Minerals Operations.

[FR Doc.75-14188 Filed 5-29-75;8:45 am]

[Wyoming 51007]

#### WYOMING Application

MAY 22, 1975.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Stauffer Chemical Company of Wyoming has applied for a natural gas pipeline right-of-way across the following lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 20 N., R. 101 W.  
Sec. 4, SW $\frac{1}{4}$ SW $\frac{1}{4}$ .  
Sec. 8, SE $\frac{1}{4}$ SE $\frac{1}{4}$ .

The pipeline will convey natural gas from the Champlin 195 Amoco "A" Well No. 1 in the SE $\frac{1}{4}$ , sec. 5 and the Champlin 172 Amoco No. 1 Well in the NW $\frac{1}{4}$ , sec. 9, to an existing pipeline in the NE $\frac{1}{4}$ , sec. 17, all in T. 20 N., R. 101 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1869, Rock Springs, WY 82901.

PHILIP C. HAMILTON,  
Chief, Branch of Lands  
and Minerals Operations.

[FR Doc.75-14174 Filed 5-29-75;8:45 am]

[Wyoming 0320238, 26219]

#### WYOMING Application

MAY 22, 1975.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Western Transmission Corporation has applied for natural gas pipeline rights-of-way across the following lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 14 N., R. 91 W.  
secs. 12 and 13.  
T. 16 N., R. 91 W.  
secs. 21, 22, 28 and 29.

The pipeline will convey natural gas from wells located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ , sec. 13, T. 14 N., R. 91 W. and SW $\frac{1}{4}$ SW $\frac{1}{4}$ , sec. 22, T. 16 N., R. 91 W. to existing pipelines in Carbon County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether

the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should send their name and address to the District Manager, Bureau of Land Management, P.O. Box 670, Rawlins, WY 82301.


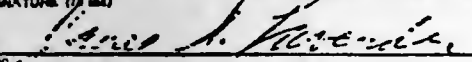
PHILIP C. HAMILTON,  
Chief, Branch of Lands  
and Minerals Operations.

[FR Doc.75-14175 Filed 5-29-75;8:45 am]

#### Fish and Wildlife Service ENDANGERED SPECIES PERMIT Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Bureau of Land Management, Colorado State Office, 700 Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202. Dale R. Andrus, State Director.

 DEPARTMENT OF THE INTERIOR U.S. FISH AND WILDLIFE SERVICE FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION		1. APPLICATION FOR (Indicate only one) <input type="checkbox"/> IMPORT OR EXPORT LICENSE <input checked="" type="checkbox"/> PERMIT	
2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUEST FOR PERMIT IS NEEDED (If activity is for collection of Endangered fish species on NAL (b) determine habitat requirements of same (c) collect individuals to re-establish populations in suitable environments after completion of Habitat Management Plan.		3. IF APPLICANT IS AN INDIVIDUAL, COMPLETE THE FOLLOWING: NAME, ADDRESS, AND PHONE NUMBER OF INDIVIDUAL: Bureau of Land Management (837-3264) Colo. State Office 700 Colo. State Bank Bldg. 1600 Broadway Denver, CO 80202	
4. IF APPLICANT IS AN INDIVIDUAL, COMPLETE THE FOLLOWING: <input type="checkbox"/> MR. <input type="checkbox"/> MRS. <input type="checkbox"/> MISS <input type="checkbox"/> MS. DATE OF BIRTH: _____ HEIGHT: _____ WEIGHT: _____ COLOR HAIR: _____ COLOR EYES: _____ PHONE NUMBER WHERE EMPLOYED: _____ SOCIAL SECURITY NUMBER: _____ OCCUPATION: _____ ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: _____		5. IF APPLICANT IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING: EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION: Federal Bureau under the Department of the Interior charged with management of the National Resource Lands in Colorado NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.: Dale R. Andrus, State Director: 837-4325 IF APPLICANT IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED: _____	
6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED (1) Colorado River drainage in Colorado (2) Platte River drainage in Colorado (3) Arkansas River drainage in Colorado (4) Rio Grande drainage in Colorado		7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO (If yes, list license or permit numbers): _____	
8. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: \$ NA		9. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO (If yes, list jurisdictions and type of documents): Our Fisheries Biologist, Dr. James E. Johnson, has applied for a Colorado collecting permit.	
10. DESIRED EFFECTIVE DATE: May 1, 1975		11. DURATION NEEDED: Dec. 31, 1977	
12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (SEE 50 CFR 22.151) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED: _____			
CERTIFICATION I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER 1 OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.			
SIGNATURE (If individual) 		DATE 4-11-75	



The Bureau of Land Management is presently developing a fisheries management program in the State of Colorado. One aspect of these plans is management of National Resource Lands to perpetuate Threatened and Endangered species of fish. This will include maintenance and enhancement of habitat in the known range of species designated as Threatened or Endangered by the Secretary of the Interior and the Colorado Division of Wildlife. We also hope to expand the greatly reduced distribution of these species by locating suitable habitat in their historic range, reintroducing the species and managing specifically for them.

Those fish species on the Federal Endangered Species list presently found in Colorado are: (1) *Salmo clarki stomias* (Greenback cutthroat trout); (2) *Gila cypha* (Humpback chub); (3) *Ptychocheilus lucius* (Colorado squawfish).

Those species presently recognized by the Colorado Division of Wildlife as endangered are: (1) *Gila cypha* (Humpback chub); (2) *Gila elegans* (Bonytail chub); (3) *Ptychocheilus lucius* (Colorado squawfish); (4) *Xyrauchen texanus* (Razorback sucker). Their threatened species list for fish includes: (5) *Salmo clarki stomias* (Greenback cutthroat trout); (6) *Salmo clarki virginalis* (Rio Grande cutthroat trout); (7) *Salmo clarki pleuriticus* (Colorado cutthroat trout); (8) *Hybopsis aestivalis tetrane-mos* (Arkansas River speckled chub); (9) *Etheostoma cragini* (Arkansas darter); (10) *E. nigrum nigrum* (Central johnny darter); (11) *E. spectabile pulchellum* (Plains orange throat darter).

Because of the diversity of these species and only partial knowledge of their existing range, specific collecting localities are not included in this permit request. It seems better to suggest entire drainage systems within the state until more refined distribution knowledge is available. Enclosed is an Information Memo from this office (CSO 75-12) describing somewhat more specifically the areas presently thought to contain the endangered species of fish and preliminary management plans for them (Attachment 2).

Our fisheries biologist, Dr. James E. Johnson, became a staff member in January, 1975. As part of his duties he is charged with initiating and developing the above programs. His expertise in fisheries biology and ichthyology are documented in the enclosed publication list (Attachment 3). Dr. Johnson received his Ph. D. in zoology from Arizona State University where he worked with introduced and native fish of the Colorado River drainage. In the past he has held state collecting permits in Arizona, Texas, Florida, Massachusetts and Virginia, and has presently applied for one in Colorado. Dr. Johnson has also been nominated as BLM's representative to the Colorado Squawfish Recovery Team presently being formed. He is a member

of the American Fisheries Society, American Society of Ichthyology and Herpetology, American Institute of Fisheries Research Biologists, American Society of Limnology and Oceanography, Southwestern Association of Naturalists, Sigma Xi, and is certified a professional fisheries biologist by AFS.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before June 30, 1975 will be considered.

Dated: May 23, 1975.

C. R. BAVIN,  
Chief, Division of Law Enforcement,  
U.S. Fish and Wildlife Service.

[FR Doc.75-14089 Filed 5-29-75; 8:45 am]

Common and scientific name	Number	Sex	Birthdate	Birthplace
Bengal tiger ( <i>Panthera tigris</i> )	3	2 female, 1 male	Aug. 26, 1971	RFBC <sup>1</sup>
Black jaguars ( <i>Panthera onca</i> )	2	1 female, 1 male	Sept. 23, 1971	Do.
Chinese leopards ( <i>Panthera pardus japonensis</i> )	3	2 female, 1 male	1973	RFBC.
Clouded leopard ( <i>Neofelis nebulosa</i> )	1	1 female	1970	Do.
Mongoz lemur ( <i>Lemur mongoz</i> )	2	1 female, 1 male	1972	Do.
Siberian tiger ( <i>Panthera tigris altaica</i> )	2	1 female, 1 male	1974	Do.
Spotted jaguar ( <i>Panthera onca</i> )	2	1 female, 1 male	Do.	Do.
Canadian lynx ( <i>Felis canadensis</i> )	2	1 female, 1 male	Do.	Do.
Red-fronted lemur ( <i>Lemur fulvus rufus</i> )	2	1 female, 1 male	1972	Do.
Kodiak bear ( <i>Ursus a. middendorffii</i> )	2	1 female, 1 male	1974	Houston Zoo.
Common grizzly bear ( <i>Ursus a. horribilis</i> )	2	1 female, 1 male	Do.	RFBC.
African leopard ( <i>Panthera pardus</i> )	2	1 female, 1 male	1974	Do.
Prairie dogs ( <i>Cynomys ludovicianus</i> )	6	4 female, 2 male	Do.	Do.

<sup>1</sup> RFBC—Rare feline breeding compound.

A written contract or other agreement was not contracted.

The specimens purchased would be primarily involved in captive behavior research and propagation at the center. The female clouded leopard is earmarked to join the sole male in order to attempt breeding of this very rare species. The two pair of lemurs will join the existing breeding group of lemurs already in collection.

The Zoo Safari Costa Brava is in a stage of completion at the time of this writing. It is located on the Costa Brava in Spain. The developer and owner of this park is a physician from Casa Blanca, Morocco who has many years experience in veterinarian work on exotic cats and primates. This park was designed to provide European zoological, scientific and research institutions with captive born specimens of wild fauna. The address of this facility is as mentioned above.

All specimens have been captive bred at the Rare Feline Breeding Compound for

#### ENDANGERED SPECIES PERMIT Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Robert E. Baudy, Rare Feline Breeding Compound, Post Office Box 132, Center Hill, Florida 33514.

Director, Bureau of Sport Fisheries and Wildlife, United States Department of the Interior, Washington, D.C. 20240.

FEBRUARY 6, 1975.

DEAR SIR: This attachment is to provide additional information to my request for exportation of animals to: Dr. Leon Barbier, Zoo Safari Costa Brava, Centro Para Cria Y Reproduccion De Animales Salvajes (Center of Reproduction for Exotic Animals), Barcelona-11, Spain.

Dr. Leon Barbier has recently made a new trip to my breeding farm and has purchased additional animals to the ones that we have applied for in the past.

In compliance with 17.23: The common and scientific names of the species, number, age and sex of the wildlife to be covered in this permit are as follows:

several generations with the exception of the female black jaguar and kodiak bears. Such a resume is not necessary due to the fact that this application is for an exportation permit.


Live wildlife is not to be imported.

I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in Subchapter B of Chapter 1 of Title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief.

I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

Sincerely yours,

ROBERT E. BAUDY,  
Owner, Rare Feline  
Breeding Compound.

 <p>DEPARTMENT OF THE INTERIOR U.S. FISH AND WILDLIFE SERVICE FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION</p>		<p>1. APPLICATION FOR (Indicate only one)</p> <p><input checked="" type="checkbox"/> IMPORT OR EXPORT LICENSE <input type="checkbox"/> PERMIT</p>	
<p>2. APPLICANT (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)</p> <p>Robert E. Baudy P.O. Box 132 Center Hill, Florida 33514 904-793-2109</p>		<p>3. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED</p> <p>Captive propagation of endangered species, Felidae. This new center for reproduction of exotic animals is at the present time under construction in Spain. Mr. Baudy, the exporter, considered by many as an expert in the field, has been the main consultant in charge of designing the large animal facilities being built there.</p>	
<p>4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:</p> <p>SEX <input checked="" type="checkbox"/> MR. <input type="checkbox"/> MRS. <input type="checkbox"/> MISS <input type="checkbox"/> MS. HEIGHT 5'8" WEIGHT 180 DATE OF BIRTH 9/20/23 COLOR HAIR Brown COLOR EYES Brown PHONE NUMBER WHERE EMPLOYED 904-793-2109 SOCIAL SECURITY NUMBER 354-24-1195 OCCUPATION Exotic animal breeder</p>		<p>5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:</p> <p>NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. Robert E. Baudy, Owner 904-793-2109 IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED</p>	
<p>6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED</p> <p>Zoo Safari Costa Brava Centro Para Cria Y Reproduccion De Animales Salvajes (Center of Reproduction for Exotic Animals) Barcelona-11, Spain</p>		<p>7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO (If yes, list license or permit number)</p>	
<p>8. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF</p> <p>Fifty Dollars</p>		<p>9. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO (If yes, list jurisdiction and type of document)</p> <p>State of Florida Exhibitor Permit Permit # 92</p>	
<p>10. DESIRED EFFECTIVE DATE</p> <p>Immediately following completion of procedures.</p>		<p>11. DURATION NEEDED</p> <p>3 months</p>	
<p>12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.23) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.</p>			
<p>CERTIFICATION</p> <p>I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER 1 OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.</p>			
<p>SIGNATURE (In ink)</p>		<p>DATE</p> <p>November 20, 1974</p>	

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post

Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before June 30, 1975 will be considered.

Dated: May 23, 1975.

C. R. BAVIN,  
Chief, Division of Law Enforcement,  
U.S. Fish and Wildlife Service.

[FR Doc.75-14090 Filed 5-29-75; 8:45 am]




## NOTICES

ENDANGERED SPECIES PERMIT  
Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10

of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Denver Wildlife Research Center, U.S. Fish and Wildlife Service, Federal Center, Building 16, Denver, Colorado 80225. Dr. Thomas G. Scott, Director.

 <b>DEPARTMENT OF THE INTERIOR U.S. FISH AND WILDLIFE SERVICE FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION</b>		1. APPLICATION FOR (Indicate only one) <input type="checkbox"/> IMPORT OR EXPORT LICENSE <input checked="" type="checkbox"/> PERMIT
3. APPLICANT (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested) Denver Wildlife Research Center U.S. Fish and Wildlife Service Bldg. 16, Federal Center Denver, Colorado 80225 Phone: (303) 234-2283		2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED. See Attachment A
4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING: <input type="checkbox"/> MR. <input type="checkbox"/> MRS. <input type="checkbox"/> MISS <input type="checkbox"/> MS. HEIGHT: 5'10" WEIGHT: 165 lbs DATE OF BIRTH: Oct. 5, 1947 COLOR HAIR: brown COLOR EYES: blue PHONE NUMBER WHERE EMPLOYED: 493-4992 SOCIAL SECURITY NUMBER: 522-66-6571 OCCUPATION: Manager-Western Peregrine Falcon Breeding Program for Cornell University ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: NONE		5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING: EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION: The Denver Wildlife Research Center is a major research center of the U.S. Fish and Wildlife Service. From Denver, biologists conduct wildlife investigations throughout the nation. NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.: Dr. T. G. Scott, Director 234-2283 IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED:
6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED: Gulf Coasts of Texas and Louisiana, and the Pacific Coasts of California, Oregon, and Washington		7. DO YOU HAVE ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? (If yes, list license or permit number): See Attachment B
8. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF \$		9. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? (If yes, list jurisdiction and type of document): Endangered Species Permits issued by the states of California and Texas, copies attached (Attachment C).
10. DESIRED EFFECTIVE DATE: May 1, 1975		11. DURATION NEEDED: Calendar years 1975 and 1976
12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (SEE 50 CFR 17.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED: See Attachment D		
CERTIFICATION I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 17, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001. SIGNATURE (in ink): <i>Thomas G. Scott</i> DATE: 3-3-75		

This is an application for a permit to continue research on an endangered species, the brown pelican (*Pelecanus occidentalis*).

Relevant sections include:  
 Part 13 13.12  
 Part 14 Interstate transportation of wildlife.  
 Part 17 Endangered Wildlife.  
 Part 21 21.22, 21.23, 21.27.

## ATTACHMENT A

The Denver Wildlife Research Center wishes to engage in the following activities:

1. Visit breeding colonies and assess productivity of brown pelicans on Anacapa and Santa Cruz Islands, California; Carroll and Pelican Islands, Texas; and other colonies that may be occupied between February and August each year.

2. Collect inviable eggs and dead young in numbers as present at colonies for pesticide residue analysis.

3. Band young birds produced in colonies with U.S. Fish and Wildlife Service bands and mark young with plastic streamers attached to their legs.

4. Retrieve carcasses of brown pelicans in numbers as found dead on the Pacific and Gulf Coasts in order to analyze them from pesticide residues.

5. Transport or ship eggs and body tissues from their point of collection to offices in Victoria, Texas (Federal Bldg.), and David, California (Pedrick and Tremont Roads), and to the Denver Wildlife Research Center.

6. Hold eggshells, skins, skulls and body parts at those locations.

7. Hold up to ten live pelicans in captivity in order to rehabilitate sick and wounded birds and to study growth rates and plumage and molt sequences.

## ATTACHMENT B

The Denver Wildlife Research Center holds the following federal wildlife permits: PRT 6-8-I, PRT 6-26-C, PRT 2-11-I-75Z, 6-SP-117, 8565, 6568, 8567.

## ATTACHMENT C

AMENDMENT NUMBER ONE, SCIENTIFIC PERMIT  
 NUMBER 12, KIRKE A. KING

FEBRUARY 14, 1975.

Scientific Permit Number 12 issued to KIRKE A. KING, Wildlife Biologist, U.S. Fish and Wildlife Service, P.O. Box 2506, Victoria, Texas 77901, is hereby amended to permit Mr. King to salvage brown pelicans found dead and to salvage their nests and eggs where the nests have been abandoned or destroyed.

All other provisions of this permit shall remain the same.

TED L. CLARK,  
 Director of Wildlife.

KIRKE A. KING,  
 Signature of Permittee.

MEMORANDUM OF UNDERSTANDING BY AND BETWEEN U.S. FISH AND WILDLIFE SERVICE AND DEPARTMENT OF FISH AND GAME RELATING TO THE STUDY OF ENDANGERED AND RARE SPECIES

This Memorandum of Understanding is made and entered into this 24th day of October, 1974, by and between the U.S. Fish and Wildlife Service, hereinafter called the Service, and the Department of Fish and Game, Sacramento, California, hereinafter called Department.

## WITNESSETH:

Whereas, the Secretary of the Interior has declared 23 animals occurring in California endangered and the California Fish and Game Commission has designated 40 animals native to California endangered or rare, and

Whereas, the Service and the Department has expressed interest in conducting studies of these animals, and

Whereas, the Department is highly desirous that continuing research be done to better understand the nature and habitat needs of endangered and rare species and measures necessary to ensure their survival, and

Whereas, the parties hereto desire to coordinate studies by means of this written Memorandum of Understanding,

Now, therefore, it is mutually agreed and understood as follows:

1. The Service and Department may use the services of employees, universities and colleges, students, or graduate students to perform field and laboratory studies on endangered and rare species, including but not limited to observing, feeding, trapping, marking, banding, and releasing of live specimens.

2. It is further mutually agreed and understood that the employees, universities and colleges, students or graduate students working on endangered or rare animals shall be only authorized to do so by the Regional Director of the Service or by the Director of the Department.

3. It is mutually agreed that the Service and the Department are the only parties that can dispose of any captive endangered or rare species or parts thereof.

4. It is further mutually agreed and understood that names, of all persons authorized by the Service or Department to conduct studies on endangered or rare species, shall be provided the parties to this Memorandum of Understanding and that those persons will be provided written statements indicating that they are granted such authorization.

5. During the term hereof the Service and the Department shall confer semiannually or

more frequently, when necessary, to develop and revise coordinated programs for study of endangered or rare species. The Service and Department shall review all study proposals and shall require those authorized to conduct studies to submit written progress reports every six months. Upon termination of any major phase of study or the study itself, a progress or completion report shall be prepared and submitted to the Service and Department. It is also mutually understood that there will be a free exchange of data and information during the period covered by this agreement.

6. Unless terminated sooner by either party of this understanding, giving thirty days prior written notice of earlier termination, this agreement shall commence on the date hereof.

This Memorandum of Understanding has been executed by and on behalf of the parties hereto as of the day and year first above written.

R. KAHLER MARTINSON,  
 Regional Director,  
 U.S. Fish and Wildlife Service.

G. RAY ARNETT,  
 Director, Department of Fish and  
 Game, State of California.

## ATTACHMENT D

This permit is necessary to continue certain activities in our investigations of the relationships between pesticides and the population status of the brown pelican on the Pacific and Gulf Coasts of North America. These studies have been underway since 1969. There has been some improvement in reproductive success in California in recent years, but overall productivity there, as in Texas, remains too low to maintain the population of the species. The evaluations must be continued, at least through 1976. Our biologists are highly qualified to conduct research on pesticide-wildlife relations and are experienced in studying brown pelicans. Laboratories at the Center are well equipped with facilities and staff to perform residue analyses. Tissues and egg contents of brown pelicans will be destroyed after laboratory work is completed. Skins, skulls, and eggshells will be maintained in our museum collections.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before June 30, 1975 will be considered.

Dated: May 23, 1975.

C. R. BAVIN,  
 Chief, Division of Law Enforcement,  
 U.S. Fish and Wildlife  
 Service.

[FR Doc. 75-14091 Filed 5-29-75; 8:45 am]

## ENDANGERED SPECIES PERMIT

## Receipt of Application


Notice is hereby given that the following application for a permit is deemed to

## NOTICES

23487

have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: William Albert Burnham, Peregrine Fund, Cornell University, 1424 Northeast Frontage Road, Fort Collins, Colorado 80521.

 <b>DEPARTMENT OF THE INTERIOR U.S. FISH AND WILDLIFE SERVICE FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION</b>		1. APPLICATION FOR (Indicate only one) <input type="checkbox"/> IMPORT OR EXPORT LICENSE <input checked="" type="checkbox"/> PERMIT
3. APPLICANT (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested) William Albert Burnham Peregrine Fund Cornell University 1424 Northeast Frontage Road Fort Collins, Colorado 80521 303-493-4992		2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED. to band captive bred as well as wild Peregrine Falcons both in nests and during migration--for scientific purposes
4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING: <input type="checkbox"/> MR. <input type="checkbox"/> MRS. <input type="checkbox"/> MISS <input type="checkbox"/> MS. HEIGHT: 5'10" WEIGHT: 165 lbs DATE OF BIRTH: Oct. 5, 1947 COLOR HAIR: brown COLOR EYES: blue PHONE NUMBER WHERE EMPLOYED: 493-4992 SOCIAL SECURITY NUMBER: 522-66-6571 Manager-Western Peregrine Falcon Breeding Program for Cornell University ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: NONE		5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING: EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION: NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.: IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED:
6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED: Colorado Idaho Utah Montana Texas Nevada Wyoming New Mexico Arizona		7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? (If yes, list license or permit number): Banding Master-personal 20499
8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? (If yes, list jurisdiction and type of document): I will and have acquired the states permission as needed.		9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF \$
10. DESIRED EFFECTIVE DATE: immediately		11. DURATION NEEDED: until conclusion of my work at least 3 years
12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (SEE 50 CFR 17.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED: refer to additional pages		
CERTIFICATION I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 17, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001. SIGNATURE (in ink): <i>William A. Burnham</i> DATE: 4/17/75		

1424 NORTHEAST FRONTAGE ROAD  
 FORT COLLINS, COLORADO 80521  
 April 18, 1975.

Director, FWS-LE, U.S. Fish and Wildlife Service, Washington, D.C.

DEAR SIR: The information within is that requested in section 22.22 of the Federal Register, Vol. 39, No. 3—January 4, 1974.

21.11(a) (1) The banding permit I presently possess allows for the banding of Peregrine Falcons and other raptors except eagles or other endangered species.

(2) The purpose of the banding would be to mark all captive raised Peregrine Falcons being placed in the wild and to also band all nestlings located while selecting sites for or during the reintroducing of captive produced falcons. I also trap and band migrating falcons for John Smith and the Texas Game and Fish Department. Obviously the reason for all the above activity is to gain information relating to the Peregrine Falcon's movement and survival.

(3) My present permit authorizes me to band in Utah, Texas, Wyoming, Idaho, Montana, Nevada, Colorado, New Mexico and Arizona. These are states which peregrines may be reintroduced and studied in.

(4) No salvage specimens are anticipated but Cornell University in Ithaca, New York, would be the recipient of such specimens.

Comment: Presently I am authorized to use plastic leg bands on Peregrine Falcons in coordination with F. Prescott Ward, #9448, Edgewood Arsenal, Maryland. The authorization allows for orange leg bands w/bk numerals in Texas; light blue leg bands w/bk numerals in Utah, Wyoming, Idaho, Montana, Nevada, Colorado, New Mexico and Arizona. I would very much like to maintain this authorization as it is extremely valuable for identifying the falcons at a distance.

Thank you for your consideration.

Sincerely yours,  
 WILLIAM BURNHAM.



## NOTICES

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before June 30, 1975 will be considered.

Dated: May 23, 1975.

C. R. BAYIN,  
Chief, Division of Law Enforcement,  
U.S. Fish and Wildlife Service.

[FR Doc.75-14092 Filed 5-29-75; 8:45 am]

## National Park Service

CAPE HATTERAS NATIONAL SEASHORE  
Intention To Issue a Concession Permit

Pursuant to the provisions of section 5, of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20) public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Superintendent, Cape Hatteras National Seashore, proposes to issue a concession permit to W. Brantley Twiford (dba) Manteo Flying Service authorizing him to continue to provide concession facilities and services for the public at Wright Brothers National Memorial for a period of five years from January 1, 1975, through December 31, 1979.

An analysis of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the human environment, and that it is not a major Federal action under the National Environmental Policy Act and the guidelines of the Council on Environmental Quality. The environmental analysis may be reviewed in the Office of the Superintendent, Cape Hatteras National Seashore.

The foregoing concessioner has performed his obligations under a prior permit to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. However, under the Act cited above, the National Park Service is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before June 30, 1975.

Interested parties should contact the Superintendent, Cape Hatteras National Seashore, Post Office Box 457, Manteo, North Carolina 27954, for information as to the requirements of the proposed permit.

DAVID D. THOMPSON, Jr.,  
Regional Director,  
Southeast Region.

APRIL 9, 1975.

[FR Doc.75-14190 Filed 5-29-75; 8:45 am]

## LYNDON B. JOHNSON NATIONAL HISTORIC SITE; ADMINISTRATIVE OFFICER AND PROCUREMENT AGENT

## Delegation of Authority

SECTION 1. *Administrative Officer.* The Administrative Officer is authorized to execute, approve and administer contracts not in excess of \$25,000 for supplies, equipment or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 2. *Procurement Agent.* The Procurement Agent is authorized to execute, approve and administer contracts not in excess of \$10,000 for supplies, equipment and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 3. *Revocation.* This order supercedes Order No. 1 dated February 6, 1973, and published in 38 FR 7405 and 7406 on March 21, 1973.

(National Park Service Order No. 77, 38 FR 7478, as amended, Southwest Region Order No. 5, 37 FR 7722 as amended)

Dated: February 7, 1975.

ALEC GOULD,  
Superintendent.

[FR Doc.75-14055 Filed 5-29-75; 8:45 am]

## PROPOSED FOLK ART CENTER, BLUE RIDGE PARKWAY, NORTH CAROLINA

## Negative Declaration

After making an environmental review of the proposal of a private concessioner to develop a Folk Art Center on Blue Ridge Parkway land near Asheville, North Carolina, the National Park Service has decided not to prepare an environmental impact statement. When completed, the center would serve parkway travelers from all parts of the United States as well as the metropolitan population of Asheville. A visitor center would be included in the Folk Art Center and would be staffed on a year-round basis by National Park Service personnel.

An environmental assessment and review are on file and available for inspection at the Southeast Regional Office of the National Park Service, 3401 Whipple Avenue, Atlanta, Georgia 30344 or the Office of the Superintendent, Blue Ridge Parkway, P.O. Box 7606, Asheville, North Carolina 28807, upon request. The assessment considers the nature of the resource, available alternatives, their impacts, mitigating measures, adverse effects and additional considerations providing a basis for the conclusion that the project is not a major Federal action having a significant effect on the human environment, and that an environmental impact statement is not required.

The National Park Service intends to proceed with the project in 30 days.

DAVID D. THOMPSON, Jr.,  
Regional Director,  
Southeast Region.

[FR Doc.75-14053 Filed 5-29-75; 8:45 am]

## SOUTHEAST REGIONAL ADVISORY COMMITTEE

## Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Southeast Regional Advisory Committee will be held at 9 a.m., e.d.t., on June 17 and 18, 1975, at the Pisgah Inn, Mile Post 408, Blue Ridge Parkway, North Carolina.

The purpose of the Southeast Regional Advisory Committee is to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems and programs pertinent to the Southeast Region of the National Park Service.

The members of the Advisory Committee are as follows:

Mrs. Ann Smith Bedsole (Chairman), Mobile, Alabama  
Mr. T. S. Bradford, Maryville, Tennessee  
Mr. Robert Gable, Frankfort, Kentucky  
The Very Reverend Monsignor Michael V. Gannon, Gainesville, Florida  
Mr. Alfredo Heres Gonzalez, Santurce, Puerto Rico  
Honorable Donald Kincaid, Lenoir, North Carolina  
Dr. John King, Jackson, Mississippi  
Mr. Charles Edward Lee, Columbia, South Carolina  
Mrs. Jane Hurt Yarn, Atlanta, Georgia

The matters to be discussed at this meeting include: (1) Status of Blue Ridge Parkway planning, (2) Cumberland Island National Seashore planning and operations, (3) Wilderness Program status and, (4) Establishment of Canaveral National Seashore and Tuskegee Institute National Historic Site.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited and it is expected that not more than 25 persons will be able to attend. Any member of the public may file with the committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who wish to submit written statements, may contact Paul C. Swartz, Chief, Cooperative Activities Division, Southeast Regional Office, at 404/526-7560. Minutes of the meeting will be available for public inspection approximately 4 weeks after the meeting at the office of the Southeast Region, 3401 Whipple Avenue, Atlanta, Georgia.

Dated: May 15, 1975.

PAUL C. SWARTZ,  
Chief, Cooperative Activities  
Division, Southeast Region,  
National Park Service.

[FR Doc.75-14064 Filed 5-29-75; 8:45 am]

## Bureau of Reclamation

[INT FES 75-60]

## KLAMATH STRAITS DRAIN ENLARGEMENT; KLAMATH PROJECT, OREGON-CALIFORNIA

## Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Reclamation, Department of the Interior, has prepared a final environmental statement for the Klamath Straits Drain Enlargement, Oregon-California.

The environmental statement concerns a proposed enlargement of the existing drain for the purpose of improved operations of local irrigation districts and the Lower Klamath National Wildlife Refuge.

Copies are available for inspection at the following locations:

Office of Assistant to the Commissioner—Ecology, Room 7620  
Bureau of Reclamation, Department of the Interior  
Washington, D.C. 20240  
Telephone (202) 343-4991  
Division of Engineering Support, Technical Services and Publications Branch  
E&R Center, Denver Federal Center  
Denver, Colorado 80225  
Telephone (303) 234-3006  
Office of the Regional Director, Bureau of Reclamation  
2800 Cottage Way  
Sacramento, California 95825  
Telephone (916) 484-4792  
Klamath Project Office, Bureau of Reclamation  
P.O. Box R  
Klamath Falls, Oregon 97601  
Telephone (503) 882-7361

Single copies of the final environmental statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. Please refer to the statement number above.

Dated: May 23, 1975.

JAMES J. O'BRIEN,  
Acting Commissioner of Reclamation.  
[FR Doc.75-14208 Filed 5-29-75; 8:45 am]

## DEPARTMENT OF AGRICULTURE

## Forest Service

## DESCHUTES NATIONAL FOREST ADVISORY COMMITTEE

## Meeting

The Deschutes National Forest Advisory Committee will meet at 6:30 p.m., June 12, 1975, for a no host dinner at Tony's Poco Toro Restaurant, Bend, Oregon. The program will follow at 8 p.m.

The subject to be discussed at this meeting will be "Geothermal Energy and and Central Oregon." A slide-talk will be presented by Larry Chitwood, Forest Geologist.

The meeting will be open to the public.

Dated: May 21, 1975.

EARL E. NICHOLS,  
Forest Supervisor.  
[FR Doc.75-14069 Filed 5-29-75; 8:45 am]

## NOTICES

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HONKER DIVIDE MANAGEMENT UNIT  
Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Honker Divide Management Unit, USDA-FS-DES(Adm) (R-10-75-08).

This environmental statement is for the land use plan for the Honker Divide Management Unit, Prince of Wales Island, on the Tongass National Forest. Recreation, fish, wildlife, and timber are all key resources in the Unit. This plan proposes managing the Snakey Lakes and Thorne River-Hatchery Creek water travel route in a natural-appearing environment. The remainder of this management unit would be managed to optimize the fish, wildlife, timber, water, and recreation resources. The primary action having impact on the land is timber harvest, although increased recreation use and harvest of fish and game will also affect the ecosystem.

This draft environmental statement was transmitted to CEQ on May 22, 1975.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service  
South Agriculture Bldg., Room 3231  
12th St. & Independence Avenue, SW  
Washington, D.C. 20250  
USDA, Forest Service  
Alaska Region  
Federal Office Building  
Juneau, Alaska 99802  
Forest Supervisor, Chatham Area  
Tongass National Forest  
329 Harbor Drive  
Sitka, Alaska 99835  
Forest Supervisor, Stikine Area  
Tongass National Forest  
Federal Building  
Petersburg, Alaska 99833  
Forest Supervisor, Ketchikan Area  
Tongass National Forest  
Federal Building, Room 313  
Ketchikan, Alaska 99901  
Forest Supervisor  
Chugach National Forest  
121 W. Fireweed Lane, Suite 205  
Anchorage, Alaska 99503

A limited number of single copies are available upon request to James S. Watson, Forest Supervisor, Ketchikan Area, Tongass National Forest, Box 2278, Ketchikan, Alaska 99901.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to James S. Watson, Forest Supervisor, Ketchikan Area, Tongass National Forest, Box 2278, Ketchikan, Alaska 99901. Comments

must be received by August 5, 1975 in order to be considered in the preparation of the final environmental statement.

C. A. YATES,  
Regional Forester,  
Alaska Region.

MAY 22, 1975.

[FR Doc.75-14142 Filed 5-29-75; 8:45 am]

## UMATILLA NATIONAL FOREST GRAZING ADVISORY BOARD

## Meeting

The Umatilla National Forest Grazing Advisory Board will meet at 1 p.m., June 16, 1975, in the Umatilla National Forest Conference Room, 2517 S.W. Halley Avenue, Pendleton, Oregon 97801.

The purpose of the meeting is as follows: Report on Board's status and previous Board minutes; election of new officers; Forest Service Report, i.e., present status of allotments, appeal procedures, items of current interest (commensurability, Red Meat Policy, range improvements, grazing fees, land use planning, coordinated ranch planning, administrative direction), unauthorized grazing problems; new business; public participation; Board discussion and recommendations; adjournment.

The meeting will be open to the public. Persons who wish to attend should notify Walter V. Johnson, 2517 S.W. Halley Avenue, Pendleton, Oregon 97801, or call 1-503-276-3811, extension 419. Written statements may be filed with the committee before or after the meeting.

Dated: May 21, 1975.

J. S. TIXIER,  
Assistant Director of Range  
Management Forest Service,  
Department of Agriculture.

[FR Doc.75-14059 Filed 5-29-75; 8:45 am]

## Office of the Secretary

[Amdt. 9]

## FEDERAL CROP INSURANCE CORPORATION

## Organization, Functions, and Procedures

Subpart A of the Statement of Organization, Functions, and Procedures of the Federal Crop Insurance Corporation, as amended (36 FR 23325), is amended in the following respects:

1. Items 1, 2, 3 and 4 of section 5(2) (1) are amended to read as follows:

1. North Central Regional Underwriting Office, Room 106, U.S. Post Office and Courthouse, Springfield, Illinois 62701—serving Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, Pennsylvania, Wisconsin, and New York.

2. Southeast Regional Underwriting Office, Room M-116, U.S. Post Office and Federal Building, 401 North Patterson Street, Valdosta, Georgia 31601—serving Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

3. Southwest Regional Underwriting Office, 50th & N Pennsylvania, Suite 1210, 50 Penn Place, Oklahoma City, Oklahoma



73118—serving Arizona, California, Colorado, Kansas, Missouri, New Mexico, Oklahoma, and Texas.

4. Northwest Regional Underwriting Office, Plaza West Building, 1537 Avenue D, Billings, Montana 59102—serving Idaho, Montana, Nebraska, North Dakota, Oregon, South Dakota, Washington, Wyoming, and Utah.

2. The list of Contract Service Centers with the territories which they serve appearing at the end of section 5(3)(1)(a) is amended to read as follows:

North Dakota. Room 234, Federal Building, 220 East Rosser Avenue, Bismarck, North Dakota 58501.

Texas, Oklahoma, New Mexico. USDA Building, College Station, Texas 77840.

Georgia, Florida, South Carolina and the following Alabama counties: Baldwin, Barbour, Coffee, Conecuh, Covington, Crenshaw, Dale, Escambia, Geneva, Henry, Houston, Pike, Room 303, 240 Stoneridge Drive, One Greystone West Building, Columbia, South Carolina 29210.

Iowa and the following Missouri counties: Adair, Andrew, Atchison, Audrain, Boone, Buchanan, Caldwell, Callaway, Carroll, Cass, Chariton, Clark, Clinton, Cooper, Daviess, De Kalb, Franklin, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Knox, Lafayette, Lewis, Lincoln, Linn, Livingston, Macon, Marion, Mercer, Monroe, Montgomery, Nodaway, Pettis, Pike, Platte, Ralls, Randolph, Ray, St. Charles, Saline, Scotland, Shelby, Sullivan, Worth. Federal Building, 210 Walnut Street, Des Moines, Iowa 50309.

Arizona and the following California counties: Fresno, Imperial, Kern, Kings, Madera, Merced, Riverside, San Joaquin, Stanislaus, Tulare. Room 4110, Federal Building, U.S. Courthouse, 1130 O Street, Fresno, California 93721.

Mississippi, Arkansas, Louisiana and the following Alabama counties: Blount, Cherokee, Chilton, Colbert, Cullman, Dallas, DeKalb, Etowah, Hale, Jackson, Lauderdale, Lawrence, Limestone, Madison, Marshall, Morgan, Pickens, Shelby, Talladega, Tuscaloosa. Room 610 Milner Building, 200 South Lamar Street, Jackson, Mississippi 39201.

Montana and the following Wyoming counties: Big Horn, Park, Washakie. 613 Northeast Main Street, Lewistown, Montana 59457.

Nebraska, South Dakota and the following Wyoming counties: Goshen, Laramie, Platte. Room 303, Federal Building, Lincoln, Nebraska 68508.

Kansas, Colorado and the following Missouri counties: Barton, Bates, Dade, Jasper, Lawrence, Vernon. 2601 Anderson Avenue, Manhattan, Kansas 66502.

Tennessee, Kentucky, the following Missouri counties: Butler, Cape Girardeau, Dunklin, Mississippi, New Madrid, Pemiscot, Scott, Stoddard; and the following Virginia counties: Lee, Russell, Scott, Smyth, Washington. U.S. Courthouse, Room 508, Nashville, Tennessee 37203.

North Carolina, Delaware, Maryland, the following Pennsylvania counties: Adams, Chester, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Perry, York; and the following Virginia counties: Amelia, Appomattox, Brunswick, Campbell, Charlotte, Cumberland, Dinwiddie, Franklin, Greensville, Halifax, Isle of Wight, Lunenburg, Mecklenburg, Nansemond, Nottingham, Pittsylvania, Prince Edward, Prince George, Southampton, Surry, Sussex. Room 612

Federal Office Building, 310 New Bern Avenue, Raleigh, North Carolina 27601.

Illinois, Michigan, Ohio, Indiana, New York and Erie County in Pennsylvania. Atkinson Square West, Suite 1501, 5610 Crawfordville Road, Indianapolis, Indiana 46224.

Washington, Oregon, Idaho, Utah and Modoc County in California. Room 369, U.S. Courthouse, West 920 Riverside Avenue, Spokane, Washington 99201.

Minnesota and Wisconsin. Room 222, Federal Building and U.S. Courthouse, 316 Robert Street, St. Paul, Minnesota 55101.

Approved by the Board of Directors on May 15, 1975.

[SEAL] PETER F. COLE,  
Secretary, Federal Crop  
Insurance Corporation.

Issued this 27th day of May 1975.

EARL L. BUTZ,  
Secretary.

[FR Doc 75-14075 Filed 5-29-75; 8:45 am]

#### WHEAT, FEED GRAINS AND SOYBEANS Renewal of Advisory Committee on Grains

Notice is hereby given that the Secretary of Agriculture has renewed the Advisory Committee on Grains—Wheat, Feed Grains and Soybeans, for the purpose of advising the Secretary and other officials on domestic and export requirements for grains and soybeans, production adjustment and stabilization programs, and other matters relating to these commodities. The Secretary has determined that renewal of this Committee is in the public interest in connection with the duties imposed on the Department by law.

The chairman of this committee is the Assistant Secretary for International Affairs and Commodity Programs, U.S. Department of Agriculture, Washington, D.C. 20250.

This notice is given in compliance with Pub. L. 92-463.

Signed at Washington, D.C. on May 27, 1975.

JOSEPH R. WRIGHT, Jr.,  
Assistant Secretary for  
Administration.

[FR Doc 75-14209 Filed 5-29-75; 8:45 am]

#### Soil Conservation Service AQUILLA-HACKBERRY CREEK WATERSHED PROJECT, TEX.

##### Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Aquilla-Hackberry Creek Watershed Project, Hill and Johnson Counties, Texas.

The environmental assessment of this federal action indicates that the project

will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Edward E. Thomas, State Conservationist, Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76501, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. The remaining planned works of improvement as described in the negative declaration include conservation land treatment supplemented by 10 single purpose floodwater retarding structures and 18 grade stabilization structures.

The environmental assessment file is available for inspection during regular working hours at the following location: Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76501.

Requests for the negative declaration should be sent to the above address.

No administrative action on implementation of the proposal will be taken until June 16, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WM. B. DAVEY,  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

MAY 22, 1975.

[FR Doc 75-14147 Filed 5-29-75; 8:45 am]

#### BROWNWOOD LATERALS WATERSHED PROJECT, TEX.

##### Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Brownwood Laterals Watershed Project, Brown and Mills Counties, Texas.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Edward E. Thomas, State Conservationist, Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76501, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. The remaining planned works of improvement as described in the negative

declaration include conservation land treatment supplemented by four single purpose floodwater retarding structures.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76501.

Requests for the negative declaration should be sent to the above address.

No administrative action on implementation of the proposal will be taken until June 16, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WM. B. DAVEY,  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

MAY 22, 1975.

[FR Doc 75-14152 Filed 5-29-75; 8:45 am]

#### BUTTONWILLOW WATER MANAGEMENT PROJECT, CALIF.

##### Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Buttonwillow Water Management Project, Kern County, California.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. George H. Stone, State Conservationist, Soil Conservation Service, USDA, P.O. Box 1019, Davis, California 95616, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection and agricultural water management. The remaining planned works of improvement as described in the negative declaration include conservation land treatment supplemented by two water control structures, concrete pipeline and lined and unlined irrigation ditches.

The environmental assessment file is available for inspection during the regular working hours at the following locations:

Soil Conservation Service, USDA, 800 Truxtun Avenue, Room 231, Bakersfield, California 93301.

Soil Conservation Service, USDA, 2828 Chiles Road, Davis, California 95616.

Single copy requests for the negative declaration should be sent to one of the above addresses.

#### CYPRESS-BLACK BAYOU WATERSHED PROJECT, LA.

##### Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Cypress-Black Bayou Watershed Project, Bossier Parish, Louisiana.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Alton Mangum, State Conservationist, Soil Conservation Service, USDA, 3737 Government Street, Alexandria, Louisiana 71301, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. The remaining planned works of improvement as described in the negative declaration include conservation land treatment supplemented by two multiple-purpose structures and four structures for water control and 55 miles of flood prevention, drainage, and irrigation water distribution channel rehabilitation. There are 48 miles of man-made or previously modified channel and 7 miles of newly constructed channel. Intermittent flow occurs in 32 miles and ephemeral flow occurs in 33 miles of the channel under consideration.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA, 3737 Government Street, Alexandria, Louisiana 71301.

Requests for the negative declaration should be sent to the above address.

No administrative action on implementation of the proposal will be taken until June 16, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

MAY 22, 1975.

[FR Doc 75-14145 Filed 5-29-75; 8:45 am]

#### INDIAN CREEK-BOBO BAYOU WATERSHED, MISS.

##### Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, and part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part

No administrative action on implementation of the proposal will be taken until June 16, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WM. B. DAVEY,  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

MAY 22, 1975.

[FR Doc 75-14148 Filed 5-29-75; 8:45 am]

#### CHUNKY RIVER WATERSHED, MISS. Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, and part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Chunky River Watershed, Newton and Neshoba Counties, Mississippi.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. W. L. Heard, State Conservationist, Soil Conservation Service, Room 590, Milner Building, P.O. Box 610, Jackson, Mississippi 39205, has determined that the preparation and review of an environmental impact statement is not needed at this time for this project.

The project concerns a plan for watershed protection, flood prevention, and recreation. The remaining planned works of improvement as described in the negative declaration include conservation land treatment supplemented by three floodwater retarding structures and one multiple purpose structure with basic recreation facilities.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA, Room 590, Milner Building, P.O. Box 610, Jackson, Mississippi 39205.

The negative declaration is available for single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until June 16, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

MAY 22, 1975.

[FR Doc 75-14151 Filed 5-29-75; 8:45 am]



## NOTICES

650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Indian Creek-Bobo Bayou Watershed, Panola, Tunica, and Quitman Counties, Mississippi.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. W. L. Heard, State Conservationist, Soil Conservation Service, Room 590, Milner Building, P.O. Box 610, Jackson, Mississippi 39205, has determined that the preparation and review of an environmental impact statement is not needed at this time for this project.

The project concerns a plan for watershed protection and flood prevention. The remaining planned works of improvement as described in the Negative Declaration include conservation land treatment supplemented by one floodwater retarding structure, one sediment and grade control structure, and approximately 21 miles of channel work. About three miles of this channel work is on intermittent altered streams with the remaining 18 miles on ephemeral altered streams.

The environmental assessment file is available for inspection during regular working hours at the following location: Soil Conservation Service, USDA, Room 590, Milner Building, P.O. Box 610, Jackson, Mississippi 39205.

The Negative Declaration is available for single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until June 16, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

MAY 16, 1975.

[FR Doc.75-14155 Filed 5-29-75; 8:45 am]

#### HARMON CREEK WATERSHED, PENN.

##### Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Harmon Creek Watershed, Washington County, Pennsylvania.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Benny Martin, State Conservationist, Soil Conservation Service, USDA, Box 985, Federal Square Station, Harrisburg, Pennsylvania 17108, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection, flood prevention, fish and wildlife development and water supply. The remaining planned works of improvement as described in the negative declaration include conservation land treatment supplemented by three floodwater retarding structures and one multiple purpose reservoir.

The environmental assessment file is available for inspection during regular working hours at the following location: Soil Conservation Service, USDA, Box 985, Federal Square Station, Federal Building, Harrisburg, Pennsylvania 17108.

Requests for the negative declaration should be sent to the above address.

No administrative action on implementation of the proposal will be taken until June 16, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

MAY 15, 1975.

[FR Doc.75-14153 Filed 5-29-75; 8:45 am]

#### LOWER TALLAHATCHIE RIVER WATERSHED, MISS.

##### Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, and part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973, and Part 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lower Tallahatchie River Watershed, Panola County, Mississippi.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. W. L. Heard, State Conservationist, Soil Conservation Service, Room 590, Milner Building, P.O. Box 610, Jackson, Mississippi 39205, has determined that the preparation and review of an environ-

mental impact statement is not needed at this time for this project.

The project concerns a plan for watershed protection and flood prevention. The remaining planned works of improvement as described in the Negative Declaration include conservation land treatment supplemented by five floodwater retarding structures, five sediment and grade control structures, and 11.7 miles of channel work. All of this channel work is on intermittent altered streams.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA, Room 590, Milner Building, P.O. Box 610, Jackson, Mississippi 39205.

The Negative Declaration is available for single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until June 16, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

MAY 16, 1975.

[FR Doc.75-14151 Filed 5-29-75; 8:45 am]

#### MUSTANG CREEK, CALIF.

##### Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, and part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for Mustang Creek Watershed Project, Stanislaus and Merced Counties, California.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. G. H. Stone, State Conservationist, Soil Conservation Service, USDA, P.O. Box 1019, Davis, California 95616, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for flood prevention. The remaining planned works of improvement as described in the negative declaration include 4.9 miles of channel modification. There are 1.8 miles of natural, 2.8 miles of man-made and 0.3 of no-defined channel; all have ephemeral flow.

## NOTICES

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The environmental assessment file is available for inspection during regular working hours at the following locations:

Soil Conservation Service  
Federal Building, Room 129  
18th and K Streets  
Merced, California 95340

Soil Conservation Service, USDA  
2828 Chiles Road  
Davis, California 95616

Requests for the negative declaration should be sent to one of the above addresses.

No administrative action on implementation of the proposal will be taken until June 16, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

[FR Doc.75-14150 Filed 5-29-75; 8:45 am]

#### NEWMAN WATERSHED PROJECT, CALIF.

##### Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental impact statement for the Newman Watershed Project, Stanislaus County, California, USDA-SCS-EIS-WS-(ADM)-75-2-(D)-CA.

The environmental impact statement concerns a plan for watershed protection and drainage. The planned works of improvement include conservation land treatment, supplemented by about 10.5 miles of subsurface drains and about 0.9 mile of channel work. The channel work will involve excavation of a new channel to carry outflow from the subsurface drains to the San Joaquin River. The project will lower a high groundwater table affecting an area of about 3,000 acres, including about 2,930 acres of cropland and pasture.

A limited supply of copies is available at the following location to fill single copy requests:

Soil Conservation Service, USDA, P.O. Box 1019, Davis, California 95616.

Copies of the draft environmental impact statement have been sent for comment to various federal, state, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action or requests for additional information should be addressed to G. H. Stone, State Conservationist, Soil Conservation Service, P.O. Box 1019, Davis, California 95616.

Comments must be received on or before July 21, 1975, in order to be considered in the preparation of the final environmental impact statement.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

MAY 22, 1975.

[FR Doc.75-14143 Filed 5-29-75; 8:45 am]

#### RICHLAND CREEK WATERSHED, MISS.

##### Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, and part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Richland Creek Watershed, Rankin County, Mississippi.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. W. L. Heard, State Conservationist, Soil Conservation Service, Room 590, Milner Building, P.O. Box 610, Jackson, Mississippi 39205, has determined that the preparation and review of an environmental impact statement is not needed at this time for this project.

The project concerns a plan for watershed protection and flood prevention. The remaining planned works of improvement as described in the negative declaration include conservation land treatment supplemented by 3.2 miles of channel work. All of this channel work is on ephemeral altered streams.

The environmental assessment file is available for inspection during regular working hours at the following location: Soil Conservation Service, USDA, Room 590, Milner Building, P.O. Box 610, Jackson, Mississippi 39205.

The negative declaration is available for single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until June 16, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

MAY 22, 1975.

[FR Doc.75-14149 Filed 5-29-75; 8:45 am]

#### SALT CREEK AND LATERALS WATERSHED PROJECT, TEX.

##### Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Salt Creek and Laterals Watershed Project, Wise and Parker Counties, Texas.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Edward E. Thomas, State Conservationist, Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76501, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. The remaining planned works of improvement as described in the negative declaration include conservation land treatment supplemented by 3 single purpose floodwater retarding structures.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76501.

Requests for the negative declaration should be sent to the above address.

No administrative action on implementation of the proposal will be taken until June 16, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

MAY 22, 1975.

[FR Doc.75-14144 Filed 5-29-75; 8:45 am]

#### UPPER DUCK CREEK RESOURCE CONSERVATION AND DEVELOPMENT (RC&D) MEASURE, KANS.

##### Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and Part 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for Upper Duck Creek RC&D Measure, Elk, Wilson and Montgomery Counties, Kansas.



## NOTICES

The environmental assessment of this federal action indicates that the measure will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the measure. As a result of these findings, Mr. Robert K. Griffin, State Conservationist, Soil Conservation Service, 760 S. Broadway, Salina, Kansas 67401, has determined that the preparation and review of an environmental impact statement is not needed for this measure.

The measure plan concerns land treatment and construction of four floodwater retarding structures. All structures will be earth dams with vegetated or rock emergency spillways.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA, 760 S. Broadway, Salina, Kansas 67401.

The negative declaration is available for single copy requests from the above address.

No administrative action on implementation of the proposal will be taken until June 16, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.901, National Archives Reference Services.)

ROBERT E. WILLIAMS,  
Acting Deputy Administrator  
for Field Services, Soil Conservation Service.

MAY 15, 1975.

[FR Doc.75-14157 Filed 5-29-75; 8:45 am]

#### UPPER PECAN BAYOU WATERSHED PROJECT, TEX.

##### Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 650.8 (b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Upper Pecan Bayou Watershed Project, Brown, Callahan, Coleman, Eastland, and Taylor Counties, Texas.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Edward E. Thomas, State Conservationist, Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76701, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. The remaining planned works of improvement as described in the negative

declaration include conservation land treatment supplemented by one single-purpose floodwater retarding structure.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76701.

Requests for the negative declaration should be sent to the above address.

No administrative action on implementation of the proposal will be taken until June 16, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904 National Archives Reference Services.)

WILLIAM B. DAVEY,  
Deputy Administrator for  
Water Resources, Soil Conservation Service.

MAY 22, 1975.

[FR Doc.75-14156 Filed 5-29-75; 8:45 am]

#### UPPER PETIT JEAN WATERSHED, ARK.

##### Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 650.8 (b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Upper Petit Jean Watershed Project, Logan, Scott, and Sebastian Counties, Arkansas.

The environmental assessment of the federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. M. J. Spears, State Conservationist, Soil Conservation Service, USDA, 5404 Federal Office Building, Post Office Box 2323, Little Rock, Arkansas 72203, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection, flood prevention, and municipal and industrial water supply. The remaining planned works of improvement as described in the negative declaration include conservation land treatment supplemented by eight floodwater retarding structures, and one multiple purpose structure for flood prevention and municipal and industrial water.

The environmental assessment file is available for inspection during regular working hours and copies of the negative declaration are available to fill single copy requests at the following location:

Soil Conservation Service, USDA, 5404 Federal Office Building, P.O. Box 2323, Little Rock, Arkansas 72203.

No administrative action on implementation of the proposal will be taken until June 16, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

MAY 16, 1975.

[FR Doc.75-14156 Filed 5-29-75; 8:45 am]

#### WATERSHED PLANNING

##### Authorization

This provides notice of authorization dated May 22, 1975, to concerned state conservationists of the Soil Conservation Service to provide planning assistance to specified local organizations for the indicated watersheds. The state conservationist may now proceed with investigations and surveys as necessary to develop watershed plans under authority of the Watershed Protection and Flood Prevention Act (Pub. L. 83-566), as amended.

Environmental assessments will be made during the planning process. Environmental impact statements or negative declarations will be made available to the general public, filed with the Council on Environmental Quality, and the notice of availability published in the FEDERAL REGISTER.

Persons interested in any of these projects may contact the local organizations or the concerned state conservationist as indicated below:

Colorado: *Amity Watershed*; 63,290 acres; Bent, Kiowa, and Prowers Counties.

Sponsors—Bent Soil Conservation District, Kiowa County Soil Conservation District, Prowers Soil Conservation District, Amity Mutual Irrigation Company, Prowers County Board of Commissioners, Northeast Prowers Soil Conservation District, and State Soil Conservation Board.

State Conservationist—Mr. Merritt D. Burdick, Soil Conservation Service, P.O. Box 17107, Denver, Colorado 80217.

Connecticut: *Neck River Watershed*; 912 acres; New Haven County.

Sponsors—Town of Madison Flood and Erosion Board and New Haven County Soil and Water Conservation District.

State Conservationist—Mr. Robert G. Halstead, Soil Conservation Service, Mansfield Professional Park, Route 44A, Storrs, Connecticut 06268.

Illinois: *Long Point Slough Watershed*; 40,890 acres; Macon, Sangamon, Christian, and Logan Counties.

Sponsors—Long Point Slough Soil and Water Conservation Subdistrict, Macon County Soil and Water Conservation District, Sangamon County Soil and Water Conservation District, Niantic Drainage District #1, Village of Niantic, and Village of Illinois.

State Conservationist—Mr. Daniel E. Holmes, Soil Conservation Service, Federal Building, 200 West Church Street P.O. Box 678, Champaign, Illinois 61820.

Indiana: *Bailey-Cox-Newton Watershed*; 11,500 acres; Starke County.

Sponsors—Starke County Soil and Water Conservation District and Starke County Drainage Board.

State Conservationist—Mr. Cletus J. Gillman, Soil Conservation Service, Atkinson Square-West, Suite 2200, 5610 Crawfordsville Road, Indianapolis, Indiana 46224.

## NOTICES

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Kentucky: *Chamberlain Branch Watershed*; 334 acres; Estill County.

Sponsors—Estill County Conservation District, Estill County Fiscal Court, City of Raveenna, and City of Irvine.

*Stewart Creek Watershed*; 5,000 acres; Hopkins County.

Sponsors—Hopkins County Conservation District and City of Earlington.

State Conservationist—Mr. Glen E. Murray, Soil Conservation Service, 333 Waller Avenue, Lexington, Kentucky 40504.

Minnesota: *Burnham Creek Watershed*; 161,000 acres; Polk County.

Sponsors—Polk County Board of Commissioners, East Polk Soil and Water Conservation District, and West Polk Soil and Water Conservation District.

*Tyler Creek Watershed*; 32,800 acres; Lincoln, Lyon, and Pipestone Counties.

Sponsors—Lincoln County Board of Commissioners, Lyon County Board of Commissioners, Lincoln Soil and Water Conservation District, Lyon Soil and Water Conservation District and Pipestone Soil and Water Conservation District.

State Conservationist—Mr. Harry M. Major, Soil Conservation Service, 200 Federal Building and U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota 55101.

Oklahoma: *Sand-Hogshooter Creeks Watershed*; 242,560 acres; Osage, Washington, and Nowata Counties.

Sponsors—Caney Valley Conservation District, Osage County Conservation District, Nowata County Conservation District, and Oklahoma Conservation District No. 26.

*Turkey Creek Watershed*; 239,000 acres; Garfield, Alfalfa, Major, and Kingfisher Counties.

Sponsors—Garfield County Conservation District, Alfalfa County Conservation District, Major County Conservation District, Kingfisher County Conservation District, and Turkey Creek Conservancy District No. 28.

State Conservationist—Mr. Hampton Burns, Soil Conservation Service, Agricultural Center Office Building, Farm Road and Brumley Street, Stillwater, Oklahoma 74074.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

KENNETH E. GRANT,  
Administrator,  
Soil Conservation Service.

MAY 22, 1975.

[FR Doc.75-14158 Filed 5-29-75; 8:45 am]

#### DEPARTMENT OF COMMERCE

##### Domestic and International Business Administration

##### BATTELLE MEM. INST.

##### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR 701, 1974.)

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00296-75-77000. Applicant: Battelle Memorial Institute,

Pacific Northwest Laboratories, PO Box 999, Richland, WA 99352. Article: Fast Neutron Spectrometer, Model LC-7 and Preamplified Ortec Model 120-3F and accessories. Manufacturer: Technion Research & Development Foundation, Ltd., Israel. Intended use of article: The article is intended to be used to measure the energy spectra of neutrons emitted from certain fission products called delayed-neutron emitters.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a guaranteed resolution of less than 12.5 kiloelectronvolts (keV). The most closely comparable domestic instrument is the Model 9341 fast neutron spectrometer manufactured by Texas Nuclear Division, Austin, Texas which provide a guaranteed resolution of about 40 keV. NBS advises in its memorandum dated April 29, 1975 that the best resolution available is pertinent to the applicant's intended use. NBS also advises that it knows of no domestic instruments of equivalent scientific value to the foreign article for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,  
Director, Special Import  
Programs Division.

[FR Doc.75-14063 Filed 5-29-75; 8:45 am]

#### PETER BENT BRIGHAM

##### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR 701, 1974.)

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00355-33-19095. Applicant: Peter Bent Brigham Hospital, 721 Huntington Avenue, Boston, Mass. 02114. Article: Videovolumeter. Manufacturer: Saab-Scania AB, Sweden. Intended use of article: The article is intended to be used to perform videodensitometric analysis of video signals from tape recordings and integrate the signal to a real time measure of contrast changes in the image. The article will also be used to measure the total amount of contrast agent in an organ whether the contrast agent is homogeneously distributed or not. The article will be used regularly in the teaching of fellows and residents in Cardiovascular Radiology and Cardiology and also to some degree to teaching of medical students. The article's use in teaching will be integrated with the teaching in Cardiovascular Radiology. It will be used to determine changes in function and blood flow in various organs and to demonstrate changes in these volumes and flows following various therapeutic interventions.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability for video analysis adapted to blood flow measurement from x-ray images. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated May 9, 1975 that the capability described above is pertinent to the applicant's intended purposes. HEW also advises that it knows of no domestic instrument of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,  
Director, Special Import  
Programs Division.

[FR Doc.75-14066 Filed 5-29-75; 8:45 am]

#### CORNELL UNIVERSITY

##### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR 701, 1974.)

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00398-33-83600. Applicant: Cornell University, Department of Physics, Ithaca, New York 14850. Article: PLM-3 Pulsed Platinum NMR Thermometer with Plug in Cards. Manufacturer: Instruments for Technology Ltd., Finland. Intended use of article: The article is intended to be used to measure the nuclear magnetic susceptibility of platinum and the nuclear magnetic spin lattice relaxation time of the platinum powder.

Comments: No comments have been received with respect to this application.

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Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a resonant frequency as low as 62.5 kilohertz and measurements may be made in fields as low as 5.7 millitesla. The National Bureau of Standards (NBS) advises in its memorandum dated May 15, 1975 that the specification described above is pertinent to the applicant's intended use in very low temperature research. NBS also advises that it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,  
Director, Special Import  
Programs Division.

[FR Doc 75-14068 Filed 5-29-75; 8:45 am]

#### INDIANA STATE DEPARTMENT OF MENTAL HEALTH, ET AL

##### Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before June 20, 1975.

Amended regulations issued under cited Act, as published in the March 18, 1975 issue of the *FEDERAL REGISTER*, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00501-01-11000. Applicant: Indiana State Department of Mental Health, 3989 Meadows Drive, Suite 1, Indianapolis, IN 46205. Article: Gas Chromatograph-Mass Spectrometer, Model LKB 9000S. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in investigations relating to: (1) cause of mental and physical retardation which are genetically determined in children; (2) causes of unexplained ketoacidosis in the newborn; (3) investigation of jaundice in the newborn and the metabolism of bilirubin, and (4) study of the neurochem-

istry and therapy of seizure disorders. The article will also be used for education at the graduate level. Students preparing themselves for careers in analytical biochemistry with emphasis on intermediary metabolism or on drug metabolism will use the article in carrying out their major research projects. In addition, the article will be used by Research Fellows, graduate students and a number of medical students for various phases of work in mass-spectrometry. Application received by Commissioner of Customs: May 6, 1975.

Docket Number: 75-00502-00-43000. Applicant: University of South Carolina, Geology Department, Columbia, S.C. 29208. Article: High Temperature Spinner & Furnace and Horizontal Core Attachment. Manufacturer: Digico Ltd., United Kingdom. Intended use of article: The article is an integral part of a Digico System that spins rock segments (which are weak magnets) within a series of coils, thereby, generating an electrical current. This electrical current is metered for determination of the ancient magnetic field recorded in the rock. Application received by Commissioner of Customs: May 6, 1975.

Docket Number: 75-00503-33-46040. Applicant: Wayne State University, School of Medicine, 450 Canfield, Detroit, Michigan 48201. Article: Electron Microscope, Model EM 201C with goniometer stage. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used to examine normal and pathologic processes, cell parts, and products of biological samples obtained from a variety of animals as well as from human samples obtained in clinical settings. Experiments to be conducted include observation of normal metabolism as well as physical and/or chemical manipulation of living systems including destruction or selective removal of all or part of a given system. Ultrastructural observations of normal systems will be compared with manipulated or altered systems. Biological systems to be studied include the central nervous system; the visual system including retina, lens and cornea; reproductive system with particular emphasis on spermatozoa. The article will also be used in the courses Cell and Tissue Ultrastructure and Advanced Histochemistry in which graduate students, medical students and faculty members will have an opportunity to become familiar with techniques and procedures of fine structure investigation when and as these skills become pertinent. Application received by Commissioner of Customs: May 6, 1975.

Docket Number: 75-00504-33-41700. Applicant: University of Southern California, Center for Laser Studies, University Park, Los Angeles CA 90007. Article: Sharpian 791 Carbon Dioxide Laser. Manufacturer: Laser Industries Ltd., Israel. Intended use of article: The article is intended to be used as a medical-surgical tool for excision of third

degree burns, excision of malignant tumors, and surgery of highly vascular organs. Application received by Commissioner of Customs: May 6, 1975.

Docket Number: 75-00505-65-80200. Applicant: University of California, Department of Geology & Geophysics, Berkeley, California 94720. Article: Microthermometry Apparatus. Manufacturer: CHAIXMECA Company, France. Intended use of article: The article is intended to be used to study fluid inclusions in rocks and minerals. Data pertaining to the temperature of crystallization, salinity of the aqueous phase, and composition of included gases will be combined with petrochemical data regarding the surrounding crystalline phases to determine with the aid of thermodynamic calculations, the equilibrium properties of the geochemical system. The article will be employed in conjunction with a petrographic microscope to observe the phenomena described above. Application received by Commissioner of Customs: May 6, 1975.

Docket Number: 75-00506-33-90000. Applicant: Scripps Clinic and Research Foundation, 476 Prospect Street, La Jolla, CA 92037. Article: EMI Scanner with Magnetic Tape System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used for research purposes relative to clinical evaluation of any disease process involving the brain structure. In addition, the scanner could be used to evaluate therapeutic response in the treatment of brain tumors either with chemotherapy or radiation therapy. The article is also useful in evaluating cerebral vascular insufficiency or subdural hematomas. Application received by Commissioner of Customs: May 6, 1975.

Docket Number: 75-00507-33-90000. Applicant: St. Paul Hospital, 5909 Harry Hines Blvd., Dallas, Texas 75235. Article: EMI Scanner with Magnetic Tape Storage System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used in experiments required to better define problems related to the equipment and patient in order to better evaluate central nervous system diseases, including any intracranial process. The experiments to be conducted will include methods and devices to eliminate patient motion while in the head holder, various experiments to eliminate artifacts related to the equipment, readability of contrast enhancement either routinely or on a selective basis, possible applications of the equipment to areas other than head, results of the diagnosed studies compared with other modalities such as nuclear scanning encephalography and carotid angiography and its role in the investigation of acute injuries to the head. The article will also be used to educate the young physicians in a method of examining the skull and its contents which is non-invasive and does not require patient hospitalization. Application received by Commissioner of Customs: May 6, 1975.

Docket Number: 75-00508-33-90000. Applicant: Dominican Santa Cruz Hospital, 1555 Soquel Drive, Santa Cruz, California 95965. Article: EMI Scanner System with high Definition Display Unit. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used in the study of uptake contrast material by neural tissue with diagnostic absorption values demonstrated by the article. Additional research will include quantitating the standardized absorption values of the article and comparing results with more expensive and hazardous techniques already available, such as angiography and pneumoencephalography, as well as nuclear brain scanning, with respect to accuracy in diagnosis of brain tumors, cerebral infarct, cerebral trauma, dementia, cerebral aneurysms, "idiopathic" epilepsy and hydrocephalus. The article will also be used in the training of radiologists, radiologic technologists, nurses and pharmacy residents in the use of this computerized modality in upgrading their skills. Application received by Commissioner of Customs: May 8, 1975.

Docket Number: 75-00509-33-90000. Applicant: Harris Hospital, 1300 West Cannon, Fort Worth, Texas 76104. Article: EMI Scanner System with Magnetic Tape. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used in the comparison of the relative accuracy of computerized axial tomographic units with radio nuclide scans and with pneumoencephalography and arteriography. The linear attenuation co-efficient of different intracranial densities will be studied in relation to the possibilities of delineating tumor formation, blood clot formation and fluid containing spaces in the brain. Application received by Commissioner of Customs: May 8, 1975.

Docket Number: 75-00510-33-90000. Applicant: Columbia University, Department of Biological Sciences, 659 Schermerhorn, New York, New York 10027. Article: 6KW Rotating Anode System. Manufacturer: Rigaku, Japan. Intended use of article: The article is intended to be used to provide a very high intensity X-ray source that is concentrated in a very fine focal spot in an experimental program entitled: "Structure and Function of Blood Proteins." Application received by Commissioner of Customs: May 8, 1975.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,  
Director, Special Import  
Programs Division.

[FR Doc.75-14064 Filed 5-29-75; 8:45 am]

#### JOHNS HOPKINS UNIV.

##### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural

Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR 701, 1974.)

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00366-33-90000. Applicant: The Johns Hopkins University, Department of Biophysics, Rm. 308, Charles & 34th Streets, Baltimore, Md. 21218. Article: Rotating Anode X-ray Diffraction Generator, Model GX-6 w/ microfocus Cathode, Model RA2. Manufacturer: Elliott, United Kingdom. Intended use of article: The article is intended to be used in the study of human myeloma proteins from cancer patients. Experiments will be conducted to obtain X-ray diffraction patterns from these materials to determine their three-dimensional structure to atomic resolution.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a focused spot of minimal size (1 x .1 millimeter) and a rotating target for maximum x-ray power. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated May 9, 1975 that both of the characteristics described above are pertinent to the applicant's research studies. HEW further advises that it knows of no comparable domestic instrument that provides both of the pertinent characteristics.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,  
Director, Special Import  
Programs Division.

[FR Doc.75-14065 Filed 5-29-75; 8:45 am]

#### UNIV. OF FLORIDA

##### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR 701, 1974.)

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the

Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00352-35-45000. Applicant: University of Florida College of Medicine, North Florida Eye Bank, Department of Ophthalmology, J. Hillis Miller Health Ctr., Box 733, Gainesville, Fla. 32610. Article: Slitlamp Microphotometer. Manufacturer: Hamamatsu Co. Ltd., Japan. Intended use of article: The article is intended to be used to quantitatively measure the amount of inflammation within the eye and also measure certain types of compounds in the eye. In addition, the article will be used in the Ophthalmology Training Program to instruct resident ophthalmologists about the effects of drugs on the inflammation in the eye.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capabilities for proper optical filtering, compatibility with an integrated slit lamp, and quantitative reading. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated May 9, 1975 that the capabilities described above are pertinent to the applicant's use in measuring the degree of inflammation in the intact living eye in a study to assess the efficacy of various treatments and in the teaching and training of ophthalmologists. HEW also advises that it knows of no domestic instrument of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,  
Director, Special Import  
Programs Division.

[FR Doc.75-14067 Filed 5-29-75; 8:45 am]

#### Maritime Administration

##### U.S. MERCHANT MARINE ACADEMY ADVISORY BOARD

##### Public Meeting

Notice is hereby given of a meeting of the U.S. Merchant Marine Academy Advisory Board (the Board) on June 25, 1975, at 10 a.m. in the Board Room of U.S. Lines, 1 Broadway, New York, New York.

The Advisory Board to the United States Merchant Marine Academy was established by the Secretary of Commerce under the authority of 46 U.S.C. 1126d to examine the course of instruction and the overall management of the



## NOTICES

U.S. Merchant Marine Academy (the Academy) and advise the Assistant Secretary of Commerce for Maritime Affairs with respect thereto.

The Board consists of not more than seven members appointed by the Secretary of Commerce, selected from segments of the Maritime industry, labor educational institutions and other fields relating to the objectives of the Academy.

The names of the Board, Agenda and other information pertaining to the meeting may be obtained from Kathleen A. Shetler, Special Assistant to the Assistant Secretary of Commerce for Maritime Affairs, Department of Commerce, Maritime Administration, 14th & E Streets, NW., Washington, D.C. 20235, Room 3731, Telephone No. Area Code 202/967-2851.

So ordered by Assistant Secretary of Commerce for Maritime Affairs, Maritime Administration.

Dated: May 23, 1975.

JAMES S. DAWSON, JR.,  
Secretary.

[FR Doc.75-14211 Filed 5-29-75;8:45 am]

#### National Oceanic and Atmospheric Administration

[Docket No. B-500]

#### Notice of Application for Transfer of Fishery

EUGENE ARMSTRONG

MAY 22, 1975.

Eugene Armstrong, 43 Hudson Avenue, Port Monmouth, New Jersey 07758, owner of the "Eastern Welder" purchased with the aid of a Fisheries Loan to engage in the fishery for lobsters has requested permission to extend his fishing operations to engage in the fishery for lobsters and whiting.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 142c, "Fisheries Loan Fund Procedures" (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, by June 30, 1975. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JOSEPH W. SLAVIN,  
Associate Director for  
Resource Utilization.

[FR Doc.75-14160 Filed 5-29-75;8:45 am]

#### National Technical Information Service NOTICE OF PRICING POLICY Weekly Government Abstracts

Notice is hereby given of the following pricing schedule adopted by the National Technical Information Service (NTIS). The NTIS provides government and public availability of federally sponsored business, economic, scientific and technical reports.

Effective June 1, 1975 the selling price for the WGA categories reflect the following schedule:

Category No.	Category title	Domestic	Foreign
70	Administration.....	\$40	\$50
98	Agriculture and Food.....	40	50
92	Behavior and Society.....	40	50
95	Biomedical Technology and Engineering.....	40	50
89	Building Technology.....	40	50
96	Business and Economics.....	40	50
99	Chemistry.....	40	50
50	Civil and Structural Engineering.....	40	50
45	Communication.....	45	60
62	Computers, Control and Information Theory.....	40	50
49	Electrotechnology.....	40	50
57	Energy.....	40	50
68	Environmental Pollution and Control.....	40	50
90	Government Inventions for Licensing.....	105	220
94	Industrial and Mechanical Engineering.....	40	50
88	Library and Information Sciences.....	30	40
71	Materials Sciences.....	40	50
57	Medicine and Biology.....	45	60
93	NASA Earth Resources Survey Program.....	40	50
48	Natural Resources.....	40	50
47	Ocean Technology and Engineering.....	40	50
45	Physics.....	45	60
85	Transportation.....	40	50
91	Urban Technology.....	40	50

There will be a discount of \$5.00 for each additional subscription sent to the same address.

WILLIAM T. KNOX,  
Director.

[FR Doc.75-13973 Filed 5-29-75;8:45 am]

#### Office of the Secretary INDUSTRY ADVISORY COMMITTEES FOR MULTILATERAL TRADE NEGOTIATIONS Reestablishment

Pursuant to the authority contained in subsection 135(c) of the Trade Act of 1974 (Pub. L. 93-618) and delegated to the Special Representative for Trade Negotiations, acting in conjunction with the Secretary of Commerce, in Executive Order 11846 of March 27, 1975, it has been determined by such officials that:

(i) The Industry Policy Advisory Committee for Multilateral Trade Negotiations established on February 6, 1974 (FR 39, No. 6—January 9, 1974) shall be reestablished under its same name as an advisory committee under the provisions of section 135(c)(1) of the Trade Act of 1974; and

(ii) The 26 Industry Sector Advisory Committees for Multilateral Trade Negotiations, listed below, established on

April 2, 1974 (FR 39, No. 42—March 1, 1974) shall be reestablished under their same names as advisory committees under the provisions of section 135(c)(2) of the Trade Act of 1974.

Accordingly, revisions to the charters formally reestablishing the aforesaid advisory committees under the provisions of section 135(c) of the Trade Act of 1974 are being filed in accordance with law.

The aforementioned 26 Industry Sector Advisory Committees for Multilateral Trade Negotiations include the following:

Food and Kindred Products  
Textiles and Apparel  
Lumber and Wood Products  
Paper and Products  
Industrial Chemicals and Fertilizers  
Drugs, Soaps, Cleaners, and Toilet Preparations  
Paints, Gum and Wood Chemicals, and Miscellaneous Chemical Products  
Rubber and Plastics Materials  
Leather and Products  
Stone, Clay, and Glass Products  
Ferrous Metals and Products  
Nonferrous Metals and Products  
Hand Tools, Cutlery, and Tableware  
Other Fabricated Metal Products  
Construction, Mining, Agricultural, and Oil Field Machinery and Equipment  
Office and Computing Equipment  
Machine Tools—Other Metalworking Equipment, and Other Nonelectrical Machinery  
Electrical Machinery, Power Boilers, Nuclear Reactors, and Engines and Turbines  
Consumer Electronic Products and Household Appliances  
Scientific and Controlling Instruments  
Photographic Equipment and Supplies  
Communication Equipment and Non-Consumer Electronic Equipment  
Railroad Equipment and Miscellaneous Transportation Equipment  
Aerospace Equipment  
Automotive Equipment  
Miscellaneous Manufactures, Toys, Musical Instruments, Furniture, etc.

Dated: May 27, 1975.

G. W. CHAMBERLIN, JR.,  
Acting Assistant Secretary  
for Administration.

KENNETH A. GUNTHER,  
Acting Deputy Special Representative for Trade Negotiations.

[FR Doc.75-14218 Filed 5-29-75;8:45 am]

[Docket No. DIBA-19-74]

#### INFORMATION MAGNETICS CORP. AND INFORMATION MAGNETICS, LTD.

##### Decision

In the matter of Information Magnetism Corporation and Information Magnetism, Ltd. (formerly Gresham-Informag, Ltd.); Docket No. DIBA-1974.

Appearance for Appellant:

Mr. James R. Kaler and Mr. Sherwood B. Smith, Jr., Kaler, Worsley, Daniel & Holliman, 710 Ring Building, 1200 Eighteenth Street, NW., Washington, D.C., 20036.

#### Appearance for Government:

Mr. Wilbert L. Whitsett and Mr. Norman B. Smith, Office of General Counsel, U.S. Department of Commerce, Washington, D.C., 20230.

The Appeals Board Panel consisting of Calvin Brooks, Louis J. Phillips and Francis J. Boucher met on May 9, 1975, at a formal hearing to receive oral testimony from both appellants and government counsel in the matter of an appeal to the Appeals Board of the United States Department of Commerce from the denial by the Hearing Commissioner for the Department's Bureau of East-West Trade of Appellants' motion to vacate a temporary denial order promulgated pursuant to the Export Administration Act of 1969, as amended, 50 App. U.S.C. 2401 *et seq.* The Denial Order was promulgated on December 2, 1974, and extended on January 30, 1975, and March 27, 1975.

Preliminary to oral arguments on the appeal, itself, counsel for the appellants and government reviewed a list of "Documents and Materials Requested by the Appellee for Designation in the Appeals Board Record." Counsel for both parties concurred in the removal of Items 8, 9, and 23, all of which were voluntarily withdrawn by government counsel. Item 7, "Government's Memorandum of December 3, 1974, with enclosure of Laird statement," was objected to by counsel for the appellants. Government counsel argued that it should be included in the Appeal Record. The Panel ruled in favor of the appellants and Item 7 was ordered removed.

The Appeal to Vacate the Temporary Denial Order—Upon careful consideration of the oral arguments of counsel and the written briefs filed by both parties, the Appeals Panel denies the appeal to vacate the Temporary Denial Order. The appeal was brought in accordance with the procedures of § 388.13 of the Export Administration Regulations (hereinafter referred to as "the Regulations") on the grounds that prejudicial error of law was committed by the Office of Export Administration in extending the Temporary Denial Order and failing to grant appellants' Motion to Vacate, and that the provisions of the Order, and the manner in which it was issued and has been administered and maintained, are arbitrary and capricious.

In its written brief and in oral argument, counsel for the appellants argued four principal points:

(1) OEA's action was unauthorized and unlawful.

(2) OEA's action was arbitrary and capricious, and an invasion of constitutionally-protected rights and a deprivation of property without due process of law.

(3) The Order was and is causing serious and irreparable injury to appellants.

(4) Vacation of the Order would not be harmful to the public interest.

In articulating its principal points, counsel concentrated on the first two items above. Counsel maintained that

## NOTICES

OEA's action was unauthorized and unlawful for the following reasons: (a) The Act grants authority for only a limited program of export controls; (b) the limited export-control authority granted by the Act does not include the power to control exports generally; (c) OEA's general rule-making authority under the Act does not include implicit power to suspend all export privileges; and (d) in no event may OEA by prohibitory order restrain actions unrelated to proved or alleged violations.

Counsel held that OEA's action was arbitrary and capricious and an invasion of constitutionally-protected rights for the following reasons: (a) absent a compelling public interest, the Government may not take a person's property without prior notice and opportunity for hearing; (b) no compelling public interest required depriving Infomag of an opportunity to be heard on the issuance of the Temporary Denial Order; (c) the scope of the Order exceeded any legitimate purpose or need; (d) OEA's subsequent actions in administering and enforcing the Order have also been arbitrary and capricious; and (e) the terms of the Denial Order are so broad and so loosely drafted as to defy reasonable construction and render the Order enforceable.

Government counsel in its written brief and oral presentation, argued that the Export Administration Regulations, insofar as they provide for denial orders, are within the authority granted to the President under the Export Administration Act and delegated to the Office of Export Administration. In support of this view, counsel cited the Act's statutory and regulatory framework; a Constitutional perspective on such sanctions; the legislative history of the Act; and the extent of OEA's authority. The second major point addressed by government counsel was its position that the issues and extensions of a Temporary Denial Order to protect the public interest in this case were not arbitrary, capricious or an abuse of discretion.

The Appeals Board Panel in hearing and weighing the arguments presented was guided by the Grounds and Conditions for Appeal in § 388.13 of the regulations, specifically (i) that the findings of violation are not supported by any substantial evidence; (ii) that prejudicial error of law was committed; or (iii) that the provisions of the Order are arbitrary, capricious, or an abuse of discretion.

In reaching its decision, the Appeals Panel was particularly cognizant of § 388.13, (c) Matters Considered on Appeal. In the last sentence of that paragraph is the following language:

The Appeals Board shall not consider facts or arguments affecting the merits of the policy embodied in rules or regulations alleged to have been violated.

It is ordered by this Panel that the Temporary Denial Order now in effect, be continued in effect, including any and all modifications to such Order as rendered by the Office of Export Ad-

ministration, and the matter is hereby remanded to the Hearing Commissioner.

CALVIN BROOKS,  
Chairman.

Concurring.

FRANCIS J. BOUCHER,  
Member.

LOUIS J. PHILLIPS,  
Member.

MAY 21, 1975.

[FR Doc.75-14159 Filed 5-29-75;8:45 am]

#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

#### Center for Disease Control COAL MINE HEALTH RESEARCH ADVISORY COMMITTEE

##### Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Center for Disease Control announces the following National Institute for Occupational Safety and Health Committee meeting:

Name: Coal Mine Health Research Advisory Committee.

Date: June 27, 1975.

Place: Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852.

Time: 9 a.m.

Type of Meeting: Open: 9 a.m. to 3 p.m. Closed: Remainder of meeting.

Contact Person: Jack Butler, M.D., Interim Executive Secretary, Park Building, Room 3-30, NIOSH, 5600 Fishers Lane, Rockville, Maryland 20852. Phone: 301-443-6437.

Purpose: The Committee is charged with advising the Secretary, Department of Health, Education, and Welfare on matters involving or relating to coal mine health research, including grants and contracts for such research.

Agenda: Agenda items for the open portion of the meeting will include announcements, consideration of minutes of previous meeting, administrative and staff reports, presentation of certificates to retiring members, and a discussion concerning preliminary results of the second round of medical examinations of coal miners and the classification system for lung pathology in coal workers' pneumoconiosis (CWP). During the closed session beginning at 3 p.m., the Committee will be performing the final review of coal research grant applications for Federal assistance, and will not be open to the public, in accordance with the provisions set forth in section 552(b)(4), (5), and (6), Title 5, U.S. Code, and the Determination by the Director, Center for Disease Control, pursuant to Pub. L. 92-463.

Agenda items are subject to change as priorities dictate.

The portion of the meeting so indicated is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: May 23, 1975.

H. BRUCE DULL,  
Acting Director,  
Center for Disease Control.

[FR Doc.75-14171 Filed 5-29-75;8:45 am]



## Office of Education

## DEMONSTRATION CENTERS FOR EXTENSION AND CONTINUING EDUCATION

Criteria for Funding of Applications for the Planning of Demonstration Centers for Extension and Continuing Education Programs for Fiscal Year 1975

On pages 14349 and 14350 of the FEDERAL REGISTER of March 31, 1975, there were published Proposed Criteria for Funding of Applications for Demonstration Centers for Extension and Continuing Education Programs for Fiscal Year 1975. Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed criteria.

No objections have been received and the proposed criteria are hereby adopted without change and are set forth below.

**Effective date.** The Notice of Proposed Rule Making was transmitted to Congress on March 26, 1975 pursuant to section 431(d) of the General Education Provisions Act. (20 U.S.C. 1232(d)). The time period set forth therein for congressional action has expired without such action having been taken.

Therefore these criteria shall become effective on the date of their publication in the FEDERAL REGISTER.

(Catalog of Federal Domestic Assistance Number 13.557B Planning Continuing Education Centers)

Dated: May 10, 1975

T. H. BELL,  
U.S. Commissioner of Education.

Approved: May 27, 1975.

CASPAR W. WEINBERGER,  
Secretary of Health,  
Education, and Welfare.

The Second Supplemental Appropriation Act of 1974 (Pub. L. 93-305) appropriated funds for the Commissioner to make three grants to institutions of higher education to plan demonstration centers for extension and continuing education.

In keeping with the demonstration nature of this appropriation and in order to promote a variety of approaches to extension and continuing education, the Commissioner will make one grant in each of the following categories:

- Planning for a State-wide center.
- Planning for a center serving a sub-State region or an interstate region.
- Planning for a community or neighborhood center.

In addition to evaluation on the basis of the criteria set forth in the General Provisions for Office of Education Programs, at 45 CFR 100a.26, the Commissioner will select applications to be funded under Title VII, Part A, of the Higher Education Act of 1965, on the basis of the following criteria:

**I. General criteria.** The extent to which the application contains specific data and other information evidencing the institution's commitment to extension and continuing education in terms of:

(a) Existing or proposed programs, personnel, and participation by the public served or to be served;

(b) The need for an intended use of the center for continuing education purposes (based on current programs and how the center would expand and improve present offerings);

(c) How the project is expected to complement and advance current programs, investigations, or experiments in continuing education;

(d) How the proposed facility will serve the extension and continuing education contemplated and how it will complement and make maximum use of any existing or contemplated facilities and resources;

(e) Adequate resources (including the grant) to complete the proposed planning;

(f) The extent to which the planning undertaken will be programmatically useful for replication or adaptation by other institutions of higher education.

**II. Specific criteria.** In addition to being evaluated on the degree of compliance with the general criteria, an application for grant funds hereunder must specify which of the following categories it proposes to plan for, and the application will be further evaluated on the basis of the criteria applicable to such category as follows:

**1. State-wide center.** (a) The extent to which such center would serve as a focus and aid for carrying out a comprehensive state plan for community service and continuing education.

(b) The extent to which such center, by providing short term residential capability for new groups and important combinations of groups, would increase the State-wide impact of the university's teaching capabilities.

(c) The extent to which such center, serving as the centralized agency for other public and private educational institutions, would provide a new dimension to experimental and demonstration methods of expanding extension and continuing education for adults, as for example, educational television, home study courses, etc.

**2. Regional center.** (a) The extent to which such center, by providing a focus for involving extension and continuing education students in determining the nature and extent of regional problems and in arriving at solutions for them, proposes to serve a region within a state or an interstate region.

(b) The extent to which the center may be viewed as a public service center through which the institution, by means of its faculty, or by means either of credit or of credit-free classes, serves as consultant and renders technical assistance to area agencies and organizations.

**3. Community center.** (a) The extent to which the center makes readily available to the part-time adult student (the housewife, the worker, the elderly citizen) both cultural and vocational courses, and provides necessary auxiliary services to enable such part-time students to take advantage of such courses,

e.g. day-care assistance, food services, laboratory and shop capability.

(b) The extent to which the center, in addition to educational services, provides a wide range of community services, such as counseling, civic information, or technical advice, to local agencies and organizations, so that the center becomes a visible presence locally and underscores the role of the institution as a citizen and neighbor.

Inasmuch as the funds made available by Pub. L. 93-305 for planning grants for demonstration centers for extension and continuing education, are, by the language of Pub. L. 93-305, expressly exempted from the other provisions of Title VII of the Higher Education Act of 1965, as amended, the regulations for that Act set forth at 45 CFR Part 170 are not applicable. Grants will, however, be subject to the General Provisions regulations (45 CFR, Part 100).

Each application filed hereunder shall contain an assurance that a copy of the application was forwarded to the State Agency for the Community Service and Continuing Education Program or to the State Higher Education Facilities Commission, whichever is the lead agency, and that ten days have elapsed before the application was filed with the Office of Education in order to allow such State agency to comment on it.

[FR Doc.75-14141 Filed 5-29-75;8:45 am]

Food and Drug Administration  
CARDIAC PACEMAKERS

## Open Public Meeting Regarding Pacemaker Interference by Antitheft Devices

The Commissioner of Food and Drugs announces an open public meeting to be held on June 25, 1975, at 9 a.m. in Conference Rm. M, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20852, to allow all interested persons an opportunity to present data, technical information, and views concerning the possible interference with cardiac pacemakers by antitheft devices.

The Food and Drug Administration is aware of two reported instances of interference with cardiac pacemakers by antitheft devices. The growing use of these devices in the future may present additional interference problems. The antitheft devices in question are those being used increasingly in retail outlets to detect shoplifting. Such devices typically create an electromagnetic field, which when disturbed by a special tag attached to a piece of merchandise, will trigger the device and alert the retail outlet personnel to possible shoplifting or theft. Similar devices are used in libraries, museums, and places of business to detect unauthorized removal of articles from the premises.

It is apparent that pacemaker manufacturers are unaware of the existence and electromagnetic field characteristics of the antitheft devices and have not tested their product for interference with pacemakers. Since antitheft devices use

a wide variety of frequencies, power levels, and modulation characteristics, the Commissioner feels that further exploration of the possibilities of cardiac pacemaker interference may be necessary.

Therefore, the Commissioner believes that this meeting will serve to bring together manufacturers of cardiac pacemakers and manufacturers of antitheft devices, as well as other interested parties, to discuss possible pacemaker interference problems and to develop courses of action that will eliminate or reduce the likelihood of such interference.

Since cardiac pacemakers are medical devices subject to the Food, Drug, and Cosmetic Act, and since antitheft devices are electronic products that emit radiation and are, therefore, subject to the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263b et seq.), the open public meeting is being sponsored by the Bureau of Medical Devices and Diagnostic Products and the Bureau of Radiological Health, pursuant to 21 CFR 2.15(b) published in the FEDERAL REGISTER of May 27, 1975 (40 FR 22949). In the interest of adequate preparation, interested persons representing pacemaker manufacturers and antitheft device manufacturers, or any other interested persons who plan to attend this meeting, are requested to notify Mr. James Veale (HFK-400), Bureau of Medical Devices and Diagnostic Products, Division of Classification and Scientific Evaluation, 5600 Fishers Lane, Rockville, MD 20852, (301) 443-3550, and advise him, by close of business of June 12, 1975, of their intent to attend.

A transcript of the meeting will be made available to those persons attending the open meeting; any submissions of written data, technical information, and views will also be made available for public review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852.

Dated: May 27, 1975.

SAM D. FINE,  
Associate Commissioner  
for Compliance.

[FR Doc.75-14281 Filed 5-29-75;8:45 am]

## COSMETIC LABELING; DESIGNATION OF INGREDIENTS

## Request for Data and Information

The Commissioner of Food and Drugs is requesting the submission by July 29, 1975, of data and information in support of exemptions and alternatives sought by objections to a recent order on cosmetic labeling; the Commissioner will issue as a proposal any exemption for which reasonable grounds are submitted.

Elsewhere in this issue of the FEDERAL REGISTER a notice is published confirming the effective date of the requirement that the labeling of cosmetic products contain a declaration of ingredients under § 701.3 (21 CFR 701.3). The basic re-

quirement for declaration of ingredients was established in a regulation published in the FEDERAL REGISTER on October 17, 1973 (38 FR 28912). In an order published in the FEDERAL REGISTER of March 3, 1975 (40 FR 8918), the Commissioner amended that requirement by creating certain exemptions and permitting certain alternative methods for declaring ingredients. In response to those amendments, a number of objections requested additional exemptions or other alternative methods for declaring ingredients. Under section 6 of the Fair Packaging and Labeling Act (15 U.S.C. 1455), which incorporates by reference section 701(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(e)), the proper procedure for requesting amendment of a regulation is "by petition of any interested persons, showing reasonable grounds therefor, filed with the Secretary." However, the objections requesting additional exemptions and alternative methods of ingredient declaration did not present sufficient information in support of the requests, and the Commissioner concludes that reasonable grounds for the requested actions have not been demonstrated.

Because of the considerable interest on the part of some manufacturers in having available additional exemptions and alternative methods of declaration, the Commissioner concludes that the petitions should not simply be denied for the failure to present reasonable grounds. Instead the Commissioner hereby invites all interested persons to submit data and other information in support of the additional exemptions and alternatives sought by the objections. The exemptions and alternatives sought are as follows:

- Permission to list all ingredients in alphabetical order.
- Permission to declare only "known allergens."
- Permission to list color ingredients by the term "color" instead of by specific name.
- Permission to place ingredient declarations inside small packages of cosmetics.
- Permission to declare the ingredients for all products by means of off-package labeling.
- Permission to use off-package labeling for products sold in outer containers.
- Permission to use 1/2 inch type on packages having a principal display panel not exceeding 5 square inches.

In accordance with section 701(e) (1) of the act, the Commissioner will issue as a proposal in the FEDERAL REGISTER any exemption or alternative for which reasonable grounds are shown. Information constituting reasonable grounds in support of these exemptions and alternatives shall be submitted by July 29, 1975, to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852.

Dated: May 25, 1975.

A. M. SCHMIDT,  
Commissioner of Food and Drugs.

[FR Doc.75-14282 Filed 5-29-75;8:45 am]

[DESI 7358; Docket No. FDC-D-520; NDA 11-065, 11-323]

## CERTAIN NITROFURAN DRUGS: TRICOFURON VAGINAL POWDER AND SUPPOSITORIES AND FUROXONE LIQUID

Opportunity for Hearing on Proposal to Withdraw Approval of New Drug Applications

In the FEDERAL REGISTER of March 29, 1973 (38 FR 8186), the Commissioner of Food and Drugs proposed to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of new drug application numbers 11-065 and 11-323 for Tricofuron Vaginal Powder and Suppositories (furazolidone and nifuroxime) and Furoxone Liquid (furazolidone, kaolin, and pectin) held by Norwich Pharmacal Company, Division of Norwich Products, Inc., 13-27 Eaton Avenue, Norwich, NY 13815 (hereafter Norwich). The reasons for the proposed order were that the drugs lacked substantial evidence of effectiveness for their labeled claims, and that the drugs had not been shown to be safe. The products have been used to treat various infections. The notice had not specifically referred to the policy for fixed combination prescription drugs for humans, 21 CFR 300.50. The notice of March 29, 1973 is now being amended in that regard. Other drugs included in the March 29, 1973 FEDERAL REGISTER notice are not affected by this notice, but are covered by another notice published elsewhere in this issue of the FEDERAL REGISTER.<sup>1</sup>

In response to the March 29, 1973 FEDERAL REGISTER notice Norwich requested a hearing on the proposed withdrawal of approval and submitted a number of articles and other data in an attempt to support the safety and effectiveness of Tricofuron and Furoxone Liquid; Norwich's submissions did not, however, address themselves to or provide any evidence meeting the requirements for fixed combination drugs for humans 21 CFR 300.50. Therefore, in the interest of fairness and before proceeding further with his review, the Director, Bureau of Drugs has decided to notify Norwich of its failure and give it an opportunity to submit data meeting the requirements of 21 CFR 300.50.

Accordingly, the notice of March 29, 1973 is herewith amended to notify Norwich that Tricofuron (furazolidone and nifuroxime) Vaginal Powder and Suppositories and Furoxone Liquid (furazolidone, kaolin, and pectin) are combination products within the meaning of 21 CFR 300.50 in which no evidence of effectiveness for their labeled indications has been submitted as required by 21 CFR 300.50 Fixed Combination Prescription Drugs for Humans.

Inasmuch as no interested person other than the applicant filed a written appearance concerning these or identical,

<sup>1</sup> See FR Doc. 14070 *infra*.



related, or similar products in response to the March 29, 1973 notice and since their failure to file an appearance constitutes an election by such persons not to avail themselves of an opportunity for a hearing, 21 CFR 314.200, the opportunity provided by this notice is applicable only to Norwich.

Therefore, notice is given to Norwich that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug applications and all amendments and supplements thereto on the grounds (1) that new information before him with respect to the drug products, evaluated together with the evidence available to him at the time of approval of the applications, shows that there are no adequate and well-controlled clinical investigations, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a) (5) and 21 CFR 300.50 demonstrating the effectiveness of the drug and (2) that tests by methods not deemed reasonably applicable when such applications were approved, evaluated together with evidence available when the applications were approved, show that such drugs containing furazolidone for human use, are not shown to be safe for use under the conditions of use upon the basis of which the applications were approved. Specifically, the oral administration of furazolidone has been shown to induce mammary neoplasia in rats. None of the furazolidone-containing drugs have been adequately tested for absorption in humans. Inadequate animal data exist on topical use. A serious question of safety regarding the use of furazolidone in humans is therefore raised. Other equally effective drugs having less potential risk are available. The subject drugs are not specific for use in life-threatening or other important medical uses. Accordingly, the Food and Drug Administration concludes that, because of the unfavorable benefit-to-risk ratio, associated with use of these drug products, there is a lack of proof of safety.

In addition to the grounds for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it, e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(e) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder

(21 CFR 310.314), the applicant is hereby given an opportunity to submit additional data to show why approval of the new drug applications should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of the drug products named above.

If Norwich elects to avail itself of the opportunity to submit additional data, it shall file on or before June 30, 1975, the data, information, and analyses on which it relies to justify a hearing, as specified in 21 CFR 314.200. The procedures and requirements governing this notice of opportunity for hearing, submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 130.14 as published and discussed in detail in the FEDERAL REGISTER of March 13, 1974 (39 FR 9750), recodified as 21 CFR 314.200 on March 29, 1974 (39 FR 11680).

Any additional submissions may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. At the end of the thirty day period, the submissions will be evaluated. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the applications, or if the data are not submitted in the required format or with the required analyses, the Commissioner will enter summary judgment against Norwich, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate with the Hearing Clerk, Food and Drug Administration (HFC-20), Room 4-65, 5600 Fishers Lane, Rockville, MD 20852.

All submissions pursuant to this notice, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 355), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 2.121).

Dated: May 23, 1975.

J. RICHARD CROUT,  
Director, Bureau of Drugs.

[FR Doc. 75-14071 Filed 5-29-75; 8:45 am]

[DESI 7358; DOCKET NO. FDC-D-520;  
NDA 5-795, ETC.]

#### FURACIN VAGINAL SUPPOSITORIES Denial of Hearing and Withdrawal of New Drug Application

The Commissioner of Food and Drugs denies hearing and withdraws approval for that part of the new drug applica-

tion (NDA 5-795) which provides for Furacin Vaginal Suppositories, effective June 9, 1975.

A notice was published in the FEDERAL REGISTER of March 29, 1973 (38 FR 8186), in which the Food and Drug Administration announced an opportunity for hearing on a proposal to withdraw approval of new drug applications or pertinent parts thereof, of the following nitrofurantoin drugs: Furacin Nasal Drops (NDA 7-358), Furacin Otic Drops (NDA 12-403), Furacin Vaginal Suppositories (NDA 5-795), Furacin Ear Solution (NDA 5-795), Tricofuron Vaginal Powder and Suppositories (NDA 11-065), Furoxone Tablets (NDA 11-270), and Furoxone Liquid (NDA 11-323), all new drug applications held by Norwich Pharmaceutical Co., Division of Morton-Norwich Products, Inc., 13-27 Eaton Ave., Norwich, NY 13815 (hereafter Norwich).

The announcement stated that, with the exception of Furacin Ear Solution, Nasal Drops and Otic Drops, the National Academy of Sciences-National Research Council (NAS/NRC), Drug Efficacy Study Group, had reviewed the drug products listed above and classified them as less than effective. The announcement further stated that the Commissioner proposed to initiate action to withdraw approval of these new drug applications on the grounds that (1) new information with respect to the drugs, evaluated together with the evidence available at the time of approval of the applications, shows that there is a lack of substantial evidence that the drugs will have all the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling, and (2) tests by methods not deemed reasonably applicable when such applications were approved, evaluated together with the evidence available when the applications were approved, show that drugs for human use containing nitrofurazone or furazolidone are not shown to be safe for use under the conditions of use upon the basis of which the applications were approved. The Food and Drug Administration also concluded that there was a lack of proof of safety on the grounds, inter alia, that the oral administration of nitrofurazone and furazolidone had been shown to induce mammary neoplasia in rats.

Prior to initiating such action, the Commissioner invited holder(s) of the new drug applications and any other interested persons, including those marketing identical, related, or similar drugs, to submit, by April 30, 1973, a written notice electing whether or not to avail himself of the opportunity for a hearing. Applicants or other persons requesting a hearing were advised to include a well-organized and full factual analysis of the clinical and other investigational data they were prepared to prove in support of the opposition to the proposed withdrawals.

On April 30, 1973 in response to the notice, Norwich filed separate requests for a hearing for each of the six nitro-

furan new drug applications listed above. Each request raised a single legal objection, denied the factual findings of the Commissioner, and stated that further supplemental submissions in support of the requests for hearing would be made.

On June 6, 1973, Norwich submitted medical data and proposed revised labeling for Furoxone Tablets and reformulated Furoxone Liquid (NDA 11-270 and NDA 11-323). The original labeling reviewed by the NAS/NRC, Drug Efficacy Study Group, recommended Furoxone for the treatment of bacterial or protozoal diarrhea and enteritis. The proposed revised labeling would limit use of Furoxone solely for typhoid fever, cholera, and *Giardia lamblia*. Since the new labeling is more restrictive than that reviewed by the NAS/NRC, Drug Efficacy Study Group, and since the only data submitted were in support of the safety and efficacy of the revised claims, the request for a hearing on Furoxone Tablets will be the subject of a separate FEDERAL REGISTER notice when review of the data has been completed; a notice covering Furoxone Liquid (old formulations) is published elsewhere in this issue of the FEDERAL REGISTER.<sup>1</sup>

On June 21 and November 16, 1973, in an attempt to support the safety and efficacy of Furacin Vaginal Suppositories (NDA 5-795) and Tricofuron Vaginal Powder and Suppositories (NDA 11-065), Norwich submitted additional safety data, marketing data, testimonial letters and affidavits, clinical efficacy studies, and numerous references to the medical literature. In its June 21, 1973 submission, Norwich proposed to relabel Furacin Vaginal Suppositories and requested approval to reformulate and relabel Tricofuron Vaginal Powder and Suppositories. The proposed reformulation of Tricofuron would replace the nifuroxime with nystatin; the proposed relabeling of Tricofuron would restrict the recommended use to treatment of specific mixed infections of the vagina shown to be resistant to other agents. Subsequently, on December 20, 1973, Norwich notified the Food and Drug Administration that the lists of references attached to the affidavits submitted on November 16, 1973, were incorrect. To correct the errors, Norwich submitted new lists of medical references together with copies of the articles referred to therein.

The Tricofuron Vaginal Suppositories and Powder, as presently labeled and formulated, are covered in a separate notice elsewhere in this issue of the FEDERAL REGISTER.<sup>2</sup> The Director of the Bureau of Drugs will notify Norwich when he decides whether or not to approve the reformulated and relabeled tricofuron products.

On September 5, 1974 and October 4, 1974, Norwich withdrew its requests for a hearing for Furacin Otic Drops (NDA 12-403), Furacin Nasal Drops (NDA 7-358) and Furacin Ear Solution (NDA 5-795). These drugs are the subject of a separate FEDERAL REGISTER notice.

<sup>1</sup> See FR Doc. 14071 *supra*.

<sup>2</sup> See FR Doc. ...

The Commissioner has considered all of the material submitted by Norwich in support of its request for a hearing on the proposed withdrawal of the new drug application for that part of NDA 5-795 covering Furacin Vaginal Suppositories and concludes that there is no genuine issue of material fact requiring a hearing and that the legal objections offered are insubstantial; a full discussion follows:

#### I. THE DRUG

Furacin Vaginal Suppositories contain 0.3 percent nitrofurazone in a water-miscible base composed of glyceryl monolaurate and polyoxyethylene (4) sorbitan monostearate.

#### II. RECOMMENDED USES

Furacin Vaginal Suppositories labeling reviewed by the NAS/NRC, Drug Efficacy Study Group, recommends this drug for treatment of bacterial vaginitis and cervicitis and resulting leukorrhea and malodor, prevention of infection before and after cervicovaginal surgery and electrosurgery and before and after radiation therapy of pelvic neoplasms. The proposed labeling included with the June 21, 1973 submission recommends the product for treatment of bacterial vaginitis (due to *Haemophilus vaginalis* and other organisms shown to be unresponsive to different agents) and for use before and following radiation therapy to prevent or treat malodor and discharge caused by bacterial growth in necrotic debris.

#### III. THE DATA SUBMITTED TO SUPPORT CLAIMS OF EFFECTIVENESS OF FURACIN VAGINAL SUPPOSITORIES

A. Medical Literature References Submitted. 1. Keith, Louis, Bash, I. M., Dravineks, A., and Krotosynski, B. K., "Changes of Vaginal Odors of 6 Patients Under Nitrofurazone Treatment," *Journal of Reproductive Medicine*, 4(4): pp. 69-76, April 1970. In this study, six patients with disorders of the genital urinary tract or the vagina and uterus were treated with Furacin Vaginal Suppositories. Two of the six patients were designated as "treatment controls" and were diagnosed as having hematuria, cause unknown, and stress incontinence, respectively. Neither was reported to have malodor. Of the remaining four patients, one was diagnosed as having bacterial vaginitis, and three as having postpartum endometritis. All four were reported to have malodor. A seventh patient, with a urinary tract infection, was designated as a "normal control." Vaginal vapors were collected before treatment and were compared by using gas chromatographic and odor dilution techniques with vapors collected after treatment. The before and after intervals varied from 4 hours to 24 hours among the various patients.

The study is not an adequate and well-controlled investigation of Furacin Vaginal Suppositories for the labeled indications for the following reasons:

The study subjects included only one with a condition for which the product is, or is proposed to be indicated (bacterial vaginitis with accompanying malodor).

That subject was treated with the test drug. It is impossible to have a well-controlled study of a product for its labeled indications when only one subject with such an indication is studied; without, as here, a subject who has the specified indication and is not treated with the test drug, it is impossible to determine whether any effect observed in the test subject was due to the test drug or to other factors, such as the natural history of the condition being treated. Accordingly, the study does not purport to provide for comparison of the results of treatment of the drug for its labeled indications with the results in an appropriate control group, as required by 21 CFR 314.111(a) (5) (ii) (a) (4).

Three out of four of the test subjects with malodor did not have malodor associated with a condition for which the test drug is labeled (they had malodor associated with endometritis, which is not mentioned among the drug's indications). No meaningful comparison can be made between results in the treatment group (here, the four subjects with malodor) with the results in an appropriate control (here, the two "treatment controls" and the one "normal control"), as required by 21 CFR 314.111(a) (5) (ii) (a) (4), because, first, none of the three patients designated as "controls" was reported to have malodor, and second, the two patients designated as "treatment controls" were themselves treated with the very drug being tested. Effectiveness of a drug for a given condition cannot be demonstrated by observing what happens when the drug is given to patients who lack that condition in the first instance. And effectiveness of a drug for a given condition cannot be demonstrated by administering the drug to two groups of patients, a procedure which results in two uncontrolled tests, not a controlled study.

Since the method of selecting study subjects did not, on its face, attempt to identify patients with conditions which Furacin Vaginal Suppositories is intended to treat (only one of six had such a condition), the study also lacks a method of selection of subjects which provides any assurance that they were suitable for the purpose of a study aimed at providing evidence of the effectiveness of the drug for its intended uses, as required by 21 CFR 314.111(a) (5) (ii) (a) (2) (i). Further, since subjects were knowingly assigned to groups in such a way that one group contained all patients with malodor and another contained all patients lacking malodor, the study, on its face, failed to assure that the test groups were comparable with respect to a critical variable, i.e., the condition for which the drug is intended as treatment, as required by 21 CFR 314.111(a) (5) (ii) (a) (2) (iii).

With respect to the test results concerning reduction of malodor, results in the one test subject having malodor associated with a condition specified in the drug's labeling (bacterial vaginitis) is no more than an isolated case report, which is unacceptable as the sole basis for approval of claims of effectiveness (21 CFR 314.111(a) (5) (ii) (c)). Results in the



three patients with postpartum endometritis are not pertinent to effectiveness of Furacin Vaginal Suppositories for its labeled indications (current or proposed), which do not include malodor associated with that condition.

The methods used to quantitate "improvement" in malodor are questionable. "Improvement" noted in the two treatment controls was 2 to 20 times greater than that observed in the four subjects with malodor. Since the treatment controls did not have malodor to begin with, it is apparent that the meanings of "improvement," "malodor," or both, employed in the study have no necessary correspondence to the meanings those words have in the clinical context of treating malodor associated with the pathological conditions specified in the labeling for Furacin Vaginal Suppositories. The authors' observations and conclusions respecting "improvement" in any of the conditions involved in the study, thus, do not constitute "quantitative evaluation" within the meaning of 21 CFR 314.111(a)(5)(ii)(a)(4).

2. Gardner, H. L., and Dukes, C. D., "Haemophilus Vaginalis Vaginitis, A Newly Defined Specific Infection Previously Classified, Nonspecific Vaginitis," *American Journal of Obstetrics & Gynecology* Vol. 69:962-976, 1955. This was a study to classify and describe a previously unclassified type of bacterial vaginitis. While the authors mention in passing that the organism under study may be sensitive to certain antibiotics, no effort was made to evaluate the effectiveness of any antibiotic, or of Furacin or any other drug containing nitrofurazone. Hence, the study is not an adequate and well-controlled clinical investigation of the effectiveness of Furacin within the meaning of section 505(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(d)) and 21 CFR 314.111(a)(5)(ii)(a)(4).

3. Edmunds, P. N., "Haemophilus Vaginalis, Its Association with Puerperal Pyrexia and Leucorrhoea," *Journal of Obstetrics and Gynaecology British Empire*, 66:917-926, 1959. This study was to describe the diagnosis and incidence of the *H. vaginalis* bacterium in various clinical groups and its relation to other vaginal flora. Like the previous study, the author notes that the organism is sensitive to antibiotics, but no effort was made to evaluate the effectiveness of Furacin Vaginal Suppositories or any other product containing nitrofurazone. Hence, the study is not an adequate and well-controlled clinical investigation of the effectiveness of Furacin within the meaning of section 505(d) of the act (21 U.S.C. 355(d)) and 21 CFR 314.111(a)(5)(ii)(a)(4).

4. Gardner, H. L., and Kaufman, R. H., "Benign Diseases of the Vulva and Vagina," C. V. Mosley Co., 1969. The authors treat Furacin only peripherally and the portions of the text relating to Furacin do not purport to describe an adequate and well-controlled clinical investigation of furacin within the meaning of section 505(d) of the act (21 U.S.C. 355(d)) and 21 CFR 314.111(a)(5)(ii)(a)(4), since they do no more than state, in three sentences,

that Furacin gives results comparable to the sulfonamides. Absent any details which permit scientific evaluation, it is no more than a testimonial, which is unacceptable as the sole basis for the approval of claims of effectiveness (21 CFR 314.111(a)(5)(ii)(c)).

5. Moore, Richard M., "An Evaluation of Various Methods of Vaginal Asepsis," *American Journal of Obstetrics and Gynecology* 64(2), August 1952. This study was to evaluate the comparative effectiveness of a representative agent of each major family of antibacterials then currently used in the vaginal preparation of the patient for gynecologic surgery. In this study, 325 unselected gynecologic patients were divided into seven groups (six groups of 50, including one "no vaginal medication" group, and one group of 25 who received Furacin Vaginal Suppositories). Vaginal cultures were taken from all patients upon admission for gynecologic surgery before any type of medication was given. All vaginal preparations were administered in the afternoon before surgery and at 5 a.m. on the day of surgery. Patients receiving suppositories were given only one as indicated. Preoperative cultures were obtained just before the patient was sent to the operating room. Postoperative cultures were taken on the fourth day on most, but not all, of the patients.

The results of preoperative preparation were compared with results upon admission in terms of (1) negative cultures, (2) less than admission cultures, and (3) greater than admission cultures. This comparison was made with all groups, including that receiving Furacin Vaginal Suppositories.

The results of postoperative treatment were compared in a similar manner, but were restricted to three groups. The first of these were patients who had received no postoperative medication. The second group included patients who had received penicillin and streptomycin suppositories or penicillin suppositories prior to surgery but who had received no medication postoperatively. The third group included patients who had received postoperative medication of penicillin and streptomycin or penicillin suppositories. There is no group identified in the postoperative culture summary information as having received Furacin Vaginal Suppositories.

The author draws no conclusions regarding the effectiveness of Furacin Vaginal Suppositories in the preoperative vaginal preparation of gynecological patients. The author's conclusions are limited to the penicillin and streptomycin vaginal suppositories and to the penicillin vaginal suppositories, which he claims to be the most effective antibacterial agents used in the study in the preoperative preparation of gynecological patients. With respect to Furacin, the reported results indicate that Furacin is no more effective than a placebo. Thus, of the 50 patients who received "no vaginal medication" prior to surgery, 24 percent were classified by the author as having "less than admission cultures." The response among the 25 patients who received Furacin Vaginal

Suppositories prior to surgery was identical, i.e., 24 percent were classified as having "less than admission cultures." Similarly, these two groups showed almost identical results for the percentages of patients classified by the author as having "greater than admission cultures" (48 and 44 percent, respectively).

With respect to postoperative results of the agents tested, the author concluded that the penicillin and streptomycin vaginal suppositories and penicillin vaginal suppositories, administered postoperatively, maintained a relatively sterile field to promote postoperative healing. There is, as mentioned, no indication in the study report that postoperative cultures were obtained and analyzed from the Furacin subjects, and the author makes no conclusion concerning the results of Furacin in the postoperative context.

The author did note that no patient in the Furacin group had a morbid postoperative course in the study. The author states, however, that the size of each of the groups considered was too small for postoperative morbidity to be of any comparative significance. He further states that it was evident that basic surgical technique is of primary importance in the incidence of postoperative morbidity.

The study, therefore, provides no evidence of the effectiveness of Furacin Vaginal Suppositories for the prevention of infection either before or after surgery, or for any other indication.

Further, the study is not adequate and well-controlled within the meaning of 21 CFR 314.111(a)(5)(ii) for the following reasons:

There was no explanation of how the patients were assigned to the test groups to assure the comparability in test and control groups of pertinent variables (21 CFR 314.111(a)(5)(ii)(a)(2)(iii)). Assignment of patients in a study like this must, in addition to considering the agents being studied, also assure that the surgery employed on each group is representative of the surgical procedures which were involved. The author identifies the surgical procedures only as "major cases" and "minor cases." There is thus no assurance of the comparability of test and control groups of pertinent variables, that is, the surgical procedures to which the patients were subjected.

The study does not purport to provide a comparison of the results of postoperative treatment with Furacin with the control or "no vaginal medication" groups in such a fashion as to permit quantitative evaluation (21 CFR 314.111(a)(5)(ii)(a)(4)). There is no record of any postoperative cultures taken from women who had received Furacin Vaginal Suppositories.

Only postoperative morbidity of the Furacin-treated patients was discussed, and then only in terms of its incidence in the seven groups (i.e., no scientific comparison is made, and no conclusions are drawn based on the incidences of morbidity). The criteria for defining morbidity and the method or methods for determining morbidity are not explained

by the author (21 CFR 314.111(a)(5)(ii)(a)(3)). The results with respect to morbidity are thus inconclusive (as stated by the author) and, in any case, Furacin is not indicated for prevention or treatment of that condition.

6. Lang, Warren R., "Experiences in a Vaginitis Clinic," *Journal of the American Medical Association* 174(14):122-125, December 1960 and Lang, Warren, Fritz, Mary Ann, and Menduke, Hyman, "The Bacteriologic Diagnosis of Trichomonal Candidal, and Combined Infections," *Obstetrics and Gynecology* 20(6), December 1962. In the first paper, Dr. Lang summarizes his experiences with vaginitis over a 13-year period; there is no indication that he conducted an adequate and well-controlled clinical investigation, nor does he represent his views to be the product of such an investigation. Although he states, in one sentence, that bacterial vaginitis responds well to Furacin, among other drugs, he presents no data or details to support that conclusion. The reference does not purport to be an adequate and well-controlled clinical investigation of the effectiveness of Furacin within the meaning of section 505(d) of the act (21 U.S.C. 355(d)) and 21 CFR 314.111(a)(5)(ii); it is, rather, a testimonial and is unacceptable as the sole basis for a claim of effectiveness (21 CFR 314.111(a)(5)(ii)(c)).

The second paper, an extension of the first, is concerned exclusively with the diagnosis and grading of vaginal bacteria and in no way attempts to assess the effectiveness of any drug product. Furacin is nowhere mentioned. It is thus not an adequate and well-controlled clinical investigation of the effectiveness of Furacin within the meaning of section 505(d) of the act (21 U.S.C. 355(d)) and 21 CFR 314.111(a)(5)(ii).

7. Capraro, Vincent J., "Pediatric Vulvovaginitis," *Journal Newark City Hospital* 2:15-25, 1965. This paper presents a very general discussion of various aspects of pediatric gynecology, including how to conduct gynecological examinations (without traumatizing younger patients), etiology, experience of the author, and, finally, treatment. Only one sentence in the paper refers to Furacin. It summarily states that Furacin may be used with satisfactory results in some cases of mixed bacterial vulvovaginitis. No data and no report of a controlled study are offered to support the claim. The report does not purport to be an adequate and well-controlled clinical investigation of the effectiveness of Furacin within the meaning of section 505(d) of the act (21 U.S.C. 355(d)) and 21 CFR 314.111(a)(5)(ii), but is, rather, a testimonial, and is unacceptable as the sole basis for a claim of effectiveness (21 CFR 314.111(a)(5)(ii)(c)).

8. Robins, Spottswood, "Office Gynecology in Private Practice," *Virginia Medical Monthly* 89:637-641, November 1962. This is another general discussion of office procedure to be followed by practicing gynecologists. Although the author states that Furacin is indicated following electrocauterization, he offers no data or details either to support his

conclusion or to permit scientific evaluation. The report does not purport to be an adequate and well-controlled clinical investigation of the effectiveness of Furacin within the meaning of section 505(d) of the act (21 U.S.C. 355(d)) and 21 CFR 314.111(a)(5)(ii); it is, rather, a testimonial and is unacceptable as the sole basis for a claim of effectiveness (21 CFR 314.111(a)(5)(ii)(c)).

9. Grimes, Hugh G., and Geiger, Clyde J., "Furacin (Nitrofurazone) Vaginal Suppositories in Operative Gynecology," *American Journal of Obstetrics and Gynecology* 79(3):441-450, March 1960. This is a study of the effectiveness of Furacin Vaginal Suppositories on postoperative morbidity, healing, vaginal bacterial flora, and pH in 137 patients undergoing gynecologic procedures of varying seriousness. The patients were divided into three major groups: a "control group," an "early treatment group," and a "later treatment group." The "later treatment group" was subdivided into two groups based upon the strength of Furacin Vaginal Suppository used (0.2 percent Furacin or 0.3 percent Furacin). The patients were examined upon admission, preoperatively and postoperatively; the results were then compared. The operative preparation, consisting of a thorough cleansing of the perineum and vagina with soap and water without any specific antiseptic, was the same for all groups. The "early treatment group" (35 patients) received a single Furacin Vaginal Suppository 14 to 16 hours preoperatively, and one suppository per day for 5 days postoperatively beginning on the first postoperative day. The "later treatment group" was subdivided as indicated above. All subjects in this group received a single Furacin suppository preoperatively. Postoperatively, the suppositories were administered twice daily to the respective subgroups beginning on Day 1.

The study offers no evidence of the effect of Furacin Vaginal Suppositories on the vaginal bacterial flora when the suppository was given preoperatively. The authors stated that "The suppository given preoperatively did not alter bacterial flora qualitatively or quantitatively in the second preoperative specimen in 84 of 88 patients (95 percent)." The authors concluded that there was no statistically significant difference in postoperative morbidity. Further, the authors pointed out that morbidity is influenced by multiple factors, "including the all-important basic surgical principles," and discussed the test results concerning morbidity only after the qualifying introductory clause, "Presuming these to be constant in our series . . ." The authors noted that early healing was a completely unsatisfactory observation as a basis for comparison of effectiveness of treatment and control groups because all patients had a relatively consistent appearance of the 6-day-old vaginal wound. The study states that late healing was enhanced by Furacin Vaginal Suppositories, and that that observation is statistically significant. Finally, the study states that "Diminu-

tion of the amount and odor of discharge was noted in these patients with satisfactory late healing," but that "This [observation] is certainly subjective in nature," and makes no attempt to support the statement by reference to specific data. The study thus purports to provide meaningful information with respect only to Furacin's effect on late healing. Late healing is not an indication for Furacin under either its currently approved or proposed labeling. The study thus provides no information to support the effectiveness of the product for its labeled indications.

Further, the study is not an adequate and well-controlled clinical investigation within the meaning of 21 CFR 314.111(a)(5)(ii) for the following reasons: The authors do not describe the method of assigning the subjects to test groups in a way which assures comparability in test and control groups of pertinent variables (21 CFR 314.111(a)(5)(ii)(a)(2)(iii)). Control of variables such as surgical skill, hemostasis, and particular surgical procedure involved, is critical to any study attempting to assess differences in morbidity and wound healing. Also, the authors state that antibiotics were administered on specific indication only, but they do not indicate to which patients or consider whether the administration of antibiotics was comparable in the treatment and control groups (21 CFR 314.111(a)(5)(ii)(a)(2)(iii)).

The authors failed to take steps to minimize observer bias, as required by 21 CFR 314.111(a)(5)(ii)(a)(3). Such steps cannot be omitted when subjective clinical observations such as the rate of postoperative healing or vaginal healing are to be assessed. When subjective clinical observations such as postoperative healing or vaginal odor are to be assessed, a placebo suppository should be used (21 CFR 314.111(a)(5)(ii)(a)(4)(ii)).

With respect to diminution of amount and odor of discharge, the authors admittedly made no attempt to subject this condition to rigorous clinical study, cite no specific data in connection with it, and do not represent that their conclusion, that the amount and odor of discharge were diminished, is other than a "subjective" impression, e.g., the methods of observation and recording of those "results" are not stated, as required by 21 CFR 314.111(a)(5)(ii)(a)(3). The study thus does not purport to provide substantial evidence as defined in 21 CFR 314.111(a)(5)(ii), in support of the effectiveness of Furacin in treating odor and discharge from any cause.

10. Schwartz, Jerome, and Nardello, Vincent, "Furacin Vaginal Suppositories: Their Use With Radiation Therapy for Malignant Pelvic Neoplasms," *American Journal of Obstetrics and Gynecology* 65(5):1069-1072, May 1953. The authors state that previous results with Furacin Vaginal Suppositories in the pre- and post-operative treatment of the cervix and vagina prompted this further study for the drug's use for the postirradiation therapy of the female pelvis. The authors refer to a total of 26 cases in the



report, although they indicate that six of those patients had been previously reported in a separate article. In the discussion of the results, however, the authors combine these six and discuss their results in terms of a total of 26 women undergoing X-ray or radium therapy to the pelvis for some type of malignant pelvic neoplasm (i.e., carcinoma of the cervix or vagina) and pelvic recurrences of adenocarcinoma of the ovary.

The authors indicate that at the inception of radiation therapy, or shortly thereafter, all patients were instructed to douche twice daily with vinegar douches and to then insert a Furacin Vaginal Suppository. The authors indicate that some patients were treated with suppositories which contained all of the ingredients except Furacin. After a trial period on the placebo suppositories, these patients were placed on Furacin Vaginal Suppositories. Patients originally receiving Furacin Vaginal Suppositories were thereafter given the placebo suppositories. The effects on the amount and odor of discharge were compared in the patients under both conditions of treatment. The authors state that the control cases treated with the placebo suppositories had minimal diminution in the character, amount, and odor of the vaginal discharge. When these patients were placed on Furacin Vaginal Suppositories, a marked decrease in the amount and odor of the discharge is reported to have occurred. Patients who had begun on the Furacin Vaginal Suppositories and who were subsequently given the control product "... invariably commented upon the increase in both the amount and odor of the discharge."

The results of the study are irrelevant to the currently approved labeling indication for Furacin Vaginal Suppositories in the context of radiation therapy because they provide no support for the effectiveness of the product in the treatment and prevention of cervicovaginal infections before and after radiation therapy for cervical and pelvic neoplasms in women. The authors provide no data relating to the presence of identification of microorganisms present before or after radiation. Neither is there any information relating to the effect of Furacin Vaginal Suppositories upon the bacterial flora of the vagina of the patients. The study thus is not, and does not purport to be, an adequate and well-controlled clinical investigation of the effectiveness of the product for its currently approved radiation therapy-related indications (21 CFR 314.111(a)(5)(ii)), nor were the patients selected on the basis of diagnostic criteria designed to assure that they had a condition (cervicovaginal infections before and after radiation therapy) for which the drug is approved, as required by 21 CFR 314.111(a)(5)(ii)(a)(2)(i).

The study does, however, relate to malodor and discharge associated with radiation therapy by reason of bacterial growth in necrotic debris, indications which the NDA-holder proposes for inclusion in new labeling for Furacin Va-

ginal Suppositories. With respect to these indications, the study is not adequate and well-controlled within the meaning of 21 CFR 314.111(a)(5)(ii) for the following reasons:

The entire substance of the results relating to the effectiveness of the product in controlling malodor and discharge is set forth in a cursory recitation only several lines longer than the brief closing summary. This recitation contains no meaningful attempt to explain the methods of observation and recording of results, as required by 21 CFR 314.111(a)(5)(ii)(a)(3). Specifically, there are no explanations of the following:

a. How the results of the treatment were observed or recorded. The statement is made that there "was a marked diminution in the amount and odor of the vaginal discharge in every patient within 48 to 96 hours." This conclusory statement, as with similar flat assertions in the recitation of results, is unsupported by any description of the manner in which the underlying information was obtained, i.e., by uncritical acceptance of the subjects' impressions, by direct examination performed by the authors, or by combining the subjects' impressions with medical verification by the authors in accordance with objective criteria. Whichever of these methods was employed, the description of the results is further deficient in failing to specify the criteria by which the "results" were identified (i.e., if the subjects' impressions were used, the standards they were given on the basis of which they could reliably report to the investigators that there was in fact a diminution in either malodor or discharge; and if the authors observed the results, or verified the results as reported by the subjects, the criteria they used to measure them). Without explanation of the standards used to gauge the existence or extent of diminution in odor or discharge, the report cannot be considered "adequate" within the meaning of the regulation because it is incapable of scientific evaluation.

b. The method of quantitation, if any, employed in the study. The only terms in the recitation of results which imply magnitude are "marked diminution," "minimal diminution," "marked decrease," and "the increase." Without knowing with some precision what these terms mean, or how they were understood by those reporting and/or observing the results, there is no way of either independently evaluating the results or of verifying the validity of the authors' evaluation of them.

c. The manner in which the investigators assessed the subjects' responses. As mentioned, it is possible that the subjects' responses were assessed solely on the basis of the subjects' own interpretation of events, which could constitute a critical defect in the study rendering it less than adequate and well-controlled. This possibility is a real one, given use in the report of phrases like "the patient at no time noted," "the individuals so treated reported," and "[t]hese patients invariably commented upon." It is not possible to determine whether a study is

in fact "adequate and well-controlled" unless the basis for assessing the subjects' responses is stated in, or is reasonably apparent from, the text of the study report. Here, it is not.

d. The steps taken to minimize bias on the part of the subject and observer. The significant variables in this study concern the degree of diminution of odor and amount of discharge. There is no indication that changes in these variables were measured against objective criteria, and the text of the study strongly implies that, on the contrary, they were based solely on gross sensory impressions, thus raising the problem of possible bias. It is, therefore, important to know what steps were taken to minimize subject and, more important in this case, observer bias as a basis for determining whether the study was adequate and well-controlled. The report of the study is completely silent in this respect. There is no indication in the report that the subjects (who were also, apparently, observers of their own conditions) were not told whether they were receiving the active treatment or the placebo, or whether the investigators (assuming, since the report does not say, that they made independent observations) knew when they interviewed or examined the subjects whether the subjects had been given the product under study or the placebo. The study does not explain how, or whether, these potentialities for bias were minimized.

For the reasons above, this study is not adequate and well-controlled within the meaning of 21 CFR 314.111(a)(5)(ii)(a)(3). Even if submitted as a corroborative study under 21 CFR 314.111(a)(5)(ii)(c), this study would not be considered, for it lacks the details which permit scientific evaluation.

11. McClanahan, H. L., and Woodward, H. B., Jr., "The Postpartum Cervix," *Obstetrics and Gynecology*, 14(5), November 1959. In this study, 400 recently delivered women were divided into two equal groups. Two hundred were instructed to insert Furacin Vaginal Suppositories every night for 18 days beginning on the seventh postpartum day. The remaining 200 were not given any medication. All 400 were told to refrain from sexual activity and douches. Evaluation of effect was made at the sixth postpartum week by tabulating the incidence of cervical diseases in the 400 women.

The study is not adequate and well-controlled within the meaning of 21 CFR 314.111(a)(5)(ii) for the following reasons:

It fails to set forth what steps, if any, were taken to minimize observer and patient bias, as required by 21 CFR 314.111(a)(5)(ii)(a)(3). In particular, the study does not state whether the investigators were aware at the time of interviewing and/or examining the subjects whether the subjects were in the treatment or control group. Presence or absence of such knowledge is a significant factor in determining whether a study is "adequate and well-controlled" in view of the possibility of bias on the part of an observer called upon, as here, to diagnose the existence of conditions on the

basis of medical judgment, rather than of objective laboratory measurements.

The study report indicates that test subjects were selected solely on the basis of having been recently delivered. Thus, the study does not include a method of selection which assures that the patients were suitable for the purposes of the study, as required by 21 CFR 314.111(a)(5)(ii)(a)(2)(i). The report includes several statements to the effect that pathological conditions of the cervix are so common among recently delivered women that it can be assumed that all such women have such conditions. No basis for this assumption is stated other than the authors' clinical impressions. Unsubstantiated assertions that all women who have recently delivered babies also have pathological conditions of the cervix cannot substitute for clinical diagnosis that the test subjects do in fact have such conditions. Further, Furacin Vaginal Suppositories is not indicated for use in all pathological conditions of the cervix from which recently delivered women might suffer. Thus, even if the authors of this study provided a basis for the initial assumption that all such women have pathological cervical conditions, the study nevertheless fails to provide a method for selecting test subjects suitable for a study of the effectiveness of the conditions for which Furacin is indicated in its labeling.

The authors state that some of the patients resumed sexual relations (with possible reinfection resulting), and that 15 percent had resumed douching before the evaluation was made. Thus the study, on its face, did not employ a method to assure that the test and control groups were comparable with respect to pertinent variables, as required by 21 CFR 314.111(a)(5)(ii)(a)(2)(iii). It is thus impossible to compare the results of therapy with results in an appropriate control (21 CFR 314.111(a)(5)(ii)(a)(4)).

12. Schwartz, Jerome, "Furacin Vaginal Suppositories in Pre- and Post-operative Treatment of Cervix and Vagina," *American Journal of Obstetrics and Gynecology*, 63(2):579-582, March 1952. This report assesses the effects of Furacin on wound healing, infection, and amount and odor of vaginal discharge in the post operative cervix of 90 patients. Both Furacin and vinegar douches were administered to all patients. The report concludes that Furacin promoted healing, reduced infection and malodorous discharge, and had other favorable results in all pathological contexts included in the study, i.e., post-electrosurgical treatment of the cervix, vaginal operations, total abdominal hysterectomy, and postirradiation treatment of carcinoma of the cervix.

The study is not an adequate and well-controlled clinical investigation within the meaning of 21 CFR 314.111(a)(5)(ii) for the following reasons:

The method of assignment of the subjects for inclusion into the test group or control group is not specified (21 CFR 314.111(a)(5)(ii)(a)(2)). Thus, there is no way to determine how the subjects

were assigned to the groups, or whether there was assurance of the comparability of test and control groups.

The author does not explain the methods of observation and recording of results, including the variables measured, quantitation, assessment of any subject's response, and steps taken to minimize bias on the part of the subject and observer (21 CFR 314.111(a)(5)(ii)(a)(3)). Illustrative of this defect is the fact that no explanation is given of the standards employed by the investigators to gauge the extent of the results of treatment with Furacin Vaginal Suppositories. Thus, the conclusion is offered in connection with use of Furacin in post-radiation situations that "there was a remarkable reduction in the amount of vaginal discharge which was practically odorless." Nothing in the report gives content to the term "remarkable reduction." Nothing in the report defines "odorless." Another example of failure to comply with this provision of the regulations is that there is no indication that any measures were taken to minimize subject and observer bias. The study deals with clinical effects (e.g., rate of healing, amount and odor of discharge) which depend on the exercise of medical judgment for their identification and assessment, and so the possibility of bias on the part of the observer must be taken into account in some way to make the study scientifically meaningful. The study report is silent on this point.

Although a table in the study report refers to "control group," the text nowhere discusses or even mentions the existence of such controls, and there is no explanation of what that term means in this study, nor of the results observed in the controls. The only results which are discussed are those observed in subjects who received Furacin Vaginal Suppositories. Statements such as "healing time was accelerated," and "decreased postoperative infection" are made without reference to any discernible objective standard, much less to the results in an appropriate control. Thus, on its face, the study contains no comparison of the results in treated subjects with the results in a control group, as required by 21 CFR 314.111(a)(5)(ii)(a)(4).

Interpretation of results is obscured by the vinegar douches used by all patients. There is no way to tell whether the observed effects were due to Furacin or to the vinegar douches, and thus even if the study utilized an untreated control group, the study would not provide a comparison of the results of Furacin-treated patients with the results in a control group, as required by 21 CFR 314.111(a)(5)(ii)(a)(4), because no patients received only Furacin.

13. Kanter, A. E., "Infection Following Gynecological Surgery," *Clinical Obstetrics and Gynecology*, 2:564-581, June 1959. This paper discusses complications following pelvic surgery. It makes no attempt to study the efficacy of any drug product. Furacin is mentioned in a single sentence along with other vaginal suppositories. The paper does not purport to

describe an adequate and well-controlled clinical investigation of the effectiveness of furacin within the meaning of section 505(d) of the act (21 U.S.C. 355(d)) and 21 CFR 314.111(a)(5)(ii). It is at best a testimonial, which is unacceptable as the sole basis for a claim of effectiveness (21 CFR 314.111(a)(5)(ii)(c)).

B. *Affidavits, Testimonial Letters and Marketing Data.* The affidavits and testimonial letters from practicing physicians and marketing data submitted by Norwich do not provide substantial evidence of the effectiveness of furacin. *Weinberger v. Hynson, Westcott and Dunning, Inc.*, 412 U.S. 609 (1973); *Weinberger v. Bentex Pharmaceuticals, Inc.*, 412 U.S. 645 (1973); *Upjohn Co. v. Finch*, 422 F.2d 944, 951-954 (C.A. 6, 1970); *PMA v. Richardson*, 318 F.Supp. 301, 309-310 (D. Del., 1970). Such material, which lacks details which permit scientific evaluation, is not considered in evaluating whether substantial evidence exists supporting the effectiveness of a drug (21 CFR 314.111(a)(5)(ii)(c)).

C. *Proposed Revised Labeling of Furacin Vaginal Suppositories.* As part of its submission in response to the Notice of Opportunity for Hearing, Norwich, on June 21, 1973, proposed new labeling for Furacin Vaginal Suppositories. The data submitted by Norwich in support of its request for hearing have been specifically reviewed with respect to currently approved labeling. Necessarily, the analysis of the studies, in relation to the criteria for adequate and well-controlled investigations, also applies to the proposed relabeling described in the June 1973 supplement, and this has been so indicated where relevant. It has been determined that the cited studies are not adequate and well-controlled. Results of these studies, therefore, do not provide substantial evidence in support of the effectiveness of Furacin Vaginal Suppositories for currently approved indications. The question of whether the evidence submitted supports the effectiveness of the product for proposed labeling obviously has no bearing on whether a hearing is justified in relation to evidence submitted to support currently approved labeling. In view of his analysis, the Commissioner does not believe that a hearing could be justified in connection with the proposed new labeling on the basis of the data cited by the applicant. In any event, for those indications proposed in the June 21, 1973 submission, the Commissioner concludes that the applicant must submit a new drug application establishing the safety of Furacin Vaginal Suppositories and containing substantial evidence of its effectiveness under those conditions of use for which Norwich wishes to market the product.

#### IV. THE DATA SUBMITTED TO SUPPORT CLAIMS OF SAFETY

Norwich has submitted a number of animal studies to establish the safety of the products under consideration here and in support of certain animal drugs which also contain nitrofurazone. The Commissioner has not yet completed his



## NOTICES

review of this material. However, since the Commissioner has concluded that Norwich has failed to support the claimed efficacy of these drugs with evidence meeting the statutory standard of "adequate and well-controlled clinical investigations," under section 505(d) of the act (21 U.S.C. 355(d)) and 21 CFR 314.111(a)(5)(ii), it is not necessary to await the Commissioner's evaluation of the safety data. The lack of substantial evidence of effectiveness requires denial of a hearing for these products (21 U.S.C. 355(c); 21 CFR 314.115; *E. R. Squibb & Sons, Inc. v. Weinberger*, 483 F.2d 1382, 1386 (C.A.3, 1973)).

## V. LEGAL ARGUMENTS

In its hearing request for the product above, Norwich states that the new drug issue cannot be decided in an administrative proceeding to withdraw approval of a new drug application. After submission of the request, the Supreme Court held that the Food and Drug Administration has jurisdiction in an administrative proceeding to determine whether a drug product is a "new drug" within the meaning of the Federal Food, Drug, and Cosmetic Act. *Weinberger v. Hynson, Wescott & Dunning, supra*; *Weinberger v. Bentez Pharmaceuticals, Inc., supra*; *CIBA Corp. v. Weinberger*, 412 U.S. 640 (1973).

Norwich also states that its November 16, 1973 submission, consisting of affidavits from three experts, establishes a genuine issue of fact which requires a hearing. However, each of Norwich's affidavits bases his opinion on the studies previously submitted by Norwich, his own personal experience, and "pertinent reports included on the list of references" attached to each of their affidavits, none of which, as shown above, constitutes substantial evidence within the meaning of section 505(d) of the act (21 U.S.C. 355(d)) and 21 CFR 314.111(a)(5)(ii). Norwich's affidavits are testimonials and do not raise an issue of fact requiring a hearing.

## VI. FINDINGS

On review of the documentation and legal arguments offered to support the claims of effectiveness for Furacin Vaginal Suppositories and the necessity for an evidentiary hearing, the Commissioner finds that Norwich has failed to set forth specific facts showing that there is a genuine and substantial issue of fact requiring a hearing, that the legal arguments offered are insufficient to justify an evidentiary hearing, and that there is a lack of substantial evidence that this drug has the effects it is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 52 Stat. 1052, as

amended (21 U.S.C. 355(e))) and under authority delegated to the Commissioner (21 CFR 2.120), the hearing is denied and the approval for that part of the new drug application (NDA 5-795) providing for Furacin Vaginal Suppositories, and all amendments and supplements thereto, is hereby withdrawn, effective June 10, 1975.

Dated: May 15, 1975.

A. M. SCHMIDT,  
Commissioner of Food and Drugs.  
[FR Doc.75-14070 Filed 5-29-75; 8:45 am]

Committee name	Date, time, place	Type of meeting and contact person
Cardiovascular and Renal Advisory Committee.	June 10, 9 a.m., Conference Room L, Parklawn Bldg., 5000 Fishers Lane, Rockville, Md.	Open—Joan C. Standaert (HFD-110), 5000 Fishers Lane, Rockville, Md. 20852, 301-413-4730.

**Purpose.** Reviews and evaluates all available data concerning the safety and effectiveness of presently marketed and new prescription drug products proposed for marketing for use in the treatment of cardiovascular and renal disorders.

**Agenda.** Discussion of NDA 12-151 Spironolactone (Aldactone) and NDA 12-616 Spironolactone Hydrochlorothiazide (Aldactazide). Following routine committee business, a discussion relative to the toxicity of Spironolactone will ensue. A recent study of 78 weeks in the rat revealed a dose related increase in tumors of the thyroid and testes. Earlier studies of 52 weeks in monkeys and 104 weeks in rats utilizing lower doses will be reviewed in light of the new data. There will, in addition, be a discussion of possible liver involvement.

The Committee will review these findings and deliberate upon their relevance to the continued marketing and/or labeling of Spironolactone and Spironolactone/Hydrochlorothiazide and their indications for use.

Agenda items are subject to change as priorities dictate.

Dated: May 22, 1975.

SAM D. FINE,  
Associate Commissioner for Compliance.  
[FR Doc.75-13908 Filed 5-29-75; 8:45 am]

**Public Health Service  
HEALTH SERVICES ADMINISTRATION  
Delegation of Authority**

On May 1, 1975 the Assistant Secretary for Health made the following delegations of authority to the Executive Officer, Public Health Service, and to the Administrator, Health Services Administration:

Under the authority delegated to me by the Secretary on July 29, 1974, I hereby delegate to the Executive Officer, Public Health Service, the authority to perform all functions of the Secretary in connection with the bringing of civil

**CARDIOVASCULAR AND RENAL  
ADVISORY COMMITTEE**

**Notice of Meeting**

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. 1)), the Food and Drug Administration announces the following public advisory committee meeting and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act:

Committee name	Date, time, place	Type of meeting and contact person
Cardiovascular and Renal Advisory Committee.	June 10, 9 a.m., Conference Room L, Parklawn Bldg., 5000 Fishers Lane, Rockville, Md.	Open—Joan C. Standaert (HFD-110), 5000 Fishers Lane, Rockville, Md. 20852, 301-413-4730.

actions under section 1312, Public Health Service Act (42 U.S.C. 300e-11), and the authority to direct and supervise the implementation of section 1312. These authorities may not be further redelegated.

I hereby delegate to the Administrator, Health Services Administration, the authority to monitor and investigate the compliance of entities with applicable requirements of Title XIII, PHS Act, with regulations issued thereunder, and with assurances which they provided thereunder, and as may be necessary for the proper implementation of section 1312 of the Act, and the authority to pursue such remedies as may be available with respect to such entities, other than the authority to bring civil actions under section 1312, Public Health Service Act. These authorities may be redelegated.

In addition, I hereby delegate to the Administrator, Health Services Administration, the authority to perform all functions of the Secretary, under section 1310, Public Health Service Act (42 U.S.C. 300e-9). This authority may be redelegated.

These delegations are effective immediately.

R. MOURE,  
Executive Officer,  
Public Health Service.

MAY 2, 1975.

[FR Doc.75-14172 Filed 5-29-75; 8:45 am]

**Office of the Secretary  
NATIONAL COMMISSION FOR THE PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH  
Meeting**

Notice is hereby given that the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research will meet on June 20 and 21, 1975, in Conference Room 5, B Wing, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014. The meeting will convene at 9 a.m. each day and will be open

to the public, subject to the limitations of available space.

The agenda will include discussion of issues identified in the legislative mandate to the Commission under P.L. 93-348 and planning of studies to be undertaken by the Commission.

Requests for information should be directed to Ms. Anne Ballard (301-498-7776), Room 125, Westwood Building, 5333 Westbard Avenue, Bethesda, Maryland 20016.

CHARLES U. LOWE,  
Executive Director, National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.

MAY 27, 1975.

[FR Doc.75-14179 Filed 5-29-75; 8:45 am]

**DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT**

**Office of Interstate Land Sales Registration**

[Docket No. N-75-368; OILSR No. 0-3543-11-8; Docket No. Y-646]

**BIRCH HARBOR ESTATES**

**Order of Suspension**

Notice is hereby given that: On or about November 15, 1974, the Department of Housing and Urban Development, Office of Interstate Land Sales Registration, mailed by certified mail to Kachemak Bay Development Corp., 1101 W. Fireweed Lane, Suite 2, Anchorage, Alaska, a letter requesting certain documents and that the return receipt requested was returned showing delivery had been made; that the requested documents were not furnished and on or about February 7, 1975, the Department attempted to serve upon Mel Tipton, President, Kachemak Bay Development Corporation, an Order of Suspension by certified mail and service of process was not possible. Accordingly, pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Order of Suspension is being issued as follows:

**ORDER OF SUSPENSION**

1. The Developer, having filed a Statement of Record for the above captioned subdivision pursuant to the provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 et seq. and the Rules and Regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, had its Statement of Record become effective pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. As authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been delegated to the Interstate Land Sales Administrator.

3. Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Interstate Land Sales Administrator may make an examination to determine whether a Suspension Order should be issued under 15 U.S.C. 1706(d), and if a developer or any agents thereof shall fail to cooperate,

or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record.

4. Under the authority of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), a letter dated on or about November 15, 1974, was sent to the Developer, the body of said letter being in the form and substance of the form letter attached hereto and made part hereof as Exhibit A. The Developer has failed to comply with the request for the documents referred to in the third paragraph of said letter.

5. Therefore, pursuant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of the receipt of this Order of Suspension by the Said Developer. This Order of Suspension shall remain in full force and effect until the Developer has complied with the requirements of the order.

6. If the Developer desires a hearing in this matter, he shall file a request for hearing accompanied by an answer and three copies thereof within fifteen days after service of this order pursuant to 24 CFR 1720.145 and 24 CFR 1720.165. Any request for hearing, answer, motion, amendment to pleading, offer of settlement or correspondence during the pendency of this proceeding shall be filed with the General Counsel's Clerk for Administrative Proceedings, Room 10150, HUD Building, 451 Seventh Street, SW., Washington, D.C. 20410. All such papers shall clearly identify the subdivision, the type of matter and the docket number as set forth in this order.

Issued in Washington, D.C.

By the Secretary.

JOHN R. McDOWELL,  
Interstate Land Sales  
Administrator (Acting).

**EXHIBIT A**

DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT,  
OFFICE OF INTERSTATE  
LAND SALES REGISTRATION,  
Washington, D.C. 20410.

Subject: Submission of Property Reports and Contracts.

GENTLEMEN: On or about September 12, 1974, you were advised by letter from this Office of the necessity for mailing to us, not later than midnight, October 20, 1974, revised Property Report cover pages and lot sales or lease contract revisions. The revisions were, as explained in that letter, caused by the amendments by Congress to Section 1404(b) of the Interstate Land Sales Full Disclosure Act which extended the 48 hour rescission period to 3 business days and also abolished the provisions for waiver of this time by purchasers. These amendments were signed into law August 22 and became effective October 21, 1974. They apply to all sales or leases made on or after that date.

As of today the required revisions to your Property Report and contracts have not been received by us as required by the above referenced letter and the amended Regulations, published October 29, 1974, in the FEDERAL

REGISTER on pages 38098-38101. Therefore, we are conducting an examination to determine what further action is warranted by us pursuant to Section 1407(e) of the Interstate Land Sales Full Disclosure Act. You will note that Section 1407(e) also provides "If the developer or any agents shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuing of an order suspending the Statement of Record."

You are hereby requested to send to this Office, within 15 days of the receipt of this letter (1) a copy of the Property Report or Reports presently on file in your office and used in your lot sales or leasing program, and (2) a copy of the sales or lease contract or agreement presently on file in your office and used in your lot sales or leasing program. Failure to respond as requested will result in issuance of an order suspending your Statement or Statements of Record with our Office under the authority of Section 1407(e) of the Interstate Land Sales Full Disclosure Act (15 USC 1706(e)).

In your response, please put your OILSR file number or numbers on your letter and copies of the Property Report and contract.

Sincerely,

GEORGE K. BERNSTEIN,  
Interstate Land Sales  
Administrator.

[FR Doc.75-14095 Filed 5-29-75; 8:45 am]

[Docket No. N-75-365; OILSR No. 0-2914-29-135; Docket No. Y-705]

**CORAL FOUNTAIN ESTATES, INC.**

**Order of Suspension**

Notice is hereby given that: On or about November 15, 1974, the Department of Housing and Urban Development, Office of Interstate Land Sales Registration, mailed by certified mail to J. L. Croffard and Melba J. Croffard, Golden, Missouri, a letter requesting certain documents and that the return receipt requested was returned showing delivery had been made; that the requested documents were not furnished and on or about February 12, 1975, the Department attempted to serve upon J. L. and Melba J. Croffard, Coral Fountain Estates, Inc., an Order of Suspension by certified mail and service of process was not possible. Accordingly, pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Order of Suspension is being issued as follows:

**ORDER OF SUSPENSION**

1. The Developer, having filed a Statement of Record for the above captioned subdivision pursuant to the provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 et seq. and the Rules and Regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, had its Statement of Record become effective pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. As authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been delegated to the Interstate Land Sales Administrator.



## NOTICES

3. Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Interstate Land Sales Administrator may make an examination to determine whether a Suspension Order should be issued under 15 U.S.C. 1706(d), and if a developer or any agents thereof shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record.

4. Under the authority of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), a letter dated on or about November 15, 1974, was sent to the Developer, the body of said letter being in the form and substance of the form letter attached hereto and made part hereof as Exhibit A. The Developer has failed to comply with the request for the documents referred to in the third paragraph of said letter.

5. Therefore, pursuant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of the receipt of this Order of Suspension by the Said Developer. This Order of Suspension shall remain in full force and effect until the Developer has complied with the requirements of the order.

6. If the Developer desires a hearing in this matter, he shall file a request for hearing accompanied by an answer and three copies thereof within fifteen days after service of this order pursuant to 24 CFR 1720.145 and 24 CFR 1720.165. Any request for hearing, answer, motion, amendment to pleading, offer of settlement or correspondence during the pendency of this proceeding shall be filed with the General Counsel's Clerk for Administrative Proceedings, Room 10150, HUD Building, 451 Seventh Street SW., Washington, D.C. 20410. All such papers shall clearly identify the subdivision, the type of matter and the docket number as set forth in this order.

Issued in Washington, D.C.

By the Secretary.

JOHN R. McDOWELL,  
Interstate Land Sales  
Administrator (Acting).  
EXHIBIT A

DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT,  
OFFICE OF INTERSTATE  
LAND SALES REGISTRATION,  
WASHINGTON, D.C. 20410.

Subject: Submission of Property Reports and Contracts.

GENTLEMEN: On or about September 12, 1974, you were advised by letter from this Office of the necessity for mailing to us, not later than midnight, October 20, 1974, revised Property Report cover pages and lot sales or lease contract revisions. The revisions were, as explained in that letter, caused by the amendments by Congress to Section 1404 (b) of the Interstate Land Sales Full Disclosure Act which extended the 48 hour rescission period to 3 business days and also abolished the provisions for waiver of this time by purchasers. These amendments were signed into law August 22 and became effective

October 21, 1974. They apply to all sales or leases made on or after that date.

As of today the required revisions to your Property Report and contracts have not been received by us as required by the above referenced letter and the amended Regulations, published October 29, 1974, in the FEDERAL REGISTER on pages 38098-38101. Therefore, we are conducting an examination to determine what further action is warranted by us pursuant to Section 1407(e) of the Interstate Land Sales Full Disclosure Act. You will note that Section 1407(e) also provides "If the developer or any agents shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record."

You are hereby requested to send to this Office, within 15 days of the receipt of this letter (1) a copy of the Property Report or Reports presently on file in your office and used in your lot sales or leasing program, and (2) a copy of the sales or lease contract or agreement presently on file in your office and used in your lot sales or leasing program.

Failure to respond as requested will result in issuance of an order suspending your Statement or Statements of Record with our Office under the authority of Section 1407(e) of the Interstate Land Sales Full Disclosure Act (15 USC 1706(e)).

In your response, please put your OILSR file number or numbers on your letter and copies of the Property Report and contract.

Sincerely,

GEORGE K. BERNSTEIN,  
Interstate Land Sales  
Administrator.

[FR Doc.75-14096 Filed 5-29-75; 8:45 am]

[Docket No. N-75-366; OILSR No. O-2727-42-31; Docket No. Y-740]

#### THE LAKES, UNIT I & II Order of Suspension

Notice is hereby given that: On or about November 15, 1974, the Department of Housing and Urban Development, Office of Interstate Land Sales Registration, mailed by certified mail to Oklahoma Acceptance Corp., 7430 S.E. 15th St., Midwest City, Oklahoma, a letter requesting certain documents and that the return receipt requested was returned showing delivery had been made; that the requested documents were not furnished and on or about February 18, 1975, the Department attempted to serve upon Robert Gunnison, Vice President, Oklahoma Acceptance Corporation, an Order of Suspension by certified mail and service of process was not possible. Accordingly, pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Order of Suspension is being issued as follows:

#### ORDER OF SUSPENSION

1. The Developer, having filed a Statement of Record for the above captioned subdivision pursuant to the provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 et seq. and the Rules and Regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, had its Statement of Record become effective pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. As authorized by 15 U.S.C. 1715, the authority and responsibility for admin-

istration of the Interstate Land Sales Full Disclosure Act has been delegated to the Interstate Land Sales Administrator.

3. Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Interstate Land Sales Administrator may make an examination to determine whether a Suspension Order should be issued under 15 U.S.C. 1706(d), and if a developer or any agents thereof shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record.

4. Under the authority of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), a letter dated on or about November 15, 1974, was sent to the Developer, the body of said letter being in the form and substance of the form letter attached hereto and made part hereof as Exhibit A. The Developer has failed to comply with the request for the documents referred to in the third paragraph of said letter.

5. Therefore, pursuant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of the receipt of this Order of Suspension by the Said Developer. This Order of Suspension shall remain in full force and effect until the Developer has complied with the requirements of the order.

6. If the Developer desires a hearing in this matter, he shall file a request for hearing accompanied by an answer and three copies thereof within fifteen days after service of this order pursuant to 24 CFR 1720.145 and 24 CFR 1720.165. Any request for hearing, answer, motion, amendment to pleading, offer of settlement or correspondence during the pendency of this proceeding shall be filed with the General Counsel's Clerk for Administrative Proceedings, Room 10150, HUD Building, 451 Seventh Street SW., Washington, D.C. 20410. All such papers shall clearly identify the subdivision, the type of matter and the docket number as set forth in this order.

Issued in Washington, D.C.

By the Secretary.

JOHN R. McDOWELL,  
Interstate Land Sales  
Administrator (Acting).  
EXHIBIT A

DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT,  
OFFICE OF INTERSTATE  
LAND SALES REGISTRATION,  
WASHINGTON, D.C. 20410.

Subject: Submission of Property Reports and Contracts

GENTLEMEN: On or about September 12, 1974, you were advised by letter from this Office of the necessity for mailing to us, not later than midnight, October 20, 1974, revised Property Report cover pages and lot sales or lease contract revisions. The revisions were, as explained in that letter, caused by the amendments by Congress to Section 1404 (b) of the Interstate Land Sales Full Disclosure Act which extended the 48 hour

## NOTICES

rescission period to 3 business days and also abolished the provisions for waiver of this time by purchasers. These amendments were signed into law August 22 and became effective October 21, 1974. They apply to all sales or leases made on or after that date.

As of today the required revisions to your Property Report and contracts have not been received by us as required by the above referenced letter and the amended Regulations, published October 29, 1974, in the FEDERAL REGISTER on pages 38098-38101. Therefore, we are conducting an examination to determine what further action is warranted by us pursuant to Section 1407(e) of the Interstate Land Sales Full Disclosure Act. You will note that Section 1407(e) also provides "If the developer or any agents shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record."

You are hereby requested to send to this Office, within 15 days of the receipt of this letter (1) a copy of the Property Report or Reports presently on file in your office and used in your lot sales or leasing program, and (2) a copy of the sales or lease contract or agreement presently on file in your office and used in your lot sales or leasing program. Failure to respond as requested will result in issuance of an order suspending your Statement or Statements of Record with our Office under the authority of Section 1407(e) of the Interstate Land Sales Full Disclosure Act (15 USC 1706(e)).

In your response, please put your OILSR file number or numbers on your letter and copies of the Property Report and contract.

Sincerely,

GEORGE K. BERNSTEIN,  
Interstate Land  
Sales Administrator.

[FR Doc.75-14097 Filed 5-29-75; 8:45 am]

[Docket No. N75-345; OILSR No. O-2992-42-41; Docket No. Y-743]

#### PORT DUNCAN OF MONKEY ISLAND Order of Suspension

Notice is hereby given that: On or about November 15, 1974, the Department of Housing and Urban Development, Office of Interstate Land Sales Registration, mailed by certified mail to Timber Ridge Estates, Inc. 6900 N. Classen, Oklahoma City, Okla., 73116, a letter requesting certain documents and that the return receipt requested was returned showing delivery had been made; that the requested documents were not furnished and on or about February 14, 1975, the Department attempted to serve upon Paul E. Beavers, President, Timber Ridge Estates, Inc. an Order of Suspension by certified mail and service of process was not possible. Accordingly, pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Order of Suspension is being issued as follows:

#### ORDER OF SUSPENSION

1. The Developer, having filed a Statement of Record for the above captioned subdivision pursuant to the provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 et seq. and the Rules and Regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, had its Statement of Record become effective

pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. As authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been delegated to the Interstate Land Sales Administrator.

3. Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Interstate Land Sales Administrator may make an examination to determine whether a Suspension Order should be issued under 15 U.S.C. 1706(d), and if a developer or any agents thereof shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record.

4. Under the authority of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), a letter dated on or about November 15, 1974, was sent to the Developer, the body of said letter being in the form and substance of the form letter attached hereto and made part hereof as Exhibit A. The Developer has failed to comply with the request for the documents referred to in the third paragraph of said letter.

5. Therefore, pursuant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of the receipt of this Order of Suspension by the Said Developer. This Order of Suspension shall remain in full force and effect until the Developer has complied with the requirements of the order.

6. If the Developer desires a hearing in this matter, he shall file a request for hearing accompanied by an answer and three copies thereof within fifteen days after service of this order pursuant to 24 CFR 1720.145 and 24 CFR 1720.165. Any request for hearing, answer, motion, amendment to pleading, offer of settlement or correspondence during the pendency of this proceeding shall be filed with the General Counsel's Clerk for Administrative Proceedings, Room 10150, HUD Building, 451 Seventh Street, SW, Washington, D.C. 20410. All such papers shall clearly identify the subdivision, the type of matter and the docket number as set forth in this order.

Issued in Washington, D.C.

By the Secretary.

JOHN R. McDOWELL,  
Interstate Land Sales  
Administrator (Acting).  
EXHIBIT A

DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT,  
OFFICE OF INTERSTATE  
LAND SALES REGISTRATION,  
WASHINGTON, D.C. 20410.

Subject: Submission of Property Reports and Contracts.

GENTLEMEN: On or about September 12, 1974, you were advised by letter from this Office of the necessity for mailing to us, not later than midnight, October 20, 1974, revised Property Report cover pages and lot sales

or lease contract revisions. The revisions were, as explained in that letter, caused by the amendments by Congress to Section 1404 (b) of the Interstate Land Sales Full Disclosure Act which extended the 48 hour rescission period to 3 business days and also abolished the provisions for waiver of this time by purchasers. These amendments were signed into law August 22 and became effective October 21, 1974. They apply to all sales or leases made on or after that date.

As of today the required revisions to your Property Report and contracts have not been received by us as required by the above referenced letter and the amended Regulations, published October 29, 1974, in the FEDERAL REGISTER on pages 38098-38101. Therefore, we are conducting an examination to determine what further action is warranted by us pursuant to Section 1407(e) of the Interstate Land Sales Full Disclosure Act. You will note that Section 1407(e) also provides "If the developer or any agents shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record."

You are hereby requested to send to this Office, within 15 days of the receipt of this letter (1) a copy of the Property Report or Reports presently on file in your office and used in your lot sales or leasing program, and (2) a copy of the sales or lease contract or agreement presently on file in your office and used in your lot sales or leasing program. Failure to respond as requested will result in issuance of an order suspending your Statement or Statements of Record with our Office under the authority of Section 1407(e) of the Interstate Land Sales Full Disclosure Act (15 USC 1706(e)).

In your response, please put your OILSR file number or numbers on your letter and copies of the Property Report and contract.

Sincerely,

GEORGE K. BERNSTEIN,  
Interstate Land  
Sales Administrator

[FR Doc.75-14098 Filed 5-29-75; 8:45 am]

[Docket No. N-75-343; OILSR No. O-3169-20-46; Docket No. Y-667]

#### SPORTING RESORT & RECREATIONAL COMMUNITY

#### Order of Suspension

Notice is hereby given that: On or about November 15, 1974, the Department of Housing and Urban Development, Office of Interstate Land Sales Registration, mailed by certified mail to Sporting Properties, Inc., 1002 Hatch Street, Cincinnati, Ohio 45202, a letter requesting certain documents and that the return receipt requested was returned showing delivery had been made; that the requested documents were not furnished and on or about February 7, 1975, the Department attempted to serve upon Dale B. Finfrock, Jr., President, Sporting Properties, Inc. an Order of Suspension by certified mail and service of process was not possible. Accordingly, pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Order of Suspension is being issued as follows:

#### ORDER OF SUSPENSION

1. The Developer, having filed a Statement of Record for the above captioned subdivision pursuant to the provisions of the Interstate Land Sales Full Dis-



## NOTICES

closure Act, 15 U.S.C. 1701 et seq. and the Rules and Regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, had its Statement of Record become effective pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. As authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been delegated to the Interstate Land Sales Administrator.

3. Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Interstate Land Sales Administrator may make an examination to determine whether a Suspension Order should be issued under 15 U.S.C. 1706(d), and if a developer or any agents thereof shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record.

4. Under the authority of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), a letter dated on or about November 15, 1974, was sent to the Developer, the body of said letter being in the form and substance of the form letter attached hereto and made part hereof as Exhibit A. The Developer has failed to comply with the request for the documents referred to in the third paragraph of said letter.

5. Therefore, pursuant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of the receipt of this Order of Suspension by the Said Developer. This Order of Suspension shall remain in full force and effect until the Developer has complied with the requirements of the order.

6. If the Developer desires a hearing in this matter, he shall file a request for hearing accompanied by an answer and three copies thereof within fifteen days after service of this order pursuant to 24 CFR 1720.145 and 24 CFR 1720.165. Any request for hearing, answer, motion, amendment to pleading, offer of settlement or correspondence during the pendency of this proceeding shall be filed with the General Counsel's Clerk for Administrative Proceedings, Room 10150, HUD Building, 451 Seventh Street SW, Washington, D.C. 20410. All such papers shall clearly identify the subdivision, the type of matter and the docket number as set forth in this order.

Issued in Washington, D.C.

By the Secretary.

JOHN R. McDOWELL,  
Interstate Land Sales  
Administrator (Acting).

EXHIBIT A

DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT,  
OFFICE OF INTERSTATE  
LAND SALES REGISTRATION,  
Washington, D.C. 20410.

Subject: Submission of Property Reports and Contracts.

Gentlemen: On or about September 12, 1974, you were advised by letter from this Office of the necessity for mailing to us, not later than midnight, October 20, 1974, revised Property Report cover pages and lot sales or lease contract revisions. The revisions were, as explained in that letter, caused by the amendments by Congress to Section 1404(b) of the Interstate Land Sales Full Disclosure Act which extended the 48 hour rescission period to 3 business days and also abolished the provisions for waiver of this time by purchasers. These amendments were signed into law August 22 and became effective October 21, 1974. They apply to all sales or leases made on or after that date.

As of today the required revisions to your Property Report and contracts have not been received by us as required by the above referenced letter and the amended Regulations, published October 29, 1974, in the FEDERAL REGISTER on pages 38098-38101. Therefore, we are conducting an examination to determine what further action is warranted by us pursuant to Section 1407(e) of the Interstate Land Sales Full Disclosure Act. You will note that Section 1407(e) also provides "If the developer or any agents shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record."

You are hereby requested to send to this Office, within 15 days of the receipt of this letter (1) a copy of the Property Report or Reports presently on file in your office and used in your lot sales or leasing program, and (2) a copy of the sales or lease contract or agreement presently on file in your office and used in your lot sales or leasing program. Failure to respond as requested will result in issuance of an order suspending your Statement or Statements of Record with our Office under the authority of Section 1407(e) of the Interstate Land Sales Full Disclosure Act (15 USC 1706(e)).

In your response, please put your OILSR file number or numbers on your letter and copies of the Property Report and contract.

Sincerely,

GEORGE K. BERNSTEIN,  
Interstate Land  
Sales Administrator.

[FR Doc.75-14099 Filed 5-29-75;8:45 am]

[Docket No. N-75-344; OILSR No. 0-2099-60-73; Docket No. Y-1037]

## VARENNES

## Order of Suspension

Notice is hereby given that: On or about November 15, 1974, the Department of Housing and Urban Development, Office of Interstate Land Sales Registration, mailed by certified mail to American Industrial Research Corp., Suite 410—2080 Alymer, Quebec, Montreal, Canada, a letter requesting certain documents and that the return receipt requested was returned showing delivery had been made; that the requested documents were not furnished and on or

about February 18, 1975, the Department attempted to serve upon Michael H. Hart, President, American Industrial Research Corporation, an Order of Suspension by certified mail and service of process was not possible. Accordingly, pursuant to U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Order of Suspension is being issued as follows:

## ORDER OF SUSPENSION

1. The Developer, having filed a Statement of Record for the above captioned subdivision pursuant to the provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 et seq. and the Rules and Regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, had its Statement of Record become effective pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. As authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been delegated to the Interstate Land Sales Administrator.

3. Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Interstate Land Sales Administrator may make an examination to determine whether a Suspension Order should be issued under 15 U.S.C. 1706(d), and if a developer or any agents thereof shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record.

4. Under the authority of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), a letter dated on or about November 15, 1974, was sent to the Developer, the body of said letter being in the form and substance of the form letter attached hereto and made part hereof as Exhibit A. The Developer has failed to comply with the request for the documents referred to in the third paragraph of said letter.

5. Therefore, pursuant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of the receipt of this Order of Suspension by the Said Developer. This Order of Suspension shall remain in full force and effect until the Developer has complied with the requirements of the order.

6. If the Developer desires a hearing in this matter, he shall file a request for hearing accompanied by an answer and three copies thereof within fifteen days after service of this order pursuant to 24 CFR 1720.145 and 24 CFR 1720.165. Any request for hearing, answer, motion, amendment to pleading, offer of settlement or correspondence during the pendency of this proceeding shall be filed with the General Counsel's Clerk for Administrative Proceedings, Room 10150, HUD Building, 451 Seventh Street, S.W., Washington, D.C. 20410. All such papers shall clearly identify the subdivision, the

type of matter and the docket number as set forth in this order.

Issued in Washington, D.C.

By the Secretary.

JOHN R. McDOWELL,  
Interstate Land Sales  
Administrator (Acting).

EXHIBIT A

DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT,  
OFFICE OF INTERSTATE  
LAND SALES REGISTRATION,  
Washington, D.C. 20410.

Subject: Submission of Property Reports and Contracts

GENTLEMEN: On or about September 12, 1974, you were advised by letter from this Office of the necessity for mailing to us, not later than midnight, October 20, 1974, revised Property Report cover pages and lot sales or lease contract revisions. The revisions were, as explained in that letter, caused by the amendments by Congress to Section 1404(b) of the Interstate Land Sales Full Disclosure Act which extended the 48 hour rescission period to 3 business days and also abolished the provisions for waiver of this time by purchasers. These amendments were signed into law August 22 and became effective October 21, 1974. They apply to all sales or leases made on or after that date.

As of today the required revisions to your Property Report and contracts have not been received by us as required by the above referenced letter and the amended Regulations, published October 29, 1974, in the FEDERAL REGISTER on pages 38098-38101. Therefore, we are conducting an examination to determine what further action is warranted by us pursuant to Section 1407(e) of the Interstate Land Sales Full Disclosure Act. You will note that Section 1407(e) also provides "If the developer or any agents shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record."

You are hereby requested to send to this Office, within 15 days of the receipt of this letter (1) a copy of the Property Report or Reports presently on file in your office and used in your lot sales or leasing program, and (2) a copy of the sales or lease contract or agreement presently on file in your office and used in your lot sales or leasing program. Failure to respond as requested will result in issuance of an order suspending your Statement or Statements of Record with our Office under the authority of Section 1407(e) of the Interstate Land Sales Full Disclosure Act (15 USC 1706(e)).

In your response, please put your OILSR file number or numbers on your letter and copies of the Property Report and contract.

Sincerely,

GEORGE K. BERNSTEIN,  
Interstate Land  
Sales Administrator.

[FR Doc.75-14101 Filed 5-29-75;8:45 am]

[Docket No. N75-387; OILSR No. 0-3573-49-517; Docket No. Y-1001]

## WINDSWEEP DOWNS

## Order of Suspension

Notice is hereby given that: On or about November 15, 1974, the Department of Housing and Urban Develop-

## NOTICES

ment, Office of Interstate Land Sales Registration, mailed by certified mail to Marad Corporation, 202 Main Street, Houston, Texas 77002, a letter requesting certain documents and that the return receipt requested was returned showing delivery had been made; that the requested documents were not furnished and on or about February 18, 1975, the Department attempted to serve upon John D. Griffiths, President, Marad Corporation, an Order of Suspension by certified mail and service of process was not possible. Accordingly, pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Order of Suspension is being issued as follows:

## ORDER OF SUSPENSION

1. The Developer, having filed a Statement of Record for the above captioned subdivision pursuant to the provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 et seq. and the Rules and Regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, had its Statement of Record become effective pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. As authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been delegated to the Interstate Land Sales Administrator.

3. Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Interstate Land Sales Administrator may make an examination to determine whether a Suspension Order should be issued under 15 U.S.C. 1706(d), and if a developer or any agents thereof shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record.

4. Under the authority of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), a letter dated on or about November 15, 1974, was sent to the Developer, the body of said letter being in the form and substance of the form letter attached hereto and made part hereof as Exhibit A. The Developer has failed to comply with the request for the documents referred to in the third paragraph of said letter.

5. Therefore, pursuant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1710.45(b)(2), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of the receipt of this Order of Suspension by the Said Developer. This Order of Suspension shall remain in full force and effect until the Developer has complied with the requirements of the order.

6. If the Developer desires a hearing in this matter, he shall file a request for hearing accompanied by an answer and three copies thereof within fifteen days after service of this order pursuant to 24 CFR 1720.145 and 24 CFR 1720.165. Any request for hearing, answer, motion,

amendment to pleading, offer of settlement or correspondence during the pendency of this proceeding shall be filed with the General Counsel's Clerk for Administrative Proceedings, Room 10150, HUD Building, 451 Seventh Street, S.W., Washington, D.C. 20410. All such papers shall clearly identify the subdivision, the type of matter and the docket number as set forth in this order.

Issued in Washington, D.C.

By the Secretary.

JOHN R. McDOWELL,  
Interstate Land Sales  
Administrator (Acting).

EXHIBIT A

DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT,  
OFFICE OF INTERSTATE  
LAND SALES REGISTRATION,  
Washington, D.C. 20410.

Subject: Submission of Property Reports and Contracts.

GENTLEMEN: On or about September 12, 1974, you were advised by letter from this Office of the necessity for mailing to us, not later than midnight, October 20, 1974, revised Property Report cover pages and lot sales or lease contract revisions. The revisions were, as explained in that letter, caused by the amendments by Congress to Section 1404(b) of the Interstate Land Sales Full Disclosure Act which extended the 48 hour rescission period to 3 business days and also abolished the provisions for waiver of this time by purchasers. These amendments were signed into law August 22 and became effective October 21, 1974. They apply to all sales or leases made on or after that date.

As of today the required revisions to your Property Report and contracts have not been received by us as required by the above referenced letter and the amended Regulations, published October 29, 1974, in the FEDERAL REGISTER on pages 38098-38101. Therefore, we are conducting an examination to determine what further action is warranted by us pursuant to Section 1407(e) of the Interstate Land Sales Full Disclosure Act. You will note that Section 1407(e) also provides "If the developer or any agents shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the Statement of Record."

You are hereby requested to send to this Office, within 15 days of the receipt of this letter (1) a copy of the Property Report or Reports presently on file in your office and used in your lot sales or leasing program, and (2) a copy of the sales or lease contract or agreement presently on file in your office and used in your lot sales or leasing program. Failure to respond as requested will result in issuance of an order suspending your Statement or Statements of Record with our Office under the authority of Section 1407(e) of the Interstate Land Sales Full Disclosure Act (15 USC 1706(e)).

In your response, please put your OILSR file number or numbers on your letter and copies of the Property Report and contract.

Sincerely,

GEORGE K. BERNSTEIN,  
Interstate Land  
Sales Administrator.

[FR Doc.75-14100 Filed 5-29-75;8:45 am]



# DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration  
AIR TRAFFIC CONTROL TOWER,  
GALESBURG, ILL.  
Commissioning as FAA Facility

Notice is hereby given that on June 24, 1975, the Airport Traffic Control Tower at Galesburg Municipal Airport, Galesburg, Illinois, will be commissioned as an FAA facility. This information will be reflected in the FAA organization statement the next time it is issued. Communications to the tower should be as follows:

Federal Aviation Administration  
Airport Traffic Control Tower  
Galesburg Municipal Airport  
RR #2  
Galesburg, Illinois 61401

Issued in Des Plaines, Illinois, on  
May 20, 1975.

R. O. ZIEGLER,  
Director,  
Great Lakes Region.

[FR Doc. 75-14052 Filed 5-29-75; 8:45 am]

## SOUTHERN REGION AIR TRAFFIC CONTROL ADVISORY COMMITTEE Establishment

Notice is hereby given of the establishment of the Southern Region Air Traffic Control Advisory Committee. The Air Traffic Division of the FAA Southern Region is sponsor of the committee. The committee is composed of representatives of the military services, the Federal Aviation Administration and civil users of the air traffic control system. Any civil users of the system may request membership on this committee. The committee provides a forum for discussion of mutual air traffic control problems, programs and ideas and provides advice and recommendations regarding service problems or solutions to current air traffic problems within the geographical boundaries of the Southern Region. The chairman of the committee is designated by the Director, FAA Southern Regional Office.

The Secretary of Transportation has determined that the formation and use of this Advisory Committee are necessary in the public interest in connection with the performance of duties imposed on the Federal Aviation Administration by law. Meetings of the committee will be open to the public.

Issued in East Point, Georgia on May 7, 1975.

PHILLIP M. SWATEK,  
Director,  
Southern Region.

[FR Doc. 75-14051 Filed 5-29-75; 8:45 am]

## National Highway Traffic Safety Administration PETITIONS TO COMMENCE RULEMAKING Denials

This notice sets forth the reasons for denial of four petitions for rulemaking to

initiate or amend Federal motor vehicle safety standards promulgated under authority of § 103 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1391 et seq.). This notice is published in accordance with § 124 of the Act, which provides that the National Highway Traffic Safety Administration must grant or deny such petitions within 120 days, and "If the Secretary denies such petition he shall publish in the FEDERAL REGISTER his reasons for such denial" (Section 124(d)).

**Chrysler Corporation** (February 4, 1975). Petition to rescind Standard No. 105-75, Hydraulic brake systems, immediately without benefit of a rulemaking proposal. Chrysler's petition was denied. The Administrative Procedure Act requires notice of rulemaking to provide interested persons with an opportunity to comment on anticipated regulations. NHTSA undertook that action in a proposal published March 6, 1975 (49 FR 10483).

**Truck Body and Equipment Association** (January 31, 1975), **Truck Equipment and Body Distributors Association** (February 6, 1975), **Blue Bird Body Company** (February 10, 1975). Petition for delay in applicability of Standard No. 121, Air brake systems, to multistage vehicles or final-stage manufacturers. Petition for deferral of brake actuation and release requirements. The petitions of TBDA, TEBDA, and Blue Bird were denied because they would not achieve the objectives of final-stage manufacturers. Since the standard applies only to completed vehicles, it could not be suspended with respect to completed vehicles with the chassis still required to comply. Even if this were possible, it might cause anomalous and even hazardous results, since the final-stage manufacturers could disregard any design cautions of the chassis manufacturers, and could remove or disable portions of the chassis brake systems. Even a complete delay in the standard with respect to the chassis of vehicles with which the petitions are concerned would not be helpful, since the chassis manufacturers could not be expected to produce chassis conforming to the standard, with accompanying documentation, during the period of delay.

**Standard Forge and Axle Company** (March 28, 1975). Petition to revoke Standard No. 121, Air brake systems, for failure to satisfy criterion of the Vehicle Safety Act that pre-standard air brake systems present an "unreasonable risk of accidents" and an "unreasonable risk of death or injury to persons in the event accidents do occur" (§ 102(1)). Standard Forge's petition was denied on grounds that, where a substantial number of deaths and injuries are occurring with the involvement of a particular category of motor vehicles, and the technological means is readily available for an improvement in the accident avoidance performance of that category of vehicles, and that technology is not being widely utilized by manufacturers, those vehicles present an unreasonable risk of accidents, and of death or injury, within the meaning of section 102 of the National

Traffic and Motor Vehicle Safety Act (15 U.S.C. 1391).

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); Sec. 106 Pub. L. 93-492, 88 Stat. 1482 (15 U.S.C. 1410); delegations of authority at 49 CFR 1.51 and 49 CFR 501.8)

Issued on May 23, 1975.

ROBERT L. CARTER,  
Associate Administrator,  
Motor Vehicle Programs.

[FR Doc. 75-14200 Filed 5-29-75; 8:45 am]

## YOUTH HIGHWAY SAFETY ADVISORY COMMITTEE Public Meeting

On June 20-21, 1975, the Youth Highway Safety Advisory Committee will hold an open meeting at the DOT Headquarters Building, 400 Seventh Street, SW, Room 5332-5334, Washington, D.C. The Committee is composed of persons appointed by the National Highway Traffic Safety Administrator to consult with and advise him concerning programs and activities to attract and sustain the participation of young people in the national effort to combat highway deaths and injuries.

The meeting will be in session from 9 a.m. to 4 p.m. on June 20, 1975 and from 9 a.m. to 12 noon on June 21, 1975. The agenda is as follows:

1. Presentation on Driver Education.
  2. Discussion on Alcohol Research Project.
  3. Briefing on K thru 12 program.
  4. Discussion on plans for National Workshop resolutions on youthful drinking driver.
  5. Presentation on Driver Excellence programs by Region IV personnel.
  6. Discussion on Resolutions passed at March 1-2, 1975 meeting.
  7. Discussion on Resolutions tabled at March meeting.
  8. Future plans.
- For further information, contact Executive Secretariat, Room 5215, 400 Seventh Street, SW, Washington, D.C., telephone 202 426-2872.

This notice is given pursuant to section 10(a)(2) of Pub. L. 92-463, Federal Advisory Committee Act (FACA), effective January 5, 1973.

Issued on May 27, 1975.

WM. H. MARSH,  
Executive Secretary.

[FR Doc. 75-14199 Filed 5-29-75; 8:45 am]

## CIVIL AERONAUTICS BOARD

[Docket 27780; Order 75-5-104]

### CHINOOK AIR LTD.

#### Approval of Transfer of Foreign Air Carrier Permit

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of May, 1975.

On April 28, 1975, Chinook Air Ltd. filed in Docket 27780 an application for approval of the transfer to it of the foreign

air carrier permit held by Chinook Flying Service Ltd.

No answers to the application have been received.

**Background**—Chinook Flying Service Ltd. is a holder of a foreign air carrier permit reissued pursuant to Order 75-4-25, effective April 8, 1975. This permit grants authority to operate charter flights with respect to persons and their accompanied baggage, and plane-load charter flights with respect to property, between any point or points in Canada and any point or points in the United States. The authority is limited to operations by small aircraft as defined in Annex A(I)(A) of the Nonscheduled Air Service Agreement between the United States and Canada, signed May 8, 1974. According to Article III of that agreement, each contracting party has the right to designate by diplomatic note a carrier or carriers to operate the non-scheduled service provided in the agreement.

On April 22, 1975, the Government of Canada, by Note 141, informed the Department of State that it was withdrawing its previous designation of Chinook Flying Service Ltd. and would designate Chinook Air Ltd. in lieu thereof.

**Ownership and Control**—The current permit holder, Chinook Flying Service Ltd., was incorporated in 1945 in the Province of Alberta, Canada. In 1972, a foreign air carrier permit was issued to the carrier pursuant to Order 72-6-114.

On March 1, 1974, the assets of Chinook Flying Service Ltd. were purchased by Hillcrest Aviation Ltd., a company incorporated in the Province of Alberta, Canada. The purchase was approved by the Air Transport Committee of the Canadian Transport Commission on August 26, 1974. Subsequently, Hillcrest Aviation Ltd. merged with West Air Executive Services Ltd., also a corporate body registered in the Province of Alberta, Canada, to form a new corporation named Chinook Air Ltd. This merger was approved by the Air Transport Committee of the Canadian Transport Commission on December 4, 1974. Since that time, Chinook Air Ltd. has continued the operations previously conducted by Chinook Flying Service Ltd.

In addition to ownership, the management continues to remain in the control of Canadian nationals. All four officers of the company are Canadian citizens. Thus, it is tentatively concluded that effective control over both day-to-day operations and policy decisions is vested in nationals of Canada.

**Financial and Operational Fitness**—Chinook Air Ltd. possesses, in all material respects, the attributes of Chinook Flying Service Ltd., which was found by the Board three years ago to be fit, willing and able to perform the foreign air transportation in issue. In terms of management experience, flight personnel, equipment, and service facilities, it is essentially the same organization which

- 1 Exhibit No. 1.
- 2 Exhibit No. 2.
- 3 Exhibit No. 4.

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has been in continuous operation since 1945, utilizing the trade name, "Chinook."

Furthermore, by requesting this transfer, the applicant is voluntarily accepting the limits of passenger liability and the terms governing such limits as are set forth in CAB Agreement 18900, approved by the Board in Order E-23680, May 13, 1966. Thus, it is tentatively concluded that all of the fitness requirements of section 402 of the Act are met by the applicant.

**Public Interest**—In April of this year, the Board found that it was in the public interest to renew the permit held by Chinook Flying Service Ltd. Issuance of a permit to its successor company to perform the identical foreign air transportation is supported by the same considerations. As noted above, the Government of Canada has designated Chinook Air Ltd. under the bilateral agreement in lieu of the current permit holder. Therefore, it is tentatively concluded that grant of the relief requested is in the public interest.

On the basis of the foregoing, it is tentatively found and concluded that:

(a) Chinook Air Ltd. is fit, willing and able properly to perform the air transportation proposed in its application and to conform to the provisions of the Act and the rules, regulations and requirements of the Board thereunder;

(b) Chinook Air Ltd. is substantially owned and effectively controlled by nationals of Canada;

(c) Chinook Air Ltd. should be subject to all of the terms, conditions and limitations set forth in the attached specimen foreign air carrier permit;

(d) Chinook Air Ltd. has been designated by the Government of Canada under the Nonscheduled Air Service Agreement with the intention that it take over all the services of Chinook Flying Service Ltd. thereunder;

(e) A hearing on the application of Chinook Air Ltd. is not required in the public interest; and

(f) The transfer to Chinook Air Ltd. of the permit held by Chinook Flying Service Ltd. is in the public interest.

Accordingly, we have decided to issue an order directing interested persons to show cause why the Board should not approve the transfer of Chinook Flying Service Ltd.'s permit to Chinook Air Ltd.

All interested persons will be given 30 days following the adoption of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to direct their objections, if any, to specific issues, and to support such objections with detailed analyses. If an evidentiary hearing is requested, the objectors should name the specific markets or other issues with respect to which a hearing is requested and should state, in detail, why such a hearing is

\* Order 75-4-25, April 4, 1975, issued under delegated authority and applying to those carriers designated by the Government of Canada under the bilateral agreement.

necessary and what relevant and material facts he would expect to establish through such a hearing. Vague, general, or unsupported objections will not be entertained.

Accordingly, it is ordered that: 1. All interested persons be and they hereby are directed to show cause why the Board should not make final the tentative findings and conclusions herein and why an order should not be issued, subject to approval by the President pursuant to section 801 of the Act, transferring and reissuing the permit held by Chinook Flying Service Ltd. to Chinook Air Ltd., and canceling the permit issued by Order 75-4-25 to Chinook Flying Service Ltd.;

2. Any interested persons having objections to the issuance of an order making final the tentative findings and conclusions herein and transferring the said permit shall, within 30 days after adoption of this order, file with the Board and serve on the persons named in paragraph 5 a statement of objections specifying the part or parts of the tentative findings or conclusions objected to, together with a summary of testimony, statistical data and such evidence expected to be relied upon to support the statement of objections;

3. If timely and properly supported objections hereto are filed, full consideration will be accorded the matters or issues raised therein before further action is taken by the Board; *Provided*, That the Board may proceed to enter an order in accordance with the tentative findings and conclusions herein if it determines that there are no factual issues presented that warrant the holding of an evidentiary hearing;

4. In the event no objections are filed to this order, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions herein; and

5. This order shall be served upon Chinook Air Ltd. and the Ambassador of Canada.

This order shall be published in the FEDERAL REGISTER, and transmitted to the President.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,  
Secretary.

PERMIT TO FOREIGN AIR CARRIER FOR SMALL  
AIRCRAFT OPERATIONS

Chinook Air Ltd. is hereby authorized, subject to the provisions hereinafter set forth, the provisions of the Federal Aviation Act of 1958 and the orders, rules, and regulations issued thereunder, to engage in charter foreign air transportation as follows:

Charter flights with respect to persons and their accompanied baggage, and plane-load charter flights with respect to property, between any point or points in Canada and any point or points in the United States.

The holder shall be authorized to perform those types of charters originating in Canada as are now, or may hereafter be, prescribed

\* Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.



for carriage by small aircraft in Annex B (III)(B) of the Nonscheduled Air Service Agreement between the United States and Canada, signed May 8, 1974, including any amendments, supplements, reservations, or supersessions to that Agreement: *Provided*, That any such charters may be performed only to the extent authorized by the Air Carrier Regulations of the Canadian Transport Commission applicable to operations by small aircraft, and the authority of the holder to perform such charters shall be subject to those Regulations. The authority of the holder to perform United States-originating charters shall, in accordance with Annex B(III)(A) of such Nonscheduled Air Service Agreement, be limited to commercial air transportation of passengers and their accompanied baggage, and property, on a time, mileage or trip basis, where the entire plane-load capacity of one or more aircraft has been engaged by a person for his own use or by a person for the transportation of a group of persons and/or their property, as agent or representative of such group, or such small aircraft operations as may be authorized pursuant to any amendment, supplement, reservation or supersession to that Agreement.

This permit shall be subject to the following terms, conditions, and limitations:

(1) In the performance of the charter operations authorized by this permit, the holder shall not use "large aircraft" as defined in Annex A(I)(A) of the Nonscheduled Air Service Agreement between the United States and Canada, signed May 8, 1974, including amendments, supplements, reservations, or supersessions to that Agreement.

(2) The holder shall not engage in foreign air transportation between the United States and any point or points, other than a point or points in Canada, or transport any property or persons whose journey, includes a prior, subsequent, or intervening movement by air (except for the movement of passengers independently of any group) to or from a point not in the United States or Canada: *Provided*, That the Board may, upon application by the holder, or by regulation, authorize the performance of charters where such movements are involved.

(3) The holder shall not perform United States-originating charter flights which at the end of any calendar quarter would result in the aggregate number of all United States-originating charter flights performed by the holder on or after May 8, 1974 exceeding by more than one-third the aggregate number of all Canadian-originating charter flights performed by the holder on or after May 8, 1974: *Provided*, That the Board may authorize the performance of charters not meeting the requirements set forth. For the purpose of making such computation the following shall apply:

(a) A charter shall be considered to originate in the United States (or Canada) if the passengers or property are first taken on board in that country, and shall be considered as one flight whether the charter be one-way, round-trip, circle tour, or open jaw, even if a separate contract is entered into for a return portion of the charter trip from Canada (or the United States).

(b) The computation shall be made separately for (1) "small aircraft" flights of per-

sons; and (2) "small aircraft" flights of property.

(c) In the case of a lease of aircraft with crew for the performance of a charter flight on behalf and under the authority of another carrier, the flight shall be included in the computation if the holder is the lessee, and shall not be included if the holder is the lessor.

(d) There shall be excluded from the computation:

(1) flights utilizing aircraft having a maximum authorized takeoff weight on wheels (as determined by Canadian Transport Commission Regulations) not greater than 18,000 pounds; and

(2) flights originating at a United States terminal point of a route authorized pursuant to the Air Transport Services Agreement between the United States and Canada, signed January 17, 1968, as amended, or any agreement which may supersede it, or any supplementary agreement thereto which establishes obligations or privileges thereunder (If, pursuant to any such agreement, the holder also holds a foreign air carrier permit authorizing individually ticketed or individually waybilled service over such route, and provides some scheduled service on any route pursuant to any such agreement), when such flights serve either (a) a Canadian terminal point on such route, or (b) any Canadian intermediate point authorized for service on such route by such foreign air carrier permit.

(4) The holder may grant stopover privileges at any point or points in the United States only to passengers and their accompanied baggage moving on a Canadian-originating flight operating under a contract for round-trip charter transportation to be provided solely by the holder and as to which the same aircraft stays with the passengers throughout the journey; *Provided*, That the Board may authorize the performance of charters not meeting the requirements set forth.

(5) The Board, by order or regulation and without hearing, may require advance approval of individual charter trips conducted by the holder pursuant to the authority granted by this permit, if it finds such action to be required in the public interest.

(6) The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of Canada for Canadian international air service.

(7) This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Canada shall be parties.

(8) This permit shall be subject to the condition that the holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

(9) The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of \$1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in

CAB Agreement 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

(10) By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

The exercise of the privileges granted by this permit shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This permit shall become effective on \_\_\_\_\_ Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement, or amendment thereto, which shall have the effect of eliminating the charter foreign air transportation hereby authorized from the transportation which may be operated by carriers designated by the Government of Canada (or in the event of the elimination of part of the charter foreign air transportation hereby authorized, the authority granted herein shall be terminated to the extent of such elimination), or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of Canada in lieu of the holder hereof, or (3) upon the termination or expiration of the Nonscheduled Air Service Agreement between the United States and Canada, signed May 8, 1974: *Provided*, however, That clause (3) of this paragraph shall not apply if, prior to the occurrence of the event specified in clause (3), the operation of the foreign air transportation herein authorized becomes the subject of any treaty, convention, or agreement to which the United States and Canada are or shall become parties.

In witness whereof, the Civil Aeronautics Board has caused this permit to be executed by the Secretary of the Board, and the seal of the Board to be affixed hereto, on the \_\_\_\_\_

[SEAL] Secretary.

Issuance of this permit to the holder approved by the President of the United States on \_\_\_\_\_ in \_\_\_\_\_

[FR Doc.75-14194 Filed 5-29-75; 8:45 am]

[Docket 25280; Agreement C.A.B. 25071; Order 75-5-101]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Specific Commodity Rates

Issued under delegated authority May 23, 1975.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carriers, embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA). The

agreement was adopted at the 19th meeting of the Joint Specific Commodity Rates Board held in Geneva on March 4-7, 1975 and has been assigned the above C.A.B. agreement number.

With respect to air transportation as defined by the Act, the agreement proposes revisions to the specific commodity rates structures applicable on the North Atlantic, North/Central Pacific and South Pacific market areas. These revisions are outlined in the attachments hereto, and reflect reductions from otherwise applicable general cargo rates.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions hereinafter ordered.

Accordingly, it is ordered that: Agreement C.A.B. 25071 be and hereby is approved, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; provided further that tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND, Secretary.

[FR Doc.75-14196 Filed 5-29-75; 8:45 am]

[Docket 27882; Order 75-5-103]

TRANS WORLD AIRLINES, INC.

Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 27th day of May, 1975.

By tariff revision<sup>1</sup> filed April 23 and marked to become effective May 28, 1975, Trans World Airlines, Inc. (TWA) proposes to establish a surcharge of \$3.25 per shipment of restricted articles as de-

<sup>1</sup> Attachments filed as part of the original document.

<sup>2</sup> Revision to Airline Tariff Publishing Company, Agent, Tariff C.A.B. No. 98. While the original filing (marked for May 23 effectiveness) set the surcharge at the \$3.00 level, the carrier's justification and the complaints were all directed to a \$3.25 surcharge. The carrier subsequently revised the tariff page to reflect a \$3.25 surcharge, for May 28 effectiveness, and withdrew the original filing. The Board will consider the support, complaints, and answer in the context of the \$3.25 surcharge.

fined in the Restricted Articles Tariff, C.A.B. No. 82.

In support of its proposal and in answer to the complaints, TWA contends, *inter alia*, that (1) the proposed surcharge will offset additional handling and administrative costs associated with the acceptance of shipments of restricted articles; (2) the results of an in-house man-minute survey of station labor costs and estimated overhead justify setting the surcharge at the \$3.25 level; and (3) an additional \$234,000 in annual revenue will result from the proposal, with no traffic loss expected.

Complaints were filed against the proposal by Shulman Air Freight, Inc. (Shulman) and the Council for Safe Transportation of Hazardous Articles (COSTHA). Shulman's complaint requests suspension and investigation of the proposal, and alleges, *inter alia*, that (1) a great many commodities subject to a wide range of restrictions commonly moving in air transportation would be subject to the surcharge; (2) radioactive pharmaceutical shipments often must be broken down and moved on many single airbills at minimum charges, and would accordingly be subject to multiple surcharges;<sup>3</sup> (3) surveys of a variety of motor carrier and ocean freight tariffs reveal no comparable surcharges; (4) the surcharge is not cost-justified; and (5) the proposal appears to be a step toward nonacceptance of restricted articles, which is in derogation of TWA's responsibilities to provide transportation as a common carrier.

The COSTHA complaint requests rejection, or alternatively, suspension and investigation. The request for rejection is grounded, among other things, on the assertion that TWA has failed to provide adequate information upon which to assess the accuracy and validity of the results of the man-minute study submitted in its justification. The request for suspension and investigation contends, *inter alia*, that (1) the additional costs should be documented in a fashion that permits review by the Board and by interested shippers; (2) the additional claims must be proven attributable to regulatory burdens and not incompetence; and (3) TWA must prove that safety precautions purportedly taken and paid for are truly performed.

TWA has essentially met the requirements of the Board's Economic Regulations on filing tariffs (14 CFR 221). We find no basis for rejection.

Upon consideration of all relevant matters, the Board finds that TWA's proposal may be unjust, unreasonable, unjustly discriminatory, unduly preferen-

<sup>3</sup> It is not clearly understood as to why a shipper may be required to tender the parts of a large volume of hazardous materials consigned from one origin to one destination via the same carrier on many airbills at minimum charges. We find no such restriction in any of TWA's applicable tariffs as to quantity limitations per airbill as distinguished from quantity limitations imposed upon hazardous material in a single package or that which may be carried in a single aircraft or inaccessible cargo bin.

tial, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the proposal should be suspended pending investigation.

In support of its assertion that restricted articles require additional services peculiar to such articles, TWA submits the results of a man-minute study that indicates that each shipment requires an additional 25 man-minutes at a cost of \$3.182 and presents estimates of additional overhead costs, including management overhead and "other overhead costs such as training programs," amounting to \$0.07 per shipment.

All that has been presented to us are the conclusions of the study. There is no indication of the time period involved, the number of stations surveyed, or the adequacy of the sample in the study. The services and functions are not described; only the additional time purportedly required and its cost are presented. A further defect resulting from a flat surcharge is a failure to reflect costs that vary with the number of pieces per shipment or the total weight of a shipment. In the instant proposal, TWA calculates all additional costs on a per-shipment basis. Thus, we are unable to conclude that TWA's proposal has been adequately justified.

The suspension action ordered herein is consistent with our actions in Orders 73-12-116, 74-1-100, 74-12-71, and 75-1-123.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered that: 1. An investigation is instituted to determine whether the provision reading "(Applicable to TW only)" in Rule No. 51 and the charge and provisions in Rule No. 51(c) on 9th Revised Page 18-C of Airline Tariff Publishing Company, Agent, tariff C.A.B. No. 96, and rules, regulations, and practices affecting such provisions, are or will be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful provisions, and rules, regulations, or practices affecting such provisions;

2. Pending hearing and decision by the Board, the provision reading "(Applicable to TW only)" in Rule No. 51 and the charge and provisions in Rule No. 51(c) on 9th Revised Page 18-C of Airline Tariff Publishing Company, Agent, tariff C.A.B. No. 96, are suspended and their use deferred to and including August 25, 1975, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding herein designated Docket 27882, be assigned to hearing before an Administrative Law Judge of the Board at a time and place hereafter to be designated;

4. Except to the extent granted herein, the complaints of Shulman Air Freight, Inc. in Docket 27803 and the Council for



Safe Transportation of Hazardous Articles in Docket 27807 are dismissed; and

5. Copies of this order shall be filed with the tariff and served upon Trans World Airlines, Inc., Shulman Air Freight, Inc., and the Council for Safe Transportation of Hazardous Articles, which are hereby made parties to Docket 27882.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,  
Secretary.

[FR Doc 75-14195 Filed 5-29-75; 8:45 am]

# COUNCIL ON ENVIRONMENTAL QUALITY ENVIRONMENTAL IMPACT STATEMENTS List of Statements Received

Environmental impact statements received by the Council on Environmental Quality from May 19, through May 23, 1975. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment on draft environmental impact statements in forty-five (45) days from this FEDERAL REGISTER notice of availability. (July 15, 1975) The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies will also be available at cost from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

## DEPARTMENT OF AGRICULTURE

Contact: David Ward, Acting Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 331-E, Administration Building, Washington, D.C. 20250, (202) 447-3853.

## Draft

Black Pine Planning Unit, Sawtooth National Forest, Cassia County, Idaho, May 21: The proposed land use plan for the Black Pine Planning Unit, Sawtooth National Forest, closely parallels present management with these major changes: harvesting of six million board feet of sawtimber, partial development of the 51,566-acre roadless area, prescribed burning on 7,000-10,000 acres to thin juniper trees and increase livestock forage, and provide for an increase in winter forage for deer. Unavoidable adverse effects include reduction of both juniper- and sagebrush-dependent species and increased harvesting of deer during hunting season (due to improved access). (ELR order No. 50735.)

## FOREST SERVICE

## Draft

Weyerhaeuser Co.-Gifford Pinchot National Forest (Supplement), several counties, Washington, May 22: Proposed is the exchange of 16,155 acres of National Forest lands for 13,673.61 acres of land owned by the Weyerhaeuser Company. The plan would consolidate public and private lands, thus increasing the number of land management alternatives, reduce management costs, and provide the opportunity for several thousand acres to be studied as wilderness, scenic, or roadless areas. Adverse impacts of the action include net loss of harvestable timber that may be as high as 5.3 million board

feet and forfeiture of Forest Service identity along two miles of South Coldwater Creek, 2.5 miles of Coldwater Creek, and 1.1 miles of the Green River within the National Forest boundary. (ELR order No. 50744.)

## Final

Herbicide Use on National Forests of Alaska, May 21: The action proposed involves vegetation management with the use of herbicides around forest airfields and on road, railroad, and powerline rights-of-way in Tongass and Chugach National Forests, Alaska. The herbicides proposed for use include 2,4-D, picloram, amitrole, sodium metaborate, sodium chlorate, and bromacil. The program may adversely affect non-target species. Comments made by: DOC, EPA, DOI, AHP, State agencies and concerned citizens. (ELR order No. 50734.)

Aspen-Horsethief Timber Sales, Sierra National Forest, Fresno County, Calif., May 19: The statement refers to the Aspen-Horsethief Timber Sales proposed within the Kaiser Roadless Area. The proposal is continue preparation of the timber to be advertised and awarded to the highest bidder. The Aspen-Horsethief Study Area would be removed from roadless status and placed under long-term multiple use management which included production of timber resources. Adverse impacts include: possible loss of wilderness classification; negative on-site aesthetic impacts; short-term noise increase, and temporary soil erosion and water sedimentation. Comments made by: USDA, FPC, DOT, COE, EPA, DOI, AHP, State agencies and concerned citizens. (ELR order No. 50725.)

Eightmile-Blue Creek Units, Six Rivers National Forest, Humboldt and Del Norte Counties, Calif., May 22: The statement refers to the proposed land use management plans for the Eightmile and Blue Creek Units of the Six Rivers National Forest in Del Norte and Humboldt Counties. The land use plans apply to 94,000 acres of National Forest lands, of which 59,800 acres have been inventoried as roadless. Management would include timber harvesting on 33,600 acres. Off-road vehicle closures are proposed in 7,800 acres. Adverse impacts include: loss of wilderness values; change in overall visual quality, temporary degradation of water quality and air quality; increased noise; and slight reduction in stream habitats. Comments made by: COE, FPC, HEW, AHP, USDA, State and local agencies. (ELR order No. 50743.)

Alpine Lakes, Snoqualmie and Wenatchee National Forests, several counties, Washington, May 21: The statement refers to a proposed land use management plan for portions of the two Forests, including the Alpine Lakes Area Wilderness, in Chelan, King, Kittitas, and Snohomish Counties. Implementation of the plan will result in reductions in the immediate availability of some resource commodities and increased restrictions upon the recreating public. Comments made by: USDA, COE, DOC, EPA, FPC, HEW, HUD, DOI, DOT, AHP, State and local agencies. (ELR order No. 50739.)

## SOIL CONSERVATION SERVICE

## Draft

Diamond Brook Watershed Project, Norfolk County, Mass., May 22: Proposed is a project for watershed protection, flood prevention, and improvement of fish and wildlife habitat consisting of conservation land treatment, a multiple-purpose reservoir structure, and about 1,180 feet of channel work on a perennially flowing and previously modified stream. About 58 acres of land will be required to install the dam and channel work. The project will result in decreased wildlife habitat and increased structural measures. (ELR order No. 50711.)

## Final

West Upper Maple River Watershed, Michigan, Clinton and Gratiot Counties, Mich., May 19: Proposed is a watershed protection and flood prevention project for 4,300 acres of the West Upper Maple River Watershed. Project measures include: 9.5 miles of levee; 9.2 miles of collection channels and 2 pumps; 1.8 miles of channel work; land treatment measures; and recreational facilities. Fourteen acres of land will be inundated; 310 acres of wildlife habitat will be converted to crop production. There will be adverse impacts from recreational uses. Comments made by: COE, HEW, DOI, DOT, EPA, AHP, and State agencies. (ELR order No. 50723.)

Stoney Creek Watershed, Wayne County, N.C., May 21: Proposed is a project for watershed protection and flood prevention. The project proposes conservation land treatment over the watershed, supplemented by three dams with multiple-purpose storage (flood prevention—recreation) and 10,840 ft. of channel clearing and debris removal. Adverse impacts are temporarily increased sedimentation during construction, and limitation on the use of 319 acres in the detention pools of the 3 structures. Comment made by: HEW, DOT, EPA, AHP, and State agencies. (ELR order No. 50740.)

## DEPARTMENT OF DEFENSE

## ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attn: DAEN-PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1600 Independence Avenue SW., Washington, D.C. 20314, (202) 693-6831.

## Draft

Harbors and Rivers in the Territory of Guam, May 19: The proposed improvement is a combination of levee and channel improvements with pumping facilities for localized drainage near the Saylor Street-Agana River crossing in Guam. Replacement of the existing river bed by a lined channel would adversely affect the estuarine habitat near the mouth; the loss of 12.5 acres of unique and scarce wetland habitat is another adverse impact of the project. Temporary construction disruption will also occur (ELR order No. 50728.)

West Contra Costa Sanitary Landfill Project, Contra Costa County, Calif., May 19: This statement involves a regulatory permit application for confirmation and approval of all existing dikes and embankments at the West Contra Costa Sanitary Landfill Project, including rehabilitation, completion and permanent maintenance of these structures and validation of the placement of all existing fill and material behind the structures. Permission to continue sanitary landfill operations is also sought. The adverse impacts of the fill project include loss of a waterfowl resting area and some modified marsh habitat, decreased aesthetics, noise and air pollution due to truck traffic, and restricted use of the landfill area. (San Francisco District.) (ELR order No. 50729.)

Springfield Flood Control Project (2), Union County, N.J., May 21: The statement is a revised draft of an EIS filed on 9 September 1974. The project consists of the construction of a flood control project in Springfield, New Jersey consisting of channel modification, levees, and ponding areas along Van Winkles Brook and the Rahway River. Long term adverse impacts include dislocation of wildlife and aquatic life, decreased aesthetics, loss of commercial and recreational land, relocation of a home, loss of vegetation, an increased flood potential south of project area, and temporary construction disruption. (New York District.) (ELR order No. 50737.)

## Final

Tombigbee River and Tributaries, Alabama and Mississippi, May 22: The statement refers to the proposed flood control project on Luxapallia Creek. Involved in the project is channel excavation and the clearing of the banks along a total of 19.9 miles of the creek beginning at the mouth. Adverse impacts include the loss of 1,258 acres of stream bank habitat for wildlife, loss of 19.9 miles of natural aquatic habitat, loss of recreational resource, probable loss of walleye population in Luxapallia Creek, and a slight reduction in water quality. (Mobile District.) Comments made by: DOI, HUD, DOT, USDA, EPA, and State agencies. (ELR order No. 50741.)

Channel Rehabilitation Project, Coal River Basin, W. Va., May 21: The statement refers to the channel shaping and restoration and/or debris removal and selective bank clearing in four areas in the Coal River Basin: Sylvester-Whitesville area, Danville-Madison area, Van-Clinton area, and the Greenview-Sharples area. Adverse impacts are the loss of some vegetation and wildlife habitat, temporarily increased air and noise pollution, and stream turbidity. (Huntington District.) Comments made by: EPA, DOI, USDA, AHP, State agencies and individuals. (ELR order No. 50738.)

## ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Sheldon Meyers, Director, Office of Federal Activities, Room 3630 Waterside Mall, Washington, D.C. 20460, (202) 755-0940.

## Final

O'Hare Wastewater Conveyance System, Cook County, Ill., May 23: The statement concerns a system of conveyance tunnels and drop shafts to intercept and convey wastewater from a 65.2 square mile service area in the Northwest region of the Metropolitan Sanitary District of Greater Chicago to the proposed O'Hare Water Reclamation Plant. Occasional exfiltration into groundwater aquifers might occur, and a groundwater well monitoring program is planned to discover any problems which may develop. Comments made by: USDA, HUD, COE, AHP, State and local agencies, public groups and citizens. (ELR order No. 50745.)

O'Hare Water Reclamation Plant, Cook County, Ill., May 23: Proposed is the construction of the O'Hare Water Reclamation Plant for the O'Hare Service Area. The plant will treat sewage in a two stage process, discharging effluent into Higgins Creek. Process solids remaining would be transported via a pipeline to the MSDGC Salt Creek Water Reclamation Plant for further treatment. Occasional odors and temporary construction disruption will result. Comments made by: AHP, COE, USDA, HUD, State and local agencies. (ELR order No. 50747.)

## FEDERAL POWER COMMISSION

Contact: Dr. Richard F. Hill, Acting Advisor on Environmental Quality, 441 G Street NW., Washington, D.C. 20426, (202) 386-6084.

## Final

Mystic Lake Project No. 2301, Stillwater and Carbon Counties, Mont., May 19: The statement refers to the proposed relicensing of Montana Power Company's Mystic Lake Project No. 2301. The existing facilities of the project would be altered by the construction of a regulating dam, which will allow year round operation and an increase in plant capacity from 5,000 kw to 11,500 kw. Comments made by: COE, DOI, USDA, HEW, EPA, AHP, State agencies and the applicant. (ELR order No. 50724.)

## DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7258, 451 7th Street, SW., Washington, D.C. 20410, (202) 755-6308.

## Final

Potter Urban Renewal Project, Middlesex County, N.J., May 19: The Township of Edison Housing Authority proposes to erect 866 units of low and moderate income housing on a 177 acre vacant, wooded site in North Edison, adjacent to an existing 90 unit Public Housing Project. The project would result in removal of vegetation and reduction of air and water quality. Comments made by: USDA, COE, DOC, ERDA, EPA, DOI, DOT, State and local agencies. (ELR order No. 50722.)

Church-Musser Urban Renewal Program, Lancaster County, Pa., May 23: The statement concerns the redevelopment of 120.2 acres of land containing 1,261 structures (1,132 residential) and 1,402 dwelling units. Of these, clearance is planned for 443 structures, and rehabilitation for 82% of the remaining 818. Adverse impacts include the temporary or permanent relocation of families and businesses and possible damage through demolition to adjacent properties. Comments made by: EPA, DOT, DOI, State and local agencies. (ELR order No. 50746.)

## SECTION 104 (I)

## Draft

Drainage Way Cleaning, Carbondale, Ill., Jackson County, Ill., May 19: The City of Carbondale has proposed the cleaning of brush, stones, debris, and siltation from segments of Piles Fork and Little Crab Orchard Creeks and tributary ditches in the northeast and western areas of the City to provide improved surface drainage. Project activity will include some bank shaping along limited segments of the creeks and ditches. Adverse impacts include greater flows of water downstream, increased flow landings on downstream bottlenecks, and construction disruption. (ELR order No. 50727.)

## DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, (202) 343-3891.

## BUREAU OF RECLAMATION

## Draft

Tehama-Colusa Canal (Supplement), several counties, California, May 20: The statement is a supplement to a final EIS filed with CEQ 14 June 1972. Proposed is the construction of Funks Dam and Reservoir, a dual-purpose wasteway between the Tehama-Colusa Canal and the Glenn-Colusa Canal, and 13 water distribution systems and/or water service contracts. Seven hundred fifteen acres, including 684 acres for Funks Reservoir and 31 acres for the dual-purpose wasteway, would be committed to the project and two archeological sites would be inundated. (ELR order No. 50731.)

## DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Conviser, Director, Office of Environmental Affairs, 400 7th Street SW., Washington, D.C. 20590, (202) 426-4357.

## FEDERAL AVIATION ADMINISTRATION

## Final

San Jose Municipal Airport Land Acquisition, Santa Clara County, Calif., May 19: The statement concerns the acquisition of

117 acres containing 454 single family residences, 141 duplexes, and 15 multi-unit apartment houses to clear the approach area south of the San Jose Municipal Airport. The buildings will be demolished. Adverse impacts include displacement of families and businesses and inflation of the present housing market as a result of relocation. Comments made by: DOT, EPA, DOI, and DOC. (ELR order No. 50720.)

The Syracuse Hancock International Airport, New York, May 19: The project involves the extension of a runway 1,020 feet to the southeast. The extension will be 150 feet wide and will include the widening of 600 feet of existing taxiway and the construction of a parallel taxiway 75 feet wide and 2,200 feet long. Also included is the installation of related runway and taxiway lights. Adverse impacts include the rise in noise pollution in some areas, and an expected increase in air pollution with additional air traffic in the future. (30 pages.) Comments made by: COE, USDA, FPC, DOT, and HEW. (ELR order No. 50721.)

## FEDERAL HIGHWAY ADMINISTRATION

## Draft

Widening of DeRenne Avenue, Savannah, Ga., Chatham County, Ga., May 19: This project consists of widening from two to four or five lanes of approximately two miles of DeRenne Avenue between Abercorn Street and Skidaway Road in Savannah. Adverse impacts include increased noise levels, increased carbon monoxide levels, loss of trees, runoff of pollutants into the Vernon River marsh which will affect marine organisms, and erosion and siltation during construction. (ELR order No. 50695.)

I-380, Cedar Rapids, Iowa, May 21: The proposed project involves the construction of a 4 to 8 lane, divided-highway segment of I-380, beginning at I-80 and ending at Freeway Route 518. The total project length is 2.5 miles. Major adverse impacts would be the displacement of 37 homes and 110 people, increased noise and air pollution, and a temporary increase in sediment load in McCloud Run due to erosion during construction. (64 pages.) (ELR order No. 50736.)

U.S. 78, De Soto, Marshall, Benton, and Union Counties, several counties, Mississippi, May 19: The proposed project entails the construction of a four-lane, divided, controlled-access highway to replace approximately 46 miles of existing U.S. 78 in De Soto, Marshall, Benton, and Union Counties. The project will result in the acquisition of 1670 acres of land, 100 of which belong to the DeSoto National Forest. Acquisition of the forest land will result in the loss of potential timberland and game habitat. Other adverse effects include long-term noise impact of three residences and temporary construction noise and disruption. (ELR order No. 50726.)

I-215 Southeast Belt Route, Salt Lake City, Salt Lake County, Utah, May 20: The statement proposes the construction of 6.5 miles of controlled access, six-lane freeway to complete I-215, the beltway around Salt Lake City. Adverse impacts would be the displacement of 12 to 36 residences and 0 to 20 businesses, substantial noise impact to some adjacent locations, long-term visual impact, removal of existing vegetation within the project corridor and resulting decreased water quality due to added roadway runoff, and temporary construction disruption. (ELR order No. 50732.)

## Final

California Route 84, Contra Costa and Sacramento Counties, Calif., May 19: The project involves construction of a 3.6 mile



long, four-lane access controlled highway in Contra-Costa and Sacramento Counties. The principal feature of the project will be a 9,100 ft., four-lane bridge over the San Joaquin River. Adverse impacts are that 44 acres currently used for agriculture and wildlife habitat will be converted to highway use. The river bottom will be disturbed during construction of the bridge. Comments made by: DOI, USDA, USCG, and EPA. (ELR order No. 50730.)

S.R. 912, Lake County, Ind., May 22: Proposed is the construction of 5.5 miles of six-lane S.R. 912 from I-80-94 to U.S. 12. The proposed improvement would carry the route on a relocated freeway facility northwesterly from Columbus Drive and extend westerly through Hammond to the Indiana Toll Road (I-90). The road will be 70% elevated and will include five interchanges. An unspecified number of families and businesses will be displaced. Comments made by: DOI, USDA, EPA, HEW, DOT, State and local agencies. (ELR order No. 50742.)

U.S. 50 and WVA 29, Clarksburg, Harrison County, W. Va., May 21: The statement refers to the construction of U.S. 50, which is a part of Corridor "D" of the Appalachian Development Highway system. Included in the study is connector route, Alternate W. Va. 20. Relocated U.S. 50 is to be a 4-lane, divided highway beginning in Clarksburg and running 2.31 miles terminating at the western ramps of the I-79-U.S. 50 interchange. Alternate W. Va. 20 will be designed as a two-lane highway except through the interchange area, where a left-turn lane will be provided. The total length of Alternate W. Va. 20 will be 0.22 mile. Adverse impacts are acquisitions of land, and an unspecified number of displaced families and businesses. Comments made by: DOT, FPC, COE, EPA, DOC, USDA, and HEW. (ELR order No. 50733.)

GARY L. WIDMAN,  
General Counsel.

[FR Doc.75-14079 Filed 5-29-75; 8:45 am]

#### DELAWARE RIVER BASIN COMMISSION PUBLIC HEARING

Notice is hereby given that the Delaware River Basin Commission (609) 883-9500, will hold a public hearing on Tuesday, June 17, 1975, commencing at 2 p.m. The hearing will be held in Room 1600 of the Municipal Services Bldg., 15th and Kennedy Blvd., Philadelphia. The subjects of the hearing will be as follows:

A. Applications for approval of the projects listed below. The Commission will consider these applications as proposed amendments to the Comprehensive Plan pursuant to Article 11 of the Compact, and/or as project approvals pursuant to Section 3.8 of the Compact.

1. *Berks County (D-75-63 CP)*. A sewage treatment plant to serve the Welfare area in Bern Township, Berks County, Pa. The treatment plant will provide removal of 90 percent of BOD5 from a sewage flow of 420,000 gallons per day. Treated effluent will discharge to Tulpehocken Creek, a tributary of the Schuylkill River.

2. *Harding Woods, Inc. (D-74-124 CP)*. A sewage treatment plant to serve the Harding Woods mobile home park in Pittsgrove Township, Salem County, N.J. The treatment plant will provide removal of 90 percent of BOD5 and sus-

pended solids from a sewage flow of 50,000 gallons per day. Treated wastewater will discharge to on-site disposal beds.

3. *New Castle County Dept. of Public Works (D-72-210 CP)*. A sewage treatment plant to serve Delaware City and the Governor Bacon Health Center in New Castle County, Del. The treatment plant will provide removal of 96 percent of BOD5 from a sewage flow of 500,000 gallons per day. Discharge will be to the Delaware River.

4. *Honey Brook Borough and Township (D-74-63 CP)*. A sewage treatment plant to serve Honey Brook Borough and Honey Brook Township, Chester County, Pa. The new facility will provide removal of 93 percent of BOD, and 92 percent of suspended solids from a sewage flow of 600,000 gallons per day. Treated effluent will discharge to the West Branch Brandywine Creek.

5. *Waymart Water (D-75-73 CP)*. A well water supply project to augment public water supplies in Waymart Borough, Wayne County, Pa. Designated as Well No. 4, the new facility is expected to yield 288,000 gallons per day.

6. *Artesian Water Co. (D-74-97 CP)*. A well water supply project to augment public water supplies in the company's service area adjacent to the City of Wilmington, New Castle County, Del. Designated as Fairwinds Well No. 7, the new facility is expected to yield 720,000 gallons per day.

7. *Borough of Paulsboro (D-72-67 CP)*. A well water supply project to augment public water supplies in Paulsboro Borough, Gloucester County, N.J. Designated as Well No. 6, the new facility is expected to yield 1.4 million gallons per day.

8. *Red Hill Water Authority (D-74-141 CP)*. A well (No. 2) to meet public water supply needs in the Borough of Red Hill, Montgomery County, Pa. The new facility is expected to yield 230,000 gallons per day.

9. *Cherry Hill Township (D-75-59 CP)*. An interim upgrading of the existing Colwick sewage treatment plant in Cherry Hill Township, Camden County, N.J. The improved facility will provide removal of 90 percent of BOD, from a sewage flow of 150,000 gallons per day. Treated effluent will discharge to the South Branch Pennsauken Creek. The treatment facility will be phased out when a regional system becomes available.

10. *Cherry Hill Township (D-75-60 CP)*. An interim upgrading of the existing Cooper River sewage treatment plant in Cherry Hill Township, Camden County, N.J. The improved facility will provide removal of 90 percent of BOD, from a sewage flow of 2 million gallons per day. Treated effluent will discharge to the Cooper River. The treatment facility will be phased out when a regional system becomes available.

11. *Delmarva Power & Light Co. (D-73-123 CP)*. A nuclear-fueled generating plant, designated the Summit station, in the vicinity of the Chesapeake and Delaware Canal in New Castle County, Del. Two high temperature gas-cooled reactors will be constructed, each having

a capacity of 761 megawatts. Makeup water will be withdrawn from the C&D Canal at a maximum rate of about 31.3 million gallons per day.

12. *Cargill, Inc. (D-74-136)*. An industrial cooling water project at the company's Chemical Products Division in Philadelphia, Pa. About 440,000 gallons per day of river water and 23,000 gallons per day from the City of Philadelphia water system will be used for cooling and processing purposes, respectively. Cooling water will be returned to the river and contaminated wastewater will be conveyed to the City of Philadelphia sewerage system for treatment.

13. *Carpenter Technology Corp. (D-75-69)*. Modification of an industrial wastewater treatment facility at the company's plant in the City of Reading, Berks County, Pa. A higher level of chromium removal will be provided to a treated wastewater and cooling water discharge of 2.6 million gallons per day. Treated wastewater will discharge to Bernharts Creek and the Schuylkill River.

14. *Swift Dairy and Poultry Co. (D-75-75)*. An industrial wastewater discharge at the company's plant in Exeter Township, Berks County, Pa. The treatment facility will provide removal of 94 percent of BOD, and 90 percent of suspended solids from a wastewater flow of 194,000 gallons per day. Treated effluent will discharge to an unnamed tributary of the Schuylkill River.

15. *Mack Trucks, Inc. (D-75-63)*. A well water supply project to provide water for use at the company's plant site in Lower Macungie Township, Lehigh County, Pa. Two new wells are expected to have a combined yield of 432,000 gallons per day.

B. Applications for water quality certifications pursuant to Section 401 of the Federal Water Pollution Control Act:

1. *Pennsylvania Dept. of Transportation*. Four Schuylkill River bridge crossings on U.S. Route 209 between Pottsville and Tamaqua, Schuylkill County, Pa.

2. *Pennsylvania Power & Light Co.* Outfall structure at the Martins Creek generating station in Lower Mt. Bethel Township, Northampton County, Pa.

Documents relating to the items on this hearing notice may be examined at the Commission's offices. Persons wishing to testify are requested to notify the Secretary prior to the hearing.

W. BRINTON WHITALL,  
Secretary.

MAY 23, 1975.

[FR Doc.75-14161 Filed 5-29-75; 8:45 am]

#### ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

##### ERDA/NSF SEMINAR ON INTERNATIONAL ENERGY ANALYSIS

###### Notice of Meeting

The Division of International Security Affairs of the Energy Research and Development Administration and the Office of Systems Integration and Analysis of the National Science Foundation are

convening an International Energy Analysis Seminar on June 9 and 10, 1975 at the Ramada Inn in Rosslyn, Virginia. The meeting will begin at 1 p.m. on June 9 and at 9 a.m. on June 10 and will adjourn at 5 p.m. on both days. The purpose of this seminar is to provide a forum for discussion and exchange of information among government representatives and government and non-government analysts and information specialists dealing with international energy issues. No conclusions or recommendations will be made.

While this ad hoc informal seminar is not considered to be a meeting of an "advisory committee" as that term is defined in section 3 of the Federal Advisory Committee Act (P.L. 92-463), this seminar is believed to be of sufficient importance and interest to the general public to be announced in the Federal Register as a meeting open for public attendance.

The agenda consists of three sessions. Practical considerations may require changes in the agenda or schedule.

June 9, 1:00 p.m.—Policy issues of concern to government decision makers

June 10, 9:00 a.m.—Analytical capabilities

June 10, 2:00 p.m.—Information needs and availability

The Seminar will be chaired by Mr. Ray E. Chapman, Assistant Director for Studies and Analyses, Division of International Security Affairs, U.S. Energy Research and Development Administration. The Chairman is empowered to conduct the seminar in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items scheduled above, the following requirements shall apply:

(a) Persons wishing to submit written statements on those agenda items may do so by mailing 25 copies thereof, deposited, if possible, no later than June 1, 1975, to Mr. Ray Chapman, Mail Stop C-111, Energy Research and Development Administration, Washington, D.C. 20545. Minutes of the meeting will be kept open for 30 days for receipt of written statements for the record.

(b) Those persons submitting a written statement in accordance with (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement, and shall set forth reasons justifying the need for such oral statements and their usefulness to the seminar. To the extent that the time available for the meeting permits, the seminar will receive oral statements during a period of not more than 30 minutes at an appropriate time, chosen by the Chairman.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Seminar, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid

telephone call to Mrs. Barbara Moyers at 301-973-3138.

(e) Seating for the public will be made available on a first-come, first-served basis, subject to space limitations.

(f) Copies of minutes of the sessions will be made available for copying, at the Energy Research and Development Administration's Public Document Room, 1717 H Street, NW., Washington, D.C., upon payment of all charges required by law.

Individuals who wish to attend the Seminar should inform Mrs. Barbara Moyers, ERDA/ISA, by phone (301-973-3138) or by mail (Mail Stop C-111, Energy Research and Development Administration, Washington, D.C. 20545).

JAMES G. POOR,  
Director, Division of International  
Security Affairs.

[FR Doc.75-14265 Filed 5-29-75; 8:45 am]

#### FEDERAL COMMUNICATIONS COMMISSION

##### RADIO TECHNICAL COMMISSION FOR MARINE SCIENCES

###### Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," Radio Technical Commission for Marine Services (RTCM) meetings scheduled for the future are as follows:

Special Committee No. 66, "Receiver Standards for the Maritime Mobile Service", Notice of 32nd Meeting, Wednesday, June 17 & 18, 1975—9:30 a.m. (All-day meetings), Conference Room A205, 1229—20th Street, NW., Washington, D.C.

###### AGENDA

1. Call to Order; Chairman's report.  
2. Adoption of Agenda.  
3. Acceptance of Summary Records.  
4. Reports on Work Assignments.  
5. Continue preparation of SSB receiver standards.  
6. Discussion of problem areas.  
7. Solicitation of Work Assignments.  
8. Other business.  
9. Establishment of next meeting date.

H. R. Smith, Chairman, SC-66, ITT Mackay Marine, 441 U.S. Highway #1, Elizabeth, N.J. 07202. Phone: (201) 527-0300.

[SC-65]

###### SHIP RADAR

Members of Special Committee No. 65, "Ship Radar", Notice of 38th Meeting, Wednesday, June 18, 1975, 1:30 p.m., Conference Room 8210, 2025 M Street, NW., Washington, D.C.

Formal meeting schedule for SC-65 working groups, to be held at 8085 M Street NW., Washington, D.C.

Working group	Room	Date	Time
Collision avoidance (all day)	8210	June 17	9:30 a.m.
Reliability	8210	June 18	9:30 a.m.

\* If other working group meetings are scheduled, group members will be notified.

NOTE: Meeting room location is subject to change. Check at room 8210 first.

FEDERAL REGISTER, VOL. 40, NO. 105—FRIDAY, MAY 30, 1975

###### AGENDA

1. Call to Order; Chairman's Report; Adoption of Agenda.
2. Acceptance of SC-65 Summary Records; Appointment of Rapporteur. 14 May 1975; Paper 82-75/SC 65-188.
3. Progress Reports of Working Groups on: a. Collision Avoidance Systems; b. Reliability.
4. Organization of Working Group on Small Boat Radar Specifications (less than 150 gross tons).
5. Other business.
6. Establishment of next meeting date (Proposed July 16, 1975).
7. Transponder Specifications—Paper 109-74/SC 65-168.

Irvin Hurwitz, Chairman, SC-65, Federal Communications Commission, Washington, D.C. 20554. Phone: (202) 632-7197.

###### RTCM EXECUTIVE COMMITTEE

Notice of June Meeting, Thursday, June 19, 1975; 1:45 p.m., Conference Room 847, 1919 M Street, NW., Washington, D.C.

###### AGENDA

1. Call to Order; Chairman's Report.
2. Introduction of Attendees; Adoption of Agenda.
3. Approval of Minutes.
4. Committee Reports.
5. Status Reports on Other Committees.
6. Review of Terms of Reference for Special Committees.
7. Report on maritime satellite communications developments.
8. Report of Finance Committee.
9. Summary Reports and Announcements.
10. New business.
11. Establishment of next meeting date.

Agendas, working papers, and other appropriate documentation for each meeting are available at that meeting. Those desiring more specific information may contact either the designated Chairman or the RTCM Secretariat. (Phone: (202) 632-6490)

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. Problems are studied by Special Committees and the final reports are approved by the RTCM Executive Committee. All RTCM meetings are open to the public.

To comply with the advance meeting notice requirements of Pub. L. 92-463, a comparatively long interval of time occurs between publication of this notice and the actual meetings. Consequently, there is no absolute certainty that the listed meeting room will be available on the day of the meeting. Those planning to attend any of the preceding listed meetings should report to the room listed in the notice. If a room substitution has been made, the new meeting room location will be posted at the room listed in this notice.

###### FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS,  
Secretary.

[FR Doc.75-14162 Filed 5-29-75; 8:45 am]



**FEDERAL ENERGY ADMINISTRATION  
ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT  
Intention To Issue Prohibition Orders to Certain Powerplants**

The Federal Energy Administration ("FEA") hereby gives notice of its intention to issue prohibition orders, pursuant to the authorities granted it by section 2 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA) and in accordance with 10 CFR Parts 303 and 305, to the following powerplants:

Docket No.	Owner	Powerplant No.	Generating station	Location
OFU-052	Atlantic City Electric Co.	1	R. L. England	Beesleys Point, N.J.
OFU-053	do	2	do	do
OFU-054	Central Hudson Gas & Electric Corp.	3	Panaskammer	Roseton, N.Y.
OFU-055	do	1	do	do
OFU-056	Niagara Mohawk Power Co.	1	Albany	Bethlehem, N.Y.
OFU-057	do	2	do	do
OFU-058	do	3	do	do
OFU-059	do	1	do	do

FEA hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments on these proposed prohibition orders.

The proposed orders would prohibit the powerplants listed above from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a prohibition order to a powerplant, section 2 of ESECA requires that FEA make certain findings. FEA's initial conclusions with respect to, and rationale in support of, these findings are set out, with respect to each of the powerplants, at the conclusion of this notice. These findings and rationales may be amended as a result of written or oral comments received by FEA pursuant to this notice and other information available to FEA. The findings will be included, with any amendments, in a prohibition order when it is issued.

Upon conclusion of the proceedings described in this notice, FEA may determine to issue prohibition orders to some or all of the powerplants listed above. These prohibition orders will not become effective, however, (1) until either, (a) the Administrator of the Environmental Protection Agency ("EPA") notifies the FEA, in accordance with section 119(d) (1)(B) of the Clean Air Act, that the powerplant will be able on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a compliance date extension under section 119, or (b) if no notification is given by EPA, the date that the Administrator of EPA certifies pursuant to section 119(d) (1)(B) of the Clean Air Act is the earliest date that the powerplant will be able to comply with all applicable air pollution requirements of section 119 of that Act; and (2) until FEA has considered the environmental impact of such order pursuant to § 305.9 of the FEA regulations that implement section 2 of ESECA and has served the affected powerplant a Notice of Effectiveness, as provided in §§ 303.10(b) and 303.37(b) of those regulations. The date the prohibition order will be effective will be stated in the Notice of Effectiveness.

The Notice of Effectiveness will contain a compliance schedule to insure that the powerplant will be able to comply with the prohibition of the burning of

natural gas or petroleum products as a primary energy source on the date the order becomes effective.

Public comment on the proposals to issue prohibition orders to the powerplants listed above is invited in the form of written and oral presentation of data, views and arguments. Comments should relate to individual docket numbers and should make clear to which docket number the individual comment is addressed.

Comments should address (1) the adequacy and validity of each of the proposed findings and the rationale in support of the findings; (2) the identification of any site-specific environmental impacts resulting from the proposed prohibition orders that were not identified or described in the Environmental Impact Statement (FES 75-1, dated April 25, 1975) for the FEA program to implement section 2 of ESECA; and (3) any other relevant aspects or impacts of the proposed prohibition order. With respect to comments regarding any impact on air quality that might result from a proposed prohibition order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality, and for determining the applicable air pollution requirements that apply to the powerplant that has been issued an order. It is expected that in almost every case, a powerplant to which a prohibition order is issued will be eligible to apply to EPA for a compliance date extension. In connection with that application, EPA must also provide an opportunity for written comment and oral presentation of data, views and arguments by interested persons. In addition, FEA will make a site-specific environmental analysis after the issuance of each order, but prior to service of the Notice of Effectiveness, and there will be an opportunity for public comment if the analysis indicates that significant site-specific impacts are likely to result from a prohibition order.

If oral presentation is to be made, it is requested that any detailed, technical data, views, and arguments be made in written comments submitted in support of the oral presentation, and that the oral presentation itself be a summary of those more detailed comments.

A public hearing on the proposed prohibition orders will be held beginning at 9:00 a.m., e.d.t., on June 10, 1975, in Room 305, 26 Federal Plaza, Duane and Broadway, New York, New York 10007, to receive oral presentation of data, views and arguments from interested persons. Any person who has an interest in the subject of the hearing, or who is a representative of a group or class or persons which has an interest in the subject of the hearing, may make a written request, or a verbal request if confirmed in writing, for an opportunity to make oral presentation. That request should be directed to Clifford Tomaszewski, Federal Energy Administration, Region II, 26 Federal Plaza, Room 3200, New York, New York 10007 (212) 264-4834 and must be received before 4:30 p.m. e.d.t., June 5, 1975. The request may be hand-delivered to Clifford Tomaszewski, FEA Region II, 26 Federal Plaza, Room 3200, New York, New York 10007 between the hours of 8:00 a.m. and 4:30 p.m. e.d.t., Monday through Friday. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through June 9, 1975. Each person selected to be heard will be so notified by the FEA by 4:30 p.m. e.d.t., June 6, 1975 and must submit a minimum of 20 copies of the statement to Clifford Tomaszewski, 26 Federal Plaza, Room 3200, New York, New York 10007 before 4:30 p.m., June 9, 1975.

The FEA reserves the right to limit the number of representatives of a particular group or class of persons to be heard at the hearing, to schedule their or other persons' presentations, and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. It will not be a judicial or evidentiary-type hearing. During an oral presentation, questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons making oral presentations. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making an oral presentation at the hearing to FEA Region II, Clifford Tomaszewski, 26 Federal Plaza, Room 3200, New York, New York 10007 before 9 a.m. e.d.t., June 10, 1975. Any person who makes an oral statement or any other person who wishes to ask a question at

the hearing may submit the questions, in writing, to the presiding officer. The FEA, or the presiding officer if the question is submitted at the hearing, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules necessary for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript will be retained by the FEA and made available for inspection at the FEA Region II, Public Reading Room, Room 3200, 26 Federal Plaza, New York, New York 10007, and FEA Administrator's Reception Area, Room 3400, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views or arguments with respect to the proposed prohibition order to Executive Communications, Federal Energy Administration, Box DD, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope in which they are transmitted and on other documents submitted to FEA Executive Communications with the designation "Proposed Prohibition Order for the \_\_\_\_\_ Powerplant." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., e.d.t., June 12, 1975, all oral presentations and all other relevant information submitted to or otherwise available to FEA will be considered by FEA prior to issuance of any prohibition order.

**Supplemental Comment Period.** To facilitate the submission of data, views and arguments to supplement either the oral presentation or written comments, FEA shall keep the record of the public hearing open for a period of 10 days from the first day of the public hearing. Such supplementary written data, views or arguments shall be filed with Executive Communications, Federal Energy Administration, Box DD, Washington, D.C. 20461. In the event that such supplementary data, views or argument can only be submitted by oral presentation, a verbal request for a conference, in accordance with 10 CFR § 303.171, shall be submitted to Clifford Tomaszewski, FEA Region II, 26 Federal Plaza, Room 3200, New York, New York 10007 (212) 264-4834. To ensure that FEA receives the transcript of such oral presentation before the record closes, any oral presentation must be made within 8 days from the first day of the public hearing.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only.

The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

## NOTICES

23523

The sections of ESECA that are relevant to the proposed prohibition orders are stated below:

**Sec. 1. Short-Title; Purpose.**

(b) The purposes of this Act are (1) to provide for a means to assist in meeting the essential needs of the United States for fuels, in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment . . . .

**Sec. 2. Coal Conversion and Allocation.**

(a) The Federal Energy Administrator:

(1) shall by order, prohibit any powerplant, and

(2) may, by order, prohibit any major fuel burning installation, other than a powerplant, from burning natural gas or petroleum products as its primary energy source, if the Federal Energy Administrator determines such powerplant or installation on the date of enactment of this Act [June 22, 1974] has the capability and necessary plant equipment to burn coal, and if the requirements of subsection (b) are met.

(b) The requirements referred to in subsection (a) are as follows:

(1) An order under subsection (a) may not be issued with respect to a powerplant or installation unless the Federal Energy Administrator finds (A) that the burning of coal by such plant or installation, in lieu of petroleum products or natural gas, is practicable and consistent with the purposes of this Act, (B) that coal and coal transportation facilities will be available during the period the order is in effect, and (C) in the case of a powerplant, that the prohibition under subsection (a) will not impair the reliability of service in the area served by such plant. Such an order shall be rescinded or modified to the extent the Federal Energy Administrator determines that any requirement described in subparagraph (A), (B), or (C) of this paragraph is no longer met; and such an order may at any time be modified if the Federal Energy Administrator determines that such order, as modified, complies with the requirements of this section.

(3) (A) Before issuing an order under subsection (a) which is applicable to a powerplant or installation after June 30, 1975 (or modifying an order to which paragraph (2) applies, so as to apply such order to a powerplant or installation after such date), the Federal Energy Administrator shall give notice to the public and afford interested persons an opportunity for oral and written presentations of data, views, and arguments.

(B) An order (or modification thereof) described in subparagraph (A) of this paragraph shall not become effective until (i) the Administrator of the Environmental Protection Agency notifies the Federal Energy Administrator under section 119(d) (1)(B) of the Clean Air Act that such plant or installation will be able on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a compliance date extension under section 119 (c) of such Act, or (ii) if such notification is not given, the date which the Administrator of the Environmental Protection Agency certifies pursuant to section 119(d) (1)(B) of such Act is the earliest date that such plant or installation will be able to comply with all applicable requirements of such section 119. Such order (or modification) shall not be effective during any period certified by the Administrator of the Environmental Protection Agency under section 119(d) (3) (B) of such Act.

(e) For purposes of this section:

(1) The term "powerplant" means a fossil-fuel fired electric generating unit which produces electric power for purposes of sale or exchange.

(2) The term "coal" includes coal derivatives.

(f) (1) Authority to issue orders or rules under subsections (a) through (d) of this section shall expire at midnight, June 30, 1975. Such a rule or order may take effect at any time before January 1, 1979.

(2) Authority to amend, repeal, rescind, modify, or enforce such rules or orders shall expire at midnight, December 31, 1978; but the expiration of such authority shall not affect any administrative or judicial proceeding which relates to any act or omission which occurred prior to January 1, 1979.

Copies of the FEA regulations implementing section 2 of ESECA (10 CFR, Parts 303, 305 and 307) are available from the FEA Regional Office, 26 Federal Plaza, Room 3200, New York, New York 10007, (212) 264-4834.

Any questions regarding this notice should be directed to Clifford Tomaszewski, FEA Region II, 26 Federal Plaza, Room 3200, New York, New York 10007, (212) 264-4834.

(Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93-319); Federal Energy Administration Act of 1974 (Pub. L. 93-275); EO 11790 (39 FR 23185))

Issued in Washington, D.C., May 23, 1975.

ROBERT E. MONTGOMERY, Jr.,  
General Counsel,  
Federal Energy Administration.

1. OFU-052, 053, Atlantic City Electric Company, Powerplants 1 and 2, Generating Station—B.L. England, Beesleys Point, New Jersey—(a) Proposed findings and rationale for findings:

1. *Capability and Necessary Plant Equipment Finding.* Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that on June 22, 1974, these powerplants had the capability and necessary plant equipment to burn coal. This proposed finding is based on facts, interpretations and assumptions stated below:

(A) These powerplants had in place on June 22, 1974, a boiler that was capable of burning coal, in that such boiler had been designed and constructed, or had been modified to enable it to burn coal as its primary energy source, or to burn coal and another fossil fuel interchangeably as its primary energy source, notwithstanding the fact that on June 22, 1974, such powerplants may not have been burning coal as its primary energy source.

(B) Based on information filed with FEA on April 10, 1975 by the Atlantic City Electric Company, the following significant equipment or facilities would have to be acquired or substantially refurbished:

1. Thawing shed system;
2. Sludge water system;
3. Slag pond.

FEA assumes that on June 22, 1974, these powerplants had all other significant equipment and facilities associated with the burning of coal.



(C) Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph (b) do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

(ii) *Burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* Based on an analysis of the information submitted or otherwise available to FEA, FEA proposes to find that the burning of coal by the powerplants, in lieu of petroleum products or natural gas, is practicable and consistent with the purposes of ESECA. This proposed finding is based on the facts, interpretations and assumptions stated below.

(A) (1) *Revenue Requirements.* (a) The investments costs that result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal by the powerplants are estimated to be approximately \$3,240,000. This estimate is based on existing FEA information and on information filed with the FEA by the company concerning items of equipment and facilities that would have to be acquired or refurbished and the costs of such acquisition or refurbishment.

(i) Costs of acquisition or refurbishing equipment are allocated as follows:

(A) \$3,000,000 to comply with air pollution control requirements of the Clean Air Act.

(B) \$240,000 to make those technical plant and equipment adjustments associated with the burning of coal, as well as to comply with environmental requirements other than those imposed by the Clean Air Act.

(b) The increase in operating costs other than fuel costs that result from the burning of coal are estimated to be approximately \$814,000 per year.

(c) (i) The price of petroleum products available to the powerplants is approximately \$2.10 to \$2.20 per million Btus. The price of coal of the type used by the powerplants is approximately \$1.25 to \$1.35 per million Btus. The burning of coal by the powerplants will result in a reduction of \$.75 to \$.95 per million Btus or \$11 million to \$14 million per year.

(ii) The New Jersey Public Utility Commission permits the inclusion of increased fuel costs in the rate base through a fuel adjustment clause and, if there is a decrease in the cost of fuel as a result of burning coal, there will be a decrease in such rate base.

(d) The total annual incremental increase in revenue requirements resulting from costs associated with burning coal as opposed to oil is \$1,513,000.

(2) *Financial Capabilities.* (a) Based on the most recent financial statements and capital expenditure programs of the Atlantic City Electric Company, as well as other information available to FEA, it has been determined that the prohibition order for the company is practicable. This financial assessment included an evaluation of generally accepted finan-

cial ratios; effects on capitalization as a result of the costs of burning of coal; impact on current and future construction programs; and possible impacts on rates. This assessment incorporated, but was not limited to, consideration of: the \$3.2 million investment requirement (or .6%) in relation to net property and plant of the company of \$523 million and 1975-1977 construction budget of the company of \$185 million (or 1.8%); the total capitalization of the company of \$517 million; the change in 1974 to 1975 construction budgets of \$60.5 million to \$50 million and the 24 years remaining useful life of the plant. These assessments, the above findings, and other evaluations of the general financial health of the company were the basis of this finding.

(B) Because of this prohibition order will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposed to find that its issuance will be consistent with the purpose of ESECA "to provide a means to assist in meeting the essential needs of the United States for fuels." Further, on the basis of the environmental analyses conducted by FEA, the analyses of air quality impacts which EPA is required to conduct prior to effectiveness of a prohibition order, as well as the necessity for the powerplants to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to find that the prohibition order is also consistent with the purpose of ESECA to provide for a means to meet the Nation's essential fuel needs "in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment."

(iii) *Coal and coal transportation facilities will be available during the period the prohibition order is in effect.* Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1978. The period until December 31, 1978 is the period during all or part of which the prohibition order to which these findings relate will be in effect. This proposed finding is based upon the following facts, interpretations and assumptions:

A(1) It is estimated that it will be practicable to produce coal nationally as follows:

Year:	Production (million tons)
1975	662
1976	679
1977	707
1978	735

(2) The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	640
1976	664
1977	688
1978	716

(3) The estimated additional national demand for coal resulting from the prohibition order to which this finding relates, and from FEA actions under authority of section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	0.7
1976	4.0
1977	13.6
1978	16.2

(4) Coal of the specific type required for use by this powerplant has been identified in the reserves of the Northern and Southern Appalachian coal supply regions, which consist of Bureau of Mines Districts 1 through 8 and 13.

(5) It is estimated that it will be practicable to produce coal from the Northern and Southern Appalachian coal supply regions as follows:

Year:	Production (million tons)
1975	406
1976	402
1977	407
1978	412

(6) The regional and national production estimates stated in items (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately 4%. A 1975 study by the Bureau of Mines of the Department of the Interior indicates a national surge capacity of approximately 6%. In response to an industry survey in late 1974, the coal industry itself indicated that it had a surge capacity of up to 8%. By comparison, the increased national demand for coal resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA, is less than one tenth of a percent in 1975, increasing to a maximum of 2.3% in 1978 of estimated national demand stated in item (2). A market survey of traditional coal suppliers to FEA Region II consumers indicates that there is ample production capability to support increased demand for coal from this region resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA.

(7) No State or local laws or policies which would limit the extraction of this coal have been found by FEA or brought to FEA's attention.

(8) The estimated demand for coal from these supply regions, excluding any increased demand resulting from FEA actions under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	390
1976	394
1977	395
1978	398

(9) The estimated additional demand for coal from these supply regions resulting from the prohibition order to which this finding relates and from other FEA orders under section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	0.4
1976	2.5
1977	10.2
1978	12.4

(10) On the basis of the above information, FEA proposes to find that the estimated production of coal of the specific type required for use by this powerplant exceeds the estimated demand for such coal by amounts adequate to support a conclusion that such coal will be available to these powerplants during the period until December 31, 1978.

B(1) Adequate rail facilities exist between these coal supply regions and the powerplants to transport the coal that will be used by such powerplants pursuant to this order.

(2) There is a spur line which will be able to deliver this coal from the main rail line to these powerplants.

(3) Sufficient rolling stock will be available to the Pennsylvania Reading Seashore Lines for transporting this coal during the period until December 31, 1978.

(iv) *The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplants.* Based on an analysis of the information submitted to or otherwise available to FEA, and after consultation with the Federal Power Commission, FEA hereby proposes to find that the prohibition of the B. L. England Station #1 and #2 powerplants of the Atlantic City Electric Company from burning natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by these powerplants. This finding will be based on the facts, assumptions and interpretation stated below:

(A) (1) *Interconnections and Power Dispatching.* (a) The England Station powerplants are within the geographical area of the Mid-Atlantic Area Council (MAAC) regional electrical reliability council.

(b) They are interconnected with and their operations and planning are coordinated with the Pennsylvania-New Jersey-Maryland (PJM) power pool.

(c) Dispatching of electric power is controlled by PJM.

(2) The subject powerplants now use coal on a regular basis.

(3) No reconversion or outage time for reconversion is necessary.

(B) For the reasons set forth above, the FEA finds that the burning of coal by England Station #1 and #2 powerplants in lieu of petroleum products or natural gas will not result in the impairment of the reliability of service in the meaning of ESECA in the area served by the powerplants.

2. OFU-054, 055, Central Hudson Gas and Electric Corporation, Powerplants 3 and 4, Generating Station—Danskammer, Roseton, New York.—(a) Proposed findings and rationale for findings:

1. *Capability and Necessary Plant Equipment Finding.* Based on an analysis of the information submitted to or

otherwise available to FEA, FEA proposes to find that on June 22, 1974, these powerplants had the capability and necessary plant equipment to burn coal. This proposed finding is based on facts, interpretations and assumptions stated below:

(A) These powerplants had in place on June 22, 1974, a boiler that was capable of burning coal, in that such boiler had been designed and constructed, or had been modified to enable it to burn coal as its primary energy source, or to burn coal and another fossil fuel interchangeably as its primary energy source, notwithstanding the fact that on June 22, 1974, such powerplants may not have been burning coal as their primary energy source.

(B) Based on information filed with FEA on April 11, 1975 by the Central Hudson Gas and Electric Corporation, the following significant equipment or facilities would have to be acquired or substantially refurbished:

1. Coal handling system;
2. Boiler auxiliaries;
3. Instruments and controls;
4. Ash handling system;
5. Electrical equipment.

FEA assumes that on June 22, 1974, these powerplants had all other significant equipment and facilities associated with the burning of coal.

(C) Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph (b) do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

(ii) *Burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* Based on an analysis of the information submitted or otherwise available to FEA, FEA proposes to find that the burning of coal by the powerplants, in lieu of petroleum products or natural gas, is practicable and consistent with the purposes of ESECA. This proposed finding is based on the facts, interpretations and assumptions stated below.

(A) (1) *Revenue Requirements.* (a) The investment costs that result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal by the powerplants are estimated to be approximately \$20,000,000. This estimate is based on existing FEA information and on information filed with the FEA by the powerplant concerning items of equipment and facilities that would have to be acquired or refurbished and the costs of such acquisition or refurbishment.

(i) Costs of acquisition or refurbishing equipment are allocated as follows:

(A) \$6,280,000 to comply with air pollution control requirements of the Clean Air Act.

(B) \$13,720,000 to make those technical plant and equipment adjustments associated with the burning of coal, as well as to comply with environmental requirements other than those imposed by the Clean Air Act.

(b) The increase in operating costs other than fuel costs that result from

the burning of coal are estimated to be approximately \$100,000 per year.

(c) (i) The price of petroleum products available to the powerplants is approximately \$1.85 to \$1.95 per million BTUs. The price of coal of the type used by the powerplants is approximately \$1.75 to \$1.85 per million BTUs. The burning of coal by the powerplants will result in a reduction of \$.00 to \$.20 per million BTUs or 0 to \$1.5 million per year.

(ii) The New York Public Utility Commission permits the inclusion of increased fuel costs in the rate base through a fuel adjustment clause and, if there is a decrease in the cost of fuel as a result of burning coal, there will be a decrease in such rate base.

(d) The total annual incremental increase in revenue requirements resulting from costs associated with burning coal as opposed to oil is \$5,086,000.

(2) *Financial Capabilities.* (a) Based on the most recent financial statements and capital expenditure programs of Central Hudson Gas and Electric Corporation, as well as other information available to FEA, it has been determined that the prohibition order for the powerplants is practicable. This financial assessment included an evaluation of generally accepted financial ratios; effects on capitalization as a result of the costs of burning coal; impact on current and future construction programs; and possible impacts on rates. This assessment incorporated, but was not limited to, consideration of: the \$20 million investment requirement (or 6.2%) in relation to net property and plant of the company of \$324 million and 1975-1977 construction budget of the company of \$50 million (or 40%); the total capitalization of the company of \$306 million; the change in 1974 to 1975 construction budgets of \$23.8 million to \$14 million and the 11 years remaining useful life of the plant. These assessments, the above findings, and other evaluations of the general financial health of the company were the basis of this finding.

(B) Because this prohibition order will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to find that its issuance will be consistent with the purpose of ESECA "to provide a means to assist in meeting the essential needs of the United States for fuels."

Further, on the basis of the environmental analyses conducted by FEA, the analyses of air quality impacts which EPA is required to conduct prior to effectiveness of a prohibition order, as well as the necessity for the powerplants to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to find that the prohibition order is also consistent with the purpose of ESECA to provide for a means to meet the nation's essential fuel needs "in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment."

(iii) *Coal and coal transportation facilities will be available during the period the prohibition order is in effect.* Based on an analysis of the information sub-



mitted to or otherwise available to FEA. FEA proposes to find that coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1978. The period until December 31, 1978 is the period during all or part of which the prohibition order to which these findings relate will be in effect. This proposed finding is based upon the following facts, interpretations and assumptions:

(A) It is estimated that it will be practicable to produce coal nationally as follows:

Year:	Production (million tons)
1975	682
1976	679
1977	707
1978	735

(2) The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	640
1976	664
1977	688
1978	716

(3) The estimated additional national demand for coal resulting from the prohibition order to which this finding relates, and from FEA actions under authority of section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	0.7
1976	4.0
1977	13.6
1978	16.2

(4) Coal of the specific type required for use by this powerplant has been identified in the reserves of the Northern and Southern Appalachian coal supply regions, which consist of Bureau of Mines Districts 1 through 8 and 13.

(5) It is estimated that it will be practicable to produce coal from the Northern and Southern Appalachian coal supply regions as follows:

Year:	Production (million tons)
1975	406
1976	402
1977	407
1978	412

(6) The regional and national production estimates stated in items (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately 4%. A 1975 study by the Bureau of Mines of the Department of the Interior indicates a national surge capacity of approximately 6%. In response to an industry survey in late 1974, the coal industry itself indicated that it had a surge capacity of up to 8%. By comparison, the increased national demand for coal resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA, is less than one tenth of a percent in 1975, increasing to a maximum of 2.3% in 1978 of estimated national demand stated in item (2). A

market survey of traditional coal suppliers to FEA Region II consumers indicates that there is ample production capability to support increased demand for coal from this region resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA.

(7) No State or local laws or policies which would limit the extraction of this coal have been found by FEA or brought to FEA's attention.

(8) The estimated demand for coal from these supply regions, excluding any increased demand resulting from FEA actions under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	390
1976	394
1977	395
1978	398

(9) The estimated additional demand for coal from these supply regions resulting from the prohibition order to which this finding relates and from other FEA orders under section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	0.4
1976	2.5
1977	10.2
1978	12.4

(10) On the basis of the above information, FEA proposes to find that the estimated production of coal of the specific type required for use by this powerplant exceeds the estimated demand for such coal by amounts adequate to support a conclusion that such coal will be available to these powerplants during the period until December 31, 1978.

(B) Adequate rail facilities exist between these coal supply regions and the powerplants to transport the coal that will be used by such powerplants pursuant to this order.

(2) The main rail line will be able to deliver this coal to these powerplants.

(3) Sufficient rolling stock will be available to the Penn Central for transporting this coal during the period until December 31, 1978.

(iv) The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplants. Based on an analysis of the information sub-

mitted to or otherwise available to FEA, and after consultation with the Federal Power Commission, FEA hereby proposes to find that the prohibition of the Danskammer Units #3 and #4 powerplants of the Central Hudson Gas and Electric Corporation from burning natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by such powerplants. Such finding will be based on the facts, assumptions and interpretations stated below:

(A) (1) *Interconnections and Power Dispatching.* (a) The Danskammer Units are within the geographical area of the Northeast Power Coordinating Council (NPCC) regional electrical reliability council.

(b) They are interconnected with and their operations and planning are coordinated with the New York Power Pool.

(c) Dispatching of electric power is controlled by New York Power Pool.

(d) "Dispatching system" as used later in this finding means New York Power Pool.

(2) *Forecast Peak Loads.* (a) Forecast of peak loads for the dispatching system during the 15 months in which the Central Hudson Gas and Electric Corporation is expected to be implementing the proposed prohibition order is as follows:

Year:	Demand (million tons)
1975	0.4
1976	2.5
1977	10.2
1978	12.4

(b) The peak loads forecast have been compared with peak loads in previous similar periods and the compound load growth rate for these forecasts is 5%, which is considered reasonable.

(3) *Capacity.* (a) The present net dependable capacity of all powerplants of the dispatching system that now are engaged in the sale or exchange of electric power is 28099 MWe.

(b) Additions, retirements, and powerplant reratings during the period in which Central Hudson Gas and Electric Corporation will be implementing the proposed prohibition order, as listed below, will cause the following changes in net dependable capacity of such dispatching system:

Powerplant designation	Fuel	Type of change	Capacity change	Status and effective date
Indian Point No. 3	Nuclear	Addition	+873	Under construction, commercial operation January 1976.
Oswego No. 5	Oil	do	+500	Under construction, commercial operation July 1976.
Asteria No. 6	do	do	+500	Under construction, commercial operation August 1976.
Waterside (No. 10 No. 13)	do	Derating	-100 Summer	Dec. 31, 1976.
Hudson Avenue (No. 2 and No. 3)	do	do	-34 Winter	Dec. 31, 1976.
Indian Point No. 1	Nuclear	Rerating	+257 Summer	May 1977.
Northport No. 4	Oil	Addition	+386	Under construction, commercial operation May 1977.
Homer City No. 3	Coal	do	+328	Under construction, commercial operation November 1977.

(4) *Scheduled Outages.* (a) A scheduled outage of 2 months for Unit #4 commencing September 1, 1976 and 12 months for Unit #3 commencing December 1, 1976 is estimated to be required to make any modification, installation or other physical adjustment associated with cessation of the burning of natural gas or petroleum products as the powerplant's primary energy source. Immediately following modification during on-line testing and adjustment, the powerplant will be less than fully dependable. This period should not exceed 30 days.

Modifications are forecast to commence approximately September 1, 1976, and to be complete and fully tested by January 1, 1978.

(b) Planned maintenance of other powerplants rated 100 MWe or higher and nuclear plant refueling during the period the powerplant will be implementing the proposed prohibition order within the dispatching system will result in the loss of generating capability which is expected to average the listed values during the specified load periods.

Fall, 2400 MWe  
Winter, 1780 MWe  
Spring, 3740 MWe  
Summer, 540 MWe

(5) *Net Dependable Capacity.* The forecast net dependable capacity for the dispatching system during the period (shown as quarter years) in which the powerplant is expected to be implementing the proposed prohibition order.

Fall 1976, 31032 MWe  
Winter 1976-77, 31028 MWe  
Spring 1977, 31536 MWe  
Summer 1977, 31235 MWe  
Fall 1977, 31658 MWe

(6) *Gross Reserve Margin-Dispatching System.* (a) The expected minimum gross reserve margin (difference between net system capability and peak load in percent of peak load) of the dispatching system for the load periods specified are as follows:

Fall 1976, 44.9%  
Winter 1976-77, 54.4%  
Spring 1977, 68.1%  
Summer 1977, 33.9%  
Fall 1977, 41.2%

(b) After deducting the net capacity of units scheduled for maintenance or refueling during these same load periods, the expected minimum reserve margins are:

Fall 1976, 33.7%  
Winter 1976-77, 45.6%  
Spring 1977, 48.2%  
Summer 1977, 31.6%  
Fall 1977, 30.5%

(7) *Derating.* There will be no derating of the powerplant when using coal as the primary energy source.

(8) *System Stability.* Available information regarding system stability for the dispatching system has been evaluated for each of the load periods stated in paragraph (5) and the issuance of a prohibition order to the powerplant will not cause a significant system stability problem.

(B) *Reliability of Service.* (1) The estimated gross reserve margin of the

dispatching system during the implementation period associated with the commencement of the burning of coal as a primary energy source is forecast to range between 30.5% and 48.2%, depending upon the date of the period of powerplant outage. The Federal Power Commission considers these to be acceptable reserve margins.

(2) If dispatching system conditions at the time of the implementation period are as presently forecast by FEA in this finding, there will be no impairment of reliability of service, within the meaning of ESECA and the regulations promulgated thereunder, in the area served by Central Hudson Gas and Electric Corporation.

(3) Existing transmission system interconnections with other utilities are presently scheduled to transfer approximately 100 megawatts into the dispatching system; with the capacity to transfer approximately 1000 additional megawatts of power into the dispatching system. This capacity will provide an emergency resource of electric power during the implementation period and will enhance the reliability of service.

3. OFU-056-059, Niagara Mohawk Power Company, Powerplants 1, 2, 3, and 4, Generating Station-Albany, Bethlehem, New York.—(a) Proposed findings and rationale for findings:

1. *Capability and Necessary Plant Equipment Finding.* Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that on June 22, 1974, these powerplants had the capability and necessary plant equipment to burn coal. This proposed finding is based on facts, interpretations and assumptions stated below:

(A) These powerplants had in place on June 22, 1974, a boiler that was capable of burning coal, in that such boiler had been designed and constructed, or had been modified to enable it to burn coal as its primary energy source, or to burn coal and another fossil fuel interchangeably as its primary energy source, notwithstanding the fact that on June 22, 1974, such powerplants may not have been burning coal as its primary energy source.

(B) Based on information filed with FEA on April 10, 1975 by the Niagara Mohawk Power Corporation, the following significant equipment or facilities would have to be acquired or substantially refurbished:

1. Car dumper;
2. Bradford breaker;
3. Coal scale belts;
4. Coal gates to scales;
5. Yard railroad;
6. Boiler air heater elements;
7. Slag lines—ash handling;
8. Bulldozer.

FEA assumes that on June 22, 1974, these powerplants had all other significant equipment and facilities associated with the burning of coal.

(C) Within the meaning of ESECA and the regulations promulgated pursuant thereto the equipment and facilities listed in paragraph (b) do not in-

dividually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

(ii) *Burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* Based on an analysis of the information submitted or otherwise available to FEA, FEA proposes to find that the burning of coal by the powerplants, in lieu of petroleum products or natural gas, is practicable and consistent with the purposes of ESECA. This proposed finding is based on the facts, interpretations and assumptions stated below.

(A) (1) *Revenue Requirements.* (a) The investment costs that result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal by the powerplants are estimated to be approximately \$9,000,000. This estimate is based on existing FEA information and on information filed with the FEA by the company concerning items of equipment and facilities that would have to be acquired or refurbished and the costs of such acquisition or refurbishment.

(i) Costs of acquisition or refurbishment equipment are allocated as follows:

(A) \$8,000,000 to comply with air pollution control requirements of the Clean Air Act.

(B) \$1,000,000 to make those technical plant and equipment adjustments associated with the burning of coal, as well as to comply with environmental requirements other than those imposed by the Clean Air Act.

(b) The increase in operating costs other than fuel costs that result from the burning of coal are estimated to be approximately \$730,000 per year.

(c) (i) The price of petroleum products available to the powerplants is approximately \$1.60 to \$1.70 per million Btus. The price of coal of the type used by the powerplants is approximately \$1.60 to \$1.70 per million Btus. The burning of coal by the powerplants will result in no net change in their annual fuel costs.

(ii) The New York Public Utility Commission permits the inclusion of increased fuel costs in the rate base through a fuel adjustment clause and, if there is a decrease in the cost of fuel as a result of burning coal, there will be a decrease in such rate base.

(d) The total annual incremental increase in revenue requirements resulting from costs associated with burning coal as opposed to oil is \$3,141,000.

(2) *Financial Capabilities.* (a) Based on the most recent financial statements and capital expenditure programs of the Niagara Mohawk Power Corporation, as well as other information available to FEA, it has been determined that the prohibition order for the company is practicable. This financial assessment included an evaluation of generally accepted financial ratios; effects on capitalization as a result of the costs of burning of coals; impact on current and future construction programs; and possible impacts on rates. This assessment incorporated, but was not limited to,



consideration of: the \$9 million investment requirement (or 4%) in relation to net property and plant of the company of \$2.27 billion and 1975-1977 construction budget of the company of \$1 billion (or 9%); the total capitalization of the company of \$2.1 billion; the change in 1974 to 1975 construction budgets of \$267 to \$208 million and the 14 years remaining useful life of the plant. These assessments, the above findings, and other evaluations of the general financial health of the company were the basis of this finding.

(B) Because this prohibition order will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposed to find that its issuance will be consistent with the purpose of ESECA "to provide a means to assist in meeting the essential needs of the United States for fuels." Further, on the basis of the environmental analyses conducted by FEA, the analyses of air quality impacts which EPA is required to conduct prior to effectiveness of a prohibition order, as well as the necessity for the powerplants to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to find that the prohibition order is also consistent with the purpose of ESECA to provide for a means to meet the Nation's essential fuel needs "in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment."

(iii) Coal and coal transportation facilities will be available during the period the prohibition order is in effect. Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1978. The period until December 31, 1978 is the period during all or part of which the prohibition order to which these findings relate will be in effect. This proposed finding is based upon the following facts, interpretations and assumptions:

A(1) It is estimated that it will be practicable to produce coal nationally as

Year:	Production (million tons)
1975	682
1976	679
1977	707
1978	735

(2) The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	640
1976	664
1977	688
1978	716

(3) The estimated additional national demand for coal resulting from the prohibition order to which this finding relates, and from FEA actions under authority of section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	0.7
1976	4.0
1977	13.6
1978	16.2

(4) Coal of the specific type required for use by this powerplant has been identified in the reserves of the Northern and Southern Appalachian Coal supply regions, which consist of Bureau of Mines Districts 1 through 8 and 13.

(5) It is estimated that it will be practicable to produce coal from the Northern and Southern Appalachian coal supply regions as follows:

Year:	Production (million tons)
1975	406
1976	402
1977	407
1978	412

(6) The regional and national production estimates stated in items (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately 4%. A 1975 study by the Bureau of Mines of the Department of the Interior indicate a national surge capacity of approximately 6%. In response to an industry survey in late 1974, the coal industry itself indicated that it had a surge capacity of up to 8%. By comparison, the increased national demand for coal resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA, is less than one tenth of a percent in 1975, increasing to a maximum of 2.3% in 1978 of estimated national demand stated in item (2). A market survey of traditional coal suppliers to FEA Region II consumers indicates that there is ample production capability to support increased demand for coal from this region resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA.

(7) No State or local laws or policies which would limit the extraction of this coal have been found by FEA or brought to FEA's attention.

(8) The estimated demand for coal from these supply regions, excluding any increased demand resulting from FEA actions under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	390
1976	394
1977	395
1978	398

(9) The estimated additional demand for coal from these supply regions resulting from the prohibition order to which this finding relates and from other FEA orders under section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	0.4
1976	2.5
1977	10.2
1978	12.4

(10) On the basis of the above information, FEA proposes to find that the

estimated production of coal of the specific type required for use by this powerplant exceeds the estimated demand for such coal by amounts adequate to support a conclusion that such coal will be available to these powerplants during the period until December 31, 1978.

B(1) Adequate rail facilities exist between these coal supply regions and the powerplants to transport the coal that will be used by such powerplants pursuant to this order.

(2) There is a spur line which will be able to deliver this coal from the main rail line to these powerplants.

(3) Sufficient rolling stock will be available to the Monongahela Connecting Railroad Company, Baltimore & Ohio Railroad, the Penn Central, the Pittsburgh & Shawmut Railroad, the Louisville & Nashville Railroad, or the Norfolk and Western Railway for transporting this coal during the period until December 31, 1978.

(iv) The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplants. Based on an analysis of the information submitted to or otherwise available to FEA, and after consultation with the Federal Power Commission FEA proposes to find that the prohibition of the Albany #1, #2, #3 and #4 powerplants of the Niagara-Mohawk Power Company from burning natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by such powerplants. Such finding will be based on the facts, assumptions and interpretations stated below:

(A) (1) *Interconnections and Power Dispatching.* (a) The Albany Units are within the geographical area of the Northeast Power Coordinating Council (NPCC) regional electric reliability council.

(b) They are interconnected with and their operations and planning are coordinated with the New York Power Pool.

(c) Dispatching of electric power is controlled by New York Power Pool.

(d) "Dispatching system" as used later in this finding means New York Power Pool.

(2) *Forecast Peak Loads.* (a) Forecast of peak loads for the dispatching system during the year in which the Niagara-Mohawk Power Company is expected to be implementing the proposed prohibition order is as follows:

Winter Load Period (Dec.-Feb.) 1975-76, Peak 19130 MWe Dec.  
Spring Load Period (March-May) 1976, Peak 17940 MWe May  
Summer Load Period (June-Aug.) 1976, Peak 22180 MWe July  
Fall Load Period (Sept.-Nov.) 1976, Peak 21410 MWe Sept.

(b) The peak loads forecast have been compared with peak loads in previous similar periods and the compound load growth rate for these forecasts is 5%, which is considered reasonable.

(3) *Capacity.* (a) The present net dependable capacity of all powerplants of the dispatching system that now are engaged in the sale or exchange of electric power is 28099 MWe.

(b) Additions, retirements, and power-

plant reratings during the period in which Niagara-Mohawk Power Company will be implementing the proposed prohibition order, as listed below, will cause the following changes in net dependable capacity of such dispatching system:

Powerplant designation	Fuel	Type of change	MWe capacity change	Status and effective date
Indian Point No. 3	Nuclear	Addition	+873	Under construction, commercial operation January 1976.
Oswego No. 5	Oil	do	+200	Under construction, commercial operation July 1976.
Astoria No. 6	do	do	+800	Under construction, commercial operation August 1976.

(4) *Scheduled Outages.* (a) A scheduled outage of 3 weeks for Unit #1, 2 weeks for Unit #2, 2 weeks for Unit #3, and 2 weeks for Unit #4 is estimated to be required to make any modification, installation or other physical adjustment associated with cessation of the burning of natural gas or petroleum products as the powerplants primary energy source. Immediately following modification during on-line testing and adjustment, each powerplant will be less than fully dependable. This period should not exceed 30 days.

Modifications are forecast to commence approximately February 1, 1976, and to be complete and fully tested by August 1, 1976.

(b) Planned maintenance of other powerplants and nuclear plant refueling during the period the powerplants will be implementing the proposed prohibition order within the dispatching system will result in the loss of generation capability which is expected to average the listed values during the specified load periods:

Winter Load Period, 2000 MWe  
Spring Load Period, 3400 MWe  
Summer Load Period, 500 MWe

(5) *Net Dependable Capacity.* The forecast net dependable capacity for the dispatching system during the period (shown as quarter years) in which the powerplants are expected to be implementing the proposed prohibition order and the next quarter following is:

Winter 1975-76, 30032 MWe  
Spring 1976, 30032 MWe  
Summer 1976, 29966 MWe

(6) *Gross Reserve Margin-Dispatching System.* (a) The expected minimum gross reserve margin (difference between net system capability and peak load in percent of peak load) of the dispatching system for the load periods specified are as follows:

Winter 1975-76, 57.0%  
Spring 1976, 67.4%  
Summer 1976, 35.1%

(b) After deducting the net capacity of units scheduled for maintenance or re-

fueling during these same load periods, the expected minimum reserve margins are:

Winter 1975-76, 46.5%  
Spring 1976, 48.5%  
Summer 1976, 32.8%

(7) *Derating.* There will be no derating of the powerplant when using coal as the primary energy source.

(8) *System Stability.* Available information regarding system stability for the dispatching system has been evaluated for each of the load periods stated in paragraph 151 and the issuance of a prohibition order to the powerplant will not cause a significant system stability problem.

(B) *Reliability of Service.* (1) The estimated gross reserve margin of the dispatching system during the implementation period associated with the commencement of the burning of coal as a primary energy source is forecast to range between 32.8% and 48.5%, depending upon the date of the period of powerplant outage. By scheduling the implementation period during the winter and spring load period, the estimated gross dispatching system's reserve margin will be above 46.5%, and the Federal Power Commission considers this to be an acceptable reserve margin.

(2) If dispatching system conditions at the time of the implementation period are as presently forecast by FEA in this finding, there will be no impairment of reliability of service, within the meaning of ESECA and the regulations promulgated thereunder, in the area served by Niagara-Mohawk Power Company.

(3) Existing transmission system interconnections with other utilities are presently scheduled to transfer approximately 100 megawatts from the dispatching system; with the capacity to transfer approximately 1000 megawatts of power into the dispatching system. This capacity will provide emergency resource of electric power during the implementation period and will enhance the reliability of service.

[FR Doc.75-13975 Filed 5-27-75; 8:45 am]



# ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

## Intention To Issue Prohibition Orders to Certain Powerplants

The Federal Energy Administration ("FEA") hereby gives notice of its intention to issue prohibition orders, pursuant to the authorities granted it by section 2 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA) and in accordance with 10 CFR Parts 303 and 305, to the following powerplants:

Docket No.	Owner	Powerplant No.	Generating station	Location
OFU-001	Alabama Electric Cooperative Inc.	3	McWilliams	Gantt, Ala.
OFU-002	Carolina Power & Light Co.	1	Sutton	Wilmington, N.C.
OFU-003	do	2	do	do
OFU-004	Carolina Power & Light Co.	3	do	do
OFU-005	Florida Power Corp.	1	Crystal River	Red Level, Fla.
OFU-006	do	2	do	do
OFU-007	Georgia Power Co.	1	McManus	Brunswick, Ga.
OFU-008	do	2	do	do
OFU-009	Savannah Electric & Power Co.	1	Port Wentworth	Port Wentworth, Ga.
OFU-010	do	2	do	do
OFU-011	do	3	do	do

FEA hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments on these proposed prohibition orders.

The proposed orders would prohibit the powerplants listed above from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a prohibition order to a powerplant, section 2 of ESECA requires that FEA make certain findings. FEA's initial conclusions with respect to, and rationale in support of, these findings are set out, with respect to each of the powerplants, at the conclusion of this notice. These findings and rationales may be amended as a result of written or oral comments received by FEA pursuant to this notice and other information available to FEA. The findings will be included, with any amendments, in a prohibition order when it is issued.

Upon conclusion of the proceedings described in this notice, FEA may determine to issue prohibition orders to some or all of the powerplants listed above. These prohibition orders will not become effective, however, (1) until either, (a) the Administrator of the Environmental Protection Agency ("EPA") notifies the FEA, in accordance with section 119(d) (1)(B) of the Clean Air Act, that the powerplant will be able on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a compliance date extension under section 119, or (b) if no notification is given by EPA, the date that the Administrator of EPA certifies pursuant to section 119(d) (1)(B) of the Clean Air Act is the earliest date that the powerplant will be able to comply with all applicable air pollution requirements of section 119 of that Act; and (2) until FEA has considered the environmental impact of such order pursuant to § 305.9 of the FEA regulations that implement section 2 of ESECA and has served the affected powerplant a Notice of Effectiveness, as provided in §§ 303.10(b) and 303.37(b) of those regulations. The date the prohibition order will be effective will be stated in the Notice of Effectiveness.

The Notice of Effectiveness will contain a compliance schedule to insure that the powerplant will be able to comply with the prohibition of the burning of natural gas or petroleum products as a primary energy source on the date the order becomes effective.

Public comment on the proposals to issue prohibition orders to the powerplants listed above is invited in the form of written and oral presentation of data, views and arguments. Comments should relate to individual docket numbers and should make clear to which docket number the individual comment is addressed.

Comments should address (1) the adequacy and validity of each of the proposed findings and the rationale in support of the findings; (2) the identification of any site-specific environmental impacts resulting from the proposed prohibition orders that were not identified or described in the Environmental Impact Statement (EIS 75-1, dated April 25, 1975) for the FEA program to implement section 2 of ESECA; and (3) any other relevant aspects or impacts of the proposed prohibition order. With respect to comments regarding any impact on air quality that might result from a proposed prohibition order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality, and for determining the applicable air pollution requirements that apply to the powerplant that has been issued an order. It is expected that in almost every case, a powerplant to which a prohibition order is issued will be eligible to apply to EPA for a compliance date extension. In connection with that application, EPA must also provide an opportunity for written comment and oral presentation of data, views and arguments by interested persons. In addition, FEA will make a site-specific environmental analysis after the issuance of each order, but prior to service of the Notice of Effectiveness, and there will be an opportunity for public comment if the analysis indicates that significant site-specific impacts are likely to result from a prohibition order.

If oral presentation is to be made, it is requested that any detailed, technical data, views, and arguments be made in written comments submitted in support of the oral presentation, and that the oral presentation itself be a summary of those more detailed comments.

A public hearing on the proposed prohibition orders will be held beginning at 9 a.m., e.d.t., on June 10, 1975 on the Fifth Floor, 1655 Peachtree Street, Atlanta, Georgia 30309, to receive oral presentation of data, views and arguments from interested persons. Any person who has an interest in the subject of the hearing, or who is a representative of a group or class of persons which has an interest in the subject of the hearing, may make a written request, or a verbal request if confirmed in writing, for an opportunity to make oral presentation. That request should be directed to Warren Zurn, Federal Energy Administration, Region IV, 1655 Peachtree Street, Atlanta, Georgia 30309, (404) 526-6821 and must be received before 4:30 p.m., e.d.t., June 5, 1975. The request may be hand-delivered to Warren Zurn, FEA Region IV, 1655 Peachtree Street, Atlanta, Georgia 30309 between the hours of 8 a.m. and 4:30 p.m., e.d.t., Monday through Friday. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through June 9, 1975. Each person selected to be heard will be so notified by the FEA by 4:30 p.m., e.d.t., June 6, 1975 and must submit a minimum of 20 copies of the statement to Warren Zurn, FEA Region IV, 1655 Peachtree Street, Atlanta, Georgia 30309 before 4:30 p.m., June 9, 1975.

The FEA reserves the right to limit the number of representatives of a particular group or class of persons to be heard at the hearing, to schedule their or other persons' presentations, and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. It will not be a judicial or evidentiary-type hearing. During an oral presentation, questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons making oral presentations. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making oral presentation at the hearing to FEA Region IV, Warren Zurn, 1655 Peachtree Street, Atlanta, Georgia before 9 a.m., e.d.t., June 10, 1975. Any person who makes an oral statement or any other person who wishes to ask a question at the hearing may submit the questions, in writing, to the presiding officer. The FEA, or the presiding officer if the question is submitted at the hearing, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules necessary for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript will be retained by the FEA and made available for inspection at the FEA Region IV, Seventh floor, 1655 Peachtree Street, Atlanta, Georgia 30309, and FEA Administrator's Reception Area, Room 3400, Federal Building, 12th and Pennsylvania Avenue NW, Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views or arguments with respect to the proposed prohibition order to Executive Communications, Federal Energy Administration, Box DD, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope in which they are transmitted and on other documents submitted to FEA Executive Communications with the designation "Proposed Prohibition Order for the \_\_\_\_\_ Powerplant." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., e.d.t., June 12, 1975, all oral presentations and all other relevant information submitted to or otherwise available to FEA will be considered by FEA prior to issuance of any prohibition order.

**Supplemental Comment Period.** To facilitate the submission of data, views and arguments to supplement either the oral presentation or written comments, FEA shall keep the record of the public hearing open for a period of 10 days from the first day of the public hearing. Such supplementary written data, views or argument shall be filed with Executive Communications, Federal Energy Administration, Box DD, Washington, D.C. 20461. In the event that such supplementary data, views or arguments can only be submitted by oral presentation, a verbal request for a conference, in accordance with 10 CFR § 303.171, shall be submitted to Warren Zurn, FEA Region IV, 1655 Peachtree Street, Atlanta, Georgia 30309, (404) 526-6821. To ensure that FEA receives the transcript of such oral presentation before the record closes, any oral presentation must be made within 8 days from the first day of the public hearing.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only.

The FEA reserves the right to determine the confidential status of the information or data and to treat it accordingly to its determination.

The sections of ESECA that are relevant to the proposed prohibition orders are stated below:

### Sec. 1. Short-Title; Purpose.

(b) The purposes of this Act are (1) to provide for a means to assist in meeting the essential needs of the United States for fuels, in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment . . .

(2) Authority to amend, repeal, rescind, modify, or enforce such rules or orders shall expire at midnight, December 31, 1978; but the expiration of such authority shall not affect any administrative or judicial proceeding which relates to any act or omission which occurred prior to January 1, 1979.

Sec. 2. Coal Conversion and Allocation.  
(a) The Federal Energy Administrator—  
(1) shall by order, prohibit any powerplant, and  
(2) may, by order, prohibit any major fuel burning installation, other than a powerplant, from burning natural gas or petroleum products as its primary energy source, if the Federal Energy Administrator determines such powerplant or installation on the date of enactment of this Act (June 22, 1974) has the capability and necessary plant equipment to burn coal, and if the requirements of subsection (b) are met.

(b) The requirements referred to in subsection (a) are as follows:  
(1) An order under subsection (a) may not be issued with respect to a powerplant or installation unless the Federal Energy Administrator finds (A) that the burning of coal by such plant or installation, in lieu of petroleum products or natural gas, is practicable and consistent with the purposes of this Act, (B) that coal transportation facilities will be available during the period the order is in effect, and (C) in the case of a powerplant, that the prohibition under subsection (a) will not impair the reliability of service in the area served by such plant. Such an order shall be rescinded or modified to the extent the Federal Energy Administrator determines that any requirement described in subparagraph (A), (B), or (C) of this paragraph is no longer met; and such an order may at any time be modified if the Federal Energy Administrator determines that such order, as modified, complies with the requirements of this section.

(3) (A) Before issuing an order under subsection (a) which is applicable to a powerplant or installation after June 30, 1975 (or modifying an order to which paragraph (2) applies, so as to apply such order to a powerplant or installation after such date), the Federal Energy Administrator shall give notice to the public and afford interested persons an opportunity for oral and written presentations of data, views, and arguments.  
(B) An order (or modification thereof) described in subparagraph (A) of this paragraph shall not become effective until (1) the Administrator of the Environmental Protection Agency notifies the Federal Energy Administrator under section 119(d) (1)(B) that such plant or installation will be able on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a compliance date extension under section 119(c) of such Act, or (2) if such notification is not given, the date which the Administrator of the Environmental Protection Agency certifies pursuant to section 119(d) (1)(B) of such Act is the earliest date that such plant or installation will be able to comply with all applicable requirements of such section 119. Such order (or modification) shall not be effective during any period certified by the Administrator of the Environmental Protection Agency under section 119(d) (3) (B) of such Act.

(e) For purposes of this section:  
(1) The term "powerplant" means a fossil-fuel fired electric generating unit which produces electric power for purposes of sale or exchange.  
(2) The term "coal" includes coal derivatives.

(f) (1) Authority to issue orders or rules under subsections (a) through (d) of this section shall expire at midnight, June 30, 1975. Such a rule or order may take effect at any time before January 1, 1979.  
(2) Authority to amend, repeal, rescind, modify, or enforce such rules or orders shall expire at midnight, December 31, 1978; but the expiration of such authority shall not affect any administrative or judicial proceeding which relates to any act or omission which occurred prior to January 1, 1979.

Copies of the FEA regulations implementing section 2 of ESECA (10 CFR, Parts 303, 305 and 307) are available from the FEA Regional Office, 1655 Peachtree Street, Atlanta, Georgia 30309, (404) 526-6821.

Any questions regarding this notice should be directed to Warren Zurn, FEA Region IV, 1655 Peachtree Street, Atlanta, Georgia 30309 (404) 526-6821.

(Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93-319); Federal Energy Administration Act of 1974 (Pub. L. 93-275); E.O. 11790 (39 FR 23185))

Issued in Washington, D.C., May 23, 1975.

ROBERT E. MONTGOMERY, JR.,  
General Counsel,  
Federal Energy Administration.

1. OFU-160, Alabama Electric Cooperative, Inc., Powerplant 3, Generating Station—McWilliams, Gantt, Alabama. (a) Proposed findings and rationale for findings:

1. Capability and Necessary Plant Equipment Finding. Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that on June 22, 1974, this powerplant had the capability and necessary plant equipment to burn coal. This proposed finding is based on facts, interpretations and assumptions stated below:

(A) This powerplant had in place on June 22, 1974, a boiler that was capable of burning coal, in that such boiler had been designed and constructed, or had been modified to enable it to burn coal as its primary energy source, or to burn coal and another fossil fuel interchangeably as its primary energy source, notwithstanding the fact that on June 22, 1974, such powerplant may not have been burning coal as its primary energy source.

(B) Based on information filed with FEA on March 11, 1975 by the Alabama Electric Cooperative, Inc., the following significant equipment or facilities would have to be acquired or substantially refurbished:

1. Coal Handling:
  - a. Caterpillar D-6 Tractor—refurbish track,
  - b. Acquisition of new 11 yd. capacity scraper,
  - c. Rail Siding—refurbish.
2. Enlarge coal storage area;
3. Boilers:
  - a. Replace burner tile,
  - b. Repair refractory in ash hopper;
4. Ash Handling & Ponding:
  - a. Refurbish Ash Handling Pump,
  - b. Perform necessary modification to ash ponding area to include installation of waste water treatment plant.

FEA assumes that on June 22, 1974, this powerplant had all other significant equipment and facilities associated with the burning of coal.



(C) Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph (b) do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

(ii) *Burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* Based on an analysis of the information submitted or otherwise available to FEA, FEA proposes to find that the burning of coal by the powerplant, in lieu of petroleum products or natural gas, is practicable and consistent with the purposes of ESECA. This proposed finding is based on the facts, interpretations and assumptions stated below.

(A) (1) *Revenue Requirements.* (a) The investment costs that result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal by the powerplant are estimated to be approximately \$115,700. This estimate is based on existing FEA information and on information filed with the FEA by the powerplant concerning items of equipment and facilities that would have to be acquired or refurbished and the costs of such acquisition or refurbishment.

(i) Costs of acquisition or refurbishing equipment are allocated as follows:

(A) \$0 to comply with air pollution control requirements of the Clean Air Act.

(B) \$115,700 to make those technical plant and equipment adjustments associated with the burning of coal, as well as to comply with environment requirements other than those imposed by the Clean Air Act.

(b) The increase in operating costs other than fuel costs that result from the burning of coal are estimated to be approximately \$51,736 per year.

(c) (i) The price of petroleum products available to the powerplant is approximately \$.45 to \$.55 per million Btus. The price of coal of the type used by the powerplant is approximately \$.85 to \$.95 per million Btus. The burning of coal by the powerplant will result in an increase of \$.30 to \$.50 per million Btus or \$475,000 to \$625,000 per year.

(ii) The Alabama Public Utility Commission permits the inclusion of increased fuel costs in the rate base through a fuel adjustment clause and, if there is a decrease in the cost of fuel as a result of burning coal, there will be a decrease in such rate base.

(d) The total annual incremental increase in revenue requirements resulting from costs associated with burning coal as opposed to oil is \$61,000.

(2) *Financial Capabilities.* (a) Based on the most recent financial statements and capital expenditure programs of Alabama Electric Cooperative Inc., as well as other information available to FEA, it has been determined that the prohibition order for the powerplant is practicable. This financial assessment included an evaluation of generally accepted financial ratios; effects on cap-

italization as a result of the costs of burning of coal; impact on current and future construction programs; and possible impacts on rates. This assessment incorporated, but was not limited to, consideration of: the \$115,700 investment requirement (or 3%) in relation to net property and plant of the company of \$41 million and 1975-1977 construction budget of the company of \$38 million (or 3%); the total capitalization of the company of \$48.9 million; the change in 1974 to 1975 construction budgets of \$7.9 million to \$0 and the 14 years remaining useful life of the plant. These assessments, the above findings, and other evaluations of the general financial health of the company were the basis of this finding.

(B) Because this prohibition order will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to find that its issuance will be consistent with the purpose of ESECA "to provide a means to assist in meeting the essential needs of the United States for fuels." Further, on the basis of the environmental analyses conducted by FEA, the analyses of air quality impacts which EPA is required to conduct prior to effectiveness of a prohibition order, as well as the necessity for the powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to find that the prohibition order is also consistent with the purpose of ESECA to provide for a means to meet the Nation's essential fuel needs "in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment."

(iii) *Coal and coal transportation facilities will be available during the period the prohibition order is in effect.* Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1978. The period until December 31, 1978 is the period during all or part of which the prohibition order to which these findings relate will be in effect. This proposed finding is based upon the following facts, interpretations and assumptions:

A (1) It is estimated that it will be practicable to produce coal nationally as follows:

Year:	Production (million tons)
1975	662
1976	679
1977	707
1978	735

(2) The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	640
1976	664
1977	688
1978	716

(3) The estimated additional national demand for coal resulting from the prohibition order to which this finding relates, and from FEA actions under authority of section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	0.7
1976	4.0
1977	13.6
1978	16.2

(4) Coal of the specific type required for use by this powerplant has been identified in the reserves of the Northern and Southern Appalachian Coal supply regions, which consist of Bureau of Mines Districts 1 through 8 and 13.

(5) It is estimated that it will be practicable to produce coal from the Northern and Southern Appalachian coal supply regions as follows:

Year:	Production (million tons)
1975	406
1976	402
1977	407
1978	412

(6) The regional and national production estimates stated in items (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately 4%. A 1975 study by the Bureau of Mines of the Department of the Interior indicates a national surge capacity of approximately 6%. In response to an industry survey in late 1974, the coal industry itself indicated that it had a surge capacity of up to 8%. By comparison, the increased national demand for coal resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA, is less than one tenth of a percent in 1975, increasing to a maximum of 2.3% in 1978 of estimated national demand stated in item (2). A market survey of traditional coal suppliers to FEA Region IV consumers indicates that there is ample production capability to support increased demand for coal from this region resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA.

(7) No State or local laws or policies which would limit the extraction of this coal have been found by FEA or brought to FEA's attention.

(8) The estimated demand for coal from these supply regions, excluding any increased demand resulting from FEA actions under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	390
1976	394
1977	395
1978	398

(9) The estimated additional demand for coal from these supply regions resulting from the prohibition order to which this finding relates and from other FEA orders under section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	0.4
1976	2.5
1977	10.2
1978	12.4

(10) On the basis of the above information, FEA proposes to find that the estimated production of coal of the specific type required for use by this powerplant exceeds the estimated demand for such coal by amounts adequate to support a conclusion that such coal will be available to these powerplants during the period until December 31, 1978.

B(1) Adequate rail facilities exist between these coal supply regions and the powerplant to transport the coal that will be used by such powerplant pursuant to this order.

(2) There is a spur line which will be able to deliver this coal from the main rail line to this powerplant.

(3) Sufficient rolling stock will be available to the Southern Railway System for transporting this coal during the period until December 31, 1978.

(iv) *The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplant.* Based on an analysis of the information submitted to or otherwise available to FEA, and after consultation with the Federal Power Commission, FEA hereby proposes to find that the prohibition of the McWilliams Unit #3 powerplant of the Alabama Electric Cooperative, Inc. from burning natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by such powerplant. Such finding will be based on the facts, assumptions and interpretations stated below:

(A) (1) *Interconnections and Power Dispatching.* (a) The McWilliams Unit #3 is within the geographical area of the Southeastern Electric Reliability Council (SERC) regional electric reliability council.

(b) It is interconnected with and its operations and planning are coordinated with the Southern Companies subregion of SERC power pool.

(c) Dispatching of electric power is controlled by Alabama Electric Cooperative, Inc.

(d) "Dispatching system" as used later in this finding means Alabama Electric Cooperative, Inc.

(2) *Forecast Peak Loads.* (a) Forecast of peak loads for the dispatching system during the year in which the Alabama Electric Cooperative, Inc. is expected to be implementing the proposed prohibition order is as follows:

Winter Load Period (Dec.-Feb.) 1975-76, Peak 232 MWe Jan.
Spring Load Period (March-May) 1976, Peak 191 MWe May.
Summer Load Period (June-Aug.) 1976, Peak 280 MWe Aug.
Fall Load Period (Sept.-Nov.) 1976, Peak 221 MWe Sept.

(b) The peak loads forecast have been compared with peak loads in previous

similar periods and the compound load growth rate for these forecasts is 7%, which is considered reasonable.

(3) *Capacity.* (a) The present net dependable capacity of all powerplants of the dispatching system that now are engaged in the sale or exchange of electric power is 262 MWe.

(b) No additions, retirements, or powerplant reratings are planned during the period in which Alabama Electric Cooperative, Inc. will be implementing the proposed prohibition order.

(4) *Scheduled Outage.* (a) A scheduled outage of 4 months is estimated to be required to make any modification, installation or other physical adjustment associated with cessation of the burning of natural gas or petroleum products as the powerplant primary energy source. Immediately following modification during on-line testing and adjustment, the powerplant will be less than fully dependable. This period should not exceed 30 days.

Modifications are forecast to commence approximately February 1, 1976, and to be complete and fully tested by July 1, 1976.

(b) No maintenance of other powerplants is planned within the dispatching system during the period the powerplant will be implementing the proposed prohibition order.

(5) *Net Dependable Capacity.* The forecast net dependable capacity for the dispatching system during the period (shown as quarter years) in which the powerplant is expected to be implementing the proposed prohibition order and the next quarter following is:

Winter 1975-76, 262 MWe
Spring 1976, 262 MWe
Summer 1976, 262 MWe

(6) *Gross Reserve Margin-Dispatching System.* (a) The expected minimum gross reserve margin (difference between net system capability and peak load in percent of peak load) of the dispatching system for the load periods specified are as follows:

Winter 1975-76, 13%
Spring 1976, 37%
Summer 1976, -6.4%

(b) Implementation of the proposed prohibition order will not affect the forecast reserve margin for the summer of 1976. Alabama Electric Cooperative, Inc. will purchase power as needed.

(7) *Derating.* There will be no derating of the powerplant when using coal as the primary energy source.

(8) *System Stability.* Available information regarding system stability for the dispatching system has been evaluated for each of the load periods stated in paragraph (5) and the issuance of a prohibition order to the powerplant will not cause a significant system stability problem.

(B) *Reliability of Service.* (1) The estimated gross reserve margin of the dispatching system during the implementation period associated with the commencement of the burning of coal as a primary energy source is forecast to range between -6.4% and 37%, depend-

ing upon the date of the period of powerplant outage. By scheduling the implementation period during the February through May load period, the estimated gross dispatching system's reserve margin will be above 31%, and the Federal Power Commission considers this to be an acceptable reserve margin.

(2) If dispatching system conditions at the time of the implementation period are as presently forecast by FEA in this finding, there will be no impairment of reliability of service, within the meaning of ESECA and the regulations promulgated thereunder, in the area served by Alabama Electric Cooperative, Inc.

(3) Existing transmission system interconnections with other utilities are presently scheduled to transfer approximately 128 megawatts into the dispatching system; with the capacity to transfer approximately 100 additional megawatts of power into the dispatching system. This capacity will provide emergency resources of electric power during the implementation period and will enhance the reliability of service.

2. OFU-061-063, Carolina Power and Light Company, Powerplants 1, 2 and 3, Generating Station-Sutton, Wilmington, North Carolina.

(a) Proposed findings and rationale for findings:

1. *Capability and Necessary Plant Equipment Finding.* Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that on June 22, 1974, these powerplants had the capability and necessary plant equipment to burn coal. This proposed finding is based on facts, interpretations and assumptions stated below:

(A) These powerplants had in place on June 22, 1974, a boiler that was capable of burning coal, in that such boiler had been designed and constructed, or had been modified to enable it to burn coal as its primary energy source, or to burn coal and another fossil fuel interchangeably as its primary energy source, notwithstanding the fact that on June 22, 1974, such powerplant may not have been burning coal as its primary energy source.

(B) Based on information filed with FEA on April 29, 1975, by the Carolina Power and Light Company, no significant equipment or facilities would have to be acquired or substantially refurbished.

II. Based on an analysis of the information submitted to or otherwise available to FEA, FEA hereby finds that the burning of coal by the powerplants in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based on the facts, interpretations and assumptions stated below.

(a) The powerplants have acquired or modified, or are currently acquiring or modifying the equipment and facilities necessary for the burning of coal as their primary energy source, and such actions are not being undertaken as a result of (or in contemplation of) the issuance of a prohibition order. These acquisitions or modifications include those necessary for



compliance with the requirements of Clean Air Act.

(b) The costs associated with the acquisitions or modifications necessary for the burning of coal are identified in the company's current and prospective budgetary plans.

(c) (1) FEA assumes that the decision by the company to acquire or modify such equipment and facilities in order to burn coal as a primary energy source was based on an analysis of the financial capability of such powerplants to assume such costs (including the requirement to obtain a rate increase) and, therefore the conclusion by such powerplant that the burning of coal in lieu of petroleum products is practicable.

(2) If the powerplant has found that the burning of coal in lieu of petroleum products or natural gas is practicable, FEA therefore concludes that the burning of coal by such powerplant is practicable within the meaning of ESECA and the regulations promulgated thereunder.

(d) The issuance of this prohibition order will discourage the use of natural gas or petroleum products and encourage the increased use of coal, and such order is a means that, by virtue of the necessity for the powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

(iii) Coal and coal transportation facilities will be available during the period the prohibition order is in effect. Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1978. The period until December 31, 1978 is the period during all or part of which the prohibition order to which these findings relate will be in effect. This proposed finding is based upon the following facts, interpretations and assumptions:

(A) (1) It is estimated that it will be practicable to produce coal nationally as follows:

Year:	Production (million tons)
1975	682
1976	679
1977	707
1978	735

(2) The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	640
1976	664
1977	688
1978	716

(3) The estimated additional national demand for coal resulting from the prohibition order to which this finding relates, and from FEA actions under authority of section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	0.7
1976	4.0
1977	13.6
1978	16.2

(4) Coal of the specific type required for use by this powerplant has been identified in the reserves of the Northern and Southern Appalachian Coal supply regions, which consist of Bureau of Mines Districts 1 through 8 and 13.

(5) It is estimated that it will be practicable to produce coal from the Northern and Southern Appalachian coal supply regions as follows:

Year:	Production (million tons)
1975	406
1976	402
1977	407
1978	412

(6) The regional and national production estimates stated in items (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately 4%. A 1975 study by the Bureau of Mines of the Department of the Interior indicates a national surge capacity of approximately 6%. In response to an industry survey in late 1974, the coal industry itself indicated that it had a surge capacity of up to 8%. By comparison, the increased national demand for coal resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA, is less than one tenth of a percent in 1975, increasing to a maximum of 2.3% in 1978 of estimated national demand stated in item (2). A market survey of traditional coal suppliers to FEA Region IV consumers indicates that there is ample production capability to support increased demand for coal from this region resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA.

(7) No State or local laws or policies which would limit the extraction of this coal have been found by FEA or brought to FEA's attention.

(8) The estimated demand for coal from these supply regions, excluding any increased demand resulting from FEA actions under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	390
1976	394
1977	395
1978	398

(9) The estimated additional demand for coal from these supply regions resulting from the prohibition order to which this finding relates and from other FEA orders under section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	0.4
1976	2.5
1977	10.2
1978	12.4

(10) On the basis of the above information, FEA proposes to find that the estimated production of coal of the specific type required for use by this powerplant exceeds the estimated demand for such coal by amounts adequate to support a conclusion that such coal will be available to these powerplants during the period until December 31, 1978.

B(1) Adequate rail facilities exist between these coal supply regions and the powerplants to transport the coal that will be used by such powerplants pursuant to this order.

(2) There is a spur line which will be able to deliver this coal from the main rail line to these powerplants.

(3) Sufficient rolling stock will be available to the Norfolk and Western Railway, the Chesapeake & Ohio Railway, the Seaboard Coast Line Railroad, or the Southern Railway System for transporting this coal during the period until December 31, 1978.

(iv) The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplants. Based on an analysis of the information submitted to or otherwise available to FEA, and after consultation with the Federal Power Commission, FEA hereby proposes to find that the prohibition of the Sutton Units #1, #2, and #3 powerplants of the Carolina Power and Light Company from burning natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by these powerplants. This finding will be based on the facts, assumptions, and interpretations stated below:

(A) (1) Interconnections and Power Dispatching. (a) The Sutton Units are within the geographical area of the Southeast Electric Reliability Council (SERC) regional electric reliability council.

(b) They are interconnected with and their operations and planning are coordinated with the VACAR subregion of SERC. The reserve capacity of the interconnected systems will provide emergency back-up and enhances the reliability of service.

(c) Dispatching of electric power is controlled by Carolina Power and Light Company.

(2) The subject powerplant now uses coal on a regular basis.

(3) No reconversion or outage time for reconversion is necessary.

(B) For the reasons set forth above, the FEA finds that the burning of coal by Sutton #1, #2, and #3 powerplants in lieu of petroleum products or natural gas will not result in an impairment of the reliability of service in the meaning of ESECA in the area served by the powerplant.

3. OFU-064, 065, Florida Power Corporation, Powerplants 1, 2, Generating Station—Crystal River, Red Level, Florida.

(a) Proposed findings and rationale:

1. Capability and Necessary Plant Equipment Finding. Based on an analysis

of the information submitted to or otherwise available to FEA, FEA proposes to find that on June 22, 1974, these powerplants had the capability and necessary plant equipment to burn coal. This proposed finding is based on facts, interpretations and assumptions stated below:

(A) These powerplants had in place on June 22, 1974, a boiler that was capable of burning coal, in that such boiler had been designed and constructed, or had been modified to enable it to burn coal as its primary energy source, or to burn coal and another fossil fuel interchangeably as its primary energy source, notwithstanding the fact that on June 22, 1974, such powerplant may not have been burning coal as its primary energy source.

(B) Based on information filed with FEA on April 10, 1975 by the Florida Power Corporation, the following significant equipment or facilities would have to be acquired or substantially refurbished:

1. Additional coal conveyors;
2. Air tempering coils;
3. Relocate and add slag blowers with necessary piping valves, access platforms and bent tube sections;
4. Extensive revisions to the instrumentation for coal burning;
5. Purchase and install new bottom ash and fly ash handling systems;
6. Provide for new ash ponds;
7. Coal handling equipment.

FEA assumes that on June 22, 1974, these powerplants had all other significant equipment and facilities associated with the burning of coal.

(C) Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph (b) do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

(ii) Burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA. Based on an analysis of the information submitted or otherwise available to FEA, FEA proposes to find that the burning of coal by the powerplants in lieu of petroleum products or natural gas, is practicable and consistent with the purposes of ESECA. This proposed finding is based on the facts, interpretations and assumptions stated below.

(A) (1) Revenue Requirements. (a) The investment costs that result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal by the powerplants are estimated to be approximately \$31,940,000. This estimate is based on existing FEA information and on information filed with the FEA by the powerplants concerning items of equipment and facilities that would have to be acquired or refurbished and the costs of such acquisition of refurbishment.

(b) Costs of acquisition or refurbishment equipment are allocated as follows:

(A) \$16,940,000 to comply with air pollution control requirements of the Clean Air Act.

(B) \$15,000,000 to make those technical plant and equipment adjustments associated with the burning of coal, as well as to comply with environmental requirements other than those imposed by the Clean Air Act.

(b) The increase in operating costs other than fuel costs that result from the burning of coal are estimated to be approximately \$1,500,000 per year.

(c) (i) The price of petroleum products available to the power plant is approximately \$1.70 to \$1.80 per million BTU's. The price of coal of the type used by the power plant is approximately \$1.70 to \$1.80 per million BTU's. The burning of coal by the power plant will result in no net change in their annual fuel costs.

(ii) The Florida Public Utility Commission permits the inclusion of increased fuel costs in the rate base through a fuel adjustment clause and, if there is a decrease in the cost of fuel as a result of burning coal, there will be a decrease in such rate base.

(d) The total annual incremental increase in revenue requirements resulting from costs associated with burning coal as opposed to oil is \$7,495,000.

(2) Financial Capabilities. (a) Based on the most recent financial statements and capital expenditure programs of Florida Power Corporation, as well as other information available to FEA, it has been determined that the prohibition order for the powerplants is practicable. This financial assessment included an evaluation of generally accepted financial ratios; effects on capitalization as a result of the costs of burning of coal; impact on current and future construction programs; and possible impacts on rates. This assessment incorporated, but was not limited to, consideration of: the \$31.9 million investment requirement (or 2.4%) in relation to net property and plant of the company of \$1.3 billion and 1975-1977 construction budget of the company of \$362 million (or 8.8%); the total capitalization of the company of \$1.1 billion; the change in 1974 to 1975 construction budgets of \$228 million to \$100 million and the 28 years remaining useful life of the plant. These assessments, the above findings, and other evaluations of the general financial health of the company were the basis of this finding.

(B) Because this prohibition order will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposed to find that its issuance will be consistent with the purpose of ESECA "to provide a means to assist in meeting the essential needs of the United States for Fuels."

Further, on the basis of the environmental analyses conducted by FEA, the analyses of air quality impacts which EPA is required to conduct prior to effectiveness of a prohibition order, as well as the necessity for the powerplants to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to find that the prohibition order is also consistent with the purpose of ESECA to provide

for a means to meet the Nation's essential fuel needs "in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment."

(iii) Coal and coal transportation facilities will be available during the period the prohibition order is in effect. Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1978. The period until December 31, 1978 is the period during all or part of which the prohibition order to which these findings relate will be in effect. This proposed finding is based upon the following facts, interpretations and assumptions:

(A) (1) It is estimated that it will be practicable to produce coal nationally as follows:

Year:	Production (million tons)
1975	662
1976	679
1977	707
1978	735

(2) The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	640
1976	664
1977	688
1978	716

(3) The estimated additional national demand for coal resulting from the prohibition order to which this finding relates, and from FEA actions under authority of section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	0.7
1976	4.0
1977	13.6
1978	16.2

(4) Coal of the specific type required for use by this powerplant has been identified in the reserves of the Northern and Southern Appalachian Coal supply regions, which consist of Bureau of Mines Districts 1 through 8 and 13.

(5) It is estimated that it will be practicable to produce coal from the Northern and Southern Appalachian coal supply regions as follows:

Year:	Production (million tons)
1975	406
1976	402
1977	407
1978	412

(6) The regional and national production estimates stated in items (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately 4%. A 1975 study by the Bureau of Mines of the Department of the Interior indicates a national surge capacity of approximately 6%. In response to an industry survey in late 1974, the coal industry itself indicated that it had a surge capacity of up to 8%.

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By comparison, the increased national demand for coal resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA, is less than one tenth of a percent in 1975, increasing to a maximum of 2.3% in 1978 of estimated national demand stated in item (2). A market survey of traditional coal suppliers to FEA Region IV consumers indicates that there is ample production capability to support increased demand for coal from this region resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA.

(7) No State or local laws or policies which would limit the extraction of this coal have been found by FEA or brought to FEA's attention.

(8) The estimated demand for coal from these supply regions, excluding any increased demand resulting from FEA actions under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	390
1976	394
1977	395
1978	398

(9) The estimated additional demand for coal from these supply regions resulting from the prohibition order to which this finding relates and from other FEA orders under section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	0.4
1976	2.5
1977	10.2
1978	12.4

(10) On the basis of the above information, FEA proposes to find that the estimated production of coal of the specific type required for use by this powerplant exceeds the estimated demand for such coal by amounts adequate to support a conclusion that such coal will be available to these powerplants during the period until December 31, 1978.

B(1) Adequate rail or barge facilities exist between these coal supply regions and the powerplants to transport the coal that will be used by such powerplants pursuant to this order.

(2) There is a spur line or waterway which will be able to deliver this coal from these supply regions to these powerplants.

(3) Sufficient rolling stock will be available to the Seaboard Coast Line Railroad and sufficient barges will be available to the Gulf Coast Transit for transporting this coal during the period until December 31, 1978.

(iv) The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplants. Based on an analysis of the information submitted to or otherwise available to FEA, and after consultation with the Federal Power Commission, FEA hereby proposes to find that the prohibition

of the Crystal River Units #1 and #2 powerplants of the Florida Power Corporation from burning natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by these powerplants. Such finding will be based on the facts, assumptions, and interpretations stated below:

(A) (1) *Interconnections and Power Dispatching.* (a) The Crystal River Units are within the geographical area of the Southeastern Electric Reliability Council (SERC) regional electric reliability council.

(b) They are interconnected with and their operations and planning are coordinated with the Florida Subregion of SERC.

(c) Dispatching of electric power is controlled by Florida Power Corporation.

(d) "Dispatching system" as used later in this finding means Florida Power Corporation.

(2) *Forecast Peak Loads.* (a) Forecast of peak loads for the dispatching system during the year in which the

Powerplant designation	Fuel	Type of change	Capacity change	Status and effective date
Debarry No. 1-3	Oil	Addition	+150	December 1975.
Debarry No. 4	do	do	+50	January 1976.
Debarry No. 5	do	do	+50	February 1976.
Debarry No. 6	do	do	+50	Do.
Turner No. 2	do	Retire	-28	March 1976.
Crystal River No. 3	Nuclear	Addition	+825	September 1976.
Anclote No. 2	Oil	do	+515	July 1977.

(4) *Scheduled Outages.* (a) A scheduled outage of 6 weeks for each unit is estimated to be required to make any modifications, installation or other physical adjustment associated with cessation of the burning of natural gas or petroleum products as the powerplants primary energy source. Immediately following modification during on-line testing and adjustment, the powerplants will be less than fully dependable. This period should not exceed 30 days.

Modifications are forecast to commence approximately March 1, 1977, and to be complete and fully tested by July 1, 1977.

(b) Planned maintenance of other powerplants rated 100 MWe or higher and nuclear plant refueling during the period the powerplant will be implementing the herein prohibition order within the dispatching system will result in the loss of generating capability which is expected to average the listed values during the specified load periods.

Spring, 45 MWe  
Summer, 45 MWe

(5) *Net Dependable Capacity.* The forecast net dependable capacity for the dispatching system during the period (shown as quarter years) in which the powerplants are expected to be implementing the proposed prohibition order and the next quarter following is:

Spring 1977, 4701 MWe  
Summer 1977, 5216 MWe

(6) *Gross Reserve Margin-Dispatching System.* (a) The expected minimum gross

Florida Power Corporation is expected to be implementing the proposed prohibition order is as follows:

Summer Load Period (May-Sept.) 1977 Peak 3486 MWe August

Fall Load Period (Oct.-Nov.) 1976, Peak 2404 MWe October

Winter Load Period (Dec.-Feb.) 1976-77, Peak 3836 MWe Jan.

Spring Load Period (March-April) 1977, Peak 2789 MWe May

(b) The peak loads forecast have been compared with peak loads in previous similar periods and the compound load growth rate for these forecasts is 8%, which is considered reasonable.

(3) *Capacity.* (a) The present net dependable capacity of all powerplants of the dispatching system that now are engaged in the sale or exchange of electric power is 3604 MWe.

(b) Additions, retirements, and powerplant reratings during the period in which Florida Power Corporation will be implementing the proposed prohibition order, as listed below, will cause the following changes in net dependable capacity of such dispatching system:

reserve margin (difference between net system capability and peak load in percent of peak load) of the dispatching system for the load periods specified are as follows:

Spring 1977, 68.7%  
Summer 1977, 49.6%

(b) After deducting the net capacity of units scheduled for maintenance or refueling during these same load periods, the expected minimum reserve margins are:

Spring 1977, 65.0%  
Summer 1977, 48.3%

(7) *Derating.* There will be no derating of the powerplant when using coal as the primary energy source.

(8) *System Stability.* Available information regarding system stability for the dispatching system has been evaluated for each of the load periods stated in paragraph (5) and the issuance of a prohibition order to the powerplants will not cause a significant system stability problem.

(B) *Reliability of Service.* (1) The estimated gross reserve margin of the dispatching system during the implementation period associated with the commencement of the burning of coal as a primary energy source is forecast to range between 48.3% and 65.0%, depending upon the date of the period of powerplant outage. By scheduling the implementation period during the months of March and April 1977 load period, the estimated gross dispatching system's reserve margin will be above 65%, and the

Federal Power Commission considers this to be an acceptable reserve margin.

(2) If dispatching system conditions at the time of the implementation period are as presently forecast by FEA in this finding, there will be no impairment of reliability of service, within the meaning of ESECA and the regulations promulgated thereunder, in the area served by Florida Power Corporation.

(3) Existing transmission system interconnections with other utilities are presently scheduled to transfer approximately 210 megawatts into the dispatching system; with the capacity to transfer approximately 800 additional megawatts of power into the dispatching system. This capacity will provide an emergency resource of electric power during the implementation period and will enhance the reliability of service.

4. OFU-066, 067, Georgia Power Company, Powerplants 1, 2, Generating Station—McManus, Brunswick, Georgia.

(a) Proposed findings and rationale for findings:

1. *Capability and Necessary Plant Equipment Finding.* Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that on June 22, 1974, these powerplants had the capability and necessary plant equipment to burn coal. This proposed finding is based on facts, interpretations and assumptions stated below:

(A) These powerplants had in place on June 22, 1974, a boiler that was capable of burning coal, in that such boiler had been designed and constructed, or had been modified to enable it to burn coal as its primary energy source, or to burn coal and another fossil fuel interchangeably as its primary energy source, notwithstanding the fact that on June 22, 1974, such powerplant may not have been burning coal as its primary energy source.

(B) Based on information filed with FEA on April 10, 1975 by the Georgia Power Company, the following significant equipment or facilities would have to be acquired or substantially refurbished:

- Two tractors;
- One car shaker;
- Ash piping and valves;
- Boiler work;
- Ash pond.

FEA assumes that on June 22, 1974, these powerplants had all other significant equipment and facilities associated with the burning of coal.

(C) Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph (b) do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

(ii) *Burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* Based on an analysis of the information submitted or otherwise available to FEA, FEA proposes to find that the burning of coal by the powerplants, in lieu of petroleum products or natural gas, is practicable and consistent with the purposes of ESECA. This proposed

finding is based on the facts, interpretations and assumptions stated below.

(A) (1) *Revenue Requirements.* (a) The investment costs that result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal by the powerplants are estimated to be approximately \$30,975,000. This estimate is based on existing FEA information and on information filed with the FEA by the powerplant concerning items of equipment and facilities that would have to be acquired or refurbished and the costs of such acquisition or refurbishment.

(i) Costs of acquisition or refurbishing equipment are allocated as follows:

(A) \$28,380,000 to comply with air pollution control requirements of the Clean Air Act.

(B) \$2,595,000 to make those technical plant and equipment adjustments associated with the burning of coal, as well as to comply with environmental requirements other than those imposed by the Clean Air Act.

(b) The increase in operating costs other than fuel costs that result from the burning of coal are estimated to be approximately \$219,982 per year.

(c) (i) The price of petroleum products available to the powerplants is approximately \$1.75 to \$1.85 per million Btus. The price of coal of the type used by the powerplants is approximately \$1.45 to \$1.55 per million Btus. The burning of coal by the powerplants will result in a reduction of \$.20 to \$.40 per million Btus or \$1.2 million to \$2.8 million per year.

(ii) The Georgia Public Utility Commission permits the inclusion of increased fuel costs in the rate base through a fuel adjustment clause and, if there is a decrease in the cost of fuel as a result of burning coal, there will be a decrease in such rate base.

(d) The total annual incremental increase in revenue requirements resulting from costs associated with burning coal as opposed to oil is \$6,667,000.

(2) *Financial Capabilities.* (a) Based on the most recent financial statements and capital expenditure programs of the Georgia Power Company, as well as other information available to FEA, it has been determined that the prohibition order for the powerplants is practicable. This financial assessment included an evaluation of generally accepted financial ratios; effects on capitalization as a result of the costs of burning of coal; impact on current and future construction programs; and possible impacts on rates. This assessment incorporated, but was not limited to, consideration of: the \$30.9 million investment requirement (or 1%) in relation to net property and plant of the company of \$3.2 billion and 1975-1977 construction budget of the company of \$475 million (or 2%); the total capitalization of the company of \$2.6 billion; the change in 1974 to 1975 construction budgets of \$662 million to \$475 million and the 16 years remaining useful life of the plant. These assessments, the above findings, and other evaluations of

the general financial health of the company were the basis of this finding.

(B) Because this prohibition order will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to find that its issuance will be consistent with the purpose of ESECA "to provide a means to assist in meeting the essential needs of the United States for fuels." Further, on the basis of the environmental analyses conducted by FEA, the analyses of air quality impacts which EPA is required to conduct prior to effectiveness of a prohibition order, as well as the necessity for the powerplants to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to find that the prohibition order is also consistent with the purpose of ESECA to provide for a means to meet the Nation's essential fuel needs "in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment."

(iii) *Coal and coal transportation facilities will be available during the period the prohibition order is in effect.* Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1978. The period until December 31, 1978 is the period during all or part of which the prohibition order to which these findings relate will be in effect. This proposed finding is based upon the following facts, interpretations and assumptions:

A(1) It is estimated that it will be practicable to produce coal nationally as follows:

Year:	Production (million tons)
1975	662
1976	679
1977	707
1978	735

(2) The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	640
1976	664
1977	688
1978	716

(3) The estimated additional national demand for coal resulting from the prohibition order to which this finding relates, and from FEA actions under authority of section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	0.7
1976	4.0
1977	13.6
1978	16.2

(4) Coal of the specific type required for use by this powerplant has been identified in the reserves of the Northern and Southern Appalachian Coal supply regions, which consist of Bureau of Mines Districts 1 through 8 and 13.

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(5) It is estimated that it will be practicable to produce coal from the Northern and Southern Appalachian coal supply regions as follows:

Year:	Production (million tons)
1975	406
1976	402
1977	407
1978	412

(6) The regional and national production estimates stated in items (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately 4%. A 1975 study by the Bureau of Mines of the Department of the Interior indicates a national surge capacity of approximately 6%. In response to an industry survey in late 1974, the coal industry itself indicated that it had a surge capacity of up to 8%. By comparison, the increased national demand for coal resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA, is less than one tenth of a percent in 1975, increasing to a maximum of 2.3% in 1978 of estimated national demand stated in item (2). A market survey of traditional coal suppliers to FEA Region IV consumers indicates that there is ample production capability to support increased demand for coal from this region resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA.

(7) No State or local laws or policies which would limit the extraction of this coal have been found by FEA or brought to FEA's attention.

(8) The estimated demand for coal from these supply regions, excluding any increased demand resulting from FEA actions under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	390
1976	394
1977	395
1978	398

(9) The estimated additional demand for coal from these supply regions resulting from the prohibition order to which this finding relates and from other FEA orders under section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	0.4
1976	2.5
1977	10.2
1978	12.4

(10) On the basis of the above information, FEA proposes to find that the estimated production of coal of the specific type required for use by this powerplant exceeds the estimated demand for such coal by amounts adequate to support a conclusion that such coal will be available to these powerplants during the period until December 31, 1978.

B(1) Adequate rail facilities exist between these coal supply regions and the

powerplants to transport the coal that will be used by such powerplants pursuant to this order.

(2) There is a spur line which will be able to deliver this coal from the main rail line to these powerplants.

(3) Sufficient rolling stock will be available to the Seaboard Coast Line Railroad or the Southern Railway System for transporting this coal during the period until December 31, 1978.

(iv) *The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplants.* Based on an analysis of the information submitted to or otherwise available to FEA, and after consultation with the Federal Power Commission, FEA hereby proposes to find that the prohibition of the McManus Units #1 and #2 powerplants of the Georgia Power Company from burning natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by such powerplants. Such finding will be based on the facts, assumptions and interpretations stated below:

(A) (1) *Interconnections and Power Dispatching.* (a) The McManus Units are within the geographical area of the Southern Company subregion of the Southeastern Electric Reliability Council (SERC) regional electric reliability council.

(b) They are interconnected with and their operations and planning are coordinated with a power pool consisting of the four companies making up the

Powerplant designation	Fuel	Type of change	Megawatts capacity change	Status and effective date
Bowen No. 4	Coal	Addition	+910	Under construction, commercial operation August 1975
Farley No. 1	Nuclear	do	+834	Under construction, commercial operation, July 1976
Wansley No. 1	Coal	do	+806	Under construction, commercial operation, April 1976
Jackson County No. 1	Oil	do	+518	Under construction, commercial operation, June 1976

(4) *Scheduled Outages.* (a) A scheduled outage of 3 weeks for each unit is estimated to be required to make any modification, installation or other physical adjustment associated with cessation of the burning of natural gas or petroleum products as the powerplants primary energy source. Immediately following modification during on-line testing and adjustment, the powerplants will be less than fully dependable. This period should not exceed 30 days.

Modifications are forecast to commence approximately October 1, 1976 and to be complete and fully tested by December 15, 1976.

(b) Planned maintenance of other powerplants rated 100 MWe or higher and nuclear plant refueling during the period the powerplant will be implementing the proposed prohibition order within the dispatching system will result in the loss of generating capability which is

Southern Company (Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company) plus Southeastern Power Administration.

(c) Dispatching of electric power is controlled by The Southern Company.

(d) "Dispatching system" as used later in this finding means The Southern Company dispatching system.

(2) *Forecast Peak Loads.* (a) Forecast of peak loads for the dispatching system during the year in which the Georgia Power Company is expected to be implementing the proposed prohibition order is as follows:

Fall Load Period (Sept.-Nov.) 1976, Peak 19430 MWe Sept.
Winter Load Period (Dec.-Feb.) 1976-77, Peak 16220 MWe Jan.
Spring Load Period (March-May) 1977, Peak 17760 MWe May
Summer Load Period (June-Aug.) 1977, Peak 21920 MWe Aug.

(b) The peak loads forecast have been compared with peak loads in previous similar periods and the compound load growth rate for these forecasts is 9%, which is considered reasonable.

(3) *Capacity.* (a) The present net dependable capacity of all powerplants of the dispatching system that now are engaged in the sale or exchange of electric power is 20849 MWe.

(b) Additions, retirements, and powerplant reratings during the period in which the Georgia Power Company will be implementing the proposed prohibition order, as listed below, will cause the following changes in net dependable capacity of such dispatching systems:

Powerplant designation	Fuel	Type of change	Megawatts capacity change	Status and effective date
Bowen No. 4	Coal	Addition	+910	Under construction, commercial operation August 1975
Farley No. 1	Nuclear	do	+834	Under construction, commercial operation, July 1976
Wansley No. 1	Coal	do	+806	Under construction, commercial operation, April 1976
Jackson County No. 1	Oil	do	+518	Under construction, commercial operation, June 1976

expected to average the listed values during the specified load periods

Fall, none
Winter, 3490 MWe

(5) *Net Dependable Capacity.* The forecast net dependable capacity for the dispatching system during the period (shown as quarter years) in which the powerplants are expected to be implementing the proposed prohibition order and the next quarter following is:

Fall 1976, 22520 MWe
Winter 1976-77, 22520 MWe

(6) *Gross Reserve Margin-Dispatching System.* (a) The expected minimum gross reserve margin (difference between net system capability and peak load in percent of peak load) of the dispatching system for the load periods specified are as follows:

Fall 1976, 15.9%
Winter 1976-77, 38.8%

(b) After deducting the net capacity of units scheduled for maintenance or refueling during these same load periods, the expected minimum reserve margins are:

Fall 1976, 15.9%
Winter 1976-77, 17.3%

(7) *Derating.* There will be no derating of the powerplant when using coal as the primary energy source.

(8) *System Stability.* Available information regarding system stability for the dispatching system has been evaluated for each of the load periods stated in paragraph (5) and the issuance of a prohibition order to the powerplants will not cause a significant system stability problem.

(B) *Reliability of Service.* (1) The estimated gross reserve margin of the dispatching system during the implementation period associated with the commencement of the burning of coal as a primary energy source is forecast to range between 15.9% and 17.3%, depending upon the date of the period of powerplant outage. By scheduling the implementation period during the Fall & Winter load period, the estimated gross dispatching system's reserve margin will be above 15.9% and the Federal Power Commission considers this to be an acceptable reserve margin.

(2) If dispatching system conditions at the time of the implementation period are as presently forecast by FEA in this finding, there will be no impairment of reliability of service, within the meaning of ESECA and the regulations promulgated thereunder, in the area served by the Georgia Power Company.

(3) Existing transmission system interconnections with other utilities are presently scheduled to transfer approximately 100 megawatts from the dispatching system; with the capacity to transfer approximately 1100 additional megawatts of power into the dispatching system. This capacity will provide emergency resources of electric power during the implementation period and will enhance the reliability of service.

5. OFU-068-070, Savannah Electric and Power Company, Powerplants 1, 2, 3, Generating Station—Port Wentworth, Port Wentworth, Georgia.

(a) Proposed findings and rationale for findings:

i. *Capability and Necessary Plant Equipment Finding.* Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that on June 22, 1974, these powerplants had the capability and necessary plant equipment to burn coal. This proposed finding is based on facts, interpretations and assumptions stated below:

(A) These powerplants had in place on June 22, 1974, a boiler that was capable of burning coal, in that such boiler had been designed and constructed, or had been modified to enable it to burn coal as its primary energy source, or to burn coal and another fossil fuel interchangeably as its primary energy source, notwithstanding the fact that on June 22, 1974, such powerplant may not have

been burning coal as its primary energy source.

(B) Based on information filed with FEA on April 11, 1975 by the Savannah Electric and Power Company, the following significant equipment or facilities would have to be acquired or substantially refurbished:

1. Bulk coal handling system:
  - a. Railroad spur track,
  - b. Trackmobile,
  - c. Bulldozer,
  - d. Track unloading hopper,
  - e. Belt conveyor system,
  - f. Coal crusher,
  - g. Coal crusher bypass duct,
  - h. Stock-out conveyor,
  - i. Reclaim hoppers,
  - j. Belt scale,
  - k. Coal sampling, preparation, and testing equipment;
2. Equipment, coal bunker to coal burner nozzles:
  - a. Feed pipe, bunker to feed device,
  - b. Coal feeder device,
  - c. Coal feeder device to pulverizer,
  - d. Pulverizers,
  - e. Pulverizers to coal burner nozzles,
  - f. Coal burner nozzles;
  3. Furnace bottom ash removal;
  4. Ash sluice transport system and pond:

- a. Cast iron sluice line,
- b. Ash sluice pump,
- c. Ash pond;
5. Flyash systems:
  - a. Duct A.P.H. to dust collector inlet,
  - b. Ash hoppers below A.P.H.,
  - c. Dust collector ash hoppers and cyclone housing,
  - d. Dust collector outlet to stack base;
  6. Flyash handling system:
    - a. Ash hoppers to conveyor pipe,
    - b. Common conveyor pipe to silo or ash sluice line,
    - c. Ash silo;
    7. Furnace:
      - a. Sootblowers,
      - b. Superheater;
      8. Coal burning controls and instruments.

FEA assumes that on June 22, 1974, these powerplants had all other significant equipment and facilities associated with the burning of coal.

(C) Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph (b) do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

(ii) *Burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* Based on an analysis of the information submitted or otherwise available to FEA, FEA proposes to find that the burning of coal by the powerplants in lieu of petroleum products or natural gas, is practicable and consistent with the purposes of ESECA. This proposed finding is based on the facts, interpretations and assumptions stated below.

(A) (1) *Revenue Requirements.* (a) The investment costs that result from the acquisition and refurbishment of

equipment and facilities associated with the burning of coal by the powerplants are estimated to be approximately \$5,511,000. This estimate is based on existing FEA information and on information filed with the FEA by the company concerning items of equipment and facilities that would have to be acquired or refurbished and the costs of such acquisition or refurbishment.

(i) Costs of acquisition or refurbishing equipment are allocated as follows:

(A) \$4,140,000 to comply with air pollution control requirements of the Clean Air Act.

(B) \$1,371,000 to make those technical plant and equipment adjustments associated with the burning of coal, as well as to comply with environmental requirements other than those imposed by the Clean Air Act.

(b) The increase in operations costs other than fuel costs that result from the burning of coal are estimated to be approximately \$100,000 per year.

(c) (i) The price of petroleum products available to the power plants is approximately \$1.72 to \$1.82 per million BTUs. The price of coal of the type used by the power plants is approximately \$1.20 to \$1.30 per million BTUs. The burning of coal by the powerplants will result in a reduction of \$.47 to \$.57 per million BTUs or \$.45 to \$.65 per year.

(ii) The Georgia Public Utility Commission permits the inclusion of increased fuel costs in the rate base through a fuel adjustment clause and, if there is a decrease in the cost of fuel as a result of burning coal, there will be a decrease in such rate base.

(d) The total annual incremental increase in revenue requirements resulting from costs associated with burning coal as opposed to oil is \$1,507,000.

(2) *Financial Capabilities.* (a) Based on the most recent financial statements and capital expenditure programs of Savannah Electric and Power Company, as well as other information available to FEA, it has been determined that the prohibition order for the power plants is practicable. This financial assessment included an evaluation of generally accepted financial ratios; effects on capitalization as a result of the costs of burning of coal; impact on current and future construction programs; and possible impacts on rates. This assessment incorporated, but was not limited to, consideration of: the \$5.5 million investment requirement (or 3.5%) in relation to net property and plant of the company of \$156 million and 1975-1977 construction budget of the company of \$65 million (or 8.5%); the total capitalization of the company of \$92 million; the change in 1974 to 1975 construction budgets of \$16 million to \$17 million and the 21 years remaining useful life of the plant. These assessments, the above findings, and other evaluations of the general financial health of the company were the basis of this finding.

(B) Because this prohibition order will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to find



that its issuance will be consistent with the purpose of ESECA "to provide a means to assist in meeting the essential needs of the United States for fuels." Further, on the basis of the environmental analyses conducted by FEA the analyses of air quality impacts which EPA is required to conduct prior to effectiveness of a prohibition order, as well as the necessity for the power plants to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposed to find that the prohibition order is also consistent with the purpose of ESECA to provide for a means to meet the Nation's essential fuel needs "in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment."

(iii) Coal and coal transportation facilities will be available during the period the prohibition order is in effect. Based on an analysis of the information submitted to or otherwise available to FEA, FEA proposes to find that coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1978. The period until December 31, 1978 is the period during all or part of which the prohibition order to which these findings relate will be in effect. This proposed finding is based upon the following facts, interpretations and assumptions:

A(1) It is estimated that it will be practicable to produce coal nationally as follows:

Year:	Production (million tons)
1975	662
1976	679
1977	707
1978	735

(2) The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	640
1976	664
1977	688
1978	716

(3) The estimated additional national demand for coal resulting from the prohibition order to which this finding relates, and from FEA actions under authority of section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	0.7
1976	4.0
1977	13.6
1978	16.2

(4) Coal of the specific type required for use by this powerplant has been identified in the reserves of the Northern and Southern Appalachian Coal supply regions, which consist of Bureau of Mines Districts 1 through 8 and 13.

(5) It is estimated that it will be practicable to produce coal from the North-

ern and Southern Appalachian coal supply regions as follows:

Year:	Production (million tons)
1975	406
1976	402
1977	407
1978	412

(6) The regional and national production estimates stated in items (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately 4%. A 1975 study by the Bureau of Mines of the Department of the Interior indicates a national surge capacity of approximately 6%. In response to an industry survey in late 1974, the coal industry itself indicated that it had a surge capacity of up to 8%. By comparison, the increased national demand for coal resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA, is less than one tenth of a percent in 1975, increasing to a maximum of 2.3% in 1978 of estimated national demand stated in item (2). A market survey of traditional coal suppliers to FEA Region IV consumers indicates that there is ample production capability to support increased demand for coal from this region resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA.

(7) No State or local laws or policies which would limit the extraction of this coal have been found by FEA or brought to FEA's attention.

(8) The estimated demand for coal from these supply regions, excluding any increased demand resulting from FEA actions under the authority of section 2 of ESECA, is as follows:

Year:	Demand (million tons)
1975	390
1976	394
1977	395
1978	398

(9) The estimated additional demand for coal from these supply regions resulting from the prohibition order to which this finding relates and from other FEA orders under section 2 of ESECA, will be as follows:

Year:	Demand (million tons)
1975	0.4
1976	2.5
1977	10.2
1978	12.4

(10) On the basis of the above information, FEA proposes to find that the estimated production of coal of the specific type required for use by this powerplant exceeds the estimated demand for such coal by amounts adequate to support a conclusion that such coal will be available to these powerplants during the period until December 31, 1978.

B(1) Adequate rail facilities exist between these coal supply regions and the powerplants to transport the coal that

will be used by such powerplants pursuant to this order.

(2) There is a spur line which will be able to deliver this coal from the main rail line to these powerplants. Sufficient rolling stock will be available to the Southern Railway System for transporting this coal during the period until December 31, 1978.

(iv) The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplants. Based on an analysis of the information submitted to or otherwise available to FEA, and after consultation with the Federal Power Commission, FEA hereby proposes to find that the prohibition of the Port Wentworth Units #1, #2, and #3 powerplants of the Savannah Electric and Power Company from burning natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by these powerplants. Such finding will be based on the facts, assumptions and interpretations stated below:

(A)(1) Interconnections and Power Dispatching. (a) The Port Wentworth Units are within the geographical area of the Southeastern Electric Reliability Council (SERC) regional electric reliability council.

(b) They are interconnected with and their operations and planning are coordinated with the Southern Companies Subregion of SERC.

(c) Dispatching of electric power is controlled by Savannah Electric and Power Company.

(d) "Dispatching system" as used later in this finding means Savannah Electric and Power Company.

(2) Forecast Peak Loads. (a) Forecast of peak loads for the dispatching system during the year in which the Savannah Electric and Power Company is expected to be implementing the proposed prohibition order is as follows:

Spring Load Period (March-May) 1977, Peak 410 MWe May.
Summer Load Period (June-Aug.) 1977, Peak 442 MWe Aug.
Fall Load Period (Sept.-Nov.) 1977, Peak 405 MWe Sept.
Winter Load Period (Dec.-Feb.) 1977-78, Peak 379 MWe Jan.

(b) The peak loads forecast have been compared with peak loads in previous similar periods and the compound load growth rate for these forecasts is 4%, which is considered reasonable.

(3) Capacity. (a) The present net dependable capacity of all powerplants of the dispatching system that now are engaged in the sale or exchange of electric power is 489 MWe.

(b) Additions, retirements, and powerplant reratings during the period in which Savannah Electric and Power Company will be implementing the proposed prohibition order, as listed below, will cause the following changes in net dependable capacity of such dispatching system:

Powerplant designation	Fuel	Type of change	Megawatts capacity change	Status and effective date
Ettingham No. 1	Oil	Addition	+170	Under construction, commercial operation March 1977.

(4) Scheduled Outages. (a) A scheduled outage of 14 days is estimated to be required to make any modification, installation or other physical adjustment associated with cessation of the burning of natural gas or petroleum products as the powerplant primary energy source. Immediately following modification during on-line testing and adjustment, the powerplants will be less than fully dependable. This period should not exceed 30 days.

Modifications are forecast to commence approximately October 1, 1977, and to be complete and fully tested by January 15, 1978.

(b) No maintenance of other powerplants is planned within the dispatching system during the period the powerplants will be implementing the proposed prohibition order.

(5) Net Dependable Capacity. The forecast net dependable capacity for the dispatching system during the period (shown as quarter years) in which the powerplants are expected to be implementing the proposed prohibition order and the next quarter following is:

Fall 1977, 659 MWe
Winter 1977-78, 659 MWe

(6) Gross Reserve Margin-Dispatching System. (a) The expected minimum gross reserve margin (difference between net system capability and peak load in percent of peak load) of the dispatching system for the load periods specified are as follows:

Fall 1977, 62.7%
Winter 1977-78, 73.9%

(7) Derating. There will be no derating of the powerplant when using coal as the primary energy source.

(8) System Stability. Available information regarding system stability for the dispatching system has been evaluated for each of the load periods stated in paragraph (5) and the issuance of a prohibition order to the powerplants will not cause a significant system stability problem.

(b) Reliability of Service. (1) The estimated gross reserve margin of the dispatching system during the implementation period associated with the commencement of the burning of coal as a primary energy source is forecast to range between 62.7% and 73.9%, depending upon the date of the period of powerplant outage. By scheduling the implementation period during the Fall and Winter load period, the estimated gross dispatching system's reserve margin will be above 62% and the Federal Power Commission considers this to be an acceptable reserve margin.

(2) If dispatching system conditions at the time of the implementation period are as presently forecast by FEA in this finding, there will be no impairment of reliability of service, within the mean-

ing of ESECA and the regulations promulgated thereunder, in the area served by the Savannah Electric and Power Company.

(3) Existing transmission system interconnections with other utilities are presently scheduled to transfer no power into the dispatching system; with the capacity to transfer approximately 100 megawatts of power into the dispatching system. This capacity will provide emergency resources of electric power during the implementation period and will enhance the reliability of service.

[FR Doc.75-13974 Filed 5-29-75;8:45 am]

#### FEDERAL MARITIME COMMISSION BARCO INTERNATIONAL CORP. AND FRITZ MANAGEMENT CORP.

##### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, by June 19, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

##### BARCO INTERNATIONAL CORP. AND FRITZ MANAGEMENT CORPORATION

Notice of Agreement Filed for Approval by: Arthur J. Fritz, Jr., Fritz Management Corporation, 142 Sansome Street, San Francisco, California 94104.

Agreement No. FF 75-1 between Barco International Corp. (Barco) (FMC No. 293) and Fritz Management Corporation (Fritz) the holding company of Arthur J. Fritz & Co. and its affiliates (FMC No. 275) provides that, among other things, Fritz would acquire

Barco as well as its wholly owned subsidiary Export Shipping Service Corp. (Export) (FMC No. 643) and would continue to operate both firms under their respective present name and number. The qualifying officer of Barco will be retained.

A non-compete clause provides that for a period of six (6) years after the closing, Gerald Papkoff and Louis Irizarry, sole stockholders and sellers of Barco and its subsidiary, Export, will not in any manner, directly or indirectly, compete with or become interested in any competitor of Barco and Export in Dade, Broward and Monroe Counties, Florida.

By Order of the Federal Maritime Commission.

Dated: May 27, 1975.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc.75-14191 Filed 5-27-75;8:45 am]

[Independent Ocean Freight Forwarder License No. 865-R]

#### BARNETT/NOVO INTERNATIONAL CORP. Order of Revocation

On May 8, 1975, Barnett/Novo International Corp., 733 Third Avenue, New York, New York 10017 voluntarily surrendered its Independent Ocean Freight Forwarder License No. 865-R for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) Section 7.04(f) (dated 9/15/73):

It is ordered, That Independent Ocean Freight Forwarder License No. 865-R of Barnett/Novo International Corp. be and is hereby revoked effective May 8, 1975, without prejudice to reapply for a license at a later date.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Barnett/Novo International Corp.

ROBERT S. HOPE,  
Managing Director.

[FR Doc.75-14192 Filed 5-29-75;8:45 am]

[Independent Ocean Freight Forwarder License No. 417]

#### CANADIAN GULF LINE OF FLORIDA, INC. Order of Revocation

By letter dated April 14, 1975, Canadian Gulf Line of Florida, Inc., P.O. Box 4301, Miami, Florida 33101 was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 417 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before May 10, 1975.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.



Canadian Gulf Line of Florida, Inc. has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) Section 7.04(g) (dated 9/15/73):

It is ordered, That Independent Ocean Freight Forwarder License No. 417 be returned to the Commission for cancellation.

It is further ordered, That Independent Ocean Freight Forwarder License No. 417 of Canadian Gulf Line of Florida, Inc. be and is hereby revoked effective May 10, 1975.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Canadian Gulf Line of Florida, Inc.

ROBERT S. HOPE,  
Managing Director.

[FR Doc.75-14193 Filed 5-29-75; 8:45 am]

### FEDERAL POWER COMMISSION

[Docket No. CP75-332]

### ALGONQUIN GAS TRANSMISSION CO. Application

MAY 20, 1975.

Take notice that on May 8, 1975, Algonquin Gas Transmission Company (Applicant), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP75-332 an application pursuant to section 7(c) of the Natural Gas Act for authorization to receive gas from certain participating resale customers of Applicant, deliver such gas through the facilities of Texas Eastern Transmission Corporation (Texas Eastern) to Consolidated Gas Supply Corporation (Consolidated) for storage, and redeliver such gas to the participating customers, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

The proposed storage arrangements are the result of a three-year agreement between Applicant and Consolidated which provides for the execution in each of the years 1974, 1975, and 1976 of supplemental agreements specifying for each then current year a volume of gas to be stored by Consolidated for Applicant, a volume of gas for sale to Consolidated and a volume of gas to be returned to Applicant. In 1974, according to Applicant, Consolidated did not call upon Applicant to sell gas to Consolidated.

The application states that Consolidated has advised it will have available the same storage capacity which was made available during the 1974-1975 summer and winter periods for use during the 1975-1976 and 1976-1977 injection and withdrawal seasons and that Consolidated has stated that it will not request any volumes of gas to be made available for sale to Consolidated because of increased curtailments in deliveries by natural gas pipeline suppliers to the participants in the storage program. In addition to this Basic Storage Service, Applicant states, Consolidated has advised of a Supplemental Storage Service capability also for use during the next two input and withdrawal seasons. Applicant further states that Consolidated has stated that the charges for both services will be in accordance with the rates contained in Consolidated's effective Rate Schedule GSS.

Applicant states that Consolidated's part in the storage arrangement is the subject of Consolidated's application in Docket No. CP73-206. The terms of the proposed storage service are as follows: Applicant will receive from participating customers, on a best-efforts basis, during each of the next two input storage seasons, a volume of gas under the Basic Storage Service, which will provide a Basic Storage Volume of up to 1,122,000 Mcf, and a volume of gas under the Supplemental Storage Service, which will provide a Supplemental Storage Volume of up to 3,200,000 Mcf. The Basic Storage Volumes are to be returned by Applicant on a firm basis and the Supplemental Storage Volumes are to be returned on an interruptible basis during each of the next two withdrawal seasons. Each customer may request that up to 50 percent of the stored volumes under both services be carried over from the first season to the second season. The deliveries of the return gas by Consolidated to Applicant and its customers will be effected through the facilities of Texas Eastern and shall be made at a daily volume not to exceed the Basic and Supplemental Daily Demands.

Applicant intends to charge its customers \$1.15 per 1,000,000 Btu equivalent of natural gas delivered for the Basic Storage Service and \$1.00 per 1,000,000 Btu equivalent of natural gas delivered for the Supplemental Storage Service. The minimum bill shall be the sum of each of Applicant's customer's Basic Storage Volume for each 12-month period multiplied by the \$1.15 charge and the Supplemental Storage Volume for each customer multiplied by the \$1.00 charge. The minimum bill shall be reduced for the first 12-month period by the carryover volume multiplied by 50 cents per 1,000,000 Btu equivalent of natural gas.

The Basic and Supplemental Storage Volumes (Btu equivalent) provided by Applicant for its customers and the Basic and Supplemental Daily Demand Volumes (Btu equivalent) are as follows:

Buyer	Million Btu	
	Basic storage capacity	Basic storage demand
Bay State Gas Co.	91,617	1,499
Boston Gas Co.	336,808	5,511
Cape Cod Gas Co.	30,955	507
Commonwealth Gas Co.	139,183	2,277
Connecticut Gas Co., the	125,396	2,052
Connecticut Natural Gas Corp.	104,933	1,717
Fall River Gas Co.	39,576	648
Hartford Electric Light Co., the	9,011	147
North Attleboro Gas Co.	2,664	34
Middleborough, Mass., town of	2,137	35
Norwich, Conn., city of	11,499	188
Orange and Rockland Utilities, Inc.	12,647	207
Providence Gas Co.	151,346	2,477
Southern Connecticut Gas Co., the	81,658	1,336
Million Btu		
	Supplemental storage capacity	Supplemental storage demand
Bay State Gas Co.	228,224	1,512
Boston Gas Co.	674,192	4,493
Cape Cod Gas Co.	679,545	4,502
Commonwealth Gas Co.	266,817	1,768
Connecticut Gas Co., the	228,375	1,513
Connecticut Natural Gas Corp.	301,067	1,994
North Attleboro Gas Co.	1,152	8
Norwich, Conn., city of	12,861	85
Orange and Rockland Utilities, Inc.	171,271	1,135
Providence Gas Co.	306,154	2,359
Southern Connecticut Gas Co., the	324,342	2,149

Any person desiring to be heard or to make any protest with reference to said application should on or before June 11, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-13900 Filed 5-29-75; 8:45 am]

### FEDERAL RESERVE SYSTEM

#### CENTRAL BANCORPORATION, INC.

#### Proposed Acquisition of The Shawnee Life Insurance Company

The Central Bancorporation, Inc., Cincinnati, Ohio, has applied, pursuant to section 4(c) (8) of the Bank Holding Company Act (12 U.S.C. 1843(c) (8)) and § 225.4(b) (2) of the Board's Regulation Y, for permission to acquire voting shares of The Shawnee Life Insurance Company, Phoenix, Arizona. Notice of the application was published on April 1, 1975 in the Arizona Weekly Gazette, a newspaper circulated in Phoenix, Arizona; and on March 20, 1975 in The Cincinnati Enquirer, a newspaper circulated in Cincinnati, Ohio.

Applicant states that the proposed subsidiary would engage in the activities of acting as underwriter for credit life and credit accident and health insurance which is directly related to extensions of credit by the bank holding company system. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 18, 1975.

Board of Governors of the Federal Reserve System, May 19, 1975.

[SEAL] ROBERT SMITH, III,  
Assistant Secretary of the Board.

[FR Doc.75-14163 Filed 5-29-75; 8:45 am]

### CITIBANC GROUP, INC.

#### Order Approving Acquisition of Bank

Citibanc Group, Inc., Alexander City, Alabama, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a) (3) of the Act (12 U.S.C. 1842(a) (3)) to acquire 51 per cent or more of the voting shares of Peoples Bank, Anniston, Alabama.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the eighth largest of nine multibank holding companies in Alabama, controls five banks with aggregate deposits of \$57.7 million, representing .7 of one per cent of total deposits in commercial banks in the State. Acquisition of Bank (deposits of \$1.7 million) would increase Applicant's share of deposits by .02 of one per cent and would not result in a significant increase in the concentration of banking resources in Alabama.

Bank is the smallest of 12 commercial banking organizations in the Calhoun County banking market (approximated by Calhoun County, plus the city of Heflin) and controls less than 1 percent of the total commercial bank deposits in the market. Three of the State's four largest multibank holding companies are already represented in the market with one bank each, and together they control approximately 49 percent of market deposits. Applicant's closest subsidiary is located approximately 34 miles from Bank in a separate banking market. There does not appear to be any significant existing competition between Bank and any of Applicant's banking or non-banking subsidiaries. Furthermore, it does not appear that any significant competition between Applicant's banks and Bank is likely to develop due to Alabama's restrictive branching laws. Nor does the record indicate that it is likely that Applicant would enter this market *de novo*. Therefore, on the basis of the facts of record, the Board concludes that consummation of the proposal would not have significant adverse effects on existing or potential competition in any relevant area, and that the competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, its subsidiaries and Bank are considered generally satisfactory. In its Order of December 22, 1972, approving the formation of Applicant as a bank

<sup>1</sup> All banking data are as of June 30, 1974 and reflect bank holding company formations and acquisitions approved through March 1, 1975.

holding company, the Board noted that a substantial debt was being assumed by a principal of Applicant and the Board viewed the proposal as if the debt was in fact being assumed by Applicant since the funds required to service the debt would be derived primarily from Applicant. The principal of Applicant has made some efforts in reducing this debt; however, the Board expects that additional measures will be instituted promptly to assure that the debt is retired in a timely manner. In connection with this proposal, Applicant will be incurring acquisition debt directly. It appears that the projected earnings of Applicant are sufficient to service this debt without impairing the financial condition of Applicant, its present subsidiaries, and Bank. Accordingly, the Board is of the view that considerations relating to the banking factors are consistent with approval of the application.

With respect to convenience and needs considerations, affiliation with Applicant will make available to Bank the expertise of Applicant's subsidiaries in the areas of specialized loans and investment portfolio analysis, and such services should benefit the residents of the relevant market. These considerations relating to convenience and needs are consistent with approval of the application. It is the Board's judgment that the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,<sup>2</sup> effective May 19, 1975.

[SEAL] GRIFFITH L. GARWOOD,  
Assistant Secretary of the Board.

[FR Doc.75-14164 Filed 5-29-75; 8:45 am]

### FIRST INTERNATIONAL BANCSHARES, INC.

#### Acquisition of Bank

First International Bancshares, Inc., Dallas, Texas, has applied for the Board's approval under section 3(a) (3) of the Bank Holding Company Act (12 U.S.C. 1842(a) (3)) to acquire 100 per cent of the voting shares (less directors' qualifying shares) of First International Bank in El Paso, National Association, El Paso, Texas. The factors that are considered in acting on the application are set forth in

<sup>2</sup> Voting for this action: Vice Chairman Mitchell and Governors Bucher, Holland and Coldwell. Absent and not voting: Chairman Burns and Governors Sheehan and Wallach.



## NOTICES

section 3(c) of the Act (12 U.S.C. 1842 (c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 18, 1975.

Board of Governors of the Federal Reserve System, May 19, 1975.

[SEAL] ROBERT SMITH, III,  
Assistant Secretary of the Board.  
[FR Doc. 75-14165 Filed 5-29-75; 8:45 am]

#### KANSAS STATE BANCSHARES, INC. Formation of Bank Holding Company

Kansas State Bancshares, Inc., Manhattan, Kansas, has applied for the Board's approval under Section 3(a) (1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 per cent or more of the voting shares of Kansas State Bank of Manhattan, Manhattan, Kansas. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 17, 1975.

Board of Governors of the Federal Reserve System, May 16, 1975.

[SEAL] ROBERT SMITH, III,  
Assistant Secretary of the Board.  
[FR Doc. 75-14166 Filed 5-29-75; 8:45 am]

#### SOONER BANCSHARES, INC. Formation of Bank Holding Company

Sooner Bancshares, Inc., Caddo, Oklahoma, has applied for the Board's approval under section 3(a) (1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 per cent of the voting shares (less directors' qualifying shares) of Bryan County National Bank, Caddo, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System,

Washington, D.C. 20551 to be received not later than June 17, 1975.

Board of Governors of the Federal Reserve System, May 16, 1975.

[SEAL] ROBERT SMITH, III,  
Assistant Secretary of the Board.  
[FR Doc. 75-14167 Filed 5-29-75; 8:45 am]

#### TEXAS COMMERCE BANCSHARES, INC. Acquisition of Bank

Texas Commerce Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a) (3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire indirectly through its wholly owned subsidiary, Texas Commerce Shareholders Company, Houston, Texas, 2,100 additional voting shares of First National Bank of Stafford, Harris County, Texas. Applicant's proposal to acquire these additional shares of a new issue of stock by First National Bank of Stafford, through the exercise of stock purchase rights acquired as a present shareholder of 24.7 percent of the bank stock, will not increase Applicant's percentage of present ownership. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 18, 1975.

Board of Governors of the Federal Reserve System, May 19, 1975.

[SEAL] ROBERT SMITH, III,  
Assistant Secretary of the Board.  
[FR Doc. 75-14168 Filed 5-29-75; 8:45 am]

#### TORONTO-DOMINION BANK Proposed Retention of Bank Trust Company

The Toronto-Dominion Bank, Toronto, Ontario, Canada, has applied, pursuant to section 4(c) (8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b) (2) of the Board's Regulation Y, for permission to retain voting shares of The Toronto-Dominion Bank Trust Company, New York, New York. Notice of the application was published on March 21, 1975, in The New York Times, a newspaper circulated in New York, New York.

Applicant states that the proposed subsidiary would engage in the activities of a trust company, such as the performance of services as paying agent, co-paying agent, transfer agent, custodian, registrar, dividend disbursing agent, de-

pository and related functions for public and private issuers of securities. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 17, 1975.

Board of Governors of the Federal Reserve System, May 16, 1975.

[SEAL] ROBERT SMITH, III,  
Assistant Secretary of the Board.  
[FR Doc. 75-14169 Filed 5-29-75; 8:45 am]

#### VICI BANCORP.

##### Order Approving Formation of Bank Holding Company

Vici Bancorporation, Vici, Oklahoma, has applied for the Board's approval under section 3(a) (1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 80 per cent or more of the voting shares of the Bank of Vici, Vici, Oklahoma.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a non-operating corporation organized for the purpose of becoming a bank holding company through the acquisition of Bank, Bank (deposits of \$5.5 million),<sup>1</sup> the only bank in Vici, is the second largest of five banks in the

<sup>1</sup> Banking data are as of June 30, 1974.

relevant market area, approximated by Dewey County, and holds 20.6 per cent of total deposits in the County. Dewey County (population of approximately 6,000) is a predominantly agricultural area in northwestern Oklahoma approximately 120 miles northwest of Oklahoma City. Inasmuch as the proposed formation of the bank holding company represents merely a transfer of control of Bank from individuals to a corporation owned essentially by the same individuals, consummation of the transaction would not eliminate any existing or potential competition nor would it increase the concentration of banking resources in any relevant area. Accordingly, the Board concludes that competitive considerations are consistent with approval of the application to acquire Bank.

The financial and managerial resources and future prospects of Applicant are dependent upon these same factors in Bank and are regarded as generally satisfactory and consistent with approval of the application. Although consummation of the transaction is not expected to produce any immediate changes in Bank's operations nor immediate benefits to the public, considerations relating to the convenience and needs of the community to be served are consistent with the approval of the application. It is the Board's judgment that consummation of the holding company formation would be consistent with the public interest, and that the application to acquire Bank should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors, effective May 16, 1975.

[SEAL] GRIFFITH L. GARWOOD,  
Assistant Secretary of the Board.  
[FR Doc. 75-14170 Filed 5-29-75; 8:45 am]

#### GENERAL ACCOUNTING OFFICE REGULATORY REPORTS REVIEW

##### Notice of Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO on May 23, 1975. See 44 U.S.C. 3512 (c) & (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of in-

<sup>2</sup> Voting for this action: Chairman Burns and Governors Mitchell, Bucher, Holland and Coldwell. Absent and not voting: Governors Sheehan and Wallich.

## NOTICES

formation; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed report form are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments (in triplicate) must be received on or before June 17, 1975, and should be addressed to Mr. Monte Canfield, Jr., Director, Office of Special Programs, United States General Accounting Office, 425 I Street NW., Washington, D.C. 20548.

Further information may be obtained from the Regulatory Reports Review Officer, 202-376-5425.

#### FEDERAL ENERGY ADMINISTRATION

Request clearance of a new FEA Form, U317-S-O entitled, Utility Survey of Household Energy Use. This is a voluntary survey of utilities to obtain electricity and gas usage by households. This utility survey is to support a voluntary household survey of energy usage, in which the respondent is asked to authorize the FEA to obtain information on actual usage and cost from their utility companies.

Approximately 125 utility companies are expected to participate in the survey, processing an estimated 4,000 authorizations. Respondent burden is estimated to total about 2½ hours per respondent.

CARL F. BOGAR,  
Assistant Director,  
Regulatory Reports Review.  
[FR Doc. 75-14197 Filed 5-29-75; 8:45 am]

#### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 75-35]

#### NASA SPACE PROGRAM ADVISORY COUNCIL (SPAC) APPLICATIONS COMMITTEE

##### Meeting

The NASA SPAC Applications Committee will meet on June 13, 1975, at the Lyndon B. Johnson Space Center of the National Aeronautics and Space Administration. The meeting will be held in room 720 of Building Number 1, Lyndon B. Johnson Space Center, Houston, Texas 77058. Members of the public will be admitted to the meeting beginning at 9 a.m., on a first come first served basis up to the seating capacity of the room, which can accommodate about 40 persons. The approved agenda for the meeting is noted below:

The NASA SPAC Applications Committee serves in an advisory capacity only. It is concerned with the total range of applications of space-derived, space-related technology including communications, meteorology, earth resources survey (includes agriculture/forestry, cartography, geography, geology/hydrology, oceanography), earth and ocean physics,

solar energy conversion, space processing, and other technology applications. Currently, the Committee comprises 11 members, and a recording secretary, Louis B. C. Fong, who can be contacted for further information at (202) 755-8620.

The following is the approved agenda and schedule for the June 13, 1975, meeting of the SPAC Applications Committee:

Time	Topic
9 a.m.-----	Chairman's Remarks. Minutes of Mar. 13, 1975, meeting. Report on meeting with SPAC, Mar. 25-26, 1975, action items.
9:30 a.m.-----	Status of Solar Heating and Cooling Activities. With the establishment of the Energy Research and Development Administration (ERDA) the Committee members are interested in keeping abreast of the status of the NASA-HUD-NSF Solar Heating and Cooling Program now that it is under ERDA management.
10:15 a.m.-----	FY 1977 Applications Program-Issues and New Start Priorities. At the Space Program Advisory Council (SPAC) meeting on March 25-26, 1975, a number of issues were identified in the FY 1977 Applications Program Budget. As a consequence, the Applications Committee was tasked to address the Applications Program issues and the FY 1977 new start priorities. The Committee will discuss the issues and attempt to reach conclusions and recommendations for presentation at the next SPAC meeting in July 1975.
1 p.m.-----	Comments and Recommendations Regarding FY 1977 Issues and New Start Priorities.
4:30 p.m.-----	Adjourn.
	DUWARD L. CROW, Assistant Administrator for the Office of DOD and Inter-agency Affairs, National Aeronautics and Space Administration.
May 28, 1975.	[FR Doc. 75-14261 Filed 5-29-75; 8:45 am]

#### NUCLEAR REGULATORY COMMISSION

##### ADVISORY COMMITTEE ON REACTOR SAFEGUARDS' WORKING GROUP ON HYPOTHETICAL CORE DISRUPTIVE ACCIDENT (HCDA)

##### Change of Time of Meeting

The meeting of the ACRS' Working Group on Hypothetical Core Disruptive Accident scheduled for June 3, 1975, notice of which was published at 40 FR



21793, May 19, 1975 has been changed as follows:

That portion of the meeting open to the public will commence at 10:30 a.m. All other matters pertaining to the meeting remain unchanged.

JOHN C. HOYLE,  
Advisory Committee  
Management Officer.

MAY 27, 1975.

[FR Doc. 75-14264 Filed 5-29-75; 8:45 am]

#### REGULATORY GUIDE Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 5.52, "Standard Format and Content for the Physical Protection Section of a License Application (For Facilities Other Than Nuclear Power Plants)," describes the information required in the physical protection section of an application and prescribes a standard format for presenting the information in an orderly arrangement.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed (listed below) or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 5.52 will, however, be particularly useful in evaluating the need for an early revision if received by July 24, 1975.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

Regulatory Guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted and Commission approval is not required to reproduce them.

Other Division 5 Regulatory Guides

currently being developed include the following:

Mass Calibration Techniques for Nuclear Material Control  
Calibration and Error Estimation Methods for Nondestructive Assay  
Management Review of Materials and Plant Protection Programs and Activities  
Protection of Nuclear Power Plants Against Industrial Sabotage  
Measurement Control Program for Special Nuclear Material Control and Accounting  
Monitoring Transfers of Special Nuclear Material

Considerations for Determining the Systematic Error of Special Nuclear Material Accounting Measurement  
Interior Intrusion Alarm Systems  
Preparation of Uranyl Nitrate Solution as a Working Standard  
Shipping and Receiving Control of Special Nuclear Materials  
Barrier Design and Placement  
Nondestructive Assay of U-235 Content of Unpoisoned Low-Enrichment Uranium Fuel Rods  
Methods for the Accountability of Uranium Dioxide  
Internal Security Audit Procedures  
Nondestructive Assay of Plutonium-Bearing Fuel Rods  
Training and Qualifying Personnel for Performing Measurement Associated with the Control and Accounting of Special Nuclear Material

Auditing of Measurement Control Program Reconciliation of Statistically Significant Shipper-Receiver Differences  
Prior Measurement Verification  
Verification of Prior Measurements by NDA  
Nondestructive Assay of High-Enrichment Uranium Scrap by Active Neutron Interrogation  
Control and Accounting for Highly Enriched Uranium in Waste  
Considerations for Determining the Random Error of Special Nuclear Material Accounting Measurement  
Use of Closed Circuit TV for Area Surveillance  
Preparation of Working Calibration and Test Materials for Analytical Laboratory Measurement Control Programs—Part I: Plutonium Nitrate Solutions

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 19th day of May 1975.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,  
Acting Director,  
Office of Standards Development.

[FR Doc. 75-14062 Filed 5-29-75; 8:45 am]

#### OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

##### INDUSTRIAL ADVISORY COMMITTEES FOR MULTILATERAL TRADE NEGOTIATIONS

###### Notice of Reestablishment

CROSS REFERENCE: For a document affecting the above, see Department of Commerce, Office of the Secretary, FR Doc. 75-14218, infra.

[Docket No. 75-2]

#### TRADE POLICY STAFF COMMITTEE Schedule and Locations of Hearings

Schedule and locations of public hearings relating to International Trade Negotiations and to the Generalized System of Preferences:

TUESDAY, JUNE 3

Washington, D.C., 1:30 p.m., New Executive Office Building (entrance on 17th Street between Pennsylvania Ave. & H Street NW), Room 2008.

WEDNESDAY, JUNE 4, P.M.

Hartford, CT, 1 p.m., U.S. Post Office Building, Room 201, 135 High Street.

THURSDAY, JUNE 5 A.M. & P.M.

Hartford, CT, 10 a.m.

FRIDAY, JUNE 6 A.M. & P.M.

Rochester, New York, 10 a.m., Federal Building and Court House, Room 402, 100 State Street.

SATURDAY, JUNE 7

Rochester, New York, 10 a.m.

The addresses and times for the hearings to be held in the cities listed below will be announced shortly in the FEDERAL REGISTER.

Monday, June 9.....	Chicago.
Tuesday, June 10.....	Chicago.
Wednesday, June 11.....	Wichita.
Thursday, June 12.....	Dallas.
Friday, June 13.....	Dallas.
Monday, June 16.....	New Orleans.
Tuesday, June 17.....	New Orleans.
Thursday, June 19.....	Atlanta.
Friday, June 20.....	Atlanta.
Monday, June 23.....	Minneapolis.
Tuesday, June 24.....	Minneapolis.
Wednesday, June 25.....	Portland.
Thursday, June 26.....	Portland.
Friday, June 27.....	San Francisco.
Monday, June 30.....	San Francisco.
Tuesday, July 1.....	Phoenix.
Tuesday, July 8.....	Philadelphia.
Monday, July 14 and thereafter.	Washington.

Additional hearings in other cities may be added later, at the discretion of the chairman of the Trade Policy Staff Committee.

#### EXTENDED DEADLINES

I. Requests to present oral testimony and related briefs should be received at least 48 hours before testimony is to be given.

II. Briefs not related to requests to present oral testimony may be submitted at any time, but should be submitted prior to July 15 in order to receive adequate consideration.

III. The requirement that briefs be submitted in 20 copies, and the requirement that one copy be made under oath or affirmation, are hereby waived.

1. *Requirements waivable.* The requirement stated in I above, and the requirement that a brief be submitted as a prerequisite to presenting oral testimony, may be waived by the Special Rep-

resentative for Trade Negotiations, a Deputy Special Representative for Trade Negotiations, or the Chairman of the Committee. In the scheduling of witnesses priority will be given to those who meet the procedural requirements of the public notices.

2. *Previous Public Notice.* In the FEDERAL REGISTER of May 1, 1975 (40 FR 19045), it was announced that pursuant to sections 133 and 503(a) of the Trade Act of 1974 (Pub. L. 93-618, 38 Stat. 1978) and to § 2002.2(b) for the Regulations regarding the Office of the Special Representative for Trade Negotiations (40 FR 18419, April 28, 1975), the Trade Policy Staff Committee chaired by the Office of the Special Representative for Trade Negotiations would hold public hearings concerning, *inter alia*, (1) the Notice of International Trade Negotiations and of Articles which may be Affected by such Negotiations, published in the FEDERAL REGISTER of January 14, 1975 (40 FR 2659), (2) the Notice of Articles which will be considered for Designation as Eligible Articles for Pur-

poses of the Generalized System of Preferences, published in the FEDERAL REGISTER of March 26, 1975 (40 FR 13457), (3) reductions in rates of duty or in other trade barriers which the United States should seek from other nations in negotiations, and (4) nontariff barriers of the United States and other countries which should be eliminated, reduced or harmonized in negotiations.

3. *Subject Matter of Public Hearings.* The terms or reference for these public hearings are set forth in section 133 of the Trade Act of 1974. That section provides that in connection with any proposed trade agreement under chapter 1 or section 123 or 124 of the Trade Act of 1974, the President shall afford an opportunity for any interested person to present his views concerning (i) any article which has been listed as being under consideration for modification or continuance of United States duties, continuation of United States duty-free or excise treatment, or additional duties, (ii) any article which should be so listed, or (iii) any other matter relevant to proposed trade agreements. The President also is to afford an opportunity for any interested person to present such views with respect to articles which have been listed as being under consideration for designation as eligible articles for purposes of the United States Generalized System of Preferences.

The lists of articles to which the preceding paragraph refers have been published. Articles which are being considered for inclusion in international trade negotiations were listed in the notice published in the FEDERAL REGISTER of January 14, 1975, referred to in section 2 above. Articles which are being considered for designation as eligible articles for purposes of the Generalized System of Preferences were listed in the notice published in the FEDERAL REGISTER of March 26, 1975, also referred to in section 2 above.

The Trade Policy Staff Committee will receive briefs and testimony on any mat-

ter relevant to the international negotiations or the Generalized System of Preferences. However, to avoid duplication and to provide interested parties with guidance as to the materials that will be most useful to the Committee, it is suggested that persons appearing before the Committee or submitting briefs devote particular attention to the following:

(a) Reductions in rates of duty or in other trade barriers which the United States should seek from other nations participating in the negotiations.

(b) Articles which the United States should consider for modifications, eliminations, reductions or continuances of present rates of duty in the negotiations.

(c) Nontariff barriers of the United States and other countries which should be eliminated, modified, continued, or harmonized, including international product standards, government procurement practices, quantitative restrictions upon imports, and customs valuation practices, or

(d) Any matter relevant to the generalized system of preferences.

The International Trade Commission, in accordance with sections 131(b) and 503(a) of the Trade Act, will advise the President of its judgment as to the probable economic effects on domestic industries producing like or directly competitive products and on consumers of modifications or continuances of U.S. duties, and of the provision of duty-free treatment for eligible articles from designated beneficiary developing countries pursuant to the Generalized Systems of Preferences. The Commission has held public hearings to assist it in the preparation of its advice to the President. Since briefs and testimony presented to the International Trade Commission for this purpose will be made available to the Trade Policy Staff Committee, the same material need not be submitted to the Committee.

4. *Requests to Present Oral Testimony.* Requests to present oral testimony should be sent to the Secretary, Trade Policy Staff Committee, Room 729, 1800 G Street NW., Washington, D.C. 20506. Requests to present oral testimony must state briefly the interest of the applicant in the subject matter and the position to be taken by the applicant.

In addition, requests to present oral testimony should include the following information:

(a) The name, address, telephone number, and official position (if applicable) of the party submitting the request.

(b) The description and, if possible, the tariff item number(s), whether foreign or domestic, of the commodity or commodities in which the party has an interest.

(c) The subject or subjects to be dealt with in the proposed testimony, listed individually and, in the case of import restrictions other than duties, described with sufficient particularity to identify the restriction to be discussed.

(d) The name, address, and telephone number of the person (or persons) who will present oral testimony.

(e) The amount of time requested for the presentation of oral testimony, and if more than 15 minutes is requested, the reasons therefore.

Each person scheduled to appear before the Committee will be notified of the date and the amount of time allotted for his presentation. If such time is inconvenient to the person requesting appearance, the Committee will consider rescheduling that person. The Committee reserves the right to restrict the time allotted for oral presentation and to deny requests when it determines that the proposed testimony is not relevant to the hearings.

5. *Suggestions on the Preparation of Written Briefs and Oral Testimony.* The Committee suggests that those preparing testimony or briefs for submission to the Committee include the following points in their submission.

(a) An introductory summary statement indicating the interest of the witness or person on whose behalf the brief is submitted.

(b) A description of the product(s) of interest, including where possible the name of the product (both trade and generic), its material content, and its use unless such facts are obvious to the average person. Brochures and advertising material frequently serve these purposes.

(c) The numerical identification of the product in the various nomenclatures of tariffs and statistical systems such as the Tariff Schedules of the United States (TSUS), the Brussels Tariff Nomenclature (BTN), the Standard Industrial Classification (SIC), the Standard International Trade Classification (SITC), the Schedule B (Statistical Classification of Domestic and Foreign Commodities Exported From the United States), and any other relevant numbers which would help in the identification of the product.

(d) If a foreign tariff or other type of trade restriction is involved, the countries of interest should be identified.

(e) The Committee is interested in views on whether the form of a duty (U.S. or foreign) should be changed. For example, should a specific rate of duty, such as 4 cents per pound, be converted to an ad valorem rate, or vice versa.

(f) If possible, submissions should contain information on the characteristics of the foreign market, such as data for several recent years on consumption, production, imports and exports of the product in the foreign country concerned; how the petitioner sells his product (i.e., through a middleman, or directly to the consumer) and a description of present sales efforts and problems encountered; the extent of competition in export markets from domestic producers and other foreign suppliers, including comparative delivered prices and competition from similar but not identical products; and any other relevant



information which might appear to be useful to U.S. negotiators.

(g) The Committee would find it useful for briefs to include suggestions of possible solutions to the trade barrier of concern. Such suggested solutions should, if possible, take into account circumstances and conditions in the United States or foreign country which the United States will have to deal with in negotiations.

(h) An assessment or judgment and basis therefor of the increase in imports or exports which could be anticipated under foreseeable economic and commercial conditions if the suggested solution to the barrier could be negotiated.

(i) While the Committee welcomes the full presentation of oral testimony, it is preferable that such testimony not duplicate material submitted in writing since both will be reviewed by the Committee. Instead, oral presentations should emphasize the salient points of the briefs submitted, expand upon their contents when necessary, cover any developments since the briefs were submitted, or emphasize materials not easily susceptible of explanation in writing. Extensive statistical material to be presented should accompany briefs.

In general, witnesses should confine their presentations to factual information pertinent to the specific matters under consideration and their interpretations and conclusions therefrom.

6. *Rebuttal Briefs.* In order to assure parties the opportunity to contest the information provided by other interested parties, the Committee will entertain rebuttal briefs filed by any party within one month after the close of the hearings. Rebuttal briefs must conform, in form and number, to the regulations of the Committee and the provisions of this notice applicable to written briefs. Rebuttal briefs should be limited to demonstrating errors of fact or analysis not pointed out in the briefs or hearings, and should be as concise as possible.

7. *Information Exempt from Public Inspection.* Parties are referred to § 2003.6 of the Committee's regulations, published in the *FEDERAL REGISTER* of April 28, 1975 (40 FR 18419), for the rules concerning information labelled "Business Confidential" and exempt from public inspection.

Oral testimony should contain no confidential information. Any business confidential information should be attached to briefs and be easily separable. If the Committee determines that it cannot accord confidential treatment to information submitted, that material will be returned to the party who submitted it.

8. *Public Inspection of Written Materials.* Subject to the regulations of the Committee all written materials filed with the Committee in connection with these hearings will be open to public inspection, by appointment, at the office of the Trade Policy Staff Committee, Room 729, 1800 G Street NW., Washington, D.C. 20506.

9. *Transcripts of the Hearings.* All oral testimony before the Committee will be recorded and transcribed. Persons giv-

ing testimony before the Committee may correct errors of form or expression in their testimony, but may not change substance. All corrections must be approved by the Secretary of the Committee. The cost of making such corrections will be the responsibility of the person requesting the corrections.

Transcripts of the hearings will be available for inspection or purchase.

10. *Attendance at the Hearings.* The hearings will be open to the public. Heavy or disruptive equipment, such as television equipment, will not be admitted to the hearings without the permission of the Chairman.

11. *Communications.* All communications with regard to these hearings should be addressed to: Secretary, Trade Policy Staff Committee, Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Room 729, Washington, D.C. 20506. The telephone number of the Secretary of the Committee is (202) 395-3395.

ALLEN H. GARLAND,  
Chairman.

[FR Doc.75-14374 Filed 5-29-75; 8:45 am]

#### POSTAL RATE COMMISSION

[Docket No. R74-1; Order No. 63]

#### POSTAL RATE AND FEE INCREASES, 1973

#### Order Establishing Procedure Subsequent To Presiding Judge's Initial Decision

MAY 23, 1975.

Anticipating the issuance of the Presiding Judge's initial decision, the Commission hereby adopts certain procedures to facilitate the decisional process.

*The Commission orders:* (1) Within 20 days after the date of issuance of the Presiding Judge's initial decision, any participant in this proceeding may file with the Commission a brief on exceptions to that initial decision. Within 10 days after the final date for the filing of briefs on exceptions, any participant may file a response to briefs on exceptions. Notwithstanding any other provision of the Commission's rules of practice, participants shall file an original and 32 fully conformed copies of their briefs on exceptions and their responses to briefs on exceptions.

(2) Briefs on exceptions and responses to briefs on exceptions shall be governed by the Commission's rules of practice. The contents of such briefs shall conform particularly to the requirements of section 40(b) of the rules of practice, including the requirement that the discussion of evidence, reasons, and authorities shall be specifically directed to the findings, conclusions, and recommendations in the initial decision to which exception is taken. In addition, the briefs shall also be governed by the following rules:

(a) When exception is taken to a statement of fact contained in the initial decision, reference also must be made to the page, exhibit, or part of the record relied upon to support the exception;

(b) The Commission will disregard any portion of a brief on exceptions,

which fails to comply with section 34(c) of the rules of practice, requiring that briefs be completely self-contained and prohibiting incorporation by reference of any portion of any other brief, pleading, or document.<sup>1</sup> This provision shall not be construed as a waiver of the Commission's right to disregard any portion of a brief for failure to comply with any other requirement of its rules of practice or of this order. (c) The number of pages for a brief on exceptions or a brief in response to briefs on exceptions is limited as follows:

- (i) For the Postal Service, 100 pages.
- (ii) For the Officer of the Commission, 100 pages.
- (iii) For any other participant, 75 pages.

(3) Oral argument shall commence before the Commission at 9 a.m., July 7, 1975, in the Commission's hearing room. Any participant who wishes to present oral argument to the Commission shall notify the Secretary, in writing, of the amount of time desired on or before the final date for the filing of briefs on exceptions. In requesting oral argument, parties with substantially like interests are encouraged to group themselves for a single presentation.

(4) The Secretary shall allocate time for oral argument and promptly notify the participants of the allocation. For this purpose, the Secretary may group parties with substantially like interests so that oral argument will proceed expeditiously.

By the Commission.

[SEAL] JAMES R. LINDSAY,  
Secretary.

[FR Doc.75-14178 Filed 5-29-75; 8:45 am]

#### SECURITIES AND EXCHANGE COMMISSION

[Files No. 500-1]

#### AMERICAN AGRONOMICS CORP.

#### Suspension of Trading

MAY 22, 1975.

The common stock of American Agronomics Corp. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of American

<sup>1</sup> In his Notice of Briefing Schedule dated December 2, 1974, the CALJ stated: "I am authorized by the Commission to state that it does not plan to allow a substantial period of time for briefs on exceptions, expecting them to state the exception and to rely on the arguments set forth in initial briefs, except where a wholly new matter is raised." Some clarification of this language may be in order. Participants may, of course, restate in briefs and reply briefs on exceptions arguments (verbatim, if they wish) set forth in briefs to the CALJ in support of exceptions or in opposition to exceptions taken by others, but they are not expected to advance new arguments unrelated to the initial decision. The Commission did not intend, in the quoted language, that the requirements of section 34(c) be dispensed with in briefs and reply briefs on exceptions.

Agronomics Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a) (4) and 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from May 23, 1975 through June 1, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.75-14080 Filed 5-29-75; 8:45 am]

[File No. 500-1]

#### CONTINENTAL GOLD AND SILVER CORP.

#### Suspension of Trading

MAY 21, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Continental Gold and Silver Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 9:30 a.m. (e.d.t.) on May 21, 1975 through midnight (e.d.t.) on May 30, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.75-14081 Filed 5-29-75; 8:45 am]

[70-5668]

#### GENERAL PUBLIC UTILITIES CORP.

#### Proposed Issue and Sale of Common Stock to Shareholders Pursuant to Dividend Reinvestment Plan

MAY 22, 1975.

Notice is hereby given that General Public Utilities Corporation ("GPU"), 80 Pine Street, New York, New York 10005, a registered holding company, has filed a declaration and amendments

thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act and Rule 50(a) (1) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, as amended, which is summarized below, for a complete statement of the proposed transactions.

GPU proposes to issue and sell common stock to its common stockholders pursuant to an "Automatic Dividend Reinvestment Plan" ("Plan"), which will be administered by Hartford National Bank and Trust Company of Hartford, Connecticut, as "Agent" for the participating shareholders. Under the Plan, a holder of GPU common stock may elect to have his dividends automatically invested in additional common stock of GPU. Dividends to be so invested will also include dividends received on the shares held by the Agent for the participant's account. The price of the shares to be issued by GPU to the participants on any dividend payment date will be the average of the high and low sales price for such shares on the New York Stock Exchange on the dividend payment date or, if the New York Stock Exchange is closed on the dividend payment date, the next preceding day on which it is open. The shares purchased through the Agent will be held for the exclusive benefit of the participants in the Plan.

A participant may at any time withdraw full shares in his account under the Plan without terminating his participation in the Plan. Fractional share interests will be paid in cash, based on the then current market price of GPU common shares on the New York Stock Exchange at the time of the sale of such fractional share. A participating stockholder must affirmatively terminate his enrollment in the Plan to end his participation and he may do so on a dividend payment date if his instructions to do so are received by the Agent's Dividend Reinvestment Section on or before the tenth day after the dividend payment date. If the instructions are received after the tenth day, the dividend payment for that quarter will be reinvested. The participant's entire account will then be terminated under the Plan, and certificates for whole shares credited to his account under the Plan will be issued and cash payment will be made for any fractions of shares.

If a participant disposes of all shares of common stock registered in his name, the Agent will request instructions regarding the disposition of the shares held

for his account under the Plan. Pending instructions in such a case, the Agent will continue to reinvest the dividends on the shares credited to his account until otherwise notified. A quarterly statement will be issued to each participating stockholder indicating the status of his stock interest in the Plan.

There are no out-of-pocket expenses to participating stockholders upon entry into the Plan or for participation therein. GPU will pay the expenses in connection with the offering and administration of the Plan.

Common stock purchased under the Plan will be registered in the name of the Agent's nominee for participants in the Plan. The participants will have the same rights and privileges with respect to shares purchased under the Plan as they do with respect to shares acquired in any other manner. Any shares held in the Plan for participants will be voted only as the stockholders direct. Voting rights include fractions of a share.

GPU proposes initially to offer up to 5,341,998 shares under the Plan. It proposes to apply annually for authorization to continue the Plan. Upon written notice to the participants, GPU's board of directors may wholly or partially amend, modify or discontinue the Plan.

The proceeds realized from the sale of the common stock under the Plan will be used by GPU for additional investment in its subsidiaries, to reimburse its treasury for investments theretofore made and/or to repay a portion of GPU's short-term indebtedness as may be outstanding from time to time. As of March 31, 1975, GPU had \$77,500,000 outstanding in notes payable to banks, due within one year.

It is stated that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions. The fees and expenses to be incurred in connection with the proposed transactions are estimated at \$430,000, including legal fees of \$45,000, printing fees of \$150,000, and a dividend reinvestment agent fee of \$85,000.

Notice is further given that any interested person may, not later than June 16, 1975, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Wash-



## NOTICES

ington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.  
[FR Doc.75-14082 Filed 5-29-75; 8:45 am]

[File No. 500-1]

## ROYAL PROPERTIES INC.

## Suspension of Trading

MAY 22, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Royal Properties Incorporated being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from May 23, 1975 through June 1, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.  
[FR Doc.75-14083 Filed 5-29-75; 8:45 am]

[File No. 500-1]

## SIERRA SILVER MINING CO.

## Suspension of Trading

MAY 21, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Sierra Silver Mining Company being traded otherwise than on a national securities exchange is required in

the public interest and for the protection of investors;

Therefore, pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 9:30 a.m. (e.d.t.) on May 21, 1975 through midnight (e.d.t.) on May 30, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.  
[FR Doc.75-14084 Filed 5-29-75; 8:45 am]

[File No. 500-1]

## UNIVERSAL METALS, INC.

## Suspension of Trading

MAY 21, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Universal Metals, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 2:30 p.m. (e.d.t.) on May 21, 1975 through midnight (e.d.t.) on May 30, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.  
[FR Doc.75-14085 Filed 5-29-75; 8:45 am]

[File No. 500-1]

## WINNER INDUSTRIES, INC.

## Suspension of Trading

MAY 22, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Winner Industries, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from May 23, 1975 through June 1, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.  
[FR Doc.75-14086 Filed 5-29-75; 8:45 am]

## NOTICES

23551

DEPARTMENT OF LABOR  
Manpower Administration  
EMPLOYMENT TRANSFER AND BUSINESS  
COMPETITION DETERMINATIONS UNDER  
THE RURAL DEVELOPMENT ACT

## Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924 (b), 1932, or 1942 (b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75, published January 29, 1975 (40 FR 4393). In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.
4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).
5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determina-

tions which must be made regarding these applications are invited to submit such information in writing on or before June 13, 1975 to: Deputy Assistant Secretary for Manpower, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 27th day of May, 1975.

BEN BURDETSKY,  
Deputy Assistant Secretary  
for Manpower.

Applications received during the week ending May 25, 1975

Name of applicant	Location of enterprise	Principal product or activity
Island Creek Coal Co. (Tenant of city of Paintsville).	Paintsville, Ky. ....	Coal mining supplies and equipment.
Nowers Synthetics, Inc. (Tenant of Treutlen County Development Authority).	Foperton, Ga. ....	Manufacture of carpet backing.
Ferro Corp. (Tenant of Stephens County Development Authority).	Toccoa, Ga. ....	Manufacture of color pigments.
McCoy Motor Lodge.	Ripley, W. Va. ....	Motel and restaurant.

[FR Doc.75-14060 Filed 5-29-75; 8:45 am]

Occupational Safety and Health  
Administration  
[V-75-6]

FIRESTONE PLASTICS COMPANY  
Application for Variance and Interim Order;  
Grant of Interim Order

I. *Notice of application.* Notice is hereby given that Firestone Plastics Company, A Division of the Firestone Tire and Rubber Co., P.O. Box 699, Pottstown, Pa. 19464 has made application pursuant to section 6(b) (6) (A) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1594; 29 U.S.C. 655) and 29 CFR 1905.10 for a variance and interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1910.1017(g) (4) (formerly § 1910.93q; see 40 FR 23072) concerning respirators and § 1910.1017(g) (6) (ii) concerning continuous monitoring and alarm system required for protection from vinyl chloride.

The addresses of the places of employment that will be affected by the application are as follows:

Firestone Plastics Co.  
Pottstown Pilot Plant  
Pottstown Chemical Plant  
Box 699  
Pottstown, Pa. 19464  
Firestone Plastics Co.  
Plants No. 1 and No. 2  
Box 98  
Perryville, Md. 21903

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is unable to comply by the effective date with the requirements of § 1910.1017(g) (4) which sets respirator requirements for different levels of exposure and with § 1910.1017(g) (6) (ii) which requires a

continuous monitoring and alarm system where exposures might reasonably exceed concentrations allowable for the devices in use.

All of Firestone Plastics Company's facilities are in compliance with the respiratory requirements of § 1910.1017(g) (4) (v) for exposures to 25 ppm.

The pressure demand air line respirators and accessories which have been ordered for exposures of 25-100 ppm at the Pottstown Chemical Plant are scheduled for delivery May 31, 1975. The Pottstown Pilot Plant and both Perryville Plants are in compliance with the respiratory requirements to 100 ppm. In order to provide protection for exposure levels of 100-3600 ppm, 174 pressure demand air line respirators with auxiliary air supplies and accessories have been ordered. The promised delivery date for these respirators is June 27, 1975. In order to provide protection at exposure levels of 3600 to 36,000 ppm, 37 self-contained breathing units have been received. Kits to convert additional self-contained breathing units to the type required by the standard have been ordered with a promised delivery date of May 31, 1975.

In the meantime the applicant will protect its employees by providing all who may be exposed to vinyl chloride up to 25 ppm with gas masks complying with § 1910.1017(g) (4) (v) (B). The applicant also proposes to comply with the requirements contained in the Emergency Temporary Standard of April 5, 1974 (39 FR 12342). Among other things, this standard requires that where sampling shows vinyl chloride over 50 ppm, or an accident indicates the likelihood of such a reading, all employees in the area shall be evacuated and shall not be permitted to return unless equipped with either self-contained breathing apparatus or Type C air supplied respirators or until concentrations are reduced.

Concerning the continuous monitoring and alarm systems required under § 1910.1017(g) (6) (ii) in areas where concentrations might exceed permissible limits for the devices being used, the applicant states as follows:



High level (3600-36,000 ppm) continuous sequential monitoring systems have been purchased for the Pottstown Pilot Plant and Pottstown Chemical Plant. These will be installed and operational by July 31, 1975. A combined high and low level (1-36,000 ppm) continuous sequential monitoring system has been ordered for the Perryville Plant #2. This system will be installed and operational by October 31, 1975. The alarm portion of the monitoring system will be operational in both Pottstown Plants and in Perryville Plant #1 by September 30, 1975. The alarm system will be operational in both Pottstown Plants and in Perryville Plant #1 by September 30, 1975. The alarm system will be operational in the Perryville Plant #2 by August 31, 1975.

In the interim the employees will be protected by the low level (1-100 ppm) continuous sequential monitoring systems which are presently operational in both Pottstown Plants and in Perryville Plant #1, and by a high level (3600-36,000 ppm) system in Perryville Plant #1. In addition, personnel monitoring through the use of suitable devices worn by employees shall be continued on a routine basis.

A copy of the application will be made available for inspection and copying upon request at the Office of Compliance Programming, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-3603, Washington, D.C. 20210, and at the following Regional and Area Offices:

## REGIONAL OFFICE

U.S. Department of Labor, Occupational Safety and Health Administration, Gateway Building, Suite 15220, 3535 Market Street, Philadelphia, Pennsylvania 19104.

## AREA OFFICES

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Building, Room 1110A, Charles Center, 31 Hopkins Plaza, Baltimore, Maryland 21201.

U.S. Department of Labor, Occupational Safety and Health Administration, Room 4456, William J. Green Jr., Federal Building, 600 Arch Street, Philadelphia, Pennsylvania 19106.

All interested persons, including employers and employees, who believe they would be affected by the grant or denial of the application for a variance are invited to submit written data, views and arguments relating to the pertinent application no later than June 30, 1975.

In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than June 30, 1975 in conformity with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Compliance Programming at the above address.

II. *Interim Order.* It appears from the application for a variance and interim order, that an interim order is necessary

to prevent undue hardship to the applicant and its employees pending a decision on the variance. Therefore it is ordered, pursuant to authority in section 6(b) (6) (A) of the Williams-Steiger Occupational Safety and Health Act of 1970, and 29 CFR 1905.10(c) that Firestone Plastics Company be, and it is hereby, authorized to operate its plants utilizing personnel monitoring and the presently installed continuous sequential monitoring systems pending the installation of the remainder of the systems meeting the monitoring and alarm requirements of § 1910.1017(g) (6) (ii); and to utilize the presently available respirators until such time as the respirators required by the standard have been delivered, provided that an evacuation plan is in effect.

Firestone Plastics Company had originally proposed to comply with the Emergency Temporary Standard by evacuating the employees when vinyl chloride levels reach 50 ppm. This was found to be unacceptable in that employees would not be adequately protected. Contact was made with the applicant and it was agreed that evacuation would occur when levels reached 25 ppm. The authorized employee representative had objected to granting the variance. They were informed of the agreement to evacuate employees at 25 ppm and found this acceptable. It has been determined that the availability of sufficient respirators for exposures to 25 ppm and the evacuation of employees when levels exceed 25 ppm will provide protection to employees.

Firestone Plastics Company shall comply with the following conditions:

1. Sufficient respirators for use to 100 ppm shall be available at the Pottstown Chemical Plant on May 31, 1975, sufficient respirators for use to 3600 ppm at all plants shall be available June 27, 1975, sufficient respirators for use to 36,000 ppm shall be available May 31, 1975.

2. The high level monitoring system shall be operational at the 2 Pottstown plants by July 31, 1975; the high and low level monitoring system shall be operational at Perryville Plant #2 by October 31, 1975; the alarm systems shall be operational in both Pottstown Plants and in Perryville Plant #1 by September 30, 1975 and in Perryville Plant #2 by August 31, 1975.

3. All employees who are not properly protected shall be evacuated when exposure levels exceed, or are likely to exceed 25 ppm. A written evacuation plan shall be posted and employees trained in its implementation.

Firestone Plastics Company shall give notice of this interim order to employees affected thereby, by the same means required to be used to inform them of the application for a variance.

*Effective date.* This interim order shall be effective as of May 30, 1975, and shall remain in effect until a decision is rendered on the application for variance.

Signed at Washington, D.C., this 23rd day of May, 1975.

JOHN STENDER,  
Assistant Secretary of Labor.

[FR Doc.75-14093 Filed 5-29-75; 8:45 am]

## INTERSTATE COMMERCE COMMISSION

[Notice No. 778]

## ASSIGNMENT OF HEARINGS

MAY 27, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 124078 Sub 619, Schwerman Trucking Co., now assigned September 16, 1975 at Columbus, Ohio is cancelled and transferred to Modified Procedure.

MC 139775 (Sub-No. 1), Cities Transit, Inc., now being assigned September 10, 1975 (3 days) at Tampa, Florida; in a hearing room to be designated later.

MC 80430 Sub 154, Gateway Transportation Co., Inc., now being assigned September 15, 1975 (1 week) at Orlando, Florida; in a hearing room to be designated later.

MC 107107 Sub 440, Alterman Transport Lines, Inc., now assigned June 20, 1975 at Miami, Florida will be held in Room 228 Federal Building, 51 S.W. 1st Street.

I & S No. 9046, Increased Fares on Passenger and Vehicles, Lake Michigan, now being assigned July 22, 1975 (4 days) at Milwaukee, Wis., in a hearing room to be later designated.

MC 114457 Sub 217, Dart Transit Company, May 27, 1975 dismissal order vacated.

MC 127042 Sub 155, Hagen, Inc., now being assigned June 6, 1975 (1 day), in the Moot Court Room, Northwestern University, 360 East Superior, Chicago, Illinois.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-14203 Filed 5-29-75; 8:45 am]

[Ex Parte No. 241; Second Revised Exemption No. 89]

## EXEMPTION UNDER MANDATORY CAR SERVICE RULES

To all U.S. railroads: *It appearing,* That the U.S. railroads own numerous 40-ft. plain boxcars; that under present conditions there are substantial surpluses of these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars, resulting in unnecessary loss of utilization of such cars.

*It is ordered,* That pursuant to the authority vested in me by Car Service Rule 19, plain boxcars of railroad ownership described in the Official Railway Equipment Register, I.C.C. R.E.R. No. 395, is-

sued by W. J. Trezise, or successive issues thereof, as having mechanical designation XM, with inside length 44 ft. 6 in. or less, and bearing reporting marks assigned to U.S. railroads, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b). (See Exceptions 1 and 2)

*Exception No. 1.* This exemption does not supersede United States customs regulations applicable to cars owned by Canadian or Mexican railroads.

*Exception No. 2.* This exemption shall not apply to cars subject to service orders issued by the Interstate Commerce Commission or to Directives issued by the Car Service Division of the Association of American Railroads, restricting the use of designated cars.

*Effective May 21, 1975.*

*Expires June 30 1975.*

Issued at Washington, D.C. May 21, 1975.

INTERSTATE COMMERCE COMMISSION,  
[SEAL] R. D. PFAHLER,  
Agent.

[FR Doc.75-14205 Filed 5-29-75; 8:45 am]

[I.C.C. Order No. 143 under Revised Service Order No. 994]

## ERIE LACKAWANNA RAILWAY CO.

## Rerouting Traffic

To all railroads: In the opinion of R. D. Pfahler, Agent, the Erie Lackawanna Railway Company (EL) is unable to transport traffic over portions of its line between DM Junction, New York, and Dunkirk, New York, because of track conditions.

*It is ordered,* That: (a) The EL being unable to transport traffic over portions of its line between DM Junction, New York, and Dunkirk, New York, because of track conditions is hereby authorized to reroute or divert such traffic via any available route. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided

for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 5:00 p.m., May 16, 1975.

(g) *Expiration date.* This order shall expire at 11:59 p.m., June 15, 1975, unless otherwise modified, changed or suspended.

*It is further ordered,* That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 16, 1975.

INTERSTATE COMMERCE COMMISSION,  
[SEAL] R. D. PFAHLER,  
Agent.

[FR Doc.75-14206 Filed 5-29-75; 8:45 am]

[Ex Parte No. 241; Eleventh Revised Exemption No. 91]

## EXEMPTION UNDER PROVISION OF RULE 19 OF THE MANDATORY CAR SERVICE RULES ORDERED

To all railroads: *It appearing,* That the United States railroads own numerous plain 50-ft. boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the United States railroads, resulting in unnecessary loss of utilization of such cars.

*It is ordered,* That pursuant to the authority vested in me by Car Service Rule 19, plain 50-ft. boxcars described in the Official Railway Equipment Register, I.C.C. R.E.R. No. 395, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation XM, and bearing all reporting marks assigned to the United States railroads, shall be exempt from the provisions of Car Service Rules 1(a), 2(a) and 2(b). (See Exception)

*Exception.* This exemption shall not apply to 50-ft. plain boxcars owned by the railroads named below:

Atlanta and West Point Railroad Company

Reporting Marks: AWP

Bangor and Aroostook Railroad Company

Reporting Marks: BAR

Burlington Northern Inc.

Reporting Marks: BN-CBQ-GN-NP-SPS

Central Vermont Railway, Inc.

Reporting Marks: CV-CVC

Chicago, Milwaukee, St. Paul and Pacific Railroad Company

Reporting Marks: MILW

Delaware and Hudson Railway Company

Reporting Marks: DH

Duluth, Winnipeg and Pacific Railway

Reporting Marks: DWP

Erie Lackawanna Railway Company (Thomas F. Patton and Ralph S. Tyler, Jr., Trustees)

Reporting Marks: DL&W-EL-ERIE

Illinois Central Gulf Railroad Company

Reporting Marks: ICG-CLG-GMO-IC

The Kansas City Southern Railway Company

Reporting Marks: KCS-LA

Lehigh Valley Railroad Company (Robert C. Haldeman, Trustee)

Reporting Marks: LV

Norfolk and Western Railway Company

Reporting Marks: N&W-NKP-WAB

St. Louis Southwestern Railway Company

Reporting Marks: SSW

Southern Pacific Transportation Company

Reporting Marks: SP

The Texas Mexican Railway Company

Reporting Marks: TM

The Western Pacific Railroad Company

Reporting Marks: WP

The Western Railway of Alabama

Reporting Marks: WA

*Effective May 21, 1975, and continuing in effect until further order of this Commission.*

Issued at Washington, D.C., May 21, 1975.

INTERSTATE COMMERCE COMMISSION,  
[SEAL] R. D. PFAHLER,  
Agent.

[FR Doc.75-14207 Filed 5-29-75; 8:45 am]

## IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

## Elimination of Gateway Letter Notices

MAY 27, 1975.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before June 9, 1975. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successfully filed letter-notices of the same carrier under these rules will be

\*\*\*Maine Central Railroad Company eliminated.



numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 531 (Sub-No. E5), filed May 22, 1974. Applicant: YOUNGER BROTHERS, INC., P.O. Box 14048, Houston, Tex. 77021. Applicant's representative: Wray E. Hughes (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic resins* (dry and in bulk), from Baton Rouge, La., to points in Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. The purpose of this filing is to eliminate the gateway of Orange, Tex.

No. MC 21170 (Sub-No. E90), filed June 4, 1975. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products and commodities* exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads, with food products, restricted to such commodities as are dealt in by retail, wholesale and chain grocery stores, from points in that part of Iowa on and east of a line beginning at the Minnesota-Iowa State line extending along US Highway 65 to junction Iowa Highway 134, thence along Iowa Highway 134 to junction unnumbered highway at Geneva, thence along unnumbered highway to junction Iowa Highway 118, thence along Iowa Highway 118 to junction Iowa Highway 175, thence along Iowa Highway 175 to junction Iowa Highway 215, thence along Iowa Highway 215 to junction Iowa Highway 234, thence along Iowa Highway 234 to junction Iowa Highway 330, thence along Iowa Highway 330 to junction unnumbered highway, thence along unnumbered highway to junction Iowa Highway 223 at Baxter, thence along Iowa Highway 223 to junction Iowa Highway 14, thence along Iowa Highway 14 to junction Iowa Highway 5, thence along Iowa Highway 5 to the Missouri-Iowa State line, to points in that part of Indiana on and south of Indiana Highway 64. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo.

NOTE.—The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Co. pursuant to No. MC-F-10199.

No. MC 45764 (Sub-No. E55), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment between

points in Pennsylvania on east, and south of a line beginning at the Pennsylvania-Delaware State line, and extending north over Pennsylvania Highway 100 to West Chester, Pa., thence northwest over U.S. Highway 322 to Downingtown, Pa., thence northeast over Pennsylvania Highway 113 to junction Pennsylvania Highway 100, thence north over Pennsylvania Highway 100 to Pottstown, thence northeast over Pennsylvania Highway 663 to junction Pennsylvania Highway 73, thence southeast over Pennsylvania Highway 73 to junction Pennsylvania Highway 363, thence northeast over Pennsylvania Highway 363 to junction Pennsylvania Highway 463, thence southeast over Pennsylvania Highway 463 to junction U.S. Highway 202, and thence northeast over U.S. Highway 202 to the Pennsylvania-New Jersey State line, on the one hand, and, on the other, points in Virginia. The purpose of this filing is to eliminate the gateway of Marcus Hook, Pa.

No. MC 45764 (Sub-No. E56), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Pennsylvania on east and south of a line beginning at the Pennsylvania-Delaware State line, and extending north over Pennsylvania Highway 100 to West Chester, Pa., thence northwest over U.S. Highway 322 to Downingtown, Pa., thence northeast over Pennsylvania Highway 113 to junction Pennsylvania Highway 100, thence north over Pennsylvania Highway 100 to Pottstown, Pa., thence northeast over Pennsylvania Highway 663 to junction Pennsylvania Highway 73, thence southeast over Pennsylvania Highway 73 to junction Pennsylvania Highway 363, thence northeast over Pennsylvania Highway 363 to junction Pennsylvania Highway 463, thence southeast over Pennsylvania Highway 463 to junction U.S. Highway 202, and thence northeast over U.S. Highway 202 to the Pennsylvania-New Jersey State line, on the one hand, and, on the other, points in West Virginia. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E57), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in the District of Columbia, on the one

hand, and, on the other, points in Rhode Island. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E58), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Massachusetts, on the one hand, and, on the other, points in Ohio on and south of a line beginning at the Ohio-Pennsylvania State line, and extending west over Ohio Highway 82 to Warren, Oh., thence southwest over Ohio Highway 5 to junction Ohio Highway 44, thence south over Ohio Highway 44 to junction Interstate Highway 76, thence west over Interstate Highway 76 to junction U.S. Highway 42, thence west and south over U.S. Highway 42 to junction U.S. Highway 224, thence west over U.S. Highway 224 to junction U.S. Highway 23, thence north over U.S. Highway 23 to junction Ohio Highway 199, thence northwest over Ohio Highway 199 to junction U.S. Highway 6, thence west over U.S. Highway 6 to junction Ohio Highway 34, and thence west over Ohio Highway 34 to the Ohio-Indiana State line. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E59), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Massachusetts, on the one hand, and, on the other, points in North Carolina. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E60), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Massachusetts, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E61), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Connecticut, on the one hand, and, on the other, points in Virginia. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E62), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Connecticut, on the one hand, and, on the other, points in Virginia. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E63), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Connecticut, on the one hand, and, on the other, points in Virginia. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E64), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Connecticut, on the one hand, and, on the other, points in Virginia. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E65), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Connecticut, on the one hand, and, on the other, points in Virginia. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E66), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Connecticut, on the one hand, and, on the other, points in Virginia. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E67), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Connecticut, on the one hand, and, on the other, points in Virginia. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E68), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Connecticut, on the one hand, and, on the other, points in Virginia. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E69), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Connecticut, on the one hand, and, on the other, points in Virginia. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E70), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Connecticut, on the one hand, and, on the other, points in Virginia. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 45764 (Sub-No. E71), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment, between points in Connecticut, on the one hand, and, on the other, points in Virginia. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

tions of the highways specified, on the one hand, and, on the other, points in New Jersey and New York. The purpose of this filing is to eliminate the gateway of points in Maryland within 10 miles of Baltimore, Md.

No. MC 45764 (Sub-No. E72), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* as described in Appendix V to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (1) between points in Anne Arundel and Howard Counties, Md., bounded by a line beginning at Chase, Md., thence west over Maryland Highway 149 through White Marsh, Md., to junction Maryland Highway 7, thence northeast over Maryland Highway 7 to junction Maryland Highway 152, thence north over Maryland Highway 152 to junction Maryland Highway 147, thence southwest over Maryland Highway 147 to junction Maryland Highway 145, thence west over Maryland Highway 145 to junction Maryland Highway 519, thence west over Maryland Highway 519 to Glyndon, Md., thence southeast over U.S. Highway 140 to junction Maryland Highway 125, thence southwest over Maryland Highway 125 to junction Maryland Highway 99, thence east over Maryland Highway 99 to junction Maryland Highway 105, thence south over Maryland Highway 105 to junction U.S. Highway 29, thence south over U.S. Highway 29 to junction Maryland 103, thence south over Maryland Highway 103 to junction Maryland Highway 176, thence east over Maryland Highway 176 to Glen Burnie, Md., thence southeast over Maryland Highway 177 to Gibson Island, Md., and thence north along the west bank of the Chesapeake Bay to the point of beginning at Chase, Md., including points on the indicated portions of the highways specified, (2) that portion of Baltimore County southwest of the Black River, and (3) Baltimore City, on the one hand, and, on the other, points in Delaware and Pennsylvania. Gateway to be eliminated *points in Maryland within Baltimore, Md.*

No. MC 45764 (Sub-No. E73), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *structural steel and equipment* used in the erection thereof and moving therewith, the transportation of which because of size or weight require the use of special equipment or special handling, from points in Delaware to points in Vermont, Maine, and New Hampshire. The purpose of this filing is to eliminate the gateway of the site of the Belmont Iron Works at Eddystone, Pa.



No. MC 45764 (Sub-No. E72), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *structural steel and equipment* used in the erection thereof and moving therewith, the transportation of which because of size or weight require the use of special equipment or special handling, from points in Maryland to points in Vermont, Maine, and New Hampshire. The purpose of this filing is to eliminate the gateway of the site of the Belmont Iron Works at Eddystone, Pa.

No. MC 45764 (Sub-No. E73), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *structural steel and equipment* used in the erection thereof and moving therewith, the transportation of which because of size or weight require the use of special equipment or special handling, from points in New Jersey on and south of a line beginning at the New Jersey-Pennsylvania State line, and extending southeast over New Jersey Highway 73 to junction U.S. Highway 30, and thence southeast over U.S. Highway 30 to Atlantic City, N.J., to points in Vermont, Maine, and New Hampshire. The purpose of this filing is to eliminate the gateway of the site of the Belmont Iron Works at Eddystone, Pa.

No. MC 45764 (Sub-No. E74), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *structural steel and equipment* used in the erection thereof and moving therewith, the transportation of which because of size or weight require the use of special equipment or special handling, from points in Ohio to points in Maine. The purpose of this filing is to eliminate the gateway of the site of the Belmont Iron Works at Eddystone, Pa.

No. MC 45764 (Sub-No. E75), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *structural steel and equipment* used in the erection thereof and moving therewith, the transportation of which because of size or weight require the use of special equipment or special handling, from points in Ohio to points south of a line beginning

at the Ohio-West Virginia State line and extending west over U.S. Highway 22 to junction U.S. Highway 40, and thence west over U.S. Highway 40 to the Ohio-Indiana State line, to points in Vermont and New Hampshire. The purpose of this filing is to eliminate the gateway of the site of the Belmont Iron Works at Eddystone, Pa.

No. MC 45764 (Sub-No. E76), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *structural steel and equipment* used in the erection thereof and moving therewith, the transportation of which because of size or weight require the use of special equipment or special handling, from points in North Carolina and the District of Columbia to points in Vermont, Maine, and New Hampshire. The purpose of this filing is to eliminate the gateway of the site of the Belmont Iron Works at Eddystone, Pa.

No. MC 45764 (Sub-No. E77), filed May 12, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 36, Essington, Pa. 19029. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *structural steel and equipment* used in the erection thereof and moving therewith, the transportation of which because of size or weight require the use of special equipment or special handling, from points in South Carolina, Virginia, and West Virginia to points in Rhode Island, Vermont, Maine, and New Hampshire. The purpose of this filing is to eliminate the gateway of the site of the Belmont Iron Works at Eddystone, Pa.

No. MC 73165 (Sub-No. E115), filed October 8, 1974. Applicant: EAGLE MOTOR LINES, INC., P.O. Box 11086, Birmingham, Ala. 35202. Applicant's representative: Carl W. Hurst (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *oilfield equipment and supplies*, between points in Arkansas within 150 miles of Texarkana, Tex., on the one hand, and, on the other, points in Texas (except those within 200 miles of Texarkana), and Shreveport, La., and points in Louisiana in and west of Beauregard, Allen, Jefferson Davis, and Cameron Parishes, La. The purpose of this filing is to eliminate the gateway of points in Texas within 200 miles of Texarkana.

No. MC 83745 (Sub-No. E6), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes,

transporting: *Such commodities* as require specialized handling and rigging because of size or weight, restricted so that the loading and/or unloading which necessitates the special handling and rigging is performed by the consignor or consignee or both, between points in Indiana County, Pa., within 25 miles of Pittsburgh, Pa. (except Clarksburg), on the one hand, and, on the other, points in Maryland on and east of U.S. Highway 230. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 83745 (Sub-No. E11), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as require specialized handling and rigging because of size or weight, restricted so that the loading and/or unloading which necessitates the special equipment is performed by the consignor or consignee, or both, between points in Westmoreland County, Pa., within 25 miles of Pittsburgh, Pa., on the one hand, and, on the other, points in Maryland on and east of Interstate Highway 81. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 83745 (Sub-No. E13), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as require specialized handling and rigging because of size or weight, restricted so that the loading and/or unloading which necessitates the special handling and rigging is performed by the consignor or consignee, or both, between points in that part of Fayette County, Pa., (within 25 miles of Pittsburgh, Pa.) on and north of Pennsylvania Highway 201 to its junction with Pennsylvania Highway 819 at Vanderbilt, thence along Pennsylvania Highway 819 to the Westmoreland County Line, on the one hand, and, on the other, points in Maryland on and east of Interstate Highway 81. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 83745 (Sub-No. E14), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as require specialized handling and rigging because of size or weight, restricted so that the loading and/or unloading which necessitates the special equipment is performed by the consignor or consignee, or both, between points in that part of Fayette County, Pa., within 25 miles of Pittsburgh, Pa., on and east of Pennsylvania

Highway 51, on the one hand, and, on the other, points in Hancock, Brooke and Ohio Counties, W. Va., and points in West Virginia on, south and west of a line beginning at the Ohio-West Virginia State line and extending along West Virginia Highway 14 to junction West Virginia Highway 5, thence along West Virginia Highway 5 to Napier, W. Va., thence along unnumbered highway to Cleveland, W. Va., thence along West Virginia Highway 20 to junction U.S. Highway 60, thence along U.S. Highway 60 to the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 83745 (Sub-No. E17), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as require specialized handling and rigging because of size or weight, restricted so that the loading and/or unloading which necessitates the special equipment is performed by the consignor or consignee, or both, between Koppel, Pa., on the one hand, and, on the other, points in Ohio on, west and south of a line beginning at Lake Erie and extending along U.S. Highway 250 to junction Ohio Highway 60, thence along Ohio Highway 60 to junction Ohio Highway 39, thence along Ohio Highway 39 to junction Interstate Highway 77, thence along Interstate Highway 77 to the Ohio-West Virginia State line. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 83745 (Sub-No. E18), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as require specialized handling and rigging because of size or weight, restricted so that the loading and/or unloading which necessitates the special equipment is performed by the consignor or consignee, or both, between Midland, Pa., on the one hand, and, on the other, points in Ohio on, west and south of a line beginning at Lake Erie and extending along U.S. Highway 250 to junction Ohio Highway 61, thence along Ohio Highway 61 to junction Ohio Highway 314, thence along Ohio Highway 314, to junction Ohio Highway 95, thence along Ohio Highway 95 to junction Ohio Highway 13, thence along Ohio Highway 13 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Ohio Highway 83, thence along Ohio Highway 83 to junction Ohio Highway 340, thence along Ohio Highway 340 to junction Interstate Highway 77, thence along Interstate Highway 77 to the Ohio-West Virginia State line. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 83745 (Sub-No. E19), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as require specialized handling and rigging because of size or weight, restricted so that the loading and/or unloading which necessitates the special equipment is performed by the consignor or consignee, or both, between points in Beaver County, Pa., within 25 miles of Pittsburgh, Pa., on the one hand, and, on the other, points in Ohio on and west of a line beginning at Lake Erie and extending along Ohio Highway 61 to junction Ohio Highway 3, thence along Ohio Highway 3 to junction U.S. Highway 23, thence along U.S. Highway 23 to the Ohio-Kentucky State line. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 83745 (Sub-No. E23), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as require specialized handling and rigging because of size or weight, restricted so that the loading and/or unloading which necessitates the special equipment is performed by the consignor or consignee, or both, between Mt. Pleasant, Pa., on the one hand, and, on the other, points in Maryland on and east of U.S. Highway 15. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 83745 (Sub-No. E23), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as require specialized handling and rigging because of size or weight, restricted so that the loading and/or unloading which necessitates the special equipment is performed by the consignor or consignee, or both, between Latrobe, Greensburg, New Alexandria, and Monessen, Pa., on the one hand, and, on the other, points in Maryland on and east of U.S. Highway 522. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 83745 (Sub-No. E24), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as require specialized handling and rigging

because of size or weight, restricted so that the loading and/or unloading which necessitates the special equipment is performed by the consignor or consignee, or both, (1) between West Leechburg and Vandergrift, Pa., on the one hand, and, on the other, points in Maryland; and (2) between Jeannette, Youngwood, and New Stanton, Pa., on the one hand, and, on the other, points in Maryland on and east of Interstate Highway 81. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 83745 (Sub-No. E25), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as require specialized handling and rigging because of size or weight, restricted so that the loading and/or unloading which necessitates the special equipment is performed by the consignor or consignee, or both, (1) between West Leechburg and Vandergrift, Pa., on the one hand, and, on the other, points in West Virginia; and (2) between Latrobe, New Alexandria, Jeannette, Youngwood and New Stanton, Pa., on the one hand, and, on the other, points in West Virginia (except points in Marion, Monongalia and Preston Counties). The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 83745 (Sub-No. E29), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as require specialized handling and rigging because of size or weight, restricted so that the loading and/or unloading which necessitates the special handling and rigging is performed by the consignor or consignee, or both, between Washington, Pa., on the one hand, and, on the other, points in Maryland, Ohio (except points in Belmont, Harrison, Jefferson, and Monroe Counties), and that part of West Virginia on and south of a line beginning at the Ohio-West Virginia State line and extending along U.S. Highway 33 to Elkins thence along U.S. Highway 219 to the Maryland-West Virginia State line. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 83745 (Sub-No. E30), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as require specialized handling and rigging because of size or weight, restricted so that the loading and/or unloading which necessitates the special handling and rigging is performed by the consignor or

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consignee, or both, between Donora, Pa., on the one hand, and, on the other, points in Ohio, Maryland and that part of West Virginia on and south of a line beginning at the Ohio-West Virginia State line and extending along West Virginia Highway 7 to Morgantown, thence along U.S. Highway 119 to the Pennsylvania State line. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 83745 (Sub-No. E32), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such commodities as require specialized handling and rigging because of size or weight, restricted so that the loading and/or unloading which necessitates the special handling and rigging is performed by the consignor or consignee, or both, between points in Lawrence County, Pa., within 25 miles of Pittsburgh, Pa., on the one hand, and, on the other, points in Ohio on, west and south of a line beginning at Lake Erie and extending along U.S. Highway 250 to junction Interstate Highway 77, thence along Interstate Highway 77 to the Ohio-West Virginia State line. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.*

No. MC 83745 (Sub-No. E33), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such commodities as require specialized handling and rigging because of size or weight, restricted so that the loading and/or unloading which necessitates the special handling and rigging is performed by the consignor or consignee, or both, between points in Washington County, Pa., within 25 miles of Pittsburgh, Pa., on the one hand, and, on the other, points in West Virginia on and south of a line beginning at the Ohio-West Virginia State line, and extending along U.S. Highway 33 to Elkins, thence along U.S. Highway 219 to the West Virginia-Maryland State line. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.*

No. MC 100666 (Sub-No. E120) (Correction), filed May 25, 1974, published in the FEDERAL REGISTER September 12, 1974. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Richard W. May (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Lumber and creosoted posts, poles, piling and cross-ties* (except cross-ties to Colorado and New Mexico), (a) from points in Louisiana to points in Iowa, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin (points in Arkansas)\*, points in New Mexico (points in Oklahoma)\*,

and points in Arizona (Texarkana, Tex.)\*; (b) from points in Louisiana within 250 miles of Texarkana, Tex., to points in Colorado (Duke, Okla.)\*; (2) *lumber and cross-ties* (except cross-ties to destinations shown in (B) and (C)), (a) from points in Louisiana to points in Illinois, Indiana, Michigan, Ohio, and Pennsylvania (points in Arkansas)\*, (b) from points in Louisiana on and north of a line from the Texas-Louisiana State line along U.S. Highway 190 to the junction of Interstate Highway 55, thence along Interstate Highway 55 to the Louisiana-Mississippi State line to points in Georgia, West Virginia, and Steelwood, Stockton, Mobile, Mt. Vernon, Greenville, Chapman, and Selma, Ala. (Urania, La.)\*, (c) from points in Louisiana over 250 miles from Texarkana, Tex., to points in Kansas, Texas, and Oklahoma in excess of 250 miles from Texarkana, Tex. (points in Texas and points in Texas within 250 miles of Texarkana, Tex.)\*; and points in Colorado (points in Texas within 250 miles of Texarkana, Tex., and Duke, Okla.)\*; (3) *plywood*, from points in Louisiana within 250 miles of Texarkana, Tex., to points in California in and north of Inyo, Tulare, Kern, and San Luis Obispo Counties, and points in Idaho, Montana, Nevada, Oregon, Utah, and Washington (Pittsburg, Kans.)\*;

(4) *lumber and creosoted posts, poles, piling and cross-ties* (except cross-ties to Colorado and New Mexico), (a) from points in Arkansas to points in Arizona (Texarkana, Tex.)\*, points in Colorado (except from points in Arkansas north of Interstate Highway 40 to points in Colorado east of U.S. Highway 85), and points in New Mexico (points in Oklahoma and Duke, Okla.)\*, (b) from points in Arkansas in, west and south of Sebastian, Scott, Yell, Garland, Hot Spring, Dallas, Cleveland, Drew, and Ashley Counties, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, and the District of Columbia (Texarkana, Tex.)\*; (5) *plywood*, from points in Arkansas within 250 miles of Texarkana, Tex., to points in California, Idaho, Montana, Nevada, Oregon, Utah, and Washington (Pittsburg, Kans.)\*; (6) *lumber and creosoted post, poles, piling and cross-ties* (except cross-ties to Colorado and New Mexico) (a) from points in Tennessee within 250 miles of Texarkana, Tex., to points in Alabama, Florida, Georgia, Illinois (except lumber), Indiana, Iowa, Kentucky, Michigan, Minnesota, Mississippi, Nebraska, North Carolina, North Dakota, Ohio, Pennsylvania, South Carolina, South Dakota, Tennessee (except Memphis, Virginia, West Virginia, and Wisconsin (points in Arkansas)\*), points in Arizona, Colorado, and New Mexico (points in Oklahoma)\*, Duke, Okla., and Texarkana, Tex.)\*; (7) *plywood*, from points in Tennessee within 250 miles of Texarkana, Tex., to points in Illinois (points in Arkansas and Covington, Tenn.)\*, and points in California, Idaho, Montana, Nevada, Oregon, Utah, and Washington (Pittsburg, Kans.)\*;

(8) *lumber and creosoted posts, poles, piling and cross-ties* (except cross-ties to described Louisiana and New Mexico points), (a) from points in Missouri to points in Florida, Georgia (except from points in Missouri east of U.S. Highway 63 to points in Georgia north of a line from the Alabama-Georgia State line along U.S. Highway 80 to junction Georgia Highway 56, thence along Georgia Highway 56 to the Georgia-North Carolina State line), points in North Carolina (except from points in Missouri east of U.S. Highway 63 to points in North Carolina west of Interstate Highway 95), and points in South Carolina (except from points in Missouri east of U.S. Highway 63 to points in South Carolina west of U.S. Highway 1) (points in Arkansas)\*, points in New Mexico (except from points in Missouri west of Interstate Highway 35 to points in New Mexico east and north of U.S. Highway 84), (points in Oklahoma)\*, points in Alabama (points in Texas within 250 miles of Texarkana, Tex.)\*, points in Mississippi (except from points in Missouri east of a line from the Arkansas-Missouri State line along U.S. Highway 67 to the Mississippi River at Crystal Springs to points in Mississippi east and north of U.S. Highway 73), (points in Arkansas)\*, (b) from points in Missouri on and south of a line from the Missouri-Kansas State line along U.S. Highway 66 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Missouri-Illinois State line to points in North Dakota (points in Arkansas)\*, (c) from points in Missouri over 250 miles from Texarkana, Tex., to points in Louisiana over 250 miles from Texarkana, Tex. (points in Tennessee within 250 miles of Texarkana, Tex., and points in Mississippi)\*, (d) from points in Missouri on, east and south of a line from the Arkansas-Missouri State line along U.S. Highway 65 to junction U.S. Highway 66, thence along U.S. Highway 66 to Crawford County, thence Crawford, Washington, and Jefferson County to points in Arizona (Texarkana, Tex.)\*;

(9) (a) *lumber*, from points in Missouri over 250 miles from Texarkana, Tex., to points in Texas over 250 miles from Texarkana, Tex., and south of a line from the Texas-New Mexico State line along U.S. Highway 82 to junction U.S. Highway 281, thence along U.S. Highway 281 to the Texas-Oklahoma State line (parts in Texas within 250 miles of Texarkana, Tex.)\*; (9) (b) *plywood*, from points in Missouri within 250 miles of Texarkana, Tex., to points in California, Idaho, Montana, Nevada, Oregon, Utah, and Washington (Pittsburg, Kans.)\*; (10) *lumber and creosoted posts, poles, piling and cross-ties*, (a) from points in Kansas to points in Florida, Georgia, North Carolina, South Carolina, and Virginia (points in Arkansas)\*, to points in Arkansas over 250 miles from Texarkana, Tex., and points in Mississippi north of Interstate Highway 20 (points in Tennessee within 250 miles of Texarkana, Tex.)\*, points in Mississippi on and south of Interstate Highway 20 (except cross-ties), points in Louisiana within 250 miles of Texarkana, Tex.)\*, points in Alabama,

points in Kentucky on and south of a line from Paducah along U.S. Highway 45 to the junction of Kentucky Highway 80, thence along Kentucky Highway 80 to the junction of Interstate Highway 75, thence along Interstate Highway 75 to the Virginia-Tennessee State line, and points in Tennessee (except Memphis), (points in Arkansas within 250 miles of Texarkana, Tex.)\*, (b) from points in Kansas on and south of a line from the Colorado-Kansas State line along Interstate Highway 70 to the junction Interstate Highway 35, thence along Interstate Highway 35 to McPherson County, thence in and south of McPherson, Marion, Chase, Lyon, Coffey, Anderson, and Linn Counties to points in Pennsylvania and West Virginia (points in Arkansas within 250 miles of Texarkana, Tex.)\*; (11) *lumber*, from points in Kansas to points in Louisiana over 250 miles from Texarkana, Tex., and to points in Texas over 250 miles from Texarkana, Tex., and on and east of U.S. Highway 277 (points in Texas within 250 miles of Texarkana, Tex.)\*;

(12) *lumber and creosoted posts, poles and piling and cross-ties*, (a) from points in Oklahoma to points in Illinois, Indiana, the Lower Peninsula of Michigan, Ohio, Pennsylvania, West Virginia, and points in Wisconsin (except from points in Oklahoma in and west of Beaver County), points in North Carolina, South Carolina, Virginia, Iowa, Minnesota, Nebraska, North Dakota, South Dakota, Florida, Georgia, Alabama, Kentucky, and Tennessee (except Memphis), (points in Arkansas)\*, points in Mississippi on and south of Interstate Highway 20 (except cross-ties), (points in Louisiana)\*, and points in Mississippi north of Interstate Highway 20 (points in Tennessee within 250 miles of Texarkana, Tex.)\*, (b) from points in Oklahoma (except points in and west of Beaver County), to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, and the District of Columbia (Texarkana, Tex.)\*, (c) from points in Oklahoma within 250 miles of Texarkana, Tex., and south of Interstate Highway 40 to points in Colorado (except cross-ties), (Duke, Okla.)\*, (d) from points in Oklahoma in, south and east of Bryan, Atoka, Pittsburg, Haskell, and Sequoyah Counties, to points in Arizona (Texarkana, Tex.)\*, (e) from points in Oklahoma over 250 miles of Texarkana, Tex., to points in Arkansas over 250 miles from Texarkana, Tex. (points in Tennessee within 250 miles from Texarkana, Tex.)\*; (13) *lumber*, (a) from points in Oklahoma over 250 miles from Texarkana, Tex., to points in Louisiana over 250 miles from Texarkana, Tex. (points in Texas within 250 miles of Texarkana, Tex.)\*, (b) from points in Oklahoma over 250 miles from Texarkana, Tex. (except points in and west of Beaver County), to points in Texas over 250 miles from Texarkana, Tex., and on and east of U.S. Highway 277 (points in Texas within 250 miles of Texarkana, Tex.)\*;

(14) *plywood*, from points in Oklahoma within 250 miles of Texarkana, Tex., to points in California in and north of Marin, Solano, Sacramento, and El Dorado Counties, points in Idaho and Montana, points in Nevada on and north of U.S. Highway 40, and points in Oregon and Washington (Pittsburg, Kans.)\*;

(15) *lumber and creosoted posts, poles, piling, and cross-ties* (except cross-ties to Alabama, Colorado, Florida, Georgia, Mississippi and New Mexico), (a) from points in Texas to points in North Carolina, South Carolina, Virginia, West Virginia, Indiana, Illinois, Michigan, Ohio, Wisconsin, Pennsylvania, Kentucky, and Tennessee (except Memphis), (points in Arkansas)\*, points in Florida and Georgia (Urania, La., and points in Louisiana and Mississippi)\*, points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, and the District of Columbia (Texarkana, Tex.)\*, points in Alabama (points in Louisiana and Mississippi)\*, and points in Mississippi (points in Louisiana)\*, (b) from points in Texas on and east of a line from the Oklahoma-Texas State line along Texas Highway 34 to junction U.S. Highway 77, thence along U.S. Highway 77 to Brownsville, Tex., to points in Iowa, Minnesota, Nebraska, North Dakota, and South Dakota (points in Arkansas)\*, (c) from points in Texas on and east of a line from the Texas-Oklahoma State line along U.S. Highway 271 to junction of Texas Highway 19, thence along Texas Highway 19 to junction Interstate Highway 45, thence along Interstate Highway 45 to the Gulf of Mexico, points in Arizona (Beaumont and Texarkana, Tex.)\*; (d) from points in Texas within 250 miles of Texarkana, Tex., to points in Colorado and New Mexico (Acme, Tex., and the plant site of the Celotex Corporation at or near Hamlin, Tex.)\*, (e) from points in Texas over 250 miles from Texarkana, Tex., to points in Arkansas over 250 miles from Texarkana, Tex. (points in Tennessee within 250 miles of Texarkana, Tex.)\*; and (16) *plywood*, from points in Texas within 250 miles of Texarkana, Tex., to points in California in and north of Nevada, Yuba, Sutter, Colusa, Lake, and Mendocino Counties, points in Idaho and Montana, points in Nevada on and north of Interstate Highway 80, points in Oregon and Washington, and points in Utah on and north of Interstate Highway 80 (Pittsburg, Kans.)\*. The purpose of this filing is to eliminate the gateways indicated by the asterisks above. The purpose of this correction is to correct the commodity descriptions and territorial destination points.

No. MC 107002 (Sub-No. E12), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: John J. Borth (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals, restricted to liquid tall oil and liquid tall oil products*, in bulk, in tank vehicles, from Panama City, Fla., to points in Michigan. The purpose of this filing is to eliminate the gateway of Cedartown, Ga.

No. MC 107002 (Sub-No. E167), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: John J. Borth (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from

points in Harrison and Jackson Counties, Miss., to points in Iowa, Michigan, Ohio, and Wisconsin. Restricted against the transportation of liquid hydrogen, liquid oxygen and liquid nitrogen to points in Iowa, Michigan, and Wisconsin. The purpose of this filing is to eliminate the gateways of Mobile, Ala., and Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E15), filed May 16, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: John J. Borth (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dry cement*, in bulk, in tank vehicles, from Birmingham, Ala., to points in Arkansas and Louisiana; from Natchez, Redwood, and Vicksburg, Miss., to points in Alabama and Tennessee; and from Memphis, Tenn., to points in Alabama. The purpose of this filing is to eliminate the gateways of Lee, Lowndes, Madison, and Rankin Counties, Miss.

No. MC 107002 (Sub-No. E164), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Anthol, cymene, esterified tall oil, liquid soap, nylene, paracymene, paramethane, hydro peroxide, pinene, pine oil, pine pitch, pine tar, rosin, rosin liquor, rosin sizing, rosin solution, synthetic gums and resins, tall oil, tall oil fatty acids, tall oil pitch, terpineol, turpentine, and zinc resins*, in bulk, in tank vehicles, from Harrison and Jackson Counties, Miss., to points in Pennsylvania. The purpose of this filing is to eliminate the gateway of Bay Minette, Ala.

No. MC 107002 (Sub-No. E165), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Tall oil*, in bulk, in tank vehicles, from Panama City, Fla., to points in Kentucky. The purpose of this filing is to eliminate the gateway of Decatur, Ala.

No. MC 107002 (Sub-No. E166), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals, restricted to liquid tall oil and liquid tall oil products*, in bulk, in tank vehicles, from Panama City, Fla., to points in Michigan. The purpose of this filing is to eliminate the gateway of Cedartown, Ga.

No. MC 107002 (Sub-No. E167), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123,



Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid tall oil*, in bulk, in tank vehicles, from Panama City, Fla., to points in Kansas. The purpose of this filing is to eliminate the gateway of Collierville, Tenn.

No. MC 107002 (Sub-No. E168), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid Chemicals*, restricted to tall oil and tall oil products, in bulk, in tank vehicles, from Panama City, Fla., to points in Illinois. The purpose of this filing is to eliminate the gateway of Cedartown, Ga.

No. MC 107002 (Sub-No. E169), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid* in bulk, in tank vehicles, from Panama City, Fla., to points in Ohio. The purpose of this filing is to eliminate the gateway of Bay Minette, Ala.

No. MC 107002 (Sub-No. E170), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Vegetable oil*, restricted to naval stores and naval store products, in bulk, in tank vehicles, from Mobile, Ala., to points in Maryland. The purpose of this filing is to eliminate the gateway of Picaune, Miss.

No. MC 107002 (Sub-No. E171), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Vegetable oils*, restricted to naval stores and naval store products, in bulk, in tank vehicles, from Mobile, Ala., to points in Maine. The purpose of this filing is to eliminate the gateway of Picaune, Miss.

No. MC 107002 (Sub-No. E172), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from River Falls, Ala., to points in Kansas. The purpose of this filing is to eliminate the gateway of Collierville, Tenn.

No. MC 107002 (Sub-No. E173), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123,

Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except liquid hydrogen, liquid oxygen, liquid nitrogen and liquefied petroleum gases), in bulk, in tank vehicles, from Hazlehurst, Miss., to points in Iowa. The purpose of this filing is to eliminate the gateways of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E174), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except liquid hydrogen, liquid oxygen, liquid nitrogen and liquefied petroleum gases), in bulk, in tank vehicles, from Hazlehurst, Miss., to points in Indiana. The purpose of this filing is to eliminate the gateways of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E175), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from River Falls, Ala., to points in Arkansas. The purpose of this filing is to eliminate the gateway of Vicksburg, Miss.

No. MC 107002 (Sub-No. E176), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, liquid, in bulk, in tank vehicles, from River Falls, Ala., to points in Texas. The purpose of this filing is to eliminate the gateways of Harrison and Jackson Counties, Miss.

No. MC 107002 (Sub-No. E177), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles (except hydrogen peroxide), from River Falls, Ala., to points in Oklahoma. The purpose of this filing is to eliminate the gateways of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E178), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except liquid hydrogen, liquid

oxygen, liquid nitrogen and liquefied petroleum gases), in bulk, in tank vehicles, from Hazlehurst, Miss., to points in Missouri. The purpose of this filing is to eliminate the gateways of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E179), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except liquid hydrogen, liquid oxygen, liquid nitrogen and liquefied petroleum gases), in bulk, in tank vehicles, from Hazlehurst, Miss., to points in Kansas. The purpose of this filing is to eliminate the gateways of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E180), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except liquid hydrogen, liquid oxygen, liquid nitrogen and liquefied petroleum gases), in bulk, in tank vehicles, from Hazlehurst, Miss., to points in Illinois. The purpose of this filing is to eliminate the gateways of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E181), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid caustic soda*, in bulk, in tank vehicles, from McIntosh, Ala., to points in West Virginia. The purpose of this filing is to eliminate the gateways of Harrison and Jackson Counties, Miss., and the plant site of Monsanto Chemical Company in Anniston, Ala.

No. MC 107002 (Sub-No. E182), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid caustic soda*, in bulk, in tank vehicles, from McIntosh, Ala., to points in South Carolina. The purpose of this filing is to eliminate the gateways of Harrison and Jackson Counties, Miss.

No. MC 107002 (Sub-No. E183), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from River Falls, Ala., to points in Illinois (except points in the East St. Louis Commercial

Zone). The purpose of this filing is to eliminate the gateway of Arlington, Tenn.

No. MC 107002 (Sub-No. E184), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid caustic soda*, in bulk, in tank vehicles, from McIntosh, Ala., to points in Louisiana. The purpose of this filing is to eliminate the gateways of Harrison and Jackson, Miss.

No. MC 107002 (Sub-No. E185), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid caustic soda*, in bulk, in tank vehicles, from McIntosh, Ala., to points in Texas. The purpose of this filing is to eliminate the gateway of Hattiesburg, Miss.

No. MC 107002 (Sub-No. E186), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid caustic soda*, in bulk, in tank vehicles, from McIntosh, Ala., to points in Oklahoma. The purpose of this filing is to eliminate the gateway of Hattiesburg, Miss.

No. MC 107002 (Sub-No. E187), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, liquid, in bulk, in tank vehicles, from River Falls, Ala., to points in Missouri. The purpose of this filing is to eliminate the gateway of Collierville, Tenn.

No. MC 107002 (Sub-No. E188), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from River Falls, Ala., to points in Iowa. The purpose of this filing is to eliminate the gateway of Arlington, Tenn.

No. MC 107002 (Sub-No. E189), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from River Falls, Ala., to points in Illinois (except points in the East St. Louis Commercial

Zone). The purpose of this filing is to eliminate the gateway of Arlington, Tenn.

No. MC 107002 (Sub-No. E190), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, liquid, in bulk, in tank vehicles, from River Falls, Ala., to points in Kansas. The purpose of this filing is to eliminate the gateway of Collierville, Tenn.

No. MC 107002 (Sub-No. E191), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except petrochemicals), in bulk, in tank vehicles, from River Falls, Ala., to points in Indiana. The purpose of this filing is to eliminate the gateway of Decatur, Ala.

No. MC 107002 (Sub-No. E192), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Vegetable oil*, in bulk, in tank vehicles, from points in Alabama to points in Arkansas. The purpose of this filing is to eliminate the gateway of Memphis, Tenn.

No. MC 107002 (Sub-No. E193), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, from River Falls, Ala., to points in Minnesota. The purpose of this filing is to eliminate the gateway of Cedartown, Ga.

No. MC 107002 (Sub-No. E194), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 39205, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except liquid hydrogen, liquid oxygen, liquid nitrogen and liquefied petroleum gases), in bulk, in tank vehicles, from Hazlehurst, Miss., to points in Michigan. The purpose of this filing is to eliminate the gateways of Barfield, Ark., and points within 10 miles thereof.

No. MC 107002 (Sub-No. E195), filed May 13, 1974. Applicant: MILLER

TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle over irregular routes, transporting: *Liquid caustic soda*, in bulk, in tank vehicles, from McIntosh, Ala., to points in Arkansas. The purpose of this filing is to eliminate the gateway of Hattiesburg, Miss.

No. MC 107002 (Sub-No. E196), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: H. D. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *liquid chemicals* (except liquid caustic soda), in bulk, in tank vehicles, from the site of the Geigg Chemical Corporation plant, near McIntosh, Ala., to points in Illinois, Indiana, Kansas, Missouri (Collierville, Tenn.); Kentucky (Collierville, Tenn.); Iowa, Michigan, Wisconsin (Barfield, Ark., and points within 10 miles thereof); and Foley and Port St. Joe, Fla. (Harrison and Jackson Counties, Miss.); (2) *liquid caustic soda*, in bulk, in tank vehicles, from the site of the Geigg Chemical Corporation plant, near McIntosh, Ala., to points in Illinois, Indiana, Kansas, Missouri (Collierville, Tenn., and Louisville, Miss.); Kentucky (Decatur, Ala., and Louisville, Miss.); Iowa, Michigan, and Wisconsin (Louisville, Miss., and Barfield, Ark., and points within 10 miles thereof); and (3) *liquid chemicals*, in bulk, in tank vehicles, from the site of the Geigg Chemical Corporation plant near McIntosh, Ala., to points in Minnesota (Cedartown, Ga.); Oklahoma, Texas (Hattiesburg, Miss.); West Virginia (Harrison and Jackson Counties, Miss., and the plant site of Monsanto Chemical Company, in Anniston, Ala.); and Kingsport, Tenn. (Hattiesburg, Miss.). Restricted against the transportation of liquid hydrogen, liquid oxygen and liquid nitrogen to points in Iowa, Michigan, Minnesota, and Wisconsin; petroleum chemicals to those points in Kentucky on, south and east of a line beginning at the Kentucky-Tennessee State line and extending along U.S. Highway 41 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction U.S. Highway 431, thence along U.S. Highway 431 to the Kentucky-Illinois State line, and liquefied petroleum gases to points in West Virginia. The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

No. MC 109478 (Sub-No. E32) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER January 22, 1975. Applicant: WORSTER MOTOR LINES, INC., Gay Rd., P.O. Box 110, North East, Pa. 16428. Applicant's representative: Joseph F. MacKrell, 23 W. 10th St., Erie, Pa. 16501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Wine*, in bulk, in tank vehicles, from Chicago, Ill., to points in Massachusetts, Connecticut, Rhode



Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, and the District of Columbia. Restriction: The operating rights granted herein shall be subject to the restriction that such rights which are in any way duplicative of the operating rights of James H. Powers, Inc., shall be cancelled in the event the latter carrier or any portion of the operating rights which duplicate those of the above-named carrier should subsequently come under control of any person or corporation other than Worster-Towa, or persons in control of the latter. The purpose of this filing is to eliminate the gateway of Westfield, N.Y. The purpose of this correction is to clarify the gateway to be eliminated.

No. MC 109478 (Sub-No. E33) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER January 22, 1975. Applicant: WORSTER MOTOR LINES, INC., Gay Rd., P.O. Box 110, North East, Pa. 16428. Applicant's representative: Joseph F. MacKrell, 23 West Tenth St., Erie, Pa. 16501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wine*, in bulk, in tank vehicles, from Boston and Waban, Mass., Jersey City, N.J., and New Jersey points within 25 miles thereof, all points in that part of New York on, south and west of a line beginning at Lake Ontario extending along New York Highway 13 to junction U.S. Highway 11 near Pulaski, and thence along U.S. Highway 11 to the New York-Pennsylvania State line, Geneva, Ohio, and Erie, North East and Philadelphia, Pa., to St. Paul, Minn. The purpose of this filing is to eliminate the gateways of Brocton, Westfield, and Fredonia, N.Y. The purpose of this correction is to clarify the gateways to be eliminated.

No. MC 111401 (Sub-No. E91), filed May 12, 1974. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petrochemicals*, in bulk, in tank vehicles, from points in Texas on, north and east of a line beginning at the Texas-Oklahoma State line and extending along U.S. Highway 281 to its junction with Interstate Highway 20, thence along Interstate Highway 20 and west of U.S. Highway 271 to points in Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and Washington, D.C. The purpose of this filing is to eliminate the gateway of Longview, Tex.

No. MC 111401 (Sub-No. E92), filed May 12, 1974. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

routes, transporting: *Petrochemicals*, in bulk, in tank vehicles, from those points in Texas on and south of a line beginning at the Texas-Louisiana State line and extending along Interstate Highway 20 to its junction with U.S. Highway 83, thence along U.S. Highway 83 to its junction with U.S. Highway 59, thence along U.S. Highway 59 to its junction with Interstate Highway 10, thence along Interstate Highway 10 to the Texas-Louisiana State line to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, and Washington, D.C. (MC-111401 Sub 390). The purpose of this filing is to eliminate the gateway of Longview, Tex.

No. MC 111401 (Sub-No. E93), filed May 12, 1974. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petrochemicals*, in bulk, in tank vehicles, from points in Texas on and east of Texas Highway 288 and on and south of U.S. Highway 90 to points in the United States except points in Washington, Oregon, California, Colorado, New Mexico, Texas, Oklahoma, Kansas, Nebraska, Minnesota, Wisconsin, Michigan, Louisiana, Mississippi, Alabama, Georgia, South Carolina, Florida, and those in Arkansas east of U.S. Highway 167 and south of U.S. Highway 79. The purpose of this filing is to eliminate the gateway of Longview, Tex.

No. MC 111401 (Sub-No. E95), filed May 12, 1974. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petrochemicals*, in bulk, in tank vehicles, from points in Texas on and north of U.S. Highway 66 to points in the United States on, south or east of a line beginning at the coast of the Gulf of Mexico and extending along the Texas-Louisiana State line to Interstate Highway 20 near Shreveport, La., and extending along Interstate Highway 20 to its junction with Interstate Highway 85 at Atlanta, Ga., thence along Interstate Highway 85 to its junction with Interstate Highway 77 near Charlotte, N.C., thence along Interstate Highway 77 to its junction with Interstate Highway 81 near Wytheville, Va., thence along Interstate Highway 81 to the United States-Canada International Boundary line, thence along the United States-Canada International Boundary line to the Atlantic Coast. The purpose of this filing is to eliminate the gateway of Longview, Tex.

No. MC 113908 (Sub-No. E145), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo.

65804. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Charlotte, N.C., to points in California and Washington, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 113908 (Sub-No. E148), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Bailey, Belding, and Fremont, Mich., to points in California, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of St. Paul, Minn.

No. MC 113908 (Sub-No. E149), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Bailey, Belding, and Fremont, Mich., to points in California, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Rogers, Ark.

No. MC 113908 (Sub-No. E150), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Chicago, Ill., to points in California, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Oklahoma City, Okla.

No. MC 113908 (Sub-No. E151), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Chicago, Ill., to points in California, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Denver, Colo.

No. MC 113908 (Sub-No. E152), filed December 5, 1974. Applicant: ERICKSON

TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Marionville, Nixa, and Kansas City, Mo., to points in California, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Denver, Colo.

No. MC 113908 (Sub-No. E156), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Houston, Dallas and Paris, Tex., to points in Missouri, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Rogers, Ark.

No. MC 113908 (Sub-No. E161), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Chicago, Ill., to points in Missouri on, south and west of Missouri Highway 39 and U.S. Highway 54 and Texas, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Rogers, Ark.

No. MC 113908 (Sub-No. E163), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Bailey, Belding, and Fremont, Mich., to points in California and Washington, with no transportation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 113908 (Sub-No. E165), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Chicago, Ill., to points in California, with no transportation for compensation on return except as otherwise authorized.

The purpose of this filing is to eliminate the gateway of Marionville, Mo.

No. MC 113908 (Sub-No. E166), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Marionville, Nixa, and Kansas City, Mo., to points in California, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Belding, Mich.

No. MC 113908 (Sub-No. E168), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Dallas, Houston, and Paris, Tex., to points in Illinois and Michigan, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Nixa, Mo.

No. MC 113908 (Sub-No. E169), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Dallas, Houston, or Paris, Tex., to points in California, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Oklahoma City, Okla.

No. MC 113908 (Sub-No. E171), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Lyndonville and North Rose, N.Y., to points in California and Washington, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 113908 (Sub-No. E173), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a

*common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Wichita, Kans., to points in Michigan, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Nixa, Mo.

No. MC 115841 (Sub-No. E119), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except frozen fruits, frozen berries, and frozen vegetables), and *frozen fruits*, *frozen berries*, and *frozen vegetables*, when moving in mixed loads with frozen foods, from the facilities of Town Square Foods, Inc., at Lake City, Pa., to points in Oklahoma and Texas. The purpose of this filing is to eliminate the gateway of Memphis, Tenn.

No. MC 115841 (Sub-No. E120), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except meats, meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 and except frozen fruits, frozen berries, and frozen vegetables), and *frozen fruits*, *frozen berries*, and *frozen vegetables*, when moving in mixed loads with frozen foods, from Kansas City, Mo.-Kans., to New Orleans, La., points in Delaware, and points in Mississippi on and east of Interstate Highway 55. The purpose of this filing is to eliminate the gateway of Dyersburg, Tenn.

No. MC 115841 (Sub-No. E131), filed June 4, 1975. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except frozen fruits, frozen berries, and frozen vegetables), and *frozen fruits*, *frozen berries*, and *frozen vegetables*, when moving in mixed loads with frozen foods, in vehicles equipped with mechanical refrigeration, from Birmingham, Foley, Mobile, Montgomery, and Brundidge, Ala., to points in Delaware, Iowa, Missouri and Oklahoma, and points in Kansas and Nebraska on and east of U.S. Highway 81. The purpose of this filing is to eliminate the gateways of Nashville and Memphis, Tenn.



## NOTICES

No. MC 119774 (Sub-No. E307), filed March 27, 1975. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan F. Killingsworth (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Plastic pipe, from Bensenville, Ill., on the one hand, and, on the other, points in Nevada on and south of U.S. Highway 40 from the California-Nevada State line to junction U.S. Highway 95, thence along U.S. Highway 95 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Nevada-Utah State line; and points in California. The purpose of this filing is to eliminate the gateway of Burns Flat, Okla.

No. MC 119988 (Sub-No. E122), filed June 3, 1974. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, Tex. 75902. Applicant's representative: Joe E. Kinard, 201 W. Commerce St., Dallas, Tex. 75208. Authority sought to operate as a common carrier, by motor vehicles, over irregular routes, transporting: (1) Printed advertising matter, and (2) newspaper supplements otherwise exempt from economic regulation under Section 203(b) (7) of the Act when transported in mixed loads with printed advertising matter, from points in that part of Texas on and bounded by a line beginning at the Texas-Oklahoma State line and extending along U.S. Highway 81 to junction U.S. Highway 181, thence along U.S. Highway 181 to junction Texas Highway 35, thence along Texas Highway 35 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction U.S. Highway 259, thence along U.S. Highway 259 to the Texas-Oklahoma State line, thence along the Texas-Oklahoma State line to point of origin, to points in West Virginia on and north of U.S. Highway 33. The purpose of this filing is to eliminate the gateway of Montgomery County, Kans.

No. MC 119988 (Sub-No. E123), filed June 3, 1974. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, Tex. 75902. Applicant's representative: Joe E. Kinard, 201 W. Commerce Street, Dallas, Tex. 75208. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Printed advertising matter, and (2) newspaper supplements otherwise exempt from economic regulation under Section 203(b) (7) of the Act when transported in mixed loads with printed advertising matter, from points in that part of Texas on and bounded by a line beginning at the Texas-Oklahoma State line and extending along U.S. Highway 81 to junction U.S. Highway 181, thence along U.S. Highway 181 to junction Texas Highway 35, thence along Texas Highway 35 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction U.S. Highway 259, thence along U.S. Highway 259 to the Texas-Oklahoma State line, thence along the Texas-Oklahoma State line, to point of origin, to points in Maryland. The pur-

pose of this filing is to eliminate the gateway of Montgomery County, Kans.

No. MC 123685 (Sub-No. E5), filed May 15, 1974. Applicant: PEOPLES CARTAGE, INC., 8045 Navarre Rd. SW., Massillon, Ohio 44646. Applicant's representative: James W. Muldoon (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Oil field equipment and supplies, between points in West Virginia on and west of U.S. Highway 21, on the one hand, and,

on the other, points in Pennsylvania, and points in Ohio on and east of a line beginning at the Ohio-West Virginia State line, thence along Ohio Highway 60 to junction U.S. Highway 250, thence along U.S. Highway 250 to Lake Erie. The purpose of this filing is to eliminate the gateway of Parkersburg, W. Va.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc. 75-14201 Filed 5-29-75; 8:45 am]

## TEMPORARY AUTHORITY TERMINATION

[Notice No. 52]

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
Fiscus Motor Freight, Inc., MC-134329 Sub-2	MC-134329 Sub-3	Aug. 21, 1974
Schiano Transportation, Inc., MC-131777 Sub-31	MC-131777 Sub-37	Aug. 23, 1974
Hams Express, Inc., MC-134958 Sub-5	MC-134958 Sub-7	Aug. 2, 1974
Safe Transport, Inc., MC-135643 Sub-5	MC-135643 Sub-4	Aug. 1, 1974
Jackson and Johnson, Inc., MC-134342 Sub-1	MC-134342	Aug. 28, 1974
D.b.a. Stremack Service, MC-136027 Sub-1	MC-136027 Sub-2	Aug. 27, 1974
Aero Liquid Transit, Inc., MC-136713 Sub-3	MC-136713 Sub-4	Aug. 23, 1974
Tromagn Corp., MC-138127 Sub-1	MC-138127 Sub-2	Aug. 28, 1974
Cement Transport, Inc., MC-131946 Sub-1	MC-138466	Do.
A. C. White Storage Co., MC-138540 Sub-1	MC-138466 Sub-2	Aug. 29, 1974
Medial Delivery Service, Inc., MC-138848	MC-138468 Sub-1	Aug. 27, 1974
Robert Neubauer, MC-138965 Sub-1	MC-138965 Sub-2	Aug. 30, 1974
JFS Transportation, MC-139043	MC-13643 Sub-1	Aug. 2, 1974
Rite-Way Distributors, Inc., MC-139419 S.	MC-138949 Sub-1	June 11, 1974
D.b.a. Dadds Service Co., MC-135748 Sub-1	MC-138748 Sub-2	Do.
CMX, Inc., MC-135575 Sub-1	MC-138678 Sub-2	June 26, 1974
Bay Trucking & Leasing Ltd., MC-138608	MC-138608 Sub-1	June 12, 1974
Russell R. Brown, d.b.a. Brown Transport, MC-138327 Sub-1	MC-134599 Sub-40	June 13, 1974
Interstate Contract Carrier, MC-134599 Sub-36	MC-138988 Sub-26	June 12, 1974
JO/KEL Inc., MC-128088 Sub-22, Sub-23	MC-118408 Sub-31	June 27, 1974
Union Trucking Co., MC-118408 Sub-36, Sub-38, Sub-39	MC-118806 Sub-27	June 11, 1974
Arnold Bros. Transport, Ltd., MC-118806 Sub-32, Sub-33	MC-115975 Sub-19	June 20, 1974
C. H. W. Transport Service, Inc., MC-115975 Sub-16, Sub-17, Sub-18	MC-113498 Sub-28	June 13, 1974
Erickson Transport Corp., MC-113498 Sub-29, Sub-274	MC-10462 Sub-21	June 12, 1974
Lumber Transport, Inc., MC-112570 Sub-22	MC-112570 Sub-22	June 11, 1974
Turnator Courier Corp., MC-112595 Sub-19	MC-112595 Sub-54	June 27, 1974
Ford Brothers, Inc., MC-112595 Sub-52	MC-112107 Sub-6	June 12, 1974
New England Motor Freight, Inc., MC-112107 Sub-5	MC-109449 Sub-17	June 13, 1974
Kulak Bros. Transfer, Inc., MC-109449 Sub-16	MC-106398 Sub-464	June 26, 1974
National Trailers Convoy, MC-106398 Sub-701		

[SEAL]

JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc. 75-14032 Filed 5-29-75; 8:45 am]

[Notice No. 59]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

May 21, 1975.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a (a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the

protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

## MOTOR CARRIERS OF PROPERTY

No. MC 85374 (Sub-No. 8TA), filed May 12, 1975. Applicant: FERRO TRUCKING, INC., 134 Washington Ave., Belleville, N.J. 07109. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Food products, animal feeds, and materials used in the manufacture, sale, and distribution of such commodities (except

commodities in bulk, in tank vehicles), in vehicles equipped to provide protection from heat and cold, between Hillside, N.J., on the one hand, and, on the other, points in Rockland and Orange Counties, N.Y., for 180 days. Supporting shipper: Kraft Foods Division of Kraftco Corporation, 200 Sheffield St., Mountainside, N.J. 07092. Send protests to: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 3 Clinton St., Newark, N.J. 07102.

No. MC 95376 (Sub-No. 9TA), filed May 12, 1975. Applicant: McVEY TRUCKING, INC., R.R. 1, Oakwood, Ill. 61858. Applicant's representative: Clyde Meachum, 41 on The Mall, Danville, Ill. 61832. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Concrete coping for swimming pools, from Urbana, Ill., to all points in Indiana, Iowa, Wisconsin, Ohio, Kentucky, Tennessee, Michigan, Missouri, Minnesota, Florida, New York, and Texas, for 180 days. Supporting shipper: Kinematics, Ltd., 1108 N. Cunningham, Urbana, Ill. 61801. Send protests to: District Supervisor Robert G. Anderson, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 S. Dearborn St., Rm. 1086, Chicago, Ill. 60604.

No. MC 95876 (Sub-No. 173TA), filed May 9, 1975. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, P.O. Box 56301, St. Cloud, Minn. 56301. Applicant's representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Granite, marble, slate and stone, from points in Llano County, Tex., to points in Alabama, Arkansas, Florida, Georgia, Kansas, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, and South Carolina; and (2) Granite, marble, slate and stone, from points in Gillespie County, Tex., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, and Wisconsin, for 180 days. Supporting shippers: Premier Granite Quarries, P.O. Box 847, Llano, Tex. 78643; Red Granite Division—Dezendorf Corp. 909 East 49½ Street, Austin, Tex. 78751. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operation, 414 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 106674 (Sub-No. 163TA), filed May 13, 1975. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Jerry L. Johnson (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Lead and lead alloys (except commodities

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which because of size or weight require the use of special transportation equipment), from Glover, Mo., to points in California, Florida, Georgia, Illinois, Indiana, Louisiana, Massachusetts, Minnesota, New Jersey, New York, Pennsylvania, Texas, West Virginia, and Wisconsin, for 180 days. Supporting shipper: American Smelting and Refining Company, Suite 2506, 720 Olive Street, St. Louis, Mo. 63101. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne Street, Rm. 204, Fort Wayne, Ind. 46802.

No. MC 111936 (Sub-No. 13TA), filed May 13, 1975. Applicant: MURROW'S TRANSFER, INCORPORATED, Box 4095, High Point, N.C. 27263. Applicant's representative: Darrell Peace, P.O. Box 4095, High Point, N.C. 27263. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Citrus pulp, from points in Florida to points in North Carolina on and between Highway N.C. 16 and Highway U.S. 301, for 180 days. Supporting shippers: Davis Feed and Supply, Rte. 1, Randleman, N.C. 27317; Hinkle Milling Company, 110 Randolph, Thomasville, N.C. 27360; and W. A. Davis Milling Company, 126 S. Centennial, High Point, N.C. 27260. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 113388 (Sub-No. 108TA), filed May 13, 1975. Applicant: LESTER C. NEWTON TRUCKING CO., P.O. Box 618, Seaford, Del. 19973. Applicant's representative: Chester A. Zyblut, 1522 K St. NW., Washington, D.C. 20005. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Frozen food-stuff and (2) Commodities the transportation of which is partially exempt from regulation under the provisions of section 203(b) (6), of the Interstate Commerce Act, when moving in the same vehicle and at the same time with commodities described in (1) above, from Sumter, S.C., to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Pennsylvania, Virginia, Salisbury, Md., and Washington, D.C., for 180 days. Supporting shipper: Richard J. Lloyd, Manager-Transportation, Campbell Soup Company, Salisbury, Md. 21801. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 814-B Federal Building, Baltimore, Md. 21201.

No. MC 113908 (Sub-No. 342TA), filed May 13, 1975. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, P.O. Box 3180 Glenstone Sta., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Neutral spirits, distilled spirits, alcohol, fruit juice and fruit juice

concentrate, in bulk, from points in California, to Atlanta and Roberta, Ga. and Altus, Ark., for 180 days. Supporting shippers: Monarch Wine Company of Georgia, P.O. Box 6847, Atlanta, Ga. 30315 and Wiederkehr Wine Cellars, Inc., Altus, Ark. 72821. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 115331 (Sub-No. 393TA), filed May 9, 1975. Applicant: TRUCK TRANSPORT, INCORPORATED, 29 Clayton Hills Lane, St. Louis, Mo. 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Ave., E. St. Louis, Ill. 62201. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Charcoal, charcoal pellets, bagged, vermiculite (base for grill), in bags, charcoal lighter fluid, in cans, hickory chips, in bags, and fireplace logs (compressed sawdust, wax impregnated), from National City Cold Storage Warehouse, National City, Ill., to points in Arkansas, Indiana, Iowa, Kansas, Missouri, Minnesota, Nebraska, North Dakota, Oklahoma, South Dakota, and Wisconsin, for 180 days. Supporting shipper: The Kingsford Company, P.O. Box 1033, Louisville, Ky. 40201. Send protests to: District Supervisor, J. P. Werthmann, Interstate Commerce Commission, Bureau of Operation, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 117416 (Sub-No. 50TA), filed May 13, 1975. Applicant: NEWMAN AND PEMBERTON CORPORATION, 2007 University Avenue NW., Knoxville, Tenn. 37921. Applicant's representative: Herbert Alan Dubin, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such merchandise as is dealt in by wholesale, retail, and chain grocery food business houses (except in bulk, or frozen or fresh fruits and vegetables), from the plantsites and storage and warehouse facilities of The Clorox Company located at or near Atlanta, Ga., to points in Kentucky and Tennessee, for 180 days. Supporting shipper: The Clorox Company, 7901 Oakport Street, Oakland, Calif. 94621. Send protests to: Joe Jo. Tane, District Supervisor, Bureau of Operations, Interstate Commerce Commission, A-422 Federal Building, 801 Broadway, Nashville, Tenn. 37203.

No. MC 120098 (Sub-No. 27TA), filed May 2, 1975. Applicant: UINTAH FREIGHTWAYS, 1030 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: William S. Richards, 1515 Walker Bank Bldg., P.O. Box 2465, Salt Lake City, Utah 84110. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) Between Salt Lake City, Utah, and Canon City, Colo., serving all intermediate points on U.S.



Highway 50 in Colorado: From Salt Lake City, Utah over Interstate Highway 15 to junction U.S. Highway 50, thence over U.S. Highway 50 to Canon City, Colo., and return over the same route, for 180 days. Supporting shipper: Supported by 91 shippers which may be viewed at the Office of the Secretary, Interstate Commerce Commission, Bureau of Operations, Washington, D.C. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 124078 (Sub-No. 648TA), filed April 23, 1975. Applicant: SCHWERTMAN TRUCKING COMPANY, P.O. Box 1601, 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Mineral spirits*, in bulk, in tank vehicles, between Douglasville, Ga., and Port Charlotte, Fla., for 180 days. Supporting shipper: Safety-Kleen Corporation, 16325 W. Ryerson Road, New Berlin, Wis. 53151. Send protests to: John E. Ryden, Bureau of Operations, Interstate Commerce Commission, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 124078 (Sub-No. 649TA), filed April 29, 1975. Applicant: SCHWERTMAN TRUCKING COMPANY, P.O. Box 1601, 611 South 28th Street, Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dry soybean meal and hulls*, in bulk, from Logansport, Ind., to points in Kentucky and Wisconsin, for 180 days. Supporting shipper: Krause Milling Company, P.O. Box 1156, Milwaukee, Wis. 53201. Send protests to: John E. Ryden, Bureau of Operations, Interstate Commerce Commission, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 125777 (Sub-No. 157TA), filed May 5, 1975. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, Ind. 46403. Applicant's representative: Donald B. Levine, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Coal*, from the Mine of United Coal Corporation located at or near Inola, Okla., (a) to points in Oklahoma for continuing movement via water or rail, and (b) to points in Neosho and Wilson Counties, Kans., and Clebourne and Dallas, Tex., for 180 days. Supporting shipper: United Coal Corporation, 4321 East 51st Street, Tulsa, Okla. 74315. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne Street, Rm. 204, Fort Wayne, Ind. 46802.

No. MC 126736 (Sub-No. 73TA), filed May 12, 1975. Applicant: PETROLEUM CARRIER CORPORATION OF FLORIDA, 155 East 21st St., P.O. Box 1559,

Jacksonville, Fla. 32201. Applicant's representative: L. H. Blow, 155 East 21st St., Jacksonville, Fla. 32201. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid feed ingredients*, in bulk, in tank vehicles, from Memphis, Tenn., to Jacksonville, Fla., for subsequent movement by water, for 180 days. Supporting shipper: The Procter & Gamble Distributing Company, P.O. Box 599, Cincinnati, Ohio 45201. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 127064 (Sub-No. 5TA), filed May 12, 1975. Applicant: E. J. PETER TRUCKING, INC., Route 2 Box 21, Athens, Wis. 54411. Applicant's representative: F. H. Kroeger, 1745 University Ave., St. Paul, Minn. 55104. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Soybean meal and linseed meal*, in bulk, from Red Wing, Minn., to points in Wisconsin, for 180 days. Supporting shipper: Archer Daniels Midland Company, Box 74, Red Wing, Minn. 55066. Send protests to: Barney L. Hardin, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 127187 (Sub-No. 14TA), filed May 9, 1975. Applicant: FLOYD DUE-NOW, INC., 1728 Industrial Park Blvd., Fergus Falls, Minn. 56537. Applicant's representative: Charles E. Johnson, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer ingredients*, from ports of entry on the United States-Canada Boundary line located in North Dakota, Montana, and Minnesota, to points in Iowa, North Dakota, South Dakota, Minnesota, and Montana, for 180 days. Supporting shippers: East Man Feeds, Box 1251, Highway 12 North, Steinbach, Manitoba, Canada ROA 2A0; Agra By-Products, 1601 7th Avenue North, Fargo, N. Dak. 58102. Send protests to: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 127306 (Sub-No. 7TA), filed May 12, 1975. Applicant: M. W. McCURDY & CO., INC., 401 Nora's Lane, Houston, Tex. 77009. Applicant's representative: Joe G. Fender, 711 Fannin, Suite 802, Houston, Tex. 77002. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Bananas*, from Galveston, Tex., to points in Arizona, California, Colorado, Idaho, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Utah, for 180 days. Supporting shipper: Del Monte Banana Company, 1201 Brickell Ave., Miami, Fla. Send protests to: District Supervisor John Mensing, Interstate Commerce Commission, Bu-

reau of Operations, 515 Rusk, Room 8610, Houston, Tex. 77002.

No. MC 128297 (Sub-No. 5TA), filed May 12, 1975. Applicant: S & T MOTORS, INC., 6831 S. Kostner Ave., Chicago, Ill. 60629. Applicant's representative: Sam Scoppo (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *general commodities* (except Classes A and B explosives and commodities in bulk), between Burns Harbor, Ind., on the one hand, and, on the other, points in Cook, Du Page, Kane, Kankakee, Lake, and Will Counties, Ill., restricted to the transportation of traffic having a prior or subsequent movement by water, for 180 days. Supporting shippers: Marshall Field & Company, 111 N. State Street, Chicago, Ill. 60602; All Transport, Inc., 300 S. Wacker Drive, Chicago, Ill. 60604; and Tri-State Terminals, Inc., P.O. Box 398, Portage, Ind. 46368. Send protests to: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 128988 (Sub-No. 61TA), filed May 12, 1975. Applicant: JO/KEL, INC., 159 South Seventh Avenue, P.O. Box 1249, City of Industry, Calif. 91749. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Lamps and related parts*, from the facilities of Westinghouse Electric Corporation at or near Fairmont, W. Va., to points in Arizona, California, Nevada, Oregon, Washington, and Utah, restricted against the transportation of commodities in bulk and those which by reason of size or weight require the use of special equipment, and further restricted to a transportation service to be performed under a contract with Westinghouse Electric Corporation of Pittsburgh, Pa., for 180 days. Supporting shipper: Westinghouse Electric Corporation, Rd. #5 Leger Road, North Huntingdon, Pa. 15642. Send protests to: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 133000 (Sub-No. 12TA), filed May 12, 1975. Applicant: DIAMOND SAND & STONE CO., 155 East 21st Street, Box 4687, 32206, Jacksonville, Fla. 32201. Applicant's representative: L. H. Blow (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Mineral sand and ore*, in bulk, between points in Clay and Duval Counties, Fla., for 180 days. Supporting shipper: American Cyanamid Company, Bound Brook, N.J. 08805. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 135305 (Sub-No. 2TA), filed April 7, 1975. Applicant: SCHREIBER FREIGHT LINES, INC., 220 Grant Street, Pittsburgh, Pa. 15219. Applicant's representative: Sheldon M. Krupnick (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel, glass, plastic articles and machinery* restricted to flat or open top equipment, and also restricted to shipments moving on bills of lading of Central States Forwarding Corporation and Master Forwarding Corp. all points within the freight forwarding authorities of Central States Forwarding Corporation and Master Forwarding Corp. as follows: Master Forwarding Corp.: (1) From points in Connecticut, Massachusetts, New Jersey, New York, Kentucky, Illinois, and Missouri, to points in Indiana, Tennessee, Illinois, Wisconsin, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Texas, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, and Colorado; (2) between points in Massachusetts, Connecticut, Pennsylvania (except Philadelphia), New Jersey (except Bergen, Essex, Hudson, Middlesex, Passaic, and Union Counties), and Rockland, Suffolk, Orange, Putnam, Ulster, Dutchess, and Sullivan Counties, N.Y., on the one hand, and, on the other, points in Kentucky, Michigan, and Ohio; (3) between points in Michigan and Ohio, on the one hand, and, on the other points in Maryland (except Baltimore), and Delaware (except Wilmington); (4) from Indianapolis to points in Massachusetts, Connecticut, Delaware (except Wilmington), Pennsylvania (except Philadelphia), New Jersey (except Bergen, Essex, Hudson, Middlesex, Passaic, and Union Counties), and Suffolk County, N.Y.; (5) From Cambridge, Ind., to points in Massachusetts, Connecticut, and Suffolk County, N.Y.; and (6) from points in Maine, Maryland, New Hampshire, Pennsylvania, Rhode Island, and Vermont, to points in Louisiana, Tennessee, and Texas. Central States Forwarding Corporation between Baltimore, Md., Philadelphia, Pa., Wilmington, Del., and D.C., and points in Bronx, Kings, Nassau, New York, Queens, Richmond, and Westchester Counties, N.Y., Bergen, Essex, Hudson, Middlesex, Passaic, and Union Counties, N.J., Cook, Du Page, Kane, Land, and Will Counties, Ill., and Lake County, Ind., on the one hand, and, on the other, points in Colorado, Illinois, Indiana, Kentucky, Michigan, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, and Wisconsin, for 180 days. Supporting shippers: Master Forwarding Corp., 117 Cottonwood Court, Coraopolis, Pa. 15108, and Central States Forwarding Corporation (same address as applicant). Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 135945 (Sub-No. 2TA), filed May 12, 1975. Applicant: BOB HILDEBRANDT, Prescott, Wis. 54021. Applicant's representative: F. H. Kroeger, 1745 University Ave., St. Paul, Minn.

55104. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Soybean meal and linseed meal*, in bulk, from Red Wing, Minn., to points in Wisconsin, for 180 days. Supporting shipper: Archer Daniels Midland Company, Box 74, Red Wing, Minn. 55066. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 136211 (Sub-No. 30TA), filed May 13, 1975. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., 210 St. Mary's Drive, Suite G, P.O. Box 5067, Oxnard, Calif. 93030. Applicant's representative: Max G. Morgan, Suite 223 Ciudad Building, Oklahoma City, Okla. 73112. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *New furniture, furnishing, and appliances* (restricted against the transportation of shipment to retail or commercial enterprises) (1) from the facilities of M. Shalvitz & Sons located at Baltimore, Md.; to points in (a) Franklin, Cumberland, Dauphin, Adams, Lebanon, Lancaster, and York Counties, Pa.; (b) New Castle, Kent, and Sussex Counties, Del.; (c) Fairfax, Loudoun, Clarke, Frederick, Shenandoah, Page, Rappahannock, Culpeper, Orange, Spotsylvania, Carolina, Essex, Richmond, Northumberland, Westmoreland, King George, Stafford, and Prince William, Counties, Va.; (d) the District of Columbia; and Cumberland, Gloucester, and Salem Counties, N.J.; and (2) from the facilities of Waldheim's Furniture located at Milwaukee, Wis. to points in McHenry and Lake Counties, Ill., for 180 days. Supporting shipper: M. Shalvitz & Sons, 6415 Baltimore National Pike, Baltimore, Md. and Waldheim's Furniture, 857 N. Plankinton Avenue, Milwaukee, Wis. 53203. Send protests to: District Supervisor, Walter W. Strakosch, Interstate Commerce Commission, Bureau of Operations, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 136899 (Sub-No. 13TA), filed May 9, 1975. Applicant: HIGGINS TRANSPORTATION LTD., 824 Valley View Dr., P.O. Box 192, Richland Center, Wis. 53581. Applicant's representative: Gary A. Anderson (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail, wholesale, and chain grocery food business houses (except commodities in bulk) from Hopkins, Minn., to Richland Center, Wis., for 180 days. Supporting shipper: Carroll, Inc. 120 S. Jefferson St. Richland Center, Wis. 53581. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 138054 (Sub-No. 8TA), filed May 9, 1975. Applicant: CONDOR CONTRACT CARRIERS, INC., P.O. Box 1354,

Garden Grove, Calif. 92642. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Ornamental iron, plastic articles, vents, ventilators, ceiling grids, shutters, louvers, and parts and accessories* used in the manufacturing, sale and installation of the commodities named above (except commodities in bulk and those which by reason of size or weight require the use special equipment), (1) between the facilities of Leslie-Locke, Division of Questor, located at or near Lodi, Ohio; Franklin Park and Mt. Carroll, Ill.; Tucker and Tifton, Ga.; Ft. Worth, Tex. and Madera, Calif.; and (2) from the plant site of Leslie-Locke, Division of Questor, at Ft. Worth, Tex., to points in Arizona and New Mexico, under contract with Leslie-Locke, Division of Questor, for 180 days. Supporting shipper: Leslie-Locke, Division of Questor, Ohio Street, Lodi, Ohio 44254. Send protests to: Philip Yallowitz, District Supervisor, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 138126 (Sub-No. 3TA), filed May 13, 1975. Applicant: WILLIAMS REFRIGERATED EXPRESS, INC., P.O. Box 47, Old Denton Rd., Federalsburg, Md. 21632. Applicant's representative: Chester A. Zyblut, 1522 K St. NW., Washington, D.C. 20005. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Frozen foodstuff* and (2) *commodities* the transportation of which is partially exempt from regulation under the provisions of Sec. 203(b) (6), I.C.A., when moving in the same vehicle and at the same time with commodities described in (1) above, from Sumter, S.C., to points in Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Pennsylvania, Ohio, West Virginia, Virginia, and Salisbury, Md. Restriction: Restricted to partial pick-up of shipments originating at Salisbury, Md., as authorized in MC 138126 Sub 1TA, for 180 days. Supporting shipper: Richard J. Lloyd, Manager—Transportation, Campbell Soup Company, Salisbury, Md. 21801. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 814-B Federal Building, Baltimore, Md. 21201.

No. MC 138157 (Sub-No. 18TA), filed May 8, 1975. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., doing business as SOUTHWEST MOTOR FREIGHT, 4284, Mission Boulevard, Pomona, Calif. 91769. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting: *Wood products, plastic products, plastic products, toothpick dispensers, sporting goods and sporting goods accessories*, from Wilton, Maine, to points in the United States (except Alaska, Hawaii, Maine, Denver, Colo., Jacksonville and



Miami, Fla., San Francisco and Los Angeles, Calif., and Seattle, Wash.), for 180 days. Supporting shipper: Forster Mfg. Co., Inc., Wilton, Maine 04294. Send protests to: Phillip Yallowitz, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 140468 (Sub-No. 2TA), filed May 14, 1975. Applicant: DONALD R. BAJEMA AND GERALD O. BAJEMA, doing business as RIVERVIEW DIARY FARMS, 2777 Hillside Drive NW, Grand Rapids, Mich. 49504. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, other than in bulk, in vehicles equipped with mechanical refrigeration and the return of empty containers, from Lansing, Mich., on the one hand, and, on the other, to the customers of Sealtest Food Division of Kraftco Corporation in Lansing, Ill.; Valparaiso, Ind. and La Porte, Ind., for 180 days. Supporting shipper: Sealtest Foods, Division of Kraftco Corp., 2224 W. Willow, Lansing, Mich. 48917. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, Mich. 48933.

No. MC 140615 (Sub-No. 2TA), filed May 9, 1975. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1064, Wisconsin Rapids, Wis. 54494. Applicant's representative: Dennis C. Brown, P.O. Box 1064, Wisconsin Rapids, Wis. 54494. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unedible food products*, in vehicles equipped with mechanical refrigeration equipment, from Hainesport, N.J., to Peoria, Ill., Battle Creek, Mich., and Everson, Pa., for 180 days. Supporting shipper: Barney L. Hardin, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 140615 (Sub-No. 3TA), filed May 9, 1975. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1064, Wisconsin Rapids, Wis. 54494. Applicant's representative: Dennis C. Brown (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials (other than expanded)*, solid, lump, granules, pellets, powder, flake or liquid, from the plant-site and warehouse facilities of BASF Wyandotte Corporation at South Brunswick Township (Jamesburg), New Jersey and North Brunswick, N.J., to Albert Lea, Lester Prairie and Rockford, Minn.; Webster, S. Dak.; and Eau Claire, Elkhorn, Madison, Markesan, Pembine, and Stevens Point, Wis., for 180 days. Supporting shipper: BASF Wyandotte Corporation, 100 Cherry Hill Road, Parsippany, N.J. 07054. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Com-

mission, Bureau of Operations, 139 W. Wilson St., Rm. 202, Madison, Wis. 53703.

No. MC 140903 (Sub-No. 1TA), filed May 7, 1975. Applicant: DENNIS JIMISON CONSTRUCTION CO., INC., Highland Park Road, P.O. Box 1154, Glendive, Mont. 59330. Applicant's representative: John R. Davidson, Room 805, Midland Bank Bldg., Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, in bag and in bulk, from Salida, Colo., to points in Carter, Daniels, Powder River, Rosebud, Custer, Fallon, Wibaux, Prairie, Dawson, McCone, Richland, Sheridan, Roosevelt, and Valley Counties, Mont., and Bowman, Adams, Hettinger, Stark, Billings, Golden Valley, Dunn, McKenzie, Williams, Slope, and Divide Counties, N. Dak., for 180 days. Supporting shipper: L & E Enterprise, Inc., Cracker Box Rt., Glendive, Mont. 59330; Terry L. Dotson, 1408 East Ames, Glendive, Mont. 59330. Send protests to: Paul J. Labane, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 222, U.S. Post Office Bldg., Billings, Mont. 59101.

No. MC 140934 (Sub-No. 1TA), filed May 2, 1975. Applicant: WILLIAM E. MOROG, doing business as JONICK & CO., 2815 East Liberty Avenue, Vermillion, Ohio. 44089. Applicant's representative: Michael M. Briley, 300 Madison Avenue, Toledo, Ohio 43604. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Refractory materials*, (1) from the plantsite and facilities of BMI, Inc. (and its subsidiaries) located at or near Pedro, Ohio and South Webster, Ohio to points in the State of Pennsylvania, Indiana, Illinois, Michigan, West Virginia, Missouri, Wisconsin, and New York and the return of raw materials used in the manufacture of refractory materials, from points in Indiana, New York, Pennsylvania and Illinois; and (2) from the plantsite and facilities of BMI, Inc. (and its subsidiaries) located at or near S. Rockwood, Mich., to points in Ohio, Pennsylvania, and West Virginia, and the return of raw materials, used in the manufacture of refractory materials, from points in Ohio, for 180 days. Supporting shipper: BMI, Inc., P.O. Box 38, Pedro, Ohio. Send protests to: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 140945 TA, filed May 8, 1975. Applicant: JAMES W. CROWE, doing business as JAMES W. CROWE, 307 Brennan Road, Columbus, Ga. 31903. Applicant's representative: C. E. Walker, Suite 307 First National Bank Bldg., P.O. Box 1085, Columbus, Ga. 31902. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer, fertilizer materials, crop protection chemicals*, when shipped in vehicles with fertilizer and fertilizer material, farm seed and animal feed, in bags, containers

or in bulk, between points in Alabama, Florida, and Georgia, for 180 days. Supporting shipper: U. S. S. Agri-Chemicals, (Division of United States Steel Corp.), Title Building, 30 Pryor Street, P.O. Box 1683, Atlanta, Ga. 30301. Send protests to: William L. Scroggs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St. NW., Room 546, Atlanta, Ga. 30309.

No. MC 140946 TA, filed May 8, 1975. Applicant: TYSON EXPRESS, INC., 2210 West Oakland Drive, Springdale, Ark. 72764. Applicant's representative: John Maguire (same address as applicant). Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except in bulk), from Washington County, Ark. and Gibson County, Tenn., to points in the continental United States and (2) *materials, equipment and supplies* (except supplies in bulk) used in the manufacture and distribution of the commodities named in (1) above, from points in the United States, to Washington County, Ark. and Gibson County, Tenn., for 180 days. Supporting shipper: Tyson Foods, Inc., 2210 W. Oakland Drive, Springdale, Ark. 72764. Send protests to: William H. Land, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 140889 (Sub-No. 1TA), filed May 9, 1975. Applicant: FIVE STAR TRUCKING, INC., P.O. Box 20148, El Cajon, Calif. 92021. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *electric motors, electric welders, electric motor and welder parts, welding kits, welding supplies and accessories*, from Cleveland, Ohio, to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, under contract with The Lincoln Electric Company, for 180 days. Supporting shipper: The Lincoln Electric Company, 22801 St. Clair Avenue, Cleveland, Ohio 44117. Send protests to: Mr. Phillip Yallowitz, District Supervisor, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 140950 TA, filed May 13, 1975. Applicant: BROOKVILLE TRANSPORT, LIMITED, P.O. Box 2332, Station C, St. John, New Brunswick, Canada. Applicant's representative: Peter L. Murray, 30 Exchange St., Portland, Maine 04111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Limestone and limestone products*, including ground and agricultural limestone, in bulk, in dump vehicles, and in bags, from ports of entry on the United States-Canadian international boundary, at or near Fort Kent, Fort Fairfield, Mars Hill, Houlton, and Calais, Maine, to

points in Maine, for 90 days. Supporting shipper: Brookville Manufacturing Company, Limited, Brookville, St. John, New Brunswick, Canada. Send protests to: District Supervisor Donald G. Weiler, Bureau of Operations, Interstate Commerce Commission, Rm. 307, 76 Pearl St., Portland, Maine 04111.

No. MC 140951 TA, filed May 13, 1975. Applicant: JAMES R. PATERSON, doing business as PATERSON TRUCKING CO., 11099 Lyon Rd., Delta, British Columbia, Canada V4E 1J4. Applicant's representative: Samuel W. Fancher, 600 American Federal Bldg., Tacoma, Wash. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the Dickman sawmill located at Tacoma, Wash., to United States-Canada International Boundary, located at or near Blaine, Wash., and return with any over-shipments or unsatisfactory goods, on shipments destined to Vancouver, B.C., Canada, for 180 days. Supporting shipper: Dickman Lumber Co., 2423 Ruston Way, Tacoma, Wash. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174.

## NOTICES

23569-23619

## APPLICATIONS OF PASSENGERS

No. MC 123126 (Sub-No. 3TA), filed April 13, 1975. Applicant: FRANKLIN BUS SERVICE, INCORPORATED, 309 Roosevelt Street, Franklin, Va. 23851. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage in the same vehicle* from points and places in the Cities of Franklin, Va., and Suffolk, Va. Counties of Greensville, Sussex, Southampton, Isle of Wight, Brunswick, Va., and Hertford County, N.C., to points and places in Connecticut, Florida, Georgia, Tennessee, West Virginia, Pennsylvania, and South Carolina, for 180 days. Supporting shipper: There are 55 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: C. M. Harmon, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 10-502 Federal Bldg., 400 North Eighth Street, Richmond, Va. 23240.

No. MC 138494 (Sub-No. 2TA), filed May 13, 1975. Applicant: NORTHERN

BUS LINES, LIMITED, 1415 3rd Avenue South, Lethbridge, Alberta, Canada. Applicant's representative: Paterson & Co., 407 Holiday Village South, Lethbridge, Alberta, Canada. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and personal effects* in round trip charter operations, from points in the Province of Alberta to points in the United States, excluding Hawaii, utilizing all ports of entry between the United States and Canada for 180 days. Supporting shippers: There are approximately 11 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 222, U.S. Post Office Bldg., Billings, Mont. 59101.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,  
Acting Secretary.

[FR Doc.75-14202 Filed 5-29-75; 8:45 am]



# **federal register**

FRIDAY, MAY 30, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 105

PART II



## **DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

**Social Security Administration**

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### **HOSPITAL COSTS UNDER THE HEALTH INSURANCE PROGRAM**

**Schedule of Limits for Cost-Reporting  
Periods Beginning on or after July 1, 1975**

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# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

## HOSPITAL COSTS UNDER THE HEALTH INSURANCE PROGRAM

### Schedule of Limits for Cost-Reporting Pe- riods Beginning on or After July 1, 1975

On April 17, 1975, there was published in the *FEDERAL REGISTER* (40 FR 17190), a notice of proposed Schedule of Limits on Hospital Inpatient General Routine Service Costs For Hospitals (With Cost-Reporting Periods Beginning On or After July 1, 1975, Section 1861 (v)(1) of the Social Security Act, as amended, permits the Secretary of Health, Education, and Welfare to set prospective limits on direct or indirect overall incurred costs or incurred costs of specific items or services or groups of items or services furnished by a provider, to be recognized as reasonable based on estimates of the cost, necessary in the efficient delivery of needed health services. The proposed Schedule of Limits published in the *FEDERAL REGISTER* on April 17, 1975 (40 FR 17190), was intended to revise the Interim Schedule of Limits on Hospital Inpatient General Routine Service Costs published in the *FEDERAL REGISTER* on June 6, 1974 (39 FR 20168), and was intended to be applicable to cost-reporting periods beginning on or after July 1, 1975, and until the effective date of a revised schedule.

Interested parties were given 30 days within which to submit data, views and arguments. Comments and suggestions received with regard to that notice of proposed Schedule of Limits, responses thereto, and changes made in the proposed schedule of limits are summarized below:

1. The bulk of the comments dealt with the lowering of the limits to the 80th percentile. A number of commenters asserted that the limits were lowered to the 80th percentile only as a cost-cutting device, without consideration of the financial impact on providers or the possible reduction in the quality of care. Other commenters suggested that the lower limits based on the 80th percentile, with the accompanying lowering of the interim payment rate, would imperil the cash-flow position of many providers.

The results of lowering the limits to the 80th percentile were carefully considered before the notice of proposed Schedule of Limits was published. It continues to be the Secretary's view that because of the more homogeneous groupings resulting from the improved cost-limit methodology, which more accurately reflect the necessary input costs of the hospitals, it is appropriate to set the limit at the 80th percentile plus 10 percent of the median of each classification group. The revised limits will better identify hospitals whose costs are substantially higher than those deemed necessary for efficient delivery of hospital inpatient general routine services. In addition, though the limits have been set at the 80th percentile plus 10 percent of the median, hospitals with rou-

tine costs above the limit will continue to have an opportunity to explain their excess costs and obtain relief to the extent that these costs are justified and verified (see 20 CFR 405.460(f)).

2. Comments were made that the effects of such factors as educational programs, patient mix, or scope of service on the hospital's inpatient general routine service cost were ignored in the revised classification system. These factors were not ignored, but were carefully considered before the revised classification system was issued. It is true that institutions which have educational programs may incur higher costs than institutions without educational programs. However, the classification variables in the new system cause teaching hospitals to be grouped together. In each Standard Metropolitan Statistical Area (SMSA) income class, for example, the two comparison groups composed of the hospitals with the largest bed sizes include over 70 percent teaching institutions (most over 80 percent). Thus, those hospitals most concerned about being compared with like hospitals are, in fact, being compared to other teaching hospitals. No direct provision has been made for the effects of patient mix and scope of services. Careful study of several variables representing these factors showed that their inclusion resulted in no significant improvement in any tested system based on general routine input service costs. The variables tested proved to be highly correlated with bed size. We will continue to consider any improvements suggested and will make changes where evidence shows changes are justified. However, no evidence has been submitted to support the concept that patient mix and scope of services have a significant effect on general routine inpatient service costs. The regulations (see § 405.460(f)(2)) provide that, where a provider can demonstrate that its costs exceed the applicable limit by reason of educational activities or by the special needs of the patients treated, an exception can be made to the application of the limit, to the extent that the added costs flow from approved educational activities, to the extent they are atypical (although reasonable) for providers in the comparison group, or flow from the provision of special needs of patients treated and are necessary in the delivery of needed health care.

3. Various questions have been received concerning the treatment of counties in different States in the same Standard Metropolitan Statistical Areas (SMSA) in the revised classification system. All counties or cities within an SMSA (as defined in the Federal Information Processing Standards Publication (F.I.P.S. Pub. 8-4)) are placed in the same group, regardless of State location. For example, Montgomery County, Maryland and Alexandria City, Virginia, both of which are in the Washington, D.C. SMSA, would be in the same group (SMSA Group I, which contains the Washington, D.C. SMSA) even though they are in different States.

4. A number of commenters appeared to be under the impression that the limits apply to total hospital inpatient costs per day. It should be understood that the Schedule of Limits presented herein applies only to the hospital inpatient general routine service costs, but does not apply to the costs of services furnished in special-care units or to the costs of ancillary services.

5. Some parties expressed the view that they have a lower average length-of-stay than comparable hospitals, due to the more intense services that they provide, and this results in their having a higher routine service cost per day. They believe hospitals with shorter length-of-stays are more adversely affected by the limits. A lower average length-of-stay results from differences in case mix or from the provision of more intensive ancillary services. Since the published limits pertain to general routine service costs, the application of the limits do not more adversely affect hospitals with a lower average length of stay.

Also, the regulations in section 405.460 provide an exception to the limits for the cost of atypical services where the provision of the atypical items or services were by reason of the special needs of the patients treated, and necessary in the efficient delivery of needed health care. Thus, if a hospital can demonstrate that, due to the special needs of its patients, it provides more intense general routine services, it may be granted an adjustment to the limit.

6. A number of parties commented that the classification system and Schedule of Limits does not distinguish between whether a hospital is an old or new one. Thus, a hospital with a new building and, therefore, with higher capital and interest costs, may have a higher routine cost per day than would other hospitals with older facilities.

Although a newer facility may have higher capital and interest costs than an older facility, a newer facility, generally, incorporates more advanced design concepts, which permit it to operate more efficiently than an older one and incur lower repair and maintenance costs. Thus, the different cost consequences of capital and interest costs, on one hand, and repair, maintenance, and operation of plant costs, on the other hand, are reasonably accounted for in the published limits.

Moreover, while the regulations do not provide for an exception for costs associated with new buildings, the carry-over provision in section 405.460(g) does provide for the recognition of the higher costs associated with a new provider. The regulations allow a new provider which has incurred costs above the limits, to carry over these excess costs and recover them during the subsequent 5-year period, if certain conditions are met.

7. In response to questions concerning the source of per capita income data, used to group SMSA's and Non-SMSA's, the data utilized are from the *Survey of Current Business*, May 1974, Volume 4, Number 5, Part II, published by the United

States Department of Commerce, Social and Economic Statistics Administration, Bureau of Economic Analysis.

8. Various editorial changes have been made in the interest of clarity.

While it is recognized that we must continue to refine the classification system, we believe that the new classification system is an improvement over the current system, and will better identify hospitals whose costs are substantially higher than those deemed necessary for efficient delivery of inpatient general routine hospital services. Substantial effort is being expended to make further improvements in the classification system and cost-limits methodology. Many of the suggestions set forth in the comments received on the proposed notice will be considered further in our continuing effort to improve that system and methodology.

Under the revised classification system, hospitals will be grouped based on whether they are located in a Standard Metropolitan Statistical Area (SMSA) or a non-Standard Metropolitan Statistical Area (non-SMSA). Hospitals located in SMSA's are classified on the basis of per capita income in those areas and without regard to State lines. All SMSA's have been divided into the following five groups based on per capita income.

SMSA—GROUP I	
ALASKA	
ANCHORAGE	
CALIFORNIA	
Los Angeles-Long Beach	
San Francisco-Oakland	
COLORADO	
DENVER-BOULDER	
CONNECTICUT	
Bridgeport	New Haven-West Haven
Bristol	Hartford
Danbury	Meriden
Hartford	Waterbury
Meriden	
New Britain	
DELAWARE	
Wilmington, DE-NJ-MD	
DISTRICT OF COLUMBIA	
Washington, DC-MD-VA	
FLORIDA	
Miami	
West Palm Beach-Boca Raton	
HAWAII	
Honolulu	
ILLINOIS	
Chicago	Rockford
Decatur	Springfield
MASSACHUSETTS	
Boston	
Brockton	
Lawrence-Haverhill, MA-NH	
Lowell, MA-NH	
MICHIGAN	
Ann Arbor	Flint
Detroit	
MINNESOTA	
Minneapolis-St. Paul, MN-WI	
NEVADA	
Las Vegas	Reno

## NOTICES

NEW JERSEY  
Jersey City  
New Brunswick-Perth Amboy-Sayreville  
Newark  
Trenton

NEW YORK  
Nassau-Suffolk  
New York, NY-NJ

OHIO  
Cleveland

VIRGINIA  
Richmond

WISCONSIN  
Milwaukee

SMSA—GROUP II  
ARIZONA  
Phoenix

CALIFORNIA  
Anaheim-Santa Ana  
Garden Grove  
San Diego

Santa Barbara-Santa Maria-Lompoc  
San Jose

FLORIDA  
Fort Lauderdale-Sarasota  
Hollywood

GEORGIA  
Atlanta

IDAHO  
Boise City

ILLINOIS  
Bloomington-Normal  
Peoria

INDIANA  
Fort Wayne  
Indianapolis

IOWA  
Cedar Rapids  
Des Moines

Davenport-Rock Island-Moline, IA-IL

KANSAS  
Topeka  
Wichita

KENTUCKY  
Louisville, KY-IN

MARYLAND  
Baltimore

MASSACHUSETTS  
Fitchburg-Leominster  
Pittsfield  
Worcester

MICHIGAN  
Grand Rapids  
Jackson

Lansing-East Lansing  
Saginaw

MINNESOTA  
Rochester

MISSOURI  
Kansas City, MO-KS  
St. Louis, MO-IL

NEW JERSEY  
Paterson-Clifton-Passaic

NEW YORK  
Albany-Schenectady-Troy  
Buffalo  
Poughkeepsie

NORTH CAROLINA  
Charlotte-Gastonia

OHIO  
Akron  
Cincinnati, OH-KY-IN  
Dayton

Mansfield  
Toledo, OH-MI  
Youngstown-Warren

OREGON  
Portland, OR-WA

PENNSYLVANIA  
Allentown-Bethlehem-Easton, PA-NJ  
Philadelphia, PA-NJ  
Pittsburgh  
Reading

TEXAS  
Dallas-Fort Worth  
Houston  
Midland  
Wichita Falls

WASHINGTON  
Seattle-Everett

WISCONSIN  
Kenosha  
Madison

SMSA—GROUP III  
ARIZONA  
Tucson

ARKANSAS  
Little Rock-North Little Rock

CALIFORNIA  
Fresno  
Modesto  
Sacramento  
Santa Cruz

Santa Rosa  
Stockton  
Vallejo-Fairfield-Napa

COLORADO  
Colorado Springs

CONNECTICUT  
New London-Norwich, CT-RI

FLORIDA  
Jacksonville  
Lakeland-Winter Haven  
Orlando  
Tampa-St. Petersburg

ILLINOIS  
Champaign-Urbana-Rantoul

INDIANA  
Anderson  
Evansville, IN-KY  
Gary-Hammond-East Chicago  
Lafayette-West Lafayette  
South Bend

IOWA  
Dubuque  
Sioux City, IA-NE

Waterloo-Cedar Falls

KENTUCKY  
Lexington

LOUISIANA  
New Orleans

MAINE  
Portland

MASSACHUSETTS  
Springfield-Chicopee-Holyoke, MA-CT

MICHIGAN  
Battle Creek  
Bay City  
Kalamazoo-Portage

MISSOURI  
St. Joseph

MONTANA  
Billings  
Great Falls

NEBRASKA  
Lincoln  
Omaha, NE-IA

NEW HAMPSHIRE  
Manchester  
Nashua

NEW JERSEY  
Atlantic City  
Long Branch-Asbury Park  
Vineland-Millville-Bridgeton

NEW YORK  
Binghamton, NY-PA  
Syracuse

NORTH CAROLINA  
Greensboro-Winston-Salem-High Point  
Raleigh-Durham



## NOTICES

Canton Columbus Lima Lorain-Elyria Springfield Steubenville-Weirton, OH-WV	OHIO	Fargo-Moorhead, ND-MN	NORTH DAKOTA	Hamilton- Middletown	OHIO	Charleston	SOUTH CAROLINA
Oklahoma City	OKLAHOMA	Eugene- Springfield	OREGON	Columbia	SOUTH CAROLINA	Austin	TEXAS
Erle	PENNSYLVANIA	Chattanooga	TENNESSEE	Sioux Falls	SOUTH DAKOTA	Brownsville-Harlingen-San Benito	TEXAS
Harrisburg	RHODE ISLAND	Chattanooga	TENNESSEE	Slough Falls	TENNESSEE	Bryan-College Station	TEXAS
Providence-Warwick-Pawtucket, RI-MA	TENNESSEE	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE	Corpus Christi	TEXAS
Memphis, TN-AR-MS	TEXAS	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE	El Paso	TEXAS
Nashville-Davidson	TEXAS	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE	Laredo	TEXAS
Amarillo	TEXAS	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE	Lubbock	TEXAS
Beaumont-Port Arthur-Orange	TEXAS	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE	McAllen-Pharr-Edinburg	TEXAS
Newport News- Hampton	TEXAS	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE	Odessa	TEXAS
Norfolk-Virginia Beach-Portsmouth, VA-NC	TEXAS	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE	Texarkana, TX, Texarkana, AR	TEXAS
Richland- Kennewick	WASHINGTON	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE	Provo-Orem	UTAH
Charleston	WEST VIRGINIA	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE	Lynchburg	VIRGINIA
Appleton- Oshkosh	WISCONSIN	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE	Huntington-Ashland, WV-KY-OH	WEST VIRGINIA
Birmingham	ALABAMA	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE		
Bakersfield	CALIFORNIA	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE		
Oxnard-Simi Valley- Ventura	CALIFORNIA	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE		
Pueblo	COLORADO	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE		
Daytona Beach	FLORIDA	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE		
Fort Myers	FLORIDA	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE		
Gainesville	FLORIDA	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE		
Augusta, GA-SC	GEORGIA	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE		
Macon	GEORGIA	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE		
Muncie	INDIANA	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE		
Owensboro	KENTUCKY	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE		
Baton Rouge	LOUISIANA	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE		
Fall River, MA-RI	MASSACHUSETTS	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE		
Muskegon- Muskegon Heights	MICHIGAN	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE		
Duluth-Superior, MN-WI	MINNESOTA	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE		
Jackson	MISSISSIPPI	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE		
Springfield	MISSOURI	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE		
Albuquerque	NEW MEXICO	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE		
Utica-Rome	NEW YORK	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE		
Asheville	NORTH CAROLINA	Chattanooga	TENNESSEE	Chattanooga	TENNESSEE		

Clarksville-Hopkinsonville, TN-KY	TENNESSEE
Kingsport-Bristol, TN-VA	TENNESSEE
Austin	TEXAS
Brownsville-Harlingen-San Benito	TEXAS
Bryan-College Station	TEXAS
Corpus Christi	TEXAS
El Paso	TEXAS
Laredo	TEXAS
Lubbock	TEXAS
McAllen-Pharr-Edinburg	TEXAS
Odessa	TEXAS
Texarkana, TX, Texarkana, AR	TEXAS
Provo-Orem	UTAH
Lynchburg	VIRGINIA
Huntington-Ashland, WV-KY-OH	WEST VIRGINIA

Non-SMSA areas will be classified according to the per capita income of all non-SMSA counties within a State. The following are the five income groupings, with States classified according to per capita income, to be used for hospitals located in non-Standard Metropolitan Statistical Areas in those States.

Non-SMSA	
GROUP I	
Alaska	Kansas
Connecticut	Massachusetts
Delaware	Nebraska
Illinois	Nevada
Indiana	Rhode Island
Iowa	Washington
GROUP II	
Arizona	New Jersey
California	New York
Hawaii	Ohio
Maryland	Oregon
Montana	Vermont
New Hampshire	
GROUP III	
Colorado	North Dakota
Florida	Pennsylvania
Idaho	South Dakota
Michigan	Wisconsin
Minnesota	Wyoming
GROUP IV	
Georgia	Oklahoma
Maine	South Carolina
Missouri	Texas
New Mexico	Virginia
North Carolina	
GROUP V	
Alabama	Puerto Rico
Arkansas	Tennessee
Kentucky	Utah
Louisiana	Virgin Islands
Mississippi	West Virginia

To develop urban groups, the Standard Metropolitan Statistical Areas were arrayed in order of the size of their per capita income and classes were established. The nonurban groups were developed in the same manner, using per capita income of non-SMSA areas. The class and points were selected where a relatively significant per capita income difference occurred.

The following bed-size categories are used to classify hospitals:

## NOTICES

## STANDARD METROPOLITAN STATISTICAL AREAS

Less than 100
100 to 404
405 to 684
685 and above

## GROUPS I AND II

Less than 100
100 to 404
405 and above

## GROUPS III, IV, AND V

## NON-STANDARD METROPOLITAN STATISTICAL AREAS

Less than 100
100 to 169
170 and above

The limits were developed in the following manner:

1. Inpatient general routine service cost data for each participating hospital were obtained from the fiscal intermediaries.

2. The data for hospitals in each class were arrayed in descending order of inpatient general routine service costs.

3. The 80th percentile and the median were computed for each class.

4. For each class, an amount equal to 10 percent of the median was added to the 80th percentile amount.

5. This sum was adjusted to reflect the 16 percent annual rate of estimated cost increases in per diem costs following the date of data collection.

6. The amounts calculated in step 5 are rounded to the next highest dollar which establishes the limit for each class, subject to adjustment for hospitals reporting on other than a reporting period starting July 1, 1975.

Under the authority of section 1861 (v) of the Social Security Act, the following cost limitations apply to the total of the hospital inpatient general routine service costs (excluding costs incurred for special care units and ancillary services) adjusted upward as provided for below. The limits are applicable to cost-reporting periods beginning on or after July 1, 1975, and will remain in effect until the effective date of a revised schedule. However, this schedule will apply to the entire cost-reporting period of a hospital whose cost-reporting period begins during its effective period.

The limits are applicable to any hospital with a cost-reporting period beginning on or after July 1, 1975. Where a hospital has a cost-reporting period beginning after July 1, 1975, the published limit will be adjusted upward by a factor of 1.33 percent for each elapsed month between July 1, 1975, and the first day of the month in which the hospital's reporting period starts. The result of this calculation is not rounded and is to be given in dollars and cents.

Example: Hospital A's cost-reporting period starting in 1975 begins October 1, 1975, and ends September 30, 1976. The cost limit for Hospital A's group from the table below is \$133.00.

## COMPUTATION OF ADJUSTED COST LIMIT

Cost limit.....	\$133.00
Plus: Adjustment for 3-month period (July 1, 1975, to Oct. 1, 1975), 3 months x 1.33 percent = 3.99 percent, 3.99 percent x \$133.....	5.31
Adjusted cost limit applicable to Hospital A for the Oct. 1, 1975, to Sept. 30, 1976, reporting period....	138.31

## SCHEDULE OF LIMITS ON HOSPITAL INPATIENT GENERAL ROUTINE SERVICE COSTS FOR HOSPITALS WITH COST-REPORTING PERIODS BEGINNING ON OR AFTER JULY 1, 1975

## HOSPITALS LOCATED WITHIN SMSA'S (URBAN)—BED SIZE

SMSA group	Less than 100	100 to 404	405 to 684	685 and above
I.....	\$113	\$111	\$133	\$174
II.....	91	90	96	120
III.....	89	88	89	89
IV.....	86	86	87	87
V.....	65	72	84	84

## HOSPITALS LOCATED OUTSIDE SMSA'S (NONURBAN)—BED SIZE

State group	Less than 100	100 to 169	170 and above
I.....	\$76	\$83	\$86
II.....	90	80	88
III.....	75	80	79
IV.....	67	67	66
V.....	62	64	67

Limits apply to all Group I SMSA's except Anchorage, Alaska, and Honolulu, Hawaii, where cost-of-living adjustment was made. The limits for these areas are as follows:

	Less than 100	100 to 404	405 to 684	685 and above
Anchorage.....	\$141	\$138	\$166	\$218
Honolulu.....	130	127	153	201

Limits apply to all Group II States except Alaska—limits for Alaska are:

	Less than 100	100 to 169	170 and above
I.....	\$95	\$108	\$106
II.....	100	102	101

(Secs. 1102, 1861 (v) (1), 1866(a), and 1871 of the Social Security Act; 49 Stat. 647, as amended; 79 Stat. 313, as amended; 79 Stat. 327, as amended; 79 Stat. 331; 42 U.S.C. 1302, 1395x(v), 1395cc(a), and 1395hh.)

Effective date. The Schedule of Limits will be effective for cost-reporting periods beginning on or after July 1, 1975, and before the effective date of a revised schedule.

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged—Hospital Insurance.)

Dated: May 23, 1975.

J. B. CARDWELL,  
Commissioner of Social Security.

Approved: May 27, 1975.

CASPAR W. WEINBERGER,  
Secretary of Health,  
Education, and Welfare.

[FR Doc. 75-14140 Filed 5-29-75; 8:45 am]

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# federal register

FRIDAY, MAY 30, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 105

PART III



## DEPARTMENT OF LABOR

Employment Standards  
Administration

■

### MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions,  
Modifications and Supersedeas  
Decisions

V 40-105 MAY 30 75

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## DEPARTMENT OF LABOR

Employment Standards Administration  
MINIMUM WAGES FOR FEDERAL AND  
FEDERALLY ASSISTED CONSTRUCTION

## General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (40 Stat. 1494, as amended, (40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR, Parts 1 and 5. Accordingly,

the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

## MODIFICATIONS AND SUPERSEDES DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedes Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedes Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (40 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedes Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR, Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting

this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

## MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Georgia:  
AR-4038 ----- Sept. 27, 1974  
Iowa:  
IA75-4036; IA75-4037; Jan. 31, 1975  
IA75-4043; IA75-4046  
IA75-4074 ----- Jan. 4, 1975  
Massachusetts:  
MA75-2076 ----- May 9, 1975  
Nevada:  
NV75-5037; NV75-5038; Mar. 28, 1975  
NV75-5039  
Texas:  
TX75-4090 ----- May 16, 1975  
Virginia:  
AP-805 ----- May 4, 1973  
MD75-3003 ----- Jan. 3, 1975  
Washington, D.C.:  
DC75-3002 ----- Jan. 3, 1975

## SUPERSEDES DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State. Supersedes Decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama:  
AR-4043 (AL75-1056) ----- Oct. 4, 1974  
AL75-1023 (AL75-1060) ----- Feb. 14, 1975  
Illinois:  
AR-3055 (IL75-2078) ----- Aug. 2, 1974  
Montana:  
MT75-5012 (MT75-5062);  
MT75-5017 (MT75-  
5063); MT75-5109  
(MT75-5060) ----- Feb. 7, 1975  
Pennsylvania:  
AQ-2083 (PA75-3057) ----- Apr. 5, 1974  
Tennessee:  
AR-4022 (TN75-1052) ----- Aug. 30, 1974  
Texas:  
TX75-4022 (TX75-4110) ----- Jan. 24, 1975  
TX75-4089 (TX75-4109) ----- May 16, 1975  
Washington:  
AR-1030 (WA75-5064) ----- Sept. 27, 1974

Signed at Washington, D.C., this 23rd day of May 1975.

RAY J. DOLAN,  
Assistant Administrator,  
Wage and Hour Division.

MODIFICATIONS P. 2

Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
	M & W	Pensions	Vacation	
DECISION #IA75-4043--MOD. #4 (40-FR-485--January 31, 1975) Scott County, Iowa	\$9.45 9.45 9.45 8.05 8.05 7.00	.50 .50 .50 .50 .50 .50		.08 .08 .08 .08 .08 .08
CHANGE: Building, Heavy & Highway Construction: Power Equipment Operators: Group 1 Group 2 Group 3 Group 4 Group 5 Group 6 Heavy & Highway Construction: Laborers: Group I Group II Group III	.40 .40 .40 .40 .40 .40 .40 .30 .30 .30 .30 .30			.035 .035 .035 .035 .035 .035 .035 .035 .035 .035 .035
DECISION #IA75-4046--MOD. #3 (40-FR-485--January 31, 1975) Woodbury County (City of Sioux City & Abutting Municipalities), Iowa	\$9.49 8.74 8.62	.40 .55 .25		.10
CHANGE: Building Construction: Asbestos Workers Plumbers-Steamfitters Sheet Metal Workers	.35 .30 .35			

MODIFICATIONS P. 1

Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
	M & W	Pensions	Vacation	
DECISION #AR-4038 Mod. #2 (39 FR 3094--September 27, 1974) Statewide, Georgia	3.00 2.40 2.40 2.50			
Add: Carpenters' Helpers: Zone I Zone II Zone III Zone IV Concrete Finisher (cement masons) helper: Zone I Zone II Zone III Zone IV POWER EQUIPMENT OPERATORS: Mechanic helper: Zone I Zone II Zone IV	3.00 3.00 3.00 3.00 2.50 2.75			
DECISION #IA75-4036--MOD. #4 (40-FR-485--January 31, 1975) Clifton County (City of Clifton & Abutting Municipalities), Iowa	\$9.45 9.45 9.45 8.05 8.05 7.00	.50 .50 .50 .50 .50 .50		.08 .08 .08 .08 .08 .08
CHANGE: Building Construction: Power Equipment Operators: Group 1 Group 2 Group 3 Group 4 Group 5 Group 6	.40 .40 .40 .40 .40 .40			.08 .08 .08 .08 .08 .08
DECISION #IA75-4037--MOD. #4 (40-FR-4831--January 31, 1975) Des Moines County (City of Burlington & Abutting Municipalities & Burlington Ordnance Plant), Iowa	\$9.45 9.45 9.45 8.05 8.05 7.00	.50 .50 .50 .50 .50 .50		.08 .08 .08 .08 .08 .08
CHANGE: Building Construction: Power Equipment Operators: Group 1 Group 2 Group 3 Group 4 Group 5 Group 6	.40 .40 .40 .40 .40 .40			.08 .08 .08 .08 .08 .08







## SUPERSEDES DECISION

STATE: Alabama COUNTY: Jefferson  
 DECISION NUMBER: AL75-1056 DATE: Date of Publication  
 Supersedes Decision No. AR-4043 dated October 4, 1974 in 39 FR 35918  
 DESCRIPTION OF WORK: Building Construction, (excluding single family homes  
 and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		M & W	Pension	Vacation	
Asbestos workers	8.61	.30	.30		.05
Boltermakers	7.50	.40	.90		.02
Bricklayers; Pointers; Caulkers;	8.25	.25	.25		.05
Stonemasons	7.30	.40	.20		.06
Carpenters; Soft floor layers	8.70	.40	.20		.06
Electricians	7.50	.50	.20		.06
Electricians	8.30	.30	.12		.52
Cable splicers	8.75	.30	.12		.52
Elevator constructors	8.02	.445	.29	3 %+ab	.02
Elevator constructors' helpers	5.61	.445	.29	3 %+ab	.02
Elevator constructors' helpers	4.01				
(Prob.)	7.33	.40	.40		.01
Glaziers	8.25	.55	.595		.04
Ironworkers	6.90		.01		.01
Lathers	7.15	.20	.12		.52
Linenmen	3.44	.20	.12		.52
Groundmen under one year	4.04	.20	.12		.52
Groundmen one year and over					
Hole and ditch digging equipment,					
tractor with winch and der-					
rick, truck with winch and	6.08	.20	.12		.52
derrick					
Tractor with towing machine,	5.01	.20	.12		.52
truck with winch only	4.29	.20	.12		.52
Truck without winch	5.85				
Marble setters					
Painters:					
Brush	7.45		.40		
Spray; Structural steel	7.95		.40		
Pipefitters	7.60		.40		
Plasterers	7.27	.50			
Plumbers; Pipefitters	9.40	.40	.40		.07
Roofers	6.45	.20	.10		.05
Sheet metal workers	9.00	.45	.40		.05
Sprinkler fitters	8.75	.50	.70		.08
Terrazzo workers; Tile setters	7.00		.20		
Truck Drivers:					
Up to but not including 15 tons	5.15				
15 to but not including 3 tons	5.35				
3 to but not including 5 tons	5.60				
5 tons and over including spec-					
ial equipment	5.75				

## NOTICES

	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		M & W	Pension	Vacation	
AL75-1056 (Cont'd)					
Welders, riggers, riveters - re-					
active rate prescribed for craft					
performing operation to which					
welders, riggers and riveters are					
incidental.					
PAID HOLIDAYS:					
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;					
Thanksgiving Day; F-Christmas Day.					
NOTES:					
a. 6 paid holidays: A through F.					
b. Employer contributes 1/2 of regular hourly rate to Vacation Pay Credit for					
and employee who has worked in business more than 5 years. Employer contributes					
2% of regular hourly rate to Vacation Pay Credit for employee who has worked					
in business less than 5 years.					

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## AL75-1056 (Cont'd)

## BUILDING CONSTRUCTION

## LABORERS:

	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		M & W	Pension	Vacation	
GROUP A	5.30	.15	.30		.03
GROUP B	5.35	.15	.30		.03
GROUP C	5.20	.15	.30		.03
GROUP D	5.15	.15	.30		.03
GROUP E	5.55	.15	.30		.03
GROUP F	5.00	.15	.30		.03
GROUP G	5.90	.15	.30		.03
GROUP H	5.95	.15	.30		.03
GROUP I	5.85	.15	.30		.03
GROUP J	5.70	.15	.30		.03

GROUP A  
Air or electric tool operators and asphalt makers

GROUP B  
Vibrator operators, chain saw ops., of mechanical equipment which replaces  
(wheelbarrows or buggies), power mowers, motor mixers, p-p layers,  
conc. & clay and muckers

GROUP C  
Plasterers' tenders & hod carriersGROUP D  
Mason tenders, building laborers and wagon drill operators' helpersGROUP E  
Burners on demolition, wagon drill operators and tunnel laborersGROUP F  
TendermanGROUP G  
Calson-drillerGROUP H  
Tunnel minerGROUP I  
Pneumatic concrete gun operator and nozzlemanGROUP J  
Chuck tender

## NOTICES

## AL75-1056 (Cont'd)

## BUILDING CONSTRUCTION

## POWER EQUIPMENT OPERATORS:

	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		M & W	Pension	Vacation	
GROUP A	7.49	.30	.20		.10
GROUP B	7.47	.30	.20		.10
GROUP C	6.74	.30	.20		.10
GROUP D	8.35	.30	.20		.10
GROUP E	7.96	.30	.20		.10
GROUP F	6.86	.30	.20		.10

GROUP A  
Asphalt plant; boom tractor; bulldozer; cableways; core driller; com-  
pressor (2 or more); crane-derrick-drum; dinky locomotive; derrick;  
fork lift; front end loader; grapple; heavy duty mechanic; hoist (1 drum  
or more); mixer; push tractor; scrapers; shovels; trenching machine (1  
or more); winch trucks, motor graders; concrete pump; pile-  
driver; rotary drill

GROUP B  
Air compressor (over 125); asphalt spreader; blade grader (pull type);  
boat operator; conveyor (2 or more up to 4); crawler tractor; distributors  
(bituminous surfaces); farm tractors; finishing machine; pile  
rollers; welding machine (4 or more)

GROUP C  
Air compressor (125 & under); others: firemen; conveyor (1 tended by other);  
pumps (under 4 inches); welding machines (3 or under); mechanic helpers

GROUP D  
ON SPECIAL EXEMPTION: Crane; dragline; derrick; hoist; piledriver; winch truck;  
fork lift; tower cranes; climbing cranes; cherry picker; mechanics; loco-  
motive; tug boat

GROUP E  
Tractor; welding machine; gas or diesel; driven welding machine (4 or  
more); air compressor over 125 (2 or less); power generating units (gas  
or diesel)

GROUP F  
Gas or diesel driven welding machine (3 or less); mechanic helper;  
air compressor 125 and under (2 or less); oiler; fireman; small boat

FEDERAL REGISTER, VOL. 40, NO. 105—FRIDAY, MAY 30, 1975



STATE: Alabama  
 COUNTY: Mobile  
 DECISION NUMBER: AL75-1060  
 DATE: Date of Publication  
 SUPERSEDES DECISION NO.: AL75-1023 dated February 16, 1975 in 40 FR 6913  
 DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

BUILDING CONSTRUCTION	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & W	Pension	Vacation	
Asbestos workers	8.60	.395	.75	.02	.02
Boilermakers	7.50	.40	.90	.02	.02
Bricklayers; Caulkers; Cleaners; Marble setters; Pointers; Stonemasons; Terrazzo workers; Tile setters	9.04	.30	.35	.02	.02
Carpenters; Carpenters & Soft floor layers; Carpenters on oreosote material; Power saw operator; Piledriver on oreosote material; Millwrights; Cement masons	8.36	.30	.35	.02	.02
Electricians; Cable splicers; Elevator constructors; Elevator constructors' helpers (Prob.)	8.61	.30	.35	.02	.02
Glaziers; Ironworkers; Lathers	8.63	.30	.35	.02	.02
Line Constructors; Cable splicers; Painters; Bruah; Industrial; Hazardous; Spraying bituminous coatings; Plasterers; Plumbers; Steamfitters; Roofers; Sheet metal workers; Sprinkler fitters	8.88	.30	.35	.02	.02
Welders: Rate for craft	8.90	.30	.35	.02	.02
	8.15	.30	.35	.02	.02
	9.45	.30	.35	.02	.02
	9.70	.30	.35	.02	.02
	7.06JR	.395	.26	.02	.02
	5.06JR	.30	.35	.02	.02
	6.40	.30	.35	.02	.02
	8.77	.30	.35	.02	.02
	7.13	.30	.35	.02	.02
	9.45	.30	.35	.02	.02
	9.70	.30	.35	.02	.02
	8.50	.30	.35	.02	.02
	8.75	.30	.35	.02	.02
	9.00	.30	.35	.02	.02
	9.50	.30	.35	.02	.02
	8.86	.30	.35	.02	.02
	10.15	.30	.35	.02	.02
	7.35	.30	.35	.02	.02
	9.00	.30	.35	.02	.02
	8.75	.30	.35	.02	.02

## NOTICES

- a. 2 Paid Holidays: D and Mardi Gras Day, provided the employee works at least one day out of the 3 work days prior to the paid holidays, and the first work day after the paid holidays.
- b. 6 Paid Holidays: A through F.
- c. Employer contributes 1% basic hourly rate to Vacation Pay Credit for employees who have worked in business more than 5 years. Employer contributes 2% basic hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.
- d. 1 Paid Holiday: F
- e. 8 Paid Holidays: A, C, D, E, F, Day after Thanksgiving Day, Christmas Eve, and Mardi Gras
- f. 40 hours paid vacation after 1 year of employment; 2 paid holidays: A & C.
- g. 5 Paid Holidays: A, C, D, E and F.

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BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & W	Pension	Vacation	
GROUP A	5.42	.30	.35	.02	.02
GROUP B	5.63	.30	.35	.02	.02
GROUP C	5.90	.30	.35	.02	.02
GROUP D	6.77	.30	.35	.02	.02
GROUP E	7.03	.30	.35	.02	.02
GROUP F	6.50	.30	.35	.02	.02
GROUP G	6.26	.30	.35	.02	.02
GROUP H	5.43	.30	.35	.02	.02
GROUP I	5.97	.30	.35	.02	.02
GROUP J	6.61	.30	.35	.02	.02
GROUP K	5.99	.30	.35	.02	.02
GROUP L	6.50	.30	.35	.02	.02
GROUP M	5.97	.30	.35	.02	.02

## GROUP A: General Building Construction Laborers

GROUP B: Mortar makers (any method), hod carriers, paving breakers - breaking & chipping concrete (any method), air operating tools (also, or gas), mason and plaster tenders, tile setter & terrazzo helpers, handling oreosote concrete materials, glass wool and all types insulation, kettle man, asphalt maker & tapper, drills and vibrators, concrete dump bucketman, All concrete rollers, wheel barrows, Georgia buggies, pipe cleaners & pipe layers of clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe for main & side sewers and drainage only, pipe vipers (inside and out)

GROUP C: Gunite or pressure concrete workers, nozzleman, gunman, rodman, power driven buggy mobile, height: all work performed 40 ft. or less, folds, inside and out (except where scaffolds are set up from wall to wall inside)

## GROUP D: Cofferdam or tunnel workers (underground)

## GROUP E: Blasting (powderman)

## GROUP F: Concrete sawman

## GROUP G: Form setters; roadways, runways, highways

## GROUP H: Track laborer

## GROUP I: Brick washers (laborers)

## GROUP J: Burners on dismantling (anything not to be reused)

## GROUP K: Stack laborers

## GROUP L: Stac: laborers (over 40 ft.)

## GROUP M: Tank cleaners (caustic chemicals)

## NOTICES

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BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & W	Pension	Vacation	
GROUP A	8.80	.30	.35	.02	.02
GROUP B	8.19	.30	.35	.02	.02
GROUP C	7.89	.30	.35	.02	.02
GROUP D	7.09	.30	.35	.02	.02
GROUP E	6.77	.30	.35	.02	.02

GROUP A: HEAVY EQUIPMENT:  
 Heavy duty mechanic, crane, shovel, derrick operator (2 or more drums), dragline pile driver operator, hoist operator (2 or more drums), cable ways, excavators, front end loader, backhoe, rubber tired backhoe, dredges, leverman, welders, mounted rotary drill machines, cherry pickers, side boom tractors, paving machines, motor patrol, pumperate machines, gradalls, johnson mixers, hydro-lift trucks, all batch plant and header house operators, panel board (ready-mix), hydro hammers on demolition work, concrete plants, asphalt plants, helicopter pilots and concrete paving trains, tugboats

GROUP B: MEDIUM EQUIPMENT:  
 Doser scraper, turnapull, one drum hoist, self-propelled rollers, construction elevators, locomotive engineer, elevating grader tractors with power control attachments, winch truck, mirrors, asphalt spreaders, drilling machines, form graders, asphalt distributors, fork-lift, well-point & dewatering systems, subgraders, finishing machines, motorized compactors, vagomobiles and push carts, riding trenching & ditching machines

GROUP C: LIGHT EQUIPMENT:  
 Light plants, generators, welding machines, air compressors, pumps, conveyors, motor boats under 30 feet, tow tractors, and pile driver hammers (diesel, gas, air or electric)

GROUP D: Fuel truck oilers, fireman, brakeman, outboard motor boats, truck crane oilers and mechanic helpers

GROUP E: Oilers (crawler), deck hand







DECISION NO. 1175-2078

PAINTERS:  
Kane, Kendall, DeKalb, DePage &  
McHenry Counties:  
Brush  
Spray  
Lake County:  
Brush  
Boone County:  
Brush & Roller  
Spray  
Will County:  
Brush  
Bridges:  
Butt Plates & Handrails  
W/Supersstructures  
W/Supersstructures

TRUCK DRIVERS:

Boone County:  
2-3 Axle Trucks  
4-Axle Trucks  
5-Axle Trucks  
6-Axle Trucks  
Remainder of District #1:  
2-3 Axle Trucks  
4-Axle Trucks  
5-Axle Trucks  
6-Axle Trucks

WELL DRILLERS:  
Driller, Pump Installer, Welder &  
Mechanic  
Tool Dresser, Helper

## FOOTNOTES:

a. Per Week Per Employee  
b. Six (6) Paid Holidays:  
New Year's Day; Memorial Day;  
Independence Day; Labor Day;  
Thanksgiving Day & Christmas Day

Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
	H & W	Pensions	Vacation	
\$8.045	.50	.40		
8.445	.50	.40		.04
8.30	.425	.25		.007
7.80	.30			
8.70	.30			.03
8.80	.42	.35		.03
8.80	.42	.35		.03
9.30	.42	.35		.03
9.80	.42	.35		.03
6.55	.25	.15		
6.70	.25	.15		
6.70	.25	.15		
7.10	.25	.15		
6.60	.15.00	.19.00		
6.75	.15.00	.19.00		
6.95	.15.00	.19.00		
7.15	.15.00	.19.00		
8.75	.50	.50	b	
8.10	.50	.50	b	

## NOTICES

DECISION NO. 1175-2078

LABORERS: BOONE, KANE, KENDALL &amp; McHENRY COUNTIES

CLASS I  
CLASS II  
CLASS III  
CLASS IV  
CLASS V  
CLASS VI  
CLASS VII

LABORERS: BOONE, KANE, KENDALL &amp; McHENRY COUNTIES

CLASS I  
Common Laborers, Asphalt Laborers & Helpers, Asphalt Plant Laborers, Stripping Laborers, Concrete Saw, Self-Propelled Saw, Laser Beam  
CLASS II  
Air Tempers & Vibrators  
CLASS III  
Mortar & Concrete Mixers  
CLASS IV  
Stringline & Form Setters, Torchman, Sheetmetal & Cribbing Men, Black Top Makers, Luteners, Machine Screwsman  
CLASS V  
Chain Saw Men, Jackhammersmen, Drillmen, Concrete Breaker, Air Spade, Dynamite Handlers (Helpers)  
CLASS VI  
Tunnel Men, Tile Layers & Bottom Men  
CLASS VII  
Caisson Diggers, Dynamiters

Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
	H & W	Pensions	Vacation	
\$6.50	.40	.30		
6.55	.40	.30		
6.60	.40	.30		
6.65	.40	.30		
6.75	.40	.30		
6.85	.40	.30		
7.00	.40	.30		

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DECISION NO. 1175-2078

DECISION NO. 1175-2078

LABORERS: WILL CO.

Class 1  
Class 2  
Class 3  
Class 4  
Class 5  
Class 6

Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
	H & W	Pensions	Vacation	
\$7.35	.47	.85		
7.30	.47	.85		
7.20	.47	.85		
7.60	.47	.85		
7.85	.47	.85		
7.10	.47	.85		

LABORERS: WILL CO.

Class 1: Tunnel miners and all laborers inside tunnel, Compressed air laborers, Airblow pipemen, Mortaring men on sewer and drain pipe (the applying of mortar and composition mixers). All bottom men on sewer work - All sewer and drain pipe layers - Multiple concrete duct or any other type of pipe used on public utility work -- 8 feet or more below ground level, and all other sewer and trench laborers 6 feet or more below ground level, All labor work inside cofferdam, the use of a 10 foot or more drill steel for hand held drills, Caisson laborers ground level down to 15 feet, All air tools 8 feet or more below ground level, and all laborers on swinging and suspended scaffolds, Chimney and silo laborers working at a height of 48 to 100 feet, all tamping hammers over 15 lbs., all laborers working inside of a sphere or any type or make of tank at a height of 48 feet to 100 feet, all hydraulic, electric and air tools, or any other type 8 feet or more below ground level

Class 2: Asphalt rakers, Hod carriers, Plaster laborers, Gunnite laborers, Road form setters, Wagon and tower drillers on land and floating plant used on dredging, Asphalt gunners and plug men (undercoating on road work), Mortar pump laborers and plaster pump laborers

## NOTICES

DECISION NO. 1175-2078

LABORERS: WILL CO.

Class 3: Outside tunnel miner helpers, Sewer and drain pipe layers and Multiple concrete duct or any other type of pipe used on public utility work, ground level down to 8 feet, Blasting men helpers, Pumpcrete pipe handlers

Class 4: Gunnite nozzle men, Caisson laborers from 15 feet below ground level down to 30 feet

Class 5: Caisson laborers 50 feet or more below ground level, Laborers working under radio active conditions, Blasting men (powdermen)

Class 6: Mortar mixers, handling asphalt shingles, Patent scaffolds, Sewer and trench work - ground level four to 8 feet, Catch basins and manhole diggers, Mesh handling on road work, Cement and mineral filler handler, Concrete puffers, Hatch dumpers, (cement and asphalt) Vibrator operators, Sand and stone wheelers to mixer (handlers), Concrete wheelers, Air - tamping hammermen concrete and paving breakers, Rock drillers, Jackhammermen, Mason tenders, (mortar and brick vibrator), Wagon and tower drill laborers, Kettlemen and tamen, Tank cleaners, Scaffold and staging laborers, Pot firemen (tarmen), Salamander tenders for any purpose, Water pumps, R.p rap, Electrician, Plumber and finisher helpers (minimum), Handling of steel road forms in any type manner, except form setting, setting center strips, Contraction and expansion joints (road work), Unloading and handling thereof the following: Brick, Transit materials, Cast iron water pipe, Reinforced concrete rods, Sewer and drain tile, Railroad ties and all other creosoted materials, Paving blocks and concrete forms, Handling of insulation of any type, All mortar and composition mixers for sewer work, Track laborers, Chimney and silo laborers working at a height of one to 48 feet, All laborers working on swinging, Suspended or any type or make of scaffolding one foot to 48 feet, All laborers working inside a sphere or any type or make of tank -- minimum rate, All laborers working inside a sphere or any type or make of tank from bottom to a height of 48 feet -- minimum rate, Form strippers (any type), Mechanical or motorized buggies, Handling multiple concrete duct or any type of pipe used in public utility work unless otherwise specified herein, Shaping of wall ties and removal of roads, Drilling of anchor bolt holes, Concrete or asphalt clipper type saws and self-propelled saws, Shoulder and grade laborers, All hydraulic electric and air or any other type of tools, crouting and dunking, Gas penters helpers, Cleaning lumber, Nail pulling, Deck hand, Dredgehand, Shore laborers, Bankmen on floating plant, Tool and material checkers, Signalmen and flagmen on all construction work defined herein, Greening of debris, Removal of trees, Concrete curing, Temporary concrete protection, regardless of manner or materials used, Truck helpers, Wrecking and demolition laborers, All laborers, All landscaping, laying or sod, and planting of trees

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DECISION NO. IL75-2078  
LABORERS: DUPAGE COUNTY

CLASS	Basic Hourly Rate	Fringe Benefits Payments		
		Health	Retirement	App Tr.
CLASS 1	\$6.90	.67	.65	
CLASS 2	7.00	.67	.65	
CLASS 3	7.08	.67	.65	
CLASS 4	7.10	.67	.65	
CLASS 5	7.15	.67	.65	
CLASS 6	7.25	.67	.65	
CLASS 7	7.25	.67	.65	
CLASS 8	7.35	.67	.65	

LABORERS: DUPAGE COUNTY

- CLASS 1 Building Laborers, Grade Separation Laborers, Sewer & Water Laborers, Pumps for Bunting and other Unclassified Laborers.  
CLASS 2 Cement Gun Laborers, Scaffold Laborers, Chimney Laborers (over 40').  
CLASS 3 Stone Darrickmen & Handlers.  
CLASS 4 Plumber's Laborers, Jackhammer, Power Driven Concrete Saws, Tampers and Pneumatic Tools, Concrete Vibrators.  
CLASS 5 Firebrick and Boilers, Solder Laborers.  
CLASS 6 Chimney Diggers, Well Point System Men, Chimney Laborers (on brick).  
CLASS 7 Boiler Setter Plastic Laborers.

NOTICES

LABORERS: LAKE COUNTY

- CLASS I Building Laborers, General Laborers, Wrecking and Demolition, Fireproofing & Pipe Shop Laborers  
CLASS II Firebrick & boiler Setter Laborers  
CLASS III Boiler Setter Plastic Laborers, Stone Darrickmen & Handlers  
CLASS IV Chimney Diggers, Well Point System, Chimney Laborers on Firebrick  
CLASS V Chimney Laborers (over 40') Scaffold Laborers, Well Men or Wreckers  
CLASS VI Windlases and Operator  
CLASS VII Plasterers Laborers  
CLASS VIII Jackhammer Men, Power Driven Concrete Saws  
CLASS IX Cement Gun Razzle Laborers (Gumite)  
CLASS X General Laborers, Asphalt Plant Laborers, Flagmen, Asph. L-joiners, Top Laborers  
CLASS XI Form Setters, Well Point System, Jackhammermen & Bottom Men, Pipe-layers on drains, Catch Basin Diggers, Pipelayer Men, All Tunnel Work, Power Driven Concrete Saws  
CLASS XII Second Bottom Men  
CLASS XIII Tampers, Smoothers & Cement Gun Laborers  
CLASS XIV Packers, Lutemen, Machine Screws & Mitre Box Spreaders

STREET PAVING, GRADE SEPARATION, SEWER & WATER PIPE EXTENSIONS

- CLASS X  
CLASS XI  
CLASS XII  
CLASS XIV

DECISION NO. IL75-2078  
LABORERS: LAKE COUNTY

CLASS	Basic Hourly Rate	Fringe Benefits Payments		
		Health	Retirement	App Tr.
CLASS I	\$ 7.20	.57	.85	
CLASS II	7.525	.57	.85	
CLASS III	7.65	.57	.85	
CLASS IV	7.55	.57	.85	
CLASS V	7.30	.57	.85	
CLASS VI	7.50	.57	.85	
CLASS VII	7.20	.57	.85	
CLASS VIII	7.125	.57	.85	
CLASS IX	9.35	.57	.85	
CLASS X	7.20	.57	.85	
CLASS XI	7.55	.57	.85	
CLASS XII	7.125	.57	.85	
CLASS XIII	7.275	.57	.85	
CLASS XIV	7.475	.57	.85	

DECISION NO. IL75-2078

POWER EQUIPMENT OPERATORS (CONT'D)

CLASS III Dollers, boiler & throttle valve, brooms, all power propelled, cement supply tender, compressor & throttle valve, concrete mixer (2 bags & over) conveyor, portable, filler on boiler, forklift trucks, greaser engine, fronting machine hoists, automatic, hoists, all elevators, hoists, tugger, single drum, deep diggers, pipe power saw, concrete, power-driven, pugmills, rollers, all, steam generators, stone crushers, stump machine, which trucks with "A" frame, work boats, tamper, form motor driven

CLASS IV Air Compressors, all, generators, headers, mechanical, light plants, all (1 through 5), pumps, all, pumps well points, tractaire, welding machines (2 through 6)

CLASS V Oilers

CLASS	Basic Hourly Rate	Fringe Benefits Payments		
		Health	Retirement	App Tr.
CLASS I	\$ 9.90	.50	.70	.05
CLASS II	9.35	.50	.70	.05
CLASS III	8.70	.50	.70	.05
CLASS IV	7.70	.50	.70	.05
CLASS V	6.70	.50	.70	.05

POWER EQUIPMENT OPERATORS:

CLASS I Asphalt plant, asphalt heater & planer combination, asphalt spreader, autograde, belt loader, caisson rigs, central redmix plant, concrete breaker (truck mounted), concrete conveyor, concrete paver over 275 cu. ft., concrete placer, concrete tub, float, cranes, all attachments, cranes, ladder, boom & machine of a like nature, derricks, traveling, dredges, euclid loader, elevating type, gradall, & machines of a like nature, derricks, all, derrick boats, derricks, travelling, dredges, euclid loader, elevating type, gradall, and machines of a like nature, grader, elevating hoists, 1/2 & 3 drum, locomotives, all, mucking machine, 1 cu. yd. & over, mucking machine, under 1 cu. yd., piledrivers & skid rig, pre-stress machine, pump cures dual run (requiring frequent lubrication & water), rock drill crar. type, slip form pavor, straddle buggies, tractor w/boom, tractaire w/ attachments, trenching machine, underground boring & or mining machine under 5 ft., wheel tractor widener (Apsco)

CLASS II Mechanic-welder, batch plant, bituminous mixer, bulldozer, combination backhoe front end loader machine, concrete breaker or hydro-hammer, concrete grinding machine, concrete mixer or paver 75 Series to & including 27 cu. ft., concrete spreader, concrete curing machine, burlap machine, belting machine & sealing machine, finishing machine, concrete grader, motor patrol auto patrol, form grader, pull grader, subgrader, highlift shovels or front end loader, hydraulic boom trucks (all attachments), locomotives, dinky, pump cranes; Squeeze cures; screw type pumps Cypcam bulker & pump, rock drill (self-propelled), roto-tiller, seamen, etc. self-propelled scoops; tractor drawn, self-propelled compactor, spreader, chipstone, etc., scraper, tank car heater, tractor, push, pulling sheeps foot, disc., compactor, etc. tug boats

NOTICES











Basic Hourly Rates	Fringe Benefits Payments				Description	Fringe Benefits Payments				Basic Hourly Rates
	H & W	Pension	Vacation	App. Tr.		H & W	Pension	Vacation	App. Tr.	
\$7.15	.45	.45		.13	POWER EQUIPMENT OPERATORS (cont'd) CRANES, electric overhead; Shovels, incl. all attachments 1 yd. to and incl. 3 yds.; track type tractor, on Euclid loader	.45	.45		.13	\$7.20
6.61	.45	.45		.13	CRANE, TOWER; Scraper, tandem or (engine)	.45	.45		.13	7.51
6.69	.45	.45		.13	CRANE, WHIRLEY	.45	.45		.13	7.55
7.53	.45	.45		.13	CRANE, WHIRLEY OILER; hydraulic and similar; Oiler, hoist house, dms., shovels oiler, over 3 yds.; which truck with boom	.45	.45		.13	6.92
6.81	.45	.45		.13	CRUSHER AND/OR SCREENING PLANT HELPER, (if over 2 separate units); Crusher oiler; Field equipment service helper; Hot plant oiler, 100 tons per hour or over; Mechanic and/or welder helper on Job; Oiler, other than shovels and cranes; Shovel oiler, 3 yds. and under; Washing and screening plant oiler	.45	.45		.13	6.51
7.27	.45	.45		.13	CRUSHER CONVEYOR, when required; Farm type tractor, up to and incl. 50 H.P.; Grade setter	.45	.45		.13	6.48
6.74	.45	.45		.13	DRILLING MACHINE (does not include Jackhammer, Wagon drillers or waterlines)	.45	.45		.13	6.93
7.42	.45	.45		.13	BACKLOADER and similar; Loader and hoe combination, rubber-tired, loader 1 yd. to and incl. 3 yds., hoe over 1 yd.	.45	.45		.13	7.21
6.54	.45	.45		.13	FARM TYPE TRACTOR, over 50 H.P.; Heaters, Herman Nelson and similar	.45	.45		.13	6.56
6.85	.45	.45		.13	FIELD EQUIPMENT SERVICE MAN	.45	.45		.13	6.94
6.78	.45	.45		.13	FORK LIFT (on construction site)	.45	.45		.13	6.83
6.60	.45	.45		.13	HOIST, OR AIR TUGGER, single drum; Farm grader	.45	.45		.13	6.79
7.18	.45	.45		.13	FULLER KENYON PUMP; Loaders (Barber Green and similar)	.45	.45		.13	6.67
7.33	.45	.45		.13	HELICOPTER HOIST	.45	.45		.13	7.52
7.38	.45	.45		.13	LOADERS, RUBBER-TIRED, 1 yd. and under	.45	.45		.13	6.73
7.43	.45	.45		.13	LOADERS, RUBBER-TIRED, over 3 yds. to and incl. 5 yds.	.45	.45		.13	7.14
6.59	.45	.45		.13						

## NOTICES

LOADERS, RUBBER-TIRED, 5 yds. to and incl. 10 yds.

LOADERS, RUBBER-TIRED, over 10 yds., to and incl. 15 yds.

LOADERS, RUBBER-TIRED, over 15 yds. (factory rating not to incl. sideboards)

LOADERS, TRACK-TYPE, over 5 yds. to and incl. 10 yds. Scraper, twin engine

LOADERS, TRACK-TYPE, over 10 yds. to and incl. 15 yds.

LOADERS, TRACK-TYPE, over 15 yds.

MECHANIC AND/OR WELDER, on job

MIXER/MOBILE

PILEDRIVER (when shovel equipment is not used)

QUAD CAT

SCRAPER, single or twin engine pulling bally dump trailer

SHOVELS, incl. all attachments, over 3 yds. to and incl. 5 yds., Stiff-lag derrick and guy derrick

SHOVELS, incl. all attachments, over 5 yds.

Basic Hourly Rates	Fringe Benefits Payments				Description	Fringe Benefits Payments				Basic Hourly Rates
	H & W	Pension	Vacation	App. Tr.		H & W	Pension	Vacation	App. Tr.	
\$7.24	.45	.45		.13	TRUCK DRIVERS	.45	.45		.13	\$7.05
7.34	.45	.45		.13	COMBINATION Truck; Concrete Mixer and Transit Mixer:	.45	.45		.13	7.13
7.44	.45	.45		.13	To and incl. 4 cu. yds.	.45	.45		.13	7.21
7.25	.45	.45		.13	Over 4 cu. yds. to and incl. 6 cu. yds.	.45	.45		.13	7.29
7.35	.45	.45		.13	Over 6 cu. yds. to and incl. 8 cu. yds.	.45	.45		.13	7.25
7.45	.45	.45		.13	Over 8 cu. yds. to and incl. 10 cu. yds.	.45	.45		.13	6.98
7.09	.45	.45		.13	Over 10 cu. yds. - additional \$.08 per hour each additional 2 cu. yds. increment	.45	.45		.13	6.80
7.10	.45	.45		.13	DISTRIBUTOR DRIVER AND HELPER	.45	.45		.13	6.93
6.67	.45	.45		.13	DRY BATCH TRUCKS:	.45	.45		.13	7.09
7.32	.45	.45		.13	2 Batch or under	.45	.45		.13	7.25
7.40	.45	.45		.13	Over 3 Batch to and incl. 5 Batch	.45	.45		.13	6.90
7.47	.45	.45		.13	Over 5 Batch to and incl. 10 Batch	.45	.45		.13	6.80
7.60	.45	.45		.13	Over 10 Batch to and incl. 15 Batch	.45	.45		.13	7.00
					Over 15 Batch - additional \$.15 per hour each additional 5 Batch increment					
					PICKUP DRIVER, HAULING MATERIALS					
					DUMPMAN, GRAVEL SPREADER BOX; Pilot Car Driver, Teamsters and Helpers					
					Warehousemen, Partsmen, Cardex men, Warehouse Expediter					
					DUMP TRUCKS AND SIMILAR EQUIPMENT WATER LEVEL CAPACITY, INCL. SIDE-BOARDS:					
					7 cu. yds. or less					
					Over 7 cu. yds. to and incl. 10 cu. yds.					
					Over 10 cu. yds. to and incl. 15 cu. yds.					

## NOTICES



TRUCK DRIVERS (Cont'd)	Basic Hourly Rates		Fringe Benefits		Fringe Benefits Payments		App. Tr.
	H & W	Penalties	Penalties	Vacation	H & W	Vacation	
Over 15 cu. yds. to and incl. 20 cu. yds.	\$7.23	.50	.40		.50	.40	
Over 20 cu. yds. to and incl. 25 cu. yds.	7.29	.50	.40		.50	.40	
Over 25 cu. yds. to and incl. 30 cu. yds.	7.35	.50	.40		.50	.40	
Over 30 cu. yds. to and incl. 35 cu. yds.	7.41	.50	.40		.50	.40	
Over 35 cu. yds. to and incl. 40 cu. yds.	7.47	.50	.40		.50	.40	
Over 40 cu. yds. to and incl. 45 cu. yds.	7.53	.50	.40		.50	.40	
Over 45 cu. yds. - additional \$ .06 per hour each additional 5 cu. yds. increment	6.93	.50	.40				
MINISTERS							
DW 20, DW 21, or EUCALID TRACTORS, MILLING P.R. 21 or SIMILAR DUMP WAGONS:							
To and incl. 25 cu. yds.	7.29	.50	.40		.50	.40	
Over 25 cu. yds. to and incl. 30 cu. yds.	7.35	.50	.40		.50	.40	
Over 30 cu. yds. - additional \$ .06 per hour each additional 5 cu. yds. increment	7.56	.50	.40				
SERVICEMEN							
POWDER TRUCK DRIVER (bulk unloader type)	6.98	.50	.40				
FLAT TRUCKS:							
To and incl. 3 tons	6.05	.50	.40				
Over 3 tons factory rating	6.40	.50	.40				
SERVICE TRUCK DRIVERS; FUEL TRUCK DRIVERS; TIREMEN	7.34	.50	.40				
LOADBOYS, FOUR-WHEEL TRAILER, FLDMAT SEMI-TRAILER	7.15	.50	.40				
LINER CARRIERS, LIFT TRUCKS	7.05	.50	.40				
POWER BROOM	6.89	.50	.40				

TRUCK DRIVERS (Cont'd)

WATER TANK DRIVERS; PETROLEUM PRODUCTS DRIVERS:

2,500 gallons and under

Over 2,500 gallons to and incl. 4,500 gallons

Over 4,500 gallons to and incl. 6,000 gallons

Over 6,000 gallons to and incl. 8,000 gallons

Over 8,000 gallons to and incl. 10,000 gallons

Over 10,000 gallons - additional \$ .08 per hour each additional 2,000 gallons increment

TRUCKS WITH POWER EQUIPMENT IF UNDER TENNIS JURISDICTION, SUCH AS:

Winch, A-frame, Swedish Crane, Hydra-lift, Groutcrete, and Combination mulching, Seeding and fertilizing

TRUCK MECHANIC

Gallatin County	Basic Hourly Rates		Fringe Benefits		Fringe Benefits Payments		App. Tr.
	H & W	Penalties	Penalties	Vacation	H & W	Vacation	
TRUCK DRIVERS:							
Truck Drivers:							
Dump, 7 yds. or less; Pickup, hauling materials; Flat, less than 2 tons; Service & A-Frame trailers.	\$ 5.53	.50	.30		.50	.30	
House movers	5.57	.50	.30		.50	.30	
Flat, 2 - 5 tons	5.53	.50	.30		.50	.30	
Dump, over 7 yds. to & incl. 10 yds.; Flat, 5 - 8 tons; Semi & four wheel trailers	5.78	.50	.30		.50	.30	
Dump, over 10 yds. to & incl. 15 yds.	5.94	.50	.30		.50	.30	
Dump, over 15 yds. to & incl. 20 yds.	6.08	.50	.30		.50	.30	



STATE: MONTANA  
COUNTIES: Statewide  
DATE: Date of Publication  
DECISION NUMBER: MT75-5062  
Supersedes Decision No. MT75-5012 dated February 7, 1975, in 40 FR 6059  
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		M & W	Pensions	Vacation	
ASBESTOS WORKERS	\$9.65	.44	.80		.02
BRICKLAYERS:	8.90	.70	1.00		
Beaverhead, Deer Lodge, Granite, Jefferson, Madison, Powell and Silver Bow Counties					
Bricklayers	8.50	.25			
Callahan, Carbon, Carter, Custer, Dawson, Fallon, McCone, Powder River, Prairie, Richland, Toole and Yellowstone Counties	7.75				
Treasurer, Wibaux and Yellowstone Counties					
Broadwater, Lewis and Clark and Big Horn, Carbon, Golden Valley, and Yellowstone Counties	9.50		.35		.02
Beaverhead, Deer Lodge, Granite, Jefferson, Madison, Powell and Silver Bow Counties					
Bricklayers	8.55	.30			
Cascade, Chouteau, Glacier, Judith-Basin, Lincoln and Sanders Counties	9.15	.40	.30		
Blaine, Daniels, Hill, Liberty, Phillips, Roosevelt, Sheridan, Toole and Yellowstone Counties	8.45				
Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties	7.10	.30	.25		
CARPENTERS:					
Cascade, Chouteau, Fergus, Glacier, Judith-Basin, Liberty, Meagher, Pondera, Teton and Toole Counties					
Carpenters	7.17	.40	.55		.02
Pile-drivers	7.42	.40	.55		.02
Sawmen	7.67	.40	.55		.02
Millwrights					
Blaine and Hill Counties	6.36	.30	.45		.02
Carpenters					
Broadwater, Lewis and Clark and Jefferson Counties	6.90	.40	.55		.02
Carpenters	7.05	.40	.55		.02
Pile-drivers	7.15	.40	.55		.02
Millwrights					

## NOTICES

	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		M & W	Pensions	Vacation	
CARPENTERS: (Cont'd)					
Deer Lodge, Granite (all area lying south of a line running due east from the N.W. corner of Granite County to the N.E. corner of Granite County) and Powell (area lying south of the N.E. corner of Granite County) Cos.	\$7.11	.40	.55		.02
Carpenters	7.36	.40	.55		.02
Pile-drivers	7.61	.40	.55		.02
Millwrights					
Granite (area lying north of a line running due east from the N.W. corner of Granite County to the N.E. corner of Granite County) and Lake (Southern area, south of and including the Town of Ravalli), Mineral (Area southeast of southeast city limits of the Town of Superior), Missoula, Powell (Area lying north of the N.E. corner of Granite County), Ravalli and Sander (Southeastern portion) Counties	7.60	.40	.65		.02
Carpenters	7.85	.40	.65		.02
Millwrights; Pile-driver					
Carter, Custer, Daniels, Dawson, Fallon, McCone, Phillips, Powder River, Prairie, Richland, Roosevelt, Sheridan, Valley and Wibaux Counties	6.65	.40	.55		.02
Carpenters	6.90	.40	.55		.02
Pile-drivers	7.15	.40	.55		.02
Millwrights					
Flathead, Lincoln, Lake (Northern Area including Town of Ravalli from a point where Hwy #10A and Hwy #93 intersect), Mineral (Northern area including the Town of Superior), Sanders (except S.E. portion) Counties	6.61	.40	.55		.02
Carpenters					

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CARPENTERS: (Cont'd)

Sawmen; Filers, Pile-drivers; Carpenters working burned, charred, creosoted or similarly treated material erectors

Big Horn, Carbon, Garfield, Golden Valley, Musselshell, Petroleum, Rosebud, Stillwater, Treasure, Wheatland and Yellowstone Counties

Carpenters

7.02 .40 | .55 | .02 |  |

Floor sanders; Sawmen

7.175 .40 | .55 | .02 |  |

Pile-drivers

7.17 .40 | .55 | .02 |  |

Millwrights

7.52 .40 | .55 | .02 |  |

Beaverhead and Silver Bow Counties

Carpenters

6.61 .40 | .55 | .75 | .02 |

Millwrights and Pile-drivers

6.86 .40 | .55 | .75 | .02 |

Gallatin, Madison, Park and Sweetgrass Counties

Carpenters

6.51 .40 | .55 | .02 |  |

Millwrights and Pile-drivers

6.76 .40 | .55 | .02 |  |

CEMENT MASONS:

Flathead, Glacier, Lake (North of the City of Ronan), Lincoln and Sanders (North of the City of Plains) Counties

6.95 .37 |  |  |  |

Granite (Northern half), Lake (Southern area, including the City of Pablo), Mineral, Missoula, Powell (Northern area including the City of Helenville), Ravalli and Sanders (South portion, including the City of Paradise) Counties

7.60 .40 | .25 |  |  |

Big Horn, Carbon, Golden Valley, Stillwater, Treasure, Wheatland and Yellowstone Counties

6.00 .35 |  |  |  |

Gallatin, Park and Sweetgrass Cos.

6.50 .35 | .25 |  |  |

Carter, Custer, Dawson, Fallon, Powder River, Prairie, Richland, Rosebud and Wibaux Counties

5.75  |  |  |  |

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CEMENT MASONS: (Cont'd)

Beaverhead, Deer Lodge, Granite (Southern half), Jefferson (Southern area including Town of Wickes), Madison, Powell (South portion including the Town of Deer Lodge) and Silver Bow Cos.

Broadwater, Jefferson (Area north of a line running E-W established south of the Town of Wickes and north of the Town of Basin), Lewis and Clark and Meagher Counties

6.22  |  |  |  |

Blaine, Cascade, Chouteau, Hill, Liberty, Pondera, Teton and Toole Counties

7.35 .40 | .25 |  |  |

ELECTRICIANS:

Beaverhead, Deer Lodge, Granite, Jefferson, Madison, Silver Bow and Powell Counties

7.80 .35 | 17 1/2 | 1/22 | 1/22 |

Gallatin County

7.30 .20 | 17 | 1/22 | 1/22 |

Broadwater, Lewis and Clark and Meagher Counties

8.58 .32 | 17 | 1/22 | 1/22 |

Electricians

Blaine, Hill, Liberty and Phillips Counties

8.85 13 |  | 1/22 | 1/22 |

Cascade, Chouteau, Glacier, Judith-Basin, Pondera, Teton and Toole Counties

9.38 .32 | 17 | 1/22 | 1/22 |

Electricians

Cable Splicers

9.63 .32 | 17 | 1/22 | 1/22 |

Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties

7.55 .20 | 17 | 1/22 | 1/22 |

Electricians

Cable Splicers

7.95 .20 | 17 | 1/22 | 1/22 |

Big Horn, Carbon, Golden Valley, Musselshell, Powder River, Rosebud, Stillwater, Treasure and Yellowstone Counties

8.32 .20 | 17 | 1/22 | 1/22 |

Electricians

Cable Splicers

8.77 .20 | 17 | 1/22 | 1/22 |

## NOTICES

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NOTICES

Basic Hourly Rates	Fringe Benefits Payments			App Tr.
	H & W	Pensions	Vacation	
\$9.15	.40	.30		
7.45				
\$5.82	.25	.10		
8.60	.25	.10		
6.74	.25	.20		
6.99	.25	.20		
7.72	.25	.20		

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**MARBLE MASONS: (Cont'd)**  
Cascade, Chouteau, Glacier, Pondera and Teton Counties (Blaine, Daniels, Hill, Liberty, Phillips, Roosevelt, Sheridan, Toole and Valley Counties)

**PAINTERS:**  
Beaverhead, Jefferson (Southern area, south of the City of Boulder), Madison (west of a line running north-south through the west limits of Harrison and Silver Bow Counties)

Brush  
Spray  
Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Prairie, Rosebud, Stillwater, Sweetgrass, Treasure, Wheatland (south of the City of Harlowtown), Wibaux and Yellowstone Counties

Brush  
Steel  
Spray  
Cascade, Chouteau (south of a line running East and West through the Southern limits of Big Sandy), Daniels, Fergus, Glacier (excluding Glacier National Park), Garfield, Judith Basin, Lewis and Clark, (Northern portion from a line running East and West through the northern limits of Craig), McCone, Phillips, Pondera, Petroleum, Richland, Roosevelt, Sheridan, Teton, Toole, Valley and Wheatland (northern area from a line running East and West thru the southern limits of Harlowtown) Counties

Basic Hourly Rates	Fringe Benefits Payments			App Tr.
	H & W	Pensions	Vacation	
\$6.75	.20	.12		1/22
7.75	.20	.12		1/22
7.40	.20	.12		1/22
7.65	.20	.12		1/22
7.64	.445	.29	32.44	.02
702JR	.445	.29	32.44	.02
502JR				
8.51	.50	.75		.05
9.15	.58	.90		.05
8.51	.50	.75		.05
7.10	.30	.25		
9.50		.35		.02
7.10				
6.85	.30			

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**ELECTRICIANS: (Cont'd)**  
Fergus, Petroleum and Wheatland Counties  
(Electrical contracts less than \$20,000)  
(Electrical contracts \$20,000 or more)  
Carter, Daniels, Dawson, Fallon, McCone, Prairie, Richland, Roosevelt, Sheridan, Valley and Wibaux Counties

Custer and Garfield Counties  
ELEVATOR CONSTRUCTORS  
ELEVATOR CONSTRUCTORS' HELPERS  
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)

**IRONWORKERS:**  
Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis and Clark, (Southern half including Wolf Creek), Madison, Park, Powell, Ravalli, and Silver Bow Counties

Flathead, Glacier, Lake, Lincoln, Mineral, Missoula and Sanders Cos. Remaining Counties (including Northern half of Lewis and Clark County)

**MARBLE MASONS:**  
Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties

Big Horn, Carbon, Carter, Custer, Dawson, Fallon, McCone, Powder River, Prairie, Richland, Rosebud, Stillwater, Sweetgrass, Treasure, Wibaux and Yellowstone Counties

Gallatin and Park Counties  
Broadwater, Lewis and Clark, Meagher and Jefferson (Northern area) Counties

NOTICES

Basic Hourly Rates	Fringe Benefits Payments			App Tr.
	H & W	Pensions	Vacation	
\$7.10	.34	.30		.04
6.05	.35			
5.75				
6.50	.35	.25		
7.85	.40	.25		
7.95	.40	.25		
6.45	.20			
8.73	.35	.50		.05
9.10	.40	.70		.12

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**PAINTERS: (Cont'd)**  
Flathead, Granite (Northern area north limits of Phillipsburg), Lake (Southern area including City of Ronan), Lincoln, Mineral, Missoula, Powell (Northern area through south limits of Helmsville), Ravalli and Sanders Counties

**PLASTERERS:**  
Big Horn, Carbon, Golden Valley, Stillwater, Treasure, Wheatland, and Yellowstone Counties

Carter, Custer, Dawson, Fallon, Powder, Prairie, Richland, Rosebud and Wibaux Counties

Gallatin, Park and Sweetgrass Counties

Granite, Lake (Southern area, including the City of Pablo), Mineral, Missoula, Powell (Northern area including the City of Helmsville), Ravalli and Sanders (each portion, including the City of Paradise) Counties

Beaverhead, Deer Lodge, Jefferson (Southern area, including the Town of Wickes), Madison, Powell (South of a line running E-W north of the town of Deer Lodge) and Silver Bow Counties

Flathead, Glacier, Lake (Northern area, including the City of Ronan), Lincoln and Sanders Counties

**PLUMBERS:**  
Flathead, Lake, Lincoln, Mineral, Missoula and Sanders Counties

Maine, Cascade, Chouteau, Fergus, Glacier, Hill, Judith Basin, Liberty, McCone, Meagher, Phillips, Pondera, Roosevelt, Teton, Toole, and Valley Cos.

Basic Hourly Rates	Fringe Benefits Payments			App Tr.
	H & W	Pensions	Vacation	
\$7.19	.34	.30		
7.44	.34	.30		
7.54	.34	.30		
7.69	.34	.30		
9.44	.34	.30		
10.79	.34	.30		
6.94	.25	.20		.03
7.94	.25	.20		.03
8.44	.25	.20		.03
8.94	.25	.20		.03
9.44	.25	.20		.03
5.90				

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**PAINTERS:**  
Painters, brush, preparatory work, Pot tending; Rollers not over 9" for wire mesh, Louvers, Peg boards behind radiators and perforated tile only; Parking, Pot stripping and related work

Paperhangers; Rollers up to 9" long and brush cutting in ahead or roller

Perforator  
Brush on steel  
Water and Sandblasting:  
Application of cold tar products (including epoxies, polyurethanes and acid resistant paints);  
Spraying and airless spray  
Roller over 9" long  
Broadwater, Gallatin, Jefferson, (Northern area from a line running East and West five miles south of the Southern City limits of Boulder), Lewis and Clark (Southern portion from a line running East and West through the Southern limits of Craig), Madison (East of the West City limits of Harrison), Meagher, Park, Powell (Northern area from a line running East and West thru the Southern City limits of Helmsville)

Brush  
Spray; Steel brush  
Structural steel brush  
Steel spray  
Structural steel spray  
Beine, Hill, Liberty and Chouteau (north of the Southern limits of the City of Big Sandy) Counties



## NOTICES

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Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
	H & W	Pensions	Vacation	
PLASTERERS: (Cont'd)				
Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis and Clark, Madison, Park, Powell, Silver Bow and Sweetgrass Counties	.40	.50		.05
Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Fergus, Gallatin, Garfield, Golden Valley, McCone, Musselshell, Petroleum, Phillips, Powder River, Park, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Stillwater, Sweetgrass, Valley, Wheatland, Wibaux, Treasure and Yellowstone Counties	.40	.55		.10
ROOFERS:				
Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Prairie, Richland, Rosebud, Stillwater, Treasure, Wibaux and Yellowstone Counties				
Blaine, Cascade, Chouteau, Daniels, Fergus, Garfield, Glacier, Hill, Judith-Basin, Liberty, Lewis and Clark, McCone, Petroleum, Phillips, Pondera, Roosevelt, Sheridan, Teton, Toole and Valley Counties				
Beaverhead, Deer Lodge, Jefferson, Madison, Powell and Silver Bow Counties	.425	.35	.75	
Flathead, Granite, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties				
Broadwater, Gallatin, Meagher, Park, Sweetgrass and Wheatland Counties	.425			
SHEET METAL WORKERS:				
Broadwater, Jefferson (including North h of the City of Boulder?), Lewis and Clark and Meagher Cos.	.37	.20		.04

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Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
	H & W	Pensions	Vacation	
SHEET METAL WORKERS: (Cont'd)				
Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties	.32	.20		.04
Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Fergus, Gallatin, Garfield, Golden Valley, McCone, Musselshell, Petroleum, Phillips, Powder River, Park, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Stillwater, Sweetgrass, Valley, Wheatland, Wibaux, Treasure and Yellowstone Counties	.37	.20		.04
Blaine, Cascade, Chouteau, Glacier, Hill, Judith-Basin, Liberty, Pondera, Teton and Toole Counties	.37	.25		.04
Beaverhead, Deer Lodge, Granite, Jefferson (Sh), Madison, Powell, and Silver Bow Counties	.32	.20		.08
SPRINKLER FITTERS:				
TERRAZZO WORKERS & TILE SETTERS:				
Broadwater, Lewis and Clark, Meagher and Jefferson (Northern area north of Boulder Hill) Cos.	.30			
Big Horn, Carbon, Carter, Custer, Dawson, Fallon, McCone, Powder River, Prairie, Richland, Rosebud, Sweetgrass, Stillwater, Treasure, Wibaux and Yellowstone Counties		.25		.02
Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties	.30	.25		
Gallatin and Park Counties				
Cascade, Chouteau, Glacier, Pondera and Teton Counties	.40	.30		

## FOOTNOTES:

a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A-Through F.  
 PAID HOLIDAYS:  
 A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;  
 E-Thanksgiving Day; F-Christmas Day.

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Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
	H & W	Pensions	Vacation	
LABORERS				
Beaverhead, Deer Lodge, Jefferson, Madison, Powell (excluding SR portion) and Silver Bow Counties				
Group 1	.47	.37	.75	.03
Group 2	.47	.37	.75	.03
Group 3	.47	.37	.75	.03
Group 4	.47	.37	.75	.03
Group 5	.47	.37	.75	.03
Group 6	.47	.37	.75	.03
Group 7	.47	.37	.75	.03
Group 8	.47	.37	.75	.03
Group 9	.47	.37	.75	.03
Group 10	.47	.37	.75	.03
Group 11	.47	.37	.75	.03
Group 12	.47	.37	.75	.03
Group 13	.47	.37	.75	.03
Group 14	.47	.37	.75	.03
Group 15	.47	.37	.75	.03
Group 16	.47	.37	.75	.03
Group 17	.47	.37	.75	.03
Group 18	.47	.37	.75	.03
Group 19	.47	.37	.75	.03
Group 20	.47	.37	.75	.03
Group 21	.47	.37	.75	.03
Broadwater (Northern area), Lewis and Clark, Meagher, Powell (that portion lying east of a N-S line at the west edge of the Town of Elliston) Counties				
Group 1	.37	.27	.10	.03
Group 2	.37	.27	.10	.03
Group 3	.37	.27	.10	.03
Group 4	.37	.27	.10	.03

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Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
	H & W	Pensions	Vacation	
LABORERS (Cont'd)				
Broadwater (Southern portion including the City of Tosten), Gallatin, Park, Sweetgrass and Wheatland Counties				
Group 1	.56	.37	.27	.03
Group 2	.56	.37	.27	.03
Flathead, Glacier National Park, Lincoln and that area of Lake and Sanders Counties lying 5 miles north of the 5th Parallel				
Group 1	.68	.425	.315	.03
Group 2	.625	.315		.03
Group 3	.642	.425	.315	.03
Carter, Custer, Dawson, Fallon, Powder River, Prairie and Wibaux Counties				
Group 1	.524	.37	.27	.03
Group 2	.546	.37	.27	.03
Group 3	.564	.37	.27	.03
Big Horn, Carbon, Golden Valley, Musselshell, Rosebud, Stillwater, Treasure and Yellowstone Counties				
Group 1	.539	.37	.27	.03
Group 2	.516	.37	.27	.03
Group 3	.564	.37	.27	.03
Granite, Lake (Southern area), Mineral, Missoula, Ravalli and Sanders (Southern area) Counties				
Group 1	.6255	.425	.315	.03
Group 2	.6505	.425	.315	.03
Group 3	.6655	.425	.315	.03

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LABORERS

Beaverhead, Deer Lodge, Jefferson, Madison, Powell (excluding SE portion) and Silver Bow Counties

Basic Hourly Rates	Range Benefits Payments			App. Tr.
	H & W	Family	Vehicle	
Cascade, Chouteau, Fergus, Glacier (Excluding Glacier National Park), Judith Basin, Pondera, Teton and Toole Counties				
Group 1	6.94	.47	.37	.03
Group 2	7.19	.47	.37	.03
Group 3	7.29	.47	.37	.03
Group 4	7.34	.47	.37	.03
Group 5	7.44	.47	.37	.03
Group 6	7.69	.47	.37	.03
Group 7	7.54	.47	.37	.03
Blaine, Daniels, Garfield, Hill, Liberty, McCone, Petroleum, Phillips, Richland, Roosevelt, Sheridan and Valley Counties				
Group 1	5.97	.425	.315	.03
Group 2	6.07	.425	.315	.03
Group 3	6.22	.425	.315	.03
Group 4	6.37	.425	.315	.03
Group 5	6.47	.425	.315	.03
Group 6	6.72	.425	.315	.03

NOTICES

- Group 1: General Laborer; Axeman; Carpenter Tender; Car and Truck Loaders, Scissorlift, Chuck Tender and Nipper (above ground); CosmoLine, applying and removing; Fence Erector and Installer including the installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers; Form Stripper; Form Setter; Landscape Laborer; Nozzleman - air and water, gunnite and play machine; Pilot Car; Rlrap Helper; Scaleman; Sod Cutter (hand operated) (General Laborer); Stake Jumper for equipment; Tool Checker, Toolhouseman
- Group 2: Ripraper; Sandblaster; Sandblaster Tailhouseman; Pot Tender
- Group 3: Hand Faller
- Group 4: Post Hole Digger (power Auger)
- Group 5: Concrete or asphalt saws; Tar Pot Operator
- Group 6: Powderman helper
- Group 7: Callson Workers (free air); Choker Setter; Spike Driver, single or dual or hand
- Group 8: Drills, Air-tract, self-propelled car or truck mount air operated drills; Jackhammer, Pavement Breaker, Wagon Driller, Mechanical Tamper, Vibrating roller hand steered and other power tools; Pipe Wrapper, Power Saw (bucking)
- Group 9: Asphalt Raker; Dumpman (grademan)
- Group 10: High Pressure Machine Nozzleman
- Group 11: Pipelayer (all types); Cutting Torch Operator
- Group 12: Powderman
- Group 13: Grade Setter
- Group 14: High Sealer
- Group 15: Dumpman (potter)
- Group 16: Power Saw (falling)
- Group 17: Rigger
- Group 18: Core Drill Operator

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LABORERS (Cont'd)

Beaverhead, Deer Lodge, Jefferson, Madison, Powell (excluding SE portion) and Silver Bow Counties

- Group 19: Concrete Worker, wet or dry; Tending Masons when pouring and finishing concrete
- Group 20: Vibrator Operator; Tending Stonesetters, Marble Setters, Tile Setters, Skagloia and Terrazzo Workers; Tending brick masons or brick or stone work; Tending plasterers or stuccoing or plastering; (This does not include rubbing down of foundation or concrete walls), Surekete, Stonehard and Rubberlate; Concrete Conveyor Swinger Operator
- Group 21: Power Driven Concrete Buggies

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LABORERS

Broadwater (Northern area), Lewis & Clark, Meagher, Powell (that portion lying east of a N-S line at the west edge of the Town of Elliston) Counties

- Group 1: General laborer; Car and truck loader; Concrete handler; Form stripper; Fence erector and installer
- Group 2: Concrete buggy; Vibrator; Jackhammer; Wagon driller; Barco tamper; Pavement breaker; Powderman helper
- Group 3: All power tools; Rodder and spreader; Non-metallic pipe layers; Pipe erappers; Sandblasters, Pot tenders; Curb form setter, Concrete tenders
- Group 4: Mortar mixer; Powderman

Broadwater (Southern portion incl. the City of Tosten), Gallatin, Park, Sweetgrass and Wheatland Counties

- Group 1: Common laborers
- Group 2: Semi-skilled; Hod carriers; Jackhammer operator; Vibrator; Mixer operator; Concrete pump tender; Nozzleman; Concrete machiner; Curb form setter

NOTICES

Flathead, Glacier National Park, Lincoln, and that area of Lake and Sanders Counties lying 5 miles north of the 5th Parallel

- Group 1: General laborers, scaleman; form strippers; car and truck loaders
- Group 2: Concrete handlers, conveying and handling concrete, Nozzleman (air or water); Sand blast tail hose man; Powderman helper, Power wheelbarrow; Rodder and Spreader; Form settlers (paving); Bucketman; Small air tool operators, including blow pipes and small power tool operator; Chuck tenders; Asphalt rakers, Dumpman; Rlp rapping; Pipe wrapper, Pot tender; Concrete pumper hoseman; Jackhammer; Pavement breaker; Vibrator; mechanical tamper and other air tools; Cement handlers (sack or bulk); Burning bar
- Group 3: Pipe layers (non-metallic); Metal culvert pipe layers; Mason and Plaster tenders; Cement finisher tender; Small concrete mixer operator; Shoring and lagging open ditches; Powderman; Drills, Air-Trac, wagon drill, cat or truck mounted air operated drills, Sand Blaster (wet or dry); gunite nozzleman; Barco tamper







## NOTICES

DECISION NO. MT75-5062		Fringe Benefits Payments			
Basic Hourly Rate	H & W	Pension	Vacation	App. Tr.	
\$7.94	.45	.45	.10	.03	
7.94	.45	.45	.10	.03	
7.52	.45	.45	.10	.03	
7.64	.45	.45	.10	.03	
8.10	.45	.45	.10	.03	
8.25	.45	.45	.10	.03	
8.35	.45	.45	.10	.03	
8.35	.45	.45	.10	.03	
7.51	.45	.45	.10	.03	
7.94	.45	.45	.10	.03	
7.43	.45	.45	.10	.03	
7.40	.45	.45	.10	.03	
7.94	.45	.45	.10	.03	
7.66	.45	.45	.10	.03	
8.12	.45	.45	.10	.03	
7.94	.45	.45	.10	.03	
7.40	.45	.45	.10	.03	
7.48	.45	.45	.10	.03	
7.86	.45	.45	.10	.03	
7.43	.45	.45	.10	.03	
7.53	.45	.45	.10	.03	
7.75	.45	.45	.10	.03	
7.71	.45	.45	.10	.03	
7.94	.45	.45	.10	.03	
7.40	.45	.45	.10	.03	
7.94	.45	.45	.10	.03	
7.53	.45	.45	.10	.03	
7.48	.45	.45	.10	.03	
7.71	.45	.45	.10	.03	
7.94	.45	.45	.10	.03	
8.44	.45	.45	.10	.03	
7.94	.45	.45	.10	.03	
7.94	.45	.45	.10	.03	

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POWER EQUIPMENT OPERATORS (Cont'd)  
 Hot Plant Oiler, 100 ton per hour or over  
 Hydra lift and similar types  
 Industrial Locomotive all classes  
 Mechanic and/or welder on job  
 Mechanic and/or Welder Helper on Job  
 Mixemobile  
 Motor Patrol  
 Mountain Logger or similar type  
 Mucking Machine  
 Oiler-Driver, Rubber Tired Cranes  
 Oiler, other than shovels and cranes  
 Oiler, hoist house, derrick  
 Pavement Breaker, Enaco and similar  
 Paving and Mixing Machine  
 Power Auger, Large Truck or Tractor mounted  
 Power Mixer, single or double drum  
 Power Saw, multiple cut, self-propelled  
 Pumpcrete or Grout Machine  
 Pumpjack  
 Push Tractor  
 Quad Loader and similar types  
 Radiator Repairman  
 Refrigeration Plant  
 Retort  
 Roller, on blade or hot mix oil paving  
 Roller, on other blade or hot mix paving  
 Roller, 25 ton or over  
 Ross and similar type carriers, on construction site  
 Rubber-tired Dozer  
 Rubber-tired Front End Loader, 1 yd. and under  
 Rubber-tired Front End Loader, 1 yd. to and including 3 yd.  
 Rubber-tired Front End Loader, over 3 yds. to and including 5 yds.

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## NOTICES

DECISION NO. MT75-5062		Fringe Benefits Payments			
Basic Hourly Rate	H & W	Pension	Vacation	App. Tr.	
\$8.16	.45	.45	.10	.03	
8.26	.45	.45	.10	.03	
8.36	.45	.45	.10	.03	
7.94	.45	.45	.10	.03	
8.32	.45	.45	.10	.03	
8.07	.45	.45	.10	.03	
8.17	.45	.45	.10	.03	
8.43	.45	.45	.10	.03	
7.94	.45	.45	.10	.03	
7.94	.45	.45	.10	.03	
8.12	.45	.45	.10	.03	
8.39	.45	.45	.10	.03	
8.52	.45	.45	.10	.03	
7.43	.45	.45	.10	.03	
7.84	.45	.45	.10	.03	
8.07	.45	.45	.10	.03	
8.39	.45	.45	.10	.03	
7.94	.45	.45	.10	.03	
8.17	.45	.45	.10	.03	
8.27	.45	.45	.10	.03	
8.37	.45	.45	.10	.03	
7.94	.45	.45	.10	.03	
8.12	.45	.45	.10	.03	
7.94	.45	.45	.10	.03	
7.94	.45	.45	.10	.03	

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POWER EQUIPMENT OPERATORS (Cont'd)  
 Rubber-tired Front End Loader, over 5 yds. to and including 10 yds.  
 Rubber-tired Front End Loader, over 10 yds. to and including 15 yds.  
 Rubber-tired Front End Loader, over 15 yds.  
 Scraper, 15, 20, 21 and similar type if power unit is not used  
 Scraper, single or twin engine pulling belly dump trailer  
 Scraper, single engine  
 Scraper, twin engine  
 Scraper, tandem or 3 engine  
 Self-propelled Sheepfoot and similar type  
 Shovels, including all attachments under 1 cu. yd.  
 Shovels, including all attachments, 1 cu. yd. to and incl. 3 cu. yds.  
 Shovels, including all attachments, over 3 cu. yds. to and incl. 5 cu. yds.  
 Shovels, including all attachments, over 5 cu. yds.  
 Shovel Oiler, 3 yds. and under  
 Shovel Oiler, over 3 cu. yds.  
 Slip Form Paver  
 Stiff Leg Derrick and Guy Derrick  
 Track-type Front End Loaders, up to and including 5 cu. yds.  
 Track-type Front End Loaders, over 5 cu. yds. to and incl. 10 cu. yds.  
 Track-type Front End Loaders, over 10 cu. yds. to and incl. 15 cu. yds.  
 Track-type Front End Loaders, over 15 cu. yds.  
 Track-type Tractor with or without attachments  
 Track-type Tractor, on Euclid loader  
 Trenching Machine  
 Turnhead Conveyor, or Head Tower or Hatch Plant

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## NOTICES

DECISION NO. MT75-5062	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS (Cont'd)					
CRANE, ELECTRIC OVERHEAD, ALL; Shovels, including all attachments, 1 yard to and including 3 yards; Track-type Tractor on Euclid Loader	\$7.21	.45	.45		.13
HOIST, TWO OR MORE DRUMS; Motor Patrol; Ross and similar type carriers on construction site	7.18	.45	.45		.13
AUTOMATIC FINERGRADER, Curries and other types; Paver; Slip Form; Paving and Mixing Machine; Roller 25 tons or over; Rubber-tired Front-end Loader, over 3 yards to and including 5 yards; Scraper, single	7.15	.45	.45		.13
MIXERMOBILE	7.11	.45	.45		.13
BORING MACHINE; Jeep, Pickup or Farm Tractor mounted; Boring Machine, 1-1/2" Power Auger large truck or tractor, mounted and punch	7.05	.45	.45		.13

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DECISION NO. MT75-5062	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS (Cont'd)					
SHOVELS, including all attachments, over 5 yds.; Stiff-leg Derrick and Guy Derrick; Cableway Highline; Helicopter Hoist; Tower Crane; Whirley Crane	\$7.64	.45	.45		.13
SCRAPER, Tandem Engine; Shovels, including all attachments, over 3 yards to and including 5 yards	7.51	.45	.45		.13
RUBBER-TIRED FRONT-END LOADERS, over 15 yds.; Track-type Front-end Loaders, over 15 cu. yds.	7.45	.45	.45		.13
RUBBER-TIRED FRONT-END LOADERS, 10 yds. to and including 15 yds.; Track-type Front-end Loaders, 10 cu. yds. to and including 15 cu. yds.; Concrete Conveyor; Crane, to and including 80' boom with jib	7.35	.45	.45		.13
QUAD CAT	7.32	.45	.45		.13
CENTRAL MIXING PLANT, concrete and stationary	7.27	.45	.45		.13
RUBBER-TIRED FRONT-END LOADERS, over 5 yds. to and including 10 yds.; Scraper, twin engine; Track-type Front-end Loaders, over 5 cu. yds. to and including 10 cu. yds.; Scraper single or twin engine, pulling Belly Dump Trailer	7.25	.45	.45		.13

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## NOTICES

DECISION NO. MT75-5062	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS (Cont'd)					
FIELD EQUIPMENT SERVICEMAN; Hydraulic lift and similar type; Oilier, Hoist-house Dams; Shovels Oiler, over 3 yards; Winch Truck with boom	\$6.92	.45	.45		.13
CONCRETE MIXER, 4 bags and over	6.89	.45	.45		.13
HOIST, Single Drum	6.81	.45	.45		.13
A-FRAME TRUCK CRANE, Winch Truck and similar	6.80	.45	.45		.13
CEMENT SILO; Form Grader	6.79	.45	.45		.13
HYDRO TAMPER	6.77	.45	.45		.13
CHAIN BUCKET; Chip or Gravel Spreader, self-propelled; Conveyor Loader, over 42" belt	6.72	.45	.45		.13
AIR COMPRESSOR, tow or more; Roller, steel and self-propelled rubber other than blade or hot mix oil paving; Rubber-tired Front-end Loaders, under 1 yard	6.71	.45	.45		.13
BROOM, self-propelled	6.67	.45	.45		.13
CONCRETE MIXER, 3 bags and under; Fireman	6.61	.45	.45		.13
CONVEYOR LOADER, up to and including 42" belt; Crusher Conveyor	6.60	.45	.45		.13
RETORT OPERATOR	6.57	.45	.45		.13

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DECISION NO. MT75-5062	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS (Cont'd)					
AIR DOCTOR; Asphalt Paving Machine Operator; Bit Grinder; Bituminous Mixer Paving Travel Plant; Concrete Batch Plant Operator; Concrete Curing Machine; Concrete Finish Machine; Paving; Concrete Float and Spreader; Concrete Saw, self-propelled; Concrete Travel Packer; Grader; Disc Distributor; Elevating Grader; Lift on construction job site; Grapple; Heavy Duty Drills, all types, hot plant; Hot Plant; Fireman; when in operation; Industrial Locomotive; Mountain Logger or similar type machine; Rocking Machine; Pavement Breaker, Emco and similar; Power Mixer, single or double drum; Pumpcrete or Grout Machine; Refrigeration plant; Roller, Steel and self-propelled rubber on blade or hot mix oil paving; Roller, Wagner and similar types; Rubber-tired Dozer; Rubber-tired Front-end Loader, 1 yard to and including 3 yards; Shovels, including all attachments, under 1 yard; Track-type Tractor, with or without attachments; Track-type Tractor with or without attachments including Track-type Front-end Loaders up to and including 5 cu. yds.; Trench Machine; Belt Plant, 1 and 2 mixers; DW 10, 15, 20 Tractor pulling Roller; Power Saw self-propelled, multiple cut; Push Tractor; Scraper DW 15, 20, 21 and similar type if power unit is not used; Self-propelled Sheepsfoot; Turnhead Conveyor, or Head Tower, on Batch Plant; Wagner Roller, Water Pu 1 Operator	7.02	.45	.45		.13

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Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
	H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS (Cont'd)				
MECHANIC AND/OR WELDER HELPER; Concrete Batch Plant Oiler; Crane Oiler; Farm type tractor, over 50HP engine; Hot Plant Oiler, 100 tons per hour and over; Oiler Driver, Rubber-tired Crane	.45	.45	.13	.13
PUMPMAN	.45	.45	.13	.13
AIR COMPRESSOR, Single; Concrete Batch Plant Oiler, up to and including 2 mixers	.45	.45	.13	.13
SHOVEL, OILER, 3 yards and under	.45	.45	.13	.13
CRUSHER OILER and HELPER, Farmtype Tractor, up to and including 50 HP engine; Field Equipment, Self-propelled; Grader; Heavy Duty Drill Helper; Heaters, Heaters, Nelson and similar type; Oiler, other than shovels and cranes; Washer and Screening Plant Oiler	.45	.45	.13	.13
CONCRETE BATCH PLANT, 3 and 4 mixers	.45	.45	.13	.13
CONCRETE BATCH PLANT, 5 mixers and over	.45	.45	.13	.13
CONCRETE BATCH PLANT OILER, 3 mixers and over	.45	.45	.13	.13
CONCRETE PUMP	.45	.45	.13	.13
CRANE 81' to 130' boom	.45	.45	.13	.13
CRANE 131' to 150' boom	.45	.45	.13	.13
CRANE 151' Boom and over	.45	.45	.13	.13
MECHANIC AND/OR WELDER	.45	.45	.13	.13
WHIRLEY CRANE OILER	.45	.45	.13	.13

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Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
	H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS (Cont'd)				
Beaverhead, Deer Lodge, Granite, Jefferson, Madison, Powell (Southern area) and Silver Bow Counties	.45	.45	.13	.13
A-FRAME TRUCK CRANE	.45	.45	.13	.13
AIR COMPRESSOR, single	.45	.45	.13	.13
AIR COMPRESSOR, 2 or more; Belt Finishing; Conveyor Loader, over 42" belt; Roller, steel and self-propelled rubber on other than blade or hot-mix oil paving	.45	.45	.13	.13
AIR DOCTOR; Asphalt Paving Machine, or Self-Grinder; Bituminous Mixer, Paver; Boring Machine, large (for guard rail holes); Bulldozer, rubber-tired or o-hetvise; Concrete Batch Plant, 1 and 2 mixers; Concrete Bucket Dispatcher; Concrete Curbing Machine; Concrete Finishing Machine; Concrete Float and Spreader; Concrete Power Saw, self-propelled; Concrete Travel Batch; Crusher and/or Screening Plant; Distributor; Elevating-Grader; Gradall; Heavy Duty Rotary Drills (Quarry Master, Joy Drills and similar types); Hoist or Air Tugger, 2 or more drums; Hot Plant; Hot Plant Fireman (when in operation); Industrial Locomotive, all types; Loaders, rubber-tired, over 1 yard to and including 3 yards; Loaders, track type up to and including 3 yards; Loaders, Traxacavator and Achey; rubber-tired, Loader 1 yard and under, Hoe 1 yard and under;	.45	.45	.13	.13

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Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
	H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS (Cont'd)				
Mountain Logger or similar; Mucking Machine; Pavement Breaker; Enco and similar; Power Auger, large truck or tractor, mounted and punch; Power Mixer, single or double drum; Power Saw, self-propelled, multiple cut; Pump-crate or Grout Machine; Push Tractor; Refrigerator Plant; Roller, steel and self-propelled rubber on blade on hot-mix oil paving roller, 25 tons, working weight or over any type or make; Roller, Wagner and similar; Ross and similar type Carriers (on construction site); Scraper DW 10; Scraper, DW 15, 20, 21 and similar if power unit is not used; Self-propelled Sheepsfoot and similar; Shovels, including all attachments, under 1 yard; Trenching Machine; Turnhead Conveyor or Head Tower Operator on Batch Plant; Water Pull, when used for compaction; Washing and Screening Plant	.45	.45	.13	.13
AUTOMATIC FINEGRADER, Curries and similar; Motor Patrol; Paving and Mixing Machine; Scraper, DW 15, 20, 21 and similar if power unit is used; Scraper, single engine; Slip Form Paver	.45	.45	.13	.13
BORING MACHINE; Concrete Mixer, 3 bags and under; Fireman; Heavy Duty Rotary Drill Helper; Retort Operator	.45	.45	.13	.13
BROOM OPERATOR, Self-propelled	.45	.45	.13	.13

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Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
	H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS (Cont'd)				
CABLEWAY OPERATOR	.45	.45	.13	.13
CEMENT SILO	.45	.45	.13	.13
CENTRAL MIXING PLANTS, Concrete Dams and Stationary	.45	.45	.13	.13
CHAIN BUCKET LOADER; Chip-gravel Spreader self-propelled; DW 10, 15, 20 Tractor pulling Roller	.45	.45	.13	.13
CONCRETE BATCH PLANT OPERATOR, 3 and 4 mixers	.45	.45	.13	.13
CONCRETE BATCH PLANT OPERATOR, 5 mixers and over	.45	.45	.13	.13
CONCRETE BATCH PLANT OILER, up to and including 2 mixers	.45	.45	.13	.13
CONCRETE BATCH PLANT OILER, 3 mixers and over	.45	.45	.13	.13
CONCRETE MIXER OPERATOR, 4 bags and over	.45	.45	.13	.13
CONVEYOR LOADER, to and including 42" belt	.45	.45	.13	.13
CRANE, to and including 80' boom with jib	.45	.45	.13	.13
CRANE, 81' to 130' boom	.45	.45	.13	.13
CRANE, 131' to 150' boom	.45	.45	.13	.13
CRANE, 151' boom and over	.45	.45	.13	.13
CRANE OILER; Oiler Driver, Rubber-tired Cranes	.45	.45	.13	.13



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DECISION NO. MT75-5062	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS (Cont'd)	\$6.94	.45	.45		.13
FIELD EQUIPMENT SERVICE MAN	6.83	.45	.45		.13
FORK LIFT (on construction site)	6.79	.45	.45		.13
HOIST, OR AIR TUGGER, single drum Farm Grader	6.67	.45	.45		.13
FULLER KENYON PUMP; Loaders (Barber Green and similar)	7.52	.45	.45		.13
HELICOPTER HOIST	6.73	.45	.45		.13
LOADERS, RUBBER-TIRED, 1 yard and under	7.14	.45	.45		.13
LOADERS, RUBBER-TIRED, over 3 yards to and including 5 yards	7.24	.45	.45		.13
LOADERS, RUBBER-TIRED, 5 yards to and including 10 yards	7.34	.45	.45		.13
LOADERS, RUBBER-TIRED, over 10 yards, to and including 15 yards	7.44	.45	.45		.13
LOADERS, RUBBER-TIRED, over 15 yards (factory rating not to include sideboards)	7.25	.45	.45		.13
LOADERS, TRACK-TYPE, over 5 yards to and including 10 yards, Scraper, twin engine	7.35	.45	.45		.13
LOADERS, TRACK-TYPE, over 10 yards to and including 15 yards	7.45	.45	.45		.13
LOADERS, TRACK-TYPE, over 15 yards	7.09	.45	.45		.13
MECHANIC AND/OR WELDER, on job	7.10	.45	.45		.13
MIXERMOBILE	6.67	.45	.45		.13
PILLODRIVER (when shovel equipment is not used)		.45	.45		.13

DECISION NO. MT75-5062	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS (Cont'd)					
CRANE, Electric Overhead; Shovels, including all attachments 1 yard to and including 3 yards; Track type Tractor, on Euclid Loader	\$7.20	.45	.45		.13
CRANE, TOWER; Scraper, Tandem or (conline)	7.51	.45	.45		.13
CRANE, WITRELY	7.55	.45	.45		.13
CRANE, WHIRLEY OILER; Hydraulic and similar; Oiler, Hoist House, Dams, Shovels Oiler, over 3 yards; Winch Truck with boom	6.97	.45	.45		.13
CRUSHER AND/OR SCREENING PLANT HELPH, (If over 2 separate units)	6.51	.45	.45		.13
Crusher Oiler; Field Equipment Service Helper; Hot Plant Oiler, 100 tons per hour or over; Mechanic and/or welder helper on job; Oilers, other than shovels and cranes; Shovel Oiler, 3 yards and under; Washing and Screening Plant Oiler	6.48	.45	.45		.13
CRUSHER CONVEYOR, when required; Farm Type Tractor, up to and including 50 HP; Grade Setter	6.93	.45	.45		.13
DRILLING MACHINE (does not include Jackhammer, Wagon Drillers or Waterlines)	7.21	.45	.45		.13
EUCUID LOADER and similar; Loader and hoe combination; Rubber-tired Loader 1 yard to and including 3 yards, Hoe over 1 yard	6.56	.45	.45		.13
FARM TYPE TRACTOR, over 50 HP; Heaters, Herman Nelson and similar		.45	.45		.13

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DECISION NO. MT75-5062	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS					
Brookwater, Daniels, Dawson, Piquette, Collating, Glacier National Park, and the Basin, Lewis and Clark, Meagher, McConne, Park, Pichler, Losavolt, Sheridan, Wiley, Woodland and Wibaux Cos.	\$7.78	.50	.45	.10	.03
A-frame Truck Crane, Winch Truck and similar	7.47	.50	.45	.10	.03
Air Compressor, single	7.64	.50	.45	.10	.03
Air Compressor, two or more	7.94	.50	.45	.10	.03
Air factor	7.94	.50	.45	.10	.03
Asphalt Paving Machine	7.94	.50	.45	.10	.03
Automatic Paving Machine Screed	8.07	.50	.45	.10	.03
Automatic Finishing Machine and other similar types	7.64	.50	.45	.10	.03
Belt Finish Machine	7.94	.50	.45	.10	.03
Bit Grinder	7.94	.50	.45	.10	.03
Bituminous Mixer Paving, Travel Plant	7.94	.50	.45	.10	.03
Boiling Machine (small), jeep, pickup or farm tractor mounted	7.53	.50	.45	.10	.03
Boring Machine (large)	7.94	.50	.45	.10	.03
Broom, self-propelled	7.94	.50	.45	.10	.03
Cableway Highline	8.45	.50	.45	.10	.03
Conent Silo	7.73	.50	.45	.10	.03
Central Mixing Plants, Concrete dam and stationary	8.19	.50	.45	.10	.03
Chain Bucket Loader	7.66	.50	.45	.10	.03
Chile or Gravel Spreader, self-propelled	7.66	.50	.45	.10	.03
Concrete Batch Plant, one and two mixers	7.94	.50	.45	.10	.03
Concrete Batch Plant, three and four mixers	8.14	.50	.45	.10	.03
Concrete Batch Plant, five mixers and over	8.34	.50	.45	.10	.03
Concrete Batch Plant Oiler, up to and including two mixers	7.46	.50	.45	.10	.03
Concrete Batch Plant Oiler, three mixers and over	7.77	.50	.45	.10	.03
Concrete Bucket Dispatcher	7.94	.50	.45	.10	.03
Concrete Curing Machine Paving	7.94	.50	.45	.10	.03
Concrete Finish Machine	7.94	.50	.45	.10	.03
Concrete Float-Spreader	7.94	.50	.45	.10	.03
Concrete Mixer, three bags and under	7.53	.50	.45	.10	.03
Concrete Mixer, four bags and over	7.70	.50	.45	.10	.03

DECISION NO. MT75-5062	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		H & W	Pensions	Vacation	
QUAD CAT	\$7.12	.45	.45		.13
SCRAPER, single or twin engine pulling Belly Dump Trailer	7.40	.45	.45		.13
SHOVELS, including all attachments, over 3 yards to and including 5 yards, Stiff-leg Derrick and Guy Derrick	7.47	.45	.45		.13
SHOVELS, including all attachments, over 5 yards	7.50	.45	.45		.13

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## NOTICES

DECISION NO. MT75-5062	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS (Cont'd)					
Mechanic and/or Welder on Job	\$8.04	.50	.45	.10	.03
Mechanic and/or Welder Helper on Job	7.43	.50	.45	.10	.03
Misemobile	8.02	.50	.45	.10	.03
Motor Patrol	8.07	.50	.45	.10	.03
Mountain Logger or similar type	7.94	.50	.45	.10	.03
Hooking Machine	7.94	.50	.45	.10	.03
Oilier-Driver, Rubber-tired Cranes	7.51	.50	.45	.10	.03
Oilier, other than Shovels and Cranes	7.43	.50	.45	.10	.03
Oilier, hoist house, dams	7.84	.50	.45	.10	.03
Pavement Breaker, Escos and similar	7.94	.50	.45	.10	.03
Paving and Mixing Machine	8.07	.50	.45	.10	.03
Power Auger, Large Truck or Tractor mounted	7.94	.50	.45	.10	.03
Power Mixer, single or double drum	7.94	.50	.45	.10	.03
Power Saw, multiple cut, self-propelled	7.94	.50	.45	.10	.03
Pumpcrete or Grout Machine	7.94	.50	.45	.10	.03
Pumpman	7.94	.50	.45	.10	.03
Push Tractor	7.47	.50	.45	.10	.03
Quad Cat	8.24	.50	.45	.10	.03
Quad Loader and similar type	8.52	.50	.45	.10	.03
Raygo Giant	7.94	.50	.45	.10	.03
Refrigerator Plant	7.53	.50	.45	.10	.03
Retort	7.94	.50	.45	.10	.03
Roller, on blade or hot mix oil paving	7.94	.50	.45	.10	.03
Roller, on other blade or hot mix paving	7.64	.50	.45	.10	.03
Roller, 25 ton or over	7.94	.50	.45	.10	.03
Ross and similar type Carriers, on construction site	7.94	.50	.45	.10	.03
Rubber-tired Dozer	7.94	.50	.45	.10	.03
Rubber-tired Front End Loader, 1 yard and under	7.65	.50	.45	.10	.03
Rubber-tired Front End Loader, 1 yard to and including 3 yards	7.94	.50	.45	.10	.03
Rubber-tired Front End Loader, over 3 yards to and including 5 yards	8.06	.50	.45	.10	.03
Rubber-tired Front End Loader, over 5 yards to and including 10 yards	8.16	.50	.45	.10	.03

DECISION NO. MT75-5062	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS (Cont'd)					
Concrete Power Saw, self-propelled	\$7.94	.50	.45	.10	.03
Concrete Travel Batcher	7.94	.50	.45	.10	.03
Concrete Conveyor over 40 feet	7.52	.50	.45	.10	.03
Concrete Pump	8.27	.50	.45	.10	.03
Crane, to and including 80' boom	8.16	.50	.45	.10	.03
Crane, 81' to 130' boom	8.25	.50	.45	.10	.03
Crane, 131' to 150' boom	8.35	.50	.45	.10	.03
Crane, 151' boom and over	8.35	.50	.45	.10	.03
Crane Oilier	7.51	.50	.45	.10	.03
Crusher Oilier and Helper	7.94	.50	.45	.10	.03
Crawler Conveyor, when required	7.43	.50	.45	.10	.03
Distributor	7.40	.50	.45	.10	.03
Drum, 15, or 20 Tractor pulling	7.94	.50	.45	.10	.03
Electric Overhead Cranes	7.66	.50	.45	.10	.03
Electric Grader	8.12	.50	.45	.10	.03
Electric Tractor, up to and including 50 HP Engine	7.94	.50	.45	.10	.03
Field Equipment Serviceman	7.40	.50	.45	.10	.03
Field Equipment Serviceman Helper	7.46	.50	.45	.10	.03
Forklift, on construction job site	7.53	.50	.45	.10	.03
Form Grader	7.75	.50	.45	.10	.03
Gradall	7.71	.50	.45	.10	.03
Grade Setter	7.94	.50	.45	.10	.03
Heavy Duty Driller, all types	7.40	.50	.45	.10	.03
Heavy Duty Driller Helper	7.94	.50	.45	.10	.03
Herman-Nelson Heaters and similar type	7.53	.50	.45	.10	.03
Hoist, single drum	7.48	.50	.45	.10	.03
Hoist, tow or more drums	7.71	.50	.45	.10	.03
Helicopter Hoist	7.94	.50	.45	.10	.03
Hot Plant	8.44	.50	.45	.10	.03
Hot Plant Fireman, when in operation	7.94	.50	.45	.10	.03
Hot Plant Oilier, 100 ton per hour or over	7.94	.50	.45	.10	.03
Hydra lift and similar types	7.43	.50	.45	.10	.03
Industrial Locomotive all classes	7.89	.50	.45	.10	.03
	7.94	.50	.45	.10	.03

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DECISION NO. MT75-5062	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS (Cont'd)					
Trenching Machine	\$7.94	.50	.45	.10	.03
Turnhead Conveyor, or Head Tower on Batch Plant	7.94	.50	.45	.10	.03
Wagner Roller and similar type	7.94	.50	.45	.10	.03
Whirley Crane	8.47	.50	.45	.10	.03
Whirley Crane Oilier	7.84	.50	.45	.10	.03
Water Pull when used for compaction	7.94	.50	.45	.10	.03
Washing and Screening Plant	7.94	.50	.45	.10	.03
Washing and Screening Plant Oilier	7.43	.50	.45	.10	.03

DECISION NO. MT75-5062	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS (Cont'd)					
Rubber-tired Front End Loader, over 10 yards to and including 15 yards	\$8.26	.50	.45	.10	.03
Rubber-tired Front End Loader, over 15 yards	8.36	.50	.45	.10	.03
Scraper, D15, 20, 21 and similar type if power unit is not used	7.94	.50	.45	.10	.03
Scraper, single or twin engine pulling Belly Dump Trailer	8.32	.50	.45	.10	.03
Scraper, single engine	8.07	.50	.45	.10	.03
Scraper, twin engine	8.17	.50	.45	.10	.03
Scraper, tandem engine	8.43	.50	.45	.10	.03
Self-propelled Sheepfoot and similar type	7.94	.50	.45	.10	.03
Shovels, including all attachments, under 1 cu. yd.	7.94	.50	.45	.10	.03
Shovels, including all attachments, 1 cu. yd. to and including 3 cu. yds.	8.12	.50	.45	.10	.03
Shovels, including all attachments, over 3 cu. yds. to and including 5 cu. yds.	8.39	.50	.45	.10	.03
Shovels, including all attachments, over 5 cu. yds.	7.52	.50	.45	.10	.03
Shovel Oilier, 3 yards and under	7.43	.50	.45	.10	.03
Shovel Oilier, over 3 cu. yds.	7.84	.50	.45	.10	.03
Slip Form Paver	8.07	.50	.45	.10	.03
Stiff Leg Derrick and Guy Derrick	8.39	.50	.45	.10	.03
Track-type Front End Loaders, up to and including 3 cu. yds.	7.94	.50	.45	.10	.03
Track-type Front End Loaders, over 3 cu. yds. to and including 10 cu. yds.	8.17	.50	.45	.10	.03
Track-type Front End Loaders, over 10 cu. yds. to and including 15 cu. yds.	8.27	.50	.45	.10	.03
Track-type Front End Loaders, over 15 cu. yds.	8.37	.50	.45	.10	.03
Track-type Tractor with or without attachment	7.94	.50	.45	.10	.03
Track-type Tractor, on Euclid Loader	8.12	.50	.45	.10	.03

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DECISION NO. MT75-5062	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS (Cont'd)					
AIR COMPRESSOR, TWO OR MORE; Front-end loader, rubber-tired, under 1 yd.; Roller, grade or finish	\$6.71	.45	.45		.13
BELT FINISHING	6.69	.45	.45		.13
BORING MACHINE, small; Fireman; Mixer, concrete, 3 bags or under; Retort	6.58	.45	.45		.13
CABLEWAY	7.54	.45	.45		.13
CEMENT SILO	6.79	.45	.45		.13
CONCRETE BATCH PLANT; Crusher and/or screening plant stationary	6.91	.45	.45		.13
HELICOPTER HOIST	7.52	.45	.45		.13
CONVEYOR; Chip and gravel spreader	6.72	.45	.45		.13
CRANE OPERATORS:					
To and including 80' w/jibs	7.18	.45	.45		.13
81' to 130' boom	7.33	.45	.45		.13
131' to 150' boom	7.38	.45	.45		.13
151' boom and over	7.43	.45	.45		.13
ELECTRIC OVERHEAD CRANE; Euclid loader and similar type; Shovels, including all attachments, 1 yd. to and including 4 yds.; Tournepull, DW 20, 21 and similar type scrapers	7.21	.45	.45		.13
CRANE OILER-DRIVER, rubber tired	6.57	.45	.45		.13
DRILLING MACHINE, does not include jackhammer, wagon drill, or water liner, Field equipment serviceman; Winch truck with hydraulic boom	6.92	.45	.45		.13
PONK LIFT, on Construction Site	6.81	.45	.45		.13

DECISION NO. MT75-5062	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS					
Big Horn, Carbon, Carter, Custer, Fallon, Garfield, Golden Valley, Musselshell, Petroleum, Powder River, Prairie, Rosebud, Stillwater, Sweetgrass, Treasure, Yellowstone					
ASPHALT PAVING MACHINE; Air doctor; Bit grinder; Bituminous mixer; Bulldozer; Boring machine, large; Concrete finish machine, paving; Concrete float and spreader; Crusher and/or screening plant, portable; Distributor; Elevating grader; Front end loader, rubber-tired, 1 yd. and including 3 yds.; Heavy duty rotary drills; Quarry Master; Hoist, two or more drums; Hot plant fireman; Industrial locomotive; Mucking machine; Pavement breaker; Enaco and similar type; Paver mixer, single or double drum; Power saw, self-propelled, multiple cut; Pumpcrete or grout machine; Roller, finish high type pavement; Ross and similar type carriers, on construction site; Roller, 25 tons or over; Screed; Shovel, incl. all attachments, under 1 yd.; Track-type tractor with or without attachments, incl. track-type loader, front-end up to and incl. 5 cu. yds.; Tractor, and incl. Akey type loader; Wagner roller and similar type	\$7.02	.45	.45		.13
A-FRAME TRUCK CRANE; Hoist, single drum	6.77	.45	.45		.13
AIR COMPRESSOR, SINGLE; Crusher and/or screening plant helper, if over 2 units	6.51	.45	.45		.13

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DECISION NO. MT75-5062	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS (Cont'd)					
PUMPMAN	\$6.52	.45	.45		.13
SHOVELS, over 4 yds; Stiff leg, Guy derrick; Scraper, Tandem 3 engines	7.51	.45	.45		.13
TRACTOR, rubber-tired, (Industrial)	6.46	.45	.45		.13
TOWER CRANE	7.51	.45	.45		.13
TRENCHING MACHINE	6.96	.45	.45		.13

DECISION NO. MT75-5062	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS (Cont'd)					
FRONT-END LOADER, rubber-tired, over 3 yds. and including 5 yds.; Letourneau, single and similar type; Motor patrol; Automatic firegrader, gullies and similar type	\$7.15	.45	.45		.13
FRONT-END LOADERS, rubber-tired, over 5 yds. to and including 10 yds.; Scraper, twin-engine; Track-type front-end loaders, over 5 cu. yds. to and including 10 cu. yds.	7.25	.45	.45		.13
FRONT-END LOADERS, rubber-tired, 10 yds. to and including 15 yds.; Track-type front-end loaders to and including 15 cu. yds.	7.35	.45	.45		.13
FRONT-END LOADERS, rubber-tired over 15 yds. (factory struck rating, not to include sideboards); Track-type front-end loaders, over 15 cu. yds.	7.45	.45	.45		.13
GRADE SETTER; Herman Nelson heaters and similar type	6.48	.45	.45		.13
LETOURNEAU, Tandem and similar type; Quad Cat	7.32	.45	.45		.13
LOADER, BARBER GREEN and similar type	6.66	.45	.45		.13
MECHANIC and/or Welder, on job site	7.12	.45	.45		.13
MECHANIC and/or Welder, Helper; Heavy duty rotary drill helper; Oiler	6.47	.45	.45		.13
MIXER, CONCRETE, 3 bags and under	6.58	.45	.45		.13
MIXER, CONCRETE, 4 bags and over	6.83	.45	.45		.13
MIXERMOBILE	7.11	.45	.45		.13



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DECISION NO. MT75-5062	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & W	Pensions	Vacation	
TRUCK DRIVERS: (Cont'd)					
Over 15 cu. yds. to and including 20 cu. yds.	\$7.23	.50	.40		
Over 20 cu. yds. to and including 25 cu. yds.	7.29	.50	.40		
Over 25 cu. yds. to and including 30 cu. yds.	7.35	.50	.40		
Over 30 cu. yds. to and including 35 cu. yds.	7.41	.50	.40		
Over 35 cu. yds. to and including 40 cu. yds.	7.47	.50	.40		
Over 40 cu. yds. to and including 45 cu. yds.	7.53	.50	.40		
Over 45 cu. yds. - additional \$ .06 per hour each additional 5 cu. yds. increment					
DUMPSTERS	6.93	.50	.40		
DW 20, DW 21, or Euclid Tractors, Pulling P.R. 21 or similar Dump Wagons:					
To and including 25 cu. yds.	7.29	.50	.40		
Over 25 cu. yds. to and including 30 cu. yds.	7.35	.50	.40		
Over 30 cu. yds. - additional \$ .06 per hour each additional 5 cu. yds. increment					
SERVICEMEN	7.54	.50	.40		
POWDER TRUCK DRIVER (bulk unloader type)	6.98	.50	.40		
FLAT TRUCKS:					
To and including 3 tons	6.05	.50	.40		
Over 3 tons factory rating	6.40	.50	.40		
SERVICE TRUCK DRIVERS: Fuel Truck Driver; Trenchmen	7.34	.50	.40		
LORRYDOYS, FOUR-WHEEL TRAILER, Float Semi-trailer	7.15	.50	.40		
LUMBER CARRIERS, LIFT TRUCKS	7.05	.50	.40		
POWER BROOM	6.89	.50	.40		

DECISION NO. MT75-5062	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & W	Pensions	Vacation	
TRUCK DRIVERS					
Statewide (except Gallatin, Park, Sweetgrass, Broadwater, South of U.S. Highway #12) Counties					
COMBINATION TRUCK; Concrete Mixer and Transit Mixers:					
To and including 4 cu. yds.	\$7.05	.50	.40		
Over 4 cu. yds. to and including 6 cu. yds.	7.13	.50	.40		
Over 6 cu. yds. to and including 8 cu. yds.	7.21	.50	.40		
Over 8 cu. yds. to and including 10 cu. yds.	7.29	.50	.40		
Over 10 cu. yds. - additional \$ .08 per hour each additional 2 cu. yds. increment					
DISTRIBUTOR DRIVER AND HELPER	6.98	.50	.40		
DRY BATCH TRUCKS:					
3 Batch or under	6.80	.50	.40		
Over 3 Batch to and including 5 Batch	6.93	.50	.40		
Over 5 Batch to and including 10 Batch	7.09	.50	.40		
Over 10 Batch to and including 15 Batch	7.25	.50	.40		
Over 15 Batch - additional \$ .15 per hour each additional 5 Batch increment					
PICKUP DRIVER, HAULING MATERIALS	6.90	.50	.40		
DUMPMAN, GRAVEL SPREADER BOX; Pilot Car Driver, Teamsters and Helpers	6.80	.50	.40		
Warehousemen, Partsmen, Cardex Men, Warehouse Expediter	7.00	.50	.40		
DUMP TRUCKS AND SIMILAR EQUIPMENT WATER LEVEL CAPACITY, INCLUDING SIDEBOARDS					
7 cu. yds. or less	6.80	.50	.40		
Over 7 cu. yds. to and including 10 cu. yds.	6.93	.50	.40		
Over 10 cu. yds. to and including 15 cu. yds.	7.00	.50	.40		

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DECISION NO. MT75-5062	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & W	Pensions	Vacation	
TRUCK DRIVERS: (Cont'd)					
WATER TANK DRIVERS: PETROLEUM PRODUCTS DRIVERS:					
2,500 gallons and under	\$6.80	.50	.40		
Over 2,500 gallons to and including 4,500 gallons	7.05	.50	.40		
Over 4,500 gallons to and including 6,000 gallons	7.29	.50	.40		
Over 6,000 gallons to and including 8,000 gallons	7.35	.50	.40		
Over 8,000 gallons to and including 10,000 gallons	7.43	.50	.40		
Over 10,000 gallons - additional \$ .08 per hour each additional 2,000 gallons increment					
TRUCK WITH POWER EQUIPMENT IF UNDER TEAMSTERS JURISDICTION, SUCH AS:					
Winch, A-Frame, Swedish Crane, Hydra-lift, Groutcrete, and Combination mulching, seeding and fertilizing	7.05	.50	.40		
TRUCK MECHANIC	7.54	.50	.40		
Gallatin, Park, Sweetgrass, Broadwater (South U.S. Hwy. #12), Counties					
TRUCK DRIVERS:					
Dump, 7 yds. or less; Pickup, hauling materials; Flat, less than 2 ton; Service and A-Frame trailers	5.53	.50	.30		
House movers	5.57	.50	.30		
Flat, 2 - 5 tons	5.53	.50	.30		
Dump, over 7 yds. to and incl. 10 yds.; Flat, 5 - 8 tons; Semi and four wheel trailers	5.78	.50	.30		
Dumps, over 10 yds. to and incl. 15 yds.	5.94	.50	.30		
Dumps, over 15 yds. to and incl. 20 yds.	6.08	.50	.30		
LINE CONSTRUCTION (Flathead, Lake and Lincoln os.)					
All construction of "h" fixtures and Steel Tower Transmission Lines with capacity of 69 K.V. voltages and over, switch yard and substation rated at 5000 K.V. A. and all work not covered by Schedule "B".					
SCHEDULE "A"					
Groundman "B"	\$5.08	.25	.12		12
Groundman "A" (experienced)	5.87	.25	.12		12
Powderman; Jackhammer-Compressor-man	6.25	.25	.12		12
Line Equipment Operator	7.20	.25	.12		12
Lineman	8.43	.25	.12		12
Cable Splicer	9.37	.25	.12		12
SCHEDULE "B"					
All work for Power Utilities and R.E.A.'s except work covered under Schedule "A". all Highway Lighting, Street Lighting and Motor Traffic Controlling.					
Groundman	5.38				
Jackhammer-Compressorman; Powderman	5.71	.25	.12		12
Line Equipment Operators	6.55	.25	.12		12
Linemen; Pole Sprayer	7.45	.25	.12		12
Tree Trimmer	7.74	.25	.12		12
Cable Splicer	8.38	.25	.12		12



DECISION NO. MT75-5062	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & W	Pensions	Vacation	
LINE CONSTRUCTION (Remaining Counties) (Jobs 69,000 volts or less)					
Cable Splicer	\$7.73	.35	1%		3/42
Linemen	6.97	.35	1%		3/42
Line Equipment Operators; Powdermen	6.85	.35	1%		3/42
Experienced Groundmen (1,000 hrs.)	5.40	.35	1%		3/42
Truck Drivers	4.79	.35	1%		3/42
Groundmen					
(Jobs over 69,000 volts) and/or (projects of \$400,000 or over)					
Cable Splicers	7.92	.35	1%		3/42
Line Equipment Operators; Powdermen	6.90	.35	1%		3/42
Groundmen	5.69	.35	1%		3/42

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## SUPERSEDES DECISION

STATE: Montana  
 DECISION NUMBER: MT75-5063  
 SUPERSEDES DECISION NO. MT75-5017 dated February 7, 1975, in 40 FR 6081  
 DESCRIPTION OF WORK: Heavy and Highway Construction

COUNTIES: Statewide

DATE: Date of Publication

DECISION NO. MT75-5063	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & W	Pensions	Vacation	
CARPENTERS:					
Carpenters	\$ 7.06	.40	.55		.02
Filedworkers: Sawfilers, Carpen- ters on charred & crosscut wood	7.21	.40	.55		.02
CEMENT MASONS (Eastern Counties):					
Cement masons	6.84	.40	.25		
Grinder, bush hammer and clipping - Epoxy Masons (Western Counties):	6.99	.40	.25		
Cement masons	7.09	.40	.25		
Grinder, bush hammer and clipping - Epoxy Masons (Western Counties):	7.24	.40	.25		
Cement masons					
Grinder, bush hammer and clipping - Epoxy Masons (Western Counties):	7.80	.35	1% + .25		1/22
Cement masons	7.30	.20	1%		1/22
Electricians	8.58	.32	1%		1/22
Blaine, Hill, Liberty and Phillips Counties					
Electricians	8.85		1%		1/22
Cascade, Chouteau, Glacier, Judith-Basin, Pondera, Teton and Toole Counties					
Electricians	9.38	.32	1%		1/22
Cable splicers	9.63	.32	1%		1/22
Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties					
Electricians	7.55	.20	1%		1/22
Cable splicers	7.95	.20	1%		1/22
Big Horn, Carbon, Golden Valley, Missoula, Ravalli, Powder River, Rosebud, Stillwater, Treasure and Yellowstone Counties					
Electricians	8.32	.20	1%		1/22
Cable splicers	8.77	.20	1%		1/22

DECISION NO. MT75-5063	Basic Hourly Rate	Fringe Benefits Payments			App. Tr.
		H & W	Pensions	Vacation	
ELECTRICIANS: (Cont'd)					
Fergus, Petroleum and Wheatland Counties	\$ 6.75	.20	1%		1/22
(Electrical contracts less than \$20,000)	7.75	.20	1%		1/22
(Electrical contracts \$20,000 or more)	7.40	.20	1%		1/22
Park and Sweetgrass Counties					
Carter, Daniels, Dawson, Fallon, McCone, Prairie, Richland, Roosevelt, Sheridan, Valley and Wibaux Counties	7.65	.20	1%		1/22
Custer and Garfield Counties	7.64		1%		1/22
IRONWORKERS:					
Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis and Clark, (Southern half including Wolf Creek), Madison, Park, Powell, Ravalli and Silverbow Counties	8.51	.50	.75		.05
Flathead, Glacier, Lake, Lincoln, Mineral, Missoula and Sanders Counties	9.15	.58	.90		.05
Remaining Counties (including Northern half of Lewis and Clark County)	8.51	.50	.75		.05
PAINTERS:					
Beaverhead, Jefferson (Southern area, south of the City of Bould- er), Madison (west of a line running north-south through the west limits of Harrison and Silver Bow Counties)	5.82	.25	.10		
Brush	8.60	.25	.10		
Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Golden Valley, Missoula, Powder River, Prairie, Rosebud, Stillwater, Sweet Grass, Treasure, Wheatland (south of the City of Harlowtown), Wibaux and Yellowstone Counties	6.74	.25	.20		
Brush	6.99	.25	.20		
Steel	7.72	.25	.20		
Spray					

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## LABORERS: (Cont'd.)

LABORERS: (Cont'd.)	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
			H & W	Pensions	Vacation	
Fence Erector and Installer (including installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers); Flagman; Guard and Watchman	6.15	6.22	.425	.312		.03
Form Stripper	6.15	6.22	.425	.312		.03
Form Setter	6.25	6.32	.425	.312		.03
Grade Setter	6.50	6.57	.425	.312		.03
General Laborer	6.15	6.22	.425	.312		.03
Hand Faller	6.23	6.30	.425	.312		.03
High Scaler	6.51	6.58	.425	.312		.03
High Pressure Machine Nozzelman	6.35	6.42	.425	.312		.03
Jackhammer, Pavement Breaker, Wagon Drills, Concrete Vibrator, Mechanical Tamper, Vibrating Roller, hand steered and other Air Tools	6.31	6.38	.425	.312		.03
Landscaper laborers	6.15	6.22	.425	.312		.03
Nozzelman-Air and Water, Gunite and Placo Machine	6.25	6.32	.425	.312		.03
Pipe Layer (all types)	6.31	6.38	.425	.312		.03
Pipe Wrapper	6.31	6.38	.425	.312		.03
Post Hole Digger (lower Auger)	6.25	6.32	.425	.312		.03
Power Saw, Bucking	6.31	6.38	.425	.312		.03
Power Saw, Felling	6.51	6.58	.425	.312		.03
Powderman Helper	6.25	6.32	.425	.312		.03
Powderman	6.71	6.78	.425	.312		.03
Power Driven Wheelbarrow Ripper	6.25	6.32	.425	.312		.03
Riprap Helper	6.31	6.38	.425	.312		.03
Scalman	6.15	6.22	.425	.312		.03
Sandblaster	6.31	6.38	.425	.312		.03
Sandblaster Trawl Hoseman, Pot Tender	6.35	6.42	.425	.312		.03
Pot Tender	6.15	6.22	.425	.312		.03

## NOTICES

Eastern Counties: Blaine-Carter-Guster-Daniels-Dawson-Fallon-Garfield-McCone-Potter-Powell-Powder Rlv R-Prairie-Richland-Roosevelt-Sheridan-Valley and Wibaux

Western Counties: Beaverhead-Big Horn-Broadwater-Carbon-Cascade-Chouteau-Deer Lodge-Fergus-Flathead-Gallatin-Glacier-Golden Valley-Granite-Hill-Jefferson-Judith Basin-Lake Lewis & Clark-Liberty-Lincoln-Madison-Nez Perce-Mineral-Missoula-Musselshell-Park-Ponderosa-Powell-Reynolds-Rosebud-Sanders-Silverbow-Stillwater-Sweetgrass-Teton-Toole-Treasure-Wheatland and Yellowstone

## LABORERS: (Cont'd.)

LABORERS: (Cont'd.)	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
			H & W	Pensions	Vacation	
Sidewalk-land operated Spike Driver, single or dual or hand	6.15	6.22	.425	.312		.03
Stake Jumper for Equipment	6.31	6.38	.425	.312		.03
Switchman	6.25	6.32	.425	.312		.03
Tar Pot	6.15	6.22	.425	.312		.03
Tow' Choke, Tool-Houseman	7.15	7.22	.425	.312		.03
Welder	6.15	6.22	.425	.312		.03

Flathead, Lake, Lincoln, Mineral, Missoula, North 1/2 of Powell, Ravalli and Sanders Counties

## POWER EQUIPMENT OPERATORS

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		H & W	Pensions	Vacation	
A-Frame Truck Crane, Winch Truck and similar	7.78	.50	.45	.10	.03
Air Compressor, single	7.47	.50	.45	.10	.03
Air Compressor, two or more	7.64	.50	.45	.10	.03
Air Doctor	7.94	.50	.45	.10	.03
Asphalt Paving Machine	7.94	.50	.45	.10	.03
Automatic Paving Machine Spread	7.94	.50	.45	.10	.03
other similar types	8.07	.50	.45	.10	.03
Bit Finish Machine	7.64	.50	.45	.10	.03
Bit Grinder	7.94	.50	.45	.10	.03
Bituminous Mixer Paving, Travel Plant	7.94	.50	.45	.10	.03
Boring Machine (small), Jeep, pickup or farm tractor mounted	7.53	.50	.45	.10	.03
Boring Machine (large)	7.94	.50	.45	.10	.03
Broom, self-propelled	7.61	.50	.45	.10	.03
Cableway Haulage	8.45	.50	.45	.10	.03
Cement Silo	7.73	.50	.45	.10	.03
Central Mixing Plants, Concrete Dam and Stationary	8.19	.50	.45	.10	.03
Chain Bucket Loader	7.66	.50	.45	.10	.03
Chip or Gravel Spreader, self-propelled	7.66	.50	.45	.10	.03
Concrete Batch Plant, one and two mixers	7.94	.50	.45	.10	.03
Concrete Batch Plant, three and four mixers	8.14	.50	.45	.10	.03
Concrete Batch Plant, five mixers and over	8.34	.50	.45	.10	.03
Concrete Batch Plant Oiler, up to and incl. two mixers	7.46	.50	.45	.10	.03
Concrete Batch Plant Oiler, three mixers and over	7.77	.50	.45	.10	.03
Concrete Bucket Dipatcher	7.94	.50	.45	.10	.03
Concrete Curing Machine	7.94	.50	.45	.10	.03
Concrete Finish Machine Paving	7.94	.50	.45	.10	.03
Concrete Float-Spreader	7.94	.50	.45	.10	.03
Concrete Mixer, three bags and under	7.53	.50	.45	.10	.03
Concrete Mixer, four bags and over	7.70	.50	.45	.10	.03

## POWER EQUIPMENT OPERATORS (Cont'd.)

POWER EQUIPMENT OPERATORS (Cont'd.)	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		H & W	Pensions	Vacation	
Concrete Power Saw, self-propelled	7.94	.50	.45	.10	.03
Concrete Travel Batcher	7.94	.50	.45	.10	.03
Conveyor Loader, up to and incl. 42" belt	7.52	.50	.45	.10	.03
Conveyor Loader, over 42" belt	7.64	.50	.45	.10	.03
Crane, to and incl. 80' boom with jib	8.10	.50	.45	.10	.03
Crane, 81' to 130' boom	8.25	.50	.45	.10	.03
Crane, 131' to 150' boom	8.30	.50	.45	.10	.03
Crane, 151' boom and over	8.35	.50	.45	.10	.03
Crane Oiler	7.51	.50	.45	.10	.03
Crusher	7.94	.50	.45	.10	.03
Crusher Oiler and Helper	7.43	.50	.45	.10	.03
Crawler Conveyor, when required	7.40	.50	.45	.10	.03
Distributor	7.94	.50	.45	.10	.03
DW 10, 15, or 20 Tractor pulling roller	7.66	.50	.45	.10	.03
Electric Overhead Cranes	8.12	.50	.45	.10	.03
Elevating Grader	7.94	.50	.45	.10	.03
Farm Type Tractor, up to and incl. 50 HP Engine	7.40	.50	.45	.10	.03
Farm Type Tractor, over 50 HP Engine	7.48	.50	.45	.10	.03
Field Equipment Serviceman	7.86	.50	.45	.10	.03
Field Equipment Serviceman Helper	7.43	.50	.45	.10	.03
Fireman	7.53	.50	.45	.10	.03
Forklift, on construction job site	7.75	.50	.45	.10	.03
Form Grader	7.71	.50	.45	.10	.03
Gradall	7.94	.50	.45	.10	.03
Grade Setter	7.40	.50	.45	.10	.03
Heavy Duty Driller Helper	7.94	.50	.45	.10	.03
Heavy Duty Driller	7.53	.50	.45	.10	.03
Herman-Nelson Heaters & similar type	7.48	.50	.45	.10	.03
Hoist, Single drum	7.71	.50	.45	.10	.03
Hoist, two or more drums	7.94	.50	.45	.10	.03
Helicopter Hoist	8.44	.50	.45	.10	.03
Hot Plant	7.94	.50	.45	.10	.03
Hot Plant Fireman, when in Operation	7.94	.50	.45	.10	.03
Hot Plant Oiler, 100 ton per hour or over	7.43	.50	.45	.10	.03
Hydra lift and similar types	7.84	.50	.45	.10	.03

## NOTICES



## NOTICES

DECISION NO. <u>MT-75-5063</u>	Basic Hourly Rates	Single Beneficiaries Payments			
		N & W	Pensions	Vacation	App Tr.
OWNER EQUIPMENT OPERATORS (Cont'd)	Scrapper, LW 15, 20, 21 and similar type if power unit is not used	.50	.45	.10	.03
	Scrapper, single or twin engine pulling belly dump trailer	.50	.45	.10	.03
	Scrapper, single engine	.50	.45	.10	.03
	Scrapper, twin engine	.50	.45	.10	.03
	Scrapper, tandem or 3 engined	.50	.45	.10	.03
	Self-propelled Sheepsfoot & similar type	.50	.45	.10	.03
	Shovels, incl. all attachments, under 1 cu. yd. incl. all attachments, 1 shovel, incl. all attachments, 1 shovel, incl. & incl. 3 cu. yds.	.50	.45	.10	.03
	Shovels, incl. all attachments, over 3 cu. yds. to & incl. 5 cu. yds.	.50	.45	.10	.03
	Shovels, incl. all attachments, over 5 cu. yds.	.50	.45	.10	.03
	Shovel Oiler, 3 yds. & under	.50	.45	.10	.03
	Shovel Oiler, over 3 cu. yds.	.50	.45	.10	.03
	Slip Form Paver	.50	.45	.10	.03
	Stiff Leg Derrick	.50	.45	.10	.03
	Track-type Front End Loaders, up to & incl. 5 cu. yds.	.50	.45	.10	.03
	Track-type Front End Loaders, over 5 cu. yds. to & incl. 10 cu. yds.	.50	.45	.10	.03
	Track-type Front End Loaders, over 10 cu. yds. to & incl. 15 cu. yds.	.50	.45	.10	.03
	Track-type Front End Loaders, over 15 cu. yds.	.50	.45	.10	.03
	Track-type Tractor w/o attachments	.50	.45	.10	.03
	Track-type Tractor, on Euclid Loader	.50	.45	.10	.03
	Trenching Machine	.50	.45	.10	.03
	Turnbull Conveyor, or Head Tower on Batch Plant	.50	.45	.10	.03
	Wagner Roller & similar type	.50	.45	.10	.03
	Whirley Crane	.50	.45	.10	.03
	Water Pail when used for compaction	.50	.45	.10	.03
	Washing and Screening Plant	.50	.45	.10	.03
	Washing and Screening Plant Oiler	.50	.45	.10	.03
	Yo-Yo Cat, both ends	.50	.45	.10	.03

DECISION NO. MT75-5063

	Basic Hourly Rate	Frage-Bericht, Page 10				
		M & W	Pensions	Vacation	App. Tr.	
POWER EQUIPMENT OPERATIONS (Cont'd.)						
Industrial Locomotive or all Gases	\$ 7.94	.50	.45	.10	.03	
Mechanic and/or Welder on Job	8.06	.50	.45	.10	.03	
Mechanic and/or Welder Helper on Job	7.43	.50	.45	.10	.03	
Motorcycle	8.02	.50	.45	.10	.03	
Motor Patrol	8.02	.50	.45	.10	.03	
Mountain Logger or similar type	7.94	.50	.45	.10	.03	
Mucking Machine	7.94	.50	.45	.10	.03	
Oiler-Driver, Rubber Tired Granes	7.51	.50	.45	.10	.03	
Oilers, other than shovels and cranes	7.43	.50	.45	.10	.03	
Oiler, hoist house, dams	7.84	.50	.45	.10	.03	
Pavement Breaker, Emeco's similar	7.94	.50	.45	.10	.03	
Paving and Mixing Machis	8.07	.50	.45	.10	.03	
Power Auger, Large Truck or Tractor mounted	7.94	.50	.45	.10	.03	
Power Mixer, single or double drum	7.94	.50	.45	.10	.03	
Power Saw, multiple cut, self-propelled	7.94	.50	.45	.10	.03	
Pumpcrete or Grout Machine	7.94	.50	.45	.10	.03	
Pumpjack	7.47	.50	.45	.10	.03	
Push Tractor	7.94	.50	.45	.10	.03	
Quet Cat	8.24	.50	.45	.10	.03	
Quet Loader and similar types	8.46	.50	.45	.10	.03	
Radiator Repairman	7.75	.50	.45	.10	.03	
Refrigerator Plant	7.94	.50	.45	.10	.03	
Retort	7.53	.50	.45	.10	.03	
Roller, on blade or hot mix oil paving	7.94	.50	.45	.10	.03	
Roller, on either blade or hot mix paving	7.64	.50	.45	.10	.03	
Roller, 25 ton or over	7.94	.50	.45	.10	.03	
Roads & similar type carriers, on construction site	7.94	.50	.45	.10	.03	
Rubber-tired Dzer	7.94	.50	.45	.10	.03	
Rubber-tired Front End Loader, 1 yd. and under	7.94	.50	.45	.10	.03	
Rubber-tired Front End Loader, 1 yd. to and incl. 3 yds.	7.65	.50	.45	.10	.03	
Rubber-tired Front End Loader, over 3 yds. to and incl. 5 yds.	7.94	.50	.45	.10	.03	
Rubber-tired Front End Loader, over 5 yds. to and incl. 10 yds.	8.06	.50	.45	.10	.03	
Rubber-tired Front End Loader, over 10 yds. to and incl. 15 yds.	8.16	.50	.45	.10	.03	
Rubber-tired Front End Loader, Over 15 yds.	8.24	.50	.45	.10	.03	
	8.36	.50	.45	.10	.03	

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## NOTICES

DECISION NO	MTR-5063	Basic Hourly Rates	Fringe Benefits Payments				App. Tr
			H & W	Pension	Acc.	Vacation	
POWER EQUIPMENT OPERATORS (Cont'd)	Concrete Conveyor under 40 feet	7.52	.50	.45	.10	.03	
	Concrete Conveyor over 40 feet	8.27	.50	.45	.10	.03	
	Concrete Pump	8.10	.50	.45	.10	.03	
	Cranes, incl. 80' boom	8.10	.50	.45	.10	.03	
	Cranes, 81' to 130' boom	8.20	.50	.45	.10	.03	
	Cranes, 131' to 150' boom	8.30	.50	.45	.10	.03	
	Cranes, 151' boom and over	8.35	.50	.45	.10	.03	
	Crane Oiler	7.51	.50	.45	.10	.03	
	Grusher	7.94	.50	.45	.10	.03	
	Grusher Oiler and Helper	7.43	.50	.45	.10	.03	
	Grusher Conveyor, when required	7.10	.50	.45	.10	.03	
	Distributor	7.94	.50	.45	.10	.03	
	DW 10, 15 or 20 Tractor pulling roller	7.66	.50	.45	.10	.03	
	Electric Overhead Cranes	8.12	.50	.45	.10	.03	
	Elevating Grader	7.94	.50	.45	.10	.03	
	Farm Type Tractor, up to and incl. 50 HP Engine	7.40	.50	.45	.10	.03	
	Farm Type Tractor, over 50 HP Engine	7.48	.50	.45	.10	.03	
	Field Equipment Serviceman	7.86	.50	.45	.10	.03	
	Field Equipment Serviceman Helper	7.43	.50	.45	.10	.03	
	Fireman	7.53	.50	.45	.10	.03	
	Forklift, on construction job site	7.75	.50	.45	.10	.03	
	Form Grader	7.71	.50	.45	.10	.03	
	Gr-All	7.94	.50	.45	.10	.03	
	Grade Setter	7.40	.50	.45	.10	.03	
	Heavy Duty Driller, all types	7.94	.50	.45	.10	.03	
	Heavy Duty Driller Helper	7.55	.50	.45	.10	.03	
	Herman-Helison Heaters & similar	7.48	.50	.45	.10	.03	
	Hoist, single drum	7.71	.50	.45	.10	.03	
	Hoist, two or more drums	7.94	.50	.45	.10	.03	
	Helicopter Hoist	8.44	.50	.45	.10	.03	
	Ice Plant	7.94	.50	.45	.10	.03	
	Ice Plant Fireman, when in Operation	7.94	.50	.45	.10	.03	
	Hot Plant Oiler, 100 ton per hour or over	7.43	.50	.45	.10	.03	
	Hydra lift and similar types	7.84	.50	.45	.10	.03	
	Industrial Locomotive all classes	7.94	.50	.45	.10	.03	
	Mechanic and/or Welder on Job	8.01	.50	.45	.10	.03	
	Mechanic and/or Welder Helper on Job	7.43	.50	.45	.10	.03	
	Mixermobile	8.02	.50	.45	.10	.03	
	Motor Patrol	8.07	.50	.45	.10	.03	
	Mountain Logger or similar type	7.94	.50	.45	.10	.03	

DECISION NO	MAY-5063	COUNTRIES	POWER EQUIPMENT OPERATIONS	Fringe Benefits Payments				
				Basic Hourly Rate	H & W	Pension	Vacation	Apr. Tr.
			A-Frame Truck Crane, Winch Truck & similar	7.78	.50	.45	.10	.03
			Air Compressor, single	7.47	.50	.45	.10	.03
			Air Compressor, two or more	7.64	.50	.45	.10	.03
			Air Doctor	7.94	.50	.45	.10	.03
			Asphalt Paving Machine	7.94	.50	.45	.10	.03
			Asphalt Paving Machine, Sealed	7.94	.50	.45	.10	.03
			Autoclave, similar types	8.07	.50	.45	.10	.03
			Back Finish Machine	7.94	.50	.45	.10	.03
			Bit Grinder	7.94	.50	.45	.10	.03
			Bituminous Mixer Paving, Travel Plant	7.94	.50	.45	.10	.03
			Boring Machine (small), jeep, pickup or farm tractor mounted	7.53	.50	.45	.10	.03
			Boring Machine (large)	7.94	.50	.45	.10	.03
			Broom, self-propelled	7.61	.50	.45	.10	.03
			Cableway Haulage	8.45	.50	.45	.10	.03
			Cement Silo	7.73	.45	.50	.10	.03
			Central Mixing Plants, Concrete dam & stationary	8.19	.50	.45	.10	.03
			Chain Bucket Loader	7.66	.50	.45	.10	.03
			Chip or Gravel Spreader, self-propelled	7.66	.50	.45	.10	.03
			Concrete Batch Plant, one & two mixers	7.94	.50	.45	.10	.03
			Concrete Batch Plant, three & four mixers	8.34	.50	.45	.10	.03
			Concrete Batch Plant, five mixers and over	8.34	.50	.45	.10	.03
			Concrete Batch Plant, up to and incl. two mixers	7.46	.50	.45	.10	.03
			Concrete Batch Plant, three mixers and over	7.77	.50	.45	.10	.03
			Concrete Bucket Dispatcher	7.94	.50	.45	.10	.03
			Concrete Curing Machine	7.94	.50	.45	.10	.03
			Concrete Finish Machine Paving	7.94	.50	.45	.10	.03
			Concrete Frost-Spreader	7.53	.50	.45	.10	.03
			Concrete Mixer, three bags & under	7.94	.50	.45	.10	.03
			Concrete Mixer, three bags & over	7.94	.50	.45	.10	.03
			Concrete Plant, Self-propelled	7.94	.50	.45	.10	.03
			Concrete Travel Batch	7.94	.50	.45	.10	.03

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## TRUCK DRIVERS (Cont'd)

Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
	H & W	Pensions	Vacation	
WATER TANK DRIVERS, DITTOLEIN PRODUCTS DIVISION:				
2,500 gallons and under	.50	.40		
Over 2,500 gallons to and incl. 4,500 gallons	.50	.40		
Over 4,500 gallons to and incl. 6,000 gallons	.50	.40		
Over 6,000 gallons to and incl. 8,000 gallons	.50	.40		
Over 8,000 gallons to and incl. 10,000 gallons	.50	.40		
Over 10,000 gallons - additional \$ .06 per hour each additional 2,000 gallons increment				
TRUCKS WITH POWER EQUIPMENT (if UNDER TRANSFERS JURISDICTION, SUCH AS: Winch, A-frame, Swedish Crane, Hydra-lift, Groutcrete, and Combination mulching, seeding and fertilizing	7.05	.40		
TRUCK MECHANIC	7.54	.40		

## NOTICES

Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
	H & W	Pensions	Vacation	
(Flathead, Lake and Lincoln Cos.)				
LINE CONSTRUCTION:				
All construction of "H" fixture and Steel Tower Transmission Lines with capacity of 69 K.V. voltages & over, switch yard and substation rated at 5000 K.V.A. & all work not covered by Schedule "B".				
SCHEDULE "A"				
GROUNDMAN "B"	\$ 5.08	.25	.12	.12
GROUNDMAN "A" (experienced)	5.87	.25	.12	.12
POWDERMAN; JACKHAMMER-COMPRESSIONMAN	6.25	.25	.12	.12
LINE EQUIPMENT OPERATOR	7.20	.25	.12	.12
LINEMAN	8.43	.25	.12	.12
CABLE SPlicer	9.37	.25	.12	.12
SCHEDULE "B"				
All work for Power Utilities & R.E. A's except work covered under Schedule "A", all Highway lighting, Street Lighting & Motor Traffic Controlling.				
GROUNDMAN	5.38			
JACKHAMMER-COMPRESSIONMAN; Powderman	5.71	.25	.12	.12
LINE EQUIPMENT OPERATOR	6.55	.25	.12	.12
LINEMAN; Pole Sprayer	7.45	.25	.12	.12
TREE TRIMMER	7.74	.25	.12	.12
CABLE SPlicer	8.98	.25	.12	.12

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## REMAINING COUNTIES

Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
	H & W	Pensions	Vacation	
LINE CONSTRUCTION:				
(Jobs 69,000 volts or less)				
Cable splicer	7.73	.35	.12	3/42
Linenmen	6.97	.35	.12	3/42
Line equipment operators; Powdermen	6.85	.35	.12	3/42
Experienced groundmen (1,000 hrs) Truck drivers	5.40	.35	.12	3/42
Groundmen	4.79	.35	.12	3/42
(Jobs over 69,000 volts) and/or (projects of \$400,000 or over)				
Cable splicers	7.92	.35	.12	3/42
Linenmen; Pole sprayer	7.52	.35	.12	3/42
Line equipment operators; Powdermen	6.90	.35	.12	3/42
Groundmen	5.69	.35	.12	3/42

## MONTANA - DREDGING

Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
	H & W	Pensions	Vacation	
DREDGING				
Assistant Mate (Deckhand)	\$ 8.34	.45	.70	.04
Fireman	8.44	.45	.70	.04
Oilier	8.44	.45	.70	.04
Assistant Engineer (Electric, Diesel, Steam or Booster Pump)	8.78	.45	.70	.04
Mates and Boatmen	8.78	.45	.70	.04
Engineer Welder	8.83	.45	.70	.04
Craneman	8.83	.45	.70	.04
Assistant Engineer (Electric Generator Operator for Primary Pump, Power Barge or Dredge)	8.88	.45	.70	.04
Leverman, Hydraulic	9.20	.45	.70	.04
Leverman, Dipper:				
(a) 5 yards and under	9.59	.45	.70	.04
(b) Over 5 yards	10.14	.45	.70	.04

## NOTICES

FEDERAL REGISTER, VOL. 40, NO. 105—FRIDAY, MAY 30, 1975

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STATE: Tennessee COUNTY: Knox  
DECISION NUMBER: TN75-1052 DATE: Date of Publication  
Supersees Decision No. AR-4022 dated August 30, 1974 in 39 FR 31869.  
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

BUILDING CONSTRUCTION

	Basic Hourly Rates	Pringe Benefits Payments			App. Tr.
		H & V	Pension	Vacation	
Asbestos workers	\$ 8.40	.30	.20	.01	.01
Bricklayers	7.50	.40	.90	.02	.02
Cement masons	7.00				
Carpenters	7.55		.30	.02	.02
Electricians & Line Construction:	7.02				
Cable splicers	8.30	.30	7%	5%	5%
Elevator constructors, helpers	6.70	.30	7%	5%	5%
Elevator constructors, helpers	7.45	.445	.29	3%+abb	.02
Elevator constructors, helpers	7.06JR	.445	.29	3%+abb	.02
(prob.)	5.96JR				
Glassers	5.75		.25	.005	.005
Ironworkers:					
Structural & ornamental	7.61	.40	.30		
Reinforcing	7.47	.40	.30		
Fence erector	7.61	.40	.30		.01
Lathers	7.91		.20	0	.01
Leadburners	7.80	.30			.02
Marble masons	9.00		.30		.03
Millwrights	8.11		.30		.02
Painters:					
Commercial	6.75	.30	.30		.03
Industrial	7.10	.30	.30		.03
Piledrivers	7.80	.30	.30		.02
Plasterers	7.95				
Plumbers and Steamfitters	8.25	.35	.15	.30 +d	.05
Roofers, composition	6.76	.25	.25		
Roofers, slate & tile	6.81				
Sheet metal workers	7.41	.30	.30		.02
Soft floor layers	7.55	.30	.30		.02
Sprinkler fitters	8.75	.50	.70		.08
Terrazzo workers and tile setters	9.00				
Truck drivers:					
3 tons, & inc., 4 yds., dump truck	4.28		0		.01
3 to 5 tons, & inc. 6 yds., dump truck	4.48		0		.01
5 tons, & over inc. dump truck over 6 yds., ready mix conc.					
truck, tank trucks, floats, & lowboys, winch truck & semi-trailer	4.63		0		.01

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PAID HOLIDAYS:

A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day.

POORFONES:

- Holidays: A through F.
- Employer contributes 1/6 of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 1/6 of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.
- Holidays: A through F plus Washington's Birthday, Good Friday and Christmas Eve. Providing employee has worked 15 full days during the 120 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holiday.
- \$.05 holiday pay.
- \$.60 per week for each employee.

BUILDING CONSTRUCTION

LABORERS:

	Basic Hourly Rates	Pringe Benefits Payments			App. Tr.
		H & V	Pension	Vacation	
GROUP A	5.14	.15	.15	.01	.01
GROUP B	5.29	.15	.15	.01	.01
GROUP C	5.29	.15	.15	.01	.01
GROUP D	5.32	.15	.15	.01	.01
GROUP E	5.44	.15	.15	.01	.01
GROUP F	5.94	.15	.15	.01	.01
GROUP G	5.64	.15	.15	.01	.01
Tunnel Construction:					
GROUP H	5.14	.15	.15	.01	.01
GROUP I	5.56	.15	.15	.01	.01
GROUP J	5.69	.15	.15	.01	.01
GROUP K	5.84	.15	.15	.01	.01
GROUP L	5.94	.15	.15	.01	.01

GROUP A: Construction Laborer

GROUP B: Mortar mixer, plasterer tender

GROUP C: Rod carriers, power buggies, yamers, potman, grademan, snake man, form setter & strippers, pipelayers, asphalt taker, jackhammer op., air tool op., vibrator op., chain saw op., barco camp op., all power driven tool op.

GROUP D: Acetylene burner

GROUP E: Wagon drill operator

GROUP F: Calson hole man

GROUP G: Powderman

GROUP H: Outside laborer

GROUP I: Tunnel laborer

GROUP J: Chuck tender

GROUP K: Concrete gun op., nozzleman

GROUP L: Tunnel miner

BUILDING CONSTRUCTION

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Pringe Benefits Payments			App. Tr.
		H & V	Pension	Vacation	
GROUP A	\$ 7.40	.25	.20	.02	.02
GROUP B	6.88	.25	.20	.02	.02
GROUP C	5.77	.25	.20	.02	.02
GROUP D	5.30	.25	.20	.02	.02

GROUP A: Backhoes; cable ways; ross carriers; clamshells; cranes; derricks; draglines; trenchers; pans; scrapers; scoops, etc.; head tower machines; locomotives (over 20 tons); shovels; mechanics & welders; winch trucks with A-frame skimmer scoops; locomotive; crane; over-head cranes; pile drivers; skid steer; side boom tractors; euclid loaders; hoist (any size handling steel or stone); derrick; crane; derrick boats; engine used in connection with hoist material with in a hoist device on tower engine; mucking machines; hi-lifts or end loaders; finish graders; cherry-pickers; tower cranes; skyline & gradall; dozers; earth augers and pole machine operators; core drill & foundation drills

GROUP B: Tractors, farm type tractors with attachments; central compressor plants; elevators, used for hoisting building materials; central mixing plants; hoist; pumpcrete machines; concrete pumps; trenching machines; backfillers (other than cranes); crushing plant operators; elevating graders; paving machines (black top); fork-lift; paving machines, concrete; boat operator or engineer (30 tons or over); tractors; maintenance; blacktop roller; switchman; locomotive under 20 tons

GROUP C: Asphalt plant operators; barber green type loaders; engine tender other than steam mixers, over 2 bags not include central plants; pumps, not more than 3; scarifiers; spreader box (bituminous); asphalt mixers; portable compressors, 2 not more than 3; rollers; sub-grader machines; tractors, farm type without attachments; cable head tower engine; dredge booster pump operators; boat operator or engine, under 30 tons; finishing machine; fireman & oiler (combination); motor crane oiler & driver; welding machine; 2 not more than 3; heaters, stationary or portable (to 5); compressors (portable 2 not more than 3); greaser or fuel trucks

GROUP D: Air compressor (1 portable); fireman; portable crushers; welding machine (1); conveyors; pumps (1); oiler; heater (1)

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## SUPERSEDES DECISION

STATE: Texas  
 COUNTY: Bexar  
 DATE: Date of Publication  
 SUPERSEDES Decision No. TX75-4109, dated May 16, 1975, in 40 FR 21678.  
 DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

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DECISION NO. TX75-4109	Fringe Benefits Payments			Fringe Benefits Payments		
	H & B	Provision	Vacation	H & B	Provision	Vacation
AIR CONDITIONING INSTALLERS	93.50	.30	.05	92.75		
BRICKLAYERS	7.27			3.00		
CARPENTERS	4.10			2.80		
CEMENT MASONS	7.02	.25		3.60		
DUCT INSTALLERS	3.45			2.65		
ELECTRICIANS:				3.35		
Single or multiple family dwell-				2.85		
ings or apartments up to and				3.50		
including 8 units not exceeding				3.00		
2 stories				2.75		
Over 8 units or over 2 stories	5.55	.30	1 1/2%	6.25		
FORM SETTERS	8.33	.255	1 1/2%	3.35		
GLAZIERS	3.29			3.50		
INSULATION INSTALLERS	3.50			3.00		
IRONWORKERS	4.50			3.75		
LABORERS, UNSKILLED	4.66			3.50		
PAINTERS	2.34			2.75		
PAVE & PLANT	3.675			2.25		
PUMPS & PIPEFITTERS	4.00			2.50		
ROOFERS	7.13	.35	.01	4.05		
ROOFERS, SHINGLES	3.10			3.00		
ROOFERS, SHINGLES	3.50			3.00		
SITING INSTALLER	4.00			4.15		
SOFT FLOOR LAYERS	3.71			3.00		
TILE SETTERS	5.18			2.50		
TRUCK DRIVERS	2.25			3.75		
T.V. ANTENNA INSTALLERS	3.50			2.50		
POWER EQUIPMENT OPERATORS:				3.00		
Fork lifts	2.75			3.70		
Foundation drill operator				2.75		
(crawler mounted)	5.85			3.50		
Front end loader	2.58			3.50		
Tractor	3.75			2.90		
				3.25		
				3.25		
				3.45		
				2.90		
				3.25		
				3.75		

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DECISION NO. TX75-4109	Fringe Benefits Payments			Fringe Benefits Payments		
	H & B	Provision	Vacation	H & B	Provision	Vacation
INCIDENTAL PAVING & UTILITIES						
& SITE PREPARATION						
Power Equipment Operators (Conc'd):						
Crane, Climahell, Backhoe, Derrick,						
Dragline, Shovel (less than 14 CY)	3.65					
Crane, Climahell, Backhoe, Derrick,						
Dragline, Shovel (14 CY & Over)	4.30					
Crusher or Screening Plant Operator (Truck						
Mounted)	4.90					
Front End Loader (2 1/2 CY & Less)	3.25					
Front End Loader (Over 2 1/2 CY)	3.75					
Motor Grader Operator, Fine Grade	4.25					
Motor Grader Operator	3.75					
Roller, Steel Wheel (Planer-Mix						
Pavement)	3.00					
Roller, Steel Wheel (Other-Flat						
Wheel or Tamping)	2.80					
Roller, Pneumatic (Self-Propelled)	2.60					
Scraper (17 CY and Less)	3.00					
Scraper (Over 17 CY)	3.50					
Self-Propelled Hammer	3.50					
Tractor (Grass Type) 150 h.p.						
and Less	2.50					
Tractor (Grass Type) over 150 h.p.	2.75					
Tractor (Pneumatic) 80 HP & Less	2.75					
Tractor (Pneumatic) over 80 HP	3.25					
Traveling Mixer	2.60					
Trenching Machine, Light	3.50					
Wagon Pull, Porting Machine or						
Truck Drivers:						
Single Axle, Light	3.50					
Single Axle, Heavy	2.50					
Tandem Axle or Semitrailer	2.75					
Winch	2.50					
Welder	4.00					
Welder Helper	3.50					

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# **federal register**

FRIDAY, MAY 30, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 105



PART IV

## **ENVIRONMENTAL PROTECTION AGENCY**

■

### **ENVIRONMENTAL IMPACT STATEMENTS**

Availability

**V 40-105 MAY 30 75**

**XUM**



ENVIRONMENTAL PROTECTION AGENCY

[FRL 380-6]

ENVIRONMENTAL IMPACT STATEMENTS Availability

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of April 1, 1975 and April 30, 1975.

Appendix I contains a listing of draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in

NOTICES

Appendix II, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix II contains the definitions of the classifications of EPA's comments on the draft environmental impact statements as set forth in Appendix I.

Appendix III contains a listing of final environmental impact statements reviewed and commented upon in writing during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix V contains a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed agencies reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. The listing includes the

Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the source for copies of the comments as set forth in Appendix VI.

Appendix VI contains a listing of the names and addresses of the sources of EPA reviews and comments listed in Appendices I, III, IV, and V.

Copies of the EPA Manual setting forth the policies and procedures for EPA's review of agency actions may be obtained by writing the Public Inquiries Branch, Office of Public Affairs, Environmental Protection Agency, Washington, D.C. 20460. Copies of the draft and final environmental impact statements referenced herein are available from the originating Federal department or agency.

Dated: May 16, 1975.

PETER L. COOK,  
Acting Director,  
Office of Federal Activities.

APPENDIX I

DRAFT ENVIRONMENTAL IMPACT STATEMENTS FOR WHICH COMMENTS WERE ISSUED BETWEEN

APRIL 1, 1975 AND APRIL 30, 1975

IDENTIFYING NUMBER

TITLE

DEPARTMENT OF AGRICULTURE

IDENTIFYING NUMBER	TITLE	GENERAL NATURE OF COMMENTS	SOURCE FOR COPIES OF COMMENTS
D-AFS-K65007-CA:	TIMBER MANAGEMENT PLAN, PLUMAS NATIONAL FOREST, CALIFORNIA	LO-2	J
D-AFS-K65008-CA:	PALOMAR MOUNTAIN PLANNING UNIT, CLEVELAND NATIONAL FOREST, SAN DIEGO AND RIVERSIDE COUNTIES, CALIFORNIA	LO-2	J
D-AFS-K65009-AZ:	SANTA CATALINA PLANNING UNIT, CORONADO NATIONAL FOREST, ARIZONA	LO-1	J
D-AFS-K69002-CA:	MINERAL KING, SEQUOIA NATIONAL FOREST, CALIFORNIA	ER-2	J
D-AFS-L61017-OR:	MANAGEMENT OF WUMONT, QUARTZ AND LAST CREEK ROADLESS AREAS, DOUGLAS COUNTY, OREGON	LO-2	K
D-AFS-L61019-WA:	CLEAR CREEK PLANNING UNIT, GIFFORD PINCHOT NATIONAL FOREST, SKAMANIA COUNTY, WASHINGTON	LO-1	K
D-AFS-L61020-ID:	PROPOSED LAND USE PLAN SOUTH FORK PAYETTE RIVER PLANNING UNIT, BOISE NATIONAL FOREST, IDAHO	LO-1	K
D-AFS-L61021-OR:	MANAGEMENT OF FAIRVIEW, PUDDIN ROCK AND CANTONSTEELHEAD ROADLESS AREAS, UMPQUA NATIONAL FOREST LANE AND DOUGLAS COUNTIES, OREGON	LO-2	K
D-AFS-L65006-00:	ZONE VEGETATION MANAGEMENT PROJECT USING SELECTIVE HERBICIDES, MT. HOOD, ROGUE RIVER, AND WILLAMETTE NATIONAL FOREST OREGON AND CALIFORNIA	LO-1	K
D-AFS-L65007-00:	MALHEUR, UMATILLA AND WALLOWA-WHITMAN NATIONAL FORESTS VEGETATION MANAGEMENT WITH HERBICIDES	LO-1	K
D-REA-E09001-AL:	TOMBIGBEE UNIT NO. 2 AND 3 AND RELATED 320 KV TRANSMISSION LINES, JACKSON, ALABAMA	LO-1	E

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## IDENTIFYING

## TITLE

GENERAL SOURCE  
NATURE OF COPIES  
COMMENTS

IDENTIFYING	TITLE	GENERAL SOURCE NATURE OF COPIES COMMENTS
D-LJ-A-136001-CO:	230 KV TRANSMISSION LINES AND RELATED FACILITIES BOONE TO LAMAR, COLORADO	LO-1 I
D-SCS-E36015-AL:	UPPER BRUSHY CREEK WATERSHED PROTECTION, ESCAMBIA COUNTY, ALABAMA	LO-2 E
D-SCS-E36016-MS:	SHEQUALAK CREEK WATERSHED PROJECT, NOXUBEE AND KEMPER COUNTIES, MISSISSIPPI	ER-2 E
D-SCS-E36017-MS:	MANTACHIE, BOGUE FALA, AND BOGUE FUCUBA CREEKS WATERSHED, ITAWAMPA, LEE, AND MONROE COUNTIES, MISSISSIPPI	LO-2 E
D-SCS-G36014-NM:	ZUNI PUEBLO WATERSHED PROJECT, MCKINLEY COUNTY, NEW MEXICO	LO-2 G
D-SCS-G36015-LA:	DURALDE DES CANNES WATERSHED, EVANGELINE AND ACADIAN PARISHES, LOUISIANA	LO-1 G
D-SCS-H36009-IA:	DEER CREEK WATERSHED, WORTH COUNTY, IOWA	ER-2 H
D-SCS-K36008-HI:	WAILUKU-ALENAID WATERSHED PROJECT, HAWAII	LO-2 J
CORPS OF ENGINEERS		
DS-COE-A30063-GA:	JEKYLL ISLAND/BEACH EROSION CONTROL AND HURRICANE PROTECTION, GLYNN COUNTY, BRUNSWICK, GEORGIA	LO-2 E
DS-COE-A36397-MO:	WEARS CREEK FLOOD PROTECTION PROJECT, JEFFERSON CITY, COLE COUNTY, MISSOURI	LO-1 H
D-COE-B39002-MA:	PROVINCETOWN HARBOR DREDGING AND CONSTRUCTION AND MAINTENANCE OF A STEEL SHEET PILE, SOLID FILL PIER, FLOATS, MOORING PILES AND FLOATING BREAKWATER, PROVINCETOWN, MASSACHUSETTS	ER-2 B
D-COE-C32003-NY:	NEW YORK HARBOR, COLLECTION AND REMOVAL OF DRIFT NEW YORK	ER-2 C
D-COE-C36011-NY:	OPERATIONS AND MAINTENANCE, MT. MORRIS FLOOD CONTROL PROJECT, LIVINGSTON COUNTY, NEW YORK	LO-1 C
D-COE-C39001-NY:	SMALL BOAT HARBOR, OLCOTT HARBOR, NIAGARA COUNTY NEW YORK	ER-2 C

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IDENTIFYING  
NUMBER

## TITLE

GENERAL SOURCE  
NATURE OF COPIES  
COMMENTS

IDENTIFYING NUMBER	TITLE	GENERAL SOURCE NATURE OF COPIES COMMENTS
D-COE-C69001-NY:	NEW YORK CITY CONVENTION AND EXHIBITION CENTER, NEW YORK	EU-2 C
D-COE-E32004-GA:	OPERATION AND MAINTENANCE, SAVANNAH HARBOR, CHATHAM COUNTY, GEORGIA	ER-2 E
D-COE-E32006-GA:	HARBOR MODIFICATION, SAVANNAH HARBOR, GEORGIA	ER-2 E
D-COE-E32005-NC:	MAINTENANCE OF ATLANTIC INTRACOASTAL WATERWAY, NORTH CAROLINA	ER-2 E
D-COE-L36020-OR:	CHETCO, COQUILLE AND ROGUE RIVER ESTUARIES AND PORT ORFORD, OREGON	LO-1 R
D-COE-H35004-00:	ATLANTIC INTRACOASTAL WATERWAY MAINTENANCE DREDGING, PORT ROYAL SOUND, SOUTH CAROLINA TO CUMBERLAND SOUND, FLORIDA	ER-2 E
D-COE-P34004-OH:	CLARENCE J. BROWN DAM AND RESERVOIR, INCK CREEK MIAMI RIVER BASIN, OHIO	ER-2 F
D-COE-F35009-OH:	FAIRPORT HARBOR DIKE DISPOSAL FACILITY, LAKE ERIE, OHIO	LO-2 F
L-COE-F36015-MN:	ROOT RIVER BASIN FLOOD CONTROL HOUSTON AND FILLMORE COUNTIES, MINNESOTA	LO-2 F
D-COE-F86002-MN:	FARMERS UNION GRAIN TERMINAL SALVAGE, SCOTT COUNTY, MINNESOTA	EU-2 F
D-COE-G32015-TX:	MAINTENANCE DREDGING, HOUSTON SHIP CHANNEL, CHAMBERS AND HARRIS COUNTIES, TEXAS	ER-2 G
D-COE-G36016-NM:	LOS ESTEROS LAKE, GUADALUPE COUNTY, SANTA ROSA, NEW MEXICO	LO-2 G
D-COE-H36011-IA:	MUSCATINE LOCAL FLOOD PROTECTION PROJECT, LOUISA AND MUSCATINE COUNTIES, IOWA	3 H
D-COE-H36013-NB:	MISSOURI RIVER LEVEE SYSTEM, UNIT R-616, SAPPY COUNTY, NEBRASKA	3 H
D-COE-D35006-VA:	MAINTENANCE DREDGING WISHART POINT, ACCOMACK COUNTY, VIRGINIA	LO-1 D
D5-COE-A36048-GU:	AGANA SMALL BOAT HARBOR, AGANA, GUAM	LO-2 J

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D-COE-L36017-WA: PUGET SOUND AND ADJACENT WATERS, AUTHORIZATION REPORT FOR ADDITIONAL FLOOD CONTROL AT UPPER BAKER LAKE PROJECT SKAGIT RIVER BASIN WASHINGTON	LO-1	K
D-COE-L39001-OR: HAMMOND SMALL BOAT BASIN, CLATSOP COUNTY, OREGON	LO-2	K
D-COE-L61023-00: LOWER SNAKE RIVER FISH AND WILDLIFE COMPENSATION WASHINGTON AND IDAHO	ER-2	K
GENERAL SERVICES ADMINISTRATION		
D-GSA-D80001-DC: PROPOSED SOVIET EMBASSY COMPLEX. WASHINGTON, DC	LO-1	K
D-GSA-E81005-FL: FEDERAL BUILDING AND COURTHOUSE PARKING FACILITY FORT LAUDERDALE BROWARD COUNTY, FLORIDA	LO-1	E
D-GSA-G81001-TX: LEASE FACILITY, DRUG ENFORCEMENT ADMINISTRATION, DALLAS COUNTY TEXAS	LO-2	G
D-GSA-G81002-TX: BORDER PATROL SECTION HEADQUARTERS, MARTA, PRESIDIO COUNTY, TEXAS	LO-1	G
D-GSA-J81002-SD: PROPOSED CONSTRUCTION OF FEDERAL OFFICE BUILDING, HURON, SOUTH DAKOTA	LO-1	I
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
D-HUD-D89001-PA: CHURCH, MUSSER URBAN RENEWAL PROJECT, LANCASTER, PENNSYLVANIA	LO-2	D
D-HUD-D89002-PA: DOWNTOWN EAST URBAN RENEWAL, READING, PENNSYLVANIA	ER-2	D
D-HUD-E85006-FL: DADE COUNTY NEIGHBORHOOD DEVELOPMENT PROGRAM, AREAS 1-4, 6-9, DADE COUNTY, FLORIDA	ER-2	E
D-HUD-K89002-CA: CITY OF SAN JOSE, COMMUNITY DEVELOPMENT BLOCK GRANT, SAN JOSE, CALIFORNIA	LO-1	J
D-HUD-K89003-CA: CITY OF CULVER CITY, COMMUNITY DEVELOPMENT BLOCK GRANT, CULVER CITY, CALIFORNIA	LO-1	J

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DEPARTMENT OF THE INTERIOR		
D-BIA-J01000-MT: STRIP MINING OF CROW INDIAN COAL IN SOUTHEAST MONTANA	ER-2	I
D-BIA-L08011-OR: SAGEO2 INTEGRATING TRANSMISSION, OREGON	LO-1	E
D-NPS-K61004-HI: KALO KO HONOKOHAU NATIONAL CULTURAL PARK, HAWAII COUNTY, HAWAII	LO-1	J
DEPARTMENT OF TRANSPORTATION		
D-CGD-B81001-CT: NEW LONDON STATION, RESEARCH AND DEVELOPMENT CENTER, NEW LONDON, CONNECTICUT	LO-2	D
D-CGD-Q32014-00: GULF LORAN-C CHAIN PROJECT, LONG RANGE AID TO NAVIGATION, MALONE, FLORIDA, GRANGEVILLE, LOUISIANA, AND RAINMONDVILLE, TEXAS	LO-2	G
D-CGD-K52001-00: LORAN-C CHAIN. RADIO NAVIGATION SYSTEM	LO-1	J
DS-DOT-A41323-NB:US 77 EXPRESSWAY, DAKOTA COUNTY, NEBRASKA	LO-2	H
D-FHW-B40008-MA: I-495, RELOCATION OF MA-140, FOXBOROUGH, MANSFIELD, NORTON, RAYNHAM, BRIDGEWATER, FALMUT, MASSACHUSETTS	ER-2	B
D-FHW-B40010-NH: ROUTE 9 BYPASS, NH-9, CHESHIRE COUNTY, KEENE, NEW HAMPSHIRE	LO-1	B
D-FHW-C40012-VI: CHRISTIANSTEAD BY-PASS, CHRISTIANSTEAD, ST. CROIX, VIRGIN ISLANDS	LO-1	C
D-FHW-C40011-NY: I-88 FROM SCHOMARIE SCHENECTADY COUNTY TO NEW YORK STATE THRUWAY (I-90) NEW YORK	LO-2	C
D-FHW-C40013-VI: EICK FARM TO CHRISTIANSTEAD HIGHWAY, ST. CROIX, VIRGIN ISLANDS	LO-2	C
DS-FHW-D40008-MD: CITY BOULEVARD, EUTAW STREET TO RUSSELL STREET, BALTIMORE, MARYLAND	ER-2	D
D-FHW-D40013-MD: SALISBURY BYPASS, RELOCATED US 13, WICOMICO COUNTY, MARYLAND	ER-2	D
DS-FHW-D40014-MD: I-95, RUSSELL STREET TO HANOVER STREET, BALTIMORE, MARYLAND	ER-2	D
D-FHW-E40027-GA: PROJECT M-0004-(5), MARIAN ROAD FROM PIEDMONT ROAD TO BUFORD HIGHWAY, ATLANTA, FULTON AND DEKALB COUNTY, GEORGIA	LO-2	E

FEDERAL REGISTER, VOL. 40, NO. 105—FRIDAY, MAY 30, 1975

NOTICES



## NOTICES

IDENTIFYING NUMBER	TITLE	GENERAL NATURE OF COMMENTS	SOURCE FOR COPIES OF COMMENTS
D-FHW-E40028-FL	FL-10, US 90, COLUMBIA COUNTY, FLORIDA	LO-1	E
D-FHW-F40024-WI	WINONA-MARSHLAND ROAD, WI-35 AND WI-54, BUFFALO COUNTY, WISCONSIN	LO-2	F
D-FHW-G40028-AR	EAST BELT FREEWAY CONNECTING I-30 AND I-40 PULASKI COUNTY, ARKANSAS	LO-2	G
D-FHW-H40020-IA	FREEWAY 561, NORTH-SOUTH FACILITY, US 61-67 BYPASS, SCOTT COUNTY, IOWA	ER-2	H
DS-FHW-H40022-KS	I-670, WYANDOTTE COUNTY, KANSAS	LO-1	H
D-FHW-K40011-CA	EL-SEGUNDO-NORWALK FREEWAY, I-105, LOS ANGELES COUNTY, CALIFORNIA	ER-1	J
D-FHW-K40012-CA	STATE ROUTE 101, CA-101, SANTA CLARA COUNTY, CALIFORNIA	ER-2	J
D-FHW-K40014-CA	CA-101, TRANSPORTATION CORRIDOR, SALINAS TO CARRILLO STREET, SANTA BARBARA, CALIFORNIA	LO-1	J
D-FHW-K40015-CA	REPLACEMENT OF UPPER NEWPORT BAY BRIDGE, NEWPORT BEACH, ORANGE COUNTY, CALIFORNIA	ER-1	J
D-FHW-K53001-NV	ELKO RAILROAD RELOCATION DEMONSTRATION PROJECT, ELKO COUNTY, NEVADA	LO-1	J
D-FHW-L40015-ID	VISTA AVENUE RIDENBAUGH CANAL, US 30 CONNECTION, BOISE, IDAHO	LO-2	K
D-FHW-L40017-WA	WA-525, SWAMP CREEK INTERCHANGE TO WA-99, NOHOMISH COUNTY, WASHINGTON	LO-1	K
DS-FHW-L40019-00	I-205 LEWIS AND CLARK HIGHWAY, CLARK COUNTY, WASHINGTON	LO-2	K
<u>FEDERAL POWER COMMISSION</u>			
D-FPC-L36017-00	MIDDLE SNAKE RIVER PROJECT NO. 2243/2273, IDAHO WASHINGTON AND OREGON	EU-2	K

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IDENTIFYING NUMBER	TITLE	GENERAL NATURE OF COMMENTS	SOURCE FOR COPIES OF COMMENTS
<u>VETERANS ADMINISTRATION</u>			
D-VAD-E81006-GA	420-BED REPLACEMENT AND RELOCATION VETERANS ADMINISTRATION HOSPITAL, AUGUSTA, GEORGIA	LO-2	E
<u>NUCLEAR REGULATORY COMMISSION</u>			
D-NRC-AC6151-WA	WASHINGTON PUBLIC POWER SUPPLY SYSTEM, PROJECTS 3 AND 5, DOCKET NOS. STN 50-508 AND STN 50-509, GRAYS HARBOR COUNTY, WASHINGTON	ER-1	A

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## NOTICES

## APPENDIX II

## DEFINITIONS OF CODES FOR THE GENERAL NATURE OF EPA COMMENTS

## Environmental Impact of the Action

LO—Lack of Objection  
EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

## ER—Environmental Reservations

EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these impacts.

## EU—Environmentally Unsatisfactory

EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

## Adequacy of the Impact Statement

## Category 1—Adequate

The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

## Category 2—Insufficient Information

EPA believes that the draft impact state-

ment does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

## Category 3—Inadequate

EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

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## APPENDIX III

## FINAL ENVIRONMENTAL IMPACT STATEMENTS FOR WHICH COMMENTS WERE ISSUED BETWEEN APRIL 1, 1975 AND APRIL 30, 1975

IDENTIFYING NUMBER	TITLE	GENERAL NATURE OF COMMENTS	SOURCE FOR COPIES OF COMMENTS
DEPARTMENT OF AGRICULTURE			
F-AFS-A65090-MN:	TIMBER MANAGEMENT PLAN, CHIPPEWA NATIONAL FOREST, MINNESOTA	EPA HAD NO OBJECTIONS TO THE PROPOSED PROJECT.	F
F-DOA-A82095-00:	1975 ADDENDUM TO 1974 GYPSY MOTH PROGRAM	EPA EXPRESSED NO OBJECTIONS TO THE PROPOSED PROJECT.	C
F-SCS-A36403-NC:	CHICHO D CREEK WATERSHED, PITT AND BEAUFORT COUNTIES, NORTH CAROLINA	EPA POINTED OUT THAT A SECTION 404 OF THE FWPCA PERMIT MUST BE OBTAINED BEFORE THE PROJECT PROCEEDS. EPA COMMENDED THE SCS ADOPTION OF A MONITORING PROGRAM.	E
DEPARTMENT OF INTERIOR			
F-BLM-A65097-00:	MANAGEMENT OF LIVESTOCK GRAZING ON NATIONAL RESOURCE LANDS	EPA EXPRESSED NO MAJOR OBJECTIONS TO THE PROPOSED PROJECT.	I
F-IBR-A31041-NB:	ELWOOD DAM AND RESERVOIR, CENTRAL NEBRASKA PUBLIC POWER AND IRRIGATION DISTRICT E-65 SYSTEM PROJECT IMPROVEMENTS, GOSPER COUNTY, NEBRASKA	EPA EXPRESSED NO OBJECTIONS TO THE PROPOSED PROJECT.	H



## APPENDIX III

SOURCE FOR  
COPIES OF  
COMMENTS

IDENTIFYING NUMBER	TITLE	GENERAL NATURE OF COMMENTS
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## CORPS OF ENGINEERS

F-COE-A30101-MI:	SHIP UNLOADING FACILITY, LAKE SUPERIOR AND ISHPEWING RAILROAD COMPANY, MICHIGAN	EPA EXPRESSED NO OBJECTIONS TO THE PROPOSED PROJECT
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## DEPARTMENT OF TRANSPORTATION

F-DOT-A41435-PA:	CAMBRIA COUNTY, LR 11050, SECTION 3, PENNSYLVANIA	EPA EXPRESSED NO OBJECTIONS TO THE PROPOSED PROJECT.	D
F-FAA-D51001-WV:	AIDP, RALEIGH COUNTY MEMORIAL AIRPORT, BECKLEY, WEST VIRGINIA	EPA EXPRESSED NO OBJECTIONS TO THE PROPOSED PROJECT.	D
F-FHW-A40002-MN:	US 14, MANKATO BYPASS, BLUE EARTH COUNTY, MINNESOTA	EPA EXPRESSED NO OBJECTIONS TO THE PROPOSED PROJECT.	F
F-FHW-A41722-MI:	M-99 FROM VICTOR STREET TO KALAMAZOO STREET, LANSING, MICHIGAN	EPA EXPRESSED NO OBJECTIONS TO THE PROPOSED PROJECT.	F
F-FHW-A41942-OH:	OH-800, WOODSFIELD TO BARNESVILLE, MONROE AND BELMONT COUNTIES, OHIO	EPA EXPRESSED NO OBJECTIONS TO THE PROPOSED PROJECT.	F
F-FHW-A42118-NB:	NB-71, SCOTTSBLUFF-GERING URBAN ARTERIAL, SCOTTSBLUFF COUNTY, NEBRASKA	EPA BELIEVES THE FINAL EIS DOES NOT PROVIDE ENOUGH INFORMATION CONCERNING THE ENVIRONMENTAL IMPACTS ASSOCIATED WITH THE PROPOSED PROJECT AND RECOMMENDED THE INCLUSION OF:	H

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COMMENTS

IDENTIFYING NUMBER	TITLE	GENERAL NATURE OF COMMENTS
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- (A) POSSIBLE INCREASED NOISE IMPACTS AT INTERSECTIONS
- (B) POSSIBLE INCREASE IN TRAFFIC RELATED IMPACTS ON FEEDER ROUTES AND ASSOCIATED LAND USES,
- (C) POSSIBLE FORECLOSURE OF PREFERABLE ALTERNATIVE ROUTES FOR EXTENSION OF THE PROPOSED FACILITY IF IT BECOMES NECESSARY,
- (D) IMPACTS RESULTING FROM DEVELOPMENT OF FRONTAGE ROADS.

IN ADDITION, IT WOULD APPEAR FROM THE INFORMATION PROVIDED IN THE FINAL STATEMENT THAT THE ALTERNATIVE OF MODIFYING EXISTING N-71 MAY BE THE MORE FEASIBLE AND ENVIRONMENTALLY ACCEPTABLE ALTERNATIVE AS OPPOSED TO THE PROPOSED FACILITY.

F-FHW-A42079-MN:	I-35 INTERCHANGE WEST OF ONATONNA AT BRIDGE STREET, STEELE COUNTY, MINNESOTA	EPA EXPRESSED NO OBJECTIONS TO THE PROPOSED PROJECT.	F
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F-FHW-A42285-KS:	KS-6, KANSAS CITY, WYANDOTTE COUNTY, KANSAS	EPA EXPRESSED ENVIRONMENTAL RESERVATIONS TO THE PROPOSED PROJECT. EPA URGED FHWA TO CONSIDER NOISE ABATEMENT MEASURES ON AN INDIVIDUAL BASIS AND EMPHASIZED THE NEED FOR ADEQUATE PLANNING TO PREVENT UNWISE DEVELOPMENT IN OPEN AREAS SUBJECT TO FUTURE NOISE IMPACTS.	H
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IDENTIFYING NUMBER	TITLE	GENERAL NATURE OF COMMENTS	SOURCE FOR COPIES OF COMMENTS
F-FHW-A42298-WI:	MADISON STREET UNDERPASS, CITY OF EAU CLAIRE, WISCONSIN	EPA EXPRESSED NO OBJECTIONS TO THE PROPOSED PROJECT.	F
F-FHW-D40002-WV:	I-79, COOPERS CREEK TO ROANE COUNTY LINE, KANAWHA COUNTY, WEST VIRGINIA	EPA EXPRESSED NO OBJECTIONS TO THE PROPOSED PROJECT.	D
F-FHW-E40021-MS:	I-10 FROM MS-57, EASTERLY TO MISSISSIPPI-ALABAMA STATE LINE MISSISSIPPI	EPA EXPRESSED NO OBJECTIONS TO THE PROPOSED PROJECT.	E
F-FHW-F40006-WI:	VIOLA-LAFARGE ROAD, WI-131, RICHLAND AND VERNON COUNTIES, WISCONSIN	EPA EXPRESSED NO OBJECTIONS TO THE PROPOSED PROJECT.	F
GENERAL SERVICES ADMINISTRATION			
F-GSA-J81000-NT:	PROPOSED FEDERAL OFFICE BUILDING AND COURTHOUSE, HELENA, MONTANA	EPA RECOMMENDED THAT GSA CONSIDER A FEASIBILITY STUDY FOR THE USE OF SOLAR HEATING-COOLING ON THE PROPOSED PROJECT.	I
INTERSTATE COMMERCE COMMISSION			
F-ICC-D53001-MD:	PROPOSED RAILLINE ABANDONMENT BOA LINE FROM CLIFFORD JUNCTION TO ANNAPOLIS, MARYLAND	EPA EXPRESSED NO OBJECTIONS TO THE PROPOSED PROJECT.	D

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## APPENDIX IV

FINAL ENVIRONMENTAL IMPACT STATEMENTS WHICH WERE REVIEWED AND NOW COMMENTED ON BETWEEN APRIL 1, 1975 AND APRIL 30, 1975

IDENTIFYING NUMBER	TITLE	SOURCE OF REVIEW
DEPARTMENT OF AGRICULTURE		
F-AFS-A61221-WV:	PROPOSED EAGLE LAKE AND ASSOCIATED RECREATION DEVELOPMENTS, WEST VIRGINIA	D
F-AFS-A65105-MT:	EUREKA-GRAVES MULTIPLE USE PLAN, MONTANA	I
F-AFS-D82001-VA:	FALL CANKERWORM SUPPRESSION PROJECT, PRINCE WILLIAM COUNTY, VIRGINIA	D
F-AFS-L61013-OR:	WALLOWA-WHITMAN NATIONAL FOREST LAKE FORK MANAGEMENT UNIT, BAKER AND WALLOWA COUNTIES, OREGON	K
DEPARTMENT OF TRANSPORTATION		
F-CGD-G32002-LA:	VESSEL TRAFFIC SYSTEM, NEW ORLEANS, LOUISIANA	G
F-CGD-K11004-CA:	COAST GUARD AIR STATION, ARCATA, HUMBOLDT COUNTY, CALIFORNIA	J
F-DOT-A42150-NH:	RELOCATION OF ROUTE 106, NH-106, MERRIMACK COUNTY, LOUDON, NEW HAMPSHIRE	B
F-FHW-A41094-GA:	DOUGHERTY COUNTY, WIDENING OF GA-234 FROM US 19, WEST PAST BEATTIE ROAD, GEORGIA	E
NF-FHW-A42294-KY:	KY-876, RICHMOND BYPASS, MADISON COUNTY, KENTUCKY	E
F-FHW-A41945-MA:	ROUTE 9, SPEEN STREET, NATICK, MASSACHUSETTS	B
F-FHW-A42011-KS:	US 54 AND KS-96, BUTLER COUNTY, KANSAS	H
F-FHW-A41625-NC:	US-1 FROM US1-401 NORTH OF RALEIGH TO WAKE FOREST BYPASS, NORTH CAROLINA	E
NF-FAA-B51001-KY:	PRINCETON-CALDWELL COUNTY AIRPORT, CALDWELL COUNTY, KENTUCKY	E

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IDENTIFYING  
NUMBER

SOURCE  
REVIEW

TITLE

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IDENTIFYING NUMBER	TITLE	SOURCE REVIEW
F-FHW-A42054-CA	MEMORIAL PARK STORM DRAIN, PASADENA, CALIFORNIA	J
F-FHW-A42105-SC:	BRYAN DRIVE BYPASS FROM US 501 TO US 17 NORTH OF MURRELLS INLET, HORRY AND GEORGETOWN COUNTIES, SOUTH CAROLINA	E
F-FHW-A42164-TN:	TN-8, SEQUATCHIE, VAN BUREN AND WARREN COUNTIES, TENNESSEE	E
F-FHW-A42224-SC:	MULTILANE WIDENING OF SC-9, HORRY COUNTY, SOUTH CAROLINA	E
F-FHW-A42233-CA:	I-5, SAN JOAQUIN COUNTY LINE TO LAMBERT ROAD, SACRAMENTO COUNTY, CALIFORNIA	J
F-FHW-A42256-NH:	NH-175, WOODSTOCK, NEW HAMPSHIRE	B
F-FHW-A42276-CA:	ROUTE 101, CA-101, SMITH RIVER CANYON, DEL NORTE COUNTY, CALIFORNIA	J
F-FHW-A42328-NH:	NH-101-A, HILLSBORO COUNTY, AMHERST TO NASHUA, NEW HAMPSHIRE	B
F-FHW-E40014-TN:	I-155 INTERCHANGE, WITH PROPOSED RELOCATION OF TN-3, US 41, DYER COUNTY, TENNESSEE	E
F-FHW-G40016-TX:	US 277, US 82, SPUR 447, WICHITA FALLS, WICHITA COUNTY, TEXAS	G
FS-FHW-H40019-KS:	I-435 EXTENSION, JOHNSON COUNTY, KANSAS	H
<u>CORPS OF ENGINEERS</u>		
F-COE-A32470-AR:	OPERATION AND MAINTENANCE, MCCLELLAN-KERR ARKANSAS RIVER NAVIGATION SYSTEM, ARKANSAS	G
F-COE-A32507-ME:	WINTER HARBOR SMALL BOAT NAVIGATION PROJECT, MAINE	B
F-COE-A36247-PR:	PORTUGUESE AND BUCANA RIVERS, PUERTO RICO	C
F-COE-A35069-VA:	WATERWAY ON THE COAST OF VIRGINIA, MAINTENANCE DREDGING, VIRGINIA	D

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NUMBER

SOURCE OF  
REVIEW

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IDENTIFYING NUMBER	TITLE	SOURCE OF REVIEW
F-COE-A35111-VA:	MAINTENANCE DREDGING STARLINGS CREEK, ACCOMACK COUNTY, VIRGINIA	D
F-COE-A36241-CA:	NORTH FORK FEATHER RIVER, FLOOD PROTECTION PROJECT, CALIFORNIA	J
F-COE-A39058-DE:	INDIAN RIVER INLET, PROJECT MAINTENANCE, SUSSEX COUNTY, DELAWARE	D
F-COE-B36001-ME:	ST. JOHN RIVER FLOOD PROTECTION PROJECT, FORT KENT, AROOSTOCK COUNTY, MAINE	B
<u>DEPARTMENT OF DEFENSE</u>		
F-DOD-A84008-ME:	OVER-THE-HORIZON RADAR, CONTINENTAL UNITED STATES, MOSCOW/CARATUNK, WASHINGTON AND SOMERSET COUNTY, MAINE	B
<u>DEPARTMENT OF INTERIOR</u>		
F-DOI-A60055-KS:	ELLIS UNIT, SMOKEY HILL DIVISION, TREGO COUNTY, KANSAS	U
F-SFW-A32354-VA:	PROPOSED ESTABLISHMENT FEATHERSTONE NATIONAL WILDLIFF REFUGE, PRINCE WILLIAM COUNTY, VIRGINIA	D
F-SFW-A61219-SC:	PROPOSED SANTEE WILDERNESS AREA, LAKE MARION, CLAREDON COUNTY, SOUTH CAROLINA	E
<u>DEPARTMENT OF COMMERCE</u>		
F-EDA-A50122-OR:	YAMHILL COUNTY BRIDGE OVER THE WILLAMETTE RIVER AT LAMBERT-BEND, OREGON	K
<u>GENERAL SERVICES ADMINISTRATION</u>		
F-GSA-B80002-MA:	FEDERAL OFFICE BUILDING, PITTSFIELD, BERKSHIRE COUNTY, MASSACHUSETTS	B
F-GSA-E81004-AL:	PROPOSED DISPOSAL OF A PORTION OF THE FORMER ALABAMA ARMY AMMUNITION PLANT, CHILDERSBURG, TALLADEGA COUNTY, ALABAMA	E

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SOURCE OF  
REVIEW

TITLE

IDENTIFYING  
NUMBERDEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

F-HUD-B89001-MA: DOWNTOWN MALDEN GENERAL NEIGHBORHOOD RENEWAL PLAN AREA, INDUSTRIAL PARK B  
URBAN RENEWAL AREA, MIDDLESEX COUNTY, MALDEN, MASSACHUSETTS

FS-HUD-A85033-CO: WEST SIDE PROJECT, DENVER, COLORADO I

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## APPENDIX V

REGULATIONS, LEGISLATION AND OTHER FEDERAL AGENCY  
ACTIONS FOR WHICH COMMENTS WERE ISSUED BETWEEN  
APRIL 1, 1975 AND APRIL 30, 1975

SOURCE FOR  
COPIES OF  
COMMENTS

GENERAL NATURE OF COMMENTS

TITLE

IDENTIFYING  
NUMBERFEDERAL MARITIME COMMISSION

R-FMC-A86087-00 46 CFR PART 547, POLICY AND EPA CONSIDERS THE PROPOSED RULEMAKING AS A.  
PROCEDURES FOR ENVIRONMENTAL ADEQUATE. HOWEVER, EPA RECOMMENDED SOME  
PROTECTION CLARIFYING LANGUAGE. ADDITIONALLY EPA RE-  
COMMENDED A 15 DAY COMMENTING PERIOD AFTER COMING TO A "NEGATIVE DECLARATION" AND REQUESTED A  
CHANGE IN THE DISTRIBUTION OF IMPACT STATE-  
MENTS.

INTERSTATE COMMERCE COMMISSION

R-ICC-A53037-00 PRELIMINARY SYSTEM PLAN. A  
THE PLAN DISCUSSES THE AIR POLLUTION IMPACT  
OF DISCONTINUANCE OF SELECTED LIGHT DENSITY  
RAIL SERVICES AND REASONABLY CONCLUDES THAT  
SUCH DISCONTINUANCE WOULD HAVE MINIMAL ADVERSE  
EFFECT ON AIR POLLUTION. HOWEVER, EPA SUGGESTS  
THAT EACH PROPOSED DISCONTINUANCE BE EVAL-  
UATED FOR ITS PARTICULAR AIR QUALITY IMPACT AND  
POSSIBLE RESULTING GROWTH PATTERNS ALONG  
HIGHWAYS USED BY ALTERNATIVE MEANS OF TRANS-  
PORTATION.

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## NOTICES

## APPENDIX VI

## SOURCE FOR COPIES OF EPA COMMENTS

A. Director, Office of Public Affairs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

B. Director of Public Affairs, Region I, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203.

C. Director of Public Affairs, Region II, Environmental Protection Agency, 28 Federal Plaza, New York, New York 10007.

D. Director of Public Affairs, Region III, Environmental Protection Agency, Curtis Building, 8th and Walnut Streets, Philadelphia, Pennsylvania 19106.

E. Director of Public Affairs, Region IV, Environmental Protection Agency, 1421 Peachtree Street NE., Atlanta, Georgia 30309.

F. Director of Public Affairs, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

G. Director of Public Affairs, Region VI, Environmental Protection Agency, 1600 Patterson Street, Dallas, Texas 75201.

H. Director of Public Affairs, Region VII, Environmental Protection Agency, 1735

Baltimore Street, Kansas City, Missouri 64108.

I. Director of Public Affairs, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80203.

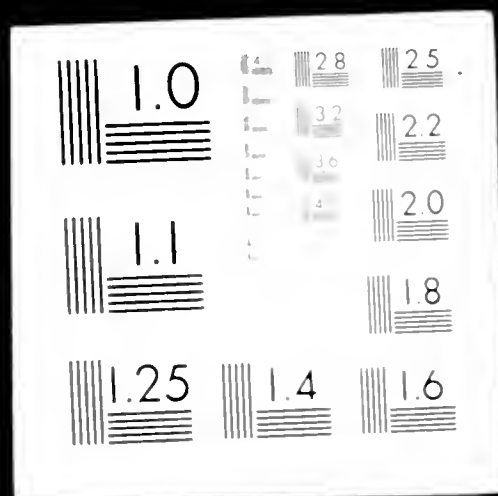
J. Director of Public Affairs, Region IX, Environmental Protection Agency, 100 California Street, San Francisco, California 94111.

K. Director of Public Affairs, Region X, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

[FR Doc. 75-14022 Filed 5-29-75; 8:45 am]



# RESOLUTION CHART



100 MILLIMETERS

**INSTRUCTIONS** Resolution is expressed in terms of the lines per millimeter recorded by a particular film under specified conditions. Numerals in chart indicate the number of lines per millimeter in adjacent "T-shaped" groupings.

In microfilming, it is necessary to determine the reduction ratio and multiply the number of lines in the chart by this value to find the number of lines recorded by the film. As an aid in determining the reduction ratio, the line above is 100 millimeters in length. Measuring this line in the film image and dividing the length into 100 gives the reduction ratio. Example: the line is 20 mm. long in the film image, and  $100 \div 20 = 5$ .

Examine "T-shaped" line groupings in the film with microscope, and note the number adjacent to finest lines recorded sharply and distinctly. Multiply this number by the reduction factor to obtain resolving power in lines per millimeter. Example: 7.9 group of lines is clearly recorded while lines in the 10.0 group are not distinctly separated. Reduction ratio is 5, and  $7.9 \times 5 = 39.5$  lines per millimeter recorded satisfactorily.  $10.0 \times 5 = 50$  lines per millimeter which are not recorded satisfactorily. Under the particular conditions, maximum resolution is between 39.5 and 50 lines per millimeter.

Resolution, as measured on the film, is a test of the entire photographic system, including lens, exposure, processing, and other factors. These rarely utilize maximum resolution of the film. Vibrations during exposure, lack of critical focus, and exposures yielding very dense negatives are to be avoided.



